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THE DEBATES AND PROCEEDINGS

OF THE

FIRST SESSION OF THE THIRTY-FIFTH CONGRESS:

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SPECIAL SESSION OF THE SENATE.

BY JOHN C. RIVES.

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THE CONGRESSIONAL GLOBE.

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THIRTY-FIFTH CONGRESS, 1ST SESSION.

WEDNESDAY, MAY 12, 1858.

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against whom these collectors are so continually pouring out their charges of fraud; and the captains of the fishing smacks, for intelligence, integrity, and fair dealing in the community, stand vastly before the collectors.

These collectors say that the great work for the revenue cutters is to watch the fishermen and keep them from cheating. Now, I will tell you a little something about that, Mr. President; I happen to know something about it, for I live within about ten miles of the sea-shore. The port of Portsmouth, I believe, collects about four thousand dollars of revenue a year, and you pay your officers \$10,000 a year for collecting. I believe they have a revenue cutter there. Every collector wants a revenue cutter, and I will tell you the use made of them, and about all the use on that coast. They are pleasure boats, by which and in which the collectors entertain their friends with sea voyages and fishing voyages, after mackerel, and cod, &c.; and every possible excuse that a collector can get up is got up to induce the Secretary of the Treasury to allow him a revenue cutter to go on pleasure excursions in the summer time. Why, I have known them to get up a party in Boston and go away down to the British coast and spend the summer, and the service they rendered their country was writing very graphic articles of their sea shore experience and publishing them in the Boston newspapers. Well, sir, to induce the Secretary of the Treasury to give these gentlemen revenue cutters to make pleasure excursions in at the public expense, it is suggested that the fishermen are committing awful frauds, and if the Secretary will only give them a cutter, they will expose the frauds and save an immense deal to the Treasury!

Now, sir, I have a proposition to make; and I wish that when you see the Secretary of the Treasury you will name it to him. Tell him to set the fishermen to watching the collectors; and if they do not expose frauds, two dollars to one, and make savings to your Treasury—provided they can get at the frauds of the collectors—I will give up, and abandon the whole thing. This charge against the fishermen of being fraudulent, made in this wholesale way by these collectors, is a falsehood and a libel on them. There is no class of men who stand fairer in the community than they do; and last and least of all should these charges come from the officials of your custom-houses. I know something about these custom-house officers, too. Generally speaking, they are men that understand who it is that is Secretary of the Treasury. It is almost always a southern man—sometimes a northern man with southern principles, but generally a southern man—and these collectors, for the purpose of making themselves agreeable to the powers that be in the Treasury Department, send in these false and libelous accusations against better men than they are; and suggest that they are guilty of great frauds, the conclusion of all which is that if they can have a cutter at their disposal they can be exposed! No, sir; no man that is acquainted with these men will believe for a moment that their characters will suffer in comparison with the collectors who malign and detract and slander them.

A good deal has been said about the frauds which it is said are committed at sea. Some of these collectors do not know much more about a boat or about the sea than men living west of the mountains that never saw the sea. Some of them do. A vessel goes out fishing for cod. Well, if you want to fish for cod you must have a long line, a heavy sinker, a large hook, and bait it with some substantial matter, generally clam. You put your line down until the sinker touches the bottom, then draw up a little, and you begin to catch cod. In the neighborhood of the cod are always found the halibut. There are friendly relations between the cod and halibut; and they frequent the same grounds with pollock and haddock. The halibut not understanding that it is illegal for them to take hold of the bait, very frequently get hold of what is legally intended for a cod, and the fishermen haul them in. What shall

they do? Throw them overboard? It would seem to be implied that they should. Now, the fact is, that this cod fishing does not mean catching cod; but there are two kinds of fisheries—mackerel fishing and cod fishing; and they are just as diverse as shooting snipes and hunting lions are, because the cod are caught, as I told you, with a long line and heavy sinker near the bottom, and the mackerel are caught with a very small line and a very small hook, indeed. One cod-fish hook will weigh down a hundred mackerel hooks; and instead of having large substantial bait, such as would be a temptation to halibut, it is a little one, not bigger than a picayune, with which the mackerel are caught. They go in schools. The mackerel are a social fish. They come near the surface; you can see them, and sometimes, when a vessel that is fitted out for cod fishing goes along, the men see that they are in the midst of a school of mackerel. Knowing that they are subject to these visitors on their voyages, they are prepared with some small hooks and lines, and while the school is there they throw out and catch the fish. That used to be considered under the law, as administered by these patriotic collectors, treason against the Government—working a forfeiture of the vessel; but Judge Woodbury, with a good deal of common sense, decided that that was all nonsense; and it was no crime if a vessel that had been fitted out for cod fishing went amongst mackerel and took a few of them. That is the law, notwithstanding what the collectors may say; and there is no violation of the law if pollock, or cusk, or haddock, or if halibut bite at the hook that is intended for cod fish. Besides, the cod fishery includes legitimately the catching of pollock, cusk, and haddock. They are salted and cured in the same way, caught on the same ground, and with the same bait; and there is no sort of fraud intended and none practiced in it, nor do I believe one word, as I have before intimated, of the charges that have been made by the collectors in regard to the other allegations of fraud.

Not only have these men furnished you a reliable corps of seamen from whom your seamen are to be enlisted, and must be as long as you have a navy; but if you will go to the intelligent merchants in the cities of New York and Boston, or any important sea-port on the Atlantic coast east of New York—I do not know how it is south—they will tell you from New York to Passamaquoddy, that the great school where the successful, the educated, the intelligent, the enterprising sea captains and mates that man your merchant vessels come from, is from these very shore fishermen. To the commerce of New York, Cape Cod is a richer mine than our adventurers have ever discovered in California. They rely upon Cape Cod and upon the men who are educated in the cod fishery for their captains and their mates, as well as their seamen to man their merchant vessels. If you will take counsel of the men that send their ships to every sea, and trust their wealth to the contingencies of every clime and of every sea, they will tell you that they can part with anything else better than they can part with the supply of the intelligent, educated class of men that come from Cape Cod and the fishing towns about there, for their captains and mates.

But still, sir, I know that we live in a day of progress; the wisdom of the fathers amounts to but very little in these times; and we are about, so far as the Senate can go, to repeal this fishing bounty, and to throw away as folly all that we have been taught by the wise men who established it, and continued it from the earliest days of the Constitution to the present time. Now, sir, if you think men do not want any education to become sailors; if you think the amount you spend for that purpose is not well bestowed, and may as well be dispensed with, what do you say to dispensing with the schools for educating officers? If you abolish these fishing bounties, and do not want to educate seamen, let us abolish the Annapolis Naval School. I am against it, always was, and, I think, always shall be. It was admitted here by some gentlemen, I am not certain that it was not the

very distinguished Senator from Georgia, [Mr. Toombs,] that it cost you ten times as much to educate a naval officer in the Annapolis School as it would in any respectable private school, and ten times as much to educate a man at West Point as it would at any private academy; and by the recent action of the Government we have shown that we do not think much of their education after all, for we have put at the head of a class that graduated last year some young men who did not stay there more than six months.

Mr. TOOMBS. They were kicked out.

Mr. HALE. Not only kicked out, but told never to come back. Now, I say if the fishing bounties are to be repealed—and they are, so far as your vote will go; I do not know how it will be in the other House—I want you to show your consistency. I do not want to touch the sugar bounty this year. I let that go. But let us abolish the Annapolis School; let us abolish the Military Academy at West Point; let us be consistent. If our seamen do not want education, our officers do not, for the Army or the Navy.

I shall vote for the amendment I have just indicated; and if the amendment prevails—I hardly think it will—I shall vote for the bill; because then it will look to me as if you mean to be in earnest, as if you are honest and impartial, and as if this move made against these fishermen had its origin in a national policy, in an enlarged policy, and was not tainted or tinctured with any prejudice against New England interests or any hatred of her men and her pursuits. But, sir, if this is to go by itself; if this, the only money which you pay to educate seamen, is to be withdrawn by the Government, and that which you pay to educate officers for the Army and for the Navy is to be continued, I have nothing to say about any inference that anybody will draw; I will leave every one to draw his own inferences; but I will say this: I do not know that I shall have a seat on this floor long, nor do I care much for it; but if God spares my life, and my constituents spare my place, I will make war upon every monopoly, whether it be in the Army or in the Navy, and I will labor in the humble sphere of my influence for the abolition of all these distinctions by which one set of men are educated at the public expense and the vast majority left out.

Sir, there is not a single reason which can be offered for the sustaining of one of those institutions, that does not speak tenfold in favor of this one. You educate your men at West Point, and the great credit they have there is that they do nothing useful there except to get an education. So it is at Annapolis. They do nothing except to qualify themselves. But these seamen, whilst they are getting their education—whilst they are training themselves to qualify themselves to do honorable and efficient service to the country—are at the same time adding to the national treasure, by drawing sustenance for the people from the abundance of the seas. I know something of the perils of this occupation. There is something inviting in it, and something that is captivating, from the very imminence of the peril and the hazards amid which it is pursued. Sometimes the storm comes, and it makes orphans of more than half the children of a village. I remember, not long ago, being in the town of Marblehead, in the State of Massachusetts, after a great easterly storm, and I was told, as I stood there and saw the children coming out of the public schools, that "more than half the children you see here are fatherless, and made so by the late storm, about which so much has been said in the papers."

Now, sir, if you want to reform abuses, if you want to make the Government just and equal, I wonder what it was that turned the eye of reform to these poor sailors? I wonder where was your desire for reform when your Naval Register was before you, and you saw how many post captains you had drawing \$2,500 a year for doing nothing—"waiting orders?" More than half of them are in that condition, and have been more than half their lives. The Naval Register shows that

you have a corps of officers more than double what you want. Why, sir, so evident has this been that, a few years ago, when Mr. Graham was Secretary of the Navy, he actually recommended that we should build ships of a certain class to give employment to our lieutenants. Was not that a most beautiful piece of economy? We had more officers than we wanted; and for the purpose of employing them he actually recommended the building of additional ships! When you see that we have more than twice as many naval officers as we want, that half our officers are "waiting orders," and that a great many of those not waiting orders are on shore duties, which might as well be performed by any school ma'am in the country as by them, I wonder why the eye of reform does not look there. If the state of the Treasury is such that we want a little economy practiced, why, in Heaven's name, I will tell you what to look at. Look at the official paper which has been published this session, by which the pay and rations and commutations of all the officers of the Army are given. I wish I had it here; but I will give you a general idea of it. You will find that the pay proper of some Army officers is two or three thousand dollars or less; but when you come to look at the aggregate you will find it is eight or nine thousand dollars. I do not want to say anything disparaging to General Scott; I have already expressed my opinion of him here on this floor, if anybody cares to know anything about it; I have as high esteem and respect for him as any man in the world; I think him one of the greatest generals of any age, or of the world. But do you know what we pay General Scott for literally doing nothing; for I take it he has nothing to do in time of peace? We pay him \$18,000 a year, and some other generals eight or nine thousand dollars; and we have got colonels living in this city whose pay proper—

Mr. CLAY. Will the Senator permit me to ask him a question?

Mr. HALE. Certainly.

Mr. CLAY. Did not the Senator from New Hampshire vote to give that to General Scott?

Mr. HALE. No, sir, I did not; but I will tell you what I did.

Mr. CLAY. Did you vote against it?

Mr. HALE. I made a speech against conferring that rank upon General Scott, but I took occasion to say what I now say, that I entertain the highest regard and respect for him; that I believe him to be one of the greatest generals of the age; and when I happened to meet General Scott in private, not long after, some malicious man took occasion to remind him that I had voted against conferring the lieutenant generality upon him; but the General was kind enough to say that the compliment which I paid him on the occasion was such that he had no reason to complain of me. I voted against it always, and I spoke against it; but I will tell you what I did after he had got it. You gave it to him against my voice and against my vote; and a controversy arose about what was due to him, and it seemed to be the sense of the Senate that he had been rather harshly dealt with—I do not say whether it was so or not—by the honorable Senator from Mississippi, who was then at the head of the War Department. An impression got up amongst some of General Scott's friends that he had not had exactly fair play, and that there had been an attempt to withhold from him what, under the fair construction of the law, he was entitled to, and I think I did vote to give him that, and I would do it again. I will vote to give every man what is his just due.

Mr. DAVIS. If the Senator from New Hampshire will permit me, I must inform him that he misstates the case.

Mr. HALE. I only said what I understood. I did not aver—

Mr. DAVIS. Then you did not understand the truth.

Mr. HALE. Well, I cannot help that.

Mr. DAVIS. If the Senator will not allow me to correct him—

Mr. HALE. Certainly; I yield the floor.

Mr. DAVIS. Then I have only to say that the Senator misstates the case. He presents it as a case where allowances were refused. That is not the truth. The President made an allowance to the full extent that the regulations and laws existing for the government of the Army would permit. The claim was larger than that. The

Senate pleased to allow more. I, for the first time, learn, however, that it was from any general opinion in the Senate that I had done any injustice to that individual.

Mr. HALE. Well, I know it is very difficult, sir, to go along in a plain way without giving offense. I undertook to state the matter just as I understood it. I knew nothing about it, and cared nothing about it. I thought that the Secretary of War at that time did use some pretty harsh language to General Scott.

Mr. DAVIS. In a correspondence which arose, I was compelled to retaliate, after exercising, as I thought then, and think now, very great forbearance before I did use any harsh language; but when I thought it proper and becoming in me to retaliate, I used such language as I supposed would be most effective. That was not on the subject of his pay. That question arose in a very different controversy.

Mr. HALE. Well, sir, I am not going into that controversy. If the Senator will allow me I will try to quote a little Latin. *Non nostrum tantas componere lites*; or, to give you a Yankee translation of it—let every man skin his own game. [Laughter.] That I believe is a fair Yankee translation.

Mr. DAVIS. But if the Senator will allow me, his Yankee translation makes exactly the application. I do not mean to allow him to skin me.

Mr. HALE. I do not mean to do so; and if I said anything of that sort, I retract it; but I was answering the question whether I had not voted to give General Scott this great pay, and I said, no. I voted against giving him the title, or the emoluments which the title carried with it, or anything about it; but he got it, and a controversy did come up—I am not going to say who was right or wrong; but I believe the sense of the Senate was that General Scott was entitled to the money he claimed. Whether anybody else was right in withholding it or not, I do not think the vote said; but when that question came up, it was the opinion entertained in the Senate that he was entitled to it, and I voted for it—that is all.

Now, I will come back to the fisheries. I say that when the spirit of reform seeks a subject, I little wonder that you pass by the \$18,000 paid in the shape of commutations, allowances, and rations to General Scott, and the eight or nine thousand dollars that are paid to other officers in the same way, and the four or five thousand dollars paid to colonels, who are quietly living at home, and doing no more actual war service than their wives are. I wonder why you have not looked to those, and endeavored to cut them down to something like a fair compensation, instead of, from motives of economy, going into these fishing bounties. Sir, if anybody wants reform, I can give him food enough to last him a lifetime, of subjects requiring reform, every one of which needs it, in my humble judgment, vastly more than any abuses that have been practiced by these fishermen, or any one concerned in these fisheries.

In the present state of the Treasury, when we are spending some ten million dollars to send an army out to the woods to stay to hear reports from peace commissioners who have gone ahead of them, I am not going to say that it will comport with due economy to pay these fishing bounties; but I will say this: those who have gone before us have looked to them as a very efficient means (and I believe in that they have been eminently wise) of training a navy, and keeping in course of training a corps of seamen on whom you must rely in any time of peril and danger, when an emergency shall arise which shall require you to use your naval materials and put them afloat. They are, in fact, in the place of a standing naval force; only instead of enlisting them and having them in the Navy doing nothing but receiving pay and eating rations, they are receiving a small bounty, earning a living for themselves, and doing good service for their country at the same time. I believe that this policy of the fathers is a wise one, and that it is unsafe, in the present state of information before the Senate, to depart from it. I believe that it would be wise, before we enter on this measure, to seek some counsel, some advice, some information from the naval department of the Government, as well as from the Treasury. I do not suppose that it was ever intended as a money-making business di-

rectly; and we knew, and everybody knew, that, to a certain extent, it must be a drain on the Treasury. We need not go to the Treasury Department to find that out; but inasmuch as it has such intimate relations to our naval strength and naval power, and the means of educating seamen, I think it would have been wise and becoming in us to have got some light from that quarter, especially as the efforts that were made by the honorable Senator from Maine [Mr. HAMLIN] would have a tendency to satisfy us that there were very important considerations to be looked at in that quarter as well as on the effect that the measure was to have upon the Treasury.

But, sir, as I said before, I really believe that so far as the vote of the Senate is concerned, this is a foregone conclusion; and if I have seemed in speaking to entertain the idea that I was attempting to convince any Senator, I humbly beg his pardon, and assure him that I had no such purpose; and having said that, I leave the subject with the Senate.

Mr. MALLORY. Mr. President, I do not design to detain the Senate long on this question, but simply to give the reasons for my own vote. The importance of the subject I admit at once. From the foundation of the Government to the present time the question of nurturing and cherishing our fisheries has entered into the policy of almost every Administration. It has more or less mingled with all our public and private considerations of policy. But the argument to-day against the repeal of this bounty, has dwindled down to this, (and that is the sole burden of the speech of the honorable Senator from New Hampshire, to which I have listened with great attention,) that the cod fishery must be encouraged and cherished by this bounty, because it is a nursery for seamen, and without it the inference is that the nursery would cease to exist. That, I suppose, is the strong argument—I can conceive of none other—that we derive an equivalent from the American seamen, who are thus created, for the bounty that we give.

Now, sir, I will very briefly state why I have come into this movement, and shall support the bill. These bounties have been given from 1789, almost continuously up to this hour. From 1789 to 1807, there were nine distinct acts passed on the subject governing these drawbacks, bounties, or allowances, as they were called at various times; but throughout the whole of that period from 1789 to 1807, all these bounties and allowances were extended, not only to cured fish, but to beef and pork, and salted provisions. Will those who maintain the argument that these laws originated in the idea of maintaining a school for seamen, pretend that when the bounties were extended equally to beef and pork, they were also to encourage seamen? I have not heard the discussions on this bill; I have not been here for two days to listen to them; but I have read very carefully the reports heretofore made on the subject, particularly the report of Mr. Benton, and the minority report of Mr. Davis, of Massachusetts; and if I understand anything this was a free-trade measure originally. It was connected entirely, solely, and exclusively with the duty upon salt; and it was just that those who imported the salt should have a drawback when they exported fish and provisions which were cured with it, and the drawback was governed by the salt duty. As was remarked by the Senator from Alabama, whose speech I have also read, this allowance was created by the duty on salt, fluctuated with it, grew up with it, and finally, in 1807, when the duty on salt was repealed, all these bounties and allowances were repealed, not only on fish, but on beef and pork.

That is simply the history of these bounties and allowances, and I put the question strongly to gentlemen who contend that this was conceived in the idea of making a nursery for seamen, why it was that they included also beef and pork in the measure? Beef, pork, and fish had to be exported from the country. They had to be salted with foreign salt. If this were a school for seamen the school consisted in the sea-service, in the catching of the fish, in the length of the voyage, and in the manipulation of these little vessels. That was the school. Whether they caught fish or did not catch fish, however successful or unsuccessful the voyage might be, the school to the seamen was the same.

Mr. FESSENDEN. Will the Senator allow

me to ask him if he has read Mr. Jefferson's report made in 1792?

Mr. MALLORY. I have only read the extracts from Mr. Jefferson's reports, which are included in Mr. Benton's and Mr. Davis's report.

Mr. FESSENDEN. If the Senator will read that report he will see that one of the main grounds on which it was recommended was as a school for seamen.

Mr. MALLORY. Mr. Jefferson was opposed to this very bounty.

Mr. FESSENDEN. He recommended the drawback. He wanted something done.

Mr. MALLORY. If the school for seamen was the original idea, the exportation of the fish would not have been necessary. The catching of the fish, the length of the voyage, the number of men, constituted the school. The exportation from the country had nothing to do with the character of that school.

Now, sir, if the idea of a school for seamen was exclusively in view by the framers of these laws and those who upheld them, why did they not extend the bounty to other branches of fishery? England and France, as long as they have had a whale fishery, and I presume their bounties are still existing, have given the largest bounties to the whale fishery because the whale fishery was regarded as a school for seamen, on account of the length of the voyage and the character of the vessels employed. They gave, as we find in Mr. Benton's report, as much as five hundred pounds to the most successful of the whalers.

If a school for seamen had been the design, why did the act not provide that the seamen should be American? The Senator from New Hampshire has dwelt here an hour on the point that this fishery raises up American seamen. The law never required them to be Americans. It gave the bounty to all, Americans and foreigners alike. I presume, of course, that nine tenths of these cod fishermen are Americans. This results from the immediate neighborhood, from the length of the voyage being only four months; but still we look to the law and the policy enunciated by the law, for a criterion, and that shows that this was not designed expressly as a school for seamen, but was more a free-trade measure, giving them the drawback upon the salt. As I remarked just now, to carry out that idea, when the duty on salt was entirely repealed, all the bounties and allowances fell with it, and no bounties or allowances were made to these fisheries from 1807 to 1813. Now, I do not know what the condition of the cod fishery was during those six years. I am not informed whether the trade languished for the want of the bounty.

Mr. COLLAMER. That was shown here yesterday.

Mr. MALLORY. That may or may not have been the case; but certain it is, that the whole country, all parties of the country, gentlemen representing the fishing districts as well as others, concurred in the withdrawal of the bounty at that time. In 1813, I find that the duty on salt was revived as a war measure, twenty per cent.; and then the bounty was extended to fish; but salted provisions were struck out. Here gentlemen point to this act and say this created a school for seamen. Why, sir, the act was limited to the war. That was a very novel way of creating seamen for a war, when there could be but very little fishing done.

As the law now stands, after the alteration was made requiring a certain portion of the crew to be Americans, or persons owing no allegiance to any foreign prince, potentate, or Power, I presume the bounty is not withheld because the crews of those vessels may not be Americans. I presume that, as the law now stands, all on board, exclusive of the officers, may be persons who are not citizens of the United States. They may have one fourth foreigners who claim not to be citizens, either by the common American protection issued to the seamen, or by a certificate of naturalization. As long as they can show that they are not the subjects of any foreign prince, potentate, or Power; that is, that they are foreign-born persons who owe no allegiance to any foreign country, but who have not acquired a residence in the United States, the bounty is given to them. I presume there is no law in existence now requiring, absolutely, that any portion of the crews of these vessels should be American. I do not know of any. I know how our seamen are made Americans; that

is very well understood, and I shall come to it presently.

Had the laws on this subject subsequent to 1807 regarded this exclusively as a nursery for seamen, they would have confined it to American seamen, and they would have given the bounty to the employment of American seamen, and would not have made it depend at all upon the amount of fish caught, but upon the time employed in the catching. It is not the catching of the fish that constitutes the seaman, but it is the length of the voyage, and the manipulation of the vessel. I am ready to concede that this is a school and nursery for seamen, and a very important one, indeed. I differ with my friend from Alabama in that respect. I think he underrates the value of these men. I know that the impression among some of the leading officers of our service is, that they would rather have a crew of these men, ignorant as they are of the management of square-rigged vessels, than such a crew as you pick up from the receiving ships, generally made up of men of all nations, because they have overcome the repugnance to sea of a landsman; they have accustomed themselves to the sea; they know how to do all the little odd jobs about a vessel; they have gone through such an apprenticeship that a very little tuition on board a square-rigged vessel will develop what they have learned into usefulness; and they are nearly all American seamen.

Thirteen thousand of these men are employed in the fisheries. I have made an estimate of our seamen now. I know of no accurate way the Government has prescribed for reaching exactly the number of American seamen employed. We have no means of determining those who are *bona fide* American seamen; but I speak now of those who claim the protection of the American flag, sailing in American vessels. I make the calculation in this way: Great Britain has at this day in her merchant service, 4,211,048 tons; we have in our merchant service, 4,840,843 tons, exceeding her by about seven hundred thousand. She has this day, according to the best registers which I have been able to consult, 179,387 seamen employed in her merchant service. I make the calculation in this way, that as her tonnage is to her merchant seamen, so will our tonnage be to our merchant seamen. That is not entirely accurate, because we sail our ships with smaller crews than the British merchant vessels; we have a great many appliances which they have not. Our merchant vessels are the finest in the world, far exceeding theirs in every point. We use patent roller blocks; we use windlasses with a thousand contrivances; we use patent braces to our yards, and we use other appliances to dispense with men. The calculation, therefore, is not exactly accurate; but it approximates to correctness; and, according to this calculation, we find that we have 210,405 seamen, of which number 13,000 are employed in the cod fisheries.

The Senate will perceive at once how small a proportion of this entire aggregate of seamen we get from these fisheries. Here let me say, that the seamen of these fisheries never go into our Navy or merchant service. Search the merchant service from Maine to Texas to-day, and you will find no cod fishermen in it. They are far too intelligent for that. There are very few pursuits in this country which do not yield to the industrious hand a greater remuneration for his labor than going to sea. These cod fishermen are men of families. They make a short voyage of four months, and before the system of railroads grew up, many of them were stage-drivers. You found them everywhere as stage-drivers; it was a favorite pursuit with them. They are useful men in almost every walk of society; men elevated, by intelligence, far above the ordinary sailor, and who command a greater price for their wages everywhere over the world. You do not find them in the Navy and merchant marine; but you find them about the localities from whence they come. Therefore, although I concede that this is a school and nursery for seamen, I say it is not one that deserves exclusive bounties to keep it up. The oyster boats of the Chesapeake and Delaware bay, the fishermen all along the coast of Florida, where they have been shipping salted fish to Havana, cured with foreign salt, for twenty-five or thirty years—before the change of flag, and since that time—the smacks employed in carrying live fish from the coast of Florida to Cuba,

the boatmen along shore, all those who supply oysters and scale and shell fish to our large cities, are all schools for seamen. These thirteen thousand men bear a small proportion to the merchant seamen, and, in my judgment, the time has passed when they merit any exclusive support.

The Senator from New Hampshire contends—and I understand that the Senator from Maine [Mr. HAMLIN] maintains the same idea—that, without these bounties, this fishery will decline, perhaps become extinct. They say it cannot maintain itself in the face of the importations from the British Provinces, under our reciprocity treaty. That may be so; but I undertake to say that, if you will take the bounties that you give to this fishery, and give the amount as an addition to the wages of your seamen, you will have the choice seamen of the whole world, in peace and in war. Apply the amount of these allowances directly to compensating seamen, and what better bounty could you have for a nursery for seamen?

The idea that we have American seamen to navigate our merchant marine or our Navy is fallacious. We have no such thing; we never have had, and we never can have, and for the reason that we cannot get them; because, in this country, as I have said, almost every branch of industry affords a greater remuneration than going to sea, and no man will go to sea who can stay ashore. We have known this so well that we have paid the highest wages in the world, and therefore we get the choice of seamen.

Now, let me show you what the British pay for their seamen, and they have put the wages up after encountering this difficulty; a frigate would sometimes lie in a British port, in an emergency, three months without being able to get a crew; and they have given the highest rate of wages their treasury would afford. They give their leading seamen—certain men who have proved of fine character and long service—\$12 93 a month; they give their able seamen \$11 70 a month; their ordinary seamen \$9 24 a month; their ordinary seamen of the second class \$7 39 a month; their boys of the first class \$4 31; and boys of the second class \$3 69. We have but two classes of seamen, able seamen and ordinary seamen. To an able seaman we give \$18 00; to our ordinary seamen \$14 00; and to landsmen \$12 00; we give our boys eight, nine, and ten dollars. In other words, we give to our seamen fifty per cent. more than the highest commercial nation in the world, and we give to our boys one hundred per cent. more. France, Russia, Sweden, Norway, Denmark, all the commercial Powers upon the northern seas give far less than Great Britain. She gives the highest wages next to ourselves. We have adhered to this policy thus far, and it enabled us to get the pick of seamen in 1812. We had more seamen than we wanted. When we went into the war of 1812 we had one hundred thousand registered seamen. We got more than we wanted. Great Britain, in her recent difficulties with Russia, has found that she was unable to get seamen. It is because of the superior treatment of the seaman, his higher character, in our service, and the higher social position he enjoys relatively to other classes of society, that we get the best.

I say, as long as this policy is pursued of giving liberal wages—and they are only in accordance with the rates of compensation to other branches of industry in our country; and in Great Britain her wages to seamen are in proportion to her compensation to other branches of industry—as long as we pursue this policy we shall get the best seamen; and, if it is necessary to give a bounty, let us give it to men who go into the service. Let us give it to them after going into the merchant service or Navy. Give it directly, but not indirectly; for it now goes into the hands of ship-owners. Gentlemen, I presume, will say that a portion of this bounty, which is received by the fishing vessels, is divided out to the seamen in proportion to their several merits. Well, sir, the inquiries I have made on this subject lead me to the conclusion, that, whenever money goes into the hands of a ship-owner, to be divided among his crew, to be retained till the settlement of accounts, his advance to them will always liquidate the amount to be advanced. In other words, the pipes and tobacco that Jack has drawn—those are the common terms he uses—from the purser or clerk of the vessel, always counterbalance any advance he is to receive. That is the universal

custom among seamen, and I presume these cod fishermen are like all the rest.

It would be well if any mercantile Power like ourselves could, in the event of a war, rely upon having our national vessels manned by native or naturalized seamen; but that is a chimera; we cannot expect it; we cannot offer them inducements enough to go into the business; they get higher inducements on shore. In the event of a war to-morrow, if we adopted the privateering system, our native and naturalized citizens would rush into the privateers, because there a different discipline, the hopes of larger reward, and the prospect of office and promotion, hold out greater inducements. In the war of 1812, it is well known that we had a very large proportion of foreign seamen. It was charged upon us repeatedly that we were using extraordinary devices to entice seamen from the ships of Great Britain; and it has been correctly remarked by the Senator from New Hampshire, that the impressment of those men from our vessels brought on hostilities. We all recollect or have read the incident of the ship *Baltimore*, from which five seamen were taken, and there were other similar cases which preceded the war. The hostility of British and Irish and Scotch seamen to their own service was very great, indeed; it broke out on all occasions. Whenever an American ship went alongside an English ship she received deserters night and day.

I will only allude here to the case of the *Essex*. Gentlemen may possibly recollect that Captain Smith was in the *Essex*, at Portsmouth, in 1811. The commodore of the port sent an officer on board, notifying him that he had British seamen in his vessel who were deserters, and the officer identified one. The man claimed that he was an American; but he could produce no proof of that; and on the other hand it was proved that he was a Scotchman. This man, rather than give up, took the carpenter's hatchet, and deliberately cut off his left hand, and holding it up in his right hand, gave it to the officer who came after him. That is not a solitary instance; but it shows the repugnance the British seamen had at that time to going into their own service. The Constitution subsequently went into an English port and surrendered a seaman to a British officer because the seaman acknowledged that he was an Englishman. Our officer undertook to prove by the rolls that he was an American, and they had no proof that he was an Englishman except his own acknowledgment; but the commodore of the British station said they must take that proof. On the following day an Irishman, whose language would betray him anywhere, swam on board the Constitution, and when he was demanded the next day, and was called up, he told the British commodore to his face, in the broadest Irish brogue, that he was an American, and Commodore Hull immediately said he must take the declaration of the man, as he had been served so on the previous day; and there the matter ended.

If it were necessary, I could go into an investigation of this matter, and show that a very large proportion of the men who fought in our national vessels were men picked up from all parts of the world. Your veritable seaman is a cosmopolitan. He goes where he can get the most wages and the best service; and the very moment he becomes identified with a locality like these Cape Cod men, he ceases to be a seaman; he will not go to sea if he can get money enough to buy a farm, and stay on shore. Your true seaman is a man who has no home but the sea; who seeks the highest prize-money, the largest wages, and the best treatment all over the world. I have taken some pains to poll our ships to prove this fact. We all recollect Commander Ingraham's difficulty at Smyrna. When he came home, he polled his ship; and he found that he had nineteen Americans out of one hundred and seventy seamen. I have had several ships polled myself to show this fact; and before the increase of wages to eighteen dollars a month, there generally proved to be one American in five seamen. Since the increase of wages, the proportion is about one in three; and we are getting a better class of American seamen every day since the increase of wages.

The merchant service in our country is the true nursery for seamen. It is the nursery because it gives them the highest rewards; it treats them best; it attracts them. The wages out of New York now to other ports than San Francisco—for

sailors are all anxious to get to California—average from nineteen to twenty-five dollars a month. That makes the general income of the merchant sailor about equal to that of one in the Navy. When they get from twenty-three to twenty-four dollars in the merchant service, the sailor will make more by going into the Navy at eighteen dollars, because the voyage is longer; he preserves his money, and has no temptation to spend it. But the Senate will see that the merchant service of the United States, with its regulated discipline, its excellent rations, superior to those of any other country, its short voyages, its rapid promotions, and the facility with which naturalization papers may be obtained, and an interest in the voyage taken, must necessarily attract the choice seamen of the whole world to it. The merchant service of the country is the nursery of seamen; and of the number of our seamen, two hundred thousand, the cod fishermen, who are only thirteen thousand, are but a small proportion; and I do not think that at this day they deserve any peculiar encouragement. I will not say anything now on the question of bounty. I would not vote for any bounty; but I am meeting the argument that this is a nursery for seamen.

The Senator from New Hampshire, in connection with this matter, has alluded particularly to this disposition to cherish the Navy. He says he is its best friend, having warred against its abuses. Well, sir, I suppose that those whom we love we chasten most; and on that principle, no doubt, the Senator from New Hampshire is a good friend of the Navy, because he has brought in a proposition to abolish it altogether, and to employ naval officers as we employ other men, when we want them, and pay them, and get them from the merchant service, or otherwise—in other words, to have a navy on the spur of the moment, to fee a naval officer as you would a lawyer—hire him for a special service.

I do not suppose that any bounty we could give to any particular branch of industry would work any better than the present system does by producing American seamen. I presume that, under our existing trade, we shall get the choice seamen in the world. Now, to show how our tonnage has increased, let me refer to a few facts. In 1815, we had but 1,368,127 tons; and I see by the return of registered tonnage this year we have 4,940,843 tons. In other words, without any particular bounties, except those to the cod fishery, we have outstripped all the nations of the world in our tonnage and in our seamen; we have the best seamen in the world. If you take a seaman from the northern coast of Europe, where many of our men come from, and put him on board an American vessel with the improvements in navigation, under American officers, and he is known in twelve months to become another man. The French seaman, the seaman of the Baltic, the seaman of the British Channel, the Fin, the Scotchman, the Irishman, who engages in sea service, is nothing but a seaman. Poets have immortalized this idea. Every poet of the sea has told you that the home of the sailor is upon the deep, and Barry Cornwall, in his celebrated song of the sea, has made his hero say that the moment he is on the shore he sighs for the deep blue sea. So it is, sir. The boy, when he is six or seven years of age, is put to sea. He thrives upon kicks and cuffs, and he comes, in the course of time to such a condition that nothing but kicks and cuffs and rough usage will answer. These Cape Cod men that you talk about, are more or less gentlemen; they are men who have families on shore, a home, kindred, friends, ties—all binding them down to their native coasts. They will not subject themselves to the rough usages of seamen, and you never find them in the merchant marine, or in the Navy. If we had a privateer service they would go into it, and they would be captains, mates, and owners of vessels, and get prize-money; but they do not go into our Navy or our merchant service.

In 1812, I know well that the fight which gave the American Navy a history to write, which created the greatest *éclat*, which tore the trident of invincibility from Great Britain at once, and reared us up into a first-class naval Power, was fought principally by Marblehead and northern fishermen. If you take the pay-roll of the Constitution to-day, you will find Yankee names on it prevailing throughout the whole roll. But I would say

that, however necessary it might be in the commencement of a war to continue this bounty, the wisdom of Congress was just at that time, for they only continued it during the war. When the bounty was repealed, as I said before, the whole common sense of the country concurred in it; and I find that, in the House of Representatives, the vote stood 125 for the repeal to only 5 against it. Here in this enlightened day, (1858,) with all these facts before us, with free-trade principles afloat, with protection surrendered, not finding an advocate on this floor, I think the time has come when gentlemen representing the districts which enjoy this bounty should rise gracefully and say: "We want it no more; we have profited by it; but now we will agree to give the \$300,000 a year we receive as fishing bounty as an addition to the wages of seamen in the merchant and naval service."

I shall not detain the Senate longer. I have already said more than I intended. I may have gone over ground that has been occupied by others; but my apology is, that I have not heard the debates heretofore on this bill.

Mr. DAVIS. Mr. President, I did wish, at the close of the remarks of the Senator from New Hampshire, to say something; but he is not in his seat, and I will say nothing now in relation to that allusion which he made to me, and which, I hope, is more in accordance with the courtesy of the Senate and the sentiments of a gentleman than my judgment would decide.

The question which is before the Senate, though it is an amendment, involves in the debate the whole subject of the proposition to repeal the bounties paid to the cod fishermen. The question has two views, to which I propose generally to refer, for my physical condition will not enable me to go into the details, and my friend from Alabama has so ably covered the whole ground, that it would be quite superfluous for me to attempt it, if my condition were other than what it is.

The division, I think, is between the power and the policy. The Senator from Maine, [Mr. FESSENDEN,] in his argument yesterday, called on the Senator from Alabama to show what clause in the Constitution prohibited it. That is not the rule, sir. It rests upon the other party to show what clause in the Constitution grants it. The Federal Government is made up of grants. It has no inherent power; it possesses nothing *per se*; and has now only what the Constitution gave to it; and it therefore devolves on those who claim any particular legislation, that they shall show whence they derive the authority; not call upon those who object to show that it is prohibited in the Constitution. I can very well perceive from what clause of the Constitution the power was originally drawn. When it was in the form of a drawback upon the foreign salt which was used in curing fish, it was easily referable to the power to regulate commerce. When, however, it was made to rest upon a different basis, that of cheap food for the poor, it had no clause in the Constitution to which it could be referred. When it assumed the form which it now occupies, that of a means of providing sailors for the Navy, it would have to be referable to the naval power; and when you reach that point, the power to maintain a Navy, it immediately becomes a question of policy whether this is the best mode of maintaining a Navy or not. Now, if gentlemen on the other side of this question will prove to me that this is the best mode of maintaining a navy, I concede the policy.

Mr. FESSENDEN. The Senator will excuse me for interrupting him, as he has alluded to me.

Mr. DAVIS. Certainly.

Mr. FESSENDEN. I think he could not have attended to my remarks. I might have put such a question as he states; but I went on to take the same ground he is now taking in reference to the derivation of the power.

Mr. DAVIS. Unfortunately I have not been able to read the Senator's remarks; I only get at them as I listened to them. I thought he put the argument as I stated it; but I am glad to be corrected. I say, then, that if they can establish that this is the best and cheapest way of maintaining a navy, I have no constitutional objection to this mode of appropriating money, though, as a matter of policy, I should say it was an indirect, and therefore an objectionable mode. It is within the power, but still bad policy. But if that be true, then you should include all fishermen; and you

must largely increase the number, besides those fishing for cod. Or is it, on the other hand, true that fishing for cod peculiarly trains a seaman? Is it true, as has been drawn from the argument, that they were found on our ships in the war of 1812; that their pursuit drew them there; or is it not referable to the fact that that war was waged with Great Britain, the great maritime Power that owned the banks; that our fishermen were driven off; that their employment was gone; and that, therefore, they were forced into our privateers and ships of war? If the war had been waged with France, then the French fishermen would have been driven off the banks—driven off by the courage and skill of our own fishermen. It was because of the power of the British navy, and because of their proximity to the banks, that our fishermen were driven away; and being driven away, I say they were to be found in our vessels, public and private, that were engaged in armed service.

But I observe that the Senator from Maine, [Mr. HAMLIN,] in his argument, seemed to refer all the naval power of every country, our own included, to their nursery of fishermen. I should wholly dissent from this. That fishing is one of those aquatic occupations that fit a man to go to sea, is true, whatever the character of the fishing may be. That it is to that extent a sort of training for the Navy, is true. But the cases which were cited of Holland and of Spain, are cases which I think are referable to a totally different cause. They had fishermen and they had, to some extent, seamen; but when Holland lost the Dutch East Indies, and when Spain lost the American colonies, their naval power declined, but their fisheries remain still. Why have not the fishermen, if they were the cause of their naval power, maintained it? Why has Great Britain, on the other hand, maintaining her colonies all over the globe, maintained her naval power in the face of every opposition?

Then again, sir, there are other causes. The Greeks and Venetians were great naval Powers, because of their harbors, because the people looked out on the seas. The people of Maine are, because that portion of our coast, more than any other, is indented with deep and fine harbors. The people of Indiana are not so; their State touches at one point on a lake where nature made no harbor, and art has not yet made one. We go to Maine to find seamen, not to Indiana; and it is the result of natural causes, geographical causes. Our own country, I think fortunately, has had no colonial possessions. Early, therefore, she sought to encourage seamanship by fishing bounties and by navigation laws. They are of the same character of class legislation, and to my mind objectionable. They are, I say, unequal, because they are class legislation, not because one portion of the country gets the advantage of them, and another cannot. Though that is the answer which has been made to the argument, I hold it to be no answer at all.

Neither do I admit that the men who live in the neighborhood of these fisheries, and point to their prowess in the war of 1812, have any right to appropriate that glory to themselves. It is mine as an American—mine as much as that of any other man; and, sir, I am sure my friend from Alabama, as little as myself, would wish to detract in any degree from the gallantry and the enterprise and the glory of the Yankee sailors who won so many battles in the war of 1812. As much as those who live nearer to them, do I honor the hardihood, the energy, and courage which have carried them into every sea where there is water enough to float a ship, and have made our emblematic flag respected and known all over the globe. And, sir, it is the high attributes they have exemplified in so many pursuits where they were not fostered by the hand of the Government, which encourages me to believe that they will stand alone in this as in others, if you put them all on the same general level. Every duty which is imposed as protection, I put on the same footing of class legislation as the fishing bounties—not those duties, however, which are imposed for revenue, so long as the policy of our Government is to collect the money with which the Government is supported, by duties on imports. I think our present system objectionable; I would prefer a radical change; and if that radical change is not to be made, I think a very great variation of duties is due to justice and equality. They should be

laid simply for the purpose of revenue, and that should be a mere calculation of revenue, beyond the extent to which the encouragement of certain articles is necessary as a means of national defense. Wherever that is shown, to that extent I am willing to go.

If, then, Mr. President, this is not shown to be the best means of maintaining a Navy, (and I do not think it can be, and I do not think it has been,) I say upon the mere question of policy the proposition falls, and the bill introduced by the Senator from Alabama should be adopted. But it may be asked why, if you say this is not the best means of maintaining a Navy, you do not suggest some other. Very well; I will. Suppose the two hundred and fifty or three hundred thousand dollars a year now paid in bounties were paid to vessels carrying a certain number of apprentices in proportion to their tonnage; suppose every merchantman was offered an inducement for carrying a proportion of apprentices: the boys then that lie around your wharves, the boys that are penniless and homeless and parentless in your great commercial cities, would become apprentices under masters of merchant vessels, and thus you would build up American seamen, step by step, to displace the foreigners who are now found both in the merchant service and in the public vessels. This, I hold, would be a legitimate step; for these foreigners are not only found as the seamen upon your public vessels, but the petty officers of the great armed ships of the United States are, to a great extent, foreigners also, and for the reason that they are educated from their youth to the profession of sailors, and therefore are better competent to perform the duties. But, sir, if an American vessel were engaged in battle, with your guns in the hands of foreigners, what assurance have you that these foreigners might not prove faithless to the flag to which they were bound by no tie of allegiance? How easy it would be for the captain of a gun to cripple the gun, to overshoot or undershoot the enemy, and thus to render you powerless by the mere action of the men to whom you intrust these small charges that must belong to the deck of every armed vessel.

Nor would it be necessary to pay out this money to the captains and the apprentices. You could manage that readily under your regulations. You could do it by remitting port charges, clearance duties, and entrance duties to merchant ships that carried a certain number of apprentices; and thus, without paying out a dollar, or incurring your expense a single cent more than is now incurred, you could obtain a number of apprentices, who, step by step, would give you American seamen. They would more than supply the places of all your fishermen, if all the fishermen were to be taken from your vessels in any contingency; and they would leave the fishing business to rest, as justly it ought, on its own bottom, and to seek its reward as other pursuits of industry do.

But, sir, it has been further argued that the raising of seamen for the Navy in this way rests upon the same footing as the public schools at West Point or Annapolis. If any one will prove to me that the appropriations made for the Military Academy are made to educate men for the Army, I say away with them; and, on the other hand, I claim of those who urge this argument, that if they see, as they must see if they will examine, that these appropriations are made to educate the warrant officers of the Army, and that it is a mere question of economy and advantage whether they shall be thus educated, or in some other mode; then, I say, they must admit it does not stand at all on the same footing as a bounty paid to persons who owe no obligations to serve the United States.

The cadets in the Military Academy enter into an obligation to serve the United States for a term of years, greatly beyond that in which they are at the Academy—three years longer; and that absorbs a period of eight years in the life of a young man, which carries him so far forward that if he has any military taste the probability is, unless some accident which he cannot foresee happens, that he will die in the service of the United States in the Army. Being a warrant officer of the United States, the question then is, shall you send him to a regiment to be educated, or shall you send him to the Military Academy, where he will receive a regular course of instruction under able

professors, and advance rapidly towards the attainment of those elements which he probably will never acquire serving in a regiment? You must educate your officer somewhere. You must educate him in the regiment or in the Academy. If you educate him in the regiment you must educate him with the pay of a commissioned officer, and you must take a long term of years, because his studies are broken up by constant intervals of duty. If you send him to the Academy you there confine him to his studies; you direct his studies; you furnish him the books; and you lead him on step by step in that regular succession of elementary studies which no man can mark out for himself. I say, then, they are educated in the Army, as much as if they were sent to the regiments, there to learn their profession by performing duty, with this great advantage: you compel them to learn elements which, in the other case, they could not do; and you only give them the right to command men when they have learned to obey and know how to exercise the functions of an officer. The Naval School I do not know so much about; but I find myself so far exhausted that I will not enter upon a new topic. I do not know that I should have been tempted to say so much but for the strange propositions, as it strikes me, which have been introduced into the argument.

Mr. PUGH. I wish to say a few words merely in explanation of the vote I shall give against this amendment. I shall vote against the amendment of the Senator from New Hampshire when it is in order, and also against the amendment which postpones the operation of this bill. The Senator from New Hampshire says that he is opposed to monopolies. Without questioning the sincerity of his statement, I must say that he takes the most effectual method to perpetuate them; for whenever an abuse becomes so gross that it can no longer be defended, nor any pretext invented for it, the sure way to prevent its abolition is to introduce a variety of collateral questions. Now, sir, I am not satisfied with the present system under which the Military Academy and the Naval School are conducted; I do not believe they are as efficient as they might be, in proportion to the amount of public money expended on them; but I have no idea of defeating this bill by attaching provisions upon any collateral questions to it.

Mr. President, what is this case before us? Here are a few thousand men in several of the New England States who go out in the course of the year to catch cod fish and other fish. It is a very honest business; I have nothing to say against it, and I have nothing to say against them; I presume they are useful citizens of the United States, and they have my thanks for being useful and industrious; but they go out to catch fish in their own boats; they bring the fish home; they sell them either salted or dried; and they put the money in their pockets. That is the sum total of their services; and you and I, sir, are asked to levy a tax on our constituents who till the soil, who engage in employments equally honorable and industrious—I am asked to impose a tax on the thousands of my constituents who live along Lake Erie, and catch fish on which no bounty is paid—for what? What elevates these gentlemen to the rank of aristocrats, that they are to be supported at the expense of all the other laboring men of the United States? It is a question that must come home to us. How can we justify it? What is the excuse for it? There has none been made that can stand the test of a moment's examination.

I am satisfied, on examining these various statutes, that this was originally a free-trade proposition. It was intended in all cases of salted fish and salted provisions exported, to give a drawback, or a bounty equivalent to the drawback, on the foreign salt used in curing them. I think it was a good doctrine. It is a doctrine I am willing to see applied to a very large extent in our revenue laws. I have no doubt that some arguments were thrown in as make-weights about the same time, to the effect that it might encourage seamen, or prove a nursery of seamen, and all that sort of thing; but the language of the law, the manifest purpose of this drawback originally was to give the party a compensation for the duty on the salt, as he exported the provisions and imported the salt. The only difficulty that has arisen in my mind has been upon the act of 1813, the one now in force. The first three sections of that act plainly contemplate a

drawback in the case of salted fish: The last sections, those which are now in force, giving a bounty on the vessel, hardly seem, in their language, to carry out that design; but when I consider that the tenth section of the act continued these bounties in force only during the war with Great Britain and her dependencies, I am satisfied that it was a measure of hostility, that it was intended to stimulate the men engaged in these fisheries in New England to drive the English colonists out of the fisheries near the English dominions. The last section says:

"This act shall continue in force until the termination of the war in which the United States are now engaged with the United Kingdoms of Great Britain and Ireland, and the dependencies thereof, and for one year thereafter, and no longer."

I am satisfied that it was intended to encourage the fishermen to take possession of the fisheries in time of war.

Well, sir, we come down to the tariff of 1816; and we all know that in those days the argument was made that during the war certain branches of industry, manufactures, and many others, had grown up under the protection of the war by the exclusion of foreign goods and the products of foreign industry, and that, therefore there ought not to be an immediate reduction; and I believe that was the excuse given by Mr. Calhoun and many others who voted for the tariff of 1816; and under that, these bounties were continued.

But, sir, we have revised all that system; we have struck this element of protection out of every other department of industry. This is the last relic of the system. It has survived the reason on which it was founded; it has survived all the circumstances out of which it originated; and it remains now as a single, solitary abuse, for which no apology can be given. Talk about a nursery of seamen! Why, sir, it is a premium not to be seamen. Tell me that, when you give these gentlemen a bounty for going in their fishing smacks, and fishing along the coast, they will quit that business to go into the Navy, where they get no bounty! It is a bounty to them to stay out of the Navy; it is a bounty to go into their own profitable employment, and be paid to remain there, and to remain out of the Navy. If, however, this allegation were true, I would say, with the Senator from Florida, increase the pay of the seaman; pay the man who goes into the Navy; and not pay a man to learn how to go into the Navy, and then not go into it. Are we to go upon such doctrines as these? Why, I suppose the Senator from Delaware will next want us to pay a bounty to his constituents for manufacturing gunpowder, in order that we may have a good article of gunpowder by the time of the next war; and so we shall go on. Every field of industrial pursuit, which may contribute to the common defense by land or by sea in time of hostilities, is to be stimulated and protected during all the years of peace. No, sir. If this is a legitimate business; if it is a business which ought to engage the industry of these gentlemen, it will pay them well. If it does not pay them, they had better betake themselves to some other employment. I am satisfied, as I said before, that the whole reason, whether you consider it as a drawback or a protection, of these bounties, has long since ceased, and that they now stand as the last relic of the protective system, whereby the industry of two thirds of this nation has been plundered for the aggrandizement of a few persons in the eastern States.

I said I should vote against the proposition to defer the repeal, because I think the last day of December, 1859, is sufficient. They get two years bounty under the bill, and that is time enough for them to quit. There was no mercy shown to anybody else at the time we set up here a whole night, at the last session of Congress, to pass the tariff bill, when, by one fell swoop, in twenty-four hours you struck down the duties upon a great variety of articles. When my friend from Pennsylvania [Mr. BIGLER] stood up here with his then colleague, [Mr. BRODHEAD], and implored us to protect the iron interest, we did not give them a year, or two years, or any other period in which to bring their account to a settlement; we cut them off square. Now, we give these gentlemen eighteen months' notice, and we are asked to give them six years more than that. The amount of it will be that the system will be perpetual.

I understand there is another amendment, which has been offered, though it has not been read from the desk, by the Senator from Rhode Island, [Mr. ALLEN,] and that is to repeal the duty on salt as an additional section. I would be inclined to vote for that proposition, as at present advised, in a separate bill; but I am satisfied that to attach it to this bill will hazard the success of the bill; and, inasmuch as we are likely to have a general revision of the tariff before long, I think the salt duty may remain; and especially as, under a section of the tariff act of 1846, which is yet in force, there is a drawback allowed on all pickled or salted fish exported equal to the whole amount of the salt duty. I say the fifth section of the tariff act of 1846 allows these fishermen a drawback on all the exported fish equal to the amount of the salt duty; and that section, I presume, it is not the design of my friend from Alabama to affect; but, lest there may be any difficulty on that point, I will suggest to him to add a proviso to his bill that nothing contained in it shall interfere with that section. Then, surely, these men are better off than anybody else; for my constituents, who cure beef and pork, have no drawback on exportation on account of the salt they use; and I think that allowing the drawback on the salted fish exported to remain, under the act of 1846, will be sufficient. Therefore, although I might be inclined, and would be inclined, as at present advised, to vote for an abolition or reduction of the salt duty, I am satisfied that this bill is not the place to put it, and that it had better wait until we have a revision of the tariff.

Mr. SEWARD. Mr. President, the honorable Senator from New Hampshire has committed what I think is a very grave error, calculated to mislead the Senate and the country in regard to an important collateral point in this discussion. He has done so without excuse. He has magnified his ability and qualifications to instruct the Senate in the taking of fish by boasting of his education, and of his location within ten miles of the seashore; nevertheless, in the lecture which he has given us on the subject of the taking of cod and halibut, he has left the Senate under the belief that it is an affair perfectly easy and simple to take a halibut with a cod hook. Now, whoever shall attempt that will find himself mistaken, unless he has the gaffs ready to seize the halibut when brought to the water's edge, so as to prevent him breaking the hook and making off again into his deep-sea home.

He has misled the Senate in regard to another important point. He has encouraged landmen to expect that they can take mackerel with a hook and line, if the hook be delicate enough. This is an idea that is peculiar to the British fishermen in the lower Province of Canada. Whoever will go upon those fishing grounds will discover that there is nobody who can maintain a mackerel voyage successfully and prosperously except a Yankee; and that the reason why he is successful is, that he takes a mill with him on board his vessel, and a supply of herring and other materials for bait, and he grinds them in his idle hours in the evenings and mornings, and when no schools are about. When you see a vessel that is engaged in the mackerel fishing, if it be a mile, or two or three or four or five miles from you, and you attempt to board it, you find yourself in a very short time in a sea that is covered with what appears to be offal, refuse matter, which is thrown overboard by the mackerel fishermen, after having been ground in that mill. In that way the mackerel which go in shoals are attracted and baited. Then, if he is a shrewd fisherman, he draws them on nearer to the land, and then a seine will take more mackerel in one hour than my honorable friend from New Hampshire would take in all his life with hooks, however small, and lines however delicate. I have thought it proper to amend my honorable friend's instructions and omissions in regard to this important art and interest.

Mr. President, I shall not undertake to demonstrate the power of Congress to continue these bounties to the fishermen. It is enough for my present purpose that, when the constitutional Government of the United States went into operation, and the First Congress was held in the year 1789, those who constituted that Congress understood as well as we how to interpret the constitutional powers to regulate commerce, and how to exercise the power to establish and maintain a

Navy; and that that Congress, and all succeeding Congresses from that time, with the exception of a period of four years, maintained this system of bounties to the cod fisheries.

I have but a word to say in regard to the prejudice that is sought to be raised against this system because it is local. It is true that the fisheries of the United States are in one sense local. The fields of the cod fish and mackerel fisheries are local, and near to our own shores and the shores of the British Provinces. It is necessary to go where the fish inhabit, if you mean to take them; but they inhabit the waters in high latitudes. It is no more local than the whale fishery; for the enterprise of the whale fishery is pursued in substantially the same region; although the whale are chased under the north and south poles. The men who harpoon them, and the vessels which bring them in, and the merchants who sell them, are all found in three of the New England States, and those of the New England States that are directly on the ocean, Maine, New Hampshire, and Massachusetts. This system of industry benefits first, perhaps benefits most, the citizens living in that locality; but it is no more a local interest than the gold mining of California. That is peculiarly local; and yet upon the prosperity and success of gold mining for a single year may depend the solvency of the Government and of the whole country. A misfortune, an accident, or a calamity that could arrest it for a single year might embarrass the whole commercial, and even the political world. It is no more local than the raising of cotton and of sugar, which must be raised in certain latitudes under or near the tropics. For all that, cotton, we have heard here, is king in commerce; king in the commerce not only of this continent, but universal monarch in the commerce of the whole world.

Mr. President, if the United States were confined in their settlements and population to New England alone, there would probably be no necessity for bounty on fisheries for the support of commerce and the establishment of naval power. It is precisely because the United States is a great Power, reaching over an extended country, developing the varied resources of a continent that it was found necessary originally, and in my judgment has continued ever since to be necessary, to encourage and sustain the fisheries as a nursery for the mercantile and the national marine—an institution to promote the commerce of the country, and to increase the power of the country. To establish this institution it was necessary to go to where these fisheries were, in order to sustain them; because they were in that sense local. But when the Government of the United States, with an immense western domain, reaching at the earliest day to the Mississippi, and since extended to the Pacific ocean, opened all that vast domain to agriculture, inviting and tempting immigration from the sea-coast into the interior, by the distribution of that land at prices practically nominal to all the undergrowth of American population and to population from Europe, the Government of the United States thereby powerfully protected and stimulated agriculture. The United States have ever since continued to protect agriculture in that way, with a force, with an energy, with a munificence, such as the world has never before seen applied to such a purpose. It is owing to that protection that the United States have become a great agricultural people—already one of the greatest, and soon to become the greatest of all agricultural nations.

The United States were not content to be merely an agricultural people, for they were ambitious. They knew that no nation can be truly great that keeps in operation only one wheel of industry. There are three of these wheels in a perfect national engine, and they must all three be kept in activity and in motion. They mutually interlock and work with each other. These are, agriculture, manufactures, and commerce. The Government found in 1789, that, although an agricultural people, with this vast domain, we were incapable of maintaining a Government, and were even incapable of discharging the debt of the Revolution. It was necessary that they should become a commercial people, that they should become a maritime Power, or else they could have no revenues adequate to sustaining and maintaining the dignity of the Government, to say nothing of paying

its national debt. Imposts on foreign commerce, and not direct taxes, are the resources, the system, by which Governments are maintained throughout the world in this age. In order to provide for our national debt, besides appropriating the proceeds of the sales of the public lands, it was necessary to foster and encourage commerce. The United States at that time furnished comparatively no merchants, no trade; and it was necessary to call that trade into being. For that purpose, two institutions or systems were adopted. One was the establishment of navigation laws, which practically gave bounties to our ship-builders, by preferences in trade, amounting almost to exclusion, in favor of vessels navigating the waters of the United States which were built within the United States. This act was copied from the great policy of Cromwell, when at the head of the Commonwealth of England, from which dated the downfall of its great adversary, the Republic of the Netherlands, and the subsequent growth and now perfect development of the British Empire.

The other of these institutions was a nursery for seamen. This nursery, like any other, in order to be prolific, in order to be successful, must be established in a climate congenial with it; and that climate which was congenial with it was the rocky shores of New England, where agriculture and trade offered the smallest seductions. The Government of the United States, in 1789, probably did not mistake and make an erroneous calculation on that subject, because they built upon the policy of the British Government—a policy which had already secured to the colonies of Great Britain the advantages and resources and strength by which they were enabled to emancipate themselves from the mother country.

The manner in which the system worked was simple enough. Landsmen were tempted by bounties to enter into the cod fisheries. It was, as stated by my excellent friend from New Hampshire, immaterial whether they took cod or mackerel, provided they became watermen, and became accustomed to the enterprises and dangers of a seafaring life. In that way the system of commerce was established, and upon that basis the naval power of the United States was established. For these purposes the bounties have continued; and why shall they now be abandoned? Have they been unfruitful in their results? The cod fisheries of the United States alone, to-day, exceed five times in tonnage the cod fisheries of the United States in 1789. There has been only a period of four years during that long time in which the bounties were withdrawn, and during those four years the tonnage fell off from twenty-five thousand tons to seventeen thousand tons. The very first year after the bounties were restored the tonnage rose from seventeen thousand tons to thirty-four thousand tons, and has gone on increasing ever since.

Mr. CLAY. I wish to correct an error in the Senator from New York. He said, if I understood him aright, a moment ago, that the tonnage in the cod fisheries, at this time, exceeded by more than fivefold the tonnage in 1789.

Mr. SEWARD. Yes, sir.

Mr. CLAY. Well, sir, the tonnage in the fisheries, in 1790, was represented by Mr. Ames, at that day, to be thirty-one thousand eight hundred and forty-two tons. The average tonnage during the last decade, in the same fisheries, has been about ninety thousand—not three times as great as it was at that day, according to the representation of Mr. Ames, in his speech of 1792.

Mr. SEWARD. I am obliged to my honorable friend; but I am substantially right, I think. I did not say more than five times; but five times the tonnage in 1789. By the official report before me, it appears that the tonnage employed in the fisheries in that year was nineteen thousand eight hundred and ninety tons, and in 1851 the tonnage was ninety thousand—practically, five times as much. Besides the objects, as we all know, were not the taking of cod fish, or the taking of any other fish; but the objects were the collateral ones, the national ones, the great public purposes of the increase of commerce, and of strengthening and increasing the national power.

Now, what has been the practical result? Why, sir, in ten years from the time this policy of the United States was adopted, we became a great carrying nation; and, during the wars of the French Revolution, we maintained and secured to our-

selves, and enjoyed, until it was prostrated by the hostility of the belligerents, the carrying trade of the whole of Europe.

When those wars culminated in a war of our own, what was that war for but to maintain these two great interests—to vindicate with the power of the nation, at the hazard of the existence of the nation itself, these two great interests of commerce and of naval power? We staked our very existence as a nation on the defense of these two great interests. It was a war for free trade and sailors' rights; and the bounty given to the fishermen was the elementary lesson, the A, B, C, in the great science of establishing free trade and sailors' rights. Having vindicated this policy in a war with Great Britain, we have gone on until we have reached the point when, although we are inferior to two or three other naval Powers, and only to two or three, in the world, in our public marine, we have already outstripped all nations in the amount of our commercial navigation.

Mr. President, I think it is too late in the day to be called upon to demonstrate that this success is due to the policy of those who aimed at these objects, and who, in the year 1789, adopted these means to secure them. I listen, not merely with distrust, but with serious apprehension, to those who give us theories of government contradictory and hostile to the maxims by which these great national objects have been attained. I grant that there is abstract truth in all the theories that the less Government does to protect industry the better; or, in other words, that Government may do too much, and that Government may, and often does, injuriously substitute monopolies for judicious protection.

I only say that I find this encouragement of the fisheries constituting one of the pillars of the greatness of the country. When I am asked to dash that pillar to the earth, I must have time to think; I must hear arguments more satisfactory than the enunciation of theories which were just as true, and just as popular in the world when this system was adopted, and which theories were overruled in its adoption, as they are now.

Upon what ground will it be safe for us to abandon the system? Have we reached the point when we have more of commerce, and more of navigation, and more of naval strength and energy than we need, or ought to have? Certainly not. Shall we say that it is unprofitable? It is as profitable to-day as the day it was established; for then the cod fisheries constituted one ninth of the tonnage of the United States, and now they constitute one fiftieth part of the tonnage of the United States. When you consider the local position of the fisheries, and consider the small number of the population of the United States in 1789, and how they were gathered along the sea-coast, and then reflect that they have extended from ocean to ocean, I say that these fisheries maintain relatively their importance, and their success in comparison with the development of the other resources and interests of the Republic.

Shall we be told that the fisheries will support themselves? That is one of the theories which have been advanced very often. Well, why did not the fisheries support themselves in 1789? Why was it necessary to resort to a bounty at all? For the simple reason that not only is a sea-faring life the most hazardous, and the worst rewarded in all countries, and in all ages, and therefore the least seductive and the least attractive, but in this country it is peculiarly so, because you give a bounty in one hundred acres of the public lands at \$125 to every American, and to every immigrant, if he will go into agriculture, when you give him nothing but poverty and privations if he will take to the sea.

This bounty is given to the cod fisheries only. Is that a reason for abolishing it? It is so insisted by the honorable chairman of the Committee on Commerce. He argues that bounties might as well be given to the mackerel and the whaling fisheries. Well, sir, they are practically given to all these classes of fishermen. The mackerel fishermen and the whalers are educated and trained in the cod fisheries. They do not discriminate in their pursuits; they go from one to the other. What sustains the one, what furnishes men and materials, vigor and sinews to one branch, sustains all the rest. What trains a man to the love of the sea, or the habit of going down to the sea for a livelihood, and the taking of one kind of fish,

equally trains him for the others, as well as for the commercial marine of the United States, and for the Navy. In this respect we have seen the trouble which not only ourselves but all other nations have had. We have been truly told by the honorable Senator from New Hampshire that the British Government, in the absence of bounties, and when they gave up bounties, resorted to impressment, and found it so difficult to secure seamen for the navy that they hazarded war with the United States for the purpose of maintaining their alleged right to impress seamen from our service. We all recollect when the Japan expedition was fitted out, how that expedition lay in the port of New York for a period of six or eight months, more or less, waiting, and unable to depart upon its important mission, for the reason that an adequate crew could not be enlisted during that time.

The necessity then was never greater than it is now; the expense was never less; the object was never more important; never more real, because we have been extending our possessions across the continent until we have added a sea-coast on the Pacific as long, or nearly so, as our sea-coast on the Atlantic. I suppose none of us calculate that it will be long before our sea-coast on the other side of the continent will be as long as our Atlantic coast. With this great extension of commerce and of trade and of mining upon the Pacific coast, with our determination to grasp for a share of commerce, and even of political influence and control, in Australia, and in the islands and continents of the East, it is as important as it ever was to maintain in all its strength and in all its vigor the naval force of the United States. When I look at the mighty interests that are put at hazard in this measure, and consider how small the object is which it is proposed to attain, the saving of two or three hundred thousand dollars a year, (less than the cost of maintaining a single ship at sea,) I am surprised, I am more than surprised, when I find that an argument for it is drawn from the fact that the burdens of these three hundred thousand dollars fall unequally upon different portions of the country; that the bounties go to New England fishermen, and the cost falls on the consumers of the country. I apprehend that the result will be found equalized very soon after the bounty is abolished. For myself, I have no sympathy in these calculations. I believe there is not, within the State which I represent, now a single fisherman engaged in this arduous pursuit; but the commerce of the country is concentrated there. Whatever commerce shall gain or lose, its first benefits, and its first losses will accrue to those whom I represent.

It is because, representing them, I think I see that the striking down of this system will have an injurious effect upon the interests of the whole country if it be persisted in, and will be a means of undermining the present commercial and naval power of the country, that I have chosen to make my protest that I may stand right upon the record in case the deed shall be done.

Mr. BRIGHT. There is an urgent necessity for an executive session, and as I understand the Senator from Massachusetts [Mr. Wilson] wishes to speak on this subject, I move now that the Senate proceed to the consideration of executive business.

Mr. SIMMONS. I desire to say a word before that is done.

Mr. BRIGHT. I withdraw the motion if the Senator desires to speak now.

Mr. SIMMONS. I wish to correct an error that I fell into yesterday; but I will wait.

Mr. BRIGHT. I renew the motion.

Mr. CLAY. I hope the Senator will permit me first to move to postpone this bill until a certain hour to-morrow. I trust we shall have a vote by one o'clock to-morrow.

Mr. BRIGHT. It will be left as unfinished business if we now go into executive session.

The PRESIDING OFFICER, (Mr. Foor.) The Chair would suggest to the Senator from Alabama that if this bill be left as unfinished business, it will take precedence to-morrow.

Mr. CLAY. Very well.

ENROLLED BILLS SIGNED.

A message was received from the House of Representatives, announcing that the Speaker of the House had signed the following enrolled bills

and joint resolutions; and they were signed by the Vice President:

An act (S. No. 286) to enlarge the Detroit and Saginaw land districts in Michigan;

An act (S. No. 296) amendatory of an act entitled "An act to establish two additional land districts in the Territory of Minnesota," approved July 8, 1856;

An act (S. No. 300) for the relief of the Hungarian settlers upon certain tracts of land in Iowa, hitherto reserved from sale by order of the President, dated January 22, 1855;

An act (S. No. 307) to authorize the Secretary of the Treasury to sell the old custom-house and site at Bath, Maine, and for other purposes;

An act (S. No. 313) to amend an act entitled "An act to ascertain and settle the private land claims of California," approved March 3, 1851;

A resolution (S. No. 33) authorizing suitable acknowledgments to be made by the President to the British naval authorities of Jamaica, for the relief extended to the officers and crew of the United States ship *Susquehanna*, disabled by yellow fever;

A resolution (S. No. 30) to extend for a further term the provisions of the joint resolution approved March 10, 1858, in relation to certain dropped and retired naval officers; and

An act (S. No. 86) for the admission of Minnesota into the Union.

EXECUTIVE SESSION.

The motion of Mr. BRIGHT was agreed to; and after some time spent in the consideration of executive business, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, May 11, 1858.

The House met at eleven o'clock, a. m. Prayer by Rev. JOHN LANAHAN.

The Journal of yesterday was read and approved.

APPOINTMENT ON A COMMITTEE.

The SPEAKER appointed Mr. BRANCH a member of the Committee on Foreign Affairs, in place of Mr. CLINGMAN.

SALE OF FORT SNELLING.

Mr. BURNETT. I would ask the consent of the House to permit the day set apart for the consideration of the report of the special committee on the sale of the military reservation at Fort Snelling to be changed from the 18th to the 19th instant. I have consulted the honorable member from Indiana [Mr. PETTIT] who made the majority report, and he agreed that I should make the motion. I am compelled to leave the city, and that is the reason why I ask the House to postpone the consideration of the report until the 19th instead of the 18th.

There being no objection, it was so ordered.

NIAGARA SHIP CANAL.

Mr. BURROUGHS. I ask the unanimous consent of the House to allow me to have printed informally the report of the select committee on the Niagara ship canal, for the convenience of members.

Leave was granted.

MESSAGE FROM THE SENATE.

A message was received from the Senate by ASBURY DICKINS, their Secretary, informing the House that the Senate had passed the following bills; in which he was directed to ask the concurrence of the House:

An act (S. No. 47) confirming locations of land warrants under certain circumstances; and

An act (S. No. 222) for the relief of Jeremiah Moors.

LYDIA FLETCHER.

Mr. ATKINS, by unanimous consent, and in pursuance of previous notice, introduced a bill for the relief of Lydia Fletcher; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. COMINS. I ask the unanimous consent of the House that the Committee on Commerce may be discharged from the further consideration of the petition of citizens of Galveston, Texas, for an appropriation for light-boats; and that it be referred to the Committee of Ways and Means.

Mr. DAVIS, of Indiana. I object, and insist upon the regular order of business.

ENROLLED BILLS.

Mr. PIKE, from the Committee on Enrolled Bills, reported as truly enrolled the following bills and joint resolutions; when the Speaker signed the same:

An act (S. No. 300) for the relief of the Hungarian settlers upon certain tracts of land in Iowa, hitherto reserved from sale by order of the President, dated January 22, 1855;

An act (S. No. 286) to enlarge the Detroit and Saginaw land districts in Michigan;

An act (S. No. 296) amendatory of an act entitled "An act to establish two additional land districts in the Territory of Minnesota," approved July 8, 1856;

An act (S. No. 313) to amend an act entitled "An act to ascertain and settle the private land claims in the State of California," passed March 3, 1851;

A resolution (S. No. 30) to extend for a further term the provisions of the joint resolution approved March 10, 1858, in relation to certain dropped and retired officers of the Navy; and

A resolution (S. No. 33) authorizing suitable acknowledgments to be made by the President to the British naval authorities at Jamaica, for the relief extended to the officers and crew of the United States ship *Susquehanna*, disabled by yellow fever.

TERRITORY OF NEVADA.

Mr. SMITH, of Virginia. I ask the unanimous consent of the House to allow me to have printed, for the convenience of members, a bill and report.

Mr. CLEMENS. What bill is it?

The Clerk read the title of the bill as follows: A bill to organize the Territory of Nevada.

Mr. CLEMENS. I object.

Mr. DAVIS, of Indiana. I insist on the regular order of business.

LIABILITIES OF SHIP-OWNERS.

The SPEAKER stated that the question first in order was on the motion of the gentleman from Kentucky [Mr. MARSHALL] to lay upon the table House bill (No. 32) to amend an act entitled "An act to limit the liability of ship-owners, and for other purposes," approved March 3, 1851.

Mr. MARSHALL, of Kentucky. Did the gentleman from Ohio demand the previous question?

The SPEAKER. The previous question was seconded. And the main question ordered upon the bill yesterday; and thereupon the gentleman from Kentucky moved to lay it upon the table.

Mr. MARSHALL, of Kentucky. Is it competent for the gentleman to withdraw the previous question now?

The SPEAKER. The House has ordered the main question.

Mr. MARSHALL, of Kentucky. Is it not competent for the House, by unanimous consent, to set aside the order for the main question?

The SPEAKER. The Chair supposes it is competent by unanimous consent.

Mr. MARSHALL, of Kentucky. Well, sir, I ask the unanimous consent for that purpose. I want to state my objections to the bill; and then, if the House chooses to pass it, I have nothing to say.

Several MEMBERS objected.

The motion to lay on the table was not agreed to.

The question then recurred on the passage of the bill.

Mr. HATCH. I ask unanimous consent to explain the bill, and to claim that the exemptions which now exist under the law of 1851 upon ship-owners engaged in foreign commerce should be extended to those interested in our lake tonnage, inasmuch as Congress has already extended the whole body of our admiralty law to our inland commerce, and the United States courts have decided that it was the same in feature and substance.

The SPEAKER. The gentleman may make his explanation by unanimous consent.

Mr. DEAN. I object, and ask for the reading of the bill.

The bill was again read.

Mr. MARSHALL, of Kentucky. I ask for the yeas and nays on the passage of the bill

The yeas and nays were ordered.

The question was taken, and it was decided in the negative—yeas 76, nays 81; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Bingham, Bliss, Bratton, Buffinton, Burlingame, Burroughs, Case, Chaffee, Clawson, John Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Damrell, Davis of Indiana, Dean, Dick, Dodd, Durfee, Farnsworth, Fenton, Foster, Giddings, Gilman, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Thomas L. Harris, Hatch, Hawkins, Hickman, Horton, Howard, Huyler, Kilgore, Knapp, John C. Kunkel, Landy, Lovejoy, Matteson, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Mott, Olin, Palmer, Parker, Pettit, Pike, Potter, Robbins, Royce, Russell, Scott, John Sherman, Robert Smith, Spinner, William Stewart, George Taylor, Wade, Walbridge, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, White, Wilson, and Wood—76.

NAYS—Messrs. Anderson, Atkins, Boeck, Bowie, Boyce, Branch, Burnett, Caskie, Ezra Clark, John B. Clark, Clay, Clemens, Cobb, Cockrell, James Craig, Crawford, Curry, Davidson, Davis of Mississippi, Davis of Iowa, Dowdell, Edie, Edmundson, Elliott, English, Faulkner, Florence, Foley, Garnett, Garrett, Gilmer, Goode, Greenwood, Gregg, J. Morris Harris, Hill, Board, Jackson, Jewett, George W. Jones, J. Hancy Jones, Owen Jones, Kelsey, Leidy, Leiter, Letcher, Maclay, McQueen, Humphrey Marshall, Maynard, Milson, Moore, Niblack, Pendleton, Peyton, Phillips, Powell, Purviance, Qutman, Reagan, Reilly, Ricard, Ritchie, Ruffin, Sandiego, Savage, Scales, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, William Smith, Stanton, Stephens, Stevenson, Thayer, Tompkins, Underwood, Waldron, Whiteley, John V. Wright, and Zollieffer—81.

So the bill was rejected.

Pending the call of the roll,

Mr. JACKSON stated that the gentleman from Mississippi [Mr. LAMAR] and his colleague, Mr. SEWARD, were detained from the House by indisposition.

Mr. COLFAX stated that Mr. CLARK B. COCHRANE had paired off on this bill with Mr. Cox.

Mr. MARSHALL, of Kentucky, moved to reconsider the vote by which the bill was rejected; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. STEPHENS, of Georgia. As only ten minutes are remaining before the hour for the consideration of the special order will arrive, I hope we shall proceed to that at once.

Mr. ENGLISH. There is a little bill upon the Speaker's table, which ought to be disposed of. It will take but a minute.

The SPEAKER. The Chair would suggest that the bill to which the gentleman refers will come up as soon as this special order is disposed of.

Mr. ENGLISH. Very well. Then I will not call it up now.

THREE-REGIMENTS APPROPRIATION BILL.

Mr. J. GLANCY JONES, from the Committee of Ways and Means, by unanimous consent, reported a bill making appropriations for the support of the three regiments of volunteers authorized by act of Congress, approved April 7, 1858; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

HEIRS OF STEPHEN PORTER.

Mr. RICAUD. I ask the unanimous consent of the House for leave to withdraw from the files of the House the papers in the case of Stephen Porter. I will state that these papers have been here for more than fifty years, and the petitioners ask leave to withdraw them from the files of the House, for the purpose of preserving them as an heir-loom. As early as 1805 a report was made in favor of the claim; but the petitioners, despairing of ever being able to obtain justice at the hands of Congress, now desire that the papers may be returned.

Mr. LETCHER. Let copies be left.

Mr. RICAUD. I have no objection to that.

There being no objection, leave was accordingly granted.

TERRITORIAL BUSINESS.

Mr. FAULKNER, from the Committee on Military Affairs, by unanimous consent, reported back from the Committee on Military Affairs, House bill (No. 549) to provide for the completion of a military road from Fort Union to Santa Fé, in New Mexico; which was referred to the Committee of the Whole on the state of the Union, and, with the report, ordered to be printed.

He also, from the same committee, by unanimous consent, reported back House bill (No. 422) making appropriations for the repair of certain

military roads in the Territory of Kansas, with an amendment in the nature of a substitute. The bill and substitute were referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

He also, from the same committee, by unanimous consent, reported a bill for the completion of a road from Council Bluffs to New Fort Kearny, in the Territory of Nebraska; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

He also, from the same committee, made an adverse report upon a memorial relative to a military road from Steilacoom to Vancouver; which was laid on the table.

DANIEL WHITNEY.

On motion of Mr. HARLAN, by unanimous consent, the bill of the House (No. 72) for the relief of Daniel Whitney, which had been previously laid on the table, was recommitted to the Committee on Private Land Claims.

WASHINGTON TERRITORY.

Mr. GROW, from the Committee on Territories, reported back House bill (No. 414) to extend the provisions of an act entitled "An act to amend an act to establish the territorial government of Oregon," and an act establishing the territorial government of Minnesota, to the Territory of Washington; which was referred to the Committee on Territories, and ordered to be printed.

BASIL MIGNAULT.

Mr. HICKMAN, from the Committee on Revolutionary Pensions, reported a bill for the relief of the surviving children of Basil Mignault; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

WISCONSIN RESOLUTIONS.

Mr. WASHBURN, of Wisconsin, by unanimous consent, presented the joint resolutions of the Legislature of the State of Wisconsin, relative to the Niagara ship canal, which were referred to the select committee on the subject.

DEBATE IN COMMITTEE OF THE WHOLE.

Mr. SINGLETON asked the unanimous consent of the House to offer the following resolution:

Resolved, That for the remainder of the present session of this body, the debate in Committee of the Whole House shall be confined strictly to the bill, resolution, or subject matter immediately before the committee; and no member shall be allowed to speak more than thirty minutes upon any one subject, except by the unanimous consent of the House.

Several MEMBERS objected.

STENOGRAPHERS TO COMMITTEES.

Mr. STANTON, from the tariff investigating select committee, reported a joint resolution for paying the compensation of stenographers employed by the committees of the House of Representatives; which was read for information.

It authorizes and directs the Secretary of the Treasury to pay the compensation of stenographers employed by the committees of the House of Representatives, as audited under the direction of said House.

The SPEAKER. The Chair is of opinion that the special order of the day takes precedence, except by unanimous consent.

Mr. JEWETT objected.

CHARLES H. MASON.

Mr. BRANCH, from the Committee on Territories, by unanimous consent, reported back, with a substitute, a bill for the relief of Charles H. Mason; which was referred to a Committee of the Whole House, and, with the substitute, ordered to be printed.

ADMISSION OF MINNESOTA.

The SPEAKER stated that the business first in order was Senate bill (No. 86) for the admission of the State of Minnesota into the Union; on which the gentleman from Georgia [Mr. STEPHENS] was entitled to the floor.

Mr. STEPHENS, of Georgia. I have consented to allow the gentleman from Maryland [Mr. RICAUD] to occupy twenty minutes of my time.

Mr. RICAUD. I am much obliged to my friend

from Georgia for giving me a portion of his time to discuss the question now under the consideration of the House. I regret exceedingly that my time should be so limited as to prevent me from fully discussing the objections which I think exist to the powers claimed by Minnesota, in the constitution under which she asks admission into the Union.

If I have read aright the Constitution of the United States, I understand it to be a political Government, created by the several States of this Union, possessing powers derived by concession from the several States. To understand this question, we must look at the condition of things as they existed at the time the Constitution of the United States was adopted. It was at the termination of our war. We had just successfully declared ourselves free from foreign government. We were free and independent States, bound together by a Confederacy; and the Constitution was, in its own language, adopted for the government and protection of these States. The very preamble of the Constitution states that the Government which they were about to establish was to create a more perfect system of union for the people of the United States. What powers were possessed by the different States at the time of the adoption of the Federal Constitution? As I said before, they were sovereign and independent States, each one exercising and claiming to exercise for itself every right of sovereignty which a sovereign Power could exercise. They had the right to declare what should constitute citizenship in their respective States. They had the power, then, by general laws of naturalization, to admit to the rights of citizenship any and all persons whom they thought proper to clothe with the sacred garb of citizenship. I find, by looking at the old constitutions of the different States, that in two of them—New York and North Carolina—the mode of naturalizing citizens was expressly provided in them.

Now, the question occurs, did the State governments, in the formation of the Government of the United States, part with any portion of their sovereignty? If the States parted with their power to naturalize citizens of foreign birth, I ask how were the citizens of a State to be increased? By two modes only. Not by any act of naturalization passed by the State itself, because it had parted with that power, and given to the General Government the right to pass uniform laws of naturalization. It was a power exclusively vested in the General Government; and, therefore, no increase in the citizens of a State could be made by the exercise of any power of naturalization by a State. It was only to be done by the natural increase of the then resident people or citizens of the State, and of such citizens as might be added in virtue of the uniform rules of naturalization prescribed by the Government of the United States. The language of the Constitution of the United States is:

"We, the people of the United States, in order to form a more perfect union, establish justice," &c.

And section two, of article one, provides:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

Now, under the decision of the Supreme Court of the United States in the Dred Scott case, it is laid down that the word "people" of the United States is synonymous with the word "citizens;" that both terms mean the same thing. I propose to read this part of the Constitution, according to my interpretation of it, by the rule thus laid down by the Supreme Court—the tribunal recognized by the Constitution itself for the interpretation of the instrument. "We, the citizens of the United States," would be the first words in the preamble, and the second section of the first article would read thus: "The House of Representatives shall be composed of members chosen every second year, by the citizens of the United States and citizens of the several States; and the electors in each State shall have the qualifications necessary for the most numerous branch of the General Assembly." Why was that power given? It was that the representation might be distributed more generally among the people. If gentlemen will take the trouble of looking over the old constitutions of the original thirteen States, they will find that

in every constitution existing at that time, qualifications were required for the exercise of the rights of suffrage for members of the Council, as it was called in some States, or of the Senate, as it was generally known under more recent amendments of the constitutions. These qualifications were much higher than those required for voting for members of the more numerous branch of the General Assembly.

That my reading of the Constitution of the United States, in that respect, is correct, will be plain, from an examination of the various State constitutions as they now exist. I have taken the trouble to examine and compare most of the constitutions, down as far as 1848; and I find that in every State, with but very few exceptions, this distinction is kept up by the States themselves—first in declaring what portion of their citizens shall be their Representatives in the General Assembly of the States, and what portion shall be electors in their General Assembly. A much the larger number of the States of this Union require, that, to be a member of either branch of the State Legislature, the person shall be a citizen of the United States, and to be elected or chosen by persons who are citizens of the United States. In some of the States they go so far as to require that he shall have been a citizen, and have resided in the State for some years previous to his election. In the State of South Carolina—your own State, sir—I believe five years' residence is required for the Senate, and three years for the House of Representatives.

Then, sir, there is no war made on the doctrine of State-rights by any construction which I give to the Constitution of the United States; for, if the question of State-rights was involved in the matter, to what portion of the country would you look for the more securely guarding of that doctrine? Is it not a principle cherished in the South more than in any other portion of the country? Have not all our southern statesmen gone far to vindicate the great doctrine of State-rights, and to claim, as reserved to the States, all powers not delegated to the United States? And yet, in confirmation of this interpretation of the power delegated to the United States, you find the principle is carried out in the various southern States; and by their constitutions they have decided that Senators and Representatives in the State Legislatures shall be composed of citizens of the United States, residents of the States, to be chosen by electors who are citizens of the United States, residents of the States, and possessing the other necessary qualifications.

Now, on this point, I refer to the doctrine laid down by Mr. Calhoun, in the matter of the admission of the State of Michigan. I take it for granted that those who are familiar with the history and public life of Mr. Calhoun, will recognize in him an ardent friend of the doctrine of State-rights. And yet, Mr. Calhoun says, in the speech made by him on the admission of Michigan into the Union, that the Constitution confers on Congress authority to pass uniform laws of naturalization. He says:

"I do not deem it necessary to follow my colleague and the Senator from Kentucky in their attempt to define or describe a citizen. Nothing is more difficult than the definition or even description of so complex an idea; and hence all arguments resting on one definition, in such cases, almost necessarily lead to uncertainty and doubt. But though we may not be able to say with precision what a citizen is, we may say with the utmost certainty what he is not. He is not an alien. Alien and citizen are correlative terms, and stand in contradistinction to each other. They, of course, cannot coexist. They are, in fact, so opposite in their nature that we conceive of the one but in contradistinction to the other. Thus far all must be agreed." * * * "To remove alienage is simply to put the foreigner in the condition of the native born. To this extent the act of naturalization goes, and no further. The next position I assume is no less certain: that, when Congress has exercised its authority by passing a uniform law of naturalization, (as it has,) it excludes the right of exercising a similar authority on the part of the State. To suppose that the States could pass naturalization acts of their own, after Congress had passed a uniform law of naturalization, would be to make the provision of the Constitution nugatory. I have shown that a citizen is not an alien, and that alienage is an insuperable barrier, till removed, to citizenship; and that it can only be removed by complying with the act of Congress. It follows, of course, that a State cannot, of its own authority, make an alien a citizen without such compliance."

This same doctrine is laid down by the Supreme Court of the United States in the Dred Scott case:

"The words 'people of the United States' and 'citizens' are synonymous terms and mean the same thing." * * *

* * * "The Constitution has conferred on Congress the right to establish a uniform rule of naturalization, and it has always been held by this Supreme Court to be a power exclusively vested in Congress, and to be practiced under the uniform rules to be laid down by Congress."

Mr. Curtis, in arguing on the same question, says:

"Again, it has been objected that if the Constitution has left to the several States the rightful power to determine who, of their inhabitants, shall be citizens of the United States, the States may make aliens citizens."

"The answer is obvious. The Constitution has left to the States the determination which persons, born within their respective limits, shall acquire by birth citizenship of the United States; it has not left to them any power to prescribe any rule for the removal of the disabilities of alienage."

My time is drawing to a close, and I promised my friend [Mr. STEPHENS] that I should not overrun the twenty minutes which he has kindly allowed me. I wish I had time to argue out these points fully. I think the time is fast approaching, and is almost here now, when those coming here from foreign shores, and acquiring property and the right of voting and holding office, will beardown and override the native-born of the land.

I would like to show that, according to the ratio of immigration in 1853, in every six weeks' time there is poured upon our shores a population equal to the entire population of Florida; that in every two years there is poured upon our shores a population equal to that of Virginia; and that, in every thirteen years, according to that ratio, there is poured upon our shores a population equal to the population of the whole southern States of the Union. I would like to show that the very thing Mr. Calhoun dreaded, and which his prophetic eye foresaw, is likely to come to pass, unless some check is placed upon the power now claimed to confer the rights of citizenship upon unnaturalized foreigners.

There is another point which I will mention; and that is, that the State of Minnesota, in the constitution which she has sent here, has, in another instance, violated the Constitution of the United States in spirit, if not in letter, by undertaking to elect her three Representatives upon this floor by the State at large. The power to prescribe the time, place, and manner of electing the Representatives, has been vested in the Congress of the United States, and the Congress has exercised this power by the law of 1844, chapter forty-seven, section two, which requires States entitled to more than one Representative to elect them by districts, composed of contiguous territory, equal in number to the number of Representatives, and no one district to elect more than one Representative.

Mr. WRIGHT, of Georgia. I rise to a question of order. Has not the time expired which the gentleman was to occupy, according to the agreement?

Mr. RICAUD. I believe it has.

Mr. WRIGHT, of Georgia. Then it is but just that my colleague [Mr. STEPHENS] should be permitted to proceed.

Mr. RICAUD. I yield the floor.

Mr. STEPHENS, of Georgia. Mr. Speaker, my time will not allow me to answer all the objections that have been made to the admission of Minnesota. I do not think it necessary, however, to consume time, or to exhaust my feeble strength in answering all the objections that have been raised. Many of them are of small import, while some of them are grave, important, and go to the very foundation principles of our Government. This latter class of objections are not new; they are not novel; they involve principles coeval with our institutions. In reply to them, I must be brief in the forty minutes allotted to me. They involve two inquiries. The first question in reference to them is, whether they be well taken in fact; and the second is, whether, if well founded, they amount, in themselves, to a good and valid ground for the rejection of a State.

The gentleman from Virginia [Mr. GARNETT] objects because of the State boundaries violating the stipulation between Virginia and the United States in the cession of the Northwest Territory. In point of fact, I do not consider that objection well taken; but if it were good, it ought to have been taken when the enabling act was passed last Congress, fixing the boundaries of Minnesota. That portion of the old Northwestern Territory now included in the State of Minnesota was included then, and the objection should have been

taken then, if at all. There is, however, but a small portion of the old cession of Virginia included in this State. Twenty-odd thousand square miles of that cession, it is true, have been added to the ninety-odd thousand square miles constituting the main body of Minnesota. This was for convenience. Only a small portion, therefore, of the original Virginia cession has been taken off and added to the large extent of country that makes the State of Minnesota, for the public convenience. There has been no injury resulting anywhere, and no breach of faith, in my judgment.

It was stated, also, that the number of delegates who formed the State constitution was larger than that ordered in the enabling act. That objection has been well answered by the gentleman's colleague, [Mr. JENKINS.] The act of Congress provided that as many delegates should be chosen as there were representatives in the Territorial Legislature. Well, sir, the people of Minnesota construed that to embrace their Senators or Councilmen as well as Representatives in the lower House. The bill admitted of a doubt. I do not conceive that that objection has much force in it.

But I must pass on to notice the other objections of a graver character. It was stated by the gentleman from Ohio, [Mr. SHERMAN,] who opened this debate, and has been repeated by several other gentlemen, that the constitution of Minnesota is violative of the Constitution of the United States—in this, that it permits aliens to vote, or other than citizens of the United States to vote, in State elections.

Mr. Speaker, before arguing the point whether this clause of the constitution of Minnesota does or does not violate the Constitution of the United States, let me ask right here this question: suppose it be true that that feature of their constitution does violate the Constitution of the United States, or is inconsistent with it: is that a good ground for her rejection? I put it strongly and broadly in the fore front of the argument—suppose that be conceded: is it a legitimate ground of objection to the admission of a State that a provision of its constitution is inconsistent with the Constitution of the United States? I say, sir, not. I say it as a State-rights man; advocating the principles of the State-rights school. We can only look into the constitution of a new State applying for admission, to see that it is republican in form, and that it legally and fairly expresses the will of the people. If there be conflicts, the Constitution of the United States points out how those conflicts are to be settled. After coming into the Union, such clause, if it be in, will of course have to yield to the supreme law of the land. Sir, the case of Minnesota, if this be true of her constitution, will not be a singular one.

The constitution of Illinois declares that no man shall be eligible to a Federal office who has been elected to and has accepted a judgeship in that State within two years after the expiration of the term for which he accepted it. A Senator from that State, now holding a seat in the other wing of the Capitol, [Mr. TRUMBULL,] was elected to that body during the term of a judgeship of a State court, which he had been elected to and had accepted. In the Senate of the United States, the question was raised as to his eligibility, and as to whether the constitution of Illinois could, under the Constitution of the United States, impose such a qualification; in other words, whether the qualifications for Senators set forth in the Constitution of the United States were not absolute and binding, and did not supersede the provision of the constitution of Illinois. The Senate so determined; and that Senator now holds his seat in the face, in the teeth, and against that constitutional provision of his own State.

Whether that decision of the United States Senate was right or wrong, I will not now stop to inquire, or to express an opinion.

I cannot take up my time in citing other analogous cases. Many instances might be adduced from decisions of the courts. It is enough for me to affirm that the Constitution of the United States declares that "this Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding." I say, there-

fore, in answer to all that has been said in reference to the constitution of Minnesota being in violation of the Constitution of the United States, that even conceding the point for argument's sake, (which I do not concede in fact,) this would not be a just and valid ground on which to reject her admission. It is a question which can be properly decided when it arises, if ever, by the proper judicial tribunal before which it may arise. We, on the question of admission, can only look into a constitution to see that it is republican in form.

Mr. TRIPPE. I desire to ask my colleague whether he concurs in the Green amendment to the Kansas bill, which asserts the right of Congress to inquire into the constitution of any State applying for admission into the Union, in order to see whether it is consistent with the Constitution of the United States?

Mr. STEPHENS, of Georgia. My time is short, and I want to argue other questions; but I will say to my colleague that there was nothing in the original Green amendment which did not meet my cordial and hearty approval. There was nothing in it which inquired into a constitution. It was altogether negative in its character.

Mr. TRIPPE. If my colleague will allow me, I think that right was directly asserted in the Green amendment.

The SPEAKER. The Chair desires to suggest that the constitution of Kansas is not before the House.

Mr. TRIPPE. The same principle involved in the amendment to the Kansas bill, to which I have referred, is contained in this bill.

Mr. STEPHENS, of Georgia. I cannot discuss that question now. There were words added to the original Green amendment that I considered liable to objection; but, being negative, were not insuperable with me. Now, Mr. Speaker, I lay down this proposition; that there is nothing, in my judgment, in the constitution of Minnesota, inconsistent with the Constitution of the United States.

The gentleman from Ohio, [Mr. SHERMAN,] who led off in this debate, argued that there was no clause in the constitution of Minnesota by which the present elected members of the Legislature could be prevented from holding for life. Well, sir, suppose the gentleman was correct—but I do not concede the fact: the constitution would not therefore be anti-republican. I would not vote for such a constitution if I were there. But, sir, what constitutes a republican form of government? It is, as I understand it, a division of the three great branches of government—the executive, the judicial, and the law-making powers. That division is certainly in this constitution. Several of the States have made the judiciary elective, or holding office for life. Does that make their constitutions anti-republican? The Constitution of the United States does this. If the judiciary can hold office for life, why not the executive? and why may not representatives as well, if the people see fit to make such a constitution? It would not cease to be republican in consequence. It might and would be, in my judgment, a very bad constitution; but I say that of that we cannot rightfully judge.

I now come to the main question in this debate—the alien suffrage clause, as it is called, in this constitution. I have said that it was no new question. It is a grave and important one, but it is coeval with the Government. Mr. Speaker, if there was any subject which was seriously watched and guarded, in the formation of the Constitution of the United States, above all others, it was that the Federal Government should not touch the right of suffrage in the States. The question of who should vote in the several States was left for each State to settle for itself. And so far as I am concerned, I say for myself that there is nothing in the doctrine of State-rights that I would defend and stand by longer, and fight for harder, than that which denies the right of the Federal Government, by its encroachments, to interfere with the right of suffrage in my State. The ballot-box—that is what each State must guard and protect for itself; that is what the people of the several States never delegated to this Government, and of course it was expressly, under the Constitution, reserved to the people of the States. Upon the subject of alien suffrage, about which we have heard so much lately, I wish in this connection to give a brief history. I state to this House that the principle was

recognized by the ordinance of 1787, which was before the Government was formed.

It was recognized by the act of 7th August, 1789, soon after the Government was formed, one of the first acts signed by Washington—an act making provisions for carrying out that ordinance.

It was recognized in the territory South in the cession by North Carolina, on the 2d April, 1790.

It was again recognized in the bill creating a government for the Territory of Tennessee, on the 26th May, 1790.

It was recognized in the act of settling the limits of the State of Georgia, and creating the Mississippi Territory, on the 7th April, 1798.

It was recognized in a supplemental act to the last, on the 10th May, 1800.

It was recognized in the division of Indiana Territory, on the 3d February, 1809.

It was recognized in an act for Illinois Territory, on the 20th May, 1812.

It was recognized in the act organizing the Michigan territorial government: the date of this I do not recollect.

But I cannot take up my time by referring to other instances in their order. I know that in some cases voting in the Territories was restricted to citizens. This was the case in the Territories of Missouri, Iowa, Wisconsin, Utah, and New Mexico; while alien suffrage was again recognized, in express terms, in the Territories of Oregon, Minnesota, Washington, Kansas, and Nebraska.

Of the Presidents of the United States who, in some form or other, gave the principle their sanction either in the Territories or States, may be mentioned Washington, the elder Adams, Jefferson, Madison, Jackson, Polk, Fillmore, and Pierce.

Reference, sir, has been made in this debate to a speech made by Mr. Calhoun on this subject, in the Senate, in 1836, on the act providing for the admission of Michigan, upon which comments have been made by several gentlemen. The views of that distinguished statesman have been presented as authority on their side. I have simply this to say about that speech: I cannot find it in the Globe. I cannot find it in the debates of the day.

MR. RICAUD. I think it is in his published speeches.

MR. STEPHENS, of Georgia. I have seen it in his published works, but I cannot find it in the published reports of Congress. It is stated to have been made in 1836, on the bill authorizing Michigan to form a constitution. Michigan was admitted with alien suffrage in her constitution, on the 3d March, 1837; and Mr. Calhoun does not appear to have made any objection to her admission on that ground. I find speeches made by him upon that bill, but none objecting to this clause. I find he offered a substitute for the bill admitting Michigan without objection to the alien suffrage clause in her constitution. Still, it is stated that this speech of his was made the year before, on the occasion referred to, and I do not wish to be understood as questioning it. That was on Congress conferring the right. He did not raise any objection to the admission of the State as far as I can find, because of alien suffrage being allowed in her constitution.

Again: on the 26th of July, 1848, the Clayton compromise bill for the organization of certain territorial governments passed the Senate. The fifth section of the act provides—

"That every free white male inhabitant, above the age of twenty-one years, who shall have been a resident of said Territory at the time of the passage of this act, shall be entitled to vote at the first election, and shall be eligible to any office in said Territory; but the qualification of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the Legislative Assembly: *Provided*, That the right of suffrage, and of holding office, shall be exercised only by citizens of the United States; and those who shall have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of this act."

On the engrossment of this bill, the vote was—

YEA—Messrs. Atchison, Atherton, Benton, Berrien, Borland, Breese, Bright, Butler, Calhoun, Clayton, Davis of Mississippi, Dickinson, Douglas, Downs, Foote, Hannegan, Houston, Hunter, Johnson of Maryland, Johnson of Louisiana, Johnson of Georgia, King, Lewis, Mangum, Mason, Phelps, Rusk, Sebastian, Spruance, Sturgeon, Turner, Westcott, and Yulee—33.

NAY—Messrs. Allen, Baker, Baldwin, Bell, Bradbury, Clark, Corwin, Davis of Massachusetts, Dayton, Dix,

Dodge, Felch, Fitzgerald, Greene, Hale, Hamlin, Metcalfe, Miller, Niles, Underwood, Upham, and Walker—22."

Mr. Calhoun was on the committee which reported this provision, and he does not appear as having objected to it. And though he may have made that speech in 1836, yet it is equally certain and true that twelve years afterwards he voted for the very principle he had previously opposed. His vote for the principle in 1848, in my opinion, is a sufficient answer to his speech against it in 1836. This is, therefore, Mr. Speaker, no new question.

The same principle, as I have said, was incorporated in the same words, I think, in the bill for the organization of Washington Territory in 1853, and in the Kansas-Nebraska bill in 1854.

The gentleman from Tennessee [MR. MAYNARD] put this question to some gentleman the other day: whether, if this bill should pass, Minnesota might not confer the right of voting upon an alien enemy? By no means, sir; the person of foreign birth, who is entitled to vote under this constitution, has first to *purge himself of his allegiance* to other Powers. He must have declared his intention to become a citizen of the United States, and sworn to support the Constitution of the same. This is the condition precedent. By no possibility, therefore, could an alien enemy legally vote in Minnesota.

Now, Mr. Speaker, the decision of the Supreme Court of the United States has been read and commented on by the gentleman from Maryland, [MR. DAVIS,] who led off in this discussion, and whose speech I listened to with a great deal of interest—an argument as well got up and made on that side of the question as I think it possible for ingenuity, ability, and talent, united with eloquence, to present. He rested his argument mainly on the decision of the Supreme Court in the Dred Scott case, where Judge Taney says that the words "people of the United States," in the Constitution, are synonymous with "citizens." After reading that part of the decision, the gentleman quoted an article in the Constitution which says that "the House of Representatives shall be composed of members chosen every second year by the people of the several States;" and his argument was, that as the Supreme Court had defined that the word "people" was synonymous, in the Constitution of the United States, to "citizens," therefore members of this House could be elected by none but "citizens of the United States." That was the gentleman's argument; but I am far from concurring with him in it. His argument rests upon the assumption that the Constitution of the United States, in the clause quoted, intended to define the class of voters in the several States, and to limit suffrage. I think that it will take me but a moment, by recurring to that clause of the Constitution and comparing it with others, to show that the object of that clause was simply to point out the mode of the election of the members of this House in contradistinction from the mode of electing Senators, and not the class of voters. The House was to be elected by the people by a popular vote, by the masses; while the Senate was to be elected by the State Legislatures. That is all that is meant in that clause. The Constitution is in these words:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States;"—

There the gentleman stopped. What follows?

—And the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

There, coupled with what the gentleman read, is the right which I say that the people insisted upon beyond all others—the reserved right that the General Government should never interfere with suffrage in the States; not even for members of this House. Immediately after the words he read, sir, without a semicolon separating them, is the express declaration that the States shall fix the qualification of electors or voters. Who shall say to each State in this particular, thus far mayest thou go, and no further? Who shall say to the sovereignties where they shall stop? The States, over this subject, have never parted with any of their sovereignty. It is their right, therefore, to fix the qualifications of voters unrestrictedly and absolutely. If they say an alien may vote, it is their right to do so.

The other clause of the Constitution to which

I referred, showing what was meant in the first part of the one read by the gentleman, is in these words:

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof."

The first clause the gentleman read the other day refers simply, as it clearly appears, to the manner of the election, the mode of the election, the constituency of those elected—to distinguish them from the constituency of the Senators. The one was to be the people, contra-distinguished from the Legislatures of the States; this was one of the points of difficulty in forming the Federal Constitution. It was finally determined that the House should represent the people and the Senate should represent the States.

I will refer briefly to the same authority on that point. I read from Yates's Minutes of the Debates in the Federal convention, the fourth resolve:

"That the members of the first branch of the national Legislature ought to be elected by the people of the several States was opposed; and, strange to tell, by Massachusetts and Connecticut, who supposed they ought to be chosen by the Legislatures; and Virginia supported the resolve, alleging that this ought to be the democratic branch of the government, and, as such, immediately vested in the people."

Again, Mr. Pinckney moved:

"That the members of the first branch, (that is, this House,) be appointed in such manner as the several State Legislatures shall direct."

Mr. Madison said:

"I oppose the motion."

Mr. Mason said:

"I am for preserving inviolably the democratic branch of the Government. True, we have found inconveniences from pure democracies; but if we mean to preserve peace and real freedom, they must necessarily become a component part of a national Government. Change this necessary principle, and if the Government proceeds to taxation the States will oppose your power."

The idea that prevailed at the formation of our Constitution was, that representation and taxation should go together. It was mainly upon that ground that the men of that day went to the war with the mother country; it was because the colonies were taxed and not allowed representation; and if you trace the history of this Government down, you will find this great American idea running throughout—that taxation and representation should go together. Whoever pays taxes should vote—that is the idea.

Great confusion seems to exist in the minds of gentlemen from the association of the words citizen and suffrage. Some seem to think that rights of citizenship and rights of suffrage necessarily go together; that one is dependent upon the other. There never was a greater mistake. Suffrage, or the right to vote, is the creature of law. There are citizens in every State of this Union, I doubt not, who are not entitled to vote. So, in several of the States there are persons who by law are entitled to vote, though they be not citizens. If there be citizens who cannot vote, why may there not be individuals, who are not citizens, who may nevertheless be allowed to vote, if the sovereign will of the State shall so determine? In all the States nearly there are other qualifications for voting, even with the native-born, besides citizenship. Residence for a certain length of time. Virginia, for instance, requires of all citizens of other States, native-born citizens of Maryland or North Carolina, a certain term of residence. They shall not vote in Virginia unless they have been there twelve months. In Alabama, I think, the provision is the same.

Why, sir, in my own State, where we have universal suffrage, as it is called, no man can vote unless he has paid his taxes, and resided in the county six months. There are thousands of citizens in Georgia, and I suppose in every other State, who are not entitled to the right of suffrage under our Constitution and laws. Citizenship and suffrage by no means go together in all cases. My time will not allow me to enlarge on that idea. I will only refer briefly again to what was said in the Federal convention on the subject of the States retaining the control over the subject of suffrage, showing how vigilantly this was watched and guarded by the State-rights men. Gouverneur Morris had proposed to restrain the right of suffrage to freeholders. This gave rise to a long debate. Mr. Ellsworth said:

"The qualification of electors stood on the most proper footing. The right of suffrage was a tender point, and

strongly guarded by most of the State constitutions. The people will not readily subscribe to the national Constitution if it should subject them to be disfranchised. The States are the best judges of the circumstances and temper of their own people."

Again, he says, (I read from the Madison Papers:)

"Ought not every man who pays a tax to vote for the Representative who is to levy and dispose of his money? Taxation and representation ought to go together."

I barely refer to this to show that I am sustained in my view by the highest authority. This subject of the qualification of electors, and who should determine it, was mooted at the settlement of the Government; and it was left to the State Legislatures, under State constitutions.

Now, sir, a few moments on the decision of the Supreme Court of the United States. Judge Taney, in my judgment, fully confirms everything I have said. He says:

"The words 'people of the United States,' and 'citizens,' are synonymous terms, and mean the same thing. They both describe the political body who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the Government through their Representatives. They are what are familiarly called the sovereign people; and every citizen is one of this people, and a constituent member of this sovereignty. The question before us is, whether the class of persons described in the plea in abatement [Dred Scott was a negro] compose a portion of this people, and are constituent members of this sovereignty. We think they are not; and were not intended to be included under the word 'citizens' in the constitution, and can therefore claim none of the rights and privileges which that instrument provides for, and secures to citizens of the United States."

It was the first words of this clause of the decision the gentleman from Maryland relied on, but he did not pursue the argument far enough.

The object of the Chief Justice was to show that persons of the African race descended from those who were bought and sold as slaves, were not in the original body-politic, and could not, by State laws, be incorporated into that body-politic. But now mark what immediately follows that part of his decision:

"In discussing this question, we must not confound the rights of citizenship which a State may confer within its own limits, and the rights of citizenship as a member of the Union."

Here is the distinction. By naturalization, Congress can confer citizenship throughout the Union. What are the rights created by that? Three in all. The right to hold land is one; the right to sue in the Federal courts is another; and the right to claim the protection of this Government, or the right of passport abroad, is the other. No State can confer these rights throughout the Union; but each State may confer them within her limits. Each State may confer upon an alien the right to hold lands. No man can question that; but if Indiana or Georgia confers this right upon an alien, he cannot go into South Carolina and hold land there by virtue of that. If he were naturalized he could. So each State may give the right to an alien to sue in its own courts; but, therefore, he does not acquire a right to sue in any other State court or the Federal courts. Each State may guaranty her protection within her limits, but not throughout the Union. She cannot pledge the protection of the common Government.

But the court goes right on with this language:

"It does not by any means follow, because he has the rights and privileges of a citizen of a State, that he must be a citizen of the United States. He may have all the rights and privileges of a citizen of a State, and yet not be entitled to the rights and privileges of a citizen in any other State; for, previous to the adoption of the Constitution of the United States, every State had the undoubted right to confer on whomsoever it pleased the character of citizen, and to endow him with all its rights; but this character, of course, was confined to the boundaries of the State, and gave him no rights or privileges in other States beyond those secured to him by the laws of nations and the comity of States. Nor have the several States surrendered the power of conferring these rights and privileges by adopting the Constitution of the United States. Each State may still confer them upon an alien, or any one it thinks proper, or upon any class or description of persons; yet he would not be a citizen in the sense in which that word is used in the Constitution of the United States, nor entitled to sue as such in one of its courts, nor to the privileges and immunities of a citizen in the other States. The rights which he would acquire would be restricted to the State which gave them."

I ask, then, if the constitution of Minnesota, according to this Dred Scott decision, has an iota, or a single clause in it, so far as alien suffrage is concerned, which Chief Justice Taney has not said she has a right under the Constitution of the United States to put in it? This is a right none of the States have ever surrendered. Every State in this Union has the right of fixing the status of

all its constituent elements absolutely, as each State may determine for itself, and also the right of determining who may and who may not vote at elections for public officers under her authority. What part of the constitution of Minnesota, then, is in violation of the Constitution of the United States? Why, then, should she not be admitted?

Let me say, in conclusion, that the constitution of Illinois has such a clause. Is not she an equal in this Union? Why not rule her out? Indiana has such a clause. Why not rule her out? Michigan has such a clause. Why not rule her out? Wisconsin has such a clause. I have the Journal here. When Wisconsin was admitted, in 1848, Mr. Calhoun was in his seat and he did not even call the yeas and nays on it. And yet we are told that this is a great and a dangerous example we are setting, if we admit Minnesota on an equal footing with Illinois, Indiana, Michigan, Wisconsin, and all of the States. Deprive her of this great right, would she be equal? Are Illinois and South Carolina now equal? Are Indiana and Massachusetts now equal? Why, then, if you deny Minnesota the power that Illinois and Indiana have, will she be equal to them? Things equal to one another are equal to each other. If those in the Union now are equal, will not Minnesota be unequal if you deprive her of this right? If you put upon her a condition you have never put upon these others, will not you make her unequal? and if you bring her in, would she be upon an equal footing with her sister States? If she confers suffrage upon those born abroad, who purge themselves of their foreign allegiance and swear to support the Constitution of the United States, she has the right to do so. Any State in the Union now has the same right, if any see fit to exercise it. The several States cannot confer citizenship of the United States upon any body or class of persons; but every State, in her sovereign capacity, has a right to say who shall vote at elections in that State. Let us, then, drop this objection; let us admit Minnesota, and let her come in clothed with all the sovereignty that the other States possess. My time is out.

One word about the amendment I have offered. I thought that by this time Minnesota would be entitled to three members. The enabling act entitled her to one, with additional Representatives, according to her population under the last apportionment. The information I have received since I offered my amendment has led me to believe that her population at this time would not entitle her to three members, but will to two; and therefore I withdraw my amendment, and hope the House will pass the bill as it came from the Senate. I call for the previous question.

Mr. GARNETT. I rise to a question of order. I had moved an amendment to the amendment of the gentleman from Georgia, and I wish to inquire whether it is competent for him to withdraw his amendment, the effect of which will be that my amendment will fall?

The SPEAKER. Perfectly competent.

Mr. GARNETT. Well, I hope that, under the circumstances, the gentleman from Georgia will permit me to get in my amendment.

Mr. STEPHENS, of Georgia. I will allow the gentleman to offer his amendment. I did not know that it would fall with the withdrawal of my amendment.

The SPEAKER. It was an amendment to the amendment.

Mr. STEPHENS, of Georgia. The gentleman's amendment may be offered, but I hope it will be voted down.

Mr. GARNETT. I hope it will be voted in. I move to amend the second section of the bill by striking out "two Representatives" and inserting "one Representative," so that it will read:

Said State shall be entitled to one Representative in Congress, until the next apportionment of Representatives amongst the several States.

Mr. STEPHENS, of Georgia. I now move the previous question.

Mr. WASHBURN, of Illinois. I hope the gentleman from Georgia will allow us to have a vote upon a proposition to give the State three Representatives.

[Cries of "No!" "No!"]

Mr. GROW. I hope the gentleman will allow an amendment to be offered, providing that the Representatives shall be elected by districts.

The previous question was seconded, and the

main question ordered, being first upon Mr. GARNETT's amendment.

Mr. GARNETT demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 72, nays 117; as follows:

YEAS.—Messrs. Abbott, Anderson, Andrews, Barksdale, Bingham, Bocoek, Branch, Bryan, Burlingame, Case, Caskie, Horace F. Clark, Clay, Cobb, Burton, Craig, Curry, Danrell, Davis of Maryland, Davis of Iowa, Dick, Dodd, Dowdell, Edie, Enstis, Faulkner, Garnett, Gilmer, Goode, Granger, Robert B. Hall, Harlan, J. Morrison Harris, Hawkins, Hill, Hopkins, Horton, Houston, Howard, Kelsey, John C. Kunkel, Letcher, Humphrey Marshall, Matteson, Maynard, Milton, Moore, Morgan, Freeman H. Morse, Olin, Powell, Purviance, Quitman, Ready, Reagan, Ricard, Ritchie, Ruffin, Seales, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, William Smith, Stanton, William Stewart, Tripp, Underwood, Walbridge, Waldron, Whiteley, Winslow, and Zollicoffer—72.

NAYS.—Messrs. Adrain, Arnold, Atkins, Avery, Bennett, Billingshurst, Bliss, Bowie, Boyce, Buffinton, Burnett, Burns, Campbell, Chaffee, Chapman, John B. Clark, Clawson, John Cochrane, Cockrell, Colfax, Comins, Covode, James Craig, Crawford, Curtis, Davidson, Davis of Indiana, Davis of Mississippi, Dean, Dewar, Dimmick, Durfee, Edmundson, Elliott, English, Farnsworth, Fenton, Florence, Foley, Foster, Garrett, Giddings, Gillis, Gilman, Greenwood, Gregg, Groesbeck, Grow, Thomas L. Harris, Hatch, Hickman, Hoard, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kellogg, Kelly, Kilgore, Knapp, Landy, Lawrence, Leach, Leidy, Leiter, Lovejoy, Maclay, Mason, Miller, Morrill, Edward Joy Morris, Oliver A. Morse, Mott, Niblack, Nichols, Palmer, Parker, Pendleton, Peyton, Phelps, Phillips, Pike, Potter, Reilly, Robbins, Royce, Russell, Sandidge, Scott, Sickles, Singleton, Robert Smith, Samuel A. Smith, Spinner, Stephens, Stevenson, James A. Stewart, Tappan, George Taylor, Miles Taylor, Thayer, Tompkins, Wade, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, White, Wilson, Wood, Wortendyke, Augustus R. Wright, and John V. Wright—117.

So the amendment was rejected.

During the call of the roll,

Mr. CLEMENS stated that he had paired off, upon this question, with Mr. DAVIS, of Massachusetts.

Mr. WHITELEY stated that Mr. CORNING had paired off upon this question with Mr. MURRAY.

Mr. WRIGHT, of Tennessee, stated that Mr. BISHOP had gone home on account of ill health, and had paired off, upon all party questions, with Mr. THOMPSON, and upon the New York fire bill with him, (Mr. WRIGHT.)

Mr. LAWRENCE stated that Mr. Cox was absent from the city, but had paired off with some gentleman on the opposite side of the House.

Mr. MOORE stated that Mr. STALLWORTH was confined to his room by sickness.

Mr. PETTIT said: I was absent when my name was called, in attendance on a committee, and I ask leave to vote.

The SPEAKER. Is the gentleman a member of the Judiciary Committee?

Mr. PETTIT. I am not. I was on the Library Committee.

The SPEAKER. The gentleman from Indiana not having been within the bar when his name was called, asks leave to vote.

Several MEMBERS objected.

Mr. WINSLOW. I hope the objection will be withdrawn.

The objection was not withdrawn.

Mr. MORRIS, of Illinois, stated that if he had been within the bar when his name was called, he should have voted "no."

Mr. HOARD stated that he believed Mr. BURROUGHS had paired this morning.

The result of the vote was then announced, as above recorded.

The question recurred upon agreeing to the substitute for the Senate bill proposed by Mr. SHERMAN, of Ohio, which is as follows:

Whereas, an act was passed February 26, 1857, entitled "An act to authorize the people of the Territory of Minnesota to form a constitution and State government, preparatory to their admission into the Union on an equal footing with the original States;" and whereas, delegates of the people did, on the 29th day of August, A. D. 1857, frame a constitution which does not conform to the Constitution and laws of the United States: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Minnesota shall be one of the United States of America, and shall be admitted into the Union on an equal footing with the original States in all respects whatever, after a full compliance with the following fundamental condition precedent, to wit: That the constitution framed at Saint Paul, in the Territory of Minnesota, on the 29th day of August, A. D. 1857, shall be submitted to a convention of the people of the said Territory of Minnesota, to be composed of the number of delegates and to be apportioned and elected in the mode and manner prescribed by the act of February 26, 1856, said election to be held on the first Mon-

day of August next, and said delegates to assemble at the hall of the House of Representatives at the capital of said Territory on the first Monday of September next, at twelve o'clock, m.; and said convention shall conform said constitution to the Constitution and laws of the United States, or, at its discretion, shall frame a new constitution in conformity with the Federal Constitution; and said convention shall have the same powers, perform the same duties, be subject to the same qualifications, and the same propositions are hereby offered for its free acceptance or rejection, as are prescribed by said act; and the action of said convention shall be subject to the approval and ratification of the people of the proposed State.

Sec. 2. And he it further enacted, That after said condition is complied with, the said State shall be entitled to two Representatives in Congress, to be elected in single districts, to be prescribed by the convention.

Mr. SHERMAN, of Ohio, demanded the yeas and nays.

The yeas and nays were ordered.

Mr. SMITH, of Virginia. I suppose it would not be in order to move to amend the substitute.

The SPEAKER. The previous question having been seconded, and the main question ordered, no amendment is in order.

The question was taken; and it was decided in the negative—yeas 51, nays 141; as follows:

YEAS—Messrs. Anderson, Bingham, Blair, Chaffee, Ezra Clark, Clawson, Covode, Dainrell, Davis of Maryland, Davis of Iowa, Dean, Dick, Dodd, Durfee, Edlie, Foster, Giddings, Gilmer, Granger, Robert B. Hall, J. Morrison Harris, Horton, Kelsey, Kilgore, Knapp, John C. Kunkel, Humphrey Marshall, Maynard, Morgan, Edward Joy Morris, Freeman H. Morse, Mott, Olin, Pettit, Purviance, Ready, Ricard, Robbins, Royce, John Sherman, Stanton, William Stewart, Tompkins, Trippe, Underwood, Wade, Walton, Wilson, Wood, Woodson, and Zollcoffer—51.

NAYS—Messrs. Abbott, Adrain, Andrews, Arnold, Atkins, Avery, Barksdale, Bennett, Billingshurst, Bliss, Bockcock, Bowie, Boyce, Branch, Bryan, Buffinton, Burlingame, Burnett, Burns, Campbell, Caskie, Chapman, John B. Clark, Clay, Cobb, John Cochrane, Cockerill, Colfax, Comins, Cragin, James Craig, Burton Craig, Crawford, Curry, Curtis, Davidson, Davis of Indiana, Davis of Mississippi, Dewar, Dimmick, Dowdell, Edmundson, Elliott, English, Eustis, Farnsworth, Faulkner, Fulton, Florence, Foley, Garnett, Garrett, Gillis, Gilman, Goode, Goodwin, Greenwood, Gregg, Groesbeck, Grow, Harlan, Thomas L. Harris, Haskin, Hatch, Hickman, Hill, Hoard, Hopkins, Houston, Howard, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kellogg, Kelly, Landy, Lawrence, Leach, Leidy, Leiter, Letcher, Lovejoy, Maclay, Mason, Matteson, Miller, Milson, Moore, Morrill, Isaac N. Morris, Oliver A. Morse, Niblack, Nichols, Palmer, Parker, Pendleton, Peyton, Phelps, Phillips, Pike, Potter, Powell, Quitman, Reagan, Reilly, Ritchie, Ruffin, Russell, Sandidge, Seales, Scott, Aaron Shaw, Henry M. Shaw, Sickles, Singleton, Robert Smith, Samuel A. Smith, William Smith, Spinner, Stephens, Stevenson, James A. Stewart, Tappan, George Taylor, Miles Taylor, Thayer, Walbridge, Waldron, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, White, Whiteley, Winslow, Wortendyke, Augustus R. Wright, and John V. Wright—141.

So the substitute was rejected.

During the call of the roll,

Mr. WOODSON said: I desire to remark that I was under a misapprehension as to the hour when this question was to be taken up, and was not here to vote on the amendment restricting Minnesota to one Representative. If I had been here, I should have voted for the amendment. On this proposition I vote "ay."

The bill was then ordered to a third reading, and was accordingly read the third time.

Mr. STEPHENS, of Georgia, demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. KELSEY demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 157, nays 38; as follows:

YEAS—Messrs. Abbott, Adrain, Andrews, Arnold, Atkins, Avery, Barksdale, Bennett, Billingshurst, Bliss, Bockcock, Bowie, Boyce, Branch, Bryan, Buffinton, Burlingame, Burnett, Burns, Campbell, Caruthers, Case, Caskie, Chaffee, Chapman, John B. Clark, Clay, Cobb, John Cochrane, Cockerill, Colfax, Comins, Covode, Cragin, James Craig, Burton Craig, Crawford, Curry, Curtis, Dainrell, Davidson, Davis of Indiana, Davis of Mississippi, Dewar, Dick, Dimmick, Dowdell, Edmundson, Elliott, English, Farnsworth, Faulkner, Fulton, Florence, Foley, Garrett, Gillis, Gilman, Goode, Goodwin, Greenwood, Gregg, Groesbeck, Grow, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hatch, Hickman, Hoard, Hopkins, Houston, Howard, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kellogg, Kelly, Kilgore, Knapp, Landy, Lawrence, Leach, Leidy, Leiter, Letcher, Lovejoy, Maclay, McQueen, Samuel S. Marshall, Mason, Matteson, Miller, Milson, Moore, Morrill, Isaac N. Morris, Oliver A. Morse, Mott, Niblack, Nichols, Palmer, Parker, Pendleton, Pettit, Peyton, Phelps, Phillips, Pike, Potter, Powell, Purviance, Quitman, Reagan, Reilly, Ritchie, Russell, Sandidge, Savage, Seales, Scott, Aaron Shaw, Henry M. Shaw, Sickles, Singleton, Robert Smith, Samuel A. Smith, William Smith, Spinner, Stephens, Stevenson, James A. Stewart, Tappan, George Taylor, Miles Taylor, Thayer, Walbridge, Waldron, Walton, Cadwalader

C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, White, Whiteley, Wilson, Winslow, Wood, Wortendyke, Augustus R. Wright, and John V. Wright—157.

NAYS—Messrs. Anderson, Bingham, Blair, Ezra Clark, Clawson, Davis of Maryland, Davis of Iowa, Dean, Dodd, Edlie, Eustis, Foster, Garnett, Giddings, Gilmer, Granger, J. Morrison Harris, Hill, Horton, Kelsey, John C. Kunkel, Humphrey Marshall, Maynard, Morgan, Edward Joy Morris, Freeman H. Morse, Olin, Ready, Ricard, Robbins, Ruffin, John Sherman, William Smith, Stanton, Trippe, Underwood, Woodson, and Zollcoffer—38.

So the bill was passed.

During the call of the roll,

Mr. SHORTER stated that he had paired off for to-day, upon the Minnesota question, with Mr. HUGHES, of Indiana; otherwise he should certainly have voted "no."

Mr. CAMPBELL said: In the hope that the constitution may soon be changed, so as to exclude foreigners from the right of suffrage, I vote "ay."

Mr. COVODE voted "ay," with a protest.

Mr. KILGORE changed his vote from "no" to "ay," with a protest.

Mr. AHL stated that he had paired off, upon all questions, with Mr. BURROUGHS, or he should have voted "ay."

Mr. PURVIANCE stated that he wished to be understood, in voting "ay," as disapproving of the constitution.

The result of the vote was then announced, as above recorded.

Mr. STEPHENS, of Georgia, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

POSTMASTERS' QUARTERLY RETURNS.

The SPEAKER stated that the business next in order was the bill (H. R. No. 207) to prevent the inconvenient accumulation in the Post Office Department of postmasters' quarterly returns.

Mr. J. GLANCY JONES. Is it in order to move to go into the Committee of the Whole on the state of the Union?

The SPEAKER. The Chair is of opinion that the order of the House yesterday operates as a special order.

Mr. J. GLANCY JONES. How many bills are there on the Speaker's table?

The SPEAKER. Only two.

Mr. ENGLISH. The object of the bill now before the House is clearly indicated by its title; and I suppose it is not necessary to make any explanation of it.

The bill having, at a former period of the session, been ordered to be engrossed and read a third time, and being now engrossed, received its third reading.

Mr. ENGLISH. There are now about twenty-eight thousand post offices in the United States. The law requires that each post office shall make quarterly returns to the Department here. These returns, in the aggregate, make a very large bulk—about two thousand bushels per quarter, or eight thousand bushels per annum. In 1854, a provision was adopted similar to this, providing for disposing of the returns up to 1850. Since 1850 there have accumulated no less than fifty thousand bushels of these returns in the Post Office Department, and they are a great annoyance to the business of the Department. There is no necessity for preserving a portion of these returns. Another portion it is desirable to preserve. This bill, therefore, simply authorizes the Postmaster General to retain that portion which will be useful for reference, and to dispose of the balance. The House will see that it is absolutely necessary that there should be some provision of this sort; otherwise, these returns will occupy the whole of the building for the Post Office Department. I demand the previous question.

Mr. MORGAN. I ask the gentleman to withdraw the demand for a moment.

Mr. ENGLISH. I will, if the gentleman desires any explanation.

Mr. MORGAN. I am opposed to this bill, unless it shall make provision for retaining these papers five years instead of two years. We propose, in the next Administration, to investigate these matters, [laughter;] and, if the gentleman will require that they shall be retained for five years, I have no objection.

Mr. ENGLISH. I suppose the gentleman does not make the objection seriously.

Mr. MORGAN. Yes, sir, I do; and I move that amendment. You have erected fire-proof buildings, so that they cannot burn up these papers accidentally; and therefore, it is now proposed to do it by law.

The SPEAKER. In the opinion of the Chair, the joint resolution is not amendable in its present stage. It has been ordered to be engrossed.

Mr. MORGAN. Will it be if the demand for the previous question is voted down?

The SPEAKER. The Chair thinks not.

Mr. ENGLISH. I withdraw the demand for the previous question long enough to have a letter from the Postmaster General read, which will explain the whole matter.

The following letter from the Postmaster General was read:

POST OFFICE DEPARTMENT, January 15, 1858.

SIR: I have the honor to inform you that the accumulation of postmasters' "quarterly returns" is so great that there is not sufficient room for their proper preservation in the General Post Office building, and that many are consequently exposed in the halls, liable to be injured, if not lost.

Similar exigencies having heretofore occurred, Congress provided relief by authorizing the sale of the older transcripts of accounts of mails sent and received, constituting the bulk of the returns, reserving the accounts current and vouchers; and I would suggest that such authority be now given, not merely with reference to the existing exigency, but that the Postmaster General may, from time to time, dispose of transcripts as may be deemed necessary in future.

I submit, for your consideration, a clause to meet this case, similar to a provision contained in an act of Congress, approved June 22, 1854, entitled "An act regulating the pay of deputy postmasters." (Statutes at Large, vol. x, p. 399.)

Very respectfully, your obedient servant,

AARON V. BROWN,

Postmaster General.

Hon. W. H. ENGLISH, Chairman Committee on the Post Office and Post Roads, House of Representatives.

Mr. JONES, of Tennessee. I desire to ask the gentleman from Indiana, how many of these twenty-eight thousand quarterly returns are under five dollars?

Mr. ENGLISH. I cannot inform the gentleman.

Mr. JONES, of Tennessee. I suppose about fifteen thousand of them.

Mr. RUSSELL. I ask whether it would be in order to refer these whole returns to the gentleman from New York, [Mr. MORGAN,] for examination?

The SPEAKER. The Chair thinks not.

Mr. ENGLISH. I now insist on my demand for the previous question.

The previous question was seconded, and the main question ordered to be put.

The bill was then passed.

Mr. ENGLISH moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

THE CLAYTON-BULWER TREATY.

The SPEAKER stated the business next in order to be the seconding of the demand for the previous question upon the preamble to the joint resolution of the House (No. 28) concerning the Clayton-Bulwer treaty.

Mr. WHITELEY. Will it be in order, while the demand for the previous question is pending, to move to postpone this subject to a day certain?

The SPEAKER. It would not.

Mr. WASHBURN, of Illinois. I move to lay the whole subject upon the table, and upon that I demand the yeas and nays.

The yeas and nays were ordered.

Mr. SICKLES. I hope the gentleman will withdraw that motion and allow me to submit a motion that the subject be referred to the Committee of the Whole on the state of the Union.

Mr. WASHBURN, of Illinois. I prefer to have a vote upon my motion.

Mr. MAYNARD. What will be the effect of laying the preamble on the table?

The SPEAKER. In the opinion of the Chair, it will carry the joint resolution with it.

Mr. QUITMAN. Then laying the preamble on the table disposes of the subject for the session?

The SPEAKER. Debate is not in order.

Mr. SMITH, of Virginia. I would inquire whether the motion to lay upon the table is not strictly confined to the preamble?

The SPEAKER. The Chair thinks not.

Mr. SICKLES. I understand that a division was called of the preamble and resolutions; and if that be so, then is not the only question now on the preamble?

The SPEAKER. The motion to lay the preamble upon the table carries the resolution with it, just as a motion to lay upon the table a motion to recommit would carry a bill.

Mr. WASHBURN, of Illinois. My proposition was to lay the whole subject on the table.

Mr. MARSHALL, of Kentucky. Is it in order to move to strike out the preamble before the question is taken on the motion to lay on the table?

The SPEAKER. It is not. The motion to lay upon the table takes precedence of an amendment.

Mr. MARSHALL, of Kentucky. If the motion to lay upon the table is not agreed to, then a motion will be in order to amend.

The SPEAKER. It will; if the previous question be not seconded.

Mr. SMITH, of Virginia. Has not the resolution been agreed to by a vote of the House on the yeas and nays?

The SPEAKER. The House has ordered the resolution to be engrossed, and read a third time. The question then recurred on ordering the preamble to be engrossed and read a third time. On that the resolution went to the Speaker's table.

The question was taken; and it was decided in the negative—yeas 84, nays 88; as follows:

YEAS—Messrs. Abbott, Andrews, Arnold, Bennett, Bingham, Bliss, Branch, Bufinton, Burns, Case, Ezra Clark, Clawson, Cobb, Colfax, Comins, Covode, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Iowa, Dean, Dick, Dodd, Durfee, Farnsworth, Faulkner, Fenton, Florence, Foster, Garnett, Gilman, Gillis, Granger, Lawrence W. Hall, Robert B. Hall, Horton, Howard, Hughes, Huyler, George W. Jones, J. Glancy Jones, Kelsey, Kilgore, Knapp, John C. Kunkel, Landy, Leach, Leidy, Leiter, Letcher, Matteson, Milton, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Olin, Palmer, Parker, Phillips, Pike, Potter, Powell, Purviance, Reilly, Ritchie, Robbins, Royce, John Sherman, Samuel A. Smith, Stanton, William Stewart, Tompkins, Underwood, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, White, Whiteley, Wilson, Winslow, and Wood—84.

NAYS—Messrs. Adrain, Anderson, Atkins, Avery, Barksdale, Blair, Boccock, Bowie, Bryan, Burnett, Caruthers, Case, Chaffee, John B. Clark, Clay, Clemens, John Cochran, James Craig, Crawford, Curry, Davis of Mississippi, Dewart, Dowdell, Edmundson, Elliott, English, Eastie, Foley, Gartrell, Goode, Greenwood, Gregg, J. Morrison Harris, Thomas L. Harris, Hatch, Hawkins, Hill, Hoard, Jackson, Jenkins, Jewett, Kellogg, Lawrence, Lovejoy, McKibbin, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Miller, Moore, Isaac N. Morris, Mott, Niblack, Nichols, Pendleton, Pettit, Peyton, Phelps, Quitman, Ready, Ricard, Rufin, Russell, Sandidge, Scales, Scott, Aaron Shaw, Shorter, Sickles, Singleton, Robert Smith, William Smith, Spinner, Stephens, Stevenson, James A. Stewart, George Taylor, Thayer, Trippie, Wade, Watkins, Woodson, Worleudvke, Augustus R. Wright, John V. Wright, and Zollcoffer—88.

So the House refused to lay the subject upon the table.

Pending the above call,

Mr. KILGORE said: Mr. Speaker is it in order for me to propound an interrogatory?

The SPEAKER. Only by unanimous consent. Mr. KILGORE. I would like to know from the Committee on Foreign Affairs whether the resolution meets with the approbation of the President?

Mr. BARKSDALE. We did not inquire what were the President's views on the subject.

Mr. SMITH, of Virginia, said: Wishing to leave this matter where it belongs, with the treaty-making power, I vote in the affirmative.

The question recurred on seconding the demand for the previous question on ordering the preamble to be engrossed and read a third time.

Mr. BARKSDALE. I move that the preamble and resolution be referred to the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair thinks that the motion is not in order. If the previous question be not seconded, it will be in order to amend the preamble.

Mr. JONES, of Tennessee. When the preamble is disposed of, and the question comes up on the passage, will it not be in order then to move to refer the subject to the Committee of the Whole on the state of the Union?

Mr. BOCKOCK. I shall then move to recommit it to the same committee from which it came.

Mr. PHILLIPS. Is it in order to move to lay the preamble upon the table?

The SPEAKER. The Chair thinks not.

The call for the previous question was seconded, and the main question ordered to be put.

Mr. CLEMENS. I demand the yeas and nays on ordering the preamble to be engrossed and read a third time.

The yeas and nays were ordered.

Mr. MILLSON. Is the motion to lay upon the table now in order?

The SPEAKER. It is at this time.

Mr. MILLSON. We have already been too long engaged in a matter with which, under the Constitution, we have no proper business; and I therefore move that the subject be laid upon the table.

Mr. CLEMENS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 65, nays 102; as follows:

YEAS—Messrs. Andrews, Arnold, Billingham, Bingham, Bliss, Bufinton, Chapman, Ezra Clark, Clawson, Cobb, Colfax, Cragin, Damrell, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dean, Dick, Dimmick, Dodd, Durfee, Edie, Faulkner, Fenton, Florence, Foster, Garnett, Gilman, Gilmer, Granger, Robert B. Hall, Horton, Houston, Huyler, George W. Jones, J. Glancy Jones, Owen Jones, Kelsey, Knapp, John C. Kunkel, Landy, Leidy, Leiter, Letcher, Matteson, Edward Joy Morris, Parker, Phillips, Pike, Powell, Ready, Ritchie, Robbins, Royce, John Sherman, Stanton, Tappan, Miles Taylor, Tompkins, Walton, Ellihu B. Washburne, White, Whiteley, and Wilson—65.

NAYS—Messrs. Abbott, Anderson, Atkins, Avery, Barksdale, Bennett, Blair, Boccock, Bowie, Bryan, Burlingame, Burnett, Campbell, Caruthers, Case, Caske, Chaffee, Horace F. Clark, John B. Clark, Clay, Clemens, John Cochran, Comins, Covode, James Craig, Burton Craig, Crawford, Curry, Curtis, Davidson, Dowdell, Edmundson, Elliott, English, Eastie, Foley, Gartrell, Giddings, Goode, Gregg, Groesbeck, Grow, J. Morrison Harris, Thomas L. Harris, Hawkins, Hill, Hoard, Howard, Jackson, Jenkins, Jewett, Kellogg, Kilgore, Lawrence, Leach, Lovejoy, McKibbin, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Moore, Morgan, Morrill, Isaac N. Morris, Niblack, Olin, Pendleton, Pettit, Peyton, Phelps, Potter, Purviance, Quitman, Reagan, Ricard, Ruffin, Sandidge, Scales, Scott, Aaron Shaw, Henry M. Shaw, Judson W. Sherman, Shorter, Sickles, Singleton, Robert Smith, William Smith, Spinner, Stevenson, James A. Stewart, William Stewart, George Taylor, Thayer, Trippie, Waldron, Cadwalader C. Washburn, Watkins, Augustus R. Wright, John V. Wright, and Zollcoffer—102.

So the House refused to lay the subject upon the table.

Pending the above call,

Mr. BRANCH stated that Mr. STEPHENS, of Georgia, being unwell, and desiring to leave the Hall, had paired off with him.

Mr. DAVIS, of Mississippi, said: If the resolution authorized, in case of refusal, the employment of force, I would vote for it; but believing it to be a half measure, I vote against it.

Mr. SICKLES. I move to commit the joint resolution and preamble to the Committee of the Whole on the state of the Union.

The SPEAKER. The main question is ordered on it.

Mr. SICKLES. I call the Speaker's attention to the 120th rule, which says that a bill may be recommitted at any time before its passage.

Mr. WASHBURN, of Illinois. That motion is not in order.

The SPEAKER. The Chair, in response to an inquiry made by the gentleman from Mississippi, stated that the motion to commit to the Committee of the Whole on the state of the Union could not be entertained. On examining the Manual and the rule, the Chair is of opinion that the joint resolution may be recommitted to the Committee of the Whole on the state of the Union, or to a standing committee, at any time before its passage, but not in its present state. The House having ordered the main question to be put on agreeing to the preamble, that must be first disposed of.

Mr. SICKLES. And then the motion to refer to the Committee of the Whole on the state of the Union will be in order?

The SPEAKER. The Chair is of opinion that it will. The 120th rule provides for a recommitment of a bill or joint resolution at any time before its passage. The Chair, in reading the rule casually, construed it as requiring the recommitment to be made to the same committee that reported the measure. The Manual would seem to indicate that that interpretation of the Chair is incorrect:

"After a bill has been committed and reported it ought not, in an ordinary course, to be recommitted; but, in cases of importance, and for special reasons, it is sometimes recommended, and usually to the same committee."

Implying that it may be sent to another committee than that from which it was reported.

Mr. WASHBURN, of Maine. I would like to know the precise condition both of the preamble and the resolution. I understand that the main question has been ordered on the preamble.

The SPEAKER. That is true.

Mr. WASHBURN, of Maine. I understand further that the main question was ordered on the resolution.

The SPEAKER. The resolution, so soon as the preamble is disposed of, will be read a third time, having been engrossed. The order of the House, taken at a preceding sitting, was, that the resolution should be engrossed and read a third time. It has been engrossed, and will be read a third time.

Mr. WASHBURN, of Illinois. Has not the House ordered the main question to be put on the passage of the resolution?

The SPEAKER. The House has not reached that stage.

Mr. WASHBURN, of Illinois. I think that at the stage it has reached, no motion to commit is in order.

Mr. GROW. Supposing that the House shall adopt the preamble, how will the resolution stand?

The SPEAKER. The question will then be, "Shall the joint resolution pass?"

Mr. GROW. Was not the resolution rejected the other day?

The SPEAKER. The resolution was not rejected. It was ordered to be engrossed and read a third time.

The question was taken on the preamble; and it was decided in the negative—yeas 67, nays 99; as follows:

YEAS—Messrs. Anderson, Arnold, Atkins, Avery, Barksdale, Boccock, Burnett, Caske, John B. Clark, Clay, Clemens, Cobb, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Mississippi, Dowdell, Edmundson, Elliott, English, Faulkner, Foley, Gartrell, Greenwood, Gregg, Groesbeck, Thomas L. Harris, Hatch, Hawkins, Hoard, Houston, Jackson, Jenkins, Kelly, Lawrence, Letcher, McKibbin, McQueen, Samuel S. Marshall, Mason, Miller, Moore, Isaac N. Morris, Niblack, Pendleton, Peyton, Phelps, Quitman, Reagan, Reilly, Rufin, Scott, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, William Smith, James A. Stewart, George Taylor, Miles Taylor, White, Augustus R. Wright, and John V. Wright—67.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingham, Bingham, Blair, Bliss, Bryan, Bufinton, Burlingame, Campbell, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clawson, John Cochran, Cockerill, Colfax, Comins, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Iowa, Dean, Dick, Dimmick, Dodd, Durfee, Fenton, Florence, Foster, Giddings, Gilman, Gilmer, Goode, Goodwin, Granger, Grow, Robert B. Hall, Hill, Horton, Howard, Huyler, George W. Jones, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Landy, Leach, Leidy, Leiter, Lovejoy, Humphrey Marshall, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Olin, Palmer, Parker, Pettit, Phillips, Pike, Potter, Purviance, Ready, Ricard, Ritchie, Robbins, Royce, John Sherman, Sickles, Samuel A. Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Underwood, Wade, Walbridge, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Whiteley, Wilson, and Zollcoffer—99.

So the preamble was rejected.

Pending the vote,

Mr. McQUEEN stated that his colleague, Mr. BONHAM, had come into the House in time to vote, but had paired off till to-morrow.

Mr. CLARK, of New York said: As I understand the question in the form in which it is presented, I shall vote "no."

Mr. HOUSTON said: I had voted before I read the preamble. I am willing to vote for it, and against the resolution. I vote "ay."

Mr. BOWIE asked leave to vote, not having been in the Hall when his name was called.

Mr. MORGAN objected.

Mr. BOWIE. I would have voted "ay."

Mr. ADRAIN asked the same privilege.

Mr. MORGAN objected.

Mr. ADRAIN. Had I been in the Hall when my name was called, I would have voted "ay."

After the announcement of the vote, Mr. CLAY asked the previous question on the passage of the resolution.

The SPEAKER. The resolution has not been read the third time.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the preamble was rejected; and also moved to lay the motion to reconsider on the table.

Mr. CLEMENS asked for the yeas and nays on the latter motion.

The yeas and nays were not ordered.

The question was taken; and the latter motion was agreed to.

The joint resolution was read the third time.

Mr. SICKLES. I move to refer the joint resolution to the Committee of the Whole on the state of the Union.

Mr. CLAY. I ask for the yeas and nays on the commitment. I had not withdrawn the call for the previous question; but I understood, from a remark made by the Speaker, that the demand would be in order.

The SPEAKER. In the opinion of the Chair it is in order.

Mr. CLAY. Then I move the previous question on the passage of the resolution.

Mr. STANTON. Is it in order, after the call for the previous question, to move to recommit to the Committee of the Whole on the state of the Union?

The SPEAKER. It is not.

Mr. STANTON. I understood that that motion was made.

The SPEAKER. The gentleman from Kentucky [Mr. CLAY] rose and proposed to submit the demand for the previous question; but the joint resolution had not been read the third time, and the gentleman from Kentucky was notified that the demand for the previous question was not in order. The demand for the previous question is in order now.

Mr. CLAY. Then I make that demand.

Mr. WASHBURNE, of Illinois. That cuts off the motion of the gentleman from New York.

Mr. SICKLES. I rise to a point of order. The gentleman from Kentucky had not the floor to move the previous question.

The SPEAKER. If the gentleman from New York had not resigned the floor he is entitled to it, and the gentleman from Kentucky cannot be recognized. The Chair supposed that the gentleman from New York had made his motion, and surrendered the floor.

Mr. SICKLES. I had not.

The SPEAKER. Then the gentleman from New York is entitled to the floor, and the motion for the previous question cannot be entertained so long as the gentleman from New York has the floor.

Mr. MORGAN. I believe the gentleman from New York had taken his seat.

The SPEAKER. The gentleman from New York says he had not resigned the floor. The Chair was under the impression that he had surrendered the floor.

Mr. MORGAN. The gentleman had resumed his seat, and it was to be supposed he had surrendered the floor.

Mr. SICKLES. I certainly had not resigned the floor. There was some conversation pending between the Speaker and several other gentlemen, to which I gave way.

The SPEAKER. The gentleman from Kentucky rose to demand the previous question; and the Chair supposing that the gentleman from New York had surrendered the floor, recognized the gentleman from Kentucky. The gentleman from New York rises in his place, and says that he had not resigned the floor, and of course it cannot be taken from him.

Mr. CRAIGE, of North Carolina. If the Speaker assigned the floor to the gentleman from Kentucky, can he now take it from him and give it back to the gentleman from New York?

The SPEAKER. The assignment of the floor to the gentleman from Kentucky was under a misapprehension of facts in the mind of the Speaker.

Mr. CRAIGE, of North Carolina. That may be true; but still the Speaker recognized the gentleman from Kentucky, and gave him the floor.

The SPEAKER. Under a misapprehension.

Mr. CLAY. My motion was entertained by the Speaker.

The SPEAKER. The Chair entertained it on the supposition that the gentleman from New York had surrendered the floor.

Mr. MARSHALL, of Kentucky. The gentleman from New York [Mr. SICKLES] rose to a question of order. What was the question of order?

The SPEAKER. The question of order was that he was entitled to the floor; and that it could not be taken from him by the gentleman from Kentucky.

Mr. MARSHALL, of Kentucky. I thought he rose to contend against the previous question being moved.

The SPEAKER. The Chair did not so understand the question of order.

Mr. SICKLES. I rose to claim the floor, not having surrendered it.

Mr. CLAY. Does an appeal from the decision of the Chair, as to whether the previous question is before the House, lie?

The SPEAKER. It does.

Mr. CLAY. Then I make that appeal.

The SPEAKER. The gentleman from Kentucky appeals from the decision of the Chair in declining to receive his motion for the previous question.

Mr. CLAY. No, sir. I understood that the demand for the previous question was entertained by the Chair; and now the Chair overrules it, and assigns the floor to another gentleman. From that decision of the Chair I appeal.

The SPEAKER. The Chair will state the facts, so that the gentleman from Kentucky will have the benefit of them. The gentleman from New York rose and moved to recommit the joint resolution to the Committee of the Whole on the state of the Union. The gentleman from Kentucky rose and demanded the previous question. The Chair, under the supposition that the gentleman from New York had surrendered the floor, recognized the gentleman from Kentucky, and entertained his demand for the previous question. The gentleman from New York rising subsequently, or standing on his feet all the while, claims his right to be heard on his motion to recommit, on the ground that he had not surrendered the floor so as to enable the gentlemen from Kentucky to make his motion; and the Chair, acting under a misapprehension of the facts in receiving, in the first instance, the motion of the gentleman from Kentucky, assigns the floor to the gentleman from New York.

Mr. WASHBURNE, of Illinois. I desire to make one statement. After the vote by which the preamble was rejected had been announced by the Speaker, I endeavored to get the floor to move the previous question; but the floor was assigned to the gentleman from Kentucky, [Mr. CLAY], who then demanded the previous question, as I had intended to do. Then, after he had demanded it, I made the privileged motion to reconsider, and lay on the table. I understood that, at that time, the gentleman from Kentucky had demanded the previous question.

The SPEAKER. The gentleman has misapprehended the state of the facts.

Mr. CLAY. I withdraw the appeal from the decision of the Chair.

The SPEAKER. The Chair desires to correct the erroneous impression of the gentleman from Illinois. The gentleman from Kentucky [Mr. CLAY] was recognized by the Chair, and stated that he proposed to demand the previous question on the passage of the resolution. The Chair stated that it was not in order at that time, inasmuch as the joint resolution had not been read a third time, pursuant to the order of the House. So that the demand for the previous question could not have been pending.

Mr. BARKSDALE. I desire to inquire of the Chair if a motion to recommit the preamble and resolution to the Committee on Foreign Affairs is in order?

The SPEAKER. A motion to recommit the preamble would not be in order, because the House has rejected the preamble and has no further control over it. A motion to recommit the joint resolution would be in order if the gentleman had the floor to make the motion; but the gentleman from New York is entitled to the floor.

WITHDRAWAL OF A PAPER.

Mr. ENGLISH. I ask the gentleman from New York to yield me the floor for a moment.

Mr. SICKLES. I do so, sir.

Mr. ENGLISH. I ask the consent of the House to withdraw from the files of the House, for the use of the Post Office Department, the affidavit of William Fuller, who is now being prosecuted by the Post Office Department for some offense. It is highly important that the paper should be withdrawn to-day, as they will need it to-morrow.

Leave was granted for the withdrawal of the paper.

THE CLAYTON-BULWER TREATY—AGAIN.

Mr. BARKSDALE. I ask the gentleman from New York to allow me to submit a motion to recommit the joint resolution to the Committee on Foreign Affairs.

Mr. SICKLES. I must decline to yield for that purpose.

Mr. BARKSDALE. I am satisfied that the House is not prepared to vote on the resolution now.

Mr. SICKLES. I think so too, and I want to prove it. I should have been glad if the gentleman had voted with me to give the House more time.

Mr. CLARK, of New York. Will my colleague give way to me for a moment, to permit me to bring to the attention of the House a matter in respect to which I am instructed by the Committee on the Judiciary to ask the direction of the House?

Mr. SICKLES yielded.

Mr. CLARK, of New York. Mr. Speaker, I am instructed by the Judiciary Committee to ask that they be discharged from the further consideration of the memorial—

Mr. JONES, of Tennessee. I rise to a question of order. I ask that the matter before the House be disposed of before anything else is brought up.

Mr. CLARK, of New York. I believe that my colleague has yielded me the floor, and that I am entitled to it.

The SPEAKER. It is competent for any gentleman upon the floor to object.

Mr. CLARK, of New York. I hope the objection will not be insisted on. My purpose is to facilitate the business of the House.

Mr. JONES, of Tennessee. Let us dispose of the business before the House; and then the gentleman can bring his case up.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (S. No. 86) to admit the State of Minnesota into the Union; when the Speaker signed the same.

CLAYTON-BULWER TREATY RESUMED.

Mr. SICKLES. Mr. Speaker, I am too well aware of the impatience with which the House, at this period of the session, regards any extended discussion, to trespass long upon its attention, even upon so important a topic as I regard this to be. But, sir, I do believe that a brief discussion, a few minutes devoted to a question of this character, will not be appropriated in vain. I think the House will concur with me in saying that the record we have exhibited for the last few days, and the votes that have been taken on this question, afford the most conclusive proof that I can refer to to show that the question is not correctly understood in many quarters of the House.

It is well understood that negotiations are now pending, and have been pending for some time, under favorable auspices, with a view to bringing the two countries to an amicable understanding in reference to the controversies that have grown out of the Clayton-Bulwer treaty.

Mr. SMITH, of Virginia. How is that known?

Mr. SICKLES. It is known from the President's message of December last. I have heard the same inquiry put many times, and I am surprised that this fact is not more generally known. I will read a very brief extract from the message. After giving his views upon the British construction of the treaty, the President says, at page 12:

"Whilst entertaining these sentiments, I shall, nevertheless, not refuse to contribute to any reasonable adjustment of the Central American question which is not practically inconsistent with the American interpretation of the treaty. Overtures for this purpose have been recently made by the British Government in a friendly spirit, which I cordially reciprocate."

Mr. CLAY. That relates to Central American affairs.

Mr. SICKLES. What I have read is in relation to the Clayton-Bulwer treaty, and nothing else, as I will prove if there is any dispute about it. The passage immediately preceding what I have read removes all doubt as to what is referred to. It is as follows:

"The time spent in discussing the meaning of the Clayton and Bulwer treaty would have been devoted to this praiseworthy purpose, and the task would have been the more easily accomplished, because the interest of the two countries in Central America is identical, being confined to securing safe transits over all the routes across the isthmus."

Then follows the passage which I have just read, stating that overtures have been made by

the British Government of a friendly character, which are cordially reciprocated by the Executive, and that negotiations are now pending.

Now, I do say, Mr. Speaker, that when it is known to the House and the country that negotiations are pending in reference to a most grave and delicate public question—a question that has given rise to a great deal of asperity of feeling between the two countries, that has been a subject of controversy for a number of years, and a topic upon which all must desire that there shall be, if possible, a friendly understanding and a removal of differences—it is a most extraordinary proceeding on the part of the House of Representatives to interpose, without any knowledge of the present state of the negotiations, whether it be favorable or unfavorable, without any intimation from any quarter of a desire on the part of the coordinate branch of the Government, or of the treaty-making power, for any action—I say it is without precedent in the history of this Government for a resolution like this to be pressed through the House.

It is well known that one of the chief obstacles to an understanding between the two countries in reference to the Central America question, so far as it had reference to the Bay Islands and the Mosquito protectorate, out of which this question of interpretation arises, was the fixed and settled views of the late Premier of England, Lord Palmerston, who had adhered tenaciously, during the whole of his official career, to a line of policy which committed the Government of Great Britain to intervention in Central America, and the acquisition of territory there; looking ever, as he did, with a jealous eye to our obtaining a foothold in that region which would give us control over the commerce of the East by that channel of communication. And what renders any hostile action on our part, either in the House of Representatives or elsewhere at this time, not at all to be desired, is the consideration that this obstacle no longer exists. Lord Palmerston has retired for a period (we cannot tell how long) from power; and the Minister now in office is one whose party has in no former period shown a disposition to interpose those obstacles to an adjustment which Lord Palmerston always has clung to, whenever he has been in office, whether as Premier or as Minister of Foreign Affairs.

The leader of the House of Commons, Mr. Disraeli, Chancellor of the Exchequer, has acknowledged, and he is the first Minister of the Crown who has recognized the fact, that there is such a thing as an American policy—a policy of progress, a policy of territorial and commercial development, a policy which must be respected.

Mr. QUITMAN. Will the gentleman from New York permit me to ask him a question?

Mr. SICKLES. With pleasure.

Mr. QUITMAN. I wish to ask the gentleman whether there is any reliable information that Great Britain, with her present Ministry, is about abandoning, or has abandoned, her policy upon the subject of the construction of the Clayton-Bulwer treaty? In other words, whether she is ready to abandon her possessions in Central America?

Mr. SICKLES. I will say to the gentleman from Mississippi that a sufficient time has not yet elapsed since the present Ministry came into office to ascertain precisely the opinion they are prepared to express upon that point. Lord Aberdeen, who occupied a position precisely identical with that of the Ministry, was prepared, as was well understood at the time, to go for a fair adjustment of this question with the United States, to surrender the Mosquito protectorate, and to retire from the Bay Islands; the proof of which is contained in the correspondence which is already before Congress.

Mr. BLAIR. I wish to ask the gentleman from New York if a treaty has not already been ratified with Honduras by which Great Britain agrees to surrender the Mosquito protectorate and the Bay Islands?

Mr. SICKLES. I will answer the gentleman from Missouri. He is correct in saying that a treaty was negotiated, but he is not correct in supposing that it has been ratified. It was negotiated, with the understanding that this country should be a party; but it was rejected in the form in which it was negotiated, by the Senate, and so amended that it was not satisfactory to Great

Britain. Great Britain has not concurred in our amendment, nor has the treaty been ratified by Honduras. It is obvious that that treaty can never be ratified, because in fact it deprives Honduras of her sovereignty over her own territory. We have not claimed this as our territory, but we have protested against her wresting it from Honduras.

Mr. SMITH, of Virginia. If the gentleman will permit me, the House will bear in mind that this message of President Buchanan, in reference to this question, is the annual message of December last. After stating that it is the true policy to abolish this treaty, he says:

"The fact is, that when two nations like Great Britain and the United States, mutually desirous, as they are, and I trust ever may be, of maintaining the most friendly relations with each other, have unfortunately concluded a treaty which they understand in senses directly opposite, the wisest course is to abrogate such a treaty by mutual consent, and to commence anew. Had this been done promptly, all difficulties in Central America would, most probably, ere this have been adjusted to the satisfaction of both parties. The time spent in discussing the meaning of the Clayton and Bulwer treaty would have been devoted to this praiseworthy purpose, and the task would have been the more easily accomplished because the interest of the two countries in Central America is identical, being confined to securing safe transits over all the routes across the isthmus."

"Whilst entertaining these sentiments, I shall, nevertheless, not refuse to contribute to any reasonable adjustment of the Central American questions which is not practically inconsistent with the American interpretation of the treaty. Overtures for this purpose have been recently made by the British Government in a friendly spirit, which I cordially reciprocate; but whether this renewed effort will result in success, I am not yet prepared to express an opinion. A brief period will determine."

This was in December last. "A brief period" has since intervened, and yet nothing has been done.

Mr. SICKLES. "A brief period" in the progress of a negotiation between the United States and Great Britain, upon a complicated and difficult question like this, is a relative term. It is not five minutes, nor five days, nor five months. Negotiations, as we know, have been pending with that nation upon this subject for several years. But my friend from Virginia misconstrues, I think, entirely the first paragraph which he reads. It is very evident, from the context, that the President does not recommend to this House anything like legislation with a view of abrogating that treaty; but he expresses what is a very palpable truth, that it would have been far better, looking back to the difficulties which have surrounded this controversy, and looking to the fact that the constructions placed upon the treaty by the two Powers are wholly irreconcilable, that it would have been far better if the treaty had been abrogated "by mutual consent" in the early part of the controversy.

Mr. Speaker, there is but one precedent in the history of this country, in which a step of this kind has been taken with a view of the abrogation of a treaty. I call the attention of the gentleman from Virginia to a part of the extract, from which he read, to show that it was not the intention of the President to recommend action upon the part of Congress. The President says it would have been better to have abrogated the treaty by mutual consent. About that there is no difficulty or question. There could be no cause of complaint upon the part of any one if it had been done by mutual consent. But, sir, this legislation proposes nothing of that kind. This resolution declares in the preamble reasons which are wholly irreconcilable in the idea of abrogation by mutual consent.

To abrogate the treaty in the manner indicated by this resolution would be an initiatory step in a war policy; and the question for the House to consider is, whether it is prepared, without a knowledge of the present state of the question, without a knowledge of the condition of the negotiations, of its own mere motion, not itself a part of the treaty-making power, to take an initiatory step in a war policy on this question?

Mr. QUITMAN. If the gentleman will permit me, I will correct what I think is a misapprehension on his part of the object of this resolution. The resolution is not to abrogate this treaty, but is a mere modest recommendation to the President as a part of the treaty-making power—a recommendation from the Representatives of the people. And, sir, let me say that, in my opinion, this House has as much right under the Constitution, in shaping the great foreign policy

of this country, to express its views, as any other department of the Government. This is not an attempt to abrogate the treaty, but is simply a recommendation to the President and the treaty-making power to take the proper means to abrogate it.

Mr. SICKLES. I am the last person in the world to detract from the respect and consideration due to any opinion which this House might express on any subject. Any opinion which it may express is entitled to great weight; and just for that reason it ought not to express an opinion on a question the state of which it is impossible that it can understand, because it is not in the possession of the facts on which alone a safe and reliable and prudent judgment can be formed. And I would suggest to my friend from Mississippi that it is in this that we see the wisdom of the constitutional adjustment of the treaty-making power. The treaty-making power, as we know, is the President and Senate. For the Senate to entertain a resolution of this kind, to express opinions on this class of questions, would be entirely consistent with its functions, because the Senate has it in its power, as a branch of the treaty-making power, to ascertain at any time the state of the pending negotiations.

Sir, the gentleman from Pennsylvania, [Mr. RICHIE,] my colleague on the Committee on Foreign Affairs, thought the other day that it was entirely proper for the House of Representatives to take action on a question of this kind; and I may add, that the chairman of the Committee on Foreign Affairs, [Mr. CLINGMAN,] then a member of this House, but now in the other branch of Congress, took the same view, in analogy, to the opinions which are often expressed by the House of Commons on questions of foreign policy. Gentlemen will at once see the wide distinction between the functions of the House of Commons in reference to matters of foreign policy and the appropriate limitations of duty prescribed by the Constitution upon the House of Representatives.

Mr. JONES, of Tennessee. Do I understand the gentleman to say that there is but one precedent for this sort of action in the history of the country?

Mr. SICKLES. I said that I was aware of but one precedent in the history of the country where legislative action was invoked to abrogate treaties. I referred to the precedent of 1798, in the case of the French treaties.

Mr. JONES, of Tennessee. I thought the gentleman referred to the resolutions about Oregon—the joint occupancy resolutions, so called. That was a different sort of case.

Mr. SICKLES. That was a recommendation to give notice, by the terms of the treaty, where either party was at liberty to give a notice of twelve months, terminating a joint occupation of territory.

Mr. QUITMAN. I pledge the honorable gentleman from New York that I can furnish him with half a dozen precedents, from the most distinguished men who have ever been in the House of Representatives, where they have expressed their wishes, or their hopes, or their disposition, to check the treaty-making power. In reference to Spain, I recollect when Mr. Clay presented in this House resolutions in regard to the Executive duties on the subject of certain treaties. I have not the precedents with me now, but I can furnish them.

Mr. SICKLES. I do not mean to say, Mr. Speaker, and I have not said, that there is no precedent for an expression of opinion by this House with reference to the foreign policy of the country. I am quite aware that there are several instances in which such views have been expressed. But what I said then, and what I adhere to now is, that there is but one instance in which an attempt was made, successfully or unsuccessfully, to induce the House of Representatives, as a branch of Congress, to pass a resolution or a bill abrogating a treaty, or demanding its abrogation; but one instance prior to this, and that was, as I have said, in 1798, in reference to our treaties with France; that was a war measure, and adopted as such. It was a part of a programme of warlike legislation, embracing an act of non-intercourse with France, followed soon afterwards by authority to our cruisers to make reprisals on French vessels at sea.

THE CONGRESSIONAL GLOBE.

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I admit that a state of things might exist where it would be proper for the House, either in the expression of its own views of policy, or where it saw fit to make an issue with the Executive, or where it desired to cooperate with the Executive after the termination of all negotiation, after the abandonment, by each side, of all attempt at reconciliation. I can well understand, sir, that a state of things might thus arise in which it would be entirely proper for the House of Representatives to express, by resolution, its views as to what should be done. But that would be with full knowledge of all that had passed, and in view of the fact that negotiations having terminated, the time for action had begun.

I agree with the suggestion which was thrown out to-day while we were voting on the preamble, that if negotiations had terminated, and all hope of an adjustment was at an end, and action was proposed, there would then be no objection to our taking the initiative. If such were the case I would go as far as any gentleman upon this floor in recommending and advising such action as might be necessary to vindicate the honor and protect the interests of the country, and to enforce that conformity to treaty obligations, that all Administrations, this Administration included, since the formation of this treaty, have insisted on with reference to the Clayton-Bulwer treaty. I am against the treaty on the British interpretation of it, as strongly as any gentleman in the House can be; but I do not believe, as the preamble asserts, that on the American construction of it there is no mutuality, and that on the American construction of it it ought to be abrogated. And I say that the expression of such an opinion by the House would stultify our Government, and place the House in conflict with the positions that have been heretofore taken by the executive branch of the Government in the conduct of all our negotiations with Great Britain. It would be occupying an entirely new ground on the whole question.

Sir, let me, for a moment, call the attention of the House to what must be the effect of abrogating this treaty by our own act, against the consent of England—and that is the measure proposed. The effect would be to leave Great Britain in possession of all that she has, or claims to have, in Central America; and I believe that such a course, in one point of view, would be far from objectionable to Great Britain. It could not be objectionable to her, so far as her interests in Central America are concerned. She could only regret it in one aspect—that she would be bound to regard it as an aggressive measure, and as the initiatory step in a war policy on the part of the United States. But if we would agree to abrogate this treaty by our own act, and stop there, I have no doubt that the policy of Great Britain would be promoted, if not wholly attained, by such a course.

Mr. BLAIR. I understood the gentleman from New York to state, in the first place, that the House has nothing to do with that treaty.

Mr. SICKLES. We have nothing to do with making or abrogating treaties.

Mr. BLAIR. And yet that this is a war measure if we do abrogate it. I believe that it is competent for this House to take war measures, and to declare war, if necessary, and to take all measures in regard to it; and I think this is an inconsistency on the part of the gentleman.

Mr. SICKLES. I have not questioned the power of the House to take an initiatory step in a war policy; but I have put it to the House whether it is prepared to take that step on this question while it does not know the condition of the question?

Mr. BLAIR. We know something about the condition of the question if we can rely upon the President's message, and the documents laid before us on the subject.

Mr. SICKLES. We understand, by the President's message, the condition in which the question was in December last; we know that at that time it was in a condition favorable to an adjustment with Great Britain; and we have no message

from the President since, and no information or act, official or unofficial, from the treaty-making power, putting a different phase on the subject. We have no reason to believe that the hope expressed in December of an honorable and fair adjustment will not be realized; and I put it to the gentleman from Missouri [Mr. BLAIR] whether, in that state of the question, he and his friends are prepared to ask the House of Representatives to force war measures upon the Executive? If so, so be it: then he is prepared to vote for the resolution.

Mr. CLARK, of New York. Will my friend permit me to put a question to him?

Mr. SICKLES. Certainly.

Mr. CLARK, of New York. My colleague has spoken of the policy of the Administration in respect to Central American affairs. Is he at liberty to answer the question whether the House and the country are to understand that the Yrissarri treaty is an embodiment of the policy of the Administration in respect to Central America?

Mr. SICKLES. I am not authorized to answer that question for anybody but myself. I can only, as my colleague can do, draw my own inferences as to the policy of the Administration, so far as it relates to Central America, from its acts. It is understood that a treaty, commonly called the Cass-Yrissarri treaty, has been negotiated by the present Administration, and has been ratified by Nicaragua; and I take it for granted that the Administration would not negotiate a treaty that is not in conformity with its policy and views of the public interest.

Mr. CLARK, of New York. I desire to know whether it was the view of my colleague that we should rid ourselves of the complications of the Clayton-Bulwer treaty, by incurring the new ones imposed by the Cass-Yrissarri treaty?

Mr. SICKLES. I will answer the gentleman. I have not, and none of us have, any authentic official information as to the provisions of the Cass-Yrissarri treaty; but as I understand them unofficially and from rumor, I do not believe that that treaty, if ratified and carried out in good faith by both Governments in the spirit in which it has been negotiated, will involve our interests in Central America in any new complications.

Mr. CLARK, of New York. I ask my colleague if the complications of the Yrissarri treaty do not come in direct conflict with those imposed by the Clayton-Bulwer treaty; and if the abrogation of the Clayton-Bulwer treaty is not necessary in order that the hardships of the American people should be united to carry out the policy resulting from this new treaty?

Mr. SICKLES. I do not so understand it; and I think I may add that neither of the parties to the Clayton-Bulwer treaty—neither Great Britain nor the United States—understand the Cass-Yrissarri treaty as coming in conflict at all with the provisions of the Clayton-Bulwer treaty.

Mr. QUITMAN. Does it not come into conflict in this: that it authorizes the occupation of a portion of Central America by American forces, while the Clayton-Bulwer treaty provides that we shall not occupy any portion of, or establish any possession in, Central America?

Mr. SICKLES. I think not. The Cass-Yrissarri treaty looks to the Americanization of Central America—if I may be allowed the expression—by emigration, by settlement—by intimate intercourse—the only true modes in which, in my humble opinion, Central America can be or ought to be Americanized. It looks to the extension of commercial intercourse and the cultivation of all the offices and duties of intimate and fraternal neighborhood between Nicaragua and the United States; and I should infer, from such currency as rumor has given to the provisions of this treaty, and the circumstances attending its negotiation, that it would be the policy of the Administration to extend our relations with the other Central American States in the same way, and by similar treaties. There is nothing in the Cass-Yrissarri treaty—not a line, as I understand it—which looks to a permanent occupation by the United States

Government of any portion of the territory of Central America.

Mr. CLARK, of New York. I will ask my friend another question. Is there not an understanding on the part of the United States, in the event that the Republic of Nicaragua shall be unable to maintain her own tranquillity and to maintain the rights which, by the contract she has conferred upon Central American citizens, to interfere by an armed occupation, or by fortifications if necessary, with the stipulation that the Americans shall withdraw the armed force whenever the necessity for its presence ceases?

Mr. SICKLES. The Cass-Yrissarri treaty contains precisely what the Clayton-Bulwer treaty contains: a stipulation to protect the route across the isthmus. In this respect, the two treaties are in perfect accord with each other. Neither treaty contemplates permanent occupation by either country or by any Power, or the exclusive possession by any one of the privileges of the transit routes. The Cass-Yrissarri treaty contemplates the inability, in a possible contingency, of Nicaragua to protect and keep free and open to all nations the privileges and opportunities of these transit routes; and the United States, for itself, undertakes to see that that protection is guaranteed. But the treaty involves in no way the assertion of any exclusive control over the routes. And, allow me to add, in further answer to the question of my colleague, that the treaty does not undertake to protect exclusively the rights of any one company to the disparagement or exclusion of another, but leaves to Nicaragua herself full power to make such grants to such companies as she may see fit, with reference to the transit routes across the isthmus.

Mr. CLARK, of New York. Will my colleague inform me whether the navigation of the waters of Nicaragua is open to all the citizens of the United States, under the provisions of the Cass-Yrissarri treaty, or whether the right is restricted to a corporation created by the Republic of Nicaragua, whose exclusive right they have stipulated to defend, and this Government has stipulated to guaranty?

Mr. SICKLES. I will answer this question; and I hope, after I have done so, he will excuse me from going more fully into the details of a question which is, in some measure, foreign to the one that I have risen to discuss. The treaty with Nicaragua concedes to Nicaragua the right to act for herself in reference to all corporations she may create with a view to establish transit routes across the isthmus, whether by railroad, canal, or by any other mode. It concedes to her the prerogatives of self-government, "of popular sovereignty," which my colleague has always been foremost in claiming as the true principle to be observed among the States of our own Union, and which, I am sure, he would be the last to refuse to a young sister Republic like Nicaragua.

But, Mr. Speaker, I have already occupied more of the time of the House than I proposed to do when I rose this afternoon. I would have been pleased, at an earlier day in the session, and at a time when the House would be disposed to look more indulgently upon the consumption of time upon this or any other question, to have entered quite at large into the general merits of this subject, embracing as it does, the general questions of our relations with England with reference to Central America; and in that connection would have been pleased to discuss what I consider the bearing, as far as it is proper to discuss it in the present state of the matter, not only of the Clayton-Bulwer treaty, but of the Cass-Yrissarri treaty to which my colleague has referred. But I will pass rapidly on, and present one or two additional considerations which, in my judgment, require that the House should reject this resolution.

Mr. DAVIS, of Maryland. Will the gentleman indulge me with a question for information?

Mr. SICKLES. With pleasure.

Mr. DAVIS, of Maryland. The language of this resolution, as I remember it, directs the Pres-

ident to take measures for the abrogation of this treaty.

Mr. SICKLES. Yes, sir.

Mr. DAVIS, of Maryland. If the President initiates negotiations, and the parties concur in abrogating it, then no difficulty can ensue. But in the event that Great Britain refuses to concur in the abrogation, the resolution, if I understand it, does not allow the President to stop at that point.

Mr. SICKLES. No, sir, it does not; and there is the difficulty.

Mr. DAVIS, of Maryland. The resolution, therefore, under a proper construction of it, directs the President, whether Great Britain is willing or unwilling, to abrogate the treaty; in other words, if Great Britain refuses to abrogate it, it is a declaration of war.

Mr. SICKLES. Inevitably; that must follow.

Mr. DAVIS, of Maryland. I wished a declaration from the gentleman on that point.

Mr. SICKLES. I am obliged to the gentleman from Maryland for recalling my attention to the exact point in the discussion which I was considering when I yielded to the questions of my colleague.

I was proceeding to show that the inevitable effect of the course that the House is asked to pursue will be, that, if England does not consent to the abrogation of the treaty, we are forced then to abrogate it by our own act; and the result will be to leave her in the possession of all the territory which we claim that, under the treaty, she ought to relinquish. Prior to the Clayton and Bulwer treaty we found Great Britain claiming possession of an extent of coast of more than a thousand miles in length in Central America; we found her in possession of the Belize; we found her in possession of a number of islands, dependencies, as she claimed, of her possessions on the main land.

By the treaty as we negotiated it, as we understood it, and as we have always interpreted it since, Great Britain agreed to relinquish all her claims to possessions there, except to the Belize; and, in consideration of that, both Governments entered into a solemn compact with each other to abstain for all time in attempting to acquire any sovereignty or control over any portion of Central America; and both agreed that for all time, so far as they were concerned, Central America should be devoted to the commerce of the world, and that both Governments would exert their own influence and seek the cooperation of all other commercial nations for the establishment and maintenance of routes of communication across that isthmus for the advancement of the common commercial interests of mankind. That was the theory of the treaty, as we understood it. Great Britain has, however, since claimed that, according to her understanding, she was to keep what she had, but to acquire no more, and that we were to abstain from making any acquisitions at all.

Now, I entirely agree with the most zealous opponents of this treaty, that upon the British construction of it, there is no mutuality, and that it is disadvantageous to the United States. Nay, I insist that it is a preposterous treaty in that point of view—a treaty that never would have been negotiated by any President, that never would have been ratified by any Senate, and that it is impossible for the United States at this time, or at any future time, to agree that any such construction shall be established, or admitted as the true meaning of the treaty.

But, sir, if all negotiation was at an end; if the President had told us in December, or if he told us now, that negotiation was at an end, that it was impossible to come to any adjustment of this controversy with Great Britain, that she adhered to her construction, and that we ought to adhere to ours, and we were called upon to take measures to protect our rights and our honor, I would be willing to take part here in maturing the most effective means of redress.

But, happily for the peace of the world, such a condition of affairs does not exist. Negotiations are pending, under circumstances favorable to an adjustment upon terms consonant with the honor and interests of this country. It is apparent, therefore, that the effect of the passage by Congress of such resolutions as these would be in the highest degree prejudicial to the prospect of bringing the negotiations to a successful termination. I think that it will be agreed on all hands, that in

view of the treaty that has been made with England, and in view of a treaty which it is understood has been made with Nicaragua, it would be exceedingly unwise to attempt to force any measure looking to the annexation of any portion of Central America. Such a course would be in conflict with our own interpretation of the Clayton-Bulwer treaty, and with what are understood to be the provisions of our treaty with Nicaragua, and in conflict with what are now generally believed to be the true interests of this country.

For the last four or five years, there have been various projects of annexation in Central America mooted in the United States; filibustering expeditions have been fitted out; the effect of which has been to alienate the feelings of the Central American States from us. The result has been to create impediments to the realization of the true policy of the United States with reference to the Republics of Central America. I believe the better portion of the people in the country concur in the opinion that all this was a mistake; that our true policy is to cultivate affectionate and intimate relations with these Republics, to protect them from aggression from other strong Powers, rather than to be ourselves the instrument, tacit or actual, by which outrage and aggression may be perpetrated upon them. I believe the general opinion of the day is, that in this mode our interests may be best promoted, and that thus the safest and fairest opportunity will be furnished, by which our people may colonize, in the true way of American colonization, that portion of the continent. Let us follow out this policy, and the time will not be far distant when Central America will fulfill its true office—that of being the great highway of commerce between the East and the West.

Mr. CLAY obtained the floor.

Mr. BLAIR. Will the gentleman give way for me to make a motion to adjourn?

Mr. CLAY. Unless it is the wish of the House now to adjourn, I would prefer to say what I have to say now. I was about to observe that I should not have risen on this occasion to have addressed the House upon the question before it, on the question presented by the late chairman of the Committee on Foreign Affairs, [Mr. CLINGMAN,] except that that gentleman who was so much better qualified than I to have maintained and defended his own act in this House, has been translated to a higher sphere, and the measure seems to have been left in this House without a father or a mother. Sir, I propose to take up this orphan babe and to give some of my own opinions upon it in answer to the arguments advanced by my honorable friend from New York, [Mr. SICKLES.]

In the first place, Mr. Speaker, that this House and the country may understand this whole subject before us, I shall beg leave to read the first article of the celebrated Clayton-Bulwer treaty, promulgated in 1850; and I hope the House will indulge me for a short time while I do so; not that I believe any gentleman here has forgotten it, but because the country may have forgotten it, or may not fully understand it.

"The Governments of the United States and Great Britain hereby declare, that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal; agreeing that neither will ever erect or maintain any fortifications commanding the same or in the vicinity thereof, or occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have, to or with any State or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection or influence that either may possess, with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other."

What have been the consequences following this treaty? England and the United States have both declared that they would never seek to plant colonies in, or in any way exercise dominion over, these Central American States. How does the matter stand at this day? England holds in her clutches more than two-thirds of the entire Central American coast.

Notwithstanding this article of this treaty, she holds this day, and will maintain that hold just so long as this treaty and her construction of it stands, more than two thirds of the whole Central American coast, while we have no foothold there except in one or two small localities, and for special and restricted purposes.

Now, in this state of things the President of the United States, at the assembling of Congress, sent us his annual message. Did he send that message to us to give us information? Did he send it to us that we might make up our opinion on the subject? Or did he desire us to do as my honorable friend from New York [Mr. SICKLES] desires us to do, to have no opinion at all on the question, because we do not know enough about the subsequent negotiations which may have taken place? I believe it was the purpose of the President of the United States that we should be informed on this question. I believe that it was his purpose that we should think on it. Whether it was his purpose or not that we should express an opinion on what he had reflected, I do not pretend to say; but I, for one, stand up in this House and say before the American people, that as a representative of the people of a distinguished district of this land, I feel free to express my opinion on any subject I have made up my mind on. What does the President say?

"Since the origin of the Government we have been employed in negotiating treaties with that Power, and afterwards in discussing their true intent and meaning. In this respect, the convention of April 19, 1853, commonly called the Clayton and Bulwer treaty, has been the most unfortunate of all; because the two Governments place directly opposite and contradictory constructions upon its first and most important article. Whilst, in the United States, we believed that this treaty would place both Powers upon an exact equality by the stipulation that neither will ever 'occupy, or fortify, or colonize, or assume or exercise any dominion' over, any part of Central America, it is contended by the British Government that the true construction of this language has left them in the rightful possession of all that portion of Central America which was in their occupancy at the date of the treaty; in fact, that the treaty is a virtual recognition on the part of the United States of the right of Great Britain, either as owner or protector, to the whole extensive coast of Central America, sweeping round from the Rio Honda to the port and harbor of San Juan de Nicaragua, together with the adjacent Bay Islands, except the comparatively small portion of this between the Sarston and Cape Honduras. According to their construction, the treaty does no more than simply prohibit them from extending their possessions in Central America beyond the present limits. It is not too much to assert, that if in the United States the treaty had been considered susceptible of such a construction, it never would have been negotiated under the authority of the President, nor would it have received the approbation of the Senate."

This message, when it was received here, was dissected, and its parts distributed to the appropriate committees. The portion I have read was referred to the Committee on Foreign Affairs, of which committee I have the honor to be an humble member. Why was it referred there? Was not the committee to submit a report? Was it not to give some expression of opinion? Or was it, sir, submitted to that committee to be shelved, as many other matters have been shelved, and allowed to remain there until moth-eaten and forgotten?

Mr. SICKLES. I will answer the gentleman. I think it was sent to us for our information.

Mr. CLAY. What was the necessity of sending it to the Committee on Foreign Affairs if there was to be no action? It was already before the House and the country.

Mr. SICKLES. It was sent there for our information, and not with a view that we should report a resolution in direct conflict with it.

Mr. CLAY. That I will come to presently, and will call on the gentleman either to vote with the Administration or against it.

Mr. SICKLES. I want to vote with the country.

Mr. CLAY. And I want to vote with the country, and with the Administration which is the head of it.

Mr. BOWIE. And which embodies the spirit of the country.

Mr. CLAY. I thank the gentleman from Maryland—and which, sir, embodies the spirit of the country. This portion of the message was referred to the Committee on Foreign Affairs. What did we do? We drew up a preamble and resolutions, offered by my colleague on the committee, [Mr. CLINGMAN,] now a Senator, in almost the very language of the President of the United States. What did the preamble tell us? Did it not tell us that the two Governments placed opposite and

contradictory interpretations on the first and the most important article of the treaty? Did not the preamble state that? Did it not state that it was an entangling alliance? Did not the President say that it was an entangling alliance? And, sir, in opposing the preamble, I say that the gentleman opposes the views of the President of the United States, because that preamble was a mere reiteration of what had been said in the message.

Mr. SICKLES. If the gentleman will permit me, I will say that whether I agree with the views of the President or not, is of much less importance than the inquiry whether what I have contended for is right. And I desire to correct my friend from Kentucky in one point of his statement. The preamble is in direct conflict with the view taken by the President of the treaty, for—

Mr. CLAY. Not with the views of the President as communicated to this House.

Mr. SICKLES. I will call the attention of my friend to a point which he mistakes. The preamble affirms that on the American construction of the treaty it is without mutuality, and ought to be abrogated.

Mr. CLAY. Precisely.

Mr. SICKLES. And no one has claimed that yet.

Mr. CLAY. Does the President or the Administration say that we have gained anything by this Clayton-Bulwer treaty? Where is the foot of ground we have gained by it? Where has it been mutual, when England has got two thirds of the whole Central American coast, and we have not gained a foot? Where is the mutuality, under any construction of it?

Mr. SICKLES. The gentleman confounds the state of things under the English construction, with the state of things under the American construction. The state of things under the American construction is, that neither party shall occupy, possess, hold, or fortify any portion of the country; but, under the British construction, it is entirely the reverse, and they do make the claim alleged.

Mr. CLAY. The British construction is, that they shall have two thirds of the Central American coast. We say that is wrong, and that we will never assent to it. Therefore, in the language of the President, the treaty ought to be abrogated.

Mr. SICKLES. He does not recommend its abrogation, except by mutual consent; and that is a different thing from what is recommended here.

Mr. CLAY. The preamble has been voted down. We are discussing, so far as that is concerned, a dead thing. Let us come to something that is not dead, and which I hope will not die, and that is the resolution itself. I think I have shown that the preamble, which was voted down, was in the language of the President of the United States, as contained in his annual message. Now, what does he say about abrogating the treaty? It has been read by gentlemen who have spoken, but as it is good I will read it again; for good things cannot be too often impressed upon our minds. He says:

"The fact is, that when two nations like Great Britain and the United States, mutually desirous as they are, and I trust ever may be, of maintaining the most friendly relations with each other, have unfortunately concluded a treaty which they understand in senses directly opposite, the wisest course is to abrogate such a treaty by mutual consent, and to commence anew. Had this been done promptly, all difficulties in Central America would most probably ere this have been adjusted to the satisfaction of both parties. The time spent in discussing the meaning of the Clayton and Bulwer treaty would have been devoted to this praiseworthy purpose, and the task would have been the more easily accomplished because the interest of the two countries in Central America is identical, being confined to securing safe transit over all the routes across the isthmus."

"Whilst entertaining these sentiments, I shall nevertheless not refuse to contribute to any reasonable adjustment of the Central American questions which is not practically inconsistent with the American interpretation of the treaty. Overtures for this purpose have been recently made by the British Government in a friendly spirit, which I cordially reprobate; but whether this renewed effort will result in success, I am not yet prepared to express an opinion. A brief period will determine."

Yes, sir, abrogate it and commence anew. It is just like two gentlemen having made a contract, one understanding it one way and the other another, and neither willing to yield. In the case of great States, there being no superior tribunal to which they can appeal for a settlement, it is far better for them, in the language of the President,

to abrogate the thing on which they can never agree. The American people, I believe, never will agree to the English construction of the first article of this treaty; and as there is no tribunal to which the two nations can appeal for an arbitration of the differences between them, it would seem best to wipe it out, and begin new. Does not the President tell us that? Does the resolution desire to do anything more? I call for the reading of the resolution.

The Clerk read the preamble and resolution as follows:

Whereas, the treaty between the United States and Great Britain, designated as the Clayton-Bulwer treaty, is, under the interpretation placed upon it by Great Britain, a surrender of the rights of this country, and, upon the American construction, an entangling alliance, without mutuality, either in its benefits or restrictions, and has hitherto been productive only of misunderstandings and controversies between the two Governments: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be requested to take such steps as may be, in his judgment, best calculated to effect a speedy abrogation of such treaty.

Mr. CLAY. "That the President of the United States be requested to take such steps as in his judgment may be best, to effect the abrogation of that treaty"—is not that just what he says he wants to do?

Mr. SICKLES. Put in "by mutual consent," and it will do.

Mr. CLAY. Was not the gentleman one of the committee which reported this resolution, and why did he not suggest it there? And let me just here ask my honorable friend a question, if it be a proper one. My impression is, that in committee the gentleman was in favor of the resolution, though not of the preamble.

The SPEAKER. It is not in order to refer to what occurred in committee.

Mr. CLAY. If that be so, I will withdraw my question.

Mr. SICKLES. I will make a response which will not violate the rule. I will say to my friend that I was not present in the committee when the resolution was adopted.

Mr. CLAY. That does not answer the question. Well, sir, we have got to this state. This resolution has been reported. It is in direct conformity with the opinion of the President as contained in his annual message.

But, says the gentleman, there may have been negotiations going on at this time, which, if we were to adopt such a resolution as this—merely expressive of our opinion, not abrogating or intending to abrogate this treaty, and not looking that way, except so far as the treaty-making power is concerned—these negotiations might, perhaps, be embarrassed by this act on our part. How are they to be embarrassed? If the representatives of Great Britain here—either one of her two representatives here—were to have been embarrassed, or if the British Ministry at home, in its relations with our Minister there, were to be embarrassed by such an expression of opinion, it does appear to me that the negotiations should be far more embarrassed by the expression of opinion contained in the annual message of his Excellency the President of the United States. If the negotiations were to have been embarrassed by such a thing as we propose to do here—the passage of a simple resolution directly reiterating what the President himself has said—the person who first embarrassed the negotiations is the President himself, and not we.

Sir, there is no embarrassment about it. I believe that this resolution expresses only the sense of the country. I believe that even those gentlemen who are unwilling to see slavery extended to Central America, or anywhere else where it is not now, and those gentlemen who desire that, if at some future day it may be necessary for us, we may require more territory in the South, either with or without slaves—I believe that all these parties, in opinion, or a vast majority of them, will agree with me, that it is against the policy of the country to have such an entangling alliance—an alliance without mutuality and without benefit to us, which, while England has got all, requires us to tie our hands and take none. I believe that the sense of this whole country is opposed to any such doctrine.

But my friend says that the passage of the resolution would be the initiation of a war-policy. Did he not tell us at one moment, that Great Britain

wanted this treaty to be abrogated, as it would leave her where she stood with her possessions as she now claims them? Granted that it would leave her where she stood, with her possessions as she claims them; she would still be claiming them against our protest. We believe she has no right to these possessions, and she would not be claiming them, as she now pretends to claim them, under a treaty made with us, and which we are prevented from violating in the least degree, so long as it stands a compact between the two countries. But when this treaty is abrogated, we can take up the subject anew, and can make a new treaty embodying what we believe to have been the intent and purport of that treaty; our hands would be untied; and if we could get no such treaty—if England would refuse to be just to us, if England wished to play the same game on this continent as she has played on other continents, taking the lion's share always, and saying to the rest of the world "stand back, you shall have none;" if she pretends to adopt such a policy as that, for this our America, I for one will say that the time for war has come, and my voice will be for it.

But, sir, the gentleman again says it is clear that England would not consent to abrogate this treaty. After having said that it was the very thing she wished, he goes on and says, in a subsequent part of his argument, that it is clear England will not consent to it. I understood my honorable friend to say so. If I am mistaken I will be happy to be corrected.

Mr. SICKLES. I said that undoubtedly the effect of the abrogation of the treaty, by our act alone, would be to facilitate the accomplishment of England's policy, because it would leave her in possession of all she now claims, and that the only exception that she could take, an exception which she doubtless would take, is that the act on our part would be construed as a war measure; but that if we would assure her that we abrogated the treaty and there stopped, I had not the least doubt in the world she would be very glad of it.

Mr. CLAY. As I remarked before, if it be a war measure, then the President of the United States has initiated it, and not we; for we have but attempted to take his ideas, and to reiterate his language; and I, for one, am willing to stand up for the Administration, at least by an expression of opinion.

Mr. Speaker, I regret to have detained the House so long when I knew it was tired already; but while I did not wish to consume much time on the matter, I felt it my duty to my colleague, and to myself, entertaining the opinion that I do, of utter abhorrence to this Clayton-Bulwer treaty, that I should refer, as I have done, and as briefly as possible, to the sentiments that I entertain on the subject.

Mr. JOHN COCHRANE demanded the previous question.

Mr. JONES, of Tennessee. I think there is hardly a quorum present, and if the gentleman will withdraw his motion, I should like to submit a few remarks.

Mr. JOHN COCHRANE. I should like to do so very much; but there are a great many here who wish to speak.

Mr. JONES, of Tennessee. I do not desire to make a speech.

Mr. QUITMAN. I move that the House do now adjourn.

Mr. WASHBURNE, of Illinois. Will the Chair state in what condition the resolution will be, if the House now adjourns?

The SPEAKER. The Chair is of opinion that the resolution will come up after the special order of to-morrow or next day is disposed of, the first business in order the next morning.

Mr. LETCHER. I should like to inquire whether, if the House adjourns now, the resolution does not go to the Speaker's table?

The SPEAKER. The order made on Monday, placed the resolution before the House in a condition different from what it would have occupied had it been taken up in the regular manner. The only reason why it does not take precedence of the special order to-morrow is, because the special order for to-morrow was made before this resolution was placed in the condition of a special order.

Mr. LETCHER. Then let me understand this matter. This resolution will come up after the

special orders are all through until it is finally disposed of?

THE SPEAKER. It will.

Mr. QUITMAN's motion was agreed to; and thereupon (at twenty minutes to five o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, May 12, 1858.

Prayer by Rev. B. H. NADAL, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Interior, made in conformity to law, upon claims for depredations by Indians in the Territory of New Mexico; which, on motion of Mr. MASON, was ordered to lie on the table, and be printed.

He also laid before the Senate a report of the Secretary of War communicating, in compliance with a resolution of the Senate, copies of Major William H. Bell's reports on Butterfield's priming apparatus; which, on motion of Mr. CAMERON, was referred to the Committee on Military Affairs and Militia; and a motion by him to print was referred to the Committee on Printing.

LIME POINT, IN CALIFORNIA.

The VICE PRESIDENT also laid before the Senate a report of the Secretary of War, in answer to a resolution of the Senate, relative to the purchase of Lime Point, in California, for military purposes; which was read:

WAR DEPARTMENT, WASHINGTON, May 11, 1858.

SIR: In answer to the resolution adopted by the Senate on the 3d instant, asking "What contracts, if any, have been entered into by the Department for the purchase of Lime Point, in California, for military purposes?" I have the honor to transmit, herewith, a letter from P. Della Torre, Esq., United States attorney for the northern district of California; which contains the only evidence of a contract for the purchase of Lime Point within the knowledge of this Department.

The abstract of title and accompanying papers, inclosed by Mr. Della Torre, were referred to the Attorney General for his opinion as to their sufficiency to convey a title to the United States. The opinion of that officer, that the papers did not convey a perfect title, has, with the papers, been returned to Mr. Della Torre.

The distance of Lime Point from the seat of Government, and the difficulty of obtaining correct information on the subject, and of conferring with parties in California, induced me to intrust the negotiation to the skill and fidelity of Mr. Della Torre, and I am gratified to say that his conduct merits the approbation of the Department.

As soon as the papers relating to this transaction, which have been sent to California, shall be received, they will be transmitted for the use of the Senate.

Very respectfully, your obedient servant,

JOHN B. FLOYD,

Secretary of War.

Hon. J. C. BRECKINRIDGE, President of the Senate.

Mr. BRODERICK. I move that the communication be referred to the Committee on Military Affairs.

Mr. FESSENDEN. I should like to hear the other paper read.

The Secretary read it, as follows:

UNITED STATES ATTORNEY'S OFFICE,
SAN FRANCISCO, February 19, 1858.

SIR: I have the honor to acknowledge the receipt of your communication of January 19, informing me that you were instructed by the honorable Secretary of War to request me to conclude the purchase for the United States of the tract of land on the north side of the entrance to the Bay of San Francisco, for which I have been negotiating under instructions from the War Department, at the lowest price at which it can be obtained, not exceeding that demanded by the reputed owner, Mr. S. R. Throckmorton, namely, \$200,000.

In compliance with that instruction, I have concluded the purchase at the sum named, namely, \$200,000.

In my many interviews with Mr. Throckmorton during a negotiation extending over several months, he has never deviated from his original terms, nor exhibited the slightest disposition to do so. Those terms were a sale of the tract at the price named, as I reported to the honorable Secretary of War, under date of July 20. He would listen to no other proposition than one having for its basis the price which he asked. He declined to sell, at any abatement of price, that portion which I was instructed, in the first instance, to treat for. He was willing to convey any portion which the United States might select; but for part or whole, the price was the same. Of course I have concluded the purchase for the whole tract offered, as shown by the sketch sent me in the Department's letter of 2d June last. I do not know the number of acres contained in it—that can be ascertained only by survey.

I inclose a brief abstract of title and accompanying papers, which I presume the Department will refer to the Attorney General.

There are outstanding incumbrances, which, of course, must be cleared off before the purchase is complete. For the present, I would beg to suggest that the final settlement should take place in the recorder's office of Marion county, in which the land lies. I propose this, as the county seat is at some little distance from this place, and not of very

easy access. Any certificate of freedom from incumbrances sent to Washington would be two months behindhand by the time an answer could be received here. I would, therefore, propose that the disbursing officer who is to pay over the money, or honor the Government draft, should be instructed to do so only on my report to him that, at a certain time, there was no incumbrance of record in the proper office. This report I will consent to make only in the recorder's office, at the very moment of the final delivery of the title, and its deposit by me with the proper officer for the purpose of registry.

The heavy amount involved in the purchase of this site for a permanent first-class fortification, upon which such great outlay will be required, makes me necessarily determined that the title shall be as absolutely perfect as human precaution can make it. Any other mode, however, decided on by the Department or the Attorney General, for effecting the same purpose, will of course be pursued by me.

Respectfully, your obedient servant,

P. DELLA TORRE,

United States Attorney.

H. G. WRIGHT, Captain of Engineers, in charge Engineer Department, Washington.

Mr. BRODERICK. This property which the Government is about to buy for \$200,000 would not sell under the hammer to-morrow for \$7,000. What the Government wants with twenty-three thousand acres of land for the purpose of erecting a fort, is a mystery to me. I hope that the communication will be referred to the Committee on Military Affairs, so that they can make an investigation at the next meeting of the committee.

Mr. GWIN. This is a question of very considerable importance to the State of California, and I wish to make a statement in regard to this whole transaction, so far as I know anything about it. The Senator is mistaken in regard to the quantity of the land. It is only about twenty-three hundred instead of twenty-three thousand acres. The owner of this land refuses to sell any portion of it except he sells the whole of it. It covers the entire entrance to the bay of San Francisco on the north, including a light-house site and a fortification site. I think the Senator from Mississippi, when he was Secretary of War, was aware of the fact that the Government has been trying for years to get this property at a less price. While he was Secretary of War an estimate was sent in to purchase the property at the price asked, because it was indispensable, but the owner refused to sell a smaller portion to the Government, because he insisted that that portion of the property which the Government desired was more desirable to him than the rest of it, and he has refused pertinaciously from the beginning up to the present time, so far as I know, to take anything less than the original price which, for years, he asked for this property for Government purposes. This appropriation was made during the last Congress, and it was reported from the Committee on Military Affairs with a distinct understanding that this individual had refused to take less than the \$200,000 asked for the purchase of this site: at the same time the chairman of the Military Committee, the Senator's predecessor, asked for an additional \$100,000 for the purpose of commencing the work during the present fiscal year, but owing to the fact that it has been impossible to purchase the site, the owner of the property refusing to take less than \$200,000, the work has not been commenced, and the appropriation has not been used. I believe that both the former and present Secretary of War have done everything they possibly could to get it at the lowest price, but it is private property, and the individual refuses to sell for less than the sum specified.

Mr. DAVIS. I will answer the reference which the Senator from California has made to myself. I think the point necessary for the entire protection of the entrance to the harbor of San Francisco, and I did try to obtain it. There was a difficulty as to the price which was asked; and the difficulty also, which the Senator mentioned, that the owner of the tract refused to sell the site which was required for military purposes unless the whole tract was purchased, a very small part of which only was necessary for military purposes. I have no recollection as to the amount which was asked, or the amount which was estimated. I do recollect that I sought to obtain so much as would be necessary for military purposes, at a much smaller amount than the owner of the tract claimed for the whole of it. I have no opinion, and express no judgment, as to the propriety of the amount to be paid when the land shall be purchased; but I am quite clear that the defense of San Francisco requires the possession of this point for military purposes.

Mr. FESSENDEN. I was present at the time the appropriation was made, and heard, I believe, all that was said about it in the Senate. I had something to do with it, in connection with the chairman of the Committee on Military Affairs of the last Congress—at least I paid some attention to it, because there was an appropriation for the erection of a fort in Maine in the same bill. I have no recollection—and if any such thing took place the debates will show it—that the chairman of the Committee on Military Affairs stated to the Senate any difficulty of this kind. An appropriation of \$300,000 was recommended as necessary to commence the erection of this fortification.

Mr. GWIN. To purchase the site, and commence the work.

Mr. FESSENDEN. To purchase the site, and commence the work; but nothing was said about the price asked for the site. No exposition was made to the Senate, according to my recollection, and I think none at all was made of any difficulties in the way. I am very confident that had the Senate understood at that time that in order to commence this fortification it was necessary to give \$200,000 for what the country ought to have for \$5,000, they would have hesitated before making the appropriation. There can be no such absolute, pressing, immediate necessity as would compel Congress to submit to a gross imposition of this description from anybody; and for one I would not submit to it, unless in a case of absolute pressing necessity.

We have ample power under the Constitution to pass laws to condemn property needed for public use. There is no necessity for our submitting to exactions of this description in time of peace. If it is necessary absolutely to have a portion of this property sufficient to erect a fortification upon, we have the power and the time to pass the necessary law in order to get possession of it at a fair rate, and not submit to so gross and outrageous an imposition as this is said to be. Were I, with my views upon the subject, in the administration of any department of the Government, and had I the management of an appropriation of this description, I would suspend all action under it until I had communicated fully to Congress the objections and difficulties in the way. Why, sir, there is no end to it, if we are to submit to these things one after another, at any rate without being notified what the difficulty is. I am confident this matter was not known to Congress. I hope the Military Committee will take such action with reference to it as will direct the Secretary of War to suspend all further operations until something can be done to enable the Government to get possession of this property, if absolutely necessary at this time. This proceeding ought to call the attention of every member of the Senate to matters of this description when they see that such a gross imposition is attempted to be practiced, and yielded to on the part of the Government, under any circumstances.

Mr. BRODERICK. Mr. President—

Mr. GWIN. Will the Senator permit me a moment, in reply to the Senator from Maine? The statement I made in regard to the action of the Military Committee was not communicated to me by the late chairman of that committee, but I am informed that he has stated it, and it is on file in the Department, that this was a fact known to the committee at the time they acted upon it, that this site had to be purchased, and that the demand was for the sum I stated; and I think it would be ascertained (the Committee on Military Affairs of course will examine it) that the chairman so stated at the time. As to the use of the property, it is indispensable. There is no point in the United States at this juncture that is so absolutely necessary to be in the possession of the Government as the point indicated; because our system of fortifications never can be complete until we get that point. It is immediately on the opposite side of the Golden Gate, the entrance into the harbor of San Francisco; opposite which is one of the finest fortifications in the world, that we are now just completing; and it is indispensable to the defense of the harbor to have fortifications on this point. I am willing to adopt any course that Congress may indicate to get it at the least possible rate; but I do not think the mere consideration of what the amount may be ought to induce us to suspend for a series of years the fortifications of that harbor.

Mr. BRODERICK. My colleague, sir, is better informed in regard to this matter than I am. I had no knowledge of it until it was brought to my notice some three weeks since by a gentleman from California, who wrote to me in regard to it. I reiterate that the property—the whole ranch of twenty-three thousand acres—would not sell to-morrow for seven thousand dollars. I think my colleague is misinformed in regard to the quantity of land.

Mr. GWIN. The papers say that there are twenty-three hundred acres.

Mr. BRODERICK. Will the Secretary read that part of the papers again. Is it hundreds or thousands?

Mr. GWIN. Hundreds.

Mr. BRODERICK. I was informed that it was twenty-three thousand; but if it is twenty-three hundred it is much worse than I supposed.

The VICE PRESIDENT. It is stated in these papers that the amount of the land is not ascertained, and can only be ascertained by a survey.

Mr. BRODERICK. Well, sir, I was informed by a gentleman, whom I sent from the Senate Chamber to ascertain the fact, some three weeks since, that the quantity was twenty-three thousand acres. He was the clerk of the Committee on Military Affairs, Mr. Callan. I asked him if he was sure, and he said yes; but I believe he went again, and when he came back he repeated that the quantity was twenty-three thousand acres. Now, sir, this is an enormous fraud. I do not think it has a parallel in the history of legislation by Congress. I am very willing that the property should be taken by the Government, but I am not willing—

The VICE PRESIDENT. Will the Senator pause for a moment? The Secretary will read that part of the letter of the district attorney which states the quantity of the land.

The Secretary read as follows:

"I do not know the number of acres contained in it. That can be ascertained only by survey."

Mr. BRODERICK. I hope, sir, that this subject will go to the committee, because it is a very important matter. If appropriations are made for the purpose of building fortifications in California, I hope that the money will not be squandered and given to a set of speculators. I hope the money will be used for the erection of a fort if one is required there. But, sir, to pay \$200,000 for twenty-three hundred or twenty-three thousand acres of barren land shall never receive my sanction. I think it an outrage; and if there is any power in Congress to prevent it, I hope it will be exerted.

Mr. STUART. I believe this reference was made some time ago by the Senate. If it is disposed of, I wish to present a memorial.

The VICE PRESIDENT. These papers will be referred to the Committee on Military Affairs.

PETITIONS AND MEMORIALS.

Mr. STUART presented a petition of citizens of New York, praying that the public lands may be laid out in farms or lots of limited size, for the free and exclusive use of actual settlers; which was ordered to lie on the table.

Mr. DOOLITTLE presented a memorial of the Agricultural Society of the State of Wisconsin, praying that a donation of land may be made to the State of Wisconsin, for the establishment and maintenance of a State agricultural college; which was ordered to lie on the table.

Mr. CRITTENDEN presented the petition of Joseph Vance, a soldier of the war of 1812, praying to be allowed a pension; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN.

On motion of Mr. STUART, it was

Ordered, That William Roddy have leave to withdraw his petition and papers.

REPORTS OF COMMITTEES.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the petition of Caleb Sherman, submitted a report, accompanied by a bill (S. No. 338) for the relief of Caleb Sherman. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. WILSON, from the Committee on Military Affairs and Militia, to whom was referred the bill (S. No. 221) for the relief of Edward Ingersoll, reported it without amendment, and submitted a report on the subject; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Thomas Lawrent, surviving partner of the firm of Benjamin and Thomas Lawrent, submitted a report, accompanied by a bill (S. No. 334) for the relief of Thomas Lawrent, surviving partner of the firm of Benjamin and Thomas Lawrent. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. THOMSON, of New Jersey, from the Committee on Pensions, to whom were referred papers in relation to the claim of Abner Merrill, submitted a report, accompanied by a bill (S. No. 335) for the relief of Abner Merrill, of the State of Maine. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. DAVIS, from the Committee on Military Affairs and Militia, to whom was referred the petition of Edward P. Vallum, reported a bill (S. No. 336) for the relief of Assistant Surgeon Edward P. Vallum, of the United States Army; which was read, and passed to a second reading.

Mr. HUNTER, from the Committee on Finance, to whom was referred the bill (H. R. No. 201) making appropriations for the legislative, executive, and judicial expenses of government for the year ending the 30th of June, 1859, reported it with amendments, and gave notice that he would ask the Senate to-morrow at twelve o'clock to proceed to the consideration of the bill.

Mr. MASON. The Committee on Foreign Relations, to whom was referred the message of the President of the United States in answer to a resolution of the Senate calling for information relating to the seizure, in the valley of Litana, in Peru, by the authorities of Chili, of the proceeds of the cargo of the brig Macedonia, the property of citizens of the United States, have had it under consideration, and have instructed me to report the papers to the Senate with a recommendation that they be printed. They are voluminous in appearance, for they cover many years; and although the committee thought, at one time, that it might be practicable to do justice to the subject, and yet separate them and have a portion of them only printed, yet on reference to the Secretary of State, he advised, and gave strong and sufficient reasons why they should not be mutilated, but the whole should be printed. I ask, therefore, on the part of the committee, that they be printed.

Mr. FESSENDEN. Does not that go to the Committee on Printing?

The VICE PRESIDENT. No, sir. It is the report of a standing committee of the Senate; and therefore does not go to the Committee on Printing necessarily.

Mr. FESSENDEN. I move that the motion be referred to the Committee on Printing.

The motion to refer was agreed to.

HOUSE BILL REFERRED.

The bill received from the House of Representatives yesterday (H. R. No. 207) to prevent the inconvenient accumulation in the Post Office Department of postmasters' quarterly returns, was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

LAND OFFICES.

Mr. PEARCE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the propriety of abolishing the offices of register and receiver of public lands in those States where all the public lands have been sold, and providing for the custody of all the public land papers in such cases; also, into the expediency of diminishing the number of land offices in other States and Territories.

PRIVATE PROPERTY FOR PUBLIC USE.

Mr. BENJAMIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into, and report on, the expediency of providing by law for the exercise of the power granted by the Constitution, of taking private property for public use, on allowing just compensation therefor; and that the said committee be instructed to report by bill or otherwise.

BILLS INTRODUCED.

Mr. STUART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 333) to establish an additional land district in the State of Minnesota; which was read twice by its title,

and referred to the Committee on Public Lands.

Mr. HUNTER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 337) to amend the acts in relation to the Post Office Department; which was read twice by its title, referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Mr. CRITTENDEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 339) granting a pension to Joseph Vance; which was read twice by its title and referred to the Committee on Pensions.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House had passed the following bills; in which the concurrence of the Senate was requested:

A bill (No. 170) for extending the land laws east of the Cascade Mountains, in Oregon and Washington Territories.

A bill (No. 564) to create a land district in the Territory of New Mexico.

A bill to confirm land claims to certain towns in the Territory of New Mexico.

Also, that the House had passed the bill (S. No. 82) to amend an act entitled "An act to authorize the President of the United States to cause to be surveyed the tract of land in the Territory of Minnesota belonging to the half-breeds, or mixed-bloods, of the Dacotah or Sioux nation of Indians, and for other purposes," approved July 17, 1854, with an amendment.

ST. MARY'S RIVER.

Mr. CHANDLER. I wish to call up the joint resolution S. No. 31, and ask that it be acted upon immediately.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the resolution (S. No. 31) authorizing the Secretary of War to expend the appropriation made July 8, 1856, upon such channel of the St. Mary's river as he may select.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

NIGHT SIGNALS ON SAILING VESSELS.

Mr. STUART. I ask the indulgence of the Senate to take up and act upon a bill of great interest and importance to business on the lakes, in regard to night signals on vessels. There will be no discussion upon the subject, I presume. The bill was very carefully prepared by the Committee on Commerce. It is the bill S. No. 84.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 84) to provide for the better regulation of night signals on board of sail vessels navigating the northwestern lakes and their tributaries, and for other purposes.

Mr. STUART. Unless some Senator desires the full reading of the bill, I think it is not necessary. It is simply a bill making regulations for carrying, and the positions of night signals. It is unnecessary to read it at length. I have some formal amendments which I desire to offer.

The VICE PRESIDENT. If there be no objection the reading will be dispensed with.

Mr. STUART. In lines eight and nine, I propose to strike out the words, "the first day of April, anno Domini 1858," and insert, "the passage of this act." This relates to the time at which the act shall go into operation.

The amendment was agreed to.

Mr. STUART. In line fifteen, of section two, between the words, "wind" and "large," I move to insert the word, "or." That is a mere verbal amendment.

The amendment was agreed to.

Mr. STUART. Between the words "large" and "at anchor," in the same line, I move to insert the words, "a white light when."

The amendment was agreed to.

Mr. STUART. At the end of the sixteenth line, after the words, "white light," I move to insert the words, "in the fore rigging."

The amendment was agreed to.

Mr. BENJAMIN. I will call the attention of the Senator to the fifteenth and sixteenth lines. I ask the Secretary to read these two lines now as amended, I do not exactly understand them.

The Secretary read the lines, as amended, as follows:

"When sailing before the wind or large, a white light; when at anchor, or in tow, a white light in the fore rigging."

Mr. BENJAMIN. It appears to me to be confused. I do not understand it.

Mr. STUART. I am not much of a nautical man myself, but this has been explained to me by a gentleman who is. As the bill was reported it read: "When sailing 'before the wind,' 'large,' 'at anchor,' or 'in tow,' a white light." Now it reads: "When sailing before the wind or large a white light when at anchor, or in tow a white light in the fore rigging."

Mr. BENJAMIN. I suppose the meaning is this: "When sailing before the wind or large a white light."

Mr. STUART. Yes, sir.

Mr. BENJAMIN. "When at anchor or in tow a white light in the fore rigging."

Mr. STUART. That is it. That is the way it does read now, only the punctuation needs changing. The word "when" in the fifteenth line before the word "at" is the commencement of a sentence—"When at anchor or in tow a white light in the fore rigging." The language is right, only there should be a period at the end of the fifteenth line as it now stands after the words "white light."

The VICE PRESIDENT. If there be no objection that modification will be made.

Mr. POLK. If I understand the Senator, when before the wind or at large, the white light may be at any other place than in the fore rigging.

Mr. STUART. Yes, sir. These are the only amendments I have to offer.

The VICE PRESIDENT. The attention of the Chair is called to a small amendment reported by the committee, which has not been acted upon. It is in section one, line eleven, to strike out the words, "ninth district," and insert the words, "district in which said vessel is enrolled or registered."

The amendment was agreed to.

Mr. BENJAMIN. I will move, as a further amendment, to strike out from line ninety-six to one hundred and ten. Those lines contain the construction of the law relative to collisions. The rules, as laid down, are the correct admiralty rules; but I do not think we ought to put a set of admiralty rules into a bill providing for the navigation of vessels on the northern lakes. I think they had better be left to the general law.

Mr. STUART. I have no objection to that. The Senator is undoubtedly correct. The law is properly stated here governing cases of this character, but I have no objection to its being stricken out.

The amendment was agreed to; and therefore the following was stricken out:

"Construction of the law relative to collisions of vessels.

"First. Loss or damage arising from a collision of two vessels without blame being imputable to either party. The misfortune must be borne by the party on whom it happens to light.

"Second. Loss or damage arising from collision when both parties are to blame. The loss may be apportioned between them.

"Third. Loss or damage arising from collision where it happens by the misconduct of the suffering party. The sufferer in such cases must bear his own burden.

"Fourth. Loss or damage arising from collision where it is the fault of the vessel that ran 'foul of' the other. In such cases the injured party will be entitled to an entire compensation from the other who 'ran him down.'"

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS BECOME LAWS.

A message was received from the President of the United States, by Mr. HENRY, his Secretary, announcing that the President had approved and signed, on the 11th instant, the following acts and resolutions:

An act for the admission of the State of Minnesota into the Union;

An act to enlarge the Detroit and Saginaw land districts, in Michigan;

An act amendatory of an act entitled "An act to establish two additional land districts in the Territory of Minnesota," approved July 8, 1856;

A resolution to extend for a further term the provisions of the joint resolution, approved March

10, 1853, in relation to certain dropped and retired officers of the Navy;

A resolution authorizing suitable acknowledgments to be made by the President to the British naval authorities at Jamaica for the relief extended to the officers and crew of the United States ship *Susquehanna*, disabled by yellow fever;

An act for the relief of the Hungarian settlers upon certain tracts of land in Iowa, hitherto reserved from sale by order of the President, dated January 22, 1855;

An act to authorize the Secretary of the Treasury to sell the old custom-house and site in Bath, Maine, and for other purposes;

An act to amend the act entitled "An act to ascertain and settle the private land claims in the State of California," passed March 3, 1851; and

A resolution to extend the operation of the act approved January 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy.'"

SAN FRANCISCO POST OFFICE.

Mr. BRODERICK. I move to take up from the table the resolutions of inquiry I introduced on Monday, in regard to the charges against the San Francisco postmaster. They are resolutions to which the Senator from Mississippi [Mr. Brown] objected at the time.

The motion was agreed to; and the Senate proceeded to consider the following resolutions:

Whereas, there has been charged to the Government up to date recently, the sum of \$18,600 per annum for the rent of the building occupied as a post office at San Francisco; and whereas, large sums of money have been realized from the rent of the lobby of said post office, which sums, it is generally reported, amounted to some seven thousand dollars per annum; and whereas, postmasters are required by law to make return, under oath, of all sums by them collected; and are prohibited from retaining, in the aggregate, more than \$1,000 per year, "including salary, commissions, boxes, and all other fees, perquisites, and emoluments of any name or character whatsoever:"

Resolved, That the Postmaster General be requested to inform the Senate whether any sums, and if so, what sums have been returned by the postmaster of San Francisco, as rents received for the use of the post office lobby, from July 1st, 1854, to December 31, 1857.

And whereas, there was placed on the files of the Post Office Department, in April, 1857, specific charges, duly sworn to, of malfeasance in office, of neglect of official duty, and of violations not only of the laws, but also of the regulations of the Post Office Department, on the part of the postmaster at San Francisco—which said charges are substantiated by the sworn testimony of some thirty or forty witnesses—a copy of the leading features of which testimony was also placed on file at the same time; and whereas, in February last, other evidence, duly sworn to—charging the San Francisco postmaster with other acts of malfeasance in office—was placed upon the files of the Post Office Department; and whereas, the law, which is mandatory, says: "The Postmaster General shall prosecute offenses against the Post Office establishment:" Therefore,

Resolved, That the Postmaster General be directed to furnish the Senate with a statement showing the nature of the charges preferred against the postmaster of San Francisco, and the specific sections of the law which it is alleged he has violated, and showing also what action, if any, has been taken in regard to said charges; and in case no action has been taken, that the Postmaster General inform the Senate why the law has not been complied with, and why prosecution has not been made.

Mr. BROWN and Mr. YULEE arose.

The VICE PRESIDENT. It is the duty of the Chair at this time to call up the special order, the hour for its consideration having arrived. If it be the pleasure of the Senate, however, to continue the consideration of these resolutions, it can be done by a vote of the Senate.

Mr. CLAY. I hope we shall proceed to the consideration of the unfinished business of yesterday. I presume, from the demonstrations already made, that these resolutions will not pass without some debate, and some motion to amend in some particulars; and if so, I do not know what time it will take; and hence I trust the Senator will not press his motion now. He can bring it up to-morrow morning.

Mr. BRODERICK. I care very little what disposition the Senate makes of these resolutions. I should like the Postmaster General to answer the resolutions, but if it is the pleasure of the Senate to dispose of them by keeping them on the table this session, I have no objection to make.

Mr. YULEE. One word.

The VICE PRESIDENT. Before the Senator proceeds, the Chair must, at this time, under the rule, call up the special order, which, if it is the pleasure of the Senate to proceed with these resolutions, they must postpone for that purpose.

Mr. YULEE. With the permission of the Senate, I desire to say, simply for the information of

the Senator from California, that there is no disposition whatever in any quarter to oppose a call for any information which can be useful to the Senate; but there are portions of his resolutions which I shall be obliged to move to strike out. I have every disposition to facilitate every inquiry on his part for such information as he may think useful, but a different form to his resolutions would, I think, be advisable and proper, and I shall be obliged to suggest that, if his resolutions be now pressed, I think it very probable we can reform them.

Mr. BRODERICK. If the resolutions can be considered to-morrow morning, I have no objection to let them go over at this time, and not interfere with the regular business.

The resolutions were accordingly postponed.

COMMODORE PAULDING.

The VICE PRESIDENT. The first special order this morning, is the joint resolution for the presentation of a medal to Commodore Hiram Paulding.

Mr. FOOT. Let that be suspended for the present.

FISHING BOUNTIES.

The VICE PRESIDENT. If it be the pleasure of the Senate, the Chair will call up the next special order, which is the bill (S. No. 10) repealing all laws, or parts of laws, allowing bounties to vessels employed in the bank or other cod fisheries, which is now before the Senate as in Committee of the Whole; the pending question being on the amendment offered by the Senator from Maine, [Mr. Hamlin,] to strike out "1859," and insert "1865."

Mr. SIMMONS. Yesterday, when this bill was laid aside, I desired to say a word, as I perceived that in the printed report of the remarks I made the day before there was some mistake. I stated in a few words what the effect would have been of an outlay of thirty-five dollars in 1812 if the money had been invested in four months' paper at two and a half per cent. a month, the ruling rate; and that some time in the year 1861 it would amount to \$330,000,000, which, at thirty per cent., would yield an annual sum equal to the interest of the national debt of England, which, the last time I read the accounts of the English exchequer, was about twenty-two million pounds sterling, per annum—say one hundred million dollars. I see by the report of the speech, that where I said that was as much as the English nation could pay with a population of two hundred million, it was reported as two hundred million dollars. I want that to be corrected, because, as I understand it, the English flag is the acknowledged banner of about two hundred million people; and I stated that if they had that interest to pay to any other than their own citizens it would bankrupt them. This was said in reference to what the Senator from Alabama stated as to the fishing business yielding a profit of about thirty per cent. per annum.

While I am up, I want to have read from the Secretary's table a quotation from the speech of the Senator from Alabama that I adverted to in my remarks, and in which he said I was mistaken about the bounties paid by the English and French Governments. I want to correct that too.

The Secretary read the following extract from Mr. CLAY's speech, delivered on the 4th instant:

"Mr. President, according to the experience of England, of France, and of Holland, such bounties are wholly inexpedient. They have endeavored, by a system of bounties, to build up their herring and whale fisheries, and they have signally failed. But I need not go abroad to prove the inexpediency of these bounties. Let any Senator compare the increase of the whale and herring fisheries with the cod fisheries, and he will say at once that these bounties have not redounded to the advantage of the cod fisheries. Our whale fishermen, without any bounty whatever from the Government, though competing with the fishermen of the greatest commercial countries of Europe—though competing with the fishermen of England, of Holland, and of France, who were paid large premiums and large bounties on this interest, have outstripped them all. A few fishing towns in New England, without bounty, without Government patronage or aid, have more tonnage and seamen in the whale fishery than England, with all the bounties and premiums and remissions of duties extended to her whale fishermen through a series of years."

Mr. SIMMONS. Having read that paragraph in the Senator's speech, I undertook to illustrate that the bounties to the cod fishermen, as the nursery of these seamen, had resulted thus beneficially against a competition where bounties pre-

vailed. The Senator from Alabama immediately corrected me, and said that these bounties on the part of England had been repealed some twenty-eight years ago, and that I was mistaken. I have had this read merely to show that it is a fair inference, from his argument, that our whale fishery has been carried on and succeeded so that it has outstripped the English in spite of their bounties. The Senator corrected me, and said that they had given no bounties for the last twenty-eight years; since 1830. Am I not correct?

Mr. CLAY. That is my recollection.

Mr. SIMMONS. I think it is a fair inference, from what I have read from the Senator's speech, that he argued that our whalers had succeeded against the English whale fishermen, receiving a bounty from their Government. Now, he says that for the last twenty-eight years England has paid no bounty to any branch of her fisheries. The Senator alluded to the large increase in our whaling tonnage; and that increase has been going on during the last twenty-eight years. His argument was, that without having a bounty, our fishermen have outstripped those of England after she had repealed her bounties. But I ask if it is not fair to suppose that the bounties of our cod fishermen have had something to do with these successes. That is the way I should read it, after he has corrected his own speech. The speech, as I understood it, gave the idea that they were giving bounties all the time. I should now conclude that England, since she has repealed the bounties, either from that cause or some other, has suffered us to outstrip her altogether in this department of industry. Whether that is the cause or not, I do not pretend to say.

Mr. CLAY. In reply to the Senator, I have simply to state that while the bounty system of England existed we beat her in the whale fishery. If he will go back and investigate this subject, as I have done, he will find that, even shortly after our Revolution, or perhaps pending the Revolution, Mr. Burke, in a speech in the British Parliament, alluded to the fact that a few fishing towns on the coast of New England were excelling the English whale fishery, with all the bounties conferred on them. If it were necessary to substantiate this assertion I could produce proof, and show that, even at so early a day as that, he said we were excelling them in the whale fishery, and we have been continuously and progressively doing it ever since. I stated that the English bounties were repealed in 1830. I may not be correct as to the exact time; but I know it has been some time since.

Mr. SIMMONS. All I ask is, that the Senator shall not use that as an argument both ways; he may take either horn. If he says we have beaten them after they repealed the bounties—

Mr. CLAY. And before too.

Mr. SIMMONS. Did we not have bounties when we were British colonies?

Mr. CLAY. Not on the whale fishery—never.

Mr. SIMMONS. But we have had on the cod fishery ever since we have been a Government.

Mr. CLAY. Ah!

Mr. WILSON. I shall not, Mr. President, detain the Senate with an elaborate argument in opposition to this proposition, presented with so much zeal by the Senator from Alabama. I am content to rest the case, and I am sure the people of my State are content to rest the case upon the elaborate and exhaustive speech of the Senator from Maine, [Mr. HAMLIN,] a member of the committee that reported back the bill introduced by the Senator from Alabama. Indeed, sir, I speak upon this bill with no little reluctance, for it is a question in which the people I represent have a large interest, a pecuniary interest; and I am not insensible to the fact that prejudices exist in the Senate and the country against what is regarded as a system of bounties by the Government. I do not stand here to ask special favors for any portion of the people I represent. The people of Massachusetts are not beggars, and I am not the man to beg for them if they were beggars. I do not look upon this bounty upon the cod fisheries, which the Senator from Alabama now proposes to repeal, in the light of a gratuity. I look upon it as a part of what has been and now is the settled policy of the country, to promote the commercial and naval power of the nation. I repeat here, sir, what the Senator from Maine [Mr. HAMLIN] said, when he opened the debate on this question, that

if it is not for the interest of the Government of the United States, for the commerce of the United States, and for the commercial and naval marine of the United States to continue this policy of bounties; if it is not for the general interest of the whole country to continue this system of bounties to the cod fisheries, then I say repeal these bounties at once.

The people I represent, sir, are largely engaged in the cod fisheries. I believe they have about half the vessels, half the number of persons, and about half the capital, employed in the cod fisheries of the whole country. These fisheries have always been to the people of Massachusetts a question of the deepest interest. Twenty-five years after the landing at Plymouth, the people of the colony engaged in the fisheries on the banks of Newfoundland—two hundred and thirteen years ago—and at the beginning of the seventeenth century, Massachusetts alone exported more than one hundred thousand quintals of fish, worth four hundred thousand dollars, of the products of her fisheries. In fact, at the opening of the Revolution, nearly half of the importations into the country were paid for by the fisheries of New England. Josiah Quincy—a statesman who is now occupying the years of a green old age in writing the life of his illustrious compeer, John Quincy Adams, and who has left on the records of the country speeches unsurpassed for power and eloquence, unless we except the speeches of Mr. Webster—says, in a speech made in 1808 on our foreign relations, that the policy of England concerning the fisheries tended to produce the Revolution. Mr. Adams was instructed, in September, 1779, “that the common right of fishing should in no case be given up;” and Elbridge Gerry, born in Marblehead, the great fishing town of Massachusetts at that period, submitted a resolution to Congress concerning the terms of peace; that the fisheries, under no circumstances, were to be surrendered up; and history tells us of the struggles of John Adams, in 1782 and 1783, to secure to the country the right to the fisheries. We all know that at the treaty of 1814, there was a contest between this Government and England to secure the rights of the fisheries at that day; and that the son of John Adams then maintained the doctrines his father had maintained in 1783. In 1814, when John Quincy Adams was contending at Ghent for the rights of the fisheries, that old patriot, John Adams, filled with the fires of the Revolution, wrote to Mr. Madison that “I would continue this war forever rather than surrender one acre of our territory, one iota of the fisheries, as established by the third article of the treaty of 1783, or one sailor impressed from any merchant ship.”

Senators tell us now that these bounties were not given to encourage the commercial interests and the interests of navigation by fostering seamen, but that they were given in consideration of the duties on salt and other articles upon which duties were paid. Exempting the fishermen from the burdens imposed upon articles used in their pursuits, was a mode adopted to encourage the fisheries. In the First Congress Fisher Ames, in advocating the policy of encouraging the fisheries, declared that,

“They form a nursery for seamen, and this will be the source from which we are to derive our maritime importance.”

Mr. Gerry, at or near the same period, referring to the importance of the fisheries and the necessity of their being protected and encouraged by the Government, said:

“I will not reiterate the arguments respecting the fishery. It is well known to be the best nursery for seamen.”

This opinion was uttered by a man as well qualified to pronounce an opinion entitled to the consideration of statesmen as any man who ever occupied a seat in the national councils.

In 1790, Washington, in his speech to Congress, remarked that “our fisheries and the transportation of our own produce offer us abundant means for guarding ourselves against” the evil of depending upon foreign vessels. The Senate waited upon the President and Vice President with an address, in which they say: “The navigation and the fisheries of the United States are objects too interesting not to inspire a disposition to promote them by all the means which shall appear to us consistent with their natural progress and permanent prosperity;” and in the report to which Senators

have referred of Mr. Jefferson, made in 1791, he says that the fisheries, in their very nature, are so poor that they cannot prosper without the encouragement of the Government. He says:

“To cultivate peace, maintain commerce and navigation and all other lawful enterprises, to foster our fisheries as a nursery of navigation—these, fellow-citizens, are the landmarks by which we are to guide ourselves in all our proceedings. By continuing to make these the rules of our action, we shall endeavor to our countrymen the true principles of the Constitution.”

To foster our fisheries as a nursery of navigation, Mr. Jefferson told us in 1791, was among the land-marks of the Government of the United States. President Jefferson, in his message to Congress in 1802, spoke of fostering our fisheries as nurseries of navigation, and for the nurture of man.

These were the opinions of the statesmen who founded this policy. Senators may deny the policy of continuing this protection in order to encourage the fisheries as a nursery for seamen; but it is vain for them to deny the historical fact that Ames and Gerry and Adams and Washington and Jefferson, the men who founded this policy, based it substantially upon the idea that these fisheries would be the nurseries of seamen; that it would be for the advantage of the commerce of the country, and the naval power of the country.

I am aware that the fisheries are not so important as they were when this policy was commenced. The Senator from Alabama has shown in his speech that at the time of the adoption of the Constitution of the United States the fisheries were very important; that the exports of the fisheries were a large portion of the exports of the country; that the tonnage of fisheries at that time was a large part of the entire tonnage of the United States. Well, sir, these fisheries, although they have increased, have not increased in proportion to the development of the tonnage, and the expansion of the commerce of the country, and the Senator from Alabama is therefore right in assuming that they are not relatively so important as they were at the organization of the Government. But, Mr. President, they are important after all. They are important, in my judgment, to the commerce of the country, and to the naval power of the country. That they have been, and now are, a nursery for seamen, no intelligent man here or elsewhere can deny. From Cape Cod and Cape Ann, the home of the cod fisheries of Massachusetts, and from the coasts of Maine, go forth into the commercial marine of the country men who have honored the navigation of the country by their skill and seamanship. Lorenzo Sabine, of Massachusetts, a gentleman of the highest intelligence, in his report to Secretary Corwin, in 1852, says:

“The transfer to other and more profitable and ambitious commands is still going on. The mercantile men of the commercial emporium of the North, and the packet-ships of the commercial emporium of the Union, rank deservedly high; but were their counting-rooms and quarter-decks to yield up all, or even half, of those whose birth-places were on the two capes of Massachusetts, and whose earliest adventures were made in fishing-craft, they would lose many high and honored names. So, too, were either to cease recruiting from the same sources, the humble employment of which I am speaking would speedily become more prosperous, in public estimation more respectable, and of consequence be considered more worthy of the care and protection of our rulers.”

I know it is said here that these men engaged in the fisheries are not good sailors. The Senator from Florida [Mr. MALLORE] told us that they were gentlemen; that they only went to sea a portion of the year; and he, I thought, drew an unfavorable comparison between these fishermen who go out from Cape Ann and Cape Cod in Massachusetts, and who go out from the State of Maine down to the Bay of Chaleurs, down to the George's banks, and to the Newfoundland banks—that these men, as sailors, could not compare with the sailors who come to this country from the northern portions of Europe, who “grow fat,” he tells us, “on kicks and cuffs.”

Mr. President, there is nothing on which to base this. There is a complaint in the Navy of the United States that so many of the seamen are foreign born. There is a complaint throughout the whole commercial marine of the country that so many of our seamen are foreign born; in fact, there is a complaint throughout the country that we have in the service of the country so few native-born American seamen. If these foreign seamen are better than American seamen, why is this complaint? No, sir, the men who fought your

ships in the war of the Revolution and the war of 1812 were born in the United States. They were mostly persons who grew up in the sections where these fisheries are carried on. The crew that manned the Constitution, which won so much honor for the country, came mostly from the county of Essex, in my State. It was not the live oaks in the Constitution, but it was the brave hearts on board the Constitution, that won those honors for the country. The men who early engage in these cod fisheries, who are trained in the fisheries, are superior, as men and as sailors, to the men who come to this country from northern Europe, who are in the commercial or naval marine of the country; superior to any class of sailors in the United States, except the class of men who grow up in these very sections of the country, who begin their career in the cod or mackerel or whale fisheries.

The noble deeds of the fishermen of Massachusetts, on the ocean and the land, in the war of the Revolution and in the war of 1812, blazon the brightest pages of the history of the Republic. The town of Marblehead, the great fishing town of Massachusetts at the opening of the Revolution, raised out of her thirteen hundred polls, an entire regiment of as brave men as ever faced the foes of the country. The Senator from Maine [Mr. HAMLIN] quoted the noble tribute of General Knox, who saw them as they led the army across the Delaware at Trenton, in that cold December night, in 1776. Washington Irving, in his *Life of Washington*, has recorded on his imperishable pages the service of the heroic fishermen of Marblehead, in the retreat from Long Island, after the disastrous battle of Brooklyn Heights, and in the crossing of the Delaware to assail the British army encamped at Trenton.

Of these men at Long Island, Irving says:

"With Mifflin came also Colonel Glover's Massachusetts regiment, composed chiefly of Marblehead fishermen and sailors, hardy, adroit, and weather-proof; trimly clad in blue jackets and trousers. The detachment numbered, in the whole, about thirteen hundred men, all fresh and full of spirits. Every eye brightened as they marched briskly along the line with alert step and cheery aspect."

The boats were placed under their charge, and the army came across the river in safety, "thanks," says Irving, "to the aid of Glover's Marblehead men." Of the conduct of these brave men at the crossing of the Delaware under the eye of Washington, Irving speaks in these words:

"Boats being in readiness, the troops began to cross about sunset. The weather was intensely cold; the wind was high; the current strong, and the river full of floating ice. Colonel Glover, with his amphibious regiment of Marblehead fishermen, was in the advance; the same who had navigated the army across the Sound, in its retreat from Brooklyn, on Long Island, to New York. They were men accustomed to battle with the elements; yet, with all their skill and experience, the crossing was difficult and perilous."

Mr. Sabine, in his report to Secretary Corwin, leaves his testimony to the services of the fishermen. He says:

"We regard it as strictly true to say that, without our fishermen, we could hardly have manned a frigate, or captured one, during the war of 1812. Marblehead alone furnished more men for the service than some whole States. At the close of the Revolution, there were in that town more than thirteen hundred widows and fatherless children; in 1815, more than five hundred of her citizens were released from a single British prison. The men of Marblehead, and of other places engaged in the same pursuits, were in almost every national or private armed ship that bore our flag. We are certain that they composed a large part of the crew of 'Old Ironsides,' in her two earliest victories; and we believe that the number was not much diminished when that favorite ship passed into the hands of Stewart and won her last battle."

I want the Senator from Alabama to understand that the men whom he strikes at by this proposition, are at least a class of population equal to any we have in our section of the country. I can say that in my own State, the people residing upon Cape Ann and Cape Cod, amounting to about fifty-five thousand inhabitants, in point of purity of personal character are unsurpassed by the population of any other section. It was but yesterday that I read in a paper from my State that the supreme court opened its term last week, in the county of Barnstable, that there was not in that county of forty thousand inhabitants a single case to go to a jury, and the court remained in session only six hours. That county of Barnstable seldom has a criminal case in court—hardly ever has a criminal in jail, and in point of morals surpasses any portion of the State in which I live.

Mr. WADE. That is a poor argument to address to the lawyers of this Senate. [Laughter.]

Mr. WILSON. Cape Ann, the towns of Gloucester and Rockport, with a population of thirteen thousand, are not more favorable to the lawyers than Cape Cod. In these towns where they have more than three hundred fishing vessels, and more than three thousand fishermen, violations of law are rare indeed. More crimes are committed in this city in one day, than have been committed on Cape Ann and Cape Cod, the homes of these cod fishermen, during the past quarter of a century. This people, law-abiding in peace, patriotic and brave in war, you now strike at by this uncalled for measure.

The Senator from Ohio [Mr. PUGH] yesterday spoke of "robbing" the people of Ohio; "robbing" the men who cultivate her soil, and who live and fish on the banks of Lake Erie, to pay these "aristocratic" fishermen who go down into the fogs on the shores of the British possessions. Now, Mr. President, the people of Massachusetts pay annually into the Treasury of the United States, for the service of your Post Office, \$178,000 more than their own expenses. That is their contribution; and the people whom the Senator represents, last year failed to pay their own expenses by \$260,000.

Mr. PUGH. The Senator is mistaken.

Mr. WILSON. I have a list, made out by a colleague of mine, Mr. Davis, a gentleman who represents the fishermen of Cape Ann and Marblehead and Beverly and Salem, and I find by this list that the expenses of the Post Office Department in Ohio for last year were \$750,862 39, and that the receipts were \$490,323 78; making \$260,538 61 deficiency.

Mr. PUGH. I can explain that. The expenses charged to the States are charged to the routes of travel carrying the mail across the States. The whole western and southern mail passes over the State of Ohio, and we are absolutely charged for the transportation of the mails of all the western States. That was stated in the report from the Post Office Department, from which these very figures come. The mails that go on the railroads across Ohio from New York, Philadelphia, and Baltimore, westward to Indiana and Illinois, and to all the cities and States which are supplied by the Mississippi river, are all set down to my State, because we happen to be the place through which all these routes pass.

Mr. WILSON. Well, Mr. President, this proposition of the Senator from Alabama is sustained in the Senate chiefly and mainly upon the ground that it is a local interest—that the people of the States of Massachusetts and Maine have the benefit of the system. Now, I desire to say to the Senator from Ohio, and to other Senators, that the people of Massachusetts and of Maine receive but little direct benefit in any way from your Government. I believe Massachusetts pays at least one tenth part of the revenues that support your Government. I believe New England pays more revenues than the whole fifteen southern States; and I think that the man who examines the articles upon which duties are raised, and who knows where those articles are consumed, and how they are consumed, will come to that conclusion. We do not regard your tariff laws, as they exist and as they are administered, of any special benefit to us; we do not regard them as protective laws, and I want Senators to understand this. Sir, we paid last year more than twelve million dollars on sugar duties—the duties on \$43,000,000 of importations of sugar into this country. This is for the protection of a few hundred men down in the State of Louisiana; and of that amount Massachusetts paid more than one million dollars to protect a few hundred sugar planters in the State of Louisiana.

That is not all. We passed, two or three years ago, a resolution to send out a vessel to obtain the cane seed for these sugar planters of Louisiana, and we spent, I think, about fifty thousand dollars to furnish these planters with seed. We made no complaint of that act. I find by these returns that the postage expenses for Louisiana were \$523,000 more than the receipts last year, and yet the Senator from Louisiana [Mr. BENJAMIN] joins with the Senator from Alabama in attacking this fishing-bounty policy, because it is local—confined to Maine and Massachusetts, mainly—when we of this country pay \$12,000,000 to protect the sugar planters of his State; when we have generously voted to send out a ship, and spent \$50,000 to procure seed for his sugar planters, and con-

tributed out of the general funds of the country a half million of dollars to pay the postage, for the benefit of his people. I confess, sir, I did not expect to find the Senator from Louisiana in the ranks of the opponents to the fishing bounties.

I find that in the southern States, and in nearly all the western States, the people do not pay the expenses of their postage. We of Massachusetts always pay ours, and we contribute from one hundred and fifty to two hundred thousand dollars to the general fund of the Post Office. We of Massachusetts receive by this fishing bounty the enormous sum of \$150,000, annually. It is a small affair, anyhow. It will injure us, but I do not believe it will crush our fisheries, or crush our people, to take it away. We do not depend on \$150,000 bounty from this Government to live in Massachusetts. I believe it a wise policy to encourage the fisheries, that they are a nursery of good seamen; that from these fisheries are drawn men who go into the whale fisheries, and into the commercial marine of the country; and I believe this policy should be continued.

As a measure of economy, Mr. President, this repeal amounts to nothing. It is a petty affair as a measure of retrenchment. If Senators want to save money, I advise them to revise their collection districts, and to reduce the expenditures therein. By law we cannot spend more than two and a half millions in collecting the revenues on the Atlantic coast. You have increased the expenditures in five years, from Mr. Corwin's time, eight or nine hundred thousand dollars on your Atlantic coast. You have added about six hundred men to your collection force. You can reduce, if you choose to do it, the expenses of collecting the revenue a million and a half of dollars, and discharge one thousand men. It can be done, if Senators wish to curtail the expenditures of the Government. But, no, sir; when your Secretary asks to take off the limitation of two and a half million dollars, and tells us the expenditures will go up this year to four millions, no effort is made here to reduce the expenditures in the collection of the revenue of the Government. But, to save the petty sum of \$300,000, you are to strike down a policy that early received the sanction of the framers of the Constitution, of the men who organized the Government, and of the eminent statesmen of the country, from 1789 to the present time.

Mr. PUGH. Before the Senator from Massachusetts takes his seat, I hope he will correct a mistake into which he fell. He says I used the expression that his constituents had robbed the people of Ohio. I was confident I had never used any such expression as that, in relation to any portion of the people of the United States; and I find, on looking at my remarks, as reported in the Globe, that there is no such expression in them. I have always felt it my duty to restrain any harsh language towards any portion of the people of the United States, and I hope the Senator will not represent me in that light to his constituents.

Mr. WILSON. I do not certainly wish to misrepresent the Senator, but I understood him to say, not that our people robbed them, but that the people there were robbed; and he referred to the fishermen upon the banks of Lake Erie as making contribution to these people, whom he designated as "aristocrats." I may have been mistaken, but I thought, at the time, that the Senator from Ohio used language hardly called for by the occasion. I know that that was the sentiment of some of those around me, who thought that the Senator was rather harsh in his strictures. I do not certainly wish to misrepresent him, but I think the Senator is very apt to speak with a little degree of harshness on some occasions, and I thought this was one of those occasions when the Senator seemed to speak with a great deal of feeling.

Mr. PUGH. I certainly did speak with some degree of feeling as to the subject; but to show the Senator how completely he is mistaken, let me read the paragraph to which he referred. After saying that I had very great respect for these people, as industrious and useful citizens, and stating what they did, I said:

"That is the sum total of their services; and you and I, sir, are asked to levy a tax on our constituents who till the soil, who engage in employments equally honorable and industrious—I am asked to impose a tax on the thousands of my constituents who live along Lake Erie, and catch fish on which no bounty is paid—for what?"

Nobody denies that a tax is levied on us for

this purpose. If I had used any such expression as the Senator attributes to me, even in the heat of discussion, towards the constituents of the Senator from Massachusetts, or any other Senator on this floor, I should, on its being called to my notice, feel it my own duty, as a Senator of the United States, to withdraw the expression.

Mr. WILSON. I had not time to read the Senator's remarks, and I relied upon my own hearing, and the expressions made around me in regard to what he said. We may have been mistaken; at any rate, I withdraw the remark, for I certainly do not wish to misrepresent the Senator from Ohio.

Mr. DOOLITTLE. I do not rise, Mr. President, to detain the Senate by entering into a discussion of the question involved, at any length; but as I represent in part, one of the northwestern States, which, certainly can have no local interest in this question, I desire to state, in a single word, the reason for the vote which I feel called upon to give.

The State which I represent is somewhat interested in fisheries, the fisheries of the lakes, both Lake Superior and Lake Michigan; fisheries which receive no bounties at the hands of the Government. They stand on their own strength, and must stand or fall upon the laws of competition which govern the usual course of business. And that is an additional reason why I feel called upon to define my position and explain my vote on this question. I agree entirely with the Senator from Mississippi [Mr. DAVIS] in the idea that the powers of this Government are simply those which are granted by the Constitution of the United States; that it is not a government of general and unlimited power, which can legislate upon all subjects, where it is not restrained by the Constitution, but that it can only legislate on those questions where power is expressly granted, or where it is necessary to carry out the power which is expressly granted. I have been brought up in the school of strict construction, and therefore, with me, upon this floor, the first question always is, whether there is a power in the Government to pass the law in question, whether the constitutional power is given? and I listened with interest to his remarks, knowing that he was reared in that school, and is a distinguished advocate of its doctrines. I listened to ascertain his views on the question, in the first instance, of the constitutional power of this Government to legislate upon this subject, and I understood from the purport of his remarks, that he conceded the constitutional power to pass laws of this character under that provision of the Constitution which declares that "the Congress shall have power to provide and maintain a navy;" and I did not understand the honorable Senator to question the constitutional power of Congress to maintain this policy. It was with him, therefore, a question of policy; and it is the same with me, a question of policy, and policy merely.

The first question which arises in my mind is this: whether it is a legitimate and proper means to be employed by the Government of the United States, for the purpose of providing and maintaining a navy? It cannot be defended upon any other ground. As a bounty, I should certainly be opposed to it; as a mere bounty, I cannot sustain it for a moment; and the question again recurs: is it a proper and legitimate means of providing and maintaining a navy for the United States? and that involves this other question, what constitutes the Navy of the United States, within the meaning of the Constitution and upon which we rely? Is it the armed ships belonging to the United States—vessels of war, only? These ships, armed by the Government, commanded by its officers, and manned by men in its employ, are undoubtedly within the meaning of the Constitution. But as I understand it, that is not the navy upon which we must rely in any great emergency. We all recollect the correspondence which took place when Governor Marcy was Secretary of State, and the convention of Plenipotentiaries of European Powers, assembled at Paris, proposed to abolish privateering; that a new provision should be introduced into the code of maritime law, by which privateering was not to be allowed by the law of nations: what was the reply of Governor Marcy, one of the giant men of this country? His reply was this, in substance: We are prepared to abolish privateering when you will abolish the

taking of private property upon the high seas; confine your fighting upon the high seas to the war vessels of the nations engaged, and we will abolish privateering; but so long as private property upon the high seas is to be seized in naval warfare, the Government of the United States will never consent to abolish privateering.

Mr. President, I arrive, then, at this conclusion: that the Navy, upon which the Government of the United States must rely mainly in case of actual war with any great maritime Power, is to be composed of privateers—volunteers upon the sea. It is upon the volunteer naval forces of this country that we are to depend, in a great measure, in actual war upon the sea, as we have to rely, in the main, upon the volunteer forces upon the land.

I do not understand the question to be whether this is the very best mode of providing or maintaining a navy. The honorable Senator from Mississippi contended that there might be a better mode of encouraging a naval force upon the sea by giving direct bounties to the ships that would take apprentices on board. Perhaps the bounty which the honorable Senator would propose would be a good mode of encouraging, maintaining, or providing the means of maintaining, a volunteer naval force upon the high seas; but it does not follow, and I do not understand the honorable Senator from Mississippi, nor the honorable Senator from Florida—who is chairman of the Committee on Naval Affairs—to say that this is not a means, a legitimate means, of providing or maintaining a nursery for seamen. Now, having satisfied my own—

Mr. DAVIS. Will the Senator from Wisconsin allow me to interrupt him?

Mr. DOOLITTLE. Certainly.

Mr. DAVIS. We agree every now and then upon our premises so nearly, that I have risen merely for the purpose of saying to the Senator that I did not concede that this was a proper and legitimate mode of maintaining a navy; but I did concede that if it were shown to be a proper and legitimate mode of maintaining a navy, then it was a mere question of policy, and the power was derivative from the grant in the Constitution to raise and maintain a navy. I did not think it a proper and legitimate mode. I do not think bounties upon any particular class of industry a proper mode; and here I find we are running again into the word bounty, which produced so much confusion in legislation, even in the time of our fathers, on this subject. Allowing an exemption from certain port charges on merchantmen, on the condition that they carry apprentices, is an inducement, or, if the Senator pleases, a bounty, though bounty is not the word I used or would use to express my own idea. The difference between us is that he claims this to be a legitimate and proper mode of maintaining a navy. I do not find it so. Then we meet on the ground that if he can show it to be a legitimate and proper mode, that this is the maintenance of a navy, I concede to him the power.

Mr. DOOLITTLE. I may have misunderstood the honorable Senator in his remarks yesterday, and I have not yet had an opportunity of looking over the report of them.

Mr. DAVIS. I would hardly say that, because I spoke under circumstances of physical infirmity which, probably, rendered me less clear than I would have been otherwise. That is what I meant.

Mr. DOOLITTLE. Mr. President, a single word further, and I have done. I think, upon the whole, that it is a question of policy only, and a policy that has existed for a long time in the history of this Government—a policy adopted by our revolutionary fathers, which has been ever since maintained; and it being a question of policy, I defer, I confess, to the opinions of the great and wise men who have gone before us, and to the precedent which they have so firmly established; and I yield a more willing deference to it because in the war of 1812 the fishermen of Marblehead achieved the freedom of the seas. Were it an original question now for the first time presented, I might perhaps have greater difficulties in my mind than I do now; but it having been established so long and being a question not of constitutional power, as I conceive, but a question of good policy in the maintaining and the providing for a navy, I defer to their judgment and to the precedent which they have established.

I conclude by simply saying that the amount of bounties which are paid to these fishermen does not exceed, as I understand it, what it would cost to maintain a single war frigate. A single steam frigate of war, as I understand, costs about one thousand dollars per day while upon the ocean; and yet for this not very large amount of expenditure in the shape of bounties—not more than is necessary to maintain a single war vessel—in accordance with the policy of our fathers, we are rearing and maintaining, if not by the very best mode, at all events by a legitimate mode, a nursery for seamen, and American seamen, and a large number of seamen, say from ten to fifteen thousand. Sir, I do not regard it at all unfavorable that these seamen are not engaged in very long voyages. The very fact that they are engaged only for five or six months upon the sea, and then return home to their wives and children upon American soil, in my judgment instead of its making them poorer seamen in case of war, makes them the better seamen. They are attached to the soil. They have their wives and children and homes on the land. There are many of them, as the gentleman from Florida stated, gentlemen who are engaged in this business but a portion of their time. Some of them perhaps are men of substance, who are interested in the country, and for that reason make the very best kind of seamen in case of actual collision. I know it may be said it is unnecessary to have any bounties to encourage volunteer forces upon the land. That is very true. Our landsmen are brave enough. While they love peace, they are ready to fight an enemy when necessary, whenever he may appear, if you will only place them on *terra firma*. But ask the men who are brought up on land to volunteer to fight an enemy at sea, it is a very different affair. They are unaccustomed to the elements around them. The very element itself upon which they are to live takes away from them their energy and strength, and puts it out of their power to fight an enemy, even if they are able to take care of themselves.

One who is unaccustomed to the sea must live a new life before he is prepared to encounter its dangers and outride its storms in proper physical condition to meet an enemy. Believing that these bounties are a legitimate means of maintaining and encouraging a good school for seamen, I shall vote against their repeal.

Mr. FOSTER. Mr. President, the interest which my constituents have directly in this question, is certainly not large. Of the two thousand and eighty-eight vessels, which, by the last returns, were engaged in this trade, one hundred and thirty-four only belonged to the State of Connecticut. Of the fourteen thousand six hundred and sixteen men employed, but nine hundred and twenty-eight belonged to Connecticut. Indeed, sir, the whole question, so far as it affects the public Treasury, seems to me not large enough to have justified an attack upon this allowance at the present time; even if those who attack this policy, and who urge the repeal of the law sustaining it, are right in the grounds they assume. It seems to me that this is a very unfortunate time to commence an attack upon any branch of the industry of this country. During the last summer and fall, we are all aware that our country, and indeed, the whole civilized world to some extent, was affected by one of those revulsions which somehow and at various times come over commerce and business. The industry of the country is feeling that revulsion at the present time almost as severely as it has at any period whatever. It is the last of the interests that perhaps are affected by a revulsion of this character. Almost every branch of industry is now in an exceedingly depressed state. Multitudes of men skilled in their various pursuits and avocations, can find no employment. It is an evil, and a crying evil in the country, that there are hands willing to labor that are compelled to remain in idleness, and of course want is the consequence. At such a time it seems to me, I say, peculiarly unfortunate that the Congress of the United States should be asked to repeal any law which affords proper encouragement to any one branch of public industry.

The fishing business is certainly a legitimate business. It is, as King James remarked of it, an honest trade—the pursuit of the Apostles. It ought not to be discouraged; it surely ought to be encouraged. It is not, however, because the business is considered obnoxious; but it is be-

cause, as it is said, those engaged in it are deriving bounty from the Government, to which they are not entitled, that this attack is made. I repeat, sir, even if those who urge this bill are right in their claims, had it not better be put off until the paralysis which is over the industry of the country shall have been partially relieved? Is it wise statesmanship now to prevent men from going on in a business which, at the best, remunerates to a very small degree those engaged in it? Is it wise economy, for the sake of saving \$300,000 to the public Treasury, to put in peril—for certainly we must regard it in that light—the business of the cod fishery? We may save this money; but if the business is thereby either destroyed or greatly impaired, will the country be the gainer? The condition of the public Treasury is urged as a reason why we should now act with economy. It is a reason no doubt; but shall we replenish the public Treasury by discouraging the industry of the country? On the other hand, Mr. President, if we are wise, shall we not do all that we can legally and constitutionally to encourage the industry of the country, in order that thereby we may replenish the public Treasury? How are we to replenish the Treasury but by encouraging the industry which lies at the foundation of all our prosperity? for it is the labor of the country that must finally bring us up from the depressed position in which we now find ourselves. It is nothing but labor that is to bring us back again to prosperity. Any legislation which serves to stimulate and to encourage that labor will serve to replenish the public Treasury; and any legislation which tends to diminish the amount of labor, to discourage any one branch of honest industry, tends to keep your Treasury as poor as it is, and, indeed, to make it poorer—to deplete it rather than to replenish it.

I am persuaded that the honorable Senator from Alabama, who brings forward this measure, had he not brought it forward at a former session, when the country was in a different condition from what it now is, would have hesitated before bringing it forward at the present time. It originated with a desire, honestly entertained on his part, no doubt, of correcting what he considers an abuse, when the public Treasury was full, and when all branches of public business were flourishing. A policy which might have been very proper then, may be very improper now; and I would suggest to that Senator, and to all who may feel inclined to discourage the continuance of this law, whether it would not be better to let the law remain at least until the business interests of the country recover to some extent from the shock to which they have, within the last year, been subjected.

Another reason why, as it seems to me, it is unfortunate at this time to repeal this law, is found in the fact that this is said to be a local interest, in which the inhabitants only of two or three of the New England States, in the northeastern section of the country, are concerned. If the encouragement, the bounty, if it may be so called, which has been given to those engaged in this business is now taken away, at the instance of those who reside in another section of the country, it will serve, I apprehend, to keep alive, and perhaps to increase, a feeling of unkindness, not to say alienation, which I regret to say exists between different sections of this country at the present time. It is a fact known to us all, and I trust regretted by us all, that there is not, between the extreme sections of this Union, geographically considered, that degree of cordial feeling, that degree of kindness, that degree of oneness, which is desirable in our country, and which we should all, I trust, delight to see return again—when there shall be a feeling of brotherhood between the North and the South, the East and the West, instead of a feeling of alienation, and, to some extent, of unkindness between them.

In this condition of things, and when, as it is said, measures are in progress which will bring about a better state of feeling, it seems to me unfortunate that a step should be taken tending to interrupt this return to good feeling between the different sections of the country. I am aware that the Senator from Alabama would disclaim, at least I presume he would disclaim, any hostility to this because it is a New England interest—a northern interest. I take it for granted that that Senator would say that he proposes to repeal this law because he believes it is unwise, unjust, perhaps un-

constitutional; to have it remain on our statute-book, without any reference at all to the locality which will be affected by the repeal. Still, sir, it is useless to disguise the fact, known to us all, that a repeal of this law will be regarded as a blow at a certain section of this country. It is asserted and reasserted that this is a sectional interest. This law has existed from the foundation of the Government, in one form or another; and at the present time, with a feeling not altogether kindly between the different sections of the country, if one section makes, I will not say an attack upon the interests of another section, but introduces a bill, the direct effect of which is to strike a blow at the prosperity of another section of the country, does it not look, and will not the people regard it as the action of one section against another section of the country? And although we may, in all sincerity and in all truth, avow that we have no feeling of this kind, shall we induce the people of the whole country to believe that we are entirely truthful in our assertion that we are correcting an abuse, and have no desire at all to show to one section of the Union, that for the time being we can legislate for ourselves and legislate against you?

A consideration of this sort may be regarded as very trivial and unimportant by some, but it seems to me it is not altogether so. It is better, I think, that we should continue a law so old and so time-honored as this, rather than repeal it; whereby we save the sum of \$300,000 a year to the public Treasury, at the expense of awakening a feeling such as this to which I have called attention. I do not say that the people of New England will be enraged or will be provoked to any revenge or any hostility toward any section of the country because of the repeal of this law. I do not believe they will. The amount involved in the question is not large enough to have such results in its train; and really, when we look at it, the fact that it is so small makes it, therefore, rather more a matter of pride and of feeling than that this law should stand. We look upon it—at least I think our people will look upon it as being, in some quarters, (certainly I charge no gentleman here with such a desire,) actuated by a design to do what some would call paying back to one section something which they may have done or said or expressed in regard to another section—a sort of retaliatory measure, a system of “if you say harsh things of us, and if you do harsh things toward us, we will say and we will do harsh things toward you.” That will be the reading which many men will give of legislation of this description; and even granting that it is entirely a mistaken or a false view, shall we be gainers by saving \$300,000 to the public Treasury when we send abroad such an impression as that?

There are other facts in connection with this matter which, it appears to me, ought to induce us to pause before taking a step of this description. The history and traditions connected with our fisheries have given them a degree—I will not say of veneration before the public eye, but a degree of regard, and a home in the affections of the people of the United States, which will not look favorably on a blow at their prosperity. If we go back as early as the colonial period of our history, we find that those who were engaged in the fisheries were among our most valuable and estimable citizens in war and in peace. The taking of Louisburg from the French, that enterprise which was complimented so warmly by Lord Chatham in the English Parliament, was achieved very much by the aid of fishermen of New England. In the revolutionary war, not only on the ocean, but on the land, the services of the New England fishermen were most efficient and most valuable. The passage of the Delaware, which lives on the canvas as well as in the memories of the American people, was due to the energy and courage of the fishermen of the New England States. Washington and his army, in all human probability, would not have passed the Delaware river on that cold and bleak December night, had it not been for the courage and skill of the fishermen of New England who formed part of his army. That was the testimony borne by General Knox, whose testimony is certainly to be received as authentic on that subject.

In the last war with Great Britain, the services of the fishermen were of the same character. They have been alluded to. The glorious old

frigate Constitution, whose name is scarcely to be mentioned without reverence, owes the sanctity and glory which attach to her to the fishermen of New England. More than seventy of the common sailors on board that ship when, under the command of Commodore Hull, she took the British frigate Guerriere, were freholders of Massachusetts; a large majority of the crew were fishermen. And that action, so gallant and so glorious, had it not been for these fishermen, either would never have been fought at all, or its result would have been very different from what it was. It was because of the coolness, the skill, the courage of these fishermen, that, when Commodore Hull laid his frigate alongside of the Guerriere, within thirty minutes after her first gun was fired every spar was shot out of the Guerriere but her bowsprit. That was gunnery, the gunnery of New England fishermen. None such was ever shown before to the world, and nothing superior to it can be pointed out anywhere to-day.

In view of facts such as these, it seems to me that we ought not to lay a heavy hand on the successors of such men. It is true most of these men have passed away. Commodore Hull and his brave crew are no longer among us, or but few of them remain. But, sir, their successors live to-day—men who are ready to emulate their deeds—ready whenever their country calls. In any wise and real exigency the successors of those men will prove themselves worthy of their ancestry. A blow at them ought to be felt not only at their homes and firesides but over the country, for their glory is a common glory to the nation; it is not bounded by State or sectional lines.

The general merits of this question have been discussed by the honorable Senators from Maine, with such fullness that it would be superfluous for me to add anything at all—indeed, I think I could not add to what they have said. On what particular grounds this law was passed, originally, whether in consequence of the consumption of foreign salt, or as a means of sustaining a nursery for seamen, or for other grounds, or for the whole taken together, is not, in my opinion, a point of very much importance now. The law has become very much sanctioned by time. The business has not been so productive, nor does it promise to be so productive, that there is any danger that it will be a burden on the Treasury. The fact that the business is now barely a remunerative one, is sufficient to prove to my mind that if we take away the little benefit which this law gives, the business will certainly be diminished. The honorable Senator from Vermont [Mr. COLLAMER] took, I think, a very correct view of the question, when he said that possibly as many fish might be caught if this bill were to become a law as though it should not become a law; but instead of the fish being caught by American fishermen, the strong probability to his mind was, that the business would pass into the hands of the British provinces; that their fishermen, instead of the American fishermen, would, under the operation of the reciprocity treaty, be enabled to supply the fish in American markets so as almost to exclude the American fishermen from the ocean; and the result in that point of view would be really to strike out this as an American interest from existence.

Well, sir, if that is the alternative, if we are to lose the benefit which results to the country from the continuance of the cod fishery, can we afford to do that for the sum of \$300,000 per annum? Suppose, however, we do not lose it, but it is simply impaired one fourth, one half, or any other fractional proportion: will the amount of money we shall save to the Treasury be any compensation even for the loss to that extent?

The honorable Senator from Louisiana [Mr. BENJAMIN] remarked that if he were satisfied that the repeal of the law would, to any considerable extent, impair the prosperity of this interest, he would not vote for the bill. Now, I think it is perfectly apparent that the passage of this bill must tend to diminish the number of men and the amount of tonnage engaged in this business. How far it may diminish them is of course a question which experiment only can determine; but that it will diminish them to some extent seems to me as clear as any mathematical proposition. Who can doubt that many men now go into this business because, under the law, a certain amount of reward is secured to them? If men hesitate whether or not they will engage in

this business when they have a fixed certain sum which they are to receive if they do go into it, will not all those men who hesitate now, decide not to go into it if you take away this security, even although it may be a small one? The amount which each man receives is certainly small, but it is enough to make the difference between his going and not going, when, without this amount of bounty, he hesitates whether to go or not. If the honorable Senator from Louisiana, therefore, looks at this question with the usual discrimination and judgment that he exercises on subjects before us, it seems to me that in the light of the principle to which he alluded he cannot hesitate to vote against the passage of this bill.

Now, Mr. President, can this be viewed, it strikes me, altogether so much a local interest, taking it in all its bearings, as gentlemen seem disposed to consider it. It would seem, I agree, that the State of Louisiana had but little interest in the amount of bounty which may be paid to the citizens of Connecticut and Massachusetts for engaging in the cod fishery; but if the payment of that bounty tends to make fish cheaper to the consumer, and the inhabitants of Louisiana are consumers of fish, certainly all those who are consumers of that commodity save the difference between the price of the fish caught, under such circumstances, and the price they would have to pay if there was no bounty given for the catching of fish. The consumption of cod fish is very general over the country, not to a very great extent—that I do not claim—but I am sure that the consumption, to a certain extent, is very general in all sections of the country. The benefits of cheap fish are alike diffused over the country. If the tendency of this law is to increase the number of fish caught, the result must be a corresponding cheapness in the price; and under these circumstances the benefits of cheap fish are shared, not by the New England States alone, but by the whole country; and I am by no means sure that the consumption of fish is not as great in Louisiana as it is in Connecticut, in proportion to the population. Indeed I should be mistaken if it was not greater.

As the policy of continuing the present system in reference to the prosperity of our Navy and of our country for the future, it seems to me there can be but one opinion on that subject. I am aware that the honorable chairman of the Committee on Naval Affairs [Mr. Mallory] yesterday expressed the opinion that these fishermen, generally, did not and would not enter into the naval service. Sir, during the war with Great Britain, in 1812, it is agreed that they did enter into the naval service, and it is agreed that their skill and courage contributed, in a high degree, to give to the American Navy its present renown. No doubt in time of peace the New England fishermen do hesitate before entering the naval service of the country, and but few of them actually enter it; but let there come a war which touches the hearts of the sailors of our country, as the war of 1812 did, and, my word for it, the decks of all our national ships would be provided with American sailors, thorough, efficient, able men, who would sustain the honor of the flag as it was sustained under Hull, Bainbridge, and Decatur, and their glorious compeers. There is no question but that, let "free trade and sailors' rights" be on the banner again, as it was in the war of 1812, and every American sailor will be found at his post discharging his duty gloriously.

The honorable Senator from Florida is mistaken when he says that these fishermen would not go into the Navy. He agreed, however, as I understood him, that they probably would enter the privateering service. Granting that, he grants all that I wish to claim in regard to the policy of continuing our present law; for, if these men would enter the privateering service, they would do the country perhaps as much good as they could on board our national vessels. How was the privateering service in the last war? There was no want of sailors in our national ships; they were well provided with American sailors. The services rendered on board our privateers were very efficient and most valuable, and the ability, the courage, the skill, witnessed on board American privateers compare favorably with the actions fought by our national ships, gallant as they were. What action fought by a national ship can be named as exceeding in skill and courage the action on board the privateer General Armstrong, about which this Con-

gress has had occasion to hear somewhat, and will perhaps hear more? That was an action in which New England fishermen were concerned, and no more glorious action was fought during the war. So it will be again, sir. I hazard nothing in saying so, because we can only pronounce of the future by the past.

A word now in regard to what fell from the honorable Senator from Alabama, in respect to the skill of these men as sailors. He said that they are wanting in the skill that makes men sailors on board large ships; and that their experience on board fishing vessels does not make them competent sailors. Sir, the past bears different testimony; and I have alluded, and various Senators on this floor have alluded to the frigate Constitution, and the glorious actions fought on board that ship. On one occasion, when that ship, under the command of Commodore Hull, was almost surrounded by a British fleet, in great danger of capture, and apparently almost in the power of a hostile squadron, she was extricated from her perilous condition by the skill and seamanship of her officers and crew—such skill and seamanship as the world has perhaps never witnessed. The officers and men, who for sixty hours remained on deck doing duty uninterruptedly, succeeded in extricating that ship from a British squadron, under circumstances which make the seamanship of Commodore Hull and his gallant crew equal in renown to the glory acquired in fighting the *Guerriere*, or any other vessel that she fought during the war. The honor of the achievement has been a matter, to some extent, of friendly dispute between the friends of Commodore Hull and of his first lieutenant then—the late Commodore Morris. We of Connecticut looked upon the controversy with more complacency than most States; because whether it were accorded to the one or the other, it came to one of our own highly esteemed citizens. But the men—and the men after all must be our reliance in an exigency—were New England fishermen.

Now, sir, without tiring the patience of the Senate, I must say that when an attack is made on a system which has had the sanction of so many years, which has certainly been productive of results so valuable, and when such a movement at the present time must be followed by disaster to the interest itself, and as it seems to me the whole country, I could not give a silent vote on this question. Senators have alluded to this bill as one that is destined to pass. It may be so; but I hope not. I hope there is no such pride of opinion or pride of success as will induce gentlemen to press this measure against their better judgments and better feelings. If during another Congress or on another occasion, and that within a short time, it shall seem expedient or best to pass it, be it so; but I submit to Senators, in all candor, that this is a most unfortunate time. It will certainly have a discouraging effect upon the country—most discouraging. While all branches of public and private industry are suffering, and while therefore more men are probably about to embark in fishing this spring than heretofore, to have this bill passed taking away the little pittance which has been given to those engaged in this business, seems to me cold and unfeeling on the part of the Government. It seems to me that all we shall save if it will be worth to us not half what it costs.

Mr. CLAY. Mr. President—

Mr. TOOMBS. Will the Senator allow me a moment?

Mr. CLAY. I believe the Senator rises to what may be regarded as a privileged question.

Mr. TOOMBS. Yes, sir.

Mr. CLAY. I give way.

SENATORS FROM MINNESOTA.

Mr. TOOMBS. I present the credentials of Hon. HENRY M. RICE, Senator elect from the State of Minnesota; and I move that he be sworn and admitted to his seat.

Mr. HARLAN. Before that motion is put, I have a statement of facts that I desire to make to the Senate.

The PRESIDING OFFICER. (Mr. STUART in the chair.) Does the Senator desire to make his statement before the credentials are read?

Mr. HARLAN. No, sir.

The PRESIDING OFFICER. The Secretary will read the credentials.

The credentials were read; being a certificate signed by the Speaker of the House of Representatives and the President of the Senate of Minnesota, that at an election held in the Capitol of the State of Minnesota, at St. Paul, by the Senate and House of Representatives of that State in joint convention on the 19th day of December, 1857, HENRY M. RICE was duly elected a Senator to represent the State of Minnesota in the Senate of the United States.

Mr. TOOMBS. I now move that the oath be administered to Mr. Rice, and that he be admitted to his seat.

The PRESIDING OFFICER. The question is on the motion which has just been made by the Senator from Georgia.

Mr. HARLAN. Mr. President, the settlers on Fort Crawford Reservation, in the State of Iowa, allege that they have been defrauded by Mr. Henry M. Rice, as agent of Hon. John B. Floyd, Secretary of War, in the sale of their claims as settlers on said reservation, namely:

1. That said Secretary of War instructed Henry M. Rice to sell to the settlers on said reservation their claims at \$1 25 per acre; that said Rice required said settlers to pay for their claims at the rate of \$1 50 per acre, and receipted to them, on the payment of said \$1 50 per acre, for but \$1 25 per acre, and refused to receipt to them for the remaining twenty-five cents per acre received of them by him, as aforesaid.

2. That sundry cases in which settlers applied to said Rice for leave to enter their said claims, he referred them to his clerk, who charged them fees varying from ten to eighty dollars each, in addition to the said \$1 50 per acre, for leave to purchase their said claims; that these fees were charged and received by the said Rice, corruptly, as said settlers believe, through the interposition of his clerk.

3. That said Rice negligently failed to give said settlers reasonable notice of the time of said sale, and thereby subjected them to the necessity of borrowing money, at enormous rates of interest, with which to purchase their said claims.

4. That said Rice defrauded one of said settlers of his right to purchase his claim, under the instruction of the Secretary of War, by surreptitiously securing from him a quit-claim to a part of the land embraced in said claim.

These statements are contained in sundry papers which I have in my hand, including a petition from these settlers for redress. The petitioners ask that the extra twenty-five cents an acre may be refunded to them. The facts are also set forth in a verbal statement made to my colleague and myself here, and to one of our colleagues in the House of Representatives, by an agent of these settlers, sent here to represent their interests. I know not what course ought to be pursued. I am informed by my colleague in the other House, who represents that part of the State of Iowa, that these persons are credible men; that he would rely on their statements. It is certainly due to them, and perhaps due also to the Senator elect from Minnesota, that some opportunity should be given for the examination of this allegation of facts, that if true, the Senate may know that they are true; and if not true, that the Senator elect may purge himself from the odium implied.

Sir, I scarcely know what course to pursue. I know not whether it would now be in order to object to the swearing in of the member, or whether that would comport with the rules of the Senate. I remember that the late distinguished Senator from South Carolina [Mr. Butler] said that in a case similar to this—provided these facts were true—he would object at the threshold to a member being sworn in. It has, however, been stated by other members of the Senate, and by those on whom the Senate relies on questions of constitutional law, that no objection should be made on the presentation of credentials. I therefore bring these facts to the notice of the Senate; but I shall make no motion myself.

Mr. TOOMBS. I have no comment whatever to make on this extraordinary proceeding of the Senator from Iowa. The credentials of the Senator from Minnesota having been produced, I have moved that he be sworn in, and admitted to his seat.

Mr. BROWN. Mr. President—

The VICE PRESIDENT. Will the Senator from Mississippi pause for a moment? The Chair

has just come in, and does not exactly understand the posture of the question. Have the credentials been presented?

Mr. BROWN and others. Yes, sir.

The VICE PRESIDENT. Has objection been made to swearing in the member. ["Oh, no."]

Mr. BROWN. Then, to make a point for the moment, I will object myself, so that I may have an opportunity of saying what I desire to say. So far as these allegations are concerned, I will remark at the outset, that it would take a vast amount of testimony to make me believe that they are true, or that they have any reasonable semblance of truth. I know HENRY M. RICE; I have known him for years; and, in my judgment, if there be on earth a true and honorable man, he is one, wholly incapable of doing a dishonorable act; and in the course which I am about to pursue, I want the Senate, and all who shall read this day's proceedings, to understand that I am not in the slightest possible degree, in the action which I am about to take, influenced by these charges. If they had any influence on me, it would be to induce me to withdraw all possible objection to the swearing in of Mr. RICE, for I think this is a flagrant outrage, and I am sure, upon investigation, it will turn out to be without cause, and without the slightest possible foundation in truth. Now, my life upon it, if the vouchers for this statement be entitled to the least possible credit, Mr. RICE, as soon as he is sworn in, will demand an investigation.

I object to the swearing in of the new Senators from Minnesota upon other and altogether different grounds. I object to it upon the ground that, under the written Constitution of the United States, States may elect Senators; and in that instrument there is nothing which authorizes a Territory to exercise that high prerogative of sovereignty. Until within the last hour, Minnesota was a Territory, and not a State. Congress, at its last session, authorized Minnesota to form a State constitution; but that did not constitute her a State. The Senate, some weeks ago, passed a bill, so far as this branch of the national Legislature was concerned, to admit her. The House of Representatives yesterday passed that bill; and to-day, the President has notified you that he has signed it. All this concurrent action of the two Houses of Congress, and of the President, was necessary to constitute Minnesota a State. She was not a State, in my judgment, until you were officially notified by the President that he had approved the bill admitting her into the Union as a State on a footing of equality with the other States. The language of the Constitution, in the third section of the first article is, "the Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six years; and each Senator shall have one vote." There is nowhere in the Constitution any warrant for a Territorial Legislature to choose a Senator of the United States. Could you have a State Legislature in Minnesota; could you have, in the language of the Constitution, "a Legislature thereof," meaning of a State, until Minnesota was a State? I know that, in the California case, it was argued by the then great Senator from Kentucky that California yesterday was a State out of the Union, and to-day she is a State in the Union; but I never understood that sort of argument. A State is a State; no more and no less. The Constitution recognizes States in the Union, and not States out of the Union. This talking about States out of the Union, entitled to exercise the high prerogatives of sovereignty, is but a branch of that odious and despicable doctrine of squatter sovereignty.

Was Minnesota a State when she chose Messrs. RICE and SHIELDS to represent her in this body? We should deny our very existence; we should belie every particle of intelligence we possess, to say that she was. If she was not a State, then I want to know by what warrant she elected Senators to this body; seeing that the Constitution has said that each State shall be entitled to two Senators, to be "chosen by the Legislature thereof"—the Legislature of a State, not of a Territory. I know very well that the convention which framed the constitution of this incipient State provided for the election of a Legislature, and a Legislature was chosen; but it was no State Legislature until the State was admitted, and the laws which they pass are not in force. Nobody pretends to try to enforce them; they are dead letters

on the statute-book until such time as the State is admitted. They had the sense to know that they had no power to pass laws as a State Legislature until they were a State; but, following the example first set in the case of Ohio, I think, and which was followed up in several cases afterwards, and finally in the case of California, they chose Senators to this body.

I have no expectation that these gentlemen will be excluded; and, since others have been admitted on the same terms, I cannot say that I am particularly anxious that they shall be excluded. They are my personal and political friends. I am proud to call them so, and to feel that they are so; that they stand in that relation to me, and I to them; and I am glad to enter my protest against parties occupying that personal and political relation to myself, so that I shall not be suspected of acting from any partisan motive in this matter. Still, the obligation is upon me, and I will discharge it, to enter my solemn protest, and put it upon the record, against gentlemen coming here and taking seats as Senators who are not accredited by any sovereignty, who do not come from any State of the Union. Such a proceeding is wrong. It was wrong in the beginning; and though it may have been repeated fifty, or a hundred, or a thousand times over, you can never make it right. Go back to original principles; look to the Constitution; and if you find your warrant there, admit these gentlemen; but if you do not find it there, then act upon the great principle that you are as wise as those who went before you; and as they did not swear to support the Constitution for you, but as you swore to support it for yourselves, then act in obedience to your convictions of duty to that Constitution. I care not if every Senate which has sat from the foundation of the Government up to this hour, had said otherwise; the conviction is firmly, fixedly, fastened on my mind that nothing but a State, one of the sovereignties that make up this great Confederacy, has any power to elect a Senator; and, though they came from a southern State, though they might be knit to me by every tie of affection, I would still, as I do to-day, enter my protest against their being sworn.

Mr. SEWARD. Mr. President, I think the objection which is taken by the honorable Senator from Mississippi is metaphysical rather than practical. There must be a time when each of the proceedings for the creation, the inauguration of a State at home, and its initiation here into the family of States, is inchoate, unfinished; when the Territory is in the act of passing from a provincial subordinate condition to one of qualified sovereignty, when practically it is neither a Territory nor a State. It necessarily happens in this case, as in all organic changes, artificial or natural, that there is a difficulty of determining the exact status of everything. The worm becomes a butterfly; there must be stages in its transition in which it is difficult to tell whether it is one thing or the other. That is the condition of the Territory of Minnesota while it is passing from the condition of dependence into the condition of a sovereign State of the Union. Now the question is, how to arrive at a practical conclusion, consistent with justice, consistent with the rights and interests of the people of the States, and with the dignity and rights of the Union. Minnesota, whatever she may have been yesterday, is a State to-day, and is entitled to representation in the Senate of the United States. Two gentlemen present themselves here, and claim to be Senators from that State. Does any person object? Is there any reasonable objection on the part of the Senate of the United States to receive Senators from Minnesota? Certainly not, for the Senate is desirous that every State shall be represented immediately on its title being established.

Does any objection come from the State of Minnesota? Certainly not. These Senators bring testimonials from the authority which was constituted by the people of Minnesota in pursuance of the constitution which they were authorized to establish, and which constitution has been submitted in behalf of the people to the Congress of the United States. We may therefore recognize the election of these Senators made by the Legislature of Minnesota, as an act performed conditionally, or, as the lawyers say, *de bene esse*, an act which is to take effect from the time when the State shall be admitted into the Union. I believe

in all cases, in legal transactions as well as in political transactions, such things occur. Metaphysically, there is a difficulty, practically, there seems to be none; and as it is clear that the State of Minnesota is entitled to representation, as there is no opposition from that State to the admission of these two gentlemen in that character, as they come with credentials which we are satisfied are authentic and made dependent on this condition, I think our proper course in this case, as in the case of California, is to admit the Senators to their seats, subject to the condition, that if the State of Minnesota shall show hereafter that they are here in a usurped character which she has not given them, then the act may be repealed.

In regard to the other question, I have not a word to say. I think the honorable Senator from Iowa, if his informants are credible and respectable persons, did no more than his duty in laying these statements before the Senate. At the same time, I agree with the honorable Senator from Mississippi, that the gentleman whose character is assailed will owe it to himself, and if he do not the Senate probably will owe it to itself, to institute an investigation.

Mr. STUART. I trust I may be pardoned for saying a word under the circumstances; and I must express my regret that the honorable Senator from Iowa took occasion to present papers of the kind which he did present at this particular time. I think it would have been much better for him to present them to the Senate at any other time, and ask for their reference to any committee for a careful and appropriate examination. But, sir, I could not think that I had discharged my duty—at all events not that duty which I feel that I owe to myself—if I did not meet this suggestion by saying that I have known the gentleman who asks admission here to-day, from his boyhood up; and if there is any one man in America who, more than another has at all times been the friend of the settler, the pioneer of the country, and has aided him by his personal and political influence, and by his private means, more than any other, that man is Mr. RICE. In respect to this transaction, I know something personally—not of the particular charges made in these papers; but I know that the claims of the settlers upon the Fort Crawford reservation were carefully examined under the instructions of Mr. RICE by competent men sent out on purpose, and no man's claim was offered for sale in the first instance. I was there myself at that time, and the instructions were specific that wherever there was a claimant on the reserve, those claimants having no legal rights at all, the reserve not being subject to preemption, the facts were to be ascertained and reported to him; and no such property was offered for sale; but it was withheld, their claims were to be examined, and they were to have their land at just such prices as the Secretary directed. In my opinion there has not been an honest transaction, one that has been conducted upon higher principles, than that was. What may have been done by some man who professed to be an agent or something else, I do not know; but thus far I certify to the Senate and to the country what I do know.

In saying thus much, I feel that I but discharge a duty which I should have felt myself censurable if I had not done, in regard to personal honor and personal character. And now I have a word to say in regard to the other proposition. I submit to the consideration of the Senate, that if we were to proceed upon a technical compliance with our constitutional authority, it would require a State in form, and fully and completely organized, before we could act at all; because our authority is to admit a State; not a Territory, not a State partially organized, not something that is to be a State afterwards, but it is to admit a State; and there is no distinction between a State formed out of domestic territory, and one that is carved from foreign dominions. The practice of the country has been to take this thing in its progress, it being a proceeding that is to be completed under our constitutional authority. Congress has not stopped to inquire whether it was fully or partially organized as is now the case in Oregon, and as was the case in Kansas; but I say my judgment has been that when a State is carved out of our own territory, it is an organization that we authorize for this purpose. Such is the title of our acts. We authorize the people of a Territory to proceed to

make a State organization for the purpose of being admitted into the Union. My own individual opinion is, that if Congress, for any reason of its own, refuses admission, absolutely and unqualifiedly, the organization falls, it being made for a particular purpose. Suppose you were to take the suggestion of the honorable Senator from Mississippi, that it becomes a State upon our action: what then? He alludes to the fact that the Legislature passes laws which are in force as soon as we admit the State. The same thing is true of the election of a Senator. He becomes entitled to his seat the moment we admit the State. ["Let us vote."] I did not desire or design to detain the Senate a moment on the subject, but simply to throw out these remarks; for I rose, as I said, merely to vindicate my personal friend, a man who is above reproach.

Mr. HARLAN. I should not have said another word were it not for the expression of regret on the part of the Senator from Michigan that I have called the attention of the Senate to this subject. I can say to that Senator that it was as painful to me as it could have possibly been to him; and there was doubt in my mind in regard to my duty in the matter; and that my precise condition may be understood, I will take up the time of the Senate for a minute to read a paper or two that have been, by citizens of Iowa, forwarded to my colleague here, and one of my colleagues in the other House, and by them placed in my hands. One of them purports to be a petition of these claimants themselves. They say:

"We whose names are hereunto subscribed, being first duly sworn each for himself, do say that they were settlers and preceptors on what was called and known as the Fort Crawford reservation. And that we were required by the Hon. H. M. Rice, the agent of the War Department in the sale of said lands, to pay to him the sum of \$1 50 per acre for our claims, and that in each instance he would execute in return a receipt for only \$1 25 per acre. We ask that the excess so paid be returned to us.

"Dated this 4th day of January, anno Domini 1858."

That is signed by a long list of parties interested, and their oaths certified to by a notary public, with his seal. There are other affidavits here, or rather copies of them, that have been taken from papers on file in the War Department to the same effect. As I before remarked, these settlers have taken the trouble, and gone to the expense of sending an agent here for the purpose of seeing that their interests were properly represented, who, after calling together the delegation from Iowa made a statement of these facts, as I have represented them to the Senate.

Now, sir, if they be true, I am not willing, as the representative of a sovereign State of this Union, to recognize the Senator elect from Minnesota as a peer on this floor. If they be not true, it is due to him that he be exonerated from the charges made by my constituents under oath and in due form. I ought to state that I have no acquaintance with the Senator elect, have never exchanged words with him in any way or at any place, and know him merely by sight; and no member of the Senate will rejoice more than I shall if, after a proper examination of this subject, he shall be able to exonerate himself fully and completely. I know, too, that that would be the case with my honorable colleague in the other House, who is the immediate Representative of these constituents of ours.

There are other papers here equally pointed. One particular claimant represents, that when he offered to enter his claim he was asked to sign a paper, which he supposed to be a formal application for leave to enter his claim, but which turned out to be a quit-claim to a part of the lands included within the limits of his claim, obtained from him as he alleges by the hypocrisy of the clerk of the agent of the War Department, the Senator elect here on the floor.

Well, sir, if other members of the Senate feel on this subject as I do, they would at some proper time (whether this be the proper time or not) order an investigation of the facts; and if found to be true, I feel quite sure they would not willingly sit with the Senator elect as a peer. It may be that other members of the Senate regard this subject differently from myself. I have supposed that when an agent of the General Government proceeds to the discharge of his duty as such agent, under the pay of the General Government, he has no right to extra fees from citizens of the United States for his services. It is true that a short time since,

when I called the attention of the Senate to a case somewhat kindred, where deputy surveyors had received pay from the General Government, as fixed by law, and had charged and received from citizens of the United States, in a distant State, extra compensation, that charge was justified by their immediate representative on this floor. It may be that other members of this body may not look on this subject in the light I do; but if he viewed it as I do, I am quite sure the Senator from Michigan could not regret that the investigation should be demanded by the immediate representatives of the people in interest. These people are my constituents; they are poor men; and I know full well how easy it would be for an agent of this Government to extort from them money. They are settlers on the public lands. They frequently have spent years of hard toil in improving these lands. The fear of its loss would prompt them, if required by an agent of this Government, to pay illegal fees rather than encounter the risk. I repeat, that if, after an investigation shall be had, if the Senate see proper to order one, it shall be shown that the agent was justifiable in doing what he did, or that these allegations are untrue, and the Senator elect shall emerge from this investigation with a spotless character, I will rejoice with all his friends in the result.

Mr. BENJAMIN. Mr. President, I certainly did not intend to say a word on this subject; but the Senator from Iowa has repeated again, from a paper which he holds before him, a charge against an honorable gentleman, with whom I have no personal acquaintance. He has paraded it before the country as if there was really something in it to affect his personal character. Now, sir, the statement is, as he says, signed by some fifty or one hundred people—I do not know how many—a large number of persons, that Mr. Rice, as agent of the War Department, charged them \$1 50 an acre for the land, and give them a receipt for \$1 25 only.

At first sight this would seem to be an extraordinary proceeding; but if you look upon your table, at a communication from the War Department we had the other day, you will find that Mr. Rice wrote to the War Department that he had done so, and gave the reasons why. The papers were on our table, and I read them the other day, as a matter of curiosity. He states that it was for the purpose of paying certain extra charges—I do not exactly remember what—in the interest of the settlers themselves, which they cheerfully paid over. He did not keep the money. He charged it, and accounted for it to the War Department; the extra twenty-five cents being for the purpose of settling up their different claims, in some way that I do not now remember, and which it is not necessary to specify. It was not a secret proceeding. It was not a claim of a sum of money, and giving a receipt for a smaller sum, and then retaining the surplus or the difference; but it was taking a receipt for this sum, which he immediately accounted for at the War Department, giving the reason for this course of proceeding, which was entirely satisfactory to the Department.

In relation to this quit-claim matter, there is also information in that War Department report which, I think, disposes of that very satisfactorily; but this is not the time for an investigation into these facts. I merely wish to state to-day, because these proceedings go before the country, that this charge against Mr. Rice of receiving \$1 50 an acre, and giving a receipt for \$1 25 an acre, is a charge of a fact which so far from being denied by him, was done by him, as he supposed, with regard to the interests of the settlers, and immediately reported to the War Department; and that there is no suggestion, even on the part of the very parties making this affidavit, that he retained the difference, but they simply ask that that difference may be returned to them by the Government. It is no charge whatever affecting him personally. The Senator from Iowa, I must say, mistook the suggestion of the Senator from Michigan. Nobody suggested that if these charges were put before him on oath there was any impropriety in his bringing them to the notice of the Senate; but, I think, all will agree with me that it was unusual, discourteous, and I will even say cruel, to bring them forward on such an occasion as this.

Mr. TOOMBS. I merely wish to say that I very promptly declined making any argument on

the extraordinary course of the Senator from Iowa. I considered that the gentleman who has been elected by Minnesota needs no vindication from this charge. If it had been sworn to by all the constituents of the Senator from Iowa, and backed by that Senator himself, I should not hesitate an instant about it; and nobody that knows this gentleman would, nor would the country. If he had these charges, he should have presented them before this, or he should have waited and presented them after this. If his course now grew out of his want of judgment or want of knowledge of what was the appropriate time for a Senator and a gentleman to act in such a matter, of course, it is his misfortune. I decline to argue this question until the Senate shall have acted. Those who are willing that this gentleman shall be their peer, that he shall stand on this floor ready to meet the Senator from Iowa on these charges or any other, in any manner whatever, have a right to insist on his being sworn; and, therefore, I ask that the sense of the Senate be taken on that question.

Mr. BAYARD. Mr. President, no acquaintance with the allegations now made in the statement submitted by the honorable Senator from Iowa can influence me at all. I consider that matter entirely irrelevant to any duty we have now to perform. I think it would be unjust and cruel to meet a Senator here, when his admission is proposed, by an inquiry into alleged facts of this kind. If his credentials are in proper form, he has a right to be sworn, and then, if there are any charges to be made against him, let them be presented when he has an opportunity to meet them.

On the other objection which is made, I had at one time doubts whether the Senators from Minnesota would be entitled to seats upon this floor, under their present election, though the State might be admitted at this session. I have changed the opinion which I formerly expressed on that point. I do not doubt still, that only in cases where Congress has given express authority to a Territory to form a State government, and acting under that express authority a State government has been formed, it becomes a State, according to the enabling act, from the hour the State constitution is formed under the authority of the act. It is not then a State of the Union; but when subsequently the constitution formed under our authority is presented to Congress, and Congress admits that State into the Union, I can see no possible objection to giving a retroactive effect, so as to give validity to the action of the Legislature elected, as if the State were a State of the Union from the time when she became a State by virtue of the act of Congress. I, therefore, am prepared to vote for the admission of the Senator from Minnesota, though the objection I formerly stated would still exist if there had been no enabling act for Minnesota, and thus were a case like that of Tennessee. In that case, without any authority whatever, either express or implied, from Congress, the people of Tennessee formed a State constitution and elected a Legislature, which chose Senators to this body, and sent them here in the year 1796, to take their seats on this floor. They appeared and claimed those seats; and even before Tennessee was admitted as a State the committee reported that they might be admitted to the floor of the Senate as spectators. Subsequently, on the morning of the last day of the session, the State was admitted. Their credentials were then presented under an election held previous to the admission of the State; and on their presentation the Senate decided that those gentlemen were not entitled to seats, and they were afterwards re-elected by the Legislature of Tennessee, and took their seats at the next session of Congress. That was in 1796, the first case that occurred after the formation of the Government. Perhaps if that practice had been extended generally as the rule, it would have been more in conformity with a rigid construction of the clause of the Constitution as to the mode of electing Senators; but to my mind there is a clear distinction between that case and the case of Minnesota. In the case of Minnesota we did authorize the formation of a State government; and we provided that it should be an inchoate State, not a State of the Union, from the time of the adoption of the constitution. The constitution was adopted; an election was held under it; a Legislature was chosen; and they have sent Senators here. I think that our subsequent ratification by the admission of the State

may, without any violence to legal principles, be considered as retroactive, and as giving validity to the election, although the State was not a State of the Union at the time it took place.

Mr. HARLAN. Mr. President, for the first time since I have been a member of the Senate, I allude to personal remarks applied to me by Senators on this floor. Once or twice previously, in the discharge of their duties, Senators here have supposed it to be necessary to pursue a similar course. I did not then respond, for this consideration: when such remarks proceed from weak men they are unworthy of response; and they are never resorted to by strong men without a pressing necessity, unless driven to the wall.

Now, sir, when the honorable Senator from Georgia [Mr. TOOMBS] attributes what I have done here to mistaken notions of what a true knowledge of gentility would require, he is welcome to his opinion. I suppose that, on these subjects, men carry within their own bosoms the standard by which they measure others. I protest against the supposition on the part of any member of this body that there exists in my mind the least coloring of personal feeling or acrimony against the Senator elect from the new State of Minnesota. As I before remarked, I have done what I have from a sense of duty as the representative of the people of Iowa; and if Senators here choose to meet me by the application of personal remarks derogatory to my character as a gentleman, I give them notice now, once for all, that such replies are, in my judgment, unworthy the Senate, and will never hereafter be noticed by me. I am not here to defend my integrity or character as a man or as a gentleman. I am here on my responsibility as a representative of a sovereign State, and shall never stoop to engage in personal wrangles. I make no personal allusions to others which I do not believe to be proper in the legitimate discharge of my duties as such representative. And when Senators suppose that other motives influence me, they err greatly.

The Senator from Louisiana chose to represent what I had done as cruel, and stated that in the printed report before the Senate the party was exonerated from any blame whatever. Well, sir, the allegations contained in that printed report are confronted by the sworn statement of citizens of my State; and it is this sworn statement of theirs, with the oral statement of their agent, to which I have alluded, that I have presented to the Senate. If the Senate do not deem these facts, if true, worthy of their consideration, so be it. Then I shall have discharged my duty as the representative of my constituents and of my State. I bring them to the notice of the Senate. I leave it for more experienced members of this body to decide for themselves the proper course to be pursued. It may be that I have erred in judgment, and on that subject I will not confront myself or my judgment with that of the honorable Senator from Georgia. I prefer to confront him with the opinion of the late member from South Carolina, the chairman of the Committee on the Judiciary, whose opinion I before stated.

Mr. PUGH. I should like to ask the Senator from Iowa when the late Senator from South Carolina ever expressed the opinion that, upon the question of swearing in a Senator elect, we were to go into allegations against his personal character? It is contrary to what I have understood to be his opinions in such cases.

Mr. HARLAN. Since I have been a member of this body, there have been three contested cases as to the rights of Senators to seats on this floor. One was my own; another was that of the honorable Senator from Illinois; and the third that of the honorable Senators from Indiana. I will not now undertake to say in which one of these cases this opinion was given; but I know there are Senators around me who remember that this opinion was expressed by the late chairman of the Committee on the Judiciary, and I remember full well that the Senator from Ohio, on that occasion, called in question the correctness of the opinion. Knowing this induced the statement, which I made on the presentation of these papers, that those learned in constitutional law had expressed the opinion, that in cases of this kind objection ought to be made when the party presented his credentials, but that there were others whose opinions were entitled to respect, who differed; and hence my doubt as to the proper time to introduce this matter.

As I stated before, I have no motion to make; I leave it with the Senate. If they suppose that this is the proper time to order a committee of investigation, if, indeed, they shall order one, so be it. It is for the Senate, not for me, to decide.

Mr. PUGH. I should not say a word if it were not that the Senator from Iowa has repeated his assertion. I now recollect perfectly the case to which he alludes. In the discussion in this body upon the right of the honorable Senator from Illinois [Mr. TRUMBULL] to his seat, I put the question to my honorable friend, the late Senator from South Carolina, (Mr. Butler,) what he would do in case a negro were elected to the Senate of the United States, there being no prohibition in the Constitution of the United States against it? He said he would move to expel him; but I never understood from him, on that or any other of the many contested cases in this body which I had occasion to examine with him, that he supposed it to be proper, on the presentation of the credentials of a Senator elect, that the Senate should pause to investigate complaints of private individuals against him. I protest against it in this case, as, in my humble judgment, an insult to the State of Minnesota. She has elected her Senators. The Senator from Iowa does not vote for them. If he is disinclined to sit on this floor with any gentleman whom any other State of this Union chooses to select as her representative, he has a very easy remedy; and that is, to vacate his own seat.

Now, sir, I do not know anything of these charges; but I say this: the Senator from Minnesota—I do not call him the Senator elect; he is a Senator—has a right to open his mouth, and reply to these charges, and not be brought up to the bar of the Senate muzzled, while his own character is assaulted. I believe he is as much entitled to his seat to-day as I am, and I shall vote for his instant admission; and if he is not admitted, I shall consider that the Senate has cast an insult on the State of Minnesota.

Mr. BAYARD. The remarks of the honorable Senator from Ohio induce me to state the distinction which I think exists. There are cases in which I should be prepared, before the admission of a Senator, to decide whether he was entitled to his seat or not. There are cases in which, according to the previous action of the Senate, they would not yield admission to a Senator claiming a seat until their judgment had passed upon the question of his right. This is not one of those cases, I admit. The distinction to me is a very apparent one. Whenever a Senator presents himself with credentials, if there be any fact going to his right to a seat which you should judicially notice, then you are bound to decide the question before you admit him; but if it causes any inquiry which is subject-matter of proof, and is not matter which you can judicially notice, then he is entitled to his seat under his proper credentials, and the inquiry must come subsequently. On no other principle can the action of the Senate be sustained in a case from my own State, where a Senator was appointed by the Governor after the State Legislature had met and adjourned; and the Senate, on objection being made, judicially noticed the fact that the State Legislature had been in session, and, of course, that the executive power of appointment was gone. So in the case of Mr. Lanman, of Connecticut, when he presented himself under an executive appointment, not for a broken term, but for the whole term, without the term having been previously filled, the Senate took judicial knowledge of the facts, and refused to admit him to a seat. I think the distinction is a very apparent one, and whenever such a case arose, I should hold myself bound to object to the admission.

Mr. BRIGHT. I should like to inquire of the Senator from Iowa how long he has had these papers in his possession?

Mr. HARLAN. I think the memorial of the claimants on these lands was forwarded perhaps with as much promptitude as the mails could bring them after their date. I find the date to be the 4th day of January, 1858.

Mr. BRIGHT. How long since the Senator received them?

Mr. HARLAN. I am unable to state how long, but I have had them in my possession some days.

Mr. BRIGHT. Has the Senator from Iowa informed the Senator from Minnesota of the re-

ceipt of those papers, and of the charges contained in them?

Mr. HALE. I rise to a question of order. I think this catechising Senators across the Senate is out of order.

Mr. HARLAN. I am willing to answer the question.

Mr. HALE. I am not.

Mr. BRIGHT. My object in making the inquiry was to ascertain whether it could be possible that any gentleman holding a commission as a Senator on this floor could receive papers containing charges as grave as those made in the papers presented against a brother Senator, and conceal all knowledge of the fact from the party charged until a period of time like this. I think such conduct unprecedented, unparliamentary, and un-senatorial. If the Senator from Iowa was in possession of those papers, I submit to the consideration of every Senator whether it was not proper, whether it was not respectful, whether it was not due to the gentleman interested, and if he was not acquainted with him, whether it was not at least due from him to the friends of the party assailed, that he should have made known the contents of those papers, the character of those charges, that opportunity of explanation might be given, if it could be, as I doubt not it can and will be in proper time, and thus have avoided so unpleasant, and I may add cruel, assault upon the conduct of a member of this body at a time and under circumstances so mortifying as the present.

Sir, I indorse every word that has been said by the Senator from Michigan, and the Senator from Mississippi, as to the irreproachable character of the Senator from Minnesota, and his antecedents alone should have shielded him from this blow; but he needs no indorsement from any one where he is known. His history, as a public man and as a private citizen, places him above reproach. I can well imagine how he must feel, assailed in this surreptitious manner, without even the privilege of speaking in his own defense. It would have been much more appropriate, and in much better taste, if the Senator from Iowa had permitted the Senator from Minnesota to have been sworn, that he might have had an opportunity of explaining this matter. Mr. President, I know nothing of the details of this transaction; but I do know enough of the character of the gentleman whose conduct is brought in question, to warrant me in saying that he will, in due time, explain satisfactorily to the country every charge preferred against him. I set up his exalted character, as a private citizen and public man, against the insidious assaults that are paraded here, in the form of affidavits made by persons whom even the Senator from Iowa himself seems to know nothing about, and who may or may not have an existence. I only rose, sir, for the purpose of expressing my surprise at the mode and manner of this attack; and of saying that, in due time, I have the fullest faith that these charges will be met and explained, and that the Senator from Minnesota will stand vindicated before the country.

Mr. DAVIS. Whatever may have been the original merits of the case, I think the side of cruelty is changed. One after another Senator rises and assails the Senator from Iowa because he has presented a case here which his constituents made it his duty to present. As to whether he should have done it before the Senator elect was sworn in or not, is a question which I hold he had a right to decide for himself. If he considered the accusation such as disqualified him for a seat, the Senate being the judge of the qualification of its own members, he had a right to raise that question before the Senator elect was sworn in. If he preferred to present the question in that form, rather than to ask after he had been sworn in that he should be expelled from the Senate, I do not see what right there is to arraign the Senator from Iowa for the act. A duty was imposed upon him, and I, for one, cannot subscribe to this general arraignment of the Senator for the manner in which he has performed it.

The VICE PRESIDENT. It is moved and seconded that the Hon. HENRY M. RICE, one of the Senators from Minnesota, whose credentials have been read, be now sworn in as a member of the Senate. The question is upon that motion.

The motion was agreed to; and Mr. RICE having taken the oath prescribed by law, was admitted to his seat in the Senate.

Mr. TOOMBS. The Legislature of the State of Minnesota, in the joint convention which elected Senators, passed a resolution on the subject of their tenure. It is a question of some trouble and difficulty, and I move that it be referred to the Committee on the Judiciary.

The VICE PRESIDENT. The Senator from Georgia moves that a certain resolution of the Legislature of Minnesota be referred to the Committee on the Judiciary.

Mr. HALE. Let it be read.

The Secretary read the following paper, attested by the Speaker of the House of Representatives and President of the Senate of Minnesota:

"At a regular session of the Legislature of Minnesota, convened in joint convention in the Hall of the House of Representatives, on Saturday, the 19th day December, 1857, the following resolution was passed, by a vote of 65 in the affirmative to 31 in the negative:

"Resolved, That it is the wish of this convention that HENRY M. RICE shall represent the State of Minnesota in the Senate of the United States for the long term."

The motion to refer was agreed to.

Mr. RICE. I rise, Mr. President, under very peculiar and painful circumstances, for the first time in the Senate. Of the statement just made by the Senator from Iowa, I had no knowledge. I knew not that there were any papers here objecting to the sale, or the manner in which it was conducted. I had no notice verbally or otherwise that he would take the course he has. I am so much astonished at the proceeding that I cannot express my feelings here. It would not be proper for me to do so under the circumstances. I will merely state, however, that that land was sold in exact accordance with the instructions of the Secretary of War, and in accordance with the wishes of the settlers; and that, had the Senator taken the trouble to examine the papers on file in the War Department, he would have found that there is not one word of truth in the statements he has made. I shall demand an investigation; and I here pledge myself to the Senate that if, in that investigation, there is a single fact found that will impugn my motive or my action as a Government officer and as a man, I shall resign my seat. I leave the Senate and the country to judge of the motives of the Senator from Iowa for the singular course he has seen fit to pursue.

Mr. SEWARD. I move that the papers submitted by the Senator from Iowa, in regard to the representations prejudicial to the Senator from Minnesota, be referred to the Committee on the Judiciary.

Mr. HARLAN. I propose to amend the motion of the honorable Senator from New York, or, if he will consent, I will offer a resolution on the subject.

Mr. SEWARD. Very well.

Mr. HARLAN. I present the resolution, and ask for its consideration now:

Whereas, the settlers on Fort Crawford reservation, in the State of Iowa, allege that they have been defrauded by Mr. HENRY M. RICE, as agent of Hon. John B. Floyd, Secretary of War, in the sale of their claims as settlers on said reservation, namely:

1. That said Secretary of War instructed HENRY M. RICE to sell to the settlers on said reservation their claims at \$1.25 per acre; that said RICE required said settlers to pay for their claims at the rate of \$1.50 per acre, and received to them, on the payment of said \$1.50 per acre, for but \$1.25 per acre, and refused to receipt to them for the remaining twenty five cents per acre received of them by him, as aforesaid.

2. That sundry cases in which settlers applied to said RICE for leave to enter their said claims, he referred them to his clerk, who charged them fees varying from ten to eighty dollars each, in addition to the said \$1.50 per acre, for leave to purchase their said claims; that these fees were charged and received by the said RICE, corruptly, as said settlers believe, through the interposition of his clerk.

3. That said RICE negligently failed to give said settlers reasonable notice of the time of said sale, and thereby subjected them to the necessity of borrowing money at enormous rates of interest, with which to purchase their said claims.

4. That said RICE defrauded one of said settlers of his rights to purchase his claim under the instruction of the Secretary of War, by surreptitiously securing from him a quit claim to a part of the land embraced in said claim: Therefore,

Resolved, That a committee be appointed to investigate the allegations of fraud and extortion made against HENRY M. RICE, as agent of the Secretary of War, in the sale of the Fort Crawford reservation, by settlers on said reservation, and that said committee have power to send for persons and papers.

Mr. BENJAMIN. I prefer that the resolution should lie over. I wish to examine it.

The VICE PRESIDENT. The consideration of the resolution being objected to, it must lie over.

Mr. CRITTENDEN subsequently rose and said: The credentials of the Hon. JAMES SHIELDS, as a Senator from Minnesota, were some time ago presented by me, and laid on the table. I ask that they be taken up and read; and that General SHIELDS be admitted to his seat.

The credentials were read; and the oath prescribed by law having been administered to Mr. SHIELDS, he took his seat in the Senate.

FISHING BOUNTIES.

Mr. CLAY. I suppose we may now return to our cod fish. [Laughter.]

The VICE PRESIDENT. The bill (S. No. 10) is now before the Senate as in Committee of the Whole.

Mr. CLAY. Mr. President, after the very able arguments, occupying some eight or ten hours of the time of the Senate in opposition to the bill which I have introduced, I might be excused for claiming the attention of the Senate for at least one hour, for it requires a great deal longer time and many more words to expose the fallacy of a sophism or of an assertion than it does to make it. But, sir, I intend to be as brief as I can be, in order to vindicate myself from some seeming aspersions, and in order to sustain the positions which I have assumed; and I promise the Senate that I shall not occupy more than twenty or thirty minutes of their time.

I must say in the outset, that I do not think the opponents of this bill, the advocates of the cod-fishing bounty, have conducted this debate with that candor and fairness and justice which ought to characterize our debates if we design to arrive at the truth. Many things have been lugged into this debate which are wholly impertinent, and not only impertinent but improper. It has been insinuated, Mr. President, though not directly charged, that this movement was prompted by a spirit of sectionalism. I challenge Senators to show anything in my course on this or any kindred measure in the Senate, which warrants such an imputation against me. It is not, it is insinuated, because it is a bounty, but because it is conferred upon the citizens of two States of this Union—the States of Maine and Massachusetts—that I have moved its repeal. My whole course as a member of the Senate, will show that I have been an opponent of the bounty system in every shape and form in which it has been preferred. My course in the committees of which I have been a member will sustain this assertion, and will show that I have been disposed to mete the same benefits and burdens to the people of every section of this Union. Sir, this is a sectional interest; and because I assail it as a sectional interest, I am charged with being a sectional man, by insinuation at least. It is an interest confined to a small locality, to an inconsiderable number of persons, and to a particular class; and for that reason, I have assailed it as unwarranted by the spirit and theory of this Government, and as unwarranted by any clause of the Federal Constitution.

I am charged, too, by insinuation, with assailing the labor of the country. Wherein? How do I assail the labor of the country in proposing the repeal of this bounty? Do I propose to take anything from the fruits of the labor of the cod fishermen? Do I propose to take anything earned in the sweat of their faces from them? I propose to impose no burdens on them; I propose to subtract nothing from their legitimate earnings; but I propose to take a burden off the remainder of the community; and because I do this, I am told that I am assailing the labor of the country!

We are told that the labor of the country requires protection at this time. Well, sir, what is constitutional, legitimate, and just protection? I have been taught to believe that it is simply securing to each man the fruits of his own labor; it is simply securing the right of earning his bread by the sweat of his brow; but from the arguments on the other side, I must believe that they think that protection consists in partiality to a particular industrial interest. Protection with them is taxing the many for the benefit of the few. Protection with them is exacting tribute of thirty million people in order to encourage the industry of some two thousand. That kind of protection I repudiate. That kind I will never practice.

Again, sir, it has been charged that I have denied that the fisheries of other countries or of the United States have contributed anything to their

naval power or to our naval power. I said no such thing. It has been said that I denied that this was a nursery of seamen. I did no such thing. All I maintained was that it was not the nursery of seamen, that it was not indispensable to maintain a navy; that we had other resources independent of the cod fishery.

Again, we have heard a great deal in the way of encomium upon the patriotism of the fishermen, upon the courage, prowess, and patriotism illustrated by them in our last war with England and in our revolution. Who disputes it? Who has endeavored to disparage their claim to these virtues? I have not, nor has one who has advocated this bill.

Now, sir, why occupy the time of the Senate with an elaborate history of the fisheries? This may be very instructive and entertaining to those who have not read, as I have, the speech of the Senator from Maine, [Mr. HAMLIN,] made many years ago, and the speech of Mr. Scudder, in the House of Representatives, in 1852, and the report of Mr. Sabine. But what is the object of this recitation of the history of the fisheries—not merely of the cod fisheries, but of all the fisheries of all the nations of the earth? It is by a species of logical legerdemain to impute all the credit, all the good results arising from the various fisheries to the cod fishery. It is an attempt to absorb for the cod fishery all the benefits and all the glories of the various fisheries that have ever existed in the world.

Mr. President, I do not think that I am guilty of any egotism, or of a want of respect for the opponents of this bill when I say that the speech I made the other day has not been answered by them; that they have not met the positions which I there laid down. I say this, not because of any ingenuity or strength of argument on my part, but because I presented an array of facts which cannot be answered; facts which no adversary argument can impair, which no supporting argument could strengthen.

What are the grounds assumed now in opposition to this bill? We are told, in the first place, that although originally the salt duty was the source of the allowances to the fishing vessels, yet such was not the ultimate policy of the Government. We are told, in the next place, that the fisheries are the nurseries of seamen, and that we must support them on that account; and lastly, that the cod fishery could not live without the bounty. I propose very briefly to answer these positions.

In the argument which I endeavored to make the other day, I assumed that the inducements to the laws which existed in 1792, did not now exist, and I proved it. I proved it by figures. I showed that while, in 1792, the tonnage in the cod fishery constituted one eighth of the entire tonnage of the nation, at this day it constitutes but a forty-eighth part; that while, in 1792, the value of exported cod fish constituted more than one sixth of the entire value of the domestic exports of the United States, at this day it constitutes but one sixth hundredth part. I showed that, instead of contributing about one sixth of the revenue of the United States, as in 1792, at this day it subtracts \$12 50 where it puts one in; that if it contributes \$26,000 in the way of duties upon imported salt used in curing the fish, it subtracts \$300,000 in the way of bounty. I attack it as a bounty. I said that the inducements presented by its advocates in 1792, did not exist, and that has not been denied. I said that the reason for the law no longer existed, and therefore it should be repealed. That has been partially denied, and to that I invoke the attention of the Senate for a few moments.

Here I must remark a discrepancy between the arguments of the advocates of fishing allowances in this day and in 1792, and between the advocates on this floor at this time. I showed the other day that originally the Representatives of the several New England States repelled the charge of claiming any bounty for the cod fishery, that they came forward and said they claimed justice but no favors. In order to refresh the recollection of Senators, and strengthen somewhat the position I assumed, I call attention to what was said by Mr. Gerry, and which I did not read the other day. In the opening of his remarks, he said, in February, 1792:

"The State of Massachusetts asks nothing more than equal justice. We do not come forward to request favors

from the United States; we only wish that the same system which is applied to other parts of the Union may be applied to us. But in examining this question, we wish that gentlemen would not make distinctions which will not admit of a difference.

"The proposed allowance has been called a bounty on occupation, and is said to be very different from that encouragement which is the incidental result of a general commercial system, but in reality it is no bounty: a bounty is a grant made without any consideration whatever as an equivalent; and I have no idea of a bounty which admits of receiving from the person on whom it is conferred the amount of what is granted. We have imposed a duty on salt, and thereby draw a certain sum of money from the fishermen. The drawback is, in all instances, the amount of the money received. This is all we ask; and we ask it for a set of men who are as well entitled to the regard of Government as any other class of citizens."

Such was the idea presented by all the advocates of the act of 1792. I showed furthermore, by a mathematical demonstration, that upon the predicate presented by the advocates of that change of the system from a drawback of duties to the shipper of the fish to an allowance upon the tonnage, the amount received in tonnage allowance did not exceed the drawback. And yet, notwithstanding the act itself declares upon its face that it is a mere commutation and equivalent for the drawback; notwithstanding the advocates of the act declared in every speech which they made that they asked no favors but merely justice, that they asked no bounty but simply the equivalent of a drawback, notwithstanding the act was construed so long as it existed as according nothing more than an equivalent for the drawback so construed by the fishermen themselves, as I showed in their petitions to Congress; notwithstanding all this array of facts, notwithstanding the clearest inductions of moral reasoning and even of demonstrations of mathematics, Senators come here and tell us that when the system was changed, it was intended as bounty. True, the Senator from Maine who first addressed us [Mr. HAMLIN] said that up to 1813 it was in the nature of a drawback or its equivalent, and then the system was changed. His colleague, [Mr. FESSENDEN,] however, who followed him, said that the change was made in the act of 1792; and the Senator from New York, [Mr. SEWARD,] who succeeded him, either because he was less informed or because he was less cautious in his assertions, declared that bounty had been the invariable policy of the country. Now, sir, in 1807 the previous acts were repealed; and what was the language of the repealing act? One section of it will show how this allowance was construed at that day, how all previous allowances under the acts of 1792 and of 1797, and of 1800, were then construed. In the second section of the repealing act it is provided:

"That from and after the 1st day of January next, so much of any act as allows a bounty on pickled fish in lieu of drawback of the duties on the salt employed in curing the same, and so much of any act as makes allowances to the owners and crews of fishing vessels in lieu of drawback of the duties paid on the salt used by the same, shall be, and the same is hereby, repealed."

Up to that period of time, then, you cannot deny that drawback, or an equivalent for drawback, and no bounty, was what was designed to be given. You cannot deny that position unless you impute to the framers and advocates of these laws, to your predecessors, the Senators and Representatives from New England in the two Houses of Congress, either ignorance of what they asserted or deliberate falsehood and fraud. I will show that such was the fact in respect to the act of 1813, and that if you get the bounty by persuading Senators that bounty was intended, you do it by bankrupting the honest fame of your predecessors on both floors of Congress; that if you can build up this bounty by such arguments, it will be upon the ruin of the reputation of the men who framed the laws, because they were either guilty of dissimulation, or the laws were framed as I assert, merely for the purpose of giving an equivalent for a drawback, but no bounty.

The Senator from Maine, [Mr. HAMLIN,] who first addressed the Senate in opposition to this bill, said, that while he conceded that up to 1813 the allowance was contingent upon the salt duty, and was intended as an equivalent for the salt duty, yet in 1813 the system was changed. Here is what he said:

"The last law on the subject, which was passed in 1813, gave a bounty in words, and it fixed it upon the tonnage of the vessels, and that bounty was regulated according to the size of the vessel. It is true that in the same bill a duty of twenty cents a bushel was imposed upon salt; but the fair

interpretation of that act is, that it gave precisely what was asked."

"Just think of such a construction, Mr. President: 'gave precisely what was asked!' It imputes either a most reckless prodigality on the part of the framers of this law, or a most laudable abnegation of self on the part of the advocates of the fishing bounty, as I shall show before I have concluded. He continues:

"It was a departure from the old rule of making the allowance of the fishermen depend upon the amount of the duty upon salt. Besides, that same bill also allowed a drawback, giving to the fishermen a drawback and a bounty. That bill, by its terms, I say, proves clearly an intention to depart from the system which had marked the earlier period of the Government, when they did what they supposed was sufficient for the protection of the fishermen. The terms of that bill are conclusive that Congress designed to depart from the earlier policy of the bill, and to allow a certain bounty, on which the fishermen might rely. Did Congress, then, provide, as they did in any other bills, that the amount the fishermen should receive should depend upon the amount of salt used? Did they provide that the fishermen should use any quantity of salt? No, sir. Did they provide that the sum which the fishermen should receive should be held in the Treasury until it was ascertained what amount of salt they used? No, sir."

Now, sir, take up the act of 1813, and compare it with the previous legislation, after the tonnage allowance was adopted, and I challenge Senators to show any substantial difference in the acts. It will be found that the act of 1813 is a substantial paraphrase of the previous legislation upon the subject. It will be found that it employs the same terms in relation to tonnage allowances; that it gives the same allowance upon tonnage; that it fixes the same maximum of allowance; that it requires the same division of the allowance between the owner and the fishermen; that it requires the same period of employment at sea; that each act fixes, in the first section, the salt duty at twenty cents; that each bill required vessels of from five to twenty tons to land, during the season, twelve quintals of fish for each ton, and that quantity of fish to be ascertained when dried, and cured fit for exportation; and that in each the allowance on tonnage or exported fish bore the same relation to the salt duty. It is certainly a most violent presumption that Congress, in reenacting substantially the same law, making the same allowance upon tonnage, in the same language, and upon the same terms and conditions, should yet have designed to change the system, should yet have designed to give bounty, and not an equivalent for drawback. It is very singular that, as in the previous acts, the salt duty is fixed at twenty cents in the first section, and the salt duty and the allowances are found together in the same act; it is very singular that by that act, as by the previous acts, no allowance was made to the whale fisheries; and yet Senators will find that in the report of Mr. Jefferson, as Secretary of State in 1791, he states that the whale fishery, like the cod fishery, is a poor business. He says, to use his own language, "that the business, unaided, is a wretched one;" and he devotes the larger portion of that report to show the necessity of fostering the whale fishery as a nursery of scamen, because it was unable to stand alone, and had never succeeded without governmental aid in other countries. And yet Congress did not, in 1792, make any allowance to that on its tonnage; and it did not make any allowance in 1813. Why did it not do so? Because the whale fishermen did not consume salt; because they did not use salt in curing fish.

Now, take up the allowance made under the act of 1813, and I say it is susceptible of mathematical demonstration that the allowance was in proportion to the salt duty, and that those who passed the act designed to give nothing more than the salt duty. Thus, the allowance on vessels of thirty tons and upwards was \$4 per ton. On a vessel of sixty tons, it is true, it would give an excess of \$24 above the aggregate of duties, because the duty at thirty cents, allowing twelve bushels of salt to the ton, as they claimed, would have been \$3 60 the ton, which would have made in the aggregate \$216; whereas, \$4 a ton would be \$240. But when you come to all vessels under that in amount of tonnage, you find that the allowance fell short of the duty or drawback. Thus, on vessels from twenty to thirty tons \$2 40 was allowed by that act, which was \$1 20 per ton less than the salt duty, which was then twenty cents on the weighed bushel of fifty-six pounds, or thirty cents on the measured bushel. So on ves-

sels of from five to twenty tons the allowance was but \$1 60, which was \$2 less than the salt duty to the ton.

Thus in the aggregate it would appear that really less was given in the way of allowance than would have been received in the way of drawback. Such is the argument that was used as an inducement to Congress to pass this act of 1813; and to establish that fact, I call the attention of the Senate to what was said by Mr. John Reed, of Massachusetts. Pending this very act, on the 16th of July, 1813, Mr. Reed said:

"The amendment now under consideration, to the bill laying a duty of twenty cents per bushel on imported salt, makes an allowance to vessels engaged in the cod fisheries under certain limitations and restrictions as therein provided, and also allows a drawback on the exportation of pickled fish and salted provisions. The allowance and drawback above mentioned are intended as an equivalent to the duty paid on the salt used in curing and preserving fish and meat."

"I would state to this House that, in the curing and preserving cod fish, great quantities of salt, especially in comparison with the value of fish cured and preserved, are absolutely requisite. I believe the remark equally true, as it respects pickled fish."

"If a duty of twenty cents per bushel be laid on all foreign salt, as contemplated by the bill on your table, and the proposed amendment should not prevail, this tax would be oppressive on fishermen beyond all precedent or endurance."

"I will not for a moment believe any gentleman in this House, while he complains of burdens about to be laid on his own constituents, almost too heavy to be borne, will consent to lay burdens one hundred fold heavier on any portion of the inhabitants of any section of the United States."

"Again, by the Constitution we have no power to tax the exports of our own country; and by a provision in the bill on your table, conformable to the uniform policy of the country, when salt imported is again exported, a drawback is allowed. If no duty can be laid on our own exports, and a drawback of duties paid be allowed on the exportation of foreign merchandise, I am unable to perceive any good reason, founded either in justice or the fitness of things, why those who pay the duties on salt necessarily used in preserving fish and meats should not be entitled to the like advantages on the exportation of the same, as they would have been, if the salt had not been usefully employed. It can certainly be no objection in the mind of any man that the salt is incorporated with the fish—a production of this country of so little profit to the fisherman, and so highly advantageous to the United States. The quantity of salt necessarily used can be easily ascertained. I do not believe the allowance proposed adequate to the duty on salt which must necessarily be used."

Again, in 1816, when an attempt was made to repeal this act of 1813, I find that the repealing law being under consideration, Mr. Reed—the same man, I suppose—said:

"We ought, as far as possible, so to impose taxes as to operate equally on all, and oppressively on none. The high price of salt in some places is not owing to the duty, but to the expense of transportation."

"The amount of drawback mentioned by the honorable gentleman from North Carolina, [Mr. Stanford,] paid some years ago, probably includes the drawback then allowed on salted provisions, on which a drawback is not now allowed. If not, it has not been proved that the drawback at that time exceeded the duty paid on salt actually used in the fisheries. The sum of four dollars per ton allowed to fishing vessels which have been employed four months, in lieu of a drawback, may, in some instances, exceed the duty on salt used; but I do not believe, on the whole, it is an equivalent."

"We are told by the honorable gentleman from Virginia [Mr. Randolph] that he has been informed, by a respectable and intelligent man, that the fishing business failed after the repeal of the salt duty; that, perhaps, the debenture certificate might be very convenient for those poor men engaged in the fisheries, to purchase whatever they might need for the voyage, or for their families."

"In the first place, it is not a fact that, on the whole, the fisheries declined in consequence of the repeal of the salt duty."

I call the attention of Senators to that fact. It was stated here the other day, in argument, by the Senator from Maine, [Mr. FESSENDEN,] that the cod fishery declined after the repeal of the bounty, as he styled it, in 1807, in consequence of that repeal. Here we find that one of his predecessors, from the State of Massachusetts, advocating the interests of the cod fisheries, declared that such was not the fact. He said further:

"There were more vessels engaged in the fishing business in 1807 than at any former period. Since that period, other causes have destroyed the fisheries. But had the honorable gentleman been correct in his information on the subject, he himself, in the close of his statement, offered a sufficient reason for their decline, to wit: that poor men engaged in the fisheries wanted ready money, which was obtained by their debentures during the continuance of the duty on salt, and not, as has been intimated, that the drawback exceeds the duty. Indeed, from what I have been able to learn on the subject from men engaged in the business, I do not believe the drawback exceeds the duty. I believe those engaged in the fisheries have paid this year as much duty on salt, over and above the drawback, as farmers who possess property of equal value."

Again, in 1827, when a further attempt was

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made to repeal these bounties, I find it was alleged by Mr. Holmes, of Maine, that—

"The bounty on the fisheries was established at the same time that the duty was first levied on salt, and was considered as a kind of drawback upon that duty; and the reason of it was, that many gentlemen had scruples as to the power of Congress to give a bounty on any successful enterprise. These doubts would have entirely prevented the encouragement of the fisheries, as a nursery for seamen, had it not been for this combination of the two provisions. Great injury to our commercial interests would have arisen out of a failure to allow this bounty; and he was opposed to the bill, in the first place, because it would bring with it, as a natural consequence, the repeal of this bounty—not that any such proposition was made in the bill, but from the fact that both of the provisions were connected; therefore, what affected the one must touch the other. Now, sir, (said Mr. H.) I think it is of great importance to retain this bounty. It is given on the tonnage of the vessel, not according to the success of the fisheries; and if fishermen remain six months in this employment, they share the bounty, let their voyage prove successful or not." "It was doubted now, as well as formerly, whether Congress had a right to fix this bounty, except as a kind of drawback upon the duties on salt; and if they repealed the duty, the drawback would follow."

Thus, sir, it will appear on an examination of the debates in Congress upon the subject of repealing the salt duty, that, incidentally, the allowance to the fisheries was made in every debate; and that, in every discussion upon the revival of the salt duty in 1813, and the attempt to repeal it in 1816, in 1818, and in 1827, in each and every one of these debates it was maintained that the allowance was not an equivalent for the drawback or the duty. Hence, sir, I say that the position now assumed that bounty was intended to be given, and not a mere drawback or equivalent for drawback, is an afterthought. I show that the advocates of these laws before they passed, and after they passed, as late as 1828, maintained that the fisherman had nothing more than the return of his own money, that you gave him nothing. That you merely repaid the money he had advanced you, or, in the language of Mr. Madison, you simply paid a debt to him; yet we are told to-day that it was designed to be bounty.

Mr. President, I will not argue this question further with the Senators. I repeat that if what they say be true, and if, as intimated by the Senator from Maine, [Mr. HAMLIN,] there was a design to allow something more than an equivalent for the drawback of the duty, then his predecessors on this floor were guilty of dissimulation and falsehood, in order to achieve a fraud upon the Treasury, and their brother Representatives and Senators in Congress at that day. I have said that the effects of these laws are far different at this day from what they were when they were passed. That I have demonstrated. I have shown that instead of realizing a mere drawback for the duty, they are realizing twelve and a half dollars from the Treasury where they put one dollar in. I will not protract the discussion on that point.

But, sir, we are told that this is the nursery of seamen; and how do the Senators undertake to prove that? They expatiate at length upon the value of the fisheries—not the cod fishery. They tell us what the fisheries of other countries have achieved for their naval power, and what ours have done for our naval power. The question which I submitted to them, and which they have not answered, was this: why it was that the whale fishery and the mackerel fishery and other fisheries of the United States could not furnish seamen as well as the cod fishery? What was the peculiarity of cod catching that entitled it to this preference? That question they have not answered, and they cannot answer it. Why, sir, Mr. Cooper, who, perhaps, understood the naval history of this country better than any other man, in writing that history, endeavoring to exhibit a type of a sailor, a model worthy of emulation, did not go to the cod fishery to find him, but he found him among the whale fishermen. I say, notwithstanding the denial of the Senator, that no man who has eyes in his head can compare the rigging of merchantmen or men-of-war or whalers with that of a fishing smack—can hesitate to see that the former are better adapted to nurturing sailors to man our vessels of war than the cod fishery.

In respect to the bounty system, I will not detain the Senate by reading authorities which I have at hand to establish the position I assumed, that the fisheries of no country, according to the historians, have prospered under the bounty system; and the best proof of it is, that England and Holland have abandoned their bounty system. According to the testimony of MacPherson, McCullough, Adams Smith, and of every writer that I have consulted on the fisheries of England, it has exercised rather a depressing than a beneficial influence. In consequence of it they have abandoned it; and, as I said before, the fishermen of Nantucket and New Bedford, in our own country, unaided by Government bounty, have outstripped the sailors of England, of France, and of Holland, with all the great bounties which were bestowed on them for two hundred years.

We are told that they cannot live without it, and that it is cruel to take from them this bounty, which is the very source of their existence. Those who will trouble themselves to read the debates in the early history of this system of tonnage allowance, will see that one of the arguments then adduced was, that the fisheries were in their infancy. They will see, too, from the legislation of Congress, that certainly it was never designed to foster these fisheries as nurseries of seamen, because none of the laws that were passed were for a longer period than ten years, and several of them were but for two years—within which time we could hardly train a nursery of seamen. Now, after enjoying for nearly seventy years the bounty of this Government—after feeding on Federal pap for nearly seventy years—we are told that this interest is still a puny pet, a mere nursing in arms, without any of the bone or muscle of manhood, in the mere gristle of infancy, and unable to stand alone. Well, sir, I ask, then, why should we foster it longer? Here is the whale fishery which, without the aid of Government bounty, has grown to such a degree that it now commands more tonnage than that of any other Government of the world. The report which I submitted to the Senate shows that, while the cod fishery, with all the favor extended to it by the Government, has only increased about three-fold since 1799, the whale fishery in the same time has multiplied forty-eight times; or, in other words, there are forty-eight times as many whaling vessels, more than thirty-seven times as much tonnage, and upwards of sixty-one times more men engaged in it now than at that time. How is it with the mackerel fishery? Mr. Scudder says that is conducted in the same kind of vessels, by the same men, at the same season of the year, in the same waters; and is attended with like toil and dangers as the catching of cod. He said, indeed, that it was better adapted as a nursery of seamen than the cod fishery, as I understand his speech; and yet the mackerel fishery has managed to live and to flourish, and, according to his testimony, to rival the cod fishery in tonnage and men employed, without the aid of Government bounty. I will read to the Senate a paragraph or two from his speech. He was the representative of the Barnstable district, the largest fishing district of New England—a district which has realized upwards of two million dollars in the way of allowances to the cod fishery. He said:

"This [the mackerel fishery] is much more fluctuating and uncertain than the cod fishery. In one season it may yield a profit, and in another prove disastrous both to owners and crew. Even in one part of the season it may be successful, and in another very unsuccessful. It seems, in a great degree, to be a chance game or lottery. The fishermen and shoremen engaged in it are of the same class as those that pursue the cod fishery; in fact, they often change a number of times in the same season from the one to the other, according to the luck. The expense and outfit are about the same in each. These fish are taken in the waters nearer the coasts than the cod fish are."

"I have already shown that the cod fishery, being patronized by the Government, returns the better profits, and employs the greater number of men; but, were the same patronage extended to the mackerel fishery, it would undoubtedly increase far beyond that of the cod fishery. It is considered a more pleasant and desirable business; it has greater attractions for the youth of the country. Though fraught with equal sea danger and toil, yet in incident and adventure it is better adapted to the enthusiasm of the young man who is about to take his first voyage upon the ocean."

"Let the Government extend its aid to this branch of our industry, and the scarcity of American seamen which now prevails would soon cease to be felt."

Thus, sir, according to the testimony of one of the advocates of these fishing bounties—who certainly ought to be as well informed as any one, the Representative of the largest fishing district in New England—the mackerel fishery, without the aid of Government bounty, quite equals the cod fishery at this day in tonnage and men employed, although its existence only dates back to 1828, or at least no license was granted to a mackerel fisherman before that time. Hence I asked, and I requested Senators, when I before addressed the Senate, to solve this question: why it was that the mackerel fishery, conducted in the same waters, under the same circumstances, without the aid of Government bounty, had grown from nothing, since 1828, up to the full stature, or nearly the full stature, of the cod fishery; and yet the cod fishery could not live without this bounty. Why, sir, the Senator from Massachusetts, with a pride of State which I thought was highly laudable, protests against this assumption. As I understood him, he said, if you take away the bounty it will not crush our industry; we can live without it; and such I doubt not is the fact. Such is the testimony of the newspaper press of New England, so far as I have read it; and if I may credit what I see stated there, there is at least a large minority of the people of the States of Maine and Massachusetts engaged in the fisheries, who desire to see this bounty system repealed.

Mr. WILSON. Will the Senator allow me a moment?

Mr. CLAY. Certainly.

Mr. WILSON. I wish to say to the Senator that I think the repeal will be injurious to the fisheries, but I do not think it will crush them. I am opposed to the repeal, but I think we shall get along, although it will bear oppressively on the fisheries, perhaps diminish them to some extent.

Mr. CLAY. The statistics which I exhibited in the table appended to my report, I think are a sufficient reply to all that may be said, certainly to all that has been said, designed to show that the fisheries cannot live without the bounty. I showed by the table that they had realized, during a series of years, from seventy-eight to one hundred and nine gross per cent. upon the capital invested. I then took, as the basis of my calculations, the statements made by this same Mr. Scudder, in which he said you must deduct fifty per cent. in order to ascertain the net earnings, and, after deducting fifty per cent. from the gross proceeds, I found still that they realized from thirty up to sixty per cent. Even, after deducting over and above that, the pay of the fishermen at the rate he estimated, still I found that they realized a larger profit than any other industrial pursuit in this country. And all this, too, is for but four months of the year; and all this is without any consideration of fishing bounty, and all this is without any consideration of the fresh fish sold which are not taken into the estimate. Hence, I say that I do not believe they need the bounty.

The fishermen of New England have enjoyed more favors of this Government than any other class of people in the Union. They complained of the duty on salt; they were relieved of that by this system of allowances in lieu of drawback. At this time that duty has sunk from thirty cents to about two cents per bushel. They complained of the duties levied upon other articles; at this time those duties are reduced in a like ratio, some of them merely nominal. They complained that they had not the privilege of fishing on the coasts of the British Provinces, and dry-curing their fish upon land; that is now secured to them by the reciprocity treaty. They complained of the want of a market for their fish. At that time we had but three million inhabitants in the United States; we now have about thirty million; and they can find a home market for all the fish which they can take. They complained of the difficulties of their coast; at this time they are better illuminated with light-houses and lights than any other portion of the

coast of the United States; at this time they have about four lights for one on every other portion of the coast of the United States. In addition to that, these men are ship-builders, many of them, as I find from the speeches of some of their advocates; and they enjoy a monopoly of ship-building. These men are coasters, and pursue the coasting trade when not engaged in the fisheries; and they enjoy a monopoly of the coasting trade. Notwithstanding the bounties of this Government are lavished upon them in the way of monopoly, in the way of a reduction of duties until they are merely nominal; notwithstanding they have enjoyed an absolute, direct, and unqualified bounty for the last thirty years of the existence of this Government; yet we are told that it will be dealing very hard by them to take from them this bounty!

Mr. President, I assailed this bounty because I believed that it was unconstitutional. Instead of replying to this argument, the Senator from Maine who secondly addressed the Senate, [Mr. FESSENDEN,] seemed to consider that it was my duty to have proven it. He denied that I had proved it; but he did not attempt to show the grant to Congress under which he derived the power. I understand, as has been repeated several times, that this is a Government of specific and limited powers, and it behooves those who claim a power to prove its existence. It is not incumbent on me to prove a negative, and show that no such power exists.

But, sir, independent of the specific clauses of the Constitution to which I alluded, I say that the bounty system is contrary to the theory and spirit of this Government, and of all free Governments. Viewed in the light of natural reason, independent of all organic laws, who can say that it is just and proper to levy tribute upon thirty million people in order to swell the stores of some two or three thousand, or at most, of fifteen thousand? Suppose any number of persons, cast by shipwreck on an uninhabited island and about to form a government for themselves—can any one believe that the majority of such a people would ever agree to form a government with the understanding that nine men in the community were to contribute a portion of their earnings in order to swell the resources of a tenth? Would any government ever be organized on such principles? Never. I look upon this as involving a principle far more important than the inconsiderable sum of bounty which is annually paid. I look upon it as involving a principle which is destructive to the integrity of this Government. This Government has no power to confer bounties. It is an attribute of absolute sovereignty. The right to give bounties to some involves the right to rob others; because Government has nothing to give that she does not take away from some of her citizens, and it is upon that ground mainly that I attack it.

Mr. President, I will not occupy the time of the Senate longer. There is much more that I wish to say, but I know the impatience of the Senate, and I do not suppose that anything I shall say will influence the vote.

The VICE PRESIDENT. The question is on the amendment of the Senator from Maine, [Mr. HAMLIN,] to strike out "1859," and insert "1865."

Mr. CLAY. Before the vote is taken on that, I will simply say, what I said the other day, that I give them two years' time, which is as long as several of the acts passed originally contemplated that the allowance should be given. I give them as long as was intended to be given by the laws passed for their benefit. In addition to that, if they are allowed until the close of next year, and realize the average bounty they have gotten during the last ten years, they will receive near seven hundred thousand dollars. If it is continued until 1865, as proposed by the Senator from Maine, they will then receive at the same annual average, \$2,300,000.

Mr. HAMLIN. Do you take the average of last year?

Mr. CLAY. No; the average of the last ten years.

Mr. COLLAMER. I do not understand the gentleman. What time does the bill give?

Mr. CLAY. Until the last day of December, 1859—this year and next.

The VICE PRESIDENT. The question is on

the amendment of the Senator from Maine, extending the period to 1865.

Mr. IVERSON. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 27, nays 28; as follows:

YEAS—Messrs. Allen, Bell, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Houston, King, Seward, Simmons, Shields, Stuart, Sumner, Trumbull, Wade, and Wilson—27.

NAYS—Messrs. Bayard, Benjamin, Bigler, Bright, Brown, Clay, Clingman, Davis, Fitzpatrick, Green, Gwin, Hammond, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Mason, Pearce, Polk, Pugh, Rice, Sebastian, Sidel, Thomson of New Jersey, Toombs, and Yulee—28.

So the amendment was rejected.

Mr. HAMLIN. At the time I moved that amendment, it was suggested by some Senators here that I had better make the time five years, instead of seven years; but knowing, as I did, that it would not embrace one half of the time the navigation employed in this business would exist, I preferred to try that term of years. I now move to amend by striking out "1859" and inserting "1863," which will give five years for those engaged in the business to get out of it. I wish to make a remark in response to a suggestion which was made by the Senator from Louisiana, [Mr. BENJAMIN,] If I understood him aright, he said he was willing to give some period of time, sufficient to enable them to divert their navigation to other purposes. Now, I know it to be true that the construction and size of the fishing vessel, both render it unfit for any other business; and therefore I hope I shall have his vote for this limited period of five years. I have nothing further to say.

Mr. CLAY. I trust this amendment will not prevail, for reasons which I have assigned before. As I have said before, giving them two years is giving them as long a time as it was proposed by many of the original laws that this allowance should extend to. If it be extended for five years, they must realize in that time, at the present average, about one million eight hundred thousand dollars of bounty. I trust it will not prevail, and I ask for the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 27, nays 28; as follows:

YEAS—Messrs. Allen, Bell, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Houston, King, Seward, Shields, Simmons, Stuart, Sumner, Trumbull, Wade, and Wilson—27.

NAYS—Messrs. Bayard, Benjamin, Bigler, Bright, Brown, Clay, Clingman, Davis, Fitzpatrick, Green, Gwin, Hammond, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Mason, Pearce, Polk, Pugh, Rice, Sebastian, Sidel, Thomson of New Jersey, Toombs, and Yulee—28.

So the amendment was rejected.

Mr. PUGH. I move to amend the first section of the bill by adding the following proviso:

Provided, That nothing herein contained shall be so construed as to repeal or affect the fifth section of the act entitled "An act reducing the duty on imports and for other purposes," approved the 30th day of July, in the year 1846.

I will read that section so that it may be understood:

"SEC. 5. *And be it further enacted*, That from and after the 1st day of December next, in lieu of the bounty heretofore authorized by law to be paid on the exportation of pickled fish of the fisheries of the United States, there shall be allowed, on the exportation thereof, if cured with foreign salt, a drawback, equal in amount to the duty paid on the salt, and no more, to be ascertained under such regulations as may be prescribed by the Secretary of the Treasury."

I am willing to leave them with that drawback, as given by the act of 1846.

Mr. CLAY. I do not think the bill really needs that amendment; but I will show the Senator how to compass the same object in fewer words. The bill now reads:

"That from and after the 31st day of December, 1859, all acts and parts of acts giving and allowing bounties to vessels employed in the bank or other cod fisheries be, and the same are, hereby repealed."

I propose, instead of the Senator's amendment, to strike out the words, "and allowing bounties to," and, in lieu thereof, to insert, "allowances or bounties on tonnage," which will distinguish them from the drawbacks. At the same time I will call the attention of the Senator to the fact that originally, under all the laws, from 1789 up to 1807, the same drawback was allowed on the exportation of salted provisions, on beef and pork, that was allowed on exported fish; and at this

day, while the value of exported fish is but little over half a million dollars, the value of exported beef and pork exceeds four millions. It is eight times as great with no drawback at all; but still I am willing to allow that. I suggest to the Senator from Ohio that the object he desires will be embraced within fewer words, and in much simpler language, instead of his amendment, by making that which I have suggested.

Mr. PUGH. I have no objection to the form of the amendment. I was well aware of the discrepancy to which my friend alludes, but my object was to show that we were not disposed to deal with a harsh hand, and that these parties were really substantially still left in possession of the drawback originally designed to be given to them.

Mr. FESSENDEN. I do not care anything about this particular proposition one way or the other; but I will suggest to the Senators that if the object be what they state, this will not effect it, for pickled fish and cured cod fish are very different things. This gives no drawback on the latter.

Mr. CLAY. It leaves the drawbacks just where the law now puts them.

Mr. FESSENDEN. Exactly; but the drawbacks are given on pickled fish, and the bounty on tonnage is given to cod fish—dried fish. The drawback is on mackerel and other pickled fish. This proposition leaves the bounty on pickled fish which is quite easy fishing, and takes it off from the dangerous fishing.

Mr. PUGH. I withdraw my amendment if the Senator from Alabama will propose to amend the bill as he suggested.

Mr. CLAY. Yes, sir. My amendment is, in lines four and five, to strike out the words "and allowing bounties to," and to insert "allowances or bounties on tonnage of."

Mr. POLK. I understand from the Senator from Maine that pickled fish is a very different thing from dried cod fish, and I want to know whether, by the amendment of the Senator from Alabama, dried and salted cod fish will be entitled to drawback just as pickled fish?

Mr. FESSENDEN. Not at all.

Mr. POLK. I would suggest to the Senator from Alabama that they ought to stand on the same level.

Mr. CLAY. The Senator would also think, I suppose, that the beef and pork which his people cure and export, ought to have the same allowance in the way of drawback. They consume a vast deal more salt, and by parity of reasoning you ought to extend it to them all. Even when this bill shall pass, the cod fishermen will still enjoy, on all their exported pickled fish, a drawback which is not accorded to the beef and pork packers of the West, although they contribute upwards of four million dollars in value of exports, and the cod fishermen but little over half a million.

Mr. POLK. The object of my remark was this: not that these cod fishermen ought to have a bounty that others may unjustly have, but that the remedy has not gone quite far enough. I think myself the beef and pork in the western country are just as much entitled to drawback as pickled fish or cod fish, and I am not willing that either pickled fish or cod fish shall be left in a better position than beef.

The amendment was agreed to.

The VICE PRESIDENT. The Chair understood the Senator from New Hampshire to propose an amendment.

Mr. HALE. Yes, sir; it is on the table, and I want to have a vote on it.

The Secretary read Mr. HALE's amendment, which is to add the following as an additional section:

And be it further enacted, That all laws establishing a naval school at Annapolis, and a military school at West Point, be, and the same are hereby, repealed.

Mr. HALE. I should like to have the yeas and nays on that amendment.

The yeas and nays were ordered; and, being taken, resulted—yeas 13, nays 39; as follows:

YEAS—Messrs. Broderick, Cameron, Chandler, Clark, Durkee, Foster, Hale, Hamlin, Harlan, Houston, Johnson of Tennessee, Trumbull, and Wade—13.

NAYS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Bright, Brown, Clay, Clingman, Collamer, Crittenden, Davis, Dixon, Doolittle, Fitzpatrick, Foot, Green, Gwin, Hammond, Hunter, Iverson, Johnson of Arkansas, Jones, King, Mallory, Mason, Pearce, Polk, Pugh, Rice, Sebas-

tian, Seward, Shields, Simmons, Slidell, Stuart, Toombs, Wilson, and Yulee—39.

So the amendment was rejected.

Mr. ALLEN. I propose this amendment as an additional section:

Sec. 2. *And be it further enacted, That all duties on salt imported into the United States from and after the 31st day of December, 1859, be, and the same are hereby, repealed.*

Mr. JOHNSON, of Tennessee. I ask for the yeas and nays on that.

Mr. MASON. Before the question is put on ordering the yeas and nays to be taken, I would suggest, as my impression, that this amendment is not in order, because it is affecting the revenue, and the Senate, as we are all aware, is not the body to originate any measure concerning the raising of revenue, whether it comes in the form of an amendment, or an original proposition.

Mr. HUNTER. That has been decided, on solemn decision by the Senate, upon a bill introduced by Mr. McDuffie, when Senator from South Carolina. It was returned by the Committee on Finance with a resolution that it was unconstitutional, and in that resolution, I believe, every Senator but four or five concurred. Certainly it is out of order.

Mr. HALE. I should like to inquire whether that bill of Mr. McDuffie did not, in some particular case, raise the revenue? We certainly cannot originate revenue bills here; but I never heard that we could not amend them or could not diminish the amount of duty.

Mr. HUNTER. Mr. McDuffie would not have been apt to present a bill raising the revenue, but his bill reduced it.

Mr. STUART. This is no question of order, certainly; even if the Senator from Virginia [Mr. MASON] is right, he does not pretend that it is a question of order to be decided by the Chair.

Mr. MASON. I submitted it to the Senator who offered the proposition for his consideration.

Mr. HUNTER. It is a question of order. If the Constitution says no such bills shall originate here, it is as much a question of order as if our rules had said so. It is the very highest question of order.

Mr. SIMMONS. The provision of the Constitution is, that bills for raising revenue shall originate in the House of Representatives. In the case referred to by the Senator from Virginia, [Mr. HUNTER,] the bill introduced by the Senator from South Carolina proposed that after such a time, the duties should be twenty per cent. upon all importations. If that had passed, it would have been the revenue bill of the country, and twenty per cent. would then have been the rate to be levied. But this will not be a revenue bill when it passes. That bill would have been the revenue bill of the country, if it had been adopted by Congress, and therefore it could not originate in the Senate; but this will not be a revenue bill if you pass it. It is competent to make anything free in a bill here, but it would not be competent to leave a dutiable article in a bill that originated here. That, I think, is a clear distinction.

Mr. STUART. The suggestion I wish to make is this: it never would do for the Senate of the United States to hold that the Vice President of the United States could, upon a question of order, determine whether they could consider a subject at all; that would never answer, even if the Senator was right, that this is a revenue bill beyond all question. But, sir, this is not a proposition falling within the provision of the Constitution; it does not propose to raise revenue. In the first place it is an amendment; and though it is not allowable to make such an amendment to a bill as will cover the raising of the revenues of the country, it is competent always to introduce an amendment to abolish a particular revenue; a single provision anywhere. You can do it here as in the other House. The reason of the Constitution is very plain—that the immediate Representatives of the people should determine the manner and extent of raising the taxes of the country and imposing those taxes; but the Senate may introduce a proposition to abolish the duty on a particular article. The suggestion I make, however, is one more important than that. It is that it will never do for the Senate of the United States to say that the Vice President, who is by the Constitution made the Presiding Officer of this body, shall have power to determine whether we shall consider a subject or not.

Mr. SEWARD. Before this question is taken I want to understand the views of that portion of the Senate who sustain this proposition. If I remember rightly, the amount of revenue derived from the salt duties is \$500,000; and that is a considerable item of revenue for the present year. I understand that the object of this proposition is to benefit the fishermen so much. The benefit which will result to the fishermen, as I understand the calculation, is about two thousand five hundred dollars. It will be a reduction of \$2,500; so that we reduce the revenue \$500,000 to make a saving of \$2,500. Now I want to know how the \$500,000 is to be made up—whether we are to borrow the money or not?

Mr. CLAY. I understand the Senator to object to this amendment repealing the salt duty, on the ground that it reduces the revenue.

Mr. SEWARD. I do so.

Mr. CLAY. I will tell the Senator at once how it will be made up. If this bill passes you will save to the Treasury more than is now expended in the way of bounty than you take into it in the way of duty; and I say that, without pledging myself to support the amendment.

Mr. ALLEN. Mr. President—

The VICE PRESIDENT. Before Senators speak to this amendment, the Chair will answer the question that was made on a point of order. It does not appear to the Chair that it is a proper subject for him to decide as a question of order, whether a proposed amendment is constitutional or not.

Mr. MASON. I wish to disclaim having made any question of order for the Chair to decide.

The VICE PRESIDENT. The Chair did not understand the Senator from Virginia to have made it as such.

Mr. MASON. I made only a suggestion to the Senator who offered the amendment.

Mr. ALLEN. Seven hundred and thirty-six thousand dollars were paid for fishing bounties during the last two years. The duty on salt, in the same period, taking the amount of salt from the printed documents, was \$591,000, allowing fifteen per cent. duty on the article imported, so that the Government will save nearly two hundred thousand dollars by my proposition. The Government has paid out nearly two hundred thousand dollars more to the fishermen than it has received in duty on salt in the last two years.

Mr. WILSON. I wish to ask the Senator from Rhode Island a question. How much do the duties on salt amount to annually?

Mr. CLAY. I can tell the Senator. They have averaged in the last decade less than three hundred thousand dollars.

Mr. ALLEN. The allowance in 1856 was \$293,000; in 1857, \$298,000.

Mr. WILSON. I understand that this proposition, to abolish the duty on salt, is made for the interests of the fishermen. Now, sir, I have made some estimate upon this matter, and I think the benefit to the fishermen does not exceed twenty-five hundred dollars; and I do not believe, on a close examination, it will amount to over twenty-two hundred dollars. If Senators wish to repeal the duty on salt, I do not know that I shall interpose any objection; but if they wish to put it upon this bill, because they have stricken down this bounty of \$300,000 annually, for the benefit of the fishermen, I tell them that they have taken off from the fishermen of my State \$150,000, and have relieved them, by abolishing this duty on salt, to the extent of eleven or twelve hundred dollars.

Mr. BAYARD. I entirely differ with the honorable Senator from Michigan, [Mr. STUART,] as to the amendment offered by the Senator from Rhode Island. I believe it to be clearly unconstitutional. I can view the terms used in the Constitution of the United States, that bills to raise revenue must originate in the House of Representatives—whether that provision be wise or unwise, it is immaterial—in no other light than as including any bill which increases or decreases the rates of duty. Any bill which affects the imposts of the country for the purpose of revenue, is a bill to raise revenue within the meaning of the Constitution. It meant that bills connected with the revenues of the country—that is, which either increases or diminishes them—should originate in the House of Representatives. Without that, the provision is entirely nugatory. If

you can introduce into a bill for another purpose a clause which diminishes the revenue, you make a revenue bill within the intent of the Constitution. Take the case of a bill introduced in the Senate reducing, but not abolishing, all the duties imposed by the tariff act, under what law would the then duties be raised? Would they not be raised under the new law if you passed it; and would not that come within the intent and meaning of the Constitution? If you affect directly, by a diminution or increase, the imposts of the country by a bill, it is a bill to raise revenue; and the Constitution has chosen to provide that a bill of that character shall originate in the House of Representatives; and, for one, I am not willing to depart from the Constitution.

Mr. BELL. I do not pretend to enter into the argument of this question; but the more consideration I have been able to bestow on the subject, satisfies me that this is probably not a proper time to attempt to settle it. When the honorable Senator from Alabama made his argument, urging the repeal of these fishing bounties, I felt that there was great weight and force in it, and it made great impression on my mind; but questions of this description may not be proper to be decided at all times with the small degree of consideration that may be given to them here. They are connected with other great points of policy, and connected with the best interests of the country. It appears to me, after all I have heard, that although there is great strength in the argument for the abolition of these bounties, whatever strong reasons may have induced their establishment in the first place, and whatever justice and sound policy there may have been in their origin, yet this is probably not a well-timed proposition, and it had better be urged under other circumstances, and at a different time. The amendment now pending before the Senate demonstrates the sound policy of deferring the final consideration of this whole subject. Here we have presented to us the question whether we shall repeal the duties upon the importation of foreign salt; and that connects itself with the general revenue policy of the country. The original proposition in the bill of the Senator from Alabama also connects itself with great points of domestic policy.

The honorable Senator from Alabama, [Mr. CLAY,] and the honorable Senator from Florida, [Mr. MALLORY,] have undertaken to say that the doctrine of a protective policy in this country is so far discarded from the consideration of all sensible men, that there is not a Senator on this floor bold enough to avow himself the advocate of it. The bill presented by the Senator from Alabama is connected directly with that subject. It brings up the question of how far we ought to go in the protection of any great interest of the country necessary for its public defense, or its independence in time of war, or in any other aspect in which such a proposition could be presented. I beg leave to say that the Senator from Alabama and the Senator from Florida may find themselves very grossly mistaken when they undertake to assume that the policy of protection is so far abandoned that no man has the courage or the boldness now, at this late day, to stand up or maintain it, or of any restrictions upon commerce, with the view of supporting or giving encouragement to domestic industry against foreign competition. In saying this, I do not mean to say that I am in favor of the protective policy to any unlimited extent, or generally; but I am an advocate for the protective policy to a limited extent. When the suggestion to which I have just alluded was made the other day, I said to the gentleman near me, [Mr. BEXJAMIN,] "are you, as a Representative of Louisiana, willing to say that you are opposed to a protective policy to the extent that honorable Senators on the other side have avowed their opposition to it?" and so I might have said to other gentlemen representing particular interests; and when I speak of them as representing particular interests, I do not mean to say that any Senator here, who regards the great general interests of the United States, ought to govern or control his policy in this Chamber by reference to any isolated or particular or local interest.

The honorable Senator from Louisiana, when he and I came to explain our individual opinions on that subject, had no difference. The suggestion made was that no man here now was bold enough to rise up and say that he was in favor of

the protective policy, and the point was, what was the meaning and extent of that declaration? As to the doctrine of a protective policy to the extent of prohibition, with regard to manufactures of every description, of all articles that it is possible, by due protection, to manufacture in this country even to the extent of an adequate supply for the wants of the country, no man will have the courage to stand up here and maintain it; and since I have been in Congress I have never heard a man bold enough to advocate such a doctrine as that. Then what is the doctrine? Why, in the exercise of the revenue power under the Constitution, is it judicious and expedient and proper, in laying duties for purposes of revenue, to protect those articles of domestic production and manufacture, in regard to which we know that, by reasonable protection against the cheap labor of foreign countries in the manufacture of similar articles, we can supply as good and actually better articles than could be imported from foreign countries. To that extent I find that I do not differ from any gentleman who views the doctrine of free trade. But, sir, I saw, at the last session of Congress, that a majority of this body were in favor of the broad doctrine of free trade, and were willing, so far as I could judge from the test of a vote which was deliberately taken, (not with any great consideration, to be sure, but it was put upon record,) to abolish all indirect taxation and resort to internal duties and imposts. I think gentlemen will find many Senators on this floor to have the boldness to stand up and protest against that.

I have made these remarks for the purpose of showing that not only I, but, I presume, many other Senators, are ready to protest against the statement that there is no gentleman on this floor bold enough to advocate a protective policy. On this occasion, the view which I take of the propriety of our action has no reference to the question of order and constitutional law, though I concur with the honorable Senator from Delaware, that a proposition either to diminish or increase the revenue is not allowable in this body under the provisions of the Constitution. I think these propositions to abolish the bounty on the cod fishery, and to repeal the duty on salt, and the whole discussion of the subject, and the complication in which it has been presented, connecting itself as it does with the question of the protection of domestic products of the country—agricultural as well as manufacturing—show that this is not the proper occasion for deciding the question. I presume it will be admitted by every gentleman that our tariff requires regulation and readjustment. That some readjustment, some new regulations of some sort or other must of necessity be resorted to, even in order to support the Government itself, I think will be admitted by every Senator who will examine the subject candidly. Is not this question of the bounty upon the cod fishery a proper matter to be taken into consideration when we shall have a general overhauling of our tariff and commercial regulations? Would it not be more fit and proper then than on the present occasion, at least?

It seems to me in some views of the subject to be particularly ill-timed to press such a proposition as this now. It is not a very great matter, to be sure; but any gentleman who reflects on the subject must see that it connects itself more or less with the general revenue policy of the country, its domestic protection, its foreign trade, its internal trade, the protection to the maritime interests of the country and the military and commercial marine. There is no one of these topics that you can separate and divide from the others in such manner that you can say that you see your way clear as to how the matter ought to be decided. I think this bill ought to be postponed until we have leisure, until the time arrives when the dominant party in the Senate, if you please, (though I dislike to speak of party,) when those gentlemen who have been in the habit of turning their attention to these matters will find it proper and expedient to take up the general subjects, and to have these points of policy in relation to fisheries and all others connected with the doctrine of bounty and protection and drawbacks settled together. They are kindred; they are cognate questions.

As I have already said, I see strong reasons why, perhaps, this bounty should cease, although it may originally have been founded upon sound policy, which may have justified its continuance

up to this time; and I would be willing, on a proper occasion, to give a vote to that effect; but I am not willing now to take up this isolated point, connected with the great general policy of protection and bounties and foreign commerce and domestic commerce, and the maintenance of the commercial and military marine of the country. The question of these uncommon and anomalous allowances to fishermen, it seems to me, would be properly considered in a general settlement of the policy of the country in regard to its commerce and manufactures. If I had any encouragement for doing so, if I thought it would meet the sense of the Senate, I would move to postpone this bill until the next session of Congress at least; for I see that, from our having decided to adjourn on the 7th of June, we shall not have time at this session to give proper consideration to the general question connected with the revenues of the country, in regard to the tariff and our internal policy; and that we shall have to postpone it until the next session. I repeat, if I had sufficient encouragement, I would move to postpone the consideration of this bill until the next session. ["Try it."] I make the motion to postpone the further consideration of the bill until the first Monday of December next.

Mr. HUNTER. The Senate seems not to be full, and perhaps we had better adjourn and take the vote to-morrow, if we can fix an hour. ["Oh no."] I will not make the motion.

Mr. CLAY. I ask for the yeas and nays on the postponement.

The yeas and nays were ordered.

Mr. PUGH. We have debated this question four or five times as long as we debated the whole revision of the tariff, last year, and now we are to put it off again. I hope we shall decide it before we adjourn.

Mr. MASON. I move that the Senate adjourn.

Mr. POLK. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. YULEE. I ask the Senator from Virginia to withdraw his motion for the purpose of enabling me to move an executive session.

The VICE PRESIDENT. The yeas and nays having been ordered, it requires the unanimous consent of the Senate to allow the motion to be withdrawn.

Mr. MASON. I ask the consent of the Senate to withdraw my motion.

Mr. HALE and others objected.

The question being taken by yeas and nays, resulted—yeas 5, nays 47; as follows:

YEAS—Messrs. Clay, Crittenden, Davis, Mason, and Pearce—5.

NAYS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Bright, Broderick, Cameron, Chandler, Clark, Clingman, Dixon, Doolittle, Durkee, Fessenden, Fitzpatrick, Foot, Foster, Green, Gwin, Hale, Hamlin, Hammond, Harlan, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, King, Polk, Pugh, Rice, Sebastian, Seward, Shields, Simmons, Slidell, Stuart, Sumner, Thomson of New Jersey, Toombs, Trumbull, Wade, and Wilson—47.

So the Senate refused to adjourn; and the question recurred upon the motion of Mr. BELL to postpone the further consideration of the bill until the first Monday in December next.

The question being taken, resulted—yeas 26, nays 26; as follows:

YEAS—Messrs. Allen, Bell, Broderick, Cameron, Chandler, Clark, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Houston, King, Seward, Shields, Simmons, Stuart, Sumner, Trumbull, Wade, and Wilson—26.

NAYS—Messrs. Bayard, Benjamin, Bigler, Bright, Clay, Clingman, Davis, Fitzpatrick, Green, Gwin, Hammond, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mason, Pearce, Polk, Pugh, Rice, Sebastian, Slidell, Thomson of New Jersey, Toombs, Yulee—26.

The VICE PRESIDENT voting in the negative, the motion to postpone was not agreed to; and the question occurred on the amendment of Mr. ALLEN.

Mr. HUNTER. I do not wish to multiply words or prolong the decision by debate; I merely want to save the point. It is a matter of some importance to us. Certainly the Finance Committee have been acting for years on the supposition that we had no right to meddle with the tariff, either to raise it or to depress it; and we founded this action upon the decision in the case of the bill which Mr. McDuffie proposed to introduce. The Committee on Finance, with Mr. Evans, of Maine, at its head at that time, reported

that bill back to the Senate, with a resolution that it was unconstitutional; that it could not originate in the Senate; and that resolution was sustained here by a very large majority, there being only four in the minority. I believe, also, that it is a question for the Chair, though I do not choose to press that point, because there are certain rules of order prescribed in the Constitution; for instance, that in regard to the yeas and nays. So this is a rule of order prescribed by the Constitution. I do not mean to say that the Chair can rule out propositions because he deems them unconstitutional; but he can rule out such a proposition as this, because it is contrary to the rule prescribed by the Constitution, in regard to the class of bills we may originate. But, as I said before, my object was simply to save the question, and I will not press it here.

Mr. GREEN. I am very well satisfied that it is not only constitutional, but in conformity with the ordinary practice of the Senate; and I have but one word to say. I find that Colonel Benton, who understood parliamentary law, according to the public judgment of the country, as well as anybody else, in 1846 made an independent report to the Senate from a committee, and reported a bill, which I have in my hand, to repeal the duty on salt. As to the propriety and necessity of the proposition, I will only say that salt is a common object of consumption for the poor as well as the rich; and Mr. Benton's bill was predicated upon this idea—that abolishing the duty is not raising revenue.

Mr. TRUMBULL. Is it in order to move to amend the amendment now pending?

The VICE PRESIDENT. Yes, sir.

Mr. TRUMBULL. I move, then, after the word "salt," to insert, "and sugar."

Mr. YULEE. I propose to amend that amendment, if it be in order to do so.

The VICE PRESIDENT. Being an amendment in the second degree, it cannot be amended. This is an amendment to an amendment, and it cannot be further amended.

Mr. SLIDELL. Was not the original proposition of the Senator from Rhode Island offered as an additional section? If so, it is not exactly in the character of an amendment.

Mr. ALLEN. I offered it as an additional section.

Mr. SLIDELL. Is it not open to amendment in the second degree?

The VICE PRESIDENT. The amendment of the Senator from Rhode Island?

Mr. SLIDELL. Yes, sir.

The VICE PRESIDENT. The Chair thinks not.

Mr. SLIDELL. Then I will simply give notice now, that if this amendment be adopted, I shall move further to extend it to all textile fabrics; and if it be necessary, I shall vote for abolition of all custom-houses and all duties on imports.

Mr. BIGLER. I think the proposition of the Senator from Rhode Island, together with what has been suggested by the Senator from Illinois, is sufficient to show the correctness of the position of the Senator from Virginia. I do not care, nor is it necessary to inquire into the question of the constitutional right of the Senate to disturb the revenue laws of the country. It is admitted that it would not be constitutional to originate here a measure to increase the revenue, but it is argued that this is a proposition to reduce the revenue, and therefore constitutional. Sir, I care not to pass upon that question, but I think what we have witnessed here is sufficient to satisfy the Senate that the proposition ought not to be entertained. It is the clear, constitutional province of the other House, the immediate Representatives of the people, to propose measures to raise revenue, to defray the expenses of the Government. Here is a proposition to destroy the revenue; and if the Senate can entertain such a proposition in reference to one particular item or source of revenue, I agree with the Senator from Illinois, that the Senate has a right to entertain it in reference to any other source of revenue; and thus you claim for the Senate the right to destroy the revenue entirely—to uproot its sources; and, as a question between the two branches of Congress, I think the proposition ought not to be entertained here. There would be good ground of complaint on the part of the House of Representatives, though we might be able to maintain a technical constitutional right.

It has been the policy and the practice, since the organization of the Government, to allow revenue measures to originate in the House of Representatives without raising the point suggested here to-day. I trust this proposition will be voted down.

Mr. HAMLIN. This is a question of very great importance, and we ought to settle it wisely. I think we ought to settle it with more wisdom than this late hour of the day will allow us to do. If we shall adjourn now and come back here to-morrow, sweetened with a little Louisiana sugar, we may then go over some of the Pennsylvania railroad iron. I therefore move that the Senate adjourn.

Mr. SEWARD. I must express my deep sympathy with the honorable Senator from Pennsylvania.

The VICE PRESIDENT. The Chair is obliged to interrupt the Senator. There is a motion to adjourn pending.

Mr. HAMLIN. I will withdraw the motion if the Senator will renew it.

Mr. SEWARD. I will do so. I must express my profound sympathy with the honorable Senator from Pennsylvania.

Mr. IVERSON. I rise to a point of order. What is the question before the Senate?

The VICE PRESIDENT. The question before the Senate is on the amendment offered by the Senator from Illinois to the amendment of the Senator from Rhode Island.

Mr. IVERSON. Is the Senator from New York speaking to that amendment?

Mr. SEWARD. I propose to speak to that amendment; and I begin by saying that I must express my profound sympathy with my friend from Pennsylvania that he sat here a fortnight and saw the protection withdrawn from the fishing interest, the great interest of the north-eastern States, that he sat here silent when the proposition was made to withdraw protection from the manufacture of salt, and that he comes at last to the rescue of protection when sugar is in danger. It shows that, "where the treasure is, there the heart is also." Mr. President, I am opposed to altering the tariff that we made last year; I am opposed to reducing the duty on salt; I am opposed to disturbing that general arrangement, which was the best we could arrive at, not perfect in all things; but if this business is to be carried on of striking down the interests of the country, one by one, I am now prepared to vote for abolishing the duty on sugar, which stands on precisely the same ground as the proposition to abolish the duty on salt. Both are necessities of life; both are for the poor and rich alike.

Mr. BELL, Mr. HAMLIN, and others. And then iron.

Mr. SEWARD. And if the honorable Senator from Tennessee will stand up, I will go with him for considering the question of iron too. I have as little interest as any other in either.

Mr. BIGLER. I am much indebted—

Mr. SEWARD. The honorable Senator will excuse me. I received the floor on condition that I should move an adjournment; but I will now waive it, as it is due to the honorable Senator from Pennsylvania that we should hear him.

Mr. BIGLER. I am much indebted to the honorable Senator from New York for his sympathy—

Mr. WILSON. I object to any arrangement. The VICE PRESIDENT. The Senator from Pennsylvania is upon the floor on this amendment.

Mr. BIGLER. I believe I have the floor. I was about to remark that I was thankful to the honorable Senator from New York for his sympathy; but I am sorry he did not reserve that sympathy until I needed it more than I do on the present occasion. I am not willing to be arraigned by the Senator from New York, or any other member of this body, on an allegation that I have sat here silent, and allowed a great interest to be assailed, and then interpose when an interest which he supposes I feel a more direct concern in, is attacked. Why, sir, I did not say one word about the protection of any interest. I did not raise or discuss that question. I raised the question of the propriety of entertaining a proposition to disturb the revenue laws, a proposition which, in its effect, withholds revenue from the Treasury at the moment we need it. Why, sir, the bill to withdraw the bounties from the fisheries was just

the converse of that proposition. That was a proposition to save revenue.

Now, I understand the Senator perfectly well. I have never been able to see the analogy between the iron interest and this fishing interest. The iron interest pays its revenue; there is a duty on iron for revenue purposes; but just the reverse is the case with regard to this fishing interest. It absorbs revenue. The Senator, too, is totally mistaken as to my action on the subject. Why, sir, the first word I ever said, was to interpose against the adoption of this proposition. I do not know, I am not aware of any vote being taken here on the subject of duty upon salt. I think the Senator from New York has mistaken the question as it stood before us.

Mr. DOOLITTLE. I understand the honorable Senator to say that the original bill to which this amendment is moved is a bill to save revenue, and that the amendments are propositions, not to save revenue, but to prevent the raising of revenue. They are propositions to save taxation, in other words. Well, if this constitutional objection applies to the amendments, it applies with greater force to the original bill, for that puts money into the Treasury or keeps it in the Treasury, saves the revenue, increases the amount, and therefore, as a matter of course, increases the burden of taxation. But the amendment is directly the contrary. So if there is any force in the Senator's argument, it is against the original bill.

Mr. BIGLER. I do not pretend to reply to the Senator from Wisconsin, except to say that he is mistaken in his views. The original bill has no connection whatever with the revenue laws; the fishing bounty is paid out of the Treasury without any connection with the sources of the revenue. The amendment which proposes to release the duty on salt is a proposition to take money out of the Treasury, or to lessen the revenues just to the extent that the receipts accumulate from that source, which the Senator from New York estimates at some five hundred thousand dollars.

Mr. ALLEN. So far from reducing the revenue, it makes a saving to the Government of \$200,000. The Government paid out, in the last two years, \$700,000 for fishing bounties and drawback on the exportation of fish, and received in duties on salt about \$500,000. This proposition to take off the duty on salt leaves a balance in favor of the Government of \$200,000.

Mr. BIGLER. I got the floor from the Senator from New York with the understanding that I would move an adjournment. I therefore make that motion.

Mr. CAMERON. I hope my colleague will withdraw the motion for a minute.

Several SENATORS. Oh no; let us adjourn.

Mr. CAMERON. I desire only to say a word in vindication—

Mr. BIGLER. I withdraw the motion.

Mr. CAMERON. I desire only to say a word in vindication of my colleague, and I think in justice to him and myself I should be permitted to say that word, for you know I do not often occupy much of the time of the Senate. It is that I am satisfied he is acting in accordance with his well known principles. He is, I believe, a free-trade man, if I can judge him from his acts. I remember that at the close of the last session the reduction of duty on our great staple, iron, was made, if not by his motion, at least by his vote. He agreed to it, and was perfectly satisfied with it. The result has been to break up every iron master in Pennsylvania who had not an immense fortune beyond his business in trade. Every man who was at all indebted in his business has been destroyed. The iron business of Pennsylvania, about which gentlemen speak here, is no longer an interest. No man, unless he has a fortune that he has inherited or obtained from sources beyond his business, is capable of conducting a furnace for a day.

It may be the policy of my colleague, and it may, perhaps, be a wise one, to break down all these interests, so that after a while we shall stand upon a common level when we shall be compelled again to return to that protective American policy which our fathers instituted, and which took care of the country. If we were to destroy the duty on salt now, as proposed by the Senator from Rhode Island, I believe after a little while the salt interests would help the iron interests; and if we take off the sugar duty from gentlemen down in

Louisiana, I think after a while they will come to our ground; and if we should repeal the law returning fugitive slaves, all the gentlemen in the "nigger" interest would soon help us to take care of our iron. So if you run around all these interests and strike them down, when we are all so low down together that we cannot take care of ourselves, we shall begin to feel as members of the same great country ought to feel, each one willing to serve the other.

I thought this statement was due to my colleague. I thought it was due to him, coming from my own State, that I should make this explanation.

Mr. BIGLER. Perhaps I could afford to allow the remarks of my colleague to pass unnoticed; perhaps it would be wiser to do so; but, sir, it is only a few days since, when, under very peculiar circumstances, after I had excluded myself from an opportunity of replying to that honorable gentleman, he saw proper on the Kansas question to indulge in strictures which were at least in bad temper. Now, sir, I have no ambition, in the way of conflict with my colleague, or any other member of the Senate. I have no disposition to complain of his official action here, or to criticize it. My colleague seems to have a different inclination, and the other day in very summary terms passed judgment on my action. To-day he sees proper to do the same thing.

Sir, I can tell him that I will account for my conduct here, and I ask no defense at his hands, no explanations, and no apologies. I will meet my constituents; and I think I am as likely to stand the test before them with my opinions, as he is with his. At least, in the past, the views which I entertain have been more approved by that people.

Now, sir, it would require entirely too much time to define my views on the general system of revenue and incidental protection. In the sense in which my colleague understands free trade, and with the applications he intends to make, I think I am safe in saying that the remark is not a just one; I am not in that sense a free-trade man. I have been the advocate of a tariff for revenue purposes, with incidental protection to our manufacturing interests. I have not been averse to a measure of discrimination in that application.

But, sir, as for the broad allegation that I was a leading instrument here in changing the tariff in the last Congress, I suggest whether honorable Senators, who were then my associates here, are prepared to make that allegation? It is true that I voted for the bill as it passed; but the honorable Senator from Virginia [Mr. HUNTER] will remember how diligently I endeavored to advance the rate of duty upon the great staple to which my colleague has referred—that of iron. I think I had some agency in securing to it a larger measure of protection, if you may call it protection, than it would have received under other circumstances.

But the Senator thinks my action here has struck down all these great manufacturing interests; that the reduction of the tariff of last session has led to these consequences. Sir, this is not the time—for I know the Senate is anxious to adjourn—to go into that examination; but I merely wish to declare that no statesman who has reflected upon the subject, no man who has been observing for years the course of financial events in this country and throughout the world, as my colleague has been, can seriously allege that what we have witnessed in the way of financial and commercial revulsion has resulted from the change of the tariff by the last Congress. The proposition is absurd. There is no act of Congress that produced a financial revulsion throughout the world; no act of Congress that produced the prostration of the manufacturing interests in this country. It was a revulsion which we have always seen follow a reckless and unguarded expansion of credit in this country.

I wish my honorable colleague was as sound on another great question that underlies all this, and that is the question of currency. There is the basis of this fluctuation and this sudden prostration of which my colleague spoke. It is our inflated system of paper money that begets unguarded expansion and leads men to attempt enterprises without real capital. Suddenly the revulsion comes, and we are told it is the tariff. I have heard this ever since I came into political life. My honorable colleague is an able and act-

ive agent in an element that underlies all this tariff question. It is a secondary. The question of currency and money underlies the whole of it and overrules it. Your expanded system of rotten paper money, expanding nominal values, renders the incidental aid of a protective tariff helpless and ineffectual. There is the root of the evil, and whenever it becomes necessary or my duty, I am ready to discuss it fully. I move the adjournment agreeably to by promise.

Mr. CAMERON. Will my colleague withdraw it for a moment.

Several SENATORS. No, no.

Mr. CAMERON. Very well.

The motion was agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, May 12, 1858.

The House met at eleven o'clock, a. m. Prayer by Rev. J. L. ELLIOTT.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, containing estimates for appropriations for clerk hire and office rent, under the seventh section of the act of 18th August, 1856; which was referred to the Committee of Ways and Means, and ordered to be printed.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, submitting a report on claims for depredations by Indians in New Mexico; which was referred to the Committee on Indian Affairs, and ordered to be printed.

The SPEAKER also laid before the House a communication from the War Department, transmitting the report of Edward F. Beale, on a wagon road from Fort Defiance to the Colorado river; which was laid upon the table, and ordered to be printed.

The SPEAKER also laid before the House a communication from the Navy Department, in reply to a resolution of the House, of May 4, requesting the Secretary of the Navy to furnish the House with copies of all documents on file in his Department having reference to the propriety of the purchase of land by the Government for the enlargement of the Charlestown navy-yard; which was referred to the Committee on Naval Affairs, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. ASBURY DICKINS, its Secretary, informing the House that the Senate had passed an act for the final adjustment of private land claims in the States of Florida, Louisiana, Arkansas, and Missouri, and for other purposes, in which he was directed to ask the concurrence of the House.

The SPEAKER stated that reports were in order from committees on business relating to the Territories.

Mr. MAYNARD. I ask the general consent of the House to have the Committee of Claims discharged from the further consideration of certain papers.

Mr. FAULKNER. This day has been set apart for the consideration of territorial business, and I object to any reports not relating to territorial business.

ADVERSE REPORTS.

Mr. JOHN COCHRANE, from the Committee on Commerce, made an adverse report upon the resolution of the Territory of Washington, asking that Whatcom, in that Territory, be made a port of delivery; which was laid upon the table, and ordered to be printed.

Mr. COBB, from the Committee on Public Lands, reported adversely on the petition of the trustees of the University of Nebraska; which was laid upon the table.

SURVEYOR'S DISTRICT IN NEBRASKA.

Mr. COBB. The Committee on Public Lands have had under consideration the joint resolutions of the Legislature of Nebraska, and sundry memorials relative to the establishment of a new surveyor's district in that Territory, and have instructed me to report adversely thereon. The proper department have determined to move the

surveyor general's office from Kansas to Nebraska City, which is nearer the center of the district, and that supersedes the necessity of further legislation on the subject. I move that the committee be discharged from the further consideration of the resolutions and memorials, and that they be laid upon the table.

The motion was agreed to.

BLUE MONT CENTRAL COLLEGE.

Mr. COBB, from the same committee, reported back the memorial of the trustees of the Blue Mont Central College Association of Kansas Territory, asking for a grant of lands; which was laid on the table, and the committee discharged from the further consideration thereof.

CONFIRMATION OF CLAIMS IN WASHINGTON.

Mr. COBB, from the same committee, reported back a memorial relating to confirming titles to claims of settlers in Washington Territory.

Mr. COBB. This is a memorial of the Legislative Assembly of Washington for confirming the titles of settlers to claims from which they were driven during the Indian wars. It was supposed that, as they were absent from their claims for some time, their time would not run. But the Department has decided that, if they go back and occupy their claims in good faith, the time will be allowed to run during the time when they were absent. There is therefore no necessity for any action upon the part of Congress upon the subject; and I move that the memorial be laid on the table, and the committee discharged from the further consideration thereof.

The motion was agreed to.

PRE-EMPTIONS IN WASHINGTON.

Mr. COBB, from the same committee, reported back the memorial of the Legislative Assembly of Washington Territory, praying the amendment of the preemption law as regards preemption in Washington Territory.

Mr. COBB. This memorial proposes to increase the quantity of land in the Territory of Washington, to double the amount which is now allowed to each individual to preëmpt. The committee think the request ought not to be granted; and therefore I move that the memorial be laid on the table, and the committee discharged from the further consideration thereof.

The motion was agreed to.

SURVEYOR GENERAL OF NEBRASKA.

Mr. COBB, from the same committee, reported back House bill (No. 186) to establish the office of surveyor general of Nebraska; and moved that the same be laid on the table.

The motion was agreed to.

LAND OFFICE IN NEW MEXICO.

Mr. COBB, from the same committee, reported a bill to establish a land office in New Mexico; which was read a first and second time.

Mr. COBB. It is known to the House that there is not at this time any land office in the Territory of New Mexico. It is recommended that there should be established one land office there. I ask that the bill may be put on its passage. It is recommended by the Commissioner of the General Land Office. It will take but a minute to pass it; and I hope there will be no objection.

The bill was read *in extenso*.

Mr. MORGAN. I should like to have provision made so that the appointments to this land office shall be made during the session of Congress, so the Senate may have control over their confirmation.

Mr. COBB. That is, of course, a matter over which I have no control.

Mr. MORGAN. There is a clause in the bill providing that the President may make the appointments during the recess of Congress. I should like to have that clause stricken out.

Mr. COBB. If the gentleman is not satisfied with the bill, let him propose an amendment. This bill met with the unanimous concurrence of the Committee on Public Lands. Has the gentleman no confidence in that committee? New York has a representative upon the committee who was satisfied with the bill. It met the approval of the General Land Office. If the gentleman objects to any provisions of the bill, let him suggest an amendment.

The bill was ordered to be engrossed, and read

a third time; and being engrossed, it was accordingly read the third time, and passed.

LANDS IN OREGON AND WASHINGTON.

Mr. COBB, from the same committee, reported back House bill (No. 170) to extend the land laws east of the Cascade mountains, in Oregon and Washington Territories.

Mr. COBB. This bill is merely to extend the land laws to the land in Washington and Oregon lying east of the Cascade mountains, in order that it may be surveyed and brought into market. The bill was drawn up by the Department. It meets the concurrence of the Committee on Public Lands. I hope it will be passed.

The bill was ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time, and passed.

LAND DISTRICTS IN WASHINGTON.

Mr. COBB, from the same committee, reported back House bill (No. 177) to create three additional land districts in Washington Territory, accompanied by a substitute.

Mr. COBB. The original bill proposed to create three additional land districts in Washington. The Committee on Public Lands have reported back a substitute creating two additional land districts. A bill, similar to the one originally introduced, was, at the last session, reported by the Committee on Public Lands; but, owing to a press of business, it was never acted upon. The Territory has not been settled up as rapidly as was expected, and we have, therefore, thought two districts were all that are needed.

Mr. SMITH, of Virginia. I should like the chairman of the Committee on Public Lands to explain what necessity there is for two additional land districts in a Territory as slowly settled as Washington Territory.

Mr. COBB. The bill was recommended by the Commissioner of the General Land Office, and by the Committee on Public Lands. If the gentleman is still not satisfied, I will turn him over to my friend from Washington, [Mr. STEVENS], and will yield the floor for him to reply.

Mr. STEVENS, of Washington. I have a word to say in regard to this matter. As the honorable chairman of the Committee on Public Lands has stated, the Department originally recommended three additional land offices; I am satisfied with the report of the committee, for two additional land offices. We have, to be sure, a sparse population in Washington Territory; our surveys have not progressed with much rapidity; we have a country in which it is difficult to travel, and the settler requires some accommodation in the way of land offices.

This bill provides for an additional land office on the Columbia river; and the limits of that land district embrace the whole southern portion of the Territory, extending from the coast to the interior. Communications are difficult from the river to Olympia, on Puget's Sound, where the present land office is. The reasons are very strong, therefore, in favor of that additional land office. The other land office is for the country north. There is much business there on the part of the settlers, proving and perfecting their titles; and for the same reasons that we ask for an office on the river, we ask for an office in the northern portion of the Territory. There is great difficulty of communication, and of course great expense is entailed upon the settlers.

I will state, sir, in addition, that now that we have got over our most serious difficulty with the Indians, our settlements are growing and extending more rapidly. Even with these additional land offices, our settlers will have far to go to attend to their business. I trust that, with this explanation, the House will put the bill on its passage.

Mr. LETCHER. I should like to inquire of the gentleman from Washington how much of the land in that Territory has been surveyed where it is proposed to establish these additional land offices.

Mr. STEVENS, of Washington. I cannot give the details. I know that in the southern portion of the Territory surveys are in progress in Clarke, Coulto, Wahkiacum, Pacific and Chehalis counties, which will be accommodated by the land office on the Columbia river. In the northern portion of the Territory, surveys are in progress in Island, Jefferson, Chatham and Whatcom coun-

ties, which will be accommodated by the northern land office.

Mr. SMITH, of Virginia. How far will these land offices be apart?

Mr. STEVENS, of Washington. The northern office will be about one hundred and thirty miles from Olympia, and the southern one will be about one hundred and forty miles.

Mr. SMITH, of Virginia. How many persons have come into Washington Territory during the year?

Mr. STEVENS, of Washington. I presume that we will have some three thousand this year; and it will take another season to organize these land offices. There would have been a larger emigration if it had not been for the Utah troubles. I have learned that if those troubles had not taken place there would have been this year an emigration to Oregon and Washington, by the way of South Pass and the Columbia river, of some ten thousand people from Iowa and Missouri.

Mr. SMITH, of Virginia. I will now ask the chairman of the Committee on Public Lands who reported this bill, whether there is any necessity for a land office until the lands are brought into market by proclamation of the President?

Mr. COBB. Settlers are as anxious to have their titles perfected before the proclamation of the President as they are afterwards. When the lands are surveyed and the returns made to the land office, that moment the preëmtor has the right to perfect his title. The settler does not care to wait for the proclamation of the President. It has been the practice in Kansas and Nebraska to allow them to do so.

I have no interest about this matter further than to discharge my duty to the Committee on Public Lands, which has directed me to make this report. We had the applications before us for these land offices, and we had the opinion of the Land Office on the subject; and on these we acted. The honorable Delegate from the Territory consents to the proposition and concurs in the views of the committee.

Mr. HARRIS, of Illinois. I would ask the gentleman from Washington Territory, how far from the southern line of the Territory is the southern land office?

Mr. STEVENS, of Washington. It is directly on the southern boundary.

Mr. HARRIS, of Illinois. How far off is the northern land office?

Mr. STEVENS, of Washington. The location of it is left to the discretion of the President. A central point of the district, in round numbers, would be sixty or sixty-five miles off. The river, in part, acts as a line of communication. The northern district is north of the present land office.

Mr. HARRIS, of Illinois. I will ask the gentleman whether, up to this time, any lands there have been entered with cash?

Mr. STEVENS, of Washington. Some land has been entered under the provisions of an amendment to the donation law, whereby a settler, after one year's residence, becomes entitled to his patent, on paying \$1 25 per acre. A small sum has been received in this way. No land has yet been offered for sale.

Mr. HARRIS, of Illinois. If I understand it, the southern land office is upon the southern boundary of the Territory, and there is no public land south of it. And between that land office and the Olympia office there is no land to any extent that has yet been entered with cash. They are wholly taken up by settlers under the donation law. The gentleman can give no satisfactory evidence when those lands will be brought into market, so as to make a necessity for this office. It strikes me, therefore, that there can be no use in the world for the southern office, if for either. I see no reason for creating new land offices which are not at all demanded. The old States are consolidating their offices every day; and we should not establish new ones until they are required.

Mr. LETCHER. I should like to inquire of the gentleman from Washington if either one of these land offices is proposed to be located east of the guide meridian?

Mr. STEVENS, of Washington. The southern land office will be a short distance east of the guide meridian.

Mr. LETCHER. I see that no surveys are made in the guide meridian at all, according to the report of the surveyor general of the land office.

What do you want with a land office where there are no surveys? Here is what the surveyor general says in his report of the 21st December, 1857:

"No surveys have been made east of the guide meridian; and the paralysis caused by the Indian war, the scarcity of men, and the general impoverishment of the inhabitants, including the few land surveyors of the country, together with the exceeding topographical difficulty of the country, has made it impossible to find deputies willing to contract for any work other than that reported."

And then he goes on and gives a table of what is under contract, and what is proposed to be contracted for.

Mr. STEVENS, of Washington. I will say to the gentleman from Virginia, in respect to the southern land district, that surveys have been made in the county of Clark, a portion of which is east of the guide meridian, and a portion west.

Mr. LETCHER. Here is what the surveyor general says:

"The surveys of the extension of the Willamette meridian north to Whidby's Island, the rich lands of Whidby's Island, several townships in the vicinity of Fort Vancouver, eight townships on the Lower Columbia, including the mouth of the Cowlitz river, ten townships upon the peninsula made by Puget sound and Hood's canal, and several townships on the Chehalis river, are in a forward state of completion, and will all probably be finished this season."

Mr. SMITH, of Virginia. According to my view of the subject, the whole question lies in a nut-shell. When surveys are finished, the President of the United States, at the proper time, announces the land for sale, and then it is that land offices become necessary. But the idea of creating land offices before the titles are extinguished, and before proclamations are made, is manifestly injudicious and unwise, and seems to me to contemplate nothing but establishing sinecure positions for some persons.

Mr. COBB. If the gentleman will allow a letter from the Commissioner of Public Lands to be read, he will perhaps know as much about it as any of us.

Mr. SMITH, of Virginia. The gentleman seems to bow to authority very much; but I am one of those who examine matters for themselves; and it is not necessary for the gentlemen to tell us what the Commissioner says. I want to know how much of the Indian title is extinguished?

Mr. COBB. Let the letter be read. The Committee on Public Lands have to form their opinions from the facts that they get from the Departments, as well as their own judgment. That letter was the basis on which we predicated our opinions.

The letter was read, as follows:

GENERAL LAND OFFICE, February 10, 1858.

SIR: I have the honor to acknowledge the receipt of your letter, of 8th instant, covering a diagram of Washington Territory, and requesting my view as to the necessity of creating two additional districts in said Territory, and the draft of a bill designating the boundaries, &c.

I therefore herewith submit the draft of a bill creating two additional land districts in that Territory; and for my views as to the necessity thereof, I beg leave to submit the copy of a letter, dated May 21, 1855, to the then chairman of the Public Land Committee of the House, covering the copy of a bill at that time drawn in this office for the creation of three additional districts; and as the reasons therein stated still exist, I recommend now that either two or three additional districts be created, as the committee may see proper to recommend for the action of the House.

The diagram submitted by you is herewith returned.

With great respect,

THOMAS A. HENDRICKS, Commissioner.
Hon. W. R. W. Cobb, Chairman of Committee on Public Lands, House of Representatives.

Mr. SMITH, of Virginia. I readily see from that very letter that if these land districts had been established in 1856, there would have been no use for them. No lands have been surveyed since; and consequently there is no power to enter. They wanted three offices at that time. Thus the House will readily see that the only advantage from this arrangement would have been to put officers in snug places, with good salaries, and with nothing to do.

Mr. CURTIS. I do not know anything about the localities of this Territory that have been mentioned, but I wish to correct the gentleman from Virginia in regard to the necessity of the office before proclamation. The land office is quite as necessary before the proclamation of the President as it is after. You have several offices already in Nebraska, and they have been overrun with business. They have been great accommodation to settlers who go there and prove up their preëmtion claims. If I had my way about it, I would never have a proclamation for the sale of the lands to speculators. The object of the land

office is to accommodate settlers. The land offices in Nebraska, Iowa, and all the western country, are more occupied with the proving of their preëmtion rights and the determination of their entries, than with anything else. So far from waiting for the opening of land offices till proclamations are made, it is generally necessary that they should precede the proclamation. I see, from the statement of the gentleman from Washington Territory, that now settlers have to go two or three hundred miles to prove their claims; and it seems to me, therefore, that it would be an accommodation to the settlers in Washington Territory to have two more offices.

Mr. LETCHER. Will my friend from Iowa allow me to interrupt him at this point? This report of the surveyor general states:

"A few claims are being taken under the preëmtion laws, but they restrict the settler to one hundred and sixty acres. It would greatly stimulate the settlement and occupation of the country if the amount were increased to three hundred and twenty acres, or a new donation act made by Congress, giving the settler fee simple to his land upon proof of improvements being made to the value of \$1 25 per acre, or proof of residence and cultivation for a limited period of years, at his option."

In addition to all that, he says:

"The population of Washington Territory has not increased for the two years past, in consequence of the Indian difficulties and consequent insecurity."

Mr. CURTIS. That is a matter with which I am not acquainted; but so far from voting against the land offices because of no proclamation, I hope the House will understand that these offices are necessary for the accommodation of settlers, and that these proclamations are only for the accommodation of speculators.

Mr. HARRIS, of Illinois. I move to refer this bill to the Committee of the Whole on the state of the Union, which will give us time to investigate it; and on that I demand the previous question.

The previous question was seconded, and the main question ordered; and, under its operation, the bill was referred to the Committee of the Whole on the state of the Union.

LAND DISTRICTS IN NEBRASKA.

Mr. COBB, from the same committee, reported back a memorial and joint resolution of the Legislative Assembly of Nebraska, asking for one or more additional land districts in the western portion of the Territory; and asked to have the committee discharged from the further consideration of the same.

Mr. COBB. Although our committee has been censured for its liberality, we have agreed to report against this memorial. We think there are enough of land offices there.

The committee was accordingly discharged from the further consideration; and the memorial was laid upon the table.

LANDS FOR A COLLEGE IN NEBRASKA.

On motion of Mr. COBB, it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of the memorial of sundry citizens of Nemaha county, Nebraska Territory, asking for an appropriation of public lands for the use and benefit of Brownsville College; and that the memorial be laid on the table.

HALF-BREED LANDS IN MINNESOTA.

Mr. BENNETT, from the Committee on Public Lands, reported back, with an amendment, Senate bill (No. 82) to amend an act entitled "An act to authorize the President of the United States to cause to be surveyed the tract of land in the Territory of Minnesota belonging to the half-breeds or mixed bloods belonging to the Dacotah or Sioux nation of Indians," approved July 17, 1854.

The bill was read.

The amendment proposed by the Committee on Public Lands is as follows:

Strike out all of the bill after the word "lands" in the twelfth line and insert the following:

And settlements heretofore made thereon are declared valid so far as they do not conflict with settlements made by half-breeds, and that the settlers shall have the benefit of the preëmtion laws of the United States, any location of half-breed scrip thereon notwithstanding: *Provided*, The declaration of preëmtion be filed within three months after public notice is given of the passage of this act in the proper land district: *And provided*, That when two or more persons have settled on the same quarter section prior to the passage of this act, they shall be permitted to enter the same, and the rights of each shall be determined according to the provisions of the act relating to preëmtions, passed March 3, 1843.

Sec. 2. *And be it further enacted*, That the provisions of this act shall not extend to any tract or subdivision within the body of land aforesaid, which shall have been settled upon in good faith, by and in the occupancy of, any of the said half-breeds, or mixed bloods, which lands, so settled upon and occupied by the half-breeds are hereby expressly declared to be subject to no other disposition than location by the "certificates" or "scrip" authorized to be issued by the said act of 1854, for the benefit of said Indians, nor shall the provisions of this act extend to any lands which may have been located prior to its passage with half-breed scrip, with the consent of the settlers thereon.

Mr. BENNETT. The object of the amendment is to carry out the design of the Senate bill, to secure to the settlers on these lands their improvements. The Committee on Public Lands thought the Senate bill was not sufficiently explicit to effect the object intended. Before 1854, this land was reserved for the benefit of the mixed bloods. They had a reservation fifteen miles back from the river. Various persons went on these lands and made improvements. In 1854, Congress passed a law to exchange with these half-breeds their reservation for other lands, secured to them by scrip, upon their giving a full relinquishment of all their rights, either tribal or individual, to said reservation. Scrip was to be issued to them, which they could locate either within the reservation or out of it. The Indians came into that arrangement, and made the relinquishment, which was in as explicit terms as possible. They relinquished all rights, either individual or tribal. The act of 1854 also provided that these lands should be surveyed and brought into market. It was surveyed like any other public lands. There are now some three thousand people, or more, who have settled upon these lands, and made valuable improvements on them. Many of them have invested all they are worth in improvements. The law reserving these lands provided that the half-breed scrip should not be transferable, the intention being that none but half-breeds should settle upon the reservation. The scrip, however, was, most of it, disposed of by the half-breeds to speculators, for a trifling consideration, and the law is evaded by locating the scrip in the name of the Indians, the speculators taking a power of attorney to locate for them, and then holding the land afterwards for their own benefit. These speculators have gone on and located their scrip upon the lands occupied by the settlers, upon which, as I have said, valuable improvements have been made. The Land Office has refused to confirm the entry of this half-breed scrip, and have refused to confirm the rights of the settlers by preemption, and have left the matter to be settled by legislation. It is as honest a matter on the part of the settlers as ever was presented. The effect of the bill is to do justice to the honest settlers, and will not do injustice to the half-breeds. The law allows them to locate their scrip anywhere upon the unoccupied public lands. The bill simply provides for confirming the title of the honest settlers by applying the general preemption law to them. I think the Land Office was wrong in the construction given to the act of 1854, in not allowing these settlers the benefit of the preemption laws. These lands were brought into market the same as other public lands, by that act—the Indian title relinquished under it; and I think the claims for preemption, by actual settlers, should be regarded the same as on the other public lands; but it has not been so decided, and an act of Congress to secure them this right is believed to be necessary.

Mr. LETCHER. I desire to call the attention of the gentleman to the third section of the act of 1854. It reads:

"Sec. 3. *And be it further enacted*, That from and after the passage of this act, the President is authorized to have the lands within the said reservation surveyed and exposed to public sale, at the land offices for the districts in which said lands may be, according to the boundaries of the several land districts recently established by Congress, in the same manner as other public lands."

Now, I ask, whether these lands, under this law, were regularly advertised and exposed to public sale? If they were not exposed to public sale, is it probable that any controversy will be likely to grow up at any future time between the Government of the United States and these Indians, growing out of the treaty stipulations under which the law was passed?

Mr. BENNETT. I will answer the gentleman from Virginia, that, if he will examine the whole of the law of 1854, he will find that there is a seeming conflict between the first two sections

and the third section, which he has read. The first and second sections seem to regard the land, in some respects, as still reserved; while the third section, which the gentleman from Virginia has read, treats it simply as public land. If the Commissioner of the General Land Office had given to this third section the construction which I think he should have given it, no further legislation would have been necessary. But he refused to give it that construction; and the Committee on Indian Affairs insist that there shall be some further legislation. Otherwise, these settlers will be deprived of their lands. The scrip locations and preemption rights are both suspended, for further legislation. It is important; and this bill, as amended, should be passed at once, and the honest settlers protected.

Mr. GROW. Being a member of the Committee of Indian Affairs at the time the bill was reported to the House, from which the gentleman from Virginia has just read, I desire to state briefly the history of the legislation on this subject.

When the Sioux Indians ceded their lands in Minnesota, they reserved for the use of the half-breeds belonging to their tribe a strip of land along Lake Pepin, on the Mississippi river, thirty-two miles long, and running back from the river fifteen miles. In 1854, the settlers along the line of this reservation petitioned Congress to provide in some way for opening these lands to settlement, so that roads could be built from the river through to the settlements lying back of this reservation. A bill was reported by the Committee on Indian Affairs, of which you, Mr. Speaker, was then chairman, under which scrip was to be issued to the half-breeds, which could be located on this reserve or any other lands belonging to the Government, and the half-breeds were to relinquish in full all claims to the reservation. It was subsequently surveyed, like other public lands, and settlers went on and occupied them and made many valuable improvements upon them. But speculators have purchased the scrip of the half-breeds, and claim the right to enter it upon the improvements of the settlers.

Mr. LETCHER. I see now exactly where the trouble comes from. The speculators have gone on and purchased the scrip of these half-breeds, which the law expressly says is not transferable. Hence the difficulty.

Mr. GROW. No, sir, the trouble is, that the speculators who have purchased the scrip of the half-breeds, claim the right to locate it upon the improvements made by the settlers.

Mr. LETCHER. By what authority do these parties buy up the scrip of the half-breeds when the law of 1854 expressly says that no transfer, or evidence of any transfer of scrip shall be valid?

Mr. GROW. My recollection may be at fault, but I think Congress, by a subsequent act, made the scrip transferable. If not, it was by power of attorney alone.

Mr. WASHBURN, of Illinois. The scrip is not transferable. The gentleman from New York [Mr. BENNETT] explained how it is purchased. The land is located in the name of the Indians, the purchaser holding a power of attorney to transfer the land.

Mr. LETCHER. Could a power of attorney authorize those parties to violate the law?

Mr. GROW. As I understand it, the lands are located by power of attorney in the name of the Indians, who then transfer the lands to the speculators. The object of this bill is to prevent the scrip from being located upon the improvements made by settlers, but leaves the scrip to be located on any unoccupied land belonging to the Government. The object is to protect the actual settlers against the speculators, while it does no injustice to the Indians. If the half-breed located his scrip on any part of this reservation before it was settled, he holds it; and if he locates it outside of the reservation on any land of the Government, he holds that.

Mr. McQUEEN. It was stated before the Committee on Public Lands—and the Committee on Public Lands acted on that statement in the investigation of this matter—that speculators went and bought this scrip, in defiance of the law of 1854, with a view of afterwards enforcing them against the settlers. This bill is intended to protect the settlers.

Mr. GROW. That is just as I understand it.

Mr. COBB. Those who have bought the scrip in violation of law, have tried to get the improvements of the settlers, or compel them to pay six or seven dollars an acre for the privilege of retaining their improvements.

Mr. GROW. Exactly. My only object was to state the history of this matter for the information of the House. I have no doubt that the statement made to the Committee on Public Lands is correct.

Mr. WASHBURN, of Illinois. The gentleman from Alabama has spoken of wrongs to the settler. I would like to know by what right the settler went upon those lands?

Mr. COBB. My own opinion is, that under the law, the settlers had no right to go there; but I understand that the Land Office, in a circular, recognized their right to do so. They did not go there, then, in defiance of the authority of the General Land Office, but with the belief, under the instructions of the Department, that they would be entitled to the right of preemption.

Mr. WASHBURN, of Illinois. Does the gentleman state that they went there under the decision of the Department that they would be entitled to preemption?

Mr. COBB. I find, in the correspondence of that Department, that the register of the land office there was instructed, by a circular, to permit settlers to enter these lands as preceptors. I think that that was wrong; but there is the fact, nevertheless.

Mr. GROW. Settlers go upon the public lands whether surveyed or not, as they find them unoccupied. A settler who goes as a pioneer to a new country to find a home, settles upon a quarter section that he finds unoccupied. After the issuing of this scrip, these lands were thrown into market like other lands which had been surveyed. The settlers went upon them, and improved them. Last summer I passed over this reserve, and noticed very many fine improvements made by the settlers, and it is due to those settlers that they should be protected in these improvements, thus made.

Mr. COBB. These settlers went upon that reserve under the circular of the General Land Office; and they supposed that they had a right to preemption. After a while a difficulty arose; and the register was instructed not to permit them to perfect their titles. These settlers had, in the mean time, expended thousands of dollars in improving the lands upon which they had settled. My judgment has been against the interference of Congress in the matter; but my sympathy is with the settlers, who have gone on and settled upon the land in good faith. Something must now be done for their relief; for, as the law now stands, it is calculated to give them a great deal of trouble. This bill wipes out the whole thing. Those who hold the scrip cannot be injured under it, because they may locate it either within that reservation or out of it, as they please. They can find as good land as that which has been located by the settler. You well know, Mr. Speaker, for you have been in the western country, that these land speculators seek, whenever they can, to locate upon the claims of settlers, not so much in view of the value of the lands as of the value of the improvements put upon them. They do that when they could find equally as valuable land adjoining the settlers' land.

Mr. GROW. Admitting that technically the settlers have no right to preemption, what is the injury done by giving them preemption rights under this law? You injure nobody. The Government takes \$1 25 from them under their preemption claim, instead of \$1 25 of a speculator, if you put them up to sale, while you leave the owner of the land scrip to locate it, as was intended by the original act, on any lands not already settled. The committee intended, in the law for issuing scrip, to give the Indian his improvements, if he had any, by allowing him to locate the scrip on it. If not, then he could locate on any unoccupied land, but not to take away other settler's improvements. The holder of the scrip, under this bill, will have the same right. You do not deprive the holder of the scrip from locating upon any unoccupied public land in or outside of this reservation. That scrip is better now than any other paper issued by the Government for locating lands, because the holders of it can go on to any land as soon as surveyed and locate, while the

holder of a warrant cannot locate except on land subject to private entry. They have the right to go upon the public domain anywhere and locate their scrip to the amount called for. No injury is done, therefore, to the owner of this scrip. He has all the law ever intended should be given to anybody except a half-breed who had an improvement. If a half-breed had an improvement, he could hold it under his scrip, but it was never thought of nor intended that anybody else could take that scrip and hold the improvement of anybody else, unless he had bought that improvement. Then no wrong is done to anybody by this act, and you protect the *bona fide* settler in his improvements. The lands were surveyed like other public lands. Settlers went upon it, supposing it to be public land open to preemption. The Congress of the United States is now asked to protect these settlers, who went there under the belief that they had the right to preempt that land against the cupidity of the speculator.

Mr. BENNETT obtained the floor, and moved the previous question.

Mr. SMITH, of Virginia. Will the gentleman from New York yield to me a moment?

Mr. BENNETT. I will, if the gentleman will renew the demand for the previous question.

Mr. SMITH, of Virginia. I will renew the demand. I wish to express the opinion, Mr. Speaker, that if we interfere in this matter we shall get ourselves into a scrape, and we shall take upon ourselves a serious responsibility which will hereafter be pressed upon us by those with whom we have interfered. I have listened with a great deal of attention to the allegations of fairness on the part of those who have gone upon the public lands, which they knew they had no right to go upon. I do not understand that sort of logic.

Mr. WALBRIDGE. The settlers were advised to go there by the Land Office, and they went there believing that they had a right to go there. Afterwards the Department issued other circulars suspending the perfection of their titles.

Mr. SMITH, of Virginia. Let us see what the law is in reference to the position of these parties. I have here the act of July 17, 1854; and I understand from it, and from what we know otherwise by the treaty of Prairie du Chien, that there was a certain interest secured to the half-breed or *Dacotah* Indians. It became desirable that the tract of land, so secured, should be brought into market.

Mr. LETCHER. Will my colleague allow me to read an extract from a memorial of the Legislature to Congress?

"The half-breed tract is a body of land thirty miles long and fifteen wide, lying on the west side of the Mississippi river and Lake Pepin, comprising about four hundred and eighty-six square miles of as good agricultural country as any in the Territory of Minnesota. There are now upon this land over five thousand inhabitants, of whom one half, at least, are tillers of the soil, and the rest are merchants and mechanics, residing in the villages within the limits of this tract.

"After the treaty with the Sioux Indians, ceding all their lands east of a specified line, to the United States, had been ratified, in 1853, many persons who were acquainted with the fertile character of the soil on this tract, and were of the opinion that the ratification of that treaty opened these lands to the settler the same as all other lands, came and settled in the vicinity of Wabashaw, Reed's Landing, and other points.

Now, sir, it is stated on the sixth page of this report—

"There are now, according to official data, obtained from the census recently taken, upwards of five thousand inhabitants on this tract.

"The number of acres of land actually occupied by the settlers amounts to one hundred and twenty thousand acres.

"The number of families settled upon these lands amount to eight hundred and seven.

"Of the five thousand inhabitants, there are one thousand and eight males over twenty one years of age.

"The value of the improvements made, and owned by the settlers, amount to.....\$772,800 00

"The amount of capital invested in business, houses, mills, &c., is.....157,900 00

"Making, in total, the sum of.....\$940,700 00

"Almost one million dollars brought here and invested by the settlers.

"The value of the one hundred and twenty thousand acres now occupied by settlers, at the usual rates of \$1 25 per acre, is \$150,000.

"If the scrip should be covered over this land, at five dollars per acre, it would amount to \$600,000; almost one half million dollars difference between the Government price and the price demanded by speculators."

Mr. WALBRIDGE. I ask if the whole gist of this matter is not this: that certain specu-

tors have bought this land scrip from the Indians for a nominal sum—almost nothing, as the testimony before our committee shows—and that this is a contest between them and those who have produced this wealth of a million and a half dollars, by their own hard labor?

Mr. LETCHER. I will answer the gentleman with great pleasure; that those men, who, he says, have produced this wealth, went there in violation of law. They knew it was an Indian reservation. Those who are now seeking to dispossess them purchased the scrip in violation of law—so that they both stand here alike criminal violators of the law, and I would leave the settlement of their disputes to the courts of law and not to Congress.

Mr. WALBRIDGE. But when these same settlers went on to this land, as the gentleman from Virginia says, and produced this wealth, they did so under instructions from the land office in the Territory, that they had a right to preempt these lands.

Mr. LETCHER. It is not so stated in this report.

Mr. McQUEEN. One word further in regard to this matter. I believe it was in evidence before the committee that these parties who are now claiming to have their titles confirmed, had information from the land office that they had the right to go there and settle on these lands. My own impression is, that long before the Indian title was extinguished, they went and settled on these lands without any legal right. I believe the Indian title was extinguished under the act of 1852. They settled there without any legal right. The purchasers of the land scrip, on their part, had no right to purchase, and did so in violation of law. The majority of the committee, however, came to the conclusion that the settlers were entitled to be protected in preference to the purchasers of scrip. I do not believe that I gave my sanction to the bill in committee, and I do not know that I will do so here; but between the two, my judgment is in favor of the settlers. I was not satisfied for myself as to what should be done. They were both there without authority of law in their first claims; but after the Indian title was extinguished, then they ought to have the right to preempt their claims.

Mr. FAULKNER. If we pursue this course we shall spend the two days set apart for territorial business in acting on a matter on which we have had no opportunity of informing ourselves. The Committee on Public Lands should have made their reports prior to these days in order that they might have been printed, and that members might have had an opportunity to see them. If we go on acting on reports immediately coming from committees, the result will be—

Mr. LOVEJOY. I rise to a question of order. I do not see the bearing of the remarks of the gentleman.

Mr. FAULKNER. I am going either to move, myself, or to suggest to my colleague to move, to refer this to the Committee of the Whole on the state of the Union. How otherwise can we have information about it? The bill is not printed; whereas, there is a vast deal of business reported to the House, where the bills and reports are printed and ready for the action and consideration of the House.

Mr. SMITH, of Virginia. Of course I cannot, after what has occurred, make the remarks which I intended to have submitted; but I think it best, under the circumstances, to present this single view: that this is a squabble between conflicting claimants for this property, and that we should not interfere. Why should Congress interfere between our own citizens, and see which have the best rights? Let the courts decide that question, and let us leave that matter to the courts. If we interfere improperly, we will, of course, have future demands against us on the part of those who will be stripped of their rights by our instrumentality. I move to refer the bill to the Committee of the Whole on the state of the Union; and I move the previous question.

Mr. BENNETT. I ask the gentleman to withdraw the demand for the previous question for one moment.

Mr. SMITH, of Virginia. Certainly.

Mr. BENNETT. Mr. Speaker, the only difficulty about this matter is, that gentlemen will continue to regard these lands as a reservation, after the Government has purchased them back,

and after the Indians have relinquished all right and title to them. Here is their relinquishment:

The half-breeds or mixed bloods of the Dacotah or Sioux nation of Indians: to all to whom these presents shall come, greeting:

Whereas, in accordance with the stipulations of the act of Congress approved 17th July, 1854, "to authorize the President of the United States to cause to be surveyed the tract of land in the Territory of Minnesota, belonging to the half breeds or mixed bloods of the Dacotah or Sioux nation of Indians, and for other purposes," and in consideration of the "certificates or scrip" which the said act authorizes to be awarded to us, the undersigned, to wit: those being the half-breeds or mixed bloods aforesaid, who sign for themselves, relinquishing in their own right, and those as signing for others, relinquishing as "the legal representatives of such as may be minors," as referred to in said act, do hereby relinquish, transfer, and forever quit claim to the United States, all right, title, and interest, of whatsoever nature, which they may have, either tribal or as individuals, of, in, and to "the tract of land lying on the west side of Lake Pepin and the Mississippi river, in the Territory of Minnesota, which was set apart and granted for their use and benefit by the ninth article of the treaty of Prairie du Chien, of the fifteenth day of July, one thousand eight hundred and thirty," the said tract being particularly described in the aforesaid treaty in the manner following, to wit: "Beginning at a place called the Barn, below and near the village of the Red Wing chief, and running back fifteen miles; thence in a parallel line with Lake Pepin and the Mississippi, about thirty-two miles, to a point opposite Beef or O'Beuf river; thence fifteen miles to the Grand Encampment opposite the river aforesaid."

In testimony whereof, we have hereunto signed our names at the times and places, and in presence of the witnesses, as hereinafter certified.

The President was required, by the act of 1854, to go on and have these lands surveyed and put into market; and as late as the 13th of May, 1856, the Commissioner of the Land Office said, in a letter to one of the settlers:

"The lands settled upon and occupied will be protected from location by scrip authorized to be issued by the act of July 17, 1854. The necessary instructions have this day been issued to the district offices at Red Wing and Winona on the subject."

The Department instructed the settlers that their rights would be protected; and it would come with a bad grace now for Congress to tell them that they shall be robbed of their lands because they followed the erroneous instructions of the Department. They were not bound to know the law better than the Commissioner, even if the construction now contended for was right.

Mr. SMITH, of Virginia. I call the attention of the gentleman to the proviso to the first section of the act of 1854:

"And provided further, That no transfer or conveyance of any of said certificates or scrip shall be valid."

Now, if we interfere with any right or title originating under that law, we shall be responsible, and claims will be presented here hereafter. I will say further, that if the Indians have parted with the title under this act, why, then, of course there will be no difficulty; but let the courts decide between the parties, and not this House. I hope the gentleman will permit the bill to be referred to the Committee of the Whole on the state of the Union.

Mr. BENNETT. No, sir; if the bill is to be passed at all, it ought to be passed now; as the Commissioner has suspended action, either way, for the action of Congress in the premises. I hope the bill will not be referred, but passed to-day. I call the previous question.

The previous question was seconded, and the main question ordered; being first upon Mr. SMITH's motion to refer the bill to the Committee of the Whole on the state of the Union.

Mr. GREENWOOD demanded tellers.

Tellers were ordered; and Messrs. CRAIG of North Carolina, and WALDRON were appointed.

The House divided; and the tellers reported—ayes 72, noes 70.

Mr. BENNETT demanded the yeas and nays. The yeas and nays were ordered.

Mr. WASHBURN, of Illinois. If this bill is referred to the Committee of the Whole on the state of the Union, will it not go upon the territorial Calendar, to be considered on the days set apart for territorial business?

The SPEAKER. The Chair thinks it will.

Mr. STANTON. Will it be printed in time to be considered on those days?

The SPEAKER. The Chair thinks it will.

Mr. GROW. How many days have been set apart for the consideration of territorial business?

The SPEAKER. Two days.

The question was taken; and it was decided in the negative—yeas 68, nays 96; as follows:

YEAS—Messrs. Arnold, Avery, Barksdale, Biscock, Bon-

ham, Bowie, Boyce, Branch, Bryan, John B. Clark, Clemens, James Craig, Burton Craige, Crawford, Dimmick, Edmundson, Elliott, English, Faulkner, Florence, Gillis, Goode, Greenwood, Gregg, Thomas L. Harris, Hawkins, Hopkins, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Jacob M. Kunkel, Lawrence, Leiter, Letcher, Macley, Mason, Miles, Miller, Millson, Isaac N. Morris, Pendleton, Peyton, Phelps, Phillips, Quitman, Reagan, Russell, Sandidge, Scales, Scott, Searing, Singleton, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, George Taylor, Miles Taylor, Underwood, Elihu B. Washburne, Watkins, Woodson, and Wortendyke—68.

YAYS—Messrs. Abbott, Anderson, Atkins, Bennett, Bingham, Blair, Bliss, Buffinton, Burlingame, Burns, Case, Chaffee, Cobb, John Cochrane, Colfax, Comins, Covode, Curtis, Danrell, Davidson, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dawes, Dean, Dick, Dodd, Dowdell, Durfee, Farnsworth, Fenton, Foley, Foster, Gartrell, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Hatch, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, Leach, Lovejoy, McQueen, Samuel S. Marshall, Matteson, Maynard, Moore, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Mott, Niblack, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Reilly, Ritchie, Robbins, Royce, Ruffin, Aaron Shaw, John Sherman, Judson W. Sherman, Shorter, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Israel Washburn, White, Wilson, Winslow, and John V. Wright—96.

So the bill was not committed to the Committee of the Whole on the state of the Union.

Pending the call of the roll,

Mr. DUFEE stated that his colleague, **Mr. BRAYTON**, had been called home by sickness in his family, and had paired off until Monday next with **Mr. SMITH**, of Tennessee.

The amendment to the bill was agreed to.

The bill as amended was then ordered to a third reading, and was accordingly read the third time.

Mr. BENNETT moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

Mr. LETCHER demanded the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 124, nays 38; as follows:

YEAS—Messrs. Abbott, Anderson, Andrews, Atkins, Barksdale, Bennett, Bingham, Blair, Bliss, Bonham, Bowie, Boyce, Buffinton, Burlingame, Burns, Campbell, Case, Chaffee, Ezra Clark, John B. Clark, Clawson, Cobb, John Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Danrell, Davidson, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dawes, Dean, Dick, Dodd, Dowdell, Durfee, Elliott, English, Farnsworth, Fenton, Florence, Foley, Foster, Giddings, Gillis, Gooch, Goodwin, Granger, Groesbeck, Grow, Robert B. Hall, Hatch, Hawkins, Hickman, Hill, Hoard, Horton, Howard, Jenkins, J. Glancy Jones, Kellogg, Kelsey, Kilgore, Knapp, Landy, Leach, Leidy, Lovejoy, Macley, McQueen, Samuel S. Marshall, Matteson, Maynard, Millson, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Mott, Niblack, Nichols, Olin, Palmer, Parker, Pendleton, Pettit, Phelps, Phillips, Pike, Potter, Pottle, Purviance, Reilly, Ricand, Ritchie, Robbins, Royce, Ruffin, Russell, Sandidge, Aaron Shaw, John Sherman, Judson W. Sherman, Shorter, Robert Smith, Spinner, Stanton, Stephens, James A. Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, White, and Wilson—124.

NAYS—Messrs. Avery, Bocoek, Branch, Caskie, Clay, Clemens, Crawford, Edmundson, Gartrell, Greenwood, Gregg, Thomas L. Harris, Hopkins, Huyler, Jackson, Jewett, George W. Jones, Owen Jones, Lawrence, Leiter, Letcher, Humphrey Marshall, Miles, Miller, Moore, Isaac N. Morris, Peyton, Powell, Quitman, Reagan, Scales, Singleton, William Smith, Stevenson, Underwood, Woodson, and Zollcoffer—38.

So the bill was passed.

Mr. BENNETT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

POST ROUTE BILL.

Mr. ENGLISH. I desire to say that the post route bill, including post routes in the Territories as well as in the States, is in progress of preparation in committee, and nearly complete, in the room of the Committee on the Post Office and Post Roads; and I desire to give notice that upon the call of committees, if they are called next week, I shall report that bill. I would suggest to members, therefore, to call at the committee room and look over the bill, so as to ascertain whether routes in which they are interested are properly entered.

PUEBLO LAND CLAIMS IN NEW MEXICO.

Mr. SANDIDGE, from the Committee on Private Land Claims, reported a bill to confirm the land claims to certain pueblos and towns in the Territory of New Mexico; which was read a first and second time.

Mr. SANDIDGE. The facts of the case are very fully set forth in the report of the committee, which I ask may be read.

Several MEMBERS. Let it go.

Mr. SANDIDGE. Very well; if there is no objection to the bill, I do not care to have the report read.

Mr. STEPHENS, of Georgia. I demand the previous question upon the bill.

Mr. LOVEJOY. I would like to inquire the extent of these claims, and how they come here?

Mr. SANDIDGE. The report sets forth all the facts of the case very fully; but I will state them briefly. These claims were granted to the Indians one hundred and sixty-eight years ago. The Indians had revolted, and were reconquered by the Spanish Government, when the claims were again confirmed by the Captain General of the Province. They were in most instances confirmed to four leagues exactly—measuring from the four corners of the temple in each pueblo—and the committee thought the intention generally was to confirm their claims to four leagues of land.

Mr. LOVEJOY. How many claims are there?

Mr. SANDIDGE. Seventeen.

Mr. STEPHENS, of Georgia. I move to refer the bill to the Committee of the Whole on the state of the Union, and that it be printed. I shall vote against it; but I do not want the day consumed in the discussion. I demand the previous question.

Mr. SANDIDGE. I wish to inquire whether if this bill is referred to the Committee of the Whole on the state of the Union, it will come up under the special order to-morrow?

Mr. STEPHENS, of Georgia. It will, if we are able to reach it.

The call for the previous question was seconded, and the main question ordered to be put.

Mr. SANDIDGE, who reported the bill, said: I will respond now to any question any gentleman will ask in reference to this bill. The question of the gentleman from Kentucky [**Mr. UNDERWOOD**] may be answered in this way: these claims, although they are valid, are not held to be so by this Government, nor by any of its courts, until the claim shall have been acted on specifically. I will say, furthermore, that the whole land system of the Territory of New Mexico is held in abeyance until these private land claims shall have been acted on by Congress. All the donation grants made by the organic law of that Territory are also suspended until these private land claims shall have been acted on by Congress. There can be no difference of opinion as to the justice of confirming these claims. If the report of the committee had been read, there would have been reasons given to the House to satisfy every member of the necessity of this bill. All the superintendents of Indian affairs of that Territory have urged upon Congress the necessity of a confirmation of these claims. These Pueblo Indians are semicivilized Christian Indians. Their lands are, and have been, encroached upon by Mexicans and our own citizens. Their best lands are constantly being taken from them, from the fact that their boundaries cannot be fixed until their claims are confirmed by Congress.

Mr. STANTON. What is the origin of these claims?

Mr. STEPHENS, of Georgia. I hope the motion to refer the bill to the Committee of the Whole on the state of the Union will not be agreed to.

The question was taken on the motion to refer the bill to the Committee of the Whole on the state of the Union; and it was disagreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

JAMES DOUGLAS.

Mr. FAULKNER, from the Committee on Military Affairs, reported a bill to refund to James Douglas, Governor of Vancouver's Island, \$7,000 advanced by him, to supply the volunteers of Washington Territory with clothing and blankets during the late Indian war in that Territory; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

ADVERSE REPORTS.

Mr. BRANCH, from the Committee on Territories, reported back a joint resolution and bills

of the following titles, with the recommendation that they do not pass; which were laid upon the table, and ordered to be printed:

A bill (H. R. No. 189) for the construction of a road in the Territory of Nebraska from the Platte river to the Kansas line.

A bill (H. R. No. 188) to provide for building bridges across the Platte river, in the Territory of Nebraska.

A joint resolution (H. R. No. 17) authorizing the accounting officer of the Treasury to adjust and settle the accounts of a board of commissioners, appointed under joint resolution of the Territorial Assembly of Nebraska to prepare a code of laws for the government of the said Territory.

On motion of **Mr. BRANCH**, it was

Ordered, That the Committee on Territories be discharged from the further consideration of the memorial of the Mayor and City Council of the city of Omaha, Nebraska Territory, praying that said city may be reimbursed for money expended for work done and materials furnished on the capitol building of said Territory, in preparing the same for use, and that the same be laid upon the table.

CHARLES H. MASON.

Mr. BRANCH. I move to reconsider the vote by which, on yesterday, a bill for the relief of Charles H. Mason was referred to the Committee of the Whole House, in order that it may be referred to the Committee of the Whole on the state of the Union.

The motion was agreed to.

Mr. BRANCH. I now move that the bill be referred to the Committee of the Whole on the state of the Union.

The motion was agreed to.

NEVADA TERRITORY.

Mr. SMITH, of Virginia, from the Committee on Territories, reported a bill to organize the Territory of Nevada; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

MEMBERS OF TERRITORIAL LEGISLATURES.

Mr. KNAPP, from the same committee, presented an adverse report on the letter of Governor McMullin, of Washington Territory, recommending an increased per diem to the members of the Legislature of that Territory; which was laid on the table, and ordered to be printed.

PUBLIC PRINTING.

Mr. NICHOLS, from the Joint Committee on Printing, by unanimous consent presented a report in answer to a resolution of inquiry of the House, of April 8, 1858; which was ordered to be printed, and referred to the Committee of the Whole on the state of the Union.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by **Mr. J. B. HENRY**, his Private Secretary, notifying the House that he had approved and signed an act making appropriations for the support of the Military Academy for the year ending 30th June, 1859.

THE LECOMPTON CONSTITUTION.

Mr. STEPHENS, of Georgia, from the select committee on Kansas affairs, presented the report of that committee; which, with the views of the minority of the committee, was laid on the table and ordered to be printed.

Mr. STEPHENS, of Georgia. I now move that the House resolve itself into the Committee of the Whole on the state of the Union, to take up territorial business.

PATENT OFFICE REPORTS.

Mr. SINGLETON. I am instructed by the Committee on Printing to offer the following resolution:

Resolved, That there be printed for the use of the House of Representatives, two hundred thousand extra copies of the report of the Commissioner of Patents on agriculture, for the year 1857, and ten thousand copies for the use of the Patent Office: *Provided*, That the aggregate number of pages contained in the said report shall not exceed five hundred and sixty eight, including ten pages of illustrations on wood: *And provided further*, That the entire amount of copy necessary to complete said report be placed in the hands of the Superintendent of the Public Printing on or before the 31st day of August next.

Mr. GROW. I rise to a point of order. These two days have been set apart for territorial purposes, under a special order.

The SPEAKER. The Chair thinks the report cannot be submitted, inasmuch as there is a motion pending to go into Committee of the Whole on the state of the Union.

Mr. SINGLETON. I will state that it is important that this matters should be attended to now, if gentlemen want the report at all.

Mr. GROW. After the territorial business is concluded the gentleman can offer his resolution.

Mr. SINGLETON. I withdraw the resolution.

Mr. JONES, of Tennessee. I would inquire of the gentleman from Mississippi if this agricultural report of the Patent Office has been presented here?

Mr. SINGLETON. I have withdrawn the resolution.

The SPEAKER. The resolution has reference to that.

TERRITORIAL BUSINESS.

The question was taken on Mr. STEPHENS's motion; and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. EXETER in the chair,) and proceeded to the consideration of territorial business.

COURTS IN TERRITORIES.

The first bill on the Calendar of territorial business was House bill (No. 59) in regard to courts and the holding of the terms thereof, in the Territory of Nebraska, reported back with an amendment.

The amendment was reported. It authorizes the judges of the supreme court in each Territory of the United States, to hold courts within their respective districts and counties for the purpose of hearing and determining all matters and cases, except those in which the United States are a party, provided that the expenses thereof be paid by the Territories or counties, and shall not be chargeable to the United States.

Mr. FERGUSON. I have consulted with the Delegates from the various other Territories, and they have agreed to the amendment—to make the act extend to all the Territories.

The question was taken on the amendment; and it was agreed to.

The bill, as amended, was laid aside to be reported to the House, with a recommendation that it do pass.

PRIVATE LAND CLAIMS IN NEW MEXICO.

The next bill in order upon the Calendar was a bill (H. R. No. 544) to ascertain and settle the private land claims in the Territory of New Mexico.

The bill, which was read *in extenso*, provides for the establishment of a board of commissioners, for the purpose of ascertaining and settling the private land claims in the Territory of New Mexico.

The Clerk then proceeded to read the bill by sections for amendment.

Mr. BRANCH. This is a very long and complicated bill, and will occupy a good deal of time. I do not see the gentleman who reported it [Mr. BLAIR] in his seat. I move that it be passed over. I should like, for one, to have some explanation of the bill before I vote upon it.

The CHAIRMAN. The bill cannot be postponed except by unanimous consent.

Several MEMBERS objected.

Mr. MARSHALL, of Kentucky. The provisions of this bill are familiar to me. I am as much opposed to it as to any bill that I have ever known to come before Congress. It proposes nothing at all but a repetition in New Mexico of what we have done in California. They who have served in the House, and whose attention has been called to the board instituted for California, must have been struck with the fact that this bill is a compendium of all that we ever passed upon that subject. Under the treaty of Guadalupe Hidalgo the rights of the people of New Mexico, Mexicans and others, are secured. Although we may institute land commissions from now until the day of judgment, and although we may declare that what transpires before the land commissions shall be conclusive between the United States and the claimants, so long as the treaty is the supreme law of the land, we cannot conclude a party. Speculators will avail themselves of the right to gather up hereafter the inchoate titles, and to assert them in the courts of the United States over the titles

persons may acquire by entry upon lands which you have forfeited before the board of land commissioners. My experience convinces me that, by the passage of such a bill as this, we shall only provide litigation for these people of a foreign race whom we have taken under our Government, and whose rights we have secured by treaty. If we intend to protect those rights, this is the worst mode in which we can set about the business.

Look at the provisions of this bill. You institute a board of land commissioners, and require every man having a private land title in New Mexico, to bring his title before this board. If you refer to the treaty of Guadalupe Hidalgo, you will see that you have secured to every man in New Mexico, who holds a title, the right to it, whether it be perfect or inchoate, although he should never choose to exhibit it to your board. What is the object of requiring him to come before your board? You say, in order that you may determine what is private and what is public land. That may be the purpose; it will not be the only effect. When this thing was first done to California, Colonel Benton opposed it. We have now no excuse for following the example set then, with the history of California before our eyes. In the progress of our connection with California, a great many provisions of this bill were put in, subsequently, as amendments to the original law. They are all in this bill. You require every man to come up and spread the evidence of his title before a board of commissioners; you permit the district attorney to appeal from the decision of the board of commissioners to the district court. See section twelve for the following:

"That in every case in which the board of commissioners shall render a final decision, it shall be their duty to have two certified transcripts prepared of their proceedings and decision, and of the papers and evidence on which the same are founded; one of which transcripts shall be filed with the clerk of the proper district court, and the other shall be transmitted to the Attorney General of the United States."

By this proceeding you require the whole chain of title to every foot of land in New Mexico to which there has been a Spanish or Mexican claim, with the evidence upon which it is founded, to be sent to the Attorney General's office, in the city of Washington, in order that he may judge whether the United States will appeal to the Supreme Court of the United States. And when these records come to the Attorney General's office, what is there to prevent them from being copied, and copied for lawyers, for the purpose of ascertaining whether there is any flaw or weak place in the title of any man in New Mexico? What is there to prevent lawyers here from resolving themselves into a committee of speculators at the seat of Government, to harass these people in New Mexico out of their lives, as well as out of their lands?

The New Mexican has a right to his land by treaty; but the effect of this bill is to embark him on a boundless sea of litigation where no man's title is safe, and where no man can obtain his title without years of toil and risk; for, after the board of commissioners have decided against the Government, the district attorney may then carry it to the district court of the United States; after it has been carried through the district court, it will come to the Supreme Court, where, with good luck, one may obtain a decision in ten years. By that time, some man who has "squatted" upon the land, under the pretense that it is public land, (the original holder not having been able to show a patent,) will contest the title of the holder of the old grant, and this new litigation must be undertaken: so with every man who may see fit to set up a claim for the land; and the Commissioner of the General Land Office cannot give the patent until the litigation is wholly concluded. When will that take place? Possibly in the second or third generation.

Sir, if you want the squatters and speculators to cheat these people of New Mexico out of their lands, pass this bill. If you want to violate your treaty and inflict a curse upon New Mexico, pass this bill. I will guaranty that it will produce a repetition of the enormities that have been perpetrated upon the Spanish holders of titles in California for the last ten years.

These people are entitled by the treaty to their lands. Is this the least expensive mode by which their title can be ascertained? If a man wants his title to his land established by testimony, what is to prevent the territorial court from estab-

lishing it? What is to prevent the Territorial Legislature from enacting a simple process for ascertaining the boundary of concessions, such as is adopted in many of the western States—let a surveyor go upon the ground and run the lines, in the presence of witnesses, and declare this processioning shall be evidence of title after its registration, undisputed, for a certain time? Why force the holder, in every particular instance, to prove his title before a board of commissioners? Why compel every one to resort to this most expensive mode of litigation? Why not permit the Territorial Legislature to establish a simple process by which the matter may come before the territorial courts for adjudication? By the adoption of this system we shall commence a war upon the people of New Mexico; for it is nothing more nor less than the worst sort of war to start the United States as a litigant upon one side, and each private claimant to land under Spanish title as the litigant on the other, and then to give every man who chooses to contest the claim to the land for which the United States can show no claim, liberty to come forward and to use the authority of the United States, *ad infinitum*, in prolongation of the controversy!

I practiced my profession for many years in a county which was subjected to these cross titles. I speak from experience when I assure the committee that the passage of this bill will impose the greatest curse upon the people of New Mexico that Congress can inflict upon them. I have no further interest in this matter than to prevent what I am convinced will prove the greatest injustice to that people.

It is said the Mesilla Valley is rich in minerals. Then the Mesilla Valley will be overrun by a parcel of squatters. If the proprietors under the Spanish grants are required to produce before a board of commissioners the evidence by which they hold their property, they will never see the end of the law, nor will they ever obtain what they are entitled to by the treaty. No, sir; this is a bill of pains and penalties for the people of New Mexico; it is a bill to forfeit their estates. It is a bill of escheat to pass the grants made under prior sovereignties to whoever may choose to squat upon the lands of New Mexico.

When this thing was attempted in California, the result was foretold, though the same excuse was offered then that is presented now to justify this proceeding. I do not know what the condition of California may be to-day, but though the law to separate private from public lands in California was made in 1848, up to 1857 there had been but one patent issued in that State, and that was a title which was coerced by the mandamus of the Supreme Court of the United States, in Fremont's Mariposa case. It was the only patent that had been issued in California from the date of the peace up to 1857.

I have, sir, some consideration for the people of New Mexico; they are of foreign origin. This is one of the cases where I can make a speech for the rights of him who was an alien. They have rights under the treaty; I want to preserve those rights. I do not want to see the paternal Government of the United States, which should be just and equal to all its citizens, instituting what all of us should know is a system of oppression upon the people of New Mexico. I would rather let these people go before their own territorial tribunals. I am in favor of letting the Territorial Legislature provide the means of ascertaining the boundaries of the claims, of letting them prescribe their own limitations; and I am in favor of letting them have their lands surveyed. What shall we do with this land when we get it? put it up and sell it for \$1 25 an acre, and after it has been awhile in market sell it for a bit an acre. I presume that much of it is not worth a bit an acre. But when we shall have acquired it, at the end of that long litigation, we will let the preëmptor take it. The preëmptor will settle it; and, sir, the *bona fide* holder, under Spanish title, will grow gray before he will ever have his title settled, and the preëmptor will be dead and buried before his children will gain a title that will be worth a cent.

But, again, I ask you to observe that you are making a new corps of officers: three commissioners, salaries \$10,000; attorneys, clerks, agents, &c. You are sending to New Mexico a whole corps of Federal officers for no other conceivable purpose than to superintend the best mode by

which the squatter can cheat the real holder out of his title. I do not want to detain the committee; I have done my duty in calling the attention of the committee to the facts. This whole bill ought to be killed. We ought never to repeat the experiment of this bill.

Mr. SANDIDGE. Mr. Speaker, the member of the Committee on Private Land Claims [Mr. BLAIR] who reported this bill I am sorry to see is not now in his seat. I will, however, make some response to what has been said by the gentleman from Kentucky. I imagine the member from Kentucky and myself have in view a like object; and that is, to enable the people of the Territory of New Mexico to establish, in the quickest time and with the least expense to them, the right to their lands. That I take to be the gentleman's desire; certainly it is mine; and has been that of the Committee on Private Land Claims.

The member from Kentucky argues that if this bill is passed, all the rights of all the people of New Mexico will be put off for ten years, if they are tested in that time; and that before they are tested, these claims will all have passed into the hands of speculators. He further states, (and he gives that as a reason, I believe, why this bill, or indeed any bill, should not be passed by this House,) that by the treaty of Guadalupe Hidalgo the rights of these parties are protected by treaty. If that gentleman had lived, as I have done, in a State where Spanish and French titles have not only been held in abeyance for ten, but for fifty years, he would have known what difficulties the people of New Mexico are likely to suffer unless something of this kind is done for them by Congress. What is a perfect title in New Mexico? Can the holder point to any law upon your statute-book?

Mr. MARSHALL, of Kentucky. I point to the treaty.

Mr. SANDIDGE. Yes, sir; and I can refer to a bill upon the Calendar of this House, where, in a case from my own State, when the title was decided to be perfect by the United States district court in New Orleans, the Supreme Court of the United States threw it out, because the title was imperfect, and, therefore, the lower court had no jurisdiction in the case, and where Congress is now asked to confirm the title. Why was this? Because no law has been passed by this Government giving power to adjudicate these claims, and that power now rests here alone. The only way by which the claims of the citizens of New Mexico can be protected from what has taken place in Louisiana, Missouri, and other States, is this: These claimants must make some showing before some authority that they have certain claims; the claims are then marked upon the plats of surveys, and they so remain until they are decided by Congress or by some tribunal established by Congress. In Louisiana, Missouri, and Florida, the rights of many hundred claimants under French and Spanish authority have been withheld up to this period, and have remained undetermined. Why? Because Congress has not confirmed them—claims, sir, recognized as perfect by treaty, which is considered the supreme law of the land. Yet while recognized by treaty, they are as worthless as the paper upon which their titles are written, unless confirmed by Congress. That, sir, is an answer which every man acquainted with the system of private claims in territories acquired from foreign Governments knows to be true.

Now, sir, the first claim yet acted on in New Mexico was acted on this morning in this House by the passage of the bill relating to the Pueblos, and it is ten years since we acquired that Territory. When we have taken so long a time to act in this case, how long will it be before we shall have acted in all these cases? Sir, as I have said, there are in my State many claims under original French and Spanish rule which are yet undecided. There are a number of bills here now to confirm these claims. This bill proposes some shorter way for arriving at the same end. We all know what kind of delays claimants are subjected to who come here for relief. This bill provides that the claimants shall make exhibits of their titles before the board of commissioners which is to be organized under it. You are to have an agent there to watch the interests of the Government. If your agent be dissatisfied with the decision of the

board, he takes an appeal to the courts, and there the matter is definitely adjudicated.

It is said, however, that the system will be expensive. I admit that the bill will entail expense; but the presumption is, that no appeal will be taken unless in cases where there is good reason to believe they were not fairly adjudicated by the board of commissioners. But, in any event, it would not, perhaps, cost the claimant more money or more time to procure a decision by the courts than he is subjected to now that he has to come to Congress.

But the gentleman from Kentucky suggests very significantly the question: what is to prevent the board of commissioners from becoming a board of land speculators?

Mr. SMITH, of Virginia. The gentleman is mistaken in ascribing such a sentiment to the gentleman from Kentucky. He said that a band of speculators would look at the papers in the office.

Mr. MARSHALL, of Kentucky. Here is what I said: your law requires that a transcript of the papers making the chain of title, and the evidence on which it rests, shall be sent to the office of the Attorney General of the United States, so that that officer will become the depository of the whole mass of titles of the people of New Mexico. What is to prevent a horde of speculators here from ascertaining the land titles of the people of New Mexico, and resolving themselves into a board of speculators, to bedevil the New Mexicans out of their land?

Mr. SANDIDGE. I thought the gentleman had charged his suspicion on the board itself.

Mr. MARSHALL, of Kentucky. Oh no.

Mr. SANDIDGE. At present, the surveyor general alone constitutes the board of commissioners; and we have thought it desirable, very desirable, to change that system, for this reason: the people of New Mexico are not quite willing to have their titles decided upon by one man, who, besides adjudicating, is required to go into the field and locate them.

Mr. STANTON. I desire to inquire of the gentleman from Louisiana, if by the present law it is made obligatory on the owners of lands to furnish to the surveyor general abstracts of their respective titles?

Mr. SANDIDGE. Yes, sir, that is the law now, and this bill proposes to take from this one man the execution of so great a trust. It is because the people of New Mexico are dissatisfied with the system, that the committee propose to establish a board such as has been established in every State of the Union that was acquired from foreign countries? We have had a number of such boards in Louisiana, and such boards have also been established in Missouri and Florida. This is not a departure from the rule.

Mr. MARSHALL, of Kentucky. I ask the gentleman from Louisiana, what law it is to which he refers, which requires the New Mexicans to submit their claims to the surveyor general?

Mr. SANDIDGE. The law of 1854, establishing the office of surveyor general of New Mexico.

Mr. BRANCH. I would inquire from my friend whether, in the case he has supposed, he is of the opinion that there is a court on this continent which would hold that an individual had lost his title by reason of his failure to bring forward his title papers? In other words, whether he supposes that the act of Congress to which he alludes overrides and is superior to the treaty which this Government made with the Government of Mexico, by which the Territory was acquired?

Mr. SANDIDGE. I can only answer the gentleman in this way. Treaties are said to be the supreme law of the land; and yet, practically, claims of the character alluded to by the gentleman from North Carolina have been sold by the Government. The parties afterwards sought to establish their claims before the courts, and were thrown out of court, and then came to Congress for some sort of indemnification; and Congress, in all such cases, allowed them to locate the same amount of land elsewhere.

Mr. BRANCH. Can my friend mention any case in which any court held that a title, otherwise good, had been vitiated by reason of a failure to comply with an act of Congress?

Mr. SANDIDGE. I will not undertake to say that.

Mr. MARSHALL, of Kentucky. I am re-

ferred by the gentleman to the eighth section of the act to establish the office of surveyor general of New Mexico; and I submit to the gentleman that it is a much better provision than this bill. It is as follows:

"Sec. 8. And be it further enacted, That it shall be the duty of the surveyor general, under such instructions as may be given by the Secretary of the Interior, to ascertain the origin, nature, character, and extent of all claims to lands under the laws, usages, and customs of Spain and Mexico; and, for this purpose, may issue notices, summon witnesses, administer oaths, and do and perform all other necessary acts in the premises. He shall make a full report on all such claims as originated before the cession of the territory to the United States by the treaty of Guadalupe Hidalgo, of 1848, denoting the various grades of each of the same, under the laws, usages, and customs of the country before its cession to the United States; and shall also make a report in regard to all pueblos existing in the Territory, showing the extent and locality of each, stating the number of inhabitants in the said pueblos, respectively, and the nature of their titles to the land. Such report to be made according to the form which may be prescribed by the Secretary of the Interior; which report shall be laid before Congress for such action thereon as may be deemed just and proper, with a view to confirm *bona fide* grants, and give full effect to the treaty of 1848 between the United States and Mexico; and, until the final action of Congress on such claims, all lands covered thereby shall be reserved from sale or other disposal by the Government, and shall not be subject to the donations granted by the previous provisions of this act."

Now, the surveyor general has no right, under this law, to determine a man's title. He has no right to do anything at all except to ascertain whether a private title overlies a particular piece of land; and when he ascertains that fact he reports it here, and all that we do is to vouchsafe to the proprietor of such title, that until we ascertain here in Congress whether it ought to be confirmed or not, the Government shall not dispose of the land. Now you are instituting quite another operation.

Mr. SANDIDGE. The gentleman has read the very law that I referred to. I say this in response to him, that I hold in my hand a bill which originated in the other wing of the Capitol, to confirm a large number of claims reported in Missouri, Arkansas, Florida, and Louisiana, of the same character as the claims contemplated by this bill. Some of them were reported in 1812. The gentleman talks about delay. Here are claims reported on favorably by a board of commissioners in 1812, nearly fifty years ago, and they have never yet been confirmed by Congress, and the claimants have for all that time had no titles to exhibit.

Mr. MARSHALL, of Kentucky. I would inquire of the gentleman whether the proprietors of these titles have ever been ousted of their possession in the mean time?

Mr. SANDIDGE. Yes, sir; and they would have been ousted in every instance, if the Government, instead of simply reserving the lands from sale, had gone on to sell them as they did other lands.

Now, Mr. Chairman, I do not wish to delay the committee, and shall add but a word. This bill proposes to effect one purpose, and one only. It will give entire satisfaction to the people of New Mexico, who are more willing to trust their claims in the hands of a regular board of commissioners than in the hands of one man, the surveyor general. The Committee on Private Land Claims believe that the claims will be sooner decided, if brought before such a board, with the right of appeal to the courts, than if the claimants are compelled to come to Congress. That is all I have to say.

Mr. TAYLOR, of Louisiana. Mr. Chairman, I think the bill before the House is one that ought to pass. The interests of the Territory to which it relates require its passage, and any gentleman who has had experience of the evils growing out of the failure, not only to inaugurate, but to carry out the policy it gives effect to in a Territory in the situation of New Mexico, will be fully sensible to the necessity for the action proposed now to be had.

Mr. Chairman, I am a citizen of Louisiana, and I happen to be familiar with the character of the titles that existed in the Territory of Louisiana at the time of its cession. These titles stood very much upon the same footing with the titles which now exist in the Territory of New Mexico. The necessity which exists now with reference to New Mexico existed with reference to Louisiana. The Congress of the United States failed to discharge

the duties which they owed to the people of the State, and Louisiana suffered for years, and suffers to-day, because of the failure to do that at once which this act proposes now to have done with reference to New Mexico. When Louisiana was ceded to the United States there was a treaty which guaranteed to its inhabitants the possession of their property. That treaty was of as solemn a character as the treaty of Guadalupe Hidalgo. That treaty has been again and again expounded by your courts. And what was the result? That rights of property within the Territory of Louisiana were undetermined, and that individuals whose rights had been guaranteed to them by the faith of the Government of the United States, were liable to be disquieted day after day and year after year by the operation of general laws of the United States, relating to the lands of the United States. Persons whose rights were derived from the action of the prior Government, were disturbed again and again by the interruptions of the class of persons to whom the gentleman from Kentucky referred as squatters, and they were disturbed, not because of legislation of this character, but because of the want of legislation of this character, or of the failure to carry it into effect.

Now, Mr. Chairman, what is the character of the titles to lands in New Mexico? They are divided into two classes. There are perfect grants, there are titles with respect to which the Government has taken every necessary step, and which have become what is known under the Spanish law as perfect grants—*titulos in forma*; those titles are protected by the treaty; the holders of them have standing in courts of justice, because their titles are legal titles. But a large proportion, a vast majority of the titles in existence in New Mexico are, as they were in Louisiana, of an entirely different kind; they are not titles that have been completed by the final action of the Government; there has been no perfect grant; they are inchoate titles. Individuals are in possession of land which they had been permitted to enter upon by the Government; they have remained in possession, and under the Government of Mexico they were not liable to be disturbed, because, under the usage of that Government, they would have been permitted to remain there, and at a future day the Government might complete their titles. The very fact of their taking possession, with the permission of the proper officer, gave them an equitable right—a right which our laws do not recognize, but a right of such a character that it must be respected under the treaty, though it has no standing in a court of justice. And how is the obligation imposed on us by the treaty to be fulfilled?

A portion of these titles depend upon the political action of the Government. That was had in reference to Louisiana, and that must be had again by Congress, if justice is to be done with respect to New Mexico. Now, sir, persons possessed of such claims, having no positive evidence of a title, such as to enable them to keep off trespassers, may, in the event of the passage of a preemption law, have their lands trespassed upon, and are liable to be dispossessed of them by the action of the land offices of the Government. That occurred every day in Louisiana. The perfect grants needed no presentation. They were complete. The holders of them could assert their rights before a court of justice. But imperfect titles had no standing in a court of justice; and until the passage of an act of Congress providing for their completion—in conformity with the usages of the Government under which they had their origin—the lands embraced in them might be sold as a part of the public domain.

Now, with respect to this Territory, Congress has already made provision that where claims are filed with the surveyor general, the titles shall be examined before the lands embraced in them can be exposed for sale. But this bill goes further, and provides that the Government of the United States shall proceed in the same manner that the Government of Mexico would have proceeded to complete these titles. The bill vests in a board of commissioners authority to examine and decide upon the claims presented on equitable principles in favor of the claimants, to give them the same effect as they would have received from the Mexican authorities. But that decision, whether for or against the claim, is subject to an appeal. It,

however, marks out a course of action which will terminate, so far as the United States is concerned, all controversy in reference to a given claim within a limited time. If the bill goes into operation, these claims will be settled finally, and those persons holding claims under an imperfect title will know what they have to depend on. Unless some such provision be made, these lands will remain in the condition in which a portion of the lands in Louisiana remained for thirty or forty years, subject to be encroached upon by those who see fit to settle upon them under the preemption acts.

Mr. SMITH, of Virginia. I understand the gentleman to say that the titles under those old Spanish grants are of two descriptions—one perfect and the other imperfect. Now, I ask the gentleman if this board, which it is proposed to create, can make perfect titles out of those which are now imperfect?

Mr. TAYLOR, of Louisiana. Yes, sir. The eleventh section of the bill provides:

"That the commission herein provided for, and the district and supreme courts, in deciding on the validity or invalidity of any claim brought before it or them under the provisions of this act, shall be governed by the treaty of Guadalupe Hidalgo, the law of nations, the laws, usages, and customs of the Government from which the claim is derived, the principles of equity, and the decisions of the Supreme Court of the United States, as far as they are applicable."

Mr. SMITH, of Virginia. I understand that an imperfect title is one which is deficient in some essential particular; and how can any such board supply such deficiency so as to make it a perfect title?

Mr. BLAIR. The deficiency may be a mere matter of form.

Mr. TAYLOR, of Louisiana. The effect of the bill is to give the board of commissioners authority to proceed precisely as the Government of Mexico would have proceeded under her laws and usages. The laws and usages of Mexico were abrogated at the time of the cession of the Territory to the United States; and the object of this provision is to vest in this board authority to proceed in the same manner that Mexico would have done.

Mr. SMITH, of Virginia. Will the gentleman from Louisiana pardon me for asking another question? I know he is a veteran lawyer, and will not be disturbed by an interruption, and I desire to obtain his opinion. I suppose the treaty of Guadalupe Hidalgo perfected the titles which the parties had prior thereto. If the laws and usages of Mexico would have inured to perfect the title to the holder, prior to that treaty, it of course strengthens his possession of the title which he could have obtained from the original Government.

Mr. TAYLOR, of Louisiana. It is unnecessary to enter upon the discussion of that subject. All I have intended to do was to refer to the practice of the Government under the treaty of 1803, by which the people of Louisiana were protected in their rights of property. The language of the treaty of Guadalupe Hidalgo is identically the same. Under that provision of the treaty of 1803, the Supreme Court of the United States have holden again and again that these titles to which I refer, as being complete titles, were protected by the treaty, whether they were presented to the commissioners or not. They were valid, but that all the other classes of titles, those imperfect titles which may be designated as inchoate titles, requiring the political action of the Government for their completion, would not be protected by the treaty without the confirmation of the board of commissioners. Now, under this article relative to the same class of titles, the language of the treaty is precisely the same as that in the treaty for the cession of Louisiana, in 1803. A board of commissioners is authorized to proceed, and do that which the Mexican Government would have done to perfect the rights which had begun to exist in the usual manner, and in good faith, with the permission of the Government.

Mr. REAGAN here made a remark which was not heard by the reporter.

Mr. TAYLOR, of Louisiana. In the action with respect to Louisiana, the same thing was introduced, to which the honorable gentleman from Kentucky [Mr. MARSHALL] has referred, in order that there might be a demarcation between the lands owned by private individuals and those owned by the Government. You cannot compel those persons who have perfect titles to go before the commissioners for the purpose of

reestablishing their rights; and the acts in relation to Louisiana were drawn up with more care than the present one, and made a marked distinction between persons having perfect titles and those with imperfect titles. One class—those with perfect titles—were permitted to come before the board of commissioners, while the other—with imperfect ones—were required to go there. It was an object for those holding perfect titles to go before the commissioners and present the evidence of their titles, because with that evidence, the land was represented in the plats of survey by the surveyor general as private property, and was no longer subject to be encroached on. Where this was not done, there have been instances in which lands covered by complete titles have been lost to the original holder. And there can be no doubt that under the land system of the United States, the interest of all claimants of lands in our newly acquired Territories, requires that their claims should be registered.

Now, Mr. Chairman, I have said all I wish to say on this subject. I will only state further, as it is within my knowledge, that within the limits of the State of Louisiana, owing to a failure on the part of the Government to comply with these requisitions, or to enforce them, the titles, in a large extent of country, remained unsettled, and in consequence of it large bodies of the public land could not be brought into market because of the impossibility of determining the lines of demarcation between public and private property. Louisiana suffered under the evils growing out of this state of things for upwards of thirty years. The settlement of large portions of her territory was prevented during the whole of that time, because the public lands within her limits could not be brought into market. And again, sir, her citizens, because of the uncertainty hanging over many of their titles, were prevented from enjoying to the fullest extent their rights of property, for this uncertainty prevented them from making the improvements they otherwise would have made upon their lands. If the House desires that the people of New Mexico should escape similar evils, the policy on which this bill is founded must be carried out.

Mr. BLAIR obtained the floor, but yielded to Mr. RITCHIE. With the permission of the gentleman from Missouri, I desire to put a question to the gentleman from Louisiana in the case where the titles are inchoate and the land has been surveyed and the patent issued by the United States, is not the patentee under the United States entitled to take possession of the land?

Mr. TAYLOR, of Louisiana. No patent issues until there has been action by some tribunal constituted by the Government.

Mr. RITCHIE. Suppose there is an inchoate title, and that the surveyor general goes on not knowing the title and surveys the land, and a patent is issued, is not that patentee entitled to take the land on that?

Mr. TAYLOR, of Louisiana. Where there is a title unconfirmed by the Government, it is always ousted by a title emanating from the United States.

Mr. BRYAN. What, under this bill, would be the condition of that class of settlers whose titles were destroyed by an invasion of the Apache Indians, at the time the land office at El Paso was fired? Texas has had occasion to legislate in behalf of her citizens on the northern frontier, whose titles had been destroyed during the invasions of the Apaches, and who had only transcripts given them by the priest. What, under this bill, would be the condition of a large body of men in New Mexico, who would have, for the reason I have stated, no title?

Mr. TAYLOR, of Louisiana. I have not examined the bill with all the care that its importance merits. There may be an omission in this bill. But in Louisiana a provision was made that parol evidence of the particular fact of possession should entitle the party to confirmation. For instance: in the Territory of Louisiana it was discovered, after long experience, that there were a multitude of individuals who had no written evidence of title, they having been destroyed by fire or lost. The Government of the United States, for the purpose of protecting that class of people who were in possession of the property to which they would have had no difficulty in obtaining a new title from the Spanish or the French Gov-

ernment, passed an act by which they authorized the commissioners to take into consideration all such claims, and to hear testimony showing the fact of their having entered upon them with the permission of the proper officer, and of having possessed them within certain boundaries, and authorized the commissioners to confirm those claims. At a subsequent period, when it became difficult, owing to the lapse of time, to prove the concession from the Spanish officer, then another act was passed, providing that a possession for ten years previously should be presumptive evidence of such a permission having been given.

Mr. LANE. I should like to put a question to the gentleman and the House, and that is, what is to become of the other territorial business, if this debate is to continue?

Mr. TAYLOR, of Louisiana. I am sorry that I have taken up the time; but the subject demanded some explanation.

Mr. BLAIR. I was unfortunate in not being in the House when the gentleman from Kentucky [Mr. MARSHALL] urged his objections to this bill. I am not apprised of what they are, only by what I have heard since I came in.

It has been the settled policy of this Government, in reference to its acquisitions, to confirm claims of the inhabitants to their property; and acts of Congress, similar to the one now pending before us, have passed with that end in view. The members from Louisiana, who have just spoken, have stated, I think, the effects of the treaty, in reference to their State, correctly. These grants are undoubtedly covered by treaty; but the United States required that the claimants should show their titles, in order that the Government might know what has been confirmed by treaty, and what not. I undertake to say that there are no titles in the State of Missouri, at least, which do not emanate from this Government. I say that no concessions or grants from the Spanish Government would be recognized in our courts, or have ever been recognized, which were not confirmed by the Government of the United States. Gentlemen have spoken of what are called perfect grants. In Missouri there were no perfect grants, with a few exceptions. The viceregal power on this continent was so far distant from Missouri while under the sway of Spain and then of France, that the forms by which perfect titles were acquired could not be complied with, except in rare instances. I cannot, now, call to mind one of them. The Supreme Court of the United States has decided, in one or two instances, that these titles must emanate from the Government of the United States.

Mr. QUITMAN. The gentleman is slightly mistaken. The Supreme Court have not gone so far as to reject all claims confirmed by treaty. They have acknowledged the perfectness of those grants recognized by treaty. I admit that they have construed the language of the treaty very strictly against the confirmation, as in a case under the treaty of San Ildefonso, Florida, where they construed the words of the treaty "shall be confirmed," as requiring some future action of Congress before they could be recognized judicially.

Mr. REAGAN. I will add, as an evidence that the action of Congress is not necessary to maintain perfect titles, that, under the constitution of the late Republic of Texas, the rights of property, and of action in the courts, was preserved to the former inhabitants of the country, as the right of property was reserved to the people of Louisiana by the treaty of 1803, and to the people of New Mexico by the treaty of Guadalupe Hidalgo, and that those titles have been adjudicated and sustained in the courts of Texas; and the decisions of her courts sustaining these titles have been affirmed by the Supreme Court of the United States, without any other legislative affirmation.

Mr. BLAIR. We had a bill before this House this morning to confirm the titles of the Pueblo Indians of New Mexico—titles granted one hundred and sixty-eight years ago by the Captain General of Spain, and to lands which have been occupied ever since by those Indians. What is the necessity for that confirmation?

Mr. MARSHALL, of Kentucky. None in the world.

Mr. BLAIR. If any flaw could be picked by which those confirmations were made under the civil law, their titles would not have been perfect, and would not have been recognized; and if not

recognized, they would have failed against any title given by this Government.

Mr. MARSHALL, of Kentucky. I will ask the gentleman whether he does not know that the right of property has been decided by the Supreme Court of the United States to exist even in an inchoate title; and that, though the title be inchoate, the right of title being secured by treaty, it is made perfect by force of the treaty?

Mr. BLAIR. I agree with the gentleman that this Government recognizes, and is compelled to recognize, the property guaranteed under these treaties; but the Government has a right to know what that property is. There is a case decided by the Supreme Court—Massey vs. Menard. The land embraced a large deposit of iron. It was in one of the interior counties of Missouri. There was a grant or concession from the Spanish Government; the Government of the United States sold the land, and the Spanish grantees sued for it. The court decided that, although their title was a good one, still, as the land was not located specifically, that they ought to have come in and had the land which was confirmed surveyed, or else they could not get it. Their title failed, and the title given by the Government held against them. The Government, in that instance, was compelled to make good what those grantees had been deprived of, by granting them scrip for land elsewhere; but the land that was valuable was, nevertheless, taken from them. Their title went before the court, as I have said, and it was there decided against them, because it was not surveyed and located. This bill is to ascertain and settle these land claims in New Mexico.

One of the gentleman's objections is, that if they come forward and show their titles, they will show the weak spots in them. I would ask whether the land system all over the world is not open to the same objection? Cannot you go into any recorder's office in the United States and find whether or not there is a flaw in this title, or that, or the other? Certainly you can. It is absolutely necessary that there should be some system, that a man may know where to find a title, and to ascertain whether it is a good or a bad one.

Mr. MARSHALL, of Kentucky. In order that the gentleman may meet my objection, I will state it. My objection was this: that by this bill you required in every case the evidence of the party claiming to be sent to the Attorney General's office at Washington. To have a recorder's office in New Mexico, where people who wanted to buy lands in New Mexico might look at the titles, is one thing; but when you require a transcript of every title to be made out and sent here, that is another thing.

Mr. BLAIR. That is an objection to the details of the bill. If the gentleman from Kentucky, or any other gentleman, wishes to have the bill amended, and will offer an amendment to perfect it, he will have my cooperation. All I want is, that the people of New Mexico may have a title to their lands. They will get none until their lands have been confirmed. We recognize none other than our own titles. There are forms which have to be complied with beyond the treaty guarantees. We have to ascertain and settle these titles.

Mr. Chairman, I know of no mischief which could befall a people like that of an uncertainty in their land titles. The people in New Mexico who have these titles are the descendants of those who have lived there for a century; and I say that it is a shame that, at this day, not one of them should have a title to the land upon which he lives. There cannot be a title there not confirmed by this Government; and I ask the gentlemen who are so solicitous about the rights of the people there, to confine themselves to amending the details of the bill, and not prevent the passage of any measure for their relief.

Mr. BRANCH. Mr. Chairman, I shall detain the committee but a few moments in expressing the views I entertain on the subject of this bill. I agree entirely in the last remark made by the gentleman from Missouri, that no greater evil can befall any people than uncertainty as to their land titles. If there was any uncertainty as to the land titles in New Mexico, which this bill was calculated to remove, I should be very much inclined to give it my support; but on looking through the bill I find nothing, and in the remarks which have been made here by those who advocate the bill, I

have heard nothing, that indicates that anybody in New Mexico is making contests with those in possession of the lands.

Mr. SANDIDGE. If the gentleman will permit me, I will say to him that I have ascertained from an examination of the claims pending before the Committee on Private Land Claims, that contests have taken place before the surveyor general, who at present is authorized to examine such cases.

Mr. BRANCH. Now, here is a country that seems to have been settled about two hundred years. The parties whose claims were included in the bill which passed the House this morning had held their lands, it was stated, for one hundred and sixty-eight years. These people have lived in peace and quietness, and we have not heard of these bitter contests, these pressing exigencies, these dangers to their land titles, until this bill was brought in for the establishment of this board of commissioners. It seems to me that the only party here which is making difficulty with the people of New Mexico in regard to their land titles, is the United States. On the one hand are certain private claimants, and on the other hand the United States, now the possessor, in virtue of its sovereignty over that country, of all lands not owned by individuals; and the object to be attained by this bill, and the only object, as far as I can perceive, is to ascertain, as far as we can, what lands are owned by private individuals, in order that the Government surveyors may not run their lines over those lands, and produce confusion and difficulty between these claimants and purchasers under the Government. That is the evil to be remedied, and that is the only evil, so far as I have heard in this debate, that is to be remedied at all.

Well, sir, the act organizing the territorial government of New Mexico provides a remedy for that evil. That act provides that parties claiming lands under grants from the Spanish Government may come in and prove their titles before the surveyor general, and thereupon the surveyor general is prohibited from having those lands surveyed and brought into market as lands belonging to the United States. That remedy is complete. It covers the entire case, as far as I can see. It reaches every part of the evil that we are to remove; and I can perceive no need of establishing this board of commissioners—an expensive machinery—on the pretense that we are thereby quieting land titles, when we have already provided means by which the only contestant of these claims can be satisfied, in the act organizing the Territory.

Mr. SANDIDGE. With the permission of the gentleman, I will state that it is true, as he says, that such claims as are presented are noted on the maps made out by the surveyor general; but there has never been any survey of the lands in New Mexico, either by the authority of the Spanish Government, or of this Government. The lines of these private claims are not known. Some of them cover ten, twenty, and thirty square miles. They are referred to in the original grants, by natural boundaries, as reaching from one mountain top to another, or from one stream to another; and it is utterly impossible, until the lands have been confirmed and surveyed, that any one going to the Territory should know what are public and what are private lands. This Government will not survey these claims until they have been confirmed; and the consequence is that there is no way of knowing what are Government lands and what private lands.

Mr. BRANCH. I apprehend that the Government will not survey the private lands at all. It is no part of the business of the Government to do it. All we need do is to ascertain, to the satisfaction of the Government, what are private lands, in order that they may be left out of the public surveys. I understand the act, which has been repeatedly referred to this morning, to provide the mode in which that shall be accomplished.

But, Mr. Chairman, there is a principle in this bill that strikes me as something new. It is proposed that we shall put these claimants to the lands upon proof of their titles when there is no one contesting their rights. That is against all my notions of justice and law. Our courts all hold that if I contest the title of an individual to a piece of land, and bring an action of ejectment against him, I must recover on the strength of

my own title, and cannot rely upon the weakness of his. The court will not allow me to introduce testimony to show that his title is not good until I have first shown the strength of my own title. I must rest upon that.

Mr. BLAIR. The treaty by which we acquired this country guarantees that the right of these parties to their property shall be respected, and we are called upon now to carry out the guarantee. How can we do it until we know what property these men claim as theirs?

Mr. BRANCH. We have provided means of ascertaining that in the act organizing the Territory of New Mexico.

Mr. BLAIR. These means are very imperfect. The questions are left to one person. This bill gives the claimant a commission and an appeal to the courts, so that they may have a final decision upon their titles. So far from being new in principle, if the gentleman were familiar with the practice of the Government in the case of Louisiana and Florida, he would find that this bill proceeds on identically the same principle—that of requiring the people to make proof of their titles, in order that the Government may protect them in their rights in compliance with the guarantee of the treaty.

Mr. BRANCH. I agree with the gentleman that in those cases the Government did require persons to come forward and show the lands to which they had titles; but this is the first instance, so far as I know, except in the case of California, in which it has been proposed to establish a special board of commissioners for that purpose. In the case of Florida, if I recollect aright, the whole class of claims was referred to the district judge for Florida. In the case of New Mexico, we have already provided means to enable the Government to know to what extent the private claims go, and to what extent the public surveys should be carried. The simple question is, whether, in the case of New Mexico, we shall leave it to be determined by the surveyor general—the officer to whom Congress has heretofore determined that it is willing to intrust it—or whether, in lieu of that, we will establish this expensive board of commissioners.

But, Mr. Chairman, I desire only to occupy a few minutes of the time of the committee; and as I know the impatience of gentlemen, I will proceed in the line of remark in which I was indulging when I was interrupted. I say, sir, that we are establishing a new principle. We are putting these parties in New Mexico who are in possession of the lands upon proof of their titles, with a view to oust them from their lands, instead of adopting the principle of law that if we claim what they hold possession of, we must show that it is ours, and not rest on the weakness of their titles. And we not only compel them to come forward and produce their title papers, in order to show that we are not entitled to the lands, but we invite the whole world to come forward and contest their titles also.

The parties who have been in possession of their homesteads perhaps for one hundred or one hundred and fifty years, unquestioned by any one; who have held their titles untainted by suspicion, are invited by this bill to come forward, after they have contested their titles in the first place with the Government, and contest them with every individual who may choose to set up a claim. They have first to succeed against the Government, and then against every private individual who may choose to contest their titles.

Mr. BLAIR. I ask the gentleman if this is establishing any new principle? if he ever knew a civilized country in the world where the courts of justice are not always open to any person who may choose to contest any title to any property?

Mr. BRANCH. I ask the gentleman if he ever knew the Government in any civilized country, to invite and encourage their citizens to enter the courts of justice for the purpose of carrying on litigation against each other in respect to their titles to land?

Mr. BLAIR. I answer the gentleman in this way: The courts of justice in all countries are kept open for any person who may choose to contest the right of another to any property, and in that respect they hold out as much encouragement to litigation of that description as is held out by this bill.

Mr. BRANCH. It is a right which belongs

to every American citizen to go before the courts of the country to assert his rights. But this bill goes further. I call the attention of the committee to the fourteenth section, which says:

"That if the title of any claimant to lands in said Territory filed before the commission shall be contested by any other person after decision rendered in the case, it shall and may be lawful for such person to present a petition to the district judge of the United States for the district in which the land is situated, plainly and distinctly setting forth his title thereto, and praying the said judge to hear and determine the same—a copy of which petition shall be served on the adverse party within thirty days before the time appointed for the hearing of the same; and it shall and may be lawful for the said district judge of the United States, upon the hearing of such petition, to grant an injunction to restrain the party at whose instance the claim to said lands has been confirmed from suing out a patent therefor until the title to the same shall have been finally decided—a copy of which order shall be transmitted, through the secretary of the commission, to the Commissioner of the General Land Office; and thereupon no patent shall issue until such decision shall be rendered, or until sufficient time shall, in the opinion of the said judge, have been allowed for obtaining the same, and thereafter the said injunction shall be dissolved: *Provided*, That a copy of the said decision shall be filed in the office of the commission, and transmitted to the Commissioner of the General Land Office."

That, sir, is what we propose. After we have dragged them before the board of commissioners, and they have shown there that we are not entitled to the land, we then drag them before the district court of the United States, in order there again to contest their titles with every private individual who, from the exposures we have compelled them to make, may be induced to enter into litigation with them.

Mr. OTERO. If the gentleman from North Carolina will permit me, I will say that we are all willing to be dragged before the tribunals to which the gentleman refers, for the purpose of having our claims established. We do not want any indefinite action. We are willing to expose ourselves to whatever litigation may be involved. The bill will do us no injury. We want our land titles settled. The present mode is insufficient. We are not willing to trust the settlement of our land titles to a single individual. We are willing to take whatever inconveniences may be involved by the system which this bill proposes.

Mr. BRANCH. The point which has been made by the gentleman from New Mexico and by several other gentlemen in this debate, is the unsatisfactory nature of the decisions made by the surveyor general and the definiteness of the decisions which will be made by this board of commissioners. Now, sir, I hold that these are matters which have been settled long ago—that they were settled in the treaty entered into between Mexico and the United States. It is only necessary to carry out the provisions of that treaty, and I submit that for that purpose the courts of the Territory are by far the best tribunals—courts in which, I presume, the people of New Mexico have confidence; and in which they go, not before strangers, but before juries of their own countrymen, to contest their rights. I submit that this additional tribunal is not only unnecessary, but that it is not as good as that already provided; that it will not possess so much the confidence of the people of New Mexico as a tribunal which is to pass upon their rights.

Now, sir, the draft of this bill shows full well that the gentleman who drew it was entirely aware of the fact that this court could settle nothing except contests between the United States and private citizens. The sixteenth section expressly provides that—

"The final decisions rendered by the said commission or by the district or Supreme Court of the United States, on any patent to be issued under this act, shall be conclusive between the United States and the claimants only, and shall not affect the interests of third persons."

Now, sir, here is a provision that does not quiet title at all, except as between the United States and the private claimant. Why, then, have all this expensive process? why compel these people to produce the evidence of their titles which have remained undisturbed for one hundred and fifty years, in order to show speculators and mischievous persons the weak points and flaws in their titles, whereas the result of that litigation only amounts to preventing the United States from obtaining their rights, which has been already provided, by requiring the surveyor general to obtain such information as may be necessary upon that point?

Mr. QUITMAN. I did not intend to say a word upon this subject, but since the discussion

has commenced, I have obtained some information of the nature of this bill, against which in the commencement I was somewhat prejudiced. Having had some experience in this matter, I feel myself called upon to present to this House the beneficial consequences which I think must arise from a course such as the one proposed by this bill. I have practiced law in the State of Mississippi for a period of more than twelve years, and during that period I had frequent occasion to examine and see the effect of a similar law.

The gentleman from North Carolina [Mr. BRANCH] is mistaken in saying that this is a new precedent. Early in the history of the Territory of Mississippi, soon after its acquisition from Spain, a law passed Congress authorizing a board of commissioners to be established, requiring them to have a clerk, to keep a record, and to examine all those inchoate and equitable claims which, under the treaty, the citizens had against the Government—claims which they held against the Spanish Government and the British Government, both of which had been, at some period, in possession of that country, and which this Government had never canceled, but which should have been canceled. Now, sir, independent of the treaty stipulations that the United States should execute all these valid contracts made by those other Governments, and to place the property in the same position as if the Government had not changed, I claim that the great doctrine of natural rights would have preserved these contracts, even if there had been no treaty to that effect. The Government of the United States were bound to protect them, and perform in good faith the equitable obligations which had been entered into but not consummated at a period before we acquired the Territory. The records of that board are there, and they save litigations to the extent of millions of dollars. My honorable friend from North Carolina [Mr. BRANCH] seems to consider this a matter of little importance to the United States. Sir, no Government, then or now, would undertake to decide by legislation or by the establishment of informal boards, between claims of third persons. This act will remove alarm from the minds of the people of New Mexico. They know that there will be new claims made under our Government—that the United States is a progressive Government, acting more rapidly than the Mexican Government—and that it will proceed to regulate the public lands that it possesses. They know that the attempt to do so will embroil them in difficulties and confusion. They know that without such a law as this they will have to prosecute their claims at considerable expense before the courts of the country. This board of commissioners is to be appointed on the part of the Government of the United States, to go and examine on our part into those titles, and to say if they are just under the law of nations and under the treaty; and, if they are equitable titles, that they shall be perfected by a general act. If any are questionable, they still have a right to examine them before the courts; but probably ninety-nine out of every hundred will acquiesce in the decisions of the board. It is a bill of relief, and to these people is a very important measure.

Now, Mr. Chairman, having submitted my views briefly, I will not trespass longer on the patience of the committee. I have witnessed the beneficial operations of such a measure in Mississippi and Louisiana; and I can see no harm that is to result from the passage of this bill. I have looked into it to some extent; and I believe it contains no provision which, by any possibility, can be abused. I consider it better that a board of commissioners appointed by the United States should act upon it, than a single officer who has other duties to perform. The experience I have had teaches me that it will prevent much litigation and dispute; and I see no objection whatever to the measure.

Mr. STANTON. I have but a few words to say in respect to this bill. There is a principle contained in the eighth section of it which, it seems to me, cannot be found anywhere else. I have no experience in these Spanish land titles; but the eighth section of the bill, on its face, *prima facie* vitiates every land title in New Mexico. It declares that no man's title shall be sustained until he has first produced the records on which his title rests. Here is a total reversal of all the principles on which titles to real estate rest.

Mr. QUITMAN. My construction of that section is, that it simply protects a landholder against the United States treating his lands as public lands.

Mr. STANTON. That section makes it the duty of every landholder in New Mexico to present the records and other evidence of his title; on failure to present them, the land is to be surveyed and to be sold as public lands. Your patent issues to the purchaser, and the title of the original occupant is cut up by the roots. Now, I had supposed that a cardinal principle of real estate law was, that possession was *prima facie* evidence of title, and that no possession of real estate can be disturbed or interfered with, or set aside, except on the production of superior title.

Mr. DAVIS, of Mississippi. The gentleman says that possession is *prima facie* evidence of title. The Government holds such possession. Then, if the title produced does not defeat that *prima facie* evidence, the presumption is that the land belongs to the Government. If a man is in possession and cannot show a higher title than that of the Government, which title will prevail?

Mr. STANTON. That is a different proposition, and I will not go into it. I do not apprehend myself that there is any such possession on the part of the Government of all the lands within the territorial limits as comes within the principle I have stated. The fact that there has been a conquest of the country and a change of the sovereignty does not change the principle of law applicable to the case. We have merely succeeded to the sovereignty and jurisdiction of Mexico, under which these people previously claimed. It does not affect their title any more than a change of administration in the General or State Government—not a particle more. Every man in possession of real estate, exercising acts of ownership over it, claiming it as his own adversely to the Government and to all the world, is presumed to be the owner until a better title is shown in somebody else. That, I take it, is the law. Now here are parties in possession of lands in New Mexico which they and their ancestors have held for one or two centuries, claiming ownership against all the world. This bill proposes that the parties so occupying shall now be required to produce the evidence of their title, and file it with this board of commissioners; and, on failure to make satisfactory proof of title, the party shall lose his land, and it shall be sold as public land, although it may have been in the occupation of his family for hundreds of years.

Mr. BLAIR. Have the persons who were in possession of land in New Mexico, under Spanish law, a fee simple in the lands?

Mr. STANTON. I do not know.

Mr. BLAIR. Well, if they have not, have we granted them such title?

Mr. STANTON. Certainly we have.

Mr. BLAIR. If they have possession, and that gives them a prescriptive right under the civil law in Mexico, they can prove it before the commissioners and get a fee-simple title from the United States; and I would like to know if it would not be better for these people to have their title from the United States than to go on with this simple prescriptive title?

Mr. STANTON. I do not care, for the purpose of my argument, by what name you call the title of the occupant under the Spanish Government. All I claim is, that a party who has claimed title, and whose claim has been recognized by the Spanish Government for a time whereof the memory of man runneth not to the contrary, shall have his claim recognized by this Government, as the successor of the Spanish Government.

Mr. BLAIR. It is recognized at this time.

Mr. STANTON. By this bill he is required, before his title is recognized, to file the proof. Many of these title papers may have been lost. And for whose benefit and convenience is all this to be done? For the convenience of the United States; that we may know our public lands. If the United States wants to know what lands it has a right to sell, let it find that out at its own expense, and not put the persons who have a perfect right to their lands to the expense of filing their title papers here.

Mr. DAVIS, of Mississippi. Did we not acquire New Mexico by treaty?

Mr. STANTON. Certainly.

Mr. DAVIS, of Mississippi. What did we acquire thereby?

Mr. STANTON. We acquired jurisdiction and sovereignty over the whole people, and acquired title to the unoccupied lands.

Mr. DAVIS, of Mississippi. Then we acquired the fee simple of the whole Territory.

Mr. STANTON. No, sir.

Mr. DAVIS, of Mississippi. Except so far as another provision of the treaty recognizes the right of those who own the land in the Territory. That is an exception to the general provisions of the treaty which conveys to us the country. If we are bound to recognize the right of the citizens to the lands which they occupy, is it not, then, the duty of the citizen to show that he comes within the provisions of the treaty made for his benefit?

Mr. STANTON. I think not; and for this very plain reason. I do not hold that in the absence of an express grant in the treaty, the conquest of the country and the cession of the jurisdiction and title would vest the title of individuals in real estate in the conquering country. It only conveys to the conqueror such title as the conquered Government might rightfully convey. And of whatever portion of the soil or territory of the conquered country, grants may have been made to individuals, the individual rights of the party are not affected by the cession of jurisdiction, and of so much of the soil as was unoccupied.

Now, Mr. Chairman, I happen to have some familiarity with, and my constituents happen to have some interest in, a question somewhat similar, and which will illustrate this. The State of Virginia reserved, out of the cession to the State of Ohio, the lands lying between the Little Miami and the Scioto rivers, to satisfy land warrants. Nearly the whole of the territory has been covered by these warrants; but still there is a residuum of sixty thousand acres. It has never been surveyed. It has been ceded by the State of Virginia to the United States, and the United States holds the title to-day; and there is no means, except by a survey, of ascertaining the appropriated lands from the non-appropriated lands. Now, the United States might just as well call upon the landholders in that district to file their title papers, exhibit their titles, and show their boundaries, that the Government might know how much land it has got to lay off and sell, as do so in the case of New Mexico. Now, I submit to you, Mr. Chairman, whether the people of that district would submit to a law calling on some one hundred thousand inhabitants there to exhibit, and file here, and send to the Attorney General's office, a chain of their title, and a description of their boundaries, that the United States might know how to survey the lands left?

Mr. BLAIR. Are not these titles, in that district, of record?

Mr. STANTON. Certainly they are.

Mr. BLAIR. They can be then ascertained by the surveyor of the Government. My position in this matter is, that the title of every man in this country to real estate should be of record somewhere.

Mr. STANTON. Very well, Mr. Chairman, that is just precisely the ground on which I desire to place the United States and the New Mexicans. A man may have a title by possession, and the surveyor can ascertain the extent of his possession. I ask the United States, in New Mexico as elsewhere, to ascertain at their own expense, and through their own agents, what is public and what is private land, and not subject the owner to the expense and hazard and inconvenience of filing his title.

Now I know, and every gentleman knows, who is familiar with that description of land title which originates in private surveys, where they are not made by the public authorities in sections, and quarter sections, and towns, and townships; but where the surveyor goes into an unsurveyed country, and lays off boundaries in whatever shape they may suit him—every man knows that when you come to make a minute resurvey of a country so located, when you come to file descriptions, and to plant these descriptions, you will find laps of conflicting surveys, and strips between surveys, shoe-strings, and three-cornered handkerchiefs, and things of that sort, which create an immense amount of litigation. That is the experience of everybody who knows anything about that description of title; and whenever you require these persons to exhibit, and place on plats and records, at a single office, all their evidences of

title, you will find that you will create and bring to light hidden and secret defects in the titles of parties; you will show links wanting in chains of title, which will create litigations that the parties might have escaped for years, and perhaps for generations to come.

Now I protest against the principle contained in this eighth section, which, by a single sweeping clause, declares that *prima facie* no man has any title there until he exhibits his title papers to the officers of the Government.

Sir, possession is *prima facie* evidence of title against the Government as well as against everybody else; and I hold that where the officers of the Government find a party in possession claiming ownership, they should recognize the validity of that title until after they had made such inquiries as satisfied them that the title was not valid; and then they must show the invalidity of the title of the claimant.

I can never support a bill of this sort with such a provision in it. I believe that it would be a source of endless litigation. I know the evils resulting from real-estate litigation. I know there is no end to them, except from the statute of limitation, and from the title vested by long possession. Here you cut all that off. You say that no length of possession will avail a man anything. You make a new beginning to all titles, and declare that there shall be no possession that will avail the parties anything except what shall commence after the passage of this act.

Sir, instead of that, you ought to pass a law declaring that all parties who have been in possession twenty years, or a given length of time, shall hold the lands they possess. The amount that you would acquire by this bill would not be worth the amount which it would cost the parties and Government for litigation. I believe it is utterly unsound in principle, and that it would prove pernicious in practice, and I cannot give it my vote.

Mr. MARSHALL, of Kentucky. I offer the following amendment to the bill:

Amend the bill by inserting after the enacting clause as follows:

SECTION 1. The United States of America do hereby vest in the holder or holders of real estate in New Mexico, acquired from Spain or Mexico prior to the treaty of Guadalupe Hidalgo, all the title which would be vested in them respectively by a patent from the United States of America: *Provided*, The holder or holders of such claim shall exhibit his claim before the district court of the United States in the Territory of New Mexico, and said court, being guided by the treaty aforesaid, the laws of Spain and Mexico, the laws of the United States, and the decisions of the Supreme Court of the United States, shall decree in favor of the establishment of such claim, whether the same be inchoate or otherwise: *And provided further*, That twenty years' peaceful possession under claim of title shall by said court be accepted as conclusive evidence of title, and shall entitle the claimant or claimants to the decree establishing his or their claim. But the United States do not, by authorizing such decree, guaranty the title to such claimant or claimants against any title superior in law or equity, conflicting with the claim so established.

SEC. 2. It shall be the duty of the clerk of the district court to transfer to the office of the surveyor general of the United States in New Mexico an exemplified office copy of every decree so rendered in favor of the claimant, which the surveyor general shall record in his office; and the same shall be sufficient reason for him to abstain from surveying such claim as public land.

SEC. 3. In the event of a decision by the court against the claimant, he shall be entitled to an appeal to the circuit and Supreme Courts of the United States, the decision of which Supreme Court shall be final.

I believe that that amendment embraces all that we ought to do. I believe that it carries out the treaty, and invests these people with titles to their property. It establishes the rule, which bars an action of ejectment in our courts, that we will take twenty years' possession as evidence of the perfection of an inchoate title; and it refers to the decisions of the Supreme Court as the basis upon which the district court in New Mexico can establish the titles. What more do gentlemen want?

Mr. BLAIR. If the gentleman will allow me, I will simply say that I see no difference whatever between his substitute and the bill which I reported, with the exception that it substitutes the circuit court for a board of commissioners; and if the bill were not a report from a committee—if it had been introduced on my own motion—I would willingly accept his substitute. It does everything that I want done. It covers every point in the bill, with the exception which I have mentioned. It is precisely the bill over again, except that it substitutes the circuit court for the

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commissioners provided for in the bill; and I ask nothing more than it provides for.

Mr. MARSHALL, of Kentucky. I am glad I hit the center so exactly; and I hope, as my substitute meets the views of the gentleman from Missouri, that it will meet the views of the committee at large. There is one thing that it certainly does. It saves the Government the expense of all the paraphernalia of this commission—commissioners, agents, attorneys, clerks, and so forth—and it leaves these people who have claims, to come into court if they wish to come into court. It provides an easy way of carrying out the treaty stipulations, and it relieves the Government of the United States from the charge very properly brought against it by the gentleman from Ohio, [Mr. STANTON,] that we propose to invalidate every title, unless everybody in the Territory brings his title into court.

Mr. BLAIR. I wish to say one word at that point. I think that the gentleman from Kentucky and the gentleman from Ohio are both mistaken in their allegations. This bill respects every title of every description which any inhabitant of that country held under the Mexican Government; and the gentleman's substitute does no more, except that it gives another title—which Congress has a perfect right to do—a title by twenty years' possession, and I believe that possession for that time would give a title under the Mexican laws. So that there is not one particle of difference between the substitute offered by the gentleman and the bill reported by the committee.

Mr. REAGAN. Mr. Chairman, the gentlemen who have prepared this bill have, doubtless, done so with a view to the protection and security of the rights of the citizens of New Mexico. The most substantial arguments urged in favor of the bill, those presented by the gentleman from Louisiana, [Mr. TAYLOR,] and the gentleman from Mississippi, [Mr. QUITMAN,] rest upon the ground of the necessity that the United States should provide means for the perfection of inchoate titles. That is all right. I concede that some action may be necessary if there are inchoate titles in New Mexico, as there doubtless are, to enable those titles to be perfected. But, in acting upon this subject, we should remember that the population of New Mexico is confined mainly to the Rio Grande and to a few other localities. We should remember that the people of that Territory have occupied it for ages past, and that their titles are as old as their origin, and have passed out of mind. They have their archives there and their laws of prescription; they may have their evidences of title; they at least have possession where they do not have evidences of title; and wherever they have titles, either written titles, grants from the Government, or titles by prescription, their right to their land is secured by the treaty of Guadalupe Hidalgo. I apprehend that those gentlemen who have argued that they have no title until the Government of the United States confers it, have not looked into the subject. Certainly they have titles under the eighth and ninth articles of the treaty of Guadalupe Hidalgo; their rights are secured to them and are beyond the power of the Government of the United States, or of New Mexico or of any person on earth. If they have titles, those titles are secured to them and they cannot be divested of them unless it be by force; there are no lawful means of dispossessing them of those titles.

Then, sir, in addition to the fact that they have been long settled, there are large masses of the people who, as you have been told, are not learned; they are, in fact, to a great extent, an ignorant people; some of them are semi-barbarians almost; they are, besides that, not a wealthy people; they are not a commercial people; they are a people who have been raised there and have lived there all their lives, and who know little out of the limits of their immediate neighborhood; they know nothing about the machinery of courts and the investigation of titles. I speak, of course, of the large mass of those who will be damaged, in my judgment, if this bill passes. The great mass of the people upon whom this bill is to operate, if it

becomes a law, are persons in the condition and of the description which I have mentioned. This bill will drive them into litigation, and require them, at great expense and in entire ignorance of the law, to investigate their titles. Now, I do not want to be tempted to remove from Texas; but if you pass this bill, the temptation to go to New Mexico, and practice law there, will be so great that I do not know whether I shall be able to resist it. But whether I go there or not, I tell you that the lawyers and the speculators will own one third or half the titles in New Mexico before the titles are quieted under this bill, and the people themselves, whom it is intended to benefit, will be broken up and ruined by useless litigation.

Now, if the object is to perfect inchoate titles, why not provide a bill for that purpose? If the object is to delineate the titles in existence on the maps of the country, in order to avoid conflicts between existing titles and titles obtained under the Government of the United States, why not provide for the delineation of those titles on the maps at the expense of the country, and not attempt to force ignorant and uninformed citizens into the courts of the country to adjudicate titles which are perfect to them, and may have been so for a hundred years past? Doubtless many of the titles to these lands are fifty or one hundred years old. I tell the House that if the object of this bill is to protect the people of New Mexico in their titles to their lands, I am satisfied it will not accomplish that object, but that it will be the means of breaking up many of the poor, ignorant settlers of New Mexico.

A class of titles, similar to those to which this bill especially relates, have been extremely litigated in the State which I have the honor, in part, to represent. The Republic of Texas, in its constitution, recognized the right to property in the former inhabitants of the country, as the treaty of Guadalupe Hidalgo recognized the right to property in the former inhabitants of New Mexico, and as the treaty of 1803 recognized the right to property in the former inhabitants of Louisiana. Without any other legislative authority confirming or guarantying the titles to the former inhabitants of Texas than the provision contained in the constitution, these titles have frequently been adjudicated; and wherever they have been found valid, they have been sustained by the courts of Texas; and upon appeal, in a number of those cases, to the Federal courts, those titles have been sustained.

I present this case to show that the principle is correct; that there need not be any specific recognition of title beyond the mere general recognition of the right of property, where the title has been vested under a former government. I, however, very much prefer the substitute which has been proposed by the gentleman from Kentucky [Mr. MARSHALL] to the original bill; but I am opposed to that part of the substitute which requires a citizen, who has a perfect title, to go into a court and investigate his title, which is already complete.

And I go further. I assert that we have not the constitutional power to pass this bill. I assert that, under the Constitution of the United States, we have no power to force upon men the necessity of adjusting their titles. I assert still further, that when you attempt to adjudicate upon their perfected titles, and undertake to declare such titles void, because they will not obey your laws forcing them to adjudication, you divest them of their constitutional rights, and your action is void.

Mr. QUITMAN. I think the gentleman is laboring under a misapprehension. I contend that these inchoate and imperfect titles, founded in the equity of the Spanish Government, must, in order to perfect them, have some specific action upon the part of the political government of the country; that the political government must, in some shape, be put in motion before the courts can recognize those titles which are inchoate, and exist only in equity.

I think the gentleman is mistaken in another statement. The Supreme Court of the United

States have again and again decided that they could not recognize any claim to property founded in treaty, unless that claim was adjudicated by the Government. If something was required upon the part of the Spanish Government to perfect these titles, something is required on our part; and these titles cannot be completed without express legislation. It is the cheapest and best mode, and the mode which will avoid a large number of suits, to set a commission down in the neighborhood to examine these titles.

Mr. REAGAN. I desire to say this in reply to the gentleman from Mississippi. I recognize the correctness of the principle stated by him in reference to inchoate titles, that when the title is not complete under a former Government, the political action of this Government is necessary to perfect it. And I have already said in my remarks that if the object of the friends of this bill is to make provision for perfecting inchoate titles, let them introduce a bill for that purpose and I will support it. But, Mr. Chairman, if it is intended by the gentleman from Mississippi to assert the proposition that political action is necessary to maintain the perfect titles which existed under the former Government, then I say that the Supreme Court of the United States has decided against his proposition again and again.

Mr. QUITMAN. I am very reluctant to interrupt the gentleman again, but I think he misapprehends the point. The object we are seeking to attain is the settlement of these titles. Now it would be impracticable to act definitely upon these titles in gross, because they must be examined individually. No general bill would answer the purpose. The title of A or B must be examined upon its own merits, and therefore it is absolutely necessary that commissioners should be appointed.

Mr. REAGAN. I have stated that, in my opinion, you have no right to force the owners of perfect titles into an adjudication of their claims. I have conceded that the action of the political authority was necessary to render perfect inchoate titles. I am ready to vote for a bill to make perfect inchoate titles, whenever such a bill shall be presented. I am ready to vote for a bill which shall devolve upon the surveyor general, and those connected with him, in New Mexico, the duty of delineating upon their maps all the titles of the country.

Mr. TAYLOR, of Louisiana. When I addressed the committee I called their attention to the fact that, so far as the titles which are complete is concerned, it was a matter of no consequence whether they were presented or not, as they are good under the treaty. I now give notice that, at the proper time, when the sections of the bill are before the committee for amendment, I shall move to amend the second section by inserting the word "inchoate," so that it shall read:

SEC. 2. *And be it further enacted*, That said commission shall decide upon the validity or invalidity of all inchoate private land claims brought before them, and for that purpose shall have the power to issue notices, summon witnesses, administer oaths, and do and perform all other acts necessary and requisite to be done in the premises.

I also propose to insert the word "inchoate," in the eighth section, so as to make it read:

SEC. 8. *And be it further enacted*, That each and every person claiming lands in New Mexico by virtue of any inchoate right or title derived from the Spanish or Mexican Governments shall present the same to the secretary of said board, in which claim shall be set forth, in writing, the amount of land claimed, the nature of the title or claim, and how derived; and in all cases where the claim has been located, the boundaries of the same with reasonable certainty, together with such documentary evidence, deeds and grants, or copies thereof, and testimony of witnesses, when said testimony is taken before the trial, or names of witnesses, and their residence, as the claimant relies upon in support of his claim, which said claims shall be entered by the secretary on a docket to be provided for that purpose; and it shall be the duty of the commissioners, when the case is ready for hearing, to proceed promptly to examine the same upon such evidence as may be presented, and upon the evidence produced in behalf of the United States, and to decide upon the validity or invalidity of said claim.

I do this for the purpose of making the act what it is in fact—an act to enable the board to exercise political power so as to carry out the obligations

of this Government, and to enable it to do what the Mexican Government would have done if New Mexico had not ceased to be a part of Mexico.

Mr. REAGAN. I have no objection to the principle announced by the gentleman, but I do not know whether the details of the bill will conform to it.

Mr. SHERMAN, of Ohio. Unless this debate can be brought to an end, I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. ENGLISH reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly business appertaining to the Territories, and had directed him to report back House bill No. 59, with an amendment, and with a recommendation that it do pass. Also that they had had under consideration House bill No. 544, and had come to no resolution thereon.

Mr. BRANCH. I move the usual resolution to close debate in the Committee of the Whole on the state of the Union on the New Mexico private land claims bill in five minutes after its consideration shall be again resumed in committee.

Mr. FAULKNER. I hope the gentleman will extend his resolution to the other bills, and limit debate to fifteen minutes on each.

The SPEAKER. The Chair would suggest that the bills reported from the Committee of the Whole on the state of the Union had better first be disposed of.

Mr. BRANCH. I yield for that purpose.

The SPEAKER. The Committee of the Whole on the state of the Union have reported back to the House a bill in relation to the courts, and holding the terms thereof in the several Territories of the United States, with an amendment.

Mr. JONES, of Tennessee. I demand a division on that amendment, to see whether there is a quorum here to do business.

Mr. BRANCH. I hope the gentleman will not do that. It will serve to deprive us of an opportunity to attend to any further territorial business.

Mr. JONES, of Tennessee. There is not a quorum here, and less than a quorum has no right to do business.

The amendment was read.

Mr. WASHBURNE, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. MARSHALL, of Kentucky, and KELSEY, were appointed.

The House was divided; and the tellers reported—ayes 65, no 1—no quorum voting.

Mr. BRANCH. I move that there be a call of the House; and on that I demand the yeas and nays.

Mr. UNDERWOOD moved that the House adjourn.

Mr. BRANCH demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 43, nays 38; as follows:

YEAS—Messrs. Arnold, Blair, Buffinton, Chaffee, Clawson, Comins, Cragin, James Craig, Davis of Mississippi, Davis of Iowa, Dodd, Giddings, Gregg, Hatch, George W. Jones, Kelsey, Knapp, Leiter, Letcher, Lovejoy, Humphrey Marshall, Matteson, Maynard, Milton, Nichols, Pendleton, Phelps, Pike, Quitman, Reagan, Robbins, Royce, Ruffin, John Sherman, Singleton, Spinner, William Stewart, George Taylor, Thayer, Underwood, Wade, Waldron, and Watkins—43.

NAYS—Messrs. Andrews, Bingham, Bowie, Branch, Bryan, Chapman, John B. Clark, Covode, Curry, Curtis, English, Faulkner, Florence, Foley, Foster, Gartrell, Grow, Howard, Huyler, J. Gladney Jones, Owen Jones, Landy, Moore, Morgan, Morrill, Niblack, Phillips, Sandidge, Seates, Searing, Judson W. Sherman, Stanton, James A. Stewart, Miles Taylor, Tompkins, Walton, Elihu B. Washburne, and Wortendyke—38.

So the motion was agreed to.

And thereupon the House (at four o'clock and thirty-five minutes) adjourned.

IN SENATE.

THURSDAY, May 13, 1858.

The Journal of yesterday was read and approved.

HOUSE BILLS REFERRED.

The following bills, yesterday received from the House of Representatives, were severally read twice by their titles, and referred as indicated below:

A bill (No. 565) to confirm the land claim of

certain pueblos and towns in the Territory of New Mexico—to the Committee on Private Land Claims.

A bill (No. 170) for extending the land laws east of the Cascade Mountains, in Oregon and Washington Territories—to the Committee on Public Lands.

A bill (No. 564) to create a land district in the Territory of New Mexico—to the Committee on Public Lands.

PETITIONS AND MEMORIALS.

Mr. PEARCE presented a memorial of the trustees of the Columbian College, at the city of Washington, praying for a grant of land for the endowment of that college; which was referred to the Committee on the District of Columbia.

Mr. BRIGHT presented the memorial of Riggs & Co., praying for the reimbursement of money advanced by them to Charles Loring, late receiver of public moneys at Benicia, California; which was referred to the Committee on Claims.

Mr. GREEN presented a petition of citizens of Missouri remonstrating against the diversion of the proceeds of the lands granted to the State of Iowa for the improvement of the Des Moines river; which was referred to the Committee on Public Lands.

Mr. POLK presented the memorial of Gilbert & Gerrish, praying for the payment of drafts drawn by J. L. Heywood, United States marshal for the Territory of Utah, for money advanced by them for expenses of the United States court in that Territory in 1855 and 1856; which was referred to the Committee on Claims.

He also presented a petition of citizens of St. Charles county, Missouri, praying that the land office at St. Louis may be continued, and that the land offices in that State, about to be closed under authority of law, may be consolidated at St. Louis; which was referred to the Committee on Public Lands.

Mr. BENJAMIN. I present the memorial of Mrs. Georgiana M. Lewis, widow of Armstrong Irvine Lewis, a lieutenant in the Texan navy. This lady complains that, by the terms of the act which allowed five years' half pay to officers of the Texan navy, the phraseology was such as to exclude her husband, who lived more than five years after the annexation of Texas, but who died before the passage of the bill for the relief of those officers, and she is left with two young children without resources, and fully entitled, according to the equity of the provision of the act of Congress, to the same relief that the brother officers of her husband received. I move its reference to the Committee on Naval Affairs, expressing the hope that they will offer an amendment to the naval appropriation bill to amend that appropriation so as to include the family of those officers who did live five years after the annexation, but who, by the phraseology of the act, are excluded, although within the equity.

The memorial was referred to the Committee on Naval Affairs.

Mr. SLIDELL presented the petition of John I. Caldwell, praying for the remission of certain penalties imposed on him by the Post Office Department; which was referred to the Committee on the Post Office and Post Roads.

REPORTS OF COMMITTEES.

Mr. IVERSON, from the Committee on Claims, to whom was referred the memorial of Louis F. Tasistaro, submitted an adverse report; which was ordered to be printed.

Mr. SIMMONS, from the Committee on Patents and the Patent Office, to whom was referred the petition of Nathan Scofield, submitted an adverse report; which was ordered to be printed.

Mr. STUART, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 300) declaring the title to land warrants in certain cases, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 299) to establish an additional land district in the State of Iowa, reported adversely thereon.

Mr. PUGH, from the Committee on the Judiciary, to whom was referred the bill (S. No. 124) to provide for the holding of the stated terms of the circuit and district courts of the northern and southern districts of the State of Ohio, and for other purposes, reported it with an amendment.

COMMITTEE ON REVOLUTIONARY CLAIMS.

Mr. CRITTENDEN. Mr. President, by the death of our lamented colleague, Mr. Evans, and by the inability of Mr. BATES to attend, both of whom belonged to the Committee on Revolutionary Claims, that committee is reduced in its number to three. I, standing at the head of the list, and with the approbation of the committee, wish to make this fact known, that their places may be supplied by other appointments; and I would move that the Vice President be authorized to appoint a chairman and another member to that committee. I do not know what else to do. There is not much business, I hope, to be transacted in the committee during the short remnant of the session, but we are hardly in a condition to act on it at all now, being reduced to the minimum of three members. The Senate can take such order as they please.

The VICE PRESIDENT. Does the Senator make a motion that the Chair appoint two members—not to appoint a chairman?

Mr. CRITTENDEN. I have, by the ordinary course of business, become the chairman of that committee; but I really have not time to render that attention which the situation requires to the business of the committee; and, furthermore, I suppose another more acceptable to the Senate, if I may judge from the organization of the committees of the Senate at the commencement of the session, might be appointed. I therefore should desire that a chairman be appointed in such manner as the Senate may choose to direct. I move you, sir, that the Vice President be authorized to appoint two new members of that committee, and among them a chairman.

The VICE PRESIDENT. The Senator from Kentucky moves that the President of the Senate be authorized to fill two vacancies upon the Committee on Revolutionary Claims.

The motion was agreed to.

COURTS OF ARKANSAS.

Mr. JOHNSON, of Arkansas. I ask the Senate to take up and pass the bill reported from the Committee on the Judiciary, concerning the United States courts within the State of Arkansas. The relief which the bill proposes to afford is very much needed by those courts. I do not think it will take ten minutes to pass the bill.

The motion was agreed to; and the bill (S. No. 278) concerning the courts of the United States in the district of Arkansas, was read the second time, and considered as in Committee of the Whole.

It provides for the appointment of a district judge of the United States for the western district of Arkansas, at an annual salary of \$2,500, to have and exercise the same jurisdiction and powers which are now had and exercised within it by the judge for the district of Arkansas; and the jurisdiction and authority of the last-mentioned judge are to be hereafter confined to the eastern district of Arkansas.

It further provides that there shall be hereafter two terms of the circuit court of the United States held for the eastern district of Arkansas, of the second Mondays of April and October in each year.

Mr. JOHNSON, of Arkansas. I will explain this bill reported from the Committee on the Judiciary.

Mr. STUART. Had not the Senator better let it pass at once?

Mr. JOHNSON, of Arkansas. Well, I will not make any further explanation unless it is demanded.

Mr. TRUMBULL. I was opposed, in the Committee on the Judiciary, to the reporting of this bill, and for this reason: I am opposed to all bills of this character unless there be an absolute necessity shown for them; and I did not think that necessity was shown in this case. This is the way that power and patronage are being concentrated in the Federal Executive constantly. We go on multiplying the judicial districts. By multiplying the judicial districts, we create a necessity for new court-houses; we multiply the district attorneys; we multiply the marshals; and in that way we are constantly drawing to the Federal Government powers which, in the origin of the Government, were not intended to be exercised by it.

Mr. JOHNSON, of Arkansas. Will the Senator allow me to state, before he proceeds further

with his remarks, a few facts in regard to this matter?

Mr. TRUMBULL. Yes, sir.

Mr. JOHNSON, of Arkansas. I had no opportunity to make any statement of facts before the committee, as the Senator himself is aware. I did not know that any gentlemen on the committee, other than the Senator from Missouri [Mr. GREEN] and the Senator from Vermont [Mr. COLLAMER] had any doubt as to the propriety and necessity of this bill. If I had known that there was a necessity for a further explanation to the Senator from Illinois, I should have given it to him. I will state now to the Senate what is the exact condition of the case.

When Arkansas was organized as a State in 1836, the whole State was made one judicial district. There was then annexed to that judicial district all the Indian country west of that State, being a region of country more than one and a half times as large as the State of Arkansas itself, for the enforcement of the intercourse laws of the United States with all the various tribes of Indians. In 1848, upon the matter being presented here by the late Senator Ashley, upon a bill which had been previously passed in the House of Representatives, it was considered necessary, from considerations of humanity, that a court for the trial of offenses within the Indian country should be established upon the border, within reach, where people charged with the commission of offenses in the Indian territory could be brought to be tried, and where, when in prison, they could secure their witnesses at their trial, and have some hope, at least, of obtaining relief justly when it was within their power; and where there also should be some hope that the United States, without very great cost, should be able to obtain their witnesses for the prosecution.

Under these circumstances, an Indian court, in point of fact, was created; that is, a court for the trial of offenses in the Indian country. It was styled the western district of the State of Arkansas; but it was not a district of the State of Arkansas, properly speaking, for there were but five counties of the whole State included in it, and those five counties were taken, and the court located within them, immediately upon the border of the Indian country, for the purpose simply of giving the court a locality, and a point at which it could get jurors and public officers to reside.

That act has continued in force for ten years, and the court has been held twice a year. A prosecuting attorney exists for that district; a marshal exists for that district; a clerk, of course, exists for that district. The entire court is in existence for that district, but no additional judge was deemed necessary at that time, for the reason that the duties of the judge of the eastern district were not heavy, and it was supposed that he could hold all these courts. The facts in regard to the eastern, as well as in regard to the western court, now show the necessity of having a judge for each district. The Supreme Court judges of the United States never, in any instance, go to that country and hold the circuit court, and have not done for many years. The judge of the eastern district, therefore, presides in the circuit court as well as the district court. The circuit court in Arkansas, up to the present time, has held but one term a year. Those gentlemen here who are lawyers, and are accustomed to the practice of the courts, are aware that a great amount of jurisdiction exists in the circuit court which does not exist in a district court. The business has increased in that court, and it has been kept back from increasing as rapidly as it otherwise would, from the fact that the court itself could not, under the present law, render relief within any proper time, for the reason that but one term can be held in a year. The public business there demands that there should be two terms of the circuit court in the eastern district in each year. It amounts to a denial of justice to the people of every other State in the United States, who may have claims or debts to collect, or causes that would carry them into the United States courts in Arkansas, to say to them, "You shall go into a court where, if from any cause, light or trivial, there is a continuance granted, that continuance shall be for one entire year." Public justice imperatively requires that a second term of the circuit court of the United States should be held within that district.

That being so, there can be no question, I take

it, that Congress will grant two terms of the circuit court of the United States to be held within that State. That will increase the duties of the district judge. As I said, in the absence of any Supreme Court judge, for they never go there in fact, he holds the circuit court. Now, he is to hold four terms a year; two terms of the circuit court, and two of the district court in the eastern district. If, to that duty, you add two more terms, to be held at the distance of one hundred and fifty miles, embracing all the Indian business of a region of country one and a half times as large as the State of Arkansas, you require him to hold six terms a year. Such a burden would be too heavy, and he could not possibly do justice to it.

Under these circumstances, when asking for another term of the circuit court of the United States in the eastern district of Arkansas, thus throwing additional burdens on the judge, and requiring additional time to perform his duty, it became necessary that the Indian district court should be taken off from him. Hence this bill provides that, for the two terms there to be held, and the circuit court jurisdiction which is granted by the act creating that western district, there shall be an additional judge. These are the facts of the case.

Mr. PUGH. I wish to ask my friend from Arkansas a question. We understood in committee that there were already a marshal and attorney in each district, so that there would be no additional officers of that class. Is that the fact?

Mr. JOHNSON, of Arkansas. That is the fact. I would also call attention to the circumstance, that the Departments, in the annual message and documents before us, have recommended that a district Indian court shall be created; in other words, that the court now held in the western district of Arkansas shall be transferred to the interior of the Indian country. I shall be compelled, from considerations of public duty, to oppose that proposition, because there can be no jurors inside of that territory but Indians, and a white man has no chance before them. That is one reason; and there are several other reasons why it will not do to put a court inside of the Indian country, beyond the reach of impartial and intelligent jurors. This is the Indian court, and as the burden is on the eastern judicial district, where there are four terms a year, two of the circuit court, and two of the district court of the United States, the Senate of the United States, I trust, will perceive at once that it is not reasonable to expect that so much service shall be rendered by one single judge. If there be other questions which the Senator from Illinois desires to understand, I shall be very glad to answer him. I saw from his first remarks that he supposed it would be necessary to create an entire set of new officers. That is not so, I assure him.

Mr. TRUMBULL. I had forgotten, if I had ever been aware of the fact, that there were already existing a district attorney and a marshal in the western district of Arkansas; but that circumstance does not change the reasons which I have for opposing this bill. I have no hostility to the creation of this particular judgeship more than any other. I am opposed upon general principles to that species of legislation which, in my judgment, has a tendency to draw within the vortex of the Federal Government business and powers which the men who made the Government intended should remain with the States. Now, the United States courts are swallowing up the whole litigation of the country; they are drawing within their vortex business which there is no particular reason for bringing within their jurisdiction—business which could be transacted just as well before the State courts; and by multiplying the United States courts and by establishing them at points convenient to every part of a State, you bring a great deal of business into those courts which legitimately does not belong to them.

The intention of the Constitution was to provide courts where suitors could obtain justice without any prejudice against them because they were residents of another State in the Union. It was apprehended that there might be a partiality in favor of the citizens of the State where the cause of action arose, when the controversy was between them and the citizens of some other State; and to provide against that class of cases chiefly, these courts were established, as also to decide questions arising under the laws and Constitution of the United States. But I apprehend that much

the largest amount of the business which gets into those courts, and which is swelling their jurisdiction so unreasonably that now the judges of the Supreme Court of the United States have been compelled to abandon their circuit duties, and which has swelled the docket to such an extent that it takes years to obtain a decision in that court, is in cases between citizens where there is no peculiar reason for resorting to the Federal jurisdiction, and where citizens would not resort to it except that it becomes more convenient, and enables them to get a judgment quicker than they can in the State courts.

I know how it is in the State of Illinois. Whenever a non-resident has a claim against a citizen there, if he can get a judgment quicker in the United States court than he can in the State courts, he will resort to that tribunal. By multiplying the terms of that court, having it held frequently and at different points in a State, you afford that opportunity; and the result is, that the collection business of the country is thrown into the United States court, not by reason of any prejudice existing which would prevent a non-resident from obtaining a judgment in a State court, but because he can get a judgment more speedily in the Federal tribunal. This was not the intention in the formation of the Constitution of the United States. We have at this time pending before Congress many applications for dividing judicial districts; this is not the only one. Numerous applications have been made to divide judicial districts, appoint new judges, marshals, and district attorneys. There is such an application from Indiana; there is one from Iowa, one from Texas, and I do not know how many more. I am opposed to the whole of them; and I wish to present a fact or two to the Senate, if I can get its attention, in regard to this case in Arkansas.

The House of Representatives adopted a resolution at the last Congress, requiring the Secretary of the Interior to ascertain from the clerks of the United States courts in the different States, the amount of business before them; and in a communication from the Secretary of the Interior transmitted to the House of Representatives on the 28th of February, 1858, in answer to that resolution, we have that statement. I find in it the amount of business in Arkansas, in one of the districts; there is no report from the other. In the State of Arkansas the whole number of cases on the docket, on the 1st day of January, 1856, in the eastern district was forty-nine. Now, how many do you suppose were added during the whole year 1856? Ten, and ten only. The eastern district court of Arkansas had but ten cases brought in it during the year 1856, as is shown by this official report. From the western district of Arkansas there are no returns; I cannot state how many cases there were there.

Now the Senator tells us that the judge is required to hold four terms in the eastern district, and he makes up the four terms by speaking of two terms of the circuit, and two terms of the district court. We all understand, sir, that the circuit and district courts are held by the same person, and the district and circuit court meet at the same time. I do not mean at the same instant; but the same judge holds those courts, and sitting upon the bench he will one hour call the docket of the district court, and the next hour he will lay aside that docket and call the docket of the circuit court. It is really but one court.

Mr. FOSTER. He tells the orier to adjourn the district court, and open the circuit court.

Mr. TRUMBULL. They do not even go through that formality in my State. They do not go through the formality of having the orier to cry that the district court has adjourned. The judge just lays aside one docket and takes up the other, and goes on with circuit business or district business as suits him, so that really there are no four terms; there are but two terms a year.

Now, I ask the Senate where this course of things is to stop. I ask State-rights Senators, gentlemen who are in favor of preserving the rights of the States, and opposed to a great consolidated central government, that shall swallow up all the powers of the States and the rights of the citizens, and bring them all within its control, are they prepared to vote a new judge to a State, in regard to which, it appears, that in one of its districts there were but ten cases to be tried during the whole of the last year reported? Is there

any necessity for it? If this precedent is set, and if ten cases are as much as a judge can attend to in a year, the State of Illinois will want forty judges. The judge of the northern district of Illinois holds court nearly the whole year? We had a report from that district last year, I think, showing that the judge held court some three hundred days in the year. This statement before me shows the number of cases. I have not before looked to see how many there were, but I see now at a glance that seven hundred and fifty-four cases were added to the docket during the year 1856, in the northern district of Illinois. In the district of Arkansas there were ten.

Mr. JOHNSON, of Arkansas. How many terms of the court are held in each year in that State?

Mr. TRUMBULL. I am not prepared to say, probably more than two regularly. I do not recollect, but the court is in session by adjournments nearly the whole year. There is a great deal of admiralty business.

Mr. JOHNSON, of Arkansas. Where does it sit?

Mr. TRUMBULL. It sits at Chicago, and was in session, I think, something like three hundred days last year. We had a statement, I know, in regard to it. I may not speak with entire accuracy, but I think it was three hundred days. You see from the number of cases, seven hundred and fifty-four, put on the docket during the last year, that there is a great deal of business for the judge in northern Illinois to do.

Now, sir, I do not think there is any necessity for another United States judge in the State of Arkansas, so far as any documents before us show, and this is but the beginning. It is already said they have a district attorney and marshal. True, but there is now an application pending before Congress for a jail for the western district of Arkansas. I am for putting a stop to this species of legislation; and it must be an urgent case, so far as I am concerned, that will induce me to vote one dollar to build court-houses and build custom-houses and create Federal offices where they are not actually needed by the wants of the country. If we mean to prevent this monstrous expenditure of money by the Federal Government, and this monstrous accumulation of power in the hands of the Federal Executive, we must stop this class of legislation; and I think here is a good place to begin, and this is a good time.

Mr. TOOMBS. Mr. President, I concur in a good deal of what has been said by the Senator from Illinois—indeed almost all of it; but he makes a wrong application of the principle. While I was a member of the Judiciary Committee, these questions came up, and I think the committee very generally concurred with him in the views he expressed to-day, and all these applications were rejected but this one; and this was made exceptional for a particular reason. The western judicial district of Arkansas has jurisdiction over those vast regions where the Choctaws, Chickasaws, and other Indians live, west of the Mississippi river. All violations of intercourse laws; all other violation of law in the Indian country, are brought to this point to be tried, and therefore it is much more a territorial court than a State court; and while the committee rejected every similar application made at this session, they made this case an exception because it was not local. That very reason was given, that here was a vast extent of jurisdiction, extending over a country running to the Rocky Mountains, applying to persons going there and committing crimes, violating the intercourse laws, or guilty of any other offenses against the United States; and that this court was simply held in Arkansas, and was not for the use of the citizens of Arkansas, in any sense whatever. That is the reason why, as a member of the committee I supported it, and I believe on that principle the committee agreed it was an exception.

Therefore, all the argument of the Senator on the general principle is out of place here, though exceedingly appropriate and just in regard to other propositions. I agree in every bit of his argument except its application to this case. The jurisdiction of the Supreme Court of the United States is very great and increasing, and it ought to be diminished. Their jurisdiction in admiralty is outrageous. Their jurisdiction in bringing in corporations of different States under the pretext that they are within the rule, is outrageous, and it

ought to be arrested. The system ought to be arrested by which, where controversies are really between citizens of the same State, claims are transferred to a person living out of the State merely to give jurisdiction to the Federal courts. That is the proper subject for the Judiciary Committee to consider in reporting general legislation. It was brought before the committee while I had the honor of being a member, and a bill was ordered to be prepared for the purpose of removing these very evils. Unless these various heads of jurisdiction are restrained and limited, the district courts will break down, the circuit courts will break down, and the Supreme Court here will break down. They have stretched out their arms and embraced within their jurisdiction questions properly belonging to the State courts, and which they are totally incompetent to discharge. You talk of relieving the court below. You may leave it as *Æneas* said the gates of hell were, always open, and it never could discharge its business; it is impossible. This subject is attracting the attention of the Committee on the Judiciary, who have come to a conclusion thereon, and I have no doubt will report a remedy for this great and crying evil.

Mr. BAYARD. The honorable Senator from Georgia stated exactly the reason that influenced the members of the Committee on the Judiciary who were in favor of making an exception as to creating this new judge. Two districts exist in Arkansas. There is a peculiar jurisdiction connected with the Indian country which we supposed would be more properly exercised by a judge for that particular district. That is the general basis on which we went. We were satisfied that it was right it should be established. The district is already organized. There will be no additional expense except the salary of the judge. We do not propose to give any additional jurisdiction to the Federal courts, or to increase their existing jurisdiction in one atom.

I am as little disposed as the honorable Senator from Illinois to increase the jurisdiction of the Federal courts, though I think that, to the extent to which the Constitution intended it should go, it ought to be carried, and no further. I am equally satisfied that the whole judicial system of the United States requires reorganization; but whether we shall be able to agree sufficiently in opinion to reorganize it until the system becomes even more complicated in its details, and the evils of the present system become more apparent, I am doubtful. I am satisfied, however, that in this particular case the recommendation of the committee is in accordance with what is right, owing to the peculiar character of the functions performed by the judge of the western district of Arkansas. I have but little reliance on the mode of statement resorted to by the Senator from Illinois, who, to show what are the duties of a judge, gives an abstract taken from a report of the Secretary of the Interior. The mere number of causes may show nothing of judicial labor. If they are collection causes they may be disposed of in a single day. The judicial courts of the United States are, in the general, organized—except for admiralty and maritime jurisdiction—not for the purposes of the people of the State in which they exist, but they are organized under the Constitution to give an option to the people of the other States to seek the Federal tribunals for the adjudication of questions existing between them and the people of a State in which the suit is brought, if they see fit to do so. It was not the intent that they should interfere with, or should draw jurisdiction as between, the citizens of a State from the State judiciary. But in the particular case before us, as it is all Indian country, of necessity the judge in the western district must administer that species of justice between the people resident there, and it is more in the character of a territorial court.

The honorable Senator from Illinois has brought into this debate also the application for a jail. What has that to do with the merits of this proposition? The committee have reported on that subject. I believe the opinion of the committee was against any act of that kind, and the Senator had the authority of the committee to report adversely on that proposition. It has no connection with the propriety of appointing a judge there. Whether we shall build jails or not, there or elsewhere, is a totally distinct question. Nor does it

at all follow, from establishing a separate judge for a peculiar character of jurisdiction, that we shall therefore build a jail.

In reference to the paper alluded to by the Senator from Illinois, I will say that the true measure of the business of a court will be found far more in its jury trials and in the length of its sessions. These are far better evidence of the time occupied by the judge, and the labors of the court, than the mere enumeration of the number of suits brought, which, to my mind, amounts to very little. It fluctuates in different years. Suits may oftentimes be frivolous in themselves. They may be mere collection suits arising out of a commercial crisis, or other causes, in a particular year; but they afford no true indication of what may be the general business of the court, the occupation of the judge, or the length of time necessary to enable him to perform his judicial duties. Some consideration also must be paid to the extent of area of the State, and the peculiar jurisdiction which the judge has to exercise in this case as regards the Indian country.

For these general reasons the committee made this an exception. In all the other cases in which applications have been made for a subdivision, so general was the opinion of the committee that Federal jurisdiction had gone far enough in the creation both of Federal offices and judicial districts, that I am under the instruction of the committee, in all these cases, about to make adverse reports, and shall do so before the session closes. I am in hopes that this bill will pass. It is founded on the fact that there is a district of a peculiar character, and that there should be an allotment of a judge to that district because he has peculiar duties to perform.

Mr. JOHNSON, of Arkansas. There are several points in the remarks of the Senator from Illinois, to which I should like to reply. They can be easily explained and replied to; but I see that the hour for the special order is so close that I may not get action on the bill if I say anything, and therefore I shall waive it, in view of the representations made by Senators from the Judiciary Committee, and I hope we may have a vote on the bill.

Mr. DOOLITTLE. I have an amendment that I desire to offer. It is to insert as an additional section:

And be it further enacted, That in any suit at law or in equity for the recovery of any debt or demand arising upon contract, express or implied, prosecuted in any district or circuit court of the United States, unless the amount recovered shall exceed the sum of \$2,000, the plaintiff in said suit shall not recover any fees, costs, or disbursements of any nature whatever, nor any fees or costs in the execution of any mesne or final process.

I should like to have this matter lie over until to-morrow morning.

Mr. HUNTER. The hour for the consideration of the special order has arrived.

The VICE PRESIDENT. This is the hour set apart for the consideration of the special order.

Mr. JOHNSON, of Arkansas. Will the Senator himself call up this bill, if it goes over?

Mr. DOOLITTLE. Yes, sir; to-morrow morning.

Mr. JOHNSON, of Arkansas. Then I shall consent that it go over.

The bill was postponed until to-morrow.

ORDER OF BUSINESS.

Mr. HUNTER. I move to postpone all the prior orders for the purpose of taking up the bill making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1859.

Mr. CLAY. I have hitherto yielded to the chairman of the Committee on Finance upon such motions; but now, as we have approached the close of the question on the fishing bounties, I trust the Senate will consider it this morning, and give us a vote.

Mr. HUNTER. If I had any assurance that the vote could be taken at once, I would waive my motion; but I have no hope that it will be taken at once, and I feel it to be my duty to submit my motion. The Senate will decide whether to go on with the appropriation bill or not.

Mr. SEWARD. I call for the yeas and nays on this motion.

The yeas and nays were ordered.

Mr. DOUGLAS. I ask whether the question cannot be divided, so as to take the vote first on postponing? because, if the prior orders be post-

poned, I desire to move to take up the Oregon bill. I ask for the division of the question, so that we may have a vote first on postponing, and next on taking up.

Mr. HUNTER. I hope it will not be divided. If it is to be, I would rather withdraw the motion. I wish to get the simple question on taking up the appropriation bill.

Mr. DOUGLAS. I desire a division for the very reason that I wish to put the Oregon bill ahead.

The VICE PRESIDENT. It occurs to the Chair that it is susceptible of division.

Mr. BENJAMIN. I suggest to the Senator from Virginia to let us finish the fishing bounties bill, which has been debated here six or seven days already. It will only take an hour to vote on it.

Mr. HUNTER. If we could agree on an hour to take the vote on that bill to-day, I would give up.

Mr. FESSENDEN. The Senator from Louisiana is very much mistaken.

Mr. BENJAMIN. If it is going to be debated, it is an extra reason for continuing its consideration. It ought to be got rid of at some time or other.

The VICE PRESIDENT. It occurs to the Chair that, a division being asked, the first question will be on the motion to postpone the prior orders. Then the question will come up on the other branch of the motion to take up the appropriation bill.

Mr. PUGH. I should like to understand what are the prior orders. I do not see how to divide the motion. It is moved to postpone the prior orders in order to take up such a bill; and if we postpone the prior orders, it seems to me we postpone the entire lot. What has become of the arrangement which was made in the Senate about a week ago, by which, if we would then take up an appropriation bill out of its order, this system of cutting everything off was to be stopped?

Mr. HUNTER. I understood it was the sense of the Senate that they would give precedence to the appropriation bills over other matters. I am merely submitting the motion. If, however, the Chair decides that my motion is divisible, I shall withdraw it. I am not willing to postpone the other prior orders. I do not think the motion is divisible.

Mr. DOUGLAS. It has been always held to be divisible.

Mr. HUNTER. No, sir; it is a motion to take up a particular bill.

The VICE PRESIDENT. This is the first time the Chair has ever had the question raised. It occurred to him that in its nature the question was susceptible of division.

Mr. HAMLIN. If the Chair will allow me to make a suggestion—

The VICE PRESIDENT. The Chair will hear the gentleman with pleasure.

Mr. HAMLIN. If the Chair will look at the parliamentary law, he will find it laid down very clearly that a question susceptible of being divided must be one which, when divided, contains two or more separate distinct propositions. Now, take the motion of the Senator from Virginia. His motion is to postpone all prior orders for the purpose of taking up a certain bill. If you divide that, the second branch of the motion will not be a proposition by itself; and the motion must therefore be taken as a whole. If it were a distinct proposition by itself, it might be susceptible of division, but not otherwise. I am aware that when no objection has been made, a division has been taken; but never when there has been an objection.

Mr. BAYARD. It seems to me that it is but a single proposition. The point the Senator from Virginia seeks to arrive at, is whether the Senate will take up for consideration the appropriation bill. In order to reach that, it necessarily involves the postponement of the prior orders. Then it is all one proposition. The object to be attained by the motion is a single one, and the Senator can attain it in no other mode; it is all one proposition. It is, whether the Senate, in order to take up the appropriation bill, will postpone the prior orders.

The VICE PRESIDENT. The Chair will state his reason very briefly. There are certainly two propositions involved; one is to postpone the prior

orders, the other is to take up the appropriation bill. The prior orders have first to be postponed, which is an independent proposition. If the motion had been simply to postpone the prior orders, and that were agreed to, the Chair would then take up other business on the table. The Senate may choose to postpone the prior orders; and then, if no motion is made to take up any particular business, the Chair will take up the business next in order on the table. It occurs to the Chair that the motion is divisible.

Mr. GREEN. It all amounts to the same thing. When you make a motion to postpone all prior orders to take up a certain bill, it means all those orders that are prior to that bill. It is a relative term, and it carries every order that is prior to that bill. Prior is not a word that means anything by itself. It is only by relation that it has its meaning. Now, what is meant by prior orders? Those prior to the bill that you propose to take up; and hence the Senator from Illinois will be defeated, even if he divides the question; for his bill is one of the prior orders that will be postponed.

Mr. HUNTER. I think the Senator from Missouri is right. The motion is to postpone the orders prior to this bill.

The VICE PRESIDENT. The Chair understood the Senator to move to postpone the special orders.

Mr. HUNTER. All prior orders.

Mr. DOUGLAS. The motion made was to postpone the special order to take up the appropriation bill. I called for a division of that motion for this reason: when the special order is postponed, I wish to move to take up the Oregon bill. He may make his motion to take up the appropriation bill, and I shall vote "no," for the purpose of taking up Oregon. If, however, I can first get a vote on the Oregon bill, and I am voted down on that, I shall vote to take up the appropriation bill.

Mr. HUNTER. I submit a motion to postpone the prior orders and take up the appropriation bill.

Mr. DOUGLAS. That is a new motion.

Mr. HUNTER. That is what I intended before, but I modify my motion.

Mr. DOUGLAS. The yeas and nays have been ordered on the motion as made, and it cannot be modified by the Senator.

The VICE PRESIDENT. The yeas and nays have been ordered. Perhaps the Senator's motion is susceptible of the construction he gives it as a motion to postpone the prior orders, but the Chair understood it was to postpone the special order.

Mr. HUNTER. I move to postpone all prior orders, for the purpose of taking up the appropriation bill.

The VICE PRESIDENT. Then the Chair will consider that as the form of the motion, with the leave of the Senate. The Chair does not see any use in dividing the question on that view of it.

Mr. BRIGHT. It is an every-day practice here, I think, to move to postpone one subject for the purpose of taking up another, and the mover so states. If no one objects it is taken up; but if any Senator calls for a division of that motion, the first question is, "Will the Senate agree to postpone?" If they agree to postpone, it is in order then to take up any other subject; it is the privilege of any Senator to move to take up any other subject; but the majority of the Senate control. On a division being called for, the question is, "Will the Senate postpone the pending bill?"

Mr. HUNTER. I submitted a motion to postpone the prior orders and take up the appropriation bill.

Mr. DOUGLAS. And I asked for a division.

The VICE PRESIDENT. The question being entirely new, the Chair has been thinking about it in the progress of the discussion, and he believes, on reflection, that he was originally right in saying that the question was divisible. The yeas and nays have been ordered, and he will cause the roll to be called first on the proposition to postpone the prior orders.

Mr. HUNTER. If we postpone the prior orders, will not this bill come up as a matter of course?

The VICE PRESIDENT. It will be in the

power of the Senate to decide what it will consider.

Mr. HUNTER. Does it not come up, and will not the question be on postponing?

The VICE PRESIDENT. The Chair is inclined to think so.

Mr. HUNTER. Then I ask for the vote on the motion to postpone the prior orders.

The VICE PRESIDENT. The Chair will cause the roll to be called on that motion.

The question being taken by yeas and nays, resulted—yeas 32, nays 20; as follows:

YEAS—Messrs. Bayard, Bell, Bigler, Cameron, Clark, Collamer, Dixon, Doolittle, Douglas, Durkee, Fessenden, Fitzpatrick, Foot, Foster, Hale, Hamlin, Harlan, Hunter, Johnson of Arkansas, Mason, Sebastian, Seward, Shields, Simmons, Slidell, Stuart, Sumner, Thomson of New Jersey, Toombs, Wade, Wilson, and Wright—32.

NAYS—Messrs. Allen, Benjamin, Bright, Broderick, Chandler, Clay, Clingman, Davis, Gen. Gen. Hammond, Houston, Iverson, Johnson of Tennessee, Jones, King, Mallory, Polk, Pugh, Trumbull, and Yulee—20.

So the motion to postpone the prior orders was agreed to.

Mr. HUNTER. I now move to take up the appropriation bill.

Mr. JOHNSON, of Tennessee. The motion made by the chairman of the Committee on Finance is to take up the appropriation bill at this time. I understand that now it is discretionary with the Senate to say what proposition they will take up for consideration.

The VICE PRESIDENT. The Chair will make a single remark in this connection, with the Senator's permission. The Chair felt himself obliged to consider the motion of the Senator from Virginia as divisible, because it contained two separate and distinct parts. The question has been but half put. There remains another branch to be put, or would, under ordinary circumstances; but the motion originally made by the Senator from Virginia hardly seems to the Chair to be a strictly parliamentary motion. If his motion had simply consisted of one part to postpone the orders prior to the appropriation bill, and that were carried, the appropriation bill would come up without any further motion.

Mr. DOUGLAS. Will the Chair allow me to make a suggestion? The Senator from Virginia made the simple motion to postpone, but he gave as a reason for the postponement, that he desired to take up another bill. The latter part of his proposition was only a notice of what his second motion would be; and that has been the uniform ruling of the Chair, I think. His motion was to postpone, and he accompanied it by a reason, and it was a notice that he would follow it with the other motion.

Mr. HUNTER. I did submit the motion.

The VICE PRESIDENT. It occurs to the Chair that the appropriation bill is now before the Senate unless some motion be made to postpone it.

Mr. JOHNSON, of Tennessee. I have no disposition to make a point with the Chair upon the decision he has made; but I understand him to rule that the appropriation bill is now before the Senate.

The VICE PRESIDENT. The Chair makes that decision, not regarding the Senator's motion as entirely parliamentary, but treating it as a simple motion to postpone prior orders.

Mr. JOHNSON, of Tennessee. A motion to postpone the appropriation bill and take up the homestead bill would be in order?

The VICE PRESIDENT. Certainly.

Mr. JOHNSON, of Tennessee. I move to postpone the appropriation bill, with a view to take up the homestead bill; and I have a few words to say in support of this motion.

Mr. IVERSON. I rise to a point of order. I think the Chair decided that a motion to postpone and take up was not a competent question for a division. The Senator from Virginia moved to postpone all orders prior to the appropriation bill, and that has been agreed to. The homestead bill is included in that proposition; the homestead bill is one of the prior orders, and, by the vote of the Senate, it has been postponed. Now, the only question before the Senate is the appropriation bill. The Senate can postpone that; but then, when it postpones that, the next business in order comes up as a matter of course, because all prior to it have already been disposed of. The homestead bill having already been disposed of, we cannot take it up. I make that point.

The VICE PRESIDENT. The Chair considers it is in the power of the Senate to control its own business; and it occurs to him that the motion to postpone, with a view to take up the homestead bill or any other bill, is in order.

Mr. IVERSON. It is divisible, however, is it not?

The VICE PRESIDENT. Yes, sir.

Mr. IVERSON. I ask for a division.

Mr. JOHNSON, of Tennessee. To accommodate the Senator from Georgia, and for the purpose of preventing hair-splitting questions of order under the Manual, I will simply make a motion to postpone this appropriation bill; and I will give, as a reason for making the motion to postpone, that my purpose is to take up the homestead bill. I presume that is legitimate and in order.

It is not often, Mr. President, that I obtrude myself upon this body; but when prompted to do so by principles of right, I shall do it with that respect and courtesy to which the Senate is entitled. This homestead proposition has been standing on your Calendar, as a special order, since the 19th of January, now nearly four months. I have been waiting patiently, with a view to have the business of the Senate taken up in its proper order, and disposed of, so that we might reach it. It is a proposition that has been determined in the public mind. It is a proposition that the country has decided should have been passed by the Congress of the United States long ago. It is a proposition that comes home to every man in the Confederacy; and it is strange that a measure calculated to promote the interests of the great mass of the people can scarcely get a hearing in this deliberative body.

Now, does not every Senator here know, and does not the country know, that appropriation bills have a specific weight that always carries them through? Who ever heard of an appropriation bill being lost? We know that the combination of influences interested in appropriations that take the people's money from the Treasury is such that there is no chance of their being stopped by the wayside. Why this great press for the appropriation bills? There is always a great press, and the necessity is said to be great and crying when the object is to put the hand into the people's pockets and take out their money; but when legislation is brought forward to advance and promote the common weal of the great mass of the people, there is not so much anxiety to consider them. Then, some contractor, some stock-jobber, is pressing his claims before Congress. Suppose some one of these Departments was to run out of money for a short time: do you think the great mass of the people would suffer much? Suppose some of these Departments were fed on bread and water, as they used to feed the jurors in olden times: I think it would bring about a state of depletion, and lead to economical appropriations and economy in sending their estimates to the Congress of the United States, that would be beneficial to, and approved by, the people.

When we come to legislate upon measures that promote the common weal, and that carry themselves home to the great mass of the people, they can have no hearing; but appropriation bills, to get money out of the people's pockets, are urged as required to be passed immediately, on account of some pressing necessity. For whom, sir, is three-fourths of the legislation of this country done? Even go to your State Legislatures, and there nineteen twentieths of it is for monopolies, for classes, for stock-jobbers, for bankers, for corporations. The people are scarcely heard, nor are their interests understood or felt. When you come to the Congress of the United States, how is it? For whom is the legislation here done? How much of it is done for the country? That which is to take money out of the Treasury, to transfer it from the pockets of the many to the few, can always get a hearing; their bills and measures are of the most urgent necessity!

Why cannot the homestead bill get a hearing? Why cannot it be taken up and considered? Why cannot it be disposed of? I had determined not to be obtrusive; I had determined not to be offensive to the Senate in pressing it pertinaciously upon the body; but here it is standing as a special order, waiting and waiting for action. When we approach one measure that is to cut off bounties, and relieve the people from taxation on their salt, that is shoved out of the way to take up an ap-

propriation bill. We have no salt manufactories in my State, but we live in their immediate vicinity. Our people are interested in having cheap salt; but when there is a proposition pending that is likely to take a bounty away from the salt manufactories of the country, you cannot get a sufficient combination to postpone the bill that withholds bounties from them. We can see how these combinations are effected. Here is a proposition to retain money in the Treasury on one hand and save the people that much tax, and here is another proposition to take away bounty from the manufacture of salt, which is a measure that comes home to every man throughout the whole country; and that must give way to an appropriation bill; and now the homestead is to yield.

I do not intend to consume the time of the Senate; I have not done so since I have been a member of this body; but I intend to press this measure every morning, I hope not offensively or disagreeably. I intend to press it every day from this time until the termination of the session, until it is disposed of by the Senate in a proper way. I hope the Senate will postpone this appropriation bill. The people's money will be got out of the Treasury fast enough by this or any other Administration. Let us do a little legislation for the country, for the great mass of the people. Let them be heard; let their influence be felt, and let their will be obeyed. I hope the Senate will postpone the appropriation bill and take up the homestead bill.

Mr. DOUGLAS. Mr. President, I respect the zeal which the Senator from Tennessee shows in behalf of his bill, one which it is his duty to press, and I shall not say one word in reply to him; for the reason that I expect to vote for his measure when it does come up, and to vote for taking it up at any reasonable time, when I can do so without doing injustice to a measure in my charge. I shall vote for this postponement, and then I shall vote against taking up the homestead bill in order to take up Oregon. If I am voted down, I shall wait until a calm and suitable opportunity occurs to take up the Oregon bill.

Mr. HALE. I am not perfectly clear how I shall vote about this appropriation bill; but I rise simply to thank the Senator from Tennessee for the remarks he has made about the manner in which measures that look to the public interest are postponed. But as his remarks were rather general, I want to direct public attention to some particulars. The reason we have not attended to great public measures, the reason why the great masses of the country who want homesteads have not been gratified, is that the President of the United States has urged upon our consideration a great party measure, and it was considered necessary to take care of that and let the people take care of themselves. It was not until after that was disposed of, that either the President or we had any time or inclination to attend to public matters. As soon as that is over, and the session is nearly over, it is time to begin to think of the people! I should have been glad if this zeal which I have no doubt is sincere and honest in the mind of the Senator from Tennessee, had found vent when we were taking up week after week, and month after month, and urging in every shape in which party ingenuity could put it, the Kansas bill. The reason why the public interests have not been looked after is, that our time was taken up and our attention engrossed by that great party measure.

Mr. JOHNSON, of Tennessee, called for the yeas and nays; and they were ordered.

Mr. GWIN. I intend to sustain this measure, but I will not vote to postpone the appropriation bills at this time, and give it precedence over them.

Mr. TRUMBULL. I am exceedingly glad that the Senator from Tennessee has made this motion, and very glad to hear him give notice that he will press it. This is an important measure. It has many friends, and it ought to be urged upon the consideration of Congress. I hope that the homestead bill may pass; but I rose more particularly to protest against the rule which I understand has been adopted in caucus—that everything else, all the business of the country, is to give way to the one thing of getting money out of the Treasury. When a bill comes in here to vote away the people's money, everything else must give way. That has been the practice during this session of Congress. The chairman of the Com-

mittee on Finance comes in with an appropriation bill from the Finance Committee; it is now first brought to the notice of the Senate. This great bill, appropriating many million dollars, is just brought to our attention; and without time to examine it, everything else must be postponed to that one consideration of getting money out of the Treasury, and complying with the estimates of these Departments. Have these estimates been looked into? How do we vote money? Why, sir, we vote it simply upon the estimate of some officer, without examination. We passed the other day an appropriation of eight or ten million dollars because the Department asked for it. Has it come to this, that the Congress of the United States is the mere register or accountant, the treasurer, if you please, that is to furnish whatever money is asked for; and is all other business to give way to that one thing?

I am very glad that the Senator from Tennessee has made this motion; and I will go with him, and I hope he will press this great proposition which is to furnish homes to the mass of the people upon the consideration of Congress, even to the exclusion of measures for taking money out of the Treasury. Let us do the business of the country; let us resort to some means to prevent so much money getting into the Treasury, devote our time to something else rather than to the passage of loan bills and the issue of Treasury notes, and then to the appropriation of money which we raise by borrowing.

Sir, I have no doubt that if the expenses of this Government were looked into, if a committee were appointed to investigate the means by which the expenditures of this country could be brought down to the economical wants of the Government, one half of the \$100,000,000, which I expect will be expended in the next fiscal year, would be sufficient to defray all the legitimate and necessary expenses of the Government. Let us quit multiplying offices, quit making unnecessary improvements and building custom-houses where they are not needed, and establishing ports of entry where they are not needed, merely to give an office to some politician who may have performed service in an electioneering campaign.

Sir, I shall vote to postpone this money bill; and I hope a majority of the Senate will vote to postpone it, and let us attend to some of the other business of the country, and not merely devote ourselves to voting what money the Departments want, or the Administration wants, and then go home. I am opposed to an adjournment until the legitimate business of the country is done; and I would hold back these appropriation bills until the legitimate business was done; for it seems to be understood that, until they pass, no adjournment is to take place. Let us keep them back, and do the other business first. The present fiscal year does not expire for some time yet. Let us attend to this great public measure which the Senator from Tennessee has in charge, and other public measures for the benefit of the country.

Mr. HUNTER. This is a bill making appropriations for the legislative, the executive, and the judicial expenses of the Government, for the year ending 30th of June, 1859. It is a bill which provides the means for carrying on the judicial system, the legislative and the executive departments of this country; but it is treated as a matter in which the people have no interest. This is to be postponed; this measure, which is essential to carry on the representative Government of this people, is to be postponed to take up another—in which it is said the people have a great interest—which is to squander the public land; a bill which is to distribute gratuitously, amongst the settlers, the public lands.

But, sir, I am not disposed to go into that question now. This is no place to discuss the relative merits of the different measures which are proposed for consideration. I say that this bill is bound to be passed, unless you mean to put an end to the Government; and if you do pass it, you have to give it precedence over other measures; because, to get at it, everything on your Calendar has precedence over this bill, unless the Senate makes an order to take it up out of its order; and how do we postpone other measures? By taking it up. Let us take it up, and devote proper consideration to it; and, after we have disposed of it, let us sit here, if the Senate thinks so, long enough to discharge all the public business of the

country. I was not one of those who fixed the day of adjournment in June. I voted against it. I was voted down; and having been voted down, what else can I do but press the necessary appropriation bills with all proper dispatch? Let it be taken up; and, if the Senator says time enough is not given for considering these bills which appropriate so much money, does he not perceive that the best way to obtain that time is to take them up at once and devote whatever time is necessary? The longer we postpone it, the less time we shall have to consider these expenditures. There is every reason, therefore, it seems to me, for taking up this matter for consideration.

The question being taken by yeas and nays, on the motion of Mr. JOHNSON, of Tennessee, rescheduled—yeas 18, nays 35; as follows:

YEAS—Messrs. Bell, Broderick, Chandler, Doolittle, Douglas, Durkee, Fessenden, Hamlin, Harlan, Johnson of Tennessee, Jones, King, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—18.

NAYS—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Cameron, Clark, Clay, Clingman, Collamer, Crittenden, Davis, Dixon, Fitzpatrick, Foster, Green, Gwin, Hammond, Houston, Hunter, Iverson, Johnson of Arkansas, Mallory, Mason, Pearce, Polk, Pugh, Rice, Sebastian, Shields, Sibley, Thompson of New Jersey, Toombs, Wright, and Yulee—35.

So the motion was not agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 201) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1859.

The first amendment reported from the Committee on Finance was in page 8, after line one hundred and sixty-five, to add the following:

Botanic Garden.

For procuring manure, tools, fuel, repairs, purchasing trees and shrubs, for botanic garden, to be expended under the direction of the Library Committee of Congress, \$2,300.

For pay of horticulturist and assistants in the botanic garden and green-houses, to be expended under the direction of the Library Committee of Congress, \$5,121 50.

For reglazing and repairing damages to the green-houses by the hail storm, of June, 1857, \$1,044 16.

The amendment was agreed to.

The next amendment was in page 10, after line two hundred and twenty-one, to add:

To enable the Secretary of State to carry into effect the act entitled, "An act for the admission of the State of Kansas into the Union," \$10,000.

Mr. HUNTER. That is a mistake. I am authorized by the committee to move \$5,000, instead of \$10,000.

Mr. COLLAMER. I prefer that that change shall not take place. I think the amount ought to stand at \$10,000. I think the chairman should give some reason for the change. I understand that the sum of \$10,000, to carry through the election in Kansas, is asked by the Secretary of State. Why should we not vote what he considers is necessary? Is it pretended that you shall cut it down, so that you shall not have money enough to carry out the election?

Mr. HUNTER. I will explain. The estimate was for \$10,000, but the Committee on Finance thought \$5,000 would be enough, and they cut it down one half on that supposition.

Mr. COLLAMER. I think the only effect will be that the Secretary of State will have a good excuse for not carrying out the election at all, on the ground that he has not money enough. Give him what he wants.

Mr. HUNTER. I thought that we should have pleased the Senator from Vermont by cutting down the appropriation.

Mr. BRIGHT. Perhaps it is proper I should state that I asked the Secretary of State if he had any data on which to make an estimate for this anticipated service. He said he had not, and thought it a little conjectural, and after making the calculation he thought \$8,000 would be sufficient. I voted in committee to make it \$5,000, but I see no objection to reinstating the original estimate of \$10,000. I suggest to the chairman that it would be better to put it at that.

Mr. HUNTER. If that is the sense of the Senate I will withdraw my amendment and leave it at \$10,000. If it is not wanted, it will not be expended.

Mr. JOHNSON, of Tennessee. Do I understand the chairman of the Finance Committee to say that they have no data at all by which to estimate the amount wanted in the bill?

Mr. HUNTER. There is a conjectural estimate from the State Department. On what data the Secretary of State made it, I am not able to say. It was that amount which he supposed would be necessary to carry out the act. Of course it has to be a matter of discretion. They cannot estimate with certainty and precision.

Mr. JOHNSON, of Tennessee. Then it is mere supposition.

Mr. FESSENDEN. I differ from my friend from Vermont on this point. I remember the information we had from the Secretary of State, and it was mere guess work. There was no computation about it at all. It was a general opinion, just such as anybody could form precisely as well as the Secretary of State. He guessed \$10,000; the majority of the committee guessed \$5,000; and therefore put it at \$5,000. That is the simple fact about it. If a majority of the Senate think it will take \$10,000, so be it.

The amendment was agreed to.

The next amendment was, to add to the items for the general purposes of the Southeast Executive building, the following:

And the authority conferred upon the principal clerk of public lands, of Acting Commissioner *ad interim*, in the absence, and so forth, of the Commissioner, by the second section of the act reorganizing the General Land Office, approved the 4th of July, 1856, shall be, and the same hereby is, transferred to the chief clerk of said General Land Office.

The amendment was agreed to.

The next amendment was to add the following items, in page 17, amongst those for the contingent expenses of the Department of the Interior:

For the preservation of the collections of the exploring expeditions of the Government, \$4,000.

For the transfer to, and new arrangement of those collections in, the Smithsonian Institution, \$1,000.

The amendment was agreed to.

The next amendment was to insert amongst the same items the following:

To enable the Secretary of the Interior to pay the superintendent of the building occupied by said Secretary and his Department, from the 1st day of January, 1855, to the 30th day of June, 1858, the allowance to be made to such superintendent, with his salary as clerk, not to exceed two thousand dollars per annum, the sum of \$700.

The amendment was agreed to.

The next amendment was to add to the items for the same Department, on page 19, the following:

For clerk hire, office rent, fuel, and lights at the several district land offices of the land States and Territories, to be apportioned in such manner as, in the judgment of the Secretary of the Interior, the public interest may require, \$50,000.

The amendment was agreed to.

The next amendment was to insert, in page 31, the following:

Territory of Minnesota.

For defraying the expenses incurred in taking the census of the Territory of Minnesota, under the act approved 26th February, 1857, \$20,000: *Provided*, The compensation to the officers taking the same shall not exceed that allowed by the acts of 23d May, 1850, and 30th August, 1850, to those who took the census in California, Oregon, Utah, and New Mexico.

The amendment was agreed to.

The next amendment was to insert among the items for the office of the Attorney General, the following:

For services of special counsel, and other extraordinary expenses, in defending the title of the United States to public property in California, \$10,000.

For the employment of such number of clerks, not exceeding three, by the district attorney of the northern district of California, as may be necessary to transcribe the records of the district court, in land cases, upon which appeals have been or may be taken to the Supreme Court, such sum as may be necessary is hereby appropriated, provided the compensation shall not exceed one hundred and fifty dollars a month for each.

For the reasonable expenses of the late and present district attorneys for the northern district of California, for assistance in their office, such sum is to be paid out of the judicial fund, if such expenses shall be approved by the Attorney General: *Provided*, That those expenses shall not exceed three hundred dollars per month: *And provided further*, That this appropriation shall be applicable only to the present fiscal year, and the next succeeding fiscal year, which will terminate on the 30th day of June, 1859.

The amendment was agreed to.

The next amendment was to increase the appropriation for the support and maintenance of the penitentiary of the District of Columbia from \$5,511 25 to \$7,920, and to add the following:

For compensation of two additional guards, hereby authorized, \$1,320.

The amendment was agreed to.

The next amendment was a substitute for the second section on page 36. The section was in these words:

"Sec. 2. *And be it further enacted*, That no part of the amount appropriated by any act of Congress for the service of any one fiscal year shall be used for or applied to the service of any other year, nor be transferred to or used for any branch of expenditure than that for which it may be specifically appropriated: *Provided*, That nothing herein contained shall apply to appropriations for the present or next fiscal year."

It is proposed by the amendment to strike out all after the word "that," and insert:

Hereafter, the estimates for the various Executive Departments shall designate not only the amount required to be appropriated for the next fiscal year, but also the amount of the outstanding appropriation, if there be any, which will probably be required to be used for each particular item of expenditure.

Mr. HALE. I hope that section will not be stricken out. I think it is one of the greatest measures of reform that has ever been proposed by the House of Representatives; and if we mean to preserve our control over the Treasury, and discharge our constitutional duties, we ought to retain it. I simply ask for the yeas and nays on striking it out.

The yeas and nays were ordered.

Mr. HUNTER. This section proposes to change the mode of keeping accounts and using the public moneys, which has heretofore been practiced throughout the whole history of the Government. The part which seems to commend itself to the approbation of the Senator from New Hampshire is, that it puts an end to transfers entirely. Well, now, this system of transfers has always been found necessary. It is limited by law; the transfers which can be made are specified by existing statutes, and there are a great many laws on that subject to which it can hardly be necessary now to refer. Those laws have been passed as experience has suggested them; but the effect of abolishing the power of transfer would be this: we should only have to increase the sum appropriated specifically under each particular head; we should have to appropriate not only enough, but something more in order to provide against contingencies, or else we should hold out a temptation to still larger deficiency bills than are now presented to us. The check which is designed, and which is afforded in the present system of accounts, is that an appropriation lasts but two years; after that it has to be balanced up, and the balance goes to the surplus fund; it can no more be used. An additional check is, that these expenditures have to be reported annually to Congress; and if members of Congress were to examine them particularly, year by year, as they are published, it would be a sufficient check; but unfortunately this is not always done; perhaps it is hardly practicable with the engagements they have. There was one other protection which suggested itself to the Committee on Finance, in order to complete this chain of responsibility, and to make it, as it seemed to us, perfect, and that is to require the Secretaries, when they send in their estimates, not only to estimate for the amount of new appropriation which they want for each particular item, but also to show the outstanding appropriation which they propose to devote to that purpose.

When that is done, it seems to me we have all the responsibility we can require. We know annually the receipts and expenditures; we know annually what is proposed to be appropriated, not only in new appropriations, but what is proposed to be used out of the outstanding and existing appropriations; and for the rest, for the facility and convenience of the Departments, we allow the appropriations to be used for two years, requiring them to be balanced at the end of two years, and to pass to the surplus fund. Now, I think experience has shown that this system works well. I believe that if we were to alter it, it would lead to a great deal of inconvenience; and for that reason the Finance Committee thought it was better to strike it out, and substitute this provision requiring a different form of estimate.

Mr. HALE. If the Senate concludes to adopt this reform—for I cannot call it anything but reform—of the House of Representatives, I will tell you what the effect will be. It will compel the Administration in making their estimates to be a little more specific. It is little more than a joke to call our appropriations specific, for they gather together in one general clause a hundred objects,

as dissimilar as the races of men, and appropriate a sum in gross for that, taking millions, and leaving it to the discretion of the Administration to distribute it as they see proper. Then, in addition to that, a general power of transfer from one head of appropriation to another is allowed; and we have no sort of control over the expenditures. For instance, the Postmaster General will ask for \$100,000 for mail-bags perhaps, and not buy a mail-bag; but he will go and spend that money in establishing a new line in some State or Territory, or giving some additional mail facilities, or something of that kind. I only give that as an illustration.

Now, sir, some gentlemen here are very learned in regard to all the kingdoms of the earth. I do not know what the practice is in the British Government, but I am told that they do not have this power of transfer. One thing I do know, because I have looked at their estimates frequently in this connection: their estimates are vastly more specific than ours are. When the British Administration come to the Commons for money, they put in one column what they want for a very minute purpose and in a parallel column, they give precisely the pounds, shillings, and pence which they spent for that identical object the year before, so that the expenses cannot grow up without the Commons knowing something about them. We have nothing of that sort here. Our appropriations are loose and indefinite to such a degree that it is a false name to call them specific. They are general and gross, and then the power of transfer on the top of that, virtually takes away all our discretion, especially when we have retained what I consider to be a very vicious feature of legislation, and that is the power in the Quartermaster General and the Secretary of the Navy, while Congress are in session, to pledge our credit for ten millions or any number of millions without asking us. The Constitution says no money shall be taken from the Treasury but by appropriation we make. We sit still and let the Administration pledge our credit to an indefinite amount. We have allowed that; and then with these general appropriations and the power of transfer, we might as well give up at once and pass a general act that the Administration may help themselves at their pleasure out of the Treasury and come here next year and tell us how they have spent it if they please to do so, and if they do not, they need not.

I would rather do that than to keep up the forms of the Constitution, the pretense of guarding the Treasury, the pretense of specific appropriations, when our appropriations are general, indefinite, and with a power of transfer, and a power to the Cabinet to run us in debt to any amount. If we mean to take into our hands that trust which the Constitution imposes on us, we must make the appropriations specific. We must annihilate this power of transfer, or else our control is but a name. I hope the Senate will not on this bill, which appropriately, and by the universal custom of the Government, comes to us as an original bill from the House of Representatives, put themselves in opposition to the other House, who are the legitimate guardians of the Treasury, upon this great measure, which is so necessary for the full discharge of their duties as guardians of the public Treasury.

Mr. PEARCE. Mr. President, I wish the Senator from New Hampshire would point out wherein the appropriations we make for the support of the Government are so general and vague as he declares them to be. I think if you will examine the bills you will find that our appropriations are about as specific as it is possible to make them. In regard to transfers he seems to think that there is a general power to transfer from one object of appropriation to another. That is not so. The law has prohibited transfers from the service of the Government in one branch to the service of the Government in another branch, except in certain specified cases. I recollect that as late as 1852 we made provisions on that subject. There are about thirty laws on the subject scattered throughout the whole book of our statutes, and in 1852 we made two provisions in regard to it; the first in reference to the Navy:

"All acts or parts of acts, authorizing the President of the United States or the Secretary of the proper Department under his direction, to transfer any portion of the moneys hereby appropriated for a particular branch of expenditure in that Department, to be applied to another branch of ex-

penditure in the same Department, be and the same are hereby, so far as relates to the Navy Department, repealed."

That is in the naval appropriation bill. Then we come to the Army appropriation bill, and we find that the power of transfer there has been repealed except in specified instances, for which, I think, ample reasons were given, and which have been already reproduced at this session of Congress and sanctioned by the Senate:

"All acts or parts of acts, authorizing the President of the United States or the Secretary of the proper Department under his direction, to transfer any portion of the moneys hereby appropriated for a particular branch of expenditure in that Department to be applied to another branch of expenditure in the same Department, be and are hereby, so far as relates to the Department of War, repealed; and no portions of the moneys appropriated by this act shall be applied to the payment of any expenses incurred prior to July 1, 1852. But nothing herein contained shall be so construed as to prevent the President from authorizing appropriations for the subsistence of the Army, for forage, for the medical and hospital departments, and for the quartermaster's department, to be applied to any other of the above-mentioned branches of expenditure in the same department."

That is the exception. No such power as the gentleman seems to suppose, exists.

Mr. FESSENDEN. That only applies to the Army and Navy.

Mr. PEARCE. I know that; but is there any authority of law, or will any gentleman allege there is a practice of transferring the appropriations for the pay of diplomatic agents to pay for Indian agents? I presume not. I think, at all events, when gentlemen indulge in these general charges, it would be as well to specify. Let us know wherein such a case has occurred.

Mr. HALE. I will. I have sent for the appropriation bill we have passed this session to supply general deficiencies, to answer one branch of the question of the Senator from Maryland.

Mr. PEARCE. It comes within the excepted cases provided by law, I suppose.

Mr. HALE. I do not mean the transfer. I mean the generality of our appropriations, instead of being specific. Now, I will give him an exact answer to his other question. He asks me if I know of any case? and he wants a specification. I will give him one, and I will refer to one brought before the Senate not long ago. Congress appropriated some two hundred thousand dollars, more or less, to run the boundary line with Mexico. Major Emory brought home with him \$100,000. It was appropriated to run the boundary with Mexico. When he got home, Major Emory reported to the Secretary of the Interior that he had not spent all the money, and he would like to use what was left for engraving the illustrations in the work he was about to publish; and Secretary McClelland, of the Interior Department, on his own authority, without coming to Congress, told him he might take the \$100,000 which had been appropriated to run the line, to make the illustrations and ornaments of his work. I am not going to say that it was not a proper appropriation to make of the money; but I do say it was an appropriation that should have been made by Congress, and not by the Secretary of the Interior. This limitation, which the Senator from Maryland says exists against transfers, has been applied only to the Army and Navy, but has not been applied to the other Departments. He has asked me for a specimen of our general mode of appropriating moneys. At the expense of being a little tedious, I ask the attention of the Senate while I read one part of a section of our appropriations to show that they are obnoxious to the charge which I brought against them. Here is an appropriation of I do not say how much, but I will read you the different subjects which are included within one single appropriation:

"For the incidental expenses of the quartermaster's department, consisting of postage on letters and packages received and sent by officers of the Army on public service; expenses of courts-martial and courts of inquiry, including the additional compensation to judges-advocate, recorders, members, and witnesses, while on that service, under the act of March 16, 1802; extra pay to soldiers employed under the direction of the quartermaster's department, in the erection of barracks, quarters, storerooms, and hospitals; the construction of roads, and other constant labor, for periods of not less than ten days, under the acts of March 2, 1819, and August 4, 1854, including those employed as clerks at division and department headquarters; expenses of express to and from the frontier posts and armies in the field."

Mr. HUNTER. Will the Senator allow me to ask what he is reading from?

Mr. HALE. The deficiency bill, passed this year. I am only telling you what we have done,

because I am answering a question of the Senator from Maryland. Now, going right on in one head of specific appropriation, I find:

"Expenses of escorts to paymasters, other disbursing officers, and trains, when military escorts cannot be furnished; expenses of the internment of non-commissioned officers and soldiers; authorized office furniture; hire of laborers in the quartermaster's department, including hire of interpreters, spies, and guides, for the Army; compensation of clerks to officers of the quartermaster's department; compensation of forage and wagon masters, authorized by the act of July 5, 1838; for the apprehension of deserters, and the expenses incident to their pursuit; the following expenditure required for the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, and such companies of infantry as may be mounted, namely: the purchase of traveling forges, blacksmiths' and shoeing tools, horse and mule shoes and nails, iron and steel for shoeing, hire of veterinary surgeons, medicines for horses and mules, picket ropes, and shoeing the horses of those corps, \$190,000."

I hope the Senator is answered.

Mr. PEARCE. Mr. President, I stated that the appropriations were as specific as it was possible to make them. Now, in regard to the very items the gentleman has read, who is there that believes that any Secretary of War, or any other officer in the employment of that Department, could by possibility ascertain beforehand what the precise expenditure in each case would be? Who knows how many men are going to desert? How can he ascertain the sum? He would refer to the practice of previous years. He would estimate there would probably be so many; so many have deserted in one year, and therefore probably so many will in another year; and he forms his estimate on that basis. But if you were to appropriate a precise sum, say five thousand dollars, for the purpose of apprehending deserters, and you should expend the whole of that sum in the recovery of a given number of deserters, and twice that number should happen to desert, you must let them go scot free because of this very specific system of appropriations. Sir, it is not the thing, and it has not such marvelous utility in it as the Senator seems to imagine. Under that system, the Army Department would be tied up so that they could not pursue these other deserters. Who can tell what will be the movement of troops in the course of a year; what the exigencies of the Government may require; what Indian outbreak may require a necessity for the movement of troops in the large military departments in the United States? We may require movements of large bodies of troops; and who can specify how many traveling forges it will be necessary to take along?

So of every one of these items. You cannot ascertain them beforehand because they are uncertain in their nature, and it is impossible to estimate with precision what these expenditures will amount to. If, therefore, you appropriate only a given sum to be applied to one of these objects, and the course of service in the year should demand a larger appropriation, the service must go unperformed; the Army must travel without its forges; the cavalry officers are to go unshod because you have not appropriation enough to cover the demands of that branch of the service. It is very obvious that it is not in the nature of human affairs to appropriate with that specific accuracy which the Senator from New Hampshire seems to demand. It is enough that we specify all these different branches of expenditures and appropriate such a sum as upon fair and reasonable calculation seems to be sufficient to supply all demands in that regard. Any attempt to do more than that would only produce confusion and loss and injury to the public service.

Mr. HALE. When I took up this bill I read the first section that came under my eye, and I think it was enough to satisfy anybody that it did not deserve to be called specific. But there is another item commencing in the thirty-first line, and covering three pages of about ninety lines, and it will average a separate appropriation for a line, more than ninety different objects all gathered together in one heap, and the round sum of \$5,400,000 is appropriated for them in one single collection. I will not take up the time of the Senate in reading the whole, but I will only mention a few of them.

"For transportation of the Army, including the baggage of the troops, when moving either by land or water; of clothing, camp and garrison equipment from the depot at Philadelphia to the several posts and army depots; horse equipments and of subsistence from the places of purchase and from the places of delivery under contract, to such places as the circumstances of the service may require it to be sent; of

ordnance, ordnance stores, and small arms from the foundries and armories, to the arsenals, fortifications, frontier posts, and army depots; to freights, wharfage, tolls, and ferrages; for the purchase and hire of horses, mules, and oxen, and the purchase and repair of wagons, carts, drays, ships, and other sea-going vessels and boats for the transportation of supplies and for garrison purposes; for drayage and cartage at the several posts; hire of teamsters; transportation of funds for the pay and other disbursing departments; the expense of sailing public transports on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific; and for procuring water at such posts as from their situation require that it be brought from a distance; and for clearing roads, and removing obstructions from roads, harbors, and rivers, to the extent which may be required for the actual operations of the troops on the frontier, \$5,400,000."

Here are one hundred different objects of expenditure gathered together in one appropriation. I was not attacking this specially, but the general system, and I say, while such a practice prevails, there is a greater necessity for preventing transfers.

Mr. PEARCE. I wish to supply a word which I forgot when I was answering the Senator before. There was something said about the boundary commission, and Major Emory having brought \$100,000 of the appropriation for that purpose back to the seat of Government, and then having without law applied it to the publication of the work.

Mr. HALE. I did not say any such thing. I beg the Senator's pardon.

Mr. PEARCE. Then applied by the Secretary of the Interior.

Mr. HALE. I said it was applied by the Secretary of the Interior; and, I suppose, it was by law, and I want to see the law giving him that authority repealed.

Mr. PEARCE. Well, sir, what I was about to say was this: when the estimate was made, provision was found in it for draughtsmen, artists, and savans, to accompany the expedition, and, if I am not mistaken, it will be found that there was express authority in that appropriation for the publication of the report of the commissioner. I will only add that the \$100,000 was not appropriated to engraving and printing, though a portion of it was, under the authority I have mentioned; but I believe \$60,000 remained in this manner and went back to the Treasury or will go back. The amount of it, therefore, is, that instead of having been done without authority of law, it has been done under authority of law. I think that is the case. I will look for it, and if I find I am wrong, I shall correct my statement.

Mr. FESSENDEN. I moved in this matter in the committee, and therefore, I suppose, I may as well give a reason for my position. The House of Representatives is making an attempt to do what I thought ought to be done on the bill which has been referred to, and a portion of which has been read by the honorable Senator from New Hampshire. It was argued at that time, however, that there was no power to make these transfers, except in the same Department; and that the nature of the business in the War Department was such that it was absolutely necessary the power should exist, and the Senate was of that opinion.

Mr. PEARCE. Will the Senator allow me to interrupt him, as I have found this passage, and I wish to read it.

Mr. FESSENDEN. Certainly.

Mr. PEARCE. In the appropriation for the boundary survey, voting this very money which it is charged has been misapplied by the Secretary of the Interior, and devoted to a purpose not authorized by law, I find this provision:

"For engraving maps, views, and sections of the survey of the boundary between the United States and Mexico, \$10,000."

We have heard this matter referred to very often. I trust it will not be referred to again; or if it be, that there will be no further mistake about it.

Mr. FESSENDEN. That was not an original appropriation for that purpose.

Mr. PEARCE. It was the appropriation made in 1855, when the boundary commission was re-organized.

Mr. FESSENDEN. This was an appropriation of more money for that purpose. This was \$10,000; and twenty or thirty thousand dollars were transferred. That did not meet the expenditures, and consequently it was considered necessary to use some other funds.

Mr. COLLAMER. They used the other, and then got the \$10,000 voted.

Mr. FESSENDEN. That might have been. Well, sir, this is an attempt on the part of the House of Representatives, who have been appealed to as the proper authority, under the Constitution, to raise money, to be a little more specific in reference to the use of it than we have hitherto been, and to prohibit transfers in other branches of the Government where they have been in the habit of making them.

The Senator from Maryland knows, and the Senator from Virginia knows, that we exercise a discretionary power over proposed appropriations. One of the Departments comes here in a certain branch of its business and says it wants so much money for such a purpose. We say, on examining the matter, "you do not want so much money," and we cut them down one half. We have done so in this very bill in one particular. We have cut an estimate down from over one hundred thousand dollars to \$50,000 in this very bill, and made several changes of the same description. Well, what is the consequence of the law, as it stands now, in that particular Department? They say the money appropriated is not enough; but they find they have got more money than they want in another particular branch, and they just take these odds and ends, these balances, and make up the amount of their original estimate. The result always is, necessarily, that instead of Congress saying how much money shall be appropriated to a specific object, the Departments say so, by using money which they do not want for other purposes.

That is the truth of it, and therefore the proposition of the honorable chairman will not meet the case. All he says is that they shall report at the beginning of each session what balances they have on hand. What do we gain by that? We acquire no new information; we have no new guards; we accomplish nothing. The same difficulty remains that has always existed hitherto, that we are contending against, and have been contending against from the beginning. If by chance (and they are very apt to do it, because, after all, they know ten times as much about how they may make these things come out, as we do) they attempt to use money in this way, I am of opinion that we should have something to say about it. They find that what Congress disapproves on a certain particular point, they can accomplish by using money which has been appropriated to other objects in the same Department, and they take the liberty to do it. A very flagrant instance of it was cited here in the argument on the deficiency bill, where there had been a proposition before Congress to appropriate money for a particular purpose—for the payment of a certain Territorial Legislature—and it was refused by Congress; and yet the Department took money which had been appropriated for the Legislature of another year and used it for that purpose, because it was within the two years, and paid the bill, and it is so returned in the documents. How much advantage do we get in a case of that kind by their simply telling us at the end of the next year that they had a balance for another purpose, and used it for an object for which Congress did not appropriate it? We have no safety of any kind or description in that.

The argument then is, that this is inconvenient in reference to keeping the accounts, &c. I examined that matter before. I should prefer much, from my examination of the question thus far, that we should let the deficiencies exist if they must, and examine them when a claim comes for deficiency and expenditures. I believe it is safer. Persons have talked a great deal about deficiency bills, but they must necessarily arise from the imperfection of human calculation in reference to these questions. When they come in and exhibit their accounts to us, as to particular branches of expenditure, it is then perfectly in our power to see how they have expended the money, and to decide whether we shall grant money by way of deficiency to make it up, or what other course we shall take in reference to the disobedience of the orders of Congress in regard to the expenditure of the money they have appropriated.

Now, sir, this effort, which is made in the House of Representatives, I exceedingly approve. You will see, by the original proposition, that it is not to apply to the present year. It is not even to apply to the next year—that is, to the year ending June 30, 1859. It is to begin after that pe-

riod. It is giving fair notice of a change of system which Congress thinks it necessary to adopt, and I see none of the evils and none of the difficulties suggested, and have not been able to do so, though I have examined the matter with all the attention I am capable of giving to it. I have not been convinced by the views of the chairman of the Finance Committee in relation to this matter, and certainly, if he cannot convince me, I do not believe anybody can, for he knows more about the subject, unquestionably, than most other, if not all other, members of the Senate. I hope that the provision, as it was drawn originally and sent to us in the bill by the House, will stand, and will not be displaced by the amendment of the committee.

Mr. COLLAMER. If I understand the question aright, it is proposed to strike out a section in the bill of the House of Representatives, providing against transfers of appropriations, and to substitute in lieu of it a provision that the Departments shall annually report, in their estimates, the balances on hand unexpended of the last appropriation for each object. I do not see how this proposition of the committee is any substitute for that of the House, and yet I like it as it now strikes my mind. I understand that a motion to strike out and insert is not divisible. Now, I wish to say that, though I am in favor of inserting the matter proposed to be inserted, I do not wish to vote for striking out the section of the House bill in order to get at it; but I shall vote against striking out and inserting, because I wish to retain that feature of the House bill, and, at the same time, I desire, if I can, to secure this provision in addition to that. I think the proposition a good one; but it stands as no substitute for, and does not supply the place of, or answer any of the purposes of the first provision.

Suppose there is a specific appropriation for a particular purpose for the use of one year, and it is necessary to provide for the same purpose the next year. Let us say that provision is made for supplying the surgeon's department of the Army with medicines, and a specific sum is appropriated for that object for this year, and next year another appropriation is wanted for the same object. All this talk about transfer is out of the case, and yet I think it perfectly proper that, in making their estimates for those medicines for next year, they should let us know what balance they have unexpended of the present year. I say that, under the present system, every necessity which demands the provision which the chairman has suggested of having unexpended balances reported to us, showing what they have on hand, and therefore showing that more is required, exists just as much when there are not transfers as when there are. I therefore desire it to be understood that, in voting against the proposition to strike out and insert, I am not voting against the adoption of the provision reported by the committee, for I think it should be adopted; but I do not regard it as a substitute for the other. As to whether the power of transfers should be preserved, I have nothing to say. I am satisfied with the remarks of the Senator from Maine on that point.

Mr. DAVIS. I think the amendment proposed by the committee is better than the section contained in the House bill; but I think the existing law is better than either. I believe there is some misapprehension as to the operation of this right of transfer in the minds of many gentlemen who have spoken upon it. It is now confined by law to a very narrow limit, and in those cases I think it is useful, I might say, necessary, and I will illustrate it by a single example, so as to be as brief as possible. The Quartermaster General estimates for a certain amount for forage; he estimates for a certain amount for transportation. His calculation is based upon the contingencies of the service, as well as he can foresee them, for the coming year. For instance, he supposes a certain amount of transportation will be needed by the public teams, and a certain other amount by contract, and upon that supposition his estimate is made. It turns out in the course of the year, however, that he cannot make contracts, and he is obliged to use the public teams to a greater extent than he anticipated. Then the money appropriated for transportation is in excess, and the money appropriated for forage is deficient, and if you do not enable him to transfer the money from one head to the other, there

would be great practical difficulty in administering the Army. The right of transferring appropriations is very much restricted at the present time, and I know of no instance in which it exists, where I do not think it should remain.

Again, the proposition of the House of Representatives is to make every excess of appropriation a surplus at the end of one year, the practical working of which would be to hasten the expenditure of the appropriation within the year, when a more just economy would lap over into the next year. At present, at the end of two years, an appropriation always lapses and passes to what is called the surplus fund, unless, upon the application of the head of the Department, it be continued on the books of the Treasury, subject to the purposes for which it originally was appropriated. It thus is made a public transaction at the end of two years, and sometimes it will happen, as oftentimes it has happened, that at the end of two years money has not been expended; and an honest man could not have expended it for the purpose for which it was appropriated, and it remains in the Treasury. The head of the Department believes it will be necessary to expend it within the next year; and he asks, therefore, that it shall continue subject to the purposes for which it was appropriated. This is merely diminishing the labor of Congress. It relieves the head of a Department of no responsibility, and gives him no discretionary power which it is not for the interest of the country he should possess.

I know of no instance in which this power has been abused. In the one specially referred to, where money was applied by the Secretary of the Interior to the publication of a work, the appropriation, as my memory serves me, included, as one of its purposes, the preparation of a report; and under that language the office was kept up by the Secretary of the Interior, and the maps finally engraved. Nor can I join in this clamor which seems to prevail at the present moment against all illustrations in a work. When I heard a reference made to that particular report, I turned to the illustrations—I am not able to read the text—and I found but three on which I should have any doubt. They may or may not be useful; I am not able to say; but throw the three out, if you please, as merely ornamental, the rest were absolutely necessary to define the line for posterity. The mere marking of the line on the surface of the earth and setting up monuments along it is but a temporary work. The topography, however, on each side of the line, if it be accurately defined, and with the report of the survey recorded upon the map, stands forever. The monuments may be taken away; the surface of the country may be changed by settlement and cultivation; but the great topographical features of it remain, and the line can be traced at any future period. Otherwise it is a line traced upon the stars and not upon the earth.

I hope, sir, in the first place, that the section as contained in the House bill will be stricken out; and in the next place, that the provision reported by the Senate committee will not be adopted; but if the question is to be taken on the whole together, I must vote for the amendment as reported.

Mr. HALE. As the honorable Senator from Mississippi has stated that he has never known this power of transfer to be abused, I will not say that it has been; but I want to give a history of it in one case in the Treasury Department, since I have been a member of Congress. Some dozen or more years ago we passed a bill for raising a certain amount of funds by Treasury notes, and it turned out that the Treasurer and the Register charged a cent a piece for signing the notes, which came to some hundreds or thousands of dollars, I do not know which, more or less. Congress were dissatisfied with it. There was a good deal of dissatisfaction expressed in the House of Representatives, and the next time that Congress passed a bill for Treasury notes they inserted an express provision that no part of the money raised by the bill should be appropriated to pay any officer who had a salary, for signing these Treasury notes, and they thought they had done the business. Well, sir, the bill passed with this provision in it, that no part of it should be paid to pay these persons for signing the notes; but next year, when the accounts came in, it appeared that the Treasurer and Register had got just exactly the same sum, a cent apiece, notwithstanding this provision

in the law. An inquiry was instituted at the Treasury Department to know why it was that these men were paid in the face of this provision of law, and it turned out to be under the transfer power. There was some other appropriation in the Treasury that was not expended; and inasmuch as the bill only prohibited taking any of the money raised by the Treasury notes to pay these officers, the Secretary transferred some other appropriation and paid them. Now, with all deference, I would ask the honorable Senator if he thinks that was a fair and honest exercise of the transfer power?

Mr. DAVIS. I will answer the Senator at once. I know nothing of the case which he cites; I know nothing of it now beyond what he has stated; but it was not an abuse of the power contained in the law, but a usurpation of power not granted in the law, as he states it. I cannot conceive how any claim of transfer, under the strict limitations of the law, would authorize such a practice as the Senator has described. I know nothing of the facts of the case.

Mr. HALE. I think the Senator does not understand me. The prohibition was, that no portion of the money raised from the Treasury notes should be used to pay the officers of the Treasury; but they went on and signed notes as before, and were paid as before; and when the inquiry was made how they were paid, the only answer was that they were not paid from the fund raised from the notes, but from another fund.

Mr. DAVIS. I understood the Senator perfectly, and my answer was intended to cover his remark—that it was a usurpation of power not authorized by law; and the restriction is to be found, not merely in that appropriation act, but in a dozen laws, spread over a long portion of time. An officer surely cannot draw from the appropriation for one purpose an amount of money to increase his salary, and call that the power of transfer. It is prohibited in various acts in different language.

Mr. JOHNSON, of Arkansas. I did not hear the extent of the remarks made by the Senator from Mississippi in regard to one case in which the transfer power was used—the case of Emory's boundary commission.

Mr. DAVIS. I cited the case of transfer from forage to transportation accounts.

Mr. JOHNSON, of Arkansas. I thought the Senator spoke of the boundary survey.

Mr. DAVIS. The answer that I made on the case of Emory was, that according to my recollection the appropriation act for the boundary survey contained authority for the publication of the report, as well as the running of the boundary line.

Mr. JOHNSON, of Arkansas. Well, sir, in the course of a discussion here in regard to the question of transfer, I took occasion to vote against an amendment embodying this provision as it comes from the House of Representatives, and I shall vote against it again, because I am not disposed to take away from the Treasury entirely the power of transfer; but there is one case in regard to which, after considerable discussion in a committee of which I am a member, there was not a dissenting opinion as to the propriety of its abolition. I allude to the transfer of a fund appropriated by law for the running of the Mexican boundary to the preparation of the report and printing it after it had been prepared. Congress was afterwards involved in the printing of a concern not complete in itself, and which has brought us now to the printing of a second volume of what is called an appendix, the cost of which must amount to over one hundred thousand dollars, with, I think, two hundred and seventy or two hundred and eighty plates of natural history. All this we are involved in by an act of transfer which I do not believe any proper construction of the law would have authorized.

I should not have alluded to this matter but for the fact that the Senator from Mississippi speaks of a clamor that has been raised upon this subject. Now, if I understand the definition of the word, a clamor is a senseless noise. I do not know of any clamor that has been raised about this matter. I do not think that what has been said is entitled to that designation at the hands of the Senator. He has not been here during the time these discussions were up. I presume that he has read everything that has been said on the subject; and

it may sound to him as clamor; and, if he had been here to give us the light of his information, it might have been apparent to us that it was a clamor, and we might have had it in our power to correct our impressions. We knew, however, that these matters had run to very great excess.

The Senator from Mississippi has twice made this remark, or I should not have noticed it. I did not choose to notice it the first time. I do not think any clamor has been raised here; and I must therefore protest against his asserting that there is a clamor upon the subject of illustrations of public works, or upon the extent to which the publication of any of them has gone. Whilst I take the same view that he does of the power of transfer as a general principle that should continue to exist in the Treasury, I must, at the same time, declare that, with reference to the question of commencing the publication of explorations hitherto made, it has been carried to too great an extent, and ought to be abridged and abolished; for I am satisfied it has not been justly exercised.

Mr. DAVIS. The Senator from Arkansas attributes to me the use of the expression to which he alludes, as directed seemingly against the committee of which he is the worthy chairman. The use of the word, whether well or ill selected, was not directed against the committee, certainly not against the chairman. There has been complaint in the Senate which I think unjust, and there has been complaint in the country too, which I think is certainly unjust; and I believe the remarks in the Senate have given rise to great misapprehensions through the country. In regard to these misapprehensions, I think the censures which might have been attached properly to some works, have been improperly applied to those where the illustrations were generally topographical, such as were necessary to make the boundary stand for posterity. The great mass of illustrations in the report of Emory is composed of topographical sketches, which sketches alone, as I endeavored to explain, could define the line so as to make it permanent. The Senator did not hear my remarks, or he would not have supposed that I urged that question as one of transfer. I did not so consider it. If money has been transferred from the purpose for which it was appropriated, namely: to run and mark the boundary, to prepare the report beyond what was legitimate under the use of that term, to the printing of books outside of the preparation of the report, (which would be confined merely to such printing as might be done cheaper than copying in manuscript, and to such engraving as would be necessary, and which I suppose would be the form in which it reached Congress;) if that be the case, it would not come under the head of a transfer authorized by law; and if the Senator had heard my remarks, he would not have supposed my application to be made to his view in relation to the printing of these books.

But a word more in relation to that report made by an officer in every way worthy as a gentleman and a man of science. In reference to the second volume, which is spoken of as an incomplete one, he desired only the publication of a very small edition. If that very small edition had been published, the great expense to which the Senator from Arkansas has referred would not have been incurred. That volume was not the report of the officer; it was the discussion of those specimens he had brought in, whether of ornithology, entomology, or of the mineralogy of the country. Those reports made by scientific men were afterwards presented to Congress. If Congress ordered a large edition, it is apparent they must have expected to incur a large expense. No large edition of that volume was necessary. It is not popular in its nature. It is only required for learned men and learned societies. They alone will read it. Such a book is composed mostly of illustrations.

It is not fair to say that the expense has been incurred in engraving, for colored engravings of that character multiply the expense each time you repeat them. The expense of mere engraving is soon covered; but every new repetition of a colored engraving increases absolutely the whole expense. They are thrown into the country; they support the supposition that the Senate is printing picture books; they are but mere picture books except to the learned men; they are picture books to those who cannot examine them with any view to classify them, who merely look at them as

beautiful engravings, the more beautiful to them because they are colored, and colored properly only because they thus present the specimens in the true light in which they should be brought to the eye of the naturalist. I think the corrective there would have been the publication of a small number of copies. It was not necessary, because the first volume required a large edition to be thrown into general circulation, that therefore the second, which was purely a scientific volume, should be published upon the same scale.

The question being taken by yeas and nays, resulted—yeas 26, nays 18; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bigler, Broderick, Brown, Clay, Clingman, Davis, Green, Gwin, Houston, Hunter, Iverson, Johnson of Arkansas, Jones, Mallory, Mason, Pearce, Polk, Rice, Sebastian, Shields, Stuart, Wright, and Yulee—35.

NAYS—Messrs. Chandler, Clark, Doolittle, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Johnson of Tennessee, King, Fugh, Seward, Simmons, Toombs, Trumbull, Wade, and Wilson—18.

So the amendment was agreed to.

Mr. HUNTER. I send up another amendment. In page 2, line twenty, strike out all after the word "messengers," and insert "at \$1,080 each." That is to carry out a change made two or three days ago in the office of the Secretary of the Senate. He had formerly two messengers, one at \$1,080, the other at \$730; and, by resolution, both have been put on the same footing.

The amendment was agreed to.

Mr. HUNTER. I have another amendment. On page 3, line forty-five, to strike out "\$7,584," and insert "\$7,914." That is to make the amounts correspond. It belongs to the same subject.

The amendment was agreed to.

Mr. HUNTER. On page 3, after line forty-six, insert:

For the additional compensation allowed by the resolution of the Senate of the 11th of May, 1858, to a messenger in the office of the Secretary of the Senate, for the fiscal year ending the 30th of June, 1858, \$330.

That is to carry out the same resolution.

The amendment was agreed to.

Mr. HUNTER. I have another amendment; in page 3, after line sixty-one, to insert:

For stationery for the fiscal year ending the 30th of June, 1858, \$5,000.

That is an estimate furnished by the Secretary of the Senate.

The amendment was agreed to.

Mr. HUNTER. I move to add:

For miscellaneous items for the fiscal year ending the 30th of June, 1858, \$3,000.

Mr. COLLAMER. Miscellaneous items for what service?

Mr. HUNTER. The contingent fund; it is for money that we voted to the representatives of Senators who died—Senators Bell, Butler, and Rusk.

Mr. COLLAMER. For the use of the Senate?

Mr. HUNTER. All this is for the Senate.

The amendment was agreed to.

Mr. HUNTER. I have another amendment in page 6, line one hundred and twenty-nine, strike out "seventy" and insert "fifty." The item in the bill from the House is:

"For binding twenty-four copies of the Congressional Globe and Appendix for each member and delegate of the second session of the Thirty-Fifth Congress, \$8,007 60: *Provided*, That no greater price shall be paid for the same than seventy cents for each volume, or part, actually bound and delivered."

The Committee on Finance move to strike out "seventy cents" and insert "fifty cents," which we understand is the price we pay for the same service.

Mr. BROWN. I think the Senator is mistaken about it. My recollection is that the price we pay is sixty cents.

Mr. HUNTER. That information was given us by the Senators on the Printing Committee from Pennsylvania and Maine.

Mr. BROWN. It was changed at the last session, I think, on my motion. I move to amend the amendment by inserting "sixty" instead of "fifty."

Mr. HUNTER. Our object was to put it the same as it is here. Is the Senator certain about it?

Mr. FESSENDEN. What is the remark of the Senator from Mississippi?

Mr. BROWN. I think fifty cents was found to be too small, and we increased it to sixty cents. That is my recollection.

Mr. FESSENDEN. I can only say that, in the new printing bill that we passed the other day, the price fixed for quartos is fifty cents, and that is ascertained, on examination, to be sufficient to cover the cost of binding.

Mr. BROWN. Very well; let it go.

The amendment of the committee was agreed to.

Mr. HUNTER. I move, on page 21, from line four hundred and ninety to line four hundred and ninety-four, to strike out:

"For compensation of the surveyor general of Utah, and the clerks in his office, \$6,000.

"For rent of the surveyor general's office in Utah, fuel, books, stationery, furniture, and other incidental expenses, \$1,500."

The amendment was agreed to.

Mr. HUNTER. On page 7, lines one hundred and forty-three and one hundred and forty-four, I move to strike out:

"Draughtsmen, and clerks upon the land maps."

The explanation of that is this: It seems that they have had in the Land Office heretofore nine clerks, appointed by the Clerk of the House of Representatives, at a salary, I think, of \$1,800 each. The House of Representatives, upon debate, diminished the number from nine to five, and appropriated for that number here; but it seemed to us that it was improper that the Clerk of the House of Representatives should appoint clerks in the General Land Office of the United States. They keep their office in the Department of the Interior. They are there not under his control, and the Committee on Finance move to strike out the appropriation for these clerks.

The amendment was agreed to.

Mr. HUNTER. In line one hundred and forty-six, I move to strike out "seventeen" and insert "eight." That is to carry out the same object.

The amendment was agreed to.

Mr. IVERSON. I have an amendment from the Committee on Claims to offer:

To enable the Clerk of the Court of Claims to pay the two laborers employed by the court, in order to make their compensation forty dollars per month from the commencement of their employment, \$680.

I will state the fact that there are two laborers, colored freemen, who have been employed by the Court of Claims from the commencement of the sessions of the court up to the present time. The amount appropriated heretofore to pay the expenses for laborers, &c., did not authorize the clerk of that court to pay these two laborers forty dollars a month. I think they have got only twenty-five or thirty. It is now proposed to pay them forty dollars a month for the time they have been employed, that being the smallest compensation allowed to any laborers about the Capitol. I can bear testimony to the efficiency of these laborers. They have been waiting upon the Committee on Claims during the present session. They are clever men, both of them. In this bill an amount is appropriated which covers forty dollars a month for them hereafter from the 1st of July next, but does not provide for the compensation of forty dollars for the time they have been employed.

Mr. HUNTER. I think we have generally treated that matter of back pay as a private claim. If the appropriation is made prospectively for the next fiscal year, it seems to me that is as much as the Senator from Georgia ought to ask. It will be a matter of private claim to give them this compensation hereafter.

Mr. IVERSON. It is never considered a private bill. You add twenty per cent. on the general appropriation bill to the pay of laborers and messengers. You increase salaries in the appropriation bill. It is germane to the subject-matter.

Mr. TOOMBS. I hope this amendment will not be adopted. I think if the bill contains such a provision as my colleague suggests it ought to be amended; but certainly I do not see any reason for going back and giving this additional pay for past years. These persons have served in that capacity, it appears, for some years past, and I think had very ample compensation. I see no reason for giving more, unless it be, that in the general looseness which prevails, the Government is to pay more than individuals would for the same

service. I believe I can hire in this city excellent men of the class these are, of the same description, for fifteen or twenty dollars a month. I have done it frequently. The only object is to make little jobs for these people. As good colored men as can be got in the District can be had for fifteen or twenty dollars a month. I think if we want men for this purpose, the best plan would be to buy a couple, because then they would only cost the interest on the purchase money. They could be bought for \$1,000 apiece, and the interest on that sum would be but \$120 a year; whereas, the forty dollars a month would be \$960 a year. If there is any wisdom in having these men, I think it will be better to buy a couple of them [laughter] than to hire them for this purpose; but certainly to go back and give them forty dollars a month back pay is ridiculous.

Mr. IVERSON. The object of this amendment is to place these laborers on the same footing with all others employed by the Government. Others have got forty dollars a month, and these have not got it because there was not a sufficient appropriation.

Mr. TOOMBS. Does not this show what ought to be the rule of appropriation? Ought the Government to pay twice or thrice what the lowest unskilled labor can be had for at this place? or is the Government to pay the same as individuals? I take the sound rule to be, that it ought to pay the price for which labor of that description can be hired at the place where it is wanted. Everybody knows that you follow no such rule, and hence you are worried to get offices and places for men, because you are profligate, because you make them jobs. You do not act so as to get the public work done on the terms on which honest men get theirs done, but you set up offices to be given out. Everybody knows that fifteen or twenty dollars a month will hire the best labor in this city, and do twice as much work as these men who wait on the Court of Claims. To give them back pay is clearly wrong; and if the committee have reported a provision allowing them forty dollars a month in the future, I shall propose to strike out the forty dollars, and fix it at twenty or twenty-five dollars. Surely it ought to be no more than that.

Mr. HUNTER. I do not know where there is such a provision in the bill as the Senator from Georgia suggested. I am not aware of it.

Mr. IVERSON. I will tell you where it is.

Mr. SIMMONS. While the Senator is looking for what he wants, I will say a word. As the Senator from Georgia does not propose to buy these men, I hope he will not conclude to starve them. Rather than do that, I would almost agree with him to buy a couple, though that would not be quite according to our rules. I understand that these men have been employed for some time without receiving the ordinary compensation of laborers who perform the same service. I have been called out of the Senate by one of them, who I find keeps a pretty good run of the appropriation bills. I believe he is as good a servant as there is in the employment of the Government; and I do not see why he should not have the same pay for taking care of these rooms that the other laborers about the Capitol have. If you will go for striking them all down, I shall make no objection to that; but I do not know why laborers in one suite of rooms here should not have the same price that the laborers in another suite of rooms have when they do the same work. All I ask is, that you shall not visit this economy on one or two victims, but make a pretty general rule of it.

Mr. TOOMBS. I take all abuses as they come.

Mr. SIMMONS. Why do you not go on a larger scale?

Mr. TOOMBS. I take them all when I come to them, but you do not take them at all.

Mr. HUNTER. The item to which the Senator from Georgia alludes is on the 8th page of the bill:

"For labor and miscellaneous items for the Court of Claims, \$4,000."

Here is a general estimate. We did not know at what prices they intended to employ laborers. The appropriation of \$4,000 for miscellaneous items seemed to be reasonable. If these appropriations were used properly, one advantage of making them in a lump, as miscellaneous items would be, that they could employ laborers temporarily at less than the existing wages given, because, as has been very properly said, the Gov-

ernment gives a higher rate of pay for labor than private individuals. It was supposed that when we made these allowances for contingencies, they would not be brought within the general rule of large expenditures; but would lead to a more economical application of the money. When the appropriations made for the court were smaller, it seems it employed laborers for smaller wages, and they were glad to get it. It may be safe to appropriate for contingencies; but first under an appropriation for contingencies they get messengers who are not allowed by law because they pay for them out of the contingent fund, and the next thing is they come in and ask to put them on a regular salary, and thus enlarge the corps of officials employed. I am opposed to that. The number of messengers is fixed by law, and if the Court of Claims, out of its contingent fund, chooses to employ laborers for temporary purposes, let it employ them at the usual prices.

The amendment was rejected.

The bill was reported to the Senate as amended. The PRESIDING OFFICER, (Mr. Foor in the chair.) If no exception be taken, all the amendments agreed to in Committee of the Whole will be taken together.

Mr. GWIN. I wish one on page 19, after line four hundred and nineteen, reserved.

The PRESIDING OFFICER. The question will be taken on all the others in the aggregate.

The amendments were concurred in.

The PRESIDING OFFICER. The question now is on concurring in the amendment indicated by the Senator from California, as follows:

For clerk hire, office rent, fuel, and lights, at the several district land offices of the land States and Territories, to be apportioned in such manner as, in the judgment of the Secretary of the Interior, the public interest may require, \$50,000.

Mr. GWIN. I move to strike out "\$50,000" and insert "\$60,000;" and I am authorized by the Committee on Finance to do so. It is on a statement made by the Commissioner of the General Land Office that the addition of two land districts in California, which has been passed very recently, will involve additional expense, and I move that amendment.

Mr. HUNTER. I will state that this amendment comes in this way: under a section of the law passed in 1856, the Secretary of the Interior was required to make a general statement beforehand of the expenditures in the way of clerk hire and rent that would be necessary for the offices of the registers and receivers. He did make a statement under that law, and it was supposed he might have had the authority to make the expenditure if he had chosen to. He made no expenditure until he consulted Congress. He did make an estimate of \$134,000. The committee cut it down to \$50,000, but on considering the circumstance stated by the Senator from California, they have agreed to raise that sum to \$60,000.

The amendment to the amendment was agreed to; and the amendment, as amended, was concurred in.

Mr. TRUMBULL. I wish to move an amendment to come in the ninth line. After the word "dollars," insert:

And a sufficient sum in addition thereto to pay the mileage of the newly-elected members of the Senate in attendance at the called executive session, commencing on the 4th day of March, 1857; but nothing herein contained shall be so construed as to allow constructive mileage.

So that the clause will read:

For compensation and mileage of Senators \$162,750, and a sufficient sum in addition thereto, to pay the mileage of the newly-elected members of the Senate, &c.

Mr. HUNTER. I raise no question of order on that, because it relates to members, and it ought to be the privilege of every member to move it. I will vote to pay the expenses of the trip, but I do not know that I can vote to give a third mileage for the Congress. I merely say this.

Mr. TRUMBULL. I would state, in regard to the question of order, that I have the authority of the Committee on the Judiciary to offer the amendment, and I suppose there can be no question of order about it.

The PRESIDING OFFICER. The Chair understands that no question of order has been raised.

Mr. FESSENDEN. I ask for the yeas and nays.

The yeas and nays were not ordered.

The amendment was agreed to.

The amendments were ordered to be engrossed,

and the bill to be read a third time: It was read the third time, and passed.

SAN FRANCISCO POST OFFICE.

Mr. CLAY. I move now to proceed to the consideration of the next special order, being the unfinished business of yesterday.

Mr. BRODERICK. Yesterday I gave way to the Senator from Alabama, when a resolution calling for information from the Post Office Department was under consideration. I have since conferred with the chairman of the Committee on the Post Office and Post Roads, and I am ready now to offer a resolution that will cause no debate, and I hope it will be passed at once.

Mr. CLAY. I yield to that.

Mr. BRODERICK. I offer this resolution:

Resolved, That the Postmaster General be requested to inform the Senate whether any sums and if so what sums have been returned by the postmaster of San Francisco as rents received for the use of the post office lobby from July 1, 1854 to December 31, 1857.

Resolved, That the Postmaster General be also requested to inform the Senate at the same time, whether there are on the files of the Post Office Department any complaints of malfeasance in office, or violations of law on the part of the San Francisco postmaster; and if so, when the same were filed, and in what manner they are substantiated, and the nature of the charges, the specific sections of the law which the alleged acts are in violation of, and what action, if any has been taken in regard thereto.

The resolution was considered by unanimous consent, and agreed to.

CAPTAIN CRAM'S REPORT.

Mr. DAVIS. The Committee on Military Affairs and Militia, to whom was referred the report of the Secretary of War communicating, in compliance with the resolutions of the Senate of the 15th of February and March 8, a copy of T. J. Cram's military topographical memoir and report, with maps on the department of the Pacific, with a letter from the Hon. I. I. Stevens, and a letter from Captain A. A. Humphries on the character of that memoir, have had the same under consideration, and report that the Secretary of War, in his communication, dated March 15, 1858, says:

"The resolution of the Senate having directed my attention to the report of Captain Cram, I find that a large portion of it is devoted to subjects irrelevant to these objects as indicated by the title, and contains certain animadversions upon public functionaries which are out of place in a topographical communication, and which are in no sense sanctioned or indorsed by this Department."

The committee, under the circumstances, ask to be discharged from the further consideration of the report, and that the memoir be returned to the War Department. I have had no ability to examine the report. I find, however, the reasons set forth in the letter of the Secretary of War quite sufficient, I think, to justify the committee in the request which they make to the Senate to be discharged from the further consideration of the subject, and that the papers be returned to the War Office. With the consent of the Senate, I ask that that order be made at once.

It was so ordered.

FISHING BOUNTIES.

On motion of Mr. CLAY, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 10) repealing all laws or part of laws allowing bounties to vessels employed in the bank or other cod fisheries, the pending question being on the amendment of Mr. TRUMBULL, to add "sugar" to the amendment offered by Mr. ALLEN.

Mr. HARLAN. My colleague and myself regard ourselves as instructed to use all fair means to secure a repeal of the duties on sugar, and I prefer to present this case in the precise words of the Legislature of Iowa giving these instructions. They say:

"Your memorialists, the General Assembly of the State of Iowa, respectfully represent that, in the opinion of this General Assembly, the present duty of twenty-four per cent. *ad valorem* on sugar imported imposes a grievous burden on the people of the United States."

Mr. DOOLITTLE requested the Senator from Iowa to yield to him the floor, that he might move a reconsideration of the vote by which the appropriation bill had just been passed.

Mr. HARLAN yielded; the vote was reconsidered, and a long discussion ensued on a proposed amendment to add an item for the usual compensation of the reporters. Without disposing of the subject, after a session of nearly seven hours' duration, the Senate adjourned. [The remainder of this day's proceedings will be published in the Appendix.]

HOUSE OF REPRESENTATIVES.

THURSDAY, May 13, 1858.

The House met at eleven o'clock, a. m. Prayer by Rev. J. N. HANK.

The Journal of yesterday was read.

Mr. SMITH, of Virginia. I rise to a correction of the Journal. The Journal omits to state that the report accompanying the bill for the organization of the Territory of Nevada was ordered to be printed, as well as the bill itself.

The SPEAKER. The correction will be made. The Journal was then approved.

MEMBERS FROM MINNESOTA.

Mr. PHILLIPS. Mr. Speaker, the Representatives from the State of Minnesota are present, and I now present their credentials, and move that they be sworn in.

The Clerk read the credentials:

I, Samuel Medary, Governor of Minnesota, hereby certify that at a general election held on the 13th day of October, 1857, under the constitution adopted by the people of Minnesota preparatory to their admission into the Union as a State, W. W. PHELPS received a majority of the votes cast at said election as one of the members of the United States House of Representatives of the Thirty-Fifth Congress, from the State of Minnesota; and by an official canvass of said votes was, on the 17th day of December, 1857, declared duly elected one of said members.

In testimony whereof, I have hereunto set my hand, and of Great Seal caused to be affixed the great seal of Minnesota, at the city of St. Paul, this 18th day of December, 1857.

S. MEDARY.

The certificate of JAMES M. CAVANAUGH, which was read, was in the same terms.

Mr. PHILLIPS took the floor, but yielded to Mr. SHERMAN, of Ohio. I object to the swearing in of the persons named in those credentials; and I will submit the reasons why I object.

Mr. PHILLIPS. I have not yielded the floor, and it was my purpose to call for the previous question.

Mr. MAYNARD. I would ask whether, in view of the facts in this case, these credentials ought not to be referred to the Committee of Elections?

The SPEAKER. The gentleman from Pennsylvania moves that the oath be administered to the members elect from Minnesota, and on that motion he calls for the previous question.

Mr. SHERMAN, of Ohio. I thought I had the floor before the previous question was called. I only desire to state my reasons for objecting. I do not wish to discuss the question at any length.

The SPEAKER. The gentleman from Pennsylvania retained the floor.

Mr. SHERMAN, of Ohio. I hope the previous question will not be seconded, in order that I may submit my reasons for objecting to the swearing in of these alleged members.

Mr. PHILLIPS. The Senators from Minnesota have been sworn in, and I do not see why the State should be longer withheld from representation here. I will yield the floor to the gentleman from Ohio if he will renew the call for the previous question when he has concluded his remarks.

Mr. SHERMAN, of Ohio. I seldom call for the previous question; and in this case I do not care to call it. I hope the House will vote down the previous question.

Mr. PHILLIPS. I yield the floor to the gentleman from Ohio, and take my chance of getting it again.

Mr. REAGAN and Mr. SHERMAN took the floor at the same time.

The SPEAKER recognized Mr. SHERMAN.

Mr. REAGAN. Mr. Speaker, if I am entitled to the floor, I wish to call for the previous question.

The SPEAKER. The gentleman from Pennsylvania has yielded the floor to the gentleman from Ohio.

Mr. REAGAN. Had he a right to do so?

The SPEAKER. The call for the previous question was withdrawn; and then the gentleman from Pennsylvania yielded the floor to the gentleman from Ohio.

Mr. PHILLIPS. I yield the floor to the gentleman from Ohio to state his objections.

Mr. SHERMAN, of Ohio. Mr. Speaker, we know from the constitution of Minnesota—which is now a part of the records of the country, the State having been admitted under it—that it provides for the election of three members by general

ticket. The ninth section of the schedule is in these words:

"For the purposes of the first election, the State shall constitute one district, and shall elect three members to the House of Representatives of the United States."

I desire to know, then, where are the credentials of the third member? Are they here? and if so, are they in the same terms as those which have just been read? I would like the gentleman from Pennsylvania to answer my question.

Mr. PHILLIPS. I will say that those are the only credentials which I have ever seen.

Mr. SHERMAN, of Ohio. If those are the only persons elected from the State of Minnesota, it is clear that they have not been elected in pursuance of the constitution of Minnesota, and have no right to represent that State here; for that constitution provides for the election of three members by joint ticket, and those two gentlemen cannot appear here with separate certificates claiming to hold their election under that provision of that constitution.

There is another ground of objection. These certificates are signed by Samuel Medary. Is he the Governor of the State of Minnesota? You will see from the particular manner in which these credentials are drawn up that this question is avoided. He signs himself Governor of Minnesota; whether the Territory of Minnesota or the State of Minnesota he does not say. We know that he is not Governor of the State of Minnesota. We know that he was appointed Governor of the Territory of Minnesota. Now, Mr. Speaker, by another provision of this same constitution, the term of the Governor of the State of Minnesota did not commence until after Congress had admitted Minnesota into the Union. I will read it:

"Sec. 7. The term of each of the executive officers named in this article shall commence upon taking the oath of office after the State shall be admitted by Congress into the Union, and continue until the first Monday in January, 1860, (except the auditor, who shall continue in office until the first Monday in January, 1861,) and until their successors shall have been duly elected and qualified."

Therefore the term of the Governor commences after Congress shall have admitted Minnesota into the Union as a State; and the only mode by which we can judge of the election of a member of Congress is by the certificate of the executive officer of the State, under the seal of the State. Samuel Medary, sir, is not Governor of the State of Minnesota; on the contrary, the term of the first Governor commences after Congress shall have admitted this State into the Union. Minnesota was admitted but the other day, and who is Governor of the State is a contested question, not yet determined.

Mr. LETCHER. Will my friend allow me to correct him?

Mr. SHERMAN, of Ohio. Yes, sir.

Mr. LETCHER. When the gentleman says that nobody can certify but under the seal of a State that a person is elected to Congress, he is mistaken. In my own State, the sheriffs meet, compare the polls, and give the certificates, transmitting one copy here, and giving the other to the member elect. The Governor has nothing to do with it.

Mr. SHERMAN, of Ohio. There is one point which my friend from Virginia will not deny, and that is, that the credentials of a member elect must be certified from some officer of the State government pointed out by the constitution or law of the State. Not only that, we know as a matter of history, and we know from the official records of the Government, that Samuel Medary, whose name is affixed to these credentials, is postmaster at Columbus, Ohio, and is a resident of that State now. So, then, these gentlemen come here with credentials signed by a resident and officeholder in Columbus, Ohio, who has no connection with the government of Minnesota; and with such credentials, they ask to be sworn in as members of Congress.

If any persons are entitled to seats here as members of Congress from Minnesota, they are those three who, under the constitution of that State, were elected on joint ticket. There are no credentials, no papers, showing that three persons were elected members. And, sir, I do not know by what power, by what authority, or in what lottery or scheme of chance, these two particular persons were selected out of the three voted for. Where is the other man? Who is he? How many votes did he get? How many did each

of these get? Why are these credentials drawn up in this singular and disingenuous language? Why is a certificate given to each of these members, when they were elected by joint ticket, if they were elected at all?

Mr. PHILLIPS. I will answer the gentleman. When the members elect came here from the State of California, they came, although elected on joint tickets, with separate certificates. They came here, and their credentials were presented exactly as these from Minnesota are presented to-day.

Mr. SHERMAN, of Ohio. The difficulty did not occur in California, because she elected but two members, to which number she was entitled under the law. Here the State of Minnesota elected three members, when she was only entitled to two.

Mr. PHELPS. These members from the State of Minnesota have been elected on joint ticket. I need only refer the gentleman from Ohio, to relieve him of his objection, to the cases in the Twenty-Eighth and Twenty-Ninth Congresses. My first election to Congress from Missouri was under the joint-ticket system; and yet my certificate was issued to me separately. I was elected by the duly qualified voters of the State of Missouri. In the preceding Congress the question of the power of Congress to provide for the election of members to this House, by the States, by separate districts, was discussed, and was decided by the House adverse to the principles of that law.

Mr. SHERMAN, of Ohio. I know that there are many instances where, in violation of law, members have been elected by joint ticket, but I know of no case where more members have been elected than the State was entitled to.

Mr. REAGAN. What is the question before the House?

The SPEAKER. Shall the members elect, whose credentials have been read, be sworn in as members of this House from the State of Minnesota?

Mr. REAGAN. I did not know that that question was directly before us.

The SPEAKER. The Chair will follow the precedent, which he thinks is a correct one, which was set in the case of the California members. The Chair did not undertake then to decide that the members should be sworn in when they presented themselves, inasmuch as the Constitution of the United States provides that each House shall be the judge of the election, returns, and qualifications of its own members. The Chair then referred the question to the House to let it decide whether the members purporting to be elected should be sworn in or not. Therefore the Chair now entertains the motion of the gentleman from Pennsylvania [Mr. PHILLIPS] as a proper one, which refers the question to the House to decide whether they should or should not be sworn in.

Mr. SHERMAN, of Ohio. In my judgment, Minnesota, under the enabling act of Congress, is entitled to but one Representative in this House; and, I believe that, as yet, no Representative has been legally elected. Under the law which was recently passed, she is entitled to two Representatives; but these two Representatives have not been elected at all. It is no hardship to require the State of Minnesota to elect now two Representatives by separate districts in accordance with the law. I again ask the gentleman from Pennsylvania by what arrangement, chance, or lottery, was it that these two men were selected out of the three?

Mr. PHILLIPS. I do not know the fact that the gentleman assumes in his question, and consequently I cannot answer it.

Mr. SHERMAN, of Ohio. Does not the gentleman from Pennsylvania know that the people of Minnesota voted for three members of Congress by general ticket?

Mr. PHILLIPS. I have so heard; but I have never seen any credentials except those which I have presented to the House.

Mr. SHERMAN, of Ohio. I ask the gentleman if he does not know from the constitution itself, for which he voted, that three members have been elected to this House by the people of Minnesota, and I desire to know by what chance, scheme, or lottery, these two were selected out of the three?

Mr. SMITH, of Virginia. Will the gentleman allow me to remind him, that by the act admitting

Minnesota, this House has laid down its own rule, to wit: that two members shall be admitted, and it is a matter for the House to decide which two shall be admitted?

Mr. SHERMAN, of Ohio. I desire to ask the gentleman from Virginia how he would select these two. Three were elected. By what mode do you propose we shall exclude one and admit the others? I desire to know whether the gentleman will vote for Messrs. Cavanaugh and Phelps, or for the other, Mr. Becker, who, I am told, received the highest number of votes?

If this House is to elect members for the State of Minnesota, let the names of the three gentlemen be sent to the Clerk's desk, and let us all have a chance of voting by ballot which of the three shall have the seats. We can then determine whether the members of Congress from the new State of Minnesota shall be elected by lottery, by chance, by the members of this House, or by the people of Minnesota. Three members of Congress, if any, have been elected by the people of Minnesota, and we have no right to say which of the three shall hold the seats; nor have they a right to say which of their own number shall hold the seats. They have no right, by tossing up a copper, or by any other mode of chance or lottery, to say which two out of the three shall hold the seats. I think that, under the circumstances, neither of these gentlemen ought to be sworn. There is no doubt that at the October election two gentlemen will be elected in separate districts to represent Minnesota, and will come here on the first day of the next session. Until then Minnesota has no Representatives in Congress. I move that the credentials be referred to the Committee of Elections.

Mr. REAGAN. I move the previous question.

Mr. MILLSON. If the gentleman from Ohio will allow me, I have prepared a resolution which I think will accomplish the purpose he has in view.

The resolution was read, as follows:

Resolved, That the certificate and credentials of W. W. Phelps and James M. Cavanaugh, claiming seats as members of this House from the State of Minnesota, be referred to the Committee of Elections, with instructions to inquire into and report upon the right of those gentlemen to be admitted and sworn as members of this House.

Mr. SHERMAN, of Ohio. That is the substance of my motion, and I accept it.

Mr. PHILLIPS. I appeal to the gentleman from Texas to withdraw the demand for the previous question. I should like to say a few words.

Mr. SMITH, of Virginia. I rise to a question of order. Is the order, assigning this day to territorial business, superseded by this application?

The SPEAKER. This is a question of privilege.

Mr. SMITH, of Virginia. But the order is a special order.

The SPEAKER. The special order would take precedence of a privileged question, but this is a question of privilege.

Mr. REAGAN. I withdraw the demand for the previous question.

Mr. PHILLIPS obtained the floor.

Mr. JONES, of Tennessee. I wish to inquire whether the resolution of the gentleman from Virginia proposes to refer these credentials to the Committee of Elections after these gentlemen have been sworn in?

[Cries of "No!" "No!" and laughter from the Republican side of the House.]

Mr. JONES, of Tennessee. That is what it ought to be.

Mr. PHILLIPS. Mr. Speaker, if the gentleman from Ohio had manifested any desire for the admission of Minnesota into the Union, why, then, we might give him credit for thus seeking to keep her Representatives out of their seats; but opposed as the gentleman has been to the admission of Minnesota, I think it is not right or fair for him now, when Minnesota has been, by a large vote of this House, declared to be in a fit condition for admission, and by the concurrent vote of the Senate, and the approval of the President, has been admitted into the Union, to endeavor to keep the State without representation, when she presents herself here, through her chosen Representatives, in the same condition in which each one of us presented ourselves here.

Mr. STANTON. Will the gentleman from Pennsylvania answer me one question? I desire it to govern my vote. I wish to know of the gen-

tleman from Pennsylvania whether he is able to inform the House which two of the three gentlemen certified had the highest number of votes? My judgment is, that, inasmuch as but two members are held to be legally elected, it must be the two who had the highest number of votes; and the election must be treated as having been an election in which there were but two candidates to be elected, and the two having the highest number of votes were elected.

Mr. PHILLIPS. I can answer the gentleman by a reference to the certificate, which says, if I recollect aright, that these gentlemen had the highest number of votes.

Mr. STANTON. Not at all. It says they had a majority.

Mr. WASHBURN, of Illinois. Will the gentleman from Pennsylvania yield to me a moment?

Mr. SMITH, of Virginia. I object to these interruptions.

Mr. WASHBURN, of Illinois. I can give the gentleman from Ohio the information he desires. I have here the vote at the election.

Mr. SMITH, of Virginia. I object to these interruptions.

Mr. WASHBURN, of Illinois. Mr. Becker, the man who does not present his certificate here, received the highest number of votes.

Mr. PHILLIPS. All I know, and all that the House has a right to know, is what I obtain from these credentials. What right has the gentleman to rise in his seat and assert a state of facts of which he has no certain knowledge, and about which he is liable to be contradicted by any one else? Must not we have some fixed rule of proceeding? Do we not know that some years ago there was great agitation throughout the whole country, because the broad seal of a State—a State whose broad seal was no better, in point of merit and value, than is the broad seal of this State, as I will show in a moment—was disregarded. The State of Minnesota has been admitted into the Union. Here is her constitution, which directs that the returns shall be made and certified exactly as they have been, by the territorial Governor. The two members to which she is entitled, come here and present credentials such as most gentlemen here have themselves presented, though I tell gentlemen that I presented none, for my State furnished her members with none.

Mr. SHERMAN, of Ohio. Does the gentleman say that Samuel Medary is Governor of the State of Minnesota?

Mr. PHILLIPS. I know that when he gave these certificates, he was Governor of the Territory of Minnesota. [Laughter on the Republican side of the House.] I am glad there is something that excites the good humor of gentlemen on the other side of the House. If gentlemen will read this constitution instead of laughing, they will find that the returns were to be certified by that Governor. If, instead of picking out detached portions of the constitution with which to find fault, gentlemen will read the twenty-first section, they will find that the returns of the election were required to be certified exactly in the manner in which they have been certified.

It is very well for gentlemen to laugh, and try to laugh a State out of its representation. That State stands here as my State stands—as the State which any of these gentlemen represent. Sir, I ask gentlemen representing new States how much regularity attended the admission of their States? California came here with the certificate of a Governor of a State which was not a State, nor even an organized Territory. And then the objection of the gentlemen, that they were elected by general ticket. Sir, it does not so appear, except from the fact that the constitution so provides. For any information which we have before us, they have been elected in conformity with our law.

Mr. MARSHALL, of Kentucky. I desire to ask the gentleman from Pennsylvania a question, which is somewhat in reply to the suggestion he has made.

Mr. PHILLIPS. I cannot yield for a reply; I will yield for a question.

Mr. MARSHALL, of Kentucky. Then I desire to ask the gentleman from Pennsylvania if he thinks that a territorial and State government can both exist over Minnesota at the same moment? And if they cannot, how can it be that a territo-

rial Governor can certify to the election of Congressmen from a State?

Mr. PHILLIPS. Because the constitution confers upon the territorial Governor, *eo nomine*, the power. That is an answer to the gentleman's question. The gentleman will find that the certificates of these members are regular, and in conformity to law. The provision in the schedule to the constitution providing for the issuing of certificates, is the following:

"The returns of said election, for and against this constitution, and for all State officers and members of the House of Representatives of the United States, shall be made and certificates issued in the manner now prescribed by law for returning votes given for Delegate to Congress," &c.

That was, by the territorial Governor—the Delegate to Congress only representing the Territory. Mr. Speaker, with this paper regularly in our hands, with these credentials, superior in form to those which some of us have brought here, against nothing but the gentleman's ideas, gathered from the newspapers, and other unofficial sources, I hope the House will not refer this matter to a committee. The effect will be to carry out the opposition to the admission of the State; to effect, by an indirect manner, that which they could not effect by a direct vote, namely: the exclusion of Minnesota, so far as this House is concerned, from all participation in the administration of the Government. I demand the previous question.

Mr. SHERMAN, of Ohio. I should like to ask a question.

Mr. SMITH, of Virginia. I object.
Mr. SHERMAN, of Ohio. Then I desire to state that the gentleman who received the highest number of votes in this election was Mr. Becker. [Cries of "Order!"]

Mr. JONES, of Tennessee. What will be the effect of the previous question?

The SPEAKER. It will be to bring the House first to vote upon the amendment of the gentleman from Ohio [Mr. SHERMAN] to refer the credentials which have been presented to the Committee of Elections.

Mr. SHERMAN, of Ohio. I have accepted the modification suggested by the gentleman from Virginia, [Mr. MILLSON.]

The previous question was seconded, and the main question ordered to be put.

Mr. BINGHAM demanded the yeas and nays upon the motion to refer.

The yeas and nays were ordered.
The question was taken; and it was decided in the affirmative—yeas 92, nays 85; as follows:

YEAS—Messrs. Abbott, Andrews, Billingshurst, Bingham, Blair, Bliss, Buffinton, Burlingame, Case, Chaffee, Ezra Clark, Clemens, Colfax, Comins, Covode, Cragin, Curtis, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Danrell, Dawes, Dean, Dick, Dodd, Durfee, Edie, Eustis, Farnsworth, Fenton, Foster, Gilman, Gilmer, Gooch, Goodwin, Grainger, Grow, Robert B. Hall, J. Morrison Harris, Haskin, Hill, Hoard, Horton, Howard, Hughes, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, Humphrey Marshall, Matteson, Maynard, Millson, Morgan, Morrill, Edward Joy Morris, Oliver A. Morse, Mott, Nichols, Ohio, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ricard, Ritchie, Royce, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, and Zollcoffer—92.

NAYS—Messrs. Anderson, Atkins, Avery, Barksdale, Bowie, Branch, Burns, Caruthers, Caskey, Chapman, John B. Clark, Clay, Cobb, Cockrell, Burton Craigie, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dimmick, Dowdell, Edmundson, English, Faulkner, Florence, Foley, Gartrell, Goode, Greenwood, Gregg, Groesbeck, Thomas L. Harris, Hatch, Hawkins, Hopkins, Houston, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, Letcher, Maclay, McQueen, Samuel S. Marshall, Miles, Miller, Moore, Isaac N. Morris, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quimman, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Aaron Shaw, Henry M. Shaw, Shorter, Sickles, William Smith, Stephens, James A. Stewart, Talbot, Miles Taylor, Watkins, Wortendyke, and John V. Wright—85.

So the amendment to refer the credentials to the Committee of Elections, with instructions, was agreed to.

Pending the call of the roll,
Mr. COLFAX stated that Mr. CLARK B. COCHRANE had paired off with Mr. Cox.

Mr. BINGHAM stated that Mr. GIDDINGS had paired off, for the remainder of the session, with Mr. WARREN.

Mr. RUSSELL stated that he had paired off with Mr. BURROUGHS on all political questions. He understood that the announcement had been

made that Mr. BURROUGHS had paired with Mr. AHL. He also understood that he [Mr. BURROUGHS] had since paired with a lady. [Laughter.]

Mr. POTTLE. Mr. AHL has paired off with me. I called on him yesterday, and stated that it had been announced that he had paired off with Mr. BURROUGHS. He replied that he had only paired with me, and that he would so announce in the House. I do not, however, now see him in his seat.

Mr. RUSSELL. I understood from the reporters that Mr. AHL had paired with Mr. BURROUGHS.

Mr. POTTLE. Mr. AHL has paired with me.

Mr. RUSSELL. Well, sir, I paired with Mr. BURROUGHS upon all political questions. I do not regard this as a political question, and I therefore vote "no."

Mr. CLEMENS. Regarding this question as one—

The SPEAKER. Debate is not in order.

Mr. CLEMENS. I do not wish to debate. I only wish to assign a reason for my vote.

The SPEAKER. The gentleman can only do that by unanimous consent.

Mr. DEAN. I object.

Mr. CLEMENS. I vote "ay."

Mr. HUGHES stated that, for the purpose of moving to reconsider, he voted in the affirmative.

The vote was then announced, as above recorded.

Mr. SHERMAN, of Ohio, moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider on the table.

Mr. HUGHES. I move that there be a call of the House.

The SPEAKER. The motion is not in order, the previous question not being yet exhausted.

Mr. HUGHES. I then move that the House adjourn.

Mr. BOWIE. I demand the yeas and nays. The yeas and nays were ordered.

Mr. STEPHENS, of Georgia. Did the Chair decide that a motion for a call of the House was not in order?

The SPEAKER. It is not. The previous question has not exhausted itself.

Mr. STEPHENS, of Georgia. The motion, as I understand it, is to reconsider and lay on the table.

The SPEAKER. The motion is to reconsider the vote by which the House agreed to the amendment. When the motion to reconsider shall be disposed of, the question will then recur, under the operation of the previous question, on the original proposition as amended.

Mr. STEPHENS, of Georgia. Would not that be debatable?

The SPEAKER. It would not. The previous question does not exhaust itself until the pending propositions, on which the previous question was called, shall have been disposed of by a vote of the House.

Mr. HARRIS, of Illinois. I hope that these motions will be withdrawn, and that this question will be allowed to go to the committee. I voted against its reference, being willing that the members should be sworn in, and that the matter might subsequently go there. But, as the House has decided to send the question to the committee, let us not take up time with these side motions. The committee will probably meet in a day or two, and dispose of it. Instead of wasting time in this way, I think it better that the public business should go on.

Mr. FLORENCE. If, by unanimous consent, these gentlemen can be sworn in now, there can then be no objection to the matter going to the committee.

[Laughter, and cries of "Oh, no!" from the Republican side of the House.]

The yeas and nays were ordered on the motion to adjourn.

The question was taken; and it was decided in the negative—yeas 32, nays 139; as follows:

YEAS—Messrs. Andrews, Bennett, Burlingame, Case, Ezra Clark, Davis of Maryland, Dodd, Durfee, Edie, Farnsworth, Howard, Kelsey, Kilgore, Leiter, Matteson, Edward Joy Morris, Isaac N. Morris, Mott, Nichols, Potter, Savage, Aaron Shaw, Judson W. Sherman, Spinner, Stanton, William Stewart, Thayer, Wade, Walbridge, Walton, and Wood—32.

NAYS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bliss, Bowie, Branch, Buffinton, Burns, Caruthers, Caskey, Chapman, Horace F. Clark, John B. Clark, Clawson, Clay, Clemens, Cobb, Cockrell, Colfax, Comins,

Covode, James Craig, Crawford, Curry, Curtis, Damrell, Davidson, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dean, Dick, Dimmick, Dowdell, Edmundson, English, Faulkner, Fenton, Florence, Foley, Foster, Garnett, Gartrell, Gillis, Gilmer, Gooch, Goode, Goodwin, Granger, Gregg, Groesbeck, Grow, Robert B. Hall, Hawkins, Hickman, Hill, Hoard, Hopkins, Horton, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Knapp, Jacob M. Kunkel, Landy, Lawrence, Leach, Letcher, Lovejoy, Maclay, McKibbin, McQueen, Humphrey Marshall, Samuel S. Marshall, Maynard, Miles, Miller, Milson, Moore, Morgan, Morrill, Oliver A. Morse, Niblack, Olin, Palmer, Parker, Pendleton, Pettit, Peyton, Phelps, Phillips, Pottle, Powell, Quitman, Ready, Reagan, Reilly, Ricaud, Ritchie, Robbins, Royce, Rufin, Russell, Sandidge, Seales, Scott, Searing, John Sherman, Shorter, Robert Smith, William Smith, James A. Stewart, Talbot, Tappan, Miles Taylor, Tompkins, Tripp, Underwood, Waldron, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, Wilson, Winslow, Wortendyke, Augustus R. Wright, John V. Wright, and Zollicoffer—139.

So the House refused to adjourn.

Pending the vote, there being much confusion in the Hall, which caused a suspension of the call—

Mr. MORGAN said: Mr. Speaker, I object to gentlemen on the other side of the Hall delaying the business of the House in this manner. The noise and confusion is all on that side of the Hall, whereas on this side all is quiet and orderly.

The SPEAKER. The Chair is of opinion that there is a great deal of confusion on both sides of the Hall; and if gentlemen desire the business of the House to proceed, they must suspend conversation.

Mr. CURTIS. I appeal to the gentleman from Indiana to withdraw the motion to adjourn.

Several MEMBERS. Oh, no; let the vote be taken.

The SPEAKER. It cannot be done, without unanimous consent.

Mr. CURTIS. This is the only day left for territorial business.

The Clerk then concluded the call of yeas and nays, when the vote was announced as above recorded.

Mr. JONES, of Tennessee. I suppose a call of the House would be in order now?

Mr. GROW. It would not be.

The SPEAKER. Debate is not in order.

Mr. JONES, of Tennessee. To make a proposition is not debating.

Mr. AHL stated that he had seen by the Globe that he was announced as having paired off with Mr. BURROUGHS on the Minnesota question; whereas he had really paired off with Mr. PORTLE.

The question recurred on the motion of Mr. SHERMAN, of Ohio, to lay on the table the motion to reconsider the vote by which the amendment was agreed to.

Mr. FLORENCE called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 97, nays 93; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Buffinton, Burlingame, Case, Chaffee, Ezra Clark, Clawson, Clemens, Colfax, Comins, Covode, Curtis, Damrell, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Eustis, Farnsworth, Fenton, Foster, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, J. Harrison Harris, Haskin, Hill, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, Humphrey Marshall, Matteson, Maynard, Milson, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ready, Ricaud, Ritchie, Robbins, Royce, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, and Zollicoffer—97.

NAYS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bonham, Bowie, Boyce, Branch, Burns, Caruthers, Caskie, Chapman, John B. Clark, Clay, Cobb, Cockerill, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dimmick, Dowdell, Edmundson, English, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Thomas L. Harris, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, Letcher, Maclay, McKibbin, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Quitman, Reagan, Reilly, Rufin, Russell, Sandidge, Seales, Scott, Searing, Aaron Shaw, Henry M. Shaw, Shorter, Sickles, Robert Smith, William Smith, Stephens, James A. Stewart, Talbot, Miles Taylor, Watkins, Winslow, Wortendyke, and John V. Wright—93.

So the motion to reconsider was laid on the table.

The question recurred on the resolution as amended.

Mr. SHERMAN, of Ohio. I desire to ask the Chair whether, if the proposition as amended be defeated, that will defeat the motion to swear in?

The SPEAKER. It will defeat the pending motions.

Mr. FLORENCE called for the yeas and nays. The yeas and nays were ordered.

Mr. SMITH, of Virginia. Can there not be a division of the question? It seems to me that they are independent propositions. Will the Chair be good enough to have the resolution as amended reported?

The resolution, as amended, was read.

Mr. SMITH, of Virginia. I respectfully submit that that is not inconsistent with the right these gentlemen claim to be admitted to their seats on this floor, because the subject can be referred afterwards.

Mr. RUFFIN. I object to discussion.

The SPEAKER. The gentleman from Pennsylvania [Mr. PHILLIPS] moved that the members presenting their credentials be sworn. The gentleman from Ohio [Mr. SHERMAN] moved to strike out all of the motion of the gentleman from Pennsylvania, and insert that which has been adopted by the House. The question now recurs on agreeing to the proposition as amended.

Mr. STEPHENS, of Georgia. If that be voted down, will not that be equivalent to a rejection of the application? I think this side of the House had better let it go.

Mr. HUGHES. Is it in order to move to lay this resolution on the table?

The SPEAKER. It is.

Mr. HOUSTON. I desire to ask the Chair this question. In the event of the House determining to lay it on the table, or voting the motion down, will it not still be in order for the members elect from the State of Minnesota to present their credentials to-morrow, and ask to be admitted to their seats on this floor?

Mr. STANTON. Will the gentleman add—with the same credentials?

Mr. HOUSTON. I ask the question the way I want it answered; and as to the gentleman's amendment, while it may suit him, it certainly was not in my contemplation, when I proposed it, that there should be a change of credentials. I do not know who has authority to change them. That is not the practice on this side of the House, and I am astonished that the gentleman should have suggested such a thing.

Mr. LOVEJOY. Is debate in order?

The SPEAKER. Debate is not in order. The credentials having been presented and read to the House, they are in possession of the House. If the motion to lay on the table be made, the Chair intimates the opinion now, that, in his view, there is nothing to prevent the gentlemen presenting themselves every day until the question is determined by the House whether they shall or shall not be sworn, the House being in possession of their credentials.

Mr. STANTON. Do not the credentials go on the table with the motion; and, if so, how can they get possession of them again?

The SPEAKER. The Chair would state to the gentleman from Ohio that credentials are oftentimes presented and laid upon the table before members make their appearance at all. It is the constant practice in the other wing of the Capitol for the credentials to be sometimes submitted six or twelve months before a member presents himself to be sworn in. Although that question does not arise at this stage, the Chair merely gives the intimation in response to the inquiry.

Mr. WASHBURN, of Maine. If the motion to lay on the table be carried, would that not operate as the decision of the House that these gentlemen are not to be sworn in and allowed to take their seats? Would not that be the logical and necessary consequence?

The SPEAKER. The intimation which the Chair has given will be open for the consideration of the House when the question shall properly arise.

Mr. HUGHES. I move to lay the resolution on the table; and on that I ask the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 17, nays 172; as follows:

YEAS—Messrs. Ahl, Bowie, Davidson, Houston, Hughes,

George W. Jones, Kelly, Kilgore, Jacob M. Kunkel, Maclay, Mason, Peyton, Purviance, Russell, Savage, Henry M. Shaw, and Shorter—17.

NAYS—Messrs. Abbott, Anderson, Andrews, Arnold, Atkins, Avery, Barksdale, Bennett, Billingshurst, Bingham, Blair, Bliss, Bocoek, Bonham, Boyce, Branch, Buffinton, Burlingame, Burns, Campbell, Caruthers, Case, Caskie, Chaffee, Ezra Clark, John B. Clark, Clawson, Clay, Clemens, Cobb, Cockerill, Colfax, Comins, Covode, Cragin, James Craig, Burton Craige, Curry, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dimmick, Dodd, Dowdell, Durfee, Edie, Edmundson, Elliott, English, Eustis, Farnsworth, Faulkner, Fenton, Florence, Foley, Foster, Garnett, Gartrell, Gillis, Gilman, Gilmer, Gooch, Goode, Granger, Greenwood, Gregg, Groesbeck, Grow, Robert B. Hall, J. Harrison Harris, Haskin, Hawkins, Hill, Hoard, Hopkins, Horton, Howard, Huyler, Jackson, Jenkins, Jewett, J. Glancy Jones, Owen Jones, Kellogg, Kelsey, Knapp, John C. Kunkel, Landy, Lawrence, Leach, Leidy, Leiter, Letcher, Lovejoy, McKibbin, McQueen, Humphrey Marshall, Samuel S. Marshall, Matteson, Maynard, Miles, Miller, Milson, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Oliver A. Morse, Mott, Niblack, Nichols, Olin, Palmer, Parker, Pendleton, Pettit, Phelps, Phillips, Potter, Pottle, Quitman, Ready, Reagan, Reilly, Ricaud, Robbins, Royce, Rufin, Sandidge, Scott, Searing, Seward, Aaron Shaw, John Sherman, Judson W. Sherman, Sickles, Robert Smith, Spinner, Stanton, Stephens, Stevenson, James A. Stewart, William Stewart, Tappan, George Taylor, Miles Taylor, Thayer, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, Wilson, Winslow, Wortendyke, and John V. Wright—172.

So the House refused to lay the resolution upon the table.

* Pending the vote,

Mr. CRAWFORD stated that he did not think there were any merits in the question, and therefore he declined to vote.

Mr. EUSTIS stated that Mr. STEPHENS, of Georgia, having been obliged to leave the Hall on account of illness, he (Mr. Eustis) had paired off with him.

The question recurred on the resolution as amended, on which the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 108, nays 83; as follows:

YEAS—Messrs. Abbott, Adrain, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Bocoek, Buffinton, Burlingame, Campbell, Case, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Clemens, Cobb, Colfax, Comins, Covode, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Edmundson, Farnsworth, Fenton, Foster, Garnett, Gilman, Gilmer, Gooch, Goode, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Haskin, Hill, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, Humphrey Marshall, Matteson, Maynard, Milson, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ready, Reagan, Ricaud, Ritchie, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, and Zollicoffer—108.

NAYS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bonham, Boyce, Burns, Caskie, Chapman, John B. Clark, Cockerill, James Craig, Crawford, Curry, Davidson, Davis of Mississippi, Dewart, Dimmick, Dowdell, Elliott, English, Faulkner, Florence, Foley, Gartrell, Gillis, Greenwood, Gregg, Groesbeck, Thomas L. Harris, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, Lamar, Lawrence, Letcher, Maclay, McKibbin, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Reilly, Rufin, Russell, Sandidge, Savage, Seales, Scott, Seward, Henry M. Shaw, Shorter, Robert Smith, William Smith, Stevenson, James A. Stewart, George Taylor, Miles Taylor, Watkins, Winslow, Wortendyke, and John V. Wright—83.

So the resolution as amended was adopted.

Mr. SHERMAN, of Ohio, moved to reconsider the vote by which the resolution as amended was adopted, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PERSONAL EXPLANATION.

Mr. DAVIS, of Mississippi. I desire to say, if not out of order, by way of personal explanation, that at the time the vote was taken on the report of the conference committee in the Kansas matter, I was absent, having paired off with a gentleman from New York; and that if I had been here I should have voted for the bill as proposed.

DOORKEEPER OF THE HOUSE.

Mr. KUNKEL, of Maryland. I am instructed by the Committee of Accounts to present a report to the House, which is a privileged matter.

The report was read, as follows:

The undersigned, Committee of Accounts, being required by its 102d rule to "superintend and control the expenditures of the contingent fund of the House of Representatives," and "to audit and settle all accounts which may be charged thereon," &c., having had under consideration the accounts of persons said to be employed by the Doorkeeper of the House of Representatives, report:

That prior to the commencement of the present session of Congress the Doorkeeper of the House of Representatives was authorized, by resolutions of the House, passed from time to time, to make the following appointments, namely: One superintendent of the folding room; one superintendent and one assistant superintendent of the document room; one messenger in charge of the Hall of Representatives; with salaries ranging from one thousand seven hundred to one thousand eight hundred dollars per annum, and thirteen other messengers with salaries ranging from one thousand two hundred to one thousand five hundred dollars a year. On the 23d of December last, on the motion of a member from Virginia, [Mr. FAULKNER], six additional messengers were allowed him, as it was very properly supposed that the comfort of the members required an increase in these assistant officers after the House had removed its sittings to the present Hall. The total number of this class of officers to be appointed by the Doorkeeper, is therefore limited by law to twenty-three. Notwithstanding this express limitation of his authority and power, the Doorkeeper, it is believed, has issued his appointments to thirty or more persons, who claim compensation for their services as messengers of the House. Twenty-three of these messengers, as above stated, are returned by the Doorkeeper on his pay-rolls monthly, with the receipts of the parties named therein attached, who are regularly paid the proportions of annual salaries due each of them respectively. It is known, however, to the undersigned, that some of them are not performing the customary duties belonging to the nature of their employment, and constantly engaged as book-keepers and assistant clerks in the folding room; one of them is a private secretary or clerk of the Doorkeeper; and two others are used as firemen to the furnaces in the vaults of the Capitol under the old Hall of Representatives; whilst on the other hand, persons who are known to be daily in attendance as messengers and assistant doorkeepers, during the sittings of the House, and who attend upon the several committee rooms, not being returned by the Doorkeeper upon his regular monthly pay-rolls, have received no compensation for their services, but depend upon the grace and bounty of the House for remuneration. This gross abuse of the confidence and trust reposed by the House in one of its chief officers cannot be too severely censured, and in the judgment of the undersigned requires an immediate remedy. It has been admonished, again and again, to correct these abuses, but without effect, as he still persists in acting against both usage and law, and openly defies the control of this committee.

Abuses of a similar or worse nature exist in the folding-room. It will be seen by reference to "A statement showing the names of each person employed by the Doorkeeper of the House of Representatives of the United States, the nature of their employment, time appointed, amount of salary paid each one, and the authority for the same," (Mis. House Doc., 109,) made by Mr. R. B. Hackney, Doorkeeper, in response to a resolution of the House, that he represents the unusually large number of laborers and folders employed there, amounting in the aggregate to thirty-four, as by authority of the Committee of Accounts. Such is not the case. That statement made to the House is false.

By resolutions of the House of August 8, 1854, and December 23, 1857, the Doorkeeper is authorized to employ eight laborers about the Hall, and in attendance in the cloak rooms, &c. He nevertheless represents the committee as giving him authority to employ eleven.

He had instructions from said committee to employ not more than four regular folders, at \$2 50 per day. He has reported the committee to the House as his authority for the employment of six at that price. The salaries of the four regular folders authorized by the committee amount to \$300 per month, which it was supposed would be sufficient to defray nearly one half the usual expenditures heretofore incidental to the folding room.

The economical object of your committee has been entirely frustrated, and the expenditures thus increased from an average amount of six or eight hundred dollars to two thousand or twenty-five hundred dollars per month. Here, too, the regular folders, who are returned on the pay-rolls, and are paid as such, do not perform any such duty. But a throng of piece-folders, unauthorized by your committee, are employed by Mr. Hackney, who permits false returns to be made on the books of the amount of piece-work done, and returns false accounts of the same to be audited and settled by your committee, as is shown by the following comparative table, made out by the Clerk of the House, and contrasting the number of documents actually delivered during the three months ending May 1, by the Superintendent of Public Printing, and the number alleged and returned as folded by the Doorkeeper.

OFFICE OF HOUSE OF REPRESENTATIVES U. S.,
May 6, 1858.

STR: In compliance with your expressed wish, I have examined the subject of folding documents for the months of February, March, and April last; and find that the number of documents folded in the folding room of the House of Representatives, for each of the months above named, according to the pay-rolls returned to this office, to be as follows, namely: for February, 73,274; March, 194,539; extra documents 2,329; total 196,868; and for April, 30,804; extra documents 19,708; total 50,512; for all of which I have declined payment, for the reason that, according to the returns as furnished by the Superintendent of Public Printing, there appears to be too great a discrepancy between the number of documents purported to have been folded and the number actually delivered by the said Superintendent. Below I submit a comparative table, showing the number of documents delivered during the last three months by the Superintendent, and the number alleged to have been folded, as returned by the Doorkeeper:

Delivered by the Superintendent in the month of	Alleged to have been folded during the month of
February..... 45,921	February..... 73,274
Do. March..... 45,935	Do. March..... 196,868
Do. April..... 30,790	Do. April..... 50,512
Total..... 122,646	Total..... 320,654

Or, in other words, there appears to have been an excess of 198,008 documents folded over the number as delivered by the Superintendent.

Very respectfully,
J. C. ALLEN,
Clerk of House of Representatives, United States.

Hon. J. M. KUNKEL, Committee of Accounts.
There are other charges of mal practice in office and venal character preferred against Mr. Hackney; but your committee conceive that it would not be strictly proper to report the declarations of Mr. Hackney's subordinates, over whom he domineers most unjustly.

In conclusion, the undersigned, Committee of Accounts, are unanimous in believing Mr. R. B. Hackney unworthy of the trust reposed in him by this House. They believe that he is either entirely and hopelessly incompetent to perform the duties belonging to his office, or shows a willful and deliberate purpose to pervert improperly and abuse the power with which he is invested.

Your committee, therefore, unanimously recommend the adoption of the following resolution.

JOHN DICK,
JOHN A. SEARING,
FRANCIS E. SPINNER,
J. M. KUNKEL,
PAULUS POWELL.

Resolved, That Richard B. Hackney, the Doorkeeper of the present House of Representatives, be, and he is hereby, dismissed forthwith from that office.

Mr. KUNKEL, of Maryland. I do not desire to occupy the attention of the House now, but I am willing to answer any interrogatories that may be propounded. As this day has been set apart for territorial business, I move that the report be printed and made the special order for Saturday, at twelve o'clock.

Mr. GROW. I ask the gentleman from Maryland to indicate some other day, and let us have Saturday for private business.

Mr. COVODE. We can dispose of this matter in a short time to-day, and I think we might as well do so.

Mr. FLORENCE. Oh, no.

Mr. HOUSTON. It will hardly be insisted that the House shall take action on this report at this time. There is a principle of justice which ought to control the action of the House, as well in the disposition of a case like this as of any other matter. We ought to see the report printed. It may be that something can be said on the other side. I know nothing about it, and I certainly would be unwilling to dispose immediately of a case of this magnitude, involving all that is dear to the Doorkeeper of the House.

Mr. NICHOLS. I desire to make a motion in connection with this matter; and that is, that the party who is arraigned here shall have leave, between this time and the time to be fixed for the hearing, to file with the Clerk of the House any written statement which he may desire to submit.

Mr. STEPHENS, of Georgia. We have a special order for to-day, and we cannot have another day this session for the consideration of territorial business. I therefore trust that without further debate, this matter may go over till Monday, that we may take up territorial business.

Mr. LETCHER. I hope the House will dispose of it on Saturday. That will give ample time for its consideration.

Mr. WASHBURN, of Maine. I move to amend the motion by striking out Saturday, and inserting Monday, at twelve o'clock. We want Saturday for private business.

The question was taken; and the amendment was agreed to.

The proposition as amended was then agreed to.

The report, and such statement as the Doorkeeper may submit, were ordered to be printed.

OHIO CONTESTED ELECTION.

Mr. HARRIS, of Illinois, from the Committee of Elections, to whom was referred the memorial of Clement S. Vallandigham, contesting the right of the Hon. Lewis D. Campbell to a seat in the House of Representatives as a member of the Thirty-Fifth Congress from the third congressional district of Ohio, made a report, stating that a majority of the committee were unable to agree upon a report; that one minority was in favor of reporting that Mr. Campbell was entitled to his seat; that another minority was in favor of reporting in favor of the claim of Mr. Vallandigham; and still another minority was of opinion that neither

of the gentlemen was entitled to the seat; and recommended that the case be sent back to the people.

The committee asked that the views of their minorities respectively accompanying this report, may be received by the House.

Mr. HARRIS, of Illinois. In compliance with the directions of the committee, I now ask that the views of the several minorities be received, laid upon the table, and ordered to be printed; and I present the views of a portion of the committee.

Mr. KELSEY. I rise to a question of order. Can there be a report from a committee, unless the majority of the committee agree to it?

Mr. HARRIS, of Illinois. As soon as the reports have been printed, I shall call up the case—perhaps on Tuesday or Wednesday next.

The SPEAKER. The Chair would state to the gentleman from New York, that this paper appears to be a majority report.

Mr. KELSEY. It is not a report on any question submitted to the committee. It is merely a report that they cannot agree.

Mr. GILMER presented the views of a portion of the Committee of Elections.

Mr. LAMAR presented the views of another portion of the committee.

Mr. MARSHALL, of Kentucky. What becomes of the question of order raised by the gentleman from New York?

The SPEAKER. The Chair overruled the question of order.

Mr. MARSHALL, of Kentucky. Do I understand that the House has consented, upon this report, that the views of these minorities shall be brought here? The majority of the committee report that they cannot agree, and that is all. They cannot, therefore, report, and they ask the House to suffer the views of the minorities to be brought before the House. I do not understand that the House has yet consented to receive those views of these minorities. I regard it, in fact, as a declaration upon the part of the Committee of Elections, that they cannot agree to a report.

Mr. HARRIS, of Illinois. What is the question before the House?

The SPEAKER. The gentleman from Kentucky rises to a question of order.

Mr. MARSHALL, of Kentucky. If the report of the Committee of Elections has been brought in, and it means what I suppose it means, I suppose that it would be proper to refer the case to a special committee, in order that the House may try and see if it cannot raise a committee that can make a report. And, under the circumstances, I will move that the Committee of Elections be discharged from the further consideration of the case, and that it be referred to a select committee.

Mr. STEVENSON. I rise to a question of order. I understood my colleague to rise to a question of order; and my point of order is, that if he rose to a question of order, it is not competent for him to submit a motion.

The SPEAKER. The Chair understood the gentleman from Kentucky to rise to a question of order.

Mr. MARSHALL, of Kentucky. I did rise to a question of order. My point of order was, that the House had not consented to receive the views of the minority, and that, therefore, they could not be submitted. If the Chair decides that a report of a majority has been made, I wish to submit my motion.

The SPEAKER. The report was submitted by the gentleman from Illinois as coming from a majority of the committee. It was proposed by him that the minorities should submit their views. The gentleman from North Carolina [Mr. GILMER] submitted a paper which he asked should be considered as the views of a portion of the committee. The gentleman from Illinois [Mr. HARRIS] presented another paper, and the gentleman from Mississippi [Mr. LAMAR] another. The Chair is of opinion that the objection of the gentleman from Kentucky comes too late.

Mr. MARSHALL, of Kentucky. I call the attention of the Chair to the fact, that the gentleman from New York [Mr. KELSEY] raised the question of order that this was no report. These documents have not been received. The Chair says that my objection comes too late. But the documents have not been received. There has been no action on the part of the House; and it is clearly a violation of the parliamentary rule, as

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laid down by the Chair, that a minority of a committee can make a report or submit its views without the action of the House. I take the floor, and submit my motion just as soon as I have an opportunity. These papers are not before the House, although these gentlemen may have sent them to the Clerk's desk; because there has been no permission given by the House, and no action upon the report of the majority.

Mr. HARRIS, of Illinois. I do not wish to discuss this question; but if the gentleman from Kentucky had paid attention to the reading of the report he would have observed that these views of the minority accompany the report. The report was the unanimous report of the committee, and was accompanied by these papers.

The SPEAKER. The Chair considered the report as being properly presented, but his attention was not particularly called to the portion of it relative to the papers accompanying it as a part of it. The paper was presented as a report from a majority of the committee. Whether it is a satisfactory report to the House or not, is another question.

Mr. MARSHALL, of Kentucky. I certainly do not want to interfere with the territorial business which has been assigned for to-day. Do I understand the motion of the gentleman from Illinois to be to print all these reports and documents?

Mr. HARRIS, of Illinois. My motion is, that the report of the committee, which has been read, and the accompanying papers, be laid upon the table, and printed.

Mr. MARSHALL, of Kentucky. Well, that is a new mode of getting minority reports before the House. That is all I have to say about it. But I will let it go.

Mr. HARRIS's motion was then agreed to.

Mr. STEPHENS, of Georgia. I now call for the regular order of business.

PAID FIRE DEPARTMENT FOR WASHINGTON.

Mr. MORRIS, of Pennsylvania. I desire to report a bill in relation to the District of Columbia, in order that it may be printed and be ready when that business comes up.

Mr. STEPHENS, of Georgia. I yield for that purpose.

Mr. MORRIS, of Pennsylvania, then, from the Committee for the District of Columbia, reported a bill to organize a paid fire department in the District of Columbia; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

COURTS IN TERRITORIES.

The House then proceeded to the consideration of a bill (H. R. No. 59) in regard to courts, and the holding of the terms thereof, in the Territory of Nebraska, reported yesterday from the Committee of the Whole on the state of the Union with an amendment, in the nature of a substitute, making the bill apply to all the Territories.

The amendment was agreed to.

The bill was then ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time, and passed.

The title of the bill was then amended, so as to read: "A bill in regard to courts, and the holding of the terms thereof, in the several Territories of the United States."

Mr. FAULKNER. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STEPHENS, of Georgia. I insist on calling the committees for reports of territorial business.

The SPEAKER. The gentleman from Virginia moves that the rules be suspended for the purpose of going into the Committee of the Whole on the state of the Union.

Mr. STEPHENS, of Georgia. I trust that the gentleman from Virginia will not insist on his

motion. There is much business yet to be reported.

Mr. FAULKNER. Very well, I will withdraw the motion.

PUBLIC BUILDINGS IN THE TERRITORIES.

Mr. BRANCH, from the Committee on Territories, reported the following resolution:

Resolved, That the Secretary of the Interior cause to be prepared and submit to the House—

1. A plan for a building suitable for the accommodation of the executive offices and Legislature of one of the Territories, with detailed estimates of cost, taking, as the basis of his estimates, the average prices of labor and materials in the States.

2. A plan for a jail, or public prison, with similar estimates of cost.

3. That he procure from the Governors of the several Territories in which public buildings have been commenced and are yet unfinished, or which the appropriations already made are insufficient to finish, information as to the size and materials of each of said buildings; how much has been expended, and how much money will be needed to complete them, and to lay said information before the House at the earliest practicable time.

Mr. BRANCH. I am instructed by the Committee on Territories to say, that there have been large appropriations made by Congress, from time to time, for the purpose of erecting public buildings in the various Territories; but there has been no system or plan adopted on which these appropriations have been made. In some of the Territories the appropriations have been expended, but the buildings are incomplete. In others they have not been commenced, because it was supposed the appropriations made were not large enough to complete such a building as the local authorities desired. For other Territories no appropriations at all have been made. In one instance, after all the money appropriated by Congress had been expended, the local authorities have advanced money for the purpose of completing the public buildings, and are now asking to be reimbursed by Congress for the advances made by them.

The Committee on Territories, taking into consideration all the circumstances of the case, have determined, inasmuch as it is now late in the season—too late for much to be done during the present season if we were now to make an appropriation—and as it is desirable that there should be some system adopted for the expenditure of the public money, to instruct me, and they have instructed me, to report that resolution, with a view of adopting some system or plan which shall be applicable to all the Territories hereafter. The object of the committee is not only to consult economy in the expenditure of the public money, but also to bring about such a system as will do justice to the several Territories, so that the expenditure of this branch of the public service shall place all the Territories, in future, upon the same footing, and under the control of Congress, and not under that of the local authorities who are intrusted with the power of expending these appropriations.

I am further instructed by the Committee on Territories to report adversely upon the several bills referred to them making appropriations for public buildings in the several Territories. But, in making these reports, the committee do not intend to be understood as determining not to report appropriations for these buildings in future, but simply to recommend that no further appropriations shall be made until some plan shall be devised which shall be applicable to all the Territories. The committee will then be prepared to report such appropriations as shall be necessary to complete the public buildings. I move the previous question on the passage of the resolution.

Mr. COVODE. I ask the gentleman to allow me a moment.

Mr. BRANCH. I should be very glad to accommodate the gentleman, but there will be a dozen other gentlemen who will desire to be heard.

Mr. OTERO. I desire to say a word in relation to the appropriations contained in the bills relative to the public buildings in New Mexico.

The SPEAKER. That question has not yet come before the House.

The previous question was seconded; and the main question ordered to be put.

The resolution was then adopted.

Mr. BRANCH moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. BRANCH. In pursuance of the policy which I have indicated, I now ask leave to report back the various bills making appropriations for public buildings in the Territories, which have been referred to the Committee on Territories with the recommendation that they be laid on the table, and the committee discharged from the further consideration thereof.

The following bills were then reported back, the Committee on Territories discharged from their further consideration, and the bills laid on the table:

A bill (H. R. No. 180) making additional appropriation for the erection of the buildings in Washington Territory;

A bill (H. R. No. 433) making appropriation for the erection of a public prison in Kansas Territory;

A bill (H. R. No. 187) to provide for building a penitentiary in the Territory of Nebraska; and

A bill (H. R. No. 424) to complete the capitol building of Nebraska Territory.

Mr. BRANCH, from the Committee on Territories, reported back bills of the following titles, and moved that they be laid upon the table, and the committee discharged from their further consideration:

A bill (H. R. No. 174) making appropriation for the completion of the capitol building of the Territory of New Mexico; and

A bill (H. R. No. 173) making appropriation for the completion of the penitentiary building of the Territory of New Mexico.

Mr. CLARK, of Missouri. Mr. Speaker, while I agree in the main with what the gentleman from North Carolina has said in respect to the public buildings in the Territories, and while I admit the necessity for estimates for these buildings, I do not think that the two bills just reported from the Committee on Territories ought to be laid upon the table. On the contrary, I think that they ought to be passed. Estimates have been made already for these buildings in New Mexico, and have been furnished to this House from the Treasury Department. The capitol and the penitentiary are now in a state of progress. The superintendent of public buildings of New Mexico has recommended these appropriations, and I hope they will be made. I move to disagree to the report of the Committee on Territories.

Mr. STEPHENS, of Georgia. I would suggest that the gentleman from Missouri move to refer the bills to the Committee of the Whole on the state of the Union, where the subject can be considered. The bills cannot be acted on in the House, as they contemplate an appropriation.

Mr. CLARK, of Missouri. I propose to make my remarks now, to show why the House should disagree to the report of the Committee on Territories. I presume that is in order.

Mr. PHELPS. I would suggest to my colleague that he pursue the course proposed by the gentleman from Georgia. Let the bills be referred to the Committee of the Whole on the state of the Union, and then when the bills come up there my colleague will have an opportunity to express his dissent to the views of the committee.

Mr. CLARK, of Missouri. I make the motion, then, that these bills be referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. SMITH, of Virginia. I understand that not a dollar has been spent on the penitentiary building, and, indeed, that no building has been begun.

Mr. OTERO. The gentleman is mistaken. The

penitentiary building of New Mexico has been begun, and I have the estimates before me of the superintendent of public buildings in that Territory. These estimates have been furnished by that superintendent to the Treasury Department. I hope that the course suggested by the gentleman from Georgia will be adopted, and that the bills will be referred to the Committee of the Whole on the state of the Union.

The question was taken on Mr. CLARK's motion; and it was agreed to.

Mr. BLAIR. Mr. Speaker, I hope that, by unanimous consent, the bill in reference to the capitol of Nebraska Territory, at Omaha City, will be taken from the table, and referred to the Committee of the Whole on the state of the Union. I wish to say simply that there has been a great deal of work done on that capitol. It has been certified to by the proper officers, but the amount has not been paid on account of the appropriation having been exhausted. I undertake to say that there is money now due on that capitol to mechanics and laboring men for work done and materials furnished. It has not been paid for the reason I have stated. Let us, if we do nothing more, provide for the work done and the materials furnished.

Mr. SMITH, of Virginia. I thought that the bill to which the gentleman has referred was disposed of.

The SPEAKER. It has been laid upon the table, and the gentleman now asks unanimous consent of the House for leave to take it from the table, and refer it to the Committee of the Whole on the state of the Union.

Mr. SMITH, of Virginia. I cannot give my consent. I want some system adopted.

Mr. BLAIR. I state to the gentleman the facts in this case, and then if he objects, of course the bill must pass by. A large amount of money is due to mechanics and laboring men.

Mr. McQUEEN. I object to debate.

Mr. UNDERWOOD. I move to reconsider the vote by which the bill to complete a capitol building in Nebraska Territory was laid upon the table.

The question was taken; and the motion was agreed to; and then,

On motion of Mr. UNDERWOOD, the bill was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

COMMITTEES DISCHARGED.

On motion of Mr. CLARK, of Missouri, it was

Ordered, That the Committee on Territories be discharged from the further consideration of a memorial for indemnity for property lost in Utah; and that the same be laid upon the table.

Mr. CLARK, of Missouri, from the same committee, reported adversely on a resolution of the territorial convention of Oregon, praying for an appropriation to pay the expenses of the convention which framed the constitution of the Territory; on a memorial of certain citizens of New York with reference to an overland mail route to the Pacific; and on a memorial of the constitutional convention of the Territory of Utah praying to be admitted into the Union as a State; and asked that the committee be discharged from the further consideration of them respectively; and that the reports be laid on the table, and printed.

It was so ordered.

Mr. ZOLLICOFFER, from the same committee, presented an adverse report on the petition of certain citizens of Memphis, Tennessee, with reference to donations of land to actual settlers in Arizona, and asked that the committee be discharged from the further consideration thereof; and that the report be laid on the table, and ordered to be printed.

It was so ordered.

Mr. GRANGER. I am directed by the Committee on Territories to report adversely on a memorial of the Legislative Assembly of the Territory of New Mexico, asking for an appropriation for the benefit of public schools in said Territory, and to ask that the committee be discharged from its further consideration, and that the petition be laid on the table.

It was so ordered.

Mr. GRANGER. The committee has also had under consideration a memorial of Abelard Guthrie, praying for compensation as a Delegate from

the Territory of Nebraska, and I am instructed to report adversely thereon. The service for which this remuneration is claimed was done before Nebraska was a Territory. I ask that the committee be discharged from the further consideration of the memorial, and that it be laid on the table, and ordered to be printed.

It was so ordered.

Mr. KNAPP, from the same committee, reported adversely on the memorial of John Beeson, and asked that the committee be discharged from the further consideration thereof, and that it be laid on the table, and ordered to be printed.

It was so ordered.

Mr. MORRILL. I desire to ask the chairman of the Committee on Territories what has become of the bill which I introduced at the beginning of the session, and which was referred to that committee, providing penalties against polygamy?

Mr. STEPHENS, of Georgia. The Committee on Territories have made no report on that subject. My attention was called to it yesterday, and I have searched for the bill, but could not find it among the papers of the committee.

Mr. GROW. That bill, I believe, was referred to the Committee on the Judiciary.

Mr. STEPHENS, of Georgia. I have searched among the papers of the Committee on Territories, and have not been able to find the bill. I do not wish, however, to have the time of the House this morning taken up with that subject.

TERRITORIAL BUSINESS.

I now move the usual resolution, closing debate on House bill No. 544, in five minutes after its consideration shall have been resumed in the Committee of the Whole on the state of the Union.

The resolution was adopted.

Mr. STEPHENS, of Georgia. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ENGLISH in the chair,) and proceeded to the consideration of territorial business.

PRIVATE LAND CLAIMS IN NEW MEXICO.

The first bill on the Calendar of territorial business was House bill (No. 544) to ascertain and settle the private land claims in the Territory of New Mexico, the pending question being on the following amendment, submitted yesterday by Mr. MARSHALL, of Kentucky:

Amend the bill by inserting after the enacting clause as follows:

SECTION 1. The United States of America do hereby vest in the holder or holders of real estate in New Mexico, acquired from Spain or Mexico prior to the treaty of Guadalupe Hidalgo, all the title which would be vested in them respectively by a patent from the United States of America: *Provided*, The holder or holders of such claim shall exhibit his claim before the district court of the United States in the Territory of New Mexico; and said court, being guided by the treaty aforesaid, the laws of Spain and Mexico, the laws of the United States, and the decisions of the Supreme Court of the United States, shall decree in favor of the establishment of such claim, whether the same be inchoate or otherwise: *And provided further*, That twenty years' peaceable possession under claim of title shall by said court be accepted as conclusive evidence of title, and shall entitle the claimant or claimants to the decree establishing his or their claim. But the United States do not, by authorizing such decree, guaranty the title of such claimant or claimants against any title superior in law or equity, conflicting with the claim so established.

Sec. 2. It shall be the duty of the clerk of the district court to transfer to the office of the surveyor general of the United States in New Mexico an exemplified office copy of every decree so rendered in favor of the claimant, which the surveyor general shall record in his office; and the same shall be sufficient reason for him to abstain from surveying such claim as public land.

Sec. 3. In the event of a decision by the court against the claimant, he shall be entitled to an appeal to the circuit and Supreme Courts of the United States, the decision of which Supreme Court shall be final.

Mr. OTERO. I desire to occupy the time of the committee for a few minutes on the bill now under consideration. The amendment offered by the gentleman from Kentucky provides for the rectification of these land claims by the courts of the Territory of New Mexico. Now, I submit that the United States courts in the Territory of New Mexico have got something else to attend to than adjudicating private land claims. Under the treaty of Guadalupe Hidalgo the Government of the United States is under an obligation to ratify and make our land titles good. It is not, as the

gentleman from Kentucky says, that, by the treaty of Guadalupe Hidalgo, they are good; but the Government is bound to make them good. And how is it to be done? Only by carrying out the provisions of this bill; by sending a board of commissioners, as you have sent boards to Louisiana and to Missouri; and by ascertaining and fixing private land claims there. That is the only way in which you can carry out the provisions of the treaty of Guadalupe Hidalgo. I agree with the gentleman from Kentucky that, by that treaty, we are secured in our titles; but you must make them good in some other form. It is necessary that Congress and the Government should act upon this matter. Squatters come and settle on our lands, and dispute our rights. We have to go before the courts; and everlasting litigations will come up. If I have three leagues of land, the squatters may come by hundreds on my property; and I have got to bring ejectments against each one of them. They do not recognize any act of Mexico, or any treaty. They have not done so in California. Everybody knows that the squatters went on the lands of the Mexicans there, and never recognized any of their rights. They will do the same thing in our Territory. This bill has been prepared by the Commissioner of the General Land Office. The surveyor general of the Territory recommends that such a bill should be passed. The Secretary of the Interior has also recommended it. He says:

"A due regard for the public interests, as well as a proper respect for the prosperity and advancement of New Mexico, would justify if not loudly call upon Congress to establish a land office and a board of commissioners for the adjudication of Spanish and Mexican claims in that Territory. It is important to its future prosperity promptly to separate private property from public lands, before the settlements become dense, and consequent conflicts of claims and titles arise."

That is what the Secretary of the Interior says. Your public surveys cannot go on in the Territory of New Mexico until you separate the private land claims from the public domain; and no lands can consequently be put up for sale.

Here the hammer fell, the hour having arrived at which the general debate upon the bill was closed by the order of the House.

Mr. SANDIDGE. I offer the following amendment to the substitute of the gentleman from Kentucky, [Mr. MARSHALL:]

In section one, after the word "claim," insert the words, "to six hundred and forty acres of land, including the homestead," so that it will read:

And provided further, That twenty years' peaceable possession under claim of title shall by said court be accepted as conclusive evidence of title, and shall entitle the claimant or claimants to the decree establishing his or their claim to six hundred and forty acres of land, including the homestead.

And at the end of the second section add:

"And the boundaries thereof shall be established by said surveyor general, and reported to the Government;" so that it will read:

Sec. 2. It shall be the duty of the clerk of the district court to transfer to the office of the surveyor general of the United States in New Mexico an exemplified office copy of every decree so rendered in favor of the claimant, which the surveyor general shall record in his office; and the same shall be sufficient reason for him to abstain from surveying such claim as public land; and the boundaries thereof shall be established by said surveyor general, and reported to the Government.

Mr. LETCHER. I desire to oppose that amendment. It seems to me that it is rather a novel proposition. Suppose a man in New Mexico owns one thousand two hundred and eighty acres of land: is it to be insisted here under this amendment that he shall have only six hundred and forty acres of what he actually owns? or if he is only entitled to three hundred acres, and owns no more, is he to have six hundred and forty acres under the orders of this board? My friend from Oregon suggests that we might as well give up all the lands in New Mexico. I think it very probable that they will never yield much from land sales. This donation act will give them nearly all the land in the Territory pretty much as fast as they can come in to occupy it; and until the lands are taken up by the donation acts, nothing like regular sales can be had.

But, sir, I really do not see the necessity of any legislation upon this subject at all. Here we are legislating for the protection of the land titles of these parties, when nobody is controverting the titles, or raising questions in regard to them. Now, who is assailing the claims of these parties in New Mexico? Who is raising questions in regard to

the validity of the titles by which they hold their lands? Is the Government of the United States doing it? Not at all. Are private parties doing it? Suppose they are: why not let them go into the courts and adjust their difficulties there? And besides that, I am reminded that it is expressly provided in this bill that all that you do is to relinquish the claims of the Federal Government, and you then turn the parties over—the squatters and others—to contest their rights before the courts of the Territory. Now, it seems to me that if there is nobody controverting the rights of the parties, the best thing we can do is to dispose of this bill by rejecting it, and go on with something about which there is need of legislation.

Mr. BLAIR. If the gentleman will allow me, I wish to say a word.

Mr. LETCHER. Very well, sir.

Mr. BLAIR. The gentleman says there is no controversy about these land titles.

Mr. LETCHER. None at all.

Mr. BLAIR. And that we are making a controversy.

Mr. LETCHER. Yes, sir.

Mr. BLAIR. Now, I wish to say that, under the decision of the Supreme Court, the people of New Mexico have really no titles to their lands at all.

Mr. LETCHER. What does that matter, if they have possession, use, and enjoyment of the lands, and nobody is contesting their rights?

Mr. BLAIR. They cannot drive trespassers off the lands, because they have no titles to go into court with. They cannot sell the land, because they have no title from the Government of the United States, and the Supreme Court does not recognize the Spanish titles.

Mr. LETCHER. The treaty expressly recognizes them. If I understand language, the treaty expressly recognizes the titles in so many words. And suppose any parties should undertake to eject them from their lands: those parties would have to show a better title in themselves than the titles of the parties whom they are seeking to eject.

Mr. BLAIR. Certainly.

Mr. LETCHER. Well, then, how can there be any controversy?

Mr. BLAIR. I will say to the gentleman from Virginia that the Supreme Court, which is the final interpreter of all our laws and treaties, have interpreted just such a treaty as this as conferring no title upon any person, without legislation of this kind by the Government, and confirmation.

Mr. LETCHER. I have a single remark to make in reply to the gentleman from Missouri. If they have no titles, how do they hold the lands now? How is it that they are in possession of the lands at all?

Mr. BLAIR. Under the Mexican Government.

Mr. LETCHER. Very well; did the treaty destroy that possession?

Mr. BLAIR. No, sir, it did not destroy it.

Mr. LETCHER. Certainly not. Then, if it did not, they are now in exactly the same position in relation to the possession and enjoyment of the land that they were before the treaty was made—exactly the same. They are no worse off. I think, therefore, that there is no need of any legislation upon this subject.

Mr. FAULKNER. I would inquire of my colleague if he has made any estimate of what would be the cost to the national Treasury under this bill? And, in that connection, I ask him to permit me to have read a very extraordinary paragraph from the report of the Secretary of War, made in 1852—remarking, however, that I do not concur in his idea of the abandonment of New Mexico.

Mr. LETCHER. I understand that the cost of this board of commissioners will be between sixteen or twenty thousand dollars.

Mr. UNDERWOOD. Upwards of twenty thousand dollars.

Mr. LETCHER. And we have never derived a dollar from the sale of lands in New Mexico yet.

Mr. FAULKNER. I ask for the reading of the extract from the report of the Secretary of War, which I have sent to the Clerk's desk.

The Clerk read as follows:

"By the last census, the total population of New Mexico, exclusive of wild Indians, was (in round numbers) sixty-one thousand souls, and its whole real estate was estimated at (in round numbers) \$2,700,000.

"To protect this small population, we are compelled to maintain a large military force at an annual expense nearly equal to half the value of the whole real estate of the Territory. Would it not be better to induce the inhabitants to abandon a country which seems hardly fit for the habitation of civilized men, by remunerating them for their property in money, or in lands situated in more favored regions? Even if the Government paid for the property quintuple its value, it would still, merely on the score of economy, be largely the gainer by the transaction; and the troops now stationed in New Mexico would be available for the protection of other portions of our own and of the Mexican territory."

Mr. SANDIDGE. I withdraw the first branch of the amendment.

The second branch of the amendment was agreed to.

Mr. OTERO. I should like to know whether I may reply to the report of the Secretary of War which has been referred to? He knows nothing of the condition of things in New Mexico, and does that people great injustice.

The CHAIRMAN. It would not be in order now.

Mr. SANDIDGE. I move to amend by adding the following as an additional section:

SEC. —. That ten years' peaceable possession, with continuous residence prior to the acquisition of the Territory by the treaty of Guadalupe Hidalgo, shall entitle the settler to six hundred and forty acres of land, embracing the homestead.

I am entirely opposed to the substitute of the gentleman from Kentucky; but thinking the House may possibly adopt it, I have offered this amendment with a view of making it as perfect as I can.

Mr. MARSHALL, of Kentucky. I am opposed to the amendment offered by the gentleman from Louisiana. The object of that amendment is to confer upon early settlers who have been upon a piece of land, whether with or without title, for a period of ten years, the means of obtaining six hundred and forty acres of land, whether it was included in any concession or not. I am opposed to that. I never was a homestead man. It amounts to nothing more nor less than giving to every man there six hundred and forty acres of land for nothing. Now, I am willing to give these people of New Mexico their titles to the land which they are entitled to; but I am not willing to give them six hundred and forty acres apiece by settling there for ten years.

Mr. SANDIDGE. I will just say that this provision is precisely such as was made in respect to Louisiana.

Mr. GREENWOOD. It seems that we are at a perfect stand still. This bill was discussed all day yesterday, and is likely to take up the remainder of the time set apart for territorial business. If it be in order, for the purpose of bringing this matter to a close, I will move to strike out the enacting clause. It may then go to the House, and if the House see fit to pass it, let them pass it.

Several MEMBERS. Do not make that motion.

Mr. GREENWOOD. Very well; I will not make the motion just now.

The amendment to the substitute was then agreed to; and the substitute, as amended, was agreed to.

The bill, as amended, was then laid aside to be reported to the House with the recommendation that it do pass.

MILITARY ROAD IN OREGON. ✓

The bill (H. R. No. 56) making an appropriation for the completion of the military road from Astoria to Salem, in Oregon Territory, was next taken up for consideration.

The bill provides that the sum of \$30,000 be appropriated for the completion of the military road from Astoria to Salem, to be completed under the direction of the Secretary of War.

Mr. FAULKNER moved that the bill be laid aside to be reported to the House with a recommendation that it do pass.

Mr. SMITH, of Virginia. I must object to that bill being laid aside, unless it be with the recommendation that it do not pass; and I submit that motion. I have not heard one word why we should build these roads; not one.

Mr. QUITMAN. I understand this bill has passed through the Military Committee. The principle which I have laid down for myself, in regard to the construction of these military roads, has been never to lend my assistance to the construction of any of these roads unless they were military roads, and would subserve the military purposes of the Government; and I wish to ask

the gentleman from Virginia, [Mr. FAULKNER,] who has acted as chairman of the Committee on Military Affairs during my absence, whether there is any report of the Quartermaster General showing the propriety or necessity of constructing these roads for military purposes, temporary or permanent?

Mr. FAULKNER. The Committee on Military Affairs have in no instance made a report to this House of an appropriation for any road, as an original appropriation. In not a single instance, where a proposition has been presented to the committee as an original appropriation to construct a military road, have they granted it. The only reports which have come from the Committee on Military Affairs for military roads have been for the completion of such roads as have been heretofore recognized by Congress, and for which small sums are now asked for their completion.

Mr. QUITMAN. The gentleman has not fully answered my question. I would like to know whether the War Department now regards a further addition in the way of appropriation as necessary for military purposes? It may be that this year a road may be indispensable for the transportation of troops and munitions of war, and the next year the necessity for it may have entirely ceased. Therefore, I have been in the habit of acting on these questions with reference to the continued necessity of the proposed roads for military purposes. I have propounded the interrogatory in good faith.

Mr. FAULKNER. I will remark to my friend from Mississippi that in no single case have the Committee on Military Affairs reported a bill for completion of any of these military roads except under recommendations from the War Department.

Mr. STEPHENS, of Georgia. Does the War Department recommend this?

Mr. FAULKNER. It does. It will be seen that the report from the topographical bureau accompanying the report of the Secretary of War asks for \$30,000 to complete this road from Astoria to Salem. No, sir, [in reply to some member,] we have not cut down this appropriation. In not a single instance has the Committee on Military Affairs sanctioned an original application. They are all cases heretofore recognized by Congress as military roads, and where money has been asked for their completion. The sums appropriated were in all instances asked for by the proper Department to complete these roads.

Mr. UNDERWOOD. I desire to ask my friend if the recommendation of which he speaks is to the point that this appropriation is now necessary, in order to the construction or completion of a road, which is required at this time in order to carry on the military operations of the Government? Or is it simply a declaration that some thirty thousand dollars will be necessary to complete that road, without reference to the fact whether the road be necessary or not?

Mr. FAULKNER. It is recognized as a military road in the law of Congress, which passed in 1855, when an appropriation was first made for it. It was again recognized as such at a subsequent period, by an additional appropriation. The communications from the War Department do not, in their last report, indicate any military advantages which may arise from them; but they recommend \$30,000 to complete the road, according to the original design and intention of Congress.

Mr. LANE. Mr. Chairman, I will say that this road was recommended by the late Secretary of War as essential for military purposes, and absolutely important in a military point of view. This Government, I will remark, has not expended one dollar for the defense of the Oregon coast—not a dollar. Yet, sir, it is known that the mouth of the Columbia river was accessible to an enemy at any moment, while it was inaccessible from the settled portions of the Territory in the winter season, for the reason that the Columbia river is often frozen up for months. The Secretary of War ascertained that, for the protection and defense of Astoria, there should be some communication opened through the Willamette valley; and he recommended to Congress to make an appropriation for that purpose. An officer of the engineer department has been placed in charge of this work for which this appropriation is asked now. Some forty thousand dollars have been

expended in it, and the report shows that it is opened so that it can be traveled by horses and pack mules. Thirty thousand dollars is necessary to complete it so that military trains can pass over it. It is for military purposes alone that the road is asked.

The question was taken on the motion that the bill be laid aside to be reported to the House with the recommendation that it do not pass; and it was disagreed to.

The bill was then laid aside to be reported to the House with the recommendation that it do pass.

WAGON ROAD IN NEW MEXICO.

The next bill on the Calendar was taken up, being a bill (H. R. No. 479) making an appropriation for the construction of a wagon and emigrant road in the Territory of New Mexico.

The bill was reported back to the House with an amendment.

The amendment was agreed to; and the bill, as amended, was laid aside to be reported to the House with a recommendation that it do pass.

ROADS IN WASHINGTON TERRITORY.

The next bill on the Calendar was a bill (H. R. No. 58) for the completion of military roads in the Territory of Washington, reported back with an amendment.

The first section of the bill appropriates \$10,000 for the purpose of completing the military road from Fort Steilacoom across the Cascade mountains to Fort Walla-Walla, in the Territory of Washington; the road to be constructed under the direction of the Secretary of War; and the pending amendment was as follows:

Strike out the following:

"Sec. 2. And be it further enacted, That the Secretary of War ascertain and pay the amount actually expended by the citizens of the Territory of Washington, in 1853, on so much of the said road from Fort Steilacoom to the mountain as was cut by them, and adopted as a part of the road provided for in this bill by the United States officer in charge of the same; and that such amount is hereby appropriated out of any moneys in the Treasury not otherwise appropriated."

"Sec. 3. And be it further enacted, That the following sums be, and the same are hereby, appropriated out of any moneys in the Treasury not otherwise appropriated, for the completion of military roads in the Territory of Washington; for the completion of the military road from Fort Vancouver to Fort Steilacoom, including bridges over the rivers and streams on the worked portion of the road, \$20,000. For the completion of the military road from Fort Vancouver to the Dalles, \$50,000; the said sums to be expended under the direction of the Secretary of War."

And in lieu thereof insert:

"And be it further enacted, That the sum of \$15,000 is appropriated for the completion of the military road from Fort Vancouver to Fort Steilacoom, in the Territory of Washington."

Mr. STEVENS, of Washington. Can there be a division on striking out those sections?

The CHAIRMAN. The Chair thinks not.

Mr. STEVENS, of Washington. I have a single word to say. The second section proposes to reimburse to the people of Washington for work done in 1853. The appropriation for the road was made in 1852, with the provision that the work should be done by contract, to be approved by the Secretary of War. The citizens of the Territory, learning that the appropriation had been made, went to work and cut a portion of the road, and when the officer having charge of the road arrived there, he continued the same force, making a contract with them. Had it not been for the provision of law making a contract imperative, he would have approved of the work done, and paid for it. The road was essential to the coming in of emigrants during that season. It has been essential since to the military defense. There were no settlers at all on that road, and the work was done by subscription, a few dollars being raised from each man in all sections of the Sound counties. It inured to the benefit of no single man, but to the benefit of all. It inured to the benefit of the military defenses of the country, and the benefit of the emigrants coming that season. And for these reasons, sir, I trust the section will not be stricken out.

I will furthermore say that this reimbursement has been recommended by the officer in charge. It has been recommended by Captain McClelland and Lieutenant Arnold, and by the Secretary of War. It has also been recommended by the Committee on Military Affairs of the House at the last session.

Mr. CURTIS. I hope that the amendment will

not pass. It seems to me that the condition of the settlers there is similar to what it is in every other new Territory; and it may be that in retaining that section we may establish a dangerous precedent.

Mr. MARSHALL, of Kentucky. I propose to offer an amendment to the amendment, so as to limit the expenditure of the \$15,000 between the Cowlitz plains and Monticello, on the road from Fort Vancouver to Steilacoom. The object of my amendment is this: they have a road which has partially progressed from Fort Steilacoom to the Columbia river, but not in the direction exactly of Fort Vancouver. As I understand it, when you reach the head of the Cowlitz river, the proposed road follows down that river to Monticello, on the Columbia river. Then you will have to go thirty or forty miles up the river to reach Fort Vancouver.

The idea I have in offering this amendment is to open a military road from Fort Steilacoom across to the Columbia river. It is not proposed—at least I have not heard it proposed—that we shall build the road up the Columbia river to Fort Vancouver. I want to connect the Columbia river by a good military road with the waters of Puget sound. By stopping at Monticello you put yourself in the condition of having a road connection with Salem. I want to confine the appropriation between Monticello and Cowlitz plains.

Mr. FAULKNER. I do not think the amendment proposed by the gentleman from Kentucky altogether judicious, although I do not attach much importance to it. This road, which is now the subject of an appropriation, is a road that has always been characterized, in all previous appropriations, as a road from Fort Steilacoom to Fort Vancouver. It has been completed from Fort Steilacoom to the Cowlitz plains, and it is estimated by the engineer in charge that it will take \$15,000 to complete it to Monticello, and \$25,000 to complete it to Fort Vancouver. We have thought proper, however, only to make the appropriation recommended by the engineer (\$15,000) between the Cowlitz plains and Monticello.

Mr. MARSHALL, of Kentucky. That is what I want to confine it to.

Mr. FAULKNER. I see no necessity to confining it to that point, if the \$15,000 will extend the road beyond Monticello, in the direction originally designed. If the road can be extended to Fort Vancouver, why not let it be extended?

Mr. MARSHALL, of Kentucky. The committee, as the gentleman states, design to give the appropriation of \$15,000, that the officer in charge may complete the road to Monticello. There it is the intention of the committee that he stop. Whether he shall go on with the \$25,000 is another thing. My own judgment is that he should not. But it is plain, as the amendment of the committee stands without limitation, the money may be spent, and not a dollar of it spent between the Cowlitz plains and Monticello. You may commence at Fort Vancouver and make a road down the river. You may spend twenty-five or fifteen thousand dollars, and leave us with a road partially made from Fort Steilacoom to the Columbia river, and partially from Fort Vancouver down the river.

Mr. FAULKNER. I did not know that it was the idea of the committee that this road should terminate at Monticello, or that it was the purpose of the committee, in any degree, to depart from the original design to make that road from Fort Steilacoom to Fort Vancouver. The appropriation of \$15,000 recommended by the engineer, it is true, is, as the gentleman from Kentucky states, designed to be used for the completion of the road between the Cowlitz plains and Monticello; but I see no particular reason for confining it to those two points. If, by the appropriation, it can be extended further, I was not aware that it was the purpose of the committee to depart from the original design of Congress to complete the road from Fort Steilacoom to Fort Vancouver. However, I see no great objection to the amendment of the gentleman from Kentucky.

Mr. SMITH, of Virginia. There is peace in Washington Territory; and, while peace exists, it is wise and proper in the time of peace to make these expenditures for military purposes?

Mr. FAULKNER. The gentleman from Virginia must recollect that the condition of affairs in Washington Territory is still unsettled and very

precarious. There is no moment of time when there may not be a condition of war between that people and the Indians. But that is hardly a proper inquiry now. The policy of this road between these two points has, upon full investigation, been recognized by Congress. So far as the amendment of the gentleman from Kentucky is concerned, I feel no particular objection to it. In preparing the bill, I did not suppose that it was the intention of the committee to terminate the road at Monticello.

Mr. MARSHALL's amendment was adopted.

The amendment of the Committee on Military Affairs was also adopted.

The bill was then laid aside to be reported to the House with a recommendation that it do pass.

WAGON ROAD TO THE SOUTH PASS.

A bill (H. R. No. 369) making an appropriation for the completion of the Fort Ridgeley and South Pass wagon road was next taken up.

It appropriates \$50,000, or as much thereof as may be necessary, for the completion of the wagon road already authorized from Fort Ridgeley, in the State of Minnesota, to the South Pass of the Rocky Mountains, in the Territory of Nebraska; to be expended under the direction of the Secretary of the Interior, pursuant to contracts to be made by him.

The Committee on Military Affairs reported an amendment to the bill to reduce the amount of the appropriation to \$30,000.

The amendment was agreed to; and the bill was then laid aside to be reported to the House with a recommendation that it do pass.

ROADS IN WASHINGTON TERRITORY.

The next bill in order upon the Calendar was a bill (H. R. No. 178) for the construction of military roads in the Territory of Washington, reported from the Committee on Military Affairs, with a recommendation that it do not pass.

The bill proposes to appropriate the following sums of money for the construction of military roads in the Territory of Washington:

From some eligible point at or near the mouth of Columbia river, via Shoalwater bay and Gregg's harbor, to Olympia, \$60,000. From Seattle, on the eastern shore of Puget sound, to Fort Colville, \$50,000. From Olympia to the military post near Port Townsend, \$50,000; the said sums to be expended under the direction of the Secretary of War.

Mr. FAULKNER. The Committee on Military Affairs reported against the expediency of constructing those roads.

Mr. STEVENS, of Washington. I move to amend the bill by increasing the appropriations one dollar. I simply desire to call the attention of the committee to the fact that the construction of these roads has been very strongly urged by the War Department. The following is the report of the officers of the bureau of topographical engineers in reference to them:

BUREAU OF TOPOGRAPHICAL ENGINEERS,
WASHINGTON, May 4, 1858.

SIR: In addition to the information furnished by this bureau on the 13th of February last, in answer to a letter from the Hon. Mr. FAULKNER, of the Military Committee of the House of Representatives, in relation to the construction of certain military roads in Oregon and Washington Territories, I have the honor of transmitting herewith a copy of a report from Lieutenant G. H. Mendell, corps topographical engineers, the officer in the immediate charge of the construction of roads in these Territories, giving his views in regard to those referred to in the letter of Mr. FAULKNER. Respectfully, sir, your obedient servant,

J. C. WOODRUFF,
Captain Topographical Engineers, Assistant in Charge.
Hon. JOHN B. FLOYD, Secretary of War.

SAN FRANCISCO, CALIFORNIA, April 2, 1858.

MAJOR: In accordance with your instructions, I submit the following report on bills Nos. 56, 58, and 178:

1. Bill No. 56, in relation to the Astoria and Salem military road.

In reference to this subject, I have nothing to add to my recommendation in my last annual report, which, on account of the unevenness of the country, as also of the dense timber with which it is covered, recommends an additional appropriation of \$30,000.

2. Bill No. 58, military road from Fort Steilacoom to Fort Walla-Walla, Washington Territory.

From what I have been able to learn by inquiry from the most reliable sources within my reach, I am quite of the opinion that the sum contemplated would not be sufficient at the present time to give the road that permanence which is desirable. It is my belief that no wagon has ever passed over this route from the west; and that fifty miles of the road east of Porter's prairie (which is at the lower crossing of White river) will require a large expenditure in grading, cutting, and bridging, to make it practicable. Five hundred dollars per mile I should regard as a low estimate—in all, \$25,000.

In a military point of view, all roads crossing the Cascade

mountains are of paramount importance. The largest and most formidable tribes of Indians on our borders, yet unsubdued, occupy the valleys of the Yakima and other adjacent streams. The ties connecting these Indians with those on the Sound are of a close nature, owing to marriages and other causes, and the feeling of the tribes on the Sound may be generally inferred from the attitude of those living east of the mountains. The time will soon come when the subjection of the tribes living on the waters of the Columbia will be essentially necessary, and it is probable that this will be attended by an Indian war on the Sound. In this contingency, it will readily appear that the means of communication by way of the mountains cannot be too good.

3. Bill No. 58, military road from Fort Vancouver to Fort Steilacoom, Washington Territory.

In my last annual report an estimate of \$15,000 was submitted to continue the road from the Cowlitz plains to Monticello, near the mouth of the Cowlitz river. To continue the road up the Columbia from the Cowlitz to Vancouver, a distance of fifty miles, the minimum estimate submitted is \$500 per mile—in all, \$25,000.

4. Bill No. 58, military road from Fort Vancouver to Fort Dalles, Oregon Territory.

The amount estimated for by my predecessor for the improvement of the trail between the points named, would doubtless be sufficient for the purpose; and as the quartermaster's department annually sends many animals from one post to the other, generally by steamboats, at the rate of eight or ten dollars per head, a large expense might be saved by this improvement, as then they could be sent by the trail.

5. Bill No. 178, road from the mouth of the Columbia river, by Shoalwater bay and Gray's harbor, to Olympia.

I have no reliable information of sufficient extent to enable me to speak with entire confidence on this road. The condition of the road touching Gray's harbor will much increase its length or necessitate its location through a section of country quite unknown, namely: between Gray's harbor and Olympia. A road from the mouth of the Columbia river, by way of Shoalwater bay, would be about seventy miles in length, intersecting the Vancouver and Steilacoom military road at Davis's, six miles south of Skookum Chuck. To take in Gray's harbor, the road would be from one hundred and twenty to one hundred and forty miles in length. The routes are approximately located on the accompanying map. A minimum estimate of the cost of construction would be \$500 per mile. The country is heavily timbered, and is also quite mountainous.

I quite concur in the views of the bureau, as expressed in the report of February 13, 1858, as to the importance of these roads.

6. Bill No. 178, military road from Olympia to Port Townsend.

Little is known of the country to be traversed by this route. It is mountainous, and doubtless, like most other sections of the Territory, is heavily timbered. The distance is from one hundred to one hundred and twenty miles; \$500 per mile will be necessary for its construction.

7. Bill No. 178, military road from Seattle to Fort Colville, \$50,000.

The route to be followed by this road would doubtless be by the Snoqualmie Pass, which has been proved to be the best through the Cascade mountains, being practicable when none others are.

The country, for perhaps one hundred miles east of Seattle, is heavily timbered and mountainous. The amount proposed would doubtless be sufficient to make a passable wagon road over the line.

This route I would suggest as one of the most important of those proposed. It is certain that very considerable settlements will be made at and near Fort Colville, and, as is observed by the bureau, Seattle is a natural outlet of the country. A better road, at a less expense, could be made on this route than on any other over the Cascade mountains, and would be, in my opinion, most essential in case of Indian hostilities, which hostilities may always be expected. A map, sufficiently accurate to show the position of some of the proposed routes, is transmitted.

With more time and opportunity to collect facts, much more could be said in favor of these roads, and it is to be regretted that it is impossible now to do justice to the subjects.

One can scarcely be wide of the mark in building roads in Washington Territory, where the surface of the country presents so many difficulties, and where the population is too sparse to overcome them; and it may be said that expensive wars may be anticipated with the Indian tribes there for many years to come.

During the last war upon the Sound, much difficulty was experienced, owing to the ignorance of all as to the topography of the country, and to the want of communication. Much delay and expense were entailed upon the Government from these causes, and I would regard the construction of these roads as measures of economy, in view of an almost certain recurrence of this state of affairs.

I am, sir, very respectfully, your obedient servant.

G. H. MENDELL,

First Lieutenant Topographical Engineers.

Major HARTMAN BACHE, Topographical Engineers, Superintendent of Military Roads, San Francisco, California.

BUREAU OF TOPOGRAPHICAL ENGINEERS.

WASHINGTON, February 13, 1858.

SIR: I have the honor to acknowledge your direction to report upon the bills Nos. 56, 58, and 178, referred to in the letter of the Hon. Mr. FAULKNER, of the Military Committee of the House of Representatives, of the 2d instant.

1. Bill No. 56, in relation to the military road from Astoria to Salem, Oregon Territory.

I beg leave to refer to the annual report of this bureau, and the report of the engineer officer in charge, appended thereto, in which will be found the estimate for an additional appropriation of \$39,000 for the purpose of rendering the road practicable for wagons.

2. Bill No. 58, military road from Fort Steilacoom to Fort Walla Walla, Washington Territory.

This road was opened under the direction of the War De-

partment. The officer in charge recommended an additional appropriation of \$10,000, which, "in connexion with what has already been expended, will give to the work a permanence and stability that it justly demands, even at the present time, as the only military and commercial thoroughfare into this portion of the Territory." He also recommends that the amount expended by the citizens of the Territory in opening the road from Steilacoom to the mountains, the greater part of which was adopted as the military road, be refunded. It is believed that this amount will not exceed \$10,000. It is therefore recommended that this amount, or so much thereof as may be necessary, be appropriated for this purpose.

The amount, therefore, required for the Fort Steilacoom and Fort Walla Walla military road is \$20,000.

3. Bill No. 58, military road from Fort Vancouver to Fort Steilacoom.

In the annual report of this bureau will be found the estimate of the engineer officer in charge, amounting to \$15,000.

The engineer reports that a good ordinary wagon road from the Cowlitz plains to Fort Steilacoom will be completed by the 1st of November, 1857.

"The next step to be taken on this route is to continue the road to the Columbia river."

"In a military point of view, it is of great importance that there should be a good road over this route."

"It is respectfully recommended that an additional appropriation be asked for, which, in addition to the balance on hand, will be sufficient to construct a good road from the Cowlitz plains to Monticello, a distance of thirty miles. The estimate is \$15,000."

No bridges appear to be included in this estimate.

4. Bill No. 58, military road from Fort Vancouver to the Dalles.

The construction of the road, as shown by the survey and reports, can only be effected at an enormous cost, say \$1,000 per mile. The engineer officer in charge reports, "a good steamboat navigation from Vancouver to the Cascades, a good road across the Portage," and a continuation of steamboat navigation thence to the Dalles, certainly fulfill all the conditions of a military road from the Dalles to Columbia barracks, and is the only practicable route."

He recommends a plank road across the Portage, and estimates the cost thereof at..... \$13,799

He also estimates for "improving the trail from Columbia barracks to the Dalles of the Columbia, for a dragoon road and for pack animals"..... 8,000

Total..... 21,799

The engineer officer now in charge reports, (see annual report of this year,) "there is an excellent summer road."

"The quartermaster's department have made use of the road ever since its construction."

The estimates should doubtless be increased to \$17,000, in order to cover all expenses of repairs of the road to prepare it for planking. In a military point of view, the dragoon trail is of great importance. The total amount of the estimate will then be \$25,000.

5. Bill No. 178, military road from some eligible point at or near the mouth of the Columbia river, via Shoalwater bay and Gregg's harbor, to Olympia, \$60,000.

There is no information in the bureau in reference to the cost of this road.

In a military point of view, the road is essential; the troops at the forts, either Steilacoom or Vancouver, could thus be readily thrown upon the coast to control the Indian bands in that quarter.

6. Bill No. 178, military road from Olympia to the military post near Fort Townsend, \$50,000.

There is no information in the bureau in reference to the cost of this road. In a military point of view, its importance cannot be questioned.

The construction of this, and the roads above referred to, would tend to facilitate settlement, the result of which would be such a force of settlers along the roads as would render military protection unnecessary.

7. Bill No. 178, military road from Seattle to Fort Colville, \$50,000.

There is no information in this bureau that will enable the estimate of cost of construction to be arrived at. As a portion of the defense of the Territory, the construction of this road is deemed very essential.

Seattle is the natural port and outlet of the Yakima country, east of the Cascades, and the mining region about Fort Colville. The Indian tribes are reputed to be numerous and warlike.

It cannot be questioned that all the roads are needed for the movement of troops, and are recommended for favorable consideration.

Accompanying the bills above referred to, is a petition from citizens of Nebraska Territory, asking an appropriation for the construction of a road from Nebraska City to Fort Kearny, in said Territory.

Nothing is known in this office in regard to the route contemplated by the petitioners for a road between the points named; but if, as represented by them, a saving of forty miles in the transportation of military stores to Utah would be effected by the construction of such a road, it would seem to be a matter deserving consideration.

Respectfully, sir, your obedient servant.

J. J. ABERT,

Colonel Corps Engineers.

Hon. JOHN B. FLOYD, Secretary of War.

I introduced this bill, and urge the construction of these roads upon military grounds alone. They are required for the defense of the Territory. We have, west of the Cascade mountains, twelve thousand Indians, who, within the last two or three years, have been all disaffected, and in regard to whom disaffection may be their normal condition for years to come. It is a difficult country to communicate in. In the military services in 1855-56, the gist of the defenses consisted in cutting out trails and building roads. I therefore urge this

measure as a measure of defense and a measure of economy. I now withdraw my amendment.

The bill was laid aside to be reported to the House with a recommendation that it do not pass.

WAGON ROAD IN WASHINGTON TERRITORY.

The next bill in order upon the Calendar was a bill (H. R. No. 415) for the construction of a wagon road to connect the navigable waters of the Missouri and Columbia rivers, reported from the Committee on Military Affairs, with a recommendation that it do not pass.

The bill proposes to appropriate \$200,000, or so much thereof as may be necessary, for the construction of a wagon road from the navigable waters of the Missouri river, at or near Fort Benton, via the Northern Little Blackfoot or Mullan's, and the Cœur d'Alene trails, via the Cœur d'Alene mission, to the navigable waters of the Columbia river, at or near old Fort Walla Walla, to be expended under the direction of the Secretary of War.

The bill was laid aside to be reported to the House, with a recommendation that it do not pass.

INDIAN HOSTILITIES IN NEBRASKA.

A bill (H. R. No. 425) to authorize the Secretary of War to settle and adjust the expenses incurred in defending the frontier settlements of Nebraska against Indians in the year 1855, was then taken up.

The bill authorizes and directs the Secretary of War to adjust and settle all claims and expenses growing out of the employment of volunteers or other militia, called into service by the Governor of Nebraska in 1855 for the suppression of Indian hostilities, in such cases only where, in his opinion, it was proper and necessary to call them into the service, the whole amount allowed for expenses of every kind not to exceed the sum of \$10,000.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

SURVEY OF THE COLUMBIA RIVER.

The next bill that came up for consideration was a bill (H. R. No. 554) for the survey of the Columbia river.

The bill appropriates \$10,000 for the survey of the Columbia river from the Cascades to Kettle Falls, near Fort Colville, to be expended under the direction of the Secretary of War.

Mr. WASHBURN, of Illinois. That appears to be a river and harbor bill. I should like to know how it got in here. It did not come from the Committee on Commerce.

Mr. MARSHALL, of Kentucky. No, sir; it came from the Committee on Military Affairs. It is essentially a military bill. It is a bill to make a reconnaissance of the Columbia river. I would make the suggestion to the gentleman from Illinois that this bill first went to his committee, and that his committee asked to be discharged from the consideration of it, and to have it referred to the Committee on Military Affairs.

Mr. QUITMAN. I wish to ask the gentleman from Kentucky whether this bill was reported by the Committee on Military Affairs?

Mr. FAULKNER. It was authorized by the Committee on Military Affairs when that gentleman was himself acting as chairman of that committee, and before, in his absence, I assumed the duties of that position. I have no responsibilities of any kind connected with that bill.

Mr. QUITMAN. I know that I was opposed to the bill.

Mr. BRANCH. I move that it be laid aside to be reported to the House, with the recommendation that it be referred to the Committee on Commerce.

Mr. MARSHALL, of Kentucky. I trust that direction will not be given to it. The Committee on Commerce, as I said, have once had it before them, and on their own motion it was referred to our committee. This appropriation is essential to the protection of the northwest coast. How can you ascertain where to place your works of defense, unless you know the capacity of the streams which you are to guard?

Mr. BRANCH. I believe it is customary to place forts at the mouths of rivers. But I believe this bill provides for surveying this river very high up, and I cannot conceive that it is necessary for military purpose. I am not going into the discussion of the general question of the pro-

priety of this description of appropriations, but I insist on my motion.

The motion was agreed to; and the bill was accordingly laid aside to be reported to the House, with a recommendation that it be referred to the Committee on Commerce.

RIGHT OF SUFFRAGE IN THE TERRITORIES.

The House bill (No. 119) to regulate and make uniform the right of suffrage in the Territories of the United States, was next taken up for consideration.

The bill provides that the rights of suffrage and of holding office in the Territories of the United States shall hereafter be exercised only by citizens of the United States, native and naturalized, and that so much of any existing law or laws as come in conflict with this provision be repealed.

The bill was laid aside to be reported to the House, with the recommendation that it do pass.

MILITARY ROADS IN NEW MEXICO.

House bill (No. 549) to provide for the completion of the military road from Fort Union to Santa Fé, New Mexico, was next taken up for consideration.

The bill appropriates \$35,000 for the completion of the military road from Fort Union to Santa Fé, New Mexico.

The bill was laid aside to be reported to the House, with the recommendation that it do pass.

MILITARY ROADS IN KANSAS.

House bill (No. 422) making appropriations for the repair of certain military roads in Kansas Territory was taken up for consideration.

The bill provides that the following sums of money be appropriated for the construction or repair of roads in Kansas Territory:

For the construction of a bridge over the Big Stranger creek, on the great military road from Fort Leavenworth to Fort Riley, \$5,000; for the construction of a bridge over the Grasshopper river, on the same road, the like sum of \$5,000; for the construction of a bridge over the Big Blue river, on the same road, at the mouth of said river, \$10,000; the said work to be done under the direction of the Secretary of War, pursuant to contracts made by him.

The Committee on Military Affairs reported back the bill with the recommendation to strike out all after the enacting clause, and insert the following:

That a sum not exceeding \$15,000 be, and is hereby, appropriated to the construction of such bridges as may, upon a careful examination, be deemed necessary, upon the military road from Fort Leavenworth to Fort Riley, in the Territory of Kansas; the said work to be done under the direction and control of the Secretary of War.

And to amend the title so as to make it read as follows:

A bill to complete the road from Fort Leavenworth to Fort Riley, in the Territory of Kansas.

Mr. BRANCH. What committee does that bill come from?

THE SPEAKER. The Committee on Military Affairs.

Mr. BRANCH. The Committee on Territories have reported against some propositions of a similar character for Nebraska. It seems to me that, if we are to make such a provision for one of the Territories, we should apply the same rule to all. And we should certainly apply as stringent a rule to Kansas as we have applied to other Territories, now that Kansas is a State. And, in addition to that, I understand this proposes to open a new source of expenditure. We are not only to incur expense for building military roads, but for purposes military, commercial, or otherwise, we are to keep in repair the bridges in Kansas.

Mr. GILMAN. I desire to know of the gentleman from North Carolina when Kansas became a State?

Mr. BRANCH. We have passed an act looking to her admission, and I have no doubt she will soon become a State?

Mr. CURTIS. I desire to say that the appropriations contained in this bill are of more importance than any we have considered upon the subject of military roads. These bridges are directly on the road to Utah. These three bridges are necessary for the use of the Government. We are now paying more for ferriage than it would cost to build the bridges.

A MEMBER. What streams do they cross?

Mr. CURTIS. The tributaries of the Kaw river. Our troops have to cross them; and, unless you build the bridges, you will have to pay a good deal more money for crossing by means of ferries.

Mr. BRANCH. Is there not an appropriation in the regular appropriation bill for the necessary construction and repairs of such military roads as are actually required for the use of the troops of the Government?

Mr. CURTIS. Nothing which will be applicable to this sort of work.

The amendment was adopted.

Mr. BRANCH. I move that the bill as amended be laid aside to be reported to the House, with a recommendation that it do not pass.

The motion was agreed to; and the bill was accordingly laid aside.

MILITARY ROAD IN NEBRASKA.

House bill (No. 562) for the completion of the road from Council Bluffs to New Fort Kearny, in the Territory of Nebraska, was next taken up for consideration.

The bill provides that the further sum of \$25,000 be appropriated to the completion of the road from a point of the Missouri river opposite Council Bluffs, Iowa, to New Fort Kearny, in Nebraska; also, the further sum of \$10,000 is appropriated to improve the ferry across the Loup fork of the Platte, if, upon examination, it is found that such improvement is practicable for the sum appropriated for that purpose—the road to continue, as heretofore, under the direction and control of the Secretary of War.

Mr. BRANCH. I make the same motion in reference to this bill—that it be laid aside to be reported to the House with the recommendation that it do not pass.

Mr. GREENWOOD. I understood the gentleman to oppose the last bill on the ground that his committee had had the matter in charge, and reported against it. Is this bill in the same way?

Mr. BRANCH. Not that I know of; but I think this is a bad bill, and ought not to pass.

The bill was laid aside to be reported to the House, with a recommendation that it do not pass.

CLERKS TO TERRITORIAL ASSEMBLIES.

The bill next taken up was a bill (H. R. No. 414) to extend the provisions of an act entitled "An act to amend 'An act to establish the territorial government of Oregon,' and 'An act to establish the territorial government of Minnesota,'" to the Territory of Washington.

The bill extends to the Territory of Washington the provisions of an act entitled "An act to amend an act entitled 'An act to establish the territorial government of Oregon,' and 'An act to establish the territorial government of Minnesota,'" approved February 19, 1851, in reference to the employment of an additional clerk for each branch of the Legislative Assembly thereof.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

GOVERNOR DOUGLASS.

The bill next taken up was a bill (H. R. No. 566) to refund to James Douglass, Governor of Vancouver's Island, the sum of \$7,000 advanced by him to supply the volunteers of Washington Territory with clothing and blankets during the late Indian war in that Territory.

The bill directs the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated, to pay to James Douglass, Governor of Vancouver's Island, \$7,000, it being so much money advanced by him to the Hudson's Bay Company in payment of clothing and blankets furnished by the company to the volunteers of Washington Territory in 1855, upon the order of Isaac I. Stevens, Governor of the Territory of Washington, and upon a guarantee for the payment of the same by Douglass, and for which sum Isaac I. Stevens, as Governor, has executed his certificate of debt, payable when an appropriation should be made by Congress.

Mr. LANE. I move to amend the bill by adding the following as additional sections of the bill:

And be it further enacted, That there be, and hereby is, appropriated out of any money in the Treasury not otherwise appropriated, whatever amount may be necessary to enable the Secretary of the Treasury to defray the expenses necessarily incurred by the territorial governments of Oregon and Washington in the suppression of Indian hostilities therein in the years 1855 and 1856, so far as the claims growing out of said war have been adjudicated by the commissioners appointed for that purpose, agreeably to the provisions of the eleventh section of the act of the 16th August, 1853, entitled "An act making appropriations for certain

civil expenses of the Government, for the year ending 30th June, 1857," and have been reported to the War Department, by said commissioners, for payment.

And be it further enacted, That the amounts severally found due to the parties contained in the report of the said commissioners shall be paid to the said parties respectively, or their legal representatives, or to the assignees or attorneys, duly constituted and appointed, of said parties, anything in the act approved July 29, 1846, or in the act of February, 1853, to the contrary notwithstanding.

Mr. WASHBURN, of Illinois. I rise to a question of order. The amendment is a general bill, and is not in order to a private bill. There is a rule of the House which expressly provides that no bill shall be amended by a rider in this way.

Mr. LANE. If the gentleman will hear me he will not contend that this amendment is not strictly in order. The object of this bill is to provide for paying Governor Douglass for certain expenses incurred in the Indian war in Washington Territory. I am speaking to the question of order. The claim which Mr. Douglass has is for supplies furnished the troops who were acting against the Indians in the years 1855 and 1856. The expenses growing out of that war have been properly and legally adjudicated. This claim of Governor Douglass has been passed upon with all the other claims growing out of the war; but this is the only item for which provision is made. The amendment which I offer is for the same purpose precisely.

Mr. WASHBURN, of Illinois. I desire to hear my friend on the point of order; not on the merits of the case.

Mr. LANE. I am showing that this is one item of a series of claims growing out of this war, and that these claims have been adjudicated by a board of commissioners. The amendment is in relation to the same subject-matter as the original bill.

Mr. KUNKEL, of Pennsylvania. I would like to suggest to the gentleman from Oregon and to the Chair that the explanation of the gentleman does not bring the amendment within the rule. The one is a private bill, and the other is a general bill; and although both may relate to the same subject-matter, the amendment nevertheless is out of order.

Mr. LANE. This bill is one item of the expenses of that war. There are probably five or six thousand claims growing out of the same war; and I want to call the attention of the committee to the law of Congress under which these claims have been recognized:

"That the Secretary of War be directed to examine into the amount of expenses necessarily incurred in the suppression of Indian hostilities in the late Indian war in Oregon and Washington, by the territorial governments of said Territories, for the maintenance of the volunteer forces engaged in said war, including pay of volunteers; and that he may, in his judgment it be necessary, direct a commission of three to proceed to ascertain and report to him all expenses incurred for purposes above specified."

Now, Mr. Chairman, under the provision of that law, the Secretary of War appointed a commission of three persons to assemble in the Territories of Oregon and Washington, and ascertain the expenses necessarily incurred. Congress made an appropriation of \$12,000 to defray the expenses of that commission. It was constituted of two Army officers and one citizen. It assembled at Fort Vancouver, and was in session twelve months.

Mr. KUNKEL, of Pennsylvania. There is a question of order pending. I ask that it be decided.

THE CHAIRMAN. The gentleman from Oregon has a right to appeal, and to debate the appeal.

Mr. KUNKEL, of Pennsylvania. Is he debating the appeal?

THE CHAIRMAN. The Chair is not able to tell what application the gentleman from Oregon proposes to make of his remarks.

Mr. KUNKEL, of Pennsylvania. There was no appeal taken; it is simply a question of order.

Mr. GREENWOOD. The gentleman from Oregon has a right to discuss the question of order, debate not being closed on the bill.

THE CHAIRMAN. The Chair is not without doubt as to whether this amendment is in order, but he is under the impression that it is not in order. The bill itself is a private bill, for the relief of James Douglass. The amendment proposed by the gentleman from Oregon seems to be a general bill, applicable to a whole class of cases. The impression of the Chair is, that the amendment is not in order, and the Chair so rules.

Mr. LETCHER. Has not the gentleman from Oregon a right to speak on the original bill?

The CHAIRMAN. He has.

Mr. LANE. I want to show how this bill for the relief of Mr. Douglass comes up here, and I desire to call the attention of the committee now to the report of the Secretary of War on this subject. The Secretary of War examined the report of this commission, and says as follows:

"By a law passed the 18th day of August, 1855, a commission was directed to be appointed for the purpose of ascertaining the sum of money fairly due to the volunteers of Oregon and Washington Territories for their services in the Indian wars which threatened to lay waste those Territories. In compliance with this law, Captain Smith, of the first dragoons, Captain Rufus Ingalls, of the quartermaster's department, and La Fayette Grover, Esq., of Salem, Oregon, were appointed to examine the accounts and claims, and to make a report in conformity with the law, and upon the facts as they existed, so far, at least, as it was possible to ascertain them.

"These officers entered upon their duties on the 10th day of October, 1856, and seem to have labored with great assiduity and patience in discharge of them, until the 20th of October last, when they were brought to a close. I have examined this report very carefully, and conclude that, from the data they have adopted for their guide, as to the prices for stores and subsistence, and time of service rendered by the men, it is not probable a more just or accurate result could be attained than these gentlemen have arrived at. The amount ascertained to be due is a very large one, and Congress will have to make provision for its payment, if it is intended they shall be liquidated, of which I presume there can be no doubt."

Now, out of these claims adjudicated by this commission, we find due to Governor Douglass \$7,000, and various other sums to various other individuals, who had rendered services and furnished supplies and transportation for the subsistence of the troops in the field—the whole amount reaching to between five and six million dollars. These expenses were all necessarily incurred, and the bill to pay Governor Douglass is right and just. But it is not more right and not more just than every other portion of these claims allowed by this commission. And why Governor Douglass should be singled out from the lot who have incurred expenses in defending the country against Indian hostilities, and the balance not mentioned, is a matter which I do not understand. But, be that as it may, I will let that matter rest with the committee who has charge of it. I have great confidence in that committee. I believe it will ultimately report in favor of paying all the expenses. But now is the proper time to do it—now is the time when this committee and this Congress should pass such a law as will provide for the payment of all the claims found due by that commission.

Now, sir, I think every gentleman here knows, (and I believe no gentleman will undertake to gainsay the fact,) that when the people of Oregon and Washington Territories were plunged into an Indian war, it was not by their own act, but by a combination of Indians, made so completely that they were able to commence hostilities at the extremes of each of those Territories on the same day. The progress of that war was so rapid, and the scenes so bloody and terrible, that for a short time it was a matter of uncertainty in the minds of the people of these Territories whether the Indians would not be able to destroy the entire settlements of the two Territories.

In order that the committee may understand more fully the facts of the case, I call attention to the report of the special agent sent out there by the Government to inquire into the circumstances of the war, and into the action of that commission while it was in session.

Mr. J. Ross Browne, the special agent, spent months in the country, visited many of the Indian tribes, talked with them, saw the farmers on their plantations and at their homes, without letting the people there know the purpose for which he was among them. He dropped in, at Vancouver, on the commissioners, while they were adjusting this very claim of Mr. Douglass, and he saw the manner in which they discharged their duty.

Mr. SMITH, of Virginia. I beg to remind the gentleman that this is the last day for territorial business.

Mr. LANE. I am aware of that.

Mr. SMITH, of Virginia. This bill is cutting out other territorial business.

Mr. LANE. No, sir; I am the last man in the world to cut off any of the territorial business. This is the last bill but one or two upon the Calendar.

I will now read a portion of Mr. J. Ross Browne's report. He says:

"I will not undertake to follow up the history of the war to a later period. Its peculiar features have been represented officially on both sides, and its progress and termination are matters of public record.

"Upon a careful perusal of all the dispatches, I find nothing to sustain the charge of speculation. No person can visit the Territories of Oregon and Washington, converse with the people, see them on their farms and at their daily labors, and consider their true interests, without coming to the conclusion that such a charge is absurd and monstrous. What could they hope to gain? Few of them had anything to spare upon which to base a speculation. A farmer is well off who has his fields fenced in, a few head of oxen, and three or four cows. If he got treble price for his stock, the sale, upon an unlimited credit, would have been a sacrifice to him. His farm must go to ruin. The interests of the settlers of nearly every pursuit are nearly identical.

"Their future prospects depend chiefly upon the prosperity of the country, the increase of emigration, enhancement in the value of property, security of life, opening of new facilities for the transportation of their products. All this was diametrically opposed to a war. No compensation that Government could make would atone for the murder of families, the stoppage of labor everywhere, the loss of time, the suspension of emigration, and the numerous evils resulting from this disastrous conflict.

"The commissioners at Vancouver have faithfully and impartially performed their duty. Whatever sum they may have decided upon in estimating this war debt, I hold that amount to be justly due, and trust that Congress will at once provide for its extinguishment."

That is signed by J. Ross Browne, special agent of the Government, sent out there by the order of the President, at the instance of the Secretary of the Interior, to examine into the facts connected with the war; to ascertain the causes of the war; the manner of the conduct of the war; and the extent of the expenses incurred in it. And, after a careful and impartial examination of the whole matter, he came to the conclusion which I have just read. His whole report shows that the people of Oregon and Washington were driven into a bloody war, unavoidably on their part, that threatened to lay waste the whole country, and wipe out all the settlements. And I hazard nothing in saying that no portion of the American people has suffered so much in any Indian wars since our fathers landed on the American shores as did the people of those Territories in that war. Gentlemen will remember that, during the progress of the war, I was here attending to my duties; but during the last summer I had an opportunity of traveling over the whole southern portion of Oregon, and of examining in person the extent of the Indian depredations. I found that every house for fifty miles on a road through a well-settled country had been laid in ashes. The houses and barns had been burned, and every man, woman, and child, killed in the most cruel and barbarous manner, with the exception of one man, one woman, and one child.

At the time these depredations were committed by the Indians there were large numbers of wagons, loaded with the produce of Oregon and Washington, traveling over that road to seek a market in California. They were met by the Indians, and every man and every animal was killed and the wagons were burned. The mangled and mutilated remains of the men were taken up and buried, but the way side was strewn for fifty miles with the bones of the animals. In a conversation I had with the Indians, in the presence of their agent, in relation to it, their great war chief, John, told me that he had labored for months to bring about a combination of all the tribes, so that they might commence the war at the same time, and destroy the entire settlements in both Territories; and so complete was their plan of organization, so complete was the combination, that, as I said in the opening of my remarks, they commenced the war at Puget sound on the same day of the month that they commenced it in the southern portion of Oregon Territory, six hundred miles distant; and the chief told me that he had labored hard to bring about the combination, and had sent his sons and his son-in-law to the Indians, in different portions of the country, for the purpose of making the combination and securing that concert of action which would enable him to carry out his purpose. He commenced his depredations in Oregon and Washington, as you will find by these reports, a month before the general hostilities broke out. Finally, he became uneasy himself, after killing a great many of our people, about his capacity to bring about a general war. He began to think that the whites would not resent the outrages and murders which he had committed, and that he could not bring about a general

war. He went to the agent, after killing eighteen of our people at one time, and two men and a little boy shortly afterwards, and said to him: "What kind of warriors have you? They have no hearts; they are like squaws; we have killed your people (mentioning the places where they had been murdered) and yet no notice is taken of it; there is no war."

Well, on the 9th of October the Indians passed along the road to which I have referred, and destroyed every particle of property for fifty miles. They then rushed into the settlements and burned hundreds of houses and barns, and killed hundreds of our cattle and many of our people. We are not here asking pay for these depredations. We have not asked a dollar of the Government for these spoliation. We only ask the Government to pay the troops who were forced into the service to defend the settlements against those outrages, and who, I may well say, suffered more in the field than any troops who have ever been engaged in any war in this country. My friend who represents the Territory of Washington will tell you that he fell in with a body of our troops in the mountains, east of the Columbia river, where they had been for weeks without tents, although the thermometer stood at twenty-five degrees below zero the greater part of the time. They had thrown themselves between the settlements and the hostile Indians, and had subsisted upon horse-flesh, without bread, coffee, or salt, for weeks.

Mr. MAYNARD. I would inquire of the gentleman what amount of money will probably be necessary to supply the demands under his amendment?

Mr. LANE. I want to say to my friend that the whole of the claim rendered, including compensation for service and expenses incurred, as settled by the commissioners under this law, amounts to between five and six million dollars. It is just; and I have no doubt Congress will pay it.

Mr. STANTON. I wish to inquire of the gentleman what amount per day was allowed for the volunteers who served in that war?

Mr. LANE. I will answer the gentleman with a great deal of pleasure, though I am not going on to discuss this matter in detail. The price allowed by these commissioners was two dollars for each day's service for each man, and two dollars in addition if he rode his own horse, making four dollars per day for a man and horse. I will say, further, that if the gentleman will look over the letter of Colonel McMullin, now Governor of the Territory of Washington, a gentleman who stood in this House and watched the Treasury as carefully as any man did—I say, if the gentleman will read that letter, he will find that Governor McMullin states that you cannot obtain the labor of a man short of \$2 50 per day, and that even women get thirty dollars per month. And I will say that no man can obtain labor for any such price as these commissioners allowed to these volunteers.

I will say further, that no man can tell the sufferings which these volunteers underwent. Take, for instance, the conduct of the Polk county volunteers, who, in response to a requisition of the Governor of the Territory, marched to relieve Major Haller, who was surrounded by hostile Indians. The requisition reached them on Monday evening; and, on the next morning, one hundred and two men were in the saddle, and on the march to relieve this gallant officer and his little band of brave soldiers, who had been for some time surrounded by vastly superior numbers of blood-thirsty savages. Out of the one hundred and two Polk county men whom Major Armstrong marched to the relief of Major Haller, many never returned home, and many came back with fingers and toes frozen, maimed and crippled for life. Such was the conduct and suffering of other volunteer companies who responded to the call of our Governor. Thus did the people of Oregon rush to the rescue, not only of the settlements, but of the United States troops, surrounded by overwhelming numbers of hostile Indians. Not a dollar have they asked for spoliation; and the amount which the commissioners have allowed for the services of the volunteers, and the expenses incurred by them, will you refuse to pay? Major Armstrong has frequently informed me that his company was composed of farmers, most of whom had families, and were not only comfortable, but were worth, on an average, five thousand dollars. The gallant

Captains Hembree and Bennett, and other officers, were among the number that never returned. Their families and friends were left to mourn their loss.

But, Mr. Chairman, to proceed with the horrors of this war. While in Oregon last summer, I took occasion to inquire of the chief, who was mainly instrumental in getting up this war, to learn the particulars of the fate of some of our people who disappeared in that war of 1855, and of whom we had been able to learn nothing. When I suggested to the agent in the council that I proposed to inquire the fate of Mrs. Wagner, Mrs. Haynes, and others, he was inclined to think that it would raise the bitter feelings of the Indians, but said that we could make the inquiry. I told him that I had passed through the country where these people had lived, and that their friends were very anxious to learn their fate. I inquired in relation to Mrs. Wagner, who was a well-educated and handsome woman from New York, who had lived long in the country, and spoke the Indian tongue fluently. She kept a public house by the roadside, and the good cheer which she always furnished made it a place where travelers delighted to stop. The Indians told me, that on the morning of the 9th of October they came in sight of the house, where they met some teamsters and packers, a portion of whom they murdered, destroying the wagons and cargoes, as well as the animals, while she was standing in the door. As soon as they had murdered the people outside, they came towards the house, which was strongly built of hewn logs, and had a heavy door, which fastened with cross bars. When she saw them running towards the house, she shut the door and dropped the bars, to prevent their breaking in. They came to the door, and ordered her to come out, and bring out her little girl. She said "no." Her husband was absent—and, by the way, he was the only man on that road who escaped. They said that if she did not come out they would shoot her. She declined; and, after some deliberation, they determined to set the house on fire. The house was directly enveloped in flames; and the chief, who watched her through a little window, told me that he saw her go to the glass and arrange her hair, then take a seat in the middle of the room, fold her little girl in her arms, and wait calmly until the roof fell in, and they perished in the flames together. And the statement was confirmed by the people who found their remains lying together in the middle of the house.

The account of the atrocities perpetrated upon Mrs. Haynes are so horrible that I will not relate them.

These volunteers, sir, are the men who defended us against the Indians, who had declared their intention of murdering every white man, woman, and child, in the Territory.

Mr. Chairman, the settlers of Oregon were encouraged to go there by the Government of the United States. Congress passed an act donating land to all who would go and settle in Oregon. Many responded to those inducements held out to go and settle there. They went at great sacrifice of comfort and at great hazard. Many of them fell by the hand of the savage before they reached that far-off country. But while the Government thus held out inducements to the people to go there and settle, they neglected to take the precaution to extinguish the Indian title to the lands. That, however, was not the fault of the settlers; it was the fault of the Government. The people continued to be harassed by the Indians from the very commencement of the settlement up to that great war.

These expenses, Mr. Chairman, were incurred in good faith, and were necessary expenses in the prosecution of that war. And I leave it to this committee to say whether they shall be paid at the same time this good man, Governor Douglass—the wealthiest man in that section of country—is being paid. I have said that Mr. Douglass is the wealthiest man in that section of the country; he is, and has been for years, connected with the Hudson's Bay Company, and was largely interested in having the property of that company lying in Washington Territory protected. In that Territory the company have stores, trading posts, herds, and flocks, that were protected by our troops as effectually as were those of any of the settlers of Washington or Oregon. He is to be paid, while the citizens are left unprotected for. Their claims

stand upon the same footing, and ought to be cared for alike. I say, while you provide for paying him, will you neglect the people who so nobly turned out to save the settlements of Oregon and Washington from the tomahawk and scalping-knife of these savages?

If I had known that I would have had an opportunity to make a speech here to-day, I would have brought with me, to read to the House, the memorial of Mr. Besson. He happened to be in our Territory at the time the war broke out, and in the book which he published on his return to New York, he said many hard things of the people of Washington and Oregon. Since then, he has exercised his better judgment, and over his own signature he has memorialized Congress to pay the volunteers for service rendered and expense incurred in prosecuting the war against the Indians. None save General Wool, (and to him I do not care now to refer,) who at first were opposed to the war, but have recanted that opinion. They have changed front on the matter, and all of them would now be glad to see the people of Washington and Oregon reimbursed. It is just that they should be paid; and in their name, and in their behalf, I beg that while you are providing for the claim of Governor Douglass, you will also provide for paying the people of Oregon and Washington for services rendered and expenses incurred. They are as worthy as he, and their claims as just and meritorious as his. His is a good claim, but equally so is theirs.

There are many things to which I could refer, if I had time, to show why it was that the people were compelled to take up arms against their savage foe, to endure hardships, to incur expense, and to peril their lives. The southern portion of Oregon is rich in gold; and millions of gold that comes to the Atlantic States as the product of California, is the yield of our Oregon mines. Our people are law-abiding, industrious, generous, and brave, and ought not to be neglected. The settlements are sparse, consequently helpless, and to a great extent dependent upon the good will of Congress for many things which they cannot afford themselves. Millions and millions of dollars which comes here as California gold, is, in reality, gold from Oregon, for the benefit of our friends in this portion of our country. It is not, therefore, an unimportant or valueless Territory. It is also rich in soil, and the climate is as salubrious and as healthful as any in the world.

Now, sir, from the time the settlements were commenced in the Rogue River valley, the Indians began their depredations upon the settlers; and from that time to the end of the late war they did not cease their course of rapine and murder. I have a statement, compiled under direction of the Legislative Assembly of Oregon, which shows that, during the peace and before the breaking out of open war, the Indians had killed two hundred and forty-four whites. The people made no war, although there are some who will deny that it was full cause for war. Could more be borne by a Christian people?

I have noticed the action of Congress generally, and especially on appropriation bills, for many years, and find that whenever an appropriation bill is up, based upon estimates of the Departments, it is sure to pass. Congressional legislation is generally for the few. Nine tenths of the legislation here is not for the many; the great mass of our citizens are not cared for; but whenever there is a bill for the regular Army, Navy, water-works, or for a wealthy man, there is very little difficulty in getting it through; but when the mass of the people have a just claim upon the Government they are held back, and justice is long delayed from them. Let an appropriation bill come here with the sanction of the Committee of Ways and Means, and members unite and pass it at once. The favorite argument is, "do not stop the wheels of Government." "Put it through." Not so with the bills for paying claims of the people against the Government. Their claims, if unpaid, will not stop the wheels of Government, and they remain neglected. This character of legislation seems not for the benefit of those who need it, and to whom justice would seem to demand that it should be given; but is extended to the wealthy man. We here have for years turned our faces against legislating upon just claims, which ought to be considered and acted on. We have allowed them to go over year after year; and

in this case, if the same course be pursued, when these claimants shall get their four dollars a day, it will not be worth, to them, as much as one dollar would have been at the time the service was rendered. Delay is to enable the speculator to reap his harvest—to prey upon the vitals of our suffering people.

These claims ought to be paid, and paid now. They have been allowed by a board of sworn commissioners. Many of these people who were comfortable and well to do before the war, have now, having lost their all, been compelled to go out to work by the day, while their wives and children have had to endure much hardship. It is for this House to say whether justice shall be meted out to them or be withheld; whether they shall or shall not be paid for services rendered and expenses incurred. Shall we provide for Governor Douglass, and leave the people of Oregon and Washington unprotected? Shall we send away the needy and provide for the wealthy? I do not object to Governor Douglass; I object to the principle. His claim ought to be paid. I want now, and for all time, to enter my protest against this sort of legislation. I want one provided for as well as the other. I will not make any rash promises; but if I had it in my power, there should be no action upon any appropriation bill until this matter was considered and allowed. If Congress think the amount too small, let them increase it; but I do not ask them to increase, and I trust that they will not reduce the claims, but take them as allowed by the commissioners, two of whom were Army officers, who are not more indulgent to the citizens than Army officers ought to be. They were just, and are honorable, high-toned men, and what ought to be paid they have allowed, and nothing more.

Mr. J. GLANCY JONES. I wish to say to my friend from Oregon that I did not vote to adjourn this House on the 7th of June next. Now, if members expect to get away on that day, they must set apart some time for the consideration and passage of the appropriation bills. If these bills are not passed, I will stand by my friend from Oregon to July or August next to transact the public business if the resolution for the adjournment be rescinded.

Mr. COBB. I wish just here to give notice that I intend, on Monday next, to move to rescind that resolution.

Mr. LANE. I only want to say to the committee that Congress ought not to adjourn until they have transacted the business for which they have been sent here. I will not lecture the committee on that; it is not my duty to do so; but it strikes me that Congress ought, before its adjournment, to transact the necessary business of the country. How is it any more necessary to pass appropriation bills than it is to do justice to that portion of your defenseless fellow-citizens, away out west of the Rocky Mountains, who are scattered over a distance of country so large, and so defenseless, that the savages can, at their pleasure, run in and tomahawk them? Ought their claim to be disregarded? Ought Congress to give them the cold shoulder? Ought gentlemen to say that the people of Oregon should not be paid for their services and expenditure in the defense of their settlements? If you continue to do so for a series of years, can you expect that the people of Oregon will always maintain their devotion to this Union? I know that the people of Oregon place themselves upon the Constitution, and are true to the interests of every portion of the Union. I have never seen the day—I shall never see it so long as I am an active man—when, if the northern portion of this country were invaded, I would not rush quickly to the rescue, and help to expel the enemy, although that enemy might be composed of the combined forces of the world. And so I would act if the southern portion of my country were invaded. My affections, as also the affections of the people of Oregon, rest upon the whole country, and will rest upon it for all time to come. And I ask you, ought you not, in your justice and wisdom, to take care of them as your people? Among the entire population of that Territory, we have none, save a very few, who are not American-born citizens—blood of your blood; and that few, Mr. Chairman, have already become American citizens. The country is settled up with citizens from every State in the Union—from Massachusetts, New York, North Carolina, Georgia,

and every other portion. The citizens of Oregon are emphatically your people, and entitled to your protection. Will not this committee take care of them, as this bill proposes to take care of my worthy friend Mr. Douglass? Will the committee say we will pay the claim of this rich man, the property of whose subjects was defended by our troops, whose cattle and herds were defended, whose stores were protected, and not pay the citizens of the Territory, who hazarded everything for the public defense?

I will now yield the remainder of my time to my friend from Washington Territory, to give a history of that portion of the war that passed under his immediate observation.

Mr. STEVENS, of Washington. It is not my intention, Mr. Chairman, at this time, to occupy more than ten minutes in discussing this bill. I will state first, in regard to it, that it proposes to reimburse Governor Douglass, of Vancouver Island, for supplies furnished by the Hudson's Bay Company, at Victoria, their post on that island. I am glad that such a bill has been brought before this committee to pay for supplies furnished by the people of a foreign jurisdiction to the suffering inhabitants of Oregon and Washington Territories, because I can, and every gentleman here can, refer to them as witnesses of the condition of our country at that time. I am glad to refer to the fact that Governor Douglass and myself are personal friends. We have often conferred in personal interviews and by letter, in relation to the measures requisite to defend the sparse population of that coast. And it is to me a heartfelt pleasure, on this floor, that I, as the Executive of one of those Territories, have his emphatic testimony that the course taken in that Territory was the only course which could have protected those settlements, or which could have prevented their depopulation. And I thank God that this bill now before the committee gives me the opportunity to refer to this judgment, coming, as it does, from an entirely disinterested source.

Mr. Chairman, I will not trouble the committee by going back to the old troubles, and trials, and conflicts of judgment that have taken place in regard to this war. It is sufficient for me that I stand here on the rock of truth, and I defy any man to gainsay my statements. I go not now to the reports which speak of outrages of whites upon the Indians, which speak of that war having been forced upon us by the bad conduct of our people, and which accuse us of getting up that war for the purpose of speculation. When I went to that country in 1853, Mr. Chairman, and traveled across the plains, I visited, on my way to Puget sound, nearly every Indian tribe, from the mouth of the Yellow Stone to the Pacific ocean. When I saw the relations existing between the white man and the Indians I was astonished.

I was astonished, for I was not a frontiersman. I had, up to that time, seen nothing of Indians, and but little of our frontier population. Still I had a prejudice that there was much of wrong in the relations between the two people; but I found that their relations were those of kindness and of good offices. And here, in proof of that, I will mention one fact. It is known to gentlemen that I was the Indian superintendent, as well as the Executive of Washington Territory. I had frequent complaints made by Indians that white men would not pay their debts; and the invariable course I pursued was simply to address a note to the settler, requesting him to settle the account, and it was done in every case brought to my notice, except in the case of a single person, who went off between two days, and who is not now in our Territory. We have got rid of him; and his acts, therefore, should not inure to the ill of the Territories of Washington or Oregon.

Mr. Chairman, the honorable gentleman from Oregon, whom I am proud to refer to here as my friend, has told you the simple facts in regard to the origin of that war. I was not in the settlements at the time, but was upon the head waters of the Missouri. The war came upon the people of the Territories like a thunderbolt. In our Territory, there were not at that time two hundred private arms; and we were only able to obtain arms for three or four hundred men by borrowing them from the Decatur, and from the arsenal at Vancouver. I refer to this fact as conclusive proof, showing how utterly unprepared the people were for these Indian outbreaks.

I do not intend, sir, to go into any detailed account of this Indian war; but I propose to mention one or two striking and significant facts. The honorable gentleman from Oregon has referred to me as a witness in relation to the arduous services of the volunteers of Oregon in the interior. When I heard of the breaking out of the war, I went over to the settlements from the head waters of the Missouri as fast as broken down animals, and the difficulties of the road, would enable me to make my way. Coming through, it became my duty, in regard to the Indian tribes that had not broken into war, to meet them, and as their father, being superintendent of Indian affairs, to endeavor to persuade them to continue peaceful. I met tribes numbering some seven thousand souls, and having nearly two thousand warriors, and those tribes maintained their fidelity throughout the war. From them I learned many of the causes of hostility, and of the unmitigated hostility of many of the Indian chiefs. When I met the Oregon volunteers on the field of the Walla-Walla, you may be sure that there was a most cordial and hearty welcome between us. Sir, to those volunteers, under Heaven, I probably owe my life; for I had but a party of twenty-five men with me, and I had made up my mind to attempt to make my way to the settlements. It was the action of these Oregon volunteers in protecting the settlements that opened the way for me.

What might have been my fate in fighting seven hundred Indians with a band of twenty-five men, increased to fifty as I got near where the hostile Indians were, I do not know. But I conceived that it was my duty to get to my post and do my best for the suffering people of whom I was the Executive. Sir, I learned nothing of these volunteers till I was making arrangements to fight the hostile Indians. The volunteers met the Indians, defeated them in a signal battle that lasted four days, and drove them across the Snake river, thus opening the way for my party. I was with them for ten days. They consisted of the very flower of the population of Oregon, men of family, men of substance, who had taken arms in their hands in order to protect the people of the two Territories; and there they were on the cold ground, without tents, living on horse-flesh, and without proper clothing, the thermometer ranging as low as 27° below zero, and never, for five days, getting above zero. That is what the volunteers of Oregon did, and I am thankful that I can say this for them as a witness in this high presence.

There are one or two other points to which I wish to allude briefly. During the whole of that war in the Territory of Washington not a friendly Indian, or an Indian prisoner, was ever maltreated in the camp of the volunteers of Washington. I say this in the presence of all men; and if any one will rise and gainsay it, I shall ask for the proof. For six months the people of Washington had to live in block-houses; and yet, so obedient were the people to law, so proud of their country, doing such high homage to its spirit of humanity and justice, that during all that time the life of the Indian was sacred in the camp of the volunteers. Why, sir, there were nearly five thousand disaffected Indians, during all this time, on the reservation lying along the waters of the sound, and not a man ever went there to do them harm. I rejoice in being able to give this testimony here in the presence of my countrymen, in regard to the conduct of the people of Washington. Do you wonder, sir, that it has caused to grow up in my heart the deepest and most devoted attachment to that people who have held me up in their sustaining arms in my efforts to advance the public service, and who have, by their conduct, illustrated its dignity and humanity, and thus given a lesson to the country and to the world?

Mr. Chairman, I have said all that I desire to say at this time. I trust that the same measure of justice which the committee propose to deal out to Governor Douglass will be dealt out to the people of the Territories of Washington and Oregon. The debt in all the cases rests upon the same foundation. Our people furnished supplies and animals and shipping, and rendered their own services on the faith of the Government. Every obligation is made payable when an appropriation is made by Congress.

It is germane to my purpose to give one or two facts in reply to the grave charges which have been made against our people of furnishing sup-

plies at exorbitant prices. Now, sir, I have a friend living near Olympia who sold a horse, to be used for the volunteer service. When asked the price of his horse, he replied, that his horse was worth sixty dollars cash; "but," said he, "to be used for the defense of our people, you shall have the horse for forty-five dollars scrip." And the horse was purchased for forty-five dollars. And generally, for a considerable period on the sound, horses were furnished the territorial authorities, for scrip, twenty-five dollars cheaper than they were sold to the garrison at Fort Steilacoom for cash. At the close of this service these animals were sold at public sale, and brought from ten to fifty per cent. above the original cost. I recollect an instance of a mule captured, and which was rode by Captain Henniss at the battle of Grand Ronde. Captain Henniss rode the mule home to Olympia, a distance of nearly five hundred miles. He was desirous of owning the mule, and so he bid for it when it was put up at auction. But the animal was struck off at four hundred and seventy-five dollars to another man, and placed to the credit of the Government. Captain Henniss had been a captain of a company of volunteers for the whole war, a period of some ten months, and was not able to bid in his own riding mule.

And now, sir, in reference to property captured from the Indians; it was never taken and kept by private individuals. Stringent orders were given that all property taken from the Indians should be accounted for as public property, and the orders were strictly carried out; certainly in the Territory of Washington, and, I believe, in Oregon.

Mr. Chairman, you can, from facts of this kind, learn something of the character of the transactions of our people in this war. It was, most emphatically, a war for our protection, and for the existence of our settlements. And I am thankful that it is a war which has left so little sting behind between the Indians and the white settlers of the country. They have nearly assumed their old relations. It was not a work of supererogation. It was a work of toil and watchfulness, and of constant exertion to bring about the old relations between the whites and Indians, so that all animosity might die out, and a spirit of kindness and confidence prevail.

Mr. BRANCH. The committee have passed now some fifteen bills, and while I am willing that the remaining bills may be disposed of, if it can be done without debate, unless the question can be taken without further remark, I shall submit the motion that the committee rise.

Mr. FAULKNER. I desire to make one or two remarks before this bill is disposed of. The justice of this claim has not been controverted, nor has the propriety of its prompt payment been questioned by any gentleman who has so far addressed the committee. But the gentleman from Oregon [Mr. LANE] threw out a remark which certainly ought to be noticed by some member of the Committee on Military Affairs. He would seem to place us in the position of having singled out a claim due to a British subject and to a man of wealth, while we are represented as forgetful of the demands of the humble volunteers of Oregon and Washington. This remark does great injustice to the committee.

Now, sir, in reference to the claims of the volunteers of Oregon and Washington: they are, it is true, at this time before the Committee on Military Affairs, and no report has yet been made on the subject. They involve a very large amount (in the aggregate some six million dollars,) for a service in which it appears that of something upwards of six thousand on the rolls, not more than three thousand five hundred were ever at any period in actual service—none of them in service a year, and many of them not more than a few months.

While we have had every disposition to do the fullest justice to these claimants, it was deemed proper by the Committee on Military Affairs that there should be a proper investigation into all the principles upon which the accounts were allowed by the board; and we have taken the necessary steps for securing to the subject that examination which its importance demands. That investigation has not yet been completed; and even if it had been finished, we might not have deemed it proper to press it upon the attention of the House in the two days which have been specially set apart for the transaction of mere territorial business.

Whether James Douglass, to whom this claim is due, is a man of wealth or not, was wholly unknown to the committee; nor should we have spent a thought upon it if we had known it. This claim was brought to the special attention of the committee, not by Mr. Douglass—with whom we are wholly unacquainted, and of whom the most of us never heard until the last few days—nor by the British Minister, but by the Delegate from the Territory of Washington himself. I inquired of him, when he first called my attention to it, and before I had looked into its merits, whether it was a claim which should be separated from the residue of the claims reported by the board?

I particularly interrogated him whether we should make it the subject of a special report, or postpone it until we reported upon the entire award. His reply was that this debt rested upon merits of a peculiar character; that it deserved the immediate attention of the committee. He then represented to me the character and history of the claim, the destitution of the people of that Territory, and the necessity of obtaining clothing and blankets at that inclement season, which he has described with such graphic force and eloquence; he stated that he, as Governor of Washington Territory, applied to the Hudson's Bay Company for clothing and blankets for the volunteers, to the amount of \$7,000; but that they would not consent to furnish him with the supply needed until this man, James Douglass, Governor of that island, and a stranger to us, stepped in and guaranteed the payment of the debt, which, it seems, he has since been compelled to pay to the Hudson's Bay Company. We thus had the undisputed fact before us, that a stranger, and a British subject, at an opportune moment, stepped in for the relief of our destitute volunteers, and furnished them the means, at a most inclement season of the year, of clothing, which they could not otherwise procure. Could we hesitate, upon such a representation of the facts, and upon the subject being brought to our attention by the Delegate of that Territory, to report the bill, although we were not yet prepared to act upon the numerous and somewhat complicated questions that arise in the claim of the volunteers for relief? I think not, sir.

Upon this state of facts, then made out clearly to our satisfaction, we did not hesitate to report the bill for his relief. It was a claim about which there could be no controversy. Its justice was universally conceded. We have not as yet had time to examine into the great mass of these claims which have been referred to us, and to which the Delegates from Oregon and Washington have alluded, but design to give them a fair and impartial investigation at the earliest moment. I have not, so far, expressed any opinion myself in regard to the validity of these claims against the Government, except that which incidentally fell from me in the discussion on the Army bill, in which I expressed the opinion that the report of the board might be regarded as an award made under the authority and with the full sanction of the Government, and binding upon it. I incline to that opinion still; yet this is a point which I shall reserve for a more full examination of the cases, when taken up in the committee.

The bill was laid aside to be reported to the House, with the recommendation that it do pass.

LAND DISTRICTS FOR WASHINGTON.

The next bill on the Calendar was a bill (H. R. No. 177) to divide the Territory of Washington into four land districts.

The bill was read through.

Mr. COBB. The Committee on Public Lands have reported an amendment to that bill, which is in the usual terms of such bills, and cuts down the number of additional land districts from four to two.

Mr. JONES, of Tennessee. I move to add the following proviso:

Provided, That nothing herein contained shall be construed to authorize the appointment of any such register or receiver until the lands have been surveyed, and are ready for sale.

The amendment to the amendment was agreed to; and then the amendment, as amended, was adopted.

Mr. WASHBURN, of Illinois. I move that the bill be laid aside to be reported to the House with the recommendation that it do not pass.

The question was taken on Mr. WASHBURN'S

motion, and it was agreed to; and the bill was then laid aside to be reported to the House, with the recommendation that it do not pass.

Mr. JONES, of Tennessee. There is one thing I would like to know, and that is how this committee can report to the House to disagree to a bill with an amendment?

The CHAIRMAN. The Chair obeys the orders of the committee; and if they are not consistent, the fault is with them, and not with him.

TERRITORY OF NEVADA.

The Clerk next read the title of a bill (H. R. No. 567) to organize the Territory of Nevada.

Mr. JONES, of Tennessee. It is time now that we should rise. We certainly do not want any more Territories at this time.

The CHAIRMAN. There is one bill before that which the Clerk has omitted by mistake—a bill (H. R. No. 417) for the relief of Charles H. Mason.

Mr. JONES, of Tennessee. I insist on my motion.

The question was taken; and the motion was disagreed to.

The bill was read. It proposes to pay the claimant the difference between his salary as Secretary of the Territory and that of Governor, during the time he acted in the latter capacity.

Mr. MORGAN. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. ENGLISH reported that the Committee of the Whole on the state of the Union had, according to order, had the Union-generally under consideration, and particularly business appertaining to the Territories, and had directed him to report back several House bills, with specific recommendations as to each.

Mr. BRANCH. I move that the bills, in mass, be recommitted to the Committee of the Whole on the state of the Union.

Mr. FAULKNER. I demand the previous question on them.

Mr. SMITH, of Virginia. As a large portion of the time of the House this morning was taken up on business not pertaining to the Territories, I propose that another day be set apart for territorial business.

Mr. JONES, of Tennessee. I object.

Mr. SMITH, of Virginia. Well, say two hours to-morrow.

Mr. JONES, of Tennessee. I object to any time at all.

Mr. MARSHALL, of Kentucky. The proposition being to recommit, will not that bring up this business to-morrow morning?

The SPEAKER. It will.

Mr. BRANCH. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at five o'clock, p. m.) the House adjourned

IN SENATE.

Friday, May 14, 1858.

Prayer by Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, the reports of the officers sent to Europe in 1855, to collect information in relation to military affairs, so far as they have not been communicated to the Senate; which, on motion of Mr. DAVIS, was referred to the Committee on Military Affairs and Militia.

He also laid before the Senate a report of the Secretary of the Navy, in answer to a resolution of the Senate, calling for information as to the establishment of a naval depot at Blythe Island, Georgia; which, on motion of Mr. IVERSON, was ordered to lie on the table, and be printed.

He also laid before the Senate a letter of the Commissioner of Patents, communicating, agreeably to law, that portion of his annual report which relates to agriculture; which, on motion of Mr. JOHNSON, of Arkansas, was ordered to lie on the table.

The VICE PRESIDENT. The Chair has received a communication from the President of the

United States, in answer to a resolution adopted a few days ago. It is marked upon the envelope "Executive," but it is in answer to a legislative resolution, and it does not appear to be of an executive character. The Chair will lay it before the Senate.

The communication was read, as follows:

To the Senate of the United States:

I transmit to the Senate a report dated 13th instant, with the accompanying papers, received from the Secretary of State, in answer to a resolution of the Senate of the 5th instant, requesting information in regard to measures which may have been adopted for the protection of American commerce in the ports of Mexico.

JAMES BUCHANAN.

WASHINGTON, May 13, 1858.

Mr. BENJAMIN. That report is made in answer to a resolution which I offered the other day. I have looked over it. I move that it lie on the table, and be printed. I think it will hardly be necessary to refer it to the Committee on Printing. It is but a very few pages, and I do not suppose there will be more than fifteen or twenty pages in print of the report. I ask, by unanimous consent, that it be ordered to be printed without reference.

The VICE PRESIDENT. That order may be made by unanimous consent. The Chair hears no objection. The communication will lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. PEARCE presented a petition of Virginia Waldron, widow of the late Captain and Brevet Major Nathaniel S. Waldron, of the United States marine corps, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented a memorial of John A. Smith, clerk of the circuit court of the District of Columbia, and clerk of the criminal court for the county of Washington, praying for the passage of an act for settling his accounts so that he may be charged only with the fees which he has received, or might, by due diligence, have received; which was referred to the Committee on the Judiciary.

Mr. BRIGHT presented a petition of Charles Wilkes, praying for compensation for damages to his property on North Capitol street, in the city of Washington, by the alteration of the grade of that street; which was referred to the Committee on Claims.

Mr. BIGLER presented a petition of B. F. Ritzenhouse, a clerk in the office of the Register of the Treasury, praying for compensation for extra services; which was referred to the Committee on Finance.

Mr. KING presented a petition of Peter Cooper and other citizens of New York, praying that the public lands may be laid out in farms or lots of limited size, for the free and exclusive use of actual settlers; which was ordered to lie on the table.

Mr. BENJAMIN presented a petition of Mrs. Afia M. Roblas y Robaldo, widow of F. Robaldo, asking to be paid for certain property destroyed by American troops in Mexico, by order of their commanding officer, in the late war with Mexico; which was referred to the Committee on Military Affairs and Militia.

WITHDRAWAL OF PAPERS.

On motion of Mr. GWIN, it was Ordered, That J. Rutherford Worster have leave to withdraw his petition and papers.

SEARCHING AMERICAN VESSELS.

Mr. BRIGHT submitted the following resolution; which was considered by unanimous consent, and agreed to.

Resolved, That the President of the United States be requested, as far as is compatible with the public interest, to communicate to the Senate any information which may have been received concerning the recent search or seizure of American vessels by foreign armed cruisers in the Gulf of Mexico, or the adjacent seas; and also what measures, if any, have been taken in relation thereto.

POST OFFICE AGENT.

Mr. FOSTER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the propriety and justice of an increase of the compensation of the special agent of the Post Office Department at large for the district of New York and the New England States.

HOUSE BILL REFERRED.

The bill in relation to courts, and the holding of the terms thereof, in the several Territories of

the United States, was read twice by its title, and referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. KING, from the Committee on Pensions, to whom was referred a petition of Rachel Posey, widow of Micajah Posey, submitted an adverse report; which was ordered to lie on the table.

He also, from the same committee, to whom were referred documents in support of the claim of Francis Hutinack to a pension, submitted an adverse report; which was ordered to lie on the table.

Mr. BENJAMIN, from the Committee on Commerce, to whom was referred the bill (S. No. 258) concerning seamen, reported it with amendments.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of Ann L. Rogers, wife and assignee of John A. Rogers, submitted a report, accompanied by a bill (S. No. 340) for the relief of Ann L. Rogers. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the bill (S. No. 106) for the relief of Elijah F. Smith, Gilman A. Perkins, and Charles F. Smith, reported it with an amendment. He also submitted a report on the subject, which was ordered to be printed.

Mr. SEWARD. With the leave of the Senator who reports it, I ask for the present consideration of that bill.

Mr. IVERSON. I object to that.

Mr. SEWARD. It will take no time.

Mr. IVERSON. I know that it is the universal promise that a bill will take no time, and therefore the Senate has waived the special order. I hope that no bill will be taken up out of order to-day, but that we shall go on with the Private Calendar regularly.

The VICE PRESIDENT. Being objected to, the bill cannot be considered to-day.

COMMITTEE VACANCIES:

The VICE PRESIDENT appointed Mr. THOMSON, of New Jersey, to fill the vacancy in the Committee on Patents and the Patent Office; Mr. FITZPATRICK to fill the vacancy in the Committee to Audit and Control the Contingent Expenses of the Senate; Mr. CLINGMAN to fill the vacancy in the Committee on Revolutionary Claims, occasioned by the decease of Hon. Josiah J. Evans; and Mr. SHIELDS, as a member of the Committee on Revolutionary Claims, during the absence of Hon. M. W. BATES.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, their Clerk, announced that the House had passed the following bill and joint resolution of the Senate:

A bill (No. 245) to authorize the settlement of the accounts of Luther Jewett, late collector of the district of Portland and Falmouth, in the State of Maine.

A resolution (No. 2) authorizing the Secretary of the Treasury to audit and settle the accounts of the contractor for the erection of the United States marine hospital at San Francisco, California.

Also, that the House of Representatives had passed a bill (No. 426) for the relief of Monroe D. Downes; in which the concurrence of the Senate was requested.

TERMS OF MINNESOTA SENATORS.

Mr. BAYARD. The Committee on the Judiciary, to whom was referred a resolution of the Legislature of Minnesota in joint convention in favor of HENRY M. RICE representing that State in the Senate of the United States for the long term, have instructed me to report a resolution as to the mode of proceeding in this case, and ask for its present consideration:

Resolved, That the Senate proceed to ascertain the classes in which the Senators from the State of Minnesota shall be inserted, in conformity with the resolution of the 14th of May, 1789, and as the Constitution requires.

The resolution was considered by unanimous consent, and agreed to.

Mr. BAYARD. Now I ask that the order accompanying the resolution from the committee be read and considered.

The Secretary read it, as follows:

Ordered, That the Secretary put into the ballot-box two

papers of equal size, one of which shall be numbered 1, and the other shall be a blank. Each of the Senators of the State of Minnesota shall draw out one paper, and the Senator who shall draw the paper numbered 1, shall be inserted in the class of Senators whose term of service will expire on the 3d of March, 1859; that the Secretary shall then put into the ballot box two papers of equal size, one of which shall be numbered 2, and the other shall be numbered 3. The other Senator shall draw out one paper. If the paper drawn be numbered 2, the Senator shall be inserted in the class of Senators whose terms of service will expire on the 3d day of March, 1861; and if the paper drawn be numbered 3, the Senator shall be inserted in the class of Senators whose terms of service will expire the 3d day of March, 1863.

Mr. BAYARD. I will merely state, on behalf of the committee, that the request made by the Legislature of Minnesota—it is but a request—is entirely inconsistent with the settled practice of the Government under the resolution of the Senate in 1789, when the Senate was first organized. The committee have seen no reason for changing that practice. The Senate had then to determine how they would classify Senators, and they have always adhered to the practice then adopted. The Constitution of the United States authorizes the election of Senators for six years, and provides for their classification. In the first instance, in organizing the Senate, they might do it in one of two modes—either by lot or by arbitrary determination. They decided that lot was the best mode to do it; and thus the term is determined on the first coming in of a Senator; and that has been the mode of proceeding since the first origin of the Government.

Mr. DOUGLAS. Does this resolution come from the Committee on the Judiciary?

Mr. BAYARD. Yes, sir.

The resolution was considered by unanimous consent, and agreed to.

The drawing having taken place, in conformity with the order of the Senate, the result was thus announced:

The VICE PRESIDENT. Mr. SHIELDS, upon the first drawing, drew the paper No. 1. Consequently, by the terms of the resolution, his name will be inserted in the class of Senators whose term of service will expire on the 3d day of March, 1859. Two other papers were then put in the box, in accordance with the resolution of the Senate, and Mr. RICE drew No. 3. His name will therefore be inserted in the class of Senators whose terms of service will expire on the 3d day of March, 1863.

HON. HENRY M. RICE.

Mr. RICE. I ask the consent of the Senate to permit me to introduce a resolution, notice of which I gave on the day before yesterday. It is calling for a committee to investigate certain charges urged by citizens of Iowa through one of the Senators from that State. I have left a blank for the committee, and I would esteem it as a favor if the honorable Senator from Iowa would fill that blank, in order that his constituents may have the entire benefit to be derived from the investigation.

The resolution was read, as follows:

Resolved, That — be a committee to investigate the charges preferred by certain citizens of Iowa, settlers upon the Fort Crawford reserve, as to the conduct of HENRY M. RICE, special agent appointed by the Secretary of War to superintend the sale of that reserve. That said committee have power to send for persons and papers, and to report by bill or otherwise.

Mr. GWIN. I move that the Chair fill the blank with five Senators.

Mr. TOOMBS. I move to amend the resolution so as to refer the matter to the Committee on Military Affairs, with all the power given in the resolution. I do not think it is necessary to appoint any special committee upon this subject. So far as the facts are concerned, the official papers are on the records of the Senate, disproving, by official evidence, the specific charge made against the Senator. I do not think it is a matter of sufficient consequence to give it the importance of a special committee. The members of the Military Committee, I believe, can examine the question if it be referred to them; and let them investigate it.

Mr. IVERSON. Mr. President—

Mr. TRUMBULL. Will the Senator from Georgia allow me to make a suggestion?

Mr. IVERSON. I merely wish to make a suggestion myself, and then you can make yours. I desire that the amendment of my colleague shall not prevail, referring this question to the Military

Committee. I have the concurrence of the chairman in the objection I make; and I state to the Senate that it is utterly impossible that the Committee on Military Affairs could give any attention to it. They have now a pile of papers on their table which have accumulated—

Mr. TOOMBS. That is a sufficient reason; I withdraw the amendment.

Mr. TRUMBULL. I do not desire to interfere with the resolution, one way or another; but the suggestion I wished to make was that the Senator from Iowa is not present, and perhaps it had better lie over until he comes in, as he presented the papers. I will make no motion in regard to it; but it struck me, perhaps, that it would be better to have him here.

Mr. RICE. I was not aware that the Senator from Iowa was not in his seat, and I therefore ask that the resolution may lie over until he shall be present.

The VICE PRESIDENT. If there be no objection, the resolution will lie over informally, until the Senator from Iowa is in his seat.

ORDER OF BUSINESS—PRIVATE CALENDAR.

Mr. IVERSON. I move that the Senate proceed to the consideration of the special order, the Private Calendar.

Mr. YULEE. Will the Senator suspend that until twelve o'clock, and allow me to take up—

Mr. IVERSON. The special order is, I think, that the very moment the morning business is through, the Private Calendar comes up.

Mr. YULEE. Is that so understood?

The VICE PRESIDENT. Twelve o'clock is the hour for calling up the special order. On this occasion, the first special order will be the unfinished business of yesterday. It is at the head of the special orders.

Mr. YULEE. I will state why I interrupt the Senator.

The VICE PRESIDENT. It is in order for the Senator from Georgia to move to take up the Private Calendar at this time.

Mr. IVERSON. I make that motion—to take up the Private Calendar. I think the Chair is in error about the special order being the unfinished business of yesterday. The special order is fixed by a resolution of the Senate, which declares that this day shall be devoted to the Private Calendar.

The VICE PRESIDENT. Was a resolution of that sort passed the other day in the absence of the Chair?

Mr. STUART. It passed early in the session, setting apart every Friday for the consideration of the Private Calendar.

The VICE PRESIDENT. The Chair would suppose that such an order would be considered by the Senate as obligatory.

Mr. YULEE. If the Chair decides that, under the order of the Senate, the private bills are entitled now to be taken up, I shall not make the motion I was about to do; otherwise, I shall ask the Senate to occupy the half hour intervening between this and twelve o'clock by considering the bill amendatory of the laws regulating the Patent Office, which the Committee on Patents have instructed me to move for the early action of the Senate, and which the Commissioner of Patents informs me it is exceedingly important should receive the early action of the Senate.

The VICE PRESIDENT. Will the Senator pardon the Chair for a moment? The Chair understands the Senator from Georgia to move that the Senate now proceed to the consideration of the Private Calendar. If he insists on that motion, that is the question before the Senate.

Mr. IVERSON. I insist on that motion.

Mr. DOUGLAS. There was a bill to run the boundary line of Texas reported, with a verbal amendment, a few days ago, which I should like to have considered. The Senators from that State are very anxious to have it acted upon; and if it takes five minutes, I will abandon it, if the Senator will allow it to be taken up. It is a House bill.

Mr. IVERSON. I have already objected to the consideration of a bill proposed by my friend from Florida, and I cannot consent to yield to any one else. If I yield in one case, I must yield in another; and thus the whole day will be frittered away.

Mr. YULEE. I ask the Senator to allow me at least to say this: that I shall to-morrow morn-

ing ask the Senate to take up the bill (S. No. 180) to amend the several acts now in force in relation to the Patent Office; and I invite the attention of Senators to the bill in advance.

Mr. BROWN. I want to give notice, too, that to-morrow, by a resolution of the Senate, has been given to the District of Columbia business, and if any portion of the day is to go to anything else, it must be done by positive order of the Senate, for I shall certainly insist on that resolution being carried out.

Mr. SLIDELL. I wish to give notice to the Senator from Mississippi that a bill that I have reported, which I think is quite as important to the District of Columbia, is a special order on the Calendar and one of the earliest special orders, and if an opportunity is afforded, after the chairman shall have got through with his business, I shall move to take up that bill. It is a bill to regulate the issue of bank notes in the District.

Mr. STUART. As the attention of the Senate seems to be attracted to these subjects, at this time, I deem it a very propitious moment to say that I shall ask the Senate, on Tuesday next, to take up the bill making grants of land to the several States, for the purpose of aiding agricultural colleges.

Mr. HUNTER. To-morrow I shall press the appropriation bill. I give way for private bills to-day.

Mr. JOHNSON, of Tennessee. I desire to inquire whether the unfinished business is before the Senate?

The VICE PRESIDENT. At the hour of twelve o'clock the unfinished business of yesterday will be the general appropriation bill. That is in accordance with the general rule of the Senate. There has been a special order, though, passed by the Senate, making Friday, of every week, the day to take up the Private Calendar. As the Chair considers it, he would feel obliged to call up the Private Calendar after the morning business was through with on Friday.

Mr. HUNTER. If the Chair decides that the Private Calendar is in order, I shall not interfere; but if the appropriation bill is in order, I shall insist on it.

The VICE PRESIDENT. The time has not yet arrived for the other special order, even if it is proper.

Mr. SEWARD. I wish to suggest that heretofore, when we have had Friday assigned for the taking up of the Private Calendar, the rule was always executed in this way; that the Private Calendar was taken up immediately after the reading of the Journal, and excluded all other business. I think we may as well decide whether we are going to take up the Private Calendar for the day; and we may as well decide it now, rather than delay it for other things.

The VICE PRESIDENT. It would not be in order, under the rules, to take up the Private Calendar until the petitions and reports of standing committees were called for.

Mr. SEWARD. The practice heretofore has always been to exclude all the morning business, and begin with the Private Calendar immediately after the reading of the Journal.

The VICE PRESIDENT. The Chair thinks that could not be done without a change of the rules, which are very explicit; but, if the Senate now take up the Private Calendar, the Chair will, at the hour of twelve o'clock, not call up any other business, unless a motion be made to postpone this.

Mr. JOHNSON, of Tennessee. I merely wish to express my gratification on finding out that there is something before the Senate of sufficient importance to induce the Senator from Virginia not to press an appropriation bill providing appropriations of the people's money for botanic gardens and green-houses. I am really gratified to find that there is something of importance enough to make one of those bills give way.

The motion of Mr. IVERSON was agreed to.

INDIANA MEETING OF FRIENDS.

The first private bill on the Calendar was the bill (S. No. 46) to grant the right of preemption in certain lands to the Indiana Yearly Meeting of the Society of Friends, the consideration of which was resumed by the Senate as in Committee of the Whole.

Mr. AILSON. I examined this bill, not very

carefully, when it was before the Senate on a former occasion, and the construction I gave to it was that it sought to give to this society the privileges of locating three hundred and twenty acres of land, in addition to three hundred and twenty acres which had been provided for them in the Indian treaty. If I am right in that construction, it is a donation to be made by Congress apart from and independent of any treaty stipulation we may have had with those Indians at a former time. So far as there is any treaty stipulation by which the United States are bound to set apart any part of the public lands for such a society, however much I might regret that such a provision existed, I should nevertheless feel constrained to accede to it by my vote; but so far as it is proposed to give any additional donation to a religious society, I should be entirely against it. The public lands, in my judgment, are not intended in any way to further any religious or philanthropic or moral ends; they are intended for settlement and for population. For this reason, with a number of other objections that might be adduced, I should be utterly opposed to making any religious society land owners to any greater extent than might be necessary for a house of worship and a yard around it for the purpose of interment and other matters strictly pertinent to it; but I should be utterly opposed to making any religious society, Friends or otherwise, land owners generally in the country to an unlimited extent.

Mr. STUART. This bill has been before the Senate on several occasions, and I am very sorry that the Senator from Virginia has not understood its purport. It is not a proposition to give any land at all; it is simply a proposition to allow those who have the charge of this Indian school to enter, for the benefit of that school, at \$1 25 an acre, this land—to pay \$1 25 for it, which is the minimum price of the public lands.

I said, on a former occasion, that I was surprised at the opposition to this bill, and I say it again, with all respect to gentlemen. The treaty that was made with these Indians secured to this school, for their benefit, not for the benefit of this Society of Friends at all, but for the benefit of the Indians who wanted to educate their children at the school, a given number of acres of land. That they have got under the treaty, but they have no timber land. The land that they desire to select now is three hundred and twenty acres of timber land, so that fuel can be furnished to sustain their school. They propose to give \$1 25 an acre for it. The bill prohibits them from alienating it; they cannot sell it for any purpose; and the bill is necessary, because these persons cannot get this land by preemption under the existing laws.

Mr. JOHNSON, of Arkansas. I wish to make a suggestion to the Senator at this point. He says the object is to get wood land. Of course it is for the use of this school, that is upon the original reservation. Well, sir, so far as I can see, they are authorized to enter land anywhere within very extensive boundaries. The language of the bill is, "in Kansas Territory, between the Missouri State line and a line west thereof, thirty miles distant and parallel thereto, as described in the treaty with the Shawnee Indians, dated the 10th day of May, in the year 1854."

Mr. STUART. I understand that; but I state what the object is, what the papers show, what the Indian bureau recommends, and what is wanted. I presume, that since the application was originally made, though I do not know the fact, the land may have been surveyed. But I state the facts, shown by the papers, that they desire to enter three hundred and twenty acres for the purpose of obtaining woodland to maintain their school, and that is all.

Now, sir, I have no objection, if any gentleman desires it, to amend the bill so that it shall describe three hundred and twenty acres of timber land most convenient to that school, for there is no other object in it in the world; but what I wish to impress on the Senate is, that this is no donation of land to begin with—that it is no donation of land to a religious society; in the next place, no grant of land, no right to purchase by a religious society. The Shawnee school was organized in the State of Ohio before these Indians were removed, and the teachers went with them from Ohio to Kansas. It is conceded by the Indian bureau, which has charge of this subject, that there is no other school among the Indians which has been of such signal benefit,

and this will be seen from the very nature of the organization of this society. The Quakers, from the very characteristics of their mode of worship, are most likely to carry out legitimately the purpose of education and religion among the Indians. They do not interfere with politics in any form; They are a highly moral people; they do not drink themselves, and therefore do not set any bad examples to the Indians. Morality is an essential element among them. Their example is good; their persuasions are good; their teachings are good. The sum and substance of the matter is, that they have got a good prairie country for purposes of cultivation around their school, but they have not wood to build fires with, and they want it; that is all there is of it.

It cannot be necessary for me to say that I feel no personal interest in this question. Every one of the parties is an utter stranger to me; but the subject, in its morality, in its religious tendencies and benefits, does address itself to me in the most impressive form; and for these reasons I have a deep solicitude that this bill shall pass. As I said to the honorable Senator from Arkansas, if he desires to limit it in its application, if he supposes there is any speculation in it, I have not the slightest objection to an amendment which shall effect his entire wishes on that point.

Mr. POLK. I wish to ask the Senator from Michigan whether this school is in actual operation?

Mr. STUART. Certainly it is; and I can assure the honorable Senator, as the Commissioner of Indian Affairs assured me, that it is one of the best schools that has ever been among the Indians.

Mr. POLK. I asked the question, because in 1853 I was at that place, and it was not in operation then.

Mr. STUART. I have not been there. I know only what the Indian bureau tells me.

Mr. JOHNSON, of Arkansas. I submit the motion that this bill and report be referred to the Committee on Indian Affairs, that they may investigate the matter, and report the facts to the Senate. The proposition is to grant three hundred and twenty acres in aid of a reservation made in an Indian treaty. A suggestion is now made that, as late as 1853, no such school was in operation in that country. If I recollect aright—I will not be positive—the report in this case speaks of this society, and its operations in teaching these Indians, as having been in existence for a number of years. I move to refer the bill to the Committee on Indian Affairs, so that they may inquire and ascertain as to where the three hundred and twenty acres of reservation already made by the Indian treaty are to be found. If I am not mistaken, I judge from the characteristics and the terms of this bill that that reservation has never been located at all. If that be so, and in fact I shall assert it unless contradicted—

Mr. STUART. What reservation?

Mr. JOHNSON, of Arkansas. The original reservation, in aid of which the present grant is to be made, has never yet been marked out.

Mr. STUART. The Senator is mistaken. The reservation made by the treaty has been marked out. This is a different thing from that. They have got the reservation which was made by the treaty, and are occupying it.

Mr. JOHNSON, of Arkansas. I will read the second section of the Senator's own bill. It is:

"That the said Yearly Meeting, by such committee or agent as it may appoint, is hereby authorized to designate to the proper land officer in Kansas Territory, or to the Commissioner of the General Land Office at Washington, the tract of three hundred and twenty acres set apart by the treaty aforesaid, for the Friends' Shawnee Labor School or Mission, and thereupon the same shall not be offered to sale."

From that language it would seem that the three hundred and twenty acres reserved by the treaty are yet to be designated. The bill does not require that the grant we are now to make shall be located contiguous to the original reservation. Although the plea is that the object is to get wood to support the school establishment this society have put or are to put up, as the case may be, they are not even compelled to have it where the wood can be made serviceable or useful. That, I submit to the Senate, would show at least that the bill is very loose in regard to the selection of the land. It goes on:

"But, upon payment to the United States of \$1 25 per acre, a patent shall issue to such trustee or trustees as the said Yearly Meeting may nominate."

There is a patent to be issued, and when it shall have issued, I imagine we are done with it. Although another provision here says that the land shall never be alienated except by the consent of Congress, they will never come before Congress afterwards to obtain any such consent, but the patent having been issued to the trustee or trustees of this society, it will be conclusive; and any purchaser afterwards purchasing that patent, in the language of all other patents, would be considered as having an indisputable title. There would be nothing requiring him to come back to show the manner in which the entry was made, or the special authority of law by which that entry was obtained, or whether the Yearly Meeting had complied with all the terms of this bill. The patent, I take it, carries the title with it.

To say nothing of the general impolicy of setting apart lands for particular religious societies, I suggest to the Senate that as far as I can see from the report and bill, this yearly society is merely a body of men casually collected together, whose association may be dissolved at any moment; they are not an incorporated company, and we are not granting land to any incorporated persons. We are to make this grant to the Indiana Yearly Meeting of Friends, and with the same propriety we might make a grant to any other fixed church in the United States that is not incorporated. Feuds may arise within the church; it may break up; and in the end this appropriation—and we do not know how soon it may take place—may fall altogether into the hands of the trustees themselves, and may be disposed of for their benefit, notwithstanding the provisions of this bill. The third section provides:

“That the lands granted by this act, as well in the first as the second section thereof, shall not be sold or otherwise alienated by the said Yearly Meeting or its trustee or trustees, without the previous consent of Congress thereto.”

The “previous consent of Congress” can always be had upon the very slightest showing. Let them come forward and say they have found it necessary, having exhausted the wood upon the land for the purposes for which the appropriation of this land was originally made, to ask Congress to permit them to sell it, so that they may locate other lands, it will be permitted at once; and thus you give away the land as well as the wood, and the object will be disregarded.

I do not think it is necessary to make any remarks to show the impolicy of such grants to religious societies; for they are without number throughout the United States, and there is also a serious objection to granting to a body of men who are not even incorporated. If six or seven of us were to go out here, and ask you to make a grant to us in trust for a specific object, we should present ourselves upon just as good ground, and with just as much merit, in point of fact, as these parties; for you have no more reason to believe them than any other six or seven honorable men. You grant to no particular person; you grant nowhere where any guard will exist over it. You reserve no right, by the terms of the bill, to rescind the grants if the objects are not carried out. In the beginning, in making a reservation of three hundred and twenty acres for this object, in their treaty with the United States, the Indians admitted that they had reserved enough for the purpose. I suggest that the terms of the treaty alone should govern us. But if the Committee on Indian Affairs, on examination, shall find that the original grant was insufficient, and that an additional grant can be properly guarded, that committee can report it here, provided they concur in the policy. At any rate they will report adversely, if not favorably. I know nothing of their ideas in regard to the particular matter; but when they report, the subject can come up for our consideration after the Indian Committee consider the treaty that affects it, as well as the report of the Committee on Public Lands. I shall say no more myself in reference to this subject.

Mr. GREEN. I think it would be well to refer this bill back for a little further scrutiny, for in its present shape I consider it very objectionable. In the first place it makes a grant to a religious society, and it seems that it is not incorporated, a society which is foreign to the new State of Kansas—the Indiana Yearly Meeting of the Society of Friends. I think it would be a very bad precedent to grant land to a society in

one State to be held in another; but independent of that it is very bad policy to invade State rights. Many of the States have stringent laws.

Mr. HARLAN. I wish to ask the Senator if he does not know that the Yearly Meeting of Friends of the State of Indiana exists throughout all the northwestern States, not only Indiana, but the States of Missouri, Iowa, and also Kansas? Indiana happens to be the seat of their Assembly; the representatives of their society come in from all those States, so that this territory is embraced really within the limits of their organization.

Mr. GREEN. Its general ramification throughout the whole northwestern territory makes it the more objectionable. Many of the States have a settled doctrine by law, and some by constitutional provision, prohibiting religious societies from holding real estate, except for certain specified purposes. Now, if Congress undertakes to make grants before the sovereignty of Kansas attaches, it will be setting up an action on the part of the Federal Government that will invade the doctrine of State rights when that State shall have been completely organized.

But there is still a more objectionable feature than that in it. It is a system of grants. We all know the topography of that country and the general appearance of the face of the country; and we know that timber there is exceedingly scarce compared to the broad extensive prairies, and that the settlements will require forty acres of timber land to four hundred acres of prairie land, in order to settle the country up, and that that is enough. The settlers who go on the land thus apportion it out; they divide it up, and stake out their claims. This, however, is to give three hundred and twenty acres of timber land for three hundred and twenty acres of other land, which is an unjust and an unfair provision, and which will retard the settlement of the rest of the Territory.

But, more than that, when these Indian reservations were marked off, the unsettled territory remaining was immediately dotted all over, and is at this time staked all over with claims. It has been the common practice of this Government to grant retrospective preemption right; and while we have now a prospective preemption law, the common custom and practice of the neighborhood has been that the honest location of squatters is equal to the formal right of preemptions. This overrides all that class of persons, and will take away claims of at least half a dozen, giving an option to this society to take the land when and where they please within the limit prescribed.

Mr. COLLAMER. I ask whether in Minnesota they had not a preemption right before the lands were surveyed?

Mr. GREEN. I believe they have, in some cases. I know that in many cases where settlers have gone on public lands before the lands were surveyed, a retrospective preemption law has been passed for their relief. In other cases under my eye, before the public land was surveyed and brought into market, it has been settled all over it, and by common consent and general understanding, without the coercive power of law, they staked off their claims harmoniously, peaceably, and quietly; and when the land was surveyed, it was satisfactorily arranged, if one lost a little land here, it was made up there, by general understanding. That system prevails in the Shawnee reservation in Kansas. This bill proposes to oust these settlers, and destroy squatter sovereignty. I do not think that is right. It takes away their property. It violates a principle this Government has sanctioned, and I think it would be unjust. Besides, if these parties need a little timber land, forty acres is plenty. The Senator from Michigan says we do not give it to them; we only give them a preemption. He knows that every acre of that timber land, this day, will sell for ten dollars. Perhaps he will reply, “why, those who are upon it will only enter it at \$1 25.” Certainly that is so; but by dividing it up into small parcels, and putting a large quantity of prairie with it, for a small quantity of timber will feed a large proportion of prairie, and sustain it and keep it up, you sell the prairie land, which, if you exhaust the timber, you never can sell. It is, therefore, equivalent to giving them ten dollars an acre. Much of it, in this case, would sell for twenty-five dollars an acre.

I am not disposed to see any harsh treatment

instituted toward this society of Friends; but I am not willing to set an example which will destroy the rights of individuals. The common custom and practice of the Government, sanctioned by law in many cases, has given individuals a right to settle on this land; I believe it is now being surveyed; and, in the absence of this bill, their titles will be completed in a very short space of time; but by the passage of this bill you override all these squatters; you drive them from three hundred and twenty acres of timber land, and in the act of driving them from three hundred and twenty acres of timber land you may drive them from three thousand acres of prairie land, leaving it a barren waste forever. I hope it will be restricted to forty acres, if the bill is to pass at all; but I think the three hundred and twenty acres they already have is enough for the purpose for which this institution was gotten up.

Mr. IVERSON. It must be evident to the Senate that if so much time is lost on little bills like this, it is utterly useless to take up the Private Calendar, because it is an absolute denial of the consideration of every other case. This case has already occupied some three or four days of the consideration of the Senate; I do not mean whole days, but it has been up three or four times, and occupied one or two hours on each occasion. Now, I suppose it is to occupy two or three hours. More time has been occupied in debating this bill than every other bill which has been considered on the Private Calendar at this session; and yet the parties interested are not willing to take a vote. It has cost the Government already, in debating this bill, ten times the value of the land involved.

Several Senators. Let us have a vote.

Mr. IVERSON. I am willing to vote. Otherwise I shall move to lay the bill on the table. I think it is unfair to the rest of the private claimants now before the Senate, that so much time should be occupied in debating a subject which really is not worth anything at all. If the friends of the measure will give way and let the vote be taken, I have no objection. Otherwise I shall move to lay the bill on the table to test the sense of the Senate whether we shall go on with it or not.

Mr. CLAY. I hope the Senator will not make that motion until I make a remark or two. I wish to recall to the attention of the Senate some facts which have not been presented.

Mr. IVERSON. Then I shall have to yield to other gentlemen.

Mr. MASON. The discussion is not to be stopped.

Mr. IVERSON. I move to lay the bill on the table.

Mr. STUART. I ask for the yeas and nays on the motion. This discussion has not been by the friends of this bill.

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 27; as follows:

YEAS—Messrs. Clay, Cleggman, Davis, Fitzpatrick, Green, Hammond, Henderson, Houston, Iverson, Kennedy, Mason, Polk, Sebastian, Silldell, and Yulee—15.

NAYS—Messrs. Allen, Benjamin, Broderick, Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Mallory, Pugh, Seward, Shields, Simmons, Stuart, Sumner, Trumbull, Wade, and Wilson—27.

So the motion was not agreed to.

Mr. STUART. I suppose the motion made by the Senator from Arkansas is in order; and therefore I only wish to suggest that this bill may be made definite under the report by stating the position of the land desired to be entered. The report states it in these words:

“One hundred and twenty acres west of the farm, and two hundred acres on the south side of the Kansas river.”

That is all the land mentioned in the report. I suppose, however, the question will be first on the motion to refer to the Committee on Indian Affairs.

Mr. POLK. I ask the Senator if there is any limit in the southern extremity within which the lands may be located, short of the southernmost limit of the Shawnee land?

Mr. STUART. I will state that I am willing this matter should be limited. I take it, human language can limit it; and I am willing to say the land shall be located within a given distance. I am willing to say it shall be within half a mile of the river—any language that is necessary. I believe the language here will answer.

Mr. PUGH. At the suggestion of the Senator from Mississippi, the other day, I wrote an amend-

ment which I intended to offer. It is, in the fourteenth line of the first section, to strike out all after the word "upon" to the end of the sentence, and insert:

Such of the lands covered by timber as are most contiguous to the present mission tract, and shall remain after the Indians shall have made their selections, as provided by the treaty aforesaid.

I presume this will cover the point: I move this amendment.

The PRESIDING OFFICER, (Mr. FITZPATRICK.) The first question is on referring this subject to the Committee on Indian Affairs. The amendment will be in order after that is disposed of.

Mr. CLAY. I simply rise to call the attention of the Senate to some facts which have not been presented. Besides the grant of lands hitherto made to this religious association, I understand that other grants within this reservation, some of larger and some of lesser quantities, have been made to other religious denominations. I want to show the Senate how much has already been granted within the Territory of Kansas for the purpose of Indian schools, ostensibly, under the treaty. In the second article of the treaty of the 10th of May, 1854, with the Shawnees, I find these words:

"Of the lands lying east of the parallel line aforesaid, there shall first be set apart to the missionary society of the Methodist Episcopal Church South, to include the improvements of the Indian Manual Labor School, three sections of land; to the Friends' Shawnee Labor School, including the improvements there, three hundred and twenty acres of land; and to the American Baptist Missionary Union, to include the improvements where the superintendent of their school now resides, one hundred and sixty acres of land; also five acres of land to the Shawnee Methodist Church, including the meeting-house and grave-yard; and two acres of land to the Shawnee Baptist Church, including the meeting-house and grave-yard. All the land selected, as herein provided, west of said parallel line, and that set apart to the respective societies for schools, and to the churches before named, shall be considered as part of the two hundred thousand acres reserved by the Shawnees."

Now, it appears that within the lands reserved for this tribe of Indians alone in the Territory of Kansas, we have already granted to different religious denominations upwards of twenty-four thousand acres; and it is proposed now to give, in addition, three hundred and twenty acres. As objected by the Senator from Arkansas, I regard this as nothing more than a grant to these individuals. It does not appear that they are a corporation. There is no guarantee that it will be retained in perpetuity for the benefit of these Indians. There is no security to the Government that if they fail to apply these lands for the purpose ostensibly in view—the education of the Indians—they will revert to the Government. There is no Senator, I think, who can seriously maintain, or who can believe, that the Government ever will recover these lands. We give them upon mere trust that they will be exerted for the improvement of the Indians, and with a certainty that, in the course of time, they may be sold, and inure to the benefit of individuals.

Mr. FESSENDEN. I should like to ask the Senator a question: I have understood from the debate that there was nothing given, but that the bill simply allowed certain individuals to enter a tract of land and pay for it.

Mr. CLAY. That is true; and I suppose the Senator would say it was no gift if they were allowed to enter it at a cent an acre.

Mr. FESSENDEN. They are to enter at the proper price—\$1 25.

Mr. CLAY. It is \$1 25; and yet I am assured that these lands will command from twenty to thirty dollars an acre. The Senators from Missouri, who are acquainted with the value of the lands, and especially the Senator on my right, [Mr. GREEN,] who lives near the Territory of Kansas, will substantiate the assertion that it does never happen—

Mr. SHIELDS. I wish to ask the honorable Senator a question, based on the remark of the honorable Senator from Missouri. I see no objection to this bill except the one raised by the honorable Senator from Missouri, that it may disturb the rights of settlers; and although they may have no legal rights, properly speaking, their rights are as much respected in these matters as if they were legal. If they are settlers, as he states, or what are called squatters, and you give this society the right to locate lands over them, you would do them an injustice.

Mr. STUART. The Senator will allow me a moment. I have no objection to a restriction being put in the bill to guard against that. The fact is that this bill covers land that this school had inclosed and occupied before the treaty was made. It was so described in the report; but there is no objection to its being limited so as to preserve the rights of any adverse occupants.

Mr. SHIELDS. I would like to see such a provision inserted, and then I think there can be no reasonable objection to the bill.

Mr. CLAY. I have little else to say. I do not suppose any one expects the Indians to remain permanently on this reservation, or within the limits of the State of Kansas, if it should ever become a State. We all know that this people do not live in the midst of civilization. We all know that they recede before the approach of the white man as does the horizon. We all know that their destiny, according to our experience, is ultimate and speedy destruction. In the course of a very few years this people will all disappear from the limits of the United States.

What, then, is to be done with these lands? They belong to a corporation, if you choose; but to a mere association of individuals, as I say. Who is to enjoy the benefit? It will ultimately redound entirely to the individual interest of the society or the persons who are associated in this enterprise.

As to its achieving any great amount of good to the Indians, I know from observation—I know from the experience among the Cherokees in my own State, that it is all an idle illusion; it amounts to nothing whatever. Within forty miles of the town where I have been raised and reside, such an establishment had a school among the Cherokees; it continued there from my earliest recollection until within the last fifteen or twenty years. During all this period of time a good many Indians were assembled about the mission; but they were occupied mainly in laboring for the association; they were occupied in the early cultivation of the fields and in waiting upon the families assembled at this mission. They would remain there a few years, go off, and resume their wild uncivilized habits; and I do not know a dozen of them who have ever retained the habits of civilization, and who pursue agriculture or any of the mechanic arts for a living at this time. The society ultimately broke up; the Indians were all removed west; and I do not know what became of the mission, but the land, I know, has passed into the hands of other individuals or private persons, who are now on it, and hold it by some kind of title. To whom the benefit of the moneys derived from the sale of the lands went I cannot say, but I believe it went to the persons who formed the association. I have no faith in any of these enterprises. They have been tried time and again, among the Cherokees and Choctaws within the limits of my own State; and I do not think they have achieved any good results whatever. They have generally been schemes of private pecuniary speculation rather than of religious and benevolent purposes. Inasmuch as this bill proposes to give them now three hundred and twenty acres of woodland, worth at the lowest, I suppose, ten dollars an acre, and perhaps thirty dollars, I am unwilling to vote for it.

Mr. SIMMONS. I did not understand the Senator exactly as to how many acres there were in the first grant he read.

Mr. CLAY. I stated that the aggregate of the whole grant was upwards of two thousand four hundred acres.

Mr. SIMMONS. How much was there in the first grant to the Methodist Episcopal Church South?

Mr. CLAY. The first grant was three sections of land.

Mr. SIMMONS. That is one thousand nine hundred and twenty acres?

Mr. CLAY. Yes.

Mr. SIMMONS. That went South; and I think this might go to these Quakers.

Mr. CLAY. The Senator calls attention to the fact that one thousand nine hundred and twenty acres have been granted to the Methodist Episcopal Church South by the treaty with the Indians, and the inference is, that this northern association ought to have an equivalent; and thus it is supposed that, in order to equalize these several religious associations, we ought to give that quantity to each.

Mr. SIMMONS. I had no such purpose at all. I thought there was a mistake in the quantity; I thought it was quarter sections when he read the treaty; but it happened to be sections.

Mr. HARLAN. I think the Senator from Alabama is in error on one point. I understood him to suggest, that in all probability, this land would ultimately revert to private individuals. This question came up in committee; and, in order to guard against that contingency, a third section was added to the bill, in these words:

"That the lands granted by this act, as well in the first as the second section thereof, shall not be sold or otherwise alienated by the said Yearly Meeting, or its trustee or trustees, without the previous consent of Congress thereto."

So that there is an impossibility, it seems to me, of a reversion of this land to private individuals, unless Congress shall hereafter pass a law conferring that privilege on individuals. While up, I will remark that has been the policy of the General Government to encourage the labors of religious societies among the Indians in all the Territories. It has been so in my State. There are very valuable lands now held by the Roman Catholic Church near Council Bluffs, and some of them are embraced at present within the corporate limits of the city, that were acquired by previous occupancy on their part as missionaries among the Indians. They hold lands all over the western States by virtue of this prior occupancy. The same is true, too, I think, of the Methodist Episcopal Church, as well as the Methodist Episcopal Church South, and of the Baptist Church, and the Presbyterian Church. Whatever the Senator from Alabama may suppose in relation to the ultimate destiny of the Indians, these religious people believe that they may be reclaimed from their savage habits and may be converted to Christianity; and in doing this they doubtless teach them the arts of civilization. I have no doubt that if the Senator was as familiar with the results of the labors of these organizations as he is with many subjects of State and national policy, he would have a different opinion from that which he has expressed. There are many thousands of Indians who have been converted to habits of civilization, and who are embraced within the pale, so to speak, of the different churches. They are church members, communicants in all the religious churches, I believe, that are organized in this country; at least they are members of all the leading societies, embracing the Catholics, the Presbyterians, the Baptists, the different orders of Methodists, and the Friends. In permitting this society of Friends to enter this land to be held for the use of the Indians, and not to be perverted to any other use without the consent of Congress, I think we wrong nobody; and as Congress appropriates money year after year, to aid these missionaries, directly from the Treasury, it seems to me there can be no well-grounded objection to giving them a right to enter the land, at least until this policy of the General Government is changed.

The motion to refer the bill to the Committee on Indian Affairs was not agreed to.

Mr. GREEN. I propose an amendment to strike out three hundred and twenty acres in the first section, and insert eighty acres. I think that is ample, according to the statement they themselves make; and then I shall move another amendment afterwards.

Mr. PUGH. I offered an amendment before that, but I understood it was ruled out of order, because there was a motion pending to refer the bill. I hope we shall have a vote. I think the Senate understand the bill without further debate.

The PRESIDING OFFICER, (Mr. FITZPATRICK.) The Chair will remark to the Senator from Ohio that, at the time he offered his amendment, it was not in order. Before he attempted to renew it, the amendment of the Senator from Missouri was offered.

Mr. GREEN. Mine is prior to his in the regular order of the bill, anyhow.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Missouri to strike out "three hundred and twenty," and insert "eighty."

Mr. JOHNSON, of Arkansas, called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 19, nays 25; as follows:

YEAS—Messrs. Brown, Clay, Fitzpatrick, Green, Hammond, Henderson, Houston, Hunter, Iverson, Johnson of

Arkansas, Kennedy, Mallory, Mason, Polk, Sebastian, Sliedell, Toombs, Wright, and Yulee—19.
 NAYS—Messrs. Allen, Benjamin, Broderick, Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Jones, King, Pugh, Seward, Shields, Simmons, Stuart, Trumbull, and Wade—25.

So the amendment was rejected.

Mr. PUGH. Now I offer my amendment, which I before sent to the Secretary's desk; with an addition, suggested by the Senator from Minnesota.

The Secretary read the amendment; which is in section one, lines fourteen to sixteen inclusive, to strike out the words "any of the said lands which will belong to the United States after the Indians shall have made their selections, as provided by the said treaty," and insert:

Such of the said lands covered by timber as are most contiguous to the present mission tract, and which shall remain after the Indians shall have made their selections, as provided by said treaty aforesaid, and not upon any lands in the actual occupation of *bona fide* settlers.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. MASON. The effect of this bill, whatever its object may be, certainly will be to place a religious society, whether incorporated or not I do not know, in the place of citizens of the country, in reference to the public lands, to allow them to be held in mortmain for some religious or eleemosynary purpose. I cannot conceive a more unfortunate policy to be adopted in any country, and one that I should be reluctant if it could ever be supposed my humble name was connected with on the records of legislation. I ask, therefore, that the vote be taken on the passage of the bill by yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 29, nays 17; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bigler, Broderick, Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Jones, King, Pearce, Pugh, Seward, Shields, Simmons, Stuart, Trumbull, Wade, and Wilson—29.

NAYS—Messrs. Brown, Clay, Fitzpatrick, Green, Hammond, Henderson, Houston, Hunter, Johnson of Arkansas, Mallory, Mason, Polk, Sebastian, Sliedell, Toombs, Wright, and Yulee—17.

So the bill was passed.

JANE SMITH.

The next bill on the Calendar was the bill (S. No. 87) from the Court of Claims, for the relief of Jane Smith, of the county of Clermont, State of Ohio.

Mr. POLK. I will state to the Senate that the bill No. 87, and the next bill, No. 88, for the relief of Lucinda Robinson, were reported by me from the Committee on Claims; but I have learned this morning that it is the desire of the parties that those bills should be passed over. I therefore move to postpone this bill until to-morrow.

The motion was agreed to.

LUCINDA ROBINSON.

The next bill on the Calendar was the bill (S. No. 88) for the relief of Lucinda Robinson, of the county of Orleans, State of Vermont.

Mr. POLK. I make the same motion in regard to that bill.

The bill was passed over.

GEORGE ASHLEY.

The bill (S. No. 89) from the Court of Claims, for the relief of George Ashley, administrator *de bonis non* of Samuel Holgate, deceased, was considered as in Committee of the Whole. It provides for the payment to George Ashley, administrator *de bonis non* of Samuel Holgate, deceased, of \$996 01, being in full for certain planks and boards and other property of Samuel Holgate, seized by Commodore McDonough, on Lake Champlain, in the year 1814.

Mr. PUGH. I understand that that gentleman's claim appears to be this: He was detected in the act of supplying the enemy, and his property was seized and taken into a district of the United States, libeled in admiralty, and condemned; but the point he makes is, that it was condemned in the wrong district. That is the whole of it. It is admitted that if it had been taken into the district of Vermont, instead of the district of New York—

Mr. COLLAMER. He does not admit that it has been condemned.

Mr. PUGH. It is admitted by the court that if it had been taken into the district on the other side of the lake, it would have been rightly condemned, and he would have had no claim; but, inasmuch as it was taken into the wrong district, he has a claim against us. I do not think it is a claim which appeals to the favorable consideration of Congress, and I think we had better defeat the bill.

Mr. IVERSON. The Senator from Ohio is somewhat mistaken when he asserts in regard to this party, that he admits if the case had been decided in the proper court, it would have been properly decided. The petitioner admits no such thing; nor is there any evidence whatever as reported in the decision of the Court of Claims that this man was detected in trading with the enemy. His vessel, loaded with timber, was seized upon the lake passing from one port of the United States to another, under a contract for the delivery of timber in the United States. It was seized while passing from Milton, in Vermont, to Chazy, in New York.

Mr. COLLAMER. It was a raft of timber that was seized.

Mr. IVERSON. Somebody had entered into an engagement or a contract with him to supply timber in particular places in the United States. He was in the discharge of that contract, going from one port of the United States to another, when his raft was seized upon the lake. He was not trading with the enemy, nor was he within twelve or fifteen miles, as I understand, of any port in Canada belonging to the jurisdiction of Great Britain. The property was seized and carried into New York, and there it was libeled and finally condemned as proper prize, upon the allegation that it was engaged in an illicit intercourse and trade with the enemy, but that court had no jurisdiction. If the Senator from Ohio will look to the statute on the subject, he will be satisfied that the court in New York had no jurisdiction, because the jurisdiction is conferred only on the court in the district where the crime is perpetrated. The proper court was the one in Vermont, not in New York. The court in New York, however, assumed jurisdiction without having any conferred upon it by the law, and the party was not there to defend his case. The property was brought up and libeled in a court that had no jurisdiction, and of course the whole proceedings were null and void, and did not bind this party or affect the question at all. That is the case, as stated in the report.

The court had no jurisdiction, and having no jurisdiction, of course the property was illegally and improperly condemned. It was, however, sold, and purchased by an agent of the Government, and went into Government use. The Government used the timber to make fortifications at Plattsburg. The commanding officer of the American forces desired it to be used, and did use it for the benefit of the United States; and now the question is, whether this party suffered damage to the amount of the value of that timber. So far as the evidence is disclosed on the face of these proceedings, there was no testimony whatever that he was engaged in an illicit trade, but it was carried into a court having no jurisdiction of the case, there an *ex parte* proceeding was carried on, and the property was condemned and sold. All he asks is, that the amount of money for which the property sold shall be refunded to him. The Court of Claims have decided in his favor on an impartial hearing of the case, and the Committee on Claims, after a careful examination, concur that the money ought to be refunded. They report no interest, but the simple payment of the value of the property taken by the United States, and used by the Government in its operations at Plattsburg; and in the opinion of the Committee on Claims, and the Court of Claims, illegally and improperly condemned. Under these circumstances, it seems to be a fair claim. I feel no personal interest in any of these matters; but this is one of those cases that have undergone the investigation of the Court of Claims; and I wish to make one statement to the Senate in relation to the cases which have been brought before that court. What credit is to be given, what weight is to be given to the decision of that court? Here is a case that has been sent to the Court of Claims under the

law which establishes that tribunal. They have gone into an examination of the facts and the law of the case, and they have come to the conclusion that this party is entitled to relief, and have reported a bill in his favor. Is no credit, no faith, no weight, to be given to their report? Is every case they decide to be taken up and reversed? It is a question the Senate must decide, as to how far the decisions of the Court of Claims are to be authority to guide and control their action.

I have considered the subject to some extent; and the rule I have laid down for myself is, that whenever the Court of Claims have decided a case favorably to the claimant, and reported a bill for his relief, I will give to that petitioner the benefit of all doubts I may have; and I will not in any case oppose the decision of the court, unless I am clearly satisfied, beyond reasonable dispute, that the decision was wrong. I will not be controlled conclusively in every case by the decision; because that court may err as well as other courts, and I must exercise my judgment in ascertaining whether the court have decided right or wrong; but unless it is a very clear case against the decision of the court, I feel it my duty to conform to their decision; or else why establish the court at all? If the decisions of the court are to pass for nothing, then it is unnecessary to incur the expense which the court involves every year, and we had better do away with it. On the other hand, when the court have decided adversely to a claim which the party has had every opportunity to have investigated and decided on fair, legal, and equitable principles before that court, for one, I am not disposed to reverse the decision. I think the proper rule for Congress to establish in such cases is that where there is an adverse report from the Court of Claims, that ought to be conclusive against the claimant. If he has had his day in court, if he has had a fair opportunity of being heard, and has had his case decided by an eminent, faithful, and able judicial tribunal, upon the testimony collated on both sides, I think he ought to be satisfied with that decision, and not be permitted to open the case again in Congress. Therefore, unless it is a very strong case, one which involves corruption, or one which arises upon other evidence that has been discovered subsequent to the decision of the Court of Claims, I would not be disposed to reverse or reopen any decision of that court adverse to a claimant. So on the other hand, although I admit that Congress is not bound by the decisions of the Court of Claims where they are favorable to claimants, because in appropriating money we must assume the jurisdiction of reviewing the decision to some extent, still I think we ought to give credence and credit to the decision of the court, and accord to the party the benefits of that decision, unless a clear, unequivocal case is made out that the court have decided wrong. This is a case where the court, after patient investigation, have decided in favor of the claimant; and I confess I have seen nothing which shakes my confidence in the propriety of the decision, and therefore I go for the claim. I feel no personal interest in the matter.

Mr. BENJAMIN. I have looked over this report; I am in the habit, as these private claims come up, of looking at the reports; and I must say that there is a very loose practice now in the Senate by which the reports from our Committee on Claims, based on the decisions of the Court of Claims, are brought before us without the decision of the court accompanying the bill, so as to render it exceedingly inconvenient to get at the facts. I have looked at this case; I think it is entirely wrong; and I will state in a few words why.

A claim is here made for the value of certain lumber, taken during the last war by Commodore McDonough, and used for fortifying purposes upon Lake Champlain. It appears that for a series of years this claim was presented to Congress, and uniformly rejected. The schooner which conveyed this timber, with some other naval stores, was libeled in the district court of New York, and condemned upon the ground that it was engaged in commerce with the enemy. The Court of Claims sets aside any effect that the decree might be supposed to have, upon the ground that the New York court had no jurisdiction of the claim, inasmuch as the seizure was made within those waters which were peculiarly appropriate to the

jurisdiction of the district court of Vermont. They say, therefore, that the case was *coram non judge*.

But, sir, the owner of this property went further, and instituted a suit in Vermont against Commodore McDonough for trespass, in taking possession of his property; in that suit the commodore pleaded "not guilty," and there was a verdict in his favor. The Court of Claims set aside the effect of that verdict, by saying that although the verdict is conclusive as regards him, yet, as a principle of law, it is not binding, as regards the claim of this claimant against the United States, upon the technical rule of law that a verdict in favor of one cotrespasser is not pleadable in bar to a suit against another cotrespasser. That may be a very correct technical rule of law, but it is obvious to us all that if Commodore McDonough seized this timber and used it for Government purposes, he seized it on the ground that it was being used by this citizen of the United States for the use and service of the enemy in time of war; and if, in an issue joined with him, there has been a verdict of the jury that he was not guilty, that verdict could only have been rendered on proof that he was justifiable in making the seizure. He could on no other ground be justifiable in taking this citizen's property; and although the technical rule of law might not enable the United States to set up this verdict in bar of an action against itself, it has none the less its moral force when a claim is made upon the equity of the Government that we should make an appropriation for the payment of this lumber.

There was other property on board not used for the purposes of the Government. There were tar, hawsers, and anchors. The court say the Government is not responsible for this. Why? Because they were not used for Government purposes; and they say, therefore, that Commodore McDonough alone is responsible for them, if any one; but Commodore McDonough has already been adjudged not to be responsible, not to have committed a trespass in the seizure of this property, and this property was seized at the same time as the lumber; and if the lumber was properly seized, as well as these other stores, on the ground that it was on its way for the service of the enemy, I think a fair conclusion, from all the circumstances of the case, is that Commodore McDonough made a justifiable seizure of this vessel, and that the Government of the United States ought not to pay for the lumber which it deemed proper to use for its own fortifications. I do not consider this as a case of taking private property for public use. I consider it a case of a Government officer acting in the exercise of his discretion with which he was invested by virtue of the command intrusted to him, seizing the property of a citizen on its way to the aid and comfort of the enemy. It was charged against him by the owner, that the owner was not on his way to the aid and comfort of the enemy, and that Commodore McDonough's seizure was a trespass; and that issue being tried, there has been a verdict of the jury in favor of Commodore McDonough, and I cannot vote for the Government paying.

Mr. COLLAMER. Does that appear by the decision?

Mr. BENJAMIN. That appears by the decision of the Court of Claims. Here is what the Court of Claims say upon the subject. After speaking of the condemnation of this property by the district court in New York—

Mr. COLLAMER. But what do they say about the case against Commodore McDonough?

Mr. BENJAMIN. Here it is:

"Another objection made in this case is, that a verdict and judgment had been previously rendered in favor of Commodore McDonough, in a suit against him by said Samuel Holgate, for the afore-said seizure of the goods in question. But that objection is not tenable. It is a sufficient answer to this objection to say, that, in this case, the Government of the United States, and not Commodore McDonough, is the defendant. It is decided, even in the case of joint trespassers, that a judgment in favor of one of the trespassers, in a suit against him alone, is no bar to a suit against the other trespasser."

On the face, therefore, of this decision of the Court of Claims, I can see no just ground for making this appropriation by the Government.

Mr. COLLAMER. I will say to the gentleman that, in point of fact, I know that this question was not in issue in the suit against Commodore McDonough. The people of Vermont were very deeply moved on that subject; for the action was brought against him when he was invited over to

a celebration of the battle of Plattsburg, and he was seized in the procession. In the suit against Commodore McDonough, there was no issue made as to whether, in point of fact, the property was being taken to the enemy; his ground of defense before the circuit court of the United States was, that he was a public officer, and that he had reason to suppose the property was going to the enemy, and therefore seized it and delivered it over to the civil authorities; and that, for so doing, he was not personally responsible, even although the property was not going to the enemy. The case was tried on that ground, not on the merits of the seizure.

Mr. BENJAMIN. I further observe, by the decision of the Court of Claims, that they do not appear to have had any evidence before them that this suspicion was unfounded. No evidence was taken before the Court of Claims, and none is reported, about the merits of the case; but, although there was a judgment against it on the merits in the district court of New York, they say that is null and void because that was not the proper jurisdiction.

Mr. COLLAMER. The party never appeared there.

Mr. BENJAMIN. But no evidence was taken before the Court of Claims on that.

Mr. SIMMONS. I suppose the Senator from Louisiana is now satisfied that the question was not put in issue and not tried at all, whether the lumber was going to the enemy.

Mr. BENJAMIN. The Senator from Vermont so states, and of course I take his statement.

Mr. SIMMONS. Then, the reasoning is gone.

Mr. BENJAMIN. The reasoning is gone on that point; but there is no evidence on the main question whether such was the fact or not.

Mr. IVERSON. I know the Senator from Louisiana is too good a lawyer to assert or to argue that the decision made by a court having no jurisdiction of the case has any weight whatever. It is certainly a nullity.

Mr. BENJAMIN. I do not pretend that the decision in the New York court is conclusive or binding on this claimant; but I say that the circumstance affecting the propriety of the seizure has never yet been decided anywhere. The Court of Claims seems to have taken no evidence on that question at all; but, simply because the district court in New York rendered a void judgment, they give this man his claim without inquiring into the merits at all.

Mr. IVERSON. No evidence was brought by the Government on that point. All that the claimant is bound to do, in a case of this sort, is to prove the trespass, to prove that the defendant has seized his property. He must prove, first, that it was his property; and next, that the defendant seized that property and appropriated it to his own use. When the plaintiff proves that, he is entitled to damages, unless the defendant shows that the property was properly seized. Now, the decision of the Court of Claims discloses the fact that this property belonged to the claimant, and that it was seized and condemned and used by the Government of the United States. The presumption of law is, until the contrary appears, that it was illegally seized. There is no evidence in this case, which it was the duty of the Government to bring forward if it wanted to sustain the decision of the court in New York, to show that this property was legally seized. It was the duty of the Government to show before the Court of Claims that it was properly seized and condemned. In the failure of such evidence, as the gentleman knows, the presumption is that it does not exist.

Then, on the other point in relation to the fact that the matter was decided in the circuit court of Vermont as against Commodore McDonough when he was sued for trespass and pleaded not guilty, the verdict of the jury was in his favor. The Senator from Louisiana knows, as well as I or any other sensible lawyer who has ever practiced in any court, how much credit the verdict of the jury, like that which probably tried this case in Vermont, is entitled to. Here was Commodore McDonough, a patriotic and distinguished man, who doubtless seized this property in good faith, believing that it ought to have been seized. He was mistaken about it. When he was sued he pleaded not guilty, and he could have used the argument, as doubtless his counsel did, that he was

not to blame if the property was illegally seized, that he was merely discharging his duty as a public officer; and if wrong had been done, the Government of the United States ought to be responsible, and not the commodore. That doubtless was the argument put in the heads of the jury, and they no doubt properly, as they do very frequently, found in favor of the defendant against the strict technicalities of law, when the equity of the case was with him. This was probably a case of that kind. Commodore McDonough was sued as a private individual; and it was urged to the jury that he was acting as a public officer in good faith, and that, although he might have been mistaken and committed an illegal act, a trespass, technically speaking, against the property of the plaintiff, he ought not to be held individually responsible for what he was doing in behalf of the Government, and therefore they very properly acquitted him. I do not attach much weight to the verdict of acquittal in that case. It is no evidence whatever that this property was legally seized and condemned. The equity of this case, apart from all considerations of law, is that the Government seized this property, and had the use of it. Although it was not in the ordinary manner taken for public use, it was used by the Government, applied to its own purposes, and therefore it seems to me the Government ought to be responsible for it.

Mr. PUGH. I think this case may become a precedent that will give us a great deal of trouble if we recognize the principles of law asserted by the Court of Claims. I attach no conclusive force to the opinion of that court upon a question of law; the statute does not. I give it the same force that I would give the opinion of a master in chancery—no more. That was the intention of the law creating the court. It was not called a court until the last minute; it was called a board of claims. They are nothing but three commissioners appointed by act of Congress to hear certain claims, to give us their opinions upon the facts and upon the law; and I take their finding upon a question of fact as I take the finding of a jury or of a court upon submission. As to their view of a question of law, I acknowledge it to be nothing but the opinion of three learned gentlemen, and if it is correct, pass it; and in doubtful cases I generally let it go; but where I think it is a serious error, which will lead to the introduction of a vast number of improper claims against the Government, I deem it my duty to interpose.

Did the Government of the United States take the property of this individual? The mere fact that it was used afterwards for fortifications does not render the Government liable, unless the alleged seizure by Commodore McDonough was illegal. If that was a legal seizure of property, which the party was then carrying to the enemy, the seizure divested his title, vested the title in the Government, and therefore it was no longer his property.

We come back then to the seizure by Commodore McDonough. That is the turning point of the whole case. Was it legal or illegal? He has two decisions in his favor; first, the decision of the district court in admiralty. That is said to be void, because the court had no jurisdiction, and I dismiss that; it may be so or not. Now we come to the civil process, to the action of trespass brought against Commodore McDonough himself in a court of law, and tried by a jury. The Senator from Georgia says we know how the verdicts of juries are obtained. Well, sir, if the verdict of the jury was wrong in point of law, or if in point of fact it was carried upon any alleged appeal as to the personal character of the defendant, it was the duty of the court to set aside the verdict, and I take it for granted that the court did its duty. What is the legal effect of the verdict? What is the meaning of the verdict? What did the plaintiff claim? The plaintiff said this defendant, by his agent, has taken my property contrary to law. The mere fact that he was Commodore McDonough would not relieve him from the law. What did the court and jury say? Upon that issue tried at the time, with the witnesses all before them, they said he was not guilty; they said he did not take the plaintiff's property; the plaintiff had lost title to his property by contravening the laws of the country and engaging in trade with the public enemy. They said it was not the property—

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Mr. SIMMONS. I think the gentleman did not hear the Senator from Vermont, who stated that that question was not put in issue.

Mr. PUGH. I know what I presume the Senator from Vermont means to say: that because the plea was, "not guilty," therefore there was not a formal issue made up, as in special pleading.

Mr. SIMMONS. He said there was no issue about the rightfulness of the seizure; but that the decision was on the ground that the commodore was doing his duty, and should not be held personally responsible.

Mr. PUGH. That could not be.

Mr. SIMMONS. That is what the Senator from Vermont said. I do not know anything about it.

Mr. PUGH. It could not be, for this obvious reason: the Government of the United States has never authorized any of its agents to do an illegal act. The act was either legal or illegal. If it was legal, it was the act of the principal through the agent, and then the plaintiff has no claim. If it was illegal, the proper remedy was against the Commodore. Now, we often pass laws—in a case which happened in New Mexico we passed one—to indemnify a public officer for an illegal seizure already made. It was thought, in consideration of the circumstances, that we ought to assume it; but that is a question of discretion for the Government, in every instance. We could not have been bound to do it. I think it was done for Colonel Mitchell, in the case of Mitchell vs. Harmony. We could or could not have done it. We did it in that instance. In this case, if the seizure was legal, it was the act of the United States; if it was illegal, it was the act of the officer, and nobody else. The officer was prosecuted for doing an illegal act, and that question was tried by the jury and by the court; and I do not care what the form of the pleading was, the point which was decided—the legal effect and consequence of the verdict, and of the judgment upon the verdict—was, that the seizure was legal; that it divested the title of the plaintiff; that he had lost his title by violating the laws of the United States.

This being the case, by what authority does the Court of Claims reverse the judgment of another court—of a court which had jurisdiction, which had the parties before it, which had the witnesses before it, and which had a jury impaneled to try the issue of fact? It is an assumption of power which the Court of Claims has not. And when gentlemen complain that we reverse the Court of Claims, I say that the Court of Claims has reversed another court, which had more thorough jurisdiction; and I say that the verdict itself was evidence of the fact—not only evidence in favor of Commodore McDonough in any subsequent prosecution, but was evidence in favor of the United States; for a verdict not only binds the parties, but it binds the privies, as they are called in law; and inasmuch as the United States could only act through him, and not through any other instrument, the moment the court decided that he was not guilty, they decided that the United States were not guilty.

Therefore, I think this man has no claim. I do not know what the amount is; I do not care; but I know that there are no less than twenty or thirty decisions of the Court of Claims, which I have observed before the Senate and before the House of Representatives during this Congress, which involve the same incorrect proposition of law, to wit: that where the United States act by an agent, and can act in no other manner, although the agent has been acquitted, or although the agent is protected by law, it amounts to nothing; they can still come at the United States through the Court of Claims. I say that is not the law, in my judgment. If other gentlemen of the legal profession think differently, and can convince me of it, I shall be happy to change my opinion; but that is not my present impression. I believe the United States are not liable, and therefore, for one, I shall vote against the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and, on the question, "shall the bill pass?"

Mr. PUGH called for the yeas and nays, and they were ordered; and, being taken, resulted—yeas 17, nays 20; as follows:

YEAS—Messrs. Broderick, Cameron, Chandler, Clark, Crittenden, Dixon, Foot, Foster, Harlan, Iverson, Polk, Seward, Shields, Simmons, Stuart, Trumbull, and Wade—17.

NAYS—Messrs. Allen, Bayard, Benjamin, Brown, Clay, Fossenden, Fitzpatrick, Green, Hammond, Henderson, Houston, Hunter, Johnson of Arkansas, Jones, King, Pugh, Slidell, Toombs, Wilson, and Wright—20.

So the bill was rejected.

JOHN ERICSSON.

The Senate, in Committee of the Whole, proceeded to consider the bill (S. C. C. No. 90) for the relief of John Ericsson.

It provides for the payment to John Ericsson of the sum of \$13,930, in full for the balance due him for services in planning the United States war steamer Princeton, and planning and superintending the construction of her machinery.

Mr. STUART. When this bill was up before I called for the reading of the report in the case, and if I remember aright, it covered the opinion of the Court of Claims. The claim struck me as being wrong, and I objected to it. I should like to hear the report read again, as being perhaps the best presentation of the case.

The Secretary read the opinion of the Court of Claims as delivered by Judge Scarburgh, as follows:

"By an act of Congress approved March 3, 1839, it was made 'the duty of the Secretary of the Navy, under the direction of the President, to make preparations for, and to commence, the construction of three steam vessels of war, on such models as shall be most approved, according to the best advices they can obtain, or to complete the construction of one such vessel of war, upon a model so approved as, in the opinion of the President, shall be best for the public interest, and most conformable to the demands of the public service'; and to enable the Department to carry into effect this requirement, an appropriation of \$300,000, subject to certain restrictions, was made.—5 Stat. at Large, ch. 95, § 2, p. 364.

"By an act of Congress, approved July 20, A. D. 1840, a similar appropriation of the further sum of \$340,000 was made, for the purpose of completing the two steam vessels which had been commenced.

"By an act of Congress approved March 3, A. D. 1841, an appropriation of the further sum of \$400,000 was made, to be expended in building and equipping war steamers of medium size.

"On the 11th day of September, A. D. 1841, the Secretary of the Navy, by a letter of that date, addressed to the president of the Navy board, directed the board of Navy commissioners to cause to be built two steam vessels of war—one on Captain Stockton's plan, not exceeding six hundred tons; and one on that of Lieutenant Hunter, not to exceed three hundred tons. Afterwards the acting Secretary of the Navy, by a letter dated the 22d day of September, A. D. 1841, addressed to Captain R. F. Stockton, United States Navy, informed him of the directions which had been given to the board of Navy commissioners, and ordered him to superintend the building of the steamer of six hundred tons, under the direction of the commandant of the navy-yard at Philadelphia, making to him, from time to time, during the progress of the work, such suggestions as he (Captain Stockton) might think proper.

"Captain Stockton, in a letter addressed by him to the petitioner, dated October 2, A. D. 1841, expressed a wish to see and converse with him on the subject of the construction of the steamship, the building of which he had received orders to superintend. An interview took place between them, and Captain Stockton, in a letter to the petitioner, dated the 8th day of October, A. D. 1841, requested the petitioner to make the drawings of a ship with the dimensions they had previously spoken of. In subsequent letters, marked in the printed document ('Exhibit A') on file in this case, 'No. 16,' 'No. 17,' 'No. 18,' and 'No. 19,' Captain Stockton gave the petitioner further and more particular instructions in regard to the drawings which he desired him to make. The petitioner complied with the request of Captain Stockton in all respects, and, in conformity thereto, made the drawings and performed the services specified in 'Schedule A,' to be found in the printed document above mentioned.

"The ship Princeton was constructed according to these drawings, and the result was entirely satisfactory to Captain Stockton, and highly advantageous to the United States. Captain Stockton reported her to the Secretary of the Navy as 'a full rigged ship of great speed and power, able to perform any service that can be expected from a ship of war.'—See 'Schedule M' of 'Exhibit A.'

"On the 14th day of March, A. D. 1844, the petitioner presented his claim ('Schedule A' of 'Exhibit A') for compensation for his services to the Secretary of the Navy; and on the 11th day of May, A. D., 1844, it was rejected, on the

ground that Captain Stockton, in a letter to the Secretary of the Navy, had stated as follows: 'In regard to Captain Ericsson's bill, which was sent to me at the same time, I must say that, with all my desire to serve him, I cannot approve his bill; it is in direct violation of our agreement, as far as it is to be considered a legal claim upon the Department.'—See 'Schedule F' of 'Exhibit A.'

"In a subsequent letter from Captain Stockton to the Secretary of the Navy, he further stated: 'That it has given me great pleasure to acknowledge, upon all proper occasions, the services of Captain Ericsson's mechanical skill in carrying out my well-intended efforts for the benefit of the country.' * * * * * 'I have invariably given him to understand, in the most distinct manner, whenever the subject was alluded to, that I had no authority from the Government to employ him; and that if he received anything, that it must be altogether gratuitous on the part of the Government; that, considering the great opportunity that he, as an inventor, would have to introduce his patents to the world by the aid of the funds of the Government, I did not think it proper for him to make a charge for their application to the Princeton; in all of which he has concurred, as far as I know, up to the time of the presentation of this extraordinary bill.'—See 'BB' of 'Exhibit A.'

"In a letter from Captain Stockton to the petitioner, written in July, A. D. 1841, he says: 'In making up the estimate for the cost of the ship, it will be necessary to consider what must be put down for the use of your patent right. It will be necessary, therefore, for you to write me a letter stating your views on that subject. As a great effort has been made to get a ship built for the experiment, I think you had better say to me in your letter that your charge will hereafter be (if the experiment should prove successful) —; but, as this is the first trial on so large a scale, I am at liberty to use the patents, and after the ship is tried, Government may pay for their use in that ship whatever sum they may deem proper.' In reply to this letter, the petitioner, in a letter to Captain Stockton, dated the 28th day of July, A. D. 1841, said: 'I have duly received your communication on the subject of my patent right for the ship propeller and semi-cylindrical steam-engine; in reply to which I beg to propose that, in case these inventions should be applied to your intended steam frigate, all considerations relating to my charge for patent right be deferred until after the completion and trial of the said patent propeller and steam machinery. Should their success be such as to induce Government to continue the use of the patents for the Navy, I submit that I am entitled to some remuneration; but, considering the liberality that thus enables me to have the utility of the patents tested on a very large scale, and the advantages which cannot fail to be derived in consequence, I beg to state that whenever the efficiency of the intended machinery of your steam frigate shall have been duly tested, I shall be satisfied with whatever sum you may please to recommend, or the Government sees fit to pay for the patent right.'—See 'No. 12' and 'No. 13' of 'Exhibit A.'

"In a letter from Captain Stockton to the Secretary of the Navy, dated February 7, A. D. 1853, he refers to this letter of May 20, A. D. 1844, and, amongst other things, says: 'In that letter I stated the nature of Captain Ericsson's services and the extent of the Department's obligation to him, and admitted his claim to such compensation from the Government as, under the circumstances, he may be entitled to.'

"Time and reflection have not diminished, but rather increased, my estimate of the nature of Captain Ericsson's services, and I have now the honor to reiterate my former opinion, and further to say, that the Government should make him a fair and reasonable compensation for his time and expenses while engaged in superintending the construction of the Princeton's machinery, &c.

"The services rendered by the petitioner were reasonably worth the amount charged by him, to wit: the sum of \$15,000.—See the deposition of Charles W. Copeland.

"The question now presented for our consideration is, whether, under these circumstances, the petitioner is entitled to relief. He has shown that it had been determined by the proper authority, in pursuance of law, to build the steamer Princeton, and that, to effect that object on the plan proposed, and on which she was in fact constructed, the very services rendered by the petitioner, to be performed either by him or some other person, were indispensable. It is insisted, however, that the services of the petitioner were rendered gratuitously. If this be true, then the petitioner's claim cannot be sustained.

"In support of the proposition that the petitioner's services were rendered gratuitously, it is urged, first, that he was not employed by any person duly authorized to employ him; and, second, that the testimony of Captain Stockton is direct and positive that they were thus rendered. *Nemo praesumitur donare*; and this maxim applies with great force to a case like the present, where the object on which the bounty to be bestowed is a great and powerful Government, in possession of abundant means for all its legitimate purposes.

"That the determination to build the steamer Princeton, precisely on the plan on which she was built, was made by the proper authority, under an adequate appropriation, is not disputed, and is, in fact, indisputable. It is equally clear that it was not expected that her construction could be effected without an outlay of money. In order to carry out the object contemplated, it was necessary to employ proper agents, and to invest them with the authority requisite for the purpose. Accordingly we find the Secretary of the Navy giving orders to Captain Stockton to superintend the building of the steamer under the direction of the commandant of the navy yard at Philadelphia, and to make to him, from time to time, during the progress of the work, such suggestions as he might think proper. If, then, this order was obeyed, she was lawfully built, and everything

done in connection with her construction was lawfully done.

"That the petitioner rendered the services for which he claims compensation is undisputed; but it is insisted that Captain Stockton had no authority to make such a request so as to entitle the petitioner to compensation, except under the direction of the commandant of the navy-yard at Philadelphia. If this be true, and Captain Stockton made the request without the direction of the commandant of the navy-yard at Philadelphia, he was guilty of a violation of duty. And, moreover, if this direction was essential to the validity of such a request, then it was also essential to authorize Captain Stockton to accept the services of the petitioner, though tendered to him gratuitously. But it is to be presumed that Captain Stockton, in all that he did, acted in the line of his duty, and not in violation of it. No complaint has ever been made against him by the Government, whose agent he was; but, on the contrary, the payment of the petitioner's claim was made by the very authority under which Captain Stockton acted to depend upon his report. It must be intended, therefore, that, in making the request on which the petitioner's services were rendered, he acted by proper authority. If the direction of the commandant of the navy-yard at Philadelphia was necessary, it will be presumed. The Secretary of the Navy himself, in rejecting the petitioner's claim, recognized Captain Stockton as the trusted and duly authorized agent of the Government in the premises. There is, then, no room for question that what the petitioner did was lawfully done, and that his services were rendered at the request of an officer duly authorized to make it. He did not officiously intermeddle with the great public work which was going on. It would, indeed, be a most offensive imputation upon the characters of the honorable men under whose superintendence and direction it was carried on and completed, even to suppose that he could have done so if he had desired. The only point of inquiry, therefore, is, did the petitioner render his services gratuitously?"

"The letter from Captain Stockton to the Secretary of the Navy, of the 20th May, A. D. 1844, is explained by his letter to the same officer, of the 7th February, A. D. 1853. If we take the former according to its strict literal interpretation, Captain Stockton may be understood not only as having denied that he had any authority to employ the petitioner, but also as having asserted that the petitioner volunteered his services, and rendered them gratuitously. But he did not mean either the one or the other, as is apparent from the consideration that if he did, the two letters would be in conflict with each other. In his letter of the 7th February, A. D. 1853, he expressly says, that in his letter of the 20th May, A. D. 1844, he stated 'the nature of Captain Ericsson's services, and the extent of the Department's obligation to him, and admitted his claim to such compensation from the Government as, under the circumstances, he may be entitled to.' He meant, therefore, in his letter of the 20th May, A. D. 1844, not only to state an obligation of some kind on the part of the Navy Department to the petitioner, but also to state the extent of that obligation, by admitting that he is entitled to a reasonable compensation for his services. But this is wholly inconsistent with the idea that those services were rendered gratuitously. The first letter, therefore, is not to be literally interpreted. It may not be improper here to add, that the letter of the 7th February, A. D. 1853, was obviously designed to be explanatory of the former letter; and to remove all doubts as to his meaning, he, in conclusion, says: 'Time and reflection have not diminished, but rather increased, my estimate of Captain Ericsson's services; and I have now the honor to reiterate my former opinion, and further to say, that the Government should make him a fair and reasonable compensation for his time and expenses, while engaged in superintending the construction of the Princeton's machinery.' &c., &c."

"With the first letter thus explained, the whole case is relieved from difficulty. If the Secretary of the Navy, when he received that letter, had understood it according to this explanation, he would not have rejected the petitioner's claim. When Captain Stockton wrote the letter of the 20th of May, A. D. 1844, he was manifestly under an impression that the plaintiff was asserting a special contract for specified services at fixed prices; and he meant to state not only that no such contract had been made, but that he had no authority to make it. It is to such a contract that the whole of the first letter refers. We can very well understand that the petitioner would gladly have availed himself of such an opportunity 'to exhibit to the world the importance of his various patents,' and that to secure it, he would have permitted his compensation to depend on the contingency of their success; but we do not suppose that Captain Stockton, or any one else, desired that, if the result should be entirely successful, the United States should receive the benefit of the petitioner's services without compensation. Taking the two letters of Captain Stockton together, we have no difficulty in coming to the conclusion that the understanding between the petitioner and Captain Stockton was, that the petitioner should be permitted 'to exhibit to the world the importance of his various patents' in his own way, and according to his own plans, and that he should receive just such compensation for his services as should be justified by the result. The petitioner agreed to accept a *quantum meruit*, dependent on the success of his labors."

"The petitioner admits the receipt of \$1,150. He claims \$15,000. We shall report to Congress a bill in his favor for the sum of \$13,930."

Mr. POLK. I think it would add to the better understanding of this case if the dissentient opinion of Judge Blackford were also read.

Mr. STUART. I do not know where that opinion may be. It is not here in this report.

Mr. MALLORY. The report expressly says that the opinion of the court was unanimous in favor of the claim.

Mr. POLK. My recollection is, that Judge Blackford delivered a dissenting opinion; but I may be in error.

Mr. MALLORY. The Senator from Missouri is in error. The report, read at the desk, is the opinion of the Court of Claims, and it sets out with the announcement that the court was unanimous in the opinion.

The PRESIDING OFFICER. (Mr. Foot in the chair.) There is no dissenting opinion accompanying the decision of the court.

Mr. SLIDELL. I wish, at this stage of the business, to make a suggestion to the Senate in connection with these cases. I have found it impossible to understand the cases from the Court of Claims. One's attention is not called to them until they are brought up in the Senate; and then there is but one copy of the opinion of the court here, and it is utterly out of the question that any Senator can act understandingly upon simply hearing that opinion read at the desk. Properly to understand the merits of the case, and the principles of law upon which it is founded, requires an examination of the opinion, and the papers which should accompany it. I was drawing up a resolution requiring that, in all future reports of committees on bills emanating from the Court of Claims, a sufficient number of copies of the opinion of the court, with the brief of the solicitor and the claimant, should be printed for the information of the Senate; but I now find that a provision of law to that effect has been overlooked. I call the attention of the Secretary to it, that in future we may have the documents to which we are entitled under the law. It requires the court to report, at the commencement of the session, the various cases upon which they have acted, "stating in each the material facts upon which such opinion is founded. Any judge who may dissent from the opinion of the majority, shall append his reasons for such dissent to the report; and such report, together with briefs of the solicitor and the claimant, which shall accompany the report, upon being made to either House of Congress, shall be printed in the same manner as other public documents." If I had been aware that there was such a provision of law, I should have objected to the consideration of any of these cases until I had had the opportunity to examine them; and I hope, in future, we shall be furnished at least with copies of the opinions.

Mr. IVERSON. The Senator from Louisiana is mistaken. The reports of the Court of Claims are all brought here and printed. I have in my hand the printed report in this case, containing the opinion of the court. I was consulted, as chairman of the Committee on Claims in the early part of the session, as to how much of those reports should be printed, and I instructed the Secretary not to have the testimony printed, because that is unnecessary and involves a large expense; and, besides, the Court of Claims always, in their opinion, give a brief abstract of the testimony. So far, however, as regards the decision of the court and the briefs of counsel on both sides, they have all been printed in every case, as I understand, just as the law requires. I followed the law, and instructed the Secretary not to have the testimony printed, that being unnecessary.

Mr. SLIDELL. I hope the Senator from Georgia does not suppose that I mean to find fault with him.

Mr. IVERSON. Not at all.

Mr. SLIDELL. I take it for granted that it is an omission. I have applied to the Clerk this morning in each of the cases from the Court of Claims which have come up, for a copy of the opinion of the court, and I have not succeeded in obtaining one; and therefore I am not able to understand the merits of the cases on which I am called upon to pass judgment.

Mr. IVERSON. I know the Printer has been instructed to print them, and I suppose they have been printed in every case.

Mr. STUART. I presume the importance of this case has attracted the attention of the Senate; and if so, the point I suggest will readily strike their consideration. The court has proceeded upon the ground that Captain Stockton had the lawful authority to employ this man, and that he did employ him; and having done so, that the United States is bound to pay so much as his services were reasonably worth. That is the ground on which the court bases its decision; and in order to get at that decision it gives a construction of Captain Stockton's letters, and says that he must have done so and so. Now, I think the Senate will see,

by referring to the letters as they are embraced in this opinion, that Captain Stockton expressly and unqualifiedly, and in as pointed terms as human language would enable him to do, rejected any such construction. The court states that these vessels were directed to be built on two models, one of which was Captain Stockton's model, and then says:

"On the 14th day of March, A. D. 1844, the petitioner presented his claim ('Schedule A' of 'Exhibit A') for compensation for his services to the Secretary of the Navy; and on the 11th day of May, A. D. 1844, it was rejected, on the ground that Captain Stockton, in a letter to the Secretary of the Navy, had stated as follows: 'In regard to Captain Ericsson's bill, which was sent to me at the same time, I must say that, with all my desire to serve him, I cannot approve his bill; it is in direct violation of our agreement as far as it is to be considered a legal claim upon the Department.' (See 'Schedule F' of 'Exhibit A'.)"

Captain Stockton said it was in direct violation of the agreement he made with this claimant:

"In a subsequent letter from Captain Stockton to the Secretary of the Navy, he further stated: 'That it has given me great pleasure to acknowledge, upon all proper occasions, the services of Captain Ericsson's mechanical skill in carrying out my well intended efforts for the benefit of the country.' * * * I have invariably given him to understand, in the most distinct manner, whenever the subject was alluded to, that I had no authority from the Government to employ him."

And yet, sir, this court determines the case on the ground that he had authority; and in order to come to that conclusion, it presumes that if Captain Stockton acted without authority, he would have been arraigned on charges and tried for it; and inasmuch as there is no pretense that anything of that sort has ever been done, the court presumes that he acted upon authority, and yet he says here, as I have just read, that upon all occasions he invariably told this claimant that he had no such authority—

"And that if he received anything, it must be altogether gratuitous on the part of the Government: that, considering the great opportunity that he, as an inventor, would have to introduce his patent to the world by the aid of the funds of the Government, I did not think it proper for him to make a charge for their application to the Princeton; in all of which he has concurred, as far as I know, up to the time of the presentation of his extraordinary bill."

These are Captain Stockton's letters.

Mr. CRITTENDEN. Read the letter of 1853.

Mr. STUART. The Senator from Kentucky desires me to read his letter of 1853. I will do so; I did not read it before, because I was simply meeting the point on which the court placed the case. In Captain Stockton's letter to the Navy Department, dated February 7, 1853, he says that he had stated, in his letter of May 20, 1844, "the nature of Captain Ericsson's services, and the extent of the Department's obligation to him, and admitted his claim to such compensation from the Government as, under the circumstances, he may be entitled to." That is giving a construction to a former letter in which he had said that whatever the Government should do for Ericsson must be entirely gratuitous. Now he says:

"Time and reflection have not diminished, but rather increased, my estimate of Captain Ericsson's services; and I have now the honor to reiterate my former opinion, and further to say, that the Government should make him a fair and reasonable compensation for his time and expenses, while engaged in superintending the construction of the Princeton's machinery," &c., &c."

That is Captain Stockton's opinion as to what the Government ought to do as a matter of gratuity. I suppose that is a point to be determined by Congress. Captain Stockton's opinion may be very good as evidence; but we all of us know that when an officer like Captain Stockton is called upon by a personal friend in regard to whom he says that he has an earnest desire to aid him all he can, he would write in fully as liberal terms as that. But I was stating that the only ground on which the court have placed the decision, and the only ground on which they could put it, is, that there is a large claim against the United States; and in order to show this they state, in the first place, that there was an appropriation of money to build the ship; in the next place, that there was the appointment of Captain Stockton to superintend the building; next, that Captain Stockton had the services of this individual; and then they say that these proceedings having taken place, and Captain Stockton not having been cashiered or tried for exceeding his authority in employing Ericsson, they therefore conclude that it was legally done; and being legally done, the United States is bound to pay him. I say this is a construction contended for in the face of the strong-

est assertions of Captain Stockton himself that he had no authority; that he so told the claimant: so that there can be no pretense that the claimant supposed he had authority. He told him that he had not, and also told him expressly that whatever sum he should receive from the Government if any, would be a mere gratuity.

It was for that purpose that I was about to remark the pertinency of another portion of that letter. It was the good fortune, the singular good fortune, of this inventor to be able to use the funds of the United States to place his invention in a Government ship, which should publish it to the world, which should be a full and thorough test of it, without costing him a dollar, except his own time; and Captain Stockton was wise and judicious when, in that letter, he presented to the Government the benefits he thought the claimant would derive from such an experiment of his invention at the expense of the Government.

That there is any legal claim, such as this court were authorized to give an opinion in favor of, I think cannot be contended for. If there is any claim at all upon the justice of the Government, as compensation, every Senator here is as well advised of that as I am; but I submit that the case shows that he, having been paid \$1,150 in money, and having had this exhibition and test of his invention at the expense of the Government, is in no wise a loser. That part of the case I do not propose to argue, because, as I said, every Senator is as competent to decide on that as I am. I can only decide for myself on that question, that, with the evidence shown, there is no such claim upon the bounty, or upon the justice, or upon the generosity of the Government, as would induce me to vote for paying this \$14,000. Upon legal grounds, I am certainly very confident there is no claim at all.

Mr. MALLORY. Mr. President, the Senator from Michigan is usually exceedingly fair and just in his estimate of the services of others; and I think if he reviews this case, which he seems to have taken up now for the first time, he will come to the conclusion that he is in error as to the value of this claimant's services. I took the view that he did when I first looked at this case, and a majority of the Committee on Claims were opposed to it; but on reexamination we came to a different opinion. I will state the facts. In 1839, Congress authorized the construction of three war ships. In 1840, the Secretary of the Navy, in obedience to that law, ordered two to be constructed. There were two plans at that time. The question of whether steam could or could not be successfully applied to war vessels had not then been solved; the fear of danger from ignition by fire prevailed in the minds of all naval men, and the problem was to be solved. Its solution was demanded by every naval Power on earth. One of the officers of our Navy, Captain William Hunter, submitted a plan by which wheels were to be inserted in the bilge of the vessel on each side—submerged wheels. Ericsson had demonstrated his plan to be feasible, practicable, and just, already. This was no experiment in the Princeton. The experiment had been made at great cost by Captain Ericsson. He had exhausted every dollar he had on earth in making that experiment. He was here at the door of the Capitol, besieging the Congress of the United States to avail themselves of what his genius had brought about and what his means had been expended in demonstrating, and they refused to do it.

The Secretary of the Navy, in authorizing the construction of these two vessels, directed one to be constructed on Hunter's plan—not model, as the Senator from Michigan says; the model was not in question at all; our models were as good then as they are now; but the point was the application of steam to naval purposes. One was to be built on Ericsson's plan, and one on Hunter's plan. Hunter's plan proved a total failure. Ericsson's plan laid the foundation of the present steam marine. She was the first war propeller ever built on the face of the earth. In the Princeton he brought forward not only his propeller invented by himself, but a great many appliances appurtenant to steam navigation which have since been used in our service.

Now, to show the estimate in which this ship was held, I will mention that the American Institute, hearing of it, sent a committee to investigate the condition and success of what they deemed an

experiment. I will not read the whole report of the committee of the American Institute. My purpose here is to show the value of Captain Ericsson's services to our country. The committee conclude by saying, after summing up the speed of thirteen knots:

"Among the generals and tacticians of Europe, the belief prevails that our superior discipline has been, heretofore, the cause of our successes; and the unflinching conduct, unbroken discipline, and calm contempt of danger, which distinguished the crew and officers of the Missouri, burnt recently at Gibraltar, have done more to elevate our national character in this respect than can be possibly computed by any reckoning of cost of property destroyed."

"In conclusion, your committee beg leave to present the Princeton as every way worthy of the highest honors of this institute. She is a sublime conception, most successfully realized, an effort of genius skillfully executed, a grand unique combination, honorable to the country as creditable to all engaged upon her. Nothing, in the shape of mechanics, surpasses the inventive genius of Captain Ericsson, unless it be the moral daring of Captain Stockton, in the adaptation of so many novelties at one time."

This is signed by ten members of the Institute. Further to illustrate: Captain Stockton, in 1844, after describing the ship, her guns and her armament, says everything human language can do to extol her in the eyes of the American people. As I said, the Princeton is the foundation of our present steam marine. It is the foundation of the steam marine of the whole world. She created universal surprise wherever she was seen. She revolutionized naval vessels; and hereafter in maritime war, those who send sailing vessels to sea, send them but to be captured.

In doing this, it is said Mr. Ericsson undertook to give his service for nothing. The presumption is against a private individual giving his services to the Government; but it is presented by the Senator from Michigan that he received an equivalent by the opportunity of thus testing his experiment. Why, sir, his experiment had already been fully tested, fully admitted; but our Government was slow, and it is always justly slow in availing itself of every invention in its national vessels. The Government had refused to avail itself of it, and Ericsson had not the means of introducing it into foreign navies. It is pretended now that we have availed ourselves of his brains and of his genius and have actually conferred a benefit on Ericsson instead of Ericsson conferring benefit on the country. That is the ground taken.

When Captain Stockton laid the plans before the Secretary of the Navy for building this vessel, they were not his plans; they were the plans of Ericsson and Stockton combined. The plans submitted were submitted with reference to Ericsson's engine, and Ericsson's peculiar machinery and the adaptation of it to the size of the vessel and his peculiar propeller, the shifting smoke-stack, and all those appliances that distinguished the Princeton. Why, sir, a single man on the deck of the Princeton navigated her. Her crew were out of reach of the guns of an enemy entirely, and a single man could not only run the steamer, but absolutely fire one of Stockton's big guns at the same time. She was a vessel which realized what naval men had years before conceived. The perfection of a vessel of war, as a matter of course, must be the combination of the greatest speed with the greatest power; and the nearer you approximate to that perfection, the better vessel you have. It has never yet been reached. The speed of the Persia with the battery of the Agamemnon of course would be the perfection of a war ship, and the Princeton realized it more nearly than ever had been seen before. She acquired a speed on the ocean which had never been attained, and had a size of gun that had never before been heard of. She had, if I remember rightly, eight forty-twos carriage guns, and two of Stockton's large guns. We have gone on step by step since that, but we have never excelled the Princeton, except in size. The qualities which the Princeton had we have translated into other vessels, but in superiority we have never excelled her.

How long was Mr. Ericsson engaged in this? You will find; by the papers on your table, that in September, 1841, the order was issued for the construction of the ship, and he was consulted at once; and he left the service in September, 1843. Two years of the life of such a man as Ericsson were devoted to this service, and he produced the finest ship on the face of the earth; he produced a marvel in the eyes of the world, and now we are told, in the American Senate, that we have absolutely conferred a benefit on that man, and gen-

dlemen seem unwilling to compensate him. I know my friend from Michigan entertains no such ideas abstractedly. If Commodore Stockton had never employed him, if he had absolutely gone forward and volunteered his services, is it just, is it right, that we should accept them and deny him compensation when he asks it? Ericsson, like all men of genius, is poor; and he must, necessarily, be poor for the balance of his days. I never saw a genius that was not, for he is eternally trying experiments by which other men profit.

If he had volunteered his services, I ask, when the country has reaped these great advantages by them, is it just, is it generous, is it magnanimous, in the American people, to refuse him this paltry compensation of some fourteen thousand dollars? But, sir, the Senator from Michigan says expressly that Captain Stockton denies that Mr. Ericsson had any just grounds of complaint; in other words the Senator from Michigan gives a construction to Captain Stockton's letter which Captain Stockton himself repudiates. He undertakes now, in 1858, to construe Captain Stockton's letter differently from the construction given to it by Captain Stockton himself in 1853. The Court of Claims were unanimous in this case, and they state Captain Stockton's construction thus:

"The letter from Captain Stockton to the Secretary of the Navy, of the 23d May, A. D. 1844, is explained by his letter to the same officer, of the 7th February, A. D. 1853. If we take the former according to its strict literal interpretation, Captain Stockton may be understood not only as having denied that he had any authority to employ the petitioner, but also as having asserted that the petitioner volunteered his services, and rendered them gratuitously. But he did not mean either the one or the other, as is apparent from the consideration that if he did, the two letters would be in conflict with each other. In his letter of the 7th February, A. D. 1853, he expressly says, that in his letter of the 20th May, A. D. 1844, he stated 'the nature of Captain Ericsson's services, and the extent of the Department's obligation to him, and admitted his claim to such compensation from the Government as, under the circumstances, he may be entitled to.' He meant, therefore, in his letter of the 20th May, A. D. 1844, not only to state an obligation of some kind on the part of the Navy Department to the petitioner, but also to state the extent of that obligation, by admitting that he is entitled to a reasonable compensation for his services. But this is wholly inconsistent with the idea that those services were rendered gratuitously."

I say, therefore, that the Senator from Michigan undertakes to place upon Captain Stockton's words a construction which Stockton has directly repudiated. He comes forward and says, that what he meant to say, originally, was, that no legal contract had been entered into, and I concede that fact; but that he should accept such compensation as the Government would be willing to give him. That admits that he should have some compensation; but now we are told he is not entitled to any. If he had been entirely unsuccessful, two years of labor for the benefit of the Government would have entitled him to something, because it is worth something to this Government to prove a prevalent idea to be a humbug, and get rid of it. If we, ten years ago, had by an appropriation of \$50,000 proved that the idea of defending the harbor of New York by a steam battery, was impracticable, we should have made money by the operation. Take any other popular idea of the day upon which the Government experiments, and if you can prove that it is impracticable and desist from making appropriations, you make money by it. But when he has successfully achieved the result in view, as is acknowledged by all nations and by ourselves, with what grace can we withhold compensation from him? No, sir, the case is perfectly patent.

Mr. BENJAMIN. Will my friend from Florida permit me to make a suggestion to him?

Mr. MALLORY. Certainly.

Mr. BENJAMIN. It is that he allow an amendment striking out from the bill the words, "for the balance due him." I cannot vote for this bill, and I think a great many cannot vote for it as a debt; but I can very well vote for it as a gratuity. I cannot approve of the decision of the Court of Claims. I presume the object of the Senator is not to indorse the Court of Claims so much as to get the money for Ericsson. Now, suppose we strike out the words "for the balance due him," and say, "in full for all his services."

Mr. MALLORY. I accept the amendment, but I do not consider it a gratuity. I do not vote for gratuities. I think we have received a very handsome equivalent indeed.

Mr. BENJAMIN. I offer the amendment to strike out the words "for the balance due him."

Mr. MALLORY. I give way for that purpose. The amendment was agreed to.

Mr. MALLORY. I will not continue the debate further. I think I have fully shown that Captain Ericsson was employed by competent authority, and rendered valuable service for which he has not been paid.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. GREEN afterwards moved to reconsider the vote passing the bill, and the motion was entered.

CREEK DEPREDACTIONS.

The next bill on the Calendar was the bill (S. No. 26) to provide for the payment of certain claims of citizens of Georgia and Alabama, on account of losses sustained by depredations of the Creek Indians.

Mr. FITZPATRICK. That bill can lie over. The bill was passed over.

NAHUM WARD.

The next bill on the Calendar was the bill (S. No. 93) from the Court of Claims, for the relief of Nahum Ward.

Mr. PUGH. That bill is adversely reported upon by the committee. I do not wish it to be acted on at present, but I move that the decision of the Court of Claims be printed. The court decided in favor of it, and the committee against it, and I have not been able to get the decision of the court. I ask simply that it may be printed. The court have decided one way, and the committee the other. I think it is proper we should see both sides.

Mr. POLK. I think the Senate can dispose of the case without postponing it. I am pretty certain that there was a divided court on that case, two judges for the claim, and one against it. I believe that the dissenting opinion was a strong one, and a larger number of the members of the committee were against the court, than there were in the court for the claim. This case has been up before the Senate heretofore, and I think we had better dispose of it.

Mr. PUGH. This gentleman is a constituent of mine, and feels aggrieved at the action of the committee. I have formed no opinion on it, but I have read the opinion of the Committee on Claims, and I desire to read the decision of the court. As my friend from Louisiana said, we have fallen into the vicious practice of not printing the reports of the court, and we do not know what the case is.

Mr. IVERSON. The Senator from Ohio, like other gentlemen, has fallen into a mistake on this question of printing. These decisions have been printed in every case reported to the Senate by the Committee on Claims. In this very case of Ericsson, that has just been acted on, the opinion I have in my hand came from the box of a Senator. The Secretary consulted me, as chairman of the committee, at the very outset of the session, as to what should be printed; and I said that the decisions of the court, according to law, should be printed; and if the Senator has not got a printed report in this case, it is his own fault; he has not looked after one. If he will examine, he will find that there is a printed report.

Mr. PUGH. The Senator is mistaken. I have the printed report of the committee, but none of the court; and I have sent for it twice at this session.

Mr. IVERSON. Then it has been mislaid in some way. They have all been printed.

Mr. BENJAMIN. The Senator from Georgia does not understand our point. It is very possible these reports may have been printed. We called the attention of the Secretary to the fact that they are not put on our files. I cannot find any of them. I have sent a page two or three times, and I cannot get one. They are not put on our files; so that we are unable to see what they are.

Mr. IVERSON. They may not be on the files, but they are in the private boxes of gentlemen, in the room where these reports are kept, I presume.

Mr. BENJAMIN. I have sent two or three times, and I cannot find any.

Mr. PUGH. I move to postpone the further consideration of this bill; and I ask, by general consent, in this case, where the committee and

court differ, that we may have the advantage of seeing in print what the law requires to be reported to Congress—the opinion of the court and the dissenting opinion, if there be one, with a brief of the solicitor and claimants. I am not able to form an opinion on the case.

The motion to postpone was agreed to.

ELIZABETH MONTGOMERY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 30) for the relief of Elizabeth Montgomery, heir of Hugh Montgomery, which provides for the payment of \$5,000, as full compensation for the successful efforts of Captain Hugh Montgomery, in saving the powder and munitions of war belonging to the United States on board the ship Nancy, and for his interest in her value, which he blew up to prevent her and her cargo from falling into the hands of the enemy during the war of the Revolution.

The bill was reported from the Committee on Revolutionary Claims, with an amendment to add:

And that the said sum be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

Mr. FESSENDEN. Is there any report in this case? If so, I should like to hear it.

The Secretary read the following report made by Mr. Evans, January 28, from the Committee on Revolutionary Claims:

The Committee on Revolutionary Claims, to whom was referred the petition of Elizabeth Montgomery, daughter of Captain Hugh Montgomery, praying relief, beg leave to adopt their former report, as heretofore made at the last session of Congress, which is as follows, to wit:

The memorial of the petitioner, which is very circumstantial in substance, presents these facts: She is the daughter of Captain Hugh Montgomery, formerly of Wilmington, in the State of Delaware, and employed as captain of the brig Nancy of that port, belonging to himself and others; that, in the latter part of the year 1775, the said brig, chartered by Robert Morris, then a member of Congress, was dispatched to the West Indies with a cargo of flour, to be sold and the proceeds to be returned to the United States in gunpowder and munitions of war. The cargo was sold at Porto Rico, and the Nancy then proceeded to St. Croix, where she was privately loaded with her return cargo, consisting of four hundred and sixty barrels of gunpowder, six long four-pounders, four chests of small arms, and other munitions of war, and with sundry articles of merchandise belonging to the said Montgomery. After the reception of his cargo, by means of the cannon and some swivels, and other arms, Captain Montgomery converted his ship into a vessel-of-war, and sailed for the Delaware in order that he might deliver his cargo at Philadelphia, according to his directions. When he approached the Delaware capes, he was intercepted by two British ships-of-war. He succeeded in beating off the boats sent to capture him, but, finding it impossible to escape capture, he ran his ship into shoal water and commenced removing the powder and munitions of war to the shore, and securing them from capture, leaving the private property to its fate. He kept off the enemy's boats whilst he landed two hundred and forty-four barrels of the powder, the cannon, small arms, and other munitions of war, with the aid of Captain Weeks, who commanded some American vessels-of-war within the capes.

When he had so far succeeded in saving the cargo, one of the enemy's vessels approached within three hundred yards, cast anchor, and opened a destructive fire, whilst several boats, filled with men, approached for the purpose of boarding the Nancy. Finding it impossible to save more of the powder and the private property, he left the vessel, having laid a train and march communicating with the powder, preferring to destroy both his vessel and the rest of her cargo, rather than it should fall into the hands of the enemy. The boats' crews had scarcely taken possession of the vessel, when she was blown up with all on board, and, with the remains of her cargo, was destroyed. That part of the cargo which had been saved was transported to Philadelphia, and safely delivered to the agents of the Government. Subsequently to this, Captain Montgomery went to sea in a private armed ship, was captured by a British cruiser, imprisoned for a long time, and treated with great harshness on account of the destruction of so many British sailors by blowing up his vessel, as before stated. During his long imprisonment his mind became disordered, and during his voyage homeward, after his release, he leaped overboard, in a fit of insanity, and was drowned, leaving a widow, who has been long dead, and the petitioner, his only child, then a small girl.

The petitioner prays that Congress should make her some compensation for the losses of her father, sustained in the destruction of his vessel, as before stated, and for his patriotic conduct in saving the public property, then so much needed, to the neglect of his own, which he might have saved, instead of that which belonged to the public.

A claim is set up for the value of this private property, shipped on board the Nancy on his own account. But of this no satisfactory evidence has been given, and the committee have been unable to form any estimate of its value. As to the other part of the claim, the main facts are fully proved by an affidavit of Captain Mendall, who was one of the crew of the Nancy, and cognizant of all the facts of the voyage, and the safe landing of the greater part of the munitions of war. The blowing up of the vessel, and the saving of the gunpowder, are stated in an original letter, filed with the evidence, from George Reed, one of the sign-

ers of the Declaration of Independence, to his wife, dated the 6th of July, 1776, a few days after the occurrence. And, on the whole, the committee are of opinion that the facts heretofore set forth are satisfactorily proved.

If, as is alleged, the vessel was chartered for the purpose set forth, it is presumed no doubt could exist that the Government ought to pay; the destruction being beneficial to it, and inevitable under the circumstances, to prevent the vessel and her cargo from falling into the hands of the enemy. Many claims of this kind have been paid.

The great difficulty in allowing this claim is its antiquity; but in this case the delay is satisfactorily accounted for.

On a review of the whole case, the committee have come to the conclusion that the petitioner ought to be liberally remunerated to the extent of any loss sustained in the destruction of the vessel by her father.

But after such a length of time no evidence could be furnished of the value of the vessel. Any estimate would be conjectural; but as the claim is a just one, they have come to the conclusion to give her \$5,000, as a full and final satisfaction of her claim, and report a bill for that purpose.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

DE VISSER AND VILLARUBIA.

The bill (S. No. 103) for the relief of Simon De Visser and José Villarubia, of New Orleans, was read a second time, and considered as in Committee of the Whole.

It proposes to release De Visser and Villarubia, merchants, of New Orleans, from the payment of all claims, penalties, and forfeitures which may legally exist against them, in favor of the United States arising out of frauds committed in the custom-house of New Orleans by one Charles Meteye, they having been judicially declared to be entirely innocent of those frauds, and especially to release them from the penalties and forfeitures claimed by reason of those frauds in two suits now pending in the district court of the United States for the eastern district of Louisiana, in which the United States are plaintiffs, and De Visser and Villarubia are defendants, with a proviso that the said defendants shall pay all costs incurred in the suits, and that the rights of the United States against Charles Meteye shall be reserved.

Mr. KING. Is there a report in that case?

Mr. TOOMBS. The petition of the party was adopted by the committee after full investigation.

Mr. KING. I ask that it be read if it be brief.

Mr. TOOMBS. It is long. The case has been tried in the district court, and the parties exonerated from all blame.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

O. H. BERRYMAN.

The Senate next proceeded to consider the bill (S. No. 108) for the relief of O. H. Berryman and others, from the Court of Claims, which was reported adversely from the Committee on Claims.

Mr. IVERSON. I move that the adverse report of the committee be agreed to by the Senate.

Mr. PUGH. Postpone the bill indefinitely.

Mr. WRIGHT. I ask for the reading of the report.

Mr. IVERSON. The report is a very lengthy one from the Court of Claims. I do not remember whether there is a report from the committee. I believe there is, however. The report of the committee can be read.

The Secretary read the adverse report of the committee.

Mr. PUGH. I suggest that that bill be postponed until to-morrow. It seems to be a fair case of doubt, and I move that it be postponed.

The motion was agreed to.

DE VISSER AND VILLARUBIA.

Mr. SLIDELL. While I was absent, accidentally, a few moments ago, I find that a bill, reported by the Committee on the Judiciary, has been passed. My friend from Virginia has been kind enough to say that he would move a reconsideration. It is not with any view to delay the bill; but if he will make the motion, I will state my objections to it.

Mr. HUNTER. I move to reconsider the vote on the passage of the bill for the relief of Simon De Visser and José Villarubia, of New Orleans.

Mr. BENJAMIN. If my colleague desires to oppose that bill, and he was not in his seat, I have no objection to its being reopened.

The motion to reconsider was agreed to; and the question recurring on the passage of the bill,

a long debate ensued, which was participated in by Messrs. SLIDELL, TOOMBS, BENJAMIN, SIMMONS, COLLAMER, IVERSON, FESSENDEN, HOUSTON, CLAY, KING, and BAYARD. The bill was passed with an amendment. [This debate will be published in the Appendix.]

Mr. STUART. I move that the Senate proceed to the consideration of executive business.

Mr. SEWARD. It is nearly five o'clock, and I move an adjournment.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, May 14, 1858.

The House met at eleven o'clock, a. m.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, in answer to a resolution of the 5th May, calling for papers relating to the claim of J. H. Wheeler, late Minister to Nicaragua; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

He also laid before the House a communication from the Commissioner of Patents, transmitting the agricultural portion of the annual Patent Office report; which was laid on the table, and ordered to be printed.

TERRITORIAL BUSINESS.

The SPEAKER stated that the business first in order was the consideration of the report of the Committee of the Whole on the state of the Union on the territorial bills made yesterday, beginning with a bill (H. R. No. 56) making an appropriation for the completion of the military road from Astoria to Salem, in Oregon Territory.

Mr. BRANCH. I withdraw my motion to recommit the bills to the Committee of the Whole on the state of the Union, and I move the previous question on the engrossment of this bill.

Mr. WASHBURN, of Illinois, demanded tellers on seconding the previous question.

Tellers were ordered; and Messrs. HAWKINS, and DAVIS of Massachusetts, were appointed.

The House divided; and the tellers reported—ayes 80, noes 15; no quorum voting.

Mr. PHELPS moved a call of the House.

The motion was agreed to.

The roll was called; and the following members failed to answer to their names:

Messrs. Ahl, Barksdale, Bishop, Boulman, Bravton, Burnett, Burns, Burroughs, Campbell, Caruthers, Horace F. Clark, Clark B. Cochran, Corning, Cox, Cragin, Davis of Maryland, Dewart, Edie, Elliott, English, Eustis, Garnett, Giddings, Gillis, Greenwood, Grosbeck, Grow, Lawrence W. Hall, Hardin, Hatch, Hickman, Hoard, Houston, Hughes, Huyler, Jenkins, Keitt, Kellogg, Kelly, Kelsey, Kilgore, Jacob M. Kunkel, Lawrence, Leidy, Letcher, MacLay, McKibbin, McQueen, Humphrey Marshall, Mason, Miles, Montgomery, Freeman H. Morse, Murray, Nichols, Palmer, Powell, Purviance, Reilly, Ricard, Roberts, Savage, Seales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Judson W. Sherman, Sickles, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stanton, Stevenson, William Stewart, Tappan, George Taylor, Miles Taylor, Thayer, Thompson, Ward, Warren, Watkins, Whiteley, Winslow, Wortendyke, Augustus R. Wright, and John V. Wright.

Pending the call,

Mr. MOORE stated that his colleague, Mr. STALLWORTH, was detained from the House by sickness.

Mr. REAGAN stated that his colleague, Mr. BRYAN, had been detained at his room yesterday by sickness, and he presumed that his absence to-day was owing to the same cause.

A quorum of members having answered to their names,

Mr. ZOLLICOFFER moved that all further proceedings under the call be dispensed with.

The motion was agreed to.

The question occurred on seconding the previous question on House bill No. 56.

The previous question was seconded, and the main question ordered; and under its operation the bill was engrossed and read a third time.

Mr. BRANCH moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. JONES, of Tennessee, asked for the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

Mr. JONES, of Tennessee. I move to lay the bill on the table.

The motion was not agreed to.

The question was taken, and the bill was passed.

Mr. BRANCH moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WAGON ROAD IN NEW MEXICO.

The next bill taken up was a bill (H. R. No. 479) making an appropriation for the construction of a wagon and emigrant road in the Territory of New Mexico, reported back from the Committee of the Whole on the state of the Union, with the following amendment:

Strike out all after the enacting clause, and insert:

That the sum of \$100,000 be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be expended in completing connected sections of the road extending from Albuquerque, in the Territory of New Mexico, westward, on the route to the Colorado river, on or near the thirty-fifth parallel of north latitude.

Mr. REAGAN. The official report says that emigrants can travel that road at the rate of forty miles a day, without doubling teams.

The question was taken on the amendment; and it was agreed to.

Mr. BRANCH moved the previous question on the engrossment of the bill.

The previous question was seconded, and the main question ordered.

Mr. JONES, of Tennessee, called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 64, nays 79; as follows:

YEAS—Messrs. Adrain, Anderson, Arnold, Blair, Bliss, Bowie, Buffinton, Burlingame, Chaffee, Ezra Clark, John B. Clark, Clawson, Clay, John Cochran, Colfax, Comins, Cragin, James Craig, Curtis, Damrell, Dawes, Dimmick, Dodd, Edie, Florence, Foster, Gilman, Gooch, Greenwood, Grow, Robert B. Hall, Hawkins, Hill, Hoard, Horton, Huyler, Kelsey, John C. Kunkel, Leidy, Lovejoy, MacLay, Humphrey Marshall, Samuel S. Marshall, Maynard, Morgan, Morrill, Edward Joy Morris, Niblack, Olin, Pettit, Phelps, Ricard, Ritchie, Robbins, Aaron Shaw, Spinner, Stanton, Stephens, Walton, Israel Washburn, White, Wilson, and Wortendyke—64.

NAYS—Messrs. Abbott, Atkins, Avery, Bennett, Bingham, Boyce, Branch, Case, Caskie, Chapman, Clemens, Covode, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dick, Dodd, Durfee, Edmundson, Fenton, Foley, Gartrell, Gilmer, Goode, Goodwin, Granger, Gregg, Thomas L. Harris, Hopkins, Howard, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Knapp, Leach, Leiter, Letcher, McQueen, Mason, Matteson, Miller, Millson, Moore, Isaac N. Morris, Oliver A. Morse, Parker, Pendleton, Peyton, Phillips, Pike, Potter, Pottle, Quitman, Reagan, Royce, Ruffin, Russell, Sandidge, Seales, Searing, John Sherman, Singleton, William Smith, Stevenson, William Stewart, Talbot, Tompkins, Underwood, Wade, Walbridge, Waldron, Cadwalader C. Washburn, Elihu B. Washburne, Wood, and Zollicofer—79.

So the bill was rejected.

Pending the vote,

Mr. LEIDY stated that his colleague, Mr. DEWART, was detained from the House by indisposition.

Mr. SHORTER stated that he had paired off with Mr. McKIBBIN; and that Mr. McKIBBIN would have voted for, and himself against, the bill.

Mr. BRANCH moved to reconsider the vote by which the bill was rejected; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ROADS IN WASHINGTON TERRITORY.

The next bill taken up was a bill (H. R. No. 58) for the completion of military roads in the Territory of Washington, reported back by the Committee of the Whole on the state of the Union, with the following amendment to be added to the bill:

And be it further enacted, That the sum of \$15,000 be appropriated for the completion of the military road from Fort Vancouver to Fort Steilacoom, in the Territory of Washington.

Mr. BRANCH called for the previous question on the engrossment of the bill.

The previous question was seconded, and the main question ordered.

The amendment was agreed to.

Mr. SMITH, of Virginia. I do not think we want military roads to hunt Indians. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 54, nays 99; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Andrews, Arnold,

Bennett, Billingshurst, Bliss, Bowie, Buffinton, Burlingame, Burns, Case, Ezra Clark, Clawson, Clay, Colfax, Comins, James Craig, Dawes, Dimmick, Farnsworth, Florence, Foster, Gillis, Gilman, Gooch, Goodwin, Greenwood, Grow, Horton, Huyler, Kilgore, John C. Kunkel, Leach, Lovejoy, Humphrey Marshall, Edward Joy Morris, Niblack, Phelps, Ritchie, Aaron Shaw, John Sherman, Robert Smith, Stanton, Wade, Walbridge, Waldron, Walton, Israel Washburn, Watkins, White, Wilson, and Wortendyke—54.

NAYS—Messrs. Atkins, Avery, Bingham, Blair, Bocock, Boyce, Branch, Chaffee, Chapman, John B. Clark, Clemens, Cobb, Cockerill, Covode, Crawford, Curry, Damrell, Davidson, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dick, Dodd, Dowdell, Durfee, Edmundson, English, Fenton, Foley, Garnett, Gartrell, Gilmer, Goode, Granger, Gregg, Robert B. Hall, Thomas L. Harris, Hawkins, Hill, Hoard, Hopkins, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Kelsey, Knapp, Leidy, Leiter, MacLay, McQueen, Samuel S. Marshall, Matteson, Maynard, Millson, Moore, Morgan, Isaac N. Morris, Oliver A. Morse, Mott, Olin, Palmer, Parker, Pettit, Peyton, Pike, Potter, Pottle, Quitman, Reagan, Ricard, Robbins, Royce, Ruffin, Russell, Sandidge, Seales, Singleton, W. Sherman, Shorter, Singleton, William Smith, Spinner, Stevenson, Talbot, George Taylor, Miles Taylor, Tompkins, Trippe, Underwood, Cadwalader C. Washburn, Elihu B. Washburne, Winslow, Wood, Woodson, Augustus R. Wright, and Zollicofer—99.

So the bill was rejected.

Mr. CHAFFEE. Has the morning hour expired?

The SPEAKER. It has not commenced.

Mr. CHAFFEE moved to reconsider the vote by which the bill was rejected; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. CHAFFEE. I move that the House resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. STEPHENS, of Georgia. I hope we shall dispose of these territorial bills.

Mr. WASHBURN, of Maine. I hope they will be postponed until some day next week.

Mr. MARSHALL, of Kentucky. I think the House has sufficiently indicated its purpose in reference to these bills, and we might as well dispose of the whole of them at once.

Mr. STEPHENS, of Georgia. Some of the bills are of a different character from those on which we have acted, and I hope the House will pass them without the yeas and nays.

CHANGE OF REFERENCE.

On motion of Mr. MAYNARD, by unanimous consent, the Committee of Claims was discharged from the further consideration of the petition and papers of B. Maillefert; and the same were referred to the Committee on Commerce.

REPORT FROM COURT OF CLAIMS.

The SPEAKER, by unanimous consent, laid before the House a report from the Court of Claims, accompanied by a bill for the relief of Richard Fitzpatrick; which was read a first and second time, referred to the Committee of Claims, and, with the report, ordered to be printed.

Mr. DAVIS, of Indiana. I ask the gentleman from Massachusetts to withdraw his motion for the present, and let the committees be called for the purpose of receiving reports of a private character.

Mr. CHAFFEE. Will that be the order of business if I withdraw my motion?

The SPEAKER. Not except by unanimous consent.

Mr. CHAFFEE. Then, I must insist on my motion.

Mr. QUITMAN. I would ask the gentleman to permit me to make some reports of a private nature, from the Committee on Military Affairs, for the purpose of having them placed upon the Calendar.

Mr. WASHBURN, of Illinois. I hope unanimous consent will be given. I desire to report some private bills from the Committee on Commerce, for the purpose of having them placed upon the Private Calendar, and printed.

The SPEAKER. Is it the pleasure of the House to devote one hour to the call of committees for reports of a private nature?

Mr. MORGAN. I object.

Several MEMBERS. Withdraw the objection.

Mr. MORGAN. Well, I withdraw it.

REPORTS FROM COMMITTEES.

No further objection being made, the Speaker proceeded to call the committees for reports of a private character, commencing with the call of the Committee of Claims for business relating to the Court of Claims.

Mr. MARSHALL, of Illinois, from the Committee of Claims, reported back, with a recommendation that they do pass, the following bills from the Court of Claims; which were severally referred to a Committee of the Whole House, and, with the accompanying reports, ordered to be printed:

A bill (S. C. C. No. 184) for the relief of John Robb;

A bill from the Court of Claims for the relief of Michael Nourse;

A bill (H. R. C. C. No. 5) for the relief of John Robb; and

A bill (H. R. C. C. No. 12) for the relief of Moses Noble.

He also, from the same committee, reported back, with a recommendation that it do pass, a bill (H. R. C. C. No. 2) for the relief of Asbury Dickins, which was referred to a Committee of the Whole House; and, with the accompanying report, together with the views of the minority of the committee, ordered to be printed.

He also, from the same committee, reported back, with a recommendation that it do not pass, a bill (H. R. C. C. No. 11) for the relief of George A. Magruder; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

SAN FRANCISCO MARINE HOSPITAL.

Mr. MARSHALL, of Illinois. Would it be in order to report a bill not coming from the Committee of Claims?

The SPEAKER. Not at this time. The Committee of Claims will again be called in its order.

Mr. MARSHALL, of Illinois. Well, sir, I ask the consent of the House to report back a Senate bill to authorize the Secretary of the Treasury to settle the accounts of the contractor for the erection of the marine hospital at San Francisco, California, and that it may be considered at this time. It will take but a moment. It is a case of a peculiar nature and hardship. I hope there will be no objection.

There being no objection; the bill was reported back, and taken up for consideration.

The bill authorizes the Secretary of the Treasury to audit and settle the accounts of the contractor for the erection of the United States marine hospital at San Francisco, California, upon principles of equity and justice, and to pay whatever may be found due him.

Mr. MARSHALL, of Illinois. The accounting officers of the Treasury were unable to settle the account of this contractor on account of the appropriation having been exhausted. This bill merely authorizes the Secretary of the Treasury to settle his accounts and to pay him the money which may be found justly due him.

Mr. MORGAN. Is this discussion in order? I have no objection to the bill, but I do object to the time of the House being taken up by its being discussed.

Mr. MARSHALL, of Illinois. I will not trouble the House with any debate if there be no objection to the bill. If there be any objection, I wish to explain it.

Several MEMBERS. No objection.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. MARSHALL, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

C. C. CARLTON.

Mr. GOODWIN, from the Committee of Claims, reported a bill for the relief of C. C. Carlton and others, of Cleveland, Ohio; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

LOOMIS L. LANGDON.

Mr. GOODWIN, from the same committee, reported a bill for the relief of Loomis L. Langdon; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

DAVID M'CLURE.

Mr. GOODWIN, from the same committee, reported a bill for the relief of David McClure, administrator of Joseph McClure, deceased; which

was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

HENRY HUBBARD.

Mr. GOODWIN, from the same committee, reported back Senate bill (No. 123) for the relief of Henry Hubbard; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ROBERT KIRKHAM.

Mr. GOODWIN, from the same committee, made an adverse report upon the memorial of Robert Kirkham; which was laid on the table, and the report ordered to be printed.

LEWIS H. BROADWELL.

Mr. DAVIDSON, from the Committee of Claims, reported a bill for the relief of Lewis H. Broadwell; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

THOMAS HASAM AND B. S. BREWSTER.

Mr. DAVIDSON, from the same committee, reported a bill for the relief of Thomas Hasam and B. S. Brewster; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

LUTHER JEWETT.

Mr. DAVIDSON, from the same committee, reported back Senate bill (No. 245) to settle the accounts of Luther Jewett, late collector for the district of Portland and Falmouth, Maine.

Mr. DAVIDSON. I ask that that bill may be put on its passage.

The bill was read *in extenso*. It provides for refunding to the said Jewett the sum of \$1,000, lost on its transit to the sub-collector at Boston.

The bill was ordered to a third reading; and was accordingly read the third time and passed.

Mr. DAVIDSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

QUIETING LAND TITLES.

Mr. MAYNARD, from the Committee of Claims, reported a bill for quieting certain land titles in the late disputed district in the State of Maine, and for other purposes; which was read a first and second time, referred to a Committee of the Whole House; and, with the report, ordered to be printed.

THOMAS S. SPRAGUE.

Mr. MAYNARD, from the Committee of Claims, reported adversely on the petition of Thomas S. Sprague; which was laid upon the table, and the report ordered to be printed.

GEORGE A. O'BRIEN.

Mr. MAYNARD, from the same committee, reported back Senate bill (No. 92) for the relief of George A. O'Brien; which was referred to a Committee of the Whole House, and ordered to be printed.

RUFUS DWINEL.

Mr. KUNKEL, of Pennsylvania, from the Committee of Claims, reported back Senate bill (No. 189) for the relief of Rufus Dwinel; which was referred to a Committee of the Whole House, and the bill and report ordered to be printed.

ISAIAH WOODWARD.

Mr. MARSHALL, of Illinois, from the Committee of Claims, reported adversely on the petition of Isaiah Woodward; which was laid upon the table, and the report ordered to be printed.

CAPTAIN JOHN W. M'CRABBE.

Mr. MARSHALL, of Illinois, from the same committee, reported back Senate bill (No. 164) to provide for the settlement of the account of the late Captain John W. McCrabb, with a recommendation that the committee be discharged from its further consideration, and that the same be referred to the Committee on Military Affairs.

It was so ordered.

JONAS P. KELLER.

Mr. MARSHALL, of Illinois, from the same committee, reported back Senate bill (No. 67) for

the relief of Jonas P. Keller; which was referred to a Committee of the Whole House, and the report ordered to be printed.

CHARLES H. VENABLE.

Mr. MARSHALL, of Illinois, from the same committee, reported adversely on the petition of Charles H. Venable; which was laid upon the table, and the report ordered to be printed.

BAILY AND DELORD.

Mr. MARSHALL, of Illinois, from the same committee, reported adversely on the petition of Baily & Delord; which was laid upon the table, and the report ordered to be printed.

R. A. DAVIDGE.

Mr. MARSHALL, of Illinois, from the same committee, reported a bill for the relief of R. A. Davidge; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOHN S. ISAACS.

On motion of Mr. JOHN COCHRANE, it was *Ordered*, That the Committee on Commerce be discharged from the further consideration of the petition of John S. Isaacs, and that the same be laid upon the table.

CAPTAIN DOUGLAS OTTINGER.

Mr. WASHBURN, of Illinois, from the Committee on Commerce, reported a bill for the relief of Captain Douglas Ottinger; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

A. L. SHEARS.

On motion of Mr. WASHBURN, of Illinois, it was

Ordered, That the Committee on Commerce be discharged from the further consideration of the petition of A. L. Shears, of Omro, Wisconsin, and that the same be laid upon the table.

BOUNTY LAND WARRANTS.

On motion of Mr. COBB, it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of sundry petitions in reference to bounty land warrants, and the same be laid upon the table.

ANNA M. E. RING.

Mr. COBB. I ask that the Committee on Public Lands be discharged from the further consideration of the case of Anna M. E. Ring, and that it be laid upon the table. This case has been provided for by a law passed a few days ago. There is a land warrant amongst the papers which I ask be returned to the gentleman from South Carolina, [Mr. MILES,] who presented it with the papers to the House.

It was so ordered.

MONROE D. DOWNES.

Mr. COBB, from the Committee on Public Lands, reported back a bill (H. R. No. 426) for the relief of Monroe D. Downes, with an amendment.

Mr. C. said: Mr. Speaker, I have lately made many adverse reports on cases from Nebraska, and the Delegate from that Territory has, in consequence, become much discouraged. This case is that of one of his constituents, and I hope it will be at once put on its passage.

I will make a brief statement. On the 30th of March, 1857, Congress passed an act authorizing persons living on the sixteenth and thirty-sixth school sections, and who had settled there before the survey of the lands, to perfect their preemptions on making application within three months from the passage of the act.

Mr. MORGAN. Is discussion in order?

The SPEAKER. The Chair thinks that it is.

Mr. COBB. The preëmptor in this case has lived upon the land for many years. Not knowing the law, however, he made his application a few days after the expiration of the time fixed in the law. The Department thinks that the bill is right, and the opinion of the Committee on Public Lands is, that it should pass. I ask that it be now put upon its passage. The amendment provides that he shall have the land upon which he has settled, if he makes application within three months after the passage of this act; and also authorizes other lands to be located for school purposes. The Delegate from Nebraska is anxious that the bill shall pass.

The bill and amendment were read.

The amendment was agreed to.

The bill as amended was then ordered to be engrossed and read a third time; and having been engrossed, it was accordingly read the third time, and passed.

GEORGE M. GORDON.

Mr. COBB. I am directed by the Committee on Public Lands to report back Senate bill (No. 83) to vest the title of certain land warrants in George M. Gordon. I have taken up very little time of the House. I have made no Kansas speeches. I ask that the bill be put upon its passage.

Mr. SEWARD. I object to the bill.

Mr. COBB. Send it back here, then.

LAND GRANTS FOR RAILWAY PURPOSES.

Mr. COBB. The Committee on Public Lands are prepared to report against the following resolution referred to, them:

Resolved, That the communication of the Secretary of the Interior in reply to the resolution of the House of the 16th instant, calling for information in regard to the amount of land certified to the State of Iowa for building a railroad from Dubuque to Sioux City, and a certain branch therein named, be referred to the Committee on Public Lands, and that they be instructed to inquire into all facts in relation to building the said branch of the said road, whether the main trunk of said road has been completed beyond the point of intersection of the said branch, and whether the said branch has been completed in conformity with the provisions of the act of Congress, and if not, to report such action to the House as may be deemed expedient and proper in the premises.

Mr. WASHBURN, of Illinois. I object to that report coming in now. I want to develop some of the facts in the case for the information of the House.

REBECCA M. BOWDEN.

Mr. DAVIS, of Indiana, from the Committee on Public Lands, reported a bill for the relief of Rebecca M. Bowden, of Prince George county, Virginia; which was read a first and second time.

Mr. DAVIS, of Indiana. I ask that that bill be put on its passage.

The bill was read.

Mr. KELSEY. I think that the law passed the other day provides for that case.

Mr. DAVIS, of Indiana. It does not. It is for a poor widow in the State of Virginia.

[Cries of "Pass it!"]

The bill was ordered to be engrossed and read the third time; and, being engrossed, it was accordingly read the third time, and passed.

RAILROAD GRANTS.

Mr. HILL, from the Committee on Public Lands, reported adversely on the petitions of Ashburn Regan, and others, in reference to grants of land for railroad purposes in Missouri, which were laid upon the table, and the report ordered to be printed.

ANTOINE BAUBIEN.

Mr. WALBRIDGE, from the Committee on Public Lands, reported adversely on the petition of Antoine Baubien; which was laid upon the table, and the report ordered to be printed.

JOHN M'NEIL.

Mr. WALBRIDGE, from the same committee, reported back Senate bill (No. 100) releasing to the legal representatives of John McNeil, deceased, all title of the United States to a certain tract of land, with an amendment; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ISAAC DREW AND OTHERS.

Mr. BENNETT, from the Committee on Public Lands, reported a bill for the relief of Isaac Drew and others, settlers upon the public lands in the State of Wisconsin; which was read a first and second time.

Mr. BENNETT. I ask that the bill be put upon its passage.

The bill was read.

Mr. QUITMAN. I move that the bill be referred to a Committee of the Whole House on the Private Calendar.

Mr. WASHBURN, of Wisconsin. I hope there will be no objection to the consideration of the bill now. If the gentleman from Mississippi will hear one word of explanation, I am sure that he will raise no objection to it. I will state that this bill is for the benefit of sundry poor men who

have settled by accident on the public lands in Wisconsin. It happened in this way: Wisconsin was entitled to five hundred thousand acres of land when she became a State. In making the selection, some forty thousand acres were selected more than the State was entitled to. While those forty thousand acres were supposed to belong to the State of Wisconsin, sundry persons settled upon them. When the case came to be adjudicated by the General Land Office, those selections were rejected, leaving the persons who had settled upon the lands without remedy. This bill allows them, as they have settled upon the lands in good faith, a right of preemption upon the lands thus settled upon. I will state that the bill has been submitted to the Commissioner of the General Land Office and meets entirely with his approval, and I hope there will be no objection to it.

Mr. BRANCH. I rise to a question of order. I would inquire if this is a private bill.

Mr. WASHBURN, of Wisconsin. It is a bill for the relief of Isaac Drew and others.

Mr. BRANCH. Yes, but it embraces a very large class.

The SPEAKER. The bill seems to be a public and a private one—both.

Mr. LETCHER. Well, if it is a mongrel bill, I reckon it is not in order.

The SPEAKER. The Chair is of opinion that the objection comes too late, the bill having been read twice.

Mr. QUITMAN. My objection to the bill was this. I was unable to hear it read, and I will not vote for any measure which I do not distinctly understand. I am satisfied with the explanation of the gentleman from Wisconsin, and withdraw my motion.

Mr. LETCHER. As I understand it, this bill proposes to confirm these locations, and the parties will get the lands on the lines of railroads for \$1 25 an acre instead of \$2 50. Will they not?

Mr. WASHBURN, of Wisconsin. They will get the lands at the minimum price.

Mr. LETCHER. Ought it not to be \$2 50?

Mr. COBB. If the lands are within six miles of the road the minimum price is \$2 50 an acre.

Mr. LETCHER. That is not in the bill.

Mr. COBB. That is the price they will have to pay when they go to enter the lands.

Mr. LETCHER. The bill states at the minimum price.

Mr. COBB. The committee had this subject under consideration, and supposed that the minimum price of the lands within six miles of the road was \$2 50 an acre.

Mr. LETCHER. Well, I want the \$2 50 put in the bill.

Mr. COBB. There is no objection to putting it in, but it is not necessary.

Mr. WASHBURN, of Wisconsin. I will state that the bill, as reported, meets the entire approval of the Commissioner of the General Land Office. The minimum price of the lands lying within six miles of the road is fixed by law at \$2 50.

Mr. JONES, of Tennessee. I would inquire how long these people have been on the lands?

Mr. WASHBURN, of Wisconsin. Some of them four or five years, and some of them longer.

Mr. JONES, of Tennessee. Were they on the lands before the railroad grants were made?

Mr. WASHBURN, of Wisconsin. Most assuredly they were.

Mr. JONES, of Tennessee. Well, then, I hope they will not be made to pay \$2 50 an acre for their lands.

Mr. WASHBURN, of Illinois. I hope not, either.

Mr. JONES, of Tennessee. I think that, to say the least of it, it is very improper and unjust.

Mr. LETCHER. You are beginning to see the color of the animal now.

Mr. WASHBURN, of Wisconsin. I move the previous question.

The previous question was seconded, and the main question ordered.

The amendment was agreed to.

The bill was then ordered to be engrossed, and read a third time.

Mr. LETCHER. Has the bill been engrossed?

The SPEAKER. It has not.

Mr. LETCHER. Then I object to the third reading.

Mr. JONES, of Tennessee. I believe the question is, "When shall the bill have its third reading?" and the House can now fix the time.

The SPEAKER. The House has already ordered it to be engrossed and read a third time; but the gentleman from Virginia objects to its being read a third time now, as it has not yet been engrossed.

Mr. WASHBURN, of Wisconsin. Well, I move to reconsider the vote by which the bill was ordered to be engrossed and read a third time; and upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 25, nays 118; as follows:

YEAS—Messrs. Adrain, Avery, Bowie, John B. Clark, Curry, English, Gilmer, Goode, Greenwood, Thomas L. Harris, Jackson, Jenkins, Landy, Leidy, Millson, Isaac N. Morris, Niblack, Phillips, Sandidge, Scott, Searing, Seward, Singleton, George Taylor, and White—25.

NAYS—Messrs. Abbott, Andrews, Atkins, Bennett, Bingham, Blair, Branch, Buffinton, Burlingame, Case, Caskey, Chaffee, Clawson, Clay, Clemens, Cobb, Colfax, Comins, Covode, Cox, Cragin, James Craig, Curtis, Dammell, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dimmick, Dodd, Dowdell, Durfee, Edie, Edmundson, Farnsworth, Fenton, Florence, Foley, Foster, Garrett, Gilman, Gooch, Goodwin, Granger, Gregg, Grow, Robert B. Hall, J. Morrison Harris, Hawkins, Hill, Hopkins, Horton, Howard, Huyler, George W. Jones, J. Glancy Jones, Owen Jones, Kellogg, Kelly, Kilgore, Knapp, John C. Kunkel, Lawrence, Leach, Leiter, Letcher, Lovejoy, Maclay, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Matteson, Maynard, Moore, Morgan, Morrill, Edward Joy Morris, Oliver A. Morse, Mott, Palmer, Parker, Peyton, Pike, Porter, Pottier, Reagan, Ricard, Ritchie, Robbins, Royce, Ruffin, Russell, Scales, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Stanton, Stevenson, Tappan, Miles Taylor, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Caldwell, C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Winslow, Woodson, John V. Wright, and Zollcoffer—118.

So the House refused to reconsider the vote by which the bill was ordered to be engrossed and read a third time.

During the call of the roll,

Mr. DAVIS, of Mississippi, stated that he had paired off for the day with Mr. STEWART, of Pennsylvania.

Mr. FARNSWORTH stated that he had been requested to announce that Mr. GIDDINGS had paired off for the rest of the session with Mr. WARREN.

The bill, being now engrossed, was read the third time.

Mr. WASHBURN, of Wisconsin, moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

Mr. LETCHER. I demand the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 109, nays 38; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Bingham, Blair, Bliss, Bowie, Branch, Bryan, Buffinton, Burlingame, Burns, Campbell, Case, Chaffee, Ezra Clark, Clay, Cobb, John Cochrane, Cockerill, Colfax, Comins, Covode, Cragin, Curtis, Dammell, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dimmick, Dodd, Durfee, Farnsworth, Fenton, Florence, Foley, Foster, Garrett, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, J. Morrison Harris, Thomas L. Harris, Hill, Hoard, Howard, George W. Jones, Kellogg, Kelly, Kelsey, Knapp, John C. Kunkel, Leach, Leidy, Leiter, Lovejoy, McQueen, Matteson, Maynard, Miller, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Oliver A. Morse, Mott, Niblack, Olin, Palmer, Parker, Pettit, Phelps, Pike, Porter, Pottier, Ricard, Ritchie, Robbins, Royce, Sandidge, Scott, Searing, Seward, Aaron Shaw, John Sherman, Shorter, Singleton, Spinner, Stanton, Tappan, Miles Taylor, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Caldwell, C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, and Woodson—109.

NAYS—Messrs. Ahl, Arnold, Atkins, Avery, Barksdale, Boeck, Braxton, Caskey, Clemens, Crawford, Curry, Edmundson, English, Faulkner, Garnett, Goode, Gregg, Hopkins, Jackson, Jewett, J. Glancy Jones, Owen Jones, Landy, Lawrence, Letcher, Humphrey Marshall, Millson, Moore, Peyton, Phillips, Reagan, Russell, Stevenson, Talbot, George Taylor, Watkins, John V. Wright, and Zollcoffer—38.

So the bill was passed.

Pending the call of the roll,

Mr. McQUEEN stated that he understood in committee that the word "minimum" in the bill meant \$2 50 per acre for the reserved sections of land. With that understanding, he voted "ay."

Mr. COBB. That was the unanimous understanding of the committee. That is the principle they have adopted.

Mr. SCALES stated that, if he had been within the bar when his name was called, he should have voted "no."

Mr. WASHBURN, of Wisconsin, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRIVATE CALENDAR.

Mr. CHAFFEE moved that the rules be suspended, and that the House resolve itself into a Committee of the Whole House.

The motion was agreed to.

The House accordingly resolved itself into a Committee of the Whole House, (Mr. MARSHALL, of Kentucky, in the chair,) and proceeded to the consideration of the Private Calendar.

This being, under the order of Monday last, objection day, the Calendar was read over, and the bills to which no objections were made were laid aside to be reported to the House.

CYRUS H. M'CORMICK.

An adverse report (H. R. C. C. No. 11) upon the petition of Cyrus H. McCormick. [Objected to by Mr. LETCHER.]

Mr. GROW. I would suggest that this bill be laid aside, to be reported to the House with the recommendation that the decision of the Court of Claims be confirmed.

Mr. SMITH, of Virginia. The parties interested in this case prefer that it should remain on the Calendar.

WILLIAM NEILL AND OTHERS.

An adverse report (H. R. C. C. No. 30) upon the petition of William Neill and others. [Objected to by Mr. GREENWOOD.]

CHARLES J. INGERSOLL.

A bill (H. R. No. 197) for the relief of Charles J. Ingersoll. [Objected to by Mr. KELSEY.]

BARCLAY AND LIVINGSTON, AND OTHERS.

A bill (H. R. No. 204) to refund to Barclay & Livingston, and others, duties on certain goods destroyed by fire in the city of New York, on the 19th day of July, 1845. [Objected to by Mr. CLEMENS.]

HENRY LEEF AND JOHN M'KEE.

A bill (H. R. No. 206) to indemnify Henry Leef and John McKee for illegal seizure of a certain bark. [Objected to by Mr. MILLSON.]

WILLIAM HEINE.

A bill (H. R. No. 219) for the relief of William Heine, artist in the Japan expedition. [Objected to by Mr. EUSTIS.]

ELIPHALET BROWN, JR.

A bill (H. R. No. 220) for the relief of Eliphalet Brown, jr. [Objected to by Mr. EUSTIS.]

MARY BAINBRIDGE.

A bill (H. R. No. 221) for the relief of Mary Bainbridge.

The bill was read. It provides that the name of Mary Bainbridge, of Massachusetts, be placed upon the pension list of the United States, at the rate of thirty dollars per month, commencing June 1, 1857, and to continue during her natural life.

The report states that Colonel Henry Bainbridge entered the service of the United States as a cadet of the Military Academy at West Point, in 1817, graduated in 1821 as lieutenant of infantry, and from that time to the 1st day of June, 1857, a period of thirty-six years, was constantly engaged in the active duties of his profession, as an officer of the Army of the United States; that the records of the War Department furnish the most gratifying testimony to his faithful services during all this period of time, at the remote posts of the western frontier, in the wars of Florida and Mexico; that for his distinguished services in Mexico, having taken part in the battles of Palo Alto, Resaca de la Palma, and being wounded in the storming of Monterey, while charging at the head of his command; with the division of General Scott at Vera Cruz, Cerro Gordo, (he headed the storming column,) Contreras, Churubusco, Molino del Rey, and at the city of Mexico—for all these distinguished services he received two brevets in succession; that this distinguished soldier met his death on the steamer Louisiana, in Galveston bay, on the morning of the 1st of June, 1857; and that his widow, after all these distinguished services and this tragic act, is left in indigent circumstances.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

ELIZABETH E. V. FIELD.

A bill (H. R. No. 222) for the relief of Elizabeth E. V. Field.

The bill directs that the name of Elizabeth E. V. Field, widow of the late George P. Field, then a captain in the Army of the United States, be placed on the roll of invalid pensions, at the rate of twenty-five dollars per month, commencing September 21, 1851, to continue during her natural life.

From the report, it appears that Captain Field was killed while serving with his regiment, on the 21st September, 1846, at the battle of Monterey, in Mexico, leaving the petitioner, his widow, and a son now eight years old, unprovided with any suitable means of subsistence; that under the act of Congress, approved 22d February, 1849, she received a sum equal to his half pay, (twenty dollars per month,) which enabled her to support herself and son; but this resource has failed since September last, by the expiration of the law. It also appears that her paternal grandfather was a colonel in the revolutionary war, and at its close breveted brigadier general; that her father entered the Army in 1812, and remained in it until his death, which occurred at New Orleans, July 15, 1845, a period of thirty-three years. His son, a brother to the petitioner, was a lieutenant in the third infantry, served in Florida, and died on his way home, of disease contracted by exposure. That the said Captain Field graduated at West Point in 1834; was in Florida during the war, and participated in the battles of Palo Alto, Resaca de la Palma, and Monterey, and had but four months' leave of absence while he held his commission. Her petition states that in making this application for a small stipend from the Government of her country, she cannot feel that she is soliciting individual charity; she feels that she is but urging an equitable claim for subsistence for herself and child, after having surrendered to that country a husband, father, and brother.

Mr. LETCHER. When does that pension commence?

Mr. CHAFFEE. In 1851.

Mr. TAYLOR, of Louisiana. I would like to hear some reason why this pension should date back five years, when, if I understand the statement of this report, she has been receiving half pay until within a few months.

Mr. CHAFFEE. That will of course be deducted.

The CHAIRMAN. The Chair will hold that no debate can be entertained in Committee of the Whole. If there be no objection, the bill will be laid aside to be reported to the House. If there is objection, the committee will pass to the consideration of the next case.

Mr. TAYLOR, of Louisiana. I shall object, unless I can hear some reason why this pension should date back.

A MEMBER. Move to amend.

Mr. TAYLOR, of Louisiana. Very well. I move to amend by striking out that clause which gives the bill a retroactive effect.

The amendment was agreed to.

Mr. JONES, of Tennessee. Is it not in order to inquire about the facts of the case, so that the committee may act upon it understandingly?

The CHAIRMAN. The Chair will not entertain that species of debate which springs from a system of questions and answers. The committee is acting under a special order, which reads thus:

"There shall be no debate in Committee of the Whole; but the bills which are not objected to shall be reported to the House for final action."

Mr. JONES, of Tennessee. I want to know the facts about the bill.

Mr. QUITMAN. It is with a great deal of reluctance that I feel myself compelled to interfere with a bill of this kind, affecting as it does the family of this deceased officer. But, sir, I am determined to act upon principle, and therefore I am determined that no distinction shall be made between officers, or widows of officers of the same grade. Now, sir, the utmost that is allowed to widows of officers of this grade is twenty dollars per month. Now, sir, if a distinction is to be made between officers for service, let it be made by a general bill, and do not make the distinction in

this way. I move to amend the bill by striking out "twenty-five dollars," where it occurs, and to insert "twenty dollars."

The amendment was agreed to.

The bill, as amended, was then laid aside to be reported to the House, with the recommendation that it do pass.

KATHARINE K. RUSSELL.

A bill (H. R. No. 223) for the relief of Katharine K. Russell. [Objected to by Mr. LETCHER.]

STEPHEN BUNNELL.

A bill (H. R. No. 224) for the relief of Stephen Bunnell.

The bill was read *in extenso*. It directs that the name of Stephen Bunnell, of the State of Indiana, a sergeant major of the war of 1812, be placed upon the list of pensioners of the United States for and during his natural life, at the rate of fifteen dollars per month, to commence and be computed from and after January 1, 1855.

The report states that the Adjutant General having certified that the said petitioner served as quartermaster's sergeant in the artillery corps of the United States Army for five years, from March, 1812, to March, 1817, the committee have examined into the merits of his claim, and find them as follows:

Mr. Bunnell testifies, under oath, that he entered the Army in robust health; that his physical powers were broken down by arduous service and exposure in his specially hazardous line of duty; and that now, in his old age, with his constitution broken down, being unable, from his failure to claim a discharge when sick, and from the death of his captain and comrades since, to furnish the evidence required at the Pension bureau, he applies to Congress for its recognition. It appears that he was the first who landed at the taking of Fort George, shared in the capture of Queens-town Heights, participated in the battle of Stony Creek, lying on the wet ground at nights with the rest of the army on their march thither, which caused him such a fit of sickness as to confine him for many months in the hospital at Youngstown. Although this sickness has impaired his system ever since, he recovered sufficiently to again join the army, and to man the gun under his charge at the battle of Chippewa. At Lundy's Lane, his captain being slain and his lieutenant wounded, he took command, under direction of General Scott, of the last gun left to his company, and kept it in operation till he had but one man left, and his ammunition was exhausted, when he succeeded in getting the gun from the field of battle. At Fort Erie he was honored with a command above his rank, namely, of a battery in a specially exposed condition, in front of the gate of the fort; and by its discharges, after the fort had been taken by the enemy, blew it up, discomfiting the whole British detachment. He was wounded in the wrist at Chippewa, and at Fort Shelby was badly injured in the shoulder by a fall, occasioned by rotten timber in a bridge; but had never claimed a pension on account of those injuries, not deeming, at the time, that he would ever need it. Such a record of faithful and important service to his country certainly deserves the recognition, as well as the relief, which the granting of a pension would afford.

Corroborating this statement are affidavits of Samuel Bunnell and Elizabeth Marsh, who depose that the claimant entered the army in good health, but has been in impaired health ever since; another from S. M. Bishop, that since 1820 the claimant has not been able to perform a full day's work; the affidavits of eminent physicians, corroborating his statement, and certifying that he cannot perform one third of a day's work in a day, and not even that without great pain; the vouchers of Hon. N. Eddy and Hon. C. W. Cathcart, former members of Congress from his district; and, finally, a strong recommendation in his behalf from Lieutenant-General Winfield Scott, his old commander.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

CHARLOTTE BUTLER.

A bill (H. R. No. 226) for the relief of Charlotte Butler. [Objected to by Mr. LETCHER.]

J. M. PLUMMER AND OTHERS.

A bill (H. R. No. 227) for the relief of Joseph

M. Plummer and Mary R. Plummer, minor children of Captain Samuel M. Plummer. [Objected to by Mr. LETCHER.]

HENRY TAYLOR.

A bill (H. R. No. 228) for the relief of Henry Taylor. [Objected to by Mr. JEWETT.]

SAMUEL GOODRICH, JR.

A bill (H. R. No. 229) for the relief of Samuel Goodrich, jr. [Objected to by Mr. REAGAN.]

MARY BENNETT.

A bill (H. R. No. 230) for the relief of Mary Bennett. [Objected to by Mr. JONES, of Tennessee.]

NANCY SERENA.

A bill (H. R. No. 231) for the relief of Nancy Serena.

The bill requires the Secretary of the Interior to place the name of Nancy Serena, widow of Joseph Serena, deceased, on the pension roll, and pay her at the rate of — dollars per month, commencing June 15, 1854, and to continue during her natural life or widowhood.

It appears from the report that the petitioner is the widow of Joseph Serena, who was a private in Captain Craig's company Pennsylvania militia in the war of 1812. While in the service, and from exposure therein, her husband became an invalid, and as such was allowed a pension under the laws of the United States. He died from the disease thus contracted in 1834, about the 15th of June. It having been settled that the husband was an invalid, and as such entitled to relief, and it being quite clear from the evidence that the same disease which rendered him an invalid ultimately caused his death, the committee are of opinion that his widow is entitled to relief, and they therefore report the bill, and recommend its passage.

Mr. LEITER. I move to fill the blanks in the bill with "eight" dollars per month.

Mr. SMITH, of Virginia. I understand there is a general law now pending in the House which will regulate that matter.

The CHAIRMAN. Does the gentleman object?

Mr. SMITH, of Virginia. No, sir.

The bill was laid aside, to be reported to the House, with a recommendation that it do pass.

MARGARET WHITEHEAD.

A bill (H. R. No. 232) for the relief of Margaret Whitehead.

The bill requires the Secretary of the Interior to place the name of Margaret Whitehead, widow of William Whitehead, a boatswain in the United States Navy, on the pension roll, and cause to be paid to her the sum of ten dollars per month, from the 9th of April, 1854, and to continue during her natural life or widowhood.

It appears from the report that the petitioner is the widow of William Whitehead, deceased, who was a boatswain in the United States Navy: while engaged, under orders, in removing some cannon and balls at Old Point, he received a strain in the groin, resulting in hernia, and he died of strangulated hernia and hydrocele, April 9, 1854. The committee are of opinion that the petitioner is entitled to relief, and therefore report the bill, and recommend its passage.

The bill was laid aside, to be reported to the House, with a recommendation that it do pass.

SYLVANUS BURNHAM.

A bill (H. R. No. 233) for the relief of Sylvanus Burnham. [Objected to by Mr. REAGAN.]

JOHN HOPPER.

A bill (H. R. No. 280) for the relief of John Hopper. [Objected to by Mr. LETCHER.]

JOHN A. HOPPER.

A bill (H. R. No. 237) for the relief of the heirs of John A. Hopper. [Objected to by Mr. TAYLOR, of Louisiana.]

RICHARD TARVIN.

A bill (H. R. No. 238) for the relief of the heirs of Richard Tarvin. [Objected to by Mr. REAGAN.]

ZINA WILLIAMS.

A bill (H. R. No. 239) for the relief of Zina Williams. [Objected to by Mr. CURRY.]

BRIG GENERAL ARMSTRONG.

An adverse report (C. C. No. 149) upon the petition of the claimants of the brig General Armstrong.

Mr. TAYLOR, of Louisiana. I move that this report be laid aside, to be reported to the House, with a recommendation that it be referred to the Committee on Foreign Affairs.

Mr. PHILLIPS. I object.

The report was passed over.

BENJAMIN F. HALL.

A bill (H. R. No. 244) for the relief of Benjamin F. Hall. [Objected to by Mr. RUSSELL.]

BAUDOUIN AND ROBERTS.

A bill (H. R. No. 245) for the relief of A. Baudouin and A. D. Roberts. [Objected to by Mr. HAWKINS.]

NANCY D. HOLKAR.

A bill (H. R. No. 249) for the relief of Nancy D. Holkar.

Mr. COX. I move that the bill be reported back to the House, with a recommendation that it do not pass. I have received information since the report was presented which satisfies me that the report was a mistake.

Mr. LEITER. I object.

Mr. CRAWFORD. Is it in order to object, after a motion to report with a recommendation that it do not pass?

The CHAIRMAN. The Chair so considers. The motion indicates a final disposition of the case, and the Chair considers that the special order of the House is, that a final disposition shall not be come to where there is objection.

Mr. STANTON. The motion itself is an objection, and the bill must be passed over.

The CHAIRMAN. The Chair does not so consider it. The rule is, that if there be any objection at all to the final disposition of a bill, it shall not be considered.

Mr. TAYLOR, of New York. If the gentleman will allow me to state one word, I think he will withdraw his objection.

Mr. LEITER. If there is to be no discussion, I withdraw my objection; if there is to be, I will not withdraw it.

Mr. POTTLE. I renew the objection.

JOHN R. TEMPLE.

An act (S. No. 38) for the relief of John R. Temple, of Louisiana.

The bill confirms John R. Temple in his title to a tract of land, containing six hundred and seventy arpents, lying and being within what is known as the "Baron de Bastrop grant," on the east side of Bayou Bartholomew, and more particularly described in a plat and survey executed on the 19th and 20th of January, 1855, by Henry Curtis, parish surveyor for the parish of Morehouse, in Louisiana; and being all that part of two certain tracts of land, not heretofore confirmed to any other claimant, as follows, to wit: a tract of land sold and conveyed by the heirs of Morehouse to George Hook, by deed dated December 10, 1814; and a certain other tract conveyed by Abraham Morehouse to Jacob Stroop, son of George Stroop, by deed dated December 10, 1812.

The second section enacts that the Commissioner of the General Land Office, upon the receipt of a plat and survey of the land hereby confirmed, executed by the proper officer, shall cause a patent to be issued therefor to the said John Temple; provided, however, that such patent shall only operate as a relinquishment of title on the part of the United States, and shall not affect the rights of any third person.

The report was read. It appears therefrom that the claim of John R. Temple was not filed with the commissioners under the act of 1851, providing for the adjustment of private land claims in the Baron de Bastrop grant, on the ground, as he alleges in his memorial, that he believed his claim was confirmed with the Bonaventure claim, which it adjoins. The committee find a regular chain of title from Morehouse to John R. Temple. The claimant and the persons under whom he holds, have been in uninterrupted possession of a part of the lands since 1807, and the remainder since 1812 and 1814, and the same has been inhabited and cultivated from those dates, respectively, up to this time. Two affidavits, accompanying the

papers, show that the lands have been inhabited and cultivated for more than twenty years. The committee are unanimously of the opinion that if this claim had been presented to the commissioners under the act of 1851, with the proofs now before the committee, such commissioners would have recommended this claim for confirmation. The omission of the memorialist to present his claim to the commissioners ought not, in the opinion of the committee, to defeat the rights of the claimant under the act of 1851; they therefore report a bill to confirm the memorialist in his title to six hundred and seventy arpents of land, being the tract which he holds by a regular chain of title from Morehouse, and upon which he now resides.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

PIERRE GAGNON.

A bill (H. R. No. 250) for the relief of Pierre Gagnon, of Natchitoches, Louisiana.

The bill allows Pierre Gagnon to enter and pay for his preemption claim to the northeast and southeast fractional quarters of section seven, in township nine north, of range six west, containing about one hundred and eighty-nine acres, in the land office of Natchitoches, Louisiana, and that a patent issue therefor as in ordinary cases; provided, however, that this right of entry, nor any patent issued under it, shall prejudice any valid adverse claim, should such exist.

The report was read, and is as follows:

The Committee on Private Land Claims, to whom was referred the memorial of Pierre Gagnon, of Louisiana, report:

That, as per statement of the register of the land office at Natchitoches, Louisiana, Mr. Gagnon filed in that office on the 28th of May, 1836, his proof of a preemption claim to certain lands.

The memorialist states "that he has repeatedly offered to pay for the same, but that payment has been refused to be received, on the ground that there was a claim thereto by one Lewis Moreno; which claim, he alleges, is entirely fictitious and a fraud, no such man having lived in that section of country, as can be proved by competent witnesses who have resided in the vicinity of said land for more than sixty years."

This statement by Mr. Gagnon is indorsed and corroborated by thirty-two of the best citizens of that neighborhood.

The Commissioner of the Land Office, in his response to a call made by the committee for any information to be furnished by his department touching the case in question, says, "that no objection is perceived to the passage of an act relinquishing the title of the United States in favor of the claimant (Gagnon,) and specifying in such act that no preexisting right or valid adverse claim which may exist should be prejudiced thereby."

In view of these facts, and that for more than twenty years no attempt has been made to establish the claim standing in the name of Moreno, your committee see no reason why Gagnon, who has lived on and cultivated a portion of the land during all that time, should not now be allowed to make payment therefor, and receive title as suggested by the Commissioner of the Land Office, and herewith report a bill.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

JOHN HUERTAS.

A bill (H. R. No. 251) to authorize the claimants in right of John Huertas to enter certain lands in Florida.

The bill authorizes the claimants in right of John Huertas to a tract of six thousand acres in Florida, confirmed by the Supreme Court of the United States at the January term in 1834, to enter, at any land office in Florida, three thousand three hundred and thirty-two acres and thirty hundredths of an acre of any of the public lands in that State offered or unoffered, the same being in addition to the area of two thousand six hundred and sixty-seven acres and seventy hundredths of an acre surveyed for said claim, and designated as section forty-eight, in township nine south, of range twenty-seven east, in the St. Augustine land district, Florida, and being the difference between the quantity embraced by the survey and the six thousand acres confirmed for the claim; and the register and receiver of any of the land offices shall receive the proper applications and proofs, and shall issue the necessary certificate; upon the return of which to the General Land Office, with satisfactory proof of the rights of the claimants, a patent shall issue for the lands so located.

Mr. COBB. I move to amend by inserting a provision that the lands shall not be located within six miles of any railroad.

The amendment was agreed to.

The report was read. It appears thereby that after the acquisition of Florida, in 1819, various acts were passed by Congress for the adjustment of private land claims within the ceded Territory, but the tribunals authorized to decide them were not authorized to settle any which exceeded one league square; on those claims exceeding that quantity they were directed to report especially their opinion for the further action of Congress. By the sixth section of the act of the 22d May, 1828, all those claims exceeding the one league were, upon petition of the claimants, to be adjudicated by the judges of the superior court of the district in which the land was situated. The memorialist shows that on the 24th December, 1817, Don José Coppinger, Governor of Florida, for reasons stated, granted to John Huertas fifteen thousand acres of land in absolute property; and that on the 24th April, 1824, the land commissioners recommended to Congress, for confirmation, the claim of Francis J. Avíce to six thousand acres of land, in certain locality, being a portion of the fifteen thousand granted to Huertas. (See State Papers, vol. 4, page 450.) On this recommendation, accompanied by petition, final judgment of the Supreme Court of the United States was delivered by Chief Justice Marshall, (8 Peters, page 488,) confirming the decision of the superior court of East Florida in favor of the claimants under Huertas to the six thousand acres mentioned by memorialist, to be located in conformity with the original grant, &c., &c. Under this mandate, the surveyor general of Florida, in 1850, located at the proper place two thousand six hundred and sixty-seven acres and seventy hundredths of an acre of the six thousand acres; balance being located elsewhere.

Dissatisfied with this failure to locate the whole amount in accordance with the decree of the Supreme Court, the parties in interest obtained an order from the United States district court in Florida for its rejection, in so far as it failed to conform to that decree; and a new survey was ordered by the court. This last order has not been carried out by the Land Office department, because its execution might interfere with claims of other persons, made in good faith, after the first erroneous survey, and whose claims would be embraced by the extension of the two thousand six hundred and sixty-seven acre tract, so as to make it six thousand acres. Himself unwilling to disturb settlers in good faith, the present claimant is willing to take other Government land to make up the deficiency. In response to a communication from the committee, asking for any information to be furnished by his department in reference to this claim, the Commissioner of the Land Office says:

"The bill to authorize the claimants in right of John Huertas to enter certain lands in Florida, which is herewith returned, is approved by this office, and deemed an act of justice to the claimants. Although it is customary in cases of this kind for this office to recommend the restriction of such grants to lands subject to private entry, that rule is departed from in the present instance, and the location allowed on any lands in the State, offered or unoffered, in consideration of the difficulty of finding in the class subject to entry land of a quality equal to that of which the claimants have been deprived."

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

CARONDELET CITY.

A bill (H. R. No. 133) for the relief of the city of Carondelet.

The bill requires the Secretary of the Interior to cause to be issued to the city of Carondelet warrants to be located on any public land subject to private entry, equal in amount, according to the minimum price of such lands, to the actual cash value at the time of sale, of so much of the tract of land lying in the county of St. Louis, Missouri, heretofore gratuitously conveyed to the United States by that city for military purposes, near Jefferson barracks, and which has been excluded from the Jefferson barracks tract, and disposed of by the United States.

The report was read, and is as follows:

The Committee on Private Land Claims, to whom was referred the bill for the relief of the city of Carondelet, report:

That, by the first section of the act of June 13, 1812, entitled "An act to make further provision for settling the claims to land in the Territory of Missouri," it is provided that "the rights, titles, and claims to town lots, out lots, common field lots, and commons in, adjoining and belonging to the several towns or villages of Portage de Sioux,

St. Charles, St. Louis, St. Ferdinand, Village à Robert, Carondelet, Ste. Genevieve, New Madrid, New Bourbon, Little Prairie, and Arkansas, in the Territory of Missouri, which lots have been inhabited, cultivated, or possessed, prior to the 20th of December, 1803, shall be, and the same are hereby, confirmed to the inhabitants of the respective towns or villages aforesaid, according to their several right or rights in common thereto."

This act vested a complete title in the lots, commons, &c., in the individuals and communities referred to in it.—(Guitard vs. Stoddard, 16 Howard, p. 592.) As, however, the extent of the grants thus made were not clearly known, it was provided that surveys should be made by the United States surveyors, which, when accepted by the confinee, was conclusive against the United States that the land granted was the same thus designated by the officers of the United States. Accordingly, such a survey was made of the commons of Carondelet in 1817, by Elias Rector, which was retraced by Joseph C. Brown in 1834, and the survey duly recorded in the office of the surveyor general at St. Louis.

In 1826, the town authorities of Carondelet granted to the United States a part of their commons, "so long as it may be found useful for military purposes." And it was under this authority, and without any other claim at that time, that the United States took possession and erected Jefferson barracks, as appears by a letter from General Atkinson, late of the United States Army, dated 7th August, 1839, to Mr. Poinsett. The authorities of Carondelet, in 1839, having denied the right of their predecessors in 1826 to make such a grant, the question of the extent of the commons of Carondelet was taken before the General Land Office, and in 1840 the Commissioner of the General Land Office disapproved of the survey made twenty-three years before; and, on the 16th November of that year, Mr. Poinsett ordered General Atkinson to have a survey, to include one thousand seven hundred and two acres, made. This was done, and the survey was sent to the General Land Office, with a request that the Commissioner would have the survey noted in his office as a reservation of public land for military purposes; which was accordingly done. The survey of their commons having been thus set aside, the inhabitants of Carondelet could neither enforce any right against the United States, or others, in possession of the land; and to relieve themselves from this condition and procure the reestablishment of their survey, they made a deed to the United States for the land lying within it which had been thus reserved for military purposes, and thereupon, in pursuance of instructions from the Secretary of the Interior, the survey was approved on the 8th October, 1855, excluding therefrom the Jefferson barracks survey of one thousand seven hundred and two acres.

The commons, as shown by the survey as now approved, includes the whole of the military reserve, and it is therefore apparent that the only title of the United States to this reserve is that derived altogether from Carondelet; whether it was proper to extort the conveyance from the inhabitants of Carondelet in the manner exhibited by the facts above recited, it is not necessary here to inquire. The question presented for the consideration of the committee was, whether, after thus obtaining a deed for this land without consideration, the possession of which was originally obtained from Carondelet for military purposes, the United States could properly sell immediately a part of it without making compensation to Carondelet for the portion so sold, and which was found unnecessary for the purpose for which it was conveyed to the Government. About one hundred acres of this land were thus disposed of, and it was the opinion of the committee that this portion of the land should have been restored to the people of Carondelet. A purchaser, with notice of such facts, would acquire no title. The land would revert to the donor when the donee undertook to alienate or use it for a different purpose than that to which it was to be devoted by the express terms of the grant. But in this case the records did not give notice, and the people of Carondelet have therefore no title to the specific land, but can rightfully claim of the Government other land of equal value.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

MARY JEMISON.

A bill (H. R. No. 252) for the relief of the heirs of Mary Jemison, deceased. [Objected to by Mr. REAGAN.]

JOHN J. BULOW, JR.

A bill (H. R. No. 253) for the relief of the heirs of John J. Bulow, jr., deceased. [Objected to by Mr. MORGAN.]

WILLIAM HUTCHENSON.

A bill (H. R. No. 254) for the relief of William Hutchinson.

The bill instructs the Secretary of War to pay to William Hutchinson \$150, in full settlement of his claim for compensation for services as a spy during the late war with Great Britain; and that that sum be paid out of any money in the Treasury not otherwise appropriated.

It appears from the report that the petitioner was a private in the company of Captain Noah Forrest, which went from Harrison county, in the State of Kentucky, during the late war with Great Britain, and served in the northwest in the regiment commanded by Colonel Butler. By the order of the said Colonel Butler, a company of spies were organized, and a promise was made to the men who composed it that, in addition to their regular pay, they should receive, for their services as spies, the

compensation of one dollar per day. The petitioner became a member of that company, and was employed in the duty assigned it for a period of five months, but has not as yet received any portion of the compensation so promised. The committee recommend that the petitioner be paid for his said service the sum of \$150, being at the rate of one dollar per day for the period he was so employed, and report a bill accordingly.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

THOMAS PHENIX, JR.

A bill (H. R. No. 255) for the relief of Thomas Phenix, jr., late paymaster's clerk in the service of the United States. [Objected to by Mr. JONES, of Tennessee.]

OLIVER P. HOVEY.

A bill (H. R. No. 255) for the relief of Oliver P. Hovey.

The bill directs the Secretary of the Treasury to pay to Oliver P. Hovey, out of any moneys in the Treasury not otherwise appropriated, \$1,555 compensation for printing the Kearny code of laws for New Mexico in 1846.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

HENRY E. READ.

A bill (H. R. No. 257) to increase the pension of Henry E. Read, a citizen of Kentucky, and for other purposes.

The bill raises the half pension heretofore allowed to Henry E. Read, of Kentucky, a non-commissioned officer in the Mexican war, to thirteen dollars a month.

The second section enacts that the benefits accruing to Henry E. Read, under and by virtue of this act, shall commence March 3, 1848, and continue for and during his natural life.

It appears from the report that Sergeant Read entered the army intended for the invasion of Mexico, in Louisville, Kentucky, in the spring of 1847; that he was in every battle fought by the American arms from Vera Cruz to the city of Mexico; and until he fell desperately wounded in the abdomen, in the right shoulder and right arm, at the storming of Chapultepec; that his conduct in every engagement was that of a truly courageous citizen soldier, until his fall at the storming of Chapultepec, with the colors of his regiment in his hands, on the 13th of September, 1847. The committee further report that Sergeant Read's profession or calling before he entered the Army, was that of a blacksmith; and that he has been compelled, by the wounds received in the defense of his country, to abandon his trade; and that he is wholly unable to perform manual labor, and is in that condition at this time. The committee further report that Sergeant Read was honorably discharged from the service in the city of Mexico, while in the hospital, where he lingered for seven months, and had ultimately to find his way home as best he could.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

AUGUSTUS J. KUHN.

A bill (H. R. No. 258) for the relief of Augustus J. Kuhn. [Objected to by Mr. JEWETT.]

ISAAC CARPENTER.

A bill (H. R. No. 260) for the relief of Isaac Carpenter.

The bill directs the Secretary of the Interior to place the name of Isaac Carpenter, of New York, upon the invalid pension list, at the rate of eight dollars per month, commencing on the 10th of June, 1856, to continue during his natural life.

The report was read. It appears therefrom that the petitioner was a soldier in the war of 1812, from September, 1813, till the spring of 1815, about eight months of which time he was an ensign, and the residue a lieutenant in the fortieth regiment United States infantry. That in the spring of 1814 he marched with a detachment of his regiment from Boston, Massachusetts, to Eastport, Maine, a distance of about five hundred miles, in thirty days; that the march was through deep mud all the way, and storms most of the time; that on the last day but one he marched fourteen or sixteen miles knee-deep through snow, mud, and water, when, having fell and hurt himself, he was seized with an attack of rheumatism,

and was sent on to Eastport in a schooner, with some other invalids who were not able to proceed by land. He was there taken prisoner, and released on his parole, and returned to his native town in Massachusetts, sick with a fever. His physician's bills while there were paid by the Government. Since that time he has had fever and rheumatism, and been compelled to give up labor at his trade. For the last two years he has been wholly unable to work, in consequence of frequent attacks of those complaints. It is the opinion of the physicians and surgeons whom he has consulted, and whose affidavits to that effect are on file, that those diseases were fastened on his constitution by that severe march from Boston to Eastport. He is old, infirm, and unable to work, and now, after such protracted suffering for services rendered his country, the committee are of opinion that he should be placed on the pension list.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

LEONARD LOOMIS.

A bill (H. R. No. 261) for the relief of Leonard Loomis.

The bill directs the Secretary of the Interior to raise the pension of Leonard Loomis from six to eight dollars per month, and to pay him such increased pension from the 9th of August, 1857.

The report was read. It appears therefrom that the petitioner was disabled in the war of 1812, by a disease called *scrofula hernia*, while in the line of his duty, hauling heavy timber up a steep bank, at Fort Oswego, and was discharged under a certificate of disability in the spring of 1812; that by an act of Congress, approved June, 1838, he was placed on the pension list, on account of such disability, at the rate of six dollars per month; that since then his disease has continued with increased pain and debility, and that he is now old, poor, and unable to labor. He asks that his pension be raised to eight dollars per month. The committee consider it just that his prayer should be granted.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

HECTOR ST. JOHN BEATLY.

A bill (H. R. No. 262) for the relief of Hector St. John Beatly. [Objected to by Mr. JONES, of Tennessee.]

HENRIETTA S. CLARK.

A bill (H. R. No. 263) for the relief of Henrietta S. Clark. [Objected to by Mr. LEITER.]

THOMAS ALLCOCK.

A bill (H. R. No. 264) granting a pension to Thomas Allcock, of Rochester, New York.

The bill directs the Secretary of the Interior to place the name of Thomas Allcock, of Rochester, New York, upon the invalid pension roll, at a rate of eight dollars per month, to commence on the 1st of July, 1852, and to continue during his natural life.

It appears from the report, that the memorialist was a private in company F, third artillery, in the Army of the United States, and was stationed at Fort Pierce, on Indian river, in East Florida, during the Florida war; that on or about the 6th day of July, 1839, the said Allcock, whilst discharging the duty of a sentry, was struck by the sun to the ground, and was totally blind for the space of six days; that since that time he has been, time and again, laid up, by reason of the disease of his eyes; and that now he is using artificial pupils, one of which enables him to see objects at a short distance, and the other is entirely useless. For this permanent injury to his eyes, rendering them perfectly useless for the remainder of his life, received in the service of his country, the committee think he is justly entitled, in some degree, to the consideration of his Government. The committee, therefore, looking at the completeness of his proof, fully establishing the fact of his service and the extent of his injuries, have concluded to recommend that a pension be allowed to the petitioner, dating back from the 1st of July, 1852, the period of the first application of the petitioner for a pension.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

MARY W. THOMPSON.

A bill (H. R. No. 265) for the relief of Mary

W. Thompson. [Objected to by Mr. JONES, of Tennessee.]

WILLIAM YORK.

A bill (H. R. No. 266) for the relief of the heirs of William York. [Objected to by Mr. JONES, of Tennessee.]

TIMOTHY L. O'KEEFE.

A bill (H. R. No. 267) for the relief of Timothy L. O'Keefe, of Missouri. [Objected to by Mr. SMITH, of Virginia.]

WILLIAM CRAMPTON.

A bill (H. R. No. 268) extending the patent granted to William Crampton, for an improvement in figure and fancy power-looms, for seven years from the 25th day of November, 1858. [Objected to by Mr. PHILLIPS.]

DAVID BRUCE.

A bill (H. R. No. 269) for the relief of David Bruce. [Objected to by Mr. JONES, of Tennessee.]

BENJAMIN L. M'ATEE AND J. N. EASTHAM.

A bill (C. C. H. R. No. 65) for the relief of Benjamin L. McAtee and J. N. Eastham, of Louisville, Kentucky.

The bill directs the Secretary of the Treasury to pay to Benjamin L. McAtee and J. N. Eastham, \$6,000 in full for transporting extra mail matter over routes No. 3960 and No. 4169, between July 1, 1846, and June 30, 1850.

The report shows that the claim of the petitioners has been before Congress at different times before the organization of the Court of Claims. Two different reports were made by the House Committee on the Post Office and Post Roads in favor of allowing claimants \$21,000. The Court of Claims, upon a review of all the evidence in the case, have decided that the claimants are entitled to receive from the Government, for services rendered, the sum of \$6,000.

Mr. NIBLACK moved to amend the bill by substituting "Isaac N. Eastham" for "J. N. Eastham."

The amendment was agreed to.

The bill was then laid aside to be reported to the House, with a recommendation that it do pass.

BREVET MAJOR H. L. KENDRICK.

A bill (H. R. No. 272) for the relief of Brevet Major H. L. Kendrick.

The bill directs the proper accounting officers of the Treasury to credit and allow Brevet Major H. L. Kendrick, of the second artillery, \$1,294 66 in the settlement of his account for the sales made by him, by order of General Worth, of certain ordnance property belonging to the United States at Puebla, in Mexico, in June, 1848; that sum being so much of the proceeds of said sale as were stolen from him at Jalapa, while transporting the same to Vera Cruz.

It appears from the report that the petitioner's prayer for relief is based upon the following facts: In the month of June, 1848, on the eve of the evacuation of Puebla, Mexico, by the American forces, Major Kendrick was directed to sell the ordnance and ordnance stores in depot in that city, and was charged with the care and transportation of the proceeds to Vera Cruz. While encamped near Jalapa, on the 7th day of July, 1848, notwithstanding every precaution was taken by guards and other means to avoid loss, one of the specie wagons was robbed of the sum of \$1,294 66. Every effort was made to arrest the robber and recover the money, but without success.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

HARRIS AND MORGAN.

Joint resolution (H. R. No. 9) authorizing the Postmaster General to revise and adjust the accounts of Harris & Morgan, on principles of justice and equity. [Objected to by Mr. JONES, of Tennessee.]

JOHN F. CANNON.

A bill (H. R. No. 273) for the relief of John F. Cannon.

The bill authorizes and directs the Postmaster General to pay to John F. Cannon at the rate of \$120 per annum, for and during the time he carried said mail, according to his contract, in addition to

the amount already paid to him, for additional expense incurred, and extra service performed by him, on mail-route No. 2627.

It appears from the papers filed in this case, that the petitioner, at the letting of the mail contracts in 1851, put in a bid for route No. 2627, setting forth in his proposal to the Post Office Department that he would carry the mail on said route from Campbell Court-house to Halifax Court-house, for the annual sum of \$380. It is manifest, not only from the written proposal of the petitioner, but also from his affidavit, that he did not mean to contract beyond the route indicated in his bid, and that in not having in express terms excluded the residue of the route embraced in route No. 2627, he acted wholly in ignorance of the usages of the Post Office Department. Notwithstanding these facts, the Postmaster General insisted that, according to the usages of the Department, the petitioner was bound to carry the mail a further distance of thirty-eight miles, from Campbell Court-house to Chalk Levels, but intimated that he would have relief in the premises. The petitioner accordingly did, during the continuance of his contract, carry out the views of the Department, and performed a service of thirty-eight miles of road over and beyond the true intention of his proposal. It appears from an accompanying letter of the Postmaster General, that he fixes the compensation properly due by the Government to the petitioner, at \$120 a year, that, with the sum already paid, being the amount of the next lowest bid on the route.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

J. W. NYE.

A bill (H. R. No. 275) for the payment of the claim of J. W. Nye, assignee of Peter Bargy, jr., and Hugh Stewart. [Objected to by Mr. LETCHER.]

MARGETT VAN BUSKIRK.

A bill (H. R. No. 276) for the relief of Margett Van Buskirk, heir of Thomas Van Buskirk, deceased, late of Bergen county, New Jersey. [Objected to by Mr. SMITH, of Virginia.]

GENERAL SYLVESTER CHURCHILL.

Joint resolution (H. R. No. 10) for the relief of General Sylvester Churchill.

The bill directs the proper disbursing officer to allow and pay to General Sylvester Churchill, inspector general, the pay and allowances of inspector general, from April 29, 1845, the date of his discharge, to January 21, 1846, when he was reinstated in his office, according to the rates of pay then allowed, deducting from said pay and allowance any amounts which may have been paid to Churchill for services performed between the time of his discharge and restoration to office.

It appears from the report that the memorialist, then a major of artillery in the Army, was, on the 15th of September, 1841, appointed one of the inspectors general of the Army, to take rank from the 15th of June of that year; that, from considerations of public policy alone, he abandoned his permanent position in the line of the Army, and accepted the staff appointment tendered to him. On the 23d of August, 1842, an act of Congress passed reducing the number of inspectors general of the Army from two to one; but the President of the United States, for reasons presented by him to Congress, deemed it necessary to continue both in office. Subsequently, these reasons ceasing to exist, President Polk deemed it his duty to discontinue the services of one of the inspectors general; and, on the 29th of April, 1845, the memorialist, being the junior, was honorably discharged from the service. The wants of the service, however, and the apparent injustice done to a meritorious officer, induced Congress, at the next session after the discharge of General Churchill, to wit, on the 12th of January, 1846, to repeal the act of 1842, by which the inspectors general were reduced, and to revive and continue in force the former organization allowing two inspectors general. Immediately after this repeal, on the 21st of the same month, the memorialist was again commissioned, and restored to his original rank and position; and in his new appointment the date of his former commission was inserted. It appears, further, that, during the interval which occurred between his discharge on the 29th of April, 1845, and the 21st of January, 1846, when

he was restored to office, the memorialist performed, at the request of officers of the Government, important services connected with his former duties as inspector general, such as investigating and settling references, &c.—services affording in themselves ample consideration for the amount of his salary during that time. The memorialist now asks that he may be allowed the same pay and allowances during the interval between his discharge and his reappointment as he would be entitled to if he had been in commission the whole time.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

MARY BOYLE.

A bill (H. R. No. 277) for the relief of Mary Boyle. [Objected to by Mr. JONES, of Tennessee.]

REPORTS FROM THE COURT OF CLAIMS.

The following adverse reports stood next in order upon the Calendar:

An adverse report (C. C. No. 154) upon the petition of Charles D. Arfwedson.

An adverse report (C. C. No. 155) upon the petition of N. and B. Goddard, executors of Nathaniel Goddard.

An adverse report (C. C. No. 156) upon the petition of Benjamin Cozzens's trustee.

An adverse report (C. C. No. 157) upon the petition of Jacob Bigelow, administrator of Francis Cazeau.

Mr. LETCHER. I move that those reports be reported to the House, with a recommendation that the House concur in the reports of the Court of Claims.

Mr. STANTON. Here are three pages of reports from the Court of Claims—these adverse reports, and a number of bills from the Court of Claims, which have been reported on adversely by the Committee of Claims. I take it for granted that none of them can be passed to-day, and I suggest that we should pass over them all.

Mr. REAGAN. I object to passing over the bills unless some disposition is made of them.

The CHAIRMAN. No disposition will be made of them if they are passed over.

Mr. REAGAN. Then I object.

Mr. STANTON. Let them go over until some day when we can discuss them and act upon them.

Mr. DAVIDSON. Do I understand the gentleman to move that the adverse reports from the Court of Claims be passed over?

The CHAIRMAN. The proposition is, to pass over all the adverse reports from the Court of Claims.

Mr. STANTON. And all the bills from the Court of Claims which have been reported on adversely by the Committee of Claims.

Mr. DAVIDSON. The court have decided in favor of many cases in which the Committee of Claims have reported against the bills. And I desire to notify the House now, that on Monday next I shall move to discharge the Committee of the Whole House from the further consideration of the bill (C. C. H. R. No. 44) for the relief of Jane Smith, of the county of Clermont, State of Ohio, in order that we may test the question, and either pass the bill or reject it.

Mr. PHELPS. How many of the cases reported from the Court of Claims does this motion cover?

The CHAIRMAN. It refers to the whole mass of cases on this part of the Calendar.

Mr. PHELPS. I desire to have an exception made. There is one bill which I desire to have reported to the House, with a recommendation that it be referred to the Committee of Claims.

Mr. SHERMAN, of Ohio. I call for the regular order.

Mr. LETCHER's motion was agreed to; and adverse reports from the Court of Claims, Nos. 154, 155, 156, and 157, were laid aside to be reported to the House, with a recommendation that the reports be confirmed.

ISAAC S. SMITH.

A bill (H. R. No. 317) for the relief of Isaac S. Smith, of Syracuse, New York. [Objected to by Mr. LETCHER.]

JOHN DAVIS.

A bill (H. R. No. 318) recognizing the assign-

ment on land warrant No. 35,956, issued to John Davis, as valid.

The bill directs that the assignment upon land warrant No. 35,956, issued to John Davis, for forty acres, be recognized as valid.

Mr. JONES, of Tennessee, moved to insert, after "John Davis," the words, "under the act of September 28, 1850."

The amendment was agreed to.

The bill, as amended, was laid aside to be reported to the House, with a recommendation that it do pass.

The committee then, by unanimous consent, passed over the thirty-five bills next on the Calendar, reported from the Court of Claims, reported back by the Committee of Claims, with the recommendation that they do not pass.

BENJAMIN SAYRE.

A bill (H. R. No. 319) for the relief of Benjamin Sayre. [Objected to by Mr. CLEMENS.]

J. W. NYE.

A bill (H. R. No. 320) for the relief of J. W. Nye. [Objected to by Mr. LETCHER.]

JOHN B. ROPER.

A bill (H. R. No. 321) for the relief of John B. Roper. [Objected to by Mr. REAGAN.]

REV. JAMES CRAIG.

A bill (H. R. No. 322) for the relief of the heirs of Rev. James Craig, deceased.

Mr. DAWES. I move to amend the bill by striking out the word "heirs," and to insert the words "legal representatives;" and to strike out the names of the claimants.

The motion was agreed to.

Mr. GOODE. I feel it to be my duty to move to amend that bill, by striking out the sum of \$10,000, and inserting \$20,000.

Mr. LEITER. I then object to the bill.

Mr. GOODE. If the House will hear me for a moment, they will see the justice of the amendment.

Mr. STANTON. If there is to be debate, I object.

WILLIAM WALKER.

A bill (H. R. No. 323) for the benefit of William Walker. [Objected to by Mr. LETCHER.]

SAMUEL JONES.

A bill (H. R. No. 324) to allow the legal representatives of Samuel Jones five years' full pay, in lieu of half pay for life. [Objected to by Mr. JONES, of Tennessee.]

Mr. EUSTIS (at four o'clock) moved that the committee rise.

Mr. COBB demanded tellers.

Tellers were ordered; and Messrs. BOWIE and CLEMENS were appointed.

The question was taken; and the tellers reported—ayes 16, noes 102.

So the committee refused to rise.

GUSTAVUS B. HORNER.

A bill (H. R. No. 325) for the relief of the legal representatives of Gustavus B. Horner, deceased. [Objected to by Mr. JONES, of Tennessee.]

REVOLUTIONARY CLAIMS.

A bill (H. R. No. 234) to provide for the settlement of the claims of the officers and soldiers of the revolutionary army, and of the widows and children of those who died in the service. [Objected to by Mr. RUSSELL.]

LIEUTENANT BARTLETT HINDS.

A bill (H. R. No. 326) for the relief of the heirs of Lieutenant Bartlett Hinds. [Objected to by Mr. GARNETT.]

MARIE MALINES.

A bill (H. R. No. 327) for the relief of the legal representatives of Marie Malines.

The bill directs that the legal representatives of Marie Malines, born Rillieux, be confirmed in all the right, title, and interest now held or possessed by the United States, in and to a certain tract of land in Louisiana, containing about thirty-two hundred arpents, being a part of a grant made by the French Government, in the year 1764, to Marie Rillieux, according to a survey and plat made by the royal surveyor, Don Carlos Trudeau, and of record in the land office at New

Orleans; and upon a proper survey, duly approved, being returned to the General Land Office, a patent shall issue; provided, that the act shall only be construed to vest in the said legal representatives of Marie Malines, born Rillieux, the rights, title, and interest in said land now held and possessed by the United States, and shall not be construed in any way to impair the *bona fide* rights, interests, or claims acquired by any other person under adverse grants, concessions, or purchases, made prior to the passage of the act.

The report states that on the 16th of July, 1764, Marie Rillieux, of the Province of Louisiana, addressed a petition to the director general and royal commandant, praying a grant or concession of ten thousand one hundred and twenty Paris arpents of the royal domain, included within the river Manchac on the north, the river Le Sueur on the south, Lake Pontchartrain on the east, and Lake Maurepas on the west; that such grant was made in accordance with the prayer of the petition; and that Marie Rillieux, widow of, by her marriage with, Solomon Malines, entered in the possession of the tract of land, there being no evidence that her rights of property and control of the same were ever questioned or disturbed by the sovereignty of the Province previous to the transfer and delivery of the country to the United States, under the treaty of purchase from the French Government. Under the provisions of the act of Congress passed in the year 1807, relative to the ascertainment and adjustment of titles and claims to lands within the Territory of Orleans, Marie Malines, Emelie Malines, and Rosalie Malines, the children and heirs of the original grantee of the tract of land, all of whom were inhabitants of the territory at and before the time of its cession to the United States, presented their memorial to the commissioners appointed under the said act of Congress, praying the confirmation, in their favor, of the original grant, so made in the year 1764; and that, as appears by the record of their proceedings, (American State Papers, Public Lands, volume 2, page 279, and case No. 383,) the commissioners did affirm the same, without qualification. It is true, as alleged by the memorialist, that, owing to the restricted clauses and conditions of the law under which the commissioners acted, their confirmation of claims could only inure to the benefit of the claimants to the extent of a league square, which, in the present instance, was greatly less than the land embraced by the original grant. But it does not appear that the United States have ever entered upon the possession of the remaining portion of the land, or caused it to be surveyed and offered for sale, or in any manner appropriated it. The claim, as above stated, was confirmed in favor of the legal representatives of Marie Malines, without any terms of qualification or reservation; and there can be no doubt that, had the law not contained the conditions and restrictions above alluded to, those parties could have exercised all rights of property, as against the United States, over the entire extent of the ten thousand one hundred and twenty Paris arpents, as specified in the grant made in 1764, and which had been allowed by a possession of nearly forty years' donation, as against both the Spanish and French Governments, previous to the existence of any territorial rights in the Province on the part of the United States.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

CYRENUS GLASS.

A bill (H. R. No. 328) for the relief of Cyrenus Glass. [Objected to by Mr. GARNETT.]

MEMONONIE INDIANS.

A bill (H. R. No. 329) to authorize the Commissioner of Indian Affairs to adjudicate and settle certain claims against the Menomonee Indians. [Objected to by Mr. GARNETT.]

GEORGE CHORPENNING AND OTHERS.

A bill (H. R. No. 330) for the relief of George Chorpenning and Elizabeth Woodward, deceased, and the children of said Elizabeth Woodward. [Objected to by Mr. LOVEJOY.]

DENT, VANTINE, AND COMPANY.

A bill (H. R. No. 331) for the relief of Messrs. Dent, Vantine, and Company, for provisions furnished to Indians in California during the years 1851 and 1852. [Objected to by Mr. GARNETT.]

RICHARD B. ALEXANDER.

A bill (H. R. No. 332) for the relief of Richard B. Alexander.

The bill directs the proper accounting officers of the Treasury to pay to Richard B. Alexander, late a major in the first Tennessee regiment, Mexican war, \$250 in full of the value of one horse and one mule lost by him during the war.

The evidence establishes that Major R. B. Alexander, of the first regiment of Tennessee volunteers, in the war with Mexico, was severely wounded in the battle of Monterey, in consequence of which he was prevented from marching with his regiment when it was ordered to proceed to Vera Cruz. After his recovery he proceeded to join his regiment, by the way of Brazos St. Iago. At the latter place he was obliged, by order of General Worth, then in command there, on account of deficiency of transportation, to leave his horse and mule in charge of Quartermaster Hill, under an engagement that they should be forwarded to him. Whether forwarded or not is not known; but it appears they never were received by Major Alexander. The Government, having thus failed to furnish to a field officer, on a duty which required him to embark on sea, the means of transportation for his necessary horses, is liable to pay for their loss. The value of the animals thus lost is proven to be two hundred and fifty dollars.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

JEREMIAH Y. DASHIELL.

A bill (H. R. No. 333) for the relief of Major Jeremiah Y. Dashiell, paymaster in the United States Army.

Mr. QUITMAN. I desire to state that that bill was reported by the Committee on Military Affairs. Since it was reported, however, the House has passed a Senate bill upon the same subject. I move that the bill be laid aside to be reported to the House, with a recommendation that it do not pass.

The motion was agreed to.

SIMEON STEDMAN.

A bill (H. R. No. 334) for the relief of Simeon Stedman.

The bill directs the Secretary of War to instruct the proper disbursing officer to pay to Simeon Stedman, who served in Captain Christopher Ripley's company, of the thirty-seventh infantry, during the war with Great Britain, in 1812, such sum or sums as may have accrued to him, from the time of his last receiving payment, for services till the end of the war.

The report states that Simeon Stedman first enlisted in the company of Captain Christopher Ripley, of the thirty-seventh infantry, on the 9th of July, 1813, and faithfully served till the 1st of June, 1814. At this latter period he re-enlisted in said company and regiment for and during the war. On the 7th of April, 1815, he received leave of absence, to visit his sick mother. During his absence he himself was taken ill, and was unable to return until after the disbandment of his company and regiment. He was then refused payment, on the ground that he was a deserter.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

SUSANNAH REDMAN.

A bill (H. R. No. 335) for the relief of Susannah Redman; widow of Lloyd Redman.

The bill directs the Secretary of War to pay to Susannah Redman, widow of Lloyd Redman, formerly of Captain Clay's company of Kentucky volunteers, \$170, being the amount adjudged as due to Lloyd Redman for three horses lost by him while in the service of the United States, during the Mexican war.

The report states that Lloyd Redman, deceased, was the husband of the petitioner, Susannah Redman. He served as a private in the company of Kentucky volunteers, commanded by Captain Clay, in the Mexican war. Redman contracted a disease during his service; and, from the evidence, it appears this disease went far to hasten his death. In consideration of these facts, a pension of \$3 50 per month, to continue for five years, was granted to the present petitioner, on the 4th of September, 1857. It appears, further, that Lloyd Redman, while in the service of the Uni-

ted States, lost three horses; one of them being "snagged," and the other two poisoned by the Mexicans.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

B. W. PALMER AND OTHERS.

A bill (H. R. No. 336) for the relief of B. W. Palmer and others.

The bill directs that the excess of salary paid to B. W. Palmer and others, as pursers' clerks, under the estimates made in the naval appropriation bill for the year 1854, be confirmed and made legal; provided, however, that nothing contained in the bill shall be construed into a repeal of the existing laws regulating the pay of pursers' clerks.

From the report it appears that the pay of pursers' clerks, as fixed by law, was and is \$500 per annum; that the estimates in the Navy appropriation bill for the year 1854 were for \$750 per annum for pursers' clerks, but the act regulating the pay at \$500 per annum was not repealed; that, misled by those estimates of the Navy Department, the pursers' clerks at several of the navy-yards received the increased pay; that the Fourth Auditor of the Treasury afterwards notified the pursers that the said allowance of \$750 had been illegal, and that it was their duty to make a deduction of the excess thus allowed their clerks from their future salaries, but that such deduction would not be required until the said clerks should have an opportunity to apply to Congress for relief. It further appears that \$750 per annum was not excessive; and having been paid under the circumstances aforesaid, it would be unjust and oppressive to require it now to be refunded.

The bill was laid aside to be reported to the House, with the recommendation that it do pass.

HIRAM PAULDING.

A bill (H. R. No. 337) for the relief of Hiram Paulding. [Objected to by Mr. SMITH, of Virginia.]

JOHN M. BROOKE.

A bill (H. R. No. 338) for the relief of John M. Brooke. [Objected to by Mr. LEITER.]

FRANCIS DAINESE.

A bill (H. R. No. 339) for the relief of Francis Dainese. [Objected to by Mr. GARNETT.]

PETER VAN BUSKIRK.

A bill (H. R. No. 340) providing an increase of pension to Peter Van Buskirk, of Washington city, in the District of Columbia. [Objected to by Mr. GARNETT.]

JOHN HARRIS.

A bill (H. R. No. 341) for the relief of John Harris, of Warren county, Kentucky. [Objected to by Mr. GARNETT.]

JOHN CAMPELL.

A bill (H. R. No. 342) for the relief of John Campbell. [Objected to by Mr. WASHBURN, of Illinois.]

Mr. WASHBURN, of Maine. As gentlemen are objecting without knowing anything about the bills, we might as well adjourn. I move (half past four o'clock) that the committee rise.

Mr. EUSTIS demanded tellers upon the motion.

Tellers were ordered; and Messrs. BUFFINTON and FLORENCE were appointed.

The question was taken; and the tellers reported—ayes 48, noes 46.

So the motion was agreed to.

Mr. KELSEY. No quorum has voted, and I submit that the roll must be called.

The CHAIRMAN. No quorum is necessary for the committee to rise.

So the committee rose; and the Speaker having resumed the chair, the Chairman [Mr. MARSHALL, of Kentucky] reported that the Committee of the Whole House had, according to order, had the Private Calendar under consideration, and had directed him to report sundry bills back to the House, with specific recommendations. The committee had then found itself without a quorum.

Mr. JONES, of Tennessee. I ask the Speaker if he can receive a report without a quorum being present?

The SPEAKER. The Chair is of opinion that all the bills ordered to be reported back before the

committee found itself without a quorum, can be received.

Mr. HOUSTON. I think the report of the Chairman of the Committee of the Whole is hardly parliamentary. The report should have been simply that a majority of the committee had determined to rise. It was not necessary that a quorum should vote on the motion that the committee rise, and the fact that there was no quorum, therefore, would not have been reported to the House.

Mr. MARSHALL, of Kentucky. I suppose that is my business, as Chairman of the Committee of the Whole House, to make a report, and whether, or not, it is done strictly in a parliamentary manner, is another question. I report the fact, and my object in so doing, is to let the business of the committee, so far as it has been properly transacted, come before the House in the shape of the bills and amendments which have been laid aside to be reported to the House. As I understand it, the gentleman challenges the report that the committee found itself without a quorum and agreed to rise.

Mr. HOUSTON. I will state the point I wish to make.

Mr. SEWARD. I move that the House adjourn.

Mr. JONES, of Tennessee. I want my question of order entertained by the Chair.

The SPEAKER. The gentleman from Alabama has the floor.

Mr. HOUSTON. I desire to say that if the Chairman of the Committee of the Whole House had confined himself to the report, which I think is a proper one to make, then the question would not be before us of the want of a quorum, and the point of order could not be made. The committee, while it had a quorum, ordered the report to the House of certain bills; and although, afterwards, it found itself without a quorum, yet a majority determined to rise and report. But the Chairman of the Committee of the Whole House has no right to report a fact to the House that is not material. Less than a majority can rise; and therefore the want of a quorum does not affect the report.

Mr. JONES, of Tennessee. I make the point that less than a quorum cannot make a report; and that even if it be made, less than a quorum of the House cannot receive it. There is no legal and constitutional House to receive the report if there be not a quorum present.

Mr. WASHBURN, of Maine. There is no evidence that there is not a quorum present.

Mr. JONES, of Tennessee. Only five minutes ago we ascertained by a count that there was not a quorum present.

Mr. WASHBURN, of Maine. That was in committee, and some time ago. There may be a quorum here now.

The SPEAKER. The Chair has no knowledge of the fact that there is no quorum present. The Chairman of the Committee of the Whole House reports to the House that they have had the Private Calendar under consideration, and have directed him to report sundry bills to the House, some with, and some without amendment.

Mr. JONES, of Tennessee. I rise to a question of order. I object to the reception of that report, on the ground that there is no quorum present.

Mr. UNDERWOOD. How do you know that?

Mr. JONES, of Tennessee. It was ascertained by a count in committee only five minutes ago that there was no quorum present. If there be a quorum here let it be shown. I do not make the point of order to obstruct the business of the House. When a quorum is present I am willing to vote for discharging the Committee of the Whole House from the bills which have been laid aside to be reported to the House.

Mr. FLORENCE. I move that the House resolve itself into Committee of the Whole House; and on that motion I demand tellers. We can soon see whether we have a quorum or not.

Mr. RUFFIN. I move that the House do now adjourn.

Mr. CHAFFEE. I move that the bills reported from the Committee of the Whole House be recommitted; and on that motion I call for the previous question.

Mr. JONES, of Tennessee. Has the Chair decided to receive the report?

The SPEAKER. The Chair has decided to receive it.

Mr. JONES, of Tennessee. Then I take an appeal from that decision.

Mr. HOUSTON. I will make an appeal to the House. The gentleman from Tennessee says that if it appears to-morrow that a quorum is present he will make no objection to action on the bills laid aside to be reported from the Committee of the Whole House. In a full House he is willing that the Committee of the Whole House shall be discharged, and the bills acted on. Why not, then, adjourn now, when we know the bills will come up in the morning? There is no quorum present now.

Mr. RUFFIN. I insist on my motion to adjourn.

Mr. SEWARD. Will these bills come up to-morrow?

The SPEAKER. The Chair is of opinion that they will.

Mr. JONES, of Tennessee. I demand tellers on the motion to adjourn.

Mr. SHERMAN, of Ohio. I call for the yeas and nays. We can then see who is here, and who is not.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 47, nays 59; as follows:

YEAS—Messrs. Arnold, Atkins, Avery, Bliss, Bonham, Bowie, Bryan, John Cochrane, Cragin, James Craig, Curry, Davis of Indiana, Davis of Mississippi, Eustis, Garnett, Goode, Greenwood, Gregg, Thomas L. Harris, Haskin, Hawkins, Houston, Jackson, Humphrey Marshall, Milson, Moore, Niblack, Nichols, Pendleton, Quitman, Reagan, Ruffin, Russell, Seales, Seward, Henry M. Shaw, John Sherman, Sickles, Singleton, William Smith, Stevenson, George Taylor, Miles Taylor, Underwood, Waldron, White, and Wortendyke—47.

NAYS—Messrs. Andrews, Bingham, Boyce, Buffinton, Burlingame, Burns, Campbell, Chaffee, Clawson, Clemens, Cobb, Colfax, Covode, Davis of Maryland, Dawes, Dodd, Dowdell, Farnsworth, Florence, Foley, Foster, Gilman, Goodwin, Grow, Hoard, Howard, Huyler, Jewett, George W. Jones, J. Glancy Jones, Kelsey, Jacob M. Kunkel, Leiter, Lovejoy, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Mott, Olin, Pettit, Phelps, Phillips, Pike, Robbins, Royce, Sandidge, Judson W. Sherman, Spinner, Stanton, James A. Stewart, Tompkins, Walbridge, Walton, Elihu B. Washburne, Israel Washburn, and Winslow—59.

So the House refused to adjourn.

Mr. PHILLIPS. I move that there be a call of the House.

Mr. RUFFIN. I move that the House adjourn.

Mr. GROW. Is that motion in order?

The SPEAKER. The Chair thinks that it is. A motion for a call of the House has been submitted since the question was taken on the adjournment.

Mr. GROW. But the motion for the call of the House has not been acted on.

The SPEAKER. But the practice has been that the submission of the motion was enough.

Mr. COVODE. I insist that there be a call of the House. We will have this thing every day, unless we insist on that call.

Mr. CLEMENS. I call for tellers on the motion to adjourn.

Tellers were ordered; and Messrs. OLIN and CLEMENS were appointed.

The House was divided; and the tellers reported—ayes forty-nine; noes not counted.

Mr. MORGAN. I call for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 46, nays 56; as follows:

YEAS—Messrs. Arnold, Avery, Bliss, Bonham, Boyce, Burns, John Cochrane, Cragin, James Craig, Curry, Davis of Indiana, Dowdell, Eustis, Goode, Greenwood, Gregg, Hawkins, Houston, Huyler, Jackson, Jewett, George W. Jones, Humphrey Marshall, Maynard, Miles, Milson, Moore, Niblack, Nichols, Pendleton, Quitman, Reagan, Ruffin, Russell, Seales, Henry M. Shaw, William Smith, Stevenson, Waldron, Walton, Israel Washburn, White, Winslow, and Wortendyke—46.

NAYS—Messrs. Andrews, Atkins, Bingham, Buffinton, Burlingame, Chaffee, Clawson, Clemens, Cobb, Colfax, Covode, Davis of Mississippi, Dawes, Dodd, Farnsworth, Florence, Foley, Foster, Garnett, Gilman, Goodwin, Grow, Thomas L. Harris, Hoard, Howard, J. Glancy Jones, Kelsey, Jacob M. Kunkel, Leiter, Lovejoy, Matteson, Morgan, Morrill, Edward Joy Morris, Mott, Olin, Pettit, Phelps, Phillips, Pike, Robbins, Royce, Sandidge, John Sherman, Judson W. Sherman, Sickles, Singleton, Spinner, Stanton, James A. Stewart, Miles Taylor, Tompkins, Underwood, Walbridge, and Elihu B. Washburne—56.

So the House refused to adjourn.

The question recurred on the motion that there be a call of the House.

The question was taken; and the motion was agreed to.

The Clerk proceeded to call the roll, when the following members failed to answer to their names:

Messrs. Abbott, Adrain, Ahl, Anderson, Atkins, Avery, Barskdale, Bennett, Billingham, Bishop, Blair, Bocock, Bonham, Bowie, Boyce, Branch, Brayton, Bryan, Burnett, Burns, Burroughs, Campbell, Caruthers, Case, Caskie, Chapman, Ezra Clark, Horace F. Clark, John B. Clark, Clay, Clark B. Cochrane, John Cochrane, Cockerill, Comins, Corning, Cox, Cragin, Burton Craige, Crawford, Curry, Curtis, Damrell, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Dean, Dewart, Dick, Dimmick, Dowdell, Edie, Edmundson, Elliott, English, Eustis, Farnsworth, Faulkner, Fenton, Garrett, Giddings, Gillis, Gilmer, Goode, Granger, Groesbeck, Lawrence W. Hall, Robert B. Hall, Harlan, J. Morrison Harris, Haskin, Hatch, Hawkins, Hickman, Hill, Hopkins, Horton, Houston, Hughes, Jenkins, J. Glancy Jones, Owen Jones, Keitt, Kellogg, Kelly, Kilgore, Knapp, John C. Kunkel, Lamar, Landy, Lawrence, Leach, Leidy, Letcher, MacLay, McKibbin, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Miles, Miller, Milson, Montgomery, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Niblack, Nichols, Palmer, Parker, Peyton, Phillips, Potter, Pottle, Powell, Purviance, Quitman, Ready, Reagan, Reilly, Ricaud, Ritchie, Roberts, Russell, Savage, Seales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Robert Smith, Samuel A. Smith, Spinner, Stallworth, Stephens, William Stewart, Talbot, Tappan, George Taylor, Thayer, Thompson, Trippe, Wade, Ward, Warren, Cadwalader C. Washburn, Watkins, Whiteley, Wilson, Wood, Woodson, Augustus R. Wright, John V. Wright, and Zollicoffer.

The SPEAKER. The doors will be closed and kept closed until they are ordered to be reopened. The names of absentees will be called for excuses.

The Clerk proceeded to call the names of absentees:

NEHEMIAH ABBOTT. No excuse offered.
GARNETT B. ADRAIN. No excuse offered.
JOHN A. AHL. No excuse offered.
T. L. ANDERSON. No excuse offered.
JOHN D. C. ATKINS. No excuse offered.
WILLIAM J. AVERY. No excuse offered.
WILLIAM BARKSDALE. No excuse offered.
HENRY BENNETT. No excuse offered.
FRANCIS P. BLAIR, Jr. No excuse offered.
THOMAS S. BOCKOCK. No excuse offered.
MILLEDGE L. BONHAM. No excuse offered.
THOMAS F. BOWIE. No excuse offered.
JOSEPH BURNS. No excuse offered.
WILLIAM W. BOYCE. No excuse offered.
LAWRENCE O'B. BRANCH. No excuse offered.
WILLIAM D. BRAYTON.

Mr. DURFEE stated that his colleague, Mr. BRAYTON, was called home by illness in his family, and moved that he be excused.

The motion was agreed to.

CHARLES BILLINGHURST.

Mr. SICKLES. Mr. BILLINGHURST is a member of the Judiciary Committee, which has leave to sit during the sessions of the House.

Mr. UNDERWOOD. Does the gentleman know that he is now engaged in the duties of that committee?

Mr. SICKLES. I do not know that fact; but that committee has leave to sit during the sessions of the House, and the House has no knowledge whether that committee is now in session.

Mr. MOORE. That committee is not in session.

The question was taken on excusing Mr. BILLINGHURST; and it was not agreed to.

GUY M. BRYAN.

Mr. SANDIDGE. Mr. BRYAN, on leaving the House a short time ago, told me that he was very unwell indeed; and it is certain that that is the cause of his absence. I move that he be excused.

The motion was agreed to.

HENRY C. BURNETT.

Mr. STEVENSON. My colleague, Mr. BURNETT, was called from the city by the indisposition of his family; and is now at one of the Virginia watering places. I move he be excused.

The motion was agreed to.

WILLIAM D. BISHOP.

Mr. ARNOLD. My colleague, Mr. Bishop, has been called home on account of sickness in his family. I move that he be excused.

The motion was agreed to.

SLAS M. BURROUGHS.

Mr. LEITER. Mr. BURROUGHS has paired off, and gone home.

Mr. MORGAN. "He has taken a wife, and cannot come." [Laughter.]

Mr. HOARD. He is out of the city on urgent business; and I move that he be excused.

Mr. LEITER. I suppose his pair is a proper pair. [Laughter.]

Mr. GROW. For what reason is he to be excused?

Mr. HOARD. That he is out of the city on urgent business, and paired.

The motion was agreed to.

LEWIS D. CAMPBELL.

Mr. PENDLETON. Although my colleague is not here at this time, he is usually very attentive to business; and I move that he be excused.

The motion was not agreed to.

SAMUEL CARUTHERS.

Mr. CRAIG, of Missouri. It is unnecessary for me to say to the House that my colleague is not able to be here. I move that he be excused.

The motion was agreed to.

CHARLES CASE. No excuse offered.

HENRY CHAPMAN. No excuse offered.

EZRA CLARK, Jr. No excuse offered.

HORACE F. CLARK. No excuse offered.

JOHN B. CLARK. No excuse offered.

JOHN S. CASKIE.

Mr. GARNETT. Mr. CASKIE is in attendance upon his sick wife, and I move he be excused.

The motion was agreed to.

JAMES B. CLAY. No excuse offered.

CLARK B. COCHRANE.

Mr. COLFAX. Mr. COCHRANE has been out of the city for some days, having paired off with Mr. Cox. I move he be excused.

The motion was not agreed to.

JOHN COCHRANE. No excuse offered.

JOSEPH R. COCKERILL. No excuse offered.

LINUS B. COMINS. No excuse offered.

ERASTUS CORNING. No excuse offered.

SAMUEL S. COX. No excuse offered.

AARON H. CRAGIN. No excuse offered.

BURTON CRAIGE. No excuse offered.

MARTIN J. CRAWFORD. No excuse offered.

JABEZ L. M. CURRY. No excuse offered.

SAMUEL R. CURTIS. No excuse offered.

WILLIAM S. DAMRELL.

Mr. BUFFINTON. I move that my colleague, Mr. DAMRELL, be excused on account of physical debility.

The motion was agreed to.

THOMAS G. DAVIDSON. No excuse offered.

H. WINTER DAVIS.

Mr. PETTIT. I know that Mr. DAVIS was indisposed yesterday, and although he did not assign that as a reason for his absence, I have no doubt that it is so. I move that he be excused.

Mr. TAYLOR, of Louisiana. I would suggest that this is certainly rather an unusual, and I should think, an injudicious proceeding; but we are attempting to establish a rule, and to take a step which will produce some result. I would suggest that if the Sergeant-at-Arms be dispatched for members, and finds any one sick, as a matter of course he will not bring him here. We may leave the execution of the order to his discretion.

Mr. PETTIT. I withdraw the motion.

JOHN G. DAVIS. No excuse offered.

REUBEN DAVIS. No excuse offered.

TIMOTHY DAVIS.

Mr. BURLINGAME. My colleague has been ill for several days past. Although he was here this morning, he was not able to remain here all the day, and I move that he be excused.

The question was taken; and Mr. DAVIS, of Massachusetts, was excused.

SIDNEY DEAN.

Mr. OLIN. Mr. DEAN was here this morning; but in consequence of the injury which he recently received by being thrown from his carriage, he was obliged to return to his home. I move that he be excused.

The motion was agreed to.

WILLIAM L. DEWART.

Mr. FLORENCE. My colleague was very ill yesterday, and was scarcely able to get to the House. I presume that he is also ill to-day. I move that he be excused.

The SPEAKER. The Chair will state that to-day one of the colleagues of Mr. DEWART stated that he was detained from the House in consequence of indisposition.

Mr. SINGLETON. Mr. DEWART is not in the city. He was called to Baltimore last evening by a dispatch announcing that it was necessary for him to go there.

The question was taken; and Mr. DEWART was excused.

Mr. SMITH, of Virginia. I move to suspend all further proceedings under the call.

The question was taken on Mr. SMITH's motion, and it was disagreed to.

So the House refused to suspend the proceedings under the call.

JOHN DICK.

Mr. GROW. I desire to say that my colleague's health has been very poor for some time. I suppose that every one about the House knows the condition of his health, and I move that he be excused.

The question was taken; and Mr. DICK was excused.

WILLIAM H. DIMMICK.

Mr. FLORENCE. My colleague, Mr. DIMMICK, has just risen from a sick bed. He has been here but a few days, and bears upon his person the evidences of indisposition. I move that he be excused.

The question was taken; and Mr. DIMMICK was excused.

JAMES F. DOWDELL. No excuse offered.

JOHN R. EDIE. No excuse offered.

HENRY A. EDMUNDSON. No excuse offered.

JOHN M. ELLIOTT. No excuse offered.

WILLIAM H. ENGLISH. No excuse offered.

GEORGE EUSTIS. No excuse offered.

JOHN F. FARNSWORTH. No excuse offered.

CHARLES J. FAULKNER. No excuse offered.

REUBEN E. FENTON. No excuse offered.

LUCIUS J. GARTRELL. No excuse offered.

JOSHUA R. GIDDINGS.

Mr. BINGHAM. I wish to say that my colleague, Mr. GIDDINGS, has left for his home in Ohio on account of his own indisposition and that of his family. I move that he be excused.

The question was taken, and Mr. GIDDINGS was excused.

JAMES L. GILLIS. No excuse offered.

JOHN A. GILMER. No excuse offered.

AMOS P. GRANGER. No excuse offered.

WILLIAM S. GROESBECK. No excuse offered.

WILLIAM O. GOODE.

Mr. GARNETT. I move that my colleague be excused. The condition of his health is so well known to the House that I need say nothing about it. He is unable to attend.

The question was taken; and Mr. GOODE was excused.

LAWRENCE W. HALL. No excuse offered.

ROBERT B. HALL. No excuse offered.

AARON HARLAN.

Mr. BINGHAM. My colleague has left for his home on account of indisposition. I move that he be excused.

The question was taken; and Mr. HARLAN was excused.

J. MORRISON HARRIS. No excuse offered.

JOHN B. HASKIN. No excuse offered.

ISRAEL T. HATCH. No excuse offered.

GEORGE S. HAWKINS. No excuse offered.

JOHN HICKMAN.

Mr. FLORENCE. My colleague has been compelled to leave the city in consequence of indisposition. He has been very ill for several days past, and I suppose he will not return this session; and certainly not unless he convalesces very much. I move that he be excused.

Mr. SMITH, of Virginia. I am very sorry to see that the Pennsylvania delegation is in such a bad condition. [Laughter.]

The question was taken; and Mr. HICKMAN was excused.

JOSHUA HILL. No excuse offered.

GEORGE W. HOPKINS.

Mr. JONES, of Tennessee. Judge HOPKINS is in very delicate health. I think he ought to be excused; and I move that he be excused.

The question was taken; and Mr. HOPKINS was excused.

VALENTINE B. HORTON. No excuse offered.

GEORGE S. HOUSTON. No excuse offered.

JAMES HUGHES. No excuse offered.

ALBERT G. JENKINS. No excuse offered.

J. GLANCY JONES. No excuse offered.

OWEN JONES. No excuse offered.

LAWRENCE M. KRIFF. No excuse offered.

WILLIAM KELLOGG. No excuse offered.

JOHN KELLY. No excuse offered.

DAVID KILGORE. No excuse offered.

CHARNEY L. KNAPP. No excuse offered.

JOHN C. KUNKEL. No excuse offered.

LUCIUS Q. C. LAMAR.

Mr. SINGLETON. Mr. LAMAR has been sick for a week or ten days past. He was here for a

little while yesterday. He has been having chills every other day, and the condition of his health is such that he is not able to be out on such a day as this, and I move that he be excused.

The question was taken; and Mr. LAMAR was excused.

JAMES LANDY. No excuse offered.

WILLIAM LAWRENCE. No excuse offered.

DEWITT C. LEACH.

Mr. WALBRIDGE. I wish to say, in behalf of my colleague, Mr. LEACH, that he has been for several days in feeble health, and left the House an hour and a half ago in consequence of increased indisposition.

The question was taken; and Mr. LEACH was excused.

Mr. FLORENCE. My attention was diverted at the moment the name of my colleague, Mr. KUNKEL, was called. I am authorized by that gentleman to say—and he is within sight and hearing—(Mr. KUNKEL was in the gallery)—that he understood that the House had adjourned. He was on his way to the House; but hearing that it had adjourned he turned away. I move you that he be excused.

The question was taken; but, before the result was announced,

Mr. FLORENCE said: I ask for a division upon my motion, if I am entitled to it.

The SPEAKER. The gentleman is entitled to it.

Mr. FLORENCE. I consider the excuse I have offered for my colleague a good one. Gentlemen have evidence of Mr. KUNKEL's disposition to be here, and I want to see how many just men there are in the House. [Laughter.]

The SPEAKER. The Chair is of opinion that it is not in order to debate the excuse.

Mr. FLORENCE. I concur in that opinion.

The House divided on Mr. FLORENCE's motion, and there were—ayes 11, noes 49.

So Mr. KUNKEL, of Pennsylvania, was not excused.

Mr. MOORE. Is it in order to move that gentlemen who are within hearing be admitted? [Loud cries of "No!" "No!"]

The SPEAKER. The Chair thinks that the motion would not be in order.

PAUL LEIDY. No excuse offered.

JOHN LETCHER. No excuse offered.

WILLIAM B. MACLAY. No excuse offered.

JOSEPH C. McKIBBIN. No excuse offered.

JOHN McQUEEN. No excuse offered.

HUMPHREY MARSHALL. No excuse offered.

SAMUEL S. MARSHALL. No excuse offered.

JOHN C. MASON. No excuse offered.

W. PORCHER MILES. No excuse offered.

JOSEPH MILLER. No excuse offered.

JOHN S. MILLSON. No excuse offered.

WILLIAM MONTGOMERY.

Mr. TAYLOR, of Louisiana. I move that Mr. MONTGOMERY be excused, on the presumption that he is unwell. It seems to me that most of the Pennsylvania delegation are in bad health, and I think it is a fair presumption that he is detained from that cause, as his appearance has been exceedingly feeble during the whole session. [Laughter.]

Mr. CLEMENS. To my certain knowledge, Mr. MONTGOMERY is at home electioneering for a reelection to Congress. [Renewed laughter.]

The question was taken; and Mr. MONTGOMERY was not excused.

ISAAC N. MORRIS. No excuse offered.

OLIVER A. MORSE. No excuse offered.

FREEMAN H. MORSE.

Mr. GILMAN. My colleague has been of late much indisposed, and I move that he be excused.

The question was taken; and the motion was agreed to.

AMBROSE S. MURRAY. No excuse offered.

WILLIAM E. NIELACK. No excuse offered.

MATTHIAS H. NICHOLS. No excuse offered.

GEORGE W. PALMER. No excuse offered.

SAMUEL O. PEYTON. No excuse offered.

JOHN W. PARKER. No excuse offered.

HENRY M. PHILLIPS. No excuse offered.

JOHN F. POTTER. No excuse offered.

ENORY B. POTTLE. No excuse offered.

PAULS POWELL. No excuse offered.

SAMUEL A. PURVIANCE.

Mr. FLORENCE. Mr. Speaker, my colleague ought to be excused. He is absent for the same reason I have stated in the case of my other col-

league, [Mr. KUNKEL.] He was coming here, when he was stopped by the announcement that the House was adjourned. He is here now. I move that he be excused.

The question was taken; and the motion was agreed to.

JOHN A. QUITMAN.

Mr. SINGLETON. General QUITMAN has been here all day, and only went away a short time ago. He was so unwell that it was impossible for him to remain longer. I move that he be excused.

The question was taken; and the motion was agreed to.

CHARLES READY. No excuse offered.

JOHN H. REAGAN. No excuse offered.

WILSON REILLY.

Mr. WHITE. My colleague has been called home by indisposition in his family. I move that he be excused.

The question was taken; and the motion was agreed to.

JAMES B. RICAUD. No excuse offered.

DAVID RITCHIE.

Mr. TOMPKINS. The gentleman, I know, has been indisposed, and I move that he be excused. I do not know whether his sickness is that which affects the other members from Pennsylvania.

Mr. FLORENCE. The members from Pennsylvania I have moved be excused ought to be excused for the reason that they were not here because of a providential dispensation.

The SPEAKER. The Chair is of the opinion that the question is not debatable, and in that decision the gentleman has concurred.

Mr. FLORENCE. I submit that it is not in order to reflect upon the reasons that gentlemen have given for the absence of their colleagues.

The SPEAKER. The Chair sustains the point of order.

The question was taken; and the motion was agreed to.

ANTHONY E. ROBERTS. No excuse offered.

WILLIAM F. RUSSELL. No excuse offered.

JOHN H. SAVAGE.

Mr. JONES, of Tennessee. My colleague has been unwell for several days past. I do not recollect to have seen him here, and I suppose that his absence has been occasioned by indisposition.

Mr. GROW. He has been here.

Mr. LEITER. I know that Mr. SAVAGE is indisposed, and I move that he be excused.

The question was taken; and the motion was agreed to.

ALFRED M. SCALES. No excuse offered.

CHARLES L. SCOTT.

Mr. SMITH, of Virginia. Mr. SCOTT's wife has been confined to her room for two months, and still lingers on, though convalescing. I have no doubt he has, as he ought to have done, gone home to look after her. I move that he be excused.

The question was taken; and the motion was agreed to.

JOHN A. SEARING. No excuse offered.

JAMES L. SEWARD.

Mr. FARNSWORTH. It is known that the gentleman from Georgia is too unwell to be here.

Mr. JACKSON. My colleague is and has been unwell. He has been suffering from the same disease as the gentleman from Mississippi, [Mr. LAMAR.] He came here yesterday for the first. I think that he is too much indisposed to be here, and therefore move that he be excused.

The question was taken; and the motion was agreed to.

AARON SHAW. No excuse offered.

HENRY M. SHAW. No excuse offered.

ELI S. SHORTER.

Mr. MOORE. Mr. SHORTER was in his seat till a late hour to-day. He mentioned to me this morning that he was unwell. He was very unwell last night.

Mr. LEITER. I met the gentleman in the Committee on Indian Affairs this morning, and he looked, I think, as well as usual.

Mr. MOORE. I presume my colleague is unwell. He was unwell last night, and so told me this morning. I move that he be excused.

The question was taken; and the motion was disagreed to.

ROBERT SMITH. No excuse offered.

SAMUEL A. SMITH. No excuse offered.

JAMES A. STALLWORTH.

Mr. SANDIDGE. I know that Mr. STALLWORTH is unwell and unable to be here, and I therefore move that he be excused.

The question was taken; and the motion was agreed to.

ALEXANDER H. STEPHENS.

Mr. STEVENSON. The condition of Mr. STEPHENS is known to everybody. He was compelled to leave the Hall from indisposition, and I move that he be excused.

The question was taken; and the motion was agreed to.

WILLIAM STEWART. No excuse offered.

Mr. COVODE. I wish to state that my colleague is in perfect good health, and in order to preserve his health, I presume he has gone to dinner.

ALBERT G. TALBOT. No excuse offered.

MASON W. TAPPAN. No excuse offered.

GEORGE TAYLOR. No excuse offered.

ELI THAYER. No excuse offered.

JOHN THOMPSON.

Mr. MORGAN. My colleague has been called home by the illness of his daughter. I move that he be excused.

The question was taken; and Mr. THOMPSON was excused.

ROBERT P. TRIPPE. No excuse offered.

EDWARD WADE. No excuse offered.

ELIJAH WARD. No excuse offered.

EDWARD A. WARREN.

Mr. GREENWOOD. My colleague left the city some weeks ago, for the purpose of attending the sick bed of his mother, and he did not expect to return this session. He paired off for two weeks with the gentleman from Pennsylvania, [Mr. MONTGOMERY.] That pair ended, I believe, yesterday; and I have paired him off from yesterday with the gentleman from Ohio, [Mr. GIDDINGS.]

The question was taken; and Mr. WARREN was excused.

CADWALADER C. WASHBURN. No excuse offered.

ALBERT G. WATKINS. No excuse offered.

WILLIAM G. WHITELEY. No excuse offered.

JAMES WILSON. No excuse offered.

JOHN M. WOOD. No excuse offered.

SAMUEL H. WOODSON. No excuse offered.

AUGUSTUS R. WRIGHT. No excuse offered.

JOHN V. WRIGHT. No excuse offered.

FELIX K. ZOLLICOFFER. No excuse offered.

Mr. SHERMAN, of Ohio. I am requested to say that Mr. WADE remained in the House till after the last roll call on the motion to adjourn; and that he went off, on being informed that the House had adjourned; he came back immediately and has been in the gallery ever since. I move that he be excused.

Mr. MORGAN. I am sorry, indeed, that so old a member should not have known enough to know when the House adjourns.

Mr. SMITH, of Virginia. Members ought to know that, under the parliamentary law, it is the duty of members to remain in their seats till the House has adjourned, and till after the Speaker has passed out gracefully. [Laughter.]

The SPEAKER. The Chair would like to call the attention of the House to that rule at the proper time.

The question was taken; and Mr. WADE was not excused.

Mr. CLEMENS. I move that the Sergeant-at-Arms be instructed to take into custody the absent members who have not been excused, and to bring them before the bar of the House.

Mr. LEITER. I ask for the reading of the rule on the subject.

The SPEAKER. The rule on the subject is this:

"62. Upon the call of the House, the names of the members shall be called over by the Clerk, and the absentees noted; after which the names of the absentees shall again be called over; the doors shall then be shut, and those for whom no excuse or insufficient excuses are made, may, by order of those present, if fifteen in number, be taken into custody as they appear, or may be sent for and taken into custody, wherever to be found, by special messengers to be appointed for that purpose."

Mr. GOODWIN. I did not hear the name of Mr. BENNETT called. I was by his side when he left the Hall, and I know that he left, complaining of a severe headache. I move that he be excused.

The question was taken; and Mr. BENNETT was excused.

Mr. SINGLETON. Will it be proper for this House to adjourn, and allow these gentlemen to be taken into custody, and dealt with when we meet again?

The SPEAKER. The motion to adjourn is not in order.

The question was taken on Mr. CLEMENS's motion; and it was agreed to.

Mr. FLORENCE. I beg to ask the consent of the House to absent myself at this time for a limited period—three hours, or so. I have an engagement of some importance. I am sure that, while there is no practical good in remaining here, no gentleman will withhold from me his consent to leave. I ask it in good faith; and I trust leave of absence will be granted to me.

Mr. HARRIS, of Illinois. I hope the gentleman from Pennsylvania will inform the House what is the character of his engagement?

Mr. FLORENCE. I will when I return.

Mr. FOSTER. If the gentleman's object is to visit the sick members of the Pennsylvania delegation, I hope he will be allowed to go. [Much laughter.]

Mr. FLORENCE. I will say, in all candor, that it is not for that purpose. I trust sincerely that my colleague [Mr. WHITE] and myself will be granted leave of absence for three hours. We have been very faithful in our attendance here; and there are reasons why we desire to be absent now.

Mr. MORGAN. I wish to know if the gentleman desires leave of absence for the rest of the session?

The SPEAKER. No; only for three hours.

Mr. FLORENCE. The request is made in good faith; and I trust sincerely that it will be granted.

The question was taken; and leave of absence was not granted to Mr. FLORENCE and Mr. WHITE.

Mr. GROW. I presume that, if my colleague had asked leave of absence four or five weeks ago, it would have been granted. [Laughter.]

Mr. FLORENCE. Respect for the House prompted me to make the request. I can absent myself if I choose, and subject myself to penalties. Every one knows that I am as faithful in my attendance here as any gentleman upon the floor. I have made this request in good faith; and I say again, that I hope the House will extend this courtesy to me. I do not desire to violate the decorum or rules of the House, or to pursue any other course than that which a gentleman ought to pursue. I ask that this privilege may be extended to myself and my colleague, for reasons satisfactory to ourselves.

The SPEAKER. The gentleman renews his request, he says, in good faith.

Mr. GROW. My colleague's company is so desirable that I hope he will not be excused.

Mr. FOSTER. I should be gratified if the gentleman would inform the House how he proposes to get out of it without its leave.

Mr. MOORE. My colleague, Mr. COBB, answered to his name, but the doors were closed while he was out. I move that he be allowed to come in.

Mr. COBB, (in the gallery.) I do not want to come in. [Laughter.]

The SPEAKER. The Doorkeeper will preserve order in the galleries. [Great laughter.]

Mr. CHAFFEE. If it is in order on this interesting occasion, I would like to bring up the case of Mr. WADE. He has been a little singular in his movements of late, and I understand that about a week since his family became exceedingly alarmed. About that time he was found in the vicinity of, and I believe at, the Government Asylum, and I understand that since that time he has been a little erratic in his movements. [Laughter.]

Mr. BINGHAM. Will the gentleman allow me to ask him a question?

Mr. CHAFFEE. Certainly.

Mr. BINGHAM. I would like to know in whose company my colleague was found at the Lunatic Asylum? [Laughter.]

Mr. CHAFFEE. Never mind that. On account of the gentleman's peculiarities, I think he ought to be excused.

Mr. GROW. I would like to inquire if any of these symptoms were noticed before the Medical Convention met here. [Laughter.]

Mr. CHAFFEE. I was not in the city at the

time the convention met, and therefore do not know.

The Sergeant-at-Arms appeared at the bar, and announced that, in obedience to the order of the House, Messrs. MORRIS of Illinois, PURVIANCE, KUNKEL of Pennsylvania, STEWART of Pennsylvania, WILSON, and CRAGIN, were present within the bar of the House.

The SPEAKER. Mr. MORRIS, of Illinois, you have been arrested and brought to the bar of the House, on account of absenting yourself from its sittings without the permission of the House. Have you any excuse to offer for that absence?

Mr. MORRIS, of Illinois. I have not been absent from the sittings of the House for a single day. I was here to-day before the hour of eleven this morning, and remained until between half past three and four o'clock. But I had important business in another place, and I had to go to attend to it. When I left the House, I supposed that it would adjourn immediately; and I understood afterwards that it had adjourned. I will remark further that I returned to the House voluntarily, and have been waiting some time to get in. I came back as soon as I found that the House had not adjourned; and now, out of one hundred and thirty absentees, I have the pleasure of knowing I am the first at my post.

Mr. GROW. I move that the gentleman be discharged, on the payment of fees.

Mr. SMITH, of Virginia. I desire the House to understand that this is a fair case upon which to make up its judgment. If Mr. MORRIS is to be discharged, of course there is no use in proceeding further. The gentleman says he was absent on business, when he should have been in attendance here. The very object of this proceeding, unpleasant as it is in many respects, is to secure a quorum in Committee of the Whole; and, under the circumstances, I simply call the attention of the House to these facts.

Mr. CLEMENS. In a parliamentary sense, I cannot see how members can have business anywhere except in this Hall while the House is in session; and therefore the excuse rendered by the member from Illinois is, in my opinion, unacceptable. If the House discharge him merely on the payment of his fees, we will fail in accomplishing the object which I have had in view in this movement, and that is to secure a greater efficiency in the attendance of members of the House, to execute the joint resolution to adjourn on the 7th of June next, and to still further carry out the action of this House in agreeing to meet at eleven o'clock. Why, sir, it has been apparent to all of us, that since the resolution has passed for the daily meetings at eleven o'clock, a. m., we have each day been without a quorum after three o'clock. My object in taking the part I have done to-day, has been to secure the cooperation of my fellow-members in the discharge of my duty.

Mr. FLORENCE. Is the question debatable?

The SPEAKER. The Chair thinks the question is debatable.

Mr. CLEMENS. I move that the member be fined.

The SPEAKER. The payment of fees is the greatest fine that has been exacted.

Mr. CLEMENS. What are they?

The SPEAKER. Two dollars.

Mr. SMITH, of Virginia. I thought the member was to be discharged unconditionally. I hope the suggestion of the Chair will be concurred in.

The question was taken; and the motion was agreed to.

The Sergeant-at-Arms appeared at the bar, and announced, in obedience to the order of the House, he had within the bar Messrs. GRANGER, READY, WADE, and PALMER.

The SPEAKER. Mr. CRAGIN, you have been arrested, and brought to the bar of the House, in consequence of your absenting yourself from the sittings of the House without its permission. What reason have you to give for your absence?

Mr. CRAGIN. A short time after five o'clock this afternoon, I sent a page to the Clerk's desk, and he returned me the answer that the House had agreed to adjourn. Supposing that honorable men would remain in the same mind ten minutes, I thought that I would go home and get my dinner.

Mr. GROW. Is not there a rule of the House that no persons shall be about the Clerk's desk during the call of the yeas and nays.

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The SPEAKER. The rule applies to members. Mr. GROW. I move that the gentleman be discharged, on the payment of fees.

The question was taken; and the motion was agreed to.

Mr. FLORENCE. I ask that I may be excused, with my colleague, [Mr. WHITE,] from attendance here for the next three or four hours. I trust that that courtesy will be extended to me.

The SPEAKER. The gentleman from Pennsylvania desires to be absent for two or three hours, to fulfil an engagement.

Mr. HARRIS, of Illinois. I object.

The SPEAKER. The Chair will put the question to the House.

The question was taken; and the motion was agreed to.

Mr. HARRIS, of Illinois. I ask that I may be excused from attendance.

The SPEAKER. For two or three hours?

Mr. HARRIS, of Illinois. No, sir; that will not answer my purpose. I ask to be excused from attendance during this sitting.

The question was taken; and the motion was agreed to.

Mr. MOORE asked to be excused; but subsequently withdrew the motion.

The SPEAKER. Mr. WILSON, of Indiana, you have been arrested and brought to the bar of the House for absentsing yourself from its sittings without its permission. What reason have you to submit for your absence?

Mr. WILSON. I remained here up to the usual hour of adjournment, and then went home to answer some letters which could no longer be delayed. They were letters in which my constituents were interested. So soon as I heard that there was a call of the House, I came here.

Mr. LEITER. I move that the gentleman be discharged from custody on payment of the fees.

The question was taken; and the motion was agreed to.

The SPEAKER. Mr. STEWART, of Pennsylvania, you have been arrested and brought to the bar of the House in consequence of having absented yourself from its sittings without its permission. What reason have you to assign for your absence?

Mr. STEWART, of Pennsylvania. A friend of mine came here from the district which I represent, and his business here required my presence with him. I paired off with the gentleman from Mississippi, [Mr. DAVIS,] to be absent for a short time. I returned to the House, and found that there had been a call of the House. I meant no disrespect to the House by my absence from its sittings.

Mr. CLEMENS. I move that the gentleman be discharged from custody on the payment of fees.

The question was taken; and the motion was agreed to.

The SPEAKER. Mr. PURVIANCE, of Pennsylvania, you have been arrested and brought to the bar of the House for being absent from its sittings without its permission. What reason have you to assign for your absence?

Mr. PURVIANCE. I believe that I have not been absent a single day during this session, but a portion of this day, and about a week, when I went home to attend the funeral of my mother. This afternoon, after four o'clock, I was absent a short time from the House. When I was returning, I met some members in the rotunda of the old Capitol, and they informed me that the House had adjourned. I then went back to my boarding-house. If it had not been for that misinformation, I would have been here in my seat, as usual.

Mr. WINSLOW. In consideration of the peculiar character of the gentleman's excuse, I move that he be discharged from custody on the payment of fees. [Laughter.]

Mr. PURVIANCE. I ask to be excused altogether.

The question was taken on Mr. WINSLOW's motion, and it was agreed to.

The SPEAKER. Mr. KUNKEL, of Pennsylvania. You have been arrested and brought to the bar of the House for absence from its sittings without its permission. What reason have you to assign for that absence?

Mr. KUNKEL, of Pennsylvania. I was in committee at ten o'clock this morning; shortly after four o'clock this afternoon I went home with my colleague. The bills upon the Private Calendar were almost all objected to; and a motion to adjourn was made which I was under the impression would be carried. On my return, I met a number of gentlemen in the old Capitol, coming from the House, who informed me that the House had adjourned.

Mr. BINGHAM. I move that the gentleman be discharged on the payment of fees.

The question was taken; and the motion was agreed to.

Mr. GRANGER being at the bar of the House—

The SPEAKER. Mr. GRANGER, you have been arrested and brought before the bar of the House for having absented yourself from the sittings of the House, without the permission of the House. What reason have you to assign for your absence?

Mr. GRANGER. I have but little excuse to make. I was a little unwell, but I will not offer that as an excuse. I went down to get a cup of tea; and I repented, and came back; and now I throw myself on the mercy of the court. [Laughter.]

Mr. STANTON. I desire to state that I lately visited the gentleman from New York, and found him in bed; and I am very well satisfied that his health is such that he ought not to remain here during long sessions; I therefore move that he be discharged on payment of fees.

The question was taken; and Mr. GRANGER was discharged.

The SPEAKER. Mr. READY.

Mr. READY. I have been in session with my committee from ten o'clock till half past four. When the committee adjourned, I stepped out, and a member of my family being indisposed, I thought I had better go home to see how that member was coming on, and to get a little refreshment. While there, I met with the chairman of my committee and another gentleman, and I asked if the House had adjourned. One of them promptly answered in the affirmative. My returning here, was wholly accidental. I had forgotten some keys in my desk, which it was important for me to have. I returned here for them, and the first I knew of the House being in session, was when I was met at the door by the Doorkeeper.

Mr. SICKLES. I move that the gentleman be excused.

Mr. MORGAN. I move that he be excused on the payment of costs.

Mr. GROW. If the gentleman from Tennessee says that he left here because one of the members of his family was sick, I would be in favor of excusing him.

Mr. READY. I will not say that that was the sole reason.

The question was taken; and Mr. READY was excused on the payment of fees.

The SPEAKER. Mr. WADE, of Ohio.

Mr. WADE. Mr. Speaker, I am pleased to see that my services in this House are becoming better appreciated. I was here all the day doing all in my power for the good of the country, as I thought. I went out for a moment to dinner, and was returning, when I met my colleague, Mr. NICHOLS, on the steps of the rotunda. I asked him if the House had adjourned and he said it had; and thereupon I turned around and went back again to my lodging—but, after a while, I found there was a more effectual calling on me.

Mr. CLEMENS. I move that the gentleman be discharged on the payment of fees.

The question was taken; and the motion was agreed to.

The SPEAKER. Mr. PALMER, of New York.

Mr. PALMER. I am pleased to see such

praiseworthy determination on the part of gentlemen around me to enforce the attendance of members; but, for myself, I will say, that since I took my seat here, on the 7th of December, I have not been absent from the House one day. Sick or well, I have been in my seat. To-day when the usual hour for dinner arrived, apprehending a long session, and not being able to remain here till six o'clock without refreshment, I went down to dinner, and when I came back I found the doors closed.

Mr. BLISS. I move that the gentleman be discharged on the payment of fees.

Mr. KUNKEL, of Maryland, (at twenty-eight minutes past six o'clock, p. m.) I move that the House do now adjourn.

Mr. GROW. I thought it was understood that we should go through with the call.

Mr. LEITER. I appeal to the gentleman to withdraw that motion. In fairness to those gentlemen who have been brought here, let us execute the order in good faith.

Mr. KUNKEL, of Maryland. I withdraw the motion.

The SPEAKER. Mr. DAVIS, of Iowa.

Mr. DAVIS, of Iowa. I answered to my name when I was called, and have not been out of the Hall since.

The SPEAKER. Then the Chair owes the gentleman from Iowa an apology for calling on him. His name was returned by the Sergeant-at-Arms. The gentleman's name is recorded as being present.

Mr. KUNKEL, of Maryland, (at half past six o'clock.) I now renew the motion to adjourn.

The motion was not agreed to.

Mr. LEITER. Would it be in order now to have the sick-list of the Pennsylvanians read?

The SPEAKER. The Chair has great doubts on the subject. [Laughter.]

Mr. KELSEY. Would it be in order to call up the resolutions reported by the Committee on Foreign Affairs, in relation to the Clayton-Bulwer treaty at this time? [Laughter.]

The SPEAKER. It is hardly in order, as there is no quorum present.

Mr. SHERMAN, of Ohio. I ask the consent of the House to offer the following resolution:

Resolved, That the absentees from the House on the last vote by yeas and nays before adjournment be entered upon the Journal and reported in the Globe.

Mr. KELSEY. The Chair cannot entertain the resolution, as there is no quorum present.

Mr. MOORE. I move to lay the resolution on the table.

The SPEAKER. The resolution has not been received.

Mr. SHERMAN, of Ohio. My resolution does not refer to this proceeding, but to the proceedings of the earlier part of the session.

Mr. COLFAX. I rise to a question of order. There is no quorum here for the transaction of business.

The SPEAKER. The Chair is of opinion that the resolution is not in order, inasmuch as there is no quorum here, and the House is engaged in the call.

The Sergeant-at-Arms appeared at the bar, and announced that, in pursuance of the order of the House, Mr. CASE, of Indiana, was within the bar of the House.

The SPEAKER. Mr. CASE, you have been arrested and brought to the bar of the House for absentsing yourself from its sittings without the permission of the House. Have you any excuse to offer to the House for your absence?

Mr. CASE. I think I have a very good one. I remained here about three quarters of an hour after the House had stopped doing business in Committee of the Whole. I then went home to get my dinner, and when I came back I found the doors closed. A man has to eat in Washington as everywhere else. [Laughter.]

Mr. LEITER. After the excuse which the gentleman has given, I move that he be discharged on the payment of fees.

The motion was agreed to.

Mr. STANTON. Suppose the House should adjourn now: would the residue of the order of the House be executed to-morrow?

The SPEAKER. The Chair will consider that question for a moment.

The Sergeant-at-Arms appeared, and announced that, in obedience to the order of the House, Messrs. ATKINS, SHAW of North Carolina, and TALBOT, were now within the bar of the House.

The SPEAKER. Mr. TALBOT, you have been arrested and brought to the bar of the House for having absented yourself from its sittings without the permission of the House. What excuse have you to offer for your absence?

Mr. TALBOT. I have very little excuse to offer, except that I thought the House was in the act of adjourning when I left.

Mr. UNDERWOOD. I move that my friend and colleague be discharged on the payment of the fees.

The motion was agreed to.

The SPEAKER. Mr. SHAW, of North Carolina, what excuse have you to offer for your absence?

Mr. SHAW, of North Carolina. I have only to say that I remained here until five o'clock. The vote had then been taken on the adjournment, and I was informed by one of the pages on the floor that there was a majority in favor of the adjournment. Being somewhat anxious to get my dinner, I withdrew before the result of the vote was announced by the Chair. That is all the excuse I have to offer.

Mr. TAYLOR, of Louisiana. Inasmuch as the gentleman from North Carolina has given an excuse that has been approved of by the House before, I will move that he be discharged upon the payment of the fees. [Laughter.]

The motion was agreed to.

The SPEAKER. Mr. ATKINS, what excuse have you to render for your absence?

Mr. ATKINS. Mr. Speaker, I have exactly the same excuse that was rendered by my friend from North Carolina, [Mr. SHAW.] I thought the House was about to adjourn. My excuse is not quite as good as his, as he left a little later than I did. I left after answering to my name. I supposed the House would adjourn, as it had been in session for five or six hours. I had also the same excuse which the gentleman from North Carolina had—an empty stomach. [Laughter.]

Mr. MAYNARD. I hope the House will extend the same tender consideration to my colleague that it has extended to others. [Laughter.] I move that he be discharged from custody upon the payment of the fees.

The motion was agreed to.

Mr. MOORE. I move that the Doorkeeper admit my colleague, Mr. COBB. He was here during the call, and his name is recorded.

Mr. JONES, of Tennessee. He is here at the door, and can come in if he desires. He says he knows his rights.

The Sergeant-at-Arms appeared at the bar, and announced that, in obedience to the order of the House, Messrs. BOYCE and HUGHES were now within the bar.

The SPEAKER. Mr. BOYCE, of South Carolina, you have been arrested and brought to the bar of the House for absence from its sittings without its permission. What reason have you to assign for your absence?

Mr. BOYCE. I thought that I had been remarkably attentive to the proceedings of the House, to-day, and, at the proper hour, I went to get my dinner. On my return, I found the doors of the House closed.

Mr. GARNETT. As a reward to a faithful servant, I move that the gentleman be discharged from custody on the payment of the usual fees.

The question was taken; and the motion was agreed to.

The SPEAKER. Mr. HUGHES, of Indiana, you have been arrested and brought to the bar of the House for absenting yourself without its permission. What reason have you to assign in excuse?

Mr. HUGHES. Mr. Speaker, I learned that the Sergeant-at-Arms was looking after me, and I began, at once, to look after him. I found him before he found me, and, therefore, I hope that the costs will be assessed in my favor against him. [Laughter.]

Mr. WINSLOW. I propose for the gentleman

the same leniency that was extended to the gentleman from South Carolina. I move that he be discharged on the payment of costs.

The question was taken; and the motion was agreed to.

Mr. GROW. Is there not a rule compelling the closing of the doors until this order is issued?

The SPEAKER. The Chair supposes that the doorkeepers will not allow a member to retire unless on his parole of honor to return, and return speedily.

Mr. JONES, of Tennessee. I move that the House adjourn.

The question was taken; and the motion was not agreed to.

Mr. JONES, of Tennessee. I move that all further proceedings under the call be dispensed with.

The question was taken; and the motion was not agreed to.

Mr. JONES, of Tennessee. I think, now, that we are punishing ourselves more than those outside. It is certain that we do not expect to do any business here to-night.

Mr. COVODE. I suggest that the Sergeant-at-Arms employ a larger force than he seems to have in bringing members in.

The SPEAKER. That is a matter within the discretion of the Sergeant-at-Arms. The Sergeant-at-Arms informs the Chair that he has five deputies.

Mr. HUGHES. If the motion of the gentleman from Pennsylvania be before the House, I should like to propose that there be a call for volunteers. [Laughter.]

The Sergeant-at-Arms appeared at the bar, and announced that, in obedience to the order of the House, Messrs. ABBOTT, POTTER, KELLOGG, ENGLISH, TAYLOR of New York, COCKERILL, BILLINGHURST, WOODSON, and ANDERSON, were within the bar of the House.

The SPEAKER. Mr. ABBOTT, of Maine, you have been arrested and brought to the bar of the House for absenting yourself from its sittings without its permission. What reason do you assign as an excuse for your absence?

Mr. ABBOTT. None in the world, except that I wanted my dinner, and went to get it. [Laughter.]

Mr. WASHBURN, of Maine. I move that my colleague be discharged from custody on the payment of fees.

The question was taken; and the motion was agreed to.

The SPEAKER. Mr. POTTER, of Wisconsin, you have been arrested and brought to the bar of the House for absenting yourself from its sittings without its permission. What reason have you to assign for your absence?

Mr. POTTER. I went to dinner; and after dinner, not feeling well, I came back, but found the doors closed. [Laughter.]

Mr. LEITER. I move that the gentleman be discharged from custody on the payment of fees.

The motion was agreed to.

The SPEAKER. Mr. KELLOGG, of Illinois, you have been arrested and brought to the bar of the House for absenting yourself from its sessions without permission. You will assign your reason for your absence.

Mr. KELLOGG. The only excuse I have is, that when it grew tiresome and dull here, I went into the city to get some dinner.

Mr. FOSTER. I move that the gentleman be discharged from custody on the payment of fees.

The question was taken; and the motion was agreed to.

The SPEAKER. Mr. ENGLISH, of Indiana, you have been arrested and brought to the bar of the House for absenting yourself from its sessions without its permission. What reason have you to assign for absence?

Mr. ENGLISH. I believe that I have a lawful excuse. I left the House about half past two o'clock, for the purpose of procuring some information at the Post Office Department in reference to business pending before the Committee on the Post Office and Post Roads.

Mr. MORGAN. I move that the gentleman be discharged from custody on the same terms as others have—by the payment of fees.

The motion was agreed to.

The SPEAKER. Mr. TAYLOR, of New York, you have been arrested and brought to the bar of

the House for absenting yourself from its sittings without its permission. What reason in excuse have you to assign?

Mr. TAYLOR, of New York. I left the House at quarter before five o'clock, under the impression that the vote then being taken on the adjournment would be decided in the affirmative. I find, however, that I was mistaken. I have nothing to offer but this, that I have had a good dinner and had excellent company on my return here.

Mr. KELSEY. The gentleman seems to be the victim of misplaced confidence. I move that he be discharged on the payment of fees. [Laughter.]

The motion was agreed to.

The SPEAKER. Mr. COCKERILL, of Ohio, you have been arrested and brought to the bar of the House for absenting yourself from its sittings without its permission. What excuse have you to make for that absence?

Mr. COCKERILL. Not being willing to fast longer than eight hours, I went to dinner. I have no other excuse. I am here now, ready for business.

Mr. MOORE. I move that the gentleman be discharged from custody on the payment of fees.

The motion was agreed to.

The SPEAKER. Mr. BILLINGHURST. Mr. BILLINGHURST. For several days past I have been engaged on the Committee of the Judiciary from ten o'clock till the adjournment of the House, and have been absent by leave of the House. To-day, some time after four o'clock, when the committee adjourned, I went to my boarding place and took my dinner; and accidentally hearing that the House was yet in session, and that there was a call made, I came immediately to the House and reported myself to the Sergeant-at-Arms. That is the only excuse I have.

Mr. TAYLOR, of Louisiana. In consideration of the extreme diligence of my colleague on the Judiciary Committee, I would move that he be discharged on the payment of fees. [Laughter.]

Mr. BILLINGHURST. If this includes travel to the Sergeant-at-Arms, I must take to myself some credit for coming voluntarily, and reporting myself. I hope I shall not be charged with any travel fees.

The SPEAKER. The gentleman will have the right to appeal to the Speaker, if he objects to the taxation of costs.

The motion was agreed to.

The SPEAKER. Mr. WOODSON, of Missouri.

Mr. WOODSON. I think I have as good an excuse as any man on earth has. Yesterday, my wife left me [laughter] to go home, and to-day I have felt very little like participating in legislation. I hope, therefore, I will be unanimously excused.

Mr. STEWART, of Pennsylvania. I hope the gentleman will be excused without payment of fees.

Mr. LEITER. I rise to a point of order. The gentleman from Pennsylvania [Mr. STEWART] is, in my judgment, under arrest; and he has hardly a right to make a motion. He is not in good standing in court.

The SPEAKER. Has the gentleman paid his fees?

Mr. WOODSON. I have arranged them.

Mr. STEWART, of Pennsylvania. No one has a right to raise that point except the Sergeant-at-Arms.

Mr. SHAW, of North Carolina. I move that the gentleman from Missouri be fined double the usual fees for permitting his lady to leave.

Mr. KELSEY. I move to amend the motion of the gentleman from Pennsylvania by inserting, on payment of fees.

Mr. STEWART, of Pennsylvania. I accept the amendment.

The motion, as modified, was agreed to.

Mr. SPINNER. I have heard it suggested that the Sergeant-at-Arms is in the habit of not collecting the fees from delinquents. If that is so, this is a very expensive amusement for the Government; and I should like to know the fact before I vote for more fines.

The SPEAKER. The Chair is of the opinion that, where the House orders fees to be paid by members, the House, of course, will not be responsible for them.

The SPEAKER. Mr. ANDERSON, of Missouri.

Mr. ANDERSON. My wife left this evening

for Boston, and I considered it my duty as an affectionate husband to escort her to the depot and see her safely off.

Mr. TAYLOR, of Louisiana. I think that, as this gentleman has been peculiarly situated, and has had the pleasure, while he was absent, of discharging his private duties, I move that he be excused on the payment of costs.

Mr. TAYLOR, of New York. Can I be permitted, being under arrest, to offer an amendment?

The SPEAKER. The Chair is of opinion that a gentleman who has been discharged by order of the House may make a motion.

Mr. TAYLOR, of Louisiana. Is not the discharge a conditional one, dependent on the payment of fees?

Mr. WASHBURN, of Maine. It is a condition precedent, not subsequent.

The SPEAKER. The Chair thinks that the gentleman has the right to make a motion.

Mr. TAYLOR, of New York. I wish to correct the remarks of the gentleman from Louisiana. He remarked that the gentleman from Missouri ought to pay the fees, as the cause of his absence was a pleasant one. It certainly could not have been very pleasant to the gentleman from Missouri to see his wife parting from him. I think, therefore, the House has been deceived in the remarks of the gentleman from Louisiana. The gentleman from Missouri was not only absent in the discharge of a high duty, but he was suffering exceedingly in the separation from his wife. I therefore move, as an amendment, that the gentleman be discharged without the payment of fees.

Mr. TAYLOR, of Louisiana. In reply to my friend from New York, I beg leave to remark that I conceive there could be no greater pleasure for an affectionate husband than the consciousness of having discharged a duty to his wife. [Immoderate laughter.] As the gentleman has absented himself from the discharge of his public duties, and has the pleasing consciousness of having performed a private duty, I trust the amendment will be rejected.

Mr. LEITER. I desire to ask the gentleman from Missouri at what hour the train left?

Mr. ANDERSON. About half past three o'clock; and I supposed that, at that time, the House, as usual, had adjourned; but I ask that I may be treated the same way as other members have been.

The question was taken on the amendment of Mr. TAYLOR, of New York; and it was not agreed to.

The motion was agreed to; and Mr. ANDERSON was discharged on the payment of costs.

Mr. WALBRIDGE, (to the Speaker.) Please, sir, may I go out? [Laughter.]

The SPEAKER. The gentleman will get a pass at the door. [Laughter.]

Mr. LEITER. I find my colleague, Mr. Cox, under arrest, and I do not wish for any Ohio member to be under arrest.

A MEMBER. I think he ought to stand.

The Sergeant-at-Arms appeared, and reported that, in obedience to the order of the House, Messrs. COX, TRIPPE, ZOLLICOFFER, and CLAY, were before the bar of the House.

The SPEAKER. Mr. Cox, of Ohio, you have been arrested and brought to the bar of the House for having absented yourself from its sittings without the permission of the House. What excuse have you to assign for your absence?

Mr. COX. Mr. Speaker, I have simply to say that I have been home among my constituents, and have only arrived here to-day. I found some malignant diseases prevailing at home, and among the rest the small-pox; and I do not know but that I may have it now. My wife was vaccinated when I was at home; and in traveling on here, she became very sick and feverish, and I have been caring for her all the afternoon.

Mr. SHERMAN, of Ohio. I move that my colleague be discharged.

The motion was agreed to.

Mr. HUGHES. I believe that the object of the call is to bring in a quorum.

[Cries of "No," "No."]

Mr. HUGHES. There has been no quorum here up to this time, until the arrival of Mr. Cox. I think there is now a quorum here.

Mr. MORGAN. What is the question before the House?

The SPEAKER. There is no question pending before the House.

Mr. HUGHES. I was going to make a motion that all further proceedings under the call be dispensed with.

Mr. CLEMENS. I ask for the regular order of business.

Mr. HUGHES. I shall submit no motion.

The SPEAKER. Mr. ZOLLICOFFER, you have been brought to the bar of the House for absenting yourself from its sittings without the permission of the House. What reason have you to assign for your absence?

Mr. ZOLLICOFFER. I have none other than that I supposed the time had come when the House ought to adjourn, and that it probably had adjourned.

Mr. MAYNARD. I move that my colleague be discharged from arrest; and inasmuch as he seems to have no very good excuse, that he be required to pay the fees.

The motion was agreed to.

Mr. TRIPPE.

Mr. TRIPPE. Mr. Speaker, this is the first time I have ever been caught in this category. I have not been arrested. I came here voluntarily. I thought the House had adjourned. Indeed, I had heard so, and was thunderstruck when I found that the House was still in session.

Mr. TAYLOR, of Louisiana. As from the information which the gentleman from Georgia has given us, it seems that this is the first time that TRIPPE has tripped, I move that he be discharged upon the payment of the fees. [Laughter.]

The motion was agreed to.

The SPEAKER. Mr. CLAY, what reason have you to give for your absence?

Mr. CLAY. Mr. Speaker, I came here this morning suffering and coughing like a funeral, when I ought not to have left my house. I came here, sir, because I believed that the Clayton-Bulwer resolutions would perhaps come up to-day, and I had determined, that if I died in my tracks here in the House, and in this seat, I would reassert and maintain the Monroe doctrine. [Much laughter.] I staid here, sir, for hours, suffering greatly, and finally supposing that upon the rising of the committee, and upon the report of my honorable colleague from Kentucky, [Mr. MARSHALL,] whom I do not see here now, [laughter,] the House was about to adjourn, and that there would be no chance for the Clayton-Bulwer resolutions to-day, or for me to die in my tracks in their defense, [laughter;] I therefore supposed that it would be better for me to return to the place from which I ought not to have come this morning—to my bed at home. I was summoned, not by the Sergeant-at-Arms of this House, but by quite a young man, with a cap on, [laughter,] who said he came from the Sergeant-at-Arms, and I immediately determined to obey the mandates of this House, whether by its highest executive officer, or by anybody who pretended to represent it; and I come, and now submit myself very respectfully to the control of the House.

Mr. MORGAN. On account of the great suffering which the gentleman has undergone, I move that he be discharged on payment of the fees.

Mr. GREENWOOD. I think that after the statement of the gentleman from Kentucky, he ought to be discharged without costs. He has stated to the House that he ought not to have left his bed this morning, and I understand that the remark was not made in jest, but in all sincerity. I move to amend the motion of the gentleman from New York, by striking out the payment of fees.

The amendment was disagreed to.

Mr. MORGAN's motion was then agreed to.

The Sergeant-at-Arms appeared, and announced that, in obedience to the order of the House, Mr. MILLSON was present within the bar.

The SPEAKER. Mr. MILLSON, you have been arrested and brought to the bar of the House for absenting yourself from its sittings without the permission of the House. What reason have you to assign for your absence?

Mr. MILLSON. I have not been absent all the time voluntarily. I have been trying for some time past to get into the House. I had not intended to absent myself from the House. My purpose was to stay in the House until its adjournment. I was here and voted on the question of adjournment. Immediately after voting, having a lady in the gallery under my charge, I went out and at-

tended her to an omnibus, intending and expecting to return before the conclusion of the roll-call. On my way back, I met two or three members of the House who told me the House had adjourned. I did not doubt the fact, but in order to be particularly correct and accurate, I walked on and inquired of two or three gentlemen, and they made the same statement, that the House had adjourned. I did not doubt the fact, and I then went home. I casually learned afterwards that the flag was still flying, and I returned to the House.

Mr. WASHBURN, of Illinois. I move that the gentleman be discharged on the payment of the fees.

The motion was agreed to.

Mr. SHERMAN, of Ohio. Would it be in order to move that the names of those who have not come in be read?

The SPEAKER. The Chair supposes that that could be done. There are one hundred and eighteen absentees.

Mr. ENGLISH. Is it in order to move to take up the resolution to abrogate the Clayton-Bulwer convention for the gentleman from Kentucky?

The SPEAKER. The Chair thinks not, no quorum being present.

Mr. COLFAX. Is it in order to inquire whether the Sergeant-at-Arms has yet found the whereabouts of the chairman of the Committee of Ways and Means? [Laughter.]

The SPEAKER. No return has been made.

Mr. MOORE. With a view to see whether a quorum is present, I move that the House adjourn.

Mr. JONES, of Tennessee. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. MOORE. I withdraw my motion.

Mr. CLEMENS. I wish to make an inquiry of the Chair. After the House proceeds to the call, and takes the excuses of such members as present themselves, would it not be competent to make a motion fixing some day next week for hearing the excuses of those who are still absent? I see by Cushing's Parliamentary Manual that that course has been adopted in the British House of Commons, and that it has been adopted here.

Mr. WASHBURN, of Maine. There is no quorum here to do that.

The SPEAKER. Less than a quorum can order the attendance of members.

Mr. BILLINGHURST. Can less than a quorum fix some future day for hearing excuses?

Mr. CLEMENS. If less than a quorum can compel the attendance of members, I think it can.

Mr. JONES, of Tennessee. I move that the House adjourn.

Mr. CLAY. I demand the yeas and nays.

Mr. JONES, of Tennessee. I have been here over nine hours.

Mr. WINSLOW. Is the question debatable? The SPEAKER. It is not.

Mr. JONES, of Tennessee. I do not propose to debate it.

Mr. WINSLOW. The gentleman has made a motion to adjourn, and it must be put without debate.

Mr. GARNETT. If the House adjourns will not the members the Sergeant-at-Arms arrests remain in his custody until the morning?

The SPEAKER. The precedents seem to be in conflict on the subject. It is stated that proceedings on a call of the House may be terminated at any time, by a vote, and that, in that case, members under arrest are thereby discharged. It is further stated, that in the mean time, members, under the rule, though personally present, are not allowed to participate in the proceedings, or are not recognized as members of the assembly by the Presiding Officer.

Mr. JONES, of Tennessee, called for the yeas and nays on his motion.

Mr. WINSLOW called for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The question was taken; and the motion was not agreed to.

The Sergeant-at-Arms appeared, and reported that, in obedience to the order of the House, Messrs. JENKINS, JOHN COCHRANE, and HATCH, were now before the bar of the House.

The SPEAKER. Mr. JENKINS, of Virginia, you have been arrested and brought before the

bar of the House for absenting yourself from its session without its permission. What excuse have you to offer for your absence?

Mr. JENKINS. Mr. Speaker, not being familiar with the proceedings of the House in such cases, I should rather some other member had been called first. [Laughter.] I suppose, however, that the Chair desires to know simply whether I have or have not a sufficient reason for absenting myself. I had a sufficient reason for myself, but I suppose it would not be sufficient for the House.

Mr. MOORE. I move that the gentleman be discharged on the payment of fees.

The motion was agreed to.

Mr. CLAY. I move that when the House adjourns it adjourn to meet on Monday next.

The SPEAKER. The motion cannot be entertained. The House is engaged in executing the order that there be a call of the House.

Mr. CLAY. Is it in order to move to take up the business on the Speaker's table?

The SPEAKER. It is not, for the same reason.

Mr. CLAY. Is the motion to go into the Committee of the Whole on the state of the Union in order?

The SPEAKER. The House is executing an order that there be a call of the House, and no motion is in order except to adjourn; and for this additional reason, that there is no quorum.

Mr. CLAY. Is it in order to call the previous question on the call of the House? [Laughter.]

The SPEAKER. The previous question does not operate on the call.

Mr. JOHN COCHRANE.

Mr. JOHN COCHRANE. I appear before the House, and on its call, under untoward circumstances. I had done—at least I so supposed—my duty during the day, for I had voted steadily with the Administration on every measure that came up, [laughter,] especially on one favorite measure, (at least it has always been a favorite measure of mine,) the motion to adjourn. I had delivered my last vote, and professed my last principle for the day, and was accompanying valiant men of war through the door. The wholesome, burly form of my friend from Kentucky, [Mr. MARSHALL,] who I regret to see is still absent, was in advance. He had delivered his battle well: so had we all. There were other companions with me; and on wholesome communication we were all unanimously of opinion that the House had adjourned. We supposed that they were foolish virgins whom we left behind, trimming their lamps, and crying for doctrines and for signs, when no more signs were to be given, evidently this day. I returned to my quarters, and was "taking mine ease in mine inn," when I was sharply arrested by the rude hand of your fell Sergeant.

Great, sir, was the shock of that arrest. The man physiological was astounded; the man psychological was appalled. Sir, my whole federal constitution trembled at the touch, and my whole

"Nature, through all her works,
Gave signs of woe that all was lost."

Sir, I felt then, and I am even now inclined to think, that I have a right to arraign the House for its want of respect to me. Why is it, sir, that after a five hours' sitting, a gentleman, a Representative, a patriot, [laughter,] an Administration man, [laughter,] one who disavows the spoils and contemns them, having voted as steadily as I did on every Administration measure, and at last having voted religiously to adjourn, in company with that noble band of patriots whom I have described—one who enjoyed himself as I did—why, I say, is it that all the rights and privileges of such a one were stricken down? Why was it that, in company with an honorable and venerable Senator from New York, whose burly figure reminded me of the trencher feets that he and I had just been performing—why was it then, that senatorial dignity was insulted—that a Representative of the people of a great State was arrested, on such an occasion, in the open streets of Washington? and above all, why was it—

Mr. MAYNARD. I rise to a question of order. The gentleman is expected to answer questions, not to ask them.

Mr. JOHN COCHRANE. Sir, I am pursuing the Socratic method. [Great laughter.] I admit the gentleman's plea, put in on behalf of the House. I take it, and, sir, with Pickwickian magnanimity, I extend a measure of pardon to it

Sir, my excuse is this: that in company with these reliable gentlemen I have described, and impressed with the opinion which I have announced,—that our votes had determined the question, and that the House had adjourned—I thought there was good reason for my leaving the House. Whether it was excusable in those whom I left behind me to remain, is a question which it is not for me to determine; but upon which I entertain a very decided opinion.

Mr. TAYLOR, of Louisiana. I have listened with great satisfaction to what has fallen from my distinguished friend from New York. I sympathize with him in the various indignities that have been heaped upon him; I sympathize with him when he relates the story of his wrongs; I fancy now that I see him engaged in that trencher service; I fancy now that I see him enjoying all that satisfaction with which a wise man knows so well how to enjoy good viands and delicious wines. Sir, I sympathize with the gentleman when I remember that, after all this enjoyment, and when the probability is that his mind was full of those glowing images excited by the action of the rosy god, he should then, whilst in that glorious state, when in that condition that he felt that he was

"O'er all the ills of life victorious,"

have been grasped by the rude hand of authority, [much laughter,] that those feelings of his should have been disturbed; and that he should have been compelled to descend from that elevation to this lower world.

Mr. JOHN COCHRANE. May I interrupt the gentleman for one moment? Does he presume to insinuate that I was *high*? [Great laughter.]

Mr. CLAY. I rise to a question of order. I maintain that if, while there is a quorum of the House here, it is wrong to impute improper motives to a gentleman, it is much more wrong when the party is arraigned as a culprit before the House. [Laughter.] I therefore call my honorable friend from Louisiana to order.

The SPEAKER. The gentleman from Louisiana will avoid personalities. [Renewed laughter.]

Mr. TAYLOR, of Louisiana. I beg, in the most humble spirit, to apologize to the House if I have unwittingly indulged in allusions to any gentleman upon this floor, and above all to my honorable friend from New York, which are supposed to have touched him personally. I will say, however, in exculpation of myself, that I did not for one moment believe that my honorable friend was low. [Laughter.] I therefore did him the honor to believe, not that he was "high" in the sense to which he refers, but only that he was somewhat elevated in a Pickwickian sense. [Renewed laughter.] And now, sir, in consideration of the gentleman's sufferings, I do most cordially entreat the House that they will extend to the honorable gentleman the favors which have been so mercifully extended to so many of his unfortunate predecessors; and I move that he be discharged upon the payment of the fees. [Laughter.]

Mr. JOHN COCHRANE. Is that a *feasible* motion? [Renewed laughter.]

The SPEAKER. It has been entertained as such.

Mr. TAYLOR, of New York. Before the motion is put, I desire, with the consent of the House, to ask the honorable member from Louisiana for some explanation. He says that he is not prepared to say that my honorable colleague is *low*, and he repudiates the idea that he is *high*—leaving us to infer that my colleague is *Jack*, as the Sergeant-at-Arms is to get the *game*. [Laughter.] The gentleman has confused the House, and I should like some explanation.

Mr. JOHN COCHRANE. I rise to a personal explanation. It may be supposed that I am insensible to the many remarks which may be presumed to have personal allusion to myself, but I am not—I assure you I am not. My body is not my own. It is in the possession of the Sergeant-at-Arms, and I call upon that officer to see that a member of this House is not treated disrespectfully. [Laughter.]

The SPEAKER stated the question to be on agreeing to the motion of Mr. TAYLOR, of Louisiana, that Mr. JOHN COCHRANE be discharged from custody, on payment of the fees

Mr. CLAY. I demand the yeas and nays upon that motion.

Mr. JOHN COCHRANE. If that proposition is divisible, I should like the question on the first portion of it to be put first. [Laughter.]

Mr. CLAY. I withdraw the demand for the yeas and nays.

The question was taken; and the motion of Mr. TAYLOR, of Louisiana, was agreed to.

The Sergeant-at-Arms here appeared, and announced that, in obedience to the order of the House, Messrs. BURNS and KNAPP were within the bar of the House.

The SPEAKER. Mr. HATCH, what reasons have you to assign for your absence from the sittings of the House without its permission?

Mr. HATCH. Mr. Speaker, I have no particular excuse to offer. I stayed in the House until late in the afternoon—until I thought it probable that the House would soon adjourn. I certainly thought the time had arrived when it ought to adjourn, and I left.

Mr. JOHN COCHRANE. I submit whether that is a sufficient excuse?

Mr. UNDERWOOD. I move that the gentleman be discharged from custody, on the payment of the fees.

The motion was agreed to.

The SPEAKER. Mr. BURNS, of Ohio.

Mr. BURNS. I am here, sir.

The SPEAKER. You have been arrested, Mr. BURNS, and brought to the bar of the House for absenting yourself from the sittings of the House without its permission. What excuse have you to offer for so doing?

Mr. BURNS. I went home to get something to eat, sir. [Laughter.] It is unconstitutional to starve a man. I was here from eleven o'clock this morning until five o'clock this afternoon, and was here when the vote was taken on the adjournment.

Mr. TAYLOR, of Louisiana. As the excuse of the gentleman from Ohio is *exceedingly* satisfactory, I move that he be discharged from custody on payment of fees.

The motion was agreed to.

Mr. BURNS here resumed his seat.

Mr. CLAY. I submit whether a prisoner in charge of the Sergeant-at-Arms has a right to resume his seat?

The SPEAKER. *Ex gratia*, the Chair thinks the gentleman might be allowed to do so. [Laughter.]

The Sergeant-at-Arms appeared, and announced that, in obedience to the order of the House, Mr. GROESBECK was now within the bar of the House.

The SPEAKER. Mr. KNAPP, you have been arrested and brought to the bar of the House for absenting yourself from its sittings without permission. What excuse have you to offer?

Mr. KNAPP. After remaining in my place here for about five hours, it occurred to me that it would be seasonable and suitable for me to step out for the purpose of taking my usual and ordinary refreshment. For that purpose, I hastened to my quarters, intending in good faith to return immediately after accomplishing my object. I did so, and on coming here found the doors very unexpectedly closed. I proceeded at once to the office of the Sergeant-at-Arms, and was by him informed of the reason of this extraordinary state of things. It was without any intention to disrespect or disregard the proper authority of this House that I took the liberty thus to absent myself; and I am here on duty at the earliest moment I could return. I feel no disposition to call in question the authority of the House. I go further, and say that if, in doing as I have, I have infringed upon the letter or spirit of the rules of the House, I am heartily willing to be forgiven. [Laughter.]

Mr. COLFAX. As the House ought to be forgiving, and as the gentleman was not taking a *nap*, I move that he be discharged on the payment of the fees.

The question was taken; and the motion was agreed to.

The SPEAKER. Mr. GROESBECK, you have been arrested and brought to the bar of the House for absenting yourself from its sittings without its permission. What reason have you to assign for your absence?

Mr. GROESBECK. I do not know that I have

any reason for absenting myself from the sittings of the House. I left here about half past four o'clock, and went to my dinner. I have not been waited on by the officer of the House. I returned voluntarily, seeing a light in the dome, and supposing that some important business might be on hand. I came here of my own accord. I have no excuse whatever. If it be in opposition to the rules of the House for me to absent myself at that time, I have no apology to make.

Mr. KELSEY. As the gentleman has no excuse for leaving the House under the circumstances, I move that the severest penalty inflicted upon any be inflicted upon him; that is, that he be discharged on the payment of the fees.

Mr. HUGHES. I move to strike out payment of the fees; and I do it for this reason—

Mr. JONES, of Tennessee. Is this question debatable?

The SPEAKER. The Chair thinks that it is.

Mr. HUGHES. It was perfectly in order that a question of order should be raised on me before I had commenced. If it had not been done, this would have been the first time during the present session that it had not been done.

I think, Mr. Speaker, that the gentleman from Ohio ought not to be subject to the payment of fees, for the reason that the excuse he has given, in my opinion, is sufficient to exempt him from any expense of that kind. I say this, not because there is anything particular in the excuse itself, but I believe it is the best excuse which has been given in the hearing of the House since I have been present during the giving of excuses. It is a good excuse on the same ground that an old lady once pronounced a certain sermon the best that she had ever heard in her life. She had been to church, and when she had returned she told her husband that she had heard the best sermon that was ever delivered in her hearing. Her husband asked her why it was the best. She could not tell exactly; but it was the best sermon she had ever heard in her life. "Well," said he, "what was the text?" "Oh, I do not know; but it was the best sermon I ever heard in my life." "What did the minister talk about?" "Oh, I do not know that; but it was the best sermon I ever heard in my life." "It is a strange thing," said he, "that you say it is the best sermon you ever heard in your life, and yet you cannot tell what was the text, or what it was he spoke of." She replied, "I do not remember the text, and I do not remember what he said; but it was the best sermon I ever heard in all my life, because he spoke in such a godly tone!" [Great laughter.]

Mr. BILLINGHURST. I rise to a question of order. The imposition of a fine is a matter of business, and the Chair has decided that less than a quorum cannot transact business. The proposition now is to discharge the gentleman from Ohio on the payment of fees. I take it that that is business; and to discharge or impose a fine upon the gentleman can be done only by a quorum. Less than a majority cannot fine a member or inflict any punishment whatever.

Mr. WASHBURN, of Maine. Less than a quorum can discharge, attaching a condition to the discharge.

The SPEAKER. The Chair overrules the point of order.

Mr. ZOLLICOFFER. I move that the House adjourn.

Mr. JONES, of Tennessee. I demand the yeas and nays.

The yeas and nays were not ordered; there being, on a division of the House—yeas 9, noes 71.

The question was taken; and the motion was disagreed to.

The SPEAKER. The question now recurs on the motion to discharge the gentleman from Ohio on payment of fees.

The question was taken; and the motion was agreed to.

The Sergeant-at-Arms appeared, and reported that, in obedience to the order of the House, Messrs. TAPPAN, FENTON, and FARNSWORTH, were now before the bar of the House.

Mr. HUGHES. I connected my speech with a motion. What became of the motion?

The SPEAKER. The Chair heard the speech, but did not hear the motion.

Mr. HUGHES. I refer the Chair to the Manual, where the Chair will find that it is a breach of privilege for the Chair not to put a question

which is in order. I made that motion in order. If the Chair did not hear it, it is not my fault.

The SPEAKER. As the matter has been disposed of and passed, it is too late for the gentleman to call it up.

Mr. HUGHES. I appeal from that decision.

Mr. CLEMENS. I move to lay the appeal on the table.

Mr. GROW. I should like to know how the Chair is to put a question which he did not hear?

Mr. CLAY. Would it be in order to move to reconsider the vote, in order that the gentleman may get in his amendment?

The SPEAKER. The Chair thinks it would.

Mr. HUGHES. I desire to be heard upon my appeal.

Mr. WINSLOW. Is the appeal debatable?

The SPEAKER. No. But the Chair hopes the gentleman will be indulged.

Mr. GREENWOOD. I am willing to hear the gentleman; but some of us have been here all day, and I trust that the gentlemen coming in at this late hour will not insist on making speeches.

Mr. HUGHES. I am going to speak on that point.

Mr. MORGAN. I object to his saying a single word, except he is entitled to do so.

Mr. KUNKEL, of Maryland. I ask the unanimous consent of the House to introduce the following:

Ordered, That the fees imposed, under the present call of the House, upon the absentee members, be paid out of the contingent fund of the House, and that all further proceedings under said call be dispensed with.

Mr. CLEMENS. I object.

Mr. HUGHES. I wish to state the grounds of my motion. I made the motion to exempt the gentleman from Ohio from the payment of the fees, in good faith. I did it for this reason, that the House had voted to adjourn; and that it had been announced, though not by the Speaker, that the House had adjourned.

The SPEAKER. The gentleman will please confine himself to stating the grounds of his appeal from the decision of the Chair.

Mr. HUGHES. I would be glad to be indulged in some latitude. If the Chair confines me strictly to the appeal, I will conform to the wishes of the Chair. All that I have to say on that subject is this: I made the motion to strike out the words, "on the payment of fees." I made it as distinctly as, with the voice I have, I could make any motion. I suppose the Chair did not hear it. What ought to be done in a case of that sort?

Mr. CLEMENS. I will state for the satisfaction of the gentleman from Indiana, what perhaps he is not aware of himself, that there are occasions when his volume of voice does not reach me here, near as I am to him. It is a fault of his, in the commencement of his speech especially, not to speak in an audible tone, even to me here. If, therefore, the gentleman is so unfortunate as to speak in a low tone, the remedy is, let him increase his voice.

Mr. HUGHES. That is the point exactly. I suppose my constituents have a right to be heard on this floor; and if they happen to send a Representative who has not a strong voice—myself, for instance, or the gentleman from Mississippi, [Mr. QUITMAN]—is that a reason why they should be deprived of their right to be heard here? When a member makes a motion, and does so as loud as that member can ordinarily speak, and the Chair, exercising the highest degree of diligence, does not hear him, it is an accident for which the member and his constituents are not to be prejudiced. And when the matter is brought to the attention of the Chair, and the fact is ascertained, I conceive that, instead of cutting off the motion on the ground that it was not heard, the better course would be to submit the motion to the House. And if I remember aright, there have been many instances during the present session in which a similar course has been pursued.

Now, I do not want to have the gentleman from Ohio, [Mr. GROESBECK], or any other gentleman, subjected to any penalties in this matter, because I conceive this whole proceeding is unnecessary and wrong; and I made the motion for the purpose of arresting this process of inflicting pains and penalties on members of the House who were in no default, and which are ultimately to be paid out of the contingent fund of this House, as they generally are paid. Gentlemen around me will

testify that I made the motion in the right time. I hope, therefore, the Chair will reconsider this matter without a vote on the appeal, which I do not intend to ask, because this is an appeal to the Chair, not to the House. If the Chair does not submit my motion I shall withdraw my appeal. I submit to the Speaker that, on the fact being called to his attention that the motion was made, it would not be amiss for him to submit that question to the House.

The SPEAKER. If the gentleman from Indiana had called the attention of the Chair to the fact that he had offered an amendment before the resolution was announced to the House, the Chair would, with great pleasure, have arrested the decision of the question, and have propounded his amendment. The Chair did not hear the amendment which the gentleman says he offered; and, on inquiry from the Clerk, who sits nearer the gentleman, the Chair learns that the Clerk did not hear it. The only time for the gentleman to have corrected the wrong action of the Chair was before the result was announced on the main question. The Chair thinks it is too late now to reach it in any other way than that indicated by the gentleman from Kentucky, [Mr. CLAY], by moving to reconsider the vote.

Mr. HUGHES. I withdraw my appeal; and I hope the gentleman will submit that motion.

Mr. MORGAN. I rise to a question of privilege. I understand that, up at the President's House, there are a large number of members of this House now dining. I understand, further, that an officer of this House has been there and been refused admittance; and that he has been told by members of that house, and by those having the house in charge, that no members of this House are there. I am told that there are members of this House there, and, among others, the distinguished head of the Committee of Ways and Means, enjoying themselves, while we are sitting here without a quorum. I think that it is a disgrace to the House, and I would like to know what is to be done in a case of this kind?

The SPEAKER. The Chair cannot entertain a question of privilege while the House is engaged in the call.

Mr. CLAY. I move that the vote, by which Mr. GROESBECK was discharged on payment of fees, be reconsidered.

Mr. WASHBURN, of Illinois. I move to lay that motion on the table.

Mr. HUGHES. I call for the yeas and nays. The yeas and nays were not ordered; only three members voting therefor.

The question was taken; and the motion to reconsider was laid on the table.

The Sergeant-at-Arms appeared and reported that, in obedience to the order of the House, Messrs. GILMER and McKIBBIN were now before the bar of the House.

The SPEAKER. Mr. CHAPMAN, you have been arrested and brought before the bar of the House for absenting yourself from its sittings without its permission. What reasons have you to assign for your absence?

Mr. CHAPMAN. Mr. Speaker, I left the House between four and five o'clock under the impression that the House would adjourn in the course of a few minutes. I received no intimation that there had been a call of the House until a few minutes ago, and immediately on receiving that information I proceeded to the House and asked admission. I was not called upon by the Sergeant-at-Arms, and I have shown by my alacrity in attending here immediately upon being informed that there had been a call of the House, that I have no desire whatever to evade the performance of any duty that is incumbent upon me as a member of this House. This is all the excuse I have to offer.

Mr. TAYLOR, of Louisiana. In consideration of the great alacrity which has been displayed by the gentleman from Pennsylvania, and in consideration, too, of his appearing to enjoy good health—which seems to be an unusual thing with the members of his delegation, [laughter]—I trust he may be discharged from custody on payment of the fees; and I make that motion.

Mr. JOHN COCHRANE. Is this a debatable question?

The SPEAKER. It is.

Mr. JOHN COCHRANE. I have been debating in my own mind whether this question does

not merit more serious consideration than the House is apparently about to give it. In my judgment, the excuse of the gentleman from Pennsylvania is much too good; and I therefore move that in place of paying the fees, he shall pay a fine of \$5,000; and on that motion I ask the yeas and nays. [Laughter.] If any gentleman is willing to suggest a larger sum, I will accept it. I pause for a reply.

A MEMBER. Say \$10,000.

Mr. JOHN COCHRANE. I accept that modification; and ask for the yeas and nays.

Mr. COLFAX. What does the gentleman intend to do with the money?

Mr. GREENWOOD. Pay it on the New York fire bill. [Laughter.]

Mr. JOHN COCHRANE. Bestow it on the contingent fund.

Mr. JONES, of Tennessee. I suppose these motions will all be entered on the Journal, and read to the House to-morrow morning. If they are not, I shall move to correct the Journal.

The SPEAKER. All the motions that are voted on will be entered on the Journal; but the Chair thinks that the motion of the gentleman from New York is not in order.

Mr. JOHN COCHRANE. I acquiesce in the decision of the Chair.

The motion of Mr. TAYLOR, of Louisiana, was then agreed to.

The SPEAKER. Mr. FARNSWORTH, what excuse have you to offer for absenting yourself from the sittings of the House without its permission?

Mr. FARNSWORTH. I was in the House from eleven o'clock until five, when I went to my boarding-house—a few steps off—to my tea. I supposed the House would adjourn in a very few minutes. The Committee of the Whole had reported to the House that there was no quorum present. I took my supper, and had no knowledge that this proceeding was going on until a few minutes ago, when I came over voluntarily, and meeting the Sergeant-at-Arms, found myself reported to the House as an absentee, and as under arrest.

Mr. GROW. I have a word to say in reply to a remark which fell from the gentleman from Indiana, [Mr. HUGHES.] He said that he thought this call was useless. I think that it is not useless, and those who ordered it thought so, for the reason that almost every day the Committee of the Whole finds itself without a quorum at three or half past three o'clock, when we have over three hundred bills upon the Private Calendar, and when it is utterly impossible that we can do the business which this Congress ought to do before the 7th of June, the day fixed by resolution for adjournment, unless members enough remain here to make a quorum later than three o'clock in the afternoon. I now move that the gentleman from Illinois be discharged from custody on the payment of the fees.

The motion was agreed to.

The SPEAKER. Mr. FENYON, what excuse have you to offer for your absence from the sittings of the House without leave?

Mr. FENTON. Mr. Speaker, I am generally present during the sittings of the House; and I was present to-day from eleven o'clock until some time after four o'clock. Feeling quite unwell, I then retired from the House, and remained in my room until a short time since, when I returned to the Hall without any knowledge that there was a call of the House. I have no further excuse to offer.

Mr. GROW. I move that the gentleman be discharged from custody on payment of the fees.

The motion was agreed to.

The SPEAKER. Mr. GILMER, what excuse have you to tender for your absence?

Mr. GILMER. I regret very much if my absence has operated to retard the business of the House; but my excuse is, that I remained here a long time, having no business in behalf of my own constituents, who have no claims, and I believe never did have any, against the Government. Being a more industrious man than most of our fellow-members, I worked so hard up to half past four o'clock that I got fatigued; and, as I saw a great many of my friends down with the same complaint, and stretched upon sofas, I went home to get my dinner. In addition to that, a very venerable gentleman from my district is here; and

inasmuch as I found that my friends who have business to attend to for their constituents were not disposed to attend to it, I thought I should be justified in tendering to that gentleman the civilities usually tendered to our constituents who visit the capital. I was in my own room, behaving myself peacefully and calmly, until I was sent for. I would have come at any moment; but I had no idea that my handsome presence was required by anybody in the House. [Laughter.]

Mr. WASHBURN, of Maine. In consideration of the mitigating circumstances attending the case of my friend from North Carolina, who was very much fatigued with doing nothing, I move that he be discharged on payment of fees.

The motion was agreed to.

Mr. STANTON. I wish to inquire of the Sergeant-at-Arms, through the Chair, whether he has been at the White House. It is a fact that the country ought to know, whether members are there and refuse to come in under the order of the House.

Mr. HUGHES. I object to this. Let the Sergeant-at-Arms make his return to the House.

The SPEAKER. That is the formal way.

Mr. MORGAN. Withdraw the objection.

Mr. HUGHES. No, sir; I object to semi-official assaults upon men who are not permitted to defend themselves upon this floor.

Mr. JEWETT. I do not profess to be much acquainted with the usages of the House, but I learn, for the first time, that it is not regarded as a good excuse that a member was dining with the President.

Mr. STANTON. I would like to know whether a messenger is left waiting the convenience of members at the White House.

Mr. HUGHES. I object.

The SPEAKER. Mr. McKIBBIN, of California, you have been arrested and brought to the bar of the House for absenting yourself from its sittings without its permission. What reason have you to assign for your absence?

Mr. McKIBBIN. It was impossible for me to be here before four or five o'clock, which is the usual hour of adjournment, and I did not come here then, thinking that an adjournment would be effected. I was not aware that the House was in session until summoned by the deputy Sergeant-at-Arms. I responded to his call immediately.

Mr. WASHBURN, of Illinois. I move that the gentleman be discharged from custody on the payment of fees.

The motion was agreed to.

The Sergeant-at-Arms appeared at the bar, and announced that, in obedience to the order of the House, Mr. POTTLE was within the bar.

The SPEAKER. Mr. POTTLE, of New York, you have been arrested and brought to the bar of the House for absenting yourself from its sittings without its permission. What excuse have you to offer?

Mr. POTTLE. I was arrested in my seat just this moment. Is it an offense for a member to be in his seat?

The SPEAKER. The gentleman is put down as an absentee.

Mr. POTTLE. I have no doubt that I was absent at the call of the House; but, sir, I came to the House, and came through the door as usual. No question was asked, and I of course answered none.

So far as an excuse for absence is concerned, I will say that I came here this morning at the usual hour, and remained until four o'clock.

Mr. READY. I think the arrest was an illegal one, and I move to quash it.

Mr. COX. Has a return been made by the Sergeant-at-Arms?

Mr. POTTLE. I have no doubt that I was absent when the call commenced, and I do not seek to avoid anything here by a quibble. I was allowed to come in, I presume the Doorkeeper mistaking me for one of the members who had gone out for refreshment. I think that no blame can attach to him. If there was any fault it was my own, in not informing him that I was one of the absentees. I desire to say that I came here at eleven o'clock this morning and remained until after four o'clock, when I left, suffering with headache that rendered me incapable of doing any business here. I went to my room, laid down upon my sofa, and remained there until a gentleman with whom I had made a casual acquaintance

called, and I took a walk out with him. We met several members and I asked whether the House had adjourned; I was told by Judge CRAWFORD that he did not know. I came to the Capitol, and when upon the steps I learned from a gentleman just leaving, that there was a call of the House, and that he had answered to his name. I am here ready to hear the penalty whatever it may be.

Mr. BINGHAM. I move that the gentleman be discharged from custody on the payment of fees.

Mr. HOARD. I think the gentleman stated that his absence was caused by indisposition; and I move, therefore, that he be discharged unconditionally.

Mr. POTTLE. I wish to say that I do not care about this matter one way or other. I am willing to compare my record with that of any member. If I have not kept my seat as faithfully as my fellow-members, I am willing to pay a double fine.

Mr. GOOCH. Can a member be arrested in his seat?

The SPEAKER. If he gets there improperly he can. It was a violation of the order of the House for the gentleman to come in after the doors were closed.

The question was taken on Mr. HOARD's motion; and it was disagreed to.

The question was taken on the motion of Mr. BINGHAM; and it was agreed to.

Mr. PHELPS. I move that the House adjourn.

The question was taken; and the motion was disagreed to.

Mr. CLEMENS. I desire to ask the Chair whether it will not be in order to move, that when this House adjourns, if all the absent members shall not have been brought in at that time, all further proceedings under this call shall be suspended until to-morrow morning at eleven o'clock, and make it the special order at that time? The reason I make the motion is this: I am willing to remain here to carry out this order, but I am not willing that we should adjourn before all the absent members are brought in, and that those members who succeed in avoiding the officers of this House, shall come in to-morrow morning and entirely escape the action of this House. There are at least two cases where dinner parties are in progress, where ladies have interfered and said that members of the House were not in the dwelling at the time. Is it fair to the members who are kept here, or brought here, that those who remain absent shall escape the penalties incurred by those who have been brought in under the order of the House? I am only desirous of providing for a contingency when the House chooses to adjourn, in order to put non-attending members upon the same platform as those who have been brought in, and thus make no discrimination at all. I think by consulting Cushing's Manual, that such a motion can be made. I therefore make the conditional motion that if, upon the adjournment of this House, proceedings under the call are not completed, that the names of non-attending members shall be called over and excuses heard to-morrow morning, and that it shall be the special order for eleven o'clock to-morrow.

Mr. JONES, of Tennessee. I do not know what book the gentleman reads from, but there is another book or instrument that I would prefer to read from, and that instrument is the one under which this House was organized in 1789, and which then put this Government in motion. That instrument provides that each House of Congress shall be the judge of the elections and qualifications of its members, and that a majority of the members of each House shall be a quorum to do business, but that a smaller number may adjourn from day to day, and compel the attendance of absent members. Now, I ask you what is your authority under that instrument? Is it not to compel the attendance of absent members here? If you adjourn now, and upon the meeting of this House to-morrow morning, those gentlemen are in their seats, what authority have you over them under the Constitution, to arraign them for their absence at this session? The object of that power in the Constitution, is that you may have a majority here to do the business of the country. And whether I am correct or not, my own opinion is, that, when you have a quorum, you have no

right under that Constitution, to compel the attendance of any absent members. The clear and express power is, that less than a quorum may compel the attendance of absent members. What is the object of this call? Is it to get a quorum here to do the business of the country?

Mr. GARNETT. I wish to ask the gentleman from Tennessee a question. The clause of the Constitution which the gentleman quotes, says that a quorum may do business, but that less than a quorum may adjourn, or compel the attendance of absent members. He argues from that, that more than a quorum cannot compel the attendance of absent members. Will he not continue his argument, and argue that more than a quorum cannot adjourn from day to day?

Mr. JONES, of Tennessee. No such conclusion can be drawn from that clause of the Constitution. But, as I was saying, what is the object of this call. I was present when you called this House to order this morning. There was not then a quorum of members present in their seats. I staid here until you had gone through with the business in the Committee of the Whole House upon the Private Calendar: I stayed here until it was ascertained that there was no quorum here upon a motion to adjourn. I voted to adjourn; and it was understood all over this House that a majority had recorded their names as having voted in the affirmative upon that motion. At that point, a good many members, as is the custom upon such occasions, and upon such understanding, took their hats and left. After they had gone out, some other gentlemen who were here—as I thought at the time in a playful sort of way—got up and changed their votes; so that, when the list was read over, and the result announced, it was found that the House had refused to adjourn, and that there was no quorum present.

Mr. LEITER. I would ask the gentleman from Tennessee whether it is not a fact that upon that motion to adjourn there was not a quorum here?

Mr. JONES, of Tennessee. Exactly so; and I have just stated how it resulted that the House did not adjourn.

When this call was moved, I voted against it, because I was satisfied that we were to do no more business to-night. This House had been in session six hours. That was a long session; and I was satisfied—and the result has proved it so—that there was no more business to be done here. Now, we have been here nearly four hours from that time, and here we are yet; and I think it is a little doubtful whether we have many more members present than we had then.

Mr. GREENWOOD. I would inquire of the gentleman from Tennessee whether he does not know that those gentlemen whose change of votes changed the result of the motion to adjourn, are not now in their seats?

Mr. JONES, of Tennessee. I do not know how that is. I am willing to sit here any time to get a quorum whenever the object is to get that quorum for the purpose of doing business, and discharging the duties incumbent upon members here, but I do not see that any good is to result to us or to the country from this sort of fancy work of going through this call for the mere purpose of getting members here. At the same time, those who have been here from the meeting of the House this morning are now being punished a good deal more than those we are now bringing here and discharging upon the payment of costs, which hereafter, I presume, as has always been the case, will be ordered to be paid out of the contingent fund.

Mr. GARNETT. I desire to say to the gentleman from Tennessee, that for one, I voted for his call in good faith, on the understanding that it was really to be carried out to the last.

Mr. JONES, of Tennessee. One question right there. Did he intend when he voted for that call, to get a quorum here for the purpose of doing business?

Mr. GARNETT. I did it for this reason. I knew we had agreed to adjourn on the 7th of June; that we had a large mass of business upon the Calendar; that a motion was already pending, moved by the gentleman from Alabama, [Mr. CONN.] to prolong the session, because we were not likely to get through our business by that time; that here was bill after bill involving large amounts of money, and principles of public justice, passing through without consideration and

without a quorum. I accept my full share of blame in all this; but I voted for a call because I saw a disposition on all sides of the House, and in good faith, to make an example to the country, and to enforce on all of us, present or absent, the necessity of attendance; and I should think nobody would have it more at heart than the gentleman from Tennessee, [Mr. JONES,] who is remarkably punctual in his attendance, and who has objection to doing business without a quorum. If he will join with us in carrying out this call, it will be an example productive of good fruits hereafter.

While I am up, I wish to say this further: that I wish it understood that if we are to go on with this call, as I am willing to do, the Sergeant-at-Arms and his officers are not to go to the theater and find gentlemen there, and when gentlemen tell them they will not attend the call, come back here and neglect to report that to the House. They are not to go to houses—I do not care where—and neglect to summon the members whom they find; but they are to go, and, with all due diligence—just as your sheriff executes an order of the court—whenever a member is found, summon him, and if he refuse to come, arrest him, and bring him here truly in custody; and unless that is to be done the whole thing is childish.

Mr. JONES, of Tennessee. I wish to ask my friend from Virginia, if he expects us to sit here till the Sergeant-at-Arms brings in all the members who were not excused?

Mr. GARNETT. As many as are in the city. Mr. JONES, of Tennessee. Why stop at the city? why not send for all of them?

Mr. GARNETT. The Sergeant-at-Arms will make his return to the House that such and such gentlemen have been arrested, and are here present; that such and such gentlemen have not been found, and that he believes they are absent from the city; and that such and such gentlemen have been found, and have refused to attend. If he makes that return before us, I think it will be productive of good; and I repeat, I assume no special merit because I happen to be present now.

Mr. JONES, of Tennessee. I would say to the gentleman, that, in all my experience in this Hall, I have never seen a call carried out.

Mr. GARNETT. Now is the time to set a good example.

Mr. CLEMENS. As the gentleman from Tennessee has the credit of being a parliamentary leader here, and as he is known from his long service here to be particularly scrupulous in the discharge of his legislative duties, I desire, with all due respect to him, to notice some of the points which he has made in the appeal he has made to the House, and through the House to the country. He has made two pregnant confessions, which justify the course we have taken in this matter. He has referred to the fact that on several occasions, at eleven o'clock, the House proceeded to business without a quorum. He has alluded to the further fact, that, during the course of the proceedings of the House, at three or four o'clock in the afternoon, the House has been without a quorum; and this very day, when the Private Calendar was under consideration, he called the yeas and nays, for the purpose, as he declared, of seeing whether there was a quorum or not. Now, I desire that the country shall understand precisely the motives which have actuated those who have resorted to a parliamentary remedy to get rid of a parliamentary abuse. Here we are, in the discharge of our legislative duties, having a salary of \$3,000 imposed upon us by a former Congress, with the expectation all over the country that the business of the country would be discharged in a shorter period.

Mr. TRIPPE. If the gentleman conceives that a salary of \$3,000 is an imposition, of course he need not take it.

Mr. GILMER. I desire to ask my friends from Virginia if they are not mistaken about all this thing, and whether the pressing everything into pell-mell is not violating the expectations of the country? whether we are not expected to sit here a whole year, if necessary, to do the business calmly and patiently, and not in a hurried manner?

Mr. CLEMENS. I appeal to the gentleman from North Carolina whether it is not known that, for two months past, the chief business of the House has been upon the shoulders of the few faithful members who have chosen to sit in the

House, and perform the business of the country? and whether it is not notorious that we have been passing upon measures of great public importance without a quorum being in attendance? and whether, especially since this joint resolution was passed, we have not been without a quorum at the hour of three o'clock nearly every day? I desire that the country may understand the object with which this call has been carried out, and that we shall see who are in their places at a particular time willing to discharge their duty, and who are absent and not attending to the duties of Congress and of the country.

Mr. HUGHES. I desire to know from the two gentlemen from Virginia if they propose to proclaim martial law?

Mr. CLEMENS. I desire to resort to every parliamentary remedy, I care not how severe the pains and penalties may be, and to hold up recalcitrant and unwilling members to the country. That is what I have decided to do, and what, so far as I am concerned, I intend to do.

Mr. PURVIANCE. I desire to ask the gentleman from Virginia whether he was not to-day engaged in sleeping on one of the sofas? [Laughter.]

Mr. CLEMENS. I will ask the gentleman from Pennsylvania whether he was not sleeping on the sofa to-day at the very same time?

Mr. PURVIANCE. I will reply to the gentleman by saying that I found the gentleman from Virginia engaged in sleeping on one of the sofas, and I did interrupt him in that pleasant occupation.

Mr. POTTLE. I want to inquire of the gentleman first, whether he seriously makes the charge that this House has been sitting during the present session, day after day, doing business without a quorum? secondly, whether it is not notorious that members have been more punctual in their attendance during this Congress than perhaps in any other that ever sat since the commencement of the Government? and thirdly, I ask the gentleman if he has not repeatedly left his seat here, day after day, pairing off with me and others? Until the gentleman has answered these three questions fairly, I assume that he has no right to hold up other gentlemen to the House and to the country, as derelict in duty; and certainly, when he talks about the faithful few, I beg he will not use the pronoun "we."

Mr. CLEMENS. I can satisfy the gentleman from New York in a very few minutes, by telling him in all sober seriousness and candor that I have not arrogated anything to myself; and if he choose, he may have an affirmative answer to all the questions which he has propounded to me.

Mr. POTTLE. Thank you, sir.

Mr. GROW. Perhaps the gentleman from Virginia will state that while the Kansas matter was under consideration, there was never any want of a quorum; and that it is only since that matter has been disposed of that gentlemen have become remiss in their attendance. It shows that that matter was beneficial in one sense.

Mr. CLEMENS. I desire to refer especially to what every member of the House must have seen—that since we passed the resolution to meet at eleven o'clock, on various occasions, at eleven o'clock, no more than forty or fifty members have been in their seats. So far as I am concerned, if the gentlemen will allow me to use the pronoun "I," and exclude the "we," in the course that I have taken in regard to this matter, I have been actuated by the desire to leave this House by the 7th of June. I do not desire to be here during the dog-days; and it must be apparent to every one that unless some measure is resorted to for the purpose of compelling the attendance of members here, we may remain till August—

Mr. WADE. I would like to know what the question in debate is?

Mr. CLEMENS. I presumed I was speaking by the general consent of the House. I desire now to submit my motion.

Mr. SICKLES. The resolution of the gentleman from Ohio is not before the House?

The SPEAKER. The Chair does not receive it.

Mr. TAYLOR, of Louisiana. Will the gentleman from Virginia yield to me for a moment?

Mr. JONES, of Tennessee. I rise to a question of order. I wish to know if the resolution just read is before the House?

The SPEAKER. It is not.

Mr. JONES, of Tennessee. If it is, I want the yeas and nays upon it.

Mr. SHERMAN, of Ohio. Why is my resolution not entertained? There is no other proposition before the House.

The SPEAKER. The gentleman from Virginia [Mr. CLEMENS] is upon the floor.

Mr. SHERMAN, of Ohio. Upon what question?

Mr. CLEMENS. I have made a motion.

The SPEAKER. The gentleman stated that he would make a motion that the members who are marked as absentees be required to present themselves to-morrow, or on some subsequent day, and render their excuses for their absence.

Mr. SHERMAN, of Ohio. Then no proposition is now before the House.

Mr. WASHBURN, of Maine. I rise to a question of order. Is the motion which the gentleman from Virginia indicates that he will make in order?

The SPEAKER. The Chair is of opinion—

Mr. CLEMENS. Will the Chair allow me to state my proposition in my own phraseology?

The SPEAKER. The gentleman will state it.

Mr. CLEMENS. I move that if, upon the adjournment of this House, any of the absentees who have not been excused shall not have appeared, the Sergeant-at-Arms be directed to have them in custody at eleven o'clock, a. m., to-morrow, in order that the House may take such proceedings in reference to them as it may see fit.

Mr. CLAY. I wish to ask a question of the gentleman from Virginia. Does the gentleman mean to imply censure upon all those gentlemen who have been absent upon this call of the House?

Mr. CLEMENS. No, sir; I simply wish to treat those who are still absent as we have treated those who are now here.

Mr. CLAY. That is the purport of the gentleman's resolution; but the purport of the remarks which he made rather implied a censure, it appeared to me, upon all those gentlemen who happened to be absent after five o'clock. I wish to know if that was his intention?

Mr. CLEMENS. I cast no reflections upon individual absentees, other than those which they have themselves willingly incurred.

Mr. CLAY. Will the gentleman allow me to ask him, and to ask his colleague, [Mr. GARNETT,] how many times they have been absent in Virginia since the House has been in session?

Mr. CLEMENS. Does the gentleman desire to know how often I have been absent?

Mr. CLAY. I do.

Mr. CLEMENS. The record shows that.

Mr. WASHBURN, of Maine. I desire to have my question of order decided.

The SPEAKER. The Chair is of opinion that even if the proposition of the gentleman from Virginia should be entertained and adopted by the House, all proceedings under the call would fall with the adjournment.

Mr. WASHBURN, of Maine. I desire to ask this question: Suppose the House should adjourn now, or the matter should be postponed: would it not be competent for the House at any time to proceed against and fine the members who have been absent without the leave or consent of the House?

The SPEAKER. The Chair is rather inclined to the opinion that the House can at a subsequent time require members to answer for violating its rules.

The Sergeant-at-Arms appeared at the bar, and announced that, in obedience to the order of the House, Mr. MARSHALL, of Kentucky, was now within the bar of the House.

The SPEAKER. Mr. MARSHALL, of Kentucky, you have been arrested and brought before the bar of the House for absentsing yourself from its sittings without the permission of the House. What reason have you to assign for your absence?

Mr. MARSHALL, of Kentucky. My reason, Mr. Speaker, is, that I remained here until I saw all the persons in the Hall with their hats on, and I supposed that the House had adjourned. I saw that the House was no longer competent to do business, and I thought it was time that I should go home.

Mr. GROW. As the gentleman gives the excuse that he thought the House had adjourned, I desire to call attention to the last paragraph on

page 131 of the Manual, as to what is an adjournment.

The Clerk read the paragraph, as follows:

"If the question be put for adjournment, it is no adjournment till the Speaker pronounces it; and, from courtesy and respect, no member leaves his place till the Speaker has passed on."

Mr. MARSHALL, of Kentucky. I was perfectly conversant with that rule, and my idea that the House had adjourned arose from the fact that every member was out of his seat.

Mr. GROW. Except the Speaker.

The SPEAKER. Is it the pleasure of the House that the gentleman from Kentucky remain in custody?

Mr. WASHBURN, of Illinois. I move that the gentleman from Kentucky be discharged from custody on payment of the fees.

Mr. KUNKEL, of Maryland. I offer the following amendment:

Resolved, That the further proceedings under the present call of the House be dispensed with, and so much thereof as imposes the payment of fees on absentees be remitted.

Mr. CLEMENS. I object to that.

The SPEAKER. The Chair thinks the amendment is not in order.

Mr. KUNKEL, of Maryland. Is it not parliamentary? I have been here, sir, during the whole call. I was opposed to it when it was first commenced. It is productive of no good, and I think that this would be the most dignified way of ending it.

The SPEAKER. The gentleman's proposition is not germane to the pending motion.

The question was taken on the motion of Mr. WASHBURN, of Illinois; and it was agreed to.

Mr. SANDIDGE obtained the floor.

Mr. KUNKEL, of Maryland. Is my proposition now in order?

The SPEAKER. The gentleman from Louisiana has been recognized, and is entitled to the floor.

Mr. SANDIDGE. I have acted in good faith so far in sustaining the call, with the hope of getting a quorum here, and not to show the power of the House to effect such a purpose. My hope was, then, when we secured the attendance of a quorum, we should take up the Calendar where we left off, and show the country that we could stay here after nine o'clock in the evening and do the business of the country. I wish now to know whether there is a quorum present.

The SPEAKER. There are one hundred and thirteen members present.

Mr. SANDIDGE. That is not a quorum, and I hope that we will proceed with the call.

Mr. GREENWOOD. If the Chair could ascertain by any means outside of the record, I think it would be found that there is a quorum present.

Mr. STEVENSON. I move that the House adjourn.

Mr. GREENWOOD. I call for tellers. We can see by a division of the House whether or not a quorum is present.

Mr. JONES, of Tennessee. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 40, nays 69; as follows:

YEAS—Messrs. Atkins, Billingshurst, Chapman, Clay, John Cochran, Cockerill, Cox, James Craig, Durfee, Furness, Fenton, Gilmer, Granger, Greenwood, Gregg, Groesbeck, Hatch, Jackson, Jenkins, Jewett, George W. Jones, Kellogg, Knapp, Jacob M. Kunkel, Humphrey Marshall, Millson, Parker, Pendleton, Ready, Rangan, Henry M. Shaw, John Sherman, Stevenson, William Stewart, Tompkins, Trippe, Waldron, Walton, Wilson, Woodson, and Zollinger—40.

NAYS—Messrs. Abbott, Anderson, Andrews, Arnold, Bingham, Bliss, Boyce, Buffinton, Burlingame, Burns, Case, Chaffee, Clawson, Clemens, Colfax, Covode, Cragin, Davis of Iowa, Dawes, Dodd, English, Foley, Foster, Garrett, Gilman, Gooch, Goodwin, Grow, Hoard, Howard, Hughes, Huyler, Kelsey, John C. Kunkel, Leiter, Lovejoy, Matteson, Maynard, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Mott, Ohio, Palmer, Pettit, Phelps, Pike, Potter, Pottle, Purviance, Robbins, Royce, Rufin, Sandidge, Judson W. Sherman, Singleton, Spinner, Stanton, James A. Stewart, Tabbot, George Taylor, Miles Taylor, Wade, Walbridge, Elihu B. Washburne, Israel Washburn, Winslow, and Wortendyke—69.

So the House refused to adjourn.

Pending the above call, Messrs. SMITH of Virginia, and UNDERWOOD stated that when their names were called, they were out getting some refreshment.

The SPEAKER. Mr. MORSE, of New York, you have been arrested and brought to the bar of

the House for absentsing yourself from its sittings without its permission. What reason have you to assign for your absence?

Mr. MORSE, of New York. None other than that I went home to get my dinner.

Mr. STANTON. I move that the gentleman be discharged on the payment of fees.

The question was taken; and the motion was agreed to.

Mr. PENDLETON. Is it in order to move to take a recess until eleven o'clock to-morrow?

The SPEAKER. Only by unanimous consent.

Mr. PENDLETON. There are many members here who have been here for over twelve hours. I have been here nearly thirteen hours. I came before nine o'clock, to attend one of the committees of this House. It seems to me not right that those who have been here for so many hours should be kept here, and punished for those who have been delinquent by absentsing themselves. I ask unanimous consent to make the motion.

Mr. JONES, of Tennessee. I object.

Mr. FENTON. I have a few words to say. The impression will prevail, from what has been said here to-night, that those who were absent and brought here, are those who are not unfrequently responsible for the want of a quorum to do business. That is, in part, a great mistake, and calculated to do injustice to many gentlemen who are uniformly prompt and efficient in the discharge of their duties. They are not mainly those who have left the House without a quorum since the order was made to meet at eleven o'clock in the morning. Many of the gentlemen now so zealous in promoting this call were only a few mornings since found absent on a call of the roll. I only mention the fact to have gentlemen see that their zeal is not only not according to wisdom, but that it assumes no merit to which they are justly entitled beyond their associates. The House was in session for six or seven hours, and it could not be expected that every member would be found in his seat at the end of that time, in the absence of any question of great and all-pervading interest. Some went to their dinners, perhaps; others left for a short time from physical exhaustion or indisposition, and those who felt the ability to do so, I suppose have returned or intend to return. When they arrive at the doors of the House they are arrested and brought here. I submit to gentlemen that we are accomplishing nothing practical in this; we are not facilitating the public business.

If there is not time to act deliberately on the business of the country within the time intervening between now and the 7th of June, let that time be extended. I do not believe there is time unless we sit through the hours of the night, and that I do not believe the country expects of us, and neither should we do so, having a proper regard for ourselves and the safety and correctness of the business intrusted to our hands. I am willing to extend the time, and I will vote for a resolution extending it for thirty days or any length of time gentlemen may find it necessary for the discharge of the public business. To act with deliberation, economize our time, and do all that we are sent here for, in a proper manner, to the best of our judgment, is our high and solemn duty, and I am not willing that the impression shall go out that all the gentlemen who were so unfortunate as to be absent on a call of the House on this occasion, are those who are frequently delinquent in the discharge of duty, or wanting in faithfulness to the public service; many of these gentlemen will not suffer in comparison with some of those, who, to-night, are distinguishing themselves as the ever faithful guardians.

Mr. ATKINS. I have heard intimations thrown out that gentlemen were delinquent in their duty, simply because, at five o'clock, they left the Hall to go to their dinner. I desire to say that I have not been absent from the Hall, during this Congress, but two days, and those two days I was detained in my room by sickness. Gentlemen on both sides of the House have spoken as though it were an offense to have left the Hall for a short while to go home and dine. Two or three of my colleagues are absent, who have, during the session, been always found in their seats. I have not been absent, as I have said, but two days, and those gentlemen I have seen here during every day I have been here. I think that the remarks of the gentleman from Virginia [Mr. CLEMENS] were altogether out of place.

Mr. COVODE. I wish to make a few remarks. The power of this House to compel the attendance of absent members is about being tested. If we adjourn, or postpone this until to-morrow, or any other time, it will be demonstrated that we have not the power, or have failed to make use of it. You cannot, then, at a future day, undertake to compel the attendance of members. It seems to me to be absolutely necessary that the House should make its authority respected.

Mr. STEVENSON. I rise to a point of order. Is there anything before the House which elicits this discussion?

The SPEAKER. There is no proposition before the House. These remarks have been indulged by unanimous consent.

Mr. STEVENSON. I object. It is late, and we ought to go on with this proceeding.

The Sergeant-at-Arms appeared at the bar, and announced that, in obedience to the order of the House, Messrs. HAWKINS and CURTIS were within the bar.

The SPEAKER. Mr. HAWKINS, of Florida, you have been arrested and brought to the bar of the House for absentsing yourself from its sittings without its permission. What excuse have you to offer?

Mr. HAWKINS. I have none. I was not arrested by the Sergeant-at-Arms. I came to the Hall of my own accord, having ascertained that there was to be a night session. Further than that I have no excuse.

Mr. WINSLOW. That is a frank confession; and in consideration of it, I move that the gentleman be discharged on the payment of fees.

The motion was agreed to.

The SPEAKER. Mr. CURTIS, of Iowa, you have been arrested and brought to the bar of the House for absentsing yourself from its sittings without its permission. What reason have you to assign for your absence?

Mr. CURTIS. I have none. I supposed when I left the Hall that there would be the same inclination to adjourn at four o'clock that there has been on previous days. I have returned here without compulsion, hearing that the House was still in session. I am pleased to see such manifestations of zeal on the part of gentlemen.

Mr. MARSHALL, of Kentucky. I think that the gentleman ought to be fined double for coming here without compulsion. [Laughter.]

Mr. LEITER. I move that the gentleman be discharged on payment of fees.

The motion was agreed to.

Mr. STANTON. I desire to renew the proposition made by the gentleman from Virginia a few moments ago, in this form. I move that the Sergeant-at-Arms be directed to take into custody the members not yet arrested, and to have them before the bar of this House at eleven o'clock to-morrow. It seems to me that this proceeding is an indispensable one, and that we could not possibly get along unless such a motion was in order. I submit to the Chair that it is in the nature of contempt that these parties are now guilty of. We are not now merely seeking to bring them in for the discharge of business; but their absence from the House during its sittings is a violation of the order of the House, and therefore a contempt. Well; a party being once decided in contempt, may be arrested, and brought before the House at a subsequent session of the House, for its action. It seems to me to be absolutely necessary. Here we are pretty well on to the middle of the night, waiting for absent members to be brought in. It cannot be that the rules of the House require us to wear ourselves out in proceedings against those who disregard the order of the House. It seems to me, therefore, that if the chairman of the Committee of Ways and Means, and the chairman of the Committee on the Judiciary—gentlemen who wear the honors of the House—do not choose to bear its burdens, and if they choose to have to-morrow's session occupied in making a question of conduct on their absence, it is their responsibility, and not ours.

Mr. GREENWOOD. The name of the chairman of the Committee of Ways and Means has been used in this Hall to-night on more occasions than one, and I think it has been unnecessarily called in question as being one of the absentees on this occasion. I met the gentleman from Pennsylvania in the area here while the vote was being taken on the motion to adjourn, and when it was

understood that that motion had been carried. He was here, and seemed to regret that the business of the House could not have been proceeded with. He was making his way out of the Hall, in company with other gentlemen who had supposed that the motion prevailed. I do not see why his name should be selected in this connection more than that of any other gentleman who is absent at this time.

Mr. TAYLOR, of Louisiana. I desire to make a suggestion before the motion of the gentleman from Ohio be put. I would suggest the propriety of requiring the Sergeant-at-Arms to make a return to the House in respect to what he has done in regard to the orders given to him. If it turn out that, in point of fact, he or his deputies have called upon members, and notified them that there is now a call of the House, and if members have refused to come here, or to notice that call, those gentlemen who have so failed are guilty of contempt of this House, and ought to be justly obnoxious to its censure. I therefore suggest the propriety of having a preliminary return made by the Sergeant-at-Arms of what he has done.

The Sergeant-at-Arms appeared, and reported that, in obedience to the order of the House, Messrs. MILES and BONHAM were now before the bar of the House.

The SPEAKER. Mr. MILES, of South Carolina, you have been arrested and brought before the bar of the House for absentsing yourself from its session without permission of the House. What reason have you to assign for your absence?

Mr. MILES. I have only to say, Mr. Speaker, that I left the House after a vote upon the adjournment. Under the impression that the yeas had it, and that the House had voted to adjourn, I, in conjunction with one of the other members, left the House. It was reported to us by some of the pages that the yeas had it, and, under that impression we left the House. We did not receive any summons at our residence, and accidentally came up here seeing the Hall still lighted.

Mr. COCKERILL. I move that the gentleman be discharged on the payment of fees.

Mr. SICKLES. The gentleman from South Carolina has not been taken into custody. There are no fees, and he should be discharged.

The SPEAKER. The gentleman from South Carolina was reported by the Sergeant-at-Arms.

The question was taken; and the motion was agreed to.

The SPEAKER. Mr. BONHAM, of South Carolina.

Mr. BONHAM. I left the House, Mr. Speaker, with my colleague, under precisely similar circumstances. Presenting myself at the door just now, and finding it closed, I asked the Door-keeper to call the Sergeant-at-Arms; and I am here under these circumstances. We were not aware that the House was in session at all, until we saw the light.

Mr. FARNSWORTH. I move that the gentleman from South Carolina be discharged.

And I wish to say a word or two in vindication of myself, as well as of the gentleman from South Carolina, from the sweeping charges made against every man who absented himself after five o'clock. The impression is evidently sought to be made here that every man who happens to leave this House after five o'clock is guilty of a very gross dereliction of duty. [Cries of "No!" "No!"] If I understand anything about this matter, it is this, that the object of enforcing this rule is to get a quorum. If that be not the object, I should like to know what it is? Here comes a gentleman, a member of the House, opens the door, takes his seat, and up pops the Sergeant-at-Arms and says, "I have arrested this gentleman," and he reports his name, and it is found that the gentleman came here voluntarily. I left, as a great many others of these gentlemen left, when the yeas and nays were being called on the motion to adjourn. I voted against the adjournment, but I believed it was carried, or would be, and so I took my hat and went to dinner. No Sergeant-at-Arms or deputy came to me; but when I was informed of this proceeding, I came immediately to the Hall, not under arrest, but voluntarily.

Mr. BONHAM. I am not aware what course has been taken with other gentlemen; but I beg not to be excused on any other terms than those on which they were excused.

Mr. MILES. I trust I will be placed in the same category with my friends.

Mr. FARNSWORTH. It strikes me that we did a fair amount of business to-day. We had a session of six hours; and I understand from the Chairman of the Committee of the Whole House that we passed on some thirty-five bills. It seems that this rule is to be enforced simply for the purpose of seeing whether it can be enforced, and for no other object in the world. I think that no man in this House has the remotest idea that we are going to sit down to the transaction of business to-night.

There is another thing, sir: I hear gentlemen all about the House saying that we must not adjourn until we get this gentleman here, and that gentleman here.

Mr. STEVENSON. What is the question before the House?

The SPEAKER. The motion that the gentleman from South Carolina [Mr. BONHAM] be discharged on payment of fees.

Mr. STEVENSON. I make the point of order that the gentleman from Illinois is not discussing that question.

The SPEAKER. The Chair thinks that the gentleman from Illinois has wandered a little from the question before the House.

Mr. FARNSWORTH. I believe the rules of order have not been very rigidly enforced.

The SPEAKER. It is the duty of the Chair to enforce them when a gentleman rises and asks that it shall be done.

Mr. FARNSWORTH. That is very true, sir.

Mr. SMITH, of Virginia. I merely desire to suggest a single reason why it is very important for us, with a view to the future, to pursue such a course now as will insure the attendance of a quorum in Committee of the Whole.

Mr. HUGHES. I rise to a question of order. It strikes me that, under the rule, the gentleman from Virginia can only ask a question or make a personal explanation.

The SPEAKER. The Chair thinks the remarks of the gentleman from Virginia are hardly pertinent to the question.

Mr. HUGHES. They are evidently out of order.

Mr. SMITH, of Virginia. I submit, respectfully, that I was proceeding to show, with the permission of the gentleman from Illinois—

Mr. HUGHES. The Chair has decided that both the gentleman from Illinois and the gentleman from Virginia are out of order.

Mr. SMITH, of Virginia. I suppose the Chair will allow me to say a word not out of order, as I think. I have no desire to argue with the Chair, because I trust I have too proper a respect for the Presiding Officer of this House to do that. But I was proceeding to show the necessity of decided action now, and of not letting gentlemen off without the usual punishment.

Mr. KELLOGG. With the permission of the gentleman, I desire to say a word. It has been said more than once during this discussion, that the object of this proceeding is to enforce the rules against members who are in contempt. The programme is now changed. The gentleman from Virginia has taken the matter under his guardianship, and proposes to read lectures to the House in relation to our future action.

Mr. WINSLOW. I call the gentleman to order.

The SPEAKER. The gentleman cannot proceed, as it is objected to.

Mr. KELLOGG. I have said all I desire to say.

Mr. FARNSWORTH. I desire to make a few remarks.

The SPEAKER. The gentleman will please confine himself to the question.

Mr. FARNSWORTH. I am in favor of discharging the gentleman from South Carolina, and every other gentleman who may from this time out be brought to the bar of the House. I think that the House has carried this proceeding far enough. I do not understand that it is necessary that penalties should be inflicted upon members of this House to insure their attendance in future. We are not a school of boys presided over by a schoolmaster.

Mr. STANTON. I insist on the enforcement of the rules of order. I suspended my remarks at the request of the Chair.

Mr. FARNSWORTH. I insist that I am in

order. I have made a motion to discharge the gentleman from South Carolina, and I am speaking to that motion.

Mr. MORGAN. He does not want to be discharged without paying the fees.

Mr. FARNSWORTH. I cannot help that; it is the right of the House to discharge the gentleman from South Carolina, *volens volens*, whether he wishes to pay his money to the Sergeant-at-Arms or not, and I am speaking to that question. I say that I do not understand that we are a school of boys, and that we are to be flogged for our absence in order to insure our attendance in future. I suppose that the object of the call is to get a quorum to do business; and if it is not the intention to proceed to business to-night, but only to bring in Mr. A, B, and C, and then suspend the call, I am opposed to it.

Mr. WINSLOW. I call the gentleman to order.

The SPEAKER. The Chair thinks that the gentleman is taking too wide a latitude in his remarks.

Mr. FARNSWORTH. I do not intend to get out of order, but I am not familiar with the rules of the House or with parliamentary proceedings. We are told that, owing to the short time that is left for the business of the session—

The SPEAKER. The Chair thinks that is not in order.

Mr. FARNSWORTH. Well, sir, I was only going to say that I do not think this spasmodic attachment and devotion to the business of the House is going to forward the business of the country.

The SPEAKER. The Chair thinks the gentleman's remarks are not in order.

Mr. FARNSWORTH. I think if gentlemen will talk less and work here five or six hours a day, we can do all the necessary business of the country by the 7th of June. I now withdraw my motion.

Mr. LEITER. I move that Mr. BONHAM be discharged from custody on payment of the fees. The motion was agreed to.

Mr. STANTON. Mr. Speaker, I have but a single word to say. The gentleman from Louisiana [Mr. TAYLOR] insisted that the Sergeant-at-Arms should first make a return—

Mr. FARNSWORTH. I rise to a question of order. I would inquire what question is before the House?

The SPEAKER. The gentleman from Ohio submitted the following resolution:

Resolved, That the Sergeant-at-Arms take into custody the members now absent without leave, and have them at the bar of the House to-morrow at eleven o'clock, a. m.

Mr. JOHN COCHRANE. I would ask if that would not have the effect of dispensing with all further proceedings under the call?

The SPEAKER. The Chair is of opinion that the resolution is not in order.

Mr. WASHBURN, of Maine. Would it be in order to move to take a recess? But I would ask, in the first place, whether there is a quorum present?

The SPEAKER. There are one hundred and seventeen members present, if we have lost none while we have been gathering them together.

The Chair has been examining the question which the gentleman from Ohio [Mr. STANTON] presented to the Chair an hour or two since. The Chair came to the conclusion, upon reference to Cushing's Manual, that the resolution of the gentleman from Ohio was perhaps in order. But upon an examination of the Journals, the Chair finds that the very case that is referred to as a precedent is as follows: Mr. McKay, of North Carolina, offered a resolution almost the same in terms, and certainly the same in substance, as the resolution of the gentleman from Ohio. Here it is:

Resolved, That all the members now absent, except such as have been excused, be required, at the meeting of the House on to-morrow morning, to give excuses for their absence at this time; and it shall be the duty of the Clerk to enter their names on the Journal for that purpose."

The Speaker decided that the resolution was out of order. Mr. Ashmun, of Massachusetts, took an appeal from the decision of the Chair, and the decision of the Speaker was overruled by the House. The resolution was entertained and adopted by the House. On the next morning a motion was made to reconsider the vote overrul-

ing the decision of the Chair. It was reconsidered, and then Mr. Ashmun withdrew his appeal, and the resolution of Mr. McKay, having been decided out of order, was not before the House. Thus, the very precedent referred to in Cushing's Law and Practice of Parliamentary Bodies seems to point conclusively to the fact that, upon an adjournment of the House, all proceedings in reference to this call must cease.

Mr. STANTON. If I understand the precedent read by the Chair, it seems to me that the construction is the other way. The Speaker held the resolution not in order. That decision was reversed the following day; and then the vote reversing it was reconsidered.

The SPEAKER. The appeal was withdrawn by Mr. Ashmun, and the resolution was declared then not to be before the House.

Mr. STANTON. So I understand it; but the opinion of the House was, on a direct vote, that the decision of the Chair was wrong. The decision of the Chair was reversed, and the resolution declared to be in order; but the question was evaded by the withdrawal of the resolution.

The SPEAKER. The House reconsidered the vote by which it reversed the decision of the Chair.

Mr. STANTON. The House reconsidered it; but that is not a vote affirmatively on the question.

Mr. JONES, of Tennessee. The gentleman who took the appeal was satisfied, and withdrew it.

Mr. GARNETT. If the Chair has decided that, I wish to raise a question of privilege.

The SPEAKER. The Chair has decided the question.

Mr. GARNETT. Mr. Speaker, nearly every gentleman who has come here and excused himself, has stated that he came voluntarily and without arrest by the Sergeant-at-Arms. My friends from South Carolina, [Messrs. MILES and BONHAM,] who have just come, have made that statement; so has the gentleman from Florida, [Mr. HAWKINS.]. Yet, sir, they were at their usual places of residence. No messenger, no deputy Sergeant-at-Arms, had been sent for them.

Mr. CURTIS. I was not at my quarters.

Mr. GARNETT. I did not make any allusion to the gentleman from Iowa. I did not know anything of his case.

Mr. BONHAM. My colleague and myself were not at our quarters all the time, but we were there until seven or eight o'clock.

Mr. GARNETT. I know that they were at dinner, for I board in the same house with them. The gentleman from Tennessee [Mr. ATKINS] was not arrested. It is the same case with a number of gentlemen round me. I think, then, as a question of privilege, that when we order our Sergeant-at-Arms to arrest those men who have not answered to their names, and he has arrested scarcely one of them, we have a right to know what he and his deputies are doing. I am told by the gentleman from North Carolina that one of these deputies informed a member of the House, who was at the theater, that the House was in session, and had ordered his presence, and that the member positively refused to come with him. The deputy, I say, acted in defiance of the order of the House in not arresting that member. He refused to give to the gentleman from North Carolina the member's name. I think that when the House orders the arrest of absent members, it is due to its own dignity that it shall compel its officers to make some return. We should not be kept here all night waiting for chance and the convenience of different gentlemen, when they have finished their avocation of business or pleasure, with no arrests made, and no Sergeant-at-Arms, or deputy Sergeant-at-Arms proceeding in the discharge of his duty. My question of privilege is, that we require the Sergeant-at-Arms to make some return of what he has done, and what he is doing.

The SPEAKER. The Sergeant-at-Arms has been making returns from time to time himself, and by his deputy more recently. In justice to the Sergeant-at-Arms, the Chair will say that immediately the order was given, he dispatched deputies to the different boarding-houses of the city; subsequently he went himself, and the Chair soon expects him back.

Mr. GARNETT. I have not the slightest idea

who was the gentleman at the theater, to whom I have referred. I know that the Sergeant-at-Arms has been acting through his deputies; but, as every gentleman who comes in says that he has not been arrested, the question naturally arises, what have these deputies done? We have a right to have a return of the facts.

Mr. ZOLLICOFFER. I am under the impression that there have been a good many arrests.

Mr. GARNETT. Only at the door.

Mr. JONES, of Tennessee. It is to be presumed that the Sergeant-at-Arms has been in the discharge of his duty. He has reported here from time to time that he had in custody various members of this House, and it matters not whether he found them at the theater, the hotels, or at the door of this House. They could not get in until the door was opened, and when they made their appearance there he took them into custody, and reported them to the House.

Mr. LOVEJOY. The rules of the House have been rigidly enforced on my colleague; and I would ask whether this debate is on any pending proposition?

The SPEAKER. There is no proposition pending.

Mr. READY. I wish to make a motion; but, before doing so, I wish to make a remark. I am satisfied that a misapprehension prevails in the House in regard to the course which ought to be pursued in reference to the adjournment. I have heard it stated all round me—it has been publicly stated by a number of members—that it would be unjust to those gentlemen who have been arrested, arraigned, and discharged, for the House to adjourn until the other absentees have been treated in the same way. I wish to assure those gentlemen that the members who have been arrested, so far as I have been able to ascertain their feelings in reference to the matter, will not feel themselves in the least aggrieved if the House should now adjourn without bringing in any other absentees. It is now past ten o'clock, and I believe the time has come when the House ought to adjourn. I make that motion.

The Sergeant-at-Arms appeared at the bar, and announced that, in obedience to the order of the House, Messrs. J. GLANCY JONES, OWEN JONES, LANDY, AHL, GILLIS, PHILLIPS, and LEIDY, were within the bar.

Mr. FLORENCE. I rise to what I suppose to be a privileged question. In compliance with a vote of the House, my colleague [Mr. WHITE] and myself were excused from attendance for two or three hours. We are now here; and thanking the House for its kindness, report ourselves ready for duty.

The SPEAKER. Mr. J. GLANCY JONES, you have been arrested and brought to the bar of the House for absentsing yourself from its sittings without its permission. What excuse have you to make?

Mr. J. GLANCY JONES. During this entire session, I have been present at all the daily sessions of the House, and have ever been in favor of proceeding with the public business as long as it was proper for us to remain here. I remained here until five o'clock this afternoon in the discharge of my duty. At five o'clock the vote was taken on the adjournment, and I was informed by the Clerk of the House that it was carried by six majority; and I left the House under the impression that the House had adjourned. As soon as I was informed that my presence was desired here, I presented myself at the earliest convenient opportunity.

Mr. MORGAN. I would like to have the rule read to the gentleman, so that he may know how to determine when the House has adjourned.

Mr. J. GLANCY JONES. And I would say further, that I would be very happy to remain here so long as a quorum will remain here to transact business.

Mr. HOWARD. In consideration of the former good conduct of the illustrious chairman of my committee, I move he be excused on the payment of costs.

Mr. J. GLANCY JONES. I will cheerfully pay the costs if my colleague will strike out the word "former."

Mr. HUGHES. I must have some information in regard to the facts of the case, before I can vote for the motion of the gentleman from Michigan. I have objected to the gentleman who is

now at the bar of the House being arraigned in his absence, and to allusions being made to his *locus in quo*. Now that he is here, before I can vote to excuse him, I feel impelled by a high sense of duty to call upon him to say whether he has been at that dinner which has been so mysteriously alluded to here several times to-night; and I want him to tell the House exactly what he got to eat.

The SPEAKER. The Chair thinks that would hardly be in order. [Laughter.]

Mr. HUGHES. The proposition is to excuse the gentleman. Well, sir, I could vote to excuse a gentleman for going to eat something—

Mr. MOORE. I call the gentleman to order.

The SPEAKER. The Chair is of opinion that the gentleman from Indiana is in order.

Mr. HUGHES. I want the House to take notice of the fact that I am in order once. [Laughter.]

The SPEAKER. The gentleman from Indiana will proceed.

Mr. HUGHES. I am much obliged to the Chair for deciding that I am now in order, and I take considerable credit to myself for being in order once.

Mr. GREENWOOD. I desire to say that the gentleman is proceeding to the great annoyance of his friends.

Mr. HUGHES. Well, sir, I am sorry to annoy my friends, but sacrifices have to be made in the cause of the country. But to resume the remarks at the point where I was interrupted by a call to order—and I always expect to be called to order, and in fact I never get started until I am called to order, and I would say to gentlemen that it is not the proper or gentlemanly mode to shout out "order" from their seats, but that they should rise in their places and raise their points of order with the courtesy which distinguished the gentleman from Alabama [Mr. Moore].

Mr. HOWARD. I rise to a point of order. If the gentleman is in order, it is out of order to discuss the question whether he is in order.

The SPEAKER. The Chair thinks a further discussion of the question of order would hardly be in order. [Laughter.]

Mr. HUGHES. Would it be in order to have a record made of the fact that the gentleman from Michigan [Mr. Howard] has made a good point for once in his life? [Laughter.]

As I was saying, before I can vote to excuse a gentleman for going to dinner—and it is a fact before this House, that the gentleman from Pennsylvania has been to a dinner—I want to know what he had to eat. I can excuse a gentleman for going to eat something, but there are some things which I cannot excuse a gentleman for eating. For instance: it is said Frenchmen eat frogs; but I could not excuse a gentleman of this House for going to dine on the hind legs of a frog, because I regard that as a kind of barbarous dish.

Mr. JOHN COCHRANE. Before this discussion proceeds upon this tender point, I wish to be permitted to ask the gentleman from Pennsylvania whether he has partaken of a frog's hind legs?

Mr. SMITH, of Virginia. I insist that gentlemen shall not be permitted to interrupt each other, except in order.

Mr. J. GLANCY JONES. Mr. Speaker—

The SPEAKER. Objection is made—

Mr. HUGHES. I cannot consent that the gentleman at the bar of the House should be permitted to interrupt these proceedings.

The SPEAKER. The gentleman is not at the bar.

Mr. HUGHES. So much upon the subject of what the gentleman had to eat. It now becomes very important to inquire as to the kind of plates from which he ate, and the kind of forks he used, and particularly whether he used one of those famous golden spoons?

Mr. SMITH, of Virginia. I really do not like to interrupt the gentleman, but I insist upon it, that this is not in order.

Mr. HUGHES. I insist upon it also; and I wish it understood that I do not desire to be out of order.

The SPEAKER. The Chair will hear the gentleman a little further, and hear what he has to say. [Laughter.]

Mr. HUGHES. I am contented with that; and as long as the Chair will hear me, it makes no

difference whether the members will hear me or not.

Then, again, it becomes important to inquire where the gentleman has been to dinner?

The SPEAKER. The Chair thinks that perhaps the gentleman is wandering away from the question. The question is, "Shall the gentleman from Pennsylvania be excused?"

Mr. GREENWOOD. I strongly appeal to the gentleman from Indiana to allow the vote to be taken. We are suffering here.

Mr. HUGHES. Well, Mr. Speaker, the gentleman from Pennsylvania [cries of "Order!" "Order!"] has had his dinner, and I have had mine. [Renewed cries of "Order!"]

Mr. GREENWOOD. I call the gentleman to order; and if the Chair decides that the gentleman from Indiana is in order, I take an appeal from the decision of the Chair.

Mr. HUGHES. I would like to see the point settled.

The SPEAKER. The Chair thinks the gentleman is not in order.

Mr. HUGHES. Now, the question is, shall the gentleman from Pennsylvania be excused? Well, sir, I am in favor of excusing the gentleman, and I am in favor of excusing him without the payment of fees. I think he ought to be excused without payment of fees, because I believe that, in common with many other gentlemen, he left the House under the impression that it had adjourned. I think it a great hardship that he and other gentlemen—myself included—have been brought back here under a sort of snap judgment.

Mr. GREENWOOD. I trust the gentleman will pardon me for trying to bring the gentleman back to the question.

Mr. HUGHES. I will excuse the gentleman from Arkansas. I want that distinctly understood. I excuse him for his many interruptions, and hope he will have to make no further appeals to me to excuse him on that ground. I desire to repel the idea that has been put forth here that any considerable number of members of this House have been derelict in their attendance on the public business of the House during this session.

The SPEAKER. That question is not debatable.

Mr. HUGHES. Especially the gentleman from Pennsylvania—

The SPEAKER. That does not make it in order.

Mr. HUGHES. I observe that the Chair has been with me when everybody else was against me, and now that the Chair has turned against me, I will detain the House no longer.

Mr. STANTON. I desire to know from the gentleman from Pennsylvania how long it is since he was informed that the House was in session and waiting for him without a quorum?

Mr. HUGHES. I object to the inquiry. No person can be called upon to criminate himself.

Mr. STANTON. I insist that I have a right to propound that inquiry to the gentleman from Pennsylvania, as his answer will govern my vote.

Mr. HUGHES. I object to it. The gentleman from Pennsylvania has made his excuse, and it is for the House to deal with it.

Mr. MOORE. I came to this Capitol at nine o'clock this morning to attend my committee, and it is now half past ten o'clock. If we are expected to meet to-morrow to attend to public business, it seems to me that we ought now to adjourn. I therefore move that the House do now adjourn.

The motion was not agreed to.

Mr. J. GLANCY JONES. I am ready to answer the interrogatory.

Mr. MILLSON. I demand the previous question.

The previous question was seconded; and, on ordering the main question, the Speaker announced that there were but fifty-five affirmative votes—less than half of a quorum—and that, therefore, the matter went over till to-morrow.

Mr. WASHBURN, of Maine. The previous question is not in order during the pending of a call of the House, for the reason that there is no quorum.

The SPEAKER. How would the gentleman ever terminate debate, if it were not?

Mr. WASHBURN, of Maine. I make also that point of order—that no debate is in order during a call of the House.

The SPEAKER. Would the gentleman hold that it is not in order for a gentleman to assign his excuse, and for that excuse to be discussed?

Mr. WASHBURN, of Maine. He may certainly make his excuse, but no debate is in order during the pendency of a call of the House.

Mr. MILLSON. I desire to know whether the Speaker has announced that there was not a majority of a quorum voting to order the main question, and decided that a majority of the members present—not being a majority of a quorum—cannot order the main question?

The SPEAKER. The Chair thinks that less than a majority of a quorum cannot order the main question.

Mr. MILLSON. May not those members present—if they have a right to vote on a question—vote under the rules and principles governing the call of the House?

The SPEAKER. The Chair is of opinion that the main question cannot be ordered if there be not a quorum present. The previous question may be moved; but less than a majority of a quorum cannot order the main question.

Mr. JONES, of Tennessee. Less than a quorum can decide the main question, and why not be able to order the main question? We are acting under the rules governing a call of the House, and can dispose of all the questions incident to it without a quorum. It is like a motion to adjourn, which can be carried where there is less than a quorum voting; and the yeas and nays on the motion to adjourn can be ordered by less than a fifth of a quorum.

Mr. MARSHALL, of Kentucky. It is evident there is less than a quorum present now, and I suppose the House does not desire to carry on this thing any further. I move that all further proceedings under the call be dispensed with.

Mr. J. GLANCY JONES. I wish to reply to the inquiry of the gentleman from Ohio, [Mr. STANTON.]

Mr. FLORENCE. I object.

Mr. COLFAX. I rise to a question of order. The Speaker has decided that this case stands over till to-morrow. The next case should now be taken up.

The SPEAKER. The Chair is of opinion that in entertaining the demand for the previous question, the Chair erred. No demand for the previous question can be entertained when there is less than a quorum of the House present.

Mr. WASHBURN, of Maine. I desire to offer the following resolution:

Resolved, That this House take a recess till to-morrow at eleven o'clock a. m., and that in the mean time the Sergeant at Arms take into custody the members of the House now absent without leave, and have them at its bar at that time.

The resolution was not agreed to.

The SPEAKER. The question recurs on the motion to discharge Mr. J. GLANCY JONES on payment of fees.

Mr. MARSHALL, of Kentucky. What becomes of my motion?

The SPEAKER. The gentleman's motion is in order.

Mr. READY. I rise to a question of order. I was upon the floor when the Sergeant-at-Arms announced that he had certain members at the bar of the House, and I was requested by the Speaker to suspend until he made his report. I have never yet yielded the floor, and I decline to yield it now for any purpose except to enable the gentlemen, who are in custody, to render their excuses.

Mr. J. GLANCY JONES. I merely wish to answer the interrogatory propounded to me by the gentleman from Ohio.

Mr. SICKLES. I object.

The SPEAKER. The gentleman has a right to answer it.

Mr. J. GLANCY JONES. I had an invitation two or three days since to dine with the President of the United States to-day; such an invitation, as I suppose, has been extended to every other member.

Several MEMBERS, on the Republican side of the House. On the other side, not this.

Mr. J. GLANCY JONES. Well, I hope it has, or will be. I accepted that invitation with the reservation that I always make—

Mr. MORRIS, of Illinois. I rise to a question of order. The gentleman is not answering the question propounded to him. The question was,

at what time he was notified by the Sergeant-at-Arms that the House was in session and without a quorum?

Mr. J. GLANCY JONES. I hope the gentleman from Illinois will excuse me if I am a little prolix.

Several MEMBERS. Come to the point.

Mr. J. GLANCY JONES. I was saying that I accepted the invitation with the reservation that I would never leave this House so long as it was in session. And I would not have left the House till twelve o'clock to-night, or any other hour, unless I had been under the impression that the House had adjourned. I always feel it my duty to remain here until the House does adjourn; but I was informed that the House had adjourned, and then I left here and went to my lodgings. I remained at my lodgings at least an hour, and could have been summoned during that time. I left my lodgings at the end of an hour, supposing that, after the House had adjourned, I was at liberty to do as I pleased, and since then I have received no communication from any officer of the House except through a third person, and that communication was that I was expected to report myself here by half past nine or ten o'clock; and in obedience to that summons I have reported myself here.

Mr. WALBRIDGE. I wish to ask the gentleman at what time he received notice that the House was awaiting his presence and that of other gentlemen in order to make a quorum?

Mr. JONES, of Tennessee. This House has not been in session for any business purposes for the last five hours.

Mr. CURTIS. The gentleman from Pennsylvania seems to put the blame of his delinquencies upon two officers of this House—first upon the Clerk, who informed him that the House had adjourned, and then upon the Sergeant-at-Arms, who failed to notify him that his attendance was needed here. Under these circumstances, and as, according to his statement, these officers appear to have been culpable, I move that he be excused.

Mr. J. GLANCY JONES. Allow me to correct an erroneous impression. I want to do injustice to no one. The Sergeant-at-Arms, I have no doubt, discharged his duty faithfully. The information reached me through a third person, at a late hour. Nor is the Clerk of this House responsible. I went to the desk myself and inquired how the vote on the adjournment stood, and was informed that there was a majority of six in favor of adjourning against my own vote. I could not anticipate that gentlemen would subsequently change their votes. That was my error. I had no foreknowledge that gentlemen would change their votes and send after me. It was not the fault of the Clerk. Nor was it the fault of the Sergeant-at-Arms that I was not here sooner. In this "city of magnificent distances" it took a long period, perhaps, to reach me.

Mr. WALBRIDGE. I hope the gentleman will answer my question. My vote will depend upon his answer.

Mr. SANDIDGE. I hope the gentlemen, with whom I have acted throughout this whole proceeding, will allow the same action to be taken in this case as in others.

[Cries of "Agreed!" and "That's fair!"]

Mr. J. GLANCY JONES was then ordered to be discharged from custody on payment of the fees.

The SPEAKER. Mr. AHL, what reason have you to assign for your absence from the sittings of the House without its leave?

Mr. AHL. I have no apology to offer further than that I remained here until after the usual hour of adjournment, and then, believing that my services were not particularly required here, and having a previous engagement, I absented myself.

Mr. UNDERWOOD. I move that the gentleman be discharged on payment of fees.

The motion was agreed to.

The Sergeant-at-Arms appeared and announced that, in obedience to the order of the House, Messrs BOWIE, CAMPBELL, and WHITELEY were now within the bar of the House.

The SPEAKER. Mr. GILLIS, what reasons have you to assign for your absence from the House without its leave?

Mr. GILLIS. Mr. Speaker, I am the humble representative of the wild-cat district of Pennsylvania, [laughter;] and it is not to be expected that either the people of that district or their Represent-

ative should be completely conversant with all the rules of this House, or any other disorderly body. [Renewed laughter.] It is not to be expected that either they or their Representative should be acquainted with all the etiquette of this "city of magnificent distances," as my colleague has called it. I was invited to dine with the President to-day; and I had been informed that it was etiquette with members of this body that an invitation to the President's was an imperative order, and could not be disobeyed. [Great laughter.] Regarding it in that light, I accepted the invitation. I have been dining with the President, and have enjoyed myself, and enjoyed the company after dinner very much; and now I am willing to pay for it. [Excessive laughter.] Mr. Speaker, I am afraid that gentlemen on the other side of the House, who did not receive invitations, are a little envious because they did not. [Renewed laughter.]

I have only another word to say. I heard that the Sergeant-at-Arms was after me, and I flew, not to the horns of the altar, but to the horns of old Buck. I seized them, and held on to them, until I found that I was out of danger. Then I let loose, and came here; and now throw myself upon the mercy of the House. [Laughter.]

Mr. MOORE. I move that the gentleman be discharged without paying fees.

Mr. MORGAN. I move that he be discharged on payment of fees.

The question was taken; and the amendment was agreed to; and then the motion as amended was agreed to.

Mr. GILLIS. I return my thanks to the House. I am perfectly willing to pay the costs for this dinner. [Laughter.]

The SPEAKER. Mr. LANDY, of Pennsylvania, you have been arrested and brought to the bar of the House for absentsing yourself from its sittings without its permission. What reason have you to assign for your absence?

Mr. LANDY. From the beginning of this session I have, unless sickness prevented, punctually attended the sittings of the House. At a late hour of the evening I left the Hall to answer an engagement which I had made. I have no apology to make, and whatever is the penalty let it be inflicted.

Mr. WASHBURN, of Illinois. I move that the gentleman be discharged on payment of fees.

The motion was agreed to.

The SPEAKER. Mr. OWEN JONES, of Pennsylvania, you have been arrested and brought to the bar of the House for absentsing yourself from its sittings without its permission. What reason have you to assign for your absence?

Mr. OWEN JONES. I have little, if any, excuse to offer for my absence on this occasion. I remained here until I was very hungry, and I then left to get my dinner. I am willing to make amend to the House by payment of fees; and I will say that I have eaten many a worse dinner, at greater cost, than I am likely now to be mulcted in.

Mr. GROW. I move that my colleague be discharged on payment of fees.

The motion was agreed to.

The SPEAKER. Mr. PHILLIPS, of Pennsylvania, you have been arrested and brought to the bar of the House for absentsing yourself from its sittings without its permission. What excuse have you to offer?

Mr. PHILLIPS. If I thought my absence from the House prevented its doing any business, I would regret it; but from what I learn, the House has got on quite as well without as it would have done with me. I voted against the adjournment more than once to-day, and I did so because I thought it was right thus to rebuke those who are habitually absent from the Hall. I did not leave the Hall until I was informed that the House had agreed to adjourn. Still, I knew that a call of the House was probable.

There is one thing, surely, which entitles me to the indulgence of the House. The House seems, during this call, to have had a great deal of amusement, and I will tell them that it was to my kindness in moving that there be a call of the House, that gentlemen have remained here to enjoy themselves as they have. I throw myself upon their gratitude. [Laughter.]

Mr. ENGLISH. I move that the gentleman be discharged on the payment of all the fees im-

posed upon the other members; and on that I demand the yeas and nays.

The SPEAKER. The Chair thinks the House has no power to impose a greater fine than that recognized by the rules.

Mr. KUNKEL, of Pennsylvania. I move that my colleague be discharged on the payment of fees.

Mr. STANTON. I move that he be fined fifty dollars. A gentleman should not be let off so easily, who moves a call of the House, and then abandons the Hall, leaving the House in session.

Mr. PHILLIPS. The adjournment, I thought, was carried, when I left, and carried, too, against my vote. I would have remained here as long as any other gentleman, if I had not labored under a misapprehension.

The SPEAKER. The motion of the gentleman from Ohio is not in order.

The question was taken on Mr. KUNKEL's motion; and it was agreed to.

The SPEAKER. Mr. LEIDY, of Pennsylvania, you have been arrested and brought to the bar of the House for absentsing yourself from its sittings without permission. What excuse have you to offer?

Mr. LEIDY. I accepted an invitation to dinner, and thinking the House had adjourned, I went to meet my engagement. That is the only excuse I have to offer. I am here at the request of the House.

Mr. LEITER. I move that my colleague be discharged on the payment of fees.

The question was taken; and the motion was agreed to.

The SPEAKER. Mr. BOWIE, you have been arrested and brought to the bar of the House for absentsing yourself from its sittings without permission. What reason have you to offer for your absence?

Mr. BOWIE. I will give my reason. When I left this House, it was reported that the House had adjourned, and under that impression I went home. I have been suffering from sickness for eight or ten days, with an intermittent fever. I remained up here until five o'clock; and when I was told that the House had adjourned, I took my hat and went off. I went to bed. Shortly after I had got into bed I was molested by a messenger of the Sergeant-at-Arms. I told him to say to the House that I was laboring under high fever. He promised me faithfully that he would so report. Not satisfied with that, however, I was molested the second time, [laughter;] and I gave the same response; and finally I was molested the third time. [Laughter.] I then said to myself, "I will go up, and see what is going on. There must be something very extraordinary going on that requires my attendance." [Laughter.] Now, Mr. Speaker, I have no apology to offer to the House. I think, truly and sincerely, that the House owes me an apology. If the Sergeant-at-Arms, or his deputy, had reported as I charged him to do, I am sure the House would have excused my absence; but when the third messenger came, feeling bound to obey the order of the House—which I would do even at the risk of life itself—I have come here before the House. Allow me to say, sir, that, in my humble judgment, those gentlemen who changed their votes on the adjournment, and thereby changed the result, ought to be made to pay the whole cost. [Applauding laughter.] That is the truth; that is the justice. The House had *bona fide* adjourned. Gentlemen had gone home under the assurance that it was so; yet, by some trick or another, our sick beds have been molested, and we have been dragged up here, under the power of this House, to answer the mere caprices of certain gentlemen who thought proper to change their votes.

Sir, it is a wicked proceeding. [Laughter.] It is an unjust proceeding. It is a proceeding which ought not to be tolerated at all, for an instant, by this House, as I most solemnly think. My profession, sir, is one which demands obedience. I have obeyed the order of the House; but I do not feel called upon to make any excuse to anybody, for I have done no wrong. I certainly have committed no offense against the majesty of this body. Sir, "I would give millions for defense, but not one cent for tribute." [Roars of laughter.] I am in no default, but have come here without the power of the mace. On the third call, I volunteered to come up.

Mr. MARSHALL, of Kentucky. Concurring

as I do in the opinion of my friend from Maryland, that the House owes him an apology, I move that he be discharged.

The motion was agreed to.

The SPEAKER. Mr. CAMPBELL, of Ohio.

Mr. CAMPBELL. Without any summons from the Sergeant-at-Arms, Mr. Speaker, I appeared here a few minutes since, understanding that the House was still in session, and that there was business to be discharged. Am I arraigned? [The Speaker nodded affirmatively.] I am—and as a member of the House? My position, at best, Mr. Speaker, is somewhat equivocal. Your Committee of Elections reported, yesterday, I believe, that I was, that I was not, and that nobody was, a member of this House from the third congressional district of Ohio. I remained here during the whole of the proceedings of to-day, until about a quarter before five o'clock, when I thought I ought to have some dinner—not at the President's, for I am not on the congressional roll of those who are invited there, and who are willing to pay for their dinners. [Laughter.] I retired to my room. Your Sergeant-at-Arms did not call on me; but half an hour since—having paired off, by-the-way, with my friend from Delaware, [Mr. WHITELEY]—I returned and reported myself at the door. I have no fears, and no favors to ask. I am willing to discharge any obligation that may be imposed upon me, if I have violated the rules of the House.

Mr. WASHBURN, of Maine. I move that the gentleman be excused on the payment of fees.

The motion was agreed to.

The SPEAKER. Mr. WHITELEY, of Delaware.

Mr. WHITELEY. I have no excuse to offer, Mr. Speaker, other than this: having no colleague in the House to attend to the business in the Departments, I have to do it. I came up to the House this morning, and found that the only private bill for my State that has been before Congress for ten years was objected to; and I left the House in disgust, [laughter,] and went to attend to my business in the Departments. That is the only excuse I have to offer.

Mr. MARSHALL, of Illinois. I move that the gentleman from Delaware be discharged.

Mr. MORGAN. I move to amend by adding "on payment of fees."

The amendment was adopted; and the motion, as amended, was agreed to.

The SPEAKER. Mr. WOOD, of Maine.

Mr. WOOD. I have no excuse to offer to the House. I came here about half past nine o'clock this morning to attend the special committee on which I am serving, and remained here till nearly three o'clock. Not feeling very well, I paired off with Mr. MACLAY, and went down to my lodgings to take dinner; and since that time I have been engaged on business pertaining to my duties as a Representative. I have no further excuse to offer.

Mr. BLISS. I move that the gentleman be discharged on payment of the usual fees.

The motion was agreed to.

Mr. KUNKEL, of Pennsylvania. I move that the House do now adjourn.

Mr. OWEN JONES. I rise to a question of privilege.

The SPEAKER. There can be no question of higher privilege than the motion to adjourn.

Mr. CLEMENS demanded the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

Mr. PENDLETON. I desire to ask to be excused from the further attendance upon the House to-night.

The SPEAKER. The pending question must first be disposed of.

The question was taken; and it was decided in the affirmative—yeas 78, nays 45; as follows:

YEAS—Messrs. Ahl, Anderson, Andrews, Arnold, Billingshurst, Brigham, Bliss, Boyce, Chaffee, Chapman, Clay, John Cochran, Cockerill, Cox, Curtis, Davis of Iowa, Dodd, Durfee, Farnsworth, Fenton, Florence, Gillis, Gooch, Goodwin, Gauger, Greenwood, Grossbeck, Grow, Hatch, Hawkins, Howard, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Kellogg, Knapp, Jacob M. Kunkel, John C. Kunkel, Landry, Leeds, Humphrey Marshall, Maynard, Miller, Milson, Moore, Morrill, Oliver A. Morse, Olin, Pendleton, Phelps, Phillips, Purviance, Royce, John Sherman, Judson W. Sherman, Sinsdine, William Smith, Stanton, Stevenson, Talbot, George Taylor, Tompkins, Trippie, Underwood, Walton, Elihu B. Washburne, Isaac Washburn, White, Whiteley, Wilson, Winslow, Wortendyke, and Zolteoff—78.

NAYS—Messrs. Abbott, Bonham, Bowie, Buffinton, Bur-

lingame, Burns, Campbell, Clawson, Clemens, Colfax, Covode, Davies, English, Foley, Foster, Garnett, Hughes, Huyler, Jackson, Owen Jones, Kelsey, Leiter, Lovjoy, Matteson, Miles, Morgan, Isaac N. Morris, Mott, Palmer, Pettit, Pike, Potter, Potte, Robbins, Ruffin, Sandidge, Henry M. Shaw, Spinner, James A. Stewart, William Stewart, Miles Taylor, Wade, Waldron, and Wood—45.

During the call of the roll,

Mr. DAWES stated that his colleague, Mr. ROBERT B. HALL, had been obliged to leave the House to-day on account of indisposition, and had since been confined to his bed.

Mr. CURTIS stated that out of respect for the officers of the House, many of whom were quite exhausted, he should vote to adjourn, and hoped his friends would do the same.

The result of the vote having been announced, the House (at twenty minutes after eleven o'clock, p. m.) adjourned.

IN SENATE.

SATURDAY, May 15, 1858.

Prayer by Rev. J. MORSELL.

The Journal of yesterday was read and approved.

COURT OF CLAIMS.

The VICE PRESIDENT laid before the Senate a report of the Court of Claims, made in pursuance of law, in favor of the claim of Richard Fitzpatrick; which was referred to the Committee on Claims.

INDIANA CONTESTED ELECTION.

He also laid before the Senate testimony in the case of the contested election of the Hon. JESSE D. BRIGHT and the Hon. GRAHAM N. FITCH, as Senators of the United States from the State of Indiana; which was referred to the Committee on the Judiciary.

PETITIONS AND MEMORIALS.

Mr. GWIN presented a resolution of the Legislature of California, in favor of the construction of a breakwater at San Louis Obispo, in that State; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. BRODERICK presented a resolution of the Legislature of California, in favor of a donation of land to each of the States and Territories of the Union, for the endowment and maintenance of colleges for instruction in such branches of education as pertain to agriculture, the mechanic arts, and natural history; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a certified copy of an act of the Legislature of California, concerning the city of San Francisco, and to ratify and confirm certain ordinances of the Common Council of said city; which was referred to the Committee on Public Lands.

Mr. SEWARD presented a memorial of James Monroe, praying to be allowed arrears of pension; which was referred to the Committee on Pensions.

He also presented a memorial of the president and directors of the Metropolitan Railroad Company, asking for the assent of Congress to the act of the Legislature of Maryland, incorporating that company in the District of Columbia, and authority to extend their railroad through Georgetown and Washington; which was referred to the Committee on the District of Columbia.

Mr. HAMMOND presented a memorial of the Chamber of Commerce of Charleston, praying for an appropriation for the lighting, buoying, &c., of Maffit's channel; which was referred to the Committee on Commerce.

Mr. PEARCE presented two petitions of citizens of Washington, praying for a donation of land, or an appropriation of money, for the permanent endowment of the Columbian College in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. HARLAN presented papers in favor of the establishment of a mail route from Burlington to Farmington, in the State of Iowa; which were referred to the Committee on the Post Office and Post Roads.

Mr. DOOLITTLE presented the petition of William Merrihew, an officer of the Army in the Mexican war, praying for additional pay as such; which was referred to the Committee on Military Affairs and Militia.

Mr. POLK presented a memorial of R. H. Miller & Sons, praying that the duties paid by

them on certain earthenware imported by them, and destroyed by fire *in transitu* from New Orleans to St. Louis, may be refunded; which was referred to the Committee on Finance.

Mr. CRITTENDEN presented a memorial of T. P. Shaffner, of Kentucky, praying for an amendment of the act of Congress approved March 3, 1857, entitled "An act to expedite telegraphic communication for the uses of the Government in its foreign intercourse," so that the subsidy granted by that act shall be general in its application to all Atlantic ocean telegraph lines; which was referred to the Committee on the Judiciary; and a motion by him to print it was referred to the Committee on Printing.

Mr. RICE presented twelve memorials of the Legislature of Minnesota, praying for the establishment of the following mail routes: between Shockapee, St. Valentine, Rockford, Monticello, and Clearwater, in that State; from the city of Glencoe to Watertown, in said State; from the city of Glencoe to Clearwater; from Minneapolis to Kandjoki; from Elliot to Blue Earth; from Minneapolis to Henderson; from St. Peter's to the Sioux Agency; from Brownsville to Winona; from Loo-neysville, in Houston county, via Houston, Yucatan, Dedham, and Lenora, to Elliot; from McGregor, in Iowa, to Owatonna, in Minnesota; from Chatfield to Austin; and from Chatfield to Winnebago City in that State; which were referred to the Committee on the Post Offices and Post Roads.

He also presented a memorial of the Legislature of Minnesota, in favor of an appropriation for the erection of a bridge across Root river, in township one hundred and four, range eight west, county of Fillmore, in that State; which was referred to the Committee on the Post Office and Post Roads.

He also presented a memorial of the citizens of the county of Pembina, in the Territory of Dakota, praying for the early organization of the Territory, and for the establishment of the capital at St. Joseph; which was referred to the Committee on Territories.

He also presented a memorial of the Legislature of Minnesota, praying that an appropriation may be made for the improvement of the St. Croix river; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislature of Minnesota, praying that an appropriation may be made for the improvement of the Mississippi river, from the mouth of the Minnesota river to Sauk rapids; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislature of Minnesota, praying that an appropriation may be made for the removal of the Beef Slough bar, in the Mississippi river; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislature of Minnesota, praying for a donation of land for the establishment of an agricultural college in that State; which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislature of Minnesota praying for the enactment of a law securing to every person who will settle upon and occupy one hundred and sixty acres of land for five years, and have forty acres of the same, at the end of that time, under good cultivation, the right to purchase the same at a cost not exceeding the actual cost and expense of survey and transfer; which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislature of Minnesota, in favor of an amendment of the second section of "An act granting land to Minnesota for railroad purposes;" which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislature of Minnesota, praying an appropriation to aid in the construction of a wagon road from some point on Lake Superior, in the State of Minnesota, to the South Pass of the Rocky Mountains; which was referred to the Committee on Military Affairs and Militia.

He also presented a memorial of the Legislature of Minnesota, praying relief to those settlers whose preemption claims have been lost by the grant of land to Minnesota for railroad purposes; which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislature

of Minnesota, in favor of an appropriation to complete the Point Douglas and St. Louis military road; which was referred to the Committee on Military Affairs and Militia.

He also presented a memorial of the citizens of Buchanan, Minnesota, in favor of the northern Pacific railroad route; which was referred to the select committee on the Pacific railroad.

He also presented papers relating to the claim of Lewis Roberts, for indemnification for losses sustained by him by the burning of certain Indian supplies while being transported to the Indian country in November, 1855; which were referred to the Committee on Indian Affairs.

Mr. THOMSON, of New Jersey, presented a petition of citizens of New York, praying that the public lands may be laid out in lots or farms of limited size, for the free and exclusive use of actual settlers not possessed of other lands; which was ordered to lie on the table.

SEIZURE OF J. M. AINSA.

Mr. GWIN presented a joint resolution of the Legislature of California, in relation to the release of J. M. Ainsa, an American citizen, held captive in Sonora, Mexico; which was read, as follows:

Whereas, J. M. Ainsa, an American citizen, pursuing a peaceful occupation on American soil, was, on the night of the 10th or 11th of April, 1857, arrested by an armed band of Mexicans, at the store of Messrs. Belknap & Dunbar, in the Guadalupe Purchase, and conducted thence, a prisoner in chains, to Hermosillo, and thence to the port of Guaymas, in Sonora, where he has since been detained as captive; and whereas, it is the duty of the American Government, at all times and under all circumstances, to protect the lives and property of its citizens: Therefore,

Resolved, That the Governor of California be instructed, and he is hereby authorized, to communicate with the President of the United States, setting forth these facts and such other testimony as may be furnished him in the premises, and requesting that officer to use the power of the General Government, so far as he is enabled, to effect the release of the said Ainsa, and his restoration to all the rights and immunities of which he was possessed before said arrest and imprisonment.

Resolved, That the Governor be requested to forward copies of these resolutions to the President of the United States and each of our Senators and Representatives in Congress.

Mr. GWIN. Mr. President, the young gentleman, Mr. Ainsa, to whom these resolutions of the Legislature of California refer, is a brother-in-law of the gallant Colonel Crabb, who, with his brave associates, was massacred in Sonora, more than a year ago, through the instrumentality of the very man who invited and advised the expedition. The history of that bloody tragedy is unwritten; and it seems to be the earnest endeavor of those who planned the butchery of that ill-fated party to destroy all evidence of the part they acted in inviting Colonel Crabb into the country. Mr. Ainsa is perhaps the only living witness who could tell the whole of this horrible history; and hence his seizure on American soil, and subsequent detention as a captive at Guaymas.

Mr. President, I cannot restrain the expression of indignant denunciation of the atrocious acts of murder, robbery, and captivity, to which our citizens on the borders of Mexico and the northern Pacific Mexican coast have been subjected within the last few years, and the absence of successful efforts on the part of our Government to visit the guilty parties with summary punishment. In the case of Mr. Ainsa, he was in the employ of Mr. Dunbar, an American citizen engaged in commercial pursuits within our boundaries. At the same place, four American citizens were ruthlessly murdered by Mexicans stimulated by their desire for plunder and hatred of our people. They have gone unwhipped of justice, as have the captors of young Ainsa. His father, now and for many years a respected citizen of California, whose daughters are intermarried with our most respected citizens, is a native of Sonora; but is now, with his sons, an American citizen. Since the capture of this young man, he has been forced to sign papers denying that he was an American citizen, to put a stop to the intervention of our Government in his behalf. His case was brought before the Senators and Representatives in Congress from California last summer by his distressed family; and we united in a letter to our Minister to Mexico, earnestly urging him to exert his influence to procure Mr. Ainsa's release from captivity and restoration to his home.

In reply to our letter of the 8th of August last, he said that the President of the Republic, General Comonfort, had "that day issued an order

that Ainsa should be restored to Sonora, where he had been illegally seized, and at the proper costs of the Mexican Government," thus confessing all the facts charged. The authorities of Sonora have paid no attention to the order; and as Mr. Forsyth, our Minister, further says:

"This Government has not a shadow of authority in Sonora; in fact, that State is as alien to this capital as is San Francisco; and when, as I thought, Mr. Ainsa had been set at liberty, according to the engagements of the Government, I find, by your letter, that he has not; and as this country is now in revolution, I find it utterly impossible to do anything in this matter until peace and order are restored."

And when, Mr. President, will that time come? And are our citizens to be held captive because there is no stable Government to be held responsible for these detentions? I have applied to the Secretary of the Navy to have a steamship of war ordered to the Mexican Pacific coast, to protect our citizens in their lives, liberty, and property; and have received the response that none can be spared from other service. I shall move to refer these resolutions of my State to the Committee on Foreign Relations; and earnestly ask their attention to the subject. I hope this Congress will not adjourn before means are placed at the disposal of the Government to demand not only the release of Mr. Ainsa, but to redress the numerous outrages perpetrated upon our citizens in that portion of the Mexican Republic. I move that the resolutions be referred to the Committee on Foreign Relations, and be printed.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. CLAY, from the Committee on Commerce, to whom was referred the petition of inhabitants of the town of Duxbury, Massachusetts, engaged and interested in the cod and haddock fisheries, reported adversely thereon, and asked that the committee be discharged from the further consideration of the subject; which was agreed to.

Mr. CLARK, from the Committee on Claims, to whom was referred a memorial of Hezekiah Miller, submitted an adverse report; which was ordered to be printed.

Mr. CLAY, from the Committee on Commerce, to whom was referred the bill (S. No. 217) to constitute Montgomery, in the State of Alabama, a port of delivery, reported it without amendment.

Mr. CLARK, from the Committee on Claims, to whom was referred the petition of John Grayson, submitted a report, accompanied by a joint resolution, (S. No. 38) for the relief of John Grayson. The resolution was read and passed to a second reading; and the report was ordered to be printed.

Mr. DAVIS, from the Committee on Military Affairs and Militia, who were instructed by a resolution of the Senate of the 3d instant to inquire into the subject, submitted a report accompanied by a bill (S. No. 367) to provide for the payment of certain California claims. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the report of the Secretary of War communicating, in compliance with a resolution of the Senate, the reports of the officers sent to Europe in 1855, to collect information in relation to military affairs, so far as they have not been heretofore communicated to the Senate, reported a joint resolution (S. No. 39) directing the printing of certain reports therein mentioned; which was read twice by its title, and referred to the Committee on Printing.

Mr. IVERSON, from the Committee on Claims, to whom was referred a petition of Eliza E. Ogden, submitted a report accompanied by a bill (S. No. 368) for the relief of Mrs. Eliza E. Ogden. The bill was read, and passed to a second reading; and the report was ordered to be printed.

INTERNAL IMPROVEMENTS.

Mr. CLAY. The Committee on Commerce, to whom were referred various bills for the improvement of certain rivers and harbors, together with the memorials and resolutions of several State Legislatures in behalf of the same or similar works, have had the subject under consideration, and have instructed me to report that they think it inexpedient to make the appropriations prayed for in the several bills and resolutions. The committee found, on careful estimate, that it would

require not less than \$3,000,000 to make the appropriations which are prayed for, and thought that in the present and prospective condition of the Treasury, it would be inexpedient, if no other objection could be raised to carrying on these works. They concluded with almost entire unanimity to make no appropriations except for the repair of works which, without such immediate appropriations, would go into destruction; and with that view, they have instructed me to report, in accordance with the recommendations of the topographical engineers of the War Department, certain bills in lieu of those which have been sent to the committee from the Senate. These bills are some twenty in number. I suppose it is unnecessary to read them over.

It is proper, perhaps, to say, that in accordance with the view of the committee and their instructions, I addressed a letter to the Secretary of War, advising him that the committee had determined to report no bill for the improvement of rivers or harbors, except in such cases as the corps of engineers supervising those works believed was indispensable to the preservation of works already made, and requesting him to furnish the committee with a list of such works, and such appropriations as would come within that class; and these bills have been drawn in accordance with the answer received from the War Department.

The petitions and memorials referred to by Mr. CLAY were as follows:

A memorial of a committee of the corporation of Georgetown, praying an appropriation for the removal of the mud in the harbor of that town; a memorial of a committee of the corporation of Georgetown, praying an appropriation for the improvement of the navigation of that place; a petition of citizens of California, praying that an appropriation may be made for the survey of the harbor of Crescent City, with a view to the construction of a breakwater; a resolution of the Legislature of Iowa, in favor of an appropriation of money for a double-track railroad around the lower rapids in the Mississippi river, on the west side of the river; resolutions of the Legislature of Massachusetts, in favor of a scientific survey of the harbor of Boston; resolutions of the Legislature of New Jersey, in favor of appropriations for the better preservation of life and property in case of shipwreck, and for the more effective working of the Government apparatus on the coast of New Jersey; a petition of the inhabitants of Jefferson county, New York, praying for the construction of a breakwater at the port of Cape Vincent; memorial of underwriters of Philadelphia, praying that a steam revenue cutter may be built at that place, and stationed in the Delaware bay and the coast adjacent thereto; petition of certain persons calling themselves Hollanders, adopted citizens of Michigan, praying for the improvement of Black Lake harbor, in that State, and compensation for a pile-driver lost while in the service of the United States; petition of citizens of Florida, praying that a light-house or light-boat may be placed at Bacon Rock, about ten miles west of Bayport; memorial of the Legislature of Wisconsin, in favor of the erection of a light-house at the mouth of Keweenaw river; petition of citizens of Wisconsin, praying for the erection of a light-house at Keweenaw; memorial of B. D. Hills and others, praying for the erection of a light-house at the mouth of the Keweenaw river, Wisconsin; two petitions of citizens of Michigan, praying for the improvement of the harbors of Mackinaw City, and the erection of a fort, a light-house, and a custom-house, at that point; petition of the residents of Ohio, praying the improvement of the harbor of Mackinaw City, the erection of a light-house and a custom-house thereat, also, a fort for the protection of the cities on Lake Michigan; petition of citizens of Lockport, New York, praying for the construction of a harbor of refuge at New Buffalo, Michigan; resolution of the Legislature of Michigan, in favor of an appropriation for the repair of the St. Mary's Falls ship canal; petition of citizens of Ashtabula county, Ohio, praying for the improvement of Ashtabula harbor; memorial and resolution of the Legislature of Nebraska, praying for an appropriation to bridge the Platte river; petition of citizens of Ashtabula, Ohio, praying for the repair or rebuilding of the light and pier at that place; resolutions of the board of trade of Cleveland, Ohio, in favor of an appropriation of public

lands to aid in the construction of a ship canal around the Falls of Niagara; resolution of the Legislature of Michigan, in favor of an appropriation for the improvement of certain harbors; a resolution of the Senate in relation to appropriations for repairs and security of the works heretofore commenced for the improvement of harbors and navigable rivers; and a resolution of the Senate in relation to an appropriation for completing the removal of the raft of Red river; and the committee was discharged from their further consideration.

The bills reported on adversely are as follows: A bill (S. No. 5) to provide for a survey of the Ohio river and its principal tributaries;

A bill (S. No. 19) to continue the improvement in the harbor of Newark, New Jersey;

A bill (S. No. 7) for the improvement of navigation at the falls of the Ohio river;

A bill (S. No. 43) to authorize the improvement of the Mississippi, Missouri, Ohio, and Arkansas rivers by contract, and making appropriations for the same;

A bill (S. No. 146) making an appropriation for deepening the channel over the St. Mary's river, in the State of Michigan;

A bill (S. No. 147) making an appropriation for deepening the channel over the St. Clair flats, in the State of Michigan; and

A bill (S. No. 228) making appropriations for certain public works in the State of Maine.

The following new bills reported by the committee, were severally read the first time, and ordered to a second reading:

A bill (S. No. 341) making appropriations for repairing and securing the works at the harbor of Chicago, Illinois;

A bill (S. No. 342) making appropriations for the preservation and repair of the piers at the mouth of Milwaukee river, Wisconsin;

A bill (S. No. 343) making appropriations for repairing the piers at the harbor of Sheboygan, Wisconsin;

A bill (S. No. 344) making appropriations for repairing the works at the harbor of St. Joseph, Michigan;

A bill (S. No. 345) making appropriations for repairing the works at the harbor of Monroe, Michigan;

A bill (S. No. 346) making appropriations for completing the improvements in the raft region of Red river;

A bill (S. No. 347) making appropriations for deepening the channel through the St. Clair flats, Michigan;

A bill (S. No. 348) making appropriations for the preservation of steam dredges and appurtenances;

A bill (S. No. 349) making appropriations for repairs of the piers at Burlington, Vermont;

A bill (S. No. 350) making appropriations for immediate repairs required for the preservation of Oswego harbor, New York;

A bill (S. No. 351) making appropriations for repairing the piers at Sodus Bay harbor, Wayne county, New York, and for dredging between the channel piers;

A bill (S. No. 352) making appropriations for repairing the public works at Genesee harbor, New York;

A bill (S. No. 353) making appropriations for repairing the piers of Oak Orchard harbor, New York;

A bill (S. No. 354) making appropriations for repairing the public works at Buffalo harbor, New York.

A bill (S. No. 355) making appropriations for the immediate repair of Dunkirk harbor works;

A bill (S. No. 356) making appropriations for immediate repair of the piers at Erie harbor, Pennsylvania;

A bill (S. No. 357) making appropriations for repairing the works at the harbor of Conneaut, Ohio;

A bill (S. No. 358) making appropriations for repairing the works at the harbor of Ashtabula, Ohio;

A bill (S. No. 359) making appropriations for repairs upon the works at Grand River harbor, Ohio;

A bill (S. No. 360) making appropriations for securing and repairing the works at the harbor of Cleveland, Ohio;

A bill (S. No. 361) making appropriations for

repairs upon the works at Black River harbor, Ohio;

A bill (S. No. 362) making appropriations for repairs upon the works at Huron harbor, Ohio; and

A bill (S. No. 363) making appropriations for unforeseen contingencies of lake harbors.

Mr. CLAY. I will take occasion to say to the Senate that there may be some surprise on the part of some members that other bills have not been reported for works in other sections of the country, as these are confined almost exclusively to the northwestern lakes; but the committee have conformed entirely to the advice of the board of topographical engineers, limiting the bills to such works only as, in the opinion of that board, required immediate appropriations to preserve them from decay and destruction. I will say, moreover, in behalf of the Senator from Georgia [Mr. Toombs] and myself, that I reported these bills in accordance with the instructions of the majority of the committee; and he and I do not assent to their constitutionality or their expediency.

Mr. HAMLIN. What the Senator from Alabama has said in relation to the report is all very accurate. There is, however, one other fact which I think ought to be stated, to give the Senate an idea of the whole matter. At all events, I think that some Senators who have not examined the matter carefully may not entertain precisely the right view of the subject from the statement the Senator has made, and he has made it very truthfully. All I desire to say is this: the committee classified the subjects which were referred to them; they concluded to make no recommendations, and to report no bills for continuing any work in process of construction; but they have reported another set of bills in accordance with the recommendation of the Department to preserve works, and to prevent them from going into decay. The point to which I wish to call the attention of the Senate is, that the Department was not called on for an opinion in relation to other works, and we do not know and cannot know that they would not have recommended every other work against which the committee have reported. It is therefore wholly the action of the committee in relation to all other matters, and not of the Department. That is what I desire to have known.

Mr. CLAY. It is proper that I should say that the Senator is correct in that remark; but, as he will acknowledge, the committee, with a single exception I believe, had agreed, in the first place, that we would report no bills except for such works as required an immediate appropriation to save them from destruction, and I addressed the Secretary with that view, to ascertain which they were.

Mr. SEWARD. I wish to ask the honorable Senator, the chairman of the Committee on Commerce, at what time it will be convenient for him to take up these bills for consideration?

Mr. CLAY. I would defer them indefinitely.

Mr. SEWARD. Then I will give the honorable chairman notice that on Tuesday of next week, if he shall not object, I shall ask the Senate to take up these bills for consideration.

Mr. CLAY. If it is the pleasure of the Senate to defer all other bills which have precedence, of course I shall acquiesce with the best grace I can.

ENROLLED BILLS SIGNED.

A message was received from the House of Representatives by Mr. ALLEN, its Clerk, announcing that the Speaker had signed the following enrolled bill and resolution, which thereupon received the signature of the Vice President:

An act (S. No. 245) to authorize the settlement of the accounts of Luther Jewett, late collector of the district of Portland and Falmouth, in the State of Maine.

A resolution (S. No. 2) to authorize the Secretary of the Treasury to audit and settle the accounts of the contractor for the erection of the United States marine hospital at San Francisco, California.

COMMITTEE ON CONTINGENT EXPENSES.

Mr. FITZPATRICK. I rise for the purpose of asking the Senate to excuse me from serving upon the Committee on Contingent Expenses. I presume the Chair was not aware of the fact that I was already on three committees when he placed my name on that committee. I think three is

about the highest number of committees any member is required to work on. All the committees upon which I am, are really laboring committees. I am on the Committee on Printing, which, I presume, all will concede performs some labor, and the Committee on Military Affairs, and the Committee on Territories. But for that fact, I would not hesitate to perform the duties of this post with pleasure; but, really, to require of me, in addition to three others, to perform the duties of the committee upon which I have been recently placed, will entail upon me more labor than I think the Senate is inclined to entail upon any one of its members. I ask, therefore, that I be excused from serving on that committee.

Mr. HUNTER. I hope the Senator from Alabama will consent to serve on that committee; for I believe it is an important one for the residue of the session. I dislike to interfere with him.

Mr. FITZPATRICK. I would not hesitate to perform the labors incident to that station, but for the fact that some of the committees upon which I am now, meet twice a week. I have been in committee every day this week. The Committee on Printing is very laborious. The Committee on Military Affairs is also very laborious; the Committee on Territories is not so much so. But I am very well assured that members can be found in the Senate more competent, and perhaps more willing, than I am to undertake the performance of the duties of the Committee on Contingent Expenses. I would not hesitate to do so, if I could; but I really feel it impossible for me to perform the duties incident to that station, and to the other committees of which I am a member. I trust, therefore, that the Senate will excuse me.

The motion was agreed to; and Mr. JOHNSON, of Tennessee, was appointed to fill the vacancy.

BILLS INTRODUCED.

Mr. SEWARD asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 37) authorizing the President of the United States to give to the Government of Hanover the notice required by the treaty of the 10th June, 1846, for the termination of the eleventh article of said treaty; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. HAMLIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 364) to improve the channel of the Potomac river in the District of Columbia; which was read twice, and ordered to lie on the table.

Mr. RICE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 365) authorizing the judges of the late Territory of Minnesota to discharge certain trusts; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 366) authorizing the establishment of a northern Pacific mail route; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

DE VISSER AND VILLARUBIA.

Mr. KING submitted the following resolution and asked for its immediate consideration:

Resolved, That the Secretary of the Treasury be directed to communicate to the Senate what proceedings, if any, have been taken, to investigate and punish the complicity of custom house officers at New Orleans with a partner of the commercial house of Simon de Visser, and José Villarubia of New Orleans, in committing frauds on the revenue by false invoices and false computations of quantities and values.

Mr. SLIDELL. I have no sort of objection to make to any resolution of inquiry couched in the ordinary form, but this resolution if I heard it correctly, conveys by direct implication, the assertion that some of the officers of the customs in New Orleans have been guilty of complicity in this fraud. I say that there is no shadow of foundation for that assertion, but it is assumed here as a fact. I am perfectly willing that any inquiry should be made into the conduct of the officers, but they must not be condemned before they are heard. I am sure the Senator from New York must see that that is improper.

Mr. KING. I have no desire to prejudice this case, but surely all who recollect the debate of yesterday, will remember that the assertion was made most clearly and distinctly by Senators, that these officers were implicated in frauds, and

that was made a ground for excusing the merchants from the payment of duties, and excusing them from the forfeitures and penalties.

Mr. SLIDELL. But that assertion was as distinctly repudiated. This resolution makes the charge, and asserts it as a fact.

Mr. KING. It asks whether any proceedings have been taken to investigate them.

Mr. SLIDELL. It goes further, and assumes complicity on their part.

Mr. BIGLER. What is the question under consideration?

The VICE PRESIDENT. The first question is, is there any objection to the present consideration of the resolution?

Mr. SLIDELL. I will not object to its consideration, if it is put in proper terms.

Mr. KING. I will strike out the words, "to punish."

Mr. SLIDELL. Say, "any alleged complicity."

Mr. KING. Very well. The object is to procure information whether any proceedings have been taken in the case. I understood from both the Senators from Louisiana yesterday that there was a probability of that complicity.

Mr. SLIDELL. I did not say so.

Mr. BIGLER. I object to the consideration of the resolution.

The VICE PRESIDENT. The resolution being objected to, lies over.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House of Representatives had passed the bill of the Senate (No. 38) for the relief of John R. Temple, of Louisiana.

The message further announced that the House had passed the following bills and joint resolution, in which the concurrence of the Senate was requested:

A bill (No. 221) for the relief of Mary Bainbridge;

A bill (No. 224) for the relief of Stephen Bunnell;

A bill (No. 232) for the relief of Margaret Whitehead;

A bill (No. 250) for the relief of Pierre Gagnon, of Natchitoches, Louisiana;

A bill (No. 254) for the relief of William Hutchinson;

A bill (No. 256) for the relief of Oliver P. Hovey;

A bill (No. 257) to increase the pension of Henry E. Read, a citizen of Kentucky, and for other purposes;

A bill (No. 260) for the relief of Isaac Carpenter;

A bill (No. 261) for the relief of Leonard Loomis;

A bill (No. 264) granting a pension to Thomas Alcock, of Rochester, New York;

A bill (No. 272) for the relief of Brevet Major H. L. Kendrick;

A bill (No. 273) for the relief of John F. Cannon;

A bill (No. 327) for the relief of the legal representatives of Marie Malines;

A bill (No. 332) for the relief of Richard B. Alexander;

A bill (No. 334) for the relief of Simcon Stedman;

A bill (No. 335) for the relief of Susannah edman, widow of Lloyd Redman;

A bill (No. 577) for the relief of Rebecca M. Bowden, of Prince George county, Virginia;

A bill (No. 578) for the relief of Isaac Drew, and other settlers upon the public lands in the State of Wisconsin; and

A joint resolution (No. 10) for the relief of General Sylvester Churchill.

ORDER OF BUSINESS.

Mr. HUNTER. It is now within a few minutes of the time for the consideration of the special order, and I move to take up the general appropriation bill. I think we can dispose of it very soon.

The VICE PRESIDENT. The Chair will remind the Senate that, by a special order, to-day was set apart for the consideration of business relating to the District of Columbia. The Chair calls the attention of Senators to the fact, and the bill which comes up first in order, is—

Mr. HUNTER. I understood, when we adjourned on Thursday, that the appropriation bill would come up at twelve o'clock to-day.

Mr. BROWN. That might have been the Senator's understanding, but it certainly was not mine.

Mr. HUNTER. Then I move to postpone all prior orders for the purpose of taking up the appropriation bill. It will not take long; we can dispose of it in twenty or thirty minutes. We understand very well what the majority wish to do; they can accomplish their purpose. We can close up the bill and send it to the House of Representatives in a short time.

Mr. BROWN. I must protest against that. This day was set apart for the business of the District of Columbia. Congress has exclusive jurisdiction over the District, and yet it has not had a day in six months for the consideration of its business. I know very well if this motion to take up the appropriation bill is agreed to, to-day will be gone, utterly gone. We shall go into a long discussion about the reporters again, and you will not see the end of it for hours. I hope the Senate will stand by their order, and give this day to the business of the District of Columbia.

Mr. HUNTER. I move to postpone the prior orders for the purpose of taking up the appropriation bill.

Mr. DOOLITTLE. I think the hour of taking up the special order is fixed too early in the day. It requires a whole half hour to get through the petitions; and there is scarcely any opportunity to do business before the special order is taken up. If the hour was fixed at half past twelve o'clock, we might accomplish a good deal of business every morning, and I suggest that the special order be postponed simply for the half hour.

The VICE PRESIDENT. The Chair will remind the Senator of the exact state of the question before the Senate. By special resolution, the Senate determined to set apart this day for the business of the District of Columbia. The Chair will call up that business, and was going to announce a bill before the Senate, when the Senator from Virginia moved to postpone.

Mr. HUNTER. I hope the Senate will determine this question without debate. Let us not waste the day in talking about the priority of business.

Mr. SHIELDS. I wish to ask the Senator from Virginia whether this day has not been set apart for District business, by a special order of the Senate? If so, I think it is much better to adhere to that special order.

Mr. HUNTER. The Senate will determine the question. It seems to me it can require no argument. I hope we shall vote on it without debate, and then go on with whatever business we determine to take up.

Mr. FOSTER. I suggest to the Senator from Virginia that he modify his motion by proposing to postpone the special order until one o'clock. I think we can get through with the appropriation bill by one o'clock.

Mr. HUNTER. I have submitted the motion. The Senate will determine it according to their good pleasure.

Mr. TRUMBULL. I am satisfied by my experience here that it is of very little use to undertake to resist the Senator from Virginia. I think we had better let him have his bill up, and get it out of the way. We shall never be permitted to do anything so long as he is in the way. I hope therefore that we shall let him take it up.

Mr. BROWN. I hope no such thing will be done. I protest against it in the name of justice to this District. Everybody knows the Senator will get his appropriation bills through. Who does not know it?

Mr. WILSON. I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. DOOLITTLE. I move to amend the motion of the Senator from Virginia, so as to postpone the special order until one o'clock.

Mr. HUNTER. My motion is not amendable. The Senator had better let the vote be taken on the motion. Vote it down, or take up the bill; let us decide the question.

Mr. IVERSON. I rise to a point of order. After the yeas and nays have been called, is it competent to move an amendment?

The VICE PRESIDENT. The Chair was considering that question.

Mr. STUART. Certainly it is.

Mr. SEWARD. I wish to make an inquiry. The effect of this motion will be to vacate or annul, for the present, the special order by which this day was assigned for the consideration of District business, will it not?

Mr. BROWN. The effect of it is to deprive the District of any chance at all during this session of Congress.

Mr. SEWARD. I shall vote against the motion for that reason.

Mr. HUNTER. I do not so understand it. I am willing to give them another day. I hope the appropriation bill will not take more than half an hour.

Mr. BROWN. It will last all day.

Mr. DOOLITTLE. If my motion is in order, it seems to me it accomplishes all that is desired on all sides. It gives the Senator from Virginia an hour for his bill.

The VICE PRESIDENT. The Chair doubts whether the Senator's motion is in order, as the yeas and nays have been ordered on the motion to postpone the prior orders.

The question being taken by yeas and nays, resulted—yeas 31, nays 22; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bigler, Broderick, Clay, Clingman, Crittenden, Davis, Dixon, Douglas, Fitzpatrick, Green, Gwin, Hammond, Harlan, Henderson, Houston, Hunter, Iverson, Johnson of Arkansas, Jones, Mason, Polk, Rice, Sebastian, Slidell, Thomson of New Jersey, Toombs, Trumbull, and Wright—31.

NAYS—Messrs. Bell, Bright, Brown, Chandler, Clark, Collamer, Doolittle, Durkee, Fessenden, Font, Foster, Hamlin, Johnson of Tennessee, King, Mallory, Seward, Shields, Simmons, Stuart, Wade, Wilson, and Yulee—22.

So the motion to postpone all prior orders and take up the legislative appropriation bill, was agreed to.

Mr. BROWN. I hope, sir, that the proposition I am about to make will not be considered in any spirit of retaliation. I prepare bill after bill with great labor, and bring them to the Senate and have days set for their consideration, and then have them taken away from us in this manner. I do not think it is exactly right. My labor amounts to nothing. I do not see that I am laboring to any purpose. This proceeding, of course, makes the District business utterly null and void. Therefore, without meaning to be understood by any one as doing what I am about to do in any spirit of retaliation, I beg leave to tender my resignation as chairman of the Committee on the District of Columbia.

The VICE PRESIDENT. Does the Senator make any motion?

Mr. BROWN. I move that I be excused from service as chairman of the committee.

Mr. SLIDELL. I move that the consideration of that motion be postponed until to-morrow.

Several Senators. Let it lie on the table.

Mr. SLIDELL. I make that motion. Let it lie on the table.

The VICE PRESIDENT. The Senator from Mississippi asks to be excused from further service upon the Committee on the District of Columbia. The Senator from Louisiana moves that that question lie on the table.

Mr. FESSENDEN. I do not think that would be respectful to the Senator from Mississippi.

Mr. SEWARD. I ask for a division of the question.

Mr. SLIDELL. I will state to the Senator from New York that I moved, in the first instance, that the consideration of the motion be postponed until to-morrow, which, I was inclined to think, was the most courteous course towards the Senator from Mississippi; but I was advised by gentlemen about me to make the other motion to lay on the table, it being more in conformity to usage. I suppose there is really no material difference.

Mr. SEWARD. I hope I may be pardoned for saying that I am not prepared to vote for excusing the honorable Senator from his post. I think he has performed his duties well, and I think he ought to be allowed to bring his business before the Senate. He is the judge himself whether this is the right way to manifest the spirit which he feels on the subject. I shall go with him, whatever his purpose may be. I think this District is entitled to this day, and that the Senator is entitled to it, because the Senate has previously agreed to give it.

Mr. HAMLIN. Mr. President—

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

TUESDAY, MAY 18, 1858.

NEW SERIES...No. 136.

The VICE PRESIDENT. The Chair will remind gentlemen that the question is not debatable.

Mr. HAMLIN. I want to say a word in relation to the chairman of the committee under whom I have served during the session; but if the question is not debatable I yield.

Mr. COLLAMER. I am comparatively a young member of the Senate, though an old man; but a short time since a gentleman who was a very acceptable member of a committee to which I belong, the honorable Senator from Georgia, [Mr. Toombs,] was excused at his own request, very much against my feelings, on the ground that he was entitled to have his own request granted. Now, if the gentleman from Mississippi persists in his motion, though I hope he will not, I shall feel bound to vote for it.

Mr. HUNTER. I was not aware, when I made my motion, that the Senator from Mississippi could by possibility take it as any personal discourtesy to him; or certainly, however anxious I was to get up the appropriation bill, (and I was only actuated by a desire to facilitate the public business,) I should not have pressed it; but as he takes that view, I am willing to reconsider the motion, so as to let him have the day. I certainly would be very unwilling to put upon him any discourtesy. There is no Senator for whom I feel more respect than I do for that gentleman. I move to reconsider the vote by which the District business was postponed.

The VICE PRESIDENT. By general consent of the Senate, the motion of the Senator from Mississippi and the motion of the Senator from Louisiana will lie on the table, and may be considered as withdrawn, if there be no objection. The question then arises on the motion of the Senator from Virginia to reconsider the vote by which the prior orders were postponed.

The motion to reconsider was agreed to.

The VICE PRESIDENT. The question now is on postponing the prior orders.

The motion was not agreed to.

CRIMINAL COURT JUDGE.

The VICE PRESIDENT. The business before the Senate now is the business relating to the District of Columbia. The Chair supposes the first bill in order to be the bill (S. No. 64) to equalize the salaries of certain judges of the courts for the District of Columbia, and for other purposes.

Mr. SLIDELL. I suggest that that is not one of the bills which the chairman of the Committee on the District of Columbia wished to have considered to-day.

Mr. BROWN. That bill did not come from the District Committee at all.

The VICE PRESIDENT. This is a bill on the Calendar relating to the business of the District, and is first in order.

Mr. BROWN. I have no objection to its consideration.

Mr. PEARCE. I move that that bill be postponed for the present.

The motion was agreed to.

ROADS BEYOND ROCK CREEK.

Mr. BROWN. I indicate the bill No. 168 as the first one to be taken up.

The bill (S. No. 168) to relieve the corporation of Georgetown from the expense of making and repairing roads west of Rock creek, was read a second time, and considered as in Committee of the Whole.

It proposes to repeal all acts and parts of acts, heretofore passed, which impose on the corporation of Georgetown, in the District of Columbia, an obligation to pay any part of the expenses of opening and repairing roads in the county of Washington, west of Rock creek; and excludes Georgetown from any representation in the levy court of the county of Washington hereafter.

Mr. BROWN. There is a very short report, (No. 90,) which I will ask the Clerk to read. If it takes any time to find it, I can state the substance of it, sooner, perhaps, than the Clerk can get it.

Several SENATORS. State it.

Mr. BROWN. There are two sides to this question. The committee reported the bill under an appeal from Georgetown. After they had reported it, there came in a remonstrance from the county portion of the District against it, as being unfair. The report shows that Georgetown asked to be excused from taxation to keep up the roads of the county, for the reason that they had to pay taxes to keep up the streets in the town, and the people in the county did not help them to do that. The people of the county remonstrated on the ground that they have to keep up the roads for the benefit of the people of Maryland, who come to town to trade with the people of Georgetown. They say that the roads in the county are of no great consequence to them, but are of great consequence to Georgetown, and that therefore Georgetown ought to pay the expense of keeping them up. These are briefly the two sides of the case, and I leave the Senate to pass the bill or not.

The VICE PRESIDENT. The report has been found.

Mr. BROWN. I do not know that it is necessary to read it.

Mr. CLAY. I should like to hear it.

Mr. BROWN. Very well; let it be read.

The Secretary read the following report, made by Mr. Brown, February 25, from the Committee on the District of Columbia.

The memorialists set forth their case briefly and pointedly. The committee append the memorial and make it a part of their report.

To the honorable Senate and House of Representatives of the United States:

The undersigned, a committee appointed by the corporation of Georgetown to represent its interests before Congress, would respectfully represent:

That by the act of Congress of July 1, 1812, the levy court of Washington county was authorized to lay a tax not exceeding twenty five cents on all property in said county, except Washington city, for general county purposes.

That by the same act the general county charges, other than for roads out of Washington city and Georgetown, were to be borne one half by Washington city and one half by other parts of said county.

That by the act of May 20, 1826, the power to tax in Georgetown by levy court was taken away, and said corporation of Georgetown was made not obliged to contribute in any manner towards the expenses of the levy court except for "one fourth of the expenses incurred on account of the orphan's court, the office of coroner, the jail of the county, and one half of the expenses for the opening and repairing of roads in the county of Washington, west of Rock creek, and leading to Georgetown." By the same act the levy court was relieved of taking care of the Georgetown poor.

The undersigned would respectfully represent that the tax upon Georgetown of paying for one half of the roads of Washington county, west of Rock creek, is onerous and unjust. The tax upon the real and personal property in Georgetown is eighty-five cents in the hundred dollars. The tax upon the real and personal property in the county is twelve and a half cents in the hundred dollars. Property in Georgetown is assessed at least at one hundred and twenty per cent.; that in the county is notoriously assessed at not more than sixty per cent. It is undoubted that the rate of taxation in Georgetown is at least ten times greater than in the county. The county pays no portion of the expenses of our streets, and there is no reason why our town should pay for the county roads. It is not in the power of our town to say what roads should be made or repaired. The levy court may run our town into any amount of debt that it pleases.

It is not fair or just that a people heavily taxed, and considerably in debt, should be compelled to pay the expenses of another people but little taxed, and not at all in debt. There is no sort of equity in any such arrangement. The expense of county roads is a fair and proper charge upon the county, as our streets are a fair charge upon us. We do not call upon the county for any contribution, and the county should not call upon us. If the county roads are a fair charge upon us, our streets are as fair a charge upon the county.

The undersigned respectfully pray that the corporation of Georgetown may be relieved from the payment of one half of the expenses of opening and repairing the roads in Washington county, west of Rock creek, leading to Georgetown.

HENRY ADDISON,
ROBERT OULD.

Your committee believe the facts to be correctly set forth, and concurring with the memorialists as to the justice of the case, they report a bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MECHANICS' LIENS.

Mr. BROWN. Now I ask the Senate to take up bill (S. No. 182) for the enforcement of mechanics' liens.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 182) for the enforcement of mechanics' liens on buildings, &c., in the District of Columbia.

Mr. BROWN. I suppose Senators will recollect when we had this bill up before; there was no objection raised to the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, and tenth sections, they being exclusively for mechanics' liens on buildings. There was some objection made to other parts of the bill to which I call attention, and I shall give them up.

Mr. CLARK. I objected to the bill when it was before the Senate previously, and lest the Senator should misunderstand me, I desire to say to him that I have objections to the first, second, and third sections.

Mr. BROWN. I suppose that if the Senator will indicate his objections to the bill without reading the whole of it, as it is very long, we shall save time.

Mr. CLARK. I certainly shall do so in a very short way; and I may as well do it now as at any time; and I will do it now, because some amendments may be made that will obviate my objections to it. By the provisions of this bill, a man who does any work, or furnishes materials for a building, may have a lien on that building for three months after the building is completed by filing a certain notice in court—that is, if the building takes two years for its completion, and at any time within three months after it is completed he files a notice in the court, he thereby acquires a lien on the building; and by section seven of the bill, that lien takes precedence of all prior incumbrances upon the property. To that I am opposed. I do not think it is just; I do not think it is right; I do not think it is fair to those who have acquired prior incumbrances. For instance: while the building is in progress, a mortgage may be made upon the property for money hired and used for erecting the building; yet, after the building is completed, the laborer, or the man who has furnished the materials, may go and file his notice in the court, and acquire a lien which vacates the mortgage which has been put upon the property, and was for money used in erecting the very building. It seems to me that if a lien is to be given to the laborer, or to the man who furnishes the materials, it should attach from the time he files his notice. If, when he makes his contract for erecting the building or furnishing the materials, he puts his claim on record in court, thus giving notice of it to the world, I have no objection to allowing him a lien from that time. Then everybody will understand that he has a lien; and if a man takes a mortgage, he takes it subject to that lien; but it is not quite right to permit the man to stand back and allow incumbrances to be made on this property, and then afterwards come in and vacate those incumbrances. That I understand to be the effect of the bill; and to that I object.

Now, if a provision can be introduced into the bill, that the man, when he makes the contract for the building or furnishes the materials, may put his notice upon the record so that everybody can understand it and act accordingly, I shall not object. I am entirely willing that the mechanic, the laborer, or the man who furnishes materials, shall have a lien; but I do not wish him to stand behind for months or years and let other people acquire incumbrances on liens upon that property and then come in and take the preference without giving any notice. I do not think that is right. I do not see any reason why he should have that preference.

There is another objection which I have to the bill, in regard to the tenth and eleventh sections, and that is, as to the notice which is to be given by a sub-contractor. By this bill, a sub-contractor or laborer—

Mr. BROWN. To save the Senator the trouble of commenting on that section, I beg leave to say that I shall move to strike it out.

Mr. CLARK. Then I have no objection further to make on that point. I have stated the objection I have to the bill as it stands, and I think the Senator will see its force.

Mr. BROWN. In reference to the first objection I desire to say, briefly, because I do not want to consume any time in discussing these matters, that I am very unfamiliar with all laws in reference to liens, never having been a builder, never having lived in a city where these liens are necessary, and never having practiced law in that department. I know that the bill, in all the particulars pointed out by the Senator, is entirely acceptable to the people of this District—the capitalist who want to invest money and persons who want to contract for buildings. It has been on the Calendar now since the 1st of March. It was discussed here at some length, and that discussion closed with an appeal by me to anybody in Washington, who had objections to it, to come forward and make them. No such objection has been pointed out by any one here as that presented by the Senator from New Hampshire. I hope, therefore, unless he has reduced his proposition to writing in some particular form, we shall take the vote.

Mr. CLARK. I am not prepared now to move an amendment; but, if the Senator desires, I will reduce my ideas into the shape of an amendment at some convenient time.

Mr. BROWN. Then let us go on with the other parts of the bill.

Mr. CLARK. We have in the State of New Hampshire, a law for mechanics' liens somewhat in substance such as I have indicated, providing that where a man makes a contract for performing labor or furnishing materials upon a building, he may put his contract in writing with the city clerk or town clerk, and give notice to the world, and thus acquire his lien, but he cannot be permitted by doing work or furnishing timber, lumber, or other materials without the knowledge of other parties, to acquire a lien, and then come forward months, and even years afterwards, and enforce that lien as against everybody who have acquired prior liens. That does not seem to be quite right. I will reduce my proposition to writing at the earliest moment.

Mr. STUART. I would suggest that half a dozen words would execute the Senator's purpose. If he will just say that the lien shall take effect from the time the man commences his proceedings, the object will be accomplished.

Mr. CLARK. That would be entirely satisfactory.

Mr. BROWN. If the Senator will reduce his amendment to writing, I will go on with the bill. I move to strike out the word "chapter," in line two of the second section, and insert the word, "act."

The amendment was agreed to.

Mr. BROWN. In line four, same section, I move to strike out the words, "of the United States" after "court," so that it will read, "the clerk of the circuit court for the District of Columbia."

The amendment was agreed to.

Mr. BROWN. In line two of section ten, I move to strike out the word "chapter," and insert "act."

The amendment was agreed to.

Mr. BROWN. I move to strike out sections eleven and twelve. They are the sections commented on a moment ago by the Senator from New Hampshire in regard to sub-contractors and journeymen.

The motion was agreed to.

Mr. BROWN. I move to insert at the end of section fourteen, the words, "but if possession passes from such person by his consent, the lien shall cease." This section gives liens to those who bestow labor upon articles which are personal property.

The amendment was agreed to.

Mr. BROWN. I move to strike out sections fifteen, sixteen, and seventeen. They are the sections of the bill which gave liens upon the pasturage of cattle and sheep.

The amendment was agreed to.

Mr. BROWN. I move, in section eighteen, line two, to strike out the words "fifteen, sixteen,

and seventeen." They relate to the sections just stricken out. The section will then read: "that the provisions of the fourteenth section of this act," &c.

The amendment was agreed to.

Mr. BROWN. I have left in the word "fourteen" now. I do not know what section that will be under the amendment. I hope, by unanimous consent, the Clerk, when he makes up the bill, will be allowed to change that so as to make it suit.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) It will be changed to section twelve. That is the proper one.

Mr. BROWN. I have now offered all the amendments the District Committee propose.

The bill was reported to the Senate as amended; and the amendments made as in Committee of the Whole were concurred in.

Mr. CLARK. I propose to amend the bill further, by inserting in the fifth line of the second section, after the word "time," the words "after the commencement of said building, and"—so that, if the bill be amended, it will read in this way:

"Shall file in the office of the clerk of the circuit court of the United States for the District of Columbia, at any time after the commencement of said building, and within three months after the completion of said building."

The object is that he may have the opportunity of filing his claim immediately on furnishing the labor or materials.

Mr. BROWN. I can see no objection to that. I think it is but proper.

The amendment was agreed to.

Mr. CLARK. I propose to amend the seventh section, by striking out, in the fourth and fifth lines, the words "the building was commenced or the materials were furnished," and inserting, "which said notice was given;" so that, if amended as I propose, it will read:

"That the liens created in pursuance of the provisions of the act shall have precedence over all other liens or incumbrances which attached upon the premises subsequent to the time at which said notice was given."

Then his lien will take effect from the time he files the notice. If he files it on the day he furnishes his labor or materials, then he has it, but if he lays by, he cannot have it until he does file it.

Mr. BROWN. Very well; let it be so.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

WASHINGTON PUBLIC SCHOOLS.

The Senate next proceeded to consider the bill (S. No. 191) for the benefit of public schools in the city of Washington, which, after an extended discussion, was passed. [This debate will be published in the Appendix.]

EXECUTIVE BUSINESS.

Mr. PUGH. It is important that there should be one or two nominations considered this afternoon, and I move that the Senate proceed to the consideration of executive business. ["Oh, no."]

Mr. BROWN. I hope not.

Mr. PUGH. I think the public interests require it, and I will make that motion.

Mr. BROWN. There are two or three little bills which, I think, by possibility, can give rise to no debate, and one of them is very vital to the District. It is in reference to the fire companies here, which the Mayor and the whole City Council have come to the committee time and time again, and told us is necessary to keep down riots here. It asks for no favor from the Government, no appropriation, but simply for power that is necessary to keep order in the city, inasmuch as the House of Representatives refused to pass the police bill.

Mr. PUGH. I do not wish to disturb my friend from Mississippi if it is understood by the Senate that we may have this executive session. There are only one or two nominations left in my charge by the Committee on the Judiciary. I have no objection to waiting for half an hour.

Mr. BROWN. They will be confirmed before the Senate adjourns. Everybody knows that.

Mr. PUGH. I waive my motion for the present.

Mr. BROWN. Then I propose to take up the bill (S. No. 227) to authorize the organization of a fire department in the District of Columbia.

FIRE DEPARTMENT.

The Senate, as in Committee of the Whole,

proceeded to consider the bill (S. No. 227) authorizing the organization of a fire department in the District of Columbia.

Mr. BROWN. If the Senate will indulge me, I will say this—being perfectly familiar, I think, with the whole subject—that the Government owns some three or four fire-engines, and hose attached to them; and the only thing which the Government is asked to do in this connection is, to turn them over to the city. They actually belong to the city, anyhow, whether you say so in terms or not; for the Government takes no sort of cognizance of them, though it bought them and paid for them. The provisions of the bill put the fire department so completely under the control of the city government that they can manage the whole matter. Without going into a discussion, I say this: that the Mayor, and I believe every member of the Council, and everybody connected with the city government, think that, with the passage of this bill, a great deal of the riot and disturbance which occur here will be put an end to.

In the houses where they keep their engines and hose people secrete themselves, because the houses belong to the Government; and they make forays into the streets, and create disturbances. The proposition, in the main, is this: to turn over the whole fire department of Washington to the city government. They believe that they can manage it in such a manner as to keep down a great deal of this riot. If the Senate is ready to receive the bill on this statement, very well.

Mr. FESSENDEN. Do the buildings belong to the General Government?

Mr. BROWN. Yes.

Mr. FESSENDEN. Are they situated on the public square?

Mr. BROWN. Yes.

Mr. FESSENDEN. Then I am adverse to ceding them; I want to have the bill read.

Mr. BROWN. I feel bound to state that this is the truth.

Mr. FESSENDEN. I want to hear the bill.

The Secretary read it.

Mr. STUART. I should like to hear the third section of that bill read again. It is the one which disposes of this property.

The Secretary read it as follows:

"SEC. 3. And be it further enacted, That all the fire apparatus or other property, including engines, sections, hose, hose-carriages, reels, hook and ladder fixtures and carriages, engine-houses, and all other property or implements appertaining to a fire department, which may be used by any fire company within the limits of either of the said cities, shall be vested in, belong to, and be under the exclusive control and direction of, the corporate authorities of the city within whose limits such company exists."

Mr. BROWN. That is precisely the section we propose to amend.

Mr. STUART. It seems to me a simple word will do. Put before the word "property" the words "the use of"—just give them the use of it.

Mr. FESSENDEN. I propose to add this proviso, if it will meet the case:

Provided, That no right or title to any land belonging to the United States on which any building occupied as an engine-house or other building may stand, is or shall be hereby conveyed, but the right hereby given to occupy the same may be terminated at the pleasure of Congress.

Mr. BROWN. I think that is right.

Mr. STUART. I think it will be better to simply insert the words "the use of" after the first word of the section—"that."

Mr. FESSENDEN. Say "the use of during the pleasure of Congress."

Mr. BROWN. I think if we put in the words "the use of during the pleasure of Congress," it will answer.

Mr. STUART. Very well.

Mr. FESSENDEN. I agree to that, or anything that will answer the purpose.

The amendment was agreed to.

Mr. FESSENDEN. I ask for the reading of the section as amended.

The Secretary read it.

Mr. FESSENDEN. Strike out the words "vested in and belong to."

Mr. SIMMONS. The use only is vested.

Mr. BROWN. I see, when this section comes to be severely criticised, that we have no right to transfer anything that does not belong to us, and therefore, after the word "department" I propose to insert, "belonging to the United States," so as simply to transfer the use of property which belongs to us; but language of the section is very broad. Of course we did not mean, in drawing the

bill, to exclude anybody's property but our own. We might appear absurd in including other people's property, and I propose to insert these words.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading; read the third time, and passed.

CHURCH PROPERTY.

Mr. BROWN. I now move to take up the bill (S. No. 241) relating to the manner of holding and transmitting the title to certain church property therein mentioned.

The motion was agreed to; and the bill was read a second time by its title, and considered as in Committee of the Whole.

Mr. BROWN. Unless some Senator desires the bill to be read at length, I think I can explain it in a single word. This is a literal transcript from the law of Maryland in reference to the transfer of property belonging to the Roman Catholic Church. In accordance with the general rules of the Church, the absolute title, the fee, is vested in the bishop of the diocese. This proposes to vest in him a limited jurisdiction, a sort of trustee jurisdiction. That is all there is of it. The archbishop of Baltimore, within whose diocese this city is, agrees to have it done in this way, and the whole Church are for it.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and read the third time.

Mr. HUNTER. There appears to be no limitation as to the quantity or value of property in this bill.

Mr. BROWN. It has nothing to do with that. It does not affect the title. It only relates to property they now own. The simple question is, whether the bishop shall hold an absolute title, or whether it shall be a limited title. That is all there is of it.

The bill was passed.

WASHINGTON CEMETERY.

Mr. BROWN. The next District bill on the Calendar is the bill (S. No. 316) to alter and amend an act entitled "An act conferring certain powers on the levy court for the county of Washington, in the District of Columbia," approved July 1, 1812. That bill will, on account of the passage of another bill to-day, require certain amendments, which the committee have not yet considered. I shall not call up that. The last bill which I ask for the Senate to consider is the bill (H. R. No. 542;) and I am sure impatient Senators will be glad to hear that it is the last.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 542) to authorize the vestry of Washington parish to take and inclose certain parts of streets in Washington city for the purpose of extending the Washington cemetery, and for other purposes.

Mr. BROWN. The title of the bill is a little unfortunate; but the vestry of Washington parish really have the jurisdiction of the congressional burying-ground. We call it the congressional burying-ground, but the control over it is in the vestry of Washington parish. There are certain little short streets lying back of it, running down to the water, on which nobody travels, or ever will travel, if they remain a thousand years. I do not suppose they would ever be opened up; and the vestry propose to turn them into the congressional burying-ground. They never have been opened, and never will be, and never can be, on account of the situation of the grounds. They have no right to inclose them without our consent. What they ask, is to run the congressional burying-ground down to the water. There is a little neck between the congressional burying-ground and the east branch of the Potomac, which they propose to take; and they reserve to you the exclusive right to bury members of Congress, or any officials who may happen to die. They will bury any of you there. [Laughter.]

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HON. HENRY M. RICE.

Mr. GREEN. I move that the Senate proceed to the consideration of executive business.

Mr. HARLAN. I hope not. The Senator from Minnesota yesterday agreed that the consideration of a resolution introduced by him should be deferred, in consequence of my temporary absence from my seat. I see the Senator from Minnesota in his seat; and I hope the Senator from Missouri will withdraw his motion, and allow that resolution to be taken up.

Mr. GREEN. If it will consume but little time, I shall give way; but it is important that we should have an executive session.

Mr. HARLAN. I think it will take but little time.

Mr. GREEN. Very well; I withdraw the motion.

Mr. HARLAN. I now move to take up that resolution.

The motion was agreed to; and the Senate proceeded to consider the following resolution, submitted yesterday by Mr. Rice:

Resolved, That a select committee, to consist of five members, be appointed to investigate the charges preferred by certain citizens of Iowa, settlers upon the Fort Crawford reserve, as to the conduct of HENRY M. RICE, special agent appointed by the Secretary of War to superintend the sale of that reserve. That said committee have power to send for persons and papers, and to report by bill or otherwise.

Mr. GWIN. I move to amend the resolution by fixing the number at three; and providing that the committee be appointed by the Chair.

Mr. BELL. I learn that it will be agreeable to the honorable Senator from Iowa—and I suppose it will not be inconsistent with the disposition and feelings of the honorable Senator from Minnesota—to refer the matter to a standing committee. Believing that all the purposes of the investigation will be answered by that course, I renew the motion which was made yesterday by the Senator from Georgia, [Mr. Toombs,] that the inquiry be intrusted to the Committee on Military Affairs. That would seem to be appropriate, as the lands which have been the subject of these allegations belonged to the Fort Crawford reservation, under the jurisdiction of the War Department. I hope there will be no objection to this amendment.

Mr. DAVIS. As this matter was brought before the Senate on the representation of constituents of the Senator from Iowa, and he has moved for a select committee, I think it proper that there should be one.

Mr. BELL. I understand he has no objection to a reference to the Military Committee.

Mr. MASON. I understand that this resolution was presented by the Senator from Minnesota himself; but it would seem to me that the proper course would be to refer the subject to the Committee on Military Affairs.

Mr. DAVIS. I have a decided preference for a select committee, as I am, I suppose, like every other member, very reluctant to enter into the investigation.

Mr. COLLAMER. I understand that the Chairman of the Committee on Military Affairs being in feeble health, the next member on the committee suggested the other day that that committee would not have time to attend to it this session.

Mr. HARLAN. I will remark to the Senator from Virginia that I did introduce originally a resolution on this subject. The Senator from Minnesota afterwards introduced this resolution, and I suppose it may be regarded as a substitute for mine, to which I have no objection. I was not aware, at the time I introduced my resolution, that the fact of its having been presented by me would probably require me to act as chairman of the committee. I would not consent to do so. If a select committee were appointed by the Senate, it would place me in an attitude which I would not be willing to occupy. I am not willing to be regarded as a prosecuting witness in this case; nor will I, by any act or word of mine, commence a personal controversy between the Senator from Minnesota and myself. I have carefully, as I supposed, avoided anything of that kind from the beginning. I have no objection whatever to the reference of the whole subject to a standing committee; nor have I to the committee named by the Senator from Tennessee. I hope, therefore, that the amendment proposed by the Senator from Tennessee will be adopted, and that the subject will take that reference.

Mr. FITZPATRICK. I do not see why this is particularly referable to the Committee on Military Affairs, from the fact that it relates to the

sale of a military reservation. There are no questions of title involved; and it seems to me that if it goes to any standing committee, it should be the Committee on the Judiciary.

Mr. BELL. I should not hesitate as to the selection of a committee. The only idea was, that by referring it to a standing committee, we select one in whom all have confidence. I selected the Military Committee on account of the matter being connected with a military reservation. I have no particular choice, but I thought that was a committee in which the Senate generally have confidence, and it would answer all the purposes any gentleman here can possibly have, to have a fair and impartial investigation, so that if there were anything in this charge, it might come out; and if there were nothing, it might be frankly developed in the investigation. To have a select committee, we may attach to the matter more importance than perhaps it may demand. If there is anything in the charge, let us have it presented to the Senate fairly and impartially and fully; but as to the choice of committees, it is no great matter.

Mr. FITZPATRICK. I made the suggestion from no disinclination on my part to avoid the duties; but the Senator from Georgia, [Mr. Iverson,] who made this objection the other day, is not in his seat, and he is more conversant with the business before the Committee on Military Affairs than perhaps any other Senator.

Mr. BELL. I wish my friend from Alabama would waive his objection.

Mr. FITZPATRICK. I am not tenacious about it, but simply wanted to say that the Senator from Georgia objected to the reference on the ground that the Military Committee have a great deal of business.

Mr. BELL. So the members of a select committee are on committees having a great deal of business, and want to attend to that business. So it is as short as it is long.

Mr. FITZPATRICK. Not seeing the Senator from Georgia in his seat, I wished to remind the Senate of what he had said yesterday.

The PRESIDING OFFICER, (Mr. FOSTER.) The question is on the amendment to strike out the words in regard to a select committee, and insert "the Committee on Military Affairs."

The amendment was agreed to; and the resolution, as amended, was adopted.

HOUSE BILLS REFERRED.

The following bills and resolution from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 221) for the relief of Mary Bainbridge—to the Committee on Pensions.

A bill (No. 224) for the relief of Stephen Bunnell—to the Committee on Pensions.

A bill (No. 232) for the relief of Margaret Whitehead—to the Committee on Pensions.

A bill (No. 259) for the relief of Pierre Gagnon, of Natchitoches, Louisiana—to the Committee on Private Land Claims.

A bill (No. 254) for the relief of William Hutchinson—to the Committee on Claims.

A bill (No. 256) for the relief of Oliver P. Hovey—to the Committee on Pensions.

A bill (No. 257) to increase the pension of Henry E. Read, a citizen of Kentucky, and for other purposes—to the Committee on Pensions.

A bill (No. 260) for the relief of Isaac Carpenter—to the Committee on Pensions.

A bill (No. 261) for the relief of Leonard Loomis—to the Committee on Pensions.

A bill (No. 264) for the relief of Thomas Allcock, of Rochester, New York—to the Committee on Pensions.

A bill (No. 272) for the relief of Brevet Major H. L. Kendrick—to the Committee on Military Affairs and Militia.

A bill (No. 273) for the relief of John F. Cannon—to the Committee on the Post Office and Post Roads.

A bill (No. 327) for the relief of the legal representatives of Marie Malines—to the Committee on Private Land Claims.

A bill (No. 332) for the relief of Richard B. Alexander—to the Committee on Claims.

A bill (No. 334) for the relief of Simeon Stedman—to the Committee on Claims.

A bill (No. 335) for the relief of Susannah Red-

man, widow of Lloyd Redman—to the Committee on Claims.

A bill (No. 426) for the relief of Monroe D. Downs—to the Committee on Public Lands.

A bill (No. 577) for the relief of Rebecca M. Bowden, of Prince George county, Virginia—to the Committee on Public Lands.

A bill (No. 578) for the relief of Isaac Drew, and other settlers upon the public lands in the State of Wisconsin—to the Committee on Public Lands.

A joint resolution (No. 10) for the relief of General Sylvester Churchill—to the Committee on Military Affairs and Militia.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives by Mr. ALLEN, its Clerk, announcing that the House had passed the following bills, in which the concurrence of the Senate was requested:

A bill (No. 56) making an appropriation for the completion of the military road from Astoria to Salem, in Oregon Territory;

A bill (C. C. No. 65) for the relief of Benjamin L. McAtee and Isaac N. Eastham, of Louisville, Kentucky;

A bill (No. 222) for the relief of Elizabeth E. V. Field;

A bill (No. 231) for the relief of Nancy Serena;

A bill (No. 251) to authorize the claimants in right of John Huertas to enter certain lands in Florida;

A bill (No. 318) recognizing the assignment on land warrant No. 35,956, issued to John Davis, as valid; and

A bill (No. 336) for the relief of B. W. Palmer and others.

EXECUTIVE SESSION.

Mr. GREEN. I renew my motion for an executive session.

Mr. HUNTER. Before that is done, allow me to call up the appropriation bill, so that it may have its place in the proper orders. I do not propose to act on it.

Mr. GREEN. I object. We must now have an executive session. That will come up in time. The motion of Mr. GREEN was agreed to; and the Senate proceeded to the consideration of executive business. After some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, May 15, 1858.

The House met at eleven o'clock, a. m. Prayer by Rev. Mr. NADAL.

Mr. DAVIS, of Mississippi. I do not think there is a quorum here, and I believe some of the gentlemen who were so zealous yesterday are absent.

The SPEAKER. The Chair will ascertain if there is a quorum present.

The SPEAKER then proceeded to count the House, and ascertained that only eighty members were present.

Mr. DAVIS, of Mississippi. I move that there be a call of the House.

The motion was agreed to.

The Clerk then called the roll.

Mr. MORGAN. There is evidently a quorum here now, and I move to dispense with all further proceedings under the call.

Mr. MILLSON. I hope the absentees will first be called.

Mr. GILMAN. I will state that my colleague, Mr. MORSE, is confined to his room by indisposition.

Mr. MORGAN. I will waive my motion.

The names of the absentees were then called.

The following are the names of the members who failed to answer to their names:

Messrs. Adam, Ahl, Avery, Barksdale, Bishop, Bocoek, Bonham, Brayton, Bryan, Bardingame, Burnett, Burroughs, Campbell, Caruthers, Caske, Horace F. Clark, Clark B. Cochran, Conning, Cox, Cragin, Burton, Craige, Danrell, Dewart, Dick, Dimmick, Durfee, Elliott, English, Eustis, Florence, Garrett, Giddings, Gilmer, Gooch, Lawrence W. Hall, Robert B. Hall, Harlan, J. Morrison Harris, Hatch, Hawkins, Hickman, Hill, Horton, Houston, Huyler, Jenkins, Kent, John C. Kinkel, Lamar, Landy, Lawrence, Leach, Leidy, McKibbin, McQueen, Miles, Montgomery, Moore, Freeman H. Morse, Murray, Nichols, Peyton, Powell, Purviance, Ready, Reilly, Ricard, Roberts, Savage, Seaman, Sewall, Shorter, Sickles, Samuel A. Smith, Wil-

liam Smith, Stallworth, George Taylor, Thayer, Thompson, Trippe, Ward, Warren, Watkins, Whiteley, Wood, Augustus R. Wright, and John V. Wright.

A quorum (one hundred and forty-five members) having appeared,

Mr. MORGAN moved that all further proceedings be suspended.

Mr. ENGLISH. I desire to report myself as present.

Mr. READY. I was here just after my name was called.

Mr. CRAIGE, of North Carolina. I was absent by the leave of the House, as a member of the Judiciary Committee, and I desire to have my name recorded.

Mr. SAVAGE. I should like to be reported as present.

The SPEAKER. Was the gentleman present when his name was called?

Mr. SAVAGE. I was not.

The SPEAKER. Then the Chair does not see how the gentleman can be recorded as present.

Mr. HOUSTON. I was absent by the leave of the House, and, of course, was constructively present, as I was last night.

The SPEAKER. The gentleman from Alabama has the benefit of his leave of absence on record.

Mr. WALBRIDGE. I desire to state that my colleague [Mr. LEACH] is too much indisposed to attend the sitting of the House to-day.

The question was taken on Mr. MORGAN's motion; and it was agreed to.

So all further proceedings under the call were dispensed with.

The Journal of yesterday was then read and approved.

APPORTIONMENT OF CLERKS, ETC.

Mr. SMITH, of Illinois. I ask the unanimous consent of the House to report a bill from a select committee, for the purpose of having the bill and report printed and referred. It is a bill to apportion the clerks and messengers in the several Departments of the United States Government in the city of Washington among the several States and Territories and the District of Columbia.

Mr. JONES, of Tennessee. I call for the regular order of business.

ENROLLED BILLS.

Mr. PIKE, from the Committee on Enrolled Bills, reported as truly enrolled, an act (S. No. 245) to authorize the settlement of the accounts of Luther Jewett, late collector of the district of Portland and Falmouth, in the State of Maine; and a resolution (S. No. 2) to authorize the Secretary of the Treasury to audit and settle the accounts of the contractor for the erection of the United States marine hospital at San Francisco, California; when the Speaker signed the same.

CONTUMACIOUS WITNESS.

The Sergeant-at-Arms appeared at the bar of the House, and made the following return to the warrant directing him to arrest Robert W. Latham:

HOUSE OF REPRESENTATIVES, May 14, 1858.

The within-named Robert W. Latham appeared this morning voluntarily at the office of the Sergeant-at-Arms, and avows himself ready to answer.

A. J. GLOSSBRENNER,

Sergeant-at-Arms of House of Reps. U. S.

To the Hon. JAMES L. ORR, Speaker.

The SPEAKER. Robert W. Latham, you have been arrested and brought to the bar of the House for disregarding the summons of the House in failing to appear before one of its committees. What reason have you to assign for thus disregarding the summons of the House?

Mr. Latham submitted the following answer in writing:

WASHINGTON, May 14, 1858.

SIR: As I was about leaving this city for the West, to be absent some two weeks, on business of such importance that I could not neglect it, I received a summons to appear before a committee, on the 3d of May, of which the Hon. Mr. HASEIN was chairman.

Finding that if I did so, it would occasion me serious injury, and cause me to break important engagements, I addressed a polite note to the chairman of the committee, requesting the favor that my examination might be postponed two weeks from the 3d of May, upon the ground that no possible injury could occur by the delay. I stated that I felt assured that not one gentleman on his committee would hesitate to grant me the favor asked. That time expires on Monday next, and I stated in my letter that I would return sooner, if I could, but did not wish to make a promise, and not comply with it. I returned this morning, and was much

surprised, when I arrived at the Relay House, on my way to fulfill my promise and to obey the summons of the committee, to learn that I had refused to obey its summons, and that the Sergeant-at-Arms had been sent after me, and that I was to be arraigned at the bar of the House of Representatives to answer a charge of contempt. I am now here, ready to answer all interrogatories that may be addressed to me.

I hope that this brief statement will be satisfactory to you, and will acquit me of any willful purpose of disobeying the mandates of your honorable body.

I am very respectfully, your obedient servant,

R. W. LATHAM.

Hon. JAMES L. ORR,

Speaker of the House of Representatives.

Mr. HASKIN. Reference being made in the answer of the witness just read to a letter which he wrote to me as chairman of the select committee, I desire to say that I did receive from the witness on the 30th of April, a letter informing me, as chairman of the committee, that he could not attend before us on the following Monday, inasmuch as he had business of pressing importance in Kentucky. As soon as I received that letter, which came to me through the post office, I laid the matter before the committee, and on that day (April 30) I addressed to Mr. Latham this reply:

April 30, 1858.

SIR: Your letter is received, and in reply I have to say that the near approach of the close of the session, and the anxiety of the committee to close their labors, renders it impossible to grant your request that your examination shall be postponed two weeks. Although sorry to interfere with your private business, the committee are still under the necessity of requiring you to obey the summons served upon you by the Sergeant-at-Arms.

Very respectfully, JOHN B. HASKIN,

Chairman Wilkins's Point Committee, H. R.

R. W. LATHAM, Esq.

Before I received the letter of Mr. Latham, and, as I understand, before it had been sent to me, on the 30th of April, he had left the city and gone to Kentucky. I was informed by the gentleman who served the summons—Mr. Cole, I think—that, when he served the summons, on the 28th of April, he requested Mr. Latham to appear before the committee, or to see, in person, some one of its members; and stated that some arrangement would be made by which his testimony would be taken before the following Monday. Mr. Latham then promised to attend the committee on the following Monday; but, notwithstanding, left, and did not attend before the committee, as has been stated. As our only object, however, was to have him examined before the committee, and as that object will be attained by his voluntary appearance and surrender to the Sergeant-at-Arms, I move the following resolution:

Resolved, That Robert W. Latham be discharged from the custody of the Sergeant-at-Arms upon his appearing to testify before the committee appointed to investigate the sale and purchase of the property at Wilkins's Point for fortification purposes.

The resolution was adopted.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, informing the House that the Senate had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act (No. 193) for the relief of Simon de Visser and José Villarubia, of New Orleans;

An act (No. 30) for the relief of Elizabeth Montgomery, heir of Hugh Montgomery; and

An act (No. 46) to grant the right of preemption in certain lands to the Indiana Yearly Meeting of Friends.

COLLECTION OF THE REVENUE.

Mr. J. GLANCY JONES. I ask the unanimous consent of the House to report a resolution in reference to the collection of the revenue, for the purpose of reference to the Committee of the Whole on the state of the Union.

Several MEMBERS. Regular order.

Mr. MOORE. I ask the consent to make a report from the Committee of Claims. I was not present when the call was made yesterday.

The SPEAKER. The probability is that the gentleman's committee will be again called in the course of the day.

QUESTION OF ORDER.

The SPEAKER. The first business in order is the appeal from the decision of the Chair, receiving the report made by the chairman of the Committee of the Whole on the Private Calendar.

Mr. WINSLOW. I move to lay the appeal on the table.

Mr. JONES, of Tennessee. If the Speaker is of the opinion that there was a quorum present when the report of the committee was made, I will withdraw my appeal.

The SPEAKER. The decision of the Chair was that the fact that no quorum was present had not been ascertained when the chairman of the Committee of the Whole on the Private Calendar made his report.

Mr. JONES, of Tennessee. I have this to say, that upon a count by tellers, just before the committee rose, there was no quorum present, and upon a vote taken directly after the committee rose no quorum was present. I do not wish to obstruct the business of the House. If it is the wish of the House, I have no objection to their discharging the Committee of the Whole House from the bills which were laid aside to be reported to the House, with the recommendation that they do pass. I will not object to that.

Mr. HOUSTON. I hope the gentleman from Tennessee will withdraw his appeal, and not have the action of the House upon it now. I regard the appeal as involving a principle which is important. I do not believe the appeal is well taken, because there is no knowledge upon the part of the House that a quorum was not present.

Mr. SEWARD. Is this debate in order?

Mr. WINSLOW. I moved some time ago to lay the appeal upon the table, which motion is certainly not debatable.

Mr. JONES, of Tennessee. I ask for the yeas and nays upon the motion to lay on the table.

The yeas and nays were not ordered.

The appeal was laid on the table.

BILLS PASSED.

The following bills and resolutions, reported yesterday to the House from the Committee of the Whole House, without amendment, and to which no objection was made, were then ordered to be engrossed and read a third time; and being engrossed, they were accordingly severally read the third time and passed:

A bill (H. R. No. 221) for the relief of Mary Bainbridge;

A bill (H. R. No. 224) for the relief of Stephen Bunnell;

A bill (H. R. No. 232) for the relief of Margaret Whitehead;

A bill (H. R. No. 250) for the relief of Pierre Gagnon, of Natchitoches, Louisiana;

A bill (H. R. No. 254) for the relief of William Hutchinson;

A bill (H. R. No. 257) to increase the pension of Henry E. Read, a citizen of Kentucky, and for other purposes;

A bill (H. R. No. 256) for the relief of Oliver P. Hovey;

A bill (H. R. No. 260) for the relief of Isaac Carpenter;

A bill (H. R. No. 261) for the relief of Leonard Loomis;

A bill (H. R. No. 264) granting a pension to Thomas Alcock, of Rochester, New York;

A bill (H. R. No. 272) for the relief of Brevet Major H. L. Kendrick;

A bill (H. R. No. 273) for the relief of John F. Cannon;

Joint resolution (H. R. No. 10) for the relief of General Sylvester Churchill;

A bill (H. R. No. 327) for the relief of the legal representatives of Marie Malines;

A bill (H. R. No. 332) for the relief of Richard B. Alexander;

A bill (H. R. No. 334) for the relief of Simeon Stedman;

A bill (H. R. No. 335) for the relief of Susanah Redman, widow of Lloyd Redman;

A bill (S. No. 38) for the relief of John R. Temple, of Louisiana, was also ordered to a third reading; and was accordingly read a third time; and passed.

Mr. CHAFFEE. I move to reconsider the vote by which those bills and joint resolution were passed; and also move that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

CITY OF CARONDELET.

The following bill, reported from the Committee of the Whole House, on which Mr. JONES, of Tennessee, had asked a separate vote, was reported:

A bill (H. R. No. 131) for the relief of the city of Carondelet.

Mr. JONES, of Tennessee. This bill was passed over yesterday without objection, and reported to the House. I have asked for a separate vote on it that we may have some explanation of it. I do not understand what amount is appropriated if it be passed. The bill is for the relief of the city of Carondelet. I presume that Carondelet is somewhere in the neighborhood of the city of St. Louis; and I also presume that the one hundred acres of land specified in this act are a part of the one thousand seven hundred and two acres which have been heretofore a portion of the Jefferson barracks tract. Am I right?

Mr. BLAIR. The Jefferson barracks tract contains seventeen hundred and two acres. The whole tract was conveyed by the city of Carondelet to the Government of the United States for military purposes; and the condition of the conveyance was, that it should belong to the Government so long as it was used for military purposes. The Government still uses the greater portion of that tract, but it has sold some one hundred acres of that tract. This bill simply proposes to compensate Carondelet for the one hundred acres which have been sold by the Government out of the seventeen hundred and two acres given to it by that city.

The donation from Carondelet was without consideration, conditional that the seventeen hundred and two acres of land should be used for military purposes. The Government has ceased to use that small portion for those purposes, sold it, and put the money into its coffers. Otherwise, the land would revert to the city of Carondelet. The one hundred acres for which the bill provides compensation to Carondelet, lies fifteen miles south of the city of St. Louis, being the southern extremity of the Jefferson barracks tract.

Mr. JONES, of Tennessee. What is the probable value of the land for which compensation is proposed to be made to the city of Carondelet?

Mr. BLAIR. In my judgment the land would be worth about five thousand dollars.

Mr. JONES, of Tennessee. That is an insignificant sum, it is true. I do not propose to throw any obstacles in the way of action on the bill. I only wish to have it understood. It is proposed now to make payment for these one hundred acres which the Government ceased to use for military purposes, on the ground that the whole of the seventeen hundred acres was conveyed to the Government for military purposes, so that if the Government shall cease to use the whole tract the precedent is established that, if sold, the Government shall repay its value to Carondelet either in money or other lands. This act will then be brought up as a precedent, and as an acknowledgment of the principle that the Government ought to refund. It will, perhaps, be demanded as a right, that the Government should refund to Carondelet.

Mr. BLAIR. The Government, when it ceases to use this tract for military purposes, can surrender it to the city of Carondelet, and need not pay its value in other lands or in money. I think it is only reasonable that, if the Government sells the land, she should refund to Carondelet, because the donation was made on the condition that it should be used for military purposes. When it ceases to use it for military purposes, it should either return it or repay the city of Carondelet its value.

Mr. JONES, of Tennessee. I do not recognize that principle as a correct one. The Government wanted a military station there, and if Carondelet, to aid it in that purpose, conveyed these lands to it, then the lands belong to the Government in fee. On the principle avowed by the gentleman, that we must either pay the city of Carondelet for the reservation or surrender it when the Government ceases to use it as a military reservation, I must vote against the bill.

Mr. BLAIR. It is expressed in the deed that this land shall be used for military purposes; and I say, that under that conveyance, when the Government ceases to use it for those purposes, it reverts, as a matter of course, to the city of Carondelet.

Mr. MARSHALL, of Kentucky. Is the condition of *revertitur* in the deed?

Mr. BLAIR. The condition is as I have stated it.

Mr. MARSHALL, of Kentucky. Then if we

give these one hundred acres back, the remaining acres will follow in time.

Mr. BLAIR. I demand the previous question.

Mr. GREENWOOD. I ask the gentleman to withdraw the previous question, to enable me to offer an amendment. The gentleman has given an opinion as to the value of this hundred acres of land. I ask him to allow me to amend it by inserting a proviso that the amount to be paid by the Government under the provisions of this bill shall not exceed the sum of \$5,000.

Mr. BLAIR. The valuation of the tract is left with the Secretary of the Treasury. He is to ascertain its value; and I think the Government will take no damage from leaving the matter to rest with the Government officers.

Mr. GREENWOOD. The gentleman has given his opinion as to the value of the tract, and I hope he will at least allow the amendment to be offered; and then I will vote for the previous question.

Mr. MARSHALL, of Kentucky. I hope the gentleman from Missouri will withdraw the call for the previous question, and hear a suggestion from me.

Mr. BLAIR. Certainly. I withdraw it.

Mr. MARSHALL, of Kentucky. I do not like to interfere in this matter, but I understand that the ground belonging to the Jefferson barracks is exceeding valuable—that the whole of it taken together is probably worth a million of dollars; and it occurs to my mind that the best disposition which the House could make of the subject would be to authorize suit to be brought by the city of Carondelet against the United States, or against the tenants in possession, before the United States court at St. Louis, for a just interpretation of the reading of this deed. If the deed carries the *revertitur*—as the gentleman contends that it does—the court will settle the principle on which the United States should act in the matter. That is preferable to our disposing of so large a grant, or hampering ourselves with conditions which we do not perfectly understand. It occurs to my mind that the gentleman would secure the success of his bill by accepting this suggestion. If he is right in his legal interpretation of the case, why, then, he would carry a judgment for the whole.

Mr. BLAIR. I do not think it much of a boon to the city of Carondelet, or any one else, to bequeath them a lawsuit with the Government. I think that after the city of Carondelet has made this magnificent donation to the Government of the United States, to be used for military purposes, it is the least the Government can do, when it ceases to use a portion of that land—and that but a small and the least valuable portion of it—to give it back to the city of Carondelet. Therefore, I cannot take the suggestion of the gentleman from Kentucky. As to the great value set upon this land—a million of dollars—there is a great mistake about that: it is not worth anything like it. I renew the previous question.

The previous question was seconded, and the main question ordered.

Mr. MARSHALL, of Kentucky, called for the yeas and nays on the third reading of the bill.

Mr. JONES, of Tennessee. Take the yeas and nays on the passage.

Mr. MARSHALL, of Kentucky. I do not want to take the yeas and nays on the passage for the simple reason that if the bill be not ordered to a third reading, I will offer an amendment to it.

The yeas and nays were ordered.

The question was taken, and it was decided in the negative—yeas 76, nays 91; as follows:

YEAS—Messrs. Abbott, Adrain, Anderson, Andrews, Bennett, Bingham, Bingham, Blair, Bliss, Bufington, Burlingame, Burns, Campbell, Case, Chaffee, Horace F. Clark, John B. Clark, John C. Cochrane, Coffey, Conins, Covode, Cragin, James Craig, Curtis, Danrell, Davis of Massachusetts, Dawes, Dean, Dick, Dodd, Edie, Farnsworth, Fenton, Foster, Gillis, Gilman, Gooch, Goodwin, Granger, Hatch, Howard, Kellough, Kelsey, Kigore, Knapp, Lovejoy, Matteson, Morgan, Morrill, Edward Joy Morris, Oliver A. Morse, Nichols, Olin, Palmer, Pendleton, Pettit, Phelps, Pike, Potter, Royce, Sandidge, John Sherman, Judson W. Sherman, Robert Smith, Spinner, William Stewart, Tappan, Trippie, Wade, Walbridge, Cadwalader C. Washburn, Ellihu B. Washburn, Israel Washburn, Wilson, Winslow, and Woodson—76.

NAYS—Messrs. Ahl, Arnold, Atkins, Avery, Barksdale, Bocoek, Bowie, Boyce, Branch, Bryan, Chapman, Ezra Clark, Clawson, Clay, Clemens, Cobb, Cockerill, Cox, Burton Craig, Crawford, Curry, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Dowdell, Edmundson, English, Faulkner, Foley, Garnett, Gartrell,

Greenwood, Gregg, Thomas L. Harris, Haskin, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, Leiter, Letcher, Maclay, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Millson, Moore, Isaac N. Morris, Mott, Niblack, Peyton, Phillips, Pottle, Quitman, Ready, Reagan, Ritchie, Roberts, Ruffin, Russell, Seales, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Stanton, Stephens, Stevenson, James A. Stewart, Talbot, Miles Taylor, Tompkins, Underwood, Waldron, Watkins, Wood, Worladyke, John V. Wright, and Zollicoffer—91.

So the bill was not ordered to a third reading.

Mr. MARSHALL, of Kentucky. I desire to move an amendment; but first I move to reconsider the vote by which the House refused to order the bill to be engrossed and read a third time. The previous question has exhausted itself, and I wish now to get back to the time when it can be amended.

Mr. HOUSTON. I desire, before the question be put on the motion to reconsider, to hear the amendment read, so as to know whether I will vote to reconsider for that amendment.

The proposed amendment was read, as follows:

Strike out all after the enacting clause, and insert:

That the city of Carondelet, Missouri, or its corporate authorities, is hereby authorized to institute suit, in the United States circuit court in Missouri, against the United States or their tenants in possession, to try and determine the title of the United States to the real estate tract on which Jefferson barracks are situated; that the effect and legal tenor of the conveyance from Carondelet to the United States may be judicially ascertained, and also any title which the United States may have to said tract independently of the conveyance from Carondelet. And it shall be the duty of the attorney for the United States for the district of Missouri to prepare and to attend to such cause on behalf of the United States, or for the tenant in possession, who may be impleaded in said suit: *Provided*, That either party shall have the right to appeal from the judgment of the said court, in said cause, to the Supreme Court of the United States.

Mr. UNDERWOOD. I move to lay the motion to reconsider on the table.

Mr. JONES, of Tennessee, called for tellers.

Tellers were ordered, and Messrs. DAVIS of Maryland, and SEALES were appointed.

The House divided; and the tellers reported—ayes 78, noes 70.

So the motion to reconsider was laid upon the table.

B. W. PALMER AND OTHERS.

A bill (H. R. No. 336) for the relief of B. W. Palmer and others, on which Mr. MILLSON had asked a separate vote, was then taken up.

Mr. MILLSON. Mr. Speaker, this bill was reported by the Committee on Naval Affairs, upon a petition presented by myself, at an early period of the session. The bill does not, in its present form, accomplish the purpose designed by the committee. Of course, I do not desire to enter into any extended discussion of the bill. I only wish to state its object, which I will do very briefly.

Pursers' clerks at the several navy-yards are by law entitled to receive only \$500 a year, but the duties performed by pursers' clerks in the navy-yards are so laborious, that four or five years ago the Department estimated their salaries at \$750, and Congress allowed the estimate. They have, therefore, been receiving from the Treasury Department the sum of \$750 a year. But, sir, recently one of the accounting officers of the Treasury has refused to allow a larger payment than \$500, upon the ground that no specific law has increased the salaries of these clerks, although the appropriations made by Congress were made with the understanding that the pursers' clerks at certain navy-yards were to receive \$750, and they have heretofore constantly received from the Government \$750. Now, however, the accounting officer says to these men that they shall be called upon to refund the excess of payment made to them out of the Treasury.

Now, Mr. Speaker, as these gentlemen who are pursers' clerks in navy-yards, have been employed by the Government under a promise of a compensation of \$750, and have actually received \$750, it would be a very great oppression upon them, after a service of three or four years, to tell them that they shall be obliged to refund the excess. This bill was designed by the Committee on Naval Affairs to provide for legalizing the payments already made, and to exempt these parties from the obligation to return what the Government has paid them. But under some momentary misconception, the bill reported by the Naval Committee provides only for a year, under the idea that this state of things only happened in regard to the

appropriation of one year. My object is to make the bill apply to similar payments made in other years.

Mr. BOCOCK. If my colleague will yield to me for a moment, I desire to say that the bill which has been reported to the House is not precisely the one which the Committee on Naval Affairs ordered to be reported. A mistake occurred in the drawing up or printing of the bill.

My colleague has stated, very correctly, that, about the time the pay of officers in the Departments here was raised, the Secretary of the Navy came to the conclusion that the clerks of pursers in the several navy-yards were not paid enough, and he estimated for their pay at \$750 a year. That allowance was made by Congress, although it was not expressed in the appropriation bill that the clerks should have \$750. Seeing, however, the estimate made by the Department for paying these clerks \$750 per annum, the pursers paid that amount from 1854 up to the present time. But recently, finding that a law stood upon the statute-book fixing their pay at \$500 per annum, the accounting officers of the Treasury not only ordered the pursers to pay only \$500 salary, instead of \$750, in future, but they actually refused to allow them credit for the difference between \$750 and \$500 for the time it has been paid. The Committee on Naval Affairs were unanimous in the opinion, so far as they were present when the matter was considered, that it would be doing very great injustice to call upon these pursers to refund, and compel them to call upon the clerks to refund, the money which has been paid, and, for aught I know, long ago expended.

And the Committee on Naval Affairs were of that opinion for the further reason that they thought \$750 was not an unreasonable salary for these different clerks in the navy-yards. They intended to legalize the payment since 1853 up to the present time; but this bill only legalizes the payment for one year. The very same reasons applicable to the legalization of this payment for one year, will apply with equal force to every year since 1853.

My colleague [Mr. MILLSON] states the facts correctly, that the bill as now presented was not the bill which met our approbation; and, if he will permit an amendment extending the provisions of the bill back to 1854, it will meet my cordial approbation, and I believe the approbation of every member of the Committee on Naval Affairs.

Mr. MILLSON. I am very glad to hear this explanation from my colleague, the chairman of the Committee on Naval Affairs. I was satisfied there had been some mistake, and I am very glad to hear that mistake accounted for. The object I have in view is to put the matter in the same position in which the Committee on Naval Affairs intended to put it. And I will say further, as a reason for it, that these pursers' clerks are perhaps the hardest worked and poorest paid officers of the Government employed in our navy-yards. They have the accounts often of more than two thousand men to make out, sometimes for fractional parts of the week, and fractional parts of the month. Their compensation, even at \$750 a year, is, it appears to me, absurdly small. The object I have in view is to enable the pursers to pay their clerks as they have been paid, under the decision of the Department. I move the following as a substitute for the bill as reported from committee:

"That the excess of salary paid to B. W. Palmer and others, as pursers' clerks at certain navy-yards, under the estimates made in the naval appropriation bills since the year 1853, is hereby confirmed and made legal: *Provided*, however, That nothing herein contained shall be construed into a repeal of the existing laws regulating the pay of pursers' clerks; but the clerks herein provided for shall hereafter receive a salary of \$750, as provided in the estimates aforesaid."

Mr. DAVIS, of Indiana, demanded the previous question upon the engrossment of the bill.

The previous question was seconded, and the main question ordered to be put.

Mr. SHERMAN, of Ohio. I understand the effect of this amendment to be to raise the salaries of these clerks from \$500 to \$750.

Mr. MILLSON. The effect is to continue their salaries as they have received them since 1854.

Mr. SHERMAN, of Ohio. But which they have received in violation of law. I am willing that they should not be compelled to refund what they have received. I understand that the De-

partment decided that this \$250 should be paid them; and I am not willing that they should suffer from the mistakes of the Department; but I want the salary to remain for the future at \$500, and I am opposed, therefore, to the substitute of the gentleman.

Mr. LETCHER. I call for tellers on the substitute.

Tellers were not ordered.

The substitute was not agreed to.

The question then recurred on ordering the bill to be engrossed and read a third time; and being taken, it was decided in the negative.

So the bill was rejected.

Mr. MILLSON. I move to reconsider the vote by which the House refused to order the bill to be engrossed and read a third time. I make the motion for the purpose of enabling the gentleman from Ohio to submit his amendment to make the compensation for the future the same that it has been in the past.

Mr. SHERMAN, of Ohio. I hope that "\$750" will be stricken out, and "\$500" inserted, so that we will remit the excess of payment made heretofore, and then leave the salary at \$500.

Mr. MILLSON. That is what I wanted to do, because the bill as reported provides only for a single year, while everybody admits the propriety of allowing them to retain the excess which has been paid them since 1853. I move to reconsider the vote by which the House refused to order the bill to be engrossed and read a third time.

Mr. LOVEJOY. I move to lay that motion on the table.

The question was taken; and the motion to lay on the table was disagreed to.

The question was taken on the motion to reconsider; and it was agreed to.

Mr. MILLSON. I now move to strike out so much of the substitute for the bill as authorizes their salaries to continue at \$750, thus leaving the salary as fixed by law.

Mr. SHERMAN, of Ohio. I move that there be added the words, "and their salaries shall remain at \$500 per annum."

Mr. MILLSON. That is provided for by the law already.

Mr. SHERMAN, of Ohio. The Department has overlooked that provision of the law for four years, and I want to provide against the same thing occurring again.

Mr. FLORENCE. And I move to add "other clerks at navy-yards." There are commandants' clerks in the same situation as the clerks to which reference has been made, and if the amendment I propose be adopted, it will relieve the Fourth Auditor from other difficulties under which he has labored.

Mr. MILLSON. I do not think that the amendment is germane.

Mr. FLORENCE. I only desire that justice may be done to these parties. They have petitioned Congress for action. They have received, like the pursers' clerks, an excess of salary by mistake. Their accounts were approved by the accounting officers of the Treasury, and it has been only of late that the Fourth Auditor has refused to audit their accounts, because he did not consider that they have been paid under existing law, although appropriation was made here to pay them. This action will cost the Government nothing, and will be only an act of justice to these clerks. It will relieve these clerks, and end the matter.

Mr. MILLSON. I am aware that there are one or two clerks at the Pennsylvania navy-yard who have, under the same wrong interpretation of the law, received an excess of salary. I have no objection to the provision being made for them, if the House think proper.

Mr. FLORENCE. It provides, also, for one or two clerks at the New Hampshire navy-yard.

Mr. CHAFFEE. I demand the previous question.

The previous question was seconded; and the main question ordered.

The question first recurred on Mr. FLORENCE's amendment.

The House divided; and there were—ayes 50, noes 48.

Mr. MORGAN demanded the yeas and nays.

The House was divided; and there were—ayes seventeen—

Mr. MORGAN demanded tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

Mr. MORGAN demanded tellers on the amendment.

Tellers were ordered; and Messrs. MAYNARD and WINSLOW were appointed.

The House divided; and the tellers reported—ayes 31, noes not counted.

So the amendment was rejected.

The question recurred on Mr. SHERMAN'S amendment, as follows:

Provided, That the pay of pursers' clerks at the navy-yards aforesaid shall not hereafter exceed \$500 per annum.

The amendment was agreed to.

The substitute, as amended, was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

JEREMIAH Y. DASHIEL.

A bill (H. R. No. 333) for the relief of Major Jeremiah Y. Dashiell, paymaster in the United States Army, reported back from the Committee of the Whole House, with a recommendation that it do not pass.

The bill was ordered to be laid on the table.

JOHN DAVIS.

A bill (H. R. No. 318) recognizing the assignment on land warrant No. 35,956, issued to John Davis, as valid; reported back from the Committee of the Whole House, with the following amendment:

Insert after the word "Davis," the words, "under the act of September 28, 1850."

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

ELIZABETH E. V. FIELD.

A bill (H. R. No. 222) for the relief of Elizabeth E. V. Field; reported back from the Committee of the Whole House, with the following amendment:

Strike out the word "five," and insert the word "one," so that the pension shall be twenty-one dollars per month instead of twenty-five dollars; and strike out the word "one," and insert the word "seven," so that the pension shall commence in 1857.

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

NANCY SERENA.

A bill (H. R. No. 231) for the relief of Nancy Serena, reported back from the Committee of the Whole House, with the following amendment:

In line six, insert the word "eight," so as to make the pension eight dollars per month.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

JOHN HUERTAS.

A bill (H. R. No. 251) to authorize the claimants in right of John Huertas to enter certain lands in Florida, reported back from the Committee of the Whole House, with the following amendment:

Provided, Said lands shall not be located on any land within six miles of any railroad.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

BENJAMIN L. McATEE AND I. N. EASTHAM.

A bill (C. C. H. R. No. 65) for the relief of Benjamin L. McAtee and J. N. Eastham, of Louisville, Kentucky, reported back from the Committee of the Whole House, with the following amendment:

Instead of the letter "J," insert the letter "I," so that the bill will read I. N. Eastham.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

The title of the bill was amended, so as to read,

"A bill for the relief of Benjamin L. McAtee and Isaac N. Eastham, of Louisville, Kentucky."

CHARLES D. ARFEVEDSON.

An adverse report (C. C. No. 154) upon the petition of Charles D. Arfevedson, was reported from the Committee of the Whole House, with a recommendation that the report of the Court of Claims be concurred in.

The report was concurred in.

N. AND B. GODDARD.

An adverse report (C. C. No. 155) upon the petition of N. and B. Goddard, executors of Nathaniel Goddard, was reported from the Committee of the Whole House, with a recommendation that the report of the court be concurred in.

Mr. COMINS. There has been a mistake in this case. The petition of Nathaniel and Benjamin Goddard was sent to the Court of Claims with a mass of papers, under a general resolution of the House. It should never have been referred to that tribunal. The petitioners themselves do not make their claim as a legal one, but as an equitable one. They make it as one which addresses itself to the discretion of Congress. The court itself, at the close of its opinion, says that the case does address itself to the discretion of Congress. I will read the opinion of the court, as delivered by Judge Blackford:

"This cause was referred to this Court by the House of Representatives.

"The petition, so far as it need be stated, is as follows: That in September, 1812, (war then existing between the United States and Great Britain,) the ship *Ariadne* sailed from Alexandria, then in the District of Columbia, for Cadiz, a neutral port, in Spain, with a cargo of flour; that on the 15th of October, 1812, the ship was captured by the United States brig-of-war *Argus*, and taken into the district of Pennsylvania, and there libeled in the district court of the United States; that the vessel and cargo were ordered to be restored by said court, but the circuit court in said district reversed the decree, and the vessel and cargo were condemned; that the decree of the circuit court was affirmed by the Supreme Court of the United States; that in consequence of said decree of condemnation, certain bonds, which had previously been given by the claimants upon the delivery to them of the vessel and cargo, were paid, to the end that distribution might be made by the United States and the captors according to law. The petition also states that the sole cause of the capture and condemnation was, that the ship had on board, at the time of her capture, a British license.

"The prayer of the petition is for a judgment for the portion of the proceeds of said ship and cargo, which were paid into the Treasury of the United States.

"It is very clear, upon the face of the petition, that the claimants have no remedy in this court. The said decree of condemnation of the ship and cargo was affirmed by the Supreme Court of the United States, on the ground that the ship, at the time of her capture, was sailing under a license of the enemy. (The *Ariadne*, 3 Whenton, 143.)

"The money paid into the Treasury of the United States, in consequence of said decree of condemnation, must be considered as legally belonging to the United States.

"We cannot go behind the decree of a court of competent jurisdiction.

"This case is, therefore, reported to Congress as one in which, on the face of the petition, the claimants have no legal demand against the United States. The case is one that addresses itself entirely to the discretion of Congress."

I therefore, Mr. Speaker, to carry out the recommendation of the Court of Claims, move that the report and accompanying papers be referred to the Committee of Claims.

It was so ordered.

TRUSTEE OF BENJAMIN COZZENS.

An adverse report (C. C. No. 156) upon the petition of Benjamin Cozzens's trustee was reported from the Committee of the Whole House, with a recommendation that the report be concurred in.

The report was concurred in.

JACOB BIGELOW.

An adverse report (C. C. No. 157) upon the petition of Jacob Bigelow, administrator of Francis Cazeau, was reported from the Committee of the Whole House, with a recommendation that the report of the court be concurred in.

The report was concurred in.

CASE OF JUDGE WATROUS.

Mr. CLARK, of New York. Mr. Speaker, I am instructed by the Committee on the Judiciary to bring to the notice of the House the matter of the investigation pending against the Hon. John C. Watrous, judge of the district court for Texas, and to ask, as I now do, that the committee be discharged from the further consideration of one of the memorials presented to the House asking for his impeachment.

In the early part of the session two memorials containing charges of official misconduct against Judge Watrous were referred to the Judiciary Committee. One was the memorial of Jacob Mussina, and the other the memorial of Eliphas Spencer. Each of those memorials contained serious charges; and the committee entered upon the investigation of them, have been for some time almost constantly employed in the investigation of them, and are endeavoring to complete their labors, in order that they may report during the present session. These memorials of Mussina and Spencer were presented to the Thirty-Fourth Congress, and referred to the Judiciary Committee; who reported, I believe, with unanimity, that articles of impeachment ought to be preferred against Judge Watrous. Your committee, not being satisfied with the rules which the Judiciary Committee of the Thirty-Fourth Congress adopted for their guidance, took up the matter of the charges *de novo*, and have, as I have stated, proceeded to the examination of witnesses, as if the case had been now for the first time presented for the consideration of Congress. On the 23d of February last there came to the Judiciary Committee a memorial of William Alexander, also praying for the impeachment of Judge Watrous, upon grounds perhaps sufficient to justify an impeachment if they should be substantiated upon an investigation. It is in respect of this last application of William Alexander that I call the attention of the House to the matter, and ask that the committee be discharged from its consideration.

The grounds upon which we make the suggestion are these: This memorial came to the committee under the standing rule of the House. It was presented by my honorable friend from Texas, [Mr. REAGAN,] who sits near me. Before entering upon the consideration of the testimony offered to be adduced in respect of this memorial, the attention of the committee was called to the fact that the same memorial was presented before the Thirty-Second Congress, and that the Judiciary Committee of the House of that Congress reported a resolution in respect of that memorial.

Mr. CHAFFEE. Is this a privileged question?

The SPEAKER. It is not.

Mr. CLARK, of New York. I hope my friend from Massachusetts will indulge me. My object is to save time and facilitate the business of the committee.

The resolution reported by the Judiciary Committee of the Thirty-Second Congress in relation to this memorial of William Alexander, is as follows:

"Mr. VENABLE submitted the following report:

"The Committee on the Judiciary, to whom was referred a memorial containing charges against John C. Watrous, judge of the district court of the United States for the district of Texas, report that, after the examination of much documentary evidence, as well as of witnesses summoned from Texas, the committee do not recommend that articles of impeachment be directed by the House against said John C. Watrous."

It does not appear, from the record in the Congressional Globe, that the House took any action upon the report of the committee. The Judiciary Committee do not, therefore, consider that this report of the committee of the Thirty-Second Congress is necessarily final, but it has been urged upon them that there is a seeming injustice in dragging the judge of a Federal court from his duties, Congress after Congress, where a report exonerating him has been once made. Had this report of the Judiciary Committee of the Thirty-Second Congress charged the judge with the misconduct of which he is accused, we should not have hesitated to enter upon the investigation. The point we desire that the House should decide is this: whether, in view of this report of the Judiciary Committee of the Thirty-Second Congress, and of the reference of the same memorial to the committee without any special order of the House, your committee shall, at this late period of the session, and in view of the very great amount of labor still to be performed by the committee in respect of the other charges, enter upon the investigation. The Representatives on this floor from the State of Texas have appeared before us, and strongly urged that a state of public feeling exists in Texas, requiring that we should enter into the investigation; while, on the other hand, it is suggested that the charge is stale, having once been brought before a former Congress,

whose Judiciary Committee have reported a resolution in exoneration of the judge. Upon the ground, therefore, that this memorial has once been the subject of investigation, I move that the Committee on the Judiciary be discharged from the consideration of the memorial of William Alexander, praying the impeachment of Judge John C. Watrous.

Mr. REAGAN obtained the floor.

Mr. READY. One word just here before the gentleman from Texas proceeds. In addition to what my colleague has stated, I wish to say, in reference to this Alexander memorial, that it was referred to the Committee on the Judiciary in the Thirty-Fourth Congress, to whom the two other memorials now before the Judiciary Committee of the present Congress were also referred. In their report in reference to the charges against Judge Watrous, they took no notice whatever of the Alexander memorial. They founded their action entirely upon the memorial of Mussina and Spencer.

This memorial was printed, and a report made in favor of Judge Watrous in the Thirty-Second Congress. But there seems to have been no action whatever taken in reference to it by the Thirty-Third Congress. The memorial was referred by the Thirty-Fourth Congress to the Judiciary Committee, and they seem to have ignored it in their report, and to have founded their action exclusively upon the other two memorials. The question now is, whether, some seven years having elapsed since the charges by Mr. Alexander were preferred, and steps having been taken by a committee to exonerate Judge Watrous from the charges then made, the Judiciary Committee of the present Congress should further investigate that subject; and whether they should not, in fact, exonerate Judge Watrous from the necessity of going into the investigation?

Mr. LETCHER. I should like to make an inquiry of my friend upon that point. I understand that the resolution which has just been read did not exonerate Judge Watrous. I understand that the committee declined to present articles of impeachment against him. An exoneration, according to my view, would have been to have found him not guilty of the charges. I think there is a very material difference between that and the resolution.

Mr. CLARK, of New York. The language is peculiar, and may, if taken literally, be taken as a Scotch verdict, "not proven." But nevertheless, as the committee, after full investigation, recommended that articles of impeachment be not preferred, we supposed the peculiar form of expression used was from inadvertence rather than from design.

Mr. WASHBURN, of Illinois. Do I understand this to be a privileged question?

The SPEAKER. The Chair thinks it is not a privileged question.

Mr. WASHBURN, of Illinois. Then, as it seems likely to give rise to some discussion, and perhaps consume the whole day, I must object.

The SPEAKER. The Chair is of the opinion that the objection comes too late.

Mr. WASHBURN, of Illinois. The gentleman from Massachusetts [Mr. CHAFFEE] raised the question when it was first presented.

The SPEAKER. But the gentleman from Massachusetts waived his objection.

Mr. REAGAN. I have but very few words to say upon the question now presented in reference to Judge Watrous. I have the fullest confidence in the discretion of the committee. I know their labors have been onerous, and that they have faithfully discharged the onerous duties devolved upon them by this investigation. But the question which comes up to my mind is this: if the House prefers articles of impeachment under the charges which have been investigated by the committee, while I should feel bound to respect the motives which actuated the committee, in that point of view I should regret that they should be discharged from the consideration of the Alexander memorial; and for this reason: the memorial of Mr. Alexander makes very grave charges against the district judge of our State. One of these charges involves the fact that he had been acting with others in attempting to establish against the State of Texas fraudulent certificates to the amount of more than twenty-four million acres of land. This is one of several charges

embraced in the memorial. Of the truth or falsity of these charges I have nothing to say. But if the committee should determine to recommend articles of impeachment upon the charges presented in the other memorials of Mussina and Spencer, I think the articles of impeachment ought to embrace the charges contained in Alexander's memorial; and then I would have no objection to the action asked for by the committee.

I desire to state this in reference to the motion now before the House: the Committee on the Judiciary of the Thirty-Second Congress investigated the charges contained in this memorial, and they recommended that articles of impeachment be not preferred against Judge Watrous. If the House had acted upon that recommendation, that would, in my judgment, have concluded the question; but the House not acting upon that recommendation did not, in my judgment, legally conclude the question.

It is also true, as has been stated, that these charges may now be regarded as stale. It is also true that subsequent efforts have been made to impeach this same judge. It is also true that the Judiciary Committee of the last Congress recommended the impeachment of Judge Watrous. The House, however, did not act upon that recommendation, and it remains in the same condition with the report made to the Thirty-Second Congress. If the House had acted upon that recommendation, a reinvestigation of the charges would have been unnecessary; and their failure to act, I take it for granted, is the ground upon which the House now reinvestigates the charges.

I have this further to say in reference to the charges contained in the Alexander memorial: the Legislature of Texas passed joint resolutions asking Judge Watrous to resign. I will not take up the time of the House by reading those resolutions. But the Legislature of 1848, in view of a portion of the charges contained in Mr. Alexander's memorial, passed such joint resolutions. The last session of the Legislature of Texas had the subject again before it, and again passed joint resolutions directing the Representatives of Texas in Congress to urge upon the House the investigations of all the charges against Judge Watrous. I take it for granted that the charges contained in Mr. Alexander's memorial were embraced with those contained in the memorials of Mr. Spencer and Mr. Mussina. And last winter, when the subject was before the Legislature, Judge Watrous wrote a letter asking them to appoint some persons to prosecute the charges against him, and have them fully investigated.

Mr. CLARK, of New York. It is but justice to Judge Watrous to say that he declares himself ready to meet the investigation, and that the suggestion that the committee be discharged from the consideration originates with the committee, and not with him.

Mr. REAGAN. I was going to say that Judge Watrous, in his letter to the Legislature at its last session, evidently—if I have not forgotten the tenor of his letter—contemplated the very charges preferred in Alexander's memorial. It was the fact that these charges seemed to be contemplated in his own recommendation to the Legislature, as well as by the action of the Legislature in instructing the Representatives of Texas here to insist on an investigation of all the charges made, that I thought it important to urge on the Committee on the Judiciary the fullest investigation.

I desire to say this on a point which has been discussed in this as well as in preceding Congresses. I understand one of the difficulties in the way of the committee is in the fact that they have adopted a rule for their government in the investigation of this case, which involves the necessity of hearing the answers of the accused, and evidence for and against, and going through all the formalities of a strict trial before them. That, I admit, is a matter addressed to the sound discretion of the committee. The difficulty, then, is, that if they are required to go into Alexander's memorial, acting on the principle of receiving an answer from the accused, and hearing all the testimony which can be adduced for and against the charges, they will not have time to investigate the charges involved. I have no disposition to interfere with the committee; but I will say that that memorial has been before that committee for some time. Witnesses have been summoned from Texas to sustain the charges contained in that memorial.

They are now here; and what I desire is, that the committee shall at least hear their testimony, which will not occupy much time. If they believe then that it is necessary for other witnesses to be had, they can send for them. The committee can determine whether the witnesses make a *prima facie* case.

In reference to the latter point, I will say that I understand the rule, in cases like this, to be that the House stands in the position of a jury of inquest, and not as triers. I understand the Constitution of the United States to vest in the Senate alone the power of finally trying the case. The committee are to inquire from whom they please, and in what manner they please—I mean the House acting through the committee—and then, if facts present themselves which warrant them in preferring articles of impeachment, charges are subsequently to be preferred before the Senate. I do not understand, and I wish to so state now, that the committee are bound by the strict rules which would govern in a trial in a court of justice. So far as I have investigated this subject, I have found that, in the British Parliament, it has never been the practice to go into formal trials in the House which prefers the charge. Warren Hastings, it is true, was permitted to go before a committee of the House of Commons; but he was permitted to do so by special favor in that extraordinary case.

In the cases here of Judge Pickering and Judge Chase, those judges had nothing to do with the charges until they were summoned to the bar of the Senate. In the case of Judge Peck, who was impeached, he was permitted to go before the committee of the House; but that was not as a matter of right, but with the understanding that it was an act of grace and favor alone. I say that the precedents are that the House occupies the position of a jury of inquest, and can summon as many or as few witnesses as it pleases, to satisfy the consciences of members, whether an impeachment shall be preferred to the Senate. It is not expected that a formal trial of the facts can be gone through with in the privacy of a committee room, when the judgment and feelings of the people of a sovereign State demand of Congress an impeachment and a full trial before the Senate, which is the constitutional trier of such causes.

It is in view of these facts, Mr. Speaker, that I have felt that it may not be out of place to ask that the committee examine the witnesses already here. I have no disposition to impose unnecessary duties upon the committee; I only wish that if charges shall be preferred against this judge, that the House shall be at liberty to embrace in its specifications the serious charges which have been preferred against him for years past, if in its judgment they should be preferred. I desire to say that from the time Judge Watrous went upon the bench in Texas, because of opinions he was understood to hold, and interests which he was believed to possess, the most serious alarm has rested upon the public mind in Texas. That alarm has not been diminished by time, but has become more aggravated, so that the Legislature of that State has taken the matter into consideration, and three memorials from citizens of Texas have been presented on the subject, asking his impeachment. It would perhaps be better for him and for the country if such a trial as is contemplated by the Constitution, could be had on all the charges preferred against him.

Hence it is that I feel some desire that the charges preferred by Alexander may, if consistent with a sense of duty on the part of the committee and the House, be also considered; so that if there be a report in favor of preferring to the Senate articles of impeachment, they may be based upon the charges made by Alexander, as well as those made by Mussina and Spencer. If the judge is acquitted, then his honor is vindicated; and with the fair verdict of the Senate of the United States acquitting him, the people of Texas ought to be, and I think will be, satisfied. If, on the contrary, that memorial contains charges which can be proven, and which will impeach Judge Watrous, and dismiss him from the bench, then it is the duty of this House to see that investigation of them be had, and the people of Texas be relieved of a judge who, some at least think, has been a great injury to the people of Texas.

Mr. CHAFFEE. I call for the previous question.

Mr. CRAIGE, of North Carolina. As a member of the Committee on the Judiciary, I want to say a word, inasmuch as the course of the committee has been called in question.

Mr. DAVIS, of Maryland. This is too serious a matter to pass over hastily, and I hope the call for the previous question will be withdrawn.

Mr. BRYAN. Judge Watrous is a constituent of mine, and I hope I may have a chance to say a word. I will renew the call for the previous question.

Mr. SICKLES. I move that the matter be postponed until Monday.

Mr. CLARK, of New York. I am willing that it should go over.

Mr. CRAIGE, of North Carolina. As a member of the Judiciary Committee, I dislike that the remarks of the gentleman from Texas should go out to the country without reply. As I think, unjust aspersions have been cast upon the committee, and I desire to reply to them.

Mr. REAGAN. I trust that if the gentleman thinks I have cast any reflection on the committee, he will be permitted to speak; but I am not conscious of it.

Mr. CRAIGE, of North Carolina. The gentleman from Texas speaks of the committee having adopted a rule unprecedented in the annals of judicial investigation.

Mr. CHAFFEE. If there be a general understanding that the matter goes over till Monday, I will withdraw the objection. Otherwise I will not; and I move that the House resolve itself into a Committee of the Whole House.

Mr. SEWARD. I object to its going over till Monday.

Mr. JOHN COCHRANE. Will the gentleman yield till I offer a resolution to close debate on the fire bill?

The resolution was read, as follows:

Resolved, That all debate in the Committee of the Whole House on House bill (No. 304) to refund to Barclay & Livingston, and others, duties on certain goods destroyed by fire in the city of New York on the 19th day of May, 1845, shall cease in two hours after its consideration shall be resumed in committee; and the committee shall thereupon proceed to vote upon such amendments as may be offered thereto, the member reporting said bill having the right to close the debate, shall report it to the House, with such amendments as may have been agreed to in committee, together with such recommendation as the committee shall direct.

Mr. PHILLIPS. I would inquire whether that cuts off the five-minute debate?

The SPEAKER. It does not.

Mr. MAYNARD. If in order, I move to amend that resolution by striking out two hours, and inserting one hour.

Mr. MORRIS, of Illinois. I move to amend that by inserting ten minutes instead of an hour. This bill is understood by every member of the House.

Mr. MAYNARD. I accept that amendment. The amendment was agreed to.

Mr. JOHN COCHRANE moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. PHILLIPS. I move to lay the resolution as amended on the table.

The motion was not agreed to.

The resolution as amended was adopted.

Mr. DAVIS, of Indiana. I desire to inquire what will be the regular order of business, if the motion to go into a Committee of the Whole House be voted down?

The SPEAKER. The consideration of the resolution of the Judiciary Committee, unless that shall be postponed.

Mr. HOUSTON. If the resolution offered by my friend from New York embarrasses the business of the House, I hope the House will accept his suggestion, and postpone it till Monday, so that it may not embarrass the consideration of such business as the House may now desire to transact. The Committee on the Judiciary, while they desire early action on it, because witnesses are here waiting the action of the House upon it, are not disposed to press it, to the annoyance of the House, or to the interruption of its ordinary business.

The question was taken on the motion to go into a Committee of the Whole House; and on a division there were—ayes 90, noes 41.

The House accordingly resolved itself into a

Committee of the Whole House on the Private Calendar, (Mr. Grow in the chair.)

NEW YORK FIRE BILL.

The CHAIRMAN stated the business first in order was the consideration of a bill (H. R. No. 204) to refund to Barclay & Livingston, and others, duties on certain goods destroyed by fire in the city of New York, on the 19th day of July, 1845.

Mr. FLORENCE. I would suggest that the bill reported from the Committee of Elections in Mr. Ingersoll's case was passed over informally, in consequence of the absence of my colleague, [Mr. PHILLIPS,] and I suppose it comes up to-day.

The CHAIRMAN. When the committee was last in session—not upon objection day—they had this bill under consideration.

Mr. FLORENCE. Ah! That is true.

Mr. HASKIN. Mr. Chairman, when this bill was last discussed in Committee of the Whole House, I proposed to have occupied the attention of the committee in support of the motion, then made by the gentleman from North Carolina, [Mr. CRAIGE,] that the bill be reported to the House with the recommendation that it be referred to the Committee of the Whole on the state of the Union, and also to have replied briefly to the arguments presented by my colleague, [Mr. JOHN COCHRANE,] the chairman of the Committee on Commerce. What I then desired to do, I shall now essay to perform, and I regret exceedingly that my time has been limited to ten minutes; but I think that in that period I can show that the bill should not be passed. I shall endeavor to show, first, that this is a public bill, and as a public bill should go to the Committee of the Whole on the state of the Union; secondly, that on no legal or equitable principle should the bill be passed; and third, that this bill contains unconstitutional provisions. From my examination of it, I am satisfied from its peculiar provisions that it is the most extraordinary bill that has been presented to Congress, for its consideration, at this session. Its passage would be the establishment of a precedent by which the Treasury would be bankrupt for a quarter of a century to come. I object that it is a public bill, and the fact stated by my colleague, that it has been sweated through the House, session after session, proves that it is a public bill. Sir, at the last session of Congress the bill was reported from the Committee of Ways and Means.

Mr. PHELPS. No, sir.

Mr. HASKIN. Yes, sir, it was mysteriously reported from the Committee of Ways and Means, and it mysteriously passed this body. The last section of the bill which then passed contained a provision that the certificates which were contemplated to be issued should be issued and paid at the Treasury, within one year after their issue, out of any fund which might be appropriated for that purpose.

Mr. PHELPS. Will the gentleman permit me to make an explanation?

Mr. HASKIN. No, sir, I cannot, for I have only ten minutes. Now, this bill, instead of asking an appropriation from the Treasury, as did the bill of last session, contains this extraordinary provision—that the certificates, when issued by a commission composed of the collector, the naval officer, and the district attorney of New York, shall be received by the collector of New York in lieu of gold or Treasury notes; making these certificates, to all intents and purposes, money receivable in the payment of debts in the city and county of New York.

That bill also contained a provision that these duties should not be refunded to any one, save and except the owners of the goods destroyed; but this bill provides that they shall be refunded to the owners or their legal representatives.

Mr. LETCHER. Does that cover insurance companies?

Mr. HASKIN. Yes, sir, it does. It also provides that, where the goods were insured and the owners have received part of the insurance, the insurance companies may step in and receive the duties on the goods on which the insurance has been paid.

Mr. JOHN COCHRANE. I beg to correct my colleague. He is mistaken.

Mr. HASKIN. Now, sir, I desire to say that the memorial published in the speech of my col-

league shows; that of the forty-one importing merchants of New York who memorialized Congress in favor of this bill, about ten appear in this memorial by their attorneys. They are foreign importers in the city of New York, and I am authorized to say that those claims have been purchased up, and this bill is to be passed simply as a gratuity. I shall endeavor to prove to the House, that upon no principle of law or equity ought it to be passed. My colleague stated that duties to the amount of \$400,000 had been paid upon these goods just prior to the conflagration of the 19th of July, 1845, and that of that sum \$109,000 had been returned by the Treasury Department to the parties, because it had been paid on goods in bond—on liquors within the jurisdiction and under the control of the revenue officers, and that this claim covered the balance of \$291,000. He also stated that, under the general law in relation to the warehousing system, the Treasury Department could not go back to what occurred in 1845, inasmuch as that law did not reach back to that period. In saying this, he admitted away his whole case. He proved that this bill, if now passed, would be an *ex post facto* law, simply to award to these rich merchants this gratuity at the hands of the Government. I say, sir, that considering the bankrupt condition of the Treasury, it would be infamous to pass the act. These goods were insured, and the insurance should have protected these parties. And if they were not protected by the insurance, they have no right to come and ask the Government to refund the duties on these goods, which, according to the statement of my colleague, were in the private warehouses, cellars, and stores of the importers or owners, and ready for consumption. Suppose my colleague's friend, John Wheeler, had purchased ten casks of brandy of Barclay & Livingston, and had suffered them to remain in the warehouse of that firm, and they had been consumed, surely John Wheeler would have had as much claim to be refunded the duties that he had paid second-hand as Barclay & Livingston have.

Now, sir, we have established a Court of Claims for examination of claims of this character, and this claim should have come before Congress through the medium of that court. I say, sir, that in this case the surroundings prove that the matter should not come up in Congress at all. If the House is to make any disposition of it, it should be sent to the Court of Claims, and when we have the report of the Court of Claims before us, it may then come up for adjudication here.

[Here the hammer fell.]

Mr. HASKIN. I hope the House will give me ten minutes longer.

Mr. WASHBURN, of Maine. I object.

Mr. HASKIN. I move to strike out the enacting clause of the bill.

Mr. JOHN COCHRANE. I suppose I am entitled to my hour to close debate.

The CHAIRMAN. The gentleman is entitled to his hour if he claims it.

Mr. JOHN COCHRANE. I shall not occupy the time of the committee for that length of time.

Mr. SMITH, of Virginia. I rise to a question of order. The gentleman from New York has already spoken once upon this bill, and I submit that he is not entitled to speak again until every other gentleman who desires to speak shall have spoken.

The CHAIRMAN. The rule provides that the gentleman reporting a bill shall be entitled to one hour to open and close debate. The Chair decides that the gentleman from New York is entitled to one hour to close debate, if he insists upon his right. The Chair therefore overrules the point of order raised by the gentleman from Virginia.

Mr. WASHBURN, of Maine. I would suggest to the gentleman from New York that it is not usual for a member reporting a bill to close debate until after the close of the five-minute debate.

Mr. JOHN COCHRANE. I will avail myself of the gentleman's suggestion, and reserve my right until that time.

Mr. SMITH, of Virginia. I would suggest that there are others who wish to participate in this debate, and the gentleman having spoken once upon the subject, is not entitled to speak again until others who desire to speak shall have spoken upon it.

The CHAIRMAN. The Chair overrules the point of order, for the rule expressly provides that a member reporting a bill shall have one hour to close debate. Does the gentleman take an appeal?

Mr. JONES, of Tennessee. The gentleman from Virginia is perhaps not aware that debate has been closed upon this bill.

Mr. SMITH, of Virginia. Debate has not been closed upon it.

The CHAIRMAN. It has been closed. The gentleman from New York is entitled to one hour.

Mr. JOHN COCHRANE. Have I the right to my hour after the five-minute debate shall have been closed?

The CHAIRMAN. The Chair thinks not, unless by unanimous consent.

Mr. CLEMENS. I object.

Mr. CAMPBELL. I desire to inquire if the gentleman from New York, who reports this bill, has not, under the rules of the House, the right to occupy an hour after the bill shall have been brought before the House, even after the previous question shall have been seconded?

Mr. WASHBURN, of Maine. I can give the Chair twenty instances where the member reporting a bill has been permitted to occupy his hour in the House, even after the previous question has been ordered.

Mr. JOHN COCHRANE. I will proceed with my privilege at this time.

Mr. WASHBURN, of Maine. I rise to a question of order. I desire to know if the Chair has decided that it is not in order for the member of a committee reporting a bill to make his closing speech in the House after the bill shall have been reported to the House?

The CHAIRMAN. That is a question which cannot arise in committee. The gentleman desires to go on.

Mr. WASHBURN, of Maine. I only asked for information; for I understood the Chair to decide that the gentleman must go on now; and he wants to go on only in subordination to the ruling of the Chair.

Mr. JOHN COCHRANE. I ask that the resolution be again read, as it was not correctly read before.

Mr. LETCHER. Does it come out of the gentleman's time?

The CHAIRMAN. It does.

The resolution was again read.

Mr. JOHN COCHRANE. I will say now that I refer what rights I have of reply under the resolution and rules of the House, to the House, when the committee goes into the House with the bill. In the mean time gentlemen can take what order they please.

The CHAIRMAN. The Chair cannot decide what will be the decision in the House; but he is of the opinion, after reading the rule, that the gentleman can elect whether to make his speech here or in the House.

Mr. JOHN COCHRANE. I will take it in the House.

The first section of the bill was read for amendments, as follows:

"That the collector of the customs of the port of New York, the naval officer of the said port, and the district attorney for the southern district of New York, be, and they are hereby, constituted a commission, without compensation, to ascertain the amount of duties paid upon all goods, wares, and merchandise destroyed by fire in the city of New York, in unbroken and original packages, as imported on the 19th day of July, 1845, and the name or names and place or places of residence of the several parties entitled, as owners, or their legal representatives, to receive or have refunded to them the amount of the duties so paid upon the several parcels and packages of goods so destroyed, pursuant to the provisions of this act."

Mr. HASKIN. I move to strike out the words "naval officer" and insert in lieu thereof "the surveyor of the port of New York, the Mayor, and the recorder of that city." The surveyor is a very proper officer. The chairman of the Committee on Commerce occupied that position, and, when occupying it, he was more familiar with the duties of collector than the collector himself; and I hope that my friend, the present surveyor of New York will be included.

I say that this law is unconstitutional because, in my judgment, it is an *ex post facto* law, and because, by this third section, judicial power is conferred upon a commission, composed of ministerial officers of the Government, to examine witnesses under oath, and adjudicate on these

claims, while we have a Court of Claims here, a United States court, and United States commissioners for New York city. The judicial power conferred upon this commission is in contravention, I allege, of that provision of the Constitution which says that the judicial power of the United States shall be vested in one Supreme Court of the United States, and such inferior courts as may be established. I say, too, that the last section of this bill, providing for the issue of certificates, and their circulation instead of gold and Treasury notes, is in contravention of that part of the Constitution which provides that the power to coin money shall be vested in Congress. The provision that they shall be received by the collector of the port of New York in lieu of gold and silver, is in contravention of that section of the Constitution which provides that no preference shall be given in the regulation of commerce or revenue of the ports of one State over those of another. Why should not the port of Philadelphia, or the port of San Francisco, have the same privilege?

Mr. WASHBURN, of Illinois. What are the gentleman's reasons for his amendment?

Mr. HASKIN. I am opposed to the proposed personnel of the commission. It seems that, as no compensation is fixed by the bill to be paid the collector and naval officer and the United States district attorney, they are expected to make it up out of the extraordinary power to go as high as \$300,000 in these returns of duties.

This bill, if passed, must be passed as a gratuity. I defy the chairman of the Committee on Commerce to show a single case where the principles involved in this bill have been adjudicated. The gentleman, I take leave to say, was under an entire misapprehension in regard to the cases to which he referred. The duties have only been remitted where the goods were *in transitu*, or in the hands of the revenue officers. I will refer to some. One hundred and sixty-seven dollars and fifty cents were remitted on goods destroyed by fire while on the passage, and before delivery. The duties were remitted on one thousand three hundred and twenty-five bushels of salt, casually destroyed by a flood on the night of the same day said salt was landed and stored in Annapolis, when in the jurisdiction of the revenue officers. Duties were remitted on eleven hogsheads of coffee, shipped by French citizens to the ports of Norfolk and Portsmouth, duties secured to be paid by *Elliott & Purviance*, after shipped on account of same importer, to the port of Baltimore, and there destroyed by fire. Then there is "an act authorizing the remission of duties on certain teas destroyed by fire, while under the care of the officers of the customs, in Providence, Rhode Island." The duties remitted on such part as was destroyed by fire while in charge of the revenue officers. The act of 1838 was for the remission of duties paid upon goods destroyed at the great fire in the city of New York, in 1835, and applied to owners, not to assignees, representatives, or holders.

[Here the hammer fell.]

Mr. PHILLIPS. I am opposed to the amendment of the gentleman from New York, as I am opposed to the whole scheme. It is class legislation of the worst kind.

Mr. JOHN COCHRANE. I call my friend to order. I insist that he confines his remarks to the pending amendment.

Mr. PHILLIPS. I intend to do so; and to show that while this thing is wrong in itself, it is more wrong to do it by the officers to whom it is proposed to intrust it.

Mr. JOHN COCHRANE. I rise to a point of order. The gentleman, in proposing to show that the scheme is wrong in itself, is not in order in this: that he is not addressing himself to the question before the House.

The CHAIRMAN. The gentleman from Pennsylvania has not proceeded far enough for the Chair to determine whether he is in order or not.

Mr. PHILLIPS. I propose to show that these officers are not to be trusted with the settlement of this matter. It is not my fault that only ten minutes have been allowed to discuss the bill on one side, while two hours have been allowed on the other.

Mr. JOHN COCHRANE. It certainly is not my fault.

Mr. PHILLIPS. The amendment offered by the gentleman from New York [Mr. HASKIN] is to intrust the examination of this matter to certain

city and Federal officers. It is a matter which, if the bill be passed at all, should be submitted to the accounting officers of the Treasury. The officers proposed in the amendment are as objectionable as those named in the bill. If the bill is to be passed at all, let not the Mayor of New York, and those other officers of New York, be the persons to pass upon the claims of New York citizens; but extend the bill, as has been suggested, to the whole United States—to San Francisco, Boston, Charleston, Philadelphia, and everywhere else; and let those who represent the United States, and have responsible duties to perform in that connection—the accounting officers of the Treasury—pass upon it. The amendment proposed by the gentleman from New York [Mr. HASKIN] will not, of course, answer. I do not know that he contemplated its passing when he proposed it. While we are considering this bill, let us consider what are the duties proposed to be imposed upon the executive officers of the city. The bill orders certain duties to be recognized and refunded; and allows the issuance of shipplasters for the amount. If the Government owes this money, let it pay it—let no certificates be issued. Do not conceal from us and the public that this whole sum is to be taken from the Treasury, and that the Treasury is to be reduced by that amount. If these duties are to be refunded, let it be under a general law. I am prepared to offer a substitute, at the proper time, by which all the cities will be put upon an equal footing. I would say, with great respect to the gentleman who reported the bill, that this is a species of class legislation against which, during all the time I may be here, short or long, I will war.

Mr. JOHN COCHRANE. I propose to amend the amendment offered by my colleague, by striking out the words "Mayor of the city," leaving the words "surveyor of the port" to stand.

Mr. HASKIN. I accept the amendment, provided that, instead of the Mayor, the United States district judge be inserted. I want some judicial officer to be on the board.

Mr. JOHN COCHRANE. If the name of United States district judge were in the amendment, I would also move to strike it out. The officer designated in the bill is "the naval officer of the said port." If the amendment be amended as I propose, the officer will be "the surveyor of the said port." I concede, sir, for the reasons that have been suggested by my colleague, that it is better the surveyor should act in that capacity than the naval officer. He is the acting officer of the port; he is the adjutant, in fact, of the collector; he more thoroughly understands these matters, which this commission is obliged to pass upon, than the naval officer; and I may say, also, that much of the information to be allowed before these commissioners is to be derived from the archives of the surveyor's office.

It is my judgment, therefore, that it is better the surveyor should be one of these commissioners than that the naval officer should be. I object to the other officers mentioned in my colleague's amendment, and for the simple reason that the commission proposed by this bill is thorough in its composition—namely, the collector, the chief Federal officer of the port; the surveyor, the adjutant of the collector; and the district attorney, the law officer of the Government there. You can compose no commission of better elements than that. That conveys the whole of the answer to the remarks made by my colleague. In reply to the remarks made by the gentleman from Pennsylvania in favor of this matter being left to the accounting officers of the Treasury, I have but this to say: that the bill provides for the submission of the finding of the commissioners to the Secretary of the Treasury, and it must be approved by him before it is binding on the Government. It therefore submits all these things eventually to the accounting officers of the Treasury.

Mr. LETCHER. I am opposed to this proposition, because I take it, from all I can hear in regard to these officers, in the city of New York and elsewhere, that they have about as much public business to discharge as they can very well perform. Now, sir, if this be so, why is it that this matter is not referred to the accounting officers of the Treasury, who are constituted here the proper parties to decide on the claims of these persons? Why is it that everybody else, who has a claim against this Government, is to run the

ordal, at the Treasury Department, of the Comptroller and the other officers of the Government; and that this claim, of a far greater magnitude than ninety-nine out of every hundred that have to go before the Treasury Department, is to be referred to the local officers residing in that city, which is directly and immediately interested in the award of the Department?

Mr. WASHBURN, of Maine. Will the gentleman from Virginia allow me to say to him that the commissioners in this case are precisely the same as were appointed by the law to refund duties in the case of the great fire in New York in 1835, and in other cases?

Mr. LETCHER. But that does not alter the matter. If you have departed from the rule once, that is no reason why you should depart from it in a case of the magnitude of this—no reason at all. It is unnecessary that this tribunal should be constituted, or that the usual rule should not be observed in respect to this claim. Is it at all unreasonable that this bill, which proposes to refund the duties on goods destroyed by fire, should be subjected to the operation of the same principle which has been found to work well in practice in regard to other claims of less magnitude and importance? If there is any reason why an exception should be made in this case, then it is for gentlemen to demonstrate the necessity for it.

But how is it that this bill proposes to impose this duty upon the district attorney, when it is notorious that not ten days since a proposition was introduced here to divide the judicial district of New York, because of the magnitude of the labor imposed upon the judge and district attorney? With a proposition of that kind pending before the House, gentlemen come in here and propose to impose other duties, altogether foreign to his legitimate business, on the district attorney of the United States. Does not this require some explanation?

Mr. HASKIN. That is in the bill reported by the Committee on Commerce.

Mr. LETCHER. Yes, sir; I refer to that. Then, sir, has not the surveyor of the port of New York enough to do? Is he unemployed part of his time? Has he days, or weeks, or months, to give to an investigation of this sort, while the other duties committed to his hands can be discharged at the same time?

Mr. HASKIN. Without compensation, too.

Mr. LETCHER. Yes, sir; I understand that. It strikes me that you are referring this matter to a tribunal that cannot investigate it, and taking it away from the one which the Government has created for the investigation of matters of this kind. Now, I am for leaving it to the tribunal which the law provides for the investigation of such cases—the Court of Claims. Let it go there, where it can and will be investigated; but do not refer it to officers who are now overburdened with work, and are actually asking relief at the hands of Congress.

Mr. JOHN COCHRANE. The gentleman remarked that there was a proposition to divide the southern district of New York. The proposition refers to the northern district.

Mr. LETCHER. The proposition is to divide the State of New York into three judicial districts; and I imagine that if it be divided, that the third district will be constituted of parts of the two existing districts.

Mr. SICKLES. That is so.

The question was taken on Mr. JOHN COCHRANE's amendment to the amendment of his colleague, Mr. HASKIN, and the Chair announced that it was disagreed to.

Mr. JOHN COCHRANE. I ask for a division.

Mr. CLEMENS. I move to strike out the enacting clause of the bill.

Mr. SICKLES. I rise to a question of order.

Mr. CLEMENS. I desire to declare to the committee the reasons which induce me to take this course. During my temporary absence from the Hall, in attendance upon a constituent who had business at the Departments, I find that a motion was made and carried to restrict the debate upon this bill to ten minutes. I am prepared to discuss the question fully.

The CHAIRMAN. The Chair would state to the gentleman that his motion is not debatable.

Mr. CLEMENS. I make the motion, then.

Mr. SICKLES. I rise to a question of order.

I understand that an amendment was offered by the chairman of the Committee on Commerce, [Mr. JOHN COCHRANE,] to the amendment of my colleague, Mr. HASKIN.

The CHAIRMAN. That amendment has been voted down.

Mr. JOHN COCHRANE. I called for a division on my amendment in time.

The CHAIRMAN. The Chair was not sure whether the gentleman called for a division or not; he did not rise from his seat, and it is too late now.

Mr. SICKLES. The division was called for in time.

The CHAIRMAN. The Chair did not understand that a division was called for, although he looked around to see if it was before he passed on to other business, and gave the floor to the gentleman from Virginia.

Mr. SICKLES. The call for the division was heard all about this part of the House.

The CHAIRMAN. The Chair recognized the gentleman from Virginia, who has moved to strike out the enacting clause of the bill.

Mr. JOHN COCHRANE. I am informed by those about me that the call for a division was made in time, and I ask unanimous consent that a division may be had.

Mr. CLEMENS. I will withdraw my motion until this question is settled.

Mr. JOHN COCHRANE. I now ask for a division.

Mr. PHILLIPS. I object.

Mr. SEWARD. Well, I insist that the gentleman from New York, who called for a division, shall have his rights.

Mr. CAMPBELL. I understand that a motion has been made to strike out the enacting clause of the bill.

Mr. CLEMENS. I withdraw it.

Mr. CAMPBELL. It cannot be withdrawn, except by unanimous consent. I object, and call for tellers on the motion.

The CHAIRMAN. Under the rules of the committee an amendment cannot be withdrawn except by unanimous consent. If objection be made, the gentleman cannot withdraw his motion.

Mr. CAMPBELL. I object, and ask for a vote upon the motion by tellers.

Mr. CLEMENS. I would suggest to the Chair that there was a pending question undecided when I made my motion.

The CHAIRMAN. The Chair has decided that it is too late to raise that question. Before recognizing the gentleman from Virginia, the Chair looked round to see if a division was insisted on on the amendment of the gentleman from New York. If it was, the Chair was not aware of it, and decides that it is too late to go back now. The question is on the motion of the gentleman from Virginia.

Mr. SICKLES. I make the question of order that the motion to strike out the enacting clause has been withdrawn, and that the objection of the gentleman from Ohio came too late. The gentleman from Virginia stated that he would withdraw his motion to enable my colleague to call for a division on his amendment, and it was withdrawn. My colleague then called for a division on his amendment, and after that the gentleman from Ohio objected to the withdrawal of the motion of the gentleman from Virginia.

The CHAIRMAN. The Chair overrules the question of order, for the reason that the committee had proceeded to no other business, and the Chair had entertained no other motion.

Mr. SICKLES. The Chair had entertained the demand for a division.

Mr. LETCHER. If the gentleman from New York is not satisfied with the decision of the Chair, let him take an appeal.

The CHAIRMAN. The Chair was about to state that unless an appeal is taken, he must put the question on the motion of the gentleman from Virginia.

Mr. MILLSON. I should like to know according to what rule the Chair decides that the motion to strike out is an amendment, while, at the same time, he decides that it is not debatable, when all amendments are debatable?

The CHAIRMAN. If the motion to strike out the enacting clause be in order, the rule provides that it shall take precedence of all other motions, and it cannot be withdrawn except by unanimous

consent. The Chair may have decided hastily in saying that the motion is not debatable.

Mr. HOARD. Then the gentleman from Virginia has a right to debate it.

The CHAIRMAN. The Chair thinks so.

Mr. CLEMENS. Mr. Chairman, I have taken some pains to investigate the principles as well as the details of this bill, and I regret that I have not time to go into a full consideration of it, and to show that there is neither precedent, nor law, nor justice, for its passage.

I have taken pains to examine the speech made by Mr. Pelton, of New York, in the last Congress, and the speech made by the gentleman from New York, [Mr. JOHN COCHRANE,] in the present Congress. I have examined critically all the cases referred to in those speeches, and I can show by the law and the testimony, that there is not in those cases a single principle which will justify the House in passing this bill. There is not a single instance of an act passed from the time of the First Congress down to the present moment, of duties being refunded on goods destroyed by fire, which were not, at the time of their destruction, either in the custody of the custom-house officers, or on their way from a port of entry to a port of delivery. I challenge any gentleman from New York to produce a single special act in which this principle has been violated. The gentleman from New York [Mr. JOHN COCHRANE] refers to certain cases in which he said it had been done. I have not time now to take up the cases to which he made reference, and which I have now before me; but they sustain no such principle as that involved in this bill.

I have referred to the case in 5th Howard and in 12th Wheaton, showing the time when goods imported and remaining in unbroken packages shall be considered as entering into the consumption of the country. There is not a single case decided by the Supreme Court, there is not a special act passed by Congress, nor is there even a semblance of justice to sustain the principle which it is now sought to establish.

The gentleman from New York has referred to the law of 1854 as affording a precedent for passing this special law for refunding duties to Barclay, Livingston, and others. Sir, there was a principle in that act. Under it \$109,967 52 have been refunded to sufferers by fire in New York city. For what reason? Because the liquors and wines were in bond. How was it in regard to those goods upon which duties are now asked to be refunded? The goods had been delivered over to the importing merchants. The duties had been paid in cash to the Government, and the Government was discharged from all liability. The goods had actually gone into the consumption of the country; because it is a notorious fact that the large importing merchants not only sell, but frequently send their goods into the interior in the original unbroken packages; and according to the principle decided in 12th Wheaton, goods under such circumstances (the unbroken packages) are to be considered as having gone into the consumption of the country. Admitting the theory contended for, it cannot therefore be adopted as a rule.

By the warehousing act of the 20th of March, 1854, a principle is acknowledged, that duties already paid ought to be refunded in all cases where goods have been destroyed by fire or other casualty while remaining in the custody of the officers of the custom-house, under bond, or in public store-houses, or in the appraiser's stores, or *in transitu*. That is but the great fundamental principle, in specific substance, settled by Congress in every special act passed from 1789 down to the present time. This law, in truth, is in affirmation of the principle decided by the Supreme Court in the cases in Howard and Wheaton; and I call upon the gentleman from New York to show me upon what foundation of justice, law, or equity these parties can call upon Congress to act upon any other principle than that which Congress has embodied in the act of 1854.

[Here the hammer fell.]

Mr. WASHBURN, of Maine. I am opposed to the motion of the gentleman from Virginia [Mr. CLEMENS] to strike out the enacting clause, for the reason that I believe the bill ought to be reported to the House with a recommendation that it do pass. This is not a bill asking Congress for a gratuity to these men, but asking Congress

to give them relief, in accordance with the principles of equal and exact justice.

This bill provides for refunding the duties to the original importers on goods destroyed by fire while in the original unbroken packages in which they were imported, and which never went into the consumption of the country. These men paid the duties on their goods, and afterwards they were compelled to import a like quantity of the same goods to go into the consumption of the country. The Government has, then, substantially received duties upon the same goods twice; and it seems to me wrong and unjust that the Government should demand of these individuals, who have imported goods into the country, and which goods have been destroyed by fire while in their possession in original and unbroken packages, that they should pay duties upon them. I assert, that in every instance of this kind, where duties have been paid, for which no consideration has been received, which has been brought before Congress, the duties have been refunded. There are some twenty cases of private bills to be found upon your statute-books, exactly like this bill, no better or more carefully guarded than this, and the duties in every case have been refunded.

The gentleman from Pennsylvania [Mr. PHILLIPS] asks why not have a general law? There is a general law. The law of 1854 provides that the duties on goods destroyed by fire when in the original unbroken packages shall be refunded when the goods are in the hands of the importer. I understand there is not, at most, but a single case existing, (if, indeed, there is that,) in which duties have not been refunded where goods have been destroyed by fire, while in original packages. The gentleman from Ohio asked, the other day, why refunding duties should be confined to importers; why should it not be extended to the retailer? There is the argument of inconvenience against it. It cannot be done. It would be opening the door to frauds innumerable.

But there is a principle, clear and fixed, which has been decided by the Supreme Court of the United States in 12 Wheaton. I will read from the decision of the court, delivered by Justice Marshall, (*Brown vs. the State of Maryland*, 12 Wheaton, 441-2):

"It is sufficient for the present to say, generally, that when the importer has so acted upon the thing imported that it has become incorporated and mixed up with the mass of property in the country, it has, perhaps, lost its distinctive character as an import, and has become subject to the taxing power of the State; but while retaining the property of the importer, in his warehouse, in the original form or package in which it was imported, a tax upon it is too plainly a duty on imports to escape the prohibition in the Constitution."

Well, sir, that rule is a rule which can be executed. It is a plain and distinct rule. It is a rule which leaves no door open for frauds. There is no difficulty. There is no danger likely to arise, or that can possibly arise to the Government.

In this case the question is, had the goods gone into the consumption of the country? If the goods were in the original unbroken packages, then they had not gone into the consumption of the country. If those goods had been reexported, the law provides for the repayment of the duties; but when they have been destroyed by fire, will you retain the duties?

[Here the hammer fell.]

The question occurred on the motion to strike out the enacting clause.

Mr. LETCHER. I rise to a question of order. I submit that under the resolution adopted by the House, closing debate, the motion to strike out the enacting clause is not in order.

The CHAIRMAN. The Chair would have held that the point would have been well taken if it had been raised in time; but the Chair thinks the question of order comes too late.

Mr. LETCHER. Then the Chair decides that the resolution of the House is not binding upon the committee.

The CHAIRMAN. The Chair thinks it is binding like the rules of the House. It must be enforced in order, and at the proper time.

Mr. LETCHER. Does the Chair hold that the committee is not required to execute the orders of the House?

The CHAIRMAN. The gentleman from Virginia knows that when a motion has been entertained without objection, and the committee has proceeded to other business, it is too late to go

back to it. The Chair overrules the question of order.

Mr. CLEMENS. Have I not the right to withdraw my motion?

The CHAIR. Only by unanimous consent.

Mr. HARRIS, of Illinois. I object.

Mr. SICKLES. Is the motion debatable?

The CHAIRMAN. It is not. The debate has already taken place.

Mr. HARRIS, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. SICKLES and CLEMENS were appointed.

The House was divided; and the tellers reported—ayes 90, nays 19.

The CHAIRMAN. No quorum voting, the Clerk will call the roll.

Mr. JONES, of Tennessee. I rise to a question of order. My question of order is that the gentleman from Virginia has a right to withdraw his motion.

The CHAIRMAN. The rule provides that if the committee finds itself without a quorum, the roll shall be called, and the names of the absent members reported to the House.

Mr. JONES, of Tennessee. I am talking of the motion to strike out the enacting clause. The rule says that that motion, when made, shall take precedence of a motion to amend, and therefore it is not an amendment.

Mr. SICKLES. I insist on the call.

The Clerk proceeded to call the roll, when the following members failed to answer to their names:

Messrs. Bishop, Bonham, Butcher, Branch, Brayton, Bryan, Burnett, Burroughs, Cady, Caskie, Chapin, Horace F. Clark, John B. Clark, Clay, Clark B. Cochrane, John Cochrane, Comins, Corning, Cox, James Craig, Burton Craige, Dean, Dewart, Dick, Dimmick, Edie, English, Eastis, Florence, Giddings, Grow, Harlan, J. Morrison Harris, Hickman, Horton, Hughes, Keitt, Kellogg, Jacob M. Kunkel, John C. Kunkel, Lamar, Landy, Lawrence, Leach, Leidy, Montgomery, Freeman H. Morse, Murray, Niblack, Olin, Reagan, Reilly, Ricard, Savage, Seasing, Aaron Shaw, Robert Smith, Samuel A. Smith, Spigner, William Stewart, George Taylor, Thayer, Thompson, Walton, Ward, Warren, Wilson, and Augustus R. Wright.

The committee rose, and reported the names of the absentees to the House. A quorum having answered to their names, the committee again resumed its session.

Mr. HOUSTON stated that the members of the Committee on the Judiciary were in session by the permission of the House, and that for that reason some of them did not get up in time to answer to their names.

Mr. CHAPMAN and Mr. CRAIG, of North Carolina, were in attendance on the Committee on the Judiciary, and came into the Hall too late to have their names recorded.

Mr. CLEMENS. I wish to withdraw my motion.

Mr. WASHBURN, of Maine. It is too late.

Mr. JONES, of Tennessee. The rule is, that the gentleman can withdraw the motion any time before the decision of the House upon it. He can withdraw it even after the announcement of the tellers, but before the announcement of the result by the Chair.

The CHAIRMAN. The 119th rule provides that the motion to strike out the enacting words of a bill shall have precedence of a motion to amend, and, if carried, shall be considered equivalent to its rejection. The Chair, on consideration, is of the opinion that the motion to strike out can be withdrawn, like any other independent motion, before action of the committee upon it.

Mr. CLEMENS. Then I withdraw the motion.

Mr. PHILLIPS. I move to strike out the officers named in the first section and to insert the accounting officers of the Treasury.

I have but a word to say. I do not see any reason why this claim should be exempt from the usual routine. Why shall it be adjudicated where these gentlemen living in New York insist on leaving it? Why shall it be left to New York officers? Why shall it be where these importing merchants insist that it shall be? Why leave it with the officers of their own custom-house? Why shall they not, as every citizen, be required to present their vouchers to the accounting officers of the Treasury? Let them be, as I propose, subject to all the checks that every other claimant is. I do not say a word against the claim. I confine myself to my amendment, and want to know what reasonable objection there can be to it? If I am told that there is difficulty of proof, I

ask the gentleman from New York, [Mr. JOHN COCHRANE,] who, I am sure, wants nothing in this bill but what is just and fair, why they should not present their claims for adjudication by the accounting officers of the Treasury? The amount of duties paid, with a statement of the package on which it was paid, is on file in New York. The invoice shows the goods which were imported; and all they have to do is to show by depositions the amount of property which was destroyed, with the numbers and marks of the packages which were destroyed.

Mr. LEITER. I rise to a point of order. It is out of order for a Philadelphian to shake his fist at a New Yorker. [Laughter.]

Mr. PHILLIPS. I will state that nearly all the proof to make out an honest claim is in the Treasury. We have not destroyed them, though we have authorized the destruction of postmasters' returns. The invoices are on record, and the amount of duties paid can be ascertained. There is no proof that cannot be had in the city of Washington as well as in New York, with the exception merely as to the actual goods destroyed by fire; and that can be ascertained by depositions to be taken in the city of New York, just as depositions are taken in other claims. Now I want, Mr. Chairman, to ask that this claim shall take the usual course of other claims.

Mr. LEITER. I move to strike out the enacting clause of the bill.

Mr. LETCHER. I now rise to the point of order I made before—that this motion is not in order under the resolution closing debate on this bill, which provides that it shall be subject to amendment.

The CHAIRMAN. The Chair sustains the point of order; and rules the motion out of order.

Mr. WINSLOW. I ask for the reading of the 119th rule.

The rule was read, as follows:

"A motion to strike out the enacting words of a bill shall have precedence of a motion to amend; and if carried, shall be considered equivalent to its rejection."

Mr. WINSLOW. I now ask for the reading of the note to the 119th rule.

The note was read, as follows:

"The Manual states that if a committee be opposed to the paper or bill, and think that it cannot be made good by amendment, the committee cannot reject it, but must report it back to the House without amendment, and there make their opposition. The Manual provides that a paragraph or section may be first amended by its friends, so as to make it as perfect as they can before the question is put for striking it out. By this rule it is expressly established that a motion to strike out, for the purpose of destroying, shall be paramount to a motion to amend. Rule 139 provides that the Manual shall govern in cases in which it is applicable, where it is not inconsistent with established rules. In the case, then, of giving precedence to motions to insert or to amend, over motions to strike out or reject, it is clearly inconsistent with an established rule; and, consequently, the practice of the House for the last few years has been in violation of the 119th rule."

Mr. JONES, of Tennessee. This committee has no power to reject this, or any other bill; and your rule declares that a motion to strike out the enacting words of the bill, if carried, shall be equivalent to its rejection.

Mr. BOGCK. It is not to be supposed that I acquiesce in the decision of the Chair by not taking an appeal at this time. I believe it is wrong.

Mr. JOHN COCHRANE. I appeal from the decision of the Chair.

Mr. WASHBURN, of Maine. I would like to inquire of the gentleman from Virginia if he has not several times, during his service in Congress, voted to sustain the Chair in direct contradiction to this ruling?

The CHAIRMAN. Debate is not in order.

Mr. GREENWOOD demanded tellers on the appeal.

Tellers were ordered; and Messrs. DOWDELL and WALDRON were appointed.

The House divided; and the tellers reported—ayes 44, nays 90.

So the decision of the Chair was overruled.

The question occurred on Mr. LEITER's motion to strike out the enacting clause.

Mr. SANDIDGE demanded tellers.

Mr. LETCHER. Is the motion to strike out the enacting clause debatable?

The CHAIRMAN. The Chair would state to the gentleman from Virginia, that the Chair first decided on the point of order that the motion was not debatable; but the Chair afterwards allowed

debate on the question. The Chair decides that the motion is not debatable.

Mr. LETCHER. I appeal from the decision of the Chair deciding that the question is not debatable.

[Cries of "Too late!"]

Mr. JONES, of Tennessee. I wish to present a question of order to the Chair.

The CHAIRMAN. The Chair cannot entertain another point of order while an appeal is pending: The Chair decides that the motion to strike out the enacting clause is not debatable, and from that decision the gentleman from Virginia appeals.

Mr. JOHN COCHRANE. I submit that that appeal was not taken in time.

The CHAIRMAN. The Chair decides that it was taken in time.

Mr. BOOCK. I desire to make a suggestion in support of the decision of the Chair. We are acting under an order of the House closing debate; and no debate is allowed, except five minutes to explain an amendment and five minutes to oppose it. This is not an amendment. It takes precedence of all amendments. It is a motion to strike out the enacting clause of the bill and does not come under the rule which allows five minutes' speeches.

Mr. JONES, of Tennessee. I submit to the Chair that, if the five-minute rule is in force to make this not a debatable question, it is in force securing the right to offer amendments and debate them for five minutes.

Mr. STANTON. The rule expressly says that the question shall be taken without debate.

The CHAIRMAN. The Chair decides that the motion is not debatable, because it is, like a motion to lay upon the table, an independent motion, and takes precedence of motions to amend. The House, too, has closed debate upon all questions except the five minutes' debate upon amendments, and this, not being an amendment, is not debatable. From this decision the gentleman from Virginia appeals; and the question is: "Shall the decision of the Chair stand as the judgment of the committee?"

The question was taken; and the decision of the Chair was sustained.

Mr. JONES, of Tennessee. I would ask the Chair one question. If the motion was made in the House would it not be debatable?

The CHAIRMAN. That is a question with which the Chair has nothing to do; it would be a question for the Speaker to decide. The Chair declines, therefore, to answer the question.

The committee divided; and the tellers reported—ayes one hundred and eleven, noes not counted.

So the motion to strike out the enacting clause was agreed to.

Mr. LETCHER. I now move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. Grow reported that the Committee of the Whole House had had the Private Calendar generally under consideration, and particularly a bill (H. R. No. 104) to refund to Barclay & Livingston, and others, duties on certain goods destroyed by fire in the city of New York, on the 19th day of July, 1845, and had directed him to report the same to the House, with a recommendation that the enacting clause be stricken out.

Mr. JOHN COCHRANE. What is the question now?

The SPEAKER. Upon concurring in the report of the Committee of the Whole House.

Mr. JOHN COCHRANE. I move the previous question upon it.

Mr. JONES, of Tennessee. I move to lay the bill upon the table.

Mr. STANTON. I call for the yeas and nays upon that motion.

Mr. WASHBURN, of Maine. I would ask if it is not competent for the gentleman from New York, [Mr. JOHN COCHRANE,] the chairman of the Committee on Commerce, to address the House before the question is taken on the motion to lay upon the table?

Mr. JOHN COCHRANE. I do not desire to do it. I have more regard for the time of the House than to do it. Let us have the vote.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 88, nays 70; as follows:

YEAS—Messrs. Adrain, Anderson, Atkins, Avery, Barksdale, Bockoc, Bowie, Branch, Bryan, Caskey, Chapman, Horace F. Clark, John B. Clark, Clay, Clemens, Cobb, Curry, Darnell, Davidson, Davis of Indiana, Edmundson, Farnsworth, Faulkner, Foley, Garnett, Garrett, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Haskin, Hill, Hoard, Hopkins, Houston, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, Leidy, Leiter, Letcher, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Miller, Millson, Isaac N. Morris, Niblack, Pendleton, Peyton, Phelps, Phillips, Quitman, Ready, Reagan, Ritchie, Royce, Rutin, Sandidge, Seales, Henry M. Shaw, Sickles, Singleton, William Smith, Stallworth, Stanton, Stevenson, James A. Stewart, Talbot, Miles Taylor, Tompkins, Underwood, Watkins, White, Winslow, Woodson, and Zollicoffer—88.

NAYS—Messrs. Ahl, Andrews, Arnold, Bennett, Billinghurst, Blair, Bliss, Buffinton, Burlingame, Burns, Campbell, Case, Chaffee, Ezra Clark, John Cochrane, Comins, Covode, Cragin, James Craig, Curtis, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dick, Dodd, Duffee, Fenton, Florence, Foster, Gilman, Gooch, Goodwin, Granger, Grow, Hatch, Howard, Kellogg, Kelsey, Knapp, Lovejoy, Maclay, McKibbin, Matteson, Morgan, Morrill, Oliver A. Morse, Olin, Palmer, Pettit, Pike, Potter, Robbins, Russell, Scott, Seward, Judson W. Sherman, Shorter, Spinner, Tappan, George Taylor, Trippe, Wade, Walbridge, Waldron, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—70.

So the bill was laid upon the table.

During the call of the roll,

Mr. McQUEEN stated that his colleague, Mr. BONHAM, had been called home by sickness in his family.

Mr. CRAWFORD stated that Mr. STEPHENS, of Georgia, was indisposed, and had left the House, and had paired off with him upon this bill. He (Mr. CRAWFORD) was opposed to the bill, and Mr. STEPHENS was in favor of it.

Mr. DAVIS, of Mississippi, stated that he had paired off with Mr. BURROUGHS upon this bill; he being opposed to it, and Mr. BURROUGHS in favor of it.

Mr. McQUEEN stated that Messrs. MILES and MOORE, intending to vote upon different sides of this question, had paired off.

Mr. WRIGHT, of Tennessee, stated that he had paired off upon this bill with Mr. BISHOP, who had gone home in consequence of indisposition; he (Mr. WRIGHT) being opposed to the bill, and Mr. BISHOP in favor of it.

The result of the vote was then announced as above recorded.

Mr. LETCHER moved to reconsider the vote by which the House laid the bill on the table, and also moved to lay the motion to reconsider on the table.

Mr. WASHBURN, of Maine. I move that the House adjourn.

Mr. MORGAN. I demand the yeas and nays upon the motion.

Mr. WASHBURN, of Maine. I ask for tellers on the yeas and nays.

Tellers were ordered; and Messrs. BUFFINTON, and CRAIG of North Carolina, were appointed.

The House divided; and the tellers reported twenty-five in the affirmative, (not one fifth of those present.)

So the yeas and nays were not ordered.

Mr. BLISS demanded tellers upon the adjournment.

Tellers were ordered; and Messrs. BLAIR and SEWARD were appointed.

The House divided; and the tellers reported—ayes 65, noes 84.

So the House refused to adjourn.

The question recurred upon the motion to lay the motion to reconsider on the table.

Mr. MORGAN demanded the yeas and nays.

The yeas and nays were not ordered, only twenty-three members having voted therefor.

The motion to lay on the table the motion to reconsider was then agreed to—ayes 95, noes 54.

And then, on motion of Mr. ZOLLICOFFER, (at a quarter past four o'clock,) the House adjourned.

IN SENATE.

MONDAY, May 17, 1858.

Prayer by Rev. B. H. NADAL, D. D.

The Journal of Saturday was read and approved.

HOUSE BILLS REFERRED.

The following bills, received from the House of Representatives on Saturday, were severally

read twice by their titles, and referred as indicated below:

A bill (No. 56) making an appropriation for the completion of the military road from Astoria to Salem, in Oregon Territory—to the Committee on Military Affairs and Militia.

A bill (C. C. No. 65) for the relief of Benjamin L. McAtee and Isaac N. Eastham, of Louisville, Kentucky—to the Committee on Claims.

A bill (No. 222) for the relief of Elizabeth E. V. Field—to the Committee on Pensions.

A bill (No. 231) for the relief of Nancy Serena—to the Committee on Pensions.

A bill (No. 251) to authorize the claimants in right of John Huertas to enter certain lands in Florida—to the Committee on Private Land Claims.

A bill (No. 318) recognizing the assignment of land warrant No. 35,956, issued to John Davis, as valid—to the Committee on Public Lands.

A bill (No. 336) for the relief of B. W. Palmer and others—to the Committee on Naval Affairs.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented resolutions of the Legislature of New York, in favor of a law granting pensions to the soldiers of the Indian wars, from 1791 to 1795, and to the widows of those deceased; which were ordered to lie on the table, and be printed.

He also presented resolutions of the Legislature of New York, against any further special appropriations of public lands to the new States, until the old States shall have received their equitable proportion; which were ordered to lie on the table, and be printed.

He also presented resolutions of the Legislature of New York, in favor of a donation of public land for the construction of a ship canal around the falls of Niagara; which were ordered to lie on the table, and be printed.

He also presented resolutions adopted at a meeting of the Board of Trade at Oswego, New York, in favor of an appropriation for the repair of the pier in the vicinity of the light-house at that point; which were ordered to lie on the table.

Mr. BRODERICK presented a memorial of citizens of California, remonstrating against the repeal of the law establishing the Light-House Board; which was referred to the Committee on Commerce.

Mr. SHIELDS presented a memorial of the Legislature of Minnesota, praying the establishment of a mail route from La Crosse to Winnebago City, in that State; which was referred to the Committee on the Post Office and Post Roads.

He also presented two petitions of citizens of Minnesota, praying the establishment of a mail route from St. Peter to Pajutazec, in that State; which were referred to the Committee on the Post Office and Post Roads.

Mr. POLK presented a petition of citizens of Missouri, praying that certain land offices in that State, about to be closed in pursuance of law, may be consolidated at St. Louis; which was referred to the Committee on Public Lands.

Mr. CLAY presented the petition of R. F. Blocker, E. J. Gurley, and J. F. Davis, licensed practitioners of law, in Texas, praying compensation for defending Captain Anderson, his officers and men, who were arrested and tried for an alleged violation of the laws of Texas, in executing an order of their superior officer; which was referred to the Committee on Military Affairs and Militia.

WITHDRAWAL OF PAPERS.

On motion of Mr. JOHNSON, of Arkansas, it was

Ordered, That William Moss have leave to withdraw his petition and papers.

On motion of Mr. JOHNSON, of Arkansas, it was

Ordered, That leave be granted to withdraw from the files of the Senate, the petition and papers relative to the claim of Peay and Ayfille, to additional compensation for carrying the mail from Little Rock to Washington, Arkansas.

On motion of Mr. GWIN, it was

Ordered, That Captain John Brown have leave to withdraw his petition and papers.

REPORTS OF COMMITTEES.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom were referred resolutions of the Legislature of California, relative to the

Sebastian reservation, reported that no legislation is necessary, and that the committee be discharged from the further consideration of the subject.

He also, from the same committee, to whom was referred the bill (S. No. 323) to confirm the sale of the reservation held by the Christian Indians, and to provide a permanent home for said Indians, reported it without amendment.

He also, from the same committee, to whom were referred sundry papers relating to Indian superintendencies in Oregon and Washington Territories, asked to be discharged from their further consideration; which was agreed to.

Mr. MALLORY, from the Committee on Claims, to whom was referred the petition of Santiago E. Arguello, submitted a report, accompanied by a bill (S. No. 370) for the relief of Guadalupe Estudillo de Arguello, widow of Santiago E. Arguello. The bill was read, and passed to a second reading, and the report was ordered to be printed.

He also, from the Committee on Naval Affairs, to whom was referred the petition of Virginia Waldron, asked to be discharged from its further consideration, and that it be referred to the Committee on Pensions; which was agreed to.

Mr. FOSTER, from the Committee on Pensions, to whom were referred the petition of Joseph Morrow, the memorial of Ebenezer Watson, the memorial of Lydia Weeks, and the petition of John Drout, reported adversely thereon, and that the committee be discharged from their further consideration.

He also, from the same committee, to whom were referred the petition of Anna Addison and the memorial of Sarah A. Watson, reported that the committee be discharged from their further consideration, and that they lie on the table, inasmuch as the committee have already reported a general bill covering these cases.

Mr. SIMMONS, from the Committee on Claims, to whom was referred the petition of Anthony W. Bayard, submitted a report, accompanied by a bill (S. No. 371) for the relief of Anthony W. Bayard. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of George J. Knight, submitted a report, accompanied by a bill (S. No. 374) for the relief of George J. Knight. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. CLARK, from the Committee on Claims, to whom were referred a report of the Court of Claims in the case of Robert Harrison; a report of the Court of Claims in the case of Letitia Humphreys; and a memorial of Letitia Humphreys, administratrix of Andrew Atkinson, deceased, Robert Harrison and others, submitted a report, accompanied by a bill (S. No. 373) declaratory of the acts for carrying into effect the ninth article of the treaty of 1819, between the United States and Spain. The bill was read, and passed to a second reading, and the report was ordered to be printed.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. ALLEN, their Clerk, announced that the Speaker had signed an enrolled bill (H. R. No. 642) to authorize the vestry of Washington parish to take and inclose certain parts of streets in Washington city, for the purpose of extending the Washington cemetery, and for other purposes; also a bill for the relief of John R. Temple, of Louisiana; which thereupon received the signature of the Vice President.

BRITISH AGGRESSIONS.

Mr. SEWARD. I ask leave to offer the following resolution of instruction, and ask for its present consideration:

Resolved, That the Committee on Foreign Relations be instructed to inquire whether any legislation is necessary to enable the President of the United States to protect American vessels against British aggression in the Gulf of Mexico or elsewhere, and to report by bill or otherwise.

Mr. MASON. I observe that a call for information has been made on this subject by some Senator, I do not remember who, a day or two since, which has not yet been answered.

Mr. SEWARD. It was the Senator from Indiana, [Mr. BRIGHT.]

Mr. MASON. I have had no communication from the Department, and I think this resolution might as well go over.

Mr. SEWARD. It is merely an instruction to the committee to inquire whether anything is to be done. These aggressions are intolerable. Already eleven vessels have been fired upon in the Gulf of Mexico. The resolution is merely an instruction to the Committee on Foreign Relations, as the session is wearing away, to inquire if any legislation is necessary. We shall have an answer to-morrow, I understand, to the resolution of the Senator from Indiana.

Mr. MASON. We have no information on this subject; at least I have none except that which comes from the newspapers—not of a character, of course, for the Senate to act upon; and a call upon the committee to inquire whether any further legislation is necessary would seem to take it for granted, by implication at least, that a foundation had been laid. I agree with the Senator that, if the facts be true, they involve matters of very grave inquiry between the two countries; but I should be reluctant to assume any fact on a matter of such serious importance. I think the resolution had better lie over.

The VICE PRESIDENT. Objection being made, the resolution will lie over.

BILLS INTRODUCED.

Mr. CLINGMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 369) to amend an act entitled "An act making appropriations for the current and contingent expenses of the Indian department," approved July 30, 1854; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. CLINGMAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 40) in favor of certain Cherokees; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. STUART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 375) to create two additional land districts in the Territory of Washington; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 372) to settle the titles to certain lands belonging to the half-breed Kansas Indians in Kansas Territory; which was read twice by its title.

Mr. DOOLITTLE. This bill is based on a printed copy of a letter addressed by the Secretary of the Interior to Colonel ORR, Speaker of the House of Representatives; and without committing myself to the provisions of the bill, I merely introduce it for the purpose of reference.

The bill was referred to the Committee on Indian Affairs.

PUBLIC BUILDINGS IN PHILADELPHIA.

Mr. BIGLER. The Committee on the Post Office and Post Roads, to whom was referred the joint resolution (No. 26) from the House of Representatives, authorizing the arrangement and disposal of public buildings in the city of Philadelphia, have instructed me to report a substitute for the whole resolution. As this proposition is entirely satisfactory, I hope the Senate will indulge me in its consideration and passage at this time. I hope there will be no objection to it. It will occupy but a moment.

The VICE PRESIDENT. The Senator from Pennsylvania asks the unanimous consent of the Senate to consider at this time an amendment to a bill reported from the Post Office Committee. Is there objection?

Mr. BIGLER. I hope there will be no objection.

Mr. YULEE. I hope my friend will excuse me for objecting until I get a little matter disposed of.

The VICE PRESIDENT. Objection being made, the report lies over.

PATENT OFFICE.

Mr. YULEE. I ask the Senate to take up the bill (No. 180) to which I invited the attention of the Senate last week. I think it can be disposed of before the hour of twelve, or very nearly so. It relates entirely to the internal administration of the Patent Office, and is essential to enable it to preserve its character as a self-sustaining department. I think there will be no objection whatever to the bill.

Mr. HUNTER. I shall not object if the Senator will promise to lay it down at twelve o'clock.

Mr. YULEE. Certainly.

The motion was agreed to; and the bill (S. No. 180) to amend the several acts now in force in relation to the Patent Office, was read a second time and considered as in Committee of the Whole.

Mr. YULEE. This bill was reported by the late Senator Evans from the Committee on Patents and the Patent Office, and there is great anxiety on the part of the Interior Department and the Commissioner of Patents that it should receive the action of Congress at this session. Unless it is disposed of during this week, it is not likely that the House of Representatives will be able to reach it. It is therefore very desirable that it should pass this week. The sections, I think, will explain themselves. I shall say nothing in respect to the bill, unless upon any particular point explanation may be desired.

The Secretary proceeded to read the bill by sections. When he read the following clause of the fourth section:

"The salary of each examiner in chief shall be \$2,750"—

Mr. YULEE said: I am directed by the committee to move to change that to \$3,000, it being their opinion that officers of the character required by the duties imposed by this bill cannot be had at a salary of less than three thousand dollars. The House committee have reported \$3,500, but the Senate committee think \$3,000 sufficient.

Mr. HALE. I thought the bill was to be read through for information, and not for amendment.

Mr. YULEE. I was suggesting the amendments of the committee as the sections came up in their order.

The VICE PRESIDENT. It will be more regular to read the bill through.

The Secretary continued and concluded the reading of the bill.

The VICE PRESIDENT. The hour has arrived to call up the special order, which it is the duty of the Chair to do.

Mr. YULEE. I think the bill can be disposed of in the next five minutes.

Mr. KING. No, sir.

Mr. HUNTER. We can take it up to-morrow.

The VICE PRESIDENT. The first special order is the joint resolution for the presentation of a medal to Commodore Hiram Paulding.

Mr. HUNTER. I move to postpone all prior orders for the purpose of taking up the appropriation bill.

Mr. YULEE. As this bill is now in progress before the Senate, and has been read, and the attention of the Senate called to it, I think it probable that no objection can properly occur from Senators to any part of the bill, and I trust the Senate will permit it to pass.

Mr. COLLAMER. The bill which has just been read cannot be passed now.

Mr. YULEE. If that is the case, I have no objection to the postponement.

The bill was postponed until to-morrow.

DE VISSER AND VILLARUBIA.

The resolution offered by Mr. KING, on Saturday was taken up and amended, on his motion, so as to read:

Resolved, That the Secretary of the Treasury be directed to communicate to the Senate what proceedings, if any, have been taken to investigate, by that Department, frauds upon the revenue by false invoices and false computations of quantities and values, by a partner of the commercial house of Simon De Visser & José Villarubia, of New Orleans; and whether there be any reason to impute complicity in the frauds to any officers of the customs.

The resolution, as modified, was agreed to.

ORDER OF BUSINESS.

Mr. HUNTER. I renew my motion to postpone the prior orders.

Mr. YULEE. I desire to inquire if to-morrow morning, upon the expiration of the morning business, and during the morning hour, the bill in relation to the Patent Office will take precedence as a matter of course?

The VICE PRESIDENT. The Chair thinks not, unless it be called up on motion.

Mr. JOHNSON, of Tennessee. Is that a bargain? I should like to understand how it is.

Mr. DOUGLAS. I ask the Senator from Virginia to allow me to get rid of the little bill for the running of the Texas boundary. If there be one word of debate on it, I will agree to let it go over.

Mr. HUNTER. I would like to give way, but I must hold to my motion. I have got it before the Senate at last. We can take up the Senator's bill after disposing of the appropriation bill. I hope that will not take long.

Mr. DOUGLAS. If the bill which I want taken up gives rise to a word of debate, I shall not press it now.

The VICE PRESIDENT. The question is on the motion of the Senator from Virginia to postpone all prior orders and take up the appropriation bill.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 201) making appropriations for the legislative, executive, and judicial expenses of Government, for the year ending the 30th of June, 1859.

The VICE PRESIDENT. The question is upon the amendment in relation to the reporters, offered by the Senator from Mississippi, [Mr. Brown,] upon which a point of order was raised.

Mr. BROWN. Since the question was up before, with a view of relieving the matter from any difficulty, I have had the concurrence of the Committee on the District of Columbia to offer the amendment. That gets clear of the point of order.

The VICE PRESIDENT. There can be no question then on the point of order, and the amendment is before the Senate.

Mr. TOOMBS. I have a suggestion to make on the point of order. I do not see how this proposition, in any shape or form, can come from the Committee on the District of Columbia. It is a very clear evasion of the rule of the Senate. They have not been charged with this business in any shape or form. I do not suppose any printing case or reporting case has ever been referred to the Committee on the District of Columbia. I take it, a committee cannot report an amendment to an appropriation bill unless they have been charged with the question by the Senate; otherwise, this rule operates exceedingly unjust to the public business; and all a man has to do, if he wants an appropriation, is to go around and hunt up some committee—I suppose the Committee on the Expenditures of some Department would do—and get them to say they are in favor of it.

I desire the judgment of the Chair and of the Senate whether or not this is a substantial compliance with the rule? I wish to put it to Senators: here is an appropriation concerning the increase of the pay of the Printer of the Senate, who is reporter and printer. Now, can any member of the Senate take any amendment he pleases, and run around to one and another member of a committee in this body and get them to present it, though they have never been charged with the business, and it is not germane to any business they have got? The Committee on the District of Columbia have been neither generally nor specially charged with this subject, it being a question of printing and reporting. I say this does not get over the rule; I submit that it does not. If so, the rule ought to be repealed. It is a naked, total violation of the principle, because the reason of the rule is that the Senate shall have some assurance from a committee, whose business it is to examine into the matter, that the appropriation proposed is a just and proper one. This is not within the general duties of the Committee on the District of Columbia, nor were they specially charged with it. If this can be entertained because a majority of that committee may be in favor of this appropriation, then whenever you can get a majority of any committee of this body in favor of any appropriation, it is a compliance with the rule. I want the Senate to determine the question, because if that is held to be the rule, there will be no longer any difficulty about anything; but if any three or four gentlemen of a committee are in favor of an appropriation, and say "yes, report it from our committee," any proposition may be entertained. I want it a general thing. I have here an amendment, which I could not get the Finance Committee to act upon; probably they are opposed to it. If they will not act upon it, can I go and get any other committee to do so? I believe we have twenty or thirty committees; and if we have a committee on the accounts of the Treasury Department, or any other, who will say,

"we are willing that you should report it from our committee," can they present it? I want the rule generally understood, so that all may know how to act in the Senate. I say this amendment is not in order, because this matter has not been submitted either by the general rules of the Senate, or by specific reference to the Committee on the District of Columbia, and is one for the Committee on Printing to examine into.

Mr. BROWN. I will ask the Secretary to read the first clause in the amendment in connection with the bill.

The Secretary read the amendment, which is after line one hundred and thirty-seven, to insert:

"To enable John C. Rives to pay to the reporters of the Senate the usual extra compensation for the third session of the Thirty-Fourth Congress," &c.

Mr. BROWN. That will do. These are paid officers—at least Mr. Rives is a paid officer of the Government. This is but a proposition to increase his compensation, to increase his ability to discharge the duty for which he is employed. I held in the beginning that any member had the right upon his own motion, without consulting any committee, to propose to increase that compensation. It is not bringing a new subject before the Senate. The subject is here, and the proposition is simply to add to the compensation now paid. You might as well tell me if we were asked to vote the salary of any other officer of the Government, that it was not competent for me to move to increase the amount. I simply consulted the committee of which I am a member, to avoid the point that was raised the other day, not that I thought there was anything in it. The Senator from Virginia [Mr. Hunter] raised the question. I got the report of a committee in favor of the proposition, to avoid that difficulty. Notwithstanding that, I was satisfied as to my right. I did not press the matter further then. I do not think myself there is much in this matter of reporting from a committee; but if there be anything in it you have the report. I hold that I had the right to move the amendment, anyhow, of my own motion, without consulting anybody, and the Senate might vote it in or out as it chose.

Mr. BELL. I suggest to the Senator from Mississippi that perhaps he would avoid any further discussion or difficulty by changing his motion, and moving to recommit the bill to the Committee on Finance, with instructions to report this amendment.

Mr. BROWN. I think that will delay the bill unnecessarily. We might as well pass it as it is.

Mr. BELL. The object of this rule was decidedly to prevent surprise, and to prevent those abuses which sometimes occurred during the last days or nights of the session, when propositions were sprung on the body with no time to investigate them, and when there might be very few members attending to what was going on. The appropriation bills were overloaded, and occasionally, among the great number of items put on, were some which ought not to be presented. This rule was adopted for the purpose of securing some consideration, some attention to the object proposed to be provided for before such motions were allowed to be sprung on the body. Now, we have not only considered this matter, but we have debated it for half a day, at least; and the minds of the members are made up on the suggestions which have been presented on one side or the other, and we are prepared to vote. The rule requires a report from a standing or select committee, or an estimate from some Department of the Government. The estimates are sometimes made carelessly, and occasionally for objects the head of the Department does not approve. But here is a proposition that has been submitted to the body. There is no surprise in it; all the purposes of the rule are answered, and the Senate has a clear power to do it. They can recommit any bill, with instructions to report any amendment they think proper, if the majority agree to it. I suggest this alteration of the motion of the honorable Senator from Mississippi that we may avoid further discussion about the point; and if it is the will of the majority to vote in this amendment, the committee will report, if they are instructed to do so, forthwith. It will require no delay. That committee can assemble immediately, and report the bill back. That is done often so as to avoid technical objections under the regular rules of proceeding in Parliament or in Congress.

Mr. BROWN. I believe the Chair has not ruled yet whether the point of order taken by the Senator from Georgia was well taken or not.

The VICE PRESIDENT. The Chair has not decided the point of order.

Mr. BROWN. I want to hear the decision before I make any further motion.

Mr. HUNTER. In regard to this matter, I have to say that I hope the Senate will not recommit the appropriation bill to the Committee on Finance, with instructions. I have never known that to be done in the whole course of my experience here, which is not a short one. I hope they will not recommit and reopen the bill for the sake of the reporters here.

Mr. BELL. I ask the honorable Senator if it is not parliamentary, when the proposition is to limit it to a specific appropriation, and there is no delay?

Mr. HUNTER. I hope, if the bill be recommitment, it will be to some other committee, and not to the Committee on Finance.

The VICE PRESIDENT. The question immediately before the Senate is the point of order raised by the Senator from Georgia.

Mr. BELL. I only suggested a mode of avoiding the question of order, whether this is parliamentary and can be considered.

Mr. BROWN. Perhaps there is no question in it.

Mr. SHIELDS. I did not happen to be in my seat when this proposition was first presented to the Senate. If I understand it, however, there is an appropriation in the bill to compensate the reporters of this body to make up for some neglect in relation to their former compensation, to put them on a footing of equality with the reporters of the other branch. Now, what strikes me with astonishment, is that this body should have passed upon an appropriation for reporters in the other branch of the Capitol, and omitted their own reporters. I believe these reporters are the same who were here when I had the honor of a seat in this body formerly, and I must say that a more accurate and intelligent body of reporters I have never known or heard of. I agree with the honorable Senator from Mississippi, if he has stated the proposition correctly. I understand that there is an appropriation in the bill to compensate these gentlemen; that it comes from the proper committee; and here is a proposition to increase that appropriation so as to put them on a proper footing. If I am correct in this, the Senator from Mississippi is clearly right in his point.

Now, sir, I should like to know whether, when a committee reports in favor of an appropriation of any specific sum, any member in his place in the Senate cannot rise and move to diminish or increase that sum? Cannot he diminish the sum by a motion; can he not increase the sum by a motion? It is not necessary, in my opinion, that a committee should report upon that point. It would be a strange thing if a committee could bring forward here a recommendation for a certain sum, and no member in the body could be allowed to rise up and propose to diminish or increase that sum without having it referred back to the same committee. If I am correct about the case, I agree with the honorable Senator from Mississippi that he, in his place as a Senator, can by a mere motion either propose to increase or diminish this particular appropriation. I understand besides, that he has proposed an increase of this as the chairman of a committee; so that surely there can be no doubt about his right to move the amendment.

Mr. TOOMBS. The Senator from Mississippi and the Senator from Minnesota both have argued a question not before the Senate. I understood the Senator from Mississippi to say that the question of order was relieved by the amendment being proposed by the Committee on the District of Columbia. That is the point argued. It seems, though, that he has argued his original right, independent of any recommendation of a committee; and so has the Senator from Minnesota, who is under a mistake as to the facts. The facts are these: the House of Representatives made an appropriation to pay John C. Rives \$4,000, to enable him to pay the House reporters \$800 apiece. This amendment is to enable John C. Rives to pay the Senate reporters, not only, I believe, for this session, but for several years preceding.

Mr. BROWN. If the Senator will turn his

attention to the clause I propose to amend, he will find it reads thus:

"For the usual additional compensation to the reporters of the Congressional Globe for the House."

Then we propose the usual additional compensation to the reporters of the Senate.

Mr. TOOMBS. I suppose that was done by their rules, as they have proposed the "usual additional compensation for the reporters of the House." They make none for the Senate; so that it is neither a question of increasing or diminishing the compensation of the reporters of the House, but it is to enable him to increase the compensation of the reporters of the Senate—not only for this present session and for the next session of Congress, but for some years past, if I correctly understand the amendment as proposed. I shall argue the question made, and not the one that the two gentlemen have argued. The rule of the Senate is, that—

"No amendment proposing additional appropriations shall be received to any appropriation bill, unless it be made to carry out the provisions of some existing law"

It is not that, because the law is simple. There are various laws—three or four in regard to the subject—which I have looked at, and they do not touch the matter.

—"or some act or resolution previously passed by the Senate during that session; or moved by direction of a standing or select committee of the Senate; or in pursuance of an estimate from the head of some of the Departments; and no amendment shall be received whose object is to provide for a private claim, unless it be to carry out the provisions of an existing law or a treaty stipulation."

This is to carry out no law, for it is admitted that there is no law for this allowance. We have a contract with this person to pay him so much money for printing and reporting the debates of the Senate, which has been amended at various times. The appropriation in this bill is for that purpose; it is complete in itself. If it is proposed to raise the compensation, I submit it is not proper, unless it comes within one of the classes named in the rule. The Committee on the District of Columbia have nothing to do with the printing and reporting. No such question is referred to them by the rules; no such question has been submitted to them by the Senate; and I apprehend that no such question has been considered by them. I desire this body to determine, and for you, Mr. President, and the Senate, whether all that is necessary to make any increase of appropriation within this rule, is that a majority of any committee, without even having the question referred to them, without its being assigned as a portion of their duties by the standing orders and rules of the Senate, shall say they are in favor of it. I say it is a violation of the rule, a violation of the rights of every member here. All that is important about these rules is, that they shall be uniform, that they shall apply to all cases; and the only interest I feel in the matter is, that the rule of the Senate may be known in this case. I may have a use for it myself; and therefore I desire this body, through the Chair, to make a decision on it.

Mr. HUNTER. I agree with the Senator from Georgia that the objection is well taken; but, inasmuch as it is obvious the majority of the Senate wish the amendment to go on, I think it would be better, by general consent, to waive the point of order, and oppose it on its merits.

Mr. TOOMBS. We can decide it in a few moments; I do not wish to protract the discussion.

Mr. SHIELDS. I am obliged to the Senator from Georgia for giving me the facts; and I take the proposition as he states it. The rule prohibits an amendment proposing an additional appropriation. This is not an additional appropriation, as I understand. The money is to be paid by John C. Rives. The House of Representatives very properly confined themselves to their own reporters, leaving it to the Senate to take care of theirs. It is the same proposition, the same appropriation to the same individuals, for the same object—paying the reporters of Congress. I can see no difficulty whatever.

The VICE PRESIDENT. The question of order raised involves the reception of the amendment upon two points. The Chair does not see how he can escape a decision on the two points; for, if on either point he thinks the amendment in order, it would have to come in. Any member of the Senate may move any amendment he

chooses to any bill, except so far as he is prohibited by the limitations of this rule. The Chair does not think a motion by an individual member to amend a general appropriation bill, by proposing additional appropriations, is in order, unless it be made to carry out the provisions of some existing law, or some act or resolution of the Senate previously passed during that session. The Chair has seen no existing law to carry out the provisions of which this amendment is necessary; and, therefore, if moved by an individual member of the Senate, he is compelled to decide it out of order under this rule. But the Senator from Mississippi moves the amendment by the direction of one of the standing committees of the body. It is not a subject which has been referred to that committee; but it is an amendment "moved by a standing committee" of this body, and the Chair considers himself bound by the language of the rule; because, except for the limitation imposed by the rule, any member of any committee would have a right to move any amendment. The language is broad and comprehensive; and the Chair does not feel authorized to say that he can reject an amendment which is moved by order of a standing committee because the subject has not been referred to that committee.

Mr. MASON. I should be very reluctant to let the decision pass as part of the judgment of the Senate; but I do not well see how to get at it. If I understand correctly what fell from the Chair, this subject has not been committed to the Committee on the District of Columbia. Now, a committee, by its very derivation, its very nature, is a portion of the members of the Senate, who can act only upon subjects committed to them by the Senate. I do not see how they can act on a subject not committed to them. The constitution of the body renders it necessary, it seems to me, that any subject which comes from them as a committee, technically so called, and which brings with it any peculiar force or character because it comes from a committee, must be a subject committed to them as a committee. I understand the Chair to consider that, under the general terms of the rule, he regards an amendment in order, no matter from what committee it comes. I do not see how otherwise to test the sense of the Senate but by an appeal from the decision of the Chair. I propose to take the sense of the Senate on its being within the scope of the authority of a committee to report with any judgment, or to act upon any subject not previously committed to them.

Mr. HUNTER. I hope my colleague will not appeal. Let us pass this over. It is evidently the desire of the Senate to entertain the subject. I ask, sir, what would be the effect of a motion to lay the appeal on the table?

Mr. MASON. I withdraw the appeal. I only wanted the matter decided.

Mr. TRUMBULL. I shall detain the Senate but a single moment. The decision of the Chair is manifestly right under this rule—

Several SENATORS. The appeal is withdrawn.

Mr. TRUMBULL. I am aware of that; but I wish to say a word in regard to it. I am astonished at the point which has been made. This is the first time I have ever risen in the Senate to say a word about a question of order; but since I have been here, I have known amendments to the appropriation bills to come, time and again, from the standing committees of the Senate just in this way; and if the rule does not mean that, it does not mean anything at all. Can it be possible that the meaning of the rule is, that no committee, except the one having the particular subject in charge, can offer an amendment? If it does, the majority of the Senate is tied up; and if the committee in charge do not think proper to report an amendment, it cannot be passed upon at all. Any individual Senator would have a right to offer an amendment at any time without this rule; but, in order to restrict that right upon the appropriation bills, the Senate has adopted a rule providing that an amendment proposing additional appropriations shall not be in order unless it comes from a standing committee. Now, they wish to interpolate into the rule "unless it comes from the standing committee to whom the subject has been referred." I do not wish to argue the point; but I was so utterly surprised at the objection which has been made that I could not help saying this much.

The VICE PRESIDENT. The question be-

fore the Senate is on the amendment of the Senator from Mississippi.

Mr. TOOMBS. I hope that the amendment will be read.

The Secretary read the amendment, which is, after line one hundred and thirty-seven, to insert:

To enable John C. Rives to pay to the reporters of the Senate, the usual extra compensation for the third session of the Thirty-Fourth Congress, \$800 each—\$3,200.

To enable John C. Rives to pay to the reporters of the Senate the usual extra compensation for the first session of the Thirty-Fifth Congress, \$800 each—\$3,200.

To enable John C. Rives to pay to the reporters of the Senate the usual extra compensation for the second session of the Thirty-Fifth Congress, \$800 each—\$3,200.

Mr. BROWN. I desire to say, in a word, that the first clause covers the appropriation to correspond with one paid to the reporters of the House for the last session of Congress, and to which we gave our assent. We did it under some sort of compulsion, it is true, but still we did it. Then this bill provides for paying the House reporters for the present session, and for the next session, and I propose simply to put ours on the same footing with those of the House. If the two Houses think it proper to strike it all out together, let it go; but I protest against any partiality in a matter of this sort. That is all I have to say in reference to it.

Mr. PUGH. I wish to suggest an amendment to this proposition. The House clause says nothing about Mr. Rives at all. They pay the money to their reporters directly, and if this money is to go to the reporters, let us pay it to them out of the Treasury at once. Why do we go round and pay it to Mr. Rives first? Why do you say he shall pay the reporters? I move to strike out the words "to enable John C. Rives."

Mr. FESSENDEN. I think the Senator is mistaken. I believe the amendment is in the same language as the original clause in the bill.

Mr. PUGH. Let the Secretary read the House section.

Mr. BROWN. The Senator will allow me to say a word before it is read. The language is thus placed because our contract is with Mr. Rives, and not with the reporters. We employ him to have the reporting done; and, therefore, to enable him to pay these men a larger sum, the amendment is offered as it is.

Mr. PUGH. Let the Secretary read that paragraph in the bill, and then I will reply to the Senator.

The Secretary read as follows:

"For the usual additional compensation to the reporters for the Congressional Globe for reporting the proceedings of the House of Representatives, for the next regular session of the Thirty-Fifth Congress, \$800 to each reporter, \$4,000."

Mr. PUGH. It will be observed that the House of Representatives pay the money to the reporters themselves. We are not paying this money to the contractor, because we have no contract to pay it to him. It is an additional sum, and the argument in favor of it is, that it is to compensate the reporters for extra services. Then, pay it to them directly; do not have this form of carrying it through Mr. Rives's pocket—not that I doubt he will pay it to them, but the House of Representatives have made their appropriation directly, and I think it is our duty to appropriate money directly. If the object be to pay Mr. Rives, let him put it in his pocket, and do not put any conditions on him. If the object is to pay the reporters, pay them directly. I, therefore, move to amend the amendment by striking out the words "to enable John C. Rives" in each of the three clauses.

Mr. TOOMBS. The rule being founded on the supposition that, when a committee report a proposition authorizing additional appropriations of the public money, they are prepared to give the Senate the necessary information on the subject, I would respectfully ask the chairman of the Committee on the District of Columbia to give us the data on which he supposes John C. Rives needs \$4,000 more to enable him to pay these reporters. To get at that fact, I ask the Senator how much is now paid for reporting and publishing the debates of the Senate, and what is the evidence on which the committee supposed that that was insufficient to enable him to pay the reporters?

Mr. BROWN. I have made no calculation as to the precise amount Mr. Rives gets, and my only means of ascertaining his profits is what he says himself. I know that the cost of reporting, of printing, and of binding, must necessarily

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

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NEW SERIES.....No. 137.

be very heavy; but while you pay a great deal of money, you get in return a great many books. How valuable they are, it is not for me to say. They contain what members of Congress think proper to say and do. This money is not intended for Mr. Rives. If he may have private fortune enough to pay these men \$10,000 a year, he does not do it. He has a contract with them, it is true. Their compensation is, in my opinion, not sufficient, because we all know they are better reporters than those in the other House are. My reason for inserting the words, "to enable John C. Rives to pay," was to meet an objection made by the Senator from Georgia himself, that we had no contract with these people; that we had no contract with Mr. Sutton, the chief of the reporting corps, or with any of his subordinates, but that our contract was with Mr. Rives. Believing the compensation that they get to be too small, I propose to increase it in this way.

Mr. MASON. Allow me to say to the Senator that there is no contract with Rives whatever—nothing but a mere resolution of the Senate providing for auditing and settling his accounts for printing in the Daily Globe the reports of our proceedings, at the rate of \$7 50 a column.

Mr. TOOMBS. The answer of the Senator from Mississippi is just what I supposed it would be. I supposed the labors of his committee had been just such as he has stated. He says he knows nothing about it, except that he understands John C. Rives says the pay is insufficient. I do not know that Mr. Rives has said so. I do not think Mr. Rives has ever come to the Senate, saying so. I have never seen such a memorial from him. Though he is a ready, and rather profuse, writer, I have never seen anything in his newspaper, saying that he was unable, at his present compensation to pay his reporters. I do not think he pretends so. Has he sent a memorial to that committee?

Mr. BROWN. No, sir.

Mr. TOOMBS. How does the Senator get at it? How does he know that this is necessary? Does he undertake to declare that Mr. Rives says he does not get enough, under his contract, to pay them? Does the Senator tell the Senate that this is the representation of John C. Rives, verbal or written?

Mr. BROWN. I have said distinctly that John C. Rives has not said one word to me about it, and I do not believe he cares a sixpence about it, one way or the other. I put in the words, "to enable John C. Rives," for the precise reason that the Senator objected that our arrangement was with Mr. Rives, and therefore it was necessary to insert his name.

Mr. TOOMBS. The amount of it is, then, that the Senator introduces an evasion to meet an objection; a legal and valid objection is to be got around by an evasion. I propose to supply the deficiency in the labors of this committee. I am quite satisfied they paid no attention to the subject, and I will show how this thing has been done for a number of years. When this contract was first made, it was, I think, with three newspapers—I speak from memory only—the Union, Globe, and Intelligencer, at \$7 50 a column for reporting and printing the proceedings of the Senate. They threw up because they said the pay was inadequate, and probably it was.

Mr. SEWARD. Two of them.

Mr. TOOMBS. Two of them threw up. Then that was a very good reason why you should "enable" Mr. Rives to pay his reporters; that was a very good reason for these "usual" votes. It being apparent that two of the large printing establishments here threw up the job on account of the inadequacy of the pay, there was a very good justification for any gentleman in the Senate voting an increased allowance. Congress remedied that. How? The members of the Senate were then allowed each twelve copies of the book, and the members of the House each got twenty-four copies. Mr. Rives then came forward with his petition asking us to take ninety-three copies instead of twelve. That was to enable him to

carry out the contract for reporting and printing. We did it, and in that way added \$70,000 to the amount of the contract. That was a pretty good enabling act—an addition of \$70,000 to a \$30,000 contract. Still that was not enough; he came forward again in a year or two more. From his representations it seems he was a very patriotic man, working for the honor of the public, and we gave him another addition.

Mr. MASON. Will the Senator please restate what he has just said about \$70,000.

Mr. TOOMBS. At that time we were taking twelve copies of the Congressional Globe for each Senator; but it was represented to us that this was a very hard contract, and that he could not fulfill it unless the Senate would take a number equal to that taken by the House of Representatives, which, I think, ran it up to ninety-three copies for each Senator. At all events, that one increase involved an additional expense of \$72,651.

Mr. MASON. Is that an annual appropriation?

Mr. TOOMBS. I am not certain whether it is an annual appropriation or for the Congress. Two years ago a proposition was put on the appropriation bill, on the motion of the Senator from Mississippi, who seems to have taken charge of these matters, to which I wish to call attention. It did not come through the Printing Committee; but, inasmuch as in 1856 we talked very much on Kansas—that interesting subject swelling out the book to a large size—the Senator from Mississippi offered a proposition which I will read. The provision was to give one cent upon every five pages in excess of three thousand pages for the long session, and one cent in excess of one thousand five hundred pages for the short session. That, it was thought, would "enable" him fully. That little proposition came in very quietly. It had been considered by the same committee, I presume—the Committee on the District of Columbia—and at the time I was under the impression that it would amount to a few hundred dollars. It was in these words:

"Sec. 16. And be it further enacted, That there shall be paid to John C. Rives, by the Secretary of the Senate and Clerk of the House of Representatives, out of the contingent funds of the two Houses, according to the number of copies of the Congressional Globe and Appendix taken by each, one cent for every five pages of that work exceeding three thousand pages for a long session,"—

This was made perpetual, and we are acting under it now.

"or fifteen hundred for a short session, including the indexes and the laws of the United States, commencing with this session."

I felt some curiosity to know what was paid under that simple, modest proposition, and I went to the disbursing officer of this body and ascertained that under it he paid \$10,263 48; and the House of Representatives, under the same clause, paid \$11,174 69, for the last Congress—making above twenty thousand dollars on this one-cent business, when the original contract was \$30,000. Here was an increase of eighty per cent. on the original arrangement, to say nothing of the increased number of volumes the Senate took.

Then I would ask Senators when are you ever going to "enable him"? What will be the point that will "enable" him? Mr. Rives is not complaining in this matter, that I know of. I have never heard of a single word from him on this point.

Now, sir, I hold in my hand a paper made out at the Treasury Department, showing the amounts appropriated for the Globe during the last Congress, and it reaches the large sum of \$203,822 23 for reporting and printing and furnishing the Globe to members of Congress. Of this sum \$199,073 43 has been paid out of the Treasury, to say nothing of the \$10,000 paid out of the contingent fund of the Senate to which I have alluded, making altogether \$210,000. What point will "enable" him to pay enough? Will \$50,000 more? Will \$100,000 more? Will half a million more be sufficient? We are asked to vote this money on the report of a committee who do not know anything about what he is paid, or how he is paid, or

whether he is already sufficiently "enabled" or not. We are asked now to give ten or twelve thousand dollars on the face of these enabling acts, beginning with a small, modest appropriation of about thirty thousand dollars for both Houses—\$10,000 for the Senate, and \$20,000 for the House. We have gone on adding various items, and in the single item of one cent for five pages, we have given him \$21,000. I suppose the labors of the Committee on the District of Columbia did not permit them to look into this matter; and having taken a little trouble to look into it, I will state the appropriations as I have them from the Treasury Department:

"For Congressional Globe, and binding the same, (Laws first session Thirty-Fourth Congress, page 103,) Senate, \$73,651.

"Twenty-four copies of Congressional Globe and Appendix for each member of the Thirty-Fourth Congress, (page 104,) House, \$31,704.

"Binding Congressional Globe, twenty-four copies, (same page,) \$16,528 30."

I believe either my honorable friend from Mississippi or the Printing Committee brought in the binding job on the idea that we were to get the books better bound by having Mr. Rives to do it. That was another little enabling act. Whether that allows too much for binding or not, I really do not know, for I have not been charged with that subject.

"Twenty-four copies of Congressional Globe and Appendix for each member and Delegate of second session of Thirty-Fourth Congress, (same page,) House, \$17,352.

"Binding ditto, \$8,328 75.

"Reporting and publishing proceedings of House of Representatives, (page 104,) \$18,706 87.

"Ditto Senate, (page 103,) \$10,400."

The last two items are the amount of the original contract—\$30,800—for the reporting for the two Houses. To that contract we have added, by this little one-cent business alone, over twenty thousand dollars.

Mr. COLLAMER. I would inquire how much Mr. Rives pays the reporters?

Mr. TOOMBS. I do not know. It is none of my business to know that, any more than it is to inquire what those persons who contract to build the Post Office extension here pay their laborers. If you mean to pay his reporters because he does not pay them enough, deduct it from what you give him; or employ the reporters yourselves, and give them enough. I do not like this adding of additional compensation to Mr. Rives every year on the ground that what he gets for reporting and printing is inadequate. You have added to the original contract by hundreds of thousands of dollars, and still you propose to "enable" him to-day. These votes might have been wise five years ago, or three years ago, or two years ago; but we have got to such a point now that I want to know where this "enabling" business is to stop.

"One hundred copies Congressional Globe and binding the same, for the House library, (page 104,) \$1,941.

"Congressional Globe and binding the same, in act to supply deficiencies for the year ending 30th June, 1857, (page 240,) \$3,326 62.

"To enable the Clerk of the House of Representatives to pay John C. Rives the additional compensation for the Congressional Globe and Appendix, provided in sixteenth section, act March 3, 1857, (page 241,) \$11,174 69.

"To enable John C. Rives to pay reporters, (same page,) \$4,000."

The aggregate, as I have said, is \$203,822 23; and adding the \$10,263 paid out of the contingent fund of the Senate for one cent for five pages, you have a total of \$214,000. This is now paid on a contract that amounted originally to only \$30,000. Is not \$214,000 enough? If he is not able to pay the reporters let us refer the matter to the Printing Committee, and see how much further we shall be asked to go. In the beginning it was an experiment; and when it was an experiment I was willing enough to vote enough to go on with it. I think we have gone quite far enough. I believe I voted for the additional books, on the ground that the committee who had investigated the subject said it was necessary in order to have the work done. My impression is, that I voted for the amendment moved by the Senator from Mississippi, to give one cent on five pages, supposing that it would amount to some hundreds, or per-

haps a few thousand dollars; but it turns out to be \$21,000—seventy or eighty per cent. on the entire amount of the original contract.

I am tired of "enabling" him. Senators, do you not think it is time to get tired of enabling him to pay the reporters? Still we are told it takes \$4,000. Is \$4,000 necessary to enable him to do justice to these reporters, or does he persistently refuse to give them a fair compensation, no matter what you allow him? If so, the Senate ought to take \$4 50 a column out of what they pay him, and pay the reporters out of what we now allow him. It is his duty, and his contract, to pay them; and I show, as a reason why these additional compensations ought to stop, that we have been adding to his pay, and gave him \$21,000 under the sixteenth section of one appropriation bill, at the last Congress. No matter how much you give him, you have to listen to these complaints. I believe that he does not make them now; nobody does, that I know of, but the Senator from Mississippi. Rives does not even pretend that he has not got enough; he does not pretend that he is not able to pay his own workmen. He does not come here to you with any story of beggary. He does not present any memorial or petition, asking you for a dime to enable him to carry out his contract; and yet you propose to vote money to enable him to carry out the contract; and the Senator from Mississippi says this is done to meet my objection. It does not meet my objection.

Mr. JOHNSON, of Arkansas. Will the Senator allow me one word here?

Mr. TOOMBS. Certainly.

Mr. JOHNSON, of Arkansas. I have sat patiently here, listening to the Senator's remarks; but I think he is not correct in his argument at all. Mr. Rives himself, as the Senator has asserted, has not asked to be enabled to pay this money.

Mr. TOOMBS. I so affirmed.

Mr. JOHNSON, of Arkansas. I understand that he has not asked, and does not ask, anything of the kind. The whole of the Senator's argument seems to be directed to the point that you are enabling him to do something, when he does not ask it. The truth is, that you are not proposing to pay him anything at all, but you are proposing to pay this money to the reporters here. It is their matter; it is not the matter of the publisher of the Globe.

Mr. TOOMBS. I have repeated that again and again. I have used the very words of the Senator himself.

Mr. JOHNSON, of Arkansas. It is a matter entirely of the reporters.

Mr. TOOMBS. So I have repeated again and again. I say Rives does not ask you to pay him a dollar for this purpose. The mover of the proposition admits that he has not even told him so out of doors; and yet you still insist on putting on your statute-book that you intend to pay him this money to enable him to pay his reporters. That is what I object to. The motion of the Senator from Mississippi, not mine, is to "enable" him. I object to any such words, as Mr. Rives himself does not ask for any enabling act at all. That is one of my objections to the amendment, and I have repeated it again and again. I said Mr. Rives was not to blame in this matter; for he does not come here with any story of inability to discharge his contract to the fullest extent; but a Senator offers a proposition of this kind, without knowing anything of the subject, without knowing even how much he gets, or whether this appropriation is necessary or not to enable Rives to pay his reporters. It seems to me rather curious. You are buckling fortune on his back, and I suppose he will take it and bear it like a philosopher. Most people would do so, and he would be very wrong if he did not do it. But he has not asked you for it.

It is said that this is a question for the reporters. The argument I have made is, that we have nothing to do with Rives's reporters. They may be under paid or over paid, for aught I know. I do not know what is proper wages for them. Nor do I know what his foreman gets, what his printers get, what his paper man gets. I am not competent to judge whether or not he pays his reporters enough. I leave that question to be settled between him and his reporters. If they do not get enough, I suppose they will go where they will do better. That is the general law of labor

in this country. If they do not get as much as their labor is worth, I suppose they will quit the business; or, if they do not, I think they are very foolish people.

I say, then, the amendment of the Senator from Ohio is a good one. If you mean to pay the workmen of your contractor whom you employ to do this work, do it directly. You pay him over two hundred and ten thousand dollars; and without any complaint on his part that he does not get enough money, without any investigation as to whether it is sufficient, you insist on standing between him and his employees, and saying he does not pay these people enough. I have not examined that question. We do not know whether he pays them enough. We are called upon to vote that Mr. Rives does not pay his men enough. I say that is not our business; we have nothing to do with it; I know nothing about it. I have given you the official account from the Treasury and our own officer. If it is not enough, let the matter be examined into by the Committee on Printing. If he has a hard contract, if he has one which cannot be carried on without loss, let the Senate, on being satisfied of that fact, increase the price. That is the proper way. I acknowledge that many propositions connected with this work I voted for in the beginning on the representations of my friends from Alabama and Arkansas on the Printing Committee; but now I have no evidence. This proposition comes from the Committee on the District of Columbia, who have not looked into it, and know nothing about it. I must be excused for not voting to expend public money in this way.

Mr. STUART. I was very much in hopes this morning that we should be able to dispose of this bill in a few minutes, but the discussion has run out to a great length. I am not prepared to say that I am better informed on this subject than any other Senator, but I will state in a very few words what I understand to be the facts. So far as the appropriations mentioned by the Senator from Georgia are concerned, I apprehend it will be found that they have nothing to do with the subject of reporting considered by itself. They are appropriations that are increased because we have increased the purchases of the Congressional Globe we have made of Mr. Rives. If we think the Senate and Congress are taking a greater number of those Globes than ought to be taken, we have only to stop it; it does not affect the compensation of the reporters at all, as I understand \$7 50 per column is paid for reporting and publishing the debates; and of that sum \$3 is retained for the expense of publishing, and that will barely pay—

Mr. TOOMBS. The Senator will allow me to ask what becomes of the one cent for five pages of excess over three thousand pages? Is not that for reporting and publishing?

Mr. STUART. I was going to say that \$4 50 is paid to the reporters. I have taken some pains to inquire; and I understand that in the long session this will amount to about sixteen or eighteen hundred dollars pay to each of the reporters for the necessary number; and they have to live the entire year. During the short session of course it is less; they still have to remain here, and pay their expenses for the entire year. That is the amount of their pay, and the two Houses have voted this additional sum to the reporters for the purpose of giving them a fair compensation. Therefore, it reduces itself to this: whether the Senate is willing to pay a fair and reasonable compensation to the reporters. I am willing to have these words "to enable" stricken out. I suggested it to the honorable chairman of the committee when the bill came in from the House, which we had a controversy about here a few weeks ago. That bill contained this same language, and I suggested to the chairman that, in my opinion, that was a very awkward way, and that it was placing a responsibility upon Mr. Rives which, if I were in his place, I would not take. We ought to pay directly to the individuals; and we ought not to appoint an agent to make the payments.

But I would say to the Senator from Georgia that this is not the first time that language has been used. It has been the general language in both Houses, and it has been brought in as a custom—I think it is a bad one. I agree with him, and with the Senator from Ohio, that the payments should be made directly. It is an extra

compensation to these reporters, and it does not concern Mr. Rives at all. If you refuse it, you take nothing from him; if you grant it, you add nothing to his estate. It is a simple payment to these reporters—nothing more nor less; and the language will be better with these words stricken out.

The question reduces itself to this: is the Senate prepared to retain the system that it has of reporting, and retain these reporters, or is it disposed to abandon them? I think the experience of the Senate and the country answers that question. We have tried various projects of reporting the debates of the Senate. They have all failed, until we tried this. It is agreed, I believe, by all Senators, that the system is very complete, that the reporters are very competent and exceedingly accurate, and that the system is satisfactory to the Senate. The amount of the printing, we all know, is increased by the amount of the talking. The Senator from Georgia said, the other day, that he did not consider the books worth anything. If that is true, then we talk nonsense, and the remedy is with ourselves.

Now, sir, a word or two in regard to what fell from the honorable Senator from Virginia [Mr. MASON] the other day. I am not going into an extended argument; I have been disposed for three or four days to vote, but some things have been said to which I cannot agree. I cannot agree that a single Senator, by himself, has any authority over this corps of reporters. I cannot agree with the arguments of the Senator from Virginia, that he or any other Senator has a right to change his remarks as he pleases, and that it is simply a question between him and the other Senators who are debating with him. The Senate pays for its reports—the language is for the reporting of its debates—and the Senate has a right, and the country has a right, to have the debates as they are made. It is a matter of comity and a matter of courtesy how far we shall be permitted to take away from the reporters the notes and correct them. My experience has been that they have been courteous indeed, and have extended every privilege that a Senator could desire. That has been my experience; I have seen the very evils that are complained of in the circular of Mr. Rives. I have seen in debates I have had myself with Senators upon this floor, that Senators corrected their own remarks so that I seemed to be talking at nothing. That has occurred to me, and it has occurred to other honorable Senators on this floor, so that you are made to appear, in the language of his circular, perfectly ridiculous, worse than Quixotic. There can be no such authority, no such right, on the part of an individual Senator.

This engagement is to print the debates. They are his when they fall from the Senator's lips, and his reporters put them on paper, and not ours. It is a simple matter of comity and courtesy how far we may change them, and how far we may have the manuscript in order to change them, but there has been no difficulty, and there will be no difficulty, I apprehend, on that subject. I believe—I am fully convinced—that the remedy for these excessive appropriations, if they be excessive, does not lie in this direction. The complaint is simply that we are taking too many of the Congressional Globes, if it is an objection at all, and not that we are paying anything more than a fair compensation for reporting, with this extra pay included. That is my belief about it.

I also believe that the system of publishing these reports in a daily paper is the only one that is of any especial immediate value. There is a historical value in them when carried into the Congressional Globe; but their current value depends upon their prompt publication in a daily paper; and, as was said the other day by the honorable Senator from Tennessee, [Mr. BELL,] it would be worse than useless to undertake to publish these debates in a political paper, and let the editor pervert your remarks every day in an editorial article. This is a daily paper, and it is strictly and almost exclusively a report of your debates. There is scarcely anything else in it. I think the honorable Senator from Georgia was somewhat mistaken in regard to its circulation and its value. The experience in the section of the country from which I come is the reverse of that. The paper is in great demand; it is largely subscribed for and extensively read; and if there is any object in the country's being informed generally of the pro-

ceedings in Congress, that is the most prompt and the most reliable mode in which to give it.

The question now is—and this is all I desire to say—will the Senate pay a fair compensation to the gentlemen now in their employ? The present compensation pays them about what I have stated, and that is all. I consider it entirely inadequate; and therefore I am perfectly willing to vote the additional compensation.

Mr. PUGH. In objecting to this amendment, I make no complaint of Mr. Rives, and none of the reporters. That is not my objection at all. I am under many obligations to the reporters, very many, which I shall always feel proud to express here and elsewhere. If it is the business of the Government to pay the reporters, let us either make them public officers by act of Congress, or make them officers of the Senate, give them salaries, and then they are ours; and then pay Mr. Rives for publishing the reports in his paper, if you choose. Then we know what we are about. But the question has been propounded four or five times, how much do they get? what is their compensation? This is a proposition for extra compensation. The Senator from Michigan tells us at last, after two days' debate, that he is of the impression that their pay amounts to sixteen or eighteen hundred dollars for the long session.

Mr. STUART. I did not say it was my impression. It is a fact I learned on an inquiry which I made a year ago, and made again a week ago. I did not state it here before, because I was disposed to have a vote on this question, and did not wish to consume time in speaking. I thought any other time would do to state it if it were necessary to be stated.

Mr. PUGH. Where did the Senator obtain his information?

Mr. STUART. From the reporters and Mr. Rives. Of course they are the only individuals who could tell me.

Mr. PUGH. Then the objection of my friend from Georgia still prevails; it is not information that is given to us through any committee or any officer of the Government. I say again, if this system of reporting is to be continued, I think it would be right for us to separate the reporting from the publishing. Make these gentlemen by act of Congress officers of the Government, or by resolution employes of the two Houses, and fix their compensation. Then we shall know what it is, and if it is too little they can raise it; if too large, reduce it.

What I object to is the indirection of the system. As long as the public expenditures are all expressed in plain language, so that we know what we are about, and based upon estimates, we know where we can retrench. Then, when our revenues shall fall short, as they have fallen short, we know where to apply the knife of retrenchment. But what do we know here? Here is an amendment, proposed by the Committee on the District of Columbia, to enable John C. Rives to pay extra compensation; and yet Senators tell us that John C. Rives is a mere stalking horse in the business, a regular John Doe or Richard Roe, who has nothing to do with it. Then why not put it in plain language? What is it you mean to do? You mean to add to the salary of the reporters. Very good. Now, fix their salary by law in this bill, or in some shape; and if \$1,600 is not enough, be it so. If \$2,000 is required, or \$3,000, or \$4,000, put it in the bill, and let the country know what you are expending. Now the country knows nothing about it. It is this hiding of public expenditures under all the shifts and ingenuities of language, that I complain of. I do not complain of the payment of the money if it is necessary to carry on the system, and Congress desires to continue the system; but I do complain of hiding expenditures from the public by using all these phrases; and, as a step towards what I desire, I insist on my amendment, that this shall be a direct appropriation to pay the reporters, and leave Mr. Rives out of the business.

Mr. DAVIS. I concur in much that has been said by the Senator from Ohio. I greatly prefer that this matter should be done directly. I should have preferred to have the question of order, which was pending when this bill was last considered, decided this morning, as to the right of an individual Senator to offer the amendment on his own responsibility. I go further: I would much pre-

fer that the reporters should be separated entirely from any printing establishment; that the Senate should have its own corps of reporters, responsible to the body. It is somewhat humiliating, I think, that we should contend that our debates are so poor that it is necessary to pay somebody to print them. If they are not worth printing, file them away in manuscript. If they cannot be printed and circulated for the private benefit of the printer, I prefer to have them filed away in manuscript. One case occurred to me, in the course of my experience in this body, where it was necessary, after the lapse of years, to refer to the notes taken by the reporter as the only means of ascertaining what was actually said. So great an evil did I find to result from the constant habit of Senators changing what they said in debate, that I at one time introduced a resolution here to prevent changes in the report until it should at least have been published in the morning Globe, and then a Senator might, if he pleased, change his remarks for the Congressional Globe; but he should at least stand first on the record as understood by others, and as he had been answered.

I will say, since I am up, that I do not think it fair to allow the question to pass from us with the unlimited commendation bestowed upon the reports of the Senate. I think the whole system wrong. I think there is an inherent defect in the attempt to report *verbatim* everything that is said on the most unimportant subjects; neither do I believe it to be possible, with the small corps of reporters you have here now, to report exactly what falls from Senators on the most important questions under debate. Very recently I was asked the question, what I had meant by one sentence? It was nonsense as it was published, and this arose simply from the fact that the word "nearly" had been substituted for "merely"—an error which the phonographic method would almost certainly introduce on many occasions. With a larger corps of men, as intelligent as I believe your reporters to be, they could revise their reports; they could make sense; and their own knowledge, their perception of what must have been said, would enable them to reduce those characters which represent sounds nearly alike to the words which ought to have been employed, and which probably were employed. But attempting, as we do, to send out a report of a vast amount of debate with so small a corps of reporters as are maintained here, it is impossible that it should be anything else than a mere transcript of the phonographic characters.

I had thought that I should vote for this amendment, but I am now inclined to think otherwise. I will first vote for the amendment of the Senator from Ohio to make it as direct as possible, and then vote to strike out the whole of the additional compensation, with a view to a change in the system entirely—to have the reporters for the House and the reporters for the Senate paid by appropriations made by the body, and then if you choose to encourage printing, very well; though I really believe that if the reports were reduced to those subjects which are of importance to posterity and important to the country to-day, any printer would gladly get possession of your reports if you would give them to him for nothing, and make money by printing them.

The VICE PRESIDENT. The question is on the amendment of the Senator from Ohio to the amendment of the Senator from Mississippi. It is to strike out the words "to enable John C. Rives," at the commencement of each clause.

The amendment to the amendment was agreed to; and the question recurred on the amendment of Mr. Brown.

Mr. TOOMBS. I will simply ask some member of the Senate to tell me what the present compensation is, and what evidence we have that it is not enough? I see that sometimes the debates amount to twenty-five, thirty, and even forty columns a day, and we are told the pay for reporting is \$4 50 a column. The Senate has not a particle of official information on this point, whatever there may be in the shape of hearsay from parties outside. It seems to me the matter ought to be referred to our Printing Committee, who properly have charge of all these questions, if it is our business to inquire into it, and if the Senate once determine that they will inquire into what their contractor pays his laborers. If we are going to pay them additional compensation, I should suppose it would rather be an important

piece of information to know what is paid them now, so as to see whether more is necessary.

Mr. JOHNSON, of Arkansas. The subject has never been referred to the Printing Committee.

Mr. TOOMBS. I know it has not been, and I want it referred.

Mr. JOHNSON, of Arkansas. That committee have made no estimate on the subject, but it is very easy for gentlemen to obtain this information. The amount paid is \$4 50 a column, and it is easy enough to ascertain the average number of columns published daily. I suppose the Globe containing the last day's proceedings will be laid on our tables presently, and we shall see how many columns it contains. All we have to do is to multiply the number of columns of each day's proceedings by \$4 50, to ascertain the compensation. I do not know what it is. I understand there are sometimes fifteen, sometimes twenty-five, sometimes thirty columns a day; what the average is I have no idea. So far as I can see, it must come to upwards of a hundred dollars a day for both Houses. How much expenditure it takes upon the part of the reporters in order to complete their reports, I do not know. The subject has never been referred to the committee to investigate, and therefore I am unable to answer.

Mr. TOOMBS. I asked the question because I really desire information. I have but one piece of information on this point, and that has been laid on my table, as I suppose, by parties interested, since I made my first observations this morning. It is, "that there are now four of the principal reporters of the Union corps, who were employed from 1848 to 1854, who are ready, at twenty-four hours' notice, to engage to furnish full and accurate reports of the debates and proceedings of the Senate, at the present rate of compensation given by Mr. Rives, without expecting any gratuity from the Senate." This is signed by "William Henry Burr, first assistant of the Union corps from 1848 to 1854, on behalf of his associates." It seems that persons who have been engaged in this same business heretofore are willing to do it at the present compensation. I wanted to know whether the present compensation was too much or too little. Of course, I would not pay these reporters anyhow, because I have engaged John C. Rives to pay them. If I did pay any sum, I would deduct it from what is allowed him for reporting. I would give these men a fair compensation if I employed them. You employ Rives, and you not only give him \$7 50 a column, but one cent for five pages, and additional compensations of various kinds; and now, without a particle of evidence that he is not able to do it, or does not do it, you propose to pay his reporters \$800 a year additional. According to my judgment, this is a very loose and inconsiderate appropriation of the public money.

Mr. MASON. I understand that the proposition to appropriate this sum of \$3,200 to the reporters of the Senate, is only the continuation of what once was, and perhaps has continuously been for aught I know, the usage of the two Houses. It has been the habit to give gratuities at the close of the session to the employes of the two Houses—a practice which I had hoped and thought would be discontinued as to the regular employes of the Senate, because a committee was raised for the purpose, amongst others, of getting rid of that very abuse, as many of us considered it, and that committee revised the organization of the officers of the Senate, and allowed, as they thought, most remunerative salaries. This comes in the form of a compensation, if that is a more acceptable term, to those who have been in the employment of the Senate, at the close of a session.

It was said in the original form of the amendment, that it was to enable Mr. Rives to pay the compensation. That language, it is said, was used by the honorable Senator who moved the amendment, in order to meet some verbal objection that had been made on the floor of the Senate. Be that as it may, the proposition is now in its true shape, to give the reporters of the Senate this sum of money which it is alleged has heretofore been usually paid. I am against it—reluctantly against it. I am against it only because it seems to me not the proper mode of compensating those who are, or who may be supposed to be, in the employment of the Senate. I find, in looking cursorily over the Journal of the Senate, that in 1852, the very year in which the resolution was passed

authorizing payment to be made to the editor of the Globe for printing the reports, there was passed a resolution of this character amongst a series of others. The first of those resolutions was to pay "to the persons in the employment of the Senate the sums respectively which were allowed at the last session." The second was to authorize the Sergeant-at-Arms to employ folders during the recess; and the third, "that there shall be paid to each member of the respective corps of reporters of the Senate, \$300." Now, this appropriation is one of like character, as I understand; but, as I have said, it is one that I shall be obliged to vote against, hoping and believing that we had got rid of the system of extra compensation.

I think, however, Mr. President, the debate that has taken place will have the good effect at least of bringing the minds of Senators to consider whether this system of reporting does not require some alteration. If the honorable Senator from Georgia is right in the information he has collected as to the amount paid, we are paying upwards of two hundred and ten thousand dollars a Congress for reporting the debates of the two Houses. It is said that the amount paid for the reporting of the Senate is about sixteen thousand dollars; all the rest, then, must be contributed towards the maintenance of the newspaper through the columns of which the reports are published. Now, I have no idea that that sum can be necessary to maintain the vehicle of giving the reports to the public, or that it is properly the duty of Congress to expend so large a portion of the public money for this object.

Nor am I at all satisfied, as I had occasion to say on a former day, with the relations which the editor of that paper conceives he stands in towards the Senate. I do not conceive that, under the resolution of the Senate, which is a simple resolution authorizing him to publish the reports, he has a right to prescribe to Senators what they shall do, and what they shall refrain from doing, in reference to these reports. I have no doubt in the world that if there are any abuses which require to be remedied, the Senate will prescribe the proper means of doing it; but that the gentleman who is authorized to print these reports should take upon himself to establish those relations he has done in the circular to which I called the attention of the Senate heretofore, I utterly deny.

My impression, and a very strong one, is that before the present session closes, if the reporting is to be continued, which, for one, I should advocate, it will be proper on the part of the Senate, either jointly with the other House or for itself, to regulate the system of reporting, and more especially the relations that should subsist between the reporter and the Senate; and with that view, at the proper time, I shall move to rescind the resolution of the Senate under which this reporting is done. It is done altogether, as I am informed, and I believe correctly informed, by a resolution of the Senate, passed in 1852, which would seem to import a contract—and unless there be a contract contained by implication in it, none exists—and that is simply,

"That the Secretary shall audit and settle, from time to time, the accounts of John C. Rives, for the reports of the Senate proceedings and debates, published in the Daily Globe, at \$7 50 per column."

Under that, it seems this whole system has grown up, which has resulted in most inordinate appropriations to the Globe, and in the very great increase of compensation that has been given in the form noticed by the Senator from Georgia, by adding allowances for publishing at least. I should be exceedingly reluctant, from my experience of the reporters of the Senate, to part with them; but I am satisfied that some new arrangement should be made; and if no other Senator undertakes it, I shall, at a proper time, introduce into the Senate a resolution at least to stop the present system at the close of this session.

Mr. BAYARD. I do not rise for the purpose of continuing the debate; but I desire to state the view I take of this appropriation. I am opposed to this system of extra compensation to reporters or any other class of officers. The House of Representatives have introduced into the bill a provision for extra compensation for the reporters of that House, although, in fact, they are not employees of the House any more than the reporters here are strictly employees of the Senate. We

have, however, chosen to consider them so. The House of Representatives have chosen to place on this bill a provision for the compensation of their reporters, who perform the same duties and have no greater labors than our own. I think the office is one of great importance; and if such compensation is to be made, I think it justice to our reporters to put them upon the same footing of equality. I shall therefore vote for the amendment proposed by the Committee on the District of Columbia, and I shall then vote to strike out the whole appropriation.

Mr. SHIELDS. I rise merely to correct an error into which I fell when I was up before. I find, by a communication that has been made to me since I spoke, that there has been some change in the corps of reporters since the period to which I alluded when I was up before. I agree with the Senator from Delaware that, if we are to reduce the compensation to the reporters, the reduction should be general, and should apply to the reporters in the House as well as to those in the Senate. I am unwilling, as a member of this body, to compensate our reporters at a less rate than that paid in the House of Representatives. I dare say the honorable Senator from Georgia may be right in part of what he has said; but this, as I understand it, is merely to put our reporters on an equality with the reporters of the House. The Senate itself has passed upon the compensation of the reporters of the House, has allowed them a certain sum, and is now objecting to allowing its own reporters a similar sum. That is the way I understand it.

Mr. BENJAMIN. I rise simply to give a reason for my vote. I shall vote for this amendment, though I agree fully with everything that has fallen from the Senator from Georgia, that the reporters are not officers of the Senate, and ought to be paid by Mr. Rives; but there are certain personal relations which grow out of personal service towards gentlemen both in private and public life, which I think are not entirely undeserving of being yielded to. In private life, a merchant who contracts with his clerk for a certain sum for his year's service habitually gives him a gratuity at the close of the year, when his services have been faithful and satisfactory—adds something to the contract price; he reserves that right of adding something to the contract price that he may give a mark of approbation. I must say that the reports of the Senate, so far as I have been able to follow them out, appear to me as nearly perfect as a human thing can be; I hardly ever see a mistake; and therefore, as a mark of approbation for service almost personal to myself, I consider that I have the right, as a public man, to vote this testimonial of faithful service annually when the service is faithfully performed, reserving to myself the right to vote against it if the service ceases to be such as merits my approbation and entitles the parties to a testimonial satisfactory in its character.

I rose to give this reason for my vote, at the same time expressing the hope that some gentleman will make a motion by which this whole system of reporting will be remodeled and reformed. I do not like the system as it now stands, and would much prefer that our reporters were officers of the Senate.

The amendment of Mr. Brown, as amended, was agreed to.

Mr. TOOMBS. I move now to strike out the whole section; and on that question I call for the yeas and nays.

Mr. HUNTER. There is a motion pending to strike out the whole clause, which was made by me.

Mr. BROWN. I want to hear what is proposed to be stricken out.

The Secretary read:

"For the usual additional compensation to the reporters for the Congressional Globe for reporting the proceedings of the House of Representatives for the next regular session of the Thirty-Fifth Congress, \$800 to each reporter, \$4,000."

Mr. BROWN. I only want to see how much is to be stricken out.

Mr. JOHNSON, of Tennessee. I wish to hear the section read as amended.

The Secretary read the original clause of the House bill and the amendment added on Mr. Brown's motion.

Mr. JOHNSON, of Tennessee. The motion is to strike out all, I understand.

Mr. SIMMONS. I hear a number of Senators saying they will vote to strike this all out. I should like to inquire of the chairman of the Committee on Finance if we have not already paid the reporters of the House of Representatives for this session and the last one, by appropriation bills formerly passed; and if you strike this out, you only strike from the House reporters what is already appropriated for the next session, leaving them already two sessions paid, and you take from the reporters of the Senate the whole three sessions.

Mr. HUNTER. I think that is the state of the case.

Mr. SIMMONS. Then it would be a very singular way of doing equal justice; it would be a very singular way of putting the reporters of the Senate on an equal footing with the reporters of the House, after we have paid the reporters of the House the extra pay for the two sessions, upon a bill to pay them for the next session, to strike out the pay for the reporters of the Senate for three sessions. That is a kind of justice and equality that I do not know anything about. The only way to do equal justice is to leave the two first branches of this amendment for the Senate reporters, paying them for the present and the last session of Congress, and then strike out the appropriation for the next session for both branches. That is the only way you can do justice and put them on an equality.

Mr. BROWN. When the deficiency bill was up, it contained an item to pay the reporters of the House of Representatives for the last session of Congress. It is suggested that it was done out of the contingent fund of the House; but it could not be done without the consent of the Senate. I moved the amendment then to put our reporters on the same footing, and consented to have the whole of it stricken out together. I asked the Senator from Virginia to take the amendment which we had made to the House proposition as a *caveat* that we expected our reporters to be protected in a committee of conference, but I believe the bill never came to a committee of conference on that point. At all events, our reporters were neglected; they did not get the compensation which was allowed to the reporters of the House. Now we have done the same thing over again. We meet the House reporters by a similar proposition for ours; we vote it on; then you propose to strike out all together. The House will insist upon retaining their proposition, and the end will be as it was before, that their reporters will be paid and yours not.

One word upon that point, and I think I shall not open my mouth about this subject again. I put this upon a point of honor. If the House was paying its reporters out of its contingent fund, by its own action, and by no other action, then I should not take much interest in it; but we consent—without our consent they could not do it—that their reporters shall receive this extra compensation. We have done it before. We did it by the passage of this bill; and it was only by a motion to reconsider that this amendment was allowed to come in. Let the motion now pass; strike all out together, and your amendment will not appear before a committee of conference if it comes to that—and that it will, nobody, I suppose, will question; there will be no urging of it; and the result will be that, by your consent, and only by your consent, the House reporters are paid for three sessions, and yours not paid at all this extra compensation. Is not that a consent on the part of the Senate that their reporters shall occupy a lower position than those in the House? If the House acted for itself alone, did not ask your concurrence, and you did not give it, then the question would be very different; but you consent, you have consented, you consented in the deficiency bill, you have again consented in this bill, that their reporters shall be paid this extra compensation; and now, if, by your consent, or rather by your refusal to ask this appropriation for your reporters, they do not get it, they must necessarily be degraded to that extent. They are put in a lower position, having certainly equal merits, being entitled to equal compensation—as I think, upon the point of merit, they are—if you who have them employed, to whom they render service, consent that others entitled to no higher compensation shall have it, and yet refuse to give it to them.

I hope that this motion to strike out will not prevail. If I felt quite certain that we could get clear of the whole thing, then I would agree to let it be stricken out; but I know that cannot be done and it will not be done. I never will record my vote to degrade our reporters—to give our consent that those in the other branch of the Legislature shall be paid \$800 more than ours, for what all of us know is an inferior order of service.

Mr. HUNTER. I do not admit that we are disparaging our reporters by refusing to vote this gratuity—and a most anomalous shape of extra compensation it is. I do not believe we do them injustice by any such vote. For one, I am free to say, that I accord in most that has been said in praise of the fidelity with which they have discharged their duties. If it be put on another footing, if the Senate choose to assume upon itself the direction of these reporters and their payment, I am willing to pay them ample compensation for whatever they do; that is to say, I am willing to say at once what shall be their compensation, and not afterwards to increase it; for I believe that the whole system of extra allowances is improper and prejudicial.

Sir, this is carrying it a step further than anything we have ever done before, with the exception of the reporter's salary, for here we are not giving extra allowance to our own officers, to our own employes, but we are undertaking to go behind a contract and say that we will give an additional compensation to a man with whom we have made a contract to execute a certain service. We contract with a man to build the wings of this Capitol. If his laborers come forward and say they do not get enough, although he does not ask us to give him a dollar for the purpose of compensating him, are we to go behind the contract and give them extra compensation? Suppose the compositors and the printers who print these reports come here and say they do not get enough, that they are idle in the summer, that they have not proper compensation: are we to step behind this contract and to give them additional compensation?

Why, sir, it seems to me that there cannot be a worse precedent; and because the other House choose to do it, are we therefore bound to do it? If they commit what we believe to be wrong in point of policy, are we bound to follow their example, or else to consider ourselves as being placed in a position of doing injustice to our own officers? Surely not, sir. If we do what it is now proposed to do by this motion, strike out the whole, we leave them both upon an equal footing; we interpose to prevent the House of Representatives from introducing this false system of compensation, not to our own officers, but to the employes of those with whom we make contracts. It is not the fact that the House do not propose to pay them out of their own contingent fund, for they did in the deficiency bill—I do not recollect the terms of the appropriation—and the reason they asked our assent was because there was a law which prevented them from paying it, and they proposed to pass it in the shape of an appropriation bill that they might get over that law. We believed that that was wrong, and the Senate struck out that appropriation; but sooner than lose the deficiency bill, we receded from the amendment. I believe that this is wrong, and I think that the Senate owe it to sound policy to put an end to this system. Let us reorganize the system of reporting, if the reporters do not now get enough, and let us put it upon some plan, some method by which we may compensate them properly without setting this bad example.

Why, sir, we know that this system of extra compensation to our own employes produces discontent in the Departments. We know that those who are engaged in the Coast Survey, working not more than one hundred or two hundred yards from here, those who are engaged in the Executive Departments, and who are really performing much more onerous service, and much harder labor, than is performed here, think it is a disparagement and injustice to them. It will not do to carry this notion of personal association, not only to our employes, but even to those who are employed by persons with whom we contract to do a job for a certain price.

In giving this vote, I think it but justice to our reporters to say that I mean them no disparagement. I think they have discharged their duties

well, and with fidelity; and I am willing to reorganize the system, and put it upon some footing, if they do not get enough, by which they may be compensated amply for whatever they do.

Mr. FESSENDEN. The Senator from Virginia seems to have a sort of periodical fit of economy, generally on very small matters. He does not strike at the very great expenses of the Government that I think he should strike at in the first place. That, however, is no reason why we should spend public money at all; and neither is it any reason why we should withhold what ought to be paid. My own reason for voting to retain this clause, as I shall do, is a very simple one. The system of making these allowances has existed ever since I have been in the Senate. They were made the first session after I came here, and at every session since, until the last session of the last Congress. Then the House reporters were allowed this money, but the Senate reporters were not, and I was not aware of the fact at that time. As we continued to go on in that way, it is to be presumed that it was done in the first place upon some consideration and some understanding. It is to be presumed at least, that the Senate and House of Representatives did not vote an extra compensation of \$800 to each of their reporters without being satisfied at the time that for some reason or other connected with the system which Congress had adopted, they were not paid a sufficient remuneration, that the contract with Mr. Rives in relation to the publication of the debates was such that the reporters, whom he employs at a certain rate, did not receive sufficient remuneration. That must have been the original ground of the allowance, and we continued it year after year. To be sure we made other allowances to Mr. Rives from time to time, but they were not based at all upon the ground that he was obliged to pay his reporters a larger sum, but because of the expenses of his publication—the printing of the debates.

The reporters continued to receive this compensation for a number of years; they received it for several sessions continuously, until the last session of Congress, and then it was paid to the House reporters, but not to ours. When it was allowed, it was done, I may say, without objection; at least there was no objection to it which was ever feasible to be sustained. So far as I have observed since I have been here, it passed ordinarily without any comment at all. I say, then, it got to be a matter upon which the reporters could justly rely as compensation to be made to them according to general custom and habit.

Now, with regard to the system, I do not propose to say anything, because I have not investigated it. It may be right, or it may be wrong; but I disagree with the Senator from Virginia in the mode which he proposes to adopt. He objects to the present system, and he proposes to begin reform by striking off the pay of the reporters while the present system exists. That is not fair.

Mr. HUNTER. I do not acknowledge that this is the pay of the reporters. It is a mere gratuity.

Mr. FESSENDEN. Suppose it to be a gratuity. A gratuity long continued, continued without objection from session to session and Congress to Congress, gets to be considered as part of the pay and comes to be relied upon, if the same reason for it exists which existed in the first place. You may call it a gratuity, or call it compensation, or call it what you please, the question is, have they not a right to expect it?

Mr. HUNTER. Does the Senator think we are bound to go on and pay twenty per cent. extra to our officers because they have had it heretofore?

Mr. FESSENDEN. No, sir, for we have given them notice fairly, from time to time, that we would not give extras to them; but no such notice has been given to the reporters.

Mr. HUNTER. We gave it in the deficiency bill at this session.

Mr. FESSENDEN. The matter was brought up in the deficiency bill, but the reason why this provision was not put on that bill was, that was the wrong place. That was the only objection which was made. It was said then that when we came to consider the regular bills that would be the time to provide for the reporters' compensation.

As I was saying, we have decided over and over

again, session after session, Congress after Congress, that these gentlemen did not get enough, and that, therefore, this sum should be added to what they received. I never put it on the ground of gratuity; I never heard it placed on that ground; but if Senators choose to place it on that ground now, be it so. The statements which have been made as to their compensation are not contradicted. True, we have no legal evidence on the point. We do not go into a trial in legal form of every question that comes up here in reference to these matters; but we satisfy ourselves, in one mode or another, that the story told us is true, and we act upon our information, and continue to rely upon it, unless we find ourselves defrauded and cheated. These reporters receive how much? I am told, it has been said over and over again, and I suppose there is no dispute as to the fact, about one thousand six hundred dollars in a long session, and one thousand two hundred dollars in a short session, for their labors; and we know that, being here a large portion of the year, and subject to our control, they cannot take up new business elsewhere in the recess of Congress. They must depend on this for support during the whole year. It is most inadequate pay for their services—they are entitled to more. Say what you please of the faults of the system, the pay is inadequate; and, on the ground that the pay is inadequate, and that the system we have adopted, the contract we have made will not allow more, we have made these additional allowances, or gratuities, if you please so to term them; but whether one or the other, they amount to substantially the same thing. These reporters are capable men, educated men, and they ought to be paid a compensation proportionate to the character of the labor they perform, and the position which, from their personal qualities and standing, they are entitled to maintain in society. We know that a compensation of \$1,600 one year, and \$1,200 another, is by no means a reasonable remuneration for the services required of them—at least not such as educated, competent men ought to have for such labor; and we based the allowance on that ground originally.

Now, sir, if the system be wrong—and on that I give no opinion—it is our fault that we have not changed it. It is our business to change it, and change it as soon as possible, if it be liable to all the objections that have been made. Do not, while things remain in their present position, strike off that adequate compensation which is necessary to the reporters. Give them what they ought to have; then change the system if you please; but do not say that they shall starve or be subjected to injustice while you are making the change. That is beginning at the wrong end for the purpose of reform. Do justice in the first place to them; and then when you get a new system in operation, if they choose to work under it, very well; if they do not, we must look out for somebody else to supply their places. I do not stand here to praise the reporters or to blame them. Enough has been said as to their merits. They are, in one sense of the word, our servants. To be sure, they do not directly contract with us, but we have considered them ours, we have paid them as ours, we have treated them as ours, in a measure. I am really of opinion that the Senate has received an ample return in the services of these men for all the money we have ever given them. As I said before, if we have made a contract with Mr. Rives which does not allow him to do justice to them, it is our business to do it in another way; and as we have followed this mode of doing it for years, without objection, do not break it off now. If you want to change the system, do it in such a way, at any rate, that their just rights and interests will be cared for and properly treated in the mean time.

Mr. HUNTER. I think we did break off a year ago, if my memory serves me.

Mr. TRUMBULL. I acknowledge the general impropriety of paying extra compensation to our employes in addition to their usual salaries, but I do not think it becomes us, after having paid extra compensation to the employes of the House of Representatives for identically the same service, to turn round and refuse it to our own employes. I am astonished at the course of the Senator from Virginia, who voted for the deficiency bill at this session, which contained an appropriation "to enable John C. Rives to pay the reporters of the House for reporting the debates of the

present session the usual additional compensation of \$800 each, \$4,000."

Mr. HUNTER. I will tell the Senator that I voted against it. The Committee on Finance moved to strike it out and it was stricken out, but it was given up in conference sooner than imperil the bill itself.

Mr. TRUMBULL. The Senator voted for the bill containing that appropriation, to pay to the reporters of the House of Representatives the extra compensation of \$4,000. It could not have been appropriated without the consent of the Senate. It was not money taken out of the contingent fund of the House of Representatives. It was money taken out of the Treasury to pay the reporters of the House for the present session of Congress. Having done that, shall we turn round now and declaim against paying extra compensation to the same class of employes, after having, by our own votes, established the precedent? If this principle is so vital, we should have stood upon it then. I am willing to go with Senators to reform this system of printing and go against extra compensation, but before we commence that, let us do justice.

I should like to have a division of the question. I am willing to strike out this clause in the bill of the House of Representatives:

"For the usual additional compensation to the reporters for the Congressional Globe, for reporting the proceedings of the House for the next regular session of the Thirty Fifth Congress, \$800 to each reporter, \$4,000."

I will vote to strike that out, and I will also, if it be in order, move to strike out the amendment which the Senate has made to pay the Senate reporters \$3,200 for reporting the proceedings of the next session of Congress; but I desire to vote to pay the reporters of the Senate for reporting at the present and the last session of Congress the sum that we ourselves have already adopted to pay the reporters of the House for the same kind of service; then let us reform the reporting system, if we wish to do so. I call for a division of the question upon the motion to strike out, so that we may strike out the extra compensation for future service, and retain it for the past services of our own reporters. I wish to have a separate vote on each clause.

Mr. STUART. I would suggest to the honorable Senator that he cannot effect his purpose now in regard to the amendment the Senate has put in the bill. We cannot strike any portion of that out, and I suggest, therefore, whether he had not better let the matter stand. We cannot strike out any part of what the Senate has already put into the bill.

Mr. TRUMBULL. There is a motion to strike it all out.

Mr. STUART. That is another question; but what I mean to say to the Senator is that he cannot divide the amendment which the Senate has put in, so as to strike out that which is prospective.

Mr. TRUMBULL. I am not posted up on rules of order. What I have just read to the Senate was in the bill originally, and the motion pending is to strike that out, together with what the Senate has added to the bill since. If a motion is in order to strike it all out, and it is susceptible of division, may I not call for a division, and vote on striking out this clause which provides for future compensation?

Mr. STUART. The Senator does not understand me. The Senate has put in an amendment. It is not in order to strike out that amendment, or any part of it. If the Senator should succeed in getting a division, and striking out that portion in regard to the Senate reporters, it would leave the House proposition standing. He would thus produce the very inequality he seeks to avoid.

Mr. HUNTER. As I understand it, the amendment of the Senator from Mississippi was to the section giving the House reporters this money. I had moved, originally, to strike out that section; and it was proposed, before the vote was taken on striking out, to amend the words I proposed to strike out, by this addition. I now move, after the Senate have put in these words, as an amendment, to strike out the section as amended. It is true, the Senator from Illinois cannot divide the amendment, put in so as to strike out what was substantially inserted by the Senate; but we can strike out the whole section as amended.

Mr. STUART. Yes.

Mr. BELL. I wish merely to say one word in explanation of the vote I shall give. I do not mean to go over the grounds taken by other Senators, nor to notice those taken on the opposite side. When this question was first suggested, or brought to the notice of the Senate, at the present session, I took some pains to ascertain whether the reporters of this body were adequately paid. I had heard it said that it was probable they were not; and that, unless they got further compensation, they would not continue to report for the Senate. I wished to know whether there was any just foundation for the dissatisfaction or for the rumor which I had heard; and, upon inquiry, I got such information as satisfied me that they were already, probably, paid about as much as the publisher of the debates could afford; that the corps of reporters employed here considered they were not adequately paid, and had not been adequately paid heretofore. The services are very laborious indeed, during a considerable portion of the session, and towards the close the labor is almost unsupportable, occupying them sometimes sixteen and even twenty hours a day, and sometimes twenty-four consecutive hours have been occupied by the superintendent of the reports. I ascertained further that it was probable that this corps would leave the service in which they were employed if they were not paid a larger sum, or if they had no prospect of being so paid.

Thinking myself that it was a matter of great public importance that the debates of this body should be regularly reported and published, having very different views on that subject from some of the honorable Senators who have addressed the Senate, and without reference to the question whether there ought to be a reorganization of the plan of reporting, or a new organization, or a new system adopted, I looked to the actual point before us—the justice of making this additional compensation to the reporters. Sometimes I might be inclined to give a vote on considerations connected with the relations in which we stand, our social relations to a portion of the employes of the Senate; but I feel myself clear in giving this vote upon the ground that it is merely doing them justice, and that probably no such body of reporters could be obtained if they were to relinquish their present employment. It is not likely that they could be. We can get propositions to report, I dare say, for one half the amount; but they do not afford the security that the experience we have had of the skill and fidelity of this corps of reporters furnishes. It is upon the ground of justice, for the purpose of securing an object which I consider important, that I give my vote; believing that they have not been adequately compensated heretofore; believing that now it is just that this money should be given to enable them with cheerfulness to continue in the service in which they are now engaged, and to afford such reports as they have heretofore furnished to the country.

As I stated the other day, occasional mistakes occur in the best corps of reporters; and I alluded to a case in relation to some remarks I made on a very delicate and important question; but that is a contingency to which we must be subject at all times. Mistakes will be made; sometimes one that may be serious and to be regretted, and may be mortifying to the gentleman who makes remarks in this body. On the whole, I think this corps of reporters have been faithful, skillful, and able, and I wish to continue them. I vote on grounds of justice, according to my conception of their claims.

Mr. TRUMBULL. In order to avoid the question of order that is made by the Senator from Michigan, I will move to reconsider the vote by which the Senate adopted the amendment; and when that shall be reconsidered, if the Senate reconsider it, I will then ask for a separate vote upon the different clauses of the amendment; for I am opposed to making an appropriation to pay extra compensation for the future; though I am in favor of placing our own reporters upon an equality with the position in which the Senate has, by its own action, placed the House reporters. Therefore I move to reconsider the vote by which the amendment was adopted, with a view of asking a division upon it, so as to vote directly upon the third clause of it, which pays the extra compensation for the next session.

Mr. BROWN. Allow me to call the attention of the Senator from Illinois to a fact. He speaks

of reconsidering, with a view of striking out the provision which gives extra compensation for the coming session of Congress. If he will look at the original House bill, which we are amending, he will find that it provides for paying the House reporters for the next session.

Mr. TRUMBULL. I propose to strike that out.

Mr. BROWN. You cannot do it. It is amended now. If you strike out both together, be it so; but the result, let me say to my friend from Illinois, will be this: that the next session of Congress will come round, and your reporters are not provided for by this bill, and the House will not provide for theirs as a matter of course, when they pass the bill there. Why? Because they are already provided for, and then your reporters will stand pretty much where they do now—unprovided for. I think it is better to let them go along hand in hand.

Mr. SIMMONS. I wish to make a suggestion to my friend from Illinois. I shall vote against his motion to reconsider as well as against the motion to strike out. If you reconsider this amendment, and strike out the proposition of the bill to pay the House reporters for the next session, together with the payment of our reporters for the next session, you will leave no motion for the House of Representatives to concur in our amendment; and as there is no probability that we shall reorganize this system until the next session, I would rather provide now for the next session than hazard this appropriation for the payment of our reporters for the last session, and the present session. I want to get them that first; but I think that probably by the time you reorganize the system, the next session will have gone by, and the money will have been earned and spent. I hope, therefore, the Senator will not insist on his motion to reconsider. My fear is, that by reconsidering, we shall lose the whole proposition. I agree that it would be more proper; it is more in accordance with my notions of propriety to wait until the service is performed before giving this complimentary pay; but I want to leave the other House some motive to adopt our proposition, and I state it frankly.

Now, I wish to say a word in reply to the Senator from Virginia, about extra compensation. This certainly cannot be regarded as extra, because we do not pay them anything besides. This is all our payment to the reporters. I wish to call his attention to another fact. I am informed, upon inquiry among the committees I have been on, that in order to get rid of annual appropriations for extras, we have raised the permanent price of committee clerks, and other employes here, to the extent of the twenty per cent. formerly given as extra. That is a very economical way of voting extra payments. [Laughter.] You avoid the term and pay the money. That is what we do in regard to our officers.

As has been suggested by the Senator from Maine, this payment has been going on for years; but we are in arrears two sessions to our reporters, and I think we ought to pay them that. The Senator from Virginia says, now that we have put this in the bill, that he goes for striking out the provision for the reporters of both Houses, and then they will be on an equality. He cannot avoid so glaring a fact as this: that our reporters are now behind the reporters of the House two sessions of Congress in the appropriations already made for this compensation. That stands out clearly, and cannot be overlooked, and cannot be put out of sight by any ingenious argument. I desire, as I said before, to keep this provision just as it is, and to appropriate for the next session, in order to induce the House of Representatives to adopt our amendment, and put our reporters on an equality with them. Then I will go with the Senator from Virginia, in any proper mode of economy he may desire, to prevent the payment of \$200,000 for these books. I think that is enormous, but I would not take it out of these hard-working people. Let them have their pay for reporting.

The PRESIDING OFFICER. (Mr. FITZPATRICK in the chair.) Does the Senator from Illinois insist on his motion?

Mr. TRUMBULL. Yes, sir, I insist upon the motion to reconsider. I am opposed to paying extra compensation in advance for the next session of Congress. Senators around me tell me

that loses the whole provision. I do not see it. I have unwillingly given votes here sometimes, on the idea that the House of Representatives will not do right. I cannot believe that the House of Representatives, after having voted extra compensation for the past and present session of Congress to its own reporters, will refuse it to ours; but there is no propriety in paying extra compensation for services not yet rendered. What becomes of the argument of the Senator from Louisiana, that we are to look upon these reporters as a merchant would upon a faithful clerk, to whom he feels at liberty to make presents at the end of his term of service, for the faithfulness with which he has discharged his duties? Here we are giving this money in advance for another session. It seems to me, that if that is the only way to get at it, it would be better for the Senate to reconsider, and put into this bill simply an appropriation placing our reporters upon the same footing as the reporters of the House have been placed upon by our own vote, and there leave the matter.

THE PRESIDING OFFICER. The question is on the motion to reconsider.

The motion was not agreed to.

MR. HUNTER. I ask for the yeas and nays on the motion to strike out the whole.

The yeas and nays were ordered.

MR. WADE. I have paired off with my colleague [Mr. Pugh] on this question.

The question being taken by yeas and nays, resulted—yeas 20, nays 31; as follows:

YEAS—Messrs. Bayard, Bright, Clay, Clingman, Crittenden, Davis, Fitzpatrick, Hammond, Henderson, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Mason, Polk, Rice, Sidel, Toombs, Trumbull, and Yulee—20.

NAYS—Messrs. Allen, Bell, Benjamin, Bigler, Broderick, Brown, Chandler, Clark, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Green, Hamlin, Harlan, Houston, Jones, Kennedy, King, Mallory, Sebastian, Seward, Shields, Simmons, Stuart, Sumner, Wilson, and Wright—31.

So the motion to strike out was not agreed to.

MR. DAVIS. I offer an amendment in page 22, line five hundred and twenty-nine, to strike out "two" and insert "four," and add after the word "dollars," in line five hundred and thirty, the words, "and the clerkship of class three, already authorized by law for said office, shall hereafter be of class four;" so that the clause will then read:

For compensation of the clerks and messengers in the office of the chief engineer, \$8,440; and the clerkship of class three, already authorized by law for said office, shall, hereafter, be of class four.

This is a proposition not to increase the number of clerks, but to raise a clerk, now of class three, to class four; a man of varied acquirements and very great usefulness in the Department, and who has been for thirty years a faithful and efficient servant of the public. It is recommended by the Department especially; and the justice of increasing the salary of this clerk \$200 is urged by the chief of the bureau to which he belongs, and by the head of the engineer corps. I think, upon every principle of equity and policy, the increase of that clerk's salary should be made in the manner now proposed.

MR. HUNTER. I will simply state that there were various propositions before the Committee on Finance to raise clerks from one rate of salary to another, and some to add clerks, on none of which the Committee on Finance agreed. They thought this was no time to be increasing salaries, or adding to the clerical force.

The amendment was rejected.

MR. DAVIS. I wish to offer another amendment, in line five hundred and seventy-four, after the word "dollars," to insert:

And the compensation of the superintendent may be allowed to the clerk who has performed, or may hereafter perform, the duties of that office, the allowance to be made to such superintendent, with his salary, not to exceed \$2,000.

So that the clause will read:

For the general purposes of the building, corner of F and Seventeenth streets, for compensation of superintendent, for watchmen, and two laborers for said building, \$3,850; and the compensation of the superintendent may be allowed to the clerk who has performed, or may hereafter perform, the duties of that office, the allowance to be made to such superintendent, with his salary as clerk, not to exceed \$2,000.

The money is appropriated in the bill as it stands. The amendment does not increase the appropriation a dollar. It has been for years appropriated in the same form as in the bill originally, and the money has been used to pay for the

services described in the amendment; but recently the Comptroller has put a construction upon the law different from that of his predecessor. This declaration of what the law is becomes necessary for the settlement of the accounts of this officer, as well as to allow the small sum which is paid to him for the performance of this particular duty. It does not increase the appropriation at all, and does not vary it.

The amendment was agreed to.

MR. BROWN. I move to reconsider the vote by which the word "seventy," in line one hundred and twenty-nine, was stricken out, and "fifty" inserted in place of it. I make the motion more for the purpose of correcting a little bit of history which I think is important, than for any other purpose. When the Senator from Virginia [Mr. HUNTER] moved that amendment, I interposed and stated that the price paid by us at the last session of Congress for binding the Congressional Globe was sixty cents. Two or three Senators said no, it was fifty. My recollection was not precisely accurate, but I had a general recollection that I was right. Since that, I have consulted the law which I have before me, and I find that the precise sum paid was sixty-three cents. The reason for its being put at that sum was this: the House was paying seventy cents for binding the Congressional Globe; ours was done by contract; the publisher had nothing to do with it; and the result was, as I showed at the time, that the sheets were confused, put in at the wrong place, and the binding was wretchedly done, so that the books were falling to pieces almost by the time you got them.

Then there was an inquiry, I will say to my friend from Georgia, as to what the work could be done for without profit. It was ascertained that it could be done in the style of the volumes I hold in my hand for sixty-three cents, and pay no profit. Now you propose to reduce it to fifty cents. You can have binding done at fifty cents; I dare say you can have a book bound with what I believe they call Russia backs and covers for fifty cents, and the volume will fall to pieces the moment you take the wrappers off. You can have tolerably good binding done in muslin at fifty cents; but if you want to have it done as this volume is done, you cannot have it done for less than sixty-three cents, and pay no profit. I am not asked to make this motion, and with this explanation I mean to withdraw it when I have done. But I want Senators to take note, that during this session of Congress, when you get your Congressional Globes, you get them with sheets left out, sheets misplaced, the binding wretchedly done, so that the index amounts to nothing; and, if you ask the publisher about it, he charges it on the binder; and, if you inquire of the binder, he charges it again on the publisher. A valuable work that costs a large sum of money is thus destroyed for the purpose of saving a few cents. Mr. Rives tells me he does not want this binding even at that price; he does not ask it; he does not ask me to make this motion; but having inquired into this matter formerly, I think the reduction was unwisely and improperly made; but if I insist on this motion, I shall be charged with trying to serve somebody out of doors. I only wanted to give notice to the Senate that this saving of thirteen cents on the volume will result as it did before in giving you a badly-bound book, and with the sheets so discomposed that your index will not amount to anything. I withdraw the motion.

MR. BAYARD. I am instructed by the Committee on the Judiciary to offer the following amendment, to come after line seven hundred and fifty-seven, at the end of the appropriation for salaries for the Attorney General and the clerks and messenger in his office:

Provided, That the Attorney General shall have the power, in place of the clerks now employed in his office, to appoint two assistant counsel, with a salary to each of \$3,000; and two clerks, with a salary of \$1,600 each.

The amendment is reported by the Committee on the Judiciary upon the application of the Attorney General, with a view to the reorganization of the force now in his office. It does not involve the cost of a dollar more than we now pay. The difference will be that, instead of having a greater number of clerks, who are not competent to perform the duties of the office, we shall substitute a smaller number, and authorize a rate of compensa-

tion to two of that number which will secure persons competent really to afford proper assistance. We propose to create no new office, but simply to provide that two of the official force shall be called assistant counsel; and the reason of it is very apparent. The grade of men necessary to perform the duties of the Attorney General's office efficiently, and available for the country, cannot be obtained as mere clerks, or at the compensation of clerks; but you can obtain it without increasing the expense, and by diminishing the force in the mode mentioned in the amendment. The Attorney General has had great additional labor thrown on him from the modern custom of referring almost every question that arises in the Departments for his opinion; and there has also been a great increase of the business of the United States in the Supreme Court. I think it is a reasonable request on his part. The committee have approved of it, and as the amendment creates no new office and no additional expense, I hope it will be adopted.

MR. HUNTER. I think this is the germ of a very large and dangerous increase of the Federal patronage. It is a proposition, in effect, to give the Attorney General two assistants. I believe the policy of giving assistants to the heads of Departments is all wrong. The effect of it is to divide and impair responsibility; to take from the heads of Departments those duties which they, above all other men, ought to perform. We commenced with the Treasury and State Departments; and probably there was more reason for it in the Treasury Department than in any other; but, having commenced with those Departments, it is now proposed to give two assistants to the Attorney General. If we adopt this amendment, the effect will be that we shall be called upon to give assistants in every other Department, the Interior, War, and Navy; and soon we shall have the comptrollers and heads of bureaus coming here and saying they ought to have assistants too. This policy will be extended, inevitably, if we commence with it. I doubt whether it ought ever to have been adopted in regard to the State or Treasury Departments; certainly it should not extend beyond those Departments.

But we shall be told, perhaps, that these officers are not designed as technically Assistant Attorneys General, but merely clerks of a higher order. If we take it in that point of view, here is an attempt to create another class of clerks—\$3,000 clerks; and soon you will have a large number of them. It is proposed to add another to the existing class of clerkships, unless you take the other horn of the dilemma, and admit that it is at once a proposition to have two Assistant Attorneys General. The whole effect of the system of appointing assistants for heads of Departments is, that we relieve them of the very labor which it was designed they should undergo and execute; and it seems to me that, of all the Departments, that of the Attorney General is less entitled to it than any other.

Sir, if you want to relieve the Departments of the labors and difficulties which devolve on them, you should begin at the other end and provide for them a more efficient corps by making it a matter of law that they shall promote the clerks so as to reward merit, and to enable those who are deserving to obtain the rewards of their labor. Do that, and keep in those heads of bureaus who have shown themselves to be efficient and capable, and the business will assume such a shape and form that no head of a Department will have half the trouble or half the labor he now has. That is the point at which to commence, and I would to-morrow vote for a law forcing them to promote the clerks from one class to the class above it, when they prove themselves to have been efficient and capable, and can show upon examination that they are able to fill the higher class of clerkships to which they would be promoted. If something of that sort were done, we should have a more efficient machinery in all the Departments; but until you do it, it is perfectly idle to attempt to relieve the heads of Departments by increasing the officers who have high salaries. Get more intelligent and efficient clerks; get more experienced and able officers in the different bureaus—not that I mean to disparage those gentlemen who are now there; but I mean, adopt a system which will give you permanently more experienced and able men in these bureaus, and the heads of Departments will not have half the trouble, fewer cases will

be presented to them for decision, and when they are presented, they will be presented in such a shape that they may readily decide them, and the head of each Department will be able to transact its proper business. But if we commence now with this system, it will go I fear to all the lengths I have described, and we shall have the system not only in the other Departments, the Interior, the War, and the Navy, but we shall have assistants to Comptrollers and to Auditors, and to the heads of bureaus.

I hope we shall adhere to the existing classification. If the Attorney General finds that he has too many clerks, let him reorganize his Department by diminishing the corps, not by introducing another class of clerkships, or, what is worse, two assistants to enable him to discharge his duties.

Mr. GREEN. I have always believed that "sufficient unto the day is the evil thereof," and I am not willing to look forward and anticipate difficulties that do not now exist. I am in favor of this amendment. It was well considered in committee, was reported by the chairman, and, I think, substantial reasons exist why it ought to be adopted. It is unnecessary for us to travel over the history of the country, and anticipate other difficulties growing out of it. It is plain and simple in its form, and just adapted to the efficiency of the office of Attorney General. It does not increase the expenditures a single cent; but it so arranges the business of the office as to make the force more efficient for the discharge of the duties incumbent upon the Attorney General. A mere clerk for the performance of clerical duty in the Attorney General's office is not all that is desired. There is a very small portion of mere clerical duty to be performed in that office; but there is a class of duties to which a mere clerk is perfectly incompetent, and that is the preparation of briefs, the hunting up of law, the arrangement of cases, and the preparing of opinions. One Attorney General cannot possibly do this; but let him have such assistance as he chooses to call around him, dispensing with mere clerks, and taking men with high legal attainments, such as in the arrangement of this fund he can command, he will be enabled to prepare better briefs, to better subserve the wants of the Government, to give more logical opinions on points of law submitted, to better protect the Departments who call upon him for his opinions, and in all respects make his office more efficient than it now is.

This does not cost one single cent; and it leaves the head of that branch of the Government still alone responsible, not dividing the responsibility out between him and assistants. He calls his own assistants around him; he selects those gentlemen of legal attainments, who are prepared to render him assistance in the office, still standing himself responsible, without incurring a dollar additional expense. Wherefore, then, should we object to it, when it is presented to the Senate of the United States? I see no reason why it should not prevail.

More than that, while it dispenses with clerks who are now supernumerary, who are incompetent to the preparation of briefs and to the rendition of that service which an Attorney General needs, it still leaves him a margin large enough for the mere clerical force requisite in the Attorney General's office. Heretofore those who have been called clerks were required to perform this duty; but they were confined to a limited amount of compensation, \$1,600. For \$1,600 you cannot get a lawyer of ability to confine himself to the Attorney General's office. For the examination of claims and difficult points presented to him for his opinion, you must have a lawyer of experience, of ability, of learning, of extensive reading. To do that, we propose to give the Attorney General the option to dispense with a mere clerk, and appoint a gentleman of a higher grade of talent, of ability, and of learning. You do not increase the cost; you do not add to the expenditures of the Government; and you improve the efficiency of the office of the Attorney General, and take from him a large class of labor, which, if he must perform, he must neglect others, by agreeing to this.

Mr. BAYARD. I can see no dilemma in this case, except that which is presented by the assumptions or the imagination of the honorable Senator from Virginia; none exists in fact. There is no desire to take from the Attorney General—

nor will the effect of this amendment be to take from him—any responsibility belonging to his office. We purpose not to create an additional office, as in the case of the Assistant Secretary of State, or Assistant Secretary of the Treasury, to be appointed by the President. That would divide the responsibility. We only desire to add to the force in the Attorney General's office, so that he may be able to organize it in reference to salaries, so that, the responsibility remaining with him, he may be able to obtain men competent to perform a character of labor which ordinary clerks have not the competency to perform—that is all. Where is the evil to grow out of it? The honorable Senator, because he can find no objection to the specific recommendation of the Judiciary Committee, seeks to create one by saying that others hereafter will do something wrong—that something wrong will follow from that which is right. That seems to me to be an inconsequential argument. Because Congress now do that which is sustainable on fair grounds, it is not to be presumed that they will hereafter fall into an abuse. This has no connection at all with the subdivision of the State Department or the Treasury Department. There the Assistants are distinct officers, with a particular responsibility and a particular class of duties. Here the Attorney General is to retain the entire control over his office, and to obtain proper aid. As my friend from Missouri has mentioned, he cannot get proper men at the compensation of mere clerks. Nor are their duties merely clerical; but they are truly denominated in the amendment as assistant counsel. Instead of six clerks, we propose to allow him to employ two assistant counsel and two clerks.

I have spoken of the increased duties of the Attorney General. Let me give you an illustration. By your own legislation, you require him to revise the record of every land case decided in California. Eight hundred of them came to him in a single batch. Those records are long. He has to revise the whole of them. They involve questions of law; they involve a minute examination of facts. Can any one Attorney General do that and perform his other duties, and also represent the United States properly in the contested cases they have in the Supreme Court? Certainly not; it is beyond human power of labor. Can he delegate this function to a mere clerk? The clerk has not competency to perform the duty. The business has been got through with—and let me say imperfectly—because, under peculiar circumstances, the chief clerk happened to be a man of more ability than you could usually get in such a situation; but ultimately he resigned, because the pay was inadequate. Without such a provision as this, you leave the Attorney General in a position in which he cannot have the proper aid in the performance of his duties. I see no abuse that can flow from it, unless you suppose that because Congress do what is right in reorganizing this office properly, so as to make it efficient, and leave to the officer all the responsibility, but give him the means of carrying his duties into effect, without overburdening him, that course will hereafter lead in other Departments to abuse. That is the extent of the argument of the Senator from Virginia—that he fears abuses will arise from it. They ought not to arise from any action proposed by the Judiciary Committee in this amendment; and if they ought not to arise, the rational presumption is that they will not arise, although such may be the imagination of the honorable Senator from Virginia.

I trust that the amendment will be adopted, because I am satisfied—and I think I know quite as much about the duties of that office as the honorable chairman of the Committee on Finance—that it is essential to the good conduct of the office, and the efficient performance of its duties consistently with any rational degree of labor imposed upon the Attorney General, that the alteration should be made. I trust the amendment will be adopted.

Mr. BENJAMIN. I desire to move an amendment of a single word, which, I hope, will obviate the objection of the Senator from Virginia. The objection appears to be based on the apprehension that these may be considered offices, and may become permanent offices of the Government. I think if the word "appoint" were stricken out, and the word "employ" used in its stead, so as to say that these two gentlemen are to be em-

ploies of the Attorney General; and not appointed as officers, it might obviate the Senator's objection. Then there can be no ground for regarding this as a precedent. It will simply stand as an authority to the Attorney General to employ in his office two assistant counsel at \$3,000 a year, if he deems it advisable. Then there is no office created.

Mr. HUNTER. My objection is not relieved by the answer given by the Senator from Delaware. He confesses that these assistants are to do the very thing that I say the head of the Department ought not to have deputies to do. They are to examine cases for him. They are, as I understand, to give opinions for him. It is because they are to do so, that he wishes a higher class; and they are to be permanent officers. This is not only for this session, but this is to be a permanent reorganization. I care not whether you call them assistant counsel or assistant Attorneys General, or what other appellation you may give to them. It is evident that it is designed to constitute two assistants to the Attorney General, who are to relieve him from that portion of his duties which he ought to discharge himself, or else it is an effort to create a higher class of clerkships in that one Department. Do we not all know, is it any extravagant supposition to say, that when we commence it in one Department, the example will be followed in the others? You will always find some invaluable man in this or that Department whose services must be secured, who is not willing to take the salary of a common clerk, who cannot be procured at such a salary.

Now, sir, I believe that for the salaries which are given to clerks, as the salaries go to eighteen hundred or two thousand dollars, the Attorney General can get men who are competent to do all that ought to be done by them; that is, to examine cases and to point him to authorities. I at least know one man in that office who is quite capable of filling that place of assistant counsel, who is quite able to do so from experience, from knowledge, and from ability, and I have no doubt that for the salaries which are commonly given to clerks, they can get men who are fit to do that. Beyond that, I am not willing to go. I am not willing there either to establish a higher class of clerkship, nor am I willing to allow him two assistants who are to relieve him of his responsibilities and his duties. Why, sir, already we presume that the Attorney General has less to do than others, because he is allowed to take private practice in the courts.

Mr. BAYARD. He does not do it.

Mr. HUNTER. I do not know what he does. He is allowed to do it. I believe that most of the Attorneys General, perhaps all of them, have done it heretofore, and they have been allowed to do it, because it was supposed by law the duties of the office did not occupy the whole of their time. I am not willing to relieve them from those duties to which the Senator refers. It was designed that these duties should be discharged by the man at the head of the Department. I am willing to assist him with clerks, who may look up authorities; who may examine into facts; who may make a brief of a case; but we all know that we can employ men of a very high character of intelligence and of acquirement, for eighteen hundred or two thousand dollars a year.

The VICE PRESIDENT. Does the Senator from Delaware accept the verbal amendment suggested by the Senator from Louisiana?

Mr. BAYARD. Yes, sir. The honorable Senator from Virginia has been speaking on a subject, of which he can have no practical knowledge; that is, as to the grade of men who would be competent to perform the duties requisite in the Attorney General's office for the efficiency of the office. It may please the honorable Senator to say that an Attorney General ought to do all these himself; but I say, as a lawyer, that it would be practically impossible, with the large increase of duties thrown on him during the last six or eight years. Formerly the duties of his office did not occupy the whole time of the Attorney General, and a portion of it could be devoted to arguing causes in the Supreme Court. His salary was but \$4,000 a year, lower than that of other Cabinet officers, and it was fixed at that because the Government not needing his whole time, he was allowed to take private practice. He has that right still; there is no law forbidding it; but prac-

tically it is impossible for him from the increase of his official labors; and if the honorable Senator chooses to inquire he will find, that for at least eight or ten years past, the Attorneys General of the United States have been obliged to abandon anything like attention to private business, and to confine themselves to the duties of their office, which have become so laborious and onerous that it is difficult for a man to get through with them.

It is not very easy to procure the right kind of assistants. Assistants are wanted to perform a duty onerous to the chief officer: that is, the study of cases, the extraction of principles, and reference to authorities; which requires a much higher degree of legal knowledge than you can obtain for \$1,800 a year. Lord Kenyon was the case hunter for Lord Erskine; and Lord Kenyon was one of the ablest lawyers that ever flourished in England. There are men of capacity who would take a position like this at \$3,000 a year—which would do no more than furnish a reasonable subsistence—who might have no talents as advocates, and yet might be very able lawyers, who could perform this duty in a manner beneficial to the Government, and of real assistance to the Attorney General. If you take mere clerks, what capacity have they for such a duty?

Mr. Gillet, the late chief clerk, a good lawyer though not perhaps a great advocate, performed this duty under the late Attorney General, and for a short time under the present one; but he resigned because of the incompetency of the salary, and because the labors he had to perform destroyed his ability to attend to private practice. The Attorney General would be overwhelmed if he alone had to perform all these duties. He has made inquiry, and he informs us that he has found himself utterly unable to get any man, properly qualified, to discharge the duties for which he absolutely requires assistants, unless you allow him to pay such a rate of compensation as will secure men who can perform these subsidiary duties, he being responsible for their performance. I consider the objection ill-founded, and I hope the amendment will prevail.

Mr. FOSTER called for the yeas and nays; and they were ordered.

Mr. COLLAMER. I have been unable to agree, in committee or here, as to the propriety of this proceeding. If it be true that the Attorney General needs an assistant such as there is in the State and Treasury and Post Office Departments, create the office of Assistant Attorney General, and let the officer be appointed by the President and confirmed by the Senate. Unless you do that, it seems to me you are creating the office in a disguised form. I am a little astonished at the idea of saying, in a provision like this, that the Attorney General may employ assistant counsel—giving that name in order to avoid creating the office, when, if such a man is wanted, the office should be created. I object to the very form in which the purpose is attempted to be disguised. If we take the ordinary acceptance of terms, this proposition conveys the idea that the Attorney General has got so difficult a case, so important in itself, and so complicated in its character, that he should call in assistant counsel to advise him, as is done by lawyers in private practice, and by physicians in difficult and delicate cases. If it be taken in that sense it is different from what is intended. The intention is not to employ assistant counsel when he needs them, but to obtain people to assist him in doing his own duty. It is disguised for the purpose of getting a higher order of clerk to do duties which should be done by the Attorney General. It seems to me to be an oblique and disguised method of getting at it; and if the true object in view is designed to be effected you should in some open manner create the office of Assistant Attorney General.

Mr. BAYARD. There is no semblance of disguise unless it be in the imagination of the honorable Senator from Vermont. We say fairly why we want this done, and that we mean the responsibility of the Attorney General to remain. His suggestion is, that you ought to create a distinct office to be appointed by the President and Senate. If you did that you would necessarily have to define by law the duties of that officer, and then the Attorney General would not be responsible for the performance of those duties. The object of this proposition is to enable the Attorney General to employ persons for this service, and to hold him

responsible for its performance. It is to provide for a grade of service which you cannot get clerks to perform, and to call them by an appropriate name. The Attorney General has now by law a right to employ counsel and pay them, in particular cases, outside of his general duties; but because his duties are too onerous we propose to authorize him to employ a grade of men, designated in appropriate terms, who can perform these duties properly. That is all. Where is the disgrace about that? We do not intend to create a new office; if we did we should have to define its duties, and require the officer to be appointed by the President and Senate, thus destroying the responsibility of the Attorney General, as you already do of the Secretary of State or Secretary of the Treasury, by the laws in regard to the Assistants in those Departments. I think that the duties of the Attorney General's office are of such a character that it is absolutely necessary that those associated with him in their performance should be under his control. I can see no proper objection to the amendment.

Mr. COLLAMER. As the gentleman seems to be unwilling to acknowledge what appears to me to be the true character of this proceeding, namely, that it is a disguised proceeding, I will explain it a little more distinctly. The amendment says that the Attorney General may employ assistant counsel. Why call them by that name? To avoid the creation of the office? and yet you actually make it permanent. You will not create the office directly; but you provide for the employment, and thus cheat the people and yourselves. That is the disguise; that is the obliquity; it is a designed obliquity. It provides for employing assistant counsel, so that it may be said you have not created a new office. Then you have disguised the proposition—for it is really meant to be a new office. It is to obtain, under the name of assistant counsel, a higher order of clerks, if the gentleman pleases, with a higher order of pay. That, I say, is a disguise. If you want a higher order of clerks, with higher pay, say so directly, in so many words, and do not attempt to evade it.

Besides, an assistant to the head of a Department is an officer who should be appointed by the President and approved by the Senate, under all the proper sanctions of such appointments according to the settled policy of this Government. Formerly the Assistants were appointed by the heads of the Departments. I know that the Assistant Postmasters General were appointed by the head of the Post Office Department, and were removable at his pleasure; but five years ago that was altered, and the appointments were given to the President, independent altogether of the head of the Department. So it is with the Assistant Secretary of State and Assistant Secretary of the Treasury. It is the uniform habit of the Government now, in regard to such officers, to have them appointed by the President and Senate. If an assistant be needed in the Attorney General's office, let him be appointed in the usual way, or if the Attorney General really needs the assistance of a higher class of clerks let us say so and provide them.

Mr. BAYARD. I am sorry to take up so much time on this matter. I have no interest in it other than my perfect conviction in common with that of a majority of the Committee on the Judiciary that this is a proper reorganization, for the benefit of the Government, of the force in the Attorney General's office. There is no disguise, I repeat again. The honorable Senator from Vermont may please to say it is intended. Intended by whom? I know not; but if he imputes intentional disguise to me, he asserts what he has no warrant for asserting, and is not justified in asserting by any usage I have known in committee or the Senate. I have no disposition on any subject to do anything disguisely.

I say still it would be absurd to allow the President to appoint an independent officer in the office of the Attorney General, because then you would destroy his responsibility; and the confidential relation that must exist for the purpose of common legal action between two associates connected with legal matters, would require that one should not be appointed by an independent authority. I have nothing to do with what was necessary in the case of the Secretary of State, or Secretary of the Treasury, or whether that policy was wise or not. If you choose to make distinct officers there, and de-

fine the duties of those officers, you to that extent remove the responsibility of the head of the Department, and you appoint an officer under him who may thwart him in the performance of his duties.

You had better leave the Attorney General's office as it is than attempt to relieve it in the mode pointed out by the honorable Senator from Vermont. If you will not make a change, so as to give men requisite to perform the duties, let the Attorney General go on until he breaks down or fails from the duties being too onerous, because that will be the result. You cannot get the grade of men for less than the amendment proposes to pay. You may call them, if you please, clerks; they are employes—that is the favorite term used in the Senate. They are employes, and necessary employes, in the office of the Attorney General.

There is no intention to disguise anything in not calling them clerks. The reason of that is apparent. You could not get that class of members of the legal profession, who would be competent to perform the duties, as clerks; because they have something of a professional pride, and you must pay some deference to the professional feeling in that respect. You could not get the proper class of men, if you were to employ them merely under the name of clerk. There is no disguise and no harm about it. The people of the country, when they look at the provisions in your appropriation bill, know that you are paying \$3,000 a year for two associate counsel. It appears on the face of the bill that you are paying \$3,000 to each, in order to act as assistant counsel to the Attorney General in the performance of his duties; and there is no more disguise there, than if you said we should employ two clerks at \$3,000 each, and two more clerks at \$1,600 each. Where is the difference? The difference is in the name; and the object of changing the name arises from what I say to you, that you cannot get, independent of the question of compensation, that class of the legal profession who would be fit to render the services in the manner they ought to be rendered, if you choose to give them that designation.

The question being taken by yeas and nays, resulted—yeas 18, nays 23; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Brown, Clingman, Green, Gwinn, Hammond, Iversen, Jones, Rice, Sebastian, Slidell, Toombs, Wright, and Yulee—18.

NAYS—Messrs. Bell, Broderick, Chandler, Clark, Clay, Collamer, Crittenden, Davis, Dixon, Donlitle, Durkee, Fessenden, Fitzpatrick, Foot, Foster, Hamlin, Harlan, Houston, Hunter, Johnson of Arkansas, Johnson of Tennessee, Kennedy, King, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—23.

So the amendment was rejected.

Mr. JONES. Is it in order for me now to move to reconsider the vote by which a certain amendment was made, so as to restore the bill to the original shape in which that amendment found it?

Mr. HUNTER. The vote on the amendment was taken on Thursday, and three days have since elapsed.

Mr. JONES. Then I shall ask for a separate vote on it when we come into the Senate.

The VICE PRESIDENT. The question is upon engrossing the amendments which have been made, and reading the bill a third time.

Mr. JONES. Can I not have a vote on the amendment to which I allude?

The VICE PRESIDENT. The Chair thinks not.

Mr. JONES. In page 7, lines one hundred and forty-three and one hundred and forty-four, an amendment was made the other day striking out the words, "draughtsmen and clerks employed upon the land maps." I want to restore those words, so that the draughtsmen and clerks employed in the General Land Office, by the direction of the Clerk of the House of Representatives, shall be continued in service. They are employed in making maps of the land States which show, at a single glance, the disposition that has been made by Congress of the public lands; showing the lands that have been granted for railroads, for canals, for schools, &c. It is a very important matter, and I hope the Senate will restore the item.

Mr. HUNTER. Does the Chair decide that the motion can be made?

The VICE PRESIDENT. Not unless there be some special reason which the Chair has not heard.

Mr. HUNTER. The amendment cannot now be reconsidered.

Mr. KING. I understand the Senator from Iowa wishes to except the amendment to which he has alluded, when the question is taken on concurring in the amendments made as in Committee of the Whole.

Mr. HUNTER. It is not in Committee of the Whole. When we reconsidered the vote on the passage of the bill, we did not go back into Committee of the Whole.

The VICE PRESIDENT. The Senate, after passing this bill, reconsidered the vote on its passage, and also reconsidered the vote by which it had been ordered to a third reading; but that did not bring the bill back again into Committee of the Whole.

Mr. HUNTER. I hope the question will be taken on the engrossment of the amendments and third reading of the bill.

Mr. COLLAMER. Is not the bill now open to amendment?

The VICE PRESIDENT. The bill is open to amendment.

Mr. HUNTER. The bill is open to amendment; but nothing that has been adopted by a vote of the Senate is open. The amendment alluded to by the Senator from Iowa was adopted three days ago.

Mr. COLLAMER. Have the amendments agreed to in Committee of the Whole been adopted in the Senate?

The VICE PRESIDENT. The amendments agreed to to-day were not agreed to in committee. It never was put in committee after the reconsideration.

Mr. BROWN. The amendments were adopted on Thursday in the Senate.

Mr. HUNTER. The time for reconsideration has passed.

Mr. BROWN. No; it is not passed. Three days are not passed. You have three days. You do not count fractions. If you count out Sundays and fractions, you have not passed three days; and therefore, the motion of the Senator from Iowa is in order.

Mr. HUNTER and others. Two days is the rule.

The VICE PRESIDENT. The Chair will call attention to the rule:

"Nor shall any motion for reconsideration be in order unless made on the same day on which the vote was taken, or within the two next days of actual session of the Senate."

Mr. BROWN. Then I give it up.

The VICE PRESIDENT. That being the case, the Chair thinks the proposition of the Senator from Iowa, to reconsider the amendment, comes too late, it not having been made on that day, nor within two days of actual session of the Senate afterwards. The question is: Shall the amendments be engrossed, and the bill read a third time?

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

DACOTAH INDIANS.

Mr. STUART. I wish the Senate to dispose of a Senate bill, which now lies on the table, with an amendment from the House of Representatives.

The VICE PRESIDENT. The Chair feels it his duty to first call attention to the special orders.

Mr. STUART. I move to postpone them for the present.

The motion was agreed to; and the Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 82) to amend an act entitled "An act to authorize the President of the United States to cause to be surveyed the tract of land in the Territory of Minnesota, belonging to the half-breeds or mixed bloods of the Dakota or Sioux nation of Indians, and for other purposes," approved the 17th July, 1854. The amendment of the House is to strike out all after the word "lands," in the twelfth line, and insert the following:

And settlements heretofore made thereon are declared valid so far as they do not conflict with settlements made by half-breeds, and that the settlers shall have the benefit of the preemption laws of the United States, any location of half-breed scrip thereon notwithstanding: *Provided*, The declaration of preemption be filed within three months after public notice is given of the passage of this act in the proper land district: *And provided*, That when two or more per-

sons have settled on the same quarter section prior to the passage of this act, they shall be permitted to enter the same, and the rights of each shall be determined according to the provisions of the act relating to preemption, passed March 3, 1843.

Sec. 2. *And be it further enacted*, That the provisions of this act shall not extend to any tract or subdivision within the body of land aforesaid, which shall have been settled upon in good faith, by, and is in the occupancy of, any of the said half-breeds or mixed bloods, which lands, so settled upon and occupied by the half-breeds, are hereby expressly declared to be subject to no other disposition than location by the "certificates" or "scrip" authorized to be issued by the said act of 1854, for the benefit of said Indians; nor shall the provisions of this act extend to any lands which may have been located prior to its passage with half-breed scrip, with the consent of the settlers thereon.

The amendment was concurred in.

DEFENSE OF LIEUTENANT ANDERSON.

Mr. CLAY. I present the following resolution of inquiry, which I hope will be acted on at once:

Resolved, That the Secretary of War be requested to communicate to the Senate the papers filed in the Department in support of the claims of Blocker & Gurley and James F. Davis, counsel employed in the defense of Lieutenant Anderson and his detachment, arrested by the civil authorities of Texas while in the discharge of their official duties, under the orders of General Harney.

Mr. TOOMBS. I object to that. I recollect something of the incidents of that case. They were in the execution of a very illegal order, and I do not know that they have any claim for expenses. I object to it.

The VICE PRESIDENT. Being objected to, the resolution lies over.

POTOMAC RIVER.

Mr. HAMLIN. I offered on Saturday a bill for the improvement of the Potomac river, in this District. I now move that the bill be printed.

The motion was agreed to.

PACIFIC RAILROAD.

Mr. GWIN. I wish to give notice that I shall, on Thursday next, move to take up the question of reconsideration, moved by the Senator from New Hampshire, [Mr. CLARK,] on the bill reported by the select committee on the Pacific railroad; and I shall ask the indulgence of the Senate to make a few remarks on the subject on that day.

PAY OF DECEASED MEMBERS.

Mr. DOOLITTLE. I desire to introduce a joint resolution for the purpose of reference; and I will state that I do so at the request of a member of the House of Representatives, who has had it under consideration. The subject-matter of the compensation of those members of the House who died during the recess of Congress, and the resolution which was passed by the Senate to make compensation to the widows and heirs-at-law of Senators Bell, Butler, and Rusk, have been referred to the Treasury Department; and the Comptroller of the Treasury has expressed the opinion that, under existing laws, the payment cannot be made out of the contingent fund, and he requested that I should present the joint resolution to the Senate; and I do so for the purpose of having it referred to our Judiciary Committee.

There being no objection, leave was granted to introduce the joint resolution (S. No. 41) amendatory of an act entitled "An act to regulate the compensation of members of Congress," approved August 16, 1856, as far as relates to such as shall die during their terms of service; and it was read twice by its title, and referred to the Committee on the Judiciary.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. ALLEN, their Clerk, announcing that the House had passed a joint resolution (No. 30) for paying the compensation of stenographers employed by the committees of the House of Representatives.

EXECUTIVE SESSION.

Mr. SLIDELL. I move that the Senate proceed to the consideration of executive business.

Mr. FOSTER. I would ask the honorable Senator from Louisiana to give way for a moment, to enable me to ask the unanimous consent of the Senate to take up the bill to continue half pay to certain widows and orphans. I do so because there are a large number of these private petitions.

Mr. SLIDELL. For what purpose? To discuss the bill?

Mr. FOSTER. To pass the bill.

Mr. SLIDELL. I shall object to it most decidedly for that purpose.

Mr. FOSTER. I was about to say there are a large number of these petitions before the Senate, and this bill provides for all of them, and unless it is acted on speedily, there will be no hope of its passage.

Mr. SLIDELL. I object to its being acted upon. It will lead to a protracted discussion.

Mr. FOSTER. I presume it will not. It is not my purpose to debate the bill, and I believe it will not occasion debate.

Mr. SLIDELL. It must be debated.

Mr. JONES. I hope it will be taken up, for I believe almost every Senator has a case covered by it.

Mr. SLIDELL. I appeal to the Senator from Connecticut. I yielded from courtesy to what I supposed to be a simple, ordinary question; a mere question of reference. I had no idea that any important matter was to be taken up for discussion.

Mr. FOSTER. I certainly am not disposed to press the matter, if it is against courtesy; but I ask it of the Senate. I will not take up any time to argue the matter.

The VICE PRESIDENT. Does the Senator make any motion?

Mr. SLIDELL. I insist on my motion for an executive session.

The motion was agreed to; and the Senate proceeded to the consideration of executive business; and, after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, May 17, 1858.

The House met at eleven o'clock, a. m.

Mr. CLEMENS. I move there be a call of the House.

Mr. UNDERWOOD. There is a quorum present. Let the Journal be read.

Mr. CLEMENS. There is no quorum present.

The SPEAKER. The Chair will ascertain whether there is a quorum present or not.

The SPEAKER then counted the House, and announced that there were eighty-seven members present.

Mr. CLEMENS. I move that there be a call of the House.

The SPEAKER. The Journal cannot be read until a quorum is present, objection being made.

Mr. JONES, of Tennessee. I demand the yeas and nays upon the motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 35, nays 75; as follows:

YEAS—Messrs. Adrain, Andrews, Billingshurst, Case, Chaffee, Clemens, Comins, Cox, Curtis, Fenton, Foster, Gilman, Howard, George W. Jones, J. Glancy Jones, Owen Jones, Kelsey, Kilgore, Leiter, Matteson, Morgan, Isaac N. Morris, Mott, Palmer, Phelps, Pike, Ruffin, John Sherman, William Stewart, Talbot, Tompkins, Underwood, Wade, Walbridge, and William B. Washburne—35.

NAYS—Messrs. Anderson, Avery, Barksdale, Bingham, Bliss, Buffinton, Burns, Caskey, Chapman, John B. Clark, Clawson, Cobb, Cockrell, Corning, James Craig, Burton Craige, Curry, Davis of Indiana, Davis of Mississippi, Dean, Dodd, English, Foley, Gartrell, Greenwood, Grow, Lawrence W. Hall, Hatch, Hawkins, Hoard, Hughes, Jackson, Jenkins, Jewett, Knapp, Lawrence, Leidy, Lovejoy, McKibbin, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Morrill, Oliver A. Morse, Nichols, Olin, Peyton, Pottle, Powell, Quitman, Reagan, Ritchie, Robbins, Royce, Savage, Seales, Seward, Aaron Shaw, Judson W. Sherman, Singleton, Robert Smith, Stanton, Stephens, Tappan, George Taylor, Thayer, Waldron, Cadwalader C. Washburn, White, Whitoley, Woodson, Wortendyke, John V. Wright, and Zollacofer—75.

So a call of the House was refused.

Pending the call,

Mr. MORRILL stated that his colleague, Mr. WALTON, was too unwell to be in attendance.

Mr. CLAY stated that when his name was called he was in attendance upon the meeting of a committee of the House.

Mr. BRANCH stated that when his name was called he was engaged upon a committee.

Mr. GROESBECK made a similar statement, and asked leave to vote.

Mr. OWEN JONES objected.

Mr. FLORENCE. Upon a call of the House, is it necessary that a person should be present when his name is called? I am present now. I raise the question of order that I am entitled to vote.

The SPEAKER. The Chair overrules the point of order.

Mr. FLORENCE. I should have voted "no."
Mr. COLFAX. When my name was called I was at the Departments upon business for my constituents, and I ask leave to vote.

Many MEMBERS objected.

Mr. BURLINGAME. When my name was called I was engaged upon the Committee on Foreign Affairs.

Mr. COCKERILL moved to dispense with the reading of the names on the list of yeas and nays. The motion was agreed to.

The SPEAKER then announced that only one hundred and ten members had answered to their names, as above recorded.

Mr. WASHBURNE, of Illinois. There is more than a quorum present now.

The SPEAKER counted the House, and announced that one hundred and thirty-four members were present.

The Journal of Saturday was then read and approved.

APPORTIONMENT OF CLERKS.

Mr. SMITH, of Illinois. I ask the unanimous consent of the House to make a report. I hope there will be no objection. It is near the close of the session, and I have had this report in my possession for more than two months. I ask that the bill be referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, be printed.

Mr. JONES, of Tennessee. We have not much time to waste now, and I move to lay the bill upon the table.

Mr. SMITH, of Illinois. There is no harm in it.

Mr. CRAWFORD. What is the bill? The bill was read as follows:

A bill (H. R. No. 127) to apportion the clerks and messengers of the several Departments of the United States, in the city of Washington, amongst the several States and Territories and the District of Columbia.

Mr. PHILLIPS. I object.

Mr. SMITH, of Illinois. May I ask if the bill was not received? I think it was; and, as evidence of that I would say that the gentleman from Tennessee [Mr. JONES] moved to lay the bill upon the table. If the report has not been received, I want to move to suspend the rules. If it was received, then I am willing that the House shall determine the matter, and if they see fit to lay it upon the table, I shall be perfectly satisfied.

Mr. PHILLIPS. I rose to inquire what the bill was, and objected.

Mr. SMITH, of Illinois. The House decided by a large majority to refer the bill to a special committee, and I hope they will now receive the report, and have it printed.

The SPEAKER. The Chair is of opinion that the objection of the gentleman from Pennsylvania comes too late. The Chair asked if there was any objection to receiving the report. No one objected, and the gentleman from Tennessee then rose and moved to lay the bill and report on the table.

The question was taken; and Mr. JONES's motion was not agreed to.

The bill was then referred to the Committee of the Whole on the state of the Union, and, with the report, ordered to be printed.

STENOGRAPHERS TO COMMITTEES.

Mr. STANTON, by unanimous consent of the House, offered the following joint resolution:

Joint resolution for paying the compensation of stenographers employed by committees of the House.

The resolution, which was read, directs the Secretary of the Treasury to allow and pay out of any money in the Treasury not otherwise appropriated, the compensation of stenographers employed by committees of the House of Representatives, as audited under the direction of the House.

Mr. ENGLISH. I wish to inquire whether, under the rules of the House, a joint resolution making an appropriation is not required to be first considered in the Committee of the Whole on the state of the Union?

Mr. STANTON. That is certainly true; and therefore I move to suspend the rule requiring such consideration.

The rules were suspended, (two thirds voting in favor thereof.)

The resolution was then ordered to be engrossed and read a third time; and, being engrossed, it was subsequently read the third time, and passed.

Mr. STANTON moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled bills, reported that they had examined and found truly enrolled an act (H. R. No. 542) to authorize the vestry of Washington parish to take and inclose certain parts of streets in Washington city, for the purpose of extending the Washington cemetery, and for other purposes; when the Speaker signed the same.

Mr. PIKE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (S. No. 38) for the relief of John R. Temple, of Louisiana; when the Speaker signed the same.

ADMISSION OF NEW STATES.

Mr. QUITMAN. I desire to ask the unanimous consent of the House to introduce a joint resolution, not for the purpose of having it considered at this time, but for having a day fixed when it will be convenient for the House to consider it. It is a joint resolution concerning the admission of new States into the Union.

Mr. KELSEY. I object.

Mr. QUITMAN. I move to suspend the rules, so as to enable me to introduce the resolution.

Mr. UNDERWOOD. I should like to hear the resolution reported.

The resolution was read. The preamble recites that, as all the States are equal under the Constitution of the United States, and have equal rights in the Territories as the common property of the States composing the Union; and that while it is the duty of Congress to provide suitable territorial governments whenever any of the Territories may have a sufficient permanent population, so it is unwise, impolitic, and unjust to the existing States, prematurely to admit new States, thereby unduly stimulating the occupation of distant vacant Territories by a forced and unnatural immigration, for political, partisan, and sectional purposes, producing strife and discord between different portions of the Union, and leading to corrupt political combinations in Congress; therefore, the resolution enacts that hereafter no new States, formed out of the Territories of the United States, shall be admitted into the Union until it shall have been ascertained by a census, taken by authority of Congress, that the Territory seeking admission contains a fixed population equal to the number required for a Representative in Congress, according to the ratio then existing, nor until the people of such Territory be authorized by act of Congress to hold a convention and form a constitution, and shall have presented the same for admission into the Union, in pursuance of its provisions, and in accordance with the Constitution of the United States.

Mr. COLFAX. Does the gentleman desire to have the resolution put upon its passage now?

Mr. QUITMAN. No, sir.

Mr. COLFAX. If he does, I desire to offer an amendment providing that application may be received from Kansas for admission into the Union irrespective of the above restriction, so far as population is concerned.

Mr. QUITMAN. It is not my intention, at present, to ask to have it put upon its passage; but to move that its further consideration be postponed till to-morrow week, and that it be printed.

Mr. JONES, of Tennessee. I would inquire what is the regular order of business?

The SPEAKER. The business first in order is the consideration of the report of the Committee of Accounts with respect to Mr. R. B. Hackney, the Doorkeeper.

Mr. JONES, of Tennessee. Then I think we had better dispose of that first.

Mr. QUITMAN. I have moved to suspend the rules; and I believe no motion can take precedence of that.

The SPEAKER. The Chair thinks that a motion to suspend the rules is not in order pending a call for a privileged question.

Mr. JONES, of Tennessee. I call for the yeas and nays on the motion to suspend the rules.

Mr. GROW. I insist on the regular order of business.

The SPEAKER. The business first in order is the consideration of the report of the Committee of Accounts in relation to the Doorkeeper.

Mr. QUITMAN. I would like to inquire what has become of my proposition to suspend the rules.

The SPEAKER. The gentleman's motion to suspend the rules cannot be entertained when a call is made for the regular order of business. It is not in the power of the House to dispense with the consideration of a privileged report, if there be objection. There is also pending on the Calendar a report from the Committee on the Judiciary, brought in on Saturday last, asking that that committee be discharged from the further consideration of a certain petition. That report came in by unanimous consent; and is before the House in the same manner as if it had been introduced under a suspension of the rules. When these matters are disposed of, the motion of the gentleman from Mississippi can be disposed of. The Chair would suggest that very great embarrassment arises from the fact of gentlemen permitting various measures to be brought before the House by unanimous consent. There are on the Calendar now at least four matters of that character.

Mr. QUITMAN. The Chair will permit me to make a single remark. I had the floor, and made a motion to suspend the rules. That motion was about being put. Can another gentleman then take the floor from me and interfere with that motion?

The SPEAKER. The demand for the regular order of business is within the province of every member of the House; and whenever it is demanded, it is the duty of the Chair to enforce the business in order. That business now is the consideration of the report of the Committee of Accounts.

DOORKEEPER OF THE HOUSE.

The report is as follows:

The undersigned, Committee of Accounts, being required by its 102d rule to "superintend and control the expenditures of the contingent fund of the House of Representatives," and "to audit and settle all accounts which may be charged thereon," &c., having had under consideration the accounts of persons said to be employed by the Doorkeeper of the House of Representatives, report:

That prior to the commencement of the present session of Congress the Doorkeeper of the House of Representatives was authorized, by resolutions of the House, passed from time to time, to make the following appointments, namely: One superintendent of the folding room; one superintendent and one assistant superintendent of the document room; one messenger in charge of the Hall of Representatives; with salaries ranging from one thousand seven hundred to one thousand eight hundred dollars per annum, and thirteen other messengers with salaries ranging from one thousand two hundred to one thousand five hundred dollars a year. On the 23d of December last, on the motion of a member from Virginia, [Mr. FAULKNER,] six additional messengers were allowed him, as it was very properly supposed that the comfort of the members required an increase in these assistant officers after the House had removed its sittings to the present Hall. The total number of this class of officers to be appointed by the Doorkeeper, is therefore limited by law to twenty-three. Notwithstanding this express limitation of his authority and power, the Doorkeeper, it is believed, has issued his appointments to thirty or more persons, who claim compensation for their services as messengers of the House. Twenty-three of these messengers, as above stated, are returned by the Doorkeeper on his pay-rolls monthly, with the receipts of the parties named therein attached, who are regularly paid the proportions of annual salaries due each of them respectively. It is known, however, to the undersigned, that some of them are not performing the customary duties belonging to the nature of their employment, and for which they are paid. Three of them are detached, and constantly engaged as book-keepers and assistant clerks in the folding room; one of them is a private secretary or clerk of the Doorkeeper; and two others are used as firemen to the furnaces in the vaults of the Capitol under the old Hall of Representatives; whilst on the other hand, persons who are known to be daily in attendance as messengers and assistant doorkeepers, during the sittings of the House, and who attend upon the several committee rooms, not being returned by the Doorkeeper upon his regular monthly pay rolls, have received no compensation for their services, but depend upon the grace and bounty of the House for remuneration. This gross abuse of the confidence and trust reposed by the House in one of its chief officers cannot be too severely censured, and in the judgment of the undersigned requires an immediate remedy. He has been admonished, again and again, to correct these abuses, but without effect, as he still persists in acting against both usage and law, and openly defies the control of this committee.

Abuses of a similar or worse nature exist in the folding-room. It will be seen by reference to "A statement showing the names of each person employed by the Doorkeeper of the House of Representatives of the United States, the nature of their employment, time appointed, amount of sal-

any paid each one, and the authority for the same." (Mis. House Doc., 109,) made by Mr. R. B. Hackney, Doorkeeper, in response to a resolution of the House, that he represents the un-usually large number of laborers and folders employed there, amounting in the aggregate to thirty-four, as by authority of the Committee of Accounts. Such is not the case. That statement made to the House is false.

By resolutions of the House of August 8, 1854, and December 23, 1857, the Doorkeeper is authorized to employ eight laborers about the Hall, and in attendance in the cloak rooms, &c. He nevertheless represents the committee as giving him authority to employ eleven.

He had instructions from said committee to employ not more than four regular folders, at \$2 50 per day. He has reported the committee to the House as his authority for the employment of six at that price. The salaries of the four regular folders authorized by the committee amount to \$300 per month, which it was supposed would be sufficient to defray nearly one half the usual expenditures heretofore incidental to the folding room.

The economical object of your committee has been entirely frustrated, and the expenditures in the folding room increased from an average amount of six or eight hundred dollars to two thousand or twenty-five hundred dollars per month. Here, too, the regular folders, who are returned on the pay-rolls, and are paid as such, do not perform any such duty. But a throng of piece folders, unauthorized by your committee, are employed by Mr. Hackney, who permits false returns to be made upon the books of the amount of piece-work done, and returns false accounts of the same to be audited and settled by your committee, as is shown by the following comparative table, made out by the Clerk of the House, and contrasting the number of documents actually delivered during the three months ending May 1, by the Superintendent of Public Printing, and the number alleged and returned as folded by the Doorkeeper.

OFFICE OF HOUSE OF REPRESENTATIVES U. S.,
May 6, 1858.

Sir: In compliance with your expressed wish, I have examined the subject of folding documents for the months of February, March, and April last; and find that the number of documents folded in the folding room of the House of Representatives, for each of the months above named, according to the pay rolls returned to this office, to be as follows, namely: for February, 73,374; March, 194,539; extra documents 2,329; total 196,868; and for April, 50,512; extra documents 19,708; total 60,220; for all of which I have declined payment, for the reason that, according to the returns as furnished by the Superintendent of Public Printing, there appears to be too great a discrepancy between the number of documents purported to have been folded and the number actually delivered by the said Superintendent. Below I submit a comparative table, showing the number of documents delivered during the last three months by the Superintendent, and the number alleged to have been folded, as returned by the Doorkeeper.

Delivered by the Superintendent in the month of	Alleged to have been folded during the month of
February..... 45,931	February..... 73,374
Do. March..... 45,935	Do. March..... 194,539
Do. April..... 30,790	Do. April..... 50,512
Total..... 122,646	Total..... 317,425

Or, in other words, there appears to have been an excess of 194,008 documents folded over the number as delivered by the Superintendent.

Very respectfully,
J. C. ALLEN,
Clerk of House of Representatives, United States.

Hon. J. M. KUNKEL, Committee of Accounts.

There are other charges of mal practice in office and venal character preferred against Mr. Hackney; but your committee conceive that it would not be strictly proper to report the declarations of Mr. Hackney's subordinates, over whom he dominates most unjustly.

In conclusion, the under-signed, Committee of Accounts, are unanimous in believing Mr. R. B. Hackney unworthy of the trust reposed in him by this House. They believe that he is either entirely and hopelessly incompetent to perform the duties belonging to his office, or shows a willful and deliberate purpose to pervert improperly and abuse the power with which he is invested.

Your committee, therefore, unanimously recommend the adoption of the following resolution:

Resolved, That R. B. Hackney, the Doorkeeper of the present House of Representatives, be, and he is hereby, dismissed forthwith from that office.

JOHN DICK,
JOHN A. SEARING,
FRANCIS E. SPINNER,
J. M. KUNKEL,
PAULUS POWELL.

Mr. STEPHENS, of Georgia. I believe that, by order of the House, the Doorkeeper was allowed to make his statement. He has just handed me a statement in reply to that report; and I send it to the Clerk's desk to be read.

Mr. SICKLES. Is the reply printed?

Mr. STEPHENS, of Georgia. No, sir.

The Doorkeeper's statement was read, as follows:

To the House of Representatives:

In reply to the report made by the Hon. JACOB M. KUNKEL, from the Committee of Accounts, touching my conduct as Doorkeeper of the House, I respectfully submit the following communication:

The report specially sets forth several instances in which, in the judgment of the committee, I have been guilty of official misconduct. It would not have been unreasonable that, with a view to the refutation of some of these allegations, I should have claimed to have been informed who were the witnesses before the committee, and what were their statements. Although this may have appeared unimportant in the opinion of the committee, yet, to the party

accused, more familiar with the subject-matter, and more capable of appreciating the motives of the witnesses, it might have been of eminent service. Notwithstanding this objection, if the special instances cited in the report constituted the principal charges which it is my duty to refute, I should have proceeded this day to show that many of them are incorrect in point of fact, and others greatly magnified. Such, however, is not the case.

The committee further say, "that there are other charges of malpractice in office and venal character preferred against Mr. Hackney; but your committee conceive it would not be strictly proper to report the declarations of Mr. Hackney's subordinates, over whom he dominates most unjustly." These words import not only gross misconduct, but offenses of a criminal character. It is true, guilt is not directly charged; but the insinuation is too pointed to be misconstrued, and, as is well known, has operated most unfavorably against me among the members of this House. I feel assured that I could not expect to be restored to the confidence of the House and the country with this sweeping accusation impending over me. As this charge has been insinuated, without a direct allegation, through a committee of the House, I ask that the matter may be thoroughly investigated. I therefore forbear any partial defense, and invoke the justice of the House to refer the subject back to any committee it may deem proper, for a full and thorough investigation. I do not ask this for the purpose of delay. I pledge myself to be diligent and prompt in pushing forward the investigation. If guilty, let me receive the condemnation I deserve. Let it, however, be established in a manner consistent with the rights of the citizen, and not by the *ex parte* unsworn statement of hostile witnesses.

R. B. HACKNEY.

Mr. STEPHENS, of Georgia. Mr. Speaker, it seems, as I understand it from the report of the committee the other day, and also from the statement of the Doorkeeper, that that report is founded upon an investigation which, so far as it went, was altogether *ex parte* in its character. It seems, sir, from the statement of the Doorkeeper, that he knew nothing, and knows nothing now, of the witnesses, and that he had no hearing before the committee upon the statements contained in that report. I think it but right that the matter should be thoroughly investigated. As is stated by the Doorkeeper in his reply, the most serious charges are barely intimated; they are not distinctly made by the committee. I think the request of the Doorkeeper is, therefore, quite reasonable, that these charges should be thoroughly looked into and investigated, and all the facts brought before the House. Without consuming further time of the House with debate upon this question at this time, I move that the matter be referred to the select committee appointed to investigate the conduct of the Doorkeeper, who have not yet reported. I think it only right and just that the committee should go on with the investigation, and report the facts to the House, giving the party a right to a hearing, giving him notice, and letting him confront the witnesses. It is a great constitutional right that no man shall be put upon trial without the privilege of confronting the witnesses against him. It is, therefore, a matter of justice to the Doorkeeper.

Mr. KUNKEL, of Maryland. The gentleman from Georgia is laboring under a great misapprehension.

Several MEMBERS. Let him finish his remarks.
Mr. STEPHENS, of Georgia. In what am I laboring under a misapprehension?

Mr. KUNKEL, of Maryland. I will not interrupt you.

Mr. STEPHENS, of Georgia. As I may not have the floor again, I should like to know now.

Mr. KUNKEL, of Maryland. It would, perhaps, require some time for me to explain fully wherein I conceive the gentleman from Georgia is under misapprehension.

Mr. STEPHENS, of Georgia. Then I will say nothing more at present; but, as I have occupied so short a time, I hope I shall be allowed an opportunity of replying to the gentleman from Maryland. I submit the motion that the matter be referred to the select committee already appointed to investigate the conduct of the Doorkeeper.

Mr. KUNKEL, of Maryland. Mr. Speaker, I am sensible that the duty which I have to perform to-day is a very unpleasant one—one which only an imperative sense of public duty would ever compel me to perform. From my earliest youth I have looked upon the position of a public accuser and prosecutor as no enviable one; and I have on all occasions, when I could do so with propriety, declined occupying any such position. I would be willing to accord what the gentleman from Georgia claims for the Doorkeeper, who is under accusation, as a right guaranteed to all men under our system of jurisprudence, but

he has had this right. The Committee of Accounts has presented nothing that has been brought before them, excepting matters which are of record alone—matters which they could not suppress without a grave dereliction of duty. They have, as they have avowed in their report, refused to present to the House statements which were made by as creditable witnesses as Mr. Hackney himself. The committee did not think proper to report such statements, knowing that the select committee, of which the gentleman from Indiana [Mr. HUGHES] is chairman, had already taken this testimony under oath, in the presence of Mr. Hackney, and are ready now, as I understand, to present that proof to the House, and have it read if the House shall see fit to pass an order to that effect. I did not desire to put upon record, in an official paper, statements made against any man who occupies a public position in Washington, or falsely or calumniously assail those who happen to be in authority.

I think, sir, that the House has been most courteous and indulgent, in allowing the Doorkeeper the privilege of putting on file, on the records of this House, a statement in contradiction to the unanimous report of one of its committees. For myself, I feel it due to my own dignity, not on account of my personal merits, but on account of the proud constituency that I represent, to say distinctly that I will not permit any issue of the kind to be made by Mr. Hackney, or any other subordinate officer of this House. I am disposed to do him justice in all respects, and to give him a fair hearing; and I would not—and indeed I would entreat the House, if I should do him injustice, if I should be too severe in any respect, not to attribute it to any desire I have to hunt him down. But, sir, I have done what I have done from a conscientious sense of duty to the House.

Now, sir, the matters charged in the report are of a twofold character. The first is, that he has employed more subordinate officers of this House than by law or usage he was allowed to do. For proof of that statement in the report, I refer the gentleman from Georgia [Mr. STEPHENS] to House document No. 109, which contains Mr. Hackney's own statement, made to the House in response to a resolution adopted at the instance of the gentleman from Alabama, [Mr. HOUSSON,] whom I do not see in his seat.

By law, he is entitled to appoint twenty-three assistants. He has reported thirty, and I have been told by a subordinate he has really thirty-four; all of whom have some equitable claim for services which they have rendered to the House as the assistants of the Doorkeeper. He says, in the margin of his statement made to the House, that, on moving into the new Hall, "I" found it absolutely necessary, for the comfort of members of the House, to increase the force of messengers, hoping it would meet the views of Congress. The committee admonished him, and the Speaker admonished him, that he had no such authority. The judgment of the committee was distinct that he was allowed a number of assistants sufficient to perform the duties which by law are imposed upon them.

It will be seen, by reading the report, that he has taken them away from the duties for which they were intended, and has put three of them in the folding-room as pretended book-keepers, to whom I will allude before I conclude. One he has assigned to the duty of private secretary or clerk to himself, for his own convenience. He has assigned two other messengers to act as firemen in the vaults under the old Hall of the House of Representatives—a most gross abuse of the power and confidence which the House has reposed in him; and for which, if for no other reason, he should be discharged.

The statement of Mr. Hackney, read from the Clerk's desk this morning, does not controvert these facts. On the contrary, by his silence, he admits their truth.

It is said by the committee, in their report, that abuses of still more gravity exist in the folding-room; that heretofore, under the management of every Doorkeeper who has had the control of this department of the House of Representatives, the expenses have rarely exceeded, during an ordinary session of Congress, six or eight hundred dollars per month; while so great has been the abuse and falsification of accounts by the Doorkeeper, that the expenses of the folding-room

have run up from six or eight hundred dollars, to twenty or twenty-five hundred dollars per month.

This fact he does not pretend to deny. He does not pretend to say that it is untrue. These are matters of record; records which were before the committee; records in your Clerk's office, which may be examined by any gentleman for his own satisfaction. How has it been done?

Mr. SPINNER. Will the gentleman allow me a moment just at this point?

Mr. KUNKEL, of Maryland. I will yield to the gentleman.

Mr. SPINNER. The gentleman from Maryland asked how it had been done. I will state, for the information of the House, that the things spoken of as being folded were books, and not speeches. Now, if gentlemen will examine the report of the committee, they will find that for the month of April—I take that month, because it seems that near the close of that month Mr. Hackney found that the committee were on his track—I say it will be found that his returns for the books folded were cut down from one hundred and ninety-six thousand eight hundred and sixty-eight and odd, to fifty thousand five hundred and twelve and odd. He found that we were examining his accounts, and that we had ascertained that the number returned by him largely outran that furnished by the Superintendent of Public Printing. We found that his regular account in his book for April had been entirely torn out, and the leaves were gone. This fact we knew, but we refrained from putting it into our report, for it was agreed by the committee that they would make no specific charges, but that the gentleman from Maryland, [Mr. KUNKEL,] who made the report, should state the facts of the case, and advise Mr. Hackney to resign. I understand that he did so. But the Doorkeeper has chosen to put himself on his defense, and out of doors I understand he is arraigning the committee for dishonesty. I understand this morning that the leaves which were torn out have been found, and in a place where it is not difficult to tell who had possession of them. From these leaves I have compiled a statement, which I will give to the House. I find that there are nine accounts attached to the names of the persons employed in the folding-room. These leaves, before or since they were torn out, had additional columns added to them in pencil, in which the amount is very much reduced. I present to the House a statement of the changes which were made as to the number of documents folded, and as to the amount of charges for the folding. The statement is only a summary.

Names of folders.	Volumes in first statement.	Volumes in second statement.	Cost under first statement.	Cost under second statement.
John A. Devine...	6,536	3,998	\$36 14	\$15 71
E. S. Mathews...	6,520	3,636	26 08	14 54
F. D. Dowling...	6,793	3,819	27 17	15 27
W. M. Fisher...	8,065	4,093	32 26	16 09
J. S. Boak...	11,024	2,609	45 32	10 43
H. H. Clark...	11,240	2,604	41 96	10 41
J. R. Hopkins...	13,040	4,093	52 16	16 37
Cyrus Spangler...	17,275	3,370	76 71	13 43
C. P. Austin...	21,814	2,720	85 25	10 88
Totals.....	101,807	30,802	\$415 95	\$123 18

The price for folding books is forty cents per hundred volumes. Mr. Boak has fifteen hundred speeches, at seventy-five cents per thousand, added to his account. Mr. Spangler has, in addition to his account for folding books, also added thereto \$7 61 for folding ten thousand one hundred and fifty speeches. The account, then, stands in this way:

Volumes folded as per old book.....	101,807
At 40 cents per 100 volumes.....	\$407 22
Add for Spangler folding speeches.....	7 61
“ for Boak folding speeches.....	1 12
	\$415 95
Volumes folded as per new book.....	30,802
At 40 cents per 100 volumes.....	\$123 20
Overcharge.....	\$292 75
	71,005

Showing, on averaging these nine accounts, that nearly three and one third to one was charged for every book folded; and, in the case of Mr. Austin, nearly eight for one.

The Superintendent of Public Printing returns, for the month of April, thirty thousand seven

hundred and ninety volumes as delivered to the superintendent of the folding-room, which varies but twelve volumes from the corrected account of the Doorkeeper.

Mr. NICHOLS. With the permission of the gentleman from Maryland, I desire to ask a question of the gentleman from New York.

Mr. KUNKEL, of Maryland. Certainly.

Mr. NICHOLS. I desire to ask whether, in the month of March, the President's message and documents were not comprised in the number of documents delivered; and if so, whether the discrepancy may not be accounted for from the fact that they were comprised in three volumes instead of one? If so, it ought to go to the justification of the Doorkeeper.

Mr. KUNKEL, of Maryland. If the gentleman from New York will allow me to proceed, I will answer the question of the gentleman from Ohio.

Mr. SPINNER. Certainly. There are other things which I intended to state; but I will yield to the gentleman.

Mr. KUNKEL, of Maryland. I have to say that the committee acted with great leniency and forbearance towards Mr. Hackney.

If I understood correctly his statement, when read at the Clerk's desk this morning, he said that the committee gave him no opportunity to be confronted with his accusers. His accusers were not living persons; they were his own returns made in writing. He was summoned before the committee to explain these returns. I have a copy of a note written to him by the chairman of the committee, requesting him to appear before them. Every member of the committee will rise on this floor, and state that such is the fact; and I will say that, in my judgment, without referring more particularly to what he said, his own statement to the committee inculcated him more than his returns to the Clerk's office. When I informed him of the nature of the report which the committee had directed me to draw up, and of the resolution which I should offer, thinking it my duty to do so, and that I would be carrying out the wishes of the committee, I said to him: "Mr. Hackney, my advice is, that you should resign your office. If you do so, although perhaps it is a dereliction of duty upon the part of the committee to suppress what are matters of record, I will use the little influence I possess to hold them back." He did not then, nor can he now, controvert the facts which are set forth in the report as matters of record alone. He offered no explanation; and he does not pretend to make one this morning. What he does complain of I will refer to hereafter; and, though it is extremely unpleasant, I will endeavor to show that there is some truth in what he pronounces an innuendo and insinuation—a truth so overwhelming and crushing that he will bitterly repent the controversy which he himself has provoked here this day.

Mr. SEWARD. I would like to inquire from the gentleman from Maryland—

Mr. KUNKEL, of Maryland. I would rather not yield, because it breaks up the continuity of my thoughts.

Mr. SEWARD. I rise to a question of order. I object to the gentleman alluding to any facts which do not appear on the record in this transaction, because it involves the character of the Doorkeeper; and I am frank to say that I think he is badly enough complicated without referring to facts outside of the record.

The SPEAKER. The Chair overrules the question of order raised by the gentleman from Georgia.

Mr. KUNKEL, of Maryland. When the Doorkeeper was informed of the nature of the report, he complained that the committee had not summoned before them his book-keeper and the superintendent of the folding-room, saying, "Mr. KUNKEL, you ought not to make that report until these parties are examined; for if there is anything wrong in the folding-room, they are to be held responsible, and not me." I said to him, "Mr. Hackney, the committee did not summon your clerk before them, because they had the returns of your clerk, in writing, before them. They want no explanation of them. The superintendent of the folding-room was brought before the committee, and his statement only inculcates you more." The superintendent of the folding-room, who has endeavored, honestly, I believe, to dis-

charge his duty, has warned the committee for the last six weeks of improper entries made on these books, and false returns being made in regard to the amount of folding done by Mr. Hackney's book-folders. He states that the accounts of piece-folding for the month of April were made up on the books, to the aggregate of some hundred and ninety-six thousand volumes, or thereabouts—a number equal to that returned by him for the month of March, or nearly so. Ascertaining, however, that the Committee of Accounts had these accounts under investigation, the leaves of the book were cut out, and the account for April was restated, reducing the number, originally returned as one hundred and ninety-six thousand, down to fifty or sixty thousand. That is what Mr. Evans, his own superintendent, says.

Mr. ZOLLICOFFER. Did the committee ascertain in whose handwriting the entries, in the leaves cut out, were made, and in whose handwriting the restated accounts were made? whether they were made by the same person?

Mr. KUNKEL, of Maryland. I do not know whether they are in the handwriting of the same person.

Mr. SPINNER. I understand that both are in the handwriting of Mr. Hives, who is the book-keeper of the Doorkeeper.

Mr. ZOLLICOFFER. Were the original entries and the subsequent entries in the same handwriting?

Mr. SPINNER. I think so; although—the one being in pencil and the other in ink—it is not so entirely certain; but I think they are in the same handwriting.

Mr. KUNKEL, of Maryland. It is stated by the committee, Mr. Speaker, as one other fact that forced them to the reporting of the resolution before the House, that Mr. Hackney has falsified the accounts of this folding-room and made false returns of the number of books or documents folded. How is it shown? The committee have no personal knowledge of the facts, and Mr. Hackney himself disavows any personal knowledge of them. The discrepancy between the number of volumes returned by the Doorkeeper as folded for the months of February, March, and April, and the number of documents actually delivered by the Superintendent of Public Printing to the document-room, is so great that no reasoning man can possibly account for the discrepancy.

He does not, in his statement this morning, pretend to be able to explain the discrepancy. The number delivered by the Superintendent of Public Printing to the folding-room to be folded amounted for the three months to one hundred and twenty-two thousand and forty-six; the number of documents alleged to have been folded is three hundred and twenty thousand six hundred and fifty-four. It is but just to the Doorkeeper to say that he insists there is a mistake, and attempts to account for the discrepancy existing between the two statements by saying that it has been the custom of the folding-room to charge double for folding quarto volumes, and to charge double for the President's message and accompanying documents—generally contained in three octavo volumes. Each volume is folded separately, and the three put in one general envelop. He insists, with some degree of justice, I admit, that he ought to be allowed more than for folding one volume.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, its Secretary, informing the House that the Senate had passed, without amendment, a bill (H. R. No. 542) to authorize the vestry of Washington parish to take and inclose certain parts of streets in Washington city for the purpose of extending the Washington cemetery, and for other purposes.

Also, that the Senate had passed the following bills, in which he was directed to ask the concurrence of the House:

An act (No. 168) to relieve the corporation of Georgetown from the expense of making and repairing roads west of Rock creek;

An act (No. 182) for the enforcement of mechanics' liens on buildings, &c., in the District of Columbia;

An act (No. 191) for the benefit of public schools in the city of Washington;

An act (No. 227) authorizing the organization

of a fire department in the District of Columbia; and

An act (No. 241) relating to the manner of holding and transmitting the title to certain church property therein mentioned.

DOORKEEPER OF THE HOUSE—AGAIN.

Mr. KUNKEL, of Maryland. Admitting the justice of this rule for charging, still it does not account for the extraordinary discrepancies existing between the number actually folded and those charged and returned by the Doorkeeper as folded. Doubling the whole number, one hundred and twenty-two thousand six hundred and forty-six, and it would still leave nearly one hundred thousand more to be accounted for.

But, Mr. Speaker, in order to anticipate what may probably be alleged by Mr. Hackney as a further excuse for this extraordinary aggregate charge for folding documents, I will state that the number of volumes actually returned by the Superintendent of Public Printing to the document-room, is not, as is stated by the Clerk of the House, one hundred and twenty-two thousand six hundred and forty-six, but there were really fifty-eight thousand two hundred and sixty-four octavo volumes, and but thirty thousand one hundred and ninety-one quarto volumes returned.

Now, Mr. Speaker, I think I have succeeded in showing the House that what has been charged in this report against Mr. Hackney has been exclusively subject of record before the committee, which the committee could not overlook without a grave dereliction of duty. They forbore, I think with great leniency, to refer to subjects which had been brought to their attention on the mere declarations of his subordinates. He claims that the allegations, in general terms, of malpractice and venality in office, may be investigated. I will send to the Clerk's desk, to be read, a correspondence which has taken place between Mr. Hackney and one of his subordinates.

The Clerk read the correspondence, as follows:

DOORKEEPER'S OFFICE, HOUSE OF REPRESENTATIVES,
WASHINGTON, D. C., May 4, 1858.

SIR: This is to notify you that the appointment heretofore held by you is hereby revoked, and that your services, as a messenger of the House of Representatives, are no longer required from and after this date.

Respectfully, &c.,

R. B. HACKNEY,
Doorkeeper House of Representatives.

MR. E. V. CAMPBELL, Washington, D. C.

HALL OF THE HOUSE OF REPRESENTATIVES, U. S.,
May 4, 1858.

SIR: Inclosed herewith please find a letter of dismissal addressed to me by R. B. Hackney, Esq., Doorkeeper of the House of Representatives. The Doorkeeper assigns no motive for his action, and I can conceive of none, unless it be the fact that I refused to surrender to him my salary, after I had received for it, for the month of April. Other than this, there can be no cause; for I am conscious that I have done my duty faithfully. I deny the authority of the Doorkeeper to act in the manner attempted by him: and appeal to the Speaker of the House of Representatives for protection. Very respectfully,

E. V. CAMPBELL,

Messenger in the Hall of House of Representatives.
Hon. JAMES L. ORR, Speaker of the House of Representatives United States.

Mr. KUNKEL, of Maryland. I do not know, Mr. Speaker, whether I should go further into this case. I might, if it were the pleasure of the House, call upon the gentleman from Indiana, [Mr. HUGHES,] the chairman of the special committee, to report, under the order of the House, the testimony taken under oath, which will go far, not only to corroborate every word contained in the report made by the Committee of Accounts, but to implicate Mr. Hackney still further.

Mr. HUGHES. I did not hear the gentleman from Maryland. Does he call upon me to make a statement?

Mr. KUNKEL, of Maryland. I do.

Mr. HUGHES. I did not hear the gentleman's question.

Mr. KUNKEL, of Maryland. I desire to know whether the subjects referred to in the report of the Committee of Accounts have not been investigated by the select committee raised to inquire into the corrupt practices of the present Doorkeeper, and of the last Doorkeeper, and whether the facts stated in the report have not been proved under oath before said committee?

Mr. SEWARD. I desire to know how the floor can be transferred to the gentleman from Indiana?

The SPEAKER. The gentleman from Maryland yields the floor to the gentleman from Indiana to enable him to respond to an interrogatory.

Mr. SEWARD. I understood the gentleman from Maryland to surrender the floor.

The SPEAKER. The Chair did not so understand.

Mr. SEWARD. Then I object to the floor being farmed out or transferred.

Mr. KUNKEL, of Maryland. I yield the floor, then, unconditionally.

Mr. HUGHES obtained the floor.

Mr. SICKLES. Will the gentleman from Indiana allow me to ask a question of the gentleman from Maryland?

Mr. HUGHES. I will.

Mr. SEWARD. I do not understand how it is, under any rule of the House, that when a gentleman occupying the floor has exhausted his time, or voluntarily surrendered the floor, a gentleman who was on the floor propounding an interrogatory at that instant becomes entitled to the floor.

The SPEAKER. The gentleman from Indiana became entitled to the floor by rising from his seat and addressing "Mr. Speaker," and the Chair recognizing him.

Mr. SEWARD. After I had addressed the Chair.

The SPEAKER. The Chair is of opinion that the gentleman from Indiana addressed the Chair before the gentleman from Georgia did.

Mr. SICKLES. I desire to ask the gentleman from Maryland a question. It does not appear from the report, whether or not the Doorkeeper was summoned to appear before the Committee of Accounts. I wish to ask the gentleman from Maryland whether the Doorkeeper was summoned before the committee? whether he was notified of the charges against him, and called upon to furnish his answer to them?

Mr. KUNKEL, of Maryland. Yes, sir, and he did appear before the committee.

Mr. SICKLES. He did appear?

Mr. KUNKEL, of Maryland. He did.

Mr. SICKLES. Was he informed of the charges against him?

Mr. KUNKEL, of Maryland. Certainly, sir.

Mr. SICKLES. Did he make any answer?

Mr. KUNKEL, of Maryland. Yes, sir; I alluded to his answer in my remarks, although perhaps the gentleman did not hear me.

Mr. SICKLES. The report does not state what his answer is.

Mr. KUNKEL, of Maryland. The House will perceive that there are but two classes of facts referred to in the report; one is as to the employment of a larger number of subordinate officers than by law and usage he is allowed, in which he persisted against the repeated admonitions not only of the Committee of Accounts, but of the Speaker of the House.

The second allegation is that there was an apparent discrepancy between the documents returned by him as folded, and the number delivered by the Superintendent of Public Printing. That is all which the committee have brought to the attention of the House.

Mr. SICKLES. Will the gentleman inform me whether the Doorkeeper made any answer in the matter?

Mr. KUNKEL, of Maryland. He did not satisfy the committee.

Mr. CLEMENS. Will the gentlemen from Maryland have the kindness to send to the Clerk's desk and have read the letter which the committee addressed to the Doorkeeper?

Mr. KUNKEL, of Maryland. I have no objection.

Mr. SEWARD. I shall object.

Mr. HUGHES. I do not intend to participate in this debate at large. I desire to make a very brief statement in response to the question which was put by the gentleman from Maryland, [Mr. KUNKEL,] and the allusion made by him to the select committee of which I am chairman.

The SPEAKER. The Chair would suggest to the gentleman from Indiana that in the uniform practice of the House it has been held not to be in order to refer to that which has transpired in committee, until it has been reported to the House.

Mr. HUGHES. I intended to take shelter under that rule; but I think it due to the select committee that I should be permitted to make the statement which I propose to make. I believe I shall express the views of all the members of that committee when I say that this House will be

better able to judge of what testimony has been before that committee, and what conclusions may be justly drawn from that testimony when it is reported to the House to speak for itself. As chairman of that committee, I feel that whatever may be the rule, it would not be right that I should make any statement as to what evidence has been given before that committee, either against the Doorkeeper or in his favor, in advance of our report.

That committee will endeavor to act in this matter towards the Doorkeeper with judicial fairness; and, therefore, I trust that the House, in passing upon the resolution which is now before it, will pass upon it in connection with the facts and testimony reported by the Committee of Accounts, and will borrow no aid from testimony not reported to the House.

So far as I am concerned, myself, in the vote I shall give upon this resolution, I shall vote as a member of the House, dismissing from my mind, as far as possible, all inferences arising from the testimony which I have heard as a member of the select committee.

A MEMBER. When will the select committee make their report?

Mr. HUGHES. I am asked when the select committee will report. I will state that the select committee have heard all the evidence they desire to hear against the parties, and will report as soon as the parties have been heard by testimony before them.

Mr. KUNKEL, of Maryland. I simply intended to ask the gentleman from Indiana a single question which was susceptible of a direct answer in the affirmative or negative. I wished to know of the gentleman from Indiana if he or any other members of the select committee would, from the testimony taken by them under oath, contradict the facts stated by the Committee of Accounts. I think I have the right to know this fact.

The SPEAKER. The Chair would intimate to the gentleman from Indiana that it would not be proper for him to refer to what has taken place in committee.

Mr. KUNKEL, of Maryland. I did not wish the gentleman to refer to what had taken place in committee. I only wished him to make a categorical answer to the question.

Mr. HUGHES. If I had understood that I was limited to a categorical answer, in the affirmative or negative, I certainly should not have troubled the House at all.

Mr. GROW. I desire to offer the following as an amendment to the motion of the gentleman from Georgia:

Provided, That said committee shall report finally on next Monday, and that the Doorkeeper shall have the privilege of being present during their sessions.

I wish to say, in explanation of the motion I have made, that I did not understand whether the motion of the gentleman from Georgia was to raise a select committee specially for the case or to refer to the select committee already raised upon the subject; but, at all events, I desire that the committee, which is to take charge of the matter, shall allow the Doorkeeper to be present. I understood the gentleman from Maryland to state that the Doorkeeper was invited before them, and, therefore, I have no fault to find with their proceedings. I merely want to provide that he shall be allowed to be present at the sessions of the committee which is to take charge of the matter in future.

Mr. SEWARD. I have little to say about this case, because the whole thing lies in a nut-shell. It is made up from the record, and the whole question involved in this controversy is one of intention on the part of the Doorkeeper.

It appears that the book-keeper employed by Mr. Hackney has charged an excess of one hundred and ninety-eight thousand documents as being folded, which were never printed, and never delivered to the Doorkeeper. That fact appears over the signature of Mr. Hackney himself, and shows that somewhere there has been perpetrated a most outrageous fraud.

The only singular fact connected with this whole matter is this: while I give the committee great credit for their inquiry into this matter, and have no complaint to make against them, there is a most remarkable and singular fact connected with this whole transaction, and which ought to be looked into. It is this: the committee say there are

other charges of corrupt and venal character preferred against Mr. Hackney, which the committee conceived it would not be proper to allude to. Now, sir, is it possible that persons should receive offices at the hands of the Doorkeeper which they consider valuable, and yet report to the committee delinquencies upon his part? Is it possible this can be so, and they still hold office under him?

It presents this question whether the rascality was in the clerk who kept the books and the men in the folding-room who circumvented the Doorkeeper, or whether they all conspired together to perpetrate this fraud? For it would be an exceedingly strange fact to me that the book-keeper, or superintendent of the folding-room, or a messenger, or a clerk, should hold an office under the Doorkeeper for six weeks or a month, and should continue to hold it after all these things were known to have transpired, and then should report privately to the committee that the Doorkeeper was perpetrating a fraud upon the Government, or the fact that he had domineered over them. Well, sir, the record has been made up and it cannot be avoided. Who made that record? Can any man in this House believe that the Doorkeeper himself, who was not the book-keeper, who could by no possibility be present when the documents were transferred from the office of the Superintendent of Public Printing to the folding-room, could keep the account of the books brought in from day to day, and distributed out among the folders. I do not know who the book-keeper is, nor who the messengers are, nor do I care. But that these transactions have been carried on for weeks by the subordinates of the Doorkeeper without his agency or authority, seems impossible.

There is another fact connected with this matter, which is important. As stated by the chairman of the committee, certain leaves of the original account-book, which had been detached from the book, have been found, the entries upon which, it is said, are in the hand-writing of the clerk. It is stated that the original entries had been changed, or corrected entries made in pencil marks. What I want to know is whether knowledge was brought home to Mr. Hackney that these leaves had been torn out by him; whether knowledge was brought home to him of the exact number of books brought into the folding-room, in order to see whether the fault was with the clerk; and whether the Doorkeeper had been circumvented and entrapped by some of his own officers. Unless the Doorkeeper can show that his confidence in his subordinates has been abused, and that they had done this without his knowledge, he must stand upon the record as guilty of all that has been said about him. I want to get at a knowledge of all these facts. The Doorkeeper could have no personal knowledge of the number of books folded, and he must certify upon information; and I want to know whether he knew that the returns made to him were not correct.

Mr. KUNKEL, of Maryland. I will answer the gentleman. I do not, of course, desire to bring these facts unnecessarily before the country, or to scandalize Mr. Hackney; but I can produce before the House a witness whose character, I suppose, is well known to the gentleman from Virginia, [Mr. FAULKNER.] He states to the committee that he was directed by Mr. Hackney to make out his account for having folded documents to the amount of \$125, and that he (Mr. Hackney) would certify and return it as correct. This person was Michael Price, whom Mr. Hackney requested Mr. FAULKNER to bring here, in order that he might make him assistant superintendent of the document-room. Mr. Price, as an honest man, refused to make out a false account of that nature, saying that he had folded no documents, and that he would make out no such charge. He is not a book-folder, but employed, under the direction of the Speaker, in removing old documents from the vaults of the Capitol.

Mr. SEWARD. I would like to know of the gentleman from Maryland whether the gentleman of whom he speaks notified the Doorkeeper that the statements upon his books were incorrect, and that his book-keeper was making out false accounts of the number of documents folded?

Mr. KUNKEL, of Maryland. I understand that the superintendent states that he did so inform Mr. Hackney.

Mr. SEWARD. Well that is a very indefinite way of answering the question. "I understand," the gentleman says. I want to know if notice was brought home to Mr. Hackney by the superintendent or the clerk, that these false accounts were being made out, or that the books were improperly kept?

Mr. KUNKEL, of Maryland. Mr. Hackney does not deny it.

Mr. SEWARD. The gentleman is a lawyer, and knows that when a charge is made against a man, he is not bound to deny it until he comes to trial upon the charge. If this gentleman to whom the member from Maryland refers, has retained office under the Doorkeeper with a knowledge that he was perpetrating these frauds, that fact would very seriously diminish the confidence which otherwise might be reposed in his statement.

Mr. CLEMENS. I call the gentleman to order. The House is not now engaged in investigating charges against the subordinates of Mr. Hackney, but against Mr. Hackney himself.

Mr. SEWARD. I am examining the statements of persons to see how they affect Mr. Hackney.

Mr. DAVIS, of Mississippi. The gentleman from Georgia makes an insinuation against a witness who testified against Mr. Hackney, upon the ground that he knew of the improper conduct which is here charged. I ask him on the other hand, when Mr. Hackney had been notified repeatedly of the conduct of his officers why he did not remove them, and why he retained them in office?

Mr. SEWARD. That is a question I cannot decide. Many incompetent men are employed about this Capitol; and one of the misfortunes in this case is, that the Doorkeeper is incompetent for the discharge of his duties. I am disposed to protect him against that weakness, and to ascertain how far he has been surrounded by designing men, who have made him a catspaw for his own destruction. It may not be very complimentary to Mr. Hackney to allude to his intelligence; but certainly he is a most impressive man, liable to be imposed upon by designing men in whom he has placed confidence. I have a paper here which has been sent to me, and which I desire to have read.

Mr. KUNKEL, of Maryland. I object. The gentleman has objected to my having a paper read.

Mr. LETCHER. The gentleman has a right to have it read as a part of his speech.

Mr. SEWARD. It is an affidavit signed by the employes of the Doorkeeper. He is represented as having domineered over them, and as having made dishonorable proposals to them. This is an affidavit in contradiction.

The SPEAKER. The Chair is of opinion that the gentleman has a right to have it read as a part of his speech.

Mr. SEWARD. I want to get at the truth of this matter. I will go as far to punish dishonest men as any man in the House.

Mr. KUNKEL, of Maryland. I withdraw my objection.

The paper was read, and is as follows:

District of Columbia, Washington county, to wit:

On this 15th day of May, 1858, before the subscriber, a justice of the peace in and for the county of Washington, in the District of Columbia, personally appear the parties subscribing hereto, and being severally duly sworn according to law, make oath and say that they are now employed under R. B. Hackney, the Doorkeeper of the House of Representatives; and that, in their personal and official intercourse with the said Hackney, they have always been treated in a gentlemanly and affable manner; and further, that they have never paid over, or been required or solicited to pay over, to the said R. B. Hackney, or any other person, any compensation whatever in consideration of their receiving or holding office under the said Hackney:

S. Gridley Hyde,	James H. Moore,
James D. Hendley,	James Burnett,
Israel Brown,	A. D. Sindy,
H. H. Clark,	Thomas J. Dement,
Andrew Bain,	J. W. Seibert,
J. S. Bank,	C. L. McCoull,
Julius C. Waddle,	Joseph L. Wright,
Jared Dodd,	D. Truesdell,
Daniel Kelly,	George Murphy, (except
Robert B. Jarvis,	the first month.)
S. V. Hunter,	James L. Reily,
A. B. Morton,	Cyrus Spangler,
Samuel Alburtis,	William P. Bell,
B. S. Schoonover,	James Owner,
J. S. Weiler,	Fountain Perry.
S. McJunkin,	

A. K. ARNOLD, Justice of the Peace.

Mr. SEWARD. I will not detain the House much longer. I am willing to vote for a brief

postponement of this matter, because if fraud has been perpetrated, as it unquestionably has been, the sooner we get at the parties and punish them, and get rid of them, the better for the country. But if the Doorkeeper is to be affected by our action, as he must be, I think we should ascertain whether he is the guilty party, or whether his confidence has been abused and himself deceived by his employes.

Mr. MORRIS, of Illinois. The objection of the gentleman from Georgia that other parties may be implicated in this fraud, does not exonerate the Doorkeeper from the charges of the committee; nor does the paper which has been just read affect in any way these charges. It may be that black mail has been levied on a portion of the employes and the subordinates under him, and not on another portion. Already the committee that has been appointed has reported him to this House. The gentleman from Maryland, who made that report, testifies that Mr. Hackney was notified of the nature and character of these charges, and that he failed to purge himself of them, or to use any efforts for that purpose. Now, sir, after this report has been submitted, after several days have been allowed to the Doorkeeper, he comes in here and asks further time for investigation—not of the specific charges made by the committee, but of other charges barely alluded to as probably existing.

I then submit to the consideration of the House whether it is respectful to the committee which has made this report, to take the matter out of their hands and refer it to another committee, or a special committee, for the purpose of having the matter reinvestigated? For myself, I see no necessity for such a course. If these charges are untrue, Mr. Hackney has, doubtless, informed some of his friends here of their untruth, and they may be, or ought to be, authorized to say that these charges can be disproved. But no member of the House has made any intimation of the kind. I look upon the motion which has been made by the gentleman from Georgia [Mr. STEPHENS] as intended to delay action. I can say for myself that I have no desire to do Mr. Hackney, or any officer, injustice; but we are on the heel of the session. We have an immense amount of business to dispose of. If this matter be referred to a select committee, and they be required to report, another day or two may be consumed in discussion; and I presume that every gentleman here has made up his mind as to how he will vote. With a view, therefore, of bringing this matter to a speedy determination, and without desiring to occupy the House with any extended remarks, or to go into the merits of the question, I move the previous question.

Mr. STEPHENS, of Georgia. I hope the gentleman will withdraw the previous question, and I will renew it.

Mr. MORRIS, of Illinois. I withdraw it.

Mr. STEPHENS, of Georgia. I now offer the following resolution as an amendment for that reported by the Committee of Accounts:

Resolved, That the whole subject be referred to the select committee already raised to investigate the accounts of the Doorkeeper, and that the Doorkeeper be allowed to meet the committee and to examine witnesses.

Mr. STEPHENS, of Georgia. I do not propose—

Mr. PHILLIPS. Will the gentleman allow me to make an inquiry, to see if I understand his resolution? I want to know whether his resolution contemplates that the proceedings and findings of one committee shall be subject to the investigation of another?

Mr. STEPHENS, of Georgia. No, sir.

Mr. PHILLIPS. That is what I wanted to understand.

Mr. STEPHENS, of Georgia. It is my intention and desire that the facts upon which my vote will be predicated shall be inquired into and reported upon by some committee, and that my vote shall not be determined by vague and indefinite imputations. If it is true that there have been gross malpractices and venality on the part of the Doorkeeper, I will vote instantly, sir, to expel him. My object is not for time, merely for delay, but I want these facts reported to this House. I would not blacken the name of any mortal on earth, however humble, without the facts upon which I vote. I would not consign to infamy this Doorkeeper and his family unless he be guilty.

What I want is the facts. I listened to the speech of the honorable member from Maryland with a great deal of interest. He claimed for his committee that they had shown great leniency toward the Doorkeeper. That was the purport of his argument. Now, in all kindness, I must say to him, that he and I take very different views upon this subject. There is an insinuation, an imputation of malpractices, of gross corruption, and venality, on the part of the Doorkeeper. Well, I say that it was due to the Doorkeeper that the facts upon which that imputation is based should have been reported to the House, in order that the House might know upon what the committee founded that imputation.

One of the charges which the committee has brought forward is, that the Doorkeeper has appointed more employes than he had any right to do. Well, the committee do not inform us whether even that be true. They have given us no fact, no evidence, no proof. They have merely given us their opinion. Now, sir, I hold that committee in as high esteem as any gentleman upon this floor ought to do; but I think that the facts, the proof, the evidence, the testimony, should have been reported to this House, to let us judge of it. The committee, in this very report, use this language:

"Notwithstanding this express limitation of his authority and power, the Doorkeeper, *it is believed*, has issued his appointments to thirty or more persons who claim compensation for their services as messengers of the House."

The committee say that *it is believed* that he has done this; and that is the grave charge upon which the Doorkeeper is to be dismissed! That is the whole of it. Well, now, I happen to know, as a member upon this floor, and not otherwise, for I have not even inquired of the Doorkeeper, though I presented his paper here to-day, how many employes he has, and I also know that the gentleman from Kentucky, [Mr. Mason,] when he was chairman of the Committee of Accounts, presented a report here, in which the committee recommended an increase of the present number of officers. Now, it may be true that the Doorkeeper, whilst awaiting the action of the House fixing the number of his employes, has temporarily employed some persons.

The committee say that he claims that there is a necessity for an increase of his force. Might he not do this, and yet not be a culprit? Why, sir, what did this House do? Why did not you act when Mr. Mason made that report to the House, proposing to fix the number of employes by law? Where is the negligence? It is on the part of the members of this House, in sending that report to the Committee of the Whole on the state of the Union. It is now there unacted upon. Might not the Doorkeeper well suppose that the House would authorize him to employ the number which he thought necessary? Well, sir, have any of these persons been paid? The committee say expressly that their names have not been put upon the pay-roll. Is this a charge of delinquency and corruption which calls upon this House to expel the Doorkeeper; especially, sir, when, in the report of the committee, there are intimations of something even too dark to be inquired into? I say, lift the curtain. Let me see it. Let this House see it. Let me see the evidence of this venality. It is due to Hackney; it is due to his family; it is due to all who are to suffer after him. If the charge be true, I shall vote to expel him. But doth your law condemn a man until he is heard? I never have done, and never will do it. Nor would I kick a man out upon such charges as those specified in the report, while another grave charge is behind. It is before a select committee. I will await the report of that committee. I will not even prejudge the case. I do not know what their report will be. So far as I am concerned, I am for letting Mr. Hackney have the indulgence which he asked for in the paper which I presented this morning.

Now, what is the other charge? The first is that he has appointed too many persons to office. Why did not the committee give us the evidence of that? We know nothing except what is contained in this paper, and I say that most of the statements in it are incorrect in point of fact. So far as the charge of having appointed too many persons to office is concerned, I do not, in the existing state of facts in this House, consider that an act of corruption. It is known to the House

that there is a proposition now pending before the House, reported by the Committee of Accounts, to increase the number of employes.

Mr. DAVIS, of Mississippi. I think it is a clear usurpation on the part of the Doorkeeper, which this House ought not to tolerate. We have referred this question of an increase in the number of officers to the Committee of the Whole for examination, and, in the absence of any action by the committee, Mr. Hackney has taken the responsibility upon himself to determine for the committee and the House how many persons shall be employed, and has made the appointments, and incurred this heavy expense.

Mr. STEPHENS, of Georgia. If Mr. Hackney had used the contingent fund of the House to pay these employes, without the authority of this House, I should have censured him, and might have voted to expel him for it; but the committee do not report that he has done any such thing. The committee say, in their report, that these employes wait upon the grace of the House for their pay. But if Mr. Hackney had done any such thing, while I would not approve it, I would not expel him on that account.

Mr. LEITER. I propose to ask the attention of the gentleman from Georgia to the last paragraph of the second page of the report of the committee, where direct charges are made by the committee upon their responsibility. And they are made not only in that paragraph, but in the preceding paragraph, charging him with incompetency and with making false returns.

Mr. STEPHENS, of Georgia. I was coming to that part of the report. The gentleman from Maryland said that what they had reported was a matter of record, and that the records show that the returns of the Doorkeeper were false, and that they state that fact upon their responsibility. But it is apparent to the House that Mr. Hackney did not make out those returns. They were made out by the book-keeper, who was a subordinate in the folding-room. Well, sir, suppose it was false. Suppose the return was incorrectly made, the committee does not undertake to say that Mr. Hackney made it. If the superintendent of the folding-room has made incorrect or corrupt entries, the Doorkeeper should remove him, and I have no doubt would. But it was said that Mr. Hackney had returned a certain number of documents folded, and that the Superintendent of Public Printing had returned another number as delivered; and the gentleman from Maryland got right up and said the number reported as returned by the Superintendent of Public Printing was a mistake. He says the number ought to have been one hundred and twenty-two thousand, and that the number reported was thirty or forty thousand too much.

Mr. KUNKEL, of Maryland. The gentleman misapprehended me. Perhaps I may have been unfortunate, as I often am, in making myself clear to the apprehension of all gentlemen. The account stated by the Clerk was made out, reducing the number of documents to the standard of the folding-room, of octavo volumes. By that computation the number, as stated by the Clerk, was a credit of one hundred and twenty-two thousand. But the actual number of volumes sent to the folding-room, including the quartos, was less than that stated.

Mr. STEPHENS, of Georgia. That was exactly the way I understood the gentleman. In other words, the entry, as it here stands, needs explanation. And yet this explanation of errors otherwise, I understand, Mr. Hackney has not been permitted to make. I understand the gentleman from Maryland that he holds him to the record.

Mr. ZOLLICOFFER. If the entire amount originally entered for folding had been paid, who would have been the beneficiary, the Doorkeeper or the subordinates who did the work?

Mr. KUNKEL, of Maryland. I do not know.

Mr. ZOLLICOFFER. Under the law, would the Doorkeeper or the folder receive the pay?

Mr. KUNKEL, of Maryland. The person to whom the work was credited.

Mr. ZOLLICOFFER. My purpose was to obtain this information: when the amount reported by the Doorkeeper was presented, to whom would the money be paid—to the Doorkeeper or the folder?

Mr. KUNKEL, of Maryland. It would be

paid to the parties whose names were returned by the Doorkeeper.

Mr. ZOLLICOFFER. By whom would the money be paid?

Mr. KUNKEL, of Maryland. By the disbursing clerk, I suppose, and to the folders.

Mr. ZOLLICOFFER. Does the Doorkeeper draw the money from the Treasury to pay his employes?

Mr. KUNKEL, of Maryland. No, sir; they are paid by the chief clerk of the House.

Mr. ZOLLICOFFER. How was it possible for the Doorkeeper to put the money into his pocket?

Mr. KUNKEL, of Maryland. I have already explained that the persons drew the money who were returned as having done the work; but my information is, that Mr. Hackney has received part of the money paid by the Clerk to some of his subordinates.

Mr. SINGLETON. I would like to ask, for my own satisfaction, whether there is any proof that Mr. Hackney was privy to this matter?

Mr. STEPHENS, of Georgia. I am informed that there is not the slightest evidence before the committee implicating Mr. Hackney in anything connected with these false entries upon the books.

Mr. SMITH, of Virginia. I desire to inquire if those clerks who made the entries have been discharged?

Mr. STEPHENS, of Georgia. I know nothing about it.

Mr. COX. The officers who have charge of the books are the first two who were upon the list read, certifying to the fairness of Mr. Hackney's conduct. I wish to state to the gentleman from Georgia that the superintendent of the folding-room has no control whatever over these officers, and is in no way connected with them. I make this statement in justice to the superintendent of the folding-room.

Mr. STEPHENS, of Georgia. Very well; I do not admit that to be material at all in this stage of the proceedings. I take the position that there is no evidence reported. I want the committee to give me all the facts of the case, and show that Hackney is in any way connected with it. It may be that these were mistakes. I do not know how it is. The committee have received no explanation from anybody, so far as they have reported. We are all liable to mistakes, and these clerks may have committed errors. If they have made mistakes, or if they have acted corruptly, and Mr. Hackney did not receive the money arising from it, of course he ought not to be held guilty. What I want is investigation. The gentleman from Maryland intimated that Mr. Hackney received the money. Well, let us have the evidence in the case, and if that is shown, there is not a man in this House that would vote to expel him sooner than I would.

The gentleman had read a letter addressed by one of his employes to Mr. Hackney. I think the committee ought to have called witnesses, and confronted Mr. Hackney with that man, and investigated it thoroughly, before they allowed this Partisan shaft to be directed at Mr. Hackney through a committee of this House. I would have investigated it. If it be true that Mr. Hackney has received from any one of his subordinates, whether folders, pages, messengers, or his clerks in the folding-room, a single dime to put it into his own pocket, I want to know the fact; and if it is established by legal proof, you shall have my vote to expel him instantly.

Mr. ZOLLICOFFER. I should be glad to see some further investigation into the details connected with these charges than has yet taken place; and I shall be willing to vote for that investigation, if I can be assured that it is not to result in interminable delay, or in postponing it.

Mr. STEPHENS, of Georgia. I will accept the amendment suggested by the gentleman from Pennsylvania, requiring the committee to report in one week.

Mr. ZOLLICOFFER. That will be satisfactory to me.

Mr. COMINS. I desire to ask the gentleman from Georgia a question. I wish to know whether, if this subject is postponed one week, this officer is to remain in full possession of his office, and in the full control and possession of the books, accounts, and patronage of his office during that time?

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Mr. STEPHENS, of Georgia. I shall act upon the principle of common law, that all men are presumed innocent until their guilt is made to appear. I shall let him remain as the Doorkeeper of the House until his guilt is manifested, and not an instant after. I think it due to him not to take any other course.

Mr. GILMAN. Do I understand the gentleman from Georgia to say that he would not defer to the judgment of a committee of the House in regard to the capacity or incapacity, or the qualification of any officer of this House?

Mr. STEPHENS, of Georgia. I might be governed by the opinion of a committee upon some matters; but I certainly should not be governed absolutely by the opinion of a committee who report upon a subject-matter like this without the facts, and especially would I not do so when that report is coupled with insinuations which they say they have never investigated, and which would blacken the memory of the man they would expel. We might turn him out for incompetency or for committing mistakes, but I would not do even that if accompanied with vague charges of corruption.

I wish to say, as I did in the commencement of my remarks, that I do not know one thing connected with the facts of this case. I stand as an impartial juror, to judge by the facts when they shall be brought forward; and if the proof shall sustain the charges made, I shall vote to expel the Doorkeeper. I simply want to know the facts before I vote. I move the previous question.

Mr. PHILLIPS. I ask the gentleman from Georgia to withdraw the demand.

Mr. STEPHENS, of Georgia. I called the previous question in conformity with my promise to the gentleman from Illinois.

Mr. PHILLIPS. I ask the gentleman from Illinois to allow me a moment.

Mr. WASHBURN, of Maine. Will the gentleman from Georgia withdraw the previous question for a moment?

The SPEAKER. The gentleman refuses to withdraw the demand.

Mr. SPINNER. I ask the gentleman from Georgia to allow me to move this amendment:

And that in the mean time the said R. B. Hackney be suspended from office, and that the duties of Doorkeeper be performed by the Sergeant at Arms.

Mr. STEPHENS, of Georgia. I will not; because I think that amendment would be doing him great injustice.

Mr. KUNKEL, of Maryland. If the previous question is sustained, will it be allowable for any member of the committee to speak again to the main question before it is put?

The SPEAKER. The gentleman reporting a measure is entitled to speak upon it.

The previous question was then seconded, and the main question ordered.

Mr. KUNKEL, of Maryland. I desire to detain the House but a very few moments in reply to the gentleman from Georgia, who last addressed the House. The gentleman argued that there were no facts to support the report of the committee, in respect to the unusual large number of persons whom he had employed, which, the report says, was done without authority of law or usage, and against the direct admonition of the Committee of Accounts. It is evident that the gentleman from Georgia did not examine the report made by Mr. Hackney himself to the House, under a resolution passed by the House. If the gentleman will refer to that report, he will discover that Mr. Hackney reports to the House ninety-two persons in his employment. The committee assert, upon their responsibility, that he has even a larger number than he has reported. He says, by way of explaining Mr. Hackney's conduct, that it was not done corruptly, or in defiance of the control of the committee, because the honorable gentleman from Kentucky [Mr. Mason] reported a bill from the committee allowing the Doorkeeper a larger number of messengers than he is now, by law, allowed to employ. The number of messengers provided for in that bill,

was twenty-four. Mr. Hackney has appointed thirty-four. The number provided for in the bill offered by the gentleman from New York, [Mr. SEARING] was twenty-three. The only difference between the provisions of the bills of the gentleman from Kentucky and of the gentleman from New York, was, that under the former, eleven of these messengers were to be temporarily employed. Fourteen were authorized, with annual salaries, and eleven were to be dismissed at the expiration of each session of Congress. So that not only the express requirements of the law, as it at present exists, and that supervising control which the Committee of Accounts have always heretofore assumed over the Doorkeeper, in fixing the number of employes, have been disregarded; but he insists on keeping in office a larger number than is permitted either by law or usage, or the authority of the Committee of Accounts.

I cannot see, Mr. Speaker, how the facts can be more clear, more explicit, or more thoroughly known to gentlemen than they now are. It has been stated on the responsibility of honorable gentlemen as worthy of credit as is Mr. Hackney.

Mr. STEPHENS, of Georgia. The committee has never reported that evidence. They have never submitted the facts under oath. The gentleman [Mr. KUNKEL] rises here and states that such a person told him so and so. I want to see the statement—the extent of it.

Mr. KUNKEL, of Maryland. I do not intend to make any oath for what I say as a member of the House.

Mr. STEPHENS, of Georgia. I do not mean on the oath of the members of the committee, but of the witnesses to whom the gentleman refers.

Mr. KUNKEL, of Maryland. I want no further evidence than the statement made by the Doorkeeper himself, in which he admits that he has appointed a larger number of persons than either the law or the usage of the House permits him, and in defiance of the authority of your committee.

Mr. STEPHENS, of Georgia. Has the Doorkeeper ever made that statement?

Mr. KUNKEL, of Maryland. Yes, sir.

Mr. STEPHENS, of Georgia. I should be happy to have the gentleman show it to me.

Mr. KUNKEL, of Maryland. There is the statement.

Mr. STEPHENS, of Georgia. Does he state that he does it in defiance of the authority of the House?

Mr. SMITH, of Virginia. Will the gentleman from Maryland let me ask the gentleman from Georgia a question? There are two charges made in the report—excess of official appointments, and falsification of returns from the folding-room. In the answer of the Doorkeeper, he does not deny either of these charges. What evidence, then, does he want?

Mr. STEPHENS, of Georgia. I have never seen any answer from the Doorkeeper.

Mr. SMITH, of Virginia. I know it; and therefore I say the answer here does not notice either of the charges.

Mr. STEPHENS, of Georgia. My resolution is to allow this matter to go to a committee. Let the Doorkeeper be notified, and let the committee hear his answer, and report what his answer may be. That is my resolution.

Mr. SMITH, of Virginia. I desire the gentleman from Georgia to understand that the report of the committee makes two specific charges; and, in answer to that report, the Doorkeeper comes forward and sets forth a statement in this uncertain manner, but does not respond to either of those charges. I ask if that is not a confession of the truth of these charges?

Mr. STEPHENS, of Georgia. The Doorkeeper, as I understand, in the paper that was read, denies the correctness of several of the statements made by the committee, but asks that he may have a hearing on them; and he pledges himself to the House to show that he is not amenable to the charge.

Mr. HOUSTON. I desire to know (for this

discussion was going on when I came up from committee this morning) whether the number of persons appointed by the Doorkeeper exceeds not only the number allowed him by law, but also the number recommended by the Committee of Accounts, when the gentleman from Kentucky [Mr. MASON] was its chairman?

Mr. KUNKEL, of Maryland. It does.

Mr. HOUSTON. I desire to know by what number? and then I desire to ask the gentleman two other questions in regard to the course the committee has pursued. One is, whether the committee has reported the testimony on which it bases its resolution? Another is, whether the committee was authorized to examine witnesses in the investigation of this subject?

Mr. KUNKEL, of Maryland. I am now replying to the gentleman from Georgia; when I have finished with that part of the subject, I will reply to the gentleman from Alabama. The gentleman from Georgia, a moment ago, reiterated the allegation that the Committee of Accounts had given no opportunity to Mr. Hackney to explain the charges against him. I distinctly stated, when I was up before, that the committee had given him such opportunity—had sent him a written notice explaining the grave charges made against him before that committee, and asking him for his explanation. I ask the Clerk to read the note addressed to Mr. Hackney by the chairman of the Committee of Accounts.

The letter was read, as follows:

Sir: The Committee of Accounts have had its attention called to the subject of the number of documents purporting to have been folded and returned on the pay-rolls by you to the Clerk's office.

The committee have reason to believe that there are very great errors in your returns, and therefore request your attendance at our committee-room immediately, in order to afford you the opportunity of submitting to us such explanations as you may be able or disposed to give.

JOHN DICK, Chairman.

Mr. R. B. HACKNEY, Doorkeeper House of Representatives.

Mr. KUNKEL, of Maryland. After this report was submitted to the House, on Thursday last, on the motion of the gentleman from Ohio, [Mr. NICHOLS,] this subject was postponed until to-day, to give Mr. Hackney an opportunity to answer the report. I had a conversation with the learned counsel who prepared his reply, to whom I candidly stated the nature of the charges brought against him. I cannot say what passed between that gentleman and myself, because that would be a breach of confidence.

Mr. STEPHENS, of Georgia. Will the gentleman allow me—

Mr. LOVEJOY. I object to this cross-firing; we are wasting time this way.

Mr. STEPHENS, of Georgia. Has the gentleman a right to object?

The SPEAKER. The gentleman from Georgia has a right to make a personal explanation.

Mr. STEPHENS, of Georgia. I have a right to make an inquiry if the gentleman yields me the floor.

The SPEAKER. The Chair is of opinion that it cannot be done except the inquiry appertains to a personal explanation.

Mr. STEPHENS, of Georgia. It does; and I never interrupt a gentleman for any other purpose.

The SPEAKER. The gentleman has a right to be heard if he rises for that purpose.

Mr. STEPHENS, of Georgia. The gentleman from Maryland has just alluded to the notice that was given to Mr. Hackney to appear before the committee in relation to the entries in the folding-room. I wish now to inquire of the gentleman if Mr. Hackney did not appear?

Mr. LOVEJOY. I submit that that is not a personal explanation.

Mr. KUNKEL, of Maryland. I am not accountable for the inattention of any gentleman upon this floor. In the remarks which I had first the honor to submit to the House, I stated that he had appeared before the committee, and that the explanations he gave there, in my judgment, only incriminated him the more.

Mr. STEPHENS, of Georgia. I desire to ask the gentleman another question, for I wish to

elicit the facts. Did not Mr. Hackney state distinctly to the committee that this matter was under the charge of his subordinates, and that, personally, he knew nothing about it?

Mr. LOVEJOY. I must insist upon my point of order.

The SPEAKER. The Chair is of opinion that the interrogatories of the gentleman from Georgia are not exactly in the nature of personal explanation.

Mr. STEPHENS, of Georgia. Very well, sir.

Mr. TAYLOR, of Louisiana. Will the gentleman from Maryland indulge me for one moment?

Mr. KUNKEL, of Maryland. It will take me off from the subject upon which the gentleman from Georgia has just interrogated me.

The SPEAKER. The gentleman from Illinois objects to any interruptions except for personal explanation.

Mr. TAYLOR, of Louisiana. I wish merely to say one word. I hope the objection will be withdrawn.

Mr. LOVEJOY. No, sir, I must insist on it. We are wasting time here to the detriment of the public business.

Mr. KUNKEL, of Maryland. It may be true, and perhaps it is true, that Mr. Hackney did say to the committee that he knew nothing about the accounts of the folding-room, but at the same time, with the inconsistency that always accompanies falsehood, he pretended to give explanations. He said he knew nothing about it, yet he volunteered to make explanations; and I have said to the House before, and say now to the gentleman from Georgia, that the more explanations he gave the more apparent became the inconsistency.

Mr. KELLOGG. I am anxious to ask one question.

Mr. LOVEJOY. I must object.

Mr. KELLOGG. If my colleague will hear the question, I am sure he will not object. I desire to know if there is any evidence—

Mr. DEAN. I object.

Mr. KUNKEL, of Maryland. I did not hear the gentleman's question, or I would have answered it cheerfully.

Mr. KELLOGG. My question is whether there is any evidence—

Mr. EDIE. I object.

Mr. KUNKEL, of Maryland. It is apparent that I must necessarily be very incoherent in my remarks. The continuity of my thoughts is broken up, and I do not know that I make myself clear to gentlemen. The fault, I think, is not mine. It is to be attributed to the frequent interruptions which I have suffered. The gentleman from Georgia, upon those great principles which are not only common to the body of the common law, but to the hearts of all good men, claims some hearing for the accused. I hope I am as willing and as ready, on all occasions, to extend that personal indulgence to any man who may have grave charges brought against him. But in this instance it does seem to me that the gentleman from Georgia has signally misplaced his sympathies. These subjects are so much matters of notoriety that you might as well require me to prove the day of the month, or the hour of the day; and they are so well understood by the members of this House that it seems to me that I am engaged unnecessarily in bringing home to their convictions facts which are not denied, and cannot be denied, whatever delay the House may see proper to accord to Mr. Hackney.

I come now to answer the inquiries of the gentleman from Alabama [Mr. Housron] in reference to the number of the Doorkeeper's employes exceeding the number allowed by law, and allowed by the Committee of Accounts. Under the bill reported by the gentleman from Kentucky, [Mr. Mason,] the number of employes allowed to the Doorkeeper was fifty-four, including the pages. Under the bill reported by the gentleman from New York, [Mr. SEARING,] the number allowed was fifty-three; and the House will remember that it was stated, at the time that report was handed in, that the bill had been drawn after consulting Mr. Hackney, and was perfectly satisfactory to him. But notwithstanding the fact that neither of these bills allowed a greater aggregate number than fifty-four persons, Mr. Hackney has himself reported to the House that he has ninety-two persons in his employment. What other evidence do gentlemen want to prove to them that he

is exceeding his authority, exceeding the number allowed him by law, and exceeding the number allowed him by the bill reported from the Committee of Accounts heretofore? It seems to me so clear, Mr. Speaker, that I cannot stultify the understanding of the House by dwelling any longer upon this part of the subject.

I was disposed to believe, from the outset, sir, that Mr. Hackney was influenced in this strange conduct by the easy good nature of his disposition, or, as the committee have stated in their report, by his incompetency, or want of that decision of character and firmness which his position required. The committee believed so from the beginning, and were, therefore, unwilling to pursue him any further than their strict duty required; and if I have said anything this morning respecting Mr. Hackney that seems harsh, it has been brought on by himself and those who seem to be his advocates here, in challenging proof of other matters, which the committee have done nothing more than barely allude to, as being already the subject of investigation by a select committee of the House, who have proper authority to examine witnesses. The Committee of Accounts did not examine into the charges alluded to in their report—and I say it in exculpation of them—because they had no authority, under the rules of the House, to summon witnesses and swear them; and I, for one, was unwilling to take proof and report it here—placing it on record officially against a man—unless it could be done in a judicial manner.

I hope the gentleman from Alabama is answered. But, sir, I deny that the committee were bound to investigate these charges of venality and corruption against the Doorkeeper. They had no authority to do so. It would not have come within the scope of their duty if they had. They would have been exposed to more severe censure than has already been indulged in by the gentleman from Georgia, [Mr. STEPHENS.] And I must be permitted to say that the comments of the gentleman were both unnecessary and unwarranted by the rules of proceeding in this body. I am, for one, not disposed to submit to them, come from what quarter they may.

Now, sir, to the charge—for I desire to confine myself solely and exclusively to the subject-matter in the report. Why is delay asked for? Has not delay been granted him? Has he not been before the select committee for the last three months with his witnesses, where these subjects have been investigated? If he has any defense to make, let him make it before that tribunal which has already been constituted to investigate these matters. Why raise another committee? If the charges of venality and corruption are not substantiated, and the select committee appointed to try the charges of venality and corruption standing against him, clear him, it may then, perhaps, with some propriety, be construed into a censuring of the Committee of Accounts for alluding to these charges in general terms. The committee brought it to the knowledge of Mr. Hackney that these accounts had been falsified. It is their duty simply to audit and pass upon the accounts that are presented for their inspection. But if the House retains in its employ a principal officer, who is in the habit of certifying to false returns, and the Committee of Accounts are to pass upon those returns, permit me to say that the whole power of this body cannot impose upon me the duty of sitting upon that committee to audit such accounts, and direct them to be paid out of the contingent fund.

I will not speak of other charges, known to almost every member, which have been brought against the Doorkeeper. It is an unpleasant subject to me. I do not desire to prolong this discussion further; but I will say in conclusion, that I think the country expects it of the House to summarily dispose of this officer without delay. He has had all the time necessary to prepare his defense. But, instead of preparing any defense, or making any issue before the House in reference to the truth of the allegations, he merely asks for further delay. Were that not unreasonable, I should be disposed to extend it to him. But believing it unreasonable, the committee have instructed me to insist upon the disposal of the resolution as they have reported it.

Mr. FAULKNER. I greatly deplore the condition of this business, not only on account of

Mr. Hackney, but on account of his estimable and excellent family. I think the motion of the gentleman from Georgia should prevail, and that the subject should be referred to the select committee now engaged in investigating charges against Mr. Hackney. I will vote for that reference. But to proceed with the inquiry which I propose to make of the gentleman from Maryland. If the Committee of Accounts had limited their report to the charges strictly within their jurisdiction, I should feel fully prepared to act upon the resolution submitted by them; but I desire to know from him whether the adoption of his resolution might not be construed as indorsing certain charges of malpractice and venality which are alluded to in his report, but of which we have no evidence, and of which it does not appear the Committee of Accounts have had any evidence before them?

Mr. KUNKEL, of Maryland. I can only say that the gentleman must judge for himself. If he thinks this House is not competent to discharge its duty, in reference to the conduct of its Doorkeeper, without further investigation, he must vote for the reference. I am convinced myself of the facts stated in the report of the committee, and shall vote against the reference. I shall vote for his instant expulsion; not because I am disposed to condemn him upon grounds of venality and corruption, but because I think the fact of his utter incompetency has been fully proven; and to delay the matter is to embarrass the business of the Committee of Accounts and of the House.

Mr. FAULKNER. The gentleman has not met the full point of my inquiry. I distinguish between these matters which are within the jurisdiction of the Committee of Accounts, which they have fully investigated, and upon which they have made their report, and these indefinite allusions to malpractice and venality, which that committee have not investigated, and of which they exhibit no proof. These charges are before a select committee, and upon which no report has yet been made. I think justice requires, since the Committee of Accounts have indorsed these charges of malpractice, that we should wait until next Monday, when a report may be expected from the select committee on these specific charges.

Mr. KUNKEL, of Maryland. I must do Mr. Hackney the justice to say that I do not condemn him in that respect, however strong the rumors may be against him.

Mr. STEPHENS, of Georgia. I will further modify my resolution by adding, "and that the committee have leave to sit during the sessions of the House."

Mr. ZOLLICOFFER. Would it be in order to move to amend the proposition of the gentleman from Georgia?

The SPEAKER. It would not, the main question having been ordered to be put.

The question recurring on the amendment of Mr. STEPHENS, of Georgia, it was put, and the amendment was disagreed to.

The question recurring on the adoption of the resolution reported by the committee,

Mr. STEPHENS, of Georgia, demanded the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 142, nays 33; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Arnold, Atkins, Avery, Barksdale, Bennett, Bingham, Blair, Bliss, Bocoek, Bowie, Branch, Buffinton, Burlingame, Case, Chaffee, Chapman, Ezra Clark, John B. Clark, Clay, Clemens, Cobb, John Cochran, Cockrell, Colfax, Conins, Cragin, James Crain, Burton Craigie, Crawford, Curry, Darnell, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Dawes, Dean, Dick, Dimmick, Dodd, Durfee, Edie, Edmundson, Eustis, Farnsworth, Fenton, Foley, Foster, Garnett, Garrett, Gillis, Gilman, Gilmer, Goode, Goodwin, Greenwood, Gregg, Groesbeck, Grow, Lawrence W. Hall, Thomas L. Harris, Harkin, Hawkins, Hill, Hoard, Horton, Houston, Howard, Hughes, Huyler, George W. Jones, J. Gancy Jones, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, Jacob M. Kunkel, Lawrence, Leidy, Leiter, Lovejoy, Maclay, McKibbin, McQueen, Miles, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Oliver A. Morse, Niblack, Olin, Palmer, Parker, Pettit, Peyton, Phillips, Pike, Potter, Powell, Quitman, Ready, Reagan, Ricard, Ritchie, Robbins, Royce, Sandidge, Scales, Scott, Henry M. Shaw, John Sherman, Shorter, Robert Smith, William Smith, Spinney, Stallworth, Stanton, William Stewart, George Taylor, Miles Taylor, Thayer, Tompkins, Underwood, Wade, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Whiteley, Winslow, Wood, Wortendyke, John V. Wright, and Zolllicoffer—142.

NAYS—Messrs. Billingshurst, Bryan, Caruthers, Caskie, Clawson, Dowdell, Elliott, Florence, Gooch, Jackson, Jenkins, Jewett, Keitt, Letcher, Humphrey Marshall, Mott, Nichols, Pendleton, Phelps, Pottle, Russell, Seward, Sickles, Singleton, Samuel A. Smith, Stephens, Stevenson, Talbot, Tappan, Tripp, Ward, Wilson, and Woodson—33.

So the resolution was agreed to.

Pending the call,

Mr. McQUEEN stated that Mr. BONHAM had paired off with Mr. WALDRON for one week.

Mr. BRYAN said: Believing the dismissal too summary, I vote "no."

Mr. COX stated that he had paired off with Mr. C. B. COCHRANE.

Mr. FLORENCE stated that Mr. LANDY was detained at home by indisposition in his family.

Mr. SICKLES said: I do not think the accused has had a fair opportunity to be heard in his defense. I, therefore, vote "no."

Mr. SINGLETON said: I vote "no." I do it, not for the purpose of protecting the Doorkeeper in anything wrong, but because I think the case of corruption has not been clearly made out.

Mr. SMITH, of Tennessee, said: For the same reasons expressed by the gentleman who has just taken his seat, I vote "no."

Mr. CLEMENS. I object to any further excuses being made.

Mr. ZOLLICOFFER. I vote "ay." I think this—

Mr. CLEMENS. I object.

Mr. ZOLLICOFFER. This investigation ought to have been pursued further; but believing that the Doorkeeper is at least incompetent, I vote in the affirmative.

Mr. ELLIOTT. I desire to say—

Mr. CLEMENS. I object.

Mr. ELLIOTT. I object to condemning a man without a trial, and I vote "no."

Mr. FLORENCE. Did I not understand the Chair to decide that gentlemen had a right to explain?

The SPEAKER. The Chair did not say so.

Mr. FLORENCE. I voted against this thing because—

Mr. CLEMENS. I call the gentleman to order.

Mr. FLORENCE. Well, I desire—

[Cries of "Order!"]

The SPEAKER. The gentleman from Pennsylvania is out of order.

Mr. HILL. I desire—

Mr. CLEMENS. I object.

Mr. HILL. Out of respect to the committee, I will make my vote "ay."

Mr. TALBOT said, (Mr. CLEMENS calling to order at the same time,) I cannot vote against a man without giving him a full and fair trial, and I vote "no." [Laughter.]

Mr. GARTRELL. I vote "ay" for the purpose of moving a reconsideration.

Mr. LOVEJOY. I desire to know whether there is any mode of enforcing the 42d rule, which requires every member present to vote unless excused?

Mr. JONES, of Tennessee. None in the world. You cannot make a man answer.

The vote was then announced, as above recorded.

Mr. KUNKEL, of Maryland, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

Mr. GREENWOOD demanded the yeas and nays.

Mr. JOHN COCHRANE called for tellers on the yeas and nays.

Tellers were refused.

The yeas and nays were refused.

The motion to reconsider was then laid on the table.

ELECTION OF DOORKEEPER.

Mr. HASKIN. I rise to a question of privilege. The House now being without a Doorkeeper, I propose the adoption of the following resolution, and upon it I call the previous question:

Resolved, That Darins Truesdell, of New York, be, and he is hereby, appointed Doorkeeper of the House of Representatives, for the Thirty Fifth Congress.

Mr. SHORTER. I move to lay the resolution on the table.

Mr. FLORENCE. I object to the resolution.

Mr. PHELPS. I ask to have the 14th rule read.

Mr. BOCOCK. I rise to a question of order. It is not in order as a question of privilege to move to appoint a particular person as Doorkeeper of the House of Representatives. It would be in order to move to proceed to the election of a Doorkeeper.

The SPEAKER. The Chair sustains the question of order.

Rule 14 was then read, as follows:

"In all cases of election by the House of its officers, the vote shall be taken *viva voce*."

Mr. HASKIN. I then move that the House proceed to the election of a Doorkeeper.

Mr. CRAIGE, of North Carolina, moved (at half past two o'clock) that the House adjourn.

The question was taken, and on a division of the House there were—ayes 71, noes 112.

Mr. ENGLISH. I call for the yeas and nays.

Mr. KEITT. I wish to ask the gentleman from Indiana to withdraw his demand for the yeas and nays, with a view of seeing whether we cannot come to a conclusion on this matter. I do not think that little advantages ought to be snatched in this way. I do not think that anybody anticipated the result—at all events nobody should have made preparations for it.

Mr. MORGAN. Is debate in order?

The SPEAKER. It is not.

Mr. MORGAN. Then I object.

Mr. KEITT. I want to have this thing arranged. I belong to no party; go into no caucus—

The SPEAKER. The motion is not debatable.

Mr. HASKIN. I move now to proceed to the election of a Doorkeeper.

The SPEAKER. The pending question is a motion to adjourn, and on that the yeas and nays have been demanded.

Mr. HARRIS, of Illinois. I understood that the motion to adjourn was withdrawn.

Mr. KEITT. It will be withdrawn if we agree to go into the election of Doorkeeper to-morrow.

The SPEAKER. Is the motion to adjourn withdrawn?

Mr. CRAIGE, of North Carolina. No, sir.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 87, nays 103; as follows:

YEAS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Boccock, Bowie, Branch, Bryan, Burns, Caskie, John B. Clark, Clay, Clemens, Cobb, John Cochrane, Cockrell, Conning, Cox, Burton Craige, Crawford, Curry, Davidson, Davis of Mississippi, Dimmick, Dowdell, Edmundson, Elliott, English, Faulkner, Fenton, Florence, Foley, Garrett, Garrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Jackson, Jenkins, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lawrence, Leidy, Macley, McQueen, Miles, Miller, Mills, Niblack, Pendleton, Peyton, Phillips, Powell, Quitman, Rangan, Ruffin, Russell, Seales, Scott, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, John V. Wright, and Zollcoffer—87.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Buffinton, Burlingame, Campbell, Caruthers, Chaffee, Ezra Clark, Clawson, Colfax, Comins, James Craig, Curtis, Darnell, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Daves, Dean, Dick, Dodd, Durfee, Eustis, Farnsworth, Foster, Gilman, Gilmer, Gooch, Goodwin, Grow, Robert B. Hall, Thomas L. Harris, Haskin, Hill, Hoard, Hopkins, Horton, Houston, Howard, Hughes, Hayler, Jewett, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, Leiter, Leitcher, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Mason, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Oliver A. Morse, Mott, Olin, Palmer, Parker, Pettit, Phelps, Pike, Potter, Pottle, Ready, Richie, Robbins, Roberts, Rorock, Seward, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Cadwallader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—103.

So the House refused to adjourn.

Pending the vote,

Mr. WALBRIDGE stated that his colleague, Mr. LEACH, was still detained in his room by indisposition.

Mr. COX stated that he had ascertained that his pair with Mr. CLARK B. COCHRANE had expired on Saturday last, and that he was at perfect liberty to vote.

Mr. GILMAN stated that his colleague, Mr. MORSE, was still confined to his room by indisposition.

After the announcement of the vote as above recorded,

Mr. HASKIN said: In order that the time of the House may not be unnecessarily consumed,

I propose to withdraw my motion, and to substitute in place of it this proposition: that we proceed to-morrow, immediately after reading the Journal, to the election of Doorkeeper, and that in the mean time the property which should be in the charge of the Doorkeeper shall be taken charge of by the Sergeant-at-Arms.

The gentleman whose name I have introduced is one of the Assistant Doorkeepers from my district. I know he comes up to the Jacksonian standard, and I wished to call the attention of the House to him.

Mr. CLEMENS. I move to amend the proposition by inserting twelve o'clock.

Mr. HASKIN. The time I propose, is immediately after finishing the reading of the Journal.

Mr. CLEMENS demanded the yeas and nays on his amendment.

The yeas and nays were not ordered, only four members voting therefor.

Mr. MORGAN moved the previous question.

The previous question was seconded, and the main question ordered.

The question was first taken on the amendment, and it was not agreed to—ayes forty-five, nays not counted.

The question then recurred on the original proposition, and it was agreed to.

Mr. PHELPS moved to reconsider the vote by which the proposition was agreed to, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

EMPLOYÉS OF THE HOUSE.

Mr. MASON. I desire to offer a resolution fixing the number, pay, and compensation of the employes of the Doorkeeper before he is elected. It will be then understood by him, and all persons whom he may select, what their number and compensation is. If it is not found sufficient, the Committee of Accounts are at all times authorized to employ a force for temporary purposes.

Mr. COX. I object to that resolution.

Mr. MASON. I move to suspend the rules.

The SPEAKER. The Chair cannot entertain that motion now.

Mr. GROW. The special committee on printing instructed me, some time ago, to report a bill to the House separating the folding-room from the charge of the Doorkeeper. This, probably, is the fittest time to bring it up for consideration.

Mr. WASHBURN, of Illinois. I desire to know why the motion to suspend the rules is not in order?

The SPEAKER. There was a proposition made on Saturday, by the gentleman from New York, [Mr. CLARK,] to discharge the Judiciary Committee from the further consideration of a memorial. That proposition came before the House on Saturday by unanimous consent, which operated as a suspension of the rules; and until that matter is disposed of, the Chair is of opinion that it is not in order to receive another motion to suspend the rules, inasmuch as we are acting, by unanimous consent, under a suspension of the rules. It was on that ground that the proposition of the gentleman from Mississippi was ruled out of order.

Mr. WASHBURN, of Illinois. On that ground I objected, on Saturday, to the introduction of the resolution of the Committee on the Judiciary.

Mr. GROW. The special committee on printing have instructed me to report a bill which I send to the Chair.

The SPEAKER. The Chair thinks that the committee cannot report now, for the reason that the Chair has given to the gentleman from Kentucky.

IMPEACHMENT OF JUDGE WATROUS.

The SPEAKER. The first business in order is the consideration of the resolution of the gentleman from New York, [Mr. CLARK,] to discharge the Committee on the Judiciary from the further consideration of the memorial of Mr. Alexander, in the matter of the impeachment of Judge Watrous.

Mr. WASHBURN, of Illinois, demanded the previous question.

The previous question was seconded, and the main question ordered; and, under its operation, the resolution was agreed to.

Mr. CRAIGE, of Carolina, moved to recon-

sider the vote just taken, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ADMISSION OF NEW STATES.

Mr. QUITMAN. I now move to suspend the rules, to enable me to introduce the joint resolution concerning the admission of new States into the Union, which I endeavored to introduce this morning.

Mr. WASHBURN, of Maine. I demand the yeas and nays upon that motion.

The yeas and nays were ordered.

Mr. GILLIS. I would inquire of the gentleman from Mississippi whether this resolution, if adopted, would exclude Oregon?

Mr. QUITMAN. I would merely reply—
[Loud cries of "Order!"]

The SPEAKER. Debate is not in order.

The question was taken; and there were—yeas 88, nays 88; as follows:

YEAS.—Messrs. Ahl, Anderson, Atkins, Avery, Barksdale, Bocoek, Bowie, Branch, Burns, John B. Clark, Clay, Clemens, Cobb, John Cochrane, Cockrell, Corning, Cox, James Craig, Crawford, Curry, Davidson, Davis of Mississippi, Dimmick, Dowdell, Edmundson, Elliott, English, Eustis, Florence, Foley, Garnett, Gartrell, Gilmer, Goode, Greenwood, Gregg, Lawrence W. Hall, Hawkins, Hill, Houston, Huyler, Jackson, Jenkins, J. Gancy Jones, Keith, Kelly, Jacob M. Kunkel, Lawrence, Leidy, Letcher, McQueen, Humphrey Marshall, Mason, Maynard, Miles, Millson, Moore, Noble, P. Pendleton, Peyton, Phelps, Quintman, Ready, Reagan, Ruffin, Sandridge, Seales, Scott, Seward, Aaron Shaw, Henry M. Shaw, Singleton, Robert Smith, William Smith, Stephens, Stevenson, James A. Stewart, Talbot, Trible, Underwood, Ward, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, John V. Wright, and Zollcofer—88.

NAYS.—Messrs. Abbott, Adrain, Andrews, Arnold, Bingham, Bingham, Blair, Bliss, Blunt, Burlingame, Campbell, Case, Chaffee, Ezra Clark, Clawson, Colfax, Comins, Cragin, Curtis, Darnell, Davis of Indiana, Davis of Massachusetts, Dwyer, Dean, Dick, Dodd, Durfee, Farnsworth, Fenton, Gilman, Gooch, Goodwin, Grainger, Grow, Robert H. Hall, Hoard, Hopkins, Horton, Howard, Hughes, Jewett, George W. Jones, Owen Jones, Kelsey, Kigore, Knapp, Lott, Lovjoy, Maclay, McKibbin, Mattson, Miller, Morgan, Morrill, Edward Joy Morris, Oliver A. Morse, Mot, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Powell, Ritchie, Robbins, Roberts, Roce, Russell, John Sherman, Judson W. Sherman, Spinnier, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Cadwalader C. Washburn, Elhu B. Washburne, Israel Washburn, Wilson, and Wood—88.

So (two thirds not voting in favor thereof) the rules were not suspended.

During the call of the roll,

Mr. RUSSELL stated that, not wishing to exclude Oregon from admission into the Union, he voted "no."

PROCEEDINGS IN COMMITTEE.

Mr. CHAFFEE. I ask the unanimous consent of the House to offer the following resolutions:

Resolved, That between the hours of four and five o'clock p. m. of each day prior to the 29th instant, the House, or the Committee of the Whole House, or the Committee of the Whole on the state of the Union, may take a recess until seven o'clock, p. m., and preceding each recess debate in committee shall be confined to the pending question.

Resolved, That the names of members absent without leave of the House, on the last vote by yeas and nays preceding a recess or adjournment, shall be entered on the Journal, and reported in the Globe as absent without leave.

Resolved, That on Friday and Saturday, the 21st and 22d of May, 1858, private bills, to the passage of which no objection shall be made, shall first be considered and disposed of in Committee of the Whole House on the Private Calendar.

Mr. SMITH, of Tennessee. I object.

Mr. CHAFFEE. I move to suspend the rules.

Mr. JONES, of Tennessee. Do the gentleman's resolutions provide that the House or the Committee of the Whole may take a recess?

Mr. CHAFFEE. Yes, sir.

Mr. JONES, of Tennessee. I do not see any necessity for that.

Mr. CLEMENS. I demand the yeas and nays on the motion to suspend the rules.

Mr. SICKLES, (at half past three o'clock, p. m.) I move that the House do now adjourn.

The motion was disagreed to.

Mr. WASHBURN, of Maine. I would suggest to the gentleman from Massachusetts that he modify his resolution so as to provide that no vote shall be taken after the recess, except upon motions that the committee rise and that the House adjourn.

Mr. CHAFFEE. I accept that modification.

Mr. LETCHER. I desire to suggest to the gentleman from Massachusetts an amendment to the resolution providing that the names of the absentees shall be reported. It is that he should add that the pay of the absentees for that day be de-

ducted, and also that any member who shall sleep during the session of the House shall have his pay stopped. [Laughter.]

Mr. JOHN COCHRANE. I would suggest another amendment, that he should provide that no man shall sleep during the sessions of the House.

Mr. BLISS. If the rules shall be suspended I shall offer the following as a substitute for the resolution of the gentleman from Massachusetts:

Resolved, That during the present, and the next week, it shall be in order each day for the Committee of the Whole to take a recess until half past seven o'clock, p. m., provided that no votes shall be taken at such evening sessions except on motions that the committee do rise and the House adjourn.

Mr. SMITH, of Tennessee. The substitute of the gentleman from Ohio would do some good, but the resolutions of the gentleman from Massachusetts would certainly obstruct the business of the House, as every member must see when he studies them. I, therefore, hope they will not be adopted.

Mr. SANDIDGE. I would like to make an inquiry of the gentleman who introduces this resolution. I wish to know whether these night sessions are for the purpose of transacting business? If we are to come here merely for the purpose of resolving ourselves into a debating society, I shall vote against it. I am willing to vote for evening sessions to transact the business of the House.

Mr. PHILLIPS. Can the question be taken upon the resolutions separately?

The SPEAKER. The Chair supposes so, if the resolutions were in.

Mr. SMITH, of Virginia. Let us have the regular order of business. I call for that.

The SPEAKER. The motion to suspend the rules is the regular order of business.

Mr. SMITH, of Virginia. I move to lay the resolutions on the table.

The SPEAKER. The resolutions have not been received.

The yeas and nays were not ordered.

Mr. CHAFFEE demanded tellers upon the question.

Tellers were ordered; and Messrs. BLISS and BARKSDALE were appointed.

The question was taken; and the tellers reported—yeas seventy-four, not two thirds of a quorum.

So the rules were not suspended.

BRITISH INTERFERENCE.

Mr. BARKSDALE, by unanimous consent, offered the following resolution:

Resolved, That the President be requested to communicate to this House, if not incompatible with the public interests, any information in his possession in relation to the firing into, boarding, or searching vessels belonging to the United States, in the Gulf of Mexico, by British ships of war.

Mr. LEITER. I would suggest to the gentleman to add "or on the coast of Cuba."

Mr. BARKSDALE. I accept the amendment.

Mr. SICKLES. I suggest to the gentleman that he add "and in the ports of Cuba."

Mr. BARKSDALE. I think the resolution as it now stands is sufficiently comprehensive.

The resolution was adopted.

OFFICE OF DOORKEEPER.

Mr. MASON. I ask the consent of the House to offer the following resolutions:

Resolved, That the compensation of the Doorkeeper of the House of Representatives shall hereafter be \$2,000 per annum, and that he be, and he is hereby, authorized to employ a superintendent of the folding-room at a compensation of \$1,500 per annum, and that he may employ under the direction of the Committee of Accounts of the House of Representatives, such number of folders and laborers as may be deemed necessary to perform the work; and also that he may employ under the direction of the aforesaid committee two horses during the session of Congress, and that he may receive a suitable allowance for expenses in sending messages and dispatches by messengers and pages.

And be it further resolved, That the Doorkeeper of the House of Representatives be, and he is hereby, authorized to employ not exceeding fourteen messengers, at a compensation of three dollars per day each per annum; and not exceeding eleven messengers, at a compensation of three dollars each per day during the session of Congress; and not exceeding four laborers, at a compensation of one dollar and fifty cents each per day during the year; and not exceeding five laborers, at a compensation of one dollar and fifty cents per day each during the session of Congress; and not exceeding twelve pages, between the ages of ten and sixteen years, at a compensation of two dollars per day each during the session of Congress.

And be it further resolved, That the Doorkeeper have deducted from his pay a sufficient amount to pay any contract made by him not authorized by this resolution, or without authority of this House.

Mr. KUNKEL, of Maryland. I object; because, in the opinion of the Committee of Accounts, the compensation is inadequate and the number not sufficient.

Mr. HUGHES. I move that the House adjourn.

The motion was not agreed to.

Mr. MASON. I move to suspend the rules, to enable me to offer the resolutions which have been read.

The House divided; and there were—yeas 118, nays 40.

Mr. COX demanded the yeas and nays.

The yeas and nays were not ordered.

So the rules were suspended (two thirds voting in favor thereof.)

Mr. MASON. I move the previous question upon the adoption of the resolution.

Mr. GARNETT. I would suggest to the gentleman from Kentucky that he should modify his resolution so as to authorize the Committee of Accounts to pay to those employes whom Mr. Hackney has employed during the session, and who have actually rendered services, a fair compensation for the time they have been employed.

Mr. HOUSTON. Let that matter come up by itself.

Mr. SMITH, of Illinois. I want to appeal to the gentlemen from Kentucky to modify his resolution, so as to authorize the employment of twenty pages—six more than he has embraced in his resolution. I believe if there is anything in which we should be liberal, it should be in employing the boys of indigent persons in this city.

Mr. MASON. The House can order them, if it wants them.

Mr. EUSTIS. Is it in order to move to lay the whole subject upon the table?

The SPEAKER. It is.

Mr. EUSTIS. Then I make that motion.

The motion was not agreed to.

Mr. TAYLOR, of New York. I wish to ask the gentleman from Kentucky—

Mr. JONES, of Tennessee. I object to debate.

Mr. TAYLOR, of New York. I do not wish to debate the matter, but simply to make a request.

The SPEAKER. That is in the nature of debate.

Mr. TAYLOR, of New York. Hardly in the nature of debate. I wish to ask the gentleman from Kentucky to withdraw his demand until I can move to refer the resolution to the Committee of Accounts.

Mr. MASON. I cannot.

The previous question was seconded; and the main question ordered to be put.

Mr. KELLY (at three o'clock and fifty minutes) moved that the House adjourn.

The motion was not agreed to.

Mr. KUNKEL, of Maryland. I call for a separate vote upon the different resolutions.

The question was then taken on the first resolution; and it was agreed to.

The question recurring upon the adoption of the second resolution—

Mr. CLEMENS. I move to insert fourteen pages in the place of twelve.

The SPEAKER. No amendment is in order.

Mr. KUNKEL, of Maryland. Does the resolution propose to appropriate money?

The SPEAKER. It does not.

Mr. KUNKEL, of Maryland. I move to lay the resolution on the table.

Mr. JONES, of Tennessee. What effect will the laying of this resolution on the table have upon the other resolutions?

The SPEAKER. It would be the rejection of this one.

Mr. KUNKEL, of Maryland. As a member of the Committee of Accounts, I desire to state—

The SPEAKER. Debate is not in order.

Mr. COX. Can there be any amendment hereafter of the first resolution?

The SPEAKER. There can be no amendment.

The question was taken on the motion to lay on the table the second resolution; and it was not agreed to.

The question then recurred on the third resolution; and it was adopted.

The question then recurred on the third resolution; and it was adopted.

Mr. MASON moved to reconsider the votes by

which the several resolutions were adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

TARIFF REVISION.

Mr. MORRIS, of Pennsylvania. I ask the unanimous consent of the House to offer the following resolution:

Whereas, the existing tariff has been found inadequate to supply the Government with revenue, and has proved itself a source of embarrassment to the trade and interests of the country: Therefore,

Be it resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of reporting a bill revising the present tariff, abolishing foreign valuation, and substituting specific duties, and home valuation, where necessary, to retain *ad valorem* duties, and so augmenting the duties on articles coming into competition with domestic manufactures and products as to afford increased protection to American industry and labor.

Mr. McQUEEN. I object.

Mr. MORRIS, of Pennsylvania, moved to suspend the rules, and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

Mr. CRAWFORD. I move that the House do now adjourn.

The motion was not agreed to—there being, on a division—yeas 81, nays 96.

The question was taken on Mr. MORRIS's motion; and it was decided in the negative—yeas 86, nays 101; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Andrews, Bennett, Billingshurst, Bingham, Bliss, Buffinton, Burlingame, Case, Chaffee, Ezra Clark, Clawson, John Cochrane, Colfax, Comins, Corning, Cragin, Curtis, Dammrell, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Deau, Dodd, Durfee, Eustis, Fenton, Foster, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, Leidy, Leiter, Humphrey Marshall, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Oliver A. Morse, Mott, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Ready, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, Sickles, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, White, Wilson, Wood, and Zollner—86.

NAYS—Messrs. Anderson, Arnold, Atkins, Avery, Barksdale, Blair, Boeck, Bowie, Branch, Bryan, Burns, Caskie, Chapman, John B. Clark, Clay, Clemens, Cobb, Cockerill, Cox, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dowdell, Edmundson, Elliott, English, Farnsworth, Faulkner, Florence, Foley, Garnett, Garrett, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Hawkins, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lawrence, Letcher, Lovejoy, Maclay, McKibbin, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Millson, Moore, Isaac N. Morris, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Reagan, Ruffin, Russell, Sandidge, Seales, Scott, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Watkins, Whiteley, and Winslow—101.

So (two thirds not voting in favor thereof) the rules were not suspended.

Pending the call,

Mr. WRIGHT, of Tennessee, stated that on this question he had paired off with Mr. CAMPBELL, of Ohio. He would have voted against the suspension of the rules.

Mr. SMITH, of Virginia. I rise to a question of order. I find on my desk a Calendar, announcing the order of business on the Speaker's table. I desire to know if it is in order to supersede that Calendar by independent motions of gentlemen all over the Hall?

The SPEAKER. It is in order.

Mr. SMITH, of Virginia. Then the Calendar might as well not be printed.

ENCOURAGEMENT OF THE ARTS.

Mr. MARSHALL, of Kentucky. I present to the House a memorial, signed by a large number of the artists of the United States, who pray for the encouragement of the arts by Congress, and especially pointing out the embellishment of our costly national edifices as affording a fair opportunity for the gratification of their wishes in this particular. Approving, as I do, of their view, I offer the following resolution for adoption by the House:

Resolved, That the memorial of artists of the United States be, and the same is, hereby referred to a select committee of five, to be appointed by the Speaker, with instructions to report on the expediency of granting the petition of the memorialists; and with power to report by bill or otherwise.

Mr. CRAIGE, of North Carolina. I object.

Mr. MARSHALL, of Kentucky. I move to suspend the rules.

Mr. DAVIS, of Mississippi. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at twenty minutes past four o'clock) the House adjourned.

IN SENATE.

TUESDAY, May 18, 1858.

Prayer by Rev. WILLIAM PINCKNEY, D. D.

The Journal of yesterday was read and approved.

HOUSE BILL REFERRED.

The VICE PRESIDENT laid before the Senate a joint resolution from the House of Representatives, (No. 3,) for paying the compensation of the stenographers employed by the committees of the House of Representatives; and it was read twice, and referred to the Committee on Finance.

PETITIONS AND MEMORIALS.

Mr. KING presented a petition of business men of the northwestern lakes, praying that an appropriation may be made for the purpose of ascertaining whether Professor Ballot's rule, by which the approach of storms may be foretold, is applicable to the lakes; which was referred to the Committee on Naval Affairs.

Mr. TRUMBULL presented the memorial of J. H. Langly and others, citizens of Illinois, praying for the recognition of their preemption claims to lands in the late military reservation on Rock Island, Illinois; which was referred to the Committee on Public Lands.

Mr. PEARCE presented the memorial of Michael Nourse, praying compensation for certain services rendered by the direction of the First Comptroller of the Treasury; which was referred to the Committee on Claims.

He also presented the memorial of Hiram McCullough, praying to be released from his suretyship on the contract of S. A. West and G. McCullough, for the delivery of stone at the Gosport navy-yard; which was referred to the Committee on Naval Affairs.

Mr. WRIGHT presented a petition of citizens of Newark, praying that the public lands may be laid out in farms or lots for the free and exclusive use of actual settlers; which was referred to the Committee on Public Lands.

Mr. BRIGHT presented certain testimony in relation to the contested election of Senators from Indiana; which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. BIGLER, from the Committee on the Post Office and Post Roads, to whom was referred the petition of John Wightman, submitted an adverse report; which was ordered to be printed.

Mr. YULEE, from the Committee on the Post Office and Post Roads, to whom were referred the joint resolution (S. No. 36) explanatory of an act entitled "An act for the relief of George Chorpennig, jr.," approved March 3, 1857, the petition of George Chorpennig, and the presentment of the grand jury of the United States for the northern district of Florida relative to the creation of a court-house for that district, asked to be discharged from their further consideration, and that they be referred to the Committee on the Judiciary; which was agreed to.

He also, from the same committee, to whom was referred the petition of citizens of Michigan, relative to the construction of certain wagon roads in that State, and the papers relating to the adoption of Oliver Evan Wood's plan for the delivery of letters in California, and in Oregon and Washington Territories, asked to be discharged from their further consideration; which was agreed to.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom was referred the petition of the children of Stephen Krebs, asked that the committee be discharged from its further consideration.

He also, from the same committee, to whom was referred the memorial of Madison Sweetser, reported a bill (S. No. 377) for the relief of Madison Sweetser; which was read, and passed to a second reading.

Mr. JOHNSON, of Arkansas. The memorial of Taliaferro P. Shaffner, praying for an amendment to the act of Congress of March 3, 1857, "to expedite telegraphic communications for the uses of the Government in its foreign intercourse," so that the subsidy granted by that act shall be general in its application to all oceanic telegraphs, has been referred to the Committee on Printing, and they report in favor of printing the memorial without the map. The cost will be seventy dollars. The committee believe that we cannot have too much information before us on this subject, and upon investigation we are satisfied there is much important information in the memorial. I ask that an order to print it be granted, and that the memorial be referred to the Committee on the Post Office and Post Roads.

It was so ordered.

PAPERS WITHDRAWN.

On motion of Mr. DOUGLAS, it was

Ordered, That Cyrus H. McCormick have leave to withdraw his petition and papers.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House of Representatives had passed the bill of the Senate (No. 314) for the prosecution and punishment of frauds in land titles in California, without amendment; and had passed the bill of the Senate (No. 312) to provide for the collection and safe-keeping of public archives in the State of California, with an amendment.

POST ROUTES IN MINNESOTA.

Mr. SHIELDS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be, and they are hereby, instructed to inquire into the expediency of establishing mail routes from Clear Lake, by Clear Water and Fair Haven, to Forest City, in the State of Minnesota; from Fairbault, Rice county, via Swaresay, and Josco, to Mankato, in Blue Earth county, in the State of Minnesota; from Owatonna, via Clear Lake and Josco, to Mankato, and from Austin, via Geneva, Berlin, Otisco, Wilton, and Josco, to St. Peter, in the State of Minnesota; from Red Wing, via Sacramento, Wamunago, and Rice Lake, to Owatonna, in the State of Minnesota; from Cannon's Falls, via Wastedo, Hader, Wamunago, Cherry Grove, and Concord, to Mantorville, in the State of Minnesota.

AGGRESSIONS ON AMERICAN CITIZENS.

Mr. GWIN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 42) for the adjustment of difficulties with the Republics of New Granada, Central America, and Mexico; which was read twice by its title.

Mr. GWIN. Mr. President, I have adopted, as near as the nature of the subject I wish to have referred to the Committee on Foreign Relations would permit, the very words of the joint resolution which passed the Senate a few days ago, having reference to our difficulties with Paraguay, in order that no new question would have to be considered by the committee in acting upon it. It cannot be denied that we have been trifled with by the Governments of New Granada and Nicaragua. The treaties made by their Ministers there have been, in one instance, so altered as to be almost an insult to this Government; and in the other, so delayed as to place it out of the power of the President, even if it is ratified, to lay it before the Senate before we adjourn. In both of these States, and especially the former, our citizens have been murdered and plundered, and we have had no redress. I include the other Central American States, because I have no doubt, if the President is authorized to demand reparation from those States, many cases will present themselves where our citizens have been grossly outraged. Such instances in Mexico are too numerous to require any notice of them in detail.

Sir, we are becoming a by-word with the whole civilized world for the neglect of our citizens in foreign States. No wonder Great Britain thinks she can, with impunity, search our vessels in the Gulf of Mexico; we never resent anything. While that gulf is swarming with British cruisers, we have afloat but one vessel, I learn—the Fulton; formerly, I believe, a ferry-boat, turned into an indifferent ship-of-war. I want the responsibility brought directly home to some one branch of the Government to settle these difficulties, which is the cause of my offering this resolution. I move

that the joint resolution be referred to the Committee on Foreign Relations, and printed.

Mr. SEWARD. I submitted a resolution of inquiry yesterday in regard to difficulties in the Gulf of Mexico, to which the honorable Senator from Virginia [Mr. Mason] objected. I believe he has no further objection to it, and I ask the Senate to take it up and pass it.

The Senate proceeded to consider the resolution; and it was adopted, as follows:

Resolved, That the Committee on Foreign Relations be instructed to inquire whether any legislation is necessary to enable the President of the United States to protect American vessels against British aggression in the Gulf of Mexico or elsewhere, and to report by bill or otherwise.

PRINTING OF A DOCUMENT.

Mr. JOHNSON, of Arkansas. The Committee on Printing, to whom was referred the motion to print the message of the President of the United States in answer to a resolution calling for information relative to the seizure, in the valley of Litana, in Peru, by the authorities of Chili, of the proceeds of the cargo of the brig Macedonia, the property of citizens of the United States, direct me to report favorably on it. The document is before me. The cost of printing it will be \$903. It is in regard to the current business before the Senate, and the Committee on Foreign Relations consider it important to have it printed. The Printing Committee have not read it. It is impossible that we can read all these large documents. We have not the time to investigate them. If there be any objection to the printing, we must refer the Senate to the Committee on Foreign Relations, that asked the printing of the document. The Committee on Printing report in favor of printing it, since it relates to current business; and they have the guarantee of the Committee on Foreign Relations that it should be printed.

Mr. DOUGLAS. We, who are on the Committee on Foreign Relations, referred that document to the Committee on Printing because we were unable to read it ourselves, and expected our friend from Arkansas to do so for us, [laughter]; and if he has not read it, the whole object of the reference has failed. It is a very convenient mode for one of our committees, when we get a package too long for them to read, to refer it to the Committee on Printing. However, I will vote with the Senator from Arkansas.

Mr. JOHNSON, of Arkansas. In regard to the compliment the gentleman pays me, I have no doubt that my reading it and ascertaining it would be of great value to the Committee on Foreign Relations, since I have nothing to do with that committee, and I do not suppose my opinion would be of any value to them, or would be held of any great value, even if I did read the document and give an opinion on it. Now, it is for those gentlemen to defend themselves, if they want this document printed. They ask for the printing to save themselves, I presume, the trouble of reading it in manuscript. Whether the Senate will permit them to get rid of the trouble of reading it in manuscript, I do not know. I rather think those Senators should be compelled to read it, and save \$900. [Laughter.] Their time, perhaps, could not be better spent.

Mr. MASON. I am surprised that the Senator from Illinois, as a member of the Committee on Foreign Relations, should not be entirely conversant with the nature of these papers. They were referred to the Committee on Foreign Relations some time ago, with an inquiry whether it was proper they should be printed, and the committee has reported in favor of the printing. I take it for granted, then, that the honorable Senator from Illinois, as a member of that committee, is familiar with those papers. I, as one of that committee, looked into the papers. I had a correspondence with the Secretary of State, and became satisfied that it was of great public interest that they should be printed, for two purposes. They respect a very large claim, amounting to several hundred thousand dollars, of citizens of the United States on the Government of Chili for speculations committed on American property, not in Chili, but within the limits of Peru. The correspondence has extended through many years, and has been vigorously pressed. In addition, questions of international law are raised, which the Secretary of State thought, and I concurred with him, it was very important should be in pos-

session of our Ministers abroad. I think that will amply compensate for the printing.

Mr. DOUGLAS. The Senator from Virginia expresses his surprise that I should not have been familiar with what was contained in these papers. Probably I should have made myself so, but for the fact that, having implicit confidence in the chairman of the committee, and he having assured us that he had looked into the papers, we thought that was sufficient without putting the rest of the committee to the trouble of examining them. Nothing but our confidence in the chairman, I assure him, prevented each member from reading the whole of the papers.

Mr. MASON. I can assure the Senator that the chairman fully appreciates the extent of that compliment; but I do not think, at the same time, that he is entirely exonerated, for it is to be presumed that the chairman of the committee communicated their contents to the whole of the committee. The same confidence that justified him in following the chairman would justify him in a declaration that the contents were derived from the chairman.

Mr. DOUGLAS. I took it on faith. My faith would have been complete but for the fact that the chairman deemed it necessary to refer it to the Committee on Printing, to ascertain whether he had been right. [Laughter.]

The motion to print was agreed to.

LEMUEL WORSTER.

Mr. HAMLIN. I ask the Senate to take up a bill granting a pension to Lemuel Worster. It will not take five minutes, I apprehend. I ask it because it is a bill which has, I think, four times passed the Senate; and at the last session of Congress it also passed the House of Representatives, but then it did not reach the President. I think if the Senate would pass it now, it is one of those bills that may go through the House and receive action at the present session. It will not take three minutes.

Mr. YULEE. I hope the Senator will not press his motion. He will recollect that yesterday, during the morning hour, the bill relating to the Patent Office was taken up and left as unfinished business of the morning.

Mr. HAMLIN. I hope the bill I have moved to take up will be disposed of.

Mr. YULEE. Will it give rise to debate?

Mr. HAMLIN. I think not. If it does I will give way.

The motion was agreed to; and the bill (S. No. 294) for the relief of Lemuel Worster was read a second time, and considered as in Committee of the Whole.

It directs the Secretary of the Interior to place the name of Lemuel Worster, of Lebanon, York county, Maine, upon the roll of invalid pensioners, at eight dollars per month, from the 1st day of January, 1855, during his natural life. No sale, transfer, or mortgage of this pension prior or subsequent to the passage of the act, is to be valid; but it is to inure solely to the benefit of Worster, and remain in his control, or that of his legally appointed and qualified guardian, under suitable bonds for its proper disbursement for his benefit.

His father, Captain Alexander Worster, now deceased, was in command of a company of militia, and in September, 1814, received orders to march to Kittery Point, in the State of Maine, and join himself to the troops there rendezvousing for the defense of the coast against British invasion. Ten days after effecting a junction of the forces detailed for that service, an order was received from the War Department to organize the companies of one hundred men each. Under this order Captain Worster's company and the companies commanded by Captains Thompson and Ayers were consolidated into two companies, under command of Thompson and Ayers, and Captain Worster was appointed first lieutenant of Captain Thompson's company, and commissioned as such. Under the regulations issued, each commissioned officer was entitled to, and each appointed, a servant or waiter. They were usually selected from among the enrolled men, and detailed for this duty, under pay and rations; but in this instance the officers exercised their discretion, and selected their attendants outside of the ranks. In this selection, no regard was paid to age, pro-

vided the person was capable of performing the duty; and Lieutenant Worster appointed his son Lemuel, then twelve years of age, and, in the language of the affidavit of Captain Thompson, accompanying the papers, "a smart, active lad, who served as such, and was constantly in the line of his duty, until he was taken sick of camp or spotted fever." This disease prevailed to a fearful extent in the camp, and petitioner was violently attacked by it, and continued in a critical situation until long after the troops were discharged—his father remaining at Kittery Point in charge of him for a long time after that event. After a slow and painful recovery, it was found that the disease had made sad havoc of the energies and faculties of the petitioner.

Not only was his health completely broken down; but he lost the sight of one eye entirely, the faculty of speech was gone, and he was perfectly deaf—all hopes of his usefulness or happiness in life utterly destroyed. In this situation, he has lingered to the age of fifty-two years, always a charge upon his friends. Since the death of his father his situation is one of entire dependence upon charity, and the kindness of those indifferent to his comfort and necessities. He now prays Congress, as an act of charity and justice, to grant him a pension for the remainder of his life. There is, of course, no law providing for the case; but had Lieutenant Worster appointed his servant from the ranks, as it was his privilege to do, instead of requiring the duties of his son, that attendant, if thus disabled, would be provided for in the general statutes; and had the son been an enlisted soldier, there would have been no question in the case. In view of the fact, that although a boy, he was appointed to enter upon and discharge the duties that would otherwise have been required of an enrolled soldier, the committee think the case is brought within the intent of the law, and it being a case appealing strongly to the charity of Congress, aside from the question of right, recommend an act for his relief.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SHERLOCK AND SHIRLEY.

Mr. CRITTENDEN. I ask leave of the Senate to call up a bill which has been reported from the Committee on the Post Office and Post Roads, for the relief of Sherlock & Shirley. It is very important to the parties that it should be acted upon. I think there is no difficulty in the case; and, if the Senate take it up, all that will be necessary will be to read the report of the committee, which is brief. I think the honorable chairman of the Post Office Committee [Mr. YULEE] will say that it is a meritorious bill. It is one which I think will create no debate.

Mr. YULEE. I presume it will lead to no discussion.

Mr. IVERSON. I object to this irregular mode of taking up private bills out of their order. It will result in defeating the whole consideration of the Private Calendar. A Senator is interested in a particular bill; he asks the favor of the Senate to take it up; he gets it taken up and passed; and then he takes no further interest in anything else on the Private Calendar, and will always vote against taking it up. This practice of letting gentlemen take up their private bills to-day and to-morrow, and passing them as a matter of grace and favor, is wrong. Petitions are introduced in order, and they are referred to committees; the committees act on them, and report their bills in order; and in my opinion there is no better rule on the face of the earth than the old miller's rule of grinding every man's grist according to the time he brings it to the mill. It is unjust to other claimants, that individual cases should be taken up out of their order. It is proper that every man should have his case considered in its turn; and I trust that the habit the Senate has got into, of taking up cases out of order, will not be tolerated longer.

I do not know anything about this particular bill; I may vote for it; doubtless it is a meritorious case; but I object to the practice which Senators seem to be getting into, of taking up private bills, considering and passing them out of their order. I think the better plan would be to devote

an hour every morning to the consideration of the Private Calendar, and I would, if the Senate please, call up a resolution I laid on the table some days ago to postpone the calling of the special order until one o'clock, so as to give two hours every morning for the consideration of private bills, taking up the Calendar in its order, so that all these bills may be considered in their turn, and justice be done to everybody.

It must be obvious to the Senate, I think, that one hour every morning is not sufficient to the business separate and apart from the special order. The appropriation bills will now be considered. For the rest of the session we shall be occupied, probably, four or five hours a day in the consideration of appropriation bills. One o'clock is soon enough to take up the appropriation bills, because we shall then spend four or five hours in their consideration, and the Senate, at the expiration of that time, will be in no condition to take up any new matter. It is better, therefore, that we should consider this extra business in the morning hour. Reports from committees are being rapidly brought into the Senate, and will become more numerous as the session advances to its close, so that more than one hour will be wanted to make reports and introduce resolutions and petitions; and I think we ought to have at least one hour every morning for the consideration of other matter separate and apart from the appropriation bills. If the Senate will take up my resolution and postpone the consideration of the special order of each day until one o'clock, giving us two hours for the consideration of morning business and the Private Calendar, and then take up the Private Calendar after the morning business at twelve o'clock, I think that will facilitate business very much. I hope the motion of the Senator from Kentucky will be withdrawn for the present, and let us take up and act generally on these bills under the resolution I submitted.

Mr. CRITTENDEN. This is a bill of no consequence scarcely, except to the parties; and I cannot consent to withdraw the motion to take it up. It is a matter of urgent necessity to them to have this bill passed at the present session; which it will stand no chance of doing, unless the Senate will be so good as to act on it this morning. I wonder at the vehemence with which the gentleman from Georgia assails this motion of mine, when it was immediately preceded by an application of a like sort, to which no objection was made.

Mr. IVERSON. I will yield, for this occasion, to the motion of the Senator from Kentucky, and allow this case to be taken up. After that, I hope the Senate will indulge me in taking up my resolution, and acting upon it.

Mr. FESSENDEN. I do not object to taking up the bill proposed by the Senator from Kentucky, for the simple reason that I think the practice which prevails in the Senate is a very good one. I rise merely to enter a dissent from the ideas suggested by the honorable chairman of the Committee on Claims; because, from my observation of the state of the Calendar, and the way we do business under it, it is perfectly clear to my mind that we shall never accomplish anything of any consequence in regard to private bills if we always take up the Calendar in its order, and do not sometimes take up private bills out of their regular order. Why, sir, it is perfectly notorious that there are old settlers here who have been here time out of mind, and come every Congress; they never get passed, and they never get rejected; but they always get on to the first part of the Calendar, being always here and always ready. They go to a committee early, and are reported by the committees early, and are put upon the Calendar; and when they come in here they are debated to the end of the chapter from January to July.

Mr. IVERSON. That objection can be obviated by taking up the Calendar and passing over these cases.

Mr. DOUGLAS. Allow me to make a suggestion here: I think this debate is not pertinent to the motion of the Senator from Kentucky; but it will be proper enough when the Senator from Georgia calls up his resolution. I hope we shall not have that debate on this proposition.

Mr. FESSENDEN. I think my remarks were quite as pertinent to this motion as most of the remarks of the Senator from Georgia were, because they were in reply to him; and when my

friend from Illinois seeks to correct the practice, I wish he would begin in the beginning, and not in the middle.

Mr. DOUGLAS. I thought the right way was to begin in the middle, so as to apply both ways and hit Georgia and Maine at the same time. [Laughter.]

Mr. FESSENDEN. Very well. If it would have that effect I should have no sort of objection. But I think my remarks are in order; for this motion is to take up a bill; and I am arguing to show why it should be taken up; because, if we do not take it up in this way, and agree to other motions of a similar description, we shall never get any private bills passed at all. I think these remarks are strictly in order. But, as I said, it makes no sort of difference whether I direct the remarks I may have to make particularly to the resolution of the honorable Senator from Georgia, because it is manifest to me that the practice we have had is a good one. It is that occasionally during the morning hour, bills of comparatively trifling amount, or even of larger amount, to which there can be and is no possible objection, are disposed of by the courtesy of the Senate, which is extended to all alike on different occasions; and thus a great amount of good is done, which would be prevented if we followed the course pointed out, of taking the old bills on the Calendar, and arguing them through. We should never get through anything in that way. I hope, therefore, that the courtesy which has usually been extended to others will be extended to the Senator from Kentucky on this occasion, and that it will be continued.

Mr. IVERSON. I only want to make a suggestion in reply to the observations of the Senator from Maine. If we take up the Private Calendar during the morning hour, with an order that the Calendar be called, and only those bills be passed to which there is no objection, we obviate the difficulty he presents.

Mr. FESSENDEN. I am in favor of that.

Mr. IVERSON. If we only occupy an hour once a week in that process, we could get off the docket all the meritorious cases to which there is no objection.

The motion of Mr. CRITTENDEN was agreed to; and the bill (S. No. 287) for the relief of Sherlock & Shirley was read a second time, and considered as in Committee of the Whole.

It authorizes the Postmaster General to examine the cases of fines charged against Sherlock & Shirley, under their contract for carrying the mails on route No. 5103, from Louisville, Kentucky, to St. Louis, Missouri, and to remit so much of the fines as, in his judgment, ought not to be enforced against the contractors.

Mr. BENJAMIN. I will ask the Senator from Kentucky if this is a proposed authorization to the present Postmaster General to review the decisions in cases of fines made by the former Postmaster General?

Mr. CRITTENDEN. The application was made, but not acted upon, by the former Postmaster General.

Mr. BENJAMIN. I am quite willing that the present Postmaster General may act in regard to any fines which were not acted upon by his predecessor; but I am opposed to the whole system of allowing any Postmaster General to review fines which were decided upon and inflicted by his predecessor.

Mr. CRITTENDEN. There was no decision, I am informed, by the former Postmaster General. The applications were made to Mr. Campbell, but he made no decision on them. It is only desired now that the present Postmaster General shall review these cases, and shall excuse the fines if the cases come within the rule usually adopted by the Department for the excuse of fines.

Mr. COLLAMER. Perhaps a want of acquaintance with the practice of the Department may have led the Senator from Louisiana into the remark he has made. The truth is, that the fines and forfeitures—deductions, as they are called—are made upon the reports of failures of the mail, by the postmasters along and at the end of the routes; and immediately upon these reports coming in to what is called the inspection office, the fine or forfeiture that grows out of the terms of the contract is entered, as a matter of course. For instance, if the trip has failed, its price is deducted from the sum to be paid to the contractor, and that deduc-

tion is entered at once. Afterwards, on an independent proceeding, application is made to the head of the Department by the contractor, to remit that; and on applications of that kind, three fourths of all the fines, and probably a larger proportion, are remitted. They are always remitted when the contractors can show a good and sufficient reason for the failure; as, for example, unavoidable accident. Now, if we were so to confine the bill as to say that the new Postmaster General could not remit those forfeitures which were entered by his predecessor, we certainly should do a very great injustice.

Mr. BENJAMIN. I did not advert to the class of cases of which the Senator is speaking.

Mr. COLLAMER. I understand that this is one of those very cases.

Mr. BENJAMIN. I know one case in which such an application has been made; and I consider a great abuse was committed, where Congress gave power to a Postmaster General to review the decisions of his predecessor refusing to remit a fine, and the application was made to excuse the parties over again.

Mr. COLLAMER. This is an entirely different affair.

Mr. BENJAMIN. If this is not one of that class of cases, I have no objection to the bill.

Mr. CRITTENDEN. I understand it is not.

Mr. BENJAMIN. I ask the Secretary to read the bill again.

The Secretary read the bill, as follows:

Be it enacted, &c., That the Postmaster General be, and is hereby, authorized to examine the cases of fines charged against Sherlock & Shirley under their contract for carrying the mails on route No. 5103, from Louisville, Kentucky, to St. Louis, Missouri, and to remit so much of such fines as, in his judgment, ought not to be enforced against the said contractors.

Mr. YULEE. The report will explain the facts of the case.

Mr. DOUGLAS. I would ask whether the Postmaster General has not the power under the general law to remit these fines? I understand he has.

Mr. COLLAMER. He has power to remit the penalties and deductions which he makes by virtue of the terms of the contract. But the difficulty sometimes arises in this way: an application is made to him for a remission; he passes upon it, and refuses to remit, and afterwards the parties wish to proceed to a further showing in relation to the case. A new Postmaster General is always exceedingly slow at any rate; and some of them have gone so far as to say that they never would interfere or hear any further about a remission on which a former Postmaster General had passed.

Mr. DOUGLAS. The object of this bill, then, is to authorize the Postmaster General to review, in his discretion, cases adjudicated by his predecessor.

Mr. COLLAMER. That will appear by the report.

Mr. YULEE. The report states the facts.

Mr. POLK. I understand that the predecessor of the present Postmaster General has passed on this case, and refuses to remit; and, therefore, this bill is one of the very class mentioned by the honorable Senator from Louisiana. In looking hastily over the report I see the complaint is that the predecessor of the present Postmaster General took no excuse for ice, fogs, or low water. The matter has been passed upon by the former Postmaster General, and the object of this bill is to have a new decision. I so understand the case. I ask the chairman of the Committee on the Post Office and Post Roads if this is not so?

Mr. KING. I ask that the report be read.

Mr. YULEE. The report, which is brief, explains the facts in the case. Let that be read; and then, if necessary, a further explanation can be made.

The Secretary read the following report made by Mr. YULEE on the 28th of April:

The Committee on Post Offices and Post Roads, to whom was referred the petition of Sherlock & Shirley, contractors for carrying the mail from Louisville, Kentucky, to St. Louis, Missouri, praying to be relieved from certain fines alleged to have been unjustly imposed on them, beg leave to report:

The petitioners allege that, for the years 1851, 1852, 1853, and 1854, they were the contractors for carrying the mails on route No. 5103, from Louisville, Kentucky, to St. Louis, Missouri, which service was to be performed daily, in steamboats, at the compensation of \$70.00 per annum. That between the 1st of October, 1851, and 31st December,

river mails, and if fog is to be an excuse you will seldom find an occasion when that will not be alleged. If running on a sand bar is evidence of low water, those of us who have traveled on the Ohio river know that there are very few days in the year when you cannot get on to one. If these are to be received as excuses for not running a regular mail, it will be very difficult indeed to hold a contractor to any compliance with his contract. Still, as I do not know the facts of the case, I do not wish to state any opinion on them.

Mr. YULEE. I will state to the Senator that the case here is not a failure to perform a trip but only a detention on a trip by reason of fogs and low water, giving a reasonable ground of detention, as the Senator from Illinois should know, being familiar with western rivers. One reason which operated with the committee, especially in this case, was, that the late Postmaster General being a resident of Philadelphia, was not familiar with the nature of steamboat service on the western waters, which is somewhat peculiar, as the present Postmaster General is.

Mr. DAVIS. The last remark of the chairman of the Committee on the Post Office and Post Roads seems to call for some notice from me, being an inhabitant of that region of country to which he alludes. The difficulty in the transmission of the river mail results from the manner in which the contracts are made. You make contracts to run from one remote point to another, and over some line of trade, and the contracts are taken by freight boats, and the mails put upon boats that run for freight. If the whole line of mail contracts were cut up into short links where regular packets run, the mails would be transmitted with regularity. They make their time, notwithstanding fogs. These boats that run from remote points do not know where bars may have formed since they last passed over the route. They are afraid to run when the night is dark, or when there is a fog. They are freighted too heavily frequently, and encounter the risk of running aground. Hence arise the irregularities in the transmission of the mail. I have no doubt that packets were running past these very boats at a time of fog when they may have been detained.

Mr. BENJAMIN. I make opposition to this bill, because we have had one example of the effect of this kind of legislation. We had a law providing for a mail to be carried from New Orleans to Cairo. After repeated efforts, we succeeded in getting the contract made. The mail was carried in such a manner as to become a laughing stock on the river, when it was not a subject of grave complaint. The contractors put the mails on a boat when they could find one, and when they could not they did not. They had taken the contract for a price grossly inadequate, if they were to put on a line of boats themselves, but excessive if they were to put the mails on transient freight boats. They got \$300,000 a year I think, for putting the mails on transient freight boats, or at least that was the manner they executed their contract. The Postmaster General, Mr. Campbell, fined them, and fined them heavily, so that the amount they received about paid them for carrying the mail in the way they did carry it. About the time he went out of office, a similar application to the present was made, and we had before us at the commencement of this session the decision of the present Postmaster General, in which he said that, on the evidence before him, he had been forced to reverse the decision of his predecessor, and gave the contractors \$50,000 out of the Treasury, which had been inflicted as fines by his predecessor. I say to gentlemen they may take it for granted now that if this system of legislation is to be sanctioned or countenanced, within the next three years we shall have half a million or a million of dollars to return to contractors out of the Treasury. I shall say nothing further.

Mr. POLK. I merely wish to say, in addition to what the Senator from Louisiana has stated, that, in the very case to which he alludes, there were bids by two responsible men to carry that mail in regular packet-boats for a sum which would leave something to them. They were underbid by the contractors, who undertook to carry the mail in transient boats, and the consequence was, that the great public and the great commercial interests of the cities of St. Louis and New Orleans suffered during the whole time of that

contract on account of the mode in which the mail was carried. The Senator from Louisiana has shown satisfactorily, I think, the injustice that was done by that contract—the injustice that was done to the Government, but, more than all, the injustice that was done to the public by the mode in which that service was performed, and the releases that were given from the fines and penalties that were incurred for the non-fulfillment of the engagement.

I wish to call the attention of the Senate to another fact. Any gentleman who has seen a cause of collision betwixt western boats that came in contact in low water, or especially in a fog, tried, will understand how dangerous it will be to allow contractors to go before the Department on *ex parte* proof of such circumstances to make out a case that shall excuse them from the fines which have been imposed upon them by the prior Postmaster General, and thus relieve them of \$43,258 of the amount of fines which had been deducted from their contract price of \$70,000 for carrying the mail. If that is to be allowed, I undertake to say that the equality and fairness of bidding for these contracts are entirely gone, and the public are to be made to suffer the consequences of men getting contracts under such circumstances that they will know, or, at least they will reasonably calculate, that the fines and forfeitures which the law has intended shall be the means of bringing them to a strict performance of the contract will be taken off by Congress as soon as the application is made. This matter has been passed upon by one Postmaster General, and I think we ought to let it stand where it is.

Mr. CRITTENDEN. I did not expect, sir, that this subject would have occupied the time it has done, or I should not have said to the Senate that I supposed it would be a matter of a very few moments. I shall detain the Senate but a very few minutes myself.

Mr. President, I think you will agree with me that much has been said beyond what the immediate subject requires. Gentlemen have told us of contracts in regard to which they know abuses have been practiced, and fines improperly remitted. Why, sir, we should never grant relief, if we were to act on the idea that the authority we now give to do justice, will be abused for the purpose of doing injustice. If this argument were applicable, what is the worth of it? Nothing. You have made a Postmaster General; you have authorized him to preside over this subject; and you have authorized him to decide upon all similar cases. The application is now for him to adjudicate upon a case occurring within a former Administration—that is all. Is our Government to be split up into little terms of four years, so that one four years is not to have anything to do with another? It is breaking the Government into fragments.

How has this matter been acted upon—passed upon, as gentlemen say? Upon the information which is communicated by the deputy postmasters to the Department, a fine is entered before the party fined has an opportunity of being heard. Is that passing upon the case? At a subsequent time, the party fined makes his application and shows cause for the remission of the fine; he presents his evidence; he applies for an adjudication; the Postmaster General goes out of office without having made that adjudication; he leaves it undone. Is that deciding, is that acting? That is inaction—not action. Now, the question is, whether the case in that state can be, according to universal usage and the admission of gentlemen here, properly acted on by the Postmaster General? The present Postmaster General, finding the case, as I understand, in that condition, considers it acted upon, or passed upon—not that any decision has ever been pronounced on the application deciding that the cause shown was good or insufficient, but the fine was imposed, and the application for remission not disposed of. The chairman of the Committee on the Post Office and Post Roads, who reported this bill, will please correct me if I am wrong in this statement. Did Mr. Campbell make any express adjudication on the subject? Is there any such on the records of the Post Office Department?

Mr. YULEE. Not on the application for re-examination.

Mr. CRITTENDEN. That is what I mean. He made no decision on the application for re-ex-

amination and remission. How can gentlemen say it has been acted upon?

Mr. YULEE. If the Senator will allow me, I will state further, on the authority of a Senator now in his seat, the Senator from Minnesota, [Mr. SHIELDS,] that the former Postmaster General determined to take up the case for re-examination, but that his official term expired before he could reach it.

Mr. CRITTENDEN. That is what I understand to be the case.

Mr. SHIELDS. I learned that fact, which I was about to communicate to the Senator from Illinois when I sought to interrupt him, that the former Postmaster General had determined to take up this case for re-examination, but that he left his office before he was able to carry out that intention. The present Postmaster General, who, as stated by the honorable Senator from New Hampshire, is very particular and rigid, and properly so, in his office, has a little delicacy in touching this case without some authority of Congress.

Mr. CRITTENDEN. The present Postmaster General, out of a little scruple and little delicacy towards his predecessor, as the circumstances occurred under a former Administration, and the case was before his predecessor, will not act unless Congress will give him the authority and permission to do so. The statement made by my honorable friend from Minnesota, I think, supersedes the necessity of any argument of the question on my part. I hope my friend from Louisiana will be satisfied with it, and that his amendment will be withdrawn.

Mr. BENJAMIN. I would very willingly withdraw the amendment, and be satisfied, if the Senator from Minnesota can state to us that he got his information from an official source.

Mr. SHIELDS. No; I have no official information on the subject.

Mr. BENJAMIN. The contractors may possibly have said so, and that would not satisfy anybody.

Mr. SHIELDS. I really do not know what an official source is. I have learned it incidentally at the office.

Mr. CLAY. I see that this debate is going to continue. It has already occupied nearly half an hour of the time allotted for the special order, and I move to lay the bill on the table. There are Senators around me who say they want to investigate it, and are not ready to vote on it.

Mr. CRITTENDEN. I hope the Senator will allow us to have a vote on it now.

Mr. CLAY. We cannot have a vote, for I am assured by Senators around me that they are not ready for a vote. They say they wish to lay it over until to-morrow morning.

Mr. CRITTENDEN. Then, as we are so far advanced in the bill, I hope the gentleman's motion will not prevail.

Mr. CLAY. I move that the bill lie on the table.

Mr. SLIDELL called for the yeas and nays on the motion; and they were ordered.

Mr. YULEE. I suggest to the Senator from Alabama to withdraw his motion. I presume he does not intend it as a test vote. If it is the desire of the Senate to allow the bill to pass over until to-morrow, I presume there will be no objection on the part of the Senator from Kentucky.

Mr. SLIDELL. I have called for the yeas and nays because I desire to make it a test vote. I think we have heard enough of the case.

The VICE PRESIDENT. The Secretary will call the roll.

Mr. BRIGHT. I beg leave to state that I think the better plan would be to let the bill lie on the table until the Senator from Ohio [Mr. PUGH] shall be in his place. I know he takes an interest in this bill. It affects some of his constituents. Some of the parties live in the city of his residence. If the bill goes on the table by consent, it can be taken up again. I hope the Senator from Louisiana [Mr. SLIDELL] will agree to that.

Mr. SLIDELL. I did not make the motion to lay on the table, but I think the Senate is sufficiently informed now to act on this bill definitely in the mode proposed. I am very sure it cannot pass without very protracted debate. It involves questions of importance, and will cause the expenditure of a large amount of money.

Mr. BRIGHT. I should be glad to say some-

thing on it myself. I move that it lie on the table informally.

The VICE PRESIDENT. It requires unanimous consent, the yeas and nays having been ordered, to withdraw the motion.

Mr. SLIDELL. I am willing to withdraw the call.

The VICE PRESIDENT. The Chair hears no objection. The bill and amendment will lie on the table informally.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HENRY, his Private Secretary, was received, announcing that the President had this day approved and signed the following acts and resolution:

A resolution to authorize the Secretary of the Treasury to audit and settle the accounts of the contractor for the erection of the United States marine hospital at San Francisco;

An act for the relief of John R. Temple, of Louisiana; and

An act to authorize the settlement of the accounts of Luther Jewett, late collector of the district of Portland and Falmouth, in the State of Maine.

CALIFORNIA LAND CLAIMS.

Mr. BAYARD. The bill of the Senate (No. 312) to provide for the collection and safe-keeping of the public archives in the State of California, has been returned from the House of Representatives, with a slight amendment, which is in line seven of page 2, to strike out the word "thereof" before "affidavit," and insert "showing the facts and circumstances upon which suspicions are founded." I move the amendment be concurred in.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. CLAY. I trust that we shall now proceed to the consideration of the special order.

Mr. DOUGLAS. What is the special order?

The VICE PRESIDENT. The first special order is the joint resolution for the presentation of a medal to Commodore Hiram Paulding.

Mr. DOUGLAS. I move, then, to postpone all prior orders for the purpose of taking up the bill for the admission of Oregon.

Mr. IVERSON. I desire to get the floor, to move to take up a resolution I introduced a few days ago, in relation to the hour for calling the special orders. If the Senate will take up that resolution, act upon it, and decide it, there will be an end of the question. I think we had better make some general arrangement in relation to the transaction of business.

Mr. DOUGLAS. I presume the Oregon bill will not take long. I call for the yeas and nays on my motion.

The yeas and nays were ordered.

Mr. CLAY. I wish to call the attention of the Senate to the fact that the bill to repeal the fishing bounties has been thoroughly discussed; that it has been read twice, and, I believe, ordered to be engrossed and read a third time; and I trust the Senate will now take it up and dispose of it. On this side of the House, I am sure, it is not proposed to debate the bill any further. It is true, some amendments have been offered to embarrass its passage, but I presume they can be dispatched without debate; at all events, if the amendments prevail they will not affect the success of the bill ultimately, but only strengthen it in the other House. I trust we shall act upon that bill, and dispatch business nearly finished before we take up other business that will occupy at least two days of discussion.

The question being taken on Mr. DOUGLAS's motion, by yeas and nays, resulted—yeas 28, nays 28; as follows:

YEAS—Messrs. Bell, Broderick, Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Gwin, Hale, Hamlin, Harlan, Houston, Jones, King, Rice, Seward, Shields, Simmons, Stuart, Sumner, Wade, and Wilson—28.

NAYS—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Brown, Clay, Clingman, Crittenden, Davis, Fitzpatrick, Green, Hammond, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, Mallory, Mason, Pearce, Polk, Sebastian, Sidel, Toombs, Trumbull, Wright, and Yule—28.

The VICE PRESIDENT. The Senate is equally divided.

Mr. CLAY. The motion fails.

Mr. DOUGLAS. That depends on the Chair.

The VICE PRESIDENT. The Constitution provides that, when the Senate is equally divided, the Vice President shall vote. The Chair votes in the affirmative; so the Oregon bill is before the Senate. The Secretary will read it.

Mr. JOHNSON, of Tennessee. I desire to ask whether the motion of the Senator from Illinois was a motion to postpone and take up?

Mr. DOUGLAS. It was in the same form precisely in which such a motion was made the other day, when we had a discussion on this point.

Mr. JOHNSON, of Tennessee. I understand now that the Senate can take up any bill on motion. If so, I desire to move—

The VICE PRESIDENT. The Senator is right. The Chair has investigated that subject more thoroughly since it was up the other day, and he will state his impression. The motion of the Senator from Illinois was to postpone the prior orders for the purpose of taking up the Oregon bill. The motion was not to postpone the prior orders and take up the Oregon bill, in which case, if the motion prevailed, the Chair would consider it the purpose of the Senate to take up that bill; but the motion to postpone the prior orders having been agreed to, the Chair thinks it is in the power of any Senator having the floor to make a motion to take up other business. If no motion is made to take up other business, the Oregon bill would come up regularly, and the Chair announced it as in order.

Mr. COLLAMER. Allow me to suggest to the Chair that, as I understand the question, if the previous orders be postponed, this bill is before the Senate as a matter of course, because the hour has arrived for the special orders; and if you postpone all special orders before this bill, this necessarily comes up. The hour having arrived, the special orders are to be taken up; and having postponed all previous to the Oregon bill, that is now the first in order, and any motion to take up other matter is a motion to alter the order of the Calendar as it stands.

The VICE PRESIDENT. It is like all the business upon the table. The Chair would call it up; but our rules provide that, when no question is before the Senate, any Senator may make a motion to take up any business. The Senator from Tennessee being upon the floor, the Chair must recognize any motion he may make.

Mr. COLLAMER. I insist that the Oregon bill is before the Senate.

Mr. CLAY. I wish to explain what I understand to be the rule. I respectfully submit to the Chair that the motion of the Senator from Illinois was to postpone all prior orders to the Oregon bill.

Mr. DOUGLAS. Yes, sir.

Mr. CLAY. The Senate have, with the casting vote of the Vice President, sustained his motion, and they have postponed all orders prior to the Oregon bill. Then, I submit whether it is in order to move to take up one of those prior orders which, by the vote of the Senate, has already been postponed.

The VICE PRESIDENT. The Chair decides this to be the condition of affairs. He will give his decision, and then the Senate can dispose of it. He put the motion of the Senator from Illinois to postpone the prior orders. That motion prevailed. The Chair then took up the Oregon bill, no Senator being upon the floor; it was the next business in order, and the Chair laid it before the Senate. The Senator from Tennessee rose in his place, and the Chair is willing to hear him, not knowing what motion he wishes to make. Perhaps he may move to postpone the bill.

Mr. JOHNSON, of Tennessee. The Chair has reached my conclusion. I understand the Chair to decide that the Oregon bill is before the Senate.

The VICE PRESIDENT. Yes, sir.

Mr. JOHNSON, of Tennessee. I rise for the purpose of moving to postpone the further consideration of that bill for the present, in order to take up the homestead bill. My reason for making that motion is, that we may have action on the homestead bill. I would, while up, simply remark that the homestead bill has been a special order since January last. This bill has been reported to the Senate long since that was made a special order. It has been on the Calendar and postponed; other questions have intervened, and

still there seems to be no chance to get at the homestead bill. I move that the consideration of the bill to admit Oregon as a State into the Union be postponed for the purpose of taking up the homestead bill; and upon that motion I hope the Senate will give me the yeas and nays.

Mr. BENJAMIN. I rise to a question of order upon that proposition. It is, that that motion is not in order. My friend from Alabama, I think, has stated the position so clearly that there can be but one opinion about it. The Senate has just postponed this bill, a minute ago, and the proposition being postponed before the next business is considered, the Senator from Tennessee moves to take it up. The proposition has been postponed by reason of a vote of the Senate, postponing all business on the Calendar prior to that suggested by the Senator from Illinois. This is one of the bills prior to the one proposed to be taken up by the Senator from Illinois. It stands postponed by a vote of the Senate this morning. Of course, it cannot be put again as a motion to the Senate. If the Senator from Tennessee desired that that bill should not be postponed, he ought to have moved an amendment to the motion of the Senator from Illinois to insert the words, "except the homestead bill." Then the Senate would have postponed all prior business except the homestead bill, for the purpose of taking up the Oregon bill, and then he could have got his bill up; but the homestead bill is as much postponed as any other bill that stood before the Oregon bill on the Calendar.

Mr. JOHNSON, of Tennessee. I do not see the force of the objection urged by the Senator from Louisiana. The Senate has postponed a certain number of propositions—

The VICE PRESIDENT. The Chair will remind the Senator that the question of order must be decided without debate. The Chair does not think the point of order made by the Senator from Louisiana is well taken. The Senate, by a vote, postponed the prior orders. The Oregon bill was then called up by the Chair, and brought before the Senate; and the Senator from Tennessee has moved to postpone it. The Senate undoubtedly has the control of its own business; and the Chair must put the motions that are made to the vote of the Senate.

Mr. BENJAMIN. If the motion now is to postpone this particular bill, of course it is in order. I do not make a point of order on that; but the question of order is that it is not allowable to move now to postpone the Oregon bill for the purpose of taking up the homestead bill.

The VICE PRESIDENT. If, by a vote of the Senate, this bill shall be postponed, it will undoubtedly be in order for the Senator from Tennessee to move to take up the homestead bill, or any other bill.

Mr. FESSENDEN. I rise simply to inquire what would be the next business in order if the motion to postpone, made by the Senator from Tennessee, should prevail? What would then come up?

The VICE PRESIDENT. Whatever the Senate might choose to take up.

Mr. FESSENDEN. Suppose no motion were made to take up anything else, what would come up in order?

The VICE PRESIDENT. If the Chair construed the prior orders to embrace all business on the table, he would sit still until some Senator made a motion.

Mr. FESSENDEN. All business prior to the Oregon bill has already been postponed. If that should now be postponed, would not the special order next succeeding that be the business before the Senate?

The VICE PRESIDENT. Will the Senator from Maine please state his point of order again?

Mr. FESSENDEN. I make no point of order; I merely make a suggestion. The business prior to the Oregon bill has been postponed, and the Senator from Tennessee now moves to postpone the Oregon bill. Suppose that motion should prevail, would not the next business in order, without any action of the Senate designating any particular bill, be the one which stands next succeeding the Oregon bill?

The VICE PRESIDENT. The Chair would so decide, for this reason: the postponement was to no definite period. If the Senate should now postpone the Oregon bill, and no motion were

made to take up any other business, the Chair would call up the first special order.

Mr. FESSENDEN. I desire to inquire what is the next business?

The VICE PRESIDENT. The first special order is the joint resolution for the presentation of a medal to Commodore Hiram Paulding, and the next is the bill in regard to the fishing bounties.

Mr. FESSENDEN. But what would be the next in order after the Oregon bill?

The VICE PRESIDENT. The Oregon bill is on the general orders. It is not a special order.

Mr. DOUGLAS. I concur with the Chair entirely on each of the points of order which have been raised. I think the motion is in order now to postpone the Oregon bill for the purpose of taking up any other; and when it is postponed, I think it is perfectly competent for the Senate to indicate any bill on the Calendar that it desires to consider. I trust, however, that the Senate will not postpone the Oregon bill. I hope it will be acted upon.

The VICE PRESIDENT. It is moved by the Senator from Tennessee to postpone the consideration of the Oregon bill; and upon this motion the yeas and nays are called for.

The yeas and nays were ordered; and being taken, resulted—yeas 8, nays 45; as follows:

YEAS—Messrs. Chandler, Durkee, Hale, Henderson, Johnson of Tennessee, Toombs, Trumbull, and Wade—8.

NAYS—Messrs. Allen, Bell, Benjamin, Bigler, Bright, Broderick, Brown, Clark, Clay, Clingman, Collamer, Crittenden, Davis, Dixon, Doolittle, Douglass, Fessenden, Fitzpatrick, Foot, Foster, Green, Gwin, Hamlin, Hammond, Harlan, Houston, Iverson, Johnson of Arkansas, Jones, Kennedy, Mallory, Mason, Pearce, Polk, Rice, Sebastian, Seward, Shields, Simmons, Slidell, Stuart, Sumner, Wilson, Wright, and Yulee—45.

So the motion to postpone was not agreed to.

ADMISSION OF OREGON.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 239) for the admission of Oregon into the Union.

Mr. CLARK. I move to amend the preamble in the second line after the word "republican" to insert the words "in form." The preamble recites that the people of Oregon have formed a republican constitution.

Mr. TRUMBULL. I inquire if the question pending is not on the postponement of the bill until the first Monday in December, and if this amendment is in order?

The PRESIDING OFFICER. (Mr. BROWN, in the chair.) The present occupant of the chair is informed that the question is on postponing the bill until the first Monday in December next.

Mr. DOUGLAS. Upon that I ask for the yeas and nays as a test question.

The yeas and nays were ordered.

Mr. FITZPATRICK. I am a member of the Committee on Territories, and occupying the position I do, I merely rise to state the reasons that will influence me in my vote on this matter. It was not my fortune to concur with the majority of the committee in reporting this bill—not that I object to the admission of any State that comes here in a form to entitle her to admission, but I think the Senate has witnessed enough in the last few years to be satisfied that we should have something like a general rule or general law regulating the admission of new States. It is no ordinary matter to constitute a sovereign State.

My great difficulty in not coming to an agreement with my colleagues of the committee on this subject, arose from the fact that we are entirely destitute of anything like reliable information as to the population of this Territory. When this question was under consideration a few days ago it was the opinion of one Senator that the population was, perhaps, between forty and fifty thousand; and another Senator entertained the belief that, perhaps, it would approximate eighty thousand. Now, I ask you, sir, is there a Senator on this floor who can state what the population of Oregon is? Is this to be the settled policy of the country, that new Territories are to come into the Union without any rule or regulation, on a mere statement of the belief of Senators or other individuals that it contains the requisite population? Is that sufficient ground for the admission of a new State?

So far as the constitution of Oregon is concerned, if it suits the people of that Territory, I hold that I have no right to go beyond that and

to mold a constitution for them, provided it does not violate the Constitution of the United States. But it will be recollected that at the last session of the Senate there was a bill pending to pass an enabling act for Oregon. It was not passed; and in the very teeth of that, no matter from what cause it was defeated, we find the people organizing a convention, establishing a constitution, and sending it here for admission. All this results from the loose manner in which we receive information in regard to the population of Territories. I have no complaints to set up in regard to the constitution of Oregon; but I do say, that before we undertake to admit a new State into the Union, Congress should have some regular and fixed rule by which States should be constituted, and also authentic information as to her population.

Now, sir, I ask again, what evidence have we as to the real amount of population? We have none but the statements of gentlemen. No doubt, they speak from the best information they have; but is that the kind of information the Senate should require before admitting a new State? I say it is not; and I say it is time for the Senate to pause, and to establish some law, some rule, some regulation, by which to govern the admission of new States. The Committee on Territories, conscious of the fact, reported a bill, which is now on your table, requiring the State to have the Federal population before coming into the Union. It is a good bill; and I intend to yield it my support when it comes up. I wish it was the law now.

What is to be accomplished by the admission of Oregon at this time? This happens to be a case where we have ample time to do that Territory justice, if entitled to admission, and at the same time to act ourselves understandingly on the subject. In voting to postpone, as I shall, until the next session of Congress, I shall do so for the purpose of allowing Congress time to pass a bill to authorize the Territory to take a census, and report it to us at our meeting in December next. When that is done we shall have the facts before us in an authentic form, on which the Senate can form some reasonable and proper conclusion as to the population of the Territory, before we admit it into the Union as a State. I think it is the safer mode. We have all been driven, by the force of circumstances, to admit a State short of the requisite population. It is unnecessary to allude to that, because Senators are familiar with the facts. But here is a Territory where nothing could be accomplished by its admission now. They could not send Senators here during this session. They could accomplish nothing between now and the next session of Congress, except to send us a census, and let us know whether they have sufficient population to entitle them to admission or not.

Oregon has been modest about this. She has not attempted to force Senators upon us. She has not gone through the forms of electing State officers, but has acted with becoming respect, and with a diffidence that satisfied me that she doubted, under the circumstances, that she would be admitted. Therefore, although I dislike to cast a vote of this kind, because I would as promptly vote to admit a free State as a slave State when she presents herself with a clear record, showing clearly that she is entitled to admission—my acts have shown that; but, as in this case, nothing can be accomplished by action, and no detriment can accrue to Oregon by a postponement until the first Monday of December, postpone it, and then pass an enabling act, ascertain her population, and then, if it comes approximately towards the number required to entitle a State to one member under the Federal ratio, I am inclined to think Congress will admit the State.

Mr. GWIN. I am sorry to hear the announcement which has been made by my friend from Alabama, in view of the fact that for four or five months we have been engaged in nothing else but making a State out of a Territory where no census had been taken, and where it is acknowledged there is not as large a population as there is in Oregon; and he has been one of the most earnest advocates for admitting that State. I acknowledge that there were rather extraordinary circumstances urged as an excuse for doing it, but it has been done. I am sorry to see him now rise and oppose the admission of Oregon on the ground of a want of population, when it is notorious that her population is larger, and is in a better condi-

tion to support a State government, than that of Kansas. He says we have no testimony in regard to the population. What testimony had we in the case of Kansas? What other testimony did we require than that she had sent a constitution here under the proper legal sanctions, as Oregon has done? Was there any enabling act to authorize Kansas to send us a constitution here? Why is that objection made to Oregon now, when we have admitted Kansas? I am sorry to perceive that some of those who sustained the admission of Kansas, now oppose the application of Oregon.

We have the best test of the population in Oregon that can possibly be given. It is the test of the poll-books; which prove that poll-tax is paid there upon upwards of sixteen thousand adults. I expect the Senator's own State cannot show a poll-list of double that amount, and it has seven members of Congress. We only ask one for Oregon.

We have another good test. They bring up a vote that was cast when this constitution was adopted; and there was no excitement, no contest. I have the best evidence—from the gentleman who was before the people running at the time—that, at an election held nearly two years ago, there were between seventeen and eighteen thousand votes polled. That was a contested election. There never was better evidence of a fixed population in any Territory of this Union than there is in Oregon. As I stated before, there are more families in Oregon now than there were in California when she was admitted with two members. I was reported as saying more than there are now in California. That is not what I said.

I am sorry to see this objection to the admission of Oregon coming from the quarter it does, and at this particular time, because the Territory of Oregon has approached this stage deliberately. The question has been before the people there three times. Twice the people rejected the proposition to call a convention because they were of opinion at that time that it was not expedient to assume the expenses and responsibilities of a State government. They have approached it gradually, after discussing the matter for years, and now they have formed this constitution and sent it here. They have formed it in peace and quietude; they have had no disturbance. Under this constitution an election will be held during the next month; they will elect a complete State government, and I assure my friend from Alabama they will put it into operation, and it is the only government that will be there, whether you admit her as a State or not. I did not expect ever to have to answer any arguments coming from my friend from Alabama against this measure. I wish now to refer to an objection that was brought forward by the Senator from New Hampshire, [Mr. HALE,] when this question was up before.

Mr. HAMLIN. Will the Senator from California answer me a question? I should like, if the Senator can inform me, to know what was the aggregate of the vote given at the time they voted in favor of forming a State constitution?

Mr. GWIN. Between ten and eleven thousand.

Mr. HAMLIN. And what was the vote given on each side?

Mr. DOUGLAS. I think only a couple of thousand votes were cast against the constitution, a very small amount—perhaps less than that.

Mr. SEWARD. Two thousand five hundred votes were cast against the constitution.

Mr. HAMLIN. Was there not a direct proposition submitted to the people of that Territory—will you form a constitution?

Mr. GWIN. That was done the year before, and they voted in favor of it.

Mr. HAMLIN. What was the vote on that?

Mr. GWIN. I am not prepared to say what that vote was. It was closely contested for three elections. Twice the proposition was rejected, and the last time it was agreed to.

Mr. HAMLIN. I want to know what that last vote was?

Mr. GWIN. I stated that there had been seventeen or eighteen thousand votes polled in a contested election when all the people came out. Whether or not that was on the occasion when the people agreed to call the convention, I cannot say. I got my information as to the number of votes, from General Lane, the Delegate. I was going to answer an objection made by the Senator

from New Hampshire. He objects to the admission of Oregon, because the constitution made by the people of Oregon excludes Chinese from the new State; and he intimated that that was a violation of the Constitution of the United States.

Now, Mr. President, I think that is one of the best provisions in their constitution. The Chinese population who visit the Pacific coast are a pestiferous race. They are like the caterpillars and grasshoppers that afflict the country on this side of the mountains. They do not add to the wealth of the country; but they take away from it. They are not citizens; they are not recognized as citizens. They are a poor, miserable, degraded, slavish race; and we are of opinion in California—though we cannot trace it home to the parties, for they keep their own secrets—that four fifths of them are slaves; that they have masters in China, to whom they transmit the proceeds of their labors. It would be a great blessing to us in California if we were clear of them entirely. They have never brought us any benefit; they hang about the purlieus of our cities, the most degraded population; they come in behind American citizens in mining districts that have been temporarily abandoned; and, living on a mere handful of rice a day, they gather up the gold that is left, and ship it out of the country.

Oregon having witnessed the operations of this population in California, has wisely determined that she will not allow them to take mining claims, or have a permanent abode in that new State. It is hard to tell what will be the ultimate fate of the Chinese population in my own State, and what will be the consequence of their coming there. They bring no permanent and useful improvement to the country—I mean the great mass that go to the mines, and such as would go into Oregon, if they were permitted. If we had considered in California that we had the power to prohibit their landing there, I believe the State would long since have passed laws for that purpose; but it was considered that the power was lodged in Congress.

Another objection is made to the constitution of Oregon, because it prohibits colored persons from going into the State. That objection amounts to nothing; that provision of the constitution of Oregon meets my entire approbation. If, in 1849, the decision which has been rendered in the recent Dred Scott case had been made, we should have prohibited their going into California. Our people want none but the white race among us; we do not want negroes or Chinese, and we should have excluded negroes by the constitution, as we have by a recent act of the Legislature of our State, if the Dred Scott decision had been made at the time our constitution was formed. If Oregon be admitted under this constitution there will be in the States on the Pacific coast no provision for the colored race, and I have no doubt they will be excluded from the remaining territory there. These Chinese are not recognized as citizens; they are not looked upon as a portion of our population; they are not permitted by the laws to give testimony in court. They are a degraded race, and I want to get clear of all such. Oregon, in my opinion, had done well in excluding both Chinese and negroes.

Mr. FITZPATRICK. I am surprised that my friend from California should suppose I have anything like hostility to the admission of Oregon as a State. My inclinations are of a different character, and I would vote for her admission if I was satisfied she had the requisite population. I assume the simple ground that we are not in possession of sufficient materials to enable Congress to judge whether she has the proper population or not. That is the ground I take; and further I say we have ample time now to allow Congress to obtain the information by passing an act authorizing the taking of a census in that Territory. What objection can be made to that?

The Senator alludes to the fact that we have been discussing for the last four months, the application of another Territory for admission. That Senator very well knows that that Territory has been a Pandora's box of evils to the country, so far as its peace and quietness are concerned, until the country is nauseated and sick of the bloodshed and disorders which have occurred in that Territory. We did not touch the matter of population there, because everybody, I believe, in some shape or other, voted to admit the State

and turn it over to the people of Kansas. I say it is time now to pause, especially in the face of the fact that these examples grow into precedents. You organize Territories and admit States almost by magic. Territories are coming up at every session. Without being organized, you find two or three persons claiming to be Delegates from a remote Territory, never known of before as a separate Territory. There is one such case now, that of Arizona; so of Dacotah. What evidence have we of the population of either of those Territories? I am on the Territorial Committee, and it has been my duty to inquire into the facts; and it is mere guess work. I ask, on the testimony before us, when all the time that is necessary to obtain the requisite information exists between this and the next session of Congress, is it right to force a Territory in as a State merely because she is asking to be admitted?

I say not. It is unsafe. This is a bad precedent. If we persist in the course we are now pursuing, it will go into the settled policy of the country. It is not right; it is not just to Congress; it is unjust to the other States. You admit a State here, and, so far as Senators are concerned, you put her on an equality with the great State of New York, and, in fact, with all the other States in this Union, without knowing whether she has ten thousand or fifteen thousand votes. The highest vote given in Oregon, it is said, is twelve thousand, and that is the information derived from gentlemen who seem to have a knowledge of that Territory. No doubt they believe it to be so, and the fact is as they state; but does Congress have it in the form in which they should have information on a question before them? I say not; and we all know no such information is here.

Now, where is the necessity of precipitating the admission of this Territory as a State into the Union? There is ample time, as I before remarked, to obtain the information that is required, and to say to distant Territories, before you present yourselves for admission, give us the facts that will justify Congress in admitting you. No opinions of the gentlemen who sit behind me control me in this matter. In relation to the peculiar opinions of the Senator from New Hampshire, [Mr. HALE,] they are his own. I do not in the least sympathize with him, as he and all the Senate know. As to the exclusion of the particular population to which the Senator referred, I have nothing to say. It is with the people of the State themselves to determine, when they are forming their organic law, who shall and who shall not constitute a portion of their population, provided they keep within the pale of the Constitution of the United States.

I would not have said a word in regard to this matter, but for the fact of my being connected with the Committee on Territories, and it has been stated over and over again that the committee had reported this bill.

Mr. DOUGLAS. The grounds assigned by the Senator from Alabama for voting in favor of the motion of my colleague to postpone the further consideration of this bill until December next, are very pertinent to the object he has in view, but yet furnish good reasons to me why I should resist the motion. The object of the postponement is, as avowed by the mover and by the Senator from Alabama, to ascertain what the population of Oregon is, with a view of knowing whether she ought to be admitted or not. That would seem to indicate a line of policy that Oregon may be admitted whenever she has a population of ninety-three thousand four hundred and twenty, that being the ratio of representation for a member of Congress; but is not to be admitted until she shall have that population. I am willing to agree to that as a general rule, as the Senate well know. I endeavored in 1856 to apply it to Kansas. I have endeavored this year to apply it to Kansas and all other Territories. I am ready now to apply it to all the Territories except Kansas and Oregon. It having been adjudged that in the inchoate State of Kansas a less population was sufficient, I desire to apply the same principle to the inchoate State of Oregon.

My friend from Alabama gives as a reason, not only the want of sufficient population in Oregon, but the want of an enabling act. Let me remind him that both these objections existed in the case of Kansas.

Mr. FITZPATRICK. I beg to say to the Senator from Illinois that I did not give that as a reason, for I knew very well that it is within the discretion of Congress to admit a State without an enabling act.

Mr. DOUGLAS. But the Senator thinks it wise to have an enabling act, allowing Oregon to come in as a State whenever she shall have the proper population. I am rather glad to see him arriving at that conclusion. I have been struggling in this body during the whole of the past winter against the heresy that the organic act of a Territory was of itself an enabling act. The regularity, the legality of the convention in Kansas, has been defended solely upon the ground that the organic act was of itself an enabling act, which justifies the people of Kansas in proceeding, through their Legislature, to call a convention and establish a State government whenever they chose, without the consent of Congress. Sir, if the organic act of Kansas was an enabling act, the organic act of Oregon was also an enabling act. If the Kansas convention had the legal authority to establish a government without the consent of Congress, and demand admission, then the convention of Oregon had the same legal right to establish a government, and demand admission without the assent of Congress. The legislative power of the one Territory was precisely the same as the other. Each had the legislative authority granted in the same language, to wit: "that the legislative power and authority of the said Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act." If that language gave to the Territorial Legislature in Kansas the authority to call a convention and establish a government, it gave the same authority in Oregon.

We have been told all the winter, that to refuse to admit Kansas when she came with a legal, valid constitution, was to reject her from the Union—and it was to be a cause of dissatisfaction. I dissent from the doctrine. I claim that a Territory has no right to demand admission until Congress has passed an enabling act giving its assent to her forming a constitution and State government for that purpose. I say a Territory may petition Congress in the form and with the authority only of a petition for admission without that requisite population and without that previous assent. But, sir, they cannot establish a State government; they cannot put a State government in operation; they cannot demand admission as a right, until Congress has given its assent. Hence the legal authority of the convention in Kansas; and the convention in Oregon rests on precisely the same foundation, if you admit the proceeding to have been regular in each case. In Kansas the regularity and fairness of the proceedings were disputed. In Oregon they are undisputed. No man denies that the convention was regularly called by the Legislature; no man denies that there was a fair election in the selection of the delegates; no man denies that the constitution was fairly submitted to the people—not only the constitution as a whole, but the slavery clause separately and the free-negro clause separately. A fair vote was given on each, and all and each of them were ratified by an overwhelming majority.

There is no dispute but that this constitution, presented by the people of Oregon, is the act and deed of her people, and embodies their will. Then why should she not be received into the Union? Simply, because she has not the requisite population, we are told. Sir, she has confessedly more population than Kansas—ten, fifteen, twenty thousand more than Kansas. I concede that, in my opinion, she has not the full population required, according to the ratio, for a member of Congress; I do not believe she will have it for two years to come; and, therefore, the proposition to postpone until December, in order to ascertain the population, is a proposition indirectly to keep her out; it is a proposition to kill the bill of admission. Sir, if you are going to do so, it is infinitely better, infinitely fairer, to kill it on a direct vote, so that the people of Oregon may know what their fate is.

Under the provisions of this constitution the election comes on in June, and the State government is to be organized in July. If you now reject the bill, the people there will know it in time to avoid the necessity of going on and establishing a State government; but if you postpone it until next December, they do not know whether

you intend to keep them in a territorial condition or admit them as a State. You suspend them between the heaven and the earth, and they do not know which way you intend to send them, and you leave everything in confusion, doubt, and uncertainty with respect to their condition. I think the worst course you can possibly take is to postpone it by avoiding a direct vote. If you intend to keep Oregon out until she has the ninety-three thousand population, say so. Her proceedings being regular, her constitution being valid, being the act and deed of her people, if you intend to admit her with her population, say so, and let us decide it at once.

Sir, I am opposed to drawing this distinction between two inchoate States which may come here with a population which is nearly the same, although Oregon has the larger. I am opposed to saying that one has the right to come in without the requisite population and that the other has no such right. Sir, that distinction is odious; it is invidious; it is violative of the doctrines of the President's message in regard to Kansas, in which he said that Kansas had been prepared for admission into the Union beyond the right of the Territorial Legislature to interfere. If Kansas had been thus prepared, Oregon is thus prepared; she has passed from a territorial condition to that of a State, with the right of admission into the Union. That is the position of the President in his message justifying the admission of Kansas with the Lecompton constitution; and the President's whole argument is sustained in the Oregon case, from the further fact that the President said he thought the rule applied to Minnesota requiring the constitution to be submitted to the people for ratification, ought to be the general rule in all the Territories. Oregon has complied with that rule; Oregon has submitted her constitution to the people. They have ratified it at the polls, and she comes exactly within the two conditions specified in the President's message, to wit: first she has been prepared for admission under law; secondly, the constitution has been ratified by the people, and this is ascertained to be the act and deed of the people embodying their will. I may go further; the President thought the slavery question should be distinctly and separately submitted. Oregon has submitted it separately and distinctly.

I say, then, that Oregon is within every rule that has been laid down to justify the admission of Kansas under the Lecompton constitution, and, at the same time, she has avoided every objection that has been urged as an insuperable one to the admission of Kansas under that constitution. It is true I indicated that Kansas had not the requisite population to demand admission as a right, but I was willing to waive that. I indicated the objection that she had not the assent of Congress to form a constitution, and hence her proceedings were in the form and with the authority only of a memorial, and not with the right to admission; but I was willing to waive that, if the constitution were submitted to the people, and it was shown that it was their act and deed. On the other hand, we were told by all the advocates of the Lecompton constitution, that it was a right to demand admission; that the constitution had been formed by a lawful convention; that it was therefore legally the act and deed of the people whether it was so in fact, or not; that the question of population was not a matter of any importance, and did not constitute a valid objection.

If these were good reasons in the Kansas case, why are they not in the Oregon case? Admit both of these inchoate States with whatever population they have got; thus you dispose of them; and then I am ready to put all the other Territories on an equality by applying the general rule for which I have struggled for years, to restrict each and all of them to the requisite population, and to require the people to authenticate their constitution in such manner as to be certain that it is their act and deed, and embodies their will. I am prepared for that as a general rule, applying it to all the Territories and enforcing it rigidly, giving it as a notice in the future; but I will not apply it to Oregon, and exclude Kansas from its operation, when Oregon has a higher and a better right to admission than Kansas had with a less population.

Mr. President, I do not wish to occupy time in the discussion of this question; but I think it

is unjust, unfair, towards the people of Oregon, under the circumstances, to keep them out of the Union; and, above all, it is unfair to postpone their application without deciding it. They wish to know whether they are to be a State or remain a Territory. They ought to know their fate. They ought to be enabled to regulate their affairs with reference to it. They want to know whether they are to go on and elect a Territorial Legislature or elect a State Legislature. They desire to know whether they shall elect a Territorial Delegate to the next Congress, or elect a member of Congress. It is important that they should know. Why, by this postponement, induce them to go on with a State election, omitting their Territorial Legislature, disbanding the territorial government, and having neither a Territorial Legislature, nor a Delegate here, under the hope of being admitted next winter, and then perhaps reject them next winter for the want of sufficient population? It is unjust to keep them in suspense. There is no good to be attained by it. If you are going to exclude them on the ground of a want of population, do it at once. If you are going to admit them with a less population than ninety-three thousand, do it now.

In regard to the other points which have been made, I have but a word to say. I will not follow the Senator from California in a discussion of the character of the Chinese immigrants. I care not whether his description of them be correct or not; it matters not to me what the character of that population is; the sovereignty of a State has a right to exclude them if it chooses, or to admit them if it wishes. So with regard to the free negro clause: if Oregon wants that population, let her have them; if she does not want them, let her exclude them; it matters not to me. So with regard to the slavery question; if she wants slaves, let her have them; if she does not want them, let her exclude them; that is her business, not mine. Hence, sir, I am not going to discuss the policy of the admission or exclusion of Chinese, the policy of the admission or exclusion of free negroes, or the policy of the admission or exclusion of slaves. I have nothing to do with those questions of policy. I deny your right to decide them. I hold that when Oregon comes here for admission as a State, she has a right to come with such constitution as she chooses, provided she does not violate the Constitution of the United States; and you have no right to inquire what the clauses of her constitution are about Chinese or free negroes or slaves, so long as they do not violate the Constitution of the United States; and even if they do, that is a judicial question, to be decided, not by Congress, but by the courts established by the Constitution of the United States. I will not discuss the propriety or impropriety, the wisdom or folly, of these restrictive clauses in the constitution of Oregon, because that discussion, if made with a view of controlling her action, is an invasion of State rights and State sovereignty, which I never intend to be guilty of while I hold a seat on this floor, or have the right to cast a vote to affect the destinies of this country.

Mr. HALE. I do not wish to prolong this discussion, but I desire to say that the suggestion I made, on which the Senator from California spoke, was a query whether or not this provision of the constitution of Oregon was not inconsistent with our treaty obligations with China. I understood the Senator from Illinois to suggest that the exclusion of the people of any nation from a particular State was a question of State sovereignty, with which we had nothing to do. I do not know how far the Senator would carry that idea. Would he think it was competent for any State of this Union to exclude Englishmen, or Frenchmen, or Spaniards, or the people of any European nation with which we have treaties of amity and friendship?

But, sir, there is another doctrine advanced by the Senator from Illinois, to which I never will submit at any time, here or elsewhere, and that is, that a question arising in a case before us for our action, is a judicial question to be passed upon by the Supreme Court of the United States, and that we have nothing to do with it. Sir, upon every question of a constitutional character involved in the admission of a State, or involved in any act that we are called upon to do, we are the judges and the sole judges, and the Supreme Court

have nothing at all to do with it. This is the only reading of the Constitution that will not make it an instrument of oppression in the hands of one department of the Government over another. I concur entirely in the view presented by General Jackson on that subject, that each department of the Government is, and of necessity must be, the judge of its own power under the Constitution in regard to the acts that department is called upon to perform, and that it would be a piece of impertinence in the Supreme Court to interfere with it. All these questions are submitted to us, and we have to pass upon them; and in passing upon them we have to judge, we have to determine what the Constitution of the United States is, and we ought to decide it on our own judgment, entirely irrespective of what the Supreme Court may think. I do not care what the Supreme Court think on a matter that is legitimately before Congress for congressional action. When it assumes a judicial shape, and comes before them in litigation, then if there are any private rights to be affected by it, they are to determine. But for the political action of Congress, of the Senate and the House of Representatives, and of the Executive when it comes to him, each body must judge for itself. In our legislative action we are the judges, the sole and exclusive judges of what the Constitution means, the powers which it confers, and the rights which it gives to us. I dissent entirely from the idea that in regard to any question appropriately arising in the fair field of legislative discussion, the construction which the Legislature are to put upon the acts they perform is to be governed by the Supreme Court. We are the sole judges of what the Constitution is on such subjects, utterly regardless of any opinions of the Supreme Court or anybody else on God's earth outside of this Chamber. The Senate are to judge for themselves.

Mr. TRUMBULL. The Territory of Oregon asks admission into the Union as a State by the presentation of a constitution formed without any authority derived from Congress, and we are not furnished with any official information whatever of the extent of her population. It is admitted by every one, I believe, that a State ought not to be admitted into the Union until it has sufficient population to entitle it to at least one member in the House of Representatives. That principle is so manifestly just that all assent to it. State equality requires it; for it is unjust that fifty thousand people in one locality should have a representative in the other branch of Congress founded upon population, while fifty thousand in another locality have no such representation. Fifty thousand of the people of Illinois have as good a right to a representative as fifty thousand inhabitants of Oregon. This cannot be denied. The representation in this body is different. Here it is founded upon States, and not upon population. It is unjust, then, to the older States of the Union that new States should be admitted with a greater proportion of representation than the old States themselves have. All assent to this.

Why, then, is it that there is an effort to bring Oregon into the Union as an equal State without some evidence of her population? What reason is given for it? None under heaven but that Kansas has been admitted. Sir, I trust Kansas has not been admitted, and is not a State in the Union; I do not believe she will be a State in the Union under the bill which you have passed; but if it were so, that affords no reason why we should now vote for the admission of Oregon. The very Senators who urge that argument were opposed, they tell us, to admitting Kansas with a population of fifty thousand; but they are now against refusing to admit Oregon with fifty thousand. The very same Senators say to us, "admit Oregon and then we will adopt your rule; we will not admit Nebraska when she applies, without a sufficient population to entitle her to a Representative in the other branch of Congress." Why will you not admit Nebraska if you have admitted Oregon? You want to fix the rule at some other point; you will not fix it now; you want to admit another State first. Sir, will it be any better justice to keep Nebraska and Washington and the other Territories out of the Union with fifty thousand inhabitants, when you have admitted Oregon with fifty thousand, than it is now to keep Oregon out because you have admitted Kansas; if, indeed, Kansas be admitted?

The circumstances of the two cases are very different, but there is an assumption in this debate not warranted by any facts before the Senate, not warranted by any facts known to me, which is, that Oregon has confessedly more population than Kansas. I deny it. Where is the evidence of it? Kansas gave a majority of ten thousand votes against the Lecompton constitution, and we all know that those who favored it did not vote at that election. It had some supporters. Six thousand votes were returned in favor of it. More than half of them I believe to have been fraudulent; but suppose there were some two or three thousand pro-slavery votes for it, there were more than ten thousand given against it, making a vote of at least thirteen thousand. The largest vote ever polled in Oregon exceeds ten thousand but a few hundred, so that the evidence is that Kansas has a larger population than Oregon.

But, sir, whether that be so or not, the fact that we have voted to admit Kansas as a State, and I did so at the last Congress, is not to preclude me from voting against the admission of another State under different circumstances. Congress has a discretion to admit States or not. The Constitution provides that the Congress of the United States may admit new States into the Union. When a state of things arises endangering the peace of the country; when an army is stationed in one of your Territories to preserve the public peace at an expense of millions of money; when thousands of soldiers are quartered there; when, as I believe, a military despotism has been established in a Territory; am I to be told because under such circumstances I would not stickle for the full amount of population before I would relieve that people, that therefore, when a Territory is peaceful, when none of these considerations exist, when there is no pressing necessity for action in order to relieve the country from civil war, and perhaps save the Union itself from destruction, I must vote to admit it with the same amount of population? Sir, the circumstances are very different. I said at the last Congress that I would not vote to admit Kansas as a State but from the pressing urgency of the case. I would have done almost anything in my power to relieve that people from the despotism under which they were laboring.

Now, sir, why is it that Oregon is to be admitted as a State? Why is the equality between the States of the Union to be disturbed by allowing one State a representation for fifty thousand population, and requiring more than ninety thousand from another? Is there any pressing necessity for it? If so, I do not know what it is. I see no reason in the world for it, and I am not to be governed by any such pressure as is brought to bear on some persons, who are urged to vote for the admission of Oregon because it is a free State. Why, sir, I will not vote to admit a free State improperly any quicker than I would vote to admit a slave State improperly. I will vote for neither to come into this Union, except on conditions which I believe to be right, just, and proper, under the circumstances of the case. The fact that Oregon has established a free-State constitution will not induce me to vote to admit her into the Union when she is not entitled to admission. I am glad she has come as a free State, but it does not change my views as to the propriety of her admission one iota. I recognize, to the fullest extent, the idea of State sovereignty. I admit the right of the people of Oregon, when they form a State constitution, to regulate their own affairs, and I never thought there was any practical importance in a controversy about the admission of slave States or free States. The contest is about slavery in the Territories of the United States, and no man of any party contends that the Federal Government has anything to do with slavery in any of the States of the Union. It is with it in the Territories. There Congress has authority to regulate the subject and may properly exercise it. But when a Territory has population sufficient for a State government and forms a State government for itself, it will regulate this subject as it pleases. We have no authority to interfere with it and no party in the country ever contended that we had. Therefore, sir, I regard it as a matter of very little importance; practically I could never see any importance in the question about which so much has been said of the admission of a free or a slave State.

Does human freedom gain anything by keeping out of the Union a Territory in which slavery is tolerated? What matters it to the slave whether he is held in slavery by virtue of a territorial or a State law, provided he is enslaved? You gain nothing to human freedom by keeping a slaveholding Territory out of the Union. Suppose you insist that they shall adopt a free constitution when they are admitted, have you any power to prevent their changing their constitution the day after they are admitted? Does anybody contend for the power to prevent a State, when once admitted, altering its constitution as it may provide? No one. Sir, the controversy between parties in this country is not on the question of admitting free States or slave States. The controversy is behind that; it is in regard to the Territories of the United States. If you have free Territories, if you preserve the country free while in a territorial condition, there will be no danger of slavery being introduced either when the Territory asks for admission as a State or after it shall have become a State of the Union. In this day and age of the world you cannot assemble together one hundred thousand people, even South Carolinians or Georgians, to form a government, without any slaves or negroes among them, who would agree to introduce them. So far as I understand those with whom I act, our doctrine is for the rights of the free white man; we want nothing to do either with free negroes or slave negroes. I say you cannot get together, at this day, one hundred thousand white people without negroes among them, free or slave, who will then introduce slavery or free negroes either.

Now, sir, I see no occasion for bringing Oregon into the Union; there is no such emergency as existed in regard to Kansas. If the rule is right, that a State, in order to be admitted, should have a population sufficient for one member in the other House, let us apply that rule here. If it be right to apply it, after we shall have admitted Oregon, is it not right to apply it before? Even if Kansas had been admitted, and wrongly admitted, must we continue the error? Or shall we cease to do evil and learn to do well? Sir, apply the rule now, if it is right. If it is unjust to the people of other States to give representation in Congress to fifty thousand people in Oregon, why consummate that injustice? Oregon has had no authority to form a State constitution; no enabling act was passed for her; and though I agree with my colleague, that a State may be admitted into the Union, without any enabling act, it is irregular. The regular and direct mode is for Congress to provide how a State government shall be formed out of a Territory, and provide for ascertaining the population, so that everything may be done regularly, and the State brought into the Union, in due time, with a population sufficient to entitle her to admission.

Entertaining these views, I cannot vote for the admission of Oregon at this time. It was asserted the other day that Oregon had a larger population than I supposed—more than forty or fifty thousand. If we postpone this bill until December, the fact, in regard to this matter, can be ascertained in the mean time. One of the Senators from California has stated that the persons from whom poll tax is collected in Oregon amount to fifteen or sixteen thousand. I know not from whence that information is derived, nor, if that were shown to be the fact, do I know upon whom this tax is assessed. For aught I know, it may be assessed upon all classes of persons, and not upon voters merely. The best evidence we have before us of the population is the vote, and judging by that, it cannot exceed fifty thousand.

Mr. DOUGLAS. I have but a very few words to say; and first, as to the question of population. I think it is very clear that the population of Oregon is larger than that of Kansas. That it is not equal to ninety-three thousand, I think is equally clear; that is, about fifty-five or sixty thousand, in my opinion. Those who have a better chance than myself of forming a correct opinion—the Senators from California and the Delegate from Oregon—think it eighty thousand. Be that as it may, I shall not touch that question.

The point raised by my colleague is against the admission of a State not having the full population sufficient, according to the ratio of representation, for a member of Congress. I am glad that he is ready to adopt that as a general rule.

I have struggled hard for years to secure the adoption of that rule. I tried to apply it to Kansas in 1856, but my colleague would not help me to do it. He says if it is right as a general rule, it is proper to apply it now; and why do wrong once more, and afterwards apply a right rule? Then, however, he voted for the admission of Kansas with the Topeka constitution, notwithstanding the smallness of the population, and although that constitution had been sanctioned by only about two thousand votes; though it had not been formed by a legal convention; though there had been no regularity in the proceedings that led to its adoption. Again this year he votes to allow Kansas to come into the Union either with the Lecompton constitution or a new constitution, as the people should see proper, with probably forty thousand population. Perhaps it would have been well for him then to consider whether he had not better do right, and apply the general rule to Kansas. Why does he vote to apply it to Oregon, and not to Kansas? I made the exception of both Oregon and Kansas, because they were two inchoate States, standing on an equal footing, so far as the want of a full population and the absence of an enabling act were concerned. To admit one and reject the other, is odious and invidious. To admit the one which has been irregular in its proceedings, and reject the one which has been regular; to admit the one which has been rebellious in her spirit towards the Government, and reject the one which has been loyal and devoted to your institutions; to exclude the one which is a regular, quiet, and well-settled community, and admit that which has been in turmoil and strife and civil war, thus rewarding it for strife and civil war, is, I think, a discrimination that is unfair and unjust.

I insist now upon making an exception of both these inchoate States. Treat Oregon as you have treated Kansas; waive the objection of an enabling act; waive the objection on the ground of population, and I will apply the rule to every other case. I have offered in my place, again and again, in debate at this session, to apply this rule to Oregon if you would apply it to Kansas. I have proposed here, as a settlement of the whole slavery controversy, a provision that neither Kansas nor any other Territory shall be admitted as a State until it has the requisite population to entitle it to a Representative in Congress according to the Federal ratio. I proposed that as an adjustment; but it was rejected as applicable to Kansas, and yet it is now to be applied to Oregon; and my colleague asks me, why will you do wrong in the case of Oregon? and then votes to apply the general rule. May I not ask why you did wrong in Kansas, and now wish to apply the restrictive rule to the inchoate State of Oregon, with a larger population, a loyal, law-abiding, prosperous, and obedient people? Are we to be told that rebellion is to be rewarded; that civil war is a passport to speedy admission into the council chambers of the nation, and that, if a State wants to come here against rule, all it has to do is to violate the peace of the country, raise the standard of rebellion, shed fraternal blood; and that rebellion and bloodshed are the speediest road to the admission into the Union of States? If you put it on that ground, Oregon may give you a sample of a speedy mode of getting into the Union as well as Kansas. If you are going to drive her to rebellion, in order to establish her claim to consideration and to speedy admission as a State, she can resort to that expedient as well as others. I am told she will not do it; I do not believe she will. Her settlements were commenced at an early period by hardy pioneers, at a time when the country was under joint occupation of England and the United States. No government being established for them, they made one for themselves, and they governed themselves for years without protection from this country or any other. Afterwards, you gave them a territorial government, and they went on under it quietly and peacefully. They are a quiet, sober, law-abiding people; they have shown their capacity for self-government, and there is no reason why they should not be admitted into the Union now.

There are great reasons in favor of admission. The Pacific coast has vast interests which are now represented by two Senators on this floor, and two Representatives in the other Hall of the Capitol.

I desire to give additional representation in each branch in order that the Pacific slope may have a fair voice and just representation in the councils of the nation; and if we would relax the rule anywhere it should be to give a fair voice to the Pacific coast. I have seen Oregon and Washington Territories suffer in their interests because of the want of representation here, and it was not in my power to prevent it. California has had vigilant Senators here looking after her interests, and drawing everything that the Government could control into California, when, if there had been a representation of the whole coast, you would have heard a little oftener of the Columbia river, and of Puget sound, when you came to the distribution of the patronage of this Government, or the distribution of money for public works, and to develop the country. It is fair and just that they should have a representation at as early a period as you can give it to them consistently with those rules which you apply to other States.

I say, therefore, if you make a distinction, it should be in favor of Oregon instead of against her. I am reminded that the House of Representatives passed an enabling act last year for Oregon. That is true; I have stated it before in debate. It was reported favorably by the Committee on Territories of the Senate, and would have passed if we had had another day's session. It was lost on the last night of the session. I was blamed for not succeeding in getting it through. I had the territorial business of Oregon, Minnesota, Kansas, and all the other Territories pressing on me at once; each Delegate thought I should give preference to his business, and the Delegate from Oregon thought hard of me because I did not succeed in getting the enabling act through. The Senate unquestionably would have passed it then if we could have had a vote on it. The people of Oregon, knowing it had passed the House of Representatives, knowing that it was understood it would pass the Senate, proceeded to call a convention in obedience to what they supposed to be the assent and permission of Congress at the time. As I have said, their proceedings have been regular. Now, why exclude them on this technical rule of a want of population, when you would not apply it to Kansas, nor to other Territories heretofore? I say admit all the present inchoate States; Oregon is the last of them; and then I am ready for your general rule, as I have proposed, and I shall adhere to it in the future, but I will not make this odious discrimination between these two inchoate States.

Mr. KING. Mr. President, I am disposed to vote for the admission of Oregon, though I believe her population is not equal to the ratio required for a Representative in Congress; but as I have voted for Minnesota, and as I should have voted for the admission of Kansas if she had been allowed to frame a constitution for herself, or present herself in accordance with the wishes of her people, as a free State, I shall vote for Oregon, and I shall vote against this motion to postpone the further consideration of the bill until December next, as that is unquestionably a test vote on the passage of the bill.

I did not rise to discuss the question of admitting the State of Oregon, but to express some views in relation to a question that has been presented in the Senate, in commenting on the provisions of the constitution of the State of Oregon. The constitution entirely excludes slavery from the State, which, I think, is a very excellent provision. I recollect that the first Delegate from that Territory, who came when they had only a provisional government, Mr. Thurston, stated the absolute and nearly universal wish of that people to be not only free from the presence of slaves, but also that it was the very general wish of that people to have a homogeneous white population, and to be free from the settlement of blacks among them. They did not desire to encourage the settlement of that population among them, either as freemen or slaves. I think myself that such a provision in a constitution as excludes a black man from a right to reside in the State, or to sue in its courts, is a harsh provision; and residing in the State, I should be opposed to such a provision of law; but I certainly would not be in favor of encouraging the immigration of any considerable number of black men into a State to settle and live among a white population. I think it is the interest of both races that we should live

separate. I have here a brief extract from the letter of a black man, which I propose to read to the Senate, and in whose opinions against mixing the two races I can say that I entirely concur. He has been the projector of a periodical, which he proposed for the benefit of his race, and has attended conventions of men of his own color; and advocated, some years since, the project of colonizing, with a view to enable the black men on this continent, where they were born, to test at any rate their ability to establish and maintain a community by themselves. He says:

"The fact is, the Saxon and negro are the only positive races on this continent, and the two are destined to absorb into themselves all the others, and like two positive poles, they repel each other; and if the one is destined to occupy all the temperate regions of this hemisphere, it is equally certain that the other will predominate within the tropics. The slavery propagandists unwillingly admit the same when they declare negro labor to be indispensable in those regions. The question which suggests itself to the intelligent mind is, shall things be permitted, and encouraged to reach their natural development, which no combination of circumstances can prevent, (however much it may retard it,) by the peaceful influence of free labor? or shall the slavery propagandists be allowed to interfere and check, for a time, the march of civilization, when the ultimate result must be to usher in, through war and anarchy, the very same state of things which might have been much sooner and easier reached by peaceful and legitimate means, to the great benefit of the whole civilized world?"

I think this black man writes good sense. It is a letter which he wrote upon having read the speech of a Representative from Missouri, [Mr. BLAIR,] upon the subject of colonizing Central America by the blacks, and thus establishing a home for that race without interference with the whites, leaving the great body of the continent and the States which we occupy to our own race, and providing for them, or for those of them who chose to go there, a home where the climate would be suitable and inviting to them. In order to accomplish anything like this, we must certainly be aware that any scheme for such a purpose, to be successful, must commend itself to the black man, as well as to the white man. The colony of Liberia, in Africa, has never commended itself to the black man; and that, in my opinion, is the reason why that colony has not flourished more. The white people of the country, so far as I know, everywhere—the great mass of them—would have been glad to encourage and aid the emigration of the black man to Africa; but he was unwilling to leave the country in which he had been born, and looked upon it as an effort to get rid of him. The blacks have therefore never been induced, in any great numbers, to go; and a great number of people, like the black race in this country, can never be carried off to a distant and separate home without their consent and coöperation. The only mode in which we can relieve our country, relieve the blacks and the whites, divide these races, and provide separate homes for them, is by some scheme which will meet the approbation of both—one which the parties themselves will execute. I think well of a scheme presented of a colony in South America—or Central America, perhaps, is better—extending to it such aid and protection from this Government as would be perfectly legitimate and proper, in the hope that such a measure would be the best means of accomplishing a result so desirable for the benefit of both white and black. I think some such result as this will come in one way or another, from the collision of interests, from inevitable causes, and from the competition of free and slave labor.

From this, and other letters on this subject, from black men, which I have had the opportunity to see, I learn that this scheme is one which the intelligent and educated men among them have consulted upon—though I was not aware of it until recently—for some years past, and have been contriving how it might be executed. They speak of the great difficulty, in their scattered condition, of inducing coöperation among their people, and of apprehensions of difficulties. They have sent agents to St. Domingo, and conferred with the Government there, with a view to emigration to that country; but no feasible project has yet been adopted. But, as the free and slave labor of our country begin to press upon each other, that condition of things arises which is usually denominated "necessity;" and necessity works out the ends which it requires. In the State of Missouri, as the natural place for this movement to find a head and beginning, we find this scheme presented and advocated. Missouri desires a place where

her black people can go, and be well provided for, and which will be satisfactory to them as well as to the whites who are to remain; and colonization in Central America naturally suggests itself as the means.

This idea of a free colony of black men is one which should commend itself to our consideration, and for my part, in that connection, I do not object to the provision which the people of Oregon have adopted in their constitution. I believe the Topeka constitution of Kansas contained a provision of the same sort, and so of most of the border States; and I am perfectly willing to see the people of these new free States exercise their discretion; and whatever their wish and will is, let them speak it out, and not suppress it; for that which a community desires is that which they should talk about and proclaim, because they are most likely to know what is best for their interests and their happiness.

This and other letters which have been placed in my possession, have communicated information to me in relation to the views entertained by the black men of the country, and as I said, I regard them as more important to us on this subject than any information as to the views of the white men; for I think there is not any doubt that the great mass of the white men desire to see something done that will provide a separate and satisfactory home for the black man. I have no doubt that there is such a desire throughout our whole country—strongest, perhaps, where the necessity presses strongest. We owe something to these black people, who have served for so many years, with so great fidelity and docility, the white race, and we ought, if we could, do something for their benefit. Some scheme which will be satisfactory to them, and also to us, must be devised to carry this project out.

As I said, the condition of things now is such as requires something of this sort. They are looking to emancipation in Missouri beyond all question. Their newspapers are discussing it; and I have no doubt that in other border States that idea would be more generally entertained if a rational, easy mode of providing for the black population was ready at hand. Indeed, I remember when the annexation of Texas was discussed here and through the country, that one of the strongest arguments used in favor of annexation, through all that part of the country where I reside, was that bringing Texas into the Union as a more extreme southern State, would draw off the black population from all the border slave States, and that they would become free States; and that it was desirable to provide some States further South, to which the black population could go.

I speak of this to bring the subject to the attention of the Senate, and to avow my wish and disposition, in any practicable mode, to aid in providing such a place for the free blacks of the country. It is unnecessary for me here to state that, in relation to the rest of that population, the responsibility is with each State for itself, in all these matters, and that, without a right to interfere, there should be the modesty not to undertake to make suggestions. I have never attempted to do it in Congress, and I shall not now. But in reference to the free blacks, they are among us all, and my own opinion is, that it would be best for them, as I am sure it would be for the white population, that a home should be provided for them. I am glad to see this project; and inasmuch as this point has been alluded to in the discussion of the constitution of Oregon, I speak of it in that connection, and I desire to say that the provision of the constitution of Oregon, for that reason, is no objection to me; but it seems to me to be one of the provisions which, in the ordinary course of human action, by the collision of forces and interests among men, is calculated to aid in working out and producing a proper result essential to the good of all.

Mr. GREEN. Before the vote is taken, I merely wish to correct the statement of the Senator from New York as to the sentiment of Missouri. It has been my privilege to live there nearly twenty-one years, to mix freely with the people, of all classes—

Mr. KING. The Senator will excuse me for interrupting him. I would not presume to state what was the predominant sentiment of Missouri. I spoke of topics which are discussed there, and

which are entertained by some of the citizens of Missouri. I certainly would not here undertake to decide as to what was the prevailing sentiment of Missouri.

Mr. GREEN. Then I understand the Senator to admit that he does not undertake to give the sentiment of Missouri. If he undertook to do it, I should correct him, for I know it to be exactly the reverse of what he represented it, as I thought; but, as he now corrects himself, he confines it to a few individuals.

Mr. KING. The Senator will allow me. He does not, of course, desire to have me seem to state anything I did not. I did not assume to state how strong or how weak was the sentiment to which I alluded—whether it was predominant, or the view of a minority. I only spoke of it as a sentiment existing there; and whatever may be my opinion of the views of the majority of the people there, I will not assume to pronounce it here. I think Missouri will speak for herself on this subject, and very soon too.

Mr. GREEN. I understand the whole scope, object and design of throwing out such expressions. It is to cultivate a contest on a subject of that character in the State of Missouri, and I intend to meet it at the threshold. The public, common sentiment of the people of that State is for peace, for law, for quietude, for rest, and to abide by our institutions as they are, and not to carry conflict and contest there by the agitation of the question of emancipation or otherwise. That the same spirit which has fanned the flames of discord throughout the length and breadth of this land would seek to involve Missouri in a blaze, I have no doubt; but I do not intend to give a pretext for it in the Senate, so far as my action is concerned. I undertake to say that the sentiment to which the Senator alludes in the State of Missouri is exceedingly small. That some of it exists there, and exists everywhere, I have no doubt. We heard the same threats made in regard to the State of Kentucky a few years ago; but when the question was presented to the people of Kentucky, and they were about to elect a convention to form a new constitution, my recollection is that not a single delegate elected to that convention was tainted by the emancipation sentiment. If the same question were presented in the same manner to the people of Missouri to-day, the same result would follow that did in Kentucky. There is a great similarity between the common sentiments of the two States; the one, in the common parlance of the country, is very properly termed the daughter of the other.

I do not desire the wish, the mere expression, of one man, seized hold of and thrown broadcast over the land, with a view of prejudicing the State; and it does prejudice the State, first, by intimidating the immigration of those who hold slaves and desire to settle where they can have peace and quietude; second, by the encouragement of that class who have heretofore gotten up emigrant aid societies, fanning the flames of discord, sending a sword, instead of peace, into a community that desires peace; and it is my purpose, therefore, to disabuse the public mind. The slave population of the State of Missouri has grown rapidly within the last ten years. In the space of ten years, from eighty-five thousand, its numbers have gone up to now more than one hundred and fifteen thousand; and it is retained because it is profitable. Slave labor in the cultivation of hemp and tobacco, will compare well with slave labor in the cultivation of rice, cotton, and sugar; and I believe, at the ordinary ruling rates, it will pay better. As they are in the United States, the common sentiment of the people of Missouri is this: leave slavery, under the regulation of the law of production, to go just where it is profitable to go; not to force it anywhere, not to prohibit it anywhere. But this outside pressure, and internal assistance which the outside pressure is designed to get up, is to bring a second contest in the State of Missouri, worse than that which has hitherto prevailed in Kansas. I will never permit the first step to be taken without giving it the proper rebuke; and when the Senator from New York desires to intimate that there is to be this soon-coming contest in the State of Missouri, I tell him what the result of that contest will be.

But enough of that subject. It does not legitimately bear on the subject-matter before the Senate for its consideration, and I am sorry that it

was brought in so unnecessarily. Having been brought in, I was compelled to notice it. I pass from it. Oregon has a population of at least eighty thousand. It is a distant portion of our dominions. We have been acting on the principle that they should have what we ordinarily mean by squatter sovereignty, that is, the right to regulate their internal affairs for themselves. Why not make them an independent political community at once? If the vote is to be taken on this proposition to postpone, I shall vote against it. I know the argument is used that, if we postpone it to the first Monday of December, it will enable them to come up with certain facts in regard to population. I answer that I am satisfied with the population as it is now. I will make no invidious distinction between Kansas and Oregon. I will not say to the one you may come in, and to the other you shall not; and if we postpone it, it leaves the question still to be agitated. If we vote upon it now and reject the bill, the State can still apply for admission under the present existing constitution next December, anyhow. Why not, therefore, take a direct express vote whether you will admit the State or not?

We all remember the action of the last session of Congress. The House of Representatives passed a bill, saying to Oregon: "form a constitution and come and be thou with us." The Senate Committee on Territories reported in favor of the same proposition. It would have been passed; and the only reason why it did not pass, was not fully stated by the Senator from Illinois, [Mr. DOUGLAS,] and I will supply the deficiency. Being anxious to settle the difficulty in regard to Kansas, I moved a corresponding enabling act for Kansas as an amendment to the Oregon bill, and that movement defeated the passage of the bill in favor of Oregon. I took the responsibility upon myself because my motive was a good one, whether it eventuated in good or bad. More than a year ago the Senate was willing to say to Oregon: "you are fit to form your constitution and be admitted." Thus you are committed upon the record; thus the fact and the history of the country stand recorded against you. Shall we now repulse the application of the young sister who has come on our own invitation? I trust not. I believe the good of the whole community will be subserved by her speedy admission. I am satisfied of her population, her strength, and her ability to sustain a separate State organization, and I believe that it is good policy to extend to her that privilege. At least let us have a direct vote and not a side blow to throw off the question until the first Monday in next December. I shall therefore vote against the postponement.

Mr. POLK. I wish to direct the attention of the Senate to a statement made by the Senator from New York, which was not replied to by my colleague. I understood the Senator from New York to state it as the sentiment of Missouri, that Central America ought to be colonized with free negroes.

Mr. KING. As I stated to the Senator's colleague, I did not assume, and I would not do so, not residing there, to pronounce upon the sentiment of Missouri as a State. I did not assume to say what the sentiment was, but that these ideas existed there and were discussed. How strong or how weak they are, I do not know.

Mr. POLK. I understood the Senator to make that statement. I am glad, if he made it, that he did not intend it, or that I misunderstood him. I would say that, in my opinion, this plan or idea of attempting to colonize negroes in Central America, is as novel and as strange to Missouri as to any other State of the Union, and it was heard of there, probably for the first time, after the movement that was made in the other end of the Capitol by the gentleman to whom the Senator from New York referred.

I pass from that point to observe merely that, on the question of the postponement of the entire subject of the admission of Oregon until next December, I am opposed to it, and in favor of the admission of Oregon, though I coincide most heartily and cordially in the soundness and expediency of a rule that would require a State, before being admitted, to have population enough to entitle it to a Representative in the popular branch of Congress. I do not wish, however, in the case of Oregon, to make a discrimination against that people, especially when I believe that no new State

has come forward seeking admission, all of whose action has been more orderly and regular and proper than has been the action in the case of Oregon. I think the conduct of the population of Oregon stands not merely in comparison, but in favorable contrast, with what has been the history of some other States which have sought admission into the Union. I believe that population is settled, industrious, and well to do in all respects. I believe, furthermore, that situated as that population is on our extreme western limits on the Pacific seaboard, it is altogether proper that they should be admitted into the Union as a State, and that they should be tied to us by the still stronger cords that would exist if Oregon were made an equal sister of the Confederacy.

Therefore, sir, while I shall vote for the admission of Oregon at any time, probably at the earliest time when that question can be raised, and shall not vote for the postponement of this question until December, I wish it understood that when I do so I fully subscribe to the propriety of a rule which will hereafter require that a new State, seeking admission into the Union, shall have population sufficient to entitle her to one Representative in the popular branch of Congress. I will also say that I am rather of the opinion, from what has been stated here as being the fact in regard to Oregon, that the population in Oregon is about adequate at the present time.

Mr. SEWARD. Mr. President, a portion of the Senate is opposed to the admission of States which tolerate slavery. That portion of the Senate is gratified by the bill which is before us now for the admission of Oregon; for it is founded on a constitution which excludes slavery in the State of Oregon. I believe all the other members of the Senate have avowed the principle that slavery or freedom in a State is to them immaterial, they proceeding upon the principle of the right of a State to choose whether it will exclude slavery or not. Under these circumstances, I had hoped that we had reached a proposition for the admission of a State into the Union in which the slavery question would not be discussed here. I see no necessity for going into that discussion now. It is not at all necessary to be taken into consideration in the vote which I am to give on this question.

Sir, I know how important it is, where it is practicable in the affairs of government, as well as in other concerns of human life, to adopt general rules and to have systematized modes and methods for the transaction of affairs. The Constitution of the United States does, in a great many cases, adopt that principle of generalization; that is, of fixing certain rules and measurements, all of which must be conformed to before a great public transaction can be achieved. But it has always struck me that it was a signal mark of wisdom in the framers of the Constitution that, in regard to the admission of new States into the Union, new members of the Confederacy, the Constitution avoided altogether everything like form, everything like measurement, everything like particularity, and submitted the transaction always to the uncircumscribed discretion of the Congress of the United States. Congress may admit new States; and inasmuch as they may admit, they may reject new States. They may admit new States anywhere; they may reject them everywhere. They may admit them with one hundred thousand people; they may reject them with a million of people. Congress may admit a new State which has been organized after a compliance on the part of its people with certain prescribed forms set for them by the Congress of the United States, or on the compliance with certain customs which other Territories seeking admission into the Union may have adopted. So, on the other hand, Congress may admit a new State, as it has, on more than one occasion, admitted a new State which had complied with no forms, which had proceeded at once to the matter of organizing itself without any preliminary application to Congress, or any preliminary investigation of it by the people themselves.

It is precisely because I think it is important that this should be kept up, that the question should always come before Congress in the case of every new State disembarassed by forms, disembarassed by measurements, disembarassed by precedents, that I rise to protest against my vote here in favor of the admission of the State of Oregon, under the circumstances in which she comes here, being given upon the condition, or the pledge,

or the assurance, that under other circumstances and at another time and in regard to other States, I shall vote because of an analogy established between that State and the present one. I can conceive, as I said on this same question a few days ago, of a State with a million of people that I would not consent to admit into the Union; and I can conceive of a State which I would admit with a population of forty thousand, or fifty thousand, or sixty thousand.

In coming to this conclusion, I am determined by the fact, that, geographically and politically, the region of country which is occupied by the present Territory of Oregon is indispensable to the completion and rounding off of this Republic. Every man sees it, and every man knows it. There is some day to be a State of Oregon. There is no member of the Senate or of the House of Representatives, and, probably, no man in the United States who would be willing to see it lopped off, fall into the Pacific or into the possession of Russia or under the control of any other Power; but every man, woman, and child, knows that it is just as essential to the completion of this Republic as is the State of New York, or as is the State of Louisiana, or the Mississippi. It cost us too much to get it; we have struggled and fought too hard for it, we have nursed and cherished it too long, not to know and feel that it is an essential part of the Confederacy.

Well, then, she is to be admitted at some time, and, inasmuch as she is to be admitted at all events, and is to be admitted at some time, it is only a question of time whether you will admit her to-day, or admit her six months hence, or admit her a year or seven years hence. What objection is there to her being admitted now? You say she has not one hundred thousand people. What of that? She will have one hundred thousand people in a very short time. This motion to postpone until the first Monday in December next, if it presents sincerely the views which it expresses, admits that on the first Monday in December she will have population enough, or that at least it can then be ascertained. Now, what earthly difference can it make to this Republic collectively, to these States collectively, or to any one State in the Union, whether Oregon is admitted now or admitted next December, except the inconvenience of postponing and delaying that question and embarrassing it by the occurrence of new and disturbing circumstances? The State of Oregon is, of her own free consent, here, ready to be admitted. She is here with a constitution complete and a State government organized and ready to go into operation. That state of things may continue until next December, or some circumstance may intervene to embarrass and disturb it. Next December will be the beginning of a short session of Congress, and debates upon this or other subjects may prevent the admission of Oregon for another year. Then, in that case, will be the embarrassing question, whether this constitution remains; whether the convention which organized it expressed the will of the people of Oregon, or whether a new proceeding must be instituted for that purpose; and, when it is all done, I think there is nobody who doubts that the people of Oregon are, to-day, ready, desirous, willing, to come in. They have made a constitution which is acceptable to themselves; and a constitution which, however it may be criticised here, after all complies substantially with every requirement which the Congress of the United States, or any considerable portion of either House of Congress, has ever insisted on in regard to any State.

It seems to me, therefore, to be trifling with the State of Oregon, trifling with the people of that community, and to be unnecessary and calculated to produce an unfavorable impression on the public mind in regard to the consistency of the policy which we pursue in admitting States into the Union to delay or deny this application. For one, sir, I think that the sooner a Territory emerges from its provincial condition the better; the sooner the people are left to manage their own affairs, and are admitted to participation in the responsi-

bilities of this Government, the stronger and the more vigorous the States which those people form will be. I trust, therefore, that the question will be taken, and that the State may be admitted without further delay.

The question being taken, by yeas and nays, on the postponement of the bill to the first Monday in December next, resulted—yeas 16, nays 33; as follows:

YEAS—Messrs. Bell, Chandler, Clay, Crittenden, Durkee, Fessenden, Fitzpatrick, Hale, Hamlin, Hammond, Hunter, Iverson, Kennedy, Mason, Trumbull, and Wade—16.

NAYS—Messrs. Allen, Bayard, Bigler, Bright, Broderick, Brown, Cameron, Clingman, Collamer, Davis, Dixon, Doolittle, Douglas, Foot, Foster, Green, Gwin, Harlan, Henderson, Houston, Johnson of Arkansas, Johnson of Tennessee, Jones, King, Mallory, Polk, Pugh, Sebastian, Seward, Shields, Simmons, Slidell, Stuart, Thompson of New Jersey, Toombs, Wilson, Wright, and Yulee—38.

So the motion was not agreed to.

The VICE PRESIDENT. The question is on the amendment of the Senator from New Hampshire, [Mr. CLARK,] in the second line of the preamble, after the word "republican," to insert "in form."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. PUGH. I ask for the yeas and nays on the final passage of the bill.

The yeas and nays were ordered; and, being taken, resulted—yeas 35, nays 17; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Broderick, Brown, Cameron, Chandler, Clingman, Collamer, Dixon, Doolittle, Douglas, Foot, Foster, Green, Gwin, Harlan, Houston, Johnson of Arkansas, Johnson of Tennessee, Jones, King, Polk, Pugh, Sebastian, Seward, Shields, Simmons, Slidell, Stuart, Toombs, Wright, and Yulee—35.

NAYS—Messrs. Bell, Clay, Crittenden, Davis, Durkee, Fessenden, Fitzpatrick, Hale, Hamlin, Hammond, Henderson, Hunter, Iverson, Kennedy, Mason, Trumbull, and Wade—17.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. ALLEN, their Clerk, announced that the Speaker of the House had signed the following enrolled bills, which thereupon received the signature of the Vice President:

An act for the prevention and punishment of frauds in land titles in California;

An act for the collection and safe-keeping of public archives in the State of California; and

An act to amend an act entitled "An act to authorize the President of the United States to cause to be surveyed the tract of land in the Territory of Minnesota, belonging to the half-breeds or mixed bloods of the Dacotah or Sioux nation of Indians, and for other purposes," approved 17th July, 1854.

COMMODORE PAULDING.

The VICE PRESIDENT. In the opinion of the Chair, the Senate recurs to the regular order of business, which is the first special order.

Mr. HUNTER. What is that?

The VICE PRESIDENT. The joint resolution (S. No. 7) for the presentation of a medal to Commodore Hiram Paulding.

Mr. HALE. Cannot something be done to prevent that coming up every day?

Mr. FITZPATRICK. I move to postpone that joint resolution indefinitely.

Mr. DOUGLAS. One act of kindness is always the prelude to another. The Senate have indulged me in the passage of the Oregon bill. Now I have in charge a little bill for running the boundary of Texas, that everybody is for, and there is no objection to it. It will take but a very few minutes, and I trust there will be unanimous consent to take it up and pass it.

The VICE PRESIDENT. Is there unanimous consent to take up the bill alluded to by the Senator from Illinois?

Mr. GREEN. I object to that. I desire to submit a motion that the Senate proceed to the consideration of executive business.

Mr. FITZPATRICK. I believe my motion to postpone indefinitely the joint resolution in ref-

erence to Commodore Paulding, is a privileged question, and has precedence. That resolution is an old customer, and we had better get rid of it.

Mr. SLIDELL. I will simply state that I understood it was agreed, by universal consent, that this joint resolution, which was introduced by the Senator from Wisconsin, [Mr. DOOLITTLE,] should be discussed at the same time with the report of the Committee on Foreign Relations upon the neutrality laws.

Mr. FITZPATRICK. If that is the understanding, I shall withdraw my motion.

Mr. SLIDELL. I think it would be better to make an express order that it shall be considered with that report; so as not to have it called up every day. I make the motion.

Mr. DOOLITTLE. I had supposed that by an order of the Senate the joint resolution was fixed as a special order for consideration at the same time with the report of the Committee on Foreign Relations, and a resolution that was offered, or of which notice was given, by the Senator from Vermont, [Mr. FOOT.]

Mr. SLIDELL. I move that the consideration of this resolution be fixed for the same day and hour with the report of the Committee on Foreign Relations upon the same subject, and remain so attached to it as to come up at the same time.

The motion was agreed to.

TEXAS BOUNDARY.

Mr. DOUGLAS. The objection to taking up the Texas boundary bill is now waived.

Mr. GREEN. I withdraw the objection.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 152) to authorize the President of the United States, in conjunction with the State of Texas, to run and mark the boundary lines between the Territories of the United States and the State of Texas, the pending question being on the amendment reported by the Committee on Territories, to insert, at the end of the bill, the following proviso:

Provided, That the person or persons appointed and employed on the part and behalf of Texas are to be paid by the said State: *Provided further*, That no persons shall be appointed or employed in this service by the United States, but such as are required to make the necessary observations and surveys, to ascertain such line and erect suitable monuments thereon, and make return of the same.

Mr. DAVIS. I should like to have an explanation of the object of the amendment?

Mr. COLLAMER. The amendment consists of two provisos: the State of Texas has appointed surveyors and commissioners to represent her in running this line, and has made an appropriation for their payment, and the first proviso is merely to provide that the money appropriated in this bill shall not be used to pay those persons employed on behalf of Texas. The other proviso is that no persons shall be employed in this service but those necessary to make the observations and surveys, erect the monuments, and make the proper returns. The committee were impressed with the fact that for a long time past we had not sent out any expedition to make an exploration, run a line, or anything of that kind, without having a body of naturalists, a body of astronomers, a corps of ichthyologists, a corps of botanists, and a corps of geologists; and out of that grew a large number of learned reports, making voluminous books, printed and sent abroad with very beautiful pictures and all that. For the purpose of preventing anything of that kind in relation to this boundary, we propose to confine the persons employed to those only who are necessary to make the observations, erect the monuments, and make the proper returns.

Mr. DOUGLAS. I wish to make a verbal amendment to this amendment, at the suggestion of one of the Senators from Texas; to insert in the amendment, after the words "no persons," the words "except superintendent or commissioner." The VICE PRESIDENT. That alteration will be made by unanimous consent.

Mr. DAVIS. The provisos seemed to me objectionable. I therefore asked an explanation; and not being satisfied with it, will proceed to state my objections. It will be recollected that when Texas

was annexed to this Union as an independent Power of the earth, she surrendered to the Government of the United States the right to establish her boundary. The Government of the United States has so established that boundary as to strip from Texas an immense domain. In 1850, under influences to which I shall not now refer, \$10,000,000 were paid to Texas to allow her territory to be carved down to its present limits, as defined in this bill; and it was hardly to be supposed that thus shorn of her fair proportion, she was at some subsequent day to be called upon for the benefit of the United States to define the line.

Mr. COLLAMER. Will the gentleman indulge me a moment? Texas has appointed her own surveyors and commissioners, and asks us to run the line; and this provision is, that all the expenses, except for the surveyors and others whom she appoints to represent her, shall be paid by the United States.

Mr. DAVIS. If that was the only object, the language does not express it, but treats it as if Texas were to send a corps into the field to establish the line and act equally with the United States. If the commissioner be the only person required to represent Texas, I think it would have been better expressed by the word "commissioner," instead of "person or persons."

That, however, is minor to the objection I have to the second proviso. The great expense of running this line consists in the outfit. You must send trains of supplies, wagons to haul your monuments, and this at a great distance, and over a country entirely destitute of supplies, which constitute the bulk of the expense. To add, then, to this corps of astronomers making observations to determine the latitude and longitude, and laborers to set up the monuments, a few men who can examine the character of the country, and bring back specimens, would but little increase the expense, unless Congress afterwards, in its desire to distribute books, should make a large expenditure of money for the preparation and publication of books written by learned men, to whom should be submitted the observations and specimens which might be brought in.

But that is not the point to which I expected to get an answer. How is this line to be made permanent? By setting up monuments of stone, of wood, or of iron? No. You have the line now traced in the stars. You propose to project it upon the face of the earth. I ask how is it to be made permanent? It is only to be made permanent by sending the necessary topographers with your party to sketch the ground on each side of it. That indication of the time stands forever. The monuments may be removed by any one who is willful or mischievous. The topographical sketch of each side of the line is the only way it can be defined on the face of the earth, and made to stand for future uses. These topographical sketches, engraved and published with the report, would give it to the world. This is necessary to make the line permanent, and thus you are secure against the contingency of the destruction of the original map.

I go further, and say that, having incurred the great expenditures of the expedition in its outfit, I would send along with it men who could take the very observations to which the Senator from Vermont alluded; observations of the soil, of geological structure, of entomology, of the botany and natural history of the country; and men who could engage in that much-decried occupation, sometimes called here looking after bugs; and in this region the inquiry would be of special value. From the time of the Israelitish exodus, it is a part of human history that all arid regions are subject to have their crops entirely destroyed at times by insects. It has been the case in the valley of Utah. Insects are now ravaging the fields of Texas. This is such a country; and an examination into the entomological character of this region is necessary to the people to warn them of what they have to meet if they migrate to that section. It is information such as the great landholder should give to those whom he invites to purchase. The publication of so many copies as would be useful for naturalists and learned societies, would be but a small expense; but if you should never publish it at all, the information being deposited in one of the Executive Departments, would exist as a source from which authors might derive knowledge, which, distributed through the channels of publication on private account, would be a useful con-

tribution to mankind; and the Government then has incurred only the expense of adding a few individuals to the party.

Mr. HENDERSON. My objection to the proposition of the Senator from Mississippi is, that it will cause delay. It is of importance that this commission, on the part of the United States, should be appointed at once. Texas has for several years had statutes authorizing the Governor of that State to appoint a commissioner, to meet one on the part of the United States, to run this line. The season of the year for such work is at hand. The parties should be starting out now, for they have to go through a country which is entirely uninhabited, and they must depend upon the grass for the subsistence of their animals, and unless they start very soon this season will be entirely lost. Moreover, I am informed that lands are being surveyed about where this line is to run, and unless it be established very soon, confusion will be created by extending the surveys in Texas beyond the real boundary line; the system there being for each settler to select his own location and run out his line. I am told that difficulties even now exist there, because this line has not been established. It is important that the bill should be acted on at once, and I do not think the object which would be accomplished by carrying out the views of the Senator from Mississippi is of such consequence as to justify its in occasioning the delay which it seems to me will be caused, if an attempt be made to amend the bill by adding a provision for the number of scientific persons whom he indicates as proper to accompany this commission. I therefore hope he will not insist on his proposition, but will allow the bill to pass as it is. I should have no objection to his proposition if I did not suppose it would cause delay.

Mr. DAVIS. That portion of the work which consists in running the line of a parallel of latitude, involves a difficulty which allows but very slow progress. It is easy to mark a parallel of latitude on the map, but it is very hard to trace it on the face of the earth: it is impossible to run in the plane of a small circle of the globe, and the series of triangles which are constructed in fixing the points of a parallel of latitude involves so much of labor and delay, that necessarily the progress is slow. The topographers would sketch the land on each side much faster than you would advance in determining the line. At points where a change of direction occurs, and at all others where it is necessary to determine the longitude with exactness, a series of observations must be made, involving a detention which would give the topographers ample time (if they had chanced to fall behind) to bring up their sketches of so much of the ground upon each side of the line as would be necessary to its accurate description. Should its exact location at any time become a question, it would be easily found, without further astronomical observations, and though there should not remain one of the artificial monuments which had been erected.

Mr. HENDERSON. Allow me to say that I had no reference to a delay in the execution of the duties of the survey, but to the delay that would be caused in the passage of the bill.

Mr. DAVIS. I have no further remarks to make, and no wish in any manner to delay the passage of the bill.

Mr. HOUSTON. I had thought that on the amendment offered by the honorable Senator from Illinois being presented, the bill would pass without difficulty. I called on the gentlemen of the Territorial Committee, and I understood there would be no obstruction in the way of the passage of the bill. I think, if the amendment of that committee be adopted, the measure will be complete, and nothing further would seem to be necessary. I conferred with my colleagues in the House of Representatives, where this bill originated; my senatorial colleague was absent when I last had an interview with them; but I could have no doubt that, in their opinion, this was the best plan that could be suggested, and only required the additional nomination of a commissioner to supervise the whole campaign.

I can see no necessity for any further provision: that would only accumulate expense without any correspondent advantage. The exact place where the line runs will be ascertained at the different points and angles where observations are taken, and mounds will be erected at those points, and such artificial corners as will be endurable and

will not perish. I am sure that so soon as a surveyor has been on the ground, and marked the boundary line, there will be no topographical surveys required to give the settlers on either side of the line intelligence as to their rights. I can see no necessity for such a provision; and I most solemnly protest against this aggregating of offices in so little a matter. There are now many applicants for the crumbs that are thrown out—one hundred for every office that is to be given—and unless we have some more expeditious plan of running our boundaries than we have had heretofore, we had better have none hereafter. Why, sir, the boundary commission, under the treaty of Guadalupe Hidalgo, exhausted hundreds and thousands of dollars, and resulted in nothing but an additional expense for the books and bugs of which the Senator from Mississippi [Mr. Brown] has told us. It seems to be the supreme object of ambition of the persons who are engaged in such works to get their names before the public. Sir, the catching of a single bug of rare quality immortalizes a scientific gentleman, and a lizard is double immortality; and so too of a horned frog. [Laughter.] These are wonderful things to expend millions upon! Scientific men, if you get them started, must have something to do; they cannot come back with rational observations, but they must come back with something marvelous and wonderful to connect with their names. Let scientific gentlemen be satisfied with their sciences, acting in their appropriate spheres; but I protest most solemnly against anything that will delay the running of this line.

Texas has, for years past, earnestly desired its consummation. She is aware of the difficulty, and we are aware of it too, in Congress, notified in our official character that there is a conflict now between land titles on the boundary of New Mexico and Texas. We hear individuals complaining of detriment in consequence of it; and these difficulties will be multiplied by every delay. If you wait until midsummer before you commence this important work, we shall find that it will linger on till autumn; and then they will have to leave there, and make a second campaign; and instead of the reasonable amount of \$80,000 provided in the bill—and \$40,000 ought to accomplish it—it will take \$140,000 if it is not adopted immediately, and the work set about and accomplished so soon as practicable. If you send men to make scientific discoveries and write books to the number of forty or fifty, who can read those books? A man who is industrious, or intends to make an honest living, has no chance to do it. You are throwing impediments in the way of industry when you are creating these books. You create a morbid appetite in children for pretty pictures. They will not learn their alphabets. [Laughter.] I will have none of it.

Mr. DAVIS. I will say to the Senator that, if he had concurred in my proposition, and had not agreed to the amendment proposed to be made to the House bill, he would have avoided all delay which his own opposition is creating. He urges that to reject the amendment will be to delay until midsummer the commencement of the work, and overlooks the fact that he is now delaying the adoption of this bill which the House has sent here, by urging that the amendment which has been proposed to it shall be adopted. My proposition to strike off the amendment, is to expedite the enactment of a law under which this survey is to commence. Though it might take the Senator long to read the number of volumes he has described, and longer to print them, I am sure that will not delay or impede the prosecution of the survey in the field. These books are not written by the persons who go into the field, except, perhaps in a single case, the one to which he referred, where a commissioner, who went out to run the boundary under the treaty of Guadalupe Hidalgo, brought back specimens and drawings made by public employes, and wrote a book himself. But the general rule is, that the specimens are brought back and pass into the hands of scientific persons who write the books. The explorers are not usually persons who do anything more than make a mere report.

So far as the Army is concerned, as some allusion has been made to the length of time officers stay here to make reports, I will state they sometimes have made a second exploration before the order to print has been executed by your Printers here, and it is the specimens they bring in

which pass into the hands of the learned, and which swell the large amount of books for which neither the officer, nor the Department having charge of the work, is responsible. They are authorized by Congress. They are made by the *savans*. They are printed by Congress; and, good, bad, or indifferent, the Senator has the responsibility on himself for printing the books.

Mr. HENDERSON. I misunderstood my friend from Mississippi. I thought his design was to move an amendment. My desire is to have the bill passed; and I shall not object at all, indeed I shall vote for his proposition as I now understand it. I shall vote to reject the amendment proposed by the Committee on Territories, for that will leave the bill as it is, and pass the bill, which is the thing we wish to accomplish.

Mr. DAVIS. I propose to leave the bill as it comes from the House.

The VICE PRESIDENT. The question is on agreeing to the amendment. The rejection of the amendment will leave the bill in the shape the Senator from Mississippi desires it.

Mr. FESSENDEN called for the yeas and nays on the amendment; and they were ordered.

Mr. HOUSTON. This amendment is in perfect accordance with what I think the true interests of the State of Texas and of the United States require. It will not preclude the President of the United States or the War Department from sending such an escort as is necessary; but it will prevent an incumbrance of the commission by a number of officers who would delay the expedition on their march, and would necessarily be distributed over the country in making scientific observations, and delay the completion of the work beyond the time that would be requisite to accomplish it in a proper manner, if the number is restricted to the provisions of the amendment.

Mr. HENDERSON. I will state for the information of the Senate that Texas expects to pay, and has provided for the payment of her commissioner, and therefore the first branch of the amendment, as regards ridding the United States of that expense, is totally unnecessary.

The question being taken by yeas and nays, resulted—yeas 30, nays 15; as follows:

YEAS—Messrs. Allen, Benjamin, Bigler, Brown, Chandler, Clark, Crittenden, Dixon, Fessenden, Foot, Foster, Green, Hale, Hamlin, Harlan, Houston, Iverson, Johnson of Arkansas, Johnson of Tennessee, King, Polk, Pugh, Rice, Sebastian, Seward, Shields, Simmons, Sidel, Toombs, and Wido—30.

NAYS—Messrs. Broderick, Cameron, Clay, Clingman, Davis, Fitzpatrick, Gwin, Hammond, Henderson, Kennedy, Mason, Stuart, Thomson of New Jersey, Wright, and Yulee—15.

So the amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment made as in Committee of the Whole was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time; and the bill was read the third time and passed.

EXECUTIVE SESSION.

On motion of Mr. GREEN, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, May 18, 1858.

The House met at eleven o'clock, a. m. Prayer by Rev. SMITH PYNE, D. D.

CALL OF THE HOUSE.

Mr. PHELPS. Mr. Speaker, is there a quorum present?

The SPEAKER. There are but ninety-five members present.

Mr. PHELPS. I move a call of the House; and on that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 64, nays 110; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Andrews, Arnold, Atkins, Avery, Bennett, Billingshurst, Biscoe, Burlingame, Chapman, Horace F. Clark, Clay, Clemens, John Cochrane, Cockerill, Comins, James Craig, Curtis, Davidson, Davis of Mississippi, Dick, Dowdell, Elliott, Florence, Foster, Gartrell, Greenwood, Gregg, Thomas L. Harris, Huyler, George W. Jones, J. Glancy Jones, Owen Jones, Leiter, Leitcher, McKibbin, McQueen, Matteson, Miles, Miller, Edward Joy Morris, Mott, Niblack, Palmer, Phelps, Phillips, Potter, Rufin, Seales, Scott, Shorter, Samuel A. Smith, Stephens, Stevenson, Miles Taylor, Wade, Walbridge, Ellihu B. Washburne, Whiteley, Winslow, and Wortendyke—64.

NAYS—Messrs. Abbott, Bingham, Blair, Bliss, Bowie,

Boyce, Branch, Buffinton, Chaffee, Ezra Clark, John B. Clark, Cobb, Colfax, Corning, Burton Craige, Crawford, Curry, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dean, Dimmick, Dodd, Durfee, Edie, Edmundson, English, Faulkner, Fenton, Foley, Gilman, Giltner, Gooch, Goode, Goodwin, Granger, Groesbeck, Robert B. Hall, J. Morrison Harris, Hawkins, Hill, Hoard, Hopkins, Horton, Houston, Howard, Hughes, Jackson, Keitt, Kellogg, Kelly, Kelsey, Knapp, Jacob M. Kunkel, Lamar, Lawrence, Leach, Lovejoy, Maclay, Humphrey Marshall, Samuel S. Marshall, Maynard, Milson, Moore, Morgan, Morrill, Murray, Nichols, Olin, Parker, Pendleton, Peyton, Pike, Pottle, Powell, Reagan, Robbins, Royce, Russell, Sandidge, Searling, Seward, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, Singleton, Robert Smith, Spinner, Talbot, George Taylor, Thayer, Tompkins, Trippe, Underwood, Walton, Cadwalader C. Washburn, Israel Washburn, Watkins, White, Wilson, Woodson, John V. Wright, and Zollicoffer—110.

So the House refused to have a call of the House.

Pending the vote,

Mr. MILES stated that Mr. BONHAM was detained from the House by illness in his family, and had paired off with Mr. WALDRON.

Mr. FLORENCE stated that his colleague, Mr. LANDY, was still detained from the House in consequence of illness in his family.

Mr. COX asked leave to vote, he not being within the bar when his name was called.

Objection was made.

Messrs. CASE and LEIDY asked the same privilege.

Objection was made.

READING THE JOURNAL.

The being been announced, as above recorded, The Journal of yesterday was read and approved.

SALE OF FORT SNELLING.

Mr. FAULKNER. I ask the unanimous consent of the House to permit me to present, at the request of the Delegate from Minnesota, there being no Representatives here from that State, some memorials, to have them laid upon the table and printed. They relate to the sale of the Fort Snelling reservation, and it may be necessary to refer to them in the discussion on that subject.

There being no objection, the petition of citizens of Minnesota in relation to the sale of the Fort Snelling reservation, was laid on the table, and ordered to be printed.

Mr. FAULKNER. I also ask leave to present, for the same purpose, the report of a board of Army officers on the same subject.

There being no objection, the report was laid on the table, and ordered to be printed.

ELECTION OF DOORKEEPER.

The SPEAKER. The business first in order is the execution of the order of the House of yesterday, to proceed to the election of Doorkeeper. Nominations are in order.

Mr. ADRAIN. I nominate, as Democratic candidate for the office of Doorkeeper for the remainder of the Thirty-Fifth Congress, Joseph L. Wright, of New Jersey.

Mr. MORGAN. I nominate for Doorkeeper, Arthur W. Fletcher, of Washington city.

Mr. ZOLLICOFFER. I nominate Jacob P. Chase, of Tennessee.

The SPEAKER appointed Messrs. ADRAIN, MORGAN, ZOLLICOFFER, and WRIGHT of Tennessee, tellers.

The vote was taken, and there were 216 votes cast; necessary to a choice 109; of which—

Joseph L. Wright received.....	117
Arthur W. Fletcher.....	77
Jacob P. Chase.....	10
F. W. Walker.....	9
Nathan Sargent.....	1
Peter Gorman.....	1
Z. W. McKnew.....	1

The following is the vote in detail:

For Joseph L. Wright—Messrs. Adrain, Ahl, Arnold, Atkins, Avery, Barksdale, Bishop, Biscoe, Bowie, Boyce, Branch, Bryan, Burns, Caruthers, Caskie, Chapman, Horace F. Clark, John B. Clark, Clay, Clemens, Cobb, John Cochrane, Cockerill, Corning, Cox, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Haskin, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Lawrence, Leidy, Leitcher, Maclay, McKibbin, Samuel S. Marshall, Mason, Miles, Miller, Milson, Moore, Isaac N. Morris, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Reagan, Rufin, Russell, Sandidge, Savage, Seales, Scott, Searling, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Sicking, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Watkins, White, Whiteley, Winslow, Wortendyke, John V. Wright, and Mr. Speaker.

For Arthur W. Fletcher—Messrs. Abbott, Andrews,

Bennett, Billingshurst, Bingham, Blair, Bliss, Buffinton, Burlingame, Case, Chaffee, Clawson, Colfax, Comins, Craig, Curtis, Danrell, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Farnsworth, Fenton, Foster, Gilman, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Matteson, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Ritchie, Robbins, Royce, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Wilson, and Wood.

For Jacob P. Chase—Messrs. Anderson, Eustis, Gilmer, Hill, Maynard, Ready, Trippe, Underwood, Woodson, and Zollicoffer.

For F. W. Walker—Messrs. Campbell, Ezra Clark, Davis of Maryland, Edie, J. Morrison Harris, Humphrey Marshall, Edward Joy Morris, Ricard, and Roberts.

For Nathan Sargent—Mr. Durfee.

For Peter Gorman—Mr. Thomas L. Harris.

For Z. W. McKnew—Mr. McQueen.

Joseph L. Wright, of New Jersey, having received a majority of the votes cast, was declared duly elected Doorkeeper of the House of Representatives of the Thirty-Fifth Congress, and was sworn into office by the Speaker.

LAND FRAUDS IN CALIFORNIA.

Mr. CLARK, of New York. Mr. Speaker, within a few days past two public acts of a very important character passed the Senate, and have been referred to the Committee on the Judiciary; and I am now informed that, should the acts fail to pass in time for the fact of their passage to go to California by the steamer which sails on the 20th, it will be a very great detriment to the public interests. They are bills for the prevention of frauds and forgeries in land claims in California, and are essential to the protection of the public domain, and of the rights of private citizens of the United States. I ask consent of the House, under the circumstances, to report back these bills from the Committee on the Judiciary, and to have them put upon their passage. I apprehend there can be no objection; certainly there would be none if the facts were known.

Mr. COBB. I think they are bills which ought to receive more consideration than we can give to them this morning.

Mr. CLARK, of New York. I am informed by the Attorney General that a loss of some fifty million dollars may possibly ensue to the national Treasury from the failure to pass these bills. The Committee on the Judiciary has examined them, and has directed me to report them back.

Mr. SICKLES. I ask my friend if these bills did not pass the Senate unanimously?

Mr. CLARK, of New York. They passed the Senate unanimously since the sailing of the last steamer, and were introduced at this late period in order that they might pass the Senate and the House, and go out before any knowledge of their pendency should reach California.

Mr. COBB. I thought they had not received consideration by the Committee on the Judiciary; but now that I learn that they have, I withdraw my objection.

Mr. QUITMAN. Mr. Speaker, when these bills were presented to the House I believe I was the only one who objected to their immediate consideration. I have since examined them, and if the gentleman from New York will consent to a single amendment to one of them, to strike out the word "thereof" after "affidavit," on the second page of the act to provide for the collection and safe-keeping of the public archives of the State of California, and to insert in lieu thereof "of the facts and circumstances," I will make no objection.

Mr. CLARK. I consent to that amendment.

Mr. J. GLANCY JONES. I wish to learn from the gentleman from New York if he proposes to demand the previous question upon these bills?

Mr. CLARK, of New York. I do, sir.

Mr. J. GLANCY JONES. I merely wish to remark, with the consent of the gentleman from New York, that I shall give way to-day for nothing, unless it is something of as great emergency as this. I will not object to the consideration of these bills if the House will vote upon them immediately under the previous question.

Mr. CLARK, of New York. I propose to call the previous question; and in order to avoid a single objection, I propose to agree to the very reasonable amendment suggested by the gentleman from Mississippi.

Mr. KELSEY. I ask that the bill may be read. We do not yet know what the bill is.

The first bill reported from the Committee of the Judiciary by Mr. CLARK, was a bill (S. No. 314) for the prevention and punishment of frauds in land titles in California.

The bill was read.

Mr. CRAWFORD. I desire to ask the gentleman who reported this bill, if he has any communication from the Attorney General in regard to it?

Mr. CLARK, of New York. Yes, I have a verbal communication, and also a letter, received two days since, which I will have read.

Mr. CRAWFORD. I desire, as this legislation seems to be very hasty, that the gentleman should either read himself, or have read the letter from the Attorney General, which justifies this haste in the passage of the bill.

Mr. CLARK, of New York. I send the letter up to be read; and I will state, that in a personal interview which I had with the Attorney General last evening, he stated additional reasons why the bill should pass at once.

Mr. HOUSTON. I understand that what it is proposed to have read is a hasty note which the Attorney General addressed to me. I will say to the House, that Attorney General Black is exceedingly anxious that these bills should pass. He regards them as of vital importance to the Government, and believes that if these two bills are not passed so as to go out by the steamer of the 20th, the Government will lose an amount of fifty million dollars, at least. I have no objection to the bill being read.

Mr. CLARK, of New York. I did not reflect, when I proposed to have the note read, that it was addressed to my honorable friend from Alabama, and not to myself.

Mr. HOUSTON. Let it be read. It is short.

Mr. SEWARD. I have no objection to the bill if it will save the Government from a loss of \$50,000,000; but I should like some gentleman to explain how it could be done. The bill provides for the punishment of forgery, and makes it an indictable offense. Now you have to prove the charge of forgery before you can convict the parties. The proof of forgery will vitiate the titles, and therefore I do not see how any damage can accrue to the Government. I am surprised, therefore, that the bill should have been presented with such an amendment.

Mr. CLARK, of New York. I would inform the gentleman that at this moment there is no law for the punishment of the crime of forging these Mexican and Spanish land grants.

Mr. SEWARD. I understand that; but if you can bring sufficient proof to convict the parties of forgery, in a criminal prosecution, you can prove the forgery so as to void the titles.

Mr. CLARK, of New York. If the knowledge of the fact of the pendency of these bills should reach California, the crimes may be consummated before the acts can take effect, and thereby the public domain may be defrauded.

Mr. SEWARD. The question is this: if you can prove the forgery to convict the parties for the crime in a criminal prosecution, cannot you prove the forgery so as to void the titles in a civil court in an action for ejectment?

Mr. HOUSTON. The argument of the gentleman from Georgia appears to be for the purpose of delaying action on the bill. I demand the previous question.

The previous question was seconded, and the main question ordered.

The bill was ordered to a third reading, and was accordingly read the third time.

Mr. HOUSTON. I demand the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. MILLSON. I ask the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

Mr. MILLSON. We are assuming jurisdiction over offenses committed in a State, by the citizens of that State. I move to lay the bill on the table.

The motion was not agreed to.

The bill was passed.

Mr. HOUSTON moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PUBLIC ARCHIVES IN CALIFORNIA.

The House then proceeded to consider the bill

(S. No. 312) to provide for the collection and safe-keeping of the public archives in the State of California, reported from the Judiciary Committee by Mr. CLARK, of New York.

The bill was read.

The question recurred; first, upon the amendment offered by Mr. QUITMAN, to strike out the word "thereof," and to insert in lieu thereof the words, "showing the facts and circumstances upon which such suspicions are founded."

Mr. CLARK. The amendment is right, and I hope it will be adopted. I ask the previous question.

The previous question was seconded, and the main question ordered to be put.

The amendment was agreed to.

The bill, as amended, was then ordered to a third reading, and was accordingly read the third time, and passed.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, their Secretary, informing the House that they had passed a bill for the relief of Lemuel Worster, in which he was directed to ask the concurrence of the House.

Also, that the Senate had passed the bill of this House, (No. 294,) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1859, with amendments, in which he was instructed to ask the concurrence of the House.

Mr. MILES. I ask the consent of the House to introduce a bill for reference.

Mr. J. GLANCY JONES. I object; and move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. Before the question is taken on that motion, I wish to state that I shall move to take up bill H. R. No. 200, making appropriations for certain civil expenses of the Government. I suppose it is the wish of the House to terminate debate upon this bill before going into committee. If there be no objection, therefore, I will offer the usual resolution to terminate debate upon that bill in fifteen minutes after its consideration shall be resumed in committee.

Mr. JONES, of Tennessee. I think we might as well discharge the committee from the consideration of that bill. I suppose it is in as good condition as we can make it.

Mr. TAYLOR, of New York. I object to that. There are some important amendments which should be made to the bill.

Mr. KELSEY. Has that bill ever been considered in committee?

Mr. J. GLANCY JONES. It has not; but I suppose there will be no objection to closing debate upon it.

Mr. SHERMAN, of Ohio. I shall object, until the bill has been read, and I can see what is in it.

RECIPROCITY.

Mr. J. GLANCY JONES. I withdraw the motion to go into Committee of the Whole on the state of the Union for a moment, and ask unanimous consent of the House to report from the Committee of Ways and Means a joint resolution, for the purpose of having it referred, and printed. I ask that the joint resolution may be read.

The joint resolution was read by its title:

Joint resolution to place certain products on the footing of articles exempted from duty under the reciprocity treaty between the United States of America and Great Britain, signed on the 5th day of June, 1854.

Mr. SHERMAN, of Ohio. Let it be read.

The joint resolution was read *in extenso*. It provides for the importation from the British Provinces, under certain regulations, of the articles of hay and hops.

Mr. STANTON. I shall object to the introduction of that resolution.

CIVIL APPROPRIATION BILL.

Mr. J. GLANCY JONES. I now ask for a vote upon my motion that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. SMITH, of Tennessee, in the chair.)

The CHAIRMAN announced the first bill on the Calendar was House bill No. 198.

Mr. J. GLANCY JONES. I move to take up

bill of the House No. 200, being a bill making appropriations for certain civil expenses of the Government for the year ending June 30, 1859.

No objection being made, the bill was taken up. Mr. J. GLANCY JONES. I move that the first reading of the bill be dispensed with.

The motion was agreed to.

The bill was then read by clauses for the purpose of amendment.

The first clause having been read, as follows—

"For continuing the survey of the Atlantic and Gulf coast of the United States, (including compensation to superintendent and assistants, and excluding pay and emoluments of officers of the Army and Navy, and petty officers, and men of the Navy employed on the work,) \$350,000;"

Mr. J. GLANCY JONES said: The bill now before us is a branch of the old civil and diplomatic bill. Under the division of that bill, made by the Committee of Ways and Means of the last Congress, this bill is confined to appropriations for the survey of the coast, the light-house establishment, the land surveys, and a few other civil expenses of the Government. The appropriation for these objects has been reduced by the Department to what was supposed to be the minimum amount with which they could be carried on. The Committee of Ways and Means, however, after a careful and scrutinizing investigation, was able to reduce the estimate some two hundred and thirty-nine thousand three hundred and fourteen dollars; and I will state to the committee, that, if it is the intention of Congress to carry on these works—all of which are provided for by law—it is the judgment of the Committee of Ways and Means, and of the Department, that we have reduced the estimates to the lowest possible amount.

Mr. SMITH, of Virginia. I would inquire of the gentleman what is the aggregate amount of the appropriation contained in this bill?

Mr. J. GLANCY JONES. The aggregate amount is \$3,819,438 97. The amount estimated for was \$4,058,752 97. The reduction of \$239,314 was made by the Committee of Ways and Means.

Mr. SMITH, of Virginia. The clause which has just been read, makes an appropriation of \$250,000 for continuing the survey of the Atlantic and Gulf coasts of the United States. I think that amount can be reduced with very great propriety; and, as we are short of funds generally, and are likely to be so for some time to come, I think we had better do it. I move to reduce the amount from \$250,000 to \$150,000.

Mr. J. GLANCY JONES. I have simply to say—and it is but a repetition of what I have said before—that the system of a coast survey was begun a number of years ago. Perhaps no measure was ever introduced into Congress upon which there has been a greater amount of discussion, or which has been subject to a closer investigation than the act organizing the coast-survey system. After fighting it for five years, almost continually, Congress finally came to the conclusion that the only possible way to get along with it, was to prosecute it to completion. The reduction made upon this subject-matter was \$30,000 less than what was necessary to carry on the work. That reduction of \$30,000 required a suspension of a portion of the operations, but the Department being determined to reduce the appropriation to the lowest possible point, have suspended that portion of the work which could be delayed without damage.

Now a word as to the effect of the gentleman's amendment. This coast-survey system demands many and accurate triangulations, and, of course, a great deal of preparation. It requires the use of steamboats and men to be distributed all over the coast, from Maine to California; and if the gentleman succeeds in reducing the appropriation \$100,000, I tell him it will cost more than two hundred thousand dollars next year to repair the damage which will result. The gentleman might just as well strike out the wheels of a clock, and expect it to keep good time, as to strike out any part of this appropriation and expect this work to go on. If the amendment is adopted, it will result in a suspension of the work; it will check the progress of the system, and must do great mischief. The work cannot be carried on except as a continuous system. I hope the amendment will not be adopted.

I would not have occupied so much time, but for the fact that the remarks I have made on this amendment are applicable to every appropriation in the bill, to a greater or less extent.

Mr. CLAWSON. I presented, some time ago, resolutions of the State of New Jersey.

The CHAIRMAN. The first clause of the bill has not yet been read through. When it has it will be in order for the gentleman from New Jersey to offer an amendment and to speak to it.

Mr. SMITH, of Virginia. There is some misapprehension in this matter. The general debate on this bill has not been terminated; and the gentleman from New Jersey [Mr. CLAWSON] has a right to speak on any subject he may desire to.

The CHAIRMAN. The Chair was in error in supposing that the general debate had been closed.

Mr. J. GLANCY JONES. Perhaps it was my fault that the Chair has been drawn into the error. The House refused to terminate debate; but I supposed there was a general understanding that we should consider debate closed, and proceed to read the bill by clauses for amendment, except some gentleman claims a right of general debate.

Mr. SHERMAN, of Ohio. If gentlemen on the other side would consent to have night sessions for the delivery of speeches on miscellaneous subjects, then they may expect to have bills taken up and considered in their regular order.

Mr. J. GLANCY JONES. In response to the gentleman from Ohio, I have merely to say—

Mr. ADRAIN. Is this debate in order?

The CHAIRMAN. It is not. The gentleman from New Jersey [Mr. CLAWSON] is entitled to the floor.

Mr. ADRAIN. I object to this debate; and hope my colleague will be permitted to proceed.

Mr. CLAWSON. Mr. Speaker, I had the honor to present to the House a short time since, some joint resolutions of the Legislature of New Jersey, in reference to the better preservation of life and property upon her coast. I will not detain the committee now in discussing all the propositions they contain, but some of them are so important, that I trust to be indulged while I briefly allude to them. Representing a district washed on one side by the Delaware river and bay, and on the other by the Atlantic, few questions are regarded with so much interest by my constituents, as those to which these resolutions refer. The coast of New Jersey for years has been the dread of the sailor. Its long, low beaches; its numerous shoals and sand bars running parallel with it throughout its entire extent; its position with respect to those storms from the east, which drive with so much fury directly upon it; all tend to render it as terrible to the seaman as were the fabled Scylla and Charybdis to the ancient mariner, or the Maelstrom to the boatman of more recent times. No vessel from the East or South bound to the port of New York but has to run the gauntlet of these dangers. How unsuccessful many of them are, the public press, sir, but too faithfully portrays. During certain portions of the year it teems with the recital of many a tall admiral and rich merchantman driven helplessly upon our shores, and become the prey of the ruthless sea and tempest.

Some provision has already been made by Government for their relief. Station-houses, boats, and keepers, have been liberally distributed along the beach; and many a poor sailor and untold wealth have, by these means, been rescued from stranded ships. The surf-boats that have been placed there, the life-car, the mortar and line have done all that could be done in the hands of a brave, venturesome, and intelligent people. Those who live upon our seaboard have been ever ready, at the first alarm, to rush to the rescue, and to save, so far as possible, at the hazard of their own lives, the lives of their fellows.

But experience has taught them that much more is necessary to be done on the part of Government, to render the success of their efforts at all commensurate with their zeal. The metallic life-boats, which have been furnished to them, are found to be altogether unfitted for this particular service. In many respects, they no doubt possess all the merit claimed for them by their inventor; but they no longer command the confidence of those who have so often to venture through our tumultuous breakers to the relief of wrecks. They now use exclusively their own wooden boats, built of red cedar, when circumstances require the use of any, and those of the Government remain idle in the life-saving station-houses. Their preference for such boats has been repeatedly expressed in an official manner. It was made known

to the Secretary of the Treasury three years ago by his Excellency Rodman M. Price, then Governor of New Jersey; and its wooden boats which are called for in the resolutions which have been laid upon your table the other day.

Within the last year, a boat, every way fitted for this kind of service, has been invented by a gentleman of Cape May. It combines all the advantages of the old cedar boats now in use. It is built of the same light wood; it can with difficulty be upset, or, if such accident happen to it, it immediately rights itself. In the event of its filling, from any cause—from capsizing, or from shipping heavy seas—valves placed along its sides free it, to a certain extent, of water. It contains, in close chambers, at either end, quantities of cork, which enable it, even when filled, to support readily its crew. It is light and strong. It can be transported with facility by land from beach to beach, and will live in the most tumultuous surf that ever breaks upon our shores. Such is the self-righting, self-bailing life and surf boat of Mr. R. C. Holmes. It has been thoroughly tested in the ocean itself, as well as at New York, Philadelphia, Trenton, and at the navy-yard in this city, in the presence of many officers of the Navy, and members of both Houses of Congress. All who have witnessed its performances bear testimony to its admirable adaptation to the purposes for which it was designed. The underwriters of Philadelphia and New York urge strongly upon the Government the propriety of adopting it, not only upon our coast, but also upon our national vessels; and the Legislature of New Jersey has sent here resolutions to the same purpose. I trust, Mr. Chairman, the House will see proper to adopt these recommendations, and to ingraft on the light-house bill a provision for placing them at least at the life-saving stations of New Jersey. New boats of some description are absolutely necessary. These are acceptable to the people along the coast, and will cost, I am told, but little more than the commonest boats now in use.

In addition to new boats, which are imperatively demanded by the necessities of commerce, scarcely less necessary are other appliances for the safety of the shipwrecked sailor. There are at this time twenty-eight life-saving stations upon our coast. Each of these is placed under the care of a keeper, at a salary of \$200 a year; and the whole are under the direction of a superintendent. These are all the men who are in the pay of the Government. To make the apparatus at all efficient, always requires the assistance of others to move it from point to point along the coast, to work it, and to man the boats. Such services at present are altogether voluntary on the part of our citizens, and are performed without any compensation. They are no doubt rendered as promptly and as cheerfully as if they were regularly employed and paid; but it is no more than just and proper these men should receive some reward for their labors. It is therefore urged that a boat's crew of seven men, subject to the call of the keeper, should be attached to each alternate station-house; and that they be paid at the rate of two dollars a day for the time they are actually employed.

We have been taught by observation that all storms commence to the leeward, and proceed slowly in the opposite direction. A day or more often elapses before a northeastern gale, which begins at New Orleans, is felt at New York. It is believed that a line of telegraph erected along the shore, with an instrument at the most important stations, and all communicating with the Observatory in this city, might serve a most beneficent purpose. By authorizing Lieutenant Maury to receive telegraphic weather reports from such points as he may deem most advantageous, and to transmit to the coast intelligence of approaching storms, the keepers would be enabled to have all their apparatus in readiness for service; and ample time would be given to call the boats' crews from the main. The advantages of such a system would not stop here. Signal guns, placed at every second or third station, could communicate such information to vessels hovering upon the coast; and give them timely warning to seek an early harbor, or, unable to do that, to stand out to sea.

In this connection, permit me to allude briefly to another matter. Our Government, while prompt to punish, has been ever slow to reward. Every year are witnessed upon our low, sandy beaches

deeds of daring which in the days of Greece and Rome would have won for the actor the civic crown. Often these men perish in their heroic efforts to relieve the distress of others. The acts of the living go unnoticed by the Republic; the bodies of the dead receive burial at the hands of their comrades, and their families are left impoverished, dependent upon the generosity of their neighbors. Such actions and such sacrifices surely merit some acknowledgment at our hands. An annual appropriation of a thousand dollars, placed at the discretion of the Secretary of the Treasury, might, if properly distributed, again cheer up many a humble household upon the beach, whose chief has been swept away by the surge, and nerve to renewed acts of heroism many an arm which has already won for itself no stinted meed of praise.

These, Mr. Chairman, are some of the provisions which our people through their Legislature ask you to ingraft upon your appropriation bill. Your assistance is not sought for on their own account; they only ask you to place in their hands means to enable them more effectually to relieve others from danger, from whatever harbor or under whatever flag they may sail. New Jersey, comparatively, has but little at stake, either in men or ships. But a small proportion of the vast fleet of vessels which swarm along her coasts sail from her ports. Every commercial State of the Old World—every seaboard State of the Union, from the St. Lawrence to the Gulf stream, send their squadrons to help swell its numbers; vessels from Philadelphia, New York, and Boston; from Richmond, Charleston, and Savannah; from every southern as well as every northern port, navigate our seas, and are at times driven upon our shores. The whole amount desired to render perfectly efficient the apparatus I have referred to, will hardly exceed thirty thousand dollars. I shall, at the proper time, move such amendments to the light-house bill as I believe to be essential to furnish means for the better preservation of life and property from shipwreck. I trust that gentlemen will see sufficient merit in the propositions to give them their support.

But, sir, something more is needed upon our coast by the commerce of the country than men, however heroic they may be, or boats, whatever may be their construction. These, at best, can but lessen the horrors of a wreck. Without a safe and convenient harbor to fly to upon the approach of danger, in spite of all the appliances you may distribute upon the seaboard, every month will still bring with it distress and disaster; every storm will continue to strew our shores with wrecks. Our small coasting vessels dare not put to sea during our heavy northeastern gales, but keep near the land, trusting to find some creek or cove to run into, where they may anchor in comparative safety. But, unhappily, on our whole seaboard, from New York to Norfolk, there is no harbor that can be called safe for such vessels. A bill, sir, is now upon your Calendar, the object of which is to provide them such a shelter. The Committee on Commerce have reported unanimously in favor of constructing a breakwater harbor under Cape May, and have asked for it an appropriation of \$50,000. Nor have they come to this conclusion without due deliberation. The embarrassed state of the public Treasury has made them averse to any measures, involving an expenditure of money, which were not deemed absolutely essential to the public good. It is my purpose, sir, in the few remarks I have yet to submit to the House, to invoke its favorable action upon the bill which they have reported.

More than twenty years ago, when the commerce of the country was scarcely half what it now is, the necessity for such a work was brought to the attention of Congress. In 1836 an appropriation was voted for a survey, of which, by the direction of Mr. Poinsett, then Secretary of War, Major Bache had charge. He accomplished his task with fidelity; and his report, in which he urges strongly upon the Government the propriety of this undertaking, accompanies the report of your committee. Since that period, the matter has been repeatedly urged here; but, thus far, without success. Other matters, deemed to be of higher importance, have occupied the attention of the national Legislature. The voice of the poor sailor, struggling against storm and tempest, has not been heard amid the din of party warfare which is waged in these Halls.

I have said, sir, that there is no safe harbor for our coasting vessels from New York to Norfolk. There is but one of any description—that at Cape Henlopen, on the opposite side of the bay; and this (owing to circumstances detailed in Major Bache's report, and which have still greater weight now) is not well adapted to this class of vessels. The portly Dutch galleon, or the three-masted Indiaman, may ride out a storm there in comparative safety; but the coasting-skipper regards it with distrust; and, rather than seek shelter under its stone barriers, will risk the dangers of the tempest elsewhere. Apart from all other considerations, its space alone is too limited to afford room for all the craft that need a harbor. During a calm, indeed, the navies of the world might find anchorage within its walls; but, during high gales, anchors will drag; and ships often suffer more from collisions with one another than they would from the tempest in the open sea. In accidents of this sort, it is always the smaller craft that must suffer. But there is another consideration, sir, of still more consequence. All coasting vessels from Philadelphia, bound for eastern ports, navigate the channel on the Cape May side; it is their shortest and quickest route. To reach Henlopen, they must cross a bay notoriously dangerous, from its numerous shoals, even in moderate weather. They prefer to run into Maurice river cove, a natural harbor, formed far up the bay by a curve in the line of coast; and here are often collected, at one time, more than a hundred sail of vessels. It cannot be difficult to imagine how grateful to such a fleet would be the breakwater contemplated in the bill. Sheltered by the land on one side, and a stone wall breaking the force of the waves upon the other, these little shallops might here ride out in safety the wildest storms that ever sweep across the Atlantic. It is for these, sir, that this work is so imperatively demanded.

These brigs and schooners, which come out of your creeks and rivers, and do the carrying trade along your coast, are at this time by far the most important class of vessels navigating Delaware river and bay. The foreign commerce of Philadelphia is at present scarcely greater than it was sixty years ago. New York and Boston have usurped this sort of trade; but the number of coasting vessels sailing to and from it is scarcely surpassed by any city in the world. In the year 1857, the arrivals amounted to upwards of thirty-two thousand, being at the rate of nearly one hundred a day.

The location of the breakwater is intended to be on what is designated in Major Bache's report as Crow shoal. This is near the point of Cape May, and at all times would afford a sufficient depth of water to float the class of vessels for which it is designed. The advantages of this position are fully set forth in the report of the committee, and the papers which accompany it. Being near the point of the cape, vessels would be detained there only during the prevalence of a storm. Head winds could not prevent them from taking advantage of the first lull in the tempest to continue their voyage. Such is not the case when they make Maurice river cove their harbor. This is twenty-five miles from the chops of the cape; and vessels once entered there, are often detained for weeks from again putting out to sea. The wind from the south, which would be most favorable to them if the cape were once rounded, will now be dead ahead, and will baffle all their attempts to accomplish it. With such a wind, it will often occupy them the entire day to reach the point of the cape. When once there, night has come on; the sky perhaps looks threatening; and the pilot, considering the risk of putting to sea at such a time and in such weather, prudently chooses the lesser evil, and runs back to his morning's anchorage. This is no imaginary case; it is one which is constantly occurring. Fleets of these vessels are often seen lying idle in the cove day after day, long after the storm has passed over; unable, in consequence of adverse winds, to reach and round the cape. It has been estimated that nearly enough is lost every year, by this detention alone, to build the harbor. Give this same fleet of vessels the breakwater on Crow shoal, they run into it on the approach of a storm, and the next morning, if the wind be fair and the tempest has abated, they can, in one short hour, round the cape and weigh their way to their eastern port.

Mr. Chairman, all who live on Cape May and

all who cruise in these coasting vessels speak of this matter in some such terms as I have endeavored to repeat here. The hinderances to commerce from the want of this work, so far from being exaggerated by them, I believe to be vastly greater than they are represented. But difficulties of this kind might be permitted to go unnoticed, were they the only thing to be taken into consideration. There is another subject which demands attention, and which cannot be so lightly passed over; I mean the suffering and loss of life which are continually occurring from the want of this work. Every year forty or fifty vessels are wrecked within the immediate neighborhood of the shoal where this harbor is designed to be constructed, and at least as many lives are lost in the same time. Others escape with life, but only after enduring such sufferings as few, I apprehend, in this Hall, can form any conception of. It is no uncommon thing to see sailors in midwinter clinging for hours to the cross-trees of their sunken vessels, exposed to the northern gales and snow-storms, which actually freeze them to the rigging. Many thus perish from exposure; others escape, but with health shattered, with limbs frost-bitten, and crippled for life. The little church-yards of Cape May contain the bodies of many a poor sailor who might to-day be navigating our seas had there been a harbor on its shore to protect him.

As a mere question of economy, the Government would be the gainer by making an appropriation for this purpose. I have already referred to the loss by detention; this is said to be equal at least to two trips a year between Philadelphia and Boston. More than five hundred vessels are employed in the coal trade alone between these cities; each of these will carry about two hundred tons; and at the usual freight of \$1.50 per ton, the loss in this way alone would be \$300,000. This, combined with the loss by wreck, which is nearly as great, would amount to such a sum, I apprehend, as would be amply sufficient to build the work. But should the expense be greater, and should the loss be even less than has been estimated, surely no one can doubt that since application was first made for it to Congress in 1836, the amount lost by wrecks alone, which could have been prevented by it, would have built such a stately harbor as would have challenged the admiration of the world. Every month's delay in making the necessary appropriations is adding to these losses.

Gentlemen, every year, vote, with little hesitation, millions of money to embellish this city. They construct patent offices, treasury buildings, post offices, by the acre. They make large appropriations for new domes which are to tower gracefully towards the vault of heaven, and for new houses of legislation which are to excite the envy of the capitals of Europe. They eagerly furnish the necessary supplies to complete an aqueduct which is to exceed, in grandeur and expense, anything known to ancient or modern times. I, sir, do not complain of all this; I believe my name will be found recorded in favor of most, if not all, of these appropriations. But, sir, while we vote such sums for objects which will serve for little more than a magnificent parade, let not gentlemen tell us that the Treasury is empty, that our custom-houses are idle, that we have a war upon our hands, and that therefore the Government is too poor to do anything for those who are suffering and perishing upon our coast.

These coasting vessels are the schools in which are educated most of the seamen who are to man our national ships in time of war. On board of these they learn everything that it is necessary for a sailor to know, and experience all the vicissitudes of a sea-faring life that they would be likely to witness in any part of the globe. A fostering care extended over them would render them ever grateful to the Republic. It is to these she owes much of the glory acquired by our little Navy in the last war with England; and it is to these she must be indebted for whatever glory it may acquire in the future. From just such schools graduated those who bore your flag so proudly beneath the walls of Tripoli, and bearded the Turk within his stronghold. Upon the marble monument which graces the western ascent to this Capitol, a grateful country has engraven the names of those who distinguished themselves in our conflict with the States of Barbary. Two, sir, stand out prominently before the rest. On different occasions, each was the principal actor in the two

most desperate undertakings of the whole war. One entered the harbor of Tripoli by night, and under the guns of their forts burnt the frigate Philadelphia to the water's edge. The other, on board a fire-ship, attempted to run into and destroy the Turkish fleet; and being boarded by gun-boats, which overpowered his little crew, fired his magazine and annihilated friend and foe. Somers perished, but his gallant deeds are still treasured up by his countrymen; and the people of Cape May point with pride to one, who, reared among them, first learned, like Decatur, to brave the dangers of the sea in the little schooners of the coast.

It is men from just such schools as these that man the fleets of England, and which make her to-day the mistress of the sea. It was these which enabled her so recently to humble the Russian power in the Crimea, and rendered her flag victorious in the seas of China and on the Persian gulf. Take from her ships of war the stout hearts and willing hands which have been recruited from her coasting vessels, and how insignificant would her power become?

To foster and protect them, she furnishes with a liberal hand every appliance that can lessen, and every expedient that can avert the horrors of a wreck. Light-houses, station-houses, harbors of refuge, stud her whole line of coast. Night and day sentinels keep constant watch upon her cliffs.

A harbor of the kind I speak, sir, when once constructed, answers for all time to come. The first expense is the only one; its immovable walls never need repair. The time must come, sir, when this work will have to be constructed; and why not begin at once? Every month's delay but adds to the long catalogue of disasters which has already become so appalling. The lapse of each year sends to a watery grave scores of our fellow-beings, and witnesses the destruction of whole fleets of our coasting vessels.

To show, Mr. Chairman, that what I have been saying is not mere idle declamation, permit me here to read an extract from a letter addressed to me, some two years since, by Mr. Holmes, of New Jersey. This gentleman has spent his life upon the coast, and has, perhaps, been instrumental in saving more people from shipwreck than any one now living. For the last sixteen years he has been the agent of the underwriters of New York and Philadelphia, and has repeatedly received from them testimonials of their warmest approbation, both for his devotion to their interests and to the interests of humanity. I have the honor of his personal acquaintance; I have been at his home upon the sea-side; I have conversed with those who know him intimately; and all concur in characterizing him as one whose opinion on a subject of this kind is entitled to the highest respect. His humane efforts in behalf of the poor, shipwrecked sailor, have palsied his own limbs, crippling him perhaps for life; but he still feels, if possible, more acutely than ever, for the misfortunes of others. Whatever comes from such a source must have infinitely more weight than anything that I could say; and the committee, I am sure, will pardon me if I trespass upon its time with some extracts from his communication. His letter bears date February 20, 1856. The winter had been severe; and he thus alludes to some of the hardships encountered by our seamen at such times:

"For more than two months the Delaware bay has now been closed by ice, while the vessels bound into it have been compelled to lay at anchor back of our beach, exposed to the storms of this terrible coast, or go down to Hampton Roads for a harbor. There has been no place of safety which would properly accommodate these vessels, and into which they could get, short of the capes of Virginia. The poor sailor has no voice in the affairs of the nation, and takes no part in the Government, because his home is upon the great deep; yet he is entitled to our warmest sympathy, and could the members of Congress, as I have done, witness his suffering, caused by the want of this national work, I know they would do all in their power to add to his comfort, and be glad to thus shelter him from the pitiless storm. I wish the members of Congress, who have power thus to befriended the friendless, would visit this coast and witness some of its winter storms. I know it would do them good and benefit those who must look to them for aid. I have now acted on this coast, from Cape May to Little Egg Harbor, a distance of forty miles, as agent for the Philadelphia and New York underwriters, fourteen years, and I have seen suffering and loss of life that have been caused by the want of such a harbor, which I do not care to recall."

And in another place alluding to the harbor at Cape Henlopen, he says:

"The breakwater of the opposite cape is considered no harbor for small vessels. It is so exposed to our northeast gales that they will not go into it if they can possibly avoid

it, and prefer running into Maurice river cove, where there are frequently collected over one hundred and fifty sail at a time, which are detained for weeks by head winds.

"The mouth of the Delaware is filled with dangerous shoals; and to cross the bay to go under Cape Henlopen when the weather is thick or when the wind is heavy, is always attended with great danger. It is dead to leeward, and vessels to reach it from this side must go before the gale and wildly enter with no land to protect her while going, and none to shelter her when entered. The entrance to this harbor, of course, must be small, and you will readily perceive the danger of going into such a place among piles of stone before such gales as we often have. The sailor looks at all these things, and prefers to take his chance in the open sea. It is a harbor of deception, at least for small vessels. It is all open to the howling winds of our wild Atlantic. In the northeast gales the small vessels are driven ashore, broken up and sunk by the larger ones dragging into them; and it matters not whether the little one goes into the big one or the big one into the little one, it is the little fellow must always suffer."

Sir, I am fully convinced that by carrying out the view expressed in these extracts in relation to the harbor under Cape May, and by increasing the life-saving apparatus upon the coast in accordance with the resolutions of the Legislature of New Jersey, most of the vessels and lives annually lost upon our shores might be saved. The station-houses have already admirable apparatus which answer every purpose when a wreck lies near the shore; give to them new boats, boat-crews, and the telegraph, and we shall rarely again hear of such fearful losses of life as have heretofore been so often witnessed. But more than all construct the harbor at the cape, and henceforth, for your coasting vessels at least, the apparatus will seldom be called into service. These always will find sure refuge beneath its walls, while, without, the seas may run mountain high and threaten, each moment, to engulf the storm-tossed vessel,

"Within, the waves in softer murmurs glide,
And ships secure without their halsers ride."

Mr. J. GLANCY JONES. I move now that the committee rise, with a view to offer a resolution terminating debate. Before that motion is put, Mr. Chairman, I give notice to the committee—as I believe it to be the sense of the House to transact business—that if the debate be closed, I will myself, at five o'clock each day, if we are in Committee of the Whole on the state of the Union, move to take a recess till seven o'clock, with the understanding that after seven o'clock nothing in the way of business shall be done. With that understanding I move that the committee do now rise.

The motion was agreed to.

So the committee rose, and the Speaker having resumed the chair, Mr. SMITH, of Tennessee, reported that the Committee of the Whole on the state of the Union had had under consideration House bill No. 200, and had come to no resolution thereon.

Mr. J. GLANCY JONES. I move that all debate on House bill No. 200 shall terminate in five minutes after its consideration shall have been resumed in the Committee of the Whole on the state of the Union.

Mr. SHERMAN, of Ohio. With the permission of the gentleman from Pennsylvania, I ask the Chair whether the Committee of the Whole on the state of the Union has a right to take a recess?

The SPEAKER. The Chair understands that the chairman of the committee will so decide.

The question was taken on Mr. J. GLANCY JONES's resolution; and it was adopted.

Mr. J. GLANCY JONES moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. J. GLANCY JONES. I move that the rules be suspended; and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. SMITH, of Tennessee, in the chair,) and resumed the consideration of House bill No. 200, making appropriations for sundry civil expenses of the Government for the year ending 30th June, 1859; the pending question being the amendment offered by Mr. SMITH, of Virginia, to strike out the word "two," and insert the word "one," in line twelve, so as to make the clause read:

"For continuing the survey of the Atlantic and Gulf coast of the United States, (including compensation to superintendent and assistants, and excluding pay and emolu-

ments of officers of the Army and Navy and petty officers, and men of the Navy employed on the work.) \$150,000."

Mr. SMITH, of Virginia. I have had the benefit of the remarks submitted by the honorable chairman of the Committee of Ways and Means, and will therefore respond to them. His argument is that if my amendment prevails it puts a stop to this system of expenditure connected with the Coast Survey. In the course of his remarks he said that it would stop the work not only on the Atlantic, but on the Pacific coast. Well, I am not sure but that, under the present circumstances, that would be desirable. The system is now in operation, and he says that all that he asks for its continuance in full blast is \$250,000. To be sure, we are informed that there has been a very serious reduction of \$30,000. Well, I am satisfied that the system can be continued and progress with the appropriation that I suggest, though it may not progress so rapidly as with the full appropriation.

The honorable gentleman will bear in mind that this item has no reference at all to appropriations for the Pacific coast. This item is "for continuing the survey of the Atlantic and Gulf coast." It has no reference whatever to the expenditure now going on on the Pacific coast, for you will observe, sir, that another division of this section is "for continuing the survey of the western coast of the United States, \$130,000."

Now, it has been my teaching, from early life, whenever, from any cause, the usual supplies are withdrawn in private life, to cut short my improvements. If I were building a splendid house, such as this, I would put it in such a condition as that it would not suffer from dilapidation, and not attempt to go on and furnish it in the gorgeous style which is the taste as well as the fashion of the day. I am to reduce my outlay. It is not indispensable to have this coast survey finished immediately. Some delay in its completion will not work any great detriment to the public service. The reduction which has been already submitted to is but \$30,000 out of \$280,000. Insist upon it that this amendment ought to be adopted; and I shall follow it up with a corresponding reduction in regard to other items in this bill. Instead of cutting down this single appropriation a trifle, I want to make a material impression on the whole bill, and to save the Treasury as much as possible. It was expected, when the Secretary of the Treasury was authorized to issue Treasury notes and make a loan, that the Government could make a loan at three and a half per cent. interest; but now we see advertisements that interest is not to exceed six per cent.; and some bids have been made at five per cent., and some as high even as six per cent. Certainly, sir, it would be idle for me to talk to a body of practical men unless I could hope at least that they would take warning from this thing. [Here the hammer fell.]

Mr. HOWARD. I hope, sir, that the amendment will not prevail, for I happen to know that the soundest principles of economy require that an appropriation should be made of a sum at least as large as that which it is proposed to reduce. Whatever may be the merits of this Coast Survey, as an original proposition, it is in process of prosecution. The bureau is supplied with vessels and the various implements for carrying on the work. They have made progress in it, and are now engaged in drawing a line across Florida to connect the triangulation on the Atlantic coast with that on the Gulf of Mexico, which is going to save a good deal of expense which would be incurred if they had to go round the cape, and will, perhaps, secure additional accuracy in the work. The men are there; they have their vessels and implements there, and much as it is desirable to save money—and no man would go farther than I would to save money in a legitimate way—I assert, without fear of successful contradiction, that, if this work is to be completed, the Government had better borrow money and pay twenty per cent. for it than to reduce the appropriation to \$150,000, because the vessels would lie idle, the men would be thrown out of employment, and you could do nothing to advantage. I hope, therefore, that the amendment will not prevail.

The amendment was disagreed to.

Mr. SMITH, of Virginia. I move to amend the following clause by reducing the appropriation \$30,000:

"For continuing the survey of the western coast of the United States, \$130,000."

I suppose there are no Florida peninsulas to pass through there.

The amendment was disagreed to.

Mr. LEITER. I move to strike out the following clause:

"For continuing the survey of the Florida reefs and keys, (excluding pay and emoluments of officers of the Army and Navy and petty officers, and men of the Navy employed on the work.) \$40,000."

The amendment was disagreed to.

Mr. SMITH, of Virginia. The argument of the gentleman from Michigan [Mr. HOWARD] was mainly predicated upon the necessity of continuing the work—

Mr. J. GLANCY JONES. Does the gentleman from Virginia propose an amendment?

Mr. SMITH, of Virginia. I move to strike out the following clause of the bill:

"For running a line to connect the triangulation on the Atlantic coast with that on the Gulf of Mexico, across the Florida peninsula, \$10,000."

I move to strike it out, because the argument of the gentleman from Michigan is, that the \$250,000 was necessary to continue this triangulation across the peninsula of Florida; and here is a separate appropriation for that very purpose.

Mr. HOWARD. The gentleman is mistaken. I said that the appropriation was necessary to carry on the work and to employ the materials in hand; and then, as an illustration of the various operations, I said that they were throwing this line across Florida as a basis of operations—not that it was to be paid for out of the \$250,000. What I meant to say was, that these appropriations for the Coast Survey have been reduced by the Committee of Ways and Means to the lowest possible amount that economy would authorize, and any reduction would be adverse to sound economy.

Mr. SMITH, of Virginia. I withdraw my amendment.

Mr. BRANCH. I move to amend by striking out "\$7,034 05," and inserting "\$3,034 05," in the following item of the bill:

"For fuel and quarters for officers of the Army serving on light-house duty, the payment of which is no longer provided for by the quartermaster's department, \$7,034 05."

Now, Mr. Chairman, I offer this amendment for the purpose of calling the attention of the House to the kind of items for which we are called upon to vote in this bill. I read from the estimates presented by the Secretary of the Treasury, and laid before Congress at the commencement of the present session of Congress:

Explanation of estimates of sums required for fuel and quarters for officers of the Army serving on light-house duty, &c.:

"For six captains serving on the Atlantic coast, \$2,481 48.

"For two captains serving on the northern lakes, \$864 42.

"For four lieutenants serving on the Atlantic and Gulf coast, \$1,653 69.

"For one major serving on the Pacific coast, \$1,395."

I read this merely for the purpose of calling the attention of the committee to the fact that it appears from this statement that the allowance made in this bill for fuel and quarters for one major, is \$1,395. Now, sir, the appropriation may be necessary under existing law. I have confidence in the Committee of Ways and Means, and in the statement of the chairman of that committee made this morning, that they have reduced their estimates as low as they can possibly do under existing law; but, sir, while I hold a seat upon this floor, I will never cease to call the attention of the House to such expenditures of the public money. It is an outrage upon the people of this country, when an officer of the Army receives a liberal salary, a salary admitted on all hands to be liberal, that he should receive under the pretense of fuel and quarters an additional salary of nearly two thousand dollars per annum.

Mr. J. GLANCY JONES. Does the gentleman from North Carolina propose to abolish the Light-House Board?

Mr. BRANCH. I propose to strike out "seven" and insert "three."

Mr. J. GLANCY JONES. I suppose the gentleman understands that the effect of the adoption of that amendment would be to abolish the Light-House Board.

Mr. BRANCH. If the chairman of the Committee of Ways and Means, or any other gentleman, can satisfy me that competent persons cannot be employed to discharge these duties without the payment of such exorbitant compensation as is provided for in this bill, it will be time for me,

then, to consider whether we shall abolish the system, or whether we shall introduce some reform. At any rate, if we are to continue this system, and cannot obtain the services of competent officers at a less rate, I, for one, will vote to put their regular salaries at five or ten thousand dollars, or whatever salary it is necessary to give them, directly, and not cover up \$2,000 salary under pretense of fuel and quarters.

Mr. J. GLANCY JONES. I only wish to state, in reply to the gentleman from North Carolina, that these salaries, including fuel and quarters, are already provided by law, and you can no more alter their salaries in an appropriation bill, than you can alter the salaries of members of Congress.

Mr. BRANCH. This, as I understand it, is no part of the regular salary of officers of the Army. He is entitled to fuel and quarters, by law; and the usual custom is for the Department to allow him such sum as may be reasonable, for fuel and quarters.

Mr. J. GLANCY JONES. The law provides for fuel and quarters.

Mr. PHELPS. A brief explanation only need be made in reference to this matter. Every officer of the Army is entitled to fuel and quarters when public quarters are not assigned to him, and he is assigned to the performance of public duty in other locations. The act establishing a Light-House Board directs that certain officers of the Army and Navy shall be detailed to perform the duties of that board, which has charge of the various light-houses on the Atlantic, Pacific, and Gulf coasts. The board is composed of officers of the Army and Navy, acting in conjunction with the Secretary of the Treasury. This Light-House Board supersedes the old light-house system, which was under the control of the First Comptroller. I recollect well the member from Maryland, (Mr. Evans,) not now a member of Congress, brought forward from the Committee on Commerce an act upon which the present light-house system is founded. He proposed to establish a Light-House Board, to be selected from the Army and the Navy. They manage everything connected with light-houses; they recommend where they shall be erected, what kind of light shall be used; and they superintend the repairs to be made. I understand that, with the approval of the Secretary of the Treasury, they appoint keepers of the light-houses, and also officers whose duty it is to proceed and examine the condition of the light-houses on the different coasts.

Now, sir, the officers of the Army and Navy who are detailed to serve upon the Light-House Board, are entitled to commutation for fuel and quarters, when they are not employed in barracks, unless the Government furnish quarters at the public expense, the officers of the Army are entitled to commutation for their quarters. The amount of the commutation is fixed by the regulations of the Army, and these officers who are detailed to serve on the Light-House Board are entitled to the same compensation that officers of the Army of the same grade would be entitled to in the regular service.

The system has grown up and these appropriations have been made for a series of years. Every argument of the gentleman from North Carolina strikes at the law which is upon your statute-book. It is probable that he and myself would agree as to the modifications which it would be proper to make of the law. I believe that officers of the Army and Navy ought not to be detailed for service on this board. I think it is a duty which ought to be performed by civilians. But it was not the province of the Committee of Ways and Means to bring forward modifications of the existing laws in an appropriation bill. If they had brought forward such a provision it would have been said that they had exceeded their jurisdiction, that they had assumed a duty which properly belonged to the committee, of which my friend from New York, [Mr. JOHN COCHRANE] is chairman. Such a proposition should come from the Committee on Commerce and not from the Committee of Ways and Means.

Mr. CRAWFORD. I think that the question which has been raised by my friend from North Carolina [Mr. BRANCH] is a proper one, though upon the arbitrary question as to the amount of reduction which should be made, I think he has moved an amendment which ought not to be adopted;

that is to say, to strike out "seven" and insert "three," which would be a reduction of \$4,000. I think that is entirely too great a reduction upon this particular item. I therefore move to amend the amendment of the gentleman from North Carolina, by striking out "three" and inserting "five." That will allow to these officers, for fuel and quarters, \$5,034, which, I apprehend, will be entirely sufficient to cover their expenses, either upon the Pacific or Atlantic coast. The Committee of Ways and Means have introduced the item precisely as it was recommended to them by the quartermaster's department. The item, to which the gentleman from North Carolina referred, allows one major the sum of nearly two thousand dollars for fuel and quarters; an amount which that gentleman and myself deem entirely too great to allow an officer of the Army, of the rank of major. I see no reason why he should be entitled to that, and the chairman of the Committee of Ways and Means has certainly given no reason to this committee why it should be allowed. My friend from Missouri [Mr. PHELPS] has given no reason—

Mr. J. GLANCY JONES. With the permission of the gentleman, I will read a section of the act of 1852:

"And be it further enacted, That it shall be the duty of the Light-House Board, immediately after being organized, to arrange the Atlantic, Gulf, Pacific, and Lake coasts of the United States into light-house districts, not exceeding twelve in number. And the President is hereby authorized and required to direct that an officer of the Army or Navy shall be assigned to each district, as light-house inspector, subject to and under the order of the Light-House Board; who shall receive for such services the same pay and emoluments that he would be entitled to by law for the performance of duty in the regular line of his profession, and no other," &c.

Mr. CRAWFORD. I do not question that the officer is entitled to pay according to his rank; but it is, that the item which is provided for by this portion of the bill is not covered by the law which the gentleman has read. The gentleman says the officer is entitled to pay according to rank. That I did not dispute. The question I raised was in regard to the allowances made to the officers for fuel and quarters, which is here \$1,895. That, of course, is not regulated by law, and we think it is entirely too much. There is no propriety in it, and there is no law for it. I called upon the gentleman to give me the law authorizing it; and he tells me the Light-House Board regulates this matter.

Mr. PHELPS. I only referred to the regulations of the Army which prescribe the number of rooms and the amount of fuel which shall be allowed to officers of different grades.

Mr. CRAWFORD. Read it.

Mr. PHELPS. It is a long paper and I cannot read it. This is the particular Army regulation to which I refer.

Mr. CRAWFORD. I ask the gentleman from Missouri whether any officer of the Army with the rank of major, anywhere upon the Pacific or Atlantic coast, or within the United States, receives for fuel and quarters \$1,895?

Mr. PHELPS. He receives no more than these quarters will cost him, and no more for fuel than what will be sufficient for him at the place where he is stationed. The amount allowed depends upon two things—the grade of the officer, and the location of his post. More fuel would be allowed to an officer stationed in Maine than to one stationed in the State of Texas, and more fuel is allowed to a major than to a lieutenant. I have in my hand the regulation which prescribes the number of rooms and the number of cords of wood to which each officer is entitled, and they can receive no more pay for fuel than the Army regulations permit, nor any more for quarters than they are authorized to rent, and the actual rent which they are obliged to pay.

Mr. CRAWFORD. That does not meet the question raised by myself and by the gentleman from North Carolina; which is, that this appropriation is not covered by law, and that is my objection to it. [Here the hammer fell.]

Mr. J. GLANCY JONES. Did not the gentleman vote for this appropriation in committee?

Mr. CRAWFORD. I did not vote for it, and there is another item in this bill which I did not vote for, and which I shall move to strike out; and that is, the appropriation for the Washington aqueduct.

Mr. J. GLANCY JONES. I believe that the

objection is, that the estimate for this item is too high.

Mr. CRAWFORD. Yes, sir; and because it is not covered by the law.

Mr. J. GLANCY JONES. The gentleman will perceive that this is an item for the Pacific coast, where the expenses of all things are much higher than they are on the Atlantic coast. I can give no further information upon the subject than is sent to us by the Department. The substance of that information is, that the Department gets those accommodations at the very lowest price possible. It is not to be supposed that the Department can estimate precisely what these items will cost. But the Army regulations cover the case; and that being the case, the Department estimates as nearly as it can, what they will cost. And I will say to gentlemen that if the cost is less than here estimated, it will not be paid, and the balance will return into the Treasury.

Mr. PHELPS. I desire to read one paragraph of the Army regulations, which will settle this matter:

"When public quarters cannot be furnished to officers at stations without troops, or to enlisted men at general or department headquarters, quarters will be commuted at a fixed rate by the Secretary of War, and fuel at the market prices delivered. When fuel and quarters are commuted to an officer by reason of his employment at a civil work, the commutation shall be charged to the appropriation for the work. No commutation for rooms or fuel is allowed for officers or messes."

Mr. BRANCH. With the permission of the gentleman from Missouri, I wish to say that the chairman of the committee of Ways and Means made the point against my amendment that the matter was regulated by law. I admit that where it is regulated by law we cannot in this way reach the matter or control it. But another member of the Committee of Ways and Means gets up, and, instead of reading the law authorizing this item, reads a section of the Army regulations. I ask if it has come to this, that a regulation issued by a commanding general of the Army, or an estimate made by the Quartermaster General of the Army, is such a law that this House cannot inquire into it? We are not precluded, by propriety or by the rules of the House, from reducing the estimate; and the very point I make is, that the Department has estimated too largely, and it is the duty of this House to cut down the estimates so made.

Mr. PHELPS. I wish simply to say in reply to the gentleman from North Carolina, that the Army regulations have the sanction of law; for they are established in pursuance of law.

The question was then taken upon the amendment of Mr. CRAWFORD to the amendment, and it was not agreed to.

The question recurred on Mr. BRANCH's amendment.

Mr. STANTON called for tellers.

Tellers were not ordered.

The amendment was rejected.

Mr. SMITH, of Virginia. I offer the following amendment:

Insert after the word "department," in the seventy-third line, the following:

A sum not exceeding three hundred dollars each, except in the State of California, where the sum allowed shall not exceed six hundred dollars.

So as to make the clause read:

For fuel and quarters for officers of the Army serving on light-house duty, the payment of which is no longer provided for by the quartermaster's department, a sum not exceeding, &c.

We have in the United States, according to this bill, five hundred and fifty-six light-houses. These light-houses are divided into thirteen divisions. Each division is under the command of an Army officer. That Army officer, under the regulations of the War Department, claims fuel and rations. The committee will not fail to perceive that this officer ought to be a traveling officer; that he has a number of these light-houses under his charge; that he is, or ought to be, frequently in motion; and that there is not one of these divisions which has not a military establishment of the United States within it—not one where quarters cannot be had. Notwithstanding that this is the case, he prefers his claim for fuel and quarters—quarters which he ought rarely to occupy—and is allowed four hundred dollars odd for these particular items. I propose to confine this allowance to a reasonable sum. I suppose there is no doubt of our power to do so. My amendment restricts the allowance on the Atlantic coast to \$300 each, and on the Pacific coast, \$600.

Mr. CRAWFORD. I desire to say that that would make the amount \$7,800, instead of \$7,034.

Mr. SMITH, of Virginia. No, sir; \$300 to twelve men and \$600 to this major in California. The committee will observe that I propose by this amendment to regulate these allowances to officers by fixing them at \$300 on the Atlantic coast, and \$600 in California, where things are certainly at a pretty high figure. I ask the honorable chairman of the Committee of Ways and Means if that is not enough? Does he not believe that it will cover every dollar of expense in that regard?

Mr. MARSHALL, of Kentucky. I wish to ask the chairman of the Committee of Ways and Means whether, in his calculation for these officers engaged in light-house duty, he has made the allowances according to their Army rank?

Mr. J. GLANCY JONES. That is my understanding. They are allowed for quarters and fuel which appertain to their rank in the Army.

Mr. MARSHALL, of Kentucky. Well, that ought not to be so.

Mr. J. GLANCY JONES. I am opposed to the amendment. I do not propose to debate it; I believe the bill cannot be improved, and I call for the vote.

The question was taken on Mr. SMITH's amendment, and it was rejected.

Mr. REAGAN. I offer an amendment to come in at the seventy-fourth line.

Mr. SEWARD. We have not reached that point where the gentleman offers his amendment. When we have reached it the gentleman can offer his amendment.

Mr. J. GLANCY JONES. Who is entitled to the floor?

The CHAIRMAN. The gentleman from Texas.

Mr. J. GLANCY JONES. Well, I hope his amendment will be read. Let us go on in order.

Mr. REAGAN's amendment was read as follows:

Provided, That no sum shall be paid out of this appropriation, in gross, to any officer, nor until the proper Department shall be satisfied that an actual expenditure has been made by such officer for fuel or quarters, and for no other purpose; and only for the amount of such actual expenditure.

Mr. REAGAN. I understand, from what has been said by the chairman of the Committee of Ways and Means, that the officers provided for in this clause are to be paid constructive fuel and quarters according to their rank in the Army. The object of my amendment is to prevent this constructive paying away of the public money for purposes for which it is never used.

This amendment, whatever the appropriation may be, will limit the expenditures to the amount actually paid out for fuel and quarters. The salaries of these officers have been referred to in this debate. Their salaries are elsewhere provided for. This is only for fuel and quarters. I desire to limit the expenditures to the payments actually made for fuel and quarters, and not to allow these constructive payments to be made to officers of the Army.

Mr. J. GLANCY JONES. I desire to correct the gentleman on one point. They do not receive their fuel and quarters by construction of law at all, but by positive law. The law itself fixes the pay, fuel, and rations, according to rank.

Mr. REAGAN. It is doubtful, and this amendment makes it clear and explicit. They are not to be paid constructively, but only for what is actually needed by the public service.

Mr. CURTIS. Mr. Chairman, I have observed that the honorable gentleman from North Carolina [Mr. BRANCH] has, on more than one occasion, assailed the extravagance of the Army of the United States, and I have sought an opportunity to reply to him, but have heretofore been unable to do so. In the first assault which he made, he said that we had a superabundance of officers in our service as compared with the service of other countries, and read copious extracts to show an exorbitant number of commissions to a given number of privates. In justice to the Army, he should have considered the character of the service which our officers perform. Many of our officers are not really engaged with the troops, but are employed in civil pursuits by the Government, as you perceive by the character of the bill now before us. Many of them are engaged in the topographical bureau, and in various surveys all through the United States; some of them supervising constructions of roads; some driving camels; one has, for years, been delving

in the earth to discover artesian wells; and one has charge of the construction of this Hall. Others are engaged in civil engineer service—quite out of the line of the duties performed by military officers in other parts of the world. Our Army is a skeleton army. The officers educated at West Point are employed in various ways, and whenever the legitimate service requires it, they are ready to fall into the ranks and do the duty devolved upon them as military commanders. This versatility of pursuits brings them in contact with the various enterprises of the day, and better qualifies them to act as a nucleus upon which your militia can and does rally in time of war. There is no branch of the military service that is more cautiously guarded than that relating to fuel and quarters. It is impossible that an officer should draw more than he actually needs, because the quartermaster can only grant that which the service seems to require. For instance: the officers serving in Mexico generally got no fuel, because the climate was generally so warm none was required. But from the earliest military history of our country, the officers and privates of the Army have been entitled to fuel and quarters when required, and I do not apprehend that any officer will receive more under this bill than is right and just. Why should officers on light-house service be deprived of this allowance, which is accorded to all other branches of the service?

Mr. BRANCH. I desire to ask the gentleman, in order to show the injustice of this system, whether an officer serving in the Indian country, and living in tents and undergoing all the hardships of living in tents, gets anything from the Government for fuel and quarters? And whether this is not an advantage given to officers living in comfortable quarters, and a discrimination against officers engaged in hard service?

Mr. CURTIS. It is not a discrimination which they regard as an injustice. At least they should not: the man in field service, with all this inconvenience in regard to quarters, generally prefers it. He draws a tent instead of a house, and prefers it. Why? First, because his personal and family expenses are less while he is in field service; and, second, because the service is generally more in accordance with his profession; more varied and distinguished, and therefore more interesting. It would be better for the officers and the service if they were more in the frontier service. But if, stationed in the city of Cleveland, or New York, or San Francisco, he desires to live as other gentlemen do, he must incur greater expense. It is right and necessary for the honor of your country that your officers should be so provided. The quartermaster has to furnish our officers when thus located with a respectable house, and you cannot get a respectable house in a large city for less than from five hundred to one thousand dollars a year; you cannot get a good one even in Iowa, in the city of Keokuk, where I reside, for less than six or eight hundred dollars a year. An officer is thus entitled to quarters according to his location. If in the field, he desires and draws a tent; if in a frontier garrison, he has a cabin; and when you locate him in a city, he should have a respectable house. Such is the system established by the Army regulations, and contemplated by this bill. I hope gentlemen will pass on to other items, and make no further assault on the transient and indifferent homes allowed to our Army officers and their families. [Here the hammer fell.]

The question being on Mr. REAGAN's amendment,

Mr. CRAWFORD demanded tellers.

Tellers were ordered; and Messrs. HALL of Ohio, and BUFFINGTON were appointed.

The question was taken; and the tellers reported—ayes 60, noes 74.

So the amendment was not agreed to.

Mr. SEWARD. I move to amend the same paragraph by striking out "seven" and inserting "ten." Mr. Chairman I have moved this amendment simply for the purpose of making a few remarks upon the general subject.

It is a matter of regret to me that these insidious attacks are made against the commerce of the country by some gentleman who come from the same section of country from which I come. When we remember that we have no commerce, that we have no ships which are built at the South, that the whole commerce of the South does not exceed forty thousand tons of vessels built

there, yet southern men are eternally warring upon appropriations which are for the benefit of the coast surveys and for the Light-House Board, which are of such immense advantage to the commerce of my section of the country. It is a fact that an exclusively agricultural country can never become a wealthy country.

While gentlemen from the North have been liberal in their appropriations for the benefit of the South, gentlemen from the South vote against them. If these reforms are necessary, let us reorganize the Light-House Board. Let us reorganize the whole system, and our whole system of coast survey. Let us do what is proper, and no more. But I protest that while the commerce of the South is languishing, it should be made to suffer still more by the niggardly parsimony shown by gentlemen from the South, when gentlemen from the North come forward to relieve us. Let us meet gentlemen from the North in these measures for our relief, instead of spending our time in nonsensical conventions, discussing commerce outside the country.

Now, sir, we must have some principle to act upon. We must have some system. Gentlemen are constantly complaining that war is made upon the South; that contributions are levied upon the South; and that the labor of the South is taxed for the benefit of the North. It is true that the labor of the South has been taxed for the benefit of the North, but we have done nothing for ourselves. Gentlemen from the North are willing to do what is right. During the five years I have been here, I have always found the people of the North liberal, in respect to the South, upon every subject, with the exception of that of slavery, and I believe they are coming round right upon that subject. I want to see the subject of slavery taken away from these Halls. Let that be done. Let us talk about commerce. Let us come up like sensible men, and turn our attention to the commerce of the country—a subject in which all our people in the North, in the South, the East, and the West, are equally interested—and we shall hear no more of sectional controversies.

Mr. CRAWFORD. I wish to oppose the amendment of my colleague. I do not think the appropriation should be increased to \$10,000.

[The committee here informally rose, and the Speaker having resumed the chair,

Mr. PIKE, from the Committee on Enrolled Bills, reported that they had examined and found duly enrolled, bills of the following titles; when the Speaker signed the same:

An act (S. No. 82) to amend "An act to authorize the President of the United States to cause to be surveyed the tract of land in the Territory of Minnesota, belonging to the half-breeds or mixed bloods of the Dacotah or Sioux nation of Indians, and for other purposes," approved July 17, 1854;

An act (S. No. 314) for the prevention and punishment of frauds in land titles in California;

An act (S. No. 312) to provide for the collection and safe-keeping of public archives in the State of California.

The committee again resumed its session.]

Mr. MARSHALL, of Kentucky. I move to amend the same paragraph by striking out "three" and inserting "five." I do not understand the principles upon which the Committee of Ways and Means justify themselves in calculating the pay of these people, who are engaged upon light-house duties, according to Army rank. You say the Quartermaster General will not pay them. You put these men upon special duty—upon light-house duty. Why should not one superintendent, put upon light-house duty, have fuel and quarter equal to another superintendent, put upon the same duty? They are all occupying the same special position, of superintending, as I understand it, the light-house system. When the duties are the same, when the districts are equalized, when the special duties they perform are the same, why should a younger man, probably of the most energy, probably of the most talent and of the most efficiency, be cut down in the matter of his quarters and fuel to that belonging to the rank of lieutenant, while an older man next to him, upon the same line of duty, gets fuel and quarters according to a major or colonel's rank?

Mr. CURTIS. I can tell the gentleman. It is because old men have larger families, and have more company to entertain.

Mr. MARSHALL, of Kentucky. I am in-

debted to the gentleman from Iowa for the information, and he stands uncontradicted by the chairman of the Committee of Ways and Means, and therefore I suppose he gave correctly the principle upon which the appropriation is made—that where a man, a senior in years, is superintendent of a light-house district, you give him larger pay, in order that he may entertain more company. Now, my notion about it is this: that when we put men upon similar duty we ought to equalize the compensation; that when officers leave the Army and assume land duties—such as superintending the light-houses—they ought to be paid like lamp-lighters, and not like majors.

Mr. J. GLANCY JONES. I desire to ask the gentleman if he proposes to alter the law in an appropriation bill?

Mr. MARSHALL, of Kentucky. I do not concede there is any law for this item. If there is, I would like to see it.

Mr. CURTIS. I desire to ask the gentleman from Kentucky one question. I would like to know how many horses he rode, when he was a colonel commanding in Mexico, by construction?

Mr. MARSHALL, of Kentucky. I never rode any by construction; I rode a great many actually. [Laughter.]

Mr. CURTIS. Did not you have three horses?

Mr. MARSHALL, of Kentucky. It is true I had all that I was entitled to, and I nearly rode their tails off. [Renewed laughter.]

Mr. BRANCH. I cannot permit the remarks which have fallen from the gentleman from Georgia [Mr. SEWARD] to pass without calling the attention of the House to the very gross error into which he has fallen. I think it would plague any gentleman in this House, except the gentleman from Georgia, to perceive how an attempt to prevent a major in the Army from receiving \$2,000 for fuel and quarters, over and above his usual pay and other perquisites, is an attack upon the commerce of the country. The gentleman, however, says he regrets to see gentlemen upon this floor assail commerce upon all occasions.

Mr. LETCHER. I rise to a question of order. The gentleman does not confine his remarks to the amendment.

The CHAIRMAN. The gentleman must confine his remarks to the proposition of the gentleman from Kentucky.

Mr. BRANCH. I was only answering the gentleman from Georgia. But I will endeavor to proceed in order.

Mr. J. GLANCY JONES. I understand the gentleman rises to oppose the amendment; and that he is opposed to striking out "seven" and inserting what has been proposed.

Mr. BRANCH. I do not know how the chairman of the Committee of Ways and Means has found that out.

Mr. J. GLANCY JONES. Because I know my friend would not desire to proceed out of order; and he can only proceed in order by opposing the amendment.

Mr. BRANCH. I intended—

Mr. FOSTER. Will the gentleman yield to me?

Mr. BRANCH. I do not wish to consume the time of the committee, and will yield the floor in a moment. I wanted to remark that, instead of forty thousand tons, the South owns more than five times forty thousand tons of shipping; and that a single port of the South which I could name—the port of Baltimore—owns one hundred and eighty-three thousand tons; that Charleston owns sixty thousand tons. And I could name several ports which own three or four times the tonnage which the gentleman from Georgia asserted as belonging to the entire South. Instead of southern men doing injustice to the North, it is southern men doing injustice to the South, by such statements as the gentleman from Georgia has made. That is what the South suffers under, even more than from attacks of those who live in other sections of the Union.

Mr. SEWARD's amendment was not agreed to. The Clerk resumed the reading of the bill.

Mr. CLAWSON. I offer the following amendment, to come in between lines 77 and 78:

For the purchase of Holmes's life-boat, to be placed at each of the twenty-eight life-saving stations on the coast of New Jersey, \$6,440.

Mr. J. GLANCY JONES. I rise to a question of order. If I understand the amendment, it is not in order, because it is not provided for by law.

The CHAIRMAN. The amendment being an independent resolution, the Chair rules it out of order.

Mr. CLAWSON. There are already life-saving boats at those stations in New Jersey, and they are provided for by law.

Mr. J. GLANCY JONES. The gentleman will find in line eighty an appropriation for contingencies, to which his amendment may be offered.

Mr. CLAWSON. The amendment, I think, is in order here. [Cries of "Order!"]

The CHAIRMAN. The Chair has ruled the amendment out of order.

Mr. CLAWSON. I appeal from the decision of the Chair. I wish to say one word.

Mr. CRAWFORD. I rise to a question of order. The appeal is not debatable.

The CHAIRMAN. The appeal is not debatable.

Mr. CLAWSON. Does the Chair decide that my amendment will not be in order in any part of the bill?

The CHAIRMAN. The Chair decides that it is out of order, as there is no provision of law providing for it.

Mr. ADRAIN. I understand there is a law for the purchase of boats. The boats now in use on the New Jersey coast are of no use, and the proposition of my colleague is to substitute other boats for those that are absolutely valueless.

The CHAIRMAN. The Chair is of opinion that the amendment is out of order, and so decides. The gentleman from New Jersey appeals from that decision.

Mr. CLAWSON. I withdraw the appeal for the present.

The Clerk proceeded with the reading of the bill.

Mr. CLAWSON. I offer the following amendment:

After line eighty-one, insert as follows:

For the purchase of Holmes's life boats, to be placed at each of the twenty-eight life-saving stations on the coast of New Jersey, \$6,440.

Mr. SMITH, of Virginia. I raise the question of order, that the amendment proposes independent legislation. The clause sought to be amended is "for contingencies for life-saving apparatus on the coast of the United States, \$12,000." The amendment is a proposition to authorize the purchase of a specific kind of boat. There is no law for it whatever.

The CHAIRMAN. The Chair will hear the gentleman from New Jersey.

Mr. CLAWSON. I desire to say, Mr. Chairman, that there are twenty-eight life-saving stations on the New Jersey coast. There are already boats there—the Francis life-boat—and the proposition merely is to substitute those of Mr. Holmes. Francis's boats will not be used by the seamen along the coast of New Jersey. They lie at the station-houses perfectly useless. In cases of wreck, the seamen on the coast use their own boats exclusively. The proposition is, that the Government shall supply them with boats, instead of using their own boats.

Mr. FLORENCE. The purchase of boats is now authorized by law, and the point of order, made by the gentleman from Virginia, cannot be sustained.

Mr. J. GLANCY JONES. Does the Chair hold the amendment to be in order?

The CHAIRMAN. The Chair decided to hear the statement of the gentleman from New Jersey, before deciding the question.

Mr. CLAWSON. I desire to add but one word more. I believe that when this appropriation was originally made for life-saving apparatus on the coast of New Jersey, it was made by an amendment to an appropriation bill.

Mr. J. GLANCY JONES. If the gentleman moves to increase the appropriation, that amendment will be germane; but if he moves also to add words, describing the article, not in the existing law, then it is not germane.

Mr. FLORENCE. There is an existing law providing for boats.

Mr. J. GLANCY JONES. Then it is not necessary to describe the boats. All that is necessary is to increase the appropriation.

Mr. FLORENCE. It is merely substituting another boat for the one now in use, because the latter is entirely useless.

Mr. J. GLANCY JONES. The word "contingencies" will cover all that, if it be in the law.

The CHAIRMAN. The Chair believes that, under rule 81, this amendment, being germane to the bill, is in order at this stage of the bill.

Mr. TAYLOR, of New York. I move to amend the amendment by adding the following:

And for the purchase of the best life-boat, to be approved by the Department, for use on the coast of Long Island, \$10,000.

Mr. J. GLANCY JONES. The act of 1854 authorizes the Secretary of the Treasury to establish such additional stations on the coasts of Long Island and New Jersey for affording aid to shipwrecked vessels thereon, to change the locations of the existing stations, and to make such repairs and furnish such apparatus and supplies as may, in his judgment, be best adapted to give effect to the objects of that act. The discretionary power of the Secretary of the Treasury under this act is large enough to cover all this; and, if the gentleman wants to obtain a better kind of boat, he may do so by moving to increase the appropriation, and that amendment will be germane.

Mr. TAYLOR, of New York. The amendment suggested by the chairman of the Committee of Ways and Means is entirely satisfactory to myself; but I desire to say that something additional is absolutely necessary. We not only lose millions of property annually on the coasts of Long Island and New Jersey, at the entrance of the port of New York, but thousands of lives are annually sacrificed on these coasts. The stations now provided, and the means now provided, are wholly inadequate, and some additional appropriations are absolutely necessary. This is a matter of life and death—a matter of vital importance to those coming to our port from foreign countries—of vital importance to our shipping interests, and to those who are engaged in foreign trade. It is not an appropriation that we can postpone. We can dispense with many of the appropriations in this bill; but here is an appropriation intended for the saving of life, and we cannot dispense with it. If gentlemen will examine the statistics, they will find that hundreds of thousands of dollars are annually sacrificed there, because we have not provided efficient means to save life and property. New York is the great port of the country. The emigration coming into the port of New York is annually increasing. I do not desire to occupy the time of the committee, but I desire to call the attention of the committee to the vast interests involved in this matter.

Mr. LETCHER. I am opposed to this mode of legislation for one or two reasons that are sufficient to myself. Whether they will prove satisfactory to the committee, or not, is another matter. Now, sir, here is a proposition—to do what? To direct the Secretary of the Treasury to purchase a boat of a particular make and of a particular pattern, taking away from him all discretion in regard to the matter; although, at the very time this order is made, he may have conclusive evidence before the Department that this boat is not as good as other boats now in use.

Mr. TAYLOR, of New York. The amendment which I propose does not do that.

Mr. FLORENCE. The gentleman will permit me to say that the Secretary of the Treasury has direct evidence to the contrary. This boat has undergone investigation by officers appointed by the Navy Department, with a view to its introduction and use in the revenue marine and naval service, and, from the investigations and experiments that have been made, have proved its better adaptability for the purpose than any other; and it is a humane object which gentlemen have in view in desiring to introduce it.

Mr. LETCHER. The humane object may be effected as well, perhaps, by one boat as by another; and if the examination has been already made, and the Secretary of the Treasury is satisfied that this is the best boat that can be procured for the service, it strikes me as a little singular that an officer who is usually so prompt in regard to his duty should not have apprised the House of the fact, and requested them to make the necessary change in the law for that purpose. But nothing of that sort has been done. If this part of the amendment be stricken out, then if the Secretary of the Treasury is satisfied, as the gentleman from Pennsylvania says he is, he will not be precluded from obtaining that boat which is best adapted to the service.

It strikes me, then, that the most proper course

for us to pursue is to leave the discretion just as it is, and, of course, whatever light the Secretary has before him will guide him in his future action on the subject, and if his conclusion shall be, as my friend from Pennsylvania supposes, then he will in all probability purchase this boat.

But, Mr. Chairman, there is a great deal of mischievous legislation here by directing things to be done in a particular way, when the House is entirely destitute of knowledge in regard to it, when it has not a particle of information from the Department in regard to it, and when the only information which we have has suddenly been sprung upon the House in the progress of a five-minute debate such as this is. This course I suggest can do no harm; the other course may do mischief.

Mr. PHELPS. I desire to offer an amendment to the amendment.

The CHAIRMAN. There is an amendment to the amendment already pending, and no further debate is in order.

Mr. FLORENCE. I rise to a question of order. I know of nothing in the rules of the House that justifies members in sleeping on the sofas around the Hall—as I see several gentlemen now doing—when there is a very important matter under consideration. [Laughter.]

Mr. WRIGHT, of Tennessee. Mr. Chairman, is it in order to move to strike out the enacting clause?

The CHAIRMAN. It is in order.

Mr. WRIGHT, of Tennessee. Then, sir, I make that motion, because I do not think that so important a matter as this ought to be acted upon without the presence of the honorable member from Virginia, [Mr. CLEMENS,] who, I discover, is now asleep. [Much laughter.] The gentleman from Virginia, on the memorable night when many members were absent, manifested so much zeal in having every member present, that I think it would be doing injustice to the country to go on with important subjects of legislation without his presence. I therefore make that motion, and shall insist on it, unless the gentleman from Virginia [Mr. CLEMENS] can be waked up and brought to his seat. [Renewed laughter.]

Mr. CLEMENS at this point returned to his seat.

Mr. WRIGHT, of Tennessee. I now withdraw my motion.

Mr. TAYLOR's amendment to the amendment was agreed to.

Mr. LETCHER. I move to amend the amendment, by striking out the word "Holmes's," so that it will read:

"For the purchase of life-boats to be placed at each of the twenty-eight life-saving stations, and so forth."

That will leave the matter in the discretion of the Secretary of the Treasury as to what boat he shall purchase.

Mr. LOVEJOY. I oppose the amendment for the reason that unless we designate the kind of boat, we have no guarantee that the matter will not be disposed of on political grounds.

Mr. PHELPS obtained the floor.

Mr. KELSEY. I rise to a question of order. Debate on the amendment of the gentleman from Virginia has been exhausted. The gentleman from Virginia submitted the amendment, and the gentleman from Illinois opposed it.

The CHAIRMAN. The gentleman from Illinois was not recognized by the Chair, and had no right to oppose it.

Mr. PHELPS. I desire to speak in opposition to the amendment.

Mr. WASHBURN, of Maine. I wish to ask if the amendment proposed by the gentleman from New York [Mr. TAYLOR] was adopted?

The CHAIRMAN. It was.

Mr. WASHBURN, of Maine. Then, is it in order to move an amendment to the amendment as amended?

The CHAIRMAN. The amendment as amended now becomes the same as original matter, and is open to amendment.

Mr. PHELPS. I am opposed to both the amendments now pending. I think it proper to leave this matter to the Secretary of the Treasury.

Mr. CLAWSON. I rise to a question of order. My question of order is, that the gentleman from Missouri is not opposing the amendment.

Mr. PHELPS. I am very sorry my friend from New Jersey does not see that I am in order.

Mr. CLAWSON. The amendment is to strike

out the word "Holmes's." The gentleman states that he is in favor of leaving the whole matter to the Secretary of the Treasury, and he is therefore in favor of the amendment.

Mr. PHELPS. I will endeavor to keep in order.

Mr. STANTON. I rise to another point of order. I understand that this amendment has been agreed to.

Mr. LETCHER. The gentleman is mistaken.

Mr. STANTON. I understood it had been adopted.

Mr. PHELPS. I am desirous that when the Secretary of the Treasury shall purchase these life-boats, he shall have the opportunity of purchasing the best life-boats that have been invented. The gentleman from New Jersey says that Holmes's life-boat is the best. If it is the best, then I am opposed to striking the word "Holmes's" out; but I think it is better to leave the whole matter to the exercise of the sound judgment and discretion of the Secretary of the Treasury, and that we should give him authority to purchase Holmes's life-boats, or Francis's life-boats, or any others which have been manufactured, and which he may decide to be the best. I think it is wrong to require the Secretary of the Treasury to purchase the invention of a particular individual.

Mr. JOHN COCHRANE. Will the gentleman from Missouri accept an amendment increasing the appropriation to \$20,000?

Mr. PHELPS. Is that for the benefit of Holmes's life-boat?

Mr. JOHN COCHRANE. Oh no.

Mr. PHELPS. The amendment of the gentleman is not in order at this time; for an amendment to an amendment is pending. I can see no necessity for increasing this appropriation according to the suggestion of the gentleman from New York, unless it be because Holmes's life-boat costs more than any other life-boat which has been invented. I submit to the committee, whether it is not better to leave the Secretary of the Treasury to select the life-boat which shall be found, on examination, to be the best?

[Here the hammer fell.]

The amendment to the amendment was not agreed to.

The question then recurred on the amendment as amended.

Mr. BILLINGHURST called for tellers.

Tellers were ordered; and Messrs. BILLINGHURST and JOHN COCHRANE were appointed.

The House divided; and the tellers reported eighty-four in the affirmative; a further count not being demanded.

So the amendment as amended was agreed to.

Mr. BRYAN. I offer the following amendment, to come in immediately after the amendment just adopted:

For procuring two additional improved metallic life-boats, a metallic life-car, and necessary harness, lines, and other suitable articles, to be used under the direction of the Secretary of the Treasury in saving life, in case of marine disaster, off Galveston station, Texas, \$10,000.

This is an amendment similar to the one just adopted. The necessity for it is stated in a petition I now hold in my hand, signed by a number of the principal merchants of the city of Galveston. Two vessels were recently wrecked there, and most of the crew lost. One large steamer plying between the city of New Orleans, Galveston, and the western coast of Texas, was burned off the coast, and fifty-three lives were lost in consequence of not having these life-boats. A life association has been organized to cooperate with the Secretary of the Treasury to save life through this appropriation. This is an appropriation on which I trust my friends from the North will respond to the sentiments uttered by the gentleman from Georgia, and show that, while some gentlemen of the South will vote for these liberal appropriations, they, too, will vote to save southern life, as some of us have just voted in favor of providing means for saving northern life. There is a necessity for this appropriation, as shown by the memorial of the merchants of the city of Galveston; and many of the facts stated in that memorial I myself know to be true.

[Here the hammer fell.]

Mr. J. GLANCY JONES. Is that amendment in order?

The CHAIRMAN. It has been received by the committee.

The amendment was agreed to.

Mr. EUSTIS offered the following amendment to be inserted between lines 81 and 82:

Treasury Building, Custom-Houses, and Marine Hospitals.

For continuing the work on custom-houses building at the following places, viz: at New Orleans, Louisiana, \$350,000; and at Charleston, South Carolina, \$300,000; \$650,000.

For the completion of custom-houses at the following places, viz: at Ellsworth, Maine, \$2,000; at Portsmouth, New Hampshire, \$50,000; at Bristol, Rhode Island, (including fencing and grading,) \$5,000; at New Haven, Connecticut, \$60,000; at Oswego, New York, \$10,000; at Plattsburg, New York, \$10,000; at Newark, New Jersey, \$10,000; at Norfolk, Virginia, \$20,000; at Pensacola, Florida, \$5,000; at St. Louis, Missouri, \$20,000; at Mobile, Alabama, (including fencing and paving,) \$30,000; at Galena, Illinois, \$10,000; at Milwaukee, Wisconsin, \$10,000; and for annual repairs of custom-houses, \$15,000; \$257,000.

For the completion of marine hospitals at the following places, viz: at Portland, Maine, \$3,000; at St. Marks, Florida, \$2,500; at New Orleans, Louisiana, (including filling up, grading, and fencing, and the introduction of gas and water pipes and fixtures,) \$35,000; at Cincinnati, Ohio, \$50,000; at Galena, Illinois, \$5,000; and for annual repairs of marine hospitals, \$15,000; \$160,500.

For grading, paving, and fencing the grounds, and for furnishing custom houses, at the following places, viz: at Ellsworth, Maine, \$3,000; at Bath, Maine, furniture alone, \$1,100; at Burlington, Vermont, \$4,600; at New Haven, Connecticut, \$3,500; at Oswego, New York, \$7,300; at Plattsburg, New York, \$9,900; at Newark, New Jersey, \$5,200; at Alexandria, Virginia, \$3,700; at Norfolk, Virginia, \$12,000; at Mobile, Alabama, furniture alone, \$2,600; at Pensacola, Florida, \$2,500; at St. Louis, Missouri, \$14,600; at Louisville, Kentucky, \$3,900; at Cleveland, Ohio, \$7,100; at Galena, Illinois, \$3,700; and at Milwaukee, Wisconsin, \$7,700; \$97,100.

For grading, paving, and fencing, and for furnishing marine hospitals, at the following places, viz: at Burlington, Vermont, \$3,400; at Chelsea, Massachusetts, \$19,700; at St. Marks, Florida, \$1,200; at Detroit, Michigan, \$7,500; at Galena, Illinois, \$3,800; and at Burlington, Iowa, \$4,100; \$39,700.

Mr. JONES, of Tennessee. I wish to inquire whether it would be in order to move to amend that proposition, by authorizing the Secretary of the Treasury to borrow the money with which to meet that appropriation? [Laughter.]

Mr. EUSTIS. I will state, for the information of the House, that the appropriations asked for in the amendment are not precisely those which are asked for by the Secretary of the Treasury; and perhaps I may be permitted to add that they receive his countenance; at all events, I think I may state, if I am to be contradicted—and I certainly shall be by the vigilance of the Committee of Ways and Means—that the Secretary of the Treasury does not oppose, and will not oppose, any of these appropriations. The House will perceive that they are divided into three classes.

Mr. J. GLANCY JONES. I desire to ask the gentleman from Louisiana whether he omitted the appropriation for the Treasury extension by design or by accident?

Mr. EUSTIS. I omitted it by design, and not by accident. As I was saying, the appropriation is divided into three classes.

Mr. GROW. I rise to a point of order. The amendment is not in order, because it is not germane to this portion of the bill.

The CHAIRMAN. The Chair is of opinion that it is in order, and overrules the point of order.

Mr. EUSTIS. When I was interrupted by the gentleman from Pennsylvania, I was saying that this amendment contains three classes of appropriations. In the first place, there is an appropriation for \$350,000 and one for \$300,000 for the continuance of the work on the custom-houses of Charleston and New Orleans. These works are under contract, and we have no discretion. The Secretary of the Treasury states in his letter that where works are progressing under contract there is no discretion with the Department to limit the progress of the works. If they were to stop for want of appropriations, the Government would be liable for damages, and for damages that might be infinitely larger in amount than the appropriations that are now asked for. The other classes of appropriations are necessary to complete buildings at some ten or twelve places. The aggregate amount is some two hundred and fifty-seven thousand dollars. If the amount be appropriated, before the meeting of next Congress these buildings will be completed; and the Government, instead of paying enormous rents to private individuals, will have its buildings completed, and will be able to occupy them. Therefore, on the principle of sound economy, these appropriations which the Committee of Ways and Means have designedly omitted to present to this House, are absolutely necessary for the purpose of saving money to the Government.

But, sir, when I look at the bill which the Committee of Ways and Means have reported to this House, I am not prepared to say that these appropriations were omitted from motives of economy. I find on page 10 an item for the completion of the Washington Aqueduct, \$800,000; one for the Capitol extension, \$1,000,000; and one for the extension of the General Post Office, \$100,000. Enormous sums of money are asked for for the completion of public buildings here in the District of Columbia. I see no reason why the same rule should not apply throughout the whole country. If the Government, from motives of economy, is not prepared to complete its buildings in different parts of the United States, let us make the rule general in its application, and stop the progress of buildings in the District of Columbia, as well as in the States. The same remarks that apply to custom-houses will apply also to marine hospitals. The third class of appropriations is for fencing, grading, paving, and furnishing buildings which will be completed before the next session of Congress. [Here the hammer fell.]

Mr. LETCHER. One of the propositions embraced in this amendment is for \$360,000 for the custom-house at New Orleans—a custom-house which has already had expended on it by the Government a sum of \$2,675,258; and which has sunk an average depth of fifteen and three fourths inches

since it was commenced. How long will it be after you pile this stone on it—

Mr. EUSTIS. Will the gentleman permit me—
Mr. LETCHER. The gentleman will excuse me, as I have but five minutes to reply to the gentleman. I refer the gentleman to the report of the Secretary of the Treasury for the accuracy of my statement. It is sinking still; for, in the last year, it has sunk on the average two inches; and the more you pile upon it, as a matter of course the more it will continue to sink. Then, besides all this, here is New York, the great importing port of this country, where a custom-house was built for \$1,105,000, which answered all the purposes of the Government in 1842; while \$2,670,000 has been expended on the custom-house in New Orleans, and \$2,000,000 will probably be demanded to complete it. And here let me tell the gentleman that he is under a slight mistake when he says that the New Orleans custom-house is being built by contract; and there again I refer him to the report of the Secretary of the Treasury, where it is stated, on page 134, that it is being built by the Government.

Now, let me take another case: here is Oswego, in New York, where \$113,000 has been already appropriated to build a custom-house, and where, according to the report of the Secretary of the Treasury, \$12,000 has been paid for a job, and

a contract made to build it for \$77,000. There is \$89,000 for which it was to have been completed, while there has been already appropriated \$113,800, and they are here now asking for \$10,000 more. Worse than that, at that point, after taking the postage and the revenue, the Government is annually left in debt \$6,020.

Here is Cincinnati. It costs \$6,437 53 to support the sailors at the hospital, while the whole income is but \$2,000. They have expended there, as well as I recollect, about one hundred and thirty-six thousand dollars to build the marine hospital, and they want \$50,000 more.

Here is Belfast, in Maine, where you are asking money to complete a custom-house—where the Government gets one hundred and sixty-one dollars each year, after taking the whole revenue and postage, and where they have got \$18,000. Here is Ellsworth—the same over again. Now what I have to say to the gentleman from Louisiana is this: the custom-house at Oswego was contracted for to be built for \$77,000, and the lot only cost \$12,000. They have had \$113,000 appropriated, and now they want more money to complete it. There is twenty thousand dollars odd, over and above the amount appropriated for the purpose, and yet they ask for more. I refer gentlemen, for full information on the subject, to the following tables:

Statement showing the places where Custom-Houses, Court-Houses, and Post Offices have been finished since 1850, the revenue collected at each, and cost of collection for the last fiscal year, &c., &c., with total cost of building.

Location.	Custom-Houses.				Post Offices.				Court-houses. Number of days session for 1857.	Aggregates.		Total cost of Buildings.
	Revenue collected.	Expend's.	Net income.	Excess of cost over revenue.	Revenue collected.	Expend's.	Net income.	Excess over revenue.		Total net income.	Total cost over revenue.	
Belfast, Maine.....	\$5,072 05	\$6,012 87	-	\$950 82	\$2,002 30	\$1,203 13	\$799 17	-	-	-	\$161 65	\$26,597 70
Bath, ".....	34,094 08	8,593 53	\$25,500 55	-	4,784 38	2,501 02	2,283 34	-	-	\$27,783 89	-	84,281 72
Bangor, ".....	11,131 36	7,019 03	4,082 33	-	8,960 03	3,237 65	5,722 38	-	-	9,810 71	-	103,698 13
Portland, ".....	288,967 28	32,941 04	256,026 24	-	19,675 46	12,273 31	7,402 12	-	138	263,423 36	-	394,792 81
Waldoboro ".....	1,368 02	7,547 14	-	6,179 12	568 34	480 09	107 65	-	-	-	6,071 47	23,013 12
Wiscasset ".....	130 93	7,139 09	-	7,228 16	1,110 78	556 43	554 35	-	-	-	6,703 81	5,900 00
Burlington, Vt.....	8,881 70	16,285 47	-	7,793 77	5,745 65	2,533 14	3,212 51	-	-	-	4,481 26	40,036 96
Barnstable, Mass.....	1,462 75	11,953 20	-	10,490 55	745 45	394 45	351 03	-	-	-	10,139 53	33,370 80
Gloucester, ".....	58,461 61	7,117 09	50,744 52	-	2,190 77	1,066 19	1,104 58	-	-	51,849 10	-	48,418 31
Bristol, R. I.....	17,901 74	4,137 17	13,764 57	-	1,379 85	642 27	737 58	-	-	14,502 16	-	28,400 00
Providence, R. I.....	54,750 36	14,038 12	40,712 24	-	33,155 38	9,037 50	24,117 88	-	-	64,860 12	-	24,334 33
Plattsburg, N. Y.....	17,792 52	13,829 35	3,963 17	-	2,251 69	1,141 60	1,110 09	-	43	5,072 46	-	66,000 00
Wilmington, Del.....	2,004 95	15,848 38	13,843 43	-	9,552 10	3,121 00	6,431 10	-	26	20,014 53	-	40,348 30
Pittsburg, Pa.....	3,599 68	2,360 54	1,239 14	-	35,575 82	13,460 00	22,095 82	-	97	23,334 86	-	110,000 00
Cincinnati, Ohio.....	81,380 34	1,436 89	79,954 45	-	57,719 30	25,219 13	32,500 17	-	113	142,424 62	-	291,130 83
Sandusky, ".....	567 84	4,372 66	-	3,804 82	5,732 61	2,670 26	3,062 35	-	-	752 47	-	74,571 85
Toledo, ".....	103,773 26	3,995 69	99,777 59	-	8,631 10	8,060 00	571 10	-	-	100,348 69	-	75,001 45
San Francisco, Cal.....	1,581,926 96	402,401 76	1,179,525 20	-	134,821 01	31,203 04	103,618 97	-	-	1,283,141 17	-	761,327 95
	\$2,272,947 45	\$507,839 02	\$1,769,163 43	\$36,366 24	\$364,618 23	\$119,182 89	\$245,465 39	-	-	\$2,006,571 76	\$28,310 18	\$2,443,776 94

OFFICE OF CONSTRUCTION, TREASURY DEPARTMENT, February 4, 1858.

A. H. BOWMAN, Engineer in charge.

Statement showing the places where Custom-Houses, Court-Houses, and Post Offices are now constructing, the revenue collected at each, and cost of collection, for the last fiscal year, &c., &c., with the amount appropriated.

Location.	Custom houses.				Post Offices.				Court-Houses. Number of days sessions for 1857.	Aggregates.		Total amounts appropriated.
	Revenue collected.	Expend's.	Net income.	Excess of cost over revenue.	Revenue collected.	Expend's.	Net income.	Excess over revenue.		Total net income.	Total cost of collection over rev.	
Ellsworth, Maine...	\$934 06	\$5,032 09	-	\$4,077 13	\$1,156 39	\$631 70	\$524 69	-	-	-	\$3,552 44	\$18,500 00
Portsmouth, N. H....	5,530 54	1,984 49	-	5,453 95	4,999 53	2,075 82	2,923 71	-	-	-	2,530 24	116,300 00
New Haven, Conn....	252,259 31	20,425 14	\$231,834 17	-	22,334 42	5,271 00	17,063 42	-	-	\$248,897 59	-	123,200 00
Buffalo, N. Y.....	10,140 53	16,806 51	-	6,755 98	46,827 67	23,118 92	23,708 75	-	-	16,952 77	-	290,800 00
Oswego, ".....	6,149 09	18,214 58	-	12,065 49	9,120 29	3,074 90	6,045 39	-	-	-	6,020 10	113,800 00
Newark, N. J.....	384 30	1,585 55	-	1,311 25	18,902 71	4,925 00	13,977 71	-	-	12,766 46	-	146,800 00
Georgetown, D. C....	25,327 90	4,077 89	21,450 01	-	5,260 51	2,583 89	2,676 62	-	-	24,134 63	-	60,000 00
Alexandria, Va.....	7,397 17	5,211 91	2,085 26	-	9,209 14	3,629 24	5,579 90	-	-	7,665 19	-	68,000 00
Norfolk, ".....	61,370 68	49,070 98	12,299 70	-	10,089 83	4,259 53	5,830 30	-	-	16,130 00	-	197,632 53
Petersburg, ".....	53,262 47	6,365 81	46,896 66	-	11,068 76	3,900 00	7,168 76	-	-	54,065 42	-	103,200 00
Richmond, ".....	101,781 21	13,272 44	88,508 77	-	32,859 60	11,938 44	20,921 16	-	-	114,429 93	-	250,000 00
Wheeling, ".....	23,125 97	1,134 52	20,991 45	-	10,552 98	9,990 00	562 98	-	-	21,554 43	-	117,300 00
Charleston, S. C.....	510,575 16	69,542 28	441,033 88	-	43,006 89	10,587 00	32,419 89	-	-	473,455 77	-	1,703,000 00
Mobile, Ala.....	138,810 31	51,309 83	86,900 68	-	31,341 35	7,673 70	23,668 16	-	-	110,568 84	-	360,000 00
Pensacola, Fla.....	478 73	3,212 63	-	2,533 89	898 96	546 22	352 74	-	-	-	2,181 15	38,000 00
New Orleans, La.....	3,661,259 36	263,385 05	3,397,874 31	-	108,905 35	26,220 45	82,684 90	-	-	3,419,659 21	-	2,615,238 00
Galveston, Texas.....	50,061 00	17,187 77	32,873 23	-	7,610 82	4,856 66	2,754 16	-	-	55,648 38	-	116,000 00
St. Louis, Mo.....	365,703 78	10,857 93	354,845 85	-	72,650 87	19,798 30	52,852 57	-	-	407,698 42	-	353,300 00
Louisville, Ky.....	15,514 51	839 41	14,675 10	-	33,685 95	11,683 33	22,002 62	-	-	33,827 73	-	258,745 00
Cleveland, Ohio.....	70,812 42	6,365 81	73,246 61	-	40,239 74	15,066 22	25,173 52	-	-	95,430 13	-	159,800 00
Detroit, Mich.....	146,716 37	19,536 07	127,180 30	-	27,292 77	15,033 00	12,259 77	-	-	139,420 07	-	153,800 00
Chicago, Ill.....	145,652 49	14,349 29	131,313 20	-	81,380 09	45,220 12	36,159 97	-	-	167,473 17	-	414,900 00
Galena, ".....	763 32	625 59	137 73	-	6,304 31	2,170 00	4,134 31	-	-	167,473 17	-	71,500 00
Dubuque, Iowa.....	20,254 50	761 10	19,493 40	-	18,572 95	9,452 65	9,120 30	-	-	28,913 70	-	138,800 00
Milwaukee, Wis.....	284,792 88	5,962 86	278,830 02	-	26,426 46	5,663 63	20,762 83	-	-	299,596 87	-	142,000 00
Rutland, Vt.....	-	-	-	-	1,862 87	1,017 21	855 66	-	4 C. & D.	855 66	-	72,900 00
Windsor, ".....	-	-	-	-	1,246 64	687 20	559 44	-	5	559 44	-	76,000 00
Indianapolis, Ind.....	-	-	-	-	11,639 05	12,154 73	2,484 32	-	58	2,484 32	-	123,700 00
	\$3,907,212 95	\$512,287 32	\$5,327,023 33	\$32,097 69	\$698,665 50	\$263,534 95	\$435,230 55	-	-	\$5,744,439 83	\$14,283 93	\$8,463,755 53

* Court-house.

OFFICE OF CONSTRUCTION, TREASURY DEPARTMENT, February 17, 1858.

A. H. BOWMAN, Engineer in Charge.

Statement showing the places where Custom-Houses, Court-Houses, and Post Offices have been authorized, but not commenced, the revenue collected at each, and cost of collection for the last fiscal year, &c., &c., with amounts appropriated.

Locations.	Custom-Houses.				Post-Offices.				Court-houses. Number of days session for 1856.	Aggregates.		Total amount appropriated.
	Revenue collected.	Expend's.	Net income.	Excess of cost over revenue.	Revenue collected.	Expend's.	Net income.	Excess over revenue.		Total net income.	Total cost over revenue.	
Ogdensburg, N. Y.	\$10,008 45	\$7,932 31	\$2,076 14	-	\$5,091 99	\$2,452 76	\$2,639 23	-	-	\$4,715 37	-	\$100,000 00
Perth Amboy, N. J.	1,531 73	4,471 79	-	\$2,940 06	890 39	476 28	364 11	-	-	-	\$2,556 15	24,000 00
Knoxville, Tenn.	18,091 14	1,347 48	16,743 66	-	3,676 49	1,734 18	1,942 31	-	40	18,685 97	-	96,800 00
Nashville, "	18,022 00	990 63	17,031 37	-	20,336 07	8,457 35	11,878 71	-	50	28,910 08	-	124,500 00
Cairo, Ill.	34,259 44	2,241 61	32,017 83	-	2,416 92	2,000 00	416 92	-	-	32,434 75	-	50,000 00
Astoria, Oregon.	4,173 64	21,254 51	-	17,080 87	291 69	160 17	131 52	-	-	-	16,949 37	41,158 23
Boston, Mass.	7,240,308 72	414,660 63	6,825,648 09	-	215,431 92	56,963 75	158,468 17	-	256	6,984,116 26	-	100,000 00
Baltimore, Md.	1,473,797 87	141,619 78	1,332,178 09	-	116,330 46	28,064 47	88,265 99	-	195	1,562,063 86	-	200,000 00
Columbia, S. C.	-	-	-	-	7,477 60	2,724 91	4,752 69	-	-	4,752 69	-	50,000 00
Raleigh, N. C.	-	-	-	-	4,340 95	3,462 70	878 25	-	8	878 25	-	50,000 00
Key West, Fla.	10,480 54	9,688 09	792 45	-	1,363 05	572 56	790 49	-	55	1,582 94	-	44,000 00
Tallahassee, Fla.	-	-	-	-	2,031 26	974 36	1,056 90	-	16	1,056 90	-	50,000 00
Memphis, Tenn.	112,683 90	5,185 89	107,698 01	-	16,584 02	6,644 18	9,939 84	-	-	117,637 85	-	50,000 00
Springfield, Ill.	-	-	-	-	8,716 68	3,917 97	4,798 71	-	48	4,798 71	-	61,000 00
Madison, Wis.	-	-	-	-	13,347 64	3,919 96	9,427 68	-	17	9,427 68	-	50,000 00
	\$8,923,557 43	\$609,292 72	\$8,334,185 64	\$20,020 93	\$118,297 13	\$122,525 61	\$95,771 52	-	-	\$8,771,061 31	\$19,505 52	\$1,101,458 23

* Court House.

OFFICE OF CONSTRUCTION, TREASURY DEPARTMENT, March 1, 1858.

A. H. BOWMAN, Engineer in Charge.

Statement showing the places where Custom-Houses, Court-Houses, and Post Offices have been asked for but not authorized, the revenue collected at each, and cost of collection the last fiscal year, with the estimated cost of buildings.

Location.	Custom-Houses.				Post Offices.				Court-houses. Number of days sessions for 1856.	Aggregates.		Estimated cost of building and site.†
	Revenue collected.	Expend's.	Net income.	Excess of cost over revenue.	Revenue collected.	Expend's.	Net income.	Excess over revenue.		Total net income.	Total cost over revenue.	
Machias, Maine.	\$608 71	\$2,605 72	-	\$1,997 01	\$798 11	\$476 71	\$321 40	-	-	-	\$1,675 61	\$20,000 00
Plymouth, Mass.	395 12	3,216 04	-	2,820 92	2,090 36	1,099 44	990 92	-	-	-	1,830 00	20,000 00
Boston, "	-	-	-	-	215,431 92	56,963 75	158,468 17	-	256	\$158,468 17	-	1,000,000 00
Hartford, Conn.	-	-	-	-	23,604 46	7,675 39	15,929 07	-	52	15,929 07	-	150,000 00
Bridgeport, "	805 44	1,766 24	-	960 80	7,868 36	2,957 57	4,910 79	-	-	3,949 99	-	100,000 00
Rochester, N. Y.	128,732 48	6,549 23	\$122,173 25	-	26,856 00	6,449 75	20,406 25	-	3	142,579 50	-	200,000 00
Sag Harbor, "	723 72	635 72	88 00	-	1,448 27	720 12	728 15	-	-	816 15	-	20,000 00
Sackett's Harbor, "	26,997 48	6,004 51	20,992 97	-	714 67	381 47	333 20	-	-	21,326 17	-	50,000 00
New York, "	42,510,753 79	1,213,099 77	41,297,654 02	-	691,389 96	159,459 69	531,930 27	-	259	41,829,584 29	-	2,000,000 00
Albany, "	-	-	-	-	45,414 85	19,074 79	26,340 06	-	17	26,340 06	-	200,000 00
Brooklyn, "	-	-	-	-	22,255 49	4,735 00	17,520 49	-	-	17,520 49	-	1,000,000 00
Camden, N. J.	409 40	290 16	119 24	-	1,864 53	1,368 53	496 00	-	-	615 94	-	100,000 00
Trenton, "	-	-	-	-	8,583 53	2,800 00	5,783 53	-	110	5,783 53	-	100,000 00
Jersey City, "	-	-	-	-	7,717 01	2,800 00	4,917 01	-	-	4,917 01	-	100,000 00
Annapolis, Md.	180 75	929 20	-	748 45	2,360 65	1,191 29	1,169 36	-	-	420 91	-	50,000 00
Harrisburg, Pa.	-	-	-	-	23,724 26	8,583 31	15,140 95	-	-	15,140 95	-	50,000 00
Charleston, S. C.	441,100 78	58,263 41	382,837 37	-	43,006 18	10,587 00	32,419 18	-	-	415,256 55	-	500,000 00
Greenville, "	-	-	-	-	1,916 14	882 52	1,033 62	-	-	1,033 62	-	50,000 00
Macon, Ga.	-	-	-	-	8,938 91	3,361 17	5,577 74	-	-	5,577 74	-	50,000 00
Montgomery, Ala.	-	-	-	-	8,883 85	7,404 07	1,479 78	-	10	1,479 78	-	50,000 00
Vicksburg, Miss.	2,317 40	709 96	1,607 44	-	5,904 71	3,451 26	2,453 45	-	-	4,060 89	-	50,000 00
Paducah, Ky.	6,710 90	559 74	6,151 16	-	1,999 23	696 30	1,302 93	-	-	7,252 08	-	50,000 00
Tyler, Texas.	-	-	-	-	518 38	253 75	264 63	-	20	264 63	-	50,000 00
Columbus, Ohio.	-	-	-	-	14,671 18	10,446 53	4,224 65	-	-	4,224 65	-	150,000 00
Burlington, Iowa.	8,810 40	1,177 54	7,632 86	-	6,854 95	3,155 85	3,699 10	-	10	11,331 96	-	50,000 00
Iowa City, "	-	-	-	-	6,930 33	2,900 00	4,030 33	-	10	4,930 33	-	50,000 00
Keokuk, "	11,390 90	862 46	10,528 54	-	7,287 63	3,470 24	3,817 39	-	-	14,345 83	-	50,000 00
Sioux City, "	-	-	-	-	1,098 83	585 64	513 19	-	-	513 19	-	50,000 00
New Albany, Ind.	2,141 10	382 53	1,758 57	-	4,837 94	2,000 00	2,837 94	-	-	4,506 51	-	50,000 00
Quincy, Ill.	1,961 89	435 73	1,526 16	-	7,369 83	2,000 00	5,369 83	-	-	6,895 99	-	50,000 00
Alton, "	1,020 95	525 00	495 95	-	4,275 66	2,053 71	2,221 95	-	-	2,717 90	-	50,000 00
Peoria, "	210 20	363 60	-	-	8,519 69	3,585 26	4,934 43	-	-	4,937 43	-	50,000 00
St. Paul's, Minn.	-	-	-	-	10,978 90	3,278 75	7,700 15	-	-	7,700 15	-	50,000 00
	\$43,145,261 41	\$1,298,376 56	\$41,853,565 43	\$6,680 58	\$1,236,107 76	\$336,150 86	\$899,956 90	-	-	\$42,740,500 76	\$3,505 61	\$6,560,000 00

* Post office.

† Court-house.

‡ These estimates are such as would be asked for, judging by others for like places and purposes.

OFFICE OF CONSTRUCTION, TREASURY DEPARTMENT, March 2, 1858.

A. H. BOWMAN, Engineer in Charge.

Mr. DAVIDSON. I move to amend the amendment by adding a provision of \$500,000 for the Treasury extension.

Mr. Chairman, I was a good deal astonished to hear the remarks of the gentleman from Virginia, [Mr. LETCHER,] who is usually very clear in his statements; and I send to the Clerk's desk, and ask to have read, a letter from Mr. Bowman, who sends up the information upon which the estimates are based.

The Clerk read the letter, as follows:

TREASURY DEPARTMENT, May 6, 1858.

SIR: In my annual report to you on the condition of the several buildings being erected under the Treasury Department, I had the honor to call attention to the appropriations required to be made, to carry on the works with economy—having a proper regard to the pecuniary embarrassment of the Treasury.

Since that period (September 30) the works have progressed with increased vigor, owing to the abundance and comparative cheapness of materials and labor, consequent upon the hard times. The result has been, that larger expenditures have been made than could then be anticipated. As most of the works are being done by contract, it was impossible to restrain the increased expenditures.

From this cause the unexpended balances that were expected to be available for the first two quarters of the next

fiscal year are greatly reduced, and, in some instances, entirely expended. Owing to this increased vigor in prosecuting the works, many of them will be finished, if the necessary appropriations are now made, before the next meeting of Congress.

In view of these circumstances, and to avoid damages which the contractors will not fail to demand if the works are suspended, and at the same time to save the large amounts now annually paid for rent of buildings, which those in question are designed to replace, I would most respectfully recommend that Congress be requested to make the following appropriations: All designed to complete, in every particular, all the buildings named, except the custom-houses at New Orleans and Charleston, and the Treasury extension, of which latter the sum asked will finish the south, and a portion of the west wing.

I also submit other estimates in gross, accompanied by others in detail, of the amounts necessary to fence, grade, and furnish these buildings that are now completed, or that will be finished before the next meeting of Congress.

I have the honor to be, very respectfully, your obedient servant,

A. H. BOWMAN,
Engineer in charge of Treasury Department.

HON. HOWELL COBB, Secretary of the Treasury.

Mr. DAVIDSON. Now, Mr. Chairman, if the gentleman from Virginia refers to the report, he will find that the labor at New Orleans is done by the Government; but that, sir, is all that is

done. The Government does not supply the materials. They contract for them; and that is one of the points which the gentleman seems to forget. He tells you that a custom-house has been built at New York for \$1,000,000, and that upwards of two million dollars has been already expended at New Orleans. He tells you that the city of New York is the largest importing city in the United States; and that is true, and I am very proud of it; but he forgets to tell you at the same time that New Orleans is the largest exporting city in the United States; and that the people of New York have never complained that the custom-house is not sufficient, but are perfectly satisfied with it; whereas it became absolutely necessary to build a large custom-house at New Orleans. If too much money has been expended upon it, who is to blame? Is it the fault of the port of New Orleans, or is it the fault of the manner in which the building has been contracted for and carried on? What have this vigilant committee been about, that they have permitted money to be expended in this manner, that ought not to have been expended? The difference in the price

of labor, and the difficulty of obtaining the materials necessary to carry on the work, may perhaps have made this building cost more than it ought to have done.

But the gentleman tells you that too much money has been expended at Oswego, New York. Why, what have we to do with that?—These are estimates furnished by the Treasury Department. Congress has already appropriated large sums of money for these points. The buildings are in course of erection; and are you going to stop now and throw away all you have done, and years afterwards begin again? Or will you go on and complete the works as you ought to do, and as the wants and interests of the country require you to do? It does seem to me that when the Committee of Ways and Means had these various estimates before them, they ought to have seen that upwards of two million dollars has been expended at New Orleans, and that \$300,000 was necessary to carry on the work and complete the building. Why do they propose to stop the work? Because they say the Treasury is embarrassed. Why is it embarrassed? Is it because this custom-house has been improperly built or too much money has been expended upon it? If it is not, there is no just reason why the money should not be expended on it now that it is necessary to complete it. The Committee of Ways and Means have reported an appropriation of \$800,000 for the Washington aqueduct, and \$1,000,000 for the Capitol extension, and it seems to me that when they were doing that, they ought to have shown some respect to other sections of the country. I do not complain of these appropriations which they have recommended, for I am ready and willing at all times to vote for any sums which are estimated for by the Treasury Department; and if we have not got the money, let us borrow it and go on and complete these buildings.

Mr. LETCHER. The gentleman from Louisiana had better find out how I vote upon that aqueduct appropriation before he undertakes to arraign me before the House on that subject.

Mr. DAVIDSON. Your committee reported it.

Mr. LETCHER. Ah, that is another thing. But when I vote against it, as I shall do, that will be at least my justification before the country.

Now, sir, the gentleman from Louisiana has been very particular to say nothing at all about the sinking of the piles of this New Orleans custom-house, although it is to be found on page 105 of the report of the Secretary of the Treasury, in a report from this identical gentleman, Mr. Bowman, whom he so strongly relies on. He says there:

The building still continues to settle, but with a diminished ratio, as the accompanying table shows. Whether this decreased ratio (as compared with former years, when more weight was added in a given time than has been added this year,) is due to the less weight added, or to the fact that it has reached firm ground, cannot be ascertained with accuracy.

Maximum settlement since Dec. 6, 1851,	19 339-1000 inches.
Minimum " " " "	11 29-100 "
Mean " " " "	15 67-100 "
Maximum settlement during year ending September, 1857.....	2 97-100 "
Minimum settlement during year ending September, 1857.....	75-100 "
Mean settlement during year ending September, 1857.....	1 71-100 "

Now, I put the question to the House whether, when it is reported here by the officer in charge of the construction of the building, that the building at New Orleans, on which we have expended over two million dollars, and which will require something more than two million more to complete it, is sinking, they are going on to expend that additional sum when the building is settling and sinking in such a manner as to jeopard it very much?

Mr. DAVIDSON. What are you going to do with the building?

Mr. LETCHER. If evidence is furnished to me that a house which has been begun is not going to stand, I shall quit right there, and not spend more money upon it; and when it is demonstrated to me that a house which is in process of building, is sinking under every row of stone, that is put upon its walls, I think it is time to stop and begin to ascertain the result of the expenditure.

But there is another thing in this connection. Why is it, I ask—the gentleman from Louisiana does not explain it satisfactorily to me at least—that it requires so much more to commence and prosecute the work on this custom-house at New

Orleans than it took to build a custom-house at New York? The gentleman says that it is owing to the increased price of provisions and supplies. Now, mark you, it took \$1,105,000 to build a custom-house at New York; and you have already spent \$2,675,000 on the custom-house at New Orleans; and you are now asked for enough to make it up to \$3,000,000.

Mr. DAVIDSON. It is twice as large as the New York custom-office.

Mr. LETCHER. Why should it be twice as large? If the business is not as great as that in New York, where is the necessity for a house twice the size to do it in? I apprehend there is none. Then, sir, it seems to me that, upon every fair principle, it is time that we should look into this matter.

Mr. DAVIDSON. I would ask the gentleman if he knows how much the warehouses at New York cost the Government?

Mr. LETCHER. I do not know how much they cost; but I suppose that the warehouses are not in larger number than is necessary to accommodate the goods to be stored. I suppose the gentleman does not mean to contend that the custom house at New Orleans is to supply the place of all the warehouses.

Mr. DAVIDSON. They are already in the custom-house.

Mr. LETCHER. Then it must be because there is far less trade there than there is in New York.

Mr. DAVIDSON. Look at the statistics, and you will see. I now withdraw my amendment.

Mr. EUSTIS. I renew the amendment. Mr. Chairman, I have to say, in answer to the remarks of the gentleman from Virginia in reference to the soil of Louisiana, that I am not responsible for the quality of that soil, nor for the difficulties which we have to encounter in the erection of public buildings. What the gentleman from Louisiana has complained of has happened in the erection of every public building of large dimensions in the city of New Orleans. If the gentleman will look on page 117 of the report of Captain Bowman, he will find it there stated, in reference to the marine hospital at New Orleans, that the soil was so compressible that piling was found necessary, and that piles have been driven under the whole building, sufficient, as it is believed, to secure it from danger of settling.

But, sir, this is not the first time that objections of this sort have been made. Somethirty, or forty, or fifty years ago—of course beyond my recollection—it was strongly believed that three-story buildings could not be erected in the city of New Orleans. After a while the eyes of the people were opened, and they found that buildings of three, four, and five stories could be erected.

It is true that this custom-house has settled enormously since the work was first begun; but by referring to the very tables which the gentleman has introduced, we find that within the last year it has only settled one inch, while for the previous years the average has been two inches per year; so that his arguments that the building sinks more with every new layer of stone, do not follow at all from his facts.

We might as well hold Captain Bowman, or the contractor for building the custom-house in New Orleans, responsible for the soil of Louisiana; you might as well hold me responsible for the crevasse that has lately taken place; you might as well say that because a part of our country is under water, that therefore we shall not have our custom-house completed. There is as much force, there is as much reason, there is as much logic in that proposition as in the proposition of the gentleman from Virginia.

The gentleman misunderstood me in another point. I did not say that the work for the completion of that custom-house was all under contract. When I said the work was under contract, I said it as a general remark. I made the remark because it was so stated by the Secretary of the Treasury, in his letter upon the subject, and because it was so stated in the report of Captain Bowman, who has charge of the work. And I have seen no reason whatever, in the arguments which have been made by gentlemen against this amendment, why this appropriation should not be made. If the House will consider this matter, if they will give it one minute's attention, they will find that, according to the substance of the

letter of the Secretary of the Treasury and the communication of the engineer who has charge of the work, the Government will absolutely make money by voting these appropriations.

Mr. CRAWFORD. I am opposed to the amendment of the gentleman from Louisiana.

Mr. EUSTIS. I will withdraw it.

Mr. CRAWFORD. I object to the gentleman's withdrawing it; I wish to speak in opposition to it.

Mr. J. GLANCY JONES. I give notice to the gentleman that I shall insist on his confining himself to the amendment.

Mr. CRAWFORD. Very well. In the first place I am opposed to this \$500,000 for the Treasury extension, for the reason that I think the Treasury building already is capable of holding all the funds we have to put in it, or shall be likely to have for some time to come; I can therefore see no reason why we should appropriate \$500,000 to complete the Treasury Department. I think it would be much better to take care of the money which we have in the old building.

And, sir, I am opposed to the original amendment, certainly, so far as the appropriation for the custom-house in Ellsworth, in the State of Maine, is concerned, where they collect \$954 revenue, while the building has cost \$18,000, and the cost of collecting the revenue is upwards of three thousand dollars per year.

In Portsmouth, New Hampshire, the amount collected is \$5,034, while the cost of collecting it is more than ten thousand dollars per annum.

In Oswego, New York, the amount collected is \$6,000 per annum, and the cost of collecting it \$18,000.

In Newark, New Jersey, they collect the sum of \$384, at an expenditure of \$1,500.

At Galena, Illinois, the amount of revenue collected, is \$763, and it requires an expenditure of \$625 to collect it.

There has been already expended at Portsmouth, \$116,000 for a custom-house, where they collect \$5,000.

At Oswego, they have expended \$113,000 for a custom-house, where they collect \$6,000 per annum.

At Newark, New Jersey, they have expended \$146,000 for a custom-house, at which there is collected the sum of \$384 per annum.

Now, I ask with what propriety can this committee vote the amount of money which is asked for by the amendment of the gentleman from Louisiana in regard to the places I have named? and with what propriety can I be called upon to vote an additional appropriation for Galena, in Illinois, when we collect there \$763, and have already paid out \$71,000?

For these reasons, Mr. Chairman, I am opposed to the amendment in regard to the Treasury extension appropriation, as well as to the amendment which has been offered. And I am opposed to it for another reason, which is, that this whole question is now under investigation by the Committee of Ways and Means, and yet that committee, having more information than this committee can possibly have, are not prepared to pass upon it.

[Here the hammer fell.]

The question was then taken on the amendment offered by Mr. Davidson, and renewed by Mr. Eustis, and it was rejected.

Mr. GOODWIN. I move to amend the amendment of the gentleman from Louisiana by increasing the appropriation to \$400,000.

I desire, Mr. Chairman, to reply very briefly to the remarks made by the gentleman from Virginia, [Mr. LETCHER,] in regard to the custom-house at the port of Oswego, as those remarks are calculated to create a wrong impression in regard to the facts, and to the business of that port and that custom-house. In regard to the custom-house at that point, I will say that the contracts for the erection have been under the supervision and control of the proper officers of the Government. In regard to the making and executing of those contracts I have nothing to say, because they are not drawn into question here. I will simply remark that the money has been expended by the agents of the Government, and the propriety and necessity of the expenditure are recognized by the Department, and the building so far completed that only a few thousand dollars more is required to complete it so as to enable the Government to use it. They are now

hiring a building for a custom-house and paying rent for it, while eight or ten thousand dollars would complete the custom-house in the course of erection so that it could be occupied by the Government for the purposes for which it was designed.

The gentleman from Virginia has spoken of the amount of duties received by the Government at that port. If the gentleman would go back to the years before the making of the reciprocity treaty, he would find that the revenue far exceeded then what it does at the present time; and yielded the Government a handsome income over and above all expenses. Let me tell that gentleman that the internal and coastwise trade and commerce of Oswego amounts to more than fifty million dollars annually; that it is the main point at which property and goods are imported into the United States from Canada under the treaty which allows certain articles to come in free of duty; that the work now performed at that port is greater under the provisions of that treaty in determining what goods are to be received as belonging to the free list, and in determining what are to be excluded, than it was before the formation of that treaty. As that treaty allows a large quantity of goods and property to be imported into this country from Canada free of duty, it necessarily follows that the duties collected at that port are less than before the adoption of that treaty, although the imports at that point, and the labor performed by the officers there, exceed what they did before the treaty. Therefore it is not fair, in computing the cost of the custom-house, and the salaries of the officers located at that point, to judge of them by the amount of money brought into the Treasury by way of revenue upon imports, because there are labors to be performed in regard to property and goods imported upon which no duties are to be collected. And the gentleman, in order to make out the cost to the Government of maintaining officers at that point, includes in his estimate the salaries of the very men who have to perform these duties in regard to goods upon which the Government collects no duties.

These are the facts in regard to the port of Oswego. The custom-house has been commenced and is nearly completed. It is an important point in our trade with the Canadas. Its trade with those Provinces is greater than that of all the other ports in the United States put together. Therefore it is easy to see the extent of the duties of those officers, and the amount of labor to be performed by them, and the necessity for a custom-house such as is being erected. In times past this port has yielded the Government a revenue, exceeding by hundreds of thousands of dollars the cost of its collection, and now its imports are double and its trade greater than in those times, but a large portion of the imports are not charged with duties; still, as is apparent, the labor to be performed is not diminished, but increased. The amount of its trade and commerce fully justifies this appropriation.

[Here the hammer fell.]

Mr. LETCHER. I have no desire to do any injustice to the port of Oswego, or to any other place in this country, and when I refer to the facts certified here, upon the records of the country, it seems to me that I am doing no injustice in presenting those facts to the committee, and asking them to give them that consideration to which they are entitled.

Mr. GOODWIN. Will the gentleman allow me to ask him one question just here?

Mr. LETCHER. I will.

Mr. GOODWIN. Is the gentleman not aware that the amount of revenue received at the custom-house at Oswego before the reciprocity treaty was adopted, considerably exceeded the cost of collecting the revenue at that point?

Mr. LETCHER. If the receipts did not exceed the cost of collection, all I have to say is, that the Government made a very bad bargain in erecting the custom-house. Since the reciprocity treaty was made, the revenue has run down very low, and it costs three dollars now to collect every dollar the Government gets at that port. Now, if the revenue was twenty-five or thirty thousand dollars before the reciprocity treaty went into operation, it cost \$18,000 to collect it, leaving a surplus of only \$12,000, while it cost \$113,000 to establish a custom-house there. So that even in

that point of view the Government made a very bad bargain.

Mr. MAYNARD. I would ask the gentleman whether the duties of the custom-house officials at that point, as well as at some other points in the country, are not rather to prevent smuggling than to collect money?

Mr. LETCHER. I should not suppose there would be much smuggling when there is a reciprocity treaty which allows goods to come in free.

Mr. GOODWIN. All goods are not admitted free.

Mr. LETCHER. If it took all these men to collect revenue when there was a full trade, it seems to me that we might reduce the number when business is slack.

Mr. HATCH. I would ask the gentleman from Virginia whether he would be willing to open the ports of the Government as a matter of economy, and abolish all the revenue districts in the Northwest?

Mr. LETCHER. I take it that the fact of refusing to build a custom-house, or of building a custom-house, has nothing to do with the policy of the Government in regard to free-trade or the collection of revenue at a port. This is a business of very recent growth. It has all sprung up since the year 1841. How did the Government collect its revenue before that time? There was no necessity then to build custom-houses. The system was begun in 1841, and has been carried on ever since. Within the last few years it has grown more extravagant and profligate, until now custom-houses are located at multitudes of points where the whole revenue collected does not pay the interest on the money expended.

Now, I say that this is bad policy. The appropriations are made to be dependent on the caprices of the members of the House, or on the influences which a log-rolling bill, embracing North and South, may bring here to aid such an operation.

Here is this amendment, which comes in with all the incomplete custom-houses and incomplete marine hospitals scattered from Galena to Florida, from the East to the West; and it does seem to me that, when they are left not to stand on the merits of each one of the propositions, but on the power and strength which the combined influences of all of them can bring to bear, it is not the sort of legislation that is calculated to promote the public interests.

The question was taken on the amendment; and it was rejected.

Mr. AVERY. I offer the following amendment:

For additional appropriations for a court-house and post office at the city of Memphis, Tennessee, and that the said buildings be used for a custom-house and post office, \$100,000.

I will read from the report of Captain Bowman:

"Proposals have been received for lots in Memphis, from which to select a site for the building designed to be used for a post office and United States court. The sum of \$50,000 was appropriated for the purchase of a site and the erection of the building. This is wholly inadequate; one of the sites offered, alone, exceeds the appropriation \$25,000, and all of them are so near the amount appropriated as to leave a balance entirely too small to erect a suitable building. I would respectfully suggest that, as there are no United States courts held at Memphis, if Congress see fit to increase the amount sufficiently to purchase a site and erect the building, that they be requested to allow the rooms designed for the court to be appropriated to the use of a custom-house."

"Total amount of appropriation.....\$50,000
"Amount expended to September 30, 1857.....28

"Balance available for completion of the work...\$49,980"

This amendment is in conformity with the recommendation made here by Captain Bowman. At the last session of Congress \$50,000 was appropriated for the erection of a court-house and post office in the city of Memphis. That was a mistake. It was intended by the members who proposed the appropriation, and by those who had any interest in the matter, that it should be for a custom-house and post office. As truly stated here by Captain Bowman in his report, there is no Federal court held in the city of Memphis. It was intended, as I say, for a custom-house and post office. This amendment is to increase the appropriation \$50,000, the appropriation being, as stated officially by the gentleman in charge of the bureau, inadequate for the erection of a custom-house and post office at that place. As he states here, \$50,000 would not buy

the ground. In different portions of this Confederacy, where appropriations have been made to very large amounts for the erection of custom-houses and post offices, the revenue collected at those points does not begin to compare with the revenue collected at the city of Memphis. In some points the excess of expenditure over the revenue collected is a very large and extravagant amount. Now, how does Memphis, Tennessee, compare with these other places? The revenue collected at that point is \$112,883 90.

Mr. EUSTIS. How much of that revenue is for railroad iron?

Mr. AVERY. I do not know. I have not looked into it.

Mr. EUSTIS. If the gentleman will examine it, he will find that much of it is for railroad iron—a mere temporary matter.

Mr. AVERY. I have not looked into the items; but I say that a very large amount of this revenue is for merchandise imported directly from foreign countries, irrespective of the railroad iron, which is really landed and subject to custom-house duties at that point. But I dare say that at a great many other of those points where the revenue collected does not equal the amount of expenditure to carry on the operations of the custom-houses, a large portion of the revenue is derived from railroad iron. In view of the appropriations that have been made at other points where the expenditure largely overruns the revenue collected, I ask that this appropriation be made for Memphis.

[Here the hammer fell.]

Mr. J. GLANCY JONES. I am opposed to the amendment, and I want to make a few remarks that will apply to all of them. The objection I have to this particular amendment is, that the work is not under contract, and is not embraced in the estimate sent in by the Secretary of the Treasury. I concur with my friend from Virginia [Mr. LETCHER] in opposition to this whole system, which began five years ago. The Secretary of the Treasury did not send in the estimate until it was far on in the session, the reason being that he was determined to prosecute no public works except such as the Government had contracted for. It was in consequence of that, that the estimate now submitted by the gentleman from Louisiana did not reach the Committee of Ways and Means until within a few days past. It was presented by the Committee of Ways and Means as an amendment. I have no doubt that this Government is bound at law to pay every dollar of its obligations under contract.

I have been opposed to the whole system. I was a member of the Committee of Ways and Means six years ago when this log-rolling system commenced; and when we tried to limit the expenditure we were voted down in the House. Amendments were offered in committee by gentlemen from Louisville, Cincinnati, and St. Louis, for custom-houses and marine hospitals all over the country, beginning in Maine and running down to California, until millions were thus log-rolled in, and until the bill become almost too heavy to carry.

It was put through. But it was found that when it was left to the discretion of the Secretary of the Treasury, he adapted the buildings to the amount of money appropriated; and, in order to take it out of his power to do that, you will find, by referring to the past legislation of Congress, Congress prescribed for the Secretary the size of the buildings, and the materials to be used, so that when the Secretary came to order contracts to be made, he found that he was completely crippled, and had no discretionary power, but was obliged to make the buildings of a certain size, and of certain materials. But the money appropriated was not more than half sufficient to construct the buildings provided for, and he put up the contracts to the lowest bidders. The consequence was that some fellows got the contracts at low prices, and after living on their contracts for six months, threw them up. Well, the Secretary is bound to go on. He has no power to contract beyond the amount appropriated, and he is unable to prosecute the work until Congress makes further appropriations. Matters have continued in this way for five or six years. Under this system, the Secretary of the Treasury was obliged, during the last winter, to make contracts, and the present Secretary of the Treasury has sent in a

list of estimates asking you to appropriate money, but not one single dollar more than is necessary to fulfill contracts entered into by this Government. I think it my duty to say to the committee that, unless this amount of money is appropriated, there will be failures of contracts on the part of the United States, and the parties will be entitled to claim damages at the hands of the United States.

I concur with the gentleman from Virginia that the system is all wrong; but it was commenced here in Congress years ago, and the question for the House now to determine is, whether they will complete the contracts which have been entered into by the Government or not?

I wish to add, that I oppose the amendment offered by the gentleman from Tennessee, [Mr. AVERY,] because the work which it provides for is not under contract, and has not been begun. If the amendment of the gentleman from Louisiana [Mr. EUSTIS] is adopted, it should include a provision for the Treasury extension, because there is a contract for that.

[Here the hammer fell.]

Mr. KILGORE. I ask if it would be in order, pending this amendment, to move to strike out the enacting clause of this bill?

The CHAIRMAN. It would be in order.

Mr. KILGORE. Well, sir, as we are increasing the appropriations instead of decreasing them, I move to strike out the enacting clause.

Mr. JONES, of Tennessee. I believe that one of the rules of the House expressly provides that every proposition touching an appropriation shall be first considered and discussed in Committee of the Whole House. There is one item in this bill of \$1,000,000, and another of \$800,000, not at all connected with, or dependent on, any of the propositions which have yet been under consideration; and if the motion of the gentleman from Indiana is entertained, it will be in disregard and violation of that rule which requires that every proposition touching an appropriation shall first be considered in Committee of the Whole.

The CHAIRMAN. The question was decided by the committee a few days since; the decision of the chairman of the committee was overruled, and it was decided to be in order to move to strike out the enacting clause.

Mr. KILGORE. Well, sir, I insist upon my motion. I understand that the appropriations to which the gentleman from Tennessee has referred, are in accordance with contracts already made.

A MEMBER. So are the appropriations provided for in this amendment.

Mr. KILGORE. If contracts have been made, we ought certainly to vote the money.

Mr. SHERMAN, of Ohio. I desire to say a few words.

The CHAIRMAN. The motion of the gentleman from Indiana is not debatable.

Mr. SHERMAN, of Ohio. It was decided to be debatable yesterday, or the day before.

The CHAIRMAN. The gentleman is mistaken. The decision was the other way.

The question was then taken on Mr. KILGORE's motion; and it was disagreed to.

Mr. AVERY's amendment to the amendment was then rejected.

The question then recurred upon Mr. EUSTIS's amendment.

Mr. SHERMAN, of Ohio. I move to amend the amendment, so as to reduce the appropriation for the custom-house at Galena, Illinois, \$10,000, merely for the purpose of saying a word or two.

Mr. Chairman, the radical error into which gentlemen have fallen is in supposing that there is any valid contract in regard to these custom-houses. Now, in my judgment, there is no valid contract for the completion of any custom-house which requires the expenditure of one single dollar more than the amount already appropriated. By a simple clause in an appropriation bill, we authorize the expenditure of \$50,000 for the construction of a custom-house. In my judgment, the executive officers having no right to make any contract to expend a single dollar more than the sum thus appropriated; when they do so, they violate the law; because, if they can make a contract for \$100,000, when only \$50,000 has been appropriated by Congress, there is no restraint on the power of the Executive over the expenditure of the Government. In my opinion, any contract for the expenditure of a dollar more than the amount

appropriated is illegal, null, and void. We appropriated \$50,000 for the construction of a custom-house at Galena. If the Department has gone to work and agreed to pay \$60,000 for the construction of that custom-house, they have violated the law, and it is time the House of Representatives interfered to put a stop to these things. When we appropriate a given sum for a particular purpose, we simply authorize the executive officer to contract to that extent and no more; and when he goes one dollar beyond that there is no contract.

Gentlemen need not tell us that outstanding contracts require further appropriations, when there can be no legal outstanding contracts. There has been no law authorizing the construction of the Washington aqueduct, except a simple appropriation, made at the heel of the last session of Congress, authorizing the expenditure of \$1,000,000 for the construction of the work; and yet I understand that, under that clause, the Department have gone to work, and made contracts which will involve an expenditure of \$5,000,000! Now, under what authority of law are these things done? If they are legal and binding on the Government, then this House of Representatives is weaker, as respects the control over the expenditures of the Government, than the head of any bureau. I say, then, that if contracts have been made beyond the amounts appropriated by Congress, they are illegal, and I would punish the officers who made them.

Mr. J. GLANCY JONES. I shall correct the gentleman in this particular: there has not been a single contract made except in accordance with law. The Secretary of the Treasury has not made a single contract that is not in accordance with law.

Mr. SHERMAN, of Ohio. Captain Bowman says, in the paper before us, that the increased estimates of expenses are based upon outstanding contracts. Now, sir, if these contracts were made for sums of money exceeding the appropriations made, the contracts were made in violation of law; and it is time that the Representatives of the people should put a stop to such proceedings. Otherwise they will have no control over the disbursement of money upon the part of the executive officers.

Mr. J. GLANCY JONES. I shall not occupy more than half the time allotted to me, under the rules, to oppose the amendment. I merely wish to look at some of the statements made by the gentleman from Ohio. I stated when I was up before, and I now say, in simple justice to the Treasury Department, that they have never made any contract whatever in which they have gone beyond the limitations of law. Every contract they have made has been made in accordance with some proviso contained in the bill making the appropriations—a proviso, for instance, that the building shall be completed for a certain amount of money.

There are some cases where an increased expenditure has been caused by the discovery of a quicksand, as in the case of Galena, of Cincinnati, and of New Orleans, where the Secretary of the Treasury has purchased the lot, as directed, and made a contract for the work. But after the expenditure of fifty or one hundred thousand dollars it is discovered that there is a quicksand, causing increased expenditure, which no human foresight could possibly have anticipated. What does the Secretary do? He suspends the work, and reports the facts to Congress.

Mr. SHERMAN, of Ohio. I wish to know whether there are quicksands under all these buildings?

Mr. HOUSTON. There are quicksands under the Treasury building. [Laughter.]

Mr. J. GLANCY JONES. No, sir. I believe the bottom of that building is entire.

Mr. LEITER. Yes, sir, there are quicksands under them all. There are quicksands under the whole Government. The Administration stands on a quicksand. [Laughter.]

Mr. SHERMAN, of Ohio, by unanimous consent, withdrew his amendment.

Mr. PALMER. I move to increase the sum contained in the amendment of the gentleman from Louisiana, for Plattsburg, \$10,000.

Now, sir, I say to the gentleman from Georgia that if he had referred to the statistics, he would have found that the revenue collected at Plattsburg largely exceeded the expense of collection,

even after the reciprocity treaty had nearly destroyed the revenue at that port.

Mr. CRAWFORD. The gentleman will recollect that I did not move to strike out Plattsburg.

Mr. PALMER. I am aware that the gentleman did not. But, sir, a misapprehension seems to prevail in this House that these buildings are designed exclusively for custom-house purposes. Not so. The building at Plattsburg not only accommodates the custom-house, but it furnishes a court-room, where the sessions of the United States courts are held, which accommodate nearly one half the State of New York; and not only these, but the post office for a large town. But, sir, the revenue collected at that custom-house exceeds the expenses by many thousand dollars; and there are a large number of foreign boats passing through that custom-house to the city of New York, and other points. The appropriations for these custom-houses, it seems to me, are far less objectionable than many reported by the Committee of Ways and Means, of which the gentleman from Virginia [Mr. LETCHER,] is a member; which are much more objectionable to the people of the country, though they may not be to the gentleman from Virginia.

I find appropriations here for building bridges across the Potomac. I find an appropriation of \$5,000 for putting boxes around trees. I find an appropriation of \$12,000 to purchase furniture for the President's house, in these hard times; and many other items of that kind which, in my judgment, ought to meet the condemnation of the Representatives of the people as much, at least, as a small appropriation of \$10,000 for the purpose of completing a building for the purpose of holding the sessions of the United States courts, and for furnishing accommodations for the post office, as well as accommodations for collecting the revenue, especially when that building is almost completed, and only wants the small appropriation of \$10,000 to complete it. The Secretary of the Treasury himself recommends this appropriation as necessary. It is recommended by the officer in charge of the work; and it is necessary in order to preserve the work which has been already done. I have heard no valid objection raised against it.

[Here the hammer fell.]

Mr. CRAWFORD. What is the amount of revenue collected at Plattsburg?

Mr. LETCHER. I will tell the gentleman.

Mr. CRAWFORD. I understand it is only \$3,000.

Mr. LETCHER. It seems that this amendment has awakened a considerable interest all around the House. It seems to be broad enough to cover a large part of the United States, as we see by the remarks of various gentlemen around us. Now, the gentleman comes forward and says that this building in Plattsburg is for the accommodation of a custom-house, court-house, and post office, where they collect a very considerable amount of revenue for the Government of the United States. Now, let us see. Seventeen thousand seven hundred and ninety-two dollars and fifty-two cents is the amount derived from customs; and \$13,829 85 it costs to collect it. The post office yields \$2,251 89; and it costs \$1,141 60 to collect it. The whole amount derived from customs and from postages at that point, is \$5,073 46. And how much money have they got for the construction of their custom-house, post office, and court-house? Sixty-six thousand dollars already. They now come here and ask for \$10,000 more, making \$76,000; so that it seems to me, after all, considering the expenses which have been incurred, and the amount of revenue collected, it has been rather an unprofitable outlay, and they could have got along very well there without a custom-house at so enormous an expenditure of the public means.

Mr. SHAW, of North Carolina. Will the gentleman allow me to make a single remark?

Mr. LETCHER. For a moment.

Mr. SHAW, of North Carolina. I wish to suggest to my friend from Virginia that he should not direct his remarks in so loud a tone in the direction of the other side of the House, for I feel very much concern for fear that he will arouse from his quiet and peaceful slumbers that *patriotic and vigilant Representative*, his colleague, [Mr. CLEMENS,] who, a few nights since, on a call of the House, expressed an earnest desire that gentlemen upon this floor would be ever found following

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the example he sets of constant attendance and strict discharge of duty. [Great laughter.]

Mr. LETCHER. One word more. A good deal has been said about the contracts which have been made by the Treasury Department in connection with these buildings. Now, I will tell my friend from Ohio [Mr. SHERMAN] where he will find the entire information, which will show where contracts have been made for the entire construction, or for the construction in part, or where the Government is building a house in connection with the supplies purchased by contract. And I here take this occasion to say, that there are no contracts which have not been reported by the Secretary of the Treasury in his annual report upon the finances. So I was informed by him yesterday morning, and I thought the fact should be known, that he might not be held liable for contracts beyond his province.

Mr. SHERMAN, of Ohio. I desire to know of the gentleman whether the Executive Department has not made contracts in anticipation of appropriations?

Mr. LETCHER. I do not know. I was told yesterday morning that this table would furnish a statement of all the contracts.

Mr. SHERMAN, of Ohio. If contracts have not been so made, why is it that we are told by Mr. Bowman that these increased appropriations are necessary to meet contracts?

Mr. LETCHER. I do not know why it is so; but I went to the office yesterday morning, for I thought it remarkable that the Secretary of the Treasury should make a report stating the date of the appropriation, the date of the purchase of the lot, the date of the contract, and the date of the completion of the contract, if the fact was not as reported to this House; and upon inquiring there I was informed the matter is as I have stated it.

The question recurring upon the amendment of the gentleman from New York—

Mr. PALMER, by unanimous consent, withdrew his amendment.

Mr. MILES. I move to amend the amendment of the gentleman from Louisiana, so as to appropriate \$301,000 for the custom-house at Charleston, instead of \$300,000. I desire to say a word or two in reference to this particular custom-house, because I think it really appeals somewhat to the common sense of the House, and I wish to make a few common-sense remarks upon it.

We have undertaken, whether wisely or not, to build a very costly custom-house in the city of Charleston. It may have been bad policy to build so expensive a structure. I do not hesitate to say that I would be willing to see all custom-houses abolished from one end of the country to the other, and the system of direct taxation resorted to as a means of raising revenue to carry on the Government. But that is not now under consideration. Congress, sir, has determined, however, to build a fine custom-house at Charleston. Are we now prepared to abandon this determination? In our southern climate the suspension of operations on a work already commenced, is to injure the work already done, very materially. In a small city like Charleston, with a population of not more than sixty thousand inhabitants, the bringing together of a body of workmen of the requisite skill, is a matter of time. It cannot be done instantaneously or rapidly. If you dismiss them after they are collected, all at once, it will cost a vast deal more hereafter to reorganize your force of artisans, and go on with the work.

And besides that, I contend that this is a matter of contract. It may be, as my friend from Virginia contends, that the carrying on of the work is a Government operation, and not a work under contract. But the most costly portion of the work, the quarrying of the marble, is under contract. The Secretary of the Treasury, in his annual report, alluding to the progress of the work upon the new custom-house in Charleston, says:

"The building is very large, and as none but the very best quality of marble is received, it tasks all the quarries furnishing the right description of marble to their utmost capacity to supply it as fast as it could be worked into the building."

In quarrying marble for such a building, the blocks taken from the quarry must be used for the part of the building for which they are best suited, without regard to what part of the building it may be. When a block is taken from the quarry suitable for a capital, architrave, window-jamb, door-jamb, &c., (all difficult stones to get,) it is cut for that purpose, though it may not be required until near the completion of the building. In this way, although the structure is not raised as high as it was hoped it would be at this time, yet a very large amount of the most difficult and expensive part of the marble is on hand, ready to be put up at the proper time."

Now, sir, I assert, from my individual knowledge, that the space around that new building in process of construction is absolutely incumbered with blocks of delicately sculptured marble, which lie exposed to the weather and accidental injury. They lie there because we are obliged to work them in as they are needed, and not as they come to hand. If you suspend the work, the contract for supplying the stone still goes on, and you keep accumulating a costly mass of worked stone; you accumulate the interest upon the money spent in quarrying and carving it, and you run the risk of being prosecuted for damages by the contractors for furnishing the stone; and at the same time the work is suffering positive injury from exposure to the weather.

I trust that the recommendation of the Secretary of the Treasury, known himself to be in favor of strict economy, which he has exhibited again and again, and that the statement of Captain Bowman, one of the most accurate and able of our engineers, will be sufficient, together with the practical views I have presented, to induce this House to vote this appropriation. I withdraw my amendment.

Mr. GARNETT. I offer the following amendment to the amendment of the gentleman from Louisiana, to come in at the end:

Provided, That no part of the appropriation hereby made for any building shall be expended until such plans are adopted and contracts made as will insure the completion and furnishing such building within the amount appropriated.

Mr. J. GLANCY JONES. Do I understand the gentleman to offer his amendment in good faith?

Mr. GARNETT. I offer this amendment with no design of withdrawing it, because I really think that it is right, and I desire that it shall pass. Neither do I offer it with any desire of embarrassing the amendment of the gentleman from Louisiana. I did not rise to oppose his amendment, or to make any comments either for or against it. But I wish to say, that when these custom-houses were undertaken, we had a full Treasury, and a condition of great prosperity throughout the country. There is no doubt that large revenues induced us—as large revenues will always operate on individuals or Governments—to undertake many things which we otherwise would not have dreamed of. It induced us to undertake buildings on a scale of extravagance which is rarely equaled, and which the country would not tolerate had the operations commenced in the present condition of the Treasury and the country. I think that the country is generally of opinion that we have undertaken too many of these custom-houses. I think that the country generally is of opinion that those which we have undertaken have been built upon a scale altogether too extravagant, unnecessarily large, and unnecessarily fine. They have been like this Capitol itself. I have heard a gentleman say, who had seen all the best buildings in Europe, that he never saw a building carried on on the same scale of costliness and magnitude.

But, custom-houses are built for business. They are the workshops, if I may so express myself, of the revenue system of the Government, and while they ought to be built substantially, while they ought to be built with some regard to architectural proportions and elegance, yet they should not be built extravagantly. They ought to be confined within a reasonable sum. I do not undertake to say whether the precise sums proposed in the amendment of the gentleman from Louisiana are the right sums or not. He is at liberty

to change them, if he thinks they are not large enough. But I do say there ought to be an end of this thing, there ought to be a finality, somewhere, and whatever is appropriated ought to be appropriated with the understanding that that is to be the last of them; that Congress is not to be continually applied to, session after session, now under the form of a general appropriation bill, then under the form of a deficiency bill, but always with new estimates, new appropriations asked for, and new appropriations granted.

We ought to know once for all where this thing is going to end. We ought to put a stop to it, and not permit your Departments, if they have done so, (I do not undertake to say they have) to go on making contracts beyond the appropriations; or if they have not done so, then we ought to rid ourselves at once of these implied contracts, which the gentleman from South Carolina has just alluded to. I should think that it would be agreeable to the financial officers of the Government, agreeable to the Secretary of the Treasury himself, who has the burden on his shoulders of making one dollar do the work of two; agreeable to all those gentlemen to know at once how much we wish spent on these marine hospitals and custom-houses, so that they can go on understandingly, and have them completed for what we are willing to spend upon them. It ought to be equally agreeable to the friends of the custom-houses, (and I believe no gentleman has spoken in favor of the amendment of the gentleman from Louisiana, who has not a custom-house in his own district) that they should receive enough once for all to complete the works.

Mr. LETCHER. This amendment is not to complete the custom-houses at Charleston or New Orleans. It will probably take a million and a half of dollars for New Orleans, and how much for Charleston I do not know.

Mr. GARNETT. I am as much in favor of spending money for the benefit of New Orleans or Charleston as of anywhere else; but when I am told that New Orleans has had already \$2,000,000 for a custom-house, I think that this \$300,000 ought to complete it, and the same for Charleston; and if those sums will not do for finishing them on the original plan, then, I say, let some plan be adopted which will insure their completion for these sums.

Mr. EUSTIS. I would remark that with the exception of the Treasury extension, the custom-house at New Orleans, and the custom-house at Charleston, every dollar in the bill is appropriated for the purpose of effecting the very object which the gentleman has in view.

Mr. GARNETT. Exactly so; but what is to prevent them coming in next year and telling us that this money appropriated for completing the works was not quite enough for completing them, and asking an additional sum of ten or fifteen or twenty thousand dollars? Experience proves to us that this will be done. I want to prevent it. I want once for all to have the total expenditures fixed. I am exceedingly glad, whenever I can do so, to vote for money to be expended in the southern States, because I do not think that they have had a fair share of appropriations from this Government.

[Here the hammer fell.]

Mr. MILES. I agree with my friend from Virginia [Mr. GARNETT] in his general proposition; but I cannot agree with him in saying that after we have commenced costly buildings we should abandon them, because we think they might have been constructed on a more economical and less portentous scale. Now, as I said before, when I had the honor of making a few remarks to the committee, I am not discussing the policy of putting up a costly custom-house; but I do say, that if you have commenced a costly building and have made great progress in its construction, you should finish it, and not throw away the money you have expended. Certainly that is a practical common-sense view of it. But I desire to say to my friend from Virginia, [Mr. LETCHER,] who, with so keen a scent, and with such undying and determined

pertinacity, opposes the expenditure of every dollar which he thinks is not absolutely required by the most pressing necessity—I would say to him that in a pecuniary point of view he ought to let this amendment go. With regard to my own city, I would say, that if the expenditure for the custom-house reached the entire amount which has been indicated of \$3,000,000, the interest on that money will not be the half of the income that is collected at the port of Charleston.

But these are not arguments which I would desire to dwell upon in urging these matters on the committee. I think that a great country like this, with such wealth, such power, such dignity in the eyes of the world, should, whenever she does anything, whether it be the erection of a custom-house or the building of a navy, or the organization of an army, do it on a scale suitable to her dignity, consonant with her wealth, and indicative of her power; and, in that point of view, I would desire to see all her public buildings models of architectural beauty, and even of grandeur, where grandeur would be appropriate to their destined use.

Mr. LETCHER. My friend will allow me to make a suggestion at this point. He says he would like to have them built with due regard to architectural taste; I should like, in addition to that, that the Government should look to the length of its purse.

Mr. MILES. Do I understand my friend to intimate that the country is bankrupt? Really, from the manner in which the members of the Committee of Ways and Means and other gentlemen who are known as the especial guardians of the Treasury seem to shake in their shoes whenever an appropriation to complete a custom-house is made, one would really suppose that the country was quivering on the brink of ruin.

Mr. LETCHER. Well, if the Government is not bankrupt, it finds it very hard to borrow money.

Mr. MILES. Sir, the city of Charleston, from which I come, raises, by taxing its citizens, within a small fraction of \$600,000 a year; and this whole amendment, about which we have been wrangling and talking and debating for so long a time, appropriates in all, taking in the Treasury extension, \$1,700,000. Are we to be told that twelve hundred thousand or two millions of money is such an enormous sum to the Government of the United States as to provoke gentlemen to get up and make the strongest and warmest appeals to the patriotism and principles of members of the House, to prevent its appropriation to carry on works the most just and necessary, and to which the faith of the country is already pledged? Sir, I cannot so regard it. I look upon the amounts called for in the report of the Secretary as moderate and reasonable amounts for this Government to expend for the purposes indicated.

[Here the hammer fell.]

The question being upon Mr. GARNETT's amendment to the amendment,

Mr. LETCHER demanded tellers.

Tellers were ordered; and Messrs. BUFFINTON and KELLY were appointed.

The committee divided; and the tellers reported—aye, sixty-four, noes not counted.

So the amendment to the amendment was agreed to.

Mr. HATCH. I move that the committee do now rise.

Mr. J. GLANCY JONES. I appeal to the gentleman from New York to withdraw that motion.

Mr. SHERMAN, of Ohio. It was the understanding that the committee should take a recess this afternoon.

Mr. HATCH. I withdraw the motion.

Mr. J. GLANCY JONES. I promised that I would move that the committee take a recess until half past seven o'clock. It is now a quarter to five, and we are not half through this bill. Tomorrow the report of the Fort Snelling investigating committee is the special order. Two days have been set apart for the business of the District of Columbia. There are also privileged contested election cases to come up. This is Tuesday. Friday and Saturday will be appropriated to the Private Calendar. Now, I wish to notify the committee that it will be utterly impossible to pass the appropriation bills by the 7th of June, unless more time is devoted to them. I can pass three

bills to-day if the committee will give their attention to them.

Mr. WASHBURNE, of Illinois. Well, let us do it.

[Cries of "Agreed!"]

Mr. GREENWOOD. I want to make a suggestion with a view to facilitate business. I am satisfied from what I have seen exhibited in the House, both to-day and at former sessions of Congress, that an amendment like that of the gentleman from Louisiana [Mr. EUSTIS] is almost certain to prevail. I take it for granted that it is the sense of a majority of the committee now to vote that amendment into the bill. I therefore propose that we should at once take the vote upon that amendment as amended by the amendment of the gentleman from Virginia, [Mr. GARNETT.] When we have disposed of it, I think there will be no difficulty in proceeding with the consideration of the bill.

Mr. LETCHER. I ask for a division of the amendment, so that we may have a separate vote on the various items embraced in it.

The CHAIRMAN. The Chair is of opinion that a division of the amendment is not in order in Committee of the Whole.

Mr. EUSTIS. I object, then. I have offered the amendment as a whole.

Mr. LOVEJOY. Do I understand that we have to vote upon these appropriations in a batch?

Mr. LETCHER. Yes; you must swallow them all at once.

The CHAIRMAN. It is not in order to divide the amendment.

Mr. STANTON. I think the decision of the Chair is wrong. There are sundry appropriations, and they are capable of being divided. I think we have a right to a separate vote on each.

The CHAIRMAN. The Chair is of opinion that, in Committee of the Whole, the amendment, being offered as a single amendment, cannot be divided. It might, perhaps, be done in the House.

Mr. LETCHER. I ask for tellers on the amendment of the gentleman from Louisiana, as amended.

Tellers were ordered; and Messrs. KEITT, and WASHBURNE of Illinois, were appointed.

The question was taken; and the amendment was rejected.

Mr. MARSHALL, of Kentucky. I offer the following amendment:

To assure the safety of passengers and vessels navigating the Missouri, Mississippi, and Ohio rivers respectively, by removing snags and sawyers from the channels of said rivers, the sum of \$300,000 is hereby appropriated, to be expended under the direction of the Secretary of War.

Mr. LETCHER. I rise to a point of order. This amendment is not authorized by law, and I submit that it is not in order.

Mr. MARSHALL, of Kentucky. If there is a law for saving life by life-boats, it is certainly in accordance with law to make provisions for saving life on those rivers.

The CHAIRMAN. The point of order having been raised, the Chair decides the amendment to be out of order, believing that there is no authority of law for the appropriation.

Mr. MARSHALL, of Kentucky. I take an appeal from the decision of the Chair.

The question, "Shall the decision of the Chair stand as the judgment of the committee?" was taken; and the decision of the Chair was sustained.

Mr. BILLINGHURST. I move the following as an amendment, to come in after the last amendment:

For the purchase of life-boats, to be used on Lake Michigan, in the State of Wisconsin, \$1,000.

Mr. MARSHALL, of Kentucky. I rise to a point of order. There is no law allowing that appropriation, and I submit that it is out of order.

The CHAIRMAN. The Chair sustains the point of order. The Chair thinks there is no law authorizing the appropriation.

Mr. BILLINGHURST. I am told that there is a law providing for life-boats on that coast. Life-boats have been furnished, and there are some of them there now. It is in accordance with the usage of the Government to provide them; and I think the amendment is in order.

The CHAIRMAN. Does the gentleman take an appeal?

Mr. BILLINGHURST. Yes, sir; I will take an appeal.

The question, "Shall the decision of the Chair stand as the judgment of the committee?" was taken; and it was decided in the affirmative.

So the decision of the Chair was sustained.

Mr. TAYLOR, of New York. I desire to make a verbal amendment in the amendment which has already been adopted—to insert, after the words "life-boats," the words "or other life apparatus," so that the Secretary of the Treasury shall not be confined to life-boats exclusively in expending the appropriation.

Mr. MARSHALL, of Kentucky. I object.

Mr. WHITELEY. I move the following amendment, to be inserted between lines one hundred and thirty-three and one hundred and thirty-four:

And for the purchase of two thousand models of American fruits, executed by Townsend Glover, and the matrices for multiplying the same, for the use of the Patent Office, \$10,000.

Mr. LETCHER. I rise to a point of order on that amendment.

The CHAIRMAN. The Chair decides the amendment out of order, there being no law authorizing the purchase.

Mr. MARSHALL, of Kentucky. I move to strike out lines one hundred and thirty to one hundred and thirty-three, inclusive, as follows:

"For collection of agricultural statistics, investigations for promoting agriculture and rural economy, and the procurement and distribution of cuttings and seeds, \$60,000."

I make the motion because I believe this whole matter is a humbug. I believe that the seeds sent from the Patent Office, in the main, are seeds of the most common description gathered in our own country. They are to be found in most every seed store in our cities and larger villages. When distributed to us, they are not distributed with reference to their adaptation to our particular climate. The distribution is made upon no system that is intelligible. I do not know how it may be as to other portions of the country, but I know that those which have been sent to the portion of country I represent have been, with one or two exceptions, of little or no value; and they can be procured by the citizens probably at less cost, and certainly in a fairer manner, than they are procured through their Representatives here. So far as I am concerned, I would like to dispense with all of them.

We make annual appropriations for these conservatories in front of the Capitol. I believe they are carrying on there by specific appropriations some investigations in regard to agriculture. That may be well enough. But this gathering up into the hands of men in the Patent Office, all the flower-seeds, all the morning-glories, all the most common flower-seeds, French poppies, sun-flowers, tomato seeds, and turnip seeds, and distributing them throughout the country, and this printing, as a part of the Patent Office report, somebody's reflection as to the different manners in which they plant this particular seed, and the different cultures they give to them, is all a humbug and ought to be stopped; and for that reason I have moved to strike out this clause of the bill.

Mr. WHITELEY. I differ entirely with the gentleman from Kentucky, and I think the House, and I know the country, will differ from his views in relation to this matter. It is no humbug. It may be true that some seeds are sent to some gentlemen which cannot be grown in their particular section of country. But gentlemen must recollect that the distribution through members of Congress is the smallest part of the distribution of seeds and plants from the Patent Office. It is a well-known fact that the agricultural interest of this country is the greatest interest in it; and this paltry sum of \$60,000 is all that interest receives at the hands of the Government.

Mr. CLAY. There is also the Patent Office report.

Mr. WHITELEY. Yes; and the Patent Office report. It may be that many varieties of seeds are useless for certain localities; but this amount of money is not asked for the distribution of seeds alone; but also for the dissemination of information upon the subject of agriculture; which, I think, no man here or elsewhere will say is useless. It is true, sir, that so far as I am individually concerned, I would be willing that members of Congress should be saved the trouble of distribution; and I will vote now or at any other time, that this distribution shall be made by the Patent Office alone. But that great benefit results from

this appropriation, I do not think any man who gives attention to the subject, will deny. The appropriation, as I have said, is small—one of the smallest in the bill. I hope, therefore, the amendment will not prevail.

Mr. JOHN COCHRANE. I move that the committee now take a recess until half past seven o'clock.

Mr. JONES, of Tennessee. Is it the object of the motion to go on with this bill to-night?

Mr. JOHN COCHRANE. It is.

Mr. JONES, of Tennessee. Then I object to it.

Mr. ENGLISH. I move that the committee do now rise.

Mr. J. GLANCY JONES. I ought, in good faith to the committee, to say that I stated that if the committee desired to rise, I would move to take a recess until half past seven o'clock, when no business should be transacted, except to adjourn.

The CHAIRMAN. The committee, and not the Chair, must decide that question.

The question recurring upon the motion that the committee rise,

Mr. JONES, of Tennessee, called for tellers.

Tellers were ordered; and Messrs. JOHN COCHRANE and CHAFFEE were appointed.

The committee divided; and the tellers reported—ayes 32, noes 88.

So the committee refused to rise.

Mr. JOHN COCHRANE. I move that the committee take a recess till half past seven o'clock, p. m.

A division was called for.

Mr. KEITT. The motion is with the understanding that no business is to be transacted.

The CHAIRMAN. The committee can, by unanimous consent, come to such a conclusion.

Mr. GREENWOOD. I understand the proposition to be that the committee shall take a recess until half past seven o'clock, with the understanding that no business is to be transacted, and no motion made, except that the committee rise.

Mr. KEITT. I shall vote very cheerfully for that, as it is very clear that the House will do no more business this evening.

Mr. McQUEEN. I desire to offer the following resolution:

Resolved, That the printing of all speeches and gas let off in the evening sessions, after a recess shall be taken, shall be paid for by the member or members making such speeches out of their own funds.

The CHAIRMAN. The resolution is not in order. The question is on the motion to take a recess.

Mr. FLORENCE. I move that the committee do now rise.

The CHAIRMAN. That was the last vote taken.

Mr. JONES, of Tennessee. If there is no business to be done I object to a recess.

Mr. FLORENCE. I submit the point of order, that without unanimous consent no such motion can be entertained in the committee.

The CHAIRMAN. The motion of the gentleman from New York for a recess is in order.

Mr. FLORENCE. I appeal from the decision of the Chair.

Mr. JOHN COCHRANE. The question has been put, and a division has been asked.

The CHAIRMAN. The Chair will state the question: The committee was dividing on the question, Shall the committee take a recess until half past seven o'clock?

Mr. SMITH, of Virginia. I move that the committee do now rise.

Mr. GROW. I submit that the motion is not in order. It is the last question on which we voted.

The CHAIRMAN. The committee is now dividing. The Chair has put the question on one side, and is waiting to put it on the other.

Mr. JONES, of Tennessee. I wish to submit a question of order to the Chair. If we were in the House, a motion to take a recess could not be entertained without unanimous consent, and if objection was made, a motion to suspend the rules would not be in order to-day. Now, this committee cannot do what the House cannot do, and therefore the committee cannot entertain a proposition to take a recess.

The CHAIRMAN. The Chair overrules the question of order made by the gentleman from Tennessee.

Mr. HOUSTON. I appeal to my friend from Tennessee to withdraw his point of order and allow gentlemen to have a recess. There can be no harm in it. I understand that it is not proposed that any vote shall be taken after the recess; and why not allow gentleman who have speeches to deliver, to come here and deliver them this evening, so as not to consume time which would otherwise be devoted to business.

Mr. JONES, of Tennessee. I appeal from the decision of the Chair, entertaining the motion for a recess.

Mr. FLORENCE. I ask for tellers on the appeal.

Mr. PHILLIPS. I wish to know whether, if a recess is now taken, the consideration of this bill will not be resumed when the committee re-assembles, and whether it would be in order to discuss anything but amendments to this bill under the five-minute rule?

The CHAIRMAN. The Chair will not undertake to decide those questions until they arise.

Mr. PHILLIPS. I merely ask the question in order to show that no practical good can result from a recess.

Mr. QUITMAN. I agree with the gentleman from Tennessee, that the committee has no power to take a recess unless the House has granted it liberty so to do, and that the committee has no right to originate a new order of business.

Mr. WASHBURNE, of Illinois. Has not the debate been closed upon this bill, and if the committee take a recess, will not the debate be limited to five minutes' discussion of amendments to this bill?

Several MEMBERS. Of course.

The CHAIRMAN. The Chair will decide that question when it arises. The Chair entertains the motion for a recess, because the Chair is not willing to overrule the former practice of the committee.

Mr. JONES, of Tennessee. There has been no such practice.

The CHAIRMAN. The Chair is stating what he understands to have been the practice of the committee. The gentleman from Tennessee appeals from the decision of the Chair.

Mr. JOHN COCHRANE. Perhaps we can arrange this matter by a compromise. If the motion for a recess be withdrawn, will it not be conceded by all gentlemen here that, by unanimous consent, we will take a recess until half past seven o'clock, with the understanding that no business shall be done?

[Cries of "No!" "No!"]

Mr. JOHN COCHRANE. I will withdraw the motion, if that will be the unanimous consent.

The CHAIRMAN. The question is on the appeal from the decision of the Chair.

Mr. UNDERWOOD. The motion for a recess is withdrawn, and the appeal falls with it.

The CHAIRMAN. Is the motion of the gentleman from New York withdrawn?

Mr. UNDERWOOD. I understand so.

Mr. JOHN COCHRANE. The proposition to withdraw the motion was conditional.

Mr. SMITH, of Virginia. I move that the committee do now rise.

Mr. BLISS. That motion is not in order.

Mr. GROW. I submit that that was the last question voted on by the committee.

The CHAIRMAN. The gentleman from Tennessee has taken an appeal from the decision of the Chair since the motion was voted on, and business has intervened.

Mr. JOHN COCHRANE. I withdraw the motion to take a recess.

The question was taken on Mr. SMITH's motion; and it was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SMITH, of Tennessee, reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly a bill (H. R. No. 200) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1859, and had come to no resolution thereon.

Mr. MORGAN. I move that the rules be suspended, and that the House resolve itself into a Committee of the Whole on the state of the Union; and on that motion I demand the yeas and nays.

Mr. RUFFIN. I move that the House do now adjourn.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. J. GLANCY JONES. I ask the unanimous consent of the House to have the legislative, executive, and judicial bill, which has been returned from the Senate with amendments, taken up and referred to the Committee of Ways and Means.

There being no objection, it was so ordered.

Mr. RUFFIN. I hope the motion to adjourn will now be put.

Mr. MORGAN. I ask the yeas and nays upon that motion.

PAYMENT OF WITNESSES.

Mr. HOUSTON. I presume my friend from North Carolina will allow me to ask the House to pass a bill appropriating \$12,000 to pay witnesses who are attending here before committees of the House.

Mr. MORGAN. I object to anything out of order.

Mr. HOUSTON. The gentleman cannot certainly wish to keep the witnesses here without their pay?

Mr. MORGAN. I demand the yeas and nays upon the motion to adjourn.

The yeas and nays were ordered.

Mr. RUFFIN. I withdraw the motion.

Mr. DAVIS, of Mississippi. I renew it.

Mr. MORGAN. I demand the yeas and nays. The yeas and nays were ordered.

The yeas and nays were taken; and it was decided in the affirmative—yeas 77, nays 74; as follows:

YEAS—Messrs. Adrain, Ahl, Arnold, Atkins, Avery, Barksdale, Bowie, Branch, Bryan, Chapman, Horace F. Clark, John B. Clark, Clay, John Cochran, Cockerill, Corning, Cox, James Craig, Crawford, Curry, Davis of Indiana, Davis of Mississippi, Dowdell, Edmundson, English, Eustis, Fenton, Florence, Foley, Gartrell, Greenwood, Gregg, Groesbeck, Hatch, Hawkins, Hill, Hopkins, Huyler, Jackson, George W. Jones, Keitt, Jacob M. Kunkel, Leidy, Letcher, Maclay, McQueen, Humphrey Marshall, Mason, Maynard, Milson, Isaac N. Morris, Nicklack, Pendleton, Peyton, Phillips, Quitman, Reagan, Ricard, Ruffin, Russell, Seales, Henry M. Shaw, Singleton, Robert Smith, William Smith, Stevenson, James A. Stewart, Talbot, George Taylor, Underwood, Watkins, Whiteley, Winslow, Wood, Wortendyke, and John V. Wright—77.

NAYS—Messrs. Abbott, Andrews, Bingham, Bliss, Burlingame, Burlingame, Burns, Case, Chaffee, Clawson, Clemens, Cobb, Colfax, Comins, Cragin, Davis of Massachusetts, Davis of Iowa, Daves, Dean, Dodd, Durfee, Farnsworth, Foster, Garnett, Gilman, Gilmer, Goodin, Goodwin, Grow, Thomas L. Harris, Hoard, Houston, Howard, Hughes, J. Glancy Jones, Owen Jones, Kellogg, Kelly, Kelsey, Knapp, Lovejoy, Mattoon, Miles, Moore, Morgan, Morrill, Oliver A. Morse, Mott, Murray, Olin, Palmer, Pettit, Pike, Potter, Pottle, Robbins, Roberts, Royce, Sandidge, Aaron Shaw, Judson W. Sherman, Samuel A. Smith, Spinner, Stanton, William Stewart, Tappan, Miles Taylor, Thayer, Tompkins, Wade, Walbridge, Cadwalader C. Washburn, Elihu B. Washburne, and Wilson—74.

So the motion was agreed to; and thereupon (at five o'clock) the House adjourned.

IN SENATE.

WEDNESDAY, May 19, 1858.

Prayer by Rev. SMITH PYNE, D. D.
The Journal of yesterday was read and approved.

JUDICIARY COMMITTEE.

The VICE PRESIDENT, in accordance with the order of yesterday authorizing the Vice President to fill the vacancy in the Committee on the Judiciary occasioned by the resignation of Mr. TOOMBS, appointed Mr. SEBASTIAN.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, transmitting copies of all correspondence, vouchers, and other papers, having reference to the accounts of Edward F. Beale, Esq., late superintendent of Indian affairs in California, which are on file or record in the Departments of the Treasury and Interior; which, on motion of Mr. GWIN, was ordered to lie on the table; and a motion by him to print it was referred to the Committee on Printing.

He also laid before the Senate a report of the Secretary of the Treasury relative to the present condition of the finances of the Government; which was referred to the Committee on Finance, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented resolutions of the Legislature of New York, against the enactment

of any law which may remove the charge of the light-house system from the custody of the present board; which were ordered to lie on the table and be printed.

He also presented resolutions of the Legislature of New York, in favor of the Pacific railroad bill, introduced by the Hon. JOHN S. PHELPS, of Missouri, in the House of Representatives; which were ordered to lie on the table, and be printed.

He also presented a petition of citizens of New York, praying that a pension may be granted to Polly Egbertson, widow of a soldier in the war of the Revolution; which was referred to the Committee on Pensions.

Mr. GREEN presented two petitions of citizens of Missouri, remonstrating against any change in the application of the proceeds of the lands granted to Iowa for the improvement of the Des Moines river; which were referred to the Committee on Public Lands.

Mr. BIGLER presented a memorial of presidents of marine insurance companies, composing the board of marine underwriters of Philadelphia, praying that an appropriation may be made for the construction of a breakwater on Crow shoal, in the Delaware bay; which was ordered to lie on the table, for the reason that the Committee on Commerce have passed upon the subject.

Mr. IVERSON presented a memorial of R. C. Jones, a master in the Navy, who was placed on the furlough list by the late board of naval officers, and subsequently transferred to the leave-of-absence pay on the reserved list, praying to be allowed the difference between furlough pay and that of leave of absence; which was referred to the Committee on Claims.

He also presented a petition of Charles M. Perry, praying compensation for services as a clerk in the office of the Treasurer of the United States; which was referred to the Committee on Claims.

Mr. SHIELDS presented a petition of William B. Herrick, a surgeon in the Army during the war with Mexico, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. POLK presented a petition of citizens of New York, praying that the public lands may be laid out in farms or lots of limited size for the free and exclusive use of actual settlers; which was ordered to lie on the table.

CHANGE OF REFERENCE.

Mr. JOHNSON, of Arkansas. Yesterday, on my motion, the memorial of T. P. Shaffner, in regard to the oceanic telegraph, was referred to the Committee on the Post Office and Post Roads. Other papers relating to the same subject have been referred to the Committee on the Judiciary; and I move that the Post Office Committee be discharged from the further consideration of this memorial, and that it be referred to the Judiciary Committee.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred the memorial of the trustees of the Columbian College, asked to be discharged from its further consideration and that it be referred to the Committee on Public Lands; which was agreed to.

Mr. MASON, from the Committee on Foreign Relations, to whom was referred two petitions of citizens of Maine in relation to the boundary line between the United States and the Province of New Brunswick, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of Samuel Bromberg, submitted an adverse report.

Mr. KING, from the Committee on Pensions, to whom was referred the petition of Cynthia Cony, reported adversely thereon, and that the committee be discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the petition of Mary E. Larnard, reported adversely thereon, and that the committee be discharged from the further consideration of the petition.

Mr. DAVIS, from the Committee on Military Affairs and Militia, to whom was referred the report of the Secretary of War, in answer to a resolution of the Senate, relative to the purchase

of Lime Point, in California, for military purposes, asked to be discharged from its further consideration; which was agreed to. It appears that the Secretary of War has suspended all negotiations for the purchase of Lime Point, and ordered all the papers to be returned to the Department.

He also, from the same committee, to whom was referred the papers relating to the claim of J. M. Pommars, asked to be discharged from their further consideration, and that they be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred the memorial of George M. Weston, commissioner of the State of Maine, submitted a report, accompanied by a bill (S. No. 380) to provide for the payment of the claims of the State of Maine for expenses incurred by that State in organizing a regiment of volunteers for the Mexican war. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 272) for the relief of Brevet Major H. L. Hendrick, reported it without amendment.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the bill (H. R. No. 225) to increase the pension of John Richmond, reported it without amendment, and submitted a report; which was ordered to be printed.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom were referred the following bills, reported them without amendment:

A bill (H. R. No. 214) for the relief of Regis Loisel, or his legal representatives.

A bill (H. R. No. 250) for the relief of Pierre Gagnon, of Natchitoches, Louisiana.

A bill (H. R. No. 327) for the relief of the legal representatives of Marie Malines.

A bill (S. No. 317) for the relief of Thomas L. Disharoon.

Mr. BENJAMIN, from the Committee on the Judiciary, who were instructed by a resolution of the Senate to inquire into the subject, reported a bill (S. No. 381) to provide for the taking of private property for public use after allowing just compensation therefor; which was read, and passed to a second reading.

He also, from the same committee, to whom were referred a number of resolutions on that subject, reported a bill (S. No. 382) to amend the existing laws relative to the compensation of the district attorneys, marshals, and clerks of the circuit and district courts of the United States; which was read, and passed to a second reading.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred the bill (S. No. 318) for the relief of Joseph Bard & Co., J. Caulfield, and Joseph Landis & Co., asked to be discharged from its further consideration, and that it be referred to the Committee on the Post Office and Post Roads; which was agreed to.

Mr. BAYARD. There has been referred to the Committee on the Judiciary an omnibus presentment from the grand jury of the United States for the northern district of Florida, recommending an increase of the salary of the judge of that district; an increase of the compensation of jurors, witnesses, and officers of the courts for that district; complaining of the irregularities of the mails throughout that State; recommending that the mail service between Savannah and Florida be changed to tri-weekly service; recommending that certain lots in St. Augustine, reserved for a marine barracks, be granted to the State for a seminary of learning; recommending the preservation of the ancient Spanish fort in that State, the construction of a prison, and the repair of the court-house in St. Augustine; and complaining of the negligence of the Government timber agent in that State. The Committee on the Judiciary make an adverse report on this presentment, so far as it relates to the subject of the salaries of the judge and other officers, and the repairing of the court-house; and ask to be discharged from the remainder of the presentment.

Mr. BAYARD. The Committee on the Judiciary, to whom was referred the petition of George Chorpennig, praying the passage of an act to construe the act of March 3, 1857, for his relief, and also the joint resolution (S. No. 36) on the same subject, have instructed me to ask that they be discharged from their further consid-

eration, and that they be referred to the Committee on the Post Office and Post Roads, having no connection whatever with the action of the Judiciary Committee. I will state, in connection with it, the views the committee take: that it would neither be wise nor expedient that a construction which has been given to laws by the executive department of the judiciary should be revised by the Committee on the Judiciary. The law itself, if it does not carry out the intention of Congress, from any cause whatever, ought, of course, to demand further legislation. Whether that further legislation should take place, is the subject of inquiry, and ought to be the subject of inquiry by the committee that has jurisdiction over the subject-matter itself. It is on that ground that we ask to be discharged from the further consideration of the subject.

The motion was agreed to.

Mr. SEBASTIAN. I am instructed by the Committee on Indian Affairs, to whom was referred the petition of George Chorpennig, to submit an adverse report. In this connection, I will say that the claim, as presented, has one feature in it—that of a claim under the intercourse law—which the committee have reported against; but in the memorial and statement of facts in the documents, there is another claim, as a mail contractor, which ought to be considered by the Post Office Committee. The Committee on Indian Affairs, without expressing any opinion on that branch of the subject, choose to recommend that it be referred to the Committee on the Post Office and Post Roads. I make that motion.

The motion was agreed to.

DEFENSE OF LIEUTENANT ANDERSON.

Mr. CLAY. On the day before yesterday I offered a resolution calling for information from the Department of War in respect to the claim of Blocker, Gurley, and Davis, against the Government. The Senator from Georgia [Mr. Toombs] objected at the time to its consideration. I understand that he will not now object to the consideration of the resolution, and I hope it will be taken up and passed.

There being no objection, the Senate proceeded to consider the following resolution:

Resolved, That the Secretary of War be requested to communicate to the Senate the papers filed in the Department in support of the claims of Blocker and Gurley, and James F. Davis, counsel employed in the defense of Lieutenant Anderson and his detachment, arrested by the civil authorities of Texas while in the discharge of their official duties under the orders of General Harney.

The resolution was agreed to.

POST OFFICE DELIVERIES.

Mr. KING. I submit the following resolution:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire whether the Post Office laws authorize a postmaster to refuse to deliver letters to a person authorized to receive them by the persons to whom the letters are addressed, and whether any legislation is required on this subject, and to report by bill or otherwise.

I offer this resolution, having conferred with the chairman of the Committee on the Post Office and Post Roads, who preferred that it shall lie over, to which I have no objection. It is offered on account of complaints which have been made of a refusal to deliver letters at the post office at Brooklyn, New York.

The resolution lies over.

WILLIAM WALKER'S ARREST.

Mr. DOOLITTLE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to communicate to the Senate all correspondence, instructions, and orders, not heretofore communicated to either branch of Congress, connected with the arrest of William Walker and his associates by the naval forces under the command of Commodore Paulding, including all the correspondence between him and the Navy Department since the arrest of Walker in relation thereto, or in relation to the property or persons seized by the forces under his command, and including also copies of any letters, orders, or instructions, if any, addressed to Commodore Paulding, which may have been subsequently withdrawn from him by the Navy Department, and the reasons for such withdrawal.

ISTHMUS OF TEHUANTEPEC.

Mr. PUGH submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to inform the Senate whether any efforts have been made or authorized by the executive department or any officer thereof, to induce the Government of Mexico

to annul or impair the grant of February 5, 1853, for the construction of a plank road and railroad across the Isthmus of Tehuantepec, as recognized in the treaty published at Washington on the 30th of June, 1854, and to obtain a new grant of the same or like character, for other parties; and, if so, that he communicate the names of those parties together with the terms, conditions, and considerations of the grant, and all the correspondence connected therewith. Also, that the President be requested to inform the Senate whether any contract for transporting the mails, troops, or munitions of war of the United States, across the Isthmus of Tehuantepec, has been made, or is now in course of negotiation; and, if so, that he communicate a copy of such contract or proposition, with all the correspondence and papers relating to that subject.

BILLS INTRODUCED.

Mr. HAMLIN asked, and by unanimous consent obtained, leave to bring in the following bills; which were severally read twice by their titles, and referred to the Committee on Public Lands:

A bill (S. No. 378) to enable the Columbian College, in the District of Columbia, to found and establish a professorship of agriculture and mechanical science, and to complete her endowment fund, and for the benefit of the public schools of Washington, District of Columbia.

A bill (S. No. 379) to enable the Columbian College, in the District of Columbia, to establish a professorship of agriculture and mechanical science, and to complete her endowment fund, and for the benefit of the public schools of Washington, District of Columbia.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HENRY, his Secretary, announced that the President this day approved and signed the following acts:

An act to amend an act entitled "An act to authorize the President of the United States to cause to be surveyed the tract of land in the Territory of Minnesota belonging to the half-breeds or mixed bloods of the Dacotah or Sioux nation of Indians, and for other purposes," approved July 17, 1854.

An act to provide for the collection and safe-keeping of the public archives in the State of California.

An act for the prevention and punishment of frauds in land titles in California.

ORDER OF BUSINESS.

On motion of Mr. IVERSON, the Senate proceeded to consider the following resolution, submitted by him some days since:

Resolved, That after to-day, and for the remainder of the session, the special order shall not be taken up until the hour of one o'clock, unless otherwise ordered by the Senate.

Mr. IVERSON. I think it must be obvious to the Senate that it is impossible to do any other business, except the appropriation bills, unless we devote two hours every day to the consideration of morning business. I think one o'clock is quite early enough to take up the special order. For the rest of the session it is probable that the reading of the Journal itself will at least occupy half an hour every morning. The Journal becomes larger and longer as the session advances to its close. Then petitions will be presented as they are now being presented very numerous, and also reports from committees. As the session comes to a close, the committees are reporting cases in their charge, and it will take up another half hour to make reports; and there are resolutions to be offered during the morning hour which must necessarily consume a portion of the time, so that one hour will not be sufficient even to read the Journal and transact the ordinary morning business. I propose to amend this resolution so as to incorporate the following:

And that, after the presentation of petitions, reports from committees, and resolutions, the remainder of the two morning hours shall be devoted, unless otherwise ordered by the Senate, to the consideration of such bills upon the Private Calendar as shall not give rise to debate, until the Private Calendar shall be gone through with.

I suppose it will not take more than one or two mornings to consider the Private Calendar in that way. Then we can take up cases that are objected to, or any other business the Senate may think proper to transact. It is important to get off the docket the cases to which there is no objection. Doubtless there are many which are so meritorious that nobody will object to them. Let those bills be passed and go to the House of Representatives, so that they may stand some chance of being considered there.

Mr. BAYARD. If I understood the resolution

correctly from its reading, I shall certainly object to it. We give one day to private bills, and I have no objection whatever to their being acted upon on that day; but there are other bills of a public nature on the Calendar; and if we take up the Private Calendar every morning of every day of the week we exclude those bills, for they cannot be taken up at any other time without interfering with the special order. There are three bills reported from the Committee on the Judiciary, which it probably will not take half an hour to pass; but still they are important to the general business of the country. Ought you to exclude them, as practically you will by this resolution, because the special orders and appropriation bills, after two hours, will take the whole day? If you appropriate an hour in the morning to the Private Calendar in addition, you practically defeat all other bills. If the resolution be modified so as to include other business besides private bills, I will not object to it.

Mr. IVERSON. I withdraw the amendment.

Mr. FESSENDEN. I suggest to the Senator from Georgia to strike out the word "private," and say "bills on the Calendar."

Mr. IVERSON. The Senate can order what business shall be taken up. I think it better to postpone the special order each day until one o'clock.

Mr. FESSENDEN. I renew the amendment striking out the word "private."

The VICE PRESIDENT. The question is on the following amendment offered by the Senator from Maine:

"And that, after the presentation of petitions, reports from committees, and resolutions, the remainder of the two morning hours shall be devoted, unless otherwise ordered by the Senate, to the consideration of such bills on the Calendar as shall not give rise to debate, until the Calendar shall have been gone through with."

Mr. HUNTER. Is that in order? It involves a change of the rule. Is it in order to make that change without a day's notice? I believe the rules require one day's notice to be given.

Mr. FESSENDEN. It has been lying on the table for several days.

Mr. HUNTER. But not this change of the rules.

Mr. FESSENDEN. This is a mere amendment of it.

Mr. HUNTER. The amendment involves a change of the rules; the original resolution does not.

The VICE PRESIDENT. The rule only relates to the presentation of petitions and reports from standing committees.

Mr. HUNTER. But here is a new rule proposed to be established to consider only those bills that will not give rise to debate.

The VICE PRESIDENT. The Chair thinks it is like making a special order.

Mr. HUNTER. We make a special order for a particular bill, but I do not understand that we can make special orders of all bills that do not give rise to debate.

The VICE PRESIDENT. It is a mere direction in regard to business.

Mr. STUART. I hope the Senator from Maine will withdraw the amendment. It will only lead to confusion and difficulty. If he will just let the original resolution pass, so that the special orders shall not come up of their own force until one o'clock, it leaves the Senate in the intermediate time to take up any business it thinks proper. I would say to the honorable Senator it may be just as important to pass a bill in the morning hour, of a public character, that will lead to a debate of ten minutes, as one that will not. It is altogether better, therefore, I submit to the Senator, to withdraw the amendment entirely, and let the original resolution stand.

Mr. FESSENDEN. I differ with the Senator in opinion on that subject. That is the only trouble on that point. I do not think any of these difficulties will arise. It is very true that a public bill that gives rise to a debate of ten minutes may be as important, and more important, than others; but the difficulty is that you strike on a bill that gives rise to debate, and it prevents the passage of others. My desire is to accomplish something in the way of legislation; and at this late day of the session we cannot do much, unless by common consent we go through and pass such bills as are not objected to. It can take very little time; and as we include both public and private

bills, we may accomplish a great deal in that way. Having done that—and it cannot take much time—we can return and take up bills that give rise to debate. I think a great deal of good will be done by it, and I will not withdraw the amendment.

Mr. HUNTER. I have seen the operation of this rule in the House of Representatives, and occasionally we have had it in the Senate. I think it gives rise to a great deal of bad legislation. A bill is presented; you do not understand it; you do not like to get up and prevent the action of the Senate on it, because it does not seem to be courteous to the gentleman who presents it; and the consequence is that very often mischievous bills are allowed to pass without proper examination. It seems to me fair if we devote two hours each day to business other than the special order, that the Senate should determine at the time what business it will consider. There is a great deal of justice in what the Senator from Michigan has said. It may often happen that a bill which is very important and ought to be acted on, may give rise to a debate of ten, fifteen, twenty, or thirty minutes. If it gave rise to more, the majority could control it, could lay it on the table and take up bills that would manifestly not lead to debate.

Mr. IVERSON. My object is not only to facilitate business, but to prevent the confusion that arises every morning from moving to take up special and particular bills. Unless we have some regular order of business, we shall have propositions morning after morning, to take up a special proposition out of its order that gives rise to debate, and does injustice to the others. I think we had better have some regular order.

The amendment was rejected, and the resolution was adopted.

AGRICULTURAL COLLEGES.

Mr. STUART. I ask the Senate to take up a bill from the House of Representatives (No. 2) donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts. I gave notice that I should call it up yesterday, but I was not able to do so.

Mr. BIGLER. I desire to suggest to my friend from Michigan that I have a joint resolution of considerable interest to my constituents, relating to the regulation of public buildings in Philadelphia; and it is important that it should be disposed of.

Mr. SEWARD. Allow me to make a suggestion to the Senator from Pennsylvania; and that is, that he raise his voice so as to make his counsels heard on this side of the Chamber, where they are so much respected.

Mr. BIGLER. I was appealing to the Senator from Michigan to allow me to have a resolution passed in relation to the regulation of public buildings in Philadelphia. It is a measure of considerable importance, which will require but a very few minutes; but unless it be passed now, the work of changing those buildings must be stopped and delayed. The resolution, as reported from the Committee on the Post Office and Post Roads, is satisfactory to my colleague, and I think to all the parties concerned, and I trust the Senate will indulge me by passing it. I know the bill of the Senator from Michigan will occupy time, and involve debate.

Mr. STUART. If I were at liberty, I certainly would withdraw the motion, but I am under obligations to call up this bill. I gave notice that I should do so yesterday, but the consideration of other public business prevented it.

Mr. BIGLER. This bill will occupy the whole day; and I appeal to the Senator—

Mr. STUART. It is not pleasant to me to deny a personal request of the Senator; but really I must insist on my motion.

Mr. PUGH. We might as well take a test vote on taking up that bill. It has never been favorably recommended by any committee of either House. Probably it is the largest proposition for the donation of public lands that has ever been here. We cannot consider it at this time; and I think, instead of wasting the precious hours that remain, on a question which, if it comes up, will be debated at great length, we may as well take a test vote on the question of taking up the bill; and I call for the yeas and nays.

The yeas and nays were ordered

Mr. YULEE. I wish to suggest to the Senator from Ohio to vary his motion to make it a motion to lay on the table the motion to take up the bill. That will make a more certain disposition of it. ["Oh, no!"]

Mr. PUGH. I do not think it is in my power to lay on the table a motion to take up a bill.

Mr. YULEE. Certainly you can.

Mr. PUGH. I adhere to my motion.

The question being taken by yeas and nays, resulted—yeas 28, nays 24; as follows:

YEAS—Messrs. Allen, Bell, Bright, Broderick, Cameron, Chandler, Clark, Crittenden, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Houston, Kennedy, King, Pearce, Seward, Simmons, Stuart, Thomson of New Jersey, Trumbull, Wade, Wilson, and Wright—28.

NAYS—Messrs. Bayard, Benjamin, Bigler, Brown, Clay, Clingman, Davis, Fitzpatrick, Green, Hammond, Henderson, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Mason, Polk, Pugh, Sebastian, Shields, Sillidell, and Toombs—24.

So the motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2) donating the public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts.

The Secretary read the first section of the bill. The VICE PRESIDENT. The Chair feels it his duty to call up the special order at this hour.

Mr. STUART. I move to postpone the consideration of the special order until this bill is disposed of.

Mr. CLAY. I trust that motion will not prevail. It is now sixteen months and upwards since I introduced a bill to repeal the fishing bounties. The bill has been thoroughly debated. I presume the discussion on its merits has closed. It is on its third reading, or it has been read twice, and some amendments have been offered which I presume will not be debated, and it may be disposed of in the course of an hour, or less time. There is certainly a majority of the Senate in favor of the bill. That has been conceded on the other side, in the course of the debate. The bill might have been passed before, if I could have commanded the votes of that majority. If Senators will stay in their seats and will vote, that bill can be taken up and disposed of in the course of an hour, at the furthest, I presume. If this measure is taken up, it must occupy at least a week. It is a bill which cannot pass without debate. It is a bill which the Democratic party of this country has been committed against for thirty years past, and I presume, with the majority which that party has in the Senate, it cannot pass. I trust it cannot. I know it cannot without a protracted debate. Now, sir, if any action is to be taken upon the bill which I had the honor to present to the Senate to repeal the fishing bounties, I trust it will be taken now, and I hope it will not be postponed when we are within an hour of the close of its consideration for the sake of this bill, which will occupy a week, or at least considerable time.

Mr. STUART. If there is anything important at this stage of the session it is to act and not to speak, and I will endeavor to profit by that opinion. I only desire, therefore, to say that the friends of this measure do not intend to discuss it. It is a measure which explains itself. The reading of the bill prepares every Senator to vote upon it as well as if it were discussed a month. If the friends of the fishing bounty repeal wish to discuss this measure, and thereby keep back theirs, that is a matter they have in their own hands; they can do as they choose about it.

But, sir, I wish to protest against the authority of my honorable friend from Alabama, as well as his historical statement. I deny his authority to make party questions, and I deny the correctness of his historical statement that this is a party question, or has ever been made so. There has not been a question as to the granting of lands presented to the Senate that has been tested on a party division; and this is simply a proposition to grant less than six million acres, whereas it is but a short time since we passed a law—in 1855—under which there have been granted about sixty million acres. That was done by a Democratic majority, and approved by a Democratic President. I desire simply to say that all I wish is to have a vote. I ask for the yeas and nays on this proposition to postpone, and let the Senate decide the question according to its pleasure.

The yeas and nays were ordered.

Mr. PUGH. What is the question now? Let

me understand it. Is it to postpone the bill repealing the fishing bounties?

The VICE PRESIDENT. The Chair will state the question. It is moved and seconded to postpone the special orders with a view to continue the consideration of the bill granting lands for agricultural colleges.

Mr. JOHNSON, of Tennessee. I understand that the proposition is to postpone all the special orders. I shall vote against it.

Mr. MASON. I think the Senator who asked to have the bill taken up will be disappointed if he expects it to pass without debate. It may be the policy of that Senator and those who think with him to let the bill pass as smoothly as may be; but as far as I understand it, it is presenting a new policy to the country altogether, being a direct appropriation from the Treasury for the encouragement of schools of agriculture—a direct appropriation from the Treasury, in the form of public lands, it is true, but it is in effect the public money to be appropriated in that manner. I am not aware that it has been known so far to the legislation of the country to make these general appropriations through all the States. I shall deem it my duty, for one, to expose its character, as I look at it, fully to the people whom I represent, and I presume that the disposition of other Senators is to do the same thing. Considering the character of the bill, I should look upon myself as derelict to a very great degree if I did not do all in my power to expose its character to the people of my State, at least; so that if the Senator thinks he can get it through without debate, he will be disappointed.

The question being taken by yeas and nays, resulted—yeas 26, nays 29; as follows:

YEAS—Messrs. Allen, Bell, Broderick, Cameron, Chandler, Clark, Crittenden, Doolittle, Durkee, Fessenden, Foot, Foster, Gwin, Hale, Hamlin, Harlan, Houston, King, Pearce, Seward, Simmons, Stuart, Sumner, Trumbull, Wade, and Wilson—26.

NAYS—Messrs. Bayard, Benjamin, Bigler, Bright, Brown, Clay, Clingman, Davis, Fitzpatrick, Green, Hammond, Henderson, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Mason, Polk, Pugh, Rice, Sebastian, Shields, Sillidell, Thompson of New Jersey, Toombs, Wright, and Yulee—29.

So the motion of Mr. STUART was not agreed to.

INTERNAL IMPROVEMENTS.

The VICE PRESIDENT. The Chair calls up the special order—

Mr. SEWARD. I move to postpone the special orders for the purpose of taking up the bill for the preservation of the harbor of Chicago; on which motion I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SEWARD. I will state that this is the first of a series of bills for the protection of harbors; and that, if this motion shall prevail, and the bill pass, I shall expect to call up the others in their order.

The question being taken by yeas and nays, resulted—yeas 22, nays 34; as follows:

YEAS—Messrs. Broderick, Cameron, Chandler, Clark, Crittenden, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Pearce, Seward, Simmons, Stuart, Sumner, Trumbull, Wade, and Wilson—22.

NAYS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Bright, Brown, Clay, Clingman, Davis, Fitzpatrick, Green, Gwin, Hammond, Henderson, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Polk, Pugh, Rice, Sebastian, Shields, Sillidell, Thomson of Kentucky, Toombs, Wright, and Yulee—34.

So the motion was not agreed to.

FISHING BOUNTIES.

The VICE PRESIDENT. The first special order is the bill (S. No. 10) repealing all laws or parts of laws allowing bounties to vessels employed in the bank or other cod fisheries. The question is on the amendment of the Senator from Illinois, [Mr. TRUMBULL], to the amendment of the Senator from Rhode Island, [Mr. ALLEN.] The amendment of the Senator from Rhode Island was to add:

Sec. 2. That all duties on salt imported into the United States from and after the 31st day of December, 1859, be, and the same are hereby, repealed.

The amendment of the Senator from Illinois is, after the word "salt," to insert, "and sugar." The Chair thinks some question of order was raised in regard to these amendments a few days ago.

Mr. HUNTER. I should like to have the sense of the Senate on the question of order that was

raised the other day on this subject. We have been acting for many years on the idea that we had no right to originate in the Senate a measure to alter the tariff; that that was a matter which belonged exclusively to the other House. I should be glad to believe that we had the power. It is one of the few things in the Constitution which I would amend if I had the power to do it. I have always supposed, and the opinion of the Senate, I think, ever since I have been here, has been, that that was the settled rule of the body. There certainly was such a decision when Mr. McDuffie attempted to introduce a change in the tariff, which change consisted in a reduction. The bill which he introduced was referred to the Committee on Finance, at the head of which was Mr. Evans, of Maine. The Finance Committee returned the bill, with a resolution that the Senate had no constitutional authority to originate such a measure, and recommending its indefinite postponement. It was indefinitely postponed, I believe, there being a minority of only four in the Senate against it. Ever since then we have been acting on the supposition—I know it is so with the Finance Committee, of which I have been a member ever since I have been here—that we have no right to originate measures of this sort even by way of reduction. I should be glad to have a decision of the Senate on that point.

The VICE PRESIDENT. The Chair will hear the suggestions of any Senator on the point of order.

Mr. STUART. I only wish to say on this subject that it seems to me there can be no question of the authority of the Senate. I think this case clearly distinguishable from the one alluded to by the honorable Senator from Virginia. That was a bill which proposed to establish the rules for the raising of revenue. True, it lessened the scale; but still it would have been a bill to raise revenue if it passed. Now, sir, if all the duties were forty per cent., it certainly would not be competent to originate in the Senate a bill which would change the law, and make the duties but twenty per cent., because that would be a bill to raise revenue. But to repeal an existing duty is not to raise revenue; and I see no difficulty in carrying our authority to the extent of repealing the existing law; but you can substitute nothing in its place. If you were to repeal the entire tariff law, you would not originate a bill to raise revenue; you would only make it necessary to originate one, and that would have to be done in the other House. So, I say, applying the rule suggested by the Senator from Virginia to its fullest extent, this does not go beyond the authority of the Senate. Receiving a proposition to repeal an existing duty upon an article is not originating a bill to raise revenue. But this is a clause of the Constitution which is to be fairly construed, like all others. I think, as I said, it is clear that the distinction between this and the bill alluded to by the honorable Senator is a manifest distinction. That was a bill changing the revenue system; and, had it become a law, it would have been the law under which revenue was raised, and would have originated in the Senate, which would have been in violation of the Constitution.

I do not think the point very important, so far as this question is concerned; but it is important as a general principle, and I should be very sorry to see the Senate decide that they could not originate an amendment repealing the existing duty on an article. It seems to me that it would be a construction of the Constitution not warranted by its letter, and certainly not by its intent. I think that cases can be referred to. The Senator from Missouri [Mr. GREEN] has placed in my hands a case where a bill was originated here to repeal the duty on salt. It came from the Committee on Finance.

Mr. HUNTER. I think the Senator will find that he has not stated the case correctly. Suppose the Committee on Finance were to introduce a bill here which corresponded with the present tariff precisely, except that it made salt free. I presume everybody would say they could not do that. We could not originate a tariff bill which should be exactly like the present one, with the exception that it made salt free. Yet, although we could not do that, because the Senate cannot originate such bills, we may introduce an amendment which would accomplish precisely the same purpose. That is to say, we can, by the action

of the Senate, substitute for a tariff which embraces a duty on salt, another tariff which imposes no such duty. That is the proposition. I deny it. That is a very different case from the one which the Senator puts of an entire repeal of all duties. I suppose we could do that; because that would leave no other revenue bill in the place of the old one; but if the Senate were to repeal this duty it would make another revenue bill in place of the old one. But, as I said before, my only purpose is to get a decision of the Senate on the point.

Mr. PUGH. I hope the Senator from Virginia will withdraw the question of order, and let us vote on the amendment. It is evident we are wasting a great deal of time on it. I am for the original bill; and I intend to vote against every amendment that is designed to fetter it; and therefore, without looking into the merits of these amendments, I am prepared to vote against them, and adhere to the original bill. I think we had better come to a vote.

Mr. SIMMONS. I wish to correct a supposition of the Senator from Virginia in regard to the bill to which he refers. That was introduced here in 1844. He says it was decided to be out of order. That point was never decided; but the question was taken on the proposition itself, which had but four members on this floor in its favor. I think that is the correct view.

Mr. HUNTER. I have looked at it lately. The question was taken on a resolution to postpone it indefinitely, because it was unconstitutional; and the Senator voted for it himself.

Mr. SIMMONS. Certainly I voted for the indefinite postponement, because I was opposed to the bill; and the bill was postponed. In such a case as that, the objection of the Senator from Virginia would apply, as I said the other day; because that bill, if passed, would have been the law under which the revenues would have been collected. I think, when the Senator introduced a bill here to issue Treasury notes and supply funds to the Government, he went much further to infringe this provision of the Constitution than we should do by striking out a duty on an article and make it free. That is not so much a revenue measure as the bill to issue Treasury notes. I suppose there is no difficulty about this.

Mr. CRITTENDEN. The provision of the Constitution which forbids the origination of revenue bills in the Senate, is, I presume, copied from English precedents. There the popular branch alone is authorized to originate bills for the raising of revenue. It has been adopted in our form of government rather with reference to the precedent than with any regard to the reason of the case. We are as much the representatives of the country as the members of the other House. The reason of the interdiction in England as to one branch of the legislative body, does not apply here. There the Government is so framed that members of that body may be created at pleasure by the Crown, and a majority made for the occasion. It cannot be so here. The reason does not apply. I see no reason why the Senate should be over astute on this question to limit its own powers, to confine itself within stricter rules than a liberal construction of our Constitution would justify. I am not for surrendering a particle of the power which we can justly claim for the Senate.

By the Constitution we are forbidden to originate an act raising revenue. Now, can we not abolish or repeal a law for raising revenue? Can that be considered, in any fair sense of the term as applied here, as raising revenue? It would be a strange contradiction to common ears to be told that a prohibition to raise revenue is a prohibition to abolish revenue. There are some cases where the reduction of a duty would increase revenue; and where that is the object, such a measure would come within the prohibition of the Constitution, because it would be really for raising and increasing revenue. But the entire abolition of any particular duty or branch of revenue cannot, by any possible means, have that effect. By diminishing the duty in some cases you might increase importations and increase revenue. We have no right to do that. But to abolish revenue and to raise revenue, are terms directly in contradiction to each other; and of two contradictory propositions, as I understand, one must be true, and the other must be false. Now, here the con-

tradictory conclusion is drawn from the terms of the Constitution, that we are divested of the power of relieving the people from a duty because we are inhibited from imposing a duty on the people!

I differ entirely on the constitutional question from my honorable friend from Virginia; but, whether I am right or wrong in that, I am quite clear that we cannot impose the decision of such a constitutional question upon the Chair as a mere question of order. We can neither impose it upon you, sir, nor can we rid ourselves of the responsibility of deciding it. Whether a great measure is constitutional or not is not a question of order. It rises altogether above it. It does not relate to the proceedings of the body; it is the solemn decision and adjudication of the Senate upon a great matter of law, and constitutional law. I am surprised, then, to suppose that gentlemen should regard this as a question of order, and think to have it ruled from us by the decision of the Presiding Officer of this body. There can be no such thing. It can neither be imposed upon him, nor by any decision can you take from us the right of adjudicating as we think proper; nor ought it to be done.

Mr. GREEN. I agree with the Senator from Kentucky that this is not a proper question of order. It appeals to the Senate whether the proposition be constitutional or not. But we have a precedent here, and in the absence of argument I think precedents very safe to follow. I see that, in 1846—when the Senate was as able, perhaps, as it ever was, before or since; when there were such men here as Calhoun, Houston of Texas, Mangum of North Carolina, Simmons of Rhode Island, Allen of Ohio, Bagby of Alabama, Crittenden of Kentucky, McDuffie of South Carolina, Niles of Connecticut, Pearce of Maryland, Benton of Missouri, Bright of Indiana, Cass of Michigan, Clayton of Delaware, Dickinson of New York, Johnson of Maryland, Rusk of Texas, Webster of Massachusetts, Yulee of Florida, and so on—precisely a similar bill was brought in and reported from the Committee on Finance, in the Senate, and no question raised as to the constitutionality of the proceeding.

Mr. CRITTENDEN. What was the bill?

Mr. GREEN. The title of the bill was: "A bill to repeal the acts laying duty on imported salt, and to repeal also the bill granting certain fishing bounties and allowances to fishing vessels in lieu of a drawback of the duties paid on foreign salt used on the fish exported." It was brought in by Mr. Benton, from the Committee on Finance, of which Mr. Calhoun was chairman, all of these distinguished men being then in the Senate; and no question of Constitution or of order was raised.

Mr. HUNTER. Mr. Calhoun was never chairman of the Committee on Finance.

Mr. GREEN. The Journal shows that he was chairman. I do not know; I have the Journal before me, and it says Mr. Calhoun was chairman of the Committee on Finance.

Mr. GWIN. What is the date?

Mr. GREEN. Eighteen hundred and forty-six. Here is the Journal; look at it. Here were the distinguished Senators—and I only name them for the purpose of showing that they did not believe that a bill repealing a duty came in conflict with the provision of the Constitution which said that bills raising revenue must originate in the House of Representatives. There is no difficulty about that. But, as the Senator from Kentucky properly said, even if there were difficulty, it is a constitutional difficulty, and not a difficulty growing out of the rules of the Senate; and the Presiding Officer of this body is to decide the rules of this body, and not constitutional questions. Constitutional questions appeal to the judgment of every Senator. We have a right to vote upon them, and decide according to our own notions of right and wrong. Enough of that.

I had intended at first to vote for the proposition of the Senator from Rhode Island to repeal the duty on salt. I looked upon it as a tax upon the common necessities of the people. The poor man has to use as much salt as the rich man, and I think it an unfair mode of taxation; but the duty has been reduced so low—to fifteen per cent. *ad valorem*, amounting to only about two cents a bushel—and as it might endanger the passage of a bill to rid us of a great evil, I shall vote against this amendment. I believe it perfectly in order,

perfectly constitutional, to make the proposition. It is according to the uniform precedents when the greatest men this country ever produced were in the Senate; but as it may endanger the passage of the bill, and as this duty is not very burdensome, I will now vote against the amendment.

Mr. CLAY. I trust the Senator from Virginia will withdraw the question of order; and let us take a vote directly on the amendments which are proposed.

The VICE PRESIDENT. The Chair, with the leave of the Senate, will make a very brief statement in connection with this point of order. The Senator from Virginia objected to the amendments repealing the duties upon salt and sugar as not in order, upon the ground that they were against the clause of the Constitution which says that revenue bills shall originate in the House of Representatives. The Chair indicated the other day that he did not suppose it to be within his sphere to decide that question of order. Undoubtedly in one sense it is a point of order; for according to the standard of our proceedings, the law governing the proceedings of the body is composed of the precepts of the Constitution and of the rules of the body, and, where they are silent, of the parliamentary law; but it is quite obvious that it is one of those points of order the Chair ought never to attempt to decide, and if he was to do so it would involve very great and disagreeable consequences, and that mode of proceeding would soon become obnoxious to the Senate. The Chair, however, will take the view of the Senate upon that objection, for it is in the broadest sense a question of order. It is a question whether the amendment is or is not in order. If insisted upon, the Chair will put the question, "Is this amendment in order?"

Mr. HUNTER. I retain the same opinion. I do not believe it is in order; and I will merely say, before I conclude, that this is not obnoxious to the objection that is raised, that the Chair cannot rule out propositions merely because they are unconstitutional. That I admit; but there are certain constitutional rules of order. One is that one fifth of the members present shall have the yeas and nays recorded if they desire it. Whether there were any provision in your book of rules on that subject or not, there is a rule on the subject which you would be forced to apply. So I think there is a constitutional rule of order in regard to the origination of money bills. But I have been asked by my friends, particularly by the gentleman who has managed the bill, to withdraw the point of order; and saving to myself the right to renew it hereafter if it should come up on some other question, I will now withdraw it; not because I do not believe it is well taken, but that I may not embarrass the progress of this bill.

The VICE PRESIDENT. The question then is on the amendment to the amendment.

Mr. CHANDLER. I did not propose to take any part in this discussion, nor do I now; but this amendment has placed a new phase upon the whole matter. My constituents are in favor of repealing the duty on sugar. The honorable Senator from Missouri says the amount is so small, and so utterly insignificant—

Mr. GREEN. No; it was salt I spoke of. The Senator has mistaken salt for sugar. [Laughter.]

Mr. CHANDLER. A very natural mistake. [Laughter.] I was merely going to correct him on that point, but I stand corrected myself. We are in favor of the repeal of the duty on both sugar and salt. We have very little interest in this fishing bounty; yet, believing that it is valuable, that it results in good, I shall vote against the repeal of the bounty. I am for a tariff justly discriminating in favor of American productions; but there should be some parity between the article produced and the amount of duties levied as protection.

Now, how does it stand on sugar? In 1855, the whole duties on sugar amounted to \$3,985,000; and in 1857, they amounted to \$12,478,000. In 1850, the whole product of sugar in the United States was \$12,378,000. It would have been cheaper for us to have purchased the entire crop of sugar and thrown it into the sea, than to have levied this duty upon the people of the United States. The gentleman from Missouri says he is in favor of free salt, because it is an article of universal consumption. Sir, salt is no more an article of universal consumption at the North than

sugar. It is eminently the poor man's luxury; it is a necessity with him. Its consumption is enormous. I trust that this amendment will prevail; and, while I should not vote for the bill without it, if the amendment be adopted, I shall vote for the bill as amended; for I consider the benefit resulting from the repeal of the duty on sugar greater than any benefit that may result from the continuance of the fishing bounty.

The honorable Senator from Louisiana [Mr. SLIDELL] gave notice that, if this amendment prevailed, he should move, as an amendment, a provision abolishing all custom-houses. I do not know but that I am prepared for that proposition, if there is no other way to stop the enormous extravagance that now reigns through all the branches of this Government, and then come to direct taxation. I should be glad to see your army of custom-house officers all over the United States abolished. They are mere partisans. They are not placed in office to perform their duties as officers of this Government, but to act as politicians; and I should be glad to see them swept off the face of the earth as officers of this Government—I do not mean swept off literally, but figuratively.

Mr. SEWARD. In a Pickwickian sense.

Mr. CHANDLER. Put it in that light. I do not pledge myself to vote for that proposition when it comes up, but I should take it into very serious consideration; and I do not know that I might not vote for it. Why, sir, if your custom-houses were done away with, and you resorted to direct taxation in order to obtain the amount of money now expended by the Government—\$70,000,000 annually—you would have to levy upon each congressional district a tax of \$300,000. Now, sir, let a Representative in the other House go home to his constituents, and say, "I have voted to tax you \$300,000, and the collectors will be around in due process of time"—how many of them do you suppose could stand up before their constituents in the face of such a tax as that? Alabama has seven Representatives in the other House. Her proportion of this direct tax would be \$2,100,000, in gold and silver, to be collected from the State of Alabama, and carted up to Washington. Sir, do you not believe it would lead to prudence in our expenditure of money? I fear there is no other way to bring the expenses of this Government down to a fair basis, except direct taxation. Let the Representative meet his constituents with the bills, and they will call him to a rigid account. Under that system, I believe you would see the expenses of this Government reduced from \$70,000,000 to \$35,000,000 in less than two years. I do not say that I should vote for that; but I should like to see the present Administration try the experiment.

The votes of Alabama in the last presidential election were seventy-five thousand in all. The average assessment upon each voter, "poor white folks" and all, in the State of Alabama, would be about thirty dollars to the man. Well, sir, I imagine that some of those Alabamians would want to know where the money went to before they paid their thirty dollars a head. Louisiana has four Representatives, and her proportion would be \$1,200,000 in gold and silver. Her votes at the last presidential election, in 1856, were forty-two thousand; and in the State of Louisiana thirty dollars to the man, including "poor white folks," would be the amount to be levied in gold and silver and carted up to Washington. I should like to see the honorable Senator from Louisiana meet that statement before his constituents, and justify his vote of \$70,000,000 for the current expenses of this Government. Let the proposition be brought in—the sooner the better; and I should be glad to see this Administration adopt the policy; but, sir, it would be swept out of existence forever the moment the people had an opportunity to get at the men who cast the votes.

Mississippi gave sixty thousand votes at the presidential election, and has four Representatives. In Mississippi the proportion would be about twenty dollars a man. Florida cast eleven thousand votes, and has one Representative; it would amount to about twenty dollars there. Virginia has thirteen Representatives, and one hundred and fifty thousand votes. Her proportion would be \$3,900,000 annually, or twenty-six dollars for every man in the State of Virginia. I should like to see the State of Virginia pay \$3,900,000, in direct taxes, to support this Gov-

ernment. Sir, you would see economy, you would feel economy, in every vote that was cast in this body or the other House, under direct taxation. Let it come.

North Carolina has eight members, and casts eighty thousand votes. Her proportion would be \$2,400,000 of direct taxes—nearly thirty dollars per man. Georgia has eight Representatives, and casts eighty-nine thousand votes, and her proportion would be \$2,400,000, or twenty-five dollars per man, with the present expenditures of this Government. What they may be one year hence, God knows, at the rate we are going on in squandering the money of the people. Sir, I should like to see the honorable Senator bring in his proposition. I do not say how I shall vote upon it. I trust this amendment will be adopted, and that we may see free sugar and free salt, and then I will vote for the bill—not otherwise.

Mr. BENJAMIN. I desire to say a word, simply for the purpose of notifying my constituents that I am attentive to their interests here, and not with the view of being drawn into a side issue, such as is presented by the Senator from Michigan. So far as the duty on sugar is concerned, we know that the amendment is merely presented to this bill with a view of defeating the fishing bounty bill; and I am not going to discuss that question under such circumstances. It is not put forward as a serious proposition. The very men who propose it, and who are going to vote for it now, know that they do not intend to carry out the purpose they pretend to have. They know that the Government cannot do without the duty on sugar this year; and they know further that the duty on sugar is not to be reduced by itself, any more than the duty on salt or any other particular article; but that the tariff is always to be altered when necessary as a general subject which requires revision, according to the interests of all parts of the Union combined.

I will say one word in relation to this question of revenue which the Senator from Michigan has brought forward, as gentlemen around me may not be quite familiar with the facts. He compares the duties paid on sugar last year with those paid some six or eight years ago. Why, sir, it is a matter known to every one that last year, owing to unfortunate accidents to the crop, the crop of Louisiana was reduced lower than it ever has been reduced since it became worthy of being called a sugar-producing State; and, under that state of things, the people of this country were saddled with an enormous increase of the foreign purchase of sugar, Louisiana not furnishing the supply which she usually furnishes. Consequently, the duties collected ran up very suddenly from three or four to twelve million dollars. Let the gentleman look at the end of this year again, and tell me what has become of the revenue of \$12,000,000 on sugar? It will be back to \$3,000,000, because the crop is a fair one. These contingencies occur in the cultivation of a crop of that kind, which is somewhat forced in our climate; liable to be cut off either by inundations or by early frosts, or by very late frosts. They have occurred once or twice in the history of that cultivation. The year 1857 produced the smallest crop ever produced by Louisiana since sugar has really been the principal culture of the State. From that accidental cause, there was an enormous increase of importation, and the price became enormously high by reason of the failure of the crop, and the importation being so largely increased for the same purpose. It is no ordinary state of things that produces that result.

Mr. SIMMONS. I do not suppose there is any necessity for debating this proposition; but the Senator from Louisiana made a remark, and threw his hand this way, conveying the impression, without, perhaps, meaning any personal allusion, that there was a plan on this side of the Chamber to vote for this amendment.

Mr. BENJAMIN. I had not the remotest idea of anything of the kind. I am sorry my gesture was an unfortunate one.

Mr. SIMMONS. I do not intend, myself, to vote for the repeal of the duty on sugar, although there may be some good reasons given for it, or for the repeal of the duty on salt, or the repeal of the fishing bounties; I am against the whole; I am sorry to disagree with my worthy colleague in reference to the salt duty. I do not believe this is a time to repeal duties of any kind, and

particularly it is not a time to repeal the duty on sugar. I was very sorry to hear the Senator from Louisiana [Mr. SLIDELL] say the other day that if we agreed to this amendment, repealing the duty on sugar, he would then move to repeal the duties on textile fabrics. I am not in the habit of saying that I will or will not vote for one proposition, if another happens to receive the favorable action of the Senate. He seems to take the ground that we shall have taxed sugar and salt, or free silk and satin. I do not believe in either. I want to get the revenue in the most legitimate way I can get it.

I disagree, too, with the reasoning of my honorable friend from Michigan about the effect of the twelve million duty collected last year on sugar. He said it was so great a tax on the people that we had better buy the crop of Louisiana and throw it into the ocean. Now, sir, I believe that if it were not for the crop of Louisiana we should pay a greater tax than we now do. I am aware that some Senators, in the discussion of this bill have intimated that the old-fashioned doctrine of protection has become so obsolete that no one will rise up and defend it. I believe that enunciation was made by the Senator from Ohio [Mr. PUGH] in connection with his remarks stating his disposition to get rid of the bounties, paid, as he said, to these aristocratic fishermen. That was the first time I ever heard fishermen, Cape Cod fishermen particularly, called aristocrats; but the Senator from Ohio thinks they are about the greatest aristocrats in the world.

Mr. PUGH. I think any man who is supported by taxing the rest of the community to keep up his business is an aristocrat. That is my definition of the term.

Mr. SIMMONS. These men are hard-working "aristocrats."

Mr. PUGH. I do not care whether they work or not; they tax other hard-working men.

Mr. SIMMONS. Every man to his taste. I do not complain particularly of the terms applied to these men; but when we have a proposition to reduce their wages from twelve to eleven dollars a month—for that I take it will be the effect of the bill—I do not want to apply any opprobrious epithet to them, or call them aristocrats.

Mr. PUGH. I did not apply any such term as the Senator mentions; but, as the Senator has chosen to speak of it, perhaps for the purpose of prolonging this matter, I will say that I consider it the essence of all aristocracy that a man should be supported by taxation on the body of the community.

Mr. SIMMONS. I thought the Senator called them aristocrats, or something like that.

Mr. PUGH. No, sir; I did not.

Mr. SIMMONS. Well, sir, as to this matter of sugar, I suppose every one will admit, after our last year's experience, that it would be better to have the duty specific. Last year the price of sugar being double the ordinary price, and the duty being thirty per cent. *ad valorem*, it was just double in amount what it had been the previous year; and thus we had a double duty at precisely the time when we needed very little, and when it did not benefit the planters. This is the effect of the modern system of levying a percentage on the value of the article imported as duty. Last year, the sugar crop having failed in this country, and the price having gone to double the ordinary amount in other sugar-growing countries, and our duty being a percentage on the value of the imported article, we doubled the amount of duties at a time when there was a famine in the land as to sugar. That is the effect of levying duties by the *ad valorem* system instead of having specific rates. If we had a duty of a cent or a cent and a half a pound on sugar, which would do some good when the price was low, and give the producers here a chance for our market, it would not be a burden when the price was high. I have always been in favor either of a specific rate of duty, or of fixing for each article a specific value in the law, on which value to lay the duty. That used to be the distinction between protectionists and free-traders. We never have had any practical free-traders in this country. Persons have borrowed the term for the purpose of making a vicious system popular by putting a popular name to it—"free." The old-fashioned notion about protection was, that the duties should be certain and specific, and that was the very controversy

here twelve years ago, when the tariff system was altered. Anybody who will take the trouble to look into the facts will see that, for three years after 1846, when we changed our duties from the specific to the *ad valorem* system, the duties actually rose. The amount of duty increased for the first three years under the operation of the bill we repealed last spring, and yet that bill was called a great reduction of duties and a vast approach towards free trade.

I suppose the amendment now before the Senate has been suggested simply with a view of calling attention to the fact that the benefits of laws for revenue are shared by all sections of the country, and in some degree to bring back the Senate to a rational consideration of these subjects. Until this proposition for the repeal of the duty on salt was offered, I did not know that there was salt now manufactured upon the Atlantic coast of this country; I supposed there was some salt in the interior that was protected by its location, principally by reason of the cost of transportation to the place of consumption. If, however, there is any interest that will be interfered with by the repeal of the salt duty, I am against that repeal. I am against any other proposition that will tend to depress any branch of the industry of this country, no matter where it is located; it makes no difference to me whether it is in Louisiana, or in the interior of New York, or in Missouri. I am sorry to see it connected with this bill, but it is legitimately connected with it. The Senator from Alabama says he has had the repeal of the fishing bounties in contemplation for eighteen months, but when the regulation of our system of revenue comes to be considered carefully it will be found that it affects the whole length and breadth of this land. I should be very glad if the Senator from Alabama would agree to postpone this bill for a little while, because it seems to me there are some indications that seamen may be wanted for the purposes indicated when this debate commenced, as the object for which the fisheries were encouraged.

Mr. HAMLIN. I have no disposition to debate this matter, but I want to enter my decided and firm-settled opinion against the proposition which was laid down by the Senator from Louisiana. If I understood him, he distinctly stated that the increased price of sugars (I suppose he might say, or certainly ought to have said, all over the world,) during the last year, was owing to the failure of the sugar crop in Louisiana. He did not say all over the world; I suppose he meant to confine it here; but he might just as well have said all over the world. Now, sir, the diminution of the sugar crop in Louisiana was not a single drop in the great ocean of the world.

Mr. BENJAMIN. I think if the Senator will enter into the discussion of that with me at the proper time, he will find that the statement he is now making is utterly without foundation.

Mr. HAMLIN. I have simply risen for the purpose of offering my opinion as briefly as did the Senator. He affirms the doctrine; I deny it. Now we will adjourn that question to a proper time, when we will discuss it. I say that other causes, the vast amount raised and consumed in other portions of the world, commercial speculations, and a hundred other causes contributed to produce that result; and I repeat again, all the sugar raised in Louisiana was not an ounce in the uncounted tons that were produced.

Mr. TRUMBULL. I desire to correct the Senator from Louisiana, in regard to his supposition as to the motive with which this amendment to repeal the duty on sugar was offered. I am for repealing the duty on sugar in good faith; and if that amendment be added to this bill, I shall vote to pass the bill. My amendment is not offered for the purpose of killing the bill; and the Senator from Alabama can have my vote in support of the bill if this amendment repealing the duties upon salt and sugar shall be added to it. So gentlemen need not apprehend, so far as I am concerned, that the bill is to be defeated by the adoption of this amendment; and I disagree totally with the idea advanced by my friend from Rhode Island, [Mr. SIMMONS.] I do not believe that sugar is cheaper because we pay a duty of twenty-five or thirty per cent. upon the value of the sugar which is imported into this country. I believe it adds to the price.

Mr. SIMMONS. I think I stated distinctly, not that sugar was cheaper because of the duty

of thirty per cent., but because of the circumstance of the encouragement given to the cultivation of sugar in this country, and the competition between sugar produced in our country and foreign sugar. That was my proposition—not that it was nakedly on account of the duty.

Mr. TRUMBULL. I look upon the duty on sugar as one of the most objectionable of all the duties that are laid in this country. The production of sugar is confined to a very limited extent of country. According to the statistics which I have before me, only four hundred thousand acres of land are cultivated in the production of sugar in this country. The whole number of planters engaged in the raising of sugar was but two thousand six hundred and eighty-one when the census of 1850 was taken. Last year we paid in duties \$12,478,000 on this single article. The whole value of the sugar crop was less than that. The whole value of the sugar crop raised in the United States was less than the amount of duties which we paid on that one article.

Now, sir, sugar is an article which enters into universal consumption; it is one of the necessities of life; and it cannot be raised, as the Senator from Louisiana has admitted in the remarks he has just submitted to the Senate, except by a sort of forced cultivation, in this country. I think, at the last Congress, we made an appropriation out of the public Treasury to send a vessel abroad to procure cuttings of sugar-cane for these two thousand six hundred southern planters, for whose benefit we are paying this enormous tax on a common article of universal use throughout the country. Why, I ask, should a few planters be pampered in this way? I know we must raise a revenue to defray the expenses of Government; but why not raise that revenue upon articles which all use, if you please, so that we may pay equally? Why not give us a bounty upon other agricultural products, where we may find, in some particular portion of the country, four hundred thousand acres of land which, by a sort of hot-house cultivation, would produce a particular article. I presume it would be possible, by great labor and expense, to produce many of the articles not indigenous to this country; and shall we lay a tax for the benefit of a few persons who may wish to engage in the cultivation of such articles?

I believe, sir, it will be found, as a general rule, that the difference between the price of sugar in the West Indies and this country is just about the amount of the duty we impose, with the cost of transportation added. Sugar at Havana is less than it is in the market of New York, to the extent of our duty and the cost of importing it into the market; and I have no doubt that the sugars used in this country last year would have cost the people of this country \$12,000,000 less than they did but for the duty. I never believed in the doctrine that the higher the duty the lower the price. So far as our manufactures can be incidentally protected in the laying of duties for revenue purposes, very well. We have to raise revenue; and if, in raising revenue, we can benefit anybody, I am very glad to do it; but I am a disbeliever totally in the doctrine that the price is reduced by raising the duty. I recollect, in one of the electioneering campaigns that occurred in the West a few years ago, when there was some discussion on the tariff question, there was a torchlight procession got up at night in one of our little towns. It chanced to be a very rainy night, and it was a very muddy town. The mud was ankle deep. The procession was out in the rain, and among others a tall, gangling sort of man, with his pantaloons tucked into his boots, was treading along through the mud with a transparency reading, "the deeper the mud, the dryer the ground." [Laughter.] I think it was just about as reasonable as this idea that the higher the duty the cheaper the article. It was a very good burlesque upon that doctrine.

Now, sir, I am in good faith for repealing the duty on sugar, and I ask those gentlemen who are opposed to pampering one class of industry at the expense of another, to come up and help to repeal it. It is a very small number of persons, less than three thousand, who are benefited by the duty on sugar. According to a little statement which I have here, the amount of duty being over twelve million dollars, and the number of persons engaged in raising the sugar being two thousand eight hundred and sixty-one, the bounty per man is \$4,658. Four thousand six hundred and fifty-

eight dollars is paid by the people of this country for the benefit of every man engaged in raising sugar, while the whole sum paid out in bounties to fishermen amounts to \$300,000, and there are fifteen thousand fishermen, being about twenty dollars per man. Well, sir, I am not much for the fishing bounties; and I feel very much inclined to vote for the bill to repeal them. It is only because it seems to have been the settled policy of the country from its organization, to pay a bounty to encourage the fisheries for the purpose of having seamen to man the Navy, that I shall vote against the bill, if I do vote against it upon the final vote. That, however, is a mere mite, compared with the enormous duty we pay upon sugar; and while we are getting rid of \$300,000, let us get rid of these \$12,000,000. I hope the amendment will be adopted.

Mr. GWIN. I shall be prepared to vote for the repeal of the duty on salt and sugar, when that proposition comes up fairly in a bill to revise the tariff; but I am not disposed to put it upon this bill, which pertains to another subject entirely.

Mr. ALLEN. I introduced the original amendment as a second section to the bill to repeal the duty on salt. I thought, as we were taking off \$300,000 bounty paid to the fishermen, we could afford to relieve them from the duties they paid on the foreign salt consumed in curing the fish which they export; but I had no idea, and never dreamed of that being connected with the duty on sugar, or any articles relating to the general tariff system. Should this motion prevail to repeal the duty on sugar, I shall be obliged to vote against my own proposition.

Mr. DAVIS. The argument of the Senator from Illinois directs itself against all those who advocate the principles of free trade, and vote against this amendment. I think he falls into several very material errors. Those who vote against this amendment—for myself, at least, I can speak—object to a free list altogether; they want duties imposed upon everything; and when you show them an article which, in the language of the Senator from Illinois, is one of universal consumption, it does not follow, because there is little production of it within the United States, that it should not be the subject of taxation. On the other hand, I would say that, just in proportion as it is every particle of it imported, so will the duty fall more equally on all those who consume it. If an article be of domestic production, and a duty be laid on that article, and we pay it on the article which is imported, we also pay it on that which is produced in the country; but that which we pay on the article produced in this country does not go into the Treasury: it is taxation for the benefit of him who receives it. If the Senator could show that the duty which is levied on sugar does not rest on the general basis of all other revenue duties—if he could show that it is what he alleges it to be, a duty which is laid for the benefit of a favored class—then I should unite with him to repeal it. Standing as it does, however, upon the same general footing with the duty which we lay upon all other articles, and being large, sometimes enormous, as he represents it, from the failure of the crop in the United States, it but serves to fill the Treasury, and diffuse the burdens of Government equally upon the great body of consumers.

But I was struck with the singularity of the Senator's argument in which, from some table, he has found the number of planters in Louisiana. He has discovered the number of persons engaged in making sugar, and then, in contradistinction to those persons, the whole number of fishermen. Why did not he give merely the number of merchants who owned the vessels? Why did he not throw out the men who navigate the ships and cure the fish? He threw out the labor in the one case; he threw out all the family connected with the great proprietor in the one case. Why did he retain it in the other? Does he not see that his comparison is utterly unfair?

If, in the whole class of articles consumed, there be any which deserves the description he gives of universal consumption, it is salt. I suppose, when he used the term "universal," he must have meant "general;" and if he had used the term general, I should have supposed he must have meant among men. Salt, however, extends greatly beyond human consumption. It is consumed by animals, consumed by domestic fowls and wild

fowls. If there be anything, therefore, which would relieve the poorer classes of the community, the herdsmen, the pastoral class, it would be the exemption from duty of salt; and if I were seeking thus to confer benefits, salt would be the object I would select. But, sir, it is because it is of such universal consumption that I think it is the proper subject of taxation. All who derive the protection of Government should bear a portion of its burdens; and the duty laid upon an article of such universal consumption is more equally distributed than if it was laid upon an article more partial in its consumption. So farthen from adding to the free list, by withdrawing those articles which are of universal consumption, I much prefer to draw in such articles as tea and coffee, which are consumed all over the country, and which are made free because a duty on them does not benefit some class in the United States, made free because a tax on them protects no particular industry in our own country. That, I think, is no reason at all, for there the whole tax collected would go into the Treasury, and they would, beyond all other classes of cases, be those articles on which the duty levied would be for the benefit of the Government.

I merely rose to correct what I thought was an unfair presentation of those who occupy the position in which I stand myself, and not to prolong the discussion. I thought it was exhausted, and I will not, by going into the topics which have been suggested, and which, it seems to me, do not belong to the amendment, consume time upon it.

Mr. WILSON. I rise to say to the Senator from Mississippi that the doctrine he has just avowed is a doctrine to tax the people of the country for the benefit of the property of the country—to tax labor for the benefit of capital; and when the Congress of the United States settles down upon the principle he has avowed, that articles of general consumption—the absolute necessities of life, articles necessary to all men, rich and poor—are the special objects of taxation, then I say the time has come for the people of this country to overturn this revenue system altogether, as an odious and oppressive system, and to establish a system of direct taxation upon the property of the country.

Mr. DAVIS. I suppose the Senator must have misunderstood me. I selected no object of special taxation; I spoke of those objects which were of universal consumption, as being such as most properly bear the burdens of Government. My theory is, as long as we collect the revenues by duties on imports, to lay duty on everything which will pay a duty; and therefore it was that I proposed to bring from the free list into the dutiable list two of those articles which had been placed there. That is not my theory—not a principle which I present; for the Senator is well aware that, on other occasions, I have stated that I thought the whole theory was wrong; that it had led to all the abuses which existed under our Government; and I would be glad to go back to direct taxation.

Mr. WILSON. I do not think I misapprehended the Senator's position, and I disagree with him altogether. I believe the system of indirect taxation by which we support the Government of the United States, unless proper discriminations are made, is a system that taxes the poor and laboring masses of the country for the relief of the wealthy of the country. The Senator says that, as sugar and salt are articles of general or universal consumption, a tax upon those articles is just and equal. Now, sir, it seems to me that the policy of the Government should be this: that these and other articles of absolute necessity, used by all men, rich and poor, should be taxed as little as possible, or placed altogether in the free list; and that the taxes should be levied upon the articles of luxury; articles consumed chiefly and mainly by persons able to consume them; articles that are, to a considerable extent, produced in the country. This policy would relieve the labor of the country, by putting the burdens of taxation upon the capital of the country; and it would protect the labor of the country, by putting the duties on articles produced in foreign nations. Sir, this system relieves and protects labor, develops the productive industry and power of the country, and imposes upon foreign labor and foreign capital a portion of the burdens of taxation necessary to support the Government.

The Senator from Louisiana [Mr. SLIDELL] told us the other day, with much emphasis of tone and manner, that if the proposition to repeal the duties on sugar was pressed, he should move to include all textile fabrics, and go for the abolition of custom-houses. Now, sir, I want the Senator from Louisiana distinctly to understand that the threat he has made has no terror for me—none for the State I represent. Massachusetts does not live on your bounty or by your special favors. I believe the people of Massachusetts pay, in proportion to their numbers, to support this Government, three dollars for every dollar that is paid in the western or southern States. There are no people in this country, in no State, who are taxed to support the Federal Government so highly, in proportion to their numbers, as are the people of the State of Massachusetts. The people of Rhode Island and Connecticut come, perhaps, very near to them. And that grows out of our position. We are a commercial, a manufacturing and a mechanical people. Our land is poor, and we produce but little. We consume more largely in proportion to our numbers—vastly more so—articles taxed to support the Government, than do the people of any other portion of the Union. No man can doubt this who will take the articles upon which duties are levied, and see where those articles are consumed. If the doctrine avowed by the Senator from Mississippi is to prevail, if the policy of the Government is to be in harmony with his theory of taxation—a theory that imposes upon labor the burdens of the Government, while it does nothing to lighten those burdens by giving indirect protection and encouragement—then I say abolish your custom-houses altogether, and give us a system of direct taxation—taxation upon the property of the country, instead of taxation upon the labor of the country. Rather than adopt the policy indicated by the Senator from Mississippi, which he tells us is the policy advocated on his side of the Chamber, I would go for the entire abolition of your revenue system, and resort to direct taxation for the support of the Government; and I believe this to be the sentiment of the people of my State. Even now, under the present system, we contribute more than our proportion to the burdens of the Government, and the indirect benefits we get by your present tariff are almost worthless.

Now, Mr. President, the pending proposition is to repeal the duties on sugar. I am willing to place sugar in the free list. I have no doubt we paid in my State \$1,000,000 last year in duties upon sugar. I agree with the Senator from Louisiana that what we saw last year is not likely to be repeated this year, or the next; but still this tax upon sugar is a direct and positive burden, a tax—a tax upon the consumption of the country, a tax upon the poor laboring men of the country, to whom sugar is rather a necessity than a luxury. It is like salt, and some other articles of prime necessity. But, sir, I must confess that this is not exactly the place to press this proposition. I feel that it is wrong to interfere with the system of bounties or allowances to the fishermen, and I regret that the Senator from Alabama presses this question as he has pressed it, with such vigor and determination. I had hoped that this proposition would be abandoned, and that the old policy of the country would continue. It may be somewhat difficult to defend this policy of allowances to the cod fisheries upon general principles; but that this policy, early adopted, has contributed to the benefit of the nation, I do not entertain a doubt. Why, then, press this bill now? Why strike at the policy that has raised a hardy and fearless race of men who have ever responded to the calls of duty and patriotism in peace and in war?

If Senators wish to save money to the Treasury, now exhausted, if they wish to adopt an economical policy, there are opportunities enough to do so. Let them go to work and reform their custom-houses. I have a list of the expenses of this Government for the collection of the revenues for each of the five years past. I will not detain the Senate by referring to the facts therein contained; but the extravagance, the corruptions of the Government in collecting the revenues are almost beyond calculation. Little collection districts where one or two men can collect the revenue—where a few men did collect the revenue when it was four or five times larger than it is now—have been increased in force and expense. I find that in the

town of Burlington, Vermont, \$8,581 is collected, and \$16,000 is expended to do it; and thirty-three persons are employed.

Mr. FOOT. What year was that in?

Mr. WILSON. In 1857. In 1852, you collected \$37,000 there, and expended \$9,800 in the collection, and employed twenty-eight persons. There is the city of Pittsburg, in Pennsylvania, where they collect \$3,500, and expend \$2,400, and have four persons in service. In 1852, they collected \$20,000, expended \$1,200, and one person did the whole business. Here is a district down in North Carolina that collected forty-three dollars in 1852, and two persons were employed; now, we collect eighty-two dollars, and to do the collecting we have seven persons employed. This list, reported by the Secretary of the Treasury on a call made by the Senate, and in answer to a resolution I introduced, should be studied by Senators who have a fit of economy, for it shows that you can discharge more than one thousand men you now employ in collecting the revenue, and reduce the expenditures \$1,500,000. Your whole custom-house system is a corrupt and extravagant one. If the doctrines are to prevail, that we are to tax the absolute necessities of the people, consumed by the masses of the country, that is, tax the labor and relieve the wealth of the country, then give us direct taxation. It will close these custom-houses, discharge three thousand men—three thousand mere politicians—employed there, and it will reduce the expenditures of the Government thirty or forty million dollars annually. I say to you, sir, that the people in my State, if you adopt that system, will pay their taxes, and we shall see whether the people of some other States whose Representatives are ever talking of free trade and direct taxation are able and willing to pay their taxes to support the Government. The people of Massachusetts are in favor of a revenue system, with incidental protection to capital and labor—they are for taxing lightly, or admitting duty free articles of prime necessity which we do not produce, and in favor of assessing the duties upon articles produced in the country, thereby giving incidental protection to American labor, and upon luxuries consumed chiefly by the wealthy, whose property is thus made to contribute to its own protection. Sir, this is our policy—a policy based on the experience of the country, and we believe it to be for the interests of the whole country, North and South, East and West, for labor and capital, for producers and consumers, that this should be the settled policy of the nation. The sooner we adjust our revenue system so as to secure to the labor of the country relief by making articles of necessity we do not produce duty free, and by assessing our duties upon luxuries and upon the products of our own industry, the sooner shall we give an impulse to the now depressed business interests of the country, and be able to fill your now exhausted Treasury, and to redeem your outstanding Treasury notes, and the sooner shall we be able to begin that great work, so much desired, the Pacific railroad. But whatever may be your action, sir, in regard to the tariff, I want the Senator from Louisiana, and all other Senators, to understand that a threat to resort to direct taxation and to abolish the custom-houses, will create no feeling of anxiety in Massachusetts.

Mr. DAVIS. The Senator from Massachusetts presents a proposition the antagonist of that which he understands me to present, and I am perfectly willing to rest the question on a bare statement of the case. He insists that duties should be levied on those articles which are manufactured in the United States, and upon articles of luxury alone—not upon those of general consumption. I insist that as long as we support our Government by a revenue collected from duties on imports, those duties should be levied upon everything which will bear a duty, varying in the rates from revenue principles alone, and with no view to protect any favored class within the limits of the United States. He says, his relieves the people, and mine burdens the people. How is that? Does he relieve the people? Are the people to pay no taxes? Pray where do they get the money now to pay taxes except from the capital and property of the country? It is absurd to say that labor pays taxes. Property pays them. Property increases the wages of labor. Property must exist to pay the labor; the laborer's consumption falls back upon property at last. That great prob-

lem which has disturbed the world, the relation between capital and labor, is one with which the Senator ought to be familiar; it is one which belongs rather to his region of country than to mine; for there labor and capital, thank God, are the same.

I will suppose a case, however, under the Senator's theory, that we import a million dollars' worth of a particular article, and produce in the country the same value of that particular article: then the two millions are consumed, and the duties paid upon one million of it go into the pocket of the producer; the duties paid on the other million go to support the Government of the United States. The consumers, then, who are the people upon his theory, pay two dollars, only one of which goes to the support of the Government; and that Government, having no right to tax them save for specified purposes. The whole power of the Government to lay taxes is derived from its duties of protection to those on whom it imposes the burden. The purposes for which it shall levy taxes are declared in the Constitution; and among those the Senator will not find the protection of any favored class of labor or production. The only theory on which the duty can be equally distributed is that which imposes it upon consumption in every form in which taxes may be divided.

But he says if this is to be done, he is in favor of abandoning the whole system of duties upon imports. That declaration might be rendered by an opponent of his thus: "If you have no bounty, no protective duties for the benefit of yourself and your constituents, then you desire there should be no duties levied on imports at all." That the duty imposed upon sugar operates for the benefit of those who cultivate it, is certainly true. It is true of every duty which is imposed upon everything manufactured or produced within the limits of the United States. All that I asserted, and all that I am now prepared to admit, is that if it is imposed for protection alone which would be exemplified by making it prohibitory, I will then, as readily as any one who is opposed to the section where that exists, vote against it.

Mr. SIMMONS. Mr. President, this question, it seems, is viewed in different lights in different quarters of the country. I disagree with the Senator from Mississippi in his view as to the taxes which are levied upon the producing classes being levied upon the property of the country. Sir, I consider that the source of wealth in this country is the labor of the country, and every production of labor which is made more valuable by your indirect system of revenue, adds to the wages of the labor of the country. It is for that very reason that I oppose this amendment. I do not care whether the labor be employed in Louisiana or in Rhode Island. I go for the protection of labor, be it employed where it may; and I would adopt a system which would benefit the producers of the country by incidental protection, or any other name you may choose to give it. The notion of taxing articles that do not come in competition with the producers of this country, as a means of equalizing your burdens, is a very fallacious notion, and it is to that simply that I wish to call the attention of the Senator from Mississippi. I can now do so, perhaps, and get his ear with more readiness than I could if the article in question happened to be produced in a different section of the country; but I hope not. I do not mean to intimate that he is not as well disposed towards my section of the country as he is towards his own.

I had occasion at a former time to speak of the influence of the introduction of the sugar culture upon the other great staples of the South; and I believe it is as important to the cotton-growers as it is to the sugar-growers. I think that region of country wants a diversity of labor; and if you were to throw all the labor employed in the cultivation of sugar upon the cultivation of cotton, you would break down the price of cotton and increase the price of sugar to the consumers. That is what I meant when I referred to the effect of the duties as stimulating production—not that the duty had no influence on the price.

Now, the Senator from Mississippi says that, if he could have his way, he would put a duty on tea and coffee. Well, sir, if I could have mine, I would not; I would keep it on sugar; but I do not suppose we can either of us have our way ex-

actly; and it is, perhaps, fortunate for the country, and fortunate for us, that the question of protection, *per se*, has passed away. In obtaining the revenue that is necessary for the Government—provided its expenses keep anywhere within hail of what they are now—there can be no difficulty in extending incidental encouragement to any department of the industry of the country, so as to give it a fair opportunity for a competition with the productions of countries where labor is cheaper than it is here.

We are not going to get rid of these difficulties, as my friend from Massachusetts supposes, by abolishing custom-houses. Some people think that if we can get rid of the duty collected on sugar, it is so much saved to the country. But they will have to pay it in some other form; and if you get rid of custom-house officers, you will have tax-gatherers more numerous than they are and more oppressive, and burdensome, and insolent. I do not know of anything this Government could do so detrimental to freedom as to provide gatherers of direct taxes, going round into every man's house, and levying upon his cow or his pig in order to get his taxes. I will say nothing about the impossibility of it with your sub-Treasury system. Under that system it would be as impossible to pay a year's taxes to this Government in many States of the Union, as it would be to make a new world.

But, aside from all that, I come to the consideration of the present amendment, and to the suggestion of the Senator from Mississippi, that he wants to put tea and coffee, and articles not produced in the United States, on the dutiable list, and divide the duties between them and the articles produced in this country. Every one can readily see what would be the effect of taxing tea and coffee. Perhaps the value of the importation of those articles amounted to as much as the value of the sugar importation last year. Now, suppose you took \$6,000,000 off the duties on sugar and put it on tea and coffee, your revenue would be the same as it is now. That is a fair statement, I presume. I have not looked at the tables lately, but formerly the proportion used to be about that. Now, I ask the Senator if it would make a farthing's difference to the consumers of sugar, tea, and coffee, whether you levied \$12,000,000 on sugar, or \$6,000,000 on sugar and \$6,000,000 on tea and coffee, as a matter of tax? Supposing these to be as he says, articles of universal consumption: every man can see that the amount of taxes levied on the people of this country would be \$12,000,000 on these articles, whether you impose a duty upon sugar alone or distribute it between sugar, tea, and coffee? Now, my proposition is, that instead of laying that amount of duty on tea and coffee which are not produced in this country, and by no possibility can be produced here to any extent, we put it on sugar which is produced in this country; and we thereby benefit the producer of sugar without impoverishing or injuring a single individual in the country. That is the distinction between a judicious system of protection to our labor, and the foolish theory of spreading the total amount of revenue you want over all articles of consumption, without reference to whether they are produced in this country or not. I take it that the Senator from Mississippi comprehends the force of this suggestion, and that he has public spirit and patriotism enough to know that, whether the duty be levied equally upon sugar, coffee, and tea, or whether it be on sugar alone, the beverage will be just as good when it comes to be mixed, and will cost no more in one form than the other; and if you can help the Louisiana planters to that extent, you do it without its costing anybody a dollar.

Mr. DAVIS. The Senator from Rhode Island will allow me to interrupt him. I have so much more confidence in his knowledge of finance than I have in my own—for trade is a thing to which I have never paid any attention—that I am ready to admit that I know very little about finance. I will say to him that the position which he assumes, or rather the inquiry which he makes of me, belongs only to a case of universal consumption, where the duty on one article of universal consumption is taken away, and the duty of the two thrown upon another article of universal consumption.

Mr. SIMMONS. I understand it so.

Mr. DAVIS. But I think, unless salt be an

exception, there is no article of universal consumption.

Mr. SIMMONS. I believe there is no man, who drinks tea and coffee, that does not sweeten them.

Mr. DAVIS. Some persons do not. Some use maple sugar, some use molasses, some people drink coffee, and some drink tea; and when you fall on articles which are of consumption in a particular class, then I say the application of the principle is more evident. As the Senator from Massachusetts argues about luxuries being taxed, they are taxed, of course, if you lay a duty on everything—the wealthy use the luxuries, and they use the necessities too.

Mr. SIMMONS. I will not take in the Senator from Massachusetts. This matter is between the Senator from Mississippi and myself.

Mr. DAVIS. I was only introducing it for illustration, that if you take the taxes off luxuries, and impose them upon the necessities of life, then there would be an inequality; but if everything which is consumed is taxed, and taxed upon a revenue standard, that, I think, is more equal than any distribution which can be made, though I concede to the Senator that if he can find two articles of universal consumption, and if, instead of putting half the amount of duty on each, you put the whole amount on one, the result will be the same.

Mr. SIMMONS. I do not choose to go about the country seeking articles. I took the precise articles indicated by the Senator himself. He said he would tax tea and coffee, which are now free.

Mr. DAVIS. They are not of universal consumption.

Mr. SIMMONS. They come as near to it as sugar.

Mr. DAVIS. I would not say that sugar is of universal consumption. All three of these articles are of very general consumption, sugar more general than the other two; but maple sugar is often substituted for that on which duty is levied.

Mr. SIMMONS. The Senator comprehends the position I have taken. I took the precise articles which he said, according to his theory, he would take from the free list—tea and coffee—and levy a duty upon; and of course if he did so, he would lessen the duty upon sugar, or he would be enabled to do it.

Mr. DAVIS. I think it would be more just, because it would be a distribution among all consumers. Tea and coffee are not of universal consumption. In some sections of the country the people use a great deal of coffee and very little tea; and in other sections, the reverse is the case. Sugar is an article of more general consumption than either of them, but by no means universal. I do not think, therefore, the exchange can be made upon the proposition which the Senator makes.

Mr. SIMMONS. I do not believe three articles could be selected in the whole class of imports of the country of more general consumption than sugar, tea, and coffee.

Mr. DAVIS. I think so.

Mr. SIMMONS. If the argument pinches, I know we are about to run off a little. I am not making these remarks for that purpose; but in order to call the attention of the distinguished Senator from Mississippi and others to what I consider to be the true principle. I am not to be got off from the argument by any compliments to my knowledge of finance and revenue.

Mr. DAVIS. What I said on that point was not intended in a complimentary sense, but as due in justice to the Senator.

Mr. SIMMONS. I say that any man who will view the subject deliberately, calmly, and candidly, will come to the conclusion that it is right to discriminate in this very particular, and that you discriminate for the benefit of your own country, and to the injury of no living man in it, no matter where the laborer, the producer is. That is my ground as a statesman. A man in the remotest corner of this country, whether he produces, or over expects to produce, a dollar's worth in his life, is just as much bound to yield an incidental protection of this kind to the laborers of every other section as if he were a producer himself. That is the ground I go upon, and I claim it in return. I have a right to claim it, as an American Senator and an American citizen.

The clamor that is raised throughout this coun-

try generally by men who never earned a dollar by their hands in their lives, against this incidental discrimination for the production of labor is made without their ever having taken the time to consider the question. If it were not for that we should have no such disputes as we have had on these questions of labor. When I speak of labor, I never have drawn the distinction which is drawn by the Senator from Mississippi, as an antagonist interest to capital. I would as soon protect the rights of capital as the rights of labor; but I should forget every lesson that has ever been taught me, if I did not regard the capital kept out upon usury by mere money lenders as an antagonist element to labor. Capital invested in the actual pursuits of life, producing what ministers to the wants of society, just as much deserves protection by the legislation of the country as labor itself. That capital is usefully employed, profitably employed, and patriotically employed; but when you come to another class of capital, loaned out upon usury to the producing classes, it is the duty of every government in our country to restrain the exorbitant exactions of the usurers. That is the most oppressive way in which the earnings of labor are carried into the coffers of the rich—not by duties on the productions of labor, but by the exactions of money lenders, who never had a heart that deserved the consideration of a statesman.

I have stated the position of the Senator from Mississippi, as I understand it, candidly and frankly, with no purpose of forcing this argument, with a view to show that there is no necessity to resort to any extreme measures in reference to finance, for, as I said before, with our expenditures as they are, I can see no chance for making anything free that now pays a duty. For my life I do not see, with the rates of duty established last spring, how we are to get sufficient revenue to keep the Government at it. I hope and expect never to see such a calamity befall the sugar-growing States as cut off the crop last year, and forced us to buy in a market rendered high by a failure in foreign countries. I think whatever incidental encouragement can be given by the legislation of this Government to diversify the labor of that region of country whose climate is adapted to raising sugar, we are bound to give, and it is sound policy, sound statesmanship to do it, not only in order to be independent of foreigners, but for the purpose of preventing an over supply of other articles of production in the country. For that reason I cannot vote for the proposition to repeal the duty on sugar, although it comes from those who are in favor of continuing the bounty to the fishermen.

Now, Mr. President, I have a word or two to say as to the propriety of taking into consideration a question so important as this upon a proposition to repeal the fishing bounties. I think it has been suggested by the honorable Senator from New York [Mr. SEWARD] that it was an unwise policy to repeal the legislation of last year. For my part, I consider the tariff act of last year, as amended by the Senate on the heel of the session, one of the most disastrous measures that was ever passed by Congress. It was passed without proper examination. On the last occasion, when this bill was under consideration, the Senator from Pennsylvania [Mr. BIGLER] appealed to the Senator from Virginia [Mr. HUNTER] to show that it was through his efforts last year the duty on iron was not reduced more than it was. I was astonished that he could flatter himself that there was any leniency bestowed at the last session on any interest of the producers in any section of the country. Sir, there was an indiscriminate onslaught upon the labor of this country in every department of industry. The only question with the Senator from Virginia, as I read his speech, was how low he could reduce the scale, how near he could approach to free trade; and when he got the bill to the scale in which it finally passed, he suggested to his friends that he had got about as near to that as he could, and that it was best to pass the bill as it was.

Now, sir, I say that when you take the rates of duty fixed by the tariff of 1857, and cipher them up and average them, you will find that you will have to add seventy-two and a half per cent. to them in order to bring them up to what they were under the tariff act, which it repealed. Very nearly one half was taken off in the aggregate. Anybody might know; when we were just "chin above wa-

ter," as the boys say, contesting with foreigners for our own market, with money at thirty per cent. per annum, and everybody struggling as if for existence, that to take away the barriers to importations would inevitably lead to the destruction of the industry of the country. Anybody might have seen it; and I am astonished that it did not arrest the attention of Senators at the time. If I had not been here myself at the close of sessions, and known with what little consideration such bills are hurried through, I should have been utterly surprised at that legislation; but we had a redundant Treasury, and everybody here was worried for fear we should be overloaded with money, and people are excusable for going a great length in such times, because it is an evil for any Government to have more money than it can legitimately spend. That has always been a disadvantage to the people.

I said before that I considered the present an inappropriate time to press this measure. I admit that it will operate upon only a very small number of people, comparatively—some fifteen thousand, and it will not oppress them a great deal. The effect of it will be probably to reduce their wages about a dollar a month, from twelve to eleven dollars; and I dare say they can stand it; but I think this is an inappropriate time for such a measure. It is a time when the industry of our section of the country is entirely prostrated. It is a time, too, when the industry of the South is comparatively prosperous. I know of no region of this country that enjoys, to-day, so much prosperity as the South. Their crops are all bearing a remunerative and a generous price, except sugar, and that is reasonably well up.

A SENATOR. How about breadstuffs?

Mr. SIMMONS. Our southern friends are rather the buyers of breadstuffs than the sellers.

Mr. CLAY. The Senator is greatly mistaken about that. The southern States raise a great deal more of breadstuffs than they consume.

Mr. SIMMONS. It may have got to be so now, and it is greatly to their credit if it be so. They used to bring corn down there from Illinois and let it lie until the cattle eat it up. Because cotton was worth thirty cents, they would buy everything. That is a miserable system. If they raise what feeds themselves, they have got into the American system, which is, produce what you can for yourself, and buy as little as you can abroad. That is the true doctrine for getting rich, and I dare say our southern friends have ciphered it out for themselves by this time.

The questions which the Senator from Mississippi has raised demand the consideration of producers everywhere. He objected to the collection of your revenue upon articles of luxury. I agree that, so far as our system has worked, my experience is that it tends to carry the levying of duties upon articles of luxury alone, except in regard to food. Sugar is consumed by all classes; but when you come to textile fabrics, which are threatened to be made free, provided this amendment prevails, you will find that, levying duties as we levy them, the coarse fabrics of common wear are not imported at all, and that, practically, only the luxurious articles bear the burden, if burden it is, such as we do not produce here; and the worst effect of this system has been that whereas, when it was changed twelve years ago, we had a production of woollens to a vast extent compared with the population, there is not to-day a man in the employment of this Government who has got an American coat upon his back.

Mr. DAVIS. I think I have.

Mr. SIMMONS. I doubt that. If it is broadcloth, it was not made in the United States.

Mr. DAVIS. I do not know.

Mr. SIMMONS. I think you do not. I happen to know, because I have not worn one for forty years that I did not inquire about, and a year ago I could not find a piece of American cloth anywhere within forty miles of me, and that is the reason I know whether a man has got it. I looked for it, and could not find it. The Senator says he did not inquire, and therefore he does not know.

Mr. DAVIS. Oh, I do not know.

Mr. SIMMONS. Then I am astonished that the Senator should venture to remark that he had one, if he did not know that it was so.

Mr. DAVIS. I thought so.

Mr. SIMMONS. If you will find me the place

it is manufactured within the jurisdiction of the United States, I will give you two new ones. [Laughter.]

Mr. DAVIS. I will try to hunt it up.

Mr. SIMMONS. No, sir; there is not such a thing made in the United States, to any extent, within my knowledge, as a piece of broadcloth. You have, by your system of what you call free trade, broken up the entire manufacture of broadcloth within the United States. It is suggested that nobody knows it. The misfortune of the country is, that you are prostrating and paralyzing your labor without knowing it, by a miserable theory about taxing tea and coffee in the room of sugar. I call it miserable, because it can make no possible difference to the consumer whether he pays duty on the sugar alone, or whether you spread it over the three articles, and you may help the producer of sugar, to some extent, by levying your duty on that article. However, I shall not pursue this subject, because I do not believe there is any danger of sugar being injured, nor do I suppose I can do good by debating it. I hope I have given no offense to the Senator from Mississippi.

Mr. DAVIS. I certainly take no offense at the remarks of the Senator from Rhode Island. His zeal leads him to speak strongly, but I always listen to him with respect and interest. Quite sincerely I acknowledge his superior information on all subjects of finance, and I will say of manufactures, too. I did not say so before, in a complimentary sense, or to throw him off from the line of his argument at all, but to acknowledge a fact. It is a subject of which I know very little, and he knows a great deal. His theory is different from mine, and he reaches opposite conclusions. His theory is, duties for protection, mine for revenue.

Mr. SIMMONS. Will the Senator permit me a moment?

Mr. DAVIS. Certainly.

Mr. SIMMONS. I say the time has gone by when, for any object I ever contemplated in making a tariff, a protective duty is required. A duty for revenue is now adequate to all the purposes any man can desire. I am not arguing this as a question of protection.

Mr. DAVIS. I am very happy, then, to find myself under the shelter of one of so much financial knowledge. If he only wants a duty for revenue, and if there is to be no discrimination in favor of one manufacture over another—

Mr. SIMMONS. Not at all. The discrimination I thought I indicated by saying it should apply to articles produced in this country as against those not produced here.

Mr. DAVIS. And therefore the gentleman argues for duties for the purposes of protection. He would not so put it in the law; he would not so write it in the bond; because he knows that, under the Constitution, he has no authority to impose such duties. The constitutional authority is to raise duties only for the purpose of paying the great burdens of the Government; and among those is not the protection of manufactures. He now avows his purpose. His theory and mine are opposite. He imposes duty to collect revenue, it is true; but his purpose is protection, mine revenue only. He discriminates in favor of things manufactured in the United States, and insists that this makes the burden equal. I say no, because he cannot find two articles of universal consumption, both of which are entirely imported; and if he could find two of universal consumption, and one of them was partly imported and partly produced in this country, if he put the whole duty upon that, he must magnify the duty just in proportion to the production of the article in the United States, because the increase of price going to the producer in the United States goes into his pocket, and not into the Treasury; and thus he must go on magnifying the scale of duties he imposes upon the great body of the consumers just in proportion as he confines it to objects which are manufactured in the United States. My theory is different, and we reach opposite conclusions; and though he uses hard terms occasionally, by throwing in such adjectives as "miserable," and such substantives as "folly," as I do not pretend to be wise, and admit that he has much knowledge on finance, in consideration of what I know to be his good temper, and the general feeling he has to respect the feelings of

all others, I waive such adjectives, and waive such application of epithets.

Mr. SIMMONS. The Senator knew I did not apply them to any remark of his.

Mr. DAVIS. Certainly; I know the Senator did not apply them unkindly, and therefore I assure him I take no offense, and am replying to him now in the very best possible spirit. He takes the case, however, of sugar, tea, and coffee, and insists that these shall be the articles to which the standard is applied. As tea and coffee are not produced at all in the United States, and sugar is produced here, it would follow that if he collected the same amount of duties from the one produced in the United States that he might collect from the three, a part of that duty would go into the Treasury; and to get an equal amount of money the duty must be increased and the people taxed beyond what they would be if it was equally collected off those articles which were imported entirely. I say it is an increase of taxation, and it must be; for if you increase the price of sugar one cent on the pound, and one half of it is produced in the limits of the United States, that cent which is paid upon every pound produced in the United States goes to the producers and not to the Treasury, and you must increase the cost above the one cent in order to be enabled to get the amount which is to be paid into the Treasury. I think it is a simple proposition. I do not say it would be folly to argue the other side, but that is what I think.

Mr. SIMMONS. I do not like to protract this debate; but I certainly endeavor to confine my words as I do my feelings, to respect for the arguments of Senators. The position I took was, that the day had gone by when there was any necessity for meeting this question as a question of protection directly. But the Senator says now, that if in the cases put—and I agree he puts them very fairly—we add to the price of sugar by the amount of duty imposed, we thereby aid the producer, as well as put money into the Treasury; and to the extent that we aid the producer we deprive the Treasury of revenue. That I do not think is a sound position. I say that there are two considerations on that point. Now, I will call the attention of the Senator to this fact: suppose we raised no sugar—and it would not be produced without the incidental protection the duty caused—is it at all certain that the price of sugar to the consumer would be cheapened?

Mr. DAVIS. It might not be.

Mr. SIMMONS. Would it not necessarily be increased in the absence of competition produced in the other country? Is it not inevitable?

Mr. DAVIS. A limited supply might cause that.

Mr. SIMMONS. Certainly it would be. It may be that it would be dearer to the extent of the duty. In that case we save the entire sum, and the foreign producer pays the whole tax. I do not say we save the entire sum; but I do say there is no man who ever investigated this subject but will come to the conclusion, that in the competition between the foreign and domestic producer, a portion of the burden is to be inevitably taken out of the pocket of the foreign producer; and if you look to all our correspondence with foreign countries, and see the eagerness with which they endeavor to get our duties down, you will find that they so regard it.

Now I am not disposed to prolong this debate. I am not against commerce. I do not believe, however, that it is to the interest of any nation to seek out countries for the importation of articles it can produce at home. I do not believe there is any advantage in reciprocal treaties by which we import breadstuffs from Canada when we cannot sell half we produce ourselves. These are the questions on which I am at issue with those who go on the free-trade doctrine. I am willing to have a reciprocal exchange of products with any nation in the world; but when you come to get it in as we have been doing the last five years, it is an entirely different question. I will not pursue this subject further.

Mr. SHIELDS. I merely wish to say a word in explanation of the vote I intend to give. I want, as far as I understand the question, to be practical. I think that this is not a favorable time nor the proper way to tamper with the revenue. I should be very glad to vote for a repeal of the duty on salt, for I regard it like air, light, and water,

as one of the necessities of life, and if such a measure were brought up properly I should vote for it; but on this occasion, and at this time, I am not prepared to vote for the reduction of any duty. I shall vote, therefore, against both the amendments. On the other point, with regard to the bounty on the fisheries, as a general principle, I regard such bounties as very unequal and improper. I have taken occasion to read the speech of the honorable Senator from Alabama very carefully, and I certainly give him great credit for the manner in which he has investigated the subject; he has thrown great light on it; but I will take the liberty of suggesting that that honorable Senator extend his investigation a little further, and not confine himself to this one particular interest, but give us a general system of retrenchment. I do not regard these bounties as in the nature of taxes, duties, imposts, or excises. I differ with the Senator on the constitutional point. This is simply a question of retrenchment, and the retrenchment of a bounty to a private interest. As a general principle the honorable Senator is perfectly correct. I think these bounties, as a general principle, should never be resorted to. There may be exceptions; there have been exceptions. This has been considered one of the exceptions; the wise statesmen of former times regarded it as a peculiar, exceptional case.

Mr. CLAY. Will the Senator pardon me for a moment? That has been repeated time and again here, and as I have regarded this whole debate as merely fighting against time and wearing out the patience and pertinacity of purpose on this side of the House, which it may be supposed is not as great as on the other, I have suffered the remark to be repeated without correction—but I deny it, and I think I have demonstrated, not only by moral but mathematical reasoning, that this was not the policy of the fathers. They never meant to give bounty, but only an allowance in lieu of drawback; and I showed that the Senators from the State of Massachusetts, and the Representatives in the other House disdained to ask favor, they disdained to claim bounty, and declared they demanded but justice. They asked nothing more than to be refunded their own money. They disdained to come here and beg favors, or to beg bounty, or to beg tribute from other people. That is what they said.

Mr. SHIELDS. I have taken great care to examine that distinction, and I recognize it fully. The honorable Senator presented it as I thought very fairly and fully. Certainly, in the first instance, the allowance was considered a drawback, but it has latterly run into what may be considered a bounty.

Mr. CLAY. Since 1830, by the reduction of the salt duty.

Mr. SHIELDS. I was about to say that I am unwilling at this time, in the present state of the prostration of the country, to strike at this single solitary interest, by way of retrenchment, lest we might entirely prostrate that interest. Now, the honorable Senator says this bill has been discussed in the Senate heretofore, and I am sorry that I may be treading upon ground that has been gone over before; but not having been here, I hope he will pardon me. I did not happen to have a seat in the body when the question was discussed.

It is an old system; and, notwithstanding it is now attacked, it has produced some of the best seamen and the bravest men this country has had. In addition to that, it was considered one of the best schools in the olden times for hardy, bold, gallant seamen, and the history of the country proves that that is the fact. But there is one consideration in which I have not examined it; and I must vote according to my own notions, utterly without regard to whether this is a party question or not. I do not care a cent whether it is or not. I mean to vote according to my honest convictions, I care not on which side of the Senate I may be found. I am afraid, with my want of information on the subject, to touch this old historic interest; if you please to call it so, that has been so favored by legislation, considered in the olden time as a school of brave seamen—hardy men—men who have manned the decks of your vessels in time of war, and can do so again, and will do so now, if necessary. To take that solitary interest, and strike it down, I am not prepared to do. Sir, systematize retrenchment. This is no kind of legislation, in my humble opinion, any-

how—taking up a thing by piecemeal, and striking at an interest in the South and an interest in the North. I have no kind of respect for such legislation. Take up and go through with a system of retrenchment, and include this in it, and I will go with you. One man strikes at sugar, another man strikes at the cod fishery. I do not like such a course of proceeding.

There is an additional fact which influences my mind. These fishermen who constitute, as I remarked, a hardy, hard-working, bold, daring race of seamen, enter into competition with European labor, which is much cheaper than our labor, and if they are to be kept up at all, it may be necessary to give them some encouragement. That may, or may not, be so. I am not prepared, however, to give this vote lest the effect might be to destroy that interest which is now in competition with the most energetic people in the world. I shall vote, therefore, against the honorable Senator's bill, and against the amendments.

Mr. CLAY. I do not wish the Senator from Minnesota to place me in a false position. I deny that I am striking at this interest. That is an abuse of the word, and it is arraigning me to charge me with striking at an interest, especially when the Senator couples it with my locality, and talks of striking at a northern interest. Here is a bounty paid these men out of the Federal Treasury, collected by taxing other people; and because I am opposed to levying tribute off my people, or off his people, to raise bounty for these men, he charges me with striking at them, and then talks about striking at the sugar interest, as if they stood upon the same basis, when there is no parallelism between them. A duty is levied upon sugar for the support of the Government; but here you levy duties for the purpose of raising bounties in this instance. There is no parallelism whatever in the cases.

Mr. SHIELDS. I did not speak of the honorable Senator striking at the interest. I spoke of my own course—that I am not prepared to vote against that interest in its present condition. That is what I spoke of, not of the course of the honorable Senator.

BRITISH AGGRESSIONS.

Mr. MASON. I ask the unanimous consent of the Senate to allow a message which has been received from the President to be communicated to the Senate, with a view that it may be printed. It is a message communicating, in answer to a resolution of the Senate, information called for relative to alleged aggressions on ships of the United States, at Cuba, and in the Gulf of Mexico. I merely mean to ask that it may be printed, and referred to the Committee on Foreign Relations.

Mr. CRITTENDEN. I hope it will be read.

Mr. MASON. The message is a very short one, merely communicating documents. I shall not ask that anything be read, but simply for its printing.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) If there be no objection the Chair will lay the message before the Senate. The Chair hears no objection.

Mr. CLAY. I must object to its being read. I know that the temper of the opponents of this measure is to defeat it by every sort of parliamentary strategy. I do not complain of that. It is perfectly fair. It is usual for minorities to do so. But if the Senate has that message read it may provoke some debate before it is referred, and I object. If this bill be deferred much longer I fear we shall be without a quorum.

Mr. MASON. I hope the Senator does not include me among the opponents of his bill.

Mr. CLAY. Of course not.

Mr. MASON. I know it is a measure of public interest.

Mr. CLAY. It is a matter of no great public concern to have this message referred now.

The PRESIDING OFFICER, (Mr. FOSTER.) The Chair decided, after calling for objection, that the message should be read, no one making objection.

Mr. CLAY. I suppose before it is read I have a right to object.

The PRESIDING OFFICER. The Senator from Alabama objects to the reading of the message.

Mr. MASON. I will state to the Senator that the message is a single page of paper, merely communicating the documents.

Mr. CLAY. It may lead to debate.

Mr. MASON. If it does, I shall waive it.

Mr. CLAY. It will be too late then.

The PRESIDING OFFICER. The Chair will take the sense of the Senate on reading the paper, if the Senator from Alabama objects.

The question being put, whether the message should be read, it was decided in the affirmative; there being on a division—ayes 21, noes 17.

The Secretary read the message, which transmits, in answer to a resolution of the Senate of the 14th instant, reports from the Secretaries of State and of the Navy concerning the recent search or seizure of American vessels by foreign armed cruisers in the Gulf of Mexico.

Mr. MASON. I move that the papers be referred to the Committee on Foreign Relations, and printed.

The motion was agreed to.

Mr. ALLEN. I ask for the reading of the documents.

Mr. MASON. I hope not.

Mr. CLAY. I think that is too late now.

The PRESIDING OFFICER. The order of the Senate having been to refer the papers to a committee, the Chair apprehends they are not now before the Senate without a reconsideration.

FISHING BOUNTIES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill to repeal the fishing bounties.

Mr. SEWARD. I rise without any purpose of prolonging this debate, but simply to state, in order to guard against any future misapprehension, the ground of the votes I have to give in the further progress of this question. The Senator from Alabama has said, no doubt as sincerely as he always speaks, that he sees no analogy between the protection of certain branches of industry, which are protected by the incidental effect of our revenue tariff, and the protection of the fisheries by bounties. To me, they seem to be but a part of the same system, that the principle of protection is just as clear and distinct and palpable when you give a bounty as it is when you give protection by imposts upon articles of foreign manufacture or production on coming into competition with American manufactures and productions. Regarding it in this light, as I have had occasion to state before, I shall vote against his bill for abolishing the bounties upon the cod fisheries. In order to carry that measure more successfully through, as I understand it, one honorable Senator has proposed to make the loss of those bounties fall lighter upon the fishermen by remitting the duty upon salt; thus to mitigate the misfortune, or the evil, or the grievance of the fisherman at the expense of the manufacturer of salt. I wish to protect equally the manufacturer of salt and the fisherman. I am, therefore, opposed to abolishing the duty on salt. Another honorable Senator, by an amendment, combines the remission of the duty upon sugar with the proposition to remit the duty upon salt. If the duty upon salt is to be remitted, then I am to go further, and go for a general remission of duties, as far as I can, for the purpose of arresting the whole operation of this embarrassment to the industry of the country. When we vote, I shall vote for the amendment to repeal the duties on sugar by way of amendment to the remission of the duties on salt. When I come to the question, if I shall reach it, I shall vote against the remission of the duties upon either salt or sugar, or the abolition of the bounties.

Mr. CHANDLER. I call for the yeas and nays on the amendment of the Senator from Illinois, [Mr. TRUMBULL.]

The yeas and nays were ordered; and being taken, resulted—yeas 20, nays 37; as follows:

YEAS—Messrs. Broderick, Chandler, Clark, Doolittle, Douglas, Durkee, Fessenden, Foster, Hale, Hamlin, Harlan, Houston, Johnson of Tennessee, Jones, King, Seward, Sumner, Trumbull, Wade, and Wilson—20.

NAYS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Bright, Brown, Clay, Clingman, Collamer, Crittenden, Davis, Dixon, Fitzpatrick, Foot, Gwin, Hammond, Henderson, Hunter, Iverson, Johnson of Arkansas, Kennedy, Mallory, Mason, Pearce, Polk, Pugh, Rice, Sebastian, Shields, Simmons, Slidell, Stuart, Thomson of New Jersey, Toombs, Wright, and Yulee—37.

So the amendment to the amendment was rejected.

Mr. POLK, before the vote was announced, said: My colleague [Mr. GREEN] has paired off

with the Senator from Pennsylvania, [Mr. CAMERON.]

The PRESIDING OFFICER. The question recurs upon the amendment of the Senator from Rhode Island, [Mr. ALLEN,] upon which the yeas and nays have been ordered.

The yeas and nays were taken, and resulted—yeas 18, nays 41; as follows:

YEAS—Messrs. Allen, Broderick, Chandler, Collamer, Dixon, Doolittle, Douglas, Durkee, Fessenden, Hamlin, Harlan, Houston, Johnson of Tennessee, Jones, King, Stuart, Trumbull, and Wade—18.

NAYS—Messrs. Bayard, Bell, Benjamin, Bigler, Bright, Brown, Cameron, Clark, Clay, Clingman, Crittenden, Davis, Fitzpatrick, Foot, Foster, Green, Gwin, Hale, Hammond, Henderson, Hunter, Iverson, Johnson of Arkansas, Kennedy, Mallory, Mason, Pearce, Polk, Pugh, Rice, Sebastian, Seward, Shields, Simmons, Slidell, Sumner, Thomson of New Jersey, Toombs, Wilson, Wright, and Yulee—41.

So the amendment was rejected.

The bill was reported to the Senate, as amended, and the question was stated to be on concurring in the amendment made as in Committee of the Whole, which is to fill the blank in line one, with "the 31st day of December, 1859;" and in line four and five, to strike out the words, "and allowing bounties to," and inserting, "allowances or bounties upon the tonnage," so as to make the bill read:

"That from and after the 31st day of December, 1859, all acts, and parts of acts, giving allowances or bounties upon the tonnage of vessels employed in the bank, or other cod fisheries, be, and the same are hereby, repealed."

Mr. WILSON. I move to amend the amendment by striking out "1859," and inserting instead, "1862."

Mr. SEWARD called for the yeas and nays on the amendment; and they were ordered.

Mr. CLAY. I will simply state that that amendment has once been voted down in Committee of the Whole. ["No!" "No!"]

Mr. HAMLIN. No; that was an amendment changing it to 1865.

Mr. CLAY. As I have said two or three times before, this bill gives them two years; or, in other words, about seven hundred thousand dollars of bounty, provided they realize as much this year and next year as the average of the last ten years. This proposition would give them five years, which would be equal to nearly three million dollars. I give them, in the way of time, as long as several of the original acts granting the original allowances were intended to continue. Many of them were limited to but two years. I give them but two years, and, in addition to that, they had notice, more than eighteen months ago, that this measure would be pressed.

Mr. WILSON. I do not wish to detain the Senate, or to subject myself to the charge made by the Senator from Alabama to-day, that we were unnecessarily interposing obstacles to the passage of the bill. I think the charge was not well founded. I wish simply to say that the amendment extends the time three years longer than the Senator proposes. It carries it to 1862, instead of 1859, making a difference of three years. I offer the proposition in good faith. If we are to repeal these bounties which have existed, with the exception of three or four years, since the foundation of the Government, I think the Senator ought to be willing to agree to this amendment, and give the capital and persons employed in the cod fisheries an opportunity to work gradually out of the business, or take such other action as they please, so that they will be affected as little as possible by the change.

Mr. CLAY. I must correct again, for the fifth or sixth time, an error of the Senator's. They never got bounty before 1830, if the advocates of the allowance spoke the truth. It is only since 1830 they got bounty. Now, the Senator speaks as if the withdrawing from these men of what is said to amount to about twelve dollars a man is going to break up the cod fishery. My own opinion is, that it will not reduce the number of fish caught, or the cod-liver oil that is made, and that we shall get as many fish as we did before the repeal of the bounty; and as to giving them five years, or, in other words, upwards of three million dollars instead of the \$700,000 I propose to give them, it will only delude them, and keep them in the business; whereas, if the bill pass, allowing two years, if they can find a more profitable employment in the coasting trade, or mackerel catching, or whale fishing, they will go into it.

Mr. WILSON. As to the word bounty, the Senator says he has corrected us several times. I use the word bounties, allowances, or drawbacks, in the same sense. It is a matter of protection early commenced by the Government. Now, the Senator says if the extension I propose be made, it will be some three million dollars. It will only be allowing for the whole five years, according to his own statement, some one million five hundred thousand dollars and it is only \$900,000 for the three additional years, supposing the amount to be \$300,000 annually. It is less than a million dollars. I think it fair if the repeal is to take place at all, as I suppose it is, that these additional three years should be allowed.

The question being taken by yeas and nays, resulted—yeas 26, nays 30; as follows:

YEAS—Messrs. Allen, Bell, Broderick, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Houston, King, Seward, Shields, Simmons, Stuart, Sumner, Trumbull, Wade, and Wilson—26.

NAYS—Messrs. Bayard, Benjamin, Bigler, Bright, Brown, Clay, Clingman, Davis, Douglas, Fitzpatrick, Gwin, Hammond, Henderson, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Mason, Pearce, Polk, Pugh, Rice, Sebastian, Slidell, Thomson of New Jersey, Toombs, Wright, and Yulee—30.

So the amendment to the amendment was rejected.

The amendment made in Committee of the Whole was concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. WILSON. I ask for the yeas and nays on the final passage of the bill.

The yeas and nays were ordered.

Mr. HOUSTON. I have heard with some attention the discussion upon this subject, and I do not intend to detain the Senate by any lengthened remarks of mine. Under another state of affairs I might be disposed to vote for the passage of this bill; but I think the indications of this morning bespeak for us a prospect of difficulties on the ocean. The message which was referred to the Committee on Foreign Relations a few minutes ago, would seem to indicate that there is, perhaps, trouble ahead; and that will be, to a great extent, confined to the ocean; and a marine will be necessary; and it ought to be the most efficient we can muster under the auspices of the nation. Our present Navy I consider as practically abolished or disbanded. It is in no situation to compete with the navy of any nation upon earth in its present disorganized state. Our seamen and marines are generally foreigners. They have no tie that binds them to our service but the pay that they get. They are mercenaries. They are not citizens who have at heart the interests of the country. They do not feel concerned for the honor of the national flag. They serve where they can get the best pay. We cannot rely on such men on board our vessels to the extent that is necessary in case of a maritime war. It is essential, then, that we should pursue that policy which is best calculated to strengthen our marine. If war should grow up between the United States and England it will be mainly conducted—at least the efficient part of it—by privateers, manned by active seamen; and I feel satisfied, on reflection, that this policy, inaugurated under the administration of General Jackson was intended with reference to that very object—to foster and increase our mercantile and fishing marine as fast as possible, so as, in the event of war, to enable us to maintain our position on the seas.

Under these circumstances, and with these impressions, I am prepared to vote against the bill before us, believing that even if such a measure were proper, this is not the time to adopt it, as we shall require the most efficient aids possible to maintain our position on the ocean as a maritime Power; and I cannot believe that any good will be brought about by this measure.

Furthermore, the multiplication of seamen and seafaring men will be of advantage to the section of country which I represent, for it will produce competition in the carrying trade. As our products are of a character that require a commercial marine to transport them, I think the increase of a marine force will be of advantage to the South. Therefore, I am willing to encourage that policy which is calculated to increase the number of our seamen and our competition in the carrying trade in time of peace, and then, in the event of war,

we shall be in a better situation to meet its emergencies.

The yeas and nays were taken on the passage of the bill, and resulted—yeas 30, nays 25; as follows:

YEAS—Messrs. Bayard, Benjamin, Bigler, Bright, Brown, Clay, Clingman, Davis, Douglas, Fitzpatrick, Gwin, Hammond, Henderson, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Mason, Pearce, Polk, Pugh, Rice, Sebastian, Slidell, Thomson of New Jersey, Toombs, Wright, and Yulee—30.

NAYS—Messrs. Allen, Bell, Broderick, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Houston, King, Seward, Shields, Simmons, Stuart, Sumner, Wade, and Wilson—25.

So the bill was passed.

Mr. CLAY. I wish to amend the title to make it conform to the bill. The word bounty is used oftentimes inappropriately. In the law the term is allowance, though by some strange perversion of language they apply the term bounty to the drawbacks on the exported pickled fish, and the term allowance to the tonnage of the vessels. I wish to amend it so as to read, "A bill to repeal all laws or parts of laws allowing bounties or allowances to vessels employed in the bank or other cod fisheries."

The title was so amended.

HOMESTEAD BILL.

Mr. YULEE. I move to postpone the prior orders, and that the Senate take up the bill relating to the Patent Office, which was under consideration a day or two since. I think it can be disposed of during the session of to-day.

The **VICE PRESIDENT.** The next business in order is the homestead bill, which the Senator from Florida moves to postpone, with all prior orders, to take up the bill (S. No. 180) to amend the several acts now in force in relation to the Patent Office.

Mr. SEWARD. I call for the yeas and nays. The first special order now is the homestead bill.

Mr. YULEE. That bill can come up to-morrow.

Mr. JOHNSON, of Tennessee. If it is understood it will come up to-morrow morning, I have no objection.

Mr. SEWARD. I hope the Senator from Tennessee will not consent to that, but will insist on having the homestead bill taken up now.

The yeas and nays were ordered.

Mr. JOHNSON, of Tennessee. I wish merely to remark to the Senate that the homestead bill has been the special order since January last. There are two hours now set apart in the morning for general business, and one sixth of the time, one day in the week, is also set apart for private business. I hope the Senate will proceed in regular order. I do not wish to be obtrusive, or interfere with the propositions of any Senator, but I have been patiently waiting, and I hope the Senate will take up the homestead bill, and let us vote on it.

Mr. YULEE. We have only a fraction of to-day left us now. Perhaps within an hour the Senate will proceed to the consideration of executive business. Within that hour, this bill, which was read the other day, and to which the attention of the Senate, therefore, has been directed, may be disposed of. It will not supersede the order of the bill of the Senator from Tennessee, but I take it—and if I am wrong the Chair will correct me—that, whenever the Calendar is resumed, the homestead bill will be next in order. To-morrow, therefore, as soon as we have passed through the morning hour, the homestead bill will be first in order, in preference to all other business. I presume it will be more agreeable to the Senator from Tennessee to proceed to-morrow with its discussion than to-day. I ask him, therefore, to agree that, by general consent, the consideration of the homestead bill shall be passed over. It need not be formally postponed; it may be suspended until to-morrow, in order that we may proceed to the consideration of the Patent Office bill, which will not occupy long.

Mr. JOHNSON, of Tennessee. There is no one on this floor more disposed to accommodate than I am; but if this proposition is taken up, it is going to be discussed, and will consume considerable time. It will take no longer to consider it after we are through with the homestead bill than before. It is not more urgent, and I am in

hopes we shall take up the homestead bill, and go on with it. I have information that it will be discussed. All the time we consider the homestead bill to-day will be just that time saved to-morrow, which can be appropriated to something else. I hope the Senate will go on with this measure. It is an important one, in which the country is deeply interested.

Mr. YULEE. I will not consume the time of the Senate by insisting on the yeas and nays. I will withdraw my proposition.

The **VICE PRESIDENT.** The yeas and nays have been ordered.

Mr. HAMLIN. I desire to state, and I wish the ear of the Senator from Tennessee, that if the bill named by the Senator from Florida shall come up, and the Senate should consider it, and should adjourn while it is under consideration, it will take precedence of the special order in the morning as the unfinished business of to-day.

Mr. YULEE. I have withdrawn the motion, rather than consume the time of the Senate in foolishly calling the yeas and nays.

The **VICE PRESIDENT.** The Chair hears no objection to withdrawing the motion. It requires unanimous consent, the yeas and nays having been ordered.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 25) to grant any person who is the head of a family, and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, upon condition of occupancy and cultivation of the same for the period herein specified.

Mr. JOHNSON, of Tennessee. I wish now to indicate an amendment to the second and fifth sections of the bill, which will improve them and make them more acceptable to some of the friends of the bill. In section two, I propose to strike out all after the enacting clause and insert:

That the person applying for the benefit of this act shall, upon application to the register of the land office in which he or she is about to make such entry, make affidavit before the said register that he or she is the head of a family, or is twenty-one years of age, and that such application is made for his or her exclusive use and benefit, and those specially mentioned in this act, and not either directly or indirectly for the use or benefit of any other person or persons whomsoever; and on making the affidavit as above required, and filing the affidavit with the register, he or she shall thereupon be permitted to enter the quantity of land already specified: *Provided, however,* That no certificate shall be given, or patent issued therefor, until the expiration of five years from the date of such entry; and if, at the expiration of such time, the person making such entry, or if he be dead, his widow, or in case of her death, his heirs or devisee, or in case of a widow making such entry, her heirs or devisees, in case of her death, shall prove by two credible witnesses that he, she, or they have continued to reside upon and cultivate said land, and still reside upon the same, and have not alienated the same, or any part thereof; then in such case, he, she, or they shall be entitled to a patent, as in other cases provided for by law: *And provided, further,* In case of the death of both father and mother, leaving an infant child or children under twenty-one years of age, the right and the fee shall inure to the benefit of said infant child or children; and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the State in which such children for the time being have their domicile, sell said land for the benefit of said infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase and be entitled to a patent from the United States.

I also propose, in section five, to strike out all after the enacting clause, and insert:

That if, at any time after filing the affidavit as required in the second section of this act, and before the expiration of the five years aforesaid, it shall be proven, after due notice to the settler, to the satisfaction of the register of the land office, that the person having filed such affidavit shall have actually changed his or her residence, or abandoned the said entry, for more than six months at any time, then, and in that event, the lands so entered shall revert back to the Government, and be disposed of as other public lands are now by law, subject to an appeal to the General Land Office.

I offer these two amendments as an improvement on the sections as they now stand in the bill; and I will remark in this connection, that the bill has been submitted to the Commissioner of the General Land Office, with a view to have the sections made as practicable as possible when brought into operation. It has undergone a thorough scrutiny there; all the sections have been examined, and he thinks that the bill, with the amendments proposed in the second and fifth sections, can be put into successful practical operation.

Mr. COLLAMER. I desire to suggest to the Senator from Tennessee a few amendments. The first section of the bill reads, "any person who

is the head of a family, or a citizen of the United States, at the date of the passage of this act," shall have a right to enter one hundred and sixty acres. I suggest the striking out of the words, "at the date of the passage of this act," because, as it now reads, no person born after the passage of this act, in case the bill should pass, would ever have a right to make an entry under it. That, I presume, is not what the gentleman means.

Mr. JOHNSON, of Tennessee. I have no objection to the Senator's amendment.

Mr. COLLAMER. I move to amend the first section by striking out the words, "at the date of the passage of this act."

The amendment was agreed to.

Mr. COLLAMER. I have an amendment to propose in the second section. It provides that a person on making the affidavit prescribed may enter the land, and it then goes on to provide, in lines seventeen, eighteen, and nineteen, that the person making the entry, or his widow, or representatives, "shall prove by two credible witnesses that he, she, or they, have continued to reside upon and cultivate said lands." There is no suggestion as to how long the residence shall have continued. It is to be observed that the person is authorized to enter the land upon making an affidavit. It is not necessary that he should then reside upon that land. There is no requisition that the person entering the land should at that time reside upon it. He is to make the affidavit that he is the head of a family and has no other land, and he may then make the entry. Probably it is not expected that he will be a resident upon it then. I presume a man cannot reside on the land until after he has entered it. When you come to the finishing up of the matter, and making proof so as to obtain a certificate, it is provided that they shall prove, by two credible witnesses, that they have continued to reside upon the land, but there is nothing said as to the term of residence required. It does not say whether it shall be a month, or a year, or five years. I move, in line nineteen of the second section, after the word reside to insert, "for the term of five years;" and the same amendment will be necessary in the substitute for the second section offered by the Senator from Tennessee, which contains the same phraseology.

Mr. JOHNSON, of Tennessee. I think the section fully covers that now; but I have no objection to the amendment.

Mr. TRUMBULL. I presume the Senator from Vermont does not mean to require that the devisees of the person who may originally have entered the land shall prove that they have resided on it five years. That, however, seems to me to be the effect of the amendment.

Mr. COLLAMER. All I want is to prove a residence of five years by somebody.

Mr. TRUMBULL. The amendment, I think, will hardly accomplish that object in the phraseology he proposes. It is that he, she, or they shall prove that they have resided on the land for five years.

Mr. COLLAMER. That is, that the person shall prove that the residence has been continued.

Mr. TRUMBULL. I suggest that that would require a change of phraseology; for if the words proposed should be inserted, it would require that the devisee of the person making the entry should prove that he had resided five years on the land.

Mr. COLLAMER. I do not think so. The word "they," as there used, is a word expressive of the persons who made the entry, and his successors. The person making the entry, whether man or woman, and those who represent him, are included in the plural number, "they." It does not refer to the two witnesses.

Mr. TRUMBULL. The proposition is that they shall prove by two credible witnesses that he, she, or they, have continued to reside upon and cultivate the land.

Mr. COLLAMER. The words "he, she, or they," there used, are words descriptive of the person who made the original entry, and his successors.

Mr. CLINGMAN. I wish to inquire whether an amendment to the first section would be in order?

The **VICE PRESIDENT.** There is now a pending amendment offered by the Senator from

Vermont to the amendment of the Senator from Tennessee.

Mr. MASON. I have looked at the bill, and I find that it has been before the Senate for more than four months. It is one of a good deal of detail, and a good deal of interest, and I should not be satisfied to look into the subject at all until I could have the opportunity of doing so with more consideration than is allowed us by the mere presentation of an amendment, which, I understand from the Senator from Tennessee, is a substitute for the second and fifth sections of the bill. I think it would be better to pass the bill over, and let the amendments be printed.

Mr. JOHNSON, of Tennessee. The amendments are not long; they are printed amendments; they are only a slight variation from the sections of the bill as they now stand, and I think they can soon be disposed of.

Mr. MASON. I move to postpone the further consideration of the bill until to-morrow; and that the amendments be printed.

Mr. JOHNSON, of Tennessee. The amendments I propose are printed. I understood that I had the floor, and I gave way to the Senator from Vermont to suggest an amendment.

Mr. MASON. I ask the indulgence of the Senator. I did not know that the amendments had appeared in print. I thought they were now offered for the first time. I withdraw my motion.

Mr. JOHNSON, of Tennessee. These amendments can be agreed upon, and then we shall have the bill before us in its perfected form.

The VICE PRESIDENT. The question then is on the amendment of the Senator from Vermont to the amendment of the Senator from Tennessee.

The amendment to the amendment was agreed to; and the substitute offered by Mr. Johnson, of Tennessee, for the second section as amended, was adopted. The substitute for the fifth section was also adopted.

Mr. CLINGMAN. I desire to offer an amendment to the first section of the bill. It is, after the word "entitled" in the fifth line, to insert:

—"to have issued to him by the Commissioner of Public Lands a warrant for one hundred and sixty acres of land, to be located in the same manner as that under which the bounty land warrants heretofore issued have been located on any of the public lands of the United States subject to entry, the applicant being required to make proof in support of his claim in such manner and under such regulations as may be prescribed by the Secretary of the Interior."

So as to make the first section read:

That any person who is the head of a family and a citizen of the United States, shall be entitled to have issued to him or her by the Commissioner of the Public Lands a warrant, &c.

It will be seen that this is an important proposition. It will give to every head of a family who is a citizen of the United States a land warrant for one hundred and sixty acres of public land. I am not at this time in favor of the policy of surrendering the public lands in this way. I rather think that, in the straitened circumstances of the Government, they ought to be retained and held; but, if they are to be given away, I think it obviously right to make, and every Senator will see the importance of making, such a distribution of them as is equitable and fair. The operation of my amendment may be readily seen by an illustration: probably in the State of North Carolina there is not one man in twenty who will emigrate to the new States to settle on a tract of public land; the other nineteen are just as meritorious; they are always ready to bear arms in defense of the Government; they pay taxes to support it, and they have the same interest in the public lands, and the same equitable right to them as the people who may go there. Now, with what propriety can I go before my constituents, and say to them, "those of you who may choose to emigrate to a new State shall have the privilege of taking up one hundred and sixty acres of public property, which belongs to all of you; and those of you who do not think proper to emigrate, shall have none?"

It is obvious, therefore, that the effect of this amendment will be to put all citizens of the United States on the same footing; and it will be no injury to those persons whom the Senator from Tennessee wishes to benefit. On the contrary it will be more beneficial to them; for if I understand the provisions of his bill he declares that they must go on the land, remain there for five years, and cultivate it. This is a hardship. We

all know that it frequently happens that a poor man settles upon a piece of land, and before he cultivates it for five years he wishes to go somewhere else. He may be disposed to give it up on account of some misfortune; or perhaps, from some inducement to emigrate to another place, he is disposed to abandon the land. In that event, under this bill, he would lose all his labor and lose the title, whereas if my proposition prevails he has his warrant; if he thinks proper to take possession of the land and cultivate it, he has a title at once; but if he emigrates he still may sell the land to somebody else. There is this great advantage in it: the citizens of the old States who do not think proper to go may either realize the money by the warrant, or they may retain it, and when their children emigrate they may always avail themselves of it.

I have another reason, Mr. President, for being in favor of this amendment. The original bill, as it stands, seems to be an inducement, an encouragement to men to emigrate into the new States. I think all the States ought to stand on an equal footing, and I do not see why you should tempt my constituents, or those who live in your State, sir, to go into a new State. I presume Kentucky and North Carolina are just as good as the new States. Why not, then, give equal privileges to everybody? If it is intended, as has been sometimes argued, under this system, to encourage industry by compelling men to work who do not want to work, I would inquire of every Senator, what right have we to compel American freemen to work land if they do not wish to do it? I hold that every citizen of the United States should be free to do as he pleases; and the idea of obliging men, before you give them title to property, to perform this amount of labor, I think is certainly unjust. I do not hold that we, as Senators or members of Congress, or as a part of the Government, have any right to say to our people: "You are too lazy; we want to stimulate you to go off and get to work cutting down trees and cultivating land."

I think, therefore, every Senator will see, in a moment's reflection, that if any such system as this is to be adopted, an amendment like mine is free from all these objections. In the first place, it leaves all the States on an equal footing; it holds out no unjust inducement to our people to engage in a particular line of business which they may not have a fancy for, and it puts those who may choose to remain in their own States, and attend to their business there, upon an equal footing. I ask them if there be anything more just, if this system is to be adopted, than such a proposition as that? I hope the Senate will adopt it.

Mr. PUGH. It seems to me that my friend, the Senator from North Carolina, misunderstands the principle of the bill itself. I propose no gratuity in voting for this bill; nothing of the sort. I think it will appear, from the Congressional Globe, that I said here two years ago that I believed the work and labor, paid at the ordinary wages, that had been bestowed in the improvement of the land, was worth more than the land itself. All the millions of acres owned by the Government of the United States are not worth a shilling—not one of them—until you put a man on them. Nobody will buy them; they are of no use. But, if you bring all this vast unoccupied domain into the occupation of the actual settler, the man who will improve it; you will improve the revenues of the country, because the revenue of this Government, after all, is derived from duties—duties on imported articles. I consider that the man who will go into the Territories, or unoccupied domain of the United States, and cultivate one hundred and sixty acres for five years, has earned thrice, and more, the value of it.

Mr. CLINGMAN. I will ask my friend (for I believe he and myself agree in the general principles of free trade,) if it is to the advantage of this man that he should go there, why not leave him to decide on it for himself? It has been argued that you should induce men to manufacture by holding out bounties or protection to them. He and I belong to the party that say the people are capable of judging what is their own interest, and if they do not choose to embark in manufactures, let us not impose any restriction to encourage them in doing so. I ask him if the same principle does not now apply. If it is to the advantage of these persons to go West and cultivate this land,

let them go and do it. If it is not, why shall we, by depriving the Federal Government of this land, hold out inducements to compel men to go there when they would not otherwise be inclined to go.

Mr. PUGH. I say again, I propose neither to drive them there nor to persuade them there. I really think the prices at which the public lands are held are too high altogether; and, as I said before, I believe the man that goes upon the land and actually cultivates it for five years, has earned more than the value of the land itself; and I believe, to-day, that you may take all the real estate of the State which I have the honor to represent, and appraise it independent of the improvements, and it would not pay for the daily work, estimated at ordinary farm wages, which has been bestowed upon it since that country was first settled. I think there never was such an error—

Mr. CLINGMAN. Then the gentleman will see if that be the true view of it, instead of encouraging men to go there and do work by which they will lose, he ought rather to discourage them.

Mr. PUGH. I do not encourage them to go there for any benefit they will do themselves. I think it is an absolute advantage to the whole country; I think it is a great advantage that the thousands of persons in the various cities, who are living precariously, should go to some useful industry, which would relieve the community from the burden of their present maintenance.

Mr. CLINGMAN. I will ask this further question: is not my friend running into the same argument by which some persons insist that Government shall compel the people to be temperate, to occupy themselves in industry, and not idle their time? Do not all sumptuary and restrictive laws rest on exactly the sort of argument my friend uses, namely, that the people are neglecting their interest and damaging themselves by staying in the old States, and he wishes to induce them to go abroad? Can he defend it on any principle that will not cover the other cases to which I have just alluded?

Mr. PUGH. I stated before, I do not propose it for any great benefit they will do themselves. I think it will be a benefit to the whole community. I do not propose to compel a man to go to the new States; but I simply say to every man in the United States: if you are disposed to go on the public domain and cultivate one hundred and sixty acres of land, you shall have it. It is no loss to us; for, as I said before, the land is worth nothing until the man goes there. Besides, I believe the bill is confined to the alternate sections, and that certainly gives us all the advantage of the railroad grant system.

Now, I ask the Senate of the United States what good all this land will do us? You are proposing to donate vast tracts of it for a Pacific railroad. Why, sir, you will never make a railroad until the afternoon of the day of judgment by such a system; but if you allow the country to be settled, the railroad will be made by the parties interested. What do we want with the land? What good will it do us? There is a bill on the table from the House of Representatives granting millions on millions of acres for the endowment of agricultural colleges. The public lands of the Government have become a source of mere plunder for every scheme—endowing insane institutions, endowing colleges, endowing literary institutes. If you give the land to actual settlers, you are really benefiting the whole country, and you are rendering more benefit to the cause of agriculture than ten thousand such agricultural bills as have been sent here from the House of Representatives.

Mr. POLK. Allow me to suggest to the Senator that as I have heard the sections of the bill read, I do not think it requires any cultivation of the land at all, but merely that the man shall reside there.

Mr. PUGH. Five years. I think he will cultivate it if you require him to reside on it five years. I think if you require him to remain on the tract, and actually stop five years, you will insure a good deal of cultivation; and that is practically what the bill amounts to. It is only the principle of your preemption law, except that you reduce the price of the land.

Mr. POLK. I suggest, if the object is that he shall cultivate and improve the land, would it not be better to require him in the act to do that thing?

Mr. PUGH. I have no objection to that. That

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is a mere verbal matter. My friend from Rhode Island [Mr. ALLEN] calls my attention to the bill. The word "cultivate" is in it, in the second section:

"Shall prove, by two credible witnesses, that he, she, or they, have continued to reside upon and cultivate said land, and still resides upon the same."

I was about to say—and it was only to guard myself against misconstruction—that I do not propose to vote for this bill on the idea of gratuity to the individual. I think, if he goes upon that land, resides there, and cultivates it for five years, he has earned the full value. I think it will be for the public interest. I think it will redound to the advantage of the revenues of the General Government; whether you estimate upon the principle of direct taxation, which would bring the land itself upon the tax list, or whether you estimate upon the increase of the duties on imported goods. I think it will encourage the cause of agriculture far more than the bill for the endowment of colleges sent to us by the House of Representatives.

At present, the public lands are here a source of plunder. We have granted millions on millions for the construction of railroads; and we have not only debauched Congress itself, but we have debauched the Legislatures of many of the States of the Union: It was only last evening that I saw in one of the New York papers an abstract of a report made to the Legislature of one of the States as to the amount of pensions, gifts, and bribes that had been given to the members of the Legislature of a State to influence it in the distribution of our bounty for railroad grants, by which it appeared that an absolute majority of the members of each House of the Legislature and of the State officers had been bribed by promises of stock and bonds of the company for the distribution of the lands.

It is well known to the Senate that I have opposed all the railroad grants without exception in the beginning, and that I am opposed to the agricultural bill that has come to us from the House of Representatives, and I am satisfied that the only way to remedy the abuse of the public domain is to give it to the actual settler. I would rather give it to him under a preemption law, or if that is too high, under a graduation law, but I am satisfied that it is not sufficient to correct the evil. I am willing to give it to him for nothing, and therefore I shall vote for this bill.

Mr. JOHNSON, of Tennessee. Mr. President, I was in hopes this bill would pass with little or no opposition. The subject has been before the country for a considerable length of time.

Mr. MASON. The Senator will allow me to interrupt him. As he is going into the general subject, I think it due to him and the occasion, that we should hear him at an earlier hour in the day. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, May 19, 1858.

The House met at eleven o'clock, a. m. Prayer by Rev. Mr. ROGERS.

The Journal of yesterday was read and approved.

CONTESTED ELECTIONS.

Mr. HARRIS, of Illinois. I am instructed by the Committee of Elections to report back the memorial of H. P. Brooks, contesting the right of H. WINTER DAVIS to a seat upon this floor, and ask that the committee be discharged from its further consideration.

While I am on the floor, I wish to give notice that the reports in the Ohio contested-election case are printed, and I propose calling up that case in the House to-morrow.

The motion to discharge the committee from the consideration of the memorial of H. P. Brooks was agreed to.

EXPENSES OF THE GOVERNMENT.

Mr. BOYCE. I ask the consent of the House to present the report of the select committee on

the subject of the expenses of the Government for the purpose of reference.

There being no objection, the report was received, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. JONES, of Tennessee. Is that the report on the tariff question?

Mr. BOYCE. It is.

Mr. JONES, of Tennessee. I submit the motion, that five thousand extra copies of that report be printed.

The motion, under the rules, was referred to the Committee on Printing.

ORDER OF BUSINESS.

Mr. DAVIS, of Indiana. What is the regular order of business this morning?

The SPEAKER. It is the consideration of the report of the select committee on the Fort Snelling investigation.

Mr. DAVIS, of Indiana. Will that take precedence of a motion to call the committees for reports?

The SPEAKER. It will.

SLOO GRANT.

Mr. MARSHALL, of Kentucky, by unanimous consent, offered the following resolution; which was considered, and agreed to:

Resolved, That the President be, and he is requested, to communicate to this House, if not incompatible with the public interest, all the information which may be in the possession of the Government as to the position of the work across the Isthmus of Tehuantepec, which has been heretofore prosecuted under the Sloo grant, and all the instructions which have heretofore been given by the Executive to the Minister of the United States in Mexico, touching, or in anywise affecting, the operations of the said Sloo under said grant; and especially whether the Executive of the United States has been privy to the annulling of the grant to said Sloo by decree of the Mexican Executive to that effect; and that he further communicate to this House whether said grant has passed into the hands of other parties under the advice or suggestion of the Executive of the United States, or with any other person connected therewith, with the knowledge of the President. If so, who the said party is, and upon what terms the said party has acquired the claim, and such information as may be in possession of the Executive as to the prosecution of said work on the Isthmus of Tehuantepec by that party since the obtaining of the said decree, and also whether any mail contract has been granted to the said persons by this Government or any Department thereof, and if so, upon what security and authority.

Mr. MARSHALL, of Kentucky, moved to reconsider the vote by which the resolution was agreed to, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate by ASBURY DICKINS, their Secretary, informing the House that the Senate had agreed to the amendment of the House of Representatives to the bill (S. No. 312) to provide for the collection and safe-keeping of the public archives in the State of California.

Also, that the Senate had passed an act (S. No. 239) for the admission of Oregon into the Union, in which he asked the concurrence of the House.

JOSEPH CLYMER.

Mr. PHELPS. I ask the consent of the House to submit a motion to discharge the Committee of the Whole House on the Private Calendar from the adverse report of the Court of Claims on the case of Joseph Clymer, and that it be referred to the Committee of Claims. The report states that the court has no jurisdiction in the case, leaving it in the discretion of Congress. I hope there will be no objection.

There being no objection; the Committee of the Whole House was discharged from the further consideration of the report, and it was referred to the Committee of Claims.

CORRECTION.

Mr. MAYNARD. I rise to a personal explanation. The matter is this: I notice in the Globe of yesterday that I am not recorded as voting upon the resolution for expelling the Doorkeeper. I was present, and voted in the negative.

PRINTING OF AGRICULTURAL REPORT.

Mr. SINGLETON. I rise to a privileged question. I submit from the Committee on Printing the following resolution:

Resolved, That there be printed for the use of the House of Representatives two hundred thousand extra copies of the report of the Commissioner of Patents on agriculture, for 1857, and ten thousand for the use of the Patent Office: *Provided*, That the aggregate number of pages contained in said report shall not exceed five hundred and sixty-eight, including ten pages of illustrations on wood: *And provided further*, That the entire amount of copy necessary to complete said report be placed in the hands of the Superintendent of Public Printing on or before the 31st day of August next.

Mr. GARNETT. I object to that report.

The SPEAKER. The gentleman has no right to object.

Mr. JONES, of Tennessee. I wish to inquire if that report has been submitted to the House?

The SPEAKER. A portion of it has.

Mr. JONES, of Tennessee. Well, sir, I am opposed to printing one word more than has been communicated to the House.

Mr. SINGLETON. I will make a very brief explanation of the resolution.

Mr. JONES, of Tennessee. I ask whether this report has been ordered to be printed.

The SPEAKER. It has.

Mr. JONES, of Tennessee. When?

The SPEAKER. About a week ago.

Mr. JONES, of Tennessee. Well, sir, I have been watching this thing all along, and I have seen nothing of it. I think it is time to stop the printing of these documents which have not been written, and that we might as well commence now.

Mr. SINGLETON. If I can have the attention of the House for a short time, I will explain this matter. I intend to make no long speech about it. The number which we have printed is identically the same which has been printed of the agricultural part of the Patent Office report for some years past—two hundred thousand copies.

Mr. JONES, of Tennessee. Not more than two sessions. The number which was formerly printed was one hundred thousand. The House at the first or second session of the last Congress, I do not recollect which, for the first time printed two hundred thousand.

Mr. SINGLETON. Well, sir, I know it was the case for several sessions back.

Mr. JONES, of Tennessee. I do not think it went back of the first session of last Congress.

Mr. SINGLETON. I have to say further in regard to the matter, that the Committee on Printing have determined that there shall be no colored plates in the agricultural report for the year 1857, as there have been for several preceding years. We have determined to dispense with these colored plates entirely. This a saving to the Government of from forty to fifty thousand dollars. We also provide that there shall only be ten pages of wood cuts in that volume, the cost of which will scarcely amount to anything. I think the cost of those cuts will not average over twenty dollars, and the placing of them in the volume will cost no more than ordinary printing. The committee are of the opinion, notwithstanding the gentleman from Tennessee differs from us, that this is a work which should be continued for the benefit of the agricultural interests of the country. We find that there is a great demand for the work; and, so far as my own experience is concerned, I believe it has been a source of great benefit to the country, and has tended more to create a spirit of emulation amongst the planters, and to get up the formation of agricultural societies, than anything which has ever been done by this body. The agricultural interest of the country is much larger than any other, and the farmers and planters are, to all intents and purposes, the tax-paying part of the community. We very well know that the producer is the man upon whom the taxes for the support of this Government must eventually fall. And it does seem to me that, although the expense of this work may be considerable, it is a good investment. The book will not cost a sum exceeding fifty or sixty cents per volume; and

there cannot be procured, that I am aware of, at any bookstore, a work containing the same amount of information for the planter for the same money. I have much larger applications for this work than I can answer. I find that not only the wealthy planters, but the poor men are taking an interest in it, and that it is creating that sort of spirit of emulation amongst the planters which has heretofore been wanting in the community.

I do not know that it is necessary for me to say anything more in reference to this matter. It seems to me that every man must be impressed with the importance of printing the book; and if we print at all, we should have at least two hundred thousand copies of it. If you reduce that number, you might as well dispense with its publication altogether. I presume that every man has made up his mind on the subject, and I therefore call for the previous question.

Mr. GARNETT. I hope the gentleman from Mississippi will withdraw the previous question for a moment, that I may say a few words.

Mr. SINGLETON. I cannot withdraw it for any one.

The previous question was seconded; and the main question ordered to be put.

The question recurring on the adoption of the resolution, the House was divided. The Speaker announced that the "ayes" appeared to have it; whereupon—

Mr. JONES, of Tennessee, called for the yeas and nays.

The House was divided on the call for the yeas and nays; and there were—ayes 21, noes 111; when—

Mr. JONES, of Tennessee, called for tellers on the yeas and nays.

Tellers were refused.

Mr. JONES, of Tennessee. I move to lay the resolution on the table.

The SPEAKER. The resolution is adopted. Mr. JONES, of Tennessee. I moved to lay the resolution on the table.

The SPEAKER. The gentleman could not make the motion, as the question had been taken.

Mr. JONES, of Tennessee. I appeal from that decision. I have rights here which I wish to have protected. I made the motion before the result of the vote was announced.

The SPEAKER. The question is, "Shall the decision of the Chair stand as the judgment of the House?" The precise state of facts is this: the question was first taken by acclamation. The Chair stated that the ayes appeared to have it; the gentleman from Tennessee called for the yeas and nays; the House refused the yeas and nays. The gentleman then called for tellers on the yeas and nays. The House refused the tellers. Then the gentleman from Tennessee moved to lay the resolution on the table. The vote had been previously taken, and the Chair announced the result, stating it was too late for the gentleman from Tennessee to make a motion to lay upon the table after the House had determined by a vote to adopt the resolution. From that decision of the Chair the gentleman appeals.

Mr. WASHBURN, of Illinois, moved to lay the appeal on the table.

The motion was agreed to; and the appeal was laid on the table.

Mr. SINGLETON moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

EVENING SESSIONS.

Mr. JOHN COCHRANE. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the House, for the remaining days of this week, at half past four o'clock, p. m., do take a recess until half past seven o'clock, p. m., at which time the House shall resolve itself into a Committee of the Whole on the state of the Union generally, and that at such sittings of the committee no motion be in order, except that the committee rise.

Mr. DAVIS, of Mississippi. I object.

Mr. STEPHENS, of Georgia. I think it would be better, if we intend to adjourn in June, to agree to the resolution, and have evening sessions for general debate. I trust, therefore, that the gentleman from Mississippi will withdraw his objection.

Mr. DAVIS, of Mississippi. No, sir; I do not withdraw it.

Mr. JONES, of Tennessee. I object to any recess.

FORT SNELLING.

Mr. PETTIT. Mr. Speaker, it will be remembered by the House, that to-day has been set apart for the purpose of taking up as the special order the resolution of the committee appointed to investigate the facts and circumstances connected with the sale of Fort Snelling. By agreement of the committee it is now desired—and it is hardly necessary that I should state the reasons—that this order shall be postponed; and I rise for the purpose of making the motion that the special order be postponed until Wednesday of next week.

The motion was agreed to.

PRINTING OF BOOKS BY CONGRESS.

Mr. NICHOLS. Mr. Speaker, I wish to call the attention of the House this morning to certain resolutions that are embodied in report No. 378. Some time since the gentleman from Kentucky [Mr. BURNETT] introduced a resolution asking the attention of the Committee on Printing to the propriety of reducing the number of certain works ordered by previous Congresses. This report is in response to that resolution. It is short, and I ask that it be read, and I shall ask for action upon the resolutions accompanying it this morning.

Mr. WASHBURN, of Illinois. Is this a privileged question?

The SPEAKER. The Chair understands that it is a report from the Committee on Printing.

Mr. NICHOLS. Yes, sir, it is a report made in response to a resolution of the House.

Mr. SINGLETON. I ask the particular attention of gentlemen to the report, as we are about to act upon it.

The Clerk read the report, as follows:

The Joint Committee on Printing, who were instructed by a resolution of the House of Representatives of the 5th of April last "to inquire into the propriety of suspending the printing of any books which may have been ordered by any previous Congress; and if the printing of any of said books has been commenced, that they inquire how far the work has progressed, and whether it is proper to discontinue their publication, and pay for the work which may have been done; and that they report by bill or otherwise," respectfully ask leave to submit the following report:

That they have carefully examined into the matters referred to them, and have found that all the reports ordered to be printed by Congress, previous to the present session, have either been completed, or are in such a state of forwardness that the suspension of either of them would result in the loss of much valuable information to the country, which has been collected at very great expense.

Their investigations, however, have led them to the conclusion that, while they recommend the completion of the printing of all the reports heretofore ordered, the number of copies may be so reduced upon some of the volumes not yet printed as to effect a very considerable saving of the public money, and, at the same time, furnish as many copies of each as will meet all the requirements of the Government and of the public.

The unfinished works are three in number; as follows:

1. *The Report of the results of the United States Naval Astronomical Expedition to Chili*, ordered to be printed at the first session of the Thirty-Third Congress. This work will comprise six volumes; four of which are printed, and the printing of the remaining two is progressing simultaneously. The number of extra copies being small—one thousand for the Senate and two thousand for the House—the saving of expense to be effected by rescinding the resolutions to print them would be so inconsiderable that the committee do not deem it expedient to recommend any interference with existing orders.

2. *Reports of Explorations and Surveys to ascertain the most practicable and economical route for a railroad from the Mississippi river to the Pacific ocean*. These reports will make twelve large quarto volumes, (including one volume of charts,) elaborately illustrated. The Senate has ordered the printing of twelve thousand four hundred copies, and the House eleven thousand five hundred and twenty copies. The printing of eight volumes has been completed; the ninth and tenth have been nearly finished; the eleventh (comprising the narrative of Governor Stevens's expedition) has not yet been commenced, nor the copy furnished; and the printing of the twelfth, being the volume of charts, has not yet been commenced, though the whole expense of engraving these charts on copper, amounting to about forty-five thousand dollars, has been incurred. Inasmuch as the volume comprising the narrative of Governor Stevens's expedition will not be prepared in time to commence the printing previous to the next session of Congress, and as a disposition is manifested to curtail all expenditures in reference to this work that can with propriety be made, your committee submit a resolution herewith which dispenses with the publication of this volume until Congress shall otherwise direct. The cost of this volume is estimated at \$103,000.

The committee also recommend that the number of copies of the volume of charts be reduced from twenty three thousand nine hundred and twenty to three thousand nine hundred and twenty copies, which will give the usual number of copies for the two Houses of Congress, five hundred copies for the use of the War Department, and fifty copies heretofore ordered by the Senate to each of the officers commanding expeditions. This will effect a saving of upwards

of eighty thousand dollars. Should the wants of the Government hereafter require an additional number of these charts, they could be procured at small expense, as the plates from which they are printed are the property of Congress, and will be preserved for future use.

3. *Report of the United States Commissioner to survey the boundary line between the United States and the Republic of Mexico*, ordered to be printed at the first session of the Thirty-Fourth Congress. This report comprises two volumes, the first of which has been completed. Of the second volume, the Senate has ordered the printing of two thousand extra copies; and, if the order of the House to print the report included also the printing of the second volume or appendix, there are required for the House ten thousand extra copies. This volume will contain about five hundred pages of text, and two hundred and eighty two pages of illustrations; and its estimated cost is \$107,000. The engraved plates for this volume have all been contracted for, under the authority of the Secretary of the Interior, and are nearly completed.

As the number of copies ordered appears to be more than the public interest requires, the committees recommend that it be reduced to one thousand extra copies for the Senate, and three thousand for the House, thereby effecting a saving of about sixty thousand dollars.

There are also six large index maps engraved on copper; but as they are not intended to be bound in either of the volumes of the report, and as there appears to be no general interest attached to them, it is recommended that they be turned over to the Secretary of the Interior, who could have copies printed from time to time, as the public interest might require.

The amount required to complete the printing and binding of these reports, with the illustrations, is estimated at \$643,423. To stop all of them at present would effect an apparent saving of probably four hundred thousand dollars; but this would cut off entirely the fourth and fifth volumes of the astronomical report, four volumes of the Pacific railroad reports, and the second volume of the Mexican boundary report, and would render wholly valueless printed and engraved matter, which has either been paid for or yet to be paid for, amounting to more than half a million of dollars; much of which, doubtless, is absolutely necessary for the uses of Government, and all of which is valuable or interesting to the public. If, however, the recommendations of the committee meet the approbation of Congress, the sum of \$306,000 will complete all the reports in reduced numbers, (though it is believed sufficiently large for all necessary purposes,) and a saving thereby effected of about three hundred and thirty thousand dollars.

The committee, therefore, recommend the adoption of the following resolutions:

Resolved, That the resolution of the House of Representatives of the 14th February, 1853, directing the printing of ten thousand extra copies of the reports of the explorations and surveys to ascertain the most practicable and economical route for a railroad from the Mississippi river to the Pacific ocean, be so far modified as that no extra copies of the volume of charts be printed for distribution by the members of this House; and that the printing of the volume comprising the narrative of the expedition under Governor Stevens, be suspended until the further order of the House.

Resolved, That the resolution of this House of 15th August, 1850, which directs the printing of ten thousand extra copies of the report of Major Emory on the Mexican boundary survey, be so far modified as to authorize the printing of three thousand extra copies, for distribution by the members of this House, of the second volume or appendix to said report.

Mr. NICHOLS. I desire simply to state—

Mr. J. GLANCY JONES. I wish to ask the gentleman from Ohio if he intends to call the previous question upon the resolution?

Mr. NICHOLS. That is my intention.

Mr. J. GLANCY JONES. I hope the gentleman will do so.

Mr. WALBRIDGE. Will the gentleman from Ohio yield me the floor for a moment?

Mr. NICHOLS. I desire to go on without interruption if I can, and I say it with no disrespect to any member of the House. I will yield to the gentleman to propound a question.

Mr. WALBRIDGE. Will the gentleman permit me to offer an amendment to his resolution?

Mr. NICHOLS. I desire to make my own statement in reference to this matter. I will allow the gentleman to indicate to the House his amendment hereafter, and then decide whether I will withdraw the previous question to admit it.

Wherever a work has not been commenced, wherever no contracts have been let, wherever no obligation has been incurred on the part of the Government under the orders of previous Congress, we strike the work all down. It is our intention to do so, and I call the attention of the House to one single fact in regard to the Pacific railroad.

Mr. BURNETT. Will the gentleman permit me to ask him a question?

Mr. NICHOLS. I beg the gentleman to understand that I wish to dispose of this question without interruption to the other business of the House. I think I shall anticipate the gentleman's question before I get through. I say that where ever no liability has been incurred, we seek to cut off the work, to stop it here, and to save expense. But we recommend the continuance of most of the work that has progressed so far towards comple-

tion that to stop it now would subject the Government to reclamations for damages, and would be productive of no good in the end. But where ever the work has not been commenced, it is recommended by the committee that it shall not be done, and that nothing more shall be commenced.

I call the attention of the House to these Pacific railroad surveys. Originally, the work was estimated for, and its publication was recommended upon the assurances of those who had it in charge that it would make only four volumes. It was subsequently ascertained that they proposed to make six volumes of it. And now we have information that a twelfth volume has been prepared during this session of Congress, and has been so far advanced in its preparation that they ask the Government to make it a supplemental volume to the work. Sir, if there is no check put to it, what assurance have we that the work ever will be completed? We propose a discontinuance of it, and a notification to those who have it in charge that their labors ought to conclude, if they have not done so.

In reference to the charts and maps, I desire to call the attention of the House to a practical question. We propose, inasmuch as they have been prepared, to turn them over to the Secretary of the Interior. They are public property, the property of the Government. They have been prepared under appropriations made by Congress under the direction of the Secretary of War, without the concurrence of the Superintendent of Public Printing at all, and whenever occasion requires the printing or publication of any more maps, then the property is in the hands of the Government, and Congress can order their publication. I will state, in conclusion, that the result which we arrived at was that, by the adoption of the committee's report, a saving of \$306,000 would be effected. I now move the previous question.

Mr. WALBRIDGE. We have published, I believe, eight or ten volumes of the Pacific railroad surveys, all pertaining to southern routes. Now, I ask the House, if they are willing to suppress the only volume that we are to have in relation to the extreme northern route? I desire to move to strike out that part of the resolution.

Mr. NICHOLS. I will say in reply to the gentleman, that the surveys of Governor Stevens are embraced in the first volume, and the volume that he now proposes to submit is simply the narrative and natural history of these explorations. I insist on the call for the previous question.

Mr. WALBRIDGE. I hope the House will vote down the previous question. The simple preliminary explorations of the northern route are all that are in the first volume.

Mr. GREENWOOD demanded tellers on the previous question.

Tellers were ordered; and Messrs. REAGAN and BUFFINGTON were appointed.

The House divided; and the tellers reported—ayes 86, noes 44.

So the previous question was seconded.

The main question was then ordered to be put.

Mr. WALBRIDGE demanded the yeas and nays on the adoption of the resolution.

Mr. COBB called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. WALBRIDGE and SINGLETON were appointed.

The House divided; and the tellers reported—ayes thirty-eight.

So the yeas and nays were ordered.

Mr. WALBRIDGE. I ask for a division of the question. There are two resolutions.

The SPEAKER. The Chair cannot now entertain the call for a division. If the gentleman had asked for a division before the previous question was seconded he would have been entitled to it.

Mr. WALBRIDGE. I will not appeal from the decision of the Chair.

The question was taken; and it was decided in the affirmative—yeas 115, nays 65; as follows:

YEAS—Messrs. Abbott, Adrain, Anderson, Atkins, Avery, Blair, Boeck, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caskie, John B. Clark, Clawson, Clay, Cobb, John Cochran, Corning, Cragin, James Craig, Crawford, Curtis, Davidson, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dowdell, Edmundson, Elliott, English, Eustis, Florence, Foley, Garnett, Gartrell, Gillis, Gilmer, Goode, Greenwood, Gregg, Grow, Lawrence W. Hall, Thomas L. Harris, Hatch, Horton, Hughes, Huyler, Jack, son, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kellogg, Kilgore, Jacob M. Kunkel-

Lamar, Lawrence, Leidy, Letcher, Maclay, McQueen, Samuel S. Marshall, Mason, Maynard, Miller, Moore, Isaac N. Morris, Mott, Niblack, Nichols, Parker, Peyton, Phelps, Phillips, Powell, Quinman, Reagan, Ricard, Ruffin, Russell, Sandidge, Seales, Searing, Seward, Aaron Shaw, Henry M. Shaw, John Sherman, Shorter, Singleton, Robert Smith, Samuel A. Smith, William Smith, Spinner, Stallworth, Stanton, Stephens, Stevenson, James A. Stewart, Talbot, Miles Taylor, Tripp, Underwood, Walton, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, John V. Wright, and Zollicoffer—115.

NAYS—Messrs. Ahl, Andrews, Arnold, Bennett, Bingham, Bliss, Buffinton, Burlingame, Case, Chaffee, Ezra Clark, Clemens, Cockerill, Colfax, Covode, Cox, Danrell, Davis of Massachusetts, Dawes, Dean, Dimmick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foster, Gilman, Gooch, Goodwin, J. Morrison Harris, Haskin, Hill, Howard, Kelsey, Knapp, Landy, Lovejoy, Matteson, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Murray, Olin, Palmer, Pettit, Pike, Potter, Pottle, Ritchie, Robbins, Royce, Scott, William Stewart, Thayer, Thompson, Tompkins, Wade, Walbridge, Cadwalader C. Washburn, Elihu B. Washburne, Wilson, and Wood—65.

So the resolutions were adopted.

Mr. NICHOLS moved to reconsider the vote by which the resolutions were adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. NICHOLS. I move to refer the estimates contained in the report to the Committee of Ways and Means.

The motion was agreed to.

EXPENSES OF THE GOVERNMENT.

Mr. GARNETT. Mr. Speaker, my friend from South Carolina [Mr. BRYCE] made a report this morning from a select committee, of which I am a member. I desire to ask leave to present hereafter a minority report, which is not quite prepared.

There being no objection, leave was granted.

CIVIL APPROPRIATION BILL.

Mr. J. GLANCY JONES. I move that the rules be suspended, and the House resolve itself into a Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. SMITH, of Tennessee, in the Chair,) and resumed the consideration of the bill (H. R. No. 200) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1859.

The CHAIRMAN stated that the pending question was on the amendment of Mr. MARSHALL, of Kentucky, to strike out the following clause of the bill:

"For collection of agricultural statistics, investigations for promoting agriculture and rural economy, and the procurement and distribution of cuttings and seeds, \$60,000."

Mr. LOVEJOY. Is an amendment to the amendment now in order?

The CHAIRMAN. The amendment is open to amendment.

Mr. LOVEJOY. I move to amend the amendment by striking out "\$60,000," and inserting "\$100,000."

Mr. Chairman, we annually vote here millions piled upon millions, almost without discussion, and without opposition, for the Army and for the Navy—\$10,000,000 in deficiency bills, and all that sort of thing; but when we come to a proposition to give a few thousands instead of millions for agriculture, for the benefit of the class which really bear the greater portion of the burdens of the Government, it is met with objection and opposition.

We have been chasing down doorkeepers and clerks and reporters and messengers and pages, we have set figure-fours for catching the mice which are eating Uncle Sam's cheese, while the wolves have been gorging themselves from the fold. Now I protest against taking out the little pittance that we vote here for the farming interest.

The gentleman from Kentucky, [Mr. MARSHALL] moves to strike out the entire clause. We have willingly paid for war-horses, and for warriors to ride them, and who do ride them until they are as destitute of caudal appendages as was Tam O'Shanter's mare, according to the statement of the gentleman from Kentucky, [Mr. MARSHALL] himself. And yet he cannot vote a small appropriation for seeds and cuttings for the farming population.

Mr. DEAN, (in his seat.) Turnips.

Mr. LOVEJOY. Yes, sir; there is an attempt

to ridicule this appropriation on the ground that it is for the purchase of hollyhocks and morning-glories and mignonnettes and French poppies. Now, sir, I would as soon vote money for poppies as popinjays. It is well known that we vote means for grinding out popinjays at the Military Academy at West Point, who strut around with little epaulettes upon their shoulders, and red or yellow stripes up and down their pants. They are swarming over the country everywhere like the frogs and locusts of Egypt. You have no appropriate use for only a small portion of these persons. Some of them, it seems, are employed as lamp-lighters, and horses are provided for them to ride up stairs to pour oil into their lamps, I suppose; for I do not know what other use they have for horses.

But all this is right enough. I do not know whether these young gentlemen could couch a lance in an actual tilt or not; they no doubt understand the tournament of "*les Lanciers*." I do not know how well they understand the drill of the manual exercise; they are familiar with the mazes of the polka and the waltz. I do not know how well they understand marching to the sound of martial music to the field of battle; but they know perfectly well how to saunter around in your parlor hotel, stroking down their mustaches, and playing all the pranks of an exquisite.

To pay large sums to educate these dapper gentleman, is all well enough; but nothing can be voted for the farming interest. Why, sir, I would sooner vote money for good cabbage-heads. But, sir, the remarks of the gentleman from Kentucky are all well enough against the abuses of this thing; but not against the thing itself. If you are going against everything that is abused, there would be but very little of the Government left. If you will look at the Administration itself, you will find, as I think, that it is composed of measureless abuses; but that is a matter of opinion.

Now, sir, these military men are to be found everywhere. The superintendent for constructing this Capitol must be a military man; and if you ask for their monuments, I would reply in the language of the epitaph of Sir Christopher Wren, in St. Paul's: "*Si monumentum queris, circumspice*." If you want a monument of military architecture, look at the meretricious and garish gilding of these walls, and the splendid specimens of fresco paintings in these panels. And then go down into the Agricultural Committee-room—at one end is a representation of Old Put leaving his plow; and at the other end is Cincinnatus, also leaving his plow.

Now, sir, the proper idea is, in my view, to have given some paintings that would represent the agriculture of the present time—of 1858—so that one or three hundred years hence those who see them should learn what was the condition of agriculture of the present year. There is one exception—that of a reaper. This is as it should be. That is on one side, in the middle of a field of wheat, and looks very well, except that it ought to have been at the side of the field, as that is where cutting begins. Over head, we have pictures of Bacchus, Ceres, and so on, surrounded with cupids, cherubs, &c., to the end of heathen mythology. All this we have; but not a single specimen of the valuable breeds of cattle, horses, sheep, &c., which are now found in the country. In another panel, we have a company of harvesters, with the sickle, which is well enough, only a quarter of a century too late.

But worst of all, there is not a single picture to represent maize. A panel ought to have been given to this single production. It should have been represented in its different stages; as it emerges, weak, and diminutive, from the ground; as it sways in its dark luxuriance of June and July; and then as it waves its tasseled crest, like the plumes of an armed host; and last, in its rich golden maturity.

The picture of Putnam would have been very well in the committee-room of Revolutionary Claims, but has no significance where it is, as it is a revolutionary reminiscence. In the place of this should have been the picture of a western plow, with its polished steel mold-board, with the hardy yeoman, with one hand resting on the plow-handle, and with the other holding a span of bays, with arched neck and neatly-trimmed harness. Pictures are symbols of ideas, and this would have told to the future the present mode of cul-

ture of free labor. At the opposite end, in the place of Cincinnatus and his plow, (the plow of two thousand years ago,) there should have been a negro slave, with untidy clothing, with a slouching gait, shuffling along by the side of a mule team, with ragged harness and rope traces, drawing a barrel of water on the forks of a tree. This would represent the idea of slave labor. Thus we should have a symbol of the two systems of labor now struggling for the ascendancy.

Mr. SMITH, of Virginia. I presume the House will very readily concur with me in the opinion, as a matter of courtesy at least, that if the gentleman from Illinois [Mr. LOVEJOY] had the management of this great Republic, things would be infinitely better managed than they are at present. He reminds me very much of the man who was always finding fault with the weather, sometimes complaining that it rained a little too much, sometimes that it was a little too dry; but always finding fault with the arrangements of Him who rules on high, and governs all things well. I do not, however, intend to indulge in criticism, and I will therefore address myself to the question now under consideration. I will not discuss the question of the jurisdiction of the House over this question, or of the propriety of making the members of the House the great seed distributors of the Republic.

In the first instance, allow me to say that one objection I have to the measure is, that it is utterly impossible for the members of the House to send seeds to all their constituents. There is not a member here who has not experienced the inconveniences arising from that fact. It is utterly impossible for him to obtain a supply sufficient to furnish every constituent, and the effect of discriminating is that while he flatters one he offends another.

Mr. STANTON. Yes, a dozen others.

Mr. SMITH, of Virginia. Yes, that is true. A MEMBER. Send them in smaller parcels.

Mr. SMITH, of Virginia. Gentlemen may scatter their seeds in small parcels and spread them over more surface.

Mr. STANTON. That makes the matter still worse.

Mr. SMITH, of Virginia. Yes, sir; I say it is a great labor for the Representatives upon this floor to engage in this business of distribution. It is impossible to be performed without giving more or less offense, and I have no doubt it is a source of much unpopularity.

But there is another view of the subject. Is there any necessity for this appropriation? Can the people of the country derive their seeds in no other way than through this channel? I say they can usually do it, for where there is a demand, there is enterprise enough to supply that demand. What right have we to come into competition with the seedmen of the country—with that legitimate individual competition which is for the benefit of the whole people? What right have we to set up an establishment, in a marble building here, to come into competition with the seed-stores of Philadelphia, Baltimore, and other cities? That is what we are doing. We are the rivals of the private enterprises of the American people. Ought we to occupy that position? There is not a gentleman here who will not admit that what we do here is within the reach of private enterprise.

In these two aspects, it does seem to me that we ought to rid ourselves of this duty, because, in undertaking to perform it, we render no substantial interest to the country. I trust the amendment of the gentleman over the way will not be adopted, and that the appropriation will be materially diminished.

Mr. LOVEJOY, by unanimous consent, withdrew his amendment.

Mr. GREENWOOD. I offer the following amendment:

That no portion of the sum hereby appropriated shall be applied to the purchase of flower seeds.

The House has this morning ordered the printing of two hundred thousand volumes of the agricultural portion of the Patent Office report. It was alleged by the gentleman from Mississippi, [Mr. SICKLES]—and very properly too—that the object of printing this work was for the purpose of advancing the farming interest of the country. If that be true, and I do not doubt it, I think the amendment now pending is in furtherance of that object—that it is for the purpose of procuring such

seeds, through the instrumentality of the Patent Office, as will improve the agricultural interests of the country. My experience is that a large amount of the sum heretofore appropriated for the purpose of purchasing seeds and cuttings, which are proper to be distributed among the farmers of the country, has been appropriated for the purpose of buying flower seeds, which are of no earthly benefit to any person whatever. A large portion of them upon fair trial have proved to be utterly worthless. The Patent Office has been imposed upon to a considerable extent in the purchase of these seeds; but if it is the determination of the House to make an appropriation of \$60,000 for the purpose of purchasing seeds for distribution among the farmers of the country, I think it is right and proper that the motion of the gentleman from Kentucky to strike out the entire clause should not prevail. I trust, however, if the motion should not prevail, the restriction contained in my amendment may be adopted, so as to prevent the Patent Office from expending any portion of the amount for the purchase of flower seeds.

Mr. SMITH, of Virginia. I would rather have the flower seeds than anything else. Bless my soul! the ladies must have the flower seeds.

Mr. GREENWOOD. I cannot agree with the gentleman in that particular. I take it that they have no power to purchase any character of seeds for distribution which are merely for ornamental purposes. We have the right, however, in my judgment, according to the Constitution, to encourage agriculture, and this is one of the modes of doing that.

As I said before, if this clause is to be retained, I hope my proviso will be adopted.

Mr. MARSHALL, of Kentucky. I rise to oppose the amendment offered to my amendment, and more particularly for the purpose of saying that I offered my amendment in good faith. Speeches are constantly made by public men here, readily understood, for carrying the farming class of this country to the groves of "Blarney." Now, let me say to gentlemen who indulge in this sort of thing, that there is no class of men in this country, whether considered in reference to their number, their substance, or their intelligence, ahead of the farming class, and that there is no class that can more correctly discriminate between those who pursue their substantial good, and those who keep up an appearance of it only, in promoting and maintaining a system that annually carries an expenditure of money which comes out of the farmers' pocket to an excess, without accomplishing any useful purpose.

Look at the rise in these appropriations! When I first came to Congress there was appropriated annually \$500 for this purpose. Afterwards the appropriation rose to \$1,000. Afterwards, when you had got this seed bureau in operation, and a man at the head of it, the appropriation ran up to \$10,000. In the last Congress, under pretense of getting sugar-cane for the purpose of resetting the fields of Louisiana, we put it up to \$75,000; and now here is a standing appropriation of \$60,000. Gentlemen on that side of the House, and indeed on all sides of the House, are complaining every day of the condition of the Treasury. When I propose to take the snags out of the Mississippi and the Missouri and the Ohio rivers, I am told of the condition of the Treasury, although the returns of the Government show that more than a million's worth of property of the western people is sunk annually in these matters. And yet you stand here, and, with smiling faces, spend \$60,000 a year for morning-glories and johnny jump-ups! [Laughter.]

Sir, if I wanted to do something substantial for the farming classes, I would select a tract of from three to five thousand acres from the Government lands in the fertile west; and I would give \$60,000 a year as a fund with which a model farm might be established under the guidance, not of politicians, as here in the bureaux of Washington, but of a class of men selected from the body of the agriculturists of the country. If this \$60,000 was annually expended in this way, it might result in some actual good to agriculturists. Think of it, sir, \$60,000 a year is six per cent. on a fund of \$1,000,000. You can give them such a farm without costing you anything. You may make a reservation for agricultural purposes, as you do for military purposes, out of your public lands. Allow \$60,000 a year to make experiments on such

a tract, in agriculture and horticulture, and you will soon find that instead of its being an annual drain on the Treasury of \$60,000, it will be a matter which every agriculturist would be willing to pay out of his own pocket.

The question was taken on Mr. GREENWOOD's amendment and it was rejected.

Mr. TALBOT. Feeling a deep interest in the agricultural and mechanical interest of the country, I move to amend by striking out "\$60,000" and inserting "\$70,000." If I did not conceive, Mr. Chairman, that this proposition was an entering wedge against the Patent Office, the great agricultural and mechanical department of the Government, I should not open my mouth; but the speech of my honorable colleague [Mr. MARSHALL] satisfies me most thoroughly on the subject. How is it, and why is it? I confess I am at a loss to know why it is, that whenever we want men to make up the armies of the country; we go to the farmers and to the mechanics; whenever we want men to make up the navies of the country, we go to the farmers and the mechanics; whenever we want food and raiment, we go to the farmers and to the mechanics; and whenever we want men and money, for any purpose whatever, we go to the farmers and mechanics. But whenever money is proposed to be appropriated for their benefit, we find the most gifted men of the House rise in their places, and with scorn and contempt, bring their mighty minds to bear against the project. Gentlemen endeavor to throw ridicule on the proposition to collect statistics and investigations for promoting agricultural and rural economy, by saying that the money is squandered for cabbage seeds and morning-glories. They are not willing to vote to their wives and daughters even cabbage seeds and morning-glories. How much money does this bill propose to appropriate for the purpose indicated? Only the pitiful sum of \$60,000. To how many people? To thirty million people, in thirty-three States. How much do you think it is to my congressional district? Only about one hundred and fifty dollars—about twelve dollars and fifty cents for each county I represent. And I believe there are at least one hundred men in each county who would be willing to pay that sum out of their own pockets every year for life rather than not enjoy the benefits to flow to them from the appropriation in question.

I am surprised to hear the proposition from any quarter, to strike out this appropriation. But I am the more astonished that this proposition should have come from my own State, and from my honorable colleague, who has the honor to represent one of the richest and proudest agricultural districts in that noble Commonwealth. My honorable colleague is one of the only two delegates from the State of Kentucky, to the convention of the great National Agricultural Association, gotten up solely for the purpose of promoting agriculture and the mechanic arts, and yet he is the first gentleman on this floor to move to strike out this appropriation. What, sir, is his proposition? To reduce the appropriation? No, sir. To make it \$30,000? No, sir. To make it \$20,000? No, sir. To make it \$10,000? No, sir; not a solitary dollar does he propose to give to collect statistics, &c., to promote the great agricultural and mechanical interests of this country; but he brings his mighty mind and his mighty arm to the work, and with one fell swoop strikes out the appropriation altogether. Sir, Kentucky is one of the first agricultural States in the Union, and the last State from which a proposition of this sort should have emanated, and my honorable colleague, representing the great agricultural interests he does, is the last man from whom I should have expected such a proposition.

I am, sir, for retrenchment and reform; but I am not willing to strike down, first of all, the great agricultural and mechanical department of the Government.

Mr. KEITT. I rise to oppose the amendment rather formally than otherwise. My judgment is against this whole scheme of distributing seeds, and in favor of the amendment of the gentleman from Kentucky, [Mr. MARSHALL.] Still, I do not think that anything is to be gained by prolonging this discussion. We have had it here every session for the last five years, and every member of the House has made up his mind about it. I do not regard it as a blow to the agricultural interests. The question that presents itself to my mind is

this: does anybody derive any advantage from this expenditure? Are the seeds, scattered through the country, grown by the Department or by the farmers?

Mr. TALBOT. I will answer the gentleman. I believe the State of Kentucky has, within the last three years, profited to the amount of \$1,000,000 by the distribution of the simple article of wheat.

Mr. KEITT. I am very glad that some good wheat was distributed to the State of Kentucky. I find here that \$12,000 is annually paid for salaries. I want to know from what fund these salaries are paid, whether out of this appropriation or not?

Mr. J. GLANCY JONES. The appropriation of \$60,000 is made by Congress directing the Secretary of the Interior to collect these seeds and distribute them. The estimate shows that to collect these seeds it requires \$60,000, which embraces payment for men of skill and talent to select them.

Mr. KEITT. Then the salaries of \$12,000 do come out of this \$60,000?

Mr. J. GLANCY JONES. Certainly.

Mr. KEITT. So far as my knowledge goes, these seeds are usually bought in the city of Washington.

Mr. J. GLANCY JONES. Many of them are bought in Europe.

Mr. KEITT. I have sometimes gone into the Patent Office, and been told that they had not the seeds I wanted, but that they would have them in a day or two. I do not think that this matter is worth the trouble of going into now. I wish to hasten the passage of the bill. I am in favor of the amendment of the gentleman from Kentucky, [Mr. MARSHALL,] to strike out the whole thing; but I do not think it is worth wasting further time on it.

Mr. TALBOT withdrew his amendment.

Mr. SEWARD. I offer the following amendment:

Provided, That it shall be the duty of the Commissioner of Patents to submit to the Committees of Accounts of the House of Representatives, at the commencement of each session of Congress, the invoices of seeds and cuttings purchased with the money hereby appropriated, and also a statement of the expenses in procuring agricultural statistics, and the incidental expenses in procuring seeds, cuttings, and information.

I am satisfied that this whole appropriation is entirely unnecessary; but if it has to be made I think it is important to the country to know how it is to be expended. The only way to correct the abuse is to hold the person who has control of the money to a strict accountability to show how it has been expended.

My impression is that so far from the Patent Office being a matter of competition with the seed stores in Washington, they derive a large amount of their support from it in the sale of a quantity of useless seeds. If we send agents to Europe to buy seeds, I want the accounts of their expenditures exhibited. I want to know the precise amount paid out for agricultural statistics and for any other information. I want to know the precise amount paid for salaries; and I want to have all in separate items, and to have the account presented to Congress. If we cannot defeat the system in any other way, I think we can in this way show up the abuse of the system, and so have it broken up.

Mr. SMITH, of Virginia. Will the gentleman modify his amendment so as to let the accounts be settled at the Treasury Department?

Mr. SEWARD. I accept that modification.

Mr. SMITH, of Virginia. I wish the gentleman would also accept this modification:

Provided, No salary or compensation to any person for services in collecting or distributing seeds, cuttings, &c., shall be paid out of this appropriation.

Mr. SEWARD. I have no objection to that. All I want, is to have a record of the transaction of the Patent Office connected with the purchase of these seeds. Here is \$60,000 appropriated, and no person held accountable for its proper disbursement, either to the Treasury Department or to Congress. The seeds that I have had to distribute since I have been in Congress were not worth the paper that they were wrapped in. They were seeds common all over the country. There seems to be a sort of mania in the Patent Office in favor of turnip seeds—green and blue and yellow and black, broad and narrow, and long. The flower seeds are not worth talking about. I have been

really abused by my constituents for sending them to them. Besides, it is a very great expense to the Post Office Department, to be sending out these worthless seeds. I do not know how many tons of such matter go annually through the mails, and have to be paid for out of the Treasury. By stopping this system, we will disburden the mails, and save a large amount of transportation by railroad and stages. I want to have it broken up, and think the only way to do it is to hold these gentlemen to a strict accountability.

Mr. LOVEJOY. I want to say, in reply to the gentleman from Kentucky, [Mr. MARSHALL,] that very likely there may be blarney in speaking of snags in the bottom of the Ohio river, and of old "sogers," as well as in speaking of the farming interest. I am the last man in this House to blarney farmers, or any other class of men. I insist that these objections of gentlemen are against the abuse of the system, and not against the system itself. I know that these seeds are very much valued by the farmers; and I insist that we ought not to strike out this appropriation, and that we ought not to lessen it, but that we ought to allow this system to go on, and to permit the valuable seeds to be introduced into the country which are being introduced under the system. I am sorry that I have not time to refer again to the extensions of this Capitol.

Mr. J. GLANCY JONES. I hope we shall now come to a vote.

The amendment to the amendment was agreed to.

The question then recurred on the motion to strike out the paragraph as amended.

Mr. COLFAX. I move, *pro forma*, to increase the appropriation from \$60,000 to \$80,000.

I move the amendment for the purpose of saying a few words on this \$60,000 appropriation. In the remarks which have been made, no reference has been made to the fact that this system of distributing seeds by the Patent Office has been the means of introducing into the country a variety of seeds which are worth far more to the agricultural interests of the country than the whole amount of the appropriation for this purpose. I refer, as a single instance, to the Mediterranean wheat, which was originally introduced into this country under the auspices of the Patent Office. I am familiar with the effect of its introduction into the northern States, and it is well known that the kind of red wheat known as the Mediterranean, is much more hardy and the crop more certain all over the northern States, than any kind of wheat before sown. It is not, from its early ripening, so liable to rust, and the stalk is so much stronger than the white that it defies the Hessian fly, unless in seasons when that pest of the farmer is unusually destructive. I mention as another instance, that the Patent Office have introduced the Chinese sugar-cane into the country, by which, although almost universally discredited as a humbug at the outset, the people of the northern States, and of all parts of the Union, indeed, have been able to raise saccharine matter in the shape of molasses, if not in the shape of sugar also. I also feel at liberty to state that it is proposed by the Patent Office to introduce into the country the culture of the tea plant, and that it is expected that this plant will be introduced into the whole South, if not also into the middle States. They are also now introducing the Chinese yam, the chufa, and other varieties, into the country, with what success the future of course must determine.

Mr. J. GLANCY JONES. I hope the gentleman from Indiana will allow me to say that we have five appropriation bills yet to act upon, and I am very anxious to get through with this bill.

Mr. COLFAX. I will detain the committee but a moment longer. I desire to say, that out of this very appropriation, two years ago, a scientific man was sent through the whole South to make investigations in regard to insects which infest the cotton plant; their peculiar habits and characteristics, and how they can be destroyed. I understand, and sincerely trust, that the assurances made to me will be verified; that it is now contemplated by the Patent Office to extend the system of investigation to the various insects which infest the wheat crop in the northern States; and I present this fact as an additional reason why the appropriation ought to be made. I appeal to the House, when so many millions are voted for

far less beneficent objects, that this small appropriation, almost the only item, in an entire series of appropriation bills, which relates directly to the agricultural interests of the country, shall be retained; and if there have been errors heretofore in distributing seeds which are not novel and rare, the expression already made upon this subject, during this debate, will doubtless cause their correction hereafter.

Mr. JONES, of Tennessee. I do not wish to make a speech upon this subject; but I wish to call the attention of the House to an item of expenditures for this seed-room for 1856. There is here the receipt of a man named Samuel Perkins, of fifty-four dollars for watermelons. Now, I suppose these watermelons were purchased in this city for the purpose of saving the seeds for distribution.

A MEMBER. What became of the watermelons?

Mr. JONES, of Tennessee. I do not know.

The question being on the amendment to the amendment, offered by Mr. MARSHALL, of Kentucky,

Mr. JONES, of Tennessee, demanded tellers. Tellers were not ordered.

The amendment was not agreed to.

Mr. CLAY. I move to amend, by adding the following:

Provided, That said seeds and cuttings shall be sent by the Commissioner of the Patent Office to the presidents of the agricultural societies of counties of such States and Territories which have such societies, and to the clerks of the county courts of those counties which have not such societies.

Mr. J. GLANCY JONES. I merely wish to remark that I approve of that amendment, which merely provides for the distribution by the Commissioner of the Patent Office, instead of by members of Congress, thus relieving them from the inconvenience of distributing them.

Mr. SEWARD. I offer the following proviso to the amendment:

Provided also, That it shall be the duty of the Commissioner of Patents to divide into equal parts all the seeds among the two hundred and thirty-four members of the House of Representatives, the sixty-four Senators, and seven Delegates from the Territories, having regard to quantity and quality, and shall send the same to the clerks of the county courts in the several counties of each State, giving to each State its quantity in proportion to the number of Representatives and Senators of said State, to be distributed by said clerks among the people of the several counties aforesaid.

That amendment relieves members from the trouble of sending seeds to their constituents. It makes it the duty of the Commissioner of Patents to divide the seeds in equal quantities, having regard to qualities; and that he send them to each State in proportion to their Representatives and Senators, to the clerk's office in each county, for them to divide among the people, so that the people can have a fair distribution, without in any way inconveniencing members of Congress.

Mr. SHAW, of Illinois. I wish to say, sir, that I entirely agree with the gentleman from Kentucky [Mr. MARSHALL] that this appropriation by the Government of \$60,000 per annum for seeds is all wrong, and I am opposed to the action of this Government in relation to this expenditure. I regard it as a great waste of public money. Nine tenths of the seeds which are procured and distributed by this Patent Office department are collected in our own country. A swarm of Government employes are paid large sums for eating melons in this city, and selling the seed to the Patent Office for distribution. A very large amount of this \$60,000 is annually wasted in taking care of and distributing these seeds; and what are they at best? Nine tenths are such as are to be found at every good farm-house in this country. They are made up of seed-corn, tomato-seed, Maryland tobacco-seed, sweet corn, water-melon seeds from Ohio, Pennsylvania, and Long Island—in other words, it embraces a class of seeds found at the door of every good farmer throughout the land.

I do not agree with the gentleman from Illinois, [Mr. LOVEJOY.] It is all a humbug. He mistakes the character and common sense of the farmers if he believes he is to flatter them with appropriations of that character. Ten dollars, annually expended upon the part of each county agricultural society, would furnish more and better seeds than those we are now receiving. Read the names on those seeds, and I venture to say that hardly a man in this House can determine

what they are. The gentleman from Illinois [Mr. LOVEJOY] may be versed in French. He seems to have a large amount of Latin on hand to read upon occasions of this kind; and in his attempt to manufacture Buncombe for his constituents, he made a most unwarrantable and contemptible attack upon the naval and military institutions of this country. It may suit his purpose, and the purpose of his constituents, to purchase these seeds; but I can say for myself that I can see no good, as derived by the farmer, commensurate with the expenses. Go to the public barn here, and examine the amount of public building required for storing these seeds; go through the length and breadth of that department and see the army of employes, fed at the public crib, in order to distribute them; and if, perchance, you cannot find there the seeds which you or your constituents want, you are immediately told that you will find them at the seed-warehouse. Sir, they can be always found there, better and cheaper than they are furnished by Government.

The gentleman himself admits that a large proportion of these seeds are purchased at the seed-stores of the different cities of this country. I know the distribution of seeds is productive of some good. Undoubtedly they have been, and so they should be; but we have to pay too dear for the whistle. The farmers would be greatly encouraged, too, if we would import and supply to them the best plows from different parts of the country; they would be benefited if we would introduce some fine stock; the wool-grower would be pleased if we would import some fine sheep for distribution to him; and so as regards other matters. Now, I am opposed to the Government going into these operations at all in competition with farmers. I believe that private interests would bring about all the advantages desired, and at a less expense. I am the devoted friend of the agriculturist, and no man feels a deeper interest in his welfare, or places a higher estimate upon his intelligence.

Mr. CLAY, by unanimous consent, modified his amendment so as to make it read as follows:

Provided, That such cuttings and seeds shall be sent by the Commissioner of Patents for distribution to such public institution or society in each congressional district as may be designated by the member of Congress for such district.

Mr. SEWARD. As the modified amendment nearly covers the ground I desire, I will withdraw my amendment.

Mr. GREENWOOD called for tellers on Mr. CLAY's amendment.

Tellers were not ordered.

The amendment was rejected.

Mr. RUFFIN. I move to amend by striking out lines one hundred and thirty-four, one hundred and thirty-five, and one hundred and thirty-six, as follows:

"For drawings to illustrate the report of the Commissioner of Patents for the year 1858, \$5,000."

I desire to say a word in explanation of the amendment. I understand that the report of the Committee on Printing recommended that these illustrations in the Patent Office report were not to be inserted hereafter. There were great complaints made of them here. I know that in the last Patent Office report there was a ridiculous set of illustrations of squirrels, that were not worth a cent. It seems to me that if these reports are to be published for the benefit of the agricultural interests of the country, there is no need of having a number of the pages filled up with these cuts at great cost. The reports would be just as valuable without them; and I suppose there will be no difficulty as to striking out this item. It is true that it will effect but a small saving; but still it amounts to something; and I hope the amendment will prevail. As I understand it, the committee have taken the ground that these illustrations are wholly unnecessary; and if they are, I say they should be stricken out. That is the ground I put it on—that they are useless and unnecessary.

Mr. J. GLANCY JONES. If that is the result of the report of the Committee on Printing, I hope the committee will accept the amendment. The estimate was made at a time when we had no information from that committee. I would inquire of the chairman of the Committee on Printing, whether he concurs in the amendment offered by the gentleman from North Carolina?

Mr. NICHOLS. I am not chairman of the Committee on Printing, but I will tell the gentle-

man, as far as I understand it, what the effect will be. The gentleman from North Carolina entirely misapprehends the effect of his amendment. The appropriation contained in this bill is one which was inserted in the appropriation bill on my motion in the last Congress. This relates not to the squirrels, the bugs, and the insects; but it is to pay those persons who have in charge the illustration of the patents.

Mr. J. GLANCY JONES. I can get at it better by asking the gentleman a question or two. I ask the gentleman from North Carolina if his motion was not to strike out the whole item?

Mr. RUFFIN. That was my motion.

Mr. J. GLANCY JONES. Then I wish to ask the gentleman from Ohio whether the Committee on Printing believes that it is expedient and proper that it should be stricken out?

Mr. WHITELEY. I offer the following as an amendment to the amendment:

Amend the bill by striking out the word "six," in line one hundred and thirty-six, and insert the word "sixteen." Amend the bill by adding, in line one hundred and thirty-two, the word "sixty," and insert after the word "dollars," in said line, the following words: "of which sum there shall be paid to Townsend Glover the sum of \$10,000 for the purchase of two thousand models of American fruits, and the matrices for multiplying the same, for the use of the Patent Office."

Mr. Chairman, this amendment is no new thing. A majority of the members of this House recommended this collection to the Commissioner of Patents, and by his recommendation the appropriation of \$60,000 for agricultural purposes was increased to \$75,000, of which sum \$12,000, as appears from the letter of the Commissioner of Patents, was intended for the purchase from Mr. Glover of these models of fruit now in the Patent Office, and which I suppose a majority of the members have seen. The purchase was recommended by the Commissioner, and the appropriation was made; but the specific item not being put in, and Mr. Glover being away, the appropriation was expended before the purchase was made. I think it just to him, and just to the intention of the Commissioner and of the Thirty-Fourth Congress, that this amendment should be made.

Mr. MASON. What kind of fruits are they?

Mr. WHITELEY. They are models of all the American fruits, and are now in the Patent Office. I will read what the Commissioner says about them:

UNITED STATES PATENT OFFICE, May 9, 1857.

Sir: In my absence from this office, a communication was addressed by you to the acting Commissioner, requesting information in relation to Mr. Glover's collection of models of fruits. I have the honor to submit some facts, which were not within the knowledge of the acting Commissioner.

1. The collection consists of over two thousand models, finished and colored, and matrices for multiplying the same, with an exceedingly valuable descriptive catalogue. The collection is entirely unique.

2. Mr. Glover was employed constantly for six years, prior to his employment in this office, making these models at his own cost, including his own time, traveling expenses, material, fruits, and subsistence.

3. The sum asked by Mr. Glover for the models and matrices, is \$10,000, which has been estimated by competent persons as a reasonable price.

4. Mr. Glover has been employed in this office for three years, in anticipation of the purchase of his collection, at a salary of \$2,000 per annum, paying his own traveling expenses. During this period he has been employed principally in investigations relating to insects injurious to vegetation, particularly the cereal grains, fruits, and the cotton plant. It is proposed that he continue these investigations, and at such times as he cannot be profitably engaged in that work, that he continue the modeling of fruits, esculents, grains, and other agricultural products, and the abnormal or diseased portions of the same.

5. The practical benefits to be derived from obtaining and continuing the collection are as follows: The collection will furnish a ready means for the classification and identification of fruits and other agricultural products; will indicate the soil and locality where each fruit or product will best thrive; will enable the agriculturist to select, by inspection, those varieties which suit his plantation or farm, and will attract his attention not only to the best varieties, but to such new ones as may be introduced.

The purchase of this collection has been recommended by the principal agricultural and horticultural societies in the United States, by a large number of practical and influential public men, among whom are the majority of the members of both Houses of the late Congress, who have recommended the payment for the collection to be made out of the funds of this office, appropriated for agricultural purposes.

I would further state that in the estimate of \$75,000 made by me to Congress in 1856, for agricultural purposes, \$12,000 was specified for investigations of fruits and insects, and was intended to purchase this collection, and that the whole \$75,000 was appropriated.

It is desirable that the arrangement with Mr. Glover should be made at once, that he may lose no time in proceeding with his work.

C. MASON.

To the Hon. JACOB THOMPSON, Secretary of the Interior.

Mr. LETCHER. I rise to a question of order. Is this proposition provided for by law, or in any way, or has it any direct connection with the purchase of seeds or cuttings for the Patent Office?

Mr. MARSHALL, of Kentucky. It is intended for the benefit of agriculture.

Mr. LETCHER. It proposes to buy wax figures in imitation of fruits; and I submit whether that comes under the range of any law, or under the head of cuttings and seeds?

The CHAIRMAN. The Chair is of opinion that the question of order is not well taken, and that the amendment is germane to the bill.

Mr. WHITELEY. Now, Mr. Chairman, I have only one word to say further. I have here the signatures of more than half the members of the last House, recommending the purchase of these wax figures, and I have particularly the signature of the gentleman from Kentucky; [Mr. MARSHALL,] who pronounced this thing, yesterday, a humbug.

Mr. LETCHER obtained the floor.

Mr. MARSHALL, of Kentucky. I hope the gentleman from Virginia will permit me to make a remark, because the gentleman from Delaware directly challenges my consistency, at all events.

Mr. LETCHER. Very well, sir.

Mr. MARSHALL, of Kentucky. I do not know what the paper is which he produces.

Mr. LETCHER. He says you recommended these wax fruits.

Mr. MARSHALL, of Kentucky. I have no doubt at all that I may have signed a paper presented to me recommending the article just for what it was worth, namely, that it was a first rate representation in wax of that which existed in reality. I suppose that I probably recommended it, but I had no idea at all that there was any appropriation, or anything concealed in this appropriation of \$60,000, for the purpose of starting, for the benefit of agriculture, a museum of wax figures here at the city of Washington.

Mr. LETCHER. Now, I see very plainly where all this thing is going to. Gentlemen have been arguing here, both yesterday and to-day, that it is very important that we should have seeds and cuttings for the purpose of distributing them through the country, that parties by experiments might ascertain their value. And now, after the debate has gone on, and a proposition has been retained in the bill for the benefit of agriculture, the gentleman comes here with a proposition—to do what? To spend the public money for the purchase of representations of fruit made in wax, to be stored here in the city of Washington, with a gentleman to take care of them at a salary; and this is for the benefit of the farmers!

Mr. WHITELEY. Will the gentleman allow me to say that they are already in the Patent Office.

Mr. LETCHER. Then, if they are in the Patent Office, and have never been purchased by the Government, it is high time that the officers in charge of the Patent Office should put them out, or charge storage—one or the other. [Laughter.] Are we to be used in this way? When an individual comes here to get his articles off upon the Government, are they to be deposited in the Patent Office, and to be allowed to remain there in charge of the officers; and then, after they have been there for some time, an appropriation is to be demanded from this House to pay for what has been left there on exhibition by the party himself?

Now, let us look at this thing in a practical point of view. Can any member of the House undertake to tell me how many farmers in the United States will ever see the fruit? How many of them will ever have an opportunity to see these wax figures? A gentleman says, every one who comes here. Sir, those who come here are by no manner of means the best farmers, or a majority even of the farmers. The best farmers in this country, the most thrifty, the most valuable to society, are those who stay at home and attend to their business. But, sir, these fruits are to be kept here for exhibition to such as may be traveling through the country, who casually visit Washington, and stroll into the Patent Office to see them. Gentlemen do not pretend that they are of one cent's value to any human being under this Government; and we all know from the past, that if they are put there, it will not be long before we shall have to have some one to take charge of them, and

employ his time in making an exhibition of them to such as have leisure to travel about the United States.

Mr. WHITELEY. I wish to ask that, by unanimous consent, the names of the members of the last Congress who signed the recommendation may be read.

The CHAIRMAN. Debate is not in order.

Mr. J. GLANCY JONES. I insist that when debate is closed we may have the vote.

The question was taken; and Mr. WHITELEY's amendment was rejected.

Mr. NICHOLS. I move to increase the original appropriation one dollar. I offer this *pro forma* amendment for the purpose of responding to the inquiry of the gentleman from Pennsylvania, in order. The amendment proposed by the gentleman from North Carolina, some time ago, would not have effected the object he had in view. These illustrations which accompany the Patent Office report are not covered by this appropriation. If gentlemen will take the trouble to examine this matter, they will find that for the drawings of the machinery of the inventors who have made applications for patents, the Government has, for some time, employed draughtsmen to illustrate the machinery alone.

Now, sir, I am familiar with this subject, for the reason, that before the last Congress they were in the habit of employing these men in the Patent Office; then referring them to the Committee on Printing for certificates of the amount of work done; then to the Committee of Finance in the Senate, and to the Committee on Accounts in the House, for their pay. Upon my motion, this system was changed, so as to have their compensation estimated for by the Department precisely like other appropriations, and paid in the same manner.

This appropriation is founded upon law; and if it is stricken out the effect will be to prevent the illustrations accompanying the mechanical part of the Patent Office report; for it is to provide for nothing else.

Mr. J. GLANCY JONES. I wish to ask whether, in the book which we have ordered to be printed, reference is not made to these illustrations in the letter-press?

Mr. NICHOLS. Undoubtedly such reference is made, and the book will be of no value without them. The book was prepared by the Patent Office with especial reference to these illustrations, and this appropriation is for them alone. It is not to pay for pictures of squirrels, which gentlemen have talked so much about. It is confined exclusively to illustrations of mechanical inventions.

Mr. BURNETT. If the gentleman from Ohio will withdraw his amendment, I propose to offer another.

Mr. NICHOLS. I will withdraw it.

Mr. BURNETT. I move to insert after the word "drawings," the words "for the mechanical report."

Mr. NICHOLS. That is right.

Mr. BURNETT. A word of explanation.

Several MEMBERS. No objection to it.

Mr. BURNETT. I understand the amendment meets the approval of the gentleman from Ohio, [Mr. NICHOLS,] and that it will meet with no objection. I will, therefore, not trouble the committee with any remarks upon it.

Mr. TAYLOR, of New York. I desire to say that these engravings have already been executed.

The amendment to the amendment was agreed to.

The question was on striking out the whole paragraph as amended.

The motion to strike out was not agreed to.

Mr. J. GLANCY JONES. I move to strike the following paragraph from the bill. I will state to the committee that the appropriation is provided for in another bill.

The paragraph was read as follows:

"For purchase of the 'Masonic Temple,' in the city of Boston, for the accommodation of the United States courts, upon the terms agreed on by the Secretary of the Interior and the proprietors thereof, in addition to the sum of \$100,000 appropriated by the act of 3d March 1857, for the erection of a building for said purpose, \$5,000."

The amendment was agreed to.

Mr. NIBLACK. I move to amend, after line one hundred and fifty-six, by adding the following:

For protecting the site of the marine hospital at Evansville, Indiana, from the encroachment of the Ohio river, \$7,000.

Mr. Chairman, I will state in explanation of the amendment that it has always been contemplated by the officers of the Government to pave the bank of the Ohio river, in front of the marine hospital recently erected at Evansville, Indiana, to prevent it from being washed away and injuring the building. I have before me estimates showing that it will cost about seven thousand dollars. The recent freshet on the Ohio river, and which has extended very generally to the western rivers, has washed away about ten feet of the bank, and it is feared that unless this protection is afforded it may render the site of the building unsafe.

I will state further, that a bar has commenced to form at the commencement of the bend on which this building is situated, which will serve to increase the tendency of the river to wash away the bank of the river at that point; and the sooner this grading is done, the better. Any one at all acquainted with the location must know that the nature of the bank is such that any building on it will be strained by the action of the water in time of a freshet unless it is protected. The city has commenced grading the bank for the protection of its own buildings, and this will be but the extension of the grading which the city is carrying on.

Mr. UNDERWOOD. I desire to ask the gentleman from Indiana how far this building is from the bank?

Mr. NIBLACK. Some fifty or sixty yards.

Mr. J. GLANCY JONES. I am opposed to the amendment of the gentleman from Indiana for this reason, among others: the committee, yesterday, after full discussion, refused to vote appropriations for continuing the work on the custom-houses and marine hospitals in the various parts of the country, the estimates for which amounted to about one million seven hundred thousand dollars. These appropriations were to carry out contracts which have been made under law. But, in consideration of the condition of the Treasury, the committee has determined not to appropriate money for them; and the same reasons will apply with still greater force against this amendment of the gentleman from Indiana. I hope the amendment will not be agreed to.

The amendment was not agreed to.

Mr. DAVIDSON. I move to amend that clause which makes appropriations for the hospital for the insane of the Army and Navy and the District of Columbia, by adding the following:

Provided, That the money herein appropriated be, and the same is, expended under the direction of a board of trustees, to consist of the Commissioner of Public Buildings, the Mayors of Washington and Georgetown, and two members of the levy court of the county of Washington, to be designated by said court, and that the revenue of said infirmary, over and above its expenses, shall be expended in enlarging the hospital facilities; and further, that the said board of trustees shall have power to appoint all medical attendants, their services to be rendered free of charge, the duties of said attendants to be so distributed by said board that they may alternately be discharged by all members of the Medical Society of the District of Columbia desiring to do so.

Mr. J. GLANCY JONES. I rise to a question of order. That amendment provides for independent legislation, and hence it is improper in an appropriation bill.

The CHAIRMAN. The Chair sustains the point of order, and rules the amendment out of order.

Mr. SHERMAN, of Ohio. I move to strike out from line one hundred and seventy-three to one hundred and seventy-six, inclusive, as follows:

"For annual repairs of the President's House and furniture, improvement of grounds, purchasing trees and plants for garden, and making hot-beds therein, and contingent expenses incident thereto, \$12,000."

I desire to call the attention of the committee to the unconstitutional mode by which, for a few years past, we have been increasing the President's salary. I find that, by the appropriation bill of 1840, Congress appropriated \$25,000 for the annual salary of the President, and that the entire amount of the appropriation in that bill for all other purposes pertaining to the President's House was \$4,165. I find that now, by indirect legislation, we have increased the President's salary from \$25,000 to \$56,000 per annum. I have in my hands a table, showing appropriations for

the President, and for his house, garden, and grounds, in 1840 and in 1859. It is as follows:

A table showing appropriations for the President and for his house, garden, and grounds, in 1840 and 1859.

	1840.	1859.
Salary.....	\$25,000	\$25,000
Secretary, steward, and messenger.....		4,600
Contingent expenses and stationery.....		750
Purchasing plants for conservatory.....		1,000
Repairs and furniture, trees and plants for garden, and making hot-beds therein*..	4,165	12,000
Fuel.....		1,800
Furnace-keeper.....		600
Lighting President's House, (estimated),		3,000
Laborers and gardeners, (estimated).....		4,800
Books for library.....		250
Doorkeeper and assistant.....		1,200
Two night watchmen.....		1,200
		<u>\$56,200</u>

Indeed, sir, we now supply and pay for all, or nearly all, the servants about the President's House except his cook and coachman; and chamber-maid, if he needs one. I am in favor of a liberal allowance to the President of the United States. Gentlemen will not find me backward in providing for the President a good income, but I desire to do it directly, and not by indirection. The Constitution of the United States provides that—

"The President shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive within that period any other emolument from the United States or any of them."

The point I make is, that the appropriations reported here are emoluments to the President, for they pay private expenses of the President, such as pertain to the housekeeping of every gentleman. We pay for nearly all the incidental expenses of the President's mansion, and it is only necessary for the Committee of Ways and Means to report an additional item for sundries, to pay Monsieur Gautier the expenses of the President's table.

If gentlemen desire to increase the compensation of the President, let them say so, and report a bill for that purpose. I am opposed to doing it in this unconstitutional and indirect mode; I am opposed to paying all these expenses of the President's House, and still give him an annual compensation of salary.

Mr. J. GLANCY JONES. The gentleman from Ohio seems to have a particular hostility to that presidential White House; and I take it for granted because he will never get there himself. He has referred to the Committee of Ways and Means as having provided for these appropriations. I wish to say to the gentleman that the Committee of Ways and Means have not put in one dollar except what the law provides for; and, if the gentleman would change it, he shows his disregard for law.

Mr. SHERMAN, of Ohio. I desire to say that the amount appropriated by this bill for these purposes is larger than it was last year; and last year was a season of unbounded expenditure.

Mr. J. GLANCY JONES. I have not yielded the floor to the gentleman from Ohio; and, when I yield to that gentleman, I will signify it to him. Perhaps the gentleman's offense is, as I have heard it intimated, that he has not been invited to dinner at the White House. [Hisses from the Republican side of the House.] I wish to assure the gentleman from Ohio that the appropriation in this clause does not pay for the dinners of the President to members of Congress; so that, if the gentleman is not invited to dinner, I want his conscience to be at ease by knowing that those who do get dinners there do not have them paid for out of the appropriation bill.

I am sorry, Mr. Chairman, that I am obliged to respond to a speech of this kind upon an appropriation bill. I think it is undignified, and I think it is scarcely reputable for any member of Congress to rise in his place at this time and object to an appropriation for draining and fencing about the presidential mansion, which has been uniformly done from the days of the foundation of the Government. The gentleman objects that the expenses are increased. What does it concern the President of the United States if Congress chooses to put up a fence, or do any other thing about the presidential mansion? Is that a reason

*This item is for alterations and repairs of the President's House.

for an assault to be made upon the Executive? I am sorry that he has not more manliness. [Hisses from the Republican side of the House.]

Mr. SHERMAN, of Ohio. Mr. Chairman—Mr. J. GLANCY JONES. I do not yield. I want to say what I have to say now. [Cries of "Order!" on the Republican side of the House.]

Mr. PALMER. I rise to a question of order. Mr. J. GLANCY JONES. I do not want these interruptions taken out of my time. I just want to say, once for all, while I will never flinch from meeting gentlemen upon the opposite side of this House, here or in the country, upon any question, I will never shrink from defending an Executive, whom I believe to be one of the purest men who ever presided over this country. [Laughter from the Republican side of the House.] That is the answer of the Black Republicans—a horse laugh. [Renewed laughter on the same side.] That is all the answer they have. Now, sir, I am glad to hear that your answer is a laugh, [laughter on the same side of the House,] because you have no other argument. I hope gentlemen upon the other side will not find fault with me, if, in consequence of the triumphs of this Administration [laughter upon the Republican side of the House] during this session of Congress they are reduced to the position of having nothing to do but to laugh.

I leave it to the House to say whether, during the whole session, I have made a single political allusion. I have kept my mouth closed; but when I see members on that side of the House make objections, with an insinuation that we are increasing a salary which was given to George Washington for necessary expenses sixty-seven years ago, by doing what Congress has been doing for years, not for the President's benefit, but for their own comfort, I cannot remain silent. These appropriations are not for the President; they are for you. For whom is that house and those grounds? Not for the President, but for you.

Mr. SHERMAN, of Ohio. I desire to modify my amendment by moving that the \$4,000 shall not be expended for making hot-beds.

Mr. J. GLANCY JONES. The gentleman has offered an amendment. What has become of it?

The CHAIRMAN. The Chair is of opinion that the gentleman has no right to amend his own amendment.

Mr. SHERMAN, of Ohio. I can withdraw my amendment, and increase the amount to \$5,000.

Mr. J. GLANCY JONES. I object.

Mr. SHERMAN, of Ohio. I will withdraw my amendment if I am at liberty to move another.

Mr. J. GLANCY JONES. I object to any conditions.

Mr. GROW. I move to amend the amendment by reducing it to \$1,000. It is a rather singular spectacle, Mr. Chairman, when a gentleman rises on this floor to oppose an appropriation, and to give the reasons why a certain amount of money should not be expended, to see the chairman of the Committee of Ways and Means rise here, and attempt to answer the objection by claiming it as out of character for a member to question the action of the Committee of Ways and Means on the salary given to any officer of this Government; and that he should answer the objection by dragging in the dinner parties of the President, and attempting to pronounce an eulogium upon his private character. It is a new spectacle, when an appropriation bill is brought into the House, that the chairman of the Committee of Ways and Means, who reports it, should have no better argument to give than that. We have often, this session, heard the motives of gentlemen arraigned for opposing appropriations here; and we have seen, when a member rises on this floor, and asks an investigation into the acts of officers of the Government, abuse poured back upon him personally for doing what he has a right to do under the Constitution of the country; for doing that which every man is bound to do, if he believes that the act of any officer of the Government was not in accordance with law; and for demanding an investigation. If the act has been in accordance with law, no harm can be done by the investigation.

But we have seen, from the beginning of the session, attempts made to arraign men's motives, and members have undertaken to read them lectures on propriety and legislative conduct, instead of answering their objections.

When the gentleman from Ohio [Mr. SHERMAN] proposed to inquire whether the President received a greater salary than is allowed by law, it was the duty of the man having charge of these appropriations to show that he did not receive a larger salary, and not to charge that it was unbecoming a member to raise that question here; not to hold that the Committee of Ways and Means cannot be questioned in their acts, or that the salary of the President of the United States can be enlarged by indirect means. Especially is it improper that such an argument should be used, as the reason why this side of the House would not vote to enlarge the salary of the President was because we had not been invited to his dinner parties. It is beneath sound argument for the appropriation of money anywhere, and is unbecoming a legislative body.

Why should men have lectures read to them on the propriety of their proceedings when they are only doing what they have a right to do? We stand not here to have lectures read to us about propriety whenever we oppose appropriations, or propose to inquire into the conduct of any officer of the Government. It is not becoming any legislative body that its members should be lectured on the propriety of their conduct, instead of having their arguments answered.

Mr. MAYNARD. I dislike to interrupt the gentleman. I have no participation on either side of this question; but I must rise to a question of order.

The CHAIRMAN. The Chair thinks that the gentlemen from Pennsylvania, as well on the right as on the left, are out of order; and will rule them out of order.

Mr. GROW. I was only answering my colleague—but it was the duty of the Chair to rule him out of order before.

Mr. SHERMAN, of Ohio. I am opposed to the amendment of the gentleman from Pennsylvania, and will give my reasons for it. I am opposed to limiting the President to the expenditure of \$1,000, for this simple reason: that in 1840, \$4,000 was deemed sufficient for all the contingent expenses connected with the executive department. I am willing now to give what we gave in 1840. Prior to that time no greater sum was given except for some specific purpose. I am glad that I have waked up the chairman of the Committee of Ways and Means, because I hope that he will now progress with his business. In respect to his imputations on me, or on my motives, any man who knows me knows that they are utterly unfounded. I did not seek to attack the President. I did not seek to drag his private matters in here at all, and I scorn the imputation. His imputation in regard to a dinner party at the President's House is beneath the dignity of a gentleman.

Mr. J. GLANCY JONES. Will the gentleman allow me to answer him here?

Mr. SHERMAN, of Ohio. No, sir, I will not yield.

Mr. J. GLANCY JONES. The gentleman is afraid to.

Mr. SHERMAN, of Ohio. I will confine myself to the rules of order. I am opposed to that provision in the appropriation bill for this reason, that I do not want this House to do indirectly what it cannot do directly. We have no power to increase the salary of the President of the United States. Congress has no power to do it. The Constitution has wisely withheld from us all power on the subject.

Now, during the last year there was appropriated for this purpose about eleven thousand dollars. This year they ask us for \$12,000, so that the increase is about one thousand dollars a year. In thus doing the Constitution of the United States is violated. I stand by the Constitution, and by the law, and I care nothing for the imputations either of the gentleman from Pennsylvania, or any other man. They never deter me or shake me in the least.

Now, I wish to appropriate for the repairs of the President's House, \$4,000—not \$1,000, but \$4,000. I do not want this money to be expended for the ordinary current expenses of the President's household. I would not have a dollar of it spent for making hot-beds, or conservatories, or anything of that kind. If the President's salary is not large enough—and I think it is not, and I said so in the opening of my remarks—increase it. If \$25,000 is not enough, let us give to all

future Presidents \$50,000, if you choose; but do not do indirectly what you cannot do directly. But when the agent and friend of the President comes here, and in his place in the House arraigns my motives, I hurl back upon him and upon the President his charges. I, as an independent member on this floor, am freer than he or the President. I care nothing for him, or for his executive officers. I have too good sense, I hope, to impugn his motives. I said nothing against him—nothing about him; and I did not drag into this Hall anything relating to the personal affairs of the President, but acted merely in the performance of my constitutional duty, which is as high as that of the President of the United States. I will perform my duty fearlessly; and when imputations are made upon me, as they have been made, I repel them with scorn. It only shows the truth of the very general remark that has been made since the beginning of this session, that the gentleman who occupies the position of chairman of the Committee of Ways and Means cannot perform the duties of that position with the ability and courtesy which it requires.

[Here the hammer fell.]

Mr. GROW withdrew his amendment.

The question was taken on Mr. SHERMAN's amendment; and it was not agreed to.

Mr. ENGLISH. I move to strike out the enacting clause of the bill. It is too late in the session to indulge in angry debate.

[Cries of "No! No!" and "Let us vote."]

Mr. ENGLISH. I am willing to withdraw it if the committee will go on with the bill.

Mr. LETCHER. I move to amend the clause under consideration by striking out "eight" and inserting "seven," for the purpose of making an explanation at this point. I desire to call the attention of the committee to the time at which these appropriations commenced and for whose benefit they were commenced, and to show that they have been regularly continued from that time to this, without reference to any occupant of the presidential mansion. All these recommendations come, not from the President of the United States, but from the officer who is in charge of the public buildings and grounds belonging to the Government. These appropriations were introduced, if my recollection is not at fault, in the first Congress in which I served as a member here, when Mr. Fillmore was President of the United States, and they have been continued from that time to this.

So far as this appropriation for the garden is concerned, gentlemen will recollect that when the Treasury building was extended, the garden of the President was destroyed by that extension; and in order to give him ground for a garden, it had to be made at the other end of the public grounds beyond the President's House. Now, with all that the President had no connection, in any way whatever. He has no idea now, I apprehend, unless he has read the report of the Commissioner of Public Buildings, of any of the recommendations contained in it, or of any provisions of law in regard to this subject.

I have made this motion for the purpose of making this explanation, in order that it may go to the country, and that it may be seen that these appropriations are in conformity with law; that they were begun a number of years ago; and that they are absolutely indispensable in consequence of the action of Congress, in erecting public buildings upon the grounds around the President's House. I now withdraw my amendment.

Mr. STANTON. I move to strike out the following clause:

"For fuel, in part, of the President's House, \$1,600."

Mr. Chairman, I have no personal or political reference to the President in the motion that I make, or in what I intend to say about it. But I do intend to say that, in my judgment, this indirect mode of increasing the compensation of public officers is exceedingly objectionable, exceedingly liable to abuse, and ought not to be pursued. Here is an appropriation for fuel for the President's House. Now, the question for Congress is as to whether the proper mode of compensating the President is to give him an aggregate sum and let him pay the expenses of his own household out of his salary, or whether it is proper to go into details, and make an appropriation for fuel, and another for his table, and another for his wardrobe, and another for his servants—going

into all the details of his household expenses—and then make his compensation an entirely different matter.

I submit that there is good sense in the constitutional construction which my colleague [Mr. SHERMAN] contends for, that all these appropriations for meeting the current family expenses of the President are additions to his compensation not within the meaning of the constitutional provision, and that the proper mode of fixing his compensation is to give him an aggregate compensation, and let him pay his household expenses as other gentlemen do. That is what it ought to be. It is simply a question in regard to what is the proper mode of meeting the private expenses of the President—whether in the form of compensation, or whether we will go into details. I ask for a vote upon my proposition.

Mr. J. GLANCY JONES. I oppose the amendment of the gentleman from Ohio; and I propose to give him just such an answer as I always have to give when I think a covert assault is not intended. In response to the other member from Ohio, I may have been in error, but I am informed that a few days ago he offered a resolution to direct the Sergeant-at-Arms to arrest members at the President's House.

Mr. BARKSDALE. I call the gentleman to order.

The CHAIRMAN. The gentleman from Pennsylvania must confine his remarks to the pending question.

Mr. J. GLANCY JONES. I will do so, sir. The gentleman from Ohio has made some remarks about these appropriations in which I concur. But I desire to state how this matter has originated. The payment of the President commenced in this way: Washington said that he would take no compensation, but would keep a regular account of his expenses for the Government, and the Government might pay him in that manner; but the compensation was ultimately fixed at \$25,000 a year. It has not been for the President nor for his accommodation, more than it has been for that of members of Congress, or for any of the officers of the Government. Prior to heating the White House with heated air, the President paid his own expenses for fuel. Prior to the introduction of gas the President paid for his own candles. But when Congress, by a law over which he had no control, made provision for putting into the White House heating apparatus for heating the house with heated air, it was unreasonable to require the President to incur the expense necessary for keeping up the furnace; and when Congress provided for introducing gas into the East Room and into every room in the house which was for their own accommodation, and for the accommodation of strangers, and not for the accommodation of the President, it was unreasonable to impose upon him obligations to incur the additional expense for lights which were provided for the accommodation of the public and not for his own accommodation.

The question was taken upon Mr. STANTON's motion to strike out; and it was not agreed to—ayes 76, noes 78.

Mr. J. GLANCY JONES. I am instructed by the Committee of Ways and Means to move to amend the following item in the bill, by increasing the appropriation from \$33,000 to \$43,000:

"For lighting the President's House and Capitol, the public grounds around them and around the executive offices, and Pennsylvania avenue, and Bridge and High streets in Georgetown, \$33,000."

The object is to provide gas for lighting the extension of the Capitol. The estimate was not received by the Committee of Ways and Means until after the bill had been reported and printed, which is the reason why it was not originally put there.

Mr. SMITH, of Virginia. I desire to know the necessity of this appropriation?

Mr. J. GLANCY JONES. The gentleman will find a full explanation in the following letters upon the subject, which I send to the Clerk's desk, and ask to have read.

The letters were read, as follows:

TREASURY DEPARTMENT, March 13, 1858.

SIR: I transmit herewith a communication from the Secretary of the Interior requesting an appropriation of forty-three thousand dollars (\$43,000) in lieu of thirty thousand dollars, (\$30,000), the amount named in the estimates heretofore submitted as the sum required "for lighting the President's House and Capitol," &c., for the fiscal year end-

ing June 30, 1859, and for the same objects to supply a deficiency in the appropriation for the present fiscal year the sum of five thousand dollars, (\$5,000.)

Very respectfully, your obedient servant,

HOWELL COBB, Secretary of the Treasury.

Hon. JAMES L. ORR, Speaker of House of Representatives.

DEPARTMENT OF THE INTERIOR,

WASHINGTON, March 11, 1858.

SIR: For reasons assigned in the inclosed copy of a letter from the Commissioner of Public Buildings to this Department, dated the 26th ultimo, I have the honor to request that the following estimates of appropriations may be submitted to Congress, to wit:

"For lighting the President's House and Capitol, the public grounds around them and around the executive offices, Pennsylvania avenue, and Bridge and High streets, in Georgetown, \$43,000, in lieu of \$33,000, the amount named on page 46 of the estimates heretofore submitted, as the sum required for the fiscal year ending the 30th of June, 1859, and for the same objects to supply a deficiency in the appropriation for the present fiscal year, \$5,000."

With great respect, your obedient servant,

J. THOMPSON, Secretary of the Interior.

Hon. HOWELL COBB, Secretary of the Treasury.

OFFICE OF COMMISSIONER OF PUBLIC BUILDINGS,

February 26, 1858.

SIR: I have received a letter from Joseph F. Brown, Secretary of the Washington Gas Light Company, stating that he had presented to Captain Meigs bills for gas consumed in the Capitol extension for the months of December and January last, amounting to \$1,450 75, of which sum Captain Meigs is only willing to pay \$650, leaving a balance of \$790 75, which the company expects me to pay.

The appropriation for the current year was made in the fall of 1856, when there was not any prospect of the extension being ready for occupancy for legislative purposes; and, therefore, the cost of lighting that portion of the building was not included in the estimate, and for the same reason it was not included in the estimate for the next fiscal year. I cannot, of course, pay out of the present appropriation, the bill for lighting the extension, as I should not be able to continue the lighting of the Capitol, President's house, Pennsylvania avenue, &c., which alone were contemplated in the appropriation. I have no data upon which to make a reliable estimate of the cost of lighting the two extensions.

I am informed that there are twelve hundred and sixty burners, besides fourteen or fifteen thousands jets above the glass ceiling in the new Representatives Hall. These jets are merely used to ignite the burners, and are then shut off. The twelve hundred and sixty burners will average eight feet of gas per hour each; or a total of ten thousand and eighty cubic feet per hour, at a cost of \$35 10. In addition, all the offices, halls, passages, committee-rooms, &c., are profusely supplied with gas-burners, and of course will consume an enormous quantity of gas. The gas consumed last month in the old Capitol, President's House, President's square, Lafayette square, and from the navy-yard to Georgetown, on Pennsylvania avenue, amounted, all told, to \$1,976 12. During the same period, I am informed, the gas consumed in the Capitol extension alone amounted to \$1,000.

If you determine that I should pay for lighting the extension, I respectfully suggest that you ask for an appropriation of \$5,000 additional for the current year, and \$10,000 additional for the year ending June 30, 1859.

Very respectfully, your obedient servant,

JOHN B. BLAKE, Commissioner.

Hon. JACOB THOMPSON, Secretary of the Interior.

The amendment was adopted.

Mr. GOODE. I have an amendment which I offer, to come in directly after that just adopted. I move to add the following:

For erecting thirty additional lamp-posts in Bridge and High streets, Georgetown, the sum of \$810.

I will say that, during the last Congress, an appropriation was made for extending the lighting of Pennsylvania avenue to Bridge and High streets, in Georgetown. The appropriation was extended under the direction of the Commissioner of Public Buildings; but was not sufficient to finish the work. I am informed that there are thirty lamp-posts yet to be erected, and that the cost will be \$810. I hope the amendment will meet the concurrence of the House.

The amendment was adopted.

Mr. COX. I move to amend by adding after the one hundred and eighty-fifth line the following:

For the purchase of books ordered for new members of the House of Representatives prior to the Thirty-Fourth Congress, the sum of \$5,013 35, which sum has heretofore been appropriated, and reverted to the Treasury on the 30th of June, 1856.

Mr. J. GLANCY JONES. I think that amendment is not in order. It is not authorized by existing law.

Mr. COX. Before the Chair decides the question of order, I ask him to hear an explanation of it—what the Clerk of the House says upon the subject, showing that the appropriation asked for is in accordance with law.

The letter of the Clerk was read, as follows:

OFFICE HOUSE OF REPRESENTATIVES UNITED STATES,

May 18, 1858.

SIR: In reply to your inquiry relative to books due Hon. Jonathan Taylor, as a member of the House of Represent-

atives of the United States, I have to say that there are no books on hand nor money out of which they can be purchased.

I have asked, through the Committee of Ways and Means, for the reappropriation of (about) five thousand dollars which has reverted to the surplus fund, for the purpose of supplying the few cases like that of Mr. Taylor, which remain unsatisfied.

Very respectfully,

J. C. ALLEN,

Clerk House of Representatives, United States.

Hon. S. S. COX, House of Representatives.

Mr. COX. The object of the inquiry to which the Clerk responded, was to furnish books heretofore ordered to members of Congress prior to the Thirty-Fourth Congress. The sum of \$5,013 35 was heretofore appropriated for this purpose—to furnish books heretofore ordered to members of Congress prior to the Thirty-Fourth Congress.

Mr. BURNETT. I rise to a question of order. My question of order is that this would repeal a law which is now upon the statute-book providing that no appropriation of money shall be made to purchase books for members, unless the amount is deducted from the regular salaries of the members. What the gentleman from Ohio proposes is independent legislation, and is not in order in this bill.

Mr. COX. The gentleman does not understand my amendment.

The CHAIRMAN. The Chair is of opinion that as the amendment does not affect members of this Congress, and as he understands that a resolution of a former Congress authorized books to be furnished to these members, the Chair is of opinion that it is in order.

Mr. COX. The amount that I state was repaid into the Treasury by a mistake of the Clerk of the House.

Mr. SMITH, of Virginia. I rise to a question of order upon another ground than that stated by the gentleman from Kentucky. It seems, from the statement of the gentleman from Ohio, that there was an appropriation to provide for the purchase of these books, which has lapsed into the Treasury under the law.

Mr. COX. I will explain that.

Mr. SMITH, of Virginia. Well, sir, it has lapsed into the Treasury under the law providing that when an appropriation shall not be expended within two years, it goes into the general fund. Now, sir, it is proposed that we shall legislate and authorize an appropriation of over five thousand dollars, for the purpose of purchasing books that have not been before supplied.

Now, the question that I raise is, that this is independent legislation. It appears that this proposition is necessary because of the failure of these parties to obtain the books. For aught we know they do not want the books. We are not apprised that they are applying for the books now.

Mr. COX. Yes, they are.

Mr. SMITH, of Virginia. At any rate there is a way of making the appropriation in this case as in any other, by a bill founded upon a knowledge of the transaction, and which bill must undergo the usual forms of legislation.

The CHAIRMAN. The Chair is of opinion that it is not for the Chair to decide whether the committee will make a second appropriation for the same purpose. The Chair knows the fact that the House did pass the resolution of which the gentleman from Ohio speaks; and if it is the pleasure of the committee to make a second appropriation for the same purpose, it is not for the Chair to decide it out of order.

Mr. BURNETT. I rise to a question of order. If the decision of the Chair is correct, and an appropriation has once been made for individual members who were heretofore entitled to these books and never received them, then this is a private claim, and cannot properly come in a general appropriation bill. If these individuals are entitled to the books, they ought to come before the House with a private claim.

The CHAIRMAN. The Chair has doubts about the question of order raised by the gentleman from Kentucky; but thinks it probable that it is well taken, yet, not being fully advised upon the subject, will decide the question of order against him.

Mr. COX. I do not wish to delay the committee, or interfere with this bill, but it will be an act of manifest injustice to the members of a former Congress who failed to get their portions of the books, either because they were not as expeditious as others, or because the books were not

printed at the time they were applied for. A great many members of Congress, prior to the Thirty-Fourth Congress, did not receive their books. These books have been applied for, but the Clerk was unable to supply them, because there was no money with which to purchase books theretofore ordered. A specific case which I have in my mind, is a predecessor in my own district, (Jonathan Taylor.) I inquired of the Clerk for his books, and, in response, he wrote me the letter I have read to the committee. It is nothing more than just that this should pass.

Mr. BURNETT. I am opposed to the amendment of the gentleman from Ohio, and for the reason that it proposes to take money from the Treasury for the purpose of applying it to the purchase of books for former members of this House. The money which he now proposes to take out has gone back into the Treasury under a law of Congress. The gentleman says it would be unjust and improper to refuse to give these books to members who have served upon this floor. The whole system of voting money for the purchase of books for members of Congress, was, in my judgment, always wrong. It ought never to have been engaged in by Congress. I would ask the gentleman upon what grounds he would refuse to vote books to me? This is my second term here, and I have never received any books. We have provided by law for stopping this abuse, and now we are told that we should vote this money out of the public Treasury for that very purpose.

Mr. COX. The gentleman does not design to place me in a wrong position. This matter occurred before the compensation bill passed, and the books were actually ordered. This man was omitted, and to refuse this now would be an act of partiality.

Mr. BURNETT. I understand the gentleman's statement. What was the object of the friends of such an appropriation as this, and what were the reasons urged for voting money for the purchase of books? It was, that they were necessary in legislation, and for keeping members thoroughly posted in regard to affairs of the Government. But we might with as much propriety take out money from the Treasury, and scatter it broadcast to every citizen of the country, because every man in the country is as much entitled to such an expenditure of money as any man who has received it upon this floor. As a matter of justice, this claim has no merits whatever, in my judgment. The only matter of surprise to me is, that the amendment was offered by a gentleman of so much intelligence as my friend from Ohio.

Mr. LETCHER. I propose to amend the amendment for the purpose of getting information.

Mr. JONES, of Tennessee. If the gentleman from Virginia will allow me, I think I can throw a little light upon this matter.

I move to strike out \$5,000. This is a proposition, as I understand it, to appropriate money to purchase books for a former member of Congress, by the name of Jonathan Taylor, of the Columbus district, Ohio. No such member has been here, to my knowledge, for the last fifteen years. I understand he was here about the year 1838. This book resolution was commenced, I believe, about the year 1834; and then it was that Congress had previously ordered and contracted for the printing of the State Papers, the American Archives, and some other works, and had a surplus of copies on hand. A resolution was passed to furnish them first to members here. At a subsequent Congress they were given to new members; and it was continued until all those editions were exhausted. Any gentleman who was here at that time was, I think, in default of his rights who did not claim his right, and take the books.

If I remember correctly, this practice of buying books and distributing them to members of Congress commenced about the Twenty-Eighth Congress. When I first came here I was told that there was a surplus number of copies on hand. Upon inquiry I found that there was not one; but that Congress passed a resolution for distribution, and the next session we came here and made an appropriation of \$87,000 to pay for the books. I think that was the first appropriation that was made to buy books and give to members. But even in that day they put into the resolution a provision that nothing in it should be construed

to authorize a reprint of those books. They were distributed at that time from the books which were purchased from the publishers, or persons who had contracted to publish them for Congress.

As I said before, the distribution was made until the surplus copies were exhausted, and then they finally passed resolutions for distribution, and afterwards made appropriations to meet them. But this is a case where the appropriation has gone back into the Treasury.

Mr. WASHBURN, of Illinois. I am opposed to the amendment and to the whole proposition, and I desire that the committee shall come to a vote.

Mr. MAYNARD. I desire to ask my colleague whether it has been the practice under the old book system, for the Clerk to procure the books, box them up; and if there was no disposition made of them by a member, to store them away in the crypt of the Capitol until he sends for them? I make the inquiry upon facts which came to my knowledge the present session. A predecessor of mine wrote to me that he had actually got only a portion of the books under the resolution passed while he was here, and requested me to apply to the Clerk for the balance of them. I did so, and the remainder being furnished, I sent them to him. If such is the practice, all the gentleman from Ohio has to do is to apply to the Clerk, and he will furnish the books.

Mr. JONES, of Tennessee. I believe a great many members sold their books, or gave receipts for the money and never got the books, and never saw them.

Mr. LETCHER. This is for the Twenty-Seventh Congress I believe, is it not?

Mr. COX. It is.

Mr. LETCHER. Under the proposition as it is introduced here, this member, if he gets the books at all, gets a great many more than were allowed at that time. The number of books at that time were limited to specific works, a list of which I have in my hand. They were Diplomatic Correspondence, American Archives, Land Laws, Gales & Seaton's Register of Debates, Gales & Seaton's American State Papers, Contested Elections, Elliot's Debates.

Now what I was going to suggest is this: if the House is going back to a period of time so far distant as the Twenty-Seventh Congress, it would be well enough to amend the proposition, and go down among this recently-discovered pile of books, and select out a number of volumes corresponding to those that you give. I see no necessity for appropriating money to buy books while there is a room eighteen feet square full of them in the basement of the building. Let gentlemen go there for them, if they want them. But besides all that, I want to know why this gentleman did not get his books?

Mr. COX. I will tell the gentleman. I wish to be very frank and brief about this matter. Mr. Taylor, who is since deceased, was entitled to these books in the Twenty-Seventh Congress, under a resolution of the House of August 8, 1842.

Mr. LETCHER. If the gentleman was in Congress in 1851, and was entitled to these books in the Twenty-Seventh Congress, why did he not get them?

Mr. COX. I offered a resolution here some time ago to that effect, but I could not get this House to pass it. It required the Clerk to deliver to the widow of Jonathan Taylor, out of the books in his hands, books of equal value with those to which he was entitled. I endeavored to get that resolution passed, but failed; and on inquiry the Clerk told me that there was an appropriation made to meet just this case; but that, by mistake, it was paid into the Treasury, and that probably the Committee of Ways and Means would recommend a new appropriation.

Mr. LETCHER. Was not Mr. Taylor in Congress in 1851?

Mr. COX. I believe he served four years.

Mr. LETCHER. Jonathan Taylor was here four years. He then had the whole of one Congress, and the whole of another Congress to get his books if he chose. He did not choose to take them. It seems to me that it is altogether proper, if his widow insists on this claim on Congress, that she should present her memorial to the House, and let it take exactly the same disposition as other claims take.

Mr. JONES, of Tennessee. I have here the names of the Representatives from Ohio in the Twenty-Seventh Congress, and his name is not among them. It must have been prior to that time that he was here.

Mr. COX. The Clerk informed me that he was here in the Twenty-Seventh Congress.

Mr. LETCHER. I must come to the conclusion, if the gentleman cannot tell when he was here, that it is doubtful whether he ever was here.

The question was taken on Mr. Cox's amendment; and it was rejected.

Mr. DODD. I offer the following amendment: To pay the residue of the salary due the engineer for constructing the bridge across the Potomac at Little Falls, \$2,589 67.

I send up a letter from the Secretary of the Interior, which will explain my amendment.

The letter was read as follows:

DEPARTMENT OF THE INTERIOR,

WASHINGTON, April 19, 1858.

Sir: By act of 18th August, 1855, an appropriation of \$75,000 was made "to complete the bridge across the Potomac at Little Falls, agreeably to the plan already adopted," which contemplated the construction of that work under the supervision of an officer of the War Department, receiving a fixed salary as such. It was subsequently found necessary, however, for the Secretary of War to otherwise employ the officer who had been detailed for that service, which rendered indispensable the employment of a civil engineer, to be compensated out of the appropriation. Even with this increase of expenditure, the work, it is believed, would have been completed within the appropriation, but for the unprecedented flood of last year, which swept away some portions of the work, requiring a considerable outlay to repair the damage. Owing to this circumstance, a small additional appropriation will be required to pay off the liabilities incurred, and I have the honor to invite your attention to the subject, and to request that such measures may be adopted by your committee as will be best calculated to secure it.

If the engineer under whose charge the work was executed be paid at the rate of \$250 per month, which is perhaps not too high, the amount required will be \$2,589 67; and I would respectfully suggest the appropriation of that sum. In further explanation of this subject, I beg leave to refer you to the inclosed copy of Mr. Coyne's letter, of the 3d ultimo, to this Department, and of the report made thereon by Mr. Whiting, by whom, as acting Secretary of the Interior, his services were engaged.

I have the honor to be, very respectfully, your obedient servant,

J. THOMPSON, Secretary.

Hon. WILLIAM O. GOODE, Chairman of the Committee for the District of Columbia, U. S. Ho. of Reps.

The question was taken on the amendment; and it was agreed to.

Mr. BOWIE. I offer the following amendment: For building a house for the keeper of the Anacostia bridge, \$1,500, to be expended under the direction of the Commissioner of Public Buildings.

The question was taken; and the amendment was rejected.

Mr. PEYTON. I offer the following amendment:

For making improvements in the city of Washington provided for in the fifteenth section of the city charter, approved May 15, 1820, and the twelfth section of the amended charter, approved May 17, 1848, \$5,000.

I ask for the reading of an extract from a report of the Secretary of the Interior.

The extract was read, as follows:

"The Government, however, is a large real estate proprietor in the city of Washington, and provision is made in the charter of incorporation, by which the Commissioner of Public Buildings is directed to reimburse the corporation a just proportion of the expense incurred in opening and improving streets passing through and along public squares. This expense has been heretofore defrayed out of money arising from the sale of lots belonging to the Government; but this resource has now failed us, and an estimate has been submitted for an appropriation out of the national Treasury on that account."

Mr. SEWARD. I raise the point of order that the amendment is not germane to the bill.

The CHAIRMAN. The Chair is of opinion that the amendment is out of order, there being no law to provide for the appropriation.

Mr. KELSEY. I move to strike out lines one hundred and eighty-eight and one hundred and eighty-nine, as follows:

"For repairs of Pennsylvania avenue, \$3,000."

I offer this amendment for the purpose of obtaining information as to how far we are expected to defray the expenses of the municipal government of the city of Washington. I know that the Government has paved Pennsylvania avenue, and that it pays for the gas to light it, and I should judge from the appearance of the appropriation bills that almost all the expenses connected with the municipal government of the city of Washington, are paid by Congress. Now, I want to know whether there is any law—for that seems to be a point made

here frequently—that requires us to appropriate money to repair the avenues and streets in this city? If there is, perhaps it is our duty to appropriate this money. If not, I think it is about time that we should intimate to the citizens and to the municipal government of this city, that they should begin to defray some of these expenses themselves. I know they tell us, when we raise these objections, that they are already taxed as much as the law of Congress will permit them to tax themselves.

Mr. J. GLANCY JONES. If the gentleman will allow me, I will answer his question, for I do not propose to debate his amendment. There is no law requiring us to do this; but, as the Government owns a large amount of property in the District of Columbia, and in the city of Washington, and as Pennsylvania avenue is the thoroughfare between the Capitol and the Executive Departments, the Government has been in the habit of aiding the city of Washington in grading and repairing the streets, being part owner of the property. That is the principle on which it has been done; and these repairs are necessary, unless you choose to abandon your former practice.

Mr. KELSEY. I have heard the same argument in substance urged here before; and I want to know to what extent the people of Washington expect us to go? It is true that the Government is a large owner of property here; but it is also true, that but for that fact the property of the citizens would be worth nothing at all. The Government gives value to their property by putting its own here, and then they turn round and want us to bear all the expenses of the city because the Government has conferred these benefits upon them.

Now, for one, I am not disposed to go any further in this direction, and I want to test the sense of the House as to how long they are going to continue this course of conduct towards the District. I heard it remarked, the other day, by a gentleman on the street, that if we went on much further, pretty soon we should have to make appropriations to blacken the boots of the citizens of the District, and it seems to me that we have nearly reached that point. I shall insist on a vote on my amendment.

The question was taken; and the amendment was agreed to—ayes seventy, noes not counted.

Mr. PEYTON. I offer the following amendment, which is recommended by the Committee on Public Buildings and Grounds:

For inclosing, with a suitable wooden fence, the public reservation on Missouri avenue, between Third and Fourth and a-half streets, with a view of extending the nursery of plants which the Government has on said reservation, \$1,314.

The amendment was disagreed to.

Mr. SMITH, of Virginia. I move to strike out the following clause of the bill:

"For taking care of the grounds south of the President's House, continuing the improvements on the same, and keeping them in order, \$3,000."

I desire information of the chairman of the Committee of Ways and Means. We have passed an appropriation for the annual repairs of the President's House, and the further improvement of the grounds, and so forth, and here is another clause for taking care of the grounds south of the President's House, and continuing the improvement of the same, \$3,000. Now, I cannot see the use of that division of the appropriation. I know the condition of these grounds very well, and I hope this clause will be stricken out.

Mr. SHERMAN, of Ohio. I desire to ask the gentleman from Virginia if he has not been invited to the President's, [laughter,] because I must really refer him to my friend from Pennsylvania, to lecture him.

Mr. J. GLANCY JONES. The gentleman has a queer way of showing his friendship.

Mr. SMITH, of Virginia. I do not think that this particular appropriation is of any sort of interest to the President, and I believe that he would be very glad to have it stricken out, if it is here wrongly.

[Cries of "Question!" "Question!"]

Mr. PHELPS. The gentleman from Virginia is mistaken when he supposes that the two clauses relate to the same public grounds. The first clause related to the grounds immediately about the President's House, but this relates to the grounds between the street south of the President's mansion and the canal, upon which improvements have

been in progress for some time past. The Committee of Ways and Means thought this appropriation necessary and proper.

[Loud cries of "Question!"]

Mr. SMITH, of Virginia. There is not a dollar of the appropriation in the first clause that may not be applied to these grounds south of the President's House.

The amendment of Mr. SMITH, of Virginia, was rejected—ayes thirty-two, noes not counted.

Mr. COLFAX. I move to amend by striking out the words "continuing the improvements of the same," and reducing the appropriation to \$1,000, in the following paragraph:

"For taking care of the grounds south of the President's House, continuing the improvements of the same, and keeping them in order, \$3,000."

I offer that amendment in good faith. We are told that we have not money enough in the Treasury to continue the improvements in our rivers and harbors, which are necessary for the wants of our commerce, and for the protection of the lives and property of our citizens. We are told that there is not money enough in the Treasury to warrant us in continuing the work on the custom-houses in the various parts of the country, which are in process of construction, and which will result in a great loss to the Government in the shape of damages, in consequence of the work being discontinued. And yet the Committee of Ways and Means have reported, in this bill, items for which there is not a hundredth part the necessity that there is for those I have named. Sir, if the condition of the Treasury is reduced so low that we cannot afford the money to carry on the ordinary expenses of the Government, if we must carry on the work of retrenchment to this extent, I say, let us commence here in Washington. If we are not justified, in consideration of the condition of the Treasury, in continuing the work on public improvements throughout the country, we are not justified in making this appropriation for purchasing trees and plants in these public grounds. I move, in addition to reducing the appropriation, as I have indicated, to strike out the words "and for continuing the improvements on the same." This will leave \$1,000 for taking care of and keeping in order these grounds, and which I think will be sufficient.

The amendment was adopted.

Mr. MORGAN. I move to strike out the following clause:

"For the payment of laborers employed in shoveling snow from the walks to and around the Capitol, the President's House, and the pavements along the Government reservations on Pennsylvania avenue, \$800."

My reason for making the motion is that there is an abundance of laborers employed on the public grounds, who have nothing to do in the world; and who can be employed to perform that service.

Mr. CLAY. Will the gentleman name the parties he wishes to employ?

Mr. J. GLANCY JONES. The grounds upon which the Committee of Ways and Means passed upon these appropriations were these: the estimates were sent to them, and they have cut the amount down to the lowest point. If the gentleman wants the snow to lie upon the walks next winter, if there should be snow, then he will vote to strike out this appropriation. It would be a still better arrangement if the gentlemen would provide that there should be no snow, and then there would be no necessity for the appropriation. [Laughter.]

Mr. MORGAN. If you will employ some of the men who are employed by the year, and who are idling away their time during the winter with nothing to do, there would be no need of making any appropriation for this purpose. There are men enough already employed to do this work, without employing any more.

Mr. J. GLANCY JONES. I am opposed to the amendment of the gentleman. If the House want this work done next winter, I do not believe they can get it done for less money, or in any better way.

Mr. MORGAN called for tellers on the amendment.

Tellers were not ordered.

The question was taken; and the amendment was not agreed to.

Mr. SMITH, of Virginia. I move to amend the bill by striking out the following paragraph:

"For casual repairs of the Patent Office building, \$3,000."

I make the motion for the purpose of asking the chairman of the Committee of Ways and Means what casual repairs are needed on the Patent Office building to the amount of \$3,000? I supposed that building was of such a character that no repairs were needed.

Mr. J. GLANCY JONES. The word "casual," I believe, means incidental or contingent repairs, which cannot be anticipated.

Mr. SMITH, of Virginia. Yes, sir, I know; but what makes the necessity of providing for such a contingency? The building is fire-proof; and is constructed of marble and granite. I do not see what repairs can be needed.

Mr. J. GLANCY JONES. The experience of the past shows that it is necessary to make provision for these contingencies. They will always arise; and I understand that this is the customary amount to appropriate.

The amendment was not agreed to.

Mr. DAVIDSON. I move to strike out the following paragraph in the bill:

"For completing the west wing of the Patent Office building, filling up the southwest corner of the square, setting the curb, and raising Ninth street in front of the building to its proper grade, \$50,000."

Mr. EUSTIS. I ask the gentleman from Louisiana to withdraw his amendment a moment for the purpose of allowing me to ask the Chair if the amendment which I proposed yesterday in reference to custom-houses and marine hospitals is in order here?

Mr. DAVIDSON. No, sir; I insist on my motion. I make the motion for the reason that I do not think the Treasury is in a condition, at this time, to warrant the expenditure of this appropriation, so long as it is in such a condition that we cannot appropriate the money which is needed to continue the work on the custom-houses which are already under contract in the different parts of the country.

Mr. J. GLANCY JONES. The Committee of Ways and Means have not passed upon a single item upon the ground that we believed, or did not believe, it necessary; but because it was required, or was not required, to carry out provisions of existing law. Now, sir, there is a law providing for the erection and completion of this building; and the money is necessary to comply with the provisions of existing law. If you want to stop the construction of this building, strike out the appropriation; but if you want to have the building completed, you must provide the means to finish it.

Mr. DAVIDSON. The gentleman from Pennsylvania tells us that the Committee of Ways and Means had not the power to discriminate; that the law requires these buildings to be completed. I ask the gentleman how it is that they discriminate against the custom-houses? Does not the law require that they shall be completed? Have we not already expended thousands of dollars in their construction? They reported in favor of one and not for the other, and I hope this committee will reject their action.

Mr. J. GLANCY JONES. The estimates for the custom-houses were not before us.

Mr. DAVIDSON. Then I have to say to the gentleman from Pennsylvania this: that if the necessities of this Government are so great at this moment that the custom-houses under contract have to be suspended, I do not see why these appropriations for the District of Columbia should be continued at this same time. Let us put them all upon the same footing, and let us wait until the Government can draw breath, if she is out of breath, before we go on with either of them. If there is no absolute necessity for completing the custom-house at New Orleans, there is no absolute necessity for completing the Patent Office extension. And I think the one ought to be stricken out as the other has been stricken out; and I make that motion.

The amendment was agreed to.

Mr. SEWARD. I move to strike out the words—

"For repairing the fence round that portion of the Mall upon which the Smithsonian Institution is situated, \$1,000."

I do not think we are called upon to pay this sum, especially as there is no money in the Treasury belonging to the Smithsonian fund.

Mr. J. GLANCY JONES. I desire to know whether the gentleman desires me to hear anything he says?

Mr. SEWARD. Yes, sir; but there is so much noise I cannot hear myself talk.

Mr. J. GLANCY JONES. I have not heard a word the gentleman has said.

Mr. SEWARD. I think this appropriation is wrong.

Mr. J. GLANCY JONES. This appropriation is for the proportion of repairs which the Smithsonian Institution contributes to the repair of the fences.

Mr. SEWARD. The Government of the United States loaned out this fund to some of the States and never got it back, and it had to assume the loss and appropriate money out of the Treasury to carry out the bequest of Mr. Smithsonian.

Mr. ENGLISH. I am opposed to the amendment.

Mr. DAVIS, of Mississippi. I move that the committee rise. [Cries of "No!" and "Withdraw it!"] I will not withdraw it. I stand by my motion.

The motion was not agreed to.

The question was taken on Mr. SEWARD's amendment, and it was not agreed to, there being on a division, ayes 56, noes 53.

Mr. PEYTON. I offer the following amendment:

For continuation of filling up the ravine, and grading Judiciary square, \$7,000.

All I have to say in reference to that amendment is, that I have been requested by the Commissioner of Public Buildings to offer it.

Mr. J. GLANCY JONES. The estimates on which these amendments are based were before the Committee of Ways and Means, but were omitted because the committee thought we could get along without them, and desired to cut down the appropriations as much as possible.

Mr. SEWARD. Is that amendment in order?

The CHAIRMAN. The Chair is of opinion that the amendment is in order, being in continuation of a work heretofore commenced.

The amendment was rejected.

Mr. KELSEY. I move to amend the bill by striking out the following clause:

"For cleaning out the sewer traps on Pennsylvania avenue, \$3,000."

Mr. BLISS. I wish to inquire of the gentleman whether he boarded at the National Hotel last winter? [Laughter.]

Mr. KELSEY. I did; but I do not think it is the business of Congress to provide for work of this kind.

Mr. J. GLANCY JONES. I oppose the amendment, and ask for a vote upon it.

The amendment was rejected.

Mr. PALMER. I offer the following amendment:

For completion of custom-house at Ellsworth, Maine, \$2,000.

For completion of custom house at Portsmouth, New Hampshire, \$50,000.

For completion of custom-house at Bristol, Rhode Island, including fencing and grading, \$5,000.

For completion of custom-house at New Haven, Connecticut, \$60,000.

For completion of custom-house at Oswego, New York, \$10,000.

For completion of custom-house at Plattsburg, New York, \$10,000.

For completion of custom-house at Newark, New Jersey, \$10,000.

For completion of custom-house at Norfolk, Virginia, \$20,000.

For completion of custom-house at Pensacola, Florida, \$5,000.

For completion of custom-house at St. Louis, Missouri, \$20,000.

For completion of custom house at Mobile, Alabama, including fencing and paving, \$30,000.

For completion of custom-house at Galena, Illinois, \$10,000.

For completion of custom-house at Milwaukee, Wisconsin, \$10,000.

Mr. ENGLISH. The only way to get rid of this bill within any reasonable time, is to strike out the enacting clause. That will bring the bill before the House, where proper amendments can be offered. I move to strike out the enacting clause of the bill.

Mr. GROW. I raise the same point of order made by the gentleman from Virginia, [Mr. MILLSON,] the other day, that the motion is not in order in Committee of the Whole when debate has been closed by the order of the House.

The CHAIRMAN. The Chair overrules that question of order, and decides that the motion is in order.

Mr. MILLSON. I believe it has never been attempted before to strike out the enacting clause of an appropriation bill; and in order to test the sense of the committee as to the authority of the committee to strike out the enacting clause of an appropriation bill, which must first be discussed in Committee of the Whole, so as to cut off all amendments, I appeal from the decision of the Chair entertaining the motion.

Mr. ENGLISH. I desire to say that all the amendments which ought to be adopted can be moved in the House before the previous question is called.

Mr. JONES, of Tennessee. Under the rules, no amendment making an appropriation can be offered in the House, except by unanimous consent. The rule says that every proposition to appropriate money must first be discussed in Committee of the Whole on the state of the Union.

Mr. BOCK. The remarks of the gentleman may be a very good argument against striking out the enacting clause.

Mr. JONES, of Tennessee. You had better call the previous question at once.

The CHAIRMAN. The Chair is of opinion that the striking out of the enacting clause would dispose of all the amendments, and bring the House to a vote on the original bill.

Mr. ENGLISH. If there is any disposition to go on, and dispose of the bill within a reasonable time, I withdraw the motion.

Mr. MASON. I renew it, in order that it may be voted down; because the gentleman has been hanging it over us for the last two hours. [Laughter.] I withdraw the motion.

Mr. GREENWOOD. I raise a question of order on the amendment of the gentleman from New York, [Mr. PALMER.] My point of order is, that the amendment is the same in substance as the one offered yesterday by the gentleman from Louisiana, [Mr. EUSTIS,] and rejected by the committee.

Mr. PALMER. No, sir; it is not the same.

Mr. GREENWOOD. It embraces a number of the same appropriations.

Mr. PALMER. Still it is not the same.

Mr. GREENWOOD. It may not contain all the appropriations for custom-houses and marine hospitals that were embraced in the amendment of the gentleman from Louisiana, but many of them are the identical appropriations; and, therefore, I hold that it is not in order.

The CHAIRMAN. The Chair overrules the point of order.

Mr. GREENWOOD. I want to ask the Chair a question. Suppose I introduced an appropriation for a marine hospital at Napoleon, Arkansas, and it was voted down; should I have a right to introduce the same proposition again?

The CHAIRMAN. There is no such question before the committee; and the Chair begs leave to decline to decide questions which have not arisen.

Mr. PALMER resumed the floor.

Mr. GROESBECK. I ask the gentleman from New York to accept the following as an addition to his amendment:

For completion of the marine hospital at Cincinnati, Ohio, \$50,000.

Mr. PALMER. Is that contained in the recommendation of the Secretary of the Treasury?

Mr. GROESBECK. It is.

Mr. PALMER. Very well; then I accept it.

Mr. GROESBECK. I know that it is very necessary.

Mr. PALMER. I hope the amendment which I have offered will prevail. It addresses itself to the common sense of the House, and should meet its unanimous approval. It covers about a dozen cases where buildings have been commenced by order of this Government, and almost completed; and the Secretary of the Treasury, and officers having the works in charge, recommend that these small sums shall be appropriated for their completion. I know very well that the building at Plattsburg can be completed for \$10,000. It is estimated for by the Secretary of the Treasury, as necessary to complete the building. The building is nearly completed, but unless this appropriation is made, it will have to stand with the doors and windows boarded up for another year.

Again, Captain Bowman states in his report that its construction having been to a great extent of iron, it will suffer very great damage by being

left in its present condition. The appropriation asked for is a very small one, and I hope the amendment will prevail.

Mr. BURNETT. I move to amend the amendment by appropriating \$5,000 for the purpose of completing the marine hospital at the town of Paducah, in the State of Kentucky. My reason for offering this amendment I will state to the committee. During the last Congress, there was appropriated \$5,000 for the purpose of repairing and refitting the marine hospital at Paducah, and grading the grounds around it. The Committee on Commerce recommended a bill appropriating this amount of money, which was introduced by myself; but the Committee of Ways and Means cut down the appropriation to \$5,000. They have gone on and made some repairs and some improvements under the appropriation which was then made; but the appropriation was not enough; \$10,000 would not have been too much; and that was the amount recommended by the Secretary of the Treasury.

Now, I will state that while I am not in favor of our system of marine hospitals, yet if you will look at the returns of this hospital, which is situated at the mouth of the Tennessee river, twelve miles below the mouth of the Cumberland and forty miles from the mouth of the Ohio, there are more patients there than are at Louisville, or any other point in the Mississippi valley, except New Orleans. This building has been erected by the Government, and it seems to me that Congress ought to make an appropriation sufficient to complete it and to preserve it from dilapidation and decay. The Government must necessarily have to keep it in repair, and hence I offer the amendment which I have, and which I hope the committee will adopt.

Mr. EUSTIS. I ask the gentleman to accept the amendment which was offered yesterday, providing for other marine hospitals and custom-houses.

Mr. BURNETT. I am willing the gentleman should have a vote upon his amendment, and will accept it.

Mr. BRANCH. I am opposed to the amendment offered by the gentleman from New York, and that offered by the gentleman from Kentucky. During the last Congress several small appropriations were made for the construction of public buildings, mostly in States where only a small amount of the public money has been expended. Amongst others, there was a small appropriation made for a building for the United States courts in the city of Raleigh, in the State of North Carolina. Yet, sir, not one dollar has ever been expended of that appropriation. The reason for it was the condition of the Treasury; and I am satisfied with the course pursued by the Secretary of the Treasury. The reason has been satisfactory to me, and, I presume, has been to every gentleman from a State in which similar appropriations have been suspended. As I understand it, in some cases appropriations made two years ago, remain in the Treasury untouched; and yet gentlemen are now insisting that we shall appropriate additional sums for precisely similar purposes. I ask gentlemen of what avail it is to make these appropriations? Why pile one appropriation upon another, if the condition of the Treasury is such that even the appropriations which were made in the last Congress cannot be expended? Let us, at least, wait for the Government to accomplish that for which provision was made two years ago, and which has not been accomplished in consequence of the condition of the Treasury. If these amendments were to be adopted, the sums appropriated could not be expended. The laws which have already passed making appropriations must be executed before any of these provisions can be carried out. I am opposed both to the amendment to the amendment and to the original amendment.

Mr. PHELPS. I understood the gentleman from Louisiana [Mr. EUSTIS] to suggest to the gentleman from Kentucky [Mr. BURNETT] to modify his amendment, and that the amendment was thus modified.

The CHAIRMAN. The Chair understood that the modification was made, and the question is now upon the amendment as modified.

Mr. BURNETT. I had yielded the floor when the gentleman from Louisiana asked me to accept of a modification. I said I had no objection to

accepting it, so as to give the committee an opportunity to vote upon it, but that I thought it would answer the gentleman's purpose better to offer his amendment separately.

Mr. PHELPS. I merely rose to know how the matter stood, that we might know what we were voting on.

The CHAIRMAN. If the gentleman from Kentucky does not accept the modification, the amendment cannot be received at this stage of the proceedings.

Mr. BURNETT. I am willing that a vote should be taken upon the amendment I have offered.

Mr. SMITH, of Virginia. What has become of that omnibus bill?

Mr. EUSTIS. Here it is.

Mr. BURNETT. I prefer a vote upon my amendment alone.

Mr. EUSTIS. I understood that the gentleman from Kentucky had already accepted the modification.

Mr. SMITH, of Virginia. He says he has not accepted it.

Mr. JONES, of Tennessee. Is debate in order? The CHAIRMAN. It is not.

Mr. JONES, of Tennessee. Then I object to it. The question was taken on Mr. BURNETT's amendment; and it was rejected.

Mr. EUSTIS. I now move, as an amendment to the amendment of the gentleman from New York, the following:

Strike out all after the word "for," and insert the following:

For continuing the work on the extension of the Treasury building, \$300,000.

For continuing the work on custom-houses building at the following places, viz: at New Orleans, Louisiana, \$350,000; and at Charleston, South Carolina, \$300,000—\$650,000.

For the completion of custom-houses at the following places, viz: at Ellsworth, Maine, \$2,000; at Portsmouth, New Hampshire, \$50,000; at Bristol, Rhode Island, (including fencing and grading,) \$5,000; at New Haven, Connecticut, \$60,000; at Oswego, New York, \$10,000; at Plattsburg, New York, \$10,000; at Newark, New Jersey, \$10,000; at Norfolk, Virginia, \$20,000; at Pensacola, Florida, \$5,000; at St. Louis, Missouri, \$20,000; at Mobile, Alabama, (including fencing and paving,) \$30,000; at Galena, Illinois, \$10,000; at Milwaukee, Wisconsin, \$10,000; and for annual repairs at custom-houses, \$15,000—\$257,000.

For the completion of marine hospitals at the following places, viz: at Portland, Maine, \$3,000; at St. Marks, Florida, \$2,500; at New Orleans, Louisiana, (including filling up, grading, and fencing, and the introduction of gas and water pipes and fixtures,) \$85,000; at Cincinnati, Ohio, \$50,000; at Galena, Illinois, \$5,000; and for annual repairs of marine hospitals, \$15,000—\$160,500.

For grading, paving, and fencing the grounds, and for furnishing custom-houses, at the following places, viz: at Ellsworth, Maine, \$3,000; at Bath, Maine, furniture alone, \$1,100; at Burlington, Vermont, \$4,600; at New Haven, Connecticut, \$8,500; at Oswego, New York, \$7,300; at Plattsburg, New York, \$9,000; at Newark, New Jersey, \$5,200; at Alexandria, Virginia, \$3,700; at Norfolk, Virginia, \$12,000; at Mobile, Alabama, furniture alone, \$2,600; at Pensacola, Florida, \$2,500; at St. Louis, Missouri, \$14,600; at Louisville, Kentucky, \$3,900; at Cleveland, Ohio, \$7,100; at Galena, Illinois, \$3,700; and at Milwaukee, Wisconsin, \$7,700—\$97,100.

For grading, paving, and fencing, and for furnishing marine hospitals, at the following places, viz: at Burlington, Vermont, \$3,400; at Chelsea, Massachusetts, \$19,700; at St. Marks, Florida, \$1,200; at Detroit, Michigan, \$7,500; at Galena, Illinois, \$3,800; and at Burlington, Iowa, \$1,100—\$39,700.

For completion of improvements of navigation of the Ohio, Mississippi, and Missouri rivers, by removing snags and sawyers from the same, \$250,000.

Mr. BRANCH. I rise to a point of order. The amendment of the gentleman from Louisiana is not germane to the subject. As I understand it, the latter part of the amendment proposes an appropriation to improve the navigation of the Mississippi and other rivers. That subject belongs entirely to another bill, and therefore I object to the amendment as entirely out of order.

The CHAIRMAN. The Chair is of opinion that the amendment to the amendment is not in order. The Chair would state that there are several things in the amendment which the Chair believes to be out of order under the 81st rule, and therefore rules it out of order.

Mr. EUSTIS. I will remove the objection to the amendment by omitting the latter clause of it.

The CHAIRMAN. Does the gentleman appeal from the decision of the Chair?

Mr. EUSTIS. I should like to know the reason for the decision.

The CHAIRMAN. It would be impossible for the Chair to state all the reasons.

Mr. EUSTIS. I modify my amendment in the manner which I have indicated.

The CHAIRMAN. The Chair has decided the amendment out of order. Does the gentleman appeal?

Mr. EUSTIS. No, sir; I do not.

Mr. SMITH, of Virginia. I offer the following amendment:

For the purchase of Adams's lot, \$3,000, in addition to the custom house in the city of Alexandria; if, in the judgment of the Secretary of the Treasury, said lot is desirable.

Mr. GREENWOOD. I submit that that amendment is not in order.

The CHAIRMAN. The Chair decides that the amendment is not in order.

Mr. WOODSON. I offer the following amendment:

For completing the removal of the snags in the Missouri river, \$50,000.

The CHAIRMAN. The Chair is of opinion that the amendment is not in order.

Mr. ATKINS. I move to strike out the enacting clause of the bill.

Mr. MILLSON. I now raise the question of order on that motion.

The CHAIRMAN. The Chair overrules the question of order.

Mr. MILLSON. I appeal from the decision of the Chair.

Mr. GREENWOOD. I appeal to the gentleman from Virginia to withdraw the appeal. We shall have no difficulty in voting down the motion of the gentleman from Tennessee.

Mr. MILLSON. That may be, but I can never allow a decision of a Chair, entertaining a motion to strike out the enacting clause of an appropriation bill, to pass without an appeal.

The CHAIRMAN. The Chair begs leave to have the 119th rule read.

Mr. ATKINS. I made the motion to strike out the enacting clause of the bill for the purpose of expediting the public business, but as I find it will retard it, I withdraw the motion.

Mr. KEITT. I wish to inquire of the Chair what has become of the amendment offered by the gentleman from New York, [Mr. PALMER?]

The CHAIRMAN. The decision of the Chair covered the amendment of the gentleman from New York, as well as that of the gentleman from Louisiana.

Mr. PALMER. I did not understand that the Chair had ruled my amendment out of order. I understood that the ruling of the Chair applied only to the amendment offered by the gentleman from Louisiana, [Mr. EUSTIS.]

The CHAIRMAN. The gentleman from New York will recollect that the decision of the Chair ruling the amendment of the gentleman from Louisiana out of order, covered nearly the whole ground of the amendment of the gentleman from New York. The Chair decided that both amendments were out of order.

Mr. ADRAIN. I move to strike out the following clause of the bill:

"For purchasing plants for the conservatory at the President's House, \$1,000."

I think that that is an unnecessary appropriation; and that the \$1,000 may well be saved to the Government at this time.

Mr. KEITT. I was instructed by the Committee on Public Buildings and Grounds to move to increase the appropriation to \$3,000; but if the committee do not wish to do that, I have no wish to be importunate. I trust, however, that the committee will, at least, not strike out the \$1,000. As has been already stated to-day, in consequence of the Treasury extension, the green-house has been torn down, and a new one constructed. There are very few flowers in it, as I have been informed by those who know, and no rare ones. This appropriation is for the purchase of flowers. I am perfectly unselfish in my advocacy of it; for I take it for granted that I am the only member of the House who does not expect to succeed the present incumbent of the White House. [Laughter.] I ask it for the benefit of others, and not for my own.

But, sir, this appropriation is to be final. An appropriation of \$3,000 is recommended for the purpose by the Secretary of the Interior and the Commissioner of Public Buildings. I understand from them that \$3,000 would purchase flowers enough, and that no subsequent appropriation will be needed for their preservation.

Mr. WALBRIDGE. Are there to be any "morning-glories?"

Mr. KEITT. No; we want neither sun-flowers, nor morning-glories, nor sweet Williams, nor jumping Johnnies, which gentlemen have spoken of. [Laughter.] I am in earnest in this matter. I should have liked to have moved to increase the appropriation to \$3,000; but if the House, in a fit of economy, is unwilling to do that, I do not wish to be troublesome.

Mr. LETCHER. Will the gentleman give us the names of some of the new flowers they want to purchase?

Mr. KEITT. The Committee of Ways and Means have made an appropriation here of \$1,000, and I take it for granted that the gentleman from Virginia knew what he was making the appropriation for. [Laughter.]

Mr. ADRAIN. I am as fond of flowers as any man, but I think this expenditure of \$1,000 unnecessary, and therefore I object to it.

Mr. ADRAIN's amendment was not agreed to.

Mr. DAVIDSON. I move to strike out the following clause of the bill:

"For the completion of the Washington aqueduct \$800,000; and, in addition thereto, so much of the appropriation of \$250,000 'for paying existing liabilities for the Washington aqueduct, and preserving the work already done from injury,' contained in the act entitled 'An act making appropriations for certain civil expenses of the Government for the year ending the 30th June, 1857,' approved 18th August, 1856, as may not be required for the said purpose."

Mr. BURNETT. If the gentleman from Louisiana does not want to speak in favor of that amendment I desire to occupy his time. I am in favor of that amendment. During the last Congress a large appropriation was made for carrying on this work. I do not recollect the amount. A gentleman informs me that it was \$1,000,000, for the purpose of bringing the water into this city.

Mr. J. GLANCY JONES. I rise to a question of order. I submit that the gentleman from Kentucky has no right to speak in favor of the amendment of the gentleman from Louisiana.

The CHAIRMAN. The gentleman has the right to speak in favor of the amendment of the gentleman from Louisiana if he desires.

Mr. J. GLANCY JONES. The rule provides that the gentleman offering an amendment may speak five minutes in its favor.

Mr. BURNETT. I will be very brief. I have no disposition to obstruct the public business. But, sir, I am opposed to this appropriation at this time, when we are told by the chairman of the Committee of Ways and Means that we can have no appropriation of money out of the public Treasury for the completion of public works which have been commenced, are in a state of progress, and are actually going to ruin and decay because we cannot have the money to carry them on. Yet under these circumstances the Committee of Ways and Means report appropriations of millions to carry on the public works in this city and District. I submit that under these circumstances we have no right, at such an enormous expense, to supply the people of this city with the luxury of water.

Mr. KEITT. Water a luxury? [Laughter.]

Mr. BURNETT. To furnish the people of Washington with an over-supply of water. I ask whether we are justified in expending \$800,000 for bringing water into this city and carrying on this work?

Mr. BOCK. I rise to a question of order. The debate has been closed upon this bill by resolution of the House, and the rule provides that five minutes may be occupied in explaining an amendment, but the rule restricts that privilege to the member offering the amendment. I submit, therefore, that the gentleman is not in order in speaking in favor of the amendment offered by the gentleman from Louisiana.

The CHAIRMAN. The Chair is of opinion that the remarks of the gentleman from Kentucky are not in order, and that he has not the right to speak in favor of the amendment.

Mr. WASHBURN, of Illinois. Well, sir, I am opposed to the amendment, and call for a vote.

Mr. BURNETT. If the Chair will permit me, I will change my position, and speak in opposition to the amendment.

Mr. BARKSDALE. I desire to ask the chairman of the Ways and Means Committee whether this appropriation will complete the work?

Mr. J. GLANCY JONES. The statement made to the Committee of Ways and Means is, that this

appropriation will cover the entire contracts for completing the work.

Mr. BARKSDALE. Then I will vote in favor of it.

Mr. BRANCH. I move to amend the amendment by reducing the appropriation to \$100,000. I am not in favor of striking out the entire appropriation, because it might give rise to a serious public loss by stopping entirely the work on the aqueduct; but I think \$100,000 will be amply sufficient to preserve the work from loss, and I hope the appropriation will be reduced to that amount.

Mr. SEWARD. I am opposed to the amendment of the gentleman from North Carolina. I am thoroughly sick of this talk about the condition of the Treasury; and when gentlemen talk about suspending the work upon these public buildings, I want to know how it is that the power abides in the Executive to suspend the work? Is he not subservient to the will of Congress, or may he carry out his own disposition by delaying the work upon these buildings.

Now, Mr. Chairman, if there is no money in the Treasury, why does not the President send in here and ask us for the means of carrying on the Government? That is what we want. Government is a borrower, anyhow. The revenue system just amounts to this: that when you have collected so much money from the customs, you have only borrowed that much from the people. There is no man in our whole country but must know that in the present condition of our commerce no money can come into our Treasury until our revenue system is revised. A reduction of five dollars in the expenditure of every family in the United States, in the purchase of foreign fabrics, would reduce the revenue of the United States from fifteen to twenty million dollars per annum. Then let us meet this question like men, and let the Administration come up here and tell us of its difficulties, and ask an appropriation, not only for carrying on this work, but all the works provided for by acts of Congress. We had a surplus in the Treasury not long since, and the policy was to get that money out of the Treasury, and I think they let the money go wisely.

Mr. BARKSDALE. I rise to a question of order. The gentleman from Georgia is not discussing the subject before the committee.

Mr. SEWARD. I am discussing the means of raising the \$800,000.

The CHAIRMAN. The gentleman must confine his remarks to the amendment under consideration.

Mr. SEWARD. I shall do so. We are asked for an appropriation of \$800,000, and gentlemen move to cut it down to \$100,000, because we have not the money; I want to have the money raised. I want to see a message come here from the President of the United States, asking for twenty-five or thirty million dollars at least. Then, sir, we shall have enough to carry on these water-works.

Mr. BARKSDALE. I rise to a point of order. It is not the business of the gentleman from Georgia when he shall send in messages. The President is the judge of that himself.

Mr. SEWARD. I am to judge of what I think the President ought to do; and he is to judge of what he will do. I have a right to discuss the policy of this Government, and especially when we have no money in the Treasury. I want to see the money raised, and, though I have seen the President but once this session, if he will call upon me for my opinion, I will volunteer to give it. We have got to borrow the money.

Mr. J. GLANCY JONES. Will the gentleman from Georgia allow me to here read a communication, upon the matter under consideration, from the Secretary of the Treasury?

Mr. SEWARD. I would be glad to hear it.

Mr. BURNETT. I object to the reading. I understand that the time of the gentleman from Georgia is not yet out.

The question recurring upon the amendment to strike out "eight," and insert "one"—

Mr. GARTRELL demanded tellers.

Tellers were ordered; and Messrs. BUFFINGTON and JONX COCHRANE were appointed.

The House was divided; and the tellers reported—ayes 67, noes 69.

So the amendment was not agreed to.

Mr. GOODE. I move to amend by increasing the appropriation one dollar. I do it for the purpose of making an explanation to the committee.

This is a work upon which an immense sum of money has been expended. A sum of \$1,350,000 has already been appropriated, and for the most part expended; and the suspension of the work at present would involve the waste of this money. It would be a serious thing, sir, to suspend the work under existing circumstances, when the contractors have invested large sums of money in stocks of various kinds. This bill appropriates \$800,000 in addition to what has been previously appropriated, and that will enable the Government to complete this work within the estimate made by the superintendent. Now, sir, if we do not make this appropriation, of what use would be the large sum already expended? If we do make it, it will enable the Department to complete the work within the estimate. Sir, I say it is the cheapest supply of water known in the history of aqueducts. There is no city in the world supplied with so large an amount of water at so low a rate. I ask leave to withdraw my amendment.

Mr. WASHBURNE, of Illinois. I object to the withdrawal of the amendment.

Mr. SICKLES. Mr. Chairman, I am opposed to the amendment.

Mr. FARNSWORTH. I wish to know how it is that the gentleman from New York took the floor from my colleague, who rose and objected to the withdrawal of the amendment, and who is entitled to make a five minutes' speech against it?

The CHAIRMAN. The gentleman from New York is entitled to the floor.

Mr. SICKLES. I have only a few words to say in regard to the subject. I desire to make a statement for the purpose of removing a misapprehension which, I observe, exists in some quarters in regard to this work. The impression prevails that this aqueduct is not likely to be completed within the estimates that have been heretofore furnished to Congress indicating its probable cost. I have it from the best sources of information, and I think I can state to the House with entire confidence, that the work will be finished within the estimates heretofore furnished to Congress. I think I am able to state that the work is now put out under contract, or at least that it has been bid for.

Mr. BURNETT. What was the amount originally estimated as the cost of this work?

Mr. SICKLES. I think \$2,300,000; and it is officially stated that the work will be completed within that price.

Mr. ZOLLICOFFER. I rise to a question of order. The gentleman from New York is not opposing the amendment.

Mr. SICKLES. I am opposing it. The proposition is to reduce the appropriation one dollar.

Mr. ZOLLICOFFER. No; the amendment is to increase it one dollar.

Mr. SICKLES. Well, I am opposed to increasing it one dollar. I think that \$800,000 is just enough, and is adequate to all the wants of the work, not too much, not too little. I think it would be trifling with the interests of the Government, and the people, and would be trifling with the money already appropriated and expended to withhold what is now an appropriation adequate to complete this great and beneficial work; and I trust that in view of the ability and integrity, the skill and economy, with which it has been conducted thus far, and the guarantees which are furnished from all these circumstances that it will be completed promptly, and in a manner to reflect infinite credit on the Government, and infinite good to the people of the District, you will no longer hesitate to appropriate the only sum needed for its completion. This is all the money that will ever be required, as there is no reason whatever to doubt that the contracts very recently awarded for the entire completion of the work can be performed for the sum now asked, and that that sum, with the former appropriations, will be only equal to the original estimate.

The question was taken on Mr. Goode's amendment; and it was rejected.

Mr. WASHBURNE, of Illinois. I move to amend the original proposition by reducing the amount \$7,999. I desire, Mr. Chairman, the attention of the committee but on one point. I do not intend to discuss the original propriety of this measure; but I desire to call the attention of the committee to its verdict yesterday on a similar proposition. When we had up a proposition to vote something to complete your custom-houses,

nearly every one of which is completed within a few thousand dollars, you voted it down two to one; and now, by the vote just taken here, it seems that you intend to vote in this \$800,000, to complete your water-works in this city, and to vote in other provisions of this bill. The next item is \$1,000,000 for the Capitol extension, and the next is \$100,000 for the completion of the Post Office building. Now, what I say is this: if the committee is determined to vote these appropriations, I would like to know upon what principle they can refuse to vote money to complete our custom-houses all over the country?

Mr. SICKLES. I will answer the gentleman, if he will permit me. Water is necessary, and these custom-houses are not necessary.

Mr. SMITH, of Virginia. I rise to a question of order. The gentleman from Illinois is not addressing himself to his amendment.

Mr. WASHBURNE, of Illinois. I will confine myself to the amendment. The committee decided yesterday that they would not appropriate one dollar to the completion of the custom-houses all over the country. Will we say that we are willing to vote millions on millions for the city of Washington, and not vote one dollar for our own constituents, for post offices or custom-houses, or for the convenience of our people at home? That is the question which I wish to present to the committee. My own opinion was, that we should have voted the appropriations to complete our custom-houses. The Government should act as a reasonable and prudent business man would act in all these matters. Sir, I say if we refuse to vote for custom-houses and marine hospitals, it is our duty to administer the same justice to the Capitol extension and to these water-works.

Mr. GOODE. If the House yesterday violated all the rules of propriety in refusing to do something which the gentleman thinks ought to have been done, is that a reason why it should fall into the same error to-day?

Mr. WASHBURNE, of Illinois. Does not the gentleman think that all ought to be put on the same footing?

Mr. GOODE. If you did wrong yesterday, is that an argument why you should do wrong to-day? If you were a sinner one day of your life, is that any reason why you should die a sinner?

Sir, the argument has been often brought before the House, that there have been false representations made to Congress, as to the amount required for certain works; but now I state to the committee, in this case, that I believe it is within the power of the Government to close contracts which would complete the work within the estimates made by the superintendent.

Mr. SICKLES. They are closed now.

Mr. GOODE. Now, why should not this be done? Why should we condemn those gentlemen, who have entered into contract with the Government, to the losses which they are to sustain in selling off their stock, and commencing at some future day to reconstruct the work? Two years ago we appropriated \$150,000 to cover up the works, and to suspend their operation for a time. We came forward, then, at the next session, and appropriated \$1,000,000 to prosecute the work, and, in making that appropriation, we had to recover from the losses which we had sustained by the sale of the stock. Will the House thus stultify itself? Will it indulge in this strain of hostility to the people of the District of Columbia, and refuse to do justice, lest the people of the District of Columbia should derive any advantage from it. This aqueduct is not constructed for the benefit of the people of the District of Columbia, but for the benefit of the Government of the United States, and of the people of the United States, for the protection of the public works, and for the health of the citizens, of ourselves, and of the officers of the Government, who reside here. I hope the committee will sustain the appropriation.

The question was taken on the amendment to the amendment, and it was rejected.

Mr. BURNETT. I move to amend, by reducing the appropriation to one dollar. Mr. Chairman, it is not hostility to the District of Columbia that controls me. I am not here for the purpose of discussing the original propriety of constructing these water-works, but I sympathize with the Committee of Ways and Means in their great

anxiety to economize. What is the condition of the country? We have, since the commencement of the present Congress, borrowed \$20,000,000. It is said we will have to borrow another sum. Whether that is so or not, I do not pretend to know; but that the condition of the Treasury is embarrassed, all know and all admit. The question that now presents itself to the committee is simply this: whether we will appropriate \$1,050,000 of money which we have not in the Treasury for the purpose of doing what? of bringing water into this city, which, to say the least of it, we can dispense with for a while. I ask why we should not suspend this work as well as others? Is there any controlling reason why we should spend \$1,050,000 of the public money for the purpose of supplying water to this city, while we are suspending public improvements throughout the country? I think not.

Now we are told that these estimates were for \$2,300,000; what assurance have we that that will complete the work? Gentlemen express the opinion that it will. They say that the agent for the Government says it will; but I call the attention of gentlemen to one solitary improvement in connection with this Capitol, on which estimates were furnished. I mean the dome of the Capitol.

Mr. GOODE. I desire to say that the Superintendent of Public Buildings never made an estimate for that dome. The estimate was made by the architect.

Mr. J. GLANCY JONES. I rise to a question of order. The gentleman from Kentucky is not confining his remarks to the subject of the amendment.

Mr. BURNETT. I am giving the reasons why this appropriation should be reduced, and I think I understand as well as the gentleman from Pennsylvania, whether I am confining myself to the subject or not. Now, take this dome of the Capitol—I know it was not estimated for by the Superintendent of Public Works, but it is one instance to show an enormous expenditure of public money, over and above the estimates submitted to the House. Now we are told here, that contractors may suffer. The gentleman from Virginia, on my left [Mr. LETCHER] says there is no contract made. He is on the Committee of Ways and Means, and certainly ought to know. He speaks by authority.

Mr. LETCHER. There has been a proposition for bids, and these bids have been made; and from what I understand, the facts are simply these: that these bids are within the estimate of one million dollars; but that the Secretary of War, in the absence of the appropriation, has not completed the contracts.

Mr. BURNETT. Then, sir, if the contractors lose anything it is their own fault. I am not here for the purpose of legislating for contractors with this Government. I am not here for the purpose of providing for the losses of individuals who may undertake public works; but I am here for the purpose of protecting the interests of the entire country. When we are told that the Treasury has no money in it, and that we must economize, I am for applying the knife where we can best do it without injury to the public good. That is my rule.

Now, on the subject of this Capitol, we are told that we have to vote a large sum of money for it. Sir, if this economy is necessary, let us commence economizing at the right place; and I know of no better place to commence than on these two appropriations in this bill.

[Here the hammer fell.]

Mr. LETCHER. As there seems to be some misapprehension in regard to the matter alluded to by the gentleman from Kentucky, I beg leave to state a little more explicitly what the matter is, precisely as I understand it. This proposition was made for bids for this work. These bids have been received, they have been examined and have been approved, and, in the event of an appropriation of money for the purpose of completing this work, contracts based upon these bids will be entered into by the Secretary of War.

Mr. GOODE. And these bids are within the estimates.

Mr. LETCHER. So I have stated. But I am opposed to this thing myself. I voted against it in committee, and I shall vote against it here for this simple and plain reason: that I do not think it either just or right that these individuals who

have property in this District should go scot free from taxation, while the Federal Government bears the whole burden.

Mr. BARKSDALE. I ask the gentleman whether the citizens of the District will not be charged with the water they use?

Mr. LETCHER. I do not understand it to be so at all. The Government is to lay the main pipes along the streets, and then the citizens, as I understand it, are to be allowed to tap these main pipes for their water. But it would give me a far worse opinion of the whole scheme if the Federal Government should go to peddling water here around the city. I take it that when the water comes here the Government will use what it wants, and whatever excess there may be it will allow the citizens of the District to use.

Mr. STEWART, of Maryland. I move to amend by increasing the appropriation \$1,000. I differ entirely from my worthy friend from Kentucky in regard to this matter. We are all interested in the city of Washington, as the seat of Government. The Government owns property to the amount of a hundred million dollars in this District. It is well known to gentlemen who are familiar with the state of things here, that there is not a supply of water in this city, and that it is indispensably necessary for the convenience of members of Congress, of Government officials, and of citizens who may be permanently or transiently here, that there should be a supply of water. There is no charge of any misapplication of funds on this work. The Government has already invested very largely in the work, and has spent nearly a million and a half of dollars upon it, and now to leave it in its present condition, would be the worst sort of economy. It is not fair to talk, in connection with this, about custom-houses in New Orleans, or in other sections of the country. We have a right to discriminate. Because we have not sufficient funds to complete all the public works, does it follow that a great work of this kind, at the seat of Government, should fall into ruin? That is not the course of a prudent Government, or the course of a prudent man; and I have heard of no sufficient reason why this appropriation should not be made for this great work. I understand that this appropriation will complete it. It may be, that residents of the city of Washington may derive benefit from this work; but is that a reason why the Government should be deterred from the execution of what is necessary for the interests of its people?

[Here the hammer fell.]

Mr. HOWARD. I hope the amendment to the amendment will not prevail; for the reason that if it does, it will still leave a large amount of money to be appropriated. I think that the amendment striking out the appropriation altogether should be adopted, for I do not believe that there is any law, or any constitutional power, authorizing us to expend money out of the public Treasury for any such purpose. When we take money out of the Treasury for such a work, we compel the whole people to replace that money; and, as the Government owns property in New York also, we might as well provide by law that Mr. Astor, or some other person in New York, shall build water-works for that city, as to provide that the people of this country shall contribute to the building of water-works for this city. It is all wrong—the whole of it.

I object to it on another ground. We have solemnly voted down appropriations that were required to fulfill existing contracts—valid contracts. We suffer the faith of the Government to be violated, because, as we say, we have not got money to fulfill those contracts. And yet, in the face of that, we are going on to appropriate \$800,000 out of the Treasury for a work for which there is no contract, merely because we want to complete this work this year, instead of next year, or at some subsequent time. I say, first, that it is unconstitutional; next, that there is no law for it; and if we appropriate this money for this purpose, and repudiate our solemn contracts, we shall bring down upon ourselves justly the scorn of the civilized world. Why shall we repudiate our contracts, for the sake of violating all sound constitutional principles?

I hope the amendment to the amendment will be voted down, and then I hope that the original appropriation will be stricken out. I feel free to make these remarks, because this item was in-

serted in the bill by the Committee of Ways and Means in my absence, and I was not committed to it. I have never voted one dollar for this work, and I never will. If the work could be completed for one dollar, I would not vote it.

[Loud cries of "Question!"]

Mr. STEWART's amendment to the amendment was rejected.

Mr. COBB. I ask the attention of the committee to what I shall say, for I shall not occupy my five minutes. I move to strike out the entire clause.

The CHAIRMAN. The Chair would state to the gentleman from Alabama that that amendment is already pending.

Mr. COBB. I thought it had been voted down.

The CHAIRMAN. No, sir.

Mr. STANTON. I desire to add an amendment at the end of the clause; to which, I presume, there will be no objection.

Mr. COBB. I wanted to offer an amendment. I had not concluded my sentence.

The CHAIRMAN. Then the gentleman from Alabama is entitled to the floor. The gentleman will please state his amendment.

Mr. COBB. That is what I want to do if I can get the attention of the Chair. The pending amendment, as I understand it; is to strike out the entire clause.

The CHAIRMAN. That is the pending proposition.

Mr. COBB. Then I move to strike out all but the words "which may not be required for said purpose."

The Chair and the committee will see my object at once. It is now nearly five o'clock. It is obvious that, unless we get rid of this clause, we may discuss the question for the next twenty-four hours. The experience of former sessions has shown that we cannot dispose of this question in less than two days. Now, my object is to have the whole clause stricken out; and I call the attention of the friends as well as the enemies of the appropriation to it. If we strike out the clause here, when we get into the House we can have a vote taken upon striking it out, by yeas and nays; and if there is a majority against striking it out, why, then its friends can sustain it. I am against the appropriation; and when we come to vote on it in the House by yeas and nays, I shall vote in favor of striking it out. Now, if the committee wants to get rid of the question, let the friends and enemies of the appropriation vote to strike it out; and then, when we come into the House, we can have a vote on it by yeas and nays.

Mr. STANTON. Notwithstanding the interesting programme of the gentleman from Alabama, I propose to amend his amendment so as to perfect the words which he proposes to strike out.

The CHAIRMAN. The gentleman from Ohio cannot offer any further amendment at this time.

Mr. COBB. I want a vote on my amendment.

Mr. STANTON. I desire to amend what the gentleman proposes to strike out.

Mr. COBB. He cannot amend it; and I want a vote on my amendment.

The CHAIRMAN. The motion of the gentleman from Ohio, if it be to amend the bill, takes precedence of the motion of the gentleman from Alabama.

Mr. STANTON. I propose to add to the clause proposed to be stricken out, the following:

Provided, That no part of the sum hereby appropriated shall be expended until contracts shall be entered into with responsible parties for the completion of the work; which, in the aggregate, shall not exceed the amount hereby appropriated.

The CHAIRMAN. The gentleman from Louisiana [Mr. DAVIDSON] moves to strike out the whole paragraph. The gentleman from Alabama [Mr. COBB] moves to amend the matter proposed to be stricken out, by striking out all of it but the last line. The motion of the gentleman from Ohio, in the opinion of the Chair, is not in order at this time.

Mr. JOHN COCHRANE. I ask for the reading of the paragraph at the top of the 105th page of the Manual.

Mr. STANTON. I think the Chair is in error in regard to the question of order. The gentleman from Alabama has proposed an amendment to the amendment, to strike out certain words. It is in order to move to amend the matter proposed to be stricken out before the question is taken on strik-

ing out. It does not come within the rule in relation to amendments in the third degree.

Now I propose to qualify the words proposed to be stricken out, by adding a proviso.

The CHAIRMAN. The gentleman from Alabama proposes to strike out a certain clause; the Chair thinks it is in order to amend the part proposed to be stricken out, and therefore decides the amendment of the gentleman from Ohio to be in order.

Mr. STANTON. I have opposed this appropriation from the commencement. There is no member of this House who has opposed it with more consistency in the former Congress, and I expect to continue to oppose it to the end. But, sir, I have seen too much of these appropriations to have any hope of ultimately defeating this. I remember that at the close of the last session of Congress, after it had been voted down here half a dozen times, it came in from the committee of conference, and we were obliged to take it or defeat the bill. I move to add the following at the end of the clause:

Provided, That no part of the sum hereby appropriated shall be expended until contracts shall be entered into with responsible parties for the completion of the work, which, in the aggregate, shall not exceed the amount hereby appropriated.

Now, as I have said, this appropriation will pass. Gentlemen may set that down as a fixed fact. You may vote it down here as often as you please, and it will come back in this bill; and if you kill the bill it will be put on to another bill; and you cannot keep it out unless you take the responsibility of stopping the wheels of Government. I intend to vote against this appropriation, and to do all I can to defeat it. But, as I have said, there is a thorough conviction upon my mind that it will pass; and I deem it, therefore, important that a condition should be attached to it, that no part of the appropriation shall be expended until contracts shall have been entered into to complete the whole work. I presume there will be no difficulty about the amendment, for I understand that contracts can be entered into for the completion of the entire work within this appropriation.

The amendment to the amendment was adopted. The question then recurred on Mr. COBB's amendment as amended.

The amendment as amended was not agreed to. Mr. STANTON. Do I understand that my amendment has gone down with the amendment of the gentleman from Alabama?

The CHAIRMAN. The Chair so decides.

Mr. STANTON. I do not understand that to be the effect.

Mr. JOHN COCHRANE. I rise to a question of order. The motion was to strike out the whole clause with the exception of these words: "as may not be required for said purpose." Now, the friends of the clause may move to amend the part proposed to be stricken out, and it was amended on the motion of the gentleman from Alabama. The motion to strike out was then lost. I submit, therefore, that the original proposition stands with the amendment of the gentleman from Ohio, attached. The Manual says, on page 105:

"In like manner, if it is proposed to amend by striking out a paragraph, the friends of the paragraph are first to make it as perfect as they can by amendments, before the question is put for striking it out. If on the question it is retained, it cannot be amended afterwards, because a vote against striking out is equivalent to a vote agreeing to it in that form."

The CHAIRMAN. The Chair will state that the motion of the gentleman from Alabama was decided in order expressly because it did not strike out a paragraph, but only moved to amend it. Therefore the amendment of the gentleman from Ohio was received as an amendment. The amendment was lost, and was so decided by the Chair. The gentleman from Kentucky is entitled to the floor.

Mr. MASON. I move to strike out the words "for the completion of the Washington aqueduct," and to insert "for pensions to the soldiers of the war of 1812."

Mr. LETCHER. I rise to a question of order. My point is, that there is no law for the payment of these pensions, and that the amendment is not germane to this bill.

Mr. MASON. Then make a law. The old soldiers never were in order with the Committee of Ways and Means.

Mr. LETCHER. The old soldiers are in or-

der with them whenever there is a law providing for them.

The CHAIRMAN. The Chair is of opinion that the amendment is not in order.

Mr. MASON. Then I move to strike out the words, "for the completion of the Washington aqueduct."

Mr. STANTON. Now, I rise to a question of order. It is, that it is not in order to move to strike out anything included in the motion of the gentleman from Alabama, for, by a vote of the committee, they concluded to retain it.

The CHAIRMAN. The 53d rule says:

"53. Any member may call for the division of a question, which shall be divided, if it comprehend propositions in substance so distinct that, one being taken away, a substantive proposition shall remain for the decision of the House. A motion to strike out and insert shall be deemed indivisible; but a motion to strike out being lost, shall preclude neither amendment nor a motion to strike out and insert."

The Chair is of opinion that it is in order to move now to amend.

Mr. MASON. Well, I will move to amend by striking out all the appropriation except two dollars. Like the gentleman from Michigan, I do not know that this Government has the power to appropriate money for this purpose. This Government was instituted for a different purpose than that of ornamenting, beautifying, and adorning this capital.

Mr. KUNKEL, of Maryland. I rise to a question of order. I understand that this same amendment has been offered before, and considered by the committee.

Mr. MASON. You misunderstand.

Mr. KUNKEL, of Maryland. The amendments were made to strike out all but one dollar, and all but two dollars, and they were rejected by the committee.

The CHAIRMAN. The Chair does not remember that such an amendment has been voted on.

Mr. MASON. Nor does anybody else. No such an amendment has been made. I was proceeding to say that I did not suppose that this Government had the right to draw money from these States for the purpose of ornamenting and beautifying one single city. You have converted it, by these and various other schemes, into about the same condition that the Jews converted Jerusalem, who taxed their distant provinces to make pools of water, to furnish them with male singers, to lay them down floors of gold, until the people revolted. The duties of this Government are few and simple. I shall not refer to them, but this certainly is not one of them. You have, as you have been told by the chairman of the Committee of Ways and Means, an empty Treasury. In the face of that fact you have acres of ground here covered with granite and marble, and immense palaces. You have fifteen miles of pipe laid from some point on the Potomac into this city, for the purpose of supplying this metropolis with water. All that you have, with an empty Treasury. You spend millions of dollars and borrow the money, and pay interest upon it, for the purpose of ornamenting, adorning, and making wealthy this great city. And while you are doing all this with an empty Treasury, the Committee of Ways and Means purchase an \$800 book-case, and spend \$900 for a looking-glass. And, while they are doing this upon an empty Treasury, it is entirely out of order with them, and they refuse to give to the friends of their country—the soldiers of the war of 1812—a single dollar. I ask them, when they are looking into those immense looking-glasses and are surveying their costly and rich furniture, to look around and see if they cannot find some meritorious soldiers of that war who need some assistance at the hands of the Government.

Mr. HUGHES. Is it in order to move to strike out the enacting clause?

The CHAIRMAN. It is.

Mr. BARKSDALE. Is it in order to move at the committee rise, and report the bill to the House?

The CHAIRMAN. Not while any gentleman desires to offer an amendment.

Mr. HUGHES. I move to strike out the enacting clause.

Mr. LETCHER. I want to reply to the speech of the gentleman from Kentucky. My friend from Kentucky, in the amendment which he has

offered, seems to have no other end in view than to take an examination of the acts and doings of the Committee of Ways and Means in regard to their furniture. It strikes me that he was the chairman of the Committee of Accounts; and that the approval or allowing of the accounts for furniture was in his hands. [Laughter.]

Mr. MASON. The committee never passed the account.

Mr. LETCHER. It goes there, whether they pass it or not. The gentleman says we have an eight or nine hundred dollar looking-glass. That is about six hundred dollars above the highest price paid for any looking-glass in the Capitol.

Mr. MASON. The gentleman is mistaken.

Mr. LETCHER. Am I? Where is the \$600 one? Now, sir, I understand that \$300 is the highest price that has been given; and I think it very extravagant.

Mr. WALBRIDGE. I rise to a question of order.

The CHAIRMAN. The gentleman from Virginia is not in order.

Mr. LETCHER. I am replying distinctly to the remarks of the gentleman from Kentucky.

The CHAIRMAN. The gentleman from Indiana was recognized, and made a motion.

Mr. LETCHER. Does the Chair decide that I am out of order?

The CHAIRMAN. The Chair decides that the gentleman has not been recognized, because the gentleman from Indiana had the floor.

Mr. HUGHES. If I am entitled to the floor, I will yield it to the gentleman from Virginia, and withdraw my motion.

Mr. LETCHER. Well, then, Mr. Chairman, I take up the question again. My friend from Kentucky says that the various rooms about the Capitol are furnished most extravagantly, while money has been very scarce, and by way of setting us a good example, he is in favor of distributing the public money under the name of paying pensions to old soldiers, and then to borrow the amount. Now, it strikes me that if, in furnishing the Capitol, we have done it rather extravagantly, we have not gone quite so wide of the mark as he would go in the scheme which he presents for consideration. He does not pretend that this is a debt due to these soldiers, or that the Federal Government is bound to pay this money.

Mr. WALBRIDGE. I rise to a question of order. What relation has this question of old soldiers' pensions to water-works?

Mr. LETCHER. I respectfully refer my friend from Michigan to my friend from Kentucky for an explanation.

Mr. MASON. It is one of the prime debts of the country.

Mr. LETCHER. Where is the evidence of it?

Mr. WALBRIDGE. I raise the question of order, that the gentleman's remarks do not apply to the amendment.

The CHAIRMAN. The Chair thinks that the gentleman is hardly in order.

Mr. LETCHER. If it is not in order to reply to a speech that has been made, when I am on the other side, I suppose I may sit down.

The question was taken on Mr. MASON's amendment, and it was rejected.

Mr. MARSHALL, of Kentucky. I move to strike out the whole section.

Mr. LETCHER. That motion is pending now.

Mr. MARSHALL, of Kentucky. Well, I hope we will have a vote on it.

The question being on Mr. DAVIDSON's amendment—

Mr. COX called for tellers.

Tellers were ordered; and Messrs. STANTON and BARKSDALE were appointed.

The committee divided; and the tellers reported—ayes eighty, does not counted.

So the amendment was agreed to.

Mr. ARNOLD. I move the following amendment:

Insert between lines two hundred and twenty-four and two hundred and twenty-five the following:

For the completion and furnishing of the custom-house at New Haven, Connecticut, \$58,000.

Mr. KELSEY. I raise a question of order on that amendment.

The CHAIRMAN. The Chair is of opinion that the amendment is not in order.

Mr. HARRIS, of Illinois. I move to amend

THE CONGRESSIONAL GLOBE.

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the bill by striking out the two hundred and twenty-fifth line, as follows:

"For United States Capitol extension, \$1,000,000."

I make that motion for the purpose of disposing of this question. Otherwise it would be debated here another day, and we should end the debate where we began it. If gentlemen are in favor of the appropriation, they can have a chance to vote upon it in the House; if they are opposed to the appropriation, they have the same right in the House. I think the Committee of Ways and Means are as competent to decide on its necessity as we can possibly be who have given less attention to it. If we strike it out, we can pass on to other items of the bill; and we will have an opportunity in the House to record our votes for or against this item. In the anxiety to dispose of the public business, I hope the committee will proceed to vote on my amendment.

Mr. MARSHALL, of Kentucky. Mr. Chairman—

[Loud cries of "Question!" "Question!"]

Mr. MARSHALL, of Kentucky. I understand my right here to be to offer my amendment, and the right of gentlemen on the other side of the House to reject it if they see fit. I propose to amend by adding this amendment:

Provided, That this appropriation shall not be expended, in whole or in part, upon the embellishment or decoration of the Capitol extension, either by painting or sculpture in the panels or niches of the Senate or House, or in the pediments of the porticoes, or in the finish of the halls, committee rooms, or passages, unless the designs for such embellishment and decoration shall have been first submitted to and accepted by a committee. To be selected by the President, composed of three distinguished artists, citizens of the United States, which committee shall be employed by the President for the purpose of examining and determining upon such designs as shall be adopted for the embellishment of the Capitol extension: And provided further, Said committee of artists shall act in connection with and subordinate to the Joint Committee on the Library of Congress, and shall not be authorized to conclude any contract for the execution of such design without the direction of said committee.

Mr. Chairman, I desire to say to the committee, if this amendment does not explain itself, that it is my purpose, in offering the amendment, to place the embellishment of this Capitol in the hands of our Joint Committee on the Library, but to interpose so as to have the designs that are to fill these panels and niches submitted to artistic taste before they are adopted. If you appropriate for this Capitol extension a million dollars, and permit it to go unguarded in this appropriation bill, this million dollars may be expended, in whole or in part, by those who have heretofore conducted the embellishment and decoration of this Capitol. The panels around this Hall may all be filled with this money. These niches may all be filled with sculpture of the selection of gentlemen who have no experience in such matters; and I think, myself, it ought to be guarded.

Mr. HARRIS, of Illinois. If the gentleman will listen to me for a moment, I would suggest that instead of his three distinguished artists he refer this matter to the Joint Committee on the Library, and they can consult with distinguished artists if they choose.

Mr. MARSHALL, of Kentucky. I would say to the gentleman that I have brought the committee of artists that I have designated under the control of the Committee on the Library so far as to prevent the artists from executing designs until they shall be approved by the Joint Committee on the Library. But I have brought the Joint Committee on the Library under the control of artistic taste to the extent that the designs that are to be submitted to them shall have passed the examination of men of some professional skill.

Mr. BARKSDALE. I would ask the gentleman from Kentucky what amount of pay his amendment provides shall be given to these artists?

Mr. MARSHALL, of Kentucky. None at all, sir. I am proud for American artists to say that they want no pay. All they ask is that their country, in erecting an edifice like this, and in establishing a great national monument like this,

may do as other countries have always done—encourage art so far as to give their artists some opportunity to transmit their names to future times, in connection with this national edifice, and not to have the panels of this Hall filled with daubs like that. [Pointing to a specimen of fresco in one of the panels of the Hall.]

Mr. J. GLANCY JONES. I wish to say to the gentleman from Kentucky that I approve of his amendment, and hope it will be adopted; but I wish to remark that the money which will be required for the decoration of this Hall is not included in this appropriation.

Mr. MARSHALL, of Kentucky. Mr. Chairman, I believe I have the floor. The gentleman is so commendous in his remarks, that a single sentence deserves a reply. [Laughter.] Let me say to the gentleman,

"There are more things in heaven and earth, Horatio, Than are dreamt of in your philosophy."

Sir, if this appropriation is not guarded as I propose, these panels will be filled—

[Here the hammer fell.]

Mr. HARRIS, of Illinois. I do not propose to reply at any length to the remarks of the gentleman from Kentucky; but when he proposes to call into requisition the high degree of artistic skill which he eulogizes so much, I may refer to some of the exhibitions of artistic skill here, that have provoked the criticism and animadversion of members ever since we have occupied this Hall. It is claimed by these artists that this Hall exhibits the highest degree of that artistic skill which is again to be invoked to decorate and adorn this Capitol. Now, I am not disposed to confide much in that kind of artistic skill by which this Hall and this Capitol extension have been decorated. I much prefer to rely upon the Joint Committee on the Library, or a joint committee to be raised for the purpose, than upon these three distinguished artists.

Mr. MARSHALL, of Kentucky. None of my men had anything to do with this Hall.

Mr. HARRIS, of Illinois. If we place the matter under the control of such a committee, who will, of course, consult such artists as they consider to be distinguished artists, I think we shall arrive at better conclusions than by confiding the matter to the unlimited control of three distinguished artists, who are kind enough to volunteer their services for no compensation but the distinguished honor of having their marks upon this national edifice. I think the fact that they are willing to give their services without pay is quite conclusive evidence that their services would be worth just what they ask for them. [Laughter.]

I hope the amendment will be modified, so as to place the matter under the direction of a joint committee of Congress; but if it be a fact, as stated by the gentleman from Pennsylvania, that this appropriation does not apply to the decorations of the Capitol, then the amendment is altogether unnecessary.

Mr. MARSHALL, of Kentucky. I would like to know where the control of the matter is now?

Mr. HARRIS, of Illinois. I suppose that the control of it rests with the architect of the Capitol.

Mr. MARSHALL, of Kentucky. I understand that it rests with the Committee on the Library.

Mr. HARRIS, of Illinois. And that committee have never consulted on the subject, as I understand.

Mr. MARSHALL, of Kentucky. And never will.

Mr. HARRIS, of Illinois. There is no law directing the supervision of the matter by the Committee on the Library.

Mr. MARSHALL, of Kentucky. The architecture of the Capitol rests ultimately with the President of the United States, by law. The actual supervision of the architecture has been transferred to the Secretary of War, and by him to Captain Meigs. And when they put a thing like that painting over there on plaster, they call it a part of the architecture, inasmuch as part of it is fresco work.

Mr. HARRIS, of Illinois. Then, if the control of the matter is fixed by law, the gentleman's amendment, according to his own statement, is not in order, as it changes the existing law.

Mr. MARSHALL, of Kentucky. Not at all. There is no provision of law about the embellishment and decoration of the Capitol, to which my amendment is confined.

The amendment to the amendment, proposed by Mr. MARSHALL, of Kentucky, was agreed to.

The question was taken; and the motion to strike out was agreed to.

Mr. SINGLETON. I move to amend, by inserting after line two hundred and twenty-five, the following:

For fencing, grading the grounds, painting and otherwise finishing the marine hospital at Vicksburg, in the State of Mississippi, \$5,000.

Mr. LETCHER. That amendment is not in order.

The CHAIRMAN. The Chair decides the amendment to be out of order.

Mr. MARSHALL, of Kentucky. I propose to offer the amendment which was just voted into the clause which has been stricken out, as an independent amendment.

The CHAIRMAN. The Chair thinks the amendment is not in order. The clause has been stricken out of the bill, leaving nothing to which the gentleman's amendment is germane.

Mr. J. GLANCY JONES. I am instructed by the Committee of Ways and Means to offer the following amendment, to come in at the end of the bill:

For repairing the saloon in the old portion of the Patent Office building for the reception of models of patents, and for fitting up and furnishing the same with suitable cases, \$40,000.

Mr. SEWARD. I rise to a question of order. This amendment is not germane to this bill.

Mr. J. GLANCY JONES. If the gentleman from Georgia will hear this letter upon the subject, I think he will see that it is in order.

Mr. HOUSTON. Report what it hitches to.

Mr. SEWARD. It does not hitch to anything.

Mr. HOUSTON. If it does not hitch, then I object to it. [Laughter.]

The CHAIRMAN. The Chair thinks the amendment is in order.

Mr. HOUSTON. I make the point of order that that amendment is not germane to any portion of this bill and cannot be in order.

The CHAIRMAN. The Chair thinks it need not necessarily be germane to any portion of the bill to make it in order. The Chair thinks it is in order.

Mr. SEWARD. It is not to carry out any existing law, and I appeal from the decision of the Chair.

The question was taken on the appeal, and the decision of the Chair was sustained.

Mr. J. GLANCY JONES. I now send up the following letters, which will explain the whole matter.

The following letters were read:

TREASURY DEPARTMENT,
February 19, 1858.

SIR: I have the honor to transmit herewith a communication from Hon. J. Thompson, Secretary of the Interior, with inclosures, by which an additional appropriation is requested of \$40,000, "for preparing the saloon of the old portion of the Patent Office building for the reception of models for patents, and for fitting up, repairing, and furnishing the same with suitable cases."

Very respectfully, your obedient servant,
HOWELL COBE,
Secretary of the Treasury.

Hon. JAMES L. ORR,
Speaker of the House of Representatives, &c.

DEPARTMENT OF THE INTERIOR,
WASHINGTON, February 18, 1858.

SIR: I have the honor to inclose a copy of a letter addressed me on the 16th instant by the Commissioner of Patents, asking that such steps may be taken as may be requisite to obtain an appropriation for fitting up the portion of the Patent Office building heretofore occupied by the collections of the exploring expedition, for the reception of models, &c.

Approving of the object for which the expenditure is proposed to be made, I have the honor to request that the fol-

lowing estimate thereof be submitted by you to Congress, to wit:

For preparing the saloon of the old portion of the Patent Office building, for the reception of models for patents, and for fitting up, repairing, and furnishing the same with suitable cases, \$40,000.

Very respectfully, your obedient servant,
J. THOMPSON, Secretary.
Hon. HOWELL COBB, Secretary of the Treasury.

UNITED STATES PATENT OFFICE,
February 16, 1858.

SIR: I have the honor to submit, for your consideration, the inclosed communication from Mr. Edward Clark, architect and superintendent of the Patent Office building. Should his suggestions in regard to the new cases, &c., which will be required, meet your approbation, I hope it will be agreeable to you to place the matter in such a position before Congress as will secure the requisite appropriation.

I am, very respectfully, your obedient servant,
J. HOLT,
Commissioner of Patents.
Hon. JACOB THOMPSON, Secretary of the Interior.

PATENT OFFICE BUILDING,
January 25, 1858.

SIR: At your request I have examined the cases now in the saloon of the old portion of the Patent Office building, and find them defective and unfit for the reception of models.

The present cases are so high that another tier cannot be placed above them, as there is no head-room to pass under the architraves.

By making new cases of less height than those now in the room, and putting a gallery and an additional tier above, you will have nearly twice the room for models that you now have.

I would, therefore, most respectfully suggest that new cases be made similar to those in the wings, and that the walls and ceiling of the saloon be repaired and painted.

To carry out this object an appropriation of \$40,000 will be required.

Very respectfully, your obedient servant,
EDWARD CLARK,
Superintendent Patent Office Building.
J. HOLT, Esq., Commissioner of Patents.

Mr. BURNETT. What law is there authorizing this appropriation?

Mr. J. GLANCY JONES. The law requiring the Patent Office to be built. The law requiring it to be fitted up and furnished. I will state that the saloon in the center building has been occupied with curiosities, but they have recently been removed into the Smithsonian Institution, and this appropriation is now necessary to fit up the saloon for the reception of models. There are twenty laws upon the subject of the Patent Office, any of which would authorize this appropriation.

Mr. BURNETT. The gentleman says this is authorized under the appropriations for the extension of the Patent Office building, and under the law which authorized the building of the Patent Office. Now, sir, that portion of the building for which this \$40,000 is asked, has been finished for years. This is a separate and independent appropriation of money for the purpose of putting cases in the hall of the Patent Office that has been made vacant by the removal of the museum to the Smithsonian Institution. I take issue with the chairman of the Committee of Ways and Means, and tell him there is no law authorizing the appropriation. I ask the gentleman to show me upon the statute-book any statute which authorizes an appropriation of \$40,000 by Congress for the purpose of putting cases into the central hall of the Patent Office.

Mr. J. GLANCY JONES. In reply to the gentleman I will say, that there is not a single law upon the statute-book authorizing the furnishing of any building, either an executive building, the President's House, or this Capitol. The furnishing proceeds upon the principle that it is an incident to the erection of the buildings themselves.

Mr. BURNETT. This is not for furnishing the Patent Office.

Mr. J. GLANCY JONES. It is.

Mr. BURNETT. I ask the gentleman what evidence he has that it is necessary that we should expend \$40,000 for the purpose of putting cases into that hall? Where are the models to put into them? The building is now full of cases, and those cases are not now fully occupied. Now, I ask the committee if they will go on and appropriate \$40,000 to put additional cases into a room which has been made vacant by removing the museum to the Smithsonian Institution? I think it should not pass.

Mr. MARSHALL, of Kentucky. I want to offer an additional section to the bill.

Mr. DAVIDSON. I move that the committee rise and report the bill, with the amendments, to the House.

The CHAIRMAN. The motion is not in order.

The question was being put on the amendment of Mr. J. GLANCY JONES, when

Mr. BLAIR said: I desire to offer an amendment to the amendment of the gentleman from Pennsylvania.

Mr. HOUSTON. Then I move that the committee rise. I do not want to be kept here all night upon this bill.

Mr. HUGHES. The motions are not in order, as the committee were dividing on the amendment of the gentleman from Pennsylvania.

The CHAIRMAN. The Chair sustains the point of order.

The question was taken on the amendment of Mr. J. GLANCY JONES; and it was not agreed to.

Mr. PHELPS. I have an amendment which I desire to submit. It does not require an appropriation of money; but it is to correct some mistakes in an appropriation of money by the last Congress.

The amendment was read, as follows:

SEC. — And he it further enacted, That the balance of the appropriation of \$2,300, "for flagging foot way, in the congressional burying ground, from the entrance of the same to the Government vault," by act approved 3d March, 1857, may be applied in extending the flagging the whole length of the avenue, as originally intended, and that the appropriation of \$1,500 "for the construction of the wooden bridge, with a double track, across the canal, in the line of the main avenue," may be applied to the erection of a foot-bridge in lieu thereof, as recommended by the Commissioner of Public Buildings.

The amendment was agreed to.

Mr. MARSHALL, of Kentucky. I now offer the amendment which I before offered, in relation to the decoration of the Capitol, and which was struck out under a misunderstanding.

The amendment was read.

Mr. LETCHER. I rise to a question of order. Inasmuch as everything connected with the extension of the Capitol has been stricken out, this amendment is not germane to anything in the bill.

The CHAIRMAN. The Chair is of opinion that the question of order is well taken.

Mr. MARSHALL, of Kentucky. I appeal from the decision of the Chair.

The question being, "Shall the decision of the Chair stand as the judgment of the committee?" it was put; and decided in the affirmative.

So the opinion of the Chair was sustained, and the amendment was ruled out.

Mr. SMITH, of Virginia. I move that the committee rise, and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SMITH, of Tennessee, reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly House bill (No. 200) making appropriations for sundry civil expenses of the Government for the year ending 30th June, 1859, and had instructed him to report the same back to the House, with various amendments, with a recommendation that they do pass.

Mr. J. GLANCY JONES. I move the previous question upon the adoption of the amendments.

Mr. STANTON. I ask the gentleman from Pennsylvania to allow me, before he calls the previous question, to offer an amendment which was agreed to by the committee unanimously, but was voted out afterwards by mistake.

Mr. J. GLANCY JONES. I have no objection to allow that amendment to be offered, if I do not lose the floor thereby.

The SPEAKER. If it be the pleasure of the House, the proposition will be received.

There was no objection, and the amendment was entertained.

Mr. J. GLANCY JONES. I move the previous question.

The previous question was seconded, and the main question ordered.

Mr. J. GLANCY JONES moved to reconsider the vote by which the main question was ordered; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

And then, on motion of Mr. BARKSDALE, the House (at six o'clock, p. m.) adjourned.

IN SENATE.

THURSDAY, May 20, 1858.

Prayer by Rev. SAMUEL ROGERS.

The Journal of yesterday was read and approved.

CREDENTIALS.

Mr. HAMMOND presented the credentials of Hon. ARTHUR P. HAYNE, appointed a Senator by the Governor of the State of South Carolina, to fill, until the next meeting of the Legislature, the vacancy occasioned by the death of Hon. Josiah J. Evans; which were read; and the oath prescribed by law having been administered to Mr. HAYNE, he took his seat in the Senate.

PETITIONS AND MEMORIALS.

Mr. IVERSON presented a memorial of the State of Georgia, praying that the money expended by that State in the payment of troops for the protection of the frontiers of that State, from hostile incursions by the Indians, between the years 1793 and 1818, may be refunded; which was referred to the Committee on Military Affairs and Militia.

Mr. POLK presented a memorial of the Chamber of Commerce of St. Louis, Missouri, praying that the remainder of the lands granted to Iowa, for the improvement of the Des Moines river, may be applied to the Keokuk, Fort Des Moines, and Minnesota Railroad; which was referred to the Committee on Public Lands.

Mr. HOUSTON presented a memorial of the executive board of the American Indian Aid Association, in the city of New York, praying that such laws may be passed as will protect and improve the Indian tribes in the United States; which was referred to the Committee on Indian Affairs; and a motion by him to print it was referred to the Committee on Printing.

He also presented a memorial of the American Board of Commissioners for Foreign Missions, praying to be released from the condition of the fourth article of the Cherokee treaty, made at New Echota, December 29, 1835; which was referred to the Committee on Indian Affairs.

Mr. BRIGHT presented the petition of P. J. Hickey, praying for the payment of a sum of money due him under an agreement between him and the United States, and indemnity for losses occasioned by a breach of that agreement on the part of the United States; which was referred to the Committee on Claims.

Mr. HAMMOND presented the petition of Clark Mills, praying for an amendment of the act of Congress of January 25, 1853, authorizing the erection of an equestrian statue of Washington; which was referred to the Committee on Public Buildings and Grounds.

REPORTS OF COMMITTEES.

Mr. THOMPSON, of New Jersey, from the Committee on Pensions, to whom was referred the bill (S. No. 230) for the relief of the legal representatives of Daniel Hay, deceased, reported it without amendment, and submitted a report; which was ordered to be printed.

Mr. JONES, from the Committee on Pensions, to whom was referred the bill (S. No. 339) granting a pension to Joseph Vance, reported it without amendment, and submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Eliphalet Lyman, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

Mr. STUART, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 318) recognizing the assignment of land warrant No. 35,956, issued to John Davis, as valid, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 375) to create two additional land districts in the Territory of Washington, reported it without amendment.

Mr. CLAY, from the Committee on Commerce, to whom were referred a memorial of the Legislature of Minnesota praying that an appropriation may be made for the improvement of the St. Croix river; a memorial of the Legislature of Minnesota praying that an appropriation may be made for the removal of the Beef Slough bar, in the Mississippi river; a memorial of the Legislature of Minnesota, praying that an appropriation may be

made for the improvement of the Mississippi from the mouth of the Minnesota river to Sauk Rapids; a resolution of the Legislature of California in favor of the construction of a breakwater at San Louis Obispo, in that State; a report of the Secretary of War, in answer to a resolution calling for surveys of the Potomac river in the vicinity of Washington; and a report of the Secretary of War, communicating estimates for the improvement of certain harbors on Lake Erie, reported adversely thereon.

He also, from the same committee, to whom were referred a memorial of John H. Litchfield and others, light-house keepers, for an increase of salary; two petitions of business men of the northwestern lakes, asking an appropriation to test the applicability of Professor Ballot's theory of storms to the lakes; a memorial of Daniel F. Tiemann, and others, in relation to a plan for the sanitary improvement of the city of New York; resolutions of the Legislature of New Jersey in favor of the restoration of the ports of Jersey City and Camden to that State, and, if necessary, of making them ports of entry; also of establishing ports of entry at Tom's river and Atlantic City, and a modification of the laws relating to the coasting trade; and resolutions of the Chamber of Commerce at Charleston, South Carolina, in favor of the vigorous prosecution of the coast survey, asked to be discharged from their further consideration; which was agreed to.

Mr. CLAY. The same committee, to whom was referred a resolution instructing them to inquire into the expediency of reporting a bill to restrain the importation or emigration into the United States of foreign paupers and criminals, have instructed me to report, that while they approve the object of the resolution, they are not able to devise any specific means for achieving it, and therefore ask to be discharged from the further consideration of the subject.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred the bill (H. R. No. 251) to authorize the claimants in right of John Huertas to enter certain lands in Florida, reported it without amendment.

Mr. GREEN, from the Committee on the Judiciary, who were instructed by a resolution of the Senate to inquire into the expediency of conferring additional powers on the United States district courts in California, in certain cases, submitted an adverse report; which was ordered to be printed.

Mr. HAMLIN, from the Committee on Commerce, to whom was referred the bill (S. No. 141) to establish a port of entry at Tom's river, New Jersey, reported it with an amendment.

Mr. JOHNSON, of Arkansas, from the Committee on Military Affairs and Militia, to whom was referred the petition of Marie Genaud, sole heir of John Hudry, submitted a report, accompanied by a bill (S. No. 385) for the relief of the heirs or legal representatives of John Hudry. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred a memorial of the Legislature of Iowa, reported a bill (S. No. 386) to amend "An act granting lands to the Territory of Iowa to aid in the improvement of the Des Moines river, in said Territory;" which was read, and passed to a second reading.

Mr. BRIGHT, from the Committee on Public Buildings and Grounds, to whom was referred the petition of Rev. A. G. Carothers and others, citizens of Washington, as to the inclosure of the square opposite the Assembly Church, submitted an adverse report thereon.

Mr. POLK, from the Committee on Foreign Relations, to whom was referred the memorial of the heirs of John Forsyth, submitted a report, accompanied by a bill (S. No. 388) for the relief of the legal representatives of the late John Forsyth. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred the petition of James B. Thomas, and a memorial of the Legislature of Iowa, in his behalf, reported that the committee be discharged from the further consideration of the subject.

Mr. DOUGLAS, from the Committee on Territories, to whom was referred the joint resolution (S. No. 23) to authorize a change of location

of the South Pass wagon road, for the purpose of giving greater security and protection to emigrant travel, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and Militia; which was agreed to.

Mr. BIGLER, from the Committee on the Post Office and Post Roads, to whom was referred the memorial of A. L. Pennock, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

LAND DISTRICT IN NEW MEXICO.

Mr. STUART. The Committee on Public Lands, to whom was referred the bill (H. R. No. 561) to create a land district in the Territory of New Mexico, have directed me to report it back and recommend its passage; and inasmuch as it is of a very important public character, and contains but a section or two, I hope the Senate will pass the bill at this time. There is no land district in this Territory now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

It provides that the public lands in the Territory of New Mexico, to which the Indian title shall have been extinguished, shall constitute a land district to be called the "District of New Mexico," the office for which shall be established at such place, within the district, as the President of the United States may from time to time direct. A register and receiver are to be appointed, to reside at the site of the office, whose powers, duties, obligations, and responsibilities, are to be the same as are now prescribed by law for other land officers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. SEWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 383) for the relief of Myra Clark Gaines; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CLINGMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 384) to regulate the rates of postage to and from foreign countries; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

Mr. PUGH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 387) for the better regulation of sales and entries of the public lands, and to limit the fees of registers and receivers at the several land offices; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. STUART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 389) providing for the allotment of lands to certain New York Indians, and for other purposes; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. COLLAMER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 44) to grant to the judges and solicitor of the Court of Claims the use of the congressional library, and for other purposes; which was read and passed to a second reading.

ARMS OF THE UNITED STATES.

Mr. SLIDELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to inform the Senate whether in his opinion it be expedient to convert any portion of the arms of the United States now on hand into breech-loading arms; and of the advantage to be derived from such change; the probable cost thereof for rifles and muskets; and, if any, what appropriation be necessary for that purpose.

LIEUTENANT WARREN'S EXPLORATIONS.

Mr. JONES submitted the following resolution, which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and Militia be instructed to inquire into the expediency of providing for the engraving and publishing a map of the explorations of Lieutenant Warren, in Nebraska Territory.

ALBUQUERQUE WAGON ROAD.

Mr. JOHNSON, of Arkansas, submitted the

following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and Militia be instructed to inquire into the propriety and expediency of making and opening a route for a wagon road, on or near the thirty-fifth parallel of latitude, from Fort Smith, on the Arkansas river, to Albuquerque, in New Mexico.

NEW ORLEANS CUSTOM-HOUSE.

Mr. SLIDELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be requested to inform the Senate of the present condition of the new custom-house at New Orleans, what sum will be necessary for its completion, and what appropriation is required for the payment of liabilities under existing contracts.

SAMUEL BROMBERG.

Mr. MASON. Yesterday I submitted, from the Committee on Foreign Relations, an adverse report on the petition of Samuel Bromberg. I have since ascertained that the case was not referred to the committee; and I ask, therefore, the reconsideration of the order by which the committee was discharged from the reconsideration of the subject.

The motion was agreed to.

Mr. SEWARD. I ask that those papers be now referred to the Committee on Foreign Relations, in order that they may be reported upon.

The motion was agreed to.

JOHN C. CARTER.

Mr. THOMSON, of New Jersey, from the Committee on Naval Affairs, to whom was referred the petition of John C. Carter, reported a joint resolution (S. No. 43) for his relief; which was read, and passed to a second reading.

Mr. GWIN. I ask the Senate to consider that resolution at this time; and I will give my reasons very briefly. It is a mere explanatory resolution of one that passed the Senate upwards of three years ago. The original resolution was reported by me as chairman of the Committee on Naval Affairs. It passed both Houses; but a construction was placed on it by the accounting officers of the Treasury which deprived him of \$900 which the Committee on Naval Affairs and Congress intended he should have. This is merely to do away with that. I hope it will be acted on now.

Mr. KING. I should like to hear what the resolution is.

The joint resolution was read a second time. It directs the proper accounting officers of the Treasury, in the settlement of the accounts of Lieutenant John C. Carter, of the United States Navy, to allow him the sum provided in the joint resolution approved February 13, 1855, for such expenses as were incurred by him whilst acting as purser on board the ship Massachusetts, while undergoing repairs at San Francisco, California, deducting therefrom the sum allowed him on account of that service since the date of the passage of that joint resolution; but the allowance is not to exceed \$955 36.

There being no objection, the Senate proceeded, as in Committee of the Whole, to consider the joint resolution.

Mr. KING. I ask if there is any report, or anything which can give us any information as to the nature of the joint resolution? I should judge, from the language, that this man had an allowance, but now wants more.

Mr. GWIN. If the Senator will listen to me for a moment, I will show how the case comes here. The original resolution was reported by the Committee on Naval Affairs upwards of three years ago. I was chairman of the committee at the time; and we specified in that joint resolution the exact sum to a cent that he was to be allowed; but the accounting officers of the Treasury so construed it as to exclude \$900 of the amount claimed by him. This is merely explanatory of what the committee intended at that time. I was requested to state the facts of the case, which I know to be so. The accounting officers have refused to allow the amount of \$900, by a construction they put upon the wording of the original resolution. I went up myself to inquire into it. I am not on the Committee on Naval Affairs now, but I am requested to make the statement.

Mr. HAMLIN. Is it reported by the Committee on Naval Affairs?

Mr. GWIN. Yes, sir.

Mr. KING. If there is any report in the case, I ask that it be read.

The VICE PRESIDENT. There is no report; but there is a statement from the Treasury Department.

Mr. KING. Let it be read.

The Secretary read the following letter:

TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE, March 3, 1858.

SIR: On the 13th of February, 1855, a joint resolution was passed by Congress, directing that Lieutenant J. C. Carter, of the Navy, should be allowed, in the settlement of his accounts, such expenses as were incurred by him, while acting as purser on board the United States ship Massachusetts, undergoing repairs at San Francisco, provided the amount should not exceed \$1,569 05. Accordingly, on the settlement of his accounts, he was allowed by the accounting officers such expenses as were proved to have been incurred by him while the Massachusetts was undergoing repairs at San Francisco, which, however, amounted only to \$913 69. Mr. Carter contended that he should have been allowed the whole sum which the resolution provided should not be exceeded, although some of the expenses were contracted while the Massachusetts was *not* undergoing repairs, and he appealed from the decisions of the accounting officers to the head of the Department. This appeal has never been decided, and while it is pending, I can, of course, take no further action in the matter without your express permission.

The honorable Mr. GWIN was chairman of the committee that reported the joint resolution in the Senate, has recently assured me, that although the intention of the committee may not have been accurately expressed in the resolution, it was certainly designed that Mr. Carter should be allowed the whole amount of the vouchers that were presented to them, which amount was \$1,869 05. While I have not the least misgiving as to the correctness of the construction placed by the accounting officers upon the resolution agreeably to what were considered established principles of legal interpretation, and although I know that it is not legitimate in ascertaining the meaning of a law to be influenced by the statement of one of its framers as to what was intended, yet in this case, to save Mr. Carter the time and trouble, which would be required to obtain a supplemental or declaratory law, which would probably be granted if applied for, I have concluded to reconsider the case and allow him the amounts limited by the resolution, if you should see fit to permit him to withdraw his appeal and present the subject anew to this office.

Very respectfully, your obedient servant,

A. O. DAYTON.

Hon. HOWELL COBB, Secretary of the Treasury.

Mr. GWIN. I will state that the original resolution, as it came from the House of Representatives, did not limit the amount to the vouchers before the committee; but we amended it so that the allowance should not exceed that sum; and it covered the very vouchers that were there. We did not so word it that it should be entirely for repairs. There were some other expenses that he incurred that covered the whole amount. It has been so construed as to cover only expenses incurred while the repairs were going on. In the hurry of altering it in the Committee on Naval Affairs, a word was left out which was intended to be inserted.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DELIVERY OF LETTERS.

Mr. KING. I ask that the resolution which I offered yesterday, and laid over with the concurrence of the chairman of the Committee on the Post Office and Post Roads, be now taken up, and passed. I presume there will be no objection whatever to it.

There being no objection, the Senate proceeded to consider the following resolution, submitted by Mr. KING, yesterday:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire whether the post office laws authorize a postmaster to refuse to deliver letters to a person authorized to receive them by the person to whom the letters are addressed, and whether any legislation is required on this subject, and to report by bill or otherwise.

Mr. BIGLER. I would suggest to the Senator from New York that the Committee on the Post Office and Post Roads have had that subject under consideration.

Mr. KING. The chairman of the committee, I believe, has no objection to the resolution, and I hope it will be passed.

Mr. BIGLER. Very well.

The resolution was adopted.

ANTHONY CASLO.

Mr. CHANDLER. I move that Senate bill No. 255 be now taken up. It will not occupy three minutes of the time of the Senate. It is a bill for the relief of Anthony Caslo, a soldier of the war of 1812.

Mr. SLIDELL. I hope the Senate will carry out the understanding of yesterday, and proceed with the Private Calendar in regular order. A

rule was adopted for that purpose. I presume I shall have no objection to this bill; but it occupies more time to be taking up bills in this way, out of their order. It can probably be soon reached in its regular order on the Calendar.

Mr. BENJAMIN. I hope this bill will be taken up, with the understanding that we shall then go on regularly.

The motion of Mr. CHANDLER was agreed to; and the bill (S. No. 255) for the relief of Anthony Caslo, a soldier in the war of 1812, was read a second time, and considered as in Committee of the Whole.

It provides for the allowance to Anthony Caslo, otherwise known as Anthony Castle, an invalid pensioner, an amount equal to \$2 66 per month, from May 25, 1816, to May 25, 1851, the date at which his name was entered on the roll of invalid pensioners.

Mr. PUGH. Is that a bill to grant a pension from 1816 down? I should like to hear the reason for it. Is there a report?

Mr. CHANDLER. Yes, sir.

Mr. PUGH. I ask the Secretary to read the report.

The Secretary read the report made by Mr. JONES on the 13th of April, from which it appeared that Anthony Caslo, or Castle, is a native of France, and for several years was a soldier in the French army; he was taken prisoner in Spain during the Peninsular war, and carried into England, where he was induced to enlist in a regiment bound for Canada, with the hope of finally getting into the United States. In February, 1814, he left the British service, and joined the American militia, but was soon retaken, and tried for desertion, and condemned to be shot, which sentence was finally commuted to whipping. As soon as he was able, he again deserted, and enlisted in the Army of the United States, and was attached to the twenty-sixth regiment of infantry, and was soon promoted to a sergeantcy. In the sortie at Fort Erie, on the 17th September, 1814, he was badly wounded by a musket ball in the left side, and was discharged on the 17th day of June, 1815, as being unfit to perform the duties of a soldier by reason of such wound.

The petitioner applied for a pension in 1816, but a pension was denied him; and in several successive applications he was still denied, on the ground, as was alleged, that his name did not appear upon the rolls. This was subsequently found to be an error of the Third Auditor of the Treasury.

Mr. PUGH. I withdraw my objection.

Mr. SLIDELL. I am obliged to say that I am entirely happy to find that my objection to the consideration of this bill has not prevailed.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SHERLOCK AND SHIRLEY.

Mr. BRIGHT. A bill for the relief of Sherlock & Shirley was laid on the table on my motion the other day. If it would come up in its order, I should not call it up now, but it will not be reached on the Calendar, as it is on the table. I suppose there will be no objection to taking it up. I understand that the Senator from Florida, the chairman of the Committee on the Post Office and Post Roads, has an amendment to offer that covers the point in dispute. If it is debated, I will give way; but I am quite sure there will be no debate.

Mr. POLK. The difficulty is, that there are a great many bills on the Calendar that are entitled to be heard, and have as much claim on the consideration of the Senate as that one.

Mr. BRIGHT. I will say to the Senator from Missouri, that this bill is on the table, and would not be reached in order. If it leads to debate, I will not insist on it.

Mr. YULEE. I will state to the Senate, that I have prepared an amendment, which will probably be satisfactory.

The motion of Mr. BRIGHT was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 278) for the relief of Sherlock & Shirley; the pending question being on the amendment offered by Mr. BENJAMIN.

Mr. YULEE. The amendment of the Senator from Louisiana, I presume, will be withdrawn. I

have prepared an amendment which I have exhibited to that Senator and to the Senator from Missouri, who before objected to the bill, which is satisfactory to them.

Mr. BENJAMIN. I am willing to withdraw my amendment, another one having been prepared covering the object.

Mr. YULEE. My amendment covers the whole point contended for, and is in harmony with the views of the committee and the practice they have adopted in similar cases. It is to add at the end of the bill:

Provided, That the reëxamination hereinabove authorized shall be confined to cases of fines which have not been heretofore reëxamined and finally decided by the former Postmaster General upon the application of the contractors for remission.

The amendment was agreed to.

Mr. DAVIS. I hope that bill will lie over. It must consume the day if it is taken up.

The VICE PRESIDENT. It is up. Does the Senator from Mississippi move to postpone it?

Mr. DAVIS. I move to postpone it until tomorrow.

Mr. PUGH. I hope the Senator from Mississippi will not press that motion. I understand that this is simply a case which was not decided at the expiration of the term of the late Postmaster General. Why not have it decided now? It is all ripe for a decision; the officers can promptly examine and promptly decide it. Time and again it has been delayed on the ground of receiving proposals for new mail routes, or rather new service on mail routes; and these parties have been delayed and put off, first by the neglect of the Department, and now by the new Postmaster General referred to Congress, and when they come to Congress they are to be delayed again. It does not open up anything at all, but just continues the appellate court; for that is what practically it is.

Mr. DAVIS. I see nothing of merit in this case at all. It is quite apparent, from the statement made by the Senator from Ohio, and frequently by others on the same side, that if the case has not been decided, as they say, there is no difficulty in the present Postmaster General taking it up and deciding it.

Mr. PUGH. If the Senator understood what was stated by the chairman of the committee, and what was stated here at the last Congress, when we passed one or two amendments to the Post Office appropriation bill, he would remember that the Postmaster General, without some suggestion from Congress, will not examine any case that is left untouched or undecided by his predecessors. Whether he can or cannot do it, he does not do it.

Mr. DAVIS. The Senator from Ohio certainly mistakes the position of the present Postmaster General. He is a man of enlarged views and very obliging temper, and he never could have taken the position that he would not decide anything his predecessor had not decided, but only that he would not reverse the decision his predecessor had given.

Mr. YULEE. I am satisfied that the Senator from Mississippi, when he understands the facts of the case, will perceive that the principle for which he contends is not violated at all, but that the legislation proposed is in precise harmony with it; and I will say that the views of the committee are in entire harmony with those of the Senator from Mississippi, and we have so acted in reference to all cases which have come before the committee. This case, which is proposed to be submitted by this bill to the Postmaster General, was never actually decided at all by the Postmaster General; has never been seen by him; and yet, technically, it will be a reëxamination; and technically there is a practice which prevents the present Postmaster General, in his view of the matter, from examining and passing upon it.

The difficulty arises in this way: by a practice which was peculiar to the late Postmaster General, Mr. Campbell, and which was contrary to that pursued by all former Postmasters General, fines were permitted to be entered up by the clerk, and sent to the Auditor without ever undergoing the inspection of the Postmaster General, and without receiving his sign manual, or assent; and yet they were considered as decisions of the Department. Against these parties, fines were entered up in that manner, never going before the

Postmaster General. When the contractors learned of these fines, they then came forward upon an application to the Postmaster General to reexamine the case—technically to reexamine, but for the first time, in fact, to examine the fines, and pass upon them. That application was pending. As shown by an affidavit of the parties, the Postmaster General continually and repeatedly promised them to take up the case as soon as he could find time; but he went out of office without having found time. When the new Postmaster General reached the cases in their regular order, he said he must be obliged to consider the fines which had been entered up and passed the Auditor as a decision of the Department. Technically it was; but actually, the Postmaster General has never passed upon these fines. In order to prevent this bill being used as a precedent in any other case in which the same exact facts did not exist, I have agreed to an amendment which covers the whole principle on which objection arose in the former debate. There actually has never been any examination or decision by a Postmaster General, and this will be the first. If the Senator could convince the present Postmaster General that he has the authority, without a law, to do it, it would be very well; but even then I think it would be preferable to pursue this course.

I respect the scrupulousness of the Postmaster General. I think it is wholesome. I think it is better that in all cases in which even an apparent decision has been made before him, the application for review should pass under the consideration of Congress before the new Postmaster General takes it up for reexamination. I think, myself, he has full authority to act in this case; I agree with the Senator on that point; but yet the Postmaster General does not think so, and injustice will be done to these parties if we do not intervene to remove his objection by a remedial act. We provide that if there has been an examination and decision by the former Postmaster General, the present Postmaster General shall not touch it. The only object is to enable them to bring the arbitrary decision of the clerk under the review of the Postmaster General. That is the whole matter. It is reasonable; it is right.

Mr. DAVIS. The Senator from Florida, to whom I defer with very great respect, both for his information and his character, seems to me to bring forward the statements of the applicants in this case, and present them as evidence of the action of the Department.

Mr. YULEE. The Senator is mistaken.

Mr. DAVIS. Who makes the affidavit referred to?

Mr. YULEE. The parties make that affidavit; but I have a letter from the officer of the Department having charge of the papers showing the facts. There is no evidence at all on the files indicating the fact that the Postmaster General has ever touched these cases.

Mr. DAVIS. Allow me to proceed a moment, and you will understand me better. Have you anything from the Department which shows that the Postmaster General promised to examine this case and did not do it?

Mr. YULEE. No, sir.

Mr. PUGH. That statement I made on the authority of the applicants.

Mr. YULEE. I have an affidavit stating that fact. It is not a matter of record. A promise by the Postmaster General, in the nature of things, is not a matter of record. These are well-known, reputable, wealthy citizens of Louisville and Cincinnati, whose sworn testimony ought to be received, and is received, by the committee, with consideration, especially when corroborated by information from the Department, and which the files exhibit.

Mr. DAVIS. I was going on to say that the late Postmaster General was a man of great labor, and great exactness in his office. It was not necessary for him, before entering up a fine, to make a thorough examination. That was a matter of law. The contractors knew perfectly well that when they failed to deliver the mail they were subject to a fine; and the mere fact of their having failed to deliver the mail was all that was necessary to determine the conclusion that they were to be fined.

Mr. YULEE. Will the Senator excuse me for interrupting him?

Mr. DAVIS. Certainly. I will give way forever.

Mr. YULEE. You are stating facts differently from those which exist on the record.

Mr. DAVIS. I will hear the Senator.

Mr. YULEE. There never was a failure to deliver the mails. There was only delay in delivery on account of low water, fogs, &c.

Mr. DAVIS. I presume the gentleman is the only Senator in the body who did not understand that the failure I referred to was to make time. I give way entirely.

The question being taken on the motion to postpone, there was, on a division—ayes 15, noes 9, no quorum voting.

The VICE PRESIDENT. The Chair thinks a quorum is present.

Mr. HALE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 27, nays 16; as follows:

YEAS—Messrs. Bayard, Bigler, Broderick, Cameron, Clark, Clingman, Collamer, Davis, Doolittle, Foot, Foster, Hale, Hammond, Harlan, Hayne, Houston, Hunter, Iverson, Johnson of Tennessee, King, Polk, Sebastian, Shields, Simmons, Slidell, Stuart, and Wilson—27.

NAYS—Messrs. Allen, Bell, Benjamin, Bright, Dixon, Fitzpatrick, Gwin, Henderson, Jones, Kennedy, Pugh, Seward, Thomson of New Jersey, Toombs, Wade, and Yulee—16.

So the bill was postponed.

PRIVATE CALENDAR.

The VICE PRESIDENT. The Chair will call up the next business in order, and clear the docket of resolutions.

Mr. STUART. I wish to renew a motion made some time ago, by the honorable Senator from Louisiana, to proceed with the Private Calendar during the morning hour, with such cases as do not give rise to debate.

The motion was agreed to.

Mr. SLIDELL. There are a number of cases at the head of the Calendar which have already been passed over as objected to. We may as well begin where we left off when we had the Private Calendar last under consideration.

The VICE PRESIDENT. That suggestion will be adopted if there is no objection.

JANE SMITH.

The first bill on the Calendar was the bill (S. No. 87) from the Court of Claims, for the relief of Jane Smith, of the county of Clermont, State of Ohio.

Mr. STUART. This is one of those cases which is objected to, and will be debated.

Mr. JONES. I understand the motion of the Senator from Louisiana to be to commence at those cases which had been laid aside before.

Mr. SLIDELL. They have commenced at that point on the Calendar.

The VICE PRESIDENT. The Chair has commenced at the top of the Private Calendar.

Mr. JONES. That is right.

The bill was passed over.

LUCINDA ROBINSON.

The next bill on the Calendar was the bill (S. No. 88) from the Court of Claims, for the relief of Lucinda Robinson, of the county of Orleans, State of Vermont.

Mr. STUART. That bill is of the same class as the other. These two cases involve questions in regard to back pension.

The bill was passed over.

CREEK DEPREDACTIONS.

The next bill on the Calendar was the bill (S. No. 96) to provide for the examination and payment of certain claims of citizens of Georgia and Alabama, on account of losses sustained by depredations of the Creek Indians.

Mr. STUART. That will be debated.

The bill was passed over.

NAHUM WARD.

The next bill on the Calendar was the bill (S. No. 93) from the Court of Claims, for the relief of Nahum Ward.

Mr. BENJAMIN. There is an adverse report in that case.

Mr. IVERSON. Is there any objection to that adverse report?

The VICE PRESIDENT. Perhaps there may be no objection to it.

Mr. STUART. I move the indefinite postponement of the bill. That is the usual motion.

Mr. PUGH. That is a bill in relation to which I asked an opportunity to examine the decision

of the court in favor of the party. It had better lie over.

Mr. STUART. I have no objection to its going over, if the Senator desires it.

The bill was passed over.

O. H. BERRYMAN.

The next bill on the Calendar was the bill (S. No. 108) from the Court of Claims, for the relief of O. H. Berryman and others.

Mr. PUGH. Let that go over, too. There is an adverse report in that case.

The bill was passed over.

MOSES NOBLE.

The next bill on the Calendar was the bill (S. No. 109) from the Court of Claims, for the relief of Moses Noble.

Mr. IVERSON. It is proper to say that the Senator from Alabama [Mr. CLAY] notified me that he objected to that bill. He is not present. I do not desire to press its consideration now.

The VICE PRESIDENT. The bill will be passed over.

JOHN M'VEY.

The next bill on the Calendar was the bill (S. No. 53) for the relief of John McVey, which proposed to place his name on the invalid pension roll, at the rate of eight dollars a month, to commence on the 1st of April, 1850, and to continue during his natural life.

The Committee on Pensions reported adversely, on the ground that there was no testimony to support McVey's allegations.

Mr. BENJAMIN. There is an adverse report in that case; let us act on the report. I move that the bill be indefinitely postponed.

The motion was agreed to.

LIEUTENANT NATHAN WEEKS.

The next bill on the Calendar was the bill (S. No. 113) for the relief of the heirs of Lieutenant Nathan Weeks, deceased.

Mr. SLIDELL. Let that go over.

The bill was passed over.

AMISTAD CASE.

The next bill on the Calendar was the bill (S. No. 114) to indemnify the master and owners of the Spanish schooner Amistad and her cargo.

Mr. WILSON. Let that go over.

J. HOSFORD SMITH.

The bill (S. No. 115) for the relief of J. Hosford Smith was read a second time, and considered as in Committee of the Whole.

It directs that there shall be allowed and paid to J. Hosford Smith, late consul at Beirut, as an addition to the salary already paid him, for services from July 1, 1853, to July 1, 1854, \$1,600.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JEREMIAH PENDERGAST.

The bill (S. No. 116) for the relief of Jeremiah Pendergast, of the District of Columbia, was read a second time, and considered as in Committee of the Whole.

It directs the Secretary of the Interior to place the name of Jeremiah Pendergast on the pension list, at the rate of six dollars per month, from the 4th of September, 1856, and to continue during his life, in lieu of the pension to which he is now entitled by law.

The petitioner was disabled while engaged in the military service of the United States, and in the line of his duty, on board the steamer Powhatan, on the 4th of August, 1855, and he has recently been placed on the pension roll at the rate of four dollars per month, which sum is wholly inadequate to his support, on account of his total disability.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

DAVID MYERLE.

The next bill on the Calendar was the bill (S. No. 120) for the relief of David Myerle.

Mr. BENJAMIN. That bill will give rise to a great deal of debate.

The PRESIDING OFFICER. (Mr. FITZPATRICK in the chair.) The bill will be passed over.

Mr. HUNTER. Is not that bill in its regular order?

The PRESIDING OFFICER. It is; but all bills objected to are to be passed over under the order of the Senate, and the Senator from Louisiana objects to the consideration of this bill.

The bill was passed over.

JAMES BELL.

The next bill on the Calendar was the bill (S. No. 125) for the relief of the legal representatives of James Bell, deceased.

Mr. PUGH. I object to that bill.

The bill was passed over.

JOSÉ DE LA MAYA ARREDONDO.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 126) for the relief of the heirs and legal representatives of José de la Maya Arredondo.

Mr. BENJAMIN. The Senator from Florida [Mr. MALLORY] had an amendment to offer to that bill. I do not see him in his seat. It had better be passed over.

The bill was passed over.

GEORGE PHELPS.

The bill (S. No. 128) for the relief of George Phelps, was read a second time, and considered as in Committee of the Whole.

Mr. SLIDELL. Let us hear the report in that case.

The Secretary read the following report, made by Mr. IVERSON, February 8, from the Committee on Claims:

This claim passed the Senate at the last session of Congress, and upon a reexamination of the case the committee are of opinion that the claim is just, and they report a bill accordingly. The facts, as stated in the report of last session, are as follows:

The petitioner presents the following account:

"THE UNITED STATES,

"To George Phelps, Dr.

"May 1, 1846. To extra services, as messenger, rendered in the Quartermaster General's Office, War Department, at nights and Sundays, after the closing of the public offices, from 1st December, 1839, to 1st July, 1846, six years and five months, at \$15 per month, \$1,125."

Mr. Phelps was the regular messenger in said office during the period named, at a salary of \$500 a year.

In answer to inquiries addressed to him the Quartermaster General states that the allegations contained in the memorial are true; that in consequence of the pressure of business in the office, arising out of the Indian hostilities in Florida, he was obliged to remain in the office almost every afternoon, and often until late at night, and often a portion, and sometimes the whole of Sundays; and that Mr. Phelps was obliged to remain and close the office, &c.

General Jesup adds: "The sum he asks is small compared with the amount of labor he has performed; he has fairly and honestly earned it."

Under the peculiar circumstances of this case, and in view of the strong indorsement of its equitable merits by the distinguished head of the quartermaster general's department, the committee report a bill for the payment of the sum claimed.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time and passed.

JENNETT H. M'CALL.

The next bill on the Calendar was the bill (S. No. 30) for the relief of Jennett H. McCall.

Mr. STUART. That bill is objected to.

Mr. BROWN. If it is, I give notice that we might as well go back to the first of the Calendar for I shall object to every bill after that. There is no reason to object to that bill. If gentlemen want to get their private bills passed, take them up and discuss them in regular order.

Mr. STUART. I am sorry the Senator should deem it necessary to make any such statement. I have no bill on the Calendar that I want passed. The Senator from Alabama not in his seat, [Mr. CLAY,] desired that the bill should be laid aside, for he intended to debate it.

Mr. BROWN. It has been laid aside twice for the Senator from Alabama, and I asked him to be here. I cannot consent to let bills be postponed time after time on account of Senators being absent. I can object as well as others.

Mr. STUART. I see that the Senator from Alabama is here. I call the attention of the Senator from Alabama to it, and ask if he wishes to discuss that bill? It is a revolutionary claim.

Mr. CLAY. I did propose to say something about it. I hope it will lie over for the present.

The bill was laid over.

Mr. CLAY shortly afterwards said: I objected to the consideration of the bill (S. No. 130) for the relief of Jennett H. McCall. I did so for reasons which I supposed to obtain in this case, but which I am now satisfied do not obtain; and I wish

briefly to state to the Senate the reasons why I withdraw the objection; and I hope the bill will be taken up and passed. I had always regarded the pensions—

Mr. KING. I had hoped that we should go on regularly through the Calendar. If, therefore, the gentleman withdraws his objection to that bill, I shall renew it. I shall object to any bills that have been passed by. I think it is better to go through with the Calendar, taking up the bills in their order.

W. Y. HANSELL AND OTHERS.

The next bill on the Calendar was the bill (S. No. 135) for the relief of W. Y. Hansell, W. H. Underwood, and the representatives of Samuel Rockwell; which the Secretary proceeded to read.

Mr. STUART. It is obvious that that bill cannot be considered without debate.

The bill was passed over.

Mr. BROWN. I suggest that this is a very idle proceeding. We are wasting time. I have already notified the Senate that I mean to object to bills when they come up. We had better go back and debate them in regular order. Gentlemen object to bills without having much reason for it. We waste hours in reading bills that are objected to. Let us go back to the beginning of the Calendar, and discuss the bills in their order.

Mr. STUART. It certainly is not necessary to take any time to discuss the subject. The Senator has just come in. The Senate made an order that they would go through the Private Calendar until one o'clock, considering only such bills as did not give rise to debate. If the Senator had been here he could have made his objection. He can now move to reconsider that order, or anything of that sort. But for the Senator from Mississippi to say he will object to all the rest of the bills is rather singular. It is a privilege he has if he chooses to exercise it.

The PRESIDING OFFICER. The next bill in order will be read.

CHARLES G. RIDGELY.

The next bill on the Calendar was the bill (S. No. 144) for the relief of Charles G. Ridgely, United States Navy, which the Secretary proceeded to read.

Mr. BROWN. I object to its consideration.

The bill was passed over.

Mr. BROWN subsequently said: I objected a little while ago to a bill for the relief of Charles G. Ridgely. I had no reason for it except I thought it was unjust to object to a bill for the relief of a poor crippled old woman in my country, which has been objected to half a dozen times, I am quite sure, without any sort of reason. But I suppose because other people treat the old woman wrong, I ought not to do wrong to others.

Mr. HALE. I am sorry that I am obliged to renew the objection to it.

JAMES SUDDARDS.

The next bill on the Calendar was the bill (S. No. 148) for the relief of James Suddards.

Mr. BENJAMIN. That is one of a class of cases that was objected to before, as being based on wrong principle.

The bill was passed over.

GEORGE H. HOWELL.

The next bill on the Calendar was the bill (S. No. 149) for the relief of George H. Howell.

Mr. BENJAMIN. That is of the same character as the previous bill.

The bill was passed over.

LIEUTENANT JOSHUA D. TODD.

The bill (S. No. 153) for the relief of Lieutenant Joshua D. Todd, United States Navy, was next announced.

Mr. BENJAMIN. I have looked at the report in that case, and I cannot agree to that bill passing. I think the principle is wrong.

The bill was passed over.

WILLIAM F. CARRINGTON.

The next bill on the Calendar was the bill (S. No. 154) for the relief of William F. Carrington, passed assistant surgeon in the Navy of the United States.

Mr. BENJAMIN. That is one of the same class of bills.

The bill was passed over.

ROBERT CARTER.

The next bill on the Calendar was the bill (S. No. 155) for the relief of Robert Carter, passed assistant surgeon, in the Navy of the United States.

Mr. BENJAMIN. That is one of the same class.

The bill was passed over.

JOSHUA SHAW.

The bill (S. No. 156) for the relief of Joshua Shaw, of Bordentown, New Jersey, was read a second time, and considered as in Committee of the Whole.

It provides for the payment to Joshua Shaw of \$7,000, which amount, with that paid to him under the provisions of the act approved February 20, 1846, is to be in full compensation to him for the past and future use of his invention of percussion caps and locks for small arms, and of percussion locks and wafer primers to be applied to the firing of cannon.

This claim is based upon the use, by the Government of the United States, of the memorialist's invention of the copper percussion caps and locks for small arms, and percussion locks and wafer primers for cannon. The facts of the invention by Mr. Shaw, of its great utility and of its extensive use by the Government, have been fully admitted by the ordnance department. In 1847, Congress passed an act (9 Stat., 684,) authorizing the Secretary of War to examine the claim of Mr. Shaw, and directing its payment, to an amount not exceeding \$25,000. Under this act \$18,000 was allowed and paid, and the present application is for the payment of the remaining \$7,000.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ANTHONY S. ROBINSON.

The bill (S. No. 158) for the relief of Anthony S. Robinson, heir and legal representative of John Hamilton Robinson, deceased, was next announced.

Mr. BENJAMIN. This bill on the Calendar is stated to be accompanied by a report, No. 79. (Report No. 79, I find, has no reference to it at all. There is some mistake. If there be a report, I ask for its reading.

Mr. POLK. I think there is a report.

The PRESIDING OFFICER. The report is No. 89.

Mr. BIGLER. I think that the bill had better lie over.

Mr. BENJAMIN. I waive the reading of the report, and object to the passage of the bill.

Mr. POLK. I think if the report be read the Senator will be satisfied.

The bill was passed over.

WILLIAM D. MOSELEY.

The bill (S. No. 172) for the relief of William D. Moseley was read a second time, and considered as in Committee of the Whole.

It proposes to release him from the penalties and liabilities incurred by him as surety of Harrison R. Blanchard, on his contract with the United States, dated September 25, 1855, for the supply of live-oak timber.

H. R. Blanchard contracted with the United States, on the 25th of September, 1855, to deliver at the navy-yard, New York, on or before the 1st of October, 1856, live-oak, for naval purposes, amounting, in all, to \$38,820. For the performance of this contract, the memorialist, together with Mr. A. Williams, was joint surety in the sum of \$70,000; and upon the failure of the contractor to perform it, the memorialist took an absolute assignment of the contract from him, as his affidavit shows, and at once entered upon its performance in good faith. Upon referring to the scale of offers accompanying the report of the Secretary of the Navy of the 1st of December, 1856, it will be perceived that Mr. Blanchard's offer was \$3,580 lower than the next highest bidder. By the terms of the contract, the timber was to be cut within thirty miles of the sea; and the memorialist states that Indian hostilities existed in this country, and he was thereby prevented from executing it. He, however, furnished a large portion of the timber, and the Navy Department contracted with a new party for supplying the

remainder, at prices exceeding those allowed to Blanchard. There has been paid to Mr. Blanchard, on his contract, the sum of \$13,979 35, and the reservation in the hands of the Government amounts to \$2,466 94. The committee find that the memorialist contracted to deliver this timber at unusually low rates, and that he entered upon the performance of his contract in good faith, and probably would have completed it, but for Indian hostilities; that if the contract be closed, and the reservation of \$2,466 94, retained by the United States, be paid to the memorialist, the average of the whole contract will then be at a low rate, and the entire frame, under the two contracts, will have been delivered for \$41,546 29, which is on advantageous terms to the Government; that the United States having therefore lost nothing, but having actually obtained this timber upon advantageous terms, the committee deem the memorialist entitled to relief.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DR. KANE.

The joint resolution (S. No. 20) authorizing the Secretary of the Navy to pay to the officers and seamen of the expedition in search of Dr. Kane the same rate of pay that was allowed to the officers and seamen of the expedition under Lieutenant De Haven, was read the second time, and considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PUBLIC LANDS IN MISSOURI.

The next bill on the Calendar was the bill (S. No. 157) to provide for the payment to the State of Missouri of two per centum of the net proceeds of the sales of the public lands therein, heretofore reserved under a compact with that State.

Mr. COLLAMER. I desire that that bill may lie over.

The bill was passed over.

BENJAMIN E. EDWARDS.

The bill (S. No. 186) to confirm the title of Benjamin E. Edwards to a certain tract of land in the Territory of New Mexico, was read a second time, and considered as in Committee of the Whole.

It proposes to confirm Benjamin E. Edwards in his title to six hundred and forty acres of land, situate in the Territory of New Mexico, being the tract of land located by virtue of a certificate No. 444, of the second class, issued by the board of land commissioners for the county of Bexar, and State of Texas, to one Andrew Flores, dated August 16, 1847, and the same tract of land for which a patent was authorized to be issued by the act of the State of Texas, entitled "An act to require the Commissioner of the General Land Office to issue patents therein named," approved December 2, 1850, and which is more particularly described in the plat and field notes accompanying the survey, executed by R. S. Howard, deputy surveyor, and approved of by the district surveyor for the district of Bexar, on the 30th of November, 1849, which survey is numbered thirty-eight in section fifteen, in what was then known as the Bexar land district for the State of Texas, and which is now on record in the office of the commissioner of the general land office of the State of Texas.

Mr. STUART. Is that one of those head-right cases?

Mr. BENJAMIN. It is; but it is one of those which were included in a special act passed by Texas. There are four or five which Texas, by special act, directed a patent to issue for. The act was passed a month or two after the cession to the United States.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

A. W. M'PHERSON.

The bill (S. No. 188) for the relief of A. W. McPherson was announced as next in order.

Mr. KING. Is there a report in that case?

Mr. IVERSON. I can state to the Senator from New York the facts without reading the report—it is rather a long one. This man, McPherson, was employed by the United States

marshal in San Francisco, under the direction of the judge of the district court, to rent rooms for the accommodation of the district and circuit courts and furnish them.

The claim put in was a very large one. The Committee on Claims thought the amount claimed for the articles furnished was entirely too extravagant, and therefore would not allow the amount, and they have left it to the Secretary of the Interior to allow whatever he thinks is reasonable and proper. The Government, of course, ought to pay some price.

Mr. KING. I waive the call.

Mr. BENJAMIN. I would rather that that bill should lie over, and that there should be some limitation to it. The idea of paying \$18,000 for furnishing a court room is rather extravagant.

The bill was passed over.

STURGES, BENNETT AND CO.

The next bill on the Calendar was the bill (S. No. 121) from the Court of Claims for the relief of Sturges, Bennett & Co., merchants, of the city of New York.

Mr. HAMLIN. There is an adverse report in that case.

The bill was passed over.

LAND IN WISCONSIN.

The next bill on the Calendar was the bill (S. No. 196) authorizing the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States to enter a certain tract of land in the State of Wisconsin.

Mr. POLK. I object to that bill. It is similar to a case which was discussed here a few days ago.

The bill was passed over.

JOSEPH HARDY AND ALTON LONG.

The consideration of the bill (S. No. 198) for the relief of Joseph Hardy and Alton Long was resumed as in Committee of the Whole.

It proposes to direct the Secretary of the Treasury to ascertain, as in the case of John P. B. and Henry Gratiot, what amount, if any, of rent was exacted by the United States agents of lead mines from Joseph Hardy, for lead mined and smelted upon the lands of the Ottawa, Pottawatomie, Chippewa, Winnebago, or other tribes of Indians, prior to their purchase by the United States, and pay such amount as may be legally proved to have been actually paid by Joseph Hardy to such agents of the United States.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HALF PAY TO WIDOWS.

The PRESIDING OFFICER. The hour of one o'clock having arrived, the special order comes up as a matter of course.

Mr. FOSTER. I appeal to the Senate, before the special order is taken up, to proceed to the consideration of the bill (S. No. 297) to extend an act entitled "An act to continue half pay to certain widows and orphans," approved February 3, 1853. It comprises probably more special cases than any other bill before the Senate—private claims. It embraces a large number of very meritorious and needy persons, and unless it be passed now, there is no probability of its getting through the other House during the session. The bill has received the approbation of the Committee on Pensions, with one exception. One member of the committee reserved his opinion. It has also been submitted to the Department, and has received the approbation of the Pension Office.

Mr. STUART. I would inquire of the Senator from Connecticut if I understand the bill correctly. Is it a bill in regard to the construction of an act as to Navy pensions?

Mr. FOSTER. It is not. It has nothing to do with anything of that sort.

Mr. JONES. It is only to continue the pensions of widows.

Mr. FOSTER. I hope this bill may be taken up by unanimous consent.

Mr. PUGH. It will save us a great deal of trouble to pass that bill.

Mr. FOSTER. And I do not think it will lead to debate.

The bill was read a second time, and considered as in Committee of the Whole.

The bill provides that all those surviving widows and minor children who have been or may be granted and allowed five years' half pay under the provisions of any law or laws of the United States, shall be granted a continuance of such half pay under the following terms and limitations: to such widows during life, and to such child or children, where there is no widow, whilst under the age of sixteen years, to commence from the expiration of the half pay provided for by the first section of the act entitled "An act to continue half pay to certain widows and orphans," approved February 3, 1853; but it is provided, that in case of the marriage or death of any such widow, the half pay shall go to the child or children of the deceased officer or soldier whilst under the age of sixteen years; and, in like manner, the child or children of such deceased officer or soldier, when there is no widow, shall be paid no longer than while there are children or a child under that age. The half pay of such widows and orphans is to be half the monthly pay of the officers, non-commissioned officers, musicians, and privates of the infantry of the regular Army of the United States, and no more; and no greater sum is to be allowed to any such widow or minor children than the half pay of a lieutenant colonel. This act is not to be construed to apply to or embrace the case of any person or persons now receiving a pension for life; and wherever half pay shall have been granted by any special act of Congress, and is renewed or continued under the provisions of this act, it is to commence from the date of this act.

Mr. PUGH. I would suggest to the Senator from Connecticut that the pensions to widows ought to be restrained for life or widowhood. I do not think after the woman has married again she should have a pension. It is continued for life in this bill. In the first section, the eighth line, after the word "life," I move to insert the words "or widowhood."

Mr. MASON. It seems to me, from the reading of the bill, that it is intended to affect the whole pension system of that class.

Mr. FOSTER. It is so.

Mr. MASON. I would ask if it has been reported on the Committee on Pensions.

Mr. FOSTER. Yes, sir.

Mr. JONES. And it has been recommended by the Commissioner of Pensions.

Mr. PUGH. It is simply a general bill in lieu of a continued stream of private bills. I think we had better pass it, and we shall save more money by saving time on the Private Calendar, than the bill calls for. My amendment is, in the eighth line, after the word "life," to insert "or widowhood."

Mr. DOOLITTLE. I hope the amendment will not be agreed to. I do not believe in laws restraining marriage. I do not like the policy of them. I hope the amendment will not prevail.

Mr. FOSTER. I will say in regard to this point, that there are now very many private acts for widows, granting pensions during life, that were passed under precisely these circumstances. This was intended to carry out a policy which it was supposed had been adopted, because there are quite a number of that class. I examined that question and found there was quite a number of that description. I would further remark that in all cases where the widow has children, in the event of her marrying again, the pension is to cease and go to the minor children under sixteen years of age; and is then to cease when those children exceed the age of sixteen, so that there would be very few cases, I presume, where the honorable Senator's amendment would really have any effect.

Mr. PUGH. Do I understand the honorable Senator from Connecticut to say this is a mere extension of the former law; and subject to the provisions of that?

Mr. FOSTER. In this particular it exceeds the other, because the other was simply a law for five years. This does give to the widows a pension for life; provided, however, that if they marry again, the pension goes to their minor children. I was saying, also, there were various individual cases where Congress had granted to widows a pension for life, notwithstanding the general law is a pension for five years. The bill was drawn in reference to those cases.

Mr. PUGH. It may be as the Senator suggests, that there are such cases, but they have passed

without observation. The general rule with us has been to grant a pension for a term of years, or life, or widowhood. It is a departure from the principle of the pension laws, to grant it in any other circumstances. We are not making a mere donation. It is for the support of the widow or for the support of the minor children. Consequently the pension ceases, in the case of a child, when he or she reaches a given age, and in the case of the widow it ceases whenever she has any other method of maintenance, so that when she is married again, and is supported by her husband, then the bounty of the Government ought to cease. That is the principle of our pension laws, and adopting any other is overthrowing the whole system. I hope the Senate will see to it that while we are passing this bill, to which, in general, I have no objection, we do not introduce a new element into a system that is already overgrown. As to the suggestion of the Senator from Wisconsin, that it discourages matrimony, I do not think any woman, if she had a good offer, would hesitate on the ground of \$320 a year pension.

Mr. CLAY. I will say but a few words explanatory of the purpose of this bill as I understand it, and in support of the amendment which is proposed by the Senator from Ohio, which I think is a very proper one. I will premise by saying that, as is generally understood by the Senate, I am against the whole pension system, regarding it, as I do, as opposed to the theory and spirit of this Government and demoralizing in its character. Under existing laws, pensions are not allowed to the widows of officers of the Army unless they are killed in time of war, or die of wounds or disease contracted in war. In respect to widows of officers of the Navy, pensions are granted them if they die in the service, even in time of peace, in the line of their duty. If I am incorrect in my representation of the character of this bill, the Senator from Connecticut will inform me. As I understand it, this bill is to place the widows of officers of the Army on the same footing with the widows of officers of the Navy. Am I right in that?

Mr. FOSTER. There is in the bill no reference to the officers or to the law regulating pensions for the Navy. It recognizes the existing laws and extends the pensions to the widows of officers and soldiers, where they are now by law granted for five years. It renews them and grants them during widowhood, and possibly during life. It has no reference at all to the laws granting pensions for the Navy.

Mr. CLAY. It does not extend, then, beyond those who have drawn their pensions for five years?

Mr. FOSTER. Not at all. It introduces no new principle as regards embracing cases not embraced by existing laws.

Mr. CLAY. Then it does not make any new cases, but only extends all existing cases?

Mr. FOSTER. It renews those now existing. Mr. CLAY. Well, I think the amendment offered by the Senator from Ohio is a very proper one, for the reasons which he has suggested. All our pension system originally was based upon the idea first of public service rendered by the invalid pensioner himself, or, in case of a widow or minor children, rendered by the deceased husband and father; and, further, upon the idea of either infirmity or disability to provide for themselves. The laws never contemplated providing for those who could provide for themselves, or who ought to be able to provide for themselves. I think that, so far from discouraging marriage, or being any restraint on marriage, (as suggested by the Senator from Wisconsin,) it is rather a restraint upon injudicious marriage. No woman ought to marry a man unless she has some assurance that he can provide for her; and no man ought to marry a woman for the sake of the bounty which the Government gives her; and I think that whenever she does marry, it ought to cease, both for her sake as well as for the Government. I do not believe there is an instance on the statute-book, so far as I know, unless it be on some of these special cases—I know it is not in respect to any general law—where a pension continues after a woman marries. The framers of the law, therefore, seem to have presumed that when she marries a man she provides for herself. I trust that the amendment will prevail.

Mr. PUGH. As this bill, in this respect, is introducing a new system in the pension laws, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. DAVIS. The only reason which originally constituted the difference between the Army and Navy has long since ceased to exist; and I think there is now a stronger argument for allowing pensions to widows of officers and soldiers of the Army than to those of the Navy itself. I should be glad, therefore, if the bill went further than it does, and put the families of officers of the Army on the same footing with those of officers of the Navy. The amendment, however, which is pending, is to insert the words "or widowhood," the effect of which would be, in the event of the marriage of a widow of an officer, that his minor children would lose the support which had been previously granted to them by the Government. This, I understand, my friend from Alabama considers as proper, because, when a widow gets married, she has provided a support. For herself, perhaps she has; but it does not follow that the children will be benefited. In nine cases out of ten the children will be worse. So far, therefore, as it is intended to withdraw the support from the minor children because the widow has got married, I object to it.

Mr. PUGH. The proviso covers that. The proviso at the bottom of the page, if the Senator will look at it, provides that in case of marriage, the pension may go to the minor children.

Mr. DAVIS. Does not the effect of the amendment extend to them?

Mr. PUGH. No, sir. If my amendment be added to the bill, if a case of marriage occurs, then the pension will go to the children under sixteen years of age. The difficulty with the bill as it now stands is, that if there are no children under sixteen years, it will then continue to the woman, notwithstanding her second marriage. That is what I propose to cut off.

Mr. DAVIS. I agree to that.

Mr. CRITTENDEN. I am opposed to this restriction altogether. We have had a great many conventions of late to settle and determine the rights of women; but there is one right which has long been universally conceded, and that is the right of marrying. Laws in restraint of marriage are always considered odious; and from the time that I read of the great Shakespeare, who left to his wife her choice of his bed and some other little article during her widowhood, I have felt an invincible repugnance to all the attempts made by testators to tie up their widows from marrying, by saying they shall have so much during their widowhood, and when they please to marry again, and to form a part of the great social body, they shall cease to have it. Now sir, there is not much policy in this; all the policy is a little saving of a little money. If you wish to benefit the widow, give her the pension and let her marry with it. You say it shall go to her children when she marries. Through whose hands shall it reach those minor children? Is some guardian to be appointed? Who is so good a guardian, who so reliable and faithful a guardian, as the mother, even if the children are the objects of your bounty? You say it will not be under her control; the husband will control it. That is according to her pleasure; and do you expect by law to substitute a better security for minor children than is to be found in the affections of a mother? Do you expect by law a better security than that which is founded in a mother's heart? You will be mistaken if you do. They may be unfortunate in these marriages. The husband may be a reckless, careless, poor character; but the mother can at all times stop him from intermeddling with this pension; it is her separate property; and there is no court of chancery which would not restrain him from receiving it upon any representation of his unworthiness or his abuse of such a trust. What greater security can you have? It will redound in her hands to the greater advantage of the children than any disposition you can make. You reward her for the loss of one husband, by telling her she shall never have another. This, I think, upon a moment's consideration, will be seen to be contrary to sound policy and the dictates of justice, as well as the dictates of the heart of every Senator here. I hope this amendment will not prevail, but that the widow will be permitted to enjoy, married or unmarried, the little pension which

you have bestowed upon her for the life of the husband she has lost.

The question being taken upon the amendment by yeas and nays, resulted—yeas 25, nays 27; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Benjamin, Brown, Clay, Clingman, Davis, Fitzpatrick, Green, Hammond, Henderson, Iverson, Johnson of Arkansas, Johnson of Tennessee, Mason, Pearce, Polk, Pugh, Rice, Sidel, Thomson of New Jersey, Toombs, and Wright—25.

NAYS—Messrs. Bigler, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Foot, Foster, Hale, Hamlin, Harlan, Houston, Jones, Kennedy, King, Mallory, Seward, Shields, Simmons, Stuart, Trumbull, Wade, and Wilson—27.

So the amendment was rejected.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JENNETT H. McCALL.

Mr. BROWN. I ask the Senate to take up a little bill for the relief of Jennett H. McCall, to which the Senator from Alabama objected, but his objection is withdrawn, and I presume we may now pass it without difficulty.

There being no objection, the bill (S. No. 130) was read a second time, and considered as in Committee of the Whole.

It directs the Secretary of the Treasury to pay to Jennett H. McCall, only child of Captain James McCall, of General Pickens's brigade, in the South Carolina regiment, during the war of the Revolution, the seven years' half pay of a captain, as allowed by the resolution of Congress passed August 24, 1780, amounting to \$2,100.

The petitioner is an aged woman, eighty-six years old, and from her infancy has labored under a deformity in her feet. She is the only child and heir of James McCall, known in the history of the revolutionary war, in South Carolina and Georgia, as Colonel James McCall. It appears from the history of Georgia, and from other reliable sources, that he served with distinction and singular bravery in both of those States during a large portion of the war, and was in nearly all the battles which were fought there during the invasion and possession by the British army. During the greater part of the time he was only a militia officer, under the command of General Pickens, but it is believed, although no very conclusive evidence of the fact can now be obtained, that when the new organization of the Army took place in the fall of 1780, he was appointed to a command in one of the three regiments ordered to be raised in South Carolina as her part of the continental army, as it is said, in the history of the times, he commanded the new levies of that State at the battle of the Cowpens, where Morgan obtained a signal victory over Tarleton. In his accounts, copies of which have been furnished from the comptroller's office, of South Carolina, he is styled sometimes captain, and sometimes colonel. The latter title was probably a militia title, as the service was performed under General Pickens, a militia general. His rank in the new continental regiment of the State of South Carolina was probably that of a captain. The committee do not, under the evidence of the facts of the case, feel authorized to give him any higher rank. It appears, satisfactorily, that in the discharge of his military duty he was attacked with the small-pox, of which he died in the year 1781. The committee are therefore of opinion that the petitioner is entitled to the seven years' half pay of her father, she being, at the time of his death, only eleven years of age.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FRANCES ANN McCauley.

Mr. JONES. I ask the Senate to take up the bill for the relief of Mrs. Frances Ann McCauley, to which the Senator from Missouri [Mr. GREEN] objected the other day, but he has waived his objection.

Mr. GREEN. I have examined the law. I see the bill is right, and I withdraw the objection.

There being no objection, the bill (S. No. 223) for the relief Frances Ann McCauley was read the second time, and considered as in Committee of the Whole.

It directs the Secretary of the Treasury to pay to Frances Ann McCauley, widow of Daniel S. McCauley, deceased, late consul-general of the United States at Alexandria, in Egypt, \$4,200,

for compensation for judicial services performed by her husband while holding that office, from August 14, 1848, to October 26, 1852, under the act of Congress entitled "An act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to ministers and consuls of the United States in those countries," approved August 11, 1848, at the rate of \$1,000 per annum.

Mr. HALE. If there is a report in that case, let it be read.

The Secretary read the report made by Mr. Foor, from the Committee on Foreign Relations, from which it appears that the late Daniel S. McCauley was, on the 14th day of August, 1848, appointed consul-general of the United States at Alexandria, in Egypt, a port belonging to and within the territorial limits of the Turkish Empire; that he continued to hold that office and perform its duties up to the time of his death, on the 26th of October, 1852; and that, as consul-general of the United States at that port, certain judicial duties were devolved upon him by act of Congress. In reply to a letter of inquiry, addressed to him by the committee, the Secretary of State, under date of February 2, 1858, says that Mr. McCauley was consul during the period claimed, and that he performed judicial services in that capacity; but whether services of that kind entitled the minister or consuls of the United States in the Turkish dominions to extra compensation, has always been deemed questionable by the Department. From an examination of the several provisions of the act, the committee think that the same class of duties and responsibilities are alike devolved upon the diplomatic and consular agents of both China and Turkey; and, in their opinion, it would seem to be but reasonable to suppose that Congress intended to allow the same measure of compensation to each.

Mr. HALE. I am not going to oppose the bill because I know it is rather ungracious; but if there is anything that is a naked question of law and ought to go to the Court of Claims, this is it. It is a construction of law whether consuls in Turkey are entitled to this money or not.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CIVIL APPROPRIATION BILL.

A message from the House of Representatives by Mr. ALLEN, its Clerk, announced that the House had passed a bill (H. R. No. 200) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1859; which was read twice by its title, and referred to the Committee on Finance.

HOMESTEAD BILL.

The PRESIDING OFFICER. The special order is the bill (S. No. 25) to grant to any person who is the head of a family, and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, upon the condition of occupancy and cultivation of the same for the period herein specified.

Mr. JOHNSON, of Tennessee. I wish to call attention to the second section before we proceed further. Yesterday the words, "for the term of five years," were inserted on motion of the Senator from Vermont, [Mr. COLLAMER.] They should come in line twenty after the word "land," instead of where they were put on his motion; so as to read: "continued to reside upon and cultivate said land for the term of five years."

The PRESIDING OFFICER. That alteration will be made.

Mr. JOHNSON, of Tennessee. I wish to make a suggestion to the Senate. If there is a disposition to act upon this bill soon, I am willing to have the time indicated when the vote shall be taken, before I proceed to say anything myself; and, after doing that, if others desire to speak, I am willing that they shall consume my portion of time in speaking. I am anxious that other business should not be delayed, and that there shall be action on this bill. If it is the pleasure of the Senate to indicate any particular time to take the vote on it, we can shape our course accordingly. ["Go on!"]

Mr. KING. Go on, and take the vote as soon as we can: that is the better way.

Mr. JOHNSON, of Tennessee. The immediate

proposition before the Senate is an amendment offered by the Senator from North Carolina, [Mr. CLINGMAN,] which provides that there shall be a land warrant issued to each head of a family, by the Secretary of the Interior, and distributed among those who do not emigrate to the public domain and take possession of and cultivate the land for the term of years specified in the bill. I have something to say in reference to that amendment, but I will not say it in this connection. I will take it up in its order. I propose, in the first place, to explain briefly the provisions of the bill.

The first section provides for granting one hundred and sixty acres of land to every head of a family who will emigrate to any of the public domain and settle upon it, and cultivate it for a term of five years. Upon those facts being made known to the register of the land office, he is to be entitled to obtain a patent. The second section provides that he shall make an affidavit, and show to the satisfaction of the officer that his entry is made in good faith, and that his intention is to cultivate the soil and become an actual settler. The sixth section of the bill provides that any person who is now an inhabitant of the United States, but not a citizen, if he makes application, and in the course of five years becomes a citizen of the United States, shall be placed on a footing of equality with the native-born citizens of the country in this respect. The third section provides that those entries shall be confined to land that has been in market, and subjected to private entry; and that the person entering the land shall be confined to each alternate section.

These are substantially the leading provisions of this bill. It does not proceed upon the idea, as some suppose, of making a donation or gift of the public land to the settler. It proceeds upon the principle of consideration, and, as I conceive, and I think many others do, the individual who emigrates to the West, and reclaims and reduces to cultivation one hundred and sixty acres of the public domain, subjecting himself to all the privations and hardships of such a life, pays the highest consideration for his land.

But, before I say more on this portion of the subject, I desire to premise a little by giving the history of this homestead proposition. Some persons from my own region of the country, or, in other words, from the South, have thrown out the intimation that this is a proposition which partakes, to some extent, of the nature of the Emigrant Aid Society, and is to operate injuriously to the southern States. For the purpose of making the starting point right, I want to go back and show when this proposition was first introduced into the Congress of the United States. I am not so sure but that the Presiding Officer [Mr. Foor in the chair] remembers well the history of this measure.

In 1846, on the 27th day of March, long before we had any emigrant aid societies, long before we had any compromises in 1850 in reference to the slavery question, long before we had any agitation on the subject of slavery in 1854, long before we had any agitation upon it in 1858, this proposition made its advent into the House of Representatives. It met with considerable opposition. It scarcely received serious consideration for a length of time; but the measure was pressed until the public mind took hold of it; and it was still pressed until the 12th day of May, 1852, when it passed that body by a two-third vote. Thus we see that its origin and its consummation, so far as the House of Representatives was concerned, had nothing to do with North or South, but it was proceeding upon that great principle which interests every man in this country, and which, in the end, secures and provides for him a home. By putting these dates together it will be perceived that it was just six years five months and fifteen days from the introduction of this bill until its passage by the House of Representatives.

I shall not detain the Senate by any lengthy remarks on the general principles of the bill; for I do not intend to be prolix, or to consume much of the Senate's time. What is the origin of the great idea of a homestead of land? We find, on turning to the first law-writer—and I think one of the best, for we are informed that he wrote by inspiration—that he advances the first idea on this subject. Moses made use of the following language:

"The land shall not be sold forever; for the land is mine

—for ye are strangers and sojourners with me."—Leviticus, chapter xxv., verse 23.

We begin, then, with Moses. The next writer to whom I will call the attention of the Senate is Vattel—one of the ablest, if not the ablest, writer upon the laws of nations. He lays down this great principle, (book 1, chapter 7:)

"Of all the arts, tillage or agriculture is the most useful and necessary. It is the nursing father of the State. The cultivation of the earth causes it to produce an infinite increase; it forms the surest resource, and the most solid fund of rich commerce for the people who enjoy a happy climate."

"This affair, then, deserves the utmost attention from Government. The sovereign ought to neglect no means of rendering the land under his obedience as well cultivated as possible. He ought not to allow either communities or private persons to acquire large tracts of land to leave uncultivated. These rights of common, which deprive the proprietor of the free liberty of disposing of his lands—that will not allow him to farm them, and cause them to be cultivated in the most advantageous manner—these rights, I say, are contrary to the welfare of the State, and ought to be suppressed or reduced to a just bound. The property introduced among the citizens does not prevent the nation's having a right to take the most effectual measures to cause the whole country to produce the greatest and most advantageous revenue possible."

"The Government ought carefully to avoid everything capable of discouraging husbandmen, or of diverting them from the labors of agriculture. Those taxes, those excessive and ill proportioned impositions, the burden of which falls almost entirely upon the cultivators, and the vexations they suffer from the commissioners who levy them, taken from the unhappy peasant the means of cultivating the earth, and depopulate the country. Spain is the most fertile, and the worst cultivated country in Europe. The Church possesses too much land, and the undertakers of royal magazines, who are authorized to purchase at low prices all the corn they find in possession of a peasant, above what is necessary for the subsistence of his wife and family, so greatly discourage the husbandman, that he sows no more corn than is necessary for the support of his own household. Whence arises the greatest scarcity in a country capable of feeding its neighbors."

"Another abuse injurious to agriculture is, the contempt cast upon husbandmen. The inhabitants of cities, even the most servile artists, and the most lazy citizen, consider him who cultivates the soil with a disdainful eye; they humble and discourage him; they dare to despise a profession that feeds the human race—the natural employment of man. A stay-maker places far beneath him the beloved employment of the first consuls and dictators of Rome."

"China has wisely prevented this abuse. Agriculture is there held in honor; and to preserve this happy manner of thinking, every year, on a solemn day, the Emperor himself, followed by the whole court, sets his hands to the plow and sows a small piece of land. Hence China is the best cultivated country in the world. It nourishes an innumerable multitude of people that at first appears to the traveler too great for the space they possess."

"The cultivation of the soil is not only to be recommended by the Government on account of the extraordinary advantages that flow from it, but from its being an obligation imposed by nature on mankind. The whole earth is appointed for the nourishment of its inhabitants, but it would be incapable of doing it was it uncultivated. Every nation is then obliged by a law of nature to cultivate the ground that has fallen to its share, and it has no right to expect or require assistance from others, any further than it with necessaries. Those people, like the ancient Germans, disdain to cultivate the earth, and rather choose to live by rapine; are wanting to themselves, and deserve to be exterminated as savage and rapacious beasts. There are other who avoid agriculture, that would only live by hunting and flocks. This might doubtless be allowed in the first stages of the world, when the earth produced more than was sufficient to feed its few inhabitants; but at present, when the human race is so greatly multiplied, it would not subsist if all nations resolved to live in this manner. Those who still retain this idle life, usurp more extensive territories than they would have occasion for were they to use honest labor, and have, therefore, no reason to complain if other nations, more laborious and too closely confined, come to possess a part. Thus, though the conquest of the civilized empires of Peru and Mexico was a notorious usurpation, the establishment of many colonies in North America may, on their confining themselves within just bounds, be extremely lawful. The people of those vast countries rather overran than inhabited them."

I propose next to cite the authority of General Jackson, who was believed to be not only a friend to the South, but a friend to the Union. He inculcated this great doctrine in his message of 1832:

"It cannot be doubted that the speedy settlement of those lands constitute the true interests of the Republic. The wealth and strength of a country are its population, and the best part of the population are cultivators of the soil. Independent farmers are everywhere the basis of society, and the true friends of liberty."

"It seems to me to be our true policy that the public lands shall cease, as soon as practicable, to be a source of revenue; and that they be sold to settlers in limited parcels, at prices barely sufficient to reimburse the United States the expense of the present system, and the cost arising from our Indian contracts."

"It is desirable, however, that the right of the soil, and the future disposition of it, be surrendered to the States, respectively in which it lies."

"The adventurous and hardy population of the West, besides contributing their equal share of taxation under the impost system, have, in the process of our Government, for the lands they occupy, paid into the Treasury a large pro-

portion of forty million dollars, and of the revenue received therefrom, but a small portion has been expended among them. When, to the disadvantage of their situation in this respect, we add the consideration that it is their labor alone that gives real value to the lands, and that the proceeds arising from these sales are chiefly distributed among States that had not originally any claim to them, and which have enjoyed the undivided emoluments arising from the sales of their own lands, it cannot be expected that the new States will remain longer contented with the present policy, after the payment of the public debt. To avert the consequences which may be apprehended from this cause, to stop forever all partial and interested legislation on this subject, and to afford every American citizen of enterprise the opportunity of securing an independent freehold, it seems to me, therefore, best to abandon the idea of raising a future revenue out of the public lands."

Then we have standing before us, in advocacy of this great principle, the first writer of laws, Moses; next we have Vattel; and in the third place we have General Jackson. Now, let us see whether there has been any homestead policy in the United States. By turning to our statutes, we find that the first homestead bill ever introduced into the Congress of the United States, was in 1791. I know that it is said by some, and it is sometimes cantingly and slurringly reiterated in the newspapers, that this is a demagogical movement, and that some person has introduced and advocates this policy purely for the purpose of pleasing the people. I want to see who some of these demagogues are; and before I read the section of this statute, I will refer, in connection with Jackson and these other distinguished individuals, to the fact that Mr. Jefferson, the philosopher and statesman, recognized and appreciated this great doctrine. In 1791, the first bill passed by the Congress of the United States recognizing the homestead principle, is in the following words:

"That four hundred acres of land be given"—

that is the language of the statute. We do not assume in this bill to give land. We assume that a consideration passes; but here was a law that was based on the idea that four hundred acres of land were to be given

—"to each of those persons who, in the year 1783, were heads of families at Vincennes, or the Illinois country, or the Mississippi, and who, since that time, have removed from one of the said places to the other; but the Governor of the Territory northwest of the Ohio is hereby directed to cause the same to be laid out for them at their own expense," &c.

Another section of the same act provides:

"That the heads of families at Vincennes, or in the Illinois country, in the year 1783, who afterwards removed without the limits of said Territory, are nevertheless entitled to the donation of four hundred acres of land made by the resolve of Congress," &c.

That act recognized the principle embraced in the homestead bill. If this is the idea of a demagogue, if it is the idea of one catering or pandering to the public sentiment to catch votes, it was introduced into Congress in 1791, and received the approval of Washington, the father of his country. I presume that if he lived at this day, and were to approve the measure, as he did in 1791, he would be branded, and put in the category of those persons who are denominated demagogues. Under his administration there was another bill passed of a similar import, recognizing and carrying out the great homestead principle. So we find that this policy, so far as legislation is concerned, commenced with Washington, and received his approval as early as 1791. From General Washington's administration there are forty-four precedents running through every administration of this Government, down to the present time, in which this principle has been recognized and indorsed.

We discover from this historical review that this is no new idea; that it is no recent invention; that it is no new movement for the purpose of making votes; but it is a principle well nigh as old as the Government itself, which was indorsed and approved by Washington himself.

This would seem, Mr. President, to settle the question of power. I know it has been argued by some that Congress had not the power to make donations of land; but even the statute, to which I have referred, makes use of the word "give" without consideration. It was considered constitutional by the early fathers to give away land. We proceed in this bill upon the principle that there is a consideration. If I were disposed to look for precedents, even for the donations of the public lands, I could instance the bounty land act. I could take you through other acts donating land, showing that the principle has been recognized again and again, and that there is not now a question as to its constitutionality.

I believe there is a clear difference in the power of the Federal Government in reference to its appropriations of money and its appropriations of the public land. The Congress of the United States has power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare. I believe it has the power to lay and collect duties for these legitimate purposes; but when taxes have been laid, collected, and paid into the Treasury, I do not think it has that general scope or that latitude in the appropriations of money that it has over the public lands. Once converted into revenue, Congress can only appropriate the revenue to the specific objects of the Constitution. It may derive revenue from the public lands, and being revenue, it can only be appropriated to the purposes for which revenue is raised under the Constitution.

But when we turn to another provision of the Constitution, we find that Congress has power "to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." Congress has, in the organization of all the Territories and in the admission of new States, recognized the principle most clearly of appropriating the public lands for the benefit of schools, colleges, and academies. It has granted the sixteenth and thirty-sixth sections in every township for school purposes; it has granted lands for their public buildings and various other improvements. I am very clear on this point, that in the disposition of the public lands they should be applied to national purposes. If we grant the public lands to actual settlers so as to induce them to settle upon and cultivate the public lands, can there be anything more national in its character? What is the great object of acquiring territory? Is it not for settlement and cultivation? We may acquire territory by the exercise of the treaty-making power. We may be engaged in a war, and as terms or conditions of peace, we may make large acquisitions of territory to the United States. But what is the great idea and principle on which you acquire territory? Is it not to settle and cultivate it?

I am aware that the argument is used, if you can dispose of the public lands for this purpose or that purpose, cannot you sell the public lands and apply the proceeds to the same purpose? I think there is a clear distinction between the two cases. It is equally clear to me that if the Federal Government can set apart the public lands for school purposes in the new States, it can appropriate lands to enable the parent to sustain his child whilst enjoying the benefits conferred upon him by the Government in the shape of education. The argument is as sound in the one case as it is in the other. If we can grant lands in the one case we can in the other. If without making a contract in advance, you can grant your public lands as gratuities, as donations to men who go out and fight the battles of their country, after the services have been rendered, is it not strange, passing strange, that you cannot grant land to those who till the soil and make provision to sustain your Army while it is fighting the battles of the country? It seems to me that the argument is clear. I do not intend to argue the constitutional question, for I think there can be really no doubt on that point. I do not believe any one at this day will seriously make any point on that ground against this bill. Is its purpose a national one? The great object is to induce persons to cultivate the land and thereby make the soil productive. By doing this, you induce hundreds of persons throughout the United States, who are now producing but little, to come in contact with the soil and add to the productive capacity of the country, and thereby promote the national wealth.

I come now to the amendment offered by the Senator from North Carolina. I have not looked over the Globe this morning to read his remarks of yesterday; but if I understood him correctly, he advocated the proposition of issuing a warrant for a hundred and sixty acres of land to each head of a family in the United States. I am inclined to think the Senator is not serious in this proposition. It has been offered on some occasions heretofore, and rejected by very decided votes. Let us compare it with the proposition of the bill. The idea of the honorable Senator seems to be that this bill was designed to force or compel, to some extent, the citizens of other States

to go to the new States. Why, sir, there is no compulsory process in the bill. It leaves each man at his own discretion, at his own free will, either to go or to stay, just as it suits his inclinations.

The Senator seems to think too—and the same idea was advanced by his predecessor—that at this time such a measure would have a tendency to diminish the revenue. He intimates that the nation is now bankrupt, that we are borrowing money, that the receipts from customs have been greatly diminished, and that therefore it would be dangerous to pass this bill, because it would have a tendency to diminish the revenue. Let us compare the Senator's proposition, and that of the bill in this respect. His amendment is to issue warrants to each head of a family. The population of the United States is now estimated at about twenty-eight millions. Let us assume, for the sake of illustration, that there are three million heads of families in the United States. His proposition, then, is to issue and throw upon the market three million of warrants, each warrant entitling the holder to one hundred and sixty acres of land. If that were done, and those warrants were thrown upon the market, what would they sell for? Little or nothing. If such land warrants were thrown broadcast over the country, who would enter another acre of land at \$1 25? Would not the warrants pass into the hands of land speculators and monopolists at a merely nominal price? Would they bring more than a quarter of a dollar an acre? If you were to throw three million of land warrants into the market at one time, would they bring anything? Then the effect of that proposition would be to do but little good to those to whom the warrants were issued, and by throwing them into the market, it would cut off the revenue from public lands entirely, for no one would enter land for cash as long as warrants could be bought. That proposition, then, is to aid and feed speculation. I do not say that is the motive or intention, but it is the tendency and effect of the Senator's proposition, to throw a large portion of the public lands into the hands of speculators, and to cut them off from the Treasury as a source of revenue.

But what does this bill propose? Will it diminish the receipts into the Treasury from the public lands? The bill provides that the entries under it shall be confined to the alternate sections, and that the person who obtains the benefit of the bill must be an actual settler and cultivator. In proportion as you settle and cultivate any portion of the public lands, do you not enhance the value of the remaining sections, and bring them into the market much sooner, and obtain a better price for them than you would without this bill? What is the principle upon which you have proceeded in all the railroad grants you have made? They have been defended upon the ground that by granting alternate sections for railroads, you thereby brought the remaining lands into the market, and enabled the Government to realize its means at a much earlier period, making the remainder of the public lands more valuable than they were before. This bill proceeds upon the same idea. You have granted an immense amount of lands to railroads on this principle, and now why not do something for the people?

I say that instead of wasting the public lands, instead of reducing the receipts into the Treasury, this bill would increase them. In the first place, it will enhance the value of the reserved quarter sections. This may be illustrated by an example. In 1848 we had nine million quarter sections; in 1858 we have about seven millions. Let us suppose that our population is twenty-eight millions, and that under the operation of this bill one million heads of families who are now producing but very little, and who have no land to cultivate, and very scanty means of subsistence, shall each have a quarter section of land, what will the effect be? At present these persons pay little or nothing for the support of the Federal Government, under the operation of our tariff system, for the reason that they have not got much to buy with. How much does the land yield to the Government while it is lying in a state of nature, uncultivated? Nothing at all. At the rate we have been selling the public lands, about three million dollars' worth a year, estimating them at \$1 25 an acre, it will take a fraction less than seven hundred years to dispose of the public domain.

I want to take a case that will demonstrate as clearly as the simplest sum in arithmetic that this is a revenue measure. Let us take a million families who can now hardly procure the necessities of life, and place them each on a quarter section of land—how long will it be before their condition will be improved so as to make them able to contribute something to the support of the Government? Now, here is soil producing nothing, here are hands producing but little. Transfer the man from the point where he is producing nothing, bring him in contact with a hundred and sixty acres of productive soil, and how long will it be before that man changes his condition? As soon as he gets upon the land, he commences to make his improvements, he clears out his field, and the work of production is commenced. In a short time he has a crop, he has stock and other things that result from bringing his physical labor in contact with the soil. He has the products of his labor and his soil, and he is enabled to exchange them for articles of consumption. He is enabled to buy more than he was before, and thus he contributes more to the support of his Government, while, at the same time, he becomes a better man, and a more reliable man for all governmental purposes, because he is interested in the country in which he lives.

To illustrate the matter further, let us take a family of seven persons in number who now have no home, no abiding place that they can call their own, and transfer them to a tract of one hundred and sixty acres of land which they are to possess and cultivate. Is there a Senator here who does not believe, that, by changing their position from the one place to the other, they would produce at least a dollar more than they did before? I will begin at a point scarcely visible—a single dollar. Is there a man here or anywhere else who does not know the fact to be, that you increase a man's ability to buy when he produces more by bringing his labor in contact with the soil. The result of that contact is production; he produces something that he can convert and exchange for the necessities of his family. Suppose the increase was only a dollar a head for a million of families, each family consisting of seven persons. By transferring a million of families from their present dependent condition to the enjoyment and cultivation of the public domain, supposing it would only increase their ability to buy foreign imports to the extent of a dollar each, you would create a demand for seven millions' worth of imports. Our rates of duties, under the tariff act of 1846, are about thirty per cent., and thus, at the almost invisible beginning of a single dollar a head, you, in this way, increase the pecuniary and financial means of the Government to the extent of \$2,100,000.

This would be the result, supposing that there would only be an addition of one dollar per head to the ability of each family by being taken from a condition of poverty and placed upon one hundred and sixty acres of land. This is the result, supposing them to have seven dollars more, with which to buy articles of consumption, than they had when they had no home, no soil to cultivate, no stimulant, no inducement to labor. If you suppose the effect would be to increase their ability two dollars per head, you would increase their consumption to the amount of \$14,000,000, which, at thirty per cent. duty, would yield \$4,200,000. If you supposed it increased the ability of a family four dollars per head, the total amount would be \$28,000,000, which would yield a revenue of \$8,400,000. I think that this would be far below the truth, and if you gave a family one hundred and sixty acres of land to cultivate, the effect would be to increase the ability of that family so as to buy fifty-six dollars' worth more than they bought before—seven dollars a head. That would be a small increase to a family who had a home, compared with the condition of that family when it had none. The effect of that would be to run up the amount they buy to \$56,000,000, which, at a duty of thirty per cent., would yield the sum of \$16,800,000.

I show you, then, that, by taking one million families, consisting of seven persons each, and putting them each upon a quarter section of land, making the soil productive, if you thereby only added to their capacity to buy goods to the amount of fifty-six dollars per family, you would derive

a revenue of nearly seventeen million dollars. When you have done this, how much of the public lands would you have disposed of? Only one million quarter sections, and you would have nearly six million quarter sections left. By disposing of one sixth of your public domain in this way, upon this little miniature estimate, you bring into the coffers of the Federal Government by this bill \$16,800,000.

Does this look like diminishing the revenue? Does it not rather show that this bill is a revenue measure? I think it is most clearly a revenue measure. Not only is this the case in a money point of view, so far as the imports are concerned, but, by settling the alternate sections with actual cultivators, you make the remaining sections more valuable to the Government, and you bring them sooner into market. In continuation of this idea, I will read a portion of the argument which I made upon this subject when I first introduced the bill into the other House. I read from the report of my speech on that occasion:

"Mr. J. said, it will be remembered by the House that he had already shown, that by giving an individual a quarter section of the land, the Government would receive back, in the shape of a revenue, in every seven years, more than the Government price of the land; and, upon this principle, the Government would, in fact, be realizing two hundred and ten dollars every subsequent term of seven years. The whole number of acres of public land belonging to the United States at this time, or up to the 30th of September, 1848, is one billion four hundred and forty-two million two hundred and sixteen thousand one hundred and sixty-eight acres. This amount, estimated at \$1.25 per acre, will make \$1,802,770,000. To dispose of \$3,000,000 worth per annum, which is more than an average sum, would require seven hundred years, a fraction less, to dispose of the entire domain. It will now be perceived at once the immense advantage the Government would derive by giving the land to the cultivator, instead of keeping it on hand this length of time. We find by this process the Government would derive from each quarter section in six hundred years, (throwing off the large excess of nearly one hundred years,) \$17,000—seven going into six hundred eighty-five times. This, then, shows on the one hand what the Government would gain by giving the land away.

"Now let us see what it will lose by retaining the land on hand this length of time. Time operates upon value as distance does upon magnitude. A ball of very large size, when close to the eye, is seen in its full extent; but when removed to a certain distance, dwindles to the human vision, or disappears altogether. So with the largest planets, removed from the eye to the position they now occupy in the heavens, they diminish to a mere point. To the business, practical world, a hundred dollars at the present time is just worth a hundred dollars. A hundred dollars twelve months hence, is worth just six per cent. less, and so on every twelve months, until sixteen years and eight months, when it has lost an amount equal to the principal; so it will be perceived that, in every sixteen years and eight months, the Government loses an amount equal to the price asked for each quarter section, which is \$330, by keeping it on hand. Sixteen years go into six hundred thirty-seven times, which would make \$7,400 the Government will lose. Now, I conceive that it would be fair and rational to the business world to set the loss down on the one hand and the gain on the other, and then add them together, which would show the difference to be \$24,400 in the present system and the one proposed. This will hold good in principle, and will apply to each quarter section, as well as to the aggregate.

"He repeated that by giving a quarter section of land to the honest cultivator, in six hundred years the Government would derive twenty-four thousand and four hundred dollars, (\$24,400.) Upon this basis of calculation, the Government, in six hundred years, would draw from this source, by the operation of its revenue system, into the Treasury, two hundred and nineteen billions six hundred million dollars, (\$219,600,000,000,) which would be an amount sufficient, estimating the expenses of the Government at fifty millions of dollars annually, to carry it on for four thousand three hundred and ninety-two years. He said that this exposure ought to satisfy every one that instead of violating the pledged faith of the Government, it was enlarging and making more valuable, and enabling the Government to derive a much larger amount of revenue to meet all its liabilities, and thereby preserving its faith inviolate."

I do not think there can be any question as to the revenue part of this proposition. We show that by granting a million quarter sections you derive more revenue upon the public lands than you do by your entire land system, as it now stands. In 1850, it was estimated that each head of a family consumed \$100 worth of home manufactures. If we increase the ability of the cultivator and occupier of the soil fifty-six dollars in the family, of course it is reasonable to presume that he would consume a corresponding proportion of home manufactures. Can that proposition be controverted? I think not. Then we see on the one hand that we should derive more revenue from granting the land, on the principle laid down in the bill, and also that we should open a market for articles manufactured in our own country. Then taking both views of the subject we see that it is an advantage to the manufacturing interest,

and that it is also an advantage to the Government, so far as imports are concerned. I should like to know, then, where can the objection be, upon the score of revenue?

I am in hopes that the Senator from North Carolina will withdraw his amendment, for I cannot think he is serious. His proposition would have a tendency to cut off all the revenue from the public lands—to flood the market with land warrants to be sold at nominal prices, bringing scarcely anything even to those to whom the warrants would be issued.

Mr. CLINGMAN. I will say to the Senator that when he is through I shall offer a short explanation of the reasons why I offered the amendment. I do not desire to interrupt him now.

Mr. JOHNSON, of Tennessee. But, Mr. President, the question of dollars and cents is of no consideration to me. The money view of this subject does not influence my mind by the weight of a feather. I think it is clear, though; and this view has been presented to prove to Senators that this bill will not diminish, but, on the contrary, will increase the revenue.

But this is not the important view of the subject. When you look at our country as it is, you see that it is important that the great mass of the people should be interested in the country. By this bill you provide a man with a home, you increase the revenue, you increase the consumption of home manufactures, and you make him a better man. You give him an interest in the country. His condition is better. There is no man so reliable as he who is interested in the welfare of his country; and who are more interested in the welfare of their country than those who have homes? When a man has a home, he has a deeper, a more abiding interest in the country, and he is more reliable in all things that pertain to the Government. He is more reliable when he goes to the ballot-box; he is more reliable in sustaining the stability of our free institutions.

It seems to me that this, without the other consideration, would be a sufficient inducement. When we see the population that is accumulating about some of our cities, I think it behooves every man who is a statesman, a patriot, and a philanthropist, to turn his attention to this subject. I have lately seen some statistics with reference to the city of New York, in which it is assumed that one sixth of the population are paupers; that two sixths of the population are barely able to sustain themselves; leaving one pauper to be sustained by every two persons in the city of New York. Does not that present a frightful state of things? Suppose the population of that city to be one million; you would have in the single city of New York, one hundred and sixty-six thousand paupers.

I do not look upon the growth of cities and the accumulation of population about cities, as being the most desirable object in this country. Here I will remark that I do not believe a large portion of this population, if you were to grant them homesteads, would ever go to them. I have no idea that they would; for a man who has spent most of his life about a city, and has sunk into a pauperized condition, is not the man to go West, reclaim one hundred and sixty acres of land, and reduce it to cultivation. He will not go there on that condition. Though we are satisfied of this, may not our policy be such as to prevent, as far as practicable, the accumulation of such an unproductive population about your cities? Let us try to prevent their future accumulation; let these live, have their day, and pass away—they will ultimately pass away—but let our policy be such as to induce men to become mechanics and agriculturists. Interest them in the country; pin them to the soil, and they become more reliable and sustain themselves, and you do away with the pauperism in the country. The population of the United States being twenty-eight millions, if the proportion of paupers in the city of New York existed in the country, you would have four million six hundred and sixty-six thousand paupers in the United States. Do we want our population to become of that character? Do we want cities to take control of this Government? Unless the proper steps be taken, unless the proper direction be given to the future affairs of this Government, the cities are to take charge of it and control it. The rural population, the mechanical and agricultural portions of this community, are

the very salt of it. They constitute the "mudsills," to use a term recently introduced here. They constitute the foundation upon which the Government rests; and hence we see the state of things before us. Should we not give the settlement of our public lands and the population of our country that direction which will beget and create the best portion of the population? Is it not fearful to think of four million six hundred and sixty-six thousand paupers in the United States, at the rate they have them in the city of New York? Mr. Jefferson never said a truer thing than when he declared that large cities were eye-sores in the body-politic: in Democracies they are consuming cancers.

I know the idea of some is to build up great populous cities, and that thereby the interests of the country are to be promoted. Sir, a city not only sinks into pauperism, but into vice and immorality of every description that can be enumerated; and I would not vote for any policy that I believed would build up cities upon this principle. Build up your villages, build up your rural districts, and you will have men who rely upon their own industry, who rely upon their own efforts, who rely upon their own ingenuity, who rely upon their own economy and application to business for a support; and these are the people whom you have to depend upon. Why, Mr. President, how was it in ancient Rome? I know there has been a great deal said in denunciation of agrarianism and the Gracchi. It has been said that a doctrine something like this led to the decline of the Roman Empire; but the Gracchi never had their day until a cancerous influence had destroyed the very vitals of Rome; and it was the destruction of Rome that brought forth Tiberius Gracchus. It was to prevent land monopoly, not agrarianism, in the common acceptance of the term—which is dividing out lands that had been acquired by individuals. They sought to take back and put in the possession of the great mass of the people that portion of the public domain which had been assumed by the capitalists, who had no title to it in fact. The Gracchi tried to carry out this policy; to restore that which had been taken from the people. The population had sunk into the condition of large proprietors on the one hand, and dependents on the other; and when this dependent condition was brought about, as we find from Niebuhr's History, the middle class of the community was all gone; it had left the country; there was nothing but an aristocracy on the one hand, and dependents upon that aristocracy on the other; and when this got to be the case, the Roman Empire went down.

Having this illustrious example before us, we should be warned by it. Our true policy is to build up the middle class; to sustain the villages; to populate the rural districts, and let the power of this Government remain with the middle class; I want no miserable city rabble on the one hand. I want no pampered, bloated, corrupted aristocracy on the other; I want the middle portion of society built up and sustained, and let them have the control of the Government. I am as much opposed to agrarianism as any Senator on this floor, or any individual in the United States, and this bill does not partake in the slightest degree of agrarianism; but, on the contrary, it commences with a man at the precise point where agrarianism ends, and it carries him up in an ascending line, while that carries him down. It gives him an interest in his country, and interest in public affairs; and when you are involved in war, in insurrection, or rebellion, or danger of any kind, they are the men who are to sustain you. If you should have occasion to call volunteers into the service of the country, you will have a population of men having homes, having wives and children to care for, who will defend their hearthstones when invaded. What a sacred thing it is to a man to feel that he has a hearthstone to defend; a home, and a wife and children to care for, and to rest satisfied that they have an abiding place. Such a man is interested individually in repelling invasion; he is interested individually in having good Government.

I know there are many, and even some in the Democratic ranks, whose nerves are a little timid in regard to trusting the people with too much power. Sir, the people are the safest, the best, and the most reliable lodgment of power, if you

have a population of this kind. Keep up the middle class, lop off an aristocracy on the one hand, and a rabble on the other; let the middle class maintain the ascendancy, let them have the power, and your Government is always secure. Then you need not fear the people. I know, as I have just remarked, that some are timid in regard to trusting the people; but there can be no danger from a people who are interested in their Government, who have homes to defend, and wives and children to care for. Even if we test this proposition by that idea of self-interest which is said to govern and control man, I ask you if a man, who has an interest in his country, is not more reliable than one who has none? Is not a man who is adding to the wealth of his country more reliable than one who is simply a consumer, and has no interest in it? If we suppose a man to be governed only by the principle of self-interest, is he not more reliable when he has a stake in the country, and is it not his interest to promote and advance his own condition? Is it not to the interest of the great mass to have everything done rightly in reference to Government. The great mass of the people hold no office; they expect nothing from the Government. The only way they feel, and know, and understand the operations of the Government is in the exactions it makes from them. When they are receiving from the Government protection in common, it is their interest to do right in all governmental affairs; and that being their interest they are to be relied upon, even if you suppose men to be actuated altogether by the principle of self-interest. It is the interest of the middle class to do right in all governmental affairs; and hence they are to be relied upon. Instead of requiring you to keep up your armies, your mounted men, and your footmen on the frontier, if you will let the people go and possess this public land on the conditions proposed in this bill, you will have an army on the frontier composed of men who will defend their own firesides, who will take care of their own homes, and will defend the other portions of the country, if need be, in time of war.

I would remark in this connection, that the public lands have paid for themselves. According to the report of Mr. Stuart, of Virginia, the Secretary of the Interior in 1850, it was shown that then the public lands had paid for themselves, and sixty millions over. We have received into the Treasury since that time about thirty-two million dollars from the public lands. They have, therefore, already paid the Government more than they cost, and there can be no objection to this bill on the ground that the public lands have been bought with the common treasure of the whole country. Besides, this bill provides that each individual making an entry shall pay all the expenses attending it.

We see then, Mr. President, the effect this policy is to have on population. Let me ask here, looking to our popular elections, looking to the proper lodgment of power, is it not time that we had adopted a policy which would give us men interested in the affairs of the country to control and sway our elections? It seems to me that this cannot long be debated; the point is too clear. The agricultural and mechanical portion of the community are to be relied upon for the preservation and continuance of this Government. The great mass of the people, the great middle class, are honest. They toil for their support, accepting no favor from Government. They live by labor. They do not live by consumption, but by production; and we should consume as small a portion of their production as it is possible for us to consume, leaving the producer to appropriate to his own use and benefit as much of the product of his own labor as it is possible in the nature of things to do. The great mass of the people need advocates—men who are honest and capable, who are willing to defend them. How much legislation is done for them? How much is done for classes? How little care seems to be exercised for the great mass of the people? When we are among our constituents, it is very easy to make appeals to the people and professions of patriotism, and then—I do not mean to be personal or invidious—it is very easy when we are removed from them a short distance, to forget the people and legislate for classes, neglecting the interest of the great mass. The mechanics and ag-

riculturists are honest, industrious, and economical. Let it not be supposed that I am against learning or education, but I might speak of the man in the rural districts, in the language of Pope:

"Unlearned, he knew no schoolman's subtle art,
No language but the language of the heart;
By nature honest, by experience wise;
Healthy by temperance and exercise."

This is the kind of men whom we must rely upon. Let your public lands be settled; let them be filled up; let honest men become cultivators and tillers of the soil. I do not claim to be prophetic, but I have sometimes thought that if we would properly direct our legislation in reference to our public lands and our other public policy, the time would come when this would be the greatest Government on the face of the earth. Go to the great valley of the Mississippi; take the western slope of the mountain to the Pacific ocean; take the whole area of this country, and we find that we have over three million square miles. Throw off one fourth as unfit for cultivation, reducing the area of the United States to fifteen hundred million acres, and by appropriating three acres to a person, it will sustain a population of over five hundred million people; and I have no doubt, if this continent was strained to its utmost capacity, it could sustain the entire population of the world. Let us go on and carry out our destiny; interest men in the soil; let your vacant land be divided equally so that men can have homes; let them live by their own industry; and the time will come when this will be the greatest nation on the face of the earth. Let agriculture and mechanism maintain the ascendancy, other professions and pursuits being subordinate to them, for on these two all others rest.

Since the crucifixion of our Savior, emigration has been westward; and the poetic idea might have started long before it did—

"Westward the star of empire takes its way."

It has been taking its way westward. The United States are filling up. We are going on to the Pacific coast. Let me raise the inquiry here, when, in the history of mankind, in the progress of nations, was there any nation that ever reached the point we now occupy? When was there a nation in its progress, in its settlement, in its advance in all that constitutes and make a nation great, that occupied the position we now occupy? When was there any nation that could look to the East and behold the tide of emigration coming; and, at the same time, turn around and look to the mighty mighty West, and behold the tide of emigration approaching from that direction. The waves of emigration have usually been running in one direction, but we find the tide of emigration now changed, and we are occupying a central position on the globe. Emigration is coming to us from the East and from the West, and when our vacant territory shall be filled up, when it shall reach a population of one hundred and fifty or five hundred millions, who can say what will be our destiny?

When our railroad system shall progress on proper principles, extending from one extreme of the country to the other, like so many arteries; when your telegraphic wires shall be stretched along them as the tendons in the human arm, and they shall run in parallel lines, and be crossed at right angles, until the whole globe, as it were, and especially this great center, shall be covered like a net-work with these arteries and tendons; when the face of the globe shall flash intelligence like the face of man; when it shall become sensitive to touch—we, occupying this important point, receiving acquisitions from the East and from the West, may find our institutions more perfect, science may be advanced so that instead of receiving immigration, instead of receiving nations from abroad, this will be the great sensorium from which our notions of religion, our notions of government, our improvements in works of every description shall radiate from this as a common center, and revolutionize the whole world.

Who dares say that this is not our destiny, if we will only permit it to be fulfilled? Then let us go on with this great work of interesting men in becoming connected with the soil; interesting them in remaining in your mechanic shops; prevent their accumulation in the streets of your cities; and in doing this, you will dispense with the necessity for all your pauper system. By

doing this you enable each community to take care of its own poor. By doing this you destroy and break down the great propensity that exists with men to hang and loiter and perish about the cities of the Union, as is done now in the older countries.

It is well enough, Mr. President, to see where our public lands have been going. There seems to be a great scruple now in reference to the appropriation of lands for the benefit of the people; but the Federal Government has been very liberal heretofore in granting lands to the States for railroad purposes. We can pass law after law, making grant after grant of the public lands to corporations, without alarming any one here. We have already granted to railroad monopolies, to corporations, twenty-four million two hundred and forty-seven thousand acres. Those grants hardly meet with opposition in Congress; but it seems to be very wrong, in the estimation of some, to grant lands to the people on the conditions proposed in the bill before us. We find, furthermore, that there have been granted to the States, as swamp lands—and some of these lands will turn out to be the most productive on the globe—forty million one hundred and thirty-three thousand five hundred and sixty-five acres.

In relation to the public lands, and the grants which have been made by the Government, I have obtained from the Commissioner of the General Land Office several tables, which I now submit.

Estimate of the quantities of land which will inure to the States under grants for railroads, up to June 30, 1857.

States.	Acres.	Date of Law.
Illinois.....	2,595,053.....	September 20, 1850.
Missouri.....	1,815,455.....	June 10, 1852. Feb. 9, 1853.
Arkansas.....	1,465,297.....	February 9, 1853.
Michigan.....	3,085,000.....	June 3, 1856.
Wisconsin.....	1,622,890.....	June 3, 1856.
Iowa.....	3,456,000.....	May 15, 1856.
Louisiana.....	1,102,560.....	June 3, and Aug. 11, 1856.
Mississippi.....	950,460.....	August 11, 1856.
Alabama.....	1,913,300.....	May 17, June 3, and Aug. 11, 1856.
Florida.....	1,814,400.....	May 17, 1856.
Minnesota.....	4,416,000.....	March 3, 1857.
Total.....	24,247,335	

Statement showing the quantity of swamp land approved to the several States, up to 30th June, 1857:

States.	Acres.
Ohio.....	25,650.71
Indiana.....	1,250,937.51
Illinois.....	1,360,140.72
Missouri.....	3,615,966.57
Alabama.....	2,595.51
Mississippi.....	2,894,796.11
Louisiana.....	7,691,535.46
Michigan.....	5,465,232.41
Arkansas.....	5,930,024.94
Florida.....	10,363,682.47
Wisconsin.....	1,650,112.10
Total.....	40,132,564.51

Estimate of unsold and unappropriated lands in each of the States and Territories, including surveyed and unsurveyed, offered and unoffered lands, on the 30th June, 1856:

States and Territories.	Acres.	Number of quarter sections.
Ohio.....	43,553.34	272
Indiana.....	36,307.41	227
Illinois.....	511,662.85	3,198
Missouri.....	13,265,919.81	83,533
Alabama.....	9,459,367.74	59,121
Mississippi.....	5,519,390.69	34,496
Louisiana.....	5,933,373.83	37,083
Michigan.....	10,056,298.66	62,852
Arkansas.....	15,609,512.84	97,560
Florida.....	18,067,972.75	112,919
Iowa.....	6,237,661.03	38,985
Wisconsin.....	15,222,549.50	95,141
California.....	113,682,436.60	710,515
Minnesota Territory.....	82,502,608.23	515,641
Oregon.....	118,913,241.31	743,218
Washington.....	76,444,055.25	477,775
New Mexico.....	157,210,804.00	970,067
Utah.....	131,213,732.00	839,023
Nebraska.....	295,884,747.00	1,893,655
Kansas.....	76,361,658.00	477,256
Indian.....	42,892,280.00	268,080
Total.....	1,107,997,572.74	6,920,607

The table giving the estimated quantity of all our public lands, shows the feasibility of the plan in favor of which I have been speaking. I know that some gentlemen from the southern States object to this bill because they fear that it will carry emigrants from the free States into those States. Well, sir, on this point I have drawn some conclusions from figures, which I will present to the Senate. In the State of Alabama there are now undisposed of eighty-three million five hundred

and thirty-three thousand quarter sections of land. I ask my southern friends, would it not be better if a man in the State of Alabama would select a quarter section there, and take the two hundred dollars it would have cost him, and expend it there, even though it might be inferior land, than to compel him to pay \$1 25 an acre, and emigrate from the State of Alabama to a place where he could get better land? If you compel him to pay the higher price, it becomes his interest to leave his native State; but by permitting him to take the land and expend on its improvement what he would otherwise have to pay, and what it would cost him to move, the chances are that he will remain where he is. In the State of Mississippi there are thirty-four thousand four hundred and ninety-six quarter sections; in Louisiana, thirty-seven thousand; in Arkansas, ninety-seven thousand; in Florida, one hundred and twelve thousand. Altogether, the quarter sections of public lands belonging to the Government amount to six million nine hundred and twenty thousand. How feasible the plan is. I have shown, too, that it would take over six hundred years to dispose of the public lands at the rate we have been disposing of them, and that if you take one million quarter sections and have them settled and cultivated, you will obtain more revenue, and you will enhance the remaining public lands more than the value of those the Government gives.

I live in a southern State; and, if I know myself, I am as good a southern man as any one who lives within the borders of the South. It seems to be feared that by this bill we compel men to go on the lands. I want to compel no man to go. I want to leave each and every man to be controlled by his own inclination, by his own interest, and not to force him; but is it statesmanlike, is it philanthropic, is it Christian, to keep a man in a State, and refuse to let him go, because, if he does go, he will tend to populate some other portion of the country? If a man lives in the county in which I live, and he can, by crossing the line into another county, better his condition, I say let him go. If, by crossing the boundary of my State and going into another, he can better his condition, I say let him go. If a man can go from Tennessee into Illinois, or Louisiana, or Mississippi, or Arkansas, or any other State, and better his condition, let him go. I care not where he goes, so that he locates himself in this great area of freedom, becomes attached to our institutions, and interested in the prosperity and welfare of the country. I care not where he goes, so that he is under the protection of our stars and stripes. I say let him go where he can better the condition of himself, his wife, and children; let him go where he can receive the greatest remuneration for his toil and for his labor. What kind of a policy is it to say that a man shall be locked up where he was born, and shall be confined to the place of his birth? Take the State of North Carolina, represented by the honorable Senator before me, [Mr. CLINGMAN]—and I have no doubt it is his intention to represent that people to their satisfaction—would it have been proper to require the people of North Carolina, from her early settlement to the present time, to be confined within her boundaries? Would they not have looked upon it as a hard sentence? Would they not have looked upon it as oppressive and cruel? North Carolina has supplied the western States with a large proportion of her population, for the reason that by going West they could better their condition. Who would prevent them from doing it? Who would say to the poor man in North Carolina, that has no land of his own to cultivate, that lives upon some barren angle, or some piny plain, or in some other State upon some stony ridge, that he must plow and dig the place appointed to him by his landlord, and that he is not to emigrate where he can better his condition? What is his prospect? He has to live poor; he has to live hard; and, in the end, when he dies, poverty, want, is the only inheritance he can leave his children. There is no one who has a higher appreciation of North Carolina than I have; she is my native State. I found it to be my interest to emigrate, and I should have thought it cruel and hard if I had been told that I could not leave her boundary. Although North Carolina did not afford me the advantages of education, though I cannot speak in the language of the schoolmen, and call her my cherishing mother, yet, in the language of Cowper, "with all her faults, I love

her still." She is still my mother; she is my native State; and I love her as such, and I love her people, too. But what an idea is it to present, as influencing the action of a statesman; that people may not emigrate from one State to another! Sir, I say let a man go anywhere within the boundaries of the United States where he can better his condition.

Mr. President, if I entertained the notions that some of my friends who oppose this bill do, I should be a more ardent advocate of the policy than I am now, if that were possible. My friend from Alabama [Mr. CLAR] entertains some strange notions in reference to Democracy and the people; and in his speech on the fisheries bill, he gave this proposition a kind of side blow, a lick by indirection. I do not object to that; but if I entertained his opinions I should be a more determined and zealous advocate of the policy of this bill than I am now, if that were possible. In his speech upon the Lecompton constitution that Senator, in speaking of the powers of the convention which framed the constitution, said:

"In my opinion, they would have acted in stricter accordance with the spirit and genius of our institutions if they had not submitted it in whole or in part to the popular vote. Our governments are Republics, not democracies. The people exercise their sovereignty not in person at the ballot-box, but through agents, delegates, or representatives. Our fathers founded republican Governments in preference to Democracies, not so much because it would be impracticable as because it would be unwise and inexpedient for the people themselves to assemble and adopt laws."

I have always thought the general idea had been that it was not practicable to do everything in a strict democratic sense, and that it was more convenient for the people to appear through their delegates. But the Senator said further:

"They were satisfied, from reading and reflection, of the truth of Mr. Madison's observation about pure democracies, that they have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security, or the rights of property; and have in general been as short in their lives as they have been violent in their deaths." They knew from the examples furnished by Greece and Italy, that it is impossible, in a pure democracy, to remove the causes or control the effects of faction; that an absolute majority is often swayed by passion than by reason; that its voice is oftener that of a demon than of a God; that it is the most cruel, rapacious, intolerant, and intolerable of all tyrants. They knew that it is a wholly irresponsible power; acknowledging no superior, for it is itself supreme; owing no obedience, for it is its own master; respecting no authority, for it is a law unto itself; subject to no control or restraint, except the still small voice of conscience, which is too often drowned in the tumultuous waves of party or of faction. It might sacrifice public good or private rights to any ruling passion or interest of the hour, with impunity. It had robbed the rich to relieve the poor, and oppressed the poor to aggrandize the rich, with equal ardor or indifference. It had voted hemlock to-day and statues to-morrow, to its best citizens. They suffered no man to be a judge in his own case, lest he should be biased by passion, or by interest; and could find no better reason why a large body of men, although a majority, should be the supreme and final arbiters of its cause. On the contrary, they knew that a large body of men is more liable to be controlled by passion or by interest than a single individual, and is more apt to sacrifice the rights of the minority, because it can be done with more impunity. Hence they endeavored to impose restraints upon themselves. Hence they committed the making of all their laws, organic or municipal, to their delegates or representatives, whose crimes they could punish, whose errors they could correct, and whose powers they could reclaim.

"The great security of our rights of life, liberty, and property, is in the responsibility of those who make and of those who execute the law. Establish as a principle that to give sanction to law, it must be approved by a majority at the ballot-box, and you take away this security and surrender those rights to the most capricious, rapacious, and cruel of tyrants. I regret to see the growing spirit in Congress and throughout the country to democratize our Government; to submit every question, whether pertaining to organic or municipal laws, to the vote of the people. This is sheer radicalism; it is the Red Republicanism of revolutionary France, which appealed to the sections on all occasions, and not the American Republicanism of our fathers. Their Republicanism was stable and conservative; this is mutable and revolutionary. Theirs afforded a shield for the minority; this gives a sword to the majority. Theirs defended the rights of the weak; this surrenders them to the power of the strong. God forbid that the demagoguism of this day should prevail over the philanthropic and philosophic statesmanship of our fathers."

In the same speech, the Senator said:

"Property is the foundation of every social fabric. To preserve, protect, and perpetuate rights of property, society is formed, and government is framed."

Now, if I entertained these notions, I should unquestionably go for the homestead bill. I am free to say, here, that I do not hold the doctrine advanced by the honorable gentleman from Alabama, to the extent that he goes. I believe the people are capable of self-government. I think they have demonstrated so most clearly; and I do not think the Senator's history of democracy

states the case as it should be. I presume in the Senator's own State the people acted directly upon their constitution at the ballot-box. That is the organic law. If they did not there, they have done so in most of the States of the Union; not, perhaps, in their original formation of their governments, but as the people have gone on and advanced in popular government. The honorable Senator seems to be opposed to democratizing; in other words, he is opposed to popularizing our institutions; he is afraid to trust the control of things to the people at the ballot-box. Why, sir, the organic law which confers all the power upon your State Legislatures, creates the different divisions, different departments of the State. The government are controlled at the ballot-box, and the doctrine set forth in the constitution of Alabama is, that the people have a right to abolish and change their form of government when they think proper. The principle is clearly recognized; and on this my honorable friend and myself differ essentially. I find a similar doctrine laid down in a pamphlet which I have here.

"In the convention that framed the Constitution of the United States, Gouverneur Morris said, that 'Property is the main object of society.' Mr. King said, 'Property is the primary object of society.' Mr. Butler contended strenuously that 'Property was the only just measure of representation.' This was the great object of government; the great cause of war; the great means of carrying it on." Mr. Madison said, that "In future times a great majority of the people will not only be without landed, but any other sort of property. These will either combine under the influence of their common situation—in which case the right of property and the public liberty will not be secure in their hands—or, what is more probable, they will become the tools of opulence and ambition." Gouverneur Morris again said, 'give the votes to the people who have no property, and they will sell them to the rich who will be able to buy them.' We should not confine our attention to the present moment. The time is not far distant when this country will abound with mechanics and manufacturers, who will receive their bread from their employers. Will such men be the secure and faithful guardians of liberty?" Madison remarks, that those who opposed the property basis of representation, did so on the ground that numbers of people was a fair index to the amount of property in any district."

These are not notions entertained by me; but they are important as the notions of some of our public men at the early formation of our Government. I entertain no such notions. If, however, the Senator from Alabama holds that property is the main object and basis of society, he, above all other men, ought to go for this bill, so as to place every man in the possession of a home and an interest in his country. The very doctrine that he lays down appeals to him trumpet-tongued, and asks him to place these men in a condition where they can be relied upon. His argument is unanswerable, if it be true, in favor of the homestead bill. It is taking men out of a dependent condition; it is preventing this Government from sinking into that condition that Rome did in her decline. I ask him now, if he entertains these opinions, as promulgated in his speech, to come up and join with us in the passage of this bill, and make every man, if possible, a property-holder, interested in his country; give him a basis to settle upon, and make him reliable at the ballot box.

His speech is a fine production. I heard it with interest at the time it was delivered. I hold the opposite to him. Instead of the voice of the people being the voice of a demon, I go back to the old idea, and I favor the policy of popularizing all our free institutions. We are Democrats, occupying a position here from the South; we start together, but we turn our backs upon each other very soon. His policy would take the Government further from the people. I go in a direction to popularize it, and bring it nearer to the people. There is no better illustration of this than that old maxim, which is adopted in all our ordinary transactions, that "if you want a thing done, send somebody to do it; if you want it well done, go and do it yourself." It applies with great force in governmental affairs as in individual affairs; and as we can advance and make the workings and operation of our Government familiar to and understood by the people, the better for us. I say, when and wherever it is practicable, let the people transact their own business; bring them more in contact with their Government, and then you will arrest expenditure, you will arrest corruption, you will have a purer and better Government.

I hold to the doctrine that man can be advanced; that man can be elevated; that man can be more exalted in his character and condition. We are

told, on high authority, that he is made in the image of his God; that he is endowed with a certain amount of divinity. And I believe man can be elevated; man can become more and more endowed with divinity; and as he does he becomes more God-like in his character and capable of governing himself. Let us go on elevating our people, perfecting our institutions, until democracy shall reach such a point of perfection that we can exclaim with truth that the voice of the people is the voice of God.

As I said, I have entertained different notions from those inculcated by the honorable Senator. If I entertained his notions, then I should be for the homestead. I hold in my hand a document that was proclaimed in 1776:

"We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed."

Is property laid down there as the great element and the great basis of society? It is only one; and Mr. Jefferson laid it down in the Declaration of Independence, that it was a self-evident truth that government was instituted—for what? To protect men in life, liberty, and the pursuit of happiness. That is what Mr. Jefferson said. And who indorsed it? The men who framed the Declaration of Independence, not going upon the property idea, that that was the only element of society. This was the doctrine established by those who proclaimed our independence. Life, liberty, and the pursuit of happiness were three great elements of government, and not property exclusively. When the declaration came forth from the old Congress hall, it came forth as a column of fire and light. It declared that the security of life and liberty and the pursuit of happiness, were the three great elements of government. Mr. Jefferson, in his first inaugural address, which is the greatest paper that has ever been written in this Government, and I commend it to the reading of those who say they are Democrats, by way of refreshing their memories, that they may understand what are correct Democratic principles, says:

"Sometimes it is said that man cannot be trusted with the government of himself. Can he, then, be trusted with the government of others? Or have we found angels in the form of kings to govern him? Let history answer this question."

Mr. Jefferson seems to think man can be trusted with the government of himself. In the Declaration of Independence he does not embrace property; in fact, it is not referred to. But I am willing to concede that it is one of the primary and elementary principles in government. Mr. Jefferson declares the great truth that man is to be trusted; that man is capable of governing himself, and that he has a right to govern himself. In the same inaugural address of Mr. Jefferson, we find the passage usually attributed to Washington's Farewell Address, which has got universal circulation—that we should pursue our own policy; that we should promote our own institutions, maintaining friendly relations with all, entangling alliances with none. Let us carry out the doctrines of the inaugural address of Mr. Jefferson; let us carry out the great principles laid down in the Declaration of Independence, which this homestead bill embraces.

But I wish to call attention to some other authority on this subject. As contradistinguished from the views of the Senator from Alabama, I present the views of a recent writer as in accordance with my own notions of Democracy:

"The Democratic party represents the great principle of progress. It is onward and outward in its movements. It has a heart for action, and motives for a world. It constitutes the principles of diffusion, and is to humanity what the centrifugal force is to the revolving orbs of a universe. What motion is to them, Democracy is to principle. It is the soul in action. It conforms to the providence of God. It has confidence in man, and an abiding reliance in his high destiny. It seeks the largest liberty, the greatest good, and the surest happiness. It aims to build up the great interests of the many, to the least detriment of the few. It remembers the past, without neglecting the present. It establishes the present, without fearing to provide for the future. It cares for the weak, while it permits no injustice to the strong. It conquers the oppressor, and prepares the subjects of tyranny for freedom. It melts the bigot's heart to meekness, and reconciles his mind to knowledge. It dispels the clouds of ignorance and superstition, and prepares the people for instruction and self-respect. It adds wisdom to legislation, and improved judgment to government. It favors enterprise that yields a reward to the many and an industry that is permanent. It is the pioneer of humanity—the conservator of nations. It fails only when it ceases to

be true to itself. *Vox populi vox Dei*, has proved to be both a proverb and a prediction.

"It is a mistake to suppose that Democracy may not be advanced under different forms of government. Its own, it should be remembered, is the highest conventional form, that which precedes the lofty independence of the individual spoken of by the Apostle to the Hebrews, who will need government but from the law which the Lord has placed in his heart.

"In one respect, all nations are governed upon the same principle; that is, each adopts the form which it has the understanding and the power to sustain. There is in all a greater or lesser power, and it requires no profound speculation to decide which will control. A tyrannical dictator may do more to advance the true interests of Democracy than a moderate sovereign who is scrupulously guarded by an antiquated constitution; for the tyrant adds vigor to his opponents by his deeds of oppression.

"The frequent question as to what form of government is best, is often answered without any reference to condition or application of principles. There can be properly but one answer, and yet the application of that answer may lead to great diversity of views.

"When it is asserted that the democratic form of government is unquestionably the best, it must be considered that the answer not only designates the form preferred, but implies a confident belief in the advanced condition of the people who are to be the subjects of it. It premises the capacity for self control, and a corresponding degree of knowledge in regard to the rights, balances, and necessities, of society. It involves a discriminating appreciation of the varied duties of the man, the citizen, and the legislator. It presupposes a reasonable knowledge of the legitimate means and ends of government, enlarged views of humanity, and of the elements of national existence.

"The democratic form of government is the best, because its standard of moral requisition is the highest. It claims for man a universality of interest, liberty and justice. It is Christianity, with its mountain beacons and guides. It is the standard of Deity based on the eternal principles of truth, passing through and rising above the yielding clouds of ignorance, into the regions of infinite wisdom. As we live on, this pillar of the cloud by day, and the pillar of fire by night, will not be taken from before the people, but stand immovable, immeasurable, and in the brightness of its glory continue to shed increasing light on a world and a universe.

"The great objects of knowledge and moral culture of the people are among its most prominent provisions. Practical religion and religious freedom are the sunshine of its growth and glory. It is the sublime and mighty standard spoken of by the Psalmist, who exclaims, in the beautiful language of poetical conception:

"The Lord is high above all nations, and his glory above the heavens. Who is like unto the Lord our God, who dwelleth on high; who humbleth himself to behold the things that are in heaven and in the earth? He raiseth up the poor out of the dust, and lifteth the needy out of the dung, that he may set him with princes, even with the princes of the people."

"To say that man is not in a condition to realize or to appreciate such a standard, is to admit its necessity. To object to its lofty requisitions, is to establish its authority. The standard for a world should be in harmony with the attributes of Deity, above and beyond the present wants of humanity.

"To say that an ignorant and immoral people are capable of self government, is asserting that government may be administered without knowledge and without justice. Such a proposition is admitted by no one; and is, therefore, inadmissible in all discussions as to what form of government is best.

"Democracy is a permanent element of progress, and is present everywhere, whatever may be the temporary form of the ruling power. Its inexhaustible fires first burst forth in an empire, and its welcome lights cheer the dark domains of despotism. While tyrants hate the patriot and exile him from their contracted dominions, the spirit of Democracy invests him as a missionary of humanity, and inspires him with an eloquence which moves a world. Its lightning rays cannot be hidden; its presence cannot be banished. Dictators, kings, and emperors, are but its servants; and, as man becomes elevated to the dignity of self knowledge and control, their administration ceases. Their rule indicates an imperfect state of society, and may be regarded as the moral props of the builder, necessary only to sustain a people in their different periods of growth. One cannot speak of them lightly, nor indulge in language that should seem to deny their fitness as the instruments of good in the hands of Providence. Their true position may be best gathered from the prediction which is based upon a knowledge of the past and present condition of man—that all kingdoms and empires must cease, whenever a people have a knowledge of their rights, and acquire the power of a practical application of principles. This is the work of time. It is the work of constant, repeated trial. The child that attempts to step an hundred times and falls; the new fledged bird that tries its feeble wings again and again before it is able to sweep the circle of the sky with its kindred flock, indicate the simple law upon which all strength depends, whether it be the strength of an insect, or the strength of a nation.

"Because a people do not succeed in changing their form of government, even after repeated trials, we are not to infer that they are indulging in impracticable experiments, nor that they will be disappointed in ultimately realizing the great objects of their ambition. Indeed, all failures of this class are indicative of progressive endeavor. They imply an increasing knowledge of the true dignity of man, and a growing disposition to engage in new and more and more difficult endeavors. These endeavors are but the exercise of a nation, and without them, no people can ever command the elements of national existence and of self-control. But inquiries in regard to so extensive a subject, should be shaped within more practical limits."

"The triumphs of Democracy constitute the way-marks of the world. They demand no extraneous element of endurance for permanency, no fictitious splendor for embellishment, no borrowed greatness for glory. Originating in the inexhaustible sources of power, moved by the spirit of

love and liberty, and guided by the wisdom which comes from the instincts and experience of the immortal soul, as developed in the people, Democracy exists in the imperishable principle of progress, and registers its achievements in the institutions of freedom, and in the blessings which characterize and beautify the realities of life. Its genius is to assert and advance the true dignity of mind, to elevate the motives and affections of man, and to extend, establish, protect, and equalize the common rights of humanity.

"Condorcet, although an aristocrat by genius and by birth, became a Democrat from philosophy."—*Letartine*.

"A few years since a Whig member of the United States Senate sincerely asked Senator Allen, of Ohio, the question, 'what is Democracy?' The following was the prompt reply: 'Democracy is a sentiment not to be appalled, corrupted, or compromised. It knows no baseness; it cowers to no danger; it oppresses no weakness; destructive only of despotism; it is the sole conservator of liberty, labor, and property. It is the sentiment of freedom, of equal rights, of equal obligations—the law of nature pervading the law of the land.'"

"What, sir," asked Patrick Henry, in the Virginia convention, of 1778, 'is the genius of Democracy? Let me read that clause of the bill of rights of Virginia which relates to this, (third clause): That government is or ought to be instituted for the common benefit, protection, and security of the people, nation, or community; of all the various modes and forms of government, that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the dangers of maladministration; and that whenever any Government shall be found inadequate, or contrary to those principles, or contrary to those purposes, a majority of the community hath an indubitable, inalienable, and indefeasible right to reform, alter, or abolish it, in such manner as shall be judged the most conducive to the public weal.'"—*Elliot's Debates*, vol. 3, page 77.

In the same convention, Judge Marshall, said:

"What are the favorite maxims of Democracy? A strict observance of justice and public faith, and a steady adherence to virtue—these, sir, are the principles of a good government."—*Ibid* vol. 3, page 223.

"Democracy," says the late Mr. Legaré, of South Carolina, in an article published in the *New York Review*, 'in the high and only true sense of that much abused word, is the destiny of nations, because it is the spirit of Christianity.'"—*Vol. 5*, page 297.

I have referred to the remarks of the Senator from Alabama to show that if his doctrines were true, he should go for the passage of the homestead bill, because, in order to sustain the Government on the principles laid down by him, every man should be a property-holder. I want it understood that I enter a disclaimer to the doctrine presented by him, and merely present his argument to show why he, above all others, ought to go for the homestead policy. I refer to Mr. Legaré, Judge Marshall, and the author of the history of Democracy, as laying down my notions of Democracy, as contradistinguished from those laid down by the distinguished Senator from Alabama. We are both members of the Democratic party. I claim to be a Democrat, East, West, North, or South, or anywhere else. I have nothing to disguise. I have referred to the Declaration of Independence, and to Mr. Jefferson's inaugural address, for the purpose of showing that Democracy means something very different from what was laid down by the distinguished Senator from Alabama. I furthermore refer to these important documents to show that property is not the leading element of government and of society. Mr. Jefferson lays down, as truths to be self-evident, that life, liberty, and the pursuit of happiness are the leading essentials of government.

But it is not my purpose to dwell longer on that; and I wish to pass to the speech of the Senator from South Carolina, [Mr. HAMMOND.] I disagree in much that was said by that distinguished Senator; and I wish to show that he ought to go for the homestead policy, so as to interest every man in the country. If property is the leading and principal element on which society rests; if property is the main object for which government was created, the gentlemen who are the foremost, the most zealous, and most distinguished advocates of that doctrine should sustain the homestead policy. The honorable Senator from South Carolina, in his speech on the Lecompton constitution, by innuendo or indirection, had a hit at the homestead—a side blow. He said:

"Your people are awaking. They are coming here. They are thundering at our doors for homesteads; one hundred and sixty acres of land for nothing; and southern Senators are supporting them. Nay, they are assembling, as I have said, with arms in their hands, and demanding work at \$1,000 a year for six hours a day. Have you heard that the ghosts of Mendoza and Torquemada are stalking in the streets of your great cities? That the Inquisition is at hand?"

If this be true, as assumed by the distinguished Senator from South Carolina, is it not an argument why men should be placed in a condition where they will not clamor, where they will not

raise mobs to threaten Government, and demand homesteads? Interest these men in the country; give them homes, or let them take homes; let them become producers; let them become better citizens; let them be more reliable at the ballot-box. I want to take them on their ground, their principle, that property is the main element of society and of government; and if their doctrine be true, the argument is still stronger in favor of the homestead than the position I assume. But the distinguished Senator from South Carolina goes on:

"In all social systems there must be a class to do the menial duties, to perform the drudgery of life. That is, a class requiring but a low order of intellect, and but little skill. Its requisites are vigor, docility, fidelity. Such a class you must have, or you would not have that other class which leads progress, civilization, and refinement. It constitutes the very mud sill of society and of political government; and you might as well attempt to build a house in the air, as to build either the one or the other, except on this mud-sill."

"The poor ye always have with you; for the man who lives by daily labor, and scarcely lives at that, and who has to put out his labor in the market, and take the best he can get for it—in short, your whole hireling class of manual laborers and operatives, as you call them, are essentially slaves. The difference between us is, that our slaves are hired for life and well compensated; there is no starvation, no begging, no want of employment among our people; and not too much employment either. Yours are hired by the day, not cared for, and scantily compensated, which may be proved in the most painful manner, at any hour, in any street in any of your large towns. Why, you meet more beggars in one day, in any single street of the city of New York, than you would meet in a lifetime in the whole South. We do not think that whites should be slaves either by law or necessity."

In this portion of the Senator's remarks I concur. I do not think whites should be slaves; and if slavery is to exist in this country, I prefer black slavery to white slavery. But what I want to get at, is, to show that my worthy friend from South Carolina should defend the homestead policy, and the impolicy of making the invidious remarks that have been made here in reference to a portion of the population of the United States. Mr. President, so far as I am concerned, I feel that I can afford to speak what are my sentiments. I am no aspirant for anything on the face of God Almighty's earth. I have reached the summit of my ambition. The acme of all my hopes has been attained, and I would not give the position I occupy here to-day for any other in the United States. Hence, I say, I can afford to speak what I believe to be true.

In one sense of the term we are all slaves. A man is a slave to his ambition; he is a slave to his avarice; he is a slave to his necessities; and, in enumerations of this kind, you can scarcely find any man, high or low in society, but who, in some sense, is a slave; but they are not slaves in the sense we mean at the South, and it will not do to assume that every man who toils for his living is a slave. If that be so, all are slaves; for all must toil more or less, mentally or physically. But in the other sense of the term, we are not slaves. Will it do to assume that the man who labors with his hands, every man who is an operative in a manufacturing establishment or a shop, is a slave? No, sir; that will not do. Will it do to assume that every man who does not own slaves, but has to live by his own labor, is a slave? That will not do. If this were true, it would be very unfortunate for a good many of us, and especially so for me. I am a laborer with my hands, and I never considered myself a slave, in the acceptance of the term slave in the South. I do own some; I made them by my industry, by the labor of my hands. In that sense of the term I should have been a slave while I was earning them with the labor of my hands.

Mr. HAMMOND. Will the Senator define a slave?

Mr. JOHNSON, of Tennessee. What we understand to be a slave in the South, is a man who is held during his natural life subject to, and under the control of, a master. The necessities of life, and the various positions in which a man may be placed, operated upon by avarice, gain, or ambition, may cause him to labor; but that does not make a slave. How many men are there in society who go out and work with their own hands, who reap in the field, and mow in a meadow, who hoe corn, who work in the shops? Are they slaves? If we were to go back and follow out this idea, that every operative and laborer is a slave, we should find that we have had a great many distinguished slaves since the world commenced.

Socrates, who first conceived the idea of the immortality of the soul, Pagan as he was, labored with his own hands;—yes, wielded the chisel and the mallet, giving polish and finish to the stone; he afterwards turned to be a fashioner and constructor of the mind. Paul, the great expounder, himself was a tent-maker, and worked with his hands: was he a slave? Archimedes, who declared that, if he had a place on which to rest the fulcrum, with the power of his lever he could move the world: was he a slave? Adam, our great father and head, the lord of the world, was a tailor by trade: I wonder if he was a slave?

When we talk about laborers and operatives, look at the columns that adorn this Chamber, and see their finish and style. We are lost in admiration at the architecture of your buildings, and their massive columns. We can speak with admiration. What would it have been but for hands to construct it? Was the artisan who worked upon it a slave? Let us go to the South and see how the matter stands there. Is every man that is not a slaveholder to be denominated a slave because he labors? Why indulge in such a notion? The argument cuts at both ends of the line, and these kind of doctrines do us infinite harm in the South. There are operatives there; there are laborers there; there are mechanics there. Are they slaves? Who is it in the South that gives us title and security to the institution of slavery? Who is it, let me ask every southerner around me? Suppose, for instance, we take the State of South Carolina; and there are many things about her and her people that I admire: we find that the 384,984 slaves in South Carolina are owned by how many whites? They are owned by 25,556. Take the State of Tennessee, with a population of 800,000; 239,000 slaves are owned by 33,864 persons. The slaves in the State of Alabama are owned by 29,295 whites. The whole number of slaveholders in all the slave States, when summed up, makes 347,000, owning three and a half million slaves. The white population in South Carolina is 274,000; the slaves greater than the whites. The aggregate population of the State is 668,507.

The operatives in South Carolina are 68,549. Now, take the 25,000 slave-owners out, and a large proportion of the people of South Carolina work with their hands. Will it do to assume that, in the State of South Carolina, the State of Tennessee, the State of Alabama, and the other slaveholding States, all those who do not own slaves are slaves themselves? Will this assumption do? What does it do at home in our own States? It has a tendency to raise prejudice, to engender opposition to the institution of slavery itself. Yet our own folks will do it.

Mr. MASON. Will the Senator from Tennessee allow me to interrupt him for a moment?

Mr. JOHNSON, of Tennessee. Yes, sir.

Mr. MASON. The Senator is making an exhibition of the very few slaveholders in the southern States, in proportion to the white population, according to the census. That is an exhibition which has been made before by Senators who sit on the other side of the Chamber. They have brought before the American people what they allege to be the fact, shown by the census, that of the white population in the southern States, there are very few who are slaveholders. The Senator from Tennessee is now doing the same thing. I understand him to say there are but some—I do not remember exactly the numbers, but I think three hundred thousand or a fraction more of the whites in the slaveholding States, who own three million slaves; but he made no further exposition. I ask the Senator to state the additional fact that the holders of the slaves are the heads of families of the white population; and neither that Senator nor those whose example he has followed on the other side, has stated the fact that the white population in the southern States, as in the other States, embraces men, women, and children. He has exhibited only the number of slaveholders who are heads of families.

Mr. JOHNSON, of Tennessee. The Senator says I have not made an exhibit of the fact. The Senator interrupted me before I had concluded. I gave way as a matter of courtesy to him. Perhaps his speech would have had no place, if he had waited to hear me a few moments longer.

Mr. MASON. I shall wait. I thought the Senator had passed that point.

Mr. JOHNSON, of Tennessee. I was stating the fact, that according to the census tables three hundred and forty-seven thousand white persons owned the whole number of slaves in the southern States. I was about to state that the families holding these slaves might average six or eight or ten persons, all of whom are interested in the products of slave labor, and many of these slaves are held by minors and by females. I was not alluding to the matter for the purpose the Senator from Virginia seems to have intimated, and I should have been much obliged to him if he had waited until he heard my application of these figures. I was going to show that expressions like those to which I have alluded, operate against us in the South, and I was following the example of no one. I was taking these facts from the census tables, which were published by order of Congress, to show the bad policy and injustice of declaring that the laboring portion of our population were slaves and menials. Such declarations should not be applied to the people either North or South. I wished to say in that connection, that, in my opinion, if a few men at the North and at the South, who entertain extreme views on the subject of slavery, and desire to keep up agitation, were out of the way, the great mass of the people, North and South, would go on prosperously and harmoniously under our institutions.

Nor, sir, am I a conservative; but I am for administering this Government on correct principles. I believe the time will come when the northern States will be the advocates of the institution of slavery in the South. I believe the time will come which we heard announced on the other side of the House, when Massachusetts will be for free trade. How long is it since she was standing here advocating protection, high tariffs, and bounties? Yesterday her Senator told us she was for free trade, and the abolition of all custom-houses. I am not a prophet, nor the son of a prophet, but I predict here that the time will come when the northern States will be the advocates of the institution of slavery as it exists in the South. Why? The whole difficulty, in my judgment, in regard to slavery, has arisen from a jealousy of political power in the Congress of the United States. The people of the North have been told that the South obtain an undue proportion of power in the councils of the nation because of the three fifths representation of slaves; that on the three million slaves they get eighteen Representatives. Now, if the question were looked at properly, it would be found that, instead of slavery being an element of political power, it is an element of political weakness. If slavery were abolished in the South, and her slaves made free men, instead of the South having eighteen Representatives for her three million slaves, she would have thirty Representatives. But for this provision of the Constitution, all the negroes in the South would be counted, and we should have a larger representation in the councils of the nation.

This is what I was going to show; and the time will come when the South will have the North advocating the institution of slavery. Why do I say so? Let us go on with the policy I am proposing, settle and cultivate these lands, reduce them to cultivation, widen the demand for cotton, widen the demand for rice, widen the demand for sugar and tobacco, widen the demand for the products of slave labor; and just in proportion as you do that, you reconcile the North to the institution of slavery. Let us populate our public lands, and reduce them to cultivation; let us embrace Cuba; and when we shall have a sufficient amount of country adapted to the production of sugar, and to the production of cotton, we shall supply the demands at home. Taking four hundred thousand bales of cotton as the amount consumed in the United States, and run your population to one hundred and fifty millions, and you create a demand at home for every pound of cotton that can be grown in the United States. Run it up to five hundred millions, and there will be more demand for rice, cotton, and sugar at home than you can produce.

When the northern people come to see and know that sugar, cotton, and rice, cannot be produced by any other kind of labor than slave labor, they will become reconciled to the institution. The demand becoming great, they will see and feel the necessity of having those articles. Cotton must be had; sugar must be had; rice must be had. Then

present that other great idea, that slave labor is the only labor adapted to the production of these articles, and the non-slaveholding States will become reconciled to the institution. Especially will this be so when the northern mind comes to understand that the man who has his capital invested in labor is the surest and most reliable friend and advocate. Let us understand this idea.

The Senator from Virginia mistook where I was driving. He mistook the direction of the conclusion I was coming to. Look at the three million slaves owned by three hundred and forty-seven thousand white persons, and those interested. Counting them at \$500 a head, how much will they come to? Fifteen hundred million dollars invested in what? In labor. The time will come when slave labor will be more productive in sugar, cotton, and rice, than any other; when the demand increases at home and abroad. You will find that slaves will be confined to that description of labor which is more productive, and the production of those articles which are most needed by the country. Then, do we not see and understand that just in proportion as you foster the one you protect and foster the other?

Mr. MASON. The Senator will allow me a moment. He says I mistook the drift of his remarks. I certainly did, so far as the theory with which he connects them is now exhibited, and I will not say that I have not mistaken the direction altogether. The reason why I asked permission to interrupt the Senator was, that the exhibition which he made of the number of slaveholders in proportion to the white population was an exhibition that had been made more than once on the other side of the Chamber. We had always considered it an unfair exhibition. The Senator made the same, and did not show its unfairness. I have waited until this time, but I do not see that he has yet shown it.

Mr. JOHNSON, of Tennessee. The gentleman, in his former remarks, gave the explanation of it, and I told him I had not reached that point, and if he had waited a few moments I would have made the same explanation he put in my mouth. But I was going to show, Mr. President, that the people of the non-slaveholding States would ultimately become the advocates of the institution of slavery. Why? Is the South no market for the productions of the non-slaveholding States? Where does their pork, where do their horses, where do the mules, where do the large proportion of all the articles of our consumption come from? From Ohio, Indiana, and Illinois, a large proportion is furnished. Well, then, just in proportion as you create a demand in the South for those articles the northern producers become interested in the institutions of the South, and just in proportion as the South can get a high price for her cotton, she will pay a high price for every hog, every mule, and every horse she buys. Just so with the North in the manufacture of articles. They go on manufacturing, and the South is a market for them. Cotton is the great staple they consume. Hence, they become interested in the production of cotton. The South is interested in the articles consumed by the North, and, in return, the South is a market for their manufactured articles.

I have said that the three hundred and forty-seven thousand slaveholders in the South having an interest in slaves to the amount of \$1,500,000,000, were the best friends, instead of being antagonists, to northern labor. Why do I say so? Their capital is invested in labor; and just in proportion as their capital is invested in labor, they become interested in hunting up new markets, in devising ways and means for the consumption of the products of slave labor; and therefore, obtaining a higher price for those productions, and just in proportion as they realize a higher price for labor, in the very same proportion they are protecting the labor of the white man in the non-slaveholding States. The necessity of the production of cotton and rice, when population reaches a certain point, and its consumption comes up to the product, will cause the northern mind to be reconciled to the institution of slavery.

Why is Great Britain so much opposed to the institution of slavery here? She sees and knows there are \$1,500,000,000 invested in labor. That labor brings about an influence advocating high prices for labor. In what does the capital of Great Britain consist? It is in stocks and in money. It

occupies a position that arrays it against high prices for labor. The capital of Great Britain is in the field against the world in opposition to high prices of labor. Her object is to reduce labor down to the lowest point she can get it. The interest of the southern man, his capital being in labor, is to bring it up to the highest price. If Great Britain can succeed in inducing the United States to change or to withdraw her capital out of labor, and put it in stocks or money, what would be the effect? The entire capital in the United States would at once be arrayed on the side of Great Britain, and on the side of the aristocracy of wealth against high prices for labor.

This number of persons and this immense amount of capital and talent connected with slave labor, make the South the surest and the most reliable advocate the northern man has for high prices for labor; and the time will come when there will be a perfect reciprocity in this country. The time will come, if we act as brethren and members of the same great Confederacy, when the northern man will see it to be his interest to stand by the institution of slave labor; when the southern man will see it to be his interest to stand by the Union, to stand by the agriculturists, and by the manufacturer. Then, let us all go on harmoniously and gloriously together, and fill up and carry out our destiny.

Take a simple illustration. A man at the South has a thousand dollars invested in labor. Does not that man try to get the highest price he can for the products of that labor? Take another man who has a thousand dollars in money. He has labor to buy, and does he not try to get labor as cheap as he can for his thousand dollars? Most unquestionably he does. The law is unerring and well established, and if it were well understood throughout the whole country, all the strife and turmoil with reference to the institution of slavery would be swept away, and the country everywhere reconciled. The Senator from Virginia, I think, interrupted me too soon in supplying what he supposed to be a deficiency in my statement.

Sir, carry out the homestead policy, attach the people to the soil, induce them to love the Government, and you will have the North reconciled to the South, and the South to the North, and we shall not have invidious doctrines preached to stir up bad feelings in either section. I know that in my own State, and in the other southern States, the men who do not own slaves are among the first to take care of the institution. They will submit to no encroachment from abroad, no interference from other sections.

I have said, Mr. President, much more than I intended to say, and, I fear, in rather a desultory manner, but I hope I have made myself understood on the subject of slavery. I heard that some gentleman was going to offer an amendment to this bill, providing that the Government should furnish every man with a slave. So far as I am concerned, if it suited him, and his inclination led him that way, I wish to God every head of a family in the United States had one to take the drudgery and menial service off his family. I would have no objection to that; but this intimation was intended as a slur upon my proposition. I want that to be determined by the people of the respective States, and not by the Congress of the United States. I do not want this body to interfere by inuendo or by amendment, prescribing that the people shall have this or the other. I desire to leave that to be determined by the people of the respective States, and not by the Congress of the United States.

I hope, Mr. President, that this bill will be passed. I think it involves the very first principles of the Government: it is founded upon statesmanship, humanity, philanthropy, and even upon Christianity itself. I know the argument has been made, why permit one portion of the people to go and take some of this land and not another? The law is in general terms; it places it in the power of every man who will go to take a portion of the land. The Senator from Alabama suggests to me that a person, in order to get the benefit of this bill, must prove that he is not the owner of other land. An amendment was yesterday inserted in the bill striking out that provision. Then it places all on an equality to go and take. Why should this not be done? It was conceded yesterday that the land was owned by the people. There are over three million heads of families in the United States; and

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if every man who is the head of a family were to take a quarter section of public land, there would still be nearly four million quarter sections left. If some people go and take quarter sections, it does not interfere with the rights of others, for he who goes takes only a part of that which is his, and takes nothing that belongs to anybody else. The domain belongs to the whole people; the equity is in the great mass of the people; the Government holds the fee and passes the title, but the beneficial interest is in the people. There are, as I have said, two quarter sections of land for every head of a family in the United States, and we merely propose to permit a head of a family to take one half of that which belongs to him.

I believe the passage of this bill will strengthen the bonds of the Union. It will give us a better voting population, and just in proportion as men become interested in property, they will become reconciled to all the institutions of property in the country in whatever shape they may exist. Take the institution of slavery, for instance: would you rather trust it to the mercies of a people liable to be ruled by the mobs of which my honorable friend from South Carolina spoke, or would you prefer an honest set of landholders? Which would be the most reliable? Who would guaranty the greatest security to our institutions, when they come to the test of the ballot-box?

Mr. President, I hope the Senate will pass this bill. I think it will be the beginning of a new state of things—a new era.

So far as I am concerned—I say it not in any spirit of boast or egotism—if this bill were passed, and the system it inaugurates carried out, granting a reasonable quantity of land for a man's family, looking far into the distance to see what is to result from it—a stable, an industrious, a hardy, a Christian, a philanthropic community growing out of it, I should feel that the great object of my little mission was fulfilled. All that I desire is the honor and the credit of being one of the American Congress to consummate and to carry out this great scheme that is to elevate our race and to make our institutions more permanent. I want no reputation as some have insinuated. You may talk about Jacobinism, Red Republicanism, and so on. I pass by such insinuations as the idle wind which I regard not.

I know the motives that prompt me to action. I can go back to that period in my own history when I could not say I had a home. This being so, when I cast my eyes from one extreme of the United States to the other, and behold the great number that are homeless, I feel for them. I believe this bill would put them in possession of homes; and I want to see them realizing that sweet conception when each man can proclaim, "I have a home; an abiding place for my wife and for my children; I am not the tenant of another; I am my own ruler; and I will move according to my own will, and not at the dictation of another." Yes, Mr. President, if I should never be heard of again on the surface of God's habitable globe, the proud and conscious satisfaction of having contributed my little aid to the consummation of this great measure is all the reward I desire.

The people need friends. They have a great deal to bear. They make all; they do all; but how little they participate in the legislation of the country? All, or nearly all, of our legislation is for corporations, for monopolies, for classes, and individuals; but the great mass who produce all, who make all while we do nothing but consume, are little cared for; their rights and interests are neglected and overlooked. Let us, as patriots, let us as statesmen, let us as Christians, consummate this great measure which will exert an influence throughout the civilized world in fulfilling our destiny. I thank the Senate for their attention.

EXECUTIVE SESSION.

On the motion of Mr. HAMMOND, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, May 20, 1858.

The House met at eleven o'clock, a. m.

CALL OF THE HOUSE.

Mr. JONES, of Tennessee. Is there a quorum present?

The SPEAKER. There are but eighty-eight members present.

Mr. CLEMENS. Then I move that there be a call of the House.

The motion was agreed to.

The roll was called; and the following members failed to answer to their names:

Messrs. Adrain, Abl, Arnold, Avery, Barksdale, Bennett, Billingshurst, Bishop, Bocoek, Bonham, Boyce, Brayton, Burroughs, Campbell, Caruthers, Caskie, Chaffee, Chapman, Horace F. Clark, Clawson, Clay, Clark B. Cochran, Corning, Covode, Burton Craig, Curry, Danrell, Davis of Maryland, Davis of Iowa, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Eustis, Farnsworth, Garnett, Giddings, Gillis, Gilman, Goode, Greenwood, Groesbeck, Lawrence W. Hall, Robert B. Hall, Harlan, Hickman, Houston, Huyler, Jenkins, Jewett, Keitt, Kelly, Kilgore, Lawrence, Leach, Humphrey Marshall, Matteson, Miles, Montgomery, Edward Joy Morris, Freeman H. Morse, Mott, Niblack, Peyton, Purviance, Ready, Reilly, Robbins, Roberts, Sandidge, Savage, Scott, Seward, John Sherman, Judson W. Sherman, Shorter, Sickles, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Tappan, George Taylor, Miles Taylor, Waldron, Warren, Cadwalader C. Washburn, Watkins, and Wortendyke.

One hundred and forty-one members having answered to their names,

Mr. MORGAN moved that all further proceedings under the call be dispensed with.

The motion was agreed to.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. DICKINS, their Secretary, informing the House that the Senate had passed an act (S. No. 90) repealing all laws or parts of laws granting allowances or bounties to vessels employed in the bank or other fisheries; in which he asked the concurrence of the House.

GEORGE G. SMITH.

Mr. GARTRELL asked and obtained unanimous consent to introduce a bill for the relief of Dr. George G. Smith, late postmaster at Atlanta, Georgia; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

WILLETT'S POINT.

Mr. HASKIN. I ask the unanimous consent of the House to report the following resolution:

Resolved, That the select committee appointed by the House on the 9th of February, to investigate the sale and purchase of the property at Willett's point, New York, purchased by the Government for fortification purposes, be authorized to proceed to New York, view the property, and examine witnesses.

Mr. CLEMENS. I object.

Mr. FLORENCE. There is a pressing necessity for the passage of this resolution, and I hope the House will adopt it. It is the purpose of the committee to examine four, five, or six witnesses who have not yet been examined. Members of the committee desire to view this property; and therefore it was considered wise in the committee, without any dissenting voice, to ask the House to grant this privilege to the committee. But three members will go, who will also have the duty to perform of examining four, five, or six witnesses.

Mr. HASKIN. The adoption of the amendment will save \$300.

Mr. CLEMENS. As the Willett's point investigation professes to relate to the transaction of a Cabinet officer from Virginia, I withdraw my objection.

Mr. BURNETT. I am opposed to sending roving commissioners over the country; and therefore I object.

COMMANDER M. F. MAURY.

Mr. WINSLOW, by unanimous consent, introduced a joint resolution authorizing Commander M. F. Maury to accept a gold medal awarded

to him by the Emperor of Austria; which was read a first and second time, and referred to the Committee on Foreign Affairs.

REVISION OF TARIFF, ETC.

Mr. FENTON. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Committee of Ways and Means inquire into the expediency of authorizing the Secretary of the Treasury to make a loan of \$10,000,000, or so much thereof as may be necessary to pay the creditors of the United States the sums to which they are justly, legally, and equitably entitled; particularly the debts due to the officers and soldiers of the revolutionary army, and the widows and children of those who died in the service, and their representatives, for the payment of which the faith of the nation has been pledged; and also, the arrears of pension due to the invalids of the war of 1812, and other wars, from the date of their disability, under contracts made with them by the Government when they entered the service. And whether a revision of the tariff, with a view to sufficient revenue to meet all the necessary wants of the Government, is not imperiously demanded by the present state of the national finances; and that said committee report by bill or otherwise, as early as practicable, to the end that action in the premises may be had during the present session of Congress.

Objection was made.

COMPENSATION OF MEMBERS.

Mr. NIBLACK. I ask the unanimous consent of the House to introduce a joint resolution, amendatory of an act entitled "An act to regulate the compensation of members of Congress," approved August 16, 1856, so far as it relates to acts as shall die during their term of service.

Mr. JONES, of Tennessee. I object; and call for the regular order of business.

TEXAS BOUNDARY SURVEY.

Mr. REAGAN. I ask the consent of the House to take from the Speaker's table a bill which passed the House, and passed the Senate with an amendment.

Mr. JONES, of Tennessee. I ask for the regular order of business.

Mr. REAGAN. It will not take more than a minute or two to dispose of it. It is a bill in reference to a commission for running the boundary line of Texas. If the commissioners do not get into the field early, they will not get through before winter. It is an important amendment, and I hope the gentleman will withdraw his objection. Objection was not withdrawn.

CIVIL APPROPRIATION BILL.

The SPEAKER stated the business first in order to be the amendments reported back from the Committee of the Whole on the state of the Union on House bill No. 200, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1859; and suggested that the amendments would be reported, and that separate votes would be had on such as a separate vote would be demanded on; and that a vote should be taken on the remainder of the amendments as a whole.

First amendment:

After line eighty-one, insert as follows:
For the purchase of Holmes's life-boats, to be placed on each of the twenty-eight life-saving stations on the coast of New Jersey, \$6,440.

And for the purchase of the best life-boat, to be approved by the Department, for use on the coast of Long Island, \$10,000.

Mr. LETCHER. I ask for a separate vote.

The question was taken; and there were, on a division—ayes 99, noes 50.

So the amendment was agreed to.

Second amendment:

After the following clause:
"For collection of agricultural statistics, investigations for promoting agriculture and rural economy, and the procurement and distribution of cuttings and seeds, \$60,000."

—insert the following proviso:
Provided, That it shall be the duty of the Commissioner of Patents to submit to the Secretary of the Treasury, at the commencement of each session of Congress, the invoices of seeds and cuttings purchased with the money hereby appropriated, and also a statement of the expenses in procuring agricultural statistics, and the incidental expenses in procuring seeds, cuttings, and information: *And provided also*, That no salary or compensation to any person for services in collecting or distributing seeds, cuttings, &c., shall be paid out of this appropriation.

Mr. SEWARD. I put it in the name of the Secretary of the Treasury, at the suggestion of the gentleman from Kentucky, [Mr. MARSHALL.] The matter is properly under the control of the Secretary of the Interior; and I ask the unanimous consent of the House to substitute the Secretary of the Interior for the Secretary of the Treasury. There being no objection; the modification was made.

Mr. WALBRIDGE. I desire to ask the gentleman who introduced this proposition, whether he supposes that the whole \$60,000 will be appropriated for the purchase of seeds and cuttings at their first cost?

Mr. RITCHIE. Debate is not in order; and I object to it.

Mr. STEWART, of Maryland. Is it not competent to have a separate vote on the two provisions?

The SPEAKER. The Chair understands that there is only one proviso; and, at any rate, it would not be in order to divide the amendment, as it is reported as a whole.

The question was taken; and the amendment was agreed to—ayes 113, noes not counted.

Mr. LETCHER moved to reconsider the vote by which the amendment was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Fourth amendment:

Page 6, line one hundred and thirty-four, before the word "report," insert "mechanical," so that the paragraph will read:

For drawings to illustrate the mechanical report of the Commissioner of Patents for the year 1858, \$6,000.

Mr. WOODSON. I ask for a separate vote on that amendment.

The amendment was agreed to.

Sixth amendment:

Page 8, line one hundred and eighty two, strike out "thirty-three," and insert "forty-three;" so that the paragraph will read:

For lighting the President's House and Capitol, the public grounds around them and around the executive offices, and Pennsylvania avenue, and Bridge and High streets, in Georgetown, \$43,000.

Mr. KILGORE. I ask a separate vote on that amendment.

The amendment was agreed to.

Ninth amendment:

Page 9, strike out lines one hundred and eighty-eight and eighty-nine, as follows:

"For repairs of Pennsylvania avenue, \$3,000."

Mr. J. GLANCY JONES. I ask for a separate vote on that amendment.

The amendment was agreed to.

Tenth amendment:

Page 9, strike out the lines two hundred and four, two hundred and five, two hundred and six, and two hundred and seven, as follows:

"For completing the west wing of the Patent Office building, siting up the southwest corner of the square, setting the curb, and raising Ninth street in front of the building, to its proper grade, \$50,000."

Mr. J. GLANCY JONES. I ask for a separate vote on that amendment.

The amendment was rejected.

Eleventh amendment:

Strike out from line two hundred and fifteen to line two hundred and twenty-four, inclusive, as follows:

"For the completion of the Washington aqueduct, \$800,000; and, in addition thereto, so much of the appropriation of \$250,000 for paying existing liabilities for the Washington aqueduct, and preserving the work already done from injury," contained in the act entitled "An act making appropriations for certain civil expenses of the Government for the year ending 30th June, 1857," approved 18th August, 1856, as may not be required for said purposes."

Mr. STANTON moved to amend, by adding as follows:

Provided, That no part of the sum hereby appropriated shall be expended until contracts shall be entered into with responsible parties for the completion of the work, which in the aggregate shall not exceed the amount hereby appropriated.

The amendment was agreed to.

Mr. DEAN. I demand the yeas and nays upon the proposition to strike out.

The yeas and nays were ordered.

The question was taken; and resulted—yeas 95, nays 97; as follows:

YEAS—Messrs. Abbott, Atkins, Avery, Blair, Branch, Buffinton, Burnett, Caruthers, Case, Caskie, John B. Clark, Clawson, Cobb, Colfax, Covode, Cox, Crawford, Curry, Davis of Indiana, Davis of Massachusetts, Dawes, Dean, Dowdell, Edmundson, Farnsworth, Fenton, Gilman, Gooch,

Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Hoard, Hopkins, Howard, Jackson, Jenkins, Jewett, George W. Jones, Kellogg, Kilgore, Knapp, Leitcher, Lovejoy, McQueen, Humphrey Marshall, Mason, Matteson, Miller, Millson, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Oliver A. Morse, Mott, Murray, Palmer, Pettit, Pike, Potter, Powell, Purviance, Royce, Ruffin, Seales, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, Shorter, Robert Smith, Spinner, Stallworth, Stanton, Stevenson, William Stewart, Thayer, Thompson, Tompkins, Tripp, Wade, Walbridge, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Watkins, Wilson, John V. Wright, and Zollicoffer—95.

NAYS—Messrs. Adrain, Ahl, Anderson, Andrews, Arnold, Barksdale, Bingham, Bishop, Bliss, Bococek, Bowie, Boyce, Bryan, Burlingame, Burns, Chaffee, Ezra Clark, Clay, Cleinens, John Cochrane, Cockerill, Comins, Corning, James Craig, Curtis, Davidson, Davis of Mississippi, Davis of Iowa, Dick, Dimmick, Dodd, Durfee, Edie, English, Faulkner, Florence, Foley, Foster, Garnett, Garrett, Gillis, Gilmer, Goode, Greenwood, Gregg, Haskin, Hatch, Hawkins, Hill, Horton, Hughes, J. Glancy Jones, Owen Jones, Keitt, Jacob M. Kunkel, John C. Kunkel, Lamar, Landy, Lawrence, Leidy, Leiter, MacLay, Maynard, Miles, Niblack, Nichols, Olin, Parker, Pendleton, Peyton, Phillips, Pottle, Quitman, Reagan, Ricard, Ritchie, Roberts, Russell, Sandidge, Scott, Searing, Seward, Singleton, Samuel A. Smith, William Smith, Stephens, James A. Stewart, Talbot, George Taylor, Underwood, Ward, White, Whiteley, Winslow, Wood, Woodson, Wortendyke, and Augustus R. Wright—97.

So the amendment of the Committee of the Whole, as amended, was not agreed to.

Pending the call of the roll,

Mr. UNDERWOOD said: I should be very glad to assign reasons why I shall change my vote, but it is not in order. I should be very glad to say that I am a friend of the water works, and should be very glad to see them completed. The reason why I voted in the affirmative was, because I thought injustice had been done to the other sections of the country. I shall, however, now change my vote, and vote against striking out the appropriation.

Mr. WASHBURN, of Illinois. I object to this debate, unless those on the other side are permitted to assign reasons for voting in the affirmative.

Mr. UNDERWOOD. I know it is not in order. I change my vote, and vote "no."

Mr. QUITMAN. For the same considerations which the gentleman has stated, I vote "no."

Mr. SINGLETON. I voted in the Thirty-Second Congress against commencing this work. But since it has been commenced, and has got to be completed, I change my vote, and vote "no."

Mr. PHELPS (who was not within the bar when his name was called) asked leave to vote.

Mr. DEAN. I object.

Mr. PHELPS. If I had been within the bar when my name was called, I should have voted to keep the appropriation in this bill.

Mr. KELSEY. I desire to state that I am paired off, until four o'clock, with Mr. DEWART. [Cries of "Announce the vote!"]

The SPEAKER. The vote is a very close one, and the Clerk is reviewing it before the result is announced.

Mr. JONES, of Tennessee. Is it very certain that there have been changes enough to defeat the amendment? I take it for granted the Clerk will not get ready to announce the vote until there have been changes enough to reach that result.

The SPEAKER. The Chair has not seen the report of the Clerk.

Mr. MORRIS, of Pennsylvania. I am a friend of this work; but as so much injustice is done to public works in other sections of the country, I cannot consent to discriminate in favor of Washington city. I therefore change my vote, and vote "ay."

Mr. GILMAN. I concur entirely with the gentleman from Pennsylvania in the reasons he has assigned, and change my vote from "no" to "ay."

Mr. GILMER. For the reasons assigned by the gentleman from Maine, I change my vote, and vote "no." [Laughter.]

Mr. PETTIT. I change my vote from "no" to "ay."

Mr. ENGLISH. To neutralize the vote of my colleague, I change my vote from "ay" to "no."

The vote was then announced as above recorded.

Mr. GOODE moved to reconsider the vote by which the House refused to strike out the paragraph, and also moved to lay the motion to reconsider on the table.

Mr. WASHBURN, of Illinois, demanded the yeas and nays on the latter motion.

The yeas and nays were ordered.

Mr. GOODE withdrew the motion to reconsider.

Twelfth amendment:

Strike out line two hundred and twenty five, as follows: "For United States Capitol extension, \$1,000,000."

Mr. J. GLANCY JONES. I ask for a separate vote upon that amendment, and call for the yeas and nays upon its adoption.

The yeas and nays were ordered.

Mr. MARSHALL, of Kentucky. I hear the paragraph as read. My recollection is that the committee amended the paragraph before striking out, and that the words as read are not those stricken out.

The SPEAKER. The only report from the Committee of the Whole on the state of the Union, is that the paragraph which has been read be stricken out. The paragraph was amended in committee and then stricken out, and the only report which could be presented from the committee would be to strike out the original paragraph in the bill. The friends of the paragraph had the right to amend it, to make it as perfect as possible. But if, after all, they agreed to strike out the paragraph as amended, the only report to the House would be on striking out the original words in the bill.

Mr. MARSHALL, of Kentucky. I understand that the text which was stricken out in committee is not that which has been reported here. The text which was stricken out contained a proviso; and the question, as I understand it, now comes up in the House to strike out just what was stricken out in committee.

The SPEAKER. The only report which could be made to the House would be, to strike out the original clause in the bill.

Mr. MARSHALL, of Kentucky. What becomes of the amendment which was agreed to in committee?

The SPEAKER. The original paragraph, in spite of the efforts of its friends to perfect it, was stricken out.

Mr. MARSHALL, of Kentucky. The paragraph, as amended, was stricken out.

The SPEAKER. But the recommendation to strike out the original paragraph was the only report which could come to the House.

The question was then taken; and it was decided in the affirmative—yeas 114, nays 84; as follows:

YEAS—Messrs. Abbott, Anderson, Andrews, Atkins, Avery, Bingham, Blair, Bliss, Bococek, Boyce, Branch, Bryan, Buffinton, Burnett, Burns, Campbell, Caruthers, Case, Caskie, John B. Clark, Clawson, Cobb, Colfax, Covode, Cox, Cragin, James Craig, Curry, Curtis, Davidson, Davis of Indiana, Dawes, Dean, Dodd, English, Farnsworth, Garnett, Garrett, Gilmer, Gooch, Granger, Grow, Lawrence W. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hatch, Hill, Hopkins, Howard, Jackson, Jenkins, Jewett, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, Leiter, Leitcher, Lovejoy, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Miller, Moore, Morgan, Edward Joy Morris, Isaac N. Morris, Mott, Olin, Palmer, Pendleton, Pettit, Pike, Potter, Pottle, Powell, Purviance, Quitman, Royce, Ruffin, Seales, Seward, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, Robert Smith, William Smith, Spinner, Stallworth, Stanton, Stevenson, William Stewart, Talbot, George Taylor, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Watkins, Wilson, Wortendyke, John V. Wright, and Zollicoffer—114.

NAYS—Messrs. Adrain, Ahl, Arnold, Barksdale, Bishop, Bowie, Burlingame, Chaffee, Ezra Clark, Cleinens, John Cochrane, Cockerill, Comins, Corning, Crawford, Davis of Maryland, Davis of Mississippi, Davis of Iowa, Dick, Dowdell, Durfee, Edie, Edmundson, Eustis, Faulkner, Fenton, Florence, Foley, Foster, Gillis, Gilman, Goode, Greenwood, Gregg, Groesbeck, Hoard, Horton, Hughes, Huyler, J. Glancy Jones, Owen Jones, Keitt, Jacob M. Kunkel, John C. Kunkel, Lamar, Landy, Lawrence, Leidy, MacLay, Matteson, Maynard, Miles, Millson, Morrill, Oliver A. Morse, Murray, Niblack, Nichols, Parker, Peyton, Phelps, Phillips, Ricard, Ritchie, Robbins, Roberts, Russell, Sandidge, Scott, Searing, Shorter, Singleton, Samuel A. Smith, Stephens, James A. Stewart, Ward, Israel Washburn, White, Whiteley, Winslow, Wood, Woodson, and Augustus R. Wright—84.

So the paragraph was stricken out.

Pending the call of the roll,

Mr. LOVEJOY stated that Mr. LEACH was detained at his room by sickness.

Mr. HILL. For reasons given to me by some gentlemen who seem to know that this Capitol building would not suffer by delay, and that a less sum would do as well at present, I vote "ay."

Mr. TAYLOR, of New York, moved that the vote by which the paragraph was stricken out be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question was then taken upon all the amendments in gross which were reported from the Committee of the Whole on the state of the Union, and upon which a separate vote had not been asked; and they were agreed to.

Mr. ANDREWS. Mr. Speaker—

The bill was then ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time.

Mr. ANDREWS. Mr. Speaker, I desire to inquire if the vote by which the water-works appropriation was agreed to has been reconsidered?

The SPEAKER. It has not.

Mr. ANDREWS. Then I make that motion.

Mr. J. GLANCY JONES. I move to reconsider the vote by which the bill was ordered to be engrossed; and also move to lay the motion to reconsider upon the table.

The question was taken; and the motion was agreed to.

Mr. J. GLANCY JONES. I move the previous question on the passage of the bill.

Mr. SHERMAN, of Ohio. The gentleman from New York [Mr. ANDREWS] has risen to a motion to reconsider, and he cannot be superseded by another privileged question at the same time.

The SPEAKER. The House has passed from that stage of the bill where the motion would be in order.

Mr. SHERMAN, of Ohio. The gentleman from New York rose and addressed the Chair before the bill was ordered to be read a third time, and endeavored to present his privileged motion. If his voice did not reach the Speaker it was not the gentleman's fault. He submitted a privileged motion, in the hearing of us here, in regard to the Washington aqueduct—a motion which he has a right to make.

The SPEAKER. The gentleman from New York rose in his place, after the bill was ordered to a third reading and after it was read the third time, and was recognized. Of course the Chair would have recognized him if the Chair had been informed that he rose to a privileged question previous to that time.

Mr. ANDREWS. I rose and so stated.

The SPEAKER. The gentleman so stated after the bill was read a third time, and not before.

Mr. SHERMAN, of Ohio. The gentleman rose in his place to a privileged question.

The SPEAKER. The Chair understands that such was his purpose.

Mr. SHERMAN, of Ohio. The gentleman so stated.

The SPEAKER. The gentleman did not so state until after the bill was read a third time.

Mr. ANDREWS. I rose but did not make the statement at that time.

The SPEAKER. The Chair so understood it. The Chair thinks the application comes too late. If the gentleman had stated that he rose to a privileged question, it would perhaps have arrested the ear of the Chair.

The previous question was then seconded, and the main question ordered to be put.

Mr. MORGAN demanded the yeas and nays upon the passage of the bill.

Mr. JONES, of Tennessee, moved to lay the bill upon the table.

The motion was not agreed to.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 103, nays 80; as follows:

YEAS—Messrs. Adrain, Ail, Arnold, Avery, Barksdale, Bishop, Bliss, Bocoek, Bowie, Boyce, Bryan, Burns, Caruthers, Ezra Clark, John B. Clark, Clawson, Clay, Clemens, Cockerill, Comins, Corning, Cox, Davidson, Davis of Mississippi, Dimmick, Dowdell, Edie, Edmundson, English, Eustis, Faulkner, Florence, Foley, Foster, Gartrell, Gillis, Gilman, Goode, Greenwood, Gregg, Groesbeck, Lawrence IV. Hall, J. Morrison Harris, Haskin, Hatch, Hawkins, Horton, Jackson, Jenkins, J. Glancy Jones, Owen Jones, Keitt, Jacob M. Kunkel, John C. Kunkel, Lamar, Landy, Lawrence, Leidy, Letcher, MacLay, Samuel S. Marshall, Matteson, Miller, Millson, Moore, Niblack, Parker, Pendleton, Peyton, Phelps, Phillips, Quitman, Reagan, Ritchie, Robbins, Roberts, Russell, Sandidge, Scott, Searling, Seward, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, William Smith, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Underwood, Ward, White, Whiteley, Winslow, Wood, Woodson, Wortendyke, and Augustus R. Wright—103.

NAYS—Messrs. Abbott, Andrews, Atkins, Bennett,

Bingham, Blair, Branch, Buffinton, Burlingame, Burnett, Chaffee, Clemens, Colfax, Covode, Cragin, Crawford, Curry, Davis of Maryland, Davis of Indiana, Dawes, Dean, Dick, Dodd, Durfee, Farnsworth, Fenton, Garnett, Gilmer, Gooch, Goodwin, Granger, Grow, Harlan, Thomas L. Harris, Hoard, Howard, Jewett, George W. Jones, Kellogg, Kilgore, Leiter, Lovejoy, Humphrey Marshall, Mason, Maynard, Morgan, Morrill, Isaac N. Morris, Oliver A. Morse, Mott, Murray, Olin, Palmer, Pettit, Pike, Potter, Pottle, Purviance, Ricard, Royce, Ruffin, Scales, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Thayer, Thompson, Tompkins, Wade, Walbridge, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Watkins, Wilson, John V. Wright, and Zollicoffer—80.

So the bill was passed.

Pending the call,

Mr. WOODSON stated that his colleague, Mr. ANDERSON, was not well, and had gone home.

Mr. CASE stated that he had paired off with Mr. HUGHES, who would have voted in the affirmative.

Mr. J. GLANCY JONES moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was not agreed to.

PERSONAL EXPLANATION.

Mr. SMITH, of Virginia. I rise to what I suppose to be a question of privilege. The House will remember that the gentleman from Illinois [Mr. LOVEJOY] made some remarks yesterday, of which I took some notice. In looking over the Congressional Globe, which purports to contain a report of the official proceedings of this House, I find a paragraph in that gentleman's speech which places me in the light of having omitted to notice that which is particularly offensive. I desire to read the paragraph which has been introduced into the gentleman's speech; and I do it for the benefit of the reporters, as well as for the benefit of the gentleman from Illinois, and as an excuse to my constituents for myself. If it had been uttered, most assuredly I should have noticed his speech in a different style from what I did. It is as follows:

"The picture of Putnam would have been very well in the committee room of Revolutionary Chaius, but has no significance where it is, as it is a revolutionary reminiscence. In the place of this should have been the picture of a western plow, with its polished steel mold board, with the hardy yeoman, with one hand resting on the plow-handle, and with the other holding a span of bays, with arched neck and neatly-trimmed harness. Pictures are symbols of ideas, and this would have told to the future the present mode of culture of free labor. At the opposite end, in the place of Cincinnatus and his plow, (the plow of two thousand-years ago,) there should have been a negro slave, with untidy clothing, with slouching gait, shuffling along by the side of a mule team, with ragged harness and rope traces, drawing a barrel of water on the forks of a tree. This would represent the idea of slave labor. Thus we should have a symbol of the two systems of labor now struggling for the ascendancy."

Sir, it is only necessary for me to say to you, to this House, and to the country, that there is not one word of truth in this statement. I mean that there is not one word of truth in it, for the reason that no such remarks were made upon this floor.

MINNESOTA MEMBERS.

Mr. HARRIS, of Illinois. I gave notice, yesterday, that I would to-day call up the contested-election case from Ohio. Before I do that, however, I wish to present a report from the Committee of Elections on the Minnesota case.

I present to the House a report from the Committee of Elections, to whom was referred, under the instructions of the House, the credentials of the members claiming seats in this House from the State of Minnesota. I ask that the report and the accompanying resolution be read. If there be no objection, and unless gentlemen desire that the report shall be printed and laid over for future consideration, I desire to have the matter disposed of now. I do not, however, urge it if it is desired to have the report printed. The minority, I understand, do not agree, and probably there will be two minority reports embracing the views of the two divisions of the minority. I now present the report of the majority.

Mr. GILMER. I ask the indulgence of the House to present and have printed the views of a portion of the minority of the committee. I will state to the House that this is a novel case, and I do not think that the House can act intelligibly upon it, until these reports have been printed and read by members.

Mr. WASHBURN, of Maine. I have not been able to agree in all the reasoning contained in the

report of the gentleman from North Carolina, although our conclusion is the same, and I desire to submit my views that they may take the same course as the other reports.

The following resolution, reported by the majority of the Committee of Elections, was then read:

Resolved, That W. W. Phelps and James M. Cavanaugh, claiming seats as members of this House from the State of Minnesota, be admitted and sworn as such: *Provided*, That such admission and qualification shall not be construed as precluding any contests of their right to seats which may be hereafter instituted by any persons having the right so to do.

Mr. HARRIS, of Illinois. As the gentleman from North Carolina desires that the views of those on the committee whom he represents shall be printed, I will not press my motion to call up the subject now.

Mr. GILMER. All I desire is that the gentleman shall fix some day for the consideration of the case.

Mr. STEVENSON. I hope this question will be disposed of now. The reports are not voluminous. The questions involved are simple, and I suppose that upon the reading of the reports the House could readily come to a conclusion. Minnesota now presents the singular spectacle of a State represented at one end of the Capitol and not represented at the other. Four fifths of the session are already passed. This State has been admitted into the Union for ten days, and has no Representative upon this floor. The reports are not long. The main question presented in the reports has been discussed elaborately in the past political history of the country, and has been the subject of the intellectual exercises of some of the first men of the nation. The points involved in the reports of the gentlemen on the other side, have been already settled by the past action of this body, and I am satisfied that the House could arrive at a correct conclusion in the case without a postponement of it. I think the House owes it as an act of justice to the State of Minnesota, either to admit these gentlemen or to reject them. I move that the subject be taken up, and the reports read; and on that I move the previous question.

Mr. WASHBURN, of Maine. I ask the gentleman from Kentucky to withdraw the previous question for a moment to enable me to say a word or two.

Mr. STEVENSON. I would withdraw it, but if the report is taken up, the gentleman will have plenty of time to express his views on the question. I therefore decline to withdraw it.

Mr. WASHBURN, of Maine. I desire to ask whether, if the previous question is sustained, it will not bring us to vote on the resolution before the reports have been printed or even read? And this is one of the most important questions that has ever been brought before Congress.

Mr. STEVENSON. I will say, in answer to the gentleman from Maine—

The SPEAKER. Debate is not in order.

Mr. GILMER. I hope the previous question will not be sustained.

Mr. WASHBURN, of Illinois. I call for tellers on seconding the previous question.

Mr. WASHBURN, of Maine. I desire to ask the Chair whether, if the previous question be sustained, the reports in this case can be read without unanimous consent?

Mr. STEVENSON. My motion is that they be read.

Mr. WASHBURN, of Maine. If the previous question be seconded, the reports cannot be read if any member of the House objects.

Tellers were ordered; and Messrs. BURNINGTON, and WRIGHT of Georgia, were appointed.

Mr. GREENWOOD. Can the reports be read if the previous question is seconded?

Mr. GROW. Of course not; a report is in the nature of an argument.

The House divided; and the tellers reported—ayes 98, noes 93.

So the previous question was seconded.

Mr. WASHBURN, of Maine, demanded the yeas and nays on ordering the main question.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 97, nays 102; as follows:

YEAS—Messrs. Adrain, Ail, Arnold, Atkins, Barksdale, Bishop, Bocoek, Bowie, Boyce, Branch, Burnett, Burns, Caruthers, Caskie, Chapman, John B. Clark, Clemens, Cobb, John Cochrane, Cockerill, Corning, Cox, James

Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dowdell, Edmundson, English, Faulkner, Florence, Foley, Gartrell, Gillis, Goode, Greenwood, Gregg, Lawrence W. Hall, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Lamar, Landy, Lawrence, Leidy, Letcher, Macley, Samuel S. Marshall, Mason, Miles, Miller, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Reagan, Rufin, Russell, Sandidge, Seales, Scott, Searing, Seward, Henry M. Shaw, Singleton, Samuel A. Smith, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Watkins, White, Whiteley, Winslow, Wortendyke, Augustus R. Wright, and John V. Wright—97.

YAYS—Messrs. Abbott, Anderson, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Buffinton, Burlingame, Campbell, Case, Chaffee, Ezra Clark, Clawson, Colfax, Comins, Covode, Cragin, Curtis, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Eustis, Farnsworth, Fenton, Foster, Garnett, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Harlan, J. Morrison Harris, Kellogg, Kilgore, Knapp, John C. Kunkel, Leiter, Lovejoy, Humphrey Marshall, Matteson, Maynard, Millson, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ready, Ricard, Ritchie, Robbins, Roberts, Royce, John Sherman, William Stewart, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, and Zollicoffer—102.

So the main question was not ordered to be now put.

Pending the call of the roll,
Mr. FLORENCE stated that his colleague, **Mr. DIMMICK**, had left the Hall in consequence of indisposition, and had paired off with **Mr. EDIE**.

Mr. WASHBURN, of Maine. I rise to what I suppose to be a question of privilege. This question, of course, goes over until to-morrow. I wish to have the reports printed.

Mr. SHORTER. I rise to a privileged question. I move to reconsider the vote by which the House refused to order the main question.

Mr. WASHBURN, of Illinois. I move to lay the motion to reconsider on the table.

Mr. HOUSTON. I ask the yeas and nays upon that motion.

The yeas and nays were ordered.

Mr. WASHBURN, of Maine. I desire to know what will be the effect of the motion to reconsider? Will not the second of the previous question stand, and the subject go over until to-morrow?

The SPEAKER. If the motion fails?
Mr. WASHBURN, of Maine. No, sir; if the vote is carried, and the vote refusing to order the main question is reconsidered, will not the subject still go over until to-morrow?

The SPEAKER. If the motion to lay the motion to reconsider on the table should prevail, such would be the result.

Mr. WASHBURN, of Maine. But suppose the vote ordering the main question should be reconsidered: what would be the result?

The SPEAKER. The question will recur, "Shall the main question be now put?"

Mr. MILLSON. I rise to a question of order. As I have never before known a vote refusing to order the main question to be reconsidered, I ask whether it is a parliamentary motion, inasmuch as a demand for the previous question is like a motion to adjourn, which can be repeated indefinitely, and is not subject to be reconsidered at all?

The SPEAKER. The Chair overrules the question of order raised by the gentleman from Virginia. Under the rules of the House it is in order to reconsider any vote taken by the House, and as much a vote refusing to order the main question as a vote ordering the main question.

Mr. STEPHENS, of Georgia. And it has been a very frequent practice of the House to reconsider the vote by which the main question was ordered to be put, when we have reconsidered the vote by which a bill was ordered to be engrossed and read a third time.

Mr. MILLSON. There is no doubt as to the power to reconsider a vote ordering the main question; but I have never known a vote refusing to order the main question to be reconsidered.

The SPEAKER. The gentleman from Virginia will perceive that the reason of the rule applies as well where the House has refused to order the main question, as where the vote has been carried in the affirmative. The object is to give the House another opportunity of deciding upon the ques-

tion, in consequence of the change of votes, or of a fuller House. The reason of the rule applies just as well when the House has refused to order the main question, as where the main question has been ordered.

Mr. MILLSON. May not the demand for the previous question be renewed at any time?

The SPEAKER. That would leave the House in the same position.

Mr. STANTON. As the matter now stands, the House having refused to order the main question, would it not be in order at any subsequent stage of the proceedings to demand the previous question?

The SPEAKER. If the House should refuse to reconsider the vote by which the House refused to order the main question to be put, the subject would go over until to-morrow.

Mr. STANTON. But when the subject again comes up, it will then be in order to demand the previous question.

Mr. HOUSTON. The decision of the Chair is clearly right. I ask for the vote.

The question was taken; and it was decided in the negative—yeas 96, nays 104; as follows:

YEAS—Messrs. Abbott, Andrews, Billingshurst, Bingham, Blair, Bliss, Buffinton, Burlingame, Campbell, Case, Chaffee, Ezra Clark, Clawson, Colfax, Comins, Covode, Cragin, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Eustis, Foster, Garnett, Gilman, Gilmer, Gooch, Granger, Grow, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hill, Hoard, Horton, Howard, Kellogg, Kilgore, Knapp, John C. Kunkel, Leiter, Lovejoy, Humphrey Marshall, Matteson, Maynard, Millson, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ready, Ricard, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, and Zollicoffer—96.

NAYS—Messrs. Adrain, Ahl, Arnold, Atkins, Avery, Barksdale, Bishop, Boeck, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caruthers, Caskie, Chapman, Horace F. Clark, John B. Clark, Clay, Clemens, Cobb, John Cochran, Cockerill, Corning, Cox, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Mississippi, Dowdell, Edmundson, English, Faulkner, Florence, Foley, Gartrell, Gillis, Goode, Greenwood, Gregg, Lawrence W. Hall, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leidy, Letcher, Macley, McKibbin, Samuel S. Marshall, Mason, Miles, Miller, Moore, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Reagan, Rufin, Russell, Sandidge, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Stephens, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Watkins, White, Whiteley, Wortendyke, Augustus R. Wright, and John V. Wright—104.

So the motion to reconsider was not laid on the table.

Pending the call of the roll,

Mr. MILES stated that his colleague, **Mr. BONHAM**, was still detained from the House by indisposition in his family.

Mr. NIBLACK stated that he had paired off with **Mr. GOODWIN**.

Mr. READY stated that he had paired off with **Mr. McQUEEN**, who was detained from the House in consequence of illness in his family.

Mr. HATCH stated that he had voted; but in consequence of an understanding with **Mr. BENNETT**, who was not now in the House, he should ask leave to withdraw his vote.

No objection was made.

The question then recurred on the motion to reconsider the vote by which the House refused to order the previous question.

Mr. WASHBURN, of Maine. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 101; nays 96, as follows:

YEAS—Messrs. Adrain, Ahl, Arnold, Atkins, Avery, Barksdale, Bishop, Boeck, Bowie, Boyce, Branch, Burnett, Burns, Caruthers, Caskie, Chapman, John B. Clark, Clay, Clemens, Cobb, John Cochran, Cockerill, Corning, Cox, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Mississippi, Dowdell, Edmundson, English, Faulkner, Florence, Foley, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leidy, Letcher, Macley, McKibbin, Samuel S. Marshall, Mason, Miles, Miller, Moore, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Reagan, Rufin, Sandidge, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Sikes, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot,

George Taylor, Miles Taylor, Ward, Watkins, White, Whiteley, Wortendyke, Augustus R. Wright, and John V. Wright—101.

NAYS—Messrs. Abbott, Andrews, Billingshurst, Bliss, Buffinton, Burlingame, Case, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Colfax, Comins, Covode, Cragin, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Eustis, Farnsworth, Fenton, Foster, Garnett, Gilman, Gilmer, Gooch, Granger, Grow, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hill, Hoard, Horton, Howard, Kellogg, Kilgore, Knapp, John C. Kunkel, Leiter, Lovejoy, Humphrey Marshall, Matteson, Maynard, Millson, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Olin, Parker, Pettit, Potter, Pottle, Purviance, Ricard, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Woodson, and Zollicoffer—96.

So the vote by which the House refused to order the main question was reconsidered.

Pending the call of the roll,

Mr. POTTLE stated that **Mr. BURROUGHS** had paired off upon all political questions with **Mr. RUSSELL**.

Mr. RUSSELL. I paired with the gentleman from New York [**Mr. BURROUGHS**] upon all political questions. There seems to be a difference of opinion as to whether this is a political question or not. I ask leave to withdraw my vote.

No objection was made.

Mr. WOODSON. I am prepared to vote for having the Minnesota members sworn in, but I desire to have the reports read. I therefore vote "no."

The question recurred on ordering the main question to be put.

Mr. STEVENSON. I ask that the reports of the majority and minority of the committee be read.

Mr. STANTON. Would it be in order for the gentleman from Kentucky [**Mr. STEVENSON**] to withdraw the call for the previous question?

The SPEAKER. The Chair is of opinion that the matter has gone out of the control of the gentleman from Kentucky.

Mr. STANTON. Would it be in order to reconsider the vote seconding the previous question?

The SPEAKER. The Chair thinks not.

Mr. STANTON. Well, I hope this matter will be postponed until Saturday, and that these reports may be printed. [Cries of "No!" "No!" on the Democratic side of the House.] Very well; these men cannot be sworn in to-day by daylight.

Mr. STEVENSON. I had no intention to prevent the reports from being read. I ask that they may be read.

Mr. STANTON. I object.

Mr. WASHBURN, of Maine. I hope there will be no objection to the reports being read.

Mr. STANTON. I withdraw the objection.

Mr. DAVIS, of Maryland. Is it not in order now to move to reconsider the vote seconding the previous question? If it is, I submit it.

The SPEAKER. The Chair is of opinion that it is not in order. The practice of the House has been different with reference to that question. The motion has sometimes been entertained, and sometimes it has not. The main proposition is upon ordering the main question to be put; and pending that, the gentleman from Kentucky asks that the reports may be read.

Mr. STEPHENS, of Georgia. The House has ordered the main question to be put.

Mr. STANTON. No, sir; that motion is pending.

Mr. DAVIS, of Maryland. I suppose that the gentleman from Georgia is in error, and that, on the contrary, the House has not ordered the main question; on the contrary, it refused to order it; and that vote has just been reconsidered. I suppose we are now exactly in the position we were the moment after the previous question was seconded. If so, I now submit a motion to reconsider that vote.

The SPEAKER. The Chair rules the motion of the gentleman from Maryland out of order.

Mr. DAVIS, of Maryland. I appeal from the decision of the Chair.

Mr. CLEMENS. I move to lay the appeal on the table.

Mr. DAVIS, of Maryland. I demand the yeas and nays on my motion.

The SPEAKER. The Chair rules the motion out of order, because the rules provide expressly, where the previous question has been seconded, and the main question is not ordered, what disposition shall be made of the substantive matter, namely, that it shall go over until the next day. The practice has been different as to what particular condition the subject-matter comes up in the next day. In some instances it has been held that it comes up clear of the second, and in others that the second still operates. The Chair is of opinion that the safer and more correct practice is to rule that the question comes up the next day free from the second of the previous question.

Mr. DAVIS, of Maryland. I do not profess to be much of a parliamentarian, and therefore do not speak with confidence upon a question of this kind; but the rule, as I understand it, says that when the previous question—

Mr. CLEMENS. I rise to a question of order. This debate is out of order, and I object to it.

Mr. STEVENSON. I hope the gentleman from Virginia will not object.

Mr. CLEMENS. I do object.

Mr. GROW. Does the Speaker hold that when a question has been passed upon by the House it cannot be reconsidered?

The SPEAKER. There are some questions which cannot be reconsidered, though a great majority of questions can. The Chair is of opinion that this is one of the questions which cannot be reconsidered, because the rules provide expressly what shall be the event if the main question is not ordered. The reason is this, that the seconding the demand for the previous question cannot, under our rules, be considered a vote. Under the parliamentary law of England, whence most of our rules were derived, it was only necessary that a single person should second the demand. Our rules have changed that, and provide that it shall require a majority, instead of one individual.

Mr. GROW. Then the Chair holds that the vote seconding the previous question cannot be reconsidered?

The SPEAKER. The practice which prevailed at the time the Speaker first became a member of the House, was that when the main question was ordered to be put, and that vote was reconsidered, it operated as a waiver of the second of the previous question, and that was the practice pursued until the beginning of the last Congress.

Mr. COLFAX. I ask that the 56th rule may be read, and I wish to call the Speaker's particular attention to the fact that it does not refer to any particular question. The language is broad and specific.

The Clerk commenced reading the rule, as follows:

"When a majority has been once made"—

The SPEAKER. If the gentleman will read the rule closely, he will find that the word "majority" is a misprint, and that it should be "motion." It is corrected in the text.

The rule was then read, as follows:

"56. When a motion has been once made, and carried in the affirmative or negative, it shall be in order for any member of the majority to move a reconsideration thereof, on the same or succeeding day, and such motion shall take precedence of all other questions, except a motion to adjourn, and shall not be withdrawn after the said succeeding day, without the consent of the House; and thereafter any member may call it up for consideration."

Mr. COLFAX. The change of the word "majority" into "motion" only makes the point stronger, for the 45th rule reads as follows:

"When a question is under debate, no motion shall be received but to adjourn, to lie on the table, for the previous question, to postpone to a day certain, to commit or amend, to postpone indefinitely," &c.

This rule recognizes the seconding the previous question as a motion, and the 56th rule says that when a motion, &c. I therefore submit that the motion to reconsider is in order.

The SPEAKER. Could the gentleman have the yeas and nays taken upon seconding the previous question?

Mr. COLFAX. No, sir.

The SPEAKER. Why not, if it is a motion?

Mr. COLFAX. I am putting questions to the Chair, and not answering questions. [Laughter.]

The SPEAKER. The gentleman from Maryland takes an appeal from the decision of the Chair.

Mr. DAVIS, of Maryland. I would inquire of the Chair whether the appeal at this stage is debatable?

The SPEAKER. It is not.

Mr. HUGHES. A motion has been made to lay the appeal on the table; and I insist that the motion shall be put.

The yeas and nays were ordered.

The question was taken, and decided in the affirmative—yeas 112, nays 81, as follows:

YEAS—Messrs. Adrain, Ahl, Arnold, Atkins, Avery, Barksdale, Bishop, Bocoek, Bowie, Boyce, Branch, Burnett, Burns, Caskie, Chapman, Horace F. Clark, John B. Clark, Clay, Clemens, Cobb, John Cochrane, Cockerill, Corning, Cox, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Haskin, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leidy, Letcher, Maclay, McKibbin, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Millson, Moore, Isaac N. Morris, Pendleton, Peyton, Phelps, Phillips, Powell, Gilman, Reagan, Ruffin, Sandidge, Scales, Scott, Scaring, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Ward, Watkins, White, Whiteley, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcofer—112.

NAYS—Messrs. Abbott, Andrews, Billingshurst, Bingham, Blair, Bliss, Buffinton, Burlingame, Case, Chaffee, Ezra Clark, Clawson, Colfax, Covode, Cragin, Curtis, Davis of Maryland, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Eustis, Farnsworth, Fenton, Foster, Gilman, Gilmer, Gooch, Granger, Grow, Harlan, Hill, Hoard, Horton, Howard, Kilgore, Knapp, Leiter, Lovejoy, Humphrey Marshall, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ready, Ritchie, Robbins, Royce, Rufin, Sandidge, Savage, Scales, Scott, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Ward, White, Whiteley, Winslow, Wortendyke, and John V. Washburne, Israel Washburn, Wilson, and Wood—81.

So the appeal was laid on the table.

Pending the call,

Mr. MORGAN said: Will it be in order to have the reports sent to the Printer, because we propose to remain here until it is printed.

The result being announced as above recorded, The SPEAKER. The gentleman from Kentucky asks that the reports be read.

Mr. MORGAN. I move that the House do now adjourn.

Mr. STANTON called for the yeas and nays. The yeas and nays were ordered.

Mr. DAVIS, of Maryland. I now desire to ask the gentleman from Kentucky—

Mr. BURNETT. I object to any discussion.

Mr. DAVIS, of Maryland. I hope the gentleman will indulge me. I only wish to ask the gentleman from Kentucky if, by unanimous consent, we cannot postpone this matter until Saturday, and—

Mr. BURNETT. Debate is not in order, and I object to discussion.

The question was taken; and it was decided in the negative—yeas 73, nays 104; as follows:

YEAS—Messrs. Abbott, Andrews, Bingham, Blair, Bliss, Burlingame, Case, Ezra Clark, Clawson, Colfax, Covode, Curtis, Davis of Maryland, Davis of Iowa, Dawes, Dean, Dodd, Fenton, Foster, Gilman, Gooch, Grow, Harlan, Hoard, Horton, Howard, Jewett, George W. Jones, Kellogg, Kilgore, Knapp, Jacob M. Kunkel, Leiter, Letcher, Lovejoy, Humphrey Marshall, Mason, Miles, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Nichols, Olin, Palmer, Parker, Potter, Pottle, Ritchie, Robbins, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Talbot, Thayer, Thompson, Tompkins, Tripp, Wade, Walbridge, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Wilson, and Augustus R. Wright—73.

NAYS—Messrs. Adrain, Ahl, Arnold, Atkins, Avery, Barksdale, Bishop, Bocoek, Bowie, Boyce, Branch, Buffinton, Burnett, Burns, Caskie, Chaffee, Chapman, Horace F. Clark, John B. Clark, Clay, Clemens, Cobb, John Cochrane, Cockerill, Comins, Corning, Cox, James Craig, Burton Craige, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Dick, Dowdell, Durfee, Edmundson, Elliott, Faulkner, Florence, Foley, Garnett, Gartrell, Goode, Granger, Gregg, Lawrence W. Hall, Hawkins, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, J. Glancy Jones, Owen Jones, Keitt, Kelly, John C. Kunkel, Landy, Lawrence, Leidy, McKibbin, McQueen, Samuel S. Marshall, Matteson, Maynard, Millson, Moore, Mott, Pendleton, Pettit, Peyton, Phelps, Phillips, Pike, Purviance, Quitman, Ready, Reagan, Roberts, Ruffin, Sandidge, Savage, Scales, Scott, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Ward, White, Whiteley, Winslow, Wortendyke, and John V. Wright—104.

So the House refused to adjourn.

Pending the call, Mr. LETCHER said: As it has been announced upon the other side of the House that no vote can be taken to-day, I vote "ay."

Mr. GROW. That is so, unless the reports be printed.

Mr. TALBOT. Satisfied that we cannot do anything to-day, I vote in the affirmative.

Mr. SHERMAN, of Ohio. I generally vote against adjournment, but I will vote in the affirmative now.

The vote was then announced, as above recorded.

Mr. DAVIS, of Maryland. I desire, in all good faith, to renew my proposition to the gentleman from Kentucky. It is quite apparent that we are not likely to get to a vote this evening; it is possible we may not get one to-morrow; and I ask that, by unanimous consent, we postpone it until Saturday, ["No!" "No!"] and that the vote be then taken; and, in the mean time, the report be printed, in order that gentlemen may know what the report is.

Mr. GROW. Was there any objection to postponing till Saturday?

The SPEAKER. The Chair heard objections on the right.

Mr. GROW. Then I move to lay the whole subject on the table.

Mr. WASHBURN, of Illinois. On that I call for the yeas and nays.

Mr. WASHBURN, of Maine. I move that when the House adjourns to-day, it adjourn to meet on Saturday; and on that I call for the yeas and nays.

Mr. MORGAN. I ask to be excused from voting on that motion.

Mr. MARSHALL, of Kentucky. It is perfectly palpable that we will do nothing to-day; I therefore move that the House do now (half past three, p. m.) adjourn.

Mr. HOARD. On that I call for the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. The Chair doubts whether it is competent to entertain the motion of the gentleman from New York [Mr. MORGAN] to be excused from voting on a proposition to adjourn over. The gentleman will perceive that if that motion were made by every gentleman on the floor, the House would put itself in a position that it never could adjourn, inasmuch as a motion to adjourn over takes precedence of a motion to adjourn.

Mr. SHERMAN, of Ohio. The same question was raised at our famous night session, and I then called the attention of the Chair to the difficulty of cumulating these motions on each other; but the Chair decided that they were in order.

The SPEAKER. The statement of the gentleman from Ohio is doubtless correct. The Chair is of opinion that if he decided so then he decided wrong. If the gentleman from New York desires to be excused from voting, he can just as well be excused on the motion to lay on the table.

Mr. SHERMAN, of Ohio. As the House has already decided that question once, I appeal from the decision of the Chair.

Mr. WASHBURN, of Maine. I ask to be excused from voting on that appeal; and on that I call for the yeas and nays.

Mr. MORGAN. I also ask to be excused from voting on that question; and ask the yeas and nays.

The SPEAKER. The question is on the motion to adjourn.

Mr. LETCHER. What became of the motion to adjourn over?

The SPEAKER. The Chair is holding it in abeyance. [Laughter.]

Mr. LETCHER. How can it ever come back if the House decide to adjourn?

Mr. WASHBURN, of Maine. Does not the motion to adjourn over take precedence of the motion to adjourn?

The SPEAKER. Ordinarily it does.

The question was taken; and it was decided in the affirmative—yeas 87, nays 77; as follows:

YEAS—Messrs. Abbott, Andrews, Bingham, Bliss, Burlingame, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Clemens, John Cochrane, Colfax, Comins, Cragin, Curtis, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Eustis, Fenton, Foster, Gilman, Gooch, Goode, Granger, Grow, Harlan, Hatch, Hawkins, Horton, Howard, George W. Jones, Kilgore, Knapp, Jacob M. Kunkel, Leidy, Leiter, Letcher, Love-

joy, Maclay, McKibbin, Humphrey Marshall, Matteson, Millson, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Murray, Nichols, Olin, Palmer, Parker, Potter, Pottle, Reagan, Ricard, Ritchie, Robbins, Royce, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, Singleton, William Smith, Spinner, Stanton, William Stewart, Talbot, Thayer, Thompson, Tompkins, Trippe, Wade, Walbridge, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, and Augustus R. Wright—87.

NAYS—Messrs. Ahl, Arnold, Atkins, Avery, Bocoek, Bowie, Boyce, Bryan, Buffinton, Burnett, Burns, Caskie, Chapman, John B. Clark, Clay, Corning, Cox, James Craig, Burton, Davis, Crawford, Curry, Davidson, Davis of Indiana, Craig of Mississippi, Dowdell, Durfee, Edmundson, Elliott, Florence, Foley, Garnett, Gartrell, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Haskin, Hopkins, Houston, Hughes, Jackson, Jenkins, Jewett, J. Glancy Jones, Owen Jones, Kelly, Lamar, Landy, Lawrence, McQueen, Samuel S. Marshall, Miles, Miller, Isaac N. Morris, Pendleton, Phelps, Phillips, Pike, Purviance, Ready, Roberts, Ruffin, Savage, Seales, Scott, Shorter, Robert Smith, Stephens, Stevenson, James A. Stewart, George Taylor, White, Whiteley, Woodson, Wortendyke, John V. Wright, and Zollicoffer—77.

So the motion was agreed to.

Pending the vote,

Mr. BLAIR stated that he had paired off with Mr. PEYTON.

Mr. COMINS. If the House refuse to adjourn, what will be the pending question?

Mr. PHILLIPS. I object to debate.

Mr. COMINS. How am I to tell how to vote?

Mr. PHILLIPS. Find out.

Mr. COMINS. I vote "no."

Mr. COVODE stated that he had paired off with Mr. BRANCH till six o'clock.

Mr. COMINS. Having ascertained that if the House refuse to adjourn, the pending question will be to excuse the gentleman from New York [Mr. MORGAN] from voting on the motion of the gentleman from Maine, [Mr. WASHBURN,] that he be excused from voting on the appeal made by the gentleman from Ohio from a decision of the Chair, which decision is contrary to several former decisions under similar circumstances, I vote "ay."

Mr. SMITH, of Virginia. If the House adjourn now, what will be the business in order to-morrow?

The SPEAKER. This matter will come up first.

Mr. SMITH, of Virginia. Are the private bills to be superseded by this?

The SPEAKER. This is a question of privilege.

Mr. SMITH, of Virginia. I vote "ay."

Mr. HARRIS, of Illinois. I propose, before the vote is announced, that by the unanimous consent of the House, the reports be ordered to be printed.

Mr. GROW. And go over till Saturday.

Mr. STEPHENS, of Georgia. Oh, no.

Mr. PHILLIPS. I would like to know whether that is with the understanding as to the time at which the votes are to be taken?

Mr. STEPHENS, of Georgia. Not at all.

Mr. PHILLIPS. I object.

The SPEAKER. The Chair thinks the objection comes too late.

And then (at ten minutes to four o'clock, p. m.) the House adjourned.

IN SENATE.

FRIDAY, May 21, 1858.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, information in relation to the alteration of arms of the United States now on hand into breech-loading arms; which was referred to the Committee on Military Affairs and Militia.

He also laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate, the report of Lieutenant T. A. Craven, of the Navy, of his exploration as to the practicability of inter-oceanic communication from the Gulf of Darien to the Pacific ocean, by the Atrato and Truando rivers; which, on motion of Mr. MALLORY, was ordered to lie on the table; and a motion by him, to print the report, and that two thousand additional copies be printed for the use of the Senate, was referred to the Committee on Printing.

He also laid before the Senate a report of the

Secretary of the Treasury, communicating, in compliance with a resolution of the Senate, information in relation to the present condition of the new custom-house at New Orleans; which, on motion of Mr. SLIDELL, was referred to the Committee on Commerce.

MILITARY COMMITTEE.

Mr. IVERSON was, on his motion, excused from further service on the Committee on Military Affairs and Militia, and Mr. HAYNE was appointed to supply the vacancy.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented a petition of citizens of Taylor county, Iowa, praying the enactment of a law for the relief of settlers who may suffer by the closing of the land offices in that State to enable the railroad company to make their surveys and selections; which was referred to the Committee on Public Lands.

He also presented papers in relation to the claim of James Collier, late collector of the customs in Upper California, to certain money due him under a decision of the Supreme Court of the United States; which were referred to the Committee on Finance.

Mr. BROWN presented the petition of John H. Newell, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. GREEN presented a petition of citizens of Warsaw, Illinois, remonstrating against a diversion of the lands appropriated for the improvement of the Des Moines river from that purpose; which was referred to the Committee on Public Lands.

Mr. CAMERON presented a memorial of members of the board of marine surveyors of Philadelphia, praying the construction of a breakwater on Crow shoal in the Delaware bay; which was referred to the Committee on Commerce.

Mr. RICE presented papers relative to the claim of Eugene Burnand, to compensation for translations made for the Legislative Assembly of Minnesota; which were referred to the Committee on Finance.

He also presented papers in relation to the claim of John N. Dodgson, to indemnity for Indian depredations; which were referred to the Committee on Indian Affairs.

He also presented papers in relation to the claim of Alexander Wood and George M. Wood, to indemnity for Indian depredations; which were referred to the Committee on Indian Affairs.

He also presented papers in relation to the claim of Adam P. Shagley, to indemnity for Indian depredations; which were referred to the Committee on Indian Affairs.

He also presented papers in relation to the claim of Alexander Wood, administrator of the estate of Josiah W. Stuart, to indemnity for Indian depredations; which were referred to the Committee on Indian Affairs.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BRODERICK, it was

Ordered, That the petition of Charles Kohler, on the files of the Senate, be referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. MASON, from the Committee on Foreign Relations, to whom was referred the memorial of Samuel Bromberg, submitted an adverse report; which was ordered to be printed.

Mr. BAYARD, from the Committee on the Judiciary, to whom were referred a presentment of the grand jury of the United States for the district of South Carolina, at Charleston, relative to a new court-house and the maintenance of prisoners at that place; a presentment of the grand jury of the United States district court at Greenville, South Carolina, recommending an appropriation for a new court-house, and the appointment of commissioners at suitable points within the jurisdiction of that court; a memorial of members of the bar of the northern district of Florida, praying that the salary of the United States judge of that district be made the same as that of the United States judge of the southern district; a presentment of the grand jury of the United States for the northern district of Florida relative to the necessity of a building for the accommodation of the United States courts in that district; and a resolution of the Legislature of Texas in favor of the erection of buildings for post offices and the use of the United States courts in that State, and

also the establishment of another judicial district therein; reported adversely thereon.

He also, from the same committee, to whom was referred a resolution of the Legislature of Missouri, relative to a building for the United States courts and post office at Jefferson City, in that State, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 17) to divide the State of Indiana into two judicial districts and to provide for holding the circuit and district courts of the United States therein, reported it without amendment, and that it ought not to pass.

He also, from the same committee, to whom was referred the bill (S. No. 21) to divide the State of Iowa into two judicial districts, reported it without amendment, and that it ought not to pass.

He also, from the same committee, to whom was referred the bill (S. No. 311) to supply vacancies in certain offices, reported it with an amendment.

Mr. CLAY, from the Committee on Pensions, to whom was referred the bill (H. R. No. 222) for the relief of Elizabeth E. V. Fields, reported that the committee be discharged from its further consideration, the case being covered by the general bill passed yesterday.

He also, from the same committee, to whom was referred the bill (H. R. No. 261) for the relief of Leonard Loomis, reported it without amendment.

Mr. FOSTER, from the Committee on Public Lands, to whom were referred the following bills, reported them without amendment:

A bill (H. R. No. 426) for the relief of Monroe D. Downs;

A bill (H. R. No. 577) for the relief of Rebecca M. Bowden, of Prince George county, Virginia; and

A bill (H. R. No. 578) for the relief of Isaac Drew and other settlers upon the public lands in the State of Wisconsin.

Mr. BIGLER, from the Committee on Commerce, to whom was referred the memorial of Noah Miller, submitted an adverse report; which was ordered to be printed.

Mr. MALLORY, from the Committee on Claims, to whom was referred a bill from the Court of Claims for the relief of Richard Fitzpatrick, communicated to the Senate the 14th of May, with the opinion of the court in favor of the claim, reported the bill (S. No. 193) for the relief of Richard Fitzpatrick; which was read, and passed to a second reading.

Mr. JONES, from the Committee on Pensions, to whom was referred the bill (S. No. 383) for the relief of Myra Clark Gaines, reported it without amendment.

He also, from the same committee, to whom was referred the memorial of William Flemming, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

Mr. IVERSON, from the Committee on Claims, to whom was referred the bill (H. R. No. 332) for the relief of Richard B. Alexander, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and Militia; which was agreed to.

Mr. KING, from the Committee on Commerce, to whom was referred the bill (H. R. No. 260) for the relief of Isaac Carpenter, reported it without amendment.

Mr. COLLAMER, from the Committee on Territories, to whom was referred the bill (H. R. No. 256) for the relief of Oliver P. Hovey, reported it without amendment.

Mr. YULEE, from the Committee on Patents and the Patent Office, to whom was referred the petition of Edson Fessenden, submitted a report, accompanied by a bill (S. No. 394) for the relief of Edson Fessenden, conservator of William Compton. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. DIXON. The bill just reported by the Senator from Florida is of a peculiar character, and I should be very glad indeed to obtain the unanimous consent of the Senate to put it upon its passage now. I think, if the Senate understood the circumstances, there would be no objection to it. It would have been reported by the late Senator

from South Carolina, (Mr. Evans,) if he had lived, and he made it an exception to his very great objection to any extension of patents. I hope there will be no objection to putting the bill on its passage.

Mr. KING. Is there a report in that case?

The VICE PRESIDENT. Yes, sir; a report which has been ordered to be printed.

Mr. KING. I think we had better wait until we can look into it.

The VICE PRESIDENT. Objection being made, the bill cannot be considered to-day.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker had signed the enrolled bill entitled "An act to create a land district in the Territory of New Mexico;" and it was signed by the Vice President.

BILLS INTRODUCED.

Mr. SEWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 391) authorizing the removal of the offices belonging to the United States, and occupied in the collection of the revenue in connection with the quarantine station in the port of New York; which was read twice by its title, and referred to the Committee on Finance.

Mr. GREEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 379) to pay the Oregon and Washington war claims; which was read twice by its title, and referred to the Committee on Military Affairs and Militia.

Mr. BRIGHT, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 392) to continue the land office at Vincennes, Indiana; which was read twice by its title, and referred to the Committee on Public Lands.

TEMPORARY CLERKS.

Mr. SEWARD submitted the following resolution for consideration:

Resolved, That the Secretary of the Senate of the United States be and he is hereby authorized to allow and pay to the temporary clerks employed in his office, the same rate of compensation as is paid to the clerks of the committees of the Senate.

AGRICULTURAL REPORT.

Mr. WILSON submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That sixty thousand extra copies of the report of the Commissioner of Patents on agriculture, be printed for the use of the Senate.

BREECH-LOADING CANNON.

Mr. FOOT submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and Militia be instructed to inquire into the expediency of providing by law for an appropriation for testing Barrow's improved revolving breech-loading cannon.

SERVICE OF PROCESS.

Mr. SEBASTIAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of a law authorizing the marshal of the western district of Arkansas to employ assistants and guards, in serving process in the Indian country.

POST ROUTES IN MINNESOTA.

Mr. RICE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing the following post routes in the State of Minnesota: from Owatonna, in Steele county, via Clear Lake and Joseo, to Mankato, in Blue Earth county; from Austin, in Mercer county, via Geneva, Berlin, Otisco, Wilton, and Joseo, to St. Peters, in Nicollet county; from Austin to Blue Earth City; from Minneapolis, via Watertown and Winslow, to Breckinridge, from Mount Vernon to White Water Falls; from Faribault, via Swavery and Joseo, to Mankato; from Clear Lake, in Sherburne county, via Fairhaven and Kingston, to Forest City; from Geneva, in Freeborn county, via Freeborn City, in Faribault county; from Shakopee to Buffalo and Monticello; from Swan River to Long Baine; from Elliott to Blue Earth City; from Blue Earth City to Fort Dodge, in Iowa; from New Ulm, via Tuttle's Farm, to Leavenworth; from Wabashaw, via Dodge City, to Medford; from Princeton, via Granite City, to Crow Wing; from Little Falls, via Granite City, Hanover, and Sterling, to Fortuna; from Little Falls, via Brothertown, to Sunrise City; from Warah, in Benton county, to St. Joseph, in Stearns county; from St. Cloud, via Brottenburg and Brunswick, to Fortuna; from Faribault, in Rice county, to Wil-

ton, in Waseca county; from Gray Eagle, via Pine Creek, to Ridgway; from Rochester, via Salem, Ashland, and Somerset, to Wilton; from Fort Dodge, in Iowa, via Emmett City, thence to Odessa, in Minnesota, thence, via Ceresco, Crystal Lake City, to Mankato; from Long Prairie to Little Falls; from Columbus to Cambridge; and from Clear Spring, via Clear Water, to Forest City.

HOUSE COMMITTEE STENOGRAPHERS.

Mr. PEARCE. I have been directed by the Committee on Finance, to whom was referred the House joint resolution (No. 30) paying the compensation of stenographers employed by committees of the House of Representatives, to report it back without amendment, and recommend its passage. As these stenographers have accomplished their work, and are about to leave the city, it is very desirable that the House of Representatives should be enabled to pay them at once. I ask for the present consideration of the joint resolution.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which directs the Secretary of the Treasury to pay the compensation of stenographers allowed by committees of the House of Representatives, as audited under the direction of the House.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

POSTMASTERS' QUARTERLY RETURNS.

Mr. YULEE. The Committee on the Post Office and Post Roads, to whom was referred the bill from the House of Representatives (No. 207) to prevent the inconvenient accumulation in the Post Office Department of postmasters' quarterly returns, have directed me to report the bill, with a recommendation that it be passed; and I am instructed to move that it be put on its passage now.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

It provides that the Postmaster General may, from time to time, in his discretion, dispose of any quarterly returns of mails sent or received, preserving the accounts current and all vouchers accompanying such accounts, and use such portions of the proceeds as may be necessary to defray the cost of separating and disposing of the same; with a proviso that the accounts shall be preserved entire at least two years.

Mr. KING. I will inquire of the chairman of that committee in what way he supposes these returns are to be disposed of?

Mr. YULEE. I suppose either by sale or destruction; probably by sale.

Mr. KING. I think they had better be destroyed rather than have them scattered about.

Mr. YULEE. They are of no possible value to any one. The accounts have all become obsolete; and it is stated by the Auditor that the accumulation now occupies eighteen rooms full, and they have no other place in which to put them without throwing the fuel for the Department out of doors. There was a former act on the subject.

Mr. COLLAMER. In 1854 there was a similar act, only not taking effect in the future, but disposing of those which had accumulated up to that time. I would inquire whether those rooms are filled with returns which have accumulated since that time?

Mr. YULEE. Yes, sir; since that time.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PRIVATE CALENDAR.

Mr. MASON. There was a resolution offered by the Senator from Louisiana [Mr. BENJAMIN] a few days ago, requesting the Court of Claims to return the papers in the case of Alexander J. Atocha. I ask that it may be taken up.

Mr. IVERSON. This is the day set apart by resolution for the consideration of the Private Calendar. I have no objection to allowing reports and petitions to come in, but I must object to anything being taken up out of its order, and to the introduction of any resolution that will give rise to debate.

The VICE PRESIDENT. If the morning business be through with, the Private Calendar must be taken up.

Mr. HALE. I must make one appeal to the

Senate. I hold in my hand a bill for the relief of Major Kendrick, and I will occupy about three minutes in stating what it is. I ask the Senate to take it up. Major Kendrick was an officer of the Mexican war—

Mr. COLLAMER. I rise to a question of order. I understood the Chair to decide that nothing but the Private Calendar was in order.

The VICE PRESIDENT. The Chair decided that it was his duty to call the attention of the Senate to the fact that this day has been set apart for the Private Calendar. The Senate, however, can do anything by unanimous consent. If the Senator from Vermont objects to the Senator from New Hampshire going on, he is not in order.

Mr. IVERSON. If the Senator from Vermont does not object, I must feel it my duty to object.

Mr. HALE. I move to postpone the prior orders for the purpose of taking up that bill, if that motion is in order.

The VICE PRESIDENT. It is.

Mr. HALE. If the Senate will give me their attention for a minute I think they will agree to this motion. In 1848, when our Army was leaving Mexico, Major Kendrick had charge of a train, and while it was in his charge one of the wagons of specie was robbed of \$1,296. The accounting officers say they are satisfied it was robbed without any negligence or any default on his part, of any sort whatever; but still they cannot help charging it to him. That is the report of the Comptroller, which has been transmitted to Congress, and it is now ten years ago since the transaction occurred. The Military Committee of the House of Representatives and of the Senate have unanimously reported that he ought to be relieved. This faithful officer stands charged with money of which he was robbed, without any carelessness, without any fault of his. The House have passed the bill, and the Committee on Military Affairs of the Senate unanimously recommend its passage. If it be put at the end of the Calendar, it will never be reached. I move that the prior orders be postponed for the purpose of taking it up.

Mr. FESSENDEN. There are several cases, one case at least that I have reported, and one or two others that I have charge of, which are quite as pressing as that, and which have been on the Calendar for some time. That bill was only reported yesterday. I object to taking it up out of order.

Mr. POLK. I wish to state that there are several other cases on the Calendar, which are, I have no doubt, as meritorious, and the circumstances of which are almost exactly the same as those of the case pressed by the Senator from New Hampshire.

Mr. IVERSON. I trust that the motion of the Senator from New Hampshire will not be sustained by the Senate.

Mr. HALE. I withdraw it.

Mr. IVERSON. We had better go on with the Private Calendar, in regular order.

The VICE PRESIDENT. Yesterday, the Private Calendar was progressed with by calling those cases that did not lead to debate. If it is the pleasure of the Senate, the Chair will continue the call of those bills that do not lead to debate.

Mr. IVERSON. The rule is to take up the Calendar in its order. The course pursued yesterday was merely a temporary departure.

Mr. FESSENDEN. I hope the cases not objected to will be gone through with. It will take but a little time to dispose of them.

Mr. IVERSON. I will state why I object to that. This is the only day, probably, that the Senate will give to the consideration of the Private Calendar if we adjourn on the 7th of June; and it is proper that the cases should be taken up in their order. We can in the morning hour, hereafter, take up those cases which are not objected to.

Mr. FESSENDEN. It will take but a short time to go through with those cases that are not objected to, and we may do good to persons whose cases will not otherwise be reached.

Mr. IVERSON. It will take the whole day.

Mr. FESSENDEN. Not at all.

Mr. IVERSON. I yield to what seems to be the disposition of the Senate.

The VICE PRESIDENT. The calling of the Calendar will be commenced at the point we left off yesterday morning, and only those bills will

be considered which are not objected to or do not give rise to debate.

CHARLES PORTERFIELD.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 203) for the relief of the legal representatives of Charles Porterfield, deceased.

It proposes to require the Secretary of the Interior to issue to William Kinney and Thomas J. Michie, executors of the last will and testament of Robert Porterfield, deceased, a number of warrants, equal to six thousand one hundred and thirty-three acres of land, according to the usual subdivisions of the public surveys, in quantity not less than forty acres; to be by them located on any of the public lands which have been or may be surveyed, and which have not been otherwise appropriated at the time of such location, within any of the States or Territories of the United States, where the minimum price shall not exceed the sum of \$1 25 per acre, to be appropriated according to the directions contained in the last will and testament of Robert Porterfield, in the same manner and for the purposes directed in regard to the lands which were lost by the legal representatives in the action with Clark and others, as decided by the Supreme Court of the United States.

Mr. STUART. My recollection is, that an amendment was proposed to that bill the other day.

The VICE PRESIDENT. An amendment was proposed and agreed to. The amendment was in line ten, after the words "public lands" to insert "subject to private entry at \$1 25 an acre."

Mr. STUART. I think I ought to say to the Senate a word or two in regard to the bill, as I understand it. I have had a good deal of conversation with gentlemen who are interested in it, and I understand that, by the existing law, the persons interested in this case can enter now, without further legislation, any land which is subject to private entry, so that the passage of the bill in its present shape would not change their rights at all. They wanted authority to locate upon any of the Government land, so that they might go in advance of the settlements, and take their choice—

Mr. IVERSON. I rise to a point of order. The order of the Senate is, that we shall proceed with the consideration of bills that do not give rise to debate. If this is to be debated, I object to its consideration.

Mr. STUART. I beg pardon of the Senate. I was out at the time, and did not know of the order of the Senate. I am not disposed to debate the bill. I am only stating that, as the bill stands, I have no objection to it; but it does not amount to anything.

The VICE PRESIDENT. If the bill is objected to, it must lie over.

Mr. STUART. I have no objection to the bill in its present shape.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading; read the third time, and passed.

SUSANNAH HAYNE PINCKNEY.

The next bill on the Calendar was the bill (S. No. 205) for the relief of Susannah Hayne Pinckney, sole heir of Captain Richard Shubrick.

Mr. FESSENDEN. I believe that is the same bill that was fully discussed here before. I object to it.

The bill was passed over.

JOHN HASTINGS.

The next bill on the Calendar was the bill (S. No. 207) for the relief of John Hastings, collector of the port of Pittsburgh.

Mr. CAMERON. That bill will require discussion. I shall have something to say on it.

The bill was passed over.

JOSEPH C. G. KENNEDY.

The next bill on the Calendar was the bill (S. No. 209) for the relief of Joseph C. G. Kennedy.

Mr. STUART. I object to that bill; and if the next one is, as I remember it, of a kindred character, I object to that also.

The VICE PRESIDENT. The Chair will state to the Senator from Michigan that the next

bill relates to his compensation as secretary of the census board.

Mr. STUART. Then I do not care about that.

The bill (S. No. 212) for the relief of Joseph C. G. Kennedy, was read a second time, and considered as in Committee of the Whole.

It will be a direction to the accounting officers, in the settlement of the accounts of J. C. G. Kennedy, late secretary of the census board, and superintending clerk of the census, to allow him at the rate of \$3,000 per annum, in full compensation for all services rendered by him in either or both capacities.

Mr. KING. Is there a report in that case? If there is, I should like to hear it read.

Mr. SIMMONS. I will say to the Senator from New York that this bill makes no appropriation of money. It is merely for the settlement of his accounts.

The Secretary read the following report, made by Mr. SIMMONS on the 24th of March:

The Committee on Claims, to whom was referred the memorial of Joseph C. G. Kennedy, in relation to his compensation as superintending clerk of the census, report:

This claim was fully examined by the Senate Committee on Claims of the last Congress, and upon a review of the case this committee concur in the report then made, which is hereto annexed as a part of this report:

"In the Senate of the United States, January 29, 1857.

Mr. Geyer made the following report, (to accompany bill S. 510.)

"The Committee on Claims, to whom was referred the memorial of Joseph C. G. Kennedy, report:

"The census board was constituted by act of 3d March, 1849, with the power to appoint a secretary, but without fixing his compensation. (9 Statute, 403.) Mr. Kennedy was appointed secretary. The twentieth section of the act of May 23, 1850, authorized the allowance to the secretary of the census board of a salary of \$3,000 per annum 'during the period he has been in their employ.' (9 Statute, 432.) The nineteenth section of the same act provided for the appointment of a superintending clerk of the census at a salary of \$2,500 per annum. This appointment was also conferred upon Mr. Kennedy, and accepted by him. But as the census board was not dissolved, and as he still continued to act as its secretary, he continued to claim the salary of \$3,000, which the Comptroller of the Treasury refused to allow, on the ground that the office of secretary to the census board was superseded by that of superintending clerk of the census.

"In order to settle the question thus raised, the Secretary of the Interior addressed a communication to the census board, inquiring whether they regarded their labors as ended and their secretary discharged from his duties; to which the board responded that they did not consider the census board as dissolved, or Mr. Kennedy, its secretary, discharged from duty. This correspondence occurred in September, 1851, and would seem to show that Mr. Kennedy was still performing the duties of secretary of the census board, for at least sixteen months after his entering upon the duties of superintending clerk, and according to usage was entitled to the higher salary applicable to either of the two offices which he filled.

"But in consequence of the continued objection of the Comptroller, the Secretary of the Interior, in March, 1852, addressed a note to the chairman of the Senate Committee on the Judiciary, suggesting the introduction of a clause into the supplementary census bill, then pending, fixing the salary, for the performance of both duties, at \$3,000.

"With a view, it is presumed, of accomplishing the object desired by the Secretary, a clause was introduced into the supplementary bill 'that the twentieth section of the said act [of 23d May, 1850] be amended by striking out the words 'has been' from the last line, and inserting the words 'may necessarily be' in lieu thereof.' It will be perceived that the effect of this amendment was to provide for the payment of the salary of \$3,000 to the secretary of the census board during the time he may necessarily be in their employ, instead of during the time he has been in their employ, as provided in the original act.

"At the commencement of the next session of Congress, it was represented to the chairman of the Judiciary Committee of the Senate that the above amendment of the act of 1850 might enable the memorialist to claim and receive the two salaries of secretary of the census board and of superintending clerk, amounting to \$5,500 per annum. This led to the adoption of the joint resolution of 23d December, 1852, which had the effect not only to repeal the above amendment to the act of 1850, but to provide that the act should 'be so construed that no allowance as compensation be made to any person for constructive or any other service rendered as secretary to the census board, after the 1st day of June, 1850.'—10 Statutes, 280.

"In reference to this resolution, Mr. Downs stated in the Senate that Mr. Kennedy was 'claiming nothing more than the salary of \$3,000, to which he is entitled, and to which he was entitled.' (Congressional Globe, vol. 24, part 3, p. 2226.) And Mr. Meade, of Virginia, in the House of Representatives, said: 'As well as I can recollect, there was an error committed, by which the superintending clerk of the census might, by the strict letter of that bill, draw his pay both as clerk of the census board and superintending clerk of the census. When the Senate became aware of this mistake, they sent down to us this joint resolution for its correction. It gives the superintending clerk the choice of being paid as clerk of the census board or superintending clerk of the census.

"The construction given to the joint resolution by the accounting officers of the Treasury is, that it limits the compensation of the memorialist, for all duties performed by him in either or both capacities, to \$2,500 per annum from the 1st of June, 1850; and as he had already been paid at the rate of \$3,000 per annum, up to the time of the passage of

the joint resolution, (December, 1852) he has been officially called upon to refund to the Treasury the \$500 per annum received over that sum. By the act of 22d of April, 1854, after the memorialist had left the office, the salary was definitely fixed at \$3,000 a year.—10 Statutes, 276.

"In view of all the circumstances, the committee are of opinion that the sum ultimately fixed upon as a proper compensation for the duties of the office, namely, \$3,000 a year, is a reasonable one, and that the memorialist is fairly and equitably entitled to that rate of compensation; and they report a bill accordingly."

The committee report the accompanying bill, and recommend its passage.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ROBERT DICKSON.

The next bill on the Calendar was the bill (S. No. 23) for the relief of Robert Dickson, of the Kentucky volunteers, which had been reported adversely upon by the Committee on Pensions.

Mr. KING. Let it lie over.

The bill was passed over.

AROOSTOOK WAR EXPENSES.

Mr. POLK. I ask whether the bill next preceding the one just acted on is not considered a private bill? It is a bill authorizing the payment to the State of Maine of certain expenses incurred in the Aroostook war. It is a private bill; and it has been passed over.

The VICE PRESIDENT. The Chair passed it over, not considering it a private bill.

Mr. FESSENDEN. Bills of that kind have been decided to be private bills.

The VICE PRESIDENT. In this body?

Mr. FESSENDEN. Yes, sir; there is no question about it.

The VICE PRESIDENT. The Secretary will read the bill.

The bill (S. No. 216) authorizing the payment to the State of Maine of certain expenses agreed to be refunded to her by the fifth article of the treaty between the United States of America and her Britannic Majesty, dated the 9th day of August, A. D. 1842, was read a second time, and considered as in Committee of the Whole.

It proposes to include among the expenditures of Maine in defending the territory heretofore in dispute with Great Britain, the amounts paid in borrowing money for those expenditures beyond the rate of six per centum per annum, whether in the form of discounts or otherwise, in all cases in which the principal of such expenditures, and interest upon them at the rate of six per centum, have heretofore been refunded to the State by the United States. In making this ascertainment the accounting officers are to compute the principal and interest of the difference between the cash received by Maine in negotiating stocks and notes, and the nominal amount of such stocks and notes and the interest accrued thereon; and in cases where Maine was obliged, in negotiating for moneys, to increase the rate of interest on previous loans, the amount of such interest is to be computed and allowed, but not so as to reckon interest upon interest.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MARTIN LAYMAN.

The bill (S. No. 235) for the relief of Martin Layman was read a second time, and considered as in Committee of the Whole.

It proposes to authorize Martin Layman to enter the southwest quarter of section thirty-six, township twenty-nine north, range twenty-four west, in the Minneapolis land district, Minnesota Territory, upon payment of the usual minimum of \$1 25 per acre, and to allow the superintending of public schools in the Territory of Minnesota to select an equal amount of other lands in the Territory for the use of public schools in lieu of the lands granted by the bill.

Mr. STUART. It will be necessary to amend that bill by inserting the word "State" for "Territory."

The amendment was agreed to.

The bill was reported to the Senate as amended; and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

HARRIS AND BUTTERWORTH.

The next bill on the Calendar was the bill (S.

No. 237) for the relief of Arnold Harris and Samuel F. Butterworth.

Mr. IVERSON. I object to the consideration of that bill. It is releasing sureties. I think it is a very bad principle to do it under any circumstances, unless the case is very strong.

The bill was passed over.

CAPTAIN ALEXANDER ROSE.

The next bill on the Calendar was the bill (S. No. 243) for the relief of the heirs of Captain Alexander Rose.

Mr. FESSENDEN. Let that lie over.

The bill was passed over.

ASHBURTON TREATY.

The VICE PRESIDENT. The following bill the Chair supposes to be a private bill; but he has not had time to examine it. It is the bill (S. No. 250) to provide for quieting certain land titles in the late disputed territory in the State of Maine, and for other purposes.

Mr. GREEN. Let that lie over.

The bill was passed over.

CHARLES M'CORMICK.

The bill (S. No. 252) for the relief of Charles McCormick, assistant surgeon in the United States Army, was read the second time, and considered as in Committee of the Whole.

It provides for the allowance to Charles McCormick, assistant surgeon in the United States Army, of a commission of two and a half per centum upon the moneys disbursed by him at New Orleans, under the first section of the act of Congress approved March 2, 1847, "providing for the comfort of discharged soldiers who may be landed in New Orleans, or other places within the United States, so disabled by disease or wounds, received in the service, as to be unable to proceed to their homes, and for forwarding destitute soldiers to their homes;" but the allowance is not to exceed \$1,000 in any one year, and is to be in full compensation for all extra services rendered, expenses incurred, and losses sustained by him in executing the law.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

TOWNSEND HARRIS.

The bill (S. No. 254) for the relief of Townsend Harris was read the second time.

It provides for the payment to Townsend Harris, for his services and expenses in negotiating a treaty of commerce between the kingdom of Siam and the United States, of the sum of \$10,000, to be paid to him or to his authorized attorney.

Mr. PUGH. I object to that bill. It appropriates a large sum of money.

Mr. SEWARD. Will the honorable Senator allow me to offer an amendment to that bill?

Mr. PUGH. I have no objection to the amendment being received.

Mr. SEWARD. The amendment is, in line eight, to strike out the words "his authorized attorney," and insert "any attorney of said Harris, under any power of attorney executed by him, whether before or after the passage of this act."

Mr. PUGH. Let it lie over.

The bill was passed over.

Mr. PUGH subsequently said: I desire to withdraw the objection I made to the bill (S. No. 254) for the relief of Townsend Harris. After reading the report, I have no objection to the bill.

The Senate, as in Committee of the Whole, resumed the consideration of the bill.

The amendment offered by Mr. SEWARD, to strike out the words "his attorney," and insert "any attorney of said Harris, under any power of attorney executed by him, whether before or after the passage of this act," was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

DE BONNE AND DE REPENTIGNY.

The bill (S. No. 259) authorizing the courts to adjudicate the claim of the legal representatives of the Sieur De Bonne and Chevalier De Repentigny, to certain land at the Sault Ste. Marie, in the State of Michigan, was read a second time, and considered as in Committee of the Whole.

It proposes to authorize the legal representatives of the Sieur De Bonne, and of the Chevalier De Repentigny, to present their petition to the United States district court for the district of Michigan, setting forth the nature of their claim to certain land at the Sault Ste. Marie, under an alleged grant in 1750, from the Governor and Lieutenant-General, and from the Intendant General of New France, now Canada, with evidence in support of their claim, stating the names of all persons claiming adversely, and praying that the validity of the title may be inquired into and decided under the laws of nations, the laws, usages, and customs of the country from which the same was derived, and the treaties and laws of the United States. The court is to examine the case; and, in adjudicating the question of the validity of the title as against the United States, to be governed by the laws of nations, and of the country from which the title was derived, and also by the principles, so far as they are applicable, which are recognized in the act of Congress approved May 26, 1824, "enabling the claimants to lands within the limits of the State of Missouri and Territory of Arkansas to institute proceedings to try the validity of the same;" and the district attorney is to proceed in defense of the interests of the United States in all things as required and directed by the act of May 26, 1824. Suit is, however, to be instituted by the claimants within two years from the passage of the act, and an appeal may be taken either by the claimants or the United States to the Supreme Court of the United States within one year from the date of the rendition of the decree of the district court. In the event of a final decision against the validity of the claim, or of the failure of the claimants to prosecute it within the period specified, the claim is to be held forever barred, both in law and equity; but in the case of a final decree in favor of the validity of the grant, it is not to be construed to affect, or in any way impair, any adverse sales, claims, or other rights which have been recognized by the United States within the limits of the claim, or which, under any law of the United States, may have heretofore been brought to the notice of the land commissioners or of the land officers in Michigan; but for the area of any such adverse claims the legal representatives of De Bonne and De Repentigny are to receive from the Commissioner of the General Land Office warrants authorizing them or their assigns to enter any other lands belonging to the United States, and subject to entry at private sale, at \$1 25 per acre.

Mr. TRUMBULL. I think that bill had better lie over. It seems to me to be a very dangerous principle to pass a special law to promote litigation. The general laws of the country afford opportunities to men to test their rights.

The bill was passed over.

BRIG CALEDONIA.

The next bill on the Calendar was the bill (H. R. No. 218) for the benefit of the captors of the British brig Caledonia, in the war of 1812.

Mr. WRIGHT. Is there a report in that case? I should like to hear it read.

Mr. SLIDELL. I prefer that that bill should be passed over.

The bill was passed over.

WILLIAM CRUICKSHANK AND OTHERS.

The bill (S. No. 260) for the relief of William Cruickshank, J. S. Polack, Calhoun Benham, and Frederick A. Sawyer, of San Francisco, was read a second time and considered as in Committee of the Whole.

It provides that William Cruickshank, J. S. Polack, Calhoun Benham, and Frederick A. Sawyer, assignees of Juan B. Alvarado, may prosecute the appeal taken by Alvarado from the decision of the United States commissioners adverse to his claim for the "Nicasio" tract of land, which appeal was dismissed by the district court of the United States because notice of the intention to prosecute it had not been given in time, and the appeal is to be reinstated and heard, and determined in the same manner in all respects as if it had not been dismissed, and as if the notice had been given in time, and with the same right of appeal by either party to the Supreme Court of the United States as is accorded by law in other land suits in California.

Mr. DOOLITTLE. There seems to be a principle involved in this bill that I do not exactly

understand. After the right of final appeal is gone and there is a vested interest in the land, it is singular that we should be asked to permit a rehearing.

Mr. POLK. There is no contestant for this land.

Mr. DOOLITTLE. The bill was reported by the Senator from Louisiana, [Mr. BENJAMIN.] He is not here.

Mr. PUGH. The Judiciary Committee were satisfied that these parties were misled, and failed to give notice. There is no adverse party but the Government.

Mr. POLK. I understand there is no person contesting the right to the lands.

Mr. PUGH. Their rights would not vest anyhow. It is only against the Government. We are satisfied it is a case where the party was misled, and did not, therefore, give notice of the appeal.

The bill was reported to the Senate without amendment; ordered to be engrossed for a third reading, read the third time, and passed.

Mr. GREEN afterward said: I move to reconsider the vote by which the bill (S. No. 260) was passed. It passed without my attention being called to it. I think the bill very wrong. I move to reconsider.

The VICE PRESIDENT. The motion to reconsider will be entered.

GEORGE W. FLOOD.

The bill (S. No. 266) for the relief of George W. Flood, was read a second time, and considered as in Committee of the Whole.

Its object is to allow to George W. Flood, for his services as clerk in the bureau of topographical engineers, from December 1, 1854, to September 16, 1856, the salary of a clerk of class one, after deducting the amount received by him for services in that office during the same period.

The bill was reported to the Senate without amendment; ordered to be engrossed for a third reading, read the third time, and passed.

G. ALONZO BREAST.

The bill (S. No. 267) for the relief of G. Alonzo Breast was read a second time, and considered as in Committee of the Whole.

Its object is to place him on the list of invalid pensioners, at the rate of six dollars per month, commencing on the 1st of January, 1858, and to continue during his natural life.

The bill was reported to the Senate without amendment; ordered to be engrossed for a third reading, read the third time, and passed.

AARON HAIGHT PALMER.

The bill (S. No. 268) for the relief of Aaron H. Palmer was read a second time, and considered as in Committee of the Whole.

Its purpose is to allow to A. H. Palmer \$3,000, in full compensation for his labor and research in collecting and preparing information for the use of the Government, relative to the Oriental nations, and particularly Japan.

Mr. KING. If there is a report in that case, I ask for its reading.

The Secretary read the report; from which it appears that Mr. Palmer has devoted many years to the collection of valuable information and statistics in relation to the geography, productive resources, trade, commerce, &c., of the independent Oriental nations. In January, 1848, he inclosed, in a letter from New York to President Polk, a memoir, stating the importance of opening commercial intercourse with those nations; and in the following February, by invitation of the Secretary of the Treasury, he visited Washington for the purpose of promoting the action of our Government in furtherance of the views and suggestions contained in the document sent to the President. In consequence of action of the Senate on the papers furnished by him, he was detained in Washington, laboring for the Government in the superintendence of the printing of the papers, until September of that year.

In 1849, he completed a series of papers containing geographical descriptions of many Oriental nations, among them the Empire of Japan, and he forwarded to Mr. Clayton, then Secretary of State, a brief *resumé* of those papers, which Mr. Clayton deemed of sufficient importance to cause them to be published. He afterwards submitted to Mr. Clayton a plan for opening Japan, which

was ultimately adopted, and formed the basis of the policy of our Government in the late maritime expedition under command of Commodore Perry. He had several interviews with that officer before he sailed, and furnished him with all the information possible; and the last one was by special written request of the Secretary of the Navy.

In pursuance of certain resolutions, presented by Mr. HAMLIN, chairman of the Senate Committee on Commerce, and adopted by the Senate on the 21st of February, 1850, calling on the Secretary of State for information respecting the barbarous treatment of shipwrecked American seamen in Japan, also, in regard to the independent Oriental nations, and their capabilities for a profitable American commerce, Mr. Palmer was employed by Mr. Clayton to assist him in preparing his answer to those resolutions, and he was diligently employed for about three months in that business.

Between 1842 and 1853, Mr. Palmer addressed a series of letters, communications, and contributions, including copies of his printed documents, to high functionaries in Japan, having for their object the opening of that empire to American intercourse and commerce, which he has transmitted, from time to time, to Nagasaki, through the only safe and reliable channels of communicating with that secluded and mysterious empire, and it may reasonably be presumed they have had an important influence and agency at that court in preparing the way for the successful result of Commodore Perry's mission.

Mr. Palmer also printed, at different times, two thousand two hundred and fifty copies of his memoirs, at his own expense, for distribution to Senators, members of Congress, and executive officers of the Government; and, at the request of several Senators, he prepared a large outline map to illustrate his memoirs on Siberia, printed by order of the Senate in 1848, and in consequence of the delay at the time in the printing of the Senate documents, he claims compensation for nine months' services, in which he was necessarily detained during that year in the preparation of the map and correcting the proof sheets of the usual, as well as extra, numbers of copies of the memoir ordered by the Senate; and also for four months' services in preparing a report, illustrated by a special chart, for the Secretary of State, under a resolution of the Senate of the 16th January, 1850.

In view of the highly meritorious and valuable services thus rendered by Mr. Palmer, and their important results in preparing the way for opening new marts in the East to our commerce, the Committee on Claims came to the conclusion that he is justly entitled to compensation.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

ANSON DART.

The bill (S. No. 181) for the relief of Anson Dart, was considered as in Committee of the Whole. The Committee on Indian Affairs reported a substitute for the bill, to strike out all after the enacting clause, and insert:

That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed, upon the settlement of the accounts of Anson Dart, late superintendent of Indian affairs of Oregon Territory, heretofore filed as his final accounts, to allow him at the rate of \$3,500 per annum, for salary for the time he served as such, deducting therefrom the amount of salary heretofore allowed him; and further, to allow such just and reasonable expenses incurred for boarding interpreters and pay of an assistant clerk as he may prove to have been necessary; and that the amount for this purpose be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

Mr. SEBASTIAN. There is a verbal amendment necessary in the twelfth line, the effect of which will be to subject the accounts to the examination of the Indian office before going to the accounting officers. The amendment is in line twelve, after the word "prove," to insert, "to the satisfaction of the Commissioner of Indian Affairs."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CHARLES KNAP.

The bill (S. No. 272) for the relief of Charles

Knap, was read a second time, and considered as in Committee of the Whole.

It proposes to authorize the Secretary of the Treasury to make such modifications in the contract now in force with Charles Knap, for furnishing material for the custom-house building at New Orleans, as, in his opinion, the principles of justice may seem to demand; with a proviso that these modifications shall not extend beyond a release of the contractor from furnishing the material for the windows, doors, and stairways of the building, as specified in the contract.

Mr. HOUSTON. Is there any report accompanying the bill?

The VICE PRESIDENT. There is no report.

Mr. BENJAMIN. I will state that the bill comes from the Committee on Commerce, and there is a letter from the Secretary of the Treasury accompanying it, which, I think, discloses the grounds of relief on which the committee acted.

Mr. HOUSTON. I do not want to object to the bill; but I know that in all these contracts for custom-houses, post offices, and public buildings of every description, the parties take them on certain conditions, and sometimes take them at too low a price to complete them, and come forward to Congress to eke out the amount for which they contracted. It is really nothing but a swindling business. I know nothing of the unfairness in this case, but I shall be curious hereafter to know how such bills get through the Senate. I know nothing against it.

Mr. TRUMBULL. I object to the bill, without some reason being given, or without knowing something about it.

Mr. BENJAMIN. I can, in a word, state the facts.

Mr. TRUMBULL. I do not know anything about the case; but I will say to the Senator from Louisiana that I think it improper, without some report or some reason, to pass a bill releasing a contractor from his contract. It may be right.

Mr. BENJAMIN. I will state in a few words, in the place of a report, what appeared to the Committee on Commerce, upon correspondence with the Department: Mr. Knap took a contract for furnishing certain iron work for the custom-house building at New Orleans. The work consisted partly of cast iron, and partly of wrought iron. Mr. Knap, it seems, understood the quantity of iron required for the custom-house differently from what the Government officers did. He made a very low bid for the cast iron, and a somewhat high bid for the wrought iron. On calculation, the contract was awarded to him, as the lowest bidder. When the iron was called for, it was found by the Government officers that a much larger proportion of wrought iron was required than they expected, and wrought iron had been bid for at a higher rate, and a sum of something like one hundred thousand dollars became due to Mr. Knap under his contract. The Secretary of the Treasury refused to pay him a dollar, unless he would modify his contract, and reduce his price; and, under this duress, he did modify his contract and reduce the price very far below the original contract, in order to get the money for what he had already done, so as to enable him to go on with his business. This modified contract, however, included the furnishing of the frames for doors and windows, and the price for them is shown to be, under the new contract, really less than one half what it costs him to get them; and as he had already, under duress, been forced to break the original contract, which was a very advantageous one to him, the committee thought it unjust to compel the fulfillment of the second contract in those parts of it which really involved loss, and the bill is merely to release him from that portion of the subsequent contract which compelled him to furnish the frames for the doors and windows. That is the whole case.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BRIG GENERAL ARMSTRONG.

The bill (S. No. 273) for the relief of the officers and crew of the private armed brig General Armstrong, was next announced.

Mr. HAMLIN. That will be debated.

The bill was passed over.

JEREMIAH PENDERGAST.

The bill (S. No. 275) for the relief of Jeremiah

Pendergast was read a second time, and considered as in Committee of the Whole.

Its purpose is to allow to Jeremiah Pendergast \$139 91, being the difference between the pay allowed him as a watchman on the construction of the Patent Office extension and that allowed to other watchmen.

The petitioner was employed by the late Robert Mills, engineer and architect in charge of the construction of the extension of the Patent Office building, as a night watchman, to receive the same compensation, it is alleged, as that paid to other watchmen. He furnishes evidence that he received but \$1 25 per day for his services, extending from the 3d day of July, 1849, to the 30th day of April, 1851, while other watchmen were receiving \$1 50 per day, until the approval of the act of Congress fixing the compensation at \$500 per annum, when they were paid at the latter rate. The petitioner asks Congress to give him the difference of pay between that received by others and that paid to himself. The service performed by him being the same as that performed by others, the committee think the petitioner is entitled to the same pay.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ALBERT G. ALLEN.

The bill (S. No. 277) for the relief of Albert G. Allen was read a second time, and considered as in Committee of the Whole.

It provides that in the settlement of the accounts of Albert G. Allen, late navy agent at Washington, one and one fourth per centum shall be allowed him upon the disbursements of extra pay made by him under the acts of August 31, 1852, and March 3, 1853, to the officers, seamen, and marines who had served on the Pacific coasts of Mexico and California.

Mr. KING. I ask for the reading of the report in that case.

Mr. POLK. I was about to ask the Senator who made the report to state the amount of extra pay on which the per centum is proposed to be allowed.

Mr. HALE. If the Senate will indulge me, I will state the case in a much shorter time than the report can be read. Mr. Allen was navy agent here, and had the duty devolved on him to pay this extra compensation; and the Government officers have decided that, being navy agent, and not falling within the duties of his bonds, he was bound to respond for any payments that were made on papers that proved ultimately to be fraudulent. Under that construction they have charged him, and he is now debited on the Department books with, about three thousand dollars, for money that he paid after exercising the best discretion that he could. This is certified to by the officers. The former navy agent, by the action of the Government, had two and a half per cent. for the same service. We cut him down to one half of that; one and a quarter per cent. is the whole of it. I believe it amounts to about ten thousand dollars, of which \$3,000 now stands charged to him on the books. He cannot settle his accounts, and he has an outstanding bond to respond to the whole of the rest.

Mr. PUGH. If you will put in a proviso that he shall pay the \$3,000, I shall not object. I am apprehensive that we shall have another bill in for that.

Mr. HALE. Oh, no; this allowance is to be made in settling his accounts.

Mr. PUGH. I object to the bill.

Mr. HALE. Well, allow the report to be read. It is not very long.

Mr. PUGH. I take the Senator's statement; I do not care about hearing the report. If the Senator will put in the amendment, I shall not object.

Mr. HALE. I will accept the amendment. Put it in this form: "Deducting therefrom such amount as may be due from him to the United States." Will that answer?

Mr. PUGH. I am satisfied with that.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BERNARD M. BYRNE.

The bill (S. No. 282) for the relief of Bernard

M. Byrne was read a second time, and considered as in Committee of the Whole.

Its purpose is to pay to Bernard M. Byrne, a surgeon in the Army of the United States, \$616 26, in full, for special services rendered under a contract with the commanding officer at Fort Gilleland, Florida, in 1838.

In the summer of 1838, the petitioner was an assistant surgeon in the Army of the United States, and stationed at Fort Gilleland, in Florida. The surrounding country being infested by hostile Indians, a large number of the inhabitants were driven from their homes and compelled to seek protection in the vicinity of the fort, and so destitute was their condition that Congress, on the 1st of February, 1839, passed a joint resolution authorizing the President to cause rations to be issued to them from the public stores. It is further represented that the privations and exposure to which the people were exposed caused sickness to prevail amongst them, and there being no physician within twenty miles of the post, except the claimant, the commanding officer, who had been directed by the Government to protect the fugitive inhabitants from starvation by feeding them from the public stores, deemed it also to be his duty to provide them with the medical services which their condition rendered so essential to them, and which they had no other means of obtaining; he accordingly entered into a contract with Dr. Byrne to render the necessary professional assistance for \$100 per month; and Captain Beale certifies that the services were diligently and faithfully rendered from the 17th of April to the 22d of October, 1838, and that "had it not been for the skill and unremitting attention of Dr. Byrne, the situation of those poor people would have been truly deplorable, as there was not, during almost the whole of said time, any physician within twenty miles of that post." These facts are stated in the report made to the House of Representatives at the third session of the Twenty-Fifth Congress, No. 213, which states that the contract and certificate were then before the committee, but they have since been lost; but the facts are substantially certified to by the Hon. Mr. YULEE. Although, in a strictly legal point of view, the officer may not have had the technical authority to enter into such a contract, the urgent necessity of the case affords a reasonable justification of the course he pursued; and, as the compensation stipulated was a moderate one, and the service was necessary, and faithfully performed, the Committee on Claims think the amount claimed, \$616 26, ought to be paid.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

JAMES MACCABOY.

The bill (S. No. 283) for the relief of James Maccaboy, was read a second time, and considered as in Committee of the Whole.

The object is to allow \$500 to James Maccaboy, for losses and injuries suffered by him while engaged in the performance of his duty in the public service.

The memorialist, whilst engaged in the faithful discharge of his duty as a fireman on board the United States steam-dredge at the Washington navy-yard, received a severe injury, which resulted in the loss of one of his legs above the knee joint. The engineer in charge of the boat at the time, deposes that the accident occurred while Maccaboy was engaged in the discharge of his duty, and, he believes, without any neglect or carelessness on his part; that he was out of sight of the engineer, who, without being aware of his position, gave the order to start the machinery, without giving him notice. This is corroborated by other testimony. Commodore Forrest, commandant of the yard, says: "I should be pleased if the memorialist, who has been a faithful public servant, and who lost a leg in the performance of his duty, could be placed on the pension roll for the remainder of his life."

While the Committee on Claims would not recommend any departure from the established policy of the Government, which limits the allowance of pensions to cases arising in the military or naval service, yet they believe cases may occur where a volunteer, or laborer, or mechanic may be as justly entitled to the bounty of his Government, for injuries received in its service, as if he

had been regularly enlisted in the Army or Navy. Where a skillful and industrious mechanic or laborer is employed by the Government in a necessary but dangerous service, and, without any fault or negligence, receives, in the performance of his duty, an injury which permanently disables him from providing for those dependent upon his skill and labor for support, it would alike become the Government or an individual employer to manifest sympathy "in the only way calculated to carry conviction of its sincerity," by extending some measure of material aid or bounty. Such a case, it is believed, is presented by the petitioner.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

J. W. P. LEWIS.

The bill (S. No. 284) for the relief of C. Edward Habicht, administrator of J. W. P. Lewis, was read a second time, and considered as in Committee of the Whole.

It proposes to pay \$2,238 47, being the balance of the accounts of J. W. P. Lewis, the United States agent for the construction of a light-house on Sand Key, in Florida.

Mr. Lewis was appointed United States agent for the construction of a light-house on Sand Key, in Florida. On a settlement of his accounts, in April, 1853, a balance was found against him of \$9,652 66; while he claimed a balance, as due him, of \$2,400 24. On the 22d of June, 1857, a further settlement was made, by which a further allowance was made on vouchers which had been suspended or disallowed in the previous settlement, amounting to \$9,652 66, which balanced his accounts on the books of the Treasury, and exhausted the appropriation for the Sand Key light-house, leaving still outstanding, of the amount of suspended and disallowed items, the sum of \$2,400 24. Further vouchers were presented on the 28th December, 1857, upon which further allowances were made by the accounting officers, amounting in the aggregate to \$2,238 47. This sum, thus finally decided to be due to the claimant's intestate, is now suspended for no other cause, as stated by the accounting officers, "than the want of an appropriation available for the settlement thereof." On this state of facts the bill is founded.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MILES DEVINE.

The next bill on the Calendar was the bill (S. No. 288) for the relief of Miles Devine, of the State of Maine.

It proposes to pay him \$500 for injuries received while in the employment of the United States, and for medical and other expenses incurred in consequence thereof.

Mr. CLAY. I should like to hear the report in that case.

The Secretary read the report made by Mr. SIMMONS from the Committee on Claims.

Mr. CLAY. I object to this bill on two grounds which—

Mr. IVERSON. I rise to a point of order. If the Senator objects, that puts the bill over.

Mr. FESSENDEN. I hope the Senator will withdraw the objection. A bill passed a moment ago similar in its circumstances.

Mr. CLAY. I did not hear it, and I hope somebody will move to reconsider it.

Mr. FESSENDEN. And one passed at the last Congress of the same description.

Mr. CLAY. What bill is it that passed?

Mr. FESSENDEN. The bill for the relief of James Maccaboy.

Mr. CLAY. I move to reconsider that.

Mr. SIMMONS. I hope the Senator from Alabama will not press the objection. It is a hard case.

Mr. CLAY. It may be very hard, but I do not think it is incumbent on the Government to provide for hard cases.

Mr. FESSENDEN. It has been done in repeated instances.

Mr. CLAY. It has been done wrongly, and I want to raise the point on this bill.

Mr. IVERSON. I rise to a point of order. This bill gives rise to debate.

The PRESIDING OFFICER, (Mr. Foster

in the chair.) It must be passed over, it giving rise to debate.

WEBSTER S. STEELE.

The bill (S. No. 291) for the relief of Webster S. Steele was read a second time, and considered as in Committee of the Whole.

It directs the Secretary of the Interior to place the name of Webster S. Steele, of Illinois, on the list of invalid pensioners, at the rate of eight dollars a month, commencing on the 4th of December, 1857, to continue during his lifetime.

Mr. POLK. I ask for the reading of the report.

The Secretary read the report made by Mr. KING, from the Committee on Pensions, by which it appeared that Webster S. Steele was, in October, 1814, mustered into the service of the United States as a private in the company of Captain William Eels, of the New York militia, called out in the war of 1812 with Great Britain; that he was stationed, with the company to which he belonged, at Sackett's Harbor, in the State of New York; and there, while in the service and in the line of his duty, contracted a disease, from hardship and exposure, which has resulted in making him an invalid, and rendered him unable to obtain his support by labor.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JAMES MACCABOY—RECONSIDERATION.

Mr. CLAY. I move to reconsider the vote by which the bill for the relief of James Maccaboy was passed.

Mr. FESSENDEN. I should like to know what right the Senator has to make that motion when he was not present?

Mr. CLAY. I was here and did not vote; but I suppose I am counted in the affirmative, as I did not vote against it.

Mr. FESSENDEN. I understood the Senator to say he was not here.

Mr. CLAY. I said I did not observe it, and did not hear the report.

Mr. MALLORY. I have no objection to the reconsideration of the bill; but I wish to raise the point of order to be decided now, because this motion is often made, whether a Senator who does not vote at all has a right to move a reconsideration.

The PRESIDING OFFICER, (Mr. Foster.) I believe it is the usual practice, where votes have been taken rather silently, to consider each Senator as voting in favor of the passage of a measure, where there has been no division.

Mr. MALLORY. In this instance, the Senator did not know the bill was before the Senate at all, it seems.

Mr. CLAY. The Senator from Texas, who is before me, and did know, will make the motion.

Mr. MALLORY. That removes the objection.

Mr. HENDERSON. I make the motion, if necessary.

Mr. CLAY. I do not care to have the motion put now; but it may be entered.

The PRESIDING OFFICER. It will be entered.

JAMES A. GLANDING.

The bill (S. No. 292) for the relief of James A. Glanding, was read a second time, and considered as in Committee of the Whole.

It directs the Secretary of the Interior to place the name of James A. Glanding, of Pennsylvania, on the list of invalid pensioners, at the rate of eight dollars per month, commencing on the 3d of December, 1855, to continue during his natural life.

The petitioner was in the battle of Baltimore, on the 11th day of September, 1814, and he received a wound in that battle, by a ball in the leg, which has resulted in totally disabling him from obtaining his support by labor. He applied to the Commissioner of Pensions for an invalid pension, and presented the affidavits of William Baisman and Thomas Bailey, who testified that they also were in the battle, and that when James A. Glanding was wounded, they carried him from the field to the hospital. The Commissioner of Pensions denied the application for a pension, because Mr. Glanding had not been mustered into the service, and the laws providing pensions granted them only to persons who were mustered into the

service, and who received their injuries while in the line of their duty in the service. The affidavits of Daisman and Bailly have been lost, but their contents are testified to by Jesse C. Dickey, the Representative in Congress, through whose hands they passed to the Commissioner of Pensions, and by two other witnesses, who knew their contents at the time. It is deemed just that a volunteer, who unites in a battle, and who becomes an invalid from a gun-shot wound received in the battle, should receive a pension, although he may not have been mustered into the service; and, therefore, the Committee on Pensions recommend the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THOMAS SMITHERS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 65) for the relief of Thomas Smithers.

It provides for placing his name upon the invalid pension roll of the Army of the United States, at eight dollars per month, commencing January 1, 1855, to continue during his natural life.

The petitioner was an enlisted drummer in Captain Thomas O. Jennings's company of Virginia militia, in the regiment commanded by Major Stapleton Crutchfield. He entered the service on the 30th March, 1813, and was discharged with his company on the 11th of October, 1813. During an engagement at Hampton, Virginia, with the British forces, he received a wound in both legs, between the knees and ankles, caused by a splinter from a baggage wagon, which was shattered by a cannon shot, and this has caused him severe physical suffering during all the time since he received it.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FRANKLIN PEALE.

The bill (S. No. 293) for the relief of Franklin Peale was read a second time, and considered as in Committee of the Whole.

It directs the Secretary of the Treasury to pay to Franklin Peale \$10,000 in full compensation for the use of all his inventions and improvements, and for his extra-official services, in connection with the Mint of the United States and its various branches.

Mr. WRIGHT. I should like to hear the report in that case.

Mr. BENJAMIN. The report is a very long one. The substance is that the United States has made use, in the Mint, of a series of valuable improvements of Mr. Peale, by which a large amount of wastage has been saved to the Government—I think in one year, over one hundred thousand dollars—and the proposition is to allow him \$10,000 for the use of all his inventions which have already benefited the Government more than ten times the amount.

Mr. WRIGHT. I waive the call for the reading of the report.

Mr. FESSENDEN. I have no objection to it, because I reported a bill which passed the Senate at this session on the same principle, and for the same thing—an improvement which saved money to the Mint; but I should like to understand what these improvements are.

Mr. BENJAMIN. His statement is "for improvements and inventions in refining; apparatus for saving and concentrating sweepings; coin-presses and mint machinery; service not official in making mint machinery and apparatus for the branch mints; and for the use of the processes and machines at the branches and offices."

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DAVID D. PORTER.

The bill (S. No. 295) for the relief of David D. Porter was read a second time, and considered as in Committee of the Whole.

Its purpose is to direct the proper accounting officers to pay to David D. Porter, a lieutenant in the Navy of the United States, \$743, for certain extraordinary expenses incurred by him in the discharge of his duty, under the orders of the Navy Department, on special service to the Island of St. Domingo.

Mr. CLAY. I ask that the report be read.

The Secretary read the report of the Committee on Naval Affairs, which is based on the following letter:

TREASURY DEPARTMENT,

FOURTH AUDITOR'S OFFICE, April 20, 1858.

SIR: A letter, addressed to the Department by the Hon. S. R. MALLORY, chairman of the Committee of the Senate on Naval Affairs, inclosing a petition of Lieutenant David D. Porter, of the United States Navy, praying that he may be allowed certain expenses incurred by him some years since while engaged, by order of the Department, on secret service in the Island of St. Domingo, and which were disallowed by the accounting officers principally upon the ground that they were not chargeable to the ordinary appropriations for the Navy, having been referred to this office for a statement of the items thus disallowed, which, in the opinion of this office, are equitably due, and ought to be allowed, I have the honor to report that the sums claimed, but not admitted, were the following:

1. For the entertainment and transportation from place to place, on the Island of St. Domingo, of officers of the Dominican Government, on board of the United States brig Porpoise, commanded by Lieutenant William E. Hunt, which was placed by the Department at the disposal of Lieutenant Porter, for assisting him in the performance of the duty upon which he was ordered, \$350.
2. Entertainment of public officers, and other persons of influence at the city of St. Domingo, \$30.
3. Expenses incurred in receiving the Governor at Porte Platte, \$20.
4. For loss of \$92, in paper currency of the island, in crossing the rivers Barrilegas and Mainon, \$92.
5. Loss of other personal property, including clothing, revolver, &c., \$162.
6. For a pair of pistols left on board the Spitfire, and for which no receipt was taken, \$30.
7. For a traveling sword left on board the Porpoise, for which no receipt was taken, \$14.
8. For twenty-two days' detention at Pensacola; twenty in going to St. Domingo, and two on returning, \$45.

I am of opinion that it would be equitable to allow Lieutenant Porter all these items, except the 6th, 7th, and part of the 8th.

The expenses of entertaining persons of distinction and influence abroad by the commanding officers of our national vessels, where such expenses have not been extravagant, and have been thought to be required by the dignity of the service or the interests of the United States, have been repeatedly sanctioned by Congress, and it could scarcely be but that such expenditures would be requisite in the performance of such service as was assigned to Lieutenant Porter. The amount, moreover, being very moderate, I have no hesitation in recommending that it be allowed. In judging of the equity of an allowance for losses of property sustained by Lieutenant Porter, it should be considered that he was taken from the ordinary line of naval duty, and dispatched upon a hazardous and delicate mission, which would seem more properly to have belonged to a civilian, but which was thought to require, with intelligence and tact, the courage, energy, and disregard of privation, which might more certainly be found in a military officer. He was sent among a semi-barbarous people, in a country replete with dangers, where precipices and mountain passes were to be traversed, and unbridged rivers to be crossed; where, from the roughness of the traveling, his clothing was more than once obliged to be taken from his own person for the relief of the animals he was using, and where, while on his route, he was for some time destitute of shoes or stockings.

His service was perilous and difficult, and he executed it gallantly and well. Under these circumstances, I think it equitable that he should be saved from pecuniary loss, and that he should be allowed the sum he claims for paper money, clothes, and other property lost, to the amount of about two hundred and fifty dollars.

As Lieutenant Porter was ordered to proceed to Pensacola, and there embark in a Government vessel for St. Domingo, and upon his arrival there found no vessel ready to receive him, it appears to me reasonable that the expenses of his detention there, on his way out, should be allowed him; but as it does not appear that there was any necessity for his remaining at that place on his return, the same reason for the defraying of his expenses by the Government does not exist.

I do not think he ought to receive any allowance for the pistols and sword left on board the Spitfire and Porpoise. If they were public property, he should have taken such receipts for them as would have exonerated him; and if they belonged to him, he does not appear to have exercised such carefulness in regard to them as would give him an equitable claim upon the Government for their value.

It is proper for me to state that there are no vouchers in this office beyond the certificate of the petitioner for the expenditures or losses which have been referred to, except receipts for his board at Pensacola, and the statement of Lieutenant Hunt as to the expenses of entertaining the Dominican officers on board the Porpoise.

I do not mean to imply the least doubt, however, of the correctness of the petitioner's representations of the case, for I have none.

The papers referred to me are herewith returned.

I have the honor to be, sir, very respectfully, your obedient servant,
A. O. DAYTON.

Hon. ISAAC TOUCEY, Secretary of the Navy.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ASEL WILKINSON.

The bill (H. R. No. 307) to amend an act entitled "An act granting a pension to Ansel Wilkinson," approved August 13, 1856, was considered as in Committee of the Whole.

It provides that the act granting a pension to

Ansel Wilkinson, approved August 13, 1856, be so amended that the word "Ansel" shall read *Asel* where it occurs in the act.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

CALIFORNIA CIVIL FUND.

The next bill on the Calendar was the bill (S. No. 98) to authorize and direct the payment of certain moneys into the treasury of the State of California, which were collected in the ports of said State as a revenue upon imports, since the ratification of the treaty between the United States and the Republic of Mexico, and prior to the admission of said State into the Union.

Mr. MALLORY. That is not a private bill.

Mr. BENJAMIN. That bill properly requires some examination. It had better be passed over for the present.

The bill was passed over.

HENRY ETTING.

The bill (S. No. 301) for the relief of Henry Etting, was read a second time, and considered as in Committee of the Whole.

It proposes to allow Henry Etting, a purser in the Navy, \$1,098 51, being the amount paid by him to Lieutenant J. C. Rich, as judge advocate during the years 1843, 1844, and 1845.

Mr. Etting was purser of the frigate Macedonian, the flag-ship on the coast of Africa, from the 7th of April, 1843, to the 4th of July, 1845. During that period several courts-martial were ordered by the commander-in-chief, commodore Perry, of which Lieutenant J. C. Rich, of the marine corps, was appointed judge advocate, and the service performed by him was rendered in a situation where no one could be found so capable. For this service Lieutenant Rich presented vouchers, approved by the captain of the Macedonian and the commander-in-chief of the squadron, to the aggregate amount of \$1,098 51, which were paid promptly by the petitioner, as they were severally presented, at the termination of each respective trial. The petitioner, on his return from the coast of Africa, presented the vouchers, with the accounts of the ship, to the Fourth Auditor of the Treasury, who subsequently informed him that the amount "must necessarily be disallowed, as by the second section of the Army appropriation act, passed on the 23d August, 1842, it is declared that no officer in any branch of the public service shall receive any extra compensation or allowance for any service he may render." The section of the act of 1842, referred to by the Fourth Auditor, is: "That no officer in any branch of the public service, or any other person whose salary, pay, or emoluments is or are fixed by law or regulations, shall receive any additional pay, extra allowance, or compensation, in any form whatever, for the disbursement of public money, or for any other service or duty whatsoever, unless the same shall be authorized by law, and the appropriation therefor explicitly set forth that it is for such additional pay, extra allowance, or compensation." The petitioner alleges that he was ignorant of the prohibition contained in the Army appropriation bill of 1842, and that he was governed by previous regulation and precedents sanctioned by the Department, and that the payments were made by him in good faith, upon vouchers in proper form, under the approval of the presidents of the courts and the commander of the squadron, and prays that he may be credited with the amount, which still stands charged against him on the books of the Treasury Department.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN A. FROST.

The joint resolution (S. No. 34) for the relief of the legal representatives of John A. Frost, deceased, was read a second time, and considered as in Committee of the Whole.

It proposes so to construe the provisions of the first section of the act entitled "An act for the relief of the forward officers of the late exploring expedition," approved February 1, 1849, as to embrace the case of John A. Frost, who was acting boatswain of the United States brig Porpoise in the expedition, from January 1, 1839, to July 7, 1842.

Frost served as boatswain on board the United

States brig Porpoise, in the South sea exploring expedition under Captain Wilkes, from the 1st of January, 1839, to the 7th of July, 1842, but owing to the omission of his name on the pay rolls rendered on the arrival of the expedition in the United States, the accounting officers of the Treasury disallowed his claim for the extra pay of \$250 per annum, under the act of February 1, 1849.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JAMES SMITH.

The bill (S. No. 302) for the relief of James Smith was read a second time, and considered as in Committee of the Whole.

Its object is to place the name of James Smith, now of the city of Washington, late a soldier in the war with Mexico, and on the frontiers of Texas, upon the invalid pension roll at the rate of eight dollars a month, to commence on the 4th of March, 1858, and to continue during his lifetime.

The petitioner was several years in the Army of the United States, serving throughout the Mexican campaign and doing duty upon the frontiers of Texas, where he received the injury, while out with a scouting party, which has resulted in a permanent disability. The duty upon which he was engaged at the time of receiving the injury is regarded of a hazardous character; and though the manner in which he received the wound does not appear in evidence, the petitioner appeared in person with an arm totally disabled, and stated that the injury was inflicted by a blow from a musket struck by the non-commissioned officer who was in command of the scouting party to which he was attached. The blow broke the arm and dislocated the elbow joint, and before he was able to return to camp and receive surgical treatment, a bony union of the joint had taken place, and left his arm so crooked as to be totally disabled. He remained in the hospital after his return until his wound was healed, when he was discharged from the service, on the surgeon's certificate, for ordinary disability.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ISAAC VARN, SR.

The bill (S. No. 303) for the relief of Isaac Varn, sr., was read a second time, and considered as in Committee of the Whole.

It proposes to require the Secretary of War to examine and adjust the claim of Isaac Varn, sr., of Duval county, Florida, for the use and occupation of his property, for wood and timber cut from his land, and for other property belonging to him, taken and used by the United States troops between April 1, 1836, and July 1, 1841; and to pay the amount so found due, upon competent and sufficient evidence, not exceeding \$5,000.

Mr. KING. I think the bill had better lie over. The bill was passed over.

SAMUEL H. TAYLOR.

The bill (S. No. 306) for the relief of Samuel H. Taylor was read a second time, and considered as in Committee of the Whole.

It provides for the allowance to Samuel H. Taylor of \$540, for extra service performed by him as messenger in the office of the Third Auditor of the Treasury, from June, 1853, to June, 1856.

Mr. WRIGHT. I ask for the reading of the report.

The Secretary read the report, from which it appears that Mr. Taylor was employed as a laborer in the office of the Third Auditor, at fifty dollars per month. In June, 1853, it became necessary to hire a building, separate from the Treasury Department, for the use of a portion of that office, in which some twenty-four clerks were located. For this branch of the office Mr. Taylor was the sole messenger and laborer; and for a portion of the time, as stated by the principal clerk in charge, this office was kept open from five o'clock, a. m., until nine or ten o'clock, p. m., during all of which time the petitioner was in attendance as messenger and laborer. The late Assistant Secretary of the Treasury states that the average number of clerks employed in this division

was about twenty-four, and that Mr. Taylor was the only person employed in the capacity in question in that division from June 1853, to June, 1856, and that his diligence and activity supplied the place of numbers, accomplishing twice, if not thrice, as much labor as, in general, is performed by employes of his class. The claimant deposes that his extra service extended to six or seven hours every day, and that Colonel Burt, then Third Auditor, told him to continue the duty, and he would see him paid. Colonel Burt soon after left the office, and subsequently died.

The committee do not recognize the right of officers of the Government generally, and especially of the higher and more expensive grades, to compensation for extra services, or for services performed out of office hours, or agree to give them such extra pay, except in extraordinary cases, yet there may be cases, especially of subordinate and poorly paid employes, in which justice and equity would not only justify, but demand, additional compensation for unusual and severe labor and attention performed beyond the ordinary requirements of departmental regulations, and they consider the case under consideration to be one of these. The committee think it just and proper that Mr. Taylor should be allowed an additional compensation, and they have fixed upon fifteen dollars per month as a reasonable rate for the time he was so employed.

Mr. WRIGHT. I am satisfied.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

M. C. GRITZNER.

The bill (S. No. 308) for the relief of M. C. Gritzner was read a second time, and considered as in Committee of the Whole.

It proposes to appropriate \$379 77, to be paid to M. C. Gritzner, out of the patent fund, for compensation and damages on account of the rescinding, by the Government, of a contract made with the Commissioner of Patents, on the 30th of March, 1857, for the execution of descriptions and illustrations of the Patent Office report for that year, before the work was completed.

The petitioner, on the 30th day of March, 1857, entered into a contract with Charles Mason, then Commissioner of Patents, to prepare and execute descriptions and illustrations for twenty-five hundred patents for the year 1857, for which he was to receive \$6,000, or *pro rata*, if they should exceed or fall short of this number; the price of each being \$2 40. He entered upon the execution of his contract, and prepared descriptions for one thousand eight hundred and seventy-four patents, when, on the 22d of September following, he was notified that the contract had been disapproved by the Secretary of the Interior, to whom it had been submitted by the Commissioner of Patents only a few days previously; in consequence of which the prosecution of the work was discontinued. Payment has been made for the number then completed, at the *pro rata* rate of compensation. The petitioner claims that the contract was fully binding upon each of the contracting parties, and that he should be paid at the same rate for the whole number of illustrations for the year, being two thousand nine hundred and twenty-six, amounting, on the unexecuted portion, to \$2,520 60. It appears that the contract was duly and regularly made according to precedent, in the office of the Commissioner of Patents, and that the petitioner executed the illustrations and descriptions of the year previous under a similar contract, which was never submitted to the Secretary of the Interior for approval. He was willing and anxious to perform and fulfill his part of the contract; and to the extent of two thousand five hundred illustrations, the cost of that number exhausting the appropriation for that purpose, the committee think he was justified in relying upon the contract as securing to him the work, so long as he performed it in accordance therewith and satisfactorily to the Government. The damages which he sustained by the suspension of the contract, after he had completed one thousand eight hundred and seventy-four illustrations and descriptions, are estimated at what would have been the petitioner's actual profits upon the six hundred and twenty-six illustrations which, under the contract, he was entitled to execute. Taking his own estimate of expenses in-

curred in the execution of similar work the previous year, it appears that his profit on each would have been sixty and two thirds cents, making, upon the whole, \$379 77, which sum the committee think should be allowed him.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN B. MILLER.

The bill (S. No. 309) for the relief of John B. Miller was read the second time, and considered as in Committee of the Whole.

Its purpose is to place the name of John B. Miller upon the roll of invalid pensioners, at eight dollars per month, commencing on the 1st of September, 1857, and continuing during his natural life.

Mr. Miller served as teamster under Quartermaster Sibley and others, from May, 1846, until some time after the battle of Monterey, and while in the actual performance of his duty as such teamster, and while on the road from Carmargo to Monterey with provisions, his mules became mired, together with other teams, and during the efforts made to extract them from the mire, he received a severe kick from one of them upon the leg, which produced long and severe suffering, and finally resulted in necrosis of the bone, making amputation necessary. Though he never was attached to any regularly-organized military company, and transferred therefrom for duty as a teamster in the quartermaster's department, which would be necessary in order to give him a pension under existing laws, he has become totally disabled from an injury received while strictly in the line of his duty in the military service of his country, and the committee are therefore disposed to waive the technicality of the law, and to grant him a pension. The amputation was performed by Dr. Gibson, then surgeon of the San Francisco county hospital, in the year 1855, and he testifies to the extensive necrosis of the bone, but no evidence is produced to show under what medical treatment the patient was from the time of his discharge up to the time of his entering the hospital; but from the nature of the disease and the circumstantial evidence produced, and also from the established good character of the petitioner, the committee have the utmost confidence in his statements.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM SMITH.

The bill (H. R. No. 209) for the relief of the representatives of William Smith, deceased, late of Louisiana, was read a second time, and considered as in Committee of the Whole.

Its object is to confirm the claim of William Smith to six hundred and forty acres of land, now occupied by William B. Allen, in the parish of Livingston, Louisiana, being the same he resided on at the time of his death, and settled originally by Stephen Terry, and represented on the map of surveys as section thirty-nine, in township six south, of range three east; and section sixty, in township six south, of range two east.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

PIERRE BROUSSARD.

The bill (H. R. No. 211) for the relief of the heirs and legal representatives of Pierre Broussard, deceased, was considered as in Committee of the Whole.

It provides for the confirmation to the heirs and legal representatives of Pierre Broussard, deceased, late of Louisiana, of their title to a tract of land situated on the Bayou Teche, in the parish of St. Martin, known on the recognized public surveys as section thirty-six, in township eight south, of range five east, containing about one hundred and seventy acres.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MRS. AMEROISE BROU.

The bill (S. No. 276) for the relief of Mrs. Ambroise Brou, of the parish of St. Charles, State of Louisiana, was considered as in Committee of the Whole.

It proposes to confirm her title to lot or section

six, township twelve south, range twenty east, and lot or section ten, in township thirteen south, range twenty east, in said State; these lands being the unconfirmed half of a tract of nine arpents twenty-six toises front, by eighty arpents in depth, the other half of which was confirmed to Ambroise Brou, by the act of Congress of February 28, 1823.

Pierre Brou had been, in the year 1791, already forty years in possession of a tract of land of ten arpents front, by eighty in depth, which, at his death, became the property of his sons Ambroise and Jacques Brou, who, after a joint possession of a number of years, divided it in 1816. In 1820, Ambroise Brou presented his half for confirmation, which was granted by the act of Congress of 1823, confirming the report made by commissioners on 6th January, 1821. In 1826, Jacques sold his half to Seraphin Brou, and Seraphin resold to Ambroise in 1830, so that Ambroise became owner of the whole tract. It now appears that, while Jacques was owner of one half the tract, he neglected to apply for its confirmation, and the tract is now placed on the maps recently made by the Land Office as public lands. It is plain that the United States have no title to the lands; and that they are private property, which did not pass to the Government under the treaty of cession.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

R. W. CLARKE.

The bill (S. No. 324) for the relief of R. W. Clarke, was read a second time, and considered as in Committee of the Whole.

It provides for paying R. W. Clarke, late assistant messenger in the office of Commissioner of Pensions, \$225, in full compensation for extra services performed by him in that office as clerk, from January 1, 1851, to October 1, 1852.

Mr. CLAY. Let the report be read.

The Secretary read the report made by Mr. IVERSON, on the 10th of May, from which it appears that Mr. Clarke was employed in the office of the Commissioner of Pensions as an assistant messenger, at a compensation of \$500 per annum. After the passage of the bounty land law of September, 1850, the duties of the office were so much increased that it became necessary, as it is alleged, to call on the petitioner to devote a portion of his time to the performance of the duties of a clerk. He commenced the performance of these extra duties January 1, 1851. In November, of that year, the Commissioner of Pensions, on the suggestion of his chief clerk, represented to the Secretary of the Interior that the claimant was performing, in part, the duties of a clerk, in addition to his proper duties, and recommended that compensation, at the rate of \$300 per annum, should be allowed therefor. The Secretary approved of the suggestion, and the additional pay was allowed, from October 1, 1851. The present application is for the extra pay between January 1, when the service commenced, to October 1, when the pay was made to commence. As the service from January 1 is certified by the then chief clerk, and was necessary, and was subsequently so recognized by the Secretary, the committee think it just that the amount claimed should be allowed.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MRS. ANN P. DERRICK.

The next bill on the Calendar was the bill (S. No. 325) for the relief of Mrs. Ann P. Derrick, widow of W. S. Derrick, deceased, which proposes to allow her the difference between her husband's pay as chief clerk of the State Department and the salary of the head of the Department, while he was acting Secretary of State.

Mr. TRUMBULL. I am opposed to the principle of that bill.

The PRESIDING OFFICER, (Mr. FOSTER.) The bill being objected to, it lies over under the rule.

KATHARINE M. HAMER.

The next bill on the Calendar was the bill (S. No. 6) to continue the pension heretofore granted to Katharine M. Hamer, which had been reported by the Committee on Pensions, with a request to be discharged from its further consideration.

Mr. PUGH. There is no objection to that bill that I know of, except the fact that we passed a general act yesterday. Now, if the general bill were passed, I should, of course, have this bill laid on the table; but this lady is in such circumstances that her case ought to be attended to. Her pension expired on the 3d of December, 1856. Her husband was a meritorious officer. She is a very poor lady, and I think she ought to have a pension.

Mr. JONES. You are aware of the fact, Mr. President, that the committee was unanimous in favor of the bill for this lady; there is no objection to granting her a pension; but we believed it would be more likely to pass if included in the general bill. I believe it is the unanimous opinion of the committee that the House of Representatives will be more apt to pass a general bill than a special bill. This is a strong case—

Mr. IVERSON. I rise to a point of order.

Mr. PUGH. I hope the bill will be passed without further debate.

Mr. IVERSON. If there is to be any further debate, I must object.

Mr. TRUMBULL. I object. Let all these bills go together.

The bill was passed over.

CATHERINE DICKERSON.

The bill (S. No. 326) for the relief of Catherine Dickerson was announced as the next private bill on the Calendar.

It contains a direction to the Secretary of the Interior to place the name of Catherine Dickerson, widow of John Dickerson, late a pensioner of the United States, upon the pension rolls, under the provisions of the act of July 7, 1838, entitled "An act granting half-pay and pensions to certain widows," and pay to her the amount to which she would have been entitled under that act, from March 4, 1836, to the date of the commencement of the pension she now receives.

Mr. IVERSON. Does not that come under the provisions of the general bill?

Mr. JONES. No, sir.

Mr. KING. I think this bill, granting back pensions, had better lie over.

Mr. CLAY. I object to it.

The bill was passed over.

WILLIAM CONWAY.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 100) to revive an act entitled "An act for the relief of the heirs, or their legal representatives, of William Conway, deceased."

The heirs of William Conway, deceased, or their legal representatives, having never been able to avail themselves of the provisions in their favor contained in an act approved July 2, 1836, partly because of some error or mistake as to the location of the portion of the lands applied for under the act, and partly because of the existence of a legal controversy between the parties in interest under its provisions, it is proposed to revive and continue the act for one year.

Mr. STUART. I should like to hear from the Senator from Louisiana what was the substance of the former act which is proposed to be revived.

Mr. BENJAMIN. I cannot exactly recollect this case, but there was a report in the House of Representatives. I think the act authorized these heirs to make an exchange of certain lands with the Government. They had litigation amongst themselves so as to make it impossible for them to comply with the provisions of the law within the year for which the former act was passed. This bill renews it for one year.

Mr. POLK. I recollect the case. There was before the committee a statement of counsel that explained the litigation which prevented the parties from availing themselves of the benefit of the act within the time limited, and the committee were unanimously of opinion that the time ought to be extended for another year.

Mr. STUART. Very well.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN PICKELL.

The bill (S. No. 328) for the relief of John Pickell, late a lieutenant in the United States Army, was read a second time, and considered as in Committee of the Whole.

It is a direction to the Secretary of the Interior to place the name of John Pickell, late a lieutenant in the Army, upon the roll of invalid pensioners, and to pay him such full pension per month as is allowed to officers of his rank, under existing invalid pension laws, commencing November 1, 1857.

Pickell graduated at West Point, in the year 1822, and was commissioned second lieutenant in the fourth regiment of artillery, and continued in the faithful discharge of his duties as an officer in the Army until the year 1838. During his services in the Florida war, in which he was actively engaged for some three years, his health was permanently injured; and in the battle of Fort Drane, August 12, 1836, he did most distinguishing service, in the performance of which he received an injury from which he has never recovered. In the course of the engagement he was compelled to detach the men under his command to act as light infantry, and to push his piece of artillery (a brass six-pounder) across a ravine to a position in the midst of a large body of Indians, and by a rapid discharge of his cannon, loading, poising, and firing with his own hands, and entirely unaided, he prevented a flank movement of the enemy, and thereby saved nearly the whole command. In thus gallantly performing this unusual duty, the nearest proximity to the cannon was necessary, and the shock upon the right ear, from the discharge of the piece, was so severe that the next day after the battle a violent hemorrhage from the ear ensued, of which he has had returns ever since. This local injury so enfeebled his constitution that he was finally obliged to withdraw from the service, and from its effects he has become totally disabled.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

STEPHEN R. ROWAN.

The bill (S. No. 330) for the relief of Stephen R. Rowan was read a second time, and considered as in Committee of the Whole.

It is a direction to the attorney of the United States for the southern district of Illinois to enter satisfaction of a judgment rendered by the district court for that district at its June term, 1856, in favor of the United States of America against Stephen R. Rowan, on his paying all the costs.

Prior, and down to the 29th of May, 1845, Rowan was receiver of public moneys in the land office at Shawneetown, Illinois. In pursuance of an order of the Secretary of the Treasury, on the evening of the 26th of May, of that year, he embarked on board the steamer New World, at Shawneetown, bound from New Orleans to Cincinnati, for the purpose of depositing the public moneys in his possession in the Louisville Savings Institution, at Louisville, Kentucky, taking the money with him, consisting of silver and gold. The silver was in boxes, and the gold in his trunk. The gold was in ten parcels, wrapped securely in paper and sealed. Four of these parcels contained \$700 each, two of them \$500 each, one \$400, another \$200, another \$195, and the other one \$46 80. They were carefully stowed in the trunk, which was of leather.

On his going on board the steamer, Mr. Rowan applied to the clerk to take charge of his money. This he declined to do, saying that he had no lock upon his office. Rowan then deposited the money in his state-room, and kept in sight of it all the way to Louisville. The boat arrived at Louisville in the night, and, being behind time, the captain notified the passengers intending to debark at Louisville, they could have only ten minutes to get on shore. Rowan went ashore immediately and as speedily as possible to get a hack to take himself and his trunk and boxes up to the bank. Being alone, he was compelled to cease his watch upon his trunk and boxes whilst absent in procuring a hack. In about five minutes he returned, got the boxes and trunk, and drove up to the hotel in which the president of the bank boarded; sent in for him, took him into the hack, and went with him round to the bank, where they deposited the trunk and boxes in the vault, and after locking them up left them there for the night. The next morning they proceeded to count the money, when they discovered that six of the parcels of gold, containing, \$2,341 80, were missing, namely, one of the \$700 parcels, the two \$500 parcels, the

\$400 parcel, the \$195 parcel, and the \$46 80 parcel. On examination of the trunk, it was found that it had been cut with a sharp instrument, and the bundles abstracted. Mr. Rowan immediately proceeded to Cincinnati to try to find out something further about the theft, and, if possible, to secure the thieves. He learned, from the clerk, that a couple of men of very bad character, who had come on board the boat at New Orleans, escaped from it at Louisville without paying their passage; and that they had probably robbed the trunk and stolen the gold. Mr. Rowan offered a reward of \$500 for the recovery of the money, and a quarter section of good land for the apprehension of the thieves. But all his efforts to regain the money or apprehend the thieves were unavailing. The silver was safe and untouched.

Mr. Rowan had often before taken the public money from Shawneetown to Louisville in large amounts, but had never met with any loss previous to this occasion, although he was not more careful than on the trip of the robbery. Indeed, the committee think he was as careful of the treasure in his charge as he knew how to be. His character for truth and honesty was shown to be irreproachable. Mr. Rowan gave timely notice of the larceny to the Secretary of the Treasury, Hon. R. J. Walker, and also to General Shields, Commissioner of the General Land Office; and in May, 1846, with the concurrence of these officers, he presented his petition to Congress for relief. The case came into the hands of Judge Pennybacker, a member of the Senate, who died before he had reported upon it. The papers went into the files of the Senate, and remained there until quite recently.

On the 27th of August, 1845, Mr. Rowan's account was settled at the Treasury Department, and a balance of \$2,386 83 was struck against him. On the 7th of March, 1856, his account was again stated, and he was charged interest on the above balance, from the 7th of August, 1845, to the last-named date, amounting to \$1,369 73, and making, together with the principal, the sum of \$3,756 56. At this date, it was found that there was a balance of \$216 14 due by the United States to Mr. Rowan on another account. This amount was deducted by the Comptroller from the above sum of \$3,756 56, and a balance of \$3,540 42 was shown against Mr. Rowan. But while the accounting officer of the Treasury charged interest against Mr. Rowan on the balance of \$2,386 83 in favor of the United States, he allowed no interest against the United States on the balance of \$216 14 in favor of Mr. Rowan. On the balance, as last shown above, suit was instituted against Mr. Rowan, and judgment taken, with stay of execution for one year, at the June term, 1856, of the United States district court for the southern district of Illinois. The judgment was entered for debt as principal, not in the sum of \$3,540 42, the balance shown as above stated, after deducting the \$216 14, but for the whole sum of \$3,756 56, without deducting the \$216 14, and for interest on the above stated principal, amounting to \$284 93, also for \$39 50 costs of suit.

Thus, while on the one hand the United States got judgment for interest on interest, on the other hand not only was all interest refused to Mr. Rowan on the balance found to be due him, but even that balance was not allowed him.

The committee think that satisfaction ought to be entered on the judgment against Mr. Rowan, on his paying all the costs.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

P. S. DUVALL AND COMPANY.

The bill (S. No. 331) for the relief of P. S. Duvall & Co., was read a second time, and considered as in Committee of the Whole.

It provides for the payment to P. S. Duvall & Co., of Philadelphia, of \$768 in full for sixty-four reams of paper furnished by them on which to print illustrations of the Japan expedition.

The petitioners contracted with the Government in 1856 to print, with plate illustrations, the second volume of Perry's Japan expedition, to be paid when delivered; the Government to supply the paper. In pursuance with this contract, they printed, with the illustrations, a large number of copies; and had them ready to deliver when they were destroyed by fire in April, 1856, to-

gether with the plates from which the work was illustrated. They recommenced the work, and applied to the Superintendent of Public Printing for paper; but as Congress was not in session, they obtained the paper from the manufacturer, with the consent of the Superintendent, subject to future adjustment, and proceeded to perform the contract. The account filed by the petitioners is for value of property as follows: Ten thousand and twenty each of ten plates for the Japan expedition, volume two, being on hand ready for delivery and destroyed by fire 11th April, 1856, \$3,121 97; redrawing ten plates, at \$30, \$300; sixty-four reams of paper, at \$12, \$768; total, \$4,209 97.

These statements are corroborated by the Superintendent of Public Printing. The Committee of Claims do not deem the petitioners entitled to relief beyond the value of the paper. They show no reason why they did not secure themselves against loss by insurance; and the Government, in contracting with them, did not undertake to insure them against loss by fire.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

ANTON L. C. PORTMAN.

The bill (S. No. 332) for the relief of Anton L. C. Portman was read a second time, and considered as in Committee of the Whole.

It proposes to pay to Anton L. C. Portman, the clerk to Commodore M. C. Perry, while in command of the East India squadron, \$1,000, for his services as Dutch interpreter during the negotiation of the treaty between the United States and the Empire of Japan.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THOMAS LAURENT.

The next bill on the Calendar was the bill (S. No. 334) for the relief of Thomas Laurent, surviving partner of the firm of Benjamin and Thomas Laurent, which proposed to return \$15,000, paid by the parties to General Scott, for the purchase of a house in Mexico, since taken from them by the Mexican authorities.

Mr. PUGH. Let that bill lie over.

The bill was passed over.

EDWARD INGERSOLL.

The bill (S. No. 224) for the relief of Edward Ingersoll was considered as in Committee of the Whole.

Its object is to allow to Edward Ingersoll, military storekeeper at Springfield, Massachusetts, \$335 75, being the amount of a judgment with cost against him for the hire of carriages used by the board of commissioners (appointed under the act of March 3, 1853) while in the discharge of their duties at Springfield armory.

Under the act making appropriations for the Army, approved March 3, 1853, a board of commissioners was appointed to examine the United States armories. While in the discharge of their duties at Springfield, in Massachusetts, Edward Ingersoll, the military storekeeper at that place, employed carriages for the use and convenience of the board, the expense of which, it was supposed, would be charged to their contingent account, which, including this item, was audited and passed by the board during their session. The appropriation to defray the expenses of this commission was not sufficient to cover them all, as the item of hack hire was stricken out of the estimate before it was sent to Congress, for the reason that it should be paid by the commissioners themselves. Application was then made to the commissioners for the payment of the amount thus due, and for which Mr. Ingersoll was held responsible; but they failed to attend to it, and Mr. Ingersoll has been compelled, by course of law, to pay the judgment and costs against him, amounting to \$335 75. The commissioners should have paid this money; Mr. Ingersoll's agency in the matter only extended to making a bargain in order to obtain the use of carriages for the commissioners, at a reasonable price; but as the payment has fallen upon him, it is only fair that he should be reimbursed in the amount for which he was held accountable.

The bill was reported to the Senate without

amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ABNER MERRILL.

The bill (S. No. 335) for the relief of Abner Merrill, of the State of Maine, was read a second time, and considered as in Committee of the Whole.

It directs that there be paid to him a pension of eight dollars per month in lieu of the four dollars he now receives, the increase to commence on the 1st of December, 1857, and continue during his natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EDWARD P. VOLLUM.

The bill (S. No. 336) for the relief of Assistant Surgeon Edward P. Vollum, of the United States Army, was read a second time, and considered as in Committee of the Whole.

It provides for the ascertainment and payment of the value of the property lost by Assistant Surgeon Edward P. Vollum, of the United States Army, who, while under orders of the War Department, was on board the brig *Fawn*, bound for Fort Umpqua, Oregon Territory, when she was wrecked, on the 21st of November, 1856; but no allowance is to be made for any property except what was useful, necessary, and proper for such an officer while on the voyage, and engaged in the public service.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

CALEB SHERMAN.

The bill (S. No. 338) for the relief of Caleb Sherman was read a second time, and considered as in Committee of the Whole.

Under its provisions, in the settlement of the accounts of Caleb Sherman, collector of customs at Paso del Norte, Texas, the proper accounting officers will allow to his credit \$975 37, that being the amount of Government money of which he was robbed on the night of November 6, 1855.

The petitioner was appointed collector of the customs for the district of Paso del Norte, on the 5th of August, 1854, and immediately thereafter entered upon the duties of his office. He collected large sums of money, which have been duly accounted for; but on the night of November 6, 1855, his office was entered, and the iron safe, furnished by the Government, and in which the funds collected were kept, was broken open, and the contents abstracted and carried away, including the sum of \$975 37. The office in which the petitioner transacted his business was on a public and frequented street, and in the neighborhood of occupied dwellings; the safe was such as afforded every reasonable evidence of its perfect security, and was used by other persons, by permission of the petitioner, for the deposit of funds; and no negligence is justly imputable to him in reference to the place of deposit, which was the best that could be afforded under the circumstances.

It appears, moreover, that on the night of November 7, 1855, some persons broke into the building, threw the safe down, unscrewed the handle of the door, and by this means were enabled to insert a quantity of gunpowder into a cavity of the lock, by which they blew open the door. This was a concealed defect in the construction of the safe, which, no doubt, was unknown to the petitioner. All the money then in the safe was carried off, of which several considerable sums belonged to merchants who had funds deposited therein. It appears that there was money therein belonging to the Government, apparently equal to the amount stated, but the exact amount of which can only be ascertained by the books of the office, and the statement of the petitioner. The individuals by whom the robbery was committed were at once pointed out by circumstances which left no doubt of their identity. They all decamped on the night of the robbery, and escaped into Mexico. All reasonable efforts were made to capture them and recover the money, but without success.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ANN L. ROGERS.

The bill (S. No. 340) for the relief of Ann L.

Rogers was read a second time, and considered as in Committee of the Whole.

It provides for paying to Ann L. Rogers, assignee of John A. Rogers, \$1,280 90, being in full of the balance due to John A. Rogers, as late examiner of land offices in Mississippi and Alabama, under an appointment of the Secretary of the Treasury.

Mr. John A. Rogers, the husband of the petitioner, was appointed, in August, 1841, to examine the land offices in the States of Mississippi and Alabama, for which service he was to be allowed a compensation of eight dollars per day while engaged in the examination, and six dollars for every twenty miles' travel. In the settlement of his accounts, after the completion of the service, his charges of per diem for seventy-one Sundays, at eight dollars per day, \$568, and eight days examining records at Mobile, \$64, amounting in all to \$632, were, amongst other items, disallowed at the Treasury. Also, his mileage for two thousand one hundred and sixty-three miles, which was disallowed on the ground that the nearest routes were not pursued, or that the travel was performed between some points more than once. This item amounts to \$648 90.

The committee consider that he ought to have been allowed pay for Sundays, whilst in the service of the Government. He was to receive a stipulated sum per diem whilst engaged in the work. There was no exemption or exception as to Sundays. His expenses were as great on Sundays as on any other day. It is very probable that he traveled as well on Sundays as on other days. They made up a portion of the time that he was away from home and in a distant country amongst strangers. It is reasonable and just that he should be paid for them. In the per diem allowances made under similar circumstances, Sundays have not been excluded—as in the former pay of members of Congress, who always drew pay for Sundays as well as other days, and such has been the general practice of Government.

The charge for examining certain records at Mobile ought to have been allowed, as this service was performed by Colonel Rogers, and came within the spirit of his instructions, and proved beneficial to the Government.

In relation to the mileage, it appears that a longer distance was traveled over by him than the nearest routes between the offices he visited, but this was doubtless rendered necessary from the causes and circumstances stated by Colonel Rogers. At the time he was engaged in the service, the country was comparatively new, the facilities for traveling bad, and at that season of the year, during the rainy season, the water-courses were generally swollen and impassable. This is often, and, indeed, generally the case, in the winter in that country; so much so, that travelers are frequently detained days, and in some cases weeks, by these unavoidable causes. The committee can very well understand and believe that the routes taken by Colonel Rogers were necessary and proper, and that if he had waited for the subsiding of the streams, and charged, as he would have been entitled to, for the time of detention, it would have cost more to the Government than the mileage charged. The chairman of the committee has much knowledge of much of the country traveled over by Colonel Rogers, and has had some very similar experience as that alleged by him in passing from point to point across the country. Under the circumstances, the committee have no doubt that Colonel Rogers acted for the best, and that he could not avoid the necessity of passing over longer routes, in the faithful discharge of his duty, than the nearest distances between the consecutive points of his visitations. They, therefore, think that this item ought to be allowed, and, with the other sums above stated, make the aggregate of \$1,280 90, for which a bill is reported. The claim of Colonel Rogers has been regularly assigned to his wife, now understood to be his widow, and the committee therefore reported the bill in her favor.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

SMITH, PERKINS AND CO.

The bill (S. No. 106) for the relief of Elijah F. Smith, Gilman H. Perkins, and Charles F. Smith,

was read a second time and considered as in Committee of the Whole.

The bill, as introduced, authorized the Secretary of the Treasury to refund to Elijah F. Smith, Gilman H. Perkins, and Charles F. Smith, of Rochester, in the State of New York, the sum of \$1,088 10, being the amount of penalty paid by them to the United States on one debenture bond, executed by John B. Glover & Co., dated April 2, 1857.

The Committee on Finance reported it with an amendment to strike out the words, "of Rochester, in the State of New York, the sum of \$1,088 10, that being the amount of the penalty paid by them to the United States on one debenture bond executed by John B. Glover & Co., dated April 2, 1857," and insert:

Composing the firm of Smith, Perkins & Co., of Rochester, New York, the sum of \$837, paid by them to the United States on one debenture bond, executed by John B. Glover & Co., dated April 2, 1857, as penalty over and above the regular duties on the merchandise therein mentioned.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. SEWARD. I wish to suggest another amendment. One of the parties was killed on a railroad since the bill was introduced. I move to insert, after the names, the words, "or the survivors of them."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JOHN GRAYSON.

The joint resolution (S. No. 38) for the relief of John Grayson, was read a second time, and considered as in Committee of the Whole.

Under it, the accounting officers of the Treasury, in adjusting the account of John Grayson, pension agent at Pittsburg, Pennsylvania, are to place to his credit the amount of \$526 73, paid by him to George DeCamp, one of the surviving children and heirs of Susannah Stokely, deceased, widow of Nehemiah Stokely, a captain in the revolutionary war; the same having been paid in conformity with the directions of the Secretary of the Interior, as conveyed upon the face of a certificate of pension issued by the Commissioner of Pensions to George DeCamp.

By the act of 4th July, 1836, the widow of a soldier of the Revolution, under certain circumstances, was entitled to receive "the annuity or pension which might have been allowed to the husband," &c. On the 11th December, 1844, a certificate was issued by the War Department, (then in charge of the subject,) in favor of Susannah Stokely, widow of Captain Nehemiah Stokely, for a pension, from the 4th March, 1831, to 27th August, 1836, the day of her death, at the rate of \$480 per annum, payable to Joseph Stokely and Polly Finley, the only children of Captain Stokely, for whose service the pension was granted. Upon this certificate the two children received the sum of \$2,630 66, the whole amount allowed by law. In 1854, Mr. DeCamp, a son of Mrs. Stokely by a subsequent marriage, applied for his portion of the pension, as one of the legal heirs of Mrs. Stokely, and in February, 1855, a certificate was issued by the Department of the Interior for the sum of \$526 13. This certificate was duly paid by Mr. Grayson, the duly authorized pension agent. On the presentation of his accounts, the voucher for this payment was disallowed by the accounting officers, on the ground that the whole amount allowed by law had been already paid by competent authority, and Mr. Grayson was informed that he must apply to Congress for relief. The committee think, as the pension agent paid the money upon the regular warrant of the proper Department, which he had no authority to revise or question, he is entitled to credit for it.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CALIFORNIA BATTALION CLAIMS.

The bill (S. No. 367) to provide for the payment of certain California claims, was read a second time, and considered as in Committee of the Whole.

It provides for the payment of \$8,129 41½, in full settlement of claims favorably reported upon by the board of Army officers (appointed under the sixth section of the act approved August 31,

1852) in their final report to Congress, dated April 19, 1855.

Mr. POLK. Is there a report in that case?

Mr. BRODERICK. There is a unanimous report from the Committee on Military Affairs.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MRS. ELIZA E. OGDEN.

The bill (S. No. 368) for the relief of Mrs. Eliza E. Ogden was read a second time, and considered as in Committee of the Whole.

It provides for the payment to Mrs. Eliza E. Ogden, widow of the late Major Edmund A. Ogden, the sum of \$1,396 19, being commissions for disbursements made by Major Ogden out of appropriations for the Mexican war.

The bill was reported to the Senate without amendment.

Mr. CLAY. I should like to hear the report.

Mr. IVERSON. I can obviate the necessity for the reading of the report by stating the facts. This bill is in conformity to various bills which have passed both Houses of Congress, to give commissions on money disbursed above his ordinary duties.

Mr. CLAY. I withdraw the call for the reading of the report.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CHRISTIAN INDIANS.

The next bill on the Calendar was the bill (S. No. 323) to confirm the sale of the reservation held by the Christian Indians, and to provide a permanent home for said Indians.

Mr. PUGH. I think that can hardly be called a private bill. It had better go over.

Mr. BIGLER. I hope the Senator will allow the bill to be considered.

Mr. POLK. I think it is a private bill.

Mr. PUGH. It relates to the Indian policy. I think a bill of that sort ought not to be considered on the Private Calendar; but I will hear the bill.

The Secretary read it, as follows:

Whereas, by the thirteenth article of a treaty made and concluded at Washington, on the 6th day of May, 1854, between the United States of America and the Delaware Indians, a grant of four sections of land was made to the Christian Indians, for which a patent was to be issued to the said Indians, "subject to such restrictions as Congress may provide;" and whereas, a patent was so issued to them on the 21st day of May, 1857; and whereas, it fully appears by the evidence and papers on file before the Committee on Indian Affairs, that the four sections of land set apart by said treaty were, on the 29th day of May, 1857, sold and conveyed by said Christian Indians to one A. J. Isaacks for the consideration of \$43,400, which sum was a fair consideration for said lands: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That upon the payment of the said sum of \$43,400, by the said A. J. Isaacks to the Secretary of the Interior, for the use and benefit of said Christian Indians, within ninety days from the passage of this act, it shall then be the duty of the President of the United States to confirm said sale.

Sec. 2. And be it further enacted, That the Secretary of the Interior be, and he hereby is, authorized and required to receive the proceeds of the sale of the said four sections of land, and apply the same as follows: that is to say, so much thereof as may be necessary to the purchase of a suitable tract of land for a permanent home for the Christian Indians, the erection of the necessary buildings for their accommodation, and the purchase of stock, agricultural implements, and whatever else may be necessary to establish them thereon; the balance of the said fund to be invested by the Secretary of the Interior in safe and profitable stocks, the interest whereof shall be applied to the support of a school among the said Christian Indians.

Sec. 3. And be it further enacted, That whenever the Christian Indians desire it, the tract purchased under the provisions of the preceding section shall be divided among them, under the direction of the President of the United States, to be held in severalty and with all the rights incident to a fee simple estate: *Provided,* That the said tracts, when so divided, shall be forever inalienable by the grantees or their heirs, except with the consent and approval of the President of the United States.

Mr. KING. Is there a report?

The PRESIDING OFFICER. There is no report accompanying the bill.

Mr. KING. Then it had better go over.

Mr. SEBASTIAN afterwards said: I was not in, a few minutes since, when the Senate bill No. 323 was called, and its consideration objected to by the Senator from New York. He is now willing to withdraw his objection.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 323) to confirm the sale of the reservation held by the Christian Indians, and to provide a permanent home for said Indians.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

MONDAY, MAY 24, 1858.

NEW SERIES...No. 144.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SANTIAGO E. ARGUELLO.

The bill (S. No. 370) for the relief of Guadalupe Estudillo de Arguello, widow of Santiago E. Arguello, was read the second time, and considered as in Committee of the Whole.

It provides for the payment to Guadalupe Estudillo de Arguello, widow of Santiago E. Arguello, late a captain in the California battalion, of \$14,888, for losses of property sustained by him during the period of such service, and in consequence thereof.

Mr. FESSENDEN. That bill had better go over.

Mr. POLK. I hope the Senator will allow the report to be read.

Mr. FESSENDEN. I wish to understand it.

Mr. MALLORY. I can state the substance of the case in a minute. Mr. Arguello was a native of California. When the war broke out, he took sides with the Americans. He fought very handsomely indeed, and distinguished himself. He was mentioned by Commodore Stockton very favorably. In consequence of what he did, the Mexican troops destroyed all his property, and he became a bankrupt, whereas formerly he had been a man of very large estate. The commission in California, sent there to examine claims for property taken for military purposes, did not think themselves authorized to recommend this claim as coming within their jurisdiction, but spoke of it very highly, as entitled to the consideration of Congress. That is the substance of it. He fought very bravely in every battle in California, in which Commodore Stockton was engaged.

Mr. POLK. I ask the Senator to state what is the condition of the family of the deceased?

Mr. MALLORY. Mr. Arguello is dead, and he has left a large family of children. There is an agent appointed here, who, I am told, will get this money to the widow with as little cost as possible.

Mr. FESSENDEN. Were the Committee on Claims unanimous?

Mr. MALLORY. Yes, sir.

Mr. FESSENDEN. I withdraw the objection.

Mr. PUGH. I ask why this bill estimates higher than the bill which was passed by the Senate at the last Congress? What new light has the Committee on Claims now? I understand they considered the valuation high then.

Mr. MALLORY. There is a difference between the two bills, but it is a very slight difference. The report will state that. I think it is in consequence of the long delay which has elapsed. The value of the cattle and other property was fixed at the sum named in the bill by a commission in California; but in the former bill one thousand or fifteen hundred dollars was deducted from the amount. In consequence of the long time that has elapsed the committee take the testimony given in California as to the value of property.

Mr. TRUMBULL. I should like to inquire how this bill differs from that of every other case where a true patriot has had his property destroyed by the enemy in war. Are we to pay for the property of private citizens destroyed by the enemy as a general principle?

Mr. IVERSON. Does the Senator object to the bill?

Mr. MALLORY. It cannot be argued now. If objection be made it must go over.

Mr. TRUMBULL. If this is to be distinguished from other cases of that class, I should like to know it. I do not wish to object.

Mr. IVERSON. If this bill is to be debated it must go over under the rule.

Mr. MALLORY. If the Senator from Illinois objects to this claim, it must go over, and there is no possibility of passing it at this Congress. The committee were unanimous.

Mr. TRUMBULL. I object to it unless some distinction can be shown between this and an ordinary case.

Mr. POLK. The Senator says he objects unless some distinction can be shown between this and an ordinary case. This man was a citizen of Mexico at the time California was invaded by General Kearny, and had belonged to what was considered the liberal party prior to that time, and he immediately espoused the American cause and aided General Kearny in his advance on the country. For that very reason he was the special object of attack by the Mexican authorities.

Mr. TRUMBULL. I object to the bill.

The bill was passed over.

ANTHONY W. BAYARD.

The next bill on the Calendar was the bill (S. No. 371) for the relief of Anthony W. Bayard.

Mr. CLAY. I object to the consideration of that bill at this time.

The bill was passed over.

FLORIDA CLAIMS.

The next bill on the Calendar was the bill (S. No. 373) declaratory of the acts for carrying into effect the ninth article of the treaty of 1819, between the United States and Spain.

Mr. SLIDELL. I object to the consideration of that bill.

The bill was passed over.

GEORGE J. KNIGHT.

The bill (S. No. 374) for the relief of George J. Knight, was read a second time, and considered as in Committee of the Whole.

It provides for the payment to George J. Knight of the sum of \$1,500, which, with the sum already paid him, is the lowest amount estimated as the value of a schooner called the Experiment, owned by him, which was impressed into the service of the United States during the late war with Great Britain, and was captured and destroyed while in the service.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MADISON SWEETZER.

The bill (S. No. 377) for the relief of Madison Sweetzer was read a second time, and considered as in Committee of the Whole.

Its object is to secure to Madison Sweetzer the payment of \$1,100 97, the balance of his account against the See-see-ton and Wah-pay-toan bands of Sioux Indians, of Minnesota, for necessary supplies heretofore furnished, examined, and verified by Governor W. A. Gorman, superintendent, and Agent R. W. Murphy, as commissioners, and the sum is to be deducted from the annuities payable to those Indians for the year commencing on the 1st of July, 1858.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOSE DE LA MAYA ARREDONDO.

Mr. MALLORY. A bill was passed over yesterday in consequence of my being out of my seat for a moment. There is no objection to it, I believe. It is Senate bill No. 126.

Mr. KING. I hope the Senator will allow the bills on the Calendar to be gone through with.

Mr. MALLORY. This was taken up yesterday, and there is no objection to it. I happened to be out of my seat at the moment, or it would have been passed. It is simply to confirm a land title. I have an amendment to offer. I move to take up the bill.

The motion was agreed to; and the bill (S. No. 126) for the relief of the heirs and legal representatives of José de la Maya Arredondo was read the second time.

Mr. YULEE. I shall desire to examine the amendment which I understand is to be offered.

Mr. MALLORY. I offer an amendment, and my colleague can see from the reading what it is. It is, in line sixteen, after the word "representative" to insert, "of B. Chaires to Gad Humphries and Pierce Miranda."

Mr. YULEE. I would rather that the bill should go over.

The bill was passed over.

STATE OF MAINE.

The bill (S. No. 380) to provide for the payment of the claims of the State of Maine for expenses incurred by that State in organizing a regiment of volunteers for the Mexican war was read a second time, and considered as in Committee of the Whole.

Mr. CLAY. I should like to hear the report, or some statement from the Senator from Maine, explanatory of this bill. I doubt whether it is a private bill, in the first place.

Mr. FESSENDEN. That has been decided. I suppose I can state the case in a few words. At the time of the raising of troops for the Mexican war, the State of Maine was called upon by the General Government to have a regiment in readiness for that purpose. It went immediately about it, organized the regiment, incurred the expense, but the regiment's services were not called for. This is simply to pay the expense of organizing the regiment.

Mr. CLAY. In pursuance of call?

Mr. FESSENDEN. In pursuance of a call from the President.

Mr. CLAY. The patriotism of Maine is commendable, and I will pay it with pleasure.

Mr. FESSENDEN. I am glad there is something satisfactory to the Senator.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MAJOR H. L. KENDRICK.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 272) for the relief of Brevet Major H. L. Kendrick.

It is a direction to the proper accounting officers of the Treasury to credit and allow Brevet Major H. L. Kendrick, of the second artillery, the sum of \$1,294 66 in the settlement of his account for the sales made by him, by order of General Worth, of certain ordnance property belonging to the United States, at Puebla, in Mexico, in June, 1848; that sum being so much of the proceeds of the sale as were stolen from him at Jalapa, while transporting the same to Vera Cruz.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JOHN RICHMOND.

The bill (H. R. No. 225) to increase the pension of John Richmond was considered as in Committee of the Whole.

It proposes to increase the two-thirds pension heretofore allowed to John Richmond, of Massachusetts, a private in the war of 1812, to a full pension, commencing January 1, 1855, and continuing during his natural life.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REGIS LOISEL.

The bill (H. R. No. 214) for the relief of Regis Loisel or his legal representatives, was considered as in Committee of the Whole.

It proposes to confirm the title of Regis Loisel or his legal representatives, to a tract of land ceded by Don Carlos Dehault Delassus, Spanish Governor of Upper Louisiana, on the 25th of March, 1800, to Regis Loisel, situate in what was then known as Upper Louisiana, on the Missouri river, including Cedar island, as the same was surveyed on the 20th of November, 1805, by Antonio Soulard, surveyor general for the Territory of Louisiana, according to the plat now on file in the archives of the Missouri district.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PIERRE GAGNON.

The bill (H. R. No. 250) for the relief of Pierre Gagnon, of Natchitoches, Louisiana, was considered as in Committee of the Whole.

It will allow Pierre Gagnon to enter and pay for his preëmption claim to the northeast and southeast fractional quarters of section seven, in town-

ship nine north, of range six west, containing about one hundred and eighty-nine acres, in the land office at Natchitoches, Louisiana.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARIE MALINES.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 327) for the relief of the legal representatives of Marie Malines.

It proposes to confirm the legal representatives of Marie Malines, born Rillieux, in all the right, title, and interest now held or possessed by the United States in and to a certain tract of land in Louisiana, containing about thirty-two hundred arpents, being a part of a grant made by the French Government in 1764 to Marie Rillieux, according to a survey and plat made by the royal surveyor, Don Carlos Trudeau, and of record in the land office at New Orleans; and upon a proper survey, duly approved, being returned to the General Land Office, a patent is to issue.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

THOMAS L. DISHARON.

The next bill on the Calendar was the bill (S. No. 317) for the relief of Thomas L. Disharoon, which proposes to confer certain assignments of land warrants.

Mr. PUGH. I think that bill had better lie over.

The bill was passed over.

DANIEL HAY.

The next bill on the Calendar was the bill (S. No. 230) for the relief of the legal representatives of Daniel Hay, deceased.

Mr. PUGH. I object to that bill.

Mr. TRUMBULL. I will explain that bill in a moment. If the Senator from Ohio will see what it is, I think he will withdraw his objection. I the Senator persists in the objections, there is no use in stating what the bill is.

Mr. PUGH. When a bill cannot be explained, I object to it.

Mr. TRUMBULL. That objects to every bill.

Mr. PUGH. I will object unless I am satisfied.

The bill was passed over.

Mr. PUGH subsequently said: In reference to the bill on which the Senator from Illinois desired to speak, I was under the impression that interest was allowed from 1836. That was the reason I objected. I find it is only allowed from 1856, and, with the consent of the Senate, I move to take it up. It is the bill (S. No. 230) for the relief of the legal representatives of Daniel Hay, deceased.

The motion was agreed to; and the bill was considered as in Committee of the Whole.

It provides for the payment to the legal representatives of Daniel Hay, deceased, of a sum equal to two per cent. on all moneys disbursed by him as agent for paying pensions, from and after the 20th of April, 1836, with interest from the 30th of April, 1856.

Mr. STUART. If that is one of the class of cases I think, I should be opposed to it. If there is a report, I should like to learn that fact.

Mr. TRUMBULL. There is a report made by the Senator from New Jersey, [Mr. Thomson.] I do not see him in his seat. I can state the case in a moment.

Mr. STUART. Let us hear it.

Mr. TRUMBULL. Mr. Hay was pension agent in Illinois in 1836. He proposed to resign, but the Secretary of War requested him not to do so. He disbursed about \$150,000 as pension agent—

Mr. STUART. That is enough.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOSEPH VANCE.

The next bill on the Calendar was the bill (S. No. 339) granting a pension to Joseph Vance; which was reported upon adversely.

The bill was passed over.

JOHN DAVIS.

The next bill on the Calendar was the bill (H. R. No. 318) recognizing the assignment of land

warrant No. 35,956, issued to John Davis, as valid.

Mr. PUGH. I object to that bill.

Mr. STUART. The Senator is mistaken in regard to it. It is a bill I reported yesterday morning from the Committee on Public Lands.

Mr. PUGH. I object to it.

The bill was passed over.

JOHN HUERTAS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 251) to authorize the claimants in right of John Huertas to enter certain lands in Florida.

It will authorize the claimants in right of John Huertas to a tract of six thousand acres in Florida, confirmed by the Supreme Court of the United States at the January term, 1834, to enter, at any land office in Florida, the quantity of three thousand three hundred and thirty-two acres and thirty hundredths of an acre of any of the public lands in that State, offered or unoffered, the same being in addition to the area of two thousand six hundred and sixty-seven acres and seventy hundredths of an acre surveyed for the claim, and designated as section forty-eight, in township nine south, of range twenty-seven east, in the St. Augustine land district, Florida, and being the difference between the quantity embraced by the survey and the six thousand acres confirmed for the claim; and the register and receiver of any of the Florida land offices are to receive the proper applications and proofs, and issue the necessary certificates, upon the return of which to the General Land Office, with satisfactory proof of the rights of the claimants, a patent is to issue for the lands so located, provided they shall not be located upon any land within six miles of any railroad.

Mr. YULEE. I move to amend the bill by striking out the words in the tenth line of the first section, "offered or unoffered," and substituting "subject to private entry."

Mr. BENJAMIN. I have only to say that I know nothing further about the merits of this case than is disclosed in the report of the House committee. That committee deemed it unjust to restrict the claimants to an entry on lands offered for sale, and that they ought to have their choice of lands offered or unoffered in lieu of lands of theirs which the Government sold.

Mr. IVERSON. If the bill is to be debated, it must go over.

Mr. BENJAMIN. It is for a constituent of the Senator from Florida. If he insists on limiting the relief, I have no objection.

Mr. YULEE. He is not a constituent of mine. It is in defense of my constituents that I propose the amendment. If there is any objection to the amendment, I must object to the bill; because I shall desire to state why the amendment should be made.

The amendment was agreed to.

Mr. SEWARD. There is no objection.

Mr. YULEE. I have another amendment at the end of the section; instead of the words, "within six miles of any railroad," to insert, "within six miles of the projected route of any railroad to which grants of land have been made by the United States." This amendment is necessary to give effect to the intention of the House of Representatives, which otherwise would not be accomplished.

The amendment was agreed to.

The bill was reported to the Senate as amended; and the amendments were concurred in.

Mr. YULEE. It has been suggested to me by my colleague that one of the Senators from South Carolina takes an interest in the bill. Perhaps, in that view, it would be as well to let the third reading stand over.

Mr. BENJAMIN. It is better to pass the bill as it is—the gentleman has already done it all the harm.

Mr. YULEE. No, sir. This morning I showed the Senator from South Carolina the amendments I proposed; and I did not observe that he was not in his seat. As he may desire to be heard, I propose to let the bill go over.

Mr. BENJAMIN. If the gentleman will permit the bill to pass, I shall move a reconsideration if the Senator from South Carolina wants it.

Mr. YULEE. Very well.

Mr. KING. Is there any report?

The PRESIDING OFFICER. No, sir. Mr. KING. I think it had better lie over. The bill was passed over.

JOHN HUDRY.

The bill (S. No. 385) for the relief of the heirs or legal representatives of John Hudry, was read the second time, and considered as in Committee of the Whole.

It authorizes the Secretary of the Treasury to pay to the heirs or legal representatives of Captain John Hudry, of the State of Louisiana, \$9,705, being the amount of his account for uniform clothing, arms, and accouterments furnished by him, in the year 1814, to a company of the Louisiana legion engaged in the battle of New Orleans.

Mr. SIMMONS. As I heard that bill it only authorizes the Secretary to pay. I think the proper form is "authorized and directed." I move to insert the words "and directed."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JOHN FORSYTH.

The bill (S. No. 388) for the relief of the legal representatives of the late John Forsyth, was read a second time, and considered, as in Committee of the Whole.

It provides for the payment to the legal representatives of the late John Forsyth of \$2,140, in full of a balance due him on account of his salary as Minister to Spain, from 18th February, 1819, to the 3d of March, 1823.

Mr. FESSENDEN. I should like to hear the report in that case.

Mr. IVERSON. The report is a pretty lengthy one, and in manuscript, not yet printed. As I am a party in interest, I trust the Senate will indulge me in stating the case. I am one of the heirs of John Forsyth, and therefore interested in this bill. It is reported by the Senator from Missouri, [Mr. POLK,] who understands it better than I do.

Mr. SEWARD. It is reported from the Committee on Foreign Relations.

Mr. IVERSON. Yes, sir; in the settlement of Mr. Forsyth's accounts, as Minister to Spain, the accounting officers charged him with what was called gain of exchange on drafts drawn from Madrid on London. That was usual at that time. It was charged up against all foreign ministers, under similar circumstances, until Mr. Webster was head of the State Department, in 1843, and then General Cass, being Minister to France, protested against it as an illegal charge, and Mr. Webster decided that it was an illegal charge, and instructed the Fifth Auditor to refund to Mr. Cass the sum that had been charged against him, amounting to something over \$4,000. Under that decision of Mr. Webster, repeated afterwards, every minister has been refunded back the amount lost on his account except Mr. Everett, of Massachusetts, and Mr. Forsyth. The reason why it has not been refunded to Mr. Forsyth has been simply because he died in 1841, before the decision of Mr. Webster was made, and his heirs knew nothing whatever about this case until the last year. While I was here last summer, my attention was drawn to it by a gentleman who has been a clerk in one of the Departments, and I made application to the State Department to refund this amount to Mr. Forsyth's heirs, according to former decisions. There are twenty, perhaps thirty cases where it has been done. The Secretary declined to refund the money, in consequence of the accounts having been settled so far back that he did not wish to open them, and said I had better refer the case to Congress.

Mr. POLK. The Senator from Georgia has not stated the case as strongly in favor of Mr. Forsyth as the facts justify.

Several SENATORS. He stated it strong enough. The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. IVERSON. I should like to insert an amendment, with the consent of the Senator who reported the bill, directing the money to be paid to the heirs instead of the legal representatives. The estate of Mr. Forsyth has long since been closed up.

Mr. POLK. Are not the heirs the legal representatives?

Mr. IVERSON. Yes; but the Department might construe it as going to the administrator.

Mr. POLK. I think the proper word is used.

Mr. IVERSON. Let it go.

ISAAC DREW.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 578) for the relief of Isaac Drew, and other settlers upon the public lands in the State of Wisconsin.

Isaac Drew, and such other persons as may have settled, in good faith, in Wisconsin, since July 1, 1850, upon any portion of the lands that were erroneously selected by that State as a part of the five hundred thousand acre grant, which selections were not confirmed, and who were at that date, or since that time have become an actual settler and housekeeper, and made improvements on any tract embraced among these erroneous selections, are to be entitled, under this bill, to the same right of preemption, and upon the same terms and conditions as are prescribed by an act entitled "An act to appropriate the proceeds of the sales of the public lands and grant preemption rights," approved September 14, 1841; but the lands are to be paid for by the settlers at the minimum price.

Mr. GREEN. I object to that bill.

Mr. STUART. I will say to the Senator that these settlements arose out of a mistake by the State itself in the selection of lands. These people are there in good faith. The case has been here for years, and they have been trying to get relief. It is one of the plainest cases in the world.

Mr. GREEN. I withdraw my objection.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time and passed.

ISAAC CARPENTER.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 260) for the relief of Isaac Carpenter.

It is a direction to the Secretary of the Interior to place the name of Isaac Carpenter, of the State of New York, upon the invalid pension list, at the rate of eight dollars per month, commencing on the 10th of June, 1856, to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

OLIVER P. HOVEY.

The next bill on the Calendar was the bill (H. R. No. 256) for the relief of Oliver P. Hovey.

Mr. PUGH. I object to that bill.

The bill was passed over.

SHERLOCK AND SHIRLEY.

The PRESIDING OFFICER. The Calendar has now been gone through with.

Mr. WADE. I hope the Senate will indulge me by taking up the bill S. No. 287. There were some objections to it on a former occasion when it was called up; but an amendment proposed by the Senator from Florida, the chairman of the Post Office Committee, I believe, will remove those objections; and I hope that the bill will now be suffered to pass.

Mr. GREEN. I object to that bill. I want to go back to the beginning of the Calendar, and go on regularly.

Mr. WADE. There is really no objection to the bill that I know of.

Mr. GREEN. Is it satisfactory all round?

Mr. WADE. Yes, sir.

Mr. GREEN. Will it give rise to debate?

Mr. WADE. I think not.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 287) for the relief of Sherlock & Shirley.

Mr. GREEN. I object to that.

Mr. POLK. I think it had better go over.

Mr. YULEE. I have prepared a proviso in such distinct terms that it is satisfactory to all who before objected to the bill, because it puts the principle in distinct language:

Provided, That no case of any fine or deduction heretofore considered and decided by any former Postmaster General, upon the application of the contractors, shall be reviewed under the provisions of this act.

That covers the whole principle which was contended for, in distinct terms.

Mr. GREEN. I still object. I cannot agree to that. That is the existing law.

The PRESIDING OFFICER. The bill is objected to, and lies over.

Mr. FESSENDEN. Are there any other bills on the Calendar?

The PRESIDING OFFICER. We have gone through with those bills which have not been objected to.

SEUR DE BONNE.

Mr. BENJAMIN. The bill (S. No. 259) was laid over on account of my momentary absence. There is, I believe, no objection to it, and I hope it will be taken up.

Mr. PUGH. I think we had better commence at the beginning of the Calendar.

Mr. BENJAMIN. This is a bill to which there is no objection. It was passed over at the moment because I was out.

Mr. PUGH. Very well.

Mr. MALLORY. Are there not other bills which have not been placed before the Senate?

The PRESIDING OFFICER. No, sir; we have gone through the list on the Calendar.

Mr. IVERSON. The Senator from Florida reported a bill this morning.

Mr. MALLORY. It has not been read. There can be no objection to the bill I reported this morning.

The PRESIDING OFFICER. That bill has not come from the Printer. All that have come from the Printer have been read.

The motion of Mr. BENJAMIN was agreed to; and the Senate proceeded to consider the bill (S. No. 259) authorizing the courts to adjudicate the claims of the legal representatives of the *Sieur De Bonne* and the *Chevalier De Repentigny* to certain land at the *Sault Ste. Marie*, in the State of Michigan.

Mr. PUGH. I understand that this is a bill authorizing a suit against the United States.

Mr. BENJAMIN. I will explain exactly what it is. It is as perfect a title, I consider, as was ever presented to a piece of land; but the Government of the United States has sold a great deal of it out to private settlers. They are unwilling to disturb the settlers, and they propose to close the case by bringing a suit against the Government; and if their title is established on appeal to the Supreme Court of the United States to leave all persons to whom the Government has sold, in possession, and take warrants to locate elsewhere, taking only what remains undisposed of by the Government.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

Mr. CRITTENDEN. My attention has been accidentally called to this bill, and I should like to know from the gentleman who makes the report, what is the extent of the land claimed.

Mr. BENJAMIN. I will state to the Senator from Kentucky, that we found in the papers a grant by the King of France—the parties have the original parchment—giving six leagues square to these two parties. The land has been in possession of themselves, or persons claiming under them, in part, ever since. At the time the board of land commissioners was appointed for confirming land titles in that district, they were limited to the cognizance of claims covering one league square. This claim was put before them and not acted upon, because not within their jurisdiction. The Government has sold out a portion of the land claimed to private parties. Instead of suing the private parties, they propose to sue the Government; and if their title be confirmed, to take warrants and locate them elsewhere, and not disturb the settlers. That is the whole case. It is to be determined by the Supreme Court of the United States whether they have a title.

Mr. CRITTENDEN. Does the bill authorize a suit against the United States?

Mr. BENJAMIN. Yes, in the court of the United States, in Michigan, where the lands lie, to be defended by the district attorney, and brought, on appeal, to the Supreme Court of the United States.

Mr. CRITTENDEN. Would the United States, in that suit, be permitted to avail itself of the ancient possession of the citizens of the United States who now occupy the land claimed?

Mr. BENJAMIN. The bill neither provides

any special right of the United States nor of the parties claiming the land. It directs the suit to be determined by the court. This is in preference to suing all these settlers. If they were sued and evicted, the Government would give them a dollar and a quarter, and they would all be deprived of their land.

Mr. CRITTENDEN. I rather suspect the claimants would much prefer to litigate with the United States—it would be rather a pastime—than with the private occupants of the land. There is a real antagonist; but the Government is rather an ideal, speculative opponent than anything else. This seems to be a very ancient claim—I presume long neglected.

Mr. BENJAMIN. The claim has never been neglected. It has been asserted and reasserted ever since the land office has existed there, but it was beyond the jurisdiction. It has been lying on record here in the Land Office as a *caveat* and protest against the disposal of these lands ever since the lands have been held by the United States; but there has been no tribunal to determine the claim. Now, instead of determining this grant in favor of the parties, the committee preferred, as the amount was large, to submit it to a defense by the United States. It is a class of titles we usually report for confirmation, but it was because it was a large amount that we preferred to have it settled by a court of justice, where the Government can be defended.

Mr. CRITTENDEN. Has it happened—

Mr. GREEN. I rise to a question of order, that, as the bill gives rise to debate, it goes over.

The PRESIDING OFFICER. There is no objection made to the bill, but rather an informal conversation.

Mr. GREEN. I cannot see how there can be debate without objection on one side or the other.

Mr. KING. There ought to be some objection to the passage of this bill. It is a bill for six square leagues of land, which is, I suppose, a very large quantity.

Mr. BENJAMIN. Who will he have to decide it if the gentleman will not trust the courts?

Mr. KING. If the land is theirs, they can sue the parties on it.

Mr. BENJAMIN. Does the gentleman object to the bill?

Mr. KING. Yes, sir; I object to it because I am opposed to its passage.

The bill was passed over.

RICHARD FITZPATRICK.

Mr. MALLORY. I am told that the bill to which I called attention is now on the table. I ask that the bill (S. No. 393) be taken up in its order.

The bill (S. No. 393) from the Court of Claims, for the relief of Richard Fitzpatrick, was read a second time, and considered as in Committee of the Whole.

It directs the Secretary of the Treasury to pay to Richard Fitzpatrick, \$12,000 in full, for the use and occupation of his plantation as a military post of the United States, between the years 1836 and 1842, as also for the damage done to his plantation in cutting off the wood and lumber during the occupation.

Mr. MALLORY. I will simply state that this bill passed the Senate once, went to the other House, and was reported favorably there. It has now unanimously passed the Court of Claims and the Senate Committee on Claims.

Mr. WRIGHT. Is there a report in the case? I should like to hear it.

Mr. MALLORY. The report is the report of the Court of Claims, embodying all the facts. The court were unanimous.

Mr. WRIGHT. I waive the call.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ORDER OF PROCEEDING.

Mr. GREEN. I desire to withdraw my objection to the bill (S. No. 287) for the relief of Sherlock & Shirley, saying at the same time that I believe my objection is proper; but I do not choose to stand in the way of a majority of the Senate. I withdraw my objection.

Mr. MASON. I ask the unanimous consent of the Senate to offer a resolution.

Mr. FESSENDEN. With reference to private bills?

Mr. MASON. No.

Mr. FESSENDEN. I object to it, then.

Mr. MASON: It is in regard to the general business of the country.

Mr. FESSENDEN. I want to get through private bills.

Mr. MASON. I move that the Senate adjourn. The motion was not agreed to.

Mr. WADE. As the objection to the bill S. No. 287 is withdrawn, I hope it will be passed.

Mr. POLK. I object to it. It does not come up in its order.

Mr. FESSENDEN. Is the Private Calendar gone through with?

The PRESIDING OFFICER. Some bills have been brought in within a few minutes. The Calendar is not gone through with yet.

Mr. FESSENDEN. I wish to take up a motion I made to reconsider a bill which I think is in order before the Calendar. It is a bill which belongs to the Private Calendar, and will come up, therefore, before these others. It is a bill for the relief of George Ashley, administrator *de bonis non* of Samuel Holgate. I move to reconsider the vote on its passage, rejecting that bill. It is bill No. 89.

Mr. PUGH. I object to that being considered now. It is putting the bill ahead of its place on the Calendar. The Senate rejected it on a call of the yeas and nays. Unless the Chair decides the motion to be in order, I object to it.

Mr. FESSENDEN. It stood ahead of these bills now on the Calendar, and has been acted on. A motion to reconsider is a privileged motion, and must take precedence.

Mr. PUGH. The bill is not on the Calendar. The order of the Senate is to take up bills on the Calendar.

Mr. FESSENDEN. It is a private bill.

Mr. PUGH. It is not on the Calendar. It was rejected and put aside. I object to everything but the Calendar in order.

Mr. FESSENDEN. I contend that this is at the beginning of the Private Calendar, the bill having been acted on and a motion for reconsideration made, which must necessarily take precedence over cases put on the Calendar to-day. It belongs to the Private Calendar just as much as if it was printed on the Calendar; but according to the idea of the Senator we should be compelled to go through the whole Calendar, bill by bill, before we could take up this measure for reconsideration.

Mr. SEWARD. Will the honorable Senator give way for a motion to adjourn?

Mr. FESSENDEN. No, sir. I move that that bill be taken up.

The PRESIDING OFFICER. The motion of the Senator from Maine is, that the Senate reconsider its vote, rejecting the bill indicated by him, (S. No. 89.)

Mr. SEWARD. I move that the Senate do now adjourn.

The motion was agreed to; there being on a division—ayes 18, noes 13; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, May 21, 1858.

The House met at eleven o'clock, a. m.

MOTION FOR A CALL, ETC.

Mr. CLEMENS. Is there a quorum present? The SPEAKER. There are but ninety-eight members in their seats.

Mr. CLEMENS. I move that there be a call of the House.

The question was taken; and it was decided in the negative.

Mr. STANTON. I ask for tellers on the motion for a call.

The SPEAKER. If it be the pleasure of the House, tellers may be ordered, although the result has been announced.

Mr. JONES, of Tennessee. If we cannot do anything, I move that the House do now adjourn.

Mr. CLEMENS asked for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 7, nays 157; as follows:

YEAS—Messrs. Huyler, George W. Jones, Kilgore, Jacob M. Kunkel, Matteson, Murray, and Ruffin—7.

NAYS—Messrs. Abbott, Adran, Anderson, Andrews, Atkins, Avery, Barksdale, Billingham, Bingham, Bowie,

Boyce, Branch, Buffinton, Burlingame, Burnett, Burns, Chaffee, Ezra Clark, John B. Clark, Clawson, Clay, Clemens, Cobb, Cockerill, Comins, Corning, Covode, Cox, Craig, James Craig, Burton, Craig, Crawford, Curry, Curtis, Davidson, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Dawes, Dean, Dick, Dodd, Dowdell, Durfee, Edie, English, Farnsworth, Falkner, Fenton, Florence, Foley, Foster, Gattrell, Gilman, Gilmer, Gooch, Goode, Grainger, Greenwood, Gregg, Grow, Lawrence W. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Hatch, Hawkins, Hoard, Hopkins, Horton, Howard, Hughes, Jackson, Jewett, J. Glancy Jones, Owen Jones, Kellogg, Kelsey, Knapp, John C. Kunkel, Lamar, Landy, Lawrence, Leiter, Letcher, Lovejoy, Macley, Miles, Miller, Millson, Moore, Morgan, Morrill, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Niblack, Nichols, Olin, Palmer, Parker, Pendleton, Pettit, Peyton, Phelps, Phillips, Pike, Pottle, Powell, Quimman, Ready, Reagan, Reilly, Ritchie, Robbins, Royce, Russell, Scott, Seward, Aaron Shaw, John Sherman, Shorter, Sickles, Singleton, Robert Smith, William Smith, Spinner, Stanton, Stephens, James A. Stewart, William Stewart, Talbot, George Taylor, Thayer, Thompson, Tompkins, Troup, Underwood, Wade, Walbridge, Walton, Caldwell, G. Washburn, Elihu B. Washburne, Israel Washburn, White, Whitley, Wilson, Wortendyke, John V. Wright, and Zollicoffer—157.

So the House refused to adjourn.

Pending the vote,

Mr. STEVENSON asked leave to vote, he not being within the bar when his name was called.

Mr. MORGAN objected.

Mr. HAWKINS. I voted "ay" out of respect to the gentleman who made the motion; but I change my vote, and vote "no."

Mr. HILL stated that if he had been within the bar when his name was called he would have voted in the negative.

Mr. COCKERILL moved that the reading of the vote be dispensed with.

Mr. WASHBURN, of Maine, objected.

The vote was then announced as above recorded.

READING OF THE JOURNAL.

The Journal of yesterday was read and approved.

FIFTEEN MILLION LOAN.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, asking an additional loan of \$15,000,000; which was referred to the Committee of Ways and Means, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, informing the House that the Senate had passed bills and resolutions of the following titles; in which he was directed to ask the concurrence of the House:

An act (No. 198) for the relief of Joseph Hardy and Alton Long;

An act (No. 221) for the relief of Frances Ann McCauley;

An act (No. 225) for the relief of Anthony Caslo, a soldier in the war of 1812;

An act (No. 297) to extend an act entitled "An act to continue half pay to certain widows and orphans," approved February 3, 1853;

An act (No. 115) for the relief of J. Hosford Smith;

An act (No. 116) for the relief of Jeremiah Pendergast, of the District of Columbia;

An act (No. 128) for the relief of George Phelps;

An act (No. 130) for the relief of Jennett H. McCall, only child of Captain James McCall, of the revolutionary war;

An act (No. 156) for the relief of Joshua Shaw, of Bordentown, New Jersey;

An act (No. 172) for the relief of William D. Moseley;

An act (No. 186) to confirm the title of Benjamin E. Edwards to a certain tract of land in the Territory of New Mexico;

A resolution (No. 20) authorizing the Secretary of the Navy to pay to the officers and seamen of the expedition in search of Dr. Kane, the same rate of pay that was allowed officers and seamen of the expedition under Lieutenant De Haven;

A resolution (No. 43) for the relief of John C. Carter;

Also, that the Senate had passed a bill of the House (No. 564) to create a land district in the Territory of New Mexico.

GEOLOGICAL SURVEYS.

The SPEAKER also laid before the House a message from the President of the United States covering a report, maps, &c., of the geological survey of the Territories of Oregon and Washington, made by John Evans, Esq., United States geologist, under an appropriation made by Con-

gress for that purpose; which was laid on the table and ordered to be printed.

Mr. DAVIS, of Indiana. I am authorized by the Committee on Public Lands to move that five hundred extra copies of the report be printed.

Mr. JONES, of Tennessee. It would be better, I suppose, to refer it all to the Committee on Printing, and let them report whether it is necessary to print this report at all or not. It is one of those things which, if illustrated, will cost \$100,000. I move to reconsider the vote ordering the report to be printed, and to refer the subject to the Committee on Printing, for a report as to whether it is right to have any of it printed.

Mr. DAVIS, of Indiana. I desire to say a few words on that point. The Committee on Public Lands have had the question under consideration not only at this session, but during the last Congress. They have given it a thorough examination, and have, at this session, directed me to report in favor of printing the report.

Mr. JONES, of Tennessee. That being the case, I withdraw my motion.

Mr. DAVIS, of Indiana. I move that the report be laid on the table and ordered to be printed; and that five hundred extra copies be printed.

The SPEAKER. The motion as to the extra copies will go to the Committee on Printing.

DENNIS CRONAN.

Mr. EUSTIS. I ask the unanimous consent of the House to discharge the Committee of the Whole House from the further consideration of an adverse report from the Court of Claims (No. 163) in the case of Dennis Cronan, for the purpose of having it referred to the Committee on Claims.

It was so ordered.

CATHARINE ANSART.

Mr. KNAPP. I make the same application in reference to a like adverse report from the Court of Claims in the case of Catharine Ansart.

It was so ordered.

ADMISSION OF MINNESOTA MEMBERS.

Mr. CHAFFEE. I move that the House resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. FLORENCE. Before that motion is submitted, I ask the unanimous consent of the House to offer the resolution presented yesterday by the chairman of the committee of investigation in the matter of the purchase of Willett's point.

Mr. JONES, of Tennessee. I would inquire whether the business we had yesterday, in relation to Minnesota, does not come up first this morning?

The SPEAKER. That is the business first in order. The motion to go into a Committee of the Whole House cannot be, pending that question, received.

Mr. CHAFFEE. I thought the Chair decided, yesterday, that the refusal of the House to order the main question rescinded the seconding of the previous question.

The SPEAKER. The Chair did not so decide.

Mr. WASHBURN, of Maine. Did the Chair decide that it is not in order to postpone the consideration of a privileged question?

The SPEAKER. No. The Chair did not decide any such thing.

Mr. WASHBURN, of Maine. Well, will not the going into committee operate the same as a postponement?

The SPEAKER. While a privileged question is before the House in proper shape, a motion to postpone its consideration can be made with perfect competency.

Mr. WASHBURN, of Maine. On the same principle, can it not be done by going into a Committee of the Whole House on the Private Calendar? Whenever a motion to postpone is competent, is not the motion to go into committee also competent?

The SPEAKER. The Chair thinks not.

Mr. WASHBURN, of Maine. The rules say that the motion can be made at any time.

Mr. MAYNARD. I would like to address myself to my colleague [Mr. JONES] for permission to report back a Senate bill to the House, in order that the adverse report upon it may be printed.

Mr. WASHBURN, of Illinois. I hope the gentleman from Tennessee [Mr. JONES] will give way for me one moment.

Mr. JONES, of Tennessee. I want to have one thing decided at a time.

The SPEAKER. The first business in order is the motion of the gentleman from Pennsylvania to lay the whole subject of the Minnesota election on the table.

Mr. WASHBURN, of Maine. I desire to make a proposition to the House, that, by unanimous consent, all these motions be waived, and that the vote be taken to-morrow at twelve o'clock on this Minnesota question, and that this day be devoted to the consideration of private bills in the House, and in committee.

Mr. REAGAN. I call for the regular order of business.

Mr. WASHBURN, of Maine. I ask the Chair to put the question to the House.

The SPEAKER repeated the motion.

Mr. LETCHER. What is the reason for the proposition? Why cannot this business be voted on to-day as well as to-morrow?

Mr. WASHBURN, of Maine. I will state the reason. I have two reasons.

Mr. REAGAN. Is debate in order?

The SPEAKER. Debate is not in order except by the consent of the House.

Mr. REAGAN. Then I object; and ask that the House proceed to the regular order.

Mr. WASHBURN, of Maine. Will the gentleman from Texas not allow me to answer a question?

Mr. REAGAN. No, sir.

The SPEAKER. Is there any objection to the proposition of the gentleman from Maine?

Mr. REAGAN. I object.

Mr. COVODE. If there is no business to be done on the Private Calendar, and if we are to adjourn in two weeks, I move a call of the House. I am ready to postpone this matter, proceed to the business of the Private Calendar to-day, and take up and dispose of this question at any time for which it may be fixed. I object to having this day, which is set apart for private business, devoted to other purposes.

Mr. KEITT. Public business is more important.

The SPEAKER. The question is on the motion of the gentleman from Pennsylvania [Mr. Grow] to lay the subject on the table.

Mr. GROW. I move that the House resolve itself into a Committee of the Whole House on the Private Calendar, under the 156th rule, which says that the House may at any time, by a vote of the majority of the members present, do so.

The SPEAKER. There are two reasons why the Chair cannot receive the motion of the gentleman from Pennsylvania. In the first place, the House is now engaged in the consideration of the question of privilege; and, in the second place, the House has seconded the demand for the previous question on that question of privilege. The Chair therefore overrules the motion.

Mr. GROW. I appeal from the decision of the Chair.

Mr. FLORENCE. I move to lay the appeal on the table.

Mr. KELSEY. I call for the yeas and nays. The yeas and nays were ordered.

Mr. SMITH, of Virginia. I would beg leave, with the indulgence of the House, to get rid of this question in another way.

The SPEAKER. Debate is objected to by the gentleman from Texas and the gentleman from North Carolina, [Mr. REAGAN and Mr. RUFIN.]

Mr. SMITH, of Virginia. I know; but I hope the gentleman from Texas will withdraw his objection.

Mr. REAGAN. I cannot withdraw it.

Mr. SMITH, of Virginia. I do not see why I cannot go on and do what business we can to-day.

Mr. MAYNARD. Would it not be in order to move that the members from Minnesota be sworn in and allowed to take their seats, and to let the whole subject with reference to the certificates be referred back to the Committee of Elections? I was in favor yesterday of having this matter disposed of; but now the report is on the tables of members, and I suppose they have all read it.

The SPEAKER. The Chair thinks that such a motion would not be in order.

Mr. MAYNARD. I wish very much to have

the matter disposed of, and taken out of the way, so as to let us proceed to other business.

Mr. KEITT. I wish to inquire whether it is not in order for the House unanimously to postpone the decision of the Minnesota question till to-morrow, and go into the Committee of the Whole on the state of the Union to take up the appropriation bill?

The SPEAKER. It can be done by unanimous consent.

Mr. KEITT. I would suggest that, if we do not take up the appropriation bills, we cannot adjourn on the 7th of June.

Mr. SMITH, of Virginia. I do not expect that we can do that anyhow—

Mr. KEITT. Otherwise I am satisfied there can be no business done to-day.

Mr. GROW. We can take the vote to-morrow. The report has been just laid on the table, but we have not had time to examine it.

Mr. KEITT. Is there any objection?

Mr. REAGAN. I object.

Mr. KEITT. I will modify my proposition, so that the question shall come up to-morrow immediately after the reading of the Journal.

Mr. EDMUNDSON. I object.

Mr. KEITT. I move to postpone the further consideration of the question until to-morrow, at eleven o'clock.

The SPEAKER. The Chair cannot entertain the motion.

Mr. KEITT. Well, I have done my best to disentangle the House.

Mr. COMINS. I desire to ask the Chair what has become of the appeal taken from the decision of the Chair by the gentleman from Ohio yesterday, and if two appeals can be pending at the same time?

The SPEAKER. The motion to adjourn over fell by the adjournment of the House.

Mr. HARRIS, of Illinois. I hope that, by unanimous consent, this question will go over until to-morrow.

Mr. REAGAN. I object.

Mr. McQUEEN. I object; because gentlemen on the other side of the House consumed the day yesterday by filibustering, and now they hold their hands up in holy horror because the Private Calendar is to be overslaughed. Let them take the responsibility, as they are, in fact, responsible.

Mr. MORGAN. I ask to be excused from voting upon this proposition; and on that I ask the yeas and nays.

Mr. STANTON. I move that I be excused from voting on the motion to excuse the gentleman from New York; and upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. MILLSON. Would it be in order to move to postpone the further consideration of the report of the Committee of Elections?

The SPEAKER. The Chair thinks not.

Mr. COVODE. Why is not my motion put to the House?

The SPEAKER. The Chair did not entertain the motion, inasmuch as the previous question has been seconded.

Mr. MILLSON. I desire to disembarass the House, if possible, from its present complication, and I rise to a question of order. I understand the Chair to decide that it is not in order to move to postpone this report until to-morrow. Now, I raise this question of order: that the motion for the previous question is like any other motion. Formerly, one member only was required to second the previous question; but the House, for good reasons, required that a majority should second it. But it was still a motion; and when the motion had been rejected by the House, as the vote ordering the main question was yesterday, it went over until the next day, and there was an end to the main question. And, though there is a paragraph in the Manual stating that a vote refusing to order the main question carries the subject over until the next day, yet, when it comes up the next day, it comes up free from the second of the previous question. If it were not so, the House could never come to a vote upon the bill, because the House, having determined that they would not come to a final vote upon the bill until an opportunity should have been given for debate or amendment, they would be in the same condition the second day; and the Chair having very properly decided that no motion can be made to reconsider

the vote by which the previous question was seconded, the House never can come to a vote upon the bill unless they do it in a manner which they have deliberately determined not to do, without debate and without amendment.

These are the reasons why it seems to me the business of the House demands that the Speaker should deliberately consider before he decides the question.

The SPEAKER. The Chair is of opinion that after the House yesterday refused to order the main question to be put, if no other proceedings relating to the matter had taken place, the question would have come up this morning, as the Chair intimated yesterday evening, disembarassed of the second to the previous question. The theory of the previous question in the British Parliament, from which we derive our practice, is, that when the previous question has been seconded and the main question not ordered to be put, the effect is simply to remove the question from the consideration of the House for that day. And the Chair thinks that, however inconvenient its operation here, the same result follows.

Since the House has changed its rule, requiring a majority to second a demand for the previous question, the Chair has never perceived any reason why two votes should be taken instead of one. That would be the practice, if the Chair had the making of the rules. But the House yesterday reconsidered the vote refusing to order the main question to be put, and the House now stands in the position of having seconded the demand for the previous question, with the pending motion, "Shall the main question be now put?"

Mr. SHERMAN, of Ohio. Have not the gentleman who moved the previous question and all other gentlemen who have made motions in relation to this matter, the right to withdraw their motions, and by general consent allow this matter to go over until to-morrow, with the general understanding that no business shall be transacted to-day except that relating to the appropriation bills or private business?

The SPEAKER. By general consent that result of course would be reached. But a demand for the previous question having been made, and the House having seconded that demand, in the opinion of the Chair the gentleman has not the right to withdraw the demand. The Chair thinks the matter has gone beyond the control of the gentleman making the demand.

Mr. SHERMAN, of Ohio. The House having voted down the motion to order the main question, I think the second of the previous question stands precisely like a new demand, and that it is competent for the gentleman making the demand to withdraw it.

The SPEAKER. The House having voted upon the demand, in the opinion of the Chair it cannot be withdrawn.

Mr. COMINS. I ask the unanimous consent of the House that all pending motions shall be withdrawn, that this question shall go over until to-morrow at twelve o'clock, and that the House shall then resolve itself into a Committee of the Whole House on the Private Calendar. I hope all objection will be withdrawn.

Mr. McQUEEN. I object.

Mr. SEWARD. It is apparent that we cannot force gentlemen on this side of the House to take a vote to-day; and it seems to me a matter of good sense, if we ever intend to adjourn this session, that we should consent to allow this matter to go over until to-morrow, and proceed to business. It is evident that we can accomplish nothing by this process.

Several MEMBERS. Regular order of business. Mr. WASHBURN, of Illinois. I wish to inquire whether, if the House should refuse to order the main question now, the question would not go over until to-morrow?

The SPEAKER. It would.

Mr. WASHBURN, of Illinois. Then I hope all these side motions will be withdrawn, and the House will refuse to order the main question.

Mr. STEPHENS, of Georgia. I hope the question will be taken, and that the main question will be ordered. The House may as well dispose of this question to-day as to-morrow.

Mr. WASHBURN, of Maine. If the House orders the main question, the effect will be to force the House to a vote to-day upon this question

when the reports which have only now been laid on our tables have never been read at all.

Mr. COMINS. I again ask the unanimous consent of the House—

The SPEAKER. The Chair has thus far allowed the suggestions of gentlemen in the hope that some agreement would be arrived at which would relieve the House from its present position. The Chair will now enforce the rules to the extent of his ability. The question is upon the motion of the gentleman from Ohio [Mr. STANTON] to be excused from voting upon the motion of the gentleman from New York [Mr. MORGAN] to be excused from voting on the motion of the gentleman from Pennsylvania [Mr. FLORENCE] to lay on the table the appeal taken by the gentleman from Pennsylvania [Mr. GROW] from the decision of the Chair.

Mr. HILL. I rise to a privileged question. I yesterday paired off with a gentleman on this Minnesota question, and I ask instructions of the Chair whether this is a motion so connected with the Minnesota question as to bring it within the terms of my pair? I do not want to do an unfair thing.

The SPEAKER. The gentleman must be the judge of that for himself. Debate is not in order.

Mr. HILL. I ask the Chair, then, to allow me to state that my pair is with Mr. McKINNEY; and that, for the reason of having made that pair, I shall decline to vote upon the pending question.

The question was taken; and it was decided in the negative—yeas 75, nays 102; as follows:

YEAS—Messrs. Adrain, Atkins, Avery, Barksdale, Bishop, Boeck, Branch, Bryan, Burnett, Burroughs, Caskie, John B. Clark, Clay, Clemens, Cobb, Corning, Cox, James Craig, Curry, Davis of Indiana, Dimmick, Edie, Faulkner, Florence, Foley, Gartrell, Gillis, Goode, Greenwood, Gregg, Lawrence W. Hall, Thomas L. Harris, Has-kin, Hawkins, Houston, Hughes, Huyler, Jackson, Jenkins, Kelsey, Jacob M. Kunkel, Lamar, Lawrence, Leiter, Lovejoy, Maclay, McQueen, Maynard, Miles, Moore, Parker, Peyton, Phelps, Phillips, Quinman, Ready, Reagan, Reilly, Robbins, Robert Smith, William Smith, Stephens, Stevenson, James A. Stewart, William Stewart, Talbot, Miles Taylor, Thayer, Wade, Walbridge, Watkins, White, Whiteley, Augustus R. Wright, and John V. Wright—75.

NAYS—Messrs. Abbott, Ahl, Anderson, Andrews, Arnold, Billingshurst, Bingham, Blair, Bliss, Bowie, Boyce, Buffinton, Burlingame, Burns, Campbell, Case, Chaffee, Ezra Clark, Clawson, John Cochrane, Colfax, Comins, Covode, Burton Craige, Curtis, Damrell, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Durfee, English, Eustis, Farnsworth, Fenton, Foster, Gilman, Gilmer, Gooch, Grow, Harlan, Hoard, Hopkins, Horton, Howard, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Kelsey, Knapp, Kelly, John C. Kunkel, Letcher, Humphrey Marshall, Milton Morgan, Morrill, Isaac N. Morris, Freeman H. Morse, Murray, Palmer, Pendleton, Pettit, Pike, Potter, Pottle, Powell, Purviance, Ricard, Roberts, Royce, Ruffin, Sandidge, Savage, Seales, Scott, Searing, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, Shorter, Sickles, Spinner, Tompkins, Tripp, Underwood, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, Woodson, and Wortendyke—102.

So Mr. STANTON was not excused.

Pending the call of the roll,

Mr. RICAUD stated that Mr. CARUTHERS had paired off with Mr. HARRIS, of Maryland.

Mr. KEITT stated that he had paired off with Mr. DAVIS, of Maryland.

Mr. NIBLACK stated that he had paired off with Mr. GOODWIN.

Mr. POTLE stated that Mr. HALL, of Massachusetts, being unwell, had paired off with Mr. WARD.

Mr. SEWARD said that he had declined to vote, not wishing to take any part in any such contest.

Mr. CRAWFORD said he declined to vote because there was nothing practical in the question. He should vote upon no question until some question came up involving something practical.

The question recurred on the motion to excuse Mr. MORGAN from voting upon the appeal from the decision of the Chair; on which the yeas and nays had been ordered.

Mr. KELSEY. I move to be excused from voting upon the motion to excuse the gentleman from New York; and upon it I call the yeas and nays.

The yeas and nays were ordered.

Mr. GILLIS. I would inquire whether that motion is susceptible of amendment? If it is, I propose to move to amend.

The SPEAKER. The Chair thinks no amendment is in order.

Mr. GILLIS. My proposition was, if it were admissible, to move to excuse every member upon

that side of the House from voting upon any question?

Mr. LEITER. As I see nothing that can be done to-day, I move (half past twelve o'clock,) that the House adjourn.

Mr. KELSEY demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 27, nays 143; as follows:

YEAS—Messrs. Blair, Case, Caskie, Clawson, Clay, Colfax, Crawford, Davis of Iowa, Edie, Greenwood, Huyler, Jacob M. Kunkel, Lamar, Leiter, Nichols, Quinman, Reagan, Robbins, Royce, Ruffin, Savage, Stanton, Stevenson, William Stewart, Miles Taylor, Elihu B. Washburne, Wood, Wortendyke, and Augustus R. Wright—27.

NAYS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Arnold, Atkins, Avery, Barksdale, Billingshurst, Bingham, Bishop, Bliss, Boeck, Bowie, Boyce, Bryan, Buffinton, Burlingame, Burnett, Burns, Chaffee, John B. Clark, Clemens, John Cochrane, Cockerill, Comins, Corning, Covode, Cox, Curry, Curtis, Damrell, Davidson, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Dawes, Dean, Dick, Dimmick, Dodd, Dowdell, Durfee, Edmundson, English, Eustis, Farnsworth, Faulkner, Fenton, Florence, Foley, Foster, Gartrell, Gillis, Gilman, Gilmer, Granger, Gregg, Groesbeck, Grow, Lawrence W. Hall, Harlan, Thomas L. Harris, Hawkins, Hoard, Horton, Houston, Howard, Hughes, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Kelsey, Knapp, Lawrence, Leidy, Letcher, Lovejoy, Maclay, McQueen, Samuel S. Marshall, Mason, Matteson, Maynard, Miles, Isaac N. Morris, Mott, Palmer, Parker, Pettit, Phelps, Phillips, Pike, Potter, Powell, Purviance, Ready, Reilly, Ricard, Roberts, Sandidge, Seales, Scott, Searing, Aaron Shaw, Henry M. Shaw, John Sherman, Shorter, Samuel A. Smith, William Smith, Spinner, Stallworth, Stephens, James A. Stewart, Talbot, Tappan, George Taylor, Tompkins, Tripp, Underwood, Wade, Walbridge, Walton, Cadwalader C. Washburn, Watkins, White, Whiteley, Wilson, Woodson, John V. Wright, and Zollcoffer—143.

So the House refused to adjourn.

Pending the call,

Mr. JOHN COCHRANE stated that Mr. HATCH had paired off with Mr. BENNETT.

Mr. BILLINGHURST stated that upon the Minnesota question, Mr. SICKLES had paired off with Mr. BLAIR.

Mr. LOVEJOY stated that Mr. LEACH was detained from the House by sickness.

The result was then announced as above recorded.

Mr. DAVIS, of Indiana. I now ask the unanimous consent of the House to make a report from the Committee on Public Lands on the geological survey of Oregon and Washington Territories, and geological explorations in connection with the explorations for a railroad route to the Pacific. My object is to have them printed and referred to the Committee on Printing, that they may have all the facts before them in connection with the report of Dr. Evans, which was sent in here this morning by the President, and referred to that committee.

Mr. KUNKEL, of Maryland. I object.

Mr. CHAFFEE. I ask the House to excuse me for the remainder of the day. I have business which requires my absence; and I make the application in good faith.

The SPEAKER. The Chair hears no objection.

Mr. GROW. I object.

Mr. CLEMENS. The objection comes too late. The Chair had announced the decision before the objection was made.

The SPEAKER. The decision was announced before the Chair heard the gentleman from Pennsylvania. Does the gentleman insist upon his objection?

Mr. GROW. I do.

Mr. CLEMENS. The gentleman did not rise in his seat and object.

The SPEAKER. The question recurs upon the motion to excuse the gentleman from New York [Mr. KELSEY] from voting upon the motion to excuse his colleague from voting; upon which the yeas and nays have been ordered. No other business is in order.

Mr. MASON. What is the regular order of business?

The SPEAKER. It is to excuse the gentleman from New York from voting.

Mr. SHERMAN, of Ohio. I rise to a question of order. I suppose the gentleman from New York has a right to withdraw his request if he desires. Has he not?

The SPEAKER. The Chair thinks he has, of course.

Mr. SHERMAN, of Ohio. I think gentlemen had better withdraw their motions made pending the motion on ordering the main ques-

tion to be put; as I understand, if it is done, that that motion will not be insisted on to-day.

Mr. KELSEY. With that understanding, I will withdraw my motion to be excused.

Mr. GROW. I am willing to withdraw my motion, if it is understood that this Minnesota question shall go over until to-morrow.

Mr. LETCHER. I call the gentleman to order.

The SPEAKER. The question recurs upon excusing the gentleman from New York [Mr. MORGAN] from voting upon the appeal from the decision of the Chair.

Mr. MORGAN. Understanding that there are sufficient gentlemen pledged to vote down the main question, I withdraw my motion to be excused.

Mr. MASON. What is the next question in order?

The SPEAKER. It is upon the motion of the gentleman from Pennsylvania to lay upon the table the appeal of his colleague [Mr. GROW] from the decision of the Chair.

Mr. STANTON. I hope the gentleman from Pennsylvania will withdraw his appeal.

Mr. GROW. All these questions will drop if I withdraw the appeal; will they not?

The SPEAKER. The appeal is the first motion.

Mr. GROW. I will withdraw it.

The SPEAKER. The question is, "Shall the main question be ordered?"

Mr. WASHBURN, of Illinois. I demand the yeas and nays upon it. What will be the effect of ordering the main question?

The SPEAKER. If the main question is not ordered, the subject goes over until to-morrow; if it is ordered, the House will be brought to a vote upon the report.

Mr. MASON. I understand if we vote down the main question, gentlemen on the other side—

[Cries of "Order!"]

The SPEAKER. Debate is not in order.

Mr. MASON. I shall vote against ordering the main question, as will others on this side of the House.

The question was taken; and it was decided in the affirmative—yeas 101, nays 90; as follows:

YEAS—Messrs. Adrain, Ahl, Arnold, Atkins, Avery, Barksdale, Bishop, Boeck, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caskie, Chapman, John B. Clark, Clay, Cobb, John Cochrane, Cockerill, Corning, James Craig, Burton Craige, Crawford, Curry, Davis of Indiana, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Gartrell, Gillis, Goode, Greenwood, Gregg, Lawrence W. Hall, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leidy, Letcher, Maclay, McQueen, Samuel S. Marshall, Maynard, Miles, Miller, Moore, Peyton, Phelps, Phillips, Powell, Quinman, Ready, Reagan, Reilly, Ruffin, Sandidge, Savage, Seales, Scott, Searing, Henry M. Shaw, John Sherman, Shorter, Singleton, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Watkins, White, Whiteley, Winslow, Wortendyke, John V. Wright, and Zollcoffer—101.

NAYS—Messrs. Andrews, Billingshurst, Bingham, Bliss, Buffinton, Burlingame, Campbell, Case, Ezra Clark, Clawson, Clemens, Colfax, Comins, Covode, Cragin, Curtis, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Durfee, Eustis, Farnsworth, Fenton, Foster, Gilman, Gilmer, Gooch, Granger, Groesbeck, Grow, Harlan, Thomas L. Harris, Has-kin, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leiter, Lovejoy, Humphrey Marshall, Mason, Matteson, Milton Morgan, Morrill, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ricard, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, Judson W. Sherman, William Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Tripp, Underwood, Wade, Walbridge, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, and Woodson—90.

So the House ordered the main question to be put.

Pending the call, Mr. COX stated that he had paired off on the Minnesota question with Mr. MORRIS, of Pennsylvania.

Mr. SEWARD stated that he had paired off with Mr. EDIE upon the Minnesota question, and upon all contested-election cases.

Mr. WRIGHT, of Georgia, stated that he had paired off for to-day and to-morrow with Mr. OLIN, upon the Minnesota question, and also on the Ohio contested-election case.

Mr. SHERMAN, of Ohio, stated that he voted in the affirmative for the purpose of moving a reconsideration.

Mr. COBB said: I desire to know whether my name was recorded upon the last vote?

The SPEAKER. It is not.

Mr. COBB. I ask that my vote may be recorded. I was sitting in my seat, but did not understand what the question was at the time my name was called.

Mr. BARKSDALE. I object. The question was an important one.

The resolution was then announced as above recorded.

[Mr. DAVIDSON, from the Committee on Enrolled Bills, here reported, as correctly enrolled, an act (H. R. No. 564) to create a land district in the Territory of New Mexico; which thereupon was signed by the Speaker.]

Mr. SHERMAN, of Ohio. I rise to a privileged question. I move to reconsider the vote by which the House ordered the main question; and upon that I demand the yeas and nays.

The SPEAKER. The Chair is of opinion that the House, having already once reconsidered the vote, it is not in order again to move it.

Mr. SHERMAN, of Ohio. That was yesterday, and if the Chair refuses to entertain my motion, I will take an appeal.

Mr. GROW. And the vote yesterday was upon a different motion from this.

Mr. SHERMAN, of Ohio. With the consent of the House, I will state—

Mr. STEPHENS, of Georgia. I object.

Mr. HUGHES. I wish, before the Chair decides the question of order, to enter a motion to lay upon the table the motion of the gentleman from Ohio.

The SPEAKER. The Chair will entertain the motion of the gentleman from Ohio.

Mr. STEPHENS, of Georgia. I move to lay that motion upon the table, and upon it I demand the yeas and nays.

The yeas and nays were ordered.

Mr. GROW. Is the motion to lay the whole subject upon the table in order?

The SPEAKER. The Chair thinks it is.

Mr. GROW. I withdrew that, with the understanding that the main question would not be ordered, and that the matter would go over until to-morrow. I now renew the motion.

Mr. DEAN. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. MORGAN. I ask to be excused from voting on the proposition to lay on the table; and on that I call for the yeas and nays.

Mr. PHILLIPS. We will excuse him by unanimous consent.

The yeas and nays were ordered.

Mr. KELSEY. I ask to be excused from voting on the proposition to excuse my colleague.

Mr. FLORENCE. No objection.

Mr. MARSHALL, of Kentucky. I raise the question of order that after the main question being ordered to be now put, these motions to be excused from voting are not in order; and that no motion can be entertained except a motion to adjourn or to lay on the table.

The SPEAKER. The Chair overrules the question of order. It has been the practice of the House to receive such motions.

Mr. MORGAN, (at a quarter past one o'clock, p. m.) I move that the House do now adjourn; and on that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken on the motion to adjourn; and it was decided in the negative—yeas 69, nays 120; as follows:

YEAS—Messrs. Abbott, Billingshurst, Bingham, Bliss, Branch, Burlingame, Case, Ezra Clark, Clawson, Colfax, Comins, Covode, Cragin, Curtis, Davis of Iowa, Dean, Dick, Dodd, Durfee, Fenton, Gilman, Goode, Granger, Greenwood, Grow, Harlan, Hopkins, Horton, Howard, Huyler, George W. Jones, Kellogg, Kelsey, Knapp, Lamar, Leitch, Letcher, Lovejoy, Maclay, Mason, Morgan, Morrill, Murray, Nichols, Palmer, Parker, Pettit, Potter, Ritchie, Robbins, Royce, Ruffin, John Sherman, Spinner, Stevenson, William Stewart, Tappan, Miles Taylor, Thayer, Tompkins, Walbridge, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Winslow, Wood, Wortendyke, and Augustus R. Wright—69.

NAYS—Messrs. Adrain, Ahl, Anderson, Andrews, Arnold, Atkins, Avery, Barksdale, Bishop, Bocoock, Bowie, Boyce, Bryan, Buffinton, Burnett, Burns, Caskie, Chapman, John B. Clark, Clay, Clemens, John Cochrane, Cocke, Corning, James Craig, Crawford, Curry, Darnell, Davidson, Davis of Mississippi, Davis of Massachusetts, Dawes, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Eustis, Farnsworth, Faulkner, Florence, Foley, Foster, Garnett, Gartrell, Gillis, Gilmer, Gregg, Groesbeck, Thomas L. Harris, Haskin, Hawkins, Hoard, Houston, Hughes, Jackson, Jewett, J. Glancy Jones, Owen Jones,

Kelly, Jacob M. Kunkel, John C. Kunkel, Landy, Lawrence, Leidy, McQueen, Humphrey Marshall, Matteson, Maynard, Miles, Miller, Millson, Moore, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Peyton, Phelps, Phillips, Pike, Pottle, Powell, Purviance, Quitman, Ready, Reagan, Reilly, Scales, Scott, Searing, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, James A. Stewart, Talbot, George Taylor, Trippie, Underwood, Wade, Watkins, White, Whiteley, Wilson, Woodson, John V. Wright, and Zollcoffer—120.

So the House refused to adjourn.

Pending the vote,

Mr. COX stated that he had paired off with Mr. MORRIS, of Pennsylvania.

After the announcement of the vote, as above recorded,

Mr. WALBRIDGE said: I move that when the House adjourns to-day, it adjourn to meet on Monday next; and on that I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 17, nays 143; as follows:

YEAS—Messrs. Davis of Iowa, Hawkins, Kelly, Kilgore, Lamar, Maclay, Mason, Murray, Potter, Stephens, William Stewart, Miles Taylor, Walbridge, Cadwalader C. Washburn, Elihu B. Washburne, Wood, and Augustus R. Wright—17.

NAYS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Arnold, Atkins, Avery, Barksdale, Billingshurst, Bingham, Bishop, Bliss, Bocoock, Bowie, Branch, Bryan, Buffinton, Burlingame, Burnett, Burns, Caskie, Ezra Clark, John B. Clark, Clawson, Clay, Clemens, Cobb, Colfax, Comins, Corning, Covode, Cragin, Crawford, Curry, Curtis, Darnell, Davidson, Davis of Indiana, Davis of Massachusetts, Dawes, Dean, Dick, Dimmick, Dodd, Dowdell, Durfee, Edmundson, English, Farnsworth, Fenton, Florence, Foley, Foster, Garnett, Gartrell, Gillis, Gilman, Gilmer, Goode, Goode, Granger, Groesbeck, Hoard, Hopkins, Howard, Hughes, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kellogg, Kelsey, Knapp, Jacob M. Kunkel, John C. Kunkel, Landy, Lawrence, Leach, Leidy, Leitch, Letcher, Lovejoy, McQueen, Humphrey Marshall, Samuel S. Marshall, Matteson, Maynard, Miller, Milton, Moore, Morgan, Morrill, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Nichols, Palmer, Parker, Phillips, Pottle, Purviance, Quitman, Ready, Reilly, Ricard, Robbins, Roberts, Royce, Ruffin, Sandidge, Savage, Scales, Scott, Searing, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, William Smith, Spinner, Stanton, Stevenson, James A. Stewart, Tappan, George Taylor, Thayer, Tompkins, Trippie, Underwood, Wade, Walton, Israel Washburn, White, Whiteley, Wilson, Winslow, Wortendyke, John V. Wright, and Zollcoffer—143.

So the House refused to adjourn over.

Mr. QUITMAN. I ask the unanimous consent of the House to make an appeal, with the object of terminating the difficulties in which both sides of the House have become involved. What is the contest in which we are engaged? It is a contest, as I understand, whether the matter of the admission of the members from Minnesota shall be disposed of to-day or to-morrow, and whether we shall make use of to-day for the appropriate business of the day, or whether—so near the end of the session—we shall lose the day in this manner, and still have no understanding as to the taking up of this Minnesota business to-morrow. It seems to me that this is a plain statement of the question, and that neither party can derive any advantage from persisting in—

Mr. STEPHENS, of Georgia. If a majority of the House is decided to take a vote now, let the responsibility of these proceedings rest upon the other side of the House.

Mr. GROW. We do object to taking a vote to-day, and ask that the matter may go over until to-morrow.

Mr. HUGHES. I was on the floor making a point of order when the first motion to adjourn was entertained. I would now like to finish that question of order.

The SPEAKER. The gentleman from Mississippi [Mr. QUITMAN] has the floor.

Mr. QUITMAN. The question is simply—

Mr. SEWARD. Is debate in order?

The SPEAKER. It is not.

Mr. SEWARD. Then I object.

Mr. WINSLOW. It is evident we can do nothing to-day, and therefore I move that the House do now (two o'clock, p. m.) adjourn.

Mr. BARKSDALE. On that I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 78, nays 102; as follows:

YEAS—Messrs. Ahl, Billingshurst, Bingham, Blair, Bliss, Branch, Burlingame, Case, Ezra Clark, Clawson, Colfax, Covode, Cragin, Curtis, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Durfee, Farnsworth, Fenton, Foster, Gilman, Gilmer, Goode, Granger, Grow, Harlan, Haskin, Hawkins, Hopkins, Horton, Howard, Huyler, Jew-

ett, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, Leidy, Letcher, Maclay, Mason, Morgan, Morrill, Freeman H. Morse, Nichols, Palmer, Parker, Pettit, Potter, Reagan, Ricard, Robbins, Royce, John Sherman, Judson W. Sherman, Sickles, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Underwood, Wade, Walbridge, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Winslow, Wood, Wortendyke, Augustus R. Wright, and Zollcoffer—78.

NAYS—Messrs. Abbott, Anderson, Andrews, Atkins, Avery, Barksdale, Bishop, Bocoock, Bowie, Bryan, Buffinton, Burnett, Burns, Chapman, John B. Clark, Clay, Clemens, Cobb, John Cochrane, Cocke, Corning, Comins, Corning, Crawford, Darnell, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Dick, Dimmick, Edmundson, Elliott, Eustis, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Houston, Jackson, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, John C. Kunkel, Landy, Lawrence, Leitch, Lovejoy, McQueen, Humphrey Marshall, Matteson, Maynard, Miller, Millson, Isaac N. Morris, Mont, Pendleton, Phelps, Phillips, Pike, Pottle, Powell, Purviance, Ready, Reilly, Roberts, Ruffin, Sandidge, Savage, Scales, Scott, Searing, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Trippie, Watkins, White, Whiteley, Wilson, Woodson, and John V. Wright—102.

So the House refused to adjourn.

Pending the vote,

Mr. PALMER stated that his colleague, Mr. THOMPSON, had paired off with Mr. JENKINS.

The question recurred on excusing Mr. KELSEY from voting on the proposition to excuse his colleague, Mr. MORGAN, from voting.

Mr. BRANCH. I ask the unanimous consent of the House to report back from the Committee on Foreign Affairs a joint resolution authorizing Commander Maury to receive a gold medal from the Emperor of Austria.

Mr. DEAN. I ask for the regular order of business.

The yeas and nays were demanded and ordered on Mr. KELSEY's motion.

Mr. MARSHALL, of Kentucky, (at fifteen minutes past two, p. m.) I move that the House do now adjourn.

Mr. JONES, of Tennessee. Is there any objection to excusing the gentleman from New York from voting? If there be no objection, I suppose he may be excused, as a matter of course.

The SPEAKER. The yeas and nays have been ordered on the proposition.

Mr. SMITH, of Virginia. I ask simply the privilege of allowing us to do what we can to-day with the business on the Private Calendar. We might as well do that as adjourn.

Mr. JOHN COCHRANE. I call for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

Mr. MARSHALL, of Kentucky. I withdraw my motion to adjourn.

Mr. KELSEY. I move that when the House adjourns to-day, it adjourn to meet on Tuesday next; and on that I call for the yeas and nays.

The yeas and nays were not ordered.

Mr. WINSLOW, (at twenty minutes past two o'clock, p. m.) I move that the House do now adjourn.

The yeas and nays were ordered.

Mr. MAYNARD. I appeal to the gentleman from North Carolina to withdraw his motion, that I may ask the unanimous consent of the House to go into Committee of the Whole on the Private Calendar. It is manifest that we can do nothing to-day with the regular order of business. We may, however, by unanimous consent, transact business of a private character which will be a benefit to those interested in private claims.

Mr. SMITH, of Virginia. I rise for information. Suppose the motion to reconsider is carried, will the matter then go over?

The SPEAKER. No; the question will recur "Shall the main question be now put?"

The question was taken; and it was decided in the negative—yeas 83, nays 93; as follows:

YEAS—Messrs. Abbott, Andrews, Billingshurst, Bingham, Blair, Bliss, Branch, Burlingame, Case, Ezra Clark, Clawson, Colfax, Covode, Cox, Cragin, Davidson, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Fenton, Foster, Gilman, Granger, Grow, Harlan, Haskin, Hawkins, Hopkins, Horton, Howard, Jewett, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, Leidy, Letcher, Maclay, Humphrey Marshall, Mason, Maynard, Millson, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Murray, Nichols, Palmer, Parker, Pettit, Potter, Quitman, Reagan, Ritchie, Royce, Ruffin, John Sherman, Judson W. Sherman, Sickles, Robert Smith, Samuel A. Smith, William Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Trippie, Underwood, Wade, Walbridge, Walton, Cadwalader C. Washburn, Elihu B.

Washburne, Israel Washburn, Winslow, and Augustus R. Wright—83.

NAYS—Messrs. Admin, Ahl, Arnold, Atkins, Avery, Bishop, Boeck, Boyce, Bryant, Buffinton, Burnett, Burns, Chapman, John B. Clark, Clay, Clemens, Cobb, John Cochran, Corning, James Craig, Burton Craig, Crawford, Curry, Darnell, Davis of Indiana, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Eustis, Faulkner, Florence, Foley, Garnett, Gattrell, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Houston, Hughes, Jackson, Jenkins, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, John C. Kunkel, Lamar, Landy, Leiter, Lovejoy, McQueen, Samuel S. Marshall, Miles, Miller, Moore, Isaac N. Morris, Mott, Pendleton, Peyton, Phelps, Phillips, Pottle, Purviance, Reilly, Robbins, Roberts, Sandidge, Savage, Seales, Searing, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, White, Wilson, John V. Wright, and Zolltoffer—93.

So the House refused to adjourn.

During the call of the roll,

Mr. DAWES stated that Mr. CURTIS had paired off with Mr. DAVIS, of Mississippi.

The question recurred upon the motion to excuse Mr. KELSEY from voting.

Mr. KELSEY. I move that when the House adjourns, it adjourn to meet at nine o'clock, a. m., to-morrow.

The SPEAKER. The motion is not in order.

Mr. KELSEY. Then I move that when the House adjourns it adjourn to meet on Monday next.

Mr. GROW. I move that the House do now adjourn.

Mr. PHILLIPS. I demand the yeas and nays, and tellers on the yeas and nays.

Tellers were ordered; and Messrs. WRIGHT of Georgia, and BUFFINTON, were appointed.

The House divided; and the tellers reported—
ayes 26, noes 106.

So the yeas and nays were not ordered.

Mr. ENGLISH demanded tellers.

Tellers were ordered; and Messrs. PEYTON and DEAN were appointed.

The House divided; and the tellers reported—
ayes 96, noes 32.

So the motion was agreed to; and thereupon (at fifteen minutes to three o'clock, p. m.) the House adjourned.

IN SENATE.

SATURDAY, May 22, 1858.

Prayer by Rev. H. N. SIFES.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, papers in relation to claims of Blocker P. Gurley and James P. Davis, to compensation as counsel for Lieutenant Anderson and his detachment; which, on motion of Mr. FITZPATRICK, was referred to the Committee on Military Affairs and Militia.

He also laid before the Senate a letter of the Treasurer of the United States, communicating copies of his accounts of the receipts and disbursements for the Post Office Department for the fiscal years ending the 30th June, 1856, and 30th June, 1857; which was ordered to be laid on the table.

He also laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate, a statement showing the unexpended balance for the payment of claims of citizens of the United States under the treaty of Guadalupe Hidalgo; which was ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. IVERSON presented the memorial of the State of Georgia, praying that the money advanced by that State for the purchase of clothing for the use of the army then quartered near the city of Savannah, during the revolutionary war, may be refunded; which was referred to the Committee on Claims.

Mr. GREEN presented the petition of Noah Gammon, praying that an amount paid by him on the entry of certain land, to which he did not obtain a title, may be refunded; which was referred to the Committee on Public Lands.

Mr. HAMLIN presented the memorial of Henry Addison and Robert Ould, in behalf of the corporate authorities of Georgetown, District of Columbia, praying an appropriation for removing

obstructions from the channel of the Potomac river; which was ordered to lie on the table.

Mr. SEWARD presented the petition of O. Bowne, in behalf of the commissioners for the removal of the quarantine station of the State of New York, praying that the value of the property of the United States at the present quarantine station may be applied to furnish such accommodations as the Secretary of the Treasury shall deem necessary for revenue purposes at the new quarantine site; which was referred to the Committee on Finance.

Mr. KING presented papers relative to the claim of James A. Mott to compensation for medical services to sick and wounded soldiers in the war of 1812; which were referred to the Committee on Pensions.

He also presented the petition of William Nicholson, praying that the children of Marvel Nicholson, deceased, may be authorized to locate or assign a land warrant granted to her; which was referred to the Committee on Public Lands.

Mr. BENJAMIN presented the petition of E. B. Bishop, praying an appropriation to test the utility of certain improvements in dredging machines patented by him; which was referred to the Committee on Commerce.

He also presented the petition of Henry M. Fleury, and others, praying the confirmation of a certain land title; which was referred to the Committee on Private Land Claims.

Mr. DAVIS presented the petition of William B. Whiting, a lieutenant in the Navy, praying an appropriation to make experiments with fire-arms, and materials to resist projectiles from fire-arms; which was referred to the Committee on Military Affairs and Militia.

REPORTS OF COMMITTEES.

Mr. HUNTER, from the Committee on Finance, to whom was referred the report of the Secretary of the Treasury, relative to the present condition of the finances of the Government, reported a bill (S. No. 396) to authorize a loan not exceeding the sum of \$15,000,000; which was read, and passed to a second reading. He gave notice that he should ask for the consideration of the bill on Monday next.

Mr. STUART. The Committee on Public Lands, to whom were referred the memorial of J. H. Langley and others, citizens of Illinois, relative to Rock Island; the memorial of the preëmptors of the island of Rock Island, in Illinois; and the petition of the Mayor and Council of the city of Rock Island, Illinois, asking for some legislation by Congress, in respect to that island, have instructed me to move that they be discharged from the further consideration of the subject. I will briefly state that the Secretary of War is proceeding to sell Rock Island under authority of law, and for that reason the Interior Department declines exercising any authority on the subject. It appears to the committee that there is some controversy between individual claimants; but the whole subject is so completely under the control and discretion of the Secretary of War that the committee do not think it proper for Congress to take any steps in the matter.

The motion to discharge the committee was agreed to.

Mr. STUART, from the same committee, to whom were referred resolutions of the Legislature of New Jersey in favor of a donation of public lands to that State in common with other States, for establishing agricultural colleges; a memorial of the Legislature of Minnesota, praying a donation of land for the establishment of an agricultural college in that State; a resolution of the Legislature of California in favor of a donation of lands to the States and Territories for agricultural colleges therein; a memorial of the Legislature of Iowa, praying a donation of land for the purpose of establishing scientific agricultural schools in that State; resolutions of the Legislature of Michigan, in favor of a donation of land for the endowment of the Michigan Agricultural College; a memorial of the Michigan State Agricultural Society, praying that a grant of land be made for the endowment of an agricultural college in that State, and similar institutions in every State in the Union; resolutions passed at the annual meeting of the Oneida County Agricultural Society, New York, in favor of the endowment and maintenance of a college in each State and Territory of the United

States, to teach such branches of learning as relate to agriculture and the mechanic arts; a memorial of the members of the Board of Education of the State of Michigan, and of the faculty of the Agricultural College of that State, praying a donation of land for the agricultural college; a petition of the New York State Agricultural College for an appropriation of public lands for an agricultural college in each State of the Union; a petition of the Ohio State Board of Agriculture, praying that a donation of land may be made to each of the States for the establishment of agricultural colleges; a memorial of the regents of the University of Michigan, praying a donation of land; resolutions of the New York State Agricultural Society recommending a grant of land to each State and Territory, and the District of Columbia, for the endowment and maintenance of agricultural colleges; a memorial of the directors and faculty of the Farmers' College, Hamilton county, Ohio, praying a grant of land to the several States and Territories for the establishment of agricultural colleges therein; a petition of citizens of New London county, Connecticut, praying that a grant of land be made to each State, to endow therein an industrial university; a petition of inhabitants of Michigan, praying that a grant of land may be made for the benefit of the Michigan Agricultural College; a petition of inhabitants of Michigan, praying that a donation of land be made for the use of the Michigan Agricultural College; a memorial of the Board of Trustees of the Farmers' High School of Pennsylvania, praying a grant of land for the endowment of that institution; a petition of the State Agricultural Society, of Michigan, praying that a liberal donation of public land may be made for the promotion of agricultural education in that State; a memorial of Sallie Eola Reneau, praying an appropriation of a portion of unappropriated public land in the State of Mississippi, for the purpose of endowing the State Female College of Mississippi; a memorial of the Board of Trustees of the Protestant University of the United States, at Cincinnati, Ohio, praying that that institution may be endowed by a grant of public land; a memorial of the officers of the Oakland County Agricultural Society, in Michigan, praying a donation of land to each of the States, for the encouragement and promotion of agricultural education therein; a petition of the Calhoun County Agricultural Society, Michigan, praying that a liberal donation of public land be made to Michigan, and other States, for the promotion of agricultural education; asked to be discharged from their further consideration; which was agreed to, the committee having already reported a House bill (No. 2) on the subject.

Mr. BIGLER, from the Committee on the Post Office and Post Roads, to whom was referred the bill (S. No. 318) for the relief of Keep, Bard & Co., J. Caulfield, and Joseph Landis & Co., asked to be discharged from its further consideration, and that it be referred to the Committee on Commerce; which was agreed to.

Mr. POLK, from the Committee on Claims, to whom was referred the memorial of William Money, submitted a report, accompanied by a bill (S. No. 398) for the relief of William Money. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. MALLORY, from the Committee on Claims, to whom was referred the petition of Anastacio Caxxillo, submitted an adverse report thereon.

He also, from the Committee on Naval Affairs, to whom the subject was referred, reported a bill (S. No. 397) to authorize the construction of six small war steamers, of light draught; which was read and passed to a second reading. He notified Senators that he would probably offer the bill as an amendment to the naval appropriation bill.

Mr. STUART, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 300) declaring the title to land warrants in certain cases, reported it without amendment.

Mr. KING, from the Committee on Pensions, to whom was referred the petition of Maurice K. Simons, asked to be discharged from its further consideration; which was agreed to.

M. C. GRITZNER.

Mr. JOHNSON, of Arkansas. I move to reconsider the vote by which the bill (S. No. 358) for the relief of M. C. Gritzner, was passed yes-

terday. I am not certain but that it is right; but, being connected with the Committee on Printing, my attention was called to it several months ago, and then I was pretty well satisfied that everything had been settled up, and all that was due had been paid. I ask that the motion to reconsider may be entered, so that I may have time to look into the papers; and after that I will withdraw the motion if I find that the claim is reasonable and ought to be paid.

The VICE PRESIDENT. The motion will be entered.

SEIZURE OF AMERICAN VESSELS.

Mr. MASON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested (if, in his opinion, not incompatible with the public interest) to communicate to the Senate any correspondence that may have been held between this Government and the Government of England, concerning the seizure on the coast of Africa by the naval forces of the latter Power, of the American vessel "Peachin," sent in charge of a British naval officer, after said seizure, to the port of New York; and if there be any further correspondence or documents received by the Executive concerning the visitation or search of American vessels in the Gulf of Mexico or elsewhere by foreign armed cruisers, since the message of the President of the 19th May, instant, that he communicate the same to the Senate.

G. A. PENN AND EMILÉ LA SÈRE.

Mr. WILSON. I offer a resolution of inquiry, and ask for its present consideration:

Resolved, That the Secretary of the Treasury be directed to inform the Senate, under what authority Alexander G. Penn and Emilé La Sere were appointed disbursing agents of the Government at New Orleans, by whom and when appointed, and the nature of the service of each; the total amount of compensation paid to them, and the reasons for fixing the compensation of Mr. La Sere at sixteen dollars per day and the compensation of Mr. Penn at thirty-two dollars per day.

Mr. SLIDELL. If the Senator from Massachusetts—I do not know that he was under any obligations to do it—had taken the pains to make some preliminary inquiries, I think he would not have presented this resolution. It states what is not the fact, both in relation of Mr. La Sere and Mr. Penn. I believe Mr. Penn receives sixteen dollars a day and Mr. La Sere receives but eight dollars for his services, such as are rendered in almost every city of the Union, where public buildings are being erected. I should prefer, if the Senator from Massachusetts does not choose to make the correction of the facts I have stated, that at any rate he will not assume facts to exist which I know not to be true. The resolution is an assertion that these gentlemen are receiving this per diem allowance, and it asks the Secretary for reasons why it is granted. The fact is not so.

The VICE PRESIDENT. The first point is, "Is there objection to the resolution?"

Mr. SLIDELL. I am willing that the inquiry should be made, but I think it ought to be amended.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WILSON. I have no objection to striking out the declaration objected to by the Senator from Louisiana. In the report of the Secretary of the Treasury, which I hold in my hands, I find a list of superintendents of custom-houses and court-houses. I find that one gentleman in New Orleans receives, as superintendent, ten dollars per day; Mr. Penn, sixteen dollars per day. I find that, in the list of marine hospitals, Mr. La Sere receives, as disbursing agent, eight dollars per day, and under "the custom-house, post office, and miscellaneous," Mr. La Sere receives eight dollars per day, and Mr. Penn sixteen dollars per day, while the superintendent of the custom-house receives nothing. Here is the statement that these gentlemen receive this sum. However, I move to amend the resolution by striking out so much as makes a declaration that they receive these sums per day.

Mr. SLIDELL. One receives eight dollars a day, and attends to two or three public buildings; and the other receives sixteen dollars as the superintendent of the building and disbursing agent. I am certain the facts are so. However, I have no objection to the resolution.

Mr. CRITENDEN. I should like to hear the resolution read as amended.

The Secretary read it, as follows:

Resolved, That the Secretary of the Treasury be directed to inform the Senate under what authority Alexander G. Penn

and Emilé La Sere were appointed disbursing agents of the Government at New Orleans, by whom and when appointed, and the nature of the service of each; the total amount of compensation paid to them, and what compensation per diem Mr. La Sere and Mr. Penn respectively receive for all services.

The resolution was agreed to.

RETRENCHMENT AND REFORM.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be requested to report to the Senate specific estimates for "retrenchment and reform" in the expenditures for the several branches of the public service "to remedy the evils of the excess of expenditures over the means of the Government" as mentioned by him in his report of May 19, 1853, and that he be further requested to report to the Senate what efforts have been made, and by whom, since the 4th March, 1857, "to restrain the Government to an economical expenditure of the public money," and what have been the results of those efforts.

BILLS INTRODUCED.

Mr. HAMLIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 395) to authorize the increase of invalid pensions in certain cases; which was read twice by its title, and referred to the Committee on Pensions.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were signed by the Vice President:

An act for the relief of Isaac Drew, and other settlers upon the public lands, in the State of Wisconsin;

An act for the relief of the heirs and legal representatives of Pierre Broussard, deceased;

An act to revive an act entitled, "An act for the relief of the heirs, or their legal representatives, of William Conway, deceased;"

An act for the relief of William Smith, deceased, late of Louisiana;

An act for the relief of Regis Loisel, or his legal representatives;

A joint resolution for paying the compensation of stenographers employed by committees of the House of Representatives;

An act to prevent the inconvenient accumulation in the Post Office Department of postmasters' quarterly returns;

An act to increase the pension of John Richmond;

An act for the relief of Thomas Smithers;

An act for the relief of Pierre Gagnon, of Natchitoches, Louisiana;

An act to amend an act entitled "An act granting a pension to Ansel Wilkinson;"

An act for the relief of Isaac Carpenter;

An act for the relief of Brevet Major H. L. Kendrick; and

An act for the relief of the legal representatives of Marie Malines.

EMPLOYÉS OF THE SENATE.

On motion of Mr. GREEN, the Senate proceeded to consider the following resolution, submitted by him on the 10th of May:

Resolved, That the Secretary of the Senate be directed to pay to the employés of the Senate who did not receive the same at the last session of Congress the same compensation, respectively, that was allowed to the employés of the House of Representatives, by a resolution of the House of Representatives of 2d March, 1857.

The VICE PRESIDENT. The Chair will inquire of the Senator whether the resolution proposes a payment out of the contingent fund?

Mr. GREEN. Under the rules of the Senate I cannot offer a provision for the payment of this money as an amendment to an appropriation bill, unless the Senate shall have sanctioned the principle beforehand; and the resolution is to get that sanction in order to move an amendment to the appropriation bill. That is the object of the resolution.

The VICE PRESIDENT. The Chair will inquire of the Senator whether this contemplates the payment of money out of the contingent fund? He supposes it does.

Mr. GREEN. It does.

The VICE PRESIDENT. There is a rule of the body which requires all such resolutions to be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. GREEN. I am aware of that; but we can-

not pay it out of the contingent fund unless there is an appropriation made by law authorizing it. This is to get a sanction which will justify, under the rules, an amendment to the appropriation bill, when the bill comes up for consideration.

The VICE PRESIDENT. It is a direction of the Senate to the Secretary to pay money.

Mr. GREEN. But he has no money, and he cannot pay it, and he cannot have any money until the appropriation is made, and I cannot move to amend the appropriation bill unless the Senate first sanctions the principle.

The VICE PRESIDENT. The Chair is not aware that there is no money in the contingent fund. Unless some question be raised, however, the Chair will not press it.

Mr. SLIDELL. I raise the question of order, if there be any such question.

Mr. GREEN. Pray, what question?

Mr. SLIDELL. The question the Chair has raised. I am very sure this subject of extra compensation cannot now be debated without interfering very much with the regular order of business of the Senate. I am of opinion that all our employés are amply compensated now; and in order to test the sense of the Senate on the subject, I move to lay the resolution on the table.

Mr. GREEN. I do not see how the Senator can move to lay the resolution on the table while he raises a point of order. But if that is to be a test question, I have no objection to taking it on that. I ask for the yeas and nays on the motion.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 23; as follows:

YEAS—Messrs. Bayard, Benjamin, Bright, Cley, Col-lamor, Davis, Fesseuden, Fitzpatrick, Foot, Hammond, Henderson, Hunter, Johnson of Arkansas, King, Mason, Pearce, Sidel, Trumbull, Wade, Wilson, and Wright—21.

NAYS—Messrs. Bigler, Broderick, Cameron, Chandler, Clark, Crittenden, Dixon, Douglas, Fitch, Foster, Green, Gwin, Harlan, Iverson, Jones, Kennedy, Rice, Sebastian, Seward, Simmons, Stuart, Thompson of Kentucky, and Thomson of New Jersey—23.

So the motion was not agreed to.

Mr. PEARCE. Some three or four years ago, we increased the pay of all the employés of the Senate, with the understanding that that increase was to supersede the very objectionable practice which had prevailed theretofore of making extra allowances at the close of the session. That was the distinct understanding of the Senate. The Senate appointed a committee on the subject. That committee considered it deliberately, and I think in a most liberal spirit. They enlarged the salaries; they made many of the employés permanent, with compensation running throughout the whole year; and we did suppose that after having exercised this liberality, there would be an end to applications for extra allowances which are not founded in any propriety or in any facts which would justify them, but which seemed to owe their passage solely to the kindly feeling and liberal spirit of Senators. We thought we had settled it once for all; but it seems there is no getting rid of extra compensation. No matter at what rate we fix the salaries, the same application will be made session after session. I think this is manifestly improper. It is a contradiction of that determination which the Senate deliberately entered into three or four years ago, and of the expectation of every member of this body. There really is not a single fact suggested to justify us in making this extra compensation now, except the fact on which I understand the Senator from Missouri relies, that the House of Representatives has set us a very bad example, which, in my opinion, we ought not to follow.

I have said thus much upon the general subject. I wish now to say, in regard to the amendment I propose to offer, that if we are to increase the salaries of our employés, I trust the Senate will not leave out a very valuable set of officers who belong to the library, of whom no notice is taken in the resolution. Perhaps the Senator will consent to amend it, by adding, "and the officers of the library."

Mr. GREEN. I would consent, if the Senator did not think it so wrong. [Laughter.]

Mr. PEARCE. Well, sir. I only wish to make it uniform, and to make it apply equally to all. If the thing is wrong in itself, it is still more wrong if it discriminates and exhibits this partiality. I do not think there can be any question of the propriety of that argument.

Mr. GREEN. That is precisely my argument.

It is not only the bad example of the House, as the Senator calls it, but it is an example of paying officers of the House sanctioned by the Senate. The House could not do it, until the Senate sanctioned the same thing; and the Senate has now said the House employes shall have what it will not give to the Senate employes. I propose equality—equality is equity—proceeding precisely upon the same principle that the Senator from Maryland proceeds when he suggests the idea of putting in the librarian. I am willing to accept his amendment; but if his argument is worth a straw, it is wrong to put his amendment in. I believe it is right enough; but if he is going to vote against it all, I do not see with what propriety he undertakes to amend the resolution.

The principle, he says, is wrong, but it will be less wrong if you make it uniform. That is my opinion, too. But still the Senate has sanctioned that wrong with reference to its application to the employes of the House of Representatives. Is it not right that the Senate should sustain its own honor and dignity, and pay its own employes as much as the Senate allows to be paid to the employes of the House of Representatives. We have acted upon the same principle with regard to the reporters. We have never yet made a discrimination against them; and if we do discriminate against them now, it will be the first in the history of the Government. I am willing to accept the Senator's amendment, but it seems to me that by making that proposition, he destroys the whole force of the argument he made against this resolution itself.

Mr. BAYARD. Mr. President—

The VICE PRESIDENT. Will the Senator from Delaware pause for a moment? In the impression of the Chair, this resolution must go to the Committee to Audit and Control the Contingent Expenses of the Senate. He will hear a suggestion on the point. It is not a joint resolution, but it is a resolution of the Senate directing the Secretary to pay money to the employes. The Chair knows of no fund out of which it can be paid except the contingent fund, and the rule expressly requires that all resolutions directing money to be paid out of that fund, or creating a charge on it, shall be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. GREEN. Will the Chair read the 30th rule?

The VICE PRESIDENT. The 30th rule is:

"No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session."

Mr. GREEN. I have offered this resolution, and I do not desire to say "the contingent fund," but "such fund as may be appropriated by Congress for that purpose." I will modify my resolution so as to put it in that shape.

The VICE PRESIDENT. It seems to the Chair that it creates a charge on the contingent fund, if any fund. It directs the Secretary to pay money.

Mr. GREEN. I will modify it to say "out of any appropriation for that purpose." My object in moving the resolution is to make it the foundation for an amendment being in order when the appropriation bill comes up.

Mr. BAYARD. The resolution, whether it directs payment out of the contingent fund or not, is not a joint resolution. It is directly in the face of the joint resolution of Congress, of 1854. It proposes a deliberate violation of the law on the part of the Senate of the United States. Sir, we cannot expect the people of this country to obey the laws, if one of the organic branches of the Legislature deliberately chooses to violate them by a resolution of its own; yet, certainly, that would be so if the resolution passes. It is true, the House of Representatives passed a resolution of the same kind, and the honorable Senator from Missouri says we sanctioned it. How did we sanction it? Sanctioned it because we were forced to yield to that measure which was attached to the deficiency bill, when the general interests of the country required us to have the bill passed. We struck it out in the first instance; but the House of Representatives insisted on the appropriation by such a majority that we were obliged to yield, or derange the whole expenditures of the

country. I confess that, for myself, I was against abandoning the amendment made by the Senate. I think the principle shocking that either House should undertake deliberately to violate the law of the land, for it just comes to that proposition. The House of Representatives have done it; and we have been forced, against the vote of the Senate, in order to save the deficiency bill, into admitting afterwards an appropriation to be made. Now, the argument is, that because a plain violation of the law has been made by the other branch of the legislative power, we shall do the same thing ourselves which we condemned in them. I cannot understand the proposition as one that ought ever to be sustained by the Senate. I am disposed to give to the employes of the Senate, or any other employes of the Government of this country, as liberal salaries as any man in it. I am opposed to the principle of extra compensation. I see nothing involving the dignity of this body, or their self-respect. Because the House of Representatives choose to violate the law of the land, I hope the Senate will not be induced to follow their example.

The VICE PRESIDENT. The Secretary will read the resolution offered by the Senator from Missouri, as now modified.

The Secretary read, as follows:

Resolved, That the Secretary of the Senate be directed to pay out of any fund which may be appropriated for that purpose, to the employes of the Senate, &c.

Mr. HUNTER. As I understand, the Chair decides that all resolutions making appropriations must go to the Committee on Contingent Expenses.

The VICE PRESIDENT. The Chair decided that all resolutions directing money to be paid out of the contingent fund, or creating a charge upon it, must be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. HUNTER. I suppose the money proposed to be appropriated here can only come out of the contingent fund, and therefore the rule applies.

The VICE PRESIDENT. The resolution, as now modified, directs that the money be paid out of any fund that may be appropriated for the purpose. It requires an appropriation by law hereafter.

Mr. STUART. That is very clear.

Mr. HUNTER. The resolution can have no effect, unless the money is to be paid out of the contingent fund.

The VICE PRESIDENT. The Chair does not feel himself authorized to construe the law further. The resolution does not now require the money to be paid out of the contingent fund, or create a charge on it.

Mr. HUNTER. In 1854, the Senate, in order to get rid of these applications, passed a law which I should like to have read at the Clerk's desk.

The Secretary read, as follows:

Joint resolution to fix the compensation of the employes in the legislative department of the Government, and to prohibit the allowance of the usual extra compensation to such as receive the benefits hereof.

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the officers, clerks, messengers, and other employes in the legislative department of the Government, shall be paid an increased compensation of twenty per cent. upon the compensation now received by them respectively; and the messengers of the House of Representatives shall not receive less than is allowed to messengers of the Senate of the same class; such increased compensation to commence from the 1st day of July, 1853; and that a sum sufficient to pay the same to the 30th of June, 1855, is hereby appropriated out of any money in the Treasury not otherwise appropriated: *Provided*, That no person whose compensation was increased by the act approved April 22, 1854, shall be benefited by the joint resolution; *And provided further*, That the usual extra compensation shall not hereafter be allowed to any person receiving the benefits of this joint resolution.

Approved July 20, 1854.

Mr. HUNTER. The Senate passed that joint resolution for the purpose of getting rid of these applications for extra allowances. They passed it for the very purpose of avoiding such a resolution as is now offered. It seems, however, that the result is to be this: not that we are to get rid of making these allowances at the end of the session, but there is to be a compound allowance. These officers are to get twenty per cent. not only upon the old salary, but twenty per cent. on the additional twenty that was added then. We are thus to give not only upon the old salary, which would have been all that would have been asked if we

had not made an addition, but upon the new which is made by the addition of twenty per cent. It seems to me that the Senate owes it to itself to forbear passing any such resolution until at least the repeal of this law, and I think the Senator from Missouri ought to accompany his resolution with a proposition to repeal this law. If they prefer these annual extra allowances at the end of the session, let us go back to the old state of things, the old salary, adding twenty per cent. at the end of each session. I think, myself, the whole practice is wrong.

Nor do I see that there is the least force in the argument which has been urged, that the House of Representatives has been permitted to do it. How permitted? The Senate struck out the provision; the House insisted upon it; and sooner than lose the deficiency bill, the Senate receded. But does the action of the Senate upon that convey to the public or to the world the impression that it approved of any such appropriation? Does it not affirm the precise contrary? Yet, after that action, after expressing that opinion that it was wrong in the House of Representatives, we now come here to make this addition to the salaries of our own employes. Is it just to the employes in the other Departments of the Government? Is not this an unjust discrimination? Are we not paying these officers largely more than we pay to any other persons who are employed in the public service? Suppose they come here from the city post office, from the Coast Survey, from the Executive Departments, hereafter, for extra allowances, on what principle of justice can we refuse them, if we admit that we are bound in honor to make our own employes equal in salary and emoluments to those of the House of Representatives? Does not the same obligation rest upon us in regard to those employed in the Departments, in the Coast Survey, and in the city post office? I can see no difference. I hope the Senate will not pass this resolution.

Mr. GREEN. When the Senator from Virginia says we ought to accompany this proposition—

Mr. COLLAMER. Will the gentleman indulge me a moment? I wish to put a question to him. How will the passage of this resolution produce any operative effect? The accounting officers have decided at the Treasury Department, under this law, that they will not allow anything paid by the mere order of one House to its employes; how then can this resolution have any effect, if we pass it? That is what I wish to learn.

Mr. GREEN. I was proceeding to say—I will answer the gentleman in a moment—that the Senator from Virginia said I ought to accompany my resolution with a proposition to repeal the law of 1854. I intend at the proper time to propose to repeal it *pro tanto*. Now I answer the Senator from Vermont: if this resolution can have no operation and effect, and it cannot be executed, there is no harm in it. But I announced to the Chair my purpose in offering it. It is to lay the foundation to make it in order to move to amend the appropriation bill. That is the whole object of the resolution.

Mr. COLLAMER. How will it enable you to do that?

Mr. GREEN. Under the 30th rule of the Senate.

Mr. COLLAMER. The 30th rule of the Senate says that such an amendment may be moved where there is a law for it, but this will be no law.

Mr. GREEN. A law or resolution of the Senate. It is to enable me to comply with the rule of the Senate, and make it a law at the proper time. I know the Finance Committee will report against it, if I were to refer it to them, for they report against everything except what draws money into the Treasury. I desire to put our employes on this principle of equality. This is the only legitimate method of accomplishing that end. It is in conformity with the rules of the Senate. It will lead to the repeal, at the proper time, when the appropriation bill comes up, *pro tanto*, of the law to which the Senator from Virginia referred, and it does not produce any conflict; it makes it legal, orderly, and just. I shall, therefore, support it, and insist upon its passage.

Mr. FESSENDEN. The explanation which the Senator from Missouri has given of this matter puts it in a tangible shape, and gives it some importance. I sincerely hope, however, that the Sen-

ate will not pass the resolution, because I think it will lay the foundation of applications continually to be made in the future. We have had this same difficulty every Congress, and every session of Congress. As the Senator from Virginia remarked, and as shown by the law he has read, it is perfectly manifest that the Senate at one time thought it had got rid of it. It took steps with a view to get rid of it; with a view to finish the matter up, and have no further trouble with these allowances, which are constantly pressing upon us.

Now, sir, what is the situation in which we find ourselves, and what is the argument? In violation of the law, the last House of Representatives undertook to vote extra compensation to employes. That allowance met with difficulty in the Treasury Department, and, in consequence of that, it came in here, and it came in the shape of an appropriation on the deficiency bill. It was opposed, and opposed strongly; but the Senate very soon found that the deficiency bill could not be passed unless we did accede to it, and the Senate was reluctantly compelled to recede. That is now made the foundation of an argument to violate the same law ourselves, and plunge the Senate back into the difficulty that it experienced before.

I was in favor of yielding to that provision in the deficiency bill, in the first instance, for another reason; and that was, that the Clerk of the House of Representatives was in difficulty in relation to the matter, and I thought it best to end it. In conversation some of us came to the conclusion—I know it was discussed in the committee of which I am a member—that the Senate, in order to put a stop to this thing, must show that it was willing to make a sacrifice of what was a mere form, and notify the House of Representatives that we would not yield again; and, in order to show the House that we were in earnest, we would, when an application was made to us, reject for our own clerks that which we granted for theirs, because, if we kept yielding, granting to our own clerks what was wrong, simply because it was given to the clerks of the House, the same consequence would follow year after year, whereas, if we yielded to the necessity in that case, but when the matter was presented to us, refused to make the same grant to those under us, we should have some face on which to say to the House of Representatives that any further attempt of that kind would be met with absolute refusal on the part of the Senate.

Notwithstanding the ideas which prevailed at that time, and notwithstanding the fact that we were compelled to yield to that necessity, this same application is made again here, and made on the express ground that we were compelled to yield to it on that occasion. Suppose we do it again; the result will be probably that the present House of Representatives will send precisely the same provision for their clerks, and we shall have to meet the same argument—that it has been granted to the clerks of the House, and we must, to maintain our own dignity, grant it to the clerks of the Senate. Why, Mr. President, it is really surprising to me that the dignity of the Senate is held by so slight a tenure, and depends on such miserable trifles as the amount of compensation to its clerks. If that is a matter which sincerely and really affects our character and dignity, I think what there is left of it is hardly worth preserving. If the question was whether we would make a sufficient, proper, generous allowance to the clerks, it would be another thing; but when it is said that we compromise our own dignity, unless we grant what the law prohibits, and for which there is no necessity, in order to make a proper allowance, I really think it is putting the dignity of the Senate on a basis on which it cannot stand.

What is the amount of this argument after all? Money has been granted to the clerks of the House of Representatives under the circumstances I speak of. Do not the clerks of the Senate receive enough? They do not pretend themselves that their salaries are not adequate. I grant all that is claimed in regard to the character of these gentlemen. I think no body in the world was ever better served. If their salaries are not high enough I am willing to go as far as any one to raise them; but what is said to us? Not that they are not amply provided for; not that they do not have enough for their services; but simply that the House has wrongfully paid more in the face of law, and with-

out any adequate reason, and that the Senate, in order to preserve a valuable bill, thought it expedient to yield it. Hence it is argued we must do that which the law prohibits with regard to our own clerks, or change the law, although they now receive salary enough, for the purpose of giving them more in order to preserve the dignity of the Senate by giving the clerks of the Senate as much as the clerks of the House of Representatives got on a particular occasion, although on that occasion more was paid than ought to have been paid.

Now, sir, I object to that on principle; and I object to it still further for our own convenience and comfort. We have had this difficulty every session. If we maintain our stand now, and say that we are governed by no selfishness, no pride of association, in reference to the matter, but knowing that this is wrong, we are willing to refuse to those who serve us (while they receive all that is sufficient for their services) what, under other circumstances, we have granted to others, I think it will afford sufficient notice, sufficient reason, for us to say to the House of Representatives, ever after, "we shall preserve this position and apply the same rule to you which we have applied to ourselves." What will be the consequence if we yield? Why, sir, as I said before, the same appropriation will meet us again; we shall be placed, probably, in the same predicament; and then we must come again, and increase twenty per cent. that which we have already increased twenty per cent., and give, as the Senator from Virginia says, the twenty per cent., not only upon the original salary, but upon the increase itself. The only fault I have to find with the clerks of the Senate is, that any of them are so unreasonable as to tease members of the Senate to do this, knowing that they have salary enough, and that they are amply and generously provided for; and they ought to have more character and respect to themselves, and to this body, than to be continually making these applications, as if it were necessary they should receive a certain sum of money (although there is no reason in the world why they should have it) because others have got it and they have not got it. That is no reason to any man. Because we have done wrong in one instance, is that a reason why we should do wrong in another? I do not hold to the argument. I have resisted it heretofore, and I resist it now, and I hope the Senate, for the sake of its own comfort, for the sake of putting an end to this question, and finally settling it at rest, will refuse, in this instance, to pass the resolution which has been offered by the Senator from Missouri.

Mr. BENJAMIN. I rise to call attention to the objection made by the Chair, in my judgment with perfect propriety, and which is unanswerable. There are two modes by which we can direct money to be paid: One is by a joint resolution, or by an appropriation bill which has to pass both Houses; and the other is by a separate resolution of the Senate, and that resolution can only be answered by an appropriation out of our contingent fund. This is no joint resolution. Being a resolution intended to be passed by the Senate alone, it cannot be satisfied otherwise than out of the contingent fund; and being such a resolution, under the rules of the Senate, it must go to our Committee on Contingent Expenses.

The VICE PRESIDENT. Has the Senator heard the resolution read as amended?

Mr. BENJAMIN. I have not heard of an amendment.

The Secretary read the resolution as amended.

The VICE PRESIDENT. The Chair decided that it was not for him to construe the resolution further than to say that it does not direct the money to be paid out of the contingent fund, and does not now create a charge on it. The only object, it occurs to him, which the mover could have had would be to lay a foundation for an amendment to an appropriation bill.

Mr. BENJAMIN. If it is not to be paid out of the contingent fund of the Senate, it cannot be passed by a separate resolution of the Senate. There can be no resolution passed by the Senate separately, to order money to be paid by its Secretary, except out of the contingent fund. There is no other fund for the Senate to order money to be paid out of. This resolution directs the Secretary to pay these allowances out of money that may hereafter be appropriated. If the money shall be hereafter appropriated, the law making

the appropriation itself will provide for the payment of it. The Secretary cannot pay it, then, under this resolution. If both branches of Congress pass a law for the payment of a certain sum of money to be drawn from the Treasury, then that sum of money will be appropriated according to the law, and not according to this resolution. This resolution directs a payment by our Secretary, and directs it by our independent authority. The Senate has no right to pass any such resolution. It has no constitutional power to pass it.

The Senator from Missouri wants to get rid of the rule of the Senate, which is a salutary one. It is this: that no amendment shall be moved to an appropriation bill for the purpose of increasing the appropriations, except for satisfying some object previously provided for by law, or in consequence of some resolution of the Senate. Now there is a plain and straightforward mode of reaching his object. Let him move the Senate that the Committee on Finance be instructed to offer an amendment to the appropriation bill providing for extra pay; and if he gets that resolution through, he will accomplish his object in order; but a resolution by the Senate itself, as a distinct body, ordering its Secretary to pay money cannot be satisfied out of the contingent fund, because that is against the law for the special purpose now in view; and it cannot have any constitutional effect if it is to act upon a general appropriation, because the general appropriation bills provide themselves for the mode in which the money is to be drawn and paid. We cannot ourselves provide in advance what is to be done with an appropriation to be made by both Houses. The Senate alone can take no control over an appropriation that is to be made by both Houses. This resolution contemplates a joint appropriation—an appropriation by a bill or joint resolution; and it assumes in advance that one of the two branches of Congress shall make disposal of it. This branch of Congress has now no power to make disposal of an appropriation that is to be made by both Houses.

The VICE PRESIDENT. Upon the point of order raised by the Senator from Louisiana, the Chair will simply state that it is enough for him to see that the legal effect of passing this resolution is not to take money out of the contingent fund, or any other fund. He has nothing to say upon the argument addressed to the consistency of the resolution. Of course, if the Chair supposed the resolution required money to be paid out of the contingent fund, it would first be obliged to go to the Committee to Audit and Control the Contingent Expenses of the Senate, and then when it came back it would have to receive three readings like a bill; but the resolution does not now direct money to be paid out of the contingent fund.

Mr. MASON. If I understand the resolution aright, as modified, the Chair is certainly right in its construction. It does not direct money to be paid from any possible source; but it seems to me, with all possible respect to the mover, that the resolution is insensible on its face. It directs the Secretary to pay this money to the employes of the Senate, whenever there shall be an appropriation for the purpose. Now, whenever there is an appropriation for the purpose, the appropriation itself will direct the payment; and it is therefore, as the Senator from Louisiana has well said, a mode of doing indirectly what, if done at all, I think it is due by the Senate to itself, should be done directly. If it be the judgment of the Senate that the officers of the Senate should receive this or any other additional compensation, there is a direct mode of doing it.

I wish to say a few words upon the general subject. When I first came into the Senate some years ago, I found the practice to be for the Senate, at the close of each session, perhaps regularly or irregularly, I do not remember which, to make a compensation, in the nature of a gratuity or a bounty to its officers, so much to the pages, so much to the messengers, &c. It was found, in the experience of the Senate, to be an inconvenient and disagreeable matter, and one of very doubtful expediency and propriety. It was found, also, that the organization of the Senate was leading to the practice which prevailed in the House of Representatives, periodically, at the commencement of every new Congress, to change the officers and bring in a new set, upon some principle of rotation; and, after a good deal of consultation

with gentlemen who were far my seniors, who were then in the Senate, amongst whom was General Cass, the late Mr. Clayton, and some others, it was agreed that a committee should be raised, of which those very justly distinguished gentlemen were members, for the purpose of reorganizing the corps of the Senate, and to place things upon a durable footing; and, amongst other purposes, to get rid of this annual allowance, which was at last but the subject of impotency between the officers and members of the Senate.

The committee was raised—the one alluded to by the Senator from Maryland. That committee reported. They increased the compensation of all, or very nearly all, of the officers of the Senate. They increased it not altogether by giving additional salaries, but by making the compensations of all of them permanent, so that their compensation ran from year to year and from session to session. We had a full and free exchange of opinion with all the officers of the Senate at that time, for the purpose of doing it in such a manner as would be agreeable to them, while it would answer the purposes of the Senate, and facilitate the dispatch of public business. The salaries were fixed of every one of them; and one clear purpose was to make the body permanent, and put them at their ease, and to cut off these contingent allowances. The House of Representatives pursued a different course. We know that, in the House of Representatives, always when there is a political change of power, and probably, according to my recollection at the recurrence of each new Congress, there is a general sweep of officers; and the inconvenience that results there, I know from conversation with those gentlemen, is that they bring in inexperienced men in positions for which they are totally unqualified and unfit. We have obviated all that. We have a permanent body of officers here, holding their office by a tenure, the effect of which is to make it permanent. No officer of the Senate can be removed except by a vote of the Senate, or, if done by a superior in power, by those having the appointing power, it must be for reasons to be made known to the Presiding Officer, if the Senate is in session at the time, or to be made known to him at the first meeting of the Senate afterwards, and to have his approbation.

The object was to make the corps permanent, and it has had the effect to give them improved salaries, to make their compensation satisfactory and agreeable to them, and to cut off these contingent allowances at each session. The House of Representatives, as I have said, pursued a different course. But there are many Senators here who say, with the honorable Senator from Missouri, that we have a duty to perform to the officers of the Senate, to place them upon the footing on which the House chooses to put its own officers. I utterly disclaim any such duty. I disclaim any such propriety. We have organized the officers of the Senate in one way, and the House of Representatives have organized their officers in another; and the consequences which may ensue in the House ought not to ensue here. If this movement be persevered in, I shall feel it my duty in good faith, having had something to do with making the present arrangements, to propose that the salaries of these officers be permanently reduced to the old scale, in order that we may put an end to these contingent allowances. I can see no reason in the world why, because the House has done this thing, there is any cause of complaint on the part of any officer of the Senate; but I do say, if persevered in, it will lead to that very disorganization which it was the intention of the committee, to whom I have alluded, to prevent. I should deem it a part of my duty to bring the subject to the attention of the Senate, and to look again into the scale of these salaries, with a view to reduction.

Mr. TRUMBULL. I move to lay this subject on the table.

Mr. GREEN. Will the Senator withdraw that motion to permit me to make one reply to strictures made by Senators, and which, I think, places me in an improper light?

Mr. TRUMBULL. I would state to the Senator from Missouri that my only object in making the motion is to get rid of the debate. Will the Senator renew the motion?

Mr. GREEN. I will.

Mr. TRUMBULL. I withdraw the motion.

Mr. GREEN. My object is to notice very briefly some remarks that have been made against this proceeding. The Senator from Virginia says that the resolution is insensible; and at the same time he says it is an indirect method of accomplishing what ought to have been done by a direct method. My understanding of all indirect proceedings with a design, is that there is a little more sense in them than if they were direct. The resolution, therefore, cannot be insensible.

Mr. MASON. I meant only that the resolution would have no effect *per se*. It professes to direct the payment of money when it is appropriated; but when the money is appropriated, the appropriation will provide for that.

Mr. GREEN. I shall come to all that. I understand it. There is not a new point in it. The Senator from Louisiana makes a point of order without raising it. He seems, as well as the Senator from Maine, to think that this is an attempt to do what is contrary to law. It is the first time I ever heard a lawyer and a Senator say Congress could not do acts contrary to law; in other words, change a law—change it when and where they please. You have a law, and I have announced to the Senate that my object in proposing this resolution is to place me, in accordance with the rules of the Senate, in such a position that I can legitimately move to change the law *pro tanto*. Without this, I cannot do it. But the Senator says he would suggest to me that I move a resolution instructing the committee. I choose to respond to him, and say that I have considered this subject, and I know my own method. If he desires to take that method he may adopt it and pursue it. I know I am acting in conformity with law, usage, and the rules of proceeding of the Senate. What does the 30th rule mean when it says that no amendment shall be offered to a general appropriation bill unless reported by a committee, or to fulfill an existing law, or to carry out a resolution of the Senate?

Mr. BAYARD. I wish to make a suggestion to the Senator, not as to the question of order now; but, if I read the rule rightly, his own object will not be attained by the resolution. I think this is the true construction of the rule: the rule provides that on a general appropriation bill no amendment shall be made, unless it is for the purpose of carrying out the provisions of an existing law, or some act or resolution previously passed by the Senate. Can there be a doubt, the words being coupled together, "act or resolution," that the word "resolution" means a joint resolution, not a separate order of the Senate? As I view it, if this resolution passes, it being a simple order of the Senate, it will not come within the meaning of the 30th rule, so as to justify an amendment being offered to an appropriation bill.

Mr. GREEN. "Order or resolution of the Senate." Is there any such thing as a joint order? Who, in parliamentary language, ever heard of a joint order?

Mr. BAYARD. "Act or resolution," is the language.

Mr. GREEN. "Act or resolution"—of what body? Of the Senate. A joint resolution is a resolution of the Senate and of the House of Representatives. This is to enable the Senate to pay according to its order, with the concurrence of the House of Representatives, as a matter of course, when it is put upon the appropriation bill; for whenever it goes upon the bill it requires the concurrence of the two Houses; but in order to come within the rules of the Senate to propose it to the appropriation bill, it must be to carry out some resolve of the Senate, or be in fulfillment of some law, or be reported by some committee. Put any other construction upon it, and you make that branch of the rule nugatory.

But the Senator from Louisiana seems to be horrified with the idea of paying these employés of the Senate extra compensation. I find a resolution moved by him and passed since this law, to which reference has been made. On the 17th of February, 1857, I find this entry in the Journal:

"Mr. BENJAMIN, from the select committee appointed to inquire into the expediency of amending the 34th rule of the Senate respecting the standing committees of the Senate, and of regulating the appointment of clerks to committees, submitted a report."

Among the provisions of this report are these items:

"The clerks of the Committees on Finance, Printing, and

Claims, shall be permanent clerks, at a salary of \$1,860 per annum.

"The clerks employed by all the other committees shall receive a compensation of six dollars per diem during the time of their actual employment, and at the close of the second session of each Congress, shall be entitled to an extra compensation equal to the amount of their per diem for sixty days."

This report not having been acted on, the Senate, on the 14th of March, 1857, adopted the following resolution:

"Resolved, That the clerks employed by the standing committees of the Senate, except the clerks of the Committees on Finance, Printing, and Claims, including those committees which have been discontinued by the partial adoption of the report of the special committee, submitted on the 17th February, 1857, shall receive at the close of this session an extra compensation equal to the amount of their per diem for sixty days."

This was on motion of the Senator from Louisiana. On the 16th of August, 1856, two years after the passage of the law alluded to, a resolution was submitted and passed—twenty-one voting for it, and only eleven against it, in these words:

"Resolved, That there be allowed and paid to each of the employés of the Senate, and in the congressional library, for the last session, the same compensation that is allowed to the employés of the House of Representatives, by a resolution of the House of the 15th of August, 1856, to be paid out of the contingent fund of the Senate, under the direction of the Committee to Audit and Control the same; and that there be paid out of the contingent fund to Robert Carter and Henry Dodson, and to the folders temporarily employed in the service of the Senate, fifty dollars each."

I refer to these instances because they occurred since the passage of the law to which reference is made. That law may be wise in its provisions; but the Senate has sanctioned a departure from its provisions, and the excuse made by the Senator from Virginia is not satisfactory. There are no life tenures in the Senate. If there be any difference, it might perhaps be supposed the position held by the employés is more precarious in the Senate than in the House, liable to be turned out in a moment; though by resolution they can always be turned out of the House of Representatives in a moment. They are not elected in the House for a definite period of time. Custom keeps them in during a Congress; but they sometimes turn them out before. Custom keeps them in here while they behave well; but they are sometimes turned out even while they do behave themselves. Hence the tenure of office is no reason why they should work at a smaller compensation. How would the Senator like that argument to be made against him? He is put in here for six years, and members of the House of Representatives for two years; and how would he like the argument to be made that members of the House of Representatives must get \$3,000 a year, but the Senator from Virginia, having a longer tenure, must only get \$2,000 a year? I expect he would demur to it. There is no propriety in such reasoning as that.

There is no difficulty in this question. I have adopted this method because I knew it would be in conformity to rule to deceive no one, to mislead no one, but so as to be in order when the proper time comes to make the motion to amend the appropriation bill; but when the bill is amended, it is the joint action of Congress, and it cannot be said to violate the law, for one law cannot violate another. It repeats it so far as they come in conflict; and if they do not come in conflict there is no violation, and hence there is no difficulty on that subject. However, I believe the Senate understand this subject well enough, and I prefer to have a direct vote, without any further argument.

Mr. BAYARD. I think this rule important in its construction, or it may be hereafter. The honorable Senator from Missouri chose to read the words of the rule, as if it read "an order or resolution." Take the language of the rule, and even if this resolution passes, it will not justify him in moving the appropriation to the appropriation bill. The language is, "some act or resolution previously passed by the Senate." It is very evident there could be no separate act passed by the Senate. "Act" and "resolution" are used conjunctively here, and it must mean joint resolution. If it had not meant that, the language would have been, "some resolution of the Senate." The language is, "some act or resolution previously passed by the Senate," which evidently precludes the idea of a mere resolution by the body alone, without reference to its legislative power in concurrence with the House of Representatives.

Therefore, if it becomes a question, if this resolution be passed, and a movement be made to place it on the appropriation bill, the question of order will be raised under the rule.

Mr. CRITTENDEN. If I understand it correctly, the resolution is entirely hypothetical, and must be without any effect whatever. The resolution directs the Secretary to pay to the employees of the Senate such sum of money as may hereafter be appropriated for the purpose. That is the whole substance of it—if any sum shall hereafter be appropriated for the purpose. Now, what effect can this resolution have? It is hypothetical. It does not affirm that any particular sum shall be paid; but if an appropriation shall be made by a subsequent law to pay them anything, the Secretary shall execute the law and pay it. Now, if a law passes appropriating a sum of money for this purpose, will not the law express the purpose for which it appropriates the money? That is absolutely essential to the appropriation of money. It is itself a direction of the application to a particular subject.

Suppose, then, a law should pass appropriating a particular sum of money exactly as the Senator wishes, to be paid to the clerks: what is the use, then, of this resolution? It will have no effect whatever. But the gentleman supposes it may have the effect of authorizing him to move an amendment to the appropriation bill. It can have no such effect as that, because it does not direct anything to be paid, in general or in particular terms. You are authorized, upon a resolution of the Senate, to move an amendment to an appropriation bill. That is where the Senate has passed a positive resolution, incurring or involving the expenditure of money. It is to carry out a resolution of the Senate that you have the privilege of moving an amendment to an appropriation bill; but does this resolution direct any expenditure? None whatever. If Congress shall hereafter appropriate money—

Mr. GREEN. It is not conditional. It says, to be paid out of money that may be appropriated for that purpose.

Mr. CRITTENDEN. No, sir; the gentleman will find that I am right in his resolution. If a sum of money shall be appropriated, the Secretary shall pay it according to law. The law itself is a direction to him; not only an authority to him to pay, but it is an obligation upon him to pay it, and the resolution becomes useless if the appropriation be made. If the appropriation be not made, then certainly the resolution does not authorize anything. Nor does the resolution authorize any amendment to be made to an appropriation bill, because that authority only exists where the resolution incurs an expense. This incurs none. It is entirely hypothetical, that they shall receive pay if Congress chooses to give it. Certainly, they will receive it, if Congress chooses to give it to them without any resolution whatever, but by force of law, and certainly the gentleman will admit that this resolution appropriating nothing, directing no expenditure, but only providing for an expenditure if an appropriation shall hereafter be made for that expenditure, will authorize under the rule no amendment to be proposed to an appropriation bill.

It is in this view that I regard the subject; and so regarding it, it seems to me it can have no effect, and that it will be an idle proceeding on our part, without any consequence whatever, and that therefore the motion has been very properly made to lay it on the table; a motion which I renew.

Mr. GREEN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 33, nays 17; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bright, Clark, Clay, Clingan, Collamer, Crittenden, Doolittle, Fessenden, Foot, Foster, Hamlin, Hammond, Hayne, Henderson, Hunter, Johnson of Arkansas, Johnson of Tennessee, King, Mason, Pearce, Pugh, Reid, Simmons, Sliedell, Thompson of Kentucky, Toombs, Trumbull, Wade, Wilson, and Wright—33.

NAYS—Messrs. Bell, Broderick, Cameron, Chandler, Dixon, Douglas, Fitch, Green, Harlan, Iverson, Jones, Kennedy, Polk, Sebastian, Seward, Stuart, and Thomson of New Jersey—17.

So the resolution was ordered to lie on the table.

SHERLOCK AND SHIRLEY.

On motion of Mr. WADE, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 289) for the relief of Sherlock & Shirley.

Mr. WADE. I understood that the Senator from Missouri, [Mr. POLK,] who objected to this bill before, has an amendment to offer, to which I see no objection. I desire to call his attention to the matter, so that he may offer his amendment. There is also an amendment, proposed by the Committee on the Post Office and Post Roads, that I suppose will be satisfactory. When these amendments are made, all the objections which have been suggested to the bill heretofore will have been disposed of, and I hope it will be passed.

Mr. YULEE. If the amendment which has already been adopted does not, in the view of the Senate, cover the principle for which gentlemen are contending entirely and exactly, I have another prepared which can be substituted for it. Perhaps it would be as well to read the amendment which was made the other day, and the one that I propose to substitute for it.

The amendment made when the bill was under consideration yesterday was read, as follows:

Provided, That the reexamination herein above authorized shall be confined to the cases of fines which have not been heretofore reexamined and finally decided by a former Postmaster General upon the application of the contractors for remission.

The amendment suggested by Mr. YULEE was read, as follows:

Provided, That no case of any fine or deduction heretofore considered and decided by any former Postmaster General upon the application of the contractors shall be reviewed under the provisions of this act.

Mr. BENJAMIN. I hope the Senate will consent to take this new amendment. I think it is better than the first.

Mr. YULEE. Both are directed to the same point, but I think the last is a more distinct amendment.

The VICE PRESIDENT. If there be no objection, the amendment last read will be substituted for that which was before agreed to. The Chair hears no objection. By unanimous consent the substitution will be made.

Mr. POLK. I desire to offer a further amendment, providing that in taking the proof which may be offered as the basis of the reconsideration, the Postmaster General shall have an opportunity to cross-examine the witnesses. I understand that to be acceptable.

Mr. YULEE. Certainly.

Mr. POLK. My amendment is, to add to the bill as it now stands:

And the Postmaster General shall be authorized to cause the persons to be cross-examined, whose testimony may be offered for the purpose of such examination by him as aforesaid.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendments made as in Committee of the Whole were agreed to. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

LAND WARRANTS.

Mr. STUART. I ask the indulgence of the Senate to take up and pass at this time a House bill to which, I believe, there is no objection. It is the bill (H. R. No. 300) declaring the title to land warrants in certain cases. Its purpose is simply to vest a land warrant that issues after the death of the applicant.

Mr. HAMLIN. The Senate have passed the same bill, in substance.

Mr. STUART. Yes, sir. The same bill, in substance, has been already passed by the Senate at this session.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which provides that when proof has been or shall be filed in the Pension Office, during the lifetime of a claimant, establishing, to the satisfaction of that office, a right to a warrant for military services, and such warrants have not been or may not hereafter be issued until after the death of the claimant, and all such warrants as have been heretofore issued subsequent to the death of the claimant, the title to such warrants shall vest in the widow, if there be one, and if there be no widow, then in the heirs of the warrantee; and all such warrants, and all other warrants issued pursuant to existing laws, are to be treated as personal chattels, and may be conveyed by assignment of such widow or heirs, or by the legal representatives of the deceased warrantee, for the use

of such heirs only. By the second section it is to be enacted that the provisions of the first section of the act approved March 22, 1852, to make land warrants assignable, and for other purposes, shall be so extended as to embrace land warrants issued under the act of March 3, 1855.

Mr. CRITTENDEN. I should like to have some explanation of the propriety of authorizing personal representatives to dispose of land warrants issued to widows or to minor heirs. I believe it has been a little the ambition of personal representatives, in all instances, to draw, as far as possible, all the property of the deceased, real and personal, within their management and administration. I do not think it is entirely wise or proper. A court of chancery may authorize minor heirs to dispose of their property when it is most for their benefit to do so; and I think it is safer to leave that property in the hands of a chancellor, than to authorize universally the administrators of the personal estate to take hold of land warrants granted to widows and heirs. Land warrants are real estate, even before they are located. Is it the policy of Congress arbitrarily to convert them into personal estate, merely to render the disposition of them more facile and easy for personal representatives? I only desire to bring the question to the attention of the Senate. I shall not vote for the bill if this provision be retained.

Mr. STUART. I did not very distinctly hear the honorable Senator from Kentucky, but I will say to him that the great effect of this bill is to give vitality to land warrants issued after the death of the applicant. That is the principle of the bill. The other provisions are in regard to the manner of making the assignments, the whole being subject to such directions as may be given by the Commissioner of Pensions. I do not myself discover any objections to the bill in that respect. There may be some such difficulty as the Senator supposes, but, from the examination I have given the bill, I did not see any practical objection to it.

Mr. CRITTENDEN. For the purpose of presenting the question, I move to strike out so much of the bill as converts land warrants into personal estate, and authorizes administrators to sell them.

The VICE PRESIDENT. The Chair will ask the Senator to reduce his amendment to writing.

Mr. CRITTENDEN. It is only to strike out; but I did not exactly hear the bill read.

The VICE PRESIDENT. The hour has arrived for the consideration of the special order.

Mr. STUART. I will ask the Senate to consider this bill. I will agree to the amendment of the Senator from Kentucky.

Mr. PUGH. I have other objections to the bill. I object to its being considered. I think it is a bad bill, and ought not to pass in any shape.

Mr. STUART. I am very sorry the Senator did not make his objections in committee. The Committee on Public Lands unanimously reported the bill.

Mr. PUGH. I was not present. I cannot attend every meeting.

Mr. STUART. Inasmuch as we have it under consideration, I hope the Senate will dispose of the bill. It will not take ten minutes. I move to postpone the special orders to afford an opportunity to continue the consideration of this bill.

The motion was agreed to.

Mr. STUART. The Senator from Kentucky proposes to strike out all that which declares the warrant to be personal property, and declares the mode of assignment.

The VICE PRESIDENT. The amendment of the Senator from Kentucky is to strike out, from line eleven to line sixteen, the following words:

"And all such warrants and all other warrants issued pursuant to existing laws shall be treated as personal chattels, and may be conveyed by assignment of such widow or heirs, or by the legal representatives of the deceased warrantee, for the use of such heirs only."

Mr. STUART. The effect of that will be to leave them assignable under existing laws.

The amendment was agreed to.

Mr. PUGH. I should like to ask the Senator from Michigan what he means by one provision in this bill. Does he mean where the soldier applies, and dies pending his application, that then the land warrant shall go to the heirs instead of the widow?

Mr. STUART. I will state the effect of the

bill. The person entitled to the warrant makes his application, and makes it in such a form as entitles him to a warrant; but owing to the business in the office, it cannot be issued at once; and that being no fault of his, the proof being complete, the bill vests the land warrant as if he were living. That is the effect of the bill. Most of the cases occur where the land warrant is issued after he dies. It is not located; in most cases it does not reach him; and if it does not reach him, by existing laws it is of no avail. The object is to give force to it, as if it had been issued on the instant he made his complete proof.

Mr. PUGH. When this subject was before the Senate a few years ago, on the general revision of the bounty-land system, this very provision was made in half a dozen different shapes; and was debated from day to day, and fully considered, and rejected by a decisive vote. It was then thought by the Committee on Public Lands—for I had the honor to report the bill by the direction of the committee—that it was a very bad extension of a very bad system. The whole system of bounty land warrants is giving the public domain into the hands of non-resident proprietors. If they were actually located by the soldier, there would not be so much objection; but they have got to be a species of land-scrip in the community, bought up by speculators; and there are cases which have come before the committee in which one person, as assignee of a variety of land warrants, has located as much as thirty thousand acres of land at once. The committee at that time having a vast number of petitions and memorials, and amendments of every shape before them, while examining the question, reported the act of 1856—which was supposed to be the furthest extent to which this system could be carried. As I said, this very proposition was made in the Senate, I think by the Senator from Maine; and it was argued, and voted down. But so it is; get an inch, and then, in a year or so, the system is carried much further. The bounty land bill, as it now stands, has granted twice or thrice as many acres as was estimated at the time it passed. It was said it covered so many acres. It has gone far beyond that. It is nothing in the world but a system of distributing the public lands, and distributing them not to actual settlers.

As to the second section of this bill, I warn the Senate that it will produce more mischief than anything else. In the original bounty land act of 1850, on account of the representation that the discharged soldiers of the Mexican war were very poor, and could not go to the various land offices and make application to enter the lands, a proviso was put into the fourth section that the soldier—the original warrantee—might cause the Commissioner of the General Land Office to locate his warrant here for him. We give that privilege to no purchaser. No man can enter an acre of public land at the General Land Office with money; but it was supposed to be a special favor to the soldier; and at that time a land warrant was not assignable—the law did not allow it to be assigned. It did not allow the certificate of location to be assigned. Nothing could be assigned connected with the transaction until the soldier had his title. But in 1852 you passed another act making land warrants assignable; and the consequence is, that the assignee of the land warrant, who buys it for less than a dollar and a quarter an acre, can enter it at the General Land Office; and a man who comes forward with the money cannot. The consequence is, that instead of going to the land offices where the actual settlers can compete, speculators come here with their hands full of land warrants, and enter them at the General Land Office; and there is continual dispute and quarrel between the General Land Office and the local land offices as to the priority of entries. The object of this second section is to extend the assignability of land warrants further, to carry it over to the act of 1855, and thus burden the General Land Office, and make a necessity for more clerks, leading on to the everlasting monopoly of the public domain. If I can get nothing else, I move to strike out the second section.

Mr. STUART. I think my honorable friend from Ohio is mistaken in regard to the second section. I have myself looked at this matter very carefully, and so did the members of the committee who were present when the bill was considered. I did not think, and do not now, that the

second section is necessary; but the House thought it was, in order to make these land warrants assignable; that is all. It does not touch the case alluded to by the Senator from Ohio, in regard to locating land warrants here at the General Land Office; and if he will turn to the section that he has alluded to he will see it. It simply makes them assignable. I think they are assignable without it, but the House thought otherwise; and as it was a House bill, there could be no objection to retaining the section, for it only makes the warrants assignable. The effect of the bill, as it stands, is simply to vest title to the land warrant where the applicant dies after making his application, and before the warrant is received by him. That is all there is in it. A class of cases of that sort now exist, where a man has perfected his proof, but there is so much business before the Pension Office that it is impossible to make out the papers during his lifetime. He dies before he receives the warrant, having done everything that the law made it incumbent on him to do. This bill vests that land warrant in his widow, if there is one; and if not, in the heirs; it does no more. By the existing law, the land warrant is of no avail to anybody if the applicant dies before he receives it. Now, sir, the whole effect of the bill, as it stands, is to vest that title, and to make it assignable. It does not affect the question referred to by the Senator from Ohio at all.

Mr. PUGH. That affects the whole question. The original act of 1850 allows the holder to enter it at the General Land Office, but the holder there must be the original warrantee. The assignee could not, because the assignment was forbidden. Now, when you make that assignable, you open the door, and that is the object of this provision; for if they were assignable before, why do you want this section?

As to the other point, we have already provided that, if the soldier is living, he can have the warrant; if he is dead and leaves a widow, the widow can get it; and if he has no widow, the minor children can get it. That is under our present system. We went on the idea that the warrant was a benefit to the soldier, his widow, or minor children, for services rendered, and we refused, on I do not know how many votes—I could tell by looking at the Globe—to extend it to adult heirs; and that is what this bill is intended to do. If the soldier dies before he gets the warrant, the object is to let it go to the adult heirs. We refused that very provision. I shall vote against this bill, if nobody else does; but I insist on my motion to strike out the second section. If they already have that benefit, the section is not necessary, and if they have not got it, I am opposed to giving it.

The motion to strike out was rejected. The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time.

Mr. PUGH. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. DOOLITTLE. I wish to ask the Senator from Michigan whether the effect of this bill will be that the land warrant goes to the administrator, so that the creditors may get it, or whether it goes to the heirs?

Mr. STUART. The effect of the bill, with the amendment which has been made to it, as I said, is simply to vest the land warrant in the widow, if there be one living, and, if not, in the heirs of the person who was entitled to it; and the second section makes it assignable, to stand then like existing land warrants received by the applicant before he died.

The question being taken by yeas and nays, resulted—yeas 44, nays 3; as follows:

YEAS—Messrs. Bayard, Bell, Benjamin, Bigler, Bright, Broderick, Brown, Chandler, Clark, Clingman, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Fitch, Foot, Foster, Green, Hale, Hamlin, Hammond, Harlan, Houston, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, King, Mallory, Pearce, Reid, Rice, Seward, Simmons, Stuart, Thompson of Kentucky, Thomson of New Jersey, Toombs, Trumbull, Wade, Wilson, and Wright—44.

NAYS—Messrs. Clay, Fitzpatrick, and Pugh—3.

So the bill was passed.

LIUTENANT T. A. CRAVEN.

Mr. GREEN. I rise to a privileged question. It is to file a motion to reconsider the order of the Senate referring to the Committee on Printing the

report made by Lieutenant Craven, of the Atrato and Truando route to the Pacific across the Isthmus of Darien. I shall not call it up for consideration now.

The PRESIDING OFFICER. (Mr. FITZPATRICK.) The motion will be entered.

WILLIAM CROMPTON.

Mr. DIXON. I ask the Senate to take up the bill (S. No. 394) for the relief of Edson Fessenden.

Mr. JOHNSON, of Tennessee. There is no Senator I would feel more pleasure in accommodating than the Senator from Connecticut, but I trust we shall proceed with the regular order of business, the homestead bill. Is the special order before the Senate?

The PRESIDING OFFICER. It is, unless the Senate postpone it.

Mr. DIXON. I hope the Senator will withdraw his objection to the bill which I wish to have taken up. It is a matter of very small importance.

Mr. JOHNSON, of Tennessee. What is the nature of the proposition? Will it give rise to discussion?

Mr. DIXON. I do not think it will give rise to discussion. If so, I shall not press it to-day.

There being no objection, the bill (S. No. 394) for the relief of Edson Fessenden, conservator of William Crompton, was read a second time, and considered as in Committee of the Whole.

It proposes to extend for seven years from November 25, 1853, the patent granted to William Crompton in 1837, for an improvement in the power-loom for weaving figured and fancy goods. It further provides that the manufacture and sale of the improvement, or of the looms containing it, shall be free to the public, on payment to Edson Fessenden, Crompton's conservator, for the latter's use, fifteen dollars for each loom thus manufactured and sold, which shall not exceed the size required to manufacture cloth three quarters of a yard wide, and in the same proportion for a greater width.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

Mr. CLINGMAN. Is there any report in that case from the Committee on Patents?

Mr. DIXON. There is a report; but I can state the case in a single word. I think he will make no objection.

Mr. CLINGMAN. As a new Senator, I am reluctant to interpose; but I examined these patent extension cases a great deal in the other House, and I never met with one which I thought ought to pass. In fact, for the last five years, but one has got through the other House, and that was done under the previous question, without a word of discussion. If this bill ought to pass, it is an exception to all bills of like character which I ever had occasion to examine while I was a member of the other House of Congress.

Mr. DIXON. Will the Senator permit me to state this case? It is an exception. I will barely state very briefly that the inventor in this case has been, ever since the patent was first granted to him, insane, and now is in that condition—hopelessly, incurably so. The Committee on Patents have reported this bill in consequence of his inability to receive any advantage from the patent previous to this time, or at least any considerable advantage. The case was considered by the committee, and the late Senator from South Carolina, the lamented Mr. Evans, said himself that he considered this an exception to all cases of that sort; that he would not report in favor of a single patent extension, except in this one instance. He was about to report this bill when he deceased, and he would have done so before this time, if he had not died. I think the Senator will admit that this is an exception to the class of cases he has mentioned.

Mr. DOUGLAS. Will the Senator from Connecticut allow me to ask whether the original patent has expired, or whether this is a renewal before its expiration?

Mr. DIXON. It expires on the 27th of November next, before the next session of Congress.

Mr. CLINGMAN. How long has he had this privilege—fourteen or twenty-one years?

Mr. DIXON. He will have had it for twenty-one years when the patent expires; but during

most of this time he has been in the condition I have mentioned.

Mr. CLINGMAN. Then he has already had a patent for twenty-one years.

Mr. DIXON. Yes, sir.

Mr. CLINGMAN. And this is a further extension.

Mr. DIXON. It is.

Mr. CLINGMAN. I hope the report will be read. I am so much satisfied that the cases are wrong in principle, that I wish to hear the reading of the report.

The PRESIDING OFFICER. The report has not yet been returned from the Printer.

Mr. CLINGMAN. Then I hope the bill will go over; because I have an idea that these cases are wrong in principle. I should like to accommodate the gentleman; but I cannot yield a principle.

Mr. JOHNSON, of Tennessee. I hope we shall proceed with the regular order of business.

Mr. YULEE. I will state that this bill is rather upon the principle of pension than an ordinary extension of patent. The grant has extended in this case two terms, one of fourteen and one of seven years, and has, therefore, been a grant of twenty-one years. The judgment of the committee is against extension by special acts of legislation, in any case, and especially beyond the twenty-one years. This case, however, presented itself as an exceptional one—one which might be treated as an exception to a general rule. It presented itself in this light to the committee: this party had made an improvement which it had been admitted on all hands was a very useful one. Before the expiration of his patent, he became a lunatic, and during the whole of the last term of seven years he has been a lunatic. He became disabled from paying attention to making provision for his own support and for that of a large family. We inquired into the condition of his estate, and found that there were in the hands of his conservator about ten or eleven thousand dollars, the interest on which was not sufficient to provide for his own comfort, nor for the necessary education and support of that part of his family which remained dependent upon him. The manufacturers who were in the use of this improvement, and at whose charge is the cost for the patent, came forward almost in a body and represented that, in their opinion, the extension should be allowed, and that they were willing to pay for it themselves. They were the parties mainly interested. On the other hand it was contended by machinists that the effect of the treatment which the existing patent received at the hands of the conservator, was a restriction upon their trade, because it confined the manufacture of the article to the assignee. They said themselves they would be perfectly willing to pay a fee if the use of the improvement were allowed them. It seemed to us a case in which those who were using the improvement might be permitted to provide for the comfortable maintenance of this lunatic, who had made an improvement which they were using, and which was useful to them. It is rather a case of pension—pension by the consent of those who are using the instrument—to a man who had done them a good. That was the idea on which we acted, and on which we thought it to be altogether an exception.

Mr. CLINGMAN. Then I would make this suggestion to gentlemen: if it is to be a pension, is it not better to pay it directly out of the Treasury? That will not interfere with private right, but if you pass this bill, there is no telling to what extent it will interfere with private rights. The Senator from Florida says that some of those interested—I do not know how many—are willing that the patentee should have the extension. It is very clear that there must be some understanding between them and him. Possibly those who are pressing it here have agreed that if certain parties will waive all objections, they may go on and use the improvement. I cannot imagine why it is that those who are to be interfered with should consent to the extension, unless there be some understanding of that kind. I would much rather vote money out of the Treasury, if this be a meritorious case—and on that point I have doubts as to all of them—than to pass an act which will interfere, to a very great extent, with private rights. I have had occasion to look into these matters, and am satisfied that, on examination, the

Senate will not be likely to extend any of these patents. This bill, however, seems to be founded on entirely a new principle, something of the nature of a pension, and it ought to be thoroughly investigated.

Mr. YULEE. I did not speak of it as a pension, but as in the nature of one, and a pension derived from those who use the improvement. Persons who do not use the improvement contribute nothing; but if they do use it, it is but fair and reasonable that they should contribute to the comfortable support of the man who has given them its benefit.

Mr. CLINGMAN. That is, these gentlemen have been obliged to pay taxes for, say twenty-one years, and it is now proposed that if they use this improvement they shall pay for it further in the form of a pension. I confess I do not see anything in the statement that takes this out of the general principle. By the patent laws you tie up the inventive genius of the country for a limited period. It was originally thought that fourteen years was long enough. If fourteen years was long enough at the foundation of the Government, certainly now much larger profits are made during that period of time than were then. The effect of these laws is to say that when an individual has made a discovery, though another man may make it the next day, the second shall not have the benefit of it, and it turns out that so many of these discoveries are contemporaneous that you often cannot tell who is best entitled; and there are constant disputes about the telegraph and other discoveries as to who was in fact the first discoverer. It seems that the human mind makes one step, and which it does, a number are prepared to carry it forward.

My objection is that by the patent laws you tie up the inventive genius of the country, and no matter what a man discovers, he cannot avail himself of it until the period allowed to the patentee has expired. The existing law allows fourteen years in all cases, and that I think is long enough. This individual, however, has had seven years more, and there is now a proposition to extend his patent still further. I think it would be better to remunerate him out of the Treasury than to interfere with private rights after patents have expired. I make these objections in the hope that none of these bills will be passed without a thorough examination.

Mr. YULEE. The Senator interrupted me, I supposed, for the purpose of making an inquiry, but I have been very much interested in his address.

Mr. CLINGMAN. I beg pardon of the gentleman; I thought he had concluded his remarks.

Mr. YULEE. I was proceeding to say that while the case excited the sympathy of the committee, there was a reasonable consideration on which it might rest without introducing any new principle. The law as it exists contemplates that a period of twenty-one years is only a reasonable time within which to enable the inventor of a useful improvement to acquire a profit which shall be remunerative to him. It supposes him to be in a condition to make a full use of the grant which the law has made to him, but in this instance, for nine of the twenty-one years, which the law has in all cases deemed to be a reasonable period within which to allow a party by his activity and energy to make a profit from his improvement, this man has been confined in a lunatic cell, and has been unable therefore to supervise his affairs. He has been unable to go into the world and make that profit by the management of his business, which the law contemplated he might within twenty-one years. This excepts it from ordinary cases. There has been no fault on his part, no remissness, no negligence, no sin, which has disabled him from making all the use of the twenty-one years which the law supposes he might do; but it has been his misfortune, on account of a providential dispensation. Under such circumstances, the committee thought a reasonable time ought to be allowed in order that his representative might, by a further attention to the interests of the improvement for seven years, accumulate a sufficient addition to the present estate of the lunatic to provide comfortably for him in the future. It seemed to be a case in which we might reasonably extend the patent, and it is the only case I have ever seen that, to my mind, presented a state of facts upon which I

thought we might reasonably extend the period beyond twenty-one years.

Mr. CLINGMAN. I move to postpone the bill for a day or two, until we can see the report. I am willing to name any day that may be suggested by the friends of the bill. I move to postpone its further consideration until Monday.

The motion was not agreed to.

The bill was read the third time and passed.

HOMESTEAD BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 25) to grant any person who is the head of a family, and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, upon condition of occupancy and cultivation of the same for the period herein specified.

The pending question being on the amendment offered by Mr. CLINGMAN, in the first section of the bill, after the word "entitled," in the fifth line, to insert:

To have issued to him by the Commissioner of Public Lands a warrant for one hundred and sixty acres of land, to be located in the same manner as that under which the bounty land warrants heretofore issued have been located on any of the public lands of the United States subject to entry, the applicant being required to make proof in support of his claim in such manner and under such regulations as may be prescribed by the Secretary of the Interior.

So as to make the section read:

That any person who is the head of a family and a citizen of the United States, shall be entitled to have issued to him or her by the Commissioner of Public Lands, a warrant, &c.

Mr. CLINGMAN. I do not wish to trouble the Senate with any general discussion of this question; but the Senator from Tennessee, [Mr. JOHNSON,] in his remarks the day before yesterday, appealed to me not to press this amendment, and even said that he doubted whether I could be serious in proposing it. I determined to hear the Senator, as I did with very great pleasure; but it struck me that his objections to this amendment were of such a kind that, on reflection, he will be very likely to abandon them himself; and I rather think he will be disposed to take my amendment in preference to his own proposition. I believe I can in a few minutes satisfy Senators that the only objection which he makes to my amendment lies with equal force against his own bill, while there are several grave objections to his proposition which do not exist to mine.

He says that my proposition will stop the coming in of money into the Treasury; that it will deprive us of all revenue from the public lands. Well, he will see, on a moment's reflection, that his must have the same effect. He proposes that every man who wishes it may go, settle upon, and occupy one hundred and sixty acres of land. Of course, if all those who want land can go and get it for nothing, they will not pay anything. The land warrants which I propose to issue, the titles to land, are mere permits to an individual to occupy it. If I get one of them, it gives me permission to go and occupy one hundred and sixty acres to the exclusion of everybody else. The gentleman's own proposition does that; and the consequence is, that the very moment you provide that every man in this country, who is the head of a family may take possession of the land, without money and without price—your land warrants will sell for nothing. The Senator seems to have confounded the present price of land warrants with what they might be hereafter. A permission to occupy the land is valuable if you can only get it in that way. I might illustrate my view in this way: Suppose there was in the city of Washington a valuable mineral spring, like the famous Saratoga or the White Sulphur Spring, and the man who owned it would allow nobody to use the water without a permit from him: those permits would be valuable. I might be willing to give ten or more dollars for a permit to get that water, and they might bear a price in the market. But suppose he would come out and say he would allow anybody to use the water who thought proper. Then, if a man would come to me and ask me to buy a permit for its use, I would say: "it gives me the privilege of going and taking the water without it, and, therefore, I will give nothing for it." If the public land is made, like the water in the Potomac, free for anybody, of course it can have no price in market. I think, therefore, the Senator, on reflection, will see that

if one million, as he estimates, one third of all the heads of families—for he estimates them at three millions—go and take this land, of course, it will be worth nothing in the market. He says that taking up some sections will enhance the value of all the others. Not at all; because any man who wants land may go likewise and get it for nothing. I think, then, this the only objection he offers to my amendment, applies with equal force to his own proposition.

Now look at the objections to his bill. First, its gross partiality. Here is land belonging to all the freemen of the Union. He proposes that a certain set of them shall have the right to occupy it as farmers. Is nothing to be done for manufacturers? Here are our blacksmiths, our shoemakers, our carpenters, whose trades require them to be in their shops. They are interested; they pay taxes to support the Government. Why should they not have the same privilege with everybody else?

Again, even if you limit it to the class of farmers—I put it to the Senator himself—suppose he should go into the State of Tennessee and advocate this measure, and have my proposition submitted; on the other hand, nineteen twentieths of the men he addressed would say to him, "we do not expect to emigrate; we are tax-payers; we are ready to fight for the Government; and why should we not have a land warrant to sell for whatever it would bring?" He will see that my system is free from that objection.

Toward the close of his speech, the Senator made a very ingenious argument of this kind: He says there is land enough to satisfy every man and still leave a surplus; and that, therefore, the effect of his bill is to give an individual his own share, and let him occupy it at once. That looks very well; but when you come to examine the effect of it, you find that a goes and takes up one hundred and sixty acres of land as his share, and then he comes in with all the rest of the citizens for a division. The public land goes to support the Government; to pay the taxes; to furnish soldiers in time of war; and he gets the full benefit of it with everybody else. It is exactly like the case of a head of a family who has a dozen children, and he says to one of them, "I will give you your share of my money and lands." Suppose that one, after getting his share, should remain at the public table and be supported by the family: that would not be fair. The proper course would be for the old man to divide his property among all, and let each live on his share. My amendment proposes that identical thing. It takes every head of a family in the United States and gives him one hundred and sixty acres, so that one cannot encroach upon another. I think, therefore, the Senator from Tennessee will, on a moment's reflection, see that my system is the very one that is calculated to carry out his views; and I hope that he will adopt my amendment in lieu of his bill.

Again: he says there are a great many men about the cities whom he wants to tempt into the country, because they are not doing well in their present position, and become paupers. I grant that; but let these men look at the two propositions side by side. By my proposition they have a title to the land at once; but by his, they have to go there and work on it for five years. Many men will say, "that is paying a great deal, to go into the woods, cut down heavy timber, and labor and sweat five years for a title; I do not think I will go." This view ought to have occurred to the Senator from Tennessee. A great many men may go out there and settle down in the woods, and after working two or three years they may find the place sickly, or they may have some inducement to move away. Under my proposition, each one may sell and move elsewhere. I think, therefore, that a moment's reflection will satisfy the gentleman that mine is the very proposition which meets his views in this respect.

I will present another view for the Senator's consideration. Suppose the public lands were divided among all the States of the Union, and the State of Tennessee, for example, had twenty million acres to dispose of, and the Legislature of Tennessee had control of its disposition; suppose a member should get up in that Legislature and say, "Here we have got twenty million acres in the new States; I propose that every citizen of Tennessee who chooses to leave his own

State, and go and settle on those lands, shall have one hundred and sixty acres; and that every citizen of the United States who chooses may settle on our land;" how many votes would such a bill get? Suppose part of the land belonged to the State of Tennessee: how much would they give, upon these terms, to tempt their people to go away? I ask the gentlemen from New England the same question. Suppose Maine, Vermont, or any of those extreme States, had ten million acres: would their Legislature agree to give land to anybody who would settle upon it, merely to fill up Iowa, or Arkansas, or some new State? Why should not we act just as we would if the land belonged to us in the individual States?

Mr. President, the allusion to those States reminds me that a few years ago, when I came into public life, it was the fashion for gentlemen of that quarter to say that our people were excessively devoted to agriculture; that we were all making breadstuffs; and the result was that for grain and pork we were getting little or nothing, and that to diversify pursuits we must tempt men into manufactures, and they advocated a protective tariff. That is the proposition just reversed. It says that the people are engaged in mechanic arts and manufacturing to a great extent, and we want to get them to go out of these pursuits and embark in agriculture. I ask gentlemen from that quarter if any of them intend to vote for this bill? have they abandoned their old doctrine? have they come to the conclusion that manufactures and the mechanic arts are carried to too great an extent in the United States, and that you must vote away a portion of the public property, to tempt men to engage in agriculture?

It may be that some of those gentlemen are actuated by an argument which was used in conversation by a member from New York; some years ago, in the other House. On the occasion to which I allude, I happened to express some opposition to this bill which was then pending in that House. When I concluded, a gentleman by whose side I sat, said to me, "I agree in the force of your objections, but I have one motive for voting for this bill that you have not down in North Carolina." "What is it?" I inquired. "Why," said he, "I represent a manufacturing district, and if we can take some millions of revenue from the Treasury"—I think the public lands then yielded about three millions a year—"the result will be that we shall get an increase of the tariff." If gentlemen from the New England States ever had any idea of that sort, I think they have seen enough lately to satisfy them that it will be a dangerous game. There is now a deficiency in the Treasury; I believe the public lands last year brought in \$8,000,000. If they mean to take away the public lands as a source of revenue, under the idea that they will obtain an increase of protective duties, I think they will be mistaken. The effect will be, most probably, not to come to direct taxation immediately, but to impose taxes upon the free list, just as was done in 1841, when there was found to be a deficiency. If there be a permanent deficiency in the revenue, gentlemen will find that there will be propositions to tax the free articles. I hope, then, if any gentleman is actuated by any such idea as this, he will not allow it to operate upon his mind.

I frankly confess, Mr. President, that I am for retaining the public lands as a source of revenue to the Treasury; but if they are to go, I say let us have an equal distribution. The Senator from Tennessee alluded to the agrarian laws of Rome, to the distributions made there, and their demoralizing effects. Sir, his allusion brought to my mind the fact that we are treading exactly the same course. He will remember that in Rome the first donations of land were made to the soldiers just like our bounty-land system. Afterwards they passed agrarian laws to give land to the poor. That is what he proposes. The third step was to give money, and to give provisions to feed the populace. If you go on with this system, first giving land to soldiers; next giving land to anybody who will take it; finally, when you have exhausted the land fund, the loafers and beggars will get up a clamor, and you must give them something in some other way.

Now, I put this question to the gentleman: suppose you let men have the public lands for nothing: will not those who have already paid for their lands come to Congress to have the money which

they have paid refunded? The force of that argument every Senator will feel. Only last week, I believe, a proposition was carried through the Senate, merely upon the idea that the officers here must be put upon a footing of equality with the officers of the House of Representatives. Suppose you give lands away to one third of the citizens of the United States: will not the people to whom you have already sold lands ask you to refund to them the money they have paid?

It strikes me, then, that in every point of view the bill is expedient. I am not, however, Mr. President, to be drawn into any general discussion of the bill. I have offered my amendment in good faith. I have two objections to the bill; first, that it takes the proceeds of the lands from the Treasury; and, second, that it makes an unequal distribution. My amendment meets the latter objection. It cannot meet the former, I admit. I hope that, upon reflection, the Senator from Tennessee will see that my proposition is, in fact, a better one than his. I thank the Senate for having heard me thus far, and I shall no longer trouble them.

Mr. HALE. I should like to hear the first section read, as it will be, if amended, as proposed.

The Secretary read as follows:

That any person who is the head of a family and a citizen of the United States, shall be entitled to have issued to him or her, by the Commissioner of Public Lands, a warrant for one hundred and sixty acres of land, &c.

Mr. HALE. The amendment is a very philanthropic and disinterested proposition on the part of the Senator from North Carolina; but I should propose—certainly for his benefit, if for nobody else's—to insert an amendment that every person who is the head of a family, or who, within twelve or eighteen months, shall become the head of a family, shall be entitled to a warrant. [Laughter.]

Mr. CLINGMAN. When I was a member of the other House, I remember that on one occasion when a bounty land bill was under consideration, a proposition was made to except from its operation all members of Congress, and that was done. In the present instance I introduced this proposition because I could vote for it without being affected in this way. I see the difficulty with my friend from New Hampshire, however. He cannot well vote for my proposition, because it gives him a land warrant. If he desires, therefore, to except members of the two Houses, I shall not object. It is not necessary for me to do that to enable me to vote for the proposition; but I am willing, if he feels sensitive on the point, and thinks he cannot give it his support, to put in such a provision—for I do not mean to tempt my friend by holding out this inducement to him. I am willing that he may move an amendment excepting all members of Congress, and then I hope my proposition will have his support.

Mr. HALE. I would rather put mine in.

Mr. HAYNE. Mr. President, it is not my intention to detain the Senate; but I desire to state a fact or two. If it were desirable that the Government of the United States should give lands free of cost to the people, the period for it would have been immediately after the revolutionary war. At that time I should have voted for such a measure; but now, sir, I cannot do otherwise than sustain the amendment of my honorable friend from North Carolina. I entirely concur with him. I say, decidedly, that the whole system of giving away the public land in my day has been unjust in every respect. There has been no justice; there has been no equality; there has been no good sense; there has been no fairness in the system.

The truth is, sir, in this country, that a man who cannot sustain himself is a drone; he is not worthy of protection in a country where every man goes ahead who has any strength of will, or any firmness, or any character. Measures like this, that give your lands away, will destroy enterprise in that class to whom you give them. It will make them drones in the human hive.

Why, sir, look at the effect of the system you have pursued. Some time ago you passed a law giving bounty lands to the officers and soldiers who had served in any of the wars in which the country had been engaged. Why did you not pass a similar law for the officers and seamen of the Navy? What is the difference between them? Are not the sailors as much entitled to it? Look

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at their conduct in the war of 1812. Sir, England would this day give \$500,000,000 if the Guerriere had conquered the Constitution; and if the Guerriere had conquered the Constitution, I believe all our victories would have been lost; the tables would have been turned, and we should have exactly occupied the condition England did—beaten, beaten, beaten everywhere. I object *in toto* to the system of donations to the officers of the Army and not to the Navy. How did you dispose of that land to the Army? There was no gradation in it; but just the reverse. A drummer of the regular Army or volunteer corps was put upon a footing with Major General Scott—one hundred and sixty acres for each. I guard Senators not to act upon principles of that kind. The public domain is valuable. You are now suffering for want of money; or, rather, you are in imaginary suffering, for our credit is as high as it ever was, and it is as easy to get money now as if our tariff gave us an excess; and we ought to do whatever should be done, without any regard to the present crisis. I shall vote for the amendment of my friend from North Carolina.

Mr. DOOLITTLE. Mr. President, I think the honorable Senator from North Carolina falls into an error in supposing that the object of the homestead bill is to make a gift to anybody. I understand the ground on which it rests to be simply this: that the person who, with his family, goes upon one hundred and sixty acres of the public domain, and occupies and cultivates it for five successive years, earns it and becomes entitled to it. I do not intend to detain the Senate, but simply to call them back to the first principles upon which all title to real estate rests. It rests upon occupancy, and upon nothing else, by the law of nature and of nations. I will read a single extract upon this point from a learned author, whose authority will be universally acknowledged:

"The only question remaining," says Judge Blackstone, "is, how this property became actually vested, or what it is that gave a man an exclusive right to retain in a permanent manner that specific land, which before belonged generally, to everybody, but particularly to nobody. And, as we before observed that occupancy gave the right to the temporary use of the soil, so it is agreed, upon all hands, that occupancy gave also the original right to the permanent property in the substance of the earth itself, which excludes every one else but the owner from the use of it. There is, indeed, some difference among the writers on natural law, concerning the reason why occupancy should convey this right, and invest one with this absolute property—Grotius and Puffendorf insisting that this right of occupancy is founded on a tacit and implied assent of all mankind; that the first occupant should become the owner; and Barbeyrac, Titius, Mr. Locke, and others, holding that there is no such implied assent, neither is it necessary there should be, for, that the very act of occupancy alone, being a degree of bodily labor, is, from a principle of natural justice, without any consent or compact, sufficient of itself to gain a title—a dispute that savors too much of nice and scholastic refinement. However, both sides agree in this, that occupancy is the thing by which the title was, in fact, originally gained; every man seizing to his own continued use such spots of ground as he found most agreeable to his own convenience; provided he found them unoccupied by any one else."—*Blackstone's Commentaries*, book 2, chapter 1, page 8.

Sir, by the law of nature and of nations actual occupancy of real estate is the only basis upon which a title to it rests. In giving my support to the homestead bill, as it has been introduced by the honorable Senator from Tennessee, I do so, not upon the ground that I am voting to give to any person a title to the land, but to grant land to the person who actually enters upon it, and occupies it for five years in succession, mingling his own labor with the soil, and setting up and perfecting in himself the title to real estate in the only manner in which that title can be set up by the law of nature and of nations. In saying this, I do not wish to be understood to say that Government may not by conventional regulations establish other title to real estate. I do not question at all the legal title of the Government, or of any individual to land which may be derived from the Government, although not actually occupied. That, however, is a legal right, based upon the law itself, established by the Government, and not the right, as based upon the law of nature and the law of nations. The true policy in our legis-

lation, it strikes me, is to conform as nearly as we reasonably and practically can to the law of nature and of nations. In giving my support to this bill, I do not vote, as I understand it, to make a donation to anybody, but simply to grant the lands to those persons who actually earn them, pay a consideration for them, and that consideration which, by the law of nature and of nations, gives the best title to real estate—actual occupancy.

Mr. HALE. Mr. President, I come from one of the old States, and I appreciate the appeal that has been made by the Senator from South Carolina, in regard to the manner in which the public domain has been administered. It is fifteen years since I was first a member of Congress. From that time to the present my observation has taught me, and my convictions have strengthened, that the old States have nothing on earth to expect from the public land. Various attempts have been made at various times to interpose something in their behalf, but the day has gone by—no, sir, it has not gone by; it never existed. They never have got anything, and they never will, and they never can. The only satisfaction the old States can have is, that the domain was procured by their blood and treasure. The benefits of it are to go to the new States. I know it, and it is useless to contend against it.

I live in New Hampshire, one of the severest climates, and one of the most ungrateful soils, perhaps, of any State in the Union. I know it is utterly idle to indulge the hope that all our young men, as they grow up, will stay with us. No, sir; they will go out; and they will go out and people the new States and Territories. I have traveled somewhat extensively in the West, and wherever I have gone, I have found the young men of New Hampshire, who have left her severe climate and ungrateful soil, and gone out to this western country and settled. Some of them, like my friend from Michigan, [Mr. CHANDLER,] come back here as Senators occasionally. But as they are to go out and settle there—and they will go out, and we cannot keep them at home—all we can do is, to give them our blessing and our title to the land. Let them have it; I am willing they shall take it.

But now I want to say a word that has been brought out by an allusion made by the honorable Senator from North Carolina, in regard to a class of men who are not particularly interested in this bill—I mean the agrarians. It is customary and it is fashionable, and it has been for more than eighteen hundred years, when you wanted to put a thing down in everybody's mind to denounce it as agrarian; and the idea has been prevalent that if you could fasten upon a proposition the term "agrarian," you made it odious to every honorable mind. Sir, if there ever was a class that the page of history has brought down to this country that is entitled to the commendation, to the warmest gratitude, to the admiration of every philanthropic and democratic heart, it is that much-abused class upon whom history has heaped her labels for eighteen hundred years—the agrarians. The discoveries of the modern historian have brought no more grateful tribute to the altar of truth, than the redeeming that much-abused class from the odium which has so long rested upon them.

Sir, the agrarians of the olden time were the friends of humanity; they were the patriots; they were the honest, the upright, the bold, and the unflinching advocates of equal rights, equal laws, and equal privileges. It is a mistake, a gross mistake, to say that the agrarians ever contended for what it is so fashionable to attribute to them at the present day—an equal distribution of property and of the public land. No, sir; the agrarians saw in olden times, as the agrarians see to-day, that the public domain of the Republic of Rome, after it had been won by the blood and treasure of the common people, the plebeians, was engrossed in the hands of an aristocracy, and that they had no part or lot in it. They saw, and they felt, as agrarians have seen and felt ever since, that the part which society required of them was

to labor, to toil, to go to battle, to fight, and to die, and to conquer territory from other nations; and, when it was acquired, to see it grasped, absorbed all in the hands of a grinding and an inexorable aristocracy; and when they saw that they strove against it. I do not care what you may say of any of those who figure upon the page of history, the warmest sympathy of my heart and its deepest gratitude is due to those much-abused, calumniated agrarians, the old Gracchi of Rome, who were slain by a mob composed of the men of property and standing in Rome.

Sir, it is that same spirit to-day which would lock up your public domain, and keep it to be doled out to great gigantic corporations, and to be dealt with in any other way except to make it what I believe God Almighty intended the world should be when he did make it, and that was a home for man to live on. Sir, I want to see the country come up to that. If they will not quite come up to looking on the earth as a place for man, it will be some beginning if they look on it as a place for white men to live on; and when they have realized that idea, perhaps, by and by, in the progress of truth, such light may dawn on us that we may work our spirits up to the conviction that God actually intended that black men should live upon the earth somewhere.

It is in view of this that I shall make up my mind to go for this bill. My State, as such, will never be benefited by it one dollar; it will be injured; but I know, when we have such men as my friend from Michigan, we cannot keep them; they will go; and the only question is, whether we shall give them a homestead and blessing, or give them a blessing without a homestead? that is all. I am willing to give them a blessing and a homestead too. It is for the reason that I know it is hopeless to think the old States will ever get any benefit from the public domain that I am willing to give it to men who will cultivate it.

I sympathize a good deal with what was said by the Senator from Wisconsin; but I do not go quite so far as he did. I think, in a primitive state of society, before they got to making deeds and signing and sealing, occupation was a good title; but since we have had courts, they have got an idea, somehow or other, that these papers, wax-seals, hand-writings, &c., do sadly interfere with the right of occupancy, squatting, or whatever you please to call it. That might do as a theoretical disquisition upon a new world, if God should see fit to make one and give it to us; and I do not know that it would not be good philosophy; but at the present day it would not do. These ugly deeds, these seals, these signatures, and these courts who enforce them, are great obstacles in the way of the idea of possession. I know that possession is a good title in law. It is said to be, I believe, nine points out of ten. But, aside from all that, I think the best thing you can do with the land is to give it away. I do not mean to give it away in the way it was distributed to the Wisconsin Legislature [laughter;] but I mean to give it away in something like the way proposed by the Senator from Tennessee, or I am not entirely certain that I do not prefer the proposition of the Senator from North Carolina; but one of the two. For these reasons, I shall give the measure my support.

Mr. HOUSTON. Without designing to commit myself exactly to all the provisions of this bill, I must object to the amendment of the honorable gentleman from North Carolina. I cannot see how the object of the Senator who introduced the bill would be accomplished by giving this universality to its provisions, nor can I see any benefit to result to the country from that. He contemplates an increase of revenue from the plan he has devised, and argues very reasonably that, by settling on alternate quarter sections, the remaining quarter sections will be so much more valuable that the Government of the United States will be benefited. With a single eye to revenue, I am inclined to believe it would enhance the value of the remaining portions of the land if one half of our entire domain were given away in alternate

quarter sections to actual settlers. If you grant to each occupant of the soil a quarter section upon condition that he resides upon it for five years, improves and cultivates it for that length of time, I think it may be regarded as a consideration remunerating the United States for the value of the uncultivated wild land when he went upon it. If this is the consideration that is to be given, I think, so far as the Government is concerned, it would be an exorbitant remuneration for the hazards, the inconveniences, and risks which new settlers encounter on the frontier. This, then, would not be a donation, but it would be granting the land in consideration of services rendered to the Government fully equivalent to its value.

It is only intended for persons who will encounter these difficulties, and who will encounter the labor and toil incident to a new settlement in the wilderness. If, however, you were to adopt the amendment of the honorable Senator from North Carolina, there would be no equity or justice in the measure. It is intended to induce the emigration from the overstocked communities of the country of such persons as could be spared from there, where they are in a miserable condition, who would improve their condition by emigrating to a new country, where they would have stimulation to enterprise, and where every advantage would result to them individually; while, at the same time, it would disembarass the great cities which have a surplus populace. In this way, thousands would become industrious and productive citizens, who otherwise would become paupers or miserable dependants, demoralized, and demoralizing society. It would have a tendency thus to relieve society of that surplus population which is unproductive, and set it to work to fell our wilderness, to reduce to cultivation and to improve the public land. Looking at it in its effect on the Government lands which will come into market, it would certainly be a great advantage to the Government.

If, however, you are to issue warrants to all heads of families in the United States, what would be the consequence? Could it possibly produce any revenue to the country? Quite the contrary would be the case. The bill will give the needy an opportunity of possessing the land, who will render in its cultivation a consideration for the five simple of the soil; you will be conferring a benefit on them; and you will be stopping speculators from grasping the whole public domain of this country. If, however, you issue warrants to all heads of families in the United States, the market will be stocked with them; they will fall to five or ten cents an acre. Millions of families in the United States would not think of abandoning their residences and going to the frontier. The warrant would be worthless in their pockets, and they would have to sell it for a merely nominal amount, and thus the public domain would be monopolized by speculators who would grasp the surplus warrants issued to persons who would not go and occupy the soil. The market would be glutted with them, and you could not bring your public domain into market; and why? Because you would get no bidders for it. If warrants were to be got at ten cents an acre, could you sell public lands at \$1 25 an acre? Not at all. Under that system the land would pass into the hands of speculators, and you would derive no revenue from it. On the other hand, your revenue is not impaired if you give the domain to those who are not able to purchase it, but who will occupy it, and prevent its falling into the hands of speculators.

I cannot vote for a measure that is calculated to prejudice the revenue directly without benefiting individuals. You will confer no benefit on the head of a family who is independent, by giving him a land warrant. Sir, that is the agrarian system that was established by Rome when provinces were conquered. A portion of a conquered province distributed to the head of every family in Rome. That was agrarianism in Rome. It was not to the occupants it was given, and hence it built up speculators in the city of Rome, and produced such an inequality of wealth, such a love of splendor and affluence, that it demoralized and denationalized Rome, and prepared it for a master; and it got the best that it could have selected from Rome when it got Cæsar, because he was better than Pompey; and Rome was prepared for a master, and she was obliged to have one.

But, sir, we need no Cæsars nor Pompeys here.

Distribute the people upon the frontier; render them agriculturists; attach them to the soil; and then, when liberty might even perish in the center, upon your outskirts you will have men attached to the soil, who derive their living from it, surrounded and sustained by their families reared upon it. You may appeal to them to rally to the center, and, by an outward influence, crush tyranny. It is there, sir, you are to find liberty. Give to the needy, who will become industrious. None others will go to your frontier to occupy your vacant territory. Give not to those who have superabundance, and would not turn a hand to fell a tree, or to dig the soil of the virgin earth of our forests. No, sir, I will not vote for the amendment.

Mr. JOHNSON, of Tennessee. I do not think the Senator from North Carolina has clearly taken in the scope of the amendment he proposes. I thought that, in the few remarks which I made the other day, I demonstrated most conclusively that this bill would be a revenue measure; that, instead of giving away the public property, it would increase the public revenue. The honorable Senator has not attempted to answer my argument on that point, but merely presses his amendment in preference to the bill. When we examine his amendment practically, what is it? It proposes to issue a warrant for one hundred and sixty acres of land to each head of a family in the United States. What is the effect of that? There are three million heads of families in the United States; and the enormousness of the proposition can be seen at once by a very simple calculation. Multiply three millions by one hundred and sixty, and you have four hundred and eighty millions. This is a proposition to throw four hundred and eighty million acres of land on the market in the shape of warrants, which will not sell for a cent an acre. The result will be that the warrants will be bought up by land-jobbers and speculators at a mere nominal price, and your public domain will pass into the hands of large proprietors and capitalists; and, in process of time, the men who want homes, and who could even pay a moderate price for them, will not be able to obtain them unless at the exorbitant price which speculators may demand. From the origin of the Government to the present time, the entire amount of receipts into the Treasury from the public lands has been \$170,000,000. Estimating the lands at one dollar an acre, we have disposed of one hundred and seventy million acres in sixty-nine years. Here is a proposition to throw at once upon the market four hundred and eighty million acres, though we have only been able to use up one hundred and seventy millions from the origin of the Government to this time. This is an enormous proposition. It is a proposition in fact to waste and squander all the public lands at once; to pass them into the hands of speculators at a single blow. We can readily see the effect that must have upon our land system.

I was in hopes that when the Senator came to consider it seriously, he would not press such an amendment; but he persists in it. Cannot every one see that its adoption will cut off all receipt of revenue from the public lands?

Mr. CLINGMAN. Will the Senator from Tennessee allow me to ask him a question?

Mr. JOHNSON, of Tennessee. Certainly.

Mr. CLINGMAN. Does this bill confine the settlement to alternate sections?

Mr. JOHNSON, of Tennessee. Yes, sir.

Mr. CLINGMAN. The gentleman's estimate is, that one million heads of families will take the benefit of this bill. That goes upon the supposition that one third of the people will remove from their present homes. Now, I ask him if one third of the people go from their present homes and get land for nothing, will there be anybody else to buy land in the market? Then, does not the bill effectually destroy all revenue from the public lands?

Mr. JOHNSON, of Tennessee. By our land system, as it now stands, there is no trouble in answering the interrogatory. How many men enter land that do not emigrate to it? The effect of having the alternate sections settled by cultivators, would be to make it more desirable for persons to enter lands adjoining the sections occupied by the cultivators.

Mr. CLINGMAN. Men now enter lands without intending to go and settle on them, but they

do it because they intend to sell the land to some man who will settle on it; but if every man has the privilege of taking land without a warrant, will anybody buy a warrant? Surely not; for he will be able to get land without it. Of course, then, the land warrants must be worth nothing.

Mr. JOHNSON, of Tennessee. If the Senator will reflect upon the practical operation of the land system, I think he will perceive that many men will go and enter a quarter section upon the principles of the bill for the express purpose of taking up the next quarter section to it, and paying the Government price for it even if it were increased. When each alternate section shall have been entered, you will find thousands upon thousands who will go and enter the land because it is coming into market, and will be valuable. This bill will increase the receipts; it will increase the amount of land entered instead of diminishing it. How many men will go and settle upon a quarter section for the express purpose of obtaining the next? Thus, in its practical operation, it will increase instead of diminishing the amount of land brought into market.

Mr. CLINGMAN. I ask the gentleman what is to be done with the mechanics? Every country needs mechanics. They are not cultivators of the soil. I think he will admit with me that it would be unjust to say that no man should have this land unless he would shoe a horse. That would benefit the blacksmith, but it would be unfair to everybody else. If you exclude all mechanics whose trades and occupations will not let them take the land, I ask if, at any rate, the Senator ought not to be in favor of an amendment to give every mechanic in the country a warrant?

Mr. JOHNSON, of Tennessee. If a mechanic is the head of a family, he can go on the lands and build his blacksmith shop, or anything else, and at the end of five years he can get a title to the land.

Mr. CLINGMAN. The gentleman does not understand my question. His own State of Tennessee and my State have mechanics, and must have them. Now, if all the blacksmiths, for instance, were to go to these lands, and settle on them, what would become of the community? They must stay; and why should not all men employed as mechanics, in all the States, who have no farms, get a warrant for one hundred and sixty acres each, as I propose?

Mr. JOHNSON, of Tennessee. Is not a mechanic placed in the same position as anybody else, if he emigrates to a quarter section of one hundred and sixty acres, enters upon it, cultivates it, and possesses himself of the soil? The bill covers the precise case. So far as mechanics are concerned throughout the country, their number is always regulated by the demand, and each old community will retain that number of mechanics who will be justified in remaining for the prices they get. As settlements advance in the West, mechanics become necessary, a tailor here, a shoemaker somewhere else; and they will settle down on land under the provisions of this bill.

Mr. CLINGMAN. The gentleman says that the mechanic may have land if he will go and settle on it, but he cannot do that consistently with his interest. In the case I put, if it were proposed that every man who can shoe a horse shall have public land, it might be said every man might do it if he chose; but many of us cannot do it. Well, these men have an occupation which they have to abandon if they go into the woods. Why, therefore, put them into these straitened circumstances when they pay money to support the Government, and have as much right as others to the land? So in regard to sailors; is our Navy to be abandoned? Will not the gentleman, at any rate, go for an amendment to give every sailor a land warrant? If you tempt them all off the sea, what is to become of our commerce? So of the soldiers who are fighting the battles of our country. We have given warrants to some, but those who are in the regular Army in time of peace, get none. Will not the Senator at least include these classes?

Mr. JOHNSON, of Tennessee. I am constrained to say that I do not see the solidity and force of the argument of the honorable Senator. A sailor can go if he thinks proper, but if it is to his interest to remain on the ocean and plow the deep, he will do so. If it is his interest to go West and become an agriculturist, he will do so. So far as the old soldiers are concerned, I think it

is dealing liberally with them. Notwithstanding they have received their land warrants, they, being heads of families, can still go and emigrate and occupy one hundred and sixty acres of land under this bill. It would be a very great advantage to many of these old men. They are living, many of them, in the old States, and they have no land, although they have had land warrants. Under the limited system of granting bounty land warrants to old soldiers, we have seen them run down to less than a dollar an acre. Many of those old men have scarcely got anything for their land warrants after receiving them under law. Would it not be better for many of them who have families around them, being too old to work themselves, to emigrate with their boys and girls and settle on land, make them a home, lay a foundation for them, instead of relying on a piece of paper which is to be issued, go into the market, and sell for a merely nominal value?

Four hundred and eighty million acres are proposed to be thrown upon the market by the gentleman's amendment. You have only brought into your Treasury since the commencement of the Government \$170,000,000 from public lands. He proposes, by a single amendment to the bill, to throw upon the market enough to supply it for the next one hundred years. Can the Senate vote for such a proposition as that? These land warrants would not sell for one cent an acre. Who would get them? Into whose hands would they pass? Can we experiment on a proposition like this? Capitalists and speculators would take charge of the public domain under it, and the Government be deprived of the power to dispose of it in a proper manner.

Mr. REID. I do not desire to discuss this subject at length; but, sir, it does seem to me that the proposition of this bill, in our country, to say the least of it, is a monstrous one. What is the proposition? It is to give one hundred and sixty acres of public land to every head of a family who may settle upon them for the term of five years, whether he be rich or poor. The argument, then, is not to give it alone to the needy, but the wealthiest man in the country may avail himself of this bill, and obtain one hundred and sixty acres of public land. It is maintained that by giving the alternate quarter sections you advance the value of those remaining to the Government; and that thereby the Federal Treasury loses nothing. How stands the fact? This bill does not raise the price of the remaining quarter sections; but they will remain to be entered and sold according to the present price, and thus the Government must lose one half the land, at least. Mark you, sir; the provisions of this bill, as I understand it, are not limited to any particular period of time. It has relation to all time to come. When those who have no land now shall go and avail themselves of it, their children may do so too. Neither do the provisions of this bill confine the selections to alternate quarter sections; for it says that shall be done "as far as practicable." When the alternate quarter sections are all taken up, it will become impracticable, and consequently the remaining sections will be taken. That is the fact, as will be seen by reading the bill. So it will, in effect, be the giving away of the entire public domain.

The argument of some Senators seems to be that the public lands possess no value. I maintain that anything has that value which it will bring in the market. If the public lands are worth nothing, it is bad policy in this Government to be expending hundreds of millions of dollars in their acquisition, and hundreds of millions of dollars in the survey and other expenses which attend the land system. It is true, the public lands have not commanded a high price; and wherefore? For the reason that this Government has always forced into market more lands than the demands of the country required. We are a growing country; let us not dispose of the public land too rapidly. I am in favor of a liberal system in regard to the pioneers who go into the new Territories, and I think the Government has been liberal towards the settler. I think the Government should be liberal. But the public lands have been acquired by the treasure of the whole country; and here is the Senator from Tennessee, who offers to make this appropriation. It is an appropriation of land, it is true, but that land is worth money. I do not know of any peace measure on the face of the earth which my friend from Tennessee

would vote for that appropriated a similar amount of the public money; and this is not an equal distribution, but a partial one, giving to persons who desire to avail themselves of particular opportunities that may be offered to them by the Government.

I am willing that the young men or the old men from the older States of the Union may emigrate to the West, or anywhere else where they think they can better their fortunes; but it is not justice to the old States of this Union to hold out inducements, bribes, to entice their population to the newer ones. They possess sufficient advantages already; they have the most fertile lands upon the face of the earth, that may be bought for \$1 25 an acre. These are great inducements, giving those States decided advantages over the older ones. Here you propose to give land to every man who will settle in the new States. I say it is not only to give it to those persons who may now avail themselves of it, but it is to give it for all time. What is to be the effect?

If it is desired, in this country, that the Federal Government should provide a tract of public land for every man, you must go further and introduce the feudal system, because he may not occupy it after he has once acquired it. After you have provided him a home, the tendency of things will be that you must perpetuate it to him and his successors, or they might still be without a tract of land. The tendency of things in this Government is too much to look to this capital, the center, the Federal Government. It is swallowing up too much. We see a thirst for office and for claims upon the Federal Government; men desire to live and feed upon this Government; and that tendency is increasing every day. If you take millions and give them to the people of the country in an unjust and unequal distribution of what belongs to the whole, giving to only a part, do you not increase this? If the public lands have no value, then they are of no use to those who may avail themselves of this act. If they have a value, then what you give them is a gratuity, voted from the Federal Government without authority. The framers of the Constitution never contemplated that the Federal Government should furnish homes for the people of the States of this Union. Neither does it bring it within the purview of the Constitution to change it from lands to money, because the lands have been acquired by money, and have a money value.

Mr. President, I think this bill ought not to pass. In the whole history of my experience here, I do not think I have ever seen a measure of more dangerous tendency to the country than this. If you vote homes to those who desire them now, you must continue it as long as the Government lasts. If you give my neighbor a home, if he desires it, perhaps I shall come up and ask for one when I desire it, or say that you have treated me unjustly. Let the system that has been pursued in regard to the public lands be continued—not exactly the system, for I think the old States have lost a good deal under it; but under the system now proposed they are to lose it all. I have heretofore voted with much pleasure to give public lands to those who have taken up arms in defense of their country. I would do so again. By keeping the surplus domain which is not needed, you have an inducement for men, when the rights of their country are involved, and it is necessary for them to take up arms, to fight for the cause of their country. The Government has expended money on these lands. Let us dispose of them according to the wants of the Republic, and keep the remainder for the increase of our population from time to time.

Mr. CRITTENDEN. Mr. President, it seems to me that the only theory of the bill is a very beautiful one; but when you put it into practical operation it will be found to be attended with a great many inconveniences, and liable to a great many objections. The theory of the bill supposes that it is to make all the idle and worthless persons in the community farmers, agriculturists, good citizens. I think it will not have that effect. It may be a donation to some individuals who will make a good use of it, and become good and useful citizens; but they will be found, I think, in practice, to belong to that class who would have no difficulty in making a purchase of the public lands at such prices as we ask for them; and the very fact of their becoming purchasers, and of

their having to obtain their land by the payment of the earnings of their labor, would attach them to it and make them use it profitably. But if you take an idle man and thrust him upon a piece of your land, what can you hope for? You cannot change his nature, or the character which former habits have impressed upon him; he will still be the same useless member of society. I think the bill will accomplish much less of good than is anticipated, and it will be attended with much more of evil consequences than its supporters anticipate.

What is the effect of it as to the old States, and all the other States, except where the land which is given so generously is situated? It is a temptation to their people to leave them. Can they feel an interest in that? It may be said to them "you can have no objection that your fellow-citizens should leave their several States if they can thereby benefit themselves and families." They would say to that, "certainly we ought not to oppose that; but is it certain that they will be benefited by it?" It is offering a premium for emigration from all the States of the Union to the particular spot where the land you give is situated. Is that fair and equal? I am aware that there is a notion of general benefit connected with this system; that it is for the benefit of all to improve any particular part; but the particular parts must be allowed to calculate the disadvantage and prejudice they sustain by this sort of withdrawal of their citizens, and the temptations held out to those citizens, and to the cupidities of those living at a distance to overestimate those advantages which are offered, and which look bright in the distance.

The condition that when a man has made his choice he shall live there five years, be imprisoned, as it were, five years, in order to consummate his right, seems to me trammeling up your donation in such a way that the most enterprising and useful part of the poor of this country will hardly subject themselves to it for a home; they will hardly pay that price.

Again, sir, how will those citizens living in that particular country to whom you have sold lands which do not come within the terms of your donation be satisfied, when they have been compelled to enter and pay for their lands, to see another come by their side and get land free of cost, very little different in condition? The one has sold a little piece of land as necessary to his removal, and therefore he cannot accept this donation.

Mr. JOHNSON, of Tennessee. I will state to the Senator from Kentucky that the bill contains no such restriction as that. It has no reference to owning any other land, or having sold it for that purpose.

Mr. CRITTENDEN. The bill, as I read it, does. It provides, in the first place, that he must be landless, and in the next place he must swear that he has not sold any land for the purpose of receiving this gift.

Mr. JOHNSON, of Tennessee. I would call the Senator's attention to the fact that a section was adopted in lieu of the original second section, not embracing that provision at all.

Mr. CRITTENDEN. I find that the section as now modified does not contain the idea the original section did, but now, under the provisions of this bill, the richest man in the community may make himself the donee of our land.

Mr. JOHNSON, of Tennessee. I will state what the section means, as I understand it, and what I intended it to mean. The consideration the Government asks for the land under this bill is that a man shall settle upon it, and cultivate it for five years. It says to the rich man or the poor man, or the middle-class man, if you settle upon it, and pay that price, you shall have it. It discriminates between none, but places all on the same footing.

Mr. CRITTENDEN. If I understand it, this bill is to give land—

Mr. JOHNSON, of Tennessee. It is a grant on condition that the grantee will settle, occupy, and cultivate the land.

Mr. CRITTENDEN. The rich man or the poor man is to be equally entitled to the land if he complies with the conditions. Why should that be? That is nothing else but a premium for quitting your habitation, wherever it may be, and going to settle in this favored spot. I have said

that it was no advantage to the old States to have their population drawn off in this way. Now, what advantage will it be to the Union? Are not our people going westward and westward to the remotest parts of our extensive territories rapidly enough? Is not the spirit of enterprise, the hope of distant acquisition, enough to make our people emigrate? Was there ever such an emigrating people as ours are? Do we want to add a stimulus to this spirit? Does it contribute to the public strength? Does it contribute to the public wealth to be scattering our people all over our vast dominions faster than natural causes do? I think we shall act most wisely when we leave to natural causes the emigration and scattering of our people. They will go where their real interest, their real comfort, and their real advantage, lead them, without the allurements of legal contributions from the public property to aid or to tempt them. I am for leaving this course of things to natural causes, without this temptation.

Besides, how do we hold the public lands? Do we hold them simply to give them away? No, sir. We hold them for the whole people of the United States. Can any argument persuade the people of the United States that these lands are disposed of for the equal and common benefit of all, by giving them to those who will leave their ancient homesteads, and go and seek another in a place to which they are tempted by your gratuities or largesses? Is that to the equal benefit of all, or is it not to the peculiar local advantage of the spot to which you tempt them to carry their wealth, their labor, and their industry? Would they not be as valuable, as estimable, in every point of view, and as comfortable, remaining in their ancient homesteads, as when you tempt them off, by these allurements, to make settlements upon distant frontiers?

I see no public interest in it; I see no justice in it. It is not even entitled to be regarded as almsgiving, because you give not to those who need, but to the rich as well as to the poor; you give that which belongs to the poor in effect to the rich. The poor of my State, for instance, have as great an interest in the public land as the people where it is located; and there are many of them whose comfort and whose advantages in life would be promoted, if they could realize and have in possession at once, where they live, their share of this great common fund; but you take it from them, and you give it away to the rich. You take from the poor to enrich the rich. That may be its operation.

But, in a more general point of view, what is its effect even in the neighborhood where you would settle persons upon land given without price? One goes there, buys land, and settles; and another, and another; and that is the enterprising and valuable portion of your people. They have shown their virtue and shown their labor; and by their works have made themselves able to own, and worthy to own, a homestead. They go, and how do you treat them?

Here is a worthy man, competent enough to pay the expense of removing himself and family. He goes there, and is a man of sturdy independence. He asks no alms; would accept of no charity. He buys his land; you make him pay for it; and you give land to another man by his side in as good circumstances as he is. Is that equal, unless you mean to give it all away? If you mean that, what then? What is the value of the land in the neighborhood which has been bought and paid for with a price? What effect have these donations upon the price of the lands? Do they not reduce it? If the Government is giving away farm upon farm, section upon section of land, what becomes of the value of the land of the man living adjoining, who has bought and paid for his tract? When land is to be had for the asking of it, what price can you get in money for that which adjoins it? You not only give away that which belongs to the public, but you cheapen; and you cheapen in the hands of the farmer who has bought and paid for his land that very land for which he has paid a price.

Moreover, Mr. President, the lands not only in the vicinity, but the lands in the region all about, are reduced in their market value, because these given lands can be bought cheaper, and after the five years are out will be sold cheaper. There will not be two prices for land; the cheaper lands will fix the maximum value—these lands that

have been given. That will be the consequence. How far that will extend I do not know. I know there is a common opinion even in Kentucky, that the price of our lands has been cut down by the low rate at which the public lands sell in the adjoining States, and that Kentucky has lost as much in the reduction of the price of her lands as has been gained by those who have settled in the new countries. Where, then, is the gain? On one side it must be a great gain at somebody's loss. It is at the loss of the old States near which these settlements are made.

I believe, Mr. President, upon the whole, it is best to leave our people free to make their livelihood as they can. Your Government gives them all encouragement. If they want land, you sell it to them at a very moderate price. Under your graduating laws, they may get lands that will not cost them more than twelve and a half cents. Lands that have been in market such a length of time, are reduced in price; for a greater length of time, there is a further reduction. You not only give land by this bill, but you give a preference to the man who has not made himself able to acquire that on which the manhood of an American citizen ought to rest—the ability to maintain himself, and have purchased with his own money, obtained by his own labor, the land over which he is to be lord and master.

By this system you constitute him a sort of beneficiary. He can but feel the enfeebling sentiment that "I am one of the feeble members of society, to whom men more rich than I am contribute to set them up, and set them out, and enable them to earn their own bread." I do not believe that is a proper consideration for American citizens. That is not the spirit of enterprise, the spirit of hardihood, or the proud spirit of the laboring man, who, by the sweat of his brow, and the labor of his hands, can acquire his own fortunes, buy his own farm, build his own house. That is the sort of citizens we want. The little price you now exact is within the competence of every man who deserves to have a farm. I think I recollect to have heard my excellent friend, the Senator from Rhode Island, [Mr. SIMMONS,] say, that before he was twenty-one years of age, he earned money enough to buy himself a freehold and a homestead, and he is now deservedly a Senator of the United States. That is the sort of spirit that will make Senators. That is the sort of spirit that you are, in my judgment, if it should go to any extent, quenching by the eleemosynary foundation on which you propose to grant land.

Besides, Mr. President, we may be as liberal as we please out of our own means, but what right have we thus to give away the public domain? We have granted to railroads; we have, on a thousand pretenses, squandered millions of acres of land which ought to have been preserved as the inheritance for our posterity, so that when they should come into existence, and have their home, and have their way to make in the world, there might be vacant lands still, at a moderate and cheap price for them. This land is their inheritance, but you are hastening now to give it away to railroad companies, to States, and to individuals. On one pretext and on another, you have squandered millions of acres of public lands, but you have always done it on the pretense, as to railroads, that it was to benefit the public.

Now, sir, are the old States benefited by this? The Senator from South Carolina, both the Senators from North Carolina, and every Senator here from an old State—can they find any advantage in it? Can any of them find an advantage in the generous donation which you make of land, thereby reducing the price of land in his country, and drawing off citizens who might want to purchase in his country? Is that an advantage to the public? To what public? To the local public; and to the particular individuals it is a benefit, it is a charity. Sir, this land is vested in us all for the good of the whole people of the United States. Such a disposition of it I cannot see to be for the benefit of the whole people of the United States.

Mr. President, it is an unequal distribution of the public lands. In the present condition of our Treasury, and of our country, it would not be wise for us to obstruct the smallest source of revenue to the public Treasury. I would not propose it. I would not now propose to distribute the proceeds of the public lands among the several States. That would be a much more equal dis-

tribution of them, and without prejudice to anybody. The new States and Territories go on populating according to the natural inducements held out by their condition and situation, and the fertility of their lands; let nature have its free course, emigration its natural course; let all things go on according to nature. But we are not satisfied with that. We want some artificial stimulant. We want to stimulate emigration. We want to stimulate settlement in a particular place. Is that right? Is it politic? Is it wise? and, in this case, is it just?

A distribution of the proceeds of the land would be much more equal. Distribute them, if you please, for a particular purpose, to be appropriated by the several States to the purposes of education—general education by a system of common schools, that the whole country might have some interest in; but do not give A, B, and C, one hundred and sixty acres of land. I cannot see that there is any public benefit in that. I can see that the individual is benefited, but I cannot see that any public interest of the United States is benefited by it. If it were a choice between this bill and a disposition of the proceeds among the States for some purpose beneficial to all the States, I should certainly prefer a distribution of the proceeds to this partial mode of giving the public lands.

Sir, I did not intend to have occupied this much of your time with any remarks of mine on this subject; but for these reasons I would bear the ills of holding on to the public lands a little longer, particularly in the present condition of the Treasury of the United States, than giving them away, as this bill does.

Mr. DURKEE. Mr. President, there is one aspect of this case that, I think, has not yet been really presented to the Senate; and that is, that all this land has been paid for by the people of the United States, and the poor man has been taxed much more than the rich man, according to his means, for the purchase of the land, and, in many instances, he has exhausted all his means. What is this proposition of the gentleman from Tennessee? It is in substance to say that he may occupy that for which he has already paid.

Now, sir, a word in relation to the remarks of the Senator from Kentucky. He says it will have an unfavorable bearing on the old States. That argument would have been equally good in relation to the acquisition of Louisiana, and the acquisition of territory from Mexico. It seems to me to be self-evident that if it is right to acquire territory, it is good policy to facilitate its settlement, to make it productive. Does it not belong to us as a nation, and as statesmen, to encourage the settlement of the new country, to build up States and Territories? It strikes me that it is the great mission assigned to us. All of us who have a knowledge of the history of settlements in a new country on the frontier, know that hardships and privations of no small extent are encountered by the pioneers, and that they receive very small compensation for their services and triumphs. When they actually pay for the land in their services, and have no means in money to buy it, it certainly appears to me a good policy to give it to them.

I feel, sir, that this bill is the very best measure that has ever been presented to Congress for the disposition of the public lands. It will have a tendency to lessen crime in your cities, to improve the morals and industry of the people. Its tendency will be to contribute to individual and national independence; and these are the great elements we wish to incorporate into our institutions. It looks to me as though it was the mission assigned us to devise ways and means for the settlement of this country; to make the people independent; to build up States, and thus to fulfill the destiny of the American people.

Mr. FESSENDEN. I move that the Senate adjourn.

Mr. CLAY. I trust—

Mr. MASON. It is Saturday afternoon, and late. I hope that we shall adjourn.

Mr. CLAY. We want an executive session.

Mr. FESSENDEN. If Senators on the other side desire an executive session, I will withdraw my motion for that purpose. ["No!" "No!"]

The motion to adjourn was agreed to; there being, on a division—ayes 24, noes 17; and the Senate adjourned to Monday.

HOUSE OF REPRESENTATIVES.

SATURDAY, May 22, 1858.

The House met at eleven o'clock, a. m.

Mr. CLEMENS raised the question of order that a quorum was not present.

The SPEAKER counted the House, and announced ninety-one members present.

Mr. WASHBURN, of Illinois, moved that there be a call of the House, and demanded the yeas and nays on the motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 37, nays 119; as follows:

YEAS—Messrs. Adrain, Ahl, Avery, Clay, Clemens, John Cochrane, Covode, Cox, Crawford, Davidson, Davis of Maryland, Dowdell, Eustis, Gartrell, Greenwood, Grow, Hawkins, Hughes, George W. Jones, Kelly, Knapp, Landy, Leiter, Letcher, McQueen, Matteson, Mott, Murray, Parker, Potter, Powell, Stephens, Stevenson, and Underwood—37.

NAYS—Messrs. Abbott, Anderson, Andrews, Arnold, Atkins, Bingham, Bliss, Branch, Buffinton, Burlingame, Burns, Burroughs, Case, Chaffee, Chapman, John B. Clark, Phillips, Cobb, Cockerill, Colfax, Conius, Cragin, James Craig, Curry, Curtis, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Davies, Denn, Dick, Durfee, Farnsworth, Faulkner, Fenton, Foley, Foster, Gilman, Gooch, Goode, Granger, Gregg, Groesbeck, Lawrence W. Hall, J. Morrison Harris, Hatch, Hoard, Hopkins, Horton, Howard, Jackson, Jenkins, Jewett, Owen Jones, Kellogg, Kelsey, Kilgore, Jacob M. Kunkel, John C. Kunkel, Lovejoy, Humphrey Marshall, Maynard, Milson, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Niblack, Nichols, Palmer, Pendleton, Peyton, Phelps, Phillips, Pike, Pottle, Purviance, Ready, Reilly, Ricard, Ritchie, Robbins, Roberts, Royce, Ruffin, Russell, Sandidge, Scott, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, Shorter, Robert Smith, Spinner, Stanton, James A. Stewart, William Stewart, Thayer, Tompkins, Trippe, Wade, Walbridge, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Watkins, White, Whiteley, Wilson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollicoffer—119.

So the House refused to order a call.

Pending the call of the roll,

Mr. FLORENCE stated that if he had been within the bar when his name was called, he should have voted in the negative.

The Journal of yesterday was then read.

MESSAGE FROM THE SENATE.

A message was received from the Senate by ASBURY DICKINS, their Secretary, informing the House that the Senate had passed the following bills and resolutions of that body, in which he was directed to ask the concurrence of the House:

An act (No. 203) for the relief of the legal representatives of Charles Porterfield, deceased;

An act (No. 150) for the relief of Joseph C. G. Kennedy;

An act (No. 216) authorizing the payment to the State of Maine of certain expenses agreed to be refunded to her by the fifth article of the treaty between the United States of America and her Britannic Majesty, dated the 9th day of August, A. D. 1843;

An act (No. 169) for the relief of Martin Layman;

An act (No. 252) for the relief of Charles McCormick, assistant surgeon in the United States Army;

An act (No. 254) for the relief of Townsend Harris;

An act (No. 260) for the relief of William Cruickshank, J. S. Polack, Calhoun Benham, and Frederick A. Sawyer, of San Francisco;

An act (No. 266) for the relief of George W. Flood;

An act (No. 267) for the relief of G. Alonzo Breast;

An act (No. 268) for the relief of Aaron H. Palmer;

An act (No. 181) for the relief of Anson Dart;

An act (No. 272) for the relief of Charles Knapp;

An act (No. 275) for the relief of Jeremiah Pendegast;

An act (No. 277) for the relief of Albert G. Allen;

An act (No. 282) for the relief of Bernard M. Byrne;

An act (No. 283) for the relief of James Maccaboy;

An act (No. 284) for the relief of C. Edward Habicht, administrator of J. W. P. Lewis;

An act (No. 291) for the relief of Webster S. Steele;

An act (No. 292) for the relief of James A. Glanding;

An act (No. 293) for the relief of Franklin Peale;

An act (No. 295) for the relief of David D. Porter;

An act (No. 301) for the relief of Henry Etting;

A joint resolution (No. 34) for the relief of the legal representatives of John A. Frost, deceased;

An act (No. 302) for the relief of James Smith;

An act (No. 306) for the relief of Samuel H. Taylor;

An act (No. 308) for the relief of M. C. Gritzner;

An act (No. 309) for the relief of John B. Miller;

An act (No. 276) for the relief of Mrs. Ambrose Brou, late of the parish of St. Charles, State of Louisiana;

An act (No. 324) for the relief of R. W. Clarke;

An act (No. 328) for the relief of John Pickell, late a lieutenant in the United States Army;

An act (No. 330) for the relief of Stephen R. Rowan;

An act (No. 331) for the relief of P. S. Duvall & Company;

An act (No. 332) for the relief of Anton L. C. Portman;

An act (No. 224) for the relief of Edward Ingersoll;

An act (No. 335) for the relief of Abner Merrill, of the State of Maine;

An act (No. 336) for the relief of Assistant Surgeon Edward P. Vollum, of the United States Army;

An act (No. 338) for the relief of Caleb Sherman;

An act (No. 340) for the relief of Ann L. Rogers;

An act (No. 106) for the relief of Elijah F. Smith, Gilman H. Perkins, and Charles F. Smith;

A joint resolution (No. 38) for the relief of John Grayson;

An act (No. 367) to provide for the payment of certain California claims;

An act (No. 368) for the relief of Mrs. Eliza E. Ogden;

An act (No. 323) to confirm the sale of the reservation held by the Christian Indians, and to provide a permanent home for said Indians;

An act (No. 374) for the relief of George J. Knight;

An act (No. 377) for the relief of Madison Sweetzer;

An act (No. 380) to provide for the payment of the claim of the State of Maine for expenses incurred by that State for organizing a regiment of volunteers for the Mexican war;

An act (No. 272) for the relief of Brevet Major H. L. Kendrick;

An act (No. 225) to increase the pension of John H. Richmond;

An act (No. 214) for the relief of Regis Loisel or his legal representatives;

An act (No. 250) for the relief of Pierre Gagnon, of Natchitoches, Louisiana;

An act (No. 327) for the relief of Marie Malines;

An act (No. 230) for the relief of the legal representatives of Daniel Hay, deceased;

An act (No. 385) for the relief of the heirs or legal representatives of John Hudry;

An act (No. 388) for the relief of the legal representatives of John Forsyth; and

An act (No. 332) for the relief of Richard B. Alexander.

Also, that the Senate had passed, without amendment, bills of the House of Representatives of the following titles:

An act (No. 65) for the relief of Thomas Smithers;

An act (No. 307) to amend an act entitled "An act granting a pension to Ansel Wilkinson," approved August 13, 1856;

An act (No. 209) for the relief of the representatives of William Smith, deceased, late of Louisiana;

An act (No. 211) for the relief of the heirs and legal representatives of Pierre Broussard, deceased; and

An act (No. 100) to revive an act entitled "An act for the relief of the heirs and their legal representatives, of William Conway, deceased."

ENROLLED BILL.

Mr. PIKE, from the Committee on Enrolled

Bills, reported as truly enrolled an act to prevent the inconvenient accumulation at the Post Office Department of postmasters' quarterly returns; when the Speaker signed the same.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. J. GLANCY JONES. The Committee of Ways and Means have had under consideration the various amendments of the Senate to the legislative, executive, and judicial appropriation bill; and I now ask the consent of the House to report back the bill, with the Senate amendments thereto, for the purpose of having it referred to the Committee of the Whole on the state of the Union, and, with the Senate amendments, ordered to be printed. I will state to the House that the Committee of Ways and Means recommend that the House concur in the second, third, fifteenth, sixteenth, seventeenth, nineteenth, twentieth, twenty-second, twenty-fourth, twenty-fifth, twenty-sixth, twenty-eighth, twenty-ninth, and thirtieth amendments; and that the House non-concur in the first, fourth, fifth, sixth, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, eighteenth, twenty-first, and twenty-seventh amendments of the Senate. If there be no objection, I move that the bill, with the amendments, be referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

There being no objection, it was so ordered.

JOHN M'KINNEY.

On motion of Mr. STEPHENS, of Georgia, by unanimous consent, it was

Ordered, That the papers in the case of John McKinney be withdrawn from the files of the House, and referred to the Court of Claims.

NATIONAL MONUMENT SOCIETY.

Mr. DODD, by unanimous consent, reported back, from the Committee for the District of Columbia, Senate bill (No. 152) to incorporate the National Monument Society, with an amendment; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

ROCK ISLAND BRIDGE.

Mr. JOHN COCHRANE. I ask the consent of the House that House report No. 250 be re-committed to the Committee on Commerce. I make the request by the unanimous instructions of the Committee on Commerce, there having been serious errors made in the report.

A MEMBER. What is the report about?

Mr. JOHN COCHRANE. The bridge across the Mississippi river at Rock Island.

There being no objection, the report was accordingly recommitted.

BROOKLYN POST OFFICE.

Mr. TAYLOR, of New York. I hold in my hand the memorial of the Common Council of the city of Brooklyn, in the State of New York, with the petition of four thousand citizens of the city of Brooklyn, asking for the erection of a post office in that city. I ask that it may be received, and referred to the Committee on the Post Office and Post Roads.

There being no objection, the memorials were accordingly received and referred.

OREGON GEOLOGICAL SURVEY.

Mr. DAVIS, of Indiana. The gentleman who yesterday objected to the printing of the report of the Committee on Public Lands to accompany the report of Dr. Evans on the Oregon geological survey, I understand now withdraws his objection. I ask that the report may be printed.

There being no objection, the report was ordered to be printed.

WILLETT'S POINT COMMITTEE.

Mr. FLORENCE. I am instructed by the select committee appointed to investigate the purchase by the Government of the site for the fortification at Willett's Point, to offer a resolution. It is modified from the one which I have heretofore asked the House to adopt. We now only ask that two members of the committee shall have authority to proceed to examine the site of the fortification, and at the same time to examine witnesses in the city of New York. If the House will indulge me for a moment—

Mr. BURNETT. It is unnecessary for the gentleman to consume the time of the House by any statement; I shall object to his resolution.

ADMISSION OF THE MINNESOTA MEMBERS.

Mr. HARRIS, of Illinois. I now call for the regular order of business.

The SPEAKER. The pending question is upon the motion of Mr. KELSEY to be excused from voting upon the motion of Mr. MORGAN to be excused from voting on the motion of Mr. GROW to lay the whole subject on the table.

Mr. GROW. As these reports have been printed now, I withdraw my motion to lay on the table. I suppose that will carry with it the motions to be excused from voting.

The SPEAKER. The gentleman has the right to withdraw his motion.

The motion was accordingly withdrawn.

The SPEAKER. The question recurs upon the motion of the gentleman from Indiana to lay upon the table the motion of the gentleman from Ohio, to reconsider the vote by which the main question was ordered.

Mr. CLEMENS. I hope all these dilatory motions will be withdrawn.

Mr. SHERMAN, of Ohio. I withdraw the motion to reconsider.

The question then recurred upon the resolution reported by the majority of the committee.

The majority report and the views of the minority, were as follows:

The Committee of Elections, to whom were referred "the certificates and credentials of W. W. Phelps and James M. Cavanaugh, claiming seats as members of this House," with instructions "to inquire into and report upon the right of these gentlemen to be admitted and sworn as members of this House," ask leave to report:

The certificate of W. W. Phelps, which forms the credentials presented, certifies "that in a general election, held on the 13th day of October, 1857, under the constitution adopted by the people of Minnesota, preparatory to their admission into the Union as a State, W. W. Phelps received a majority of the votes cast at said election as a member of the United States House of Representatives of the Thirty-Fifth Congress, from the State of Minnesota, and, by an official canvass of said votes, was, on the 17th day of December, 1857, declared duly elected one of its members." The certificate of Mr. Cavanaugh is in the same language. Both are dated on the 18th day of December, 1857, signed by S. Medary, then Governor, and bear the broad seal of Minnesota.

The constitution of Minnesota, under which the State was admitted into the Union, provides in the schedule—"Sec. 21. The returns of said election for and against this constitution, and for all State officers and members of the House of Representatives of the United States, shall be made and certificates issued in the manner now prescribed by law for returning votes given for Delegate to Congress; and the returns for all district officers, judicial, legislative, or otherwise, shall be made to the register of deeds of the senior county in each district in the manner prescribed by law, except as otherwise provided. The returns for all officers elected at large shall be canvassed by the Governor of the Territory, assisted by Joseph R. Brown and Thomas J. Galbraith, at the time designated by law for canvassing the vote for Delegate to Congress."

The fourth section of the "Act to establish the Territory of Minnesota," provides that a "Delegate to the House of Representatives of the United States may be elected," &c., and "the person having the greatest number of votes shall be declared by the Governor to be duly elected, and a certificate thereof shall be given accordingly."

It will be seen, by these provisions, that the certificates of election referred to the committee are in due form, certified according to law, and that there can be no question justly raised as to their regularity and force.

An objection is urged to the right of the claimants to their seats on the ground that their election was prior to the admission of the State into the Union. In the opinion of the committee, if it be admitted that there is no force in numerous precedents scattered through the Journals of Congress, and extending back to the earliest times of the Republic, sanctioning this course, it should be considered that Congress, by the enabling act authorizing the formation of a constitution and State government, thereby fully empowered the people of Minnesota to prepare themselves to assume, upon their admission, all the rights, powers, and attributes of a sovereign State in the Union. One of these rights is that of being represented in Congress; and were elections held prior to admission for members of the House of Representatives held void, States must remain unrepresented after their admission, and until elections can be subsequently held, presenting the anomalous spectacle of States in the Union, without representation or voice in the national councils. The act of admission into the Union, upon being consummated, relates back to and legalizes every act of the territorial authorities, exercised in pursuance of the original authority conferred. As the election of members to this House looks directly to the end in view contemplated by the enabling act of Congress, the committee think it entirely within the scope of action conferred upon the people of the Territory, and should be respected by Congress.

Another objection urged against the admission of the members who claim seats in the House of Representatives from Minnesota is, because of their election by general ticket in stead of districts. The schedule of the Minnesota constitution provides—

"Sec. 9. For the purposes of the first election, the State shall constitute one district, and shall elect three members to the House of Representatives of the United States."

The election was held throughout the State, as one district, in conformity with the foregoing provision.

This, it is contended, is in contravention of the second

section of the act of June 25, 1842, and the election is therefore void. That section is as follows:

"That in every case when a State is entitled to more than one Representative, the number to which each State shall be entitled under this apportionment shall be elected by districts composed of contiguous territory, equal in number to the number of Representatives to which said State may be entitled, no one district electing more than one Representative."

It will be observed that, by the terms of this law, it was to apply only to "this apportionment," to wit, that of 1842; but should it be held otherwise, it is conceived that its effect has been already settled. The obligation of this act was brought in question by the next Congress after it was passed, in a contest of the seats and the members returned from the States of New Hampshire, Georgia, Mississippi, and Missouri; and the Committee of Elections, to whom the subject was referred, reported a resolution, as follows:

"Resolved, That the section of 'An act for the apportionment of Representatives among the several States according to the sixth census,' approved June 25, 1842, is not a law made in pursuance of the Constitution of the United States, and valid, operative, and binding upon the States."

Upon the question of the admission of the members of the States named, which had so elected their Representatives by general ticket, and not in accordance with the law, it was decided in the affirmative by—ayes 127, noes 57. This disposition of the question has never been disturbed, although members elected under the general ticket system have been upon this floor (with the exception, it is believed, of three Congresses) ever since, and without objection. It seems now too late to reopen the question.

There seems to be but one question of any importance remaining, and this grows out of the fact that the constitution of Minnesota provides for the election of three members to the House of Representatives, while, by the act for the admission of the State, it is entitled to but two. The right of Minnesota to hold an election prior to the admission of the State has already been considered, and its legality, upon the admission of the State, has been shown. Does the act of Congress cutting down the number proposed in the constitution of Minnesota from three to two render the election previously held altogether void? If void, then the gentlemen presenting credentials are not entitled to be sworn, and admitted to seats in the House of Representatives; if voidable only, the House will not, of its own motion, so declare it until some citizen of the State of Minnesota shall call it in question. It will not volunteer to search for causes to reject those who claim to be elected its members, and who bring credentials which are regular upon their face, and entitle them to admission.

The provision of the constitution of Minnesota for the election of members to the House of Representatives was approved by the act of admission, but the number was restricted to two. The committee have before them no evidence that more than two ever were elected, notwithstanding the provision of the constitution of the State. The committee have seen no other credentials than those referred to them, nor are they aware of any proclamation of the Governor, or other canvassers, declaring any persons elected besides those now claiming seats. If, therefore, the question of election was presented to the committee, (which it is not,) there is nothing before them to justify the rejection of their claims. The committee are only instructed to "inquire into and report upon the right of these gentlemen to be admitted and sworn as members of this House." The committee construe this as a direction to inquire into the *prima facie* rights of Messrs. Phelps and Cavanaugh to be admitted and sworn. The credentials they present, in the opinion of the committee, clearly entitle them to their rights.

It was so settled in 1793, in the case of Benjamin Edwards, and has been uniformly sustained by the House, and, since the celebrated New Jersey case, it would seem, cannot be properly questioned. These credentials, being regular upon their face, the number of those claiming seats is the number fixed by law to which the State is entitled.

No others are known to be claiming seats; no others are known to the committee to have been elected, or as claiming to have been elected. The committee are, therefore, of opinion that the gentlemen presenting their credentials are entitled *prima facie* to be sworn and admitted to seats; but they do not propose that such admission shall preclude any contest as to the rights of these gentlemen which may at any time hereafter be properly instituted. They submit the following resolution:

Resolved, That W. W. Phelps and James M. Cavanaugh, claiming seats as members of this House from the State of Minnesota, be admitted and sworn as such: *Provided*, That such admission and qualification shall not be considered as precluding any contest of their right to seats which may be hereafter instituted by any person having the right so to do.

Views of a minority of said committee.

The undersigned members of the Committee of Elections, to whom the question of the right of W. W. Phelps, as a Representative of the State of Minnesota on this floor, was referred, respectfully submit:

That the said W. W. Phelps is not duly elected a member of this House.

This is apparent on the slightest consideration of the plainest and most notorious facts, and the simplest principles of law. His claim to his seat rests on the following certificate:

"I, Samuel Medary, Governor of Minnesota, hereby certify that at a general election held on the 13th day of October, 1857, under the constitution adopted by the people of Minnesota preparatory to their admission into the Union as a State, W. W. Phelps received a majority of the votes cast at said election as one of the members of the United States House of Representatives of the Thirty-Fifth Congress from the State of Minnesota; and, by the official canvass of said votes, was, on the 17th day of December, 1857, declared duly elected one of said members."

In testimony whereof, I have hereunto set my hand and caused to be affixed the great seal of Minnesota, [L. s.] at the city of St. Paul, this 18th day of December, 1857. S. MEDARY."

The claimant is forbidden to take his seat under that certificate—

1. By a great constitutional principle; and
2. By a plain rule of election law.

The Territory of Minnesota was organized in 1849, and in 1857 the people were authorized to form a constitution preparatory to admission into the Union, and it was declared they should be entitled to one Representative, and as many more as their population might show them entitled to according to the present ratio.

The certificate shows the election to have been held on the 13th of October, 1857.

No census had then been taken and returned; but one had been partially taken and returned, showing a population of about one hundred and thirty-four thousand.

On the 13th of October—the same day the people of Minnesota voted on and adopted their constitution—there was no law of the United States assigning to Minnesota any number of Representatives; on that day there was no State of Minnesota in existence known to the laws; the people of the Territory were then engaged in voting, under a law of Congress, for the government of the Territory, on a constitution which that law declared to be, in terms, preparatory to admission into the Union. The United States marshal still kept the peace of the Territory, and still executed the process of the Territory. The courts of the Territory still administered the laws of the United States in the Territory; the Governor appointed by the President still held the only executive power recognized in the Territory; the Legislature of Minnesota still was the only legal Legislature. These things so continued until the 11th day of May, 1858, when, by law of that date, Minnesota became a State.

The Supreme Court have aided our reasoning by their rulings, and they have resolved that under the Constitution the territorial laws and authorities continue exclusively in force in the Territory until the passage of the act of admission, and then cease—(McMillen vs. Bailey, 10 Howard, 77.)

It is therefore clear that the certificate is decisive against the claim of W. W. Phelps; for it shows the claim to rest on an election in a Territory of the United States, which was an act of usurpation, in its nature punishable, and absolutely void. It was, and could be, by no law of the State, for it was before the State existed at all. It could not be valid by a territorial law, for a Territory cannot elect members of Congress. It is unwise to talk of ratification by the subsequent admission of the State, for, till admission, the State was nothing. It was created at the moment of admission; and it is a universal principle that, if an election be without legal authority when made, it is absolutely void, and cannot be made valid by any subsequent law; for that is equivalent to naming the people's representatives by law, without an election at all.

In the absence of law, the claimant has no right, and the electors have parted with some of their rights.

If one or two supposed precedents be cited, it is sufficient to say that precedents for such a flagrant usurpation as the naming the Representatives of a State by a vote of the House of Representatives is fit only to be reversed and expunged. It could only exist in high party times, when the necessity of votes invaded the rights of the people, and a dominant majority defied not less the rules of law and the Constitution than the plainest and most substantial rights of the people.

But it is respectfully submitted that there is no case at all analogous to this.

There is no case where the people of a Territory have presumed to elect, by the same ballots which determined whether they should adopt the constitution preparatory to admission, Representatives to Congress; still less when on that day they elected more Representatives than the act under which they were proceeding said they should have when admitted as a State.

The people of Minnesota did not even wait till they had expressed their opinion on the constitution; they did not wait till they had even resolved to ask Congress to admit them with it as their constitution; but while it was a mere proposal before them whether they should propose it to Congress, they go through the form of electing Representatives under a constitution which they had not yet adopted themselves—which had no legal existence, even, as a petition of the people—to represent the people of a State which not only did not exist, but which had not even resolved to ask to be allowed to exist; not only so, but the law of Congress saying they should be entitled only to one Representative, and so many as the census might show them entitled to, in addition, they elected three Representatives for a population shown by the census, so far as it appears, to be entitled only to one; for the ratio of ninety-three thousand and four hundred and twenty, gives only one Representative for one hundred and thirty-six thousand four hundred and fourteen. To be entitled to two Representatives under the act of Congress, there must be one hundred and eighty-five thousand eight hundred and forty; and for three, there must have been two hundred and eighty-one thousand three hundred and sixty.

This claim is, therefore, at war with the plainest principles of the Constitution, and beyond the shelter of the bad precedents set in high party times by parties pressed for votes.

3. But suppose the State of Minnesota to have been capable of electing Representatives before she existed, to represent her nonentity, the election and certificate is void by the law of elections.

For we must assume, in this view of the case, that the constitution was operative on the 13th of October, 1857, as if Minnesota were a State and admitted into the Union, having all the laws of the United States then existing in force, but not anticipating laws not then existing.

This is supposed to be the most favorable view of the case. In that event, under the enabling act, Minnesota was entitled to elect one member only. But concede the question of population to entitle her to two, she should be entitled to elect only two; and no one pretends population enough for three.

Now, the ninth section of the schedule says: "For the purpose of the first election, the State shall constitute one district, and shall elect three members to the House of Representatives."

This is the only law of the supposed State for holding any election. The United States have a right to pass laws reg-

ulating elections, but they have not done so. No laws exist but State laws. No law is pretended to exist in Minnesota for the election of Representatives to Congress but this clause. Every election which does not conform to this clause is, therefore, without law, and therefore void.

If, therefore, the State law requires three Representatives to be elected, and the State is entitled to only two, it is impossible to make under that law a valid election. The law makes it the duty of every citizen to vote for three persons. The returning officers are bound to return three persons. If the people voted for three, and if three be returned, there is no possible way of ascertaining for which two of the three the people voted; and the ballots are void; the return is void for repugnancy; and there is no one elected.

If, on the other hand, the people, by some singular accident, voted for only two on each ballot, there must be three returned by law. The law of the State, which is the only election law we can look at, declares the three highest persons elected; and the returns to this House must conform to that fact, and certify the election of three persons; and the same would be the case if each voter named only one person on each ticket. Still, the three highest would be declared elected, and equally elected—in fact, equally entitled to claim a return, and equally entitled to a seat in this House.

There is no mode or law by which this House can elect, out of the three certified to us, two, who should be the Representatives. To suppose that, is to suppose a law of election different from the only one actually existing. Congress, in judging of elections, is not a legislative but a judicial functionary; deciding, not what ought to be law, but whether either of the claimants before her is entitled to a seat under the State laws. What those laws say must be read alone in them. If they conflict with paramount laws, they are void; but the fact that the only law of a State is void because in conflict with a paramount law, does not create another law in conformity with the paramount law. The law remains simply void, and as if it had never existed. So that if the only law of a State for an election be absolutely in conflict with the Constitution of the United States, or a law of Congress constitutionally binding on a State, it is as if there were no law of the State at all on the subject; and if it be the only election law of the State, then there is no election law, and no election is possible till one shall be passed. The mere declaring by Congress that the State shall be entitled to two Representatives, is not an election law, but defining the number which the State may elect. It confers on Congress no power to elect for the State, between several persons equally elected by the State laws, any more than it gives the power to Congress to say which of two persons having an equal number of votes shall be the Representative.

Nor can the difficulty be avoided by assuming a particular case, when there may happen to be two candidates having a majority, and the highest number of votes, and the third having the next highest, and solving the difficulty by taking the two highest and leaving out the third.

For if all three have a clear majority of the whole vote, it is clear that a majority of the whole people have sent all three; and the minority, who gave a greater vote to two over the one, have no right awarded to them to elect their favorite to the exclusion of the third person having also a majority of the whole vote cast. And if only two have a majority of the whole vote, and the third stand next highest, the case is not altered; for the law equally declares all elected. A majority elects only because the law says so. The law may require two thirds, or it may declare the highest vote, though a minority, sufficient; but in either event it is not the mere fact that a majority or a mere plurality of votes are cast for the three persons which elects them, but the fact that the law declares that the three having such number of votes shall be declared elected, which elects them. The one is as much elected as the other. The highest is no more elected than the lowest of the three. And the fact that two of the three have higher numbers than the third can be no ground for Congress to select between the three persons elected by the State law, to make a Congressman out of two, and repudiate the third. That is for Congress to elect instead of the people. If the State law might say, whoever gets ten thousand votes shall be declared elected, it is plain any surplus over ten thousand would give no one any advantage over one having only ten thousand.

In a word, any supposed right of Congress to select two out of three, by reason of two out of three declared elected by the State law happening to have more votes than the third, assumes that it is not the law, but the number absolutely, irrespective of the law, which elects; and this is plainly not so, when the law expressly declares that three shall be declared elected, and draws no distinction between the validity of the election of the third by reason of any difference in the number of their respective vote between themselves.

Votes may not follow the ratio of number merely, and we must always look to the law to see the value assigned to the number. When the House of Representatives elect a President, the votes cast are not counted, except as members constituting a State vote; a majority of all must concur to elect, and they cannot elect unless two thirds of the States be present. This sufficiently shows how fallacious and arbitrary a test mere numbers are. It is the law alone which prescribes the value to the number; and if it say a smaller number shall elect equally with a larger number, provided the smaller number bear any assigned relation to the whole number, then the person getting such smaller number is equally elected with the other under the only law declaring who shall be returned as elected.

In a word, the law of Minnesota is void, because in direct conflict with a paramount law; and she can have no representation till she has changed her law and made it conform to the law of Congress.

Here is not the case of an election law providing for the election of two when three are returned. But the fact is apparent that two have a greater number than the third; for the law itself declares the two elected, and the third is rejected as mere surplusage.

But it is the case of a law self contradictory and repugnant, the law of Congress declaring that two only shall be elected, and there stopping; the law of the State requiring that three shall be elected, and declaring the three having a certain proportion of votes to be elected. It seems plain

the law is wholly incapable of being executed, and is void. It is equally clear that the declaration by Congress, after the actual election under the constitution, that the State shall be entitled to only two, cannot better the case. If the number allowed and elected had happened to agree, the after law might, with some plausibility, be treated as a ratification; but when the whole election was done, and some three were elected under the State law, the subsequent declaration that only two could be admitted, could by no possibility avoid what was valid according to the State law before, nor elect and discriminate between equal titles under the same law, by an arbitrary rule not prescribed by the law, drawn from the irrelevant question of which two got most votes, when all had enough under the law electing them.

3. But in the particular case, we are not driven to such legal discussions.

In point of fact, it is uncontroverted—it is notorious—that the election was for three members, on the same day, at the same polls, by the same ballots which were cast for or against the constitution, and that three persons by the canvassers were declared elected. The constitution required the people so to do; the certificate of W. W. Phelps states that the election was held under the constitution, and that W. W. Phelps received a majority of the votes cast at said election, as one of the members of the House from the State of Minnesota. If these things be so, then it is the plain case of three persons voted for and elected at the same election, on the same day, and at the same time and places, when only two could be validly chosen; and that case has been ruled a void election, as to all, by the highest authority. (See 7 Cong. Globe, 135; Cushing's Parl. Law, 104; *Glavinville Cases*, 11 and 21.)

It is impossible for the House to say which of the three the people preferred. They have not expressed their will between them, but only between them and others. If we accept two and reject one, or elect him and assign a meaning to the ballots for him which the people casting them did not assign to them, this House is bound to notice the election laws of the States and the proceedings of officers under them. We may have to inquire, by evidence, into the details of numbers of votes and the qualification of voters, where a contest arises on the question of a majority; but we are entitled to take legal notice, without proof, of the proceedings of the canvassers, and what they do, and who they are, just as W. W. Phelps supposes us to recognize Mr. Medary as the officer of the Territory mentioned in the constitution; just as judges notice the seal of the United States, or of a State, without proof. So that we are bound, in point of law, to notice the fact that three persons were declared elected by the canvassers, and that their certificate before us is only certifying one of them equally elected at the same time and places, under the same law, and that all are equally void.

It is erroneously supposed that the question referred to the committee concerns merely the right of Mr. Phelps to take his seat provisionally as holding the certificate.

We regard the question presented as going to his right to the seat at all, whether provisionally or finally; and if the evidence and law show that he can in no event be entitled to the seat, we are bound now to say so, and to exclude him from a position to which he can have no claim at any time.

In the present case, it is impossible to separate the two questions of a right to take the seat till a better title is shown, and an absolute right to the seat, for no one can claim the seat provisionally who is not *prima facie* entitled to hold it absolutely. It is not any certificate which entitles the holder to claim the seat. The certificate itself must be a legal certificate; it must purport to be from or by an officer authorized to give a certificate; it must purport to represent the result of a possible election according to the law; and it must show that under such an election the holder is elected *prima facie*.

But this certificate is a mere nullity, and so appears on the simplest inspection of it. The certificate does not purport to be from any officer of the State of Minnesota, nor by any officer authorized by any law of that State to make the certificate. It does not purport to be in pursuance of any law of the State, but is dated before the existence of the State, and certifies an election before the people had even voted on the constitution. It certifies Mr. Phelps to have been elected before Congress had assigned any Representative to the State of Minnesota; before the office of Representative for that State had any legal existence, and it purports to give the result of an election held under a law by which no valid election of the number of Representatives since authorized could possibly have been elected.

The certificate is, therefore, on its face, not a *prima facie* title, but a *prima facie* refutation of title, and effectually precludes all right, provisional or final, to a seat.

The facts in the case of James M. Cavanaugh being the same, we are of the same opinion as to his right to qualify as a member of this House.

We therefore offer the following resolution:

Resolved, That W. W. Phelps and James M. Cavanaugh have no right to qualify and take their seats.

EZRA CLARK, Jr.,
JAMES WILSON,
JOHN A. GILMER.

May 19, 1858.

The undersigned, a member of the Committee of Elections, to whom was referred the credentials of Messrs. Phelps and Cavanaugh, with instructions to report on their right to be admitted and sworn as Representatives in this House for the Thirty-Fifth Congress, from the State of Minnesota, dissenting from the conclusions of the majority, asks leave to submit the following minority report:

On the 25th day of February, 1857, Congress passed an act entitled "An act to authorize the people of the Territory of Minnesota to form a constitution and State government, preparatory to their admission into the Union on an equal footing with the original States." The fourth section of this act provides for the taking of a census of the people of Minnesota with the view of a certifying the number of Representatives to which she would be entitled in the Congress of the United States; and it is declared that "said State shall be entitled to one Representative, and such additional Representatives as the population of the State

shall, according to the census, show it would be entitled to according to the present ratio of representation."

Under the authority of this act, a constitution was prepared, and submitted to the people of Minnesota, and by them approved on the 13th day of October, 1857. The ninth section of article sixteen of this constitution is as follows:

"For the purposes of the first election, the State shall constitute one district, and shall elect three members to the House of Representatives of the United States."

Section sixteen of the same article provides that, "upon the second Tuesday, the 13th day of October, 1857, an election shall be held for members of the House of Representatives of the United States, Governor, lieutenant governor, supreme and district judges, members of the Legislature, and all other officers designated in this constitution, and also the submission of this constitution to the people for their adoption or rejection."

In pursuance of these provisions of the constitution, and on the very day upon which the people of Minnesota were to decide whether it should be adopted or rejected, an election was held for three Representatives in the Congress of the United States.

The returns of the votes for these officers were afterwards, on the 17th day of December, 1857, canvassed by the proper officers, and the following gentlemen, namely, W. W. Phelps, J. M. Cavanaugh, and G. L. Becker, declared to be duly elected.

On the 18th day of December, 1857, certificates of election were made out and delivered (signed by "S. Medary, Governor" of the Territory of Minnesota) to said Phelps and Cavanaugh, and, as the undersigned is informed and believes, and as he understands to be the admitted fact, to said Becker, of each of which the following, with the exception of the name of the person elected, is a true copy:

"I, Samuel Medary, Governor of Minnesota, hereby certify, that at a general election held on the 13th day of October, 1857, under the constitution adopted by the people of Minnesota, preparatory to their admission into the Union as a State, W. W. Phelps received a majority of the votes cast at said election as one of the members of the United States House of Representatives of the Thirty-Fifth Congress, from the State of Minnesota, and, by an official canvass of said votes, was, on the 17th day of December, 1857, declared duly elected one of said members."

"In testimony whereof, I have hereunto set my hand [L. S.] and caused to be affixed the seal of Minnesota, at the city of St. Paul, this 18th day of December, 1857."

"S. MEDARY."

An act for the admission of the State of Minnesota into the Union was passed the 11th day of May, 1858. By this act the number of Representatives to which the new State is entitled in the Congress of the United States is fixed at two. The language is as follows: "That said State shall be entitled to two Representatives in Congress until the next apportionment of Representatives amongst the several States."

On the 13th day of May instant, Messrs. Phelps and Cavanaugh caused their credentials to be presented, and asked to be sworn as members of this House; whereupon the House passed the following resolution:

Resolved, That the certificates and credentials of W. W. Phelps and James M. Cavanaugh, claiming seats as members of this House from the State of Minnesota, be referred to the Committee of Elections, with instructions to inquire into and report upon the right of these gentlemen to be admitted and sworn as members of this House."

In the preliminary inquiry which the committee were directed to make, the undersigned did not deem it material to investigate several questions suggested by the facts, admitted or alleged to exist in the case, bearing upon the general question of the election of the claimants, rather than upon their *prima facie* right to be sworn; and which questions are not understood to have been acted upon by the committee, but have been left to the future action of the House. He acknowledges the great inconvenience that would result if, in the ordinary cases of election contests, the question of the right to seats was to be raised, discussed, and decided, upon the presentation of the credentials of persons whose rights are disputed. But he cannot doubt the strict propriety of raising the question of right, in the first instance, whenever the papers in possession of the House, and the laws, which it is presumed to know, show that there cannot have been a legal election. The question now presented, is not so much whether there has been a legal election of Representatives in Congress from the State of Minnesota, as whether the papers presented to the House, the laws of Congress, and the constitution of Minnesota, contain anything fatally inconsistent with that hypothesis.

In the judgment of the undersigned, they do. He believes that, under the law of Congress and the constitution of Minnesota, there has been, there could have been, no legal election. The facts necessary to be known for the final action of the House are such as it is bound to take cognizance of. The credentials of the claimants are in its possession; the law admitting Minnesota as a State was passed at the present session, and therefore its members must be supposed to be actually as well as constructively acquainted with its provisions; the constitution of Minnesota was not only referred to in this act, but it was upon that instrument that the act is founded; and, besides, it is so recited in the certificates of the territorial Governor as to make it a part thereof.

When these gentlemen presented themselves to be sworn in as Representatives from Minnesota, the House was presumed to know, and it did know, that that State was entitled to two, and only two, Representatives; and further, that the election at which they allege they were chosen was an election for three and not for two Representatives. Of these facts the House had perfect and complete knowledge—knowledge, actual and constructive, at the time of the reference to the Committee of Elections. They can never be disputed or varied, and they can prove conclusively that there has been no election that this House can recognize for a moment. The objection is vital and insurmountable. That it is so, is apparent upon the first view of the case. There cannot have been an election of which this House can take notice, unless it was held under the provisions of a law of Minnesota. There can have been no law of Minnesota inconsistent with a constitutional law of Congress upon the

same subject. The law of Congress, of whose validity no doubt can be raised, declares that Minnesota shall have only two Representatives in this House. The law of Minnesota, (her constitution), under which the election took place, declares that she shall have and "elect" three Representatives. Under this law, for she had no other, her people voted for and elected three Representatives. If the law is valid and effective, the three are elected, one as much as another; if not valid, none are elected; for there can be no election which was not held under the provisions of law; any other election is but the choice or designation of unauthorized assemblies of the people. If the law of Minnesota has sufficient force and vigor to entitle these gentlemen to be "sworn and admitted," it has enough to retain them in their seats. If their case is *prima facie* a good one, it is a perfect one, so far as this question is concerned; for all that can be shown hereafter, bearing upon it, is shown and understood now. From what already appears, the House is informed by an irresistible logic that these gentlemen have not been elected under any law of Minnesota.

It is said that Messrs. Phelps and Cavanaugh have received a larger number of votes than any other candidates for the office of Representative. Conceding this to be true—concerning which, however, there is no evidence, except what may be implied from the fact that certificates were made out and delivered to them—and that no inference of the kind is deducible from this circumstance, is obvious from the fact that a similar certificate was issued to another gentleman, (Mr. Becker,) who has not seen fit to present it here—and their case is not improved, for it still remains that they were not elected under any regulation of the State of Minnesota having the vigor of law. Three Representatives were elected, if any were; there was no law for any other number. Had there been a law for two, in conformity with the act of Congress, *non constat* Messrs. Phelps and Cavanaugh, or either of them, would have received a larger number of votes than Mr. Becker, or some other candidate; the people voted for three Representatives; if the election had been for two, we have no right to assume that voters who preferred Mr. Phelps or Mr. Cavanaugh to the opposition candidates, would have preferred either of them to Mr. Becker. To permit the candidates to decide among themselves who shall be admitted to seats and who shall retire, would be to transfer the election from the people of the State to the candidates. But it is confidently submitted that the House has no right to admit members who do not appear to have been elected by the people of a State under the laws thereof. In the opinion of the undersigned, it would not be within the authority, or comport with the dignity, of this House, to receive members who were not elected under a law of the State which they claim to represent, or of Congress; or, where a larger number are returned than the State is entitled to elect, to authorize them to decide among themselves who shall be its Representatives.

The State of Delaware is entitled to one Representative. Suppose she should provide by law for the election of two, will it be contended that such a law would be of any force or validity? And will it be said that if, under such law, she should elect two Representatives and send them here, it would not be competent for the House to reject them both upon their presenting themselves to be sworn in as members? And if both might be properly rejected, either might be; otherwise it might be an election by the House, and not by the people of Delaware. By what legal and safe rule can the House proceed to determine which of the two persons, designated and returned under the provisions of such a law, should be admitted as the properly-elected Representative of the State? It is believed there is none.

If, in this case, Mr. Becker had presented his credentials, and asked to be sworn as a Representative from Minnesota, by what rule or upon what principle could the House have decided that the application of Messrs. Phelps and Cavanaugh should be preferred to his? The fact that he does not appear can add no strength to their position. It is the right of the people of Minnesota with which the House has to do, and no arrangements between these parties, no negligence or dereliction on the part of either of them, can be permitted to affect this right.

In the case of Reed vs. Coaden, (Contested Elections, p. 353,) it was decided "where two candidates had an equal number of votes, the Governor and Council; assuming to act under a State law, proceeded to decide between them which should be chosen Representative, and gave their certificate of election to Jeremiah Coaden, who became the sitting member. This proceeding, being illegal and unwarranted by the Constitution, was not admitted as evidence of his right to a seat in the House."

The committee, in their report, say:

"The Constitution of the United States, article one, section two, provides that 'the House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the Legislature.' Section five of the same article provides that 'each House shall be the judge of the elections, returns, and qualification of its own members.'"

"On the first Monday of October, 1820, in conformity with the law of Maryland, an election was held by the qualified electors of the sixth congressional district. On that day they either did or did not elect a member of Congress. None could be elected unless he received a greater number of votes than were given for any other candidate."

"The term 'election' must mean the act of choosing, performed by the qualified electors, in conformity with the requisitions of the Constitution and laws regulating the manner in which the choice shall be made. If, therefore, the legal electors, on the day appointed, should fail to make a choice, it is confidently believed that no other authority of the State can, at any other time, make good this defect. Let it be supposed that the electors should fail to attend an election; that, subsequently, no election is held, would it then be contended that the executive authority could, by lot or otherwise, appoint a Representative for such district in the Congress of the United States?"

"This is a power which it is presumed none will contend does exist. Yet it is believed to be nothing more than that which has been exercised by the Governor and Council of Maryland in the case under consideration."

"In this case the electors assemble, they proceed to elect, they make no choice; they come to no constitutional result. It is asked, what is the difference between the two cases? The one would be an appointment, because no election had been held; the other because no choice had been made. The committee, being of opinion that the power thus virtually exercised by the Governor and Council of Maryland, in appointing a Representative to the Congress of the United States, being contrary to the express provisions of the Constitution, and one which this House cannot sanction, have no hesitation in rejecting the official statement of the proceedings in the case, as evidence of the right of the sitting member to a seat in this House."

In the case cited, it appears to have been decided that it is not competent for the House to admit as a Representative one who has not been elected by the "people" of the district or State which he claims to represent, and that there can be no valid election unless it was held under the provisions of a law of the State, consistent with the Constitution of the United States. This authority would seem to be decisive of the question referred to the committee.

The highest considerations of policy, and a proper regard for the authority of Congress, should caution us against the establishment of a precedent so unsound and pernicious in principle as this would be, and which, if respected hereafter, must lead to manifold inconveniences and abuses.

The undersigned recommends the adoption of the following resolution:

Resolved, That Messrs. W. W. Phelps and J. M. Cavanaugh are not entitled to be admitted and sworn as members of this House.

I. WASHBURN, Jr.

The question recurred upon the adoption of the following resolution:

Resolved, That W. W. Phelps and James M. Cavanaugh, claiming seats as members of this House from the State of Minnesota, be admitted and sworn as such: *Provided*, That such admission and qualification shall not be considered as precluding any contest of their right to seats which may be hereafter instituted by any person having the right so to do.

Mr. WASHBURN, of Maine. I ask that the resolution, which is appended to the minority report, signed by myself, may be considered as before the House by way of amendment. I do not know but it would be so considered by the Chair. If not, I desire to offer it as such. The resolution is in the following words:

Resolved, That Messrs. W. W. Phelps and J. M. Cavanaugh are not entitled to be admitted and sworn as members of this House.

Mr. STEPHENS, of Georgia. I hope that, by general consent, a vote will be allowed upon that resolution, as an amendment to the original resolution.

Mr. HARRIS, of Illinois. There is no objection to that.

No objection being made, the amendment was received.

Mr. STANTON. Since the adjournment of the House yesterday, it has been ascertained that there is another certificate of election of members of Congress from Minnesota. I ask the gentleman from Illinois to allow it to be read.

Mr. HUGHES. I object to it unless the resignation of the third member is also read.

Mr. HARRIS, of Illinois. The committee having been informed this morning that there was another paper upon the files of the House having some relevancy to this question perhaps, the committee have directed me to present it, and have it read. Before I make any remarks upon the subject, I will send it to the Clerk, and have it read.

The certificate was read, and is as follows:

I, Samuel Medary, Governor of Minnesota, hereby certify that, at a general election held on the 13th day of October, 1857, under the constitution adopted by the people of Minnesota, preparatory to their admission into the Union as a State, W. W. Phelps, James M. Cavanaugh, and George L. Becker received a majority of the votes cast at said election for the three members of the United States House of Representatives of the Thirty-Fifth Congress from the State of Minnesota, provided for in the constitution of said State; and, by the official canvass of said votes, were, on the 17th day of December, 1857, declared duly elected as such members.

In testimony whereof, I have hereunto set my hand, and affixed the great seal of Minnesota, this 18th [1857] day of December, A. D. 1857. S. MEDARY.

Mr. HARRIS, of Illinois. I knew nothing of that paper, nor am I aware that any member of the Committee of Elections knew of its existence until last evening after the adjournment of the House. The paper was brought to me; and I took it and compared it with the credentials which were presented to the House. The paper bears no file mark. I do not know where it came from, or for what purpose it was issued, nor anything about it, except that it was brought and placed in my hands. It was first brought to me by my colleague upon the Committee of Elections, [Mr. GILMER.] Whence he obtained it, I do not know.

Mr. GILMER. I desire to state that the gentleman from Ohio [Mr. STANTON] asked me why we had not that certificate before us. I was ignorant of its existence. He went, as he informed

me, to the Clerk of the House and obtained it from the files.

Mr. STANTON. I called upon the Clerk and told him I desired to see the papers certifying the Minnesota constitution. Mr. Buck brought me this certificate, and I took a certified copy of it.

Mr. GILMER. As my friend from Illinois has an hour in which to conclude this discussion, I would request him to allow me five or ten minutes, that I may read to the House the authorities upon which the minority base their report.

Mr. HARRIS, of Illinois. I am willing to grant ten minutes, to the gentleman, as I do not propose to occupy more than that myself. But, before I yield, I desire to make a remark in relation to this paper which has been read. I suppose it is the practice—indeed, I am informed, that it is the practice—for the Executive or the Secretary of State of each State, to transmit to the Clerk of this House, as soon as the votes for members of Congress from each respective State are canvassed, a certified statement, under the laws of the State, as to who are elected and returned as members of Congress from those States respectively. This is done in order that the Clerk of the House may be enabled to make up the roll of members prior to the assembling of Congress. I suppose that this paper may have been got up for that purpose, but I do not know. That supposition, at any rate, would account for the paper being in the hands of the Clerk. In connection with that paper, I send another one to the Clerk, which I was instructed by the committee to present and have read for the information of the House, in connection with the pending question. The paper is signed by Governor Medary and Joseph R. Brown, who was with him upon the board of canvassers. It will be remembered that the constitution of Minnesota provided that the votes should be canvassed by a board consisting of Joseph R. Brown, (who, I believe, was a Democrat,) Thomas J. Galbraith, (a Republican,) and the Governor. Some question having been raised as to the canvass, those two gentlemen sent the letter to the claimants, giving their version of the number of votes cast. Although it is not an official document, I ask that it may be read in this connection as a part of my remarks.

Mr. DAVIS, of Maryland. It is understood that that paper is read merely as part of the remarks of the gentleman from Illinois, and not as a portion of the evidence.

The SPEAKER. It is read as part of the gentleman's remarks.

The letter was read, as follows.

WASHINGTON, March 13, 1858.

GENTLEMEN: In answer to your request of this day that we would furnish you with a statement of the vote canvassed by us, "as members of the board of canvassers created under the provisions of the constitution of Minnesota for members of Congress from that State," we would reply that we have no means at hand of ascertaining the exact vote polled in the State of Minnesota and canvassed by us as members of the board of canvassers; other than publications containing what purports to be the result of that vote as shown by the official canvass.

We can say, however, that according to the report of the board of canvassers, W. W. Phelps received the highest number of votes, and J. M. Cavanaugh the next highest number of votes for members of Congress, and were declared duly elected to represent the State of Minnesota in the House of Representatives of the United States for two years.

We believe the vote for members of Congress in Minnesota is correctly exhibited, to the best of our recollection, in the published table of the result of the late election in the Tribune Almanac for 1858.

Very respectfully, your obedient servants,

S. MEDARY.

JOSEPH R. BROWN.

Hon. W. W. PHELPS and J. M. CAVANAUGH.

Mr. HARRIS, of Illinois. This statement is corroborated by all the information which the committee has been able to obtain. The statement, as published in the Tribune Almanac, gives, to Mr. Phelps eighteen thousand two hundred and eighteen votes, to Mr. Cavanaugh eighteen thousand and sixty-four votes, and to Mr. Becker eighteen thousand and nineteen votes; thus corroborating the statement made by the gentlemen whose names are signed to that communication. I have compared these papers, and suppose it is true that they both originated in the executive office of Minnesota. They are both drawn on precisely similar paper, drawn in the same handwriting, and bear manifest evidence of both being genuine.

But for my own part, I suppose that the presentation of this paper does not alter the position

of the question. The understanding of the committee in making the report which they have made is, that they do not pass upon the validity of the election, because that is not called in question; and the only matter presented to the committee by the resolution of instructions passed by the House, was to inquire into their right to be admitted and sworn as members. It is simply a question of *prima facie* right to take their seats. It was so looked upon and considered by the committee; and that there might be notice to the world, to every person being disposed to contest their right to seats, the committee have attached a proviso to the resolution which they introduced. The right of persons to contest their seats subsequently would have existed just as distinctly had that proviso not been attached to the resolution; but the Committee of Elections desired that it might be distinctly declared that the right of any person who desired to contest the legality of their election was reserved. The committee did not attempt to decide on the question of the *legality* of the election, leaving that to any person disposed hereafter to bring it in question.

Now, there was but one question apparent in the estimation of the committee which was entitled to serious consideration; and that was, was the election that was held in Minnesota absolutely void or not? If that election was void, then these parties have no right to take their seats, even *prima facie*; but if not absolutely void, then they have a right to be admitted and sworn, subject to the rights of other parties as reserved in the resolution introduced.

It will be seen by the enabling act, which was passed last Congress, that it was provided that the State should be admitted with one member of the House of Representatives, and as many more Representatives as their census would show them entitled to, under the Federal ratio. That, of course, could not be ascertained at the time, because it was provided that the census should be taken subsequently to the election of delegates to the convention. That convention having assembled in pursuance of the enabling act passed by Congress, proceeded to frame a constitution, in which, as in all constitutions heretofore framed, they provided for representation in Congress—not knowing precisely what that representation would be—but supposing that they would be entitled to three members in this House, they provided in the constitution for the election of that number.

Up to this time there can be no question that the proceedings of the convention were strictly regular. If three members were elected, as would seem to be intimated by the paper read at the desk, the question is, to what extent does that operate on the validity of the election? Congress, when it admitted the State of Minnesota under the constitution sent here, has recognized the validity of the acts of that convention. That constitution provided for three members to represent the State on this floor. But Congress only recognized the constitution *sub modo*, subject to conditions and limitations as to its representation here. The act of Congress admitting Minnesota into the Union limits it to two members; and the question is, does this act of admission, cutting down the representation to two members, nullify absolutely the election previously held, and held regularly?

Mr. BINGHAM. I desire to ask the gentleman from Illinois whether he holds that the act of admission is retrospective in its operation, and authorized the people of Minnesota, contrary to the general act of Congress, to elect two Representatives on the 13th of last October; or whether the act of admission was only prospective?

Mr. HARRIS, of Illinois. I suppose, sir, that the act of admission operates back to the original election of delegates to the convention; that it relates back to, confirms, sanctions, and approves, all the steps that have been taken by the people of Minnesota, in pursuance of the enabling act, to prepare themselves for admission into the Union; and so recognizing, so approving, so indorsing, it makes good all their acts, except to the extent to which they may have been subsequently modified by the act of admission.

Mr. MARSHALL, of Kentucky. I would like to know whether there is anything in the papers to alter the legal effect of what is to flow from the face of the certificate, except the letter of Mr. Sam Medary indorsing Greeley's Almanac?

Mr. HARRIS, of Illinois. There is this much

to alter the effect which may legally flow from the paper beside the certificate and Greeley's Almanac, and that is the act by which the State was admitted into the Union. That limits the representation of Minnesota on this floor to two members; and that is a very important limitation.

Mr. MARSHALL, of Kentucky. The point at which my mind enters is, how are we to tell which two of the three are best entitled to seats? I ask, therefore, if there is any other authority than that which has been quoted to show which two I am to take?

Mr. HARRIS, of Illinois. Mr. Speaker, I know not what authority would be satisfactory to the gentleman. I have read the statement that these gentlemen received the highest vote, and no other gentleman has presented credentials here. The paper which has been read this morning, and which has found its way into the hands of the Clerk, has never been presented as the credentials of any member in this House. It ought not to stand in that light, and ought not so to be considered. The House is confining itself, and ought to confine itself, to the question whether these gentlemen whose credentials are presented are *prima facie* entitled to be sworn in as members. I look upon the other paper as entirely outside the controversy. The committee have expressed no opinion upon the validity of the election. That question was not before them. They have merely decided that these gentlemen have, from the credentials they present to the House, a *prima facie* right to be sworn in. Whether any other member subsequently claiming his seat has the right to contest the election, is, it seems to me, a matter which need not occupy the House for a moment. That was not a question which was referred to the committee, and they have not considered it.

Mr. GILMER. Mr. Speaker—

Mr. HARRIS, of Illinois. I will give way to the gentleman from North Carolina, who is a member of the committee.

Mr. GILMER. I will only occupy the time of the House for a moment, simply to read the authorities upon which the opinions expressed by the minority of the committee in their report are based. Before I proceed, however, I wish to ask the Speaker whether my memory serves me correctly, that when this paper, which was read this morning, was presented some time ago in the House some exception was taken to it?

The SPEAKER. The Chair never heard of the certificate to which the gentleman from North Carolina refers until after the meeting of the House this morning, when his attention was called to it by the Journal clerk. It has never been before the House in any way.

Mr. GILMER. I thought I recollected something of the sort, and I merely wished to know whether I was correct in my recollection. The position taken by the minority of the committee is that this election is utterly void for three reasons:

First, that our Constitution allows States, and States only, to elect members of this House; and that the Territory of Minnesota remained a Territory until the passage of the act admitting the State into the Union.

The second point is, that the Constitution of the United States gives to Congress the power to require the States to elect by single districts, and Congress having exercised that right, requiring all elections of members to this House to be by districts, this election of the people of the Territory of Minnesota is in direct conflict with that law, a constitutional law, and, therefore, the election is entirely void.

The third reason is, that supposing the first two points not to be well sustained, and supposing the act of admission to go back to the 13th of October, when the election was held, the people of Minnesota had not the rightful power to elect three members of Congress, and this House make such an election valid as to two. I will now read the authorities upon which the minority of the committee have based their opinions.

I read, in the first place, from 10th Howard, page 77. It is very short:

"The citation is signed the 20th of November, 1847. The case has been submitted by counsel on written arguments under the fortieth and fifty-sixth rules of the court. The first question presented is, whether or not this court has jurisdiction to review the judgment below. "The Territory of Wisconsin was admitted into the Union as a State, on the 29th of May, 1848. (9 Stat. at Large, 233.)

"An act had been previously passed, on the 2d of March, 1847, assenting to the admission on certain terms and conditions to be first complied with; and providing that upon a compliance with them, and on the proclamation of the President announcing the fact, the admission should be considered complete. The admission did not take place under this act, and no proclamation was issued by the President in pursuance of it.

"The people of the Territory again assembled, by a convention of delegates, and formed their constitution, on the 1st of February, 1848, as is recited in the preamble of the act of Congress, passed 29th May, 1848, by the first section of which the State is declared to be admitted into the Union on an equal footing with the original States. The date of the admission, therefore, is the 29th of May, 1848.

"The writ of error having been issued on the 20th of November, 1847, was, therefore, regularly issued during the existence of the territorial government, and the case was pending in this court at the time when that government ceased, and with it the jurisdiction and power of the territorial courts. (Benner v. Porter, 9 Howard, 235.)"

I present that, Mr. Speaker, as authority express, that there is no State in the Union, in the opinion of the Supreme Court, until the act passed admitting her into the Union. I know that there are precedents to the contrary; but in a Congress like this, where there is a decided majority in favor of one of the political parties, there is no necessity for resorting to any such shift; and I hope, in this case, the question will be decided in conformity to the law of the country.

In respect to the other point, that the elections must be by districts, I admit that there are precedents overruling it. But, sir, the power of Congress to require that these elections shall be by districts is settled by constitutional law; and that there may be no difficulty, I will read the clause from the Constitution of the United States:

"Sec. 4. The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators."

Mr. WASHBURN, of Illinois. I made a statement the other day that the party elected from Minnesota, who has not applied for admission, was the party who had received the highest number of votes. My colleague has read a statement of votes, from the Tribune Almanac, by which he makes it appear that Messrs. Phelps and Cavanaugh received the highest number of votes. I read from another Tribune, which gives the precise vote, and shows Becker to have received twenty thousand five hundred and eighty-six votes, Phelps twenty thousand four hundred and ninety, and Cavanaugh twenty thousand one hundred and ninety-one. That is the actual vote; but, by throwing out certain counties, Mr. Becker's vote was made to appear the smallest, and the canvassers returned the other two as having the highest number of votes.

Mr. GILMER. Upon the point that the vote is void as to the issue, for the reason before intimated, that three were elected, when, in no possible view, can it be insisted that they were authorized to elect more than two, I refer to the authority of this House. I read from the seventh volume of the Congressional Globe and Appendix, third session of the Twenty-Fifth Congress, 1838-39, page 135. The House proceeded to elect two members of a committee; some ballots were thrown in for three; and the question arose whether those ballots should be counted at all. I will read what appears in the Globe:

"The House thereupon proceeded to ballot for two members, to fill the remaining vacancies on the committee.

"Mr. GARLAND reported the result; which was, that the total number of votes cast had been 201; necessary to a choice 101; of which

Mr. Foster had received	101
Mr. Owens	103
Mr. Hamer	90
Mr. Thomas	84

and many other members smaller numbers. He also stated that on one ballot there had been three names. As the tellers had no means of ascertaining which two of the three to count, they had considered the ballot as blank.

"The CHAIR quoted the rule in relation to blank ballots, and pronounced their decision to be, in the opinion of the Chair, correct.

"No objection was made to it in the House. "The SPEAKER thereupon declared Mr. Foster, of New York, and Mr. Owens, of Georgia, to be duly elected."

I hold in my hand Glanville's Reports of cases adjudged by Parliament, and in it I find a case where two members were elected to Parliament while the law authorized the election of only one; and the election was held void, *ab initio*, and Parliament decided that neither party was entitled to his seat. I will read only one paragraph:

"Thirdly. If the return be absolutely and irreconcilably

repugnant, then the same is utterly void; as if the same parties, by several indentures of the same date, do return two several persons to be burgesses, in one and the same manner, and for one and the same place, to the sheriff, and he, in the like manner, do equally, and without distinction, return them over to the court; in such case, neither of the parties so returned, are to be admitted into the House till the return be amended."

I will not consume any more time of the gentleman from Illinois, and, thanking him for his courtesy, I yield him the floor.

Mr. HARRIS, of Illinois, resumed the floor.

Mr. KEITT. I wish to inquire of the gentleman from Illinois, who is chairman of the Committee of Elections, whether or not the gentlemen who are to be sworn in under the resolution, have not certificates from the proper legal authorities in Minnesota?

Mr. HARRIS, of Illinois. I understand they have, and I will explain it more fully as I proceed.

Mr. KEITT. And I want to know whether anybody contests their seats?—in other words, whether these two men have the proper returns? for we are to judge of the returns and qualifications, and contestants can come forward hereafter.

Mr. HARRIS, of Illinois. The gentleman from North Carolina [Mr. GILMER] predicates his whole argument upon the ground that we are here to try the election of these two gentlemen—a point entirely disclaimed by the committee. The question of their election is not in controversy. The only question is, whether they present themselves in such attitude, and with such papers or credentials, as to entitle them, no one appearing to contest their right, to be admitted and sworn in. That is the question, and the only question.

I will, before I reply more fully to the argument of the gentleman from North Carolina, respond to the inquiries of the gentleman from South Carolina, [Mr. KEITT.] By the twenty-first section of the schedule adopted by the Minnesota convention, which framed the constitution of Minnesota, it is provided that—

"The returns of said election, for and against this constitution, and for all State officers and members of the House of Representatives of the United States, shall be made and certificates issued in the manner now prescribed by law for returning votes given for Delegate to Congress; and the returns for all district officers, judicial, legislative, or otherwise, shall be made to the register of deeds of the senior county in each district, in the manner prescribed by law, except as otherwise provided. The returns for all officers elected at large shall be canvassed by the Governor of the Territory, assisted by Joseph R. Brown and Thomas J. Galbraith, at the time designated by law for canvassing the vote for Delegate to Congress."

It will be observed, then, that the constitution designates a board of commissioners, composed of the Governor, J. R. Brown, (who, with the Governor, signed the paper which was read a short time since at the Clerk's desk,) and Thomas J. Galbraith, and that the certificates have been issued in the manner then prescribed by law for returning votes given for Delegate to Congress. By turning to the organic act, it will be found that it provides that the Governor of the Territory shall issue his certificate precisely in the form in which it has been issued in this case. The constitution referred back to that law, and follows that law in its direction, and a certificate is given not only in conformity with the organic law referred to in the constitution, but in conformity with the constitution itself.

I am, then, prepared to answer the question of the gentleman from South Carolina, that these certificates are precisely in the form contemplated by the organic law of the Territory, which is adopted for the purposes of this election, and made a part of the organic law of the State, and that there can be no question, in my judgment, as to their legality, and their right to be received here in full faith and credit.

Mr. WASHBURN, of Maine. The position which I take in that respect is, that the constitution does provide that the Governor of the Territory may issue a certificate of election. Without that permission, the Governor of the Territory would have no more right to give certificates than any other person, and it would have no effect whatever. When, then, we are referred to the constitution to obtain this authority, we see in that same instrument that Minnesota is entitled to three Representatives, that she is entitled to elect three, and we find by credentials sent to the Clerk of this House that she has, in fact, elected

three. We have also judicial knowledge, if I may so speak, of the fact that the State is entitled by law of Congress to but two Representatives; and, therefore, I hold that the objection is vital, and cannot be got over. The credentials themselves, and the facts referred to in them, and of which we have knowledge, actual and legal, show that there has not been, and that there could by no possibility have been, a legal election. Therefore, the credentials themselves show, in connection with the laws of which we have knowledge, that there is not even a *prima facie* case; but they negative that presumption absolutely and without remedy; and it is impossible for the House, at any future time, to come to a different result, for it is now in possession of all the facts bearing upon this point.

Mr. HARRIS, of Illinois. I yielded to the gentleman for a question, not for a speech. The gentleman is playing on the same instrument that is played upon here all the time. He is discussing the question of election, which was entirely ignored by the committee. We are not discussing that question, and do not propose to do it. We are discussing the right of members to be sworn and admitted to their seats here on the credentials which they present. When the question of election comes up we will decide that; but, until it is presented by some person claiming a better right than they have, we do not propose to decide that question.

Now, sir, as to the remarks made by the gentleman from North Carolina. He says that none but "States" can elect members to Congress. Now, Minnesota, at the time she elected these members to the House, was a State, subject only to the act of admission by Congress. She had a constitution framed in pursuance of an act of Congress—a solemn legislative act, fully authorizing her to prepare herself to become a State. She acted under that authority in the formation of her constitution. The recognition by Congress of that constitution operated back, and made valid all the steps that had been taken by the people of Minnesota to become a State. It is one of the attributes of a sovereign State of the Union that she shall have a representative in each House of Congress. She has a right to take all necessary steps to be represented in the Senate and in the House, immediately on her admission. If not, how long is she to be deprived of that right? Are we to allow States to come into the Union without representation in either of its legislative branches; and if so, what conditions are you to put upon them? How long are they to be so deprived?

Mr. WASHBURN, of Maine. Does the gentleman desire an answer to that question?

Mr. HARRIS, of Illinois. Not only have they the right, apparent and open to the observation, comprehension and approbation of every one, to prepare themselves for representation upon admission, but it has been the uniform practice since the organization of the Government, where States had elected Representatives and members before the act of admission, to allow them to take their seats when the act of admission is consummated. This is the first time I have ever known any objection to any member so elected, except, possibly, in the case of the State of California; but there it was not on this question, but on the question of their being elected by general ticket. Gentlemen, therefore, on the other side of this question, have not only the theory of the Government to combat, but also the whole practice of both Houses of Congress, from its commencement down.

But the gentleman from North Carolina [Mr. GILMER] makes another objection. He says that the act of 1842 requires that members shall be elected by districts. Now, one word on that point. The second section of the act of June 25, 1842, provided that, "in every case where a State is entitled to more than one Representative, the number to which each State shall be entitled under this apportionment shall be elected by districts," composed of contiguous territory, &c. It was intended by that act to limit its operation to that apportionment alone. The subsequent act of 1851 did not reenact that provision; and it expired by its own limitation. If it were not so, the Twenty-Eighth Congress, meeting the year after that act was passed, rejected and repudiated it by a vote of more than two to one, as being an act not passed in conformity with the Constitution, and being

void; and members from four States of the Union, New Hampshire, Georgia, Mississippi, and Missouri, were admitted to seats on the floor of this House, against the provisions of the law. It never has been recognized; and I believe that, with the exception of two Congresses, from the day it passed, down, members have held their places here who were elected by general ticket.

I take it that these are the only points really involved in this case. As to the statement made by my colleague, [Mr. WASHBURN,] that the returns as they were originally made, gave Mr. Becker, of whom I know nothing, more votes than either of the other members. He says that that is the statement of another Tribune. I know not which of the Tribunes have the most weight with my colleagues. I claim that which is referred to by the parties, and on which they are willing to rely. I understand, however, that these are the facts in regard to these returns: that before any returns were opened by the board of canvassers named in the constitution, Governor Medary and Mr. Galbraith (who was the Republican member of the board) agreed on certain rules which should govern them in the reception or rejection of returns or votes. In that agreement Mr. Brown did not concur; but one Republican and one Democrat did agree that in deciding on the legality and admissibility of the returns, they would be governed by certain rules. They supposed that without such agreement there might be serious difficulties in regard to votes. When the votes were opened and counted, according to the agreement which they had made in good faith, many returns which were informal and illegal were rejected; and that may have affected Mr. Becker's vote. I do not know that such is the fact. The legality of the returns was a matter which the canvassing officers had a right to decide; and the returns which they made are binding on us until they are questioned, controverted, and set aside by the House; so that if it be, as stated by my colleague, that the votes cast gave a different complexion to the majorities of the different members, it is a matter of no consequence here, because the canvassing officers were the proper persons to decide on the validity of the returns.

Mr. STANTON. Would the gentleman from Illinois hold that these gentlemen were entitled to be sworn in if they presented a joint certificate?

Mr. HARRIS, of Illinois. I will reply to the gentleman as the Chair does sometimes—that I will decide that point when it arises; and I say to him further, that I am not deciding the question of election, and do not propose to do so.

Mr. WASHBURN, of Illinois. Would the gentleman have them sworn in on that kind of a return?

Mr. HARRIS, of Illinois. This paper is not given as a return. The members came here with certain papers which they say are the credentials which accredit them to this House. That paper has not been in the possession of the House. We are trying the case by the record before us. I do not know that there is any legal mode by which this paper got into the hands of the Clerk. I do not suppose there was. It was a volunteer document sent to the Clerk, not to be placed before the House, and it never has been until this morning, and in this informal way. It bears no file-mark, and is entitled to no consideration by the House.

Mr. STANTON. I ask if that is not the ordinary evidence returned by the Executive of a Territory or State on which members are sworn in in the first instance?

Mr. HARRIS, of Illinois. I understand that there is a practice in some of the States of making a return to the Clerk, for what purpose I do not know, and I do not care. If there were others here contesting the right of these gentlemen, and claiming their seats, I maintain that even then these members would be still entitled to be sworn in, and the whole subject referred to the Committee of Elections, through which it may subsequently come up in the House.

Mr. DAVIS, of Maryland. I desire to inquire of my friend from Illinois, whether the member presenting a certificate, authenticates the certificate and the seal it bears, or whether the seal does not authenticate the right of the member?

Mr. HARRIS, of Illinois. The certificate with its broad seal, gives the holders a *prima facie* right to their seats, and we have to determine it upon

their credentials alone—nothing else; and the Committee of Elections have confined their inquiries to the questions referred to them in the resolution of the House.

Mr. WASHBURN, of Maine. I wish to ask the gentleman from Illinois—

Mr. HARRIS, of Illinois. I cannot yield the floor further.

Mr. WASHBURN, of Maine. Does the gentleman from Illinois refuse to allow me to ask a question?

Mr. DAVIDSON. I object.

The SPEAKER. The gentleman from Illinois expressly stated that he would not again yield the floor.

Mr. HARRIS, of Illinois. I will permit the gentleman from Maine to ask his question.

Mr. WASHBURN, of Maine. My question is, whether, if these credentials are sufficient now to admit these gentlemen to seats upon this floor, they are not also sufficient to entitle them to retain their seats, and to prevent any one from contesting their seats?

Mr. HARRIS, of Illinois. Certainly not. If no one comes forward to claim their seats, of course they will retain them. If their seats are contested, of course the question will be referred to the Committee of Elections, and be passed upon by the House. In the case of the California election, objection was made immediately on the presentation of the credentials of the members. But, notwithstanding, they were sworn in, and allowed to take their seats. And so it has been in every case.

But sir, I do not propose to detain the House further in this matter. I hope the vote will be taken; and I shall be satisfied with the decision of the House, whatever it may be.

Mr. HILL. I move to reconsider the vote by which the main question was ordered to be put. I do it for the purpose of making a suggestion or motion which I hope will place this matter in a position which will be satisfactory to all parties in this controversy. I send up a proposition which I propose to offer if the House reconsiders the vote by which the main question was ordered to be put.

Mr. HUGHES. I object to the reading of any paper that is not in order.

Mr. STEPHENS, of Georgia. Did the gentleman from Georgia vote with the majority on ordering the main question?

Mr. HILL. I did not vote at all.

The SPEAKER. Then it is not competent for the gentleman to make the motion.

Mr. MAYNARD. For the purpose of enabling the gentleman from Georgia to submit his proposition, I submit the motion to reconsider.

Mr. STEPHENS, of Georgia. Did the gentleman from Tennessee vote with the majority?

The SPEAKER. He did.

Mr. HILL. I now ask that my proposition may be reported.

Mr. BARKSDALE. I object.

Mr. MAYNARD. If the gentleman from Georgia cannot have his proposition read, I will withdraw my motion to reconsider.

Mr. HILL. Cannot my proposition be read?

The SPEAKER. Only by unanimous consent.

Mr. BARKSDALE. I object.

Mr. HUGHES. I wish to make an inquiry of the Chair. [Cries of "Object!"]

The SPEAKER. The question is first upon the proposition of the gentleman from Maine, [Mr. WASHBURN.]

Mr. HUGHES. How did the proposition of the gentleman from Maine come before the House?

The SPEAKER. It was admitted by unanimous consent. The gentleman from Maine proposes to amend the resolution offered by the gentleman from Illinois, [Mr. HARRIS,] by striking out all after the word "Resolved," and inserting the following:

"That Messrs. W. W. Phelps and J. M. Cavanaugh are not entitled to be admitted and sworn as members of this House."

Mr. STEPHENS, of Georgia, demanded the yeas and nays upon the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 74, nays 125; as follows:

YEAS—Messrs. Abbott, Andrews, Billingshurst, Bingham, Blair, Buffington, Burlingame, Burroughs, Case, Ezra Clark, Clawson, Coffax, Danrell, Davis of Maryland, Davis of Massachusetts, Dean, Dick, Dodd, Durfee, Eustis, Fenton, Foster, Gilmer, Gooch, Granger, Grow, J. Morrison Harris, Hill, Hoard, Horton, Howard, Kelsey, Kilgore, Knapp, Lovejoy, Humphrey Marshall, Matteson, Milson, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Pike, Potter, Ricard, Ritchie, Robbins, Roberts, Royce, John Sherman, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Tripp, Wade, Walbridge, Walton, Caldwell, C. Washburn, Elihu B. Washburne, Israel Washburn, and Wilson—74.

NAYS—Messrs. Admin, Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bliss, Biscoe, Boyce, Burnett, Burns, Caruthers, Caskie, Chapman, John B. Clark, Clay, Clemens, Cobb, John Cochrane, Cockrell, Comins, Corning, Cox, James Craig, Crawford, Curry, Curtis, Davidson, Davis of Indiana, Davis of Mississippi, Dawes, Dewar, Dimmick, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Foley, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Harlan, Thomas L. Harris, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kellogg, Kelly, Jacob M. Kunkel, John C. Kunkel, Lamar, Landy, Lawrence, Leiter, Fletcher, MacLay, McKibbin, McQuay, Samuel S. Marshall, Mason, Maynard, Miles, Miller, Moore, Edward Joy Morris, Isaac N. Morris, Niblack, Pendleton, Peyton, Phelps, Phillips, Pottle, Powell, Purviance, Quinan, Ready, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, William Smith, Spinner, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Underwood, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, John V. Wright, and Zollcoffer—125.

So the amendment was not agreed to.

Pending the call of the roll,

Mr. RUFFIN stated that Mr. CRAIGE, of North Carolina, had paired off with Mr. GOODWIN.

Mr. LOVEJOY stated that Mr. FARNSWORTH had paired off with Mr. BOWIE.

Mr. JOHN COCHRANE stated that Mr. HATCH had paired off with Mr. FENTON.

Mr. WASHBURN, of Maine, stated that Mr. WOOP had paired off with some gentleman on the other side of the House, he did not know whom.

Mr. WRIGHT, of Georgia, stated that he had paired off with Mr. OLIN.

Mr. PHILLIPS stated that Mr. LEIDY had paired off with some gentleman on the other side of the House, he did not recollect whom.

Mr. PALMER stated that Mr. SEARING had paired off with Mr. SHERMAN, of New York, until two o'clock to-day.

Mr. COVODE stated that Mr. BENNETT had paired off with Mr. BOWIE.

The question recurring upon the resolution of the majority of the committee,

Mr. STEPHENS, of Georgia, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 135, nays 63; as follows:

YEAS—Messrs. Admin, Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bliss, Biscoe, Boyce, Bryan, Burnett, Burns, Campbell, Caruthers, Caskie, Chapman, John B. Clark, Clay, Clemens, Cobb, John Cochrane, Cockrell, Comins, Corning, Covode, Cox, James Craig, Crawford, Curry, Curtis, Davidson, Davis of Indiana, Davis of Mississippi, Dawes, Dewar, Dimmick, Edmundson, Elliott, English, Faulkner, Florence, Foley, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Harlan, Thomas L. Harris, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kellogg, Kelly, Jacob M. Kunkel, John C. Kunkel, Lamar, Landy, Lawrence, Leiter, Fletcher, MacLay, McKibbin, McQuay, Samuel S. Marshall, Mason, Maynard, Miles, Miller, Moore, Edward Joy Morris, Isaac N. Morris, Niblack, Pendleton, Peyton, Phelps, Phillips, Pottle, Powell, Purviance, Quinan, Ready, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, William Smith, Spinner, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Underwood, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, John V. Wright, and Zollcoffer—135.

NAYS—Messrs. Abbott, Andrews, Billingshurst, Bingham, Blair, Buffington, Burlingame, Burroughs, Case, Ezra Clark, Clawson, Coffax, Danrell, Davis of Maryland, Davis of Massachusetts, Dean, Dick, Dodd, Durfee, Eustis, Fenton, Foster, Gilmer, Gooch, Granger, Grow, Hill, Horton, Howard, Kelsey, Knapp, Lovejoy, Humphrey Marshall, Matteson, Milson, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Potter, Ricard, Ritchie, Robbins, John Sherman, Stanton, William Stewart, Thayer, Thompson, Tompkins, Tripp, Wade, Walbridge, Walton, Caldwell, C. Washburn, Elihu B. Washburne, Israel Washburn, and Wilson—63.

So the resolution was agreed to.

Pending the call,

Mr. FOLEY stated that Mr. SANDIDGE had paired off with Mr. GILMAN.

Mr. MILES stated that Mr. BONHAM was still detained from the House by sickness in his family, and had paired off with Mr. WALDRON.

Mr. HARRIS, of Illinois, moved to reconsider the vote by which the resolution was adopted;

and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

In pursuance of an order of the House, the usual oath to support the Constitution of the United States was then administered to Messrs. W. W. Phelps and J. M. Cavanaugh as members from the State of Minnesota.

SENATE BILLS REFERRED.

Mr. GROW. I ask that all private bills upon the Speaker's table, to which no objection shall be made, be taken up, and referred to the appropriate committees.

Mr. SEWARD. Before that is done, I ask the unanimous consent of the House to report from the Committee on Naval Affairs a bill for the relief of the widow of Lieutenant Herndon, in order that it may be referred to a Committee of the Whole House.

Mr. HARRIS, of Illinois. I desire to call up another privileged question, that it may be disposed of.

Mr. GROW. I appeal to the House to allow these private bills to be sent to the appropriate committees to be acted on.

Mr. HARRIS, of Illinois. If no one else objects to it, I shall not.

The SPEAKER. The Chair hears no objection.

Mr. SEWARD. I have a bill in my hand that I desire to report—

Mr. HARRIS, of Illinois. I did not give way for reports to be made. I understood that the gentleman from Pennsylvania desired to have some bills upon the Speaker's table referred to appropriate committees.

The following Senate bills and resolutions upon the Speaker's table were then taken up, read a first and second time, and referred as indicated below:

An act (No. 103) for the relief of Simon de Visser and José Villarrubia, of New Orleans. Referred to the Committee on Commerce.

An act (No. 294) for the relief of Lemuel Worsster. Referred to the Committee on Invalid Pensions.

An act (No. 222) for the relief of Jeremiah Moors. Referred to the Committee on Commerce.

An act (No. 46) to grant the right of preemption in certain lands to the Indiana Yearly Meeting of the Society of Friends. Referred to the Committee on Public Lands.

An act (No. 30) for the relief of Elizabeth Montgomery, heir of Hugh Montgomery. Referred to the Committee on Revolutionary Claims.

An act (No. 43) for the relief of Lieutenant John C. Carter. Referred to the Committee on Naval Affairs.

An act (No. 115) for the relief of J. Horsford Smith. Referred to the Committee on Commerce.

An act (No. 116) for the relief of Jeremiah Pendergast, of the District of Columbia. Referred to the Committee for the District of Columbia.

An act (No. 128) for the relief of George Phelps. Referred to the Committee of Claims.

An act (No. 130) for the relief of Jennett H. McCall. Referred to the Committee on Revolutionary Claims.

An act (No. 156) for the relief of Joshua Shaw. Referred to the Committee of Claims.

An act (No. 172) for the relief of William D. Moseley. Referred to the Committee on Naval Affairs.

An act (No. 186) to confirm the title of Benjamin E. Edwards to a certain tract of land in the Territory of New Mexico. Referred to the Committee on Private Land Claims.

An act (No. 198) for the relief of Joseph Hardy and Alton Long. Referred to the Committee of Claims.

An act (No. 223) for the relief of Frances Ann McCauley. Referred to the Committee on Foreign Affairs.

An act (No. 255) for the relief of Anthony Caslo, a soldier of the war of 1812. Referred to the Committee on Invalid Pensions.

Joint resolution (No. 34) for the relief of the legal representatives of John A. Frost, deceased. Referred to the Committee on Naval Affairs.

Joint resolution (No. 38) for the relief of John Grayson. Referred to the Committee on Naval Affairs.

An act (No. 106) for the relief of Elijah F. Smith, Gilman H. Perkins, and Charles F. Smith. Referred to the Committee of Ways and Means.

An act (No. 181) for the relief of Anson Dart. Referred to the Committee on Indian Affairs.

An act (No. 203) for the relief of the legal representatives of Charles Porterfield, deceased. Referred to the Committee on Revolutionary Claims.

An act (No. 212) for the relief of Joseph C. G. Kennedy. Referred to the Committee of Claims.

An act (No. 216) authorizing the payment to the State of Maine of certain expenses agreed to be refunded to her by the fifth article of the treaty between the United States of America and her Britannic Majesty, dated the 9th day of August, A. D. 1842. Referred to the Committee on Foreign Affairs.

An act (S. No. 224) for the relief of Edward Ingersoll. Referred to the Committee on Military Affairs.

An act (No. 230) for the relief of the legal representatives of Daniel Hay, deceased. Referred to the Committee on Invalid Pensions.

An act (No. 235) for the relief of Martin Layman. Referred to the Committee on Public Lands.

An act (No. 252) for the relief Charles McCormick, assistant surgeon in the United States Army. Referred to the Committee on Military Affairs.

An act (No. 254) for the relief of Townsend Harris. Referred to the Committee on Foreign Affairs.

An act (No. 266) for the relief of George W. Flood. Referred to the Committee of Claims.

An act (No. 267) for the relief of G. Alonzo Broast. Referred to the Committee on Invalid Pensions.

An act (No. 268) for the relief of Aaron H. Palmer. Referred to the Committee of Claims.

An act (No. 272) for the relief of Charles Knap. Referred to the Committee on Commerce.

An act (No. 275) for the relief of Jeremiah Pendergast. Referred to the Committee on Patents and the Patent Office.

An act (No. 276) for the relief of Mrs. Ambrose Brou, of the parish of St. Charles, State of Louisiana. Referred to the Committee on Private Land Claims.

An act (No. 277) for the relief of Albert G. Allen. Referred to the Committee on Naval Affairs.

An act (No. 282) for the relief of Bernard M. Byrne. Referred to the Committee of Claims.

An act (No. 284) for the relief of C. Edward Hacht, administrator of J. W. P. Lewis. Referred to the Committee of Claims.

An act (No. 291) for the relief of Webster S. Steele. Referred to the Committee on Invalid Pensions.

An act (No. 292) for the relief of James A. Glumding. Referred to the Committee on Invalid Pensions.

An act (No. 293) for the relief of Franklin Peale. Referred to the Committee of Claims.

An act (No. 295) for the relief of David D. Porter. Referred to the Committee on Naval Affairs.

An act (No. 301) for the relief of Henry Etting. Referred to the Committee on Naval Affairs.

An act (No. 302) for the relief of James Smith. Referred to the Committee on Invalid Pensions.

An act (No. 306) for the relief of Samuel H. Taylor. Referred to the Committee of Claims.

An act (No. 309) for the relief of John B. Miller. Referred to the Committee on Invalid Pensions.

An act (No. 323) to confirm the sale of the reservation held by the Christian Indians, and to provide a permanent home for said Indians. Referred to the Committee on Indian Affairs.

An act (No. 324) for the relief of R. W. Clarke. Referred to the Committee of Claims.

An act (No. 328) for the relief of John Pickell, late a lieutenant in the United States Army. Referred to the Committee on Invalid Pensions.

An act (No. 330) for the relief of Stephen Rowan. Referred to the Committee of Claims.

An act (No. 331) for the relief of P. S. Duval & Co. Referred to the Committee of Claims.

An act (No. 332) for the relief of Anton L. C. Portman. Referred to the Committee on Foreign Affairs.

An act (No. 335) for the relief of Abner Merrill. Referred to the Committee on Invalid Pensions.

An act (No. 336) for the relief of Assistant

Surgeon Edwin P. Vollum, of the United States Army. Referred to the Committee on Military Affairs.

An act (No. 338) for the relief of Caleb Sherman. Referred to the Committee of Ways and Means.

An act (No. 340) for the relief of Ann L. Rogers. Referred to the Committee of Claims.

An act (No. 67) to provide for the payment of certain California claims. Referred to the Committee on Military Affairs.

An act (No. 368) for the relief of Mrs. Eliza E. Ogden. Referred to the Committee of Claims.

An act (No. 374) for the relief of George J. Knight. Referred to the Committee of Claims.

An act (No. 377) for the relief of Madison Sweetser. Referred to the Committee on Indian Affairs.

An act (No. 380) to provide for the payment of the State of Maine, for expenses incurred by that State in organizing a regiment of volunteers in the Mexican war. Referred to the Committee on Military Affairs.

An act (No. 385) for the relief of John Hudry. Referred to the Committee on Military Affairs.

An act (No. 388) for the relief of the legal representatives of the late John Forsyth. Referred to the Committee on Foreign Affairs.

An act (No. 393) for the relief of Richard Fitzpatrick. Referred to the Committee of Claims.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled, bills and a joint resolution of the following titles:

An act for the relief of the representatives of William Smith, deceased, late of Louisiana;

An act for the relief of Isaac Drew and others, settlers upon the public lands in the State of Wisconsin;

Joint resolution for paying the compensation of stenographers employed by committees of the House of Representatives;

An act for the relief of the heirs or legal representatives of William Conway, deceased;

An act for the relief of Pierre Broussard, deceased;

An act for the relief of Marie Malines;

An act for the relief of Regis Loisel, or his legal representatives;

An act for the relief of Brevet Major H. L. Kendrick;

An act for the relief of Isaac Carpenter;

An act to amend an act entitled "An act granting a pension to Ansel Wilkinson," approved August 13, 1856;

An act for the relief of Pierre Gagnon, of Natchitoches, Louisiana;

An act to increase the pension of John Richmond; and

An act for the relief of Thomas Smithers.

OHIO CONTESTED ELECTION.

Mr. HARRIS, of Illinois. I now call up the Ohio contested-election case.

Mr. CHAFFEE. I rise to what I suppose to be a privileged question. I move that the rules be suspended, and that the House resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. HARRIS, of Illinois. I prefer that this case shall be taken up and decided to-day.

Mr. SEWARD. I ask the gentleman from Illinois to give way to enable me to report from the Committee on Naval Affairs a bill of the Senate, granting a pension to the widow of Lieutenant Herndon, for the purpose of having it referred to a Committee of the Whole House; so that it may come up when the House goes into committee.

Mr. HARRIS, of Illinois. There are several gentlemen who are appealing to me to give way for them, and if I yield for one I must for another.

Mr. SEWARD. But this is a peculiar case. It will not take two minutes.

Mr. HARRIS, of Illinois. I desire very much to oblige the gentleman from Georgia, and I believe his case is a very meritorious one, but there are four or five gentlemen who are appealing to me to yield; and if I yield to one I must to another. I decline to give way.

Mr. WINSLOW. I ask the gentleman to yield to me for a moment.

Mr. HARRIS, of Illinois. I cannot. I now

call up the case of Clement L. Vallandigham, contesting the seat of Lewis D. Campbell in this House. The Committee of Elections did not agree in their views of the case. It so happened that I was not able to concur with any of my colleagues on the committee. I send the following resolution to the Clerk's desk to be read.

The resolution was read, as follows:

Resolved, That a vacancy exists in the representation in the House of Representatives of the United States from the third congressional district of the State of Ohio, and that the Speaker be directed to notify the Governor of that State thereof.

Mr. KELSEY. I rise to a question of order. I submit that there has been no report in this case from the Committee of Elections. There is simply a statement by the committee, stating that they were unable to agree in any report in the case. I make, therefore, the point of order, that this question is not properly before the House for its action, inasmuch as the minority of the Committee of Elections could not submit a report. In that position I believe I am sustained by the decision of the Chair during the present session.

The SPEAKER. If the gentleman from New York apprehends the facts correctly, the point is properly taken by him; but the Chair understands that the report which was submitted, although there is no recommendation in it in the shape of a resolution, did meet with the approbation of a majority of the committee.

Mr. KELSEY. I believe that fact does not appear from the report itself. I know it was so stated by the gentleman from Illinois at the time; but I understand there are three distinct reports presented by that committee upon the question submitted to its consideration. If I am right in that fact, then I think I am right in the point of order.

Mr. HARRIS, of Illinois. The different reports made from the committee were made a part of the report of the committee.

Mr. SEWARD. I rise to a point of order. I submit that debate is not in order.

The SPEAKER. Debate is not in order on a point of order.

Mr. HARRIS, of Illinois. It was stated in the report of the committee that each report made a part of the report of the committee.

Mr. GILMER. I ask my friend from Illinois to yield me the floor for a moment.

The SPEAKER. Does the gentleman desire to explain the report of the committee?

Mr. GILMER. I believe the report is a report of the majority on this one point, and this point only; that a minority believed that Mr. Vallandigham was not elected; that another minority of three believed that Mr. Campbell is not entitled to the seat; that another minority of the committee was of opinion that the case should be sent back to the people. They reported those facts.

The SPEAKER. The report submitted by the gentleman from Illinois purports to be the views or opinions or sentiments of a majority of the committee. The report reads as follows:

"The Committee of Elections, to whom was referred the memorial of Clement L. Vallandigham, contesting the right of the Hon. Lewis D. Campbell to a seat in the House of Representatives as a member of the Thirty-Fifth Congress, from the third congressional district of the State of Ohio, have had the same under consideration and have directed me to report," &c.

And, in conclusion, the report says:

"The committee ask that the views of their minorities, respectively, accompanying this report, may be received by the House."

The only irregularity connected with the report is that the committee have not accompanied their report with a recommendation in the shape of a resolution. It is, however, unquestionably such a report from the Committee of Elections as the House can predicate action upon.

Mr. LAMAR. I propose the following substitute for the resolution submitted by the gentleman from Illinois:

Resolved, That Lewis D. Campbell is not entitled to a seat in the Thirty-Fifth Congress as the Representative from the third congressional district of Ohio.

Resolved, That Clement L. Vallandigham is entitled to a seat in the Thirty-Fifth Congress as Representative from the third congressional district of Ohio.

Mr. GILMER. I move to amend the substitute by striking out all after the word "Resolved," and to insert the following:

That the Hon. Lewis D. Campbell is entitled to retain his seat as member from the third congressional district in the State of Ohio to this Congress.

Mr. KELSEY. I desire to appeal from the decision of the Chair upon the question of order I raised. And I wish to read from a report submitted by the committee of this House, to show that I am correct.

Mr. BURNETT. Is debate in order?

The SPEAKER. The gentleman states that he appeals from the decision of the Chair.

Mr. KELSEY. The report says:

"But, from the points involved and the character of the testimony adduced, neither the committee nor a majority of their number have been able to agree upon any proposition for the action of the House."

I submit that the committee have directly told the House that they were unable to agree, and in conclusion they ask that the several minorities may submit their views. Therefore there is no report of the committee here.

Mr. KEITT. Can an appeal be taken now, business having intervened between the decision of the question and the appeal now taken?

Mr. KELSEY. I withdraw my appeal. I wanted to put the facts before the House for their consideration.

Mr. DAVIS, of Maryland. I suppose this is the proper time for the House to determine whether they will now consider this subject, and therefore I desire that that question may be put to the House, under the 5th rule, I believe.

The SPEAKER. Does not the gentleman from Maryland perceive that the House has already proceeded to the consideration of it?

Mr. DAVIS, of Maryland. I do not. I suppose that when my friend from Illinois rose and called the attention of the House to it, it was necessary that we should understand what the proposition was, before the question arises whether the House will consider it or not. And now it is for the House to say whether they will or will not proceed to the consideration of the proposition of the gentleman from Illinois at this time. The fact that it is a question of privilege only gives my friend from Illinois the right to propose the motion to the House, and it is for the House afterwards to determine whether they will now consider it, or at some future time. I therefore ask that there shall be a vote of the House as to whether they will consider it now.

The SPEAKER. The gentleman calls the attention of the Chair to the 5th rule.

Mr. SEWARD. Do I understand that the amendments have been introduced.

The SPEAKER. They have been.

Mr. SEWARD. I would like to know how they got in while the gentleman from Illinois had the floor?

The SPEAKER. The gentleman from Illinois yielded for that purpose.

Mr. SEWARD. Well, I object to gentlemen being allowed to yield to gentlemen to introduce amendments. When I desired to make a motion the Chair decided that I could not do it; that I was out of order. Now I desire to know whether any gentleman upon this floor has privileges above me in making motions? I desire to have a proper understanding between the Speaker and myself, and to know whether I am to be proscribed?

Mr. HARRIS, of Illinois. Is the point of order debatable? If the gentleman makes a point of order, I hope the Chair will decide it.

The SPEAKER. The Chair has entertained the amendment submitted by the gentleman from North Carolina, [Mr. GILMER.]

Mr. SEWARD. And yet the Chair declined to entertain my proposition.

The SPEAKER. Because it was objected to by the gentleman from Illinois.

Mr. SEWARD. Well, my objection to the proposition of the gentleman from North Carolina would be quite as effective as another gentleman's objection to mine.

Mr. MARSHALL, of Kentucky. I ask the gentleman from Illinois to yield to me for a moment.

The SPEAKER. There is a question of order already pending which must be decided.

Mr. MARSHALL, of Kentucky. I do not rise to a question of order.

Mr. GROW. Could not any member on the floor rise to a question of privilege as to the seat of any member? Is it necessary that it should come from a committee at all?

The SPEAKER. It would be competent, of course. The Chair is of opinion that the gentleman from Maryland rises too late to ask that the proposition be submitted to the House.

Mr. DAVIS, of Maryland. At what point could I have risen earlier?

The SPEAKER. The gentleman could have risen whenever the gentleman from Illinois indicated the particulars of his proposition—certainly when he sent up his resolution. The gentleman from Maryland allowed the gentleman from Mississippi [Mr. LAMAR] to propose an amendment, and the gentleman from North Carolina [Mr. GILMER] was allowed to submit another proposition. The amendments certainly could not be before the House unless the subject-matter had been taken up. The very fact of entertaining the amendments was a declaration that the House was proceeding to the consideration of the subject-matter.

Mr. DAVIS, of Maryland. I do not desire to appeal from the decision of the Chair. I supposed that, until the gentleman from Illinois had read the statement of what he called on the House to consider, there was no opportunity of interfering.

The SPEAKER. If the gentleman from Maryland had then risen, and required that the 5th rule should be enforced, the Chair would have considered it as in time; but the gentleman from Maryland permitted two amendments to be offered to the proposition. The amendments certainly could not be entertained if the subject was not before the House for consideration.

Mr. HARRIS, of Illinois. Mr. Speaker—

Mr. TRIPE. Has not the gentleman from Illinois yielded the floor?

Mr. HARRIS, of Illinois. I have not.

The SPEAKER. The gentleman from Illinois stated distinctly that he yielded to the gentleman on his right and the gentleman on his left, [Messrs. GILMER and LAMAR,] to enable them to offer amendments.

Mr. MARSHALL, of Kentucky. With the permission of the gentleman from Illinois—

Mr. BURNETT. I rise to a question of order. I insist that the gentleman who has the floor shall maintain it, or yield it entirely. I object to its being yielded to any gentleman, except for an explanation or to ask a question.

Mr. MARSHALL, of Kentucky. I suppose the gentleman from Kentucky and the Speaker will act just exactly as we have acted heretofore. I ask the gentleman from Illinois to yield to me, for the purpose of making a motion which would be cut off by the previous question?

Mr. BURNETT. I object. The gentleman has no right to yield the floor under the rules, except by unanimous consent.

The SPEAKER. If objection be made, the gentleman from Illinois cannot yield the floor to the gentleman from Kentucky, for the purpose of making a motion.

Mr. MARSHALL, of Kentucky. I merely want to know what the fashion of the times is, that we may all practice it.

Mr. BURNETT. Yes; and I say to my colleague that he has refused to yield me the floor under similar circumstances.

Mr. HARRIS, of Illinois. There is very little, Mr. Speaker, that I desire to say in connection with the question before the House. My views are briefly represented to the House in the shape of a report, and I do not desire to occupy the time of the House in the discussion of these views now. The contestant desires to be heard, and has heretofore had the leave of the House for that purpose. I state here now that I do not intend to call the previous question till there has been fair room for debate, and I hope that this day will be devoted to it, and that gentlemen leaving the Hall shall not hereafter claim that they have not had an opportunity to discuss it here. But I desire that the debate shall be closed to-day, and that the vote may be taken to-day, or Monday morning—I am not particular which.

Mr. GILMER. I propose that the vote be postponed till Tuesday, at one o'clock. Members may, in the mean time, examine the reports carefully for themselves.

Mr. HARRIS, of Illinois. As I stated, the gentleman from Ohio, who is contesting Mr. Campbell's right to the seat, desires to be heard, and heard in the opening of the discussion, and I yield the floor to him that he may now be heard.

Mr. SEWARD. I object to the floor being yielded unless it be surrendered entirely.

The SPEAKER. The Chair understands that it is so surrendered.

Mr. MARSHALL, of Kentucky. I now ask leave to offer my motion to recommit.

Mr. BURNETT. Who is entitled to the floor?

The SPEAKER. The gentleman from Kentucky [Mr. MARSHALL] has not the floor for that purpose.

Mr. MARSHALL, of Kentucky. Who has the floor?

The SPEAKER. The contestant.

Mr. MARSHALL, of Kentucky. Before we enter on the merits of the proposition, I suppose that I, as a member of the House, making a motion which is regular and in its ordinary proceedings, have a right to the floor.

The SPEAKER. The gentleman from Ohio [Mr. VALLANDIGHAM] has the floor.

Mr. VALLANDIGHAM. Mr. Speaker, unused to this presence, and limited by your rules to one hour, I beg, as a special indulgence from members of this House, the liberty to proceed without those interruptions which custom seems to approve in ordinary debate. When the time allotted me shall have expired, I will readily and with pleasure reply to such interrogatories as, in that same spirit of courtesy and candor which has generally been extended to me here throughout this investigation, may consistently with your rules be propounded by any member of this House.

I appear in this forum to-day, Mr. Speaker, as the Representative of nearly ten thousand of the qualified electors of the third congressional district of Ohio, and not in my own right. I propose to speak in their name and in their behalf alone; and I trust that, without suspicion of affectation, but solely for convenience and to avoid continual personal allusion, I may be permitted to refer to myself in the third person and as the contestant in this controversy, and to speak as one having no individual interest in it.

Within the time limited it is not possible to discuss, in a manner satisfactory to any one, either the facts or the question involved in this controverted election. The facts, indeed, I do not propose to consider at all. They have been found fully in the report of the gentleman from Mississippi, [Mr. LAMAR.] If any member of the House be not satisfied with that finding, it is, his right, as it is also his duty, to investigate them for himself; but, till called in question, I shall assume them precisely as found in that report.

Resolved, Mr. Speaker, to confine myself wholly to those matters which appear in the papers, testimony, and reports in this case, and which are essential to its just decision, and to avoid all allusion to whatever lies outside of these limits, and is not pertinent to the issue in the cause, I propose, briefly, and imperfectly of course, within the time allowed, to speak to two points mainly, which are presented to the judgment of the House. And I select these because, upon the face of the adverse reports, if either of them be resolved in favor of the contestant, he is entitled to the seat here in controversy.

The first of these points relates to the *admissibility of testimony* affecting a number of votes, sufficient, even upon the showing of those reports, not only to turn the scale against the returned member, but to elect the contestant. I refer to the *DECLARATIONS* or admissions by voters as to their qualifications, and as to the candidate for whom they voted. Many of the votes here controverted, some upon both sides, depend in whole or in part upon testimony of this character. In a large majority of cases indeed where it is offered, there is other and corroborating proof. But twelve votes on the part of the contestant depend solely upon this sort of testimony; and of these nine only are allowed in the report of the gentleman from North Carolina, [Mr. GILMER,] which report finds also a majority in favor of the contestant, *without these nine, and upon what is regarded as clear and satisfactory proof.* The adverse reports reject all these twelve votes, as also many others—in all to the number of more than thirty—where these declarations are offered along with direct or circumstantial proof. But upon the face of these reports, if this evidence be admissible, the contestant is entitled to the seat.

It is the misfortune, Mr. Speaker, of all American legislative assemblies, composed, as they are, almost wholly of lawyers, that every question,

even the gravest problems of Government and public policy, is argued as upon special demurrer, and tried by the narrow rules of a common law jurisdiction. Certainly, sir, the skill and discipline of the bar are available in every department of life, and nowhere more valuable than in legislation; but they ought to be here used as the discipline and skill of the athlete when he is transferred to military warfare; his strength, and courage, and powers of endurance are all just as valuable as in the *campus*, but the weapons, the strategy, and the tactics are totally changed. A controverted election resembles, indeed, a trial at law, far more than ordinary legislation; nevertheless, there is a wide difference as I shall attempt, by-and-by, to establish; and a more liberal rule is to be adopted in its investigation. But the first and natural impulse of every lawyer here, fresh from the dust and toil of forensic courts, is to test every question, especially of evidence, by the mere technical rules of the common-law jurisdiction, with which he has, every day, been accustomed to deal.

And thus, too, a civilian would in like manner try every question by the principles of the Code and the Pandects, and the practitioner at Doctors' Commons by the Gregorian Institute and the Clementine constitutions, and finding no "case in point," each would pronounce judgment accordingly. Sir, this is one of the "idols of the cave," against which the greatest of philosophers has warned us. No case like this ever has arisen, or ever can arise, in a forensic court, in the exercise of its ordinary or common-law jurisdiction. Yet I venture to affirm that it would not be difficult, in just such a case, and before just such a tribunal, to establish the admissibility of this evidence. Very true, sir—if, indeed, these declarations could be regarded as hearsay at all—hearsay evidence is said not to be admitted. Certainly this is the general rule; but the exceptions are as numerous as the variety and the exigencies of litigation; and every day for centuries has brought forth some modification of the rule, or some new application of the multiplied exceptions; and it is a significant fact, that one hundred and seventy-eight pages of the first volume of Greenleaf upon Evidence are devoted to these exceptions alone. It is no new thing, therefore, that hearsay or declarations should be received.

It is the every-day practice of your courts to receive and act upon just such evidence in the most important trials, not of property or liberty only, but of life also. In actions for malicious prosecutions, in cases of agency and trusts, in criminal conversation, in questions of sanity, sickness, pedigree, birth, marriage, death, boundary, in matters of public interest, though pertaining only to a district, parish, or neighborhood, it is regularly received. Inscriptions on family portraits and funeral monuments; entries by third persons; dying declarations; declarations by bankrupts; declarations in settlement cases, in questions of residence, or as a part of the *res geste*; declarations by privies in law, in blood, in estate; declarations against interest; and, of course, admissions and confessions, are all equally admissible, and whole volumes of reports and treatises are filled with them.

So, also, upon the principle of necessity, evidence otherwise inadmissible has been received. Thus, besides much of the hearsay to which I have referred, the testimony of the wife is, in certain cases, admitted against the husband; and the owner of a trunk, and in some States the wife of the owner, is received as a witness to prove the contents in an action against a common carrier. So, too, in many other cases; parties to the record, parties in interest, and others, excluded by the general rules of evidence, are yet admitted to testify.

Apply the principle here, and the declarations of a voter, both as to his qualifications and his vote, are clearly admissible. I say as to both; because the largest class of voters challenged in contests from States where, as in Ohio, there is no property qualification of any kind—a class which, in this very case, embraces one half the whole number controverted—consists of *non-residents of the State or county*, sojourners for a day, or "pipe-layers," if you please, colonized for the purposes of the election, and who, as soon as their mission is performed, leave the county for parts unknown, or beyond the jurisdiction of the

officer appointed to take the testimony. But, more than all this, neither these sojourners, nor any other voters, whose rights are called in question, even if forced to attend, can be compelled to testify, either as to their votes, since they are by ballot, or their qualifications, because they might thereby subject themselves to a criminal prosecution. Both these exemptions are high constitutional rights in Ohio, which no tribunal is permitted to disregard. The former, if not as ancient is yet just as sacred and binding as the latter; since the very object of the secret ballot, that ungentlemanly mode of election, not founded certainly on the highest notions of human virtue and independence, and tending still less to foster and develop them, is to enable the elector to conceal what he ought never to be ashamed or afraid to avow. Nevertheless, that such is his right has been repeatedly adjudged. Add now to this the protection against self-crimination, by any compulsory admission or confession, and it is palpable that, without just such evidence as is here offered, there must, for the most part, be an utter failure of justice, and the right to purge the ballot-box by a scrutiny be rendered a delusion and a snare. And I beg to repeat here to the House, what I stated to the committee, that so far as the testimony of the voters themselves was procured—and no small part of the evidence in the case consists of it—it was upon a tacit or express pledge or understanding, not binding, certainly, but volunteered, nevertheless, that no prosecutions should be instituted.

Examples such as I have referred to, might be multiplied without number, and the proposition clearly established, that every instance where, in a given class of cases, a failure of justice would otherwise probably occur, courts of even common law, both in England and America, have uniformly departed from the rule—itsself, indeed, but an exception—which excludes hearsay; and thus the oath and cross-examination been obliged to yield to other tests of veracity, where justice and the public interest demand it. It is not enough to say that this common law excludes hearsay evidence. It once excluded all who had an interest in the suit. It shut out the parties to the record; and in other respects it was hemmed in and circumscribed. But one by one, all these limitations have been abrogated, and the whole tendency of courts and Legislatures now is to admit all evidence, and to allow the court or jury to judge of its credibility and its sufficiency, in view of all the surrounding circumstances of each particular case. But in an argument submitted to the committee and printed with the reports, I have discussed this part of the question at full length, and sustained the proposition by numerous citations from the highest authorities; and to that argument I respectfully refer the House.

Such, then, Mr. Speaker, are the rules, decisions, and course of reasoning from them, upon which, even in a court of common law, the admissibility of the declaration here objected to might be maintained. But I propose to ascend now to higher principles; to a more liberal tribunal and more enlarged jurisdiction; to a forum where public rights are investigated, and where the parties are the people. The House, in respect to contested elections, is, as one of the earliest writers upon the subject has observed, "as well a council of State, and court of equity and discretion, as a court of law and justice;" and applies, therefore, the legal rules of evidence rather by analogy and according to their spirit, than with the technical strictness of the ordinary judicial tribunals. Very early in the history of the Government—in 1793—Mr. Smith, of South Carolina, an able lawyer and sound statesman, said, in a contested election, that—

"The House had been told that *hearsay testimony* was unworthy of attention, but he wished to remind them that they were not, like a court of law, restricted to proceed upon regular proof, and not go beyond the letter of it; they were entitled to hear and weigh everything advanced, and to form their opinion from the general conviction arising upon the whole circumstances."—*Cont. Elections*, 80.

And in a controverted election tried in Philadelphia in 1851, under a special statute of Pennsylvania, the learned judge who heard the case said:

"This is a great public inquiry in which the community are most deeply interested, bearing upon and affecting rights and the exercise of them that lie at the basis of our whole Government." * * * "It is not a suit, but a public investigation."

And upon that ground, his colleague concurring, he set aside the common-law rule upon the subject, and admitted the parties to the record to testify. And this same distinction was recognized by the court of Queen's Bench as far back as the reign of Queen Anne. Such a tribunal, then, is not to be circumscribed by the narrow technicalities of the common law. It has its own *cursus curiæ*, its practice and its precedents; and where these are silent, it ascends up to the principles of human nature and the springs of human conduct; to that law which is "the collected wisdom of ages, combining the principles of original justice with the boundless variety of human affairs."

And who, Mr. Speaker, are the parties before this august tribunal? Not the returned member and myself. No; we are but the John Doe and Richard Roe of the record. We claim on demise by the people. Every election and every citizen, nay, each inhabitant of the district, certainly every voter at the election of 1856, is a party. They are the constituency who are here demanding representation in this Hall. It is not the paltry salary, the "provoking gold," nor yet the honor, high though it may be, of a seat upon this floor, to one or the other of us, that gives value and moment to this controversy. It is because the rights of a hundred thousand people are concerned. We are but their agents and attorneys; neither of us is the only or the real party in interest; but every voter and all the voters at the election here controverted are the true parties before your tribunal. And applying now even the ordinary principles of the common law to this testimony, every *voluntary admission or confession*, whether as to qualification or as to vote, by any one having voted at that election, is receivable in evidence. The proposition is too clear for argument.

Upon what principle, then, is this testimony to be rejected? Because it is said to be *hearsay*, and to come without the sanction of *oath and cross-examination*. Sir, however valuable or necessary these tests may be in mere private judicial investigations, if they were to be required in the ordinary affairs of life, neither the political, social, nor business relations of the world, nor even individual existence, could be maintained for a single day. From the first breath we draw in infancy to the last moments of our lives, we are dependent for all, except what lies within the narrow circle of our own vision or experience, upon this self-same hearsay testimony. The whole history of the world, from the creation down to the events of yesterday, is founded upon it. Most of our knowledge of the arts, sciences, geography, astronomy, is derived from it. From the highest and most momentous transactions of the Government down through successive gradations to the most trivial concerns of human life and conduct, we are accustomed to act upon it.

Do you tell me that great empires and States—Persia, Greece, Rome—rose, flourished, and fell hundreds of years ago? That historians, philosophers, statesmen, artists, potent monarchs, and famous poets, lived and died centuries since? How do you know it? Do you believe in the Copernican system of astronomy, and teach your child that the earth turns upon its axis, and revolves round the sun? How do you know that? Do you tell me that many thousand miles off beyond the ocean there lies a vast empire called China, with more than a hundred millions of people? Have you seen it? Did you hear it sworn to? How do you know that Washington lived, or that the Declaration of Independence was adopted by the Continental Congress, or that the siege of Yorktown occurred? Has some old man of a hundred years told you? and did you stop to administer the oath and subject him to a cross-examination? Are you sure to-day that Napoleon is Emperor of France? or Victoria Queen of England? Do you believe that rebellion exists in India? or that the Palmerston Ministry fell the other day from power? Sir, in all these things, as in that which pertains to the world to come, we walk by faith and not by sight; and to discard and cast aside whatsoever does not come to us under the ordinary sanctions of judicial investigation, is to banish all books, to dry up all the fountains of knowledge, to arrest all progress, to subvert all civilization, and to degrade mankind, and each particular man, to the lowest depths of ignorance and scepticism.

Why, sir, the very existence of that rule of the common law which excludes hearsay is proved

or known only by that same kind of evidence itself. It is found in books not written or published under the usual sanctions of forensic courts. It is traditionary—*lex non scripta*—and, like a custom, it is of the very essence of its validity that, in theory at least, it should have existed from a time whereof the memory of man runneth not to the contrary. But I pursue this inquiry no further. My purpose has been solely to meet and repel the notion that this testimony is to be treated only with contempt.

I proceed now, Mr. Speaker, to what will, no doubt, be regarded by the lawyers in the House as of much more importance—I mean the parliamentary and congressional precedents upon this subject. Sir, this is no longer an open question in England. It was settled one hundred and fifty years ago, just as I claim it. It was the ancient practice—it is the modern practice. On a single shelf in your library are twenty-six volumes of reports and treatises on election cases decided in the Parliament of Great Britain during that long period, from 1699 to 1853, presenting an almost unbroken array of authorities in favor of the admissibility of this evidence. By resolution of the House of Commons in the great Grimaby case, in the former year, it was admitted; and again in the Bedfordshire case in 1715, by a vote of ninety-eight to sixty-six; and yet again in the Yorkshire case in 1735, by a vote of one hundred and eighty-one to one hundred and fifty-two, the petitioner was allowed to give in evidence of what a voter confessed of his having no freehold, who, at the election, had sworn that he had. Subsequent to these decisions a new mode of conducting contested elections was instituted by the Grenville act of 1772—a mode continued substantially till to-day. By that act, election committees are made a sort of judicial tribunal, acting under special oath, and deciding the case in secret and by ballot; but before whom counsel, and oftentimes the ablest lawyers of the realm, are heard. Forty-nine members are selected by lot; and from this list, thus chosen, each party strikes a name alternately till thirteen remain. These constitute the committee, and a separate committee is selected in each case. Regular reports, as in courts of common law, have been preserved of the decisions of these committees. I select cases from the earliest, the middle, and the latest of these reports. From the Worcester case, decided in 1776, I read the following:

"The counsel for the sitting members objected, in the beginning of the cause, to the admission of evidence to prove the declarations of voters that they had been bribed, and, therefore, under the bribery act, forfeited the right of suffrage.

"The committee, however, admitted such evidence as against the voters themselves, so as to annul their votes, but not as against the sitting members so as to disqualify them."—*3 Doug. Elec. Cases*, 276.

Again, from the Leominster case, in 1796, I read the following:

"Francis Weaver was objected to by the sitting member for having received parish relief within the year, and thus, as being a pauper, not qualified to vote; and John Gethin was called to prove a confession of Weaver made after the election, that his wife had been relieved by the parish. This was objected to as being subsequent to the election; it being thus implicitly conceded that if made before, it would be admissible. But the committee resolved, 'that the declaration of a voter which tends to destroy his vote, is admissible, whether made before or after the election, unless that declaration goes to affect the voter with penal consequences.'"—*2 Peckw. Elec. Cases*, 296.

But as will presently appear, the distinction here taken by the committee has since been overruled.

Again: from the Ipswich borough case, in 1835, I read the following:

"In this case (Brown's vote) the voter was objected to by the petitioners, on the ground of bribery, and in the course of the investigation, a question was put to the witness who came to prove the declarations of the voter as to his being bribed, what was the purport of the certain conversations he had with the voter relative to a bill. The question having been objected to, and counsel heard on both sides, the committee resolved, 'that evidence of declarations of voters in the admission of bribery, whether before, during, or after the election, is admissible.' The vote was ultimately struck off the poll."—*Knapp & Ombl. Election Cases*, pages 387, 388.

And the same decision was made upon another vote in the same case. And yet again: from the county of Carlow contested election, in 1837, I read the following:

"Mr. Maule objected that declarations of John Nowlan were not evidence against the sitting member. * * *

"Mr. Thesiger, [recently elevated to the Lord High Chancellorship of England,] in reply, said: 'In the Southampton case, it was held that evidence may be given of the

declaration of a person even after voting, though it may tend to affect him with penal consequences; the dividing point was there made at the time of striking the ballot. In the Ripon case, the voter had stated to two persons in the months of June and July, 1832, that he had no vote, and that his aunt was tenant of the house; the election took place in the beginning of 1833, and the declarations were held admissible. A voter who has voted for the sitting member, is always considered as a party, and it is on that ground that his declarations are admissible. The question is always considered to be between the voter and the party questioning his vote, and not merely between the sitting member and the petitioner.' The committee resolved that the evidence be received."—*Falc. & Fitzh. Election Cases*, page 72.

And the same ruling was adopted in two cases in 1842, in 1843, in two cases in 1848, and finally in the St. Alban's case in 1851. And between the first of these decisions in 1699, and the last, seven years ago, I find and refer to the following additional cases also:

[Mr. Vallandigham here read a list of cases which, with the others above cited, and the references, will be found in the appendix to this speech.]

Here then, sir, are thirty-six cases in all, running through a period of one hundred and fifty years, presenting thus an array of authorities scarce ever found on any subject in any court. And besides all these, in the treatises upon this subject by Simeon, Chambers, Male, Rogers, Montague and Neale, Clerk, and Samuel Warren—the last as late as 1853—this evidence is recognized by all as admissible in every case of scrutiny of the poll, or election contested because of illegal votes; and one of the latest of these writers expressly says, that in such cases "the statements of voters are not open to objection as hearsay, as they are looked upon then as parties to the suit."

And so they all say. I find also the same doctrine—though founded upon but a very small part of the authorities to which I have referred, and they the earlier—laid down in a note by the learned reporter, in 3 McCord's South Carolina Reports, 230-233:

"The following heads may be made when declarations (or hearsay) may be given in evidence, namely: "22. The declarations of a voter may be given in evidence to set aside the election; as to diminish the poll by taking an incompetent vote off, or to prove bribery, &c.; but they are not admissible on a charge against the candidate for bribery, &c. They are admitted to annul votes, but not to set aside the election by disqualifying the member on account of his bribery, &c."

Finally, sir, it is recognized and adopted as sound law—though founded again upon but a small part of the authorities I have cited, and they again the earlier, and confined here to but a single class among those cases where it is admitted—in that standard practical treatise upon evidence by Phillips, with Cowen & Hill's notes, more weighty and valuable even than the text. From the third volume, page 322, I read the following:

"7. Another exception to the rule that hearsay is not evidence, has been adopted in summary inquiries into the validity of elections to the Legislature, on complaint that votes were obtained by bribery. The declarations of voters may be received as evidence of the bribery. This is, however, only to annul votes, but not to sustain a charge of bribery against the candidate, with a view to disqualify or affect him, otherwise than by vacating his election."

I trust now, Mr. Speaker, that this long series of adjudications by the Parliament of Great Britain, the high character of the committees, the great men—some of them of historic renown—who have composed these committees, the yet greater lawyers who have practiced before them, and the high authorities by which their rulings have been recognized, are enough, in the judgment of the House, not only to rescue this evidence from the contempt with which it has sometimes been treated, but to establish, beyond all doubt, that it is the right and the duty of the House to receive and act upon it.

I pass now, sir, to the American precedents; and here a new or additional application, in part, of the rule is, in some cases, presented. In England, as in several of the States of this Union, elections are now, as they always have been, *viva voce*. Proof of the declarations of voters as to how they voted can, in such cases, rarely become necessary, and hence the decisions and authorities there, of course, do not often present this application of the rule. But, in every instance where the question has arisen, as in the Windsor case, in 1807, where, by mistake, the poll-lists failed to show for whom the voter challenged had voted, the evidence has been received just as in any other case. And, besides, the nature of the evidence is precisely the same. It is equally hear-

say, if at all. But the voters being parties to the proceeding, any declarations or admissions made by them, pertinent to the issue, are equally admissible; and accordingly the distinction does not appear ever to have been set up.

I have already quoted from the speech of Smith of South Carolina, in 1793, upon this question: I refer also, in brief, to the cases of Kelly and Harris, in 1813; Easton and Scott, in 1816; Reed and Cosden, in 1821; Letcher and Moore, in 1834; in all of which this question was considered, and the evidence, with or without qualification, received; and I find no case where, as to either qualification or vote, it has been wholly rejected, except Newland and Graham, in 1835. But subsequent to this came up the great New Jersey "Broad-Seal case" of 1840, when the direct question, especially as to the vote, was considered, and solemnly decided unanimously by the committee. I read from the report of the majority, as follows:

"Although in numerous instances the voter being examined as a witness, voluntarily disclosed the character of his vote, yet in many cases he either did not appear, or appearing chose to avail himself of his legal right to refuse an answer on that point. In such cases the proof of general representation as to the political character of the voter, and as to the party to which he belonged at the time of the election, has been considered sufficiently demonstrative of the complexion of his vote. Where no such proof was adduced on either side, proof of the declarations of the voter has been received, the date and all the circumstances of such declarations being considered as connecting themselves with the questions of credibility and sufficiency. In every instance where the proofs under all the circumstances were not sufficient to prove conviction, the vote has been left unappropriated."—*House Reports*, 1839-40, No. 541, page 399.

From the report of the minority, page 749, I read the following:

"If an unlawful vote be cast, how are we to ascertain who had the benefit of such vote? It is obvious that in many cases it will be impracticable to obtain positive proof. In some cases the voter may be willing to appear and disclose the fact under oath; in other cases it may be in the power of the party to produce a witness who can swear to the character of the vote given; but in many more no evidence of that description can be obtained to ascertain the fact in controversy. It seems to the undersigned to be indispensable to receive secondary evidence—('substitutionary' they should have said, for it is not secondary in a technical sense, being the confession or admission of a party)—to this point, such as the declaration of the voter, either at the election or soon after, and also proof of his political character, which, when well defined, will be a sufficient guide to the truth. But we ought to be very careful not to receive and act upon evidence of an equivocal character, which may have been created or manufactured for the occasion."

Such, Mr. Speaker, was the solemn and deliberate decision, unanimously, of the ablest and perhaps the most partisan election committee ever appointed—a committee which agreed in scarce anything else—and certainly in the most bitterly contested partisan election case ever brought into the Halls of Congress—a committee numbering among its members John Campbell of South Carolina, Truman Smith of Connecticut, Governor Medill of Ohio, John M. Botts of Virginia, Aaron V. Brown of Tennessee, and Millard Fillmore of New York. And the precedent thus established by them—I say established, for if ever a congressional precedent can be regarded as authority, this is the highest—has been generally approved and acquiesced in ever since. It has never been overruled by either a committee or the House; and never but once—in the last Congress—has a contrary doctrine been suggested, and that in a minority report, and in a case where but one vote was involved; where the question was not discussed; where no authorities, not one, appear to have been examined; and where also, as to that single vote, there was hearsay upon hearsay offered as proof. But, upon the other hand, this New Jersey precedent was distinctly approved by the minority of the committee, in Farlee and Runk in 1846, and Munroe and Jackson in 1848; and in neither case questioned by the majority.

I come now, Mr. Speaker, to the second point which I proposed to discuss. Sixteen "mulattoes and persons of color" are proved to have voted at the election here controverted. The report of the gentleman from Mississippi [Mr. LAMAR] finds that fifteen of these persons (one being left unappropriated) voted for the returned member, and deducts them from his poll. The separate report of the gentleman from Illinois, [Mr. HARRIS,] upon the ground of alleged want of evidence as to the others, deducts only one; while the other adverse report, by the member from North Carolina, silently refuses to deduct any of these sixteen. It ignores the whole question of colored voters, assigning no reason for the refusal to de-

duct them from the poll of the returned member. But the argument submitted in his behalf before the committee, and printed with and expressly made a part of that report, places it partly upon the ground that these persons of color were qualified electors of Ohio, and partly because of the alleged insufficiency and incompetency of the evidence. The proof as to one of these mulattoes is direct: as to four others it consists of their declarations or admissions; as to all, it is circumstantial, also. The evidence is summed up in the report which I have first referred to, and is there shown to be just such as is recognized by all the precedents and authorities, and has been repeatedly received and acted on by committees and the House. I shall not discuss it. If, after having duly considered all the several facts and circumstances thus summed up in that report, any member of the House can conscientiously say in his heart that he is not satisfied that these mulattoes and persons of color voted for the returned member, let him vote accordingly. One circumstance only I will allude to—a fact disclosed in the testimony. In the third ward of Dayton there was carried to the polls, and placed upon the table where the ballots were being received, an old man of ninety—an imbecile, slaving in idiocy, the wreck of a once intelligent and most respectable citizen, with eyes wandering in vacancy, without power of mind, without power of limb—almost without power of speech—with more than the weakness every way of earliest infancy, he is not able to recognize even the friends whom he has known for twenty years—he sees nothing, hears nothing, knows nothing; but he was one of the old liberty guard, an original Free-Soiler. And he is at last asked: Do not you want to vote against slavery? Do not you want to vote an *anti-slavery* ticket? A dim and shadowy recollection of the past stirs his brain, a glimmer of light breaks in upon the silent and deserted chambers of his mind. He answers "yes;" and a *Republican ticket*, with the name of the returned member upon it, is placed in his palsied hand, and the arm moved towards the judge of election, who receives and puts the ballot in the box, exclaiming just afterwards: "I ought not to have taken that vote." Such, sir, was the spirit of the canvass of 1856. And what was the slavery against which he was asked to vote? *The enslavement of the African race*, which we of the North, who profess the Democratic faith, are continually charged with seeking to extend. And yet, am I now to be told, and by those, too, in defense of whose just constitutional rights, the political highways of the North are this day strewn every furlong with the victims of fanaticism, that those of the African race who voted at that same election are not *sufficiently* proved to have voted for the candidate of the *Republican party*, whose professed mission is perpetual warfare against those "twin relics of barbarism, polygamy and slavery."

Were these mulattoes and persons of color, qualified electors of Ohio? That, sir, depends upon the constitution and laws of the State. I do not purpose now to discuss the question whether a State can confer the right of suffrage as to elections to this House, upon any but citizens of the United States. Fourteen years ago, a committee of elections unanimously decided, and were by a unanimous vote of this House sustained in it, that the naturalization laws of Virginia could not, or did not, confer that right. But it is enough to know that Ohio has chosen to make *citizenship of the United States* a qualification for her electors. The language of the constitution of 1851, is: "Every *white* male citizen of the United States." Two qualifications are here prescribed—color and citizenship of the United States. Were these mulattoes and persons of color "*white*," within the meaning of the constitution? That, sir, is a term which has an established signification in constitutional language. It needs no gloss; it has no synonym; it admits of no definition. It means *white—pure white*; and not any shade or any variety of shades between white and black. Such it is in philology and in the arts. White and black are the two between which there is a large variety of colors. No artist ever confounds these terms; no man in ordinary conversation confounds them. He may speak of a dark blue, or a light brown, or of a bright yellow; but never of a dark white, or a light black.

But the term "white," in constitutions, is a

designation of race rather than color; and it is used in this country to distinguish primarily between the African race and all others—between a servile race and races which are free. Strictly, indeed, it may refer to the several varieties of the Caucasian race. But in constitutions, and in popular language in the United States, it is a word of exclusion against the whole negro race in every degree. Whoever has a distinct and visible admixture of the blood of that race, is not white; and it is an utter confusion of language to call him white. Sir, it is a question of vision, of autopsy, it is to be resolved upon actual view and by personal inspection rather than by pedigree. And the Almighty has marked the distinguishing characteristics of the race so strong, he has furrowed them so deep, that they are not eradicated in several generations. The constitution of North Carolina has fixed the degree at the sixteenth; and this corresponds, in fact, with the rule adopted generally by courts, North and South, that a distinct and visible admixture of negro blood, without reference to the exact proportions, degrades to the class of persons of color. I am aware, sir, that in Ohio a different rule was once declared: a mere predominance of white blood was held to make a man white. Sir, it would be easy to prove, as indeed in the unanswerable argument by the counsel for the contestant, it was proved before the committee, that this decision was never regarded as binding authority, even in Ohio: that it was absurd in terms and contrary to the whole course of legislation and adjudication in the United States and the several States; and above all, that no court of Ohio, or any other State, can bind this House by an interpretation of the term "white," a word of ancient and continual use in the constitutions, laws, and judicial decisions of nearly every State, and in the legislative and executive acts of the Federal Government, for a long series of years, down even down to the last month. But it is enough, and more than enough for my purpose, that *since that decision a new constitution* has been adopted in Ohio, prescribing *citizenship of the United States*, as a new and additional qualification for her electors, and that the Supreme Court of the United States has decided that men of the African race are not citizens of the United States.

Sir, as a State-rights man, I do not affirm that that decision is absolutely conclusive upon this House, or upon Executives, outside of the ordinary judicial proceedings, or upon the country. I was taught to deny that the Supreme Court is the final and absolute interpreter of the Constitution. Nevertheless, that tribunal, and the judges who compose it, are entitled to the highest respect; and their decisions upon any subject are very persuasive evidence of what the Constitution means, and what the law of the land is in any court, and before every department of the Government. And in this particular case, so far, at least, as the question now before the House is involved, they have but affirmed the almost universal understanding of every one—lawyer, judge, statesman, and layman—from the beginning of the Government. In the constitutions and legislation of the States, and the judicial decisions and executive acts of the States; in the legislative and executive acts of the Federal Government, the African has, from the first, been treated and dealt with, every way, as an inferior, degraded, and outcast race. No man dreamed that he had any part or lot in the Government; and that, too, even where there were no words of direct exclusion.

Fifty years after this Government was organized, the supreme court of Pennsylvania resolved that persons of color were not qualified electors of that Commonwealth, although her constitution did not, in express terms, confine the right of suffrage to those who were white. And about the same time Connecticut, through her highest tribunal, anticipated the Dred Scott decision by a quarter of a century.

But I will not reargue the case. It stands today the law of the land; and, so far at least as the question now before the House is concerned, it enunciates the sentiment of a vast majority of the people of this country.

But it has been said that the judgment of the Supreme Court denying citizenship to Africans and their descendants is not applicable here, because those of that race who voted at the election were *nearer white than black*, and therefore not within the Dred Scott decision.

To this I might well answer that there is no proof, except as to one, of the shade of color or proportion of blood; that they are *all* described by every witness as "mulattoes and persons of color"—men "of mixed negro blood," with a "distinct and visible admixture of negro blood," and so admitted to be by the judges of election; and that, if there be any such distinction or exception, the testimony must show affirmatively that they are within it. But I take broader ground. I deny that any such absurd distinction is recognized, or even intimated, in the letter or the spirit of the decision. In the judgment of the court, and in the several opinions of the judges, McLean and Curtis included, the whole race is spoken of interchangeably throughout, and described as "negroes," "mulattoes," "persons of color," "Africans and their descendants"—men "of African descent," without once, anywhere, in any single line or syllable, so much as an allusion to any such distinction. The entire race is continually put in contrast with the white race named in the Articles of Confederation, in the naturalization laws, in the constitution and laws of nearly all the States of the Union. The court followed but the legislation, the jurisprudence, and the common understanding of the whole country. Sir, when Massachusetts—I mean antediluvian Massachusetts—Massachusetts in the egg—in 1705 enacted a law "for the better preventing of a spurious and mixed issue," providing, among other things, that if any "negro or mulatto should presume to smite or strike any person of the English or other *Christian* nations," such presuming African should be "severely whipped" at the discretion of the justice before whom convicted, did it ever occur to any of the Dogberrys of that age that the spurious and mixed quadroon and mustee, Ethiopian visibly all over, was yet not included in the act because nearer white than black? No, sir; that refinement in constitutional jurisprudence was reserved to their descendants a hundred years later in northern Ohio.

Again, the several naturalization laws of the United States provide only for the admission of *white* aliens to citizenship. I ask now, may your courts under those laws naturalize the quadroons mustees, the bright mulattoes of Hayti? Sir, some of you "Americans" think it quite enough to naturalize the Irish and German emigrants who land upon our shores; and are you prepared now to extend the rights of American citizenship, by a liberal interpretation of the word "white," to the "spurious and mixed" subjects of Faustin Solouque, and send them to fill up your Territories under new and improved emigrant aid societies in New England?

Again, the several acts of Congress abolishing the slave trade forbid the traffic in "negroes, mulattoes, and persons of color." Are the Representatives of New England willing that the mixed and spurious colored population, slave or free, of Brazil, shall be made the subject of the "traffic in human flesh," under the pretext that they are nearer white than black? Would a northern judge, or a southern judge, or any judge, discharge a prisoner indicted under these acts upon this miserable subterfuge? Again, is this same spurious and mongrel population to gain admission under this pretense, from any quarter, into these States of the Northwest, whose constitutions forbid residence to persons of color within their limits? Or do your Masonic lodges, in refusing membership to men of the African race in that ancient and accepted brotherhood, recognize a distinction or exception in favor of those of that race who are "more than half white?" Then why, I ask, shall it be set up or tolerated only at the *BALLOT-BOX*, that peculiar institution of the *FREE WHITE MEN* of this country? Sir, even Ohio has begun to retrace her policy; she has changed her constitution, and two years ago passed a law defining the term "persons of color" to mean those who, "in whole or in part," are of the African blood.

Finally, sir, if these sixteen mulattoes and persons of color are white male citizens of the United States, because they are nearer white than black, then they are eligible to membership of this House, and to sit upon this floor as your peers. Sir, the time may yet come when they shall meet you here at the threshold clad in "the shadowed livery of the burnished sun," but without so much as the modesty of "mislike me not for my com-

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plexion," without even the offer of the Prince of Morocco to "make incision for these seats, to prove whose blood is reddest;" but with rude boldness dash in, demanding their rights in this Hall. Are you prepared for that? Sir, you have already been threatened with Fred Douglas, whiter than the lightest of these sixteen; and in his person, in a little while longer, you may have to meet this question again.

But it has been said that the decision of the Supreme Court applies only to those persons of color whose ancestors were imported into this country and sold as slaves; and that it is not made to appear affirmatively in the testimony that these mulattoes and persons of color who voted were descended from such ancestry. Very true, sir; the plea in abatement upon which the issue was made up averred that Dred Scott was descended of African ancestors thus imported and sold; and the letter of the decision, of course, conforms to it. But, in absence of proof to the contrary, the court might well have assumed the fact as a part of the public history of the country, and of the world, which needed not to be proved. But be that as it may, this House, in a matter pertaining to its own peculiar jurisdiction, and in the exercise of its high powers as a part of this Government, has a right, and is bound to take notice of the great public facts in its history. Now, does not every man know, as a part of that history, that no African of the negro race ever came to America by voluntary emigration? So said the Supreme Court. I quote from the opinion by the Chief Justice, page 411:

"No one of that race had ever migrated to the United States voluntarily; all of them had been brought here as articles of merchandise.

"And even since the abolition of the slave trade, none have ever come of their own accord or as freemen."

England and France indeed, have both pretended to open up facilities for a free emigration from Africa. And with what result? At the bar of public opinion in each country—before the great forum of the world, they stand condemned as restorers of the slave trade in disguise. The miserable juggle has been exposed. On the 11th of December last Lord Clarendon said in debate on this subject, that "there could be no such thing as a free emigration from Africa, and that the plan had utterly and entirely failed." And the Earl of Derby, now Prime Minister, in the same debate denounced the scheme as identical in substance, if not in form, with the slave trade itself; and in this sentiment Earl Grey concurred. And later still, on the 16th of March last, Lord Brougham and the Earl of Malmesbury, both declared in debate that it was impossible to regard the scheme of a free emigration of negroes in any other light than as an indirect revival of the slave trade.

But, apart from all this, the reason of the rule applies equally to all of the African race, no matter when they may have come to our shores. No negro emigrant could be naturalized. It is not alone his descent from slaves in this country that degrades him in the scale of social and political being. It is his color and his blood. It is because he is the descendant of a servile and degraded race almost from the beginning of time. The curse of Ham pursues him in every age, and all over the globe. Bayard Taylor—no apologist for slavery—speaks but the testimony of history when he writes from Nubia, in Upper Egypt, that—

"The only negro features represented in Egyptian sculpture are those of slaves and captives taken in Ethiopian wars of the Pharaohs; and that the temples and pyramids throughout Nubia, as far as Dares and Abyssinia, all bear the hieroglyphy of monarchs; and that there is no evidence in all the valley of the Nile, that the negro race ever attained a higher degree of civilization than is at present exhibited in Congo and Ashantee."

Sir, no wise people will ever in any manner encourage the attempt to elevate such a race to social or political equality. And if the question of law were here doubtful, I might well demand that, upon these high motives of public policy, the doubt should be resolved against the race. Above all I would urge these great considerations now and in

future, against this same spurious mongrel issue, in whose behalf a relaxation of this policy is demanded. Look to Spanish America. Look at Mexico. The blood of the conquerors was lost in the veins of inferior and outcast races, and Mexico has no people to-day. With no tyrant strong enough to bind her down, and no yeomanry fit for free government, she is the sport of faction, and the prey of anarchy and bloodshed; and today the spirit of the murdered Guatemozin, wandering three centuries through the halls of the Montezumas, gluts itself with revenge.

Sir, it is this same spurious and mongrel race who constitute your "free negroes," North and South. They will not be slaves, and they are not fit for freemen. And when this Government shall have been broken up, and the fanaticism of the age shall have culminated in the North in Red Republicanism and negro equality, and the South shall have driven out her free negroes upon you, and you shall have stolen away her slaves, then your troubles with this race, which already has plagued America for a century, will but have begun. They are your petty thieves now; they rob your larders and your sheep-cotes; they do fill up your penitentiaries, and they would fill up your hospitals and your almshouses, if you would let them. Then they will be your highwaymen; your banditti; they will make up your mobs. With just enough of intelligence, derived from a white ancestry, to know, and enough of brutishness, inherited from the old African stock, to avenge, in any form, the ignominy and degradation of four thousand years; with fetish ideas of religion and fanatic notions of politics, they are the *sans culottes*, who, led on by the worst of white men, will make your revolutions and overturn your governments. Such things have already occurred in history. They are not the baseless fabrics of a vision. No wonder the States of the Northwest have begun to erect constitutional barriers stronger than ever against a negro population. In all this there is eminent wisdom and a statesmanlike foresight.

But I have no time to pursue this subject further. I thank the House now for the courtesy and attention with which they have heard me throughout, and regret only that I have been obliged to appear, for the first time in this Hall, in the character of a contestant.

[APPENDIX.]

The following is a list of the English cases cited by Mr. Vallandigham, in support of the admissibility of the declarations or admissions of voters in evidence. Some are confined to cases of scrutiny, where all the authorities, without exception, concede that they are to be received; other cases go further still; a few of the cases limit the rule to admissions before or at the election; but this distinction is generally denied, and the weight of authority is strongly against it. Some of the cases treat the evidence as exceptional hearsay; but, in a large majority of them, its admissibility is put upon the ground that the voters are parties to the proceeding, and that therefore the evidence is original and not secondary; and, also, not hearsay at all. But whether put upon the one ground or the other, it has never been deemed necessary to first call the voters themselves as witnesses.

Great Grimsby.....	1699,	cited Mont. and N. on elec.	188
Bedfordshire.....	1715,	" Male on Elec. 267, and 2	
		Doug. Elec. cases, 315, note.	
Yorkshire.....	1735,	Monting. and N.....	188
Milborne Port.....	1775,	1 Doug. Election cases.....	134
Shaftsbury.....	1775,	2 " " " " " " " "	308
Petersfield.....	1775,	3 " " " " " " " "	11
Ilchester.....	1775,	3 " " " " " " " "	158
Worcester.....	1776,	3 " " " " " " " "	276
Milborne Port.....	1780,	Phillips " " " " " " " "	247, 249,
			250
Shaftsbury.....	1781,	cited 3 Luder's Elec. cases.....	112
Cricklade.....	1785,	cited 2 " " " " " " " "	411
Seaford.....	1785,	2 " " " " " " " "	112
Oakhampton.....	1791,	1 Frazer's " " " " " " " "	173
Leominster.....	1791,	2 Peckw. " " " " " " " "	385
Cirencester.....	1803,	cited Mont and N.....	188
Ilchester.....	1803,	1 Peckw. Election cases.....	304
Middlesex.....	1804,	2 " " " " " " " "	141
Weymouth.....	1804,	2 " " " " " " " "	228
Shrewsbury.....	1807,	cited Chamb. Law and Pr.....	187
Weymouth.....	1807,	" " " " " " " "	187

Maidstone.....	1807,	cited Chamb. Law and Pr.....	187
Maldon.....	1807,	" " " " " " " "	187
Windsor.....	1807,	" " " " " " " "	187
Monmouth.....	1831,	cited Falc. and Fitz, Election cases.....	72
Southampton.....	1833,	P. and K. Elec. cases 213, and 1 C. and R. Elec. cases.....	118
Ripon.....	1833,	P. and K. Election cases.....	210
Petersfield.....	1833,	" " " " " " " "	49
Galway county.....	1833,	" " " " " " " "	536
Ipswich Borough.....	1835,	K. and Omb. Elec. cases 387, 388	
Carlisle county.....	1837,	Falc. and Fitz. Elec. cases.....	72
Second Nottingham.....	1842,	1 Bar. and Arm. Elec. cases 195	
Wigan.....	1842,	Barr. and Aust.....	143
Sudbury.....	1843,	2 Barr. and Aust.....	245
Second Horsham.....	1848,	cited Clerk on Elections.....	250
Lyme Regis.....	1848,	" " " " " " " "	111
St. Alban's.....	1851,	" " " " " " " "	112

In the Seaford case, 1785, 3 Luder's, 112, and the Shaftsbury case, 1781, there cited, the declarations were rejected where the voters had taken the bribery-oath at the polls; but this distinction is against principle, and has not been recognized in any of the treatises upon the subject, and the direct contrary has been decided in every other case where the point has been made. (See Shaftsbury, 2 Dougl., page 308; Ilchester, 1803, 1 Peck., page 304; and Rogers, page 127.)

The following extracts, from the treatises cited, are added:

"Committees consider the voters as a party in the cause to all intents, while his own vote is under discussion; and, upon this principle, if he has possession of a writing which the party challenging desires to inspect, notice to produce must be served on him."—See Rogers on the Law and Practice of Election Committees, page 99.

"Notwithstanding some decisions to the contrary, it seems to be the better opinion that what a voter says of his own right to vote is an exception to this rule, (as to hearsay,) if being considered as an admission by a party in the cause; for though not a party to the record, yet, when his own vote is in issue, he is considered substantially interested."

"The modern cases have uniformly decided that the declarations of a voter against his own vote are to be received, considering them as the admissions of a party to the record; and, indeed, in a scrutiny, each case is to be considered as a separate cause, in which the party supporting the vote, and the voter whose vote is under discussion, are the parties on the one side, and the opposers of the vote on the other."—*Ibid.*, pages 126, 128.

The foregoing is adopted almost *verbatim* in Montague and Neale on the Laws and Practice of Parliamentary Elections, page 188.

"The statements of voters, in cases of scrutiny, are not open to objection as being hearsay, as they are looked upon then as parties to the suit."—Clark on the Law and Practice of Election Committees, page 250.

"In point of fact, a scrutiny is, as it has been regarded almost uniformly by committees, as to each vote, a cause, in which the supporters of the vote and the voter are the 'parties' on the one side, and the opposers of the vote are the 'parties' on the other. On this principle it was that the voter's own testimony was held inadmissible in support of his vote, while it was, and is, evidence against it, as an admission against his interest."—Warren on Election Committees, 586, citing Taylor on Evid. sec. 536.

Two things are to be borne in mind in considering the English cases and authorities upon this subject: First, the admissibility of the declarations of voters is not confined to cases of bribery, but extends to every other disqualification; and in a majority of the thirty-six cases above cited, other disqualifications were alleged, concerning which the declarations were received. Second, the evidence is not properly hearsay at all—being the admission or confession of a party to the proceedings.]

Mr. WILSON. I understand, Mr. Speaker, that it is the wish of the chairman of the Committee of Elections that the debate in this contested-election case shall close to-day. I will not detain the House for any great length of time, but will simply state the reasons which induced me to cast my vote in committee, and will induce me to cast my vote in the House, in favor of retaining the sitting member in his seat. The contestant, who has just addressed the House, (Mr. Vallandigham,) stated at the outset of his remarks that he should not deal with the facts in the case. Mr. Speaker, I shall not imitate the gentleman. I intend to deal with the facts and the law, and govern myself accordingly.

The election in the third congressional district of Ohio was an exciting one—as much so, perhaps, as any election that ever occurred in the Union. The contestant had warm, zealous, act-

ive friends, and, no doubt, deserved them. So, also, had the sitting member. The election closed. The vote was announced, and Mr. Campbell was declared elected by a majority of nineteen. Shortly after the election was determined, Mr. Campbell, as a member of Congress, was required to leave home to attend to his duties here in this House. He came, and discharged the onerous and responsible duties of chairman of the Committee of Ways and Means, I believe even to the satisfaction of the party opposed to him, leaving his competitor, the contestant, unopposed for at least four months to go through the three counties composing the third congressional district for the purpose of producing a long chain of evidence that could affect the election. So the case stood until the assembling of the present Congress.

When Congress assembled, an application was presented by the sitting member, on account of reasons which were satisfactory, at least, to a minority of the committee, for additional time to take evidence in his case. That application was presented to the House. By a decided vote, it was refused. By that vote the Committee of Elections were instructed that they should determine the case as between the parties to the contest upon the evidence taken within sixty days, under the law of 1851. I thought at the time that that decision was wrong and oppressive. I think so still; but I do not intend to discuss that question now. It is sufficient for us to know that the House, by its vote, said to the Committee of Elections, "you must determine the facts as between these parties upon the evidence taken within sixty days, under the law of 1851." Shortly afterwards, at one of the first meetings of the committee, a resolution was introduced, carrying out the decision of the House in regard to testimony and additional time. The committee considered that they were restricted as to the evidence. The House had refused to allow the sitting member to return to Ohio, and take additional testimony. The committee, therefore, were to determine the case upon that already taken. At this meeting to which I have referred, the following resolution was unanimously adopted. If I am wrong, I can be corrected:

"Whereas the House has declined to give the parties leave to take further testimony—

Resolved, That the committee proceed to make up the result of the election on the testimony filed, regularly taken within the sixty days, except where the parties agreed that testimony otherwise taken may be read."

Here then, all agree, the Committee of Elections agree, all political parties agree, that the case should be decided upon the evidence taken within sixty days, under the law of 1851, and that all other evidence should be excluded from consideration. This course was followed by the committee in the adoption of the resolution just read. The contestant had his evidence before the committee. The sitting member had his evidence only partially before the committee, and we were to make out our decisions upon that evidence as presented, and none other.

But, sir, when the committee came to make up that decision, there was not a single particle of evidence; and there is not now, in all the evidence, one witness who testifies as to any majority of the sitting member. There is no evidence on the part of the contestant showing what the vote was on either side. There is no evidence as to the majority of the sitting member. It is said that Campbell's majority was nineteen. Where is the evidence of the fact? There was none before the committee; there is none before this House; and I have just as much right to assume that the majority was nineteen hundred as the contestant or his friends have to assume that it was nineteen. Here is the evidence of perhaps one hundred witnesses, and not one has testified as to the vote given either for Mr. Campbell or Mr. Vallandigham in the third congressional district of Ohio. Not one witness testifies as to what the majority of the sitting member was, or whether he had a majority of thousands.

Early in the month of December last, an abstract was brought into this House, and referred to the Committee of Elections, which purports to be an abstract of the votes returned in the third congressional district to the Secretary of State of Ohio. It has been offered in evidence in this case. But is it evidence, either under the law of 1851, or the resolution of the committee? When was it filed? Was it filed within the sixty days? Is

it a part of the testimony of Mr. Vallandigham? Is it a part of the testimony of Mr. Campbell? By no means—of neither; for how can this be considered as evidence proper in the case, when it was received and filed, as is the fact, more than one hundred days after the time required by the vote of this House and the resolution of the Committee of Elections, under the law of 1851, and more than nine months after the election took place? I ask you, again, how that assumed abstract came here? Who brought it? By what right is it here to-day? By what authority was it filed with the Clerk of the House? What legal officer sent it here? None whatever. No legal officer ever presented any abstract to this House of that character, or filed any such with the Clerk. Who, then, ordered it to be sent to the Committee of Elections? Who has made that a paper which shall govern and determine this case? There is no legal mode by which such testimony, in such form, could have been brought before the Committee of Elections. I say the legal mode has not been adopted in this case.

Now, sir, twenty days after the assembling of Congress, and nine months after the election had been held, this manufacture for evidence was presented, upon which we are called to determine which party is entitled to sit in this House as the Representative from the third congressional district of the State of Ohio, notwithstanding the imperative rule, which was deliberately adopted, that all testimony produced after sixty days should be rejected. Now, if you are prepared to make this rule, as a procrustean bed to be extended or contracted, let it so be understood, and then it will be known that laws and resolutions here made may be enforced or disregarded, as shall best subserve party ends and party purposes.

But it is said that this is not the character of testimony which was intended to be excluded by the rule and the law of 1851; and that, therefore, the contestant had a right to produce it. Why is it not? It is an official act. It is an official paper. It is evidence, and must be produced precisely as any other evidence in this case. Am I right or wrong? There was a proper way by which to have got this assumed abstract before the Committee of Elections. Let us see how. Section eight, of the law of 1837, prescribes as follows:

"Sec. 8. *And be it further enacted*, That the said magistrate shall have power to require the production of papers; and on the refusal or neglect of any person to produce and deliver up any paper or papers in his possession, pertaining to said election, or to produce and deliver up certified or sworn copies of the same, in case they may be official papers, he shall be liable to all the penalties prescribed in the fifth section of this act; and all papers thus produced, and all certified or sworn copies of official papers, shall be transmitted by said magistrate, with the testimony of witnesses, to the Clerk of the House of Representatives."

Here is the manner in which official papers can be produced. Their production can be compelled. The Secretary of State of Ohio could be compelled to produce them. What then? They must be transmitted—by whom? By the contestant? By any individual of the third congressional district of Ohio? No! but by the magistrate or other sworn officer, with the testimony of the witnesses to the Clerk of the House of Representatives. And when is that testimony to be forwarded? Immediately. Not nine months after the election. But this assumed abstract did not come here with the testimony of witnesses. It did not come here by the act of a magistrate. It came here as a vagrant. It comes here by itself. It is a waif, without owner or indorser; and still we are called upon to regard it as legitimate after nine months have elapsed, and to decide this case upon it, unauthorized and legally worthless as it is.

Again, Mr. Speaker, I deny wholly that this assumed abstract, even if it were authorized and came here legitimately, would be the best evidence of what was the vote cast in the third congressional district of Ohio. The best evidence would be the poll books. That would be the best evidence, and this other would be and could be regarded only as secondary evidence, viewed in the very best light. Therefore, I say at this point, here is a difficulty insurmountable by the contestant. So much, then, for that point.

I wish now to call the attention of the House to another point, and that is as to the notice and the grounds of the contest in this case. I wish to call the attention of the members of the opposite side of the House to the fact that, with the exception of two specifications, the whole notice of contest

on the part of the contestant is vague, indefinite, and uncertain, and does not even require an answer on the part of the sitting member. In regard to that, I am not confined to my own statement. I will bring testimony which should be recognized at least on the other side of the House. I refer to the case of Archer and Allen, in the last Congress.

The contestant said in reference to that case that the minority did not seem to look at the authorities. That, at least, was not complimentary to the honorable gentleman from Illinois, [Mr. HARRIS,] and the honorable gentleman from Georgia, [Mr. STEPHENS,] and those who were of that minority. Let us look at the notice. Here are nineteen specifications. I say that each and every one of them, except two, is vague, indefinite, and uncertain. I will read one or two of them:

"2. That, in counting out, sundry ballots were counted by the judges of election for you which should have been rejected."

"3. That sundry persons were permitted to vote for you in townships and wards of which they were not legal residents."

What persons? "Sundry" persons. Where do they live? Have they "a local habitation and a name?" Are they John Doe and Richard Roe? Who are these parties—these sundry persons? From what townships in the third congressional district of Ohio do they hail? Was it in Montgomery, Butler, or Preble, that they voted? You will see that the law of 1851 provides as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, whenever any person shall intend to contest an election of any member of the House of Representatives of the United States, he shall, within thirty days after the result of such election shall have been determined by the officer or board of canvassers authorized by law to determine the same, give notice, in writing, to the member whose seat he designs to contest, of his intention to contest the same, and, in such notice, shall specify, particularly, the grounds upon which he relies in the contest."

Now, sir, permit me, for one moment, to read the statement made by the minority of the committee, in the case of Archer and Allen referred to, which is directly in point. Mr. HARRIS, of Illinois, says:

"It is true that a notice that the sitting member's seat would be contested was served upon him within the time required by law; but it is equally true that the notice did not contain any of the specifications which the law requires. It is also true that the contestant, when he gave that notice, did not know how he was to contest it, or upon what particular grounds; or, if he did, he was guilty of disingenuousness in not specifying them, as the law, as every sense of fairness, required him to do. But, from the testimony, we are left without a doubt that when he gave the notice he did not know how, or upon what points, he was to make the contest. In his notice, therefore, he dealt only in generalities. He constructed a drag-net notice, by which he could include everything which chance or circumstances might reveal."

Here is another drag-net, identical with that in the case of Archer and Allen. I have here, also, what was said by the honorable gentleman from Georgia, [Mr. STEPHENS,] and I would like to know from him, now and here, whether he will stand by his own report, made in that case of Archer and Allen, or not?

Mr. TRIPPE. The point the gentleman makes is, that the notice made no specification of fraudulent votes. I will ask him whether the ten days' notice of witnesses gave any such specification of fraudulent votes?

Mr. WILSON. It did not. Here are nineteen specifications, and, except two, all are of the same character. Mark another of them. It is as follows:

"That sundry persons, not legal residents or electors of Montgomery county, were permitted to vote for you in said county, while sundry others, legal residents and electors thereof, who offered to vote for me, were illegally rejected."

What are the names of those persons, and where did they live? In which one of these three counties did these alleged illegal electors live? Did they live within the State, even? How could the sitting member know who were to be brought forward and examined? Had he not a right to know the names of the persons whose votes were to be contested? Most certainly he had. Yet nowhere, except in the sixteenth and eleventh specifications, are there any names mentioned at all.

In Ohio, as in Indiana, I presume, there are about eleven townships in each county. The voter is required to vote in his county and in the township in which he resides. In what township in Montgomery county did those persons reside? This indefiniteness runs all through these seventeen of the nineteen specifications. I hold

that the honorable gentlemen who made the report in the case of *Archer vs. Allen*, and gave their opinion then in regard to the particularity with which names should be set forth, should apply the same rule in this case. If that was good law, good reason, and justice then, it is not less so now. I ask that they shall govern their action by the same reasons now, and by the same kind of evidence in this case; and I feel satisfied that some of them will.

It is not necessary that I should read from that case further. I simply read from the report in that case, in order to show what should be set forth in the notice of the contestant. But this is not the only authority.

In the points of the sitting member submitted to the committee, further and particular reference is made to the case of *Joseph B. Varnum*, in the Fourth Congress. In that case the Committee of Elections—

"Prayed the instructions of the House as to the kind of specification that shall be demanded of the petitioners;" and the House, after full discussion, "resolved that the allegation [that five votes were received and certified by the presiding officers which were given by persons by law not qualified to vote at said meeting] is not sufficiently certain, and that the names of the persons objected to for want of sufficient qualifications ought to be set forth prior to the taking of the testimony."

So in these specifications the names ought to be set forth in each one; but in no specification of the contestant, except in the eleventh and sixteenth, are any names set forth at all.

But again I refer the House to the case of *Easton vs. Scott*, Contested Election Cases, page 272, where it was decided:

"That if voters were objected to on account of the want of legal qualifications the party excepting to them should, before taking, give notice to his adversary of the particular qualifications in which they are deficient, and that a general averment in the notice that the voters are illegal is not sufficient, and the names of persons excepted to must also be stated."

Apply these rulings to the present case, and the sitting member has nothing to fear, because they would sweep away every single specification except two; and I shall now direct the attention of the House to those two. First as to the eleventh:

"That, in the second ward of the city of Dayton, John B. Chapman, one of the councilmen of said city for said ward, declined to serve as a judge of said election, and of his own authority, and without any choice, *visa voce* or otherwise, by the electors present, appointed Stith M. Sullivan to act as judge of election in his place; objection to his (said Chapman's) right to appoint being at the time made by electors present."

The objection of the contestant is this: that the judge of the election in the second ward of the city of Dayton was improperly appointed; that he was not selected by the electors present; and that objection was made as to the manner of the appointment by the persons present at the polls. But is that the case? Not at all. On the contrary the evidence of Thomas H. Phillips and Stith M. Sullivan proves conclusively that Sullivan was the choice of all present for judge of the election; that no objection was made to the mode of his appointment; that the contestant himself was present, and acquiesced in the whole proceeding; that the election was fairly conducted; that no voter was prevented from voting; that all parties went to the polls and voted; and that all the requirements of the law were fulfilled. In proof of this I will read from the evidence of Phillips and Sullivan:

"Examination of Thomas H. Phillips.

"Question 27. Was there any one among the bystanders who objected to Sullivan as judge of the election on that day?"

"Answer. No objection made.

"Question 28. Was Clement L. Vallandigham there when Sullivan arrived, or at any other time during the morning before Sullivan arrived?"

"Answer. I think he was there all the time.

"Question 29. Did he seem to desire that Sullivan should serve as judge on that day?"

"Answer. He made no objection to me. I paused to see if any objection would be made, and then swore Sullivan in."

"Examination of S. M. Sullivan.

"Question 9. What occurred on the morning of the 14th day of October last, on your arrival at the polls in the second ward? State fully.

"Answer. When I arrived at the polls several voices cried out, 'Here he comes; swear him in, so that the polls may be opened!' There was not to exceed ten persons present, and I thought all desired me to act as judge.

"Question 10. Was any objection made to you by any of the bystanders?"

"Answer. None whatever.

"Question 12. Was the outcry, of which you speak, made by those who were waiting at the polls to vote; and if so,

did they generally join in the outcry of, 'Here he comes; swear him in,' &c?"

"Answer. It was from the bystanders; and it was general from all present.

"Question 13. Were the duties of the judges and clerks of the election then and there discharged faithfully and impartially?"

"Answer. They were."

Now apply the rule of law to this evidence, and I think that no member of this House can for a moment doubt the legality of the election in the second ward of Dayton. First, I refer the House to the case of the *People vs. Cook*, 14th Barb. R., page 245:

"It becomes important, in this case, to determine whether the objections, which are taken to the inspectors of elections in the several cases presented in this bill of exceptions, are of that character which should be held to invalidate the canvass in these several localities. These objections are of a twofold character, extending to the regularity or legality of their appointments, and of their omission to qualify, by taking the proper oath of office. I will not stop to inquire whether these inspectors, in these several cases, were inspectors *de jure* or not. It is sufficient that they were inspectors *de facto*. They came into office by color of title, and that is sufficient to constitute them officers *de facto*. The rule is well settled, by a long series of adjudications, both in England and this country, that acts done by those who are officers *de facto*, are good and valid, as regards the public and third persons who have an interest in their acts, and the rule has been applied to acts judicial, as well as ministerial, in their character. This doctrine has been held and applied to almost every conceivable case. It cannot be profitable to enter into any extended discussion of the cases. The principle has become endless in which the rule has been applied."

And so here the law will not stop to inquire whether Sullivan was judge *de jure*. If he had color of title, and was judge *de facto*, it is sufficient. But again:

"In the case of the Mohawk and Hudson Railroad Company, (19 Wend., 143,) it was held that the statute requiring inspectors of corporate elections to take an oath is merely directory; and, as there is no nullifying clause on account of the omission, that the election is not invalidated by such omission to comply with the statute.

"The Legislature, in these enactments, undoubtedly intended to impose upon these officers having charge of conducting the election and canvassing the votes a faithful observance of these provisions, as well to secure the public interests as the rights of electors; but I cannot think they intended that an omission to comply in the particulars where they were departed from in this instance, whether the same occurred through the ignorance or inadvertence of the inspectors, should have the effect to deprive a whole district of their suffrage. This would be punishing the innocent for the sins of the guilty."

And again, in 7 Wend., 264, 1 John, 500, it was held as follows:

"The fact that a part of the time there were four inspectors at the poll, and that the returns were signed by four, cannot affect the election. This was undoubtedly an irregularity, but cannot invalidate the election.

"I cannot but think, however, that, to hold the omission of these officers, through negligence, mistake, or inadvertence to comply with all these directions of the statute, should have the effect to disfranchise the electors, would be unjust in the extreme, and indeed subversive of the fundamental principles of our Government."

But, Mr. Speaker, it is not necessary to produce additional authorities. Case after case might be cited of irregularity in the appointment of judges and inspectors, and the manner of conducting elections; but in no case has a mere irregularity ever disfranchised the electors or invalidated an election. This is the whole of the case as to the second ward of the city of Dayton; and I say, as the judge went into office under color of title, and as that election was fairly conducted, the returns deserve to be received and considered by this House.

I come now to the sixteenth specification:

"That Alfred J. Anderson, John M. Mitchell, James Robbins, Reuben Redman, Thomas Tester, John D. Robbins, Alexander Proctor, Cyrus H. Cowen, Robert Goings, W. Griffith, and twenty-two others, mulattoes and persons of color, not qualified electors of Ohio under the constitution and laws thereof, were permitted to vote for you."

These are the negro votes about which so much has been said, and so little proved. The specification charges that thirty-two "mulattoes and persons of color" were permitted to vote; but, if I understood the contestant clearly in his argument, he only claimed that sixteen negro votes were cast in the district, and for the sitting member. Is this so? No, sir. The evidence will not sustain the assertion of the contestant; he cannot produce any evidence that will warrant such conclusion. But, even if it were true, as the contestant stated, I ask by what right does he, of all others, seek to oust the sitting member from his seat by the testimony of a negro, who is not a citizen of the United States? For the contestant is compelled to take the testimony of Alfred J. Anderson, a negro, not a citizen of the United States, so de-

cided by the Supreme Court of the United States, as he alleges. He is required to take his testimony, to determine that any negro votes were cast for Lewis D. Campbell. Now, if negroes are so objectionable, I deny his right to have negro testimony to decide this case. He must go to white testimony; he must confine himself to white testimony, and not fall back on negro testimony. And yet here is evidence taken on the part of Mr. Vallandigham—the testimony of a negro; and he brings it to Congress for the purpose of ousting the member from the third congressional district of Ohio from his seat.

But, sir, I deny that there is even proved to have been more than one negro vote cast for Mr. Campbell. Nor am I alone in this declaration. The chairman of the Committee of Elections, [Mr. HARRIS,] in his report, gives but one negro vote to Mr. Campbell, and that vote on the evidence of the negro himself.

Mr. ADRAIN. Is the negro, by the laws of Ohio, permitted to give evidence?

Mr. WILSON. I am not sufficiently acquainted with the laws of Ohio to answer the question.

Mr. SHERMAN, of Ohio. I answer, that he is.

Mr. WILSON. By the same law he is allowed to vote in the State of Ohio. But, sir, the question is, shall his testimony be received here for the purpose of ousting the sitting member from his seat? Mark, you! he is not a citizen of the United States, so the contestant urges. If this be so, his testimony should not be received here, no matter how it might be in Ohio; and yet, if his testimony be set aside, there is no evidence whatever to show that there was one single negro vote cast for the sitting member. See the extremity to which the contestant is driven. With all of his seeming dislike of the negro race, he is still compelled to resort to that race for evidence to support his case. He flies to Anderson to sustain him, and here is the only color of title we find him able to produce; and that color, upon the basis of his own argument, vitiates the title. I bid him welcome to the evidence. Here it is:

"Question 133. State whether you voted for congressman at the election held October 14, 1856, at the election held in the second ward of Hamilton; and if so, for whom did you vote?"

"Answer. I did vote at that time and place, and for L. D. Campbell for Congress.

"Question 134. State whether you are acquainted with John M. Mitchell; and if so, state whether you know the place where he voted at that election, and for whom he voted for Congress?"

"Answer. I am acquainted with John M. Mitchell. He voted at the polls in the second ward of Hamilton, and I believe he voted for L. D. Campbell for Congress; I do not know that he told me that he so voted, but the matter was so understood between us.

"Question 135. State whether you know Reuben Redman; and if so, whether you know where and for whom he voted at that election?"

"Answer. I know Reuben Redman. He worked for me; and I believe he also voted for L. D. Campbell for Congress at the second ward polls, in the city of Hamilton. He told me before the election that he was going to vote for Campbell.

"Cross-examination:

"Question 133. State how long you have resided here, and who your parents are.

"Answer. I have resided here from 1839 to 1844, and from 1852 to the present time. My father was James Shannon, reputed to be a white man, and my mother was Mary T. Anderson, now wife of Robert G. H. Anderson, who, from her statement, I presume had one fourth part of African blood in her veins. Her father was a white man, and her mother was Indian and African. James Shannon is brother of Wilson Shannon, late Governor of Kansas. About the other persons, called colored, I know nothing save from appearances.

"Re-examination:

"Question 137. Is there any visible admixture of African blood in Reuben Redman?"

"Answer. Yes, sir; there is.

"Question 138. Is there any visible admixture of African blood in John M. Mitchell?"

"Answer. In my opinion there is none.

"Question 139. Does he associate with white or colored persons?"

"Answer. With both. He goes on the river, and in his business relations he passes as a white man, and in his domestic relations he associates with colored people.

"Question 140. Do you know, from conversations with him, as to the proportion of African blood in his veins?"

"Answer. He has always disclaimed having any."

"ALF. J. ANDERSON."

This evidence is plain, is explicit, is full, is to the point. Alfred Anderson, a colored man, living in the city of Hamilton, swears positively that he did vote for Lewis D. Campbell, for Congress; but are you to take this testimony from a man who you say is not a citizen of the United States, and on it expel the sitting member? You may examine this record of testimony from the first to the last page, and there is no other evi-

dence showing that any other negro vote, or supposed negro vote, was cast for the sitting member.

But what of John M. Mitchell, referred to by Anderson? Is he a negro? Not by the evidence. If there be any proof at all, it is that he is a white man, for by his own statement he has no negro blood in his veins; and if a portion of his statement is taken in reference to his vote, we are bound also to take the whole statement. It cannot be divided. If the statement be taken that he said he was going to vote for Campbell, you are also bound to take the statement that there is not one particle of African blood in his veins. The whole testimony proves he is not a negro, but a white man.

So much as to the alleged negro voters in the city of Hamilton; and now I call your attention to the evidence in regard to the alleged negro votes in Oxford township, in Butler county. The contestant has stated that there were sixteen negro votes cast for Mr. Campbell. I have shown you that only one negro swears that he voted for him, and that he gives his opinion only as to others. But that proves no fact. Facts are what we want. Facts are what we must determine this case upon. We must determine it on evidence—on legal evidence—not loose, disjointed evidence, but such evidence as would determine any man's rights in a court of law. Now to the Oxford township.

William J. Mollyneaux seems to swear quite positively at the outset, but when you come to look at his whole testimony, it amounts to nothing. Let me read it:

"MARCH 7, 1857, seven o'clock, a. m.

"Question 167. State whether you were present at the congressional election held in Oxford township, Butler county, Ohio, on the 14th day of October last, and have examined the poll books of said election?

"Answer. I was present at that election, and have examined the said books.

"Question 168. State whether John D. Robbins, Alexander Proctor, Thomas Tester, Ephraim S. Jones, Evan Huffman, Arthur Huffman, Cyrus H. Gowen, Robert Goings, W. Griffith, William Lawrence, W. Huffman, and Alfred Huffman, voted at that election.

"Answer. There were three persons by the name of Huffman, mulattoes, who voted at that election, two of whom I saw vote. The other Huffman I know, from the poll books, voted at that election. John D. Robbins told me he voted. The other persons named in the interrogatory I know, by the poll books, voted also. Upon reflection, Robbins did not tell me in words that he voted, but gave me to understand so. I am satisfied that he voted.

"Question 169. State whether the persons named in interrogatory No. 168 are mulattoes and persons of color.

"Answer. They are.

"Question 170. By whom were these persons brought up to vote? What party insisted upon their voting, and what party opposed it?

"Answer. Those of them that I saw vote came up themselves. Those persons known as Democrats bitterly opposed their voting. The Opposition, the Republicans, favored their voting.

"Question 171. Did the friends of Lewis D. Campbell oppose or favor their voting?

"Answer. So far as I know, they favored it.

"Question 172. State, if you can, how many political friends Mr. Campbell had in that board of judges.

"Answer. I don't know. My impression is that two out of the three were.

"Cross examination:

"Question 173. What facts do you know that create the impression that two of the judges were for Campbell?

"Answer. Two of them were Whigs, and always had been as long as I have known them.

"Question 174. Did all those who had been Whigs support Mr. Campbell?

"Answer. No; I think not.

"Question 175. Were the votes of the mulattoes you have mentioned challenged; and, if so, by whom and on what ground?

"Answer. I did not see any of them challenged.

"Question 176. How do you know, then, that Democrats bitterly opposed their voting if they were not challenged?

"Answer. I heard a man say that he did challenge their votes, and, notwithstanding, they were admitted.

"Question 177. Do you know anything as to the opposition made to their voting, except what has been told you by others?

"Answer. I have opposed it myself, outside, in conversation, and heard others oppose it in conversation.

"Question 178. Do you know anything as to the challenging of the votes above mentioned, except what has been told you?

"Answer. I do not.

"Question 179. You say in your examination in chief, 'those of them that I saw vote came up themselves.' Now, if you saw them vote, can you not tell, from personal knowledge, whether they were challenged?

"Answer. Those that I saw came up by themselves, stuck their tickets in, and there was a delay about receiving them, but they were finally received; I suppose they were being challenged by persons inside, but did not see it personally.

W. J. MOLLYNEAUX."

Such is the evidence produced to prove that twelve negro votes were cast for the sitting mem-

ber in Oxford township. Such is the evidence on which we are called to decide the rights of one hundred thousand people. It is mere hearsay; it is no evidence. He does not state, of his own knowledge, any fact, or what means he had of knowing. He simply retails the loose statements of bitter partisans.

Mollyneaux, it is true, states that the Democrats opposed their voting; but he does not state that their votes were challenged, nor is there any admissible evidence that they voted for Mr. Campbell; and I have as much right to assume that they voted for Mr. Vallandigham as others have to presume that they voted for Mr. Campbell; and that the opposition of the Democrats was simply a ruse to relieve Mr. Vallandigham from the odium of being voted for by negroes. I am speaking upon the evidence before us; and I ask gentlemen sitting as judges in this case, can you say, upon your oaths and upon your consciences, upon that evidence, that one negro vote was cast for Lewis D. Campbell in Oxford township?

There is no proof whatever of any such fact; and when you look this entire evidence over you find not one word to show that Democrats or others challenged these votes. And if those negroes ever voted, there is no proof to show whether they voted for the Democratic candidate or the Republican candidate—it is all left to mere surmise; and if you wish to decide this question upon that you can do so; but if you are to decide it upon legal evidence, it cannot be shown that twelve negro votes, or any negro votes, were cast at Oxford for the sitting member.

Mr. Speaker, it is unnecessary, perhaps, for me to go further into this case. I might go on to show what the contestant admits—that his case is made up almost exclusively of hearsay evidence. The testimony of at least fifty witnesses is to this point. Look at the deposition of Ensey, the deposition of Neas, the deposition of Black, the deposition of Deane, the deposition of Kelley, the deposition of Davidson—in fact, all the depositions. They are insufficient. They are not legal. They should be rejected. One testifies that a certain person voted for the sitting member. Why? Because he generally talked in favor of Republican principles. Is this the kind of evidence to decide a grave and important question? I think not. Another testifies that he considered a certain other voter as a Republican; that he voted; that Campbell was a Republican, and that therefore he voted for Campbell. This is all. No proof is offered as to how or for whom the person voted; and yet the contestant asks that such testimony shall be received to prove illegal votes against the sitting member.

Another witness testifies in regard to a voter, that the father of the voter was a Republican; that the family were Republican; that the son voted; and of course it followed that his vote was cast for the sitting member. Is this satisfactory evidence to the legal gentlemen on the other side of the House? Is it evidence at all? Most certainly not.

Again: another witness testifies that the voter told him that he had voted, and voted for the sitting member. But this is not admissible evidence. It is only the recollection of a conversation not made under oath. The witness may have understood the party correctly, or may have been mistaken. Nay, more; the admission itself may have been made, and falsely made, to affect this very contest. But, Mr. Speaker, why are we compelled to take this hearsay evidence? Why has the contestant rested his case upon the testimony of third persons? Why are not the voters themselves brought forward? The contestant offers no excuse for his want of diligence. He gives no reason why they could not be examined. He does not say that they had left the district or State. He does not show that they refused to appear, or, appearing, refused to testify. Sir, they never were even summoned. This is the truth. The contestant admits it; and I hold him to the full effect of the admission.

Mr. Speaker, all of this testimony should be excluded. By every principle of justice and every rule of law it should be disregarded. This House has repeatedly so decided, and in no case more explicitly and fully than in that of Archer and Allen. What was the course of the House in that case? What said the minority, of which the honorable gentleman from Georgia [Mr. STEPHENS]

was one, in their views presented to the House? Here is their language:

"There is some testimony that certain persons said that they had heard another man say that he had voted for Mr. Allen, when he had no right to vote. But are we to disfranchise a congressional district of a hundred thousand inhabitants on hearsay testimony that would not be received in a magistrate's court when a shilling was in controversy?"

—App. to Cong. Globe, 1st sess. 34th Congress, vol. 33, p. 929.

And again, in the same report:

"Next, as to Alfred Cowdef, the only evidence is that he was heard to say that he had voted at the election; that he had voted for Allen; that his vote had elected him, &c.; and that he was not of age at the time. This evidence, the undersigned are clearly of opinion, is hearsay evidence of the worst sort. It is no evidence at all. It would not be received as evidence in any court, and it never should be received in cases of contested elections before this House; for, by the admissibility of such evidence, it would be the easiest matter in the world to set aside any close election, and defeat the will of the majority, by getting persons to say that they had voted illegally for the man whom, perhaps, they had used their greatest efforts to defeat. Falshoods, where there is no solemnity of an oath, are often resorted to in elections in canvassing before the people against a candidate before an election, as all of us, perhaps, well know; and who that would tell a lie before an election, would not do the same thing after it, if he could thereby effect the same object?"

I agree, Mr. Speaker, with these views. They are correct; they are legal, and they are fatal to the case of the contestant.

Mr. Speaker, the chairman of the Committee of Elections, [Mr. HARRIS, of Illinois,] who has presented his views to the House, has no doubt fully and thoroughly examined the testimony, and his views are entitled to much weight and respect; but I have not been able to see how he has arrived at the conclusions which he has expressed. Either the sitting member or the contestant is elected, and the one hundred thousand people of the district have the right to be represented in this House. The sitting member comes here with the certificate from the Governor of that State, that he has received a majority of the votes cast in his district.

The people of the third congressional district of Ohio have the right to that seat for their Representative, no matter by how small a majority he may have been elected. He has been sworn in, and I believe that a full examination of the testimony, commencing with the first witness and going through the whole list, will establish, incontestably the right of the sitting member to the seat. I believe that Lewis D. Campbell was legally elected to the Thirty-Fifth Congress from the third congressional district of Ohio. This House may think otherwise. It may decide otherwise. It may trample the rights of the sitting member under foot. It may overthrow law, justice, and legal evidence, to accomplish a party purpose. Nay, more. It may again, as once before, violate the great principle of popular sovereignty—the right of the people to govern themselves and elect their own Representatives. But I predict now, and here, that if such be the decision of this House, it will, when the ides of November shall come, meet with a stern rebuke from the people of Ohio; and although the sitting member may for a time be crushed by party dictation, he will be lifted up by a generous constituency and triumphantly sustained.

Mr. JONES, of Tennessee, here entered a motion to reconsider the vote by which Dr. Evans's geological survey of Oregon was ordered to be printed.

Mr. WILSON. I wish to state further, that it is alleged that three idiots voted for the sitting member. By the report made by the friend of the contestant, [Mr. LAMAR,] as a member of that committee, it appears that three persons of unsound minds, three idiots, voted for the contestant, and three idiots voted for Mr. Campbell. So that if there was anything wrong in that, it was a wrong equally committed on both sides. I regret that the contestant has seen proper to refer to that unfortunate class of individuals.

Mr. GILMER. I was about to say that I take it for granted that the sitting member has a *prima facie* right to continue in his seat until it is shown, by legal, admissible, competent testimony, that he is not entitled to it. I think that, in a very few words, I can satisfy every lawyer in this House that the contestant has not, by legal, competent, and admissible evidence, shown that the sitting member was not duly elected; and if I do that, the case ends there. But, before I proceed to discuss that legal point, I desire to call the attention of the House to this simple view of the

case. Here is a heated and excited election in the third congressional district. The number of votes polled is somewhere near twenty thousand.

Mr. HARRIS, of Illinois. Will the gentleman allow me to interrupt him for a moment? There are several gentlemen who are anxious to know what course is to be taken upon this question. As many gentlemen desire to leave the Hall, I will simply indicate to them the course I propose to pursue; which is, to call the previous question before the House adjourns to-day, and, if there is no objection, to have the vote taken on Tuesday, at one o'clock.

Many MEMBERS. Say Monday.

The SPEAKER. The Chair would suggest to the gentleman from Illinois that there is a special order for Tuesday.

Mr. STEPHENS, of Georgia. But, by general consent, the vote can be taken at that time. It will consume but a few minutes.

Mr. JONES, of Tennessee. Take it on Monday.

Mr. HARRIS, of Illinois. It makes no difference with me. I desire to consult the wishes and convenience of the House.

Mr. SEWARD. I want it understood that I object to any arrangement.

Mr. HARRIS, of Illinois. I will simply state, then, that I shall call the previous question, before the House adjourns, and let the question go over.

The SPEAKER. The Chair would intimate to the gentleman from Illinois, without, however, deciding the point, as he has not had an opportunity to look into it, if the previous question is seconded, and the main question ordered, the subject will come up on Monday morning. The Chair learns from the Clerk that such has been the practice. It may be, however, that the special order may preclude the question from coming up until Wednesday morning.

Mr. JONES, of Tennessee. The Fort Snelling case is postponed until Wednesday.

The SPEAKER. But it is not a special order. Mr. HARRIS, of Illinois. I would ask, then, if it is agreeable to the House, to take the vote on Wednesday?

Mr. STANTON. Let us take it on Monday.

Mr. HARRIS, of Illinois. Is there a special order for Wednesday?

The SPEAKER. There is not.

Mr. HARRIS, of Illinois. I do not care when the vote is taken. I desire to accommodate the House.

Mr. SEWARD. I object.

Mr. MAYNARD. With the permission of the gentleman from North Carolina [Mr. GILMER] I wish to submit a motion to postpone this motion until the second Wednesday of December next. I do not propose to consume any time in stating the reasons for the motion.

Mr. GILMER. Do I lose my right to the floor by yielding to that motion?

The SPEAKER. If the motion is made the gentleman from North Carolina must confine his remarks to the question of postponement.

Mr. GILMER. I cannot yield, then. I was proceeding to call the attention of my friends to the fact that, when you look at the whole evidence in this case, and take into consideration the number of votes cast at the election, and also take into consideration the fact that the sitting member was confined by his duties in Congress, from and after a few days after the election until within eight or ten days before the time for taking the testimony closed, and that the contestant had an *ex parte* searching after illegal votes, the case will not appear very surprising. Eighteen or twenty thousand votes were polled in that election, and the contestant, after devoting his time since the commencement of this Congress to analyzing and sifting the testimony taken under such favorable circumstances to himself, cannot make himself out elected by more than twelve or fourteen votes, when the official returns were only nineteen against him.

Now, I ask gentlemen if he has made out a reasonable case for himself? I venture to say that there is not an election in any portion of the Union where, if an opportunity were given to canvass the votes, there would not be found five times as many illegal votes. I have taken that view of it to show that this cannot be a case going beyond that represented by the chairman of the committee

—a case of doubt. I have said that I desired to discuss this question in a legal point of view first. I have said that I take it for granted that every lawyer in this House is already satisfied that the contestant has to overcome the *prima facie* case with which the sitting member took his seat. Has he done it? The sitting member not having an opportunity to attend the taking of testimony within the sixty days allowed by the law, asked leave of the House for further time to take testimony. He proposed to the contestant, in the spring of 1857, to waive all irregularities and let the testimony be taken. The contestant declined to comply with that proposition, and the sitting member came to this House, at the earliest moment he could, and asked further time. The House, by refusing further time, declared, in substance, that the committee were to make up their entire report on the legal testimony taken, and at the next session of the committee the following resolution was passed:

"Whereas, the House has declined to grant the parties leave to take further testimony,
"Resolved, That the committee proceed to make up the result of the election on the testimony filed, regularly taken within sixty days, except where the parties have agreed that the testimony otherwise taken might be read."

The parties agreed on no other testimony. At that time there was no testimony taken and filed which showed what number of votes Vallandigham got, or what number of votes Campbell got. And if there be not legal testimony, admissible in this case, to show how many votes these several parties received, how, in the name of common sense, can this House decide that the contestant has made out a case to the satisfaction of this House, that Campbell was not elected?

Mr. HARRIS, of Maryland. I believe the objection to my proposition to take a vote on this case on Wednesday at one o'clock is withdrawn. I beg leave to renew it.

Mr. STEPHENS, of Georgia. The contestant prefers Tuesday at one o'clock; it will take but a few minutes to dispose of it.

Mr. HARRIS, of Maryland. I have no objection to that.

Mr. HARRIS, of Illinois. Then I hope it will be agreed to.

Mr. STEPHENS, of Georgia. Whatever business may be up at that time may be suspended. There being no objection, it was so ordered.

Mr. GILMER. After the action of the House, and after the passage of that resolution, it was discovered that in this case there was a deficiency of testimony, and the contestant undertook to supply it by filing a statement or certificate from the Secretary of State of Ohio taken after the case had been referred to the committee. The argument on the other side is, that the act of Congress did not contemplate this official paper as a portion of the evidence necessary to be taken and filed within the sixty days. Now I desire the serious attention of gentlemen on this floor to this question. I think that any gentleman who examines it will find that it is entirely satisfactory that this certificate is one of the very official papers provided for expressly in the act of Congress to be taken and sent to the Clerk of the House within sixty days. I call the attention of gentlemen to the eighth section of the act, which reads as follows:

"SEC. 8. And be it further enacted, That the said magistrate shall have power to require the production of papers; and on the refusal or neglect of any person to produce and deliver up any paper or papers, in his possession, pertaining to said election, or to produce and deliver up certified or sworn copies of the same, in case they may be official papers, he shall be liable to all the penalties prescribed in the fifth section of this act; and all papers thus produced, and all certified or sworn copies of official papers, shall be transmitted by said magistrate, with the testimony of witnesses, to the Clerk of the House of Representatives."

Now, sir, was that not such a paper as should be produced here in evidence by a certified or sworn copy? The very fact that a contestant could get it at any time shows that he could have got it within the sixty days. Suppose that the contestant, finding out that there was a mistake in the summing up by the clerks, by which his majority proved to be, not nineteen, but two hundred and nineteen, could he, after that resolution was passed by the House, have asked the House to act upon that discovery? I presume no man will say for a moment he could, because that is an official paper. That is a paper which could be proved by a sworn and certified copy. The act of Congress requires that all such should be taken and sent here within sixty days. Mr. Campbell

could have taken this evidence within the sixty days. So could the contestant. Neither did it. And when the contestant found that he was bound up by that resolution, then this make-shift was resorted to, to make out a case.

Now, Mr. Speaker, let me place this in another point of view. I understand the point to be presented, that this certificate of the Secretary of State of the summing up of the vote in this election, is to be admitted as record evidence notwithstanding the provisions of the act of 1851, in respect to the time allowed for furnishing testimony, and the contestant would show thereby the number of votes returned for Mr. Campbell, and the number returned for himself.

Well, sir, what is that little slip of paper from the Secretary's office? It is a copy of the clerk's summing up. It is a copy of the original summing up in the clerk's office. But if it is to be admitted as record evidence, then the original is the poll-books themselves in the clerk's office, and they are record evidence of the fact that A, B, C, or D, voted; and you cannot prove by secondary evidence facts which may be proved by record evidence.

But, sir, the contestant is estopped from producing this evidence at all. He did not produce it in sixty days, which was absolutely necessary to make it conform to the law of 1851. But suppose I waive that point, and, for the sake of the argument, admit it as record evidence—the paper which he produces is only a copy of a copy. It is only a copy of a copy from the poll-books which are kept in the clerks' offices in the several counties which compose that congressional district; and if you want to prove who are the voters that cast their votes in that election you must either produce the original, or a certified or sworn copies of the original. While I help him out of a ditch, therefore, on one side, he falls into another on the other side—to wit: as to the necessary proof of the persons that actually voted. I ask every lawyer here to answer me whether such record evidence is good evidence? Whoever heard of a copy of a copy being better than the original?

Why, sir, this certificate in the office of the Secretary of State, is only intended for the inspection of the Governor, under a special provision of the statutes of Ohio, for a special purpose. It is there to enable him to determine to whom he shall give the certificate of election—for that purpose, and that alone. But that certificate itself would be a copy of the original. Now you do not take a copy of a copy as evidence, when either the original, or a copy of the original, can be produced; and such a copy could have been produced, for the poll-books are kept in the clerk's office in every county, open to the inspection of all who desire to see them. So that, I say that ends this case. It ends it in the mind of every fair-minded lawyer who will give it his attention for a moment.

Now, Mr. Speaker, according to what is held, not in foreign courts, but according to what is held in this country, by committees of election of this House, as necessary for the contestant to show, before he can oust the sitting member and secure the seat for himself, I shall proceed to show that Congress has heretofore held that the contestant must make out his case from such testimony as is known to be regular and legal—such as would be admissible in a court of law or equity. I will call attention to what the House has, through its committee, heretofore said upon this point in the case. Here it is:

"It may, however, be said that the case in *1 Denio*, was at law, and that therefore the same does not apply. But in *14 Barb. R.*, 326, it is well said: 'The result of an election, when controverted in court, is like a judgment sued upon.' And in the report of the majority of the committee in the case of *Archer vs. Allen*, it is well and correctly said: 'The House in judging of the election returns of its members sits as a court. Their proceedings are judicial in their character, and why is it not as competent for Congress, by law, to regulate the proceedings in this court as any other? And if such regulations are made, why are they not as binding? This is an important point; and the undersigned insist upon the propriety of its observance by the House, not so much in consideration of any bearing it may have on the merits of this case, as on account of the consequences which will naturally follow the precedent which a disregard of it would establish.'—*Archer and Allen's Case*, *Minority Report*, page 13.

Again:

"For when a party controverts an election, he must make full proof of the fact that he, and not the party who has obtained the certificate, is elected."

"In the case of *Easton vs. Scott*, (Contested election

Cases, 278.) it is well said by the Committee of Elections, that "in cases where the person returned comes rightfully by the certificate, then he ought to keep his seat till it is shown that he is not entitled to it." Being rightfully in possession of the certificate, the legal presumption is that he was duly elected. And "where the law raises a presumption in favor of the fact, the contrary must be fully proved."—1 Stark, *Ex. 452, side fo., Met. & Ing. ed.*, 1832.

Now, does any gentleman here pretend that this is not the law of the case. And now let us see what description of testimony has heretofore been held to be legitimate and proper. I call the attention of the House to the case of *Allen vs. Archer*, which is a recent case, in which some of the authorities are cited, when—

"The Hon. T. L. Harris, in speaking of hearsay testimony, in *Archer vs. Allen*, forcibly remarked: 'There is some testimony that certain persons said that they had heard another man say that he had voted for Mr. Allen, when he had no right to vote. But are we to disfranchise a congressional district of a hundred thousand inhabitants on hearsay testimony that would not be received in a magistrate's court when a shilling was in controversy?'"—Appendix to Congressional Globe, first session Thirty-Fourth Congress, volume 33, page 929.

"And the minority, too, of the committee, in their report of the case of *Archer vs. Allen*, (page 16,) well and admirably says:

"Next, as to Alfred Cowden, the only evidence is that he was heard to say that he had voted at the election; that he had voted for Allen; that his vote had elected him, &c.; and that he was not of age at the time. This evidence, the undersigned are clearly of opinion, is hearsay evidence of the worst sort. It is no evidence at all. It would not be received as evidence in any court, and it never should be received in cases of contested elections before this House, for by the admissibility of such evidence it would be the easiest matter in the world to set aside any close election, and defeat the will of the majority, by getting persons to say that they had voted illegally for the man whom perhaps they had used their greatest efforts to defeat. Falsehoods, where there is no solemnity of an oath, are often resorted to in elections in canvassing before the people against a candidate before an election, as all of us, perhaps, well know; and who that would tell a lie before an election would not do the same thing after it, if he could thereby effect the same object?"

Now, Mr. Speaker, I ask gentlemen, before they come to vote upon this question, to give their attention to this testimony—each man for himself; and if any fair-minded gentleman, under the rules of admitting evidence in a court of law or equity, will come to the conclusion that the contestant has made out his case, to wit: that the sitting member ought to be ousted, he will come to a conclusion different from what I think he will. Our friends on the other side of the House, in making up the minority report in behalf of the contestant, have apologized for the conclusions to which they have come, by saying that this is a case of public concern, and that they do not think they should be held to the rules of evidence applicable in the courts of law; for if they had, honest gentlemen, as I know them to be, they would never have come to the conclusion which they have reported.

But I desire to call attention to what has been held in cases of this kind in this House heretofore.

Mr. MARSHALL, of Kentucky. With the gentleman's permission, I will have a motion entered just here.

Mr. SEWARD. I object to any arrangement, unless the gentleman is regularly entitled to the floor.

The SPEAKER. The gentleman from North Carolina has the floor and must yield unconditionally, in order that the proposition of the gentleman from Kentucky may come in, objection being made.

Mr. GILMER. I yield to the gentleman unconditionally.

Mr. MARSHALL, of Kentucky. I ask to have entered the following proposition:

"That the papers, in the contested election case of Valandigham vs. Campbell, be, and the same are hereby recommended to the Committee of Elections, with instructions that both parties are permitted, by the House, to take further testimony under the regulations of law, on notice, until the first Monday of December, 1858."

Mr. GILMER took the floor and was recognized by the Chair.

Mr. SEWARD. Can the gentleman hold the floor when he has spoken on this subject once already?

The SPEAKER. He cannot if any other gentleman who has not spoken desires to obtain the floor.

Mr. DAVIS, of Maryland. Cannot the gentleman from North Carolina speak on the motion to recommit just submitted?

The SPEAKER. The gentleman is right, and the gentleman from North Carolina will proceed with his remarks.

Mr. GILMER. I will resume my remarks where I left them when the gentleman from Kentucky introduced his proposition. In the printed report, on page 69, I find that which I have already read.

It is only by virtue of such testimony as this, that our friends (as they naturally admit in their report) are able to come to the conclusion which they have reported.

But, Mr. Speaker, my friend the chairman of the committee, [Mr. HARRIS, of Illinois,] who has given this case, I am willing to concede, as faithful and I have no doubt as honest an investigation as any member of this committee, has pointedly stated his views of the case in his conclusion. I send the conclusion of his minority report to the Clerk's desk to be read.

The Clerk read as follows:

"It seems clearly proved that Anderson voted for Campbell; and one witness swears that Lawrence admitted that he had voted for Campbell. These are the only mulattoes that are in any manner proved to have voted for him. Anderson swears that he believes Redmond and Mitchell voted for him, but does not give the ground of his belief. Molyneux saw three or four go to the polls attended by friends of Campbell. As to the rest of these 'mulattoes or persons of color,' the candidate for whom they voted is left to the merest conjecture.

"Of the twenty-three votes above referred to claimed by contestant as being illegal, and having been cast for Campbell, the testimony seems quite strong and conclusive that Walk, Tate, Anderson, Odlin, Hartman, W. Lamb, Drayer, and Ogden, (eight votes,) did vote for Campbell, and that they were not legal votes.

"The proof is neither clear nor regular, but it strongly tends to prove that Norris, Smith, Davis, Foulan, Gulliland, and Hall, were not legal voters; while, in regard to Maxwell, Gosline, Lowe, Sharpe, Coble, Levi, Neas, Foster, Fisher, and Palmer, it is too slight to justify a rejection of their votes, or too doubtful as for whom they were cast to warrant upon it the unseating of a member, and the bestowal of his place upon another.

"While, from a view of the whole case, it is impossible to satisfy the mind that the contestant has, by strictly legal proofs, shown himself entitled to the seat, yet he has certainly brought the right of the sitting member to the severest question. It has been held that where 'a person holds a certificate of election, he ought to keep his seat till it is shown that he is not entitled to it.' But what shall be sufficient to show this? The mere fact that the returning officers on false votes have given to one the certificate, ought not justly to endow him with superior rights or privileges to him who questions such returns or votes. Would it not be more just that the parties stand on equal rights, and in the same position as though both had presented themselves at the same time, and under the same circumstances, and claimed the seat? Then, if we are unable to decide between their rights, we refer them back to their constituents. To give the sitting member superior advantages, is offering a premium for false returns and fraudulent votes. I prefer to consider them as standing on equal ground.

"In deciding questions of contested election, it is often difficult to reach a conclusion that shall be unobjectionable and command general assent. This is more difficult where elections are by secret ballot than where they are *viva voce*; for in the latter case the poll books show unerringly not only who voted, but for whom the votes were cast. When the voting is by ballot, after a given vote is proved to be illegal, the great difficulty still is to show for whom it was cast; so great is this difficulty that it is proposed to resort to statements of the character of hearsay (because not given under oath, and uttered by third persons) to show for whom votes were cast. This is dangerous evidence, but, from the necessity of the case, it is insisted that it should be received. If it should be done, it should be with the greatest caution.

"The legality of each vote forms a question by itself, and where seventy or eighty of these votes are in question, it is next to impossible to agree upon the legality of each, and yet the ruling upon one of them is to determine the case. The legality of each vote must be settled; each, perhaps, involves questions of law and fact mixed up in inextricable confusion, and to be settled by reference to rules of law and evidence, and by circumstantial or hearsay testimony, often given by heated and interested partisans. The whole testimony is not to be weighed as in a case of law, but each vote must be scrutinized and determined with mathematical certainty. As it is next to impossible to reach such conclusions, party zeal generally comes in to aid the hesitating judgment, and the Journals of this House will show that the views of members, as to the legality or direction of votes, and everything connected with elections, have too often been determined by the party medium through which they have been viewed.

"It is quite easy to seize upon vote after vote, and with dogmatic confidence accept or reject them as our impulses may incline; but it is a severe task to go through with an extended investigation and arrive at conclusions entirely satisfactory to the mind that justice has been done. A large number of votes may be in dispute, and upon the admissibility of each the best legal minds and most impartial judgment may differ. We may adopt principles of construction and rules of evidence, (without which we cannot proceed in our investigations a step,) but even then we may be balked with the constantly recurring inquiry: whether the matters presented come within our rules and are admissible or otherwise? And when we have concluded our examination, according to the principles and rules we have adopted, and are brought to a result, even then our minds are often impressed with a conviction that a true and just conclusion would be the reverse of that to which, by our own rules, we have been forced.

"In reviewing the important questions connected with

this case, I have discarded all technicalities, and endeavored to reach, through testimony admissible under well-settled rules of evidence, a satisfactory decision; yet I have been unable to find sufficient to warrant me in pronouncing the contestant entitled to the seat of the contestee; at the same time there are such facts and circumstances, some of them mixed up, it is true, with opinions and hearsay testimony, as to amount almost to a conviction that he is so.

"The question, then, presents itself, will the House, in this state of doubt and uncertainty, arbitrarily decide in favor of one or the other of these parties, when it is as liable to decide wrong as right? or will it refer the case back to the people for their decision? When the verdict is questioned, poll the jury. This has very often been done in cases less doubtful than this. And fortunately it can be done here without serious public inconvenience. The present session of Congress is near its close. But a few days of service remain prior to the next regular election in Ohio, when this contest can be settled by the people without extra trouble or expense, and settled in accordance with their own wishes. Believing that such mode of decision is, under the circumstances, the only proper one, the undersigned thinks that the seat should be declared vacant, and the Governor of Ohio notified thereof.

"THOMAS L. HARRIS."

Mr. GILMER. I had that read in order to show the reasons and the conclusions to which the chairman of the committee had come. The conclusion is that this is one of those cases which ought to go back to the people, for the reason that he was not able to determine, from the testimony, which gentleman was elected—in other words, because he was not satisfied, from the testimony, that the contestant was elected. Then I submit that, in law, upon the finding of the chairman, the judgment should be in favor of the sitting member. Bear in mind that a majority of the committee, in their reasonings upon this subject, hold and go together as to that point; although four of the committee go one step further than the chairman, and have satisfied their minds that the sitting member is entitled to his seat. The chairman of the committee, deciding in his judgment between them, has done so honestly and candidly, whether correctly or not, and has come to the conclusion that the contestant should not deprive the sitting member of his seat.

I advert again to the point I made before, and I call the attention of the House to the fact that the contestant himself, who has labored and argued this case, and has sought out every authority, from the beginning of the Government down to the present time, thinks himself that his case is to be decided upon hearsay evidence, and the point, whether his Secretary's certificate, obtained after the testimony was closed, can be read; otherwise he would not have spent so much labor and time on his flimsy hearsays, and on the admissibility of his said certificate. In the report, in reply to the point as to the admissibility of the certificate, he says:

"I answer, first, that it is at least doubtful whether it is my place to produce at all the summing up at the Secretary's office, of the result. It is no part of my care. I claim nothing under it. Upon its face it shows nineteen majority against me; and by so much it would diminish my vote, as it appears by the testimony."

Not necessary for him to show the actual result of the vote! Suppose he should show that Campbell had received one hundred illegal votes: unless he could show by legal testimony that those one hundred votes would alter the result, he would gain nothing by it.

I desire each gentleman to take all these facts and sum them up for himself, and apply the evidence under the rules of evidence to the various contested votes; and if he can come to a result that will give the contestant the seat, then I have examined this case in vain.

Mr. HARRIS, of Illinois. I wish to suggest a point for the gentleman's consideration, as he has alluded to my opinions in this case. The gentleman says that the sitting member has a superior right to any contestant, and that it is necessary that the contestant should show that he has a superior right before he can be allowed to stand upon an equal footing. The opinions which have been advanced heretofore in favor of the sitting member, that a superior right in the contestant must be shown before the sitting member is ousted, is predicated upon the idea that the sitting member is entitled to his seat. I admit that, before you can oust him and give his seat to another, that other person must show a superior right. But while others propose to put the contestant in a position of superior right, I choose to consider them as standing upon an equality. In all the cases cited, to which my attention has been called, where the doctrine has been laid down that possession of the seat may be retained by

him who holds it, until superior right is shown in another, they are all of them predicated on the idea that the seat is to be given to the claimant. If I proposed to give the seat to the claimant, I should undoubtedly be compelled to concede that the claimant must show superior right before he could get it. But I do not so propose; and therefore the hypothesis on which the gentleman predicates his argument is false.

Mr. GILMER. The argument I make is, that the sitting member has a *prima facie* right, and that his certificate under which he took the oath, and his seat, retains him in his seat, until it is shown by legal, competent, satisfactory testimony, that there was such irregularity, illegality, fraud, or mistake, as would satisfy the House that the contestant would be elected if there had been fair play; and unless he makes his case that strong, he is not reasonably entitled to oust the sitting member.

Mr. STANTON. Mr. Speaker, I do not propose to go into the discussion of this contested election at length; but I desire, on behalf of the State of Ohio, and as one of her Representatives, to enter my caveat against what seems to have been recognized as a proper construction of her constitution, and the rights of voters under it. It seems to have been granted on all hands, that, under the authority of the Dred Scott decision, no person having any African blood in his veins is a voter under the constitution of Ohio. Now, sir, I do not admit any such construction of our constitution. I do not propose any discussion of the Dred Scott decision. Everybody knows that I do not subscribe to it. But I say, that consistently with that decision, persons having more than one half white blood, and less than one half African blood, are legal voters under the constitution and laws of Ohio.

Now, sir, for the purpose of the argument, I am willing to concede that any person having any African blood in his veins is held by the Supreme Court of the United States not to be a citizen of the United States so far as to entitle him to sue in the courts of the United States or to entitle him to any of the rights of citizenship under the laws of the United States, because, under those laws, the Federal authorities are supreme and sovereign. But, sir, I do hold that the courts and constituted authorities of the State of Ohio have a right, in the last resort, to put a construction on their own constitution, and on their own laws; and whatever is held by the Ohio courts to be a sound construction of an Ohio law, or an Ohio constitution, is its true construction everywhere, and wherever it may be called in question; and the United States Supreme Court is bound to follow it.

Mr. HILL. I desire to ask the gentleman from Ohio whether, under the constitution of Ohio, unnaturalized foreigners are permitted to vote?

Mr. STANTON. Certainly not. The constitution of the State of Ohio, adopted in 1802, contained this provision in regard to the rights of suffrage. Section one, article four, has this provision:

"In all elections, all white male inhabitants shall be admitted to vote."

Under that constitution the question arose as to what was a white male inhabitant within the meaning of the constitution?

In the 11th Ohio Reports, is a case to which I would refer specially. An action was brought against the trustees of a township, who are the judges of election, for refusing a party, who had more than one half white blood, but who had some African blood in his veins, the right to vote. And that brought the question directly to the court as to what was a white person within the meaning of the constitution of Ohio. The court held that mulattoes were persons who were half white and half black; that negroes were persons more than half black; and that all who were more than half white were white persons within the meaning of the constitution. The constitution of 1851, in describing the qualifications of voters, provides that all free white male citizens of the United States shall be entitled to vote.

Now, I hold that for the purpose of determining what is a white citizen, the decisions of the courts of Ohio are final and conclusive. Its authorities are sovereign on that question; and I hold that as to what is a white inhabitant or white citizen, there is no difference between the construction of the constitution of 1802 and that of 1851. It is all a construction of the term "white." That

decision has been repeated over and over again, so long as to become the settled and unquestioned law of the State on the construction of that term.

Now, sir, if I am not right in this—if the court of Ohio cannot determine the question as to what is the true construction of her constitution, her Legislature cannot. Suppose the Legislature of Ohio should pass a law providing that all persons having more white than black blood in their veins should be regarded as white citizens within the meaning of the constitution, and be entitled to vote: could it be said that, for the purpose of controlling the right of suffrage within the State, the Federal authorities have a right to put a different construction on it? I hold not. Bear in mind, sir, that I am not calling in question, in this argument, the Dred Scott decision, or making any question about the Constitution or laws of the United States, or the courts of the United States deciding whether any person having black blood cannot be a citizen. But I am holding that, the courts of Ohio having settled that question, having put a construction on the term "white," as used in her constitution, it is not competent for this House or for Congress to put a different construction upon it.

Mr. HARRIS, of Illinois. Do I understand the gentleman as saying that the supreme court of Ohio have ever decided that the term "free white male citizens" means the same thing as "white inhabitants?"

Mr. STANTON. No, sir.

Mr. HARRIS, of Illinois. These are the two terms used in the two constitutions.

Mr. STANTON. That is true enough. Since the adoption of the constitution of 1851, the question has not arisen in the courts of Ohio; but the argument I am making is, that the construction of the term "white," in the second constitution, must of necessity be the same as in the first.

Mr. HARRIS, of Illinois. Will the gentleman state that the term "inhabitant" means the same as "citizen of the United States?" because it is necessary for him to beg that question before his argument prevails.

Mr. STANTON. Not at all, sir. The question is as to what is a white citizen of the United States. I know that the Supreme Court of the United States holds that there cannot be any such thing as a citizen of the United States that has African blood in his veins; but my point is, that for the purpose of conferring the right of suffrage and other rights of citizenship, the State authorities, the State Legislature, and the State courts, have a right to determine what is a white male citizen. Certainly they have said what is a white man. I would like to know how the term "white" can be construed in one constitution differently from the same term in another constitution?

Mr. DAVIS, of Maryland. I wish to ask my friend from Ohio one question. The qualifications of voters for members of this House are declared by the Constitution to be the same as those of electors for the lowest branch of the State Legislature. Now I desire to ask whether, by the construction which is given to the law or Constitution in Ohio, persons of half white and half negro blood are allowed to vote for members of the most numerous branch of the Legislature?

Mr. STANTON. All persons having more white than negro blood are, by the construction which is given in Ohio, considered as white persons, and are allowed to vote at all elections.

Mr. HARRIS, of Illinois. Will the gentleman allow me to inquire whether the courts of Ohio have ever decided, under the constitution of that State, which was adopted in 1851, that the term "white" is applicable to a person having more white than black blood, though he may have African blood in his veins?

Mr. STANTON. I have already stated, that so far as I know, there have been no decisions of the courts under the constitution of 1851; but the provision of that constitution is susceptible only of the same construction as that of the old one, and the practice under it has been in conformity to that construction.

Mr. BINGHAM. I desire to submit a very few words in regard to this contested-election case. It is no part of my purpose here at this time to enter into any discussion touching negro suffrage or the qualifications of electors in the State of Ohio. But, sir, I desire to present a single question of fact here, for the consideration

of the House; and that is that there is no legal proof that the contestant was elected, or even tending to show that he was elected. If, by the testimony adduced by the contestant, or by that adduced by the sitting member, it had been made apparent that the contestant was in fact elected by a majority of the legal voters of the third congressional district of Ohio, he should have my vote for a seat in this House. I am willing, if gentlemen can show that question to be decided by the proof in favor of the contestant, to record my vote in his favor, and against the sitting member. But that has not been shown, nor can it be shown upon any testimony before the House.

Sir, I think the contestant manifested great wisdom when, in his labored speech at the opening of this discussion, he stated to the House that he would not dwell upon the facts of the case. In the absence of proven facts, it throws no light upon the question now before us for the contestant to tell the House what have been the rulings of the British Parliament in cases of contested elections upon the admission of heresy testimony. However successful the gentleman may have been in his researches upon this head, his array of ancient British precedents and modern instances throws no light upon the question who received the largest number of legal votes in the third congressional district of Ohio. Instead of citing here at great length nice decisions which have been made upon questions of evidence in contested cases, the gentleman would have greatly obliged some of us if he had laid his finger upon the facts, the legally proven facts, upon which he based his assumed conclusions that he received a majority of the votes given by qualified electors of the third congressional district of Ohio. I should have been especially obliged to him if he had pointed distinctly and plainly to the facts proving that my colleague [Mr. Campbell] received nineteen votes less than were counted and certified to him in the official returns. That is the question in the case, and that is the question upon which, unhappily, the gentleman failed to give us any light. I challenge him, or any of his friends, to point out any testimony that would be admitted in a justices' court in a case involving the worth of a jack-knife, much less in a case like this, showing, or tending to show, that my colleague received a single illegal vote which was counted for him in the official returns. I defy the gentleman to do it. The proof is not there.

I have looked into this case with some degree of care. I do not intend to delay the House with many remarks upon the subject; but I do ask the attention of the House to the character of proofs upon which it is sought, by the votes of this House, to oust the sitting member, and to elect a man to a seat here from the third congressional district of Ohio, contrary to the expressed will of a majority of the legal voters of that district.

I shall not raise any question as to the validity or sufficiency of the notice, though I think that therein a grave question is involved. I waive all that, and call the attention of the House to the facts, as they appear, in proof. What are the facts, as they appear from the poll-books, the abstract of which is duly certified? That my colleague, the sitting member, received nine thousand three hundred and thirty-eight votes, and that the contestant at that election received nine thousand three hundred and nineteen votes. This official and legal evidence, this abstract of the returns made by the county officers of the several counties in the third congressional district of Ohio, proves that the sitting member [Mr. Campbell] received a majority of nineteen of the legal votes cast at that election.

How is this proven fact to be got rid of? My colleague is here with the certificate of the Governor of the State, issued in pursuance of law, certifying that fact to the House, and upon that he is sworn in, and takes his seat. How is that certificate, under the great seal of the State, to be got rid of? Why, by raising a mist, in the first place, about votes having been given for my colleague by legal voters, non-residents of the ward in which they voted. The fact that these persons voted at all is attempted to be proved, not by the best evidence which the nature of the case admits of, (which is the only legal evidence,) but it is attempted to be proved, as everything else in the case is attempted by the contestant to be proved,

by illegal testimony, and that which cannot be held admissible for any purpose, except it might be to corroborate other and better testimony—testimony, sir, which would not be admitted in any court of justice whatever; the mere declarations of men that other men had declared that third persons had said that they voted in a given ward, and that they voted for Campbell. It is in vain that the learned Counsel for the contestant, a brief of whose argument was filed, and is published with the testimony in this case, attempts to show that the poll-books of this election were not records, and that it was therefore not necessary to produce them before the committee, as the best proof of the fact that certain persons voted at that election in certain wards. I put it to every member of this House, whether the poll-books are not record evidence, and (if the poll-books be not technically records) whether they are not written evidence of the fact which it is attempted to be proved, and whether they are not the best evidence of the fact of voting? They show, and they are the only legal evidence to show that A, B, or C, voted at that election, being written evidence, made and sworn to by the officers of the law, and pursuant to the requirements of the same. They are best evidence of the fact that any person voted; and, being accessible, they are the primary legal evidence of that fact, and, in the absence of that proof, secondary evidence cannot be received, and ought not to be.

I submit that the learned gentleman in his labored argument this morning, entirely failed to prove that the best evidence which the case admits of can be dispensed with. That is the point I make. I say it, and I say it without the least fear of contradiction, that the poll-books certified to by the officers of election, in which are written the name of every voter who cast his vote at that election, are the best evidence which the nature of the case admits of, and were accessible to the contestant. Surely this written evidence would be more satisfactory than the declarations of any man or set of men can be, who stood by the polls and saw, or thought they saw, one or five hundred men cast their votes. There was no difficulty in procuring this written proof in order to lay the foundation for the other proofs as to the qualifications of the electors. That written proof is not furnished. For what purpose is it omitted? What excuse can be given for not making it? Does not every man know that the testimony of the legal custodians of these poll-books could have been taken, that they could have been compelled to testify and set out every name that is therein recorded or written? Every man understands that. They could have been compelled to set out as a part of their depositions full copies of the poll-books, and thereby show the name of every single elector returned by the officers of that election as having voted at any poll within that district. Every man knows that, but it has not been done. Again, I ask, why was it not done? The burden of proof is upon the contestant; and it was his duty to furnish the best evidence—the written evidence. Hearsay testimony is introduced, instead of the written proof, for the purpose of showing that sundry minors voted at that election. What is the effect of that hearsay testimony, after we have got it? The House might as well not have been detained or troubled with it at all. What is the result of it? Simply that three minors voted for Mr. Campbell, and four (4) for the contestant! The strongest view that can be taken of this case for the contestant is the view expressed by the gentleman from Mississippi, [Mr. LAMAR.] The gentleman from Mississippi, and three of his associates upon the committee, have come to the conclusion that the contestant has the better claim to the seat, upon the hearsay testimony in the case. They state, in their published views of the case, that they find in this proof that of minors three voted for Mr. Campbell, and four for Mr. Vallandigham. That does not reduce Mr. Campbell's majority, but increases it one vote! Why, then, did the contestant trouble the House with proof on that point? If you take three from the nineteen majority reported for Mr. Campbell, and four from the vote for Mr. Vallandigham, it will increase the majority of Mr. Campbell to twenty; so that, instead of making out a case against the record and certificate of election, it makes a case in favor of the record and certificate! So much for that point.

The next point made by the contestant, and to support which, he produces his hearsay proof, is that persons of unsound mind, who are disqualified by law, voted at that election. His hearsay proof results in this: that three persons of unsound mind voted on each side. The result is not changed; notwithstanding that proof, my colleague's majority is still twenty. So much for that proof! The next point raised, (and I cannot see what earthly object he had in view in getting up proofs of this kind, unless it was to mislead somebody), is that *aliens*, who were disqualified by the laws of Ohio, voted at that election. In my judgment, and I will state it here, in passing, no State has the right to confer the elective franchise for the most numerous branch of the State Legislature, much less for Representatives in Congress, upon *ALIENS*, for the reason that the exercise of any such authority by the State, or by any State Legislature is in direct conflict with the laws of the United States regulating the naturalization of aliens and their admission to citizenship, anywhere within the United States. Under, and by virtue of the Constitution of the United States, the elective franchise is the guaranteed and exclusive right of the citizen; and a State Constitution, or State law, which confers that franchise upon *ALIENS*, is in conflict with that provision of the constitution of the United States which says that, this "Constitution, and the laws made in pursuance thereof, shall be the *supreme* LAW of the land, the constitution and laws of ANY State to the contrary notwithstanding." A compliance with the naturalization laws of the United States, is, in my judgment, indispensable to the legal enfranchisement of aliens in any State of the Union!

I hold, therefore, that the aliens who voted at this election were disqualified, irrespective of any State law (if any had existed) on the subject. But what does the contestant make by his proof that aliens voted? By his hearsay proof it turns out that three aliens voted for Campbell, and three for Vallandigham. After passing through with the proofs about minors, after passing through with the proofs about aliens, after passing through with the proofs of persons of unsound mind, we are just where we started, except, if anything is to be done, that one vote is to be counted additional in favor of the sitting member.

Mr. HILL. I wish to ask the gentleman a question. It seems to me, from what I can learn, that there is a discrimination made between the old constitution of Ohio and the new one which was adopted in 1851, on the subject of suffrage. Is the gentleman able to inform me from his own knowledge, whether any class of colored persons who exercised the right of suffrage before 1851, have been excluded by reason of the adoption of the new constitution?

Mr. BINGHAM. I will answer the gentleman, that I have no personal information on the subject; but, I understand that the practice has been precisely under the constitution of 1851 what it was under the constitution of 1802; that is, that native persons resident in the State, of more than half white blood, are allowed to vote.

After disposing of the case, as it appears, touching the votes given by minors, by persons of unsound mind, and by aliens, I come to another point raised by the contestant, and that is as to the votes of non-residents of the ward in which they are alleged to have voted. The report on that subject of the gentleman from Mississippi and his three associates—and I think that they report correctly—states that two non-residents of the ward voted for Vallandigham, and none for the sitting member. If you come, then, to strike a balance between these gentlemen, the contestant and my colleague, under these four heads, instead of my colleague [Mr. Campbell] having a majority of nineteen over the contestant, [Mr. Vallandigham,] he has, in fact, a majority of twenty-two.

Now, sir, there are three other points made by the contestant, and on which he has adduced his hearsay proof. One is in regard to non-residents of the county who voted at that election; one is in regard to non-residents of the State who voted at that election; and another is in regard to mulattoes or negroes who voted at that election. Those are the three and only remaining points. For the purposes of my argument, I might consent here that the six non-residents of the county who are reported on this hearsay proof to have voted at

that election, did vote as claimed. Did they *all* vote for the sitting member? Waiving my objection to this secondary proof, in the absence of the poll-books, which furnish the best evidence of the fact whether these six men voted at all; admitting, in the absence of the legal proof, that they did vote as claimed, and that they voted for my colleague, [Mr. Campbell,] how does the record stand? It stands, even with that admission, upon the proof of the contestant, at six less than twenty-two majority, leaving sixteen majority for the sitting member, [Mr. Campbell.]

What next? Allowing, in the absence of the legal proof to be furnished by the poll-books, that negroes and mulattoes to the number of fifteen, as claimed, did, in fact, vote at that election, and allowing still further, in the absence of proof, that they did vote for Campbell, it still leaves Campbell a majority of one over the contestant, and that too upon the showing of the four gentlemen of the committee, who report here most favorably for the contestant, [Mr. Vallandigham.]

What point, then, remains of the case? Only the point that, votes of non-residents of the State were given at that election. I will dispose of that point briefly. I dispose of it in this way. The gentlemen who reported favorably for the contestant [Mr. Vallandigham] found it very convenient in their printed argument or report to refer to the testimony of persons relied on to prove the fact that fifteen negroes did vote at that election for Mr. Campbell, while they found it very inconvenient to refer to the testimony of a single man who shows the fact that a non-resident of the State, of any name whatever, voted at that election, much less that any such non-resident voted for the sitting member, [Mr. Campbell.] I undertake to say upon that point—because the whole case is now narrowed down to that—that no man who looks candidly at this record can come to the conclusion that the fact is proved. Having, by conceding facts to be proved, which are not proved, reached the point of the votes of non-residents of the State, and upon which the whole case turns, after conceding all that has been assumed by and for the contestant, I plant myself upon the principle of common law and common sense, and which, in spite of the parliamentary cases cited by the contestant from the English cases, prevails in all bodies which sit in judgment upon anybody's or any community's rights—that the *best evidence which the nature of the case admits of must be adduced.*

I say, then, in relation to the fact, whether thirty-one non-residents of the State of Ohio, or any greater or less number of such non-residents, voted at that election, the best evidence that any one or more of such persons so voted is the *written evidence* of a fact which the law of the State authorized and required to be made out at the time of the transaction, under oath, by the judges and clerks of the election, and which was deposited in pursuance of that law, at the offices of the clerk of the common pleas of the respective counties of the district, and which is there preserved. I submit it to the common sense and candor of every gentleman upon all sides of the House, whether that written evidence is not more reliable than the slippery, treacherous memory of a thousand witnesses who stood, mingling with the throng, at the election, and partaking of the excitement of that day, and who have nothing *but their memory* to rely upon, to prove the fact that those persons did, in fact, vote at all?

That evidence is not produced in this case; and I say the fact that thirty non-residents did vote at that election is not proved, though there is hearsay evidence to that effect, while the best evidence is withheld. It rested on the contestant to make out his case by the best evidence, and until he does so, the House should not set aside the authority of the great seal of Ohio, by which my colleague holds his seat. The contestant has given no excuse for failing to produce it—the written proofs, the best evidence. He has introduced by way of apology for this neglect, through his counsel, a futile evasion, by having them say in his behalf, that the poll-books are not records. They are written evidence, open to inspection, and, as I remarked before, everybody knows that the custodians of that written evidence were liable, by compulsory process, to be compelled to produce it, and, in their depositions, to set out the names of every voter therein recorded. Such

proof has been made in numerous instances before, may be made again, and ought to have been made by the contestant in this case.

Well, suppose you concede the fact that these thirty-one persons did vote at that election, and further, that these thirty-one persons were non-residents of the State of Ohio at the time, the other great fact, important to this case, is not true, and that is that they voted for Campbell. I would like to see the testimony showing that any six of them voted for Campbell, much less that twenty-one voted for him, as claimed: by the contestant. I should like gentlemen to point out that evidence, and until they do, I for one, irrespective of all party considerations, will refuse to reverse the record as it stands here before us. I insist that common respect shall be shown here to the attested voice of the people of the third congressional district of Ohio, as well as to the accredited voice of the people of any other congressional district in the Union. The attempt is made here to set aside the will of the people of that district by the mere hearsay of irresponsible and unknown witnesses. I submit that it is an outrage attempted to be perpetrated here against that people, and an outrage which I trust they will have the courage and the dignity and the self-respect to rebuke, as it deserves to be rebuked, on the second Tuesday of October next.

Mr. STEVENSON. I do not rise, Mr. Speaker, to discuss the merits of this controversy; and I will not trespass upon the already exhausted patience of this House by an analysis of the mass of testimony contained in this record. My purpose is a brief answer to one or two positions maintained by my two colleagues on the Committee of Elections, [Messrs. WILSON and GILMER,] who have just addressed the House in support of the right of the sitting member to retain his seat upon this floor. Both these gentlemen seem to rest their arguments upon technical objections, rather than upon a full and frank consideration of the merits of this contest. Their objections partake rather of the character of special demurrers, or exception to the testimony than of a consideration of the weight which should be given to it, or the results deducible therefrom. I propose briefly to reply to these objections. Both gentlemen complain that the official abstract from the office of the Secretary of State of Ohio, with the broad seal of State attached certifying the result of the congressional election in the third district in Ohio, on the 14th October, 1856, was not properly before us, and that the Committee of Elections had no right to receive it as evidence or give any weight to it, because it was not filed with the Clerk of this House within the sixty days prescribed by the ninth section of the act of Congress "prescribing the mode of obtaining evidence in cases of contested elections," approved February 19, 1851. I maintain that a just and reasonable construction of this act does not include within its provisions an official record, which, by the broad seal of the sovereign State from which it emanates, proves itself, and cannot, therefore, be comprehended under that species of "testimony" comprehended by the act, and required, by its ninth section, to be taken within sixty days from the day on which the answer of the member returned shall be served upon the contestant.

A careful examination of this act will, in my opinion, fully justify my construction of its provisions. What are they?

The third section provides:

"That when any such contestant or returned member shall be desirous of obtaining testimony respecting such election, it shall be lawful for him to make application to any judge of any court of the United States, or to any chancellor, judge, or justice of a court of record of any State, or to any mayor, recorder, or intendant of any town or city, which said officer shall reside within the congressional district in which such contested election was held, who shall thereupon issue his subpoena, directed to all such witnesses as shall be named to him, requiring the attendance of such witnesses before him, at some time and place named in the subpoena, in order to be then and there examined respecting the said contested election, in the manner hereinafter provided."

The fourth section provides merely for the service of the subpoena.

The fifth section provides simply a penalty for neglecting or refusing to attend or testify.

The sixth section provides for the mode and manner of giving notice of the time and place of taking the testimony, the names of the witnesses to be examined, and their residences, and the

name of the officer who is to conduct the examination.

The seventh section provides the mode and manner of the examination, and requires—

"That the testimony of the witnesses, together with the questions proposed by the parties or their agents, the said magistrate is hereby authorized and required to cause to be reduced to writing, in his presence, and the presence of the parties or their agents, if attending, and to be duly attested by the witnesses respectively; after which he shall immediately transmit by mail the said testimony, duly certified under his hand, and sealed up, to the Clerk of the House of Representatives; for the time being, together with a copy of the subpoena and notice, served upon the party, as provided for in the preceding section and of the proof of the service of the said notice."

The ninth section provides—

"That the testimony taken by the parties to the contest, or either of them, shall be confined to the proof or disproof of the facts alleged in the notice and answer mentioned in the first and second sections of this act; and no testimony shall be taken after the expiration of sixty days from the day on which the answer of the member returned shall be served on the contestant; and a copy of the notice of the contest and of the answer of the returned member, shall be prefixed to the depositions taken, and transmitted with them to the Clerk of the House of Representatives: *Provided*, That the House may, at their discretion, allow supplementary evidence to be taken after the expiration of said sixty days."

I submit, Mr. Speaker, very confidently, that a careful inspection of the foregoing provisions of the act, conclusively show that they contemplated parol evidence, or some instrument of writing which required parol proof of its genuineness. Neither the spirit or letter of the statute includes official records as within the testimony required by the ninth section to be closed within sixty days after service of the answer of the returned member.

Mr. GILMER. If the gentleman will read the eighth section, he will see that that very identical sort of testimony was contemplated.

Mr. STEVENSON. I am coming to that point directly. My friend from North Carolina seems to think that the official statement of the result of this election, from the office of the Secretary of State of Ohio, with the broad seal attached thereto, is comprehended by the eighth section of the act of 1851, already referred to. I think he is clearly in error. What are the provisions of this eighth section? They are in these words:

"That the said magistrate shall have power to require the production of papers; on refusal or neglect of any person to produce and deliver up any paper or papers in his possession pertaining to said election, or to produce and deliver up certified or sworn copies of the same in case they may be official papers, he shall be liable to all the penalties prescribed in the fifth section of this act, and all papers thus produced and all certified as sworn copies of official papers, shall be transmitted by said magistrate, with the testimony of witnesses, to the Clerk of the House of Representatives."

This section confers upon the magistrate the authority to call for the production of certain papers, and if produced, provides for their transmission. It does not exclude or deprive either party from filing official papers which prove themselves, and which were not called for or produced before the officer who took the testimony. The section simply confers the authority upon the officer to enforce the production of papers if called for. It nowhere restricts either party from filing official papers which prove themselves, and which were not called for or produced during the examination.

But, Mr. Speaker, I deny that this act anywhere confines the filing of testimony to sixty days. The restriction is upon the *taking of testimony*, and not upon its production. The words are, "no testimony shall be taken after the expiration of sixty days," &c.; and were an officer, through neglect or design, to fail in transmitting immediately the testimony taken by him, I deny that such a failure would deprive either party of the testimony, if filed after the assembling of Congress. Such would, in my judgment, be the true construction of this act as to parol evidence. The limitation could, *a fortiori*, have no possible effect upon records or documents which bore no testimony as to their genuineness, but which became authentic from the impress of the seal of sovereignty attached thereto.

My friend from North Carolina [Mr. GILMER] somewhat anticipated this argument, and said it was barely possible that this official abstract might come in as a public document, assimilating it to a paper filed as an exhibit to a bill in equity. He argued very earnestly, however, that this position would prove fatal to the claims of the contestant, Mr. Vallandigham, because the same

rule would require a production of a copy of the poll-books as the best evidence to show how each elector whose vote was challenged had voted; and that the parol testimony taken by the contestant on this ground be excluded.

If the law of Ohio placed the copies of the poll-books, and the abstract of the result of an election certified by the official canvassers to the Secretary of State, on a common grade in the scale of testimony, there might be some force in this objection. Such is not the fact.

A reference to the election law of Ohio (Swan's Statutes of Ohio, page 443-4) will show that the poll-books of an election are not returned to the Secretary of State. One poll-book is returned to the clerk of the court of common pleas in each county, and the other to the township clerk. It is made the duty of the clerk of common pleas in each county, with two justices of the peace, on the sixth day after an election to open the returns in congressional elections, and certain State officers, and to make an abstract of the votes in manner prescribed by law, and to forward a copy, certified and subscribed, to the Secretary of State.

By the law of Ohio, the Secretary of State is the keeper of this abstract, and is authorized to make copies thereof under the great seal; and such copies, when thus certified, are received as evidence in all courts and places, in the same manner and with all the force and effect of the originals, if produced. (Swan's Statutes of Ohio, pages 361, 367.)

No such effect is given to the poll-books. They stand wholly on a different footing. There is no statute authorizing any officer to make official copies of them; and if made, they would not, by any statute of Ohio, become competent testimony. If required, they could be produced only by a *subpoena duces tecum*; and no application was made for their production, had it been competent to do so under the eighth section of the act of Congress.

Mr. WILSON. I would like to know if it is not the law of 1851, that all official papers shall be transmitted by the magistrate with the papers?

Mr. STEVENSON. I construe that law differently from the gentleman from Indiana. I have already attempted to show that by the eighth section of that act, the magistrate was authorized to certify no papers that were not then produced; and that a failure to call for them by either party at that time could not diminish their authenticity, or prevent either party from filing them at a subsequent period. But I hope the gentleman will allow me to go on with my argument, without interruption. I had just stated the postulate, that no man could carefully examine this act, and arrive correctly at the conclusion that official papers, which, under a broad seal of State, prove themselves, could be included under the term "testimony," as used in the act.

In support of my construction, I can cite gentlemen to the fact that, since the passage of this statute of 1851, these official abstracts have been allowed, as I am informed, in a dozen contested elections, to come in after the termination of sixty days, without question. So that in my argument I am supported by the past action and precedents of this House in similar cases.

What is the next ground, Mr. Speaker, on which the gentlemen attempt to rest? It is still more technical. They claim that the notice of contest from Mr. Vallandigham, required under this act of 1851, is fatally defective in specifying all the names of the voters whose votes he intended to contest. The first section of that election act is as follows:

"Be it enacted, &c., That from and after the passage of this act, whenever any person shall intend to contest an election of any member of the House of Representatives of the United States, he shall, within thirty days after the result of such election shall have been determined by the officer or board of canvassers authorized by law to determine the same, give notice in writing to the member whose seat he designs to contest of his intention to contest the same; and in such notice shall specify particularly the grounds upon which he relies in the contest."

Now, does the word "grounds," as used in this section, necessarily require a contestant to name every voter whose vote he intends to contest? Such is the construction confidently urged upon us by my friends and colleagues on the committee, who have argued the other side of this question. Now, sir, I maintain, the contestant here has specifically set forth the grounds of the contest, and fully complied with all the requis-

tions of this act. He has specified particular classes of electors, whose right is challenged, not by name, but by setting out, with mathematical accuracy, the various grounds of illegality on which he intended to rely. His notice of contest contained nineteen specifications—votes by non-residents of the State, by non-residents of the county, aliens, minors, idiots—each ground specified and separately set out. The sixteenth specification enumerated by name ten mulattoes and persons of color, with twenty-two others not named, who were illegally permitted to vote for the contestant. And yet gentlemen say, that because the names of every voter intended to be challenged is not set out in this notice, therefore the sitting member shall retain his seat without an examination, and no matter how illegal was his election, or what frauds were practiced in its accomplishment. I would ask my friend from Indiana, who talked of popular sovereignty in the close of his speech, and who seemed to constitute himself the peculiar guardian of popular rights, if when a man comes to this Hall, representing nine tenths of the voters of his district, to seek his rights as their chosen Representative on this floor, he would turn him off and say, "Sir, whatever your majority, or whatever may have been the frauds and outrages on the ballot-box, you have not specified in your notice the name of each illegal voter, and I will not examine into your proof or listen to your complaint?" Is the popular voice to be strangled by such a technicality? Are wrongs and outrages upon popular rights to be passed over under so unnatural and strained a construction of a statute passed to protect the elective franchise? This act of 1851 was enacted to protect the right of popular suffrage; and yet if such a construction is to be given to it, it ties up the hands of a contestant, and tends to defeat the very object of its enactment. Take such an election as the one we are now considering in three populous counties in Ohio, where nearly nineteen thousand votes were cast, and I ask, would it not be almost physically impossible for any man, in thirty or forty days, to ascertain the name of every illegal voter that may have voted at that election? The time prescribed for giving notice is within thirty days after the board of canvassers have determined the election. In many districts in my own State, such a requisition would be almost impossible. Such a construction of the word "grounds" as to require the name of every illegal voter to be given, would amount, in some cases, to a denial of the right of contest.

There is one ground, Mr. Speaker, upon which I think we should all agree. It is, if this section of the statute has hitherto received in this House, by its past precedents, a uniform and consistent construction, that construction ought not now to be departed from. If the construction hitherto adopted is more enlarged and liberal, and better calculated to carry out the objects of this act than a more restricted and technical one, it affords another pregnant reason for a strict adherence to it.

The act was passed in 1851. Some seventeen contested elections have occurred here since its adoption. Of these but two are reported, which afford any light on this question. They both sustain my construction, and expressly decide that a contestant, in stating in his notice the grounds of contest, is not required to name each voter whose right of suffrage is contested.

The first of these cases is that of *Wright vs. Fuller*, decided in 1852. There the objection was made, that the notice was fatally defective, because it did not enumerate the names of the illegal voters. Mr. Ashe, of North Carolina, made the majority report, overruling at length this objection, and expressly deciding that it was not necessary in the notice to enumerate the names of the challenged voters, and this report was sustained by the House. Again, during the last Congress, in the contested election of *Otero vs. Gallegos*, a similar objection was interposed to the legality of the notice. Mr. William R. Smith, a leading member of the American party, made the report. In it he says:

"Your committee think the notice was quite sufficient to authorize the taking of the testimony. No such objection was made by the sitting member or his counsel at the time of taking the depositions. On the contrary, he appeared and examined the witnesses without any objection whatever; and if he had no notice at all, and had appeared and examined them, he would have been estopped from setting up notice."

These authorities, uncontradicted by a single precedent of a contrary ruling since the passage of this act, would seem to be decisive of this objection. It may be added, however, that Mr. Campbell appeared by counsel, and examined the contestant's witnesses without objection, and it would be too late now to insist upon it.

Mr. Speaker, the construction hitherto placed by the House upon this act is eminently right and proper. To give the construction contended for by the gentleman on the other side, to the first section, would render it impracticable to detect and expose the most flagrant abuses and outrages on the elective franchise. Nothing is required by the letter or spirit of the act but to give the grounds of the illegality committed in the election, and I hope this House will never depart from the construction hitherto given to it. How unjust would be a contrary ruling at this day? Had the contestant looked to the reported precedents of this House, which I have just quoted, as we have a right to presume he did, before giving his notice, could he have doubted that an enumeration of the voters' names was wholly unnecessary? Shall we now overturn these precedents, and thus make it a snare for entrapping him? I cannot and will not believe it. The construction heretofore uninterruptedly given is right, and, I trust, will be adhered to. If originally doubtful, justice requires it should not now be disturbed.

Mr. Speaker, I did not intend, and do not now intend, to go into the merits of this controversy. That will be much better done by my friend from Mississippi, who will close the debate in support of his report. I wish, however, to say a word or two before I sit down on the qualification of suffrage as contained in the present constitution of Ohio. I do not agree with the honorable gentleman from Ohio [Mr. STANTON] as to his deductions about the class of colored voters, who, in his judgment, are still entitled to the right of suffrage in his own State. Nor can I, highly as I estimate his legal acquirements, yield my acquiescence to the process of reasoning by which he arrived at the conclusion that colored persons are still good voters in Ohio.

The constitution of Ohio provides that—

"Every male white citizen of the United States, of the age of twenty-one years, who shall have been a resident of the State for one year next preceding the election, and of the county, township, or ward, in which he resides, such time as may be provided by law, shall have the qualifications of an elector, and be entitled to vote at all elections."

Whatever may have been the former decisions of the Ohio courts, I maintain, that, under the present constitution of Ohio, no descendant of the African race can exercise the right of suffrage. There has been no adjudication on the question of suffrage by the courts of Ohio, as I learn, since 1851, when the present constitution was adopted. The gentleman from Ohio maintains, however, that Ohio has a right to determine for herself, not only what excess of white blood constitutes a white man as contradistinguished from a colored person, but also to say, within Ohio, who are citizens, and as such entitled, within her limits, to the right of suffrage. He maintains that the supreme court of his State has already judicially settled, prior to the adoption of the constitution of 1851, that persons having a portion of black blood were entitled to the right of suffrage, and that even the Supreme Court of the United States would follow the decisions of the supreme court of Ohio in the construction of one of its own statutes. I cannot yield my assent to this argument, and I do not think the position assumed can be maintained.

If the constitution of Ohio, adopted in 1851, had simply said "a white citizen," I can perceive that there would have been great force in this argument.

It may be maintained that a State shall prescribe how much black blood shall constitute a certain class of her people to be colored persons. Most of the States have provisions on this subject. A construction of such statutes by the supreme court of the State where they existed would be followed, too, by the Supreme Court of the United States. Indeed, that tribunal has said that a State within its own borders can say who shall be voters, and who enjoy the rights of citizens within the State. That, however, is not the question here. No State has a right to confer citizenship of the United States, and where a State constitution requires as a suffrage qualification that the elector shall be a

white citizen of the United States, I utterly deny that in such State any descendant of the African race can be an elector. The decision of the supreme court of Ohio cannot control the question. Whenever it shall decide that a descendant of the African race, however small the quantity of black blood, or whatever the degree, is entitled to the right of suffrage, its decision will be in direct antagonism with the *Dred Scott* decision. That case authoritatively settles that no descendant of the African race is or can be a citizen of the United States. The constitution of Ohio requires an elector to be a white citizen of the United States. If, therefore, the supreme court of Ohio were to construe their constitution as conferring citizenship of the United States on such descendant of the African race, it is manifest that such a ruling could not be upheld by the Supreme Court of the United States. The Supreme Court of the United States do not follow the State decisions in the construction of their own constitutions, nor are they bound by them. I must, however, express my opinion that the supreme court of Ohio will never construe their constitution of 1851 as conferring suffrage on a descendant of the African race. I am aware of its decisions heretofore made.

"The first case was *Gray vs. The State*, 4 Ohio Rep., 354, decided upon the statutory rule of competency of witnesses, which excluded blacks and mulattoes from testifying in a cause to which a white person was a party. The defendant was nearer white than a mulatto; and the decision in *favor* was made, that a mulatto could not be a witness in behalf of the State. As this was a favorable construction of the statute, and made in a criminal cause, it passed without notice.

"In another case, *Williams vs. School Directors*, Wright's Rep., 578, it was decided that the children of a white mother and a father three fourths white, could not be excluded from the common schools, the benefits of which were by statute limited to white children; and force was given to the consideration that the father was taxed for the support of the schools to which his children had been denied admission, as black and mulatto persons were the only persons exempted from taxation for school purposes; and that the father was not included within the exemption. The opinion in Ohio as to the principle of this decision, and the following section, is quoted:

"The words 'colored persons' and 'colored children,' as used in this act, and the act to which this is an amendment, shall be deemed and held to mean those who are reputed to be in whole or in part of African descent."—53 Ohio Laws, 118, section 2, April 8, 1855.

Again: the question as to the meaning of the word 'white'—a word which, of all others in the language, ought to require no gloss—arose in *Jeffries vs. Ankeny* and others, which was an action brought by a person, the offspring of a white man and a half-breed Indian woman, against the judges of election for refusing his vote; and the judgment of the court was for the plaintiff, that he was white and entitled to suffrage, the court giving weight to the fact that persons of partly Indian descent 'were members of the bar, had exercised political privileges, filled offices, and worthily discharged their duties, and that disfranchisement for this cause will be equally unexpected and startling.'"

I am also aware of the case of *Thacker vs. Hawk* and others, 11th Ohio, 379, which was an action brought against the judges of election for refusing the vote of the plaintiff "the evidence tending to prove he had some negro blood in him"—and where the ruling of the lower court, instructing the jury "if the plaintiff had any negro blood in him, he was not entitled to vote," was reversed by a divided court. That decision rested on the authority of *Jeffries vs. Ankeny et al.*, already referred to. Judge Read's dissenting opinion, however, in *Thacker vs. Hawk* and others, is a masterly argument in support of the ruling of the lower court.

In addition to this, the popular sentiment of Ohio, as reflected by the Legislature, seems to have approved of the dissenting opinion of Judge Read rather than the opinion of a majority of the court. On the 3d April, 1856, they passed an amendment to the school law, from which I quote the following section:

"The words 'colored persons' and 'colored children,' as used in this act, and the act to which this is an amendment, shall be deemed and held to mean those who are reputed to be in whole or in part of African descent."

Mr. BINGHAM. Is that the school law?

Mr. STEVENSON. It is an amendment to that law. It is apparent, Mr. Speaker, if the Legislature of Ohio have declared that any one who is in part descended from the African race is a "colored person," he is not a white person, and therefore not entitled to be an elector.

If this law should, however, be repealed, any portion of black blood would make him in part a descendant from the African race; and if so, he could not be a citizen of the United States under the ruling of the *Dred Scott* decision; and, if not

a citizen of the United States, not a legal elector in Ohio under the constitution of that State.

It is true that this House is the judge of the returns of its own members. In arriving at correct results in the determination of the legal questions arising in contested elections, the decisions of the Supreme Court of the United States must always have a controlling weight. I doubt not their opinions will always receive the weight on this floor to which they are entitled, not less from the high legal acquirements than the exalted character of the individuals who constitute the court; and of all the decisions which have entitled them to the high position of being regarded the loftiest judicial tribunal of the world, none will add more luster or defy for a longer time all legal criticism than that which has judicially established that a descendant of the African race is not a citizen of the United States.

Mr. TOMPKINS. The gentleman from Kentucky, who has just addressed the House, has been led into an error in regard to the time when this notice of the contestant would have to be served upon the sitting member. The statute from which he read declares how the notice shall be served.

Mr. STEVENSON. It is thirty days after the votes have been canvassed.

Mr. TOMPKINS. Thirty days after the votes are canvassed, and not thirty days after the election. The elections in the State of Ohio are held on the second Tuesday of October, which can never happen earlier than the 8th of October, or later than the 14th. The result of the election for members of Congress has to be declared between the 1st and 10th of December following; and within thirty days from that time the contestant is to serve the notice upon the sitting member, or upon the person declared to be elected. Hence, almost ninety days are allowed for the purpose of serving the notice. It is true that the statute says the notice shall be served within thirty days after the result is announced. The Governor and the Secretary of State are made canvassers of the votes, and they are to declare who are elected members of Congress; and within thirty days of that declaration the notice must be served. I thought the gentleman from Kentucky was misled by that act, and that he might mislead others.

I wish to say a word upon another point. The decision of the supreme court was as to the effect of the word "white," and what constituted a "white male inhabitant" of the State of Ohio. The court having given a particular construction to the word "white" in the old constitution, the new constitution has not changed the rights of persons from what was established by that decision. By the old constitution, "white male inhabitants over the age of twenty-one years" were entitled to vote. By the new constitution, "white male citizens" have the right to vote; still, whenever it is decided that a person is white, he has the rights of a citizen of the United States; and hence the rights of persons having colored blood in them are not changed under the new constitution, for the reason that the court gave a construction to the word "white," and declared what it meant in the constitution. The decision was that a person having a preponderance of white blood, was a white man; and if a man be white he is a citizen of the United States, if born within the United States; although he may have one fourth of African blood in his veins, he is nevertheless a citizen of the United States. The decision of the court upon that one point has settled this question, and the new constitution has not changed it.

Mr. QUITMAN. I would ask the gentleman whether the voter must not only be *white*, but a citizen?

Mr. TOMPKINS. Certainly.

Mr. QUITMAN. The point is, whether "white" and "citizen" mean the same thing?

Mr. TOMPKINS. Every white man born within the limits of the United States is a citizen of the United States; and the court having declared that a man who has a preponderance of white blood in his veins is a white man, he, of course, is a citizen of the United States.

Mr. QUITMAN. To be a citizen a man must be of pure white blood, according to the decision of the Supreme Court of the United States.

Mr. TOMPKINS. We say that the supreme court of Ohio has the right to declare what the

meaning of her constitution is; and whatever the Supreme Court of the United States may have decided does not affect the construction given by the courts of Ohio to the constitution of Ohio. Our courts have the right to declare what is meant by the term white, as used in our constitution. We find many persons that do not come up to the standard of pure white. Then who shall decide? The courts; and the courts have declared that those who have a preponderance of white blood in their veins shall be considered white, and are citizens.

Mr. LAMAR. I did not expect to participate in this discussion, nor can I do so now with any justice to myself, laboring, as I am, under a severe indisposition. But, sir, the attack which has been made upon the report of that portion of the minority of the committee with whom I am acting upon this subject—an attack partaking more of ingenuity, I will say, with all due respect, than of fairness—leaves me no alternative but to come forward and defend the positions taken, and the general conclusion arrived at in that report.

Before I come to the consideration of the points which it presents, I desire, if I can, to fix the attention of members upon one point alluded to by the gentleman from Indiana, [Mr. WILSON;] a point which, though entirely unnoticed, and constituting no part of the contestant's case as made out in the report, is nevertheless, to my mind, absolutely conclusive as to the right of the sitting member. Reflection upon the subject, and an examination of the authorities, have convinced me that the election in the second ward of Dayton, excepted to by the contestant, and which resulted in a majority of ninety-two for the sitting member, was illegal and void. I hold that the entire returns of that ward ought to be rejected, upon the ground that the person who undertook to preside as judge over that election had no authority to act as such, being appointed, not in accordance with the law, but in direct violation of its provisions. By the law of Ohio regulating elections, the councilmen of each ward are constituted, *ex officio*, judges of the elections in their respective wards; and in the absence of either of those councilmen, or if either of them shall be a candidate at any election, the law provides that it shall be the duty of the electors of said ward, or the electors present, to choose a person to act as judge at said election.

Mr. BILLINGHURST. Will the gentleman allow me to inquire whether that statute does not prescribe the mode of electing the judges to be *viva voce*?

Mr. LAMAR. Yes, sir. I am very much obliged to the gentleman for that suggestion.

Mr. BILLINGHURST. I desire the gentleman's attention a little longer. I desire to inquire whether the officer of election himself does not swear to the fact, and whether anybody has contradicted him, that Mr. Vallandigham was there when proclamation of his election as judge was made by many voices, and objected to by none, and that Mr. Vallandigham allowed him to be sworn in?

Mr. LAMAR. I shall go on to that point, but will remark, in passing, that the testimony shows directly the reverse to be the facts.

Mr. WILSON. Do I understand the gentleman to say that when the judge was elected fairly; when he came forward and took the oath; when no objection was made, even if there was an informality on the part of the judge, the election is to be void?

Mr. LAMAR. I am going right to that very question. For the benefit of the gentleman from Georgia, [Mr. HILL,] I will read the statute on which I am commenting:

"Sec. 7. That if either of the trustees, common councilmen, or clerk of any township shall fail to attend at the time and place of holding an election; or if either of them should be a candidate, then it shall be the duty of the electors present to choose, *viva voce*, suitable persons (as the case may require) having the qualifications of electors, to act as judge or clerk (as the case may be) of the election."

Now, sir, what do the proofs show? They show that so far from the statute being complied with, the election was conducted in direct violation of its provisions. Reuben Chapman, the councilman, several days prior to the election, appointed one Suth M. Sullivan to act as his substitute in that election. Sullivan states that he acted as judge in that election by virtue of that appointment, and by virtue of no other authority whatever. That is, he acted as judge of that elec-

tion by the appointment of Reuben Chapman, the councilman.

Now, Mr. Speaker, the question presents itself—and it meets the point to which my friend from Indiana [Mr. WILSON] directs my attention—how does the want of authority in the officers of an election affect the validity of that election? That is the question now presented by this case. To what extent does the validity of an election depend on the authority of those who preside over it? Well, on this point, I presume there will be little difference of opinion when I call the attention of members to the views of writers on the subject, who are recognized as standard authors on legislative proceedings. I quote from Cushing's Law and Practice of Legislative Proceedings, pages 71 and 72:

"In this country the rule appears to be that persons assuming to be returning officers and acting as such, are presumed to be legally elected or appointed, and to be duly qualified for the discharge of their duties, until the contrary is made to appear; in which case, their proceedings in reference to elections will be set aside."

"It is the invariable practice therefore, with us, to allow the authority and qualifications to be inquired into; and if it appears that persons assuming to act as such are not duly elected, the proceedings of the persons thus assuming to act will be void."

Mr. TRIPPE. Is there any evidence that this illegal precinct vote was ever counted in the consolidated returns?

Mr. LAMAR. I think it is sworn to positively in the testimony. Here it is:

"Question 39. How many votes were received and counted at said election for L. D. Campbell, and how many for C. L. Vallandigham?"

"Answer. Two hundred and thirty-five for Campbell, and one hundred and forty-three for Vallandigham."

Mr. TRIPPE. The question is this: did this ninety-two majority enter into the estimate?

Mr. LAMAR. I will answer the gentleman's question by reading another question and answer from the printed testimony:

"Question 40. Were those the respective numbers for each as returned in the poll-book to the office of the clerk of the court of Montgomery county?"

"Answer. Yes."

Mr. BINGHAM. I submit that that does not answer the question yet. The question is, did the canvassers include this vote at all?

Mr. LAMAR. Yes, sir.

Mr. BINGHAM. Where is the proof of it?

Mr. LAMAR. I answer the gentleman from Ohio that there is evidence that it was counted in the general summary returned by the clerks of the various counties to the Secretary of State. For instance, here is the certified copy of the return from Montgomery county, and from every ward thereof.

Mr. BINGHAM. That is the summary which the gentleman contests, and says he does not rely upon.

Mr. LEITER. I propose to make a suggestion. It is this: it has been decided there very many times, that, although the judges are required to be sworn under our statutes, nevertheless, if they be not sworn, and if the votes taken by those judges are legal votes, the Legislature will not disfranchise the people.

Mr. BINGHAM. The statute is only directory.

Mr. LAMAR. I think I can satisfy the gentleman from Ohio that the decision referred to by him is correct, and yet consistent with the point I am making. There are congressional precedents of a similar kind. Congress has, in repeated instances, where the conduct of the returning officers was irregular, or the returns of the election informally made out, waived the irregularities and informalities, provided the election itself was fairly and legally conducted; but these precedents are all based upon the broad and obvious distinction existing between the returns of an election and the election itself. The election is the choosing of their Representative by the people, in accordance with the law; whilst the returns are the mere evidence of the result, as furnished by the officers, consisting of certificates and boards and commissions. The election is the great fact, of which the returns are the mere legal evidence. Now, these returns may be informal; the acts of the officers may be irregular; Congress may set them aside, or waive them, without affecting the validity of the election itself. The fact of the election still exists, although Congress may ascertain its existence by evidence other than the returns.

But, sir, when you come to inquire into the election, it is quite different. The times, places, and modes of holding, and the qualifications of its officers, as prescribed by law, enter into the very essence of an election; are indispensable to its validity; and the fact of the election does not exist unless these are substantially carried out. And hence, whilst Congress has been very liberal in waiving the mistakes or neglect of returning officers—the officers duly appointed—it has ever been jealously rigid in enforcing the law in relation to the election. I will refer gentlemen to a case which occurred in the Fourth Congress, of which many of the framers of the Constitution were members, and among them James Madison. In that case the very principle is laid down which I contend for; it is almost a parallel with the case under consideration. I refer to the case of Jackson vs. Wayne, (Contested Elections, page 47.) In that case it was held that—

"Where the law required the election to be held by three magistrates, an election held by three persons, two of whom were not magistrates, should be set aside."

In another case it was decided that—

"Where the selectmen are returning officers, an election is conducted by persons who are not duly elected selectmen, the proceedings of the persons thus assuming to act will be void."

There are many other cases directly in point, which I have not time to refer to.

The case quoted by the gentleman from Indiana to show that the acts of an officer *de facto* are valid as to third persons, is wholly inapplicable. It was a case of *quo warranto* in a court of common law; and the language of the judge demonstrates, more clearly than anything I can say, the utter inapplicability of the decision to the case of an ordinary contested election:

"The result of an election, when controverted in court, is like a judgment sued upon. We have no power to reverse it for errors in conducting it, and thus give those concerned in it a retrial."

Is this true of a contested election in Congress. Why, sir, nothing is more common than for this House to review the proceedings of those who conduct the elections, and to reverse their judgments. Analogies drawn there from the practice of common law courts of limited jurisdiction are hardly applicable to a body like ours, made by the Constitution judges of the election, returns, and qualifications of its own members. The words of the Constitution are broad and comprehensive, and embrace within their scope every subject and question connected with membership. We are judges not of the returns and qualifications merely, but of the election of members. We can go behind the returns and inquire into the elections and into the qualifications of the officers, and set aside their acts if they be not duly qualified. It is a high and important power, sir, I admit. There is, perhaps, nowhere in the Constitution a power conferred upon the Government, or any of its departments, more important and delicate. And, sir, in the hands of a corrupt and factious majority, it might be made a dangerous instrument of oppression; for it opens an avenue through which Federal power can effect an entrance right into the heart of a State, and going behind the acts of its authorities, march up to the very fountains of political power. And hence I respond fully to the sentiment of the gentleman, that we should decide these questions impartially, and without reference to party prejudices. Sir, he who would drag such a question into the arena of party debate, trifles with the rights of the people. The member who, in this matter, is prompted by any motive less pure than truth; who raises his voice or gives his vote with even a glancing thought of party profit, is untrue to the high responsibilities of his position, and guilty of *crimen lèse majestatis*.

Mr. TOMPKINS. Will the gentleman disfranchise the people of a county, township, or precinct, simply because there was some informality in appointing one of the judges of election?

Mr. LAMAR. I must confess that I have spoken to very little purpose if I have not answered the gentleman's question already. But I think I might say to the gentleman, and to those who have argued the question on that side, when they complain of setting aside an election by the people on account of technicalities, *et tu, Brute!* for every objection urged by them is technical. The arguments relied upon by them would deprive the contestant of his seat, even though the evidence had shown him entitled to it by a majority of one

thousand votes. Why, sir, all their points are technical, and some of them barely rise to the dignity of a technicality. When they complain of technicality, therefore, let them remember that "they that take the sword shall perish with the sword."

But, sir, I tell the gentleman that the absence of all authority in the presiding officer at an election is something more than a mere informality. It is of essence. What is an election by ballot but a choice of the Representative in the mode prescribed by law. In reply to the statement of the other gentleman from Ohio, that there was a tacit election and no objection made to Sullivan's acting, I have to say that there was objection made, as appears in the testimony. But, sir, I hold that the people cannot by acquiescence waive the forms of an election as prescribed by law. They cannot elect *visa voce*, if the law prescribes ballot. They cannot acquiesce in an illegal alteration of the time, and hold a valid election on a day different from that appointed by law. And so with any other requirement of the law. Sir, this right of suffrage is a conventional right—the creature of law, and those who exercise it must exercise it subject to the conditions and restrictions which the law throws around it.

The disregard of the wholesome restrictions of the law is the vice of the present age; a symptom of the decay of public order and public virtue in our country.

Now as to the effect of this election. I think that, inasmuch as the majority of the sitting member is greater in the second ward than in the district, it clearly invalidates his right to the seat now in contest. But I admit it does not strengthen, in the slightest degree, the title of the contestant. He can claim nothing from it; he can get no benefit from it; for, in order to show him entitled to the seat, he must show his affirmative right by a majority of all the votes in the district. If he has not a majority over the sitting member, of all the votes, including those cast in the second ward of Dayton, I am willing to set aside the election, and send it back to the people.

Mr. BINGHAM. Before the gentleman leaves that point, I would like to say a word.

Mr. LAMAR. I understand that half of my time has expired, and I hope the gentleman will allow me to proceed without interruption. I think I have been very liberal in yielding the floor.

Mr. BINGHAM. Certainly. I only wished to call the gentleman's attention to the proof upon that point.

Mr. LAMAR. I will now pay my respects to the gentleman from Ohio, and reply to his review of the report of the minority with whom I act.

Mr. PHILLIPS. With the permission of the gentleman, I desire to say a word, as I was one of those who joined in his report. There is nothing in the report upon that question; that vote of that ward in Dayton is not counted, and with my consent it would not have been. I recognize the right of officers *de facto*. As that matter has been referred to, it may have been supposed by some that it would affect the result. It is not so.

Mr. LAMAR. I have so understood and so stated. I will only say in reply, that in a contested-election case the officer *de facto* is held to be acting *de jure* until the contrary appears, and that then his acts are not recognized as good and valid. Now, as to the argument of the gentleman from Ohio. He has with a great deal of confidence taken up the report, and ridiculed the fact, that of aliens I report the same number of illegal votes for the sitting member and for the contestant, and with an air of triumph, exclaims, "so far the result is not changed." He then takes up the votes of minors, and shows that according to my report more minors voted for the contestant than for the sitting member; and with the same air of exultation exclaims, "this gives Campbell one more vote than he came with." And so he goes on, until he gets to the votes of the non-residents of the State, and he seems to consider it a great triumph over me that I had deducted as many illegal votes from the poll of the contestant as from that of the sitting member. The surprise the gentleman manifested was natural; but I can give him a clew to my conduct, by telling him that I deducted illegal votes without reference to the person for whom they were given; and that I was as careful to deduct the illegal votes cast for the contestant as I was to deduct those which were cast for the sit-

ting member. I might say, if I were inclined to say a bitter thing, that—

Mr. BINGHAM. My criticism was confined exclusively to the remarks of the contestant.

Mr. LAMAR. The gentleman spoke of Mr. LAMAR, thus violating the rules of the House, in his allusion to me. All I have to say is, that I deducted illegal votes impartially; and if the gentleman cannot understand the motive which prompted me to do so, allow me to say that we act from very different motives.

Mr. BINGHAM. I must disclaim expressing any surprise at the sense of justice manifested by the gentleman. I deny that there was anything in my language that would imply it. I limited my criticism to the contestant, in attempting to show himself elected, by adopting, for that purpose, the merest hearsay, much of which, if it tended to prove anything, tended to prove that the contestant was not elected.

Mr. HILL. I also misunderstood the gentleman from Ohio. I understand him to say now, that, taking the report of the gentleman from Mississippi as the basis of argument, the conclusions he would derive from it would be different from those deduced by the gentleman from Mississippi.

Mr. BINGHAM. And the matter I dwelt upon with surprise was, that the contestant should attempt to get up an election of himself by any such procedure or by any such incompetent or illegal evidence.

Mr. LAMAR. I accept the gentleman's disclaimer with pleasure. If I am not mistaken, however, the gentleman also applied the words "perpetrate an outrage upon the rights of the sitting member" to those of us who sustain the claim of the contestant. That may not be an offensive imputation according to the Ohio standard of etiquette, though it is considered so in Mississippi.

But I will take the gentleman upon his own argument. He admits that my report, until it comes to the votes of non-residents, brings out the sitting member only one majority ahead.

Mr. BINGHAM. I did not admit the fact to be proved, by any means, that the sitting member had but one majority, or that the fifteen negroes and mulattoes either voted in fact, or that they voted for the sitting member.

Mr. LAMAR. The gentleman said he would take my own report and prove the title of the sitting member. Until I come down to the votes of "non-residents of the State," he admits that, according to my showing, the sitting member is only one ahead. The votes of the negroes and mulattoes are included in that calculation. He then defies me to show, by any positive proof, what non-resident votes ought to be deducted from the poll of the sitting member. I will show by the highest authority that there were non-resident votes that ought to be deducted. If you will read from the report of the gentleman from North Carolina, [Mr. GILMER,] you will find that he deducts from the poll of the sitting member the votes of Hudson George, A. H. Rice, J. F. Morris, J. T. Sage, J. M. Morrison, Samuel J. Hoikes, George Sowbray, Derrick Barkalow, James Paine, making, in all, nine deducted for non-residents. This gives a majority of eight for the contestant.

Mr. TRIPPE. In that, I suppose, you estimate the fifteen negro votes?

Mr. LAMAR. I do.

Mr. TRIPPE. Well, I find on page 9 of the report made by yourselves that the witness Molyneux is represented as saying that the twelve colored men were brought up by the friends of Lewis D. Campbell, and that the Democratic party objected. On looking at the testimony, page 125, the witness you refer to only says that he saw two vote; and that his statement as to the friends of the one party or the friends of the other party agreeing to or opposing them respectively, was as to these two. The statement of the committee is made to cover the whole twelve. Is there any other testimony than that of W. J. Molyneux on that point?

Mr. LAMAR. There is; I shall have to throw myself on the indulgence of the House for the want of connection which must appear in my argument by these frequent interruptions. I am now on a point wholly different from that of the testimony by which negroes are proved to have voted. I will come to that, and consider it hereafter.

In reference, Mr. Speaker, to the sufficiency of this notice, (so much discussed,) I have only to say there have been fifteen cases of contested elections since the law of 1851 was passed, and that, in not a single instance, have the names of the illegal voters been set forth. The point was expressly raised and decided, just as we contend it should be decided in this report of the minority, and that decision was sustained by the high authority and ability of the gentleman from Maine, [Mr. WASHBURN,] whose name appears first among those of the Committee of Elections who now maintain that this notice is insufficient because the names of the voters are not stated. Any one who reads the notice will see that it sets forth very plainly, fully, and distinctly each ground of contest—that the propositions are expressed with marked precision and sharpness. Both on principle and authority, unless you make "names" and "grounds" synonymous terms, the objection stands condemned.

Mr. MILLSON. Will the gentleman allow me to make an inquiry for information? The gentleman has stated there have been fifteen cases of contested election since the law was passed—will the gentleman inform me if there has been any instance in which a contestant has gained his seat on such a notice as this?

Mr. LAMAR. In the case of Otero and Gallegos, the specifications did not contain the names.

Mr. MILLSON. Was that a question of illegal voting?

Mr. LAMAR. I understand it was.

Mr. MILLSON. My impression is different.

Mr. LAMAR. The gentleman's impression is incorrect. But I will state another case. In the case of Archer against Allen, the point was carried. There were no names specified in that notice, and yet the member was unseated under it.

Mr. MILLSON. The gentleman is mistaken as to the case of Archer against Allen. Allen was the sitting member; and I remember distinctly that I myself objected to the insufficiency of the notice, and Allen retained his seat.

Mr. LAMAR. The gentleman is mistaken about that. Mr. Allen was sent back.

Mr. MILLSON. At all events Archer did not get the seat.

Mr. LAMAR. What possible difference does that make, when both the committee and the House affirmed the legality of the notice by entertaining the case and receiving the testimony under it, and actually unseating the sitting member? I will state, for the information of the gentleman from Virginia, whose recollection, usually so accurate, seems somewhat at fault in this matter, that the notice in this case is more minute and particular, in setting forth the grounds of the contest, than that in the case of Archer vs. Allen. The notice in that case was a sort of drag-net notice, in which no particular grounds were set forth, except a general claim of a majority; and the gentleman from Virginia might well have objected to it. He could, with perfect consistency, have objected to the notice in that case, and yet hold the notice in this case to be one which is, in every essential particular, conformable to the statute. In reference, Mr. Speaker, to the abstract of the votes, the gentleman from Kentucky [Mr. STEVENSON] has left me nothing to say.

Now, Mr. Speaker, one word as to the ground on which I and those who act with me deduct from the polls of the sitting member the number submitted in our report. First, I lay it down as a proposition which can be sustained both by precedent and authorities, that, where the election is by ballot, and the voters do not appear, or, appearing, refuse to answer, the declaration of the voters themselves as to how they voted may be taken in evidence.

Mr. WILSON. Does the gentleman state that in this case voters were produced, and refused to answer?

Mr. LAMAR. I will reply to the point intimated in the question. Do I understand the gentleman to say that it is necessary to call a voter before you can take evidence as to his declarations? I assert, Mr. Speaker, that the precedents and the authorities go to the admission of the declarations of voters as to how they voted, whether the foundation is laid or not by calling the voter. And it has been decided that it is unnecessary to subpoena witnesses who cannot be compelled to testify when they are subpoenaed.

Mr. WILSON. I ask whether these witnesses within the counties of Preble or Montgomery, could not have been subpoenaed, and, under the law, compelled to answer?

Mr. LAMAR. I answer the gentleman confidently and emphatically in the negative. I assert that the man who casts his vote under the law which gives him the right to cast a secret ballot, cannot, unless there be some special statute authorizing it, be compelled to appear and testify as to how he voted, or as to the fact of his voting. I take my position, and I am willing that it shall go forth to the country, that, where the right of secret ballot exists, men cannot be compelled to testify as to how they voted, or as to the fact of their voting; and that, in the absence of direct testimony, their declarations are admissible for the purpose of proving the political complexion of their vote. In confirmation of this view I refer to the unanimous opinion of the committee in the New Jersey case, and a host of other cases decided by this House.

Now, sir, one word as to the evidence that the mulattoes and persons of color voted for the sitting member. I think the testimony of Anderson as to his own vote; the declarations of Mitchell and Redman, of Lawrence and Cowan; the fact that their right was disputed and opposed by the friends of Vallandigham; that it was advocated by the friends of Campbell; that the friends of Vallandigham had made arrangements to have all these identical men challenged; that the friends of Campbell attended some of them to the polls, and advocated their right, as a class, to vote; their known political sympathies, added to the fact that the sitting member complains (in his answer to the notice) that more of the same were not allowed to vote, "who would have voted for" him, will leave but little doubt upon any impartial mind; and that doubt would be removed by the fact that neither the sitting member nor any of his friends, either before the committee by way of evidence, or here by way of argument, have ventured the expression of a belief to the contrary. Upon the question of the admissibility of this circumstantial evidence, I will quote from Cushing on Controverted Returns and Elections:

"When the voting is by ballot, the voter is not compelled to disclose the character of his vote, or to testify for whom he voted, on a given occasion. When it becomes necessary, therefore, on the trial of a controverted election, to show for whom votes by ballot were given, and such voter refuses to appear, or appearing, refuses to disclose for whom he voted, evidence is admissible of the general reputation of the political character of the voter, and as to the party to which he belonged at the time of the election."

Now, if it be said that the voter should first be called, in order to see if he will refuse to testify, I answer, the Supreme Court has expressly decided in Rayburn's case that when a witness cannot be compelled to testify, he need not be summoned. And in Monroe vs. Jackson, the committee received evidence of the political opinions of the persons voting, their party associations, the persons who opposed their right of voting, and those who maintained their right, and a large number of votes were rejected by the committee upon that evidence alone.

Now, sir, if these authorities do not vindicate fully the propriety of deducting those votes from the poll of the sitting member—provided they be illegal—I am willing to yield the question.

And now let me appeal to my friend from Indiana, [Mr. WILSON,] and to every other gentleman in this House, whether there has not been brought evidence, strong as proof of holy writ, as to how these men voted? They dare not rise, in the face of that evidence, and assert that they believe these negro votes were cast for any one besides the sitting member. But, sir, grant all that they ask; take the position which the gentleman from Maine [Mr. WASHBURN] and my friend from Illinois [Mr. HARRIS] assume, that there is no evidence as to how these people voted except as to one; and the contestant has still a majority of, I think, some eight or nine, and perhaps more than that. He has at least a majority of nine, without counting as illegal a single negro vote. And, in according to him that majority, we have only received such evidence as has been repeatedly received and acted upon by this House in contested-election cases. The current of authority in favor of this kind of evidence, is, with few exceptions, unbroken.

Before I forget it, I wish to call the attention of

my friend from North Carolina, [Mr. GILMER,] for whose astuteness as a lawyer I have a high respect, to a remarkable instance of an illegal vote being deducted from the poll-list, upon evidence that was, in no particular, positive or direct.

Mr. GILMER. I think my friend will find it hard to point to a case where a vote has been counted by a committee without positive testimony.

Mr. LAMAR. I think I can find one.

Mr. GILMER. Not if there be any doubts as to how the vote was cast. There may be other facts and circumstances which make the proof conclusive.

Mr. LAMAR. I think I can find an instance where a vote was deducted, and not upon direct testimony, and that in the absence of any corroborating facts or circumstances.

Mr. GILMER. The gentleman will understand me. I do not mean to say that there have not been such instances; but the general tenor of the decisions has been the other way.

Mr. LAMAR. I will show you an instance that carries authority with it. The gentleman will find it in his own report. Can the gentleman rise upon his feet and show me the positive proof upon which he rejected from the poll list of Mr. Vallandigham the name of John W. Shroyer? If he can, I shall be very much obliged to him to do so. Sir, the gentleman from North Carolina has stricken from the poll-list of the contestant that name. Can he show me the evidence upon which he assumed that Shroyer voted for the contestant?

Mr. GILMER. At what page does the gentleman refer to?

Mr. LAMAR. At page 160 of the report. I make the gentleman from North Carolina my authority, and I think the authority is a valuable one. It is one that I pride myself upon. The gentleman from North Carolina is exceedingly ingenious, and now I want him to show one particle of direct evidence by which he rejected or appropriated that vote. I will go further. I ask the gentleman to point me to one particle of evidence of any kind whatever.

[Here the hammer fell.]

Mr. HARLAN obtained the floor.

Mr. WILSON. I just want to reply to one single point made by the gentleman from Mississippi, [Mr. LAMAR.] I hold, and I hold upon authority, that it makes no difference at all if there is irregularity in an election, so far as the judges, inspectors, and clerks are concerned, if the election is fairly conducted, no voter obstructed from voting, and no person allowed to vote who is not entitled to vote by law. What is the object of an election? It is to ascertain and express the will of the voters of a township, or county, or State. And when you have once ascertained the will of that people, and there has been no obstruction thrown in the way of the expression of that will, then I hold that it is a legal election, and you cannot disfranchise them by setting it aside.

Now another point. The gentleman reads from Cushing's Law and Practice of Legislative Bodies that, in the case of a contested election, where a voter refused to appear, or, appearing, refused to testify. Where is the evidence that any of these voters refused to appear? There is not a particle of evidence that any voter has refused to appear. I challenge the contestant even to prove that he ever sought to produce these voters, or that, when produced, they refused to testify. So that the law read by the gentleman has no application to this case. No voter, or at least not more than one voter out of the whole sixteen, did disclose the vote he gave; and no one in this whole evidence refused to disclose it. There is no evidence to show that the contestant in this case took any steps to get them to come forward; and, under such circumstances, I say that evidence going to show the character of a vote by the general political reputation of the voter is not admissible, when the voter himself has not refused to appear, or, appearing, has not refused to disclose the character of his vote.

Mr. GILMER. I will put this thing on the proof.

Mr. LAMAR. As to how he voted. Let us know why you deducted him from Vallandigham.

Mr. GILMER. Here it is. Let it speak for itself.

"Question 30. Are you acquainted with John W. Shroyer;

if so, where did you make his acquaintance, and how long have you known him?

Answer. I am. I have been acquainted with him something over a year; became acquainted with him in German township aforesaid, where I reside.

Question 81. Where does he now reside, and where has he resided for the year last past?

Answer. He resides in Indiana. He came to Ohio in August last, and remained with his relatives in our township until the day of election. He left then, and I have not heard of him since; do not know where he is. He came in from Indiana a year ago last fall, when I first made his acquaintance. He was on a visit then, and remained with his friends some five or six weeks, and returned to Indiana again. He came back to Ohio again in August last, as before stated.

Is that hearsay?

Mr. LAMAR. The gentleman cannot escape me in that way. My question was as to how he voted, and why you deducted him from Vallandigham's poll? Show me the direct proof on that point.

Mr. GILMER. There may be other proof; but I cannot readily turn to all points of this evidence.

Mr. LAMAR. You may turn till doomsday; you will not find it.

Mr. GILMER. It was to hearsay the gentleman referred.

Mr. BINGHAM. I wish to state that I have waited with great patience for the gentleman from Mississippi [Mr. LAMAR] to fulfill his pledge. He said that he could prove, by the rules of evidence on which I predicated my argument, that more than one non-resident of the State of Ohio had voted at that election for Mr. Campbell. He has not pointed to one title of evidence of that sort, and I say to the gentleman that he cannot do it. Allow him to take his view of the case, and it is not necessary to produce the best evidence. Hearsay will answer the purpose to prove that the man voted for Campbell, and to prove the fact that he was a non-resident. What I want is the proof.

Mr. LAMAR. I will reply to the gentleman in this way. I took the report of my friend from North Carolina, [Mr. GILMER,] signed by all those of the committee who support Mr. Campbell's claims, and showed him that, upon the basis which he said that he would admit—

Mr. GILMER. I hope my friend does not intend to misunderstand me. I asked him to show where the mere admission—

A MEMBER. Is this irregular debate in order?

The SPEAKER. It is not.

Mr. BINGHAM. The gentleman has not done what he proposed to do; and, with all respect to him, I do not think he can do it.

Mr. HARLAN. I wish to make one or two remarks in reference to one conclusion which gentlemen seem to arrive at with great satisfaction to themselves. It is as to the proof of voters going to the polls and claiming to be Republicans. That sort of proof goes to show that certain men voted the Republican ticket; and from that the conclusion has been drawn that all those who voted the Republican ticket, or who called themselves Republicans, had justly been charged with voting for Mr. Campbell. Now, I wish merely to refer to the printed evidence, and to read the Republican ticket, which is set forth there, and which is referred to by the committee, or that portion of it which has reported unfavorably to the sitting member, to show that, in this instance, where a Republican ticket was used—and used, I presume, by a Republican—that the contestant claims a vote given on that Republican ticket. I wish merely to refer to it as a signal evidence that neither Mr. Vallandigham is justly chargeable with the votes of all the Democrats who voted at that election, nor Mr. Campbell with the votes of all the Republicans, or those who voted the Republican ticket at that election. I refer to the 49th page of the evidence. It is as follows:

REPUBLICAN TICKET.

Supreme Judge, (full term.)	Auditor,
Josiah Scott.	Daniel H. Dryden.
Supreme Judge, (short term.)	Sheriff,
Ozias Bowen.	Samuel C. Emley.
Board of Public Works,	Commissioner,
John Waddle.	John F. Platt.
Attorney General,	Whisky Inspector,
Christopher P. Walcott.	C. P. Leonhard.
School Commissioner,	Flour Inspector,
Anson Smith.	N. R. Bennett.
Congress,	Pork Inspector,
	Joseph Bimim.
Common Pleas Judge,	County Infirmary,
Ebenezer Parsons,	Peter Shirner.
C. L. Vallandigham.	

The report of the committee which is unfavorable to Mr. Campbell includes that vote for Mr. Vallandigham, though his name is under the head of "Common Pleas Judge;" and that, too, when contained in a Republican ticket.

Mr. LAMAR. The minority of the committee who report against Mr. Vallandigham allow him that vote. If not, the objection is a valid one.

Mr. HARLAN. It is immaterial to the point I raise, which goes to show that all the Republicans at that election did not vote for Mr. Campbell, and that the conclusion that all who did vote at that election voted for Mr. Campbell is not a legitimate, or, at least, an invariable one. I think that if the poll-books were canvassed, it would be ascertained that a great many other gentlemen who called themselves Republicans omitted to vote for my friend, the sitting member, and further, that those who claimed to be Democrats did not all vote for the contestant. So I understand the evidence to read. I merely wished to rebut the presumption on which the committee have proceeded, that all the Republicans voted for one, and all the Democrats for the other.

Mr. LAMAR. I desire to say, Mr. Speaker, that I consider the gentleman's argument a good one, and it proves that the rule is not an invariable one. I do not regard it as an unerring test. The ballot produced proves that there was in the third congressional district of Ohio at least one repentant sinner. [Laughter.]

Mr. HARLAN. I think there were a great many repentant sinners on the other side.

As the gentleman who has just taken his seat read the testimony as to the manner in which Sullivan was made judge of the election in the second ward in the city of Dayton, my object in rising was merely to refer to the evidence which shows the manner and form in which that judge was appointed. The evidence does establish the fact that he was appointed by the general consent of the bystanders on the ground on the morning of the election, and that the appointment was concurred in by all present, Mr. Vallandigham himself included. I ask the Clerk to read the twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, and twenty-ninth questions put to Mr. Phillips as to the manner in which that judge was constituted.

The Clerk read as follows:

Question 25. About how many persons were present at the time Sullivan arrived at the polls? At what time were the polls opened?

Answer. I think about ten or a dozen persons were present when Sullivan arrived. I think the polls were opened about a quarter after seven.

Question 23. On the arrival of Sullivan was the outcry of "here he comes," "swear him in," &c., from the bystanders—and if so, was it general?

Answer. It was a general exclamation from the bystanders.

Question 27. Was there any one among the bystanders who objected to Sullivan as judge of the election on that day?

Answer. No objection made.

Question 28. Was Clement L. Vallandigham there when Sullivan arrived, or at any other time during the morning before Sullivan arrived?

Answer. I think he was there all the time.

Question 29. Did he seem to desire that Sullivan should serve as judge on that day?

Answer. He made no objection to me. I pushed to see if any objection would be made, and then swore Sullivan in.

Mr. HARLAN. I also ask the Clerk to read the evidence of Mr. Sullivan on the same point, as found on page 58.

The Clerk read as follows:

Question 9. What occurred on the morning of the 14th day of October last, on your arrival at the polls in the second ward? State fully.

Answer. When I arrived at the polls several voices cried out, "Here he comes! swear him in, so that the polls may be opened." There was not to exceed some ten persons present, and I thought all desired me to act as judge.

Question 10. Was any objection made to you by any of the bystanders?

Answer. None whatever.

Question 12. Was the outcry of which you speak made by those who were waiting at the polls to vote; and if so, did they generally join in the outcry of "here he comes," "swear him in," &c.

Answer. It was from the bystanders, and it was general from all present.

Question 13. Were the duties of judges and clerks of the election then and there discharged faithfully and impartially?

Answer. They were.

Mr. LAMAR. Will the gentleman allow the Clerk to read an extract from the same testimony on the preceding page?

Mr. HARLAN. Certainly

The Clerk read as follows:

Question 2. Did Chapman ask you to act as judge of election in his place on that day? When did he first ask you to do so, and how often? Who else, if anybody, spoke to you to act?

Answer. Mr. Chapman met me in the street a few days prior to the election, and said to me that his family was in such a situation that he feared he would be unable to act as judge in the second ward, and asked me whether I would act in his place if he found it impossible to act, and I answered in the affirmative; and on the morning of the election he came to my house about seven, a. m., and said they were waiting at the polls for me, so that the election might be opened. We then started together for the polls, and just as we got within a square of the place of election he left me, as he said, to go home to breakfast.

Question 3. Do you know of any other authority for your acting that day as a judge of election than the appointment and request of John B. Chapman, as aforesaid?

Answer. I do not know as I do.

Mr. HARLAN. This does not conflict with the evidence to which I have referred, and I have nothing further to say.

Mr. BILLINGHURST. I suppose that all the evidence submitted to the Committee of Elections is to be found in their report of December 15, 1857. I would inquire of the gentleman from Mississippi if that be so?

Mr. LAMAR. That is so, I believe.

Mr. BILLINGHURST. With a view to arrive at a conclusion satisfactory to myself, and to determine my vote, I have examined this testimony, and the case of all the voters whose votes have been arraigned either by the contestant or the sitting member. I find that the contestant has arraigned as illegal votes some seventy-two or seventy-five; that the sitting member has arraigned some twenty-five. From a careful examination of this testimony, myself sitting in judgment upon each individual case as I found it in the evidence, without regard to technicalities, and without regard to the legality or illegality of the notice, I have made a list, from the beginning of this testimony to the end, of the voters whose votes have been called in question. I have set down as illegal voters those which the evidence has satisfied me were illegal voters in one column, to be deducted from the vote of Campbell, and in another column, under the head of "not proved," I have set down the names of those whose votes I have regarded as not having been established as illegal.

Of the votes cast for Campbell, I find fourteen to be illegal; of those cast for Vallandigham, I find thirteen to be illegal, and only thirteen upon any legal, competent showing. I find also, from the testimony submitted to the Committee of Elections, that the judges should have allowed Vallandigham two votes that were not allowed him in the Lemon township. I also find four votes which should have been allowed to Campbell which were not allowed to him.

Assuming, then, that the sitting member has received, according to the official canvass, nine thousand three hundred and thirty-eight votes, there should be four votes added, and fourteen deducted therefrom. His legal vote, then, would be nine thousand three hundred and twenty-eight. Vallandigham received, according to the official canvass, nine thousand three hundred and nineteen, to which two votes should be added and thirteen deducted, leaving him nine thousand three hundred and eight. This vote of Vallandigham, deducted from that of Campbell, would leave a majority of twenty in favor of Campbell.

If I had been a member of the Committee of Elections, I should have come to this conclusion. As a member of the House, I have arrived at that result, and I shall feel constrained to vote to retain the sitting member in his seat.

In this calculation, Mr. Speaker, I have rejected all hearsay evidence. I have understood from the beginning of the examination that the rule of law in regard to secondary evidence, as to whom a voter voted for, can only be allowed when the voter himself has declined to testify. I have also excluded as evidence the inference that a man voted for Mr. Vallandigham from the fact that he was a Democrat, and voted the Democratic ticket; because I do not think that that is evidence which ought to satisfy this House, or satisfy any judicial tribunal, that the voter, in that particular instance, cast his vote for Mr. Vallandigham. Nor do I think the proof that a class of voters were understood to be Republicans, and were brought to the polls by Republicans—their votes pressed by Republicans, and resisted by Democrats—without

proof that they voted personally for Mr. Campbell, is evidence that they did vote for him.

In regard to the testimony as to the colored votes, I do not find that there is any evidence to show that any one of them voted for Mr. Campbell, except Anderson. All the rest is hearsay evidence; and the hearsay evidence that the others voted for Mr. Campbell only extends to some three, four, or five of the voters; and yet we are asked to assume that the balance of these colored voters voted for Mr. Campbell, because they were regarded as Republicans. Why, Mr. Speaker, I believe that the experience of every gentleman on this floor (for even one election gives him some experience) tells him that there are a great many people who pretend to have voted for a successful candidate, who did not do so. My experience is that the successful man finds a great many more friends than he thought he had. He finds friends around him who say they voted for him, and who he never anticipated would vote for him. I can cite an instance of where I received only two votes in a town, and I believe I have had twenty-five voters of the town declaring that they voted for me. I cite this to show how unsafe a rule it is to take the hearsay testimony of a voter.

I have been actuated by no partisan feeling in this matter. I have, in this case, as in every other contested-election case that has been brought before this House since I have had the honor of being a member, examined the testimony from beginning to end, carefully, and I have come to my conclusions from the testimony, and not from the reports of committees. I have studiously avoided in this case reading either the report made by the gentleman from Mississippi, [Mr. LAMAR,] or that made by the gentleman from Maine [Mr. WASHBURN] or the gentleman from Illinois, [Mr. HARRIS.] I have looked at the testimony, and at the testimony alone; and in making this tabular statement of the voters whose votes I would reject from the evidence, I did not know to what result they might lead. My rule was that I would reject all hearsay testimony, all secondary evidence, and would only count such votes off from the sitting member, or off from the contestant as were clearly shown to be irregular; and I have arrived at the result which I have stated—that the sitting member is clearly and honestly entitled to occupy his seat, as having a majority of about twenty over the contestant. And, Mr. Speaker, I would venture this prediction, that if these votes which are arraigned were put to vote to this House, one by one, and the House should vote on the merits of each particular case, the House would arrive at the same result which I have arrived at, namely, that the sitting member is elected by a majority of twenty, more or less.

I find, since I have made my tabular statement, that, on comparing it with those votes that have been excluded in the report of the committee, I have set down one or two gentlemen as not proved to be illegal voters, who are counted as such in the report of the gentleman from North Carolina, [Mr. GILMER.] I find that I differ from him. But I believe that the candid judgment of any three or five, or ten, or fifteen lawyers of this House—were they not members of Congress—would on this question arrive at the conclusion that the sitting member has a majority equal to the one officially reported. I do not, by these remarks, intend to impugn the motives or acts of members of Congress; but we are too apt to be swayed by partisan feelings. They should never operate on us in a contested election. We do not know how soon our own turns may come. Therefore let us approach this question divested of all partisan feeling, with the single aim of arriving at a correct result; and let our votes be governed accordingly. I am totally at a loss to know how the gentleman from Illinois arrives at the conclusion that neither of these gentlemen are entitled to a seat here. I think that the evidence conclusively shows that one or the other is entitled; and if the rule of law which has governed me is the correct rule, the sitting member must retain his seat.

Mr. HARRIS, of Illinois. If no one else desires to speak upon this subject, I propose to address the House upon the pending question, and to close the debate. While I have as little interest or feeling in the result of the contest of these parties as any one who has spoken, the debate which has occurred here to-day has more and more satisfied me of the correctness of the position taken

by me in the "views" which I had the honor to submit to the House as a minority on the Committee of Elections. The two sides being so wide apart, giving reasons for their opinions so different from each other, being unable to find any common ground upon which to stand, it seems to me that the only safe resort for a decision in so doubtful a case is to the tribunal to which I propose to refer it.

Some gentlemen have expressed themselves as unable to comprehend how it is that I have been unable to see this case as they see it, while they themselves are as wide asunder as the poles in their own views of the question presented. If these gentlemen had paid attention to the humble attempt at reasoning which I have made in my report, it seems to me that they would not have had cause to mistrust the soundness of the conclusions to which I have arrived, or the arguments upon which they are based. I stated some time since, in reply to the gentleman from North Carolina, [Mr. GILMER,] that, if I took the ground which he has taken, I would be compelled to hold that the sitting member had the best of the question. I hold with him that, before a contestant can be admitted to a seat held by a sitting member, the contestant must show a better right to the seat than he who holds it. This is undoubtedly requisite. But for the purposes of this contest, I consider them as standing on equal ground; and while it might be easier to shirk the responsibility of a decision by allowing the sitting member to hold his seat, I cannot do it, because I am not satisfied that he is entitled to it. I am unwilling to assume that the sitting member has any advantage conferred upon him, by holding the certificate, superior to the person who is contesting the legality of his election. To assume such premises is equivalent to offering a premium for fraud, force, intimidation, violence, or any means which unscrupulous candidates or party zealots may choose to employ to obtain possession of the certificate of election. If by such means a candidate obtains possession of the certificate, are you to insist that, when his right to hold it is brought in question, fraud is to strengthen his right? If he has done wrong, shall he have the advantage of his wrong? I am not disposed to look at the question with any such degree of regard for the holder of the certificate as to consider him as having a paramount claim or superior rights over the other. I look upon them as equal in rights, and equal in position; and, upon scrutinizing the testimony, and finding myself at an utter loss to decide between the two contending parties, I come to the conclusion that the proper mode of decision is to refer it back to the constituency. This case is so peculiar, there is so much in the testimony of a circumstantial character; so much that is hearsay; so much that confuses and leaves an unsatisfactory impression on the mind, that the judgment is baffled and brought to a dead halt. At least it is unfortunately so with me; but my eight colleagues on the committee divide off, four and four, each full of confidence that they alone are right, and all who differ from them are wrong. I agree with them all, or I agree with each division that the other is in error; but, though I thus agree with all, I find that I receive little credit for it.

It has been so strongly contended that hearsay statements should be received as evidence to determine questions of contested elections; and as the law and practice in relation to such testimony are stated to be so much broader and stronger than I have supposed them to be, and so much in conflict with the opinions I have entertained, that I feel it to be my duty to refer to some of the points and arguments made in the debate, and endeavor to answer them.

It is contended that hearsay testimony is proper to be received, and sufficient to determine the legality of votes cast at elections; and it is alleged that it has been uniformly so decided by committees of elections of the House of Commons, in England, for hundreds of years, and by committees of elections of the House of Representatives from the earliest cases down to the present time. That part of the members of the committee who favor the right of the contestant to the seat, say in their "views":

"The admissibility of evidence consisting of the declarations of voters as to any matter concerning their own voting, has been settled in the British Parliament repeatedly and uniformly for one hundred and fifty years, and is no longer to be questioned. These decisions are to be found in the

numerous volumes of reported election cases and of treatises upon this subject. This rule has been recognized also in approved books of law: 3 McCord's Reports, 233, note; Phillips's Evidence, with Cow and Hill's notes, 322. It is sometimes treated as an exception to the rule, excluding the hearsay declarations of third persons; but generally it is put upon the ground that in elections, contested because of illegal votes being received, each voter challenged is a party to the proceeding, and, therefore, whatever he says about his own voting is an admission or confession. In Congress, also, while the undersigned find several precedents distinctly adopting or recognizing the rule, they find none where it has been decided the other way, except in Newland vs. Graham, 1835-36. Against this they refer to the following: Contested Elections, 80, 280, 272, 282, 258, 367, 750; the broad-seal case, 1840, 3 House Reports, No. 541, pp. 699, 749; Farley vs. Runk, 1845-46, and Monroe vs. Jackson, 1847-48. In England, as in some of the States of this Union, the voting being *viva voce*, a class of declarations continually occurring in States where elections are by ballot, are there, of course, almost unknown. We refer to declarations by voters as to how they voted. One case, however, accidentally occurred in Parliament where the poll list did not show for whom the party had voted, and so his statement as to how he intended to vote, made to a third person, was allowed to be given in evidence: the Windsor case, 1807; P. and O. election cases, 173. No distinction has been set up in this country, nor do the undersigned perceive any; both are but hearsay, and the latter affects the party as much and in the same way as the former; and as the voter cannot be compelled to testify as to his qualifications, so neither can he as to how he voted."

This statement of the law of evidence, as applied to contested elections, must be shown to be correct, or the conclusion to which that portion of the committee have arrived is erroneous. Is the statement correct? and if so, does it show the establishment of a rule applicable to this case?

Nearly all the cases referred to in the contested elections in England refer to the qualifications of the voters alone. The votes there are given *viva voce*; and the register lists and poll-books show the names and residences of the voters, and the names of those for whom the votes are cast; leaving the question of qualification as the only one that can ordinarily arise in contests for seats in the House of Commons. Those who are entitled to vote in the counties in England are "freeholders having land or tenements to the value of forty shillings a year above all charges, &c. Copyholders or of any other tenure than freehold, whether of inheritance or for life, to the value of ten pounds, above rents and charges, &c. Lessees or assignees for a term originally created for sixty years or more, value ten pounds; for twenty years or more, value fifty pounds above rents and charges," &c. In the boroughs, including cities and towns, the qualifications are different; but in all, the possession of certain property interests are requisite; and in questions that have arisen in England as to the qualifications of voters, in most cases it has directly related to their existing interest in property. And proceeding upon the presumption that a man will not make a confession or declaration against his pecuniary interest, it is true, that many cases are reported in the English books when the statements of the voter against his interest have been received to exclude his vote.

There are also decisions there against the admissibility of such statements, but the general current is in favor of their reception. But it will be clearly seen that the statement of a person against his possession, or right of possession, of a tangible, existing, valuable interest or estate, and by which his possession or right of possession may be lost, is a very different matter from the loose and often foolish talk of persons who may not be even aware of the import or consequences of what they say, or may mean the reverse of the construction placed upon their words by the hearer. Then the hearer himself may have lost, misapprehended, or forgotten some of the words used, and inferences may be drawn from them woefully erroneous. You once establish such a rule, and every illegal voter can, by making a false statement in the presence of a witness, make it appear that he voted directly the reverse of the fact; and while he, in truth, voted for you will deduct his vote from B. In this country, where almost every one has a voice at the polls, it is doing, in my judgment, violence to reason, to hold that admissions and declarations here, as to the qualifications of voters, more especially those made before and after voting, are to be placed upon the same footing as in England, where the admissions and declarations are against the pecuniary interest of the party making them, or where, relating to the question of bribery, they go to the effect of attaching to him who makes them the severest disgrace—a disqualification forever from voting,

and extreme penal consequences. There is no similarity or analogy in the condition of things that ought to make the decisions there authority here. Declarations or admissions made at the polls, when the act of voting is performed, may often, with the greatest propriety, be admitted as a part of the *res gestæ*. There is but one case which I have found in the English decisions, where the statements of a party, as to whom he had voted for, were ever received in evidence, and that is the Windsor case; but that was received because neither party objected, and cannot be cited as a precedent. The cases cited in Ph. Ev. Con. and H., note 322, and taken from 3 McCord R., note 233, and they, in turn, from the English cases cited, which I have attempted to show have no analogy to our condition of things here. So much for these authorities and precedents.

As to the view that "each voter challenged is a party to the proceeding," it may be that where there is evidence of record, or directly establishing that a person voted, and for whom he voted, his declarations at the polls, or coupled with all the circumstances surrounding him, may be admitted, its weight and effect to be determined in each case as it arises. Where it is proved that a person voted, and for whom he voted, he may be, in one sense, said to be a party with him for whom he voted, and, so far, a party to the proceeding; but it is begging the whole question to assume that a person voted, that he voted for a given candidate—and that his vote is illegal, and, by this assumption, make him a party to the proceeding, for the sake of getting his declarations, and then bring in a third person and prove what they are, and, by this process, strike a vote from the poll. This process is too subtle and too dangerous for my approbation.

But in the foregoing extract of the "views" of the friends of the contestant, it is stated that these alleged English decisions have been recognized and followed in this country; and as cases in point, were cited to "Contested Elections," pages 80, 260, 272, 282, 258, 367, 750; the broad-seal case, 3 Howard Reports, 1840, pages 699, 749; Farlee vs. Runk, 1845-46; and Monroe vs. Jackson, 1847-48. This is a formidable array of authorities, and if they sustain the view taken, they ought to be entitled to great respect, if not allowed to control our decision. The case cited on page 80 is that of Trigg vs. Preston, and on page 80 nothing is found upon the subject of hearsay testimony, except a speech of a member of the House, who argued in favor of Trigg; but the House decided against him, his report, and his argument. This, it would seem, is not very binding authority in favor of hearsay testimony. The next case, 260, (Kelly vs. Harris,) contains not a word upon the subject of declarations, admissions, or hearsay evidence. The next, 272, (Easton vs. Scott,) I have examined with great care, but find nothing relating to this question of evidence—not one word; but after a long discussion, the House vacated the seat, and sent the parties back to their constituents—what I am asking shall be done in this case. Case page 282 is the same, Easton vs. Scott. The next, 258, (Barrett vs. Bayley,) has not a word upon the subject which I have been able to find by the most careful reading. The next, 367, (Reed vs. Cosden,) contains an argument by the sitting member (Cosden) in favor of receiving the declarations of voters in evidence; but the House seems not to have regarded it, for he was ejected from his seat, and it was given to the contestant, (Reed.) The last one cited from the Contested Election Cases, is that of 749, (Letcher vs. Moore.) The long report of this case, covering one hundred and thirty-five pages of the volume, shows the interest and zeal displayed in its contest. So far from this case favoring the doctrine stated, it is manifestly against it. The Committee of Elections, in that case,

"Resolved, That all declarations or statements made by voters after the election, relative to their rights of suffrage, be rejected."—Page 750.

But the committee in that case, in fact, went further, and rejected statements made before, as well as after, the election. (Vide testimony of Thomas Poole and others, page 835.)

But the case relied on so confidently to sustain the admissibility of hearsay evidence, is the broad-seal case, 1839-40. It will be observed that,

in making the report in that case, it was concurred in by the members of the party having the majority, and dissented from by all the members of the minority of the committee; and whoever will take the trouble to examine, and compare the testimony with the present, will find this celebrated committee ruling both ways upon the same sort and grade of evidence.

But, Mr. Speaker, I deny that even that case sustains the doctrine contended for. The majority of the committee held that it was erroneous to hold the voter as a party to the proceeding except at the polls, and they declare on page 695 of the report, that "mere hearsay declarations of the alleged voter as to the fact of his having voted have been uniformly rejected." The only language used by the committee in their report in that case, which at all looks in the direction of the admissibility of hearsay evidence, is found on page 699, where it said:

"Although in numerous instances the voter being examined as a witness, voluntarily disclosed the character of his vote, yet in many cases, he either did not appear, or, appearing, chose to avail himself of his legal right to refuse to answer in that point. In such cases the proof of general reputation, as to the political character of the voter, and as to the party to which he belonged at the time of the election, has been considered sufficiently demonstrative of the complexion of his vote. When no such proof was adduced on either side, proof of the declarations of the voter has been received, the date and all the circumstances of such declarations being considered as connecting themselves with the questions of credibility and sufficiency. In every instance where the proof under all the circumstances was not sufficient to produce conviction, the vote has been left unappropriated."

This statement amounts to very little. The committee adopt no rule, fix no principle, and leave nothing for precedent. They accept proof of "declarations being considered as connecting themselves with questions of credibility and sufficiency," and when these were "not sufficient to produce conviction, the vote has been left unappropriated." Conviction in whom? Conviction of what? What may convince one mind of one thing, may convince another mind otherwise. It will be seen that nothing is settled here. But if we look at the ruling of the committee, we shall find that in most cases they reject this hearsay and doubtful testimony. I turn at random and take the vote of A. P. Brink. The whole evidence concerning his vote is found on pages 200, 201, 205. Samuel Price swears:

"I know Andrew P. Brink. After the election of 1838, (I think the same day,) saw Andrew P. Brink and James H. Brink, his brother, in my fulling-mill. James told him he had voted when he was not twenty-one. Andrew appeared to be angry, and told his brother he knew he lied. James is the elder brother. I thought James was teasing him at the time. I act with the Democratic party. It is said James H. Brink is a Whig. He professes to be such. In political sentiments, A. P. Brink is with the Administration party. Do not know whether or not I have heard him say how he voted, but from what I know, I have no doubt he voted an Administration ticket."

Alpheus Gusten swears that A. P. Brink voted as appeared by the poll list.

James H. Scribe swears:

"I do not know what are the sentiments of A. P. Brink, except by reputation. I believe him to belong to the Administration party."

James H. Brink swears:

"I am elder brother of A. P. Brink. I am not positive as to his age, nor can I tell the month he was born. I was of opinion he was not of age at the election of 1838, and told him so at that time. I have told him so since. When I talked to him, he would not give me any satisfaction. On the morning of the election I talked with him. Judge Price came to the fulling-mill, where we worked, and talked to us about voting. I then said Andrew P. Brink and Samuel A. Price were not of age, and not entitled to vote. There was a good deal said which I cannot repeat. Andrew P. Brink said he was going to vote the Administration ticket; but I do not know that he voted it—I do not know that he voted at all. I have talked with him since, and, from his conversation, I have no doubt he voted an Administration ticket. It was the common talk among the men at the mill that Samuel A. Price and Andrew P. Brink were both minors at the time. They did not pretend to deny it. I will be twenty-five the 11th of July next. There is a sister next me, and older than Andrew. I do not know her age. Andrew is next to her."

This is all the evidence relating to this voter. One would suppose, if hearsay evidence and circumstantial testimony could prove a vote bad, this would be sufficient; but by turning to page 47 of the Journal, when the committee decided on the question of deducting this vote, Messrs. Fillmore, Smith, and Botts, voted ay; and Messrs. Rives, Brown, and Mr. Chairman, no—so the vote was retained and held good. So will be found almost every instance, in this "broad-seal case;" and

when these decisions are otherwise, they are made by a strict party vote, and thus lose their force as precedents. Thus much for this authority. I can find nothing in it to support the views advanced in favor of this hearsay testimony.

There are but two cases remaining, that of Farlee vs. Runk, and Monroe vs. Jackson. In the former case, it turned upon the legality of certain votes cast by the students of Princeton college. The minority were in favor of hearing evidence of the declarations of the voters; the majority of the committee express no opinion upon the point. It will be seen, also, by the evidence, that it turned more upon the proof, the party to which the voters belonged, than upon their declarations. The House, by the casting vote of the Speaker, decided to retain Mr. Runk in his seat, and against the recommendation of the minority, who were in favor of receiving hearsay testimony. This would seem an authority against the rule, and not one in its favor.

In the latter case of Monroe vs. Jackson the subject of hearsay testimony is alluded to, both by the majority and minority; but it was no where settled and decided. The whole case turned upon the vote of certain paupers; the proof as to how they voted was purely circumstantial, and not hearsay; and it resulted in declaring the seat vacant, and remanding the election back to the people. These are the authorities relied upon for establishing this dangerous rule; but, in my opinion, they settle the question strongly against it. This conclusion, it seems to me, settles this case fully, so far as to show the contestant not entitled to the seat.

The laws in New Jersey and Ohio are very similar for making and preserving a copy of the poll-books. They are as accessible in one State as in the other; yet, in the New Jersey case, the committee broadly declare that they have in every case rejected evidence of the declarations of voters, as to the fact of their having voted at the election; and this must have been for the reason that the poll-books furnished the best evidence of the fact.

Mr. LAMAR. I have this to say in respect to that citation: that the majority of the committee and the minority of the committee say, in unmistakable language, that they have received evidence of the declarations of voters as to the complexion of their votes. It is true they say they have uniformly rejected hearsay declarations as to the fact of a vote; but my only way of reconciling that seeming inconsistency is, that they reject hearsay evidence of a declaration. If the witness will not swear directly himself to the fact, they reject hearsay declarations as to the fact. The declaration of a voter is one thing; but when you speak of hearsay declarations, you must speak of a declaration proved by hearsay evidence. It is that which is meant by hearsay evidence. That is the state of facts. They did receive the declarations of the voter himself as to his vote.

Mr. BINGHAM. Does not the gentleman discover, by referring to this report, the very reason of the rule, that so long as the poll-books were open for inspection, they rejected hearsay evidence upon facts which were susceptible of being proven by record evidence?

Mr. HARRIS, of Illinois. The fact is nevertheless stated by this committee in the New Jersey case, that they have uniformly rejected the statement of the voter as to the fact of his having voted. Now, sir, that is the rule which was established by them, and it is a rule which ought to govern us now. I think it an important and useful rule. In the case now under consideration, there is no proof that many of those voters whose rights are questioned, did, in fact, vote, except the statements of other witnesses. Under the rule, this testimony should be rejected, because other and better evidence could have been procured. And in the New Jersey case, so confidently relied upon by my friend from Mississippi, [Mr. LAMAR,] I have already shown that it did not turn upon hearsay testimony; and when the legality of a vote was determined, it was from circumstantial, and not hearsay evidence; and even that, they think, should be received with great caution. They take all the circumstances into consideration, and reject the evidence where it does not produce conviction.

Now, a word in regard to these negro votes. It seems to me that there is no testimony satisfac-

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tory to the mind of any one as to how those negroes voted—admitting that they were illegal votes—with one exception, and possibly three others. The testimony is extremely frail, and entirely circumstantial. This man Anderson swears substantially that all he knew is derived from the statement of his mother—he presumes she had one fourth part African blood in her veins; that his mother's father was white, and her mother Indian or African, and that the father of witness was a white man, and that witness voted for Campbell. He also swears that there is a visible admixture of African blood in Redmond, and he believes Redmond voted for Campbell. He also swears he believes Mitchell voted for Campbell, and that there is no visible admixture of African blood in him, (page 121.) Milliken swears (page 105) that there was a visible admixture of African blood in them all.

Mollineaux swears that John D. Robbins, Alexander Proctor, Thomas Tester, Ephraim S. Jones, Evan Hoffman, Arthur Hoffman, Cyrus H. Cowan, Robert Goings, W. Griffith, William Lawrence, W. Huffman, and Alfred Huffman, voted at the election. That they are mulattoes and persons of color. He saw two of the Huffmans vote. Robbins told him he voted; and the others, he knew, by the poll-books, to have voted. Those he saw vote came up by themselves. The Democrats bitterly opposed their voting. The Republicans favored it. The friends of Campbell, as far as he knew, favored their voting. He did not see any of them challenged. He heard a man say he did challenge their votes; knew nothing of any opposition to their voting except that he opposed it himself "outside in conversation, and heard others oppose it in conversation. Supposes they were challenged by persons inside, but did not see it personally."

Ringwood swears:

"I know John D. Robbins, Alexander Proctor, Thomas Tester; I know the Huffmans, but could not distinguish them by name; I think there are five; four of them I believe voted; I know Cyrus H. Cowan, William Griffith, and William Lawrence; they are all of mixed negro blood."

"Question 182. State whether you were present when any of these persons voted, or saw them offer to vote."

"Answer. I did not see them hand their tickets in; I believe they were all challenged, from the fact that we, the friends of Vallandigham, had made an arrangement to have Dr. Garver inside at the polls for the express purpose of challenging these identical men, as well as others whom we could learn were not entitled to vote."

"Question 183. State what part the friends of Campbell took with regard to these mulattoes voting."

"Answer. They took the usual part that men do at elections to get up their friends to vote. So far as my knowledge extends, (and I saw three or four go up to the polls,) they were attended to the polls by the friends of L. D. Campbell. One of them, Mr. Lawrence, in conversation with me, admitted that he voted for L. D. Campbell for Congress, and advocated his election. Cyrus Cowan told me, yesterday or the day before, that he had been forced to go to the polls to vote by John A. Gage, (John A. Gage is a very violent party man, and friend of L. D. Campbell.) I saw Gage come to the polls with Cowan, and urging him to vote."

"Question 184. State whether these mulattoes and persons of color whom you have named are persons of a visible mixture of negro blood?"

"Answer. According to my opinion, they are; they are so admitted generally in the community, and also by the judges of election. The matter was discussed before the judges; the judges decided that these persons had a right to vote, because they were more than half white."

"Question 185. How many of the judges of that election were political friends of Mr. Campbell, and how many were friends of Vallandigham?"

"Answer. I cannot say positively; I think two of them voted for Campbell. J. D. KINGWOOD."

"Zachariah W. Selby, of lawful age, being first duly sworn, as hereinafter certified, deposeth and saith:

"Question 186. State whether you have examined the poll books on file in the clerk's office of Butler county, Ohio, of the election held in Oxford township, in said county, on the 14th day of October, 1856, and if so, state whether said poll-books show that John D. Robbins, Alexander Proctor, Thomas Tester, E. S. Jones, Evan Hoffman, Arthur Huffman, Cyrus H. Cowan, Robert Goings, W. Griffith, William Lawrence, W. Huffman, and Alfred Huffman, voted at that election?"

"Answer. I have examined the poll-books of that township for that election, and I find therein the names of those persons as voters at that election. Z. W. SELBY."

Here now, Mr. Speaker, is all the testimony upon which it is sought to strike sixteen votes from the poll of Mr. Campbell. Admitting, for argument, that these persons were all illegal

voters under the law of Ohio, I ask where is the evidence that these men voted for Campbell, except the statement of Anderson, as to his own vote, and his opinion or belief as to Redmond and Mitchell? No one is proved to have challenged them at the polls, and nothing is elicited except a wrangle outside and away from the polls, which these mulattoes did not even hear, or hear of, as to their rights. When three or four went to the polls they were attended by the friends of Campbell. How attended? Did the friends of Campbell aid them in getting in their votes; or were they going to the polls at the same time only? Ringwood says one of them (Mr. Lawrence) told him that he had voted for Campbell. Why were they not called as witnesses, as was Anderson? It is not alleged that they could not be had. Why leave these votes in uncertainty and call upon us to decide how they voted, with no guide to our opinions but our political attachments and prejudices?

I emphatically condemn this process of determining who are members of this House. We may, like the mulatto Anderson, presume that they voted for Campbell—or Vallandigham. The presumption would depend upon the peculiar feelings which we entertain, or which pervade the community in which they live. But are we to decide an important election case, which involves the rights of a whole constituency, upon our mere opinions, formed without evidence, and without any testimony whatever? I cannot, and will not, do it. If other gentlemen can satisfy their minds and consciences that it is right to do so, the case is with them. I take no such responsibility. Out of these fifteen or sixteen mulatto votes, there are some eleven or twelve concerning whose votes no attempt is made to show whether they were for Campbell or Vallandigham; and an attempt to deduct them from either the one or the other is not, in my judgment, warranted by the evidence.

There are ten other votes which are not shown to my mind as being illegal, or for whom they were cast, to justify me in their rejection—they are those of Palmer, Fisher, Foster, Levi Neus, Coble, Sharpe, Line, Maxwell, and Gosline. Some are said to be aliens, some idiots, some non-residents of the county, and some non-residents of the State. I have neither time nor inclination to scan the testimony relating to each. It seems, in each case, to be either inadmissible, contradictory, or insufficient. There are others where the testimony strongly tends to show that they were not legal voters, and that they ought to be deducted from Campbell's poll; but the testimony is not clear nor satisfactory. They are the votes of Norris, Smith, Davis, Foulan, Gilliland, and Hall. The conclusion to which the mind would arrive, in considering the legality of these votes, would be apt to turn upon the rule adopted as the test of legal evidence and the predisposition of the judgment upon the question at issue. I will refer to one case as an illustration of the whole; and it is one of the strongest cases in the list—that of Gilliland. Here is the evidence, p. 110:

"Alexander Sterrett, sr., of lawful age, being by me first duly sworn, as hereinafter certified, deposeth and saith:

"Question 48. State whether you were present at the election held in Ross township, Butler county, on the 14th day of October, 1856, for the election of Congressman for the third congressional district of Ohio; if so, state whether Luther Gilliland and James Paine voted at that election, and if so, for whom did they vote?"

"Answer. I was present at that time and place on the day of that election. Luther Gilliland and James Paine did vote at that election; they voted for Lewis D. Campbell for Congress."

"Cross-examination."

"Question 51. Did you see the tickets voted by James Paine and Luther Gilliland at that election?"

"Answer. I did; I saw the name of L. D. Campbell on the tickets."

This testimony is direct and positive. Now as to his qualifications:

"William C. Morris, of lawful age, having been by me first duly sworn, as hereinafter certified, deposeth and saith:

"Question 154. State whether you were a judge of the election held in October, 1856, in Ross township, Butler county, Ohio, for Congressman, and if so, state whether James Paine and Luther Gilliland voted there at that election?"

"Answer. I was a judge of the election held at that time and place; James Paine and Luther Gilliland voted for Congressman then and there."

"Question 156. When did Luther Gilliland come into Ross township, Butler county, and when did he leave it?"

"Answer. He came a day or two before the election and staid a day or two after. I mean the congressional election. He had been making his home, I understood, previous to that in Warren county, in this State. After he left he went back to Warren county, and has not been back to Ross township since, that I know of."

"Cross-examination."

"Question 158. How do you know when Luther Gilliland came into Ross township?"

"Answer. He told us under oath, when sworn on the day of the congressional election, that he had come into the township a day or two previous. He claimed that he had no other residence, and had always considered that his home."

"Question 159. How do you know where he went to after the election?"

"Answer. Only from what his friends said, and his own declaration that he was going there."

"Question 160. Do you not know that Ross township was his place of residence, or that he made his home there?"

"Answer. He had not for three or four months before the election. I know this from having been in Venice every week, and was told there that he was in Warren county at work at his trade. His parents live in Venice. He is a single man. WILLIAM C. MORRIS."

The reason for rejecting this vote must be, (if any there is,) that the voter was a non-resident of the county, and he is so classed in the report favoring the contestant. Now let us inquire into the matter. This election was held on the 14th day of October, 1856; and, under the laws then existing, appended to the argument filed by contestant, and published with the reports, is a note, (see pages 57-58,) as follows:

"Note.—Prior to the session of the Legislature in 1857, no fixed period of residence in a county, ward, or township, was required as a qualification for electors. Any person moving into a county on the day of election even, and declaring that he had come in for the purpose of making the county his home, was allowed to vote. Such cases were of frequent occurrence. Residents of other counties and districts, usually unmarried men, 'light to run away;' were many times brought in to work at some trade or business until after the election; and under a facile conscience and a loose administration of the law were procured and permitted to vote. Thus 'pipe-laying'—colonizing—was an easy and not an uncommon thing; and to prove the offense next to impossible. This sad defect in the election laws of the State was remedied at the last session of the Legislature, and a thirty days' residence in the county is now required."

Now, here is the law stated by the contestant himself. The voter swore he "had always considered that his home," and his vote was admitted by the judges as a legal vote; and was so by the law, as stated by the contestant. This is one of the strongest cases in this list, and in the "views" which I submitted, if I have erred, it is in favor of the contestant. It seems, on the most liberal view, to stand thus:

Returned vote of Campbell	9,338
Add three votes improperly rejected	3
	9,341

Deduct votes of George, Rice, Sage, Heikes, Sorbray, W. H. Houghton, White, Wright, Payne, Donaldson, Ayres, Morris, Morrison, Bolton, and Backston, (conceded,)	15
Also, Walk, Tate, Anderson, Odlin, Hartman, W. Lamb, Drayer, and Orden	8
Also, (as claimed,) the votes of Anderson, Mitchell, Lawrence, and Redmond	4
Also, Norris, Smith, Davis, Foulan, Gilliland, and Hall, (all doubtful,)	6
	33

	9,308
Returned vote of Vallandigham	9,319
Add votes improperly rejected	3

Deduct votes of Brewner, Tehan, Forney, Friday, Landis, Ryder, King, Roac, Dennis, Richmond, Freidline, S. Wolf, and Rea	13
	9,300
Majority in favor of Vallandigham	1

In this estimate I deduct from Campbell several votes that can hardly be claimed as illegal. Then there are other votes which the contestant claims should be deducted from Campbell's poll, for which I can see no grounds whatever; yet I may be in error, and it is not impossible that those from whom I differ are in error. If gentlemen can, from this evidence, satisfy themselves that Campbell should be turned out, and the contestant have his seat, I cannot. I am equally in

doubt as to the right of the sitting member. These votes which are questioned were admitted at the polls; and no rule is better established in contested elections than that a vote passed upon and admitted by the judges is to be held good until it is proved (not supposed or presumed) to be bad. It is a dangerous precedent to set, to permit the statements of voters, not on oath, to unsettle and supplant members holding certificates of election; for every one knows that statements as to how a party intends to vote, or has voted, are often made the reverse of the fact.

It is not unusual to refer cases of contested election back to the people. Such was the action of the House in 1792, in the case of Jackson *vs.* Wayne; in 1806, in *McFarland vs. Culpepper*; in 1817, in *Easton vs. Scott*. In 1823, in *Adams vs. Wilson*, the Committee of Elections reported a resolution declaring the seat vacant, "it being doubtful, from the evidence, who ought to have been returned," &c. This report was not concurred in by the House. In 1833, in *Letcher vs. Moore*: in the debate upon this case Mr. Wise said:

"The uncertainty in this case did not lie in the constitution or laws, but in the facts of the case. Upwards of six hundred votes had been polled, and yet the question was reduced, according to some gentlemen, to a difference of twelve disputed votes." "There was a mass of conflicting testimony which rested in comparative credibility, of which the House could not judge. The most certain, the most proper, the most republican mode to settle the question was to send it back to the people."

In 1836, in *Newland vs. Graham*; in 1837-38, in *Prentice and Wood vs. Gholson and Claiborne*; in 1849-50, in *Miller vs. Thompson*; and in 1855-56 in *Archer vs. Allen*. These cases are sufficient as precedents and as authority; and in the case now under consideration, where there is so much doubt and uncertainty, it seems to me the only just decision that can be made will be by the people themselves from whom these contesting parties come.

The Journals of this House show too many decisions of contests like this, where they have been made by strict party votes. Such records go far to weaken the confidence of the people, if not our own confidence, in the impartiality and integrity of this body. It is far better, in cases where there is reasonable doubt of the result, to refer it to the people. Neither the contestant nor sitting member should fear to go to that bar. There let us send it.

I have no feeling in the world, so far as I can judge, between these parties, which influences my judgment. Politically they have been with the contestant; but I cannot escape the consciousness, that if I am forced to vote in favor of either, to the exclusion of the other, I shall do violence to my own sense of right and justice. I have, in reviewing this question, discarded all technicalities and all considerations except such as reach directly to the merits of the controversy. To these let the inquiry be confined, and by them let it be settled, either here or by the people of the third congressional district of Ohio.

I now demand the previous question.

The previous question was seconded.

Mr. BINGHAM. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of debate only.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, and proceeded to the consideration of the bill making appropriations for fortifications and other works of defense, for the year ending June 30, 1859.

Mr. DURFEE. Mr. Chairman, representing, as I do, a constituency which is largely interested in manufactures, trade, and commerce, and whose industrial pursuits have been stricken as with a paralysis, and now languish in almost hopeless depression for the want of that aid and sustenance which they are entitled to, and should receive, from a wise, stable, and judicious policy of national legislation, I feel constrained by a sense of duty to those whom I represent in this body, to raise my voice in earnest entreaty that some measure may be adopted, ere we separate and return to our homes, that shall restore animation and healthful vigor to the different branches of business in the country, now so depressed.

Many months (almost the entire session, thus

far) have been consumed in discussing a single subject, while the entire business portion of the community have been struggling and suffering, unheeded, and apparently uncared for by us, who have had it in our power at any time to adopt measures that would at once dispel the gloom and depression that now weigh upon the minds of business men, cheer their hearts, nerve their arms, and send them once more bounding forward in a career of activity and enterprise, such as we have witnessed in times past.

Our constituents have all this time been patient, because they have been hopeful. They have looked anxiously for the time when we should dispose of the all-absorbing Kansas question, confident that when that was out of the way Congress could not so far fail in its duty as not immediately to turn its attention to "the state of the Union," and set about doing something to restore its prostrate energies and give an impetus to the now almost stationary wheels of industry.

Sir, if it is not our duty, as a national legislative body, to look to the great national interests of finance, trade, commerce, and manufactures—to remove whatever causes may operate to depress or to paralyze them—then I must confess I can see little use in our meeting here, and I have been brought up in a school that has taught me most erroneous notions as to the duties of this body; and I cannot but think that the people, at least in that portion of the Union with which I am more especially acquainted, will come to the same conclusion. They have long since formed the opinion that those who constitute this body are more intent upon making speeches than in endeavoring "to promote the general welfare," and I fear we are about to give them further reason for entertaining such an opinion. We have passed a joint resolution to adjourn on the 7th of June, which is now near at hand; and yet, what have we done? or what have we time to do, if we adjourn then, to set the great machinery of business, now standing almost idle, again in active motion? What answer can we give to our constituents, when, on returning to our homes, they ask us what great measure we have originated and perfected, having for its object the relief of the country, now so depressed in her financial, manufacturing, and commercial interests? We can tell them, to be sure, that we spent a great deal of time in endeavoring to enlighten them in regard to the attempt of the Administration and its supporters to force upon the people of Kansas a constitution conceived in sin, brought forth in iniquity, and covered all over with fraud—a constitution in the formation of which the people had had no voice, and were not permitted to say whether they liked it or detested it.

In doing that, their reply may be, "you have but done your duty; though you took an unnecessarily long time for it." But having disposed of that subject, why not turn your attention to the "state of the Union," and inquire whether the country was in a state of prosperity? whether our commerce was in a healthy and thrifty condition? whether, in every department of industry, the people were doing an active and remunerating business? and whether prosperity and contentment everywhere pervaded the land?

I must confess, Mr. Chairman, I shall, for one, hardly know how to give my constituents a satisfactory answer to these questions. I can only exonerate myself by saying that as far as my feeble voice could be heard, urging action upon these important subjects, it was heard; but, had I been endowed with the eloquence, and could have sounded the clarion notes of a Clay, my voice would have fallen on deaf ears and indifferent hearts.

There are but few subjects now that statesmen of the present prevailing school of doctrinaires deem it constitutional for Congress to act upon. The first is appropriations—that is to say, such appropriations, and such only, as the Federal Executive may demand. These include, first, appropriations for the support of the President, his Cabinet, foreign ministers, heads of bureaus, clerks, &c., collectors of customs, and, indeed, all such as "look to the Executive," and are dependent on him for their respective shares of "the spoils of office;" second, appropriations for the Army and Navy; third, appropriations for Congress; fourth, appropriations for the public buildings in Washington and various cities of the

country; and last, though not least, appropriations for the public printing, binding, engraving, &c., which amounts, annually, to the little item of two or three millions.

The second subject deemed a constitutional one for Congress to act upon, is the abrogation of fishing bounties; third, the abrogation of treaties; fourth, the construction of a railroad from the Mississippi river to the Pacific ocean; and fifth, the granting of immense bodies of public lands indirectly to railroad companies in the States in which the lands lie; though it is not constitutional to distribute the proceeds of the public domain to all the States, whose common property it is.

As to a tariff, if it is to raise money to pay Federal officers, support the Army and Navy, or supply funds to be appropriated under any of the heads I have mentioned, it is a constitutional subject, according to the doctrinaires for Congress to act upon. But if, in the imposing of duties, an eye is turned to the effect they may have upon our own industrial interests, and they are so laid as that in raising sufficient revenue, they are made to furnish incidental protection to our manufactures, then it becomes, according to these sage statesmen, unconstitutional!

But, in stating what are now deemed constitutional and unconstitutional subjects of congressional legislation by this class of politicians, a general rule may be given by which the constitutionality or unconstitutionality of any given question or subject may be at once ascertained; it is this: if the legislation proposed is expected to benefit, or is desired by the South, or the Democratic party, it is constitutional; if it is desired by, or is expected to benefit the North, it is unconstitutional, even though it might promote the welfare of the whole nation.

This statement may seem to be rather hyperbolic, but, unfortunately for us, there is more truth than poetry or hyperbole in it. The time was when the South deemed "high protective duties" upon foreign goods, and especially upon all such as were manufactured of India cotton, promotive of her interests, and the interests of the nation; and then it was that "protection to domestic manufactures" became one of the articles of Democratic faith, a constitutional measure, and a favorite one with the American people generally. Under the lead of those eminent statesmen, Mr. Lowndes and Mr. Calhoun, of South Carolina, the celebrated *minimum duties* were laid, which gave the highest protection—protection being their object—ever given by any tariff act, not excepting that of 1828, denounced as "the bill of abominations."

But the *minimum duties* having performed their office—that of driving goods made of India cotton out of our markets—protection to cotton goods was no longer deemed necessary by the South; and from being a favorite and cherished policy, became in their eyes unconstitutional, odious, oppressive, and tyrannical—so oppressive and odious, indeed, as to cause South Carolina to calculate the value of the Union, resort to nullification, and threaten an armed resistance to the execution of the revenue laws of the United States in her ports. Fortunately for the country, there was, at that time, a Jackson in the White House and a Clay in the Capitol. The one stood ready to draw the sword, while the other succeeded in preventing so unnatural a conflict and the effusion of fraternal blood, by the passage of that harmonizing measure, the compromise tariff act of 1832.

During the first five or six years of the operation of that act, the country enjoyed a high degree of prosperity; but then came comparatively low duties, large importations, an inordinate expansion of the currency by the excessive issue of bank paper, ruinous speculations, high prices, large exportations of specie to pay for foreign goods, "the specie circular," the stoppage by the banks of specie payments, a general financial and commercial revulsion, and universal bankruptcy. For a few years the country was utterly prostrate; business of all kinds was at a stand; our cotton and woolen mills shut up; our laborers unemployed; and gloom settled upon the land. It was natural, in this state of things, that the people should look to Congress for relief. Nor did they look in vain. So low was our credit, that the Government was unable to obtain a small loan of twelve million dollars, either here or in Europe,

and was compelled to resort to the use of Treasury notes, as it has done of late.

A better day soon dawned. The tariff act of 1842 was passed by a Whig Congress, and at once, as if by magic, our cotton and woolen mills again gave forth the cheerful hum of activity; the forge fires of New York, New Jersey, Pennsylvania, Ohio, Kentucky, Tennessee, Missouri, Maryland, and Virginia, were again lighted up; and everywhere the energies of the people were awakened; the wheels of industry put in rapid motion; animation, hope, and confidence, dispelled the gloom that had settled on the land; the mountains rejoiced, the valleys became vocal with the sound of the hammer and the cheerful song of the working man, and there were none to molest or make afraid.

Under the operation of this tariff, the United States reached the culminating point of prosperity, growing out of her industrial pursuits. Unfortunately for the American people, the tariff of 1842 was a *Whig* tariff; and because it was a *Whig* tariff, and a *Whig* measure was covering the country with blessings and benefits, it became obnoxious to the Democratic party, which came into power soon after, and pronounced sentence of death upon it, which was carried into execution by the passage of the act of 1846.

And then, too, the doctrine of "free trade" became permanently incorporated into the articles of Democratic faith; since which time, *protection* is held to be unconstitutional and heterodox—free trade constitutional and orthodox.

The country has now had ample experience of the operation of both systems—of the "American system," which seeks to protect our own labor and manufactures against the injurious competition of foreign labor; and of the *low-duties system* which discriminates against our own products, and in favor of foreign goods, which encourages large importations of foreign merchandise, to the utter prostration and ruin of our manufacturers, capitalists, and operatives. If any one desires to know the effect of the two systems, let him look at the condition of the United States under the operation of the tariff of 1842, and then at our present condition, under the operation of the tariff of 1846, as amended by the subsequent acts.

These will present a study for a statesman; and he who will honestly and earnestly investigate the subject, unblinded by prejudice or preconceived opinions, will not be long in arriving at just conclusions as to the causes which have brought about the present general prostration of trade, commerce, and the various branches of productive industry.

Sir, as nations are but an aggregation, or congregation, of individuals; their affairs are to be judged of, as we judge of those of a family. Whatever course of conduct or policy is calculated to promote the prosperity of the family is also calculated to promote the welfare of the nation.

It would seem to be but repeating a truism to say that that family which produces the most by the labor of its several members, and at the same time buys the least of its neighbors, especially of articles of luxury, and such as are calculated to minister to vanity, and breed idleness and extravagance, is sure to become the most prosperous, powerful, and wealthy.

On the other hand, that family whose members are either too proud or too lazy to work, who produce nothing, buy everything, and indulge in luxury and extravagance, whatever may have been their wealth, (accumulated by an industrious, wise, and prudent ancestor,) must ere long become involved in debt, and sink into poverty and insignificance—the inevitable consequence of idleness and extravagance.

And thus it is with nations: that which performs the greatest amount of productive labor—which is engaged in the greatest variety of industrial pursuits, so that the various branches may be enabled to interchange their respective productions with the least amount of transportation, and which also employs the largest amount of labor-saving machinery and steam-power, which relies most upon its own labor, and pays the smallest amount of specie for foreign merchandise in proportion to its population, and the amount of its exports—that nation will inevitably outstrip all others in the race of national power, wealth, prosperity, and importance.

To withhold from our own people that foster-

ing care which they have a right to look for from a wise and considerate Government, and at the same time to give the industrial classes of other nations advantages over them in our own markets, and to expect them to win the race which is ever being contested between great nations, is to hamstring your own high-metled racer, and to expect him to outstrip the foreign horse that may be brought in competition with him upon the turf! The one would not be more unwise and cruel than the other. But such is the treatment our industrial and business classes have been, and are now, receiving at the hands of the Federal Government, controlled as it is, and has been for more than twelve years, by the free-trade doctrinaires, guided by the "platforms" or charts of modern Democracy, authoritatively and oracularly laid down, put together, and marked out by those well-known bodies of distinguished, learned, and experienced statesmen, profound jurists, and eminent scholars, which meet every four years for the purpose of revising, adding to, and amending the canons of Democracy, and nominating candidates for President and Vice President; and also by that other body, so distinguished for moderation, wisdom, and love of the Union, which meets annually, or semi-annually, to devise means to dissolve it!

Sir, it is sometimes profitable for statesmen and legislators to turn back the historic pages of their own country, and make themselves familiar with the ideas, feelings, opinions, hopes, and expectations of some of the most eminent men who have long since passed away; but whose actions and opinions as public men who gave direction to public opinion in their day and generation, must always command respect. I have said that, according to the canons of modern Democracy, protection and encouragement to our own labor and manufactures is unconstitutional and heterodox. The Constitution, as construed by these profound statesmen, gives Congress no power to promote the general welfare. Our manufactures may be depressed, or utterly ruined by the competition from abroad, and our operatives thrown entirely out of employment by the influx of foreign fabrics produced by the half-fed and half-paid labor of European or eastern countries; but there is no help for it. Congress has no constitutional power to protect the one or relieve the other by imposing such duties as would put a stop to such ruinous competition! Such is now the doctrine of "the Democratic party," and we have lately seen it semi-officially announced in the Union, the organ of the present Administration, that "the Democratic party is the Government, and must be sustained!"

But what were the opinions of those sages who framed the Constitution? A little time may not be unprofitably spent in referring to these, and allowing the distinguished dead to speak to us from the tomb.

The first act passed by Congress under the present Constitution—drawn up with great care, as is well known, by Mr. Madison, one of the leading members, if not the leading member, of the convention which formed the Constitution—is entitled "An act for laying a duty on goods, wares, and merchandise, imported into the United States."

Strange, that the very first Congress, composed as it was in no small part of the very men who had been the architects of the Constitution, should, at the very earliest moment, and by its first recorded act, violate that Constitution which the members had sworn to support, by usurping a power not conferred upon it, and that no patriotic or indignant voice was raised to protest against such a glaring usurpation! How unfortunate for the country that some of our modern Democrats and doctrinaires had not been born in time to raise their voices against such heterodoxy, and put Mr. Madison and his co-peers to shame and confusion!

The act thus passed by Congress, and proclaiming its unconstitutional purpose on its very front, was signed by George Washington, who, unfortunately, had not had an opportunity of reading the Constitution (which he also signed as President of the convention) by the brilliant light of modern Democracy which now illumines the Capitol, the White House, and the peripatetic convention periodically held in a part of the country considered not very promotive of the health of an Abolitionist!

That General Washington was a heretic, if tried by the canons of the doctors of the modern school of Democracy, will clearly appear from the following extract from his last annual message:

"Congress has repeatedly, and not without success, directed their attention to the encouragement of manufactures. The object is of too much consequence not to insure a continuance of their efforts, in every way which shall appear eligible. As a general rule, manufactures on public account are inexpedient; but where the state of things in a country leaves little hope that certain branches of manufacture will, for a great length of time, obtain, when these are of a nature essential to the furnishing and equipping of the public forces in time of war, are not establishments for procuring them on public account, to the extent of the ordinary demand for the public service, recommended by strong considerations of national policy? Ought our country to remain, in such cases, dependent on foreign supply?"

As Mr. Jefferson is still held up by those who profess the Democratic faith and belong to the Democratic church as the great teacher, leader, apostle, and founder of the Democratic party, it may not be amiss, Mr. Chairman, to bring him upon the stand, and let him tell us what his views and opinions were in regard to the authority of Congress to *protect and encourage manufactures*. Let us listen to the voice of "the sage of Monticello:"

"To cultivate peace, and maintain commerce and navigation in all their lawful enterprises, to foster our fisheries, as nurseries of navigation and for the nurture of man, and to protect the manufactures adapted to our circumstances these, fellow-citizens, are the landmarks by which we are to guide ourselves in all our proceedings."

Surely such doctrine as this must sound strangely to the ear of a modern Democrat and doctrinaire! What, the apostle of Democracy himself a heretic? As soon would we have expected to discover that the great Hildebrand, Gregory VII., was guilty of heresy! But so it is, and here is further proof of the fact. In his eighth annual message, Mr. Jefferson said:

"The situation into which we have been forced has impelled us to apply a portion of our industry and capital to national manufactures and improvements. The extent of conversion is daily increasing, and little doubt remains that the establishments, formed and forming, will, under the auspices of cheaper materials and subsistence, the freedom of labor from taxation with us, and of protecting duties and prohibitions, become permanent."

And, again: eight years after he had retired from the Presidency, in a letter to Mr. Benjamin Austin, of Boston, dated January 9, 1816, he thus gave emphatic expression to his views in regard to the encouragement and fostering of our domestic manufactures:

"To be independent for the comforts of life, we must fabricate them for ourselves—we must now place our manufacturers by the side of the agriculturist. The grand inquiry now is: shall we make our own comforts, or go without them at the will of a foreign nation? He, therefore, who is now against domestic manufactures, must be for reducing us either to a dependence upon that nation, or be clothed in skins, and live like beasts, in dens and caverns. I am proud to say that I am not one of these. Experience has taught me that manufacturers are now as necessary to our independence as to our comfort."

Such, Mr. Chairman, were the opinions of the earliest apostle, and the founder of "Democracy in America." Not casually or hastily expressed, but deliberately put forth, written and proclaimed to his friends and the world. There they stand, recorded in the archives of the country, and can never be obscured, hidden, denied, explained away, or "expunged." Mr. Jefferson was not a man to preach one thing and practice another; and he therefore carried his preaching into practice, by clothing himself in the cloth of his own country. It was his pride to appear in garments of domestic manufacture; and in this respect set a praiseworthy and patriotic example to his countrymen and neighbors.

And what, Mr. Chairman, thought Mr. Madison, another apostle of Democracy, in regard to the constitutionality as well as the policy of Congress fostering and protecting domestic manufactures? I have already referred to and given the title of the first act passed by Congress, under the Constitution, drawn up, reported, and advocated by him, the avowed purpose of which was to encourage and protect our domestic manufactures. Let us now see what he had to say on this subject, twenty or twenty-five years after, when he spoke as President of the United States.

In a special message to Congress, May 23, 1809, he says:

"It will be worthy, at the same time, of their (Congress) just and provident care, to make such further alterations in the laws as will more especially protect and foster the several branches of manufactures which have been recently

instituted or extended by the laudable exertion of our citizens."

Again, in his special message to Congress, May 31, 1814, he said:

"I recommend, also, as a more effectual safeguard, and as an encouragement to our growing manufactures, that the additional duties on imports, which are to expire at the end of one year after a peace with Great Britain, be prolonged to the end of two years after that event."

I could quote pages of similar sentiments from Mr. Madison, who, like Mr. Jefferson, showed his faith by his works, having been inaugurated in 1813 in an entire suit of clothes made of cloth manufactured in my own State; for which he was greatly commended by the whole nation. I shall not occupy my time by reading any further extracts from his messages, though I cannot forbear calling the attention of my Democratic friends to his letter to Mr. Joseph C. Calwell, of Virginia, dated September 18, 1823, upon "the constitutionality of the power in Congress to impose a tariff for the encouragement of manufactures." In that letter he says:

"That the encouragement of manufactures was an object of the power to regulate trade is proved by the use made of the power for that object in the first session of the first Congress under the Constitution, when among the members present were so many who had been members of the Federal Convention which framed the Constitution, and of the State conventions which ratified it; each of these classes consisting also of members who had opposed and who had espoused the Constitution in its actual form. It does not appear, from the printed proceedings of Congress on that occasion, that the power was denied by any of them; and it may be remarked that members from Virginia in particular, as well of the Anti-Federal as the Federal party—the names then distinguishing those who had opposed and those who had approved the Constitution—did not hesitate to propose duties, and to suggest even prohibitions in favor of several articles of her production. By one a duty was proposed on mineral coal, in favor of the Virginia coal pits; by another, a duty on hemp was proposed, to encourage the growth of that article; and by a third, a prohibition even of foreign beef was suggested as a measure of sound policy."

"A further evidence in support of the constitutional power to protect and foster manufactures by regulations of trade—is an evidence that ought of itself to settle the question—is the uniform and practical sanction given to the power by the Federal Government, for nearly forty years, with a concurrence or acquiescence of every State government, throughout the same period; and it may be added, through all the vicissitudes of party which marked the period. No novel construction, however ingeniously devised, or however respectable and patriotic its patrons, can withstand the weight of such authorities or the unbroken current of so prolonged and universal a practice."

So much for the opinion of Mr. Madison, one of the architects of the Constitution, a true patriot, and a statesman of large experience and comprehensive views; and now what said his friend and successor, the last of the revolutionary Presidents—Mr. Monroe? In his third annual message he said:

"It is deemed of great importance to give encouragement to our domestic manufactures."

In his sixth he said:

"Satisfied am I that there are other strong reasons, which impose on us the obligation to cherish and sustain our manufactures."

Mr. Chairman, I might well content myself with the quotations I have already made from "the fathers of the Republic," in support of the power of Congress to foster and protect, by discriminating duties, the manufactures of our country—a power which was never questioned by the framers of the Constitution. But, as I desire to hear what the great patron saint of modern Democracy has to say upon the subject—and, as there was one President only between him and Mr. Monroe, I will keep up the chain by presenting a passage of striking force from Mr. Adams's fourth annual message, and then come to General Jackson.

This is Mr. Adams's language:

"Is the self-protecting energy of this nation so helpless that there exists in the political institutions of our country no power to counteract the bids of foreign legislation; that the growers of grain must submit to the exclusion from the foreign markets of their produce, that the shippers must dismantle their ships, the trade of the North stagnate at the wharves, and the manufacturers starve at their looms, while the whole people shall pay tribute to foreign industry, to be clad in foreign garbs; that Congress and the Union are impotent to restore the balance in favor of domestic industry destroyed by the statutes of any realm?"

These pertinent questions, put with great force and directness, are well answered by the successor of Mr. Adams—General Jackson; who, in his second annual message, thus presents his views upon this great subject:

"The power to impose duties upon imports originally belonged to the several States. The right to adjust these duties, with a view to the encouragement of domestic

branches of industry, is so completely identical with the power, that it is difficult to suppose the existence of the one without the other. The States have delegated their whole authority over imports to the General Government, without limitation or restriction; saving the very inconsiderable reservation relative to the inspection laws. This authority having thus entirely passed from the States, the right to exercise it for the purpose of protection does not exist in them; and consequently, if it be not possessed by the General Government, it must be extinct. Our political system would thus present the anomaly of a people stripped of the right to foster their own industry, and to counteract the most selfish and destructive policy which might be adopted by foreign nations. This surely cannot be the case; this indisputable power, thus surrendered by the States, must be within the scope of authority on the subject expressly delegated to Congress. In this conclusion I am confirmed, as well by the opinions of Presidents Washington, Jefferson, Madison, and Monroe, who have each repeatedly recommended this right under the Constitution, as by the uniform practice of Congress, the continued acquiescence of the States, and the general understanding of the people."

Thus, sir, have I presented, not only the opinions of the fathers of the Republic in regard to the power and policy of Congress protecting and nursing our domestic manufactures, but also the deliberate opinion of one whose opinions are never openly called in question by the party which holds his memory in the highest reverence; and these, I think, may be well set up against the strange doctrines now generally held by that party upon this subject. These latter seem to me to be too absurd for argument, or any attempt at refutation; and I cannot but think that the time will come when their absurdity and fallacy will appear so palpable and glaring to the people as to excite wonder that any one could ever have entertained such strange notions, or seriously maintained their soundness.

But whether sound or absurd, so long as they constitute in part the creed of modern Democracy, and are held to be binding upon all who profess the Democratic faith, and acknowledge the binding force of Democratic platforms, and the people think proper to keep that party in possession of the Government, thus giving it a controlling power over the legislation of the country, so long will the industrial interests of the country be suffered to languish in neglect, while, by our unwise and suicidal policy, we encourage foreign imports, by which we are impoverished, and foreign labor and manufacturers stimulated and encouraged by our folly and capital.

In most nations, Mr. Chairman, those questions which relate to finance and business, and which concern the prosperity of the active, industrious, producing classes, demand and receive the earliest attention of those who are placed as guardians over the common weal. If any one branch languishes, and those engaged in it suffer from stagnation, the cause is at once sought, and, if it can be, a remedy applied. But here, where our theory is that the interests of the people will not be overlooked or neglected by the Representatives of the people, we give ourselves little concern whether our laws are such as to promote the general prosperity, or whether they operate detrimentally to our trade, commerce, and manufactures.

Look, for instance, at our commerce: once we could boast that we possessed almost a monopoly of the carrying trade of the world; but how is it now? Do we perform the carrying for other nations now upon the ocean? By no means; and even a large share of the most valuable part of our own produce and goods is in the hands of other nations. Our commerce is dwindling down to insignificance, while that of our rival, England, is increasing in a most astonishing manner. And why is this? Because England is governed by far-seeing and enlightened statesmen, who, whatever party may be in or out of power, look to the prosperity of her great industrial departments, her agriculture, trade, manufactures, and commerce, and hesitate not to adopt such measures and pass such laws as the objects they have in view demand at their hands. They are quick to perceive and prompt to seize any advantage presented, or to profit by the blindness and obstinacy of those nations which pursue theories, rather than solid advantages. If, by spreading a net of mail steamers over every sea, and thereby gathering into her hands the most valuable portion of the carrying trade and commerce of the world, while we stand looking on as if indifferent, or asleep, thus yielding to her the rich harvests of commercial enterprise we once enjoyed, who is to be censured and who commended?

Mr. Chairman, we are often told that the present financial depression under which the country is suffering will soon pass away, and business will again revive, with all its wonted animation and activity. But, sir,

"Hope tells a flattering tale."

I wish I could believe this prediction, or see any reasonable ground for indulging in such a pleasing anticipation; but I cannot. What is to set the wheels of our cotton and woolen mills in motion? What inducement or protection against the ruinous competition of foreign goods, passed through our custom-houses by means of false oaths and fraudulent invoices, by the payment of one third, one half, or two thirds of the duties that ought to be levied upon them, and would be but for these custom-house frauds—what inducement or protection, I say, do you afford to the American manufacturer? None whatever. How, then, can it be expected that he will again put his spindles and looms in operation when he has to meet such competition in the markets of his own country; and when, too, the best fabrics he can manufacture are not considered worthy to be worn, even in the street, by his own countrywomen? Sir, I fear the day is still distant when we shall again hear the cheerful music of the spindle and the shuttle, and behold the smiling faces of active, industrious, and happy operatives swarming in and out of our cotton and woolen factories.

And, sir, can the farmers of the rich and boundless West expect a return of prosperous times while every branch of industry is paralyzed at the North and East? Where are they to find a market for their superabundant crops? Where are the mouths to consume, and the money to pay for their wheat, corn, flour, butter, cheese, and lard? Not among us; at least, so long as our people are compelled to remain inactive for want of a remunerating market for the products of our labor. He who cannot sell cannot buy; and he who cannot buy must contrive to live at the lowest possible rate of expenditure—dispensing with all luxuries, and depriving himself of even some of the comforts of life. Nor, Mr. Chairman, is this all. If those who have heretofore obtained a livelihood by their mechanical or manufacturing skill and industry, find that resource cut off, and are unable any longer to obtain employment in their accustomed avocations, they must abandon these and seek a livelihood in other departments of industry in agriculture, and in other and distant sections of the country.

Sir, we may indulge ourselves in flattering anticipations of returning prosperity, but all such hopes will be delusive, so long as, by our laws, we give advantages to foreign manufactured goods over our own, and thus enable the foreign manufacturer and importer to reap the harvests from our own fields. No European nation has now the folly to expose her own operatives and merchants to the operations of any such suicidal policy; fatal experience has taught them the fallacy of the free-trade doctrines now taught, but not practiced upon, by England; who owes all her wealth and commercial and manufacturing prosperity to her protective laws and her exclusive policy. But we cling to these fallacies, and practice upon English theories, manufactured for others, and not for home consumption; as we purchase and consume English goods, manufactured expressly for us. And, Mr. Chairman, so long as we do this, we may be nominally independent of her, but we are as much her colonies commercially, as we were when she would not permit even a nail to be manufactured here, but took all our raw material, and compelled us to purchase everything that was manufactured of her.

The President has informed us, that the cause of the commercial and financial revulsion, that has come upon us, was the over issue of the banks. Well, Mr. Chairman, if that is true, how does it happen that when that cause is removed, things do not return to their wonted activity? Instead of the banks overissuing now, they can get scarcely any paper to discount; and their capitals are lying comparatively idle in their vaults. Sir, this was not the cause, and therefore the cessation of all banking business is not the remedy. The cause is over trading, over buying; buying more than we can pay for; and buying of foreign nations instead of manufacturing for ourselves; employing foreign operatives instead of our own. And, sir, when this comes to be believed; when the true

causes are clearly seen, then legislators and statesmen, will know where, and how, to apply a remedy that will remove the disease; and until the right remedy shall be applied, (and that remedy is the revision and amendment of your tariff laws) the disease may be tampered with, but *can not be cured*. Like causes, it is said, produce like effects, under like circumstances. Now, we have seen the country, once at least, in like circumstances as those by which she is now surrounded; and we then saw the most admirable and happy effects produced by the passage of the tariff of 1842. Why, then, would not a like remedy produce a like effect at the present time? Would it not be the part of wisdom, at least, to try and see?

But, Mr. Chairman, I have no hope that any remedy will be applied, or will be attempted to be applied, by the present Congress and by this Administration. We must therefore be patient, and bear our sufferings as best we may.

But, sir, as even the most unfortunate and depressed people have some consolation in their misery, so our people have theirs. In the first place, they have the consolation (which is a great one, indeed,) that they live under a *Democratic Administration*, and if they have not their entire share of its blessings and benefits, they know that the people of Kansas have. In the next place, they have the consolation of knowing that another House of Representatives is soon to be elected; and in the third place, that Presidents are elected every four years, and that, in a little more than half that period, they will have the "glorious privilege" of voting for another Chief Magistrate of this Union, and of choosing one who may deem it his duty to endeavor to promote the welfare of the whole nation, and not confine himself to the "searching operation" of distributing "the spoils of office" among his most noisy partisans.

With such consolations as these they may live, not as those who are wholly deprived of hope—that last comforter of the wretched.

Mr. FLORENCE. I desire to occupy a moment's time just here, to state, in reply to so much of the remark of the gentleman from Rhode Island as referred to it, that the present Administration had nothing to do with the revision of the tariff in the last Congress. It was brought about entirely by the manufacturing interests, and was especially urged by the (I think) entire delegation in Congress from the eastern States. There was a plethora in the Treasury, and gentlemen engaged in the manufacture of cotton and woolen goods came and implored us who were here in the Thirty-Fourth Congress, to advocate the revision of the act of 1846, imposing duties upon imports, in support of which I had always acted, and in favor of which I spoke in the first canvass I ever made as a candidate for a seat here. They said that the only way by which they could enter into competition with Great Britain and other countries manufacturing cotton and woolen goods, was to introduce a large free list, especially urging that the raw material should be admitted free of duty. Now, while I am very willing to hear, and have listened with pleasure to, the remarks of the gentleman from Rhode Island, [Mr. DUFFEL] who has given us a very intelligent and fair expression of his opinion—governed, of course, by the interests which surround him—I am not willing to stand here and hear this Administration deliberately charged with what gentlemen consider offenses with which it had no participation, and of which it can enter the plea of *not guilty*, and be sustained by the honest sentiment of the entire country. I stand here as the friend of, the devoted friend of American labor, acknowledging none more so; and will, in the exercise of my judgment, and by my vote, act in the manner which I deem most promotive of all the varied interests of our Republic, whether they be manufacturing, commercial, mechanical, agricultural, or of any other interests, demanding our consideration, or needing our fostering care. But I do not believe, Mr. Chairman, that just at this time, in view of the commercial revulsion which has just swept over this broad land like a fire in the prairies, and which has not been confined to the United States, this Administration, the preceding Administration, or, indeed, any other Administration of the General Government, should be held responsible for the results flowing from it.

Mr. DAVIS, of Massachusetts. Mr. Chairman, I desire to call the attention of the commit-

tee to the French spoliation question. This, sir, is one of the subjects with which all are familiar, or may be if there is a disposition to examine the public documents relating to it. It has been discussed for more than half a century by men held in high esteem by the people of the country; and although its novelty is exhausted, its merits remain unimpaired. I shall not pretend to say anything new upon this subject. There is no need that I should attempt to do it. As it presents itself to my mind, the question is not one of ideas or theories, but is based upon fixed and unalterable facts; and if we would be just in dealing with it we must resort to research, and abandon speculation. Some months ago I presented a bill which, in all particulars, agrees with that which has been reported to the House; and although this is not the occasion which I should have chosen, I nevertheless avail myself of it to say what I think about the measure.

The pending bill does not make provision for the immediate payment of the spoliation claims; but like that which passed the Thirty-Third Congress, it proposes to provide for the payment of \$5,000,000 of the original amount at a future time. It also provides for a board of commissioners, who are to ascertain and allow such claims as are susceptible of proof, and within three years to report a correct list of claimants, who are to receive whatever may be allowed by a *pro rata* adjustment, in United States five per cent. stocks, redeemable at the pleasure of the Government. This plan will obviate all objections based upon the poor condition of the Treasury, and will satisfy claimants beyond doubt. I regret that the bill has been laid over until another session. Although we here do not understand the postponement as an indication of opposition to the passage of the bill, yet the claimants are unable to regard the action of the House in this particular as being otherwise than to them unfavorable. A little time will, I trust, restore their hopes of a speedy and just disposal of the whole matter.

I do not believe, Mr. Chairman, that the real merits of the spoliation question are so obscure as to require any considerable effort at argument to establish them upon a just foundation. As I regard the present condition of the matter, a plain statement of facts will prove the very best argument in favor of the acknowledgment and discharge of the claims. This I propose to submit briefly, but with every intention to be truthful, so far as I proceed in the case. I shall, in the course of my remarks, attempt to show that we made a treaty with France on the 6th of February, 1778, and that we did not live up to its provisions; and although we did not act wholly without provocation, we did so disregard our treaty stipulations as to furnish a pretext for France to authorize a general seizure of American commerce; and that, finally, in order to settle all difficulties, we sent envoys to meet those appointed on behalf of France; and the mission resulted in establishing the claims of the respective Governments—on the part of France, her rights under the treaties of 1778; on the part of the United States, the claims of our citizens for indemnities growing out of the unlawful seizure of their property; and that the end of all claims set up by either party was arrived at by the convention of 1800, or as soon as the two Governments had ratified it.

I have, sir, taken some pains to examine public documents, and to read such reports and speeches upon the spoliation question, as would be likely to embody not only a truthful presentation of the subject-matter, but as would also tend to enlighten minds desirous of receiving correct impressions in reference to it; and the result of my examination is a firm conviction, first, as to the justice of the claims against the United States Government; and secondly, as to the great simplicity which characterizes every well-disposed effort to get at the truth. The gist of the story could be told in a few words, but that will not do. If I am to vote to appropriate a sum of money for any purpose not in the ordinary line of legislation, I want to give a reason for it, and to strengthen it by a statement of the facts which induced my action in reference to the matter with which I am to deal. More than half a century has elapsed since the United States Government, for reasons which may appear to have been good and sufficient, assumed the responsibility of claims due from France to American citizens. I say we

assumed those claims, because, as I read, I find that in consideration of important advantages accruing to herself, our Government deliberately cut off all practical recourse upon France by ratifying the convention of 1800. I shall endeavor to show that my opinion in this regard is founded upon fair inferences, taking cognizance mainly of documentary evidence. Gentlemen must bear in mind that the question whether or not citizens of the United States were deprived of their property by virtue of decrees issued by the French Government, in time of peace, is not to be successfully disputed; that these decrees were based upon the assumption that our Government had violated the faith of her treaties with France, is, whether just or unjust, fairly presumed to be the fact. We are only to ascertain the extent of our liability, if we are liable at all, and to account in some way for our presence as a party in the case. If the two Governments had at any time recognized a state of war as existing between them, growing out of the unlawful seizure of American vessels, or for other cause, or if we had become one of the parties to a war with France solely on account of her aggressions and spoliations upon American commerce, I think it would be difficult for our citizens to establish a claim against the United States. If we were at war for cause, and if we made a treaty of peace without first obtaining satisfaction for that which induced the war, it would amount to a defeat. If we obtained satisfaction for our citizens for which we resorted to hostile means, we are liable, because the object of the war was to obtain this satisfaction, and we only performed the duty of the Government on behalf of the rights of the citizen. If no war existed, then we may be regarded as delinquent; having failed to protect the citizen in his lawful pursuits. But if no war existed, and we can show that the United States Government actually bartered away the claims of her citizens for a valuable consideration, whatever it may have been; then we have fastened the liability to the citizen upon the Government itself, and fully exonerated France from every species of responsibility in the case. Upon the basis of common sense and common justice, it appears to me, we can trace the present liability to our own Government. If, however, we are to consult upon points strictly technical in their character, an argument against the liability of the United States may be presented.

The circumstances attending the claims for indemnities date back to where the history of our Government begins. We may claim their origin as cotemporaneous with our first essay at international treaty. We find an apology and partial justification for our long delay in the fact that we have never fully and fairly denied the validity of the claims, but have only awaited a convenient opportunity to examine and discharge them with due regard for the rights and interests of all parties concerned. I think, sir, that the more we attempt it, the more difficult it will be for us to get rid of the impression that, when we were weak, and needing assistance, we sought and obtained it, and when we became strong and at ease, we resolved that we would no longer be bound by the pledges made to the French Government, in consideration of which her valuable services were rendered in our revolutionary struggle. We chose to be peremptory in dealing with our ally, and, if necessary, to resort to hostile means in order to rid ourselves of onerous and embarrassing treaty stipulations. We preferred the present moment for the work, while France was distracted by her internal necessities, and nearly crushed by the hosts which were banded against her. The liberty which we were enjoying at her expense, to a great degree, we had secured; but we had not yet learned to confide in the stability or sufficiency of our resources to maintain it. An alliance of kings and emperors against the popular sentiment in France had its effect upon the leaders in this country. We could not, or, as it seems, we did not, practically regard the moral obligation which rested upon us. We failed to act upon the presumption that the French people had brought upon themselves great public distress by their efforts in achieving the independence of the United States. We desired to be prudent; we were forced, at all hazards, to be resolute.

France was, perhaps, to be reduced to a dependency. It seemed almost impossible for her to maintain her nationality, or to set up a stable

and responsible Government amid the trials, internal and external, which beset her. We were then an independent Republic, full of hope and promise, and bearing the first blossom that was to grow and ripen into perfect political and social equality. To our hands was committed the principle of self-government. Our great business was to work out its practical demonstration, and no people could equal ours in the enthusiasm with which they hailed the occasion and husbanded the trust. But we were bound by a treaty of alliance with France which would be troublesome in all future time. So it appeared when we were asked to comply with its provisions. We hesitated, and read the articles of compact to see if there was a just way of escape, and we found no such way; and finally we resorted to a violent interpretation of the provisions of the treaty, to be varied according to our daily necessities, aided by the law of license, as acknowledged in matters diplomatic. This, I infer from an examination of the facts in the case, and upon reflection afterwards, and I do not for a moment intend to traduce the Government under which I live. It is necessary to my purpose that I should be just, according to my own convictions, and I shall, in my remarks, deal principally with reference to our own moral, political, and pecuniary obligations and responsibilities, as the record seems to me to affect them. I shall not pretend to explain the action of our Government in reference to her treaties with France. There appears to me to be but one hypothesis applicable to the case, and that will suggest itself to curious people. I repeat, sir, that it is my intention to trace, as briefly as possible, these spoliation claims from their origin to the time when the French Government formally released the United States from her treaty engagements; and I shall endeavor to force the conviction upon the mind of every just man, that France did this on condition that she should not be called upon to pay American citizens for the amount of property which had been unlawfully taken from them under the sanction of her Government, and in violation of the law of nations.

Immediately after the inauguration of our war of independence, we sent an envoy to Paris, to ask of the French Government aid and coöperation in our cause. We afterwards sent other envoys, fully empowered to negotiate a treaty of alliance, and of amity, and commerce. Our envoys labored with untiring zeal and earnestness to engage France in the war against England. No motive was left unaddressed; no skill in diplomacy was lost sight of; no promise of good faith could have been more earnestly made, than was made by our envoys. In the memorial to Count De Vergennes, dated 5th January, 1777, our envoys say:

"The courts of France and Spain may rely with the fullest confidence that whatever stipulations are made by us, in case of granting such aid, will be ratified and punctually fulfilled by Congress, who are determined to found their future character upon justice, fidelity," &c.

We concluded our several treaties upon the basis of good faith, in 1778. By the provisions of these treaties, we bound the United States to the performance of certain acts which we could not, or did not, finally perform. By the eleventh article of the treaty of alliance, we guaranteed protection to the French islands. This guarantee was clearly, firmly made, and we had received the consideration for it in the services rendered by France, in the shape of men and guns, money, ships, and generous sympathy and determined zeal in support of our cause; all of which were furnished upon the good faith of the Government. We also, by virtue of the twenty-second article of the treaty of commerce, agreed to grant to the French Government the exclusive use of our ports for her ships of war, privateers, and prizes, forever. This provision of the treaty was of great practical advantage to France; it afforded her not only ports of refuge, but a market for her prizes, and a place at which to refit and equip her ships; and by the treaty, these rights were to belong to France exclusively. We had, in our treaty of 1778, stipulated for mutual aid and effort in the war which France helped to bring upon herself by her treaty of alliance with us. If any gentleman doubts the prudence or the propriety of our making such concessions as we did make in the treaties of alliance and commerce, let him look at our necessities, and he will find an explanation

satisfactory, I think. If he demurs, let him remember that all our vast territory, all our desired liberty and independence, were subject to the chances of an unfavorable termination of our most unequal war with Great Britain. With a Government not tested; without money or means, which were necessary to a successful prosecution of the war, we availed ourselves of the support of an old, organized, rich, and powerful Government; and for this we agreed to pay dearly, perhaps, but whether too dearly or not, I have no desire now to consider; certainly we assumed obligations which we were as desirous afterwards to cancel as we were formerly to obtain the services in consideration of which these obligations were assumed. We know that by the letter of the treaties of 1778, these stipulations were made perpetual, and the French Government set up the remarkable claim that even war itself could not destroy their force.

It is not important that I should go into the details of the several compacts made between the United States and France in elucidation of any purpose which I now have in view. It is enough to know, in this connection, that the stipulations to which I have alluded were in full force and effect upon the commencement of the war of the French revolution; and, as was pretended, for the crime of beheading her King, all Europe joined in the lead of Great Britain in a war of subjugation against the French people. For all that we know, the spirit of "resentment" was at work against France for the part she took in our war of independence. At least we had an opportunity to keep faith with our ally, if we desired or intended to do it. The parties conducting the war against France were governed by extraordinary motives. A refusal on the part of the masses in France to recognize regal authority was regarded as sufficient provocation for the acts of oppression which were heaped upon them. The greatest want prevailed throughout the French dominions; and this disaster was augmented by the course which we allowed affairs to take. England, within the space of a few months, had formed twenty-three separate treaties with neighboring Powers. The several parties to these treaties stipulated that all their ports should be shut against French ships, and agreed not to permit the exportation, in any case, of military or naval stores, corn or grain, salt, or provisions of any description, and to do all in their power to crush the commerce of France. England boldly led this coalition, and declared against all neutrals; thus coercing the weaker Governments to take ground against France. I would like to read an extract which seems to afford a fair expression of the state of feeling towards France, as well as an indication of the plan of the alliance. These instructions are given by Russia to Admiral Tchitchakoff, in conformity with her treaty with England, of March, 1793:

"We have ordered a fleet of twenty-five sail of the line, and frigates to be equipped for four months and put under your command. The principal duty of our naval armament consists in what follows. We are bound, according to our stipulations with his Majesty, the King of Great Britain, to endeavor to prevent those French who are in rebellion, from receiving any supplies of which they may be in need. The hostile measures employed against them are not strictly conformable to the natural laws of war, when it unfortunately takes place between nations under lawful governments; but as those measures are taken against those arrant villains who have overturned all duties observed towards God, the laws, and the Government; who have even gone so far as to take the life of their own Sovereign—the means of punishing those villains ought, in justice, to be employed in such a manner as to accelerate and insure success in so salutary an affair. We have made representations to the Courts of Sweden and Denmark; wherefore we have declared to them that we cannot see, with indifference, provisions or stores sent to France which serve to nourish the rebels. By this, you clearly see our will and intentions; and we order you to seize all those French vessels you may meet with, and to send back to their own ports all neutral vessels bound to France."

While our Government insisted upon her neutrality, France was pressed to urge her claims under existing treaties. We refused to respond, and finally openly disavowed all obligation under them. The abrogation of these treaties was a work of necessity, perhaps. Certainly, it was one of vast importance to the United States. But this simple assumption of fact will not obliterate the moral aspect of the question, although it may appear to justify our action in the case. The liberty which we were enjoying did not come of grace without works; and whether we paid much or little

as a consideration for it, we earnestly begged the coöperation of France, and her acquiescence was dictated by uncommon benevolence and sympathy; and it may be that the lesson of liberty, which France learned in our war, cost the life of her King. In furtherance of the efforts to establish the independence of the United States, the French Government expended \$256,000,000, as computed by Mr. Jefferson, while the war cost the United States but \$140,000,000. (See Jefferson's Works, vol. 1, pages 57 and 412.) This was in money, and did not include the loss of property, and could not include the great loss of life consequent upon warlike adventure. The guarantee cost the French Government something, it seems; and she had a right to demand the fulfillment of our part of the agreement, or its full equivalent. Mr. Jefferson thought so. In a letter to Mr. Madison, dated April 3, 1794, he says:

"As to the guarantee of the French islands, whatever doubts may be entertained of the moment at which we ought to interpose, yet I have no doubt but that we ought to interpose at a proper time, and declare both to England and France, that these islands are to rest with France, and that we will make a common cause with the latter for that object."

Here seems to be good and reliable authority. Mr. Jefferson had no doubt that we ought to interpose; but did not know precisely when. It would appear to a candid mind at this day, that the moment to interpose was just at the moment that there seemed to be the least necessity for interference. But the fact is, we did not interfere at all; and could not, as we regarded the matter. We did not even remonstrate when Great Britain was about to capture those islands; and the only explanation, of course, is, that if we attempted to execute the guarantee, the effect would be to transfer the seat of our difficulties from France to England with her allies; and, on the other hand, if we refused to execute it, we were guilty of a breach of faith to France, involving great responsibilities, and possibly a war. But, in truth, France was not in a condition to go to war with us; and we thought so, and that circumstance alone secured us from the calamity. Our Government realized the endless obligations and dangers of the guarantee; and that France, in her future wars would, under the old treaty stipulations, leave to us the duty of protecting her islands, and to redeem them, when captured by her enemies, as often as it might be necessary to do so. The present and eventual dangers of this guarantee must have been clearly seen by our Government; and to get rid of it was its first and most important business. The safety of the country imperatively demanded it; and, by the law of self-preservation, a breach of faith may be pardonable in such an emergency, if it be followed by a pecuniary indemnity satisfactory to the injured party. Such, no doubt, was the decision of our Government; its first duty being to save the country from impending disaster. The purity of the motives and far-seeing judgment of the Executive can never be questioned. The present prosperous condition of our people is proof of that; and, although we broke our faith with France, the result was intended to be, and has proved, a real blessing to the United States. But it is not surprising that bitterness should flow from our refusal to maintain the guarantee.

And, as we had been induced to falter in our action in reference to protecting the islands, so we were forced, as matters proceeded, to qualify, and, finally, absolutely to abandon our stipulations in reference to the ports.

Mr. Pickens, Secretary of State, in his report to the President, July 15, 1796, says:

"Mr. Adet asks whether the President has caused orders to be given to prevent the sale of prizes conducted into the ports of the United States, by vessels of the Republic, or privateers armed under its authority? On this, I have the honor to inform you, that the twenty-fourth article of the British treaty having explicitly forbidden the arming of privateers, and the selling of their prizes in the ports of the United States, the Secretary of the Treasury prepared, as a matter of course, circular letters to the collectors, to conform to the restrictions contained in that article, as the law of the land. This was the more necessary, as formerly the collectors had been instructed to admit to an entry and sale the prizes brought into our ports."

France had given us some pretext for the course we pursued, by allowing occasional captures of American vessels on the ground of her great necessities, besides assuming as an excuse that the similarity of appearance, and the identity of language rendered it impossible to distinguish our ships from those of England. On the 24th of March, 1793, Mr. Morris, our Minister to France,

complained to the French Government that several violations had been committed against American vessels by French privateers, and on the 30th of the same month the French Minister of Marine issued the following circular to the civil *ordonnateurs* of the Republic:

"Citizens, being informed that some French privateers have taken vessels belonging to the United States, I hasten to engage you to take the most speedy and efficacious measures to put a stop to this robbery, which essentially compromises French honor and loyalty. You must be sensible of how much importance it is to the Republic to preserve the good intelligence subsisting between her and the United States, and to tighten, if possible, the bonds of a fraternal alliance with the people who, having conquered and obtained their liberty, value our principles and respect our rights."

But both parties to the contract became indifferent, and at last embittered in their negotiations. We were not satisfied with the decree issued by the French Government on the 9th of May, 1793, which authorized the seizure of neutral vessels bound into her enemies ports, although for all damage arising from such seizures we were to be indemnified. This decree was claimed by France to be retaliatory and even absolutely necessary as a measure of self-preservation, England having justified the capture of neutral vessels bound into French ports, and American vessels being included among the captured. France also complained of our President's proclamation of neutrality issued on the 22d of April, 1793. We were charged with having failed, in all important particulars to recognize our treaty stipulations in reference to the ports; that we had interfered and released prizes belonging to British subjects after they had been captured and brought in by French privateers; that we had allowed British ships of war the use of our ports, and had abridged the privileges of France in the sale of her prizes; that we had not fulfilled the terms of the guarantee, but had seen her islands captured without firing a gun. So both parties became restless, and both in some degree had violated their treaty stipulations. France, by allowing her privateers to capture our vessels, in the face of the clause that "free ships make free goods;" and we by a steady refusal to maintain the guarantee, and exclusive use of our ports to France. Mr. Livingston in his report thus alludes to the embarrassing state of affairs:

"In all these complaints neither of the parties seemed desirous of pressing the other for a strict performance of the treaty—both, perhaps, from a consciousness that they were, themselves, not inclined to perform all its stipulations; we, on our part, were cautious about asking indemnity for the breach of the articles which stipulated that free ships should make free goods, in the hope that the French would be equally accommodating on the subject of the guarantee; and it is curious to observe the embarrassment which this subject produced in the negotiations between the parties. In the instructions to Mr. Monroe he is directed to state that *we are unable to give her aid of men and money*, evidently alluding to the guarantee. A plea of inability could only flow from a consciousness of obligation, and must be regarded as an acknowledgment of liability on the part of the nation that makes it. And that Minister, in one of his letters to the Secretary of State, says: 'I felt extremely embarrassed how to touch again their infringement of the treaty of commerce; whether to call on them to execute it, or leave that question on the ground on which I first placed it.' And afterwards, in a conference with one of the French Ministers, the question is directly put, 'Do you insist on our executing the treaty?' This Mr. Monroe, for the moment, evades, but it was afterwards peremptorily again urged, 'Do you insist upon, or demand it?' And Mr. Monroe answers, 'that he was not instructed by the President to insist upon it, nor did he insist upon it;' and he avows that one of his motives was, 'lest it might excite a disposition to press us upon other points, on which it were better to avoid any discussion.' On the part of the French Government, although the execution of the guarantee seems to have been incidentally demanded by their agents in the United States, yet it was rather in the shape of a request of aid in money, provisions, and arms; and the reference made to the guarantee was to show that we might comply with their requisitions under the previous treaty without departing from our neutrality."

We shall find that in all our negotiations with the French Government, the terms of the old treaties were insisted upon by her Ministers. The guarantee of the islands was a convenient article of the treaty. These possessions were remote from the seat of the French Government, and convenient to ours. I have, sir, already alluded to the difficulties which stood in the way of our granting the promised protection. We offered a war subsidy of \$200,000 annually, to be released from this guarantee, which is a fair argument in favor of the assumption that we recognized it as binding upon us, and if a bargain could be secured, we were not entirely destitute of the means with which to avail ourselves of it. But we did not pay this money, because France would not accept

it in lieu of the guarantee. So, notwithstanding our refusal to stand by our agreement, our obligation to do it was more valuable to France than the proffered annual allowance of \$200,000. During the pendency of all our negotiations, to this time, the action of the parties was characterized by kindly feelings, and we were rapidly adjusting all our difficulties. On the 20th of February, 1795, the President, in his message, said, "It affords me the highest pleasure to inform Congress that perfect harmony exists between the two Republics," (France and the United States.) We must remember, sir, that while we were settling our difficulties with France peaceably, she was burdened with a relentless warfare, superinduced possibly, by her former alliance with us. But regardless of this, or other considerations important to the French Government, we, at this juncture of affairs, found ourselves engaged in negotiating a treaty with Great Britain, which effectually destroyed all hopes of a speedy reconciliation with France. The knowledge of Mr. Jay's mission to England, which transpired in 1794, was the cause of new complaints on the part of the French Government, and Mr. Munroe was instructed to check the growing discontent, by giving assurance that "the motives of Mr. Jay's mission to England was to obtain immediate compensation for plundered property and a restitution of the ports," and "that he was positively forbidden to weaken the engagement between this country and France," and to "repel with firmness, any imputations of the most distant intention to sacrifice our connection with France, to any connection with England."

This explanation aided in establishing the era of good feelings upon which all our negotiations were based. But the promulgation of Mr. Jay's treaty changed the aspect of affairs. By the interpretation which we had voluntarily given to the treaty, great innovations were made upon the engagements between France and the United States, and which had not been annulled with the consent of the French Government. That clause in Mr. Jay's treaty which, by the interpretation of the contracting parties, allowed British cruisers to capture American ships laden on merchants' account, and bound into French ports, was well calculated to provoke a spirit of hostility towards us on the part of France. But it was as unjust to American merchants as it was to the French people. France was in a state of starvation, or bordering upon it. Her commerce was destroyed; her people were in arms; her ports were watched hourly by her enemies. The policy of her oppressors was to starve her into subjection, as Lord North thought he could starve the American fishermen into obedience to British dictation. The plan is inhuman, and generally fails.

By the eighteenth article of the Jay treaty, we allowed our provision vessels, bound to France, to be captured, and restricted such captures only to the proviso that "a reasonable mercantile profit be paid to the captain or owners, including freight, demurrage, &c." Whether, in view of her services in the past, and her treaty stipulations still in force, the French Government could justly complain of all this, I leave gentlemen to judge. The treaties speak for themselves. I only state the fact, as I extract it from their perusal. I here wish to read Mr. Randolph's (Secretary of State) letter to Mr. Monroe, of July 14, 1795:

"The treaty (Jay's) is not yet ratified, nor will it be ratified I believe, until it returns from England, if then. But I do not mean this for a public communication, or for any public body or men. I am engaged in a work which, when finished and approved by the President, will enable me to speak precisely to you. The late British order for seizing provisions is a weighty obstacle to a ratification. I do not suppose that such an attempt to starve France will be countenanced."

But, as I have already remarked, Mr. Jay's treaty affected the interests of American merchants unfavorably. I believe it is regarded as legitimate for the mercantile and commercial adventurer to choose his market. He is entitled to the benefit of it to-day, as he is subject to the vicissitudes and changes of every day. At the time these vessels were captured, and their cargoes sold in British ports at an advance of about ten per cent. on the invoice cost, the difference in the price of flour, as between the markets of Great Britain and France, was more than thirty dollars per barrel, and other staple supplies were held in nearly as great disproportion. Now, I will not pretend to explain the cause of this remarkable display

of amiability towards a nation with whom we had just been at war, or the no less remarkable indifference towards another with whom we had been, and still were, bound by the strongest ties of friendship. But the considerations which would seem to proceed naturally from our former relations with France, produced no effect upon the action of our Government in reference to Mr. Jay's treaty. Public hostility was aroused against its ratification, and parties divided upon the question, and more than eighteen months elapsed, and the matter was suspended; but finally the treaty was ratified, much against the popular will in the United States, and certainly in violation of the letter and spirit of our treaties with France.

We also, by the Jay treaty, opened our ports to British ships, thus assailing France in her most vital part. The act was equivalent to a formal refusal to allow France the use of our ports at all. Mr. Pickering, Secretary of State, wrote to Mr. King, Minister to Great Britain:

"Orders having been given to prevent the sale of prizes brought into our ports by French privateers, conformably to the twenty-fourth article of our treaty with Great Britain, a certain class of our citizens raised some little clamor, that the prohibition was not only unfriendly to France, but a violation of our treaty with that nation."

The French Minister asked if we had decided to refuse the use of our ports for the sale of French prizes. In reply, he was informed that by the twentieth-fourth article of the British treaty we must so decide. The French islands had fallen into the hands of the British, and now American ports were to be closed against French ships and prizes. The wonder is natural that we should have been so faithful to Great Britain, and so faithless to France. And the charitable explanation is, that the first led a powerful combination against the latter, and we must bow to power gracefully, even if it should cost us a war with our best friend and former ally. It is plain for us to see that President Washington had determined to keep the United States free from "entangling alliances," and that he pushed his policy of non-interference on behalf of France to the very verge of a technical understanding of the treaties in all cases; and as all men bearing public trusts find their motives overlooked, and only the chance results of their acts criticised; so Washington found his course severely condemned by a large party of his countrymen. Mr. Jefferson abandoned his Cabinet, it is believed, because he could not view all the circumstances of our position with composure.

Mr. Chairman, I have no doubt, and could not doubt, that stipulations so embarrassing as ours with France must be thrown off, either by compromise or force. We could never fulfill them and maintain our peace with other nations. When we assumed these heavy obligations it was questionable if we succeeded in establishing our independence permanently. The aid of a powerful Government was an important consideration, and we were not taking a risk so great as our ally in bringing on the war. We had everything to gain in a doubtful enterprise. Our ideas of government were not matured. Our resources had not been tried; and, led on by high hopes, we could perhaps afford to agree to anything, upon the "nothing venture nothing have" principle, and we made a bold bargain; and after all our doubts and fears had, in a degree, passed away, we found it to be necessary that we should resort to nice distinctions in giving color and interpretation to the provisions of our treaties with France. Such, it seems to me, is a fair inference, and here motives might be suggested in explanation; but these will come to the minds of all men who care enough about the matter to give it consideration. We have now arrived at the point where our agents find serious business on their hands. There is no longer a feeling of indifference upon the question of good faith. Mr. Monroe stated the demands of his Government to be for payment for losses consequent upon—

- "1. The capture and detention of about fifty vessels.
 - "2. The detention for a year of eighty other vessels under the Bordeaux embargo.
 - "3. The non-payment of supplies to the West India islands to continental France.
 - "4. For depredations committed on our commerce in the West Indies.
- "Mr. Adet, on the 15th of November, 1796, announces the order of his Government to suspend his functions in the United States, and made a formal claim of the guarantee in the following terms: 'The undersigned, Minister Plenipotentiary of the French Republic, now fulfills to the Secre-

tary of State of the United States a painful but sacred duty. He claims, in the name of American honor, in the name of the faith of treaties, the execution of that contract which assured to the United States their existence, and which France regarded as the pledge of the most sacred union between two people, the freest on earth."

So, then, France says to us, in effect, although we have made an agreement to exempt your ships as neutrals from capture, and while we have not heretofore attempted the justification of seizures made in violation of our treaty stipulations, since you have deliberately set at naught all obligations due to us from your Government, we shall proceed to capture your vessels upon the same terms that you allow Great Britain to take them. The particular hardship in this view of the case arises from the fact that the British Government paid for their plunder, while we bartered away our claims on France in order to get rid of our treaty stipulations. Impelled by the knowledge of Jay's treaty, a decree was issued by the French Government, authorizing an indiscriminate seizure of American vessels. One decree followed another, all aimed at the commerce of the United States, which was almost utterly destroyed. We attempted to settle our troubles by negotiation, and failed. We attempted to retaliate by authorizing the capture of all armed French vessels found upon our coast. We passed several legislative acts—one on the 18th of June, 1798, suspending intercourse with France; and another, which was justified upon grounds of expediency, perhaps, although in direct violation of our treaty engagements. I allude to the act of July 7, 1798:

"That the United States are of right freed and exonerated from the stipulations of the treaties, and of the convention, heretofore concluded between the United States and France; and that the same shall not henceforth be regarded as legally obligatory on the Government or the citizens of the United States."

Affairs had now assumed a serious aspect; but no war was recognized on either hand. It was important, if possible, to settle our differences with France at once. Our first mission had failed to accomplish any good results; another was sent out in 1800. The first commission was composed of Messrs. Pinckney, Marshall, and Gerry. The French Government did not receive these agents cordially. Many obstacles were raised; and the most that could be done was to obtain an acknowledgment from the French Government of claims due for indemnities on account of unlawful captures, and a proposal from the French Minister on the 8th of November, 1797, to the effect that a commission be established for the purpose of deciding upon the reclamations to be made to Americans on account of captures, &c., provided the United States would loan to France the necessary sum of money to carry out the plan. This proposal our envoys declined to accept; because they doubted the ability of France to pay as might be agreed, or, perhaps, because we feared the hostility of Great Britain in consequence of our apparently aiding France in carrying on the war; and this impression, it seems, we were most desirous to avoid giving, from the first. One of the principal reasons why the first commission failed to meet with favor in France proceeded from the fact that the French people were incensed in view of our conduct in concluding Mr. Jay's treaty, which almost worked actual starvation in France. In our own country, it will be remembered that the Democratic party took sides with France, and the Federal party was strongly in favor of the ratification of Jay's treaty. Two of the commissioners sent to France were active members of the Federal party; and this is given in Gour-gand's History as one reason why they were coldly met by the French Ministers. The depredations upon our commerce after the failure of the first mission were more marked than before, as the extract just read shows. It was on this account mainly that the act of July 7, 1798, to which I have referred, was passed. But in a year or two afterwards we succeeded, through the agency of our Minister at the Hague, in arranging for another mission, which occurred in 1800. From the records of the proceedings of this mission, it does not appear anywhere that the French Ministers denied the justice of our claims for indemnities. They did, however, insist upon the terms of the old treaties as paramount in matters of negotiation. These stipulations they claimed were perpetual; while we had already placed our Government in direct contravention of such an interpretation by the provisions of Mr. Jay's treaty with Great

Britain. Thus the business was embarrassed at once. Up to the period of the negotiations leading to the convention of 1800, the claims due to American citizens for debts, contracts, captures, &c., had been thrown together. Now, for the first time, an attempt was made to separate them; and all debts for contracts and supplies were placed to one account, and those for illegal captures were placed in another. The first were paid under the convention of 1803; the last were bargained away to France by the convention of 1800 in consideration of our release from national engagements.

The result of the convention of 1800 was the adoption of the following articles bearing upon the question under consideration:

"The Ministers Plenipotentiary of the two parties, not being able to agree, at present, respecting the treaty of alliance of February 6, 1778, the treaty of amity and commerce of the same date, and the convention of November 14, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time; and until they may have agreed on these points the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows:

"Art. 5. The debts contracted by one of the two nations with individuals of the other, or by the individuals of one with the individuals of the other, shall be paid, or the payment may be prosecuted in the same manner as if there had been no mis-understanding between the two States. But this clause shall not extend to indemnities claimed on account of captures or confiscations."

Thus, it will be seen, we succeeded in checking the aggressions upon our commerce, and after providing for the payment of debts in full for contracts and supplies, we left the claims for spoiliations to meet the precise point of dispute which authorized the capture of our vessels, namely, the claims of France under her old treaties. Even these claims for spoiliations were not considered by France as equal to her treaty advantages. We offered to abandon, at one time, our whole claim if we could thereby extinguish these obligations; but the offer was rejected. The best that could be done by the envoys, in 1800, was to leave affairs open for a while, and to provide for an immediate restoration of friendly intercourse. This was done by a virtual restoration and mutual re-assumption of obligations; on our part an acknowledgment of treaty obligations; on the part of France a formal acknowledgment of our claims for spoiliations. There can be no reasonable doubt of this. I know the Senate refused to ratify the convention of 1800 until the second article was stricken out, mainly, I presume, for the reason that the Government was committed against the acknowledgment of the treaty of 1778 by the act of 1798, and other recorded acts; but when we ratified, with a reservation, the action of our envoys, and returned the papers to France, the First Consul virtually restored the section by a proviso:

"That, by the retrenchment of the second article, the two States renounce the respective claims which are the object of the said article."

Now, what were the respective claims: simply on the part of France, the maintenance of our treaty stipulations; on our part, payment for spoiliations upon the property of our citizens—not for debts, for these had been provided for in full; but for captures and confiscation on account of our refusal to keep our treaty obligations in full force. Now, if our Government asserts that this was not an offset because we did not recognize our treaty obligations; then, I must say in reply, that we gave away the people's money without a consideration, by the final ratification on the part of the Senate, on the 19th December, 1801; and the subsequent promulgation by the president of the convention containing the proviso of the First Consul, and which effectually and forever destroyed all claims for indemnities which we held against France. But, sir, just at this point, I desire to furnish the evidence of an important witness, no less an authority than the First Consul himself, who was a party to the whole business. When at St. Helena, and dictating to his historian, he gave a full account of the convention of 1800; and this extract appears on page 129 of the second volume of Gour-gand's memoirs of the history of France. In speaking of the second article of the convention, he says:

"The suppression of this article at once put an end to the privileges which France had possessed by the treaty of 1778, and annulled the just claims which America might have made, for injuries done in time of peace."

And the writer goes on to say:

"This was exactly what the First Consul had proposed to

himself in fixing these two points as equiponderating each other. Without this it would have been impossible to satisfy the merchants of the United States, and to banish from their memory the losses they had suffered. The First Consul's ratification of this treaty was dated July 31, 1801, and declared that it was to be clearly understood that the suppression of article second annulled all claims for indemnity," &c.

And another proof I will give. In a letter from our Minister at Paris to the French Secretary of State of April 17, 1802, he says:

"It will, sir, be well recollected by the distinguished character who had the management of the negotiation that the payment for illegal captures, with damages and indemnities, was demanded on one side, and the renewal of the treaties of 1778 on the other; that they were considered of equivalent value, and that they only formed the subject of the second article."

Here let it be seen that on this celebrated second article was the whole matter resting, and with its retrenchment we annulled all in dispute on both sides. A full opinion, corroborative of this view of the case, may be found in the letter from Mr. Clay, issued at the State Department, in compliance with the Senate resolution of March 5, 1824, and confirmed by President Adams, in his message to Congress of May 20, 1826. I will give an extract from this report. It is the report and opinion of Henry Clay, Secretary of State, and confirmed by President John Quincy Adams, in his message to Congress, May 20, 1826, and is as follows:

"The two contending parties thus agreed, by the retrenchment of the second article, mutually to renounce the respective pretensions which were the object of that article. The pretensions of the United States, to which allusion is thus made, arose out of the spoiliations, under color of French authority, in contravention to law and existing treaties. Those of France sprung from the treaty of alliance of the 6th February, 1778, the treaty of commerce of the same date, and the convention of the 14th November, 1788. Whatever obligations or indemnities from those sources, either party had a right to demand, were respectively waived and abandoned, and the consideration which induced one party to renounce his pretensions, was that of the renunciation by the other party of his pretensions. What was the value of the obligations and indemnities so reciprocally renounced, can only be matter of speculation. The amount of the indemnities due to citizens of the United States was very large, and on the other hand, the obligation was great (to specify no other French pretensions) under which the United States were placed in the eleventh article of the treaty of alliance of 6th February, 1778, by which they were bound forever to guaranty, from that time, the then possessions of the Crown of France in America."

We had now accomplished our purpose; we were rid of our onerous treaty stipulations, upon terms more favorable than we had anticipated. Our people were satisfied, because France was satisfied. On the 3d of October, 1800, Joseph Bonaparte, one of the French commissioners, gave an entertainment to the American Envoys at Morfontaine. The First Consul was present on the occasion. He gave, as a sentiment, "To the manes of the French and Americans who fell in the battle-field fighting for the independence of the New World." Other kindly expressions afforded assurance that we had finally, and almost providentially, escaped a bitter war with France, and had satisfactorily adjusted all difficulties between the two Governments.

And so I come down to the point. We had the work of collecting debts due to our people placed in our hands; we invited the agency in a circular letter issued at the Department of State in 1793. We found ourselves in debt to the party with whom we were to deal. We were fully empowered to act; and we gave up the claim of our citizens, to silence the clamor of our national creditor. No money passed between the parties—none needed to pass to establish the responsibility, or to settle the question of advantage to the United States. If we wish to know how we were benefited, we must examine the accounts at the Treasury, in order to ascertain how much we saved by getting rid of paying the \$200,000 war stipend, or by the greater advantage of saving the expense of a protracted war in consequence of our failure to observe our treaty stipulations. We gave up the property of the citizen for a national purpose; and this we had no right to do; and because we had the power, bestowed upon the Government in good faith, and did destroy the claims of our citizens, therefore we are bound to make reparation, if there is any honor in the Government.

I claim that this opinion is just upon the highest authority. No less a statesman than Mr. Madison said:

"The claims from which France was released were admitted by France; and the release was for a valuable con-

sideration, in a correspondent release of the United States from certain claims on them."

There is the fact we will assume. The Constitution of the United States says:

"Nor shall private property be taken for public use without just compensation."

There is the law; and the law and the fact, established and brought together, ought to be sufficient to satisfy the veriest of sticklers upon legal technicalities.

I read somewhere the other day a speech upon this question, a statement that the claims for spoliation, and those set up by France, on account of treaty infractions, had never been brought together or considered together. I wish to give an extract well suited to this point; I have never seen it quoted, although I think it cannot have been overlooked in all the discussions of the subject to which it refers. I read the extract from page 631, Senate Documents, first session Nineteenth Congress, volume 5:

"The Ministers of the United States appear to have mistaken the sense of the last note of the French Ministers. They imagine that the indemnities may be sacrificed by the propositions of the 7th of Fructidor, and the treaties, notwithstanding, remain completely acknowledged and confirmed. It has always been the intention of the Ministers of France to reserve to herself the right of choice between the restoration of her privileges, (the treaties,) and the payment of indemnities which may be brought against her. So that they have never supposed that she would enjoy the privileges without the payment of indemnities, nor could pay indemnities without enjoyment of privileges."

Of course not; our claims were based upon the ground that French cruisers had seized the property of American citizens unlawfully. France assents to the proposition, and suggests that as she paid for her privileges in the part she took in our war, and as we refused to comply with our agreement, we therefore forced her to take the law into her own hands, and hence her justification for the violent acts committed. She considered the treaties of more value than the indemnities, but just then being poor, she reluctantly squared accounts, by withholding, with the consent of our Government, money due to American citizens, and canceling all obligations under these treaties as an offset. There is no doubt upon this point that I can discover, and there never has existed a well-established doubt in the mind of any man who is willing to admit the principle of cause and effect as bearing upon the question of international politics in certain cases.

We sought the agency between the claimants and the parties liable. We find the circular letter issued in official form, calling upon American merchants to confide their claims to the Government. I will read it:

"Complaint having been made to the Government of the United States of some instances of unjustifiable vexation and spoliation committed on our merchant vessels by the privateers of the Powers at war, and it being possible that other instances may have happened, of which no information has been given to the Government, I have it in charge from the President [Washington] to assure the merchants of the United States concerned in foreign commerce or navigation, that due attention will be paid to any injuries they may suffer on the high seas, or in foreign countries, contrary to the law of nations, or to existing treaties; and that on their forwarding higher well-authenticated evidence of the same, proper proceedings will be adopted for their relief."

In pursuance of this proffer of agency and aid—which has never been repealed or modified—the sufferers by French spoliations hastened their proofs of loss to the Department of State in full confidence of certain and prompt success. The Department forwarded these proofs to France without keeping any record of them. There they remain to this day. The pending bill for the relief of the claimants makes it the duty of the Secretary of State to cause said proofs to be collected and placed on file in his Department.

Mr. Chairman, one of the greatest hinderances to a just presentation of the facts in the case under consideration, proceeds from the voluminous character of the evidence. There has been so much said and so much written, that the truth is greatly obscured by the mass of documentary matter relating to the question. But, sir, there can be no careful examination of the subject that will not result in a conviction of the justice of these claims as against the United States—at least, so it appears to me. A lawyer might find a pretext for opposing them in the labyrinths of technical reasoning, but not much, I believe, founded upon fact or justice either.

We have had thirty-four congressional reports

upon the subject, all or nearly all of which have sustained the claims as due to citizens of this Government. We have had two vetoes, but neither of these met the question upon its merits precisely, nor upon points legally deducible against the bill; but rather upon such as seemed prudential or expedient at the time, however fallacious they may have been. It may not be improper to suggest that errors of fact as well as of judgment, may have induced the opposition of the Executives who vetoed the bill as it came from Congress. I am convinced that this is true in one case, at least. But I wish to allude briefly to two or three objections which are generally urged against the payment of these claims.

I think, sir, that we must admit that the argument which is derived from the fact that Congress declared the treaties of 1778 null and void by the act of 1798, is, in fact, no argument at all. It would be marvelous if either of the parties to a valuable contract, acting separately, could annul its provisions at pleasure. It would be no less remarkable if one of the parties could interpret the true intent and meaning of an instrument, and, without consultation, adopt a course of action which would bind the other. It would be strange if one could determine not only just how far his responsibility in the case was binding upon him, but also the measure of responsibility which the contract imposed upon the other. I do not believe in such a liberal indulgence of *ex parte* principles. An international treaty is governed by the same rule of intelligent interpretation and perfect fairness as a contract between individuals. It may be annulled by mutual consent; but so long as it is not so annulled, it can only be destroyed by a general war between parties living under it. Such a state of facts will not apply to France and the United States during the pendency of the difficulties; nor has it existed at any previous or subsequent period in the history of the two Governments.

Upon this point I must say a few words. We have often heard, in the discussion of this subject, that war actually existed between France and the United States by the action of our Government; but the suggestion amounts to nothing. A quasi war is not a general, open war, and does not pretend to be. The mere act of capturing the vessels of one nation by those of another is not proof of a state of war, although it may be just ground for apprehension that war may grow out of such acts. We did not consider ourselves at war with England because she authorized her vessels to capture American fishing vessels for alleged infraction of our treaty with that Government. And it looks much less like studied and warlike aggression for a Government to whom we are bound by honorable ties to capture our property, particularly if, under all circumstances, a claim for indemnity, upon a fair and equitable basis, is freely admitted. Certainly the French Government never refused to pay our claims, nor repudiated them in any manner whatsoever. Abundant evidence in support of this assertion can be found in the dispatches from our envoys. We insisted that the seizure of our vessels was unlawful and violent; and so was our interpretation of the old treaties unjust and ungenerous, and so claimed to be by France. And, besides, France was doing no more in the line of illegal seizures than England was doing at the very time of which we complain. Should we have made war with France, to whom we were bound by treaties, when all was wrong on our side, and, at the same moment, conclude a treaty with an aggressor on the other hand, giving him all the license he desired? It is not probable, at all events.

But, sir, a state of actual war is not to be mistaken for something else. We did not deal with the French Government as if war actually existed in the judgment of the American authorities. We find, in the instructions to our envoys to France, of October 22, 1793, under which the convention of 1800 was concluded, the following:

"This conduct of the French Republic would well have justified an immediate declaration of war on the part of the United States; but desirous of maintaining peace, and still willing to leave open the door of reconciliation with France, the United States contented themselves with preparations for defense, and measures calculated to protect their commerce."

It seems we "left open the door for reconciliation." We were desirous of maintaining peace, and contented ourselves with compliance with the

advice of our Chief Magistrate, who, in his message to Congress, 3d December, 1793, said:

"If we desire to avoid insult, we must be able to repel it; if we desire to secure peace, it must be known that we are at all times ready for war."

That is all. We acted upon these valuable suggestions. We did not have occasion to do more. Not even in our negotiations at Paris did we proceed as if we had recognized a state of war.

Our envoys were only authorized to settle difficulties growing out of a misunderstanding between the two Governments. The convention provided for their final adjustment, at a future time, which was limited to eight years. Was the interval to be regarded as a truce? and when and how did the truce end? According to my understanding, a truce must result in one of two things—either a treaty of peace or a resumption of open hostilities, which had been temporarily suspended by it; and it would have been a departure from every principle of diplomacy to end a war in any such manner as that which characterized the action of the envoys on the occasion to which I refer. But I find no record of a treaty of peace, and we know that there was no provision made for resuming the war in the event of the failure of negotiations. The next business which received the attention of the parties was to ratify the convention; and this was done immediately after its adoption. And the next after that came the convention of 1803, which provided for the Louisiana purchase, for which we paid eighty million francs, twenty millions being, by mutual agreement, reserved for payment to American citizens for debts set apart and allowed by the convention of 1800. Not for spoliations, remember; but for debts, for contracts, and supplies; and this is the point of distinction which has troubled many men. But, sir, if war existed, France, of necessity, must have been a party to it; and yet Talleyrand, in a letter dated Paris, August 28, 1798, to the French Minister at the Hague, says:

"France, in fine, has a double motive, as a nation and as a Republic, not to expose to any hazard the present existence of the United States. Therefore, it never thought of making war against them, and every contrary supposition is an insult to common sense."

Again: The report made to the French Tribunal, on the ratification of the convention of September 30, 1800:

"In consequence of this bill, annulling act of Congress of July 7, 1793, the American Government suspended the commercial relations of the United States with France, and gave to privateers permission to attack the armed vessels of the Republic. The national frigates were ordered to seek them, and to fight them. A French frigate and sloop of war, successively and unexpectedly attacked by the Americans, were obliged to yield to force, and the French flag (strange versatility of human affairs) was dragged, humiliated, before the same people who, a little while ago, with eager shouts, had applauded its triumph."

"It was getting past recovery; war would have broken out between America and France; if the Directory, changing its system, and following the counsels of prudence, had not opposed moderation to the unmeasured conduct of the President of the United States. In this way it rendered null the projects of the American ministry, which would have declared war against us, if it had only its wishes to consult."

"Commissions granted by the President to attack the armed vessels of France do not suffice to put America in a state of war; it requires a positive declaration of Congress to that effect. None has ever existed. The Republic was therefore justified in claiming the enjoyment of the stipulations comprehended in the old treaties, and indemnity for the non-execution of those stipulations."—*Code Diplomatique*, pages 6, 7.

France did not recognize war, it appears, nor did the United States really conduct affairs as if open war was even threatening. Congress had authorized the President of the United States to raise an army, in case of need; but no army was raised, because no need of troops appeared. Even the ships built to meet certain contingencies were sold at auction, by authority of Congress, given March 3, 1801; and this, it will be seen, was many months before the convention of 1801 was ratified by the parties to it. This would, indeed, be a strange proceeding for us to engage in at the same moment that our envoys were employed in negotiating a treaty of peace. There was no war, actual and *bona fide*, and none could have existed between the two Governments at the time of which I speak.

There was a public sentiment in favor of war at the time. But it was not against France; it was against England. The Americans were kindly disposed towards the French people. Theirs was a struggle for popular liberty—blind and impotent, perhaps, but well calculated to arouse the enthu-

siasm of a people who had just adopted the new system for themselves. Our citizens would have cordially seconded the determination of the Government to maintain the treaties, if it had been expedient so to act; or even more directly to have aided the cause, now being pressed forward with herculean energy by our devoted friends. But the United States Government wisely—perhaps sternly—insisted upon a constructive neutrality, in direct violation of our treaty engagements though it was. To this day the popular will appears to be disregarded by the Government, perhaps from the best and wisest of motives. It is not strange that it should have been so in the days of our infancy.

Expediency sometimes subordinates principle, from necessity, I am bound to presume. This may have been as true sixty years ago as it is to-day. Congress never declared war against France; but Congress, if necessary, could have done it in all the time from 1793 to 1800. But, sir, where is the war-making power? I find it vested in Congress; and before it is enforced it must have formal expression. The Constitution settles the point. Some of its provisions are easily understood, and this is one of them. It says that Congress shall have power "to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water." There is no record of a declaration of war by act of Congress, and no present recollection of the existence of even an informal war, properly so called, that I know of.

But if a treaty of peace was negotiated by our envoys in 1800, I should, as a matter of pride, like to know which party claimed to have succeeded against the other in the contest, and which finally got the better in the negotiation of the treaty of peace. However, there is no need of my saying more upon this point. If war existed between France and the United States from 1798 to 1801, there would have been no occasion for suspending intercourse, by legislative enactment, from year to year; nor would it be at all necessary for Congress to pass an act to declare the treaties no longer binding upon our Government. The war itself would have put an effectual end to all ordinary international engagements between belligerent parties.

But, sir, if war did actually exist, then I assert that the convention restored the validity of the claims on both sides by its careful and prompt consideration of them, and final dismissal of all obligations on either side growing out of treaties, infractions, or spoliations.

The first proposition made by the French negotiators was in the following language, as contained in a note of the 11th August, 1800:

"In the first place, they will insist upon the principle already laid down in the former note, viz: That the treaties which united France and the United States are not broken; that even *war* could not have broken them; but that the state of misunderstanding which has existed for some time between France and the United States, by the acts of some agents rather than the will of the respective Governments, has not been a state of war, at least on the side of France.

"If the reflections presented on this subject in the note of the French Ministers, of the 8th of the present month, suffice to lead the Ministers of the United States to the acknowledgment of the treaties, the first consequence which will result from them, and which the Ministers of France will be eager to recognize anew, is, that the parties on both sides ought to be compensated for the damages which have been mutually caused by their misunderstanding."

Here we see that the French Government did not recognize war as existing; but while claiming that the treaty advantages were perpetual, that Government was still eager to recognize anew the damages which "had been mutually caused by the misunderstanding." In response to the above proposition our envoys replied:

"1. Let it be declared that the former treaties are renewed and confirmed, and shall have the same effect as if no misunderstanding between the two Powers had intervened, except so far as they may be derogated from by the present treaty."

Here seems to be a perfect restoration of the treaty stipulations, by and with the consent of the American Ministers, and an acknowledgment of mutual responsibilities not at all likely to come in at the heel of a general war, unless it is suggested that our envoys acknowledged every point in dispute on their side, without a corresponding acknowledgment on the part of France. Such an understanding of the case would hardly be regarded as complimentary to the spirit of our envoys. It is, sir, by no means difficult to establish

the only fact necessary to our purpose. Our sole ground of complaint against France was on account of the capture of our vessels in time of peace, and a violation of our asserted right of neutrality, and of the law of nations; and yet the convention made no distinction between captures made before July 7, 1798, and those made after that date. It would appear that, if the existence of a partial war, under the act of 1798, annulled the treaties, and made the capture of our commerce legal, under the license which a general war affords to belligerent parties, that same distinction should have been made between the captures made prior, and those which were made subsequent, to the declaration. If a war existed, it was to enforce payment for *plundered property*; and yet we made no distinction between that which was plundered before the passage of the act of 1798 and that which was legally captured under the rule of maritime warfare, which was *not plundered*, in the same sense of the term as the other. If we acknowledge a state of war, we must show why we made war; if only for indemnity for property unlawfully seized, then we must have received satisfaction, or we were beaten in the war or in the diplomacy which followed it. If we received the money, where is it? If we did not receive it, why do we not set about getting it now, provided we assert that the claims are not cut off by the convention of 1800-1801? But I must pass from this point.

There is, sir, another objection sometimes suggested in reference to the payment of these claims—one, in fact, which is often urged, and with considerable effect. It is, that the claims have passed out of the hands of the original owners; that agents have stepped in between the parties; that underwriters have paid in some cases; and hence, the merchants being in some way satisfied, it is therefore not binding upon us to provide for payment of the claims at all. These premises are not sound, to begin with. The claims have not passed out of the hands of the original owners, generally speaking. But suppose it were otherwise: what would that have to do with the justice of the claims? Can we exonerate ourselves by any such pretext as this? If I employ an agent, have I not a right to transfer my interest in a claim intrusted to him for settlement; and if I am poor and needy, and he comes to my aid at my solicitation, is he not rather to be regarded a public benefactor than an outlaw? Should I not thank him for taking the risk of getting his money in the ordinary course of justice, if he does it for my accommodation? And have I not a right to take for my claim what I can get, without the consent of my debtor? And is the debtor any poorer for paying the agent than he would be if he paid the money into my own hand? And is there any law of the land which forbids such transfer of a claim? If every dollar of the spoliation claim was owned by one man, the principle involved would not be altered in the least degree, nor could we honorably withhold ample and complete satisfaction, provided we in any case admit the justice of the claims against the Government.

As to underwriters, I believe the law protects them. I understand their business to be legal; and if they have a risk which requires them to protect the merchant, and if the property insured is formally abandoned to the underwriter, then, under any and all circumstances, he is entitled to the advantages and chances of saving what he can from the wreck. If anything could ultimately accrue to the benefit of the merchant if he had not been insured, it certainly belongs to the underwriter, in cases where property has been paid for. A board of underwriters, or an insurance company, only represents a consolidated interest for convenience sake. Individuals are behind the works; and if great losses occur to stock offices or those insuring on the mutual plan, the losses after all affect the individual who owns the stock or subscribes to the plan of the mutual office, and he gains or loses according to the fortunes of the company in which he is interested. It so happens that my constituents are interested in the passage of this bill, and for them I speak, because I think their claims just. An attempt has been made from time to time to bring distrust upon the spoliation claims, by placing them amongst the measures sometimes styled lobby schemes. While I recognize the right of the people to throng every avenue to this Capitol, if they desire legislation, I have only met one man who is acting as an

agent in urging the passage of this bill, and his character for probity is above suspicion. There has never been a question before Congress that awakens such general interest among the people as this spoliation question, and for reasons which are very natural. It has been the theme of conversation at every fire-side in the old States; and the generations of fifty years must all disappear, before the interest which tradition has thrown around the subject is broken and destroyed.

But it is useless to dwell upon this point. I know that the claims generally are in the hands of the original owners, or their heirs.

Mr. Chairman, the exact extent of the liability of the Government in matters where the interest of the citizens is concerned, is perhaps an open question—one to be considered and settled according to circumstances. As a general principle of Government, we know where the responsibility rests in this connection. Some say the Government is not bound to collect the debts of the citizens. Possibly not, if these debts are the legitimate result of trade and commerce; but how is it when we find our property violently seized by the subjects of a foreign Government, with whom we are at peace? and especially how is it when we formally agree to collect money for indemnities, and as formally encourage adventure. We find in Mr. Jefferson's letter, to which I have referred, this language:

"I have it in charge from the President to assure the merchants of the United States concerned in foreign commerce or navigation, that due attention will be paid to any injuries they may suffer on the high seas, or in foreign countries, contrary to the law of nations or to existing treaties; and that, on their forwarding hither well authenticated evidence of the same, proper proceedings will be adopted for their relief."

Now, sir, if there is any force in the objection often suggested, to the payment of these spoliation claims, I think it is set aside by the fact that the Government, in official form, promised protection, not only to that portion of our citizens who had already suffered by the seizure of vessels by French privateers, but by the promise of protection to all who might desire to continue their trade and commerce as previously carried on, which promise appears in the letter to which I have alluded, assuring the merchants of Charleston, South Carolina, and through them the whole United States, that due attention will be given to their rights and interests. If the understanding that the Government protects the citizen against foreign aggression is not so general as to cover the case in question, I think the extract which I have read forces the conclusion, or at least strengthens the suggestion, that the United States is bound by *peculiar obligations* to stand by the claimants for French spoliations, amounting almost to a liability for debts for captures, without reference to whether we received consideration for them or not.

But, sir, there is a class of persons who pretend that these claims are not due, because they have not been paid. This argument is a little remarkable, it seems to me. Because the United States Government has, to use nautical parlance, by backing and filling, and veering and hauling, managed to get through fifty years without doing justice to claimants, therefore the presumption is that the Government was never bound, or, if ever, is not now bound to pay: I do not find much to support such an idea as this, either in the shape of evidence or sound logic. It is no fault of the claimants that they have not been paid. The subject was presented in the House of Representatives as early as 1802, in the form of a resolution:

"That it is proper to make provision by law towards indemnifying the merchants of the United States for losses sustained by them from French spoliations, the claims for which losses have been renounced by the final ratification of the convention with France, as published by proclamation of the President of the United States."

The motion to postpone this resolution was lost by a vote of 54 to 33, and only so lost because a leading political question supervened to overrule action, at present, upon the spoliation matter. So it appears that these claimants were early in the field, and nearly every Congress since has had the matter under consideration in some form.

Mr. Chairman, I have no desire at this time to say more concerning the facts in the case. It is my opinion, that if we regard all the circumstances involved, we shall come to the conclusion that upon the United States Government rests more than a common liability. There is a moral, as

well as pecuniary, responsibility at stake. We have not only appropriated the money belonging to citizens, but we have broken our good faith as agents standing between the people and their rights. Our oath of fidelity to the Constitution, which expressly forbids taking "the property of the citizen without just compensation," is involved in our deliberations upon this question. I can view the subject in no other light; and no amount of pleading or sophistry can get us clear of recorded facts. As I have before said, an array of technical objections to allowing the claims may be presented; but, until it is right under a legal guise to do wrong in the face of a moral fact, you can never convince me, nor those who hold these old claims, that the Government can honestly refuse to provide for their payment; and if, upon an examination of this question, the facts appear to others as they do to me, there will be no attempt to delay action any longer than is necessary to a fair understanding of the case.

Mr. Chairman, I have not hoped to be able to suggest considerations in support of the matter in question that have not been over and over again urged by the friends of the bill, and which have not been generally admitted as just by many who still stand upon technical ground, in opposition to the passage of a bill for the relief of claimants. No man denies that we made treaties with France, or that we had an object in view when these were made. No man can deny that mutual obligations existed between the United States and France. No man can deny that the claims of both parties were presented for adjustment, side by side; and it will be useless to deny that the accredited agents of both the parties agreed to extinguish all obligations existing between them, and to start afresh with a clean page. France may have been justified in her course as a nation. Perhaps we were justified in ours, up to the point of dealing with France; but our duty does not end there. We used the property of our citizens to satisfy a demand upon the country, and we cannot get rid of paying every dollar promptly and honorably. All the facts are against us; the law is against us; the principle of equity is against us; the spirit of the Government is against us; and the sentiment of the people is against us. The feeling of popular esteem for an upright administration of justice at the hands of the Government is involved in our action in reference to this matter; and upon such considerations as this truth may suggest, depends all that is legitimate and honorable that attaches to our institutions.

Mr. GILMER. I have been waiting for some time to make a short reply to my colleague [Mr. SHAW] from the first congressional district of North Carolina. On last Tuesday evening I supposed I should have had the opportunity to do so. I supposed it was the understanding in the morning that we were to go into Committee of the Whole on the state of the Union; but the House declined to do so, and I was therefore cut off from making the reply which I desired to make. I would make the reply now were my colleague present, which I desire to have an opportunity to make before the adjournment of the present session of Congress, but I cannot do it unless he is present. I desire to say, however, that I think I will be able to show this House and the country that my colleague in his reply to me in my absence did me great injustice. Many statements applicable to me, I think, I would be able to show to be utterly without foundation. I think, also, I should be able to show that many portions of his reply to me were perversions of facts. I think in my absence he took occasion to represent me unfairly before my constituents and his, and to create, improperly and without foundation, prejudice against me. And although I discover, from the report of what took place in my absence, that gentlemen who are near to me undertook truthfully to correct the statement, he still persevered in it; for I say here with solemn regard to truth that no such thing as congratulation by Mr. GIDDINGS, of Ohio, did occur, as stated by him, and none of any kind to the best of my recollection. I see that a Representative replied to him, that he was passing up the aisle, and from the fact that some mention of his name was made to which I replied with a smile, the mistake may have occurred. That was all, nothing more.

I will say further, that my friend Mr. CHINGMAN, who is not here, and will not likely be

here, I discover, said something to the effect that he was standing at the time at about the place where he was then speaking—where that was, I cannot tell. He certainly was not in the seat he usually occupied. I am advised that he was upon the other side of the House. From the fact, however, that he has his seat next to me, persons not acquainted with where he was might suppose that he was sitting at the time next to me. I am happy to see, however, that in the remarks made by him upon that occasion, he did not sustain the statement that the member from Ohio [Mr. GIDDINGS] congratulated me. I was surprised that he should have made any remark about it, because I did not see him at the time at all. I do not know in what part of the Hall he was; he was not in his seat, and has been there but little of the time during the session. I shall take occasion, when the proper opportunity arrives, to make a suitable reply to the speech then made by my colleague.

Mr. FLORENCE moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the Chair, the chairman reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House (No. 198) making appropriations for fortifications, &c., and had come to no resolution thereon.

And then, on motion of Mr. BUFFINTON, (at a quarter past eight o'clock) the House adjourned until Monday next, at eleven o'clock, a. m.

IN SENATE.

Monday, May 24, 1858.

The Journal of Saturday was read and approved.

PETITIONS AND MEMORIALS.

Mr. PEARCE presented resolutions adopted at a meeting of the Merchants' Exchange Association of Washington, District of Columbia, opposed to the bill introduced by Mr. SLIDELL to restrict the issue of bank notes as a currency in the District of Columbia, and in favor of rechartering the banks of the District of Columbia; which was ordered to lie on the table, and a motion by him to print it was referred to the Committee on Printing.

Mr. SIMMONS presented the memorial of George T. Durham, praying compensation for services as clerk in the Indian Bureau; which was referred to the Committee on Indian Affairs.

Mr. DAVIS presented a communication from the War Department, communicating copies of correspondence inadvertently omitted in the answer to a resolution of the Senate of the 20th May, 1858, respecting the claims of Blocker & Gurley and J. F. Davis; which was referred to the Committee on Military Affairs and Militia.

Mr. BROWN. I present the memorial of Thomas Motley, for himself and others, praying permission to cross certain avenues in the city of Washington with a railroad, a portion of which he proposes to lay down as an experiment in the city. I am opposed to the object of the memorial, but I present it, and move that it be referred to the Committee on the District of Columbia.

The motion was agreed to.

Mr. YULEE presented the petition of Richard H. Long, praying permission to locate upon the reserves on St. Andrew's Bay, in Florida, certain preemption claims held by him; which was referred to the Committee on Public Lands.

Mr. FITZPATRICK presented a petition of John P. Figh and John H. Gindrat, contractors for the erection of certain public buildings at Fort Gaines, Dauphin Island, praying compensation for damages sustained by them in consequence of a suspension of the work by an officer of the Government; which was referred to the Committee on Claims.

RESEARCHES IN ASIA.

Mr. GWIN. I present the memorial of Perry McDonough Collins, praying Congress to compensate him for commercial researches in northern Asia and explorations of the Amoor river.

Mr. Collins, who presents this memorial, was appointed by the President of the United States, Mr. Pierce, in 1856, to make commercial researches in northern Asia, and to ascertain if the

commerce of that country could be made available to the United States from the Pacific ocean; by way of the Amoor river, which river empties into the straits of Tartary, the waters of the Pacific ocean, not far north (eight hundred miles) of Hakodadi, Japan. Mr. Collins proceeded, immediately after his appointment, to the duty assigned him, and has been for the last two years engaged in it. He crossed the whole of Europe and Asia, investigated the commerce of northern Asia, and has been the pioneer in the navigation of the Amoor river. Mr. Collins descended the Amoor river and its tributaries, from the center of northern Asia to the sea, and has practically demonstrated the fact that it is navigable for steamboats, and can be ascended over two thousand miles from the Pacific ocean. The knowledge of this fact opens at once to American commerce from the Pacific, access to the vast interior trade of Northern Asia, which amounts to \$50,000,000 annually. Manchouria, Daouria, Siberia, Mongolia, Northern China, Thibet, and Tartary, with a population of thirty millions, will, through the navigable waters of this river, be opened to American commerce. The services rendered have been valuable and important, and it is hoped the committee will give the claim prompt consideration. I move that the memorial be printed, and referred to the Committee on Foreign Relations.

The memorial was referred to the Committee on Foreign Relations, and the motion to print to the Committee on Printing.

REPORTS OF COMMITTEES.

Mr. PEARCE, from the Committee on the Library, to whom was referred the memorial of E. R. Livingston, asked to be discharged from its further consideration, and that it lie on the table; which was agreed to.

Mr. DAVIS, from the Committee on Military Affairs and Militia, to whom was referred the bill (S. No. 263) granting the right of way over the depot grounds on the military reserve at Fort Gratiot, in the State of Michigan, for railroad purposes, reported it with an amendment.

Mr. MALLORY, from the Committee on Naval Affairs, to whom were referred the following bill and joint resolution, reported them without amendment, and that they ought not to pass:

A bill (S. No. 179) to extend the provisions of section twelve of the "Act making appropriations for the naval service for the year ending the 30th of June, 1858;" and

A joint resolution (S. No. 26) for the benefit of the nearest male heir of the late Major General Towson, United States Army, deceased.

He also, from the same committee, to whom were referred the memorial of E. D. Tippet, praying the aid of Congress to test his "cold water safety steam-engine;" the petition of Franklin Kelsey, praying an appropriation for building, equipping, and testing a steamboat on a scientific model invented by him; a memorial of Joseph Humphries, praying that his patent "floating anchor or drag" may be tested; a memorial of Bishop, Simons & Co., praying permission to give a practical experiment before an appropriate committee, of the merits of Holmes' patent self-righting, self-bailing surf and lifeboat; a petition of John J. Rink, praying Congress to purchase the right to use certain improvements made by him in the construction of sub-marine masonry and in ship-building; a memorial of B. F. Simms, and Arthur Barbarin, inventors of an electro-magnetic fog-bell, praying an appropriation to test its practicability and utility; a memorial of John C. F. Salamon and George W. Morris, praying an appropriation for the construction and fitting up a vessel on their plan, as a "life-preserving vessel;" a petition of William W. Hubbell, inventor of a new and useful improvement in eccentric explosive shells, praying compensation for an infringement of his patent; a memorial of William Brenton Boggs, a purser in the Navy, praying to be allowed additional compensation while he served as purser of the North Pacific exploring expedition; a memorial of citizens of Pennsylvania, praying a change in the present system of Government chaplains, and an increase in the number of chaplains; a memorial of Bishop Potter, of New York, and other clergymen, praying a change in the present system of Government chaplains, and an increase in the number of chaplains; four memorials of citizens of Pennsyl-

vania, praying that a system of instruction may be introduced into the Navy, as a means of improving the *personnel* of ships' crews; a petition of insurance companies, merchants, and others, of New York, praying that a system of instruction may be introduced into the Navy, as a means of improving the *personnel* of ships' crews; a petition of insurance companies, merchants, and others, of Cincinnati, praying that a system of instruction may be introduced into the Navy, as a means of improving the *personnel* of ships' crews; a petition of insurance companies, merchants, and others, of Newark, New Jersey, praying that a system of instruction may be introduced into the Navy, as a means of improving the *personnel* of ships' crews; and two memorials of insurance companies, merchants, and others, of New Orleans, praying that a system of instruction may be introduced into the Navy, as a means of improving the *personnel* of ships' crews, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom were referred the petitions of Mrs. Sarah Brashers, praying to be allowed the benefit of the act granting five years' pay to the surviving officers of the Texan navy; a memorial of Mrs. Georgiana M. Lewis, praying to be allowed the benefit of the act granting five years' pay to the surviving officers of the Texan navy; and a petition of Thomas W. Jordan, late captain's clerk on board the United States ship *Fredonia*, praying to be allowed the difference between his pay as captain's clerk and that of purser, during the time he acted as purser, reported adversely thereon, and that the committee be discharged from the further consideration of the petitions and memorial.

Mr. YULEE, from the Committee on the Post Office and Post Roads, to whom was referred the bill (H. R. No. 273) for the relief of John F. Cannon, reported it without amendment.

Mr. CLAY, from the Committee on Commerce, to whom was referred the memorial of the president and directors of the Dismal Swamp Canal Company, submitted a report, accompanied by a bill (S. No. 400) to surrender the stock of the United States in the Dismal Swamp Canal Company, upon certain conditions, to said Company. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred the bill (S. No. 280) to repeal the twenty-fifth section of the act to establish the judicial courts of the United States, approved September 24, 1789, reported that the committee be discharged from the further consideration of the subject.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom was referred the memorial of George Stealey, submitted a report accompanied by a bill (S. No. 403) for the relief of George Stealey. The bill was read, and passed to a second reading, and the report ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 389) providing for the allotment of lands to certain New York Indians, and for other purposes, reported it without amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the petition of the United States judge for the western district of Arkansas, and others, relative to the erection of a jail at Van Buren, in that State, asked to be discharged from its further consideration; which was agreed to.

Mr. HUNTER, from the Committee on Finance, to whom was referred the bill (H. R. No. 200) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1859, reported it with amendments.

BILLS INTRODUCED.

Mr. SHIELDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 399) to amend an act entitled "An act to extend preemption rights to certain lands therein mentioned," approved 3d March, 1853; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. DOUGLAS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 401) to facilitate communication between the Atlantic and Pacific States by electric telegraph;

which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

Mr. DOUGLAS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 402) to restrain and redress outrages upon the flag and citizens of the United States; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. BRIGHT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 404) in relation to a revised code for the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. FITZPATRICK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 405) for the relief of John P. Figh and John H. Gindrat; which was read twice by its title, and referred to the Committee on Claims.

CHRISTIAN INDIANS.

Mr. KING. I move to reconsider the vote by which the bill (S. No. 323) for the sale of certain Delaware lands was passed. I had a conversation with the gentleman who reported it, who understood me to withdraw my objection to the bill by which it was laid over. I did not intend to do that, but stated that I knew nothing about it. My opinion is, that the facts do not appear to justify the passage of the bill.

The VICE PRESIDENT. Upon what day did it pass?

Mr. KING. It passed on Friday.

The VICE PRESIDENT. The Chair is informed that the bill has gone out of the possession of the Senate, but he supposes the motion may be entered.

Mr. KING. The bill passed upon a mistake as to the fact whether I withdrew my objection.

The VICE PRESIDENT. The Senator can make a motion to direct the return of the bill from the House of Representatives.

Mr. KING. I make that motion.

Mr. CLAY. Let it lie over.

Mr. BIGLER. The Senator from Arkansas [Mr. SEBASTIAN] is not in his seat, and I hope the motion will lie over.

Mr. KING. The bill passed under a mistake.

The VICE PRESIDENT. The motion to reconsider will be entered, and the Secretary will request the return of the bill from the House of Representatives.

A message was afterwards received from the House of Representatives, returning to the Senate the bill (S. No. 323) to confirm the sale of the reservation held by the Christian Indians, and to provide a permanent home for said Indians.

KEEP, BARD, AND COMPANY.

Mr. CLAY. The Committee on Commerce, to whom was referred the bill (S. No. 318) for the relief of Keep, Bard, & Co., J. Caulfield, and Joseph Landis & Co., have directed me to report the bill back and recommend its passage. As it is a bill which should be passed at this session, if the relief asked is to be granted at all, I hope the Senate will take it up and consider it at this time. The Senator from Missouri, [Mr. POLK,] who introduced it and is familiar with the parties and the facts, can state the case to the Senate.

Mr. WADE. Will it cause debate?

Mr. CLAY. None at all.

Mr. WADE. Then I have nothing to say.

The Senate proceeded, as in Committee of the Whole, to consider the bill, which proposes to authorize the attorney of the United States for the eastern district of Louisiana to enter satisfaction of the judgment rendered by the district court of the United States for the eastern district of Louisiana, on or about the 21st of January, 1858, in favor of the United States, against Keep, Bard & Co., principals, composed of E. S. Keep, J. S. Bard, and J. Caulfield; and Joseph Landis & Co., sureties, composed of L. H. Place and Paul E. Mortimer, jointly and severally *in solido*.

Mr. POLK. I will state the nature of this case. John J. Rowe & Co., heavy merchants and ship-owners, of St. Louis, took two contracts, one for the shipment of railroad iron from New Orleans to St. Louis; another for the shipment of railroad iron from New Orleans to Keokuk, in Iowa. Keep, Bard & Co., of New Orleans, were their correspondents there. They directed them to bond

the iron, deliverable at St. Louis, for the custom-house at St. Louis; and deliverable at Keokuk, for the custom-house at Keokuk. The iron was shipped up. When the iron that was intended for Keokuk arrived at St. Louis, it was immediately transferred from the vessel in which it was brought up there to another vessel, and carried to Keokuk. The iron for St. Louis was delivered there. When they went to the custom-house to pay the duties and discharge their bonds, they found that by mistake Keep, Bard & Co. had bonded all the iron for St. Louis. They then wrote on to the Department here for liberty to pay the duty on the Iowa iron either at Keokuk or St. Louis, they did not care which; and if the Department would not let them do that, and would notify them of their determination in time, they would ship the iron back from Keokuk to St. Louis, so as to discharge their bonds there, and then take it from St. Louis back again up to Keokuk. The Department held the matter under advisement for some time, and then wrote back to John J. Rowe & Co., at St. Louis, declining to receive the duty either at St. Louis or at Keokuk, and ordering a suit upon their bond. This was only one day, according to my recollection—certainly not more than two days—before the time limited in the bond. Therefore they could not possibly bring the iron back from Keokuk to St. Louis within the time specified in the bond.

Mr. STUART. I should like to ask the Senator if the duties have been paid?

Mr. POLK. Yes, sir; and the costs have been paid.

Mr. STUART. Then there can be no objection to the case.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

INTERNAL IMPROVEMENTS.

Mr. WADE. I move to take up the bill (S. No. 341) making appropriations for repairing and securing the works at the harbor of Chicago, Illinois.

Mr. GWIN. I will say to the Senator from Ohio that I should like to make some remarks on a privileged motion that has been on the docket for some time, and that is the reconsideration of the postponement of the Pacific railroad bill. I want to leave the city to-day or to-morrow, and I should like to have the privilege of giving my reasons as briefly as I can on that question. I believe it is a privileged question. This matter will certainly lead to a great deal of discussion, and I should prefer that the Senator would permit me to go on and make my remarks now.

Mr. WADE. I should be glad to accommodate the Senator if I could; but I know that the condition of the lake harbors, particularly those on Lake Erie, is such that, if we adjourn without passing these bills, so that the repairs can be made, many of them will be utterly destroyed before the end of another year. The proposed appropriations are very small. The Committee on Commerce report nothing towards the further construction of harbors anywhere, but barely propose to do that work which is absolutely necessary to preserve what has already been done. I do not suppose the bills will lead to much debate or objection. There is a number of them; but they are all of the character I have stated. Not one of them proposes to pay out money for the further construction of harbors, or to extend a work, but barely to preserve it. I am very sorry that the committee were not more liberal, and did not propose to appropriate more money for these works; but as they did not, I do not suppose the bills recommended by them will meet with much opposition. They seem to be a matter of necessity. There are some twenty-three of these bills; and if the Senate shall take up one—and I now move to take up the first—I shall move that the others be tacked on as amendments. That will be more expeditious than to pass them all separately. I hope these bills will be taken up, because the session is so far advanced that, unless we proceed with them now, there will be danger that they may be lost. I feel constrained to adhere to my motion.

Mr. GWIN. It is evident that the Senator from Ohio is mistaken. This question will lead to a prolonged discussion. I understand that the Senator from Georgia, who is not now in his seat,

[Mr. Toombs,] a member of the Committee on Commerce, and also the chairman of that committee, the Senator from Alabama, [Mr. CLAY,] will oppose these bills somewhat at large. I merely made the statement I did, because I have not, I believe, obtruded myself on the Senate during the session. I have not made any particular set speech on any question. I want to give the reasons why the postponement of the Pacific railroad bill ought to be reconsidered. I shall occupy but a short time of the Senate in doing so. I wish to leave the city, and I was in hopes I should be permitted to go on this morning without any objection from any quarter.

Mr. SEWARD. I hope the question will be taken. We should pass these bills now if they are to be passed at all. These works are all going to desolation.

Mr. CLAY. I trust the bill will not be taken up in the absence of the Senator from Georgia.

Mr. WADE. These bills are not for improvements, but to preserve harbors.

Mr. CLAY. I know that the Senator from Georgia, who is not now in his seat, wishes to say something on the subject, and I do not think it is fair to take advantage of his absence, and pass these bills, when it is understood that he and I were the only members of the committee opposed to them.

Mr. PUGH. I would suggest to my colleague that it is hardly worth while for us to proceed to the consideration of these bills; for I shall move as an amendment to the miscellaneous appropriation bill all these various bills reported by the Committee on Commerce. I think they belong to that bill, and we may as well have the debate there, if there is to be any debate.

Mr. WADE. I very much fear that they will be ruled out of order, or something take place there to prevent their passage, which would be a great misfortune to the country. I ask for the yeas and nays on my motion.

The yeas and nays were ordered; and being taken, resulted—yeas 30, nays 27; as follows:

YEAS—Messrs. Bell, Benjamin, Bigler, Bright, Broderick, Cameron, Chandler, Collamer, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Jones, King, Pearce, Pugh, Seward, Shields, Simmons, Stuart, Thompson of Kentucky, Trumbull, Wade, and Wilson—30.

NAYS—Messrs. Allen, Bayard, Brown, Clay, Clingman, Davis, Fitch, Fitzpatrick, Gwin, Hammond, Henderson, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, Mallory, Mason, Reid, Rice, Sebastian, Slidell, Thomson of New Jersey, Toombs, Wright, and Yulee—27.

So the motion was agreed to, and the bill (S. No. 341) making appropriations for repairing and securing the works at the harbor of Chicago, Illinois, was read a second time and considered as in Committee of the Whole. It proposes to appropriate \$87,225 37.

Mr. WADE. I move to amend this bill by adding to it Senate bill No. 342; and so I shall move to add all the bills reported by the committee, one after the other. I think that is better than passing them separately. The amendment is:

"That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$28,630, for the preservation and repair of the piers at the mouth of Milwaukee river, Wisconsin, to be expended under the direction of the Secretary of War."

Mr. HAMLIN. I think myself the Committee on Commerce wisely reported the provisions which they have for harbor improvements in separate bills instead of one general bill, and for this simple reason: while they are all embraced within the same principle, all designed to keep the works now in existence in a state of preservation, still there may be differences in the kind and character of the bills. By presenting them in separate measures, you make every appropriation depend upon its own merits, and not a bad case depend upon the merits of a better one. I think, therefore, it is wise. I have always thought that was the wisest policy. While I shall probably vote for every bill that has been reported by the committee with a single exception, and possibly for that—I do not think I shall vote for the appropriation for the Red river until I hear some explanation—I will vote against uniting them in one bill. If they are united, I shall probably vote for them; but I think it is the wisest policy, the sounder policy, the better policy, to let every appropriation stand upon its own merits.

Mr. WADE. I supposed that according to

the course I proposed to take, each work would stand on its own merits if proposed as an amendment, as well as if in a separate bill. My only object was to expedite business. I supposed we could pass these bills in this way with much more expedition than we could pass them separately, each bill going through all the readings. If the committee find that there is distinction in the merits of the amendments offered, they can object to them, as well as to separate bills. I do not see any difference in that particular. I should be very unwilling, however, to do anything to embarrass the passage of these bills, or to change any vote in respect to them on account of the way in which they were considered. I really do not see any objection to the amendment I have offered. If the committee have objections to particular works, they may as well be stated on a motion to amend, as in regard to separate bills. It appears to me that, on reflection, the Senator from Maine will see that there is not much weight or force in the objection he had made.

Mr. CLAY. I trust that the course proposed to be pursued will not be adopted by the Senate. I do not see any motive for it, unless it is to bolster bad cases with some that are rather better. I do not think it a very reputable mode of legislation. It is a species of what is vulgarly called log-rolling, to combine all these measures together, and thereby confederate the friends of each for the passage of every other. I think the proper way is to let each bill stand on its own merits, as suggested by the Senator from Maine. Some of them are more objectionable than others, and it is certainly not proper to carry the bad along with the good, if there be any good. It is true I shall vote against all of them, but then I wish to test the sense of the Senate on each one separately. If the amendment is insisted upon, I shall ask for the yeas and nays.

Mr. SEWARD. It was quite immaterial to me which course was pursued; but what seems important is that one or the other should be pursued as practically and speedily as possible. I shall vote with the Senator from Ohio for his amendment. It seems to me that the merits of each work can as well be discussed on a motion for amendment as it could on a separate bill, and it will save time. They all stand on one principle. I think it will secure for each one every vote that will be given for any one.

Mr. CLAY. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. DAVIS. To exemplify the vicious practice into which we are about to fall if this amendment be adopted, I have a right to call on some one interested particularly in relation to this work to explain it, and especially whether it is now prosecuted in the same manner as the work at Chicago? whether the balance of the appropriation was not turned over to the city authorities? whether the city authorities of Milwaukee have not had charge of the work? whether they have not raised funds and proceeded to expend them, as well as the money raised by themselves as the balance of your appropriation on hand, in execution of the plan they themselves approve?

Mr. STUART. I take it for granted the chairman of the Committee on Commerce, who reported these bills, can make any explanation necessary on the subject. These bills were all reported by the chairman.

Mr. CLAY. I cannot. I have not had time to go back and search the records to ascertain the facts. I have relied entirely upon the reports which have been sent me by the War Department, and they do not contain the information asked for by the Senator from Mississippi. There is no information of that character before us.

Mr. DOUGLAS. I rise to express the hope that this bill will be kept separate, and each one stand on its own merits. With the knowledge I have of Milwaukee harbor, I should go for an appropriation for it, but I think the committee acted wisely in reporting each measure separately. I take it for granted, if this is voted on to the Chicago bill, every other harbor improvement will be voted on, and they will be piled on in an omnibus bill, and get it so that even some of the friends of the measure will have to go against it. I shall vote against the amendment, not from any hostility to its object, but in order to have separate action on each work.

Mr. WADE. I perceive that some of the friends of these bills are opposed to the mode of proceeding I have marked out. With the permission of the Senate, I will withdraw the amendment.

The VICE PRESIDENT. If there be no objection, the amendment will be withdrawn. The Chair hears none.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and read the third time; and the question was stated to be on its passage.

Mr. CLAY. I have only a word to say about this bill, and what I may say of that, I have no doubt may be well said of every other bill that has been reported by the committee. The title of the bill is delusive; it, in fact, asserts what is not true. It is a bill "to repair and secure the works at the harbor of Chicago," and yet there is no Senator on this floor, who is acquainted with that or the other lake harbors, who would, upon his honor, assert that the proposed appropriation, or ten-fold that sum, would secure that object. On the contrary, when an appropriation bill for this same work was pending during the last Congress, a bill proposing to appropriate double the amount appropriated by this bill, the Senator from Illinois [Mr. DOUGLAS] had the candor and courage to declare that the appropriation would not complete the improvement; that in consequence of the tides in that lake, annual appropriations would be necessary for an indefinite period of time in order to preserve it; that it was not a work to be accomplished in a day, or a year, or in several years, but it was one which required annual appropriations or annual repairs.

Mr. DOUGLAS. The Senator from Alabama is in part right, and in part in error, in what he remarks on this question. It is very true that this appropriation is not going to complete the Chicago harbor, nor will any number of appropriations similar to this complete it. Money is to be expended there each year as long as it is a city, and the world lasts. It will never be completed, for the reason that the currents and drifting sands close up the mouth of the river; and appropriations from some source have to be made to keep it clear, or the harbor must be abandoned. But it is also true that this appropriation is made to repair and secure what has been done; and it will take every dollar of this money for that purpose alone. In other words, the pier you have made, inclosed, and cribbed, is so old that the timber is rotten, and it is falling to pieces; and the work done is all tumbling to pieces, and will be lost. Every dollar of this appropriation is merely to secure that which has been done, and which will fall to pieces, and be a total loss to the Government, unless secured. When this has been secured and preserved, I will not disguise the fact that next year, and the year after, there must be regular appropriations from some source, or otherwise the harbor will be closed up. I have intimated heretofore, and I believe it firmly yet, that there is a better plan than appropriations from this Government—the plan of tonnage duties, by which each harbor may be self-sustaining; but until that can be adopted, I must either sustain this system, or else allow the whole to go into disuse; you must give us the power to these improvements ourselves, or else you must make them. Whenever you give us the power to do it, I think we shall do it more effectually than you do; but in the mean time this is a simple appropriation, not to continue a harbor, not to enlarge it, but to preserve and save from destruction what you have done.

Mr. DAVIS. I wish merely to make a statement without entering into an argument on this question. About twelve years ago this work was commenced. Then the Chicago creek, or river, if I should so dignify it as to call it a river, had a bar at its mouth, over which sometimes you could scarcely drag an ordinary yawl. By constant expenditure they have made an entrance to what is termed the harbor of Chicago. At the time the work was commenced, its friends argued that it was necessary for a harbor of refuge. That was the argument then. I endeavored to expose it when the honorable Senator from Illinois and myself were members of the other House. The only storms which would make a vessel on the lake require a harbor of refuge, were such as rendered it impossible she should go into Chicago; the

wind would take her beyond that. It is also true that the same wind bearing the driftings of the lake, would form a bar which would continue to expand until that bar was run across the river. It was a constant formation, and would extend to the extension of the piers. The Senator may very well say, therefore, that the work would never be complete.

At the time this work was commenced, and I think for reasons which did not hold in the case, there was a small village at the mouth of the creek of Chicago. Now a great city has grown—grown under the expenditure of the Government, making a harbor where nature had made none, and rendering labor profitable at the place, by the heavy expenditure the Government has been annually making. This city has now reached a size which should render it self-sustaining. I will concur with the proposition of the Senator, if he will strip it of all which is outside of the naked proposition, to turn over all the works at Chicago to the city—the works which the Government has constructed, and which have converted a little village on the lake shore into a great commercial city. Let them now be turned over to the commercial city. They have wealth enough to sustain them; they have interest enough to keep the works in repair, and replace them when they decay; and the fact that the Government has sustained them until they have reached decay, and sustained them with such great advantage to the population there, and thereabouts, I think would justify us now in turning the works over to the city, and letting them take care of them themselves.

Mr. DOUGLAS. It would not be sufficient to turn the work over to the city, unless you gave us power to levy tonnage duties upon vessels coming into the harbor. It is that right we want, when the work is turned over to us—the right to levy on the commerce coming in the expense of constructing and keeping the harbor in repair; but that right I have never been able to procure from the Congress of the United States, although I have asked for it several times. When that shall have been granted, it will be fully satisfactory to me. As a citizen and property-owner in Chicago, I believe that would be better for the city, although it is very probable that a large portion of the citizens think otherwise. That question is not now pending; the only point is, whether we shall preserve from destruction what has been done? This appropriation is not a question of extending or enlarging the harbor at all.

Mr. DAVIS. It is an appropriation to preserve the work, and that appropriation, as the Senator properly says, is to continue forever, to make repairs or to extend the work; but he says he is not willing to accept the work as a donation to the city of Chicago, though that city has grown up upon the work, unless we also give them the power to lay tonnage duties. That involves a very wide consideration; one into which I am not now able to enter, or I would gladly meet the Senator's proposition. I will, however, on this occasion, merely say that if, by tonnage duties, he means duties on the tonnage of foreign vessels, I have no objection; but if he means to lay tonnage duties upon vessels clearing from some port of the United States, and bound for this or other ports of the United States, then the Constitution stands in his way—a barrier which he cannot overcome.

Mr. DOUGLAS. I will not argue the constitutional question now. If the Senator is right in that, he destroys the only remedy I have been able to devise for these appropriations by the Federal Government. I believe he is wrong on the constitutional point; and I say it with great respect to him, because it is not often on a constitutional question that I would express the opinion that he is wrong. However, I will not go into that question now. I will only add that I do not think the city of Chicago has been built up by these appropriations. We have many individuals there who each year expend four times as much money as the Government spends, on their own private account, in building up the city of Chicago.

Mr. DAVIS. I ask if the city would ever have been built up, if a harbor had not been made there by the Government?

Mr. DOUGLAS. I think the city would have been built up. I believe, if the Government had never touched our lake harbors, but recognized our right to make our own and levy a reasonable

tax for them, the lake cities would have been larger than they now are; but I either want the right to do it ourselves and tax for it, or else you must do it. Either allow us to do it, or do it yourselves. But a city must necessarily have grown up there, whether the Government aided it or threw obstacles in the way. Nature had marked it out. A great town was to have grown there, or in the immediate vicinity.

Mr. GWIN. Twenty-three bills have been reported here for the purpose of keeping in repair harbors on the Atlantic coast and on the lakes—none for the Pacific. We had an appropriation, many years ago, of \$30,000 to preserve and protect the harbor of San Diego. Twenty thousand dollars more would, probably, complete that work; but I find here that it is left out entirely in this list of bills. That is a more important work than any which has been proposed here, so far as the protection of an important harbor is concerned. I do not know what induced this partial legislation on the subject. Not a dollar, except that amount of \$30,000 has ever been appropriated to rivers and harbors on the Pacific coast, nearly two thousand miles in extent. I think if we are going to take up one bill here and another there because it has strength to get votes, we had better make a system of this matter or lay them all over. I am opposed to this favoritism, taking up this point or that, because it has political strength to pass it through the Senate.

Mr. STUART. I wish to say to the friends of these measures, that if they mean to pass them at all, those gentlemen who are in favor of them must not debate them. Now, if we take as much time on each bill as the Senator from Illinois has taken on the Chicago bill, they will not get through this session. I say there is no constitutional authority to levy tonnage duties; on that point I agree with the Senator from Mississippi; but there is no use in bringing in these collateral questions. I hope the friends of the measures will be content with voting. So far as the Senator from California is concerned, I believe he did not vote to take them up.

Mr. DOUGLAS. If many other friends of these measures raise constitutional questions I shall be compelled to go into the argument. I trust my friend will not raise any constitutional question.

Mr. STUART. I have not raised any constitutional question at all. The constitutional question was raised by the Senator from Mississippi; but I say again, that if these measures are to be passed, I simply ask their friends to content themselves with voting.

Mr. TOOMBS. I have so often expressed my opinion against the constitutionality and expediency of this system called internal improvements, that I do not intend to say anything now but for a point which, I think, was, upon a former occasion, started by the Senator from Michigan, and which the Senator from Mississippi has, I think, very unwittingly dropped into. I think, by a simple reading of the Constitution, he will find that there is no such distinction as he takes between foreign and domestic vessels, and there is no soundness at all in the argument of the Senator from Michigan, who holds the doctrine wider than the Senator from Mississippi. There is an express authority in the Constitution for tonnage duties to be levied by the States by the consent of Congress, and one of the great objects of the Constitution was to prevent there being a preference given to the ports of one State over those of another State. I am quite sure the attention of the Senator from Mississippi has not been called to one clause of the Constitution, or he would not have made the distinction he supposed to exist between foreign and domestic vessels.

Mr. DAVIS. The Senator from Georgia has entirely misapprehended my design. The clause to which I referred is one of those clauses which mark the great purpose of the Union: to establish free trade between the States, and which declares—I cannot quote the language—that no State shall be bound to pay duties in the ports of another State.

Mr. TOOMBS. I have it before me, and I think the Senator will find that he is entirely mistaken in his distinction. This power is, in my judgment, unquestioned and unquestionable. It has been exercised occasionally since the founda-

tion of the Government. It was granted to Georgia for some thirty years; it was granted to Maryland. It has been granted, I think, to all the States that have asked for it. I am not aware of any application of the Senator from Illinois.

Mr. DOUGLAS. It has been granted to Maryland, Georgia, Alabama, Virginia, Pennsylvania, Massachusetts, and to other States.

Mr. TOOMBS. I never knew it refused.

Mr. DAVIS. That has always been in general terms, but the exact question, I think, has never been decided.

Mr. TOOMBS. I am quite certain it is not only constitutional, but eminently just. The clause of the Constitution to which the Senator from Mississippi refers is this:

"No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another."

Mr. DAVIS. That is the clause.

Mr. TOOMBS. The Senator will perceive that this applies as well to the foreign as to the coasting trade; in fact, in terms it applies to the foreign trade, because the expression is "pay duties;" and we do not pay duties in going from one port to another in the United States. Tonnage duties may as well be levied upon the coasting trade as upon the foreign trade. The next clause to which I shall advert is:

"No State shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign Power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay."

I say here is express authority to lay tonnage duties on the entire tonnage, foreign and domestic, that comes into the ports of any State, with the consent of Congress. It is a negative pregnant: the Constitution expressly declares that the States shall not lay such tonnage without the consent of Congress. Of course, with the consent of Congress, tonnage duties may be laid on foreign and domestic tonnage; and the other clause does not conflict with it. This is the construction given to it by all commentators, even by the Federalists, as well as by the more stringent and more accurate school to which the Senator from Mississippi and myself belong. I may illustrate it. There is a port, or a hole in the lake, which has been made by Government money, in Indiana, called Michigan City. We tried to make a harbor there; but nature seems to be too powerful even for Congress. If a vessel was bound from Buffalo for Michigan City, which is near Chicago, this clause would prohibit the paying of duties at Chicago. It means that a vessel bound to Richmond or Baltimore shall not be compelled to enter, clear, or pay duties, at Norfolk, because that would be giving an advantage to the ports of one State over those of another. It means nothing else. If a vessel leaves Buffalo for Michigan City, it would be unconstitutional to compel her to clear or pay duties or enter at Chicago; but, if she was intended for Michigan City, the Government could allow the State of Indiana to lay tonnage duties, under the express grant of the Constitution. This is a very important principle, and it lies at the bottom of this whole question. The enemies of tonnage duties are the friends of this present system. The Senator from Michigan, and those who want to levy money out of the public Treasury for their local improvements, have been the stern advocates of restriction upon the power of Congress to let them tax themselves. I submit that it is an entire misapprehension of this clause—its object or its words. The language is clear:

"Nor shall vessels bound to or from one State be obliged to enter, clear, or pay, duties in another."

You shall not divert a vessel from her voyage; you shall not compel her to enter, clear, or pay duties in any port, unless she is bound for it. You cannot divert her from her voyage for the benefit of a State. That, however, does not limit the clear express power to lay tonnage duties with the consent of Congress. It is as broad as the word tonnage. It includes foreign and domestic vessels. It was so construed by our fathers immediately after the Revolution. Then this power was granted constantly for the purpose of keeping up lights, and it ought to be done now, for among the greatest abuses in this Government is the light-house system. Tonnage duties were originally laid for the purpose, among other things,

of keeping up lights; but now the Government keeps up the light-house system itself. It is one of those devices under this Government by which the commercial classes throw the burdens of their business upon agriculture. England is frequently referred to as a bugbear to our honest, republican citizens, and they are told of its extravagance, its abuses, its class legislation. Why, sir, in England every dollar of the light-house expenses are paid by the owners of the ships, on the principle that every class of society ought to bear the legitimate burdens of its own business. In that well-governed country—ininitely better governed in all these respects than our own—that is the rule. Its wisdom and its justice are apparent throughout its whole legislation so far as the rights of the different classes and interests of that country are concerned, and we should be wise in many of these respects to imitate her example. Our vessels going into Liverpool pay heavy light duties, but her vessels coming here pay none, because, under our treaties, her vessels come in upon the same footing with our own. While she charges every vessel that enters her ports two or three hundred dollars for light dues, we charge them nothing.

This results from the fact that in the active and enterprising cities, where there are newspapers, the commercial classes, who have been alert from the beginning, have, by every possible means, endeavored to levy out of the common Treasury, to levy out of the agriculturist, to levy out of the mechanic, to levy out of the shopkeeper, the expenses of their own business. It is not strange that they should—such has always been the case with mankind. There never was, from the beginning of the world, and there never will be to its latest generation, a time when any given class of society will not plunder the rest if they can. That is the law of our nature. It is our business, as the representatives of all interests, to hold the scales even, to do exact justice to every class in the community, no matter what it pursues. Our Government goes on more rapidly in this downward career as these influences are more concentrated. You pay for lights. You persuade the ignorant people all over the Union that these expenses, being increased on commerce, fall on the goods. Well, let them start at the right place, and take their chances afterwards.

The light-house system is one illustration, the postage system is another. For the last six or eight years we have paid out of the Treasury a large portion of the expenses of the Post Office establishment. We have heard gentlemen in the Senate and House of Representatives declaiming most patriotically about economy and retrenchment and extravagance; and we have had laid on our tables, this morning, a bill to borrow \$15,000,000, in addition to the \$20,000,000 already borrowed at this session. Gentlemen here hope to escape the consequences of their legislation by putting it upon the Administration. Well, sir, I am not prepared to defend the Administration in any of its extravagance, any more than the Senate. In all these matters it is my object to discharge my duties as a Senator; and I must say that it does not strike me that they have done their duty in the retrenchment of the public expenditures, and I cannot but hold those here, who are squandering public money on unnecessary objects, to some accountability. It does not lie in the mouths of men here to complain of loans, to complain of the want of money. When they come to creating offices, and expending money from the public Treasury, they are, as they call it, liberal. There is no "meanness," no "narrow-mindedness" in their votes; but they complain of the Government when asking for the means to carry out these votes. You appropriate eighty, or ninety, or one hundred millions in a year, and you expect the Secretary of the Treasury to pay the money. He cannot do it, and he comes to you for a loan. He cannot create money; he cannot raise money; he cannot make a tax law; he can levy no money; he can get none except what is raised by law. The legislative department makes the appropriations. The Executive portion of the Government is responsible for every dollar of its own estimates, and no further. When Congress undertakes to appropriate money beyond that, it is responsible. It is responsible, also, to the country for voting bad estimates of the Departments, because it is the duty of the Senate and House of

Representatives to cut down improper estimates, and it will not do for Congress to make improper appropriations, and then, with a view of getting votes, attack the Administration for asking for money. My object is to refuse such appropriations as are improperly asked for by the Government, and to limit it to those that are necessary. That is the only true road to economy. It cannot be arrived at in any other way.

We are asked in these bills for some three and a half millions; and we shall be asked this year for about six millions to maintain the postage system. For sixty years the Post Office Department supported itself. That was founded upon an eminently just principle, that wherever you can put the burden upon the person benefited, it ought to be done; it ought not to be dispersed over the whole community, or taken out of the public Treasury. In the Post Office, you can apportion the burden according to the benefit. At first, you charged enough postage on letters to meet the expenses of the Department. Later, under the delusion, under the folly well known to those who adopted it, that reducing the rates of postage would so increase the correspondence as to increase the revenues to a large extent, you reduced the rates, and commenced by voting a few hundred thousand dollars out of the Treasury to the Post Office Department as compensation for the free matter; and, at this session, you are asked to give six millions to that Department. I remember that my honorable friend from Vermont, [Mr. COLLAMER,] when he was at the head of that Department, which I will say he managed with signal ability and integrity, recommended a raising of the postage to an amount which would be adequate to maintain the establishment, and he used all legitimate means for restraining it within proper limits, giving all the facilities possible consistent with the great idea of its maintaining itself.

We are to spend this year six millions on the Post Office Department. These river and harbor bills propose to appropriate three or four millions more, and we are to pay one and a half million for light-houses, making about twelve millions for these items of expenditure, the greater portion of which were absolutely unknown until the last few years of the Republic. Many of these improvements are important to the country, and the expense of them ought to be levied upon the commerce which they benefit. It is but just and fair and constitutional that commerce should support its own burdens. If it wants better water, if it wants greater safety, it is able to pay for it, and ought to pay, and the expense should not be levied upon the agriculturist, or the other great industrial classes of the country. For this reason, this clause of the Constitution allows the States to levy tonnage duties, with the consent of Congress, and an early instance of the exercise of the power is to be found in the case of my own State, which, for the purpose of removing wrecks in the Savannah river, was allowed to lay tonnage duties for many years. Since I have been a member of Congress, I know a bill passed the other House allowing the State of Maryland to lay tonnage duties, to improve the Patapsco river. I know that the friends of internal improvements, those men who wanted to levy money out of the public Treasury for their local improvements, have opposed the exercise of this power. The Senator from Michigan does not want it. Since I have been in both branches of Congress, I have never known a sturdy applicant for public money to carry on internal improvements that was not opposed to the exercise of this power. I know the Senator from Illinois has, from time to time, said it was a better scheme; and, I believe, in a letter to a portion of the people of the United States, which I very highly approved, he suggested a plan of this kind, and it was talked about in newspapers; but I do not think it ever made its appearance in the Senate.

Mr. DOUGLAS. The Senator is entirely mistaken. There have been two votes on it by yeas and nays in this body, when it was brought forward on my motion.

Mr. TOOMBS. It escaped me.

Mr. DOUGLAS. The Senator had not the good fortune to be here at the time.

Mr. TOOMBS. I very much regret that the proposition was defeated; but if you will look to those yeas and nays, I warrant you you can spot a greater number of the friends of these improve-

ments out of the Treasury among its opponents.

Mr. DOUGLAS. Undoubtedly.

Mr. TOOMBS. They do not want the power. If you levy the expense out of the commerce of a single place, Chicago or Savannah, the shipping interest will pay the burden—the men who get the benefit. That would be the correct principle; let those who go over the bridge pay the toll; let those who travel on the railroad pay the fare. These gentlemen know very well that by the present system they are levying money out of the pockets of people who get no direct advantage, to put in their own; and that is the reason they want no such power. It is one of the means by which enterprising persons combine together in order to take money out of the pockets of the whole people and appropriate it to their individual and local uses.

Now, sir, with reference to these improvements: the Senate expressed a very strong inclination that these bills should be returned from the Committee on Commerce. Our chairman sent to the Departments, and from my experience of them for thirteen or fourteen years I was amazed at their moderation. They sent us these propositions as necessary to preserve certain improvements. I think they did not embrace more than half the cases for which moneys have been appropriated heretofore; but I have no doubt, before you get through you will take the list of the last Congress, and there is not one of them that will not stand on the same great grounds of reason and justice as the bill before the Senate. I recollect that there were some curious disclosures about these matters before the committee. A Senator from one State, who wanted an improvement, came before the committee, and amongst the evidence which he presented in support of it was, that unless a certain improvement was made, the wharf property of a certain very rich man in the State of New York, to the amount of \$800,000, would be destroyed. This man, who has wharf property at Oswego to the amount of \$800,000 comes down here and says, "hurry out of the public Treasury your moneys for the purpose of protecting my property." I have no doubt that if we could get at the truth we should find that nine tenths of these improvements are stimulated by the same kind of personal interest. As far as my inquiries have gone, interest is the life-blood of these applications. Improvements are made for the benefit of owners of wharf property, owners of town sites, who desire to build up towns by spending among themselves the public money.

On a former occasion, waiving the question of constitutionality, which I had before very thoroughly discussed, I presented an issue upon the justice and equality of this scheme. I gave upon that occasion an illustration that is simple, clear, unanswerable, and, in my judgment, unanswerable. I took the State of Georgia. We had no river from our northwestern boundary to the coast. Nature had denied us even an imperfect communication. Lands were worth very little, because their products could not get to market. There was no stimulant for labor, because the avails of labor were worthless. The State of Georgia levied out of the people of the State \$5,000,000, to build the most expensive, and what was then supposed to be the least paying portion of a railroad, to the coast. When we levied this tax out of our people we did not make the work free to those who carried produce over it; but there was a tax, a toll, a freight put upon passengers and produce, at such a rate as in time would reimburse the public for their expenditure; and then by individual enterprise, it was continued to Savannah, to the sea-coast, a distance of four hundred and thirty-eight miles. Did the Government of the United States give us any aid? Our people were poor; their industry was unproductive; but inasmuch as nature had denied us even an imperfect communication, instead of aiding us at all, you charged us at the rate of \$1,500 a mile for duty on railroad iron. You put that burden on us in order to get our own provisions to sea and to market, and you gave the money to those who had such magnificent highways as the North river and the Mississippi and its tributaries. Was there justice in it. Was there justice to any agricultural community that their efforts should be thus burdened? Nature had given us no communication, and we had to make one entirely artificial for ourselves. The Government,

so far from aiding us, taxed \$1,500 a mile as duties on our railroad iron, and expended the money upon the North river, and the Mississippi, and other great rivers of the country, which now and then had a snag; the effect of which appropriations, perhaps, was to save insurance, and enable larger vessels to go into trade, and thereby lessen the freights on other people. They taxed the products of my constituents, the honest men whom I represent, in order to ease the burdens of other men's constituents.

I said that was unjust; even if you had the constitutional power, it was a bad use of it; and, upon that occasion, I went on to show that the general judgment of mankind, in this country and abroad, had been, that if the Government undertook this business, it ought to lay such tolls as would reimburse the public for the expenditure. New York did it in the case of her canal; Virginia did it with her canal. I know of no case where a State has undertaken an improvement for the transportation of commodities which did not lay a toll to reimburse the public, whom they had charged with its construction, for the outlay. That is the case in the French Government. It was true, in olden times, of the Greeks and Romans. It is so with the English, and all other civilized people; because the same eternal principle of natural justice has existed everywhere from the beginning. It was the same case in Massachusetts; she had no mode of communication to her sea-ports from the interior, and she built railroads, by using her credit and the means of her own people; she paid a tax on railroad iron, as Georgia did, except that she commenced earlier, when, probably, the tax was not quite as hard on her. Those persons who till the poor, cold, reluctant soil of western Massachusetts, and who had the greatest difficulties in getting their produce to market, have been taxed to clear out the Mississippi river, which, according to last year's returns, was freighted with one hundred and twenty millions of products going down, and as much coming up.

When gentlemen want an appropriation to help their port or their river, they get your topographical engineers, who are excellent fellows for increasing their business—that is all they want to do; they are the greatest curse we ever had in this country, as I have said frequently—to make statements, many of them the most ludicrous, the most absurd, and the most ridiculous ever put upon paper, and for making which they should be stricken from their position. They make statements of the vast amount of trade that goes in that particular channel. It strikes me that if there be a great amount of trade, so much the worse for the application, because the commercial interest is better able to pay the necessary duty. Throughout our whole vast country, we know that where ever there is a large amount of commerce there will be a great deal of traveling, a great deal of freight, and they are therefore much better able to bear the burden. Why should Congress levy pence out of the poor in order to lessen the freight upon the vast and rich cargoes which are transported upon those waters?

Mr. President, it is an unjust system; it is a wrong system; it is an indefensible system. Gentlemen talk of nationality, and now and then they throw in a glorification for the Union. These are the clap-traps by which they extort the labor of the poor for the benefit of the rich. The masses throughout the United States, who are referred to by the Senator from Massachusetts, the laboring men, are taxed upon their sugar and other commodities as much as the rich man; but they do not own town lots; they do not own fronts on Chicago river; they do not own eight hundred thousand dollars' worth of wharf property, like Gerrit Smith, at Oswego. The poor man pays into your Treasury for his daily consumption; he pays for the silk gown for his wife, and he pays for his own sugar; you grind money out of him, and you expend it for the purpose of increasing the already overgrown wealth of the millionaire. That is the effect of your system. I am opposed to it even if you had the power. In my own State, I voted to levy taxes on my constituents to build an improvement to enable them to get their products to market, and I thought it a wise and legitimate purpose of Government; but, at the same time, I proposed to reimburse the public Treasury for its temporary outlay. I made those who used the improvement pay for

it; I made those whose lands were increased in value pay for it; I made those whose town lots were increased pay for the use of the work, so as to reimburse the public. It is not done here; and hence I say, if you had the constitutional power to make these improvements, you should adopt the principle which has been adopted in every State of the Union by the universal judgment of mankind, to make those pay who are benefited, and not to take from the common fund to build up local interests.

I have only recapitulated arguments which I have advanced heretofore in the Senate. I thought I would avail myself of this occasion to present briefly some of the views which I have before so repeatedly and so elaborately presented to the Senate and to the country.

Mr. DAVIS. I shall be very brief. I do not comprehend the point to which the Senator from Georgia referred, about reports for the improvement of the Mississippi. I do not know to what reports he refers; but upon them he seemed to give a most unqualified judgment against the topographical corps.

Mr. TOOMBS. I made no reference to any reports, but took the North river and Mississippi river as two of the rivers furnishing the finest navigation, and I said you had spent money to improve them. I did not allude to any report whatever.

Mr. DAVIS. I will merely say, in relation to the topographical officer, that he has nothing to do with the political question; his is the physical problem. On that he makes a report and leaves others to decide whatever political relation it may have. As to the Mississippi river, below St. Louis, where the great commerce exists, no improvement has been attempted by any construction whatever, until a recent one, under an appropriation made for clearing out the bar at the mouth of the river. All that was required in that deep stream was to take out the snags; and very little money has been expended for that. It is many years, fourteen, I am not sure that it is not fifteen years ago, before I entered either House of Congress, that I urged then, as the proper policy, that we should resist all internal improvements by the Federal Government, and claim the taxes upon the navigators of our river, as a means from which it should be improved.

Nor is this a new opinion I entertain in relation to tonnage duties; but in the argument it is presented that unless we give the power to lay tonnage duties, we deprive the people of the power to tax themselves. It seems to me that is not the proposition. It is merely an argument that the Constitution has deprived them of the power to tax other citizens of the United States for coming into a harbor of the United States. It is not taxing themselves, it is taxing others. The restriction in the Constitution as I construe it, that no State shall impose tonnage duties without the consent of Congress, is one which involves very little hazard, those tonnage duties being on foreign commerce. It would follow that no port of the United States or the people residing in it would willingly lay a tax which would be a burden upon their own commerce, or in other words, a tax upon themselves, and would influence them unfavorably in every possible aspect if they levied a tax beyond their extreme necessity. Not so, however, in relation to internal trade. Take the case to which the Senator alludes, Savannah. If Savannah desired, to the injury of Charleston, to lay tonnage duties; if she chose to impose a tax upon vessels sailing from Charleston, bound to Savannah, for the injury of Charleston, she might bear the tax at Savannah, because of the effect it would have upon a rival town.

Then it is found in the Constitution that one clause precedes the other: first there is the great declaration that no vessel bound to and from ports of the United States shall pay any duty whatever. It will be remembered that at that period of our existence the transportation was by sea. We did not then use these great rivers, at least very little the North river, and not at all the Mississippi; our population did not even extend into the territory which is watered. Steam had not been brought to propelling vessels, without which the Mississippi never could have been used as it now is. Railroads had not been constructed. Commerce was transmitted along the sea. Commercial cities rose along the sea. The country was

the dependent of the sea in all matters of commerce. Then to exempt a vessel coming from one State to another from any duty, was to make free-trade between the States; and that was one of the objects of the Union, one of those things which resulted from the fraternal feeling growing out of the revolutionary struggle.

Then the Senator from Georgia argues that the power given to a State to impose tonnage duties with the consent of Congress, meant duties upon all vessels which came into her ports. Just before that lies the prohibition, the protection, if you please, the great shield thrown over free trade between the States. It could have been but an admission that the State could impose any duty which Congress itself could impose. I deny that Congress has the power to impose by any law a duty upon a vessel clearing from one port to another in the United States. Free trade is at the bottom of the Constitution, and this is a violation of free trade. As well, in the present time, when the power exists, might we impose duties on goods brought on railroads across the line of one State; but the prohibition in the first instance covers the grant in the second. I do not attach to it the importance the Senator from Georgia does. It is a term that has a technical application. But take the case in point, the case which is now before us of Chicago. It had no harbor by nature. There were no navigable waters there—not navigable for sea-going vessels. If, then, Chicago chose to take these works by the grant of the United States, to continue the basin by constant dredging—it is a basin of the city, not the navigable water of the world—nothing save the reservation in relation to the navigation of all the streams in that country would intervene; they would have a perfect right to impose any duty they pleased on a vessel coming into the basin. That would be an artificial harbor, not a port in which they would have such a right under any international law.

Then further, you may avoid the words tonnage duty altogether; and the Senator has not given us what are the difficulties we encounter in the improvements of the Mississippi. He has applied to the Mississippi arguments that would belong to the sea and ports of the sea, but which do not belong to the navigation of that river. I would ask how he would collect tonnage duties on a vessel clearing from one port to another, and apply it to the Mississippi river? The vessel is not bound to start from any particular landing; she is not bound to stop at any particular landing. She may start below the landing at St. Louis; she may land above the landing at New Orleans. Then she would be free from any tax, exempt from the tonnage duties levied upon her because she had run from St. Louis to New Orleans.

Again, they run unequal distances over unequal parts of the river. There are no ports, there are landings along the highways, and they have a constitutional right to use them. Yet the local authorities clearly have a right to impose a tax on them, if they land at a wharf, an artificial construction, and use it for the deposit of freight. A great variety of taxes may be imposed on river-going boats, but none of them belong to the idea of tonnage duty. It would be unjust to levy a tax, in the form of tonnage duties, on vessels sailing from one port to another, when all the benefit derived, all the benefit conferred, is in the port; whereas here the benefit is strong over the whole line of travel from St. Louis to New Orleans. You take an obstruction out of the river; it is not entering into the port of New Orleans.

It would rather be a sort of toll. We should have to erect toll-gates all along the river; and I would ask the Senator—here is another constitutional question—could you erect toll-gates along the Mississippi? Could you require boats to land and pay toll for the free navigation of that constitutional highway? If not, then, I say, you are driven at last to resort to the taxes which may be imposed at the landing, and on that mighty stream with its mighty commerce, these taxes, though so small as scarcely to be felt, would create a fund quite adequate to the very few improvements which the river requires. Before I entered Congress, and since, I have been an advocate of resorting to some mode of taxation which would throw upon the locality benefited the burden of the work. Upon a select committee with the Senator from Illinois, when a member of this body on a former occasion, the subject was fully discussed.

THE CONGRESSIONAL GLOBE.

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After he introduced his proposition, I thought he had departed from the position which we had occupied on that select committee, and that he had involved himself in a constitutional difficulty. I think so now.

Mr. BENJAMIN. Will the Senator permit me a question?

Mr. DAVIS. Certainly.

Mr. BENJAMIN. I am following the argument of the Senator with a view to make its application. For instance, to the improvement of the mouths of the Mississippi river. I would inquire how he would apply his theory to the improvement of the bar at the mouth of that river? How would he lay his tax?

Mr. DAVIS. Upon foreign vessels.

Mr. BENJAMIN. He would have the State of Louisiana tax tonnage on foreign vessels?

Mr. DAVIS. Exactly.

Mr. BENJAMIN. I merely wished to understand the Senator.

Mr. DAVIS. I will also say that that is a tax which may be safely trusted to the local authorities, because it is a tax they would never impose in any onerous degree. Their object would be to reduce it to the very lowest point to encourage vessels to come into their port, and I think that is the true limitation contained in the clauses of the Constitution, when they are taken together. It was a wise prohibition to prevent duties on vessels passing from one port in the United States to another. Otherwise, it might be, from rival interests, it might be from rival feelings which I am sorry to say have been developed to an extent that could hardly have been contemplated by the framers of the Constitution, duties might be levied to exclude vessels coming from a particular port, and under the name of tonnage duties they would be made prohibitory. It is turning over a power to destroy what I consider one of the most beautiful features in our Government—free-trade between the States.

The light-houses are also brought in. That is only a part of the same general thing. These light-houses are not built for foreign commerce. If they had been built for foreign commerce, you ought not to have had one fifth the number. You have multiplied them until they are really an embarrassment to the sea-going vessel. As she approaches your coast she is at a loss to know what the light means. You have multiplied them for the coastwise trade. They are free, because you impose no tax upon the coastwise trade. We have fostered coast navigation under the same theory which the Senator from Alabama so recently overturned in relation to the bounties on fishing vessels; but I refer to it now because it is a case in point. We lay no tax upon the use of those lights, no lightage tax; but it belongs to our theory of fostering the coastwise trade and making it as free as possible, between the different ports of the United States. I think that is a distinction which is to be drawn in relation to the light-houses.

Mr. CLAY. I wish to say a word or two—

Mr. HUNTER. I hope the Senator will allow me to make a motion. I rise for the purpose of submitting a motion to postpone all prior orders, that the Senate may take up the loan bill. I wish to test the sense of the Senate, whether they will take up that bill to-day. I now submit that motion.

Mr. SEWARD. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. WADE. I hope that all the friends of the harbor and internal improvement bills, will stand by them in preference to any appropriation or loan bill, because it is perfectly evident now, from what we have seen, that if these measures get behind the appropriation bills, or loan bills, they will go over, and we shall not be able to say when they will be taken up again. There is no danger of the appropriation bills or the loan bills being defeated by any process that I know of. You cannot get rid of them. In my judgment, it would be prudent in the friends of such measures, as it is necessary to pass before Congress adjourns, to

keep them ahead of loan and appropriation bills. I hope the friends of harbor bills will vote against taking up the loan bill, and will continue the consideration of the bill now before the Senate, until it is disposed of.

Mr. CLAY. I would suggest to the Senator that we had better raise the money before we spend it.

Mr. JOHNSON, of Tennessee. I hope the Senate will not postpone the prior orders. The loan bill has just been brought in, and I think we ought to have some time to consider it. I hope the special order will be taken up, and that the Senate will not postpone any pending measure for the purpose of passing a bill to borrow money. The special order is a proposition to enable the people to increase the revenue of the country by increasing the productive capacity of the country, by providing homes for the people. This, I think, is a very important matter; and yet it appears that everything, however important, must give way that the Government may be authorized to borrow money, and that the bills making appropriations of money may be passed. I hope we shall be permitted to take up and dispose of other important measures, before passing the appropriation or loan bills.

Mr. SEWARD. It is now one o'clock. I do not know what the effect of a vote to postpone the prior orders will be on the present question. I desire to know.

The PRESIDING OFFICER, (Mr. Foot in the chair.) That motion was made before the hour arrived for taking up the special orders, and the Chair regards that motion as not including the special orders; but the hour for taking up the special orders has now arrived, and it is the duty of the Chair to present the special orders to the consideration of the Senate. It is in the power of the Senate to dispose of them as it sees fit. The Chair will now regard the motion of the Senator from Virginia as embracing the special and the general orders.

Mr. HUNTER. It does.

Mr. JOHNSON, of Tennessee. Then I understand that will postpone the homestead bill?

The PRESIDING OFFICER. It will.

Mr. JOHNSON, of Tennessee. I hope the Senate will not postpone it.

The PRESIDING OFFICER. The question before the Senate is on postponing all prior orders, with a view to take up the loan bill.

The question being taken, resulted—yeas 35, nays 19; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Brown, Clay, Clingman, Crittenden, Davis, Fitch, Fitzpatrick, Gwin, Hammond, Hayne, Henderson, Houston, Hunter, Iverson, Johnson of Arkansas, Jones, Mallory, Mason, Pearce, Polk, Reid, Rice, Sebastian, Sidel, Thompson of Kentucky, Thomson of New Jersey, Toombs, Wilson, Wright, and Yulee—35.

NAYS—Messrs. Bell, Broderick, Cameron, Chandler, Dixon, Doolittle, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Johnson of Tennessee, King, Seward, Simmons, Stuart, Trumbull, and Wade—19.

FIFTEEN MILLION LOAN.

The Senate accordingly, as in Committee of the Whole, proceeded to the consideration of the bill (S. No. 396) to authorize a loan not exceeding the sum of fifteen million dollars. The bill was debated at some length, several amendments were made in its provisions, and its further consideration was postponed until to-morrow. [This debate will be published in the Appendix.]

INDIANA SENATORIAL ELECTION.

In the course of the debate on the loan bill, during the remarks of Mr. Wilson, Mr. PUGH asked unanimous consent to make a report, and no objection was made.

Mr. PUGH. The Committee on the Judiciary, to whom was referred the credentials of the present Senators from the State of Indiana, together with the testimony in the case, have instructed me to report by resolution, and to move that the resolution and testimony be printed. If the minority of the committee desire to make any statement, I move that they have leave to print their

views likewise. I move that the resolution and accompanying papers be printed.

Mr. TRUMBULL. I should like to hear that report. I did not know that a report was to be made.

Mr. PUGH. Read the report. It is very short. The Secretary read it, as follows:

The Committee on the Judiciary, to whom were referred the credentials of GRAHAM N. FITCH and JESSE D. BRIGHT, Senators from the State of Indiana, together with the documents and testimony relative to that subject, has had the same under consideration, and reports by resolution as follows:

Resolved, That GRAHAM N. FITCH and JESSE D. BRIGHT, Senators returned and admitted from the State of Indiana, are entitled to their seats which they now hold in the Senate as such Senators aforesaid; the former until the 4th day of March, 1861, and the latter until the 4th of March, 1863, according to the tenor of their respective credentials.

The PRESIDING OFFICER, (Mr. Foot.) The question is on the motion to print the report and accompanying documents.

Mr. TRUMBULL. I should like to know what the accompanying papers are; whether they embrace all the papers referred to the committee?

Mr. PUGH. They comprise the testimony taken; certain affidavits which were offered by the sitting Senators, which are put separately, and upon which the majority of the committee have passed no opinion, but they think proper to bring them before the Senate, inasmuch as the Senate referred them to the committee; and the transcripts from the Indiana Senate Journal, which were furnished by the Senator from Illinois himself, at the last Congress; and certain transcripts from the House Journal, and testimony and documents relating to the question. I collected them as carefully as I could, to present every view, and I think the Senator will find that they contain everything that is relevant to the case. At all events I present the report of the majority of the committee, and ask that it be printed.

Mr. TRUMBULL. I prefer that the motion should lie over until I see or ascertain what papers are to be printed. I presume, from what the Senator from Ohio states, that all are embraced; but I should like to see whether the papers referred at the last session are included. I was not aware that the report was being made. The last meeting of the committee—

Mr. PUGH. I cannot consent that the motion to print the papers shall go over. We are near the end of the session, and it will take some days to print the papers. I wish to bring the question before the Senate at the earliest possible moment. I state to the Senator that among the papers which he furnished at the last Congress, were transcripts of the entire day's proceedings in the Senate of Indiana, a great part of which had no connection with the subject. I have stricken out everything except the resolutions that bear on the election.

Mr. TRUMBULL. Does it embrace the protests and all?

Mr. PUGH. The protests and papers and certificates are there, every one of them, without exception. If the Senator finds anything omitted he can have it printed. I give him my word it shall be printed.

Mr. TRUMBULL. I do not desire to delay the matter at all. I presume I can look at the papers during the session of the Senate to-day. Perhaps it might be called up before we adjourn. I should like to see what the papers are before the question is disposed of. If the Senator will let it lie over for an hour or two, I will look at the papers and see what is proposed. I can do it, perhaps, in half an hour.

Mr. PUGH. I would rather have the motion to print put. If there is a paper omitted, the Senator shall have it printed.

Mr. TRUMBULL. I raise, then, the question whether it is in order to move to print this report in the midst of a debate upon another bill, without any examination of the papers. I do not think it is in order.

The PRESIDING OFFICER. The Chair will answer that question at once. It would not have been in order without unanimous consent. That consent was given. That consent having been

given, the whole subject is before the Senate for consideration.

Mr. TRUMBULL. Mr. President—
Mr. BENJAMIN. The Senator from Illinois will permit me. If I understand the gentleman who made the report, the only object is to get the papers in the hands of the Printer as soon as possible. If, after this order be given, there is anything that the Senator from Illinois wants added, there can be no possible objection to its being added. If there is anything whatever omitted that he wishes put in, the committee, or a majority of the committee, will add it to its report and have it printed. There is nothing here for printing but what was before our committee. If the Senator is afraid that anything may have been omitted which he would like to have printed, it shall be added on his suggestion at any moment after we have made the order to print.

Mr. TRUMBULL. The report is brought here in the midst of pending business. I was not aware myself that it was coming in. When the committee last met, it was not determined as to what the report would be. I have had myself no impression what the report would be. I did not know what papers would come in. The report is not a unanimous one. Certainly it is not unanimous, as far as I am concerned, because I did not know that it was to be made, and there was some disagreement in the committee. It seemed to me not very unreasonable that the Senator from Ohio should suffer these papers to lie half an hour to be looked at. The case has been here more than a year. I have repeatedly called attention to it. I do not propose to delay it for any length of time. I merely wish to run over the list of papers, informing the Senator, at the same time, that before the Senate adjourns he can take his order, for I do not wish to resist it; but it looks to me exceedingly discourteous to a member of the committee, and unreasonable to insist that the vote must be taken this moment, and no other moment.

I can accomplish all the object I have by following the suggestion made by the Senator from Louisiana. If any paper which is omitted can be added afterwards, perhaps it is as well; but it seemed to me that it was not throwing any obstacle in the way, or asking anything unreasonable, to request that the papers should lie on the table for a few moments, until I could see what they were; and I was a little astonished, and am now, that anybody should make an objection to such a proposition. It is all I asked; and had the suggestion been made at first, perhaps I should have fallen into it at once; but, having asked merely to see the list of papers, I still insist that it is but courteous and proper that I should have that opportunity. I trust that, if the Senator insists upon his motion to print the papers *instantly*, the Senate will vote it down. I give notice to the Senate that I do not wish to delay the matter beyond its present sitting. I merely want to see what the papers are, they never having been submitted to me at all in the committee, and I not knowing what were to be reported, the report not having been agreed upon when the committee last met. If there is anything unreasonable in that, I certainly cannot perceive it.

Mr. PUGH. What the Senator from Illinois demands as a matter of right, that he shall have; but when he puts to me a mere question of courtesy, and I make him a courteous answer, but he chooses to persist, he can take all he can get by that. Now, I stated to him at the time that if there was any paper omitted, he should have the opportunity to add it. That suggestion was repeated by the Senator from Louisiana. He did not take it from me, though he took it from my colleague on the committee. So much as to the question of courtesy. He has no right to the papers at all. That is the report of the majority of the committee. Who gave him the right to overhaul their papers? Nobody. He has no such right.

As to the question whether the committee acted, there is no doubt about that. A vote was taken at a special meeting of the committee on last Saturday morning, to which the Senator has referred. Two of the members were absent. The chairman then stated to the committee, and it was agreed upon that he should take their votes. He did report their votes, and I was instructed by the majority of the committee to make this report. I

should have made it during the morning hour, only I was not able to get a sufficient memorandum of the extracts from the House Journal of the Legislature of Indiana, and I have been compelled to wait here for that purpose.

Now as to the importance of time: we are at the end of the session, and if we are to decide the case at all, the papers ought to be printed, and printed at once. Many hours to-day may be saved. I do not know but that we can get the papers printed by to-morrow morning, if we do not delay them.

I say again, what I said at first. The Senator would not take it from me, though he took it from the Senator from Louisiana. If there is a single paper which he deems material, it shall be added. I do not admit the right of the Senator from Illinois to take possession of a report which I make to the Senate for his own private purposes; and I say, therefore, that when he spoke to me as to a question of courtesy, I made a courteous answer. When he claims a right, I stand on my right to insist that the question shall be put on the printing. If the Senate do not choose to vote for it, that is none of my business.

Mr. TRUMBULL. I wish nothing, sir, but what is right and proper; and the Senator from Ohio, I presume, will have to wait before he gets his question put on the printing. It is my right to object to that motion. I may move to postpone it, or to make any other motion which I think proper to make; and I suppose it to be my right, being a member of the committee, to see the papers before the committee. I suppose it my right, without the permission of the Senator from Ohio.

Mr. PUGH. Does the Senator claim the right to see my report from the committee?

Mr. TRUMBULL. I claim the right, when the report is made, to see it; I claim the right as a member of the committee to know what the committee report. There is very little in having committees if the papers referred to them are not to be shown to the members of the committees. I do not know that there is any importance at all in the suggestion which I made; certainly no time would have been taken up with it but for the persistency of the Senator from Ohio. All I asked was simply to look at the papers which he had reported to be printed—papers which have been before the committee, and with which we are somewhat familiar. I presume there are no new papers there which I have not seen; but I desire to know whether all the papers are embraced which those members of the committee who do not agree with the Senator from Ohio think ought to be printed—a matter which can be determined in a very few minutes. The Senator is not willing that I should have that opportunity. Now, in order to test the view of the Senate to know whether it is unreasonable or not, I make a distinct motion to postpone the consideration of the order to print for one hour. I do not wish more than an hour to examine them.

Mr. HUNTER. I hope that by general consent the matter will be laid aside for one hour, so that we may go on with the loan bill. I presume the Senator from Ohio will not object.

Mr. PUGH. I do object.

The motion to postpone was agreed to.

After disposing, for the day, of the loan bill, Mr. BENJAMIN again called up the subject.

Mr. PUGH. I withdraw the motion to print, which I made. I have a right to withdraw it.

Mr. BENJAMIN. We must print the papers. I renew the motion. The Senator makes his report, and I move to print it.

Mr. PUGH. I have made the report under instructions.

Mr. BENJAMIN. I move to print it.

Mr. PUGH. I made the motion to print, this morning, and I now withdraw that motion, it not having been acted upon. As to the resolution itself, that will come up hereafter. I now ask the Senate to excuse me from further service as a member of the Committee on the Judiciary.

The PRESIDING OFFICER. The pending question is on the motion of the Senator from Louisiana.

Mr. PUGH. I withdrew the motion to print, and I do not think the Senator from Louisiana got the floor to make any motion.

The PRESIDING OFFICER. The Chair recognized the right of the Senator from Ohio to

make the motion, and to withdraw it; and then the Senator from Louisiana interposed a motion to print the report and accompanying documents.

Mr. BENJAMIN. I want to see what the report is. I want it printed.

The motion to print was agreed to.

Mr. PUGH. I made my motion before the Senator from Louisiana got the floor away from me. I now make it again, however—that the Senate excuse me from further service upon the Committee on the Judiciary.

Mr. SEWARD. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, May 24, 1858.

House met at eleven o'clock, a. m. Prayer by Rev. F. SWENTZEL.

The Journal of Saturday was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, asking an appropriation to repay Robert J. Walker, late Governor of Kansas, for certain extraordinary expenses incurred by him while Governor of that Territory; which was referred to the Committee of Ways and Means, and ordered to be printed.

Also, a communication from the Secretary of the Treasury, setting forth the receipts and disbursements for the service of the Post Office Department for 1856-7; which was laid on the table, and ordered to be printed.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. J. B. HENRY, his Private Secretary, informing the House that he had approved and signed the following acts:

An act to prevent the inconvenient accumulation in the Post Office Department of postmasters' quarterly returns;

An act to create a land district in the Territory of New Mexico;

An act to revive an act entitled "An act for the relief of the heirs, or their legal representatives, of William Conway, deceased;"

An act for the relief of Regis Loisel or his legal representatives;

An act for the relief of the representatives of William Smith, deceased, late of Louisiana;

An act for the relief of Isaac Drew and other settlers upon the public lands in the State of Wisconsin;

Joint resolution for paying the compensation of stenographers employed by committees of the House of Representatives;

An act for the relief of Brevet Major H. L. Kendrick;

An act for the relief of Isaac Carpenter;

An act for the relief of the legal representatives of Marie Melincs;

An act to amend an act entitled "An act granting a pension to Ansel Wilkinson;"

An act for the relief of Pierre Gagnon, of Natchitoches, Louisiana;

An act for the relief of Thomas Smithers;

An act to increase the pension of John Richmond; and

An act for the relief of the heirs and legal representatives of Pierre Broussard, deceased.

BUSINESS OF THE DISTRICT OF COLUMBIA.

The SPEAKER stated that the business first in order was business for the District of Columbia, made a special order for this day and to-morrow.

Mr. GOODE. I am very happy to inform the House that the Committee for the District of Columbia have determined to retain in their own room for the remainder of the session all the business relating to the District of Columbia which does not meet the unanimous approval of the committee. They will report no business to the House which might give rise to any debate; and they will, therefore, occupy but little of the time of the House.

MICHAEL NASH.

Mr. GOODE, from the Committee for the District of Columbia, made an adverse report upon the bill of the Senate (No. 261) for the relief of Michael

Nash, of the District of Columbia; which was laid on the table, and the bill ordered to be printed.

TURNPIKE ROAD.

Mr. GOODE, from the same committee, made an adverse report upon a memorial relative to a turnpike road in the District of Columbia; which was laid on the table, and the report ordered to be printed.

BILLS ON THE SPEAKER'S TABLE.

Mr. GOODE. I move that the bills on the Speaker's table relating to the business of the District of Columbia be taken up and disposed of.

The SPEAKER. Does the Chair understand that the gentleman from Virginia desires taken from the Speaker's table for action the bills from the Senate in reference to the District of Columbia?

Mr. GOODE. That is my desire.

The SPEAKER. If there be no objection, the Chair will lay such bills before the House.

There being no objection, the following bills were taken from the Speaker's table, read a first and second time, and disposed of as indicated below:

An act (S. No. 191) for the benefit of the public schools in the city of Washington.

Mr. GOODE. I move that that bill be referred to the Committee for the District of Columbia. It is not our intention to report it back this session.

The motion was agreed to.

An act (S. No. 182) for the enforcement of mechanics' liens on buildings, &c., in the District of Columbia. Referred to the Committee for the District of Columbia.

An act (S. No. 168) to relieve the corporation of Georgetown from the expense of making and repairing roads west of Rock creek. Referred to the Committee for the District of Columbia.

FIRE DEPARTMENT.

An act (S. No. 227) authorizing the organization of a fire department in the District of Columbia.

Mr. GOODE. That is a bill which has been matured in the Senate, and its provisions have been scrutinized by the Committee for the District of Columbia, and unanimously approved by its members. I therefore move that it now be read, and put on its passage.

The Clerk read the bill *in extenso*.

Mr. MORRIS, of Pennsylvania, obtained the floor, but yielded to Mr. PHELPS.

HARDY AND LONG.

Mr. PHELPS. I desire to have entered a privileged motion. My colleague, [Mr. CARUTHERS,] who is not here because of indisposition, desired to have entered a motion to reconsider the vote by which a bill reported for the relief of Hardy & Long was referred to the Court of Claims. I make that motion, and ask that it shall be entered, to be taken up for action at a future day.

FIRE DEPARTMENT.

Mr. MORRIS, of Pennsylvania. Mr. Speaker, the Committee for the District of Columbia had the bill now before the House under consideration, and believed that it was impossible to correct the disorders of this District by passing a law of this kind, which gave this corporation power over an organization which is perfectly incorrigible. Therefore, they propose to do away with the policy of fire companies in the District, and give the Common Council authority to establish a paid fire department. For that purpose, I have proposed a substitute for the Senate bill.

Mr. BLISS. I wish to make an inquiry. If I heard the Senate bill correctly, it provides that the members of the fire department shall act in certain cases as special constables. Is that so?

Mr. DEAN. Yes, sir.

Mr. BURNETT. The Committee for the District of Columbia will move that that part of the bill shall be stricken out.

Mr. MORRIS, of Pennsylvania. Mr. Speaker, the Committee for the District of Columbia were unanimous in recommending this bill, and were unanimous on the ground that it was necessary to provide additional means, or rather more efficient means, for the extinguishment of fires in this District than are now to be had. The Government has erected here immense and expensive buildings, costing millions of dollars, and which

have been put up within a few years past, and it is a matter of prudent economy to provide for some more efficient means of protecting those buildings from fires than by the present fire engines.

Mr. JONES, of Tennessee. I rise to a point of order. Does not this bill make an appropriation, and must it not, under the rules, be referred to the Committee of the Whole on the state of the Union?

The SPEAKER. The point is well taken. The substitute makes an appropriation, and must, therefore, have its first consideration in the Committee of the Whole on the state of the Union.

Mr. MORRIS, of Pennsylvania. I have no objection to the bill going to the Committee of the Whole on the state of the Union.

Mr. GOODE. If the bill offered by the gentleman from Pennsylvania be voted down, the original bill will stand, and that does not contain an appropriation.

The SPEAKER. The House, however, would first have to vote on the substitute.

Mr. KELSEY. I move to amend the original bill by striking out the provision making firemen special constables; and then I move that the bill and amendments be referred to the Committee of the Whole on the state of the Union.

The motion was agreed to.

BOUNDARY LINE OF TEXAS.

Mr. REAGAN. I ask the unanimous consent of the House to take up and agree to certain Senate amendments to the bill for running the boundary line of Texas. It is absolutely necessary that the bill should be passed at once.

Mr. DEAN. I call for the regular order of business.

DISTRICT OF COLUMBIA RESUMED.

An act (S. No. 241) relating to the manner of holding and transmitting the title to certain church property therein mentioned, was taken from the Speaker's table, and read a first and second time.

Mr. GOODE. There are principles in that bill which will involve discussion, and I move that it be referred to the Committee for the District of Columbia.

The motion was agreed to.

Mr. BURNETT, from the Committee for the District of Columbia, reported a bill making an appropriation for the repair of certain roads in the county of Washington, in the District of Columbia; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. GOODE. There were some other gentlemen who desired to make reports in reference to the District of Columbia; but, as I do not see them present, I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HOPKINS in the chair,) and took up the Calendar of business pertaining to the District of Columbia.

DEAF AND DUMB, AND BLIND INSTITUTION.

The first bill on the Calendar was taken up and read, as follows:

A bill (H. R. No. 247) to amend an act entitled "An act to incorporate the Columbian Institution for the instruction of the Deaf and Dumb, and the Blind," approved February 16, 1857.

Mr. BURNETT. I move that the committee take up the Senate bill, which is identical in its terms, and consider that in place of the House bill.

No objection being made, the Senate bill was taken up for consideration.

The bill provided that, in addition to the provision made in the act to which this bill is an amendment, for the maintenance and tuition of pupils in said institution, the sum of \$3,000 per annum, payable in quarterly installments, shall be allowed for a period of five years, for the payment of salaries and incidental expenses of said institution; and that \$3,000 be appropriated for the present fiscal year, payable out of any moneys in the Treasury not otherwise appropriated; that the deaf, dumb, and blind children of all persons in the military and naval service of the United States, while such persons are actually in such

service, shall be entitled to instruction in said institution on the same terms as deaf and dumb and blind children belonging to the District of Columbia; that all receipts and disbursements under the bill shall be reported to the Secretary of the Interior, as required in the sixth section of the act to which this bill is an amendment.

Mr. BURNETT. I ask that the report may be read, and I ask the attention of the committee to it while it is being read.

The report states that the institution was incorporated by Congress at their last session, and the act of incorporation made provision for the payment out of the Treasury of \$150 per annum for the maintenance and tuition of each deaf, dumb, or blind pupil properly belonging to the District of Columbia, whose parents or guardians were pecuniarily unable to give them the advantages of such an institution. The institution thus organized commenced with five pupils, which number has since been increased to seventeen, and a further increase of the number to twenty-five or more is anticipated within a year, while the number of this class of unfortunate persons who will need the benefits of this institution will be fifty or more within a very few years. Of the seventeen pupils now in the institution, fifteen are supported by the Government, and two by their parents. Two things were obvious to the committee:

First. That such an enterprise could not be started without pecuniary grants from some source, and those not meager or suited. A few of the citizens of this District have contributed liberally for this purpose; but the burden has borne hard upon the few who have struggled nobly to give it a hopeful commencement. It is, however, embarrassed with a portion of the outlay absolutely essential to its first successful operation, which the subscription of the citizens was not sufficient to meet.

Second. The sum of \$150 per annum is not sufficient to feed and clothe a pupil; and even when parents or guardians furnish the necessary clothing, it leaves but a small surplus to meet the payment of salaries and other necessary expenses. To meet this deficiency, but two sources are open to the directors. The first is, by soliciting subscriptions from the benevolent. That source, always uncertain, has, however, during the late financial trouble, become wholly unavailable. The other alternative was to petition Congress for the necessary aid. This the petitioners have done. It was the opinion of the committee that it will be very difficult for the directors to carry on this institution, even in a crippled and inefficient condition, without some aid from the Government. The object is one which commands the sympathy of the civilized world. This is seen in the liberal endowments and assistance which have been granted similar institutions in Europe, and among the different States of our Confederacy. The Congress of the United States manifested their appreciation of the object not long after the introduction of the system of mute instruction into this country, by a generous donation of lands to the American asylum at Hartford, Connecticut, and of which that institution has accumulated a fund of about three hundred thousand dollars. Grants of land have also been made by Congress to the deaf and dumb, as well as the insane asylums of Kentucky; and the same body has also provided most liberally for the insane of this District. Many of the States have also made ample provision for the instruction of these unfortunate classes of their population, by the construction of buildings, and a *per capita* allowance for indigent pupils, besides making annual appropriations to pay salaries and meet contingencies. The amount allowed last year for board, tuition, and clothing, in the New York institution for the deaf and dumb, was \$180 for each pupil; in addition to which the Legislature makes a regular appropriation of \$5,000, per annum. Pennsylvania, Maryland, Ohio, Virginia, Indiana, North Carolina, Michigan, Texas, and perhaps other States, have institutions for the instruction of the deaf and dumb, or of the blind, or both, which have been established, and are supported, in whole or in part, by appropriations from the State treasuries. The committee could not recommend Congress to be less mindful of that unfortunate class of our fellow beings within their jurisdiction than are the Legislatures of the several States enumerated. The committee were in-

formed that the average cost of supporting deaf, dumb, and blind pupils in the principal State institutions, including the salaries of superintendents, matrons, and teachers, and all contingencies, does not vary much from two hundred dollars each. When the number of pupils is small, the cost of each must, of course, be greater, for the expenses do not increase in the same proportion as the number of pupils increase. The directors of the Columbian Institution ask an annual appropriation of \$3,000, in addition to the *per capita* allowance now provided for, in order to pay up arrearages, and place the institution upon a sure footing; and with this the directors pledge themselves to meet all its current expenses, without calling upon Congress for further aid. The committee, therefore, reported a bill authorizing the payment of the amount requested, limiting it, however, to a term of five years. The committee also thought proper to introduce a section placing the deaf, dumb, and blind children of persons in the military and naval service of the United States on the same footing in relation to this institution as the deaf, dumb, and blind in the District of Columbia.

Mr. BURNETT. I move, unless gentlemen desire to move amendments, that the bill be laid aside to be reported to the House, with a recommendation that it do pass.

The motion was agreed to.

ELECTIONS IN WASHINGTON.

The next bill on the Calendar, a bill regulating municipal elections in the city of Washington, was taken up for consideration.

The bill, which was read, provides that the second section of the act approved May 16, 1856, entitled "An act to provide for at least two election precincts in each ward in the city of Washington, and for other purposes," shall be repealed; and that from and after the passage of this act every free white male resident of the city of Washington of the age of twenty-one years, (vagrants, paupers, felons, and persons *non compos mentis* excepted,) who shall have resided in the city one year immediately preceding the day of election, and who shall be a citizen of the United States at the time he offers to vote, and shall have paid the school tax and all taxes on personal property due from him, shall be entitled to vote in the ward of which he shall be on the day of election, and shall have been for thirty days preceding a *bona fide* resident, for Mayor, members of the Board of Aldermen and Common Council, register, collector, surveyor, assessors, and such other officers as may hereafter be made elective; provided, that in all cases where the person so otherwise entitled and offering to vote shall not have been a resident of the particular ward in which he is resident *bona fide* upon the day of election for the space of one month immediately previous thereto, then such person shall be entitled to vote in the ward in which he last previously resided.

The second section provides that no person shall be allowed to vote at any election as aforesaid, unless he shall have been returned on the books of the corporation of said city as subject to a school tax; and that it shall be the duty of the register of said city, in addition to the names of persons so returned by the assessors of said city, upon satisfactory proof, under oath, to be administered by some justice of the peace of the county of Washington, that the name of any such person has been accidentally or willfully omitted from said books, to place the same thereon at any time after he shall have received said books from the assessors, up to ten days before the said election; and in case any such person shall be absent from the city at said time, or under twenty-one years of age, and his name, in consequence thereof, be omitted from said books, then upon his return, or becoming of age, at any time after the day of registration, and before the day of said election; and upon satisfactory proof thereof made as aforesaid, the said register shall place the name of such person so returning on said books. That if any person shall knowingly swear falsely in the premises, he shall, upon indictment and conviction thereof before any court competent to try the same, be adjudged guilty of willful and corrupt perjury, and punished accordingly.

The third section provides that if any commissioner or other person appointed to superintend municipal elections shall willfully and knowingly

refuse to receive the vote of a person possessing the legal qualifications to vote at such election as prescribed in this act, or shall in any other manner hinder or prevent the legal exercise of the elective franchise in the city of Washington, he shall, upon indictment and conviction thereof before the criminal court of the District of Columbia, be subject to imprisonment in the county jail for a period of time not exceeding six months, and to a fine not exceeding \$200 in each case, at the discretion of the court, and shall thereafter be ineligible to any office under the city corporation, besides being liable in damage to the party whose vote shall be so rejected.

The fourth section provides that the penalties prescribed in the first three sections of this act shall apply to any commissioners or other person appointed to superintend an election who may willfully and knowingly receive, or permit to be received, the vote of any person not legally authorized to vote; and, also, to any person or persons who may vote illegally, or more than once, at any municipal election; and, also, to any person or persons who may willfully disturb, molest, hinder, or interfere with said commissioners while in the discharge of their duties, or who may willfully disturb, molest, hinder, or interfere with any voter while at or going to the polls; and in making the returns of any election to the register of the city, the commissioners or other persons appointed to superintend said election shall also make a return of all the ballots cast on the occasion, to be securely kept for a period of at least two years.

The fifth section provides that in the joint meeting of the Boards of Aldermen and Common Council for the appointment of commissioners of elections, as provided in the sixth section of the act approved May 15, 1820, entitled "An act to incorporate the inhabitants of the city of Washington, and to repeal all acts heretofore passed for that purpose," no member of either board shall be entitled to vote for more than two of the three commissioners to be elected for each ward or election precinct, and in all cases the three persons having the highest number of votes shall be declared duly elected.

The sixth section provides that all elections to be held in the city of Washington for municipal officers the polls shall be opened at seven o'clock, a. m., and closed at seven o'clock, p. m.; and that it shall be the duty of the register of the city to furnish the commissioners of elections in each election precinct, previous to opening the polls at every election, a list of all the qualified voters of such precinct, as provided in the first and second sections of the bill, designating those who shall have paid the taxes due from them, so as to facilitate said commissioners in the discharge of their duties; provided, however, that the sixth section shall not have the effect to exclude from voting any one who, possessing all other qualifications required by this act, and whose name may not have been placed on the said registry, either from accident or by the default of the said register, shall establish the same to the satisfaction of the commissioners of election, and shall exhibit a receipt showing all taxes due from him to be paid; that full power and authority is given to the corporation of Washington to increase the number of election precincts in each ward, to appoint commissioners to superintend elections in the same, and to adopt all such regulations as may be necessary to give force and effect to the provisions of the act; and that all acts and parts of acts inconsistent with the bill shall be repealed.

The bill was then read by sections for amendment; and the first section being under consideration,

Mr. JONES, of Tennessee said: I move to strike out the words "and shall have paid the school tax, and all taxes on personal property, due from him."

My qualification for a voter is, that he shall be a free white man, a citizen of the United States, twenty-one years of age, and a resident, for a certain length of time, in the place where he proposes to vote, excluding, of course, vagrants, felons, paupers, and persons *non compos mentis*, as they are excluded in this bill. These words which I move to strike out prescribe a qualification for voters which I think is opposed to the spirit and genius of the institutions of this country. I am opposed to all property qualifications, to all money

qualifications, for voting purposes. I am willing that this corporation shall have the power to tax each person named in the bill; but when you give them the power to levy a tax, it is their business to collect it. But I will not recognize this most odious property qualification making a citizen's right to vote dependent upon the payment of this tax. I think that should be no qualification of a voter; and it is so contrary to my notions of what should be the qualifications of a voter that I cannot vote for any bill containing such a provision.

Mr. STANTON. I wish some gentleman would have the goodness to inform me what is the basis of the assessment of the school tax?

Mr. GOODE. It is a capitation tax.

Mr. STANTON. Then I do not see any objection to the provision. As I understand it, this bill amounts, practically, to a registry law.

Mr. JONES, of Tennessee. This, as I understand it, is a poll-tax, and you propose to make the right of a man to vote dependent upon the payment of that tax.

Mr. GOODE. I merely wish to say that this clause is intended to enforce the registration of voters, and requires them to pay the moderate tax which is assessed before they exercise the right of voting.

The question being upon the amendment submitted by Mr. JONES, of Tennessee,

Mr. TALBOT demanded tellers.

Tellers were ordered; and Messrs. Cox and Buffinton were appointed.

The committee divided; and the tellers reported—ayes 57, nays 63.

So the amendment was rejected.

Mr. MARSHALL, of Kentucky. I move to amend the first section of the bill by inserting after the word "male," in the eighth line, the words "citizen of the United States;" and by striking out the words "and who shall be a citizen of the United States at the time he offers to vote;" so that it will read, "every free white male citizen of the United States, resident of the city of Washington, of the age of twenty-one years," &c.

My proposition is, to give to citizens of the United States who have resided in this city one year prior to the election, the right to vote; and not to confer it upon every citizen of the United States who may have been here thirty days. This clause, as it now reads, is evidently intended to confer upon the foreigner who may have resided here for a year, and who may be naturalized on the day of the election, the right to vote. My amendment will have the effect to require the citizenship to run with the residence for one year. I think there should be permanent residence connected with citizenship to confer the right of suffrage. I do not think it fair or right that the clerk in one of the Departments, who is a sojourner here, engaged upon the public business, and who does not, by being so engaged, lose, in point of law, his residence in the State from which he came, should have the right to vote in elections in the city of Washington. I do not believe that it is fair to citizens who own estate in the city of Washington, and whose estate is to be assessed and taxed, that the thousand and one office-holders in the city shall have, upon the factitious residence which this creates, a right to regulate and control the assessment and taxation of property, and the regulation of the persons who are permanently resident here. I do not think it right to place the control of the assessment and taxation of the property of these persons in the hands of a body of men who are not now citizens of the United States, but who may be made citizens of the United States between this day and the day of election. For that reason, I desire to cut off that provision which gives a man a right to vote in the ward in which he shall be on the day of election, and shall have been for thirty days preceding a *bona fide* resident. I do not think it right or fair that persons coming here in the employment of the Government, drawing a *per diem* allowance or a stated salary, having no other connection with the city of Washington than as office-holders, or workmen on the public buildings or on the public works, and not by that sort of employment losing their residences in the States from which they come, should be made voters for municipal purposes, and be enabled to tax the property of persons who are permanent residents of this city.

Mr. BURNETT. I propose to answer the latter portion of my colleague's speech first. I believe

that under the theory of our Government, taxation and representation are inseparable—that the two always go together. He says that you ought not to permit mere sojourners in the District to vote in the city elections. This bill only proposes to permit such persons to vote as pay the school tax and all assessments upon personal property. Now, I hold, if men come here and hold offices in the Departments, although you may call them mere sojourners, for a temporary purpose, and they are taxed while they are here, that in the elections for officers of the corporation which levies these taxes, they ought to have a voice. That is my answer to the latter part of my colleague's speech.

Now, sir, such is my colleague's *American* zeal, so intense is his *American* feeling, that everything connected with his action here as a legislator has but one point; and that, it seems to me, is to make war upon the adopted citizens of the country. He proposes now, by this amendment, virtually to extend the period of naturalization to six years. That is its effect. Now, by what course of reasoning can the conclusion be reached that a man who has been a resident in the District for one year prior to the election, and has been subject to taxation, and who has become a citizen of the United States, although he may heretofore have been a foreigner, should be excluded from voting? The native-born citizen of the United States may have resided here all his life, and he may not have become entitled to vote until the day of election. The reasoning of my colleague, if just and right, ought to exclude both of these classes of citizens. These men are taxed by the corporate authorities here if they have property, and are as much interested in the government of the city as any others. I ask the committee whether they are prepared to carry out the extreme views of my colleague in regard to those whom he is pleased to call foreign-born citizens? Under this bill none are permitted to vote but tax-paying citizens. I, for one, will make no discrimination between the white male citizens of the United States, whether born upon foreign or American soil.

If he has complied with the necessary requisitions of the Constitution and the laws of my country to make him a citizen of the United States, then, sir, in my legislative action I shall favor that system which makes no unjust distinctions or discriminations against one class for the benefit of another.

I accord my colleague a high order of ability; but I had hoped the useful lesson taught him in Kentucky had cured him of the mania which he has on the subject of foreign-born citizens. I make the statement with pride, that the fell spirit of civil and religious proscription—a spirit which ran so wild in its fanaticism that neither life nor property was secure from it—a spirit which pervaded the city of Louisville, in my colleague's district—that that fell spirit has no longer with it the prestige of success in the proud old Commonwealth of Kentucky. We have buried it so deep that, in my humble judgment, the hand of resurrection will never reach it; and I will say to my colleague, as was said to him the other day, that he had better (if he will take the suggestion of so humble a man) abandon the political organization which has engendered this proscriptive spirit. This is not the time, in the middle of the nineteenth century, for the dogmas which constitute the principles of that party. In this connection, I will say to him, as was said by the gentleman from Ohio, [Mr. LAWRENCE,] that

"While the lamp holds out to burn,
The vilest sinner may return."

I hope that the committee will vote down the amendment, containing, as it does, an unjust discrimination against one class of the citizens of this country.

Mr. MARSHALL, of Kentucky. Mr. Chairman, therodomontade of my colleague is entirely out of place here. He puts his anti-Americanism into the wrong box. He would have found, if he had given wing to his intellect, that my amendment produces no discrimination, whatever, between a native and an adopted citizen.

Mr. BURNETT. Will my colleague allow me to ask him a question?

Mr. MARSHALL, of Kentucky. Certainly.

Mr. BURNETT. I will ask him this question: If a man resides here for five years, and has taken the initiatory steps for the purpose of becoming

naturalized, does not the gentleman, by his amendment, require a longer residence for him to vote than would be required for a native-born citizen?

Mr. MARSHALL, of Kentucky. I will answer my colleague. If he will look at the effect of my amendment, he will find by it that we do not notice the alien at all. We confine the regulation of our elections to citizens of the United States. We do not notice the alien who is in our midst. We require, by the amendment, from the citizen of the United States, who may come from Maryland, the same residence exactly that we require from the adopted citizen who comes here from Maryland. Do you not perceive that my amendment will read, that from and after the passage of this act, every free white male citizen of the United States, resident of the city of Washington, who shall have resided in the city one year immediately preceding the day of election, &c.? It refers to this class alone. It requires, in the first place, that the voter shall be a citizen of the United States. It does not discriminate between the native and the adopted citizen; and in the second place, it requires a residence here of one year, to enable a citizen to vote. But my colleague asks, if an alien has resided here up to this day, and wanted to vote on the first Monday in June, will not my amendment cut him off if he shall be naturalized that day? I say that it will, because he will not fall within the qualifications required by the law. If he was twenty-one years of age to-day, and had been born and resided here all his lifetime, will not your amendment cut him off?

Mr. BURNETT. It will not.

Mr. MARSHALL, of Kentucky. You do not allow him to vote unless he shall be borne upon the tax-book and upon the registry.

Mr. BURNETT. With my colleague's permission, I will again interrupt him. If he will look at another provision, he will find that the names of those left off the assessors' books may be placed there within ten days of the election.

Mr. MARSHALL, of Kentucky. That is where names are left off from inadvertence. The section of the bill reads:

"No person shall be allowed to vote at any election as aforesaid, unless he shall have been returned on the books of the corporation of said city as subject to a school tax; and it shall be the duty of the register of said city, in addition to the names of persons so returned by the assessors of said city, upon satisfactory proof under oath, to be administered by some justice of the peace of the county of Washington, that the name of any such person has been *accidentally or willfully omitted from said books*, to place the same thereon at any time after he shall have received said books from the assessors, up to ten days before the said election; and in case any such person shall be absent from the city at said time, or under twenty-one years of age, and his name in consequence thereof be omitted from said books, then, upon his return, or becoming of age, at any time after the day of registration, and before the day of said election, and upon satisfactory proof thereof made *as aforesaid*, the said register shall place the name of such person so returning on said books. And if any person shall knowingly swear falsely in the premises, he shall, upon indictment and conviction thereof before any court competent to try the same, be adjudged guilty of willful and corrupt perjury, and punished accordingly."

I had not observed, before, the extent of the qualification in favor of the minor coming of age. Still, it does not remove my objection. I say that the residence required ought to be the residence of the citizen; and that the residence of the alien, pending his alienage, ought not to count under our laws. Our laws should refer only to *our* citizens.

Mr. GOODE obtained the floor, but yielded to Mr. BURNETT. Mr. Chairman, my colleague well remembers a decision of our court of appeals on this very question. I have examined it, and I believe that it is almost identically the same on the subject of residence. It was decided by one of our inferior courts that the one year's residence was absolutely necessary, although the man may have been naturalized between the commencement of the year prior to the election and the day of the election; and our court of appeals reversed that decision. On what ground did they reverse that decision? On the ground that I have taken here, that it was an unjust discrimination against one class of our citizens, which discrimination was never contemplated.

My colleague will remember that this was decided last winter by our court of appeals. I refer my colleague to it to show that I am right. The election takes place here on the first Monday of June. Suppose a foreigner had been residing in this city for twenty years, and that he was nat-

uralized and became a citizen of the United States on the 1st day of July last: although he may have paid taxes here and been subject to all the burdens of citizenship, yet he cannot vote; and you extend the period of disability from five years to five years and eleven months. That is the effect of it; and, that being so, it is an unjust and unwise discrimination against one class of our citizens.

Mr. GOODE. I wish to offer a single suggestion in reply to the remarks of my friend from Kentucky, [Mr. MARSHALL.] He affirms that it is not his purpose to make an unjust discrimination between different classes of citizens of the United States. To me, it does seem his proposition does make such an invidious distinction. Under the proposition of the gentleman from Kentucky, no credit of residence in the city is allowed to the person of foreign birth laboring under the disability prior to the period of naturalization. No residence, during that term, is allowed to satisfy the requisition of residence. In the case of an infant, such a residence does satisfy the requisition of residence. So in the case of a native-born citizen: though he may be laboring under a disability during the term of his residence; although he may not qualify during the term of that disability, yet if he resides within the city during the term of that disability, the residence is sufficient to satisfy the requisition of residence, and he may be allowed to vote as soon as the disability is removed. But such is not the proposition of the gentleman from Kentucky, [Mr. MARSHALL,] when it affects the foreign-born citizen. His disqualification continues for a year after his naturalization takes place. His disqualification is removed, and yet you will not allow his previous residence to satisfy the requisition of residence as it does in the case of the native-born infant.

Now, sir, in the last Congress the gentleman from Kentucky was understood to urge his objection to the bill then pending, upon the ground that it made an unjust discrimination between the native-born minor and the unnaturalized foreigner. We endeavored to frame this bill to satisfy that objection. He introduced a proposition to exclude both classes of voters. We have introduced a proposition proposing to admit both classes, and therefore make no discrimination between these classes. If the gentleman from Kentucky, with his philological skill, can aid us in carrying out the object which he professes to be *bona fide* in favor of, I shall be obliged to him.

I believe we have accomplished this object by this bill, by allowing both parties to vote under precisely the same circumstances, and nothing more. Our theory is, that when a man becomes a citizen of this country, whatever may be the place of his birth, that his character is identified with us, and he ought to have all the rights and privileges of American citizens. If it be the will of the country to extend the period of naturalization, I shall not complain. I believe that five years is long enough. But if the majority of the country are of the opinion that a longer term is necessary, I shall urge no serious objection. But so long as five years is the term which we require to entitle a man to become a citizen of this country, it seems to me unjust, after a foreign-born citizen has been in the country and in the city for a sufficient time to bring himself within the definition of an American citizen, to require him to reside here for another additional year before he is allowed to vote. The gentleman surely does not desire that, when the native minor here is allowed to vote as soon as his disability shall have ceased.

I earnestly desire to do justice to both these parties, and I think it is done in the bill which has been reported by the committee; and I hope the amendment of the gentleman from Kentucky will not be adopted.

Mr. DAVIS, of Maryland. I move to amend the amendment of the gentleman from Kentucky by inserting "two" years instead of one. The whole bill is open for discussion, and I wish to make a few observations upon some of its provisions.

Mr. GOODE. I dislike to interrupt the gentleman from Maryland, but it appears to me that we are reading this bill section by section, and that it is in order to confine the debate to the amendment and section under consideration.

Mr. DAVIS, of Maryland. I suppose the whole bill is open to debate.

The CHAIRMAN. The Chair thinks that,

strictly speaking, the debate should be confined to the section under consideration; but the Chair understands that it has been the practice in committee to consider the whole bill open to debate.

Mr. DAVIS, of Maryland. I suppose it is competent for me to discuss the merits of the whole bill. I did not come into the House with the knowledge that any such bill as this was to be proposed for consideration. I did not know that, as the municipal election in the city of Washington is approaching, we should have had the same proceedings repeated that have been repeated at almost every election, or preceding almost every election, for the last two or three years.

Mr. BURNETT. If the gentleman will allow me to interrupt him for a moment, I will say that I think he is laboring under a mistake when he makes the statement that a bill has been pending here for the last three or four years, preceding every election. Now, if the gentleman from Maryland will remember, the last municipal election in this city took place in 1855. That is my recollection.

Mr. DAVIS, of Maryland. No, sir; in June, 1856.

Mr. BURNETT. Well, sir, this bill is substantially the same as that which was pending subsequent to, and not prior to, the last municipal election in this city.

Mr. DAVIS, of Maryland. My friend from Kentucky is mistaken as to the time of the pendency of that measure. I remember to have taken some part in that discussion, and hence I am quite certain in my recollection.

Mr. HILL. I see, by reference to the statutes, that this law passed on the 16th of May, 1856.

Mr. DAVIS, of Maryland. My friend will, therefore, see that it was prior to the date of that election.

But, sir, what I wish first to say is, that my friend from Virginia, [Mr. GOODE,] who has charge of this measure, a few weeks ago was before the House pressing upon us another measure to strengthen the hands of the municipal authorities of the city of Washington. Then a number of very grave occurrences were stated to the House, and a degree of excitement prevailed in the House, with reference to the personal safety of gentlemen in the city, that I have never before seen equaled. The purpose of the bill then proposed was to secure personal safety by creating a metropolitan police, under the control of the Executive. The distinguished gentleman from Mississippi [Mr. QUITMAN] opposed that bill, upon what struck me as a profound and statesmanlike ground. He thought that the evil was not in the deficiency of physical force, but that it lay in the incompetency or in the neglect of those administering the municipal government. I entirely concur with that gentleman in that view.

I desire to say now, that we are brought, for whatever purpose, to the consideration, virtually, of the organization of the government of the city of Washington; for, sir, those who shall wield the police power of the city are to be elected by the voters, whose qualifications are indicated in this bill; and I think that gentlemen who were so zealous and earnest in endeavoring to arm the Mayor with adequate power to enforce the laws, have now an opportunity to consider the principles of the honorable gentleman from Mississippi, and apply them to the construction of that power which designates the Mayor, and places in the hands of the Mayor the authority which he is to exercise. That gentleman said rightly, that we were attempting to remedy, by an increase of force, that which only could be remedied by changing the spirit which presided over that force. That can only be changed by placing the power of election in competent and responsible hands. If that be so, what ought we do here?

We are not legislating for a city like Louisville, for a city like New York, a city like Baltimore, or a city like Boston, where there is a permanent population, whose life is to be spent in the city in which they are living, who are born there, who grow up there, and expect to die there, or whose lot is cast there by their own choice, for good or for evil. We are legislating for the Federal city, where there is a comparatively small portion of permanent residents, and where there are a great proportion of temporary residents; not merely, Mr. Chairman, a floating population, which comes to-day and goes to-morrow, for the purpose of

transacting business; but I say *temporary residents*. By those I mean, in the first place, several hundred, possibly, a thousand, clerks in the various Government Departments, some of whom keep house here, others of whom do not, most of whom are not permanent residents, and look to leaving the city at the end of four years. Those persons, when they shall have resided here one year, under the terms of this bill, will only have a prospective residence of three years in the city. That class of voters can, in no sense, be said to be identified with the interests of the city of Washington. Few or none of them are owners of property, real or personal, except the furniture of their houses. There are none of them engaged in the transaction of any permanent business here. They are what, in the States, we would call independent men. Most of them are dependent upon the mere will of the Government, be it of what political complexion it may, for their daily bread; and they therefore combine those qualities most unfortunate when they happen to exist in the persons who are to determine an election, municipal or national. They are temporary in their residence, having no community of interest with the people whom they are to govern, and they are under the will of the political power which furnishes their bread, and may need their votes. What I say here, I do not desire to be regarded as saying in relation to the existing Administration, or the last Administration, any more than I do in reference to a future Administration. Those who hold political power are, in many respects, the same, irrespective of party. Any Government which controls a man's bread, can and does control his vote; and those who are under that control, if they form a great proportion of the population, as they do here, ought not to be allowed to exercise a direct and controlling influence in a city where they are merely temporary and passing residents. That vote is a very material one in this city. It amounts to from six hundred to one thousand, I suppose.

There is another class of individuals here to whom, I think, almost the same consideration will apply. We have here four or five great public works in progress. They are all under the control of the Government. There is a swarm of laborers—some native, others of foreign birth, and the latter greatly outnumbering the former; and, whether native or naturalized, they are not identified permanently with the city of Washington, very few of them anything more than temporary residents. Here they are at the will of their employers, liable to be turned off the public works at any moment, and, under the new and little example set by the last Administration, have been turned off by the hundreds simply because of their political associations. That vote amounts, I suppose, to considerable more than a thousand men. We have, therefore, in this city, where the largest vote ever cast was about six thousand, from fifteen hundred to two thousand men who are only temporary and passing residents, having no permanent and abiding interest in the city, dependent upon the executive authority, liable to have their bread taken away from them if they see fit to vote otherwise than they are directed to vote, or as may be pleasing to those in authority. It is that vote which determined the last election, and which may determine the coming one, if the majority should be within five hundred votes.

It is, therefore, not the *bona fide*, the permanent residents of the city of Washington; it is not those who keep house here; not those who pay the mass of the taxes; nor those laborers who live here and expect to live here permanently; it is not the great body of the honest mechanics resident with their families, such as justly sway the government of Baltimore or Louisville; not those who are born here, and who expect to live here until they die; it is not those who constitute the real *bona fide* citizens of Washington that, under this bill, are to be allowed to control the destinies of the city of Washington. It is not material whether the temporary residents here are native or foreign. It is enough for me that they are temporary, that they are here at the will of the executive power, and are not persons whose interests are permanently connected with the government they are deciding. We must broadly distinguish between the city of Washington and every other city in the United States. There are, sir, a few cities in the western country where the foreign-born population—the

voting portion of it—outnumbers the native population. That presents an anomalous and dangerous condition of affairs; but it is less dangerous and anomalous than that which exists here in the city of Washington, where comers from all portions of the world, living here at the will of the temporary Government, are vested with power to control the destinies of those here permanently; whose property is to be taxed; whose industry is to be burdened; whose lives are to be protected; whose comforts are to be determined; who are here to-day and may be away to-morrow; who do not expect to be here more than three years, and who possibly may leave much sooner. Those, therefore, who have no permanent or abiding interest in the city, are actually electing the officers of the city.

Now, I ask candid gentlemen, upon all sides of the House, to consider with me for one moment this state of things, in the creation and organization of the city government, in connection with the state of things which they were trying to remedy by the police bill, only a few weeks ago. I ask candid gentlemen whether they have not the explanation before them? Is not that a complete and adequate explanation of the condition of the city government? If so, this bill goes to the foundation of the city government, and gives us an opportunity to apply an efficient remedy.

Now, sir, let us see how it has worked heretofore. The present Mayor of the city was, I think, elected by a majority of about twenty-six votes. Well, everybody sees at once that it was the floating, temporary Government vote which elected him. Is he a proper, responsible, honest, and efficient man for the administration of the affairs of this city? Will any gentleman say, in view of the deplorable condition of the police of the city, as gentlemen on the other side of the House represented it here, and represented it truly, only a few weeks ago, that they believe the person charged with the administration of the city government is fit to be where he is, and where the same men would wish to continue him? and if he be not fit, I ask if he was not elected in the manner that I have indicated? I do not wish to say one word about his politics, on one side or the other. I am endeavoring to get at the root of the evil.

Mr. GOODE. The present Mayor was elected, I believe, under the provisions of a bill introduced and carried through by the gentleman from Kentucky.

Mr. DAVIS, of Maryland. I think my friend is mistaken. I never introduced and carried through the bill, and my impression is that I voted against it.

Mr. GOODE. The gentleman from Kentucky, I think, introduced the bill.

Mr. DAVIS, of Maryland. No, sir; the bill was introduced by the gentleman from Illinois, [Mr. HARRIS,] and I know that I was strenuously opposed to the bill he introduced.

Mr. GOODE. The bill was amended, on motion of the gentleman from Kentucky, [Mr. MARSHALL,] so as to exclude naturalized citizens and minors, and under that provision this Mayor was elected.

Mr. DAVIS, of Maryland. My impression is, sir, that I voted against the bill as introduced. I know that I tried to make it as good as it could be made, and I know that I failed in the form in which it was reported.

Mr. HILL. I think it was a better bill than the one now proposed.

Mr. DAVIS, of Maryland. Well, we tried to amend it, and did succeed in amending it.

Now, Mr. Chairman, the bill under consideration proposes to allow everybody who shall have resided here for one year to vote; and that, in my judgment, is radically wrong. Whether they be citizens or foreigners, their interests are not identified with the community. They are swept out like dust if they dare to vote against the Government, and it virtually gives the control of the community to men who are no part of it, but who are under the control of the executive Government.

Well, sir, who is the present Mayor of the city elected by this kind of vote? Why, sir, he has brought on the city of Washington all the evils that gentlemen on the other side have been complaining of here. It is under his administration that these disturbances have, for the first time in the city of Washington, broken out. Outrages

of this kind have never been known here before. Mayor Magruder was elevated by the Government to power. There have been occasional and temporary disturbances at an excited election. There have been the ordinary proportion of breaches of the peace, of violence, and of murder, at other times. But never before, in the history of Washington, has it been found that Congress has been moved and excited with reference to their own personal security in passing along the avenue, as has been the case under the existing administration of the city government.

And, sir, I say that it is not the party that happens to be uppermost, or may not be the party that happens to be uppermost at this moment, but it is the radically and inherently vicious system of elections that is at the bottom of it. The authorities of the city of Washington are utterly inefficient; they are utterly corrupt; they are utterly unfit for the positions that they hold; and they are so because the real citizens of Washington do not elect them. They are elected by persons as alien to Washington as those who elected the President were alien to American feelings and interest.

Why, sir, when we strike off what I have designated as the temporary Government vote of the city, and remember that the vote of the city of Washington is only about six thousand, and that the existing Mayor was only elected by about twenty-six majority, we find that nearly two thirds of the whole substantial population was against the man who now holds the position of Mayor. He holds the office by the will of those who hold their bread at the will of the Administration; and how that will is exercised, no one in the least acquainted with the affairs of the city can be ignorant. For the first time in the history of the Government, the working men who earn their livelihood by the sweat of their brow, are denied work on the public buildings if they venture to vote in a mere municipal election against the Government candidate. The present Mayor represents the United States Administration, and not the will of the people—the real industrial and laboring and business men of Washington.

Mr. Chairman, it will be observed that the present Mayor was elected by about one third of the actual *bona fide* residents of the city, and about two thirds of his vote were of men who were temporary residents of the city. I think a very considerable proportion of them are at the same time residents of the States from which they came, and they go home and vote, as they have the right to do, under a well-recognized principle of law, that a person in the service of the United States, whether civil or military, who leaves the State of his residence for the purpose of entering upon the duties of his office, with the intention of returning after he shall have discontinued the duties of his office, does not change his domicile, and retains the right to vote in the State from which he comes. I know myself a venerable gentleman holding an office under the Government in this city, who for the last forty years, at the presidential elections, has gone home to the county of Kanawha, in Virginia, for the purpose of casting his vote for the candidate of his choice. The practice, I am advised, is exceedingly common, and is a perfectly legitimate one.

Mr. BLISS. The gentleman has referred to a gentleman who has voted in the State of Virginia for the last forty years. I simply rose to inquire whether he was at the same time allowed to vote in this city?

Mr. DAVIS, of Maryland. I have no doubt it is so; I cannot state positively; but there can be no doubt that it is within the distinct meaning of this law. Well, Mr. Chairman, this exhibits a state of divided allegiance, or rather of divided interest, which certainly ought not to be allowed.

Mr. SMITH, of Virginia. I should like to ask the gentleman from Maryland a question. I should like to be informed what mode he proposes to prevent the evil which he complains of? The city takes every person who resides here, and permits every resident to vote.

Mr. DAVIS, of Maryland. I make a distinction between those who come here to reside permanently and those who come under Executive appointment, and who come here not with the intention of permanently leaving the place of their original residence. I suppose the result of the law is, that such persons are both entitled to vote here

and at their original place of residence. I think there is no doubt about it. I desire gentlemen to understand that, in this portion of my remarks, I disclaim any party feeling whatever. But I say that, in my opinion, it is the vote of that class of voters who are not independent of Government control, which is the chief occasion of the outrages that have been recently committed in this city. I think that the principle involved in the clause of the old bill of rights of the State of Virginia, that no person should be entitled to vote who should not have identified himself with the interests of the commonwealth, was a good one. I take it that nobody has the right to have a voice in the Government in which he has not the interest of a permanent residence. The moment there is a change of Administration, when the people shall take charge of the Federal Government, these temporary residents will be removed from office; and under the new doctrine of rotation in office, now accepted by the Administration, whatever party succeeds, there must be a clean sweep of officeholders. And then there is that other class of Government employes who are responsible to the Executive, who are employed by his subordinates on the public works; very little notice is taken of them. No paper takes notice of their removals; no motion is made here to hold the Executive of the United States responsible for turning them off, and depriving them of their bread. If they remember that they are free, and would vote to please themselves, whereby they would displease their employers, they are removed, and others are appointed in their places, noiselessly, but effectually. Yet, sir, it is because of the vote of this class of residents, who have no permanent interest here, that these evils, of which you have complained, prevail. Sir, if that class of voters had been excluded, we should never have known what a government of executive patronage means.

These are the legitimate fruits of a government of executive patronage. In the State we see it only in its milder forms. The officeholders influence other persons, but their votes are comparatively few. Here in Washington, they and the laborers on the public works greatly exceed any majority ever cast. They govern the city, and by them the national Administration governs the city. It is the government of the Cabinet and the bureaus, and not of the people. But for these examples, we would not know what the government of executive patronage is, when reigning supreme and uncontrolled.

Had this influence not predominated in the votes cast at the last mayoralty election, to whichever party they may belong, the present Mayor of this city would not have been in office; for, if the right of suffrage had been confined to those having a permanent interest in the city, to men of business and the laboring men, resident citizens, candidates would be selected to represent their interests, and not the anxieties of the Administration for a municipal triumph, as the key-note of a presidential contest. If that principle had prevailed here, the condition of Washington would have been greatly different from what it has been. There would not have been the lawless outrages committed upon the persons and property of citizens by vagabonds who could not be controlled and punished by authorities themselves stained with greater crimes than they were called on to punish.

The election of last June would not have been stained by innocent blood. The Administration would not then have had a pretext for ordering out the United States marines at an election in the city of Washington; and crime would not have been perpetrated since that dark and bloody day of 1770, when, in the streets of Boston, the British regulars shot down peaceable citizens, whose blood was the seed of the Revolution. The cry of blood unavenged would not have gone up from the streets of the city of Washington—not merely unavenged, but whose authors, to the deep disgrace of those charged with seeing that the laws are faithfully executed, have never been, to this day, put upon their trial even, still less punished. The confidence of the people in their freedom from military violence would not have been shaken by the awful sight of fourteen men shot dead, and twenty more wounded, in the streets of the national capital—men in the uniform and with the arms of the United States with impunity firing into a peaceful crowd of spectators, at a peaceful

election precinct—a fire made without warning, without any proclamation, without any order to disperse—ay, sir, and worse than that, without any reason to justify, or even the pretext of a reason to justify it. Sir, gentlemen of the first position and standing in Washington were there, and can testify to it. A dishonest press has attempted, for the benefit of a political party, to cover over the iniquities of that day, and they have, in the opinion of the country, succeeded. I desire here, now, to lift my voice, if it be not yet too late, to wake the feeling of the American people to the deep iniquity which was then committed.

Mr. SINGLETON. Will the gentleman allow me to ask him a question?

Mr. DAVIS, of Maryland. Certainly.

Mr. SINGLETON. I would like to inquire whether what investigation has been had in this matter does not show that the whole difficulty was not brought on by a band of men of his own political party coming from his own city?

Mr. GOODE. Unless this debate shall be ruled in order by the Chair, I shall feel bound to object to it.

Mr. DAVIS, of Maryland. I suppose, Mr. Chairman, that on a bill to remodel the governing power of Washington, the policy and conduct of the Government is a directly pertinent matter of discussion, or I should not have referred to it.

I respond with great pleasure to my friend from Mississippi. There was—so the grand jury report—a band of from twelve to fourteen young men from the city of Baltimore, who came here on the day of that election, and participated in a disturbance, a mutual fight, at the fourth ward polls. The effort has been, on the part of the authorities, and on the part of the press, to cover the subsequent iniquities by that indefensible intrusion. I trust that I have satisfied the honorable gentleman. I ask his attention while I relate what followed. That disturbance took place at nine o'clock in the morning. It was over in five minutes. It was for the purpose of dispersing a large body of men who had assembled at the polls, and apparently taken possession of them. It was the offspring of momentary excitement, of mutual recriminations arising out of the exclusive possession of the polls by one party. That was the provoking cause; but not a justification. There was a fight with stones and sticks for about five minutes. The crowd was dispersed. This body of men, together with a larger body of young men belonging to the city of Washington, dispersed. They left the second election precinct of the fourth ward, and did not return there again during the day.

At ten o'clock the Mayor came to the polls and saw that everything was quiet; the election was proceeding; and from the time this sudden affray took place in the morning until the appearance of the marines at that precinct at one o'clock, the voting continued without interruption of any kind, so testified to by the commissioners conducting the election; and the voting appeared, by the poll-books, to have been at the rate of one and a quarter per minute, down to the appearance of the marines on the ground.

Mr. SICKLES. Will my friend allow me to interrupt him?

Mr. DAVIS, of Maryland. With pleasure.

Mr. SICKLES. I understood him to say that there never had been any investigation of a public character into the circumstances attending the riot to which he refers. If I am not misinformed, there was a judicial investigation into those circumstances; and that parties were indicted and tried for inciting that riot, and were convicted.

Mr. DAVIS, of Maryland. I thank my honorable friend for having called my attention to that circumstance. I will observe, Mr. Chairman, that the reason I happen to be familiar with these circumstances is that I was consulted as counsel for the defense of the persons indicted; but because of my personal relations (individual, not political) to some of the gentlemen whose conduct might come collaterally into question, and because of the public nature of the crime committed against the public liberty, which was not to be thus punished, but, I thought, might form a fit object of investigation in this House, I declined. I did not decline until the case had been fully stated to me. The enormity of the conduct of the Government

was apparent, and I had been placed in possession of the evidence to substantiate what I here state. I will now respond to the gentleman from New York.

Mr. SINGLETON. Will the gentleman let me ask him a question?

Mr. DAVIS, of Maryland. One at a time. Let me respond to the gentleman from New York.

There were thirty-four persons indicted; and of those, four were of the Democratic party. They were discharged, because there was no evidence that they had even been upon the ground.

Mr. SICKLES, (in his seat.) As might have been expected.

Mr. DAVIS, of Maryland. The gentleman from New York says, with a smile, as might be expected. Perhaps when I state the sequel, the smile may be on the other side of the face. The residue were put upon their trial, and none of them were convicted. The jury divided on the guilt of the authors of a riot, so palpable to the eyes of the Mayor, who had the marines in charge, that fourteen were shot dead and twenty wounded, for making it! And, sir, of those shot dead and wounded, two only were of the American party, and every other one was of the Administration party, with the exception of two negroes. *Is that as might have been expected?* You will see, then, that there is no political bias leading me to uncover these enormities. I am not crying out because my political friends have suffered. If the blow was aimed at them, a righteous retribution directed it elsewhere. I speak not for my political friends, but to avenge the innocent blood of my fellow-citizens, who, though my opponents in politics, are still my fellow-citizens, and entitled to my voice, when they become the victims of military violence.

These things can be proved by overwhelming legal evidence in this city, by people of the very first condition; yet these things have not been hitherto so stated. They touch too nearly those in power. Of those indicted, only four were of the Democratic party, and the residue were of the American party; and of the killed and wounded, two were of the American party, and all the rest were friends of the Administration, with the exception of two poor negroes, who were walking across the street, at a distance of three hundred yards from the firing. These are not the casualties of a riot, where some innocent fall with the guilty. Could they have cut down all innocent men, none of the guilty men? In the thirty-four who were indicted, only one wounded man was included. Were the nineteen others wounded, guilty—then why were they not indicted? Were they innocent—then why were they shot? Was the blood then shed justly or unjustly shed? If they were guilty, they could have been indicted. Did they not carry the ear-mark by which they could be tracked? or did their politics hide their wounds?

Mr. SICKLES. Do I understand the gentleman from Maryland correctly as saying that none of the persons indicted for participating in that riot were convicted?

Mr. DAVIS, of Maryland. My honorable friend will allow me to state that there were persons indicted for disturbances of a slight character at other wards in the city; but there was no person indicted specifically for participating in any riot at the time of the firing by the marines. One indictment for the alleged riot of the fourth ward included the whole thirty-four, and covered the whole day. It was drawn as if the purpose had been to convict men for a riot at nine o'clock, and to make that cover the iniquities of the latter part of the day, and mislead the public mind touching the causeless murders by the marines. There was no one indicted for being concerned in the riot at the time the marines fired; and no one of the thirty-four indicted was convicted. The indictment is still pending; but I rather think it is not likely to be tried again.

Mr. SICKLES. The circumstances attending that transaction were all blended together, and all constituted one act, and such was the view of the grand jury which found the indictments; such was the view of the parties at the time, and so it was regarded by the whole country. What I state is, that the transaction was subjected to a judicial investigation by a grand jury, and they found indictments against two persons residing in the city of Washington—I say nothing of the party to

which they belong. The matter was tried by a special jury, and—

Mr. DAVIS, of Maryland. Not for that riot. Mr. SICKLES. The gentleman may divide the incidents of that day into periods; but that was not the view at that time, and I do not think it just to make such an imputation upon the authorities.

Mr. DAVIS, of Maryland. It is the authorities that I am now arraigning. The gentleman has only illustrated what I stated at the outset, that the facts have been covered up, the country has been deceived, in order that the guilty might escape. It is the authorities that I am now putting upon trial.

Mr. SICKLES. I am speaking of the grand jury and the court.

Mr. DAVIS, of Maryland. And it is precisely the grand jury and the court that I now put upon trial. This firing was all at one precinct of one ward. The persons who were killed were all killed at one precinct of one ward. The affray at nine o'clock in the morning and the murdering by the marines at one o'clock were at one precinct, and only at one precinct, of the fourth ward. Everything took place within a space of three hundred yards, at particular hours of the day, distinctly ascertained, and susceptible of the most precise proof; and I do not recognize the validity of any appeal to the newspaper statements, unless accompanied with an offer to submit them to the test of a legal examination of evidence.

And now, sir, at one o'clock of the day, when the marines marched upon the ground, the election was proceeding with perfect quiet. How, then, came the marines there at all? Was there a riot? Let the police suppress it. Could they not? Then the marshal was bound to summon the *posse comitatus*. Was there a riot too powerful for the marshal to suppress? He was never even called on to exert any of his powers—ample for every emergency. It is only where his power is overmatched and defied that the American jealousy of military power allows the President to call forth the Army. Why, then, was it called forth? By what authority, by what blunder, with what bloody intent?

The marines were there by the orders of the President and Secretary of the Navy, on the application of the Mayor, accompanied by an affidavit, neither containing any one legal prerequisite to justify a demand for military aid; neither even stating that the marshal's power was inadequate, still less that it had been invoked and found inadequate. The affidavit and statement both grossly exaggerated and perverted the affray of the morning, and must have impressed both the President and Secretary that a riot still raged where perfect quiet had reigned for hours; yet there was no investigation of their truth. The Executive was swift to hear and believe and act, though the alleged riot was not ten minutes' drive from the President's House, and any firing could have been easily heard in the executive chamber.

No, sir; there was, neither at the time of the letter and affidavit, nor of the asking for or granting of the marines, any riot whatever. The election was proceeding with perfect quiet; both when the marines were ordered out and when they reached the polls. There was not merely no riot which the police could not put down; there was not only no riot which the marshal could not suppress; but there was no riot at all. The marshal was not even called upon. Why, then, were the marines there? Why, sir; unless upon the temptation of some insane impulse, or at the instigation of some person bent upon blood? Still, sir, at whatever bidding, they did defile an American election by the aspect of military power, and they found it quiet. Why were they not instantly marched away? Some boys had followed and passed them with an old swivel, lacking a wheel and actually spiked, and stationed themselves not far from the polls, and a considerable crowd had collected around them—some interfering to induce them to remove the gun, others idle spectators; when—perhaps from some misunderstanding—a charge of bayonets was ordered and executed on the crowd around the swivel. The crowd instantly dispersed; the marines seized the swivel, bayoneted a boy of twelve years old near it, and fired among the retreating crowd. Men were shot as they fled—men not connected even with the swivel, and all the firing was after the mar-

ines had possession of the only pretext of the attack. That attack was made upon a body of peaceful citizens standing around that gun. It may have been a blunder—it was not the less a crime. The charging bayonets on peaceful citizens is itself a crime. If they stood they must have been bayoneted; yet why should they be compelled to fly? It was their right to stand there—it was the right of the men to have their gun there for self-defense. The invasion of that right, under an erroneous and hasty impression, was the first act of the deplorable drama of blood which followed. Simultaneously with this assault and firing, the main body of the marines began firing in an opposite direction, at crowds of people standing on the sidewalks; not a few of them the best citizens of Washington, as respectable as any in this House. One gentleman who had served in the Mexican war, seeing the marines bring their guns to a level, and that they were about to fire, and that people around him were scattering, said if he was to be shot he would not be shot in the back, and stood his ground, while men fell dead upon both sides of him. Did the marines fire in self-defense? Only one was wounded by a ball in the mouth, just at the moment when he was about to fire, and at the close of the charge of bayonets. With that exception, no marine was wounded. They shot over thirty men to quell a riot in which the only persons injured were their victims! The whole tenor of the evidence is that no stones were thrown or pistols fired at the marines till after they had fired. Still less was there any riot so violent and overbearing as to defy the police, overmatch the marshal, and require this last resort, the extreme remedy of a military execution. To march the marines to that precinct was a grave usurpation; the men they killed were murdered.

Now, sir, when a man is found dead in his bed in his home, with his family, there is an inquest; when a man cuts his throat in his own house, there is an inquest; when a man is found dead in the street in the morning, there is an inquest. Here fourteen men were killed in open day, in the peace of the Republic, and by her soldiers. Two inquests were held; of only one did the finding ever transpire, and that finding was as follows:

"That the said Cornelius H. Alston came to his death by a gunshot wound received while standing peaceably and quietly at the corner of Seventh street, opposite the Northern Liberties market, (recently his place of business,) from a detachment of United States marines, acting under the control of the Mayor of Washington; and the jury further find, from the concurrent testimony of all the witnesses, that the firing by the marines was all subsequent to the obtaining possession of the swivel."

After that verdict, no other coroner in Washington could be found to repeat the inquest.

When a man is shot, *prima facie* it is murder. That finding was an adequate foundation for an indictment. All the circumstances raised a presumption of murder. There was no riot; no necessity for the interposition of a military force; no necessity for anything except the ordinary police. No attempt was made to call out the *posse* of the marshal; and consequently the Mayor or the marines were guilty of fourteen murders—one fixed already by the inquest. Magistrate after magistrate was applied to for a warrant to arrest Mayor Magruder and those who were guilty of the firing of the marines, and not one could be induced even to administer the oath on an affidavit for the purpose of even inquiring whether the parties charged, being in authority, civil or military, ought not to be tried for killing fourteen people in the peace of the Republic.

There was an examination, as the gentleman from New York states, but it was of an anomalous character. A grand jury summoned to attend the criminal court by the Democratic marshal of the District, was found useful to avert the eye of scrutiny from the perpetrators of the murders. Their legal duty was confined to indicting persons to be tried. They were ordered by the court to make a general examination. They were diligent in pursuit of evidence of riot—they do not seem to have inquired at all into the guilt of the murderers. Their own report shows on its face that if they had intended to do their duty, they should have indicted every marine for murder; yet the idea of such a duty seems never to have crossed their minds. They were not summoned for that purpose; but when they had concluded their case against the rioters, they could not entirely omit the catastrophe of the tragedy, and they close by a pass-

ing allusion to the well-known fact that a number of persons were killed and wounded by the firing of the marines, and there they left it. The important fact was never brought out, that at the time of firing there was no riot, no violence, beyond the control of the civil power; that the election was going on peaceably. That fact was concealed by the authorities of the city of Washington, civil and judicial. And now if you wish to know how so glaring a fact came to be covered up, I can possibly throw some light on it. I have here a list of the grand jury, and of the petit jury. An analysis of their politics has been furnished me by as respectable a gentleman as there is in the city of Washington. I say that those juries were such as sent Sidney and Russell to the scaffold.

GRAND JURY.

<i>Whig Anti-Know Nothing.</i>	<i>Whig.</i>
George W. Riggs.	William B. Todd.
James F. Morgan.	<i>Dem. Anti-Know Nothing.</i>
George S. Gideon.	Joshua Pierce.
Robert S. Patterson.	George A. Bohrer.
William T. Dove.	Zadok W. McKnew.
Alexander H. Dodge.	Buckner Bayless.
Jonathan Prout.	George C. Ames.
George McCeney.	Lewis Carberry.
<i>Whig.</i>	Isaac Clarke.
William A. Bradley.	Thomas J. Galt.
John P. Ingle.	Lawrence A. Gobright.
Joseph C. G. Kennedy.	<i>Englishman.</i>
Darius Cloggett.	William J. Stone, sr.
Samuel Bacon.	

Not one member of the American party; six Whigs, who act independent of any party; all the rest decided opponents.

Whigs.....	6
Democratic and Whig Anti-Know Nothings.....	17
Englishman, independent.....	1
	24

Americans not one.

PETIT JURY.

<i>American.</i>	<i>Irish Whig Anti-Know Nothing.</i>
Daniel Lightfoot.	Nothing.
William T. Jones.	Samuel McKnight.
James M. Taylor.	<i>Whig Anti-Know Nothing.</i>
Francis B. Lord.	George M. Solomou.
<i>Italian Anti-Know Nothing.</i>	James B. Holmead.
Seraphim Masi.	Thomas D. Larner.
<i>Englishmen.</i>	Lewis Newton.
Samuel Stott.	John E. Neale.
Abraham Butler.	Edward Edelen.
James Fullalove.	Southey S. Parker.
<i>Anti-Know Nothing.</i>	Alfred Ray.
John W. Ott.	<i>Whig.</i>
John L. Maddox.	Benjamin E. Gittings.
<i>Dem. Anti-Know Nothing.</i>	<i>Independent.</i>
John T. Bradley.	Robert H. Harrison.
James Barnes.	Thomas J. Davis.
Thomas J. Williams.	William Van Kiswick.
John E. Kendall.	Aaron Dwyne.
Zephaniah K. Offutt.	<i>Doubtful.</i>
N. Boyd Brooks.	Robert M. Watkins.
Peter Hepburn.	

Four members of the American party, five foreigners by birth, four acting independently of any party, one doubtful, the rest Anti-American.

Americans.....	4
Foreigners and Democrats.....	28

There were twenty-four men upon the grand jury. There were of them six who were old-line Whigs, acting independently of any party. There were on it eighteen who were the decided opponents of the American party; and they were the twenty-four summoned by the Democratic marshal of this District to examine into the guilt or innocence of the Democratic authorities and the American voters, where the question was whether the latter were guilty of riot, or the former guilty of murder, upon the event I have described in this city, where the ratio of permanent inhabitants to temporary inhabitants, and of the American party to the Administration party, is as I have described it in the early portion of my remarks, when speaking of the organization of elected bodies in this city. That grand jury was organized; set to work; succeeded in strengthening all the erroneous impressions which had been conveyed to the country by all the newspapers in this District.

My attention has been called by the gentleman from Mississippi on an important point of this narrative, which I had omitted; and that is, that of those killed and wounded only two were Americans, and that only one of those men killed was from Baltimore, and that was a young man who was brakeman on the Baltimore and Washington railroad, and came here that morning on the cars; and he happened to be a Democrat. I mention these facts not for the purpose of casting odium upon any one, but because the question of my honorable friend from Mississippi only shows

that, in his mind, an impression exists that men of the American party were the rioters; that they came from Baltimore; that they were the sufferers by the firing; and that the Government did not do the world much harm by that short method of dealing with them. But, sir, the dead and wounded appear not to have been on the side on which they were supposed to have been.

Now, sir, with reference to the panel of the petit jury summoned to try the men charged with the riots: there were thirty-two upon the panel. You will recollect that there was not one American on the grand jury, although the American party polled at the election in this city, when Mayor Magruder was elected, within twenty-six of a clear majority of the whole vote polled. On the panel of the petit jury, there were four Americans and twenty-eight opponents of the American party, foreigners or Democrats; and that instrument of judicial torture was selected by the marshal of this District, whose duty it is to select the juries. Let us sum up this extraordinary case—the first example of political persecution through an American judiciary—the first example in my knowledge of a grand jury filled with men of one political party charged to indict men of another political party—the first instance of a panel of a petit jury filled with partisans whose duty was to try their political enemies. There were thirty-four men killed and wounded. There were thirty-four men indicted. Of the men shot, only two were Americans, and thirty were friends of the Administration. Of the men indicted, thirty were Americans and only four Democrats. To investigate a riot laid to the charge of the American party, a grand jury without a single American on it was summoned. To try the thirty Americans indicted, a jury panel was summoned having only four Americans and twenty-eight of their political opponents. By such a tribunal none of them were convicted of riot. By such a grand jury neither the Mayor, nor a marine, nor any one else, was indicted for murder of any of the fourteen killed. The riot was imputed to the Americans, yet no one was by them killed or wounded, except the one marine at the time of the firing. Those who fell, fell before the fire of the marines, under the order of the chief peace officer of the city; and no magistrate has been found who would lend his official aid to bring any of those guilty of the firing to judicial responsibility. Of the fourteen killed only two were the subjects of a coroner's inquest, and only one verdict was ever published.

On such a state of the case, this House owes it to itself; owes it to the blood of its murdered fellow-citizens; owes it to the integrity of their Government; owes it to the jealousy that the American people have ever exhibited of the use of military power, to investigate this matter thoroughly, and to bring the guilty, however high and powerful, to solemn responsibility for this high crime against the public liberty.

Sir, the enormity of this offense against the public liberty is too apparent, when we reflect that this military array was called out without the least shadow of authority of law; that the calamitous events I have depicted were the natural consequences of that illegal act. The Constitution confides to Congress the power to provide for calling forth the military power, of which the President is the merely military officer.

Congress has discharged this delicate duty by placing the Army at the disposal of the President to suppress insurrection, repel invasion, and enforce the execution of the laws; but only when the power of the marshals of the United States have been found inadequate, and after proclamation to the people resisting the Government.

In this deplorable case, the marshal does not appear to have been called on. He summoned no posse; he displayed no power; he was left neglected; his power uninvoked; and the rough hand of military violence was easily, roughly, or carelessly laid on the citizen, spreading death and wounds amid peaceful men around the ballot-box. And they who were guilty of the blood have been left to go free; while the course of justice has been perverted to punish those against whom this military violence was directed, but whom a discriminating power preserved.

These things are of grave and serious import. They are one of many circumstances showing a tendency to resort to military intrusion to accomplish political ends which augur danger to the

Republic; and this, as the gravest and most flagrant abuse of military power known to the history of the Republic, deserves, and I trust will receive, at the hands of this House, a searching investigation. If this House neglect the petition of the people of this District, the next House of Representatives will not be so deaf to the cry of the oppressed. It touches the very integrity of our laws, the immunity of the citizen from military violence, the just jealousy of military power which pervades our people; and they will listen to the appeal which their Representatives may neglect.

Mr. BURNETT. It has seldom been my lot, sir, to listen to so extraordinary a speech as the one just delivered by the gentleman from Maryland, [Mr. Davis.] It would be impossible for me to notice all the points which the gentleman has attempted to make in the hour which he has occupied. He started out with the most startling proposition, and one that, in my judgment, is behind the age, and will not be indorsed by this committee, that there should be attached, as a condition precedent to the exercise of the right of suffrage by the citizens of this country, a property qualification.

Mr. DAVIS, of Maryland. I made no such proposition.

Mr. BURNETT. That is the result of the gentleman's argument.

Mr. DAVIS, of Maryland. I did not say so. Mr. BURNETT. When I put language in the gentleman's mouth, he can say that he did not use it. I merely say that that is the effect of his proposition. He says that the Departments of Washington are filled by gentlemen from every section of the country, who come here merely for a temporary purpose; that these gentlemen own no property here; that they are not identified with the property interests in the city of Washington; and that their interest was not the same as that of the tax-payers of the city; that they were not only dependent, but that they were under the whip of a master; dependent for their bread upon retaining their positions; and that, therefore, they ought not to be allowed to vote, because they could not exercise the right of suffrage as freemen. Do I do the gentleman any injustice?

Mr. DAVIS, of Maryland. My proposition was to extend the residence required to two years, so as to make it more permanent.

Mr. BURNETT. But the gentleman used language of the purport that I have ascribed to him. Now, let us carry out that doctrine. The distinguished gentleman from Maryland acts principally with the Republican party; and I ask the Republicans to unite with me in determining where it will lead to, and the necessary results and consequences which will flow from incorporating such a theory in our system of legislation. These gentlemen who are here in the employment of the Government are intelligent. Some of them have occupied high positions in this country. Many of them have been members of this House. They have some of the most important interests of the people confided to their care. They come here to the city of Washington, and are required, under the corporation ordinances, to pay taxes and perform all the duties of citizens. They pay school taxes; and where they own personal property it is assessed and taxed also. And are we to be told, as the gentleman from Maryland tells us, that because these men are appointed during good behavior, they are therefore mere slaves of the Administration, and that they ought not to be permitted to exercise the right of suffrage?

Sir, I will say to the gentleman from Maryland that when he makes such a charge as this against the employes of the Government in this city, he does himself no credit. He charges that these men who are here in offices to which many of the great interests of the country are confided, are mere slaves, and do not exercise the right of free will. Now, where will that doctrine lead you? You say that they do not own property here, and are here only temporarily. Well, sir, in New York and other free States, how many landholders have you in the farming interest? How many men are there in the great State of New York who own any farm lands? The number is small as compared with the whole population of the State. Who are the men who work the soil? Why, sir, the laboring men of the country, the industrial classes. They do the work upon the

farms; but they own none of the soil or stock or property, and are dependent for their positions upon the will and pleasure of their employers. How is it in the city of Baltimore, the gentleman's own city? You will find there thousands of young men, men of intelligence and education, who are there merely temporarily, serving as clerks in wholesale warehouses, not identified with the property interest of the city, but are merely there at the will and pleasure of your wholesale merchants, your grocers, your tobacco manufacturers.

Will you say that because these men are dependent upon their employers for their bread, they must be excluded from the exercise of suffrage also? Yes, says the gentleman. Then, sir, if that be the doctrine, he will exclude from voting every man in this country who is not a property-holder. That is the effect of his argument. Let us look at it further. You would deprive of the right of suffrage, in my humble judgment, that class of citizens who are among the most meritorious in the country. In my State, Kentucky, every young man who is not the holder of property—our dry-goods clerks, the employees on our farms, the overseers upon our plantations—every one of them who happens to own no property, and yet may be a better citizen and more intelligent in every respect than some of those who are property-holders—all these will be excluded from the right of suffrage. Gentlemen, are you ready for this? Sir, it is in direct conflict with the whole spirit and genius of our institutions. It is at war with the entire principle of republicanism and true liberty; and, for one, I shall, on all occasions and under all circumstances, enter my most solemn protest against it.

Mr. MARSHALL, of Kentucky. Will my colleague allow me to ask him a question?

Mr. BURNETT. I will.

Mr. MARSHALL, of Kentucky. I concur with my colleague in his opposition to the principle of a property qualification of suffrage; but, would he consider it right for a young man, for instance, in a dry-goods store in Kentucky, coming from Ohio, to vote in Kentucky while he still held his residence in Ohio, and went there occasionally to vote—living in Kentucky merely as a temporary place of residence, with the intention of returning to Ohio to reside permanently?

Mr. BURNETT. No, sir.

Mr. MARSHALL, of Kentucky. That which we object to, is, that employes who do not lose their residence in the State from which they came, may jump on the railroad cars at any time and go home to vote.

Mr. BURNETT. My colleague will find that his theory will not do. My colleague will understand that the election laws in our own State require a residence of sixty days within the District before the voter can be allowed to exercise the right of suffrage, yet if they are temporarily absent from their homes, although they may vote where they are in city elections, they return to vote in general elections.

Mr. DAVIS, of Maryland. I ask the gentleman from Kentucky to allow me for a moment? The gentleman may think that his deductions from my remarks are correct; but, sir, I must enter my solemn protest against the deductions of the gentleman, because they cannot be legitimately drawn from what I say. I suppose that at this moment I represent four fifths of the laboring population of Baltimore; the resident, permanent population; men who make up the substance and strength of the country. What I speak of here, is the mere floating, temporary population, which does not reside here at all; who are here visitors, or for mere temporary purposes. Property has nothing to do with it.

Mr. BURNETT. Mr. Chairman, the gentleman cannot escape the effect of the position he has taken here to-day. It will be understood by the country. I have not misunderstood it. Let us continue to see how this thing will work. The employees of any merchant are in the power of their employers, and their votes may be controlled in the same way. Sir, Pennsylvania is a great State. She has an immense iron interest, which employs thousands of persons, who, with their wives and families, are dependent upon their employment for their daily bread. But according to the theory of the gentleman from Maryland, [Mr. DAVIS] these men should be deprived of the right of voting. Be-

cause a man is dependent upon his employer for bread, he cannot therefore exercise the right of suffrage as a free agent: that is the position of the gentleman. He cannot draw a distinction between the employees of the Government and any other class of employees. The conclusions I have drawn from his premises are legitimate, and I enter my most absolute dissent to any such doctrine.

But what next? The gentleman from Maryland has taken this occasion, though I cannot see what possible connection it can have with the bill under consideration, to go into what purports to be a history of the riots which occurred in the municipal election of this city last June. He has drawn a picture and presented it to this committee; whether it be true or not, I will not undertake to say. I will not pretend to make an issue with him upon that question. The gentleman stated that what he said was in all fairness, not for partisan purposes. I should have preferred that he should have stated all the facts in connection with the subject, that the House and country might have judged as to the merits of the whole transaction.

The gentleman said, that no such disorder, no such scenes of bloodshed and murder had occurred until the last municipal election in this city. Now, sir, it is necessary, in order that the nature of this whole transaction may be known, that the truth of history may be vindicated, to state, as I do state here to-day, a fact which is susceptible of the fullest proof, that until the birth of Know Nothingism in this country, no such scenes have ever occurred in our whole history. Until it exhibited itself in 1854, the elections in the great cities of the Union passed off quietly and peaceably. But, after the organization of that party, with its secret oaths and its proscriptive principles, scenes of riot and bloodshed followed in its train, and have continued from that time down to the present, wherever the party has been in power.

Now, sir, I do not intend to go into a discussion of that question. If the gentleman wants evidence, I refer him to the history of the city of Baltimore, and the city of Louisville, in my own State, and to the city of New Orleans, since the organization of the Know Nothing party. I say that such scenes never occurred in our history until men banded together by solemn oaths, and met in secret councils for political purposes, swearing allegiance in those oaths to the peculiar tenets of what was known as *Americanism*, to exclude adopted citizens from all office, to exclude them from the right of suffrage, and to make religious opinions the test of a man's fitness for office. Until these things were done, no scenes of violence marked the history of elections in the cities of this Union.

Mr. HILL. Will the gentleman permit me—

Mr. BURNETT. Not now. I want to call the gentleman's attention to one fact. While we are comparing notes to-day, I ask the gentleman to let us go home to his own city; and I tell the committee that if they want to hear a tale of horrors; if they wish to hear of outrages which the American people never dreamed of, nor ever before entered the imagination of the masses; if they want to learn how the rights of citizens were totally disregarded, the ballot-box violated, and the freemen of the country outraged, let them read the printed testimony in the contested-election case of Whyte against Harris.

Mr. HARRIS, of Maryland. I take it for granted that the gentleman will yield to me under the circumstances.

Mr. BURNETT. For a moment, but not for a speech.

Mr. HARRIS, of Maryland. I appeal to his fairness and sense of right how long that moment shall last.

Mr. BURNETT. If the gentleman wishes to make an explanation, I will yield.

Mr. HARRIS, of Maryland. I wish to make a statement on my own part.

Mr. BURNETT. I cannot consent to that. The gentleman can take the floor when I have finished.

Mr. HARRIS, of Maryland. The gentleman has referred to me personally, and I trust he will allow me to finish my sentence, at least. The gentleman has personally introduced me into this debate.

Mr. BURNETT. The gentleman is mistaken.

Mr. HARRIS, of Maryland. You referred to my case by name.

Mr. BURNETT. It is a part and parcel of the history of this country.

Mr. HARRIS, of Maryland. The gentleman referred to me by name; and I appeal to his fairness as a gentleman to let me say something in reply. I will put it in the shape of a question if he prefers it.

Mr. BURNETT. It would be impossible for me to yield to the gentleman to make a speech in regard to the merits of his case; and he must see I have never been guilty, knowingly, of discourtesy to any gentleman, and I would be unwilling to do the gentleman from Maryland any injustice.

Mr. HARRIS, of Maryland. The gentleman's allusion puts me in a false position. If he throws me on the necessity of assuming the floor to make a speech to the committee, I should then be checked upon the ground that it was indelicate to speak in my own case in advance of its being brought into the House.

Mr. BURNETT. I do not intend to charge that the gentleman has been guilty of any of the things I have spoken of.

Mr. HARRIS, of Maryland. I know that the gentleman did not, and I know that he dare not charge me personally with it.

Mr. BURNETT. When it is necessary, I dare do anything.

Mr. HARRIS, of Maryland. I know it; but the gentleman, when he dared do anything, would do it with a regard to the truth.

Mr. BURNETT. The gentleman must see, when he says I dare not, that that is a term I understand; and whenever it is necessary, the gentleman will find that I never hesitate at any sort of responsibility.

Mr. HARRIS, of Maryland. I understand amongst gentlemen that any such remark is unnecessary, because the fact is always conceded. I make the remark because the truth of history, as the gentleman calls it, would not connect me personally with anything objectionable. Will the gentleman allow me to say, or shall I be thrown upon the necessity of asking the House—

Mr. BURNETT. I cannot yield the floor to the gentleman to make a speech. I have referred only to the gentleman's case. I do not intend to be drawn into an argument as to the merits and demerits of either side of the question. I am not discussing the question as to whether the gentleman's party has been guilty of these outrages; but I do say that until the birth of that party no such outrages occurred.

Mr. MARSHALL, of Kentucky, (in his seat.) There never was any foreign combination until then.

Mr. BURNETT. My colleague says in his seat that there was no such combination. I thank God! that it is being rapidly broken up.

Mr. MARSHALL, of Kentucky. I remarked that there never was any foreign combination in the country until then.

Mr. BURNETT. If you tread upon a worm it will turn upon you. When native-born citizens banded themselves together for the purpose of proscribing a class of our citizens, when that class was assailed with slungshot, bowie-knife, and revolver, there is no wonder that they combined for their own protection.

Now, Mr. Chairman, I ask the attention of this committee for a few moments to the history of affairs in this city. The gentleman from Maryland [Mr. DAVIS] says—

Mr. BLISS. I rise to a question of order.

Mr. BURNETT. I am only replying to the remarks of the gentleman from Maryland, [Mr. DAVIS.]

Mr. BLISS. I intended to raise a question of order as to the relevancy of this debate; but, as it is suggested to me not to do it, I will decline doing so.

Mr. BURNETT. The gentleman from Maryland took it on himself to denounce the Mayor of this city as corrupt, and his administration of the city affairs as of the most disgraceful character. I am not here for the purpose of defending the Mayor and corporation of the city of Washington. I have admitted that, in my opinion, there were abuses here, and I have said that I would go with gentlemen for their correction. The gentleman from Maryland stated that we were here on the eve of every election for the purpose of passing a law in

order to control the municipal elections. Now, sir, the gentleman himself voted for the very bill under which Mayor Magruder was elected. Here is the record: Mr. CAMPBELL, of Ohio, offered the bill; the previous question was called and sustained; and the gentleman from Maryland voted for the bill.

In speaking of the election riots last June, the gentleman from Maryland said that only fourteen or sixteen of these young men came from Baltimore. I ask him whether he states the facts to the committee on his own authority, or on hearsay?

Mr. DAVIS, of Maryland. I stated that I had been consulted as counsel for the defense of some young men who had been indicted, and that, in the course of the consultation, the information which I have given here came out; and if an investigation shall be ordered by this House at any time, what I have stated here can be proved by legal evidence, within the limits of this city. That I have on information which I perfectly rely on.

Mr. BURNETT. The gentleman said that there was an attempt on the part of a corrupt and venal press to cover up this thing. In answer to that, I will refer to one paper here, not any press of my own party—a press which has never looked with favor upon the Democratic party; but which I will do it the justice to say is, in my judgment, one of the most dignified journals of the Union—more correct in its statements, and more reliable upon the matters of history than perhaps any other; I refer to the National Intelligencer. That paper, the morning after the election, justified the action of the authorities in calling out the marines, and stated that there was a reign of terror here; that bands of rowdies had come to this city from Baltimore, armed with knives, slungshots, and revolvers; that they had made the streets of Washington scenes of terror—that it was impossible to exercise the right of suffrage.

Mr. DAVIS, of Maryland. That is only what I admitted and stated—that the whole press of the city, without an exception, so far as I knew, had concurred in a misrepresentation. Now, if the gentleman thinks that is not a misrepresentation, let him propose a resolution of inquiry, and I stand ready to prove it.

Mr. BURNETT. I am not here for the purpose of gratifying the feelings of any malignant persons by initiating an investigation.

Mr. CRAWFORD. As this question is progressing, and the gentleman is exactly upon that point, I desire to say that I have the finding of the jury upon this very question. They examined more than one hundred and twenty-five witnesses upon this subject. Their report is before me; and, if the gentleman has time, I desire that he shall have it read as a part of his speech, that it may go to the country with his remarks.

Mr. MARSHALL, of Kentucky. I will just remark to my colleague, and to the gentleman from Georgia, that, at an early period of the session, I filed a memorial from the citizens of Washington, asking for an investigation; and I will offer a resolution, before this Congress adjourns, repeating the desire to make that investigation. Then gentlemen can come up and establish the facts, or flinch from them.

Mr. BURNETT. I was aware of the finding of the grand jury. It is contained in the Washington Union of the 18th of July, 1857, and is as follows:

The grand jury, having completed their labors for the present term of the criminal court, and the judge of that tribunal having specially directed their attention to the riots in the city of Washington on the 1st day of June last, deem it to be a duty which they owe not less to the cause of peace and good order than to the sacredness of the ballot-box, to present the following summary of the principal disgraceful events of that day:

They have examined upward of one hundred and twenty-five witnesses in relation to the general subject of the riots, and have noted the testimony; from which appears the fact that at the first precinct of the fourth ward polls the balloting proceeded quietly until a few minutes past nine o'clock in the morning, when a party of twelve or fourteen persons, designated as "Kip-Raps" or "Plug Uglies," from Baltimore, came on the ground.

They marched above the polls, clear of the citizens, (from eighty to one hundred of them,) who, in a line, were proceeding toward the window, each voting in turn. Having reconnoitered the premises, the party of strangers left the scene for a short period, and then returned with an increased number of their partisans, also from Baltimore, together with a number of persons who reside in this city. That they were coming to Washington with evil intentions, the chief of police and the captain of the auxiliary guard had reason to suspect several days prior to their arrival. But this ap-

prehension was removed by subsequent information received by the Mayor. However, a detachment of police repaired to the railroad station on the morning of the 1st of June, and there witnessed the arrival of the Baltimore party. The object of proceeding thither was, as stated in evidence, to scan closely the appearance of the strangers, so that, should they commit a breach of the peace, they might be readily identified.

It is proper to remark that the exciting causes of the riot, and subsequent bloodshed, in the fourth ward, may, in the opinion of the grand jury, be ascribed mainly to the presence of these strangers, who were joined by a large number of disorderly persons of this city at or near the polls. At that time an attempt to arrest them must have been ineffectual, owing to the inadequate force of the police then and there present—the Board of Common Council having refused to pass a bill authorizing the Mayor to increase the police force if he should deem it necessary for the purpose of preserving order. It is in evidence that the strangers and their companions were armed with pistols and other deadly weapons, which were displayed with a view to intimidate peaceable citizens from voting at the polls.

This body of men divided themselves into two parties—one going inside, to the fence, near the window, and the other remaining outside of the voters. The latter section soon became troublesome, abusing men in the line, threatening them, and loudly boasting, with others, that they could whip any of their opponents. At this point of the disturbance, they threw stones. Some of them protested against "foreigners" voting, and declared that, elsewhere, they would be debarred from such a privilege. The cry of "fight" was frequently reiterated from the ranks of the rioters. Remonstrance with them was vain; and while a justice of the peace was engaged in the laudable effort to enforce order, by calmly appealing to their better feelings, he was struck with a brick upon the breast, and otherwise assaulted. Other respectable citizens were seriously wounded by the discharge of fire-arms, and missiles thrown both by the Baltimoreans and their friends who acted with them.

The latter encouraged their visiting brethren to make the attack. Fifteen or twenty of the parties impatiently swore that they would "go in," and not wait any longer, when stones were again thrown and pistols discharged by them. By the combined movement and impetuous charge, the line of voters was broken, and in the general alarm the commissioners of election fled, deeming it unsafe to continue at their post. The voters in the line were, for the larger part, naturalized citizens. Driven away, some of them did not return. According to credible witnesses, the aim of the rioters was avowedly against those whom they designated as "foreigners," and whom they would not permit to vote. But it is proper to say that this hostility was not extended to those of American birth, though of politics opposite to their own. The rioters having gained their object in the fourth ward, gave three cheers for their victory. These disturbances occurred between nine and ten o'clock in the morning.

Information of these disgraceful and riotous occurrences was communicated to the Mayor of Washington. At that time there were only one policeman and six or seven members of the auxiliary guard at the fourth ward precinct; these were driven away. The Mayor visited the scene, and, having ascertained the true condition of affairs, forthwith called upon the President of the United States, and requested him to order out the marines for the preservation of the peace. In accordance with representations made, first verbally, and afterwards in writing, and under oath, the President acquiesced, on the ground, as assumed, that the civil force was insufficient to repress the riotous proceedings, against the desperate and superior numbers of the disturbers of the public peace. Accordingly official orders were immediately dispatched to the garrison, requiring the marines to repair to the City Hall, and that they report to the Mayor for duty.

When it became known at the Navy-Yard that the marines had been ordered out, a six pounder or field-piece was taken from the Anacostia engine-house by a party of men and boys, avowedly for hostile purposes, and with which to operate against the military. The persons having it in possession drew it to the first precinct of the fourth ward before the marines reached that neighborhood, and from twenty to twenty-five minutes anterior to that time. The Mayor, returning to the polls, demanded that they be opened; but several persons interposed, saying that they should not until the marines were removed, while another person was at the same time haranguing the excited crowd. The Mayor attempted to address them, and to inform them that the marines were not there to attack, but to protect, citizens in their rights. But he was saluted with cries of "Drive him off!" "Turn him out!" and other similar expressions.

The marines, on their arrival, were taunted by the rioters, and provoking language was made use of with a view to irritate and insult them. During these proceedings a message was sent by the party in possession of the cannon, saying that if the officer in command did not abandon his position, they would fire upon him. It was then that a charge was made upon the gun by the first platoon of the first company of marines, and after two of the marines had been wounded by the rioters. It was taken without bloodshed. Just before this was accomplished, an attempt was made to fire it. The discharge of pistols continued in quick succession, and stones were thrown by the rioters as they retreated from the cannon, and not until then did the marines fire their muskets in the direction of their assailants.

The Mayor did not give the order to fire, nor did either of the officers in command, according to the testimony elicited; and the marines may have mistook for an order to that effect the words "Why don't you fire?" the language uttered by some person unknown to the witnesses interrogated on that point. The marines numbered ninety or one hundred; they were nearly all raw recruits, and principally American-born citizens. After the first fire, in response to the pistol shots, the marines were ordered to discharge their guns in the direction of the flashes of the pistols. The fact is well known that a number of persons were killed and wounded in consequence of the discharge of fire-arms on that occasion.

It should be here stated that the cannon, from its posi-

tion, would, if fired, have raked the polls and street; and what the effect would have been may be conceived from the fact that it was loaded with about half a pound of powder, sixty or seventy rifle cartridges, (tied in a handkerchief,) eight large stones, and several pounds of shot.

The marines were supplied each with twenty rounds of ammunition; the cartridges containing, in addition to the usual quantity of powder, a ball and three buckshot.

According to the testimony, it was not known, until a few minutes previous to the marines being ordered out, that their services would be required, nor were any persons in the ranks besides the enlisted men.

We repeat, that the police force on that day was insufficient to preserve the peace; and therefore it was deemed necessary to apply to the Executive for a military force, which was granted under the representation of circumstances to which we have already alluded. It should be stated that the riot at the first precinct of the fourth ward was more serious than elsewhere in Washington.

The same parties who there drove peaceable citizens from the polls proceeded, at a later hour, and before the arrival of the marines at the City Hall, to the neighborhood of the south precinct of the second ward. Pistols were fired and stones thrown, from which the police and citizens retreated. Alarm and consternation were naturally produced by these riotous proceedings. At the seventh ward polls there was an exhibition, in one respect, similar to that in the fourth ward, namely, the preventing of persons of foreign birth, but naturalized citizens, from voting.

The grand jury consider it unnecessary to present a longer statement of facts. They have endeavored, as far as the evidence and the nature of the oath administered to them permitted, to discharge their duty impartially, and irrespective of whatever individual opinions may be expressed as to the manner in which they have performed it.

The privileges of the citizen are too dear to be infringed or destroyed by a ruffian force acting in disregard of all law, and hence it becomes the duty of good citizens to indignantly "frown down" any and every attempt to unjustly interfere with constitutional rights, and to provide against the recurrence of such wrongs as those which were perpetrated on the first Monday of June last. Were such things to be continued, self-government would exist only in theory, and a reproach be cast both upon the city which bears the name of Washington, and the institutions reared by a patriotic ancestry for holy purposes and philanthropic ends.

In view of all the circumstances, we declare our opinion that the police force, as at present organized, is not adequate for the purposes intended; and that the law which created it should be amended, so as to enable the force to be temporarily strengthened as occasion may demand.

GEORGE W. RIGGS, Foreman.

WASHINGTON, July 17, 1857.

A word more, sir, in regard to the press which the gentleman pronounces venal and corrupt. The press of Washington, including the National Intelligencer, the historical accuracy of whose statements no one will gainsay, indorsed the action of the Administration, and published to the country a justification of it, in calling out the marines. I appeal to the House if the truth of the statements published by these papers, without respect to party, and indorsed by the finding of the grand jury, with all the facts before them, can be overcome by the mere denunciation of them by the gentleman from Maryland? I ask the Representatives of the people how it is possible to preserve order in this Federal city? How is it possible to protect citizens here on a day like that which occurred at the last election, when a gang of rowdies from the neighboring cities came here, driving resident citizens from the polls, and not only driving them from the polls, but shooting them down; and that, too, when they are around the ballot-boxes exercising a right conferred upon them by the laws of their country?

Mr. DAVIS, of Maryland. Allow me to ask the gentleman whether he knows of anybody being killed at the fourth ward before the firing by the marines commenced?

Mr. BURNETT. I know that a resident of the city of Baltimore has been tried and found guilty, for participating in a riot on that day.

Having disposed of the press, let me call the attention of the committee to another fact. I tell the gentleman that until he purges his own household; until he shall have a better state of morals in his own city; until murders and riots cease there—I, for one, will not regard him as competent to advise me in regard to these matters.

What did these rowdies do? They came here and did what I have stated. They took possession of the cars on their way home, and fired at cattle along the route. They committed every kind of outrage, that they could in their situation. But before they reached the city of Baltimore, the cars stopped, and landed these rowdies, these assassins—for that is their proper name—put these assassins off the cars, that they might not be arrested when they should reach that city. And now a Representative of such a constituency, a gentleman who knows that these things existed, comes here, the leader of a great reformation in the city of Washington. Indeed, Mr. Chairman, we have fallen upon strange times.

The gentleman says there has been no investigation; that these things have been covered up; that they have been winked at, and permitted to go by. I do not say that the gentleman from Maryland intentionally misstates anything; and I do not want the remarks I make to be understood as casting the slightest imputation upon the honesty and truthfulness of the gentleman in any statement he makes of his own knowledge.

Mr. DAVIS, of Maryland. I said there was an investigation on only one side.

Mr. BURNETT. How does the gentleman know that? Does he know it himself, or does that responsible gentleman to whom he has referred furnish the gentleman with the information?

Mr. DAVIS, of Maryland. It appears upon the face of the matter itself.

Mr. BURNETT. The gentleman was consulted as counsel by a parcel of these men in regard to those riots, these scenes of violence and bloodshed that produced the terrible consequences which he has depicted so well; and he comes before this House to-day, and tells us what his impressions were as the facts were detailed to him by the very outlaws themselves. Such facts will do for the gentleman to act upon, but they will not do for me or for the country. When the gentleman tells me that this responsible man tells him so and so; and when he tells us that his clients told him so and so; I tell him that I prefer to take the testimony of sworn officers of the law; I tell him that when the law requires the marshal of this District to summon twenty-four discreet, sober men, citizens of the District, householders; and when the law requires the criminal judge to charge the grand jury to inquire into a breach of both the penal and criminal code of this District; and when that grand inquest summons more than one hundred and twenty witnesses before them, and when they make an investigation and present their report under oath to find the truth, the whole truth, and nothing but the truth—I prefer to take that statement in preference to the statements of outside gentlemen, although they may be quite respectable, and though they may be clients of the gentleman himself.

Now, sir, I want to call the attention of the gentleman to another matter of history. He says that the Mayor did nothing in this matter. The gentleman left out of view the fact that the city government was under the control of his party. I mean that the council was, and could govern the city. And it is a fact, as I am informed, and I believe that the record shows it, that that council refused to give the Mayor the aid necessary to prevent rioting, and he had to call upon the President.

Now, Mr. Chairman, the gentleman says that there was no riot, and that there were no scenes of violence at the time that these marines fired. It was the concurrent testimony of the witnesses who were called before the grand jury that, at the time the marines were marching to the scene where they were required for the purpose of protecting the citizens in their rights, they were not only stoned, but they were fired upon; that a cannon, loaded to the muzzle, was drawn within their view by a gang of rowdies, and carried to the fourth ward polls for the purpose of resisting them in preserving order. And yet the distinguished gentleman from Maryland has endeavored to make martyrs of the persons who were engaged in these riotous proceedings!

The gentleman from Maryland wound up his remarks by telling the committee and the country that we shall always have these scenes of violence here; that they result properly and legitimately from the existing state of things; and that the blood of these murdered victims cries aloud to Heaven for vengeance upon their murderers. I say here, to-day, to this House—and, sir, I am going to make a statement that I believe as firmly as I believe in the existence of a God—that the very organization and formation of such a party as the American party, in the manner in which it was done, must necessarily result in bloodshed and murder.

Sir, the very existence of such an organization, designed to exclude men from office and from the polls because of the places of their birth and their religious views; a political organization secret in its character, held together by oaths, with grips and signs and pass words, and with an obligation

upon its members to stand by each other in scenes of danger and violence, must always produce riot and bloodshed and such scenes as we have witnessed heretofore.

Now, Mr. Chairman, just look and see whether this position is correct. Look at the history of the country. Americanism—and I always see proper to call parties by the names they prefer—had its origin in the southern States, in 1854. It originated in the city of New York prior to that, but it had its beginning and commencement in the southern States in 1854.

Mr. HILL. I joined the party in 1844.

Mr. BURNETT. Did the gentleman take the oaths then?

Mr. HILL. No; but I would have sworn fidelity to it, so long as it was true to itself.

Mr. BURNETT. I state a fact of political history—that the party was not known in the southern States as a political organization till 1854. My colleague, [Mr. MARSHALL,] who is one of the leaders of the party, knows that it never had any existence in Kentucky until 1854. Now, what was the result? I want gentlemen to understand that I am not discussing the facts as to which party was to blame at the time the riots occurred, but I desire to show the practical consequences of the formation of the party. Prior to 1854, so far as Kentucky was concerned, we had had peace and quiet. Louisville was noted for its prosperity, its manufacturing interests, and the flourishing condition of its trade. We were all proud of Louisville.

But on the 6th of August, 1855, what was the character of the scenes which were presented in that city? Why, the picture drawn here to-day by the gentleman from Maryland was but a small affair compared with those scenes. The two parties met in hostile array, and the streets of that city, in my own State, were drenched with blood. Men were shot down in the streets and murdered while making their escape from their own flaming dwellings. Men, women, and children were indiscriminately slaughtered. There was a venerable man of the name of Quinn, whose head was white with the frost of many winters, an honest, industrious, and peaceable man, who had lived in the city for thirty years; the torch of the incendiary was applied to his house; and as that poor old man attempted to make his escape from his burning dwelling, he was shot down by assassins near his own threshold. When gentlemen talk about bloodshed and assassination, I ask them if they do not find it resulting from the very organization of their own party?

Mr. Chairman, I am sorry I have detained the committee so long. One word more, and I will take my seat. How will you prevent these things? How are they to be avoided? It is by the passage of a law which will protect the ballot-box, and enable citizens of all parties to exercise their rights without fear of violence. I think that the passage of this bill, which, I believe, the Committee for the District of Columbia reported unanimously, will effect that purpose; and I hope the House will pass it. In saying this, I am not influenced by partisan feelings—for I do not know, nor do I care, what will be its effect upon the approaching election. But I do say that, as the Representatives of the people, having constitutionally the exclusive right to legislate for this District; it is a duty incumbent upon us at least to see that law and order prevail here.

Mr. GOODE obtained the floor.

Mr. HARRIS, of Maryland. I ask the gentleman to allow me two or three minutes. I do not propose to detain the House longer.

Mr. GOODE. I yield to the gentleman.

Mr. HARRIS, of Maryland. Mr. Chairman, I did not propose, when this bill came before the House, to enter into any discussion of it. I do not now propose to go into any discussion of its merits. I rise for the purpose of replying to a statement made by the gentleman from Kentucky, [Mr. BURNETT,] which seemed to be personal to myself. I confess that, when the gentleman made the allusion, which he did, to my contested-election case, when he introduced it in the strong terms which he did, I thought it manifested a spirit of unkindness upon the part of the gentleman.

Mr. BURNETT. I will just say to the gentleman from Maryland that, so far as any unkindness is concerned, he is entirely mistaken. And

now, if the gentleman will permit me, I will tell him exactly what I did mean.

Mr. HARRIS, of Maryland. I accept the gentleman's disclaimer, but the gentleman made the allusion which he did to me, and I thought it necessary to say just this in reply: I do not feel at liberty, under the peculiar circumstances in which I am placed, to enter into any kind of discussion in reference to the facts which may or may not be elicited in connection with my contested election, and I have only risen to say that I shall reserve what I have to say until the proper time.

Mr. GOODE. This is not the character of discussion under which we shall get through with the business of the District of Columbia. We have but a very short time set apart to devote to this business, and I feel it to be my duty, for the purpose of terminating this debate, to move that the committee rise for the purpose of going into the House to offer a resolution for that purpose. I owe it to the people of this District to take that course; and I therefore move that the committee rise.

Mr. MARSHALL, of Kentucky. I trust the gentleman from Virginia will not attempt to limit this discussion at this particular point. I desire to say something upon this subject, and there are others who wish to speak. Declarations have been made by my colleague [Mr. BURNETT] in regard to the election riots in Louisville, Kentucky, in 1855, which ought not to go unanswered.

Mr. GOODE. That is not a pertinent subject of discussion upon this bill.

Mr. MARSHALL, of Kentucky. I appeal to the gentleman, as a matter of justice, not to move that the committee rise until I have had an opportunity to respond to some of the statements of my colleague.

Mr. GOODE. If this discussion goes on it will take up all the time which has been set apart for the District of Columbia.

Mr. MARSHALL, of Kentucky. I will not take many minutes—less now than if I have to get the floor upon some other bill. You will save time by it.

Mr. BURNETT. I appeal to the gentleman from Virginia to yield the floor to my colleague.

Mr. GOODE. The gentleman from Kentucky [Mr. MARSHALL] says it is his intention to move a committee of investigation upon the subject of the election riots in the city of Washington. He will then have the opportunity to reply to his colleague.

Mr. MARSHALL, of Kentucky. This is the place to reply. I want the reply to go out with the gentleman's speech.

Mr. GOODE. The gentleman has already made one speech to go out with the speech of his colleague.

Mr. MARSHALL, of Kentucky. In reply to the gentleman, I will say that I did not provoke this discussion. I am sure that, so far as I am concerned, I have confined myself, in the remarks I have made, to the merits of the bill under consideration. I have not gone into this general discussion. I am opposed to it. But, inasmuch as my colleague has brought the Louisville riots into this debate, I appeal to the gentleman to allow me to reply. I will be very short.

Mr. BURNETT. I appeal to the gentleman from Virginia to allow my colleague the floor.

Mr. GOODE. Very well; I will withdraw my motion that the committee rise, and will yield the floor, temporarily, to the gentleman from Kentucky.

Mr. MARSHALL, of Kentucky. As I remarked before, it was not my purpose, certainly, in making the proposition to limit the right of suffrage to citizens of the United States in the municipal elections of the District of Columbia, to open the wide field of debate which has been occupied by other gentlemen.

Nor do I think that it was at all necessary to the elucidation of any argument which has been adduced by my colleague, to travel, for illustration, to the constituency which he and I represent, and to the scenes which occurred in Louisville, in 1855. He has drawn upon them as matters which he thinks are necessary incidents to the progress of Americanism.

So far as the riots in the city of Louisville are concerned, I do not feel that, in this place or in any other, it is necessary for me to make any further remark than to say that a resolution was

adopted in public meeting by the party which elected me to a former Congress, declaring that that party is not in any way responsible for those riots; that they did not originate with the American party; that the members of that party in Louisville had no design to enter upon any such movement; that the riots were begun by foreigners who were excited, and incited, probably by others, influenced by malice or other improper motive. The American party of Louisville, in view of what had occurred, frankly declared their purpose to be prepared in future to meet whatever might occur; and, disclaiming all responsibility for the past, stated, with the boldness of men who understand their rights, that they will be always ready to protect them, and with whatever emphasis may be required by the circumstances under which they may be invaded.

I was not in Louisville when the riot occurred. I was there two or three days before, and I state here, upon my verity as a gentleman, that so far as I know or ever heard—and I was in the councils of the American party; I was in close connection and communion with the leaders and working men of that party at the time engaged in my canvass—there was neither preparation for, nor contemplation of, a riot, up to the time when I left Louisville. I was called away from the city on Thursday prior to the election by the illness of a member of my family, and did not return until a week after the election had transpired. I therefore speak of those riots from the testimony which was elicited at the time, though a great deal was given which was conflicting and contradictory.

I understand that there were on that day two distinct riots in the city of Louisville. One originated in the upper part of the city, among the Germans; another occurred two miles off, in the lower part of the city, among the Irish. I understand that, in both instances, the firing commenced upon the part of the foreigners. In the upper part of the city the riots commenced among some drunken Germans, who fired from the upper story of a brewery upon a couple of peaceful citizens who were riding along through the streets in their buggy, and were, in fact, going to the country. The police interfered, and were resisted, and the fight between the police and the Germans soon involved others. This occurred early in the afternoon of the day of the election, and was not in the neighborhood of the polls where the election was taking place.

The riot in the lower part of the city originated from the fact that several peaceful American citizens were fired on from upper windows as they walked along the streets. After some four or five had been shot down in their tracks, resistance was made, and the mob was gathered. In the scene that followed much violence was perpetrated; but we must remember that great provocation had been given, and hot blood was already roused to madness. Of Mr. Quinn, whose fate has so started the sympathies of my colleague, I know nothing. I do not remember that I ever saw him or heard of him. He was the owner or superintendent of a row of houses from which some of the firing had taken place, and in which it was reported that a magazine of arms was prepared, and had been arranged prior to the election, and Irishmen were in those houses, apparently ready for the fray. This, as I understand, was the proximate cause of the attack on his property.

In the course of the developments which followed, it was proved, beyond doubt, that some Irish Catholic girls, who were in service at the residences of gentlemen in the city, invoked their mistresses to dissuade their husbands from going abroad into the city on the morning of election day, intimating that scenes were about to occur, or would occur, whose details involved a tale of horror they were not at liberty to mention or to enter upon. This testimony, from such a source, is persuasive, if not conclusive, as to the party by whose intent, and by whose acts the riot originated, which ended in those scenes we all lament. It was proved further that Irishmen were cleaning their fire-arms, and preparing them, by repairs and otherwise, for action, for some days prior to the election day, and that an unusual quantity of pistols, revolvers, and guns, had been purchased from the shops by this class of people. A band of Irishmen, it was said, and if I remember aright it was proved, had come from other places to be present at Louisville at that election, to control

our free-born Americans by violence, and to browbeat them and force them from the polls.

These men were supposed to be those found in the second story of the houses in Quinn's row, and many of them actually fled thence after the riot commenced at that point. It is said women and children were there, and that women fell in the shooting that took place. I know not whether this be the truth or not, for there was a great variety and contrariety of testimony taken in relation to the scenes which occurred; but if any female was shot, it was under the circumstances I have described—in that house where a magazine of arms was concealed for purposes of violence, and when a mob had been excited by the fact of peaceable Americans having been ruthlessly fired upon from thence and shot down in the streets. It was deemed unsafe to fight with the adversary concealed in the second story of these houses, and they were set on fire by the rioters. I understand that during the conflagration these arms exploded by bundles and by platoons, where they had been placed beforehand with the cold-blooded purpose of human destruction. Mr. Quinn, as I understand, dressed as a woman, undertook to escape, but was recognized and shot down. He was the owner of the buildings, and was held responsible for all the preparation made for the wholesale murder of our people on that occasion.

It is with no satisfaction I dwell on these facts. I lament the occurrence as much as any one can, and hope never to see anything like it again; but, sir, if such things must transpire, and are to be superinduced by combinations of foreigners in our midst, bent on rule or ruin, the responsibility for the consequences should rest where they properly belong, and they should be examined and commented on cautiously and in a spirit of impartiality. I know well how easy it is for a gentleman in making a speech, like my colleague has done on this occasion, to say that he does not pretend to throw upon one party or the other the onus of these lamentable transactions, for lamentable they are; but when he draws the deduction that all these things must occur so long as there shall exist a party bound together by "horrid oaths," and whose main work is "political and social proscription," there can be no difficulty in detecting the impression he seeks to produce.

In reply to this argument, then, against Americanism, I deny that there is now, or that there ever has been, anything like political proscription at any time in Americanism, properly understood.

From what did that party originate? Primarily, from the organized combination of foreigners which had shed American blood in the city of Philadelphia; secondarily, from the course of your Democratic Administration here appointing foreigners to office, in order to pander to the foreign influence. Those points induced the first idea of Americanism among the native-born. In the great centers of population, the foreign races had approached an equality of numbers with the native citizens; actually, in some places, they had gained a superiority; and with this predominance they made combinations for political purposes, and the acquisition of political control. It was then time for Americanism to begin, and I only now fear it began too late.

When a congress of foreigners assembled at Philadelphia, and published a platform of political principles and the ramifications of their plan throughout the United States—reaching to Louisville, to Richmond, to Philadelphia and to St. Louis—proved by its identity everywhere, that the whole series sprang from one source; when this effort of foreign combination palpably struck at the very organism of the Government, and proposed to modify our system so as to assimilate it to the crude experiments of European republicanism, without a knowledge of the political philosophy upon which our fathers founded the rich legacy they bequeathed to us in our Constitution; and above all, when foreign influence had reached a point at which American Administrations deemed it wise or expedient to combine with it to maintain or acquire political power in this country, the time had arrived, if there was patriotism in the American bosom, for united action among ourselves to secure our household gods.

Mr. SICKLES. Will the gentleman allow me?

Mr. MARSHALL, of Kentucky. I will.

Mr. SICKLES. I desire to inquire whether it

was not a part of the platform of the American party to disfranchise foreign-born citizens from the right to hold office, and to deprive those citizens of the Catholic faith from the exercise of the same right? And I desire to say, in this connection, that when the American party, as a party, is held responsible for the scenes which have occurred in Louisville, Baltimore, and New Orleans, the charge is not made that gentlemen of character and standing in that party have conspired to produce or to incite these riots, or that they have taken a personal part in them. The charge is, that the initiation and advocacy of such ideas and such measures directly tend to produce these conflicts and scenes which have disgraced the country.

Mr. MARSHALL, of Kentucky. My friend from New York does no more, he will observe, than restate my colleague's proposition. It may be in a little more concise language, but it was exactly to that I was replying. We understand that we are not charged, personally, with any of these lamentable occurrences. We know that gentlemen are aware that neither the gentleman from Maryland, [Mr. HARRIS,] nor the gentleman from Louisiana, [Mr. EUSTIS,] nor myself, was present at or instigated the riots to which reference has been made. But it is said that these things flow from our political philosophy.

I was just attempting to show that the combination formed by Americans was a combination of resistance to aggressions upon our rights and our Constitution by improper foreign combinations, or combinations of crude foreign political philosophers. When we found that persons in this country, who had acquired, under our laws, the status of adopted fellow-citizens, had neither forgotten their foreign association nor the political philosophy which prevailed in their fatherland, yet who evinced a determination to apply these predilections to our own system, then the American bosom burned with a desire to unite, under our own flag, and under our own philosophy, and to maintain them intact in our midst. We saw hordes of foreigners coming upon us at the rate of four hundred thousand a year, bringing with them all their various nationalities, and indicating all the partialities that were natural enough in their fatherland. We regarded this as *our land*, and we could not fail to see it was likely to become the camping ground of the nations. We determined that here we would display the banner of our own country, and that we would gather around it; we said to each other it was time to stand by the doctrines of the American Republic as they had been given to us by the sages of the constitutional era. This, sir, was the honest and patriotic desire in which Americanism originated in this country. It had no other source.

But, it is said, we persecute a man on account of his place of birth. I deny that there ever was in the tenets of my party any proscription of men on account of the place of their birth. I deny that any combination, which shall be made by American citizens to maintain one class of persons for political office in preference to another class, can ever, in any proper sense of the term, be called proscription. Gentleman upon that side of the House tell me that they would never vote for me. Why? Because I am an American. They would require me to subscribe to all the chameleon changes of the Democratic faith before I could command their suffrages. I said that I should prefer native-born to naturalized citizens wherever the two were up for office, under the then existing state of things. My pledge was made to the native-born in view of the fact that those very adopted citizens had combined among themselves to force upon my country the dogmas of a foreign school of politics. Have I not the same political right to combine with my fellow-citizens to resist them, that the Democrat has to resist the accession to power, in this country, of Whigs or Americans or Republicans? The argument is the same in both cases; and it is but my political right of preference between individuals or classes that I have agreed to exercise in behalf of the native, and then only as a preference, and not to a degree which seeks absolutely to ostracise any one.

Again, it is argued that Americanism proscribes a man on account of his religion, and that Americans are sworn not to vote for a man for office if he is a Roman Catholic. My reply is this: the great cardinal principle which is, in this regard,

the basis of the American party, is opposition to whatever would make a union of Church and State in this country. Our principle aims at this, and no more. They who established originally the platform of the party may have mistaken a case for a principle. It is probable, indeed I feel quite sure, there should have been a distinction drawn between the Papist and the Catholic. I understand that a portion of the Catholic Church holds the doctrine that the Pope—whether it springs from his spiritual power or his temporal power, or both combined—is, in the last resort, the ultimate judge, not only of moral right, but, under the moral law, of political right; and therefore possesses the power, in some way, to absolve the citizen from obedience to the law of the land or country to which he belongs, of which his Holiness may disapprove as an infraction of the Divine Law.

Mr. KELLY. I desire to ask the gentleman a question.

Mr. MARSHALL, of Kentucky. The gentleman can take an hour to reply to my speech.

Mr. KELLY. The gentleman asserts what is not a fact, and I desire—

Mr. MARSHALL, of Kentucky. I have found a great contrariety of opinions among Catholics upon this particular branch of my subject, and I do not expect that my friend from New York and I shall agree upon what are the facts in regard to it. The fact I state is, that the ultra-montane branch of his Church is understood to hold the doctrine that in the last resort the head of the Church has the moral right to determine what is right and what is not right.

Mr. KELLY. I deny that they hold any such doctrine, and the gentleman states what is not true.

Mr. MARSHALL, of Kentucky. Well, I must say that the gentleman puts his remarks in a very blunt form.

Mr. KELLY. I say that the statement is not true.

Mr. MARSHALL, of Kentucky. Why, surely one branch of the Church holds that doctrine.

Mr. KELLY. I say there is no branch in this country that holds that doctrine; and the gentleman has never seen one that advocates that doctrine.

Mr. MARSHALL, of Kentucky. I tell the gentleman from New York that the doctrine I have asserted is maintained, as I understand it, by the whole ultra-montane branch of his Church; and if I had the time to go into the discussion, I should expect to prove my assertion from the Review by Brownson, and by other Catholic writers in this country. But the gentleman says I have never seen a Catholic of that class. I have never seen a Catholic who did not attempt to get off upon that very branch of the proposition. I have seen very few who, when the question was argued, did not confess to the very distinction I take.

But, sir, the American party intended to assert the principle that no union in this country shall exist between Church and State. That is our principle. As I before observed, I am free to say that the men who first laid down the platform of the American party mistook the case, probably, for the principle, and they would have done better to have asserted the principle only, and have left the Papist to make his war upon it—which I do not doubt he would have done.

But, sir, why talk we to-day about secret combinations, about oaths and grips and degrees? These are the mere *formula* which once were used by my party. My colleague knows well these *formula* have long since been dispensed with, and for a year or more there have been, in the American party of the country, no secrets, no mysteries, no degrees, no rituals, no close councils, but only clubs, such as have been constantly formed by the Democratic party and every other party. Whoever sympathizes with us in our sentiments, our purposes, and our views, stands of our party, and is in as open a party as either the Democratic or Republican party. The American party long since cast off all these forms and has long since displayed its principles, purposes, and aims. We invite those who oppose us to discuss the broad platform of our political principles. We claim exactly the privilege of the gardener, who, as his plant grows, clips off here, and cuts off there, a branch which may have taken a false direction, until he presents it to the world as a comely,

stately, and well-proportioned tree. We have had to prune, and we have done it. We yet hope to build up an American party, believing that there is American sentiment enough in the country to sustain the effort.

A main object in the commencement of the American organization was the cultivation of a spirit of American nationality, of love for our own native land, of love for our institutions as derived from the Constitution. We will carry our plan further. We aim at protection to American labor; protection to American industry; the enlargement of the sphere of American commerce; the increase of American efficiency abroad, by administrative conduct at home upon the broad political principles which constitute the basis of our philosophy. We hope yet to bring within the fold of our party every well-wisher of his country, without regard to former political combinations. Such has been and is our design. This miserable agitation about slavery entered our councils as it entered the councils of both the Democratic and Whig parties. We split to pieces upon that rock in 1854 and 1855. Whether we shall ever recover from it is a problem for the future. A great many members of the Democratic party—as they have done upon other signal occasions—came into the American party, but afterwards left it. A Democrat gravitates towards that party, no matter where it goes, and seems to be satisfied, no matter what it does. I freely acknowledge that I was sorry they left us; but their departure left no doubt as to the correctness of American principles, or the necessity for their application.

Sir, those principles which I do to live by, to stand by, and they will do to die by in this country.

Mr. CRAWFORD. I believe that; for the party has taken its departure from this life already. [Laughter.]

Mr. MARSHALL, of Kentucky. Let the gentleman not lay that flattering unction to his soul. Many a gentleman on that side of the Chamber now congratulates himself in a seat on this floor who yet feels in his heart of hearts that the minority that he overcame consists of staunch and true and firm Americans, who will buckle on their armor for the next contest, and at all times hereafter, as they did heretofore. A million of Americans appeared, under most adverse circumstances, in the last presidential election. They will be found hereafter standing by those same principles; and, my word for it, they will refuse all combinations that propose to falsify them, or to abate one jot or tittle of their strength and patriotic purpose. For one, I expect to stand by those principles now, and at all times hereafter. I expect that the men who voted for Millard Fillmore in the last presidential election will stand by them; that they will guard them jealously, and will preserve them reverently, and will fight for them in the future as in the past, only with greater zeal and with renewed and redoubled exertions. The American party dead! Why, sir, although it may come out of the errors of administration, although it may be a result of wanton expenditures, or of unequal action in guarding the rights of American citizens abroad, or it may spring from a sense upon the part of the people of this country that the Administration must be committed to hands that will protect American citizens abroad and at home, we hope that, in the progress of years, this nucleus of a million of voting Americans will gather strength until it shall spread into a tree that will overshadow this American land, and under which our people will live through a future of bright prosperity.

Mr. BARKSDALE. Does the gentleman allude to the murder of Colonel Crittenden and his friends when he speaks of American citizens not being protected?

Mr. MARSHALL, of Kentucky. No, sir; no, sir. I did not think of that.

Mr. BARKSDALE. I supposed you did.

Mr. MARSHALL, of Kentucky. No; it was not on my mind. If I had time I would tell you what I was thinking of. I would point you to nearly every nation in the world with whom we have relations, treating us with a contempt we little deserve, and should no longer calmly brook. I would take you to the western coast of Mexico, where your consuls are kicked about, and your citizens imprisoned; or to the Gulf stream, where your merchant shipping is fired upon weekly by a supercilious rival with impunity; or I would

carry you even to China, where the pagan tramples your starry flag under foot, and tears it into shreds before the eyes of your consul, and burns the property of your citizens or confiscates it to his own uses. I would carry you to Holland, where your *chargé d'affaires* points to the dictionary for the Dutch minister to find the signification of an English word he will not pronounce, but is ordered to write, to sustain a reclamation which was made absolute by an American Administration, yet has been, so far, treated with contempt. I would point to Spain, with whom not one case has ever been brought to a settlement, notwithstanding the Ostend manifesto and the Cincinnati platform. I would bid you listen to the cry borne on every breeze from American citizens in every part of the globe, asking this Government for protection in their lawful pursuits; and then I would remind you that this has been delayed, under one excuse or another, by our politicians, until every intelligent man who has been abroad laughs derisively at the idea that the flag of the United States is a safe shelter either from insult or outrage.

Believe me, sir, this picture is not overdrawn. Our tendencies are not to the zenith, but to the nadir of national efficiency and vigor, and the voice which I utter will find an affirmative response from every American who has visited other countries, and knows the reputation we are acquiring, not in our own estimation, but in that of foreign nations. This thing ought to be rectified. It must be rectified. Sooner or later it will be rectified; for sooner or later the people of the country will wake up to the fact that if you, gentlemen of the Democratic party, who have now the responsibilities of administration—the Executive, the Senate, and House in your hands—are not equal to the task, it will be the duty of the American people to commit their welfare and their destiny to American hands.

Mr. GOODE. Mr. Chairman—

Mr. BURNETT. I ask my colleague on the committee to yield to me for a few minutes only. My colleague from Kentucky has undertaken to give a history of the Louisville riots. I mean to go into the facts, and to give a correct history of them, according to my understanding.

Mr. WASHBURNE, of Illinois. I hope the committee will go on with the business before it.

Mr. BURNETT. I will not occupy more than ten minutes. I appeal to my colleague on the committee to yield me the floor, as an act of justice to me personally.

Mr. GOODE. I will; for five minutes only.

Mr. BURNETT. Well; I will take five minutes.

Mr. MORGAN. I object.

Mr. BURNETT. I hope gentlemen on the other side will permit me to be heard, for I assure them I have no purpose except that the truth of history may be vindicated.

Mr. MORGAN. The gentleman has had his hour, more or less. I object to it positively.

Mr. BURNETT. I am entitled to the floor.

The CHAIRMAN. The gentleman from Virginia [Mr. GOODE] is entitled to the floor for one hour, if he chooses to occupy it; and he yields to the gentleman from Kentucky, [Mr. BURNETT,] who now occupies it.

Mr. BURNETT. I want the attention of the committee for a few moments.

Mr. MORGAN. I want to know when the gentleman's [Mr. GOODE's] hour commenced?

The CHAIRMAN. The time occupied by both gentlemen from Kentucky comes out of the time to which he was entitled.

Mr. GOODE. How long have I now?

The CHAIRMAN. Twenty-three minutes.

Mr. BURNETT. I now hope that gentlemen will allow me to proceed. I intend to go into the discussion of the facts. I do not controvert any statement that my colleague makes of his own knowledge; but I tell him, and I tell the committee, that the evidence is not as he has detailed it here to-day. My colleague says that the foreigners had banded together for the purpose of taking the polls in the city of Louisville. The mere statement of the fact that the American party had a majority of over two thousand votes in Louisville, is a sufficient refutation of the idea that a minority would band together against such odds for the purpose of taking the polls.

Mr. MARSHALL, of Kentucky. The gen-

tleman's colleague says that he understands that the riots in the city of Louisville originated from the banding together of foreigners—not for the purpose of taking the polls.

Mr. BURNETT. I have stated the majority which the American party had in that city. I will now also state that they had control of every branch of the city government; and that the Democrats of the city of Louisville, one week prior to that election, implored the city authorities, by every consideration that should have moved men, to take measures for the maintenance of order on the day of election. If the Democratic citizens of Louisville had been permitted to exercise their rights of suffrage, my colleague would not have come to this House with anything like the majority he had. I speak from the testimony of gentlemen of as high respectability as any in the city of Louisville; and I have their testimony as published.

I refer to the testimony of such men as the Hon. James Speed, Mayor of the city; Hon. George A. Caldwell, formerly a member of this House; F. S. J. Ronald, present postmaster of the city of Louisville; Hon. W. P. Thomasson, formerly a member of this House; Joseph B. Stewart, Esq., and fifty-two other sworn witnesses, citizens of Louisville of the highest respectability. I want my colleague to understand distinctly that every statement I make in connection with this riot is based upon the facts published at the time—the well-authenticated facts—verified by such high testimony as I have alluded to.

Now, let me call the attention of the committee to another fact. My colleague says that men were collected in houses with muskets in their hands. I deny the truth of that statement, and I deny that there is proof of any such fact.

Mr. MARSHALL, of Kentucky. Does my colleague mean to say that there was no evidence to that point?

Mr. BURNETT. I will try and make myself intelligible. The witnesses to whom I have alluded—among them the former sheriff of Louisville, now the postmaster of that city—have published the facts over their signatures. As to the burning of Quinn's row, my colleague says there were arms there. What does the evidence show? I tell you, gentlemen, that if the history of that 6th day of August in the city of Louisville were written, it would constitute such a record as ought to provoke the special judgment of Heaven upon it, as in the case of Sodom and Gomorrah.

There were two Irishmen walking along the street. They had to cross Main street. There they met a band marching under what they called the American flag, with the inscription upon it of "Americans shall rule America." The cry was immediately raised by this band of murderers and assassins, "Move them! move them!" These two men, seeing the danger, fled, and were pursued by this gang of ruffians. One of the men reached the house in Quinn's row, and sought shelter in it, when the doors were shut against his pursuers. The murderers burst the doors open. They went into the house, and, as the proof shows, after pillaging it in some instances, they took men who had remained at home the whole day for fear of violence, and who had not attempted to vote, and, with their wives and children imploring for them the pity of their assassins, they tore them from their families, murdered some of them in the house, and permitted others to escape, that they might be shot down as they ran off. Not only men were murdered, but the proof shows that women and children were lost by reason of the burning of the houses; for let it be recollected that after the assassins had looted their thirst for blood, they applied the torch of the incendiary to the houses, and destroyed them by fire. The old man (Quinn) who owned the houses had, on account of fear, kept away from the polls, and concealed himself in the third story of one of them, with the hope that there he would be free from the scent of the blood-thirsty villains who gratified their brutal taste on that day by the murder of innocent victims. As the pursuers of the men who escaped for shelter to his row came upon his premises he attempted to escape, and was handed a frock to disguise himself as a woman. Thus disguised, he fled from his house; but the character of a woman was not respected by the fiends—it mattered not to them what sex fell by their brutal hands—and they murdered him

as he fled. This is a correct history of the burning of Quinn's row.

My colleague says that these houses of the old man Quinn were a perfect magazine. He is mistaken. THE PROOF SHOWS NO SUCH FACT. When the ruins of the burnt district were examined, it is true that the remains of some old muskets were found. But the evidence shows conclusively that they were not loaded, and that they were not in a condition to be used, even if it had been desired, for the purposes of warfare.

Mr. Chairman, I will now state another fact in connection with this old man Quinn, which will show his peaceable and inoffensive disposition. But a short time before he was murdered, and his property destroyed, a gang of these Know Nothing fiends had stoned his house, broken in his windows, and filled the whole neighborhood with terror. He, being a peaceable and quiet citizen, appealed to the Mayor of the city to protect him against such outrages. The prayer of the old man was disregarded, and the sequel is a bloody commentary upon the criminal negligence which has characterized the Know Nothing officials every where, in refusing the means to protect the public peace when aggressions upon it by the ruffians connected with their own party were calculated to promote their success.

My colleague speaks of explosions. There were none except of the guns in the hands of these outlaws, who were shooting down quiet and inoffensive citizens.

Strange, Mr. Chairman, if these riots were produced by the "combination of foreigners," as stated by my colleague, that but one Know Nothing was killed on that day, and he by his own friends, who accidentally killed him by mistake. I referred to the two men who were crossing Main street, one of whom fled into Quinn's row. The other fled in an opposite direction, and was pursued. He made his escape through a store. One of these assassins followed him into the house, and in coming out was mistaken for the Irishman, and was killed. This was the only member of the American party who was killed.

I will not detain the committee with a detailed statement of all the outrages and murders which were committed on that day. It would require more than an hour to do so. If my colleague wants the facts, I will furnish him the testimony which I have here, and which I would read if I had time.

Mr. Chairman, the Know Nothing police of Louisville on that day made no effort to check the riots. They arrested none of their own partisan friends, who had commenced them. The surviving victims of the fiendish assailants were the peculiar objects of their official vigilance. They seized one man, nearly dead, and were carrying him to jail. He could not walk, and had to be lifted by the police. In this condition he was followed, whilst in the hands of the police, by a gang of outlaws, one of whom kept sticking him with a pitch-fork, to make the feeble man, to use his own terms, "walk."

Mr. Chairman, to show that there could not have been any "foreign combination" to incite these riots, I will state that at the election in the May previous, at which clerks, sheriffs, &c., were elected, the adopted citizens were then driven from the polls. This intimidated them from attempting to vote at the election subsequently, and they declared that they would not vote in the succeeding election unless they could have the assurance of protection from the city authorities. This determination was represented by the Democratic party to the Know Nothing officials, and urged upon them as a reason why they should take some steps to secure a fair election; but a deaf ear was turned to their entreaties, and the riots followed.

The Louisville Journal gave public notice of these intended riots. When George D. Prentice goes to the courts above he will have to bear his proportion of the blood shed in Louisville on that 6th day of August. Some days before, he published an editorial of the most incendiary character, in which he clearly and fully foreshadowed the scenes that followed on that 6th day of August. He stated that Americans must vote, but that foreigners would have to be very careful not to jostle the elbows or tread on the toes of Americans, or words to that effect. I have not the paper; but the article was of a most incendiary character.

Mr. Caldwell says he went to the polls on the morning of the 6th of August, before breakfast; that he voted; that a peaceable, quiet, and inoffensive German citizen, who had lived in Louisville for a number of years, came to the polls with a Democratic ticket in his hand, when there was immediately raised the cry of "move him!" "move him!" They drove him into the courthouse. He was compelled to make his escape from that place—fled for his life—was overtaken, and brutally beaten.

Mr. Chairman, I do not intend to go any further into the history of these riots. It is a record of horror, to which, as a Kentuckian, I refer with regret. It has cast a blot upon the history of Louisville which time can never efface. It has done more to check her prosperity and growth than any conceivable calamity which could have befallen her. Before the introduction of Know Nothingism within her limits she was marching, with rapid strides, on the high road to prosperity. She is now, with the incubus which its fruits has imposed upon her, struggling to regain the ground which she has, on account of it, lost. Many years of time she will require to recover that which she once had, but has now lost, by the curse which the initiation of this party visited upon her.

Mr. Chairman, I stated, in the offset of this discussion, that it was not my intention to go into the question as to what party was responsible for these riots. My colleague, by his statement of their history, forced a truthful investigation of them upon me. I have given the history, so far as I could, within the short time allotted to me. I will now say to my colleague that, whenever he may desire to go into an investigation, to ascertain the proper responsibility for these riots, I am ready to meet him.

Mr. WASHBURN, of Illinois. I rise to a question of order. The House, in committee, is acting under a special order upon the District of Columbia. Now my point of order is that this debate is not pertinent to the bill under consideration, and therefore not in order.

Several MEMBERS. Too late for that now.

Mr. GOODE. I move that the committee rise for the purpose of going into the House to close debate upon this bill.

The motion was agreed to.

So the Committee rose; and the Speaker having resumed the chair, the chairman (Mr. HOPKINS) reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly Senate bill (No. 99) to amend the "Act to incorporate the Columbia Institution for the instruction of the Deaf and Dumb and the Blind," approved February 16, 1857, and had instructed him to report the same back to the House with the recommendation that it do not pass.

Also, that the committee had had under consideration the bill of the House (No. 248) to regulate the municipal elections in the city of Washington, and had come to no resolution thereon.

Mr. GOODE. The bill which has been reported back from the Committee of the Whole on the state of the Union is for making the blind see and making the deaf hear melody. I hope it will be the pleasure of the House to put it upon its passage, and I move the previous question.

The previous question was seconded, and the main question ordered to be put.

The bill was then ordered to a third reading, and was accordingly read the third time, and passed.

Mr. GOODE moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ELECTION BILL—CLOSE OF DEBATE.

Mr. GOODE. I now move that the usual resolution to close debate in Committee of the Whole on the state of the Union upon House bill (No. 243) to regulate the municipal elections in the city of Washington, in five minutes after the committee shall have resumed the consideration of the same.

The resolution was adopted.

Mr. GOODE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

LANDS OF THE CHRISTIAN INDIANS.

A message was received from the Senate by ASBURY DICKINS, their Secretary, requesting the House to return to the Senate the bill (S. No. 323) to confirm the title of the reservation held by the Christian Indians, and to provide a permanent home for said Indians.

Mr. SMITH, of Virginia. I move that the bill be returned to the Senate.

The motion was agreed to.

Mr. SMITH, of Virginia. I understand this bill has been referred to a committee. I suppose it will be reported back without further action.

The SPEAKER. The Chair supposes it will be the duty of the committee to return the bill.

Mr. GREEN WOOD. The Committee on Indian Affairs instructed me this morning to report the bill back to the House, and I shall hand it over to the Clerk of the House to be returned to the Senate.

DISTRICT BUSINESS.

Mr. GOODE moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HOPKINS in the chair,) and resumed the consideration of the

WASHINGTON MUNICIPAL ELECTION BILL.

Mr. GOODE. I will not detain the House with any speech. I desire to get along with the business.

Mr. MORRIS, of Pennsylvania. There was something which fell from the gentleman from Kentucky, [Mr. BURNETT,] and, as I am a member of the American party, I propose to answer it—

Mr. WASHBURN, of Illinois. I insist on the point of order, that the gentleman's remarks are not germane to this bill.

The CHAIRMAN. The Chair thinks that the remarks are not in order. It is in order to refer to a riot which may have resulted from former laws, but it is not in order to go into the organization of parties. Nor do the persons who participated and were killed or wounded in a riot form a proper subject of debate on this bill.

The question was taken on the amendment of Mr. DAVIS, of Maryland, to the amendment of Mr. MARSHALL, of Kentucky, requiring a residence of two years after naturalization, and it was rejected.

The question occurred on the amendment of Mr. MARSHALL, of Kentucky, requiring one year's residence after naturalization.

Mr. BINGHAM. I offer an amendment.

The CHAIRMAN. Does the gentleman propose to amend what is proposed to be stricken out?

Mr. BINGHAM. I do not.

The CHAIRMAN. Then the question will be first taken on the amendment of the gentleman from Kentucky.

The question was taken on Mr. MARSHALL's amendment; and it was rejected.

Mr. BINGHAM. I submit the following amendment:

Add at the end of first section:

Provided further, That any citizen of the United States resident within said District for temporary purposes only, or who shall have the intention to remove from said District when he shall have performed any temporary engagement within said District, or upon the termination of such engagement, or shall have voted within one year next preceding any election in said District, at which such resident offers to vote, in any other Territory or State, shall not be deemed a resident citizen within the meaning of this act: And provided further, That upon the challenge of any citizen of said District, any person offering to vote at any election therein, shall be required to answer upon oath, to be administered by one of the commissioners of said election, whether such challenged person is residing in said District for temporary purposes, whether such person intends to remove from said District when any engagement of such person so challenged shall have been determined or performed, and whether such challenged person has, within one year next preceding such challenge, voted at any election in any other Territory or State; and, if any person shall knowingly swear falsely in the premises, he shall, upon indictment and conviction thereof, before any court competent to try the same, be adjudged guilty of wilful and corrupt perjury, and be punished accordingly.

Mr. REAGAN. I have an amendment which comes in before that.

The CHAIRMAN. The Chair would suggest

to the gentleman from Texas that his amendment will be in order after this is disposed of.

Mr. BINGHAM. This amendment, as the committee will observe, makes no distinction between a native and naturalized citizen, and is, therefore, not subject to the objection which was urged in reference to the amendment to the first section offered by the gentleman from Kentucky. My amendment treats all citizens alike. The object of the amendment is to guard the polls in this District against the fraudulent votes of those who are here only for temporary purposes, and at the time are resident citizens of other States or Territories. The amendment, as the committee will also observe, excludes from the privilege of voting at any election within this District, all persons who are resident here, but who have, within one year next preceding the election, voted in any other Territory or State. I submit that it is a provision well calculated to guard and protect the elections in this District, irrespective of party; and, so far as it may accomplish that end, it will save the city from those disreputable riots which have heretofore disgraced the city, and which, in my judgment, have resulted more from attempts to cast fraudulent and illegal votes than from any other cause whatever. At all events, whether it will have the beneficial effect of preventing violence or not, one thing is certain and clear: that, if carried out faithfully and honestly, it will guard the people here against illegal and spurious votes.

Mr. Chairman, there is another point to which I wish to call the attention of the committee. This amendment does not leave the guardianship of the ballot-box exclusively to the commissioners of election, to whatever party they may belong, but confers upon the bona fide citizens of the District, irrespective of his political opinions, the right to challenge any man who offers to vote, and who, at the time, is believed not to be a bona fide resident of the District.

I think that the amendment ought to be adopted, for the reason that it excludes that class of persons who are here for temporary purposes, and have the intention to leave as soon as these purposes are determined, whether it be one year, or two, or five years, and who, at the time, are resident citizens of another Territory or State. Absence from a State, for temporary purposes only, does not deprive a citizen of his right to vote upon his return. I am sure that that is the law of my own State, and I do not hesitate to say that it is the law of every State of the Union. For example: if a citizen of Ohio, now domiciled in Ohio, comes here and undertakes any temporary engagement, to continue for three or five years, with the intention to return to that State when that engagement shall be determined, during its progress he can go to Ohio and vote, even though he may have been continuously absent from that State, and temporarily resident here, for more than one year. I doubt not they have the same law in Virginia and Maryland, the States adjoining this District. The object I had in view in framing this amendment was to meet the objection which the gentleman from Maryland [Mr. DAVIS] so eloquently urged here, at such great length, and with such great force, against what he supposed would be the legal effect of the bill as it stood, in allowing mere temporary residents to vote down the permanent, bona fide citizens of the District, and control the election. I trust, sir, the amendment will meet the approbation of the committee, and will be incorporated in the bill.

Mr. GOODE. I must express the hope that the House will disregard the amendment, and reject it. It is not to be expected that any person having the authority to decide, will decide that a man may vote in the District of Columbia upon a residence mala fide obtained. Who come here expecting to return to their native State? None of the clerks in the city of Washington come here expecting to go back to their former homes. They come here expecting to make this their permanent home, so long as they can get a position which will enable them to live; and when they change their residence, they are just as likely to go to the western world as to their original homes. To exclude these men who abandon their former homes, would be like excluding from the right of suffrage every man in any State who should move from one county to another in the same State, or who has not a permanent interest in the soil.

The argument of the gentleman from Maryland

went to the extent that none but holders of real estate could be regarded as permanent citizens of the District of Columbia; because his argument excludes even all those who have personal estate to a large amount. A man might have \$30,000 worth of property in his house, and pay taxes upon it all, and yet, by the gentleman's argument, be excluded because that property is personal. If you intend to do justice between man and man, and that a man shall come here and exercise a just influence in the community in which he has fixed his residence, and where he intends to live as long as he has the means of living, you will allow the clerks to vote, because they are just as permanent as any other citizens in this District, except the holders of real estate; and I presume no part of the House will insist that the right to vote shall be confined to the holders of real estate. Such, I admit, was once the law of Virginia, but it has been condemned by the good sense of the country, and the country has adopted residence as the evidence of a common interest in the community in which persons live, and have dispensed with the evidence of holding real estate, as a qualification for a voter.

The question was taken on the amendment of Mr. BINGHAM; and it was not agreed to.

Mr. REAGAN. I move to amend the first section by striking out in lines nine and ten the words, "vagrants, paupers, felons, and persons non compos mentis excepted;" and insert, in lieu thereof, the words:

Persons who may have been declared vagrants and paupers by the proper authorities, and those who may have been so convicted of felonies, and persons non compos mentis excepted.

By the terms of this bill every white male resident of the city, of twenty-one years of age, &c., vagrants, paupers, felons, and persons non compos mentis excepted, is allowed to vote. The object of my amendment is to disembarass the duties of the judges or inspectors of elections. The terms of the bill, as it now stands, may lead the managers of elections to conclude that they are to be the judges, upon facts presented to them at the time of the election, as to who are vagrants, paupers, felons, &c. Such a course might lead to very great delay. If an individual were challenged at the polls on being incompetent to vote, because he was a vagrant, pauper, or felon; if there was no separate tribunal to take cognizance of that question, the managers of the election would necessarily have to suspend the election until they could adjudicate and pass in a hurried, ex parte manner, upon the fact. If my amendment is adopted, instead of embarrassing the managers of the election with determining the question, the matter will be devolved upon a separate tribunal. It designates a class of persons upon whom the managers may pass judgment immediately—persons who have been declared paupers, &c., by authorities who have the power to pass upon that question. That will disembarass the managers on the day of election, and leave them free to proceed with the election.

Mr. GOODE. I suppose no person will be held to be a felon until he has been convicted of felony, or to be non compos mentis until a commission has so pronounced; and as to paupers and vagrants, it is to be presumed that they are in the poor-house.

Mr. SMITH, of Virginia. I propose to offer an amendment, to insert, after the word "years," in the ninth line, the words "not exercising or claiming the right of suffrage elsewhere," so that it will read: "from and after the passage of this act, every free white male resident of the city of Washington, of the age of twenty-one years, not exercising or claiming the right of suffrage elsewhere," &c.

Mr. GOODE. I would accept that if I had the power.

Mr. DAVIS, of Mississippi. I hope, sir, the amendment of the gentleman from Virginia will not be adopted by the committee. I think it violates rights of citizens of this country in this: there is a compound relation upon the citizens of this country—one to the Federal Government, the other to the State government. This District being the property of the Government, and its actual existence, when we come into it we should be entitled to all the rights of other citizens of the United States—whilst here the obligations are to the Federal Government, and the protection should

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come from her; when the citizen is in the State of his domicile, the relation is due immediately to the State. Then the illustration of citizens of State and State is not in point. If, then, I am by the laws of the Federal Government compelled to pay a tax here, I should instantly be allowed to enjoy the elective franchise; and residence is not requisite, and should not determine my right to vote. I am sure, even, I may be a citizen of the United States, having a domicile in one of the States, and if I have resided as a citizen in one of the States of this Union for twenty years, I have been during that time a citizen of the United States, though not of each one of the States. If, then, I am brought to Washington in the performance of public duties, intending to return to my domicile in the State of my residence, if I am taxed here, I should be allowed to vote, because I am a resident citizen of the United States of as long duration as my residence in the State. Take the President. He comes here in the performance of public duties, and has only lost temporarily his State residence, but has in no wise affected his status to the General Government; and if taxed should be allowed to vote.

Mr. READY. That is all true; but I want to know what taxes he has to pay here?

Mr. DAVIS, of Mississippi. I do not know that he pays any. I took him as an illustration. If, however, he is required to pay a tax under the corporate law, he should be allowed to vote, although a citizen of Pennsylvania. When he votes in Pennsylvania, he votes in his State capacity; now he votes in his Federal character.

The amendment proposed by Mr. SMITH, of Virginia, was agreed to.

Mr. COLFAX. I move to strike out the proviso to the first section of the bill, which is as follows:

Provided, That in all cases where the person so otherwise entitled and offering to vote shall not have been resident of the particular ward in which he is resident bona fide upon the day of election for the space of one month immediately previous thereto, then such person shall be entitled to vote in the ward in which he last previously resided.

I think that proviso initiates a new policy, which is unwise. The object of all our election laws which require a residence for a certain length of time in the ward or county in which he offers to vote, is to foster and promote permanency of residence. I do not know how it may be in the States adjacent to this District; but I know that in the northwestern States—with which I am more familiar—if a person leaves one county and goes to another, and has not obtained a residence in the county to which he has removed, he cannot go back to his original county and vote at the election; and it is not wise, after a man has removed from one ward to another, that he should be allowed to go back and vote in his original ward for Mayor, aldermen, school officers, assessors, and all the officers, not only of the city, but of that ward in which he has no residence or interest. I hope the proviso will be stricken out.

Mr. GOODE. I only want the House to understand what will be the effect of the amendment before they undertake to pass upon it. According to this bill, if a man removes from one ward to another, he must reside in the new ward thirty days before he is allowed to vote. He cannot acquire the right to vote in the new ward without a thirty days' residence. By the amendment he would forfeit his right to vote in the ward from whence he came, and though he may have performed his duties faithfully as a citizen, though he may have paid his capitation tax for the support of schools, though he may have paid his tax upon his personal property in accordance with the provisions of law, though he may have done every duty which any voter could perform, yet he is deprived of the right of suffrage, because he has removed into another ward and has not resided there for thirty days prior to the election.

Mr. COLFAX. I ask the gentleman from Virginia whether it is fair that a man who has left the ward in which he has resided, and who does not intend to return there within the year following should have the right to vote, for instance, for

alderman for that ward, when he is to have no interest in the representation whatever?

Mr. HILL. I move to amend the amendment of the gentleman from Indiana, so that the latter clause of the section shall read:

And that from and after the passage of this act every free white male resident of the city of Washington, of the age of twenty-one years, (vagrants, paupers, felons, and persons *non compos mentis* excepted.) who shall have resided in the city one year immediately preceding the day of election, and who shall be a citizen of the United States at the time he offers to vote, and shall have paid the school tax and all taxes on personal property due from him, shall be entitled to vote in the ward of which he shall be on the day of election, and shall have been for thirty days preceding a *bona fide* resident, for Mayor, members of the Board of Aldermen, and Common Council, register, collector, surveyor, assessors, and such other officers as may hereafter be made elective: *Provided, That in all cases where the person so otherwise entitled and offering to vote shall not have been resident of the particular ward in which he is resident bona fide upon the day of election for the space of one month immediately previous thereto, then such person shall be entitled to vote in the ward in which he last previously resided, for Mayor only.*

The Committee will readily perceive the effect of this amendment, and the analogy between the city and State elections, where persons removing from one county to another, are not, until they shall have resided there the required time, permitted to vote for members of the Legislature, but are permitted to vote for State officers. Here I propose that when a voter shall have removed from one ward to another, until the thirty days have expired, he shall not be allowed to vote for alderman, but that he shall be allowed to vote for Mayor of the city.

Mr. COLFAX. I accept the amendment of the gentleman from Georgia. There is a fitness in allowing men under such circumstances to vote for Mayor; but there is not in allowing them to vote for aldermen.

The CHAIRMAN. The motion of the gentleman from Indiana, was to strike out the proviso; and that of the gentleman from Georgia to perfect it. Unless the gentleman from Indiana prefers to accept the amendment of the gentleman from Georgia, the question will first be upon the proposition to amend, and then upon the motion to strike out.

Mr. COLFAX. Let separate votes be taken.

Mr. MORSE, of Maine. I wish to ask the chairman of the Committee for the District of Columbia, [Mr. GOODE,] whether, when a voter removes from one ward to another, there is not some law or regulation now in force in the District by which he can secure his right to vote in the ward where he resides.

Mr. GOODE. The regulations under the present law are very much the same as—I believe precisely identical with—those in this bill.

Mr. MORSE, of Maine. I do not understand all the laws regulating the rights of voters in this city, and do not understand the object of sending voters back to their old places of residence until they have resided thirty days in the ward to which they last removed. In the eastern cities a man is never a voter in a ward where he has no residence, and never ought to be one. On removal from one ward to another, he at once, by certificate, or in some other form, establishes his right to vote in the ward to which he has removed.

Mr. GOODE. I rise to a question of order. The debate has exhausted itself upon this amendment; and I ask that the vote be taken upon it.

Mr. MORSE, of Maine. I am opposing the amendment.

Mr. GOODE. I thought the gentleman was arguing in favor of the amendment.

Mr. MORSE, of Maine. I rose for the purpose of trying to draw some information from the committee which reported this bill on the subject to which it relates. The committee will judge with what success, with the light before us. I am in favor of the amendment and hope it will be adopted.

Mr. GOODE. The gentleman purported to be speaking in opposition to the amendment and now he says he is in favor of it.

The CHAIRMAN. Debate is not in order.

Mr. PHILLIPS. As the committee is not likely to adopt any amendment to the bill, and as they are consuming a good deal of time upon it, I move to strike out the enacting clause.

Mr. GROW. I rise to a question of order.

Mr. JONES, of Tennessee. I ask that the resolution which was adopted by the House, closing debate upon this bill, be read. It requires the committee to vote upon all amendments pending, or which may be offered to the bill before it is reported to the House.

Mr. COLFAX. There is another point of order which I wish to make on the motion of the gentleman from Pennsylvania, which is, that the vote must be first taken upon my amendment.

The CHAIRMAN. Under the 119th rule, a motion to strike out the enacting clause takes precedence of a motion to amend.

Mr. JONES, of Tennessee. Let the resolution for terminating debate be read.

The CHAIRMAN. The resolution is in the usual form.

Mr. GROW. I call for the reading of the 136th rule.

Mr. PHILLIPS. My object in making the motion was to save time; but, as I am not likely to accomplish the object by these means, I withdraw the motion.

The question being upon Mr. COLFAX's amendment,

Mr. BURNETT called for tellers.

Tellers were ordered; and Messrs. BURNETT and BUFFINTON were appointed.

The committee divided; and the tellers reported—ayes 60, noes 62.

So the amendment was rejected.

Mr. SEWARD. I move to strike out the second section of the bill, which reads as follows:

SEC. 2. And be it further enacted, That no person shall be allowed to vote at any election as aforesaid unless he shall have been returned on the books of the corporation of said city as subject to a school tax; and it shall be the duty of the register of said city, in addition to the names of persons so returned by the assessors of said city, upon satisfactory proof under oath, to be administered by some justice of the peace of the county of Washington, that the name of any such person has been accidentally or willfully omitted from said books, to place the same thereon at any time after he shall have received said books from the assessors, up to ten days before the said election; and in case any such person shall be absent from the city at said time, or under twenty-one years of age, and his name in consequence thereof be omitted from said books, then upon his return, or becoming of age, at any time after the day of registration, and before the day of said election, and upon satisfactory proof thereof made as aforesaid, the said register shall place the name of such person so returning on said books. And if any person shall knowingly swear falsely in the premises, he shall, upon indictment and conviction thereof before any court competent to try the same, be adjudged guilty of willful and corrupt perjury, and punished accordingly.

Mr. Chairman, taxation and representation should invariably go together. A dollar school tax upon a laborer who has no children, and can derive no advantage from the system which he is called upon to support, is oppressive; and no man's right of suffrage should be made dependent on the payment of such tax.

Mr. WINSLOW. I move to strike out the enacting clause of the bill.

Mr. SEWARD. I want a vote on my amendment.

The CHAIRMAN. The gentleman will see by the 119th rule that it is provided that a motion to strike out the enacting words of a bill shall have precedence of a motion to amend; and if carried shall be considered equivalent to its rejection. Therefore, the motion to strike out the enacting clause, will take precedence of the gentleman's motion.

Mr. JONES, of Tennessee. Does the Chair entertain the motion to strike out the enacting clause of the bill?

The CHAIRMAN. He does.

Mr. GOODE. Does the gentleman appeal?

Mr. JONES, of Tennessee. The gentleman does appeal.

Mr. GOODE. The gentleman may appeal.

[Laughter.]

Mr. JONES, of Tennessee. And I intend to do it. The motion is in direct conflict with the

resolution passed closing debate on this bill. I demand tellers on the appeal.

Tellers were not ordered.
Mr. SEWARD. I move that the committee rise.

The question was taken; and the motion was not agreed to.

The question then recurred on the question, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was taken; and it was decided in the affirmative; there being, on a division—ayes 92, noes 26.

The motion to strike out the enacting clause was agreed to; and the bill was laid aside to be reported to the House.

LITTLE FALLS BRIDGE.

The next bill on the Calendar was a bill (H. R. No. 274) to reimburse the corporation of Georgetown, in the District of Columbia, a sum of money advanced towards the construction of the Little Falls bridge.

Mr. JONES, of Tennessee. What was done with the preceding bill?

The CHAIRMAN. It was laid aside, to be reported to the House.

Mr. JONES, of Tennessee. What right have the committee to do that, when, by striking out the enacting clause, the bill was rejected?

Mr. HILL. I move that the committee rise. The question was taken; and the motion was disagreed to.

The Clerk read the bill before the committee *in extenso*. It appropriates the sum of \$—— to repay the corporation of Georgetown, in the District of Columbia, all moneys heretofore advanced by the said corporation for and towards the construction of the bridge over the Potomac, at the point known as the Little Falls. And the said corporation of Georgetown, by accepting the provisions of this act, shall waive and surrender all further claim or demand on the Government of the United States, founded on any advancement of money or other thing towards the object herein specified to any other purpose whatsoever. This act to commence and be in force from and after its passage.

The report states that in March, 1853, \$30,000 was appropriated by Congress for the construction of a bridge over the Potomac river, at a point known as the Little Falls, and the work was placed in process of construction, under the direction of George Thom, captain in corps of topographical engineers. In the fall of 1853, when the work had been prosecuted near to completion, the appropriation was found to be exhausted—the sum of \$30,000 having been expended—and it became necessary to suspend operations until other funds could be procured applicable to the object. It was supposed that several months must pass before an additional appropriation could be expected from Congress; and the abandonment of the work, in an unfinished condition, at the approach of winter, must expose it to serious injury, while its suspension would involve a necessity for a sale of the stock on hand, by which the Government would suffer a heavy loss. To avoid these evils, the officer in charge, on consultation with the Secretary of the Interior, applied to the corporate authorities of Georgetown to advance \$5,000, which would enable him to continue his operations, and carry forward the bridge to a condition in which it might be used for travel during the then following winter. This proposition was acceded to, and, by several acts of the corporation, the sum of \$5,800 was placed to the credit and subject to the order of Captain Thom, to be expended in the construction of the Little Falls bridge, his assurance being given, with the consent of the Secretary of the Interior, that the amount should be reimbursed to the corporation of Georgetown when the further appropriation should be made by Congress. It also appears that some lien on the stock on hand was executed in favor of the corporation of Georgetown, as a security for the reimbursement of the amount advanced; but it is believed that nothing was realized by the corporation from this lien, the entire stock having been applied to the uses of Government. In August, 1854, Congress appropriated a further sum of \$15,000 for completing the bridge; but a serious accident had befallen it, which created a necessity for the appropriation

of a large sum, and the corporation of Georgetown postponed its claim for immediate payment, unwilling to delay the completion of the work; accordingly, the sum of \$13,800, part of the appropriation of \$15,000, was applied towards the completion of the bridge, leaving a balance of \$1,200, which was applied towards the payment of the sum of \$5,800, leaving the sum of \$4,600 due to the corporation of Georgetown.

Mr. GOODE. I move to fill the blank in the bill with the sum of \$4,600.

Mr. KELSEY. I move to reduce the amount of the amendment one dollar. I am opposed to this bill entirely. From the reading of the report, it seems that this sum has been expended for the especial benefit of the city of Georgetown; and that some twenty or thirty thousand dollars besides have been paid by the Government to build this bridge—a bridge in which the people of Georgetown have more interest than the people of Washington, and a great deal more interest than the remainder of the people of the United States, who are called upon to pay this money. I think we have gone quite far enough in making appropriations for this District. We are not only paying their municipal expenses, but we are constructing and maintaining all their bridges. I deny our right to appropriate money for these objects. These people should be authorized, as are other people in the country, to defray their own expenses for these purposes. I hope the bill will not be passed.

Mr. GOODE. I merely wish to say that this bridge is situated a mile or two above Georgetown, within the District of Columbia. It is a work which was undertaken by act of Congress. Over it the city of Georgetown had no control. Congress made an appropriation for the original construction of the bridge, and we subsequently appropriated \$5,000 more to complete it. The appropriation being exhausted, the city of Georgetown loaned the money in order to provide against injury to the structure already finished. There is no pretense that the money has been paid.

Mr. KELSEY. My opposition to the bill is that this improvement has been made out of the national Treasury for the benefit of the city of Georgetown. This portion at least should be a charge to that city.

Mr. GOODE. What right has the gentleman to charge this against Georgetown without their consent? Who does not know that Georgetown did not undertake originally the construction of that bridge? It is a bridge, not in Georgetown, but in the District of Columbia. Congress went on in the construction of this bridge, and under adverse circumstances the appropriation became exhausted, and Georgetown advanced \$5,000 to enable the bridge to be completed. If ever there was a bill which ought to be passed, this is one.

Mr. JONES, of Tennessee. I understand that Congress, some years ago, appropriated \$30,000 for the erection of a bridge across the Potomac at Little Falls, above Georgetown; and put it under the charge of a superintendent or engineer. He went on and expended the money that Congress had appropriated for the work; but that did not complete the bridge. Then the people of Georgetown, in the absence of all law, advanced the amount of \$5,000, provided for in this bill, to the engineer. He then went on, and finished the bridge.

Mr. KELSEY. I think the report states that there was a subsequent appropriation of \$15,000, in addition to the \$30,000.

Mr. JONES, of Tennessee. I have never favored these appropriations exclusively for the benefit of this District, out of the Treasury of the United States, where they were not for the benefit of the Government, in consequence of the Government being located here; and, sir, I have not been in the habit of favoring appropriations of money to reimburse officers who, without law, have gone on and incurred expenses on their own responsibility. Upon these grounds, I shall not vote for this bill.

Mr. SMITH, of Virginia. I desire to furnish a little information which gentlemen over the way do not seem to possess. This bridge over the Potomac—not in Georgetown, nor within its jurisdiction—is one of those improvements which the Congress of the United States undertook many years ago to keep up. They have at different times appropriated \$30,000, \$15,000, and \$75,000 for

this bridge. The bridge is finished, and it is a magnificent monument to the justice and wisdom of Congress. During the progress of that work, Georgetown, having no more to do with it than the gentleman from Massachusetts, except that it is one of those great avenues which lead to her, appropriated, at the instance of the public agents—those agents whose conduct has been approved since by an appropriation of money—purely in the spirit of kindness and liberality, the sum necessary to put the work in such a condition as that it would not suffer injury until an appropriation could be made by Congress. Will you reimburse the money of which you have had the benefit, in a work for which you have since appropriated \$75,000?

The question was taken on Mr. KELSEY's amendment; and it was rejected.

The question recurring upon the amendment of Mr. GOODE,

Mr. WASHBURNE, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. BUFFINTON and FERRON were appointed.

The committee divided; and the tellers reported—ayes 67, noes 59.

So the amendment was agreed to.

The bill was then laid aside, to be reported to the House with a recommendation that it do pass.

POLICE FOR WASHINGTON CITY.

The next bill in order on the Calendar was a bill (H. R. No. 478) to establish an auxiliary guard for the protection of public and private property in the city of Washington, and repealing all acts heretofore passed in relation to that subject.

Mr. GOODE. That bill has already taken up much of the time of the House, and will probably give rise to a long debate. I hope it will be passed over.

There being no objection, the bill was passed over.

LIGHTING OF STREETS.

A bill (H. R. No. 540) for the lighting with gas several streets across the Mall, was next taken up.

The bill, which appropriates \$6,400 for laying down gas pipes, and erecting gas lamps on Four-and-a-half, Seventh, and Twelfth streets, across the Mall, was laid aside, to be reported to the House with a recommendation that it do pass.

LAMP-POSTS FOR GEORGETOWN.

The committee next proceeded to consider the joint resolution (H. R. No. 27) relative to the erection of lamp-posts in Georgetown, District of Columbia.

The joint resolution appropriates \$810 for the purpose of erecting thirty lamp-posts in Georgetown, from the western termination of Pennsylvania avenue, through Bridge and High streets.

Mr. KELSEY. I would like to know why it is that the General Government is to be charged with erecting lamp-posts in Georgetown? I supposed that some part of the municipal expenses was to be borne by the people of the District themselves; and it seems to me that this certainly ought to be.

Mr. DODD. This is merely to light Pennsylvania avenue.

The joint resolution was laid aside, to be reported to the House with a recommendation that it do pass.

RAILWAY ON PENNSYLVANIA AVENUE.

A bill (H. R. No. 541) in relation to a railway through Pennsylvania avenue, in the District of Columbia, was then taken up for consideration.

Mr. BURNETT. I desire to say that I was not present when the Committee for the District of Columbia authorized this bill to be reported; and I hope it will be laid aside, to be reported to the House with a recommendation that it do not pass.

Mr. GROW. If it is going to give rise to debate, I suggest to the gentleman from Kentucky that it be passed over on the Calendar.

Mr. MORRIS, of Pennsylvania. I object to that.

The CHAIRMAN. It is for the majority of the committee to decide what bill they will take up.

Mr. GOODE. I move to take up House bill No. 568.

Mr. KELSEY. I suppose there is no objection to the bill being reported to the House, with the recommendation that it do not pass.

Mr. BURNETT. I do not make that motion. I am willing that the bill shall be passed over informally.

Mr. MORRIS, of Pennsylvania. I suggest to the gentleman from Kentucky that he will accomplish his purpose by moving that the bill be reported to the House, with the recommendation that it do not pass.

Mr. GARTRELL. I make that motion.

Mr. FLORENCE. Well, I do not think we ought to do that, if we intend to present the bill in good faith. I have no hesitation in saying that upon general principles I am in favor of introducing railroads into the city. I believe that they are one of the institutions of the day, and should have consideration here as well as everywhere else.

A MEMBER. One of the "peculiar institutions." Mr. FLORENCE. Yes, sir; a peculiarly advantageous institution to the poorer classes of the people; and I want to know what good reason there is why it should not be introduced into the District of Columbia as well as anywhere else?

Mr. WINSLOW. I rise to a question of order. The gentleman from Virginia has moved to proceed to the consideration of bill No. 568, and I hold that it is competent for a majority of the committee to lay this bill aside and take up that one.

The CHAIRMAN. This bill having been taken up, the committee must make some disposition of it.

Mr. JOHN COCHRANE. I move to strike out the enacting clause.

Mr. BURNETT. I hope the committee will indulge me for one moment. Here is a proposition made by a company for the purpose of running a railroad through Pennsylvania avenue to Georgetown.

The CHAIRMAN. The Chair would suggest that the pending proposition relates to the priority of business, and, by the rules, is not debatable. No question relating to the priority of business is debatable.

Mr. BURNETT. I appeal to the gentleman from New York, [Mr. JOHN COCHRANE,] if he is friendly to the bill, to withdraw his motion.

Mr. JOHN COCHRANE. I withdraw it.

Mr. BURNETT. I now move to take up the next bill on the Calendar.

Mr. WRIGHT, of Georgia. I object. I propose to take up the business before the committee in order.

Mr. WASHBURNE, of Illinois. The Chair has decided that that is a matter for the committee to determine.

Mr. BURNETT. I submit to the committee to take up the next bill on the Calendar.

Mr. WRIGHT, of Georgia. Does not that require general consent?

The CHAIRMAN. The Chair thinks that a majority may control the matter.

Mr. WRIGHT, of Georgia. I would like to hear the reasons of the gentleman from Kentucky why he desires the bill to be passed by.

The CHAIRMAN. Discussion is not in order; it is a question of priority of business.

Mr. WRIGHT, of Georgia. I regard it as the most important bill that has been before the House to-day, and I think it ought to be acted on.

Mr. GARTRELL. I would like to know what has become of my motion, and whether it does not take precedence of the motion of the gentleman from Kentucky? My motion is to lay aside the bill, to be reported to the House with a recommendation that it do not pass.

The CHAIRMAN. The Chair thinks that that motion is not in order, unless assented to generally by the committee.

Mr. GARTRELL. That it requires unanimous consent?

The CHAIRMAN. Yes; the other is a question in regard to priority of business.

Mr. MORRIS, of Pennsylvania. In making that suggestion, I do not desire to prejudice this bill in any way, for, with my colleague, [Mr. FLORENCE,] I am in favor of its passage. My desire is simply to expedite business, and to get up bills that are not objectionable.

The question was taken on Mr. BURNETT's motion to lay the bill aside and take up the next in order; and it was agreed to.

FIRE DEPARTMENT.

The committee next took up a bill (H. R. No. 568) to organize a paid fire department in the District of Columbia.

The bill was reported, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act approved on the 2d of March, 1837, entitled "An act to organize the several fire companies in the District of Columbia," be, and the same is hereby, repealed; and that the corporate authorities of the cities of Washington and Georgetown, each for itself, and within its own limits, shall have, and are hereby, invested with full power to organize and regulate a paid fire department, and to make all necessary provisions for the prevention and extinguishment of fires; for the removal from any fire of suspicious persons, and of those who are disobedient to the regulations of said corporations; and for the removal of such property as may be necessary to be removed, or arrest the progress of any fire. And the said corporations shall also have power to aid, protect, and obtain obedience to the officers in the service of the fire department, and to protect the members thereof whilst in the discharge of their duties as firemen.

SEC. 2. And be it further enacted, That from and after the organization of the paid fire department contemplated by this act, no volunteer fire company of any description shall exist or perform firemen's duties within the limits of either of the cities of Washington or Georgetown.

SEC. 3. And be it further enacted, That the said paid fire department shall consist of at least four steam fire engines, with an appropriate outfit of men and horses; and that the sum of \$15,000 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to aid the corporate authorities of the cities of Washington and Georgetown in the purchase, equipment, and maintenance of said engines.

SEC. 4. And be it further enacted, That the sum of \$12,000 is also hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to aid the corporate authorities of the said cities in the establishment of a fire alarm and police telegraph.

SEC. 5. And be it further enacted, That all acts heretofore passed, inconsistent with this act, be, and they are hereby, repealed.

Mr. GOODE. I move as a substitute for that bill, the bill passed on the same subject by the Senate, as follows:

That the act approved 2d March, 1837, entitled "An act to organize the several fire companies in the District of Columbia," be, and the same is hereby, repealed; and that the corporate authorities of the cities of Washington and Georgetown, each for itself, and within its own limits, shall have, and are hereby, invested with full power to organize and regulate fire companies and a fire department, and to make all necessary provisions for the prevention and extinguishment of fires; for the preservation of order and the protection of property at any fire; for the removal from any fire of suspicious persons, and of those who are disobedient to the regulations of the said corporations; for the punishment, by fine and imprisonment, of such person or persons as, being present, refuse to assist and obey the commands of the proper officer in extinguishing any fire; and for the removal of such property as may be necessary to be removed to prevent or arrest the progress of any fire. And the said corporations shall also have power to aid, protect, and obtain obedience to the officers in command of the several fire companies, and to protect the members thereof whilst in the discharge of their duties as firemen.

SEC. 2. And be it further enacted, That from and after the organization of the fire departments respectively contemplated by this act, no fire company of any description shall exist or act as such, and no company shall exist or perform firemen's duties under any other name or designation, within the limits of either of the cities of Washington or Georgetown, wherein such fire department shall have been organized, unless such company be a part of and attached to such fire department; and every person who shall be found acting in concert with others in violation of the provisions of this section shall, on conviction thereof in the criminal court of the said District, be sentenced to pay a fine not exceeding \$100, and to be imprisoned in the county jail for a term not exceeding six months.

SEC. 3. And be it further enacted, That all the fire apparatus or other property, including engines, sections, hose, hose-carriages, reels, hook and ladder fixtures and carriages, engine houses, and all other property or implements appertaining to a fire department, which may be used by any fire company within the limits of either of the said cities, shall be vested in, belong to, and be under the exclusive control and direction of the corporate authorities of the city within whose limits such company exists.

SEC. 4. And be it further enacted, That every fire company which may be organized under the provisions of this act, and of any city ordinance enacted in conformity thereto, shall be composed of men not less than twenty-one years of age, who, upon enrolling themselves as members, shall be sworn to discharge their duties faithfully and impartially, and, having been thus qualified, each and every member, when on duty at a fire and wearing the insignia of his company, or when proceeding to or returning from a fire, shall possess the power and exercise the duties of a county constable in suppressing any affray or riot, and of apprehending, on view, and of delivering to a justice of the peace or other proper officer, all persons who shall disturb the peace or otherwise violate any of the laws of the cities or District aforesaid. And every active member of any fire company shall be exempt from militia duty in time of peace, and also from jury duty, so long as he shall continue an active member as aforesaid, and no longer; and of such membership a certificate, signed by the president and secretary of his fire company, shall be deemed and taken as sufficient evidence: *Provided*, That no more than seventy-five persons shall at the same time be exempted as members of any fully-equipped engine company, nor more than fifty persons shall at the same time be exempted as members of any suppression or hose company or hook and ladder company.

SEC. 5. And be it further enacted, That the members of every fire company organized and existing in pursuance of the provisions of this act, and of any city ordinance enacted in accordance herewith, shall have power to elect their own company officers, and to frame a constitution and by-laws, not to be inconsistent with this act, or any city ordinance as aforesaid; and each and every company shall have power to enforce obedience to its constitution and by-laws by fine and forfeiture, and to collect all such fines by warrant, to be issued by a justice of the peace in the city where such company belongs, in the name of said company; and the production before the justice of the journal or proceedings of such company, showing the record of the said fine or fines, together with a certificate of the president of the company, attested by its secretary, that the person so fined has been fined for disobedience to the constitution or by-laws (as the case may be) of — fire company, in — city, shall be sufficient evidence for the magistrate to issue his warrant, and, after having the party before him, to enter up judgment and issue execution thereon. And every sum or sums of money collected under the authority of this act shall be paid over by the officer or other person collecting the same to the treasurer of the company, in the name of which the warrant shall have been issued or money collected; and upon such officer or other person failing to pay over the same, the said treasurer may recover the same by warrant or suit in his own name, for the use of the said fire company, in the same manner as private debts are now recovered by law.

SEC. 6. And be it further enacted, That each and every fire company, organized and existing as aforesaid, shall provide a fund for the relief of such member or members of such company as shall receive any corporeal hurt or injury, or contract any disease at or in consequence of any fire, and be unable to provide medical aid, or whose family or families may be dependent upon his or their daily labor for support, and for the relief of the family or families of any member or members of such fire company who shall or may be killed at or die in consequence of any injury received or disease contracted at or in consequence of any fire; and whose family or families may have been dependent upon his or their daily labor for support; and the treasurer of the said company shall, after having paid all the expenses which the said company shall have lawfully incurred, pay over to the said fund the residue of all fines collected under the authority of this act: *Provided*, That if any member be expelled from his company he shall thereupon forfeit all the rights, privileges, and immunities granted by this act.

Mr. MORRIS, of Pennsylvania. The reason of the Committee for the District of Columbia reporting this bill as a substitute for the Senate bill was, because the Senate bill simply proposed to give the corporation certain powers over the fire department as it now exists. In the opinion of the Committee for the District of Columbia, the present fire department is surrounded by so many evils, which are almost incorrigible, that no system of legislation can be adopted which could correct the evils inherent in the fire department of the city; and, therefore, the committee propose to give the corporation power to establish a paid fire department, and for Congress to aid them to a certain extent. Within the last few years, the Federal Government has invested an immense sum of money in public buildings in this city—buildings as large as any in the world—nominally fire-proof. It will occur, however, to every gentleman that he has heard of buildings, which were nominally as fire proof as this Capitol, being consumed by fire, or so seriously damaged as to render them utterly unfit for the purposes for which they were originally constructed. I believe that \$15,000,000, at least, will be invested in this Capitol before it is finished. We propose not to establish this fire department, but to aid the corporation in doing so in the purchase of fire apparatus, &c. So far as I have conversed with citizens of the District, I have found that they desire the passage of some such measure as this. I do not pretend to speak of the bill as perfect; but the passage of some such measure is absolutely necessary for the purpose of getting rid of a disorderly organization, and putting the fire department exclusively under the corporation, and making it a branch of the police department.

Mr. STANTON. If I supposed that this bill was to entail any further expense to the Government, I should not be inclined to go for it. But I suppose all gentlemen are aware of the fact that the national Treasury now defrays a very large proportion of the expenses of the fire department of the city in procuring engine-houses, engines, &c.; and the idea of getting rid of being taxed for our proportion of the expense, is entirely out of the question. I have no doubt in the world that volunteer fire companies are the most complete schools of rowdism and disorganization and disorder and crime that can exist in any city. I believe all the populous cities in the country will find it necessary to abandon the system of volunteer fire companies, and establish paid fire departments. I believe, therefore, that this bill is decidedly preferable to that coming from the Senate, which contemplates the organization of volunteer

fire departments. It will be found not more expensive, as I understand it. The system of a paid fire department has been resorted to by some of the cities in my own State. My colleague over the way, [Mr. GROESBECK,] from the Cincinnati district, can tell how it operates in his own city. Will my colleague from the Hamilton district tell me how that city finds the paid fire department to work in comparison with the volunteer fire companies?

Mr. GROESBECK. In answer to my colleague, I will say that the paid fire department in Cincinnati, at this time, is considered more economical than the old arrangement. I suppose that, perhaps, at this time, the fire department in Cincinnati is considered the best in the United States.

Mr. STANTON. That was my opinion about it. I have no doubt my colleague is correct. I supposed it to be more economical.

Mr. GROESBECK. It is more economical, in view of the amount of property it saves.

Mr. MORRIS, of Pennsylvania. I would like, with the permission of the gentleman, to read an extract from the report of the board of underwriters of St. Louis upon the paid fire departments of Cincinnati and St. Louis, showing that it is more economical. They say:

"After an experience of five years, we have found the organization everything that could be expected of it or desired. It has given peace, quiet, and safety, for riot, lawlessness, and insecurity, and reduced the annual average losses by fire at least half a million dollars; saving us in the five years not less than two and a half million dollars—taking the preceding years for a comparison. These facts alone are sufficient to warrant its continuance; but beyond these we have the inestimable advantage it has been to the morals of the community, especially to the young, by breaking up entirely those great seminaries of vice and immorality—the engine halls of a volunteer department in a large city.

"As to the effect of the organization upon the insurance business, I believe I but utter the sentiment of my brother underwriters, in saying that it has been most beneficial. It has so materially diminished the losses, that the balance is largely on the right side of the ledger; and were the underwriters to day called upon to pay the whole expense of the department, I believe they would cheerfully do so—were it just and right to demand it of them, and their business would warrant it—rather than return to the old system, with its levies of black mail, riot, and arson.

"The expense of the paid department appears considerable, but we see all it is. In the old organization there was a constant series of levies upon the community for contributions, and persons well acquainted with these matters make no hesitation in asserting that the amount of money thus paid greatly exceeded the amount of the present direct tax; to say nothing of the immense saving of property, sufficient every year to pay the tax for five.

"There is another consideration connected with our paid department and steam fire engines. It is that of confining the fire, in almost every instance, to the building in which it originated, and, in the great majority of cases, to the single story of the building where it started. This I regard as one of the most important features of the present organization; for, except under the most unassailable cases, our city could never be subject to those sweeping conflagrations that have laid waste New York, Pittsburg, and St. Louis. So strongly are our citizens impressed with this opinion that, except in rare circumstances, goods are never removed from buildings adjoining one on fire, as the chance of damage is so slight that they prefer to let them remain, well knowing that a fire, whether in a cellar or at the top of a seven-story building, stands no chance before our firemen and the Latta steam fire engines."

Mr. STANTON. If the committee choose, *pro forma*, to adopt the amendment of the gentleman from Pennsylvania in committee, and let it go to the House, a test vote may then be taken between the two systems in the House. I think that would be a more satisfactory course.

Mr. BURNETT. I hope that course will be taken.

Mr. WALBRIDGE. I wish to ask the gentleman from Ohio one question before he takes his seat. He has said that the General Government pays a large proportion of the expenses of the paid fire department in this city. Now, I wish to ask him if he knows how much the Government pays?

Mr. STANTON. I do not. I only know that, in the annual appropriation bills, items are inserted for purchasing engines, and for all the contingent expenses of the fire department.

Mr. FLORENCE. If the gentleman from Ohio will allow me a moment, I will state, as one item of the expenses, that, at the last Congress, we appropriated the sum of \$5,000 for the erection of a building for the Franklin Fire Company; and my impression is, that all the fire apparatus of the city is owned by the Government. The fire organization of the city was originally made for the purpose of protecting Government property. - I

will state here that the introduction of steam engines into the fire department of Philadelphia is becoming so very popular that even the volunteer fire companies in that city are supplying themselves with steam engines.

The amendment of Mr. MORRIS, of Pennsylvania, was agreed to.

The bill, as amended, was then laid aside to be reported to the House, with the recommendation that it do pass.

WASHINGTON MONUMENT ASSOCIATION.

Senate bill (No. 152) to incorporate the Washington National Monument Society, was next taken up for consideration.

The bill provides that, for the purpose of completing the erection, now in progress, of "a great national monument to the memory of Washington at the seat of the Federal Government," Winfield Scott, Walter Jones, John J. Abert, James Kearney, Thomas Carberry, Peter Force, William A. Bradley, Phillip R. Fendall, Walter Lenox, Matthew F. Maury, and Thomas Blagden, (being the survivors of the persons mentioned in a certain grant, bearing the date of April 12, 1848, by James K. Polk, then President of the United States, in virtue of a joint resolution of Congress, approved the 31st of January, in the same year, of an authority to erect a monument to the memory of George Washington, on reservation number three in the city of Washington,) and also Archibald Henderson, Jonathan B. H. Smith, William W. Senton, Elisha Whittlesey, Benjamin Ogle Tayloe, and John Carroll Brent, and their successors, to be elected in the manner hereinafter directed, shall be, and are hereby, created a corporation and body-politic, by the name and style of "the Washington National Monument Society;" and contains the necessary details of incorporation to enable the society to prosecute its objects.

Mr. DODD. The Committee for the District of Columbia have directed me to offer two amendments to that bill. One to prevent the corporation from exercising banking powers, and the other making the stockholders individually liable for the debts of the corporation. I do not find the amendments at this moment.

Mr. WASHBURN, of Illinois. I hope the amendments will, by general consent, be allowed to go to the House with the bill, and that the bill be laid aside to be reported to the House with the recommendation that it do not pass.

Mr. FLORENCE. Let it go with that understanding.

Mr. SMITH, of Virginia. I desire to say in my own behalf, in reference to the proposition to make the stockholders individually liable, that I hope no such provision will be adopted.

Mr. FLORENCE. It is a usual provision applied to corporations.

Mr. SMITH, of Virginia. The cases to which the gentleman from Pennsylvania refers, are cases of corporations formed for the purpose of making money. This is to carry out a great national and patriotic object, and I think it would be doing great injustice to require the corporators to be held individually responsible for the debts of the corporation.

Mr. FLORENCE. The object is to prevent a perversion of the purposes for which the corporation is formed. The object is to prevent it from being made a money-making concern. I think it a very safe and proper amendment, and hope it will be adopted.

Mr. SMITH, of Virginia. If the gentleman will show me an instance like this where such a provision is found, I will cheerfully waive my objection—one single instance in the history of this Government.

Mr. UNDERWOOD. Not being of the committee that has charge of this matter, as a matter of course, I know little or nothing of the history of this bill. Without some explanation, I think that it ought not to pass. If I understand it, it seems to be a transfer without the consent of the original proprietors or corporators or whatever company they may have had, whether resulting from an investment of money and labor, or a contingency growing out of their being the beneficiaries of some charity, whatever may be the nature of it, it would seem to be transferred without their consent to some new organization that is about to be incorporated here and to work, so far as an act of legislation can, a complete divestiture of

that property. Such a provision ought not to receive the sanction of anybody. I move, therefore, that the bill be laid aside with a recommendation that it do not pass.

Mr. GOODE. I will say, in vindication of the committee, that the trustees and the men who have made donations for this work, appeared before us and gave their consent to this proposed change.

The question was taken; and it was agreed to. So the bill was laid aside to be reported to the House, with the recommendation that it do not pass.

ROADS IN THE DISTRICT OF COLUMBIA.

The next bill upon the Calendar was a bill (H. R. No. 580) making an appropriation for the repair of certain roads in the county of Washington, in the District of Columbia.

The bill was read in *extenso*.

Mr. BURNETT. These roads lead by the insane asylum. Congress has heretofore made appropriations for them, which have been expended under the superintendence of the Commissioner of Public Buildings, but the amount was not sufficient. The levy court of the District of Columbia had a survey made of the roads, and has proposed that if Congress will appropriate a sufficient sum for the purpose of putting these roads in a passable condition, they will adopt them as public county roads. In drafting the bill, the committee will perceive that I provide that not one dollar shall be expended until there has been an order on the part of the court, making them public roads, and providing for keeping them up.

Mr. LETCHER. How have they been kept up heretofore?

Mr. BURNETT. By appropriations from the public Treasury. If you will refer to pages 7 and 8 of the report of the Commissioner of Public Buildings, it will be seen that he recommends the appropriation of this money. I move that the bill be laid aside, to be reported to the House, with the recommendation that it do pass.

The motion was agreed to.

Mr. WASHBURN, of Illinois. If there are one or two bills which are left to go over until to-morrow, will they not come up to the exclusion of all other business?

The CHAIRMAN. That will be a question for the House to determine.

Mr. WASHBURN, of Illinois. It had better be understood now.

Mr. WRIGHT, of Georgia. I shall insist on the railroad bill being taken up to-morrow, if it is not disposed of to-day.

Mr. WASHBURN, of Illinois. I hope, then, that it will be disposed of to-day.

Mr. BURNETT. I hope that the committee will take up the railroad bill; and we will dispose of it in a short time.

Mr. WRIGHT, of Georgia. So much the better.

Mr. WARD obtained the floor.

Mr. LETCHER. With the permission of the gentleman from New York, I desire to inquire of the committee why there is no provision in this bill reserving to Congress the right to annul this charter? That has been usual in charters of this kind, and this is a pretty strong monopoly.

Mr. WASHBURN, of Illinois. I would ask the gentleman from Virginia whether, as this bill now stands, this company could be sued in a court of law?

Mr. LETCHER. I say they can be.

Mr. WASHBURN, of Illinois. They are not an incorporation.

Mr. LETCHER. Here is a privilege of the Government given away for a period of twenty-five years, and there is no privilege reserved to the Government to recall it for any abuse they may perpetrate. A gentleman calls my attention to the sixth section, which reads as follows:

"And be it further enacted, That the penalty for a non-fulfillment of the obligations imposed upon said parties by this act shall be the forfeiture of all the privileges hereby granted."

Mr. WARD. That matter can be explained in the course of debate.

Mr. COX. With the permission of the gentleman from New York, I will move that the committee rise.

The motion was not agreed to.

Mr. WARD. Mr. Chairman, it is proper, perhaps, that I, having had charge of this bill in

the committee of which I am a member, should make a few remarks upon the subject. I am not surprised at the prejudice which manifests itself in regard to this railroad. It existed for some time in the city of New York, after the first introduction of passenger railways; we have seen hostility arising wherever railroad enterprises of this kind have been projected. But completed and put in operation, we have found them beneficial, and of great public convenience. In the city of New York, where we have five or six railroads through our avenues, but a small part, if any, of our citizens would desire to have those tracks taken up, and the public convenience incommenced thereby. I recollect that when the Harlem railroad was laid down, there was great opposition to it; and a prejudice existed for a long time after it was finished and put in operation. But that prejudice arose from defects in the track which impeded other public travel. The improvements which have since been made in laying down tracks, by introducing the open groove rail placed upon a level with the pavement, has removed the impediments to other vehicles. Hostility has been removed, and there are now railroads in several of the principal avenues in the city of New York, and cars are running from the extreme upper to the lower portions of the city. They are of vast public benefit. They are not only a benefit as avenues of public travel, but it has been demonstrated that the city is benefited by bringing distant points near together, as it were. It has enhanced the value of property upon their routes. The Sixth and Eighth avenues, through which lines of railroads run, are flourishing avenues with business extending out two or three miles upon them, while the Seventh avenue adjoining, on which there is no railroad track, is far less thriving as far as business is concerned.

Mr. WASHBURN, of Illinois. I desire to inquire of the gentleman if the authorities of the city did not grant to a certain number of individuals the privilege of building a railroad in Broadway; and if the property-holders on that avenue did not apply for an injunction to prevent its being built; and if the court did not grant an injunction restraining the building of the road?

Mr. WARD. That is true in regard to Broadway. The objection in that case was, that Broadway was too narrow; though I think that was a mistaken objection. I will not argue that matter here. That was the reason of the hostility of some persons, who supposed the road would interfere with the travel of Broadway, as it is a great thoroughfare, and is constantly filled with carriages and omnibuses. But there is Chatham street, only thirty-three feet wide, in which two railroads are run, and still they do not incommode the public. This matter having been before the committee, I felt it my duty, being familiar somewhat with the system of railroads which are now extending into Brooklyn, Philadelphia, and other cities, to briefly address the committee.

If there is any improvement in the mode of travel, I can see no reason why Washington should not have the benefit of it as well as other cities. I am well satisfied that, if Congress should pass this bill, or any one that would authorize the laying down of a track, and the railroad should be completed, no member of this House would be likely to vote to have the track taken up or to repeal the law relative to it. The conveniences and benefit of such a railroad would be great, and the evidence in regard to two or three points stated in the report accompanying this bill demonstrates, I think very clearly, that the ordinary objections which have been made to railroads in cities are done away with; that they are great conveniences, and actually enhance the value of property in the city.

The railway, as a principle, has every argument in its favor; and if any valid objections can be made against them, as they are constructed, it is against such features as can be readily modified. The Harlem railway, in New York, was the first used for the local business of the city, in the carrying of passengers in small horse cars. It was not originally constructed for this purpose, and was laid with a rail of the ordinary pattern in use upon ordinary railways, and with a gauge of four feet eight and a half inches. The form of rail did not admit of a smooth surface or perfect connexion with the pavement, offering serious obstruction to the passage of ordinary vehicles.

When, subsequently, it was proposed to lay railways through the Sixth and Eighth avenues, this objection was most seriously urged. To avoid the difficulty, a rail of a groove pattern was adopted. This admitted a pavement laid close against both sides of the rail and even with its top, and removed, to a considerable extent, one very important objection. The groove is made shallow, wide, and flaring, so that the wheels of an ordinary vehicle will readily enter or leave it. To make the surface more perfect, square blocks were laid on each side of the rails, while the remainder was laid with the ordinary cobble stone. Successive improvements in the method of paving and in the form of rail have been made, until railways have, in that city, become an indispensable convenience. They have been adopted in Boston, Brooklyn, and Philadelphia; and the construction of new lines is in progress. It is not, however, to be said that they have been perfected, or that all the objections to them have ceased, although in the city of New York, as the longitudinal avenues are extended, the rule which once prevailed has been reversed, and the extension of the railways is demanded by the people, instead of being asked for by the railway companies. There are those who are ready to concede their utility to the fullest extent, and yet who object to them on the ground that they still offer obstruction to other travel, in consequence of the faults of their construction, and the width of track, as well as the cumbersomeness of the carriages. The grooved rails are laid upon longitudinal wooden sills, which in their turn lay upon wooden cross-ties. This wooden structure is filled up with gravel in which the pavement is laid. The pavement and railway are therefore two independent structures, neither dependent upon the other. In some cases the rails settle below the paving, and in others the paving below the rails. The greater the difference of level between the two, the greater is the obstruction to ordinary travel. If both could be kept upon the same level this objection would cease.

Another difficulty is, that the perishable nature of the sills renders a renewal necessary every few years, and a constant repair is going on.

The width of gauge adopted upon existing street railways seems to be entirely an accidental feature, the other roads in New York adopting the same gauge as the Harlem road, which was constructed originally without reference to being used as a street railway. In other cities the same gauge has been adopted without any better reason.

There is certainly no good reason why a railway for street purposes, to be used with horse power and with small light cars, and at a speed not exceeding five or six miles to the hour, should require a width of gauge, such as is sufficient for bearing locomotives and trains at a speed of thirty or forty miles per hour.

The ordinary street cars in use are seven and a half feet in width, and might with advantage be reduced to six. Our large passenger cars drawn by locomotives are nine to nine and a half feet. The same proportion between the width of car and width of track would give from three to three and a third feet as sufficient for a street railway, without making allowance for the difference of speed.

The objection to the wide gauge and the wide car does not apply with the same force in Pennsylvania avenue as in some of the narrower streets in New York, Boston, Brooklyn, and Philadelphia, through which railways are laid. But there are other considerations in favor of the narrow car and narrow track, which apply equally everywhere. The width proposed for this avenue is three feet six inches to four feet for the track, and five and a half to six feet for the cars. Their height from the pavement will be about twenty-two inches. They are, in fact, similar to an omnibus body, elongated and resting upon car-wheels, but much lower. Their capacity is for twenty passengers, and they are designed to be drawn by one horse only.

These carriages are ornamental in form and design, and will not occupy more than thirteen feet of the width of the street, from out to out of carriages on a double track. No conductor is required, the driver performing the same duties as the omnibus driver. Passengers need not be annoyed by persons standing in their front, or by the constant passing of a conductor through a

crowded passage way. In the use of one horse only, which is permitted by the lightness of the carriages, the travel is in the center, between the two tracks, where a perfect foothold is obtained.

A more prompt, speedy, and comfortable transit of passengers is insured, because of the small number that it is proposed to carry in each carriage. Their stops will be fewer than the large car; they can stop and start more readily. To do a given amount of traffic the carriages must be run at more frequent intervals; thus accommodating the public better. The transit will be more regular and rapid, and their convenience in every way enhanced to the public over any heretofore used. The whole movement in the street will not be dissimilar to that of only two lines of omnibuses, but far more safe and convenient because less elevated from the pavement, occupying less width, having no axles, wheels, and hubs projecting beyond the body of the carriage, and confined to straight lines in the center of the street, instead of being scattered over its entire width.

While admitting the plausibility of some of the arguments against railways in thronged thoroughfares, on account of a few defects in their construction and of the space the ordinary carriages occupy, and the consequent interruption to other vehicles, there can be no question but that the railway affords the most comfortable, and the most convenient and economical means of transport for passengers from one point of a city to another. Remedy the few defects in the tracks referred to, and divest the railway carriage of its cumbersomeness, and these objections cease. The same number of passengers may be carried by railway with half the number of carriages and one quarter the number of horses that would be required with omnibuses. The pavements are relieved from immense wear and tear. The noise and dust is avoided. The ingress and egress is easier and more convenient. They are safer to pedestrians, because the route of the car is fixed and well known. A brake is always under the hand of the driver, and the impetus of the car is overcome much more promptly than that of the omnibuses; and, finally, the rates of fare less than in omnibuses.

It cannot be believed that conveniences of public transport of such a nature, and so divested of all the remaining objectionable features which it is alleged pertain to them in cities where they are used, can be otherwise than beneficial to the interests of the city, and to the value of property along their route.

It is a significant fact that in the city of New York, where railways are used with all the faults in their construction which their opponents set forth against them, property in the longitudinal avenues through which they run has, since their construction, increased in value fifty per cent., while in similar and parallel avenues which have no railways, it has not increased ten per cent. In Brooklyn the railway system has developed and brought into use property to the extent of ten times the whole cost of the roads, which for years yet, without such facilities, would have been unimproved and valueless. The track proposed in this case is a very narrow one. It is contemplated that the tracks shall be but six feet in width, and the whole space required will probably not exceed fourteen feet of the center of the street, which is one hundred and fifty feet wide. The cars are to be one-horse cars of a very handsome model, and very ornamental. So far from disfiguring the avenue, I think they would rather improve its appearance.

It seems to me that an orderly and systematic movement of vehicles thus confined to the center of the street, by small grooves in the pavements, would not mar the beauty of the avenue to the same extent as clumsy and noisy omnibuses traveling in every direction over its entire width.

The subject of railways for passengers only, in many of the principal cities of the country, and more especially in the city of New York, has attracted great public interest. Much valuable evidence has been elicited in connection with the topic, and, as it will hereafter continue to draw public attention to it until every city in the Union will have railways through the principal thoroughfares, it may not be inappropriate to give, in this connection, a portion of some testimony bearing directly upon the utility of such railways in the city of New York, given by prominent citizens of

that city with whom I am well acquainted, who were examined as witnesses under a commission issued in certain legal proceedings had between the city of Louisville and the Louisville and Portland Railway Company.

Edwin Smith, for twenty-five years city surveyor and civil engineer, states that—

"The avenues in the upper part of the city are about this width, namely: sixty feet between the curb stones, but with the exception of Canal street and a part of the Bowery, the streets in the lower part of the city are much narrower; Oliver street, through which a railway passes, is but twenty-one feet between the curbs. Some of them are main thoroughfares. Fulton street, in Brooklyn, is the principal street. The system of railways in that city all converges into this street, and all the cars from the various lines run through it to the ferry at its foot. The track in South street, New York, runs directly along the wharves of East river, where an immense shipping business is transacted, and where heavy draying is required. The cars upon the roads mentioned are propelled by horse power, and the roads are esteemed of great public utility. In Brooklyn, Fulton street remains the principal street, as it was before railways were laid in it. The railway gives importance to the street and value to the property, and tends to retain for it the character of the principal street of the city. In New York the property has been greatly enhanced in value upon the streets where railways have been constructed. The effect upon property may be judged by the effect in the avenues in the upper part of the city. The avenues in which railways have not been constructed, viz: A, B, C, and D, and Seventh avenue, are streets in which but little business is done; while Second, Third, Fourth, Sixth, Eighth, &c., have a large amount of business, and are business thoroughfares.

"In the lower part of the city, the most extensive and costly stores for wholesale and jobbing purposes are being constructed upon streets in which railways are laid, or in their immediate vicinity. That portion of the city upon and in the immediate vicinity of the lower terminus of the Sixth and Eighth avenue railroads, is now undergoing greater improvements in rebuilding, for heavy commercial purposes, than any other. As compared with omnibuses, the elements of convenience, not only to the passenger, but to the other travel of the streets, is decidedly in favor of the cars, even with their present width of seven to seven and a half feet. They occupy less space than omnibuses, as the latter have their wheels projecting from and outside of the body of the carriage, occupying eight and a half to nine feet, while the former have their wheels inside of the body. Cars for street purposes, if devised expedient, might be made narrower than those at present used; and if the bodies were made of the same width as omnibus bodies, namely, five feet three inches, they would occupy but twelve feet from outside to outside, on a double line, allowing for a space of one and one half feet between them. With the same space between any two omnibuses, they would occupy about seventeen and a half feet.

"Property is rated higher, and is more valuable as a general thing, upon streets upon which railways are laid, than upon similar and parallel streets through which railways have not been laid. For instance, in Sixth and Eighth avenues, since the railroads have been laid, the property along the lines and on the crossing streets has been more than doubled in value."

Daniel Dodge states, that—

"Chatham street, which is about thirty three feet wide between the curb stones, is the great thoroughfare for the eastern half of the city; the travel from all the main streets on that section, namely: Bowery, East Broadway, Division street, and others, converging into it at Chatham square, in its course to Broadway. The cars of the First, Second, and Third avenue roads pass through Chatham street. The tracks were laid in 1854, and the project met with the most strenuous opposition, on the ground that the street was so narrow as to render it impossible for the cars to pass without interfering with and obstructing all other travel, thus ruining the business of the street, and depreciating the value of real estate. The result has proved the entire reverse of these anticipations, and the railways have been of great advantage to the street, increasing its business and enhancing the value of its property. It still remains the great tunnel for all the travel of the eastern side of the city, and it is freely admitted that the cars do not inconvenience the other travel so much as omnibuses. The result of the experiment, in this, conclusively demonstrates that railways may be laid and cars run in streets of thirty three feet width, without embarrassing the miscellaneous travel, or injuring the property or business of such streets; but, on the contrary, proving positively beneficial to both. One principal reason is the regulation given to the other travel, by the cars being confined to certain lines in the middle of the street. The miscellaneous travel naturally divides on either side as the cars pass, and no clashing or collision occurs, because the course of the cars is fixed and well known. The travel is facilitated by this natural regulation, and the liability to obstruction of the streets, by a 'jam' of vehicles, greatly lessened. It is upon this demonstration, fully examined, inquired into, and admitted, that the authorities of Brooklyn relied in adopting the system of railways now in operation in that city.

"I was a member of the Board of Aldermen of the city of New York in the years 1850 and 1851, when the discussion upon these various railroad projects came up, and thus have had my attention drawn particularly to the subject of the requirements of a large city in the means of the transportation of passengers through the streets. I was also a member of several committees of the Common Council having this subject under consideration, and heard nearly all the arguments and testimony presented for and against these roads, previous to their adoption. They were opposed before the committee, in the most strenuous manner, by some of the most influential citizens of the city, and by influential property owners in the street through which they were destined to pass. Since the construction of the roads the most bitter of these opponents have admitted their utility,

and that their property has been enhanced in value by the roads, instead of being depreciated; and my whole investigation of the subject at that time, as well as my observation and knowledge of the result, has satisfied me that the street railway and car present advantages far beyond any existing method for the transportation of passengers through the streets, and that their tendency is rather to equalize the value of property, not by depreciating that at the center of business, but by enhancing that more remote."

Edmund Griffin says:

"I was a member of the Board of Aldermen of the city of New York in the years 1850 and 1851. It was at this time that the project of the various city railroads, since constructed, was broached, and the discussions, *pro* and *con*, before the city government, drew my attention to that subject. I have been familiar with these projects through their construction and operation, and am satisfied that in no other way could the requirements of a large city, in the means of the transportation of passengers, be fulfilled with so little inconvenience to other travel, or with so little hazard of injury to private interests. The operation of the railway on Chatham street has been considered a test, in regard to the question of inconvenience to other travel and damage to business and property, as that street is a great thoroughfare for the eastern portion of the city, and is but thirty three feet wide between the curbs. The operation of that road has been a conclusive demonstration that street railways are not only of great public utility, but that they do not inconvenience and obstruct the other travel and business of the street to any extent comparable with omnibuses, and that their influence upon the value of property along their line is beneficial. The operation of the New York street railways was thoroughly examined by the authorities of Brooklyn city before the adoption of the system which has been constructed in the latter city. When the system was first proposed, the entire city government, with but two or three exceptions, were totally opposed to its construction; but, after a year's examination of the New York city roads, the government of Brooklyn adopted an entire system, radiating in various directions through the city."

James S. Libby, also, says:

"I was one of the original projectors and constructors of the Sixth avenue railroad, and president of the company. The project met with great opposition, as it was the first street railway designed exclusively for city uses. The Harlem Railroad Company had used small cars between the park and 27th street, but their road was constructed with the ordinary T rail, and was inconvenient to ordinary vehicles in crossing. The project was opposed on the ground of this inconvenience. It was argued that it would interfere with and incommode the ordinary travel, and thus prove detrimental to the business of the streets through which it passed, and consequently depreciate the value of the property. The adoption of grooved rail removed the one serious difficulty. The railway has proved a great public convenience—has enhanced the value of property along its entire line, and the arguments of the opposition have been shown to be entirely groundless.

"The operation of the railroad in Chatham street has been the most perfect refutation of all the arguments of the opposers of street railways, as that street is the thoroughfare for a large portion of the city, and is but thirty-three feet wide. I consider it to be perfectly demonstrated by the operation of the street railways of New York as well as Brooklyn, that, properly constructed, they are a great public convenience, and that they enhance the property in their vicinity and along their line, and that the cars inconvenience ordinary travel less than omnibuses.

"I own valuable real estate facing directly on the line of the Third and Fourth avenue roads, near their terminus, opposite the Astor House, and consider its value greatly enhanced by the roads, notwithstanding the street, Park row, being the connection between Chatham street and Broadway, is the thoroughfare for all the travel of the eastern portion of the city."

This concurring testimony of persons thoroughly familiar with this subject fully sustains the position assumed, and seems calculated to dispel the doubts of those most opposed to such projects. The impression that first strikes the mind of those not familiar with the question, is, that the same inconvenience would result as from large and unwieldy cars used with locomotives, which would undoubtedly injure the fine appearance and effect of the avenue. The objection, in such case, does not hold good in the present one. This is the age of progression; as the old-fashioned stage coaches have given way to splendid steamers and railroads, so must the omnibuses yield to the improvement in daily and hourly travel by light and tasteful cars upon passenger railways. However much we may be wedded to old customs and associations, the people are restive under them when new and important improvements are originated and carried to a successful result. The country is constantly advancing in its great career, not only by the energy of its people, but also by its constant progress in the mechanic and useful arts, in which I believe we excel any other nation. While science, the arts, literature, and commerce have been gradually advancing and performing their share in the movements of the age, the mechanical genius of our countrymen has developed successive improvements in the mode and manner of traveling, and thus facilitated the extraordinary growth of the country, invited social intercourse, and drawn the people of distant portions of the Union in close proximity,

This project seems to me to be one of importance, involving the convenience and interests of the citizens of this metropolis, and those who may visit it for pleasure or upon business. Street railways have become indispensable means of communication between distant portions of cities, and the center of business, and their suburbs. I think that if the bill is fairly discussed, and that careful consideration is given to the subject which it merits, the prejudices of many gentlemen of the House will be removed, and we may pass this bill, authorizing the construction of the railroad. I move that the bill be laid aside, to be reported to the House with a recommendation that it do pass.

Mr. KELSEY. I hope that motion will prevail. This is the only bill I have seen here today that does not ask us to do something for the people of the District that they ought to do for themselves.

Mr. LETCHER. I propose to amend the first section of the bill by inserting the words, "subject to such other regulations as to fares, as Congress may from time to time prescribe." As it now stands, the amount of fares is fixed absolutely at five cents, and it may happen that in the course of the next five or ten years that amount may be very exorbitant. I shall propose also, at the proper time, to amend the sixth section, by adding the words, "and to the Congress of the United States is hereby reserved the right to alter, amend, or annul this act at pleasure."

Mr. WARD. I believe there is no objection to that amendment.

Mr. BURNETT. The Committee for the District of Columbia agreed that this bill might be reported to the House by the gentleman from New York, [Mr. WARD.] I am opposed to the bill, and was opposed to it as a member of the committee. I think it would be bad legislation for us to authorize the construction of a railroad along Pennsylvania avenue under any circumstances. The gentleman has called the attention of the committee to the railroads in the city of New York. I grant you that, if Washington was a city like New York, with a population of seven hundred and fifty thousand, as New York proper has, with commerce, trade, and manufactures, and everything that goes to make up a great commercial city, then there might be some reason in the passage of a bill authorizing the construction of a railroad here. But you have a population of only fifty thousand here. You propose to lay a track along Pennsylvania avenue, and to give the corporators the privilege of running cars over that track every three minutes. Now, Pennsylvania avenue is the most beautiful street in the city; it is the great thoroughfare of the city; it is the Broadway of the city. This railroad would not only obstruct the passage of hacks and omnibuses, but it would interfere with and delay travel of every sort across the avenue at the various crossings. Moreover, it would destroy the beauty of the street entirely. And for what? For nothing at all. You surrender this franchise to this corporation, to this monopoly, without deriving a dollar of benefit from it.

Let me state another fact to the committee. There is a proposition now pending before the District Committee, and which was referred to the gentleman from New York at our last meeting, from the Metropolitan Railroad Company, who propose to build this track, and to extend it in connection with the Baltimore and Ohio Railroad, taking the charter of incorporation on the same terms as this company, for the same length of time, and with the right to charge the very same fare; but they agree to carry the Government stores, munitions of war, and everything of that sort, and the United States mails, free of charge. Now, if you intend to grant this privilege to any corporation, why not take the one that makes that offer? Shall we grant a monopoly to this company without any corresponding benefit at all?

Mr. KELSEY. Is there any corporation created by this bill?

Mr. BURNETT. I do not think there is. That is my opinion as a lawyer.

Mr. KELSEY. It is a mere privilege granted to individuals, or rather to a partnership. Nor is there any monopoly in it, because a similar privilege could be granted at any time to any other persons to construct a railroad on Pennsylvania avenue, or any other street in the city.

Mr. BURNETT. It is hardly to be supposed

that any other company would build a road with this one already in operation along the avenue, and certainly we should never grant them the privilege. But if we adopt any plan for building the road, I think we ought to take that proposition which is best for the Government.

Mr. ADRAIN. I desire to know if the citizens of Washington desire this railroad through Pennsylvania avenue?

Mr. BURNETT. I take it for granted that the citizens of Washington do not.

Mr. WRIGHT, of Georgia. Two years ago the officials of this city and Georgetown recommended it, and I have not heard of any later action.

Mr. ADRAIN. I wanted to know if any action had been taken by the citizens in favor of building the road.

Mr. BURNETT. I have a proposition to make to the friends of the bill that will give us a test vote upon it, and that is that it be reported to the House with a recommendation that it do not pass.

Mr. LETCHER. If the gentleman will indulge me for a moment, let us, by general consent, get in some amendments, so that if the bill goes to the House we may be protected.

Now, here is a monstrous provision in the fourth section. It is that these parties shall keep the road in repair only between the rails, a width of four feet. The road will be constantly getting out of order for at least two feet on the other side of the rails, and they ought to be required to repair all the pavement to which injury is done. There is another thing in this fourth section that is monstrous. It provides that if the corporation of the city chooses to take this property off the hands of these parties, they shall pay the parties for the unexpired part of this grant from us. Now, let us see how that is going to work? Suppose it has ten years to run, and that it pays fifty or one hundred thousand dollars a year, will not the value of the franchise which you propose to pay for be ten times fifty or one hundred thousand dollars?

Mr. WRIGHT, of Georgia. I rise to a question of order. There are some other gentlemen who desire to be heard on this important measure, and I want to know if it is in order for the time to all be taken up by gentlemen from Virginia and Kentucky?

Mr. BURNETT. The gentleman from Georgia certainly cannot complain, for I yielded the floor to him.

Mr. LETCHER. The gentleman from Kentucky, as I understand it, intends to move to strike out the enacting clause, and I wanted to suggest these amendments. If they can be reported to the House by general consent, I will not take up the time of the committee by any remarks.

Mr. BURNETT. I have said all that I desire to say in reference to this measure. I think it would destroy the beauty of the city by building a railroad along Pennsylvania avenue; and I do not think there is any necessity for such a railroad in a city of fifty thousand inhabitants. It may be useful to establish railways in a crowded city, but I do not think it is necessary between this city and Georgetown; nor is there any evidence that the people desire it.

Mr. LETCHER. I hope the amendments which I have offered, will be allowed to come in by unanimous consent.

Mr. WRIGHT, of Georgia. I desire to say a single word. This is a matter about which I have heard a good deal among the citizens of the place. I have no possible interest in it, except as a citizen of the Republic, to establish a work which shall be useful to the capital of the country and the interests which I feel in it for my own convenience. But I must be permitted to say, that since the application has been made here to run a railway along Pennsylvania avenue, there has been some parties at work—I do not charge members of Congress as having been concerned in it in any way—for a purpose not intended to be, nor likely to be, serviceable to the country, in opposing this grant. I could mention individuals who have already been permitted to come in as parties for the simple reason that it was found necessary in order to prevent them from using their influence to defeat the bill. Now, I desire that the House shall act upon this bill upon its merits, and that the schemes of interlopers and outsiders shall not

be permitted to prejudice a great work like this, which is for the benefit of the Republic, here in the capital of the country. Let this grant stand upon its merits. It is the first company which has made application, and I think the grant should be given to them. The capital of the country would be improved by it, if you will give them the opportunity, and it costs the Government nothing.

Mr. MORRIS, of Pennsylvania. I will state that one of the parties in this bill is the omnibus proprietor. I understand that he has invested something like one hundred thousand dollars in stocking his line of omnibuses, and it would be doing injustice to him to make any arrangement in which he should not be included. He is entitled to priority.

Mr. WRIGHT, of Georgia. I thank the gentleman for the interruption. This is an important question. It is one of the improvements of the nineteenth century, that we should not be confined to the old system of hacks and omnibuses; and yet the gentleman from Kentucky [Mr. BURNETT] is opposed to it, because he considers the old system of hacks preferable to the new system of traveling along the streets by railway.

Mr. BURNETT. I will just say this: that I am in favor of improvements in everything where improvements are needed; but in a city like this, without commerce, trade, or population, I will not vote for the establishment of such a railway.

Mr. WRIGHT, of Georgia. My friend from Kentucky is a very positive sort of man. He is positive in his concurrence in a measure, or he is strong in his opposition to it. I like him all the better for it; but unless a bill is his peculiar bantling, he is sure to pounce upon it. I am sorry that this bill did not come from the committee-room as the bantling of the gentleman from Kentucky.

Mr. BURNETT. My friend from Georgia will remember that I was in the committee-room when this proposition first came there, and that I opposed it from its inception; and my recollection is, that if the vote had been taken in committee at that time, when I was present, we should have voted it down.

Mr. WRIGHT, of Georgia. I did not so understand it; we certainly did vote it up. I thought my friend was absent when this bill was under consideration by the committee. I should have been happy if it could have had his support.

Mr. COVODE. As long as this discussion goes on, and gentlemen keep offering amendments, we shall never get through.

Mr. WRIGHT, of Georgia. I was simply making an explanation.

Mr. COVODE. The gentleman is talking about questions of progress and improvement; but if the gentleman will allow me, I will suggest that these railways have recently been introduced into the streets of Philadelphia. There was great opposition to the introduction of the first one, but they have since been introduced into four or five streets, and they give universal satisfaction to people of all classes in that city. An application was made to the last Legislature for permission to build other roads, and they are now being built in all directions through the different streets of the city; and, instead of being an injury, they are a very great improvement to the streets through which they run.

Mr. WRIGHT, of Georgia. I am extremely obliged to the gentleman for the interruption. It is a question of progress, whether we shall have the omnibus running up and down the avenue, from daybreak until sunset, making a noise like the thunders of Sinai, or whether we shall have in its place a railway, with comfortable and handsome cars, running smoothly along, drawn by horse power, tandem, and shaded by the trees lining the route. Was a man ever in a place where a railroad was in operation that did not go away satisfied that it was an improvement, and one of the greatest improvements of the age? I apprehend that the gentleman from Kentucky has not been in New York lately.

Mr. HILL. I wish to suggest, in all charity to my colleague, that all members do not come from Georgia, which State has done so much in the way of building railroads, and that therefore they are not so familiar with the great advantages to result from such improvements.

Mr. WRIGHT, of Georgia. Then I can only regret it. I am speaking seriously in reference to this matter; and I say that no man can be

where railroads are in operation without being satisfied that they are one of the greatest improvements of the age. One of their beneficial effects is to cheapen travel. By the introduction of this railway into Washington, the fare is at once reduced from six and a quarter cents, now charged by the omnibus, to five cents. [Laughter.] Gentlemen may laugh if they will, but this nevertheless stands as I have stated it, and it is a large reduction on the charge.

Mr. STANTON. The railroad is to set you down at the boundary of the city, while the omnibus takes you into Georgetown.

Mr. WRIGHT, of Georgia. If the gentleman will reflect on the matter, he will see that there is no necessity for these cars, propelled by horse-power, to stop at all.

Mr. STANTON. What I state is, that the cars must stop at the corporation limits—that the corporation line is the terminus of the road.

Mr. WRIGHT, of Georgia. Mr. Chairman, I did not intend to detain the committee as long as I have. I am in favor of this railroad on principle. I believe it to be, I will repeat, an improvement in every respect. You can get into the railway car easier than you can into an omnibus. There is hardly any stopping necessary. The cars pass along smoothly, and any party that has quickness of motion can easily get into them. Anybody under seventy-five years of age can get into them without their stopping. There is, too, a reduction of one and a quarter cent on the fare. This may be a small item to members of Congress, who sit upon their cushioned chairs, and draw \$3,000 per annum, besides mileage, which, for California members, amounts to something handsome; and even for members from my own State runs up to something like four or five hundred dollars. But, sir, take the bone and sinew of this land, the men and women who earn their bread by the sweat of their brow, as God intended we should all do, and it is a right sharp item. It is a consideration to them how much they will pay for travel, when they have to travel many times a week, or it may be, several times a day.

There is another beneficial result. It equalizes the population. I do not want to compel a rich man to come down and ride in these cars, but I want to fix the matter so that he can do it. These railway cars, we see from experience, carry all sorts of people, fashionable men and fashionable women, the wealthy contractor and the poor laborer.

Mr. DAVIS, of Mississippi. Do you not think that the poor people of your district are as much entitled to a railroad as the poor people here?

Mr. WRIGHT, of Georgia. I do.

Mr. DAVIS, of Mississippi. Why, then, do you not offer to appropriate for them as well as for the people here?

Mr. WRIGHT, of Georgia. I have appropriated a great deal already for them. But these gentlemen do not ask for any appropriation; they propose to build this road and to keep it in repair. The question is with you, then, whether you will ride in an omnibus for six and a quarter cents or in a railway car for five cents, without any cost to the Government at all.

Mr. COVODE. I will trouble my friend with another suggestion. If this road be built, the road is kept up at the expense of the parties who build it; but if the travel is to go on as it has done heretofore, the streets will wear with the rolling of those omnibuses over them, and will have to be repaired at the expense of the Government; so that, by the introduction of these cars, there will be an immense reduction of expense to the Government.

Mr. WRIGHT, of Georgia. I thank the gentleman for the suggestion. It had occurred to me, but would have escaped me if the gentleman had not recalled it to my mind. I am about through what I proposed to say. This road will cost the Government nothing. The simple question for the House to determine is whether it will allow it to be built?

The gentleman from Kentucky says it will spoil Pennsylvania avenue. Now, is not a car drawn by a couple of horses in a straight line along Pennsylvania avenue, a more comely sight than these ungainly omnibuses rolling along, dodging from one side of the avenue to the other?

Mr. LETCHER. I would like to know if it ever occurred to the committee in their deliberations on this subject, to examine whether it would

be impracticable to provide that members of Congress shall travel free over the road?

Mr. WRIGHT, of Georgia. This road, I presume, is to run in the day time; and I cannot say whether it will run when members travel most—at night time. [Laughter.]

Mr. COVODE. The amendment of the gentleman from Virginia, always leaving it in the hands of Congress to change, alter, or amend, would certainly give members of Congress claims upon the company to travel free.

Mr. WRIGHT, of Georgia. I will close my remarks by moving that the bill be laid aside to be reported to the House, with the recommendation that it do pass.

Mr. LEITER. I move to strike out the enactment clause.

Mr. DODD. I hope the gentleman will withdraw that motion, and allow the vote to be taken on the amendments.

Mr. LEITER. I am willing to withdraw the motion on consideration that gentlemen will come to a vote.

Mr. COX. I have an amendment which I wish to offer.

Mr. SMITH, of Virginia. It is certain that we cannot get on with this bill to-night.

[Cries of "Question!" "Question!"]

Mr. LETCHER. I understand that there is no objection to the amendment which I have proposed.

The question was taken on Mr. LETCHER's amendment; and it was agreed to.

The question then recurred on the amendment of Mr. SMITH, of Virginia, to strike out the names mentioned in the bill, and in their place to substitute the words "the corporation of the city of Washington."

Mr. SMITH, of Virginia. I move that the committee rise. [Cries of "No!" "No!"] Then I will advocate my amendment.

Mr. HOUSTON. If it is in order, I move that the committee take a recess for an hour and a-half. [Cries of "No!" "No!"]

Mr. SMITH, of Virginia. I move that the committee rise.

Mr. PHILLIPS. I call for tellers on that motion.

Tellers were not ordered.

The motion was not agreed to.

Mr. SMITH, of Virginia. I will proceed then to advocate my amendment.

The lines which I propose to amend confers a large fortune upon three persons. I say that my knowledge of the business, and of such operations as this, convinces me that such a donation as this by the Congress of the United States to three persons—I do not know who they are; I do not even know the proprietor of the omnibus line—gives to them a large fortune. Sir, I ask this House if this is the sort of legislation which should characterize our action? I ask this House if they, sitting here to legislate for the fifty thousand inhabitants of this District, will pick out three of them and bestow upon them a splendid fortune? Some gentleman says they are not citizens of the District. If that is so, so much the worse for them; you take a fortune out of the people of the District and give it to those who are not citizens.

Mr. CURTIS. I desire to ask the gentleman if the amendment which has just been admitted, authorizing Congress to control the rate of fare, does not preclude the possibility of any injustice being done to the inhabitants of Washington?

Mr. SMITH, of Virginia. No, sir.

Mr. DAVIS, of Iowa. The provision of the amendment authorizes a resumption of the franchise at any time by the city of Washington.

Mr. SMITH, of Virginia. I understand it all. I propose by my amendment to give this franchise to the city of Washington. But, says the gentleman, the city of Washington has the right to acquire it if she pleases. Now let us look at it. The bill provides that the privileges hereby granted shall continue for the term of twenty-five years; but at any time during said period the Government, or the authorities of the city of Washington, shall have the right to take possession of said railway, with the real and personal property belonging thereto, and necessary to the operation thereof, upon payment to said parties, and assigns the appraised value thereof, and of the unexpired franchise, said appraisements to be made by one person to be selected by the President of

the United States, another by the parties aforesaid, and, in the event of their disagreement, by a third person, to be selected by the persons so named. That is all they have a right to. They have no right to exact anything from the city of Washington, but the value of their investment. But that is not all. How long is this franchise to continue? A day, a month, or for all time? No, sir; but just exactly so long as it may be the pleasure of Congress.

Mr. QUITMAN. Will the gentleman from Virginia allow me to say that, during this whole period, Congress has the absolute right of annulling or making such alterations of this charter as it pleases?

Mr. SMITH, of Virginia. My friend from Mississippi knows very well how very difficult it is to effect any change where private rights are concerned. My experience has taught me, and his experience must have taught him, that this is the fact.

Mr. QUITMAN. If there is the amount of money involved in this matter which the gentleman supposes, the public would be opposed to the monopoly, and perhaps would improperly interfere with the privileges of the company.

Mr. SMITH, of Virginia. It is Congress that must act, and not the public; and, when we cannot turn out a page except under some excitement, or change our Doorkeeper without the greatest commotion, the gentleman may form some idea of the difficulty there would be in taking action against a railroad. It would appeal to us in a thousand ways, touching our hearts.

If this is a road which ought to be established—and I concede that it ought to be—I am in favor of it; but I want to know what reason there is for giving the privilege to these three persons alone? Gentlemen may say that there is nobody else who will undertake this work; but I tell you there are plenty of persons who would jump at such an enterprise.

Mr. QUITMAN. Permit me to say that this bill does not prevent Congress, at any time, if the enterprise be profitable, from authorizing other contractors to lay a track right by the side of this track.

Mr. STANTON. I wish to ask the gentleman from Virginia a question. I want to know of him if he contemplates, by his amendment, that the corporation of Washington shall, by taxation upon the citizens, raise a fund, and build the railroad, and then appoint persons to manage it, and make itself the operator of a line of omnibuses between here and Georgetown? Is that the idea?

Mr. SMITH, of Virginia. Certainly, sir.

Mr. STANTON. Well, it is a novel one to me.

Mr. SMITH, of Virginia. Wonderfully novel, indeed; wonderfully novel, certainly. [Laughter.] I hold that there would be no difficulty about it in the world.

Mr. JOHN COCHRANE. I would like to know what the pending amendment is?

Mr. SMITH, of Virginia. Does the gentleman want to put a question to me?

Mr. JOHN COCHRANE. Oh, no.

Mr. SMITH, of Virginia. Then I would like to know how the gentleman got the floor?

Mr. JOHN COCHRANE. I made, if it please the Chair, a very serious effort, and reached the floor with difficulty. [Laughter.]

The CHAIRMAN. The Chair would state that the pending amendment is the one offered by the gentleman from Virginia, [Mr. SMITH,] to strike out the names of the parties in the bill and insert the corporation of Washington.

Mr. WRIGHT, of Georgia. Do I understand the gentleman from Virginia to offer an amendment to confer this right upon the corporation of Washington?

Mr. SMITH, of Virginia. I do, sir.

Mr. WRIGHT, of Georgia. Will he permit me to ask him whether he has any knowledge that the corporation would be willing to build the railroad? And will he state to the committee what is the present indebtedness of the corporation, and what its capacity would be to put a line of railroad in operation?

Mr. SMITH, of Virginia. If three of the citizens of Washington can build it, I think that all the citizens together can do it without doubt. What does the gentleman think of that? [Laughter.] I think that a corporation, whose stock is

above par, can raise money enough to lay down a railroad track for a mile and a half, and stock the road, too. But the House will observe that I propose to give this franchise to the corporation of the city of Washington, and to give them power to deal with the question, instead of our doing it. If there be money to be made by it, let all have a finger in it. If there be a large profit to be realized from it, let it be diffused. Let it go into the common treasury, and diminish the taxation, and perhaps diminish the demands of the city upon us.

But, I again ask, and I should like the gentleman from Georgia, or the innocent gentleman from Ohio, to answer the question, why it is that we should grant this franchise to these three persons?

Mr. STANTON. Will the gentleman guarantee that if his amendment prevails, the city of Washington will not quarter the expense of the concern on the national Treasury?

Mr. FLORENCE. Or ask Congress to make appropriations to relieve them?

Mr. SMITH, of Virginia. That is a very pertinent inquiry; and I would ask the gentleman whether if the city of Washington made money out of the transaction—as these three persons to whom the franchise is to be accorded expect to do—they would seek to quarter the expense on the national Treasury?

Mr. STANTON. I will tell the gentleman that I never knew a municipal corporation that was capable of managing an enterprise of this sort. It is a matter of profit or loss to individuals, and it requires a private corporation or individual enterprise to attend to such things. State or national corporations usually lose money in enterprises that would be profitable to individuals. That is the experience of the whole country, and everybody knows it.

Mr. LOVEJOY. I rise to a question of order; and it is, that these interruptions are not in order. The gentleman from Virginia should be allowed to proceed.

The CHAIRMAN. The gentleman from Virginia yielded the floor to the gentleman from Ohio to answer a question.

Mr. SMITH, of Virginia. I have asked repeatedly, in different directions of this House, why it is that we should grant what is unmistakably a valuable franchise to these three gentlemen. I have not been answered. I have heard no reason given why these three gentlemen should enjoy this privilege exclusively. I would like to know.

Mr. HOWARD. I wish to answer the gentleman. I never heard of this bill until within the last hour. I do not know anything about it privately, nor do I care. But this bill proposes that these men shall build this road within a specified time, and in a particular manner, and it gives this very corporation of Washington the privilege of taking the property at any time for what it is worth. Now, if the corporation can build the road in six months, let them do it; but these men propose to do it within that time; and it makes no difference who does it, provided the road is built.

Mr. MORRIS, of Pennsylvania. With the permission of the gentleman from Virginia, I will answer his question. One of the gentlemen named in the bill is the proprietor of the line of omnibuses now in operation between the Capitol and Georgetown, and the Capitol and the Navy-Yard, and inasmuch as the construction of the railroad would destroy large vested interests of his, the committee considered it right and fair to allow him this privilege.

I will state further, that at the time this bill was approved by the Committee for the District of Columbia, no other proposition was before that committee; and I believe that up to the time the bill was reported to the House, no other parties had applied for permission to build the road.

Mr. SMITH, of Virginia. I believe that it is an undeniable fact, that Mr. Vanderwerken, the owner of the omnibus line between the Capitol and Georgetown, was opposed, in the first instance, to the construction of the railroad, but he has since been brought in and made a party to this rich endowment. The idea that he has vested rights—I must be pardoned for saying—is rather an amusing one. Vested rights in a line of omnibuses running on a public highway!

Mr. MORRIS, of Pennsylvania. The gentle-

man is taking advantage of my imperfect phraseology. I meant to say that he had a large amount of money invested.

Mr. SMITH, of Virginia. "Vested" is one thing, and "invested" is another; and there is a material difference between them in common parlance. Now, the interest that this gentleman possesses is the interest that his capital has given him, and his successful rivalry, for he has run down all opposition heretofore; and so they gracefully submitted to his coming into the scheme. But let all that pass.

I have not yet seen or heard any sufficient reason why we should give this franchise to these gentlemen. Let this bill be so amended as to let the persons who will take it on the best terms for the city get it. Put it up, if you choose, at auction. Devise some means for disposing of this franchise. As it is, it is a violation of every fair principle of legislation, in my judgment.

Mr. AVERY. I desire to offer the following amendment as a proviso to the bill:

And be it further enacted, That an election shall be held of the qualified voters of the city of Washington under the laws regulating elections in said city, on the first Monday of August, 1858, at which the question of "railroad" or "no railroad" shall be submitted to them, and if a majority of the said voters vote against said railroad, then this grant shall be, and is hereby, declared null and void.

The CHAIRMAN. The Chair thinks that the amendment is not in order at present, until the other amendments are disposed of.

Mr. AVERY. I just wish to say that until this bill was reported I had never heard of this proposition to run a railroad through Pennsylvania avenue.

The CHAIRMAN. The Chair would remind the gentleman from Tennessee that the pending question is the amendment offered by the gentleman from Virginia, [Mr. SMITH.]

Mr. GROW. I do not propose to trespass on the patience of the committee. I know that gentlemen are already very anxious to dispose of this business, and adjourn. Therefore I have but a word to say; and that is in reply to the gentleman from Virginia [Mr. SMITH] in his notions of legislation. If there be a franchise to be granted, may it not just as well be granted to individuals as to a corporation? A legislative body, I take it, is bound in all cases to act on this principle, and this alone: is their act for the public benefit? If so, they should pass it; if not, they should not. If it be an act of a general character, beneficial in its results, what consequence is it what amount of money citizens may make out of it?

No railroad would be built anywhere on the principle laid down by the gentleman from Virginia, for the reason that no men would invest their money to build a railroad, unless they thought they would make money out of it; and if they were to, on the principle advocated by the gentleman from Virginia, [Mr. SMITH,] they ought not to have a charter. It is for the Legislature to determine whether a railroad is to be for the advantage of the public. If it is, then it is no matter what amount of money may be made out of it by the persons who engage in it. In this case the question is, whether a railroad through Pennsylvania avenue will be of benefit to the city. If it would be, are we to stop and ask how much money the men who build the railroad are to make out of it, especially when the conditions proposed by the gentleman from Virginia [Mr. LETCHER] are thrown around the bill, enabling Congress to alter, change, or abolish the charter at pleasure. But why not grant this franchise to a citizen, as well as to a municipal corporation? If a public injury, it should be granted to neither; if a general benefit, what objection to granting to one any more than the other?

I am not sure in my own mind whether the bill ought to pass. I only rose to protest against the doctrine that a legislative body ought, in any case, to be governed in its action by the consideration of whether a citizen is to make money out of the franchises it grants, instead of considering whether those franchises are for the public good or not. I would as soon give the charter to three citizens as to a corporation. The objection lies as much against giving it to the corporation as to any private citizen of the Republic.

Mr. PHILLIPS. The gentleman from Virginia [Mr. SMITH] asks for some reason why this charter should be granted in this manner. I did not care to interrupt him at the time, but I will

tell him now. I understood him to profess to be friendly to the measure.

Mr. SMITH, of Virginia. I want the railroad.

Mr. PHILLIPS. The gentleman is in favor of the railroad along the avenue, which is one hundred and sixty feet wide. The width of the track is to be only twelve or fourteen feet. Now, I will tell him why the charter should be given to individuals, not to the corporation. It is to secure its being built at all. If authority to build it were given to the corporation of the city of Washington, it by no means follows that it would be built at all; but when authority is given to individuals to build it, it will be built. We know they will build it, for they have offered to do so. This bill gives the right to the city of Washington, whenever she may choose to reimburse to these individuals the money they may have expended, to strike out the present franchise. There can be but one opinion as to the fact that the way to have a railroad well built, with the apparatus in running order, in the best manner and in the cheapest style, is to give the charter to individuals, because individuals can certainly do public work at a cheaper price than corporations can. That I understand to be one reason why the bill was put in this shape.

Mr. GOODE. I desire to make a brief statement of the facts of the case. At an early day of the session, Mr. Chairman, application was made by these persons on the part of a company in New York, for permission to construct this road, in connection with a pavement from the Capitol to Georgetown, along Pennsylvania avenue, at a cost of from three quarters of a million to a million dollars. Pending the investigation before the committee, another company made application to construct a railroad on the present pavement. I had supposed that the present applicants were the agents of the New York company, whose name and style were not developed before the committee.

Well, sir, it soon came to pass that the parties to the second application disappeared from the city, and these gentlemen, who are now applying, are the sole applicants. At first, Mr. Vanderwerken was decidedly and violently opposed to the whole scheme. The second application was withdrawn. I know not what became of it since. These parties then came forward with Mr. Vanderwerken as the frontispiece of their proceedings, and asked for this charter to be given to them.

There can be no question, sir, that any capitalists will be willing to take this franchise whom the House may invest with it. I cannot sit by and hear it stated that this work cannot be done unless it be given to these men. There are others besides them who would be willing to do it. A New York company was the first petitioner for it.

Mr. PHILLIPS. Mr. Chairman, the gentleman has very much misunderstood me if he supposed that I objected to these particular individuals. I did not. I would prefer that it should be given to individuals rather than to corporations of any description. I do not know who these individuals are. I do not know one of them; but I would prefer giving it to them, whoever they are, than to the city of Washington.

The city of Washington has the power, under this bill, at any time, to take the property by paying its fair value; and if it is to come into the hands of the city corporation, they would get it more economically in this way, because it would be better built and cheaper built by individuals than it would be by the corporation. I am in favor of the bill. One of these railroads passes my own office in Philadelphia, and I find it no inconvenience. I think a railroad through Pennsylvania avenue would be decidedly a convenience; and I am in favor of having the road built.

Mr. FLORENCE. I am opposed to the amendment of the gentleman from Virginia, but I do not want to take up the time of the committee. I rise merely for the purpose of making a single remark in this connection. The gentleman from Virginia asked who these men were. Before answering the question of the gentleman, I will state that there are a number of these railways which have been built in Philadelphia, and that the law authorizing the construction of passenger railways in that city has provided in every instance that the omnibuses upon the routes should be purchased of the proprietors, with the horses and other prop-

erty, by the corporation. I know of no instance where authority has been given by the Legislature of any State, authorizing the construction of passenger railways, where their restrictions have not been made. As I said at the commencement of this debate, I am in favor of establishing this thing on the principles of economy and usefulness.

Mr. LEITER. I rise to a question of order. When I made a motion to strike out the enacting clause, I thought it was the understanding to vote upon these amendments without any further debate. It was upon that understanding that I withdrew the motion. I submit whether, after that understanding, this debate is in order?

The CHAIRMAN. The gentleman from Ohio withdrew his motion unconditionally, as the Chair understood it, and the gentleman from Pennsylvania is entitled to the floor.

Mr. FLORENCE. Well, sir, I do not wish to detain the committee; and as gentlemen all around seem disposed to debate this matter, I move that the committee rise for the purpose of going into the House and terminating debate.

Mr. STANTON. If it be the general understanding of the committee that the amendments proposed by the gentleman from Virginia [Mr. LETCHER] may be offered in the House, we can get rid of the debate by striking out the enacting clause easier than in any other way.

Mr. FLORENCE. There are other amendments which gentlemen desire to offer. I will, however, withdraw my motion that the committee rise.

The amendment offered by Mr. SMITH, of Virginia, was not agreed to.

Mr. COX. I move to amend the section under consideration by requiring that the fare shall not exceed three cents instead of five cents. I do not wish to detain the committee this evening; but I have a few words to say in favor of that amendment before the question is taken on laying aside the bill. The gentleman from Georgia, [Mr. WRIGHT,] to whom I am indebted for the suggestion of this amendment—though he, perhaps, did not intend it—spoke of bringing down these various conveniences to a price which poor people could afford to pay, so that all might enjoy these advantages alike. The gentleman comes fresh from the city of New York, where, he told me, he had never been before, and coming here full of illustrations of northern enterprise—I will not say pregnant [laughter] with illustrations of northern enterprises—and comes into this House, and gives, as a reason why this thing ought to be adopted, that we ought to let the poor people have a chance of riding in quick conveyances; that the omnibuses in which we have been traveling for the last twenty years do not go fast enough. Now, if this bill is to be adopted, I propose to carry out the gentleman's idea, and to bring it down to a point which shall do justice to poor people.

Mr. WRIGHT, of Georgia. As the gentleman seems to be serious in his amendment, I would suggest that, if the company find they can afford it, they will no doubt reduce the fare to three cents; but, as it may be found that three cents will not pay their expenses, I do not think they ought to be restricted to that rate of fare.

Mr. COX. It is said that a large fortune is in this thing. Here are three corporators—if it is a corporation—Gilbert Vanderwerken, Bayard Clarke, and Asa P. Robinson. We know nothing about them. I have some confidence, however, in the Committee for the District of Columbia. They, perhaps, know who these gentlemen are. They ought to give us full information. Who is Vanderwerken? It is said that he is the owner of the omnibus line, and has a large amount of money invested in it; that he is a man of large fortune already, and the gentleman from Georgia wishes to increase his fortune—to bring him down to a level with the poorer class.

Mr. MORRIS, of Pennsylvania. I have not said that he was a man of fortune. He is the omnibus proprietor, with \$100,000 invested in that business. I do not know whether it is remunerative or not.

Mr. COX. It is a proper and pertinent question who these parties are. Who is this Bayard Clarke? We do not know anything about him or his associates. In a matter where special privileges are asked for individuals, it is well to

know who are the persons to whom such privileges are intrusted. We ought to know who they are before we give them a private fortune; and in order to prevent this fortune being made in this way, I propose to cut down the rate from five to three cents.

Mr. SHAW, of Illinois. I am struck with surprise, Mr. Chairman, in finding opposition to this bill. We have been called on by various bills to appropriate a large amount of money for this city, and, after opposition, they have been passed; but I do not understand the opposition to this bill, which does not ask for the appropriation of a dollar.

I regard this as a work of great improvement, and as consulting, in a national point of view, the interests of the country. This city is far behind the times in having no good means of communication between the Departments, and from one extreme of the city to another. I am astonished, I say, to see that there is opposition to it, when it does not call upon the Treasury for a dollar; but when we remember that large amounts of money have been already appropriated from an almost empty Treasury, and still larger ones asked for, we can appreciate the force of the opposition. We are now not asked for a dollar. We are only asked for the privilege to be given to the parties named to construct this road, which will inure to the benefit of the entire community.

But the gentleman from Virginia objects to the bill for the reason that it confers a franchise upon some two or three persons, with whom the gentleman is, unhappily, not acquainted. If he were, the inference is that that objection would be removed; but as he has not had their acquaintance, he shrewdly suspects that they may be money-making men, and will derive some advantage by constructing this work, which will be of great public utility. It is a matter of no consequence to me whether these men live in this city or out of it. We want the work constructed, and they ask us for the privilege of constructing it. In Philadelphia, in New York, and indeed in all the large cities, we find these railroads traversing the streets, and they are looked upon as a great public convenience.

The amount of fare may be regulated hereafter by Congress. I believe that five cents is an amount little enough. It is the price that is charged in New York and in Philadelphia for a like service. I hope the bill will be laid aside to be reported to the House.

Mr. STANTON. I move to strike out the enacting clause.

The question was taken; and the motion was agreed to.

Mr. STANTON moved that the committee rise. The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. HOPKINS reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the special order on business pertaining to the District of Columbia; and had directed him to report to the House sundry bills, some with and some without amendments.

Mr. GOODE. I design calling the previous question on all the bills reported from the Committee of the Whole on the state of the Union; but before doing so, I wish to let the amendment suggested by my colleague [Mr. LETCHER] to the railroad bill come in. My impression is that those amendments were agreed to by the Committee for the District of Columbia, but were omitted from the bill by some inadvertence.

The SPEAKER. The Clerk will read the amendments.

The Clerk read the amendments offered by Mr. LETCHER in the Committee of the Whole on the state of the Union, but which were cut off by striking out the enacting clause.

Mr. AVERY. I ask the consent of the gentleman from Virginia to allow me to offer the amendment which I offered in committee.

Mr. GOODE. I cannot yield for that purpose. The previous question was then seconded upon the several bills, and the main question ordered to be put.

Mr. STANTON. I suppose the House is not inclined to take the question upon these bills this evening; and as there are several gentlemen who desire to make speeches on subjects not connected

with this bill, I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, with the understanding that no business is to be transacted.

Mr. UNDERWOOD moved (at ten minutes to seven o'clock) that the House adjourn.

The motion was disagreed to.

Mr. HUGHES. I move that there be a call of the House.

The motion was not agreed to.

Mr. J. GLANCY JONES. I wish to say to the House, that, unless they intend that gentlemen shall make hour speeches upon the appropriation bills, they should allow the motion to prevail. Let gentlemen make speeches to-night upon general subjects, and you save that much time hereafter.

The motion was then agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BILLINGHURST in the chair,) and proceeded to the consideration of the bill (H. R. No. 198) making appropriations for the preservation and repair of fortifications and other works of defense, barracks, and quarters, for the year ending the 30th of June, 1859.

The committee was addressed by Mr. KELLY, Mr. CRAGIN, Mr. KEITT, Mr. GILMAN, Mr. BLISS, Mr. GILMER, Mr. MAYNARD, and Mr. FOSTER. [These speeches will be published in the Appendix.]

Mr. MAYNARD. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, the Chairman of the committee reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and especially a bill making appropriations for the preservation and repair of fortifications and other works of defense, barracks, and quarters, for the year ending the 30th of June, 1859, and had come to no conclusion thereon.

And then, on motion of Mr. MAYNARD, (at ten o'clock p. m.) the House adjourned.

We did not receive the following letter from Mr. REAGAN until the 25th instant, after the Congressional Globe had been stereotyped, printed, and sent to the extremes of the Union. We had caused the Daily Globe containing his remarks to be laid on his desk in the House of Representatives, the morning after he made them, for the purpose of correcting any errors he might discover, in order to make the Congressional Globe perfect; but it seems that he either overlooked the errors or neglected to correct them. All that we can do now to mend the matter is, to publish his letter, and index it where his remarks are pointed to in the index, and thus enable the reader to find the correction:

WASHINGTON, May 22, 1858.
DEAR SIR: In my remarks on the bill to quiet land titles in New Mexico, found on page 2097 of the Congressional Globe, I am made to say, "We should remember that the people of that Territory have occupied it for ages past, and that their titles are as old as their origin, and have passed out of mind." I made use of no such nonsense. I said their titles were as old as the settlement of the country, and that the origin of many of them had passed out of mind.

Again, I am made to say a similar class of titles had been "extensively" litigated in Texas. I said "extensively." Scarcely any one but the reporters for the Globe would use such a word in such a connection.

Again, I am made to say, "I assert that, under the Constitution of the United States, we had no power to force upon men the necessity of adjusting their titles. My statement was, that under the Constitution of the United States we had no power to force men to readjust perfect titles."

These are some of the errors I see in the report of those remarks, and, as you see, do me great injustice. I have before made verbal complaint to you of a garbled report of my remarks on another subject, and I trust I shall not have to complain of the same thing again. Will you give this correction a place in the Globe? Very respectfully,

JOHN C. RIVES, Esq.

JOHN H. REAGAN.

IN SENATE.

TUESDAY, May 25, 1858.

Prayer by the Rev. F. SWENTZEL.
The Journal of yesterday was read and approved.

SENATORS FROM MINNESOTA.

The VICE PRESIDENT. The Secretary of the Senate has asked the direction of the Presiding Officer as to the time at which the compensation of the Senators from Minnesota shall com-

mence. The Chair supposes that, under the law, he would have a right to certify the compensation, and his certificate would be final; but he prefers to lay the matter before the Senate, and if they have no objection, to have it referred to the Judiciary Committee, inasmuch as there has been some irregularity on this question on the admission of new States. The Chair lays before the Senate the letter of the Secretary, and it will be referred to the Committee on the Judiciary.

PETITIONS AND MEMORIALS.

Mr. BROWN presented the petition of John Leach, praying to be allowed the benefit of the act of June 7, 1832, granting pensions to soldiers of the Revolution; which was referred to the Committee on Pensions.

Mr. MASON. I present a memorial from the corporate authorities of Georgetown, in the District of Columbia, setting forth certain grievances that have resulted to their town by reason of former legislation of Congress, and remonstrating more particularly against a proposition now before the Senate to withdraw a portion of the corporate territory from the limits of the corporation. For information, and as the memorial comes from a very respectable body of our own citizens near at hand, I move that it lie on the table, and be printed.

The memorial was ordered to lie on the table; and the motion to print was referred to the Committee on Printing.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BROWN, it was

Ordered, That W. W. Cox have leave to withdraw the papers relating to his claim.

REPORTS OF COMMITTEES.

Mr. THOMSON, of New Jersey, from the Committee on Pensions, to whom was referred the petition of Mary Jane Maltby, submitted an adverse report.

He also, from the same committee, to whom was referred the petition of Matthew Flausburgh, submitted an adverse report.

He also, from the same committee, to whom was referred the bill (H. R. No. 232) for the relief of Margaret Whitehead, reported it without amendment.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of Joseph G. Heaton, submitted an adverse report; which was ordered to be printed; and asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of Miles Judson, submitted a report, accompanied by a bill (S. No. 407) for the relief of Miles Judson, surety on the official bond of the late Purser Andrew D. Crosby. The bill was read, and passed to a second reading; and the report was ordered to be printed.

REPORT RECOMMITED.

On motion of Mr. HALE, it was

Ordered, That the petition of Robert Morris, together with the adverse report in the case, be recommended to the Committee on Naval Affairs.

BILLS INTRODUCED.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 407) to authorize the city of Washington to distribute and use the water soon to be introduced therein from the Potomac river; which was read twice by its title, and referred to the Committee on the District of Columbia.

EXPENDITURES IN DISTRICT OF COLUMBIA.

Mr. BROWN submitted the following resolutions; which were considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior cause to be prepared and laid before Congress, at the opening of the next session, a statement of all the expenditures from the national Treasury for public and private purposes in the District of Columbia, (excluding the salaries of public officers,) from the time the seat of Government was located at Washington to the close of the present fiscal year, specifying the object for which each expenditure was made, and arranging each under its appropriate head, as near as may be; and

Resolved, further, That the said Secretary be requested to have prepared a table showing the number of town lots originally owned by the United States in the city of Washington, the number sold and the sum for which they were sold, the number reserved, and their value: and that he

also include in his report a statement of the assessed value of individual property in the city of Washington for the year 1858, and the value of the Government property, excluding the public archives and books.

PAY OF NAVAL OFFICERS.

Mr. IVERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be requested to furnish the Senate with a statement showing the amount which would be required to cover the additional pay of such of the retired naval officers whose cases have been acted upon by the late naval courts of inquiry and the President, and who have been advanced to a higher grade or position as to pay than the one assigned to them by the late "retiring board," but who have not been restored to the active list; the said estimate being based upon the hypothesis that such officers be paid according to their present position, (either furlough or leave of absence,) from the time of their retirement to the date of their advancement, deducting any sums which they may have respectively received during said interval; and that he also transmit to the Senate a list of such officers, with the position assigned them by the "retiring board," and the one now held by them.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House had passed the bill of the Senate (No. 99) to amend "An act to incorporate the Columbia Institution for the instruction of the Deaf and Dumb and the Blind," approved February 16, 1857.

Also, that the House had passed a bill (H. R. No. 248) regulating municipal elections in the city of Washington.

A joint resolution (H. R. No. 32) making an appropriation to pay the expenses of the several investigating committees of the House of Representatives.

And a bill (H. R. No. 549) to provide for the lighting with gas certain streets across the Mall.

ENROLLED BILL SIGNED.

A subsequent message announced that the Speaker had signed the enrolled bill (S. No. 99) to amend the "Act to incorporate the Columbia Institution for the instruction of the Deaf and Dumb and the Blind," approved February 16, 1857; which thereupon received the signature of the Vice President.

LAND WARRANTS.

Mr. STUART. I move to reconsider the vote by which the Senate passed the bill (H. R. No. 300) declaring the title to land warrants in certain cases; but it will be first necessary to obtain the return of the bill from the House of Representatives. I move, therefore, that the Secretary request the return of the bill from the House of Representatives.

The motion was agreed to. Subsequently, the bill was received from the House of Representatives, and the motion to reconsider was entered.

NANCY SERENA.

Mr. THOMSON, of New Jersey. The Committee on Pensions, to whom was referred the bill (H. R. No. 231) for the relief of Nancy Serena, have directed me to make a favorable report, and recommend the passage of the bill. I should be very much obliged to the Senate if they would consider this bill at the present time. There can no objection to it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which proposes to place the name of Nancy Serena, widow of Joseph Serena, on the pension roll, at the rate of eight dollars a month, from July 15, 1854, to continue during her natural life.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PUBLIC BUILDINGS IN PHILADELPHIA.

Mr. BIGLER. I ask the consent of the Senate at this time, as there seems to be no pressing business, to pass the joint resolution of the House (No. 26) in reference to the public buildings in Philadelphia. It is important that that measure should be adopted at an early day.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 26) authorizing the arrangement and disposal of public buildings in the city of Philadelphia, which the Committee on the Post Office and Post Roads reported with an amendment, to

strike out all after the resolving clause, and insert:

That the Secretary of the Treasury, the Postmaster General, and the Attorney General, be, and are hereby, authorized to decide whether the custom-house at Philadelphia shall remain in its present location, or whether public convenience and interests require that the location of the custom-house be changed to the ground and building purchased of the Bank of Pennsylvania, by authority of the law of the 2d of August, 1854, for the purposes of a post-office, and the post office be removed to the present custom-house; and also, to decide whether it is best to sell the building and lot of ground now used for the purposes of the United States court, and establish court-rooms in the building of the present custom-house, and they be further authorized and empowered to so arrange the buildings for said offices and purposes as may, in their judgment, best promote the public convenience: *Provided*, That the expenses incident to such change and arrangement of the buildings shall not exceed the sum already appropriated for any or all of such purposes, and any additional sum that may be received for the building and ground herein authorized to be sold: *And provided further*, That should it be deemed best to sell the said court-house building and lot of ground, the President of the United States may cause the same to be sold after due public notice.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the resolution to be read a third time. It was read the third time, and passed.

WASHINGTON TERRITORY LAND DISTRICTS.

Mr. STUART. I wish to ask the indulgence of the Senate for the passage of the bill (S. No. 375) to establish two additional land districts in Washington Territory. It is very important, in order that it may pass the House of Representatives at this session. It will take no time. It is a bill which is very necessary for public business there.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 375) to create two additional land districts in the Territory of Washington.

Mr. STUART. I move to amend the bill by striking out the third section.

Mr. FESSENDEN. I suggest to the Senator that that bill ought not to be taken up now. I have strong objection to the multiplication of land offices, unless some very excellent reasons can be given for it.

Mr. STUART. There is but one land district in the Territory of Washington. It is reported by the Department that it is very necessary the authority to create two more should be given. The papers are all on file, and I have no doubt of the correctness of the statement. It is important that the bill should be passed now, because it should pass the House of Representatives at this session, in order that the necessary arrangements may be made.

Mr. FESSENDEN. I should like to know whether the Committee on Public Lands have thoroughly investigated that matter for themselves. I confess I have been somewhat struck with the multiplication of land offices, and the consequent multiplication of officers. I know we had before the Committee on Finance an estimate sent to us from the Commissioner of the General Land Office of something like one hundred and thirty or forty thousand dollars, merely for office rent and additional clerks in the several land offices in the United States. And many of these land offices were places where very little land was to be sold, and, in fact, where all the lands had been sold, but still the offices are continued with registers, and receivers, and clerks. We have already made three or four additional land offices at this session, and it is now proposed to make two more in the Territory of Washington. I do not know but that it may be necessary; but I very much doubt it.

I will observe, also, that, at the suggestion of the Committee on Finance, a member of it offered a resolution, which went to the Committee on Public Lands, to inquire into the expediency of limiting the increase of the number of land offices, and seeing if some of them could not be dispensed with. The expenses are getting to be enormous. What I ask is, that new land offices, with registers and receivers, rendering necessary rents, additional clerks, &c., shall not be made unless the Committee on Public Lands have for themselves thoroughly examined the matter, and ascertained how much is necessary. The population in the Territory of Washington is yet very small. What

the amount of the sales of lands there may be, or the demand for them, I do not know; but I am exceedingly averse to bringing in a bill creating new offices whenever the officer at the head of the land bureau suggests that it is advisable to do it. I think there is a terrible disposition on the part of this Administration to multiply offices everywhere, to get just as many as possible in every possible place where it can be imagined that they are necessary. I should like to see, with all their preaching to us about the necessity of reform, some disposition to do it somewhere; but we have not yet had the first proposition for it. If the Committee on Public Lands themselves have thoroughly examined the subject, and they are unanimous as to the necessity of this matter, I have nothing to say, because it is in their charge; but I wish to ascertain how that fact is.

Mr. STUART. I will say to the honorable Senator from Maine that the Committee on Public Lands have examined this subject, and are unanimously of the opinion that the offices asked for in Washington Territory ought to be granted. It may not be amiss for me to say also that the committee have considered very carefully the resolution which was submitted by a member of the Committee on Finance, and sent to them. The present law not only authorizes the President, but makes it his duty to close the land office in a district where the number of acres falls below one hundred thousand.

Mr. FESSENDEN. He has not done it.

Mr. STUART. I think the honorable Senator will find that he is in error in supposing that there are land offices in instances where there are not lands to sell, except in some cases where they have been authorized by special acts to be continued for special purposes. Such a case exists in Indiana, and in one or two other places; but there is no such general condition of things as the Senator supposes. The Committee on Public Lands, I may say, have considered all these questions carefully. We do not pass them as a matter of course. But it must be obvious to every Senator that, in the new Territories, such as Washington and Kansas and Nebraska, and the newer parts of the country, it is indispensable that new land districts should be established. It does not matter so much what the number of people is, if there is any considerable number. If they have to go three or four hundred miles to a land office, it is a hardship which the Government never sees fit to impose, and never ought to impose. The settlement of the country is facilitated by enabling people, without too much expense, to enter their lands. This case is one in which, in my judgment, the additional offices are indispensable. It is important that the bill should be passed at once, in order that it may pass the House of Representatives at this session. I move to strike out the third section for that reason. That section contains a provision for an appropriation which had better be placed on another bill; and to strike it out will aid the passage of the bill through the House of Representatives. I move to strike out that section in these words:

"Sec. 3. *And be it further enacted*, That to carry the provisions of this law into effect, from and after such period as the President of the United States may deem expedient and necessary, and in the absence of a specific appropriation therefor, such sum as may be required for salaries, office rent, office furniture, tract books, iron safes, and such other necessary and proper incidental expenses as may be sanctioned by the Commissioner of the General Land Office, be, and the same is hereby, appropriated."

The motion to strike out was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and the bill ordered to be engrossed for a third reading.

Mr. FESSENDEN. Can the bill be read the third time to-day without unanimous consent?

The VICE PRESIDENT. Yes, sir, it can. The bill has been read twice before to-day. It did not receive its second reading to-day, and therefore it can now be read a third time.

The bill was read the third time and passed.

M. C. GRITZNER.

Mr. JOHNSON, of Arkansas. I desire to withdraw the motion to reconsider, which I entered a few days since in the case of the passage of a bill for the relief of M. C. Gritzner. I have looked at the papers, and I do not think it is worth looking after any further.

The VICE PRESIDENT. It requires unan-

imous consent to withdraw the motion to reconsider. The Chair hears no objection.

MILES DEVINE.

Mr. CLAY. I objected the other day to the consideration of a bill (S. No. 288) for the relief of Miles Devine. I wish to call it up, as I perhaps prevented its passage at that time. I shall not vote for the bill, but I do not care to prevent its being passed. I move to take it up.

The motion was agreed to; and the bill (S. No. 288) for the relief of Miles Devine, was read a second time, and considered as in Committee of the Whole.

It provides for the payment to Miles Devine, of the State of Maine, of \$500, for injuries received while in the employment of the United States, and for medical and other expenses incurred in consequence thereof.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THOMAS L. DISHARON.

On motion of Mr. POLK, the bill (S. No. 317) for the relief of Thomas L. Disharoon was considered as in Committee of the Whole.

It proposes to recognize his right to certain land warrants assigned to him.

Mr. POLK. I will state that the bill has been unanimously recommended by the Committee on Private Land Claims, and it is eminently just.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS REFERRED.

The following bills, from the House of Representatives, were severally read twice by their titles, and referred as indicated below:

A bill (No. 248) regulating municipal elections in the city of Washington—to the Committee on the District of Columbia.

A bill (No. 540) to provide for the lighting with gas certain streets across the Mall—to the Committee on the District of Columbia.

A joint resolution (No. 32) making an appropriation to pay the expenses of the several investigating committees of the House of Representatives—to the Committee on Finance.

The bill of the Senate (No. 227) authorizing the organization of a fire department in the District of Columbia, with the amendment of the House of Representatives, was referred to the Committee on the District of Columbia.

INTERNAL IMPROVEMENTS.

Mr. SEWARD. I move to take up the bill (S. No. 341) making an appropriation for repairing and securing the works at the harbor of Chicago, Illinois.

Mr. HUNTER. If that is taken up, will it interfere with the loan bill, at one o'clock?

Mr. SEWARD. The Senator will have an opportunity to move on that subject.

The motion to take up the bill was agreed to.

The VICE PRESIDENT. It has been read three times. The question is on the passage of the bill.

Mr. TOOMBS. When this bill was laid aside yesterday, I was about to reply to some observations of the Senator from Mississippi [Mr. Davis] upon a very important principle connected with this general system of improvements. I am quite satisfied that the construction which I placed upon this clause of the Constitution, then under consideration, was legitimate and proper, and sustained by the debates of the Federal Convention. The Senator from Mississippi is entirely mistaken on two points; first, on the point that the two provisions of the Constitution, which were quoted yesterday, or either of them, had any connection whatever with free trade; and next on the point that there was any distinction between foreign and domestic tonnage.

I find, on examination, that the very construction I gave, and the very argument I used as to these provisions in the Constitution, were in accordance with what was declared by the mover of the clause. Probably, I used his argument on account of my recollection, having read it somewhere before. I will proceed to show the Senator and the Senate that the purposes of it were not with any view to prevent the laying of tonnage duties on vessels going from one port to

another of the United States or foreign countries, but to carry out the first clause in preventing any discrimination in favor of the ports of one State over the ports of another State. The clause is:

"No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from any State be obliged to enter, clear, or pay duties in another."

This clause was proposed in the convention that formed the Constitution, on the 25th of August. At pages 478-9, volume five of Elliot's Debates on the adoption of the Federal Constitution, as reported by Mr. Madison, we find that—

"Mr. CARROLL and Mr. L. MARTIN expressed their apprehension, and the probable apprehensions of their constituents, that, under the power of regulating trade, the general Legislature might favor the ports of particular States, by requiring vessels destined to or from other States to enter and clear thereat; as vessels belonging or bound to Baltimore to enter and clear at Norfolk," &c.

That is precisely the illustration I gave.

"They moved the following proposition:

"The Legislature of the United States shall not oblige vessels belonging to citizens thereof, or to foreigners, to enter or pay duties or imposts in any other State than in that to which they may be bound, or to clear out in any other than the State in which their cargoes may be laden on board; nor shall any privilege or immunity be granted to any vessel on entering or clearing out, or paying the duties or imposts in one State in preference to another."

This was the language of the clause as first proposed, but afterwards it was simplified and put in its present form. The illustration given by the movers of it shows what the object was. They were apprehensive that vessels bound for Baltimore from foreign ports would be compelled to pay duties at Norfolk, and they wished to prevent that.

"Mr. GORHAM thought such a precaution unnecessary; and that the revenue might be defeated if vessels could run up long rivers, through the jurisdiction of different States, without being required to enter, with the opportunity of landing and selling their cargoes by the way."

"Mr. McHENRY and General PINCKNEY made the following propositions:"

It was a different form, but the same thing in substance.

"These several propositions were referred nem. con., to a committee composed of a member from each State. The committee, appointed by ballot, were Mr. Langdon, Mr. Gorham, Mr. Sherman, Mr. Dayton, Mr. Fitzsimmons, Mr. Randall, Mr. Carroll, Mr. Mason, Mr. Williamson, Mr. Butler, Mr. Few."

At page 483, we find that the committee reported the proposition nearly as it now stands in the Constitution:

"TUESDAY, August 28.

"In Convention.—Mr. SHERMAN, from the committee to whom were referred several propositions on the 25th instant, made the following report; which was ordered to lie on the table:

"That there be inserted after the fourth clause of the seventh section 'nor shall any regulation of commerce or revenue give preference to the ports of one State over those of another, or oblige vessels bound to or from any State to enter, clear, or pay duties in another; and all tonnage duties, imposts, and excises, laid by the Legislature, shall be uniform throughout the United States.'"

The question was voted upon, as we find at page 503, and disposed of:

"The report of the grand committee of eleven, made by Mr. Sherman, was then taken up.

"On the question to agree to the following clause, to be inserted after article seven, section four:

"Nor shall any regulation of commerce or revenue give preference to the ports of one State over those of another."

"Agreed to nem. con.

"On the clause—

"Or oblige vessels, bound to or from any State, to enter, clear, or pay duties in another."

"Mr. MADISON thought the restriction would be inconvenient, as in the river Delaware, if a vessel cannot be required to make entry below the jurisdiction of Pennsylvania.

"Mr. FITZSIMMONS admitted that it might be inconvenient, but thought it would be a greater inconvenience to require vessels, bound to Philadelphia, to enter below the jurisdiction of the State.

"Mr. GORHAM and Mr. LANGDON contended that the Government would be so fettered by this clause as to defeat the good purpose of the plan. They mentioned the situation of the trade of Massachusetts and New Hampshire, the case of Sandy Hook, which is in the State of New Jersey, but where precautions against smuggling into New York ought to be established by the General Government.

"Mr. McHENRY said, the clause would not screen a vessel from being obliged to take an officer on board, as a security for due entry, &c.

"Mr. CARROLL was anxious that the clause should be agreed to. He assured the House that this was a tender point in Maryland.

"Mr. JENIFER urged the necessity of the clause in the same point of view.

"On the question for agreeing to it, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, ay—3; New Hampshire, South Carolina, no—2.

"The word 'tonnage' was struck out nem. con., as comprehended in 'duties.'

"On the question on the clause of the report, 'and all duties, imposts, and excises laid by the Legislature shall be uniform throughout the United States,' it was agreed to nem. con."

Thus we see that the precise object as expressed, and, I think, very plainly expressed, in that clause, and the reason of the mover, and it was followed throughout in the debates, was, that a vessel coming from a foreign or domestic port, and especially one from a domestic port, should not be compelled to enter, to clear, or to pay duties in any other port than that from whence it sailed, or to which it was sailing. That, and that alone, was the object, as expressed in all the debates, and I think that is the fair construction of the language. Perhaps it is not quite so explicit as the original proposition, because that contained some more words, and they abridged it; but still, the meaning is the same. It can by no possibility mean anything else.

I come next to the clause of the Constitution as to tonnage duties, under which, I hold, it is in the power of Congress to authorize the different States to levy tonnage duties for the purpose of internal improvements and for lights. That was the express reason assigned for the introduction of that clause. The language is not only very clear, but this object was assigned as the reason by the person introducing the clause. The clause of the Constitution under which I claimed that power was this:

"No State shall, without the consent of Congress, lay any duty of tonnage," &c.

The only dispute in the convention, when it was moved for that purpose, was, whether or not it should be done without the consent of Congress. Some were of the opinion that, for the purpose of keeping up light-houses and improvements of ports, the States ought to have the power. Gouverneur Morris was of the opinion that they had it without the clause. Mr. Madison, in his argument, said there was doubt as to whether they had this authority, because the power over commerce was entirely, and ought to be, in the hands of the Federal Government. Although the convention admitted that the States had power, the only question was on putting in the words "without the consent of Congress." The Senate will find the debate on that branch of the subject on page 548 of Elliot's Debates, volume five:

"Mr. McHENRY and Mr. CARROLL moved, that 'No State shall be restrained from laying duties of tonnage for the purpose of clearing harbors and erecting light-houses.'"

"Colonel MASON, in support of this, explained and urged the situation of the Chesapeake, which peculiarly required expenses of this sort.

"Mr. GOVERNOR MORRIS. The States are not restrained from laying tonnage as the Constitution now stands. The exception proposed will imply the contrary, and will put the States in a worse condition than the gentleman [Colonel MASON] wishes.

"Mr. MADISON. Whether the States are now restrained from laying tonnage duties, depends on the extent of the power 'to regulate commerce.' These terms are vague, but seem to exclude this power of the States. They may certainly be restrained by treaty. He observed that there were other objects for tonnage duties, as the support of seamen, &c. He was more and more convinced that the regulation of commerce was in its nature indivisible, and ought to be wholly under one authority.

"Mr. SHERMAN. The power of the United States to regulate trade being supreme, can control interferences of the State regulations, when such interferences happen; so that there is no danger to be apprehended from a concurrent jurisdiction.

"Mr. LANGDON insisted that the regulation of tonnage was an essential part of the regulation of trade, and that the States ought to have nothing to do with it.

"On motion 'that no State shall lay any duty on tonnage without the consent of Congress'—

"New Hampshire, Massachusetts, New Jersey, Delaware, Maryland, South Carolina, ay—6; Pennsylvania, Virginia, North Carolina, Georgia, no—4; Connecticut divided."

"The remainder of the paragraph was then remodeled and passed, as follows, namely:

"No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign Power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay."

It is evident that the very clauses under which I claim the power, were put in this shape expressly for the purpose of enabling the States to clear out harbors. I think the gentleman from Mississippi deviates from the usual rule of construction, at least of the school to which he and I belong, when he has to interpolate into this clause a word on one branch of his argument, to

make it "domestic tonnage." He seems to entertain the idea that you could not lay a duty on foreign tonnage, according to his reply to my friends from Louisiana and Illinois, but could on domestic tonnage. The whole argument on the first clause, to which I referred, was as to domestic ships sailing from one port to another; but the clause was made so as to embrace not only ships sailing from one port of the United States to another, but ships from foreign ports.

Congress is bound, under this clause of the Constitution, and that is what it was introduced for, to establish proper offices for the entry, payment of duties, and clearance of ships at Baltimore instead of at Norfolk. The same is the case at Philadelphia. She has a right to clear her ships at Philadelphia, and not at Wilmington. She has a right to pay her duties and make her entry at Philadelphia, and not at Wilmington. The framers of the Constitution believed that under the general power to regulate commerce, if there were no restriction, this Government might compel a ship bound for Baltimore to enter and pay duties at Norfolk. I think those who moved the proposition were right. But for this clause that might be done, and then the Federal Government would not have had to establish custom-houses, and ports of entry, and ports of delivery, in the different States. It might have been more convenient to the Government, and clearly more economical, to require all vessels bound for the port of Alexandria, the port of Georgetown, the port of Baltimore, and the port of Richmond, to enter and pay all the duties at Norfolk. That would save us a vast amount of expense. If we had that power, we ought certainly to have used it to compel the vessels to enter and pay duty there, and then go on their voyage to other points. But the States, jealous that the power would be exercised by the Federal Government in some shape or form, made the first clause, to which I have alluded, with no other view in the world but to prevent the Federal Government doing it—not to prevent State action, not to prevent them, as erroneously supposed, to impose duties and burdens.

My honorable friend from Mississippi is mistaken as to the case he put of Charleston and Savannah. I cannot conceive a case in which it would be to the interest of Savannah to prevent a vessel from Charleston coming into that port. I think there is no conceivable case in which she would want to lay prohibitory duties. In fact, I have ascertained that the States which got the right to lay tonnage duties for the improvement of their harbors, would not use it, for the reason that it gave a preference to rival ports. There is no difficulty with Savannah. She abandoned her power and asked you to take away the wrecks which you had put in the Savannah river, and not let her tax her commerce for it, because she said, that if a foreign vessel coming from Liverpool has to pay tonnage duties in Savannah, and none in Charleston, it would be an encouragement of Charleston, and a discouragement of Savannah. I cannot conceive a state of things in which it is against the interest of the people of any particular port in any State to prevent the entry of ships from another State.

Again, it is a sufficient answer to say that without this clause of the Constitution they have no such power, and this clause is given for no other purpose but to lay tonnage duties by the consent of Congress. It was at first expressed by the mover in different language, and it was afterwards put into its present shape, with the avowed object of allowing the States to clear out their harbors and put up their lights. That was a legitimate business, and it ought to be followed now, and it would be followed, as I stated yesterday, but for the general disposition throughout the United States—which is common to all people—for the most enterprising portion of the community to put the expenses of their business on the least enterprising. That is the case at the North; it is the case at the South; it is the case in England; it is the case the world over. In England they improve their harbors, and they charge the commerce benefited by the improvement. Any gentleman who will take the trouble to look at their system will find it to be so. Tonnage duties are levied there; each place pays its own expenses. Their lighthouse system does not cost the English Government a cent, and harbor improvements do not cost that Government a cent, because they have come

to this great principle of justice: they do not allow capital to put the expense of its business on labor. How is it now in New York? I would take Savannah if that was as large a place, because the illustration I give is not on account of the locality of New York. Is it just that the great body of the industrious laboring people of New York, the men who toil by the day, and who pay duties on imports, who pay revenue to this Government, should be taxed for the payment of the light dues of the millionaire that owns a ship, or port duties for the benefit of an insurance office in New York? Is there anything in the relative condition of the different classes of people in New York which can justify that? I recollect seeing, a day or two ago, a statement—I do not know how authentic it was, but it purported to be taken from the books—that there are less than thirty thousand tax-payers on the books of New York city, which has a population of six hundred thousand inhabitants. If you assume that there are six persons in the family of each of the thirty thousand tax-payers, there would not be one third of the population of New York that have any property at all which is taxable under the local law. Four hundred thousand of the people of New York have no visible taxable property, but they are largely taxed by this Government in their consumption, what they eat, and drink, and wear, to lessen the burden of millionaires in commerce, men who own ships and have capital. This is unjust—as unjust to them as it is to the people in Georgia or Vermont—for the rule is universal. Persons who own ships, the insurance offices, and those who are dealing in capital, should pay the expenses of their own business, and not put them upon the toiling millions.

I recollect—I speak from memory—that I saw last fall the report of a very valuable society for the improvement of the condition of the poor, in which it was alleged that one sixth of the entire population of the city of New York lived on public charity; that three sixths of the residue were so near it as to be unable to contribute to that one sixth, and therefore that the other two sixths paid for supporting the one sixth; that is, every two of the inhabitants were charged with the support of a third. I do not think there is anything so very remarkable in the results of that system, although it is free labor, and they are free people, which should encourage this Government, or should invite the Senate and the House of Representatives of this great country to take burdens off the wealthy, off the ship-owner, off the capitalist, to put them on the toiling millions, one sixth of whom are already on the parish, and three sixths of them so near it that they are unable to contribute one cent to alleviate the woes of their poorer fellow-citizens.

That is the condition of things there, and it has resulted from the tendency of Government—and I believe it is more so in a republican Government than in any other—to make the rich richer, and the poor poorer. The rich are necessarily the enterprising and the intelligent; they have the means of doing it, and their whole object is to use the Government in order to get at the public Treasury. What is the gold in the public Treasury, after all? In its last analysis, it is but the sweat of the poor. The object is to take this sweat of the poor from the public Treasury, and to give it to the persons who have the largest means, who are engaged in commerce, and in various other occupations more lucrative, of course; that is, to take from poverty and give to wealth.

I do not oppose the improvement of this country. No man in the United States would go further than I would to develop the resources of this great people, or give Government aid to any extent allowed by the Constitution, and that was just to all. These are the only two limits to any efforts of mine to improve this country, and every part of it: show me the power, and show me the just means. I think the system of tonnage duties is a just means; and hence I attributed more importance to it than the casual remark of my friend from Mississippi would otherwise have attracted. I think it a just and legitimate means that these people should have the right to lay tonnage duties to improve their rivers and harbors. Frequently the States have done so. New York has done it with some of her rivers. She early commenced the system, to her great credit, which has resulted to her general prosperity. She made

artificial communications where she had no rivers, and where she had defective natural ones; she improved them; but she taxed those who used them, and thus restored to the public Treasury what she had taken from it. I am content that each place should tax the tonnage coming into it for its own improvement. Let New Orleans do it, for instance. I think the Mississippi river ought to be improved, and I cannot see the difficulty my friend from Mississippi does about a vessel starting below St. Louis, and stopping above New Orleans. They can be made to pay in any collection district where they stop. They can be made to pay at the point whence they sail, or the point where they arrive. There is no difficulty that I see, no risk in making those who use that great highway pay for its improvement. The fact that its tonnage is great, that the wealth which floats on its bosom is great, would make the tax inconsiderable; and having a remote interest even on those waters, I should be glad to see a system adopted by which the wealth that annually floats on the bosom of that mighty river should be tolled for the purpose of adding security to human life, and security to property on those waters; but I desire it to be done legitimately. I do not want to tax the man in Vermont or in New Hampshire for the purpose of aiding to float my cotton on the bosom of the Mississippi. If my cotton floats there I am willing to pay the expense of it; if I ship my produce down the Mississippi river, and snags interfere, I see no reason why I should go to the poor man on the hills of Vermont, and ask him to toll his little lambs to float the avails of my industry to the great ports of the world. It is unjust. Such a system is injurious to every section. It is local. It injures New York as much as it injures other people. To levy a tax on the people of the State of New York to improve the harbor of Oswego, or on the people of Illinois to tax the harbor of Chicago, would not be submitted to an instant in those States without imposing a toll on those benefited. No man would dare to rise in the State Legislature and propose so great an iniquity; and yet that would be more unjust than it is here to charge it on this Government, because it might be said that as you improved the value of property at Oswego and at Chicago, you benefited, incidentally, the people of the whole State, and made it more capable of paying taxes. That is not true in regard to our indirect system of taxes by which we support this Government. A man may have millions of property in Chicago, and millions of property in Oswego, and yet may not pay one cent to the public revenue of the United States. I know that is the case with a great portion of the richest men with us—careful men. They make at home everything, or nearly everything, they use. They make their clothes at home, which are spun and wove by their domestics, or oftentimes by their own wives and daughters. They pay no duty on their sugar. They distill their own whisky, and make brandy out of their own peaches. They do not pay you any duties on what they eat or drink or wear; therefore they can defy your indirect taxation, although they may own millions of property. It is not so, however, with the great mass, especially with the poor. They must pay. A man who is a mechanic must pay you duties for what he wears and drinks and eats; and so it is with every man who is not a farmer.

I say that the system of tonnage duties pointed out by the Constitution is free from difficulty, and it ought to be resorted to. As I remarked yesterday, its opponents have generally been those who wished the Government to make their improvements and pay for them, in order that they might put the expenditures on the public Treasury. Of course, in this remark I do not include the honorable Senator from Mississippi. If they contribute their taxes in proportion to other people, and draw out thousands where others draw out nothing, they understand how that works. Such a system is against the interest of all classes, except the particular locality where the improvement is made. It is unjust to the rural districts in New York and Illinois, as it is in Georgia and Arkansas. It is unjust even to the working people in the very towns where these improvements are made. The only possible incidental advantage they could get, if any, would be increased employment growing out of the prosperity of the town;

and that is so infinitesimal as not to be ascertainable. You take money out of the pockets of the laboring millions to pay for the lights that show the pathway leading into port for the ships of France and England, and our own country. It is part of the same system, and it is unjust.

The principle for which I contend is a sound one, and it ought to be adopted; and I say it is practicable even in regard to the Mississippi river, that "inland sea" which led astray even the great, bright intellect of South Carolina, on an idea of public necessity to devise some scheme by which that great work could be done. The pressure was immense; the population concerned amounted to millions; the interest was terrific; and he sought to find some mode by which he could detach that great interest from the thousand schemes of speculation in the United States; but they all stand on the same great principle. There is no power in this Government to do it. Congress can give them the power to pay the expenses of their own improvements, and that is the only rightful and legitimate mode on which these great improvements should be carried on.

Mr. DURKEE. Will the honorable gentleman allow me to ask him a question?

Mr. TOOMBS. With great pleasure.

Mr. DURKEE. Admit that the ship-owner pays the tonnage duty, does it not enter into the price of the goods, and therefore necessarily fall on the consumer?

Mr. TOOMBS. That is one element of price, but very often it is the least, and the ship-owner knows it; for he would rather you should pay it than he himself. It is one element of price, and will enter into it *ceteris paribus*.

Mr. DAVIS. I have listened to the Senator from Georgia, with attention and interest. He has sustained his construction of the particular clause in relation to vessels clearing from one port to another with his usual ability, and with an array of authority which I will not gainsay. So far, then, from continuing the argument with him on that point, I admit that he has sustained his construction of that clause of the Constitution. I think, however, when he assumes that the clause admits of no other construction, is capable of no extension, applicable to no other case, he assumes more than the authority he has read authorizes. Every remark he read in the discussion of this clause of the Constitution clearly referred to other than domestic tonnage; and if he will follow his examinations still further, to the first discussion which arose in Congress, in 1790 I think, he will there find that Mr. Madison, in introducing a proposition, attempted to establish a scale of tonnage duties, and that that scale of tonnage duties looked to the purpose of building up American shipping by relieving it of the burden which foreign ships should bear; and that, even when navigating the ocean, coming from a foreign port to a port of the United States, the purpose was declared to be to discriminate in favor of American ships, or ships owned wholly or in part by American citizens, and against those which were termed foreign bottoms.

But, whether I be correct in that or not, I think the other clause of the Constitution to which he passes to sustain his position, is one on which I can make a satisfactory answer. He says it is necessary to resort to that clause of the Constitution which declares that the States shall not, without the consent of Congress, lay tonnage duties; and he infers from the language there employed that the States were to lay tonnage duties on whatever they pleased. I think, spread broadcast over the whole Constitution, is the great principle of free trade between the States. As I recollect the language of Mr. Franklin, he said the trade between the States should be as free as that between the counties of England. It was the spirit which moved the convention that framed the Constitution, and entered into the State conventions by whom it was ratified. In the same section, and in the paragraph next preceding, my friend from Georgia will find in the Constitution lying before him, it is provided that no State, without the consent of Congress, shall lay any duty upon imports or exports, except so far as to execute their inspection laws; and that, if the consent is given, the net proceeds shall be paid into the Treasury of the United States. Then follows the provision that no State shall enter into any contract or alliance, or shall keep armies, or shall lay duties on tonnage

except with the consent of Congress; the difference between the two clauses being only that, in the first, the excess of duty is to be paid into the Treasury; and in the second, no provision is made for any excess whatever; and under the very obvious understanding which the Senator has presented, that it was the interest of every port to lay the tonnage duties as low as possible, and no excess was to be anticipated. The power, however, is the same. Now, would it be contended by any one—surely not by a free-trader, not by one whose principles are those of free trade, like the Senator from Georgia—that the first clause gives to a State, with the consent of Congress, the power to lay duties upon imports and exports from another State of the Union? And yet the power is as broad, and is conferred in language almost exactly the same with that which gives them the right to lay duties on tonnage.

It would be unfair to the argument if I omitted to say that the discussion to which I referred to sustain my opinion, was on a bill which did impose some duties on the coastwise trade. My memory does not serve me, and I am not able at this time to pursue the investigation so far as to learn whether the word "coastwise," in that connection, was used as we use it now, to refer to the navigation pursued from one port of the United States to another. I will grant that it did; and if so, then they departed from what I think was the principle that appeared to prevail in all the debates preceding it, by establishing a very small amount of duty upon American tonnage—so small as to sustain the argument under which it was made—to pay the light tax to which the Senator from Georgia referred. In all the discussion, I think the tonnage duty which was in the mind of the convention, and of the Congress which succeeded it, referred to tonnage engaged in foreign trade; and so strongly was this presented by Mr. Jackson, of Georgia, the cotemporary of Mr. Madison, that in counting the amount which was to be received from Georgia from tonnage duties, he excluded American tonnage altogether.

If, then, I am correct, that the power to lay tonnage duties, and the power to lay duties on imports and exports, be exactly the same, so far as a State can exercise it, I think I am sustained in my first proposition, that it was a power not to be exercised against ships belonging to our fellow-countrymen in the United States. Before the Union was formed, tonnage duties were imposed for the purpose of improving harbors, and especially for the establishment of lights. It was continued afterwards for a long time. I do not find anywhere conclusive evidence that it was the intent that they should be imposed, even for that purpose, upon our own shipping; but if I grant all this, (and I do not wish to enter into an argument on a collateral question which really has little or no connection with that before us,) then I ask you how will the tonnage duties be levied on boats navigating rivers; and how will they be collected on those vessels? Tonnage duties, as understood by the framers of the Constitution, and the men who executed it for a long time after, meant duties laid on vessels coming into ports. They were local duties; duties for the improvement of the port, and for the convenience of the vessel which entered the port. Now, sir, when a vessel arrives at New Orleans, will you levy a duty for coming into the port of New Orleans—constructively a port, but in fact a landing made by the hand of nature, and but slightly improved by art? Clearly, that is not the tax you want. That you already impose under the municipal authority, in wharfage tax. You want a tax for the improvement of the river itself; a toll tax, such as we pay on a highway. That is the only tax which would avail anything. The Senator properly describes the vast commerce of that river, and the very light burden which would necessarily be imposed; but I ask again if you are going to impose a duty or tax in any form, for the improvement of the river, how will you collect it in the form of a tonnage duty at a port, as the Senator proposes?

Mr. TOOMBS. There is no sort of difficulty in levying the duty at the port of departure or the port of entry. If the power to levy tonnage duties were granted by Congress to all the States on the line of that commerce to tax on tonnage a quarter of a dollar a ton, if you please, as was done in the State of Georgia, the fund might go into the

hands of commissioners for improvement. It is one of the simplest operations in the world. Where the river is all in one State, grant it to the State. Where it is in different States, the act ought to specify the different ports at which they would stop. I see not the least difficulty in it at all; no more than in regard to the foreign trade.

Mr. DAVIS. The Senator perhaps finds no difficulty in the comparison he makes. But the Mississippi, as a physical and political problem, presents a vast difficulty, and one which might very well confuse the great intellect of South Carolina. A boat starting from St. Louis, and bound for New Orleans, has a long line of river, the improvement of which is essential to her benefit. Every improvement made upon that whole line of river inures to her advantage in navigating. A tonnage duty collected at New Orleans is the same on that vessel as on one that runs from some landing fifty miles above. Would this be equitable or reasonable? For many miles above, more than fifty, you want nothing for the river; nature has dug it out wide and deep, and there are no snags and no bars to interfere with the navigation. Then you would impose by your tonnage duty the same tax upon this vessel running fifty miles over a river where art could do nothing, that you would impose on another vessel running the extreme distance of the whole navigation of that long river. Upon the theory of the equal distribution of taxation which the Senator has argued, he must see that this would be entirely unjust. Vessels that plow the ocean, when they come into a port and pay port charges, may pay alike, because all the advantage they derive from any artificial improvement is in the port. Here the advantages are not in the port; they are along the whole line of travel. You would have to erect something corresponding to toll-gates if you assimilated it to a road; you would have to collect your taxes from point to point, according to the distance over which the boat had passed—not to lay a tonnage duty in a port to which the boat might be bound, remote or near, as the case might be.

That rivalry of ports to which I referred, was a rivalry growing out of some ill feeling, some jealousy between two places. I selected two in the section to which the Senator and myself belong, because there it would be merely commercial rivalry. He will not fail to perceive—it is not necessary for me to state a case—that rivalry of a much more bitter kind might exist between ports in different sections of the Union, and duties might be imposed for vexatious purposes. I took two ports where I would avoid that question. I did it intentionally; and it is only necessary to suggest it to the Senator's mind, and he will see to what consequences it might run.

The light-house system, as pursued by the United States, is certainly a very liberal one. We make our lights free to foreign and domestic commerce. It imposes a tax, as has been very well described, upon all the people of the United States, because these light-houses are built and supported out of the Treasury of the United States. To change that immediately to a local tax is a question involving so many points for consideration, so many difficulties, that I am not willing to touch it so rudely and hastily as to decide at once that the whole system should be changed. Modifications of it, I think, might well be made. Perhaps it may be possible progressively to reach the point to which the Senator would have us go; but it would be quite unequal to the State of Georgia, to take the case of his own State, after the light-house system is almost perfected in another quarter of the Union, to say that light-houses should now be built on the coast of Georgia, at her own expense. Something of modification may be introduced, something finally to correct what I admit to be an error.

Mr. TOOMBS. Allow me a moment. What is the difficulty in the way of the Government charging those who use the lights? I have no doubt they ought to be under private superintendence; but now, to-day, why should not a duty be levied, as in all other countries in the world, upon the vessels using the lights, to reimburse the cost of keeping them up, as is done in France and England, and all along the Mediterranean? If the Government does build them, why not compel the owners of ships to pay the expense, and thereby throw the burden off poverty on wealth?

Mr. DAVIS. If our system were one of direct taxation, every one would see at once the justice of the proposition; there could be no argument on it. Our system, however, is one of indirect taxation, by which we collect money from the consumption of the country; and the difference there is hardly material. If the importer paid the light tax, he would merely lay that additional tax on the price of the goods he imported, and the consumer would pay it in that form, with interest on the money thus paid. If you were rid of this system of indirect taxation, where all your revenue is collected from the consumer, and thrown back on property and direct taxation, then I suppose there would be no one who admits the equity of the rule which the Senator and myself both recognize, who would not say that the lights should be supported by taxes levied on those who use them. That is one of the difficulties to which I intended to call the attention of the Senator, rather than to elaborate the point, and one of the very many difficulties which surround a sudden change in this system.

The general principles which were announced as the basis upon which the argument of the Senator from Georgia rests, are those which I have always advocated, more feebly than himself, but with the same zeal—the equitable distribution of the burdens of the Government upon all the people of the United States. I would go further, and say that to levy them upon the property of the United States would be, to me, more acceptable than the present system. He has laid down no general principle in which I do not concur. I heartily go with him in a system of taxation on those who derive the benefits of local improvements. I think a system of taxation may be devised, though it is not without difficulty, for the improvement of rivers; but I think a system of tonnage duties, such as is proposed, will be unequal and unjust, and I believe a violation of the right to use the highways of the United States; or it would evade that right in such a form as to render it utterly useless.

Mr. COLLAMER. I do not propose to enter at large into the subject of taxation; but having heard the remark of the gentleman from Georgia, and having heard somewhat similar ones heretofore from the honorable Senator, and being in some measure constrained to acknowledge much of weight in them, I am not willing to sit entirely still, and give a merely silent vote, without suggesting, at least, to that gentleman some difficulties that are on my mind in relation to the views he takes.

The problem of a just taxation is a difficult one in any country at any period. It is one which troubles statesmen always. There may be some question, indeed, to determine if it were practicable, what would be a true, genuine, just principle of taxation. I must acknowledge that it seems to me, if it were practicable, a true income tax is the most just tax of any in the world. I say this, though I perceive that in England they seem to be dissatisfied with the income tax which they have had. Take the case the gentleman mentions in regard to the city of New York, where he thinks there are only thirty thousand tax payers out of nearly a million of people. If the tax is laid upon the real estate of the city of New York, who pays it? The Government must always levy its tax, and obtain its money from where the money is. They cannot obtain the money from where it is not. They lay hold of it where they find it. If a tax is laid upon the real estate of the city of New York, who pays it? Why, every man that finds a shelter, I care not how poor he is, and pays for a shelter for himself and family, pays it. It enters into the rents. It is paid by those who occupy the real estate. In theory that is strictly true. I grant the gentleman that, practically, if you carry it out, there may be a leaking out of some of it on the way; but, theoretically, it is true, as his system of taxation is true generally. If his theory of taxation is right, the carrying of it out is equally right, though they both may be practically imperfect. That is, those who occupy must pay. If the tax were laid upon all the lands in the United States, what would be the effect? The produce of that land must sell for so much more as will be necessary to meet it, and the consumers of that produce pay it. So, take it as we may, it comes to the same thing at last.

Now, in relation to this undertaking to lay ton-

nage duties. I care not whether it be on foreign tonnage, or domestic and foreign tonnage included, for the purpose of making harbor improvements. Practically, it has been found—for it has been tried for some time under that clause of the Constitution—to be what the gentleman suggests; that is, if you lay a duty on the tonnage of vessels entering a particular port, the effect is to drive them to a neighboring port. That has been found to be the effect; and it has been practically abandoned long ago. No such thing exists now. It is an unpleasant business to carry into effect at all in relation to the improvement of a locality.

The Senator from Georgia, in answering the question put by the honorable Senator from Wisconsin, is constrained to admit that the amount of the tonnage duty, if levied, would be an element in the price of the article transported in the vessel. That is to say, if all those who trade at that port, and use that port, pay a tonnage duty on their vessels for the purpose of making improvements in it, they will lay a greater price on the freight, and it finally goes on the article to be paid by the user of that article, let him live where he may. Besides, money must be raised to make these improvements, if they are to be made at all; and it is probably better to spread the contribution of that money over a larger space, to view the commerce of the United States as a unit, for the benefit of the whole United States, and if it needs the improvement of a harbor there, or a stream there, or any other particular locality, it is for the interest of this general concern. The ship-owner of England, if you please, is interested in improving the harbor of Savannah; and the consumer, user, and owner of the property which is to be carried out and in there, to and from all parts of the United States, has an interest in that. It will make, therefore, less disturbance, be more equal upon the whole, to distribute this contribution over the whole mass of commerce, than to undertake to levy it upon a particular locality. For that reason it has been found most desirable to take the money from the general contribution, from the Treasury, which is made of moneys levied upon the whole importations of the country, and there collected in one mass—to take it from there as from a common stock, to make these local improvements, which are for the general benefit, for the national interest, and none others should be made. Nor do I see that this subject should at all properly call forth the suggestion, whether it would not be best to levy all our taxes by direct taxation. That would not equalize this any more or any less.

Now, in relation to the light-house system, that is precisely of the same character. The largest use which is made of the light-house system is in the coasting trade, by our own coasters, who have more benefit from it than the foreign commerce; and this coasting being for the keeping up of intercourse and interchange of commodities, and sustaining the proper relations between the different parts of the United States to render them a united and common people, this expense had better be contributed out of the common stock.

Mr. BENJAMIN. I am sorry, sir, that the time which we have to devote to this subject does not allow a little more extended discussion of it than I think we are likely to have. It is a very interesting one—evidently so by the uncommon attention now paid to it by the Senate. We have a silence and an attention in the Hall now rarely exhibited. I cannot pretend, at this time, to go at all into an examination of those very interesting theories of political economy, and the philosophy of taxation, which have been suggested by gentlemen, and to which I have listened with a great deal of pleasure. I desire, however, to say one or two words in relation to a proposition discussed in committee, and which has been adverted to by the Senator from Mississippi and the Senator from Georgia.

In relation to the improvement of the western rivers, I had a bill before the Committee on Commerce in which I felt a deep interest. I believed that if there were any means by which we could put the improvement of the western rivers under a system of contract by which certain sections of the rivers should be kept free from accidental obstructions which now accumulate, such a system would produce the result we have all long aimed at, and would prove eminently efficient for the purposes of the commerce of the interior of the

country—the western States. When that proposition was discussed in committee, the Senator from Georgia renewed those objections to the improvement of rivers and harbors by the General Government out of the common Treasury, which he has so ably and earnestly enforced on the Senate; and he suggested, at the same time, his views as to the expediency and practicability of raising the necessary fund for the purpose, which he admitted to be eminently useful, by some system of tolls or tonnage on the western waters. I was instructed by the committee to examine the subject and frame a scheme, if I could, by which the necessary funds for that purpose might be raised out of some such source. Notwithstanding my firm conviction of the power of the General Government to devote such portion of the revenues as it may deem proper to facilitate commerce in this way, I was disposed to yield to the suggestion in the hope that, by mutual concession, we might agree on some system by which this long disputed question should at last be settled. I took the papers to my house and studied the subject carefully, and I was utterly unable to devise any practical system. The considerations were so numerous, the difficulties which presented themselves, under any possible theory, were so complicated, that I abandoned it in despair. The Senator from Mississippi has adverted to some of them.

The proposition of the Senator from Georgia, as a question of pure ethics, is undoubtedly correct. Where money is expended for the purpose of a particular improvement of this character, the cost of making that improvement, and the cost of maintaining it with proper efficiency, ought to be supported by those who benefit by it. To a certain extent, his proposition is not correct in my judgment; and it is in this: he seems to consider that only that commerce which is borne over these waters is benefited by the particular improvement; whereas, I think it has been successfully demonstrated by the Senator from Vermont that the benefits indirectly are reaped by many other sections of the Union, and by all classes of consumers throughout the country.

Now, sir, as to a system, observe the difficulty. The Senator from Mississippi has correctly stated that there are parts of the Mississippi river which require no artificial improvement; there are others which do require that improvement. The classes of boats that run over that river are different, and require different depths of water. Will you tax the small boat, the stern-wheeler, which only draws two or three feet, and which requires no improvement, for improvements made with a view to render the navigation practicable for vessels of a larger class? Will you establish some scheme by which you shall divide the boats that navigate the Mississippi into different classes, and separate the navigation of different parts of the river, and then proportion your tonnage duties to the different classes of vessels, and to the portions of the river over which they make their voyages? These things are almost impracticable.

Again, in many parts of the river, for short distances, even where difficulties exist in the navigation, there are packets that repeat their voyages sometimes weekly, sometimes semi-weekly. Will you put a tonnage duty on those packets for every voyage, every time they go in and out of port? If you do, you will absorb the entire value of the vessel in a single season in the tonnage duty. If you do not, you will find it absolutely impracticable to make your rules and regulations such as to do exact justice to all. Will you impose your tonnage duty by the year or by the month? There again you meet the same difficulties and the same class of difficulties. Some vessels pass through the Mississippi river out into the Gulf of Mexico, and go to navigate the waters of the Alabama and the other rivers to the east of the Mississippi, when the waters are high, and return to the Mississippi at seasons of the year when the navigation is closed upon the lesser streams. Will you tax a vessel that employs the navigation of the Mississippi for the entire year the same amount, and no more, than you impose as a tax on vessels that only use the Mississippi a portion of the year? Will you tax, as the Senator from Mississippi has observed, boats that are doing their business on parts of the river that require no improvement? How is this vast and complicated system

to be carried out? In my judgment the difficulties are insuperable. The difficulties to which this new system would give rise are greater than those that already exist.

What then are we to do? Are we to admit that we have a frame of government under which obstructions may be accumulated in our large navigable courses, in which the commerce of the country may be impeded in its most vital branches, in its most important elements? Are we to admit that, under our frame of government, there is no power either in the State or General Government for the improvement of those streams, which are not simply local in their character, but which bear on their surface the commerce—I was going to say, of empires? We cannot admit that; and we are driven, at least by the absolute necessity of the case, to yield the principle that the General Government, under our theory, has the power—a power greatly liable to abuse, I admit; a power that has been abused formerly, and up to the present time, I admit; a power exceedingly difficult to be guarded, I admit; but a power, in my judgment, indisputable—the power of improving its rivers and harbors under the general grant of authority to regulate commerce, not only between this country and foreign nations, but between the several States of the Union.

I agree, sir, with the suggestions both of the Senator from Mississippi and the Senator from Vermont, that this system of improvement, imperfect as it may appear, however formidable may seem the objections that may be raised against it by gentlemen of the power and ability of the Senator from Georgia, still, after all, does that kind of justice which was called in ancient times rustic justice. It is not exact; it is not perfect; human institutions do not permit it so to be; but, upon the whole, it taxes the consumer of every part of the country for those facilities which bring the article that he consumes home to him at a cheaper rate than he would otherwise receive it, and carries his produce away upon the same system. A system thus established, operating by the General Government in all parts of the United States, liable, as I said before, to many abuses, and requiring great and careful checks, is, in my judgment, after all, the only one practicable in its character, and the one upon which the American people must eventually settle down.

Mr. TOOMBS. If anything could satisfy me more than another of the unanswerable soundness of the position I have always occupied on this question, it is the absolute impossibility, not to say difficulty, of even presenting, in my judgment, a plausible reply. I will take up the arguments as they are presented, with a great deal of fairness, I admit. The main argument of the Senator from Vermont and the Senator from Louisiana is, that they find great difficulty in apportioning the benefit among the men who use the improvement; and inasmuch as they may not be able, from the difficulties of the case, to do exact justice among them, they will adopt a system that is the furthest possible from any justice. As they may do one of the parties who uses this improvement injustice, by levying too much out of the small boat man, for instance, rather than the big boat man, they put it on the man who has no boat at all; they put it on the man in Vermont, who raises wool.

Mr. COLLAMER. I suppose the honorable Senator does not mean to do me injustice?

Mr. TOOMBS. I do not.

Mr. COLLAMER. My idea was, that, to force these local improvements which are of general interest to be made by local contributions, was saddling that portion of the country to the injury of commerce generally. It injures those people, and shuts out others from all connection with them, by having tonnage duties laid in their harbors. My view was, that we had better consider the commerce of the country as a general unit, and levy upon the commerce of the country any such contributions as are necessary for local improvements, for the benefit of that general commerce.

Mr. TOOMBS. The gentleman has got out of the difficulty by assuming that it is the general interest. The answer is, that it is not the general interest. He assumes that which is not true. I should like to know how a man who clips wool in Vermont, and sends it to Boston or New York, or to a factory in Vermont, is benefited by hav-

ing commodities sent cheaply down the Mississippi river?

Mr. COLLAMER. I put my answer thus: that wool will sell better to the manufacturer of cloths in proportion as those cloths can be carried to and sold in the different portions of the United States. We have an interest in having our vessels go into the harbor of Savannah for the purpose of carrying our woollens there, and bringing your cottons back.

Mr. TOOMBS. I have stated the argument just as you have. On the principle which both the Senators state, it is to our advantage to open the ports of every civilized country in the world, for they can get there cheaper. On that argument, it is just as much our interest to make a railroad in Russia, or clean out the Volga, as the Mississippi; not to the same extent, but the principle is the same, because they can bring their commodities better to us and exchange them for ours, and we are benefited. The same principle would warrant you in giving me out of the Federal Treasury, by a vote of the Senate, \$10,000, because somebody would get the benefit of it—I should expend money more freely; I should buy more clothes and probably more food. But that principle is a very great mistake.

Mr. BENJAMIN. Permit me to say to the Senator that I take the very illustration he now offers to us. Have we not, for years past, without question, appropriated money for the survey of the rivers of distant countries, with a view of opening avenues to commerce? Do we not pay for that out of the general fund? Have we a right to vote that money for the exploration of the navigation of foreign rivers, and not spend any money at home? I think the illustration the Senator offers supports our views.

Mr. TOOMBS. I will answer that argument when I come to it. The Senator from Vermont says it is very difficult to get a just system of taxation. I admit it. I admit that it is next to impossible in human institutions to get a just system of taxation; but in every question that comes before me, it is my duty as a Senator, and as a citizen, to approximate that point as near as possible; but the moment he sees there is difficulty, he gets as far off from it as possible. That is the difference between us. Because it is difficult to apportion the burden among the people who own ships, or send their produce down the Mississippi, he will put it on the whole people. I will take my own case and that of his wool clipper. My cotton goes down the Mississippi river; his wool does not. Inasmuch as there is a difficulty between me and another man as to how the burden shall be divided among us, we say we will take in this wool-grower in Vermont. It is true, we send our produce cheaper to market; we are richer; *quod erat demonstrandum*, he is richer; the whole nation is. That is the argument; it has no other extent than that—I am richer, the nation is richer, therefore he is richer! That is the principle the Senator goes on. It is a system that destroys all distinctions of individual property. It is in principle an annihilation of individual property. I say that inasmuch as you cannot get at a correct system of taxation, I will approximate as near to a correct system as the defects of human knowledge, and the circumstances by which I am surrounded will allow me to do; and therefore, as a fundamental principle of human justice, I will apportion all the burdens of the Government on the persons who get the benefits, as exactly and equally as I can. Though it is imperfect, if I am legislating to that point I am legislating justly; and if I depart from it I am legislating unjustly. These two Senators advocate unjust legislation. It cannot be defended on the forum of justice. They admit that abstractly my proposition is true. Sir, it is as true in the concrete as it is in the abstract; and every particle of injustice that you do not relieve where you can, you are the perpetrators of. As I remarked when I was up before, there has been a great effort in all ages and in all countries for the enterprising, the intelligent, the powerful, and the rich, to cast their burdens upon the poor, and to take their profits to themselves; and that is just exactly the system. Here is a lawyer in New York who has a correspondence of a thousand dollars a year, and here is a wool-grower in Vermont who perhaps sends and receives three letters in the course of a year. Suppose the lawyer should say to him, "we will put

our letters in a common box and divide the expense between us;" when you went to put your hands into the pockets of the wool-grower, he would show you that he understood it. I have no doubt they understand this.

But the Senator from Vermont says that the system I propose has been tried and abandoned. Sir, it never was abandoned. It is true, that laying such a duty is some burden; and if the benefit is not greater than the burden, it will not be resorted to, and ought not to be. If you give Baltimore the right to levy tonnage duties to a certain amount fixed by Congress, and the benefit of her commerce is not equal to that burden, she would not lay it. There is some injury, I admit. If the money is taken out of the public Treasury, there is not a spot in the United States where the ship-owners and the merchants will not ask you to give them greater facilities; but make them pay for it themselves, and they will count both sides—the advantages on the one side, and the disadvantages on the other. Those places that supposed the money they were going to expend would cause a greater injury to their commerce than the improvement would benefit, would not ask the power. Those who believed the money which they levied would do a greater advantage to their commerce than they would lose by it, would ask for it; and that is the way it ought to be.

They abandon it when they could put their hands in the public Treasury; they cry "give," "give," like the horse-leech. They say "give," when you have an abundant Treasury; they say "give," when you are bankrupt; everywhere, at all times, in season and out of season, at the beginning of the session, in the middle of the session, at the end of the session, the cry is the same. They do not come here to beg you to give them the right to tax themselves, but they beg you to plunder the public Treasury for their benefit. They understand it. They are very easily satisfied with arguments. I have no doubt that by the mercantile classes, the people benefited by this system, the arguments of the Senator from Louisiana and the Senator from Vermont will be considered unanswerable. It is very convenient for the company that runs steamships to Aspinwall, doing a business of four or five millions a year, to say to other people, "you are benefited as well as we are; pay our lightage into New York harbor." I warrant you will never get a vote from them to make those who use lights pay for them. That is the way the question has worked in England, and in all countries; and I have no doubt of the result here when the country becomes more enlightened, and the great mass of the people come to understand the extent to which they are plundered. I would as soon trust the citizens of Vermont on this question as those of Georgia. I would go with the Senator from Vermont before the people there upon it, and I have no doubt I should defeat him before them. No intelligent population in the world would ever submit to the proposition that they should contribute from their mite to pay the business of another class on the idea of general benefit to the whole. No man ever did it voluntarily. Whenever the public benefit is indivisible, like levying war, and armies and navies, where the whole is bound at any and every cost to defend each and every part, then it goes upon another principle. The public defense is indivisible. You cannot apportion the burden except in one way; that is by taxation. If you levy a tax on property, you equalize it as far as you are capable of doing under human institutions.

It seems that now even the free-traders and protectionists agree on a wrong principle. My friend from Mississippi is here in accordance with my friend from Vermont on this point. The Senator from Vermont says that if the tax in New York is levied on houses, the tenants pay it. That is not true upon the principles of my friend from Mississippi, nor was it ever held to be true before, to my knowledge, by my friend from Vermont, until this occasion. The doctrine implied by the question put to me by the Senator from Wisconsin, that the duty raises the price of the commodity to the extent of the duty, which doctrine seems to be held by the honorable Senator from Mississippi, is a fallacy, clear, unequivocal, demonstrable, in a hundred instances. I could show them, if necessary, in our own history. It

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is an element of price, but only an element of price, and there are so many other elements that it may be entirely lost. If it were true, the merchant would be very willing to have you put any duties you pleased on him. Why do foreign countries desire you to throw open your ports for free trade? Are all the world fools but you? England, by her tracts, by her speeches, by her writings, asks you to throw open your ports. Is it on account of the tenderness of England for our people? Do they want the men of Vermont or the men of Georgia to get their fabrics cheaper? They know, for they understand these principles well, that when the duty is levied on imports, it is always levied on them, if they are the importers, and it may forever stand there. It is the same with the houses. If you levy a tax on houses in New York, it is possible that that tax is an element of price, and the tenant may pay it, or he may never pay a dime of it. The cost of building a house is an element of the price of the rent; but who does not know that in half the places in the United States, though the brick and mortar and labor are the true and natural elements of price, you can never get the interest on them.

The VICE PRESIDENT. The Chair must ask the Senator to pause. The hour has arrived for the special order, which is the unfinished business of yesterday—the loan bill.

Mr. SEWARD. I move to postpone the special order.

Mr. HUNTER. I hope not.

Mr. SEWARD. I ask for the yeas and nays on my motion.

Mr. HUNTER. I thought it was understood that we should take up the loan bill at one o'clock. I made no opposition to taking up the other bill in the morning hour.

Mr. SEWARD. I stated to the honorable Senator—perhaps he did not understand me—that he would have an opportunity to make a motion to take up the loan bill.

Mr. SIMMONS. I should like to ask the Senator from Virginia if the amendment I offered yesterday is printed?

Mr. HUNTER. Let us take the vote.

Mr. STUART. I suggest to the honorable Senator from New York, for his consideration, whether it would not be better to let us dispose of the loan bill to-day?

Mr. SEWARD. Very well. I am admonished that the honorable Senator from Rhode Island has the floor to-day on that bill.

Mr. SIMMONS. If the amendment is here which was ordered to be printed last night, we may go on now; but if it is not here, we had better let it go over.

Mr. HUNTER. The amendment is here; it has been returned from the printing office in order that we might go on with the bill.

Mr. SEWARD. I withdraw my motion.

FIFTEEN MILLION LOAN.

The Senate resumed the consideration of the bill (S. No. 396) to authorize a loan not exceeding the sum of \$15,000,000.

Mr. HUNTER. Before the Senator from Rhode Island takes the floor, I ask permission, for a moment or two, to correct an error into which I fell yesterday. In stating the means for this year, I stated the probable receipts from public lands at \$7,000,000. I find that I have mistaken the estimate of the Department in that regard, it being less by over two million dollars. I find, however, that I made an underestimate of the receipts from customs and miscellaneous sources, so that, although the whole estimate was somewhat in excess, it is probable, not much in excess of what was received last year.

Mr. SIMMONS. I do not find this amendment printed, which the Senator said was printed.

Mr. HUNTER. The amendment is not printed; but if we have to delay our business for the printers, we shall certainly not adjourn by the time fixed, and shall never get through; but the amendment is here. I sent to the printers to return it, in order that we might go on with the bill to-day.

I do not think that it will do to delay the public business for the printers.

Mr. SEWARD. Let the amendment be read. The Secretary read it, as follows:

Sec. —. And be it further enacted, That the provisions of the sixteenth and seventeenth sections of the act of 30th August, 1842, the eighth section of the act of 30th July, 1846, and the first section of the act of 3d of March, 1853, so far as the same relate to and direct the manner of ascertaining and determining the value of merchandise imported into the United States, at the principal markets of the countries from which the same are imported, shall remain in and continue in force, and in all cases, when the same is practicable, the invoices of all goods, wares, and merchandise at the place or port of exportation shall be verified by the certificate of the consul of the United States at such port; and in no case shall the duties upon goods be levied in any port of the United States upon an amount less than the value stated in such invoices, as required in the proviso to the eighth section of said act of 30th July, 1846, unless the quantity of the articles imported shall be lessened, or the quality injured upon the voyage of importation.

Sec. —. And be it further enacted, That, in order to prevent the continuance of fraud upon the revenue by the under valuations of foreign imports, and to provide for the valuation of imports in the same currency in which duties are paid, to wit: the legal currency of the United States, it is hereby provided that, in addition to the existing provisions of law for the entry and appraisement, or valuation of any goods, wares, or merchandise imported into the United States, it shall be the duty of the owner, importer, consignee, or agent of any goods, wares, or merchandise imported into any port of the United States, to exhibit to the collector or other proper officer of the customs of such port, a true invoice of the goods, wares, and merchandise entered by such person or persons at such port, embracing a statement of the quantity, description, nature, quality, and the true wholesale market price or value of the same, or similar articles in the principal market of the United States, to wit: the city of New York, at the time of such entry or importation, or at the time nearest thereto which is practicable, and such invoice shall be verified and proved by the oath of the said owner, importer, consignee, or agent, who, on conviction of false swearing thereon, shall be subject to the forfeiture and penalties as provided by the laws of the United States in like cases, and prosecuted as for wilful and corrupt perjury; and, upon such wholesale market price or value, to include the foreign cost, all charges, duties, and profits, or so much thereof as may enter into and become a part of such wholesale market price or value, the rates of duty imposed by the existing laws of the United States, at the time of entry of such importation, upon each article enumerated in such invoice, shall be assessed and paid: Provided, That if any collector or other proper officer of the customs shall have doubts as to the correctness of the valuation as above described, or should complain or information be made or given by any person or persons of the incorrectness of any such valuation, it shall be the duty of the collector or other proper officer of the customs to cause the true and actual wholesale market price or value of the same or similar articles in the city of New York, at the time of entry at the port of entry, to be ascertained and appraised in the same mode and manner and appraised in the principal markets of the countries from which the same is imported; and it shall in every case be the duty of the appraisers of the United States, and every of them, and every person who shall act as such appraiser, or of the collector and naval officer, as the case may be, by all reasonable ways and means in his or their power, to ascertain, estimate, and appraise the true actual market value or wholesale price of such goods, wares, and merchandise, in the city of New York, at the time of entry of such goods, wares, and merchandise, at the port of importation, without regard to any other invoice, valuation, or appraisement, or verification of the same by oath or otherwise, or the difference of any such invoice or valuation to the contrary notwithstanding. And if such last mentioned appraisal or valuation shall exceed by ten per centum or more the value so declared on the entry, then, in addition to the duties imposed by law on the same, there shall be levied, collected, and paid a duty of twenty per centum *ad valorem* on such appraised value, as provided in the eighth section of the act of the 30th July, 1846, entitled "An act reducing the duties on imports, and for other purposes." And the several collectors or other proper officers, under such regulations as may be prescribed by the Secretary of the Treasury, whenever they shall deem it necessary to secure the proper payment of the revenue due to the United States upon the importation of any goods, wares, or merchandise, may, and they hereby are required, whenever the same is practicable, to take the amount of duties chargeable on any article bearing an *ad valorem* rate of duty on the article itself, according to the proportion or rate per centum of the duty on said articles; and such goods, so taken, the collector or other proper officer shall cause to be sold, at public auction, within twenty days from the time of taking the same, in the manner prescribed by law, and place the proceeds arising from such sale in the Treasury of the United States. And the said collector or other proper officer of the customs is further authorized and required, when he shall deem it necessary to secure the proper payment of the duties accruing to the Government of the United States, to proceed in the manner prescribed in the eighth section of the said act, approved the 30th day of August, 1842, even though no fraud or intentional undervaluation shall be imputed; and, as compensation to the collector and appraisers for their services in such proceeding, they shall be entitled to a commission of one per centum,

to be shared by them, upon the amount of duties thus secured and paid, in addition to such other compensation as they are, by law, entitled to.

Sec. —. And be it further enacted, That should any person or persons complain or give information to the collector or other proper officer of the customs that any false or under valuation of any goods, wares, or merchandise has been made by any owner, importer, consignee, or agent, as aforesaid, under the preceding section of this act, or of any existing law of the United States, with a view to defraud the Government of the duty legally due upon the same, the proper officer shall proceed to ascertain and appraise the true market value, as provided for in the preceding section and according to law; and if any forfeiture or penalty shall be incurred by any such owner, importer, consignee, or agent, one half the amount or value of such forfeiture shall accrue to the benefit of the person or persons complaining or giving information which may have led to the detection of such fraud or under valuation.

Sec. —. And be it further enacted, That all acts and parts of acts inconsistent with the provisions of this act, be, and the same are hereby, repealed.

Mr. SIMMONS proceeded to address the Senate on his amendment, and the debate was continued by other Senators to a late hour, when, without taking any question, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, May 25, 1858.

The House met at eleven o'clock, a. m. Prayer by Rev. SEPTIMIUS TUSTIN.

The Journal of yesterday was read and approved.

MEETING OF THE NEXT CONGRESS.

Mr. GROW asked the unanimous consent of the House to offer the following joint resolution:

Resolved, (the Senate concurring.) That when the President of the Senate and the Speaker of the House adjourn their respective Houses for this session of Congress, it shall be to meet again at twelve o'clock on Thursday, the 4th day of November next.

Mr. JONES, of Tennessee, objected, and called for the regular order of business.

DISTRICT OF COLUMBIA BILLS.

The SPEAKER. The regular order of business is the ordering the main question upon all the bills reported from the Committee of the Whole on the state of the Union yesterday, upon which the previous question was ordered last evening.

Mr. JONES, of Tennessee. I think the main question had better be ordered upon each bill separately.

The SPEAKER. The Chair thinks that the main question must be ordered upon all the bills together, inasmuch as the previous question was ordered by unanimous consent upon all.

The main question was then ordered to be put upon all the bills.

The following bills, relating to the District of Columbia, reported yesterday from the Committee of the Whole on the state of the Union, were then taken up in their order, and disposed of as indicated below:

A bill (H. R. No. 540) to provide for lighting with gas certain streets across the Mall, reported with a recommendation that it do pass.

The bill was ordered to be engrossed, and read the third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. GOODE moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

LAMP-POSTS IN GEORGETOWN.

Joint resolution (H. R. No. 27) relating to the erection of lamp-posts in Georgetown, District of Columbia, was ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WASHBURN, of Illinois, demanded the previous question on the passage of the joint resolution.

Mr. KELSEY demanded the yeas and nays.

Mr. GOODE. A provision for the accomplishment of this work has been put in one of the appropriation bills, and I, therefore, move to lay the joint resolution upon the table.

The motion was agreed to.

ROADS IN THE DISTRICT OF COLUMBIA.

A bill (H. R. No. 580) making an appropriation for the repair of certain roads in the county of Washington, in the District of Columbia.

Mr. GROW moved to lay the bill upon the table.

Mr. PEYTON demanded the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

The motion of Mr. Grow was agreed to.

Mr. GROW moved to reconsider the vote by which the bill was laid upon the table, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MUNICIPAL ELECTIONS IN WASHINGTON.

A bill (H. R. No. 248) regulating municipal elections in the city of Washington, reported from the Committee of the Whole on the state of the Union, with a recommendation that the enacting clause be stricken out.

Mr. JONES, of Tennessee, moved to lay the bill upon the table.

Mr. BURNETT demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 88, nays 91; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Bingham, Bliss, Brayton, Buffinton, Burlingame, Case, Ezra Clark, Clawson, Cockerill, Colfax, Comins, Covode, Cragin, Curtis, Davis of Massachusetts, Davis of Iowa, Dawes, Dick, Dodd, Durfee, Farnsworth, Fenton, Gilman, Gilmer, Goode, Goodwin, Grow, Harlan, Hill, Horton, Howard, Jewett, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lawrence, Leiter, Lovejoy, Humphrey Marshall, Matteson, Maynard, Miller, Millson, Morgan, Morrill, Edward Joy Morris, Oliver A. Morse, Mott, Murray, Nichols, Parker, Pettit, Phillips, Pike, Potter, Pottle, Purviance, Ricard, Ritchie, Robbins, Roberts, Royce, John Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Wilson, and Zollicoffer—88.

NAYS—Messrs. Adrain, Ahl, Anderson, Atkins, Avery, Barksdale, Blair, Bocock, Bowie, Boyce, Branch, Burnett, Burns, Cavanaugh, John B. Clark, Clay, Clemens, Cobb, John Cochrane, Corning, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dean, Dowdell, Edmundson, Elliott, English, Florence, Foley, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Hatch, Hawkins, Hoard, Hopkins, Hughes, Huyler, Jackson, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, Lamar, Landy, Letcher, MacLay, McQueen, Samuel S. Marshall, Mason, Miles, Moore, Isaac N. Morris, Niblack, Peyton, John S. Phelps, William W. Phelps, Powell, Quitman, Ruffin, Sandidge, Savage, Seales, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Ward, Watkins, White, Winslow, Woodson, Wortendyke, and Augustus R. Wright—91.

So the House refused to lay the bill upon the table.

During the call of the roll,

Mr. WALBRIDGE stated that the health of his colleague, Mr. LEACH, continuing bad, he had left the city, and had paired off for this week with Mr. CRAIG, of North Carolina, and for the rest of the session with Mr. GREENWOOD, on all political questions.

Mr. SHAW, of North Carolina, stated that his colleague, Mr. CRAIG, had been called home by important business, and had paired off for this week with Mr. LEACH.

Mr. MILLSON stated that he voted in the affirmative because of the very harsh and unnecessarily severe penalties contained in the third and fourth sections of the bill.

Mr. FLORENCE stated that he voted in the negative, protesting against the tax-paying qualification.

Mr. ARNOLD not being within the bar when his name was called, asked unanimous consent to vote.

Objection was made.

Mr. RUSSELL made a similar request.

Objection was made.

The question then recurred on striking out the enacting clause; and, being taken, it was decided in the negative.

So the enacting clause was not stricken out.

The question then recurred on ordering the bill to be engrossed, and read a third time.

Mr. BURNETT. I move to amend the bill by striking from it that clause which requires the payment of a school tax and tax on personal property.

The SPEAKER. The previous question is operating upon the bill, and the amendment can come in only by unanimous consent.

Mr. JONES, of Tennessee. I supposed the previous question only operated upon striking out the enacting clause. The question was stated on striking out the enacting clause, and—

The SPEAKER. The gentleman from Tennessee is right.

Mr. BURNETT. I move to amend by striking out, in lines twelve and thirteen, the following words:

—“and shall have paid, and the taxes on personal property due from him.”

I now demand the previous question.

Mr. SMITH, of Virginia. There is another amendment which met the very general approbation of the committee yesterday, and I hope the gentleman from Kentucky will also allow it to come in. It is to add at the end of the section the words, “not exercising or claiming to exercise the right of suffrage elsewhere.”

Mr. BURNETT. No, sir; I do not give way to allow that amendment to be offered. I demand the previous question on the engrossment of the bill.

The previous question was seconded, and the main question ordered to be put.

The question recurred on the adoption of the amendment.

Mr. BURNETT demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and was decided in the affirmative—yeas 135, nays 52; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Arnold, Atkins, Avery, Barksdale, Bennett, Bingham, Bishop, Blair, Bliss, Bocock, Bowie, Boyce, Burnett, Burns, Burroughs, Case, Cavanaugh, Clemens, Cobb, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Corning, Covode, Cox, James Craig, Curry, Curtis, Davidson, Davis of Indiana, Davis of Mississippi, Dodd, Dowdell, Elliott, English, Eustis, Farnsworth, Faulkner, Florence, Foley, Foster, Gartrell, Gillis, Goodwin, Greenwood, Gregg, Groesbeck, Grow, Lawrence W. Hall, Harlan, Hawkins, Hoard, Hopkins, Hughes, Jackson, Jenkins, Jewett, George W. Jones, Kellogg, Kelly, Kelsey, Kilgore, Jacob M. Kunkel, John C. Kunkel, Lamar, Landy, Lawrence, Leiter, Letcher, Lovejoy, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Miles, Miller, Millson, Moore, Morgan, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Mott, Murray, Niblack, Nichols, Palmer, Parker, Peyton, John S. Phelps, William W. Phelps, Potter, Pottle, Powell, Quitman, Reilly, Ruffin, Russell, Sandidge, Seales, Scott, Searing, Seward, John Sherman, Shorter, Singleton, Robert Smith, Samuel A. Smith, Spinner, Stallworth, Stanton, Stevenson, James A. Stewart, Talbot, George Taylor, Thayer, Tompkins, Underwood, Waldron, Ward, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Wilson, Woodson, Wortendyke, and John V. Wright—135.

NAYS—Messrs. Brayton, Buffinton, Burlingame, Caslie, Chaffee, Ezra Clark, John B. Clark, Clay, Comins, Cragin, Crawford, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Durfee, Edmundson, Garnett, Gilman, Gilmer, Goode, J. Morrison Harris, Thomas L. Harris, Hill, Horton, Howard, Owen Jones, Knapp, Morrill, Oliver A. Morse, Pike, Purviance, Ricard, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, Henry M. Shaw, William Smith, Stephens, William Stewart, Thompson, Wade, Walbridge, Walton, White, Wood, and Augustus R. Wright—52.

So the amendment was adopted.

Pending the call of the roll,

Mr. DAWES stated that his colleague, Mr. DAMRELL, had paired off with Mr. CARUTHERS.

The bill, as amended, was then ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time.

Mr. BURNETT demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

Mr. DEAN called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 102, nays 94; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Arnold, Atkins, Avery, Barksdale, Bishop, Blair, Bocock, Bowie, Boyce, Burnett, Burns, Cavanaugh, Chapman, John B. Clark, Clay, Clemens, Cobb, John Cochrane, Cockerill, Corning, Cox, James Craig, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Farnsworth, Faulkner, Florence, Foley, Gartrell, Gillis, Goode, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hoard, Hopkins, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, Letcher, MacLay, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Niblack, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Quitman, Reilly, Ruffin, Russell, Sandidge, Seales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, Spinner, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Watkins, Winslow, Augustus R. Wright, and John V. Wright—102.

NAYS—Messrs. Abbott, Andrews, Bennett, Bingham,

Bliss, Branch, Brayton, Buffinton, Burlingame, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Eustis, Fenton, Foster, Garnett, Gilman, Gilmer, Goode, Goodwin, Granger, Grow, Harlan, J. Morrison Harris, Hill, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leiter, Lovejoy, Humphrey Marshall, Matteson, Maynard, Millson, Moore, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ricard, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, William Smith, Stanton, William Stewart, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Wilson, Wood, Woodson, and Zollicoffer—94.

So the bill was passed.

Pending the call of the roll,

Mr. WHITELEY stated that he had paired off with Mr. OLIN.

Mr. BURNETT moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LITTLE FALLS BRIDGE.

A bill (H. R. No. 274) to reimburse the corporation of Georgetown, in the District of Columbia, a sum of money advanced towards the construction of the Little Falls bridge, was next taken up for consideration.

Mr. KELSEY moved to lay the bill on the table, and demanded the yeas and nays on the motion.

The yeas and nays were not ordered.

Mr. KELSEY called for tellers on the motion. Tellers were ordered; and Messrs. KELSEY and WRIGHT of Georgia were appointed.

The question was taken; and the tellers reported—yeas 74, noes 62.

So the bill was laid on the table.

Mr. JONES, of Tennessee, moved to reconsider the vote by which the bill was laid on the table, and also moved to lay the motion to reconsider on the table.

Mr. SMITH, of Virginia, called for the yeas and nays on the latter motion.

The yeas and nays were not ordered.

Mr. GOODE asked for tellers.

Tellers were ordered; and Messrs. HAWKINS and DURFEE were appointed.

Mr. SMITH, of Virginia. Will the House hear me give one word of explanation?

Several MEMBERS objected.

The question was taken; and the tellers reported—yeas eighty-five; noes not counted.

So the motion to reconsider was laid on the table.

FIRE DEPARTMENT OF WASHINGTON.

Senate bill (No. 227) authorizing the organization of a fire department in the District of Columbia, reported back by the Committee of the Whole on the state of the Union, with an amendment in the nature of a substitute.

The amendment was adopted.

The bill, as amended, was then ordered to a third reading, and was accordingly read the third time.

Mr. JONES, of Tennessee, moved to lay the bill on the table.

The motion was not agreed to—only twenty-six having voted therefor.

The question then recurred on the passage of the bill.

Mr. GOODE moved the previous question.

The previous question was seconded, and the main question ordered to be put.

The bill was then passed.

Mr. GOODE moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

NATIONAL MONUMENT SOCIETY.

An act (No. 152) to incorporate the Washington National Monument Society, reported back from the Committee of the Whole on the state of the Union, with the recommendation that it do not pass.

Mr. MORGAN moved to lay the bill on the table.

The motion was agreed to.

PENNSYLVANIA AVENUE RAILROAD.

House bill (No. 541) in relation to a railway along Pennsylvania avenue, in Washington city, in the District of Columbia, reported back from

the Committee of the Whole on the state of the Union, with the recommendation that the enacting clause be stricken out.

Sundry amendments were offered to the bill, by unanimous consent, by the gentleman from Virginia, [Mr. LETCHER,] after the bill was reported to the House.

Mr. JONES, of Tennessee. I submit that the motion to strike out the enacting clause cuts off the amendments.

The SPEAKER. The amendments were received by unanimous consent.

Mr. JONES, of Tennessee. But I submit that the amendments could not be entertained with the motion to strike out the enacting clause pending.

The SPEAKER. Not by unanimous consent?

Mr. JONES, of Tennessee. No, sir.

The SPEAKER. The Chair differs with the gentleman.

The enacting clause to the bill was not stricken out.

Mr. WARD. I demand the previous question on the bill and amendments.

The previous question was seconded, and the main question ordered to be put.

The amendments moved by Mr. LETCHER in Committee of the Whole on the state of the Union, and which were cut off by the motion to strike out the enacting clause, but afterwards renewed in the House, were severally read, and agreed to.

Mr. CORNING. I should like to know whether there have been any petitions sent here from the people of this District in favor of this railroad, and whether it is not, in fact, for the benefit of two or three individuals?

The SPEAKER. Debate is not in order.

The bill, as amended, was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time.

Mr. WARD. I demand the previous question on the passage of the bill.

Mr. BISHOP. I move that the bill be laid on the table.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, informing the House that the Senate had passed bills of the following titles; in which he was directed to ask the concurrence of the House:

An act (No. 318) for the relief of Keep, Bard, & Co., J. Canfield, and Joseph Landis & Co.; and An act (No. 287) for the relief of Sherlock & Shirley.

OHIO CONTESTED-ELECTION CASE.

Mr. HARRIS, of Illinois. The hour has arrived for taking the vote on the Ohio contested-election case.

Mr. WRIGHT, of Georgia. Let the pending question be disposed of.

The SPEAKER. Is it the unanimous consent of the House that the Ohio contested-election case be postponed until the pending bill is disposed of?

Mr. SMITH, of Virginia. I object.

Mr. HARRIS, of Illinois. I move, then, that the House proceed to the consideration of the special order fixed for this hour.

Mr. WARD. Yesterday and to-day were set apart for the consideration of business pertaining to the District of Columbia. Has it not, therefore, priority over the special order referred to by the gentleman from Illinois?

The SPEAKER. The Ohio contested-election case involves a question of privilege. The Chair is of opinion that where there is a collision between two special orders, the one first made will take precedence; but, in this instance, the special order, appropriating Monday and Tuesday for the consideration of business pertaining to the District of Columbia, was made by a two-thirds vote under the suspension of the rules; whilst the other was made a special order by the unanimous consent of the House, and, of course, will take precedence where they come in collision.

Mr. STANTON. What becomes of the railroad bill?

The SPEAKER. It will come up again so soon as this question is disposed of. The first question in order is on the following proposition of the gentleman from Kentucky, [Mr. MARSHALL:]

"That the papers in the contested-election case of Vallandigham vs. Campbell be, and the same are hereby, re-

committed to the Committee of Elections, with instructions that both parties be permitted, by the House, to take further testimony, under the regulations of law, on notice, until the first Monday in December, 1858."

Mr. STEPHENS, of Georgia. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 92, nays 116; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Eustis, Farnsworth, Fenton, Foster, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Harlan, J. Morrison Harris, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leiter, Lovejoy, Humphrey Marshall, Matteson, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ricard, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Wilson, Wood, and Zollicoffer—92.

NAYS—Messrs. Adrain, Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bocoek, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caskey, Cavanaugh, Chapman, John B. Clark, Clay, Clemens, Cobb, John Cochrane, Cockerill, Corning, Cox, James Craig, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Goode, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, Letcher, Maclay, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Millson, Moore, Isaac N. Morris, Niblack, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Quitman, Ready, Reilly, Ruffin, Russell, Sandidge, Scales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Watkins, White, Winslow, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—116.

So the proposition was disagreed to.

Pending the above call,

Mr. POTTLE stated that Mr. HALL, of Massachusetts, was detained from the Hall by indisposition.

Mr. TRIPPE stated that his colleague, Mr. HILL, had paired off on this question with Mr. McKIBBIN.

Mr. MAYNARD stated that he had paired off on this question with his colleague, Mr. SAYAGE.

Mr. TRIPPE stated that on this question he had paired off with Mr. REAGAN.

Mr. COCKERILL stated that his colleague, Mr. PENDLETON, had paired off with Mr. DAVIS, of Maryland.

The result having been announced as above recorded,

The question next recurred on the following resolution, offered by Mr. GILMER:

Resolved, That the Hon. Lewis D. Campbell is entitled to retain his seat as member from the third congressional district in the State of Ohio to this Congress.

Mr. MARSHALL, of Kentucky. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 92, nays 116; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Case, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Eustis, Farnsworth, Fenton, Foster, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Harlan, J. Morrison Harris, Hill, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leiter, Lovejoy, Humphrey Marshall, Matteson, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ready, Ricard, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Wilson, and Wood—92.

NAYS—Messrs. Adrain, Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bocoek, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caskey, Cavanaugh, Chapman, John B. Clark, Clay, Clemens, Cobb, John Cochrane, Cockerill, Corning, Cox, James Craig, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, Letcher, Maclay, McKibbin, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Millson, Moore, Isaac N. Morris, Niblack, Peyton, John S.

Phelps, William W. Phelps, Phillips, Powell, Quitman, Reilly, Ruffin, Russell, Sandidge, Scales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Watkins, White, Winslow, Wortendyke, Augustus R. Wright, and John V. Wright—116.

So the resolution was disagreed to.

Pending the above call,

Mr. CHAFFEE stated that he was out attending to business of his committee when his name was called, and asked leave to vote.

Mr. PHILLIPS objected.

Mr. CHAFFEE said that, if allowed to vote, he would have voted in the affirmative.

The vote was then announced as above recorded.

The question next recurred on the following resolutions, offered by Mr. LAMAR:

Resolved, That Lewis D. Campbell is not entitled to a seat in the Thirty-Fifth Congress as the Representative from the third congressional district of Ohio.

Resolved, That Clement L. Vallandigham is entitled to a seat in the Thirty-Fifth Congress as the Representative from the third congressional district of Ohio.

Mr. STEPHENS, of Georgia, demanded the yeas and nays.

Mr. MORGAN. Is that proposition divisible?

The SPEAKER. It is all offered as one amendment.

Mr. JONES, of Tennessee. Which resolution do we vote on now?

The SPEAKER. The House votes on the proposition submitted by the gentleman from Mississippi, [Mr. LAMAR.]

Mr. HILL. Is it in order to move that the further consideration of this question be postponed?

The SPEAKER. It would not be in order, as the House is now acting under the operation of the previous question.

Mr. BLAIR. I ask that the original resolution of the gentleman from Illinois, [Mr. HARRIS,] to which that is an amendment, be read.

The resolution was read, as follows:

Resolved, That a vacancy exists in the representation in the House of Representatives of the United States from the third congressional district of the State of Ohio, and that the Speaker be directed to notify the Governor of that State thereof.

Mr. LETCHER. To simplify the thing, as the vote has substantially been taken on the first branch of the amendment, I suggest that now the vote be taken on the other branch.

The SPEAKER. The Chair is of the opinion that the resolution is not divisible.

Mr. WASHBURN, of Maine. It can be done by unanimous consent.

Mr. CLEMENS. I object.

Mr. HILL. If the amendment be voted down, will not the question then recur on the adoption of the resolution of the gentleman from Illinois, [Mr. HARRIS?]

The SPEAKER. It will. The amendment is to strike out all after the word "Resolved," and to insert what has been read. If the amendment be agreed to, then the question will recur on agreeing to the resolution as amended.

Mr. WASHBURN, of Maine. Inasmuch as the House has already voted on the first branch of the amendment, I suggest that the vote now be on the second branch of it.

The SPEAKER. Unless by unanimous consent, the Chair is of the opinion that the amendment is not divisible. If a division had been asked for before the call for the previous question, it would have been in order.

Mr. WASHBURN, of Maine. I think that the Chair's decision is correct. I ask that it be done by unanimous consent.

Several MEMBERS objected.

The question was taken; and it was decided in the affirmative—yeas 109, nays 103; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bocoek, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caskey, Cavanaugh, Chapman, John B. Clark, Clay, Clemens, Cobb, John Cochrane, Cockerill, Corning, Cox, James Craig, Crawford, Curry, Davidson, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, Maclay, McKibbin, McQueen, Mason, Miles, Miller, Moore, Niblack, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Quitman, Reilly, Ruffin, Russell, Sandidge, Scales, Scott, Searing, Seward, Henry M. Shaw, John Sherman, Shorter, Sickles, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Ste-

venson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, White, Winslow, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—109.

YAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buflinton, Burlingame, Burroughs, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Eustis, Farnsworth, Fenton, Foster, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hill, Hoard, Horton, Howard, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lamar, Landy, Lawrence, Leiter, Lovejoy, Humphrey Marshall, Matteson, Milson, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ready, Riccaud, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, Wilson, Wood, and Zollcoffer—103.

So the amendment was agreed to.

Pending the vote,

Mr. WHITELEY stated that he had paired off with Mr. OLIN.

Mr. SHERMAN, of Ohio, said: I will change my vote, and vote in the affirmative, for the purpose of moving to reconsider. I do not do it with the purpose of delaying the vote. [Cries of "Order!" "Order!"]

The result was then announced as above recorded.

Mr. LAMAR moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider on the table.

Mr. SHERMAN, of Ohio. I move that the House do now adjourn; and upon that motion I demand the yeas and nays. I do it for the purpose—

[Cries of "Order!"]

The yeas and nays were ordered.

The Clerk proceeded with the call of the roll, but was interrupted by—

Mr. SHERMAN, of Ohio, who said: I desire to withdraw the motion to adjourn. I will state that I did not know that one or two gentlemen who are absent had paired off. Since I made the motion, I have been informed that the gentlemen to whom I refer are paired. With the leave of the House, and with the privilege of changing my vote back to where it was, I will withdraw the motion to adjourn.

Mr. EUSTIS objected.

The Clerk resumed the call of the roll; but was subsequently interrupted by—

Mr. EUSTIS, who withdrew his objection.

Mr. REILLY renewed the objection.

The call of the roll was then concluded; and the result was announced—yeas 12, nays 190; as follows:

YEAS—Messrs. Bennett, Billingshurst, Burroughs, Case, Ezra Clark, Clawson, Clark B. Cochrane, Durfee, Foster, Gilman, Gilmer, and Wood—12.

NAYS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Arnold, Atkins, Avery, Barksdale, Bingham, Bishop, Blair, Bliss, Bocoek, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caskie, Cavanaugh, Chapman, Branch, Brayton, Bryan, Buflinton, Burlingame, Burdett, Burns, Caskie, Cavanaugh, Chaffee, Chapman, John B. Clark, Clay, Clemens, Cobb, John Cochrane, Colfax, Comins, Corning, Covode, Cox, James Craig, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dimmick, Dodd, Dowdell, Edmundson, Elliott, English, Eustis, Farnsworth, Faulkner, Fenton, Florence, Foley, Garnett, Gartrell, Gillis, Gooch, Goode, Goodwin, Greenwood, Gregg, Groesbeck, Grow, Lawrence W. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Hatch, Hawkins, Hoard, Hopkins, Horton, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kellogg, Kelly, Kelsey, Kilgore, Knapp, Jacob M. Kunkel, John C. Kunkel, Lamar, Landy, Lawrence, Leiter, Lovejoy, MacLay, McKibbin, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Matteson, Miles, Miller, Milson, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Palmer, Parker, Pettit, Peyton, John S. Phelps, William W. Phelps, Phillips, Pike, Potter, Pottle, Purviance, Quinman, Ready, Riccaud, Ritchie, Robbins, Roberts, Royce, Ruffin, Russell, Sandidge, Seales, Scott, Searing, Aaron Shaw, Henry M. Shaw, John Sherman, Shorter, Sickles, Singleton, Robert Smith, Samuel A. Smith, William Smith, Spinner, Stanton, Stephens, Stevenson, James A. Stewart, William Stewart, Talbot, Tappan, George Taylor, Miles Taylor, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, Wilson, Winslow, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—190.

So the House refused to adjourn.

Pending the call,

Mr. TRIPPE stated that he had paired off with

Mr. REAGAN upon all contested-election cases, and supposed the pair extended to all incidental questions; and therefore he would not vote.

Mr. DAVIS, of Maryland, stated that he had paired off with Mr. PENDLETON upon the contested-election case of Vallandigham vs. Campbell.

The question recurring upon the motion to lay upon the table the motion to reconsider the vote by which the amendment was adopted,

Mr. WILSON called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 108, nays 99; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Bocoek, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caskie, Cavanaugh, Chapman, John B. Clark, Clay, Clemens, Cobb, John Cochrane, Cockerill, Corning, Cox, James Craig, Crawford, Curry, Davidson, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, MacLay, McKibbin, McQueen, Mason, Miles, Miller, Moore, Niblack, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Quinman, Reilly, Ruffin, Russell, Sandidge, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Watkins, White, Winslow, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—108.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buflinton, Burlingame, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Eustis, Farnsworth, Fenton, Foster, Gilman, Gilmer, Gooch, Goodwin, Grow, Harlan, J. Morrison Harris, Thomas L. Harris, Hill, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leiter, Lovejoy, Humphrey Marshall, Matteson, Milson, Morgan, Morrill, Edward J. Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Pike, Potter, Purviance, Ready, Riccaud, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, Judson W. Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, and Zollcoffer—99.

So the motion to lay on the table was agreed to.

The question recurring upon the original proposition as amended,

Mr. LEITER demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 107, nays 100; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bocoek, Bonham, Bowie, Boyce, Branch, Burnett, Burns, Caskie, Cavanaugh, Chapman, John B. Clark, Clay, Clemens, Cobb, John Cochrane, Cockerill, Corning, Cox, James Craig, Crawford, Curry, Davidson, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Gooch, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, MacLay, McKibbin, McQueen, Mason, Miles, Miller, Moore, Niblack, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Quinman, Reilly, Ruffin, Russell, Sandidge, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Watkins, White, Winslow, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—107.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buflinton, Burlingame, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Eustis, Farnsworth, Fenton, Foster, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Harlan, J. Morrison Harris, Thomas L. Harris, Hill, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leiter, Lovejoy, Lovejoy, Humphrey Marshall, Matteson, Milson, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ready, Riccaud, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, and Zollcoffer—100.

So the resolution, as amended, was agreed to.

Mr. LAMAR moved to reconsider the vote just taken; and also moved to lay the motion to reconsider on the table.

Mr. MORGAN demanded the yeas and nays on the latter motion.

The yeas and nays were not ordered.

The motion to lay upon the table was agreed to.

Mr. VALLANDIGHAM was then qualified by taking the usual oath to support the Constitution of the United States.

RAILWAY ON PENNSYLVANIA AVENUE.

The SPEAKER stated that the business next in order was the demand for the previous question on the bill (H. R. No. 541) in relation to a railway through Pennsylvania avenue, in the District of Columbia.

The previous question was seconded, and the main question ordered to be put.

Mr. BISHOP moved to lay the bill upon the table.

Mr. COX demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 87, nays 100; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bonham, Bowie, Burnett, Burns, Caskie, Cavanaugh, John B. Clark, Clay, Clemens, Cobb, Cockerill, Corning, Cox, James Craig, Crawford, Curry, Davis of Mississippi, Dean, Dimmick, Dowdell, Edmundson, Elliott, English, Gartrell, Goode, Greenwood, Gregg, Harlan, Hatch, Houston, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, John C. Kunkel, Landy, Lawrence, Leiter, Lovejoy, McKibbin, McQueen, Mason, Maynard, Miller, Milson, Morgan, Isaac N. Morris, Murray, Niblack, Pettit, Peyton, John S. Phelps, Powell, Reagan, Reilly, Ruffin, Savage, Seales, Searing, Henry M. Shaw, Shorter, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, Miles Taylor, Underwood, Vallandigham, Elihu B. Washburne, Watkins, White, Winslow, Woodson, Wortendyke, John V. Wright, and Zollcoffer—87.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Branch, Brayton, Bryan, Buflinton, Burlingame, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dewart, Dick, Dodd, Durfee, Farnsworth, Florence, Foley, Foster, Gilmer, Gooch, Goodwin, Granger, Groesbeck, Grow, Thomas L. Harris, Haskin, Hawkins, Hill, Hoard, Hopkins, Horton, Howard, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, Jacob M. Kunkel, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Matteson, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Palmer, Parker, William W. Phelps, Phillips, Pike, Potter, Pottle, Purviance, Quinman, Ready, Riccaud, Ritchie, Robbins, Roberts, Royce, Seward, Aaron Shaw, John Sherman, Judson W. Sherman, Singleton, Robert Smith, Samuel A. Smith, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Ward, Cadwalader C. Washburn, Israel Washburn, and Augustus R. Wright—100.

So the House refused to lay the bill on the table.

Pending the vote,

Mr. TAYLOR, of Louisiana, stated that Mr. SANDIDGE had paired off with Mr. GILMAN.

Mr. SMITH, of Virginia, demanded the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 100, nays 82; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Branch, Brayton, Bryan, Buflinton, Burlingame, Case, Chaffee, Ezra Clark, Clawson, Cobb, Clark B. Cochrane, John Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Davidson, Davis of Maryland, Davis of Indiana, Davis of Iowa, Dawes, Dewart, Dick, Dodd, Farnsworth, Fenton, Florence, Foley, Foster, Gilmer, Gooch, Goodwin, Groesbeck, Grow, Thomas L. Harris, Hawkins, Hill, Hoard, Horton, Howard, Kellogg, Kelly, Kelsey, Kilgore, Knapp, Jacob M. Kunkel, Lovejoy, MacLay, Humphrey Marshall, Samuel S. Marshall, Matteson, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Palmer, Parker, Pettit, Pike, Potter, Purviance, Quinman, Ready, Riccaud, Ritchie, Robbins, Roberts, Royce, Seward, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Samuel A. Smith, Spinner, Stanton, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Ward, Cadwalader C. Washburn, Israel Washburn, Wood, and Augustus R. Wright—100.

NAYS—Messrs. Adrain, Ahl, Anderson, Arnold, Atkins, Avery, Bishop, Bonham, Bowie, Burns, Caskie, Cavanaugh, John B. Clark, Clay, Clemens, Cockerill, Corning, Cox, James Craig, Crawford, Curry, Davis of Mississippi, Dean, Edmundson, Elliott, English, Garnett, Gartrell, Goode, Greenwood, Gregg, Lawrence W. Hall, Harlan, Houston, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, John C. Kunkel, Lamar, Leiter, Lovejoy, McKibbin, McQueen, Mason, Miller, Milson, Morgan, Isaac N. Morris, Murray, Niblack, Pendleton, Peyton, John S. Phelps, Powell, Reagan, Reilly, Ruffin, Seales, Scott, Searing, Henry M. Shaw, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, William Stewart, Talbot, George Taylor, Miles Taylor, Underwood, Vallandigham, Elihu B. Washburne, Watkins, White, Winslow, Woodson, John V. Wright, and Zollcoffer—82.

So the bill was passed.

Pending the vote,

Mr. MAYNARD stated that he had paired off on this question.

Mr. BARKSDALE stated that he had been in when his name was called he would have voted in the negative.

Mr. WARD moved to reconsider the vote by

which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

DISTRICT TURNPIKE ROADS.

Mr. GOODE. I yesterday made an adverse report on a petition in reference to the purchase of certain turnpike gates and roads, and gave the gentleman from Maryland [Mr. BOWIE] the opportunity to make a minority report, accompanied by a bill. I ask that the majority report, and the views of the minority together with the accompanying bill, be referred to the Committee of the Whole on the state of the Union, and be printed. It was so ordered.

FURNITURE OF OLD HALL.

Mr. GOODE. I have to ask the House, perhaps as the last favor during the session, to adopt a resolution which I have been instructed to report by the Committee for the District of Columbia.

The resolution was read, as follows:

Resolved, That the Clerk be, and he is hereby, directed to place at the disposal of the trustees of the public schools of the cities of Washington and Georgetown, for the use of the public schools in their respective cities, the chairs and desks lately used by members in the old Hall of the House of Representatives.

Mr. JONES, of Tennessee. Is that resolution in order?

The SPEAKER. The Chair thinks it is in order. It is a report from the committee.

Mr. GOODE. If this resolution be adopted, it is obvious that the remnant of old furniture will be appropriated to a useful purpose. If it be not thus appropriated, it will be sent to the auctioneer and sold for a trifle. Now, I ask the members of this House, if they can do better than to send this old furniture to be enjoyed by the rising generation—for the benefit of the high purpose of education? I am sure that I have said sufficient to induce the House to adopt the resolution; and if the simple suggestion is not enough, I could not say enough. "Suffer little children to come unto me and forbid them not, for of such is the kingdom of Heaven." I ask the previous question.

Mr. WASHBURN, of Illinois. I move to lay the resolution on the table.

Mr. SEWARD. Is that a resolution of the House or a joint resolution?

The SPEAKER. A resolution of the House.

Mr. SEWARD. Well, this is properly belonging to the Government, and we cannot dispose of it by a simple resolution.

Mr. JONES, of Tennessee. Would it be in order to move to substitute the desks and chairs in this Hall for those in the old Hall? [Laughter.]

The SPEAKER. It would not be in order now.

Mr. JONES, of Tennessee. If it would, I would cheerfully do that. I would rather give them these desks and chairs than those in the old Hall.

The question was taken on Mr. WASHBURN's motion; and it was agreed to.

So the resolution was laid upon the table.

PROVIDENT ASSOCIATION OF CLERKS.

Mr. SMITH, of Virginia. I rise to a privileged question. I call up the motion to reconsider the vote by which the House laid upon the table Senate bill (No. 151) further to amend the act entitled "An act to incorporate the Provident Association of Clerks in the civil department of the Government of the United States in the District of Columbia."

Mr. J. GLANCY JONES. Does this business come in under the special order?

The SPEAKER. The bill was reported from the Committee for the District of Columbia. On motion of the chairman of the committee, it was laid upon the table on the 28th of April last. A motion was then made to reconsider, and the question now is upon that motion.

Mr. SMITH, of Virginia. I would like the House to consider the bill. The committee reported adversely on it, and it was laid upon the table without discussion or consideration.

Mr. SCALES. I move to lay the motion to reconsider upon the table.

Mr. UNDERWOOD. I would be very glad to know what we are voting about. I should be happy to have the bill reported. I do not know whether it ought to be laid upon the table or not.

Mr. SMITH, of Virginia. The bill is very short, and I hope it will be read.

The SPEAKER. The bill was reported from the Committee for the District of Columbia, with a recommendation that it be laid upon the table; and it was accordingly laid upon the table. This is a motion to reconsider the vote by which it was laid on the table.

Mr. UNDERWOOD. I will not ask for the reading of the bill under those circumstances.

The motion to reconsider was laid upon the table—ayes one hundred; noes not counted.

Mr. J. GLANCY JONES. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. GROW. I desire to ask my colleague if he proposes to close the debate on the fortification bill? We might pass it this evening.

Mr. J. GLANCY JONES. I propose to take up another bill.

Mr. HOUSTON. I ask the gentleman from Pennsylvania to allow me to introduce a joint resolution.

Mr. WINSLOW. I ask the gentleman from Pennsylvania to allow me to have an order made for the printing of a bill.

Mr. HOUSTON. I have a joint resolution which I desire the House to pass.

Mr. WINSLOW. I thought the floor was assigned to me.

The SPEAKER. The Chair assigned the floor to the gentleman from Alabama, in case the gentleman from Pennsylvania would yield it.

Mr. J. GLANCY JONES. I will yield to the gentleman from Alabama.

PAYMENT OF WITNESSES.

Mr. HOUSTON. There are various witnesses who have been discharged from select committees and have not been paid. The Clerk has estimated that \$12,000 is the amount necessary to pay them. I ask the House to pass the joint resolution, so that the witnesses who have been discharged may be paid, and permitted to return home.

No objection being made, Mr. Houston introduced a joint resolution making appropriation to pay the expenses of the several investigating committees of the House of Representatives; which was read a first and second time.

Mr. HOUSTON. As it is important that the joint resolution should pass speedily, I ask the previous question.

The previous question was seconded, and the main question ordered, and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The joint resolution was then passed.

COMMITTEE OF THE WHOLE.

Mr. WASHBURN, of Illinois. I call for the regular order of business.

Mr. SMITH, of Virginia. I move that the House adjourn.

The motion was not agreed to.

The question then recurred upon the motion to go into the Committee of the Whole on the state of the Union.

Mr. JONES, of Tennessee. I want to know whether the gentleman from Pennsylvania proposes to have a business session or a session for debate?

Mr. J. GLANCY JONES. I propose to have a business one, and I hope gentlemen will stay here and keep a quorum here.

[Cries of "Agreed!"]

The question was taken upon the motion of Mr. J. GLANCY JONES; and it was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HARRIS, of Illinois,) in the chair.

FORTIFICATION BILL.

The CHAIRMAN stated the first business in order to be the consideration of the fortification bill.

Mr. J. GLANCY JONES. As the bill making appropriations for fortifications has been taken up heretofore for the purposes of general debate, and as there is likely to be considerable debate on the bill upon its merits, I propose to lay it aside,

and take up the Senate amendments to the legislative, executive, and judicial appropriation bill.

Mr. STANTON. I wish to know of the gentleman from Pennsylvania, whether it is his intention not to have the fortification bill taken up again during the present session?

Mr. J. GLANCY JONES. It is my intention to have it taken up as soon as the committee have disposed of the legislative, executive, and judicial appropriation bill. I move to lay the bill aside, and to take up House bill No. 201 with the Senate amendments.

The motion was agreed to.

Mr. FLORENCE. I rose while the Chair was putting the question, for the purpose of giving notice, in behalf of the gentleman from Delaware, [Mr. WHITELEY,] that he intended to offer an amendment to this bill.

Mr. J. GLANCY JONES. I will say to my colleague that I propose to take up the fortification bill as soon as the other bill is disposed of.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The bill of the House (No. 201) making appropriation for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1859, with the Senate amendments thereto, was taken up for consideration.

First amendment:

Add at the end of the clause "For compensation and mileage of Senators, \$162,750," as follows:

And a sufficient sum, in addition thereto, to pay the mileage of the newly elected members of the Senate in attendance at the called executive session, commencing on the 4th day of March, 1857; but nothing herein contained shall be so construed as to allow constructive mileage.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in that amendment. The compensation law provided that the compensation of Senators should be \$6,000 for each Congress, and that they should be allowed mileage for two sessions. This is to provide mileage for the new Senators who may have come in the short executive session usually held at the close of the short session. The committee did not see why the law should be changed in this respect, and therefore recommend a non-concurrence in the amendment.

The amendment was non-concurred in.

Second amendment:

Strike out, in lines twenty six, twenty-seven, and twenty-eight, as follows: "One at \$1,080, and one at \$750," and insert "at \$1,080 each," so that the clause will read: Two messengers at \$1,080 each.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a concurrence in that amendment. It is merely for an increase in the salary of a messenger. I hope the House will concur in the amendment.

The amendment was concurred in.

Third amendment:

In line fifty-two, strike out "\$584," and insert "\$914."

Mr. J. GLANCY JONES. This is only to carry out in the gross amount the change made by the last amendment. The Committee of Ways and Means recommend a concurrence.

The amendment was concurred in.

Fourth amendment:

Add, at the end of line fifty-three, the following: For the additional compensation allowed by the resolution of the Senate of the 11th of May, 1858, to a messenger in the office of the Secretary of the Senate, for the fiscal year ending the 30th of June, 1859, \$330.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a disagreement to this amendment, chiefly upon the ground that whatever may have been the necessity for the service, it is a deficiency, and not proper to be provided for in this bill.

The amendment was non-concurred in.

Fifth amendment:

Add at the end of line seventy-four the following: For stationery for fiscal year ending 30th of June, 1858, \$5,000.

Mr. J. GLANCY JONES. This amendment, and the following, the Committee of Ways and Means non-concur in, principally on the ground that they are deficiencies.

The amendment was non-concurred in.

Sixth amendment:

Add after the end of the above amendment the following: For miscellaneous items for fiscal year ending 30th of June, 1858, \$3,000.

The amendment was non-concurred in.

Seventh amendment:

Strike out "seventy" and insert "sixty" in the appropriation for binding the Congressional Globe, so that the clause shall read as follows:

Provided, That no greater price shall be paid for the same than sixty cents for each volume or part actually bound and delivered.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a concurrence in the amendment of the Senate, with an amendment, adding the word "three" to the word "sixty." The Senate made the sum sixty cents, under a misapprehension of the facts. It was discovered afterwards that the sum should have been sixty-three cents; and the Committee of Ways and Means recommend that the amendment of the Senate be concurred in, with the amendment I have indicated.

Mr. SEWARD. I desire to inquire whether this is not the same matter on which we had a discussion in this House when the bill was under consideration before, in regard to changing the contract made by the Clerk for binding the Globe? If so, I hope the House will not concur in it.

Mr. J. GLANCY JONES. The proposition before the House was to limit the sum to sixty-three cents, designating, at the same time, who should do the binding. This amendment only limits the maximum to sixty-three cents.

Mr. SEWARD. I understand that, under existing laws, the Clerk of the House had contracted for this binding prior to the adoption of the Senate amendment.

Mr. J. GLANCY JONES. I understand that to be so; but this amendment does not interfere with that contract.

Mr. SEWARD. I want to have the contracts of the Clerk of this House carried out.

Mr. J. GLANCY JONES. I understand there is no price specified in that contract, and the price now proposed by the Committee of Ways and Means is the price which is paid for the Senate binding of this work.

Mr. SEWARD. I wish to ask the gentleman a question. Has not the Government fixed the price at seventy cents?

Mr. JONES, of Tennessee. My own opinion of the contract is, and I have read it carefully, that it does not cover the Congressional Globe and Appendix; and that if it does cover it, it does not fix the price at sixty or seventy cents.

Mr. SEWARD. I understand how this thing works. Mr. Rives, who publishes the Globe, and is making large profits by it, undertakes to underbid and reduce the price below what it has been done for. I am opposed to it. I think the House sustained the position of the Clerk under the existing law, by a majority of sixty. The law, as it now exists, requires that the Clerk should carry out that contract.

Mr. MASON. The gentleman from Tennessee [Mr. Jones] is right about this binding not being included in the contract made by the Clerk. The Committee of Accounts have the right to fix the price for it. I will tell the gentleman from Georgia [Mr. Seward] that that committee have an offer for this binding at fifty cents, and the probability is, that it will be fixed at that price. And it is not Mr. Rives who makes the proposition; but another gentleman, who is a responsible book-binder. He has made the offer by letter to the Committee of Accounts, to do it for fifty cents instead of for sixty-three or seventy cents. For that reason I think this ought to be stricken out.

Mr. SEWARD. At what time was that proposition made—before or subsequent to the contract made by the Clerk?

Mr. MASON. It was subsequent.

Mr. SEWARD. That is what I suppose.

Mr. MASON. It was uncertain whether the Clerk had let it out. If he had let it out it was under that provision which gave the Committee of Accounts power to fix the price. It is proposed, as I have said, to do this work for fifty cents, and I hope that this provision for sixty-three cents will be stricken out.

Mr. TAYLOR, of New York. I concur in the remarks of the gentleman from Kentucky, in so far as the offer is concerned and the price for which this binding can be had. I am satisfied, from an investigation that the special committee have made, that it can be done for even less than that. I think that if the Clerk were to advertise, a number of parties in this city would offer to do the work for forty cents per volume, and then they

would make a handsome profit out of it. I think that forty cents is quite sufficient.

The question was taken on the amendment to the Senate amendment, and it was disagreed to.

The question was then taken on the Senate amendment; and the Chair announced that the yeas had it, and that the amendment was non-concurred in.

Mr. TAYLOR, of New York. I call for a division.

The CHAIRMAN. The call for a division, in the opinion of the Chair, comes too late.

Mr. TAYLOR, of New York. I called for a division in time.

The CHAIRMAN. The Chair neither saw nor heard the gentleman.

Mr. TAYLOR, of New York. I rose as soon as it was possible to ask for a division; and I insist on my right to have it.

The CHAIRMAN. The question has been decided.

Mr. TAYLOR, of New York. There is some confusion here. How does the question now stand; at sixty or seventy cents?

The CHAIRMAN. At seventy.

Mr. TAYLOR, of New York. So I understand.

Mr. JONES, of Tennessee. I understood that we had agreed to the amendment of the Senate.

The CHAIRMAN. The amendment of the Committee of Ways and Means was not agreed to, and the question then recurred on the amendment of the Senate. The question was taken, and the amendment was non-concurred in. After the Chair made that announcement, the gentleman from New York rose and called for a division.

Mr. J. GLANCY JONES. I understand the Chair to decide that the call for a division came too late. I call for the reading of the next amendment, and ask that we proceed with this bill.

Mr. TAYLOR, of New York. I take an appeal from the decision of the Chair.

Mr. LETCHER. We can arrange this matter by agreeing to an amendment, so that this matter may be understood. It seems to me that, if the House understood it, there would not be two opinions about it. The whole point is this: whether the House will concur with the Senate in limiting the appropriation for a specified object to a certain sum. That is the whole of it. As it now stands, there is no specific sum; and the amendment I would suggest does not affect the rights of anybody.

Mr. SEWARD. I object to debate unless I can be heard in reply.

The CHAIRMAN. The question is on the appeal from the decision of the Chair.

Mr. NICHOLS. I wish to make a suggestion to my colleague on the special Committee on Printing, that, if he desires to have a vote on this amendment, he can have it in the House. This question has been decided; and, for one, I desire to see business progress.

Mr. TAYLOR, of New York. I have no desire to delay the business of the House. I am as desirous as any gentleman to progress with the business; but I do not believe that it is the feeling of the committee to non-concur in the Senate amendment, and go back to the price of seventy cents. I am willing, however, to withdraw the appeal, with the understanding that we shall have a vote in the House.

Mr. J. GLANCY JONES. I ask that the next three amendments be read together.

The Clerk read the following amendments:

Eighth amendment:

To pay to the reporters of the Senate the usual extra compensation for the third session of the Thirty-Fourth Congress, \$300 each—\$3,300.

Ninth amendment:

To pay to the reporters of the Senate the usual extra compensation for the first session of the Thirty-Fifth Congress, \$600 each—\$3,200.

Tenth amendment:

To pay to the reporters of the Senate the usual extra compensation for the second session of the Thirty-Fifth Congress, \$600 each—\$3,200.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in these three amendments. These amendments provide for the extra compensation of the reporters of the Senate. It is proper that I should state that in the deficiency bill, and in this bill, the House have provided for their reporters. The

Committee of Ways and Means, however, have instructed me to report a non-concurrence in these amendments.

Mr. FLORENCE. Do I understand the gentleman that a distinction is to be made between the reporters of the Senate and those of the House? If the House reporters get the extra compensation, the others should. For my life, I cannot see why you should make flesh of one and fish of the other.

Mr. QUITMAN. I should be glad to know exactly the conclusion to which the Committee of Ways and Means came on the Senate amendments.

Mr. J. GLANCY JONES. The Committee of Ways and Means directed me to report a disagreement to these three amendments. The appropriations are similar in character, and are for three different sessions of Congress. Payment for congressional reporting has been provided for by usage and custom, not by law, by adding \$800 to each reporter of this House in appropriation bills. There was a contest over it on the deficiency bill, but the appropriation was made by a large majority. That was for the present session. It has been paid in preceding sessions, and in this bill we have provided for them for the next session. When the bill went to the Senate, that body decided, that inasmuch as we had made the appropriations for our reporters, they would provide for their reporters in the same manner. Hence these three amendments.

Mr. KELSEY. Upon what grounds do the Committee of Ways and Means recommend a non-concurrence in these amendments? Is it because a part of this matter was a deficiency?

Mr. J. GLANCY JONES. The first one is for a deficiency.

Mr. KELSEY. I think that inasmuch as we have to pay this money at some time, we might as well pay it in this bill as in any other. It is manifest that Congress will not consent to pay to the reporters of this House more money than to the reporters of the Senate. Let us dispose of this matter here, and that will be the end of it.

Mr. PHELPS, of Missouri. When these amendments were under consideration in the Committee of Ways and Means, I was not present. I have advocated paying to the reporters of this House the usual extra compensation. We have paid it to them for the last six years. The Senate have paid to their reporters the same sum for the same period of time, except for this and the last session. I am of opinion that the reporters of the Senate should be treated in the same manner as we treat the reporters of this House. The Senate have placed these amendments on the bill. That body is better able to determine where they will increase the salaries of their employes. I am therefore in favor of concurring in the Senate amendments.

The question being upon concurring with the Senate in the first of the three amendments, Mr. FLORENCE asked for tellers.

Tellers were ordered; and Messrs GARTRELL and BUFFINTON were appointed.

The committee divided; and the tellers reported—ayes 90, noes 40.

So the amendment was concurred in.

The ninth and tenth amendments of the Senate were then concurred in.

Eleventh amendment:

In lines one hundred and seventy-two and one hundred and seventy-three, strike out the words "draughtsmen and clerks employed upon the land maps."

Mr. J. GLANCY JONES. The Committee of Ways and Means propose to disagree to the amendment of the Senate. It proposes to strike out the provision for the five clerks employed on maps for the Committee on Public Lands provided for by the House, and the Committee of Ways and Means recommend a non-concurrence.

Mr. McQUEEN. I hope the committee will concur in the amendment of the Senate. The Committee on Public Lands had occasion to examine into this subject pretty thoroughly, and if any good results to this Government from the employment of these map clerks, I am sure I have been unable to discover it. This matter has already cost the Government a large amount of money. This provision is for clerks who are employed in staining maps for the Committee on Public Lands. Four maps have been already prepared, and, as I said upon a former occasion,

I do not believe there is any gentleman here who would give fifty dollars for the four, if they were offered him at that price, for any use they can be applied to on the face of the earth. At one time there were nine regular clerks, employed at salaries of \$1,800, and a draughtsman at a salary of two thousand one hundred or two thousand two hundred dollars a year. In addition to that there were eight supernumerary clerks employed temporarily, for what purpose I cannot tell. Since 1848 they have had from four to eighteen or nineteen clerks employed on this work at these salaries.

I have been upon the Committee on Public Lands during this Congress, and have endeavored to discharge my duty pretty closely. I never was on the committee before; and if one single particle of benefit has been derived from these maps, I have not discovered it. I think I am within the bounds of truth and reason when I say that they have already cost the Government \$60,000 or \$75,000, or perhaps \$100,000. A friend near me suggests \$200,000; and if a particle of benefit has resulted from that expenditure, I cannot discover it. It may be recollected that the Committee on Public Lands reported in favor of employing five clerks. This amendment is to strike out the provision for the salaries of those clerks, and I hope it will be concurred in.

I know it is urged that these maps are of utility to the Committee on Public Lands, because when grants are asked for railroads, they can refer to the maps and see what lands may be obtained under those grants. We have had numerous propositions before us, this whole session, for grants to railroads, and if any light has been thrown upon the subject by these maps, I am sure I have been unable to discover it. It is well known, as I said on a former occasion, that when men come here to obtain grants of lands for railroads, they come with their plans arranged to construct the railroads from point to point in the State or Territory, generally from town to town; and it is perfectly immaterial to them whether the lands through which the roads pass have been appropriated heretofore or not, or where they get the lands. They usually take them in alternate sections within six miles of the road, or go outside for fifteen miles. The Committee on Public Lands have now before them bills granting lands to railroads, but I have not seen a single instance in which the committee have derived any benefit from these maps.

These clerkships, it is true, are good sinecures, and afford employment to gentlemen who are lurking about this Capitol on salaries of \$1,800 a year. But with all respect for gentlemen who differ with me, I am unable to see that the Government derives any benefit. I have heard gentlemen here say, upon former occasions, that they have a contempt for this small system of economy, and that the men who come here to work ought to be paid by the Government. I have much more contempt for that system which has grown up here by which men are brought from the honest pursuits of life in the country to this city, to loaf, and ferret out and scent out and pursue petty offices, until they are taught to believe that it is well for them to leave their honest pursuits and come to this city to live upon the public pay of the Government. I have much more contempt for that, and I hold that it is much more injurious to the people of this country. And I will add further, that the largest bodies are composed of smaller particles. We must cut off small expenditures to restrict the larger. When this thing commenced, there were but four clerks. We now have eight, as I understand. We began with less than eight thousand dollars. The expense has since run up to twenty-five or thirty thousand dollars a year.

But, sir, I will not detain the committee. I stated my reasons why I wished to do away with this system when the matter was before the committee on a former occasion. I earnestly hope the committee and the House will concur in the amendment of the Senate. No good can be derived from the work. A large public expense is incurred by it. Men are brought here and put in office; and I am informed that some of these clerks who have been appointed to office have not done a thing, although they have drawn their pay.

Mr. J. GLANCY JONES. I wish to ask the gentleman for leave to interrupt him for a minute

or two, for I do not wish to take the floor to speak on this amendment after he has yielded the floor.

Mr. MARSHALL, of Kentucky. I rise to a question of order. My point of order is, that the gentleman from Pennsylvania cannot take the floor from the gentleman from South Carolina.

Mr. McQUEEN. I am willing to yield to the gentleman.

Mr. J. GLANCY JONES. I am sorry the gentleman from Kentucky does not know that one gentleman on the floor may yield it to another. It is certainly competent for me to occupy the floor to make an explanation, with the consent of the gentleman from South Carolina, who holds the floor.

Mr. MARSHALL, of Kentucky. It is precisely to that point of order that I propose to speak. I attempted the same thing yesterday, and was called to order by my colleague. Now, I insist that the gentleman has no right to speak in the time of the gentleman from South Carolina.

Mr. J. GLANCY JONES. I suppose the Chair will decide. I insist that I have the right to occupy the time of the gentleman, with his consent.

The CHAIRMAN. The Chair will rule that the gentleman from South Carolina may, under the practice of the committee, yield the floor for the purpose of asking a question, or making explanation.

Mr. MARSHALL, of Kentucky. That is directly against the ruling of the Speaker, yesterday.

The CHAIRMAN. The ruling of the Speaker in the House does not apply to the committee.

Mr. J. GLANCY JONES. The estimate made by the Clerk of the House was for nine clerks, and the Committee of Ways and Means reported that sum in the bill. But when the bill came up in the House, upon the statement of the majority of the Committee on Public Lands that only five clerks were necessary, the House, after full discussion, agreed, by a considerable majority, to cut down the number to five. There was perhaps a little feeling in reference to the action of the Senate. The Senate put in its own amendments for its own officers, giving its reporters extra compensation for three sessions, while they have stricken out provisions put in by the House which related to the officers of the House. But I will say, in response to the gentleman from South Carolina, who desired to know upon what basis the Committee of Ways and Means had acted in recommending a non-concurrence to the Senate amendment, that when this matter was before the House before, after a full discussion, upon the recommendation of the Committee on Public Lands, it was decided that five clerks were necessary, and the Committee of Ways and Means thought proper to recommend a continuance of that number.

Mr. McQUEEN. I was going on to say that this resolution, when it was originally presented, was a sort of a mongrel affair. A simple resolution of the House was passed in 1848, requiring the Clerk of the House to furnish maps of the public lands, under the supervision or direction of the Commissioner of Public Lands. That was the commencement of the system. But during the present session the chairman of the Committee on Public Lands has addressed a letter to the Secretary of the Interior, and to the Commissioner of the General Land Office, and they both concur in the opinion that the service of these clerks is no longer needed. Now, sir, these clerks are not under the control of the Commissioner of the General Land Office, in whose office they must have access to the records. The Clerk of the House cannot have control of their business, because he has no authority over the land records in the Land Office; and it is impossible that this service can be as well performed, if it is performed at all, as if the clerks were under the control of the Commissioner of the General Land Office. And again, the regulations of the General Land Office require the land records to be kept secret, to prevent speculations in the public lands. These clerks are not subject to those regulations; and it is very easy to see how they may be of very great benefit to speculators; but they are of no benefit to the House. I hope the amendment of the Senate will not be stricken out. It is due, in justice to the present Clerk of the House, that I should say I have heard no grounds of complaint against him

for anything connected with his duty in this matter.

Mr. WASHBURNE, of Illinois. I do not propose to detain the committee by any discussion of this amendment. Gentlemen will remember that the matter was thoroughly discussed when the bill was originally before the committee. I am in favor of the recommendation of the Committee on Public Lands; and I hope the vote will be taken.

Mr. LETCHER. I am decidedly in favor of concurring in the amendment of the Senate; and I desire to make an inquiry of my friend from South Carolina, who is a member of the Committee on Public Lands. I understand that committee have been now for some months in the room assigned to them in the new wing of the Capitol. Now, I wish to inquire whether these maps have ever been transferred there from the old committee-room?

Mr. McQUEEN. I intended to have referred to that fact myself. It may be that some members of the committee have had occasion to refer to them since the organization of Congress. But we have now been some time in the new committee-room, and they have not been removed, although we have had some important land grants under consideration in that time.

Mr. LETCHER. Now, it seems to me that that statement of itself is enough to show that the value of these clerks has been greatly exaggerated, to say the least of it. This very fact shows that the Committee on Public Lands have no use for these clerks at all, and it seems to me that every consideration of economy and propriety, as well as the desire to prevent the concentration of patronage here in this city, requires that we should put a stop to this thing as far as possible. Now, sir, this whole thing is an anomaly. It is a most extraordinary state of things, when you have the records of the Land Office committed to the care of the Land Office, under regulations prescribed by that office, that all these records must be intrusted to these clerks to make up the maps as they please. If this thing is to be continued, it ought to be under the control of the Land Office. There should be harmony in these matters.

Mr. MARSHALL, of Kentucky. Will the gentleman yield to me for a question?

Mr. LETCHER. Certainly.

Mr. MARSHALL, of Kentucky. If the gentleman cannot answer my question, probably the gentleman from South Carolina can. If we discharge the clerks now employed under the auspices of this House, will we be compelled to give extra clerks to the Interior Department to discharge the same duties?

Mr. LETCHER. I understand not; for I learn from the letter of the Secretary of the Interior that this is of no account, and that he does not want anything to do with it. That is my understanding of the communication from the Interior Department. The gentleman from South Carolina will say whether I am right about it or not?

Mr. McQUEEN. That is my impression. Heretofore, and even now, perhaps, when land grants were proposed, the Commissioner of the General Land Office is addressed on the subject, and requested to furnish the House with maps and plats, so that it may be seen what lands are granted and what reserved to the Government. That has been done, and may be done again.

Mr. WALBRIDGE. I wish to inquire of the gentleman from South Carolina, my colleague on the Committee on Public Lands, whether he has ever known any instance where the Commissioner of the Land Office was able to furnish that kind of information, except through these very clerks?

Mr. McQUEEN. I have not been on the Committee on Public Lands until this year. In the course of the investigation of this matter, I understood that heretofore the Land Office had always supplied the Committee on Public Lands and this House, when it was desired, with maps showing the sections, ranges, townships, and quarter sections. I have no doubt that without these clerks there might be a short delay; but I have as little doubt that when wanted, the information can be furnished in ample time.

Mr. WALBRIDGE. I undertake to say, in answer to the remark of the gentleman from South Carolina, that the Commissioner of the General Land Office, without the aid of these clerks, has it not within his power to furnish this kind of

information in any one State in less than four months, even if he devoted the whole force of his office to it.

Mr. LETCHER. As I understand it at present, the committee are considering questions in connection with public lands in Kansas and Nebraska, which these map clerks have never reached as yet. If the Committee on Public Lands, with the gentleman from Michigan, can consider these questions in an enlightened way at present, when there is not a map to indicate the land which has been sold or reserved, why, then, is there a necessity for keeping up these clerks, and entailing expense upon the country?

Mr. WALBRIDGE. I will answer the gentleman right here. We are now acting in the Committee on Public Lands in reference to land grants in Kansas and Nebraska. We are utterly in the dark. We have no means of knowing anything about the quantity of land which will be taken under the proposed grants. And here I wish to say that the resolution of 1848, under which these clerks were appointed, confines their action to the States in which there are public lands. They are not authorized to make these maps for the Territories; and before this session terminates, I propose to offer a resolution to extend that work to the Territories, as well as the States.

Mr. LETCHER. As I understand it, they have had nine clerks for a long series of years; and if these clerks have not made headway enough to keep up with the progressive spirit of legislation in granting lands for railroad purposes, why does not the gentleman propose to wait until they do get up with them?

Mr. WALBRIDGE. I have said that they were not authorized to make maps for the Territories. They have made and finished their maps of the States up to this time.

Mr. LETCHER. If they were not authorized to make maps for the Territories, I take it that, if the gentleman cannot legislate in an intelligent way without these maps, he is not doing justice to himself or to the House when he is undertaking to legislate on the public lands in Kansas and Nebraska.

Mr. WALBRIDGE. The question of whether I am doing justice to the country or to this House, in my action on the Committee on Public Lands, with the lights I have, is not to be answered here, and it does not come into this controversy. It has nothing to do with this controversy.

Mr. LETCHER. When the gentleman undertakes to lay down a proposition, I have the right to use that proposition in the way of argument, and show that the conclusion at which he arrives is not warranted by the facts in the case. That is all I have to do. The gentleman started out with the proposition that without these clerks they could not get along intelligently in the Committee on Public Lands. I ask him, then, how they are getting along now, when these clerks have not reached that point where their information can be used?

Then, the gentleman says that his course is not a subject of criticism. I am not subjecting his course to criticism, but I am taking his own position, for the purpose of showing that that very argument upon which he relies proves clearly and conclusively that these clerks are of precious little use.

Mr. WALBRIDGE. The gentleman persists in misunderstanding or misrepresenting me. I say that the labor of these clerks has been of important service to the Committee on Public Lands. The maps upon which they have bestowed their labor are of service to me daily, and whether the gentleman from South Carolina [Mr. McQUEEN] derives advantage from them or not, is not for me to say. We are called to act on land questions every day, and frequently, without these maps, we are compelled to act entirely in the dark, so far as knowing the quantity of land we are granting. In no instance have we the means of knowing the amount of land the Government holds, through which roads are proposed to be run, without these maps.

Mr. LETCHER. As I understand that matter, so far as these railroad grants are concerned in the States, they undertook to equalize them in the last Congress, and to designate the quantity of land that was to be appropriated for railroad purposes; and if there has been an equality pro-

duced in this way, it seems to me that these land clerks cannot be of the least service, unless it is intended to give the remainder of the land besides. If that is to be done, it appears to me that it should be done with as little expense as possible. I hope the Senate amendment will be concurred in.

Mr. PHELPS, of Missouri. I am opposed to the amendment proposed by the Senate, and I thought that, after the discussion we had on the subject in committee, the deliberate opinion of this House was expressed on this question on the bill as it passed this House.

It will be recollected that upon the report of the Committee on Public Lands, the number of clerks to be employed upon these land maps was reduced from nine, to one draughtsman and four clerks. I have, myself, in examinations concerning land matters in the State of Missouri, derived great benefit from a consultation of the maps which were being prepared for that State. I know that not long since important information was derived from draughtsmen having in charge these maps, in relation to the question of the discontinuance of some land offices in the State of Missouri; and that information caused a change in the action of the land department.

Mr. McQUEEN. I would ask the gentleman if the same information could not have been obtained at the public land office?

Mr. PHELPS, of Missouri. I will state this fact in reply to the gentleman; that information was obtained from the General Land Office, and upon that information it was thought proper that certain land offices in the State of Missouri should be discontinued, because it was supposed that the amount of public land undisposed of in that district was below the limit fixed by law. But upon subsequent information obtained from Mr. Parker, who is the draughtsman having the maps in charge, and also from suggestions from the local land offices, the Commissioner of the General Land Office was satisfied that a mistake had been made, and therefore he recommended a continuance of the land offices I have referred to. The same information could have been obtained from the General Land Office, but would have required more time to obtain it.

I am, therefore, opposed to the adoption of the amendment of the Senate, and in favor of the continuance of these land-map clerks for at least one year longer.

I desire to see the maps perfected which are now nearly completed. We know that the very large entry of lands, by cash and land warrants for a few years past, must have rendered it very difficult for these clerks to keep up the land maps without the employment of additional force by the Clerk of this House to bring those maps up to the present state of the land business.

Mr. COBB. The Clerk of this House has not employed any additional clerks.

Mr. PHELPS, of Missouri. I referred to the predecessor of the present Clerk.

The question recurring on concurring in the Senate amendment,

Mr. RUFFIN demanded tellers.

Tellers were ordered; and Messrs. CLEMENS, and WRIGHT of Georgia, were appointed.

The committee divided; and the tellers reported—ayes 39, noes 79.

So the amendment was disagreed to.

Mr. MASON. I move to amend this section, in reference to these land-map clerks, by adding to it the following proviso:

Provided, That the clerks shall not be compelled to remain in Washington.

The CHAIRMAN. The Chair would suggest that the motion which the gentleman made to amend, by adding at the end of the section, would not be in order.

Thirteenth amendment:

Insert the following:

For procuring manure, tools, fuel, repairs, purchasing trees and shrubs for botanic garden, to be expended under the direction of the Library Committee of Congress, \$2,300.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in that amendment.

Mr. GARNETT. I desire to ask the gentleman from Pennsylvania a question at this point. Here are three amendments in reference to the green-houses. The Committee of Ways and Means recommend that the first and second amendments be non-concurred in, and that the

third amendment, which provides for reglazing the green-houses, be agreed to. Now, if the first two amendments are rejected, there will be nothing with which to pay the salaries of the horticulturist and his assistants, or to procure manure or tools and fuel to keep the plants alive. I desire to know what is the use of glazing the green-houses if you do not provide means to keep the plants alive and have them taken care of? For myself, I have shown by my votes here that I am as much opposed to unnecessary expenditures as any member of the House; but I think these green-houses a fair and legitimate portion of the ornaments of our Capitol grounds, and in much better taste than many ornaments which we have voted money to pay for. I think that if we reglaze the green-houses we ought to vote something to pay the persons who attend to them, and to keep the plants alive. I, therefore, hope the House will concur in these amendments of the Senate.

Mr. J. GLANCY JONES. The reason why the committee recommended a concurrence in the third of these amendments is, that the glass in these green-houses was destroyed by the great hail-storm last summer.

Mr. PETTIT. I have but a word to say upon this subject, and shall not detain the committee long. It was by an omission on the part of the Committee on the Library, the estimate not being then complete, that these provisions were not inserted in the bill when it was pending in the House. I had supposed that it was the purpose of the Committee of Ways and Means to make provisions for all those expenditures that are regularly prescribed by law. My impression has been, both from the steady course of legislation upon this subject, and from the manner in which the estimates have been made, that there could be no doubt that these provisions come within that rule.

To show that these subjects are provided for by law, with deference to the opinion of that committee, I refer to the following clause of the appropriation act of June 17, 1844, for civil and diplomatic expenses:

"To defray the expenses of taking care of and preserving the botanical and horticultural specimens brought home by the exploring expedition, and for the salary of the keeper of, and enlarging, the green-house, under the direction and control of the Joint Committee on the Library, \$2,200."

This clause not only makes an appropriation, but is original and permanent legislation; for it makes an officer, prescribes his duties, and subjects him to control; and subsequent appropriations, and the estimates of the present year, have been made accordingly.

Mr. J. GLANCY JONES. I may, perhaps, save time by saying to my friend from Indiana that no issue is made about the legality of these provisions. The committee did not report against them on that ground.

Mr. PETTIT. With this understanding, then, I have nothing further to say, and hope the amendment of the Senate will be concurred in.

Mr. SEWARD. I am opposed to the amendment unless some gentleman can show me that it has something or other to do with one of the departments of the Government provided for in this bill. I am not aware that the legislative department of the Government has to be manured, [laughter,] or the executive or the judicial department, or that they want tools. These botanic gardens might be made useful; but they are now a sort of pet concern in the hands of the flower-pot committee of the Senate. [Laughter.] I think the flowers must be sold to those men who sell bouquets about the city. I know I never can get a solitary flower there. I am told I must get an order from a Senator. The whole thing is got up here for the purpose of giving out flowers to particular favorites; and I do not want to have to go to any Senator or anybody else for an order when I want a flower. I hope the amendment will be disagreed to.

Mr. UNDERWOOD. I desire merely to notice a passing remark made by the gentleman from Georgia. I think he does the superintendent of the green-houses great injustice when he supposes for a moment that he has sold bouquets to the bouquet vendors of the city of Washington. I am acquainted with that individual; I have frequently met him, and had pleasant and agreeable associations with him; and I should do injustice to my own feelings if I were to hear an imputation

of that sort made against him, without saying that I know him, and believe him to be as honest a man, and as much of a gentleman as any one, and that he would scorn such petty meanness.

Mr. SEWARD. I do not know this gardener, and I did not intend to say that he was dishonest, or to cast any imputation upon him.

The amendment of the Senate was concurred in.

Fourteenth amendment:

Insert the following:

For pay of horticulturist and assistants in the botanic garden and green-houses, to be expended under the direction of the Library Committee of Congress, \$5,121 50.

The amendment was concurred in.

Fifteenth amendment:

Insert the following:

For replazing and repairing damages to the green house by the hail storm of June, 1857, \$1,044 16.

The amendment was concurred in.

Sixteenth amendment:

Insert the following:

To enable the Secretary of State to carry into effect the act entitled, "An act for the admission of the State of Kansas into the Union," §10,000.

Mr. J. GLANCY JONES. This is to provide for carrying out the act lately passed by Congress for the admission of Kansas into the Union.

The amendment was concurred in—ayes sixty-three; noes not counted.

Seventeenth amendment:

Insert the following:

And the authority conferred upon the principal clerk of public lands, of acting Commissioner *ad interim*, in the absence, and so forth, of the Commissioner, by the second section of the act reorganizing the General Land Office, approved the 4th of July, 1836, shall be, and the same hereby is transferred to the chief clerk of said General Land Office.

Mr. GARTRELL. I wish to ask the chairman of the Committee of Ways and Means what is the meaning of the term "and so forth?"

Mr. J. GLANCY JONES. It was said by Lord Coke to mean almost anything.

Mr. GARTRELL. I think it means nothing. The amendment was concurred in.

Eighteenth amendment:

Insert as follows:

For the preservation of the collections of the exploring and surveying expeditions of the Government, \$4,000.

The amendment was concurred in.

Nineteenth amendment:

Insert as follows:

For the transfer to, and new arrangement of those collections in, the Smithsonian Institution, \$1,000.

The amendment was concurred in.

Twentieth amendment:

Insert as follows:

To enable the Secretary of the Interior to pay the superintendent of the building occupied by said Secretary and his Department, from the 1st day of January, 1855, to the 30th day of June, 1858, the allowance to be made to such superintendent, with his salary as clerk, not to exceed \$2,000 per annum, the sum of \$700.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a concurrence in that amendment.

The amendment was concurred in.

Twenty-first amendment:

Insert as follows:

For clerk hire, office rent, fuel, and lights, at the several district land offices of the land States and Territories, to be apportioned in such manner as, in the judgment of the Secretary of the Interior, the public interest may require, \$60,000.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in that amendment.

The amendment was non-concurred in.

Twenty-second amendment:

Strike out of the original bill the following:

"For compensation of the surveyor general of Utah and the clerks in his office, \$8,000."

"For rent of the surveyor general's office in Utah, fuel, books, stationery, furniture, and other incidental expenses, \$1,500."

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a concurrence with the Senate in that amendment to strike out this appropriation.

The amendment was concurred in.

Twenty-third amendment:

Under the head of "for the general purposes of the building corner of F and Seventeenth streets," after the clause "for compensation of superintendent, four watchmen, and two laborers for said building, \$3,850," insert:

And the compensation of superintendent may be allowed to the clerk who has performed, or may hereafter perform,

the duties of that officer; the allowance to be made to such superintendent, with his salary as clerk, not to exceed \$2,000.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a concurrence in that amendment, with an amendment to strike out the words "has performed or," so as to strike from it its retrospective operation. They propose to allow this superintendent to have the \$250, which is the same allowed to the superintendent of all the other Executive buildings for the future, and not to allow it to apply to the past.

The amendment to the amendment was agreed to.

The amendment, as amended, was then concurred in.

Twenty-fourth amendment:

Insert as follows:

For defraying the expenses incurred in taking the census of the Territory of Minnesota, under the act approved 26th February, 1857, \$20,000: *Provided*, The compensation to the officers taking the same shall not exceed that allowed by the acts of 23d May, 1850, and 30th August, 1850, to those who took the census in California, Oregon, Utah, and New Mexico.

Mr. J. GLANCY JONES. This amendment is to pay the expenses of taking the census of Minnesota, which was authorized by the last Congress. The Committee of Ways and Means recommend a concurrence in the amendment of the Senate.

The amendment was concurred in.

Twenty-fifth amendment:

Insert as follows:

For services of special counsel, and other extraordinary expenses, in defending the title of the United States to public property in California, \$40,000.

Mr. J. GLANCY JONES. This amendment proposes to appropriate \$40,000. There is an immense amount of public property in litigation in California; and the Attorney General has found it impossible to successfully prosecute the public business without this appropriation of \$40,000 to enable him to employ special counsel to defend the several suits which have been instituted, embracing the whole city of San Francisco, and other very valuable public property; and the committee recommend a concurrence in that amendment.

Mr. MARSHALL, of Kentucky. I wish to ask the gentleman from Pennsylvania whether this \$40,000 is to be paid in fees to counsel here in Washington or California?

Mr. J. GLANCY JONES. In California. I will state to the gentleman from Kentucky that these claims are very large, and that the claimants have employed the whole bar, if they have not gone further, and employed all the talent of the State; and the Attorney General finds it impossible to defend the interest of the public without the means of employing special counsel.

Mr. MARSHALL, of Kentucky. I desire to say to the committee that, if I am not misinformed, the law establishing a board of land commissioners of the United States for the State of California provided for an attorney of the United States. And then, in a subsequent act, amendatory to that law, additional counsel was provided for. A subsequent law provided still further for the employment of additional counsel.

Mr. J. GLANCY JONES. Will the gentleman from Kentucky allow me to have a letter read from the Attorney General upon this subject?

Mr. MARSHALL, of Kentucky. Yes, sir; I will.

The letter was read, as follows:

ATTORNEY GENERAL'S OFFICE, April 22, 1858.

SIR: Public property in California of very great value is claimed by various persons under alleged grants from Mexico, which are believed to be mere fabrications. These grants cover not only large tracts of agricultural country, and some of the richest mines in the world, but the whole cities of San Francisco and Sacramento are included within them. The Government buildings, the court house, custom-house, hospital, prison, and fortifications, are claimed by titles of the same sort. The site of the military works at San Francisco is so absolutely necessary to the public defense that no sum which could be told down in dollars would be a compensation for its loss. But estimating the grounds and buildings at San Francisco which are in dispute, at the price for which they might be expected to sell if they were in market, they are worth, probably, not less than ten to twelve million dollars. The lots held in the same city by private owners, under titles derived from the United States, are estimated, with their present improvements, at twenty-five to thirty millions.

"The right of the United States and of their grantees to

all this property, and to a large quantity besides, in other parts of the State, has been in extreme jeopardy, and is yet in much peril. The pretended grants from Mexico have been forged with skill as well as boldness unequalled in the history of such frauds. The documentary evidence, indeed, was so artfully got up that the local tribunals of the Government in California have been induced to look on them with a certain degree of allowance, and even of favor. The greatest of these cases, that of Limantour—the greatest in atrocity as well as in magnitude—passed through the board of land commissioners and got a decree pronouncing it honest and genuine. It is now pending in the district court. I have examined the evidence before the commissioners, and most of that which has been taken since the appeal, and I am thoroughly satisfied that it is the most stupendous fraud ever perpetrated since the beginning of the world. Thus far it has been successful, because the Executive of the Government has not had the means of resisting it with the vigor which ought to be employed. Other claims, with as little merit as Limantour's, have been even more successful than his.

Under these circumstances, it was thought by the President and by the heads of the several Departments which had charge of the property endangered, to employ special counsel, to be sent out from here to California, with instructions to protect the interests of the Government there, and to give his particular aid, if necessary, his undivided attention to the claim of Limantour. Edwin F. Stanton, Esq., has been employed, and is now performing the duty assigned to him with the ability and fidelity which might be expected from his very high professional character. The sum necessary to pay for the services of special counsel, and the probable cost of getting witnesses from the eastern States, from Mexico, and from other parts of the world, and other expenses incidental to the proper management of causes so large, and the exposure of frauds so complicated, will not be less than \$40,000 during the next fiscal year. For this sum I ask that an appropriation be made by Congress.

By the act of—, the sum of \$30,000 was appropriated to this purpose. This has been expended, and there is now no fund in the Treasury which is specifically applicable to the payment of the extraordinary expenses which must be encountered in defending against the claims referred to.

By the fee bill of 1853, the fees of counsel specially employed by the head of any Department may be paid out of the general judicial fund. But it is thought better not to leave this case to a provision so general. Its magnitude, and the fact that a specific appropriation was made once before for the same object, seem to require that Congress should give its express sanction to the expenditure. Besides that, a large portion of the sum now asked for is intended for expenses not covered by any general law, but, beyond all doubt, absolutely necessary.

The interests of the United States with reference to these land claims in California have heretofore generally been in the hands of the successive district attorneys. They have been as faithfully and well attended to as they could be by one person. But one person cannot possibly perform the great labor required by them, even if the other business of the office did not require his whole attention. There is no authority to employ an assistant, or even a clerk. I send herewith copies of letters from the present district attorney and his immediate predecessor, from which it appears to me very manifest that the proper relief ought to be granted by a law which will authorize the payment of assistants heretofore employed, and those which it may be necessary to employ hereafter.

Much delay has been encountered in bringing up appeals from the district court to the Supreme Court, caused by the difficulty of getting the records transcribed. They are, of course, very voluminous. The clerk of the district court cannot copy them himself, nor find other persons willing to do it for the fees allowed by law.

To remedy this evil, it will be necessary to authorize the district attorney to contract with the necessary number of clerks to do the work at a reasonable price, not exceeding a certain limit, say one hundred and fifty dollars per month to each of them. I am informed that the transcripts, which should be made now or very soon, will require the labor of three clerks for about five months.

Yours respectfully,
J. S. BLACK.

HON. JAMES L. ORR, Speaker of House of Representatives.

Mr. MARSHALL, of Kentucky. I have heard the reference of the Attorney General to the cases of the United States pending in the courts of California. It is well calculated to produce the impression that the necessity for this extraordinary expense is pressing, and, ordinarily, I should yield to the suggestion he makes. But I am opposed to this loose mode of doing business. The law now allows additional counsel to assist the United States attorney before the land commissioners, and we have the United States attorney in each of the districts, in addition. How many lawyers do the United States demand in California? How do we know these expenditures will ever be made in California? Why not at Washington? The law is by no means guarded, and the discretion is left entirely to the Executive to spend this money on such persons, and at such places, as he may think proper. I object to all this. We are told the Limantour claim is that in which a bold and stupendous forgery has been perpetrated. Why, sir, if there had been a forgery of grant in the case, that cannot add much to the difficulty of its management by counsel. It seems to me it would be far preferable to appoint attorneys for the United States who can manage all these cases for the compensation of the office, rather than to be spending these enormous sums

in employing additional counsel to attend to our business in court. I do not mean to say the attorneys we now have are not competent, for of that I know nothing, but the idea of spending \$40,000 per year in counsel fees for additional counsel in our California cases, certainly indicates that there is wrong somewhere. The Limantour case has been subjected to very critical investigation; everybody in San Francisco is interested against it; and I should think the whole chain of title on which it rests must, by this time, be perfectly understood, and, therefore, that the management of it by counsel would be comparatively easy. I am inclined altogether to withhold my concurrence in this amendment.

The question was taken on the Senate amendment; and it was concurred in.

Twenty-sixth amendment:

For the employment of such number of clerks, not exceeding three, by the district attorney of the northern district of California, as may be necessary to transcribe the records of the district court, in land cases, upon which appeals have been or may be taken to the Supreme Court, such sum as may be necessary is hereby appropriated, provided the compensation shall not exceed one hundred and fifty dollars a month for each.

Mr. QUITMAN. It seems to me that that provision is entirely unnecessary, because it is the duty of the clerk to furnish any transcripts of records which may be required.

Mr. J. GLANCY JONES. It is a physical impossibility in the present state of the records—costing from eight to fifteen hundred dollars—which are got up by the defendants. The Committee of Ways and Means recommend a concurrence in the amendment.

The amendment was concurred in.

Twenty-seventh amendment:

For the reasonable expenses of the late and present district attorneys for the northern district of California, for assistance in their office, such sum is to be paid out of the judicial fund, if such expenses shall be approved by the Attorney General; *Provided*, That those expenses shall not exceed three hundred dollars per month; *And provided further*, That this appropriation shall be applicable only to the present fiscal year, and the next succeeding fiscal year, which will terminate on the 30th day of June, 1859.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommended a concurrence in that amendment.

The amendment was concurred in.

Twenty-eighth amendment:

From the following paragraph strike out "\$5,511," and insert in lieu thereof "\$7,920," so that it will read:

For the support and maintenance of said penitentiary, \$7,920 25.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a concurrence in that amendment. There have been a large number of occupants in the penitentiary lately, and the expenditures being correspondingly increased, this additional appropriation was found necessary.

Mr. GARNETT. I believe that the strict rules of order do not prevail in committee, and I rise to give notice, that I shall ask separate votes on the amendments, which we have passed by, in reference to the Smithsonian Institution. I wish also to state briefly—as I shall have no opportunity of doing it in the House—why I shall do so. Before I had the honor to become a member of this House I noticed the plan of removing the collections of the exploring expeditions of the United States into the Smithsonian Institution, and since then I have been only the more confirmed that it was but the beginning of quartering that institution upon the Federal Government. The first step is to take a part of the Smithsonian building, which, according to its original design, was set apart for a library. You take that room, and the collections of the exploring expeditions are carried there from the Patent Office. The next move is to pay the cost of fitting up that room in their own building; then we shall be asked to supply them with officers to take care of those collections, and it will go on until one half the expense of the institution is paid by the General Government. I believe that this is inexpedient and unconstitutional, and I desire, at the first opportunity, to enter my protest against it.

Mr. ENGLISH. I desire to say a word in reply to the gentleman. He has altogether mistaken the object. The object seems to be to quarter the Government upon the Smithsonian Institution, rather than to quarter the Smithsonian Institution upon the Government. This collection of natural history was in the Patent Office. The regents of

the Smithsonian Institution consent to relieve the Government from its charge, and that it might be removed to that building, provided the General Government would make provision for taking care of it.

Mr. GARNETT. Is the gentleman willing to vote to strike it all out? He considers that we are upon the bounty of the regents of the Smithsonian Institution in this matter, and therefore I suppose he will be willing to vote it out.

Mr. ENGLISH. I will say that the Smithsonian Institution will not accept this collection, if the expense of keeping it up is to be saddled upon that Institution.

The question was taken; and the amendment was concurred in.

Twenty-ninth amendment:

"For compensation of two additional guards, hereby authorized, \$1,320."

Mr. J. GLANCY JONES. The committee recommend a concurrence in that amendment.

The amendment was concurred in.

Thirtieth amendment:

Strike out the following:

"No part of the amount appropriated by any act of Congress for the service of any one fiscal year shall be used for or applied to the service of any other year, nor be transferred to or used for any branch of expenditure than that for which it may be specifically appropriated: *Provided*, That nothing herein contained shall apply to appropriations for the present or next fiscal year."

And insert in lieu thereof the following:

Hereafter the estimates for the various Executive Departments shall designate not only the amount required to be appropriated for the next fiscal year, but also the amount of the out-standing appropriation, if there be any, which will probably be required to be used for each particular item of expenditure.

Mr. J. GLANCY JONES. It will be remembered that when this section was added to the bill in the House, I, to some extent, concurred in it. Upon subsequent examination it was found that it would embarrass present arrangements. The present amendment, made by the Senate, will answer every purpose of the original section; and the committee recommend that it shall be concurred in as a substitute.

Mr. SHERMAN, of Ohio. When this section of the bill was first offered by me as an amendment, in March last, it received the general consent of the House. The chairman of the Committee of Ways and Means accepted it, and ingrafted it upon the deficiency bill. When it was offered the other day it was objected to slightly by that gentleman, but it was sustained, on a vote by yeas and nays, by more than two to one. The bill was sent to the Senate, and they ingrafted upon the bill an amendment, by way of a substitute. That amendment is puerile. It amounts to nothing at all. It is nothing more than the existing law. Gentlemen will find in the Executive Documents the very information which the Executive Departments are required to give by this amendment. I regard the original provision as very important. If we intend to check the expenditures of the Government, or if we intend to check the Executive in the use or abuse of money appropriated, we must adopt some such provision as this.

If there ever was any necessity for the transfer of appropriations, that necessity does not exist now. If it ever existed, it was when the expiration of the fiscal year was on the 30th of December, and it was then frequently necessary to use unexpended balances to enable the Government to carry on its operations. But now the appropriation bills are passed before the commencement of each fiscal year. We are now passing appropriation bills for the next fiscal year, which commences July 1, instead of January 1, and none of the money is to be expended until the 1st day of July next. There can therefore be no necessity that any part of the money appropriated for one fiscal year should be used for the next year, for we can now appropriate a sum sufficient for the expenses of the next fiscal year.

Under the old system there could be no accuracy in keeping the public accounts. It was the game of "lap and slam." Under it the expenditures of one year were so mingled with those of another, that no check existed upon disbursing officers, and money which we judged necessary for one branch of the public service was applied to a different purpose. And this was done under a provision of the old law of August, 1842, intended only to apply to the year and bill to which it was attached.

It seems to me that the amendment, which the House has adopted by a vote of two to one, should be adhered to. I do not want the Senate to dictate to the House any longer, or, by its amendments, restrain us from making provisions necessary to protect the Government from extravagant expenditures, and from misapplying the appropriations of public money.

The question was then taken; and the Senate amendment was disagreed to.

Mr. SMITH, of Tennessee. I move that the bill be laid aside, to be reported to the House with a recommendation that the action of the committee be concurred in.

The motion was agreed to.

FORTIFICATION BILL.

The next bill taken up was a bill (H. R. No. 189) making appropriations for the preservation and repair of fortifications and other works of defense, barracks and quarters, for the year ending the 30th of June, 1859.

Mr. WHITELEY. I offer, as a substitute for the bill, the amendment which I send to the Clerk's desk.

Mr. J. GLANCY JONES. Let the bill be first read.

The bill was read. It appropriates \$350,000, out of any money in the Treasury not otherwise appropriated, for the preservation and repairs of fortifications, barracks, and quarters, for the year ending June 30, 1849.

Mr. BLAIR. I believe that, upon this bill, general debate is in order.

Mr. PHELPS, of Missouri. I wish to know whether the chairman of the Committee of Ways and Means proposes to go on this evening, and take further action upon these appropriation bills?

Mr. J. GLANCY JONES. I desire to go on with the consideration of the bill.

Mr. BLAIR. I believe I have the floor. I wish to make a proposition to the committee.

Mr. FLORENCE. Will the gentleman from Missouri give way for a moment?

Mr. BLAIR. I wish to say to the committee that I desire to address the committee upon the subject of the Pacific railroad; and if I can get the consent of the committee to print a speech, I will write it out, and not detain the committee by making it.

Mr. ENGLISH. I object. I care not what it is upon.

Mr. WHITELEY. Mr. Chairman, how did I lose the floor?

The CHAIRMAN. The Chair recognized the gentleman from Missouri.

Mr. FLORENCE. If the gentleman from Delaware will give way, I desire to make a suggestion to the committee.

Mr. J. GLANCY JONES. I rise to a question of order. The first section of the bill has been read. Am I not entitled to the floor, to explain the bill?

The CHAIRMAN. The practice of the committee, as the Chair understands it, has been that the gentleman reporting the bill under consideration is entitled to the floor, if he claims it, when the bill is taken up. The Chair assigned the floor to the gentleman from Missouri, supposing that the gentleman from Pennsylvania did not desire to occupy it.

Mr. GROW. I desire, with the consent of the gentleman from Missouri, to make a proposition to the committee, and to my colleague, the chairman of the Committee of Ways and Means, which, I presume, will be satisfactory to all parties; it is, that the committee go on with business as long as it is the desire of the committee, and that when we get through with business we will take a recess, with the understanding that the gentleman from Missouri shall have the floor after the recess, and that no business shall be transacted.

Mr. J. GLANCY JONES. As I stated yesterday, I concur in that arrangement, and hope the committee will agree to it.

The CHAIRMAN. If there is no objection, that will be the understanding.

[Cries of "Agreed!" "Agreed!"]

Mr. FLORENCE. I desire to make a suggestion which will perhaps facilitate the business of the committee. The fortification bill, reported by the Committee of Ways and Means, contains but a single clause. The amendment which the gentleman from Delaware has indicated his purpose

to offer, contains fifteen, twenty, or thirty items. Now, I propose that, by unanimous consent, that amendment be printed, so that gentlemen may know exactly what it is when we resume the consideration of the bill.

The CHAIRMAN. The Chair would suggest that it is not in the power of the committee to order the printing of the amendment.

Mr FLORENCE. It has been the practice to do it by unanimous consent.

Mr. J. GLANCY JONES. If my colleague will turn to page 199 of the book of estimates, he will find printed there the whole of the matter which the gentleman from Delaware proposes to offer.

I desire to explain the bill now under consideration, but I shall not detain the committee long. The appropriations made last year for fortifications amounted to \$3,971,300. The estimates for last year amounted to \$2,541,300. The appropriations, therefore, exceeded the estimates \$1,430,000. The amount estimated for 1859, the next fiscal year, is \$1,931,000. The amount reported by the Committee of Ways and Means is \$350,000, reducing the estimates for the next fiscal year \$1,581,000. The large estimate made last year, when the Treasury was full, was to carry on an extensive system of building and improving fortifications at the different points where fortifications have been started. It was the desire of the Committee of Ways and Means to dispense with the whole system, as far as they could consistently with existing contracts; and it was the opinion of the committee that \$350,000, left to the discretion of the Secretary of War, would preserve and keep in repair all the forts for at least one year. That is why the committee reduced the estimates. If it is the will of Congress that these works shall be carried on and completed, it will require every dollar that the gentleman from Delaware proposes to appropriate. But the Committee of Ways and Means came to the conclusion that it was high time that we should be economical, and they have taken the responsibility of recommending that only so much shall be appropriated as is necessary to keep the works in repair.

Mr. WHITELEY obtained the floor.

Mr. PHILLIPS. With the permission of the gentleman from Delaware, I desire to ask my colleague a question. I wish to know for what specific items this sum of \$350,000 is appropriated?

Mr. J. GLANCY JONES. It is left under the discretion of the Secretary of War, to be used at any point where repairs may be necessary.

Mr. WHITELEY. I desire to offer the following amendment:

Strike out all after the enacting clause, and insert the following as a substitute:

That the following sums be, and they are hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the construction, preservation, and repairs of certain fortifications, barracks, and quarters, for the year ending June 30, 1859:

For repairs of Fort Mackinac, Michigan, \$9,000.
For repairs of Fort Wayne, Detroit, Michigan, \$50,000.
For repairs of Fort Niagara, New York, \$50,000.
For repairs of Fort Ontario, New York, \$50,000.
For Fort Montgomery, outlet of Lake Champlain, \$50,000.
For Fort Knox, at the narrows of the Penobscot river, Maine, \$50,000.

For Fort Knox, at the entrance of Kennebec river, Maine, \$25,000.

For Fort Knox, at Hog Island ledge, in Portland harbor, \$50,000.

For Fort Warren, Boston harbor, and preservation of its site, \$30,000.

For Fort Winthrop, Governor's Island, Boston harbor, \$30,000.

For Fort Adams, and protection of site, Newport harbor, Rhode Island, \$25,000.

For fort at Wille's Point, opposite Fort Schuyler, New York, \$100,000.

For Fort Richmond, Staten Island, New York harbor, \$100,000.

For repairs of Fort Wood, New York harbor, New York, \$20,000.

For repairs of Fort Columbus and Castle William, New York harbor, New York, \$6,000.

For Fort Delaware, on Delaware river, \$10,000.

For Fort Carroll, Soller's Point flats, Baltimore harbor, Maryland, \$100,000.

For Fort Calhoun, Hampton Roads, Virginia, \$75,000.

For Fort Macon, and preservation of site, North Carolina, \$10,000.

For Fort Caswell, and preservation of site, North Carolina, \$10,000.

For Fort Sumpter, Charleston harbor, South Carolina, \$25,000.

For Fort Moultrie, preservation of site, South Carolina, \$10,000.

For repairs of quarters and barracks at Fort Johnson, South Carolina, \$8,000.

For Fort Pulaski, Savannah river, Georgia, \$10,000.

For repairs of Fort Jackson, Savannah river, Georgia, \$20,000.

For Fort Clinch, entrance to Cumberland sound, Florida, \$75,000.

For Fort Taylor, Key West, Florida, \$100,000.

For Fort Jefferson, Garden Key, Florida, \$200,000.

For repairs of Fort Pickens, Pensacola harbor, Florida, \$50,000.

For repairs of Fort McRea, and preservation of site, Pensacola harbor, Florida, \$29,000.

For Fort Barracas, Pensacola harbor, Florida, \$27,000.

For repairs of Fort Morgan, Mobile bay, Alabama, \$50,000.

For Fort Gaines, Dauphin Island, entrance to Mobile bay, Alabama, \$50,000.

For defense of Proctor's Landing, Lake Boyne, Louisiana, \$25,000.

For repairs of Fort Macomb, and preservation of site, Louisiana, \$4,000.

For repairs of Fort Pike, and preservation of site, Louisiana, \$5,000.

For repairs and extension of Fort St. Philip, Mississippi river, Louisiana, \$10,000.

For Fort Livingston, Grand Terré Island, Barratarra bay, Louisiana, and preservation of its site, \$50,000.

For Fort at Fort Point, San Francisco bay, California, \$350,000.

For contingent expenses of fortifications, for preservation of sites, protection of titles, and repairs of sudden damages, \$30,000.

For repairs and alteration of barracks, quarters, hospitals, store-rooms, and fences at permanent forts not occupied by troops, \$15,000.

For the construction of permanent platforms for modern cannon of large caliber, in existing fortifications of important harbors, \$50,000.

Mr. QUITMAN. With the permission of the gentleman from Delaware, I wish to say that I have some general observations to make upon this bill; and I notify the chairman of the Committee of Ways and Means that, as chairman of the Committee on Military Affairs—and I believe I speak the sentiments of a majority of that committee—I cannot consent to a general bill authorizing the Secretary of War to apply the whole amount of the appropriation to any single work.

It is an appropriation in gross of so much money, without specifying a single object to which it is to be applied. That is a species of legislation which is new, and, I believe, unexampled; for which there is no precedent. I cannot agree, and I hope the House will not agree to it. Our system of fortifications is in the future. Some years ago, the chief of the engineer corps, General Totten, reported a plan which was considered at the time as extravagant, for the fortification of the whole coast of the United States.

That general system has been entered upon and then abandoned; and for the several years past we have had no system at all; we have taken up a post here and a post there; and I am therefore opposed to any extensive appropriations for this purpose until we have some system to go on.

But I am wholly opposed to such legislation as is now proposed. It is, I believe, neither proper nor in accordance with any precedent to appropriate a gross sum of money for repairs and preservation of fortifications, to be expended as the Secretary of War may think proper. He has, it is true, sent estimates here, but the estimates are no guide which would bind him in the expenditure of such an appropriation. He may, if he thinks proper, expend the whole amount upon a single fortification. If I could ever trust any friend with such a discretion, I would cheerfully yield that confidence to the present Secretary of War; but I am unwilling, as a legislator, that any such legislation should be introduced here.

I have merely brought this matter to the attention of the committee. I concur with the Committee of Ways and Means in their attempts at retrenchment. I think that, considering the fact that we have no system of fortification, and considering the state of the public Treasury, it would be unwise to go into an extensive expenditure which a general system of fortifications would require.

While, therefore, I concur in the general objects the committee had in view, I cannot, as a member of this House, consent to confer upon the Secretary of War this discretionary power. We have a better knowledge of the wants of the various works in our several localities than the Secretary of War can have. We know how much is needed for repairs or preservation of forts, and it is our duty to specify where the appropriations which we make are to be expended. I have no wish to find any fault in regard to the sum which it is proposed to appropriate. I think some such sum is necessary to keep these several works in re-

pair; but I do object most seriously to the form in which it is proposed to appropriate it.

Mr. J. GLANCY JONES. I understand the gentleman from Mississippi to approve the reduction of the estimates; but that he wishes the items.

Mr. QUITMAN. Yes, sir.

Mr. J. GLANCY JONES. Will the gentleman agree to strike it all out?

Mr. QUITMAN. No, sir.

Mr. J. GLANCY JONES. I should have no objection to strike out the whole sum. I will say to the gentleman that we did not insert the items in the bill, because we had not the information before us on which we could with any degree of certainty determine what was needed at the different localities, and we therefore determined to make the appropriation in gross, and leave it with the Secretary of War to expend where, in his judgment, it was needed.

Mr. QUITMAN. With all due respect to the gentleman from Pennsylvania, I think the only true way by which we can arrive at any satisfactory result is to refer this bill back to the Committee of Ways and Means, and let them ascertain how much money is needed for the repair and preservation of each particular work.

Mr. WHITELEY obtained the floor.

Mr. J. GLANCY JONES. If the gentleman from Delaware will permit me for a moment, I desire to state, from a private memorandum, the way in which we arrived at the sum which we have reported. I give the works, with the amount estimated for each.

The amount reported "was for the preservation and repairs of fortifications, barracks, and quarters," and was intended to cover the following points: Fort Mackinac, Michigan, \$9,000; Fort Wayne, Detroit, Michigan, \$50,000; Fort Niagara, New York, \$50,000; Fort Ontario, New York, \$50,000; Fort Wood, New York, \$20,000; Fort Columbus and Castle William, \$6,000; Fort Johnson, South Carolina, \$6,000; Fort Jackson, Georgia, \$20,000—\$211,000. Fort Pickens, Florida, \$50,000; Fort McRea, Florida, \$29,000; Fort Morgan, Alabama, \$50,000; Fort Macomb, Louisiana, \$4,000; Fort Pike, Louisiana, \$5,000; Fort St. Philip, Louisiana, \$10,000—\$359,000.

This private memorandum contains the data from which the amount we have reported was arrived at. The gross amount of the several items is \$359,000. We simply reported \$350,000.

Mr. WHITELEY. The amendment which I have offered is exactly the estimates which were sent to Congress by the Secretary of War, and nothing more. The aggregate sum appropriated is about one million nine hundred thousand dollars.

Now, Mr. Chairman, I do not wish to reflect upon the Committee of Ways and Means; but I must be permitted to say that, in my humble judgment, they might just as well have reported \$350,000 to be thrown into the canal, as to have reported that sum for the repairs and preservation of the fortifications of this Union.

We are, if not on the eve of war, at the beginning of an angry dispute with one of the greatest Powers of the world; and in what condition are our fortifications from one end of the country to the other? Some not commenced; others just under way, and most of them unfinished. Yet the committee recommend the paltry sum of \$350,000—to do what? To keep them in repair. Does any man, when he gets his house up to the eaves, talk about putting boards on the top to keep it in repair?

As an illustration, I will refer to Fort Delaware, in the Delaware river. This Government has spent there about one million dollars. The fort is about three fourths finished; the embrasures for the first tier of guns entirely completed, and part of the second; some of the arches completed—a majority, however, only half turned—all exposed to the weather. Suppose \$350,000 is now appropriated and expended for boards and other materials to cover up the work already done on this fortification—for its "preservation," as this bill expresses it—will it not result in a loss to the Government? If you do not go on and finish a building which has already progressed far towards completion, do you not lose from twenty-five to fifty per cent. of the money you have already expended? I say, and on information from the engineer in charge of the work I have referred to, that if it is not now finished the Government will lose from two to four hundred thousand dollars.

Talk about preserving a building by allowing it to remain unfinished, when it has been half built! Every man who knows anything about house-building knows that it cannot be done, and so it is with works of national defense. Is it not our duty, then, as members of this House, to whom, with the other branch, have been intrusted the interests and the honor of this country, to see that our national defenses are put in such a condition that if the occasion demanded, they would protect us from the invasion of an enemy?

Mr. Chairman, I am not able to give an opinion on this matter, and make no pretension to any such ability. What I say is founded upon the testimony of military engineers. What does the Secretary of War say? What do the military engineers of the country say? They all recommend, as a matter of policy and economy, the completion of these works. Here is what the Secretary of War says:

"The report of the chief engineer will inform you of the character and condition of our sea-coast defenses. It will be seen that these works are gradually, but certainly, advancing towards completion, and, when finished, will constitute a system of maritime defenses formidable in extent, and of great magnitude.

"New York, the great heart of commerce on this continent, where more and greater interests concentrate than at any point on our Atlantic coast, may be considered as impregnable from any attack from the sea when the fortifications now in progress shall be finished. The fortifications will be better, the guns heavier and more numerous than those of Sebastopol.

"Upon the general system of sea-coast defense, it is hardly necessary to say a word at this day. The policy of the Government seems to be fixed in that respect, and wisely, too, no doubt, if the works be prosecuted with a wise economy. Fortifications are now very justly esteemed the cheapest and far the most effectual means of defense for every important commercial point; with the heavy guns of the present day, no fleet can match a fortification; and, when completed, these works can be kept in perfect repair at a very trifling cost until needed for actual service. A fortification costing not much more than double the sum necessary to build and equip a first-class line of battle ship, will constitute a formidable defense for a harbor, and will continue to do so throughout any length of time. The value of this mode of defense is becoming more apparent every day. As our population increases, and the facilities for intercommunication are multiplied, a military force of any extent can, with more and more readiness, be concentrated at any given point in the shortest possible time. Fortifications, which will naturally retard the landing of a foreign foe, must give time to concentrate a force at any given point equal to any emergency. A larger force could be thrown into New York in two weeks, by means of internal communication, than could be brought there from abroad in a year by all the means which any European Power could possibly command.

"Our ramified system of railroads spreading throughout the whole country—those shrews of iron which bind with indissoluble ties the commercial interests of our community—confer upon the nation a capability for defense which obviates forever the necessity of standing armies, or of a Navy more numerous than is necessary to give protection to our ships in the prosecution of our extended commerce."

In this appropriation of \$350,000, as was well said by the gentleman from Mississippi, [Mr. QUIMMAN] it is left to be sent hither and thither, at the discretion of the Secretary of War, and not to be applied to any particular work. It is totally inadequate to keep these forts in repair, and is \$25,000 below the estimate made by the Secretary of War for that specific purpose.

Mr. Chairman, I will refer to another point. The deed of cession from the State of Delaware to the Government of the United States in reference to the land upon which Fort Delaware is built, was upon the express condition that the Government should erect a fort there and keep it up. Is Congress fulfilling that condition to the State of Delaware when it has left that fort unconstructed since 1832? The old fort there was burned down in 1832, and although the Government took the cession from the State on the condition I have stated, yet for twenty-six years it has left that solemn obligation unexecuted.

I think that nearly every State in the Union making a like concession, made it upon a like condition. Therefore on that ground alone the Government is bound to complete these works. We only ask for a small sum comparatively. We ask for \$2,000,000. What is \$2,000,000, if properly expended, in perfecting these means of defense, if we get into war with any of the European Powers, I care not which, even the weakest of them? And at any rate it is our duty, as wise legislators, in time of peace to prepare for war. We have, in the other branch, already a proposition pending for a loan of \$15,000,000. If the scenes which have been enacted in the Gulf and upon the coast of Cuba be continued, the consequences which will be forced upon this Government will demand the raising

of twice as much. How do we stand this day? What is our Navy compared with that of other maritime Powers? What is it compared with the navies of France, England, and Russia? If we come into conflict with either, as we are now, will any gentleman say that our Navy would not be wiped out?

Mr. WASHBURN, of Illinois. I say that it cannot be wiped out.

Mr. WHITELEY. Our Navy is now, compared with that of England, as one is to twenty. I boast of our Navy, and of the ability of America, and "Young America," to do a great deal yet. I do not want our Navy, in its present condition, sent into conflict with the navy of England. I know that we have a strong recuperative power, and particularly in the section of country from which my friend from Illinois comes. I know that in time we can gather a Navy which will compete with that of any in the world. Ship for ship, and gun for gun, I have no fear for our noble little Navy. But where would it be, in its present condition, it was sent against that of England? It will not do for us to act the braggadocio when we go into a fight. We must have ships and guns. We have got the men. It is the duty of Congress to provide the stone, wooden, and iron walls to defend our sea-coast against the navy of a foreign Power, and endeavor to prevent our Navy from being driven from the high seas. Does the gentleman from Illinois doubt for a moment that, in a war with Great Britain, her navy could take every sea-coast town on the Atlantic coast.

Mr. WASHBURN, of Illinois. I deny it in toto.

Mr. LOVEJOY. No, sir; it could not touch them.

Mr. MORGAN. Yeas and nays on that. [Laughter.]

Mr. WHITELEY. The Secretary of War, in his report, says that when we finish the defenses around New York it will be as impregnable as Sebastopol. How impregnable was that? Did not the allies take it? But his report shows that, without continuing and finishing its fortifications, New York will not be impregnable at all; and I know not a sea-port town from Maine to Florida that has defenses sufficient to prevent an enemy's fleet from sailing right up to its wharves. There is not a fort on the whole Delaware except Fort Mifflin; and that is not strong enough to keep back a single vessel from going up to Philadelphia. New York is the best defended city in the Union; but the report of the Secretary of War shows that it can only be rendered impregnable by finishing its fortifications.

Now, Mr. Chairman, the question comes down simply to this: shall we, in our present difficult position in regard to foreign Powers, leave our fortifications in their present unfinished state, or shall we appropriate the sum asked—\$1,900,000—to complete them?

I think, Mr. Chairman, that it needs but slight reflection on the part of the committee, to see that the amount proposed to be appropriated by this bill is totally inadequate for the purposes for which the committee intend it. We have no defenses on our Pacific coast. The amendment which I have offered provides for the construction of forts in California, and for the construction of the forts on the Atlantic and Gulf coasts, while the bill only provides for keeping those already built in repair. Now, I think it is the duty of Congress to give to the Administration, which is held responsible for protecting our citizens, the means by which the Executive can protect the country and the citizens thereof. Would it be any justification for us to say, in the event of a war with either of the Governments that I have named, and in the event of one of our large cities falling into their power, that we had appropriated the sum of \$350,000 for keeping our fortifications in repair? Could not and would not the President turn on us and say: "Your Secretary of War estimated that, to put these fortifications in a proper state of repair, some \$1,900,000 was needed, and you refused to vote it to me, to vote it to him, to vote it to the country, and, therefore, your cities are now in the power of your enemies, and I am helpless in your hands?"

Now, Mr. Chairman, I do not want to detain the committee on this matter. My chief argument upon it is that I have offered an amendment which proposes to appropriate no more than what

is estimated for by those who are competent to judge. It appropriates \$1,900,000, it is true, but that is but as a drop in the bucket, when we consider the wants of our national defenses. I therefore hope that the committee will adopt my amendment as a substitute for the bill.

Mr. DOWDELL. I have a few words to say, Mr. Chairman, on the amendment proposed, and I hope the committee will indulge me a few moments. As a member of the Committee of Ways and Means, I do not wish to be understood as responsible for the bill that has been reported by the committee, for I was opposed to it, and endeavored to have it reconsidered, so as to embrace the estimates of the Secretary of War. I am opposed to it now, and in favor of the substitute offered by the gentleman from Delaware, [Mr. WHITELEY.] I think I can demonstrate to the committee, if I can get its attention, that it would be false economy, worse than folly, to give away \$350,000 for repairs and preservations only. We should delay a whole year, and at the end of it our fortifications would be in a worse condition than they are now. In the mean time, we should have disbanded all our workmen who are skilled in carrying on the work, and we should have cut off the usual and established sources of supply, forfeited contracts for materials, and expended a large sum which would be found necessary to preserve the works from injury during the period of suspension, not a cent of which would go to further their efficiency. And at the close of the year we should have to commence operations under great disadvantages. Suppose the works to be found in as good condition as they are now: months would be required to reestablish active operations, open and reanimate channels of supply, gather the necessary materials, and organize the laborers. The appropriations for the completion of the works will have to be made at some time or other. Most of these forts are in progress of construction. Some of them are nearly finished. Some of them are just above the water.

Mr. MORGAN. Would the gentleman from Alabama be willing to apply the same rule to harbors on the great lakes, where hundreds of millions of dollars are engaged in commerce, where thousands of lives are being annually sacrificed? Would he go for these improvements as well as for these fortifications? If he will, I will go with him in his efforts—if not, I will not.

Mr. DOWDELL. I will consider that question when it arises. It is not now before us for consideration. The question before us is, whether we will make the appropriations estimated for by the Secretary of War, for the continuation of fortifications? It has nothing to do with the question about internal improvements. What is the sum asked for? Little over one million nine hundred thousand dollars. Call it two millions. What is the interest on that sum? One hundred and twenty thousand dollars. The sum required could be readily obtained. We could borrow it perhaps at less than six per cent. Three times the annual interest of the sum is now asked to be appropriated simply for repairs and preservation of these works; and which, when expended, would leave them, very likely, in a worse condition than they are now in.

My attention, Mr. Chairman, has been principally called to the forts at Key West and on the Tortugas, in the Gulf of Mexico. Fort Taylor, on Key West, has mounted its second tier of guns; and an appropriation is asked to mount its third tier of guns, and to give it a bomb-proof roof. These two forts—Fort Taylor and Fort Jefferson—are in a position to control the Gulf of Mexico. All the vast trade of the valley of the Mississippi, and its tributaries through the north-west, pass over the Gulf of Mexico. Such a power as England or France could, with its navy, come into the Gulf and take possession of the Tortugas, Garden Key, or Key West, and commit depredations on our commerce; and it would be impossible, with our Navy, to dislodge them. But if these forts were completed, we could keep back any navy, and afford protection to the whole coast of the Gulf. They overlook Havana, Pensacola, Mobile, and all the important points of the Gulf of Mexico. For the fortifications on the Tortugas, an appropriation of \$200,000 is asked. That fort has just been raised above water. It is prepared for the mounting of the first tier of guns. The tedious, tardy process of laying the founda-

tions has been gone through with, and every dollar now appropriated will go to promote the efficiency of the work.

My friend from Delaware alluded to the contingency of a war with Great Britain. No one deprecates war more than I do. In its desolating track are found not only misery, wretchedness, and poverty, the sorrows of widowhood and orphanage, but vice and crime multiply in the dark seasons of strife. I hope that war may never come. To prevent its occurrence we should not only be always ready to defend ourselves, but prompt to resist aggression. I love peace; not a peace, however, purchased by submission to insult; that would be too dear a price; but a peace with our national honor untarnished. Sir, occurrences have recently taken place in the Gulf of Mexico which call for a bold and vigorous policy on our part. To meet the expectations of the American people we must hold these violators of law, for such outrages, to a strict account. The Administration, I understand, have sent out orders to protect our vessels from further molestation. I hope the order has likewise been given to arrest every officer who was engaged in searching our vessels, and to bring him into our ports for trial. These cases are too flagrant to await the delays of diplomacy. They are of design, not accidental. My doctrine would be, *broad-sides first, explanation afterwards*. No pretext can justify these wanton insults to our flag. I have every confidence that this Administration will do its duty. The popular heart will respond to the boldest policy. My people, I know, stand ready to make any sacrifice to maintain the national honor.

Now, Mr. Chairman, I ask, is it not the part of wisdom to go on and complete our fortifications? Shall we leave those important points in the Gulf in an exposed condition, and thus invite the first attacks of the enemy? They can be finished with a comparatively small sum of money, and in a very short time. The materials are being collected; the workmen, well trained, are at the place, and all necessary arrangements made for a speedy completion. Aside from any contingency of war, considerations of economy ought to induce us to grant the appropriations asked by the Secretary. But there are some other important works on the Gulf coast to which I will also call the attention of the committee. For the defense of Mobile bay, there are two works—Fort Morgan on the right of entrance, which covers the main entrance, and Fort Gaines on the left. The former has been finished; the small sum asked for is to substitute the heavier armament now in process of execution, and for increased provision for the garrison. The latter, Fort Gaines, has been recently commenced. The object of this work is to cross its fire with the other, and sweep the channel on its own side. Without this work in a state of efficiency, an enemy's steamers could pass up and put the city of Mobile under contribution. The security of the vast commerce of that region requires that these works should be prosecuted to completion. In a greater or less degree the same reasons apply generally to our defensive works. The opinions of our military men are favorable to permanent fortifications; and the late wars in Europe have confirmed these opinions in favor of such defensive system. The events in the Black and Baltic seas, where the combined and powerful navies of France and England accomplished but little, furnish additional reason why we should foster this system of defense, and keep all our works in a state of efficiency. I trust that the committee will take a practical view of this subject, and grant the appropriations necessary to finish these most important works. It is the part of economy to do so. Let not the reduced condition of the Treasury deter us from fortifying the main points on our coast, and making the necessary preparation for the proper reception of any and all enemies. I do not wish to confine these appropriations to any one section; let all portions claim our attention; but I have spoken more particularly for the works on the Gulf, because it offers rich booty to an enemy, and, unless the forts now in progress be completed, will be the most exposed and defenseless part of our coast. Every dollar asked for by the Secretary is necessary, and I hope the committee will sustain the amendment of the gentleman from Delaware.

Mr. LETCHER. The Committee of Ways

and Means seem to be exceedingly unfortunate. It has not been more than two months since they were arraigned in this House for refusing to cut down Government estimates. The committee were charged with conforming their action to the recommendations from the other end of the avenue, and for bringing in bills for whatever was asked for by the officers of the Government there located. Now we come in to-day with a bill in which we have undertaken to reduce the appropriations from the estimates, and the first thing we hear is, that the Committee of Ways and Means have not done their duty in making this reduction. So, let us reduce, or fail to reduce, we are still arraigned before the House, censured, and condemned.

As my friend from Alabama [Mr. DOWDELL] seems to be in a mood for making confessions for his sins, I desire to call attention to one or two things. I went for this reduction in the committee, and I shall maintain the necessity and propriety of that reduction in what I have to say now. If my memory is not very greatly at fault, the committee were unanimous in recommending this bill. Now, sir, I know that afterwards, when some complaint was made in regard to it, and when gentlemen from abroad came here complaining that certain appropriations were not made in which they were interested, the matter began to attract more attention, and to become a matter of conference between members of the committee. But until that time, unless I am greatly mistaken, the committee were a unit in regard to this bill.

Mr. DOWDELL. At the time this bill was reported, our vessels had not been boarded in the Gulf of Mexico.

Mr. LETCHER. No, sir; nor when my friend from Alabama wanted to reconsider it in the committee. Now, sir, the gentleman tells us that our ships have been boarded in the Gulf; that there have been seizures and searches; and that he is desirous that the President of the United States shall take the necessary steps to protect the honor of the country. I imagine, sir, that the President of the United States will do his duty in that regard; but it strikes me as remarkable that it did not occur to the gentleman, when talking of broad-sides now and explanations hereafter, that those forts down there were unfinished. I take it, if those forts are so indispensably necessary, and if the country cannot be defended without them, it would be bad policy in us to open a controversy with a Power which the gentleman from Delaware [Mr. WHITELEY] tells us has a navy twenty times as large as our own, by firing broadsides into her. I take it that our people are prepared at all times to defend their rights whenever they are assailed by any nation, however powerful that nation may be. There is something in the past history of our Government which assures us that whenever occasion requires, there are stout hearts and strong arms enough to protect our rights, let the assailing party be who it may. As it has been in the day of our infancy, so it will be now, when we are approaching a nation's growth.

But the gentleman from Delaware [Mr. WHITELEY] tells us that the Government of the United States has contracted with a State which may have ceded real estate to the Government for fortification purposes to erect a fort thereon; and he demands that it shall be done; and he charges bad faith if it is not done. But, sir, that is not the work of a day, a year, or even ten years. Where ever the Government received those cessions from the States, she received them to make her improvements there, by fortifications or otherwise, according to her judgment in regard to time, and the amount of annual appropriation she should give for the purpose of improvement.

But what does the gentleman from Delaware [Mr. WHITELEY] propose? He proposes not only to prosecute works already begun, but to begin others.

Mr. WHITELEY. The gentleman is mistaken.

Mr. LETCHER. At any rate, the gentleman's argument amounts to that.

If I recollect aright, during the compromise Congress of 1849-50 no appropriation at all was made for fortification purposes. And I think also, that in the first Congress in which I was here—in 1851-52—no appropriations were made at that session either, for the prosecution of these improvements. Was it not just as important then that

these fortifications should be carried on? Was not the country in just as great danger from aggressions from abroad then as it is at this day? I imagine it was; and yet I have not heard that the country has suffered any particular detriment in consequence of the failure on those two occasions to appropriate the money.

Sir, I agree with the gentleman from Mississippi, [Mr. QUITMAN,] to a very great extent, that these appropriations heretofore, and while the Treasury has been full, have been made without any regard to system; that money has been taken from the Treasury to be applied here and there and everywhere, when, in all probability, if we had been in straitened circumstances, the number of forts commenced, and that have since been continued, would have been limited compared to the number now on hand.

I say, then, sir, that we can now protect this country, and yet not embarrass it by increasing its obligations in the borrowing of money, or otherwise for this purpose. Why should this Government be borrowing money to build forts and custom-houses and other improvements of this sort? I take it that these points can wait until a more propitious season, when the commercial embarrassment shall pass away, when trade and business shall begin to revive; when imports shall be coming into the country and the Government realizing from those imports the means necessary to carry on its operations, and to prosecute these improvements.

But, sir, there is another point of view in which to look at this question. Suppose the troubles which seem to be apprehended by the gentleman from Alabama should grow up between the United States and England, can these forts be completed in time for the purpose? If that apprehension is felt, if there is really danger of war, if our Navy is so weak, in comparison with the navies of other nations, is it not better that we should husband our resources so that we may have them on hand for the purpose of directing them to an increase of our Navy and to an increase of our land forces, preparatory to this trial of strength? So it strikes me. All that you spend now upon these improvements is so much money sunk for the time. I think it the part of policy and wisdom to delay these operations, and to reserve our funds, so that, if that evil hour should come which is apprehended, we may be prepared to apply them in that way which will give us the best protection and the best defense against a foreign enemy.

Mr. WASHBURN, of Illinois. I think the committee are prepared to vote; and I move to strike out the enacting clause of the bill. That will test the sense of the committee on the amendment.

Mr. BOWIE. I desire to propose an amendment.

The CHAIRMAN. The motion of the gentleman from Illinois takes precedence of all other motions, and is not debatable.

Mr. MASON. I ask for tellers on the motion of the gentleman from Illinois.

Tellers were ordered; and Messrs. BUFFINTON and UNDERWOOD were appointed.

The committee divided; and the tellers reported—ayes ninety-three, noes not counted.

So Mr. WASHBURN's motion was agreed to.

Mr. J. GLANCY JONES moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. HARRIS, of Illinois, reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the amendments of the Senate to House bill No. 201 making appropriations for the legislative, executive, and judicial expenses of Government for the year ending the 30th of June, 1859, and had directed him to report back the same with a recommendation that some of the amendments be concurred in, some concurred in with amendments, and others non-concurred in. Also, that the committee had had under consideration the fortification bill, and had directed him to report the same back, with a recommendation that the enacting clause be stricken out.

Mr. J. GLANCY JONES. I move the previous question on the amendments of the Senate to bill No. 201.

The previous question was seconded, and the main question ordered.

Mr. GROW. I suppose there will be yeas and nays upon these amendments. I hope the House will go into Committee of the Whole on the state of the Union, for the purpose of general debate.

Mr. J. GLANCY JONES. If the gentleman will permit me, I do not propose to act upon these amendments to-night. I wish, by general consent, to have the previous question seconded on the other bill, and then go into Committee of the Whole on the state of the Union for the purposes of general debate.

Mr. QUITMAN. I do not wish to be prejudiced by the motion of the gentleman from Pennsylvania, in my right to move that this bill be recommitted to the Committee of Ways and Means, with instructions to present specific items of appropriation for the several fortifications.

The SPEAKER. If the previous question be now seconded on the fortification bill, it will have exhausted itself when the House shall have acted upon the recommendation of the Committee of the Whole on the state of the Union, to strike out the enacting clause. The Chair will then hold under consideration, at least for to-night, the question whether, if the House refuse to strike out the enacting clause, they may then proceed to pass the bill without considering it in Committee of the Whole. The Chair has very great doubts whether, inasmuch as the committee have not considered the bill—having only reported in favor of striking out the enacting clause, the rule requiring that the bill making, as it does, an appropriation, must be first considered there, it can be considered now in the House.

Mr. MARSHALL, of Kentucky. Is it not in order to move to recommit after the previous question has been seconded, if the main question has not been ordered to be put?

The SPEAKER. It will not; but the previous question will have exhausted itself when the House has acted upon the proposition to strike out the enacting clause.

Mr. J. GLANCY JONES. I understood unanimous consent to have been given to me to demand the previous question upon the fortification bill to-night; then, I understand the Chair to decide that if the House refuse to strike out the enacting clause, the bill will be open to amendment or commitment.

The SPEAKER. If the House shall refuse to strike out the enacting clause, it will be in order to move to recommit; and the Chair will hold under consideration whether it will be competent to order the bill to be engrossed and read a third time, until it shall have been first considered in the Committee of the Whole.

Mr. HOUSTON. I desire to give notice that I shall object to any attempt to pass this bill until it has been considered in the Committee of the Whole. I hold that neither this nor any other appropriation bill can be amended or first considered in the House.

Mr. LOVEJOY. I object to debate.

The SPEAKER. Debate is not in order.

The previous question was seconded, and the main question ordered to be put, upon the fortification bill.

Mr. J. GLANCY JONES moved to reconsider to vote by which the main question was ordered on the two bills; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

COMMITTEE OF THE WHOLE.

Mr. J. GLANCY JONES. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of general debate.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BILLINGHURST in the chair.)

Mr. ENGLISH. I move to take up House bill (No. 539) providing for certain public buildings for post office and other governmental purposes.

Mr. J. GLANCY JONES. I make the question of order that it is not in order to move to take up any bill upon the Calendar except the appro-

priation bills. If the gentleman wishes to arrive at this bill he can only do so by commencing at the first bill on the Calendar and laying the bills aside, one by one, until he arrives at the bill which he wishes to take up.

Mr. ENGLISH. The bill I have moved to take up is a bill making appropriations for certain post-office purposes, and the motion is in order.

Mr. J. GLANCY JONES. I propose to take up one of the regular appropriation bills.

Mr. MASON. I propose to make a compromise, which I have no doubt will be satisfactory to both gentlemen. I move to take up the old soldiers' pension bill.

Mr. J. GLANCY JONES. I submit to the Chair—

Mr. ENGLISH. No debate is in order. If the gentleman takes an appeal from the decision of the Chair, let him take it; otherwise I insist upon my motion being put.

Mr. PHELPS, of Missouri. What is the first bill upon the Calendar?

Mr. GROW. I rise to a question of order. The gentleman from Missouri [Mr. BLAIR] was entitled to the floor by the consent of the committee when it last rose; and unless he yields it, nobody has a right to take it from him.

Mr. FLORENCE. I rise to a point of order.

The CHAIRMAN. There is one point of order already pending.

Mr. HOUSTON. The question now is whether there is a bill up or not. I propose that we take up the next general appropriation bill, and let the debate go on on that.

Mr. ENGLISH. I have made a motion, and I ask that the question be put.

Mr. BOWIE. Are we now in committee for business, or merely for the purpose of general discussion?

The CHAIRMAN. The question before the committee is, "Which bill shall first be taken up?" The committee is now in session by general consent for general debate.

Mr. HUGHES. I move that the committee take a recess for an hour and a half, to give the Chair time to consider all the questions of order.

Mr. JOHN COCHRANE. That is in violation of the agreement.

Mr. REAGAN. I hope that the Sergeant-at-Arms will get as near this crowd as he can, and read the riot act.

The CHAIRMAN. The Chair will entertain no question until order is restored. The Chair overrules the point of order of the gentleman from Pennsylvania, [Mr. GROW.] The Chair recognized the gentleman from Missouri [Mr. BLAIR] on a bill which has been disposed of. The gentleman from Indiana [Mr. ENGLISH] was recognized then, and he moved that the committee proceed to the consideration of the post office bill. The gentleman from Pennsylvania [Mr. J. GLANCY JONES] next moved that the committee take up one of the general appropriation bills.

Mr. J. GLANCY JONES. I wish to make an inquiry of the Chair. When the House resolves itself into the Committee of the Whole on the state of the Union, have I not the right to be recognized, for the purpose of moving to take up one of the general appropriation bills?

The CHAIRMAN. The gentleman would, by courtesy.

Mr. ENGLISH. I wish to ask a question, and that is, whether the gentleman from Pennsylvania, because he happens to be the head of a particular committee, has the right to engross the entire attention of the House and of the Committee of the Whole on the state of the Union; and whether the chairmen of other committees have not some rights, as well as the chairman of the Committee of Ways and Means?

The question recurred on the motion of Mr. ENGLISH to take up the House bill (No. 539) providing for certain public buildings for post offices, and other public purposes.

Mr. ENGLISH demanded tellers.

Tellers were ordered; and Messrs. ADRAIN and PETTIT were appointed.

The question was taken; and the tellers reported—ayes twenty-four, noes not counted.

So Mr. ENGLISH's motion was not agreed to.

Mr. PHELPS, of Missouri. There is a desire to take up a bill upon which discussion may take place. I insist upon the enforcement of the rule, that the first bill on the Calendar shall be read;

and if there is any objection to its consideration, the question shall be put, whether the committee will consider it.

NAVAL APPROPRIATION BILL.

The first bill on the Calendar was then reported, being a bill making appropriations for the naval service for the year ending the 30th of June, 1859.

No objection being made, the bill was taken up for consideration, Mr. BLAIR being entitled to the floor.

The committee was then addressed by Messrs. BLAIR, PURVIANCE, OTERO, TAYLOR of Louisiana, BENNETT, DAVIS of Massachusetts, STEVENS of Washington, and KELLY. [These speeches will be published in the Appendix.]

Mr. BOWIE. I desire to discuss some of the topics alluded to in the speech of the gentleman from Louisiana, [Mr. TAYLOR.] But as the hour is late, I do not wish to go on to-night, and I move that the committee rise.

The motion was agreed to.

So the committee accordingly rose; and the Speaker having resumed the chair, the chairman [Mr. HOWARD] reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House making appropriations for the naval service for the year ending June 30, 1859, and had come to no resolution thereon.

And then, on motion of Mr. BOWIE, (at a quarter before eleven o'clock,) the House adjourned.

IN SENATE.

WEDNESDAY, May 26, 1858.

Prayer by Rev. SEPTIMUS TUSTIN, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. STUART presented a petition of citizens of northern Michigan, praying that a homestead of eighty acres of land may be granted to each of the mixed-blood Indians residing in that section of the State; which was referred to the Committee on Indian Affairs.

He also presented a petition of citizens of Michigan, praying that the Indian agency of that State may be divided into two agencies, and that the northern agency be located at Michilimackinac; which was referred to the Committee on Indian Affairs.

Mr. SEWARD presented a paper signed by Charles T. Platt and H. B. Sawyer, in behalf of those officers of the Navy who were transferred from the furlough to the leave-of-absence list, asking that provision may be made for allowing them the difference of pay between those grades to the time they were so transferred; which was referred to the Committee on Naval Affairs.

He also presented the memorial of William H. De Groot, praying indemnity for losses sustained by him under his contract with Captain Meigs for furnishing brick for the Washington aqueduct, in consequence of the failure of the Government to provide the means for carrying on the work; which was referred to the Committee of Claims.

Mr. HAMLIN presented a resolution of the Board of Aldermen and Board of Common Council of Georgetown, District of Columbia, protesting against the passage of any measure for receding any portion of that city to the county of Washington; also, a memorial of citizens of Georgetown, some of whom reside upon the "Heights," remonstrating against the prayer of certain citizens of that place, who petitioned Congress to pass an act to exclude that portion of Georgetown called the "Heights" from the corporate limits of the city; which were referred to the Committee on the District of Columbia, and a motion by him to print the resolution and memorial was referred to the Committee on Printing.

Mr. MASON presented the petition of Stephen Shinn, praying payment for materials furnished and money advanced to Samuel Colt, in aid of his experiment with the submarine battery in 1843 and 1844; which was referred to the Committee on Naval Affairs.

Mr. KENNEDY presented the memorial of Rezin Orme, praying compensation for services

as a clerk in the Second Auditor's office; which was referred to the Committee on Claims.

Mr. BROWN presented a memorial of members of the bar of the circuit court of the District of Columbia, praying that compensation may be allowed to James S. Morsell, assistant judge of the said court, for services as judge of appeals from decisions of the Commissioner of Patents; which was referred to the Committee on the District of Columbia.

He also presented a resolution of the corporation of Georgetown, District of Columbia, in favor of the location of a national foundry near that place; which was referred to the Committee on Military Affairs and Militia.

Mr. PUGH presented the memorial of A. G. Sloo, praying the intervention of the Senate in support of his contract for transporting the mails from the Atlantic to the Pacific ocean, by the Isthmus of Tehuantepec; which was ordered to lie on the table.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. SLIDELL, it was

Ordered, That the petition of Peter P. Paillet, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. MALLORY, it was

Ordered, That leave be granted to withdraw the memorial of Charles J. Swett.

BILLS INTRODUCED.

Mr. SHIELDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 408) for the construction of a military road from Seattle to Fort Colville, in the Territory of Washington; which was read twice by its title, and referred to the Committee on Military Affairs and Militia.

Mr. POLK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 409) making an appropriation for the completion of connected sections of a road from Albuquerque, in New Mexico, to the Colorado river; which was read twice by its title, and referred to the Committee on Territories.

REPORTS OF COMMITTEES.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 540) to provide for the lighting with gas certain streets across the Mall, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 248) regulating municipal elections in the city of Washington, reported it with an amendment.

Mr. DAVIS, from the Committee on Military Affairs and Militia, who were instructed by a resolution of the Senate to inquire into the expediency of providing for the engraving and publishing a map of the explorations of Lieutenant Warren, in Nebraska Territory, reported in favor of printing the map.

He also, from the same committee, to whom was referred the memorial of Ann Gratiot, widow of Charles Gratiot, asked to be discharged from its further consideration, and that it be referred to the Committee on the Judiciary; which was agreed to.

Mr. CLAY, from the Committee on Pensions, to whom were referred the petition of Andrew Chapman, son of George Chapman, a soldier in the Revolution, praying to be allowed arrears of pension; the petition of Elizabeth Uber, heir-at-law of Dorothy Wirt, widow of Ensign Philip Wirt, of the revolutionary army; the petition of Dolly Lincoln, Margaret Smith, and Linda Sexton, children of Noah Warriner, an officer of the Revolution, praying to be allowed the pension to which their father was entitled; the petition of Cynthia Bishop, daughter of Abram Foot, praying to be allowed the pension to which Captain Foot was entitled; the petition of James Hudgins, son of Ruth Murphy, late widow of John Hudgins; the petition of George Walters, son and heir-at-law of Michael Walters, praying to be allowed the pension to which his father was entitled; the petition of the heirs of Thomas Stevens, a revolutionary soldier, asking pay of pension due him in his life; the petition of the surviving children of Jerathmiel Doty, praying for the arrears of pension due him as an invalid pensioner; the petition of Deborah Burlingham, praying for a pension; and the petition of Charles F. Bruckner, administrator of William White, sub-

mitted an adverse report thereon, and reported a joint resolution (S. No. 45) inhibiting the payment of certain claims for pensions therein specified. The resolution was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the joint resolution (S. No. 10) directing the Secretary of the Interior to pay certain pension claims therein specified, reported it without amendment, and submitted an adverse report; which was ordered to be printed.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom were referred the petition of the heirs and representatives of Christoval and Miguel De Armas; the petition of the heirs and legal representatives of James Johnson; a petition of citizens of New Orleans; and a petition of Joseph Keynes, submitted a report, accompanied by a bill (S. No. 410) to confirm certain land claims in the Florida parishes of Louisiana to the city of New Orleans and others. The bill was read, and passed to a second reading; and the report was ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, announced that the House had passed a bill (H. R. No. 541) in relation to a railway along Pennsylvania avenue, in Washington city, in which the concurrence of the Senate was requested; which was read twice, and referred to the Committee on the District of Columbia.

JOHN ETHERIDGE.

Mr. IVERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the evidence in the case of John Etheridge be withdrawn from the Senate files and transmitted to the Court of Claims, to be used in the case of Hardin's administrator, now pending in said court.

POST ROUTES IN ARKANSAS.

Mr. SEBASTIAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing, by law, the following post routes in Arkansas, namely: from Lewisburg, in Conway county, by Galla Rock and Bates's mill, to Dardanel, in Yell county; from Mill Bayou to Chitticeaux, Missouri; from Augusta, in Jackson county, by Alvin McDonald, to Jackson Port; from Memphis, Tennessee, (by railroad), to Madison and Little Rock, in Arkansas; from Seary, in White county, to intersect the route from Desare to Port Smith, at Cadron creek; from Paraciffa, in Sevier county, to Sheetucket, in Polk county, and report by bill or otherwise.

CONGRESSIONAL LIBRARY.

On motion of Mr. COLLAMER, the joint resolution (S. No. 44) to grant to the judges and solicitor of the Court of Claims the use of the Congressional Library, and for other purposes, was read the second time, and referred to the Committee on the Library.

ENROLLED BILL SIGNED.

A message was received from the House of Representatives by Mr. ALLEN, its Clerk, announcing that the Speaker of the House had signed an enrolled bill (H. R. No. 231) for the relief of Nancy Serena.

COMMITTEE ON THE JUDICIARY.

Mr. PUGH, on his motion, was excused from further service on the Committee on the Judiciary.

INVESTIGATING COMMITTEES.

Mr. HUNTER. The Committee on Finance, to whom was referred a House joint resolution, (No. 32,) making appropriations to pay the expenses of the several investigating committees of the House of Representatives, have directed me to report it back without amendment, and to recommend its immediate passage. The House are anxious to get it passed at once, as there are some witnesses waiting for their compensation. I hope the joint resolution will be now considered.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

It appropriates \$12,000 for the payment of expenses of the several investigating committees, and of the Judiciary Committee of the House of Representatives, which sum is to be added to the

miscellaneous item of the contingent fund of the House.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GEORGE ASHLEY.

Mr. FESSENDEN. I ask the Senate now to take up the motion to reconsider the vote taken the other day rejecting the bill (S. No. 89) for the relief of George Ashley, administrator *de bonis non* of Samuel Holgate, deceased. I only ask that the reconsideration may be agreed to so that the bill may go on the Calendar.

The motion to reconsider was agreed to.

The VICE PRESIDENT. The question now is on the passage of the bill.

Mr. FESSENDEN. I do not ask for action on it now. Let it take the place on the Calendar to which it is entitled.

Mr. COLLAMER. It should be placed on the Calendar in the order in which it stood originally.

The VICE PRESIDENT. That will be done.

N. C. TOWLE.

Mr. IVERSON. I offer the following resolution, and ask for its present consideration:

Resolved, That the sum of \$321 be paid out of the contingent fund of the Senate, to N. C. Towle, for his mileage and expenses in visiting the Aroostook country in Maine, under a resolution of the Senate of 18th August, 1856.

The VICE PRESIDENT. The resolution will be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. IVERSON. I will state that Mr. Towle was sent by the Committee on Claims, under a resolution of the Senate of the 18th of August, 1856, to examine certain land titles in the State of Maine arising under the Ashburton treaty. He presented his account for expenses and mileage. That account was audited by the Committee on Claims Mr. Brodhead being then chairman, and signed by Messrs. Brodhead, Fessenden, Yulee, Geyer, Wade, and myself, "approved," and referred to the Committee to Audit and Control the Contingent Expenses of the Senate, of which Judge Evans, the late Senator from South Carolina, was chairman. He allowed the account for \$200, but did not allow the expenses of three dollars a day, and for hiring a horse and carriage, twenty-two dollars. It is unnecessary to refer the matter to the Committee on Contingent Expenses, because they have already acted on it, and rejected items to the amount of \$121. It is very clear, it seems to me, that Mr. Towle is entitled to his expenses and mileage. That is all that has been charged; and it has been usual to allow it in such cases.

Mr. CLAY. Is this to pay him for his services?

Mr. IVERSON. There is nothing included in this account, I will say in response to the Senator from Alabama, for services. It is nothing but the mileage and actual expenditures, the expenses of eating and drinking, &c., and hiring a buggy or carriage to go up into that wild country where there was no facility of traveling, except by procuring a conveyance, which he had to hire and keep for several days. He charged nothing but the actual expenses which he paid out, and the mileage which has been usually allowed.

Mr. CLAY. What about the three dollars a day?

Mr. IVERSON. That is not allowed.

The VICE PRESIDENT. The first question is, is there unanimous consent to consider the resolution now, without reference to the Committee to Audit and Control the Contingent Expenses of the Senate? The Chair hears no objection. The resolution is before the Senate.

Mr. YULEE. As I was one of the signers of the certificate approving the account of Mr. Towle, being then a member of the Committee on Claims, I will state that my understanding was, and is now, that the account was made out in precise conformity with the charges usually allowed to clerks of the Departments performing similar service.

Mr. IVERSON. That is so.

Mr. WRIGHT. This case, as I understand, was before the Committee on Contingent Expenses. This gentleman was a clerk to one of the committees of the Senate, and was receiving six or eight dollars a day as compensation for that service. The usage has been to allow ten cents

a mile to persons employed as this gentleman was, to cover traveling expenses. The Committee on Contingent Expenses examined into it, and it appeared to them that that allowance ought to have been satisfactory. The expense of traveling perhaps was three cents a mile, but I think the committee allowed ten. The chairman of our committee supposed that that compensation was amply sufficient.

Mr. IVERSON. The chairman seems to have been laboring under a misapprehension, from the memorandum he left stating that a portion of this account was for services rendered. He has written here, "Dr. Towle was receiving six dollars a day as clerk to the Committee on Claims." The chairman was mistaken; no part of this account includes anything for services at all. It is simply to give him the mileage that is usually charged in such cases, and the actual amount paid out for his support and for hiring a buggy; that is all.

Mr. WRIGHT. There is certainly a mistake in regard to this case. Mr. Towle was receiving six dollars a day as clerk to the Committee on Claims while he was absent, and, in addition, received ten cents a mile for his traveling expenses.

The VICE PRESIDENT. This resolution, making a charge on the contingent fund, must have three readings.

Mr. JOHNSON, of Arkansas. I move to refer it to the Committee to Audit and Control the Contingent Expenses of the Senate.

The VICE PRESIDENT. Objection may be made to the second reading of the resolution.

Mr. FESSENDEN. I hope my friend from Arkansas will not make the objection. The last Committee on Claims knew all about it. It has been once there; and the Senate may dispense with the necessity of sending it there again.

Mr. JOHNSON, of Arkansas. I shall not make the motion.

The resolution was read a second time, and considered as in Committee of the Whole.

Mr. HUNTER. I do not understand how it is that we are to pay out of the contingent fund of the Senate for information in relation to the Aroostook country. Who sent him? What was his authority?

Mr. IVERSON. He was sent under a resolution of the Senate of the 18th of August, 1856, authorizing and instructing the Committee on Claims to send an agent for the purpose of making certain investigations. There is a claim now—a very large claim—pending against the United States for the value of this property; and he was sent there, as a protection to the United States, to examine the value of it, and report. He performed very valuable and somewhat arduous service.

Mr. HUNTER. It seems to me it ought not to come out of the contingent fund. It is a matter affecting the general interest of the United States, and belongs to an appropriation bill. It is not proper that we should institute such commissions, and pay for them out of the contingent fund.

Mr. FESSENDEN. The facts in this case are very simple, and I have been surprised that there should be the slightest objection in the world to the claim as made. The claimant was and is the clerk of the Senate Committee on Claims. Before that committee was a very considerable claim involving some fifty or sixty thousand dollars, as it turned out, on the part of different people in the State of Maine, on account of lands which they had lost under the treaty of Washington. One principal difficulty and a probability of great expense arose from the reason that they were all small claims, and all involved questions of title, which questions of title were to be examined and considered. In the Committee on Claims that difficulty occurred, and the then chairman, I think, or some one of the committee—I do not know who it was, at any rate it did not come from the clerk of the committee—proposed that we should get leave to send somebody there in the recess to take proof of those titles. The Senate accordingly passed an order to that effect, that the Committee on Claims be authorized to send an agent in the recess for the purpose of taking this testimony.

After this resolution passed, and it came to be discussed who should be the individual sent, it was suggested that we had better send our own clerk, because we could rely on what he would do under the direction of the committee. Accordingly in the recess he went, and he was gone for

some five or six weeks. I know enough of the country to know what he had to do. He had to travel for a large distance through a country where there is no railroad, no stage-coach; where he must get along by private conveyance, as he could, and sleep in cabins. They are all settlements in the woods, far up on the line; and he must necessarily have had a very hard time of it. He came back, drew out a very lengthy and correct report of his transactions; and on that report a bill was founded, which passed the committee unanimously, and again passed the committee unanimously at this session, and has been passed also by the committee of the House, but has not yet become a law. For all these services which he thus rendered in connection with that matter, all the claim he made was three dollars a day for actual expenses, which certainly would not more than cover them, and the ordinary mileage of ten cents allowed to an officer for traveling for a public purpose; and that claim is that which is presented, amounting, for the whole expenses, to something over three hundred dollars. He ought to have charged more, according to the system which prevails here; certainly much more. If he had charged \$500, instead of \$300, I suppose the result would have been that everybody would be satisfied with the striking off of \$150, and giving him more than he claims now; but being an honest man, and traveling under these circumstances, performing that service, he makes this charge. No reasonable man, it strikes me, can object to it.

The resolution was reported to the Senate without amendment.

Mr. POLK. I wish to understand if the resolution has been reported against by the committee to whom it was referred?

Mr. FESSENDEN. There has never been any report at all on the subject.

Mr. POLK. I wish to understand the matter. The Senator from New Jersey was making some remarks on it when I came in.

Mr. IVERSON. I will state, for the benefit of the Senator from Missouri, that this account was referred at the last session to the Committee on Contingent Expenses; and Judge Evans made the following indorsement on the papers:

"Mr. Towle was, at the time he performed the service, clerk of the Committee on Claims, receiving an actual salary of six dollars a day, and therefore no part of this account can be allowed except for expenses actually incurred, of which he must return an account."

"JOSIAH J. EVANS."

This is for the expenses; no part of it is for salary or services.

Mr. POLK. What I wish to get at is this: whether any committee has inquired to ascertain whether the actual expenses are in amount what is now proposed to be paid by the resolution? for, whatever the actual expenses are, I am ready and willing to vote the payment of them; but I wish to know that they are actual expenses.

Mr. IVERSON. I will say, in response, that the account, as made out by Mr. Towle, was presented to the Committee on Claims at the last Congress, and examined and allowed by them, and signed by Mr. Brodhead, the chairman, and every member of the committee.

Mr. POLK. And the amount proposed to be paid is that which was allowed?

Mr. IVERSON. Exactly.

Mr. POLK. That is satisfactory.

Mr. WRIGHT. I desire to state, for the information of the Senator from Missouri, that this claim was before the Committee on Contingent Expenses, and the committee unanimously agreed to allow ten cents a mile, which they thought was ample compensation. That amounted to over two hundred dollars. This gentleman, during that time, was receiving his pay as clerk of the Committee on Claims; and for this service, which was a mere pleasure trip to the North, we proposed to allow him ten cents a mile, which we deemed amply sufficient.

Mr. POLK. Has he received ten cents a mile in addition to what is now proposed? ["No! no!"]

Mr. IVERSON. He has not received as yet one cent; but the \$200 for mileage is charged to this account, and forms a part of it. The balance of \$120 is his bill for expenses, and the hiring of a buggy.

Mr. WRIGHT. I have said the committee proposed to allow ten cents a mile, which we con-

sidered sufficient for the services. I object to the consideration of the resolution.

The VICE PRESIDENT. The resolution cannot be read a third time to-day, objection being made.

INTERNAL IMPROVEMENTS.

On motion of Mr. SEWARD, the Senate resumed the consideration of the bill (S. No. 341) making appropriations for repairing and securing the works of the harbor of Chicago, Illinois.

The VICE PRESIDENT. The question is on the passage of the bill.

Mr. TOOMBS. When I was cut off by the termination of the morning hour yesterday, I had nearly concluded the very brief reply I was making to the honorable Senator from Vermont [Mr. COLLAMER] and the honorable Senator from Louisiana, [Mr. BENJAMIN.] I was replying to the position which was assumed by those gentlemen, that on account of the difficulty of apportioning taxation, and particularly the expense of an improvement of this kind, it was best to put it upon the whole people of the United States, by taking it out of the general fund. The honorable Senator from Vermont seemed to consider that the citizens of Vermont would be compensated by the benefit resulting to the general commerce of the country. I wish, in a very few words, to show that Senator that the very same injustice exists that would exist under other circumstances. The cotton-planter on the Mississippi river, who gets his cotton freighted to New Orleans at a less price, by reason of removing the snags and removing the bars, and cheapening the transportation, gets as much of that general advantage as the wool-grower in Vermont; and, besides that, he has all the special advantage. That argument of general advantage, then, amounts to nothing. He is putting his burdens, his special burdens, on the general fund, and equally participating in all the results of the consequential benefits of the general commerce of the country. So the inequality is precisely the same; that argument does not remove the inequality. The same injustice is done to his constituents by cheapening the transportation of my cotton in the one case as in the other, because if I paid the expense of cheapening the transportation myself I should get the general benefits resulting to the commerce of the country, and so would the man in Vermont. If I can throw it on him and the rest of society, I participate as much in the general prosperity as he does; and, besides that, I reap all the special advantage, and so the injustice is as much in the one case as in the other. Instead of this idea of the nationality of a work being a reason for throwing it on the common fund, it is a reason against it, on all principles of justice and equality. If there are a great number of people directly benefited, so much the less the burden on them to make the improvement, so much the harder to put it on others.

Take the case I put yesterday. Take the man in Vermont, who has even no imperfect natural way of transporting his commodities to market; he makes an artificial one. Why should not the Government help him to do it? If the Government makes a railroad to Vermont or Georgia, it enables the planters to grow what they could not grow before, and to transport to market what they do grow at a less price than they did before, by the whole difference between the cost of transportation on an ordinary road and a railroad and the saving of time. Then there is as much public advantage in the Government building a railroad in Vermont as clearing out the Mississippi, and that same advantage is spread over the country in the same way. Why, then, should it not build a railroad? Why, instead of doing that, should it put a burden on Vermont railroads to the whole extent of the duty on railroad iron, and upon Georgia railroads, and take that identical money and use it to remove obstructions from the Mississippi river? I think there is nothing in the condition of the two sections of the country that would warrant it. It is unjust to Vermont; it is unjust to Georgia; it is unjust to the people on the Mississippi who do not use the river. It is true, they may get a portion of the general advantage that results to the commerce of the country; but so does the man whose tolls are paid from the public Treasury; and, besides that, he gets the specific advantage of cheapening his own bales of cotton or hogshead of sugar. Hence the

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Senator will perceive that the argument does not meet the objection of inequality. I proceed on the great principle that equality is equity, and that all burdens should be apportioned to those who get the benefits of them wherever it can be done. It will not do to say that you will assume a burden on particular individuals out of the public Treasury because all the citizens of the United States are incidentally benefited by the improvement of the commerce of the country. It is wrong in principle; it is unjust.

The Senator from Vermont attempted to illustrate it by the case of the rents in New York. He said that a tax on the real estate in New York would fall on the tenant. It is very much more just that it should fall on the tenant than in any other case; but I will say it does not necessarily. It is much more just, according to principle, that it should fall on the tenant in New York, than that the cost of the transportation of a hoghead of sugar on the Mississippi river should be borne by the people of Vermont. The tax put upon the house in New York increases its price. It is an element of its cost, and therefore necessarily the owner of the house would put it upon the tenant if he could; but if it so turns out that there are a hundred houses to be had in that locality, and but fifty people who want to rent them, that element of cost may be lost, just as much as the cost of the labor or the materials that built it, or the land it is put on. The tax is an element of price, but it may be lost, on account of the controlling influence of other elements of price. An equal, if not a much greater, element of price than all these put together, consists in the demand and supply. If there is a deficiency of tenants and an overplus of houses, the whole effect of all these elements of price may be lost, so that the tenant may not pay a dime of the tax, but the landlord will have to pay it all.

Mr. COLLAMER. He may not have a tenant. Mr. TOOMBS. If he does not, of course he has to pay the tax himself. If there were a hundred houses to rent, and but fifty tenants, of course a tenant would get a house for much less money than if the converse were true, because the great, the controlling element of price is the demand and supply everywhere. That would come in to disturb the rents. If there were one hundred tenants and only fifty houses, then the landlord would get the tax from the tenant, and get a still higher interest on his capital. It is more just that the tenant should pay it, because it is an element in the cost of the tenement that shelters his head; but it would not be fair to put it on the Vermont wool-grower and the Louisiana sugar man, on the ground of general benefit. I say, then, the illustration will not answer, even if it were apposite to the particular case.

The honorable Senator from Louisiana, admitting the abstract justice of the principle for which I contend, says there are difficulties in carrying it out. He says that some of the boats are larger than others; that some make voyages for longer distances on the river than others; and he desires to know whether you would tax them according to the tonnage, or according to the trips. I take it, it would be very much like a toll-bridge or a canal. Every difficulty which he suggested is met and overcome by New York on her canal. They travel that canal with different-sized boats, they travel different distances, and some more and some less frequently; but when the State of New York, in pursuance of the great principle of justice for which I am contending, determined to tax those who used it to reimburse the public for constructing it, she found a way to distribute the burden among them—at least by an approximation to justice, if she could not attain exact justice in all cases. I know no reason why you could not as readily tax tonnage on products on the Mississippi river from St. Louis to New Orleans, as New York can from Albany to Buffalo on the Erie canal. Every one of the difficulties which the Senator from Louisiana suggested in regard to the Mississippi river, exists with regard to the Erie canal. There is no more difficulty in apportion-

ing these rates on an artificial than on a natural highway.

The honorable Senator from Mississippi suggested that the lower Mississippi was a good river, and that it would be hard to tax the commerce of that portion of the river which did not need improvement for the benefit of other portions. The reply to that is, that if that portion of the river did not need improvement, there would be no application to levy tonnage duties there. I do not propose to make any State lay tonnage duties for improvement purposes, but I propose, as I am authorized to do under the Constitution of the United States, to allow a State to tax tonnage, if she pleases, for the purpose of improving her ports and her rivers. If Louisiana does not want to exercise the power, I do not wish to make her do it; and that is a sufficient answer to this point. Above Louisiana, Arkansas, Tennessee, and Missouri may want the power to improve the river through their States, and, if so, I would grant it to them, but I would not force it on anybody. If they are content with their river, if they are unwilling to take these risks, or if they think the cost of removing the bars or snags, or whatever obstructions there may be in that noble river, is not justified by the benefit to them, they will not ask for the power, and I am willing to let them have it as it is; but if they desire to improve their river, by taxing their own commerce, if they think the benefits to themselves and to the commerce of the country will be greater than the cost of the improvement, I will allow them to do it out of their own money, but not out of mine. The reason why the persons who have favored this class of improvements at the general expense will not accept my proposition, the reason why some of the States have abandoned the tonnage duty is because they preferred to levy the money out of the general fund rather than out of their own pockets. Baltimore gave it up; Savannah gave it up; for they preferred the United States should do it. Why? Because then they would pay in a dime and take out a guinea. There is not a man in the United States, there is not a free negro, North or South, who does not understand that game. The argument of general benefit which is made use of, does not deceive anybody. It does not deceive the people who make it. It is admitted that when the Government does such work, it does it worse than private individuals. The honorable Senator from Illinois, who temporarily supports this system until, as he says, he can get a better one, has said on this floor, that ninety-nine dollars out of every hundred spent by this Government for these purposes, have been sunk and squandered, and, on the whole, have done the rivers more harm than good. Everybody knows that the Government does work of this kind worse than individuals; everybody knows that it does it more expensively; everybody knows it brings less skill and judgment and talent than individuals to it. I believe there is not a company in the United States that wants to clear out a harbor or construct a railroad that would take a Government engineer if you gave him to them. My State once tried one of the chiefs of the topographical engineers, but she found out her error to her cost, and discharged him. People who spend their money in public works, get an engineer who understands his business. They do not come to the Government for him.

Mr. DAVIS. I think the Senator is mistaken in the fact. The calls were so frequent, and the detention of the officers so long, that it had to be prohibited. One of the great works which was achieved in Michigan, leaving a surplus on hand, was done under the direction of an officer of the topographical engineers; and, it was supposed, could not have been done otherwise.

Mr. TOOMBS. We tried Colonel Long, of the topographical engineers in Georgia, and our experience was different. As far as my observation has extended, although some people may try them as we did once or twice, yet, as a class, they are the least efficient engineers of any in the United States. If it were not so, would they remain in the public service at the very small amount of com-

pensation, of which they are continually complaining? Men in civil life get their five, their ten, their fifteen, or their twenty thousand dollars a year to engineer railroads; and yet these men hang on and come here and beg for an increase of salaries—fifteen hundred, or two thousand, or three thousand dollars a year. That is a demonstration in my judgment.

Mr. DAVIS. I must correct the Senator again, if he will permit me to do so. These engineers are not persons who come here and beg for additional salary more than anybody else connected with the Government. I will also inform him that some of the very engineers who in civil employment are receiving such high salaries, have been drawn from the Army, from the fact that they could not get as much from the Government as from private individuals.

Mr. TOOMBS. That is what I supposed—those of them who are good for anything have quit the service.

Mr. DAVIS. Not at all.

Mr. TOOMBS. I should suppose that would be the general rule, but I am not as well acquainted with them as the Senator from Mississippi.

Mr. DAVIS. I will interrupt the Senator once more, merely to say that his supposition is entirely unfounded in the character of these officers. Professional zeal, attachment to the Army in which they have been bred, bind men of the highest character and attainment to it; and they should certainly be exempt from such a reflection as to put them in the mere mercenary class of remaining in the service because they cannot go elsewhere. There are many cases where they are offered the most tempting prices to leave the service, but remain on account of their attachment to it.

Mr. TOOMBS. I am quite satisfied that the honorable Senator, probably from his own *esprit du corps*, gives them credit for very different motives from those upon which they act. I judge them as other men, and I do not consider it dishonorable to them.

Mr. HAYNE. I would say to the honorable Senator from Georgia, with his permission, that I have passed almost my whole life in the Army, and I think what I say on this point may be relied upon. I know these gentlemen have received the best education in the country—a West Point education—and they are men of the highest principle and truthfulness. I cannot think that those engineers who prepare themselves temporarily for such service can rank on a footing with those educated as I have stated.

Mr. TOOMBS. The public judgment is against the honorable Senator from South Carolina, and my own is unshaken by the statement. I know that when individuals have their capital and interest at stake they employ the men who can do their work best, and they do not select your topographical engineers for service of this kind. I would say to the Senator from Mississippi, that I know those persons have applied from time to time for an increase of pay. The pay of the engineer corps and of the Army was raised while that honorable Senator was at the head of the War Office. It was done by Congress, it is true, but the solicitations were great from all quarters—well known to me. So far as their education at West Point is concerned, that is no argument with me; I think very little of it. I think it is an exceedingly defective education; and one of the reasons why they are not fit for this service results from their education, isolated from the community. They are not fit to construct or to carry on these improvements. To do so, they ought to know the price of turnips, of wheat, of corn, of beef, of pork, of labor at every point—the hire of slaves or freemen; they should understand the whole business of life. I know that in some instances where we employed those officers we paid for it at our terrible cost. That is the history of my own State, and I know it is so in other States of the Union. No doubt men educated at West Point may be distinguished, but men may be dis-

tinguished in this particular department and not be educated at all; they may have picked up their knowledge for themselves in after life. Some of the most eminent and successful engineers in the world have been of that class. What was the elder Stephenson, who invented the steam rail car, but a laborer in a workshop? He had no education of any sort; and in my opinion, the very education and pursuits of these officers disable them from the great business of carrying on the improvement of a river or a road; and my observation has been; that whenever they have been sent to works of this kind, they have spent twice, and sometimes three or four times the money that private individuals would do for the same service, without the same benefit. I was giving the testimony of one of the supporters of these measures, the honorable Senator from Illinois, in remarks which he made here at the last Congress, that ninety per cent. of your appropriations was squandered by these officers, and the appropriations had turned out to be worse than useless. There is a case in North Carolina where hundreds of thousands of dollars were expended under their direction to improve a river; and after having done that, North Carolina called on us for hundreds of thousands of dollars more to repair their blunders, and remedy the injury they had done to Cape Fear river. We passed a bill for that purpose at the last Congress. Their whole path is strewn with failures; that is their history.

I was saying that everybody knows that the Government does the business more expensively than individuals. That is my opinion, and I believe it is the general opinion. Not only that, but the Government does it worse than individuals. Then why do they come here and ask the Government to do it? Simply because they are not interested in the expenditure; it is not their money. People who spend their own money are careful about the agencies to whom they intrust it; but those who spend other people's money are indifferent as to the agencies by which it is done. These are sound principles, which everybody, I presume, will understand. The reason why they come to the Government is not that the Government will do it better, for experience shows that it does it worse. It is not that the Government will do it more economically and skillfully, but it is because it is done with the money of others, not their own. Look at the enormous appropriations asked this year for the simplest work which is made by these engineers. They are continually on the lakes, and continually making estimates. Of course they are not to blame for it; the Government sends them there; but it is a legitimate argument with me, according to the facts of the case, that the Government does it worse than anybody else, and always has.

Mr. DAVIS. I will not interrupt the Senator if it be at all disagreeable to him.

Mr. TOOMBS. It is not.

Mr. DAVIS. But as he seems about to pass from that point, I wish to make a correction. Without specifying any case himself, he refers to the Senator from Illinois, who, I think, somewhat injudiciously did instance a case—the constructions on the Ohio river. Those constructions, so far from having been made by officers of the Army, topographical or other engineers, were constructions which had been made exactly upon the same idea the Senator now announces, that men without education could be got to do the work better than those who had learned something, and so they got a steamboat man to build a dam at Cumberland Island, and that dam was one of the very cases the Senator from Illinois rested his accusation on. It was not constructed by the United States engineers, and they would never have put it there. I know no improvements which justify the charge that the Senator from Georgia has been making, unless he goes back to a remote period, when some wing walls were built on the upper Ohio. They were injudiciously built by an Army engineer, but there is not an Army engineer now who would attempt to advocate them. I think their expenses have been lower than they would have been if they were turned over to contractors or to men having an interest. They have stood as the defenders of the Government against private interest, and their permanent connection with the Government naturally made them so. I do not think general accusations should be made against them. If there be any particular case I

will meet it, if I have the knowledge now to answer any accusation.

Mr. TOOMBS. It seems that these gentlemen are very tenacious on the point of defending the engineer corps. I was only illustrating a general principle from known facts. I am willing to leave the question to the entire country. Let it pass as my opinion, that they are the least competent and most expensive of all persons for this kind of work. That is my judgment; and I leave the argument with the country. The case I gave was the Cape Fear river; one within my own knowledge. Another case was the discharge, by my own State, of a colonel of engineers, because he was inefficient and very expensive.

Mr. DAVIS. Then I will answer to the first, as that is specific; and I do not know, on the second, to what the Senator refers. The application which was made for an appropriation to improve the navigation of the Cape Fear river was not on account of bad work done on that river. It was said to be the consequence of a fortification built outside of the Cape Fear river; that a fortification built to defend the entrance into Cape Fear had, by the attrition of the bank, formed a bar at the mouth of Cape Fear river, and thus affected the navigation. I did not believe it at the time, and I do not believe it now.

Mr. TOOMBS. The Senator is wholly mistaken as to the reasons given for that measure. Mr. Badger, the then Senator from North Carolina, put it expressly upon the ground that the Government had injured the river by the injudicious building of dams; and it went through this body on that ground.

Mr. DAVIS. It was a fort outside of the mouth of the river. It is matter of report; the whole case is spread upon the record.

Mr. TOOMBS. I understand the matter perfectly well; I know the locality. Some of those wings are more than five miles from the fort that was being repaired. I know the locality; I have passed by it fifty times.

Mr. DAVIS. Were any of them in the river?

Mr. TOOMBS. Yes, sir; in Cape Fear river.

Mr. CLINGMAN. I will state the facts as I have always understood them. After the fort was built, fearing that perhaps it might be injured by the current of the river, or some other cause, a sort of dam or jetty was made out, to throw the current off. That was supposed to have thrown the water on the other side, and washed away the opposite bank, and made the river perhaps half a mile or a mile wider, spread it out, and produced shoal water. The late efforts of the Government, therefore, have been to narrow the river again by stopping the new inlet, and by throwing the current back where it originally was; and it has been stated again and again that this accident would not have occurred, but for the work of which I have spoken, to protect the fort, which threw the current off. That is my impression about the occurrence.

Mr. TOOMBS. There are many instances to which I might allude, if the Senator from Mississippi insisted on specific instances. The bill for the improvement of Cape Fear river was introduced here, and argued as an exceptional case upon the ground that the object was to repair a damage done by bad engineering of the Government. It passed Congress on the ground that the injury to the river was the act of the Government; and the object was to remove what it had done, which had injured, instead of benefited, the navigation; and I believe the bill was signed by the President for that reason.

Mr. DAVIS. I will answer the Senator if he will permit me.

Mr. TOOMBS. Certainly.

Mr. DAVIS. It was considered by the President, upon the terms used in the law, that Congress had decided that the bar formed at the mouth of Cape Fear river was the consequence of the action of the Government. It was not bad engineering; there was nothing said about engineering. It was presented, however, as the consequence of the action of the Government in the law; and that action of the Government was, in the opinion of Congress, I suppose, the construction of the fort and the wall or jetty, which was thrown out from the fort to protect the island on which the fort was built. That was outside of the Cape Fear river. That jetty is claimed, as the Senator from North Carolina has stated, to

have deflected the current, and caused shoal water. I know of no work which was done in the river; it was not good engineering nor bad engineering for the improvement of the river. The engineering was the construction of the fort. That construction I believe to have been well done. I did not believe, and I do not believe now, what is asserted in the law, that the attrition of the point and the formation of the bar were at all attributable to the construction of the fort.

Mr. TOOMBS. I do not see that the facts with which I set out have been in the slightest degree altered by these interruptions. The people of North Carolina came here and said the Government, by its works in Cape Fear river, below the port of Wilmington, had injured the river, and they asked the Government to remove them. That was my general idea about it, and I knew it was made an exceptional case. I was speaking from memory in regard to it. It was so far exceptional, that Mr. Pierce, who vetoed all appropriations for the removal of natural obstructions as unconstitutional, for which I very highly commended him, approved that bill for the reason that it was stated in the law to be for repairing damages done by the Government.

Mr. DAVIS. That case and the Savannah river constitute two exceptions.

Mr. TOOMBS. The Savannah river was excepted on another ground. It was on account of vessels sunk there by the defenders of Savannah, to prevent the coming up of the troops. The Cape Fear bill was put on the ground that it was to remove damages done by the Government. I do not think there is any principle of patriotism which ought to call on any man, especially a topographical engineer, to serve the Government for \$1,500 a year if he is worth \$10,000. I do not think it is any want of patriotism to quit the service, or any patriotism to adhere to it, under such circumstances. I consider that a man does either the one or the other according to his tastes, and according to the advantage to himself; and there are a thousand incidents of life which affect it. Nobody, I apprehend, with my opinions of these officers, would ever employ one of them to dig a ditch, unless he knew him very well. Of course, particular individuals may be well educated and fit for the work; but to take them at hazard, because they came from West Point, would be no recommendation to me. I should want to know that this man had skill, and the other faculties necessary for such service. The simple fact that he belonged to the United States engineer corps would be no recommendation; for, as I have said, in my State our experience of them has been disastrous.

When these interruptions occurred in regard to the engineer corps, I had nearly concluded what I had to say, and I should not have occupied five minutes longer if I had been permitted to proceed. I stated my own judgment of these officers from rather limited experience, I admit; but I referred to the authority of the Senator from Illinois, and I will correct the Senator from Mississippi in regard to that. The Senator from Illinois not only referred to the case alluded to by the Senator from Mississippi, but he stated that he had been a quarter of a century in the West; he had voted for these improvements; he knew them; and his judgment upon all of them was what I have stated. I recollect his remarks well. That was one of the cases he cited.

Mr. DAVIS. I read his remarks, and he was so unfortunate, I thought, as to cite a case where the facts did not sustain him. Of course, all the cases which were outside of that, and which were generally stated, it was not in the power of any one to answer.

Mr. TOOMBS. I did not attempt to answer them. I was citing his declaration as coming from a defender of this system. I leave the point to the Senator from Mississippi and the Senator from Illinois to settle between themselves. I state it as the argument of a Senator on this floor, and the record sustains me in it.

I say then, this work ought not to be done by the Government, because it is worse done, and more expensively done, than by individuals. It ought not to be done, because it takes the money of all the people of the United States, and appropriates it to local improvements. On all points, constitutionality, expediency, and justice, this system ought to be opposed, and it is supported

for the sole reason that particular localities desire other people's money to make improvements to benefit themselves.

Mr. CLAY. I do not propose to enter into the discussion of these incidental questions of constitutional law and political economy which have been raised by the Senators from Mississippi and Georgia; but I wish before the vote is taken upon this bill to advertise the country of two facts which have not been much adverted to—one of which, in fact, has not been alluded to. One is that by the testimony of the advocates of the system, and the especial advocate of this particular appropriation, the Senator from Illinois, [Mr. DOUGLAS,] this work is an interminable one, and in the next place, that it is a wholly useless one. I quoted from memory the other day, the remarks of the Senator from Illinois, as to the fact that this appropriation must be annual in order to be efficient; that the currents of the lake would destroy annually the improvements that were made, in a greater or less degree, and hence they must be continued forever. I wish it understood that this is a Sisyphean labor; that we must continue from year to year to make appropriations for the improvement of this harbor if we intend to preserve it; and as to perfecting or completing it, that is all a delusion. The Senator from Illinois does not contend that it can ever be completed; but, if what he alleged when this proposition was before the Senate in a different form, proposing a larger appropriation, some two years since, be true, this appropriation is wholly useless. At that time we proposed to appropriate \$50,000. The sum asked by the topographical engineers who surveyed the work, was \$138,000. The Senator from Illinois moved to amend the bill at that time by striking out \$50,000, and inserting the amount estimated by the engineer, \$138,516, and he said:

"From this estimate and report it appears that, for the completion of the Chicago harbor, according to the opinion of the engineer corps, \$138,516 68 is the sum required. Now, when your engineers give an estimate for a specific work, it is very bad economy to appropriate half what is necessary, for it will cost you twice as much to perform the service in that way as by appropriating at once what is required. You must expend the same amount in machinery, in labor, in superintendence, and in everything that constitutes the extras of the work, under a small appropriation as under a large one; and it is the cheapest to appropriate at once the sum that you require, or else make no appropriation at all."

"I can only say, that if it is proposed to make appropriations for the improvement of harbors, economy requires us to make appropriations to the extent that is necessary, in order to obtain the greatest amount of benefit in the construction of the works."

"It seems that when the estimate came, it was for \$138,000; and the committee indorsed it. Then should you put the appropriation at \$50,000, without any assurance that the money will not give out before the work is in such a state of forwardness as to protect it against storms? When the storms come, your \$50,000 may be a total loss. True economy is to give whatever is necessary at once, and let the work be finished."

The testimony of the Senator, who resides there, and who speaks, I suppose, from ocular observation and experience, is, that unless you made the entire appropriation of \$138,000, (the sum required two years ago by the engineers,) you might as well throw into the river the \$80,000 now proposed to be expended. It is so much money thrown away; and he says you must appropriate all in order to secure the work, or none at all. By his own testimony, it is better that we should make no appropriation unless we appropriate the entire sum required by the engineers. I do not doubt that he is correct. I know that he is sustained by the testimony of the topographical engineers; for time and again they have said to me—and I think I can find even in some of their reports—that one reason why they have come so often for these appropriations, and why the sum has been annually increasing from year to year, is that Congress will not appropriate all they require at one time.

Mr. POLK. I wish to ask the Senator a question: whether the amount that is named in the bill is less than the engineers state to be necessary, or whether it is the exact sum?

Mr. CLAY. I will state to the Senator that the sum they asked to complete the improvement of the harbor two years ago was \$138,000. At this time, in reply to a letter addressed by me as chairman of the Committee on Commerce to the War Department, asking what sums were necessary in order to preserve the works and to prevent their decay and destruction, they responded \$80,000;

and the bill proposes to give \$80,000. But then I show, by the testimony of the Senator from Illinois and the testimony of the engineers themselves, that it is an injudicious appropriation. They say it is useless to make the appropriation unless we give all they demand.

Mr. DOUGLAS. The Senator from Alabama is under a misapprehension in regard to the statement of facts to which his remarks apply now, in the comparison between the present appropriation and the one proposed two years ago. That appropriation was for the extension of the pier further into the lake, as an addition to the harbor, and it was estimated that it would require so much money to extend and enlarge it. The necessity for that extension arises from this fact; there is a current in Lake Michigan from the north to the south, sweeping along the shore, freighted with sands, and it gathers them on the shore, carrying them southward. Hence when you make a pier into the lake obstructing the current, the sand as it strikes the pier deposits and keeps forming land on the north side of the pier; and as the water deposits the sand there the current washes away on the south side. That process has formed over one hundred acres of land on the north side of the Chicago pier by this regular accretion, and as that forms until it gets further and further into the lake, it will sweep around the point at the end of the pier, and then fill up the channel of the river. Then it is necessary to elongate that pier further; but after a while land begins to form at the end of the pier, and sand floats around and closes the harbor again. The process of the elongation of the pier from time to time to avoid this accumulation has gone on from the beginning of the harbor, and in my opinion will have to go on in all time to come. That is my impression.

The appropriation proposed two years ago was to elongate the pier further into the lake. I said it was useless to begin a pier unless you finished it; because, unless you closed it and made the abutment across the end and fastened it, the first storm that came would take it away. For this reason you must go on and complete your pier, and make it firm as far as you go. It was on the bill for the elongation of the pier that I made the remarks of which the gentleman from Alabama speaks.

This year, as I understand, in consideration of the deficit in the Treasury and the necessity of resorting to loans, growing out of the extraordinary embarrassment and pressure of the times, the Committee on Commerce have concluded to omit appropriations for the enlargement of harbors, or for the construction of new works, and to confine the appropriations to the repairing of that which has been heretofore done and is going to decay, to preserve it from destruction. Hence the appropriation provided for in this bill applies entirely to a different object from the one proposed by the bill two years ago. This is to apply to the securing of the old pier. I will explain to the Senate that the old pier was made by cribs of wood filled with stone. These wooden cribs have decayed until they are falling to pieces, and the stones are tumbling away and washing into the channel, and this is only to replace them with sound timber, and to put back the stones that have washed away, and prevent others from washing off. It is, in other words, a reconstruction of the wood work and part of the stone work of the old pier, and not an elongation of it by making a new addition to it. The one is for repair and preservation, the other was for a continuation of the harbor. Therefore, the remarks which I made two years ago on that proposition, although they seem to the Senator from Alabama to be applicable to the present bill, do not reach this question.

While I am up, I will make a remark on another point. I stated, on Monday, that my opinion was, that, in consequence of the action of the water, this constant current, of which I have spoken, from the north freighted with sand, depositing it against the north side of the pier, would require the pier to be elongated, from time to time, forever. The Senator from Mississippi expresses the same idea, that it would require, from time to time, additions into the lake. A very intelligent citizen of Chicago, one of the oldest settlers there, called on me yesterday, and stated that he had heard my remarks, and he thought I had fallen

into an error on one point, and I feel it just to myself and to him to correct that error.

Mr. SEWARD. Will the Senator from Illinois allow me to appeal to him? There are twenty of these bills, and certainly each of us might present the merits of all our particular claims. They are all behind this. I think that those who will vote for this bill for the improvement of Chicago harbor, are prepared to vote for it, and I am quite sure that not one more will vote for it if the Senator shows it to be any more just, or right, or reasonable. I appeal to him, therefore, to let us take the question. In half an hour we shall be cut off from the consideration of the subject.

Mr. DOUGLAS. I regret that the Senator from New York deemed it to be his duty to interrupt me, for the reason that I should have been through in half the time he has occupied, if he had not done so. I was simply making this correction. The gentleman to whom I have alluded stated that the engineer there had discovered a mode by which he could prevent this accumulation, by a cross pier, for a short distance, in the form of a breakwater. If that be true, if Captain Webster, whom the Senator from Mississippi knows, and Colonel Graham, have made a discovery by which that process of constant accretion will stop, then my remark, that it will require a continual appropriation for all time to come, was erroneous.

Mr. DAVIS. You do not understand the process.

Mr. DOUGLAS. I understand it is by making a breakwater in a semicircular form just off the end of the pier, which will shoot the water through without filling up the channel or depositing the sand there. That is the explanation made to me. If that be so, they have remedied a great evil which I was fearful never would be remedied; and I make this correction, so far as it is a correction, in justice to the subject, in order that I may not mislead the Senate.

Mr. CLAY. If the Senator from Illinois was right in August, 1856, he is certainly wrong now. He then maintained that we must appropriate \$138,000 to complete the harbor, for that was the language of the bill, and that less than that sum would be useless. I do not think he has shown any reason to justify his change of opinion to-day. I ask for the yeas and nays on the passage of this bill.

The yeas and nays were ordered.

Mr. DIXON. I have paired off with the Senator from Alabama, Mr. FITZPATRICK.

Mr. PUGH. The Senator from Florida, Mr. YULEE, was called out for a short time, and I agreed to pair off with him.

The question being taken by yeas and nays, resulted—yeas 26, nays 17; as follows:

YEAS—Messrs. Allen, Benjamin, Bigler, Broderick, Chandler, Collamer, Crittenden, Doollittle, Douglas, Durkee, Fessenden, Foot, Foster, Hamlin, Harlan, Jones, Kennedy, King, Seward, Shields, Simmons, Stuart, Thomson of New Jersey, Trumbull, Wade, and Wilson—26.

NAYS—Messrs. Bright, Brown, Clay, Clingman, Davis, Hammond, Houston, Hunter, Iverson, Johnson of Tennessee, Mallory, Mason, Polk, Reid, Sidel, Toombs, and Wright—17.

So the bill was passed.

HARBOR OF MILWAUKEE.

Mr. SEWARD. I move that the Senate proceed to the consideration of the bill (S. No. 342) making appropriations for the preservation and repair of the piers at the mouth of Milwaukee river, Wisconsin.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole. It appropriates \$28,630 for the purpose indicated in its title.

Mr. POLK. I should like some Senator who knows what the work is to which this expenditure is to be applied, to explain it; for I certainly, from the reports that have been laid before the Senate, labored under a mistake in regard to Chicago harbor. I want to know whether it is to secure a work that has been in process of construction on appropriations heretofore made, or whether it is to build up decays that have taken place in a work that was made years ago.

Mr. SEWARD. The honorable Senator from Missouri will excuse me if I state to him generally that every one of these bills is based upon estimates necessary for the preservation of existing works; not for enlarging, or continuing, or renewing any of them; but in this particular case,

if he will return to the report from the topographical department, on page 68 he will find this statement:

"In order to the timely operations necessary to save this harbor, I would recommend the granting of the above amount in one appropriation."

Mr. CLAY. I hold the estimates in my hand. There was no report made, but here are the "estimates of the funds deemed absolutely necessary to preserve existing works for the improvement of harbors and rivers under the charge of the bureau of topographical engineers;" and in respect to this it simply says:

"For the preservation and repair of the piers at the mouth of Milwaukee river, Wisconsin, \$28,630."

Mr. POLK. Can the Senator inform me when these piers were made, whether they are piers in process of construction, or whether they have been finished some time and now need repairs?

Mr. TOOMBS. I can inform the Senator, having looked through a number of these cases in committee, that these words "preservation and repair" are merely delusive. They are a mere pretext. Until this year we had bills for continuing the works. I think if you will look at the record, you will find that there were some sixty appropriation bills of this class passed at the last Congress by the Senate; and at least nineteen out of twenty were for continuing harbors; and, as was said about Chicago, the appropriations are to continue forever. As to the necessity, of course your engineers will report that something is necessary to be done. If you send a carpenter or an engineer to look out for something to be done, he will find something to do. I recollect that one of the Senators from California stated that they wanted a survey on the Pacific coast, because there were works very necessary to their commerce; but, inasmuch as you had not done anything there heretofore, you will not do anything now. But, as to its being necessary to keep the storms from destroying what has been done, in my judgment there is not such a case in the whole batch.

Mr. POLK. I will ask the Senator from Georgia if this is a case in which, with appropriations heretofore made, the Government of the United States has progressed and expended large amounts, leaving the work uncompleted, and there is required another appropriation of a small amount for the purpose of perfecting that work thus imperfectly carried forward, not finished, going to decay? I understand it is not such a case.

Mr. TOOMBS. In my opinion, there is no such case; but they are all put upon that ground, every one of them. For instance, take the St. Clair flats. They go on and say, that with a few more dredge boats, and by a little more dredging and clearing out the mud of the river, it will stick this time; the same wave that put the mud there will stop putting the mud there again; and hence, you must preserve what has been done by going on and dredging some more! Look at the report of the engineer, and you will find that is the case he makes. When you have gone on and dredged out a certain depth and a certain width on the St. Clair flats, you are to go on and take out some more mud. The appropriation is for some more dredging-boats for excavating more earth; and, if they can do more of it, then they say that will preserve what they have already done?

Mr. BIGLER. I desire to submit a remark or two in explanation of the vote I cast a few minutes since, and of the votes I may give on this general subject. As a member of the Committee on Commerce, I felt disposed to favor such appropriations as were absolutely necessary to preserve a work which had been constructed, and which, in the opinion of the Department, might lead rapidly to decay without repairing such parts as might be injured by the action of the water or other causes. But, sir, I have no inclination to vote for a new work of this kind, or for the extension of a work which has been begun, in the present condition of our finances. I voted for the repairs of the piers at Chicago, because I believed it to be among the class of improvements which we ought to protect. I said in committee, and I say now, that I do not know that improvements like the St. Clair flats or the Red river, where the process is dredging, and dredging constantly, yearly and interminably, ought to be ranked with those of superstructures, such as piers and works which have a distinct existence. Now, sir, I did not vote to report the bill for the improvement of the Red river, on this

ground; it is not a repair, but it is an improvement which has to be constant; it may be ranked as an enlargement or extension of a work. I intend to vote for some of these bills, but not for all; and I desired to say thus much in explanation of my votes.

Mr. CLAY. In corroboration of what was said by the Senator from Georgia as to the deceptive character of this bill, I wish to call attention to what was said on the subject of this harbor improvement in 1856. At that time the Senator from Wisconsin, General Dodge, offered a bill to appropriate \$17,500 for the continuation of the improvement of the harbor of Milwaukee. The Committee on Commerce at that day reported the bill with an amendment. They struck out \$17,500 and inserted \$35,329, and struck out the word "continuing" and inserted "completing." At that day, according to the report of the topographical engineers, only \$35,000 was requisite for the completion of the harbor; that was all they wanted; they would make a finished work of it with that amount. Now, they come here and ask for \$28,000 for repairs to preserve the existing works from decay. I think that demonstration will itself suffice to prove the truth of the assertion of the Senator from Georgia, that this is all a delusion; and that if we appropriate this money to preserve the harbor, they will come here hereafter, and, perhaps, ask as much more to complete it—it may be the \$35,000 that were asked two years ago.

The bill was reported to the Senate.

Mr. DAVIS. I have waited to hear some one state the facts particularly connected with this case. My memory is not distinct about it; yet I have an impression, to which I referred the other day, that when the appropriation ran low, a few years ago, and it was found to be impossible to complete the work for the balance of the appropriation, that balance, together with some material and machinery, was turned over to the town to complete the work on a plan of their own, by means to be raised by themselves. There were so many cases, some of which were exactly of that character, that I may be mistaken. I threw out the suggestion the other day, in order that some one specially acquainted with the subject might make a statement. I should be glad now to know that fact; for I think it bears on the case.

Mr. DOOLITTLE. If the honorable Senator from Mississippi will give way, I will not detain the Senate to make any thorough statement of facts, but I will read from the report of Colonel Graham to show that this \$28,000 is not for the purpose of making any addition to the harbor, but for the purpose of repairs. Perhaps the Senator may not be aware of the fact that at Milwaukee there are now two outlets from the river into the lake.

Mr. POLK. What page does the Senator read from.

Mr. DOOLITTLE. Page 67. Colonel Graham says:

"The importance of keeping open the entrance to Milwaukee river at its natural mouth, and of keeping the piers created there in good order, is fully explained in my annual report of 1855. Entertaining the same opinions now which were expressed in that report upon this subject, I beg leave to refer you to it, and to the illustrative map submitted with it, marked 'G. No. 16.'"

"The piers forming the harbor at the mouth of this river, so important as a port of refuge and anchorage to the commerce of the lakes generally, are in a state of dreadful dilapidation. If appropriations be not soon granted for their repair, they must go to entire destruction; and, in that case, the mouth of the river—that is to say, its natural outlet—will become stopped up by the formation of a permanent bar across it. Already a large amount of dredging is necessary, in addition to the repair of the piers, in order to save the harbor at this point. In my report of last year, (No. 161.) I submitted an estimate of funds then required for these purposes, amounting to \$23,784 25. No appropriation was, however, granted for this work; and now the piers are in a condition requiring a much larger sum to repair them."

"For these repairs I herewith submit an estimate, marked 'B 3,' amounting to the sum of \$28,630 41."

This \$28,000 I understand to be the sum which is reported by the Committee on Commerce for the repairs. There is also, in Colonel Graham's report, a statement made in relation to the other part of the harbor, and an estimate as to what will be necessary to complete the harbor.

Mr. DAVIS. The Senator does not exactly meet the inquiry which I presented. I recollect something of the form of the harbor. The Milwaukee creek running down inside of a little peninsula, enters the lake at a very acute angle to the current which the winds prevailing on the lake

produce. That was the mode proposed by the United States engineer for the improvement of the harbor. But there was some dissatisfaction in the town, the authorities of which desired to cut across the peninsula and carry the line shorter into the lake and along the border of the land, or they wished to erect a building. I thought at the time it was very bad engineering, but it was not military engineering, I will say to my friend from Georgia. It was a proposition to bring the current of the creek against the current of the lake at about right angles. That a deposit would be the consequence of the conflict of currents, I could not doubt. The only way to bear the sediment far into the lake was to bring them in contact at such an acute angle as scarcely to destroy the velocity of either; but impinging at an angle of ninety degrees, the current of the creek would be destroyed when it struck the lake.

The amount remaining of the appropriation was very small. As an economical and political question, I was very much opposed to the Government prosecuting these works; and that fact was known generally. It was plain that the balance remaining could not complete the work; and my recollection is that I assented to a proposition, and I wished to know whether that proposition went into effect, to turn over the unexpended balance to the city authorities, with whatever material and machinery the Government had, in order that they might make the short cut which the city authorities proposed, with money to be raised by themselves. If that is the fact, then I think the Government is clear of the work; and if clear of it, I have no disposition to renew the connection by repairing the old piers at the mouth of Milwaukee creek.

Mr. CLAY. When this question was suggested the other day by the Senator from Mississippi, I was not able to answer it. I have since investigated it; but I have not been able to ascertain the facts which he suggests. I think they do exist as to the appropriation for Sheboygan, as I will remark to the Senate when that case is reached; but I think it certainly worthy of further inquiry; and I hope this bill will be postponed, in order that I may examine thoroughly, and see if the facts suggested by the Senator be correct. With that view I move to postpone the bill for the present.

Mr. SEWARD. I hope not.

The motion was not agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time. On the question, "Shall the bill pass?"

Mr. CLAY called for the yeas and nays; and they were ordered.

Mr. POLK. I wish to ask the Senator from Wisconsin if he is able to respond to the inquiry put by the Senator from Mississippi?

Mr. DOOLITTLE. I believe you will find on pages 63, 64, and 65, of the report of Colonel Graham, the facts in relation to what was done by the city and what was done by the Government in the construction of that pier. I do not desire to take up the time of the Senate by reading it; but satisfactory information will be found there.

Mr. DURKEE. I would remark, for the information of the Senator from Missouri, that I think there has been no such arrangement made, as was suggested by the Senator from Mississippi, in regard to Milwaukee harbor.

The question being taken by yeas and nays, resulted—yeas 26, nays 18; as follows:

YEAS—Messrs. Allen, Bigler, Broderick, Chandler, Colamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hawlin, Harlan, Kennedy, King, Sebastian, Seward, Shields, Simmons, Stuart, Thompson of Kentucky, Thomson of New Jersey, Trumbull, Wade, and Wilson—26.

NAYS—Messrs. Bright, Brown, Clay, Clingman, Davis, Fitch, Fitzpatrick, Hammond, Hayne, Houston, Hunter, Iverson, Johnson of Tennessee, Polk, Reid, Rice, Sibley, and Toombs—18.

So the bill was passed.

HARBOR OF SHEBOYGAN.

Mr. SEWARD. I move that the Senate proceed to the consideration of the bill (S. No. 348) making appropriations for repairing the piers at the harbor of Sheboygan, Wisconsin.

Mr. HUNTER. It wants but two minutes of the time for the special order. We cannot get through that bill before the time comes. Let it come up to-morrow in the two morning hours.

Mr. SEWARD. If there will be no objection

to taking up the bill to-morrow morning, I shall yield.

Mr. PUGH. I move an amendment. I see no use in dividing this into twenty doses. Let us have it all at once. I offer an amendment to include all these works.

Mr. HUNTER. The Senator can move his amendment to-morrow. I move to take up the loan bill.

Mr. SEWARD. We are so far in this business, that I prefer we should go through with these bills. For the purpose of ascertaining the sense of the Senate, I ask for the yeas and nays on the motion of the Senator from Virginia.

Mr. HUNTER. The hour has come for the consideration of the loan bill, and it will be necessary for the Senator to move a postponement of it.

The VICE PRESIDENT. It is within a minute of the time. The Chair may as well call it up, and the Senator may make his motion to postpone it. The Chair calls up the special order—the loan bill.

Mr. SEWARD. I move to postpone the consideration of that bill with a view of taking up the river and harbor bills. I ask for the yeas and nays on the motion.

The yeas and nays were ordered; and, being taken, resulted—yeas 18, nays 30; as follows:

YEAS—Messrs. Allen, Bigler, Bright, Brown, Clay, Clingman, Collamer, Crittenden, Davis, Fessenden, Fitch, Fitzpatrick, Hammond, Hayne, Houston, Hunter, Iverson, Johnson of Arkansas, Jones, Mallory, Mason, Pearce, Reid, Rice, Sebastian, Shields, Thompson of Kentucky, Thomson of New Jersey, Wright, and Yulee—28.

NAYS—Messrs. Bell, Broderick, Chandler, Crittenden, Fessenden, Foster, Hamlin, Harlan, Johnson of Tennessee, King, Pugh, Seward, Wade, and Wilson—18.

So the motion was not agreed to.

FIFTEEN MILLION LOAN.

The Senate resumed the consideration of the bill (S. No. 396) to authorize a loan not exceeding the sum of \$15,000,000; the pending question being on the amendment of Mr. SIMMONS to provide for the home valuation of all foreign imports.

Mr. BELL addressed the Senate three hours and a half on the varied topics involved in the pending measure.

[This speech will be published in the Appendix.]

Mr. SEWARD. I ask for the yeas and nays on the amendment of the Senator from Rhode Island. The yeas and nays were ordered.

Mr. DURKEE. I wish to state that I have paired off with the Senator from Louisiana, Mr. SLIDELL.

Mr. STUART. I beg leave to state that I have paired off on this question with the Senator from Connecticut, Mr. DIXON.

Mr. KENNEDY. I have paired off with the Senator from Missouri, Mr. GREEN; otherwise I should have voted for the amendment.

The question being taken by yeas and nays, resulted—yeas 17, nays 25; as follows:

YEAS—Messrs. Allen, Bell, Broderick, Chandler, Crittenden, Fessenden, Foster, Hamlin, Harlan, King, Seward, Simmons, Thompson of Kentucky, Thomson of New Jersey, Wade, Wilson, and Wright—17.

NAYS—Messrs. Bigler, Bright, Brown, Clay, Clingman, Davis, Douglas, Fitch, Fitzpatrick, Hammond, Hayne, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Mason, Pearce, Pugh, Reid, Rice, Sebastian, and Shields—25.

So the amendment was rejected.

Mr. HUNTER. An amendment is necessary since the loan has been made to consist of coupon bonds alone, and that is to strike out the provision which allows the issue of \$100 certificates. I should like to hear that clause read, and I wish to offer an amendment to raise it to \$1,000.

The Secretary read as follows:

"Provided, That no certificate shall be issued for a less sum than one \$100."

Mr. HUNTER. I move to strike out "\$100" and insert "\$1,000."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. WILSON. I ask for the yeas and nays on the final passage of the bill.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. STUART. I have paired off with the Senator from Connecticut, Mr. DIXON, on this question.

Mr. TRUMBULL. I have paired off with the Senator from Missouri, Mr. POLK; otherwise I should vote against the bill.

Mr. HAMLIN. I met Mr. POLK and Mr. HALE going down to dinner, arm in arm; and they said they had paired off together. Mr. POLK should not pair off with two Senators.

Mr. TRUMBULL. It was a temporary pair. I should vote against the bill, but the Senator from Missouri, Mr. POLK, had occasion to leave the Senate, and I was not aware that he had paired off since.

Mr. HAMLIN. They both asked me to say that they had paired off.

Mr. TRUMBULL. I shall not vote under the circumstances.

Mr. HUNTER. I was requested by the Senator from Louisiana, Mr. BENJAMIN, to say that he had paired off with the Senator from Wisconsin, Mr. DOOLITTLE.

The result was then announced—yeas 28, nays 14; as follows:

YEAS—Messrs. Allen, Bigler, Bright, Brown, Clay, Clingman, Davis, Douglas, Fitch, Fitzpatrick, Hammond, Hayne, Houston, Hunter, Iverson, Johnson of Arkansas, Jones, Mallory, Mason, Pearce, Reid, Rice, Sebastian, Shields, Thompson of Kentucky, Thomson of New Jersey, Wright, and Yulee—28.

NAYS—Messrs. Bell, Broderick, Chandler, Crittenden, Fessenden, Foster, Hamlin, Harlan, Johnson of Tennessee, King, Pugh, Seward, Wade, and Wilson—14.

So the bill was passed.

LEGISLATIVE, ETC., APPROPRIATION BILL.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House had agreed to some and disagreed to other amendments of the Senate to the bill (H. R. No. 201) making appropriations for the legislative, executive, and judicial expenses of Government for the year ending the 30th June, 1859, and had agreed to other amendments of the Senate to the bill with amendments, in which the concurrence of the Senate was requested.

Mr. HUNTER. I move that the bill and amendments be referred to the Committee on Finance.

The motion was agreed to.

CIVIL APPROPRIATION BILL.

Mr. HUNTER. I give notice that to-morrow at one o'clock, I shall move to take up the civil appropriation bill.

Mr. HAMLIN. I desire to offer an amendment which I am authorized to report from the Committee on the District of Columbia, which I shall offer to the bill that the Senator from Virginia gives notice he will call up to-morrow morning—the miscellaneous appropriation bill.

Mr. BIGLER. I move that the Senate proceed to the consideration of executive business.

Mr. ALLEN. I move that the Senate adjourn.

Mr. JONES. The Senator from Pennsylvania has moved an executive session, and I hope the Senate will go into executive session.

Mr. ALLEN. I insist on my motion.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, May 26, 1858.

The House met at eleven o'clock, a. m.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER stated the first business in order to be on the report of the Committee of the Whole on the state of the Union in relation to the Senate amendments to the bill of the House (No. 201) making appropriations of the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1859.

Mr. COBB. I wish to call the attention of the House to the fact that I have a very important bill ready to report from the Committee on Public Lands, if I get an opportunity to report it in the course of the present session. I wish to have it printed, so that the House may understand exactly what it is. I ask the unanimous consent of the House to have the bill printed.

Mr. LETCHER. What is the bill?

Mr. COBB. It is a bill changing the preemption laws, and so regulating them that everybody will be able to understand them.

Mr. SEWARD. I made an appeal to the House the other day to allow me to report a bill giving a pension to the widow of Lieutenant

Herndon. I am willing that this bill should come in now, if mine can come in in the same way. Otherwise I object.

Mr. COBB. I did not object to the gentleman's bill. If he wants to object to the proposition I have made, let him do it.

Mr. SEWARD. I believe the gentleman did not object to my bill, and I will waive my objection now.

Mr. JONES, of Tennessee. Where is that bill?

Mr. COBB. Here it is.

Mr. JONES, of Tennessee. Well, then, make your report, and let it go to the Committee of the Whole on the state of the Union, and be printed.

Mr. COBB. I propose to report it, and have it recommitted to the Committee on Public Lands.

Mr. JONES, of Tennessee. Let it go to the Committee of the Whole on the state of the Union.

Mr. COBB. If the gentleman wants to object, let him object.

Mr. JONES, of Tennessee. I do object to that way of doing business.

Mr. ENGLISH. I wish to inquire what is the regular order of business, and whether it will be in order to call the committees for reports.

The SPEAKER. The regular order of business is the report of the Committee of the Whole on the state of the Union, in the amendments of the Senate to the legislative, executive, and judicial appropriation bill, upon which the main question has been ordered.

Mr. SEWARD. After the previous question was seconded, the House, by unanimous consent, went into Committee of the Whole. I hope now, by unanimous consent, we may spend an hour in calling committees for reports. I think it will facilitate business.

Mr. JONES, of Tennessee. I would inquire of the Chair if the morning hour will not commence after we have disposed of these bills upon which the main question has been ordered?

The SPEAKER. It will.

Mr. ENGLISH. I wish to inquire if there is any business that will interfere with the call of committee for reports?

Mr. GROW. I think it is of importance that we should get through with the appropriation bills, and I object to the proposition of the gentleman from Georgia.

Mr. FAULKNER. I would inquire if this day has not been set apart for the report of the committee on the Fort Snelling investigation?

The SPEAKER. The report of the Fort Snelling committee was postponed until to-day.

Mr. FAULKNER. Then I object to everything not in order.

Mr. MORRILL. The report does not come up until after the morning hour—does it?

The SPEAKER. The Chair will look into that.

Mr. STEPHENS, of Georgia. The House is rather thin this morning, and I would suggest that, by unanimous consent, the committees be called for reports which shall give rise to no discussion, for reference only.

Mr. COBB. I object to that; and call for the regular order of business.

Mr. SEWARD. I do not wish to lose my temper this morning, and I give notice that I shall object to everything except the appropriation bills.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The House then proceeded to the consideration of the Senate amendments to the legislative, executive, and judicial appropriation bill.

First amendment of the Senate:

Insert, after the item for paying the compensation of mileage of Senators:

And a sufficient sum, in addition thereto, to pay the mileage of the newly elected members of the Senate in attendance at the called executive session, commencing on the 4th day of March, 1857; but nothing herein contained shall be so construed as to allow constructive mileage.

The Committee of the Whole on the state of the Union recommend a non-concurrence in the amendment.

Mr. LETCHER called for the yeas and nays on concurring.

Mr. J. GLANCY JONES demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. DEAN and SINGLETON were appointed.

The House divided; and the tellers reported—

forty-one in the affirmative—more than one fifth the number present.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 25, nays 153; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Arnold, Atkins, Avery, Barksdale, Bennett, Bingham, Bishop, Bliss, Bonham, Branch, Bryan, Buffinton, Burnett, Burroughs, Case, Caskie, Cavanaugh, Chapman, Ezra Clark, Clawson, Clay, Clemens, Cobb, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Corning, Covode, Cox, James Craig, Crawford, Curry, Curtis, Davidson, Davis of Indiana, Davis of Mississippi, Dean, Dimmick, Dodd, Dowdell, Edie, Edmundson, Elliott, English, Fenton, Florence, Foley, Foster, Garnett, Gartrell, Gillis, Gilman, Goode, Goodwin, Grainger, Greenwood, Gregg, Groesbeck, Grow, Harlan, Haskin, Hatch, Hill, Hopkins, Houston, Howard, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelsey, Kilgore, Knapp, John C. Kunkel, Lamar, Landy, Lawrence, Lester, Letcher, MacIay, McKibbin, McQueen, Humphrey Marshall, Mason, Matteson, Maynard, Miles, Millson, Moore, Morgan, Morrill, Isaac N. Morris, Oliver A. Morse, Mott, Murray, Niblack, Palmer, Parker, Pendleton, Pettit, Peyton, William W. Phelps, Phillips, Pottle, Powell, Purviance, Ready, Reagan, Reilly, Ricard, Robbins, Royce, Ruffin, Russell, Savage, Seales, Scott, Seward, Aaron Shaw, John Sherman, Shorter, Singleton, Samuel A. Smith, William Smith, Stanton, Stevenson, William Stewart, Talbot, George Taylor, Miles Taylor, Tompkins, Trippe, Underwood, Vallandigham, Wade, Walton, Watkins, White, Winslow, Wood, Woodson, John V. Wright, and Zollcoffer—153.

So the amendment was non-concurred in.

Pending the vote,

Mr. EDIE stated that he was absent from the House on Saturday, Monday, and Tuesday last on account of ill health, and had paired off for those days with his colleague, Mr. LEIDY.

Second amendment:

In line twenty-six, under the head of "contingent expenses of the Senate," strike out "one at \$1,080 and one at \$750," and insert "at \$1,080 each," so as to make the clause read:

"Two messengers at \$1,080 each."

The Committee of the Whole on the state of the Union recommended a concurrence.

The amendment was concurred in.

Third amendment:

At the end of same paragraph strike out the gross amount of "\$78,584," and insert "\$78,914."

The Committee of the Whole on the state of the Union recommended a concurrence in the amendment.

The amendment was concurred in.

Fourth amendment:

Add at the end of line fifty-three as follows: "For the additional compensation allowed by the resolution of the Senate of the 11th of May, 1858, to a messenger in the office of the Secretary of the Senate, for the fiscal year ending the 30th of June, 1858, \$330."

The Committee of the Whole on the state of the Union recommended a non-concurrence.

The amendment was non-concurred in.

Fifth amendment:

For stationery for the fiscal year ending 30th of June, 1858, \$5,000.

The SPEAKER. The Committee of the Whole on the state of the Union recommend a non-concurrence in this amendment.

The question was taken; and the amendment was non-concurred in.

Sixth amendment:

For miscellaneous items for fiscal year ending 30th of June, 1858, \$9,000.

The SPEAKER. The Committee of the Whole on the state of the Union recommend a non-concurrence in this amendment.

The question was taken; and the amendment was non-concurred in.

Seventh amendment:

From the following paragraph strike out the word "seventy," and in lieu thereof insert "sixty:"

"For binding twenty-four copies of the Congressional Globe and Appendix for each member and delegate of the second session of the Thirty-Fifth Congress, \$8,097 50: Provided, That no greater price shall be paid for the same than seventy cents for each volume or part actually bound and delivered."

The SPEAKER. The Committee of the Whole on the state of the Union recommend a non-concurrence in that amendment.

Mr. TAYLOR, of New York. I hope that this amendment of the Senate will be concurred in.

The House divided; and there were—ayes 106, noes 38.

So the amendment was concurred in.

Eighth amendment:

To pay to the reporters of the Senate the usual extra compensation, for the third session of the Thirty-Fourth Congress, \$800 each, \$3,200.

The SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence in that amendment.

Mr. HOUSTON. I demand the yeas and nays on it.

Mr. PHELPS, of Missouri. I suggest that, as the eighth, ninth, and tenth amendments are on the same subject, the vote be taken on them together.

Mr. MASON. I object. I understand that one of these amendments is for the third session, which lasted only a few days.

Mr. PHELPS, of Missouri. I will correct the gentleman. The third session was the last session.

The SPEAKER. Debate is not in order.

The House divided on ordering the yeas and nays; and there were—ayes 21, noes 113; one fifth not voting in the affirmative.

Mr. HOUSTON. I demand tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The House divided; and there were—ayes 84, noes 68.

So the amendment was concurred in.

Ninth amendment:

To pay to the reporters of the Senate the usual extra compensation for the first session of the Thirty-Fifth Congress, \$800 each, \$3,200.

The SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence in the amendment.

Mr. HOUSTON. I demand the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 114, nays 68; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Arnold, Bingham, Bishop, Blair, Bliss, Bonham, Bowie, Branch, Bratton, Buffinton, Burlingame, Burns, Burroughs, Case, Cavanaugh, Chaffee, Chapman, John B. Clark, Clawson, Clay, Clemens, Clark B. Cochrane, John Cochrane, Comins, Covode, Cox, Cragin, Curtis, Davidson, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dick, Dodd, Durfee, Farnsworth, Florence, Foster, Gillis, Gilman, Goode, Goodwin, Grainger, Greenwood, Grow, Lawrence W. Hall, Hawkins, Horton, Howard, Kellogg, Kelly, Kilgore, Knapp, Jacob M. Kunkel, Landy, Lovejoy, MacIay, McKibbin, McQueen, Humphrey Marshall, Matteson, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Peyton, John S. Phelps, William W. Phelps, Phillips, Pike, Potter, Purviance, Quitman, Ricard, Robbins, Roberts, Royce, Scott, Sealing, John Sherman, Judson W. Sherman, Robert Smith, Samuel A. Smith, Spinner, Stanton, William Stewart, Tappan, Miles Taylor, Thayer, Thompson, Vallandigham, Wade, Walbridge, Walton, Cadwalader C. Washburn, Elihu B. Washburne, White, Wilson, and Augustus R. Wright—114.

NAYS—Messrs. Atkins, Avery, Barksdale, Boccock, Burnett, Caskie, Ezra Clark, Cobb, Cockerill, James Craig, Crawford, Curry, Davis of Mississippi, Dean, Dimmick, Edie, Edmundson, Elliott, English, Foley, Garnett, Gartrell, Goode, Gregg, Harlan, Hill, Hopkins, Houston, Hughes, Jackson, Jewett, George W. Jones, J. Glancy Jones, Lawrence, Lester, Letcher, Samuel S. Marshall, Mason, Maynard, Miles, Millson, Moore, Isaac N. Morris, Niblack, Pendleton, Powell, Ready, Reagan, Ruffin, Russell, Sandidge, Seales, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Stephens, Talbot, George Taylor, Tompkins, Trippe, Underwood, Waldron, Watkins, Woodson, Wortendyke, John V. Wright, and Zollcoffer—68.

So the amendment was concurred in.

Tenth amendment:

"To pay the reporters of the Senate the usual extra compensation, for the second session of the Thirty-Fifth Congress, \$800 each, \$3,200."

The SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence in this amendment.

The amendment was concurred in.

Eleventh amendment:

Strike out from the clause "For the compensation of the draughtsman and clerks employed upon the land maps, clerks to committees, and temporary clerks in the office of the Clerk of the House of Representatives, \$17,800," the words "draughtsman and clerks employed upon the land maps."

The SPEAKER. The Committee of the Whole on the state of the Union recommend a non-concurrence in the amendment.

Mr. CLEMENS demanded the yeas and nays upon concurring in the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 80, nays 104; as follows:

YEAS—Messrs. Abbott, Anderson, Atkins, Avery, Bliss, Boccock, Bonham, Boyce, Branch, Bryan, Burnett, Bur-

roughs, Caskie, Clemens, Cobb, Cockerill, Corning, James Craig, Crawford, Curry, Davis of Maryland, Davis of Mississippi, Dodd, Edmundson, Elliott, English, Farnsworth, Faulkner, Foley, Gartrell, Greenwood, Gregg, Harlan, Hill, Houston, Jackson, Jenkins, Jewett, George W. Jones, Jacob M. Kunkel, Leiter, Letcher, MacIay, McQueen, Humphrey Marshall, Mason, Maynard, Miller, Millson, Moore, Morgan, Morrill, Pendleton, Peyton, Phillips, Pottle, Powell, Quitman, Ready, Reagan, Reilly, Ruffin, Seales, Scott, Henry M. Shaw, Singleton, William Smith, Stephens, Talbot, Miles Taylor, Trippe, Underwood, Vallandigham, Wade, Watkins, Winslow, Woodson, Augustus R. Wright, John V. Wright, and Zollcoffer—80.

NAYS—Messrs. Ahl, Andrews, Arnold, Barksdale, Bennett, Bingham, Bishop, Blair, Bowie, Bratton, Buffinton, Burlingame, Burns, Case, Chaffee, Chapman, Ezra Clark, John B. Clark, Clawson, Clark B. Cochrane, John Cochrane, Comins, Covode, Cox, Cragin, Curtis, Davidson, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dimmick, Durfee, Florence, Foster, Gillis, Gilman, Glumer, Goode, Grow, Lawrence W. Hall, J. Morrison Harris, Thomas L. Harris, Hatch, Hawkins, Howard, Horton, Howard, Hughes, Huyler, J. Glancy Jones, Jones, Jones, Kellogg, Kelly, Kelsey, Kilgore, Knapp, Lovejoy, Matteson, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Palmer, Parker, Pettit, John S. Phelps, William W. Phelps, Pike, Potter, Ricard, Robbins, Roberts, Royce, Russell, Sealing, Seward, Aaron Shaw, Judson W. Sherman, Shorter, Sickles, Robert Smith, Samuel A. Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, White, Wilson, and Wortendyke—104.

So the amendment was non-concurred in.

[Mr. DAVIDSON, from the Committee on Enrolled Bills, here reported that they had examined and found truly enrolled a bill (H. R. No. 231) for the relief of Nancy Serena; which was thereupon signed by the Speaker.]

Mr. SICKLES moved to reconsider the vote by which the eleventh amendment of the Senate was non-concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Twelfth amendment:

From the same clause, strike out the word "seventeen" and insert "eight."

The amendment was non-concurred in.

Mr. SICKLES moved to reconsider the last vote; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Thirteenth amendment:

Insert the following:

For procuring manure, tools, fuel, repairs, purchasing trees and shrubs for botanic garden, to be expended under the direction of the Library Committee of Congress, \$2,300.

The SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence in the amendment.

The amendment was concurred in.

Fourteenth amendment:

Insert the following:

For pay of horticulturist and assistants in the botanic garden and green-houses, to be expended under the direction of the Library Committee of Congress, \$5,121 50.

The SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence.

Mr. MARSHALL, of Kentucky. I desire to ask the chairman of the Committee of Ways and Means whether these salaries are provided for by law?

Mr. J. GLANCY JONES. The salaries grow incidentally out of the law.

Mr. PETTIT. With the consent of the House, I will say to the gentleman from Kentucky that the compensation of these officers is fixed, under the authority of law, by the Joint Committee on the Library; and the appropriation is made accordingly.

Mr. MARSHALL, of Kentucky. I demand the yeas and nays.

The yeas and nays were not ordered.

The question was taken; and the amendment was concurred in.

Fifteenth amendment:

Insert the following:

For refitting and repairing damages to the green-houses by the hail storm of June, 1857, \$1,044 16.

The SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence.

The amendment was concurred in.

Sixteenth amendment:

Insert the following:

To enable the Secretary of State to carry into effect the act entitled "An act for the admission of Kansas into the Union," \$10,000.

The SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence.

The amendment was concurred in.

Seventeenth amendment:

Insert the following:

And the authority conferred upon the principal clerk of public lands, of acting Commissioner *ad interim*, in the absence, &c., of the Commissioner, by the second section of the act reorganizing the General Land Office, approved 4th July, 1836, shall be, and the same hereby is, transferred to the chief clerk of said General Land Office.

The SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence. The amendment was concurred in.

Eighteenth amendment:

Insert the following:

For the preservation of the collections of the exploring and surveying expeditions of the Government, \$4,000.

The SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence. The amendment was concurred in.

Nineteenth amendment:

Insert the following:

For the transfer to, and new arrangement of those collections in, the Smithsonian Institution, \$1,000.

The SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence. The amendment was concurred in.

Twentieth amendment:

Insert the following:

To enable the Secretary of the Interior to pay the superintendent of the building occupied by the Secretary and his Department, from the 1st day of January, 1855, to the 30th day of June, 1858, the allowance to be made to such superintendent, with his salary as clerk, not to exceed \$2,000 per annum, the sum of \$700.

The SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence. The amendment was concurred in.

Twenty-first amendment:

Insert the following:

For clerk hire, office rent, fuel, and lights at the several district land offices of the land States and Territories, to be apportioned in such manner as, in the judgment of the Secretary of the Interior, the public interest may require, \$50,000.

The SPEAKER. The Committee of the Whole on the state of the Union recommend a non-concurrence.

The amendment was non-concurred in.

Twenty-second amendment:

Strike out the following:

For compensation of the surveyor general of Utah, and the clerks in his office, \$3,000.

For rent of the surveyor general's office in Utah, fuel, books, stationery, furniture, and other incidental expenses, \$1,500.

The SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence. The amendment was concurred in.

Twenty-third amendment:

Insert the following:

And the compensation of superintendent may be allowed to the clerk who has performed, or may hereafter perform, the duties of that officer; the allowance to be made to such superintendent, with his salary as clerk, not to exceed \$2,000.

The SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence in the amendment, with an amendment as follows: after the word "who," in the second line of said amendment, strike out the words "has performed, or."

The amendment to the amendment was concurred in.

The amendment of the Senate, as amended, was then concurred in.

Twenty-fourth amendment:

Insert the following:

For defraying the expenses incurred in taking the census of the Territory of Minnesota, under the act approved 26th February, 1857, \$20,000: *Provided*, The compensation to the officers taking the same shall not exceed that allowed by the acts of 23d May, 1850, and 30th August, 1850, to those who took the census in California, Oregon, Utah, and New Mexico.

The SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence. The amendment was concurred in.

Twenty-fifth amendment:

Insert the following:

For services of special counsel, and other extraordinary expenses, in defending the title of the United States to public property in California, \$40,000.

The amendment was concurred in.

The Clerk proceeded to read the next amendment.

Mr. MORGAN. What became of the twenty-fifth amendment?

The SPEAKER. It was concurred in.

Mr. MARSHALL, of Kentucky. I wanted the yeas and nays on that amendment.

The SPEAKER. The Committee of the Whole

on the state of the Union recommended a concurrence in the amendment, and the House has already concurred in it.

Mr. MORGAN. The question was not understood.

Mr. MARSHALL, of Kentucky. I move to reconsider the vote by which the amendment was concurred in.

Mr. J. GLANCY JONES. I move to lay the motion to reconsider upon the table.

Mr. MARSHALL, of Kentucky. I ask the yeas and nays on that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 76, nays 97; as follows:

YEAS—Messrs. Adrain, Ahl, Arnold, Atkins, Boccock, Bowie, Branch, Burnett, Cavanaugh, Chapman, John B. Clark, Clay, Clemens, Cockerill, Cox, Crawford, Davidson, Davis of Indiana, Dimmick, Edmundson, Elliott, Faulkner, Florence, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, J. Glancy Jones, Keitt, Jacob M. Kunkel, Landy, Letcher, Maclay, McKibbin, McQueen, Miller, Millson, Moore, Niblack, Pendleton, Peyton, John S. Phelps, Phillips, Powell, Quitman, Reagan, Reilly, Russell, Scales, Seward, Aaron Shaw, Shorter, Sickles, Singleton, Robert Smith, Samuel A. Smith, Stevenson, George Taylor, Miles Taylor, Vallandigham, Watkins, White, Winslow, Wortendyke, and Augustus K. Wright—76.

NAYS—Messrs. Abbott, Anderson, Andrews, Bingham, Blair, Bliss, Brayton, Bullinton, Burlingame, Burroughs, Case, Chaffee, Clawson, Cobb, Clark B. Cochrane, Comins, Covode, Cragin, Curtis, Davis of Maryland, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Edie, Fenton, Foley, Foster, Garnett, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Harlan, Hill, Horton, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leiter, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Mott, Murray, Palmer, Parker, Pettit, Pike, Potter, Pottle, Ready, Ricard, Ritchie, Robbins, Roberts, Royce, Ruffin, Henry M. Shaw, John Sherman, Judson W. Sherman, William Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Trippie, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wood, Woodson, John V. Wright, and Zollicoffer—97.

So the House refused to lay the motion to reconsider on the table.

The vote was then reconsidered, and the twenty-fifth amendment of the Senate was non-concurred in.

Twenty-sixth amendment:

Insert the following:

For the employment of such number of clerks, not exceeding three, by the district attorney of the northern district of California, as may be necessary to transcribe the records of the district court in land cases, upon which appeals have been, or may be taken to the Supreme Court, such sum as may be necessary is hereby appropriated, provided the compensation shall not exceed \$150 a month, for each.

The Committee of the Whole on the state of the Union recommended a non-concurrence in this amendment.

The amendment was non-concurred in.

Twenty-seventh amendment:

Insert the following:

For the reasonable expenses of the late and present district attorneys for the northern district of California, for assistance in their office, such sum is to be paid out of the judicial fund, if such expenses shall be approved by the Attorney General: *Provided*, That those expenses shall not exceed \$300 per month: *And provided further*, That this appropriation shall be applicable only to the present fiscal year and the next succeeding fiscal year, which will terminate on the 30th day of June, 1859.

The Committee of the Whole on the state of the Union recommended a non-concurrence in this amendment.

The amendment was non-concurred in.

Twenty-eighth amendment:

In line nine hundred and thirty-seven strike out "\$5,511," and insert "\$7,920," so that the clause will read: "For the support and maintenance of said penitentiary, \$7,920 25."

The Committee of the Whole on the state of the Union recommended a concurrence in this amendment.

The amendment was concurred in.

Twenty-ninth amendment:

Insert the following:

For compensation of two additional guards, hereby authorized, \$1,320.

The amendment was concurred in.

Thirtieth, and last amendment of the Senate:

Strike out the following clause:

"No part of the amount appropriated by any act of Congress for the service of any one fiscal year shall be used for or applied to the service of any other year, nor be transferred to or used for any branch of expenditure than that for which it may be specifically appropriated: *Provided*, That nothing herein contained shall apply to the appropriations for the present or next fiscal year."

And insert in lieu thereof the following:

Hereafter the estimates for the various Executive Departments shall designate not only the amount required to be appropriated for the next fiscal year, but also the amount of the outstanding appropriation, if there be any, which will probably be required to be used for each particular item of expenditure.

The Committee of the Whole on the state of the Union recommended a non-concurrence in this amendment.

The amendment was non-concurred in.

Mr. J. GLANCY JONES moved to reconsider the several votes by which the House concurred and non-concurred in the amendments of the Senate, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

FORTIFICATION BILL.

The House then proceeded to consider the bill (H. R. No. 198) making appropriations for the preservation and repairs of fortifications and other works of defense, barracks, and quarters, for the year ending 30th June, 1859, reported yesterday from the Committee of the Whole on the state of the Union, with a recommendation that the enacting clause be stricken out.

The SPEAKER stated that the question was on concurring in the recommendation of the Committee of the Whole on the state of the Union.

Mr. BOWIE. I have an amendment to offer to this bill.

The SPEAKER. No amendment is in order at the present time.

Mr. STANTON. I call for the yeas and nays on striking out the enacting clause.

The yeas and nays were ordered.

Mr. BOWIE. Would an amendment be in order to the bill?

The SPEAKER. Not at the present stage of proceedings.

Mr. BOWIE. Would an amendment be in order if the House refuse to strike out the enacting clause?

The SPEAKER. It would depend upon what the amendment was.

Mr. JONES, of Tennessee. If the amendment made an appropriation, it would have to go to Committee of the Whole on the state of the Union, to be considered—would it not?

The SPEAKER. It would.

Mr. QUITMAN. I wish very much to introduce a proposition to recommit this bill to the committee, with instructions to report specific appropriations for the various works. I wish to know if such a motion would be in order?

The SPEAKER. Not while the motion is pending to strike out the enacting clause.

Mr. QUITMAN. Suppose that motion should be lost?

The SPEAKER. The motion would then be in order.

Mr. STANTON. If the House should reject the bill it would be in order for the Committee of Ways and Means to report a bill containing specific items of appropriation—would it not?

The SPEAKER. The Chair supposes it would.

The question was taken; and it was decided in the affirmative—yeas 99, nays 87; as follows:

YEAS—Messrs. Abbott, Anderson, Atkins, Blair, Bliss, Bowie, Bullinton, Burlingame, Burroughs, Case, Ezra Clark, Clawson, Colfax, Comins, Covode, Cragin, James Craig, Davis of Maryland, Davis of Iowa, Dawes, Dean, Dodd, Dowdell, Edie, Elliott, Fenton, Foster, Gilman, Gooch, Granger, Grow, Harlan, Hawkins, Hill, Hoard, Howard, Jewett, George W. Jones, Keitt, Kellogg, Kilgore, Knapp, Jacob M. Kunkel, John C. Kunkel, Landy, Lawrence, Leiter, Letcher, Lovejoy, Humphrey Marshall, Mason, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Phillips, Pike, Potter, Pottle, Purviance, Reagan, Reilly, Ricard, Robbins, Roberts, Royce, Sandidge, Scott, John Sherman, Judson W. Sherman, Shorter, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Trippie, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Whitley, Winslow, Wood, Woodson, and John V. Wright—99.

NAYS—Messrs. Adrain, Anderson, Arnold, Barksdale, Bennett, Bingham, Boccock, Boyce, Branch, Brayton, Burnett, Burns, Caskey, Cavanaugh, Chaffee, Chapman, John B. Clark, Clay, Clemens, Cobb, Cockerill, Crawford, Curry, Curtis, Davis of Indiana, Davis of Massachusetts, Dimmick, Durfee, Edmundson, English, Farnsworth, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Hatch, Horton, Houston, Hughes, Huyler, Jackson, Jenkins, J. Glancy Jones, Owen Jones, Kelly, Maclay, McKibbin, McQueen, Samuel S. Marshall, Millson, Moore, Niblack, Pendleton, Peyton, John S. Phelps, William W. Phelps, Powell, Quitman, Ready, Ruffin, Russell, Scales,

Seward, Aaron Shaw, Henry M. Shaw, Sickles, Singleton, William Smith, Stephens, Stevenson, James A. Stewart, Talbot, Miles Taylor, Tompkins, Vallandigham, Israel Washburn, Wortendyke, and Augustus R. Wright—87.

So the enacting clause was stricken out, and the bill rejected.

Pending the vote,

Mr. BONHAM stated that if he had been within the bar when his name was called, he should have voted in the affirmative.

Mr. STANTON moved to reconsider the vote by which the enacting clause was stricken out; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

COMMITTEE ON DOORKEEPER'S ACCOUNTS.

Mr. HUGHES. I desire to submit a report from the select committee appointed to inquire into the conduct of the late Doorkeeper; and I move that it be printed and made the special order for Tuesday next.

Mr. J. GLANCY JONES. I must object to its being made the special order.

The SPEAKER. The committee were empowered to report at any time, and it is the right of the gentleman to make the report.

The report was accompanied with a bill to provide for the folding and distribution of documents of the House of Representatives; which was read a first and second time.

The report was also accompanied with the following resolution:

Resolved, That all extra copies of books and documents printed by order of the House of Representatives, and divided equally among the members of the House, are intended for gratuitous distribution to public libraries and among the people, and are given to members respectively in trust for that purpose; and that any other use or disposition of the same is a violation of the trust aforesaid, and an abuse which meets the unqualified disapprobation of this House.

Mr. GREENWOOD. I move to postpone the subject until the first Tuesday in December next.

Mr. LETCHER. I want to know if this subject can take precedence of the Fort Snelling report, which has been set down for to-day?

The SPEAKER. The objection comes too late, in the opinion of the Chair. The question is first upon the motion of the gentleman from Arkansas [Mr. GREENWOOD] to postpone until the first Tuesday in December next.

Mr. LETCHER. Well, sir, I think that ought not to be done. Now, sir, when a man who is or has been an officer of this House is arraigned before the House on grave charges made against him, it is due to him, and it is due to the members of the House, that the House should fix an early day for his trial, in order that the charge may not fester in the public mind. I think it is due to the party charged and to ourselves that the matter should be taken up and disposed of during the present session.

Mr. HUGHES. I would respectfully suggest to the House that they can better understand the merits of this matter if they will allow it to be postponed until the report has been printed. They can then dispose of it as they see proper.

The SPEAKER. The Chair would suggest that if the subject be postponed till Tuesday next, it will then be competent for the House to postpone it until a further day, if it shall see fit.

Mr. STANTON. Will that make it a special order?

The SPEAKER. No further than it is now. The authority given to the committee to report at any time involves the necessity of disposing of it. But it is within the control of the House to postpone the further consideration of it until any day they may see proper.

Mr. WALBRIDGE. Will it come up as a special order on Tuesday?

Mr. GREENWOOD. I understand that this is a matter which will not be in the way of the business of the House. I will, therefore, withdraw my motion to postpone until December next.

The motion to print and postpone until Tuesday next was agreed to.

LOAN BILL.

Mr. J. GLANCY JONES. I appeal to the House to allow me to submit two reports from the Committee of Ways and Means. Unless they are now received and referred, it is hardly possible that they will be acted on in time for the adjournment.

There being no objection,

Mr. J. GLANCY JONES, from the Committee

of Ways and Means, reported a bill to authorize a loan, not exceeding the sum of \$15,000,000; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

EXPENSES OF COLLECTING THE REVENUE.

Mr. J. GLANCY JONES, from the same committee, reported back a bill making an appropriation for the expenses of collecting the revenues from customs; which was referred to the Committee of the Whole on the state of the Union.

FORT SNELLING INVESTIGATION.

The SPEAKER stated the business in order to be on the resolutions reported by the Fort Snelling investigating committee, as follows:

Resolved, 1. That the sale of the military post at Fort Snelling and so much of the reservation attached to it as was necessary for military purposes, made on the 6th day of June, 1857, under the authority of the Secretary of War, the same being then and now retained under the authority of that Department because necessary for military purposes, was without authority of law.

2. That the said sale was made by the Secretary of War notwithstanding his knowledge of the official opinions of his predecessor, the Hon. JEFFERSON DAVIS, and of other officers in superior military command to the contrary, without consulting with, without the advice, and without the knowledge of any officer in the service of any rank, leaving the question of the retention of that post to the discretion of the commissioners appointed to make the sale; and that this action on the part of the Secretary of War was a grave official fault.

3. That with a knowledge of the great value of the Fort Snelling post and reservation, and the importance of great caution and judgment in making the sale, the Secretary of War appointed as agents for the purpose, unqualified, inexperienced, and incompetent men.

4. That provision for and management of the sale were so negligently, carelessly, and injudiciously made, as to induce a successful combination against the Government, exclude all competition, and bring a loss on the Government.

5. That John C. Mather, agent of the Department of War for the examination and sale of the Fort Ripley reservation, after having already joined a combination for the purchase of the Fort Snelling reservation, acted, in making such purchase, in violation of his official duty, and against the known policy of the Government, and that, as to him and Richard Schell, represented by him as agent, and Steele and Graham, who were complicated in the sale with him, with a full knowledge of this official character, the sale of the Fort Snelling reservation was at the time and is now void.

Mr. MORRILL took the floor.

Mr. DAVIS, of Indiana. I ask the gentleman from Vermont to yield to me for a moment.

Mr. MORRILL. Certainly.

Mr. DAVIS, of Indiana. I move that the consideration of the report of the select committee in reference to the sale of Fort Snelling be postponed until the second Tuesday in December next. I make that motion on my own responsibility, without consultation with any human beings; and I do it for the simple reason that we are now within eight working days of the close of the session, and that it will take two days to dispose of this question. It is absolutely necessary that the practical business of this Congress shall be closed before the time fixed for the adjournment. If this question is taken up and debated, as it necessarily will be debated, it will require two or three days to get through with it. I believe that it can be postponed without doing any injustice to the country, and I make the motion to postpone in good faith.

Mr. MORRILL. Mr. Speaker, so far as I am concerned personally, I would prefer to go on now. I do not desire to interrupt more important business, but if the other side desire a longer time to examine the testimony, and it shall be the sense of the House to postpone this matter to a day certain in next week, I will make no objection. I prefer that it should not go over until next session. If the gentleman will modify his motion to make it a special order for Tuesday next, I shall have no objection. By that time we will get through with all of our appropriation bills, and, I hope, have time to consider it.

The SPEAKER. Does the gentleman decline to yield the floor to the gentleman from Indiana to submit the motion he has indicated?

Mr. DAVIS, of Indiana. I trust that the gentleman will allow my motion to be put to the House, that its sense may be taken on it.

Mr. MORRILL. I will allow the motion to be made; and will move, as an amendment, that the matter be postponed until Tuesday next.

Mr. DAVIS, of Indiana. If it is to be considered at all during this session, I say let it be taken up to-day.

Mr. MORRILL. I will allow the motion to be put, and the sense of the House taken on it.

Mr. FAULKNER. I desire to say that in my present condition of health it may be desirable that this discussion should not proceed now. Yet I believe that justice to the Secretary of War demands that this House should act on this question; and, sir, for one, I am unwilling that there shall be one moment's further delay about it. We are ready to meet the accusation in all its forms, and to have it disposed of by the judgment of this House.

Mr. JOHN COCHRANE. I demand the yeas and nays on the motion of the gentleman from Indiana.

Mr. PHELPS, of Missouri. It seems to me a little surprising that, when this House has directed an investigation to be made of the conduct of one of the Cabinet officers of this Government, and the committee of the House has reported a resolution of censure—when you have arraigned the Secretary of War—when you have preferred your bill of indictment against him, there should be an effort to postpone its further consideration. I think that it is our duty to investigate the matter, and to make up our judgment on the resolutions reported in this case, and either to relieve the Secretary of War from having done anything wrong or exceeded his authority, or to censure him. By agreeing to the motion pending, you leave him with the charge preferred against him, hanging over him until the next session. It seems to me to be an unprecedented procedure. Gentlemen say we have not time to attend to it. Why, we are salaried officers; and why should we not sit here and discharge the public business which devolves upon us? I am as anxious to leave this city, and return to my family, and to mingle with the people of my district, as any member of this House; but I am willing to remain here, and extend the session, if it is necessary, in order to transact the public business before us. Here is a proposition to postpone the consideration of this question until the next session of Congress. I ask whether the members of this House will be any better prepared then than they are now to act upon it? I ask if they will be any better prepared to discuss this question, if we are to have a discussion, than they are at this moment? Then, I appeal to members of the House to vote down the proposition to postpone, and let us proceed to the consideration of this matter.

The question was then taken; and it was decided in the negative—yeas 26, nays 167; as follows:

YEAS—Messrs. Abbott, Bingham, Brayton, Burroughs, Chaffee, Ezra Clark, Davis of Maryland, Davis of Indiana, Farnsworth, Groesbeck, Harlan, Horton, Howard, Kelsey, Humphrey Marshall, Oliver A. Morse, Mott, Nichols, Potte, Ricard, Seward, Aaron Shaw, William Stewart, Underwood, Wade, Walbridge, and Waldron—26.

NAYS—Messrs. Adrain, Ahl, Anderson, Andrews, Arnold, Atkins, Avery, Barksdale, Bingham, Bishop, Blair, Bliss, Biscoe, Bonham, Bowie, Boyce, Branch, Bufinton, Burlingame, Burnett, Case, Caskie, Cavanaugh, Chapman, John B. Clark, Clawson, Clay, Clemens, Cobb, Clark R. Cochrane, John Cochrane, Colfax, Conins, Corning, Covode, Cox, Cragin, James Craig, Crawford, Curry, Curtis, Davidson, Davis of Iowa, Dawes, Dean, Dick, Dimmick, Dodd, Durfee, Edie, Edmundson, Elliott, English, Faulkner, Fenton, Florence, Foley, Foster, Garnett, Gartrell, Gillis, Gilman, Gilmer, Gooch, Goode, Granger, Greenwood, Gregg, Grow, Lawrence W. Hall, Hatch, Hawkins, Hill, Hoard, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kellogg, Kelly, Kilgore, Knapp, Jacob M. Kunkel, John C. Kunkel, Lamar, Landy, Leiter, Letcher, Lovejoy, Maclay, McQueen, Samuel S. Marshall, Mason, Maynard, Miles, Millson, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Murray, Niblack, Palmer, Parker, Pendleton, Pettit, John S. Phelps, William W. Phelps, Phillips, Pike, Potter, Powell, Purviance, Quitman, Ready, Reagan, Keilly, Ritchie, Robbins, Roberts, Royce, Ruffin, Russell, Sandidge, Scales, Searing, Henry M. Shaw, John Sherman, Judson W. Sherman, Shorter, Sickles, Singleton, Robert Smith, William Smith, Spinner, Stallworth, Stanton, Stevenson, James A. Stewart, Talbot, Tappan, George Taylor, Miles Taylor, Thayer, Thompson, Tompkins, Trippie, Vallandigham, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, White, Wood, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—167.

So the House refused to postpone the subject till December next.

Pending the vote,

Mr. STEWART, of Maryland, stated that Mr. DAVIS, of Mississippi, had paired off.

After the announcement of the vote, as above recorded—

Mr. BURNETT. I ask the gentleman from Vermont to yield to me for a moment. I under-

stand from the gentleman from Vermont that he desires that this question may be postponed until next Thursday week, so that we may take up the appropriation bills, pass and send them to the Senate. I am willing to accede to that proposition, if it will meet the unanimous consent of the House.

Mr. HOUSTON. If the consideration of this report is postponed until Thursday week, we may just as well consent to let it go over until the next session of Congress. When that day comes, there will be no time to take it up and discuss it.

Mr. SINGLETON. I object.

Mr. BURNETT. I wish to modify the proposition. I will make it next Tuesday.

Mr. DAVIS, of Maryland. I move to postpone its consideration until next Tuesday.

The SPEAKER. The Chair cannot entertain the motion except by unanimous consent. The Chair would call the attention of the gentleman to the latter clause of the 55th rule, which says:

"No motion to postpone to a day certain, to commit, or to postpone indefinitely, being decided, shall be again allowed on the same day, and at the same stage of the bill or proposition."

Mr. RUFFIN. I object.

Mr. GROW. The first motion was to postpone until next session. This motion is to postpone until next week.

The SPEAKER. It is a motion to postpone until a day certain.

Mr. BURNETT. I understand that the gentleman who objected to the report going over until next Tuesday, withdraws it.

Mr. RUFFIN. I withdraw it.

The SPEAKER. If there is no objection, the further consideration of the report will be postponed until Tuesday next.

No objection being made, it was so ordered.

Mr. WHITTELEY. I ask the unanimous consent of the House to introduce for reference the fortification bill, which I offered yesterday as an amendment to the bill reported by the Committee of Ways and Means.

Mr. LETCHER. I object.

Mr. DAVIS, of Indiana. Is not the regular order of business the call of committees for reports?

The SPEAKER. It is.

Mr. DAVIS, of Indiana. Then I call for the regular order of business.

NAVAL APPROPRIATION BILL.

Mr. GROW. I think we had better get through the appropriation bills, and send them to the Senate; and, therefore, I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. SICKLES in the chair,) and resumed the consideration of the bill (H. R. No. 199) making appropriations for the naval service for the year ending the 30th of June, 1859.

The first reading of the bill having been dispensed with, the Clerk commenced the reading of the bill by clauses for amendment, and read the first clause.

Mr. COLFAX. I would suggest, from the experience of yesterday, that the better plan would be to close debate upon this bill, and have all the debate under the five-minute rule.

Mr. J. GLANCY JONES. I propose to do that very thing, and for that purpose I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, the chairman reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly a bill making appropriation for the service of the naval department for the year ending June 30, 1859, and had come to no conclusion thereon.

CLOSE OF DEBATE.

Mr. J. GLANCY JONES. I offer the usual resolution to close the debate in the Committee of the Whole on the state of the Union on the naval appropriation bill in five minutes after the committee shall again resume the consideration of the same.

Mr. BOCKOCK. I move to amend the resolu-

tion by striking out "five minutes," and inserting "two hours," and I desire to make a statement to the House. This is the bill making appropriation for the support of the Navy. Sometimes it has been the case that the Committee of Ways and Means have exercised the courtesy towards the Committee on Naval Affairs to consult them somewhat in relation to the bill making appropriations for the naval service of the country. That has not been done in this instance. We were not aware that this bill was to be called up at the time it was called up. It came upon us altogether by surprise. When I saw that the bill had been taken up last evening in the Committee of the Whole on the state Union, I intended to make a statement of the facts—

Mr. PURVIANCE. Is this question debatable?

The SPEAKER. The Chair thinks debate is not in order, if it is objected to.

Mr. PURVIANCE. I object.

Mr. BOCKOCK. The gentleman from Pennsylvania this morning agreed that the bill should be laid aside and another bill taken up.

The SPEAKER. Debate is not in order.

Mr. BOCKOCK. Well, my amendment is in order, and I insist on it.

Mr. SMITH, of Virginia. I would like to understand the Chair. I understand that the question is on closing debate in five minutes, and is it not in order to hear reasons bearing upon that question?

The SPEAKER. It has been the uniform practice not to entertain any debate whatever upon a resolution proposing to close debate.

Mr. HOUSTON. I desire to ask the chairman of the Committee of Ways and Means a question.

The SPEAKER. Debate is objected to.

Mr. HOUSTON. I am not proposing to debate the question. I suppose I have a right to ask a question. I desire to know how much this bill appropriates?

Mr. DEAN. I object to debate.

Mr. HOUSTON. Will the chairman of the Committee of Ways and Means answer my question?

Mr. FLORENCE. I submit that the proposition of my colleague to close debate upon this bill is not in order, inasmuch as the bill has not yet been considered in Committee of the Whole. I submit further that it is not in order, after debate has been closed, for the Committee of the Whole to strike out the enacting clause of the bill, because yesterday the bill reported by the Committee of Ways and Means in reference to fortifications, was—

The SPEAKER. The Chair will decide that question when it arises.

Mr. FLORENCE. Well, I move to amend the proposition so as to provide that the committee shall not strike out the enacting clause.

The SPEAKER. The Chair decides the amendment to be out of order, on the ground that it is not germane to the original proposition. It is a change of the rules of the House.

Mr. FLORENCE. I thought it was entirely consistent with the rules of the House. I want the matter considered by the House. The fortification bill was not considered at all yesterday.

Mr. LOVEJOY. I make the point of order, that after the Chair has decided the amendment out of order, it is not in order for the gentleman to go on and argue it.

The SPEAKER. It is not in order.

Mr. J. GLANCY JONES. I wish the unanimous consent of the House to make one or two remarks in reply to the remarks of the gentleman from Virginia as to the taking up of this bill last evening.

Mr. HOUSTON. I object. I was not allowed to debate the question.

The SPEAKER. Objection is made, and debate is not in order.

The question being upon Mr. Bockock's amendment to the resolution,

Mr. FLORENCE demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. CLAY demanded tellers.

Tellers were ordered; and Messrs RUSSELL and WALDRON were appointed.

The House divided; and the tellers reported—ayes 56, noes 86.

So the amendment was rejected.

The resolution was then adopted.

Mr. HOUSTON. If there is no objection, I propose to move that the Committee of the Whole on the state of the Union be discharged from the further consideration of the naval appropriation bill, and that it be brought into the House for consideration. It only appropriates ten or twelve millions—a matter of very slight importance; and why not bring it out of committee and pass it at once?

The SPEAKER. The motion of the gentleman from Alabama is not in order.

Mr. HOUSTON. It is in order by unanimous consent: is it not?

The SPEAKER. The Chair supposes so.

Mr. HOUSTON. Then I propose, if there be no objection, to submit that motion. The House has agreed to cut off all debate in committee upon this subject, and why not bring it into the House at once?

Mr. DEAN and others objected.

The SPEAKER. The Chair cannot entertain the motion of the gentleman from Alabama.

Mr. J. GLANCY JONES. I move to reconsider the vote by which the resolution was agreed to; and also move that the motion to reconsider be laid on the table.

Mr. CLAY. I ask for the yeas and nays.

Mr. J. GLANCY JONES. I withdraw the motion; and move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. SICKLES in the chair,) and resumed the consideration of the

NAVAL APPROPRIATION BILL.

The first section of the bill was read.

Mr. SMITH, of Virginia, obtained the floor.

Mr. J. GLANCY JONES. I wish to know if I am not entitled to the floor to close debate?

The CHAIRMAN. The gentleman will be entitled to the floor for that purpose after the gentleman from Virginia [Mr. SMITH] shall have occupied the five minutes, at the end of which the House has ordered that debate shall be closed.

Mr. HOUSTON. Is the gentleman entitled to close a debate which has never been opened.

The CHAIRMAN. Under the rule of the House, the gentleman from Pennsylvania having reported the bill under consideration, is entitled to one hour in which to close debate.

Mr. SMITH, of Virginia. It was my wish, but that I have been very unwell for some days past, to call the attention of the committee to a provision in this bill which I regard of very considerable importance. It is known, I suppose, to this committee, that the service provided for in the particular clause to which I refer, was first authorized under the resolution of 1845. I allude to the service between the Atlantic and the Pacific, between New York and San Francisco. The contracts were made, as I am informed, by some species of combination in legislation which I do not understand, between the Secretary of the Navy and the Postmaster General. The contract commenced on the 1st of October, 1848, and terminates, by its own terms, on the 1st of October, 1858. It is under consideration, as I understand, upon the passage of this proposition, to continue this service under the old contract. In other words, if this clause is passed without qualification, the effect will be to continue this old contract which has been so beneficial to the parties interested in it, as I conceive, against the public interest, as also against the indignant resistance of the whole Pacific coast. It was my intention to have drawn the attention of the committee very carefully to the consideration of this subject, and to have presented the question, whether or not a company which has grown from nothing—from the mere bounty of the Government—into an immense concern, of large wealth, shall be placed for the future beyond the chance of competition? I have no time under the action of the House to present the facts which I have in my possession upon this subject; but I state that this company, which has been carried on on capital furnished by the United States—that is, by money advanced by law to particular individuals—has grown rich in the service, and now it is proposed to continue this monopoly to them, unless a provision is inserted in this bill to prohibit it.

I do not desire to detain the committee. I will, however, call their attention briefly and rapidly to a few statements upon this subject. The mail service on one of these routes, from New York to Aspinwall, commenced in 1848; and I understand it has been construed to extend for a period of years to come. The other, from Panama to San Francisco—

[Here the hammer fell.]

Mr. J. GLANCY JONES. Mr. Chairman, in the House I submitted a resolution closing debate in the Committee of the Whole on the state of the Union within five minutes after the consideration of the Navy appropriation bill was resumed, for the reason that I believed it was the desire of the House to get through with the appropriation bills without unnecessary debate, with a view to the adjournment on the 7th of June. I wish to say a word or two in reply to the gentleman from Virginia—

Mr. BOCOCK. I rise to a question of order on the gentleman from Pennsylvania, that it is not in order for him to refer to anything but the bill under consideration. I do not care, however, what he says, provided that I be heard in reply. If he goes on and I get up to respond, some gentleman on the other side will call me to order. If it be agreed that I shall be allowed to reply, I have no objection to his going on; for I am in for it.

Mr. J. GLANCY JONES. I have no intention to make any remark unkind, uncharitable, and unfair, but merely to say that the gentleman from Virginia was laboring under a misapprehension in regard to the taking up of this bill.

Mr. BOWIE. I rise to a point of order. I want to know what is unkind, uncharitable, and unfair, under the rules? [Laughter.]

The CHAIRMAN. The Chair will decide questions as they arise. He does not think that there is any necessity for a decision of the question raised by the gentleman.

Mr. BOWIE. There is no charity about that. [Laughter.]

Mr. J. GLANCY JONES. I wish to correct a misapprehension of the gentleman from Virginia. This bill was not taken up of my own accord.

Mr. STANTON. What question is before the committee?

The CHAIRMAN. The Navy appropriation bill; and the gentleman from Pennsylvania is now occupying the floor under the rule, in closing the general debate.

Mr. STANTON. I insist; then, that his remarks shall be confined to the bill; and I shall object to anything outside of the legitimate discussion of the bill.

The CHAIRMAN. The Chair has intimated that debate must be confined to the bill.

Mr. LEITER. I wish to ask the Chair—

Mr. WRIGHT, of Tennessee. I object.

Mr. LEITER. To my asking a question?

Mr. WRIGHT, of Tennessee. Yes, sir.

Mr. LEITER. I will make a point of order. I make the point that the gentleman from Pennsylvania cannot close debate in the hour he is allowed under the rule, until the bill has been read through by sections for amendment.

The CHAIRMAN. The Chair thinks, as the time allowed for general debate has terminated, that the chairman of the Committee of Ways and Means is now entitled to the floor to close debate.

Mr. LEITER. Has the bill been read through?

The CHAIRMAN. The first reading of the bill was dispensed with by unanimous consent.

Mr. LEITER. I make the point that debate cannot be closed until the bill has been read through for amendment.

The CHAIRMAN. The Chair overrules the point of order of the gentleman from Ohio on the ground he has already stated.

Mr. J. GLANCY JONES. I have to say that, if gentlemen do not want to take up the time of the committee, they will let me proceed without interruption. I do not intend to occupy more than five or ten minutes.

Mr. SEWARD. Mr. Chairman—

Mr. WRIGHT, of Tennessee. I object to the interruption, unless it is to raise a point of order.

Mr. SEWARD. Do I understand the Chair to say that the five-minute debate has closed?

The CHAIRMAN. The Chair has only decided that the general debate has been closed, under the order of the House.

Mr. J. GLANCY JONES. This bill was not taken up in committee, in preference to other appropriation bills, on my motion. My desire was that the committee should take up the bill to pay the volunteers. I did not want to take up the Navy appropriation bill until I had heard from the Committee on Naval Affairs. So far from having objection to any communication with that committee, I was, on the contrary, willing to hear from them; and I will say that my own opinions are in accordance with what I understand to be their opinions. This appropriation bill was taken up because it was the first upon the Calendar. When it was up, the chairman of the Committee on Naval Affairs asked me whether I had any objection to take up another bill. I told him that I would be willing to do so, provided I could obtain the consent of the House. It was the wish of the House that the consideration of the bill should be proceeded with.

I am not aware, I confess, that it is the duty of the chairman of the Committee of Ways and Means to seek consultations with the chairmen of other committees of the House, with a view to regulate the appropriation bills; but I consider that it would be discourteous, in case of a chairman of a committee desiring to consult with the Committee of Ways and Means on a certain matter, if the request were not cheerfully complied with. I do not understand, however, that it is the duty of the chairman of the Committee of Ways and Means to seek interviews with other committees, in order to know how they wish the appropriation bills to be drawn up. I am utterly ignorant of any rule requiring such action; and if I have committed an error on that score, it is to be ascribed not to design, but to my ignorance.

Mr. Chairman, this is the usual Navy appropriation bill. The estimates of the Secretary of the Navy for the last year were \$13,062,561 79; and for the next fiscal year \$13,680,448 23. These estimates were reduced to the very lowest point at which, in the opinion of the Secretary of the Navy, this very important branch of the service of the Government can be carried on. The committee are aware of its immense importance at this particular crisis; and so far as I am informed upon the subject, the great feeling manifested upon the part of the Committee on Naval Affairs, is with a view of increasing, instead of diminishing, the appropriation, by adding four steam sloops for the service. The Secretary of the Navy was of opinion that \$13,680,448 was the smallest amount with which the service could be carried on; but the Committee of Ways and Means, after frequent consultation, and after a careful and scrutinizing examination of the items, succeeded in reducing the appropriation \$538,894. That reduction was not made upon the principle that the whole sum was not necessary for the efficient service of the Naval Department, but upon the ground that the scarcity of money required that, for the next fiscal year, we should reduce the expenditures to the lowest possible amount. Every dollar estimated for is absolutely required, if you want to make the Navy thoroughly efficient. In reducing it to the lowest possible point of efficiency, you may dispense with \$500,000; and the Committee of Ways and Means have so recommended. The appropriation then asked for for the next fiscal year, for this branch of the public service, is \$13,149,544 23, not including what may be added by some small amendments which I intend to offer.

I propose, Mr. Chairman, to offer some five amendments, and I will refer to them now, to save the necessity of explaining them when I shall offer them. The first two amendments do not increase the appropriation at all, but merely direct in what manner the appropriation shall be applied. The third amendment is an appropriation of \$3,000 to pay for a code ordered by Congress. The fourth is an appropriation of \$110,000 to pay the expenses of courts of inquiry by naval officers ordered by Congress, and held in this city, and not yet paid for. The fifth amendment is to appropriate \$5,000 to pay for charts of the navigation and exploration of the La Platte river.

I ask the Chair, now, what portion of my time I have consumed?

The CHAIRMAN. About twenty minutes.

Mr. J. GLANCY JONES. I am willing to yield the remainder of my time to the chairman of the Committee on Naval Affairs.

Mr. BOCOCK said the gentleman from Pennsylvania, [Mr. J. GLANCY JONES,] the chairman of the Committee of Ways and Means, had agreed distinctly, in a consultation this morning, that this bill might go over for the present, and that other bills might be considered this evening in its stead. Whatever condition the gentleman might have contemplated in agreeing to this arrangement was tacit, and not expressed. He (Mr. B.) knew nothing of such condition; he was entirely unprepared to present to the committee the several subjects which he had designed to bring forward in connection with this bill. He had therefore some reason to complain of the course which had been pursued; he had no unkind feeling towards the gentleman from Pennsylvania, on the contrary, he respected him. And, in complaining of his action in this matter, he did not intend to be unnecessarily harsh.

The gentleman made use of one remark, a few minutes ago, which he considered rather unkind. He (Mr. B.) objected to his making a statement in relation to the understanding between them this morning unless he could reply. The gentleman from Pennsylvania remarked that he was sorry that he (Mr. B.) should take refuge under the rules of the House against his statement. If he had been disposed to be unkind, the retort was at hand. He could have reminded the committee that men take refuge sometimes from storms of hail; but sometimes also from storms of wind. He refrained, however, and contented himself with merely saying that, if he could be allowed to reply, he wished the gentleman from Pennsylvania to go on. Let all this pass. If the Committee of Ways and Means had consulted the Committee on Naval Affairs in relation to this bill, as has been done heretofore, we should have been ready with our amendments and suggestions, and this difficulty might have been avoided. He knew that many of the members of the Committee on Naval Affairs expected to be consulted.

Mr. LOVEJOY. I do not wish to interfere, but I submit whether it is in order for the gentleman to discuss questions of etiquette between committees of this House.

Mr. BOCOCK. Why did not the gentleman raise this question on the gentleman from Pennsylvania? I know the gentleman from Illinois is a master of etiquette, and I invoke his judgment upon his own course in this matter.

Though not having time enough to discuss all the subjects arising under this bill, to which the attention of the Committee on Naval Affairs has been directed, and being not prepared, in fact, to do justice to any of them, I cannot refrain from calling attention to one of them. The Committee on Naval Affairs have directed me to report a bill for the construction of ten small sloops-of-war, with full steam power, and drawing not more than twelve feet of water. This measure was recommended by the Secretary of the Navy at the beginning of the session, and surely circumstances have not tended since then to render the measure less wise.

Mr. B. then proceeded to enforce the importance of the proposed measure by a variety of considerations. The improvements which have been made in gunnery render small vessels comparatively much more effective than formerly. A few small vessels, armed with large guns, can terribly annoy and perhaps destroy the largest sized vessel in the British or American Navy, armed with many more guns than all the small ones together. Then the ports of all the southern coast of the United States, and those of Mexico and Central America, are so shallow that a vessel drawing more than fourteen feet of water can enter none of them at low water, except, perhaps, that of Brunswick, in Georgia.

It would be a great saving of expense to have a number of these small vessels, because one or two of them, together with one of the larger steamers which we have recently constructed, would constitute a sufficient force for almost any of our squadrons. And it is much cheaper to keep these vessels afloat than one of the larger class of our steamers.

Mr. B. alluded to recent occurrences in the Gulf of Mexico, and suggested that, in view of them, this would be a judicious measure. He was no alarmist; and did not desire to inflame the public mind precipitately or unnecessarily. These occurrences had been made, he knew, the subject

of negotiation with the British Government. The negotiation was in safe hands. He had every confidence that it would be well managed. But nothing, he would submit, was better calculated to give weight to argument and emphasis to diplomacy than to be prepared to defend our rights if negotiations failed.

He hoped that the conduct of these British naval officers would be repudiated by their Government, and that ample reparation would be made for the outrages which had been committed upon our rights and upon our honor.

It cannot be denied, however, that these outrages have been too numerous, and too long continued, to admit the idea that they are accidental. It is clear that they spring from system and design. Whence that design emanates, it is impossible to say. Time will determine. We must look at the case in all its aspects, and be prepared for any contingency that may arise. For one, he was prepared to say, that the claim to the right of visitation or search is one that can never be allowed to the British navy. It is injurious to our honor, and invasive of our rights, and is founded in a false interpretation of international law.

Mr. B. proceeded to suggest many considerations on this subject, going to show the necessity for the construction of a number of small steam vessels of war, and gave notice that he would move an amendment to the bill, giving authority for their construction.

The Clerk proceeded with the reading of the bill.

The following clause being under consideration:

"For increase, repair, armament, and equipment of the Navy, including the wear and tear of vessels in commission, fuel for steamers, and purchase of hemp for the Navy, \$2,850,000."

Mr. BRANCH moved to strike out the words "fifty thousand dollars," and said: I had already made up my mind that the circumstances surrounding our public affairs at this time render it proper that there should be an increase in our naval force, before hearing the perspicuous remarks of the chairman of the Committee on Naval Affairs, [Mr. BOGGS.] I have not, therefore, in offering this amendment, designed to indicate any desire to reduce the amount of appropriation applicable to an increase of our Navy; but simply to call the attention of the committee to the indefinite character of this clause of the bill. It will be observed that it appropriates \$2,850,000 for increase, repair, armament, and equipment of the Navy, including the wear and tear of vessels in commission, fuel for steamers, and purchase of hemp for the Navy. I think it of great importance to make all appropriations specific, as far as circumstances will permit, and object to the unspecific character of the appropriations made by this clause.

By referring to the estimates laid before us at the commencement of the present session, for information as to what objects are embraced under that item, I find there is nothing to throw light upon it, except the simple words "construction, &c., \$2,850,000." I find that in the same book of estimates almost an entire page, in small type, is taken up with small items in regard to the medical bureau, altogether amounting to only \$32,150, while only one word and a few figures are devoted to explaining to the House the objects to which this large appropriation is designed to be applied. If it is for an increase of the Navy, that is very well; but as I understand it, we are to be called upon hereafter to vote a separate and specific appropriation for increasing the Navy. If it is for repairs, we ought to have some specification of the items in the way of repairs which are to cost more than two and a half million dollars. Then there is the general clause for the "equipment of the Navy, including the wear and tear of vessels in commission, and fuel for steamers." Now, it seems to me that, at least, we might have a separate estimate of what the fuel for our steamers would cost; that we might be informed by some persons connected with the Navy Department how much fuel our war steamers consume, and how much we should appropriate to purchase it.

Again: there is the clause "for the purchase of hemp." I think we might have information as to how much of this appropriation is to be applied to the purchase of that article.

I object to this system which has grown up, of grouping a great many objects together, no way congruous to one another, and appropriating a large sum of money in general terms, which, in fact, amounts to no more nor less than allowing the heads of bureaus to expend the money for such objects as they may please.

[Here the hammer fell.]

Mr. J. GLANCY JONES. The gentleman from North Carolina takes exception to this item of \$2,850,000 on account of the appropriation not being sufficiently stated in detail. The chief part of this appropriation of two million and odd dollars is consumed in the reconstruction of ships which, perhaps, in less than two years will be otherwise entirely useless.

The Secretary of the Navy has again and again urged upon Congress the policy and expediency of constructing new vessels of a proper class; but up to this time Congress has pertinaciously refused to appropriate money to build steam vessels of a light draught, and has gone on, in the teeth of the recommendations of the Secretary of the Navy, and of all the officers of the Navy, and has appropriated money to reconstruct old sailing-vessels. Part of this appropriation is for that purpose.

Now, I wish to say in regard to the estimates, that the gentleman from North Carolina did not read the caption, which is a little fuller than what he did read. But the Secretary of the Navy has in his Department—as have all the other heads of Departments—everything that goes to make up this estimate. At the opening of the Congress, the book of estimates is laid upon the desk of every member; and it is the duty of the Committee of Ways and Means, and the privilege of every member of Congress, to go to the Departments and examine into the details which make up the estimates. But to facilitate the transaction of business, it becomes necessary to condense them.

I will add that the Committee of Ways and Means have examined the details, and compared them with former estimates; and they have not recommended the appropriation of a single dollar, except the amount necessary to carry out the laws of Congress. The gentleman from North Carolina has had his book of estimates since the commencement of the session; and it was his privilege at any time to go to the Departments and examine the details of these estimates.

Mr. BRANCH. I understand that the very object of having the estimates laid before us is that they may be in a convenient and accessible form for each member to refer to without having the trouble of going to the Departments.

Mr. J. GLANCY JONES. I would say to the gentleman that the present mode of preparing the estimates is in strict conformity with law. If the gentleman from North Carolina will modify the law, the Secretary will comply with it; but these estimates are in compliance with law.

Mr. BRANCH. I withdraw the amendment.

Mr. BOWIE. I offer the following amendment: For Fort Madison, in the harbor of Annapolis, \$15,000, in aid of the national Naval School at that point.

Now, sir, that amendment is in order here; and it is in order everywhere, and at all times. It is for the protection of your great school of naval tactics. It is in order, because it proposes to supply a national want, and not a sectional one. It is something that appeals to the great heart of the nation. It is something that appeals to the patriotism of every man in the country, whether he comes from the North or the South, from the East or the West.

Now, sir, this Naval School at Annapolis happens to be in my congressional district. I take care of it for that reason, and also because it is a part of the glory of the great country in which I live. It belongs to you as well as to Maryland; and you are bound to provide for this great national defense. You may very well leave out some of the appropriations which have been rejected by Congress, but you cannot leave out this, because it is one of the great defenses of your capital. Every man who has read the history of the last war with Great Britain knows very well how the enemy insidiously attacked us. [Laughter.] Every man knows that they first attempted to come up the Potomac, but Fort Washington was in the way to blow up their ships, and they could not come up. Well, then they tried to go up to Baltimore, but Fort McHenry was in the

way to blow them up, and they could not pass it. They landed three miles below it, and marched nine or ten miles to the city of Baltimore.

Suppose that a war were to take place to-morrow between this country and England: we all know that a treaty of alliance exists between England and France, and no man can doubt for a moment that those two countries would join in an invasive war against the United States of America. The truth is, that I want no alliance with any nation. I want the great progress of Democracy. [Laughter.] I do not mean Democracy, mind you, in the sense of sectionalism, or in the sense of mere partyism; but I mean that eternal Democracy which comes from a power higher even than conventions—the Democracy of the people.

[Here the hammer fell.]

The amendment was not agreed to.

Mr. MARSHALL, of Kentucky. I propose the following amendment:

After line twenty-one insert as follows:

Provided, That there shall not be purchased any larger quantity of hemp of foreign growth for the use of the Navy than shall be required to meet the deficiency in the supply of the American article, as reported to the Navy Department from quarter to quarter, by the agents appointed to procure the article of American growth.

I will not detain the committee by any extended remarks. That proviso embodies the best plan I can devise to compel the execution of the existing law, according to its true spirit. Year after year, for a long series of years, it has been the effort of Congress to have the article of American water-rotted hemp used by the American Navy. Some cause continues to prevent our success. Upon examination in the Department during the week past, I ascertained that we had only been so far successful as to have secured the purchase of seventy-four tons of the American article for the use of the American Navy within the last five years. Now, sir, there are many constituents of my own who would supply the Department with American water-rotted hemp; indeed, one did make a contract with the Department for the supply of four hundred and fifty tons per annum of the American article; but the Department vacated that contract, and seems afterwards to have failed to procure any of the American article for national use. It will be perceived by the House at once, that the object of my amendment is to require American hemp to be purchased for the use of the American Navy, and to compel the Department to comply with the action of Congress.

A MEMBER. Provided the American article is as good.

Mr. MARSHALL, of Kentucky. It must be as good, for it will have to bear the same test. The existing law does not require that it shall be taken except when it bears the same test. My amendment is offered in good faith, and I trust it will meet the approbation of the committee.

Mr. BRANCH. I move to amend the amendment of the gentleman from Kentucky by adding at the end, the following:

Provided, It can be purchased on as good terms, price and quality considered, as it can be gotten elsewhere.

It appears to me that this is a new feature of the protective system. I acknowledge, with the gentleman from Kentucky, that if we have the means within ourselves of supplying our ships with everything that is necessary, I should prefer that it should be done; but I gather from hearing the amendment of the gentleman from Kentucky read, that if we pass a law to that effect it will place such restriction upon the Navy Department that they would be compelled to purchase their hemp without regard to price or quality. I think it would be placing the Government completely in the power of the hemp-growers. I gather from the amendment of the gentleman that there is not hemp enough of proper quality raised in the country to supply what the Navy needs. Then, if such be the fact, those who raise it would have it in their power to demand just such a price and to impose upon the country just such an article as they think fit. I certainly have no disposition to deprive the American hemp-growers of any advantage they can have consistent with the actual interest of the Government. If it can be purchased as good and at as good prices of them as it can be elsewhere, I am ready, so far as my vote is concerned, to accord to them that measure of protection; but I must protest against passing any law that will place the Government, as to

price and quality, completely within the power of those who raise the article.

Mr. MARSHALL, of Kentucky. I will say to the gentleman from North Carolina, that I have no desire to produce any such result; but that, after repeated experiments, this is the only mode I can devise by which to get the American article procured for the American Navy at all. When I inform the gentleman that as early as 1850, the policy was adopted, as appears from your statute-book, to prefer American water-rotted hemp to the foreign article, if it can be procured on as good terms, and of as good quality, and that all we have been able to sell for the American Navy in the last five years is seventy-four tons, the gentleman will see the necessity of my amendment. It is not that our farmers do not produce the article, nor that they are unwilling; but the fault lies in the administration of the Navy Department. The object of my amendment is to let the Navy Department understand that under the existing law we intend to have the American article purchased for the American Navy, and that they shall not make contracts for the foreign article, unless a deficiency of the American article shall appear by regular quarterly reports from the agents of the Department, who may be sent among the hemp growers to procure our own article.

Mr. BRANCH. As I understand—for I desire information upon the subject—the Secretary of the Navy is to be required to purchase all the American hemp, before he is allowed to go elsewhere. If that is to be the requirement, what is there to prevent the dealers in American hemp from demanding just such prices as they think proper?

Mr. MARSHALL, of Kentucky. I say to the gentleman from North Carolina, that the existing law provides that the American hemp purchased for the use of the Navy shall bear the test now required by law. Both the quality and price are fixed by law. My amendment will not alter the law, except so far as to require the Secretary to execute the existing law. The price is specified in the law.

Mr. BRANCH. Is the price specified in the law above or below what good hemp can be purchased at elsewhere?

Mr. MARSHALL, of Kentucky. I have not referred to the law, but my recollection is that the American article is to be procured by the Navy Department, if it can be procured at the price at which the Russian article rated for five years preceding the date of the law. I will say frankly to the gentleman, that the Russian article is now purchased in New York and Boston, and is probably furnished to the Government at some three or four dollars less, by the ton, than it was five years ago.

Mr. CLAY. If not too much trouble, I would ask my honorable colleague to refer to the law, so that we may be exactly informed on the subject.

Mr. CLEMENS. I have the law here.

Mr. MARSHALL, of Kentucky. I yield to the gentleman from Virginia to read it.

Mr. CLEMENS. I find, by the first act passed, that the Secretary of the Navy is authorized to purchase or contract for hemp for a period not exceeding three years. By the act of May 9, 1848, the Secretary of the Navy is authorized to purchase hemp for a period not exceeding five years, and provided that the same can be had of equal quality with the best foreign hemp, at a price not exceeding the average price of said hemp for the last preceding five years.

Mr. MARSHALL, of Kentucky. The existing law does not allow them to make a contract, but requires the Department to go into the market overt to make purchases. I think that this provision was inserted in the Navy appropriation bill of 1851.

Mr. CLEMENS. I have found that law, and will read it.

The CHAIRMAN. Debate on the amendment has closed.

Mr. BOCK. Have I not a right to be heard in opposition to the amendment of the gentleman from Kentucky?

The CHAIRMAN. The gentleman would be in order at the time the gentleman from Kentucky closed his speech in favor of his amendment, and before the amendment to the amendment was considered.

Mr. BOCK. I take an appeal from the decision of the Chair.

Mr. BRANCH. I thought that the gentleman from Kentucky accepted my amendment.

The CHAIRMAN. That is not the understanding of the Chair.

Mr. BRANCH. Then I insist on a vote on my amendment.

Mr. CLEMENS. I desire to read the existing law for the information of the committee.

Mr. BINGHAM. I object. Let us get on with the bill. We understand the question.

The question was taken on the amendment to the amendment, and it was agreed to.

Mr. BOCK. I claim the right now to be heard in opposition to the amendment of the gentleman from Kentucky. There were five minutes of debate in explanation of the amendment, and not one word has been said in opposition to it; whereas the rule provides that five minutes shall be allowed in explanation of an amendment, and five minutes in opposition.

Mr. BURNETT. I understood that the amendment of the gentleman from North Carolina [Mr. BRANCH] was accepted by the gentleman from Kentucky.

The CHAIRMAN. It was not accepted.

Mr. BURNETT. Then the gentleman from North Carolina spoke in opposition to the amendment of the gentleman from Kentucky.

The CHAIRMAN. The Chair will state the ground of his decision. The gentleman from Kentucky [Mr. MARSHALL] offered an amendment, and spoke five minutes in its favor. If the gentleman from Virginia [Mr. BOCK] had risen then, and before the amendment to the amendment offered by the gentleman from North Carolina [Mr. BRANCH] was considered, he would have been entitled to speak five minutes in opposition. The Chair regards debate as being closed on the amendment of the gentleman from Kentucky. The question now is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was taken; and the decision of the Chair was sustained.

The question was then taken on the amendment of Mr. MARSHALL, of Kentucky, as amended; and it was agreed to.

Mr. GROW. I move to reduce the appropriation in the following paragraph to \$2,000,000:

"For increase, repair, armament, and equipment of the Navy, including the wear and tear of vessels in commission, fuel for steamers, and purchase of hemp for the Navy, \$2,850,000."

At almost, or quite, every session that I have occupied a seat on this floor, reasons have been urged for the increase of the Navy. At one time it is one exigency, and at another time another and a different one. And thus, from year to year, has the Government been called upon to increase the Navy. We have doubled its expenses since 1844, and have added some new ships. The reason urged to-day is that difficulties have occurred in the Gulf of Mexico with the British cruisers. Whether the acts of those officers are to be sustained by the British Government, or not, is not yet known. Until it is, there is no more reason for our increasing the Navy than there has been for years past, for difficulties have occurred with different nations for a number of years past in the Gulf. We have had some difficulty with Spain. Since filibustering commenced upon Central America and Cuba, those difficulties have been more frequent. Yearly, every new occasion is seized upon and urged as a new reason why the expenses of this Government should be swelled to a larger amount. The professed Utah war was seized upon and made the ground for a demand upon the Government to add five new regiments to our standing Army, and thus make a permanent increase of that number, because, forsooth, there was a danger of war with the Mormons in Utah. But the latest news from there shows that there is no trouble with the Mormons. Now we are asked, because of some difficulties in the Gulf, to add to the Navy; and I apprehend, when we hear from England, that these troubles will be all settled. By reports from Utah it appears that we have no need for an addition to the Army, for no war exists; and commissioners can go to Utah, and establish a peace to-day without the assistance of a soldier.

But, as I said before, the Government is called upon, from session to session, to increase the force

of its Navy and Army, in order to increase, to an enormous extent, its patronage and its power. It is against this general tendency that I object. A Government made great by lavish expenditures, and its great patronage and power, is not a Government in harmony with the genius of our institutions or the character of our people. While we have a mercantile marine larger in tonnage than any nation on the earth, why need we apprehend any danger from any foreign Power? True, our war Navy is small, but it was so in the last war, and yet we wrested the trident from the proud mistress of the seas while in our infancy, upon the bosom of the mighty deep. If collision comes, why cannot you convert your mercantile marine into a hostile force, as you did in 1812, and at a less expense than it would be to be constantly increasing the Navy? Rely upon the exigency of the hour, and the expenses of the Government will be far less by converting your private ships into a mighty armed force to meet the exigency when it arises. You need no navy to keep a hostile force from landing upon your shores; for on land we can bid defiance to the world in arms. We need a navy only to protect our commerce. But that is as safe to-day, under our marine power, as it was in 1812. The disparity between our Navy and that of England is no greater now than it was then. But we have gone on since 1844 increasing its expense from about six million dollars a year up to thirteen million. Thus are we swelling up these enormous expenses which are not to be controlled when once incurred. We go on increasing the expenses of Government and the taxes upon the people from year to year, and all the excuse we have in this case is that we fear a hostile force will land upon our shores.

Mr. COVODE. I oppose the amendment of my colleague from Pennsylvania, and I desire to reply to the remark of the gentleman that our Navy now compares as favorably with the English navy as it did at the time of the war of 1812. I desire to call attention to a fact which the gentleman from Pennsylvania and this House do not appear to know, and that is that Great Britain, at the close of the Crimean war, had in her service, in good repair, five hundred war steamers. In addition to that, she had the control of four hundred and fifty mail steamers, which she could call upon, for war purposes, at any time. She had, then, a war fleet of nine hundred and fifty vessels, fit for war at any time, while the United States has only twenty war steamers, eight of which are not in a condition to go out of harbor. Such is the comparative condition of the two countries, so far as the steamer force is concerned.

The British navy, in fact, has the control of the sea. Talk about fighting England with our Navy! If we fight England, her ships have got to come upon our coast. We cannot meet upon the high seas; for I assert, without fear of successful contradiction, that we are not able to cope with such a navy with our insignificant force. England's mail steamers are organized into ninety-one lines running direct from England, and twenty-five lines running between foreign ports, in connection with them; and in addition to the nine hundred and fifty war and mail steamers, she has a merchant steam marine of over nine hundred and fifty vessels, making in all over one thousand nine hundred sea-going steamers.

Mr. WINSLOW. I move to amend the amendment by adding one dollar to the amount. I merely wish to state I think my friend from Pennsylvania [Mr. GROW] is in error. The clause of the bill now under consideration is not a bill for the increase of the Navy, but it is the usual clause for the repair of the wear and tear of the Navy, and to render your vessels sea-worthy.

Mr. GROW. The word "increasing" is used in the very commencement of the clause.

Mr. WINSLOW. I so understand; but under this clause the authority is not given to the Secretary of the Navy to add new vessels. That authority is always conferred by express legislation. But he has authority, from time to time, to render sailing vessels into steam vessels. If you strike out this appropriation, you will throw many of your vessels entirely out of commission. There are only twenty-three vessels in commission in the United States, and if you reduce this appropriation you could not keep half of that fleet in a condition for sea-service.

I have in my hand some statements in regard

to our Navy, showing its comparative condition in 1816, and in January, 1858. In 1816 we had forty-nine sail of vessels on the Atlantic sea-board and in commission in foreign service, of an aggregate tonnage of 30,000, and on the lakes twenty-five vessels of an aggregate tonnage of 17,000, making in all seventy-four vessels of 47,000 tons. The Navy then having been actively employed in the war with Great Britain, and subsequently in the Mediterranean, under Commodores Decatur and Bainbridge, against the Barbary pirates, was in efficient condition, and a large proportion of the vessels were in sea-going condition.

In 1858 we had seventy-seven sail of vessels of all descriptions and classes, including line-of-battle ships, frigates, sloops-of-war, store and receiving-ships, also including six new steam sloops-of-war on the stocks, with two line-of-battle ships also building, of an aggregate tonnage of 134,916. Of the battle-ships there are but two that could be sent to sea, namely, the Vermont and Ohio, and not without extensive repairs. The remainder all require thorough repair, at a large cost, and perhaps an alteration to heavy razeed frigates. Of the frigates, there are six in sea-worthy condition; and of the sloops-of-war, in sea-worthy condition, there are twenty-one; and of the brigs, three. The tonnage of these sea-worthy sailing vessels is 35,839. The tonnage of our steam navy is 47,067. The total tonnage of our steam navy and sailing vessels, then, is 82,906. The tonnage of our Navy in 1816 was 30,000. The increase, then, in forty-two years is 52,906 tons.

The tonnage of all our naval force, including that of the lakes, in 1816, was 47,000; and in January, 1858, it was 134,916; showing an increase of total tonnage in forty-two years of 87,916 tons.

The total tonnage of our commercial marine in 1816, was 850,000; in 1858, it is 5,000,000; showing an increase in forty-two years of 4,156,000 tons.

In 1816, we had seventy-four vessels of all classes; and in 1858, we had seventy-seven; being an increase of three.

In 1816, a large proportion of the Navy was not only in efficient condition, but in actual sea-service duty.

In 1858, there are in good, sea-worthy condition forty-eight sail of vessels; six new steam propeller sloops on the stocks and two new steam-propeller frigates—the Franklin and Stevens, war steamers—making in all fifty-six vessels. In commission, at sea, we have twenty-three vessels.

So that it appears that the total tonnage of the Navy has increased since 1816, while, numerically, the Navy stands, with regard to effective ships, nearly the same.

It will be seen that, independent of any extraordinary reasons for an increase of the naval force, it is demanded by the great expansion of our commercial marine; and to show the necessity, it is unnecessary to resort to other arguments. The bare statement of its condition is in itself an argument. But it is felt that, owing to the proceedings in the Gulf, and the aggressions on our ships and seamen by the petty Powers of Central America and Mexico and South America, we ought to have a large force in those seas. When this necessity was felt, we had no available force but the Water-Witch, Arctic, and Dolphin, mounting in all but seven or eight guns. The aggressions recently complained of are upon vessels owned by the northern States of the Union. It comes with ill grace from the Representative of the powerful State of Pennsylvania to oppose measures for the protection of the rights of her people and ship-owners.

Mr. PHILLIPS. I was sorry, Mr. Chairman, to hear my colleague oppose the appropriation in this bill, because, independently of any thing else, it is strikingly in contrast with the action of the last House of Representatives, of which he was a prominent and influential member. I have before me, not only the estimates of this year, but also those of last year, and I find that the clause in last year's bill contained the very same word, "increase," which seems now to provoke the apprehensions of my colleague. The estimate then was exactly the same as was then appropriated—\$2,877,000. That sum was appropriated by the House of Representatives, being \$27,000 more than is now asked for. Every gentleman ought to recognize the necessity of at least

keeping the Navy now up to what it has been in years past. There may come a time, Mr. Chairman, and probably will within a few days, when, according to the suggestion of the chairman of the Committee on Naval Affairs, this House may be asked to vote a sum of money for the purpose of effecting a real increase of the Navy. But when things wear, at least, a doubtful, if not a threatening aspect, and when no one who cares for the commerce of the country, or the character of the country, would want to see the Navy diminished, my colleague [Mr. Grow] proposes to strike \$2,000,000 from the appropriation, leaving an insignificant, trifling, and nominal appropriation.

I regret, quite as much as the gentleman from North Carolina [Mr. Winslow] does, that the objection should have come from a gentleman from my State—a State which has so much at stake, as well in commerce as in everything else that is protected by the Navy of the United States. If there had been a demand made to increase the usual appropriation, there might have been some excuse for my colleague. But the last week, nay, the last day, might have suggested to some gentleman the propriety of authorizing the officers of the Government, at their discretion, to use an increased amount. The amount estimated for is but the amount required in time of peace—an amount required to equip our Navy, so as that it may deserve the name of a navy. It is not to increase our Navy, though, if half what we hear be true, we may be required very shortly to increase it. I am sorry that any of my colleagues, members from a State which derives so much material aid and benefit from the protection of our Navy, should rise in his place and ask to strike out what is virtually the entire appropriation, so as to let our ships go to rot. What will be our Navy without ships in proper equipment and repair? A few years since, officers were dismissed because they had nothing to do, owing to the dilapidated state of the Navy. Then they wanted to do without men, and now it is sought to do without ships. I hope his amendment will be voted down, and that a sum corresponding to that demanded by the Secretary of the Navy will be appropriated.

Mr. WINSLOW. I withdraw my amendment.

Mr. FENTON. I offer the following amendment, to come in at the end of the twenty-first line:

Provided, That in case any person, while engaged on board of any vessel which may be built under the authority of this act, shall be disabled by wounds or otherwise, while in the line of his duty, and in the service of the United States, he shall be entitled to a pension, according to the nature or degree of his disability, to commence from the date of such disability, and continue during his natural life, or the continuance of his disability; the amount of said pension to be regulated according to existing pension laws. That the pensions which have been granted, or which may hereafter be granted, to officers, non-commissioned officers, musicians, privates, artificers, rangers, sea-fencibles, volunteers, express-riders, seamen, marines, pilots, engineers, firemen and coal-heavers, and other persons, in the land or naval service of the United States, disabled by wounds or other injuries received while in the line of their duty, shall be considered to commence from the time of their being so disabled; and the amount of pension to which said officers, non-commissioned officers, musicians, privates, artificers, rangers, sea-fencibles, volunteers, express-riders, seamen or marines, pilots, engineers, firemen and coal-heavers, and other persons, may be entitled, shall be regulated according to existing laws in relation to the pay of invalid pensioners: *Provided*, That the amount of pension which any persons above-named have received shall first be deducted from the pension to which he is entitled under this act. That in case of the death of any officer, non-commissioned officer, musician, private, artificer, volunteer, express-rider, sea-fencible, pilot, seaman, marine, engineer, fireman or coal-heaver, or other person, mentioned in the first section of this act, before or after the passage thereof, the amount which may be due to such person under the provisions of this act shall be paid to his widow; and in case of her death, to his surviving child or children; and if none, then to the next of kin of the persons provided for by the first section of this act.

Mr. J. GLANCY JONES. I rise to a point of order. This amendment proposes general legislation.

Mr. FENTON. Mr. Chairman, it appears to me in order and entirely just, while we are preparing for the general defense, by extending our fortifications and increasing our Navy, to provide for those gallant men who have hitherto, in time of our country's greatest peril, defended its flag and maintained its honor.

The CHAIRMAN. The amendment is not in order under existing laws.

Mr. SEWARD. I offer the following amendment:

To pay the contractors for building cisterns, erecting por-

ticoes to commandant's house and officers' quarters, to complete poricoes on mess' quarters, pavement and curb for commandant's house and officers' quarters, at marine barracks, Pensacola, Florida, so as to fully complete said marine garrison, \$16,800.

Mr. J. GLANCY JONES. Is that in accordance with existing laws?

Mr. SEWARD. Yes, sir; the last Congress provided for the building of marine barracks at Pensacola, Florida. This is to complete the work. I understand that estimates for the work have been sent to the Navy Department. It can be done much cheaper by the present contractor than in any other way; and I think it politic for the amendment to be adopted, and the money to be appropriated now. I have got no interest in the matter, but I think it is right in itself, and ought to be voted in.

Mr. LETCHER. It strikes me that the better plan would be to get the estimates which are said to be at the Navy Department before we undertake to act upon them. It may very well follow that the Navy Department did not think it a matter of much interest, and therefore did not transmit the estimates here.

Mr. SEWARD. I have seen the communication of the gentleman having charge of the navy-yard at Pensacola; but I am not one of those who like to write private letters to the Departments. I think when the President of the United States sends his annual message to Congress, it is all that we have a right to attend to. Therefore, I did not put myself to the trouble of calling on the Department for information. I know this is right, and ought to be voted in.

Mr. LETCHER. Well; but it strikes me that it is the duty of the Secretary of the Navy, if such an appropriation as this is necessary, not to wait to be applied to for a letter on the subject.

Mr. WINSLOW. I understand that these estimates were furnished by the Navy Department to the Committee on Naval Affairs.

Mr. SEWARD. I believe that is so.

The amendment was agreed to.

Mr. J. GLANCY JONES. I offer an amendment, in the clause providing for the Boston navy-yard, after the word "rope-walk," insert the words "machine shop and for," so that it will read:

For reservoirs, boiler-house, chimney and boilers at rope-walk machine-shop, and for altering tur-kettles, machinery and bobbins for rope-walk, machinery for machine-shop and foundry, extension of dry-dock, and repairs of all kinds, \$203,500.

That does not increase the appropriation, but merely directs how a portion of it shall be applied.

The amendment was agreed to.

Mr. TAYLOR, of New York. I offer an amendment, in the clause in relation to the New York navy-yard, after the word "yard," insert the words "and filling in the new purchase," and strike out "\$269,516," and insert in lieu thereof, "\$320,166;" so that it will read:

For boiler-house and setting boilers, water pipes, drains, quay wall, sewer extended to quay wall, boiler to dredger, timber basin, repairs of oakum-shop, filling ponds in yard, filling in the new purchase, dredging channel and sews, piling site for marine barracks, machinery for machine-shop, boiler-shop, saw mill, foundry, smithery, and brass foundry, and repairs of all kinds, \$320,166.

Mr. LEITER. I object to that amendment.

The CHAIRMAN. The amendment is in order.

Mr. TAYLOR, of New York. If the gentleman from Ohio will listen to me for a few moments, he will not object, I am certain. The amendment adds \$50,650 to the appropriation already in the bill for filling in the new purchase, which is indispensably necessary. The appropriation is recommended by the Department, and is accepted by the Committee of Ways and Means. The gentleman will find the recommendation in the book of estimates, page 233; and this is the precise amount recommended by the bureau.

The appropriation is necessary on the score of economy. Dirt for the filling in can now be had at a moderate price; but if the Government permits that which it can now get to be sold to private individuals, it will cost them at least one third, and perhaps one half, more hereafter. There is a scarcity of waste dirt for building purposes in the neighborhood. About half a mile from the place required to be filled in there is now a sufficient quantity of dirt for the purpose, but it is being exhausted every year by private individuals; and unless the Government takes it up now,

the necessary material will cost at least one half more. It is, therefore, a matter of economy; it is recommended by the Department, and is essential. I hope that, as the Committee of Ways and Means approve the amendment, there will be no objection to it.

The amendment was agreed to.

Mr. J. GLANCY JONES. I offer the following amendment, to come in at the end of the clause which has just been amended:

And the amount heretofore appropriated for the coal-house may be applied to the completion of the store-house.

The amendment was agreed to.

Mr. FLORENCE. I move to amend the clause in relation to the Philadelphia navy-yard by inserting between "shop" and "additional," the words "limits of the navy-yard," and by increasing the appropriation from \$97,214 to \$222,214, so that it will read:

For extending gun-carriage shop, limits of the navy-yard, additional story to plumber's shop, dredging channel and repairs of dredger, repairs of dry-dock, and repairs of all kinds, \$222,214.

Mr. LETCHER. I raise a point of order upon that amendment. I want to know if there is any law for this purchase which the gentleman proposes to make?

Mr. FLORENCE. There is a law authorizing the purchase of the ground now occupied by the navy-yard.

Mr. LETCHER. That is a horse of another color, altogether.

Mr. FLORENCE. I desire, in order to facilitate the purposes of the navy-yard at Philadelphia, to extend its limits.

Mr. LETCHER. Before my friend goes on, I hope the Chair will decide the question of order.

The CHAIRMAN. The Chair was only waiting to hear the statement of the gentleman from Pennsylvania with reference to there being any existing law authorizing the purchase. Unless the gentleman can point the Chair to such a law, the Chair must rule the amendment out of order.

Mr. MILLSON. I offer the following amendment, to come in under the head of "Norfolk:"

For machinery and tools for new foundry and machine shop, \$16,000.

Had it been understood that the naval appropriation bill would be taken up to-day, there would have been, I am informed, a communication received from the Navy Department asking for this appropriation; but as there is a very urgent necessity for it, I beg leave briefly to explain. The Department has just ordered the commencement of the construction of one of the engines for a sloop-of-war, ordered to be built by the last Congress, at the new foundry just completed at Norfolk, Virginia. It is only two or three days since a report has been received from the chief engineer, that, in order to be able to complete the engine for the ship, it will be necessary to procure additional tools and machinery, costing about sixteen thousand dollars. I have examined the detailed estimates at the bureau, and I do not remember the precise amount, but it is something near sixteen thousand dollars. The communication would have been forwarded from the Navy Department to have been acted on by the Committee of Ways and Means, if it had been anticipated that the naval appropriation bill would be taken up to-day. I know the fact, however, that these tools and machinery are necessary to complete the work which has been commenced.

The new foundry at that navy-yard has been lately finished, and it is, perhaps, the best in the United States. I have said the engine for the new steamer has been ordered to be constructed there, and unless provision is made for these new tools and machinery, it will be necessary to construct portions of the work at other foundries, and the cost of transportation will be nearly as much as the whole appropriation I have asked for; while those tools and machinery will be required at that foundry, within a very short time, for the construction of other work. It will, therefore, be a matter of economy to make the provision now; and I hope, after this brief explanation, there will be no difficulty in adopting the amendment.

Mr. J. GLANCY JONES. All I have to say in regard to the amendment of the gentleman from Virginia is simply this: the Department, as I have already said, have tried to reduce the estimates to as low a point as possible. They have not estimated for this work, although I understand

they have estimated for everything which they consider necessary for the next fiscal year.

Mr. MILLSON. Will the gentleman from Pennsylvania allow me to explain?

Mr. J. GLANCY JONES. In a moment. I was proceeding to say that, after the Department had sent in the estimates, and placed them at as low a point as they felt themselves justified, the Committee of Ways and Means have felt themselves bound to cut down even those estimates as much as possible.

Mr. MILLSON. I will state to the gentleman from Pennsylvania that it was only on Monday last that a report was received from the chief engineer stating these facts. It was not because they did not deem it necessary, that the Department failed to estimate for it. The Department knew it to be necessary. I give my personal assurance of that fact; but they failed to estimate because they were not then apprised of the tools and machinery necessary for the completion of that foundry and machine shop.

Mr. J. GLANCY JONES. I have no doubt that what the gentleman states is correct. We took these estimates as they were furnished to us. The Secretary of the Navy estimated for contingencies. If this does not fall within the class of contingencies estimated for—and I suppose perhaps it does not—the committee has heard the application of the gentleman for an appropriation of \$16,000, and I wish to say that the only objection I can have to it is that we have not sufficient money in the Treasury to meet any expenses that are not absolutely necessary. I have no other objection.

The amendment was not agreed to.

Mr. SEWARD. I offer the following amendment to come in after the 139th line:

To continue or carry on the work as contemplated by the act approved January 28, 1837, authorizing the establishing a naval depot on Blythe Island, at Brunswick, on the coast of Georgia, \$300,000.

This matter has been before the Naval Committee, and a bill has been reported to this House which has been referred to the Committee of the Whole on the state of the Union, with the unanimous recommendation that the appropriation be made. At the last session of Congress a naval depot was established at Brunswick, Georgia, by, I believe, fifty-six majority, on a vote by yeas and nays, in this House, and by a vote in the Senate of more than two to one.

No estimates have been sent in from the Navy Department, for the reason that the purchase of the land had not been completed and the jurisdiction of the State of Georgia had not been ceded at the time the regular estimates of the Navy Department were made up. The House will see that they have already recognized the correctness of the appropriation by the provisions heretofore made, and it will be an economy of time by making the appropriation in this bill, and thus save the necessity of taking up the other bill reported by the Committee on Naval Affairs.

I thought we ought to have had \$600,000; but, in consideration of the hardness of the times, the Naval Committee unanimously agreed to recommend an appropriation of \$300,000. Purchase of the land has been completed; the title is good; jurisdiction of the State of Georgia has been ceded; and they are ready to go on with the work. I hope there will be no objection to the amendment.

Mr. LETCHER. I raise the point of order, that the amendment is not in order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. SEWARD. I appeal from the decision of the Chair.

The CHAIRMAN stated the question to be, "Shall the decision of the Chair stand as the judgment of the committee?"

Pending the vote, by division,

Mr. SEWARD. I do not want to embarrass the committee; but I ask that we shall have a vote on the proposition when we go into the House. I withdraw my appeal.

Mr. PENDLETON. I move to insert the following as a new paragraph:

For the completion of the marine hospital at Cincinnati, Ohio, \$50,000.

Mr. LETCHER. I raise a point of order on that amendment. My point is, that it has no legitimate connection with this bill. This is a Navy appropriation bill.

The CHAIRMAN. The Chair thinks that the point of order is well taken.

Mr. FLORENCE. I move to add the following to the paragraph for the Philadelphia navy-yard:

And to extend the advantages and use of the dry-dock by removing the wall to a line south of its present location, and to add to the railway, \$150,000.

Mr. PHELPS, of Missouri. I make the point that that amendment is not in order, for the reason that it is not germane to this bill.

The CHAIRMAN. The Chair sustains the point of order.

Mr. FLORENCE. I hope objection will be withdrawn to this amendment. It is moved with a view to increase the facilities of the Philadelphia navy-yard.

Several MEMBERS. Order!

The CHAIRMAN. The gentleman is not in order.

The Clerk proceeded with the reading of the bill.

Mr. LETCHER. Here are sundry appropriations for Mare Island, California; and I would inquire of the gentleman from California whether that island is a part of the property which is now the subject of litigation and controversy? If it is, then it seems to me that the Government ought to make no further appropriation until that question as to the title is settled, so that we may know whether or not we are making improvements upon our own land.

Mr. SCOTT. In answer to the inquiry of my friend from Virginia, I will say that the title to Mare Island is vested in the United States. It was, I think, purchased from M. Vallejo in 1853. It is not a matter of controversy, and the Government has a clear and unquestionable title to the land and the improvements upon it.

Mr. WINSLOW. I move to insert the following:

And it is hereby provided that the compensation of the watchman employed at the United States observatory and hydrographical office shall be the same as that paid to the several watchmen employed in the Executive Departments of the Government.

I move the amendment in obedience to the recommendation of the Department. It only increases the salary \$100, and does not increase the appropriation at all.

The question was taken; and the amendment was agreed to.

Mr. GARNETT. I move to strike from the following paragraph "26," and in lieu thereof to insert "20:"

"For preparing for publication the American Nautical Almanac, \$26,880."

I move this amendment in order to ask a question. I desire to call the attention of the chairman of the Committee of Ways and Means to the amount of this appropriation. It seems to me that \$26,880 is a large amount to be appropriated for this purpose. I wish to know whether it is the same amount that was appropriated last year?

Mr. J. GLANCY JONES. I will answer the gentleman fully. Here are the items as published in the estimates:

<i>Estimate of the amount required for the American Ephemeris and Nautical Almanac for the fiscal year ending June 30, 1859.</i>	
For salaries of computers.....	\$16,250 00
For purchase of paper, printing, &c., in order to publish in the year 1859, the Nautical Almanac for the year 1862, and for occasional printing, stationery, books, binding, &c.....	3,630 00
For the twenty-four new planets discovered since 1849.....	3,000 00
For new planetary tables.....	1,000 00
For auxiliary tables.....	1,000 00
For extra editions of the volumes already published.....	800 00
Clerk.....	500 00
Contingent, including rent of office, fuel, servant hire, &c.....	700 00
	\$25,880 00

Amount appropriated for the year ending June 30, 1858..... \$26,880 00

The appropriation for the last year was precisely what is now asked to be appropriated.

Mr. GARNETT. It is desirable that in appropriating money, we should get a *quid pro quo*. Amongst the items, if I heard them correctly, is one for the discovery of new planets. I should like to know the basis according to which such work is valued? How much is each planet considered to be worth? It appears to me to be the

most extraordinary item I ever heard of. For discovering twelve new planets, \$3,000!

Mr. J. GLANCY JONES. It was deemed so well known, that no further notice than is mentioned has been taken of this item.

Mr. GARNETT. I confess that I was ignorant, and I am willing to be ignorant, and I know the House will excuse it when I am accompanied by the learned gentleman from Pennsylvania, [Mr. J. GLANCY JONES.] Here is an observatory which you have built; you provide instruments for it, and pay the clerks and watchmen, and everybody about it; and, finally, you make a special appropriation of \$3,000 to pay for the discovery of new planets! I submit that such an appropriation ought not to be in this bill. And, then, \$16,000 of this appropriation is to pay the computers. I ask who these computers are? Are they United States naval officers?

Mr. J. GLANCY JONES. Some of them are. Mr. GARNETT. Then you were paying them two salaries.

Mr. J. GLANCY JONES. Though officers of the Army or Navy, they are not, when employed on this service, paid one dollar as officers.

Mr. GARNETT. The gentleman says that some of them are officers. You make an appropriation here to pay all these officers, so that they must be receiving two salaries.

Mr. J. GLANCY JONES. Officers of the Army or Navy are detailed for this duty whenever they are wanted and they can be spared from the service; but they are paid only one salary.

Mr. GARNETT. I am willing to pay for this Almanac; I am willing to pay for the paper, and the printing, as it is a scientific work, but I am not willing to pay \$3,000 for the discovery of new planets. Nor am I willing to pay double salaries. The honor of discovering a new planet is enough, without any pay. And if we are to pay, I contend that it is an indignity to the planets to pay only \$250 a piece for them. I move to strike out the \$3,000 for the new planets.

Mr. LETCHER. I am a little astonished that my colleague should kick up such a rumpus about these planets. I should suppose that a gentleman in his condition would be willing to pay more than that for Venus alone. [Laughter.]

Mr. MAYNARD. I want to know if Venus is a new planet in Virginia? [Renewed laughter.]

The question was taken on the amendment offered by Mr. GARNETT; and it was not agreed to.

Mr. STANTON. I move to strike out the whole clause in relation to the publication of the American Almanac. I understand that the Almanac is prepared by officers of the Government, who are paid regular salaries by the Government as such officers.

Mr. WINSLOW. The gentleman is mistaken. Most of them are not officers of the Government.

Mr. STANTON. If I am mistaken in that, I withdraw my amendment.

Mr. WASHBURN, of Maine. Mr. Chairman, I move to substitute the word "four" for "five," in the two hundred and twentieth line, and to strike out the words "three hundred," in the two hundred and twenty-first line. I offer this amendment for the purpose of enabling me to ask a question of the chairman of the Committee of Ways and Means.

I wish to inquire what he and the Administration, whose organ upon this floor he is, propose to do with these five new steam-sloops, when they shall have been constructed? Does not he know how nearly impossible it now is, and for a long time has been, to fill the crews of our ships of war already afloat, and in other respects prepared for service? and is he ignorant of the fact, that the party to which he belongs has procured the passage of a bill in the other branch of the Legislature, and which is now on the table of the Speaker of this House, calculated, if not intended, to destroy our chief source of supply of native seamen? Sir, it is a fact, well known and indisputable, that more than two thirds of the men who compose the crews of our Navy are foreigners, and that not less than three fourths of the sailors in our merchant marine are also of foreign birth; and even with this resource, it is with the greatest difficulty, and only after the most injurious delays and embarrassments, in many cases, that these branches of service can be supplied with adequate crews. I speak, not against foreigners, but of the difficulty of procuring seamen. Add to the number of vessels in the Navy, and this difficulty

will be increased, and the disproportion between native and foreign-born seamen enlarged. I think I may say with entire safety that a majority of our native sailors commenced going to sea as fishermen. There are hundreds of bays, rivers, and creeks in Maine and New England whose banks are populated by a hardy, vigorous, and enterprising race of men, who employ a few months every year on fishing cruises; and from their ranks large numbers go annually into the merchant and naval service of the country. Repeal the fishing bounty, as you propose to do, and you strike every fishing smack from the ocean at a single blow; for nothing is better established than the fact, that, with the odds which exist against us since the reciprocity treaty, the fishing business cannot be sustained for a week without the bounty. I am no advocate for bounties of this kind, when they look only to fostering a branch of industry for its own sake; but when by them you can secure strength to an important arm of the national defense, and accomplish a great national object, not otherwise to be accomplished, I hold it to be within the scope of our power, and in the direct line of wisdom and duty, to grant them. In this case, your ability to man the ships of war you already possess, to say nothing of those you contemplate building, depends upon the preservation of our fisheries. Yet you are prepared to destroy them at the same time that you call for more ships. To build ships when you have not sailors to make up their crews, would be as wise as to build barns where there are no harvests, school-houses where there are no scholars, churches where there are no people, to buy lamps when you have no oil. Before we spend millions of dollars in constructing sloops and frigates, I think it would be wise to learn whether our only school for sailors is to be broken up. It may be the policy of the Administration to provide for these vast expenditures without knowing or inquiring whether they can be of any service to the country; it may desire authority to make contracts, involving the outlay of millions, as a basis of reserves and contributions, to be used for the purpose of increasing its power and prolonging its existence. But that such a use of the people's money by the Administration will be approved by the country, when it is seen to be the tendency of a part of its policy to impair the efficiency of the nation's defenses, if not wholly to destroy the prestige of its flag, may be more than doubted.

Mr. J. GLANCY JONES. Mr. Chairman, I should not have responded to the gentleman from Maine, if he had not made an inquiry of me. I have always understood that it was the duty of the Government to raise money to buy ships; but I never knew, until the gentleman from Maine put his query to me, that it was part of the business of the Government to buy men, or to furnish money to buy men.

Mr. WASHBURN, of Maine. Will the gentleman allow me—

Mr. J. GLANCY JONES. No, sir; the gentleman refused to yield to me.

Mr. WASHBURN, of Maine. I wanted to know what the Administration has been doing all this session but buying men. [Laughter.]

[Cries of "Question!" "Question!"]

Mr. WASHBURN, of Maine. I withdraw the amendment.

Mr. STEPHENS, of Georgia. I have an amendment which I desire to propose.

Mr. J. GLANCY JONES. The gentleman from Maine cannot withdraw his amendment without my consent.

The CHAIRMAN. The Chair is of opinion that the objection to the withdrawal comes too late.

Mr. J. GLANCY JONES. I was on the floor answering the gentleman.

The CHAIRMAN. The gentleman from Pennsylvania had resumed his seat, and no objection was interposed to the withdrawal of the amendment.

Mr. BOCKOCK. I offer the following amendment:

And to enable the Secretary of the Navy to cause to be constructed, without unreasonable delay, by contract or in the navy yards of the Government, as he may consider most advisable, ten small screw-propeller sloops-of-war or dispatch vessels, with full steam power, and with a draught of water not to exceed twelve feet; said vessels to be constructed, armed, and equipped, with reference to speed as dispatch vessels and efficiency as war steamers, \$2,500,000.

Mr. WASHBURN, of Maine. I rise to a question of order. There is no law authorizing the construction of these steamers, and independent legislation is not in order in an appropriation bill.

The CHAIRMAN. The Chair thinks the point of order well taken.

Mr. STEPHENS, of Georgia. I offer the amendment which I send to the Clerk's desk.

Mr. BOCKOCK. I appeal from the decision of the Chair.

The CHAIRMAN. It is too late to appeal. Mr. BOCKOCK. The Chair carries things with a high hand.

The amendment of Mr. STEPHENS was read, as follows:

To enable the Secretary of the Navy to pay the salary of Professor James P. Espy, \$3,000; the payment to be made in the same manner, and under his control, as former appropriations for meteorological operations.

Mr. SHERMAN, of Ohio. I rise to a question of order. I think that is clearly a private claim, and is not in order as an amendment to an appropriation bill.

Mr. STEPHENS, of Georgia. It is not a claim at all. It is the usual salary that has been paid for the last ten years.

The CHAIRMAN. The Chair would inquire of the gentleman from Georgia if the payment of this salary is authorized by an existing law?

Mr. STEPHENS, of Georgia. It is authorized by every appropriation bill for the last ten years, except one, and in that case it was paid afterwards.

The CHAIRMAN. If the gentleman from Georgia can refer the Chair to any law authorizing the appropriation, the Chair will hold the amendment to be in order; otherwise the Chair is of opinion that it is not in order.

Mr. STEPHENS, of Georgia. The gentleman from Georgia refers the Chair to every appropriation bill for the last ten years, except one. At the first session of the last Congress the appropriation was omitted, but it was made at the second session.

The CHAIRMAN. The Chair considers that the amendment is not in order under the 81st rule.

Mr. STEPHENS, of Georgia. It has been uniformly offered in the same way.

The CHAIRMAN. It may have been offered and entertained by unanimous consent, but the point of order is made now, and the Chair feels bound to rule it out of order, unless the gentleman can show that there is some law authorizing it.

Mr. STEPHENS, of Georgia. It has uniformly been provided for by law.

The CHAIRMAN. The Chair rules the amendment out of order. He is constrained to do so under the 81st rule.

Mr. STEPHENS, of Georgia. I take an appeal from the decision of the Chair; and state as the ground of my appeal, that this has been uniformly voted, in precisely this way, for the last ten years.

The CHAIRMAN. Debate is not in order. The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was taken; and the decision of the Chair was sustained.

Mr. FLORENCE. I now offer the following as an additional section to the bill:

And be it further enacted, That to enable the Secretary of the Navy to cause to be constructed, without unreasonable delay, by contract, or in the navy-yards of the Government, as he may consider most desirable, ten small screw-propellers, sloops-of-war or dispatch vessels, with full steam power, and with a draught of water not to exceed twelve feet, said vessels to be constructed, armed, and equipped, with reference to speed as dispatch vessels and efficiency as war steamers, the sum of \$2,500,000 is hereby appropriated.

Mr. WASHBURN, of Illinois. I raise the question that that amendment is not in order.

The CHAIRMAN. The Chair decides the amendment not to be in order.

Mr. FLORENCE. I insist that it is in order, under the existing laws authorizing the establishment of a navy. [Cries of "Order!" "Order!"]

The CHAIRMAN. Debate is not in order. Does the gentleman appeal from the decision of the Chair?

Mr. FLORENCE. I do appeal from the decision of the Chair; and call for tellers upon the appeal.

Tellers were ordered; and Messrs. ADRAIN and BOFFINTON were appointed.

The question was taken; and the tellers reported—ayes eighty; a further count not being demanded.

So the decision of the Chair was sustained.

Mr. J. GLANCY JONES. I am instructed by the Committee of Ways and Means to offer the following amendments, of which I gave notice, to come in at the end of the bill:

To enable the Secretary of the Navy to pay for the publication of the code of regulations for the government of the Navy, as directed in the second section of the act entitled "An act making appropriations for the naval service for the year ending June 30, 1858," approved March 3, 1857, \$3,000.

To enable the Secretary of the Navy to pay the expenses of the courts of inquiry to investigate the cases of certain officers affected by the act entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy in respect to dropped and retired naval officers,'" approved January 14, 1857, \$110,000.

For the completion of the publication of the charts of the late expedition for the exploration of the river La Plata and its tributaries, \$5,000.

Mr. UNDERWOOD. I call for separate votes upon the various propositions.

Mr. J. GLANCY JONES. As separate votes have been called upon the several items, I propose to send up and have read a letter from the Secretary of the Navy, explaining the several items. The letter was read, as follows:

NAVY DEPARTMENT, May 13, 1858.

SIR: I have the honor to call your attention to two omissions in the naval appropriation bill passed at the last session of Congress.

The seventh section of that act (page 247, pamphlet edition of laws, third session Thirty-Fourth Congress) directed the Secretary of the Navy to have prepared, and report to Congress at its present session, for approval, a code of regulations for the government of the Navy. The code has been prepared, and is under revision; and it is contemplated to submit it to Congress at this session. It has necessarily involved expenses amounting to about three thousand dollars, for which no appropriation was made.

The act of the 16th of January, 1857 (pages 153 and 154, pamphlet edition of laws above referred to) entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy,'" required the organization of courts of inquiry to investigate the cases of certain officers affected by the act of which it was amendatory; and the operation of the act first referred to was limited to one year from its passage. The courts of inquiry have been had, and the results reported. Expenses amounting to about one hundred and ten thousand dollars were necessarily incurred for this purpose, for which no appropriation was made.

I respectfully request that the necessary appropriations be made for these purposes.

There was evidently another omission in the naval appropriation bill passed at the last session. The sum of \$5,760 had been asked by the Department for preparing for publication the surveys of the late expedition to the North Pacific and Behring's Straits, and \$5,000 for finishing those of the late expedition for the exploration and survey of the river La Plata and its tributaries. Though the act making the appropriation specified it to be for both subjects, and the discussion on the bill indicated that it was so considered by Congress, yet, as the sum appropriated was the exact amount estimated for the first named object, it has been applied to it; and the work last specified has been delayed.

I would therefore suggest that the sum of \$5,000 be appropriated "for completing the publication of the charts of the late expedition for the exploration of the river La Plata and its tributaries."

I have the honor to be, very respectfully, your obedient servant,

ISAAC TOUCEY.

Hon. J. GLANCY JONES, Chairman Committee Ways and Means, House Representatives.

Mr. J. GLANCY JONES. I have a few words to say, which will apply to the three amendments. The act of 1857 provided for the code mentioned, and it now requires \$3,000 to pay for it. The second amendment is an appropriation of \$110,000 to pay for the courts of inquiry. Every gentleman is acquainted with the necessity for this appropriation. These courts of inquiry have been held during the last year, trying the cases of dropped and furloughed and other officers, who had the right of appeal under act of Congress of the preceding session. This money is for the expenses of those courts.

The third amendment is to pay for charts of the exploration of the river La Plata. It is proposed to print them for the use of our commerce. It is known that a small steamer, under Captain Page, was sent out for the survey of that river. Our commerce is steadily growing in that quarter. Unless, however, these charts are published, the survey will be of little good to our mariners. The appropriation is barely sufficient. I hope the amendment will be agreed to.

Mr. CURTIS. I have no objection to the first two, but I have to the last amendment. I ask that there shall be a separate vote on it.

The CHAIRMAN. Objection being made, the vote will be taken on the amendments separately.

Mr. CURTIS. I will speak to the third amend-

ment while I am up, which proposes to appropriate \$5,000 for the publication of charts of the survey of the Rio de la Plata.

It is true, Mr. Chairman, that one of our national vessels (the Water Witch) was sent to South America to survey one of the rivers of that country. But why should our vessels be sent to South America to survey rivers there, while the rivers of our own country remain unsurveyed and unexplored? Now that the La Plata, a river far beyond our dominions, has been surveyed, why should we go to the expense of publishing charts of the survey? It is a river entirely beyond our reach, and thousands of miles south of the Isthmus. It is a river no more connected with the commerce of the high seas than the Mississippi or the Danube; and, sir, our Navy has no more to do with it than they have with a river of France. The mouth of the La Plata is thirty-five degrees of latitude south of the equator, and therefore seventy-three degrees south of this capital. What have we to do with the interior rivers of a country so remote and so disconnected from our territory?

It is true that we have sent a national vessel there. Twenty-five thousand dollars were appropriated last year "to complete the explorations of the Parana and the tributaries of the Paraguay, and it is now proposed perhaps to get up a book relating to the explorations of these rivers, as we have had volumes published concerning other rivers in South America. I am opposed to all such appropriations, and especially to the first step. That very survey of the La Plata and its tributaries has involved us in difficulty with the Republic of Paraguay, which may result in a remote, expensive, and vexatious war. The intention of our vessel to proceed up the eastern branch of La Plata, the Parana, was opposed by Paraguay; but the vessel determined to carry out the survey, and, persisting against remonstrance, was fired upon from a Paraguayan fort; and I see that it is proposed to empower the President of the United States to send armed vessels there to avenge that assault upon our vessel. In the mean time, we are called on to publish charts of their rivers, while we have no access to, or commerce on, their waters. The whole thing appears to me wrong, and I hope the amendment will not pass.

The question was taken on the first amendment; and it was agreed to.

The question recurred on the second amendment, as follows:

To enable the Secretary of the Navy to pay the expenses of the courts of inquiry to investigate the cases of certain officers affected by an act entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy,'" in respect to dropped and retired naval officers, approved 16th of January, 1857, \$110,000.

The question was taken; and the amendment was agreed to.

The question recurred on the third amendment, as follows:

For the completion of the publication of the charts of the late expedition for the exploration of the river La Plata and its tributaries, \$5,000.

Mr. NICHOLS. I move to increase that appropriation one dollar, and I do it for the purpose of making a suggestion to my friend from Iowa, [Mr. CURTIS.] I am in favor of printing these charts. He asks what was the object of the survey? I answer that we have the same object in the exploration of that river, that we had in the exploration of the Amazon and other South American rivers. If the gentleman has examined the results of those explorations upon that continent, he cannot fail to see their great benefit to our people. The survey of the Amazon was made some years ago, and the results were published to the country; and a mercantile friend of mine from New York, told me some weeks since, that from information he had obtained, there had grown up with the countries explored by that expedition, and in consequence of the facilities furnished by the publications of the Government, a trade now amounting to some two or three million dollars annually.

Let me say another thing in answer to the gentleman. This survey proceeded with the knowledge and by consent of the South American States within whose jurisdiction it was proposed to carry it on; and passports were furnished by those Governments to our officers who were engaged in it. It was proposed to make a contribution to knowledge, for the enterprise of our own people, which,

if left to the inactivity of those Governments themselves, would have never been afforded. Whatever the result may have been; whatever misunderstandings and difficulties may have occurred, my information is that the survey proceeded with the consent of the South American Governments.

Mr. CURTIS. The gentleman is mistaken in regard to the assent of the Government having been given to this survey.

Mr. J. GLANCY JONES. I am very anxious to get through with this bill, and I must insist that the gentleman shall confine his remarks to the question under consideration.

Mr. CURTIS. I will proceed in order; but I desire to reply to the remark that we had the assent of the Government to make the survey of the La Plata and its tributaries, the Paraguay and Parana. It was the want of that assent that caused the difficulty with the authorities of Paraguay.

Mr. JOHN COCHRANE. Does not the gentleman from Iowa understand that the Argentine Republic has conferred fluvial liberty upon the world, as to all the rivers of South America within that Confederation?

Mr. CURTIS. The gentleman does not understand me. The difficulty is not with the Argentine Republic. Paraguay is one of the independent States of South America, and the Paraguay and Parana rivers are the common boundaries between this Republic and different States of the Argentine Confederation. Paraguay never gave her consent. On the contrary, the Government refused it, and endeavored to prevent it by firing upon our ship. Paraguay is not one of the Argentine States.

I wish to say, also, that this idea of my honorable friend from Ohio [Mr. NICHOLS] of conveying knowledge of that river to the world, would perhaps be well conceived if we had first surveyed our own rivers. Here, in our own great Northwest, is the Red River of the North, a great river, upon which our settlements are gathering, and you do not know whether it is navigable or not. There is also the Yellow Stone, Columbia, and other rivers, of our own country, that have not been surveyed, and their surrounding country is unknown. There is, also, the Colorado of the South, connecting with a great gulf of the Pacific, and extending thousands of miles in our interior, which has not been surveyed, although some efforts are now being made to that effect. While we have thus neglected to survey our own rivers, how preposterous and absurd to send vessels to South America, for the purpose of getting knowledge of her rivers for the benefit of the world! I submit my remonstrance against this and all other attempts to develop South America, while this, our own great continent is unexplored and undeveloped.

The amendment to reduce the appropriation one dollar was withdrawn.

The amendment was then agreed to.

Mr. BOWIE. I move to add the following amendment:

For Fort Madison, \$15,000, in aid of the United States Naval School at Annapolis.

I desire to speak in favor of my amendment, and I mean to speak in a sense, and in a way, that will touch the heart of every true patriot. I have offered this amendment to protect the national Naval School at Annapolis, where the midshipmen who are sent into the Navy to command our ships of war, are educated. Mr. Chairman, I want to build up a wall around the great national principle of patriotism, [laughter,] whether it be among the old Federalists or Democrats. I am for protecting my own native country, and the flag that flies over us; I am for sustaining that. But that is immaterial to this amendment, which is to appropriate \$15,000 for Fort Madison, which guards the approach to the Naval School, situated at Annapolis. I find in a report made on the 24th day of November, 1857, that Captain Meigs states that \$15,000 has been appropriated by Congress, and that up to that time it was unexpended.

[Here the hammer fell.]

Mr. WASHBURN, of Illinois. I am opposed to the amendment, and ask that the question be taken on it.

The amendment was not agreed to.

Mr. CRAWFORD. I move that the bill be laid aside, to be reported to the House with the amendments.

The motion was agreed to.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

FRIDAY, MAY 28, 1858.

NEW SERIES...No. 152.

VOLUNTEER APPROPRIATION BILL.

Mr. J. GLANCY JONES. I move to take up the bill making appropriations for the support of three regiments of volunteers authorized by the act of Congress, approved 7th of April, 1858.

The motion was agreed to.

By unanimous consent the first reading of the bill was dispensed with.

Mr. QUITMAN. I move that the committee do now rise.

The motion was not agreed to.

The Clerk then proceeded to read the bill by clauses, for amendment.

Mr. STANTON. As I understand it, the bill is now open for general debate. I do not propose to debate it; but I wish to inquire of the chairman of the Committee of Ways and Means whether the three regiments have been ordered out; and, if not, whether it is the expectation of the Administration to order them out?

Mr. J. GLANCY JONES. The regiments have not been ordered out, and it is not the intention of the Executive to order them out until an appropriation is made by law to pay for maintaining them. Nor is it the intention of the Secretary of War to call them out then, unless it becomes necessary to prosecute the war now pending. If peace should be restored in Utah they will not be called out, even if the appropriation be made.

The regiment for Texas will be wanted in any event. But a proposition would have been made to strike out two thirds of the appropriation if sufficient intelligence had been received at the Department to justify the Secretary of War in the belief that the other regiments would not be required. I have only to add, that, if the appropriation be now made, the regiments will not be called out unless they are absolutely required.

Mr. STANTON. I trust the committee will not report this bill to the House now. It is evidently a question for the House to determine as to when a necessity exists for calling out these regiments, although they may have been authorized. It seems to me that it is a matter which it is the duty of the Committee on Military Affairs, and of every member of the House, to inquire into, as to whether the present relations of the country with Utah Territory require it. I do not understand that any gentleman here is now thoroughly acquainted with the condition of things, or that the House can act understandingly about it. Some little time ought to be allowed to intervene, so that the subject may be investigated. I hope, therefore, that the gentleman from Pennsylvania will lay this bill aside, and take up another bill.

Mr. J. GLANCY JONES. If it is the inclination of the committee to lay the bill aside, I shall interpose no objection. I have brought it up at the solicitation of a number of gentlemen, and in obedience to what I supposed was the will of Congress, which recently passed a law authorizing the regiments. But, as objection is made to the consideration of the bill now, and especially as the chairman of the Committee on Military Affairs has made a motion that the committee rise, I am willing that the bill shall be laid aside and another one taken up.

The CHAIRMAN. If there be no objection, the bill will be laid aside.

Mr. FLORENCE. I object.

The CHAIRMAN. Then the question will be submitted to the committee.

The question was taken; and the bill was laid aside.

COLLECTION OF THE REVENUE.

Mr. J. GLANCY JONES. I move to take up the bill making appropriations for the expenses of collecting the revenue from customs.

The motion was agreed to.

By unanimous consent the first reading of the bill was dispensed with.

Mr. J. GLANCY JONES. I will briefly explain the objects of the bill. Prior to 1849, the expenses of collecting the revenue from customs

were deducted from the receipts, and the balance paid into the Treasury. The act of 1849 provided that the whole amount of revenue collected should be paid into the Treasury, without any abatement. The act of 1850 excepted from the operation of that law the Pacific coast. The Secretary of the Treasury has recommended in his report, and this bill provides for, the repeal of the act of 1850, so as to put the collection of revenue upon the Pacific coast upon precisely the same basis as the collection of revenue in other parts of the country. The effect of this bill will be simply to repeal the act of 1850, and make the system uniform throughout the country, so that all the revenue collected will be paid into the Treasury without any abatement; and the bill appropriates the sum of \$4,000,000, as a permanent fund for the collection of the revenue.

The CHAIRMAN. The bill will now be read by sections, for amendment.

While the Clerk was reading the first section, Mr. BOWIE proposed to offer an amendment.

The CHAIRMAN. The gentleman from Maryland will suspend until the Clerk has finished reading the section.

Mr. BOWIE. No, sir; I propose to offer my amendment now.

The CHAIRMAN. The gentleman from Maryland is not in order until the section shall have been read.

Mr. BOWIE. I insist to offer my amendment now.

The CHAIRMAN. The gentleman from Maryland is not in order. The Clerk will proceed to read the section.

Mr. BOWIE. I offer my amendment right at that point.

The CHAIRMAN. The gentleman from Maryland will resume his seat.

Mr. BOWIE. I will resume my seat when I am decided to be out of order.

The CHAIRMAN. The Chair has already decided the gentleman out of order.

Mr. BOWIE. I appeal from the decision of the Chair.

The CHAIRMAN. The gentleman cannot appeal while the section is being read.

Mr. BOWIE. I appeal from the decision of the Chair.

The CHAIRMAN. The gentleman from Maryland is out of order, and will take his seat. The Clerk will proceed with the reading of the section.

Mr. STANTON. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, the Chairman (Mr. SICKLES) reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House (No. 466) making appropriation for the expenses of collecting the revenue from customs, and having been interrupted in its proceedings, had directed him to report the facts to the House.

The SPEAKER. The Chair directs attention to the 76th page of the Manual, which says:

"If repeated calls do not produce order, the Speaker may call by his name any member obstinately persisting in irregularity; whereupon the House may require the member to withdraw. He is then to be heard in exculpation and to withdraw. The Speaker states the offense committed; and the House considers the degree of punishment they will inflict."

Mr. SHAW, of North Carolina. I move that the House adjourn.

Mr. WRIGHT, of Tennessee. I demand the yeas and nays on the motion.

The yeas and nays were not ordered.

Mr. WRIGHT, of Tennessee. I demand tellers on the motion.

Tellers were ordered; and Messrs. BUFFINTON and RUSSELL were appointed.

The question was taken; and the tellers reported—ayes thirty-two; a further count not being demanded.

So the House refused to adjourn.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve

itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. SICKLES in the chair,) and resumed the consideration of the bill making appropriations for the expenses of collecting the revenue from customs.

Mr. J. GLANCY JONES. I ask that the letter of the Secretary of the Treasury be read.

The Clerk read the letter, as follows:

TREASURY DEPARTMENT, March 6, 1858.

SIR: I have the honor to acknowledge your letter of the 2d instant, asking on what data the probable amount of \$4,000,000 will be required to meet the expenses of collecting the customs for the fiscal year from July 1, 1858, to June 30, 1859; and in reply beg leave to refer to the explanation contained in my annual report on this subject, commencing on page 10 of the printed copy, and to the statements of the Register accompanying the report, which are printed on the 40th page.

It appears from these statements, that during the fiscal year ending June 30, 1857, the expenditures for this purpose, including the Pacific coast, amounted, within a fraction, to three million seven hundred thousand dollars, and, for the reasons stated in the report, an increased expenditure under this head, to some extent, may be necessary. Upon these data the estimate of \$4,000,000 was founded.

You also ask the probable amount receivable from storage, cartage, drayage, and labor for the half year, from January 1, 1858, to July 1, 1858, and for the fiscal year 1859.

It is not easy to conjecture what amount will be received during the current half year, or the next fiscal year, from storage. It will be very small, as all the public stores have been given up, excepting one at Boston and one at San Francisco. Storage is no longer charged by the United States at any other than these two ports, and comparatively in few cases at them.

Whatever amount may be received from storage, it should be placed directly into the Treasury, as a miscellaneous receipt, instead of being carried to the credit of the appropriation for expenses of collecting the customs, as was provided by the joint resolution of February 14, 1850, which provision will be abrogated whenever Congress shall act on the subject. At that time an extensive system of public storage was in operation, which has since been changed for private bonded warehouses. It will now be best to have the small sum realized from storage at the two public stores mentioned, disconnected from the appropriation, and placed in the Treasury as a specific payment on public account.

No revenue is derived from cartage, drayage, labor, or other necessary charges for moving merchandise in bond. These expenses are, in the first instance, paid out of the appropriation for collecting the revenue, and are refunded by the owner of the merchandise when it is entered for withdrawal or consumption. The amount expended is required to be restored, and should be carried to the credit of the appropriation from which it was taken. The answer to your inquiry in regard to the probable amount receivable from cartage, drayage, and labor from any given period, is, therefore, precisely the sum previously expended from the appropriation for these purposes.

Very respectfully, your obedient servant,
HOWELL COBB,
Secretary of the Treasury.
Hon. J. GLANCY JONES, Chairman of Committee Ways and Means, House of Representatives.

Mr. COLFAX. I move to reduce the appropriation from \$4,000,000 to \$3,000,000; and I do so for the purpose of saying a few words on this branch of the expenses of the Government. It is true that we have built a large number of custom-houses; and it is true, too, that the expenses of collecting the revenue must necessarily be larger now than they were a few years ago. Lately our revenue has rapidly fallen off, and there ought to be retrenchment in all branches of the Government. It does seem to me that when we collect less than forty million dollars of revenue under the tariff, as is the case this year, it ought not to cost us ten per cent. for merely collecting it. I know that custom-houses must be kept up; I know that the leading officers must be retained; yet is there not some place, amongst the thousands of their subordinates, where retrenchment could be made? Are there not some officers who could be dispensed with? I would ask the chairman of the Committee of Ways and Means whether there has been any attempt on their part to retrench the expenditures for collecting the revenue in any particular whatever? My question is a sincere one, prompted by a desire to ascertain what are the facts.

Mr. J. GLANCY JONES. It affords me great pleasure to reply to the gentleman so far as I am informed on the subject. There is no expense

now incurred in collecting the revenue, except under existing law. Every officer connected with the revenue has his salary regulated under that law. It is not within the power of the Secretary of the Treasury, unless authorized by Congress, to deduct a cent from the salaries of these officers; and to enable him to execute the law, precisely this sum of \$4,000,000 will be required.

It is supposed that there will be a revival of trade during the next fiscal year, and that the receipts will be equal to the expenditures of the Government. The present disturbance of our finances is believed to be temporary, and that it will soon pass away.

I have made every effort within my power, wherever practicable, and no serious loss was to result to the country, to cut down the expenditures of the Government. The Secretary of the Treasury has made every effort to retrench the expenditures of the Government, and he is doing so still; and I do not think that he has received the credit which his praiseworthy efforts so richly merit. There has been a system of lavish expenditure commenced under a plethoric Treasury. Congress adjourned last year with a surplus of \$30,000,000 in the Treasury. The idea throughout the country was that there should be expenditure in every branch of the public service, in order to prevent the accumulation of the gold and silver of the country in the Treasury. A sudden financial crisis came, and has arrested everything. The Secretary has retrenched as far as he could. The Committee of Ways and Means have retrenched as far as they could. To retrench further, the only way is to repeal the law authorizing the expenditures that it is proposed to cut off.

Mr. COLFAX. I have listened to the gentleman with much pleasure. But I have found, by reference to past Administrations, that never before has there been appropriated \$4,000,000 for collecting the revenue in one single year. Am I not correct?

Mr. J. GLANCY JONES. Under the charters of the Bank of the United States, passed in 1811 and in 1817, a provision was incorporated providing that the money of the United States should be deposited in the United States Bank and its branches, and that it should be disbursed free of cost to the Government. Prior to 1849, the collectors of the revenue deducted the amount of their fees before they paid the balance into the Treasury. Under the Sub-Treasury act, passed in 1846, the Treasurer of the United States and assistant treasurers received in gold and silver the revenues collected for the Government. Under that system, from 1846 to 1849, the old system of deducting the amount of fees from the amount collected, and of paying in only the balance, continued. In 1849 a law was passed requiring the payment of the whole amount into the Treasury. Then an appropriation would be made of a sufficient sum out of the Treasury to pay the expenses of collecting. In 1850, the Representatives from California, for reasons given at that time, asked that California might be excepted from the operation of that rule, and the act of 1850 was passed exempting them from that rule. The Secretary of the Treasury asks that it may be made uniform throughout the country. The cost during the last year, according to my recollection, was \$3,000,000, and to that is now to be added the amount for the charge upon the Pacific coast. The gentleman will find that by adding the amount heretofore deducted for the Pacific coast, to the amount of \$2,800,000, the cost of last year, it will require about four million dollars for the service for the next fiscal year.

I will remark, further, that not one dollar can go out of the Treasury except in pursuance of existing law; and that the remedy, if any is needed, is by changing the laws, and not by voting down this bill.

Mr. COLFAX. I am not proposing to vote down this bill, nor do I desire to do it if it can be properly amended. I only wish to reduce its amount. If I am correct in my understanding of the matter, the average expense of collecting the revenue in 1850, only eight years ago, was but \$2,000,000. Of late, it has been, so far as the Atlantic and Gulf coast is concerned, about three million dollars; and I understand the expenses of collection in California were about four hundred and forty thousand dollars. If the gentleman from Pennsylvania is correct as to the expense of collecting

that revenue there for the last year, still the appropriation contained in this bill for the next year should not exceed three million two hundred and fifty thousand dollars, or, under the present reduced revenue, not over three million dollars, the amount I have moved. It is true that new collection districts have been established, and new offices opened; yet I do contend, sincerely and honestly, and with no desire to embarrass the Committee of Ways and Means, that, when our revenue has diminished, as it has, and as it must for some time to come, we should cut our garments according to our cloth. We should endeavor to diminish our expenses in every possible way. If we have placed men in the service, even temporarily, when they are not now needed, the Secretary of the Treasury ought to make a reduction of force under a rigorous system of retrenchment; and if he does not do so, the Committee of Ways and Means and this House should assume the responsibility of compelling that retrenchment by limiting and reducing the appropriations.

Under our present tariff, the amount we receive per cent, upon imports has run down from twenty-five to nineteen, on an average. The same amount of goods which, under the previous tariff, would have given us \$60,000,000, will now give us but about forty-five million dollars. I do not believe that the revenue under the present tariff, even with the revival of business which the gentleman from Pennsylvania expects, will amount to more than forty-five million dollars for the next fiscal year. And yet we are asked to appropriate \$4,000,000 to collect that amount. It does seem to me that the Committee of Ways and Means should aid in reducing this expense; but instead of that, they demand a larger sum than has ever before been asked for, for the collection of the revenue.

Mr. J. GLANCY JONES. Will the gentleman strike out of an appropriation bill money due to any officer created by law, and whose salary is fixed by law?

Mr. COLFAX. No, sir; but I say to the gentleman that this is not a bill for the past, but for the next fiscal year.

Mr. J. GLANCY JONES. I may concur with the gentleman in what he says in regard to the expense of collecting the revenue, but the difficulty is, the gentleman does not commence in the right way. The reform should begin by repealing or changing the laws. You should ask the Secretary of the Treasury to lend his assistance, to point out the evils, to show us where reductions could be made, and to give us information generally about the matter. What I object to is, after an office is created and a salary fixed, your refusing to appropriate the money in an appropriation bill. Introduce your reforms, and I will go with you.

Mr. COLFAX. I will give two answers to the gentleman's remarks. In the first place, if I were to propose a reform upon an appropriation bill, the gentleman from Pennsylvania would be the first one to arrest my progress, and have me ruled out of order. In the second place, the Secretary of the Treasury, the man at the head of the finances of the Government should, himself, recommend retrenchment to Congress, and carry it out to the fullest extent of his power, in reducing the number of subordinates, who could now be dispensed with in the present condition of our revenue. He can look over the whole country, and see where retrenchment can be best effected. If it escapes his watchful eye, then let the Committee of Ways and Means, who are charged with the duty of keeping our appropriations within our resources, initiate this reform themselves, and if they will not, then let this House take the responsibility of arresting these extravagant expenditures themselves.

Mr. J. GLANCY JONES. Well, I will compromise with my friend by taking the vote upon the amendment.

Mr. GARNETT. I move to amend by adding a section which I think will meet the approbation of both the gentleman from Pennsylvania and the gentleman from Indiana. It is as follows:

And be it further enacted, That the Secretary of the Treasury shall report to the next session of Congress a plan and estimates for reducing the expenses of the collection of the revenue, in accordance with the general recommendations of his last annual report.

Mr. J. GLANCY JONES. I have no objection to that amendment, and hope it will be agreed to by the gentleman from Indiana.

Mr. COLFAX. After a vote has been taken on my amendment, I will with great pleasure vote for the amendment of the gentleman from Virginia, with the single remark that considering the condition that the Treasury has been in for the last six or eight months, I think it is rather late in the day for the Secretary of the Treasury to be called upon to submit a plan for retrenchment some six or eight months hereafter.

Mr. GARNETT. I desire to have an extract read from the annual report of the Secretary of the Treasury which, I think, will convince every one that the fault does not rest with the Secretary, but with this extravagant Congress—extravagant on all sides, Democratic and Republican.

The CHAIRMAN. The amendment of the gentleman from Virginia is not an amendment to the amendment of the gentleman from Indiana, and the gentleman had better waive it until the vote shall have been taken on the amendment of the gentleman from Indiana.

Mr. GARNETT. Very well, sir; I will do so.

Mr. COLFAX. I wish to say but a word or two further. The amount heretofore appropriated was \$2,450,000 for the Atlantic coast, and \$440,000 for the Pacific coast, making only about three million dollars, in all. This is an increase of \$1,000,000 over the amount that has been heretofore appropriated.

Mr. J. GLANCY JONES. It has cost the sum of \$1,250,000 for the collection of the revenue on the Pacific coast, which has been abated heretofore, but it will now come into the Treasury. I hope my friend from Virginia will not insist on the reading of the report, but that we shall have a vote.

Mr. GARNETT. Very well, sir.

Mr. COLFAX's amendment was rejected.

Mr. GARNETT. I now offer my amendment.

Mr. FLORENCE. I submit the point of order that that amendment is not authorized by existing law; it is legislation.

Mr. GREENWOOD. I hope no question of order will be made on it.

Mr. J. GLANCY JONES. I appeal to my colleague to withdraw it.

Mr. FLORENCE. Well, I will not press the question of order.

The amendment was agreed to.

The bill was then laid aside to be reported to the House.

POST OFFICE APPROPRIATION BILL.

Mr. J. GLANCY JONES. I now move to take up the bill making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1859.

The motion was agreed to, and the first reading of the bill dispensed with by unanimous consent.

Mr. MILLSON. Mr. Chairman, both Houses of Congress adopted a resolution that they would adjourn their respective Houses on the 7th of June next. I saw no good reason for adopting that resolution at the time it was introduced. I think it was exceedingly precipitate, and I do not think the House will atone much for its precipitancy by undertaking to dispatch the business of Congress at railroad speed. I do not think the bills we are called upon to consider at this late hour of the day can be considered with that degree of care—

Mr. J. GLANCY JONES. What amendment does the gentleman propose?

Mr. MILLSON. I have offered no amendment. The bill is open to general debate, and I have a right to speak about Kansas if I think proper, or upon any other topic. I say that I see no necessity for taking up these bills, and passing upon them, important, as they undoubtedly are, without that degree of deliberation which ought to be bestowed upon them by the Congress of the United States. It is a poor excuse to say that we have determined to adjourn on the 7th of June, and that we will, therefore, dispatch the public business without due consideration. I think, Mr. Chairman, that there is greater necessity for adjourning every day at four or five o'clock than there is for adjourning on the 7th of June. I am willing to stay here till the 7th of August, or the 7th of September, if necessary; but I am not willing that the House shall remain in session—such few members as choose to remain—until these late

hours, and give to the public business that sort of consideration which has been given to the bills that have been before us this evening. I therefore move that the committee rise.

The motion was not agreed to.

The Clerk then proceeded to read the bill by sections, for amendment.

Mr. LETCHER. I move to amend the second section of the bill by striking out the words "that if the revenues of the Post Office Department shall be insufficient to meet the appropriations of this act," and inserting in lieu thereof:

That as the revenue of the Post Office Department will be insufficient to meet the appropriations of this act, the three-cent rate of postage is hereby increased to five cents, to take effect on the 1st day of August next, and in case there shall be a deficiency."

So that it will read:

Sec. 2. And be it further enacted, That as the revenue of the Post Office Department will be insufficient to meet the appropriations of this act, the three-cent rate of postage is hereby increased to five cents, to take effect on the first day of August next, and in case there shall be a deficiency, then the sum of \$3,500,000, or so much thereof as may be necessary, be, and the same is hereby appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to supply deficiencies in the revenue of the Post Office Department for the year ending the 30th of June, 1859.

Mr. ENGLISH. I raise a question of order on that; it proposes to change the existing law.

The CHAIRMAN. The Chair thinks that the amendment is not in order.

Mr. LETCHER. I hope the Chair will allow me to state why I think it is in order.

The CHAIRMAN. The Chair will be very happy to hear the gentleman.

Mr. LETCHER. This bill is to provide the means for defraying the expenses of the Post Office Department; and my amendment is strictly within the meaning of the object of the bill as expressed in the title. My amendment is to provide the means for that purpose; and it strikes me it is strictly in order.

Mr. LOVEJOY. Will the gentleman allow me to offer an amendment to his amendment?

The CHAIRMAN. The Chair is compelled to rule the amendment out of order on the ground that it proposes to change existing laws.

Mr. LETCHER. Does not this other proposition for borrowing money for defraying the expenses of that Department propose to change existing laws? The Post Office Department was organized to be a self-sustaining machine.

The CHAIRMAN. The Chair is of opinion that the amendment of the gentleman is in conflict with the 81st rule, which provides that no amendment shall be in order to a general appropriation bill, which is not in accordance with existing laws. The propriety of the original provisions in the bill is not a question which is now before the Chair for decision.

Mr. J. GLANCY JONES. This debate is not in order; and I object to it unless the gentleman takes an appeal.

Mr. LETCHER. I do take an appeal if the Chair decides that an amendment for raising revenue to meet the expenses of the Post Office Department is not in order.

The CHAIRMAN. The Chair decides that the amendment of the gentleman from Virginia changes the existing law; and, therefore, is not in order under the 81st rule.

Mr. LETCHER. From that decision I appeal.

The CHAIRMAN. The Chair will state the ground of his decision. He regards this as a bill appropriating the revenue of the Post Office Department as now provided by law. The amendment of the gentleman from Virginia proposes to change the law for raising revenue, and is therefore clearly in conflict with the 81st rule.

Mr. LETCHER. The Chair will pardon me. He does not state the fact correctly.

Mr. J. GLANCY JONES. Is the appeal debatable?

The CHAIRMAN. The Chair thinks not.

Mr. LETCHER. I do not mean to debate it. I only want to correct the statement of the Chair. The Chair stated that this was a bill appropriating the revenues of the Post Office Department. This section does not appropriate the revenues of the Post Office Department, but is to supply revenue from other sources.

Mr. WASHBURN, of Maine. Does not the amendment of the gentleman change the law establishing the rates of postage?

Mr. LETCHER. Yes, sir; and so does every

deficiency bill, which you have passed, change the law.

Mr. COBB. Will the gentleman permit me to insert another provision in his amendment, abolishing the franking privilege?

Mr. LETCHER. I have no objection to that.

The CHAIRMAN. The Chair will simply read the title of the bill, which indicates its character. It is "A bill making appropriations for the service of the Post Office Department for the year ending the 30th of June, 1859." The effect of the amendment is to change the law establishing existing rates of postage, and upon that ground the Chair decides it to be in conflict with the rule, and out of order.

Mr. LETCHER. Well, sir, I withdraw my appeal; and now I will give my views upon the proposition, as there is no means of stopping debate here now.

The CHAIRMAN. If there be no amendment offered the bill will be laid aside.

Mr. LETCHER. No, sir; I have the floor upon this bill, and I desire to explain the reasons why I have submitted this proposition. We have heard here, for weeks past, about the War Department and the Navy Department of the Government swallowing up the entire revenue of the country for purposes that are unnecessary. Now, sir, here comes this Post Office Department, about which little or nothing has been said, for which we last year made an appropriation of \$2,500,000 to supply a deficiency for the year ending 30th of June, 1858, and during the present session we appropriated \$1,469,000 for supplying a still further deficiency for the same year. Then, so far as this present year is concerned, the revenues of the Post Office Department, which was intended

as a self-sustaining machine, falls short, by the amount of \$3,969,000, of paying its current expenses.

Now, sir, for the next fiscal year the expenses of the Post Office Department are estimated at a little upwards of fifteen million dollars; and in this very section which I propose to amend, is an appropriation of \$3,500,000, for the purpose of meeting anticipated deficiencies in the revenues of that Department. I have said that the intention was, in establishing this Department, to make it support itself. This bill proposes to provide other means, derived from other sources, to apply to the service of that Department, to the exclusion of other legitimate objects; and it does seem to me that, if ever there was a proposition coming within the limits prescribed by the rules of the House, which it would be in order to consider in connection with this bill, it is this very proposition.

I have no idea whether this increase of letter-postage rates that I have proposed would make up the amount necessary to cover the entire estimated deficiency for the year ending 30th June, 1859. But I have no doubt it would go a very considerable extent towards accomplishing that result; and instead of having to supply such a sum as is here named, or such a sum as has been supplied during the present year, we may reduce it down to one third or one fourth the sum here asked for.

Now, sir, having given my reasons for the course I have pursued, I am content.

Mr. J. GLANCY JONES. I do not intend to make a speech, because I do not think it worth while; but, sir, I have in my hands statistics which I would like to send to the Clerk's desk and have read, to go along with the speech of my friend from Virginia. They are the following:

Statement showing the gross revenue in each State and Territory, &c.

States and Territories.	Gross revenue from postages and stamps sold.	Compensation of postmen and incidental expenses.	Net revenue accrued.	Cost of transporting the mails in each State and Territory.	Surplus after paying the cost of transportation.	Deficit after paying the cost of transportation.
Maine.....	\$154,566	\$87,884	\$66,682	\$98,275	-	\$31,593
New Hampshire.....	102,658	55,135	47,523	47,555	-	32
Vermont.....	100,741	54,231	45,913	65,229	-	19,316
Massachusetts.....	579,947	246,596	333,351	154,701	\$178,650	-
Rhode Island.....	64,077	26,457	37,620	14,523	23,097	-
Connecticut.....	212,493	96,144	116,348	88,572	27,776	-
New York.....	1,503,444	600,779	902,665	469,132	433,533	-
New Jersey.....	117,904	57,214	60,690	93,857	-	33,167
Pennsylvania.....	629,155	270,125	359,030	331,379	27,651	-
Delaware.....	20,380	9,667	10,513	17,166	-	6,653
Maryland.....	173,192	63,742	109,450	209,319	-	99,869
District of Columbia.....	44,699	38,622	6,077	-	6,077	-
Virginia.....	231,532	121,193	110,339	309,893	-	199,554
North Carolina.....	75,329	41,402	33,927	195,507	-	161,580
South Carolina.....	95,504	38,799	56,705	230,054	-	173,349
Georgia.....	153,859	79,285	74,574	259,121	-	184,547
Florida.....	20,899	10,985	9,914	73,771	-	63,857
Alabama.....	115,397	55,334	60,063	249,276	-	189,213
Mississippi.....	84,678	44,683	39,995	220,335	-	180,340
Texas.....	77,517	39,439	38,078	229,631	-	191,553
Kentucky.....	136,943	67,092	69,851	144,283	-	74,432
Michigan.....	167,935	89,654	78,281	140,408	-	69,127
Wisconsin.....	180,429	85,600	94,829	105,820	-	10,991
Louisiana.....	154,505	56,603	97,902	621,417	-	523,515
Tennessee.....	112,597	57,109	55,488	158,486	-	102,998
Missouri.....	165,317	73,265	92,052	224,763	-	132,711
Illinois.....	399,384	217,212	182,172	394,340	-	212,168
Ohio.....	490,324	246,500	243,824	504,363	-	260,539
Indiana.....	184,814	102,258	82,546	206,360	-	123,814
Arkansas.....	29,825	18,799	11,026	172,330	-	161,294
Iowa.....	157,725	85,201	72,524	102,336	-	29,812
California.....	256,994	114,022	142,972	245,831	-	102,859
Oregon Territory.....	12,096	5,580	6,516	28,371	-	21,855
Minnesota Territory.....	43,816	21,340	22,476	38,129	-	15,653
New Mexico Territory.....	1,641	692	949	42,991	-	42,042
Utah Territory.....	1,334	793	591	63,081	-	67,490
Nebraska Territory.....	3,929	2,237	1,692	16,168	-	14,476
Washington Territory.....	1,790	842	948	-	948	-
Kansas Territory.....	10,946	5,464	5,482	24,389	-	18,907
	\$7,070,387	\$3,288,789	\$3,781,578	\$6,596,152	\$697,732	\$3,512,306

Amount of deficit.....\$3,512,306
Deduct amount of surplus column.....697,732
\$2,814,574

The above statement shows only the insufficiency of the net revenue to pay the regular inland transportation, without embracing the foreign mails, route agents, local agents, and mail messengers, and other important items paid for directly at the Department.

Paid for foreign mails, per Auditor's report.....	417,220
Paid for route agents, local agents, and mail messengers, per Auditor's report.....	503,718
Payments made at the Department, namely:	
For wrapping paper.....	51,776
For advertising.....	43,976
For mail bags.....	51,506
Clerks for offices of postmasters.....	29,634
Office furniture in post offices.....	523
Miscellaneous expenses.....	23,972
	\$3,940,459

Mr. MAYNARD. Mr. Chairman, my object in seeking the floor is to address some remarks in reply to what has fallen from the gentleman from Virginia [Mr. LETCHER] on the subject of the General Post Office. I protest against the doctrine advanced here, and not for the first time: I mean the doctrine that the Post Office Department ought to be a self-sustaining one. It is, in my judgment, a most unwise policy. It may have been proper in the early period of the Government, when the country was comparatively small, the Treasury empty and burdened with debt, the resources very limited, and the postal routes few. But our condition is entirely changed. The country, in territory and population, has more than doubled; our national resources are unlimited; and the business of the Post Office increased nearly a thousand fold. If we act on that principle, if we carry it out to its legitimate results, we must then stop every mail route where the service on it does not pay the expense. It leads to that result, or it leads just nowhere. I can see no reason why we should pay millions for the Army, millions for the Navy, millions for legislation, and nothing for this branch of the public service which comes more directly home to the people, and from which they derive the more direct and positive advantage. Your mail, carrying the correspondence and the intelligence of the country, is that branch of the Government from which the people derive the largest and most essential benefits. It is that branch of the public service which is felt in its beneficence more than any other; and there is no principle I can perceive why the Government should not contribute to its support, as well as to any other Department.

Mr. BARKSDALE. Is it more incumbent upon the Government to carry letters than it is to carry merchandise?

Mr. MAYNARD. The Government takes the whole business of carrying letters into its charge. It will not allow me to send my letters by any other channel. It will not allow me and my neighbors to establish an express by which we can carry on our communication and correspondence, and we are obliged to use the public post. By the Constitution the subject of "post offices and post roads" is given to the General Government. The framers of that instrument did not think proper to undertake the transportation of merchandise. The reason of the distinction, I presume, is obvious.

Mr. BARKSDALE. The distinct understanding when the Post Office Department was established was, that it should sustain itself; and it was only placed under the charge of the General Government for the convenience of the country.

Mr. MAYNARD. It is that very understanding I am attacking as obsolete, by the changed condition and increased postal necessities of the country. I will submit to the gentleman from Mississippi that if we act on that principle we shall cut off many of the mail routes in his State and my own—not now too numerous for the convenience of the people—and perhaps more than half of the entire mail routes in the country, all that are not in themselves self-sustaining. The principle must go to that extent, or else become a source of gross imposition. For I ask what justice there is to tax the correspondence of this city and the city of Richmond, for example, in order to pay for transporting the mail to some lone hamlet across the Alleghany mountains, where the postal receipts are little more than nominal? What justice is there in it? Yet this is the only alternative. Either this, or else cut off the dwellers in the mountains from all intercourse with the world.

Mr. BARKSDALE. Under the operation of the tariff system, the South more than pays the deficiency in the Post Office Department, when it is known to every man that our mail facilities are totally inadequate.

Mr. MAYNARD. When we come to discuss the tariff, I will meet the gentleman on that subject; but it is not germane to the present discussion. We will, then, inquire who pays the tariff, and whether it operates for our benefit or against us. I am aware that he belongs to one school of political economists, and I belong to another. He honestly entertains one view of the subject, and I just as honestly entertain another, and a very different one.

Mr. BOCOCK. I thought that you were a good Democrat.

Mr. MAYNARD. I am not exactly a Democrat of the school to which my friend from the Piedmont district of Virginia belongs. It is possibly my misfortune.

I have risen, sir, merely for the purpose of expressing my dissent to the views advanced by the gentleman from Virginia, [Mr. LETCHER,] in reference to the idea of making the Post Office Department self-sustaining. This Department is not merely the means of communication and correspondence, but is the great means of our civilization. We are a migratory people. Our brothers, our neighbors, our children, go away, far away, from us; and the means of communicating with them by letters and by newspapers is one of the strongest ties that binds us together as a homogeneous people. It gives to the pioneer settlers, in the very remotest position, many of the best results of culture and social refinement. And I say that we ought to afford full facilities for carrying on that correspondence, without embarrassment or impediment. I do not intend to sanction a doctrine that shall prevent the mail going nearer than twenty or thirty miles to a man's door, simply because it will cost the Government more than the postage which he pays.

Mr. BARKSDALE. When I stated that the mail facilities of the South and West were inadequate, I meant to cast no reflection on the present head of the Post Office Department. He has increased our mail facilities more than any of his predecessors; and under his wise and efficient administration of the Department we have now but little to complain of. I thought it due to the Postmaster General to make this statement.

Mr. MAYNARD. I concur with the gentleman. I unite with him in expressing my approval of the conduct of the present head of the Department in that regard; and I am willing, so far as my vote is concerned, to put my hand into the public Treasury, and strengthen his arm, and to enable him to do more efficiently what he is attempting to do, I believe, in good faith, to the extent of the power intrusted to him. I was unwilling to sit in silence and see his administration embarrassed, by suggestions that he should make the Department self-sustaining; and that, failing to do so, he is guilty of an unwise or unnecessary departure from the less generous policy of some of his predecessors.

Mr. WASHBURNE, of Illinois. I move that the committee rise, with a view to close this debate.

Several MEMBERS. Oh, no.

Mr. COLFAX. I have an amendment to offer.

Mr. GARNETT. I am opposed to this railroad speed in manufacturing appropriation bills. I move that the committee rise, in order that we may adjourn. We have been here long enough.

The question was taken on Mr. GARNETT's motion; and it was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SICKLES reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly a bill (H. R. No. 199) making appropriations for the naval service for the year ending the 30th of June, 1859, which he was directed to report back to the House with sundry amendments; also, a bill (H. R. No. 466) making appropriations for the expenses of collecting the revenue from customs, which he was also directed to report to the House; and also a bill (H. R. No. 556) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1859, upon which the committee had come to no conclusion.

Mr. J. GLANCY JONES. I demand the previous question upon both the bills reported to the House.

NAVY APPROPRIATION BILL.

Mr. SEWARD. I ask the consent of the gentleman from Pennsylvania to offer to the Navy appropriation bill the amendment which I offered in committee. I want to have a vote upon it in the House. I withdrew it in committee because I did not want to break up the committee for want of a quorum; and I believe it was the understanding that I should have an opportunity to offer it in the House.

Mr. J. GLANCY JONES. I will consent to that before the previous question is ordered.

Mr. SEWARD then offered the amendment which he had previously offered in committee, in relation to Blythe Island.

The previous question was seconded, and the main question ordered to be put, upon the bill making appropriations for the naval service.

Mr. HOUSTON. I stated yesterday to the House that I would object to any amendment making an appropriation being offered in the House which had not been considered first in the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair thinks the gentleman should have made his objection before the main question was ordered to be put.

Mr. HOUSTON. The Chair proceeded so rapidly that it was impossible.

COLLECTING THE REVENUES.

The previous question was then seconded, and the main question ordered to be put, upon the bill making appropriation to defray the expense of collecting the revenues from customs.

Mr. J. GLANCY JONES. I desire to consult the wishes of the House in reference to these bills. If it is the pleasure of the House to go on and act upon the amendments to-night, I am ready to go on. [Cries of "Go on!"]

Mr. GARNETT. I rise to a point of order. The main question having been ordered, no other business than that is in order, except an adjournment.

The SPEAKER. The point of order is well taken.

Mr. GARNETT moved (at half past seven o'clock) that the House adjourn.

Mr. GROW. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of general debate only.

Mr. GARNETT. I have no objection to that, and withdraw my motion to adjourn.

The motion was not agreed to.

Mr. ENGLISH. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair thinks the motion is not in order if objection be made, as the previous question has been seconded, and the main question ordered to be put.

Mr. ENGLISH. Would it be in order to move to reconsider the vote by which the House ordered the main question to be put?

The SPEAKER. It would.

Mr. ENGLISH. Then I make that motion.

Mr. GARNETT. I move to lay that motion on the table.

Mr. ADRAIN. I move that the House adjourn.

Mr. MARSHALL, of Kentucky. What will be the condition of those bills, if we now adjourn?

The SPEAKER. They will come up the first thing in the morning.

Mr. WASHBURNE, of Illinois. Would it not be in order for the House to go on and pass those bills to-night?

Several MEMBERS. There is not a quorum present.

The motion was agreed to.

And thereupon, the House (at seven o'clock and thirty-five minutes, p. m.) adjourned.

IN SENATE.

THURSDAY, May 27, 1859.

Prayer by Rev. J. R. NICHOLS.

The Journal of yesterday was read and approved.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. HUNTER, from the Committee on Finance, to whom were referred the amendments of the Senate to the bill (H. R. No. 201) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1859, amended and disagreed to by the House of Representatives, reported thereon; and, on his motion, the Senate insisted on its amendments, and agreed to ask for a committee of conference.

Mr. PEARCE, Mr. FITZPATRICK, and Mr. TRUMBULL were appointed the committee on the part of the Senate.

SMITHSONIAN INSTITUTION.

The VICEPRESIDENT laid before the Senate a letter of the Secretary of the Smithsonian Institution, communicating the annual report of its operations, expenditures, and condition; which, on motion of Mr. PEARCE, was ordered to lie on the table; and a motion by him to print it was referred to the Committee on Printing.

Mr. PEARCE submitted the following order; which was referred to the Committee on Printing:

Ordered, That ten thousand extra copies of the report of the regents of the Smithsonian Institution be printed, twenty-five hundred of which for the use of the Institution.

PETITIONS AND MEMORIALS.

Mr. IVERSON presented the memorial of Elizabeth Spear, widow of Thomas Williams, who was killed in battle, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. POLK presented a petition of citizens of New York, praying that the public lands may be laid out in farms or lots for the free and exclusive use of actual settlers; which was ordered to lie on the table.

Mr. RICE presented a memorial of the city of St. Paul, Minnesota, praying permission to enter a small strip of Government land, lying within the corporate limits of that city; which was referred to the Committee on Public Lands.

Mr. GREEN presented a petition of citizens of Nebraska, in that portion of the Territory lying upon the Missouri river, and between the mouths of the Big Sioux and the Running Water rivers, praying that that tract of country may be attached to and form a part of the Territory of Dacotah; which was referred to the Committee on Territories.

Mr. TOOMBS presented a resolution of the Legislature of Georgia, in favor of the enactment of a law to relinquish the Indian title to certain reservations in that State; which was referred to the Committee on Indian Affairs.

REPORTS OF COMMITTEES.

Mr. CLAY, from the Committee on Commerce, to whom were referred the memorial of E. B. Bishop, and a memorial of the board of marine surveyors of Philadelphia, reported adversely thereon, and that the committee be discharged from the further consideration of the memorials; which was agreed to.

He also, from the same committee, to whom was referred a memorial of William A. Vaughan, John Smith, W. D. Little, and Nathaniel Dennett, jr., submitted an adverse report; which was ordered to be printed.

Mr. STUART, from the Committee on Public Lands, to whom was referred the bill (S. No. 329) to authorize augmented rates for surveying the public lands, reported it with an amendment. He also submitted a letter of the Commissioner of the General Land Office, with accompanying papers relating to the bill; which were ordered to be printed.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Ebenezer Ricker, submitted a report, accompanied by a bill (S. No. 411) for the relief of Ebenezer Ricker. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. MALLORY, from the Committee on Naval Affairs, to whom were referred the papers relating to the claim of Elbridge Lawton, submitted an adverse report; which was ordered to be printed.

Mr. DIXON, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution to pay the Hon. Willis A. Gorman for his services as commissioner to investigate certain alleged frauds of the superintendent of Indian affairs for the northern superintendency, asked to be discharged from its further consideration, and that it be referred to the Committee on Indian Affairs; which was agreed to.

Mr. IVERSON, from the Committee on Claims, to whom was referred the report of the Court of Claims in the case of Jacob Bigelow, administrator of Francis Cazeau, asked to be discharged from its further consideration, and that it be referred to the Committee on Revolutionary Claims; which was agreed to.

Mr. GREEN, from the Committee on Territories,

to whom was referred the petition of citizens of Iowa, relative to granting a license to Lewis A. Thomas for a ferry, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a memorial of Giles S. Isham, submitted an adverse report; which was ordered to be printed.

Mr. HALE, from the Committee on Naval Affairs, to whom were referred the petition of Walter Nexsen, and the memorial of Henry S. Crabbe, asked to be discharged from their further consideration; which was agreed to.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred the bill (S. No. 322) for the relief of purchasers of public lands within the timbered reserve opposite Fort Kearny and for the settlers within the Winnebago agency reservation, the Fort Atkinson reservation, and the timber reserve opposite Fort Crawford, all in the State of Iowa, reported it without amendment; and submitted a report, which was ordered to be printed.

BILLS INTRODUCED.

Mr. RICE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 412) supplemental to "An act for the admission of the State of Minnesota into the Union;" which was read twice by its title, and referred to the Committee on the Judiciary.

CONDITION OF THE NAVY.

Mr. COLLAMER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be directed to inform the Senate of the time at which each of the vessels of the Navy was built, and the original cost thereof, and the amount and time of the repairs on each, exceeding \$5,000 at one time; also, the present condition of each as to competency for service, and where the same now are.

WARD'S FIRE-ARMS.

Mr. IVERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and Militia be instructed to inquire into the expediency of reporting an amendment, providing an appropriation to the Army bill, to authorize the Secretary of War to adopt, and apply on a limited scale to the present or future arms of the United States, the late improvement in fire-arms of Captain J. N. Ward.

POTOMAC RIVER.

Mr. HAMLIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to communicate to the Senate any information in his possession showing the necessity of an improvement in the Potomac river, in the District of Columbia, what the obstructions in the river now cost the Government annually, and his opinion upon the necessity or expediency of said improvement.

POST OFFICE REGULATIONS.

Mr. TRUMBULL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Postmaster General be directed to inform the Senate whether the book, published by John C. Rives, in 1857, entitled "List of Post Offices in the United States, with the names of Postmasters, on the 13th of July, 1857; also, the regulations and laws of the Post Office Department, compiled from the records of the Post Office Department, by D. D. T. Leech," is recognized by the Department as containing correct copies of its regulations in force at the time of its publication; and whether said book is furnished to deputy postmasters and post office agents, for their government in the discharge of their official duties; also the same information in regard to a book published by George S. Gidcom, in 1835, compiled by the said D. D. T. Leech, and entitled "List of Post Offices," &c.; and especially whether regulations in that book, Nos. 52, 53, 75, 110, and 117, respectively, were in force in July, August, and September, 1857; and whether said last-mentioned book, or a second edition thereof, published by Shillington, was furnished in 1855 and 1856 to postmasters and special agents of the Post Office Department, as a guide for their official conduct; and whether the regulations in said last-mentioned book abolished or repealed all former regulations of the Department, inconsistent with their provisions.

ENROLLED BILL SIGNED.

The VICEPRESIDENT signed the enrolled bill (H. R. No. 231) for the relief of Nancy Serena; which had heretofore received the signature of the Speaker of the House of Representatives.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker had signed an enrolled joint resolution (H. R. No. 32) making appropriations to pay the

expenses of the several investigating committees of the House of Representatives; which thereupon received the signature of the Vice President.

ALEXANDER J. ATOTCHA.

Mr. MASON. I ask the Senate to take up a resolution which was offered some days since by the Senator from Louisiana, [Mr. BENJAMIN,] requiring the Court of Claims to return to the Senate the papers in the case of Alexander J. Atotcha. The case was referred to the Court of Claims; and I am informed that the court have decided that they have no jurisdiction.

Mr. HUNTER. I understand that the Court of Claims disclaim jurisdiction. If so, I make no objection to an order for the return of the papers.

Mr. MASON. I am so informed, I have not inquired at the Court of Claims; but I suppose such is the fact.

The motion to take up the resolution was agreed to; and it was adopted, as follows:

Ordered, That the Secretary be directed to request the Court of Claims to return to the Senate the bill and papers relating to the claim of Alexander J. Atotcha.

LAND LAWS ON THE PACIFIC.

Mr. STUART. The Committee on Public Lands, to whom was referred the bill (H. R. No. 179) for extending the land laws east of the Cascade Mountains, have had the same under consideration, and directed me to report it back, without amendment, and recommend its passage. This is a bill of only seven lines, and I will ask the indulgence of the Senate to pass it at this time, because it is important that the necessary arrangements should be made to commence the surveys at once.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

It extends the existing laws relating to the survey and disposal of the public lands in the Territories of Oregon and Washington, west of the Cascade Mountains, and makes them applicable to the lands lying east of those mountains within those Territories.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PAY OF PURSERS' CLERKS.

Mr. HALE. The Committee on Naval Affairs, to whom was referred the bill (H. R. No. 336) for the relief of B. W. Palmer and others, have instructed me to report the same back with an amendment, and to ask for the consideration of the bill at the present time. I will state what the object of it is, if the Senate will give me their ear. By the present law of 1835, clerks or assistants to pursers receive a salary of \$500 a year, with the exception of the purser's assistant in the navy-yard at Kittery, Maine. He, by law, gets \$750. The Department thinks that \$750 is not too much, and they have accordingly estimated for that ever since 1854, and it has been actually paid. The Auditor has determined, and I think very properly, that that payment is illegal; that an estimate and an appropriation will not warrant payment without an absolute provision of law, and therefore recommends that a law be made to conform to what the practice has been for three years. The accounts are suspended, and he says he will not settle them until they have an opportunity to come to Congress. The same thing is the case in regard to the clerks at the navy-yards at Kittery and Philadelphia. The same appropriations have been made, the same payments have been made, but the Auditor says illegally, and the Department ask now that we may pass a law to do what they have been doing without law for three years. That is the whole of it. It has the unanimous sanction of the committee and the Navy Department, and the accounts are suspended until the bill is passed.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 336) for the relief of B. W. Palmer and others.

It proposed to confirm the excess of salary paid to B. W. Palmer and others, as pursers' clerks at certain navy-yards, under the estimates made in the naval appropriation bills since the year 1853, with a proviso that this was not to be construed into a repeal of the existing laws regulat-

ing the pay of pursers' clerks; and that their salary was not hereafter to exceed \$600 per annum.

The Committee on Naval Affairs reported the bill with an amendment to strike out all after the enacting clause, and insert:

That the accounting officers of the Treasury be, and they are hereby, authorized and directed to allow all payments made since the 1st day of July, 1854, to the clerks or assistants at pursers at the navy-yards at Charlestown, New York, Philadelphia, Washington, Norfolk, and Pensacola, at the rate of \$750 per annum; and to allow all payments made since the said 1st day of July, to first clerks to commandants, and to clerks of the yards at Kittery and Philadelphia, at the rate of \$1,200 per annum; and that the pay of said clerks shall hereafter be \$1,200 per annum, and of pursers' clerks or assistants shall be \$750 per annum, commencing with the current fiscal year.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill read a third time. It was read the third time, and passed.

Mr. HALE. The title should be amended so as to read: "An act relating to the compensation of pursers' assistants and clerks."

It was so amended.

PAY OF REVENUE OFFICERS.

Mr. HAMLIN. I ask the Senate to take up for consideration the bill (H. R. No. 482) regulating the compensation of officers and marines of revenue cutters. I think it will not occupy five minutes.

Mr. HUNTER. I object to taking up that bill. It is a bill to raise the salaries of officers of the revenue cutters. Does the Senator expect to pass that through without debate?

Mr. HAMLIN. Yes, sir. The House has already passed the bill.

Mr. HUNTER. I do not think it will pass here without debate.

Mr. HAMLIN. The same bill has passed the Senate half a dozen times in as many different sessions, but has never before been reached in the House of Representatives. The Senate, year after year, have passed this identical bill, and I have no doubt that when you come to a vote there will not be half a dozen Senators in this body who will vote against it. The increase is very slight. The present pay of these officers is very small. The bill received the unanimous approbation of the Committee on Commerce of the Senate.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 482) regulating the compensation of the officers and marines of the revenue cutters.

It directs that the compensation of the officers of the revenue cutters shall be at the following rates, to wit: captains, \$1,500 per annum; first lieutenants, \$1,200 per annum; second lieutenants, \$1,100 per annum; third lieutenants, \$1,000 per annum; engineers, \$1,200 per annum; assistant engineers, \$1,000 per annum. The wages of the petty officers, gunners, and marines, are to be regulated and fixed by the President of the United States so as not to exceed forty dollars per month, exclusive of rations.

Mr. HUNTER. I should like to know what the present compensation of these officers is, and how much it is proposed to increase it? I should be glad if the gentleman would inform me.

Mr. HAMLIN. One thousand two hundred dollars is the present pay for captains; we propose to make it \$1,500. Nine hundred and sixty dollars is now the pay for first lieutenants, and \$1,200 is proposed. Eight hundred dollars, I think, is the pay for a second lieutenant, and it is proposed to be made \$1,100. It is a very slight increase.

Mr. HUNTER. I do not believe this is the time for increasing the salaries of these officers. We all know that the expense of collecting the revenue has increased very largely within the last few years. We know that it already amounts to a sum which is a very serious charge. I believe there is a bill now pending in the House of Representatives providing for the annual expense, at a rate something like four million dollars; and I think it a very unpropitious time to be increasing the salaries or emoluments of the officers of this Government. I understand there are a great many applicants for these places, at the present salary; a great many more than can be supplied. Under these circumstances, I am opposed to the passage

of any bill to increase their pay. It is not so small an increase as the Senator would have us suppose. It is something like twenty or twenty-five per cent. on the old salaries. I am utterly opposed, at this time, to increasing salaries.

Mr. HAMLIN. I will not debate the matter. I simply want to repeat that this increase has been recommended year after year by your Treasury Department.

Mr. HUNTER. Does the present Secretary of the Treasury recommend it?

Mr. HAMLIN. I think so.

Mr. HUNTER. I think the Senator is mistaken.

Mr. HAMLIN. I will not say for certain, because I do not know; but I will say, that for the last half a dozen years every Secretary has recommended it, and every Committee on Commerce on the part of the Senate has approved of it, and reported on it favorably. The House of Representatives this year has passed the bill, and the Senate Committee on Commerce have unanimously reported it back.

Mr. BIGLER. I hope this bill will pass. The compensation of these officers is totally insufficient. I can see no reason why the officers in this service should be confined to a compensation entirely inadequate, bearing no relation to similar service in the Army or Navy.

Mr. HUNTER. I should like to have the yeas and nays on the passage of the bill.

Mr. TOOMBS. Let the bill be read again.

The Secretary read it.

The bill was reported to the Senate without amendment, ordered to a third reading, and read the third time. On the question, "Shall the bill pass?"

Mr. HUNTER called for the yeas and nays, and they were ordered; and, being taken, resulted—yeas 20, nays 23; as follows:

YEAS—Messrs. Allen, Bell, Bigler, Bright, Clay, Collier, Dixon, Fessenden, Green, Gwin, Hamlin, Hammond, Iverson, Jones, Mallory, Mason, Seward, Stuart, Thompson of New Jersey, and Wilson—20.

NAYS—Messrs. Broderick, Chandler, Clingman, Davis, Fitch, Foster, Harlan, Houston, Hunter, Johnson of Arkansas, Johnson of Tennessee, Pearce, Polk, Reid, Rice, Sebastian, Simmons, Sibley, Thompson of Kentucky, Toombs, Trumbull, Wade, and Wright—23.

So the bill was rejected.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the following bills, in which the concurrence of the Senate was requested:

A bill (No. 456) making appropriations for the expenses of collecting the revenue from customs; and

A bill (No. 499) making appropriations for the naval service for the year ending the 30th of June, 1859.

N. C. TOWLE.

Mr. SEWARD. I ask the Senate to take up the bill (S. No. 343) making appropriations for repairing the piers at the harbor of Sheboygan, Wisconsin.

Mr. IVERSON. I ask the Senator to waive that motion for the present, and allow me to take up the resolution paying the little account of Mr. Towle that we had up yesterday morning. I do not wish to debate it; I merely want it decided whether the Senate will pass the resolution or not. He has not received any money. It is two years since he performed the service, and he wants the question decided.

Mr. SEWARD. If the honorable Senator will not press it if it causes debate, I shall waive my motion for the present.

Mr. IVERSON. Very well; I will not debate it myself, and I trust it will be decided at once.

The Senate resumed the consideration of the following resolution:

Resolved, That the sum of \$321 be paid out of the contingent fund of the Senate to N. C. Towle, for mileage and expenses in visiting the Aroostook country, in Maine, under a resolution of the Senate of August 13, 1855.

Mr. JOHNSON, of Tennessee. It seems to me that the resolution ought to be referred to the Committee to Audit and Control the Contingent Expenses of the Senate. The committee having charge of the contingent fund, I understand, is a mere auditing committee; and this account has been made out and presented to that committee, and it has been audited and an allowance made.

The allowance made by that auditing committee, Mr. Towle refuses to accept. He wishes to override the committee who have audited the account and made a liberal allowance, and comes before the Senate with a resolution to get an allowance over what the auditing committee has proposed.

The VICE PRESIDENT. Is there a motion to commit?

Mr. JOHNSON, of Tennessee. I think it ought to be referred. I move that it be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. WADE. I really hope this little matter will not take up much more time. I suppose I ought to say something about it, because I was the principal mover of the original resolution that resulted in the employment of this man to do this service. It originated in the Committee on Claims when I was a member of that committee. If gentlemen knew the nature of the service Mr. Towle performed, I believe they would withdraw all objection, for I think it would be manifest to every one that he has been more moderate in his charges than any Government officer ever was before.

He was clerk to the Committee on Claims. A question arose before that committee in regard to a great variety of small land titles that the Government were bound to pay for on account of the running of the northeastern boundary line, under the Ashburton treaty. The Senate has consented to the justice of these claims. I believe there were some sixty or seventy small landholders who had lost their titles by that treaty, who petitioned to be remunerated for the land they had thus lost. That was referred to the Committee on Claims while I was a member of the committee, and it was found almost impossible to settle the amount due to each claimant. That something was due was perfectly apparent; but the amount and value of the land of each one depended on independent evidence of its own. The committee were unwilling to act for several years, not knowing what to do, because they had no evidence that was satisfactory of the amount of these men's claims, although each of them was only for a small sum. It was suggested in the committee that it would be necessary to send some commissioner there, to go upon the ground and take testimony that would satisfy the committee precisely what was due to each, and I introduced the resolution myself in the Senate. In order to do it without embarrassing the House of Representatives with the matter, we made it a Senate resolution. We supposed it would take too long, and would delay the matter indefinitely, to pass such a resolution through both branches. We passed a Senate resolution to the effect that the Committee on Claims might employ a commissioner for the purpose of ascertaining these facts, and reporting them to the Senate.

When that resolution was passed, the question arose who should be sent. I knew that our clerk was the most competent man for the service of whom I had any knowledge; we all knew that. He was a man who was fully acquainted with all that the committee wished to ascertain; he had heard the subject discussed, and it occurred to us that he would be the most proper man to send, inasmuch as he was an excellent business man, and knew exactly the state of the controversy, and what we wished to ascertain by evidence. We urged him to go. He did not want to go there. Some gentleman here has suggested that he went on an excursion of pleasure. It was no such thing. In justice to this clerk, I ought to say that he solicited no such position at all, but it was because the committee believed him the most competent man to do this business in the cheapest and shortest way, that we urged it upon him, and told him there was no doubt that the Senate would be willing to compensate him fairly. Now, what has he charged? He has not charged a single cent for the time he was there. All he has asked of the Senate is barely to remunerate him for his outlay in doing the business, and he did it quicker and better than any other man would have done it, and to the entire satisfaction of the Senate, who have assumed what he did to be right, and passed a bill accordingly. We ought not to stand here higgling about the amount of this little charge.

Mr. SEWARD. What is the sum?

Mr. WADE. Something over three hundred dollars, and I hope the Senate will pay it.

Mr. SEWARD. Let us have the question.
Mr. WADE. I will say, that there is no committee of the Senate so competent to judge of the matter as the Committee on Claims. They know all about it, and I think they being satisfied, the Senate ought to be satisfied.

Mr. IVERSON. I hope the motion to refer this resolution to the Committee on Contingent Expenses will not prevail. It has already been referred to that committee, and they have decided to allow \$200. It comes up now as an appeal from the Committee on Contingent Expenses to the Senate to decide. If it goes to that committee they will decide the same way as before; they will audit the account for \$200, and the question will come up on appeal to the Senate, and we shall have the same question over again. We shall gain nothing by referring it. If the chairman of that committee thinks \$200 is sufficient and that \$321 ought not to be allowed, let him move an amendment of that sort. If the amendment prevails, that will be an end of the question; if not, let us pass the original resolution.

Mr. JOHNSON, of Tennessee. The state of the case is this: in the first instance this gentleman was a clerk to the Committee on Claims. They were authorized by resolution to send him North to obtain some testimony. After he returned from the trip, his account was made out; it was indorsed by the Committee on Claims, and application was made to the Secretary for payment. It is made the duty of the Secretary, under the 34th rule, to submit all such claims to the Committee on Contingent Expenses; and they took up the claim; they examined it, and they allowed \$200, which has been standing there in a condition to be drawn by this clerk at any time he saw proper. It is not necessary to have the action of the Senate at all for him to get the \$200. This clerk was in the employment of the Committee on Claims; and he was getting six dollars per day. They were authorized to send North to obtain this information in reference to some land; and they sent him. He went North; and he made out his account for two thousand miles travel, \$200. In addition to that, for thirty-three days while he was gone, he put down additional expenses at three dollars a day; and, besides that, twenty-two dollars for hiring a buggy. The committee thought that, while drawing \$1,800 a year from the Government, his additional expenses were all that they ought to pay; and ten cents a mile would cover all actual charges. They were willing to pay that amount, though he was in the receipt of \$1,800 per annum. They allow him \$200 in addition to pay the expenses of going North and coming back.

Mr. IVERSON. If the Senator from Tennessee will withdraw his motion to recommit, we can then have the vote on the proposition; and if the Senate think \$200 sufficient, they can vote down the resolution, and the audit for \$200 stands, and he can get it; it would be wholly useless to send the question to the Committee on Contingent Expenses. I hope the question will be taken on the resolution.

Mr. JOHNSON, of Tennessee. I will withdraw my motion with a single observation. Your Committee on Contingent Expenses have examined this account; the indorsement of the respected deceased chairman of that committee (Mr. Evans) is on the papers; and the man can, on that indorsement, draw the \$200 at any time he thinks proper. The best motion would be to lay this resolution on the table; for he could then get his \$200, if he thinks proper.

The VICE PRESIDENT. The motion to refer having been withdrawn, the question is on the engrossment and third reading of the resolution.

Mr. FESSENDEN. Nobody had more respect for the Senator from South Carolina who was the former chairman of the Committee on Contingent Expenses, than myself; but I suppose he was liable to error like other men; and in this particular, I have no doubt, he committed an error. The Senator from Tennessee does not understand this matter; he certainly does not understand it as well as the Committee on Claims, who originated the whole proceeding. It is a trifling matter; but it is of some consequence that we should do justice, at any rate.

He goes upon the assumption that, when this order was passed by the Senate, it was to authorize the Committee on Claims to send their clerk, who received so much annual pay. That was

not the order. It authorized the Committee on Claims to send some person to take this testimony; but if they had employed another person, not their clerk, a man who was not in the employment of the Government, we should not have got off for anything like the sum which has been charged by the clerk for this service. Nobody would have gone there, been six weeks absent, traveled two thousand miles, gone into a new country, slept in huts, and got along as he could from place to place in the woods, with a view to take this testimony, for three or four weeks doing exceeding hard work, for merely his expenses.

Mr. JOHNSON, of Tennessee. I would ask, was he not receiving his six dollars a day?

Mr. FESSENDEN. What of that? I am answering that very argument. Suppose he was receiving his six dollars a day. The resolution authorized the Committee on Claims to send an agent. He was here, and if he had staid here, he would have had his leisure in the recess, like other clerks of committees. He would have had some time to enjoy himself in such a way as he pleased. The business of the committee is not so great as to occupy all a man's time; but this was no part of his duty. The committee could not order him to go. It is no part of the duties of a clerk to a committee to go and travel, and take testimony, and settle a case in that way. They requested him, and urged him, to give up time which he might have devoted to his own purposes, for the benefit of the Committee on Claims and the Senate; instead of appointing a new agent, who would necessarily have charged, and been entitled to charge us, a larger sum. They prevailed on their clerk, whose business it was not, who was under no obligation to do it, to forgo his own pleasure, and devote six weeks of the hottest part of the summer, traveling that distance; sleeping in huts, going around from place to place, to take this testimony. After he has done all that, the gentleman says he has been receiving his six dollars a day. He would have received his six dollars a day, if he had staid here and done nothing. He comes here and submits a very small bill; made small on purpose, because he was the clerk of the committee; not charging as an agent properly appointed, taken from any other place, would have been entitled to charge; but because he was clerk of the committee, and was prevailed upon to do this service by the unanimous wish of the Committee on Claims, you want to strike him down to his mere expenses for traveling. It is ungenerous, and the honorable chairman of the Committee on Contingent Expenses, did not understand the merits of the case; nor do any of these gentlemen understand it; nor can they so well understand it as the Committee on Claims, who appointed him. When he exhibited his account to us, we were all surprised at the very small amount he charged, and we all cheerfully and willingly, signed our names to the certificate that he deserved, and ought to receive, the amount there charged, only about three hundred and twenty dollars, for his six weeks' work, all that labor, and all that travel, and rendering most essential service to the country, and unquestionably saving a good deal of money to the Government, if the bill shall finally pass.

Now, it is wrong, it is unjust, to say that, because he happened to be clerk of our committee, therefore, when he undertakes this business, which was no part of his regular labor, at our request and the request of the Senate, and has incurred these expenses, you will avail yourselves of the fact that he was clerk to the Committee on Claims, to say that he shall have nothing but his actual expenses of traveling. It is applying a rule to him that we should not be justified, in my judgment, in applying to any man. I feel no interest in this, except that I think to reject this resolution would be a gross injustice; and it would be dealing hardly, also, with the Committee on Claims, who employed him, and who unanimously recommended that he should be paid, knowing the value of the services better than anybody else than himself could know it.

Mr. WRIGHT. I desire to amend the resolution by striking out, in the first line, the present amount, \$321, and inserting "\$230."

Mr. POLK. I wish merely to state, in explanation of the vote I shall give in this case, that, as I understand the Committee on Claims, or those who constituted the committee at the time these

services were rendered, have unanimously recommended the payment of this bill, in the language of the Senator from Maine, I shall vote for the resolution. At the same time, I must say that I do it in deference to the opinion of that committee, who had the services performed, and who know what the services were. My judgment, aside from that, or the facts of the case, would be that the amount allowed by the Auditing Committee of the Contingent Expenses of the Senate would be sufficient. I am a member of the Committee on Claims myself, and I shall defer to the judgment of my predecessors, inasmuch as I think they were better able to judge of what was fair than I can be.

Mr. JOHNSON, of Tennessee. There is a principle involved in this matter. As the agent of the committee going North, the clerk makes out his account for two thousand miles' travel, and charges ten cents a mile. He charges, in addition to that, for thirty-three days, three dollars per day additional expenses. He further charges twenty-two dollars for buggy hire. For these thirty-three days that he charges three dollars each he was in the employ of this committee, drawing regularly his six dollars per day. Ten cents a mile, we know, will more than cover all the expenses he incurred. He was drawing his salary regularly. If we make this allowance of additional compensation, what becomes of the principle of the law that prohibits additional compensation, or, in other words, officers from drawing two salaries at the same time? Eighteen hundred dollars a year is pretty good pay. He was drawing six dollars a day, and we are willing to allow him ten cents a mile to cover all the expenses; and still we are talking about liberality. We know that these gentlemen, who are clerks of committees, are scarcely employed one half of the year. Here is the indorsement made on the papers by the venerated and respected chairman of the Committee on Contingent Expenses, recently deceased: "\$200 is the amount that should be paid." The money is ready for him at any time. Instead of taking that, that committee, after auditing the accounts, are to be over-slaughed, and \$320 is to be voted to meet his peculiar notion of dignity and expense. We allow him \$200, and give him his six dollars per day. Is not that enough? If he could do better at anything else, I have no doubt he would do it.

Mr. FESSENDEN. You might just as well overslaugh the Committee on Contingent Expenses as the Committee on Claims.

Mr. WADE. I do not like to say anything more about this case. It is not within my jurisdiction; but still I feel in honor bound to stand by the man whom I recommended for this service, when injustice is about to be done him; not knowingly, I presume. Now, sir, we are great in small things. I wish we could reverse this. When diplomatic gentlemen employed by the year, at a great salary abroad, are requested by the Government to go to a neighboring court, there is no Senator here that makes wry faces at paying an outfit and salary over again, and paying a large amount of money. But when a mere clerk is engaged, and sent on special service not at all connected with his general duties, that is a mighty thing, and every man stares at it as though the country were going to be ruined by paying him for such service.

I will say to the Senator from Tennessee that in all instances, so far as I know, whether the practice be right or wrong, wherever any officer is engaged by the year, on a certain business, at a salary, if the Government employ him on special service, not pertaining to his ordinary duties, they have paid him for that special service. There is not a committee in this body but has reported bills on that principle. Why should we undertake to reverse it here? Indeed, the rule which the Senator would apply is not applicable here. What was it? The resolution had no relation to this officer at all, but it empowered the Committee on Claims to employ an agent for this purpose. If we had employed a perfect stranger, we should have heard no objection to paying him; you would have paid him twice this amount, and then said he would not have had enough; but because it occurred to us that this gentleman was better qualified than anybody else, we sent him. He would have received just as much if he had staid at home, in point of salary. He did the service quicker and better, and more to the satisfaction of the com-

mittee and the Senate, than anybody else could have done, and yet we are higgling about the small amount of pay! I will not detain the Senate on it. Let us have the vote.

Mr. CHANDLER. I think this matter had better lie over. It is evident this discussion is to go on. ["Question! question!"] Gentlemen will not stop talking.

Several Senators. Let us vote.

The amendment of Mr. Wright was rejected. The resolution was ordered to be engrossed for a third reading, and was read the third time.

Mr. JOHNSON, of Tennessee. As gentlemen talk so much about expenses, let us make a record as we go on. I ask for the yeas and nays on the passage of the resolution.

The yeas and nays were ordered; and being taken, resulted—yeas 31, nays 12; as follows:

YEAS—Messrs. Allen, Bell, Broderick, Chandler, Collamer, Crittenden, Dixon, Drake, Fessenden, Fitch, Foot, Foster, Green, Hale, Hamlin, Hammond, Harlan, Iverson, Johnson of Arkansas, Jones, Mallory, Mason, Pearce, Polk, Pugh, Seward, Simmons, Thompson of Kentucky, Trumbull, Wade, and Wilson—31.

NAYS—Messrs. Bigler, Clay, Clingman, Davis, Hunter, Johnson of Tennessee, Reid, Rice, Sebastian, Slidell, Toombs, and Wright—12.

So the resolution was passed.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Finance:

A bill (No. 199) making appropriations for the naval service for the year ending the 30th June, 1859; and

A bill (No. 466) making appropriations for the expenses of collecting the revenue from customs.

WIDOW OF GENERAL SMITH.

Mr. SEWARD. I ask the Senate now to take up the bill for repairing the piers in the harbor of Sheboygan, Wisconsin.

Mr. SLIDELL. Will the Senator from New York give way to permit me to introduce a bill for the relief of General Smith's widow, with a view to reference?

Mr. SEWARD. With great pleasure.

There being no objection, leave was granted to introduce a bill (S. No. 413) for the relief of Mrs. Ann Smith, widow of the late Brevet Brigadier General Persifer F. Smith; and it was read twice by its title.

Mr. SLIDELL. I would ask the immediate consideration of the Senate to this bill, believing that it will lead to no discussion, and that the feeling of the Senate will be unanimous in concurrence with the proposition I have made; but, as I am indebted to the courtesy of the Senator from New York for the favor on this occasion, I will not press it unless he shall be willing that it be now considered.

Mr. SEWARD. To-morrow morning I will cooperate with the Senator on it with great pleasure.

Mr. SLIDELL. I will state to the Senator from New York, that there is great appropriateness in passing the bill to-day, as this is the day of the funeral ceremonies of General Smith. I can say here, of my own knowledge, that he leaves his widow in very destitute circumstances. It is quite unnecessary for me to enter into any details of the merits of General Smith. His military career is part of the history of the country, familiar to us all; and if the bill is to be passed at all, I think it may be done with peculiar grace to-day. I do not think it will lead to any protracted discussion.

Mr. TOOMBS. I am opposed to it.

Mr. SEWARD. I understand there is objection.

Mr. TOOMBS. I am opposed to it. I want these cases put upon principle. I am not for making exceptional cases to a general law without any reason except that the applicant died in the public service.

Mr. SLIDELL. I will state to the Senator from Georgia, that this bill is a textual copy of the bill for the relief of Mrs. Worth, which passed the Senate almost unanimously two years ago.

Mr. TOOMBS. It passed wrong.

Mr. SLIDELL. Then I think it better to move its reference to the Committee on Pensions, if I can be assured that there will be a report from that committee to-morrow.

Mr. KING. The committee do not meet until Monday.

Mr. SLIDELL. Then let it lie over until to-morrow, when I shall call it up.

The VICE PRESIDENT. The bill will lie over.

Mr. SLIDELL subsequently said: I understand that the Senator from Georgia either did not explain his views properly, or that the Chair misunderstood him. He did not wish to object to the consideration of the bill for the relief of Mrs. Smith, and is willing that it should now be considered.

Mr. TOOMBS. I merely stated that I should oppose the bill, and then the Senator from New York said there was objection. I am very strongly opposed to the principle of a bill granting this benefit, and shall vote against it, and probably give my views against it, but I have no objection to its being considered.

Mr. SLIDELL. I move to postpone the special order for the purpose of considering the bill.

Mr. FESSENDEN. If the Senator from Georgia withdraws his objection, I shall interpose the same objection to its consideration before it goes to a committee.

The VICE PRESIDENT. Then the bill cannot be considered to-day.

INTERNAL IMPROVEMENTS.

On motion of Mr. SEWARD, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 343) for repairing the piers at the harbor of Sheboygan, Wisconsin.

Mr. PUGH offered an amendment to include all the other improvement bills reported by the Committee on Commerce; upon which

Mr. HUNTER and Mr. TOOMBS spoke until one o'clock. [These speeches will be published in the Appendix.]

HOMESTEAD BILL.

Mr. CLAY. The hour for the consideration of the special order has arrived.

The PRESIDING OFFICER, (Mr. IVERSON in the chair.) The Chair will call up the special order, which is the bill (S. No. 25) to grant to every person who is the head of a family and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, upon condition of occupancy and cultivation of the same for the period herein specified.

Mr. CLINGMAN. I believe the pending question on the homestead bill is upon an amendment of my own. Now, sir, from the intimations made by Senators around the Chamber, I have thought it very probable that a majority of the Senate are disinclined to pass that bill. The Senate and House of Representatives have agreed to adjourn on Monday week, and there is a great pressure of business. Then, while it is proper, if the majority desire to pass the bill, that we should go on and perfect it; on the other hand, if the Senate are disinclined at this time to pass the measure, we had better, if we can, get a test vote on that point at least. It being in order to move to postpone it, I move to postpone it until next January. I would prefer myself an indefinite postponement; but that would place it where, if the Senate, at the next session, were disposed to act on it, they could not do so. I hope that the Senator from Tennessee will allow us to decide this point. I am perfectly willing, if the majority are favorable to the bill at this time, that discussion and action may go on; but, on the other hand, if the Senate are disinclined to that, I hope it will be postponed. I make the motion to postpone it until the first Monday of January, hoping that it may not give rise to debate.

Mr. SEWARD. I have no objection to the motion to postpone to the 1st of January being made now, if the opponents of the homestead bill think it is important to do so, and to make that a test question. I, at the same time, think it unnecessary to make the motion at this time, because I have risen for the purpose of moving to postpone the consideration of the special order, the homestead bill, until to-morrow, for the purpose of enabling the Senate to go through with the river and harbor bills. However, the other motion is made, and I shall not object to it. I wish to give notice, however, that I shall, on the first opportunity I have, ask leave to introduce a resolution extending this session of Congress until the 21st day of June.

Mr. HUNTER. I submit a motion to postpone all prior orders for the purpose of taking up the appropriation bill.

Mr. CLINGMAN. Let us try my motion.

The PRESIDING OFFICER. The first question is on the motion of the Senator from North Carolina.

Mr. KING. Let us take the vote and ascertain the sense of the Senate on the homestead bill.

Mr. SEWARD. I wish to have the yeas and nays on the motion to postpone.

Mr. HUNTER. It seems to me we ought to have a fuller Senate.

Mr. JOHNSON, of Tennessee. The motion to postpone to a day certain is debatable?

The PRESIDING OFFICER. Yes, sir.

Mr. JOHNSON, of Tennessee. I do not intend to debate the question; but it does seem to me that if the Senate of the United States will ever be prepared to act definitely on this measure, it must be at the present time. It is not my intention to repeat anything that I have said on any former occasion; but this measure has been under consideration since 1846 up to the present time; it has been settled again and again in the public mind. It passed the House of Representatives by a majority of two thirds on two several occasions—in 1852 and 1854. As it has now been before the Senate during the whole session, made a special order at an early day, and has been discussed day after day, public opinion coming here in various shapes demanding action on this measure, it does seem to me that the time has come when the Senate ought to act upon it.

This measure has been lost in this body twice. The popular branch of Congress has passed it on two occasions by overwhelming majorities. Why delay it? Why postpone action on this subject? If the public will is to be met and to be carried out by the passage of the bill, let it be done. If the public will is to be disappointed and disregarded, let it be done. I am in hopes the Senate will let us act on the subject directly, instead of postponing it. The bill is now nearly matured, and I presume action can be had in a very short time. Let us vote directly on it, and let the country understand what we intend to do after having had it under consideration so long. I would almost venture—yet I will not dare to do it—to make a single appeal, in behalf of the homeless thousands in the United States, to the Senate to take up and pass this measure, and grant what they have long demanded; grant what they have appealed to you for again and again. Now, the time has come. Some gentlemen seem to be a little timid, and do not like to take ground on so important a measure, because they do not know where it will go and to what extent it will affect the public mind. Why delay? Why cannot the voice of the people be heard? Why cannot the feelings and wishes and wants of the country be subserved? Let us act definitely; either reject the proposition or pass it into a law. I do hope—I ask it in behalf of the homeless, the landless thousands in the United States—that the Senate will act definitely on this measure.

Mr. FOOT. I ask for the yeas and nays on the motion to postpone the bill.

The yeas and nays were ordered.

Mr. THOMPSON, of Kentucky. I do not desire to discuss this proposition, especially at this time. I am not in health to say what I should like to say on this measure. I think the honorable Senator from Tennessee, in saying that the public demands this bill, and that its propriety is a foregone conclusion in the public conviction, is altogether in error, so far as my knowledge goes. I could briefly show the history of the measure. It has once or twice passed the other House as a sort of measure that would tell all over the country. I do not mean to say that it was a demagogical measure or anything of that sort, but it was inconsiderately voted upon. It was once considered here in the Senate and killed outright. It is a pretty large expenditure of what, at least, is one of the sources of public revenue; and while I give to the Senator from Tennessee all credit for his bill and for his feelings for the homeless and houseless, still this is a time when we have to provide for the wants of the Government. I do not think the public granary is full enough to be giving out wine and oil, as they may be called for at any time.

But, as I said, I am not in health to express

what I want to say on this bill. I hope it will be laid over until January, when we can take it up and vote on it fairly, and then if it prevails, let it prevail. Let us husband our resources. *Festina lente*—let us get along slower. We are getting along at a very rapid rate, giving away, and lending, and borrowing money. I decline, so far as debate is concerned, to say anything at all on the measure now. I hope it will go over until next year, when we may look at it maturely, and if it is to be passed, and must be passed, I want to get it in the best shape it ought to be in. I think it needs a great many amendments; at least similar bills, that have heretofore come under my supervision did. I have not had a chance to examine this bill as I should like. I hope the motion to postpone will prevail; not that I would not like to accommodate the Senator from Tennessee; not that I desire to delay the bill; but if it be passed, it ought to be licked into the best possible shape, for it is an ugly affair at any rate. I think we ought to have a little time on it. A little sleep, before this immense domain goes, would be well enough, and considerate enough, especially as it is suggested that we are on the eve of an adjournment. I do not want to provoke any discussion on the merits of the question now. I hope the motion to postpone it, at least for the time being, will prevail.

Mr. JOHNSON, of Tennessee. One single remark in reply to the Senator from Kentucky, in reference to the evidences of public opinion. All that I rely upon, in connection with other demonstrations, is that this measure has been twice before the House of Representatives. The members of that body, representing every congressional district in the United States, have passed the bill by overwhelming majorities twice—in 1852, and 1854. This seems to me some evidence of public opinion. In addition to that, we have resolutions of various State Legislatures throughout the Confederacy. In addition to that, we have public demonstrations and public meetings, societies, and various organizations throughout the whole country, all coming here with a single voice. Where is the great demonstration that has ever been made against it? Where is the public opinion that has been pronounced against it? I do not know. It seems to me that the public judgment has been rendered, again and again, in favor of this important measure. It is now the public judgment of the country.

Mr. SEWARD. Will the honorable Senator from Tennessee allow me to suggest to him that the only difficulty he will experience, or that we shall experience, in the passage of the homestead bill—for I am with him on that subject—will be the want of time to pass it this session, and that every word of debate we indulge in in regard to postponements abridges so much of the time we have to pass it in? Let us have the question today; and if he will go with me to-morrow, or the first time I can get an opportunity to submit the proposition, and extend the session, he may secure the passage of the bill in that way.

Mr. JOHNSON, of Tennessee. If necessary, I will vote to extend the session, to enable us to pass this bill.

Mr. SEWARD. Well, I shall make that motion the first time I get an opportunity. Now let us have the question.

Mr. THOMPSON, of Kentucky. In reply to the Senator from Tennessee, I will say that the votes passed by the House of Representatives are not conclusive evidence of what the judgment and sense of the country is; and what State Legislatures or societies may have done is still less evidence, for they do almost anything that is brought before them and advocated vehemently and ardently. If you talk to them about homeless and houseless people, and all that sort of thing, they will vote whatever is asked, and memorialize Congress in reference to a thousand things they know nothing about. I do not want to embarrass or delay this measure. If it is to be passed, let it be done; but then I want it to be fairly done; and I should like to have a chance, really, to say something about the bill. I have a good deal to say about it. I hope it will be laid over until next session. I assure the gentleman I shall interpose no objection or obstacle next session, if you can pass it in the Senate.

Mr. JOHNSON, of Tennessee. One single remark. The Senator, from 1846 up to the pres-

ent time, has had this subject under consideration, a period of over twelve years. If he has not had an opportunity to examine and bring his mind to a conclusion after considering a subject for twelve years, I ask the friends of this measure what assurance they have of getting his support, if it shall be postponed?

Mr. THOMPSON, of Kentucky. I am not acquainted with the particulars of the bill now before us. I have not examined it. The general subject I have had before my mind.

Mr. JOHNSON, of Tennessee. It is in substance the same provision, and if the Senator cannot bring his mind to a conclusion in twelve years, when will he be enabled to come to a conclusion?

Mr. THOMPSON, of Kentucky. My mind is made up conclusively, in regard to that; I am against it, but I want to put it in as good a shape as I can. The Senator from Tennessee certainly misunderstands me. I say if it is to become the law of the country, make it as judiciously and wisely as you can, put it in good shape, with all proper provisions. I will not offer a solitary amendment myself. I will not try to kill it indirectly. I will not try to maim it—just take it squarely and fairly, let its friends perfect it—but I am not willing to progress with it just now. My mind has been made up, and very conclusively, though on this special bill I have not bestowed any particular attention. My purpose is not to defeat the measure ultimately if it has strength enough to carry it.

Mr. JOHNSON, of Tennessee. It is very apparent that the Senator is against it under any circumstances. It would make no difference to him what shape this bill might assume, ultimately or at present, he is against it. His object is to defeat it. If he intends to defeat it, and is prepared to meet the question, why not leave the bill before the Senate, to take its chance with the other business that is to come up? He is, confessedly, unalterably opposed to it; and why should he want to delay it, if it is not merely to dispose of the question indirectly? Why postpone it? The next session will be the short session, and it will be said we have not time to take it up; and so it will be defeated again. I hope the Senate will act at once on the subject.

Mr. CLAY. I wish to make a remark or two, in reply to what has fallen from the Senator from Tennessee, before the vote is taken on this bill. He argues that public opinion is in favor of this measure, and therefore it ought to be passed; but, admitting his premises, I do not agree that his conclusion is necessary. I do not think it is the business of this Senate, or of the House of Representatives, merely to reflect public opinion, whether right or wrong. I do not think it becomes us, as representatives of sovereign States, to run after public opinion; but I think we should rather lead it; we should correct it when it is wrong, and should only follow it when it accords with our judgment, and when it is right.

Now, in respect to this homestead policy, which the Senator says has been approved by public opinion. I dissent from him as to that conclusion. I deny that it is approved by public judgment. Why, sir, fourteen years ago, an unfortunate son of genius, who represented one of the districts in my own State, originated the idea in this country of giving homes to the homeless. Felix G. McConnell, of the State of Alabama, was in the habit, I believe, on all occasions when he rose to address the Speaker of the House of Representatives, of suggesting his proposition for a homestead for every man, matron, and maid in the United States, who was the head of a family. [Laughter.]

Mr. HAMLIN. And widow.

Mr. CLAY. Then it was treated with derision. About eight years ago, the Senator from New York, who perhaps is entitled to the credit of originating this measure in the Senate, offered a bill, of which this is a substantial copy, perhaps a literal one, and it received but two votes.

Mr. SEWARD. That is all.

Mr. CLAY. His vote and that of the then Senator from Wisconsin, (Mr. Walker.) Now, sir, whence did this cry for land originate? Not among the people, but among their Representatives. The public voice we hear is a mere echo of the voice that was first raised in this body, or in the other end of this Capitol. At one time I believe there

was a large majority of the people of my own State who favored this proposition. It was very natural that they should favor it. When I came into the Senate the larger portion of the lands within my State belonged to the Federal Government, or rather to the people of the United States. A proposition to give a home to every man who would go and settle upon it free of charge, was, of course, a very acceptable one. "Every man is a friend to him who giveth gifts," we are told by Solomon, and such I found to be my experience in canvassing the district in which I resided. A large majority, I believe, at that time were in favor of a homestead policy; and they had a better excuse for favoring that policy than can be preferred in most other States.

The best lands in that State had been long sold. Inferior and sterile lands, which were worth little for the purpose of cultivation, and only valuable for their minerals, were then in market. They were unwilling, and in many instances unable, perhaps, to give \$1 25 an acre for land which would scarcely sprout peas; and hence there was a general cry for this homestead policy. But since that time, in the year 1854, we passed the graduation bill. Under that bill, lands which have been in market for ten years, and unsold, are reduced from \$1 25 to one dollar an acre; lands which have been in market fifteen years have been reduced to seventy-five cents an acre; twenty years, to fifty cents an acre; twenty-five, to twenty-five cents; and thirty to twelve and a half cents. Under this policy, there is not a foot of land within my State that is now at the maximum price of \$1 25. There is an inconsiderable portion held at a dollar an acre. The largest portion is reduced to twelve and a half cents; and almost any land can be had at fifty cents an acre.

Now, sir, the people are satisfied with this reduction. They do not ask that the land shall be given to them for nothing; they see that it has been reduced according to its value; and they are willing to pay its value; and I believe at this time this homestead policy would receive a very small vote among the people of the State of Alabama. I think that it will not obtain a single vote among the Representatives of that State in the other House of Congress. The same facts are true of the other southern land States, as they are generally termed; and I think ought to be true of the older northern land States.

Hence there is, at this time, not the same reason for pressing this measure that existed four years ago. Since then we have reduced the lands, by a gradual scale, to such a price that any man who is worthy of a home can buy it; for I hold that any man who is not willing to give twelve and a half cents, or even \$1 25, an acre for lands, under the preemption plan, is not entitled to a home, does not deserve one as a gift, and would not cultivate it well if you were to give it to him. Why, sir, under the preemption law, one may take possession of a tract of land, as I understand the law, and hold it for twelve months—after giving notice of his entry—before he is required to make any payment; and, if he has any industry and energy and health, in that period of time he can raise the money to pay for his land. The man who is not willing to do that, or will not take a tract of land at twelve and a half cents an acre of the Government, I say, is not worthy of having it given to him. Because that bill has passed, and because I believe the people of my own State have changed their views on this subject, I deny that, at this time, we have any proof that the public voice demands the passage of this bill.

Mr. CRITTENDEN. I think, sir, that the honorable Senator from New York has furnished us an additional reason why we should vote at once for the postponement of this bill. He proposes to prolong this session; and one of the reasons assigned for it, and, perhaps—from the manner the gentleman has spoken—his principal reason, is, that we may have time to discuss the homestead bill.

Mr. SEWARD. Not to discuss it, but to pass it.

Mr. CRITTENDEN. That involves discussion. Now, sir, I am not, and I think the majority of the Senate are not, willing, upon such grounds, to propose a prolongation of the session. I am not willing to do it. There must be some measure of most urgent and pressing necessity

that will induce me to vote for the prolongation of the session a single day; and if that reason is to be urged, it is only one additional consideration with me for answering such arguments at once for the continuance of the session by putting this measure out of the way.

Mr. President, it is a very important subject. The present bill, it seems to me, as I have very imperfectly stated before, is liable to objection. It gives indiscriminately to rich and poor. It does not provide for the homeless and the houseless only; it gives indiscriminately to the rich and to the poor. The object which seems to be the principal inducement of the honorable Senator from Tennessee to press this bill may possibly be accomplished by some modification of the measure. A part of this object addresses itself very strongly to our humanity, and I hope I shall never be deaf to that point. It may address itself in some form or shape to the true policy of the country; I do not say that it may not, at any rate; but, in its present form, it cannot pass. It must undergo material modification, I think, before it can pass the Senate; and sound discriminations must be made that the bill does not attempt.

But there is, in the front of all these objections, one that seems to me to be decisive. The proceeds of the public lands have formed a part of the Treasury estimates on which we have been acting and making appropriations. To give away the public lands as proposed will altogether exclude, or nearly so, that source of revenue, or at least it will so materially diminish it that all these calculations will have to be gone over again; and if we intend to adjust our appropriations to our income all must be revised and looked into. We have not time to do that now. We have not time to act on this subject and debate this bill, and if it be adopted, to remodel our measures so as to agree to it.

But, the manifest objection to it now is, that we require all the money that can be obtained from the public lands and from all other sources, and in addition to that we are borrowing money. Is this the time to give money out of the Treasury? for it is the same thing to give money or to give the subject which produces the money. Is this the time when we can enter upon it? A time could not be selected in the history of our country more inauspicious to the success of the measure. I hope we shall postpone it until January.

Mr. PUGH. I think, considering the state of the public business and the late hour of this session, we ought to come to a decisive vote on this bill; but we never can have a test vote in the Senate as long as the question is open to debate. If the majority of the Senate be opposed to the bill, we ought not to waste any time in discussing it. To bring the Senate to a vote which will be decisive, I make a motion, for which I shall not vote. I move that the bill lie on the table, and I call for the yeas and nays. ["No," "No."] If the Senate will vote on the postponement, I will not press this motion; but if there is to be debate on the other, I shall insist upon it.

Mr. CLINGMAN. Let us vote on the other motion.

Mr. PUGH. If the Senate are opposed to the bill, let them lay it on the table.

Mr. CLINGMAN. Let the Senator see whether we can have a vote on the other motion first; and if the debate be unreasonably continued he can renew his motion.

Mr. PUGH. I withdraw it at the suggestion of Senators.

The Secretary proceeded to call the roll.

Mr. TRUMBULL. The Senator from Wisconsin, Mr. DOOLITTLE, has paired off with the Senator from Texas, Mr. HENDERSON.

Mr. JOHNSON, of Tennessee. I shall vote for the postponement with a view to move a reconsideration.

The result was announced—yeas 30, nays 22; as follows:

YEAS—Messrs. Allen, Bigler, Brown, Clay, Clingman, Crittenden, Davis, Dixon, Fessenden, Fitzpatrick, Foster, Green, Hamlin, Hayne, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, Mallory, Mason, Pearce, Polk, Reid, Sebastian, Shidell, Thompson of Kentucky, Thomson of New Jersey, and Wright—30.

NAYS—Messrs. Bell, Bright, Broderick, Chandler, Douglas, Durkee, Fitch, Foot, Hale, Hamlin, Jones, King, Pugh, Rice, Seward, Shields, Simmons, Stuart, Toombs, Trumbull, Wade, and Wilson—22.

So the motion was agreed to.

Mr. JOHNSON, of Tennessee. I move to reconsider the vote by which the homestead bill was postponed until January. Let the motion be entered.

The VICE PRESIDENT. The motion will be entered.

ORDER OF BUSINESS.

Mr. SEWARD. I wish to ask whether there is any special order now? What is the business before the Senate?

The PRESIDING OFFICER, (Mr. IVERSON.) The next special order is the bill (S. No. 85) supplementary to the act entitled "An act in addition to the act for the punishment of certain crimes against the United States, and to repeal acts therein mentioned," approved April 20, 1818.

Mr. SEWARD. I move to postpone all special orders for the purpose of continuing the discussion of the bill for the improvement of the harbor of Sheboygan, and upon that motion I ask for the yeas and nays. I wish to say to the friends of these improvements that it is very certain that, if the session should not be prolonged, this is the last day upon which there can be a hope of securing the passage of these bills, and that, with a view to securing their passage, I have abstained altogether from saying one word in the debate. I hope that the same course may be adopted by the friends of the measures; for whether we are willing it shall be so or not, probably a vote against continuing the consideration of the bills to-day will be decisive of their fate.

Mr. HUNTER. I hope the Senate will refuse to agree to that motion; and if they do, I shall ask to take up the civil appropriation bill.

Mr. FOOT. I rise to inquire what is the first special order now pending before the Senate.

The VICE PRESIDENT. The first special order is a joint resolution (S. No. 7) directing the presentation of a medal to Commodore Paulding. That comes up in connection with the report and resolution of the Committee on Foreign Relations, and the bill (S. No. 85) reported by that committee.

Mr. FOOT. Upon the several questions presented by the report of the Committee on Foreign Relations, I desire to be heard, perhaps at some length; but I am willing to consult the views of the Senate as to the time. I am quite prepared to go on at the present time, or, if desired by the Senate, I am willing it should be postponed until to-morrow, or even the next day; but I should hope it would not be postponed to a very late day. I will defer entirely to the wishes of the Senate on the subject.

Mr. MASON. The report from the Committee on Foreign Relations, or, more properly, the bill accompanying that report, was made the special order three months ago. I have not disturbed it in its place on the Calendar, relying, and I thought with some confidence, that when it was reached on the Calendar it would be taken up. The bill is intended more fully to provide for the preservation of the peace of the country, in our relations with foreign countries—a matter that I consider of very great interest, and I should be averse to its being postponed for any proposition whatever, unless it should be the determination of the Senate to pass the appropriation bills and adjourn, which I should deprecate if it is to put this bill out of its proper place. I would say to the Senator from Vermont, therefore, he had better allow it to remain as it is; and I hope it will not be postponed, but will come up in order.

The VICE PRESIDENT. The question is on the motion to postpone the special orders, with a view to continue the consideration of the harbor bills.

Mr. SEWARD. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. HUNTER. I give notice that if this motion fails, I shall ask the Senate to take up the appropriation bill.

Mr. SEWARD. I give notice, if this bill be passed, that I shall move to take up all the other harbor bills.

The Secretary proceeded to call the roll.

Mr. SEWARD. I ought to have stated some time ago that the Senator from Pennsylvania, Mr. CAMERON, has been absent two days, and paired off, to my knowledge, on all these questions, with some Senator whose name I do not remember.

Mr. FITCH. On these river and harbor questions I have paired off with the Senator from Louisiana, Mr. BENJAMIN.

The result was then announced—yeas 26, nays 20; as follows:

YEAS—Messrs. Allen, Bell, Bigler, Broderick, Chandler, Crittenden, Dixon, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Jones, Kennedy, King, Pugh, Seward, Shields, Simmons, Stuart, Thomson of New Jersey, Trumbull, Wade, and Wilson—26.

NAYS—Messrs. Bright, Clay, Clingman, Davis, Fitzpatrick, Green, Hayne, Houston, Hunter, Iverson, Johnson of Tennessee, Mallory, Mason, Pearce, Polk, Reid, Rice, Shidell, Toombs, and Wright—20.

The Senate accordingly resumed the consideration of the Sheboygan harbor bill, and the discussion continued to a late hour. Without disposing of the subject, the Senate adjourned.

[This debate will be published in the Appendix.]

HOUSE OF REPRESENTATIVES.

THURSDAY, May 27, 1858.

The House met at eleven o'clock, a. m. Prayer by Rev. D. BALL.

The Journal of yesterday was read and approved.

PREEMPTION RIGHTS.

Mr. COBB. I ask the unanimous consent of the House to have printed a bill and report from the Committee on Public Lands, in relation to preemption rights on the public lands. I desire that they may be printed for the information of the House and country. The Committee on Public Lands will report the bill if they can get an opportunity to do so.

Mr. CLEMENS. If there is no quorum present, I move a call of the House. I object to any business being done until it is ascertained that there is a quorum present.

The SPEAKER. The Chair will ascertain whether there is a quorum present.

The Chair counted the House, and announced that there were one hundred and twenty-one members present.

Mr. WASHBURNE, of Illinois. I call for the regular order of business.

Mr. COBB. The gentleman does not object to my request?

Mr. WASHBURNE, of Illinois. I do not object to that.

The bill and report were then ordered to be printed.

BANKRUPT LAWS.

Mr. TAYLOR, of Louisiana. I ask the unanimous consent of the House to be allowed to submit a report, accompanied by a resolution, from the Committee on the Judiciary, in reference to the enactment of a bankrupt law, to embrace corporations, that they may be laid on the table and printed.

The resolution was as follows:

Resolved, That there be no further action upon the recommendation of the President "to pass a uniform bankrupt law, applicable to all banking institutions throughout the United States."

No objection being made, the report and resolution were received, laid on the table, and ordered to be printed.

Mr. HOUSTON. I desire to say that, as a member of the Committee on the Judiciary, I concurred in the resolution reported by the gentleman from Louisiana, but did not concur in many of the reasons upon which that conclusion was reached by the committee. I had intended to prepare a short report to submit, but have been so pressed with other business that I have not been able to do so. I will say, however, that there is a minority report prepared by the gentleman from Virginia, (Mr. CASKIE,) a member of that committee. I ask that the minority have leave to file their views, and that they be printed with the majority report.

It was so ordered.

Mr. DAWES. I move that five thousand extra copies of the majority report and resolution, and of the views of the minority, be printed.

The motion was referred to the Committee on Printing, under the rules.

FORTIFICATIONS.

Mr. LANDY. I ask the unanimous consent of the House to introduce a bill making appropriations for the completion and repair of fortifications, as recommended by the Secretary of War, for the purpose of reference merely.

The SPEAKER. Objection is made, and the regular order of business is called for.

NAVAL APPROPRIATION BILL.

The SPEAKER. The first business in order is a motion to lay upon the table a motion to reconsider the vote by which the main question was ordered upon the naval appropriation bill.

The question was taken; and the motion was agreed to.

The House then proceeded to the consideration of the bill (H. R. No. 199) making appropriations for the naval service for the year ending 30th June, 1859, and the amendments thereto, reported yesterday from the Committee of the Whole on the state of the Union.

The first, second, and third amendments reported by the Committee of the Whole on the state of the Union, were read, and agreed to.

Fourth amendment:

In the clause in relation to the New York navy-yard, after the word "yard," in line one hundred and two, insert "and filling in the new purchase," and strike out "\$369,516," and insert in lieu thereof "\$320,166," so that it will read:

For boiler-house and setting boilers, water-pipes, drains, quay work, sewer extended to quay wall, boiler to dredger, timber basin, repairs of oakum shop, filling ponds in yard, filling in the new purchase, dredging channel, and scows, piling site for marine barracks, machinery for machine shop, boiler-shop, saw-mill, foundry, smithery, and brass foundry, and repairs of all kinds, \$320,166.

Mr. JONES, of Tennessee, called for a division on the amendment.

Mr. GREENWOOD demanded tellers.

Tellers were ordered; and Messrs. WINSLOW and BUFFINGTON were appointed.

The House divided, and the tellers reported—ayes 75, noes 39.

Mr. SMITH, of Virginia, demanded the yeas and nays.

Mr. RUFFIN called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. HAWKINS and WALDRON were appointed.

The House divided; and the tellers reported thirty-nine in the affirmative.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 64, nays 109; as follows:

YEAS—Messrs. Adrain, Ahl, Arnold, Bishop, Bocoock, Bowie, Burroughs, Cavanaugh, Chapman, Ezra Clark, Clawson, Clemens, John Cochran, Comins, Corning, Cox, Davidson, Davis of Indiana, Dean, Dimmick, Dowdell, Durfee, Edmundson, Florence, Foster, Goode, Goodwin, Greenwood, Gregg, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Huyler, J. Glancy Jones, Owen Jones, Kelsey, John C. Kunkel, Landy, Leidy, Letcher, Maclay, Humphrey Marshall, Millson, Freeman H. Morse, Niblack, Nichols, Palmer, John S. Phelps, Potte, Reagan, Reilly, Robbins, Roberts, Sealing, Seward, Shorter, Sickles, Spinner, James A. Stewart, George Taylor, Miles Taylor, Wortendyke, and Augustus R. Wright—64.

NAYS—Messrs. Abbott, Anderson, Atkins, Avery, Barksdale, Billingshurst, Bingham, Bliss, Boyce, Branch, Bratton, Buffington, Burlingame, Burnett, Burns, Case, Chaffee, Clark B. Cochran, Colfax, Covode, Cragin, James Craig, Crawford, Curry, Curtis, Davis of Maryland, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dawes, Dodd, English, Farnsworth, Foley, Gartrell, Gilman, Gilmer, Gooch, Granger, Grow, Harlan, J. Morrison Harris, Haskin, Hill, Horton, Houston, Howard, Jackson, Jewett, George W. Jones, Kellogg, Knapp, Leiter, Lovejoy, McQueen, Samuel S. Marshall, Mason, Matteson, Maynard, Miller, Moore, Morgan, Morrill, Isaac N. Morris, Oliver A. Morse, Murray, Parker, Pettit, Peyton, Phillips, Pike, Potte, Powell, Quitman, Ready, Ricand, Ritchie, Royce, Rufin, Seales, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, Singleton, Robert Smith, William Smith, Stanton, William Stewart, Talbot, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Vallandigham, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Watkins, White, Wilson, Woodson, and Zollcoffer—109.

So the amendment was rejected.

During the call of the roll,

Mr. CASE stated that Messrs. LAWRENCE and KILGORE were absent from the House on committee business, and had paired off.

The fifth amendment was then agreed to.

Sixth amendment:

To continue and carry on the work as contemplated by the act approved January 23, 1857, authorizing the establishing of a naval depot on Blith Island, at Brunswick, on the coast of Georgia, \$300,000.

Mr. SEWARD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 61, nays 114; as follows:

YEAS—Messrs. Adrain, Andrews, Arnold, Barksdale, Billingshurst, Clawson, Clemens, Clark B. Cochran, John Cochran, Comins, Cragin, Crawford, Davidson, Davis of Massachusetts, Dean, Dowdell, Edmundson, Florence, Fos-

ter, Gartrell, Gilman, Gilmer, Greenwood, J. Morrison Harris, Hatch, Hawkins, Hill, Jackson, Kellogg, Kelsey, John C. Kunkel, Maclay, Humphrey Marshall, Matteson, Maynard, Morrill, Edward Joy Morris, Murray, Niblack, Nichols, Palmer, Potter, Purviance, Ready, Reagan, Russell, Sandidge, Seward, Shorter, Sickles, Samuel A. Smith, James A. Stewart, Tappan, Thayer, Tripp, Walton, Cadwalader C. Washburn, Israel Washburn, Winslow, Wortendyke, and Augustus R. Wright—61.

NAYS—Messrs. Abbott, Ahl, Anderson, Atkins, Bingham, Blair, Bliss, Bocoock, Bowie, Boyce, Branch, Bratton, Buffington, Burlingame, Burnett, Burns, Burroughs, Caruthers, Cavanaugh, John B. Clark, Clay, Cobb, Cockerill, Colfax, Corning, Covode, Cox, James Craig, Curry, Curtis, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dawes, Dick, Dimmick, Dodd, Edie, Elliott, English, Farnsworth, Fenton, Foley, Gooch, Goode, Gregg, Groesbeck, Grow, Lawrence W. Hall, Harlan, Hopkins, Horton, Houston, Howard, Huyler, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Knapp, Jacob M. Kunkel, Leiter, Letcher, Lovejoy, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Millson, Moore, Morgan, Isaac N. Morris, Parker, Pettit, Peyton, John S. Phelps, Phillips, Pike, Potte, Powell, Quitman, Reilly, Ricand, Robbins, Roberts, Ruffin, Seales, Sealing, Aaron Shaw, Henry M. Shaw, John Sherman, Singleton, Robert Smith, William Smith, Stanton, William Stewart, Talbot, Thompson, Tompkins, Underwood, Vallandigham, Wade, Walbridge, Waldron, Elihu B. Washburne, Watkins, White, Wilson, Wood, Woodson, John V. Wright, and Zollcoffer—114.

So the amendment was rejected.

The remaining amendments made in Committee of the Whole were then agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. J. GLANCY JONES demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. MORGAN demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 110, nays 75; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bingham, Bocoock, Bowie, Boyce, Branch, Bratton, Bryan, Burnett, Burns, Caskey, Cavanaugh, Chapman, John B. Clark, Clay, Clemens, John Cochran, Cockerill, Comins, Corning, James Craig, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dinanick, Dowdell, Durfee, Edmundson, Elliott, Faulkner, Florence, Foley, Gartrell, Goode, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, J. Morrison Harris, Hawkins, Hopkins, Horton, Houston, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, John C. Kunkel, Lamar, Lawrence, Letcher, Maclay, McQueen, Samuel S. Marshall, Mason, Matteson, Miles, Miller, Millson, Moore, Edward Joy Morris, Isaac N. Morris, Niblack, Nichols, Peyton, John S. Phelps, Phillips, Pike, Powell, Quitman, Reagan, Reilly, Ruffin, Russell, Sandidge, Seales, Scott, Sealing, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, William Smith, James A. Stewart, Talbot, Miles Taylor, Underwood, Vallandigham, Watkins, White, Winslow, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—110.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Blair, Bliss, Buffington, Burlingame, Case, Chaffee, Clawson, Cobb, Clark B. Cochran, Colfax, Covode, Cragin, Curtis, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Farnsworth, Fenton, Foster, Gilmer, Granger, Grow, Harlan, Hill, Howard, Kellogg, Kelsey, Kilgore, Knapp, Leiter, Lovejoy, Humphrey Marshall, Maynard, Morgan, Morrill, Freeman H. Morse, Mott, Murray, Palmer, Pettit, Pike, Potte, Purviance, Ready, Ricand, Roberts, Royce, Seward, Aaron Shaw, John Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Tripp, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Wilson, and Zollcoffer—75.

So the bill was passed.

Mr. ENGLISH stated, during the call of the roll, that he was not within the bar when his name was called, or he should have voted for the bill.

Mr. J. GLANCY JONES moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate was received, by ASBURY DICKINS, their Secretary, informing the House that the Senate had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act (No. 341) making appropriations for repairing and securing the works at the harbor of Chicago, Illinois.

An act (No. 342) making appropriations for the preservation and repair of the piers at the mouth of Milwaukee river, Wisconsin.

An act (No. 396) to authorize a loan not exceeding the sum of \$15,000,000.

Also, that the Senate had passed the joint resolution of the House (No. 32) making appropri-

ations to pay the expenses of the several investigating committees of the House of Representatives.

ENROLLED JOINT RESOLUTION.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled joint resolution (H. R. No. 32) making appropriations to pay the expenses of the several investigating committees of the House of Representatives, when the Speaker signed the same.

COLLECTION OF THE REVENUE.

The House then proceeded to the consideration of the House bill (No. 466) making appropriations for the expenses of collecting the revenues from customs, reported yesterday from the Committee of the Whole on the state of the Union, with the following amendment:

At the end of the bill add as follows:

Sec. 3. And be it further enacted, That the Secretary of the Treasury shall report to the next session of Congress a plan and estimates for reducing the expenses of the collection of the revenue, in accordance with the general recommendations of his last annual report.

The amendment was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. J. GLANCY JONES demanded the previous question on the passage of the bill.

Mr. JONES, of Tennessee. I wish to know if this bill does not make a permanent appropriation of over four million dollars? I think that is the effect of it.

Mr. J. GLANCY JONES. The previous question has been demanded, and debate is not in order.

Mr. MORGAN. I wish to know if this bill does not appropriate \$1,000,000 more than has ever been expended for this service?

The SPEAKER. Debate is not in order.

Mr. COLFAX. I move to lay the bill on the table.

The motion was disagreed to—ayes 61, noes 85.

The previous question was then seconded, and the main question ordered to be put.

Mr. RICAUD demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 102, nays 92; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Arnold, Avery, Barksdale, Bishop, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caskey, Cavanaugh, Chapman, Horace F. Clark, John B. Clark, John Cochran, Cockerill, Comins, Corning, James Craig, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dimmick, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Foley, Garnett, Gartrell, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, J. Morrison Harris, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, J. Glancy Jones, Owen Jones, Keith, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leidy, Letcher, Maclay, McQueen, Mason, Miller, Millson, Moore, Isaac N. Morris, Niblack, Pendleton, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Quitman, Reagan, Reilly, Roberts, Ruffin, Savage, Seales, Sealing, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, Miles Taylor, Vallandigham, Watkins, White, Winslow, Woodson, Wortendyke, and Augustus R. Wright—102.

NAYS—Messrs. Abbott, Andrews, Billingshurst, Bingham, Blair, Bliss, Bratton, Buffington, Burlingame, Caruthers, Chaffee, Ezra Clark, Clawson, Clemens, Cobb, Clark B. Cochran, Colfax, Covode, Cragin, Curtis, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foster, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Harlan, Thomas L. Harris, Hill, Hoard, Horton, Howard, Jewett, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, Leiter, Humphrey Marshall, Maynard, Morgan, Morrill, Edward Joy Morris, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Pike, Potte, Purviance, Ricand, Ritchie, Royce, Seward, Aaron Shaw, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, George Taylor, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Isaac Washburn, Wilson, Wood, John V. Wright, and Zollcoffer—92.

So the bill was passed.

Mr. J. GLANCY JONES moved to reconsider the vote by which the bill was passed, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. COLFAX. I desire to amend the title.

The SPEAKER. The title has already been passed on.

Mr. COLFAX. I was on the floor, and tried to move the amendment in time.

The SPEAKER. The Chair is sorry he did not hear the gentleman.

Mr. COLFAX. I wished to amend the title

so as to make it read, "An act increasing the appropriations for collecting the revenues from customs."

Mr. J. GLANCY JONES. I object to that. It does not increase the appropriations one dollar.

TARIFF INVESTIGATION.

Mr. STANTON. I rise to a question of privilege. I wish to submit a report from the tariff investigating committee, accompanied by a resolution, for the purpose of having it printed.

The resolution reads as follows:

Resolved, That the committee be discharged from the further consideration of the subject, and that the report, with the evidence, be printed.

Mr. MOORE. I ask to submit a minority report.

Mr. PURVANCE. Not concurring in the views of the majority, I desire to submit another minority report.

Mr. STANTON. Very well; I will modify the resolution so as to embrace both minority reports, and will call the previous question.

Mr. PHILLIPS. I wish to know if there is any other resolution accompanying the report?

Mr. STANTON. There is not.

The previous question was seconded, and the main question ordered to be put.

The resolution, as amended, was adopted.

Mr. STANTON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DELEGATE FROM MINNESOTA.

Mr. CAVANAUGH. I rise to a question of privilege. I offer the following resolution:

Resolved, That the Committee of Elections be authorized to inquire into and report upon the right of W. W. Kingsbury to a seat upon this floor as Delegate from that part of the Territory of Minnesota outside the State limits.

Mr. HARRIS, of Illinois. I wish, in connection with that proposition, to present the memorial of Mr. Alpheus G. Fuller, asking admission to a seat in the House of Representatives, from the same portion of the Territory, with his credentials; and move that they be referred at the same time to the Committee of Elections.

Mr. KELSEY. I arise to a question of order. Is it in order to present the credentials of anybody claiming a seat in the House as a Delegate from a Territory, when we know that no such Territory has ever been organized by Congress? I submit that the proposition cannot be entertained as a question of privilege, because we know judicially that no such territorial government exists. I make the point that the resolution cannot be received as a question of privilege.

Mr. PHILLIPS, of Missouri. I submit this point: that the State of Minnesota does not embrace the whole of the territory included in the Territory of Minnesota.

The SPEAKER. The Chair, in response to the gentleman from New York, will say that some two or three days ago he was embarrassed as to the propriety of recognizing the Delegate from Minnesota, Mr. Kingsbury, who has continued to occupy a seat upon the floor as a Delegate from the Territory of Minnesota. The Chair took it for granted that when the Territory was admitted into the Union as a State, the person theretofore occupying a seat as Delegate ceased to hold any such position. But somewhat to his surprise, in looking back into the history of two or three precedents, he found that Delegates had been allowed to retain their seats after the States had been admitted. Such was the fact in Michigan and Wisconsin. But for the precedents the Chair would have sustained the question of order; but in view of them he will be constrained to overrule the question of order; and he would be very glad to have the House relieve him from the responsibility of deciding whether the gentleman who was the Delegate from the former Territory of Minnesota shall be recognized or not.

Mr. KELSEY. I desire to appeal from the decision of the Chair; and it is for the purpose of having the question decided at once. I suppose it is a question upon which no new light will be thrown by reference.

Mr. HARRIS, from Illinois. Is this appeal debatable?

Mr. KELSEY. I have the right to state the

grounds of my appeal. I wish to state that these precedents, I have no doubt, are in cases where no attention has been called to them.

Mr. GROW. If the gentleman will allow me a moment further. He will find in the case of Sibley, who came here as a Delegate from the portion of Wisconsin Territory left out when Wisconsin was admitted as a State, that there was a controversy on the question; that it was referred to the Committee of Elections, and that majority and minority reports were made to the House. He will find the report in the reports of the Committee of Elections for the second session of the Thirtieth Congress. There are in that instance two cases cited where Delegates were admitted when portions of Territories were left out on the admission of new States.

Mr. KELSEY. That should not bind this House, for the reason that there is now no territorial organization in existence known as the Territory of Minnesota, and this Delegate can represent no territorial organization unless it is one created by Congress.

The SPEAKER. The resolution will be reported, and the gentleman will see that it does not conflict with his view of the question.

The resolution was again reported.

Mr. KELSEY. Having drawn out this information from various gentlemen, I now withdraw my appeal, and hope that the whole subject will be referred to the Committee of Elections.

Mr. HARRIS, of Illinois. I demand the previous question.

Mr. HUGHES. Is it in order to move that this matter be referred to the Committee on Territories?

The SPEAKER. It is not in order, pending the demand for the previous question.

Mr. HUGHES. The question is, whether there is a territorial organization there or not?

The SPEAKER. Debate is not in order.

Mr. JONES, of Tennessee. I am satisfied that there is no Territory there, and I therefore move that the whole subject be laid upon the table.

The question was taken; and the motion was not agreed to.

Mr. BOCK. With the consent of the gentleman from Illinois, I would like to ask a question.

Mr. HUGHES. I rise to a point of order. My question of order is this: The gentleman from Minnesota [Mr. CAVANAUGH] submits a resolution of inquiry as to the right of the Delegate from Minnesota to sit upon this floor. The gentleman from Illinois [Mr. HARRIS] then presents the credentials of some other party claiming to represent the same Territory, and he calls for the previous question on the motion to refer those credentials to the Committee of Elections. I submit that these two questions are totally foreign to and different from each other. The question as to whether Mr. Kingsbury has a right to a seat upon this floor as a Delegate from that portion of the Territory of Minnesota not embraced within the limits of the present State, is a very different question from that whether Mr. Fuller has been duly elected. The one question ought to go to the Committee of Elections; and the other ought to be referred to the Committee on Territories.

The SPEAKER. The point of order is well taken by the gentleman, that both subjects cannot be disposed of together, except by the consent of the House. The gentleman from Illinois, [Mr. HARRIS,] however, can present those credentials after the resolution shall have been presented.

Mr. BOCK. With the permission of the gentleman from Illinois, I will propound a question with a view to see whether a difficulty which may arise, could be obviated. I want to know what will be the condition of the gentleman who makes the claim here; whether he will be recognized as a member of this House while this investigation is pending? Will Mr. Kingsbury, in the mean time, and while this investigation is going on, be a member of this House? I propose to add the proviso, that until the committee reports, there shall be no Delegate recognized from that Territory upon this floor.

Mr. HARRIS, of Illinois. The resolution to which the gentleman has referred was introduced by the gentleman from Minnesota, [Mr. CAVANAUGH,] and not by myself; and of course I have no control over it. If the gentleman wishes to propose that amendment, I will withdraw the call

for the previous question, in order that he may do it.

Mr. BOCK. I propose the amendment I have suggested.

Mr. CAVANAUGH. I accept the amendment as a modification of my proposition.

Mr. HARRIS, of Illinois. We have other business to attend to; and as I am not disposed to unnecessarily occupy the time of the House with this matter, I renew the call for the previous question.

Mr. BILLINGHURST. Before voting on the credentials presented by the gentleman from Illinois, I desire to have them read. My impression is that they do not come from any organization or pretended organization of the inhabitants of Minnesota, but from an organization in Dacotah.

Mr. GROW. There are some five or six organized counties—

Mr. HARRIS, of Illinois. I withdraw the call for the previous question, to state to the gentleman that there were two organized counties outside of the limits of the State, and some four counties created by law, but which were not formally organized, but in which people were residing.

Mr. KELSEY. With the gentleman's permission, I will ask him a question. Is there any Governor, Secretary, or Legislative Assembly there now, for this Territory of Minnesota or Dacotah?

Mr. HARRIS, of Illinois. There are officers in these counties to which I have referred who have been appointed and elected in conformity with law, and are now performing their official functions. How numerous the population is, I do not know, nor is it necessary to inquire.

Mr. KELSEY. Are they not county, and not territorial officers?

Mr. HARRIS, of Illinois. They are county officers, deriving their authority from the territorial power of Minnesota, and acting in conformity with law.

Mr. CLARK B. COCHRANE. I would like to inquire whether the counties referred to were within the limits of Minnesota?

Mr. HARRIS, of Illinois. If the gentleman had paid attention, he would have heard me state that they are not within the present limits of the State of Minnesota, but altogether outside of it. The sitting Delegate claims that he represents the people outside of the State limits, and who assisted in his election; and according to the precedent he ought to hold his position as their Delegate. On the other hand, I present the memorial, the facts embraced in which I know nothing about, setting up that Mr. Fuller was elected by the people of the same counties, and ought to represent them. I renew the call for the previous question.

Mr. HOUSTON. To what does the call for previous question apply?

The SPEAKER. Only to the resolution.

Mr. HOUSTON. Then I desire to move that the other branch be referred to the Committee on Territories, in order that we have a report from that committee whether there is, or not, a territorial organization there.

Mr. HARRIS, of Illinois. I will answer the gentleman that there is no regular territorial organization there.

Mr. HOUSTON. I make the motion that it be referred to the Committee on Territories.

Mr. DEAN. Is debate in order.

The SPEAKER. It is not.

Mr. DEAN. Then I object.

Mr. HARRIS, of Illinois. The motion to refer to the Committee of Elections has precedence.

The SPEAKER. There is no other motion pending.

Mr. HUGHES. I moved to refer to the Committee on Territories.

The SPEAKER. The motion could not be entertained, because the previous question was pending.

Mr. HARRIS, of Illinois. The previous question called by myself was upon the resolution presented by the gentleman from Minnesota, and not upon the other, for it is not before the House.

Mr. HUGHES. I rise to a question of order, which I wish to present to the consideration of the Chair, as I regard it of grave importance. A Delegate from Minnesota has already been admitted to his seat, and now holds it unless he has

been excluded by operation of law in consequence of the admission of the State of Minnesota; and I submit that it is not in order to offer a resolution which contains a clause that the Territory shall not have a Delegate upon this floor until the resolution is disposed of.

The SPEAKER. The Chair overrules the point of order. It is perfectly competent for a resolution to be introduced referring to the Committee of Elections the question whether any person is entitled to a seat upon this floor.

Mr. HUGHES. But this resolution contains a clause that no person shall have a seat upon this floor until the resolution is disposed of.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof, the resolution was agreed to.

Mr. HARRIS, of Illinois. I now ask that the papers presented on behalf of Mr. Fuller may take the same reference.

It was so ordered.

DISTRIBUTION OF PUBLIC DOCUMENTS.

Mr. WINSLOW. I desire to know whether, under the 137th rule of the House, a motion to suspend the rules would not now be in order?

The SPEAKER. The Chair thinks not.

Mr. WINSLOW. Then I ask the unanimous consent of the House to report a bill from the Committee on the Library. It is a very important one.

Mr. J. GLANCY JONES. Am I not entitled to the floor? It was taken from me by a privileged question.

The SPEAKER. The gentleman is entitled to the floor if he claims it.

Mr. WINSLOW. How does he get it?

The SPEAKER. The floor was taken from the gentleman by the gentleman from Ohio, who rose to a privileged question.

Mr. J. GLANCY JONES. I will yield to the gentleman a moment. My object was to retain the floor.

Mr. SEWARD. I object to the gentleman yielding the floor, unless he yields it absolutely.

Mr. WINSLOW. I presume the chairman of the Ways and Means Committee can get the floor whenever he desires it, and I appeal to him to yield to me to report a very important bill.

Mr. J. GLANCY JONES. I yield the floor.

Mr. SEWARD. I will waive my objection.

Mr. WINSLOW then, by unanimous consent, reported, from the Committee on the Library, a bill to provide for keeping and distributing the public documents; which was read a first and second time.

The bill was then read *in extenso*.

Mr. KELSEY. I think that bill had better be referred to the Committee of the Whole on the state of the Union. It is too important a bill to be passed without consideration.

Mr. WINSLOW. I think I can satisfy the House by a very few remarks in regard to the details of this bill.

Mr. KELSEY. It is also suggested that the bill contains an appropriation.

Mr. WINSLOW. The bill contains no appropriation. It simply transfers a loan already made.

Mr. BARKSDALE. I object to the consideration of that bill now.

Mr. WINSLOW. I hope the gentleman will allow me to explain the bill.

Mr. BARKSDALE. Not now.

Mr. WINSLOW. I move, then, that the bill be recommitted to the Joint Committee on the Library, and printed.

The motion was agreed to.

OUTRAGES ON THE AMERICAN FLAG, ETC.

Mr. CLAY. I wish to ask leave to bring in, by unanimous consent, a bill, which I shall send to the Clerk's desk, and which I intend to ask, if leave is granted, shall be printed, and referred to the Committee on Foreign Affairs. I ask that it may now be read for information.

Mr. MORGAN. I call for the regular order of business.

Mr. CLAY. I ask that it may be reported.

The bill was read by its title, as follows:

"A bill to restrain and redress outrages upon the flag and citizens of the United States."

Mr. GARNETT. I object.

Mr. CLAY. I move to suspend the rules.

The SPEAKER. The motion is not in order to-day.

CONSULAR AND DIPLOMATIC BILL.

Mr. J. GLANCY JONES. I ask the unanimous consent of the House to report back from the Committee of Ways and Means, the Senate amendment to the consular and diplomatic bill.

Mr. SEWARD. I object; and I hope no gentleman will ask me to withdraw my objection.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, whether my friend from Georgia objects or not.

Mr. DAVIS, of Indiana. I move that the House proceed to the business upon the Speaker's table.

The SPEAKER. The motion of the gentleman from Pennsylvania must be first put.

Mr. DAVIS, of Indiana. I wish to state to the House that I will submit my motion if the other is voted down.

Mr. J. GLANCY JONES. Before my motion is put, I desire to say that the Post Office bill has been under consideration for some time, and I move to terminate debate thereon in five minutes after the committee shall again resume its consideration.

Mr. HOUSTON. I suppose there will be no objection to act that bill into the House, to act upon it here. I think it was read through in committee.

The SPEAKER. The Chair understands that the bill has been read through by paragraphs in Committee of the Whole. It is proposed by the gentleman from Alabama that, by unanimous consent, the Committee of the Whole be discharged from its further consideration; and that the bill be reported to the House with a view to its being put upon its passage.

Mr. SEWARD. I object.

The resolution to close debate upon the bill in five minutes was adopted.

Mr. J. GLANCY JONES. I now insist on my motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. Houston in the chair,) and resumed the consideration of the

POST OFFICE APPROPRIATION BILL.

Mr. J. GLANCY JONES. The bill has been read through for amendments. I move that it be laid aside, to be reported to the House.

Mr. BLAIR. I desire to know if the bill is now subject to amendment?

The CHAIRMAN. The bill has been read through, and there is no amendment pending. The bill, however, is open to amendment by additions.

Mr. BLAIR. I move, then, to amend by adding a proviso to the first section.

The CHAIRMAN. The first section is not open to amendment. The bill having been read through, it is not in order to go back.

Mr. BLAIR. Then I offer the following as a proviso, to come in at the end of the bill:

Provided, however, That the act of Congress, approved March 3, 1857, making appropriations for the service of the Post Office Department for the year ending June 30, 1858, and which authorizes the Postmaster General "to contract for the conveyance of the entire letter mail from such points on the Mississippi river as the contractors may select, to San Francisco," be so construed as to allow said contractors to carry said mail by such routes as they may select, anything to the contrary in the contract made by the Postmaster General with John Butterfield and others, on the 16th day of September, 1857, notwithstanding.

Mr. J. GLANCY JONES. I make the point of order that that is legislation.

The CHAIRMAN. The Chair thinks the amendment is not in order; it proposes legislation.

Mr. BLAIR. I appeal from the decision of the Chair.

The CHAIRMAN. The Chair rules the amendment out of order because it proposes legislation in the construction of a previously enacted law.

Mr. BLAIR. I wish to state the grounds of my appeal, without arguing it. The amendment relates to a law now in existence, which this Congress has a right to construe, and the proviso limits the appropriation and construes the law in its obvious sense.

Mr. CRAWFORD. I must object to debate. I have no objection to anything else. The gentleman has a right to state his point of order, but not to debate it.

MESSAGE FROM THE SENATE.

At this point the committee rose informally, and the Speaker having resumed the chair a message was received from the Senate by Mr. DICKINS, its Secretary, informing the House that the Senate insisted on its amendments disagreed to by the House to the legislative, executive, and judicial appropriation bill, and asked for a conference on the disagreeing votes of the two Houses. Also, that the Senate had passed the bill of the House for the relief of B. W. Palmer and others, with an amendment; in which he was directed to ask the concurrence of the House.

Mr. J. GLANCY JONES. I ask the unanimous consent of the House that a committee of conference may be ordered on the bill that has just come back.

Mr. SEWARD. I object.

Mr. LETCHER. I hope the gentleman from Georgia will not object, unless he wants to remain here a month or two longer.

Mr. SEWARD. I do not care how long I stay here; but I do not see why we should legislate exclusively for the Departments.

Mr. LETCHER. There are other interests than that in the bill.

The committee then resumed its session.

POST OFFICE APPROPRIATION BILL—AGAIN.

Mr. BLAIR. I have appealed from the decision of the Chair because this proviso limits the appropriation and construes a law passed by the last Congress, and gives it a construction according to its obvious sense and intention. I hold that it is therefore in order.

The CHAIRMAN. The Chair decides the amendment out of order because it gives a construction to an existing law different from the construction given to it, as the Chair understands, by the Department that has power to construe it; and that being the case, the Chair decides that it is equivalent to the enactment of a new law.

The question was taken on the appeal; and the decision of the Chair was sustained.

Mr. SEWARD. I offer the following amendment:

And be it further enacted, That no part of the money appropriated by the preceding section of this act shall be used until the expenditures of the Government fall within the receipts of revenue collected under the present tariff act.

Mr. ENGLISH. I submit that that amendment is not in order.

The CHAIRMAN. The Chair believes that the amendment is liable to the same objection which was presented to the amendment of the gentleman from Missouri.

Mr. SEWARD. I shall appeal from the decision of the Chair, and I will state my reasons.

The CHAIRMAN. The gentleman has a right to state his point of order.

Mr. SEWARD. There is no law now in existence providing for this deficiency of \$3,500,000 in the Post Office appropriations, provided for in this bill; and, if the appropriation is made, I desire to put a limitation upon it, that the money shall not be used until a sufficient amount of money is collected under your tariff system to pay the expenses of the Government.

Mr. BISHOP. Is debate in order?

The CHAIRMAN. It is not.

Mr. SEWARD. Well, sir, I will only say that the amendment changes no law.

The CHAIRMAN. The Chair rules the amendment out of order, because he believes it changes existing laws.

Mr. COLFAX. I tried last evening to get the floor, for the purpose of making a motion which I now make. I now move to strike out, in the second section, "\$3,500,000," and insert "\$1,500,000."

Mr. J. GLANCY JONES. You cannot go back. The committee has passed that section.

Mr. COLFAX. I have been trying to get the floor to introduce this amendment since the section was first read, and I cannot be ruled out in this way.

The CHAIRMAN. The Chair, upon reflection, thinks that as the section is composed of

a single paragraph, it may be in order to amend it.

Mr. COLFAX. I move, then, that the appropriation in the second section, to supply deficiencies in the Post Office revenue, be reduced from \$3,500,000 to \$1,500,000.

I know gentlemen will tell me that this is not a sufficient amount. I know it is not sufficient; but at the close of these remarks I shall make an additional motion, which will directly increase the revenues of the Post Office Department. I should have made it now, but I thought it would be ruled out of order, as nearly all my motions looking to retrenchment and reform have been.

Now, sir, my proposition is to abolish the franking privilege, and I hope the House will sustain me in the motion. It is not only an expensive burden upon the mails, but it is a great burden upon the members themselves. I know I shall be told that this is all for Buncombe; but I ask members if what I have said is not correct? as long as it exists members are expected to answer almost innumerable letters, many of them written because they are free of postage, until it is almost necessary for a member to employ a secretary to transact this description of business.

Now, sir, if you will abolish the franking privilege, as the British Government has done, I think the postages will defray, or very nearly defray, the expenses of the Post Office Department. But while it exists, and while the people expect us to send them public documents, speeches, seeds, &c., we shall all exercise our rights under the law, of course.

The gentleman from Virginia [Mr. LETCHER] yesterday proposed his plan for the purpose of supplying the deficiencies which have arisen in the Post Office Department, which was to increase the rates of postage on letters to five cents instead of three. Now, I prefer, instead of increasing taxes on the people, to try another sort of reform, by making all mail matter pay postage, and see if that will not replenish the exhausted coffers of the Post Office Department. You may, if you think proper, provide that public documents shall go through the mails free of postage. Let this be done upon their being stamped by the Departments by which they were issued, and it will not interfere with the principle. And now, having explained the reasons for my course, I move still further to amend by adding at the end of my amendment the following: which I think is clearly in order, if anything intended to make our receipts equal to our expenditures is in order here:

And that, to aid in rendering the revenues of the Department sufficient to meet the appropriations of this act, the franking privilege is hereby abolished.

Mr. WASHBURN, of Illinois. I am opposed to the amendment of the gentleman from Indiana, and I hope the vote will be taken.

The CHAIRMAN. The Chair will be compelled to rule the amendment, as now offered, out of order. The Chair thinks that a proposition to abolish the franking privilege is a change of existing law, and not in order to an appropriation bill.

Mr. SHAW, of North Carolina. I move to add the following at the end of the section:

Provided, That no part of the appropriation contained in line nineteen shall be applied in payment for advertising for mail proposals in more than one paper in the city of Washington.

Mr. ENGLISH. I think I should be in favor of the proposition of my friend, if it is in order; but it is in violation of existing law, and therefore out of order. I submit the question of order.

The CHAIRMAN. The Chair thinks the amendment provides for changing the existing law, and he will be compelled to rule it out of order.

Mr. BURNETT. I hope the amendment will be received by unanimous consent.

Mr. EDIE. I object.

There being no further amendments proposed to the bill, it was laid aside to be reported to the House, with the recommendation that it do pass.

ARMY APPROPRIATION BILL.

Mr. J. GLANCY JONES. I move to take up the bill of the House (No. 243) making appropriations for the support of the Army for the year ending the 30th of June, 1859.

The motion was agreed to; and the bill was taken up for consideration.

On motion of Mr. J. GLANCY JONES, by unanimous consent, the first reading of the bill was dispensed with, and the reading by clauses, for amendment, commenced.

Mr. SHERMAN, of Ohio. I wish to state my reasons for opposing this bill, and also the bill authorizing a loan of \$15,000,000. It is with some reluctance that I trespass upon the time of the House at this period of its session; and I will make my remarks as brief as possible. I do not know that any other opportunity will occur, and I shall therefore embrace the present.

On the first day of July last there was a surplus of \$17,710,114 in the Treasury. This surplus has been reduced to the shadow of a shade. The Secretary of the Treasury in December last, in a message calling for an issue of \$20,000,000 of Treasury notes, told us that in all probability but a small part, if any, of the amount would be needed at an early day; yet, now, we have another message from that same officer, in which he tells us that—

"The \$20,000,000 loan of Treasury notes, authorized by the act of December 23, 1857, will be exhausted in supplying the deficiencies in the Treasury for the present fiscal year."

"We shall commence the next fiscal year dependent entirely upon the current receipts into the Treasury to meet all demands from it."

So, for the first year of this Administration, we have, in addition to the current revenue, an old balance of \$17,000,000, and \$20,000,000 of Treasury notes already expended and gone. We have a deficiency of \$37,000,000 in a single year; and we are now called on by the Administration for another loan of \$15,000,000. And, sir, we are told that this loan will not meet the exigency—it is only a partial remedy, a homeopathic dose. The Secretary gives us fair notice that he will want further loans during the next fiscal year. I will call the attention of the committee to this clause of his letter:

"I have confined this inquiry to the two first quarters of the next fiscal year, as Congress will reassemble before the close of the second quarter, and it will be time enough then, should it become necessary, to provide for future contingencies that cannot now be foreseen."

"Future contingencies that cannot now be foreseen!" Is the Secretary like Micawber, waiting for "something to turn up?" Sir, these future contingencies can be foreseen. I can demonstrate to any sensible man that the Secretary of the Treasury will be compelled to call on Congress for \$42,000,000 to supply deficiencies in the next fiscal year. To that will have to be added \$21,000,000 to redeem the outstanding Treasury notes and interest, which run but for one year, so that there will be an addition to the national debt of \$63,000,000 in two years.

Under these circumstances, a loan bill is proposed to the House, and it is not accompanied by any measure of revenue, or of retrenchment and reform. No proposition is made to increase the tariff, no measure to enlarge the revenue. As the first fruits of this Administration, we are embarked in a permanent system of loans to support the Government.

I desire, for a moment, to call the attention of the committee to another remarkable paragraph of the Secretary's letter. He says that since the meeting of Congress "the demands upon the Treasury for the present fiscal year have been increased by legislation to an amount not far below ten million dollars."

I would like to know by what legislation we have increased the burden thrown upon the Treasury. Has the Committee of Ways and Means introduced measures into this House appropriating \$10,000,000 not sanctioned by the Executive? Has any act been approved by the House which appropriates \$10,000,000 not called for by the Secretary of the Treasury? If Congress has thrown an additional burden upon the Executive Departments I would like to know by what law and for what purpose it has been done. I have no knowledge of any bill which has not been demanded and urged upon us by the Executive. Certainly Congress has proposed no new expenditure. But the Secretary says this has been done by legislation. We did pass a deficiency bill, and that I suppose is the legislation referred to. But at whose demand? We all know how urgently these executive officers, who now seek to charge that Congress has thrown upon the Treasury an additional burden, begged us to pass the

deficiency bill. And what was this deficiency for? To carry on the Utah war—a purely executive war—a war made and carried on without the assent of Congress. An improvident war—a war as feeble in its conception as it is likely to be ridiculous in its termination. With great *clat*, and at great expense, the Administration gathered together an army in the Territory of Kansas to overawe that people, and retained it there until a period too late to march to Utah before the approaching winter. With utter disregard of either policy or economy, the President then ordered forward our gallant army to spend the winter in the Rocky Mountains. He did not wait until Congress could be consulted. Instead of sending peace commissioners to reason with a rebellious people and negotiate terms of peace, he posted this army in the mountains and compelled them to be supported there with flour at fifty dollars a barrel, and other provisions at an equally enormous rate. After millions have thus been wasted, he discovers for the first time that negotiation might prevent the war; and then, with ridiculous haste, commissioners are dispatched to overtake the army. Recent advices indicate that a private citizen has accomplished what the Administration too late attempted, and thus the Treasury has been burdened by the useless expenditure of millions of treasure by an unauthorized act of executive power.

Mr. Chairman, I now desire to submit to the committee some remarks in regard to the expenditures of our Government; and to show their increase, and where we are drifting to. The expenditures of the last fiscal year, according to the documents which we have before us, were \$71,072,213, inclusive of payments on the public debt; and \$65,032,559, exclusive of the public debt. This is several millions more than was expended for any year during the Mexican war. I have endeavored to estimate, as nearly as I could, the expenditures for this current fiscal year; and, in doing so, I have taken the materials furnished us by the Committee of Ways and Means. I find that, at the third session of the Thirty-Fourth Congress, \$72,112,293 were appropriated; for this year, I find that the Committee of Ways and Means has increased this sum by deficiency bills, amounting to \$11,201,701, composed of the following items:

Sound-duties by treaty with Denmark.....	\$333,011
Printing deficiency already passed.....	341,188
Balance of Printing deficiency for this year, (estimated).....	600,000
Miscellaneous.....	373,318
Army deficiency.....	7,925,000
Post Office deficiency.....	1,469,173
	\$11,201,701

Amounting in all to \$83,313,999. This sum has been appropriated, except the \$600,000 for printing, and has nearly all been expended. Secretary Cobb makes the estimate a little higher, or near eighty-five million dollars. Thus far the estimated expenditures by annual report are \$74,963,058; add \$10,000,000 mentioned in his recent letter as for deficiencies not estimated for; but as he has been unfortunate in his figures heretofore, I prefer to follow my own.

I have endeavored carefully to prepare an estimate of the expenditures for the next fiscal year.

By the annual estimate of the Secretary of the Treasury, the expenditures for that year would be \$74,064,755. But this does not include many items, most of which will have to be paid for as certainly as the President's salary. Some are as follows:

Three new regiments.....	\$4,289,547
Probable Post Office deficiencies, over amount appropriated.....	2,500,000
Public buildings.....	1,700,000
Private bills (estimated).....	1,000,000
Printing deficiency.....	600,000
Army deficiency, estimated to be same as last year.....	8,000,000
	18,089,547

Making in the aggregate, \$92,143,202.

It is true that some of these may be overestimated, but I have taken the estimates furnished to me by the Committee of Ways and Means. It may be that the Army deficiencies next year may not be so large as I have put them down. It may be that two of these new regiments may be dispensed with. It may be that they will be much larger; but I take it as a reasonable inference that the deficiency next year will be as large as the defi-

ciency this year, because deficiency bills never decrease.

Now, this sum of \$92,000,000 does not include any of the following items of expenditure, and I wish gentlemen to add those, upon their own estimate, to this aggregate: For protecting works commenced on our numerous rivers and harbors, the lowest estimate of which is \$1,500,000; and then there is your Calendar of one thousand private bills demanding your attention. There is the pension bill for the old soldiers of the war of 1812, proposed by the gentleman from Tennessee, [Mr. SAVAGE,] requiring \$8,000,000 per annum. There are the ten new war steamers, proposed by my friend from Virginia, [Mr. BOGOCCK,] \$2,500,000. The French spoliation bill, urged so forcibly by the gentleman from Massachusetts, [Mr. DAVIS,] which, if passed, will require \$5,000,000. The duties to be refunded on goods destroyed by fire, I do not know how much. Commutation to the heirs of revolutionary soldiers, I do not know how much. Claims growing out of Indian wars in Oregon and Washington, urged by the Delegate from Oregon, and certified by an executive officer, \$5,000,000. Then we have the Pacific railroad, a foretaste of the cost of which we have had in \$1,000,000 expended already in the publication of the report of the surveys.

Now, I have shown that in all human probability the expenditures of this Government will be from ninety to one hundred million dollars. To meet this, the Secretary, in his recent letter, estimates the receipts for the first two quarters at \$25,000,000. We know, from comparison with former years, that the receipts for the last two quarters will not exceed the first, making the aggregate of receipts \$50,000,000, or a deficiency of over forty million dollars for next year.

And yet, sir, for this alarming condition of the public finances, the Administration has no measure of relief except loan bills, and paper money, in the form of Treasury notes. No provision is made for their payment; no measures of retrenchment and reform; but these accumulated difficulties are thrust upon the future, with the improvidence of a young spendthrift. While the Secretary is waiting to foresee contingencies, we are prevented by a party majority from instituting reform. If we indicate even the commencement of retrenchment, or point out abuses, on this side of the House, we are at once assailed by members of the Committee of Ways and Means.

The only effort at retrenchment which I have seen here successful, was that made by the gentleman from Kentucky, [Mr. MASON,] in reducing the number of officers employed about this Hall.

That the Committee of Ways and Means have no purpose of commencing a reform, we have ample evidence in the appropriation bills before us. I have a table here showing that at the present session of Congress, its chairman has introduced appropriation bills, prior to the 12th of May, amounting to more than sixty-nine million dollars, as follows:

Appropriation bills reported to the House of Representatives by the Committee of Ways and Means, first session Thirty-Fifth Congress, prior to 12th of May:

No.	Title.	Am't reported by Com. Ways and Means.
3	Invalid and other pensions.....	\$769,500 00
4	Treasury note (expenses).....	20,000 00
5	Indian.....	1,437,104 49
6	Consular and diplomatic.....	891,120 00
62	Military Academy.....	180,884 00
198	Fortifications.....	350,000 00
199	Naval.....	13,141,554 23
200	Sundry civil.....	3,819,438 97
201	Legislative, executive, and judicial,.....	5,936,891 95
243	Army.....	16,395,739 49
271	Treaty with Denmark.....	408,731 41
J. R. 12	Expenses investigating committees.....	35,000 00
308	To supply deficiencies, year 1858.....	9,669,393 89
307	To supply deficiencies, printing, &c.....	341,189 58
466	Collecting revenue from customs.....	5,600,000 00
533	Post Office (Treasury).....	3,500,000 00
533	Mail steamers (Treasury).....	1,080,750 00
537	Supplemental Indian.....	669,727 36
535	To supply deficiencies in the Indian department, 1858.....	375,694 31
551	Support of volunteers.....	4,289,547 34
		\$69,062,169 05

This table does not include permanent appropriations, amounting for this fiscal year to the sum of \$7,436,582, nor does it include a multitude of bills appropriating money from all the other stand-

ing committees, and we are told that other bills are yet to be reported from the Ways and Means Committee. We know, by sure experience, that these appropriation bills are never diminished; they are increased in this House; they are sent to the Senate, and there they are overloaded with items already rejected by the House. Nor does this table include a class of expenditures much more deserving public favor than many of the bills reported. The rivers and harbors of the West in vain demand improvement. While millions are expended in your coast surveys and Atlantic defenses, you scruple over a comparatively small sum, absolutely necessary to keep from destruction improvements already commenced in the lake harbors.

If, while gentlemen are lavish in the public money, they would vote \$1,500,000 to the protection of the commerce of the great and growing power in the Northwest, it would show some kind of justice and liberality. But, sir, the region of country which will in a short time control the destinies of this nation; which now, in its almost infancy, feeds your artisans and sailors, and in time of war furnishes sturdy defenders of your national honor, has appealed in vain for ordinary repairs of their harbors, because (for I can see no other reason) they are not upon the Atlantic coast. Time will soon cure this evil; and we who come from the West will have the power to legislate for ourselves, as the Atlantic and Gulf coast has done in times past.

I desire now to call the attention of the House to a comparison of expenditures of this year, and of this Administration, with past expenditures. I have a table, carefully prepared from official documents, (Ex. Docs. Nos. 13 and 60,) as follows:

A Table showing the expenses of the General Government, exclusive of the public debt, and the population shown by census, during each decennial year, and 1857.

Years.	Expenses.	Population.	Rate for an inhabitant.
*1789-90-91	\$1,919,589 52	3,929,837	\$ 48
1800	4,981,659 90	5,305,925	90
1810	5,311,082 28	7,239,914	73
1820	13,134,530 57	9,638,131	1 36
1830	13,329,533 33	12,856,020	1 03
1840	24,139,930 11	17,069,453	1 41
1850	37,165,000 00	23,191,676	1 63
1857	65,032,559 76	-	-
1858	\$33,313,989 03	\$28,000,000	2 98
1859	\$93,000,000 00	-	-

It thus appears that from the foundation of our Government, on the 4th of March, 1789, to December 31, 1791, nearly three years, the aggregate expenses of this Government, exclusive of the public debt, were \$1,919,589. For the next fiscal year probably a better basis for estimate—it was \$1,877,903. Our population was then three million nine hundred and twenty-nine thousand, being less than fifty cents to each inhabitant. Our expenses have now increased to \$83,000,000 this year, and \$93,000,000 next year, making an average of three dollars to each inhabitant. In 1830, in General Jackson's time, the expenditures were \$13,000,000, and the population was nearly as many millions. The amount to each inhabitant was \$1 03. In 1840 it amounted to \$1 40 to each inhabitant. But now it is \$3 60 to each inhabitant, or \$30 00 to every free family, upon the basis of the census of 1850 showing the number of families to be three million three hundred and sixty-two thousand three hundred and thirty-seven, or \$23 00 to every voter of the four million fifty-four thousand four hundred and fifty at the presidential election of 1856. While the population has increased sevenfold, the expenditure has increased, up to 1857, thirty-six fold, and up to this year, forty-eight fold.

The aggregate expense of Mr. Pierce's administration, exclusive of payments on the public debt, was \$232,820,632. The aggregate expense of the Government, from its foundation up to the close of the last war, and prior to January 1, 1815, exclusive of payments on the public debt, was \$172,637,779; so that the expenses of the aimless, fruitless, mischievous, administration of President Pierce, were \$69,000,000 more than the entire expenses of the Government up to the close of the last war. Sir, institute a comparison between the results of the first twenty-six years of our national

Government, and of the late Administration. Contrast the history, progress, and growth of our country; contrast its purity, its prosperity, its greatness, during the administration of Jefferson, of Washington, of Madison, and of Adams, with that of Pierce, and then you may be able to appreciate the rapid growth of our expenditures from the simple fact that four years of modern Democratic administration cost more than twenty-six years in the earlier and purer days of the Republic. I have here the official table showing that fact:

<i>Expenditures, exclusive of public debt.</i>	
From March 4, 1789, to December 31, 1791,	\$1,910,599 52
1792.....	1,877,903 63
1793.....	1,710,070 26
1794.....	3,500,546 63
1795.....	4,350,668 04
1796.....	2,531,930 40
1797.....	2,833,590 96
1798.....	4,633,233 54
1799.....	6,480,166 72
1800.....	7,411,399 97
1801.....	4,981,669 90
1802.....	3,737,079 91
1803.....	4,002,821 24
1804.....	4,452,858 91
1805.....	6,357,234 62
1806.....	6,080,209 36
1807.....	4,984,572 89
1808.....	6,504,338 63
1809.....	7,414,672 14
1810.....	5,311,082 28
1811.....	5,592,604 86
1812.....	17,839,498 70
1813.....	28,082,396 92
1814.....	30,127,686 38
	\$172,697,779 70

1853-51.....	\$51,142,138 42
1851-55.....	56,312,097 72
1855-56.....	60,333,933 45
1856-57.....	65,032,559 76
	<hr/>
	\$232,820,632 35

The expenses of this year, the first under Mr. Buchanan's administration, will be \$5,000,000 more than the entire expenses of the Government from its foundation to the close of Jefferson's administration. The aggregate expenses for the first twenty years of our Government were \$78,363,762; and I have already shown that, this year, the expenses exceed \$83,000,000.

Sir, your deficiency bill this year amounts to more than the average expenses of the Government for the first forty years of its existence. Your miscellaneous bill amounts to more than the aggregate expenses of the Government in any year, except the years of the war, prior to 1830. We appropriated \$18,946,189 for miscellaneous purposes; and yet, if you look at the table you will find that the aggregate expenses of the General Government, exclusive of the public debt, are much less than that for every year except during the period of the last war with Great Britain.

I have another table here, carrying out the comparison instituted by the gentleman from Alabama [Mr. CURRY] the other day, in his very able speech, to which I listened with great pleasure. It contrasts expenditures of the Government in 1840 and those of 1857:

A table showing details of expenditures of the General Government in the years 1840 and 1857, respectively, exclusive of public debt.

	1840.	1857.
Civil list.....	\$2,733,769 31	\$7,611,547 27
Foreign intercourse, including awards.....	689,978 15	999,177 65
Miscellaneous.....	2,575,351 70	18,946,189 91
Military service.....	7,093,267 23	19,158,150 87
Revolutionary and other pensions.....	2,603,532 17	1,309,115 81
Indian department, including Chickasaw fund.....	2,331,704 86	4,355,663 64
Naval establishment.....	6,113,595 89	12,851,604 61
Expenditures, exclusive of public debt.....	\$24,139,930 11	\$65,032,559 76

By this it is shown, that, in the year 1840, the civil list amounted to \$2,733,769 31, and in 1857 to \$7,611,547 27. I find that the miscellaneous expenditures—an endless collection of jobs and contracts—run up from \$2,500,000 to \$19,000,000. I find that the expenditures for the military service run up from \$7,000,000 in 1840, to \$19,000,000 in 1857, and to \$26,000,000 this year. The naval expenditures of the Government run up from \$6,000,000 to over twelve million dollars, and for next year, over thirteen millions, exclusive of fortifications and the ten new sloops-of-war

* This includes expenditures from March 4, 1789, to December 30, 1791.
† Estimated.

I have here another table showing the comparison of the expenditures for decimal periods:

Years.	Population as shown by the official census.	Increase of population.	Per centum of increase.	Civil list.	Foreign intercourse, including awards.	Miscellaneous.	Military service.	Revolutionary and other pensions.	Indian department, including funds.	Naval establishment.	Total expenditure, exclusive of public debt.
1790*	3,929,897	1,376,098	35.01	\$757,134 45	\$14,723 33	\$311,533 83	\$653,804 03	\$177,813 83	\$27,000 00	\$570 00	\$1,919,359 52
1800	5,303,995	1,376,098	35.01	748,683 45	336,938 18	103,638 59	2,506,878 77	64,120 73	31 22	3,448,716 03	7,411,930 97
1810	7,393,814	1,933,889	36.45	703,994 03	81,367 48	313,753 37	2,994,323 94	83,744 16	177,825 00	1,534,214 30	5,211,082 28
1820	9,758,121	2,368,317	33.35	1,948,310 05	953,370 04	1,090,341 85	2,630,392 31	2,308,376 31	3,353,750 01	4,387,090 00	13,211,530 37
1830	12,806,020	3,227,893	33.26	1,579,724 64	924,067 92	1,363,624 13	4,767,135 83	1,363,297 31	632,392 47	3,293,433 63	19,321,530 37
1840	17,059,453	4,203,433	33.67	2,736,769 31	683,978 15	2,353,351 30	7,003,287 23	2,003,667 17	2,321,794 56	6,113,463 89	24,139,920 11
1850	23,191,876	6,122,423	35.87	3,027,434 39	5,593,553 81	7,025,450 10	9,687,024 53	1,663,955 02	1,663,291 47	7,904,721 66	37,165,990 09
1857...				7,611,547 27	999,177 65	18,936,189 91	19,159,150 87	1,200,113 81	4,353,653 61	12,521,694 61	63,023,539 76

Expenditures of the Government during the years 1790, 1800, 1810, 1820, 1830, 1840, 1850, 1857.

I find that I then omitted some items for the next year, and that the amount of emoluments is even larger than I stated. We have indirectly increased the salary and incidental expenses of the President from \$29,000 to something like sixty thousand dollars, and that, too, in plain and direct violation of a clause of the Constitution which forbids any increase of the emoluments of the President during his term. Another comparison will illustrate the increase of expenditures. I find by reference to a speech made in the Senate, by Mr. Trueman Smith, (Congressional Globe, vol. 25, page 124,) that the entire expense of the printing for the Twenty-Sixth Congress was \$190,864, or \$95,432 per annum. I find, from a recent report from the chairman of the Committee on Printing, [Mr. TAYLOR,] that the expense for the printing for the Thirty-Third Congress—famous for its repeal of the Missouri compromise—amounted to \$3,025,827, or \$1,512,918 per annum; or more than ten thousand dollars to every member of both Houses of Congress. Such is the character of the increase in that single item alone. That was the expense incurred for the printing of the Thirty-Third Congress, which I think was the most disastrous in the history of our Government, because it reopened a strife long before that time settled, and inaugurated this wild system of reckless expenditure which we will find so difficult to check.

Look, sir, at the miscellaneous items of expenditures. In the early reports of the Secretary of the Treasury, the miscellaneous items were few and far between. But if gentlemen will turn to the reports for this session, (House Document No. 13,) they will find from page 25 to page 63 filled exclusively with the details of the miscellaneous expenses of the Government, amounting to \$18,946,189. In this vast mausoleum are buried your secret contracts, your jobs, your custom-houses, your marine hospitals, your Post Office deficiency and post offices, your coast survey, your court-houses—a vast catalogue of jobs to partisan favorites.

Mr. SMITH, of Virginia. You voted for them. Mr. SHERMAN, of Ohio. The gentleman will find, by looking at the record, he is mistaken. But I am glad that he has called my attention to this point. I hope he and his political friends will press it daily and hourly. His remark shows how thankless a task it is for gentlemen upon this side of the House to comply with the urgent demands of the Executive for money. Perhaps it may teach my friends a lesson; but if it does not, then I hope they will take warning from the example, and the very marked example, set the other day in the case of my late colleague, Mr. Campbell, who had displayed his zeal, I think unwisely, in the last Congress in urging all the appropriation bills, and complying to the fullest extent with the demands of the Executive; and, sir, when any of us yield, and, under the commendable desire to sustain the Government, even when unwisely administered, vote for general appropriation bills, then these extravagant appropriations are thrown in our teeth, when we only vote what they ask. I trust gentlemen upon this side of the House will take this as a warning and as a lesson. It is a thankless task for gentlemen to aid an Administration like this or its predecessor in carrying on the burdens of the Government, when they cannot vote for a single appropriation bill without having all these contingencies and jobs and other items thrust upon them, and being told, "you voted for them." Sir, I can say, for one, I did not. The gentleman will not find me in that category.

I have already referred to the military establishment showing a vast increase in its expenditures. I might, with the documents before me, show how

	1840.	1859.
Salary.....	\$25,000	\$25,000
Secretary, steward, and messenger.....	4,600	4,600
Contingent expenses and stationery.....	1,750	1,750
Purchasing plants for conservatory.....		
Repairs and furniture, trees and plants for garden, and making hotbeds therein.....	4,165	12,000
Fuel.....		1,800
furnace-keeper.....		600
Lighting President's House, (estimated).....		3,000
Laborers and gardeners, (estimated).....		4,800
Books for library.....		250
Doorkeeper and assistant.....		1,200
Two night watchmen.....		1,300
	\$29,165	\$36,200

millions have been sunk for transportation, subsistence, and supplies, upon contracts made without public notice, but I am admonished that my time will not allow.

Without an opportunity to examine, and under the plea of pressing necessity, at an early period of the session, we were called upon to vote extravagant appropriations, intended to cover large contracts for subsistence and transportation—many of which are illegal—or have it charged upon us that we were willing to leave our gallant army in the Rocky Mountains without food and shelter. Unwilling to do that, some on this side voted for the deficiency bill; but who can trace the expenditure of this money?

We were told yesterday by the chairman of the Committee of Ways and Means, that all these appropriations are in pursuance of existing law. Now, I want him to answer at his leisure, how it comes that in 1852 there were employed in the collecting of the revenue two thousand five hundred and thirty persons; and that in 1854, when the law had not been changed, there were employed in the various custom-houses two thousand nine hundred and thirteen; and in 1857, three thousand and eighty-eight employees; and this before the new tariff had gone into operation? How comes this increase of five hundred officers in the custom-houses? Under what law was the increase made? By what authority are these fresh leeches set upon the Treasury? Sir, a large portion of the appropriations annually made depend simply upon your will; and if you cut off the supply, the expenditures will cease without impairing a single provision of law.

Sir, retrenchment and reform are now matters of imperative necessity. It is not the mere cry of demagogues, but a problem demanding the attention and worthy the highest ability of the Representatives of the people. No party is fit to govern this country which cannot solve it. It is in vain to look to executive officers for reform. Their power and influence depend upon executive patronage, and while we grant they will squander. The Senate is neither by the theory of our system, nor by its composition, fitted for the task. This House alone has the constitutional power to perfect a radical reform. The Constitution provides that no money shall be drawn from the Treasury but in consequence of appropriations made by law, and that all bills for raising revenue shall originate in the House of Representatives. These provisions were designed to invest in this House the entire control over the public purse—the power of supply; this is invested in the House of Commons, and has been jealously guarded by it. It is the pearl beyond price, without which constitutional liberty in England would long since have fallen under the despotism of the Crown.

By the exercise of this power we may hold the Executive and the Senate in check. But instead of using it, this House has, by slow degrees, allowed the other departments of the Government to evade and virtually overthrow its constitutional power. This change may be briefly illustrated. The theory of our Government is that a specific sum shall be appropriated by a law originating in this House, for a specific purpose, and within a given fiscal year. It is the duty of the Executive to use that sum, and no more, expressly for that purpose and no other, and within the time fixed. Such is the theory; but what is the practice? Under a section of a law passed in August, 1842, which was designed only for that bill and for that year, the Departments assume the power to transfer appropriations made for one purpose, to any other purpose in the same Department, thus defeating all checks. Without law they use money appropriated specifically for the service of one fiscal year, to pay for the service of another fiscal year. A marked example of this occurred recently. The present Secretary of the Treasury took money appropriated in March, 1855, for the expenses of the Territorial Legislature of Kansas for the year ending June 30, 1856, and in the face of a refusal by Congress to appropriate money to support the bogus usurping Legislative Assembly for the year ending June 30, 1857, took the balance of the old appropriation and applied it to that purpose.

Another abuse by the Executive Departments, is, in their habit of making contracts in advance of appropriations. They make contracts without law, and compel us either to sanction them or

It shows a gradual increase of the expenditures of the Government, until within a few years, and then a rapid increase for the last few years, as compared with former ratios of increase. Formerly, and prior to 1840, the expenditures of the Government increased in but a slight degree more than the ratio of population and the extension of Territory; but now it is going far beyond that.

Now, when we go into the details of this expenditure, we find some of the most startling phases of political economy. Let us take up, for instance, the item of contingent expenses of the House and Senate. In 1840 the pay for the employees of both Houses of Congress amounted to \$42,592; in 1857, it amounted to \$156,000; and yet the number of persons composing the Congress of 1840 and 1857 was substantially the same. I find that the incidental and contingent expenses of the Senate rose from \$100,000 to \$287,000; the incidental expenses of the House from \$240,000 to \$1,340,000. I find that the expenses of the President and the different Departments, at the other end of the avenue, have risen from \$850,581 to \$1,927,673. I have before me a statement which I had the temerity—for so the chairman of the Committee of Ways and Means regarded it—to read the other day. It is a table showing appropriations for the President, and for his house, garden, and grounds, in 1840 and 1859:

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

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violate the public faith. I will give a common instance. An appropriation of \$100,000 is made to construct a custom-house; the Department, instead of contracting for a custom-house of that cost, make contracts for the construction of one costing two or three millions. In this way, the power of the House has been absolutely overruled. And when they come here and ask for money to carry on the work, you vote the money, to save from entire loss the sum already expended and because the contracts have been made. Now, sir, I say that every contract which looks to the expenditure of one dollar more than has been appropriated, is utterly null and void. Take, for instance, the custom-house at New Orleans. In 1848, Congress appropriated \$100,000 for the construction of a custom-house in that city, upon the express condition that the city should donate to the Government a lot of ground for that purpose, and make out a clear and valid title. Well, sir, the \$100,000 appropriated was all expended in the sinking of the foundation of a building of untold magnificence, never contemplated by those who made the appropriation. The Department again came to Congress for another appropriation, and Congress has gone on making appropriations until \$2,675,258 have been expended; and the Representative from New Orleans is now demanding more money to complete her custom-house.

For the city of Charleston, South Carolina, in 1848, an appropriation of \$30,000 was made as a sort of a rider to an appropriation for a custom-house at Savannah. Well, sir, upon the basis of that \$30,000 the Government has gone on with its plans, and has already expended \$1,703,000. I do not know how much more will be needed to complete the building; but the Representative from the Charleston district told us the other day that valuable ornaments of stone were laying about, and further appropriations were needed either to complete the building or protect the materials from destruction. In this way the Executive is gradually sapping the foundations of the Government and destroying the constitutional power of the House. Instead of a representative Republic, we are degenerating into a bureaucracy governed by red tape and subaltern clerks. While the powers of the House are invaded, the Executive takes care to extend, by construction, his just powers. Of this we have an example in the Utah war. What power has the President, without the consent of Congress, to order the Army to Utah, and thus involve the Government in an expenditure of millions upon millions? It is said that he is Commander-in-Chief of the Army, under the Constitution of the United States. But the Constitution declares that Congress shall declare war. He is Commander-in-Chief, but only to carry on war when war has been declared by the Congress of the United States. He is our instrument, he is our servant, and not our master. And yet he has involved the Government in this Utah war. It is a usurpation which ought to be resisted by the whole legislative power of the Government.

We have the undoubted power over supplies, and yet the President so acts as to leave us no discretion. He creates the necessity for expenditures; and when we are asked to appropriate money to pay them, all the reply we have to our inquiries is, that the Army was ordered there by the President, as the Commander-in-Chief of the forces. While I would not allow these gallant men to suffer where they are, yet I would call the President to account for having violated the principle and policy of our Government.

The Senate, also, has been guilty of an invasion of our privileges. When we send bills there they are returned to us loaded down with amendments for the very sums which we refused to give. They send these amendments here and we are implicitly told that unless we agree to them the entire appropriation bill will fail, and Congress be called back in extra session. It will be recollected that the appropriation for the Washington aqueduct, and many other extravagant items of expenditure, were carried through in that way.

The Constitution of the United States gives to the Senate power to propose amendments to revenue bills, but expressly withholds from it power to originate such bills. But by the abuse of their limited power to amend, they defeat the exclusive power of the House. But not only that, the Senate at this session, by direct usurpation, has exercised the power which the Constitution confers upon this House alone. It has originated a loan bill, sent it here, and it is now upon the Speaker's table. Is not a loan bill a bill for raising revenue? There was some dispute as to appropriation bills being revenue bills, but there can be no doubt about this bill. If a loan bill is not a revenue bill, I do not know what is. Blackstone defines a revenue bill to include all bills by which money is directed to be raised upon the subject, for any purpose, or in any shape whatsoever. (Com., vol. 1, page 169.) This bill proposes to raise revenue by borrowing. If you look at the practice of the House of Commons you will see that loan bills are in the first class of revenue bills.

Sir, as the Senate has sent this revenue bill here in violation of the Constitution, the House ought not to receive it. There is an example in British history, where such a bill was sent by the House of Lords to the House of Commons. It occurred two hundred and fifty years ago. The House of Commons sent the bill back to the House of Lords with a message that the House of Commons could not even consider the bill, because it violated their privileges. From that day to this, the House of Commons would never allow the House of Lords to originate any money bills. It was from that feature in the British Constitution that our fathers modeled the provision inserted in the Constitution of the United States; and the only difference between our law and the law of England is, that the Senate may amend revenue bills, but cannot originate them. The House of Lords cannot amend them, nor add even an appropriation for one dollar to any bill for any purpose; because it is the privilege of the House of Commons to raise money bills. To show the importance attached to this power, I ask attention to high authorities:

"It is the ancient, indisputable privilege and right of the House of Commons, that all grants of subsidies of Parliament aids do begin in this House, and are first bestowed by them."—*Blackstone's Com.*, vol. 1, page 163.

"The general reason given for this exclusive privilege of the House of Commons is, that the supplies are raised upon the body of the people, and therefore it is proper that they alone should have the right of taxing themselves."—*Same*, vol. 1, page 168.

"It would, therefore, be extremely dangerous to give the Lords any power of framing new taxes for the subject; it is sufficient that they have a power of rejecting, if they think the Commons too lavish or improvident in their grants."—*Same*, vol. 1, page 168.

"The Commons are not only treasurers to the nation, but also possess the initiative of any bill imposing a tax, for whatever purpose."—*Ferrall's Law of Parl.*, page 103.

"So tenacious have the Commons been of this money privilege, that they have frequently rejected bills containing money clauses, solely on the ground of their not having originated with themselves."—*Ferrall*, page 103.

"On 3d July, 1678, it was resolved, 'That all aids and supplies, and aids to his Majesty in Parliament, are the sole gift of the Commons; and all bills for the granting of any such aids and supplies ought to begin with the Commons; and it is the undoubted and sole right of the Commons to direct, limit, and appoint, in such bills, the ends, purposes, considerations, conditions, limitations, and qualifications of such grants, which ought not to be changed or altered by the House of Lords.'"—*Ferrall*, page 103.

"The Commons have so uniformly and so vigorously resisted every attempt of the Lords to interfere with this right, that the latter have long since desisted from either originating money bills, or from making amendments to such bills passed by the Commons. The period in which the greater number of precedents occur begins from the restoration and continues down to the beginning of the last century; and whenever the question has arisen, the prompt and zealous denial of the Commons has crushed the encroachment so effectually, that latterly the Lords have abandoned all further attempts as hopeless. This privilege is now the sole and undisputed right of the Commons."—*Ferrall*, page 107.

As the Senate has sent us this bill, let us follow the example of the House of Commons, which I have recited, and send it back with the message that we cannot even consider it, because it violates the privileges of the House of Representatives. A single evidence of the spirit and watchfulness of our fathers would save us from further encroachment. But we are told that the Senate

has sent loan bills to this House before. Well, if there have been bad precedents, I see no reason why we should continue to follow them. Instead of reference to the Constitution, we are referred to bad precedents. We may be referred to the Treasury loan bill, at the beginning of this session, which came to us from the Senate. I say that even a multitude of bad precedents do not repeal the Constitution of the United States. If so, then there is no safeguard, no virtue, in the Constitution. It is the unalterable law of the people, and neither precedents nor Presidents nor Senators dare overthrow it so long as there is an independent House of Representatives to hold them in check.

But many of these abuses have grown out of the neglect of the House. We have thrown too much of the business of the House upon the Committee of Ways and Means. Voluminous reports from the Executive Departments are sent, without indexes, to that committee. It is not in the power of that committee to give the proper inquiry and consideration to all this business, and, therefore, they become the mere transcribing clerks of the Executive Departments. When any information is asked for in debate, no member is able to give it; but the chairman of the Committee of Ways and Means sends to the Clerk's desk, to be read, a letter from some subordinate under the President. This is not right. Every committee should be allowed to originate its own appropriation bill. There is no reason why the chairman of the Committee on Military Affairs [Mr. QUITMAN] should not have the preparation of the Army appropriation bill, instead of the Committee of Ways and Means. The Committee on Naval Affairs consists of gentlemen well acquainted with the details of that service, and there is not one soldier, much less a general, on the Committee of Ways and Means.

There is no reason why the Committee on Naval Affairs, over which the gentleman from Virginia [Mr. BOCK] presides, should not frame the Navy appropriation bill. The Committee of Ways and Means was originally intended as the committee to which should be referred measures of revenue and tariff. Instead of being confined to that, they have had transferred to them the whole legislation of the country; and when that committee is composed, as it is at this session, of a strong party cast, and the Administration can command a majority on it, we virtually deprive ourselves of all power to decide on questions of legislation, and intrust them all to that committee. From the large mass of business thrown upon that committee, it is compelled either to neglect a portion or to report to the House without that ample information which we ought to have on every question of finance.

Another neglect or abuse is in the mode in which we conduct our business. The practical limitation of debate is a surrender of our privilege. Every grievance should be redressed before an appropriation is made. The old maxim was, "grievances before subsidies." It was under that good old maxim of the British law that our forefathers held in check the Crown of Great Britain. It was under the same principle that our forefathers entered into the revolutionary struggle. We ought to stand by it; but instead of that, we come here and debate at length Executive usurpation, and then, at the end of the session, rush the appropriation bills through, giving the Executive all he wants, and ample means and power to laugh us to scorn. An Opposition that does not perform its full duty, that does not withhold appropriations until the Executive yields to the just demands of the people, is not true to itself or its constituents.

Again, we appropriate money, and never inquire into its expenditure. The 89th rule provides for a Committee on Expenditures; yet that committee never meets. It is a remarkable thing that that committee, which ought to be one of the most important of the House, is totally neglected.

In the reference of the President's message, the Committee on Expenditures is never mentioned;

yet it ought to have before it all the expenses of the Government, and every dollar expended by the Government should undergo before it a careful scrutiny. By reference to the rule, it will be seen that that committee is bound to examine every item of expenditure, and to see that it is made in conformity with law. Yet it has not met for years. So, too, with other committees. Shortly after the late war with Great Britain, five or six standing committees were created to examine the expenditures in the various Executive Departments. These committees are annually appointed, but rather for show than service. Nothing is referred to them. It is not their fault, but the neglect of the House. Here is a reform which ought at once to be made. All these committees on expenditures ought to be charged by the House with the proper documents, and should faithfully perform their very important duties.

And, sir, we have neglected another power, and that is the power of impeachment. Every violation of a provision of law ought to be followed, either by impeachment or a bill of indemnity. If the necessity is so urgent as to justify an executive officer in violating a law, or to vary a hair's breadth from the law, this House ought to recognize that necessity by passing a bill of indemnity; otherwise an impeachment ought to follow the moment the delinquency is brought to the notice of Congress. In my judgment, the House ought not to waste its time in covering up plain violations of law, even if not involving turpitude, violations which ought to be followed by impeachment, and thus throw upon the Senate the duty of trying the offender.

When you bring about these reforms, we shall have no more loan bills, we shall have no more Treasury notes. In my judgment, from the most careful examination I can make, the expenditures for the next fiscal year can be reduced to \$50,000,000, a sum which will be within the public receipts. But I have no hope that this will be done. We know by fatal experience the power and influence of the Executive uncurbed and unchecked. It is only when this House assumes and maintains its full powers, and enforces them, that the President and the heads of the Departments can be kept within the law. I include heads of Departments, because, though not recognized by the Constitution, except as mere clerks of the Executive, yet custom and public opinion have given their mandates an undue importance. They are sent to us, the Representatives of a free people, and we are expected to bow in abject submission to their demands. For one, while I hold a seat upon this floor, I will examine for and expose any violation of law, whoever may commit it. Such is the duty of each of us. Important powers are delegated to us, and we cannot avoid their exercise without dishonor. When a mere question of personal etiquette arises, we may be disposed to bow politely and yield; but when it comes to performing representative duties, we should perform them, whoever may sneer, whoever may reproach, and whatever power may stand in the way. I know no power above the power of this House.

But, sir, I have no hope, while this House is constituted as it is now, of instituting any radical reform. I believe that the House of Representatives should be in opposition to the President. We know the intimate relations made by party ties and party feelings. We know that with a party House, a House a majority of whose members are friends of the President, it is impossible to bring about a reform. It is only by a firm, able, and determined opposition—not yielding to every friendly request, not yielding to every urgent demand, not yielding to every appeal—that we can expect to reform the abuses in the administration of the Government.

At the beginning of this session I did hope that a majority of this House would compose such an opposition; and while on the one hand it crushed the unholy attempt to impose an odious constitution—by force, or with threats or bribes—upon a free people, it would be prepared to check the reckless extravagance of the Administration in the disbursement of the public funds. But the power of party ties and Executive influence were too potent. We can only look now to the virtue and intelligence of the people, whose potent will can overthrow Presidents, Senates, and majorities. I have an abiding hope that the next House of Rep-

resentatives will do what this should have done, and become, like its great prototype, the guardian of the rights and liberties of the people.

I return my sincere thanks to the committee for the indulgence and attention it has given me.

Mr. LETCHER. Mr. Chairman, I am very glad that the question of the public expenditures has begun to attract some degree of attention in this House; and the only cause of regret I have now in connection with the matter is, that my friend from Ohio had not sooner waked up to the importance of the matter, at least as early as last Congress, and invited the attention of his friends to an investigation, which he now seems to think is so much demanded. At that time there was an opportunity to do something practicable; because political parties in this House were then nearly balanced, and they had, at least, as much power as we had, and they could have introduced such measures and pressed them to adoption, and thus brought about important and valuable results. But, sir, no matter when a question of this sort comes up, I am always gratified to hear it; and I trust, although it is too late to operate upon the expenditures already passed, it will be in time to exert a salutary influence upon bills yet to be acted upon by the House. Sir, there are many bills yet behind; there are various river and harbor bills yet to be brought up for the consideration of this House, and they are now being launched in the other end of this Capitol, preparatory to their introduction here, which will involve large appropriations of the public money. If those bills shall become laws, it will be necessary that the money shall be raised to meet the expenditure which will be required by them. I trust that when that time comes we may expect to find my friend from Ohio upon our side, resisting a loan to furnish the money which will be required to make these river and harbor improvements, for which some of our friends on both sides of the House are now so clamorous.

If I remember aright the history of past Congresses, a proposition was started which proposed to establish an ocean telegraph line between this and a foreign country; and it placed under the control of that company two vessels of the United States, manned, armed, and equipped, to be supported and furnished for that service by the Government, and to be employed in aiding that private company in laying down their telegraph line for their own profit and emolument. And, if I mistake not, our friends upon the other side of the House were in favor of a measure which proposed to construct a telegraph outside of the limits of the United States. Now, my friend from Ohio, [Mr. SHERMAN,] who has preferred the charge of extravagance, (if my recollection is not very greatly at fault,) defended the measure and voted for it.

Mr. SHERMAN, of Ohio. I did vote for it.

Mr. LETCHER. Now, was that a measure recommended by anybody at the other end of the avenue? Were the Departments of this Government called upon to consider it? Was the President of the United States asked for his opinion in regard to it? Did he send any recommendation to that Congress asking that they should appropriate money, or that they should withdraw those national vessels from their legitimate service and put them under the control of a private company? Nothing of that sort. Then, if it originated here, with what propriety can the late President of the United States and the late Administration be arraigned for encouraging a profligate expenditure of the public money?

Mr. STANTON. How much money was appropriated?

Mr. LETCHER. I do not know the amount, but it required vessels to be taken, the vessels to be manned and commanded as if in the regular service, to be furnished and supported; and even now there is a complaint made against the present Secretary of the Navy, that he has withheld one vessel which was assigned to that service under the private company, engaged in the construction of this line.

Then, sir, there was another measure which had its origin at the last session of Congress, for an increase of the pay of the Army of the United States. How did my friend from Ohio vote on that subject? Did he vote for the increase or against it?

Mr. SHERMAN, of Ohio. The record will show. I will say to the gentleman frankly, that I do not recollect.

Mr. LETCHER. Well, I do not know, but I think I would agree to venture something right handsome that he voted for that increase. This, then, was another way in which the expenditures were increased.

Then, sir, we had another proposition to commission the chief officer of the Army of the United States as Lieutenant General, and thereby to give him greatly increased compensation. How did my friend from Ohio vote upon that? Was it not "ay?"

Mr. SHERMAN, of Ohio. I think I was not here at the time, but if I had been, I would have voted "ay." I would confer that benefit on General Scott or any other officer who had performed similar services.

Mr. LETCHER. I do not complain of my friend's vote. All that I complain of him for is that he should undertake to have other people executed for offenses he has been committing himself.

Then, we had another bill here to increase the efficiency of the Navy. I think the gentleman from Ohio voted for that, and he will recollect that it was only yesterday that we had to appropriate \$110,000 to cover the expenses of courts-martial growing out of that plan for making the Navy efficient.

Mr. SHERMAN, of Ohio. I hope the gentleman from Virginia will press this class of arguments upon this side of the House, because they are required on this side of the House as well as upon the other side.

I hope he will press it distinctly and often upon this side of the House, that they have not done their duty, and urge them to do it in future.

Mr. LETCHER. My business at present is with my friend from Ohio. I take the chief sinner first. [Laughter.]

Mr. SHERMAN, of Ohio. I will answer the gentleman's question. I was not a member of the Thirty-Third Congress, which I believe, passed the bill to promote the efficiency of the Navy.

Mr. LETCHER. I think it was passed during the last Congress.

Several MEMBERS. No, no.

Mr. LETCHER. Well, then, we had another bill that passed the last Congress to give them all these courts-martial.

Mr. SHERMAN, of Ohio. I cannot say what my vote on that bill was, but the gentleman's colleague [Mr. BOGGS] will convince him that I have been opposed to all this humbug about the suspended officers of the Navy. I think they were served exactly right.

Mr. LETCHER. I will do my friend from Ohio no injustice. I will say this, (to his credit,) that he has been much more considerate in the expenditure of money than most members of this House. And while I am gratified that such is the fact, I think that I have some right to complain of him for arraigning others for expenditures that he voted for himself.

Now, sir, the President of the United States, in the last Congress, undertook to check the expenditure of the public money for rivers and harbors. It will be recollected by those of us who were here, and those who have read the history of the times, that the President of the United States sent in a veto upon those river and harbor bills. My friend from Ohio, sir, took issue with him. He was for expending that money. He was for overruling the Executive veto, and he was for adding those sums to the expenditures of that Congress.

Mr. STANTON. I think the gentleman is mistaken about the time when the river and harbor bills were vetoed. I think it was in the Thirty-Third Congress.

[Cries of "No!" "No!"]

Mr. LETCHER. I believe it was in the last Congress, but I do not care what Congress it was in. The gentleman and his friends were for overruling the President. I well recollect that when the veto came in, a gentleman from Ohio rose in his place and announced that "a revolution had commenced," but that that revolution was bloodless as yet, and he appealed to his friends to overrule the presidential veto.

But, as I understand it, my friend from Ohio insists now that appropriations for river and harbor improvements shall be made at the present session of Congress; and undertakes to say, in addition, that if they are not made now, the time is coming when power will be concentrated in

the Northwest, and when that power will be wielded to coerce this species of legislation for that section of the country.

Mr. SHERMAN, of Ohio. I said that the time will come when the Northwest will be able to demand of the General Government a fair share of the disbursements of the Government for such purposes as the coast survey and the like of that, and that the same constitutional power which will authorize the gentleman to report to us a bill providing for the coast survey and all that class of expenditures, will also authorize the expenditure of public money on the lakes.

Mr. LETCHER. Why, Mr. Chairman, if equality is all that the Northwest desires, look at the donations of public lands for one purpose or another that have been made for those States, and the value of those donations for railroad purposes, for water-line communications, education, and other purposes, and you will find that when a balance comes to be struck, whatever may have been given to the South falls very far short of what has been given to the Northwest, out of this great land fund that is the common property of all the States of the Union.

Why, sir, it was only during the last Congress that millions upon millions of acres of the public lands were given to those States for railroad purposes, and they have been applied for those purposes. Large donations were made for school purposes, for universities, and for various public buildings within the Territories located in that section of the country, while my own section is deprived of any participation whatsoever in those donations thus given to the northwestern States and Territories. But, sir, more than that; we have had various other propositions which I shall not now undertake to particularize, because I have been brought into this debate to reply suddenly, upon the spur of the moment, to a very able speech, carefully prepared by my friend from Ohio, arraigning the Administration upon point after point; and I must, therefore, only now reply to such points as shall suggest themselves to me, reserving to myself the right, if an opportunity shall occur between now and the end of the session, to discuss this question of Government expenditures pretty fully.

Now, sir, my friend from Ohio complains that the Administration has undertaken to involve us in a controversy with Utah, and that it has required large expenditures of public money to sustain the Army, and to make it effective for the service in which it was employed in that connection. I had supposed that the gentleman from Ohio, himself, was in favor of having something done in the Territory of Utah; because, if I recollect aright, this very question was made part and parcel of his platform in the last presidential canvass.

Mr. SHERMAN, of Ohio. I will say, that upon this side of the House we are all opposed to the "twin relics." [Laughter.]

Mr. LETCHER. Then why arraign the Administration for endeavoring to bring the people to subjection to the law, which you say ought to be respected?

Mr. GROW. You have not got any law.

Mr. LETCHER. Then why, when these people are in open rebellion against the law, and when the President finds it necessary to execute it by calling the military power to his aid, do you arraign him, and say that he ought to be impeached for an exercise of power not warranted? I give it as my opinion that he has done nothing more than was his duty in that connection, and for doing that duty, instead of receiving the censure and condemnation of this House, he deserves to be applauded here, and applauded throughout the country.

Mr. STANTON. If the gentleman wants the information, I will give it to him.

Mr. LETCHER. Very well; I will hear the gentleman.

Mr. BISHOP. I object to these interruptions.

Mr. STANTON. The course proposed by this side of the House, is to settle this matter by congressional legislation. We propose to regulate this matter by law in the first place, and then execute the law. The difficulty this side of the House has found, is that the people of Utah have violated no law which we can go to war about.

Mr. LETCHER. Then I have only to say to my friends on the other side of the House, that it seems to me they are very slow in bringing

forward their legislation. Why have they not brought forward some proposition long ago to remove the difficulty?

Mr. STANTON. The gentleman from Vermont, [Mr. MORRILL,]—

Mr. LETCHER. What is that?

Mr. MORRILL. The gentleman from Virginia inquires why we do not introduce some legislation on this side of the Hall? I will state that, at the last Congress, a bill was introduced by me to prohibit polygamy, which was referred and reported back to the House, but it was never reached. In the present session, at the earliest moment I could, I introduced a bill upon the same subject, which was referred to the Committee on the Judiciary, but has not been reported back to the House. A majority of that committee is composed of gentlemen on the other side of the House.

Mr. LETCHER. You had your committees in the last Congress, and you had your Speaker: why did you not then get up your bill and pass it? But I ask the gentleman from Ohio what authority you have got to pass any laws to remedy the difficulty? Will you pass a law to interfere with the religion of the Mormons, as they consider it? How will you frame your laws to meet this difficulty, and where will you get your authority?

Mr. STANTON. We on this side of the House hold that Congress has not yielded all the power to legislate over the Territories; they have as much power to legislate upon the subject of polygamy or any other crime as they have in the District of Columbia, or as the States have within their own jurisdiction.

Mr. LETCHER. The right to legislate for the overthrow of their religion?

Mr. STANTON. We have as much right to legislate there within the limits of the Constitution as any State has within its own limits.

Mr. LETCHER. Does the gentleman take the grounds then that we have the right to legislate upon the subject of religion?

Mr. STANTON. I take the ground that we have the right to prohibit polygamy. Does the gentleman call that religion?

Mr. LETCHER. I say that they call it religion; and if the gentleman undertakes to decide whether it is good or bad religion, somebody else may decide that his religion is bad; and they have just as much right so to decide as he has to decide that the religion of anybody else is bad.

Mr. STANTON. Will the gentleman undertake to say that when they call religion has reference to the social relation, and to the relation between the sexes, it is not within the control of the legislation of Congress? Cannot a State prescribe regulations in respect to marriage, and prohibit polygamy? Have you not such laws in this District? and, if so, why cannot you make such laws for the Territory?

Mr. LETCHER. You have delegated to the Territory of Utah the right to legislate in regard to her domestic institutions. Now, where have you reserved the right to legislate upon this subject?

Mr. STANTON. We have certainly not delegated all legislative powers.

Mr. LETCHER. Where have you reserved the power you are now claiming to exercise upon this subject?

Mr. MORRILL. If the gentleman from Virginia will yield to me for a moment, I will answer his question. In the organic act of Utah Territory, Congress expressly reserved the power to approve or disapprove of all laws passed by its Legislative Assembly.

Mr. LETCHER. But, suppose they have passed no law upon the subject—as I understand they have not done—how is Congress to approve or disapprove them? I think they have passed no law recognizing polygamy; or, if they have, I have been unable to find it in their statutes.

Mr. MORRILL. If the gentleman will examine the laws passed by the territorial government of Utah, he will find that the whole subject is placed in the power of the priesthood, and that by legislation they indirectly, but still substantially, recognize polygamy.

Mr. LETCHER. Well, sir, I doubt very much whether the gentleman can find that. It is certainly not in the volume I saw. I have seen but one volume of their acts, which was some two or three years ago, when I had occasion to use it in

debate; but I was unable to find any such law there.

Now, sir, there is another point. My friend from Ohio [Mr. SHERMAN] undertook to charge here that the Administration were constantly violating the law when they allowed a surplus to be carried from one head of an appropriation and applied to another. Well, now, sir, if the gentleman will turn to the tenth volume of the Statutes at Large, he will find this section, which I commend to his consideration and to the consideration of gentlemen on the other side of the House, and I think a good portion of them will be willing to indorse it when they learn from whose pen it emanated. The section is in these words:

"SEC. 23. *And be it further enacted*, That in case the sum appropriated for any object should be found more than sufficient to meet the expense thereby contemplated, the surplus may be applied, under the direction of the head of the proper Department, to supply the deficiency of any other item in the same Department or office: *Provided*, That the expenditure for newspapers and periodicals shall not exceed the amount specifically appropriated to that object by this act."

Now, sir, I think gentlemen on the other side of the House, who have supported Mr. Fillmore's administration, will recognize this as pretty good authority for the transfer of which they complain, for it was drawn by the pen of Mr. Fillmore himself when he occupied the position of chairman of the Committee of Ways and Means of this House. It has remained on the statute-book from that day to this. Now, sir, those gentlemen on the other side of the House who have associated with him in politics, and who stand now in opposition to the Administration, and who are now complaining of the action of the late and present Secretaries of the Treasury, may rest satisfied that those officers have acted strictly up to the letter of the law, drawn by a late Whig President of the United States.

Mr. STANTON. Did that law authorize the appropriation, in 1857, for the expenses of the Kansas Legislature, of another item designed for another purpose?

Mr. LETCHER. Well, sir, I do not know that it does exactly. I wish to deal fairly with the gentleman about it. Now, as one good turn deserves another, does it not justify every other transfer made by Howell Cobb or James Guthrie?

Mr. STANTON. Indeed I do not know, as I have not examined it.

Mr. LETCHER. It seems to me that my friend ought to be examining into the facts, and ought not to confine his sight to this little isolated expenditure for the Legislature of Kansas. That is but a meat floating upon the surface. There are other large expenditures. I can remind him of one which occurs to me now, (and it is the only one that does,) where an appropriation made for one purpose was transferred for the purpose of keeping up the armories of the United States, the appropriation for which was omitted by mistake in enrolling the bill. Let me say to my friend from Ohio [Mr. SHERMAN] that he had a chance to raise this question when the bill to restore the appropriation for the armories was introduced during this session by my colleague of the Harper's Ferry district, [Mr. FAULKNER.] I believe that bill passed with general concurrence, or with such general concurrence that even the yeas and nays were not called on it.

Mr. STANTON. They were called.

Mr. LETCHER. What was the vote?

Mr. STANTON. I know that I made a speech against it; and I know that I voted against it.

Mr. LETCHER. I know that my friend was in a lean minority of the Committee on Military Affairs on that bill. I do not think that he then carried his party with him; and certainly, if there is any man in this House who can carry his party followers, by the force of his intellect, he is the man. No man deservedly wields more power with his party in this House than he does. If he could not save his own nousehold on that occasion, if they indorsed this policy of the Administration in defiance of his wishes and advice, how is it that he undertakes here, months afterwards, to arraign the Administration for a policy which his friends indorsed?

But my friend from Ohio [Mr. SHERMAN] undertakes to arraign the Committee of Ways and Means on the same ground that has been taken ever since this session opened. He says that we are in the habit of reporting bills in con-

formity with the estimates which come down to us from the other end of the avenue; that we do not look into these estimates, that we do not inquire about them, that we are willing to take their say so and conform our action to it, and report accordingly to this House.

Mr. SHERMAN, of Ohio. I do not want my friend from Virginia to misinterpret what I said. I said, from the burden of business thrown upon them by the House, that they could not properly attend to it. I think that the Committee of Ways and Means are always willing to perform their duty.

Mr. LETCHER. Then the result is exactly this: we have not done our duty. It comes down to that point—that we have not done our duty; because, he says, we have not had time. I take it that my friend from Ohio can lay his finger upon some one recommendation from the Committee of Ways and Means which is not warranted by the law. What one does he name?

Mr. SHERMAN, of Ohio. My remark was not that they reported what is not warranted by law; that was not it; but that they did not cut down the appropriations. The appropriations are at the pleasure of the House, and they may be cut down at any time. We may reduce, by a single stroke of the pen, the expenses of this Government \$20,000,000, if we choose. The appropriations can be cut down in various ways. I could suggest to the gentleman many places where there might be a reduction. If it is the pleasure of the committee, I have no doubt that, by lopping off a number of contingencies and miscellaneous items, we might reduce the appropriations for the Government nearly ten million dollars. I had prepared a table of contingencies which I can furnish the gentleman with.

Mr. LETCHER. Let us see what we have done when we have undertaken to make recommendations. My friend will admit that, where the law fixes the amount, we are bound to conform to that amount in the bill. That, I take it, he will assent to. I refer to salaries and such matters, where a definite amount is fixed by law.

Mr. SHERMAN, of Ohio. The committee has reported a bill appropriating \$4,000,000 for collecting the revenue. I have shown that here it has increased the number of officers over five hundred. If the committee has the power to increase, it has the power to decrease. One implies the other. Why, then, did it not appropriate \$3,000,000 or \$2,000,000, instead of \$4,000,000? And why were not specific items given to us, so that we might be able to tell which of those amounts ought to be appropriated? Why, in this season of want, when loan bills are the order of the day, ask the House to appropriate more than was ever before appropriated for this object? Is it because the committee has not time to sift the matter as it should be sifted, and as it would have been if it had been sent to some other committee having charge of this distinct matter? I believe, for instance, that if this Army appropriation bill had been referred to the Committee on Military Affairs, which is composed of gentlemen familiar with the details of the Army, that they could have cut it down, when the Committee of Ways and Means, who are civilians, and not soldiers, would not know whether the appropriations were absolutely necessary or not.

Mr. LETCHER. If the bill was improperly referred, whose fault was that?

Mr. SHERMAN, of Ohio. I do not blame the committee.

Mr. LETCHER. Do not the rules of the House require that it should go there, and did it not go there in obedience to those rules?

Mr. SHERMAN, of Ohio. I do not blame the Committee of Ways and Means. I make that disclaimer again. I said that it was one of the neglects of this House in failing to make the rules so that the business would be divided properly amongst the appropriate committees.

Mr. LETCHER. That is another question altogether. My friend has been arraigning, not the House, but the President for executive dictation; for controlling his men in this body, and bringing them up to the scratch in behalf of appropriation bills.

Mr. SHERMAN, of Ohio. I must be allowed to say in this connection that I did not mention the Committee of Ways and Means, except in so far as the remark went, that the House has neg-

lected its duty in not referring its business to the several appropriate committees.

Mr. LETCHER. Very well; if the thing devolves upon the House of Representatives, let the evil be corrected by the House; but do not make it the subject of complaint against the Administration.

But my friend has a good deal to say about executive dictation. I do not know who is under the influence of that dictation here. I do not know what the Executive has undertaken to do to control the party. But I can give him an incident in the history of a party in this country in regard to executive dictation, that is without a parallel, so far as I know, in the history of another party in this land. There was a time, some sixteen or seventeen years ago, when the party with which I never have been connected was in power, and had control of both branches of Congress. Mr. Tyler was President of the United States. After he had vetoed one or two bank bills, the party in both branches met in caucus, and appointed a committee to wait upon him and pledge themselves that, if he would furnish his views in the shape of a bill, they would pass the bill so approved, without the crossing of a "t" or the dotting of an "i." It was done, and they claimed that John Tyler had betrayed them, because he would not sign the bill.

Mr. SHERMAN, of Ohio. At the time of that enormous delinquency, President Tyler did not belong to any party, and, so far as I am concerned, I might plead that he was in the minority on that occasion. He belonged to no party but his own, and that was a very small banding.

Mr. LETCHER. Well then, Mr. Chairman, it was so much the worse, that a great party at that day, who had control of both branches of Congress should have been willing to place themselves under the control of a gentleman, who, they now say, had not power enough to muster a party. There would have been some excuse for the other side if he had been their own party leader, and there had been some difference of opinion which they wished to harmonize and reconcile. When my friend from Ohio can find such an instance as that in the history of the Democratic party, where they have gone to the President of the United States with a bill in hand, and asked him to place it in such a form as would meet his favor and approval, and then pledge themselves to pass it, and have come back and passed it in that shape, he may, with propriety, arraign us for bowing at the footstool of power to learn the executive will; but until it can be found, let them at least take care of their own household and not arraign others. It is proper to say that Mr. Tyler denied that he had agreed to approve the bill that was passed.

And now, let me come a little further down in the occurrences of this session, when the great party upon the other side of the House surrendered to a small party upon this side of the House upon the Kansas question. Sir, as I understand it, that great party did not claim, that, in voting for the Crittenden-Montgomery amendment, they were carrying out their own principles upon that subject; but that they made a surrender for the purpose of securing harmony, and preferred that bill in order that they might command the power to overthrow the Democratic party.

Mr. SHERMAN, of Ohio. I will say to the gentleman from Virginia, that so far as I know, the Republican members voted for the Crittenden-Montgomery amendment as the only and shortest way of defeating an attempt, which was being made by the Administration, to force upon the people of Kansas a constitution which was rejected by them.

Mr. LETCHER. Then it comes exactly to the point I have maintained. My friend from Ohio pleads here, not that the bill contained his principles or favored his views, but that it was necessary to make up a power sufficient to crush the Administration, that induced them to sustain it. Does not that leave the question exactly where I placed it? If, then, gentlemen upon the other side of the House vote from considerations like those, for the purpose of crushing the Democratic party, I submit to them that it is at least worthy of their consideration before they arraign us, that they should purge themselves of that which attaches to them under this state of circumstances.

But besides that, let us go to the other end of the Capitol. What induced them, what brought

the gentleman's friends there to vote for the Crittenden-Montgomery bill? It could not crush the Administration there. It could not defeat or control a measure there, and if they voted for it, and under those circumstances, they have not even the excuse which is offered by my friend from Ohio, in this end of the Capitol, for his vote.

Now, there are various other points which I would like to notice, but I have occupied as much time upon this occasion as I desire. One single word more and I have done. My friend from Ohio, says it is time reform and retrenchment were begun; that it is high time the doctrine of impeachment was inaugurated for the benefit of the President and other officers who violate the law of the land. All I have to say is, that so far as I know, the President of the United States has respected the law, and has discharged those obligations of duty which he owes to his oath and to the country which has honored him by an elevation to this distinguished position; and I have no doubt he will stand as faithfully by the law in time to come, and be as prompt to execute it whenever occasion arises, as any man in the past history of the country, who has filled the presidential office. But, if he has violated the law, let me tell my friend from Ohio, if he wants to begin impeachment, now is "the accepted time." Bring forward your articles of impeachment. If he has violated the law in any respect, let the matter be inquired into, and let him be tried upon that impeachment before the country, and if guilty let him be condemned and driven from office.

Mr. WASHBURN, of Maine. Who will try him?

Mr. LEITER. I desire to say a word to the gentleman from Virginia. I propose to impeach the President on the Cincinnati platform.

Mr. LETCHER. That is a clear point, I suppose. [Laughter.]

Mr. LEITER. I wish to call attention to the fifth resolution of the Cincinnati platform, and I will read it; and then I propose to inquire how it has been carried out. It is as follows:

"That it is the duty of every branch of the Government to enforce and practice the most rigid economy in conducting our public affairs."

Mr. LETCHER. Just at that point let me inquire of the gentleman from Ohio if he knows of any violation of that part of the platform?

Mr. LEITER. I do not know that there has been any rigid economy, or economy of any kind enforced. The resolution goes on to say:

"And no more revenue ought to be raised than is required to defray the necessary expenses of the Government, and for the gradual but certain extinction of the public debt."

Mr. LETCHER. Let me inquire of the gentleman whether he did not vote to take the money out of the Treasury before the last session of Congress closed, and have it deposited with the States?

Mr. LEITER. Not by any means. No, sir.

Mr. LETCHER. Then you are a *rara avis* in that flock.

Mr. LEITER. I certainly did not vote for that. Mr. LETCHER. I am very glad to hear it.

Mr. LEITER. I do not want my friend from Virginia to escape from the fifth resolution by charging back upon me. I want to know what kind of economy has been used, or what kind of efforts have been made to reduce the public debt under this resolution?

Mr. LETCHER. I do not want to escape from anything in this connection. If my friend will undertake to designate any one measure of this Congress which he regards as extravagant and profligate, and in violation of that resolution, I should be glad to be informed of it.

Mr. LEITER. I say there has been scarcely an appropriation made here which is not an exaggeration of what we have had before.

Mr. LETCHER. When my friend has to resort to his memory, and walks over the record, I think he is in rather a bad way. The record of what we have done during this session is before him; the bills we have passed, the propositions considered here, the amount of money they involve, and the particular votes given upon both sides of the House in connection with them; and if any one of them is in violation of law, if there has been a profligate or extravagant expenditure of the public money, it is the easiest and simplest thing in the world to designate it and hold it up to the reprobation of the country. I cannot undertake to answer the general charge that he re-

gards everything done here as an exaggeration on what has been done before. Is it an exaggeration to pay your officers of the Government, the President and heads of Departments, clerks, and others, the surveyors of your land offices? And if it is not, is it profligacy and extravagance to employ men to enable this Government to carry on its operations and to execute the commissions within their charge?

Mr. COBB. The greatest extravagance, I apprehend, that we have been guilty of during the present Congress, was voting six million acres of land, without any consideration, for agricultural purposes.

Mr. LEITER. I hope the gentleman from Alabama will absolve me from any such act.

Mr. LETCHER. That vote was altogether owing to the fact that my friend still has a remnant of his old Democracy left. [Laughter.]

Mr. LEITER. The indorsement of my Democracy, coming from the gentleman from Virginia, will not add much to my credit as a Democrat, I am afraid.

Mr. LETCHER. I am very sorry for it. If my indorsement does not give him credit, I think he is in a bad way to get it. [Laughter.]

Mr. LEITER. I want to come back to my inquiry. If economy has been practiced, in what has it been done, when the expenditures are higher now than they ever have been, in every department of the Government? Is that the kind of economy which we were to have had under the fifth resolution of the Cincinnati platform? And if it be, why not have informed the people that you intended, by your economy, to increase the expenditures in every department of the Government?

Mr. LETCHER. How are our expenditures made? Are they made by the President, or by the Departments of the Government, or are they made by the votes of the representatives of the people here and in the other wing of the Capitol? Now, if appropriations are made, and if a portion of one party votes for them and a portion of the other party votes for them, and if, in that way, a majority is acquired, does the gentleman undertake to say that the fault lies with the President, and not with the members of both branches of Congress?

Mr. LEITER. If these propositions did not meet the favor of the Administration, why did not the President exercise his veto?

Mr. LETCHER. There, again, I am very glad to hear the gentleman. That is good Democratic doctrine, too. But, suppose that veto had come: would we not have had the cry raised again that the country was threatened with a revolution because the President was seeking to trample down the voice of the people, expressed through their Representatives? Now, I say very frankly to the gentleman—and he knows that I am not in the habit of voting very liberally here; the fact is, that most of them think I am rather illiberal—that I do vorily believe, as God is my judge, that if I was President of the United States, I would have a quire or two of blank vetoes printed for every session, and I would send them here whenever a chance offered. I think the President might very well veto a good deal of what we do here; and I am only sorry that the veto power is not more frequently exercised in checking what I think to be not right legislation. That is my idea about it.

Mr. SEWARD. Mr. Chairman—

Mr. LETCHER. Hallo! you are not coming in? [Laughter.]

Mr. SEWARD. Mr. Chairman, the objection that I have got to the policy of the present Administration is this: I want it understood that I do not belong to that (the Republican) side of the House; but I belong to this side, (the Democratic,) by the minute or hour, as it may suit me.

Mr. LETCHER. In other words, you are a sort of migratory Democrat. [Laughter.]

Mr. SEWARD. I am a little in that line; and I think the gentleman [Mr. LETCHER] will have to migrate soon, or he will find himself in bad company.

Mr. LETCHER. I am waiting for my friend to explain what he is at.

Mr. SEWARD. I was going to say this: at the last session of Congress, money was appropriated to do particular things; and I allude to a matter which was to be done in my own State,

and which the Administration men here, this morning, generally voted against.

Several Democratic MEMBERS. I did not vote against it.

Mr. SEWARD. I am talking about some extreme southern men—those fixed, sedentary Democrats, who never do anything, but oppose everything.

Mr. LETCHER. There must be very few of them in this House, judging from the way my friends from Ohio, on the other side, talk. They say we are making a great many improper appropriations; but the gentleman from Georgia, [Mr. SEWARD], in consequence of the loss of that navy-yard down at Brunswick, thinks we are doing a very limited business.

Mr. SEWARD. The gentleman voted an appropriation of \$285,800 in the way of an advance to Norfolk, while I only asked \$300,000 to continue a work at Brunswick.

Mr. LETCHER. I do not think the navy-yard at Brunswick is laid out yet.

Mr. SEWARD. The gentleman is mistaken.

Mr. LETCHER. Is it staked off and surveyed?

Mr. SEWARD. Yes, sir, it is surveyed.

Mr. LETCHER. All staked off and surveyed? Has the gentleman had any notice from the Navy Department as to where the buildings are to be located?

Mr. SEWARD. Yes, sir; a naval officer was sent down there and reported; but the misfortune is, that the gentleman at the head of the Navy Department has lived so long in Connecticut that he is frozen up, and cannot be moved.

Mr. LETCHER. Where is the report of the naval officer who was sent down?

Mr. SEWARD. It is in the Navy Department; but I never go to the Department to hunt up these matters.

Mr. LETCHER. I suppose that, if my friend had gone to hunt up that report and brought it here and convinced us that it was right, he would have stood a very good chance for his \$300,000; but he did not go to look after it, and how was the House to know how to vote?

Mr. SEWARD. The gentleman does not understand me. There was no recommendation from the Navy Department, except in respect to particular navy-yards, which seem to be the special favorites of the Navy Department and the Treasury Department and the Administration throughout.

Mr. LETCHER. Well, Mr. Chairman, I do not know how that is. The Navy Department has sent us estimates for the navy-yards scattered all over the country—north, south, east, and west.

Mr. SEWARD. I give the gentleman notice that if I get the floor I will give my views generally on the whole subject.

Mr. LETCHER. I am sure I have no objection to my friend giving us his views on the subject; but I say that so far as these appropriations are concerned, so far as they have come under my observation as a member of the Committee of Ways and Means, I have not seen the first evidence of sectional feeling or sectional prejudice in the recommendations made for our consideration; and, sir, it strikes me—if I am not altogether mistaken—that there is still \$70,000 of this Brunswick appropriation unexpended.

Mr. SEWARD. Yes; and that is what I complain of: that the Administration, by refusing to spend that money, while I have been urging them to do it for twelve months, and applying their veto power to it, have overridden the legislation of Congress.

Mr. LETCHER. I do not know why the Secretary of the Navy has acted as my friend says he has; but if he would not spend this \$70,000, will my friend be good enough to tell me how he expected to get him to spend this \$300,000?

Mr. SEWARD. I wished to put that on to him as a weight to drag him along.

Mr. LETCHER. Then you were going to hitch the Treasury to him, or him to the Treasury?

Mr. SEWARD. God forbid! The Treasury has been ruined badly enough already, without hitching it to such a dead carcass.

Mr. LETCHER. Then I am only surprised that my friend wanted to hitch on two negative bodies.

One or two words more, and I have done.

Mr. LEITER. I hope, Mr. Chairman, that, by the interference of the gentleman from Georgia, I have not lost the privilege of having a little conversation with the gentleman from Virginia.

Mr. LETCHER. Go on; I want to know what it is.

Mr. LEITER. I want the gentleman from Virginia to specify to this House where the President, or the Administration, or the Democratic party, have paid any of the public debt?

Mr. LETCHER. Why, sir, one of the very grounds of complaint was, that Governor Cobb, when he came into office, had taken money to redeem the public debt which he ought to have reserved for the expenditures of the Administration. That was the very ground of complaint when the Treasury-note bill was before us. He was commended for it in the northern cities, while it was condemned here in the discussion.

Mr. LEITER. He did it at just such a premium as would ruin any man engaged in business.

Mr. LETCHER. Then it seems to me that my friend is going to ruin the Secretary any way. [Laughter.] When I show him that the point is not well taken, he still insists that, although the fact is not as he supposed, yet the Secretary has done wrong.

Mr. LEITER. I want to designate where I think money has been expended to very little purpose. I wish to know where the President got his authority for declaring war against Utah? And then I wish the gentleman to tell the House where the President got the authority for the money which has been expended upon that war?

Mr. LETCHER. Well, in the first place, the gentleman and I do not agree in the fact that he has declared war against Utah.

Mr. LEITER. Well, he has waged war.

Mr. LETCHER. He has done this: when he sent out Government officers to take charge of that Territory, he deemed it to be an act of prudence on his part to accompany those Government officers with the means of protection and defense. For the purpose of doing—what? For the purpose of installing them in their offices, and of aiding in executing the laws. Is not the gentleman aware of the fact that an application is now before us from a portion of the people of Utah for the organization of the Territory of Nevada, on the ground that the authorities of Utah will not execute the laws, even for the punishment of the crime of murder? Then, was it not an act of prudence, of sound judgment, and of proper discretion, on the part of the President, that he should accompany the officers with the means of seeing that the laws were executed and fairly carried out?

Mr. LEITER. I answer that, so far from it being an act of prudence, I believe that the President has been misled by designing men, and when he got his army there—

Mr. LETCHER. So far as that is concerned, I think the gentleman, if he knew more about the President, would agree with me that he is about as hard to lead as any other piece of humanity in this country. [Laughter.] Neither designing men nor undesigning men could make much headway in leading him; and I think, from what I have seen, it would be a troublesome operation to drive him.

Mr. LEITER. Is it not a fact, that a private citizen of the United States went out to the Territory and brought about peace—if there was any trouble—before the army got near it?

Mr. LETCHER. I have never heard of it. If it is, I do not know it. The first intimation I have had that any private citizen was trying to bring about an arrangement, was what I saw in the newspapers about Mr. Kane, of whom I never heard before, who, it was stated, had gone there and had made some arrangement by which Governor Cumming was to enter Salt Lake City and take charge of the territorial government. But if, as the gentleman says, the President sent the army there for the purpose of declaring war and using it offensively, will he tell me why the army has not been so used when it is upon the ground?

Mr. LEITER. I cannot say, unless it be from the fact that the President had not nerve enough to carry out his design.

Mr. LETCHER. I take it that if the President had nerve enough to call out the Army, and

send it across the plains to Utah, in violation of law, and in violation of his official duty, as the gentleman says he did, he would have had nerve enough to give the order to fire the guns when the people set themselves up in opposition to the laws.

Mr. LEITER. They did not get within range of firing guns at all. Everything was peaceful and quiet.

Mr. LETCHER. They could have been within range if they had chosen to go.

Mr. LEITER. I desire to ask the gentleman another question.

Mr. LETCHER. Be quick, then; it must be the last. How much time have I, Mr. Chairman?

The CHAIRMAN. The gentleman has five minutes.

Mr. LEITER. If the gentleman has only five minutes left, I will not interrupt him.

Mr. LETCHER. The gentleman from Ohio [Mr. SHERMAN] undertook to make another point on the Administration in the way of extravagance. He referred to the custom-house at New Orleans, and said that it was sinking, and had been built where it probably could not stand. I concur in that opinion; and I can say, as the gentleman knows, and as every gentleman here perhaps knows, that I have been opposed to these appropriations for custom-houses ever since I came to Congress. But if the New Orleans custom-house is chargeable to anybody, go back and put the blame upon the Administration that preceded General Pierce's, under which the work was started, and under which your policy of building custom-houses began. The work was commenced then; and ever since that time they have been calling for additional appropriations, and telling us that, if we do not make them, every dollar which has been heretofore applied to make the works available and useful will be thrown away.

Mr. SHERMAN, of Ohio. The gentleman will find that the custom-house at New Orleans was commenced under the administration of President Polk. The first law was passed in 1848.

Mr. LETCHER. The work was commenced in 1850 or 1851, and Mr. Polk went out in March, 1849.

Mr. SHERMAN, of Ohio. I would say to the gentleman that there was a Democratic majority in both branches of Congress in 1850.

Mr. WASHBURN, of Maine. And there has been ever since, except in the House during the last Congress.

Mr. LETCHER. Well, now, let us see. There are some custom-houses up in Maine. [Laughter.] And I would remind my friend over there that he probably voted for some of them.

Mr. WASHBURN, of Maine. Yes, sir.

Mr. LETCHER. Then my honorable friend from Ohio—

Mr. WASHBURN, of Maine. Will the gentleman from Virginia yield to me for a moment?

Mr. LETCHER. For a single moment.

Mr. WASHBURN, of Maine. As the gentleman from Virginia has alluded to Maine, he will allow me to say, that while his party friends were asking very large appropriations for custom-houses in his part of the country; for instance, for a custom-house in New Orleans, which we are told is to cost \$4,000,000; for one in Charleston to cost over two millions, and for other places in the same proportion; I believe that some two or three appropriations of \$20,000 and \$50,000 each were made for custom-houses in Maine. The gentleman has inquired who are responsible for the vast appropriations which have been made for the last few years, and seems to be in pursuit of knowledge under apparent difficulties, and I will endeavor to enlighten him, if he will permit me, by stating that his party has been in the majority in both branches of Congress for ten years past, unless he would except the last two, when the balance of power was held in the House of Representatives by the American party. It was during the ascendancy of his party in both Houses, that such measures as the Texas gratuity of \$2,500,000, and the Gadsden treaty, requiring \$10,000,000, for a patch of land which Colonel Benton said was of the value of but a few thousand, were passed by the votes of his party, including, I believe, the gentleman's own vote; and I would remind him that at the present session they have passed a deficiency bill for some eleven million dollars,

over five of which were for the Utah war—a war made by the President without the shadow of authority; and now, that the people are called on to foot the bills, he asks who it is that have caused these enormous appropriations? These are specimens of the instances I could cite, if time, or the consent of the other side of the House, would permit.

Mr. LETCHER. There is this material difference between New Orleans and Charleston, and those places in Maine—at the former the revenue collected exceeds the expenses of collecting it, but that is not the case in the latter. Now, if the Democratic party did wrong in voting for these things heretofore, why did not the gentleman from Maine set us an example in the last Congress by voting against them? Why did he vote as (as he says) the Democratic party in Congress had voted before? Why did the gentleman vote for these measures, when I and other gentlemen on this side of the House were fighting against them, and using whatever influence we had to defeat them?

[Here the hammer fell.]

Mr. SEWARD. I shall not detain the committee long. I desire to say what I have to say, briefly and pointedly.

Mr. J. GLANCY JONES. Will the gentleman give way to allow me to move that the committee rise, for the purpose of terminating debate upon this bill in one hour?

Mr. SEWARD. No, sir; the gentleman from Pennsylvania has no claims upon my courtesy, and I grant none.

Mr. Chairman, I propose to consider to some extent the present policy of this Administration, and, in the same connection, to review, to some extent, a portion of the legislation of the present session of Congress, and to show that the South itself, which always complains, through certain of her Representatives here, of oppression and injustice, is untrue to herself, and is pursuing a policy ruinous to her prospects, ruinous to her commerce, and detrimental to her agricultural interests. There are a certain class of gentlemen from the South who always profess to economize, and who oppose everything; who, in face of the fact that gentlemen of the North have the numerical strength, and yet, upon appropriations, are always fair to us, come so strongly up to oppose the interests of the South.

Now, Mr. Chairman, I desire to call the attention of southern gentlemen to the character and policy of their votes, this morning, affecting the navy-yard in my own district, at Brunswick, Georgia, established by the last Congress. It will be remembered that I asked for an appropriation of \$300,000 to continue the works contemplated by the act of 1857, establishing a navy-yard there. The objection raised was that the work had been abandoned. Now, let us see how gentlemen stand upon the record. Here are the appropriations for the repairs and improvements of navy-yards, contained in this bill:

Portsmouth.....	\$52,915
Boston.....	203,500
New York.....	269,516
Philadelphia.....	97,214
Washington.....	99,100
Norfolk.....	285,801
Pensacola.....	247,365
Mare's Island.....	307,971
Total.....	\$1,572,682

Now, I call the attention of the House to this appropriation for Norfolk; and yet I believe every member of the Virginia delegation, with two exceptions, voted against the appropriation of \$300,000 for Brunswick. The entire amount appropriated in this bill for repairs, &c., of navy-yards at other points is something over one million five hundred and seventy-two thousand six hundred and eighty-two dollars; and yet gentlemen are not willing that even \$300,000 should be appropriated to continue this work.

Now, sir, why do I complain of the Administration? Sir, with the great respect which I have for the Secretary of the Treasury—and he is a man whom I like, a man of ability—I say that his policy, either from wrong opinions, or from having bad advisers around him, is one, in my opinion, (though, I am satisfied, not designed by him,) tending to crush out the interest of the South, and of the State from whence he comes. I stated just now that the Administration, by refusing to make application of the money appro-

riated by the last Congress, in carrying out the munificent measure of legislation to which I have alluded, served effectually to strike down the interests of the South. What does Mr. Secretary Cobb say in a recent letter addressed to this House, asking a loan of \$15,000,000? He speaks of the exhausted condition of the Treasury. Now, suppose the money had been appropriated that was in the Treasury on the incoming of this Administration—a surplus of \$17,000,000—to these works provided for, not only at Brunswick, but the several court-houses and post offices which were authorized to be built in the southern States? There was money enough in the Treasury at that time to have completed the whole of them. I think the estimate for the present year was only a little over one million dollars. That money should have been reserved, and appropriated faithfully to the purposes designated by Congress in its legislation. But the money is gone now, and when you call on one of these Departments, and ask for the prosecution of these works, you are told there is no money, and the work cannot progress. But, when they come to make recommendations for other portions of the Union besides my own State, they can recommend \$1,500,000 for repairs of navy-yards, while they cannot carry out and expend even the little appropriation made in the last Congress to continue the work in my State. Sir, I have the right to complain. I never go to the Department to ask what I shall do.

Now, then, having disposed of my objections to the Administration in that regard, I come down to the policy of this House to show the injustice of its organization. While I say it with all due respect to gentlemen occupying a high seat upon this floor, yet, Mr. Chairman, from the time Congress became organized, from the election of your Speaker, the great object of inquiry was to know how much political power could be brought to bear to favor the Administration in power. Men were selected for prominent places on your committees with regard to their political strength in the country, and selecting them from great political centers. Sir, you can have no healthy legislation while such things are continued. Your Government has become morbid and diseased, if not entirely rotten. Why, sir, it is known that a few men in this House have the entire control of its legislation, and until some power of disturbance arises; until the other members of the House will resist this kind of arrangement, and break it down, they can never have legislation that will be such as it ought to be. Why, sir, the committees are raised for the purpose of carrying out the will of the Departments. Why, sir, when I go there in the morning, upon business for the section of country from which I come, I find these gentlemen there so thick that the pavement seems to be worn smooth by the frequency of their calls.

It is high time, Mr. Chairman, that this arrangement was broken up, this combination dissolved, or else the country must suffer under it. When we are called on to pay a private claim, or a debt of the Government, these gentlemen resist the payment of either. They legislate simply to provide the payment of salaries to feed the party in power.

I do not complain of the Administration because it has no money in the Treasury. Acting under a policy generally agreed to at the adjournment of the previous Congress, Secretary Cobb devoted a large portion of the then surplus fund to the purchase of the United States debt. It is not this that I complain of, had the laws of Congress been executed. The trouble is, that the Administration has become alarmed at the present condition of commerce. They ought to have sent in a message asking for \$50,000,000 at once, and not have irritated the public mind by these constant applications for issues of Treasury notes and authority to obtain loans. The Administration is not responsible because the importations under the tariff are not sufficient to supply the amount of revenue desired by the Government. The financial embarrassment which occurred a short time since begat a system of economy in every quarter of the Union. Our people diminished their expenses. There was a less demand for the goods which pay duties. Necessarily, therefore, the revenue became deficient. Even under your tariff system, however, the Government is but a borrower. No party could have

Mr. GROW. Mr. Chairman, I had intended to speak upon the financial policy of the Government and its expenditures, but I cannot do it in five minutes, and must therefore defer to some other time. I expected, when the gentleman from Virginia [Mr. LETCHER] took the floor, to hear some reasons why the expenditures of the Government have increased more than a third in five years, and almost one half in eight years. But he fails to assign any in answer to the very able speech of the gentleman from Ohio, [Mr. SHERMAN.] He chose to divert attention from the point

by attempting to make the last Congress responsible for the increase in the expenditures of the Government. Everybody knows that the Senate was Democratic in the last Congress, and no party had a majority in the House. The Republicans certainly could not be charged with having any control over the Senate, or of having any influence or control over the Executive. That party, therefore, cannot be held responsible for the appropriations made in the last Congress. They had not the power to do anything by themselves, even in this branch of Congress, which was the only department of the Government in which they had any strength, for they were in a minority here, and only elected their Speaker by a plurality vote. Moreover, I take it that the gentleman from Virginia voted for all the appropriations that were passed, so it does not lie in his mouth to charge the blame of these appropriations on the Republicans. In the last Congress, the miscellaneous bill sent by the House to the Senate, came back with amendments amounting to about three million dollars addition attached to it; and when we attempted to curtail those large additions made by the Senate, we failed.

The gentleman only instanced one case of an appropriation that he thought was extravagant; and that was \$75,000 for the ocean telegraph. What else did he refer to?

Mr. LETCHER. What did the vessels cost that were engaged in laying down that telegraph? Mr. GROW. You may just as well send your vessels to aid in laying down the telegraph cable as send them to the Mediterranean, and all over the world, to bring persons to our shores as guests.

Mr. LETCHER. I did not vote for that.

Mr. GROW. I presume the gentleman did not; nor did I vote for it. But your objection was to the cost of these vessels engaged in laying down the telegraph cable. Why might you not just as well employ them in that way as to send them over the world to bring guests to our shores? During this very session a vessel of war has been sent abroad, to carry an ex-President and his family on a mission of health. Why did you instance that against the Republicans? You are engaged in no war in which your Navy is employed; and what have you for it to do, in which it can be better employed, than in a useful enterprise to advance the intercourse of nations? The expense of keeping it up is no greater than for it to be cruising around the world. Everything which the gentleman instanced added nothing to the expenses of the Government. He instanced the land grants. I voted against those grants with the gentleman from Virginia, [Mr. LETCHER] but how have they swollen the expenses of the Government? No money has been, or is to be, taken from the Treasury by any of those grants. In every single instance referred to by the gentleman from Virginia, no money was expended, or is to be, by the Government, save in the case of the ocean telegraph; and that was only \$75,000, to be reimbursed to this Government in paying for its communications with its ministers abroad. It was but an outlay in advance for what you are now expending money. I am reminded by a friend near me that even the \$75,000 is not to be used until the telegraph is in operation, which is true. So not one cent has been expended for that.

The gentleman had an hour in which to explain why the expenditures of the Government last year, exclusive of the public debt, amounted to the sum of \$65,032,559 76, when for the year ending 30th June, 1852, they amounted to only \$40,389,954 56, and the year ending 30th June, 1850, they amounted to but \$37,165,990 09, but he did not attempt to do it.

[Here the hammer fell.]

The CHAIRMAN stated that the hour having arrived at which general debate was closed upon the bill by the order of the House, the gentleman from Pennsylvania [Mr. J. GLANCY JONES] was entitled to the floor for one hour if he desired to occupy it.

Mr. J. GLANCY JONES. I do not desire to occupy it, but I wish to give notice to the committee that I shall insist on the debate being strictly confined to the pending amendments.

The Clerk then proceeded to read the bill by clauses, for amendment.

Mr. J. GLANCY JONES. I am instructed by

the Committee of Ways and Means to offer the following amendment:

Page 2, lines twenty-three and twenty-four, strike out "\$980,928," and insert in lieu thereof, "\$380,652 65," so that the clause will read:

For subsistence in kind, \$1,380,652 65.

This is a large reduction in consequence of its having been provided for in the deficiency bill.

The amendment was agreed to.

Mr. J. GLANCY JONES. I am instructed by the Committee of Ways and Means to offer the following amendment:

Page 2, in line twenty-six, strike out "\$983,654 99," and insert "\$1,062,654 99" in the following paragraph of the bill:

"For clothing for the Army, camp, and garrison equipage, \$983,654 99."

This is an increase of \$79,000 for clothing for the Army; the estimates for which did not come in soon enough to have them inserted in the bill. I hope the amendment will be adopted.

The amendment was agreed to.

Mr. TAYLOR, of New York. I did not wish to disturb the Committee of Ways and Means in the amendments they had to offer; but I wish to offer an amendment in line twelve.

The CHAIRMAN. The committee have passed that point, and they can return to it only by unanimous consent.

No objection being made, Mr. TAYLOR, of New York, offered the following amendment:

In line twelve insert the following:

Provided, That no Army officer shall be detailed on civil duty except where provided by law.

The amendment was agreed to.

Mr. MORRILL. I move to reduce the appropriation \$100,000 for the purpose of calling the attention of the gentleman from Virginia to a law of the Territorial Legislature of Utah recognizing indirectly the practice of polygamy, or at least placing the whole matter in the legal control and power of the priesthood.

Now, sir, I have before me the organic act of the Territory of Utah, which provides that all laws which have passed both Houses of the Legislature of the Territory shall be submitted to the Congress of the United States; and if disapproved, shall be null and void.

This is the law to which I referred, and of which the gentleman from Virginia seems to have no knowledge. The law of the Territorial Legislature of Utah will be found on page 103 of their laws. The first sections of the act incorporate the Church of Latter Day Saints, including all those of the Mormon faith; section three places the whole subject, whether regarded as marriage or other ceremony—whether "temporal expansion or spiritual increase"—in the hands of the church, and not to be otherwise legally meddled with. The section is as follows:

"Sec. 3. And be it further ordained, That as said church holds the constitutional and original right, in common with all civil and religious communities, 'to worship God according to the dictates of conscience'; to reverence communion agreeably to the principles of truth, and to solemnize marriage compatible with the revelations of Jesus Christ, for the security and full enjoyment of all blessings and privileges embodied in the religion of Jesus Christ, free to all; it is also declared, that said church does, and shall possess and enjoy continually, the power and authority, in and of itself, to originate, make, pass, and establish rules, regulations, ordinances, laws, customs, and criterions, for the good order, safety, government, convenience, comfort, and control of said church, and for the punishment or forgiveness of all offenses relative to fellowship, according to church covenants; that the pursuit of bliss and the enjoyment of life, in every capacity of public association and domestic happiness, temporal expansion, or spiritual increase upon the earth, may not legally be questioned: Provided, however, That each and every act, or practice, so established, or adopted, for law or custom, shall relate to solemnities, sacraments, ceremonies, consecrations, endowments, tithings, marriages, fellowship, or the religious duties of man to his Maker; inasmuch as the doctrines, principles, practices, or performances, support virtue, and increase morality, and are not inconsistent with, or repugnant to, the Constitution of the United States, or of this State, and are founded in the revelations of the Lord."

Mr. QUITMAN. I rise to a question of order. I submit that this is not pertinent to the amendment which the gentleman has offered.

The CHAIRMAN. The Chair sustains the question of order.

Mr. MORRILL. I have said all I desired to say, and will withdraw the amendment.

Mr. DAVIDSON. I move the following amendment, to come in in line eighty-five:

For repairs of barracks at Baton Rouge, Louisiana, the sum of \$25,000, to be expended under the direction of the Secretary of War.

Mr. J. GLANCY JONES. The amendment offered by the gentleman from Louisiana is liable to this objection: the paragraph of this bill from line seventy-eight to line eighty-five, makes provisions for barracks, including the same one for which the gentleman proposes to appropriate specially.

Mr. DAVIDSON. The amendment I have offered was prepared by the gentleman from Virginia, [Mr. LETCHER] and I will refer the gentleman from Pennsylvania to him for such explanation as he desires to have.

Mr. LETCHER. I will make a statement: At an early part of this session the papers connected with this matter were referred by the House to the Committee of Ways and Means, and they fell into my hands. When they came there I applied at the War Department for the purpose of obtaining information in regard to them. The estimates, it seemed to me, were large, and I had not been informed, up to that time, that they had procured iron joists and other iron improvements suggested in the bill of particulars. The Department told me that the repairs could be made, and the property preserved for the sum in the amendment. If gentlemen had time to read the papers in the case, they would be satisfied that the repairs are indispensably necessary if the property is not to go to absolute decay.

Mr. J. GLANCY JONES. What is the amount asked for?

Mr. LETCHER. The amendment provides for \$25,000. Forty-one thousand nine hundred and sixty-six dollars was the amount of the estimate, but that included iron beams, joists, and other iron work; but the Government thought that they were not necessary, and that the repairs could be made with wood sufficient for the purpose of preserving the building.

Mr. J. GLANCY JONES. The appropriation was reduced from \$41,955 to \$25,000.

Mr. DAVIDSON. Yes, sir; and I have agreed to it.

The question was taken; and the amendment was agreed to.

Mr. J. GLANCY JONES. I am instructed by the Committee of Ways and Means to offer the following amendment, to come in after the clause for ordnance and ordnance stores:

For the purchase of gunpowder for the land service \$100,000.

This is rendered necessary by the improvements which have been made in ordnance. The gunpowder on hand has failed to answer the purpose, and for the effective use of the present ordnance it is deemed proper that this provision should be made.

The question was taken; and the amendment was agreed to.

Mr. QUITMAN. I offer the following amendment:

For the alteration of old arms so as to make them breech-loading guns, in accordance with the recommendation of the Secretary of War, \$100,000.

I offer that amendment in good faith. We have on hand a vast quantity of old muskets. Since their construction great and important changes and improvements have been made, and they would not now, in their present condition, be placed, in case of war, in the hands of our soldiers. They have, at present, a value in market not exceeding three dollars each. Probably they could not be sold for that. They are useless now, but they can be made of good service by the application to them of the breech-loading principle, and other like inventions. It seems, from experiments that have been made, that that change can be effected at a cost of \$3 50. They will then be worth twenty dollars each, which is the price the Government pays for that arm.

Mr. MORGAN. Are the changes to be made at the armories?

Mr. QUITMAN. Yes, sir. The superintendent has made a great many experiments on the subject, and the Secretary of War has written a letter to the committee, which I send to the Clerk's desk to be read.

Mr. MAYNARD. Before the letter is read, I will ask the gentleman a question. I ask it in a spirit which will be appreciated, I know. The bill, I understand, proposes to appropriate \$400,000 for the manufacture of arms at the national armories. This proposition proposes to increase that by \$100,000. Why is it necessary to make this

increase of \$100,000 to accomplish this change, which, from all I can learn, is very desirable? Why cannot the appropriation in the bill provide for it?

Mr. QUITMAN. I can answer the question satisfactorily. In the first place, the appropriation in the bill would not authorize the Secretary of War to make the changes, and in the second place, these changes will cost so much more than the \$400,000, which is based upon particular estimates.

The Clerk read the letter of the Secretary of War, as follows:

WAR DEPARTMENT, WASHINGTON, May 15, 1858.

SIR: Valuable improvements have been made in breech-loading arms, which promise great advantages to the Government, as by them old muskets and rifles, which have become unfit for issue to the troops, and such as have been heretofore sold for from three to five dollars each, may, for a moderate sum, be altered so as to equal the best breech-loading arms.

These improvements promise such great advantages and benefit to the Government, that I have to request an appropriation of \$100,000, to be used in altering old muskets and rifles into breech-loading arms.

Very respectfully, your obedient servant,

JOHN B. FLOYD, Secretary of War.

Hon. JOHN A. QUITMAN, Chairman Committee on Military Affairs, House of Representatives.

Mr. CURTIS obtained the floor.

Mr. J. GLANCY JONES. Does the gentleman intend to oppose the amendment?

Mr. CURTIS. I am rather inclined to oppose the amendment; but I am more inclined to yield to the gentleman from Mississippi, the chairman of the Committee on Military Affairs, that he may conclude his remarks.

Mr. QUITMAN. I am much obliged to the gentleman from Iowa; but, instead of saying anything further, I will simply ask that the report of Major Bell, in reference to this change, may be read.

The report was read, as follows.

Memoranda for the Hon. HENRY WILSON, member of Military Committee of the Senate, concerning the application of Morse's breech-loading principle to the muzzle-loading arms of the United States; that is to say, to the rifle-musket, caliber 69-100 inch; to the musket, smooth-bore, caliber 69-100 inch; and to the rifle, caliber 54-100 inch.

The Secretary of War, esteeming Morse's breech-loading principle the best, directed its application at this arsenal to one of each of the above-mentioned old arms, whereof we have large numbers now on hand in the State and United States arsenals. This application was to be made with the least possible change or expense in the arms; the object of the Secretary in the experiment being both efficiency and economy—efficiency in producing a more perfect arm than had yet been made, and economy in avoiding the contemplated sale of these old arms, necessarily at a great sacrifice. The result of the experiment is shown in the form of the arms which I had the honor to exhibit to you in the committee, on Saturday morning last, by direction of the Secretary of War.

1. *Advantages.*—The change in these arms is very small—only in a part of the lock and in the lower part of the barrel, everything else remaining the same. The estimated cost of this change, when effected by machinery, being from two dollars and fifty cents to three dollars and fifty cents per arm.

2. *The strength of the barrels and other parts after the changes is found most ample*—one of the altered arms having sustained one thousand three hundred and fifty rounds of service charge without injury.

3. *Facility of fire.*—Its advantages over the muzzle-loader, in its breech-loading facilities, with its barrel always level and directed to the front, whether on horse, standing or advancing, sitting, lying or kneeling, gives it both greater celerity as well as greater accuracy of fire on these accounts.

4. *Accuracy of fire.*—But its superior accuracy over the muzzle-loader is more particularly due to the fact that the construction of the cartridge, and of its chamber in the barrel, is such that when the gun is charged the axes of the ball and bore are necessarily in the same vertical plane of projection at the moment of fire, whereby they fulfill the most important requisite for accuracy of fire.

5. *Force of the charge.*—The force of the charge is necessarily greater than that of the corresponding muzzle-loader of the same caliber and charge of powder, because the cap being fired in the center of the charge, without vent or vent discharge, the whole effect, therefore, of the cap and of the charge of powder goes to move the ball; whereas in the muzzle-loader the effect of the vent-discharge is lost to the motion of the ball. Accordingly, the penetrations of this gun, at thirty yards, are from one to one and a half inch boards greater than those of the muzzle-loader. And its range also, with the same elevation, proportionally greater.

6. *Certainty of fire.*—As the cap is fired in contact with the powder, the certainty of fire is greater than that of any other breech or muzzle loading arm fired without the charge. In consequence, this arm never misses fire with a good cap.

7. *Cleanliness of fire.*—This arm is remarkable for cleanliness of bore after many fires; this being because a new chamber with every new charge is inserted at every fire, the old one being then withdrawn. Whereas, in the muzzle-loader, the chamber being always the same, is accumulating filth at every fire, which, at every fire, the ball carries forward in the bore. This gives much less accuracy of fire to the muzzle-loader.

8. *Safety from explosion.*—It has been charged against this arm that the cap being in contact with the powder there is danger of explosions from this cartridge in magazines and laboratories. But there is no such danger, as the projecting charge has no existence as a cartridge, except in the cartridge-box of the soldier, who forms it with surprising facility by merely pouring the powder into their chamber, and inserting the ball and cap, the wad and chamber being always ready, and then turning it into the cartridge-box. Having the balls and the flask of powder, this may be done at any time, even in the field in presence of the enemy. As the cartridge in the cartridge-box rests on wood, the percussion could not, therefore, take effect there, if it could be made in the cartridge-box, which it could not be in consequence of the structure of the box.

9. *Saving.*—It is claimed for this arm that all the labor in magazines and laboratories which is now devoted to the manufacture and preservation of muzzle-loader paper cartridges, is saved, as it needs only powder and ball. It is also claimed for it that the trains for transportation of ammunition for small arms will be greatly reduced, besides saving much material of paper, twine, and lumber, nails, &c.

10. The cartridge of this arm being water-proof, is greatly superior to the paper cartridge of the muzzle-loader. The latter, in a cartridge-box, might spoil in a few days' rainy weather, while that of this arm would not be affected for years.

Which is respectfully submitted.

WILLIAM H. BELL,

Major Ordnance.

WASHINGTON ARSENAL, May 26, 1858.

Mr. TAYLOR, of Louisiana. I now hope the committee will allow the gentleman from Iowa [Mr. CURTIS] to proceed for five minutes, as he has yielded his time to the gentleman from Mississippi.

Mr. WASHBURN, of Maine. I object.

Mr. AVERY. In connection with this matter, I desire to make this inquiry of the chairman of the Committee of Ways and Means: whether this recommendation of \$400,000 in the bill for the manufacture of arms was made in view of another appropriation of \$100,000 to change the present arms into breech-loading arms? If not, then why should you not take \$100,000 out of that appropriated in the bill for the purpose, instead of appropriating that additional sum, and thereby making an appropriation of \$100,000?

Mr. J. GLANCY JONES. The \$100,000 is necessary as well as the \$400,000; and the reason why it was not included in the bill, was because the estimate was sent to the Committee of Ways and Means too late. I have no doubt that what the gentleman from Mississippi has said is true, but the only difficulty is the increased expenditure in this branch of public service.

The question was taken; and Mr. QUITMAN's amendment was agreed to.

Mr. STEVENS, of Washington. I move to amend line one hundred and forty-nine by increasing the sum appropriated for surveys for military defenses \$10,000. By reading the clause which I propose to amend, you will perceive that it is for surveys for military defenses, geographical explorations and reconnoissances for military purposes, &c. Under an appropriation made by a previous Congress, a survey has been made for military purposes, or is now being made, of the river Colorado. That was an important service; but we have another river upon our slope, a larger river, the Columbia, which should likewise be surveyed for military purposes. It should be surveyed, in order that we may know what we can do with it in the transportation of troops. Upon the river are many rapids—the Cascades, the Dalles, Priest's rapids, the Buckland rapids, Ross's rapids, and the Kettle Falls, near Colville, where a military post is about to be established. Colville is surrounded by a gold region, and is some distance east of the Cascade mountains. Those who have observed the last California papers will find that there is a large increase of gold miners in that region, some going by the way of Columbia river, and others by the waters of the Sound, taking their course thence by Frazier's river. From Frazier's river there is a trail to Colville. Now, for military purposes, we want to know how far we can use the Columbia river in the transportation of troops.

At the Walla-Walla there is a post of four or five companies; and the fact that supplies can now be transported by sailing vessels and steamers on the Columbia, from a short distance above the Dalles, to old Fort Walla-Walla, has enabled the quartermaster general's department to reduce, by nearly one half, the expenses of that department in the way of transportation. A small sum of money, applied to the survey of this river, would enable military officers to ascertain whether they can send their troops and supplies on the

river to Colville by steam, of which there is little doubt; for, on that river, the Hudson bay barges have run since the Hudson's Bay Company have established posts in the country. The navigation of the river by steam is important to the defense of the interior. We have, on the banks of the river, Indian tribes, numbering eight thousand souls, and two thousand warriors—not fish-eating Indians, but the Indians of the plains; rich in horses, in cattle; known to be adventurous and brave; and whom not only the regular troops, but the volunteers of the two Territories have met in arms within the last two or three years. Here we find the English Government, through the Hudson's Bay Company, doing everything it can to stimulate the resources of the country north of the forty-ninth parallel. All the appliances of that company—its steamers, its officers, its capital—are now being made use of to carry the stream of emigration by Frazier's and Townsend's rivers into the English territory. The determining whether we can navigate the Columbia by steamers will tend, incidentally, to give our people something of the protection of the Government, and enable them to compete with the subjects of a foreign Power.

Mr. BLAIR. I desire to ask the gentleman from Washington Territory whether a military survey of the Columbia has not been made already by Captain Cram?

Mr. STEVENS, of Washington. It has not been surveyed by Captain Cram, or by any one else. In 1853, Dr. Sukely went down in a canoe and made some examinations with two men.

In regard to the gold region in that country, I will say, that we have known for the last three years that there was an extensive mining region there, perhaps as rich as the mining regions of California. Last winter two men took out \$4,000 of gold in two weeks. In the neighborhood of Colville we have had from fifty to two hundred miners for the last two years, making never less than five dollars a day.

Mr. J. GLANCY JONES. I do not propose to take any issue with the gentleman from Washington.

Mr. BLAIR. I ask the gentleman from Pennsylvania to yield to me. I wish to oppose the amendment.

Mr. J. GLANCY JONES. If the gentleman desires to oppose the amendment I will yield to him. He will allow me simply to state that the Secretary asked us in the first instance for \$75,000. That was estimated at the opening of the session, and was appropriated. He subsequently asked for \$20,000 more, making the appropriation \$95,000; and now this amendment is in addition to that.

Mr. BLAIR. I rise for the purpose of opposing the amendment, because I have understood that Captain Cram had made a military survey of the Columbia, and of Oregon and a portion of Washington Territories, and that survey is now in the War Department.

Mr. LANE. I desire to say to the gentleman from Missouri, that all the survey and examination that Captain Cram ever made, he made by proxy.

Mr. BLAIR. That is a thing often done. Gentlemen who have charge of surveys have the surveys often made by those under them—or by proxy, as the gentleman from Oregon has said. But there is now in the War Department a report of a military survey of Oregon and Washington Territories, and of a portion of California, made by Captain Cram. That report contains a great deal of information also on another very interesting subject—the subject of the war debt claimed by these two Territories; and I hope that before making this appropriation for the service we shall call for the report of Captain Cram and have it printed.

Mr. MAYNARD. Why has it not been printed?

Mr. BLAIR. I think the reason is, that it was not desired to have too much light thrown on this war debt.

Mr. LANE. I desire to say that Captain Cram never made any survey of either of these Territories, and was never ordered to make a survey.

Mr. MAYNARD. Did he make a report?

Mr. LANE. He has never been authorized to make a report. The report which he did make

was a voluntary one, and was so inaccurate that the Secretary of War rejected it.

Mr. BLAIR. The report which he made was approved by General Wool, in command of that military department.

Mr. LANE. Whenever the gentleman has anything to say about Washington and Oregon, let him come to me.

The question was taken on Mr. STEVENS's amendment; and it was rejected.

Mr. STEVENS, of Washington. I move to amend by increasing the appropriation \$5,000. That will allow a survey to be made, either of a road from Colville to Puget Sound, or of the upper portion of the Columbia, which Captain Cram never saw, or any gentleman under him.

Mr. J. GLANCY JONES. I raise the question of order that the amendment does not apply to the clause, and is not in order.

The CHAIRMAN. The Chair understands that the amendment is merely to increase the appropriation \$5,000; and, therefore, the Chair regards it as in order.

Mr. STEVENS, of Washington. There are troops at Walla-Walla, troops at the Dalles, troops at Simcoe, and on the shores of Puget Sound.

Captain Cram's survey has been referred to. He made no survey covering the field which I now propose to occupy. His officers made no survey whatever covering it. The upper Columbia has never been touched by sounding line. In the year 1853, Dr. Sukely, a gentleman connected with my exploration of the northern route, went down that river in a canoe, and was able to ascertain the velocity of the current. From his examination it is quite obvious there will be no difficulty, as regards the velocity of the current, in using steamers on that river. But there is a question as to whether, in low water, we can run steamers over the rapids which I have enumerated in my remarks. We need a survey of that river for our military defenses. Captain Cram's report was not published, because, besides being grossly inaccurate, it was found that he had taken from everybody without giving them any credit. He speaks in his report of examinations, the result of his own field labor and research, of a country he never saw. That is a matter of record and proof in the War Department, and that, perhaps, may have been one of the reasons why the Military Committee of the Senate sent the report back to the War Department.

In my previous remarks I mentioned that a great saving had already been made in the transportation of troops to the Walla-Walla by using the river route. Captain Cram, in his report, stated that steamers could not be run above the Dalles. Now, from the Dalles to the Walla-Walla—a distance of one hundred and ten miles—vessels drawing four feet of water carried all the supplies for the quartermaster at Walla-Walla last year; and now steamers are doing the same service. Captain Cram pronounced the river unnavigable, when facts and experience show that a portion of it is navigable; and he pronounced it unnavigable, too, notwithstanding it had been pronounced probably navigable for steamers, the result of a rapid canoe examination, a year or two previously.

[Here the hammer fell.]

Mr. BLAIR. I am opposed to this amendment as to the other, and shall reply to the arguments of the gentleman from Washington by which he has attempted to sustain it. Sir, there was some motive which induced some gentlemen to examine this report of Captain Cram in manuscript, and to make a report on it to the head of the War Department, and to others, to suit probably their own purposes. You will find, by looking at the proceedings of the Senate, that the Secretary of War communicated letters commenting on this report from Mr. Stevens and Mr. A. A. Humphreys, a gentleman who is at the head of a bureau here, established without law by one of the Departments. These gentlemen had some motive to induce them to examine Captain Cram's report in manuscript. What that motive was, I shall not say; but, among other things, the report of Captain Cram gives a history of the origin of the war-bond debt of Oregon and Washington Territories. The committee of the Senate, instead of throwing the report back in the face of Captain Cram after making an examination for themselves, report what has been said about it by the Secretary of War, who derived his information from these gen-

tlemen, who volunteered to examine the report for their own purposes; and the committee expressly say that they had not time, and could not examine the report for themselves.

The gentleman from Washington says that Captain Cram has taken information from others, and has not credited them with it. I do not know how that fact may be. Probably it was that information which he took from others which led him to make the mistake about the navigability of the river. But I undertake to say—and every man who knows Captain Cram will vouch for it—that whatever he has reported upon his own authority will be found strictly accurate. I believe that his report will be found valuable to the country, and, if for nothing else, to save us from the six million war bonds claimed by Oregon and Washington.

Of course, I have not examined the report. I do not know whether the statement of the gentleman from Washington with reference to his taking the reports of other persons of places he had never seen be correct or not. I presume the gentleman would not make the statement, after having read the report, unless there was something in it. But I believe that the report will be one of the most important that we can have, not only for the geographical information it will give, but also for information that will guide us in legislating on the very important claims of these Territories.

Mr. CURTIS. I move to amend the amendment, so as to reduce the appropriation, for the purpose of making a few remarks. I regret exceedingly that my friend from Washington should have found it necessary to impeach the character of one of the most distinguished and worthy officers in the United States Army. He has done it in this: He says that Captain Cram has made use of researches which other officers of the topographical department have made, and has not given them credit for it. Now, I feel it my duty to say that Captain Cram tells me himself, that he has given due credit for everything which he has taken from others. I have known him from my boyhood, and I know him to be one of the most moral, upright, and sagacious officers in the Army. I think, therefore, that the gentleman is mistaken when he says that Captain Cram has not given due credit to those who have made researches. But, sir, what researches are these that he is charged with using without giving due credit? What documents has he had access to? They are these voluminous documents for which we have paid hundreds of thousands of dollars, made under the direction of Congress, by various officers detailed for that purpose. Captain Cram was detailed by General Wool to take charge of the topographical duties of the Pacific department. It was his duty, as an officer in the discharge of this topographical position, to compile information from all the sources to which he had access, for the purpose of designating economical military arrangements, and it was his province to bring to the public attention everything that he possibly could do without additional expense, without either going himself, or sending other officers to make topographical explorations where they had been already made. He therefore had recourse to the public documents, and I have no doubt he has given full credit to the gentleman from Washington for his explorations, which are an important part of these public surveys.

We have not seen the work of Captain Cram. The gentleman seems to have been looking at the manuscript. Why is it not published? Why have we no opportunity of seeing if injustice is done to any one in the report? I have heard that it is suppressed by the Department. This is not the first time in my official business, since I came here, that I have found reports made by officers of the topographical engineers have been altered and amended so as to conform to other reports and other views. Such alterations or suppressions I consider unlawful, unjust, and injurious to the public service.

If Captain Cram's report does not suit the officers of the War Department, let it be published, so that the conflict of opinion may be observed by Congress as well as by the executive officers. We want the benefit of conflicting opinions, not the concrete idea of a single view of the subject's importance. I protest against this impeachment of an officer before his report is before Congress

and the public: an officer who, for thirty years, has stood before the country unimpeached and unimpeachable.

Mr. STEVENS, of Washington. I have no controversy with Captain Cram. What I said is what I know upon evidence complete and conclusive on the files of the War Department. And not only that, but he was guilty of making gross attacks upon the War Department. Let me say to the honorable gentleman from Missouri [Mr. PHELPS] that I desired to have all that report published, and I believe my friend from Oregon [Mr. LANE] concurred with me in that desire. One half that report is given to the Indian war and the volunteer operations in those Territories, and we desired his report to be published, looking upon it as embodying the views of General Wool; and so ridiculous were its statements, and so gross its perversions, as to make it an easy task for friends of the people of those Territories to make its misrepresentations apparent. I will give one instance.

Mr. KUNKEL, of Pennsylvania. I rise to a question of order.

Mr. BLAIR. I think if the gentleman was so anxious to have the report of Captain Cram published, he took a very bad way of showing it by going into the Department to blacken that report. [Cries of "Order."]

Mr. KUNKEL, of Pennsylvania. I submit the question of order that this discussion has nothing to do with the amendment reducing the sum from \$5,000 to \$2,000.

The CHAIRMAN. The Chair sustains the point of order. The discussion has only been indulged in by unanimous consent.

[Cries of "Question," "Question."]

Mr. STEVENS, of Washington. I simply want to make a single remark. I trust this appropriation will not be reduced; and whenever this whole question of the Columbia, the Indian tribes, and the volunteers, to which this river has such relations, comes up, I am ready to discuss it with facts and arguments which I believe will be convincing to all men.

The amendment was not agreed to.

Mr. J. GLANCY JONES. I am instructed by the Committee of Ways and Means to offer the following amendment:

In line one hundred and fifty-three strike out the word "fifty," and insert "seventy five;" so as to make the clause read as follows:

For continuing the survey of the northern and northwestern lakes, including Lake Superior, \$75,000.

The amendment was agreed to.

Mr. J. GLANCY JONES. I am also instructed by the Committee of Ways and Means, to offer the following amendment:

In line one hundred and fifty-four, strike out "five," and insert "ten;" so as to make the clause read:

For printing charts of lake surveys, \$10,000.

Mr. HOWARD. I will state in regard to that amendment, that the original estimate was for \$10,000 instead of \$5,000, but for the purpose of diminishing the expenses as much as possible, the Committee of Ways and Means reduced it to \$5,000. Since that we have learned that these charts are not published for general circulation, and that this amount is actually needed. The charts are for the use of vessels navigating these waters, and are used for no other purpose. They cannot get along without this amount.

The amendment was adopted.

Mr. J. GLANCY JONES. I am instructed by the Committee of Ways and Means to offer the following amendment:

At the end of line one hundred and fifty-four, insert the following:

To enable the Secretary of War to employ temporary clerks in the office of the Quartermaster General, on bounty land surveys, \$5,000.

The amendment was adopted.

Mr. J. GLANCY JONES. I am instructed by the Committee of Ways and Means to offer the following amendment:

Insert at the end of line one hundred and fifty-four, the following:

For support of four companies of volunteers mustered into the service of the United States at Camp Scott, Utah Territory, in October, November, and December, of 1857, \$173,478 70.

These four companies were enlisted by Colonel Johnston at Camp Scott for nine months. It is unnecessary that I should go into any explanation of the matter, unless some objection is made; and

therefore I shall submit the amendment to the committee without further remark.

The amendment was agreed to.

Mr. GROW. I move to amend, by adding the following at the end of the bill:

Provided, That no part of the military force of the United States, for the support of which appropriations are made by this act, shall be employed in Kansas as a posse comitatus in aid of the enforcement of any law or constitution, or proposed law or constitution, in Kansas.

Mr. J. GLANCY JONES. I rise to a question of order. That amendment changes the existing law, and is not in order in an appropriation bill.

Mr. GROW. It only proposes to limit the manner in which the appropriation shall be expended.

The CHAIRMAN. The Chair thinks the amendment proposes to change existing law, and therefore decides it to be out of order.

Mr. GROW. I then offer it in this form:

Sec. 2. And be it further enacted, That no part of the money hereby appropriated shall be expended for the purpose, &c.

We have the right to provide the manner in which these appropriations shall be expended.

The CHAIRMAN. The manner of expending the appropriations contained in this bill are regulated by existing law; and the amendment proposing to change and control, or give direction as to the manner they are to be expended, changes existing law.

Mr. GROW. The Chair will remember, that during the last Congress, amendments precisely similar were held to be in order, and the decision of the Chair was twice sustained upon appeal.

The CHAIRMAN. The Chair has no particular recollection upon the subject. He has decided in the way he believes to be right. The President is bound to exercise the authority vested in him by law, and the gentleman's amendment is not in order here, for it proposes to change that law.

Mr. GROW. That is begging the question. I take an appeal.

The CHAIRMAN. The Chair rules the amendment out of order because it changes existing law.

Mr. GROW. I demand tellers on the appeal. Tellers were ordered; and Messrs. BUFFINTON and UNDERWOOD were appointed.

The committee divided; and there were—ayes seventy-eight, noes not counted.

So the decision of the Chair was sustained.

Mr. STEVENS, of Washington. I offer the following amendment:

And be it further enacted, That there be, and hereby is, appropriated out of any money in the Treasury not otherwise appropriated, whatever amount may be necessary to enable the Secretary of the Treasury to defray the expenses necessarily incurred by the territorial governments of Oregon and Washington in the suppression of Indian hostilities therein in the years 1855 and 1856, so far as the claims growing out of said war have been adjudicated by the commissioners appointed for that purpose, agreeably to the provisions of the eleventh section of the act of the 18th August, 1856, entitled "An act making appropriations for certain civil expenses of the Government for the year ending 30th June, 1857," and have been reported to the War Department, by said commissioners, for payment.

And be it further enacted, That the amounts severally found due to the parties contained in the report of the said commissioners shall be paid to the said parties respectively, or their legal representatives, or to the assignees or attorneys, duly constituted and appointed, of said parties, anything in the act approved July 29, 1846, or in the act of February, 1853, to the contrary notwithstanding.

Mr. LETCHER. I raise a question of order on that amendment. My point is, that it is not in the nature of a regular appropriation, and therefore not in order to this bill.

The CHAIRMAN. The Chair sustains the point of order.

Mr. J. GLANCY JONES. I move that the bill be laid aside, to be reported to the House.

The motion was agreed to.

OCEAN MAIL STEAMERS.

Mr. J. GLANCY JONES. I move that the committee next proceed to the consideration of the mail-steamer appropriation bill.

The question was taken; and the motion was agreed to.

Mr. J. GLANCY JONES moved that the first reading of the bill for information be dispensed with.

Mr. REAGAN objected.

The bill was read *in extenso*.

Mr. DAVIS, of Mississippi. I hope that that bill will not pass. There are certain revelations in relation to that ocean mail service which I desire to announce to the committee. I have no

disposition to make war upon any of the heads of any of the Departments of this Government, yet I do think that it is time that Congress should take into its own hands more of the legislation of the country than they seem to have been in the habit of doing for some time past. For one, I stand upon this floor, having the right to exercise my privileges here independently, and without restraint or restriction. This whole question has been before the Committee on the Post Office and Post Roads during the present session of Congress, and although we have been in session for the last six months we have made no report to this House. So far as the expense is concerned, I can say that there is but one line or contract between New York and Europe, by virtue of any law with which I am familiar. A large part of that appropriation is intended to authorize the Postmaster General to contract with other companies to perform additional service, to commence in New York and to extend to certain points in Europe. The old contracts have expired, and during the last twelve months the service has been performed under contract with the Postmaster General, those taking the mails agreeing to take them for the postage accruing, as compensation. We are now informed that those contracts cannot be renewed on the same terms, and we are asked to authorize the Postmaster General to make contracts for carrying the mails from New York to certain points of Europe.

Now, I say it is not just to the different sections of this Union that this policy should be continued. It is not proper that New York should be allowed the privileges of three lines; to control the operations of the commerce of this country; to become the exclusive carrier of letters between the United States and Europe, to the exclusion of every other portion of the United States. It is this policy which has given to the city of New York advantages over our southern cities. It is this policy which deprives New Orleans—a city which exports three times as much as the city of New York—from competing with New York. It is this policy which deprives Charleston, Savannah, Philadelphia, and other points upon this continent, of the opportunity of competing fairly in the commercial operations of the country with New York. Subsidize a vessel that sails from New York to Europe, and of course a vessel cannot sail from Savannah, Philadelphia, or New Orleans, upon terms equally as advantageous.

Mr. SANDIDGE. I wish, in good faith, to offer an amendment to this bill, which I think is of very great importance; but inasmuch as points of order are frequently raised by the chairman of the Committee of Ways and Means, when amendments are offered, I wish to inquire of him whether there is any existing law for that portion of the bill included in lines eleven and thirteen, inclusive, which I propose to strike out by my amendment?

Mr. J. GLANCY JONES. I will answer the gentleman that there is a law. The act of 1845 authorized the Postmaster General to make contracts to carry the mails, and the bill only appropriates money to carry out those contracts.

Mr. SANDIDGE. I understand that.

Mr. J. GLANCY JONES. If the gentleman will allow me a few minutes of his time, I will explain the whole matter; and I wish, in the same connection, to say a word in reply to the remarks of the gentleman from Mississippi, [Mr. DAVIS.] The estimates for the steam mail service were not sent to the Committee of Ways and Means until the 25th of April. The reason was, a desire upon the part of the Postmaster General and the Administration, that the whole system of mail service upon the ocean might be revised. One or two contracts have expired, and there is but one now subsisting, and that is with the Collins line. The Postmaster General has declined to renew each contract as it expired, in order that Congress might take up the system and revise it thoroughly. The Department waited until the 25th of April. I waited that long for the estimates. They were withheld on the ground of necessity. But Congress fixed the day of adjournment, and it came to the point that the responsibility of the suspension of this branch of the service had to fall either upon the executive branch of the Government or upon Congress. Having waited until that time, and seeing that Congress took no action in the way of revising the system, the Postmaster Gen-

eral felt it his duty to submit his estimates on a temporary basis—that is, for one year.

Mr. DAVIS, of Mississippi. I rise to a question of personal privilege. It is said that the Committee on the Post Office and Post Roads had not reported. I endeavored to have action by that committee, and the reason why we did not act is, that we were constantly informed that it was the desire of the Postmaster General that we should not act. And delay after delay has been interposed to prevent action, until this bill has now been put in such a form as to include provisions working outrageous injustice to different sections of this Union. I trust that a sense of common justice to all sections of the Union will induce members to vote down this bill, until some system can be devised which shall do justice to every section of the Union.

Mr. J. GLANCY JONES. I have found no fault with the Committee on the Post Office and Post Roads, nor have I said that any one else has found fault with it. The fact I alleged was, that the Post Office Department did not send its estimates to the Committee of Ways and Means until the 25th of April. The reason of the delay assigned to me was, that they were waiting for Congress to take action on this subject. I make no issue, however, with the gentleman from Mississippi. I wish it to be distinctly understood that no plan has been submitted by the Postmaster General. I understand that my friend from Mississippi takes exception to the subsisting line from New York.

Mr. DAVIS, of Mississippi. I say there is no contract with any other line.

Mr. BARKSDALE. I ask whether the appropriations in the bill are intended to carry out existing laws, or whether they do not authorize the Postmaster General to make new contracts?

Mr. SANDIDGE. I believe I am entitled to the floor. I yielded it to permit the chairman of the Committee of Ways and Means to answer the interrogatory which I propounded to him. I hope he will answer it, in order that I may have an opportunity of doing what I proposed to do.

Mr. BARKSDALE. I hope the gentleman from Louisiana will allow the gentleman from Pennsylvania to answer my question.

Mr. J. GLANCY JONES. I wish to do so.

Mr. SANDIDGE. I will do so if I do not lose my right to the floor.

The CHAIRMAN. The gentleman will not lose his right unless objection be made.

Mr. J. GLANCY JONES. The gentleman cannot lose anything. The debate is not terminated on the bill. I was coming to the point made in the interrogatory of the gentleman. The question of carrying on these mails is a mere question of responsibility. The law of 1855 authorizes the Postmaster General to make contracts. I have already said that he has made none except a temporary contract with the Havre line. That is consistent with the existing law, because the Postmaster General has authority to make said contracts. Congress not having taken charge of the system, he asks you either to appropriate the money for one year or else take the responsibility of suspending the lines. The only lines open are the Havre line and one to Panama. The contract for the latter line expired a year in advance of that on the Pacific side from Panama. Congress not having made any legislation for the continuance of the latter line, the Postmaster General proposes to you to give him means to carry it on for one year, or else take the responsibility of not doing so, so that it may be understood by the country that Congress means that all these lines shall be discontinued.

Now, if it be the pleasure of Congress that the mail service from Panama to San Francisco shall be discontinued, and also the line between New York and Havre, all that is necessary to be done is to strike out the appropriation, and the Postmaster General will not complain. The appropriation for the Collins line cannot of course be stricken out, for the contract has yet some time to run. If Congress fail to make the appropriations, I take it the lines will be immediately discontinued.

Mr. DAVIS, of Mississippi. This bill proposes to appropriate between six and seven hundred thousand dollars. I ask the gentleman from Pennsylvania to state whether, within the last few days, the Postmaster General has not proceeded to

make a contract with a company claiming to own the right of way across Tehuantepec, adding \$290,000 to the annual expense of transporting the mails to California; and whether, before this Congress adjourns, an appropriation will not be asked for to carry out that contract—and that, too, at a time when the existing contract across Panama, and the overland contract between the Atlantic States and California, make the annual expense of the mail service between the Atlantic and Pacific \$1,300,000? Under all these circumstances, I ask the House if it is not better to have this bill postponed until a general scheme can be prepared and adopted, taking from the Postmaster General the power to exercise this unlimited control over this important question?

Mr. J. GLANCY JONES. In the first place, I do not know that any such contract has been made. It never reached my ears before.

Mr. DAVIS, of Mississippi. Well, I state that such a contract is in existence.

Mr. J. GLANCY JONES. If there is, I have no knowledge of it; but I will give to the House the information I have got. The amendment proposed in this bill to be appropriated for the mail service to the Pacific coast is precisely the same as was appropriated last year. A question was raised as to the Tehuantepec route, spoken of by the gentleman from Mississippi, and the information I have, informally, is that the company agreed to take the mail across that route if there should be any sent there within the current year, without any cost whatever to the Government.

Mr. DAVIS, of Mississippi. I state this: that according to the information which we have received from the Postmaster General, the contract is certainly made, and I suppose was signed to-day. By the terms of that contract, this new company is to receive the sum of \$290,000 a year for taking the mails over the Tehuantepec route, and that, as I have said, at a time when there exists a contract for carrying them over the Panama route, for which the Government pays \$700,000, and the overland route, for which the Government pays \$600,000, making \$1,300,000, in addition to the new contract that is now being made.

Mr. J. GLANCY JONES. I will answer my friend conclusively in one word. This bill provides not one cent for such a purpose. I tell the gentleman that I will go with him in not appropriating one single dollar for it. It is the first time I ever heard of it.

Mr. DAVIS, of Mississippi. One word right there. The law gives authority to the Postmaster General to make contracts for the transportation of the mails across a foreign country, from one point in the United States to another. Tehuantepec is a foreign country; and therefore, under that law, he has authority to make the contract; and when the contract is made, then we shall be asked, will you repudiate a contract made by the Government?

Mr. J. GLANCY JONES. The gentleman has two remedies; one is to repeal that law, and the other is to refuse to appropriate the money.

Mr. DAVIS, of Mississippi. If we refuse to appropriate the money now, the Committee on the Post Office and Post Roads will present a system, when they have time, and Congress can mature it, and then appropriate money accordingly.

Mr. J. GLANCY JONES. Then, if I understand the gentleman from Mississippi, he proposes that Congress shall postpone this appropriation bill until they can legislate upon this whole subject. I will not take issue with my friend. If Congress would vote down this bill, and pass a law providing for the repeal of the act of 1845, and establish upon some system this whole subject of mail steam contracts, I would go with my friend from Mississippi; but I tell you you will not do it this session.

Mr. DAVIS, of Mississippi. We will try to do it.

Mr. J. GLANCY JONES. Well, if it is the pleasure of the committee to postpone this bill, the gentleman can make that motion.

Mr. DAVIS, of Mississippi. I move that the bill be laid aside for the present.

Mr. J. GLANCY JONES. Not now; I am not through yet. I wish to make a few more remarks.

The CHAIRMAN. The gentleman from Louisiana is entitled to the floor.

Mr. SANDIDGE. I yield to the chairman of the Committee of Ways and Means.

Mr. J. GLANCY JONES. I have but one or two more remarks to make, and that is all I shall have to say, except in answer to questions. I wish to call the attention of the gentleman from Mississippi to the amounts appropriated in this bill. The gentleman speaks of the sum total of the bill. A portion of the appropriations are the proceeds of the mail service. The money is not to come out of the Treasury without any returns. This item of \$230,000 for the transportation of the mails from New York to Havre and Bremen is the estimated amount of revenue accruing from that service.

Mr. DAVIS, of Mississippi. If the gentleman will permit, I will put the matter in such a shape that he cannot dodge it.

Mr. J. GLANCY JONES. I cannot yield now. The gentleman can answer me when I am through. The contract with the Havre and Bremen line was made for ten years, for the sum of \$350,000 per annum. That contract expired one year ago. Congress made no appropriation for its continuance. The question came up before the Postmaster General as to what was to be done with the line of mail steamers. He had no appropriation, and consequently made no contract; but he stipulated with them that they should carry the mails for the postages, not taking one cent out of the Treasury.

Mr. DAVIS, of Mississippi. That is the Liverpool line.

Mr. J. GLANCY JONES. That is the line from New York to Havre and Bremen, via Southampton. After this temporary arrangement was made, the proprietors of that line said that the sum of \$230,000—which was estimated to be the amount of revenue accruing from the mail service—was too little; but that they would agree to continue the service until Congress met, and that they would look to Congress to make some new arrangement. It is on these terms and conditions that the mails have been carried. Congress has done nothing in the premises, up to this time. Now the Postmaster General simply says to you: either appropriate the money, or alter the law, and abolish the line. Congress have neither abolished the line nor have they appropriated the money thus far. You must either take the responsibility of abolishing the line, or appropriate the money. Upon this point the Postmaster General has no feeling at all.

I wish to add this: I have not a shadow of doubt—indeed I am authorized to say—that the Administration desires Congress to take up this whole subject of mail-steamer service, and put it upon a self-supporting basis. The feeling of the Administration is, that it should be self-supporting. It is their desire to make no contract, in any event, beyond the amount of postages, until Congress does act. The appropriation contained in this bill is to continue the service for one year, or until the next meeting of Congress, with a view to the whole system being revised by Congress. This is a mere temporary arrangement for one year.

Mr. DAVIS, of Mississippi. I wish to make myself distinctly understood in reference to one or two points. The Postmaster General, in his annual report to Congress, reported his action in reference to these three lines. There was an existing contract with one of them; and he had made a contract with the parties owning the other two lines, to transport the mails for the postages until this session of Congress—that is, for one year. There is, then, no recommendation in the report—no statement that he will not be able to continue the contracts for a number of years. The matter was referred by the House to the Committee on the Post Office and Post Roads. Now, the gentleman from Pennsylvania says that the committee has not acted. Why has not the committee acted? I say, sir, it is not the fault of the committee that there has been no action up to this time. The gentleman says that the Postmaster General has desired that the committee should act. That was not our information. Our information was that it was desired the committee should not act, but that the whole matter should go over until the next session, so as to give the Postmaster General an opportunity of presenting an ocean mail steamer system.

Now, the House also referred to the Committee

on the Post Office and Post Roads the question of the propriety of letting a contract to the company applying for a contract to transport the mails from the Atlantic to the Pacific, over the Tehuantepec route. That question is now under consideration before the committee; but without any notice to the committee, the Postmaster General has himself proceeded to make a contract with some company—who it is I do not know.

I hope, sir, this House is not prepared at this time to authorize a contract involving the additional amount of \$290,000 to be imposed upon the Treasury in its present condition. Efforts have been made by the Committee on the Post Office and Post Roads to take action upon the subject, but the response has universally been, the Postmaster General does not want action now; that he desires to present a plan of his own.

Mr. SANDIDGE. I presume, after this, no gentleman in this House will complain that I have not been sufficiently accommodating. I wished to ascertain of the chairman of the Committee of Ways and Means the fact that there was no law authorizing the use of the money to be appropriated by the tenth, eleventh, twelfth, and thirteenth lines of the section under consideration. In this bill, the Committee of Ways and Means propose to appropriate about seven hundred thousand dollars in money for the transportation of mails across the ocean to Europe. Now, sir, I do not, in the amendment I shall offer, propose to interfere in the least with the existing or proposed arrangements for the transportation of the mails to Panama and California, nor between New York and Europe. If my amendment shall meet the concurrence of the committee, I will make no opposition to the amount of money asked by the bill; but inasmuch as the Committee of Ways and Means have, on the suggestion of the Postmaster General, reported an appropriation of \$696,000 to carry the mail in ocean steamships to Europe, I shall offer an amendment which proposes to exceed that sum only by about fifteen or sixteen thousand dollars, and which provides, not only for the same mail service from New York, but also for establishing a line of mail steamers between New Orleans and Bordeaux, via Havana, Bermuda, Fayal, and Santander.

We hold, in Louisiana, that if the Government is to engage in subsidizing steamship companies to enable them to run their vessels in competition with foreign steamers, the great interests of the Mississippi valley, and of the whole southwest, have some claims upon the consideration of this House.

Now, sir, the sum I propose, as I have stated, exceeds only by about fifteen thousand dollars that which is asked for by this bill, and it secures not only the same service from New York, as provided for by the committee, but also the additional line of steamers which I have mentioned.

Mr. J. GLANCY JONES. The reason why this appropriation was submitted to the House by the Committee of Ways and Means, was that it was the only practicable form of getting it before Congress. There is no contract made to carry the mail from New York to Havre, Bremen, Panama, or San Francisco, and Congress having had no legislation on the subject, the only practicable mode of getting it before Congress was to estimate what it would cost. If Congress strikes it out, then Congress discontinues the line; if Congress puts it in, then the Postmaster General will make the contract for one year according to the appropriation.

Now, if the gentleman wishes to make two lines, and simply moves to increase the appropriation, the Postmaster General may infer, that you intend to authorize the Havre and Bremen line for one year longer at augmented rates. If the gentleman wishes to establish an additional line, he must designate in his amendment precisely what service he proposes.

Mr. SANDIDGE. I am very glad the chairman of the Committee of Ways and Means has indicated to me the form in which I should offer my amendment, and that it will be in order. Now, sir, I can show to this committee that, by the adoption of the amendment which I propose, we shall not only continue all the trips secured by the old lines, but will have forty-eight trips per annum, at an aggregate cost of \$664,000; whereas by the bill, as reported by the Committee of Ways and Means, you secure only forty-two

trips, at a cost of \$696,500, making a difference of \$32,500. Now, sir, I can imagine no reason why this committee shall refuse to accept the amendment I now send to the Clerk's table. I propose to strike out all after the word "dollars," in the ninth line, to the end of the fourteenth line, as follows:

"And it is hereby provided that there be paid to the Post Office Department out of said appropriation such sums as may be required to procure the transportation of the mails from New York and Liverpool, and back, on such days as the Collins line may fail to take them from New York;"

And to insert the following:

Provided, That the existing contract with E. K. Collins and his associates shall be deemed abandoned and forfeited, unless the service thereof shall be resumed on or before the 30th day of June, 1858.

Sec. 2. *And be it further enacted*, That the following routes shall be ocean post routes: Route No. 1. From New York to Liverpool and back. Route No. 2. From New York to Havre, via Southampton, and back. Route No. 3. From New York to Gluckstadt, via Plymouth, Havre, and Rotterdam, and back. Route No. 4. From New Orleans to Bordeaux, via Havana, Bermuda, Fayal, and Santander, and back. *Provided*, That the rate per statute mile to be paid for transporting the mails of the United States on the above designated post routes shall not exceed the sum of two dollars; and that there shall be a semi-monthly service on route No. 1, and a monthly service on each of the routes No. 2, No. 3, and No. 4; and the service on routes No. 1 and No. 2 shall begin as soon after June 30, 1858, as possible; and the service on routes No. 3 and No. 4 shall begin on or about the first day of December, 1858.

Sec. 3. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized and directed, immediately after the passage of this act, to contract with citizens of the United States to transport the mails of the United States on the above designated routes, at an average rate of speed during the year of ten miles an hour, in steamships built in the United States, for a period of ten years, and thenceforward until after twelve months' notice of termination shall have been given, after advertising for proposals for the same, during a period of thirty days: *Provided*, That the Postmaster General shall not be compelled to accept the lowest bid, and that the steamships to be employed on routes No. 1, No. 2, No. 3, shall be of not less than two thousand tons burden, Government register; and that the steamships employed on route No. 4 shall be of not less than fifteen hundred tons burden, Government register: *Provided*, That the service on route No. 1 shall not begin until the expiration, by limitation, abandonment, or forfeiture, of the present contract of E. K. Collins and his associates, and that in each and every contract made under this act there shall be a stipulation that a fine of \$2,000 shall be imposed by the Postmaster General for a delay of twelve hours after the appointed time of departure, and for each additional twelve hours' delay an additional fine of \$2,000 shall be imposed; and if the delay shall extend to two days, then one half of the contract pay for the round trip shall be deducted, unless the cause of such delay be shown in each case, to the satisfaction of the Postmaster General, to have been beyond the control of the contracting parties, or their agents, or employees; and if the contracting parties shall fail to provide a suitable steamship within three days after the time fixed for the departure of the mails, a fine, equal in amount to double the contract pay for a round trip, shall be imposed upon the contracting parties; and should the contracting parties fail to perform their total annual service at an average rate of speed of ten miles an hour, then, for every twelve hours' excess, the contracting parties shall forfeit \$2,000, it being understood that all fines and forfeitures provided for in this section shall be made by the Postmaster General according to his discretion: *Provided further*, That the contractors on each and all of the above designated routes shall carry, free of expense, when so directed by the Postmaster General, mail agents, bearers of United States Government dispatches, and all books, maps, charts, and instruments for mathematical and scientific purposes imported for the use of the United States Government; and that the Government of the United States shall have the power to increase the number of trips on any and all of the above-designated routes, upon giving one year's notice to the contractors thereon, at the same rate of compensation for the increased service; and that the Government of the United States shall have the right to demand and appropriate to its own use, at any time, any and all of the steamships used in said mail service, at a price to be fixed by the Secretary of the Navy and the contractors owning, or using in the service, the steamships so appropriated by the Government.

Mr. ENGLISH. I rise to a question of order on that amendment, and I want the Chair to decide it.

Mr. JONES, of Tennessee. I raise the point whether that amendment can be entertained as an amendment to an appropriation bill. There is no law for it; but, on the contrary, it provides for new contracts and new liabilities.

The CHAIRMAN. The Chair is of the opinion that the first part of the amendment, which proposes to change the existing law, is not in order. The latter part of the amendment, consisting of various sections, the Chair understands to be for the establishment of new lines not now provided for by law. The Chair understands that some of the provisions in this bill are for the establishment of lines not authorized by law. If the Chair is correct in that conclusion, it may be that that portion of the amendment will be in order, offered at the proper place.

Mr. SEWARD. If the amendment, as now

offered, is out of order, I say let it be so ruled, and let us go on.

Mr. KELSEY. Cannot the amendment be divided, and the question taken on the branches of it separately?

The CHAIRMAN. The Chair rules the first branch out of order. He understands that the service on that route is regulated by the contract made with the Collins line in pursuance of law. The amendment proposes to establish new terms and new conditions, on which the contract shall continue or become forfeited. That portion which does that, the Chair rules out of order.

Mr. SANDIDGE. I should like to say a word. The amendment does not propose to change the contract existing between E. K. Collins and the Government, if, indeed, there be any such contract at this time, for he has not carried the mail since last December. The committee's bill has been framed to meet and provide for continued failures, the Postmaster General being authorized to use the same amount heretofore paid to the Collins line in the employment of substitute steamers whenever they can be had.

Mr. BARKSDALE. I should like to have read the portion of the amendment decided to be in order.

The CHAIRMAN. The question now is on the point of order of the gentleman from Indiana.

Mr. SANDIDGE. I hope that I will not be interrupted. I should like to understand what portion of my amendment is ruled out of order?

The CHAIRMAN. If the amendment is offered as it is, the Chair will rule it all out of order. The Chair regards the first branch out of order, without deciding whether the latter branch is or not.

Mr. SANDIDGE. I withdraw the first branch of the amendment.

Mr. J. GLANCY JONES. I raise the question of order on the balance of the proposed amendment.

The CHAIRMAN. If this bill provided only to carry out existing laws, the Chair would rule the amendment out of order; but the chairman of the Committee of Ways and Means has stated that there is no law authorizing two or three of the routes embraced in this bill. Therefore, the Chair cannot undertake to rule out an amendment, upon the ground that it is not authorized by existing law, when there are provisions of that description in the bill itself.

Mr. SANDIDGE. I hope that I will be allowed to proceed with my remarks. I am sure it will be agreed on all hands that when we pay the large sum that we do for the transportation of the United States mail on the ocean, the representatives of the people should have something to say in the matter. If we are to have mail steamer lines we should direct between what ports in the United States and Europe the communication is to be contracted for. We ought to fix the compensation, and not leave the whole matter to the Postmaster General, however much confidence may be reposed in him.

This bill proposes to give \$350,000 for carrying on a service to be contracted for by the Postmaster General. Are you willing to vote that sum to sustain lines which you will not yourself establish? If you are not, I ask that you strike that sum from the bill. If you wish steamship lines to Europe, say to what ports they shall run. Is that unreasonable? Are you willing to abdicate your own prerogative, and to turn this whole matter over to the Postmaster General? If you are, then vote for this bill as it comes from the Committee of Ways and Means. The bill provides that the Postmaster General may expend this money as he pleases. I do not arraign the Committee of Ways and Means.

But, sir, when members shall think that the condition of the Treasury will allow an expenditure of \$700,000 for transporting the mails to Europe, I think they may as well decide upon what lines the mails shall be carried. I do not wish to interfere with the three lines running from New York to Europe; I wish them continued, but on condition that we who live in the valley of the Mississippi shall also have a line running from New Orleans, the first exporting city in the Union. The amendment I propose, establishes our ocean mail service to Europe on the same basis as the land service. It provides for forty-eight trips for the next fiscal year, at a saving of \$32,132 upon

the estimates and amount appropriated in this bill for forty-two trips. The price of two dollars per mile is fixed as a maximum, so as to bring the expenses within the estimated receipts. The size of the steamers, two thousand tons, and the speed of ten miles an hour, are considered the most advantageous, and I have in my hand certificates to that effect from a chief engineer of the United States Navy. There are two foreign steamers a week, and sometimes three, leaving New York, whereas there is not one American steamer a week to Europe. Two thirds of the valuable goods are brought in steamers. In 1840 only \$600,000 worth of goods were imported into Boston in foreign vessels, but last year \$17,000,000 in value were imported there, two thirds of which came in the Cunard steamers, making two trips a month. The less ocean mail service to Europe the United States does, the more it costs us, because by our postal treaties we collect free of cost all the postages due to foreign Governments, but we pay forty-two and one half per cent. on unpaid letters on their collections to United States postmasters, and if all the letters go by foreign mail steamers, the postages average \$1,200,000 a year, and the United States would lose about thirty per cent. on that amount, being paid as commissions to postmasters, or about three hundred and sixty thousand dollars a year. If we abolish postal treaties, then foreign Governments will do as they did before, double the postage.

Now, with the lines proposed by this amendment, we will secure an efficient ocean mail service on general principles, and without any cost to the United States for transportation. The postages received, taking the amount of 1855, would leave a deficit of only \$110,000; but then we had but fifty-two trips—we now propose sixty trips; and the estimated receipts will cover all the transportation expenses. We had better do nothing than to pay out \$700,000 for an irregular and necessarily inefficient service. We must have regularity and punctuality, otherwise the bulk of the letters will be carried by the foreign lines, which do run with great regularity.

The contracts made last year for the Bremen mails, and Havre mails, have been failures. The contractor on the Bremen route did not perform his trips in the winter months, although he had two steamers lying at the dock; and the contractor on the Havre line did perform his trips, but he has applied to Congress for extra pay over and above his contract, which was for the postages. If this \$696,500 is to be appropriated for the European mails, I say Congress should direct how it is to be used. I did desire, Mr. Chairman, if the hour were not so late, to say something in explanation of every item in the amendment which I have offered; but as its main features can be easily understood, I will not consume more of the time of the committee, but ask a vote upon it.

Mr. SEWARD. I move to amend the second paragraph of the bill by—

Mr. ENGLISH. I desire to know what has become of the question of order which was raised.

The CHAIRMAN. The Chair decided the question of order, and there being no appeal taken, the amendment was received.

Mr. ENGLISH. I have a right to raise a question of order now?

Mr. SEWARD. Not while I am entitled to the floor.

Mr. JONES, of Tennessee. I understood that the question of order was in abeyance.

The CHAIRMAN. The Chair understood that he was deciding the question of order. If there is no objection upon the part of the committee the Chair will allow the question again to be presented.

Mr. SEWARD. Not while I am entitled to the floor.

The CHAIRMAN. The gentleman is entitled to the floor unless a point of order is raised.

Mr. SEWARD. Gentlemen cannot go behind my right and raise a question of order.

Mr. JOHN COCHRANE. Is it understood that the question of order which was presented and decided, can be presented again?

The CHAIRMAN. It is not in order to present it at this time. The Chair decided it, and no appeal was taken.

Mr. ENGLISH. I take an appeal from the decision of the Chair.

Mr. JONES, of Tennessee. I understood the

Chair to say that if there was a provision in this bill for a new line and the proposition of the gentleman from New York was offered as an amendment to that, then that he would hold it to be in order.

The CHAIRMAN. The Chair said that the gentleman from Pennsylvania in discussing the bill, stated that two or three lines were not authorized by law, and in that view of the case the Chair ruled the amendment in order.

Mr. ENGLISH. I took an appeal from the decision of the Chair.

The CHAIRMAN. The gentleman from Georgia is entitled to the floor.

Mr. JONES, of Tennessee. The gentleman from Pennsylvania stated that these lines were not under contract; and not that there was no law to authorize them.

Mr. SICKLES. That was the point I wished to make, and rose for the purpose of presenting it to the Chair; supposing that the question of order was in abeyance all this time.

The CHAIRMAN. The Chair stated the decision more than once.

Mr. J. GLANCY JONES. If I made any such statement as the Chair has referred to, I correct it now. I stated that there was no contract; and not that there was no law.

The CHAIRMAN. The Chair would inquire if there is any law authorizing lines of steamers? If there is any law authorizing them, the appropriation is properly within the bill, and the amendment would not be in order; but the Chair understood the gentleman to say that there was no law, and that this was an estimate made by the Postmaster General for the approval of Congress, and not operative unless there was a law passed.

Mr. J. GLANCY JONES. I am sorry that the Chair should so have misunderstood me, and I desire to correct that misunderstanding now. I meant to state that there was a law of 1845 which authorized the Postmaster General to make contracts generally for this kind of service; that the contracts, except that with the Collins line, have expired; that there is no contract, for this Havre and Bremen line, but that the Postmaster General is authorized by law to make a contract; that he has made a temporary contract to carry the mails for the proceeds of the postage; that that contract is in existence, but that if Congress appropriates this amount he will make a contract for the amount appropriated by Congress. There is a law authorizing the Postmaster General to make a contract, but there is no contract for that service except a temporary one.

The CHAIRMAN. The Chair desires to know the exact state of facts.

Mr. J. GLANCY JONES. The line from New York to Havre and Bremen is now under temporary contract.

The CHAIRMAN. Then the Chair now understands the gentleman to say that there is a law existing authorizing the service upon these various lines.

Mr. J. GLANCY JONES. There is no law designating any line.

The CHAIRMAN. If there is no law designating any line, the Chair cannot draw a distinction between a line in the amendment and a line contained in the bill.

Mr. PHELPS, of Missouri. There is a law establishing the line between New York and Liverpool, for the law directed a contract to be made with Collins & Company. Furthermore, in relation to the line from New York to Havre and Bremen, the contract was made on proposals invited by the act of 1845, which were submitted by the Postmaster General to Congress for its approval. Therefore, the line is provided for by Congress. I say, therefore, that there is a law establishing a line between New York and Havre and Bremen.

So far as the other contracts are concerned—from New York to Aspinwall or Chagres—the contract has not expired. The contract, in that instance, was made in pursuance of law, authorizing a contract to be made with A. G. Sloo. The same is true of the line from Panama to San Francisco. Mail service was contracted to be performed from New York, by the way of Panama, to San Francisco, and there is an act upon the statute-book establishing that as a mail route.

I then say, in reference to the routes proposed to be amended by the gentleman from Louisiana,

that his amendment proposes to establish new mail routes not authorized by existing law, and therefore it is not in order.

Mr. SANDIDGE. The chairman of the Committee of Ways and Means is perfectly correct in his statement.

Mr. SEWARD. I propose to refer the legal question to the Court of Claims. [Laughter.]

Mr. SANDIDGE. I wish to discuss the question of order. There is a general law which authorizes the Postmaster General to establish mail lines, on land or ocean, wherever he pleases; but as the chairman of the Committee of Ways and Means says, there are no present contracts to have the mails carried on two of the lines from New York to Europe for any definite period at all. There is merely a temporary arrangement that those lines shall carry the mails at so much a trip. If that is a contract under the law to which the gentleman refers, then there is a contract; but the law which authorizes the Postmaster General to establish lines to Bremen and Havre, equally authorizes the establishment of a line from New Orleans to Bordeaux.

Mr. DAVIS, of Mississippi. Now, we will settle the question whether there is any law on the subject, as asserted by the gentleman from Missouri. Here is the law of last session:

"That the following sums be, and the same are hereby, appropriated, to be paid out of any money in the Treasury, not otherwise appropriated, for the year ending 30th June, 1858:

"For transportation of the mails from New York to Liverpool and back, \$346,500.

"For transportation of the mails from New York to New Orleans, Charleston, Savannah, Havana, and Chagres, and back, \$261,000.

"For transportation of the mails from Panama to California, and Oregon, and back, \$328,350.

"Sec. 2. And be it further enacted, That the following sums be, and they are hereby, appropriated for the service of the Post Office Department for the year ending 30th June, 1858, out of any money in the Treasury arising out of the revenue of said Department, in conformity to the act of 2d of January, 1836.

"For transportation of the mails between Charleston and Havana, a sum not exceeding fifty thousand dollars.

"For transportation of the mails across the Isthmus of Panama, \$135,000."

Now, I admit that, so far as the first section of this bill is concerned, it is all right, and in accordance with law; but this which is embraced artfully and ingeniously in the second and third sections, is intended to confer authority upon the Postmaster General, or rather to give him the means to make a new contract now unknown to law, and having no legal authority or existence. I admit that there are contracts for the service from New York to Chagres, and from New York to Liverpool. Those are provided for in the first section. But the three hundred odd thousand dollars is unauthorized by law, and is intended to enable the Postmaster General to establish two new contracts from New York to different points in Europe.

Mr. PHELPS, of Missouri. By the act of 1847 the Secretary of the Navy was directed to accept the proposal of E. K. Collins; and he was also directed to contract on the part of the Government of the United States with A. G. Sloo, of Cincinnati, for the transportation of the United States mails from New York to New Orleans and Chagres, twice a month and back, touching at Charleston, Savannah, and Havana. By the same act the Secretary of the Navy was directed to make a contract for the transportation of the mails from Panama to such point as he might select in the Territory of Oregon, once a month each way.

Now, the lines provided for in this bill have all been established by law. I have referred to the act by which the contracts were directed to be made. In two instances the parties are specified in the act of Congress. In the third instance—the line from Panama to San Francisco, and thence to Oregon—the Department was directed to make a contract, which was subsequently made with Arnold Harris, in pursuance of proposals received under advertisement, issued in accordance with the provisions of the act of 1847.

With reference to the Bremen and Havre lines, as I remarked before, under the act of 1845, the then Postmaster General, Cave Johnson, invited proposals for the transportation of the mails to different ports in Europe. He reported to Congress at the first session of the Twenty-Ninth Congress, that he had received proposals from the company afterwards organized as the Ocean Steam Navigation Company; and the line was established, running from New York to Bremen

and Havre. The act of 1845 expressly recognizes those lines, and appropriates money in pursuance of the contracts which the Postmaster General had made.

The CHAIRMAN. The Chair would ask the gentleman whether there is, as was stated by the gentleman from Pennsylvania and the gentleman from Louisiana, a general law authorizing the Postmaster General to make contracts for this manner of service wherever he pleases?

Mr. PHELPS, of Missouri. That depends upon the construction of the act.

Mr. CLEMENS. I have the law here.

The CHAIRMAN. The Chair also desires to know whether the service embraced in this bill is authorized by existing law?

Mr. PHELPS, of Missouri. In response to the inquiry first propounded to me, I will say, that as I understand the law, the Postmaster General may receive proposals for mail service under the act of 1845, but no contract is to take effect until it shall have been submitted to Congress for its ratification. That is my construction of the act of 1845. I will say further, in response to the Chair, that this bill proposes to appropriate nothing except for routes which have been established by law.

Mr. WATKINS. I rise to a question of order.

The CHAIRMAN. There is one question of order already pending.

Mr. WATKINS. Well, I want to ask a question of the Chair. I wish to ask the chairman of the committee, if it be in order for the gentleman from Louisiana to yield the floor to the gentleman from Missouri, and the gentleman from Georgia, and the gentleman from Indiana, would it not be equally in order for him to yield the floor to me to give notice of an amendment?

The CHAIRMAN. The Chair thinks it would.

Mr. WATKINS. Then I ask to have my amendment read.

The amendment was read, as follows:

That it is equally obligatory upon the Government to hold foreign Governments to a just responsibility for firing into American vessels, as it is to authorize American vessels to arrest the citizens of other countries upon their own soil.

The CHAIRMAN. The Chair understands the gentleman of the committee which reported the bill as stating that there is a general law—

Mr. CLEMENS. At that point I desire to make a suggestion to the Chair. There is no existing law authorizing these appropriations. I have before me the act of 1845, to which allusion has been made by the gentleman from Louisiana and the gentleman from Missouri; and I desire to call the attention of the committee to a section of that act. The following is the law:

"That the Postmaster General of the United States be, and he is hereby, authorized, under the restrictions and provisions of the existing laws, to contract for the transportation of the United States mail between any of the ports of the United States, and a port or ports of any foreign Power, whenever, in his opinion, the public interest will thereby be promoted; and it shall be his duty to report to the next ensuing Congress a copy of each of said contracts, with a statement of the amount of postage derived under the same as far as the returns of the Department will enable him to do so. And such contracts may be made if it shall appear to the Postmaster General to be required by the public interest for any greater period than four years, and not exceeding ten years. All such contracts shall be made with citizens of the United States, and the mail to be transported in American vessels by American citizens. Each contract entered into under the provisions of this act, besides the usual stipulations of the right of the Postmaster General to discontinue the same, shall contain the further stipulation, that it may, at any time, be terminated by a joint resolution of the two Houses of Congress."

These are the provisions of the act of 1845. That act, as I understand it, has now expired.

Mr. GROW. I move that the committee rise for the purpose of closing this debate.

Mr. SEWARD. I have the floor, I believe, but I shall not trouble the committee long, and, if the object is to close debate, I have no objection to yielding the floor now.

Mr. GARNETT. I suppose the gentleman from Pennsylvania, [Mr. Grow,] has no right to take the floor from the gentleman from Georgia, [Mr. SEWARD.]

Mr. GROW. The gentleman from Georgia has yielded the floor.

Mr. GARNETT. Then I appeal to the gentleman from Pennsylvania not to move that the committee rise for the purpose of closing debate on this bill. There are important amendments to be offered—amendments which should be made.

turely considered—and anxious, as I am, to adjourn on the 7th of June, I do not want to adjourn at that time if it is to be done by legislating in such hot haste.

Mr. SEWARD. I think I had better say what I have to say now, and I shall not trouble the committee long. I only want gentlemen to understand what the facts are, then I will yield the floor: In 1845 an act was passed authorizing these contracts to be entered into for the space of ten years. They have now expired by their own limitation, as I understand it. In 1857 an appropriation was made continuing this service for one year.

Mr. ENGLISH. I dislike to interrupt the gentlemen from Georgia, but I should like to know what has become of my question of order? I distinctly took an appeal from the decision of the Chair, and I want that appeal decided.

The CHAIRMAN. The Chair has decided, on the statement of the chairman of the Committee of Ways and Means, that the amendment is in order.

Mr. ENGLISH. I take an appeal from that decision. I desire to say a word upon that appeal.

Mr. SEWARD. I hope the gentleman's appeal will be entered. He cannot take the floor from me to discuss it.

Mr. ENGLISH. Then I shall insist that the gentleman from Georgia confine himself to that appeal.

Mr. SEWARD. I had the floor before the appeal was taken. I was going on to say that these contracts authorized by the act of 1845 have expired; in other words, the law has become inoperative by its own limitation, and that the appropriation made in 1857, was only to continue this service for one year. Then, whenever the twelve months are out these contracts cease, and the only law under which they can be continued, is the general law establishing the routes. It requires new legislation to continue them further. The Postmaster General, in his report, says:

"The Bremen and Havre lines having, under the sanction of Congress, been in operation ten years, affording direct communication between the United States and the continent of Europe, and it not appearing, by its action at the last session, that it was the intention of Congress that they should be discontinued on the expiration of the contract, I deemed it my duty to make provision for their continuance another year."

So that the Postmaster General recognizes these contracts as having expired; but, on account of the importance of these lines, as Congress has intimated no purpose to discontinue them, he has thought proper to continue them for one year—trusting that in the mean time Congress will take some action upon the subject. Now, sir, I move to amend this bill in the eleventh line, by inserting after the word "Liverpool" the words "or Southampton."

Mr. ENGLISH. I thought the question was upon the appeal.

The CHAIRMAN. The Chair decides the amendment to be in order. From this decision the gentleman from Indiana takes an appeal.

Mr. ENGLISH. I desire to say simply one word. What I have to say is this: I think the gentleman from Missouri [Mr. Phelps] has shown that the appropriations asked for in this bill are based upon existing laws; but whether that be so or not, I conceive, has nothing to do with the question of order before the committee. The gentleman from Louisiana [Mr. Sandridge] offered an amendment proposing to establish a line of steamers, which is not authorized by any existing law. The 81st rule provides that no amendment shall be offered for any expenditure not previously authorized by law; and the question in reference to the amendment offered by the gentleman from Louisiana is, whether it conflicts with this rule? I say that the question whether the original provisions in the bill offered by the Committee of Ways and Means are in order, has nothing to do with it. Admitting that there may be appropriations in this bill not authorized by existing law, they do not make the amendment offered by the gentleman from Louisiana in order. Not at all. Each amendment that is proposed must stand upon its own merits. I am not speaking at all upon the point as to whether the appropriations in this bill are based upon existing laws or not. That has nothing to do with the question. I submit that the amendment is clearly out of order.

Mr. DAVIS, of Mississippi. Now, sir, I ad-

mit that all that is contained in the first section of this bill is in accordance with law, and that the appropriation ought to be made, for the reason that contracts now exist between the Government and the parties who are to carry the mail. But this bill, in its subsequent sections, provides for the establishment of two new lines. I now speak of the following provisions:

"For transportation of the mails from New York, by Southampton or Cowes, to Bremen, and from New York, by Southampton or Cowes, to Havre, \$230,000.

"For contingencies in the mail service between New York and Europe, \$120,000."

Now, I call the attention of the committee to the fact that this mail service provided for is between New York and Europe; it does not say between New York and Liverpool, or designate any particular point. So that, for the two new lines, for which there is no contract between the Government and anybody whatever, there is appropriated the sum of \$400,000, to be used by the Postmaster General as he pleases. I object to that; and I think that, therefore, the bill ought not to pass. I am willing to leave in existence the contracts for lines for which we are authorized to make appropriations, but I do object to appropriating \$400,000 to be given to the Postmaster General to make contracts with whom he pleases.

I say that if new lines are to be started, one, at least, should start from some point south. All of them should not run to New York. If one be given to New Orleans, to touch at Charleston and Savannah, I am willing that New York, too, shall have the benefit of a new line. I ask whether it is just to make new lines for New York, which already has so many, and leave the rest of the Union unprovided with ocean mail facilities. What I wish is, that either those lines be stricken out, or that the amendment of the gentleman from Louisiana be agreed to. It simply provides that the two lines contemplated by this bill shall be divided—one to go to New York, and the other to New Orleans; and it provides such restrictions and limitations as will compel the parties to perform their contract.

Mr. COLFAX. I move that the committee rise in order to close this debate.

The CHAIRMAN. The Chair would much prefer first to have the pending question of order disposed of.

Mr. COLFAX. I object. We have had the point of order pending for nearly two hours. I move that the committee rise.

Mr. SEWARD. I have the floor, and it cannot be taken from me by that motion.

The question was taken; and the motion was agreed to.

So the committee rose; and the Speaker resumed the chair.

Mr. SEWARD. Before the report of the Chairman of the Committee of the Whole on the state of the Union is received, I wish to make a statement. I had the floor assigned to me in committee, but yielded it for the decision of a point of order. Without respecting my rights, the Chairman allowed a motion to be made and put that the committee rise. There must be some rule enforced here, and some respect for the rights of members, or we can never get along. I object to the reception of the report of the Chairman of the Committee of the Whole on the state of the Union until this question is disposed of. I make that point.

The SPEAKER. The Chair overrules the question of order raised by the gentleman from Georgia. The Chair can have no knowledge of what transpires in committee, except through the report of the Chairman made to the House. Nothing is in order until that report is made.

Mr. SEWARD. I am a member of the committee, and my statement to the Chair is as truthful as any that the gentleman from Alabama [Mr. Houston] can present. I leave it to the House to say whether I am not right.

Mr. HOUSTON reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly certain appropriation bills; and had directed him to report to the House the Army appropriation bill without amendment, and the Post Office appropriation bill with amendment; also, that the committee had the ocean mail appropriation bill under consideration, and had come to no resolution thereon.

CLOSE OF DEBATE.

Mr. J. GLANCY JONES. I move that debate on the ocean mail appropriation bill close within five minutes after its consideration in committee shall be again resumed.

Mr. BOCK. I move that the House adjourn; and on that motion I call for tellers.

Mr. SICKLES. If the House adjourns now, will not the bills which have been reported go to the Speaker's table?

The SPEAKER. They will.

Mr. DOWDELL. I ask that by unanimous consent the previous question shall be called on those bills.

Mr. SEWARD. I object. We must have some honesty and decency in legislation. I do not allude to my friend from Alabama.

The SPEAKER. The gentleman is not in order.

Mr. SEWARD. I do not know how the Chair decides that I am out of order.

The SPEAKER. There is no debatable question before the House.

Mr. SEWARD. I have simply objected to the proposition of the gentleman from Alabama.

The SPEAKER. The gentleman will suspend until the question is put.

Mr. SEWARD. I know my rights. The rule imposes the same restriction on the Chair that it does on me. The Chair is just as apt to be out of order as I am.

Mr. BARKSDALE. I call the gentleman to order.

The SPEAKER. The Chair will hear no suggestion until order is restored in the Hall.

Mr. SEWARD. Very well; I am always willing to do what is right.

The SPEAKER. The gentleman is out of order.

Mr. SEWARD. Will the Chair intimate how I will be in order?

The SPEAKER. If the gentleman will take his seat, he will be in order.

Mr. SEWARD. I will take my seat.

Mr. BOCK. I withdraw the motion to adjourn.

Mr. J. GLANCY JONES. I desire, before the motion is made to close debate on the pending bill in the committee, to move the previous question upon the two bills which have just been reported to the House by the committee, that the main question may be ordered, so that they may not go to the Speaker's table, but may come up before the House to-morrow morning if we adjourn before disposing of them this evening. After that is done, I will, by unanimous consent, allow them to go over for the present, and move to go into committee again.

Mr. SEWARD. If my objection will arrest it, I object, whether in order or out.

The SPEAKER. The Chair would suggest to the gentleman from Pennsylvania and to the House, if they desire to go back again into committee, that the object could be accomplished by moving to recommit the bills to the Committee of Ways and Means, and demanding the previous question, and without taking the vote on the previous question, then a motion to suspend the rules could be entertained.

Mr. J. GLANCY JONES. I wish to adopt the mode which will effect my object. I accept the suggestion of the Chair, and make that motion.

Mr. BOCK. I now move that the House adjourn.

Mr. WASHBURN, of Maine. I ask the gentleman to withdraw that motion, and allow debate to close before we adjourn.

Mr. BOCK. I prefer to do that to-morrow.

Mr. DEWART demanded tellers.

Tellers were ordered; and Messrs. Roccock and Berrinton were appointed.

The House divided; and the tellers reported—ayes 53, noes 75.

Mr. JONES, of Tennessee. I demand the yeas and nays.

The yeas and nays were not ordered.

So the House refused to adjourn.

Mr. J. GLANCY JONES. Before the motion to go into committee is put, I move that all debate upon the pending bill in committee be closed within five minutes after the committee shall again resume its consideration.

Mr. SEWARD. I had the floor when the com-

mittee rose, and I made a statement to the Chair which was the truth, and which the whole committee knows is the truth; and now it is proposed to close debate in accordance with what I do not consider very proper action upon the part of the Chairman of the Committee of the Whole on the state of the Union.

Mr. HOUSTON. I desire to appeal to the gentleman from Pennsylvania, to extend the time of debate, that the gentleman from Georgia may have an opportunity to finish his speech. But if the gentleman from Georgia intends to insinuate that I entered into any arrangement, I say it is wholly without foundation in point of fact.

Mr. SEWARD. I did not say that the gentleman made any arrangement, but that I thought the action of the Chairman was improper.

The SPEAKER. The Chair must arrest this debate.

Mr. SICKLES. I move to amend the resolution by striking out "five," and inserting "fifteen."

Mr. BURNETT. I move to amend the amendment by striking out "fifteen," and inserting "thirty."

Mr. PHELPS, of Missouri. I move the previous question upon the resolution.

Mr. JONES, of Tennessee. I move that the House do now adjourn; and ask for the yeas and nays.

The yeas and nays were not ordered.

The House refused to adjourn.

The previous question was then seconded, and the main question was ordered to be put.

The question recurring upon the amendment to the amendment to strike out "fifteen," and insert "thirty."

Mr. SEWARD said: I want but a few minutes. All I want is to have my right recognized. I am willing to put up with five minutes if my right is admitted.

Mr. BARKSDALE. I think five minutes is enough. The gentleman has occupied enough of the time of this House.

Mr. BURNETT. After the statement of the gentleman from Georgia, I will, by unanimous consent, withdraw my amendment to limit the debate to thirty minutes.

Mr. SICKLES. And I will withdraw my amendment.

Mr. SEWARD. There is an appeal pending, and I hope I shall be allowed the five minutes myself. [Cries of "Oh, yes!"]

Mr. BOCKOCK, (at half past seven o'clock, p. m.) I move that the House do now adjourn.

Mr. GREENWOOD. I desire to appeal to my friend who made that motion to withdraw it. The Opposition side of the House has evinced a disposition to aid us in getting through the appropriation bills, and it seems that our own friends are now throwing obstacles in the way of getting through the business.

Mr. PHILLIPS called for the yeas and nays. The yeas and nays were not ordered.

Mr. BOCKOCK. I call for tellers.

Tellers were not ordered.

The motion was not agreed to.

The motion to go into the Committee of the Whole on the state of the Union was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. Houston in the chair,) and resumed the consideration of the

OCEAN MAIL STEAMER BILL.

Mr. ENGLISH. For the purpose of giving my friend from Georgia an opportunity to enter into the general debate, I withdraw my point of order for the time being; but intend to renew it.

Mr. SEWARD. I offer the following amendment:

And be it further enacted, That the Postmaster General be authorized to contract for the transportation of the mails from Savannah, Georgia, to Havana, Island of Cuba, at such compensation as he may think reasonable and just, not exceeding \$100,000.

Mr. Chairman, the contract entered into with E. K. Collins & Company has failed; and the legislation sought to be carried out in this bill is to allow the Postmaster General to enter into a contract with other parties for performing similar services, which is equivalent to making a new law on the subject. Southampton is, I think, seventy-one miles southwest of London, and most of the

mail matter coming to this country comes through that port. The British Government has been managing their steamers so as to give them the carrying of all the mail matter, and so as to put the Government of the United States under great disadvantages. I propose my amendment as an additional section. Like the gentleman from Mississippi, [Mr. Davis,] I am willing to sustain the present line of steamers if the South can be allowed to have equal benefits with the North in the appropriation of public money for mail communication with foreign countries. My amendment provides for the carrying of the mails between Savannah, Georgia, and Havana, in the Island of Cuba, authorizing the Postmaster General to enter into a contract not exceeding one hundred thousand dollars for that purpose. We accommodate gentlemen from the North with lines of steamers from their cities; and if the South can be privileged in the same way, we will have a sort of union movement, North and South, East and West. I hope that, to carry out these views, my amendment will be adopted.

Mr. ENGLISH. I now renew the point of order which I made.

The CHAIRMAN. The gentleman from Indiana makes a point of order against the amendment offered by the gentleman from Louisiana, [Mr. SANDIDGE.] The Chair overrules the point of order. From that decision the gentleman from Indiana appeals. Shall the decision of the Chair stand as the judgment of the committee?

The question was taken; and the decision was overruled.

The question was taken on Mr. SEWARD's amendment, and it was rejected.

Mr. JONES, of Tennessee. I move to strike out all of the bill after line seven, first section. There are in this bill, as I understand it, three provisions for mails to foreign countries—one from New York to Liverpool, one from New York to Havre and Bremen, and one from Charleston to Havana. All the other provisions of the bill are for our own domestic mail from New York, by New Orleans and Havana, to Chagres, across the isthmus, and then up the coast on the other side. The line to Liverpool, and that from Charleston to Havana, are the only ones to foreign countries now authorized by law. The law of 1845, which has been referred to here, does not authorize the Postmaster General to make contracts, but to receive proposals, and submit them to Congress to be ratified and confirmed by Congress. I consider, sir, that under that law the Postmaster General has no authority to make any contract for the carrying of mails to any foreign country. If he has, why is it proposed now that Congress shall establish a route from New York to Havre and Bremen at \$230,000?

Then, here is another item to which I would call the attention of this committee, and of the chairman of the Committee of Ways and Means:

"For contingencies of the mail service between New York and Europe, \$120,000."

Where is the law that authorizes that? Where is the estimate that authorizes it? In my opinion—and I believe I speak with a knowledge of the subject—this is the first time that an item of that character has ever been in any of these foreign mail-service bills. When you add that \$120,000 contingency to the \$230,000, it makes \$350,000—the precise amount, I believe, that was heretofore paid, under contract, to the Bremen and Havre line. Does the Postmaster General consider that he has authority, under the act of 1845, to make another contract? I presume he does not; and I do not consider that he has even the power to receive proposals.

We have been told that he has made a temporary contract for the postages. Has that come before us for confirmation or ratification? My own opinion is, that these two provisions for the transportation of the mails from New York to Bremen and Havre were not in order when reported in this bill.

[Here the hammer fell.]

Mr. WASHBURN, of Maine. I am opposed to the amendment of the gentleman from Tennessee. I believe no practical good is to be derived from any discussion here this evening; and I desire to get the bill into the House where a vote may be taken upon it.

Mr. JONES, of Tennessee, by unanimous consent, then withdrew his amendment, and moved

to strike out the second section of the bill; which is as follows:

"Sec. 2. *And be it further enacted, That there be paid to the Post Office Department, out of the appropriation of \$346,500 granted by the first section of the act of 3d March, 1857, 'for transportation of the mails from New York to Liverpool, and back,' the sum of \$16,757 70, for five outward trips from New York to Liverpool, to wit: on 14th February and 11th April, 1857, and 13th February, 13th March, and 10th April, 1858, when the Collins line failed to perform service; and that the further sum of \$35,000, or so much thereof as may be necessary, be paid to the Post Office Department, out of the appropriation aforesaid, to enable the Postmaster General to procure the transportation of the mails from New York to Liverpool and back, on the 24th April, the 8th and 22d May, and the 5th and 19th June, 1858, if the Collins line should fail to perform service on those days."*

Mr. JONES, of Tennessee. I understand that under the law, E. K. Collins and his associates have a contract with the Government. This is an attempt to interfere with that contract. If he violates or fails to comply with his contract, then, I take it, it will be for the Department to declare the contract void or to refuse to pay him for the service which he does not perform. But if we go on now and take this contract out of his hands, and authorize the payment of a portion of this money out of the Treasury by the Postmaster General, to make contracts with others to carry the mails, Collins and his associates will have a claim upon the Government for damages, to I know not what amount.

Mr. J. GLANCY JONES. I simply ask to have read two communications from the Postmaster General—one in relation to this amendment of the gentleman from Tennessee, and the other in relation to the other amendment which the gentleman offered.

Mr. SEWARD. I shall object to the reading, if it occupies more than five minutes.

Mr. J. GLANCY JONES. I have risen to oppose the amendment of the gentleman from Tennessee, and I have a right to have the papers read as a portion of my remarks.

The CHAIRMAN. The time occupied by the reading will come out of the gentleman's five minutes.

Mr. DAVIS, of Mississippi. I rise to a question of order. I submit that the provision in the bill in relation to the Bremen and Havre lines is independent legislation, and not in accordance with existing law, and is, therefore, out of order.

The CHAIRMAN. Whilst the Chair would agree with the gentleman from Mississippi, that it is out of order, and ought not to be in the bill, yet the House has referred the whole matter embraced in the bill to the Committee of the Whole on the state of the Union, and the Chair, therefore, could not take jurisdiction to attempt to revise it.

Mr. DAVIS, of Mississippi. If the Chair please, the question has not been settled by the House whether it is independent legislation or not.

The CHAIRMAN. The gentleman from Mississippi will remember that the bill was referred to the Committee of the Whole on the state of the Union by the order of the House, and it is to be presumed, at least, that it was read twice before it was so referred.

Mr. J. GLANCY JONES. I now ask that the communications which I sent to the Clerk's desk may be read.

Mr. SEWARD. I rise to a question of order. We may as well have this question settled. The Constitution of the United States allows the President to communicate with this House in a particular way. These appointees of his generally make their reports to him, and he communicates them to the House. What I mean to say is this, that neither the President nor any head of a Department can constitute an agent here to make speeches for him submitted in writing. They are not allowed to appear here either in person or by an agent to make speeches.

The CHAIRMAN. The Chair overrules the question of order. The Chair supposes that the gentleman from Pennsylvania has a right to have the papers read as a portion of his remarks.

The Clerk then read the following communication:

POST OFFICE DEPARTMENT, April 21, 1858.
SIR: Under the authority conferred by the first section of the "Act to provide for the transportation of the mail between the United States and foreign countries, and for other purposes," approved March 3, 1845, (Statutes, vol. 6, page 748,) this Department has deemed it essential to the public

THE CONGRESSIONAL GLOBE.

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interest to cause the United States mails to be carried from New York to Liverpool by other than contract steamers whenever the regular contract mail steamers have not been in place to perform the service at the proper time; and for such service the parties performing it have agreed to receive, as full compensation, the amounts of sea postage on the mails transported by them respectively. Temporary service of this kind has frequently been employed, as I shall show more particularly in another place, to carry the mails which should have been taken on their regular sailing days by the Collins steamers; and, as the service on that line seems to be entirely suspended, I deem it my duty to ask that provision be made out of the appropriation granted by the act of March 3, 1857, (Statutes, third session Thirty Fourth Congress, page 248,) for the "transportation of the mails from New York to Liverpool, and back," for defraying, out of the Treasury, the expenses already incurred, as well as those which will be incurred in keeping up on our part, during the current fiscal year, regular post intercourse between New York and Liverpool. These expenses, thus far, amount to \$16,737 70, to wit:

Steamer Alps, from New York, February 14, 1857.....	\$4,642 40
Steamer Alps, from New York, April 11, 1857.....	3,183 32
Steamer Edinburgh, from New York, February 13, 1858.....	3,057 24
Steamer New York, from New York, March 13, 1858.....	3,134 23
Steamer City of Baltimore, from New York, April 10, 1858.....	2,740 51

Amount ascertained.....\$16,737 70

The foregoing is for mails outward only, but in future it is intended to arrange for voyages out and back; and if the public be assured that vessels will be dispatched so as to alternate with the British mail steamers from New York, it is probable that the amount of mail matter sent by them will be considerably greater than has been carried on the outward trips already made. Should this prove to be correct, and should the Department succeed in procuring suitable steamships to transport the mails out and back for the sea postages, then it is estimated that the further sum of \$35,000 will be required to perform the remaining trips set for the Collins line within the present fiscal year, to wit: April 24, May 8 and 22, and June 5 and 19, 1858, five trips, at \$7,000 per round trip.

I submit herewith the draught of such an amendment as appears to me to be required to carry out the objects before stated to the end of the present fiscal year.

I have the honor to be, most respectfully,

AARON V. BROWN,
Postmaster General.

Hon. J. GLANCY JONES, Chairman Committee Ways and Means, House of Representatives.

The amendment proposing to strike out the second section of the bill was not agreed to.

Mr. JONES, of Tennessee. I move to strike out the following paragraph, from the eighth to the fourteenth line, inclusive:

"For transportation of the mails from New York by Southampton or Cowes to Bremen, and from New York by Southampton or Cowes to Havre, \$230,000.
"For contingencies in the mail service between New York and Europe, \$120,000."

I offer the amendment upon the ground that there is no existing contract for this money to be applied to; and that there is no law authorizing a contract to be made. If there was a law, a contract would be made. But this provision, if it pass in this bill, would be construed into authority to make this contract. The first provision is for \$230,000, and the other one for contingencies, which is an entirely new item, makes up the entire sum of \$350,000, which is the amount of the original contract proposed for the lines between New York and Havre and Bremen. And, as I have said, it will certainly be construed into authority for making a new contract for the lines, without any other law.

Mr. SICKLES obtained the floor.

Mr. J. GLANCY JONES. I ask the gentleman from New York to allow a letter to be read from the Postmaster General explaining these items.

Mr. SICKLES. Very well, let the letter be read.

The letter was read by the Clerk, as follows:

POST OFFICE DEPARTMENT, April 21, 1858.

SIR: In the estimates for the mail service to foreign countries, which I had the honor to submit on the 24th ultimo, pursuant to the requirements of the second section of the organic act of July 2, 1836, I stated that the Department was not certain that after the expiration of the present contracts for the transportation of the mails between New York and Bremen, and New York and Havre, on the 1st June next, it could procure the mails to be carried on those lines during the year 1859, for the United States postages, sea and inland, accruing from each of them. Information since received tends to increase that uncertainty so much that I deem it my duty to submit such a modification of those es-

timates as will, in my opinion, place the service upon a footing of regularity and efficiency at least equal to that obtained under the original contract with the Ocean Steam Navigation Company, which expired in June, 1857. To accomplish this purpose, it will be necessary to place at the disposal of the Department, for the year ending June 30, 1859, a sum equal to the compensation formerly paid under that contract for two ships to Bremen and two to Havre, which was \$350,000 per annum, for twelve trips on each line. For this sum, and probably for much less, I am confident that the requisite service can be procured, but at all events it will be the endeavor of the Department to obtain it on the best possible terms.

I would further respectfully suggest that, as the continuance of the service on the Collins line between New York and Liverpool is uncertain, a proviso be attached to the appropriation for that line for the year ending June 30, 1859, authorizing this Department to be paid therefrom such sums as may be required for the transportation of the mails to Liverpool and back, on the days the Collins line may fail to take them.

I have the honor to be, very respectfully, &c.,

AARON V. BROWN,
Postmaster General.

Hon. JAMES L. ORR,
Speaker of the House of Representatives.

Mr. SEWARD. The rule requires the gentleman to speak in opposition to the amendment. Now I submit that that letter makes a speech in favor of it, and is out of order. [Laughter.]

Mr. SICKLES. I regard that letter as a much better speech than I can make, and as conclusive against the speech of the gentleman from Tennessee. I will therefore content myself with no remarks on the subject in addition.

Mr. SANDIDGE. I rise to a question of order, the decision of which involves the same point made by the gentleman from Tennessee, [Mr. JONES.] It is that the appropriation contained in the items of appropriation, of \$350,000, is for the payment of no contract authorized under existing law and, in fact, for no contract existing at all; and is, therefore, under the 81st rule, out of order.

The CHAIRMAN. The point of order made by the gentleman from Louisiana is the same point made by the gentleman from Mississippi [Mr. DAVIS] a few minutes ago, and overruled by the Chair, upon the ground that this bill has been read twice in the House, and referred to the Committee of the Whole on the state of the Union, after which the Chair does not feel himself authorized in ruling out of order any provision which has received the sanction of the House.

Mr. JOHN COCHRANE. I ask the Chair if it is now in order for the friends of the paragraph proposed to be stricken out to move to amend it?

The CHAIRMAN. It is.

Mr. JOHN COCHRANE. I move to amend, then, by inserting the word "one" after "thirty" in line ten, so as to make the appropriation \$231,000.

Mr. Chairman, in respect to the question in dispute upon this paragraph of the bill, nothing need be said. My only object in seeking the floor is that the committee may act understandingly when they come to pass upon these questions. I think gentlemen have fallen into an error regarding the authority which vests the Secretary of the Navy with power to make contracts upon this subject. I will refer gentlemen to the clause in the act of 1845 which confers the authority. It is the following:

"And such contracts may be made, if it shall appear to the Postmaster General to be required by the public interest, for any greater period than four years, and not exceeding ten years."

The limitation is not upon the life of the law, but distinctly upon the terms of the contract. It is a matter presented to the discretion of the Postmaster General. If he thinks the public interests require him to enter into a contract for a longer period than the minimum, then it is perfectly within the letter and spirit of the law for him to make it; and this appropriation is but for the purpose of carrying out an existing contract entered into by your Secretary, under and by virtue of the law which I have specified.

Sir, I have listened, with some degree of grief and surprise, to opinions expressed in this House in depreciation of the favors claimed to be shown upon the locality which I, in part, represent.

Sir, nothing which conduces to the advantage of the commerce of that great metropolis is or can be local in its nature; it is as important and general as commerce itself, universally absorbing; and whenever postal facilities are extended to the commerce of a country, they partake of the general and catholic character of the commerce of the world. I will say to gentlemen at the South, as well as those from the West, that we of the North and the East, upon the Atlantic borders, are quite as willing that the same facilities should be extended to them as we now claim for ourselves, and indeed greater.

Sir, it is nature, and not art, that constitutes the great empire of trade. You might as well try to dip up and roll back Niagara with the hand as to turn aside the natural currents of commerce. New York enjoys her advantages, not by reason of the artificial influences of legislation, but because she sits enthroned the mistress of commerce, the queen of the seas. Into her lap flow the tides of commerce, because commerce follows the avenues and obeys the impulses of profit. Let gentlemen in other parts of the country enlarge their enterprise; let gentlemen everywhere facilitate and expand a generous but constitutional system of internal improvements, and, my word for it, steamers and commerce and art and industry will abound with them as with us; to their affluent prosperity as to ours.

Mr. DAVIS, of Mississippi. The gentleman says that by the law the Postmaster General is authorized to make contracts to be reported to this House. Now, the Postmaster General states in the letter which has been read that these two contracts have not been entered into by him. He made that statement at the time he made his report to Congress, at the commencement of this session. He thought that he would be able to make a contract with the persons who had before taken the mails for the postage; but he is satisfied he cannot make such a contract for the year 1859, and therefore he desires an appropriation made by Congress. For what purpose? To enable him to do that which he says he cannot now do; to enable him to make a contract, and not to execute contracts already made. How stands the argument of the gentleman from New York? Although authority is given by law to the Postmaster General to make a contract, yet you know from the testimony furnished by the Postmaster General himself, that no contract exists now, and that this appropriation is to authorize or enable him to make the contract, a contract which he will never make unless he gets this appropriation.

He talks of New York as the queen of the seas. How does she happen to be the queen of the seas? She has made the West tributary to her greatness; she has made the South tributary to her greatness. If she is, then, so much a queen, how is it she asks subsidies for her lines of steamers? He says that when other cities have done as much for themselves as New York, they may expect some return. How are we to compete with New York lines of steamers when they get subsidies of \$300,000 for their lines and we do not get a dollar? If that appropriation for New York is necessary, is it not equally necessary for New Orleans? Now, if the gentleman is the generous and fair-minded man he pretends to be, let him give us this one line South. Dare he do it? No, sir. He knows when the time shall ever come, as come it will, I hope, that Congress shall cease to make unfair discriminations against the South and in favor of the North, this queen of the seas will be compelled to surrender her diamonds and doff her royal robes. He says New York has natural advantages. Then let her look to her natural advantages, and not eternally nauseate this House by their everlasting cry of give, give—demand of more, more. Let her be content with her natural advantages, or grant unto others what she asks for herself.

Mr. JOHN COCHRANE. Permit me to answer for myself.

The CHAIRMAN. The gentleman's time has expired.

Several MEMBERS. "Question," "Question."

The question was taken on the amendment of Mr. JOHN COCHRANE to the amendment of Mr. JONES, of Tennessee; and it was disagreed to.

Mr. GARNETT. I move to amend the amendment by striking out these words:

"For contingencies in the mail service between New York and Europe, \$120,000."

The rest of the section is a definite appropriation. The words I propose to strike out are indefinite. The object is not specified. It is such an appropriation as ought not to be made. I move to strike it out, in no spirit of opposition to the bill, but simply on the ground that all of our appropriations should be specific.

Mr. WASHBURN, of Maine. I am opposed to the amendment for the reason I assigned a moment ago against another amendment; and that is, I believe, that no good is to be accomplished by any discussion. I hope the amendment will be rejected.

The question was taken on Mr. GARNETT's amendment to the amendment, and it was rejected.

Mr. SANDIDGE. I am glad the committee has ruled these two amendments to be in order, for the amendment which I propose is of a similar character. It is as follows:

Insert after "dollars," in the eleventh line, the following:

And for the transportation of the mails from New Orleans to Bordeaux, via Havana, Bermuda, Payal, and Santander, and back, there shall be, and is hereby appropriated, to be paid every year, for ten years, out of any moneys in the Treasury, a sum equal to that herein appropriated for the transportation of the mails on either of the routes from New York to Europe, according to the computed length thereof, estimating the pay per mile on the route from New Orleans by what may be given to the New York route.

Mr. ENGLISH. I raise a point of order on that amendment.

The CHAIRMAN. Under the decision of the committee the Chair rules that amendment out of order.

The question recurred on the amendment of Mr. JONES, of Tennessee.

Mr. JONES, of Tennessee, demanded tellers. Tellers were ordered; and Messrs. SCALES and BUFFINTON were appointed.

The House divided; and the tellers reported ayes twenty-four—not a majority of a quorum. So the amendment was not agreed to.

Mr. GARNETT. Is it in order, before the section is concluded, to offer an amendment to the amendment, to come in in line five?

The CHAIRMAN. The committee have passed that part of the section.

Mr. GARNETT. I believe the ruling of former Chairmen has been, that when a section had been read it was in order to offer an amendment to any part of it. We are now upon the third section, and therefore an amendment to any part of the section is in order.

The CHAIRMAN. The Chair will entertain the amendment of the gentleman from Virginia if there be no objection on the part of the committee.

Mr. SEWARD. I object.

The CHAIRMAN. The Chair understands that the practice of the committee has been, that when a section is divided into paragraphs, it is read by paragraphs; and that when a paragraph has been once read and passed, the committee cannot return to it again except by unanimous consent.

The Clerk then concluded the reading of the bill.

Mr. SEWARD. I desire to offer an amendment to the clause providing for the transportation of the mail between Charleston and Havana. I move to strike out "fifty" and insert "one hundred," so that it shall read "one hundred thousand dollars."

Mr. SICKLES. I rise to a point of order. That portion of the section is passed, and an amendment to it is not in order.

The question was put on the amendment, and the chairman announced that the amendment was rejected.

Mr. GARNETT obtained the floor.

Mr. SEWARD. I propose to continue on the floor, and make a five-minute speech upon my amendment.

The CHAIRMAN. The gentleman did not proceed to speak when he offered his amendment, and the Chair put the question.

Mr. GARNETT. Mr. Chairman—

Mr. SEWARD. I am entitled to the floor myself.

The CHAIRMAN. The gentleman from Virginia is entitled to the floor.

Mr. SEWARD. The gentleman may address that side of the House, and I propose to address this.

Mr. GARNETT. I do not desire to dispute a question of privilege with the gentleman from Georgia, as he is very seldom on the floor.

Mr. SEWARD. Mr. Chairman—[Cries of "Order!"] I am in order.

The CHAIRMAN. The gentleman from Georgia is not in order, and the Chair calls him to order.

Mr. SEWARD. I moved an amendment, and I have a right—

The CHAIRMAN. The Chair calls the gentleman to order; and if he cannot preserve order in committee he will appeal to the House.

Mr. SEWARD. I have no objection to your doing that.

The CHAIRMAN. The gentleman from Virginia is entitled to the floor.

Mr. SEWARD. Am I not entitled to raise a question of order?

The CHAIRMAN. The gentleman is; and he will state his point of order.

Mr. SEWARD. My point of order is, that my amendment was not reported or read by the Clerk, or announced by the Chair to the committee. The Chair put the question precipitately, and announced the result before any one could say a word; and I was thereby cut off from saying what I desired. I appeal to the Chair whether I am not strictly correct?

The CHAIRMAN. The Chair does not remember; but he does remember that he was of the impression that the gentleman from Georgia did not intend to make a speech, because he saw no effort whatever on his part to do so; whereas, heretofore, when the gentleman desired to make a speech, there has been the highest evidence of his desire to do so.

Mr. SEWARD. Well, sir, I yield to the decision of the Chair upon that statement. [Laughter.]

Mr. GARNETT resumed the floor.

Mr. ENGLISH. I rise to a question of order. It is, that this bill has been read through, and now the gentleman from Virginia proposes to go back to amend a portion of the bill which has been passed.

The CHAIRMAN. The Chair does not know what the gentleman from Virginia proposes to do, and he will hear the gentleman before he attempts to rule upon the point of order.

Mr. GARNETT. I move to amend the seventeenth line by striking out the word "dollars," and inserting "cents;" so that it will read—

For transportation of the mails across the Isthmus of Panama, one hundred thousand cents.

I thought, when I first rose, that we were considering the clause contained in the fourteenth and fifteenth lines. I have offered one or two amendments before. I had one amendment about which I had consulted with a number of gentlemen in the Hall, which they approved, and which I thought important. I desire to have a vote in the House upon the amendment which I shall indicate before I take my seat. If the committee will grant me that favor I will be content.

But when the gentleman from Maine rises and makes objection to amendments, because he thinks the committee is not in a proper state of mind to do that which we ought to do, I must say, though I am as much in favor of adjourning on the 7th of June as any gentleman, yet I will not agree to adjourn then, unless the business we undertake to do is done intelligibly. The amendment which I desired to offer, and which I now ask consent to offer, is this:

No contract shall hereafter be made for the transportation of the mail by ocean steamers on any route, for a compensation exceeding the postal revenues accruing from the transportation of the mails on such route; and all existing contracts, stipulating for a different or larger compensation, shall be terminated as soon as their terms will permit.

I ask the committee to allow me to move this amendment in the place of the one I offered when I first rose, and that it may go to the House, so that we may have a vote upon it by yeas and nays.

Mr. RITCHIE objected.

Mr. GARNETT. I withdraw the amendment which I offered.

Mr. ENGLISH. I move that the bill be laid aside, to be reported to the House.

The motion was agreed to.

Mr. J. GLANCY JONES. I have another small bill, which provides for fulfilling treaty stipulations with the Indians; and with the consent of the committee, I propose to take it up and consider it now.

Mr. GARNETT. I move that the committee rise.

The CHAIRMAN. The gentleman from Pennsylvania is upon the floor.

INDIAN APPROPRIATION BILL.

Mr. J. GLANCY JONES. I move to take up the bill (H. R. No. 557) making supplemental appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1859.

The motion was agreed to.

Mr. MORGAN. I have been here for nine hours, and I am not willing to stay any longer. I move that the committee do now rise.

Mr. PEYTON demanded tellers.

Tellers were ordered; and Messrs. BOGOCCK and MAYNARD were appointed.

The committee divided; and the tellers reported—ayes 69, noes 29.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. Housron reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the bill making appropriations for the transportation of the United States mail by ocean steamers and otherwise during the fiscal year ending June 30, 1859, and had directed him to report the same to the House without amendment; also, that the committee had had under consideration bill No. 557, and had come to no resolution thereon.

Mr. J. GLANCY JONES moved to recommit the mail steamer appropriation bill to the Committee of Ways and Means; and demanded the previous question.

And then, on motion of Mr. SMITH, of Tennessee, (at twenty minutes to nine o'clock, p. m.) the House adjourned.

IN SENATE.

Friday, May 28, 1858.

Prayer by the Rev. J. M. Wilson.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, communicating, in compliance with the resolution of the Senate of the 19th of May, a report of the Secretary of the Navy, information connected with the arrest of William Walker and his associates, with copies of the correspondence, &c., as afforded by the files of that Department; which, on motion of Mr. Foor, was ordered to lie on the table; and a motion by him to print it was referred to the Committee on Printing.

He also laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate, information respecting the appointment of Alexander G. Penn and Emilié La Sere, as disbursing agents at New Orleans, the nature of their services, and the compensation they receive; which, on motion of Mr. Wilson, was ordered to lie on the table; and a motion by him to print it was referred to the Committee on Printing.

He also laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate, information respecting frauds on the revenue, alleged to have been committed by a partner in the commercial house of Simon de Visser & José Villarubia, of New Orleans; which was read.

Mr. KING. I offered the resolution to which this communication from the Secretary of the Treasury is a reply. My object was to ascertain whether there was any sufficient grounds to charge, as was freely done here in debate, upon the officers of the customs, a complicity in those frauds. I am very happy to find that the investigation acquits them. I think it due to them that

it should go on the record; and I therefore move that the communication be printed.

The motion was referred to the Committee on Printing.

COURT OF CLAIMS.

The VICE PRESIDENT also laid before the Senate a letter of the chief clerk of the Court of Claims, returning, in compliance with a resolution of the Senate, the bill and papers in the case of Alexander J. Atocha; which were ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented papers in relation to the claim of John W. Geary, for the reimbursement of money expended while Governor of the Territory of Kansas; which were referred to the Committee on Finance.

He also presented papers in relation to the removal of the offices belonging to the United States, and occupied in the collection of revenue at the present quarantine station in the port of New York, to the new quarantine site; which was referred to the Committee on Finance.

Mr. WADE presented a memorial of the clerks, messengers, and watchmen of the Washington navy-yard, praying that an appropriation may be made to carry out the laws of 1852 and 1854 giving them twenty per cent. additional pay; which was referred to the Committee on Naval Affairs.

Mr. JONES presented a memorial of Hosea B. Horn and others, praying for a grant of land on Green river, in the Territory of Utah, for the purpose of settlement; which was referred to the Committee on Public Lands.

He also presented the memorial of Jonas P. Levy, for himself and others who are engaged in mining operations at the Pedregal mines, in Mexico, praying that the President may be authorized to compel the Mexican Government to liquidate their claims; which was referred to the Committee on Foreign Relations.

Mr. BROWN presented a memorial of the principal business men on Pennsylvania avenue, in Washington city, representing that a railroad along that avenue is not asked for nor wished by the great body of the citizens of Washington; which was referred to the Committee on the District of Columbia.

Mr. PUGH presented the petition of Joseph Taylor, postmaster at Gratis, Ohio, praying to be released from responsibility for postage stamps destroyed by fire while in his possession; which was referred to the Committee on the Post Office and Post Roads.

He also presented a petition of citizens of New York, praying that the public lands may be laid out in farms or lots of limited size for the free and exclusive use of actual settlers; which was ordered to lie on the table.

Mr. BIGLER presented a memorial of the Magnetic and New England Union Telegraph Company, in reply to the remonstrance of the American Telegraph Company, correcting certain errors and fallacies of that company, and asking further legislation by Congress; which was referred to the Committee on the Judiciary.

Mr. HARLAN presented a petition of citizens of Iowa, praying for the establishment of a mail route between Grinnell and Marietta, in that State; which was referred to the Committee on the Post Office and Post Roads.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. JONES, it was *Ordered*, That the petition and papers of Mary E. Larnard, be recommitted to the Committee on Pensions.

On motion of Mr. BROWN, it was *Ordered*, That Thomas Hateman have leave to withdraw his petition and papers.

On motion of Mr. BIGLER, it was *Ordered*, That the heirs of Andrew Gardner, deceased, have leave to withdraw their petition and papers.

On motion of Mr. POLK, it was *Ordered*, That the petition of Wilson & Brothers, on the files of the Senate, be referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom was referred a resolution to compensate Willis A. Gorman, for certain services, reported a bill (S. No. 417) for the relief of Willis A. Gorman; which was read, and passed to a second reading.

He also, from the same committee, to whom were referred the petition of citizens of Michigan, relative to a division of the Indian agency in that State; and a petition of citizens of Michigan in favor of granting a homestead to certain mixed-blood Indians, asked to be discharged from their further consideration; which was agreed to.

Mr. PUGH, from the Committee on Public Lands, to whom was referred the bill (S. No. 387) for the better regulation of sales and entries of the public lands, and to limit the fees of the registers and receivers at the several land offices, reported it without amendment.

Mr. STUART, from the Committee on Public Lands, to whom were referred the following bills, reported adversely thereon, and moved that they lie on the table; which was agreed to:

A bill (S. No. 11) making a grant of land to the State of Iowa, in alternate sections, to aid in the construction of a railroad from Keokuk to Fort Madison, through the southern tier of counties in said State to the Missouri river;

A bill (S. No. 12) making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of a railroad from McGregor's Landing to the western boundary of said State;

A bill (S. No. 33) to authorize the State of Iowa to apply the unsold lands, heretofore granted for the improvement of the navigation of the Des Moines river, to the construction of a railroad in the valley of said river;

A bill (S. No. 63) making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of a railroad in said State;

A bill (S. No. 231) granting public lands to the Territories of Kansas and Nebraska, to aid in the construction of railroads in said Territories; and

A bill (S. No. 236) granting public lands to the Territory of Kansas for the purpose of constructing certain railroads therein.

Mr. STUART. In reporting back these bills, I beg leave to state that the committee came to the conclusion, after an examination of all the questions involved, that it would not be advisable at this time to originate in the Senate any bills making grants of land. If any action were taken by the House of Representatives, as was done in the last Congress, the committee would consider such bills.

Mr. STUART also, from the same committee, to whom were referred the memorial of the Legislature of Minnesota, in favor of a homestead to actual settlers, presented May 15; a petition of citizens of Albany, New York, in favor of granting homesteads to actual settlers, presented March 24; two petitions of citizens of Cincinnati, Ohio, in favor of granting homesteads to actual settlers, presented March 29; a petition of citizens of Hopkinsville, Ohio, in favor of granting homesteads to actual settlers, presented February 15; a petition of citizens of West Elkton, Ohio, in favor of granting homesteads to actual settlers, presented March 1; a memorial of the Legislature of Iowa, praying a grant of land for the McGregor, St. Peter's, and Missouri railroad, presented February 23; a memorial of the Legislature of Iowa, praying a grant of land for the McGregor, St. Peter's, and Missouri railroad, presented December 12; a memorial of the Legislature of Iowa, praying a grant of land to aid in the construction of a railroad from Fort Dodge to Sioux Falls, presented April 2; a memorial of the Legislature of Missouri, praying for a grant of land to aid in the construction of a railroad, presented December 17; a memorial of the Legislature of Wisconsin, praying a grant of land to aid in the construction of the Mineral Point and Portage City railroad, presented May 10; a memorial of the Mayor and Board of Common Council of the city of Atchison, praying aid in the construction of a railroad, presented April 7; a memorial of the president and directors of the Metropolitan Railroad Company, praying an act of incorporation and a grant of land, presented April 8; a memorial of citizens of Clark county, Missouri, remonstrating against the appropriation of certain lands for the improvement of the Des Moines river to the construction of a railroad, presented February 24; a memorial of the Chamber of Commerce of St. Louis, Missouri, that certain lands be granted for the construction of the Keokuk and Fort Des Moines railroad, presented May 20; a petition of citizens of Burlington, Iowa, for aid in the construction

of railroads in Nebraska, presented February 18; a petition of citizens of Dubuque, Iowa, for aid in the construction of railroads in Nebraska, presented January 21; five petitions of citizens of Iowa, praying for a grant of land to the McGregor, St. Peter's, and Missouri river railroad, presented February 17; a memorial of citizens of Iowa Falls, praying for a grant of land to aid in the construction of railroads west of the Missouri, presented January 27; a memorial of citizens of Fort Dodge, Iowa, praying for a grant of land to aid in the construction of railroads west of the Missouri, presented January 27; two memorials of citizens of Sioux City, Iowa, praying for a grant of land to aid in the construction of railroads west of the Missouri, presented February 11; a petition of citizens of Dubuque, Iowa, for aid to the Territory of Nebraska, in the construction of a railroad, presented January 4; a memorial of the Legislature of Iowa, in favor of restricting the sale of public lands to actual settlers, presented March 1; a resolution of the Legislature of Iowa, in favor of granting homesteads to actual settlers, presented March 10; a memorial of citizens of New York, in favor of granting homesteads to actual settlers, presented February 9; a memorial of citizens of New York, in favor of granting homesteads to actual settlers, presented February 10; a memorial of citizens of New York, in favor of granting homesteads to actual settlers, presented April 8; a petition of citizens of New York and New Jersey, in favor of granting homesteads to actual settlers, presented February 17; a petition of citizens of New York, of like import, presented March 29; a petition of citizens of New York, of like import, presented March 30; a petition of citizens of New York, of like import, presented February 16; a petition of citizens of the United States, of like import, presented February 8; a petition of citizens of Terryville, Connecticut, of like import, presented February 4; a petition of citizens of New York, of like import, presented February 1; a petition of citizens of New York, of like import, presented May 11; a petition of citizens of New York, of like import, presented May 11; a petition of citizens of Morrow county, Ohio, of like import, presented February 11; a memorial of the Legislature of Wisconsin, praying a donation of land to the Territory of Nebraska, to aid in the construction of railroads, presented February 24; a resolution of the Legislature of Iowa, praying a donation of land to aid in the construction of a railroad between the State of Iowa and Sioux City, on the Missouri river, presented March 1; a memorial of the Legislature of Iowa, praying a donation of land to the Territory of Nebraska, to aid in the construction of a railroad, presented March 1; a resolution of the Legislature of Iowa, asking a grant of land to a railroad between Prairie du Chien and Mankato, presented February 24; a memorial and resolution of the Legislature of Iowa, relative to a grant of land for improving the navigation of the Des Moines river, presented April 16; four memorials of citizens of Iowa, praying that land may be donated to aid in the construction of the Keokuk and Des Moines railroad, presented February 8; two petitions of citizens of Missouri, against any change in the application of land granted for the improvement of the Des Moines river, presented May 19; a petition of citizens of Warsaw, Illinois, against any change in the application of land granted for the improvement of the Des Moines river, presented May 21; a petition of citizens of Missouri, against any change in the application of land granted for the improvement of the Des Moines river, presented May 3; asked to be discharged from their further consideration, and that they lie on the table; which was agreed to.

BRITISH AGGRESSIONS.

Mr. MASON. The Committee on Foreign Relations have directed me to present a report, which, with the indulgence of the Senate, as it is not long, I will read:

The Committee on Foreign Relations, to whom was referred the resolution of the Senate instructing them "to inquire whether any legislation is necessary to enable the President of the United States to protect American vessels against British aggression in the Gulf of Mexico or elsewhere," and to whom has also been referred the message of the President of the United States communicating, in answer to a resolution of the Senate, information concerning the recent search or seizure of American vessels by foreign armed cruisers in the Gulf of Mexico, have had the same under consideration, and now report:

The documents accompanying the message of the President, show a series of aggressive acts on the commerce of the United States in the Gulf of Mexico, and off the West India Islands, by the naval forces of Great Britain, of a character so marked and extraordinary as to have fixed the attention of the country.

American vessels pursuing the paths of lawful commerce on the high seas, or passing near the American coast from one domestic port to another, under the flag of their country, have been pursued, fired into, and compelled to stop by the public force of a foreign Power; questioned as to their destination, their cargo, and the character of their crew; required to submit to an examination of their sea papers, and to a scrutiny into the objects and purpose of their voyage.

In other instances, American vessels anchored in the harbor of a friendly Power, at the port of Sagua la Grande, in the Island of Cuba, have been subjected to a police inquiry by the same foreign Power, and in like manner required to exhibit their papers, and to submit to questions as to their destination, the cause of their absence from home, and the number and character of their crews.

It would appear from the letter of the consul of the United States at Havana, (a document accompanying the message,) that not less than fifteen American vessels lying in the harbor, or in port at Sagua la Grande, were made to undergo this humiliating system of espionage, whilst six vessels on the high seas in the Gulf of Mexico, bearing their country's flag, were, as above stated, by actual exhibition and use of force, endangering, in some instances, the lives of those on board, compelled to stop and submit to detention, until a boarding officer was satisfied in such questions as it was his pleasure to put.

Besides the instances above cited, officially communicated with the President's message in reply to a call of the Senate, each successive arrival from the infested quarter brings intelligence of new and additional aggressions of like character, committed by the same Power, on vessels bearing the flag of the United States.

It has occasionally happened heretofore, under circumstances of misapprehension, or mis-construction of orders, or from other and like causes, that vessels of the United States have been subjected by the armed force of a foreign Power to visitation and search, in violation of international law, and in derogation of the independence of our flag, and in such isolated cases the honor of the country may have been sufficiently vindicated by a disclaimer of intended wrong or by rebuke of the officer offending. But the continuous and persevering character of the aggressions now brought to the notice of the country, and almost within sight of our shores, is sufficient to arouse the just indignation of the country, and calls, in the opinion of the committee, for the most prompt and efficient measures, to arrest at once, and to end finally and forever, the commission of like indignities to our flag.

The documents accompanying the message disclose the fact that these acts of visitation and examination of American vessels were sought to be justified under the plea of necessity for the suppression of the slave trade, supposed to be or actually carried out, between Africa and the Island of Cuba.

The committee will not go into any inquiry in reference to such alleged necessity. It is sufficient for them to know that the assent of the United States, although often invoked, has never been yielded to any such system of police on the seas. They rest on the position, not to be controverted, that by no principle of international law can a vessel under the flag of its country be visited or detained on the high seas in time of peace by any foreign Power under any pretext, or for any purpose whatever, without the consent of those over whom the flag waves.

Without going at large into the questions heretofore involved as to the rights of independent nations on that common highway of the world—the open sea—the committee deem this, nevertheless, a fit occasion to declare the principles always maintained by the United States as regulating the use of the open or high seas in time of peace, and from which are derived rights to the people of the United States admitting no restraint or qualification, and to be maintained at whatever cost.

There is no right of visitation, far less of search, to be exercised in time of peace by any nation on the ships or vessels of other nations, nor can there be so long as the laws of the civilized world touching the freedom of the sea are respected by civilized men. Such claim, therefore, having no foundation in law or in the equity of nations can never be tolerated by an independent Power, but in derogation of her sovereignty. Neither is there any distinction to be drawn in the claim of right between visitation at sea by the armed vessels of a foreign Power when unattended by examination and search, and such visitation when so attended.

The offense and violation of public law consists in the visitation, without regard to its purpose, when claimed as a right, against the will of the party subjected to it. Were it otherwise, there would follow, of course, the correlative right to arrest and detain the vessel until the visitation is effected.

The committee find these principles admitted and enforced by the opinions and the decisions of the most eminent judicial authorities, both in this country and in Great Britain.

[The case of the "Manana Flora," in the Supreme Court of the United States, reported in 11 Wheaton, page 1. And in England the case of "Le Louis," decided by Lord Stowell in 1817, and reported in Dodson's Admiralty Reports, vol. 2, page 210.]

They are founded in two simple elemental principles of public law: First, in the equality of all independent States; and, second, the common use, by all recognized States, of the open sea as a highway in time of peace.

Such are the rights and immunities of our citizens navigating the ocean, which have been flagrantly violated and outraged by armed vessels of a foreign Power in time of professed peace, and, in some instances, almost within sight of our own shores.

Indignant as the American people are, and ought to be, at the character and persistent repetition of such aggressions, yet their occurrence and gravity will opportunely supply the

occasion, and to end, now and forever, all future question as to this right of visitation at sea between the United States and the offending Power. And the committee refrain only from recommending at once such additional legislation as would be most effectual to protect the commerce of the country from aggressions of the character thus brought to the notice of the Senate, from the fact that the President (as shown by the letter of the Secretary of the Navy accompanying the message) has already ordered all the disposable naval force of the country into the infested quarter, with orders "to protect all vessels of the United States on the high seas from search or detention by the vessels of war of any other nation." These are preventive measures only, and temporary in their character, but, in the judgment of the committee, go to the full extent of the power of the Executive in the absence of legislative provision. It is believed, however, they will arrest, for the present, further like offenses in the quarter whence they have proceeded.

It appears further from these documents that the altered state of the relations between the United States and Great Britain, which must arise from this aggressive conduct of her armed vessels, has been already brought to the notice of that Power, by communications from the Secretary of State addressed both to the British Minister here and to the Minister of the United States at London.

It cannot be known until the result of these communications is laid before Congress how far the acts in question will be avowed or disclaimed by the Government held responsible. It is the earnest hope of the committee that the course that Government may adopt will be of a character to satisfy the just demands of this Government, and, at the same time, to furnish a guarantee against the repetition of the offense. Nothing short of this, in the opinion of the committee, will be compatible with peaceful relations between the two countries.

In the present posture of the affair, therefore, the committee forbear from recommending any additional legislation to enable the President to protect American vessels on the high seas from the aggressions of foreign Powers. But they will not forbear the declaration, that such legislation must be promptly supplied, should the result show that it is needed to afford instant and full immunity to vessels engaged in lawful commerce on the high seas from all arrest, molestation, or detention, made under any pretext, or from any quarter.

In conclusion, the committee recommend the adoption of the following resolutions:

Resolved, (as the judgment of the Senate,) That American vessels on the high seas, in time of peace, bearing the American flag, remain under the jurisdiction of the country to which they belong; and therefore any visitation, molestation, or detention of such vessels by force, or by the exhibition of force, on the part of a foreign Power, is in derogation of the sovereignty of the United States.

Resolved, That the recent and repeated violations of this immunity, committed by vessels of war belonging to the navy of Great Britain in the Gulf of Mexico and the adjacent seas, by firing into, interrupting, and forcibly detaining them on their voyage, requires, in the judgment of the Senate, such unequivocal and final disposition of the subject, by the Governments of Great Britain and the United States, touching the rights involved, as shall preclude hereafter the occurrence of like aggressions.

Resolved, That the Senate fully approves the action of the Executive in sending a naval force into the infested seas with orders "to protect all vessels of the United States on the high seas from search or detention by the vessels of war of any other nation." And it is the opinion of the Senate, that, if it become necessary, such additional legislation should be supplied in aid of the Executive power as will make such protection effectual.

I ask that the report and resolutions may be printed. The subject being of interest, one which properly attracts the attention of the country; and besides, that we may inform the Executive of the disposition and views of the Senate on the subject, I shall ask to-morrow morning that the resolutions may be considered.

The motion to print was agreed to.

BILLS INTRODUCED.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 414) to reimburse the corporation of Georgetown in the District of Columbia, a sum of money advanced towards the construction of Little Falls bridge; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. IVERSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 46) authorizing the payment of certain moneys to certain Cherokee Indians, remaining east of the Rocky Mountains; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. SEBASTIAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 415) to extend the principles of the preemption act to certain lands herein mentioned, and for other purposes; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 416) for the relief of Mark W. Izard; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Indian Affairs.

POST ROUTE IN MARYLAND.

Mr. PEARCE submitted the following resolution;

which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the propriety of establishing a post route from Smyrna, in Delaware, via Chesterville, in Kent county, Maryland, to Chestertown, in the same county.

ARKANSAS BONDS.

Mr. SEBASTIAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Finance be instructed to inquire into the expediency of a law authorizing the sale of the bonds of the State of Arkansas, now held in trust by the United States, and report by bill or otherwise.

RIVERS AND HARBORS IN CALIFORNIA.

Mr. GWIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of making an appropriation to preserve the works heretofore commenced to protect the harbor of San Diego, also to survey the rivers and harbors of California.

EXTENSION OF THE SESSION.

Mr. SEWARD submitted the following resolution, and asked for its immediate consideration; but several Senators objected:

Resolved, (the House of Representatives concurring,) That the resolution, directing the President of the Senate and the Speaker of the House of Representatives to declare their respective Houses adjourned *sine die* on the first Monday of June next, at twelve o'clock, m., be, and the same is hereby, rescinded; and that the President of the Senate and the Speaker of the House of Representatives declare their respective Houses adjourned *sine die* on Monday, the 21st of June next, at twelve o'clock, m.

COLLECTION OF THE REVENUE.

Mr. GREEN. I submit the following resolution, and ask for its present consideration:

Resolved, That the Secretary of the Treasury be requested to report to the Senate, at the commencement of the next session of Congress, a full and complete list of all collection districts for the collection of duties on imports; showing in each district:

1. The amount of revenue annually collected;
 2. The amount expended for salaries of officers and employees annually; and
 3. The amounts expended for custom-houses, or rents of offices, and warehouses.
- Also, that he state what custom-houses, or ports of entry or delivery, can be dispensed with, with a proper regard to economy and the security of the collection of the revenue, and consistently with commercial interests; or what modification of the laws are necessary for the public interests in relation to the collection of customs.

Mr. WILSON. I have no objection to the consideration of the resolution now; but I wish to move an amendment to it, or suggest one which I hope the Senator will accept, and that is, that the Secretary shall report the officers that may be discharged from these several offices.

Mr. GREEN. The resolution includes all that.

Mr. WILSON. I do not think that is covered by the resolution.

Mr. KING. In order that the Senator may look into it and have the resolution perfected, I object to its present consideration.

The VICE PRESIDENT. Objection being made, the resolution lies over.

APPROPRIATION BILLS.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House of Representatives had passed the following bills; in which the concurrence of the Senate was requested:

A bill (No. 243) making appropriations for the support of the Army for the year ending the 30th of June, 1859;

A bill (No. 556) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1859; and

A bill (No. 558) making appropriations for the transportation of the United States mail, by ocean steamers and otherwise, during the fiscal year ending the 30th of June, 1859.

On motion of Mr. HUNTER, the bills were severally read twice by their titles, and referred to the Committee on Finance.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The message also announced that the House of Representatives insists upon its amendment to the twenty-third amendment of the Senate to the bill (H. R. No. 201) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1859, disagreed to by the Senate, and upon its dis-

agreement to the first, fourth, fifth, sixth, eleventh, twelfth, twenty-first, twenty-fifth, twenty-sixth, twenty-seventh, and thirtieth amendments of the Senate to the said bill; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and has appointed Mr. J. GLANCY JONES, Mr. V. R. HORTON, and Mr. JAMES JACKSON, managers on the part of the House.

RECONSIDERATION.

Mr. POLK. I wish to make a privileged motion. At the request of another Senator, I move the reconsideration of the vote which was yesterday taken, refusing to increase the compensation of the officers of the revenue service; saying, at the same time, that I do not pledge myself to vote for the bill when it comes up. I voted against it; but, at the special request of a Senator, I move the reconsideration for the purpose of bringing the question before the Senate again.

The VICE PRESIDENT. That motion will be entered.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker of the House had signed the enrolled bill entitled "An act for extending the land laws east of the Cascade mountains in Oregon and Washington Territories;" and it was signed by the Vice President.

ORDER OF BUSINESS.

The VICE PRESIDENT. The special order of the day is the Private Calendar.

Mr. HUNTER. I move to postpone all prior orders, for the purpose of taking up the miscellaneous appropriation bill.

The VICE PRESIDENT. The Chair has called up the Private Calendar, this day being set apart by order of the Senate for the consideration of the Private Calendar. The Senator from Virginia moves that it be postponed with a view to take up the appropriation bill named by him.

Mr. IVERSON. I trust the motion of the Senator from Virginia will not prevail, but that the Senate will proceed to the consideration of the Private Calendar. We have devoted only two days in this whole session to the consideration of private bills, excepting when some were taken up out of their order in the morning hour. There are a large number of very meritorious cases, in my opinion, some of which I have reported myself, that I am satisfied ought to pass the Senate, and will pass the Senate if considered. It is important to private claimants—and certainly they have as strong a claim on the Government as any creditors—that their claims should be considered at this session of Congress, so that they may go to the House of Representatives and be considered there at the next session; for if they be not acted on at this session, of course there will be no possible chance for them to be acted on at the next session. Any bill which may pass now and go to the House of Representatives will stand some chance—not a very good one, I confess—to be acted upon during the next session of Congress by that House. I hope that the Private Calendar will be considered.

On the first of April, it will be remembered, I had a resolution passed, setting apart Fridays for the consideration of private claims. One business or another, especially the Kansas business, postponed the execution of that order from time to time, until about two weeks ago, when we took up the Calendar on one day, passing over such cases as were not the subject of debate; and on last Friday we did the same thing. Now, I insist, when there are a number of bills on the Private Calendar that were reported in the early stage of the session, but have not yet been considered, that justice requires that we should take them up and consider them.

I apprehend that the appropriation bill will pass, and the Senator from Virginia need not be in such a hurry to press it on the consideration of the Senate. I should have been very much inclined to introduce a resolution here, if it were not that it would be considered disrespectful to the Senator from Virginia, declaring that he is a nuisance to this body, [laughter;] for he constantly urges the appropriation bills to the sacrifice of everything else. Every morning he rises and moves to postpone everything to take up the appropriation

bills; and it is appropriation bill, and appropriation bill, and the same song forever, that the Senator from Virginia is ringing in the ears of the Senate on every occasion when he has an opportunity. I think it is asking too much; it is crowding on the agony rather too high; and I trust the Senate will not indulge the Senator from Virginia on this occasion, but let us go on with the consideration of private bills. I call for the yeas and nays on the proposition.

The yeas and nays were ordered.

Mr. SEWARD. I am going to vote for the motion of the gentleman from Virginia; but after the speech of the Senator from Georgia, I must say that it is not to be understood that I agree with him in considering the Senator from Virginia, in an unqualified sense, a nuisance. [Laughter.] My object is to go with him in postponing the Private Calendar for the purpose of taking up the river and harbor bills.

Mr. HUNTER. I believe, if my motion prevails, the appropriation bill will come up in its order, as a matter of course; everything prior to it being postponed. It will come up without further motion.

The VICE PRESIDENT. If the motion of the Senator from Virginia prevails, the Chair will call up the appropriation bill, which will then be subject to any motion that may be made in regard to it.

Mr. GWIN. I think it would be a great deal better for us to ascertain whether we are going to continue the session longer than next Monday week, before deciding this question. If we are to adjourn then, we ought to take up the appropriation bills, and act on nothing else. The appropriation bills that have been sent to us already, will require several days' consideration before we pass them. To the very bill the Senator from Virginia is going to call up, appropriating the sum of \$2,500,000, the Committee on Finance have added \$2,700,000. If we are going to consider the appropriation bills, and are to adjourn on Monday week, we ought to take them up and dispense with all other business before the two Houses, and the Senate especially. To that course I am opposed. I think it would be a disgrace to the country, after the report that came from the Committee on Foreign Relations this morning, if we were to do so. If Congress adjourns, with that question unsettled, and England persists, as I believe she will, in the course which she has adopted, we leave the Government without any means of asserting the rights and the honor of the country. To suppose that we can adjourn on Monday week, after receiving that report, looks to me as an utter impossibility. Therefore, I think the Senator from Virginia need not urge the appropriation bills, for we shall be forced, by necessity, to repeal the joint resolution for adjournment on Monday week, and we shall then have plenty of time, and can look at some of the meritorious private claims that have been here year after year, strictly scrutinized before the Court of Claims, and the Committee on Claims. We can at least get clear of our Calendar by considering those bills and rejecting or passing them. I think the proper course is to postpone the question of taking up the appropriation bill until to-morrow morning, and let us, in the mean time decide whether we are going to adjourn on Monday week. If so, the appropriation bills ought to be the special order every day at eleven o'clock.

The question being taken on Mr. HUNTER's motion by yeas and nays, resulted—yeas 31, nays 18; as follows:

YEAS—Messrs. Allen, Bell, Bigler, Bright, Clay, Clingman, Collamer, Crittenden, Davis, Dixon, Fessenden, Fitzpatrick, Foot, Foster, Hale, Hamlin, Harlan, Johnston of Arkansas, Jones, King, Mason, Pearce, Pugh, Reid, Rice, Sebastian, Seward, Slidell, Stuart, Toombs, and Wright—31.

NAYS—Messrs. Broderick, Brown, Chandler, Douglas, Fitch, Green, Hamlin, Houston, Iverson, Johnson of Tennessee, Kennedy, Mallory, Polk, Simmons, Tompkins of New Jersey, Trumbull, Wade, and Wilson—18.

The VICE PRESIDENT. The business now in order is the bill (H. R. No. 200) making appropriations for sundry civil expenses of Government for the year ending the 30th of June, 1859.

Mr. SEWARD. I move to postpone the consideration of that bill and all prior orders, and take up the river and harbor bills; and on that motion I ask for the yeas and nays.

The yeas and nays were ordered; and, being taken, resulted—yeas 17, nays 32; as follows:

YEAS—Messrs. Bell, Broderick, Chandler, Dixon, Douglas, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Seward, Simmons, Stuart, Wade, and Wilson—17.

NAYS—Messrs. Allen, Bigler, Bright, Brown, Clay, Clingman, Collamer, Crittenden, Davis, Fitch, Fitzpatrick, Green, Gwin, Hayne, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Pearce, Polk, Pugh, Rice, Slidell, Toombs, and Wright—32.

So the motion was not agreed to.

Mr. GREEN. I move to postpone the appropriation bill, in order to take up the bill (S. No. 120) for the relief of David Myerle. It is a case of very great hardship. The bill has passed the House of Representatives three times, and has passed the Senate three times, but never has passed both Houses during the same Congress; and as this is the day ordinarily set apart for the consideration of private claims, I think we ought to give them some little attention. I do not apprehend any difficulty in the passage of the appropriation bills, but I do think that justice demands a fair consideration of claimants' cases. It has been gravely proposed in the Senate to prolong the session in order to get time to vote a bounty in the shape of lands. I think it would be much better to take time to consider the just demands of our creditors. We had better be just before we undertake to be generous; and I therefore think that this bill ought to be considered. True, it may not have claims over other bills; but if we cannot take them in gross we must take them in detail, and I therefore submit that motion. ["Oh, no!"] It is suggested to me that it may be called up during some morning hour; and that being the case, I withdraw the motion.

CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 200) making appropriations for sundry civil expenses of Government for the year ending 30th of June, 1859.

The first amendment of the Committee on Finance was to add the following proviso to the clause appropriating for the coast survey:

Provided, That officers and men of the Army and Navy, when employed on coast-survey service which, in the judgment of the Secretary of the Treasury, causes unusual expense, may receive such reasonable allowance, in addition to their regular compensation, as the Secretary may direct: *And provided*, further, That the allowance for extra subsistence to the assistant in charge of the Coast Survey office shall not exceed the sum authorized by the regulation of the Treasury Department of the 14th of January, 1850; and that the allowance for extra subsistence to officers, when detached from the main party, shall not exceed the sum authorized by the Treasury regulation of May 11, 1844.

The amendment was agreed to.

The next amendment of the committee was in line eighty-two, to strike out "Holmes's" and insert "the best," so as to make the clause read:

For the purchase of the best life-boat, &c.

Mr. HUNTER. The committee instructed me to report this amendment. Afterwards it was reconsidered, and I believe a majority agreed to withdraw it. I was not in that majority. I wish the lines read as they are in the House bill:

The Secretary read as follows:

"For the purchase of 4 Holmes's life-boats, to be placed at each of the twenty-eight life-saving stations on the coast of New Jersey, \$6,410."

Mr. HUNTER. I understand, owing to that reconsideration, the majority of the Committee on Finance are in favor of voting down this amendment. I confess I incline to it. I do not think we ought to adopt any special legislation of this kind; we ought not to legislate for individuals in this way. I take it for granted the Secretary of the Treasury will take the best boat, if the power of selection be given to him. But I leave the matter with the Senate; I will not debate it.

Mr. FESSENDEN. Do I not understand that this amendment is withdrawn?

Mr. HUNTER. I understood the committee reconsidered it.

Mr. FESSENDEN. Then it is not to be voted on, I suppose?

Mr. POLK. I offer it.

The VICE PRESIDENT. The amendment is before the Senate.

Mr. FESSENDEN. The Senator is not authorized to offer it by any committee.

Mr. POLK. I suggest that when the Finance Committee have brought in their report, and it is

understood that they offer certain amendments, it is not fair to announce to us, after the bill is called up, that those amendments are withdrawn?

The VICE PRESIDENT. The Chair would state to the Senator from Maine that this amendment which the Senator from Missouri renews in case it be withdrawn by the committee, is not for an additional appropriation, but simply to change a word in the clause, the appropriation remaining as it was before.

Mr. FESSENDEN. I hope the amendment will not be made. I do not know that the Senator from Missouri proposes to give any reasons for his suggestion. If he does, I should like to hear them, because I may wish to have the privilege of answering them.

Mr. POLK. I do not propose to give any reason beyond this: that I do not want the bill to say that Mr. Holmes's life-boat shall be taken rather than anybody else's life-boat. Let it be the best life-boat.

Mr. FESSENDEN. I will state the reasons that influenced the majority of the committee, and they were perfectly satisfactory to me. The provision was moved in the House of Representatives by a member from New Jersey. My attention was attracted to his speech. I read it, and read it carefully. It was a speech so perfectly satisfactory to the House of Representatives that this clause, as he proposed it, should be inserted, that it was inserted, I believe, without a division. The arguments he gave—they have now passed from me—were satisfactory to me. The outline of it was that it had been ascertained satisfactorily by everybody connected with this service, those not interested at all in the boat, that this was the best life-boat unquestionably, and the only one that would answer the purpose. Not only that, but we understood that the boat had been here; it had been under examination by the officers connected with the Department, and they unanimously recommended it as the best for the purpose.

Now, the objection to inserting "the best," instead of "Holmes's," is, that the moment you do it, experience has shown there will be a rush on the Department by other people who have other boats; the matter will be delayed; there will be representations and misrepresentations; it will occasion a contest; and the result may be great embarrassment to the Department, and also to protract the thing itself, so that the boats will not be obtained so soon as they ought to be, and the question settled. This reasoning was satisfactory to the committee; it was perfectly satisfactory to the House of Representatives. I know nothing about it except what I heard there. I hope the Senate will disagree to the amendment proposed by the Senator from Missouri. It is a peculiar case. As a general rule I would not agree to such a provision; but if you open this matter to competition you will do injury to the service which is of great importance on that shore. I am perfectly indifferent to it, except, as I believe, the public interest would be much better subserved by not making the amendment proposed by the Senator from Missouri.

Mr. POLK. The reasons the Senator offers are not at all satisfactory to my mind. If it be true that this boat is the best boat, there will be no difficulty about its being taken. I will state the objection I have to the provision. I suppose this boat has something peculiar about it, some new arrangement; but if to-morrow another man should offer a model decidedly better, it could not be taken if you confine the Department to this one boat. In other words, we are not at liberty to have the best boat that may be offered under this clause, for we must take Mr. Holmes's boat. I am not willing to give any such advantage to Mr. Holmes or any other individual citizen. What is the difficulty, if the proper officers have already determined that this is the best boat, in their adhering to that determination?

Mr. HOUSTON. A selection is to be made of the best life-boat which can be obtained for security of life. For my own part, without investigating the subject, I am disposed to defer very much to the opinion of the committee who have had the matter before them, and I am ready to sanction their judgment. I wish to burden the Departments as little as possible with contracts. They are overwhelmed with duties; they have not had an opportunity to investigate the subject so thoroughly as the committee. I would much

rather the selection was made by them. There is no political influence operating on them. There is no personal importunity. There is no political influence brought to bear to press the claims of individuals, and warp the judgment of the head of the Department! I have no idea of troubling the Secretary with it, if it can be avoided. I defer very much to the opinion of committees when they have matured a subject and thoroughly investigated it; and I am prepared to vote upon the judgment and finding of the committee in preference to leaving the matter open to competition, and the judgment of one single man controlled by the influences by which he may be surrounded.

Mr. THOMSON, of New Jersey. In regard to this life-boat of Mr. Holmes, there is a very considerable difference of opinion, I find, existing amongst those persons who will be called upon to make use of it. I think it is but fair that those brave men upon the New Jersey coast, who are in the habit of boarding ships when stranded and in danger, should at least have an opportunity of being consulted as to the best kind of boat for that purpose. I know myself, from having been upon the shore, that they have a perfect abhorrence of the iron boat which has been furnished at very great expense by the Government, and they prefer the cedar-built boat which they are in the habit of using every day of their lives in going out to the fishing banks. I believe that is the best kind of boat, and I do hope that you will leave the Secretary of the Treasury at liberty to consult these surfmen in regard to the best boat to be used on the New Jersey coast. I think it is very likely that the Holmes boat may be a very good boat. She upsets very easily I believe, and she rights very easily; but these fishermen prefer a boat that will not upset so easily. I hope that the word "Holmes" will be stricken out.

Mr. TOOMBS. I think this objection is very well taken. There can be no reason in the world why the committee of the Senate, or the Senate itself, should determine the particular boat to be taken. This is a class of legislation that always leads to abuse, and is without responsibility. I presume there is no gentleman on the committee who knows anything more about the Holmes boat than I do. I do not suppose the honorable chairman would know it if he was to see it to-morrow. This action is based on representations made. We have not called all the boatmen here to determine which is the best, but we get the representations of an interested party with a patent. Is not any executive officer of the Government a better judge of what will be the best boat of all the boats submitted to him than you and I, sir, and all the Senators who are before me? Nine times out of ten it is a job, and nobody takes an interest in it but the man himself, who comes here or gets somebody to make representations for his benefit to mislead gentlemen in Congress. I recollect that a few years ago we passed a law by which certain patentees made a fortune, requiring that every steamboat should have Francis's life-boat, as if that was the only life-boat that would answer the purpose, and when that was done they charged what they pleased, and compelled the steamboat owners to pay it. As properly stated by the Senator from Missouri, you exclude competition if there should be a better boat.

I think, too, with the honorable Senator from New Jersey, that the hardy men who go out to save life in these boats, and use them, ought to be consulted to some extent, and it ought not to be put on me to select for them. I admit I am totally incompetent to determine. Then why should I determine it? I believe I am as competent as the Committee on Finance to do it. I believe they have not examined the subject more than I have. They may have had *ex parte* representations, but that is all they possibly could have. Are we to put this clause in without knowing anything about it? We must trust to the Executive Departments, and if they abuse the trust we shall have somebody to hold responsible. But if we do it ourselves nobody is responsible; the job is completed, the patentee makes money; but probably life is sacrificed, and the object of Congress is defeated.

Mr. POLK. I should like to know one other thing. If there is any gentleman here in favor of Holmes's life-boat, I ask him to tell me whether there is a patent.

Mr. TOOMBS. No doubt of it.

Mr. POLK. If there is, Senators can see at once that it is a monopoly to this man, who, as the Senator from Georgia says, can charge what he pleases.

Mr. TOOMBS. I have no knowledge of it. I never heard of it before; but I have not the least doubt that the only reason it is here is because it is patented.

Mr. POLK. I understand the Senator from New Jersey to state that the men on the Jersey coast, who are engaged in this business, do not want to be confined to this life-boat.

Mr. THOMSON, of New Jersey. They have never been consulted, and do not know anything about Mr. Holmes's boat.

Mr. POLK. The judgment of such practical men, at least to me, is the best criterion to be applied to such cases.

Mr. FESSENDEN. I do not know whether it is patented or not; certainly it is not a very large monopoly, for this is confined to twenty-eight boats; but, as I stated before, I have not the slightest feeling about this matter. I am surprised at the remarks of the Senator from New Jersey, because I understood from the statements made in the other House, that this boat was universally approved by the surfmen. This boat, itself, is made of cedar. I understood that they did not like the present boat, and did like this. I leave him, however, to settle that matter with his colleagues and constituents. I only say, as I said before, I do not care a sixpence, except in reference to the public service, whether it is taken or not.

Mr. HUNTER. I am of the same opinion I was originally, that Holmes's name ought to be stricken out, and we ought to leave it to the Department to select the best boat.

Mr. DAVIS. A few years ago we believed—and I am rather inclined still to believe—that the metallic life-boat was the best surf-boat. If we were in error then, I think it is a very fair inference that we are likely to be in error now. Then it was provided that the metallic life-boat should be used upon steamboats. It seemed to be overlooked when it passed Congress, if that was a patent, that it gave a monopoly to the patentee. It was also probably not seen that he had not the ability to furnish one of his life-boats for every steamboat that was required, under the law, to carry one. Here it is true the number is limited. But I waive all questions, and suppose that this is the best boat; let us grant that the committee of the House of Representatives have ascertained that Holmes's life-boat is the best boat for the purpose; it does not follow that it will be the best boat to-morrow. If it is the best boat to-day, it is because something has been found now which is better than that which we had two or three years ago; and why shall we not have another in the course of two or three years hence, better than this? Why may there not be a better to-day, unknown to the committee, supposing this to be the best known to them at this time? I think it wrong to insert the word "Holmes's;" I think it wrong to insert the word "best;" and, but for the fact that no one had alluded to that, I should not have risen at all. The insertion of the word "best," will give the party a right to claim of the Secretary of the Navy that he shall decide among all life-boats by some process which is considered best, and that he shall award the contract to the man who brings that boat. As a measure of economy, I would not subject the Department to the necessity of being driven to the purchase from some one who may be able to establish even that; but striking out the name of the patentee, and striking out the adjective, "best," to give the appropriation to buy life-boats, will, I suppose, answer the purpose.

As for myself, I am against this whole thing. I do not believe it is part of the duty of the Government to establish stations along the coast, any more than it is a part of the duty of the Government to follow particular stage routes and pick up passengers crippled by the upsetting of the stage. It is a subject over which I do not think the General Government ever had legitimate charge. Men incur hazards who go to sea. They incur hazards if they go on railroads or stage coaches, or upon a river; and the hazards of navigating some of our western rivers are probably as great as those of navigating the coast of Jersey. Why, then, shall you not establish stations all along those rivers to

pick up people from boats which are snagged, or persons who are crippled by explosions, by which sometimes large numbers of lives are lost?

Mr. MALLORY. It is eminently proper to strike out the word "Holmes's." This life-boat is an improvement upon the ordinary metallic boat—a very great improvement.

Mr. DAVIS. Is it a metallic boat?

Mr. MALLORY. No; it is a cedar boat—an improvement on the metallic boat. It requires less force to propel it through the water. Life-boats are required for various purposes; and for some purposes it would be perhaps the best boat we now have; for others, it would be entirely useless; for example, on the deck of a ship as a buoyant boat to float passengers off. It perhaps has more power than any boat which has been invented; but others will improve upon that. It is a novel model—one that has been thoroughly examined; and it is here. It possesses these qualities in a very eminent degree. But, as for the power of pulling off to a stranded ship against the wind, (for the wind is always against the boat or the ship would not be there,) I contend it has no such power. It would be perfectly impossible for human nature to propel such a boat as the Holmes boat from the shore to a stranded ship, unless you haul it by a line.

Apart from the general impropriety of legislating for a particular man, we know that these things are undergoing improvement every hour; and if you leave this open to all enterprising young men engaged in these researches, you will hold out here a bonus to them to improve on this very boat, and you may get a better one; you will hold out an incentive to the inventor himself to improve on the boat he has already exhibited.

Now, in response to the remarks of the Senator from Mississippi, I will say that the metallic boats are in many respects utter failures. For example, on the part of the coast which I represent—some two hundred and fifty miles—perhaps more strandings of vessels occur, and more disasters to ships, than on any other portion of the coast of the United States. Two metallic boats have been stationed there for the last ten years, and they have never yet been used for any purpose of wreck. It would be impossible; you cannot put men enough in either of those boats to get them off to a wreck in case of storm. A house has been built for them, and they are there at the public expense; and when they have rotted out two more will be supplied, because the constructors and patentees of these boats are always around the Halls of Congress watching where boats are wanted for particular spots, and inducing these appropriations. The provision in the law as to metallic boats originated with the inventor, and not with the wants of commerce. The only life-boat which, upon stormy coasts, is used by practical wreckers when they go off to ships, is the smallest and lightest possible cedar boat that can be built, not over ten or twelve feet long. Only with a small body of that kind can you approach a vessel against the wind. These boats are entirely useless unless for floating. With the method of going off to wrecks, as I understand it, on the coast of New Jersey—that is, throwing from the shore a shell over the ship, attached to a line, by which a hawser is hauled off shore and the boat hauled off—Holmes's life-boat may be the very best for that particular *modus operandi*; but if you leave out the word "Holmes," he will probably improve on this himself.

The amendment was agreed to.

The next amendment of the Finance Committee was, after line one hundred and thirteen, to insert:

For making the surveys of the confirmed private land claims in California, the surveyor general is hereby authorized to pay such sum as he may deem reasonable, according to the circumstances connected with each case, not exceeding at the rate of twenty five dollars for each mile of the boundary lines of any claim, and also for such lines as may necessarily be run and marked or measured, in order to connect the lines of such claim with those of the adjacent public surveys.

Mr. BRODERICK. I ask the honorable chairman of the Finance Committee what this amendment is for?

Mr. GWIN. I can answer the Senator by the reading of a letter from the Commissioner of the General Land Office, whose recommendation I hold in my hand, approved by the Secretary of the Interior. I send it to the Secretary to be read.

The Secretary read, as follows:

GENERAL LAND OFFICE, April 13, 1858.

SIR: * * * * * The memorialists also think the present rates for the survey of "private land claims" wholly insufficient, they representing that in the discharge of their duties they are frequently compelled to take testimony, occupying time, whilst their expenses are accumulating. They therefore ask, in consideration of the reasons thus assigned, that the present rates for surveying "private land claims" may be increased, and that they be paid for their service as soon as the work has been approved by the surveyor general and the General Land Office, notwithstanding a controversy may arise about the boundaries designated by those surveys, or a protest entered by an adverse claimant.

After a careful consideration of this question respecting the surveys of "private land claims," and in view of the difficulties encountered in this branch of the surveying service, and the importance of securing skillful and faithful deputies, I am of opinion that the maximum of rate allowed by law should be increased, leaving it to the surveyor general to adjust the compensation within that maximum to the difficulties of the survey; and, with your approbation, I recommend a relaxation of the rule, so as to allow payment when the work is approved by the surveyor general, and he sends a certified account, without awaiting adjustment under an appeal or protest entered by an adverse claimant.

In respect to the rule of this office (replied herewith) forbidding deputies from receiving compensation from the party interested in the survey, I have to say that such practice is deemed wholly incompatible with what the Government requires from all its officers in the discharge of their public duties—freedom from bias and from the temptations presented by the exercise of such a privilege.

From a careful consideration of the reasons offered by the deputies, in the memorial in favor of an increase of the price for surveying private land claims in California, I incline to the opinion, and therefore recommend, that the present rate be increased to twenty-five dollars per mile, which will include a maximum rate amply sufficient to afford a generous remuneration to the deputies, including all incidental expenses, and thus secure the service of the most skillful and experienced deputies, an object so much to be desired in the survey of private land claims, and a relaxation of the rule as to payment for approved surveys when conflicts exist, as hereinbefore suggested.

I have the honor to be your obedient servant,
THOMAS A. HENDRICKS,
Commissioner.
Hon. JACOB THOMPSON, Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
WASHINGTON, May 10, 1858.

SIR: I concur in the opinions expressed in your report of the 13th ultimo, upon the memorial from certain deputy surveyors in California, which was submitted to this Department on the 3d of March, through Hon. W. M. Gwin.

* * * * * Very respectfully, your obedient servant,
J. THOMPSON, Secretary.

To the Commissioner of the General Land Office.

Mr. BRODERICK. I am not aware that it is more difficult to make surveys in California than in any other State. I find that there is an appropriation of \$100,000 already in this bill, in this clause:

"For surveying the public lands and private land claims in California, including office expenses incident to the survey of claims, and to be disbursed at the rates prescribed by law for the different kinds of work, \$100,000."

I would ask my colleague how that money is to be expended; if it is to be given to the surveyor general to expend without making any returns to the General Land Office?

Mr. GWIN. Certainly not. It is for surveying public lands and private land claims. An appropriation has been made in the same terms since the first time the surveys commenced. This is the ordinary appropriation made for every surveyor general in every land district of the United States for surveying public lands and private land claims, all of which is done under the instructions of the Commissioner of the General Land Office. So far as this particular amendment is concerned, I will observe that such a provision was recommended by the former surveyor general and has been recommended by the present surveyor general. It was brought by me before the Senate, at the last session, as soon as I took my seat here. The necessity for it arises partly from the fact that the expenses of fitting out a party to survey private land claims is as great, perhaps, as it is to run township lines and section lines. They are frequently detained a great while. They have to run along meandering streams. If mines are discovered, it takes additional trouble. They have to take testimony as to the boundaries of private land claims in some cases. It has been ascertained that the prices allowed by the present law for the public surveys precludes deputies of capacity from undertaking this service; and heretofore private claimants, in order to have their lands separated from the public lands, have been in the habit of paying a compensation which would justify the deputy surveyors in undertaking the survey of those claims in addition to their pay from Government. The result has been dissatisfaction, arising from an apprehension that deputy survey-

ors receiving compensation from private owners of lands might be biased so as to run lines in a manner that might be prejudicial to the public interest. It is considered better that there should be sufficient compensation given by Congress to prevent any suspicion from arising in the public mind that deputy surveyors could be influenced in these matters by any other consideration than their duty to the Government and to the people. It has been the practice, from the time we acquired territory in Louisiana up to this hour, to survey the private land claims confirmed by the Government, when the title is finally decided, and the United States have always paid the expense of such surveys, and not put it on the claimants. The appropriation of \$100,000 is to be used by the surveyor general in surveying public lands and private land claims in California. This amendment does not increase the appropriation at all, it merely directs the rate at which a portion of the service may be paid for. Heretofore, until within the last few years, the appropriation has been \$300,000.

Mr. BRODERICK. I am opposed to the additional appropriation. I cannot see that it is required. The surveyors in California are very well paid. I never heard any complaint before that they were not well paid. I have known surveyors there to make a very large sum of money. One surveyor, I recollect, made some \$40,000 out of seven months' work, under a contract with the former surveyor general, Mr. Hays. I hope this additional appropriation will not be made.

Mr. GWIN. This is asked for by every deputy surveyor in California, by the surveyor general, by the Commissioner of the General Land Office—who is very close about such matters—and by the Secretary of the Interior. I am perfectly satisfied that it will aid in separating the private land claims from the public lands in California, and therefore be beneficial. But for this, I should not have asked for it, because I do not want anything appropriated for California that is not necessary.

Mr. FESSENDEN. I was opposed to this amendment, as a member of the Committee on Finance, because I was not satisfied, from any evidence I saw, that it was expedient to put it in the bill; and since I find that the two Senators from California disagree upon the subject, certainly there is additional ground to doubt its expediency. The Senate will recollect that, at this very session, we have been called upon to pay \$250,000 which the surveyor general of California had spent, without authority of law, over and above the amount that was appropriated by Congress for surveys there. That item was put in the deficiency bill, and we paid the money. The argument was, that obligations had been incurred, that the money was due to honest men, who had performed the service, and that we must pay it. Now what appears? The bill appropriates \$100,000 for this service generally in California. The rate, as I understand, is fixed by law at fifteen dollars a mile, for good and bad as it comes, hard and easy; and this has been found to be sufficient. There has been no complaint, that I have ever heard of, that it was not a sufficient allowance. This proposition is to allow the surveyor general of California, at his discretion, to pay twenty-five dollars a mile, instead of fifteen dollars, for these private surveys. Every one can see that, that being so, it abstracts just so much from the amount of the appropriation for public surveys, and consequently from the service to be performed. On what is this founded? Representations of the deputy surveyors themselves that they ought to have more pay; and on these representations and their petition, urged and backed up by the senior Senator from California, the Commissioner of the General Land Office says he inclines to the opinion—that is his expression—that the price had better be enlarged; and then the Secretary of the Interior adds a letter that he sustains the inclination of opinion of the Commissioner. Of course, he knows nothing about it, except from the statements of the Commissioner. That being so, and the junior Senator from California stating that there is no greater difficulty, as a general rule, in running lines in California than anywhere else, there does not seem to me to be any good reason for us, on such loose declarations, to increase this allowance to nearly double the usual amount for running out the pri-

vate claims. If the gentlemen employed in this service are all so honest and upright, such men of integrity as we are told they are, I see no very great difficulty in allowing, if it is necessary, the private claimants to pay part of the expense. It is always the case between individuals, that such expense is shared, and I do not believe any very great harm would come, in individual cases, in allowing that to be done still. I was opposed to the item originally, because I did not see any sufficient evidence on which to sustain it; and I am still more opposed to it when I find that the two Senators from California differ entirely as to its necessity. It is only putting ourselves in the same position again to spend more money, and to be called on to make up deficiencies in California at a very large rate.

Mr. GWIN. The Senator from Maine intimates that it is by my importunities that this recommendation has come before the Senate, and that it is on no other recommendation than that of the deputy surveyors. Why, sir, if he had paid some attention to the discussion that took place here before, and if he had also looked at the history of the legislation of the last Congress, he would have seen that this proposition was advocated by the past and present surveyor general. It was brought before the Senate by me on a memorial of the last surveyor general, during the last session of Congress. A bill was then introduced by me and referred to the Committee on Public Lands, increasing this compensation. It was submitted to the Commissioner of the General Land Office, and the Secretary of the Interior, and they reported against it; but after a thorough examination, subsequently, into the question, they have now recommended it; the very thing they reported against last year. The cause of its coming up now, and being here prominent, originates from the fact that the late Attorney General, Mr. Cushing, when he went out of office dismissed a vast number of the appeals in private land claim cases. The whole object is to give a discretion to the surveyor general, so that he can have those claims summarily surveyed, so as to separate them from the public lands, and have them patented at once; for there is nothing that has inflicted greater injury on the people of California than the want of knowledge of the line of the private land claims, and the sooner they are patented the better for the whole country. My object is to give this discretion simply on the recommendation of all the proper officers. My knowledge of the subject is entirely derived from the information I have received from those officers.

Mr. BRODERICK. Fifteen dollars a mile, I believe, has been allowed to surveyors in California, for the last five years, for all surveys made. The price of living is much lower now than it was four or five years since—I think seventy-five per cent. lower. We live in California now as cheap as we can live here. I find everything here as high as I found it in California before I left; and I can see no necessity for appropriating an additional sum for the purpose of paying surveyors there. You will find plenty of them there willing to work for the amount provided in the law, without this additional allowance now proposed to be made.

Mr. TRUMBULL. I find that the original bill, as it came from the House of Representatives, contains an appropriation of \$100,000 for surveying the public and private land claims in California, which is the precise amount of the estimate from the Department. The letter of the Secretary of the Treasury, transmitting the estimates of appropriations required for the service of the fiscal year ending June 30, 1859, recommends an appropriation of \$100,000 for this purpose, and that is the precise sum which is embraced in the original bill, without this amendment. It seems that the Commissioner of Public Lands, and the Secretary of the Interior, when they made out their estimates, did not consider that anything more was necessary. The original bill provides the amount they estimated; and I do not see why this discretionary power should now be given to the surveyor general in California, to pay a larger amount than was asked for in the estimates of the Commissioner of the General Land Office, founded, of course, upon information derived from the officers in California. I do not think there is anything in the conduct of the surveyor general whom we have had in California, who has run

the Government in debt more than two hundred thousand dollars, without authority, that should particularly commend him to the favorable consideration of Congress, or require a special act giving him a discretion in the disbursement of money. I am opposed to the amendment, and I hope it will not prevail.

Mr. GWIN. It is not intended for the benefit of any person but those who have private land claims in California, which have been dismissed from the Supreme Court of the United States. They want those claims separated from the public domain, and it has been decided by the Secretary of the Interior that they shall not contribute a cent from their own private means to separate their lands from the public lands, define their boundaries, and get their patents. The question is simply whether or not the surveyor general can employ competent surveyors to survey the private land claims at the present prices. If so, he will not exceed them. The experience of both the surveyors general, the past and the present one, is that they cannot. They have therefore employed deputy surveyors at increased rates to survey these claims, and up to this time they have been surveyed principally in that way. It is now determined by the Secretary of the Interior, and for good reasons, that they shall be paid only by the Government of the United States, in order that they shall be entirely free from any bias by getting compensation from private claimants. The only object in asking this authority is to give that kind of discretion which is considered to be needful by the proper officers, to allow additional compensation if it is necessary to do so, for surveying the private land claims. We want to get them entirely out of controversy, and have patents issued for them as rapidly as possible. As far as I am concerned, I am perfectly confident that the power asked for will not be abused; and I believe it will facilitate the surveying of the private land claims, and their being patented by the General Government.

Mr. BRODERICK. My colleague need have no fears about the surveyors receiving compensation from the owners of private land claims. That will be a matter between the private owners and the surveyors; the Government will not find out anything about it. If these land owners are anxious to have their surveys made, they can compensate the surveyors and it can be a matter of business between them and the surveyor, and no one else will know anything about it. I hope this appropriation will not be made.

The amendment was rejected.

The next amendment of the finance committee was to strike out the lines one hundred and twenty-five, one hundred and twenty-six, and one hundred and twenty seven, in these words:

"For continuing the survey of the base, meridian, correction parallels, township and section lines, in the Territory of Utah, at augmented rates, \$15,000."

The amendment was agreed to.

The next amendment was to strike out from the item for the collection of agricultural statistics, &c., the following proviso:

"And provided also, That no salary or compensation to any person for services in collecting or distributing seeds, cuttings, and so forth, shall be paid out of this appropriation."

Mr. PUGH. I should like to ask the chairman of the Committee on Finance why this proviso should be stricken out? I should think it was quite enough for us to buy all these seeds and cuttings, without having officers salaried for the purpose of collecting and distributing them.

Mr. HUNTER. If you keep in the appropriation for collecting seeds and distributing them, you must have somebody to distribute them or they will accumulate in the Patent Office.

Mr. PUGH. It was supposed there were persons enough employed in the Patent Office to do this business.

Mr. HUNTER. If the Senator can prove that, then there would be no necessity for striking out the proviso. I have no objection to striking out the whole appropriation.

Mr. ALLEN. For several years I was chairman of the Committee on Agriculture of the Senate; and I had frequent occasion to consult with Mr. Browne, who has care of this department in the Patent Office. I certainly think he requires great aid to distribute the various seeds and plants committed to his care. If we get the seeds there,

we must certainly deliver them out to some one, or they must rot in the Department.

Mr. PUGH. I do not care much about the proviso; but I wish to know whether it would be in order for me to move to strike out the entire appropriation. ["Certainly."] If so, I move to strike out from the one hundred and forty-first to the one hundred and fifty-third lines of the bill, inclusive.

Mr. HUNTER. I do not think the Senator wants to keep in the proviso. His object is to strike out the whole clause.

Mr. PUGH. Let us take the question on the proviso; and then on striking out the whole clause.

The amendment of the committee was agreed to.

Mr. PUGH. I now move to strike out from lines one hundred and forty-one to one hundred and fifty-three, inclusive—in these words:

"For collection of agricultural statistics, investigations for promoting agriculture and rural economy, and the procurement of cuttings and seeds, \$50,000: Provided, That it shall be the duty of the Commissioner of Patents to submit to the Secretary of the Interior, at the commencement of each session of Congress, the invoices of seeds and cuttings purchased with the money hereby appropriated; and also a statement of expenses in procuring agricultural statistics, and incidental expenses in procuring seeds, cuttings, and information."

I only desire to say a word or two. If this is the day of economy, as we have heard so often in this Chamber, I should like to know on what pretext an appropriation of \$50,000 can be vindicated for buying all this trash that is furnished us at every session. It takes up the time of members of Congress, it loads down the mails, it increases the expenses of the Government, not merely in the sum named, but in the inordinate appropriation for the service of the Post Office Department. There is no use in it; it is of no benefit to the public at large. Only a few persons at every post office get these seeds. In my judgment it is an extravagant waste of public money. I hope the Senate will strike it out; at all events, I demand the yeas and nays upon it.

Mr. HUNTER. I quite concur with the Senator from Ohio, and I will vote with him with pleasure. We acquiesced in the amendment because we know it is popular in both Houses, and perhaps popular in the country. He will find that he will get very few votes for his motion; I will be one with him. I think there are even more mischievous results from the appropriation than those he mentions, but probably he will find this the strongest provision in the bill.

Mr. GREEN. I shall be one of them. That will make three votes at least.

Mr. TOOMBS. Put me in.

Mr. GREEN. It is not only an expense, but it is a public injury. I received certain tobacco seed a few years ago, and I thought it would be accommodating a friend to send it to him. When I got home, the first word said by my old friend was, "you have ruined my crop: I got your seed, I took it for granted, coming from the Patent Office, it must be very fine; I put it in the bed, set out the plants, and it is all little stuff not worth a sixpence." He lost his whole crop. It was fine land, Missouri land, which is not Virginia land. [Laughter.] I hope the appropriation will be stricken out.

Mr. HOUSTON. I shall not vote with the gentlemen who announce their intention to strike out this appropriation. I think it one of the most useful in the bill. I am not one of those who decline the little offices of duty to my constituency; I am anxious to distribute seeds, and to disseminate the best possible that I can obtain. Throughout the State which I represent—and it is not very circumscribed in its limits—persons are writing to me to obtain seeds, of various kinds, from the Patent Office of the United States; announcing to me, in many instances, the excellent products they have had from those they have received on former occasions, and requiring others of a different character. They have husbanded those they have obtained, and distributed them among their neighbors; and their production has been very fine.

In addition to that, persons living remote from the center, where we now are, have not an opportunity of obtaining them through any other medium than the Government. The distribution of seeds, and transporting them, does not incur any

additional expense to the Government. The expense is only here. If they incur the mails, that is a matter for the contractors; and they would not agree to abate anything if that branch of agriculture were dispensed with. The contracts for transporting the mail would be as great then as now, I have no doubt; so that, on that ground, there would be no saving.

My honorable friend from Missouri says he ruined a man's crop; and, therefore, the seeds ought not to be distributed, and ought not to be collected, no matter how useful they may generally be. He gives a particular instance in which some man, not understanding the character of the seed he received, or the culture of the plant, or the value of it when produced, thought he was ruined. No doubt, if that man had known how to take care of that tobacco, how to cultivate it, he might have made a fortune by it. There are some persons in eastern Texas I know that have this year shipped vast quantities of tobacco, and, doubtless, will sell it at two dollars a pound. It is the Cuba tobacco; and, I presume, that is a description not suited to the climate and latitude of Missouri—it being a cold, northern climate; and the distribution of Cuba tobacco seed was a failure in that section of country; but I have no doubt it succeeded in fifty instances where the climate was adapted to it. A man who reasons on the subject, knows that all descriptions of plants are not suited to every variety of climate. That man ascertained by that experiment that the description of seed he had received was not suited to the climate of Missouri; but that does not prove that it was not suited to a southern climate.

My opinion is, that we cannot expend this amount of money to greater advantage for the community at large in any other way we can invest it. At one time there was an attempt made here to put down the Patent Office report. Why, sir, not a day transpires that I do not get applications not only from the State which I represent, but from different parts of the Union, for Patent Office reports, the agricultural part and the mechanical part. In different sections of the country I find the people are anxious for their distribution, so that I really think these two branches of expenditure are the most useful that are made in the country. For that reason, I shall vote against striking out this appropriation, believing as I do that the distribution of seeds and cuttings and yams and various other things that are disseminated through the southern country, is the most beneficial use that can be made of the same amount of money, and the community are more largely benefited by it than by any other expenditure of the Government. I shall therefore vote against striking it out.

Mr. BIGLER. Mr. President, our annual expenditures for the support of the Government, we are told here daily, are running up to sixty or seventy million dollars. Here is a small item for one of the most important branches of industry—\$60,000 for the uses of agriculture. I do not propose to inquire how far the distribution of seeds has answered the purpose intended. I know that would be a subject of great controversy, for I am aware that there are serious complaints as to the administration of this department, and that impositions have been practiced in the distribution of seed. But, sir, I do not feel willing to strike down this department, to refuse the appropriations, to leave the machinery standing without the means of carrying it on. If experience has demonstrated that this department of the public service is unnecessary, that it has failed to accomplish the end designed, let us consider that question appropriately, and abolish the office and the officer; but I am not prepared to do that. I think the agricultural interests of this country are entitled to this small pittance, although it may not operate as satisfactorily as had been hoped. I would very willingly agree to a proper inquiry into this subject; to have it fully inquired into, and if it was ascertained that it was unnecessary or unsuccessful, to abolish this branch of the agricultural department; but I do not think it wise to withhold the appropriation while the machinery is allowed to exist. I shall vote to continue the appropriation.

Mr. GREEN. The Senator from Pennsylvania is entirely mistaken, if he supposes there is any such department of the Government. I know of none such. An agricultural department of this Government! When was it organized?

Mr. BIGLER. I did not say an agricultural department.

Mr. GREEN. What then?

Mr. BIGLER. It belongs to the Patent Office.

Mr. GREEN. Where is our right to establish a Patent Office? Because the Constitution says we have a right to give exclusive privileges to discoverers and inventors of useful machines; and on that ground you undertake to establish an agricultural bureau! The proposition has been made in Congress time and again, but always voted down. I know how popular it is to pander to a popular sentiment, and to praise the farmers.

Mr. BIGLER. Will the Senator allow me a moment? Is not this duty performed under a law? Is it not a duty required at the hands of the officers? I say the machinery exists.

Mr. PUGH. This is the only law on the subject. If we leave out the item, there will be no law for it.

Mr. GREEN. I say I am aware of the fact that politicians are apt to suppose that to flatter the mechanics, the farmers, the "mud sills," will be very proper; but, sir, I want this Government confined to its legitimate purposes. It has the right to make property of that thing which, without law, would not be property; and that is to grant an exclusive right to the man who makes a discovery. By natural law it would be no property. The moment he used it and another saw it, the latter could use it also; but by constitutional provision, and by the law of the land, his discovery is made property. There is no other property in the world made property by law. Under this guise, under this limited grant given to stimulate discovery and inventive genius, we are undertaking to build up an agricultural bureau, and then to sustain it vote large appropriations out of the public fund collected of all the people, to do no good, and in violation of the Constitution. I know that Missouri is as much interested in agricultural production as any other State, in proportion to population, and I know it is as much my interest to flatter the people of Missouri as anybody else's; but I will not vote the people of Missouri one dollar when I have not the right to do it. What right have I to furnish their seed-wheat, their seed-corn, and their seed for tobacco, and for hemp and other productions? Is this Government to carry on a large farm, to furnish seed, slips, and cuttings for garden plants, orchards, and nurseries? When the association of States was formed, it was supposed to be a Government to conduct our foreign relations, and nothing in reference to our internal relations except the specific powers specified in the Federal Constitution. We are departing further and further from it every day, I am sorry to see; and we are appealed to because farmers are a popular class, and a meritorious class; and we are appealed to on behalf of mechanics, because they, too, are meritorious.

Sir, all classes of the community are meritorious, and I trust I shall always find it in my heart to love them all alike, not to put one above another because it is a more numerous class, and will give more votes. They are all alike. Each performs his functions in the machinery of society. Each is entitled to honor according to the manner in which he discharges that duty. But let individuals pursue their own avocations; let Government pursue its duty, and confine itself to the performance of that duty; and not buy seed to distribute; or buy machines to distribute. We have the same right to buy machines to give to the factories in the Northeast, as we have to buy seed to give to the farmers, and brood-cattle and horses to give to the stock raisers. It is a departure from the object of the Government; it is a practical violation of the Constitution, which we all ought to support.

I know it is an ungracious task to expose these things; I know it is unpopular to say one word against them. If my popularity depends on pandering to a vitiated taste, I want it to go. I will defend the truth as I understand it; because I know the people well enough to know there is honesty in their heart that will respond to it, and sustain the man who does it. Why, sir, what good does this seed do? None. What harm does it do? It loses crops; it taxes the public to buy them; it taxes the mails to carry them; all of which is a public injury, and a public injury done in violation of the Constitution. I know we have a right to establish a Patent Office, because there is a

special, specific power given in the Constitution; but that is to issue letters patent.

It is time for us to cast about us and reflect upon the tendency of congressional action. Under a specific grant of power to particular men who make discoveries and who ought to be protected, and which makes property of that which, without law, would not be property, we have gone on to extend the Patent Office until it is to be a common almoner of the farmers and mechanics of the country. Of the Patent Office report this last year—the last one I have seen, at least, for 1856—three fourths does not pertain to the Patent Office. It is a long history of squirrels, of scorpions, of bats, of vampires; and it, too, is a vampire, sucking the blood of the Treasury. Why is this? What right have we to publish an essay upon quadrupeds, birds, bats, and beasts? Is there any constitutional power to do it? It is a departure from the original purpose for which the Constitution was designed when it said Congress should have power to grant exclusive rights to inventors and discoverers. Some good suggestion may occasionally occur in the Patent Office report, and it would be very strange if it did not; but I should like for any Senator to say whether, out of the five hundred pages, he can find five pages of sensible matter pertaining to the legitimate objects for which the Constitution designed the Patent Office. So with the seed, and so with everything else connected with it.

I exceedingly regret that I have been compelled to enter my protest against it, and I regret it because the public will say, "you are coming in contact with the farmers; you do so much for the mechanics; you do so much for the commercial interests; and why not do something for the farmers?" I am as anxious to do all I can for the farmers as for any other class; but when I have no power to do it, a sensible farmer would not ask me to do it, an honest farmer would not expect me to do it, and I will do no more for any one class than I will do for the farmers, except where there is a special constitutional power and duty incumbent on me, as in the case of inventors. They are entitled to a special protection under the Constitution, to which others are not entitled; and that will apply to the farmer as well as to the mechanic. If he can make a discovery which is useful to his fellow-citizens, he can be protected in it as well as the mechanic. They can all be protected alike. Let us simplify this Patent Office, and bring it down to first principles. Let us throw off all this extraneous matter, and this wasteful expenditure of money; this breaking down of the mail; this destruction of the crops; this heaping up of burdens on the people unnecessarily, and in violation of the Constitution, and come back to the starting point as it was fifteen years ago. Why, sir, fifteen years ago, according to my recollection, the Patent Office report was about ten, fifteen, or thirty pages. As late as 1844 it did not make three hundred pages. In 1856, it was four large volumes, each one numbering at least five hundred pages—two thousand pages of Patent Office report. It is an expense. It is not a benefit. It is a departure from the original purpose as designed by the Constitution; and I hope, therefore, this proposition will prevail.

Mr. WILSON. I shall vote for the motion made by the Senator from Ohio. This is a proposition to appropriate \$60,000 for the purchase of seeds, which amounts to about two hundred dollars for each member of the Senate and House of Representatives. Last year, I think we appropriated seventy or seventy-five thousand dollars, amounting to nearly two hundred and fifty dollars a piece; and, I venture to say, we can buy for five dollars all the seeds each member receives. I think we ought to do all we can to cut down this matter of distributing seeds and documents. The members of Congress have become simple agents for the distribution of seeds and documents in the country; and it is a tax on our time, which prevents us from devoting hours that we ought to devote to the reading of the bills and the papers necessary to give intelligent votes in Congress. I believe the country receives no benefit from all this vast outlay. I shall vote on all occasions to cut this matter down, and to keep it out of Congress.

Mr. IVERSON. But two Senators upon this floor have advocated this appropriation of \$60,000. One is the Senator from Texas, [Mr. HUSTON,] and the other the Senator from Pennsylvania, on

this side of the Chamber, [Mr. BIGLER.] Now, sir, the Senator from Texas, I believe, does not claim to be a member of the Democratic party. In fact, I do not know what party he does claim to belong to. I think he is rather a sort of mongrel politician, and it is very difficult to classify him. He goes for about anything and everything that suits his own discretion and taste; and his taste is generally very correct. He can advocate this thing and that thing and the other and anything he chooses without being inconsistent, so far as regards his political principles, because I do not understand that he professes any political principles. But the Senator from Pennsylvania, within the sound of my voice—he is not in his seat, but I should like him to come in because I want to catechise him for a moment—professes to belong to the Democratic party; at least he is a member of the Democratic organization; and the cardinal principle of that party, if I understand it, is, that Congress can exercise no power, except the power be granted in the Constitution, or it be necessary and proper in order to carry out some specific grant.

Now, sir, I ask the Senator from Pennsylvania for a little information. I am a mere tyro in politics, and he is a very experienced and distinguished man. I desire him to point out to me the clause in the Constitution which authorizes Congress to expend money to buy seed for the planters. I ask for information; because if there is such a clause, I have never been able to discover it. Perhaps the greater acuteness of that Senator may have enabled him to discover the clause which authorizes this appropriation. I wish to be informed; I am a scholar ready to receive information. I want the Senator to point out to me the clause in the Constitution of the United States which authorizes the expenditure of money out of the public Treasury to buy seeds to distribute to the planters of this country, or to buy any other property for general distribution. The Senator, like myself, went to that desk, when he was introduced into this body, and took a solemn oath to observe the Constitution of the United States. This is a Government of limited powers. It can exercise no power except that which is specifically granted. Now, sir, I want that Senator to answer me, how he reconciles it to his conscience, as an honorable and honest man, to vote for such a proposition as this? He is a member of the Democratic party; the cardinal feature of that party is, that this power cannot be exercised; and yet he votes for it.

Sir, it is said that that Senator is the "right bower," speaking in common parlance [laughter]—I mean in gambler's phrase—of a Democratic Executive. Well, sir, I should be very sorry to think that the present Democratic Executive would vote appropriations of this sort, or sanction them. If he would, then he is not the Democrat I take him to be; he is not the Democrat I took him to be when I voted for him. If he is that fishy Democrat that might be inferred from such a proposition as this, I would not vote for him again. There are a great many Democrats, in the northern States especially, who go off upon these large constructive powers of the Government. The Senator from Pennsylvania and others, sometimes vote for internal improvements. How do they arrive at it? According to the interpolation of the Senator from Ohio, [Mr. EVERTS,] yesterday or the day before, the power "to regulate commerce" is a power to regulate and protect commerce. It was very well for the Senator from Ohio to inject the word "protect" into the Constitution, but I do not think it is there. He called it the power to regulate and protect commerce, and that authorizes Congress to build piers and dredge out rivers and harbors, and appropriate millions to the construction of those works! The Constitution contains no such word as "to protect" commerce. It is "to regulate commerce," and that is altogether a different phrase, meaning a very different thing. "To regulate" is to establish rules by which commerce shall be controlled and directed—not that you shall facilitate, improve, enlarge it, increase it. That is not to regulate—that is to protect according to the constitutional construction of the Senator from Ohio.

But, sir, where in the Constitution of the United States do we get the power to distribute seeds throughout the country? Nowhere, according to my reading of that instrument. It is a positive,

unequivocal, gross violation of the Constitution of the United States; and I do not see how any man, in consistency with his own conscience, can vote for it. Especially I do not see how a Democrat, a man who has been all his life professing Democratic principles, can in this way violate the Constitution and the cardinal features and principles of the Democratic party. This, to be sure, is not a very large sum. The Senator from Pennsylvania says this is a small sum; and he is not willing to cut out this small appropriation because it does not enter into the large expenditures of this Government, about which so much complaint has been made. I commend to the Senator the old Scotch proverb, "that many mickles make a muckle;" and if we shall cut out this little appropriation here, and that little appropriation there, and so on here, there, and everywhere, we shall reduce the expenditures to something like a reasonable amount. It is these small items which creep into the appropriation bills, that swell the expenditures of the Government, and make the foundation and give the license for larger and more extravagant expenditures in violation of the Constitution and the true intention of the Government.

Apart, however, from any constitutional question, so far as the appropriation for the distribution of seeds is concerned, I do not believe it does a particle of good. The Senator from Missouri has stated a case where the distribution of seeds from the Patent Office injured one of his friends. I remember to have heard several years ago of a Representative from the State of Tennessee who received some of these Patent Office seeds marked with a "highfalutin" botanical name, and he sent them all over his district supposing they were something extremely valuable, and the planters planted them supposing them to be something very extraordinary and *recherché*; but in course of time there came up some noxious weeds that destroyed not only their crops but their land, and the man lost his election the next time, because he had introduced these things into his district. Now I hope and trust that if this appropriation is passed, every man that votes for it will lose his election, including the Senator from Pennsylvania. [Laughter.]

What seeds are sent to us to distribute to our constituents? Every man here knows from personal experience what they are—cabbages and turnips and onions and beets and those things which are in the possession of every housewife in the United States. There is not a woman in my country that does not raise these things herself, or that would turn upon her heel to thank you for the seed you might distribute to her. And what are they worth? As the Senator from Massachusetts has very properly remarked, we are appropriating \$60,000 to purchase seeds for distribution, when five dollars would be a liberal equivalent for all the seeds that any Senator or any member of the House of Representatives receives. They are sent to me in boxes, and it gives infinite trouble and labor to distribute them, because I have to select out from amongst one hundred thousand people in the State of Georgia, those to whom I shall send them. It is not an easy task, sir, and I do not think I gain any popularity by it. Now and then I may get a man to thank me for giving him some seeds—a few papers of cabbage or turnip seeds or onion seed or something of that sort, which can be bought in the seed shops all over the United States, for five cents or six and a quarter cents a paper, in great abundance. Indeed, if you go into the country, the old women will give them to you, and supply their neighbors without stint and without price. But these are the kinds of seed we get from the Patent Office to distribute. They have got an agent traveling all over Europe for the purpose of getting seeds. It is but an appropriation to feed a few hungry office-holders. That is the sum and substance of it. It is to feed a few officers, clerks, and others in this so-called bureau of agriculture, in the Patent Office. It is to give them the means of living luxuriously in the city of Washington. Sir, I am not willing to take the money of my constituents out of their pockets for the purpose of feeding, in the city of Washington, these men who live upon the bounty of Government. I do not believe the distribution of these seeds is valuable to any portion of the community. It is a rare exception when any-

thing is distributed that brings the least value to the country.

Believing that the whole system is rotten, that it is not in conformity with the Constitution, I shall vote cheerfully to strike out this appropriation. It was only last session that we appropriated, I think, \$25,000, or perhaps a larger sum—I do not remember the precise amount, but it was very large—to be invested in sugar-cane for the planters of Louisiana. An agent was sent down to South America to buy the plants, and the twenty-five, thirty, or fifty thousand dollars, or whatever the amount was which was appropriated, was expended, and he brought back two cargoes of plants which, when they got to New Orleans, were not worth a button. They were all rotten, all decayed, and the money that we appropriated had no other effect than to give Mr. Glover a very agreeable, pleasant trip to South America and back in one of the national ships. That is the character of these expenditures generally. They result in no good; they do not give any popularity to Senators and Representatives—at least I do not think they have ever affected me in that way; and I doubt very much whether the Senator from Pennsylvania has acquired any substantial addition to his fame and reputation by this distribution. I hope the appropriation will be stricken out.

Mr. BIGLER. I have not been in the habit, sir, if I understand myself at all, of regulating my action by reference to popularity. I think I can repel that charge with about as much safety as my honorable friend from Georgia. The question that occupied this country for four long months of this session may have been or may not have been a question of popularity for the Senator from Georgia; it was a question in which that honorable Senator felt deeply interested, because his constituents were interested. Sir, if I had feared popular feeling, I should not have stood by that honorable Senator on that question. When the Senator from Georgia shall have met what northern Senators and northern Democrats have met year after year, in struggling for the constitutional rights of his people, then he may be at liberty to talk about the responsibility of voting for or against garden seeds, radish seeds, turnip seeds, onions, cabbages, and sugar-cane. [Laughter.] Why, Mr. President, no man would suppose that the honorable Senator could be so excited about sugar-cane and onions. [Laughter.] It is scarcely generous in the Senator to rise here and catechise an inexperienced member like myself, on a great constitutional question—the question whether onion seeds have been constitutionally sent abroad. [Laughter.]

The Patent Office is constitutionally established, because the Constitution says such a department shall be established. I spoke of this distribution of seeds as a part of the practice in that department, as the agricultural and mechanical reports are a part of the practice. If it be unwise, as I said before, if it be an abuse of the proper purpose of that department, let that fact be inquired into, and I am as ready as the Senator to vote to correct the error. But, sir, when did we begin? The honorable Senator has the advantage of me, for I have not had time to examine the records; but somehow or other I am strongly inclined to believe I should find that Senator voting for these seeds at some time or other.

Mr. IVERSON. No.

Mr. BIGLER. Very well, sir. He appeals to me on the solemnity of my oath. He says, that like him, I took an oath here to sustain the Constitution, and if I vote for these seeds to the people of Pennsylvania, I shall have done violence to my conscience. [Laughter.] I am not going to do any such thing. I am going to vote for the seeds conscientiously. [Renewed laughter.]

But, sir, I am not willing that garden and onion seeds and garlic shall be a test of Democratic faith. [Laughter.] We have understood it otherwise in the North. Northern Democrats, Mr. President, are as sound on those great principles which underlie and sustain our institutions as are our southern friends. Now, sir, an honest confession: the best of you, when a question comes before this body, which involves the interests and feelings of your constituents, and your chances for office, are very liable to construe the Constitution with some facility. When northern Republicans tell the Senator from Georgia, that the

rendition of fugitive slaves is not constitutional, he does not believe it—nor do I. When they tell him that the Constitution does not protect the institution of slavery in the Territories, he does not believe them—nor do I; but there are men who vote here conscientiously, who differ with him on these points.

But, sir, enough of that. What I am going to say is this: that if it be so that a vote for these garden seeds is to demoralize the Constitution, is in derogation of the Constitution, then it has been so broken up that it is scarce worth saving at all. The honorable Senator from Georgia has sat here silent in his seat year after year, and witnessed the derogation of the Constitution on this seed question, [laughter,] without ever opening his mouth; and when he finds an humble representative of the agriculturists, does he catechise him about the question of seeds and onions? No; but he brings his constitutional question. He knew very well that I could show no express authority in the Constitution for any such service. I do not know when this practice began; but I do know that it has been indulged in for many years. These appropriations, if my recollection serves me, were made by the last Congress, and passed with scarcely any division at all.

Mr. PUGH. The Senator is mistaken. I moved to strike it out both sessions of the last Congress, and the vote was taken by yeas and nays each time.

Mr. BIGLER. Very well; that may be so. What I suggest is, that the vote for it was very large. Why, sir, my honorable friend from Virginia was so satisfied that he could not strike out these seeds, that his face bore the appearance of despair. He had had a great deal of experience in it. He told us at once that the other branch would not yield it, and this body would not yield it; and, therefore, I was under the impression that it had been a very decided sentiment. My recollection is, that it was sustained in the last Congress by a very large vote. What I say now to my aged friend from Georgia [laughter] is, that if he will sit here, year after year, and allow an improper, unwise, and unconstitutional practice to be indulged in, it is scarcely generous in him to call me to so severe account so early in the morning. [Laughter.]

Mr. IVERSON. I have been waiting, of course, upon the experience of the Senator from Pennsylvania to lead off in all these cases; but the Senator is mistaken; I not only voted against the appropriation two years ago, but made a few remarks against it.

Mr. HOUSTON. I was very much astonished, Mr. President, at the assault made upon me by my friend from Georgia—I will not say my venerable, but I will say my juvenile friend. I admit that speaking is very unnecessary on the present occasion, and I dislike to interfere in this matter, for it is a very pretty quarrel as it stands, between those two Democratic gentlemen. [Laughter.] The Senator from Georgia says that I belong to no party. Well, sir, that is a great convenience, because there is no dissension in my party. I am perfectly accordant with myself. I heard the honorable Senator from Mississippi, [Mr. DAVIS,] yesterday, complain of a breaking up—a split among the Democracy on certain questions. I have no complaint of that kind to make in regard to my party—I am a unit. [Laughter.] I have no dissensions whatever with myself. I try to keep my conscience as void as possible of offense, and therefore I always feel strong in the faith that I am right. But really it seems to me strange that such a violent philippic should have been delivered by the honorable Senator from Georgia against the distribution of seeds and other conveniences to the public, and that the Senator from Missouri should talk as if it were catering for popularity on this occasion; that we were advocating the interests of the farmers or of the mechanics. I mentioned neither farmers nor mechanics. The seeds that I have been distributing generally have not been for farming purposes, but for culinary and garden purposes. The Senator from Georgia arraigns me, too, for my gallantry to the ladies, in endeavoring to contribute to their convenience and to the supply of their tables—their vegetable wants. I do not believe this is any evidence of catering on my part for popularity, for it is pretty well understood that, if I have been catering for it, I have not been so fortunate as to secure it, at

least at home; and I have no aspirations upon the face of the earth at this time, in advocating this measure, but to contribute to the general comfort of the families of the country, whether they have votes to give or votes to withhold. I believe I would prefer sending seeds to the widows rather than to those who had husbands to procure for them these necessary vegetable conveniences. [Laughter.] I have no disposition at all to cater for popularity. This I deem a higher, holier object than that. I would not seek popularity if I could command it or win it by bowing and cringing to popular favor or popular caprice. Sir, it should follow in my wake; it should be marshaled in my rear; I would lead its advance; I would never go cringing and bowing to obtain its smiles. I never sought popularity thus, and I never will.

But, sir, I cannot perceive how popularity would be won in this way. It is a trifling matter, so far as we are concerned; but I find that gentlemen deem it a matter of interference with their personal convenience, because the proper distribution of these seeds occupies time and attention. I have never devoted so much time heretofore as I have at this session to this duty, because I have had very many solicitations for these seeds that I have desired to comply with. I have not only been written to for them from my own State, but even from the State of Maine; and I was anxious to comply with the requests of my friends who sent for them. I considered the sacrifice on my part as very little, compared to the rational gratification of the desires of persons who wished to obtain them; and therefore I cheerfully complied, although it took a little time. I am not a fashionable man, who, when the Senate is not sitting, wish to occupy all my time at parties, smiling and bowing, and making my devoirs to the ladies. I have attained to that period of life when my notions are becoming like myself—a little old-fashioned; and I have not the facilities and attractions I might have formerly possessed, and that other gentlemen now possess, offering strong inducements to enter into competition with the gay and the gallant, and therefore I can devote time to this purpose.

It has been repeated again that these seeds incur the mails. I think that is a mistake. The contractor is bound to carry what is put in the mail, and he obtains no additional price for anything that is put in. He has to comply with his contract, by transporting what is given to him to carry, under a specific contract, without any contingent additional expenses to the Government.

I shall not now investigate the constitutionality of these expenditures. When I came here under a Democratic Administration, I found the custom existing in Washington at that time, as well as I recollect. I then commenced the distribution of these seeds, and I have continued it up to the present time. Never before do I recollect having heard a complaint that it was unconstitutional. In fact, sir, I never knew that it was an article of the Democratic faith to adhere to the Constitution in all circumstances. I thought they had repudiated the Constitution, substituting therefor a principle which I have never yet fallen into; and every four years they reestablish a principle that I do not see recognized in the Constitution; at least, it is not specifically authorized—I mean the platform system. That is now adopted, and it has been adopted within my recollection, and not a great many years since. It met the direct disapprobation of a man whose memory will be sacred with every Democrat that lives upon the earth, ay more, sacred with every patriot—I mean Jackson. Was he ever nominated by a caucus? Was he nominated by a convention? No; but he indignantly spurned the offer when they wanted him to go into the first convention at Baltimore. It had his brand upon it, burned as upon the front of Cain by the Almighty wrath. Yet that is the doctrine now, and that is the text-book of the Democratic party. I have not quit Democracy; I am still a Democrat; but I am not a Democrat of platform principles. The present so-called Democratic party pursues the routine of platforms, ignoring the Constitution. The Constitution is the text, but the platforms are the context. They lug in sectional issues, try to reconcile conflicting interests, and clip the great wings of party so that it cannot fly, but goes hobbling along, left to reach its destiny as it may. I repel the charge that I am not a Democrat in principle; and I challenge

any gentleman to come forward and put his finger upon a sentiment I have ever uttered, or a principle that I have ever avowed, that is not in accordance with Democracy. I have never departed from it; and if other gentlemen have indulged in slight aberrations, it is no business of mine; they are not accountable to me, nor am I accountable to them.

Sir, these seeds have sprouted. When they will finish growing, I cannot tell. There is a very important branch of them, that my friend from Georgia did not think of—the ruta-baga turnip. That is a very important turnip, [laughter,] and I have not seen anything so much in demand as that vegetable. It is most excellent; it is not only productive, but it is delicate and remarkably fine. That and the garlic, and other species of seeds, are all very well received, and I am still for sending them forth, unless the honorable Senator will convince me that it is unconstitutional. I find opposed to him on that point a gentleman for whom I have a very great respect—the honorable Senator from Pennsylvania, who I believe is a staunch Democrat; one who tells us that he has stood up in support of southern Democracy with great fidelity, and I believe with some adventure and great sacrifice; even sometimes of personal inclination. [Laughter.] He thinks it is constitutional. I have as good a right to rely upon his constitutional opinion as upon those of the Senator from Georgia. I have great respect for Georgia; but I must have some for the Keystone State. They both are members of the old thirteen; and I admit that the people I represent are but youngers in comparison with the citizens of the older States. Georgia, on the Atlantic seaboard, where commerce is abundant, where they are surrounded by intelligent communities, has great advantages that a new country has not—like Texas, on the frontier, where little settlements are removed, as El Paso is, six or eight hundred miles from the main body of the people. There they have not the facilities they have in Georgia. The people of Georgia are an educated people; they have every advantage possible; every commercial facility to obtain those things which can only reach, by extraordinary means, the remote verges of civilization in the United States, through the medium of Senators and Representatives. Hence it is that I feel it my duty to do whatever I think will contribute to their comforts; to their advantages, to supply the defects that exist in their peculiar situation; and I know no means of more readily attaining that object than by distributing information on the subject of agriculture, through the Patent Office reports, and at the same time distributing such rare seeds as may be convenient and useful to them.

In the ordinary course of things, without the facilities furnished by the Government, how long would it have taken the Chinese sugar-cane to reach the remotest verge of Texas, where it is now flourishing, and where vast quantities of molasses are made from it, and not less than fifty or sixty acres are now cultivated by a single planter, who, a few years ago, had to transport his sugar several hundred miles, and pay duties upon it? That is being perfected there as one of the grand productions of the country, and it has affected the distribution of comforts that could not have reached them without great expense for years and years to come; and in portions of the country where the indigenous cane of America could not be cultivated, and could not be productive. These are some of the advantages we have derived. Again, corn has been introduced into that country from the Patent Office that is productive beyond all former example; not only that, but every variety of wheat thrown upon a soil the most productive on earth. Our soil will produce from thirty to fifty bushels of wheat, per acre. Our whole country, from latitude 31° to 36°, is adapted to the culture of wheat, cotton, and other products that are rare in other portions of the Union. Our staple crop there has been benefited and improved by the distribution of seeds obtained from the Patent Office. Cotton seed has been introduced of peculiar and productive character; and that is an improvement to our agricultural interests.

Sir, I have not urged this as any peculiar benefit to the farmer; but when we look at his position, ought we not to have some regard for him? All others are dependent upon him. Strike him

out, and how are you to supply the world with the materials of life, or the breadstuffs necessary to existence? When he is employed, he contributes more or less to the support of all others, besides furnishing them the reliable staff of life upon which to lean.

Thus it is, Mr. President, that I am prepared to support this appropriation with constancy and unyielding will, submitting to nothing but to the voice of a majority of this House. I never will surrender the privilege of my people in this respect; for it has been adopted by gentlemen as capable of construing the Constitution as Senators around me are—adopted by them unchallenged. It has grown into a useful branch of the Government, and I am prepared to support it so long as it is useful; and I stand on this floor to advocate it as intimately connected with the general interests of the country; with the agricultural, the mechanical, and, if you please, the professional, at least the culinary interests of the country. I believe that of all the means of distributing our public money, when we have any to distribute, it is the most rational and most beneficial to the general interests of the country.

Mr. BIGLER. I shall pursue this subject for but a moment longer. The Senator from Georgia, I have no doubt, is satisfied that he found me entirely in fault: as to the question of constitutional authority, and as I could not find the word "seeds" in the Constitution, my Democracy seemed to be in danger. In the extremity, I am indebted to the Senator from Tennessee [Mr. Johnson] for the best authority on this subject that I suppose can be found, and on that authority I am willing to rest this proposition. The authority from which I propose to read, is the eighth annual message of George Washington—pretty good authority in this country on all great questions, as a patriot and a statesman. This message almost describes the institution now in existence, of which we have heard such violent complaint today. It says:

"It will not be doubted that, with reference either to individual or national welfare, agriculture is of primary importance. In proportion as nations advance in population, and other circumstances of manly, this truth becomes more apparent, and renders the cultivation of the soil more and more an object of public patronage. Institutions for promoting it grow up, supported by the public purse. Among the means which have been employed to this end, none have been attended with greater success than the establishment of boards, composed of proper characters, charged with collecting and diffusing information; and enabled, by premiums and small pecuniary aids, to encourage and assist a spirit of discovery and improvement. This species of establishment contributes doubly to the increase of improvement, by stimulating to enterprise and experiment, and by drawing to a common center the results, everywhere, of individual skill and observation, and spreading them thence over the whole nation. Experience, accordingly, has shown that they are very cheap instruments of immense national benefits."

"I have heretofore proposed, to the consideration of Congress, the expediency of establishing a national university; and, also, a military academy. The desirableness of both these institutions has so constantly increased with every new view I have taken of the subject, that I cannot omit the opportunity of, once for all, recalling your attention to them. The assembly to which I address myself is too enlightened not to be fully sensible how much a flourishing state of the arts and sciences contributes to national prosperity and reputation."

Now, Mr. President, I shall not follow this subject by any extended remarks; the question has been fully discussed; but I wanted to settle the point of authority, to some extent of Democracy, with my friend from Georgia. It would seem that I am attached to an institution which the Senator is under impression is very favorably regarded by my constituents, and that I must sustain it in order to have popular favor. He has an institution peculiarly agreeable to his people in his part of the country. The best authority I could get was the opinion and advice of George Washington; I agree that his favorite institution has its recognition and support in the Constitution. The difference is, that mine is an institution for distributing seeds to promote agriculture, and his an institution for the distributing of "niggers." With the distribution of the seeds, the whole work has been performed, but in his case the great trouble is to gather them up again. I have assisted as far as my humble influence would go in the North, to perform that work of gathering up the offspring of this institution, to which my friend from Georgia is in no way improperly attached, because I agree that it springs from the Constitution. I have exercised what influence I could in the North in returning what he or his favorite

institution has distributed throughout the country. But I shall dismiss the subject. I am perfectly aware that much that the Senator from Georgia said was not at all serious, and certainly no part of it was intended offensively.

Mr. HALE. It is very rarely, sir, that a debate in the Senate is intended to influence the action of members here, but it is made to enlighten the country. I confess, however, that this debate has enlightened my mind. I was at first inclined to go against this appropriation, but the considerations which have been urged with so much force by the Senator from Pennsylvania, I confess, have weakened my convictions in that direction, and have almost induced me to go for it. If the appeal which he so powerfully and pathetically made to the honorable Senator from Georgia has not moved him, he must be impervious to eloquence and to pathos.

I think that the case which the Senator from Pennsylvania has presented is eminently just. I agree entirely with what he says, when he declares that in his course here he has not been looking to popularity. I think that the whole North, Pennsylvania no less than any other part of the Union, will indorse his veracity, if nothing else, when he declares that he has not been seeking popularity; and when he appeals to the Senator from Georgia, and tells him what a hard road the northern Democrats have had to travel, how much they have had to sacrifice and to face; and then asks if, in return for all this, he cannot let him have a few onion and garlic seeds, [laughter.] I confess if the Senator from Georgia was not moved, I was. [Laughter.] I think it is reasonable, and more than reasonable, even if he had asked for a little of the vegetable full grown. But when he says: "Look at the North, and see on every side, and hear by every mail, proof that we have not pandered to popularity; see what we have suffered in your behalf; when you see all that, and see that we are not exorbitant, we do not ask any offices; take your foreign missions, and distribute them where they appropriately belong; take the Federal Treasury, and use it; but when we go home to an outraged constituency, will you be so illiberal as not to let us carry a few onion seeds, a little garlic, and now and then a cabbage, [laughter,] so that our constituency may be inclined to wink a little at the course we have taken on this great question, upon which we have sacrificed so much for you?" I confess that even if I had such strict rules as the Senator from Georgia entertains upon the Constitution, when such an appeal as that came from such a source, the "right bower" of the Administration, not asking to take the "ace," or anything else, but simply a little onion seed—a vegetable that, under peculiar states of application, is calculated to produce tears—[laughter]—cannot you let us go home and cry with our constituents over what we have done? I do not want to be personal, but I appeal to the honorable Senator from Georgia, and I ask him—I can ask him, for we have always been on friendly relations—

Mr. BIGLER. Allow me. I have no idea at all that the Senator intends to be personal.

Mr. HALE. Oh, no.

Mr. BIGLER. But he uses terms which I do not understand; talking about the "right bower" and "ace," and all that sort of thing. [Laughter.]

Mr. HALE. Well, sir, I do not understand them; but I thought the Senator did, because the Senator from Georgia spoke of it, and he seemed to understand it then. [Laughter.] I do not understand them; but I suppose it is parliamentary, highly so, [laughter,] or else it would not have been introduced. I do not know what the "right bower" is. I suppose it is a naval [knave-al] term, [laughter,] or something of that sort.

But I was proceeding. The Senator from Georgia and myself do not agree on political questions; we have differed; but, I believe, in our social intercourse we have never had any difficulty, and whenever it has been in my way—I do not know that I ever had an opportunity where it was in my power to do him a slight favor, but if it was the case—I would do it; but if he has the slightest personal regard for me, I beg to throw it into the same scale where the eloquence and pathos of the Senator from Pennsylvania have gone before me, and both together we ask for—a little onion seed. [Laughter.] Can he, under these circumstances, resist? No, sir.

I am as strict a constructionist of the Constitution as any, not excepting the honorable Senator before me, [Mr. Toombs;] but I have read all the platforms, and I suggest to the Senator from Georgia that he is a little too fast. I think, considering what has been done, we may continue to vote these seeds, at least until the Charleston convention sits; and then, I have no doubt, after these developments, there will be a new resolution that will cut off these seeds, and that onions will be unconstitutional ever after. [Laughter.] But until that is done, until that proviso is put in, I think the faithful may construe the provisions of the Constitution and the Cincinnati platform as the honorable Senator from Pennsylvania has suggested. I think we may construe them without straining the Constitution any more to buy onion seeds than it does to catch runaway slaves. I guess when you find a provision in the Constitution that there is a mode to take money out of the Federal Treasury to pay for returning fugitive slaves, you will find also the provision that a little sum may be paid for onion seed. Until a clause forbidding it comes either in the Constitution or the Charleston convention, let us have the seed; but I have no doubt that it will be unconstitutional after that convention sits.

Mr. PUGH. I am not going into this large collateral discussion, and I am sorry that my motion should have produced it. The Senator from Georgia has diverged into rivers and harbors; the Senator from Pennsylvania has given us an impassioned defense of his Democracy; my friend from Texas has indulged us in a general discourse, and the Senator from New Hampshire has done likewise. Now, sir, I simply propose to correct one or two mistakes of fact. This is not an established practice. At the first session of the last Congress the appropriation reported was \$20,000. It was originally established upon a pretext of this character: that some of our ships of war visiting foreign countries occasionally brought home some rare seeds, such as we had none like in this country, and that a small appropriation would enable those seeds to be distributed to various agricultural societies; and the first appropriation was only \$2,000, and it is a very few years old. As I said, at the first session of the last Congress the appropriation reported was \$20,000; but on the motion of some member of the other House, not a member of the Committee of Ways and Means, it was increased to \$60,000. When it came to this body it was increased to \$75,000, on the allegation that \$15,000 more was necessary for buying and distributing sugar-cane. I opposed it then. The answer was that we had a full Treasury, that we had more money than the Government needed, and that it was wiser to distribute it among the people in this way. Now we have come to a time when we need retrenchment. The Senator from Pennsylvania talks about the sixty or seventy millions of our expenses. Where shall we retrench? I have looked in vain for him, as the special representative of this Administration, to tell me, as one of the members of Congress, where I shall put the knife of retrenchment. I listened on the Indian appropriation bill, but the Senator could not tell me a place where I could retrench a cent there. I listened on the diplomatic and consular appropriation bill—no retrenchment there; and yet, sir, we have borrowed \$20,000,000 on Treasury notes, and have passed a bill to borrow \$15,000,000 on coupon bonds; and so we go on, and as often as we come from one proposition to another, and ask, "cannot this be dispensed with, at least until we are able to pay our debts?" we are told, this is a very little thing, let it pass.

Now, sir, it is not a little thing. It is an unnecessary thing. I do not say whether it is constitutional or unconstitutional; I need not go into that argument. It is unnecessary. If you dispense with it, you not merely dispense with the expenditure of \$60,000 here named, but a vast amount besides; you dispense with the services of three or four employes in the Patent Office; you get rid of them; you get rid of the freight and transportation and commissions of agents; you get rid of the enormous expenditures of the transportation of the mails. I had occasion to read the debates of the Federal convention the other day, and I discovered that the Post Office Department was given to the Federal Government as a source of revenue. It was put on that foundation that we could derive a revenue from postages; and

now we go on an annual loss of almost a million dollars in that Department. Instead of being a source of revenue, it is a source of loss.

Mr. COLLAMER. Six million dollars is the deficiency this year.

Mr. PUGH. Worse yet. The Senator from Texas says it does not increase the cost of transporting the mail because the contractor has to carry all you give him. Of course, but he makes his bid knowing what he is to receive. I suppose every member of Congress receives as I do bags and boxes of these seeds, and the gentleman who keeps our stationery office furnishes me with parchment envelopes, and envelopes lined with cloth, bought at public expense, to put the seeds into. We have agents and servants about the Senate, who come and take them from my house to the Post Office Department, and they go into the mails. They load down the mails, and who is benefited? My friend from Missouri talks about the farmer being benefited or the man who gets them. That is all absurd. You take five dollars out of his pocket in the shape of tax, and give him back a paper of seeds worth twenty-five cents.

Mr. GREEN. Let me correct the Senator. I said he was injured.

Mr. PUGH. Injured by the bad seed?

Mr. GREEN. Yes.

Mr. PUGH. But I put it on this ground, that it is an unnecessary expenditure of public money. It is like the system of distributing books. Books are useful; it is a very good thing to have nice books to give our constituents. It would be a very good thing if we had bread and meat to give to our constituents, free of cost. It would be a very good thing if we could give the best tools to the mechanics; but there is no necessity for it. They can buy them cheaper than we can. It is an appropriation of a sum of money which might be used much more usefully; and it involves other and greater expenditures behind. It is not with any view of going into these questions of Democracy—the union-Democracy on one side, and anti-union-Democracy on the other. I put it on the simple ground that you are borrowing money to pay the expenses of the Government, and that it is your duty to retrench everywhere in large expenditures and in small ones; and when you have retrenched as far as possible, then you can go home to your constituents and say, we have endeavored to bring the expenses of the Government within its revenue. I do not go into the constitutional question at all. I think that, at least until we are able to have an overflowing Treasury, we can dispense with this expenditure of public money; and when we come to the naval appropriation bill, and the Army appropriation bill, I hope some one better acquainted with those subjects than I am, will show me where I can strike down millions, as I here propose to strike down thousands.

Mr. SIMMONS. I should like to ask the Senator from Ohio to propose to reduce the amount one half, this year. I think that will be enough.

Mr. PUGH. I think it might all be dispensed with. If this motion fails, I shall move to reduce the appropriation to \$20,000.

Mr. SIMMONS. I will vote to reduce it half, but I do not want to take it all out.

The question being taken by yeas and nays, resulted—yeas 24, nays 24; as follows:

YEAS—Messrs. Bright, Broderick, Clay, Davis, Dixon, Finch, Fitzpatrick, Green, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Mallory, Mason, Polk, Pugh, Reid, Seward, Shields, Stidell, Thomson of New Jersey, Tremain, Trumbull, and Wilson—24.

NAYS—Messrs. Allen, Bigler, Chandler, Collamer, Crittenden, Fessenden, Foster, Foster, Hale, Hamlin, Harlan, Houston, Jones, Kennedy, King, Pearce, Rice, Sebastian, Simmons, Stuart, Thompson of Kentucky, Wade, Wright, and Yulee—24.

So the motion to strike out was not agreed to.

Mr. PUGH. I now move to strike out "\$60,000," and insert "\$20,000." That was the amount reported at the first session of the last Congress.

The amendment was agreed to.

The next amendment of the Committee on Finance was to insert after line one hundred and eighty-five:

To enable the Commissioner of Public Buildings to sit up with slaves the two rooms at the south end of the Library of Congress, for the use of the library, and putting up a partition in the passage to them, \$270.

The amendment was agreed to.

The next amendment was to insert after line two hundred and two:

For repairs of Pennsylvania avenue, \$3,000.

The amendment was agreed to.

The next amendment was to insert after line two hundred and fifteen:

For continuation of the filling up of ravine and grading Judiciary square, \$7,000.

The amendment was agreed to.

The next amendment was to insert after the last amendment:

For continuing the grading and planting with trees the improved portions of the mall, \$10,000.

The amendment was agreed to.

The next amendment was to strike out of the clause appropriating \$830,000 for the completion of the Washington aqueduct, the following proviso:

"Provided, That no part of the sum hereby appropriated shall be expended until contracts shall be entered into with responsible parties for the completion of the work, which, in the aggregate, shall not exceed the amount hereby appropriated."

Mr. PUGH. I should like to ask the chairman of the Finance Committee why he thinks the proviso should be stricken out?

Mr. HUNTER. It is proposed to be stricken out because we understand contracts have already been made, and the work will be completed within the limit. The effect of adopting this amendment, if I am correctly informed, will be to reopen the whole thing; and the officers will have to advertise again for new contracts. The contracts, I understand, have now been accepted; and I learn from the superintendent that the work will be concluded within the amount named.

Mr. PEARCE. Bids have been accepted for every material to be supplied for the completion of the work, except the cement. I am sure that is the only exception. There is another reason for not agreeing to this proviso. There are certain parts of the work which will not be done by contract. The contracts are for stone, cement, and various materials to be delivered here in Washington. Contractors do not contract to deliver them on the line of the aqueduct where they are wanted. The superintendent has been provided with boats for conveying these materials to different points on the line of the aqueduct where they are wanted, and he will not be able to carry out that plan if you insist upon having everything done by contract. You would have to throw away the boats, or sell them at a great sacrifice. It seems to me to be unnecessary. All the contracts have been awarded, with the single exception of the one for cement.

The amendment was agreed to.

The next amendment of the committee was to insert, after line two hundred and forty-four:

For United States Capitol extension, \$750,000: *Provided*, That this appropriation shall not be expended, in whole or in part, upon the embellishment or decoration of the Capitol extension, either by painting or sculpture in the panels or niches of the Senate or House, unless the designs for such embellishment and decoration shall have been first submitted to, and approved by, the Joint Committee of the Library of Congress.

Mr. DAVIS. I wish to offer an amendment to the amendment, to strike out all after the word "for," and insert:

"The completion of the Capitol extension, \$1,185,183 34; and to enable the Library Committee to contract with distinguished artists for historical paintings and sculpture for the panels and niches of the Legislative Halls and of the great stairways of the Capitol extension, \$50,000 in addition to funds already in their hands for that purpose."

Mr. HUNTER. The original estimate was \$1,000,000 for this year. The House of Representatives did not insert the amount of the estimate in the appropriation bill, nor indeed any amount. The Committee on Finance agreed, after some consideration, to ask for \$750,000, a part of the sum, towards the completion of the Capitol. In view of the present state of finances, it was thought there ought to be some reduction, especially as the House did not put it in. I should have been content, myself, with adopting the amount of \$500,000; something I was disposed to insist on. I think we ought to have our end of the wing completed; at least the room into which we are to go. We have a right to insist on that much; and I was disposed to go for half the estimate. I am willing to go for \$750,000; but I think we had better not ask for the whole under the circumstances. In regard to the latter part of

the Senator's amendment, as to contracts with artists, I think I would rather postpone that, and have that hereafter, if we are to have it. I go, however, for completing the building. I go for what is necessary, in order to consummate what we have undertaken; and I think \$750,000 is enough for the present.

Mr. POLK. I should like to know from the chairman of the Finance Committee how much it would require to finish the new Hall for the Senate.

Mr. HUNTER. I am unable to say how much it would require to finish the new Hall. I believe the estimate to complete the whole is the amount named in the amendment of the Senator from Mississippi.

Mr. POLK. Then what is the standard by which the committee report \$750,000?

Mr. HUNTER. It was supposed to be a compromise between a half and the whole. It was a general estimate.

Mr. DAVIS. The sum named in the amendment which I have asked for to complete the Capitol extension, is exactly the estimate. It is what remains unappropriated of the estimate for the completion of the Capitol; and with this I expect the wings to be completed. The sum asked for by the Committee on Finance is not enough to continue the work for the period of a year. The expenditure, when the work is carried on at full time with a full set of hands, is about one hundred thousand dollars a month. If \$750,000 be appropriated, the appropriation will run out before the end of the year, the hands must be discharged, and application be made here for additional appropriations to complete the building; and when the additional appropriations are made the hands must be collected again at additional expense. A million dollars is the estimate of the superintendent for the year's expenditures. I have proposed, as an amendment, the sum estimated for the completion of the work, which is to add \$185,183 to the amount needed for the year. If we accept his estimate and grant the whole amount, the work will be conducted more economically, and we have a right to require of him that it shall complete the building. If the Committee on Finance, compromising between his estimate and some fanciful sum, adopt an amount which they choose to give, he is not bound to perform any particular amount of work with that appropriation; he is not able to do it as economically as if he were to keep up the full organization of the work. Until he reaches the point of the construction of the portico, a large number of hands is the most economical mode of carrying on the work. At that point the hands must be reduced and the monthly expenditure must be reduced. A million dollars is estimated by him to answer all purposes for the year; but in order that I may insert the words "to complete" and make this a final appropriation, I choose to add the balance of the money which I find in his estimate for the completion of the work.

Then the addition which is made in regard to statues for the niches, and paintings for the panels, was put there because I found in the amendment proposed by the Committee on Finance a proviso that none of this species of work should be done except in a particular way. Now the fact is, that no portion of the money granted for construction is, in my opinion, applicable to the work of making statues for the niches, or decorative paintings. The vacant panels that have been left on the wall indicate and suggest that they are, some day or other, to be filled with paintings. The money appropriated for the construction of the building has not been so applied, and I do not think it could be properly so applied. It must be by a vote of Congress that these paintings are to be made. It must be by a vote of Congress that statues are to be put in the niches. None of this money, if the whole sum asked for be granted, can be appropriated to either of these purposes. I have no wish to go on now with the paintings, or putting statues in the niches. I agree with the chairman of the Committee on Finance that it is better to postpone that; but I see no purpose in the proviso which is added to his amendment, unless it is to suggest to the minds of members, as it does to mine, that they are already proposing now to have the niches filled with statues and the panels on the walls filled with paintings.

Mr. SEWARD. Will the honorable Senator from Mississippi allow me to ask him a question?

Mr. DAVIS. Certainly.

Mr. SEWARD. I desire to ask the Senator whether he cannot divide his amendment. I am in favor of appropriating \$1,000,000 for finishing the Capitol, instead of \$750,000 for the year. I want to vote first on that proposition irrespective of these questions about ornamenting the panels, because I am with the Senator as to the appropriation, but against him on the other point.

Mr. DAVIS. I should prefer to divide my amendment, and the reason I did not do so—I stuck the two provisions together with a wafer, as will be seen—was to get rid of a question of order, for which I have always great abhorrence.

Mr. SEWARD. So have I.

Mr. DAVIS. I prefer to have the question on the appropriation for the completion of the building. If I am understood, I will say nothing more.

Mr. PEARCE. I hope the Senator from Mississippi will so change his amendment as to leave out the second clause. There is certainly no necessity at present for appropriating money for paintings for the panels, and statues for the niches. Indeed that is a work of time. We might have these panels and niches filled with very unworthy objects of art, instead of such as should fill them; and I think it would be very well to arrange a system for the ornamentation of the Capitol by such objects, at a time when there is more money in the Treasury than there is now, and when we shall have leisure to digest such a system. I should prefer myself that the Library Committee were not charged with any such duty.

Mr. DAVIS. I have answered the principal object I had in bringing to the notice of the Senate the question of the decorative ornament of the Capitol. It is put, by the proposition, under the charge of the Committee on the Library; and the main object I had was to correct an error which is creeping into the popular mind, and has been disseminated over the Halls of Congress, that the Capitol has been decorated with the money given for construction. The painting of the walls, the coloring of the walls, the use of paint instead of ornamental paper on the walls, is not in the nature of historical paintings which are to fill the panels that are left vacant in all the walls. So, too, it has gone out that an immense amount is spent for statuary. Not a dollar has been spent for statuary except for the pediment, and that properly so spent, because the pediment of the building in which we now sit is ornamented, not equally, but in the same style. It was called for in the pediments of the extension because it was so in the original building. If I have now directed the attention of the Senate to the fact that no part of the appropriation heretofore made, and none of that about to be made can properly be employed for this purpose, I have answered my object.

Mr. HUNTER. I am opposed to increasing the appropriation, but I will state in regard to the proviso that I am very willing, personally, that it should be stricken out. The opinion of the Finance Committee was that the effect of adopting it would be to suspend any work of that kind until a future period—not that it was a means of providing for carrying it on, but stopping it so as to devote the money to the completion of the building.

Mr. DAVIS. I would ask the chairman, was it the opinion of the Committee on Finance that that work had ever been commenced?

Mr. HUNTER. Whether it is their opinion or not, it is an opinion that prevails; and for the purpose of putting an end to it, and satisfying any who had doubts in that regard, it was proposed to insert this proviso; but I am very willing that the proviso should be stricken out. I am not willing, however, to increase the amount of the appropriation.

Mr. FESSENDEN. I will state for the information of the Senator from Mississippi that this proviso was put in, I believe, at my suggestion, although somewhat modified from the original form proposed by me, for this reason: I noticed that such a provision was inserted in the House of Representatives in order to make the appropriation more palatable. It was put in substantially, and then the House negatived the appropriation. My impression was that the appropriation might fare better in the House of Representatives if we

had the proviso in so as to have a definite understanding on that point. It was proposed simply with reference to making the appropriation more acceptable in the other House, where it had been refused.

Mr. DAVIS. The objection to it is, that in attempting to make the appropriation palatable to the House of Representatives, it does injustice to the officer who has been charged with the superintendence of the work. It is a suggestion that money has been so applied when, in fact, it has not been.

Mr. COLLAMER. I wish to ask the Senator a question. Certain it is there has been a great deal of ornamental painting in the new portion of the Capitol. Has not that painting been paid for out of the general appropriation for erection? There is a great deal of fresco painting.

Mr. DAVIS. The coloring of the walls and the little figures introduced on them?

Mr. COLLAMER. Wherever there is a covering of a room, take for instance the Agricultural Committee-room of the House of Representatives, there are paintings on the panels of the walls and overhead, and so it is all over the new Capitol. I call that ornamental painting. Has not that been paid for out of the general appropriation?

Mr. DAVIS. There is fresco painting in the committee room to which the Senator refers, and I am glad that he has reminded me of it, because that room was prepared as a specimen to be submitted to Congress, and they were called upon by the then Secretary of War, being myself, to see whether or not they would have the other rooms completed in the same style, and they were told that if so, and if they would have the building floored with encaustic tiling, an additional sum of money would be required. An opinion was sought from Congress. It was not given by any vote, but it came to me in every other form that they wanted the building finished in the very highest order of modern art. One expression I recollect distinctly, because it was very striking, that Brother Jonathan was entitled to as good a house as any prince or potentate on earth, and generally that they wanted the best materials and best style of workmanship and highest order of art introduced into the Capitol of the United States. It was under that view that estimates were made for the appropriation passed.

Mr. COLLAMER. Still I understand that what we call painting has been done to a large extent. There may be historical paintings to be placed in the panels hereafter; that is another affair; but it is certain that painting to a large amount, to a great extent, in the new Capitol, has been done out of the money appropriated to the general erection. I do not say that I am opposed to this at all, though I may differ very much from some in relation to the taste with which it has been done; but I understand this proviso to be nothing but a restriction in relation to getting historical paintings, or something of that kind.

Mr. DAVIS. Of course I did not suppose the Finance Committee meant that they should not put paint on the walls. It was historical paintings, of course.

Mr. COLLAMER. I would very much desire, if it were possible, to put a restriction on this matter in relation to the ordinary paintings. I think the architectural character of the Representative Hall, as now finished, is entirely overburdened and disguised and thrown out of sight by the great variety of colors put in. I think it is a sort of Joseph's coat; and I desire very much that that kind of thing may be kept out of the new Senate Chamber; and I believe that a large portion of the Senators entertain the same taste and feelings. If anything can be done by way of securing a little more of chastity in it, I should desire it.

Mr. DAVIS. The Senator would not reach his purpose at all by this proviso. It does not direct itself to that point at all. I would ask the Senator if he has been in the new Senate Chamber?

Mr. COLLAMER. I have been in it; but it is in so unfinished a state that I cannot judge of it.

Mr. DAVIS. You can judge of the ceiling.

Mr. COLLAMER. The only consolation I have about it is, that a little paint brush will take out all this coloring almost any time.

Mr. DAVIS. That is not answering my question.

Mr. COLLAMER. I have been in it, but it is in an unfinished condition.

Mr. DAVIS. The ceiling unfinished! I thought the ceiling was painted.

Mr. COLLAMER. I am talking now about the gilding, and half a dozen colors put into a cornice.

Mr. DAVIS. I think all is there that will be, unless you propose to add something more.

Mr. COLLAMER. I do not know what they propose to put there. I believe they have not got quite so much meretricious ornament, as I consider it, as in the Hall of the House of Representatives. Whether they mean to come up to that hereafter, I do not know.

Mr. DAVIS. The Senator does not answer my question.

Mr. COLLAMER. I have answered the question. I have been in there and looked at it, but I regard it as an unfinished affair.

Mr. DAVIS. Then it is too plain for the Senator, I suppose. He may add more to it if he chooses. It is a more somber style than that of the Hall of the House of Representatives. In relation to the decision which the Senator makes on the amount of ornamentation which is exemplified in either, I will only say that my taste is too uncultivated to decide that question. Not having had the advantage of seeing the best specimens of art; not having studied painting as an art, I should be compelled to draw my judgment from the opinion of those who had made it the study of their lives. A man of very high reputation in that particular branch of art was charged with it; his work was examined from time to time, and corrected by an officer in whose taste I have great confidence; and I rather think that as the eye of those who are so ready to criticize is cultivated up to the highest style of art which is introduced into both the Senate and House Chambers, they will appreciate better and more approve what has been done. Some members of the House have had the frankness to tell me that they disliked the ceiling very much when they went into their new Hall, but have since become accustomed to it, and like it very well.

But all that amounts to very little. What is the painting or gilding worth when measured with the great purposes had in view? It was not to paint or to gild successfully that Congress appropriated money. It was to get a room in which they could hear; in which they could speak; in which the business could be conducted without the disorder that belonged to the old Hall. It was to give to the Senate a room of sufficient capacity for their purposes. The acoustic and the optic problems were considered of such importance as to make all the rest subordinate. The success in both respects, I think, has been eminent beyond any other public room of the same size of which I have heard in any part of the world. And if it has answered these great requisites, and if to these has been added a mode of heating which will give it an equal temperature, and a mode of ventilating which will prevent fumes and dust from rising from the floor and passing into the lungs of members, then I think we shall have achieved all that Congress had in view, or at least all that was considered of importance. Rub off the gilding, and paint out the colors; make them all one, if the Senator from Vermont desires not to have many colors; if the Senator wants to have all of one color, make it one. But there is not an artist who would attempt to ornament a building by painting with one color. His skill is shown in the harmony of the colors, blending them so that no one rests on the eye and commands its single attention. I would be surprised at the American Congress if it were to wipe out these great efforts of art, and introduce as a substitute the crude notion of a single color.

The PRESIDING OFFICER. (Mr. STUART in the chair.) The Chair understands the Senator from Mississippi as withdrawing the latter branch of his amendment.

Mr. DAVIS. Yes, sir. I shall offer that afterwards.

Mr. SEWARD. If we discuss from now until the end of the session, I do not think we shall be able to agree in regard to the decoration of the Chambers of the two Houses. It is a matter of taste, and our tastes differ naturally, and differ by cultivation and habit; but since there has been so much discussion on this subject, I barely wish to express my opinion on the question which has

been raised between the Senator from Vermont and the Senator from Mississippi. It seems to have been settled that it is necessary to have a Senate Chamber and a Representative Chamber in which everybody can hear everybody, and everybody can see everybody; and the want of these qualities rendered the old Chambers inconvenient. It seems also to have been settled that the only form in which a Chamber can be made, and furnish these two qualities, is the oblong and the parallelogram; and that there must be no breaking of the walls, no breaking of surfaces; there must be parallel and smooth surfaces. It is nothing else, then, in either case, but the form of a chest—the most graceless form in geometry or in architecture. When you have got that form, it certainly requires some modification, in some way, to make it agreeable to the eye and to make it pleasant to the taste. I have considered the matter, and I do not know any way in which the Hall of the House of Representatives could have been relieved of the serious objection of the deformity so disagreeable to the eye, of an oblong room with naked, smooth surfaces, and commended it to my taste so effectually as it has been by the process of embellishment which has been adopted. But, as has been said by others, so it is with me; I have not been trained to the study of this matter. I know that I do not appreciate the highest perfection of music as those do whose tastes have been cultivated up to it; and it is only as I study the art of painting that I come to appreciate qualities which those who are not versed in that art do not appreciate. I have thought it due to express my approbation of what has been done in both Chambers, and to say that, so far as I am concerned, I am content with it; but I do not suppose my opinion will be of any essential value.

Mr. HOUSTON. Mr. President, I am not acquainted with the details of extending the wings of the Capitol; but there is one circumstance to which my attention has been drawn, and on which I should like to obtain information; and that is, who are the sculptors that are employed in the shanties out here, in preparing the different statues for their appropriate places in the new Capitol? I have observed some of them; and the goddess of Liberty, I believe, is one. I am an admirer of statuary, but I cannot say that I am a critic, or even an amateur, in that department of art. It does seem to me that it is a figure which makes rather a queer display in the Capitol. In the first place, I object to its attitude. It appears to me to be in anguish—drawn back in the most ungraceful and ungainly attitude for a lady. [Laughter.] It appears to be in torment; and had it been physical, I should have imagined that it really had a toil under the arm. [Laughter.] Take it all in all—take the *total ensemble*—I have seen nothing resembling it. Instead of the bare feet with sandals, it is represented with a very formidable pair of russet brogans, that would suit very well for laborers in the swamps of the South. That is one of the most queer and ridiculous things I have ever seen to represent human nature. I have never seen a wax figure but what was equally graceful and rather more beautiful and artistic in its appearance.

Then there is an Indian woman, or squaw, to be more technical, seated on a slab of marble. That may be very well executed; but she has a little papoose in her arms, and its little head is sticking out like a terrapin's, [laughter.] without reclining gracefully on the arm. She has a blanket, or something, holding it up; and its little neck, without the least curve or grace, is very stiff, like an apple on a stick. [Laughter.] Now, sir, think of it; that throughout all ages, as long as this Capitol shall stand, or this Union exist, which I hope is to be forever, that poor little Indian has to sustain a heavy head with that little neck, and without a mother's aid to hold it reclining on her arms. [Laughter.] Any person who will look at that must be agonized. Sir, the scenes around us in this building ought to inspire cheerfulness and pleasure. Instead of that, a contemplation of this figure will inflict agony on every human being of sensibility.

And then there is a poor Indian boy, who looks as if of Oriental stock. He has a large shell on his shoulders and, in this agonizing attitude, water is to spout continually on him. He is in the most servile, miserable, cruel, agonizing attitude in which I ever saw a creature. It will inspire

us with feelings of anguish if we should ever see these figures displayed about this Capitol. I would like to have the gentlemen of the Senate go and see them, before they are placed in a situation where they will have to be removed; for it will cost something to place them there. I insist that, at least, there ought to be an amendment for the purpose of providing curtains to hang in front of them, so that they shall never be seen. I am a man of sympathy; I feel for human suffering; and I could not contemplate one of these three figures without the extremest agony. They are in torment; you would suppose they were representations of some criminal that had committed an unpardonable offense, for which he was doomed to perpetual agony. I object to their going into this Capitol, or being about it. I do not know the artist; I cannot exactly say whether he is a native—no, sir, I know he is not a native; for a native artist, observing nature as it is in our forests and in our wilds—for we all more or less pass through forests and see nature, animal, vegetable, material, all around us—could not have fancied such sketches as these are. I object to them unequivocally; I can never submit to them.

Mr. DAVIS. The Senator's sympathetic heart is greatly moved at this mother of stone's rude treatment of her child; and his sympathy getting possession of his judgment, and his industry not having induced him to acquire any information on the subject, he supposes these statues are to go in the Capitol. One is a faun, a piece merely intended to be put under a fountain. He mixes up the group made for the pediment with the idea of statues for the niches in the Capitol; and after all that his eyes drank in had been exhausted, he turned his imagination loose, and commenced on the broad field of assumption; and he presumed it would be presumption in any man in this Chamber to attempt to strip from Crawford, the great American genius, whose name has shed a luster upon our country, his merit as an artist—one whose early death was the nation's loss, and whom the nation yet deploras. He it was who, so ignorant in the eyes of the Senator from Texas, modeled those masterpieces of art, which he did not live to see finally executed; and yet the Senator assumes that he must have been a foreigner; and he no doubt felt himself safe from the supposition, because in the United States we have so few sculptors that we might have been driven to employ a foreigner! There were two pediments. One was offered to Crawford, the man of highest genius who ever held an American chisel in his hand. He took it. That is the master work of his life, and will stand as long as the Senator hopes the Union will stand, as a monument of his genius, and an honor to his country. The other was offered to Powers. He declined it. His high reputation as an American artist caused me to regret that he declined it. It is still open to an American artist. It has been offered to none other; no invitation has been given to any other than American artists. If the Senator will inform himself a little more, his criticisms hereafter may be spared the corrections which they now provoke.

Mr. HOUSTON. I will ask whether Mr. Crawford lived to complete the pieces he designed, and what pieces he designed?

Mr. DAVIS. Every one that belongs to the pediment, accomplished by his own hand, and imported here, and seen in the progress of its execution; but a disease that proved fatal before its final accomplishment.

Mr. HOUSTON. I believe it is not completed yet. How any man, unless he was under the influence of a diseased brain, could ever have fancied that a pair of brogans were becoming, and incorporated necessarily with heathen mythology, [laughter.] I cannot conceive.

Mr. DAVIS. The Senator must allow me to instruct him, because his wit is out of place, and particularly as it is practiced on a dead artist of such eminent character.

Mr. HOUSTON. It is on the marble.

Mr. DAVIS. It is no heathen mythology.

Mr. HOUSTON. The goddess of Liberty?

Mr. DAVIS. You did not even stop to learn the name of the thing, or the distance at which it was to be viewed.

Mr. HOUSTON. I did not want to do it.

[Laughter.] I was satisfied that it was some unfortunate lady that had fallen into great bodily agony and infelicity of feeling. Her countenance denotes no pleasure. I should like to know what lady has commended herself to the consideration of the Government, in a national point of view, so far as to be entitled to so much bestowment of art, and of labor, and expenditure, that has worn brogan shoes? [Laughter.] I commend it to the special notice of Senators. Her robe is floating; the zone is bound with loose drapery; and who ever heard of a person, thus dressed and decorated, wearing brogan shoes? Nobody, Mr. President, ever heard of it. It is not wit; it is matter of gravity and solemn complaint with me. Who ever heard of a mother holding a child in her arms, with the little fellow's neck sticking out like your finger? No, sir; it reclines on the mother's arm and is not drawn up in that agonizing attitude. It is unheard of. I do not care who has done it—it is an imposition upon art. Crawford was a genius, and he never did it. It is impossible that genius, taste, or fancy, could ever have suggested such a thing. Sir, go and look at the two statues. Look at the infant in the mother's arms, and see its attitude, and what it must perpetually endure. See, too, the attitude of that personage—I do not know who she is; it appears I was mistaken in supposing she was the goddess of Liberty. Certainly, I would have taken no undue liberties with her, [laughter.] because, to have commented on the model appears to be culpable. I did not intend it; I intended nothing but to deliver my opinion. I am not a scribbler, or I should have criticised them in the newspapers, to have prevented their introduction to the public eye. They will become their present condition; they are unfinished, and I hope will remain so as long as time lasts; for whenever the artist, or the lover of nature, or the admirer of beauty, of grace, and of elegance, comes to contemplate them, they must be condemned, no matter who produced them. I intend no reflection on the sculptor. I intend not the slightest reflection on the memory of the departed. My friends and my enemies are to me alike when covered by the earth's dust—bearing no part of my animosity. I only extend the sympathies of friendship to my friends with a tenderness that, perhaps, I have not had the generosity to bestow upon my adversaries; but I never reflected upon an artist or a man of genius. Being deficient in it myself, I admire it in others; and I am willing to accord to them the highest eulogiums—the highest praise; but I judge the tree by its fruit.

The PRESIDING OFFICER, (Mr. STUART.) The amendment will be read.

The Secretary read the amendment of Mr. DAVIS, as modified; which was, to strike out all after the word "for" in the amendment reported by the Committee on Finance, and insert:

The completion of the Capitol extension, \$1,185,183 34.

Mr. HUNTER. For one, I am not willing to appropriate the entire amount. I think that where ever we can, we ought to cut off something from the estimates for public buildings and prosecute them a little more slowly. We have had to propose to appropriate for other public buildings over the country, in order to perform existing contracts, and we shall make the appropriations so large that there will be no chance of meeting them with any means we have. It may be that they could expend the whole sum proposed to be appropriated, by the meeting of the next Congress; but I would rather they should go on more slowly. Let us save whenever we can, if it be only two or three hundred thousand dollars. It would be a great point if we could succeed in cutting down the estimates, if we can do so consistently with the public service, three or four millions. We shall find relief at the next session if we succeed in doing it.

Mr. DAVIS. If the object of the chairman of the Committee on Finance is economy, he is pursuing the wrong road. Unless he allows the superintendent to have that amount of money which will keep the whole force on the work, it follows as a necessary consequence that he will have to discharge the force, and reemploy them when he gets additional appropriations. The difference between the sum necessary to complete the work, and that which the committee agreed to allow, is \$435,000. I think it much better to appropriate

the whole sum, and require the superintendent to complete the building with it, than to come near that whole sum, and then have to give a subsequent appropriation, with a knowledge that you must increase his estimate if you destroy his organization.

Mr. HUNTER. We have had to meet that argument in other public buildings, and we shall have to meet it in any reduction proposed in navy-yards. It is essential that we should reduce where ever we can. In times like these we must go on slowly. If we had the money, I have no doubt it would be better to go on with many of the public works more rapidly than we propose to do in the appropriation bills; but looking to our condition, the committee felt it was due to the state of the Treasury that wherever we could, we should carry on these works more slowly. I believe \$750,000 is appropriating more liberally, in proportion to the whole sum that is wanting, than we appropriate for various other works that are in progress.

Mr. IVERSON. I shall vote against this proposition to increase the appropriation; but I think I shall follow out the suggestion of the chairman of the Committee on Finance, and move to strike out \$750,000 and insert \$500,000. I have no doubt it will require the amount estimated by the Senator from Mississippi to complete the Capitol.

Mr. DAVIS. It requires that amount to complete it now; but if the superintendent does not get it now, he will require more hereafter.

Mr. IVERSON. I do not understand that reasoning. It does not satisfy me that because it requires \$1,185,000 now, it will require more if you do not appropriate that money now. The Senator from Mississippi says the expenditures are about one hundred thousand dollars a month. Well, sir, you can very easily reduce that \$100,000 a month, without any harm whatever to the building, by simply discharging a portion of the operatives. The expenditure is simply the amount you pay to your operatives, to your employes. If you pay \$100,000 a month to them, by reducing them one half, you will only have to pay \$50,000, and it will merely run the expenditure over a larger space of time—that is all.

Mr. DAVIS. I will tell the Senator why I think it will require more money if the whole appropriation be not now made. The officer must keep the same number of principal workmen, the same number of overseers, draughtsmen, and superintendents, that he would have with a larger body of operatives. The expensive part of the personnel must be kept up with the smaller organization. Consequently it will cost more money; because, when he disbands his men and brings them back again, he must expect to pay for bringing them back.

Mr. IVERSON. I apprehend that all the models and drawings have already been made. Certainly at this stage of the proceedings new models and new drawings are not to be exhibited. They must have all been agreed upon and furnished long since. There is no necessity, then, for employing artists for that purpose. All that has been done already, every room in the building, has been planned; the execution of the whole of it has been planned, and the whole of it entered upon; it is all understood, and does not require the employment of those artists, it seems to me, to carry it on.

I think it eminently proper, in the present condition of the public finances, that the appropriations should be limited; and we ought to commence here on the Capitol, which is intended for our convenience. That is the proper place to stop expenditures and lessen them. The Committee of Ways and Means in the House of Representatives, instead of appropriating money to go on with the fortifications and necessary defenses of the country, have only proposed to appropriate a sufficient amount to keep them in repair, to keep them in a condition of not wasting or going to decay. Many fortifications of essential interest and benefit to the country are to be left in this condition. The one which is the key to the Gulf of Mexico, the one which is more important, perhaps, than all the others put together to the southern country, especially to those States lying on the Gulf of Mexico, is to be left in this condition. The fortifications on Tortugas are to be left in this condition, for the express reason that there is not

enough money in the Treasury to go on with these works. So in my own State; \$200,000 was appropriated at the last Congress to erect a naval depot on Blythe Island, near Brunswick, Georgia. The Secretary of the Navy, in response to a call made by a resolution of mine, states that the site has been purchased, but that no other proceedings will be carried on in relation to that work, because the Administration have determined not to commence any new work.

If we are not to apply money already appropriated in the commencement of a new work which is considered important to my section and to other sections, I think we ought not to expend so much money on the Capitol of the United States. Let us appropriate \$500,000 this year. Let the superintendent dismiss a portion of his employes, and keep the rest in reserve for the next year. We shall meet here in December; an appropriation bill can be passed immediately, if this appropriation should be exhausted in the mean time; and we can then appropriate a sufficient amount to go on with the work to a conclusion. I think it is better, in the condition of the Treasury, that we should spread those expenditures over a great space of time as possible, so that the work be not delayed or injured by neglect. I am in favor of the least amount of expenditure, and I shall move to strike out the \$750,000 reported by the Committee on Finance, and insert \$500,000, which I think will be amply sufficient to keep the superintendent and all the necessary workmen engaged there the present year.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Mississippi to the amendment of the Committee on Finance.

Mr. WADE called for the yeas and nays; and they were ordered.

The question being taken by yeas and nays, resulted—yeas 23, nays 27; as follows:

YEAS—Messrs. Bell, Bright, Broderick, Clay, Crittenden, Davis, Douglas, Fitch, Foot, Foster, Jones, Kennedy, Pearce, Rice, Sebastian, Seward, Simmons, Stuart, Thompson of Kentucky, Thomson of New Jersey, Toombs, Wilson, and Yulee—23.

NAYS—Messrs. Allen, Brown, Chandler, Clingman, Collamer, Durkee, Fessenden, Fitzpatrick, Green, Gwin, Hammond, Harlan, Hayne, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Mallory, Mason, Polk, Pugh, Reid, Slidell, Trumbull, Wade, and Wright—27.

So the amendment to the amendment was rejected.

Mr. DAVIS. I now offer the other branch as a proviso to the amendment of the committee. I propose to strike out the following proviso of the committee's amendment:

"Provided, That this appropriation shall not be expended, in whole or in part, upon the embellishment or decoration of the Capitol extension, either by painting or sculpture in the panels or niches of the Senate or House, unless the designs for such embellishment and decoration shall have been first submitted to, and approved by, the Joint Committee on the Library of Congress."

And insert in lieu thereof:

To enable the Library Committee to contract with distinguished artists for historical paintings and sculpture, for the panels and niches of the legislative Halls, and of the great stairways of the Capitol extension, \$50,000, in addition to the funds already in their hands for that purpose.

Mr. SEWARD. I ask a division on striking out and inserting. I want to strike out the proviso, but not to insert the substitute.

The PRESIDING OFFICER. The Chair will say to the Senator from New York that the motion to strike out and insert is not divisible.

Mr. HUNTER. I would suggest to the Senator from Mississippi that perhaps he could accomplish his object in another way. If he dislikes the proviso, I have no objection to its being stricken out. I do not think it accomplishes much, one way or the other. It was merely supposed it might, perhaps, make the appropriation more acceptable to the House of Representatives. I am willing for that to be stricken out, but I am unwilling to vote \$50,000 for artists. I think that ought to be postponed. If he chooses to move to strike out, he can move that, and then move to insert the additional appropriation, and he can thus in effect divide the proposition.

Mr. DAVIS. I have no anxiety about the appropriation. The Committee on the Library can go into the question at once. I doubt very much whether they would expend a dollar of the money for a year or two, if it was appropriated now.

Mr. PEARCE. I will say that I think the proviso entirely unnecessary. I am satisfied that the Library Committee really have no authority to expend any money for the purpose of statues and paintings in the niches and panels. The appropriation is designed for the continuation of the building of the structure; and although the proviso is that none of the appropriation shall be expended for the purposes I have just mentioned, except by the approbation of the Library Committee, the language would seem to imply that, with their approbation, it might be so expended. I am certain if it were left to the Library Committee, they would not now expend a dollar of it in that way. They want the building completed first. All this ornamentation is surplusage; it can be better done afterwards than now. I think it is as well to get rid of the proviso. I do not see any necessity for it.

Mr. DAVIS. Let the question be taken on striking out the proviso. I propose, first, to strike out the proviso of the Committee on Finance.

Mr. COLLAMER. Do I understand the honorable Senator to move that as a division of his motion?

The PRESIDING OFFICER. It is stated in that form; but it is a separate proposition.

Mr. COLLAMER. I desire to inquire whether the Senator from Mississippi expects to strike out this proviso with a view to inserting anything?

Mr. DAVIS. I accepted the suggestion of the Senator from New York, to divide the question.

Mr. COLLAMER. The Chair decided that it could not be divided.

Mr. DAVIS. Let the question be divided, so as to strike out.

Mr. COLLAMER. Then you must modify your motion in that way.

Mr. DAVIS. Very well.

The PRESIDING OFFICER. The Chair understood the Senator from Mississippi to modify his motion, so as to confine it to striking out the proviso of the amendment of the Committee on Finance.

The motion to strike out was agreed to; there being, on a division—yeas twenty-five, nays not counted.

The amendment, as modified, was agreed to.

The next amendment of the committee was to strike out the following clause:

"For the purchase of fifty copies of the Diplomatic Correspondence of the United States from 1776 to 1783, in six volumes, at five dollars per volume, to supply such States and Territories as have not been furnished with them, and such of our missions abroad as have not been heretofore furnished, the sum of \$1,500."

Mr. HUNTER. The request of the Department was, that they should purchase five hundred copies. That would have amounted to a much larger sum. The House of Representatives, instead of five hundred, put in fifty. Mr. Rives, who has the stereotyped plates, says he would not furnish such a small number as that, he would lose by it, and to justify him in undertaking the task, it would be necessary to take more copies. The committee concluded that, for the present, it was best to strike out the whole proposition. There is no pressing necessity for it.

The amendment was agreed to.

The next amendment was to insert at the end of the first section:

For defraying the expenses of a certain party of Omaha Indians who visited the city of Washington during the months of February and March, 1852, to be expended under the direction of the Secretary of the Interior—being the balance of a former appropriation, which was carried to the surplus fund on the 30th June, 1857—\$335.

The amendment was agreed to.

The next amendment was to insert:

For payment to the Secretary of the Senate of the sums paid by him to the representatives of Senators Bell, Butler, and Rusk, under the resolution of the Senate of the 10th of March, 1853, directing the payment of the same, out of the contingent fund of the Senate, to the representatives of the said Senators respectively, \$2,589 04.

The amendment was agreed to.

The next amendment of the committee was:

For continuing the extension of the Treasury building, \$500,000.

Mr. HUNTER. Before that question is taken I wish to give some explanation. There are here a whole series of amendments, which relate to the extension of the Treasury building and certain

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custom-houses and marine hospitals, which were inserted upon estimate by the Secretary of the Treasury. The whole amount is \$1,700,000. These were estimated for by the Secretary of the Treasury for the reason that most of the money was necessary to carry out existing contracts, made at a time when the Treasury was full, and in regard to some of these contracts, perhaps most of them, before he came into office. Large contracts were entered into for material. This material will be delivered and we shall have to pay for it, and he has only asked for so much in addition as will be necessary to put it up as it is delivered. He does not ask a cent to go beyond this—to go beyond what is necessary to carry out existing contracts, and to use up the material which will be thus furnished. Under the circumstances it seemed to the committee to be economy, indeed it seemed to be necessary, because if we do not meet these contracts the contractors will come upon us for damages. Most of the money will be required for that purpose. There will be some of it in addition, as I said before, for the purpose of bringing it here. If you bring a block of carved marble and expose it to the weather it would lose almost its value unless put in a safe place.

The appropriation asked for being confined to these objects, the Committee on Finance thought it was due to public credit as well as to economy to propose an appropriation for them. Nothing has been asked by the Secretary for any new building. Nothing has been asked for by him for any building where he could, without a violation of the public faith, postpone the work. That being the case, we did not see what we could do but to propose to satisfy these contracts and to make these appropriations.

In regard to the Treasury building, I will say that the contracts were made for the delivery of materials very far ahead of the predecessor of the present Secretary of the Treasury, at a time when the Treasury was full, when it was a judicious mode of expending money, and this stone is now being delivered when we are not very full of funds. The scheme is to employ hands enough to use it as it comes, and not to stop that work, because the delivery of the material is a very expensive thing. Under these circumstances, it seems to be economy to appropriate what the Secretary has asked.

Mr. HALE. I wish to ask the chairman of the Committee on Finance if these contracts of the Secretary, made for these great quantities, were according to law. I understand the law of May 1, 1820, is that contracts shall not be made unless there is an appropriation adequate to carry them out. Had he the right to make contracts ahead of the appropriations?

Mr. HUNTER. I am not able to say how that is. I have not investigated that question. Contracts have been made. I do not know how far they were justified by law, how far the special law making appropriation for these custom-houses may have justified them. I cannot answer that question. I do not know; but certain it is the contracts have been made, and the material is being delivered in large quantities. We have to pay for it as it is delivered, under the contracts; and it is economy, in regard to these buildings, to employ just so much labor as will be necessary to use up the materials, instead of leaving it exposed to the weather.

Mr. SEWARD. I wish to move an amendment to the amendment:

And for the construction of a building for a post office and other Government purposes in the city of Brooklyn, State of New York, \$50,000; and also such additional sum as may be necessary to purchase a suitable site for such building, not to exceed \$30,000.

Mr. HUNTER. Does the Senator move that as an amendment to this for the completion of the Treasury building?

Mr. SEWARD. An amendment to your amendment. I suppose your amendment is to complete the whole of the buildings now in process of construction.

Mr. HUNTER. I should be very glad if the

sense of the Senate were taken on it as a whole—the whole estimate for \$1,700,000—but I suppose it will be taken on these separate items first. I will say in regard to the Senator's proposition, however, that I shall have to ask if there is any estimate for it from the Department, any recommendation from a committee, in order to make it in order?

Mr. SEWARD. I am not able to say that I have.

Mr. HUNTER. Then it is not in order.

Mr. SEWARD. It is very important that there should be these buildings in the city of Brooklyn, and this is a very reasonable place to put the provision, and the amount is a very reasonable estimate.

Mr. HUNTER. Then it is not in order.

The PRESIDING OFFICER. The Chair thinks the amendment is excluded by the rule of the Senate.

Mr. POLK. I should like to ask the chairman of the Committee on Finance one question. I see that the amount of \$20,000 is mentioned to be appropriated to the completion of the custom-house or public building, not only for a custom-house, but other purposes, in the city of St. Louis. I should like to learn from the chairman if he is satisfied that \$20,000 will effect that purpose. I was under the impression that it would require, perhaps, \$30,000.

Mr. HUNTER. I will look to the report.

Mr. POLK. While the Senator is looking for the paper, I will observe that this is the state of the case in reference to that building: some thirty thousand dollars will complete it; and when completed, it will accommodate all the United States offices in the city of St. Louis. As the matter now is, there is probably expended every year by the United States for rent, a sum equal to the amount that will be necessary to complete this building.

Mr. HUNTER. I have found the paper. The estimate is \$20,000, to complete the custom-house at St. Louis, estimated by the Secretary of the Treasury, and Mr. Bowman, who is in charge of the work.

Mr. GREEN. I had an interview with Mr. Bowman myself, and he showed me his exhibit, stating it at \$29,600.

Mr. HUNTER. Here is the document.

Mr. GREEN. I cannot help his document.

Mr. HUNTER. We have not come to that, though. When we do come to it, I shall have the document read.

The PRESIDING OFFICER. Does the Senator from Virginia desire a division of the amendment? It is all one amendment, the Chair thinks.

Mr. HUNTER. Then I do not desire a division. I am willing for Senators to question me in regard to any one item. I think it had better be taken as a whole. The estimate is as a whole, and I ask that this paper be read, by way of explanation.

Mr. FESSENDEN. I ask whether the Senator from Missouri has looked far enough ahead. I see there is one appropriation for \$20,000, to complete the St. Louis custom-house, and another appropriation afterwards under the head of fencing, grading, paving, and furnishing custom-houses, and it says at St. Louis, Missouri, \$14,600, making altogether \$34,600.

Mr. GREEN. He told me that \$29,600 would finish the grading and fencing, and make it all perfect.

Mr. FESSENDEN. Then you have more than you want.

The PRESIDING OFFICER. The whole amendment will be read.

The Secretary read it, as follows:

For continuing the extension of the Treasury building, \$500,000.

For continuing the work on the custom-house at New Orleans, Louisiana, \$350,000.

For continuing the work on the custom-house at Charleston, South Carolina, \$300,000.

For the completion of custom-houses at the following places, namely: at Ellsworth, Maine, \$2,000; at Portsmouth, New Hampshire, \$50,000; at Bristol, Rhode Island, includ-

ing fencing and grading, \$5,000; at New Haven, Connecticut, \$60,000; at Oswego, New York, \$10,000; at Plattsburg, New York, \$10,000; at Newark, New Jersey, \$10,000; at Norfolk, Virginia, \$20,000; at Pensacola, Florida, \$5,000; at St. Louis, Missouri, \$20,000; at Mobile, Alabama, including fencing and paving, \$30,000; at Galena, Illinois, \$10,000; at Milwaukee, Wisconsin, \$10,000; and for annual repairs at custom houses, \$15,000.

For the completion of marine hospitals at the following places, namely: at Portland, Maine, \$3,000; at St. Mark's, Florida, \$2,500; at New Orleans, Louisiana, including filling up site, grading, introducing gas and water pipes, and fixtures, and fencing, \$85,000; at Cincinnati, Ohio, \$50,000; at Galena, Illinois, \$5,000; and for annual repairs at marine hospitals, \$15,000.

For fencing, grading, paving, and furnishing the custom-houses at the following places, namely: at Ellsworth, Maine, \$3,000; at Bath, Maine, (for furniture alone), \$1,100; at Burlington, Vermont, \$4,600; at New Haven, Connecticut, \$8,500; at Oswego, New York, \$7,300; at Plattsburg, New York, \$9,900; at Newark, New Jersey, \$5,200; at Alexandria, Virginia, \$3,700; at Norfolk, Virginia, \$12,000; at Mobile, Alabama, (for furniture alone), \$2,600; at Pensacola, Florida, \$2,500; at St. Louis, Missouri, \$14,600; at Louisville, Kentucky, \$3,900; at Cleveland, Ohio, \$7,100; at Galena, Illinois, \$3,700; at Milwaukee, Wisconsin, \$7,700.

For fencing, grading, paving, and furnishing the marine hospitals at the following places, namely: at Burlington, Vermont, \$3,400; at Chelsea, Massachusetts, (out-buildings, grading, and fencing,) \$19,700; at St. Mark's, Florida, \$1,200; at Detroit, Michigan, \$7,500; at Galena, Illinois, \$3,900; at Burlington, Iowa, \$4,100.

Mr. HUNTER. I now send to the desk the document to which I have alluded, and I ask that it be read.

The Secretary read it, as follows:

TREASURY DEPARTMENT, May 10, 1858.

SIR: I herewith transmit a communication from the construction bureau of this Department, asking for certain appropriations, to be expended in the prosecution of certain public buildings. The principal sums were estimated for in the report of that officer, which accompanied my annual report to Congress. The reasons for an increased estimate in some instances are set forth in the accompanying communication.

This branch of the public service has been conducted with a proper regard to the existing state of the Treasury. When the works are progressing under contracts, there is no discretion with the Department to limit their progress; but in other cases the expenditure is limited to such amounts as will prevent injury to the works in progress from a total suspension of them.

I am, sir, very respectfully, your obedient servant,
HOWELL COBB,
Secretary of the Treasury.

Hon. JAMES L. ORR,
Speaker House of Representatives, Washington, D. C.

TREASURY DEPARTMENT, May 6, 1858.

SIR: In my annual report to you on the condition of the several buildings being erected under the Treasury Department, I had the honor to call attention to the appropriations required to be made to carry on the works with economy, having a proper regard to the pecuniary embarrassment of the Treasury.

Since that period (September 30) the works have progressed with increased vigor, owing to the abundance and comparative cheapness of materials and labor, consequent upon the hard times. The result has been that larger expenditures have been made than could then be anticipated. As most of the works are being done by contract, it was impossible to restrain the increased expenditures.

From this cause the unexpended balances that were expected to be available for the first two quarters of the next fiscal year are greatly reduced, and in some instances entirely expended. Owing to this increased vigor in prosecuting the works, many of them will be finished, if the necessary appropriations are now made, before the next meeting of Congress.

In view of these circumstances, and to avoid damages which the contractors will not fail to demand if the works are suspended, and at the same time to save the large amounts now annually paid for rent of buildings, which those in question are designed to replace, I would most respectfully recommend that Congress be requested to make the following appropriations: All designed to complete, in every particular, all the buildings named, except the custom-houses at New Orleans and Charleston, and the Treasury extension, of which latter the sum asked will finish the south and a portion of the west wing.

I also subjoin estimates in gross, accompanied by others in detail, of the amounts necessary to fence, grade, and furnish those buildings that are now completed or that will be finished before the next meeting of Congress.

I have the honor to be, very respectfully, your obedient servant,
A. H. BOWMAN,
Engineer in charge Treasury Department.

Hon. HOWELL COBB, Secretary of the Treasury.

Appropriations necessary to continue the following works during the fiscal year ending June 30, 1859.

Treasury extension.....	\$500,000 00
Custom-house at New Orleans, Louisiana...	350,000 00
Custom-house at Charleston, South Carolina	300,000 00
	\$1,150,000 00

Appropriations necessary to complete the buildings at the following-named places:

Custom-houses.	
Ellsworth, Maine.....	\$2,000 00
Portsmouth, New Hampshire.....	50,000 00
Bristol, Rhode Island, including fencing and grading.....	5,000 00
New Haven, Connecticut.....	60,000 00
Oswego, New York.....	10,000 00
Plattsburg, New York.....	10,000 00
Newark, New Jersey.....	10,000 00
Norfolk, Virginia.....	20,000 00
Pensacola, Florida.....	5,000 00
St. Louis, Missouri.....	20,000 00
Mobile, Alabama, including fencing and paving.....	30,000 00
Galena, Illinois.....	10,000 00
Milwaukee, Wisconsin.....	10,000 00
Annual repairs.....	15,000 00
257,000 00	

Marine hospitals.

Portland, Maine.....	\$3,000 00
St. Mark's, Florida.....	2,500 00
New Orleans, Louisiana, including filling up site, grading, introducing gas and water pipes, and fixtures, and fencing.....	85,000 00
Cincinnati, Ohio.....	50,000 00
Galena, Illinois.....	5,000 00
Annual repairs.....	15,000 00
160,500 00	

Appropriations required for fencing, grading, paving, and furnishing the following buildings, which have been or will be completed before the next session of Congress:

Custom-houses.	
Ellsworth, Maine.....	\$3,000 00
Bath, Maine, furniture alone.....	1,100 00
Burlington, Vermont.....	4,600 00
New Haven, Connecticut.....	8,500 00
Oswego, New York.....	7,300 00
Plattsburg, New York.....	9,900 00
Newark, New Jersey.....	5,200 00
Alexandria, Virginia.....	3,700 00
Norfolk, Virginia.....	12,000 00
Mobile, Alabama, furniture alone.....	2,600 00
Pensacola, Florida.....	2,500 00
St. Louis, Missouri.....	14,600 00
Louisville, Kentucky.....	3,900 00
Cleveland, Ohio.....	7,100 00
Galena, Illinois.....	3,700 00
Milwaukee, Wisconsin.....	7,700 00
97,400 00	
Marine hospitals.	
Burlington, Vermont.....	\$3,400 00
Chelsea, Massachusetts, out-buildings, grading, and fencing.....	19,700 00
St. Mark's, Florida.....	1,300 00
Detroit, Michigan.....	7,500 00
Galena, Illinois.....	3,800 00
Burlington, Iowa.....	4,100 00
39,700 00	

Total appropriation asked for.....**\$1,704,600 00**

Mr. PUGH. I wish to ask the Senator from Virginia a question. What is the gross amount covered by these various estimates in this amendment?

Mr. HUNTER. One million seven hundred thousand dollars.

Mr. PUGH. I want to direct his attention and that of the Senate to the fact that three appropriations amount to \$1,150,000. Three of them are more than two thirds of the whole—the Treasury extension, the custom-house at New Orleans, and the custom-house at Charleston, South Carolina.

Mr. HUNTER. The explanation in regard to the Treasury building I have given. In regard to the custom-houses at New Orleans and Charleston, as I have said before, the materials are delivered there. There were large contracts for materials, which have been delivered. This estimate is only for so much labor as may be necessary to put up the material which is to be delivered under contracts. These contracts we must meet and pay for.

Mr. PUGH. I do not object to them, but when I hear so much about geographical inequality of appropriations, I direct the attention of the Senate to that fact.

Mr. HALE. It seems to me—I do not know that it will do any good to mention it—that the Senate ought not to pass this lightly over. Here is an appropriation of \$500,000 for the extension of the Treasury building, which the chairman of the Committee on Finance tells us is simply to carry out contracts already made, by which the material is to be delivered; and this is for the labor necessary to use it. I understand that such a contract as that is illegal, and that neither the Secretary of the Treasury nor anybody else had

any authority to make it; that the law of 1820 expressly forbids everybody, except the Commissary General, and the Navy Department in certain instances, from making a contract, unless there is a law especially for it, or an appropriation adequate to it; and if he has gone on and made these contracts, without law and without an adequate appropriation, I think the Senate ought to look into it, and ought not to vote to pay illegal contracts thus made by the Secretary.

Mr. HUNTER. They have not paid a cent, as I understand. During the next fiscal year, under contracts already made—made by the predecessor of the present Secretary—this material will be delivered. When it is delivered under the contract, it ought to be paid for; and when it is paid for, then the only additional estimate is for labor enough to use that material.

Mr. HALE. It is the very thing I am complaining of, that the Secretary has made these contracts, and made them in the very face of the law which says he shall not make them unless there is a law authorizing him to make contracts. I do not understand that there was in this case, and it is manifest there is no appropriation adequate to carry them out; for if there was, we should not be asked to appropriate the money now. I am not willing to register a decree of a million and a half of money to carry out a contract which the Secretary is forbidden to make.

Mr. KING. I desire to offer an amendment as an additional clause:

That the Secretary of the Treasury is required to execute the provisions of the acts of Congress approved August 16, 1856, and March 3, 1857, authorizing and directing the said Secretary to cause to be constructed buildings therein mentioned for custom-house and post office purposes, and for the accommodation of the courts of the United States, and the appropriations made by the said acts are continued for the purpose of the execution of said provisions of said laws.

Mr. HUNTER. I believe in equity that amendment is not in order, but technically I suppose it is, as the Senator has introduced it for the purpose of carrying out the provisions of an existing law; that is, to force the Secretary to proceed at once to the erection of a building which he desires to postpone. I suppose it is in order, but it certainly ought not to be adopted.

Mr. KING. We have in this amendment of the Committee on Finance, appropriations to meet contracts and expenditures by the Secretary of the Treasury which it is alleged, and not contradicted by the chairman of the Committee on Finance—I have not examined the laws in relation to some of these appropriations myself—were not authorized by law. I ask that the Secretary of the Treasury be directed to carry out the provision of laws already passed, which it is obligatory upon him to have executed; and I think it is with a very bad grace that his friends, or the friends of the Administration, come in here and ask that they shall be excused from executing laws which were passed when the funds were in the Treasury to meet the expenses, and that we shall appropriate for other purposes to meet contracts which were not authorized by law, and not authorized by appropriations; and thus, in fact, give to the executive department of the Government the entire control of the Treasury of the country. For what purpose is it that laws are passed and appropriations made? Surely that they may be executed and carried out by that Department of the Government who exercise that duty. If they are at liberty to execute a statute or not, to say "this law we will execute, and that we will not," and then ask us to make appropriations to carry out their purposes while they refuse to carry out appropriations Congress have ordered, there is no use of a Congress at all. What are we to expect in all the subordinate branches of the Government if here, at the capital of the nation, the chief executive officers utterly disregard the law, and assume, as it is assumed by the chairman of the committee here, that a discretion may exist with the Executive Departments to execute a law or not? I ask simply that the provisions of the laws of 1856 and 1857 shall be executed, and I think it a very reasonable request.

Mr. HUNTER. I will state the history of the amendment of the Finance Committee. It was offered in the House of Representatives, and that House refused to adopt it. It was with great reluctance that I could bring my mind to agree to it; but on the statement that it was necessary in

order to carry out contracts—and whether they be legal or not it scarcely concerns us now to inquire, for they were not made by the present Secretary—contracts which already existed for the material, and for so much more labor as would be necessary to use this material. To that extent I was willing to go, but not one step further. If the Senate introduced any one of these new works where the completion can be postponed, and which the Secretary of the Treasury has postponed in consideration of the present condition of the Treasury, I, for one, will vote against this amendment which our committee have offered. In other words, I was only willing to vote for it upon the principle that I would go as far as was necessary in order to save the public faith, and when the material which we had thus contracted for was delivered, I would vote as much more as was necessary to put that in a safe condition.

So far as the committee's amendment is concerned, I simply seek to discharge a public duty; I would not turn on my heel to save it. If Senators believe the contracts were made against law—and that I neither affirm nor deny, for I have had no means of examining into it; if they believe the contracts were illegal let them vote them out; but that is no reason for voting in others where we can postpone the works and complete them at a more convenient season, or when we have more money in the Treasury. If they think the buildings which we propose to complete, and for which we propose to appropriate money, ought to be postponed, and the payment of those contracts postponed because they were illegal, let them vote them all out. I shall not say one word more in their favor than I have already said, for it was with great reluctance I went for them.

Mr. KING. I am in favor of economy in the expenditures of the Government, and I will go as far as any Senator in any action with a view to a legitimate reduction of the expenses of the Government. But there is a question here other than the appropriation of \$50,000 or \$100,000 to any particular purpose. We are called upon to vote appropriations of millions. At the commencement of this session we were asked to vote an appropriation of about nine million dollars of deficiency, which was concededly contracted on the part of the Government without appropriations by Congress. The Executive Departments go on and make expenditures, and then come to Congress and ask us to appropriate the money; and we are to be told the honor of the country is concerned in the payment of these debts because they have been contracted, and we must vote the money, when that same Executive Department refuses to use the money in the Treasury for the purposes for which Congress has appropriated it.

There are two sides to this question. The Executive Departments of the Government are not only spending millions of money unauthorized by any action of Congress, but they are refusing to expend money which they are authorized and required by an act of Congress to expend for certain purposes. What does this lead to but the giving to the executive department the authority to use the Treasury to its friends and partisans, and to purposes that promote its own interest and views where it pleases, with favor? It is an authority that never ought to exist with them. It does not exist with them by law, and for one, I will never, by my vote, ratify any such exercise of power by the Executive, and I am surprised that there should be an effort here to sustain the Government in this matter, by gentlemen who ask us, in the present condition of the Treasury, to refrain from voting large appropriations. Why, sir, in the very proposition to which I offer this amendment, there are heavy appropriations of \$200,000, \$300,000, and \$500,000 to particular objects; \$500,000 to the construction of the Treasury building here, a building which is not wanted for any special or immediate purpose; and small appropriations over the country at other places are to be withdrawn from them until they shall have lapsed to the Treasury, expired by the expiration of the force of the laws, and then perhaps never be done. In the one locality, about which I know something, a special and particular friend of the Administration has already obtained from the Department the pay for the site of the place, a site in my judgment not the very best that could have been found in the locality, but it was selected, and for that rea-

son I am not disposed to talk about it. They had power to select a site and did so, and paid for it, and he has got the money which it was very convenient for him to have, I know; and which, so far as a neighbor is concerned, I have no objection to his having; but I have no idea that money which was appropriated, and which was in the Treasury at the time it was appropriated, shall be withheld, and that the public shall go without the accommodation Congress intended they should have on the mere arbitrary discretion of an executive officer. I wish this amendment appended to the amendment of the Finance Committee; and then if the chairman does not want any of it adopted, I have no very particular wish about it. Still I think it the duty of the executive department to execute the laws and not to undertake to assume a discretion to set them aside, and certainly not when they are using millions that they are not authorized to use and afterwards come to Congress to get them to ratify it.

Mr. GREEN. It does not seem to me to be very correct to characterize the Secretary of War or the heads of the Executive Departments as having made contracts without authority of law, when there is no evidence of it. True, there was a deficiency bill passed here; but I know, the Senate knows, and the country knows, that every one of the obligations provided for in it was incurred according to law, and the very law to which the Senator from New Hampshire refers, has a proviso in it excepting the cases in which the indebtedness occurred for which the deficiency bill passed.

Mr. TRUMBULL. Will the Senator from Missouri allow me to inquire if it excepted the \$250,000 for surveys in California?

Mr. GREEN. I understand all that. That is not the \$5,000,000 to which the Senator from New York alluded.

Mr. TRUMBULL. It was part of that bill.

Mr. GREEN. True, it was part of that bill; but the Senator from Illinois ought to know under what circumstances that indebtedness occurred. Continuing contracts were made, the work under which amounted to that sum, and it was required to meet an actual deficiency. Deficiency bills are incident to the nature of the Government; and while we all vote them with the greatest reluctance, and while we scrutinize them with the utmost care, as we ought to do, it is not very appropriate to charge an executive officer with a violation of law, when the law leaves a margin within which he may exercise his discretion; and he not only has the right, but it is his imperative duty to do so. There are cases in which, if the appropriation were to be exhausted, the Army would have to be disbanded; the Navy would have to be dismantled; the ships left to rot, and the arms to go to rust, and the whole defenses of the country to perish, but for that proviso in the law which gives the executive officer the privilege to keep up, by anticipation, the means to defend and protect the country; and it was under this that that deficiency accrued.

One word now upon the subject of these custom-house appropriations. The Senator from New York implies a censure against the Secretary of the Treasury. The Secretary of the Treasury cannot use money, although appropriated, unless he has it. It may be in the statute; the law may authorize him to use it; but if he has not the money, he cannot use it. If the law imposes on him the duty of making certain payments, and also authorizes him to erect certain public buildings, and he has not enough to do all, he must stop and select that which is most imperative, that which is most important to the public interest, in doing which the putting up of gaols, building of court-houses, custom-houses, and post offices has been neglected, as it ought to be neglected, until we are able to do it. If the country had had an overflowing Treasury, no doubt all these buildings would have been put up. Why, sir, more than twenty applications have come to us at this session of Congress for appropriations for post offices and court-houses, and all have been rejected. Others, which were passed at the last Congress, have not been built. Why? Because we had not the means to do it. The public accommodation may require it; but we must proceed, as the Spaniards say, *poco-a-poco*, little by little, step by step; do it according to the means we have, and I see no cause for censure or com-

plaint against any executive officer for not putting up a building when he has not the money to pay for it, although it may be appropriated nominally on the statute-book.

Mr. TOOMBS. The complaint made by the Senator from New York is a very extraordinary one, and his amendment is of a very extraordinary character. The truth is, it is entirely illogical and ludicrous. Congress appropriates a large amount of money, say \$70,000,000; the Treasury falls short \$20,000,000; and you complain of the Secretary of the Treasury for not spending the \$70,000,000 when he has not got the money. That is the whole complaint. Congress makes its appropriations, estimating the revenue; the revenue falls short, but the appropriations do not; the appropriations stand, but the \$70,000,000 do not come into the Treasury; and now complaint is made that the Secretary does not spend the money that he has not got. That is the whole of the Senator's complaint. But he says that the Secretary has bought a site for some of those buildings. If there was enough to execute a portion of the duty, to fulfill the law in part, which would he have done first? Would he have the Secretary build the house and then buy the site, or first buy the site and then build the house? I think the Secretary of the Treasury commenced at the right end. I think he ought to have bought the site before he built the house. The complaint seems to be, however, according to the Senator, that a friend of one of the Departments here has got pay for the site, and that the public has not got the accommodation of the building. How could the public get the accommodation without having a site on which to put the building? Is there any justice in the Senator's complaint, unless he was to build the house before he bought a place to put it on?

The amendment ought not to pass. It calls on the Secretary to execute such laws. Find him the money. It is no interest of the Secretary not to execute the laws, and pay out money as you direct him; but the difficulty is, that he has not got the money. When you have appropriated \$75,000,000, and there are but \$50,000,000 in the Treasury, it is the duty of the executive Government to apply the money first to those objects of most important public necessity; and therefore the completion of buildings nearly completed, where the public would lose by delay, would be the first object in this class of expenditures; and last of all would be to put up new court-houses and new custom-houses. Use the old ones, or use none. All these appropriations were very injudicious. They were the least necessary to carry on the Government. I admit it is the duty of the executive officer to execute them if you find him the means; but it is his right and his duty, when there is not money enough in the Treasury for all the objects of expenditure, to apply the money first to those most important. He cannot do all. He must do some. I suppose he does not judge as the Senator from New York does. He wants the Secretary to do something in his neighborhood. But the Secretary is an officer of the whole country; and, in his judgment, (the only place where the discretion can be,) that object can wait until the money comes. If he gets it soon, I have no doubt he will perform the duty.

Mr. KING. I suppose I shall not be required to furnish understanding to the Senator from Georgia, who has chosen to misunderstand the facts of this case, and of course thus to misstate them. I will read the law. On the 16th August, 1856, a law was passed containing this provision:

"Sec. 18. And he it further enacted, That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause to be constructed the following buildings."

And then it goes on to enumerate them, and appropriates the money. When this law was passed, in August, 1856, and for a year after that period, there was a large surplus of money in the Treasury. The money which was appropriated by Congress for these objects was in the Treasury. My complaint is that the Secretary of the Treasury has diverted it to other purposes, and used it for objects for which he was not authorized to use it by any act of Congress, and has refused to carry out the law of Congress. That is the allegation I make.

Mr. HUNTER. Will the Senator from New York tell me for what object not authorized by law the Secretary has used money? I am not aware of anything of that kind.

Mr. KING. I will tell you what I consider acts that are not authorized by law. Wherever he has used money for a purpose for which no appropriation was made, he has there undertaken to exercise his discretion. The deficiency bill which was brought in here at the commencement of the session for some eight or nine million dollars, the greater part of which was for the alleged Utah war, was evidence of large amounts of money used for purposes for which no act of appropriation had been passed.

Mr. HUNTER. I do not wish to interrupt the Senator, but he is certainly mistaken. Not a cent of that was paid until there was an appropriation. The Government was made liable by contracts.

Mr. KING. Precisely.

Mr. HUNTER. But not a cent was used until it was appropriated.

Mr. KING. The officer could not pay the money out of the Treasury, but he would make contracts. That is the very thing I complain of; that instead of using money for objects for which Congress had directed him to use it, he makes contracts and comes here to procure from Congress a vote to authorize him to pay money for the purpose to which he has appropriated it and to which Congress has not.

Mr. HUNTER. They were not contracts made without authority of law, except, perhaps, it may be said, those made by the surveyor general of California.

Mr. KING. Five hundred thousand dollars of this very amendment, offered by the chairman of the Committee on Finance, it is alleged by the Senator from New Hampshire, was contracted without authority of law, and in express violation of the act of 1820, and the chairman of the Committee on Finance states that he has not examined the question, and does not know how the fact is. I have not examined it, and do not know.

Mr. HUNTER. Mr. Cobb did not make the contract.

Mr. BRODERICK. Will the Senator from New York yield me the floor for a moment?

Mr. KING. Yes, sir.

Mr. BRODERICK. I can state that the Secretary of the Treasury paid \$110,000 in California, without any authority of law, and very unjustly, too. I have been trying, since I have held a seat here, to ascertain by what authority of law he paid it, and I have not yet been able to ascertain.

Mr. HUNTER, and others. What was the case?

Mr. BRODERICK. It was the case of a settlement between a gentleman by the name of Eldridge and the Department, where the Secretary of the Treasury paid \$110,000 to Mr. Eldridge to take the buildings off the Government's hands, while another party was in possession, and a lease had been made to him by the collector of the port of San Francisco. There was no authority of law for it. In the first place, the Department paid \$75,000 to erect the building. They paid the party \$450,000 in six years for rents; and in the end paid him \$110,000 to take the property off the hands of the Government.

Mr. KING. It is this unregulated discretion, this arbitrary power and authority assumed by the executive department in relation to the expenditures of the Treasury, to which I object; that, instead of pursuing the laws and executing them, they go on to use the public funds for such purposes as they choose, and then call upon Congress in cases where they have not been authorized by appropriations, or by special direction of the statute, to ratify their action by appropriating for a deficiency. The Treasury of the nation should be under the control of Congress; but there may be instances in which the executive department is called upon to make expenditures, and to take the responsibility; and where that is the case they should report the facts to Congress, and in such a case I should never object to meeting the liability. But the point here is, whether the executive department, with the money in the Treasury, can refuse to execute the laws of Congress which have been passed a year in advance for them? This is so. We all know that the Secretary of the Treasury, under the discretion which existed with him, paid some ten or twelve million dollars of public debt at an advance of from ten to seventeen per cent. premium. Large premiums were paid to wealthy capitalists for the debts;

while at the same time the appropriations which were made by Congress must, in his discretion, go unexecuted. I object to that arbitrary discretion which undertakes to say that an appropriation made by Congress in the distribution of these necessary buildings for purposes wanted for the public in all quarters of the country, shall be used here, and shall not be used there.

Here in the amendment of the Finance Committee is \$300,000 for the custom-house at New Orleans. I do not say they do not need it; I dare say they do need it. Here is also \$300,000 for the custom-house at Charleston. I know nothing about the facts; I dare say they want it to carry out contracts. Here is also \$500,000 for the Treasury building. I bring to your attention some small appropriations of fifty or one hundred thousand dollars for a few remote places on the frontiers, in which the Secretary has not only been authorized to erect the buildings, but all discretion has been, by the statute itself, taken from him. He is authorized and directed to do it. Now, by what authority does he withhold the money and appropriate it for other purposes? That is what he has done. He has not failed to use the money because he did not have it, I would say to the Senator from Georgia, but he has taken the money which was in the Treasury, and bought up from brokers and bondholders the bonds which they held; he has paid an enormous premium for those bonds, and thus diverted the use of these funds; and it is that arbitrary discretion of which I complain. There may be cases where he wants to use the funds for necessary purposes. To that I would not object; but I say he should be required, and Congress should hold him to accountability, for carrying out and executing laws which they pass, and which they direct him to execute, and which he has had full ability to execute.

Mr. TOOMBS. I will certainly relieve the Senator from New York from any obligation to furnish me any brains in this case, because I have seen nothing in that Senator's course which indicated that he could spare any. It has not been shown that the Secretary of the Treasury has, in any instance, spent one dollar other than by law; and I undertake to say no such case can be shown. I am quite certain the Senator from California is mistaken in the case he suggested, for I happen to know something about that. That case of Eldridge grew out of a lease which had been made many years before of certain buildings. I happen casually to know it from the fact that a person interested in it mentioned the subject to me. When the buildings were given up, the question of that settlement was under a lease already existing, and under which, I believe, from recollection, the houses were put up, and it was done in direct conformity to law, and the contract was made in pursuance of law. I do not recollect the particulars, but I know Mr. Eldridge's case was of that kind.

Mr. BRODERICK. Will the Senator allow me to interrupt him?

Mr. TOOMBS. Certainly.

Mr. BRODERICK. In 1852, Mr. Eldridge made a contract with the Government to erect a building for a warehouse. The collector of customs, Mr. King, was directed to pay him \$72,000 to erect the building, so that he did not take a dollar out of his own pocket. The Government then paid \$6,000 a month for four years, I believe. The Government had appointed an appraiser, and Mr. Eldridge, or his agent in California—for I believe at that time he was on this side of the mountains—had appointed another appraiser, and they were adjudicating the matter at the very time when the news arrived in San Francisco that Mr. Cobb had settled with Mr. Eldridge for \$110,000. Just before that settlement was made, the collector of the customs subleased the building to a gentleman by the name of Hickey. After advertising for contracts, Mr. Hickey got the building, and the collector entered into a contract with him to pay him \$250 a month as a bonus for taking the building off the Government's hands. A few weeks subsequently, Mr. Hickey was ejected from the building, after making the contract with the collector. It seems, then, that the collector of customs in San Francisco, the gentleman who made the sublease to Mr. Hickey, did not know anything about this matter. The former Secretary of the Treasury, Mr. Guthrie, refused to settle with these parties; and I believe the settlement

was made without the knowledge of any of the Representatives or Senators from California.

Mr. TOOMBS. I only know that that question was brought before the Department as I said, and settled, I have no doubt, according to law. If the Senator from California desires to know how it was, let him introduce a resolution asking for it, and no doubt he can get it in a moment.

Mr. BRODERICK. I introduced a resolution of inquiry some three weeks since, wherein I made serious charges against the San Francisco postmaster, and I have never heard anything about the resolution since. Objections were made at the time to the phraseology of my resolution. I allowed gentlemen to put it in such a shape as they pleased. It finally passed unanimously, but I have never heard a word from the Postmaster General since, and I therefore am tired of introducing resolutions of inquiry addressed to the Departments.

Mr. YULEE. I can explain that matter to the Senator from California. An answer to his resolution is in the course of preparation; but I will state to the Senator that his resolution called for information in relation to a matter, the copying of the papers of which would require the time of two clerks for four or five months; and if he expects a report to be made on such a case within two weeks he has not appreciated the magnitude of the task he has imposed on the Department.

Mr. TOOMBS. I beg to be relieved from the idea of going into another class of cases. The particular case I was on, was in reference to the course of the Secretary of the Treasury, with whom I am better acquainted than with the Postmaster General; but I have no doubt the Senator from California will find, when he gets his information, that it is all right. At all events, I shall reserve my opinion until I see the evidence, it not being my habit to form a judgment until I know the facts.

The amendment of the Senator from New York, to which I have objected, is in these words:

"That the Secretary of the Treasury is required to execute the provisions of the acts of Congress, approved August 16, 1856, and March 3, 1857, authorizing and directing the said Secretary to cause to be constructed buildings therein mentioned for custom-house and post office purposes, and for the accommodation of the courts of the United States; and the appropriations made by the said acts are continued for the purpose of the execution of the said provisions of said laws."

I again state, that one of the reasons why they have not progressed with them, is the want of money in the Treasury. Certainly, as to those directed to be built by the act of March 3d, 1857, they could hardly have been commenced by this time, even if the money had been in the Treasury. If they stopped after giving the Senator's friend the pay for the site of the building, which I take to be the first step, then it was certain the money in the Treasury was short; and it is certain that was the reason the Secretary of the Treasury gave why these appropriations have not been carried out. He states, in his report, that the money in the Treasury being short, he applied it first to the most pressing objects of public necessity. The money is not in the Treasury now; and I believe it has not been provided with very great alacrity by the Congress of the United States, or at least not without a good deal of grumbling.

As to the cases of misapplication to which the Senator alluded, I say he has failed to exhibit, and he cannot exhibit, a case in which one dollar has been expended without authority of law. The cases he put as to the deficiency bill, are not only not cases where money has not been spent illegally, but they are cases where it has not been spent at all. I should suppose it would not take the application of a great deal of brains to determine that when the officers come here for deficiencies of appropriation for authority to spend money for particular objects, it is very clear that they had not spent the money, or they would not come here. In the very case to which the Senator alluded, the officer came here with a report showing that he had not expended a dollar; but he said the public interests required a certain expenditure for which there was no appropriation, and he came here and asked for authority of law to make contracts. I know that was the case with the deficiency bill. I did not approve of many of the items of that bill. The evidence was laid before the Senate showing the state of

the case in regard to it; and therefore I think the allegation is gratuitous that money has been expended for purposes not warranted by law, or that it was diverted from an express appropriation, and used for purposes for which it was not appropriated. That I understand to be the charge of the Senator from New York, and I say that charge is unfounded. The taking up of the public debt was authorized by law. The Secretary of the Treasury had a right to use the public money for that object to such an extent as he deemed proper. The fact that the falling short of the revenues in September and October, was not foreseen, was a mistake into which thousands of the Senator's constituents and the whole country fell. It resulted from the universal breakdown in the city of New York, and throughout that section of the United States. He had a right to use money to take up the public debt. That process had been going on for years. Thirty-five million dollars had been expended before under the law for that purpose, and the present Secretary of the Treasury I believe expended less than five million dollars for it. Here were appropriations standing over of fifteen or twenty million dollars, and he had to select those which were most pressing, unless all the dollars in the Treasury were expressly appropriated for building unnecessary post offices, court-houses, and custom-houses, which had not been commenced at all. I say the Senator cannot maintain the allegation he makes, he cannot show that one dollar has been applied against law, and the whole result of the complaint is that there was not enough money in the Treasury to meet the appropriations made by Congress; and there will not be enough now, if the Senator from New York and his friends here can succeed. They would appropriate \$600,000 for which they have not borrowed and for which they do not estimate that the revenue will be sufficient. He will offer or sustain no amendment here to give the Secretary of the Treasury means to carry out an appropriation to improve rivers and harbors for which he votes. It will certainly never be done in the present condition of the Treasury unless the Secretary of the Treasury shall suppose these are the most proper objects to which to appropriate a deficient fund, which I do not think likely. These gentlemen seem willing enough to appropriate, but they are very unwilling to raise the means, particularly by way of loan, and yet they call on the Secretary of the Treasury to carry out the laws of Congress appropriating money. Put the money there, and he has no object or motive not to carry out the law as declared by Congress, and I have no doubt no case can be shown in which he has ever applied a single dollar except in conformity of law, and he is ready to apply money as you please when he finds it appropriated, if he has it.

Mr. KING. The Senator from Georgia says the Secretary has not spent this money, because it was not appropriated; that he did not have the money to pay. The profligate who runs in debt, and contracts a debt that his friends or country have to pay for him has, in my judgment, spent money. The contracts are made, and they come here and ask Congress for appropriations upon the ground that the honor, the faith of the country is pledged to pay the money; and yet the Senator from Georgia tells me that the money has not been spent.

Mr. TOOMBS. Allow me to correct the Senator on a plain matter of fact. Did not the officer say it was not contracted for—not a dollar of it? You state a fact directly in the face of the statement of the Treasury officer. Then it makes a mere issue of veracity between you and him. He says he has not done it.

Mr. KING. The excuse of the chairman of the committee is, that contracts for \$500,000 in this very amendment were made by the predecessor of the present Secretary of the Treasury. We are told that contracts have been made, and the obligation to pay has been created, and the avails of these expenditures have been received by the Government, and therefore there is a necessity to pay them in all such cases; and where that has been done, even though it had been a pretty hard case—

Mr. TOOMBS. That is a different class of cases.

Mr. KING. I am speaking of all cases, and I

say that is the course of the Administration on this subject.

Mr. TOOMBS. Were these contracts made in conformity with law or against it?

Mr. KING. If they were made in anticipation of appropriations by Congress, they were made, in my judgment, against law, and they ought not to have been made; and the act of 1820, quoted by the Senator from New Hampshire this morning, expressly declares that no contract of this sort shall be made until an appropriation shall have been made to carry it out. I have not examined the facts in reference to these particular appropriations; but with regard to that allegation in respect to \$500,000 in this very amendment, the chairman of the Finance Committee tells us he has not examined it, and does not know whether there was any authority of law to make contracts or not. The presumption is that there was not. It is not claimed by the Administration side, by the executive officers, or the chairman of the Committee on Finance, that this was a matter authorized by any appropriation at any rate.

Mr. HUNTER. The Senator must not make them responsible for what I say. The Senator from New Hampshire asked if there was not a prohibition. I told him I had not examined into that question; that I did not know whether these contracts were made in opposition to law, or whether they were authorized by the particular laws appropriating the money authorizing the buildings. I should presume, if looked into, it would be found that they were made according to law. I merely meant to say I had not personally examined the question to see whether they were made according to law.

Mr. KING. Precisely; nor have I examined these particular cases, but I speak of the appropriations in the whole. My object in offering my amendment was to provide for the execution of laws which have been passed. Congress have been very liberal in taking care of the expenditures, and I regard that as an expenditure when the debt has been contracted, and the obligation to pay assumed; I consider that money spent, and money pretty badly spent generally. I think it a great deal better to observe the good old rule—pay as you go, and make contracts after Congress has had the ability to advise on the subject and make appropriations to provide for them; then they are able to meet them. One of the causes of the difficulties in reference to our finances is, that the prodigality of expenditure, this looseness of practice on the part of the Executive Departments of the Government for the last few years, has been gone into, and money has been expended without deeming it necessary to consult Congress beforehand on the subject, claiming that they were carrying out the purposes of the law, and all that. There was a law passed in 1842, I believe—which, in my judgment, ought to be repealed at once—authorizing the heads of Departments to transfer from one item of appropriation to another. It was passed through Congress at that time on the pretense that in the Executive Departments of the Government there were appropriations made for fuel, and stationery, and lights; for in the earlier days our appropriations were much more specific than now, and that occasionally the appropriations for these items would be too much for one and too little for another, and it would be a great convenience to allow these small amounts to be transferred from one account to another; but it was not designed at the time that we should give authority to the Secretaries to transfer appropriations from objects designed to be accomplished by Congress, and thus to defeat entirely a law of Congress, and take those moneys for other purposes, or exercise his discretion and decline to make contracts for purposes authorized by Congress, so that the law is defeated by the appropriation lapsing in two years. If this practice be allowed, a veto is given to the Secretaries as well as to the President of the United States, and a law may be utterly defeated by the failure of the Secretary to apply the money in his discretion, on the ground that it is wanted for other purposes. None of this discretion should exist in the Executive Departments, in my judgment; and I do not think, on a fair and proper administration of the Government, any of it does properly exist. Why has not the Secretary made these contracts for the purposes authorized by law? I ask for the execution of a law passed in

1856—passed at a time when we had an overflowing Treasury.

We are not left to presumption in this matter. The Senator from Georgia talks as if the Secretary were going to execute the laws and I were assailing him because he has not been in a condition to execute it as quickly as I desire. Why, sir, the chairman of the Committee on Finance tells us that these appropriations are less important, that they are not wanted, and that they may go by the board, lapse into the Treasury; that is the plan, as I understand him; and thus these appropriations are to be absolutely defeated, and a new act of Congress to be required to construct these buildings which the Secretary was directed to construct two years ago.

Now, sir, in reference to the economy which the Senator from Georgia advocates a great deal, I approve of it, and in the main I go with him on those matters; but there is a certain class of cases upon which he and his friends do not consult economy. When \$10,000,000 are asked for the purchase of the Mesilla valley, for the purpose of enabling them to get a Pacific railroad a little further south; or when \$200,000,000 are asked for the purchase of Cuba; or when any money is wanted for any purpose connected with that interest; I find the consciences and judgments and constitutional constructions of these gentlemen stretching to any extent whatever.

The appropriations which I seek to have carried out are very small and very few. The locality which has induced me to move this amendment is one for which I believe no appropriation was ever made before. It is on the frontiers of the country, under the guns of a British fort, with as patriotic a population, in my opinion, as there is anywhere on the face of the earth, and as true friends to their country. Although all the personal favoritism there is in the matter has already been executed, and the site has been bought, and the party got his money for the land, the Secretary has chosen to let the public go unaccommodated.

Mr. PUGH. Where is that? Ogdensburg?

Mr. KING. Yes, sir. I think the amendment I have proposed is just and proper, and ought to be adopted; but it is for the Senate to determine. I have stated the reasons which have induced me to offer it.

Mr. PUGH. I wish to say just two or three words in reference to this matter. I voted to add this section to the appropriation bill at the session of 1856; and I really voted under a mistake of the exact question, not understanding it. I desired an opportunity to reconsider; but I was assured that it was not material, for the House of Representatives would not agree to it, and the committee of conference would throw it out; but it did not so turn out. I believe the appropriations ought never to have been made; and I am glad they have not been expended. I shall vote against this provision as a set-off to the vote I gave before. I believe my vote carried the section then, for it had only one majority.

Mr. DAVIS. I listened to the remarks of the Senator from New York with some surprise, for he seemed to proceed on the supposition that the contracts were made without any reference to appropriations. As I understand the system, contracts are made, according to specifications, for a building; an estimate is sent to Congress as to the cost of the building; and if Congress choose to appropriate a certain amount of money for expenditure within the year, sometimes a member, who has paid no attention to what he was doing, will afterwards rise, and say he thought it was to complete the building, when in fact he had before him the whole amount it would cost to complete the building, and, declining to vote the money at the time, chose to vote the amount which might be expended within the year. It is a system by which we endeavor to present an economical table to keep down the appropriations of the year. It is no saving of money; it frequently involves a greater expenditure of money, as I endeavored to explain when offering an amendment to increase the amount appropriated for the extension of the Capitol to-day. Upon the specifications, however, which are presented for the construction of a building, on an estimate which has always been submitted to Congress, a contract is made with some individual to deliver a particular quantity of material; he is notified as to the amount of the appropriation, and he is called upon to deliver a cer-

tain amount of materials; and the practice of those with whom I have been associated has always been to warn them to deliver not beyond the amount there was money to pay for; but a contractor will generally take the risk. He has seen the action of Congress—that they were appropriating, not to complete the building, but for the expenditure of the year; and he anticipates a further appropriation. It is more convenient for him to continue his delivery of material; and he will usually take the risk of another appropriation. The executive officer is not responsible; he is not compelled to pay the money to the contractor. If Congress chose to cut off the appropriation, and leave the building unfinished, the contractor would have no redress save by petition to Congress for damages. I think that will be found to be the case in every one of the instances which have been cited here of the delivery of material beyond the ability of the appropriation to pay. We reverse the rule which the Senator from Texas applies to statutory; we view these questions at a distance. He requires the statutory, which was to be elevated to a great height, and viewed at a distance, to correspond with his criticism made on the level of the eye. He cannot regard favorably a material which would be reduced to the thickness of paper when put at its proper elevation, because, when he brought his eye in contact with it, it was too thick. Now, the Senator from New York reverses the rule, where, in fact, the rule ought not to be reversed, but to have its original application. He should come to the examination of the case; and, before proceeding to judge, he should bring his eye to the level of the contract, and endeavor to discover whether the contractor was authorized to deliver material not provided for in the appropriation, or whether the appropriation was made to complete the building, and it was expected to cover the delivery of all the material required, or was only for one year's expenditure, and that year's expenditure paid for as far as required, and the material delivered beyond the requisition of the officer in charge. I think that will be found to be the fact.

Mr. KING. I did not think it material to go into the particulars in reference to any specific transaction. That these immense expenditures were made antecedent to the appropriation by Congress is conceded on all hands; and yet that appropriations made by Congress are not expended, is a fact demonstrated by the proposition which I make. But in reference to the appropriations which are authorized by law and directed to be made, it is the duty of the Department, in their estimates, to present them to us and give us an opportunity to have them. It is not for them to say "these are appropriations; we are not disposed to carry them out, and therefore we will furnish no estimate."

Mr. DAVIS. I was not answering that branch of the Senator's argument.

Mr. KING. It is unanswerable, I think.

Mr. BELL. I hope some gentleman, either the Senator from Virginia, or the Senator from Mississippi, will answer the other branch of the argument, for it seems to me it involves a matter of principle of serious importance. If I understand the course of the Secretary of the Treasury on this subject, he has assumed to exercise a dispensing power, and to say that where appropriations are authorized by law and duties cast upon him by law, he has a right, according to his own judgment of what the public interest requires, to select some and execute them, and to reject others and say he will not execute them, without regard to the condition of the Treasury. That is a dispensing power which I think dangerous.

Mr. DAVIS. I really did not think that question worth while to answer. It is the clearest case, to my mind, in the world, that an executive officer who finds an appropriation which he cannot apply for the public interest, should not apply it. If he finds, from any cause whatever, that he cannot expend money judiciously, he should not undertake to expend it merely because the appropriation has been made.

Mr. BELL. No person of any sense, I suppose, would ever think of such a proposition as that. I wish the honorable Senator to understand what my proposition is. Here were certain appropriations made in 1856, a positive direction given to the Secretary of the Treasury to have certain public buildings constructed within limited

prices, and the money appropriated within those limits; and in addition thereto a competent sum to buy sites. That was the general and definite appropriation, and ten per cent. was added to all that to pay superintendence, and other expenses of a similar nature. The money was appropriated in 1856, simply upon the condition and proviso—a very proper one—that the Secretary of the Treasury should not be at liberty to expend this money, or to proceed in the construction of these buildings, until the Legislatures of the respective States in which they were authorized to be constructed should release the Government from taxation forever. In some instances (in one, I think I may say I know) that release was given in proper time, and when there were about twenty million dollars surplus in the Treasury at the end of the month of June of the last fiscal year, when there was no anticipation of any difficulties in the monetary affairs of the country, no expectation of a deficiency in the Treasury. But, notwithstanding all that, the Secretary of the Treasury chooses to exercise a dispensing power in regard to that law.

The honorable Senator from Ohio [Mr. PUGH] has gone further than any other gentleman in this debate. He says he thought they were improper and injudicious laws anyhow; and in the case of these appropriations in 1856, he actually intended to move a reconsideration; but was prevented from doing it because he was told the House of Representatives certainly would not pass them. He thinks the appropriations were injudicious, and ought never to have passed. I suppose that is superadded to the other arguments which have been used, that executive officers ought to have some discretion where they think the public interest would not, on the whole, be promoted. Who is to judge of what the public interest requires? That is the gist of the question. Is it Congress, or is it the Executive? If Congress, instead of three or four hundred thousand dollars, (I do not know the amount,) had appropriated \$10,000,000, they had the power to do so. They do it at their discretion, under their responsibility to their constituents and their country. It is not for either the President or the Secretary of the Treasury, it seems to me, unless some discretion be vested in them by the law itself, to exercise a dispensing power in regard to one or all these objects. It is a violation of principle for an officer of the Government, who is directed to execute an act of Congress, to say that he thinks the public interest would not be much advanced by it. He does not put it on the ground that, until this revulsion took place, there was no money in the Treasury. Everybody knows there was a surplus. Everybody knows that the tariff which was passed at the very close and heel of the session, the last night of the last session, without debate or consideration scarcely of any sort, was passed on the ground that they anticipated \$50,000,000 of excess last year, unless that act were passed; and that was contemplated to reduce it only fifteen or twenty million dollars. Some said more, and some less. Some experienced financiers thought the reduction of duties, in the condition of the trade of the country, might increase the revenue instead of diminishing it, inasmuch as it would tend to bring in a greater amount of foreign merchandise.

Now, the point I mean to urge is, what justification, what excuse in principle, can be made for the exercise of that dispensing power by the Secretary of the Treasury? I do not mean anything particularly with regard to him, because I suppose it has the approval of the President; but, I ask, what authority has the President to authorize the exercise of such dispensing power? I have not said anything on this subject heretofore, because whatever might have been the circumstances under which this omission took place when there was money in the Treasury, I supposed that, in fact, now, in the condition of the public finances, it would be proper that the localities which felt a particular interest in them, the public service not being apparently suffering, should not, under the circumstances of the country, press them. But since the question has been stirred, and debate has arisen, doctrines have been avowed that I do not think can be sustained. The justification set up by the Senator from Ohio, I do not think—

Mr. PUGH. I said that was good enough justification for my vote—not anybody else's.

Mr. BELL. But this seems to be the notion that prevails generally, so far as we may judge from the debate that has taken place.

Mr. HUNTER. The Senator from Tennessee is very much mistaken, I think, if he supposes any of us believe there is a dispensing power in the Secretary of the Treasury or the President of the United States, to abstain from carrying out a law of Congress. I will venture to say that if there had been any money in the Treasury, the Secretary of the Treasury would have carried out every work for which there was an appropriation.

Mr. BELL. I made my remarks predicated on the confident understanding that there was abundance of money, a surplus in the Treasury, but yet he did not proceed.

Mr. HUNTER. There was no necessity for his proceeding at once. Everybody knows that this crisis came on the country unexpected, though there were some who might have been sagacious enough to foresee it. Does the Senator suppose that the Secretary of the Treasury supposed the Treasury was to be in this condition when he was buying in stock? It came upon all of us unexpectedly. Now he has not money enough to meet all appropriations. He has to select. Here is one class of appropriations for which the Government faith is pledged. If he does not expend money on them, the faith of the Government is violated. Here is another class of appropriations for which the public faith is not pledged, and in discriminating between them, he chooses to take those which will save public faith, and if he does not expend on the others, it is because he has not means to expend on them. If he had, I believe he would have applied the money to every one of them.

Mr. BELL. Under those circumstances, I should impute no blame to him. That was after he had time to see the condition of the country; but he had six or eight or nine months within which to make contracts and commence the construction of the buildings, when the Treasury was not only full, but it was supposed that it would continue full. After the revulsion commenced, the Secretary acted on the general supposition that many did that it was a mere panic, that there was no reason for it. After he became convinced there was some reason for it, he might have been justified in his action; but still up to that time he had abundance of money.

Mr. HUNTER. No doubt the Secretary intended during the fiscal year to commence it in good time. It does not follow that when you make an appropriation you are to commence the expenditure the day after. There is a reasonable discretion.

Mr. BELL. My friend is wrong again. The fiscal year was 1856-57; but this appropriation did not extend to any one year. He might not choose to execute it in the year, if he could not find the means of making what he thought an available and judicious contract. He might assume that as a ground.

Mr. SLIDELL. Will the Senator from Tennessee permit me to make an explanation on this subject? In all these cases of appropriations for custom-houses, and court-houses, there are certain preliminaries which occupy, necessarily, a great deal of time. First, the Secretary of the Treasury has to apply to the different officers of the Government, in that section of the country, for their advice in relation to the proper sites to be selected. He has a report upon that subject. He probably may send a commissioner to examine. I have had some little experience, and I am enabled to state, that in objects which the Secretary of the Treasury was not only willing, but anxious to carry out, very great delay occurred from that cause. Then, when the site is fixed upon, and the price is agreed to, but no actual contract made, it is necessary to obtain a cession of jurisdiction from the State in which that site is situated, and an exemption from taxation. All these preliminary formalities must be passed through before any expenditure is made on the work.

Mr. FESSENDEN. And then the plans have to be agreed upon.

Mr. SLIDELL. Yes, sir. I think this explanation will entirely satisfy the Senator from Tennessee that there was no intentional evasion on the part of the Secretary. I will venture to say that, in every case, he has exercised the proper dili-

gence to carry into effect the will of Congress, until he discovered that the state of the Treasury was such as made it imperatively necessary to suspend all these works.

Mr. TOOMBS. To show you the singular inappropriateness of the course of the Senator from New York in moving this amendment, implying censure on the Secretary of the Treasury, he has not heretofore called on the Secretary to know why these particular works have not been built. Here he calls upon him to execute the law of 1856 and 1857. I have the act of 1856 here, and I will take some of these appropriations. I will take the State of Tennessee. There was one for Knoxville. It was passed in August, 1856. I believe the Legislature of Tennessee did not meet until November, 1857. I will ask my honorable friend from Tennessee if I am right in that?

Mr. BELL. It met in the fall of the same year.

Mr. TOOMBS. The Legislature of Tennessee met last November, eighteen months after the passage of the appropriation.

Mr. BELL. I said I had not inquired into what were the causes, because, in the present condition of the country, I was not disposed to press it.

Mr. TOOMBS. I was merely calling the attention of the Senate to the injustice of such an amendment, implying censure without knowing a single fact about it. It was very easy for the Senator from New York to call on the Secretary of the Treasury to know why he had not executed the acts of 1856 and 1857, instead of introducing an amendment to compel him to do it, without ever taking the trouble to ascertain why it was not done. The law of 1856 provides—

"That no money hereby appropriated shall be used or applied for the purposes mentioned, until a valid title to the land for the site of such buildings, in each case, shall be vested in the United States, and until the State shall also duly release and relinquish to the United States the right to tax or in any way assess said site, or the property of the United States that may be thereon during the time that the said United States shall be or remain the owner thereof."

Therefore, I say, as a part of this case, that it was impossible for Mr. Cobb, without violating the law, to have moved a peg, in reference to a portion of these sites, until within the last ninety days, or since the Tennessee Legislature met. I do not know that they ceded title then. They may have done so. That is to be inquired into at the Treasury Department. There is another clause of the act of 1856 which may exclude some of these appropriations. Here it is:

"Provided, That no money shall be expended under this act for the erection of a custom-house where the duties collected do not equal the expense of collection."

I think it very likely that under that provision some of these custom-houses will never be built; and yet the Senator from New York calls upon the Secretary of the Treasury to execute the law. If he means to build the custom-houses—

Mr. KING. To execute the law with all its conditions.

Mr. TOOMBS. It ought then to appear to the Senate of the United States that the Secretary has failed or refused to do so before the adoption of this amendment. The non-building of those custom-houses may be an execution of the law. It has not been made to appear by that Senator that the law has not been executed, because it has not been made to appear that the preliminary measures which were necessary before he could expend a single dollar without violating a law, have ever taken place; and it does not appear that it could have taken place. This was appropriated on the 3d of March, 1857. It was impossible to get the assent of his own State, whose Legislature did not meet until the November or December afterwards.

Mr. KING. They meet on the first Tuesday of January.

Mr. TOOMBS. Until January, the act of 1857 could not be executed.

Mr. KING. Eighteen hundred and fifty-six.

Mr. TOOMBS. I was speaking of the second act.

Mr. KING. Exactly.

Mr. TOOMBS. I went through the act of 1856, and said that, as to all that class in the act of 1857, it was impossible to execute any of them, even in his own State, until the Legislature met in January, 1858. He could not do it. It was against the law to do it. Therefore, I say it does not appear that the Secretary has failed to execute the law, for aught that appears to the Senate. There

is no fact stated that he has not, in every case, executed diligently the acts of 1856 and 1857. Before the Senate passes this amendment, which implies censure, at least it would be common justice that the Secretary should be called upon to know whether or not he has executed the law, and why he has not. Therefore, I think the amendment of the Senator from New York is out of place.

Mr. KING. Mr. President, the Senator from Georgia has not as full information upon this subject as he ought to have, to speak of it in this manner. I offered this amendment, not without a knowledge, on my part, that there was a calculation of the Treasury Department to let this go by and lapse. I understand, from the chairman of the Committee on Finance, that that is the calculation and expectation in this matter, and thus the appropriation will be lost by the expiration of the time. The object of a part of this amendment is, to continue for two years the time within which the Secretary will have an opportunity to execute it, for I believe an appropriation runs two years and then lapses.

Mr. FESSENDEN. It runs three years from the time it passes.

Mr. KING. The object of this amendment is to continue the law in operation. I do not, myself, see any reasonable expectation that our Treasury is to be filled to overflowing within any reasonable time; and if the Secretary intends to exercise that discretion in reference to these appropriations, and letting them go by, I prefer to have the sense of Congress upon the fitness and propriety of them. I regarded it as a duty to take such steps in this matter as would execute the law—a duty I owe to the people who have a right to these appropriations, they having been made by Congress.

I am not in the habit of making disclaimers here. I apprehend there is no reason why I should in this case. This certainly, however, is no personal matter with the Secretary of the Treasury, or anybody else. It is a question of whether the localities for which funds have been appropriated shall have the benefit of them; whether they shall have a right given to them by act of Congress. I do not think a question of that sort is a personal question with anybody. I differ with the Secretary of the Treasury as to the propriety of his exercising this discretion. I do not think he has any, or ought to exercise any; but he thinks he has, and I have brought in this provision, which the Senator from Georgia has chosen (with a view, I suppose, to resist its passage) to regard as censure upon the Secretary of the Treasury. I certainly disapprove and differ with the Secretary of the Treasury in his construction of the law, and in his notions of what are his duties; but when I desire to bring in a resolution of censure on the Secretary, I shall bring in one, in direct terms, to do so. This resolution is for a different object than a personal controversy with the Secretary of the Treasury; though if he wants one, he may seek one any way he chooses. I do not see the necessity of disclaiming or affirming these matters; but this amendment ought not to be made, or dragged into, a personal matter at all.

Mr. SIMMONS. I rise merely for the purpose of obtaining information. In the early part of the session, I asked the Senator from Mississippi if the President and Secretary were not bound to carry out the acts of Congress; and he said they were.

Mr. DAVIS. Is the Senator going to quarrel with me?

Mr. SIMMONS. I am not going to quarrel with anybody. The Senator from Georgia says that there was a qualification placed on these appropriations, making them dependent on the fact whether there was sufficient revenue collected to justify the outlay of the money. That is a reason to be assigned for delaying the appropriations.

Mr. TOOMBS. No. I say it may be so. I have not assigned any reason, for I have never heard of it until to-day.

Mr. SIMMONS. You say that law required that fact to be ascertained before there should be any delay.

Mr. TOOMBS. Yes, sir.

Mr. SIMMONS. Is it not pretty evident that he got at that fact before he made the outlay of \$30,000 for the site?

Mr. KING. Not that price.

Mr. FUGIE. The cost was \$8,000,

Mr. TOOMBS. The Senator could have paid no attention to what I said. The amendment is to carry out the acts of 1856 and 1857; and I was offering objections against that amendment to build these custom-houses, for it might be that some of them were not authorized to be built by law. I gave an instance of one in Tennessee in which I knew the relinquishment of jurisdiction could not happen until last December.

Mr. KING. The amendment is to carry out the law. If there were any conditions not complied with, of course this amendment does not require anything which those laws did not require to be done.

Mr. SIMMONS. I am perfectly willing to intrust any officer of the Government with an appropriation made by Congress for a building anywhere; but that should be considered as binding upon the Department, or the President, or whose-soever duty it was to do it.

Mr. TOOMBS. Nobody ever disputed that.

Mr. SIMMONS. Then you have a law confining appropriations for two years staring in his face, and yet he refuses to make a contract. I want to know if it is not time that Congress should jog his memory a little? I do not want to censure the Secretary. The appropriations made in these bills are generally dotted about the country; and I do not think it is a matter of discretion with the Executive to say, I will build such a one, and refuse to build another one. I think he should go forward and make a pretty fair distribution of the amount. I have noticed that there was a return made in the Secretary's report of sixteen or seventeen million dollars, the application of which was postponed to next year. I do not know but that is very proper; and when we are short of money, they may be bound to do it. When I saw that, I asked the Senator from Mississippi if he did not hold an Administration responsible to carry out the act of Congress? and he said he did. All I want to say is, that I shall vote for this appropriation, not certainly with any view of censuring anybody, but I think that any Secretary who is directed to build the building, unless there is something in the act that interfered with the performance of duty, is bound to build the building in a reasonable time. I do not say he shall build it all in one year, but that he shall take a reasonable time to discharge the duty.

Mr. DAVIS. He must get a site first.

Mr. SIMMONS. Yes, sir; but it does not take a long time, with due diligence, to get a site. I have heard objections to these contracts. I know enough about making contracts for buildings to know that a Secretary would be very unwise to undertake to build such a building as the Treasury building without making contracts in advance of appropriations. No man would contract to furnish material for such a building as the Treasury building on one year's appropriation. It would ruin him. Here is a building that will probably cost two or three or more million dollars. A man, to begin with, would have to furnish stone large enough to sink a common vessel. He must make an outlay to get such massive materials, and to build ships to bring them here. He must make contracts ahead. I think it would be a strange provision of law which would prevent the Secretary of the Treasury from making contracts after Congress ordered a building to be built that should extend for more than one year. I know that you do not appropriate for more than one year, but certainly you must give some assurance to the contractor that he would continue the contract until the building was completed. I suppose everybody knows that if there is no money appropriated, there will be no pay; but I think a contract is binding on the Government when judiciously made, and not made against law or against reason, or, if against law, it is in favor of good reason and good sense that it should be made for the whole building at once.

On motion of Mr. WILSON, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, May 28, 1858.

The House met at eleven o'clock, a. m. Prayer by Rev. B. F. BITTINGER.

The Journal of yesterday was read and approved.

POST ROUTE BILL.

Mr. ENGLISH. I ask leave this morning to

report, from the Committee on the Post Office and Post Roads, the annual post route bill. It is a very voluminous bill, covering sixty-five pages of large-sized paper. It will no doubt receive large additions by amendments in the Senate, and it will be a great relief to the clerks to get rid of it at an early period. As it is a bill of general interest, I hope the House will allow it to be reported this morning. I desire to put the bill on its passage at once. It has been very carefully matured, and most of the members of the House have had an opportunity of examining it.

Mr. READY. I have never seen this bill, and I must object to its being reported, unless we can have an opportunity to offer amendments.

Mr. ENGLISH. Is it in order to move to suspend the rules?

The SPEAKER. The Chair thinks not.

Mr. ENGLISH. I am sure that if the gentleman from Tennessee will reflect for a moment, he will not object. If he desires amendments to be made to the bill, it can be amended in the Senate; but it ought to be introduced.

Mr. ATKINS. I hope my colleague will withdraw his objection.

Mr. READY. If I can have an opportunity to present my amendment here, I will not object.

Mr. HOUSTON. I would suggest to the gentleman from Indiana that he should let the bill remain in the House to-day, so that members may have an opportunity to examine it, and then he can bring it up to-morrow.

Mr. ENGLISH. I propose, then, to introduce the bill now, and have it read a first and second time, and postponed until to-morrow, when I will offer such amendments as I think ought to be put in the bill.

The SPEAKER. The Chair would suggest that there might be some difficulty in getting the bill up. It would, perhaps, be better for the gentleman to withdraw the bill for the present, and let gentlemen offer such amendments as they desire to submit before the bill is introduced.

Mr. ENGLISH. Well, I withdraw the bill, and give notice to the House that, immediately after the reading of the Journal to-morrow, I shall propose to introduce the bill and put it upon its passage; and, in the mean time, it will remain at my desk, where gentlemen will have an opportunity of examining it.

POST OFFICE APPROPRIATION BILL.

The House then proceeded to the consideration of bill (No. 556) making appropriations for the service of the Post Office Department for the year ending June 30, 1859, reported yesterday from the Committee of the Whole on the state of the Union, without amendment.

Mr. J. GLANCY JONES. I withdraw the demand for the previous question, and withdraw the motion to recommit the bill; and now demand the previous question on the bill.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. J. GLANCY JONES moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ARMY APPROPRIATION BILL.

The bill of the House (No. 243) making appropriations for the support of the Army for the year ending June 30, 1859, was next taken up for consideration.

The Committee of the Whole on the state of the Union reported it back with sundry amendments. The question pending was on the motion of Mr. J. GLANCY JONES to recommit the bill to the Committee of Ways and Means, upon which the previous question was demanded.

Mr. J. GLANCY JONES. I withdraw the demand for the previous question. I also withdraw the motion to recommit, and demand the previous question on the bill.

The previous question was seconded, and the main question ordered to be put.

The amendments reported by the Committee of the Whole on the state of the Union were then read over, and such as no separate vote was demanded on were adopted in gross.

First amendment:

Page 2, in line twelve, insert as follows:

Provided, That no Army officer shall hereafter be detailed for civil duty, except wherein provided by law.

Mr. JONES, of Tennessee, called for the yeas and nays on the adoption of the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 55, nays 126; as follows:

YEAS—Messrs. Anderson, Avery, Billingshurst, Buffinton, Burlingame, Burnett, Burns, John B. Clark, Clay, John Cochrane, Cox, Davidson, Davis of Indiana, Davis of Massachusetts, Dean, English, Gilmer, Hatch, Hopkins, Jackson, George W. Jones, Kelsey, Landy, Letcher, Lovejoy, Maciay, Humphrey Marshall, Samuel S. Marshall, Matteson, Miller, Milson, Isaac N. Morris, Nichols, Pendleton, Pettit, Phillips, Pottle, Powell, Ready, Reilly, Sandidge, Henry M. Shaw, Robert Smith, Samuel A. Smith, Stallworth, Stevenson, Talbot, Miles Taylor, Vallandigham, Walbridge, Ellihu B. Washburne, White, John V. Wright, and Zollcoffer—55.

NAYS—Messrs. Abbott, Adrain, Ahl, Andrews, Arnold, Bennett, Bingham, Bishop, Bonham, Bowie, Boyce, Brayton, Case, Chaffee, Ezra Clark, Clawson, Clemens, Cobb, Clark B. Cochrane, Cockerill, Colfax, Comins, Corning, Covode, Cragin, James Craig, Crawford, Curry, Curtis, Davis of Iowa, Dawes, Dimmick, Dodd, Durfee, Edie, Edmundson, Eustis, Farnsworth, Feinton, Florence, Foley, Foster, Garnett, Gartrell, Gillis, Gilman, Gooch, Goode, Goodwin, Granger, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Harlan, Hawkins, Hoard, Horton, Houston, Howard, Hughes, Huyler, Jewett, J. Glancy Jones, Kellogg, Kelly, Kilgore, Knapp, Jacob M. Kunkel, John C. Kunkel, Lamar, Lawrence, Leiter, McKibbin, McQueen, Mason, Moore, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Mott, Murray, Niblack, Palmer, Parker, John S. Phelps, Pike, Potter, Purviance, Quitman, Reagan, Ricard, Ritchie, Robbins, Royce, Ruffin, Russell, Savage, Scott, Searing, Seward, Shorter, Singleton, Spinner, Stanton, Stephens, James A. Stewart, William Stewart, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Waldron, Walton, Cadwalader C. Washburn, Israel Washburn, Watkins, Wilson, Winslow, Wood, Woodson, Wortendyke, and Augustus R. Wright—126.

So the amendment was rejected.

Pending the vote,

Mr. BLISS stated that if he had been within the bar when his name was called he should have voted in the negative.

Mr. COMINS. Understanding that, if the pending amendment prevails, it will displace engineers now in charge of public works, such as forts, piers, and light-house towers, in which I take an especial interest, I vote "no."

Mr. FLORENCE. Understanding this to be a reflection upon the Army officers, I vote "no."

Mr. LETCHER. Understanding this to be a reflection upon nobody, but the embodiment of a sound and proper principle, I vote "ay."

Mr. BRANCH stated that, if he had been within the bar when his name was called, he should have voted "no."

Mr. PHILLIPS stated that his colleague, Mr. HICKMAN, was still detained from the House, in consequence of indisposition.

After the announcement of the vote as above recorded,

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. MORGAN demanded the yeas and nays upon its passage.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 102, nays 81; as follows:

YEAS—Messrs. Adrain, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bonham, Bowie, Boyce, Branch, Burnett, Burns, Cavanaugh, Chaffee, Chapman, Horace F. Clark, John B. Clark, Clay, John Cochrane, Cockerill, Comins, Corning, Cox, James Craig, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dimmick, Dowdell, Edmundson, English, Eustis, Florence, Foley, Garnett, Gartrell, Gillis, Goode, Greenwood, Gregg, Lawrence W. Hall, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, Lamar, Lawrence, Letcher, Maciay, McKibbin, McQueen, Samuel S. Marshall, Mason, Miller, Milson, Edward Joy Morris, Isaac N. Morris, Niblack, Pendleton, Peyton, John S. Phelps, William W. Phelps, Powell, Quitman, Ready, Reagan, Reilly, Ruffin, Russell, Sandidge, Seales, Scott, Searing, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, Stallworth, Stephens, Stevenson, Talbot, Miles Taylor, Vallandigham, White, Winslow, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—102.

NAYS—Messrs. Abbott, Andrews, Bennett, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Case, Ezra Clark, Clemens, Cobb, Clark B. Cochrane, Colfax, Curtis, Davis of Massachusetts, Davis of Iowa, Dean, Dodd, Durfee, Farnsworth, Fenton, Foster, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Harlan, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leiter, Lovejoy, Humphrey Marshall, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ricard, Ritchie, Robbins, Royce, Seward, Aaron Shaw,

Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Wood, and Zollcoffer—81.

So the bill was passed.

Pending the call of the roll,

Mr. REILLY stated that his colleague, Mr. LEIDY, was detained at his room by indisposition.

Mr. MOORE stated that, if he had been within the bar when his name was called, he should have voted "ay."

Mr. PHILLIPS stated that, if he had been within the bar when his name was called, he should have voted "ay."

Mr. STEWART, of Maryland, stated that, if he had been within the bar when his name was called, he should have voted for the bill.

Mr. MAYNARD stated that if he had been within the bar when his name was called, he should have voted "no."

Mr. HOARD stated that if he had been within the bar when his name was called, he should have voted against the bill.

After the announcement of the vote, as above recorded,

Mr. J. GLANCY JONES moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MAIL STEAMER APPROPRIATION BILL.

The bill of the House (No. 538) making appropriations for the transportation of the United States mail, by ocean steamers and otherwise, during the fiscal year ending the 30th of June, 1859, was next taken up for consideration. The Committee of the Whole on the state of the Union reported the bill back without amendment, and with the recommendation that it do pass; the pending question being upon the motion of Mr. J. GLANCY JONES to recommit the bill to the Committee of Ways and Means, upon which the previous question had been demanded.

Mr. J. GLANCY JONES. I withdraw the demand for the previous question, and also withdraw the motion to recommit. I now demand the previous question upon the passage of the bill.

Mr. DAVIS, of Mississippi. I hope the gentleman will withdraw the demand for the previous question until some opportunity has been afforded for amending the bill.

Mr. SMITH, of Virginia. I wish to amend the bill in a single particular, to which I presume the chairman of the Committee of Ways and Means will have no objection.

Mr. PHILLIPS. I object.

Mr. DAVIS, of Mississippi. I hope the gentleman will withdraw the demand for the previous question.

Mr. NICHOLS. No debate is in order, and I object to debate.

Mr. DAVIS, of Mississippi. Then I hope the House will vote down the demand for the previous question, and allow the bill to be amended.

Mr. PHILLIPS. I object to debate.

The previous question was seconded.

Mr. CLEMENS demanded the yeas and nays on ordering the main question.

Mr. DAVIS, of Mississippi, demanded tellers on ordering the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The main question was ordered to be put.

The question then recurred on the passage of the bill.

Mr. BARKSDALE moved to lay the bill upon the table.

Mr. UNDERWOOD demanded the yeas and nays upon the motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 87, nays 106; as follows:

YEAS—Messrs. Anderson, Atkins, Avery, Barksdale, Bennett, Bingham, Bonham, Boyce, Branch, Bryant, Burroughs, Ezra Clark, John B. Clark, Clawson, Clemens, Cobb, Cragin, James Craig, Curry, Curtis, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Dawes, Dean, Edmundson, Garnett, Gartrell, Goode, Greenwood, Grow, Harlan, Hill, Houston, Jackson, Jenkins, Jewett, George W. Jones, Kellogg, Kelsey, Knapp, Lamar, Lawrence, Leiter, Lovejoy, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Matteson, Maynard, Milson, Moore, Isaac N. Morris, Mott, Nichols, Peyton, Potter, Powell, Quitman, Ready, Reagan, Ricard, Robbins,

Ruffin, Seales, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Spinner, Stanton, Stephens, Stevenson, James A. Stewart, Talbot, Tompkins, Tripp, Underwood, Wade, Cadwalader C. Washburn, Ellihu B. Washburne, Wilson, John V. Wright, and Zollcoffer—87.

NAYS—Messrs. Abbott, Adrain, Ahl, Andrews, Arnold, Bishop, Bliss, Bowie, Brayton, Buffinton, Burlingame, Burns, Case, Cavanaugh, Chaffee, Chapman, Horace F. Clark, Clay, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Comins, Corning, Cox, Crawford, Davidson, Davis of Maryland, Dimmick, Dodd, Dowdell, Durfee, Edie, English, Eustis, Farnsworth, Fenton, Florence, Foley, Foster, Gillis, Gilman, Gilmer, Gooch, Goodwin, Granger, Gregg, Groesbeck, Lawrence W. Hall, J. Morrison Harris, Harlan, Hatch, Hawkins, Hoard, Hopkins, Horton, Howard, Hughes, Huyler, J. Glancy Jones, Owen Jones, Kelly, John C. Kunkel, Landy, Letcher, Maciay, McKibbin, Miller, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Murray, Niblack, Palmer, Parker, Pendleton, Pettit, John S. Phelps, William W. Phelps, Phillips, Pottle, Reilly, Ritchie, Roberts, Royce, Russell, Sandidge, Scott, Searing, Judson W. Sherman, Samuel A. Smith, Tappan, George Taylor, Miles Taylor, Thayer, Thompson, Vallandigham, Walbridge, Waldron, Walton, Israel Washburn, Wood, Woodson, and Wortendyke—106.

So the bill was not laid on the table.

The vote then recurred on the passage of the bill.

Mr. J. GLANCY JONES demanded the previous question.

The previous question was seconded; and the main question was ordered to be put.

Mr. BARKSDALE demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 101, nays 94; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Andrews, Arnold, Bishop, Bliss, Bowie, Brayton, Buffinton, Burlingame, Burns, Burroughs, Cavanaugh, Chaffee, Chapman, Horace F. Clark, Clawson, Clay, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Comins, Corning, Cox, Crawford, Davidson, Davis of Maryland, Davis of Massachusetts, Dimmick, Dodd, Dowdell, Durfee, English, Eustis, Farnsworth, Fenton, Florence, Foley, Foster, Gillis, Gilman, Gooch, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, J. Morrison Harris, Harlan, Hatch, Hawkins, Hoard, Hopkins, Horton, Howard, Hughes, Huyler, J. Glancy Jones, Owen Jones, Kelly, John C. Kunkel, Landy, Letcher, Maciay, McKibbin, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Murray, Palmer, Parker, Pendleton, William W. Phelps, Phillips, Pottle, Purviance, Reilly, Ritchie, Royce, Russell, Scott, Searing, Seward, Judson W. Sherman, Sickles, Samuel A. Smith, Tappan, George Taylor, Miles Taylor, Thayer, Thompson, Walbridge, Waldron, Walton, Israel Washburn, Wood, Wortendyke, and Augustus R. Wright—101.

NAYS—Messrs. Anderson, Atkins, Avery, Barksdale, Bennett, Bingham, Blair, Bocoek, Bonham, Boyce, Branch, Bryant, Burnett, Case, Caskey, Ezra Clark, John B. Clark, Clemens, Cobb, Cragin, James Craig, Curry, Curtis, Davis of Mississippi, Davis of Iowa, Dawes, Dean, Edie, Edmundson, Elliott, Garnett, Gartrell, Gilmer, Goode, Grow, Harlan, Hill, Houston, Jackson, Jenkins, Jewett, George W. Jones, Kelsey, Kilgore, Knapp, Lamar, Lawrence, Leiter, Lovejoy, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Miles, Miller, Milson, Moore, Mott, Pettit, Peyton, Pike, Potter, Quitman, Ready, Reagan, Ricard, Ruffin, Sandidge, Seales, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Spinner, Stallworth, Stanton, Stephens, Stevenson, William Stewart, Talbot, Tompkins, Tripp, Underwood, Vallandigham, Wade, Cadwalader C. Washburn, Ellihu B. Washburne, White, Wilson, Winslow, Woodson, John V. Wright, and Zollcoffer—94.

So the bill was passed.

Mr. J. GLANCY JONES moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. DICKINS, its Secretary, informing the House that the Senate had passed a bill of the House, for extending the land laws east of the Cascade mountains in Oregon and Nebraska Territories.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 170) for extending the land laws east of the Cascade mountains in Oregon and Washington Territories.

PERSONAL EXPLANATION.

Mr. SEWARD. I desire to make a very brief personal explanation this morning to the House. Yesterday, in a controversy I had with the Speaker, it is very likely that I held the floor with too much persistency; and I desire now to make an apology to the Speaker and the House for that little exhibition of feeling.

The SPEAKER. The Chair had no doubt that

it was a momentary exhibition of feeling, and that the gentleman would make the reparation which he has done.

LEGISLATIVE APPROPRIATION BILL.

Mr. J. GLANCY JONES. The Senate have insisted upon their amendments, disagreed to by the House, to the bill (H. R. No. 202) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1859, and ask a committee of conference. I ask that the message may be taken up, and the request for a committee of conference agreed to.

Mr. MORGAN. I shall object. All the ras-calities of Congress are perpetrated through the means of conference committees.

Mr. SINGLETON. Will it be in order to move that the committees be called for reports?

The SPEAKER. The business first in order is the call of committees for reports of a private nature.

Mr. LETCHER. I wish to appeal to the gentleman from New York [Mr. MORGAN] to withdraw his objection to agreeing with the request of the Senate for a committee of conference on the legislative bill. The session is drawing to a close, and we have nearly all the appropriation bills to act finally on yet.

Mr. MORGAN. Well, sir, I will withdraw my objection in this instance; but I want it understood that I will not do it in another instance.

Messrs. J. GLANCY JONES, HORTON, and JACKSON, were appointed a committee of conference on the part of the House.

Mr. MAYNARD. I call for the regular order of business.

JAMES BEATTY'S REPRESENTATIVES.

Mr. MAYNARD, from the Committee of Claims, reported back Senate bill (No. 57) for the relief of James Beatty's personal representatives, with the recommendation that it do not pass; which was laid upon the table, and the report ordered to be printed.

N. AND B. GODDARD.

Mr. MAYNARD, from the same committee, reported back bill (C. C. No. 155) for the relief of N. and B. Goddard, executors of Nathaniel Goddard, with the recommendation that it do not pass; which was laid upon the table, and the adverse report ordered to be printed.

WILLIAM H. RUSSELL.

Mr. MAYNARD, from the same committee, reported back bill (C. C. No. 83) for the relief of William H. Russell; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOSIAH SHAW.

Mr. MAYNARD, from the same committee, reported back Senate bill (No. 156) for the relief of Josiah Shaw, of Bordentown, New Jersey, with the recommendation that it do not pass; which was laid upon the table, and the report ordered to be printed.

CAPTAIN A. W. REYNOLDS.

Mr. MAYNARD, from the same committee, reported a bill for the relief of Captain A. W. Reynolds; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM WEER.

Mr. MAYNARD, from the same committee, made an adverse report on the petition of William Weer; which was laid upon the table, and the report ordered to be printed.

PRIVATE CALENDAR.

Mr. CHAFFEE. I move that the House resolve itself into a Committee of the Whole House.

Mr. BARKSDALE. I call for the regular order of business.

The SPEAKER. That is the regular order of business.

Mr. LETCHER. I hope that I will be allowed to report a couple of private claims from the Committee of Ways and Means. They are clearly right, and will pass in a few minutes. We can devote to-morrow to the consideration of private bills in a Committee of the Whole House.

The SPEAKER. The Chair would suggest

that this is objection day in the Committee of the Whole House, and to-morrow will not be. The gentleman can make his reports to-morrow as well as to-day.

Mr. LETCHER. I will say that, so far as these cases are concerned, there will not be objection to them in the House.

Mr. CHAFFEE. I insist on my motion.

The question was taken; and the motion was agreed to.

The House accordingly resolved itself into a Committee of the Whole House on the Private Calendar, (Mr. WASHBURN, of Illinois, in the chair.)

The CHAIRMAN stated that the bills on the Calendar would be taken up where the committee had left off on the last objection day.

MARY BLATTENBERGER.

A bill (H. R. No. 343) granting a pension to Mary Blattenberger, widow of John Blattenberger. [Objected to by Mr. SMITH, of Virginia.]

CAPTAIN STANTON SHOLES.

A bill (H. R. No. 344) for the relief of Captain Stanton Sholes.

The bill, which was read, authorizes the Secretary of War to place Captain Stanton Sholes upon the list of invalid pensioners of the United States, at the rate of twenty dollars per month, to commence on the 1st of January, 1858.

It appears, from the report of the committee, that Sholes was a captain of an artillery company, acting under a commission from President Madison in 1812; that he was actively engaged during the war, although it does not appear that he was in any battle; that he lost his baggage by no fault of his own, but by the remissness of the Government officers. It appears further, that Captain Sholes, while in service, and while drilling his men, as an artillery officer, was knocked six or eight feet by the discharge of a 12-pounder; was picked up apparently lifeless; that when he came to himself he was entirely deaf; that he has been partially restored to his hearing, but his left ear has ever since been deaf, and it has increased in deafness with the lapse of years, until he is now an infirm old man; and for forty years past he has been obliged to seclude himself from society, being incapacitated from duty on the jury, and other duties—in fact, from all the business of life.

The bill was laid aside, to be reported to the House, with a recommendation that it do pass.

NANCY MAGILL.

A bill (H. R. No. 345) for the relief of Nancy Magill, of Ohio.

The bill directs the Secretary of the Interior to place the name of Nancy Magill, widow of James Magill, of the State of Ohio, on the pension roll, at the rate of eight dollars per month, for five years, commencing on the 4th of March, 1858.

It appears, from the report, that James Magill, the husband of Nancy Magill, enlisted as a private for the war in the company of Captain Hoagland, Colonel Morgan's regiment of infantry, on the 28th of April, 1847, was wounded at Chepultec 13th September, 1847, and discharged from the service August 4, 1848; was subsequently appointed brevet second lieutenant, and promoted first lieutenant for his bravery during the war. On the 29th March, 1849, he was compelled to resign his commission as lieutenant on account of ill health. It further appears that some time in the year 1849, after he resigned his commission as lieutenant, he left his residence in Coshocton, Ohio, for the purpose of going to Cincinnati on business, since which time he has not been heard from, although she has made diligent search and inquiry as to his whereabouts; she verily believes he is dead.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

WILLIAM SUTTON.

A bill (H. R. No. 346) for the relief of William Sutton.

The bill directs the Secretary of the Interior to place the name of William Sutton on the roll of invalid pensioners, at the rate of six dollars per month, to commence from and after the 5th of February, 1858, and to continue during the period of his natural life.

It appears, from the report, that William Sutton was a private in company A, in the fourth regi-

ment of Indiana volunteers, in the war with Mexico; that about August, 1847, while in the service and in the line of his duty, he was attacked with fever and diarrhea, which continued him on the sick list until January, 1848, when his disease, having become chronic, and having affected his nerves, destroying the sight of one eye and injuring the other, he was discharged from service as unfit for duty; that his infirmities have continued and are incurable, and partly incapacitate him to earn a livelihood by labor. His case amounts to three fourths of a total disability.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

JOSEPH WEBB.

A bill (H. R. No. 347) for the relief of Joseph Webb.

The bill directs that the monthly pay heretofore allowed by law to Joseph Webb, as invalid pensioner, be increased to eight dollars per month; and that the Secretary of the Interior be authorized and directed to pay Webb at that rate from and after the 1st of January, 1852.

The report shows that by a special act of Congress of the 25th of June, 1834, the said Webb was placed on the list of invalid pensioners of the United States, for disability arising from a wound received while in the service of the United States, and in the line of his duty, during the war of 1812, at the rate of six dollars per month, which rate was fixed in consequence of the certificate of surgeons that his disability was three quarters of a total disability; that said Webb further represents that the disability arising from the aforesaid wound has been for many years so much increased as to amount to a total disability; and that, on the 20th day of April, 1851, he submitted himself to the examination of two skillful surgeons, John Mason and W. H. Brown, who thereupon gave their affidavit, in due form, that said Webb's disability, arising from said wounds, was a total disability; and that, in their opinion, he was entitled to a full pension of eight dollars per month, instead of six, the sum he has been drawing under his existing pension certificate.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

EDWIN M. CHAFFEE.

A bill (H. R. No. 348) for the relief of Edwin M. Chaffee. [Objected to by Mr. JONES, of Tennessee.]

R. L. B. CLARKE.

A bill (H. R. No. 351) for the relief of R. L. B. Clarke. [Objected to by Mr. JONES, of Tennessee.]

ENOCH B. TALCOTT.

A bill for the payment of extra compensation to Enoch B. Talcott, for his services and expenses in recovering Government funds embezzled by Jacob Richardson. [Objected to by Mr. SMITH, of Virginia.]

NAHUM WARD.

A bill (H. R. C. C. No. 27) for the relief of Nahum Ward.

Objection being made, the bill was passed over.

ELI W. GOFF.

A bill (H. R. No. 353) for the relief of Eli W. Goff.

The bill directs the proper accounting officer of the Treasury, upon satisfactory proof being presented that Eli W. Goff, late inspector of customs for the district of Vermont, actually sustained damages and losses by his efforts faithfully to execute the revenue laws of the United States, to audit the account of the said Goff, and to pay to him the amount of said damages and losses thus proven, out of any money in the Treasury not otherwise appropriated; provided that the amount allowed Goff shall be for damages resulting directly from a proper discharge of his legal duties as inspector of customs, and shall not exceed five thousand dollars.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

CAPTAIN SAMUEL MILLER.

A bill (H. R. No. 354) for the relief of the heirs of Captain Samuel Miller. [Objected to by Mr. JONES, of Tennessee.]

WILLIAM EDMONDSTON.

A bill (H. R. No. 355) for the relief of the heirs of William Edmondston. [Objected to by Mr. DEAN.]

ROSWELL MINARD.

A bill (H. R. No. 356) for the relief of Roswell Minard, father of Theodore Minard, deceased.

The bill directs the Commissioner of the General Land Office to issue to Roswell Minard, the father of Theodore Minard, deceased, a warrant for one hundred and sixty acres of land, in lieu of bounty land warrant No. 34,754, heretofore issued to Theodore Minard, deceased, which warrant, when so issued, shall be in all respects of the same effect as the warrant No. 34,754 would have been had it been issued to said Roswell Minard: provided, however, that the Commissioner of the General Land Office shall be satisfied that said Roswell Minard is the father of Theodore Minard, deceased; that Theodore Minard died without leaving a wife or lawful children; and that Theodore Minard never assigned or transferred the bounty land warrant No. 34,754.

The second section authorizes the Commissioner of the General Land Office to institute legal proceedings, in such manner as he may deem proper, to vacate the patent issued upon the last mentioned bounty land warrant, to recover the land embraced in the patent, for the benefit of the United States, or for such other relief as he may deem suited to the case, and to cause the person or persons guilty of forging the assignment of the bounty land warrant, and all persons criminally connected with the forgery, or of uttering or passing the forged assignment, to be prosecuted for the offense; the lawful expense of which legal proceedings and prosecutions shall be paid for by the Secretary of the Treasury, out of any moneys in the Treasury not otherwise appropriated.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

ABEL M. BUTLER.

A bill (H. R. No. 357) for the relief of Abel M. Butler.

The bill authorizes the Secretary of the Interior to issue to Abel M. Butler, a volunteer in the company of Captain Jesse Stone, and engaged in the battles at Fort Oswego, New York, in 1813-14, a warrant or certificate for one hundred and sixty acres of land, which warrant may be located by him, his heirs or assigns, upon any of the public lands of the United States subject to private entry; and directs that upon the return of the certificate or warrant, with evidence of the location having been legally made, to the General Land Office, a patent shall be issued therefor.

It appears, from the petition, that Abel M. Butler was a volunteer in the company of Captain Jesse Stone, under Colonel Parkhurst, in April, 1813, and marched with said company to the defense of Fort Oswego, then being attacked by the British; and again, on the 5th day of May, 1814, he volunteered into said company, and fought through the battle of Oswego, again attacked by the enemy. That in May, 1855, he presented his claim to the Commissioner of Pensions for bounty land under the act of March 3, 1855, but his claim was denied for want of record evidence. It appears, from the papers on file, that the service was performed with fidelity and bravery, and by the direct and positive testimony of two of his comrades, who were in those battles in the same company, and who have received land warrants for such service.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

GEORGE P. MARSH.

An act (S. No. 1) for the relief of George P. Marsh.

The bill was read.

Mr. CLAY. I desire to say that this bill is reported back from the Committee on Foreign Affairs with an amendment, and the question is upon the amendment, and not upon the bill itself.

Mr. HOUSTON. I object.

JOHN P. BROWN.

A bill (H. R. No. 360) for the relief of John P. Brown.

The bill directs the Secretary of the Treasury to

pay, out of any money in the Treasury not otherwise appropriated, to John P. Brown, late principal interpreter of the Turkish language to the United States legation at Constantinople, for his services as a chargé d'affaires of the United States at that court, from April 11, 1838, to July 19, 1839; from July 30, 1852, to July 5, 1853; and from December 19, 1853, to January 31, 1854; the sum of \$4,674 15, it being the difference between the salary of a chargé d'affaires of the United States and the amount received by him as principal interpreter during the several periods above named.

Mr. CLAY. I desire to offer an amendment to that bill.

The CHAIRMAN. It will be in order if there be no objection to the bill.

Mr. COX. I object.

Mr. CLAY. Cannot an amendment come in before objection is made?

Mr. COX. I withdraw the objection to hear the amendment.

Mr. CLAY. I will state the amendment, and also state why it becomes necessary for me, as a member of the Committee on Foreign Affairs, after having reported this bill, to offer an amendment before it comes to be acted on. My amendment is, to strike out, commencing in the eighth line, the words "from the 11th day of April, 1838, to the 19th day of April, 1839," and to strike out from the fourteenth line "\$4,674 15," and insert in lieu thereof "\$2,544 48." And now, if the committee will indulge me, as a matter of personal explanation, I wish to explain why the amendment is offered. When this case was first referred to me by the Committee on Foreign Affairs, I addressed a note of inquiry to the proper Department, to ascertain whether this gentleman had rendered the service which he had alleged he had rendered, and whether he had ever received any compensation therefor. I was informed by the Department that he had rendered the service as alleged, and that he had never received any compensation therefor. I thereupon reported this bill. My attention was, however, afterwards called to the fact that a law passed some years ago had given to this gentleman compensation for part of the time for which he claims this extra compensation, and it therefore becomes necessary that the amendment shall be made.

Mr. LETCHER. I object to the bill, for I do not think he is entitled to anything.

WILLIAM RICH.

A bill (H. R. No. 361) for the relief of William Rich.

Mr. LEITER objected to the bill, but subsequently offered to withdraw the objection, when objection was made to going back.

MRS. MARY ANN HENRY.

A bill (H. R. No. 362) for the relief of Mrs. Mary Ann Henry. [Objected to by Mr. MORGAN.]

HENRY MILLER.

A bill (H. R. No. 363) granting an invalid pension to Henry Miller. [Objected to by Mr. JONES, of Tennessee.]

MARY A. M. JONES.

A bill (H. R. No. 42) granting a pension to Mary A. M. Jones.

The bill directs the Secretary of the Interior to place the name of Mary A. M. Jones, widow of Brevet Major General Roger Jones, deceased, late Adjutant General of the Army, upon the roll of pensioners, and pay her a pension at the rate of one half the pay, monthly, to which her late husband was entitled at the time of his death; the pension to commence on the 15th of July, 1852, and continue during her natural life or widowhood.

It appears, from the report, that the petitioner is the widow of the late Brevet Major General Roger Jones, who entered the military service of his country in 1809, and so continued to the day of his death, July 15, 1852; that he served throughout the war of 1812, and was distinguished in almost every action fought on the Canada frontier; was wounded with a bayonet in one, and was twice breveted for gallantry on the field of battle; that he filled the important post of Adjutant General from 1825 to the day of his death—in the language of the Commander-in-Chief of the Army, "bringing to the discharge of its highly difficult and responsible duties an intelligence, honesty of

purpose, and untiring devotion, which carried him through every emergency with credit to himself and advantage to the public service." That his distinguished and valuable services during the Mexican war won for him the brevet of major general, it being the fifth brevet won by him for gallant and meritorious services. It is clearly proved by his attending physician and other testimony, that the close and continued confinement, occasioned by the accumulation of business in the Adjutant General's office during the Mexican war, impaired his health, undermined his constitution, and abridged his life; in fact, that the unintermitting and arduous labors called for by the exigencies of the public service—labors which he perseveringly and often painfully discharged at times when his enfeebled health demanded a relaxation of his official duties—were eventually the cause of his death. The petitioner was left, by the untimely death of her husband, with a family of eleven children, eight of whom are infants and daughters, without adequate means for their education and support, which has compelled her to appeal to the equity and justice of Congress for relief by way of pension.

The bill was laid aside to be reported to the House.

Mr. MORGAN. What is the amount of that pension? My attention was called off at the time the bill was read.

The CHAIRMAN. One half the pay monthly to which her husband was entitled at the time of his death.

Mr. MORGAN. How much is that?

The CHAIRMAN. The Chair does not know.

Mr. MORGAN. I object to the bill, because it gives a higher pension than is given to others of the same class.

Mr. FLORENCE. This is a widow with eleven children, appealing to the country for relief.

The CHAIRMAN. The objection comes too late. The gentleman did not rise until the bill had been laid aside to be reported to the House.

MARIA B. DUSENBURY.

A bill (H. R. No. 364) for the relief of Mary B. Dusenbury. [Objected to by Mr. SMITH, of Virginia.]

JEREMIAH WRIGHT.

A bill (H. R. No. 365) granting a pension to Jeremiah Wright.

Mr. JONES, of Tennessee. I object to that bill.

Mr. KELSEY. Oh, I hope the objection will be withdrawn. This is a poor old soldier, who lost his leg in the last war; and if such bills are to be objected to, we may as well rise.

Mr. JONES, of Tennessee. The pension goes back too far.

Mr. FLORENCE. If gentlemen object to the provisions of the bill, why cannot they move to amend them, and let us do something.

Mr. KELSEY. If we cannot do anything, let us rise. I move that the committee do now rise. The motion was not agreed to.

The Clerk read the next bill upon the Calendar. Mr. RUSSELL. I hope the bill for the relief of Jeremiah Wright will be amended so as to make it acceptable.

Mr. JONES, of Tennessee. I have no objection to its being amended.

The CHAIRMAN. The committee has passed from the consideration of the bill.

Mr. LEITER. I object to going back, unless I can be permitted to go back and withdraw an objection which I made.

JOHN DUNCAN.

A bill (H. R. No. 366) for the relief of John Duncan.

The bill authorizes and requires the Secretary of the Interior to place upon the list of Navy pensioners, at the rate sixteen dollars per month, the name of John Duncan, who was a landsman in the United States Navy on board the United States ship-of-war Brandywine, and who has become totally blind in consequence of disease contracted and injuries received by him while in the line of his duty in the service of the United States; the pension to commence on the 1st of December, 1855, and continue during his natural life; provided, that the pension shall not be paid if John Duncan remains a beneficiary in the United States naval asylum.

It appears, from the report, that the petitioner was a landsman in the service of the United States on board of the ship-of-war Brandywine, when under the command of Commodore F. A. Parker; that he served out his time, and was honorably discharged; that while in said service, in the month of May, A. D., 1844, a cataract formed in one eye. In July following inflammation and an abscess appeared. In the winter following the disease extended to the other eye, and he became utterly and entirely blind. That on the 20th of September, 1845, he was sent to and received in the naval hospital near Portsmouth, Virginia, and was discharged from the service on the 6th of May, 1846, blind. It further appears that the said disability occurred while he was actually in the service aforesaid, and in the line of his duty.

The bill was laid aside to be reported to the House.

Mr. JONES, of Tennessee. With the permission of the committee, I would like to make a suggestion. [Cries of "Agreed! agreed!"] It is this: I know the gentlemen feel dissatisfied with me—not to say anything now about it—for objecting to their claims. I am willing now that they may select any claim upon the Calendar, and if they will give us a vote upon it in the House by yeas and nays, may go there. I am willing that they may discharge the committee from the whole Calendar, if, when they bring the bills into the House, they will give us a vote by yeas and nays upon any bill which the yeas and nays are called for. [Cries of "Agreed!"] I am willing that that shall be done. I do not wish here, by my objection, to thwart and defeat what the majority wish to do. But your rule is, that upon this day any bill upon the Calendar, to which there is no objection, shall be reported to the House. When a bill is read on these objection days, and a gentleman objects to the principle involved in it, if he fails to object, it is the same as if he votes for the bill.

Now, I am willing to allow the committee to be discharged from the consideration of all the bills on the Calendar, if gentlemen will give us a vote upon them when we get into the House.

[Cries of "Agreed!"]
Mr. MARSHALL, of Kentucky. I object to any such agreement.

Mr. NICHOLS. I wish to make a single suggestion. I wish to say that members upon this side of the House have manifested a disposition throughout to allow the appropriation bills to be acted on, and to give the dominant majority here a chance to perfect the public business of the country. I object to the proposition made by the gentleman from Tennessee, because it is well known that if it be agreed to, the call of the yeas and nays on half a dozen bills would terminate the private business for the session.

We can do no good to the private claimants if this disposition to object to everything continues to be manifested. I want the responsibility to rest where it belongs; and if no other gentleman objects, I object to the suggestion of the gentleman from Tennessee.

[Cries of "Read on!"]
Mr. HOUSTON. I wish to make a suggestion.

Mr. HARLAN. I object.
Mr. HOUSTON. My suggestion would be for the purpose of advancing business.

Mr. HARLAN. I know of no better way of advancing the public business than by proceeding with the Calendar.

DEPREDACTIONS OF CREEK INDIANS.

A bill (H. R. No. 367) to provide for the examination and payment of certain claims of citizens of Georgia and Alabama, on account of losses sustained by depredations of the Creek Indians.

The Clerk proceeded to read the bill.
Mr. KELSEY. I object to the bill.
Mr. SEWARD. I hope the gentleman will not visit upon me his dissatisfaction at having his bill objected to.

Mr. POTTLE. Objection has been made, and I call for the regular order.

Mr. SMITH, of Virginia. I think that bill ought to have been sent to the Committee of the Whole on the state of the Union.

Mr. DEAN. I object to debate.
Mr. SHORTER. I object, and I give notice

that I shall object to every bill on the Calendar. Gentlemen are objecting here without ever hearing the bills read.

Mr. SEWARD. Then we can do no business, and I move that the committee rise.

The motion was not agreed to.
Mr. MORRIS, of Pennsylvania. I hope the gentleman will withdraw his objection.

Mr. SHORTER. No sir, I object.

PETER PARKER.

A bill (C. C. H. R. No. 85) for the relief of Peter Parker. [Objected to by Mr. SHORTER.]

Mr. GREENWOOD. If the committee will hear me, I can make a suggestion which will remove the difficulty.

Mr. POTTLE. I object to any statement, and call for the regular order.

HUGH GLENN.

A bill (H. R. No. 441) for the relief of the assignees of Hugh Glenn. [Objected to by Mr. SHORTER.]

J. C. G. KENNEDY.

A bill (H. R. No. 442) for the relief of Joseph C. G. Kennedy.

Mr. SHORTER. I object; and I shall object to every other bill that is read.

CAPTAIN MILLER.

A bill (H. R. No. 354) for the relief of the heirs of Captain Miller. [Objected to by Mr. SHORTER.]

Mr. SEWARD. I move that the committee rise; and when the House gets in a better humor we can come back again. It is evident we can do nothing now.

The motion was not agreed to.
Mr. WASHBURN, of Maine. I ask the consent of the committee to make a single statement.

Mr. POTTLE. I object.
Mr. WASHBURN, of Maine. If the committee will listen for a single moment—

[Cries of "Order!" "Order!"]

JOSEPH HARDY AND ALTON LONG.

A bill (H. R. No. 444) for the relief of Joseph Hardy and Alton Long. [Objected to by Mr. SHORTER.]

Mr. TRIPPE. As the gentleman from Alabama has indicated his purpose to object to all the bills, I move that the committee rise.

The motion was not agreed to.

ENOCH B. TALCOTT.

A bill (S. No. 77) for the relief of Enoch B. Talcott. [Objected to by Mr. SHORTER.]

SAMUEL A. FAIRCHILD.

A bill for the relief of Samuel A. Fairchild. [Objected to by Mr. SHORTER.]

Mr. GREENWOOD. I ask consent to make a statement.

Mr. POTTLE. I object.
Mr. LEITER. I hope the reading of the Calendar will be stopped where it is, until this difficulty shall have been gotten over with.

Mr. POTTLE. I object to any debate, and call for the regular order of business.

Mr. LEITER. I only wanted to make a statement for the benefit of the House.

Mr. POTTLE. I object.
Mr. WASHBURN, of Maine. I now wish to appeal to the committee to accept the proposition of the gentleman from Tennessee, [Mr. JONES.]

Mr. DEAN. I object to that.

HALL NEILSON.

Joint resolution (H. R. No. 21) for the relief of Hall Neilson. [Objected to by Mr. SHORTER.]

ELIAS HALL.

An act (S. No. 68) for the relief of Elias Hall, of Rutland, Vermont. [Objected to by Mr. SHORTER.]

SHADE CALLOWAY.

A bill (H. R. No. 386) for the relief of Shade Calloway. [Objected to by Mr. SHORTER.]

Mr. NICHOLS. It is useless to go on in this manner. I move that the committee rise.

Mr. BURNETT. I hope the gentleman will withdraw that motion until we have gone on for two or three bills further.

Mr. NICHOLS. I think we had better rise. I insist upon my motion.

The motion was not agreed to.

Mr. SEWARD. It is evident, sir, that we are doing wrong.

Mr. POTTLE. I object to any debate.
Mr. SEWARD. I trust we shall now go back and undo the business we have done in this way.

Mr. DEAN, Mr. POTTLE, and others, objected to debate.

D. O. DICKINSON.

A bill (H. R. No. 445) for the relief of D. O. Dickinson.

Mr. SHORTER. I object to that bill, and I shall state just this to the committee—

Mr. POTTLE. I object.
Several MEMBERS. Do not object to the statement.

Mr. POTTLE. I object; and do not withdraw my objection.

Mr. SHORTER. Very well; go on. I shall object to every bill.

MRS. JANE SMITH.

An act (S. No. 73) authorizing Mrs. Jane Smith to enter certain lands in the State of Alabama. [Objected to by Mr. SHORTER.]

Mr. EUSTIS. I move that the committee rise. The motion was not agreed to.

NEHEMIAH STOKELY.

A bill (H. R. No. 447) for the relief of the heirs of Nehemiah Stokely, a revolutionary officer.

Mr. COBB. What has become of Senate bill No. 73?

The CHAIRMAN. It was objected to.
Mr. COBB. Then I think I had better follow the illustrious example of my colleague, [Mr. SHORTER,] and object. I do object.

THOMAS WILLIAMS.

A bill (H. R. No. 448) for the relief of the legal representatives of Lieutenant Thomas Williams, a revolutionary officer. [Objected to by Mr. SHORTER.]

Mr. SEWARD. I understand the gentleman from New York [Mr. POTTLE] has withdrawn his objection to the explanation which the gentleman from Alabama proposes to make to the committee.

Mr. SHORTER. I simply wish to say that when the bill to provide for the examination and payment of certain claims of citizens of Georgia and Alabama, on account of losses sustained by depredations of the Creek Indians was called, the gentleman from New York [Mr. KELSEY] objected before the bill or report was read, and of course before he could have understood anything of the merits of the bill. I thought he objected on sectional grounds, because the names of Georgia and Alabama appeared in the title. I thought it was an extraordinary course of proceeding for a gentleman to object to a bill before he could possibly understand what it was. This is a claim in which many of my constituents are interested.

Mr. SEWARD. And many of mine.

Mr. SHORTER. The payment of these claimants was recommended by General Jackson when he was President. This bill was unanimously reported by the Committee on Indian Affairs. It has passed the Senate several times. I thought it due my constituents that legislation should not proceed on other bills if they are not to have their claims examined and allowed because they belong to a particular section. Having understood, however, that the objection of the gentleman from New York was not made on sectional grounds, I now withdraw my objections to this bill, and all the others which have been passed over since the one to which I have referred.

Mr. KELSEY. I wish to say to the committee that I did not object to the bill mentioned by the gentleman from Alabama upon any sectional grounds. I objected because I saw from the reading of the title of the bill that it contained provisions relating to many individuals, and I thought it was a bill which should not pass simply without objection and without explanation. I thought it should be maturely considered. I confess that in addition to this I felt some little irritation in consequence of an objection which was made by another gentleman to a bill in which I felt some interest for an old soldier who was maimed in battle, and which I thought ought to pass without objection.

Mr. JONES, of Tennessee. I will say to the gentleman from New York that I never object to a bill here in consequence of any feeling I may have towards any gentleman who may be interested in it.

Mr. KELSEY. Nor I.

Mr. JONES, of Tennessee. I objected to the bill to which the gentleman from New York refers, because it was in conflict with the general law regulating pensions to invalid soldiers.

Mr. COBB. As my friend from Alabama objected to Senate bill (No. 73) because he was a little irritated, I hope we shall by unanimous consent, go back and take it up.

Several MEMBERS objected.

Mr. COBB. I wish to say to the committee—

[Cries of "Order!" "Order!"]

Mr. UNDERWOOD. As we have gone over several bills which have not been objected to for good cause, I hope we shall, by unanimous consent, go back and take them up.

Mr. BURNETT. I object.

NATHANIEL HEARD'S HEIRS.

A bill (H. R. No. 449) for the relief of the heirs of Nathaniel Heard. [Objected to by Mr. JONES, of Tennessee.]

FRANCOIS GUILLORY.

A bill (H. R. No. 450) for the relief of the legal representatives of Francois Guillory. [Objected to by Mr. CLAWSON.]

Mr. STANTON. I rise to a question of order. I submit to the Chair whether it is not in order for any gentleman opposed to a bill to move that it be laid aside, with a recommendation to the House that it do not pass; and let it then be understood that when it goes to the House, the yeas and nays shall be called for.

The CHAIRMAN. It will only be in order by unanimous consent.

Mr. STANTON. If any gentleman makes a motion in lieu of the objection, would it not be in order?

The CHAIRMAN. Only by unanimous consent.

Mr. STANTON. I think it would be right to do so.

JEAN BAPTISTE DEVIDRINE.

A bill (H. R. No. 451) for the relief of the legal representatives of Jean Baptiste Devidrine.

The bill confirms the legal representatives of Jean Baptiste Devidrine, late of Louisiana, in their claim to that tract or parcel of land known on the public surveys of the southwestern land district of that State as lot forty-five, in township four south, range three east, and lot seventy-three, in township four south, range four east; containing about four hundred arpents, or three hundred and fifty acres of land, and that a patent shall issue therefor as in other cases; provided that the act shall only be construed as a relinquishment of whatever title may be now vested in the United States, and shall in no wise interfere with any valid adverse claim of other or third parties, should such there be.

It appears, from the report, that the claim is for a tract of land in Louisiana, of ten by forty arpents, (about three hundred and fifty acres,) which, it appears, is the half of a tract of twenty by forty arpents granted to said Devidrine by Governor Galvez, in 1778. The order of survey being evidenced by the report marked B. 290, of the commissioners appointed to ascertain the rights of persons to lands in the western district of the Orleans Territory, who say, in confirming the title of Benjamin M. Stokes to a tract of four hundred and one arpents, that it is "founded on an order of survey in favor of Jean Baptiste Devidrine for twenty arpents front by forty in depth, on a petition of said Devidrine, bearing date the 22d January, 1778." It is also in evidence that the land has been regarded, by the people and the courts, as private property since 1789; having been repeatedly sold, within that time, for a valuable consideration by individuals, and under order of the probate courts.

The bill was laid aside to be reported to the House, with the recommendation that it do pass.

LAURENT MILLAUDON.

An act (S. No. 81,) for the relief of Laurent Millaudon.

The bill confirms Laurent Millaudon in his title to two certain tracts of land lying on the east side of Mobile bay, in Alabama, being the two tracts of land known as the De Feroit claims, as surveyed in 1830, and approved of by the surveyor general in 1835, with the exception of so much off of the north end thereof as has heretofore been surveyed and confirmed to William Patterson, and included within what is known as the Patterson claim, as now located: provided that the act shall only be construed as a relinquishment of any title that the United States may have to the lands; and that the confirmation shall inure to the benefit of any other persons, if such there be, as may be entitled to any part of the De Feroit claims under conveyances from him.

From the report it appears, that under the provisions of the act of 1812, authorizing the investigation of land titles south of the thirty-first degree and east of the Mississippi, an individual, without any authority for so doing, filed two alleged Spanish permits for lands on the east side of the Mobile bay, in favor of John B. Lorendine in the behalf of the Baron de Feroit. These claims were favorably reported upon by Commissioner Crawford, and communicated to the House of Representatives on the 5th day of January, 1816; in which report the said claims were numbered 90 and 91 of the third class. (American State Papers, Public Lands, vol. 3, page 11.) Subsequent to this report, but before Congress had any action thereon, one Arthur L. Simms became the purchaser of the right of De Feroit to the lands; and on the 3d of March, 1819, Congress passed an act confirming all the claims so favorably reported by the commissioner; and, under that act, the claims were regularly surveyed by the proper officers in 1830, and confirmed by the surveyor general in 1835, and are represented on the plats of the public surveys as the De Feroit claims, in township C south, of range two east, in the St. Stephen's district, Alabama. Subsequent to this, to wit: on the 20th of March, 1837, Laurent Millaudon, relying upon the representations made to him of the genuineness of those claims, and upon all the previous action of the officers of the Government and of Congress, by which they were declared to be good and valid titles, and as covering lands to which the Government had no claim, became the purchaser of certain portions of the same from Simms. Doubts having afterwards arisen as to the justice of these claims, with a view of securing the lands, pre-emption floats were laid thereon. Under the titles thus purchased by Mr. Millaudon, and believed by him to be most unimpeachable, he went on in making the most extensive preparations to establish a city upon those lands; and it appears to the committee, from the evidence adduced by him, that in this enterprise he has already actually expended upwards of one hundred thousand dollars. In March last, the question as to the validity of the De Feroit titles being brought before the General Land Office for consideration, that office required a report from the land officers at St. Stephens, upon all the facts and evidence in the case; and it satisfactorily appearing from that report and accompany documents that these claims of De Feroit were fraudulent in themselves, one purporting to be founded on a grant from Gayetano Perez, in 1800; when he was first in office, for twenty-two days, in December, 1803, as commandant *ad interim*, and was not in office as commandant of the post until 1809, and the other being only a permission for the temporary use of a tract of six or seven arpents on the Bayou Fra, or Froid, for a cowpen, for the security of cattle during an apprehended incursion of a band of Indians, the General Land Office decided that the De Feroit titles, being fraudulent, conveyed no title to the present holders under them.

The bill was laid aside to be reported to the House, with the recommendation that it do pass.

JOHN DICK.

An act (S. No. 70) for the relief of John Dick, of Florida.

The bill directs the Commissioner of the General Land Office to cause a patent to be issued to John Dick for lots numbered ten, of section twenty-nine, and one, of section thirty-one, fractional section of thirty, and the northwest quarter of the northwest quarter of section thirty-two, all lying in township ten south, of range twenty-seven east,

containing one hundred and fifty-three acres, situate in East Florida, and of the lands subject to sale at St. Augustine, Florida; provided that such patent shall only operate as a relinquishment of title on the part of the United States, and shall not affect the rights of any third person.

It appears, from the report, that under the provisions of the act of Congress for the armed occupation and settlement of the unsettled part of the peninsula of East Florida, approved August 4, 1842, Mr. Dick filed his notice with the register of the land office at St. Augustine for a "permit" to settle upon one hundred and sixty acres of land south of the line dividing townships numbered nine and ten, and described as follows: Lot ten, section twenty-nine; lot one, in section thirty-one; fractional section thirty; and the northwest of the northwest quarter of section thirty-two; all of township ten, range twenty-seven south and east, containing in the aggregate one hundred and fifty-three thousand and twenty acres. On the 16th of April, 1843, the register of the land office issued "permit" No. 43, to Mr. Dick, giving him permission to settle upon the lands solicited, under the conditions of the said act; one of which was, "that no right or donation shall be acquired under this act within two miles of any permanent military post of the United States, established and garrisoned at the time such settlement and residence was commenced." This permit was canceled by the General Land Office, on the ground that the land embraced therein had been reserved in 1841 for military purposes. This shows that prior to his permit being canceled, he had complied with the requisitions of said military act, and also proves that his settlement was not within four miles of any military post established and garrisoned at the date of his settlement, or at any time subsequent thereto; that he was compelled to relinquish and abandon his settlement by virtue of such cancelation of his "permit;" and that since that period he has continued to reside south of the line specified in the said act of Congress, and has not received lands under the said act.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

ANNA M. E. RING, ETC.

An act (S. No. 185) for the relief of Anna M. E. Ring, Louisa M. Ring, Cordelia E. Ring, and Sarah J. De Lannoy.

The bill provides that the assignment by David A. Ring, to his four daughters, namely: Anna M. E. Ring, Cordelia E. Ring, Louisa M. Ring, and Sarah J. De Lannoy, of land warrant No. 3,172, for one hundred and sixty acres of land, issued on the 18th of July, 1855, to David A. Ring, shall be held to vest in the assignees all the right, title, and interests of David A. Ring in and to the warrant.

It appears, from the report, that on the 18th of July, 1855, a land warrant, No. 3,172, for one hundred and sixty acres of land, was issued to David A. Ring for military services during the war of 1812; that, prior to the receipt of said warrant, and while in a dying condition, he executed an assignment of his right to that warrant to his four daughters, namely: Anna M. E. Ring, Louisa M. Ring, Cordelia E. Ring, and Sarah J. De Lannoy. But the fourth section of an act entitled "An act granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," approved 23th September, 1850, declares all assignments made prior to the issue of a warrant to be null and void; and this assignment having been made prior to the issue of this warrant, the location was lawfully refused by the Commissioner of the General Land Office.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

WILLIAM B. TROTTER.

An act (S. No. 52) for the relief of William B. Trotter.

The bill directs the Secretary of the Treasury to pay to William B. Trotter, of Clarke county, Mississippi, \$1,680, out of any money in the Treasury not otherwise appropriated, the same being in full of all his demands growing out of the emigration and subsistence of Choctaw Indians in Mississippi, in 1831, under a contract with the United States.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

JAMES G. BENTON AND OTHERS.

An act (S. No. 59) for the relief of James G. Benton, E. B. Babbitt, and James Longstreet, of the United States Army.

The bill directs the proper accounting officers of the Treasury Department, in settling the accounts of Lieutenant James G. Benton, of the ordnance department, of Brevet Major E. B. Babbitt, chief assistant quartermaster, and of Brevet Major James Longstreet, acting commissary of subsistence, to allow them, as credits, the respective amounts of which they were defrauded by Parker H. French, in San Antonio, Texas, in July, 1850; namely: to James G. Benton, \$1,021 14; to E. B. Babbitt, \$519 93; and to James Longstreet, \$448 98.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

CHRISTINE BARNARD.

An act (S. No. 91) to continue a pension to Christine Barnard, widow of the late Brevet Major Moses J. Barnard, United States Army.

The bill directs the Secretary of the Interior to continue upon the pension roll, at the rate of thirty dollars per month, from and after the 4th of July, 1857, when her pension expired, the name of Christine Barnard, widow of the late Brevet Major Moses J. Barnard, captain in company H, regiment of voligeurs, who was twice wounded in planting the American colors upon the parapet of Chepultepec while storming that fortress, and who died from disease contracted in, and greatly enhanced by hardships and fatigue of, the Mexican campaign; the pension to be held by her or by her children in accordance with existing laws in reference to the widows and children of those who died from wounds or disease received or contracted during the Mexican war.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

SUSANNA T. LEA.

An act (S. No. 96) for the relief of Susanna T. Lea, widow and administratrix of James Maglenen, late of the city of Baltimore, deceased.

The bill directs the Secretary of the Treasury to pay to the legal representatives of James Maglenen \$130, being the value of a horse and equipments belonging to him, the same having been impressed in September, 1814, for the purpose of sending an express to North Point, and the horse and equipments having been lost in the service.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

DR. THOMAS ANTISELL.

A bill (H. R. No. 452) for the relief of Dr. Thomas Antisell.

The bill directs the Secretary of the Treasury to pay to Dr. Thomas Antisell, out of any moneys in the Treasury not otherwise appropriated, \$274 65, in full of the account of Antisell, for services rendered as acting assistant surgeon to the command (company G, third artillery) escorting Lieutenant Parke's party of survey from California to New Mexico in 1855.

From the report, it appears that Dr. Thomas Antisell, as geologist, accompanied Lieutenant John G. Parke, corps topographical engineers, in a survey and explorations for a Pacific railroad, made by said Parke in southern California, and along parallel 32° in the "Gadsden Purchase." During the progress of the expedition, the services of a medical attendant became necessary, and Dr. Antisell agreed to act, and did act in that capacity to the United States troops accompanying the party of survey. The agreement was made in the form of a regular contract entered into by Dr. Antisell, on the one part, and by Brevet Lieutenant George T. Andrews, commanding company G, on the part of the United States. The evidence submitted goes to prove that the services of Dr. Antisell, as medical attendant, were very valuable and were faithfully rendered.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

ROBERT W. CUSHMAN.

A bill (H. R. No. 453) for the relief of Robert W. Cushman, formerly acting purser in the United States Navy.

The bill directs the proper accounting officers of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to Robert

W. Cushman, acting purser of the "German-town," the flag-ship of the African squadron, the difference of pay between that of a purser and a captain's clerk, for such time as he so acted as purser.

The report states that on the 9th of January, 1851, the memorialist, Robert W. Cushman, was appointed secretary of the commander-in-chief of the African squadron, Commodore E. A. F. Lavallette. On the 21st of May following, owing to the feeble state of the health of Purser Christian, who was then detached, he was appointed by the commander-in-chief as acting purser, in the place and stead of Purser Christian so detached, and recognized as such by the Navy Department, as will appear from a letter from A. O. Dayton, Fourth Auditor, which is on file among the papers accompanying the petition. He continued to act in the capacity of purser until the 9th of December, 1851, and asks that he may be allowed for the time he so acted the difference of pay between that of secretary to the commander-in-chief and purser. Where a ship is not regularly entitled to a purser, it has not been the practice of the Department to allow, nor of this committee to report in favor of allowing, the difference of pay to captains' clerks appointed as pursers by other than the Department, and they are not recognized by or responsible to the Department when the captain of a ship or squadron is required to act as purser. This is not such a case; the German-town, the flag-ship of the squadron, was so entitled; and it appears to the committee that the recognition of Mr. Cushman as purser by the Department entitles him to the difference of pay for which he petitions.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

JOHN H. WHEELER.

A bill (H. R. No. 454) for the relief of John H. Wheeler, Esq., late United States Minister to Nicaragua. [Objected to by Mr. CURRY.]

MICHAEL PAPPRENIZA.

Joint resolution (No. 22) for the relief of Michael Pappreniza.

It authorizes the President to extend the provisions of the joint resolution, approved March 3, 1853, entitled "A resolution for the relief of the Spanish consul and other subjects of Spain residing at Key West, by indemnity for losses occasioned in 1851," to the case of one Michael Pappreniza, an Austrian subject, who, it is alleged, sustained losses at the same time, in consequence of his being supposed to be a Spaniard; provided that the amount allowed as indemnity to Pappreniza shall not exceed \$200.

The report states that it appears from the letter of the Secretary of State, and the note of Chevalier Hülsemann, Minister Resident of Austria in the United States, that Michael Pappreniza, an Austrian subject, had been established for a number of years in New Orleans as a vender of fruit; that on the night of the 21st August, 1851, an attack was made upon his fruit stall in St. Mary's market, and his property destroyed by some riotous persons to the damage of \$200, under the impression that he was a Spaniard, and had taken part with the Spanish Government in the Lopez expedition against Cuba. Congress, by a resolution approved 3d March, 1853, requested the President of the United States to cause an investigation as to any losses sustained by the consul of Spain, or other persons residing at New Orleans, or at Key West, in 1851, and who were at that time subjects of the Queen of Spain, by the violence of individuals, arising out of intelligence then recently received of the execution of certain persons at Havana, by the Spanish authorities at that island. The case of Pappreniza, being an Austrian subject, did not belong to those provided for by that resolution, and the committee see no good reason why he should not be indemnified as were the subjects of the Queen of Spain.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

MICAHAH BROOKS.

A bill (H. R. No. 455) for the relief of Micajah Brooks.

The bill directs the Secretary of the Interior to place the name of Micajah Brooks, of Georgia,

on the pension roll, at the rate of four dollars per month, or forty-eight dollars per annum, and that he be paid at that rate from the 1st of January, 1850; and that that amount be paid to Micajah Brooks, if living; otherwise, to his surviving children.

The report states that the petitioner declares in his memorial, under the act of 7th June, 1832, that he served in the war of the Revolution, in the States of South Carolina and Georgia, as much as two years, as a private. He adduces as evidence record proof from the comptroller of the State of South Carolina, of three or four months' service, for which he has received land, say one hundred and sixty acres. He is regarded by a large number of witnesses where he resides as having served faithfully in the war of the Revolution. He is now near one hundred years of age, and in indigent circumstances; and the committee have thought it reasonable and just to report a bill for his relief, allowing him a pension at the rate of forty-eight dollars per annum, from the 1st of January, 1850, to be paid to the said Micajah Brooks, if living, and if deceased, to his surviving children.

Mr. LEITER. I move to strike out "four," and insert "eight," so as to provide a pension of eight dollars per month.

Mr. QUITMAN. I act upon principle, and cannot consent to pass a bill which will separate one individual from the community, and give him what others are not permitted to enjoy. This bill is framed upon the principles of revolutionary pensions, and therefore I am opposed to the amendment.

Mr. SMITH, of Virginia. I shall object to the bill, if that amendment is made.

Mr. LEITER. I withdraw the amendment.

Mr. JONES, of Tennessee. I move to amend the bill by striking out the words "otherwise to his surviving children."

The bill provides that the amount shall be paid to the soldier, if living; and if not, to his surviving children. This is contrary to all our practice in giving revolutionary pensions.

The amendment was agreed to.

The bill, as amended, was then laid aside to be reported to the House, with a recommendation that it be passed.

MAJOR JOHN JONES.

A bill (H. R. No. 456) granting an invalid pension to Brevet Major John Jones, of Tennessee.

The bill directs the Secretary of the Interior to place the name of Brevet Major John Jones, of Tennessee, on the invalid pension roll, and pay him a pension, at the rate of twenty-five dollars per month, from the 4th of September, 1856, and to continue during his natural life.

The report states that the memorialist entered the Army as a volunteer dragoon under General Jackson, in 1812, and was appointed by General Jackson, sword master. In 1813, January 13, he was appointed to the command of a company in the thirty-ninth regiment of infantry. With this regiment he joined General Jackson at the Ten Islands, on Coosa river, in January or February, 1814. He was honored with the command of the advance guard of the Army on the memorable 27th of March, following. "After descending the Alabama river, and whilst the regiment was encamped at Mount Vernon, he was sent overland, in disguise, by Colonel Benton, to ascertain its defenses, and the rate of the brig Hermes, then lying there." With the remains of the regiment he built Fort Montgomery, under the orders of Colonel Benton. In the latter part of 1816, the memorialist was sent with two companies to Attakapas, to give protection to the coast from the invasions of Lafitte, of notorious memory. He remained on the Teche until about April, 1817, when he was remanded to headquarters, Baton Rouge. Whilst on this duty he contracted a hepatic complaint, from which he has never recovered. The disease became so aggravated, that, in 1824, he was compelled to resign his commission in the Army, after having served ten years as a captain and been breveted a major. The memorialist having sacrificed his best prospects and the prime of his life for the good of his country, has nothing left but a broken constitution and the weight of seventy-seven years, with a fair prospect of becoming a mendicant.

Mr. BURNETT. I am acquainted with the

merits of this case, and I want to make a statement to the committee, with a view to an amendment. [Cries of "Go on!"] This man is not a constituent of mine, as he lives in the State of Tennessee, but I know him. He is one of the most intelligent men I ever knew. He rendered as much service to the country as any man ever connected with the Army did. The testimony of Colonel Thomas H. Benton shows him to have been one of the most gallant and meritorious officers we have had. He was breveted as major of the Army. He lives in Tennessee, in a log-cabin, without any floor other than that furnished by the bare earth. He is also blind. This bill proposes to pay him twenty-five dollars a month as a pension.

Mr. CHAFFEE. That is all we could give him under the law.

Mr. BURNETT. The regular pay of a major of the Army is ninety dollars per month. Now, I ask this committee if they will not increase the pension of that old man of seventy-seven years? [Cries of "Agreed!" "Agreed!"] I move to strike out "twenty-five dollars" and insert "forty dollars."

The amendment was agreed to.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass with an amendment.

KENNEDY O'BRIEN.

A bill (H. R. No. 457) for the relief of Kennedy O'Brien.

The bill directs the Secretary of the Interior to place the name of Kennedy O'Brien on the list of invalid pensioners at the rate of eight dollars per month, from the 1st of January, 1854.

The report states that the petitioner served in the late war with Mexico, having volunteered two different times; and that, while in the line of his duty, he contracted a chronic diarrhea, from the effects of which he became blind.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

EVELINA PORTER.

A bill (H. R. No. 458) for the relief of Evelina Porter, widow of the late Commodore David Porter, of the United States Navy.

The bill directs the Secretary of the Interior to place the name of Evelina Porter, widow of the late Commodore Porter, deceased, of the United States Navy, upon the list of invalid pensions, to be paid at the rate of thirty dollars per month, for five years, from the 9th of February, 1858; that if Evelina Porter shall intermarry before the expiration of the five years, then the pension shall cease at the date of her death.

Mr. BOCOCK. I do not wish to object to this bill, but I think there is a mistake in the last line. I move to strike out the words "her death" and insert in lieu thereof, the words "her said intermarriage."

The amendment was agreed to.

From the report the following facts appear: The memorialist states that her husband, David Porter, entered the United States Navy in 1798, as a midshipman; that in the Old Tripolitan war (1803) he received a wound, which, with the effects of a severe attack of yellow fever, contracted while in command of the United States squadron for the suppression of piracy in the West India seas, was the cause of his death; that believing the act of Congress of 30th of June, 1834, designed to confer its benefits on the widows of those who had faithfully served their country and who had died under the circumstances therein stated, she applied to the Commissioner of Pensions to be placed on the Navy pension roll; that officer decided that she was not entitled to the benefits of the act in question, because her husband at the time of his death was not an officer of the Navy. Under these circumstances she appeals to Congress, and prays the passage of an act for her benefit, granting her a pension, commencing at the date of her husband's death, in a similar manner and at the same rate with the widows of officers of her husband's rank who are now upon the Navy pension roll, whose husbands died before they left the naval service.

In support of her claim, Dr. Edmund L. Du Barre certifies that he was attached to the squadron commanded by Commodore David Porter in

the West Indies, for the suppression of piracy; that Porter contracted in 1823 a violent attack of yellow fever; his life was despaired of; his system was totally unable to react; he had received many severe wounds in the service; the yellow fever reopened old wounds, and his left cavish, which had been wounded many years before, suppurated, and pieces of bone exfoliated; saw him again in 1824-25; his health was then precarious; his stomach, liver, and bowels were very much deranged; having lived in the cabin of the "Sea Gull" with him, had ample opportunity of observing the condition of his system; was a constant witness to his intense sufferings; saw him again in 1838 or 1839; saw the breaking up of his physical powers rapidly advancing. The account of his death is consistent with his view of the case from the beginning. The wound on the scrotum, deranging the urinary organs and obstructing the functions of the bladder, of itself was serious; but attended with an almost total paralysis of the action of the parts, death was a most certain result. That his death is wholly attributable to wounds received and disease contracted in the service, in the actual performance of his duties, he has not the slightest doubt.

G. H. Heap certifies that he resided with Commodore David Porter for nine months previous to his death, in constant attendance upon him during his last illness up to his death, on the 3d of March, 1843. His death was caused in a great measure by a disorder of the bladder from a wound produced by a ball, which injured the relative parts. During his last illness it was often necessary to lift him out of bed twenty times a night, and to use the catheter before relieved. Has no doubt his death was caused by wounds and sickness received in his country's service by the obstruction of the urethra by the wound, aggravated by other injuries, and especially the attack of yellow fever above referred to.

George A. Porter certifies that he was a nephew of Commodore David Porter; was with him from 1830 to the day of his death, March 3, 1843; resided with him the whole time he lived at Constantinople; attended him during his illness, and was present when he died. His premature death was attributed, by all who were intimately acquainted with him, to the zealous discharge of his duties in the naval service.

C. W. Goldsborough, secretary of the Navy commissioners, states that Commodore Porter has rendered not only long and faithful, but extraordinary services, as the records of the Navy Department will fully testify. In February, 1798, he was a midshipman on board the frigate Constellation; in 1800 was promoted to first lieutenant of the Experiment. That in an engagement off Old Tripoli, by a detachment of the vessels of the squadron under command of Commodore R. V. Morris, at that time commanded by Lieutenant Porter, as the boats approached, several of our men were killed and wounded, among the latter Lieutenant Porter, who received a slight wound in the right thigh and a ball through the left. Commodore Morris reported Lieutenant David Porter and others as deserving particular distinction on that occasion.

John Downes, a captain in the United States Navy, states that in 1799 or 1800 he was a boy on the frigate Constellation, in the West Indies, when Commodore Porter, then quite a youth, commanded a small schooner, pursued an enemy's vessel of superior force into shoal water, and captured her after a sharp action. He witnessed his gallant attack on the enemy's vessels with a detachment of boats under his command from the United States squadron at Old Tripoli in 1803. In this attack he was wounded through the thigh; all the enemy's vessels were set on fire. Commodore Porter was in several actions in the West Indies during our war with France in 1799 and 1800, and in one of them was wounded in the shoulder; has known him intimately since 1802; was his first lieutenant on the Essex, during the whole time he commanded her; does not believe any country can boast of his superior as a naval commander; no man has done more to build up the reputation of the Navy.

F. A. Thornton says, that in December, 1822, he was purser of the piratical expedition for the West Indies, under Commodore David Porter; continued with him till his return, in the fall or winter of 1824 or 1825. While in this service,

Porter suffered from severe attacks of yellow fever, &c.

Joshua Blake, a captain in the Navy, says he was second lieutenant of the schooner Experiment, then in command of Lieutenant Maley; that Commodore David Porter was then first lieutenant of the schooner. On the 1st of January, 1800, they had an engagement of some hours with several brigand barges. During the action, which part of the time was close and severe, Commodore (then Lieutenant) Porter received a wound in the left shoulder. He distinctly recollects that he suffered much from the effect of the contusion.

Memorialist's marriage with David Porter is proven by the statements of Rebecca S. Connell and Mary Davenport, who were present at their marriage, which, together with her own statement, under oath, fixes the date of their marriage on the 9th day of March, 1808, at the residence of her father, in the town of Chester, Pennsylvania.

From the testimony it appears that Commodore David Porter's death is wholly attributable to wounds and injuries received, and disease contracted by him, while in his country's service, and in the discharge of his duties; that his death occurred at Constantinople, in Turkey, on the 3d of March, 1843, at which place he was at the time a diplomatic functionary of the Government, and not in the naval service of the United States.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

SILAS STEVENS.

A bill (H. R. No. 459) granting an invalid pension to Silas Stevens, of Virginia.

The bill directs the Secretary of the Interior to place the name of Silas Stevens, of Virginia, on the invalid pension roll, and pay him a pension, at the rate of four dollars a month, from the 1st of February, 1858, during his natural life.

It appears from the report that the memorialist entered the service about the 1st of September, 1812, in the company of Captain James Morgan, in Colonel Dudley Evans's regiment of Virginia militia, and that he was marched to the Northwest to join General Harrison; that at a small village, called Delaware, in the State of Ohio, he was taken sick, where he remained six weeks, not being able to perform duty as a soldier, and there being no prospect that he ever would be, he was discharged, and left to get home as best he could.

The bill was laid aside, to be reported to the House.

BERIAH WRIGHT.

A bill (H. R. No. 460) granting an invalid pension to Beriah Wright, of New York.

The bill directs the Secretary of the Interior to place the name of Beriah Wright, of New York, upon the roll of invalid pensioners of the United States, and to pay him a pension, at the rate of four dollars per month, from the 16th day of February, 1858, during his natural life.

The report shows that the memorialist was in the service of the United States Army as a corporal, and that owing to exposure from want of tents and clothing, he was attacked with rheumatism so severely that Major Bayly, commanding the regiment, allowed him to procure a substitute and return to his home, some four or five weeks before the expiration of his term of service. The term of service commenced May 19, 1813, and Corporal Wright left in the winter of 1813-14 to go home. Dr. Kenrick testifies that Wright left home in good health, robust and vigorous, and returned for medical advice; his complaint was rheumatism; and that it has disabled him, the said Wright, one half or three quarters.

The bill was laid aside to be reported to the House.

JOHN LEE.

A bill (H. R. No. 461) granting an invalid pension to John Lee, of the State of Maine.

The bill directs that the name of John Lee be placed upon the pension list of the United States, at the rate of eight dollars per month, from the 22d of December, 1857, and that the Secretary of the Interior pay him eight dollars per month, to be estimated and computed from and after December 22, 1857, and to continue during life.

The Committee on Invalid Pensions report that Lee, under the name of John Richards, a private,

enlisted into the service for the war on the 3d of February, 1813, in the ninth regiment of United States infantry, and has been traced on the rolls of his company up to the 15th of May, 1815. He fought in five pitched battles: battle of Williamsburg, in said regiment, in General Covington's brigade; at Fort Erie; at Chippewa, Queenstown, and Fort George; at Bridgewater, or Lundy's Lane; the siege of Fort Erie, which lasted fifty or sixty days; and was in the fight when Fort Erie was blown up, and at the sortie near said fort when the enemy's batteries were taken and blown up by the American forces. It further appears that in said ninth regiment, at the battle of Lundy's Lane, that all of said Lee's company, with the exception of himself and one other private, were either killed, wounded, or left the field before the termination of said battle. From the proof it further appears that at said battle, and in the night time, he was hit by a musket ball in the left shoulder and badly injured; that in consequence of said injury his left arm and hand have become almost disabled.

Mr. QUITMAN. I move to amend the bill by striking out "eight dollars" and inserting "four dollars," so as to make it conform to the pension laws.

The amendment was rejected.

The bill was then laid aside to be reported to the House.

JAMES FUGATE.

A bill (H. R. No. 462) granting an invalid pension to James Fugate, of Missouri.

The bill directs the Secretary of the Interior to place the name of James Fugate, of Missouri, upon the roll of invalid pensioners, and pay him a pension, at the rate of eight dollars per month, instead of four dollars per month, the amount he now receives; to commence on the 4th of March, 1858, and to continue during his natural life.

It appears, from the papers submitted, that James Fugate was placed on the invalid pension roll, by a special act of Congress, at the rate of four dollars per month. By the certificate of George Johnson, surgeon United States marine hospital at St. Louis, Missouri, it is shown that said James Fugate is wholly disabled.

The bill was laid aside to be reported to the House.

ELMIRA WHITE.

A bill (H. R. No. 463) for the relief of Elmira White, widow of Captain Thomas R. White.

The bill directs the Secretary of the Interior to place the name of Elmira White, widow of Thomas R. White, of Maine, on the pension roll, from the date of the disease and disability contracted by him in the service of his country, during her widowhood, at the same rate per annum, and in lieu of the pension received by her.

Mr. JONES, of Tennessee. That bill contains an entirely new principle. I have no objection to the bill if it is made to conform to the law which gives to the widow of the soldier who had died in the service, or of disease contracted in the service, a pension for five years and subsequently for another five years. But this bill proposes to go back to the date of the disease in 1812 or 1813 and give her this pension for forty or fifty years.

Mr. SMITH, of Virginia. I move to amend the bill, so as to make the pension commence from the date of the passage of the bill.

Mr. GROW. As I understand it, this widow is drawing a pension now. If we strike out the pension she now receives, and put in five years' pension, will it not reduce her pension?

Mr. MARSHALL, of Kentucky. It will just give her a pension for five years.

Mr. JONES, of Tennessee. Is she now getting a pension?

Mr. CHAFFEE. Half pay.

Mr. JONES, of Tennessee. Is it continuous?

Mr. CHAFFEE. It is.

Mr. JONES, of Tennessee. Then I object to the bill.

MICHAEL KINNY.

An act (S. No. 35) for the relief of Michael Kinny, late a private in company I, eighth regiment United States Army.

The bill directs the Secretary of the Interior to place the name of Michael Kinny on the pension list, at the rate of eight dollars per month, commencing on the 11th of December, 1856, and to continue during his life.

Mr. QUITMAN. I move to amend the bill by striking out "eight," and inserting "four."

The amendment was rejected.

Mr. SMITH, of Virginia. Then I object to the bill.

Mr. JONES, of Tennessee. I do not know anything about this case, but I understand from the report that this man has had one of his legs amputated, and that is always held at the Pension Office to be a total disability.

Mr. SMITH, of Virginia. Well, *lex non curat minimis*. I withdraw the objection.

The bill was laid aside to be reported to the House.

CORNELIUS H. LATHAM.

A bill (H. R. No. 464) for the relief of Cornelius H. Latham.

The bill directs the Secretary of the Interior to allow and pay Cornelius H. Latham, of New York, an invalid pensioner, eight dollars per month during his natural life, in lieu of the pension now allowed him by law, to commence on the 25th of February, 1856.

It appears that the petitioner was, by special act of Congress for his relief, approved July 17, 1854, placed on the pension list, at the rate of four dollars per month, on account of disease contracted while in the line of his duty, in the service of the United States, as a private in Captain E. V. Sumner's company of United States dragoons. The petitioner now states that the said disease has continued to this time, and renders him unable to perform any labor. He presents the affidavits of two physicians, who are certified to be reputable in their profession, who state that he is not only still disabled, but, in consequence, is disabled to a degree amounting to a total disability.

The bill was laid aside to be reported to the House.

EDWARD N. KENT.

A bill (H. R. No. 465) for the relief of Edward N. Kent. [Objected to by Mr. UNDERWOOD.]

ADVERSE REPORTS FROM COURT OF CLAIMS.

The following adverse reports from the Court of Claims stood next in order upon the Calendar: An adverse report (No. 159) upon the petition of Joseph Ratcliff;

An adverse report (No. 160) upon the petition of Oliver Dubois;

An adverse report (No. 162) upon the petition of Arthur Edwards and others;

An adverse report (No. 164) upon the petition of A. O. P. Nicholson; and

An adverse report (No. 166) upon the petition of Joshua J. Guppy, judge of the county court of Columbia county, Wisconsin, as trustee for the claimants and occupants of "Portage City."

Mr. JONES, of Tennessee. I hope that these adverse reports will be reported to the House, with a recommendation that they be concurred in.

Mr. WALDRON. I desire that report No. 162 be laid aside, to be reported to the House with a recommendation that it be referred to the Committee of Claims.

It was so ordered.

The other reports were then laid aside, to be reported to the House with a recommendation that they be concurred in.

JAMES RUMPH.

A bill (H. R. No. 476) for the relief of James Rumph.

The bill directs the Secretary of the Treasury to pay to James Rumph, out of any money in the Treasury not otherwise appropriated, \$760, it being in full compensation for medical aid rendered to soldiers in the service of the United States in 1837.

The report having been read, the bill was laid aside to be reported to the House.

WILLIAM TURVIN.

A bill (C. C. No. 81) for the relief of the heirs of William Turvin, deceased.

The bill authorizes the heirs of William Turvin, deceased, to locate, free of cost, nine hundred and sixty arpents of land, or as near thereto as the same can be done, not exceeding that quantity, according to the legal subdivisions, on any of the public lands of the United States subject to entry at private sale; which lands, when so located, shall be in full for the claim of their father, William

Turvin, to a tract of land lying on the east side of the Mobile river and west of the Bayou Pascual, under a grant from the Spanish Government, and which was recommended for confirmation on the report of the register and receiver of the land office for the district of St. Stephens; and authorizes the Commissioner of the General Land Office, upon the receipt of the certificate of entry from the proper land office, to issue a patent for the land so located.

The report states that, on the 30th June, 1787, Samuel Moore, an inhabitant of the jurisdiction of Mobile, petitioned the Governor of Florida for a concession of twelve arpents of land situated and lying on the Tensaw, or east branch of the Mobile river, contiguous to Bayou Pascual, and the lands of one Strahan, certified to be vacant by Don Vincente Falch, captain of the Louisiana regiment of infantry, civil and military commandant of the town of Mobile, and of the district thereto appertaining. On the 3d August following, the concession was granted by the Governor, Don Stephen Miro, with an order of settlement and survey, directing Don Charles Laveau Tudeau, surveyor general of the province, to "put the petitioner in possession of twelve arpents front by the ordinary depth of forty," making an area of four hundred and eighty arpents. So far as the proof in the case discloses, there never was any survey made, and nothing further done by the Spanish authorities towards perfecting the title. But it is well established that Moore shortly afterwards took possession of the land, erected buildings thereon, made "considerable improvements, with roads leading to and from," &c., and continued to occupy it until his death, which must have occurred shortly thereafter, for on the 7th November, 1791, his widow, who appears in the mean time to have married a man by the name of Thompson, assumed to convey the land to William Turvin, the ancestor of the present claimants.

Afterwards, on the 20th August, 1806, Turvin applied to Morales, the Intendant General of the Floridas, for an additional concession of twelve arpents, with the ordinary depth of forty, contiguous to the first tract; the application was referred to Armand de Courville, Minister of the Royal Revenue, who reported on the 19th of September, 1806, in favor of the concession; there appears no further assurance of title from the Spanish Government; the proof shows that Turvin continued to occupy and improve the lands until his death in 1810, and his children from that time until, under the act of the 11th February, 1813, the territory was transferred to the jurisdiction of the United States, and, indeed, for many years afterwards. It appears that on the 19th June, 1813, one James Conway, as executor of William Turvin, and as agent for his heir, gave notice to William Crawford, commissioner of land claims east of Pearl river, that he claimed this land embraced in the original concession to Samuel Moore, but seems to have produced no evidence that it had ever been inhabited or cultivated; and for this omission, the commission did not admit the validity of the claim.

By a letter under date of October 13, 1857, addressed by the Commissioner of the General Land Office, to Hon. Philip Phillips, it appears "that all the southern part of township one south, of range two east, lying east of the Tensaw river, for more than three miles from the southern boundary of said township, and the north part of township two south, of range two east, and lying east of the Tensaw river for a distance of more than two miles from the northern boundary of said township, except the east part of section eleven and all of section twelve, which are in the eastern part of said township, and distant from Tensaw river, but are one mile from the northern boundary of said township, are covered by the private claims of Joshua Kennedy, J. L. Seabury, the heirs of Robert Wolfington, the representatives of William Fisher, John and Bruner Griffin, the heirs of Robert Gilchrist, and Aaron Barlow and wife;" from which it will be seen that these private claims cover all the land described in the report of the register and receiver as nine hundred and sixty arpents, situate and lying in township one and two south, of range two east, on the east bank of the Mobile river, and the east branch of the same, usually called the Tensaw river, and bounded by the Bayou Pascual and the land claimed by Strahan.

From this it would seem that the Government has sold and received pay for the lands. By testimony taken, it appears altogether probable that other persons are, and for many years have been, in the possession of these lands, under adverse paramount titles; or, at any rate, that the heirs of Turvin have not been in possession of any portion thereof for the last twenty-five or thirty years. How they lost their possession, whether by sale or voluntary abandonment, or a legal eviction, does not appear.

The Committee of Claims report that an amendment be offered to the bill permitting the lands to be located on lands subject to private entry at \$1.25 per acre.

The amendment was agreed to.

The bill, as amended, was laid aside to be reported to the House, with a recommendation that it do pass.

DR. FERDINAND O. MILLER.

A bill (H. R. No. 480) for the relief of Ferdinand O. Miller.

The bill authorizes and requires the proper accounting officers of the Treasury to audit and settle the account of Dr. Ferdinand O. Miller, and allow him the pay of an assistant surgeon in the Army from July 6, 1846, to February 28, 1847, both days inclusive, in full for his services as surgeon and assistant surgeon during the late war with Mexico, deducting therefrom the amount paid Dr. Miller as a private soldier during the same specified time.

The evidence shows that Doctor Miller engaged as a private soldier in the service of the United States during the war with Mexico, but was afterwards detailed by the colonel of his regiment to discharge the duties of surgeon and assistant surgeon, which he did discharge from the 6th day of July, 1846, to the 28th day of February, following, both days inclusive. The proof shows that this service was absolutely necessary to be performed by some surgeon to be appointed at the time, owing to the sickness and absence of the assistant surgeon, and, for a time, the necessary absence of the surgeon of the regiment.

The bill was laid aside, to be reported to the House, with a recommendation that it do pass.

DINAH MINIS.

A bill (H. R. No. 481) for the relief of Dinah Minis.

The bill directs the Secretary of the Treasury to pay to Dinah Minis, or her legal representatives, out of any money in the Treasury not otherwise appropriated, the sums due on loan-office certificates—No. 93, for \$37 27½; No. 94, for \$74 55½; and No. 104, for \$81 66; all dated August 19, 1791, and signed by Richard Wylly, commissioner of loans—on the surrender of the original certificates at the Treasury Department.

The petitioner predicates her claim upon the three following certificates, to wit:

**UNITED STATES LOAN OFFICE,
STATE OF GEORGIA, August 19, 1791.**
Be it known, that there is due from the United States of America, unto Mr. George Whitefield, of the State of South Carolina, or his assigns, the sum of \$37 27½ bearing interest at six per cent. per annum from the 1st day of January, 1801, inclusively, payable quarter yearly, and subject to redemption by payments not exceeding in one year, on account of both principal and interest, the proportion of eight dollars upon a hundred of the stock bearing interest at six per cent., created by virtue of an act making provision for the debt of the United States, passed on the 4th day of August, 1790, which debt is recorded in this office, and is transferable only by appearance in person or by attorney at the proper office, according to the rules and forms instituted for that purpose.

**RICH'D WYLLY,
Commissioner of Loans.**

**No. 94.] UNITED STATES LOAN OFFICE,
STATE OF GEORGIA, August 19, 1791.**

Be it known, that there is due from the United States of America unto Mr. George Whitefield, of the State of South Carolina, or his assigns, the sum of \$74 55½, bearing interest at six per cent. per annum from the 1st day of January, 1791, inclusively, payable quarter yearly, and subject to redemption by payments not exceeding in one year, on account both of principal and interest, the proportion of eight dollars upon a hundred of the stock bearing interest at six per cent., created by virtue of an act making provision for the debt of the United States, passed on the 4th day of August, 1790, which debt is recorded in this office, and is transferable only by appearance in person or by attorney, at the proper office, according to the rules and forms instituted for that purpose.

**RICH'D WYLLY,
Commissioner of Loans.**

**No. 104.] UNITED STATES LOAN OFFICE,
STATE OF GEORGIA, August 19, 1791.**

Be it known, that there is due from the United States of America unto Mr. George Whitefield, of the State of South

Carolina, or his assigns, the sum of \$81 66, bearing interest at three per cent. per annum, from the 1st day of January, 1791, inclusively, payable quarter yearly, and subject to redemption by the payment of said sum, whenever provision shall be made therefor by law, which debt is recorded in this office, and is transferable only by appearance in person, or by attorney, at the proper office, according to the rules and forms instituted for that purpose.

**RICH'D WYLLY,
Commissioner of Loans.**

Letters on file from the Registers of the Treasury show that these several certificates constitute valid claims against the United States in favor of George Whitefield, or his legal representatives or attorney.

It is alleged that Isaac Minis is now dead, and that the petitioner is his widow; it might be enough to place her claim upon the blank indorsement appearing upon the certificates, by analogy to the rules governing commercial paper. But this is strengthened to such a degree by the other facts in the case as to leave scarcely a doubt that the certificates are just and in good faith the property of the petitioner, although their form is such that, by the rules of the Treasury Department, the amounts due upon them cannot be paid to her.

The bill was laid aside to be reported to the House, with the recommendation that it do pass.

ALONZO AND ELBRIDGE G. COLBY.

A bill (H. R. No. 486) for the relief of Alonzo and Elbridge G. Colby.

The bill appropriates \$2,502 11 to Alonzo Colby and Elbridge G. Colby, of Buckport, in Maine, that sum being the balance due them on their contract with the United States, dated July 24, 1855, for constructing a breakwater at Owl's Head harbor, Penobscot river, Maine.

The report states that the justice of the claim is fully established by letters transmitted from the War Department.

The bill was laid aside to be reported to the House, with the recommendation that it do pass.

LAND OFFICE CLERKS IN OREGON.

A bill (H. R. No. 169) making an appropriation for the payment of clerks employed in the offices of the registers of the land offices at Oregon City and Winchester, in the Territory of Oregon.

The bill appropriates \$7,000, or so much thereof as may be necessary, to enable the Secretary of the Interior to reimburse the registers of the land offices at Oregon City and Winchester, in the Territory of Oregon, for expenses incurred by them in the employment of clerks actually required for the transaction of the business of their respective offices, growing out of an act entitled "An act to create the office of surveyor general of the public lands in Oregon, and to provide for the survey and to make donations to settlers of the said public lands," approved September 27, 1850.

The report states that by the act of Congress of 27th of September, 1850, "establishing the office of surveyor general of the Territory of Oregon, and for other purposes," donations of land were offered to persons then residing in Oregon, or who might emigrate thereto within a certain period, being citizens of the United States, or having filed their declarations to become citizens, upon condition of occupying for four years and making certain improvements, with one half of the land to their wives, if they were married, and survivorship to their children, in case of death. Under this act the duties growing out of the making entries of locations and proving up claims were devolved on the surveyor general. By the act of 17th of July, 1854, the preemption act of September 4, 1841, was extended to the Territory of Oregon. By the same act land offices were established, and registers and receivers appointed in said Territory. This act devolved on these officers the duties prescribed for such officers in other land districts, including the duties before assigned to the surveyor general, growing out of donation claims. It fixed their compensation at \$2,500 each, with office rent, and expressly prohibited their receiving fees or any other emoluments.

In other land districts, registers and receivers are compensated in part by salary and in part by commission on the amount of sales of public lands, limited to a maximum of \$3,000 per annum. They are also allowed fees for entries made on bounty land warrants. Clerk hire is allowed to some extent, and the commissions and fees furnish a sum, perhaps, sufficient for such

additional services of that kind as may be required. In the case of the land officers of Oregon, there is no fund of either kind; and yet the clerical duties arising under the donation and preemption acts formed a very important branch of the business of the officers from the time of their appointment. Since the year 1854, the term of occupation required by the donation act expired in a vast number of cases, and it was every way desirable and important to the United States, to the Territory, and to the settlers, that they should be able to make their proofs, obtain their certificates, and otherwise perfect their titles. To accomplish these objects without delay, and prevent the business of the office from falling into arrears and disorder, clerical aid was absolutely indispensable. The registers were therefore compelled to employ clerical aid, relying upon the justice of Congress, upon full view of the facts, to reimburse the expense thus incurred. The Commissioner of the General Land Office estimates the sum required at \$6,405, but suggests, by way of precaution, that the sum of \$7,000 be appropriated.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

ISAAC BODY AND SAMUEL FLEMING.

A bill (H. R. No. 490) for the relief of Isaac Body and Samuel Fleming.

The bill allows Isaac Body to enter, at the land office at Springfield, Illinois, at the minimum price, at any time within one year after the date of this act, the southeast quarter of section nineteen of township twenty-six north, of range twelve west; and that Samuel Fleming be allowed to enter, at the same land office, and on the same terms and conditions, the northwest quarter of section twenty, township twenty-six north, range twelve west; provided, however, that this act shall only operate as a relinquishment of title on the part of the United States.

The petitions and affidavits presented in this case establish the following facts: Isaac Body and Samuel Fleming, about the year 1842, settled, each for himself, upon certain quarter sections of land in Illinois; that they have continued to reside, and have made considerable improvements, thereon up to the present time; that the lands so settled upon by them were selected by Illinois, under the act of Congress approved September 4, 1841; but for some reason such selections were not approved by the General Land Office, and were rejected; that such rejection, although notified to the State, were not notified to the local land office, and in consequence Body and Fleming have been, and still are, unable to procure titles to their farms, either from the United States or Illinois. It appears that they have often applied, at both the United States and State land offices, to pay their moneys and procure titles; but each disclaiming the right to sell them, have failed to attain their object, and now ask Congress for relief.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

ROBERT H. MORRIS.

A bill (H. R. No. 491) for the relief of the legal representatives of Robert H. Morris, late postmaster of the city of New York. [Objected to by Mr. JONES, of Tennessee.]

HENRY ORNDORF.

A joint resolution (H. R. No. 24) for the relief of Henry Orndorf.

The resolution authorizes and instructs the Postmaster General to revise and readjust the account of the Department with Henry Orndorf, for mail service on route No. 9157, from Zanesville to Columbus, Ohio, and to allow him full pay for the service, the same as if his bid had been for service six times a week, as required by the advertisement, instead of daily service.

From the report it appears that George Manville contracted to carry the United States mail from Zanesville to Columbus, Ohio, (being route No. 9157,) daily, from July 1, 1856, to June 30, 1860. The mail was carried six times a week, and a deduction was made by the Department for deficiency of service, the Department insisting that the word daily, in the contract, required service seven days each week. The contractor, on the other hand, alleged that Sunday service was not wanted, and that his intention, when he made his bid, was for service six times a week. The Department did not allege that Sunday service

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

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was wanted on the route, but as the contract calls for daily service, the Department had no alternative but to make the proportional deduction from the pay. In May, 1857, George Manville transferred his contract to Henry Orndorf, to take effect from April 1, 1857. The Department continued to deduct \$53 30 per quarter from the pay for the failure of the Sunday trip, the whole pay as per contract being \$1,495 a year. Mr. Orndorf remonstrated with the Department. He asserted that it was not the intention, when the bid was made, to run more than six times a week, and that the postmasters on the route would neither receive nor deliver the mail on Sunday. Mr. Orndorf, failing to convince the Post Office Department, applies to Congress. It appears from the papers before the committee that the advertisement issued by the Department was for mail service upon route No. 9157, three times a week and six times a week, and that the bidder used the term daily, as per the advertisement of the Department. This shows, to the satisfaction of your committee, that the bidder supposed he was bidding for daily service during the business portion of the week. To corroborate this view of the case, there are among the papers the affidavits of those conversant with the facts, that such was the understanding of the bidder when his bid was made out. It also appears from the papers in the case that it had not been customary to have Sunday service on the route, and that neither the interests of the Department nor the public required it.

The resolution was laid aside to be reported to the House, with a recommendation that it do pass.

JOHN DEARMIT.

A bill (H. R. No. 492) for the relief of John Dearnit.

The bill authorizes and directs the Postmaster General to pay to John Dearnit \$295, in addition to the amount already paid him by the Government under his contract for carrying the mail upon the route No. 1601 from July 1, 1844, for four years.

The report states that the committee are satisfied the petitioner made the mistake in his petition alleged; that upon discovering his mistake, and before he was notified by the Department of the acceptance of his bid, he gave the Department notice of his mistake, and requested to be discharged from the performance of his bid; that this the Department declined for want of power to do so; and under advice he entered into and performed his contract for the time required, four years. His bid was for the rate of \$93 per year, next lowest bid at the rate of \$166 75. They recommend allowing petitioner a difference between his bid and next lowest bid, being at the rate of \$73 75 per year, and amounting for the four years he carried the mail to \$295.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

STUCKEY AND ROGERS.

A bill (H. R. No. 493) for the relief of Stuckey and Rogers.

The bill authorizes and directs the Postmaster General to pay to Stuckey & Rogers, mail contractors on the route No. 6078, from Winsboro' to Pinckneyville, in South Carolina, at the rate of \$333 per annum, for the transportation of the mails on said route; deducting therefrom whatever payments may have been made, at the rate of \$138 per annum, by the Post Office Department.

It appears from the petition of Stuckey & Rogers, and from the letter of the Postmaster General, dated the 15th March, 1856, that these parties intended to bid, and did bid, for carrying the mail weekly on route No. 6082, which runs from Chester Court-house to Pinckneyville, South Carolina, at the rate of \$138 per annum, the distance being twenty-two miles. In filling up the bid they incautiously inserted from Winsboro' to Pinckneyville. This mail route is known as No. 6078, and is seventy-two miles in length. The

Department, it seems, presumed that Messrs. Stuckey & Rogers meant to bid for route No. 6078, because the bid specified from Winsboro', although route No. 6082 was as distinctly specified. It appears that these parties have carried the mail on route No. 6078, from Winsboro' to Pinckneyville, seventy-two miles, for \$138; and it also appears that the actual lowest bid for said route was at the rate of \$333 per annum; and, although the contractors might be justly entitled at the rate of \$138 for twenty-two miles, which would give them \$451 64; yet, considering that they had inadvertently inserted Winsboro' instead of Chester Court-house, although the number of the route and the number of miles was correct, and considering that the lowest bid which the Department received was at the rate of \$333 per annum, the committee is of opinion that the petitioners should be compensated at the rate of \$333 per annum, instead of \$138 per annum, as proposed by the Department.

WILLIAM DOTY AND OTHERS.

A bill (H. R. No. 494) for the relief of William Doty and others.

The bill appropriates \$600 to defray the expenses and indemnify William Doty and others, citizens of Missouri, incurred in arresting and bringing to trial Joseph Clark and — Baker, charged with robbing the United States mail; and directs that the sum be paid out, on the order of the Postmaster General, to such persons as, in his judgment, upon hearing all the proofs in the case, shall be entitled to the same, and in such proportion as he shall direct.

The bill was laid aside; to be reported to the House, with a recommendation that it do pass.

KIMBALL AND MOORE, MOORE AND WALKER.

Joint resolution (H. R. No. 25) authorizing the Postmaster General to revise and adjust the accounts of Kimball & Moore and Moore & Walker.

The joint resolution directs the Postmaster General to revise and adjust the fines and deductions imposed upon Kimball & Moore and Moore & Walker, late contractors on thirteen mail routes, designated by the following numbers, to wit: Routes Nos. 8800, 8801, 8813, 8814, 8815, 8827, 8871, 8872, 8907, 8909, 8910, and to settle the same upon principles of justice and equity; provided that the fines and deductions shall not be reduced below the pro rata pay of the contract.

From the evidence submitted, it appears that the contractors were subjected to various fines for failures in the performance of their duty. That these failures were occasioned by causes entirely beyond the control of the contractors, such as deep snows, the washing away of bridges by freshets, high water at creek crossings, and difficulties at various ferries, but more particularly in consequence of frequent failures on the part of railroad companies, from whom these contractors received their mails, to deliver them in proper time.

The joint resolution was laid aside to be reported to the House, with a recommendation that it do pass.

J. W. HILTON.

A bill (H. R. No. 495) for the relief of J. W. Hilton. [Objected to by Mr. DAVIS, of Mississippi.]

HEIRS OF HENRY KING.

A bill (H. R. No. 496) for the relief of the legal representatives of Henry King, deceased.

The bill directs the Secretary of the Treasury to pay to the legal representatives of Henry King the sum of \$1,817 36, it being for his services in the third Maryland regiment, and in the commissary department, during the revolutionary war.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

PRESBYTERIAN CHURCH, PRINCETON.

A bill (H. R. No. 497) for the relief of the Presbyterian Church, at Princeton, New Jersey. [Objected to by Mr. GARNETT.]

MAJOR JOHN RIPLEY.

A bill (H. R. No. 498) for the relief of the heirs of Major John Ripley. [Objected to by Mr. JONES, of Tennessee.]

BENJAMIN WILSON.

A bill (H. R. No. 499) for the relief of the heirs of Benjamin Wilson. [Objected to by Mr. JONES, of Tennessee.]

DR. BENJAMIN CHAPIN.

A bill (H. R. No. 500) for the relief of the heirs of Dr. Benjamin Chapin. [Objected to by Mr. JONES, of Tennessee.]

CAPTAIN DAVID NOBLE.

A bill (H. R. No. 501) for the relief of the legal representatives of Captain David Noble, deceased. [Objected to by Mr. JONES, of Tennessee.]

S. W. AND A. A. TURNER.

A bill (H. R. No. 502) for the relief of Samuel W. and Alvin A. Turner.

The bill directs the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, the sum of \$23,825, to Samuel W. Turner, and Alvin A. Turner, in full for their services in transporting the United States mail on their steamers from Cleveland, Ohio, and Detroit, Michigan, to Mackinaw, Sault Ste. Marie, Marquette, Copper Harbor, Eagle Harbor, Eagle river, and Ontonagon, Michigan, and La Pointe, Bayfield, and Superior City, in Wisconsin.

It appears from the report that this claim is for compensation for transportation of the United States mails, in steamboats, between Cleveland, Ohio, and Detroit, Michigan, and the several post offices on Lake Huron and Lake Superior, during the years from 1851 to 1857, both inclusive, from Detroit to Sault Ste. Marie, five hundred miles and back, summer of 1851, twenty-seven trips; from Detroit to Sault Ste. Marie, five hundred miles and back, summer of 1852, twenty-five trips; from Detroit to Sault Ste. Marie, five hundred miles and back, summer of 1853, twenty-nine trips; from Detroit to Sault Ste. Marie, five hundred miles and back, summer of 1854, twenty-six trips; from Cleveland to Sault Ste. Marie, 1854, nine trips; from Cleveland to La Pointe, eleven hundred miles, 1855, thirty-four trips; from Cleveland to La Pointe, eleven hundred miles, 1856, fifteen trips—making one hundred and sixty-five trips, for which \$125 per round trip is charged, amounting to \$20,265; and from Cleveland to Superior City, about twelve hundred miles and back, during the summer of 1857, sixteen trips, at \$200 per trip, \$3,200—making a total of \$23,825. It appears from a statement furnished by the Post Office Department that prior to 1852 there was no contract in existence for the service on Lake Superior; but in June of that year the postmaster of Sault Ste. Marie was authorized to engage steamboat service between his office and Ontonagon, including the supply of intermediate offices, at fifteen dollars per trip. Under this arrangement the claimants appear to have received \$1,410, and for this special service no further charge is made, and that item is not included in this claim. In May, 1856, the claimants were offered fifty dollars per trip to carry the mail between Cleveland and Ontonagon three times a week. They claim to have performed fifteen trips during that season, but have received no pay. They claim \$125 per trip, which the Department declines to admit. It does not appear from the statement of the Department that any portion of the service for which compensation is now claimed has been paid for, and the committee are entirely satisfied that such payment has never been made.

The CHAIRMAN. The Chair hears no objection. The bill will be laid aside, to be reported to the House, with a recommendation that it do pass.

Mr. WALBRIDGE. I have an amendment to offer to that bill.

Several MEMBERS. The gentleman is too late. The CHAIRMAN. The Chair is of the opinion

that the gentleman was too late. The bill has passed from the jurisdiction of the committee.

Mr. WALBRIDGE. I got up as soon as I possibly could after the Clerk had finished the reading of the report of the committee.

The CHAIRMAN. The Chair did not recognize the gentleman.

Mr. WALBRIDGE. I object to the bill, then. The CHAIRMAN. The gentleman's objection comes too late.

JOB STAFFORD.

A bill (H. R. No. 503) for the relief of Job Stafford, of the State of New York.

The bill directs the Commissioner of Pensions to issue to Job Stafford, of New York, a bounty land warrant for one hundred and sixty acres of land, the same to be held, located, or assigned, as if it had issued in the ordinary way, on application under existing laws.

It appears from the report that from 1823 to 1833, Job Stafford received six dollars per month, and from 1833 to this time he has been receiving eight dollars per month, as a pension on account of the fracture of one of his legs by a ball from the English gun-boats in Galliard creek, near the mouth of Bosquet river, on the 13th of May, 1814. He applied for bounty land under the act of 1855; the third section of which declares "that in no case shall any such certificate or warrant be issued for any service less than fourteen days, except when the person shall actually have been engaged in battle." It further appears that Stafford volunteered on the 12th of May, went into this fight on the next day, and was wounded, and for six months thereafter confined to his house in consequence of the wound, not entering the service again. The Pension Office rejected his application for bounty land; first, because he did not serve fourteen days; and, secondly, because, in the opinion of the Commissioner, the affair at the Bosquet, on Lake Champlain, was a mere skirmish, which could not be dignified with the name of "battle," so as to bring the applicant within the terms of the law.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

ELIZABETH M'BRIER.

A bill (H. R. No. 504) for the relief of Elizabeth McBrier, surviving child and heir of Colonel Archibald Loughrey, deceased.

The bill directs the Secretary of the Interior to issue land scrip in eighty-acre certificates, receivable in payment for publiclands at any of the land offices in the United States, in favor of Elizabeth McBrier, only surviving child and heir of Colonel Archibald Loughrey, deceased, or to her order, for an amount equal to six thousand six hundred and sixty-six acres and two thirds of an acre of land which may be located on land subject to private entry, at \$1 25 per acre, or less.

It appears from the report that the Commonwealth of Virginia, on the 2d of January, 1781, yielded to the Congress of the United States, for the benefit of the States, all right, title, and claim which the Commonwealth had to the territory northwest of the river Ohio, subject to the conditions annexed to the act of cession; which act of cession, with the conditions annexed, the Congress of the United States accepted, among which conditions was the following: "That a quantity, not exceeding one hundred and fifty thousand acres, of land, promised by the State of Virginia, should be allowed and granted to the then Colonel (now General) George Rogers Clark, and to the officers and soldiers of his regiment who marched with him when the posts of Kaskaskias and St. Vincent were reduced, and to the officers and soldiers that have since been incorporated into the said regiment; to be laid off in one tract, the length of which not to exceed double the breadth, in such place on the northwest side of the Ohio as a majority of the officers shall choose, and to be afterwards divided among the said officers and soldiers in due proportion, according to the laws of Virginia."

It further appears that Colonel Archibald Loughrey, father of the above-named claimants, some time during the summer of 1781, raised several companies of volunteers, of which he was chosen commander, for the purpose of joining the forces of General George Rogers Clark in the expedition against the Mohawk and Seneca In-

dians, inhabiting the country now belonging to Ohio. That in August, 1781, he marched with his men to Wheeling, Ohio, expecting to join the forces under General Clark; but when he and his men arrived at Wheeling, they found General Clark had left that place a few days before they arrived, but had left boats for Colonel Loughrey and his men to follow them. That they took the boats thus left for them, but somewhere near the mouth of the Big Miami river Colonel Loughrey and his men landed to cook and eat some food, and were attacked by a large body of Indians, and Loughrey and a number of his men were killed, and the remainder taken prisoners by the Indians, and never joined the forces under General Clark, as was intended.

The CHAIRMAN. There is no objection, and the bill will be laid aside, to be reported to the House with the recommendation that it do pass. The Clerk will read the next bill.

Mr. COBB. I presume it is now too late for me to object to that bill.

The CHAIRMAN. It is.

Mr. COBB. I am not a very young man, and I cannot jump up with rapidity enough to get an objection in time. This bill has been before the committee of which I am a member, four times, and has been rejected every time.

The CHAIRMAN. The Chair heard no objection made to this bill before it was laid aside to be reported to the House.

JOHN B. HAND.

An act (S. No. 136) for the relief of John B. Hand.

The bill directs the Secretary of the Treasury to pay to the heirs of John B. Hand, out of any money in the Treasury not otherwise appropriated, the sum of \$1,340.

It appears, from the report, that Mr. Hand became the purchaser of certain Indian reservations under the treaty of Dancing Rabbit Creek, and paid to the Indians, according to contract, fifty cents per acre for the land so purchased. Afterwards the President of the United States (General Jackson) directed the patents to be withheld until Hand should pay an additional sum of seventy-five cents per acre. This Hand agreed to do. In December, 1838, A. A. Kincannon, Esq., was appointed an agent by the President to investigate, adjust, and settle the matter in dispute, growing out of the purchase of these reservations. To this agent Hand paid the additional seventy-five cents per acre; and Kincannon reported the payment to the Department. He failed, however, to account for the money, and subsequently died insolvent. The Department refused to acknowledge the validity of the payment, and required Hand again to pay seventy-five cents per acre for the land, which he did, protesting that it was unjust. The official correspondence exhibits the facts that Kincannon was the agent of the Government; that he received the money, a part on the 6th of February, 1840, and the balance on the 22d of February, 1841; and that no objection was made to its reception until March, 1843. Then, for the first time, the Secretary of War notified the agent that the currency in which the payment was made had depreciated, and that the Government would not receive it.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

M. M. MARMADUKE.

A bill (H. R. No. 505) for the relief of M. M. Marmaduke and others.

Mr. KELSEY. I have an amendment to offer to that bill.

Mr. JONES, of Tennessee. I object to it.

BREVET MAJOR JAMES L. DONALDSON.

An act (S. No. 145) for the relief of Brevet Major James L. Donaldson, assistant quartermaster, United States Army.

The bill directs the proper accounting officers of the Treasury Department, in settling the accounts of Brevet Major James L. Donaldson, to allow him a credit for \$400, being the amount of public funds stolen while in his possession as acting assistant quartermaster of the Army, near Monterey, in Mexico, on the 10th of October, 1846.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

HORATIO BOULTBEE.

A bill (H. R. No. 506) for the relief of Horatio Boulton.

The bill appropriates, out of any money in the Treasury not otherwise appropriated, \$515 to the administrator of Horatio Boulton, deceased, being payment in full for a stack of wheat belonging to Boulton, which was burned by the troops of the United States on the 21st of February, 1847, at Agua Nueva, in Mexico.

It appears, from the statement of Brigadier General Worth, made at New York, in August, 1848, that, while he was in command of the advance of Major General Taylor's army, the petitioner was employed by the quartermaster's department to collect supplies of flour, corn, and forage, for the use of Taylor's army. The General states that, in compliance with this engagement, the petitioner made a deposit of unthrashed wheat at Agua Nueva, over which a guard was placed to insure its safety, by General Butler, at the instance of General Worth. An order from Major General Butler, dated 2d January, 1847, is produced, which grants a safeguard to "the wheat belonging to Mr. Boulton, at Agua Nueva," as having been "contracted for by the United States." It appears that, in December, 1846, Lieutenant Colonel Thomas, deputy quartermaster general, saw several stacks of wheat at Agua Nueva. He left early in January, 1847, with Worth's division; and he refers to Captain Davis as one who was there in February, 1847, acting as quartermaster in Wool's division, and who probably knew most about it. Captain Davis testifies that one stack of wheat was burned at Agua Nueva on the night of the 21st of February, 1847, by the troops of the United States, and that it contained, probably, from one to two hundred bushels of grain—not more. He testifies that he had an "accurate knowledge" about this wheat, as his duties called him to the hacienda of Agua Nueva every day. He heard Boulton setting up some contract as having been made by him with General Worth's command; but that contract "was not recognized by the quartermaster in General Wool's command." The committee are inclined to accept the proof as persuasive sufficiently to the conclusion that Boulton had one stack of wheat, unthrashed, at Agua Nueva, on the night of the 21st, and that it was destroyed by the troops under General Taylor's command. Colonel Humphrey Marshall, who was in command at Agua Nueva, on the night of the 21st of February, 1847, and who saw the conflagration at Agua Nueva, furnishes his statement, which establishes the fact that a stack of wheat straw, (supposed to contain grain) was burned, but does not know who was the owner of it.

The committee think that it may be accepted as true, on the whole evidence, that the petitioner had acquired a title to the wheat prior to its being burned. The only question which remained was to ascertain its probable quantity and value. The petitioner files his own statement, and a deposition from one Mexican who says he sold the wheat to Mr. Boulton at \$— per cargo. How much a "cargo" is, the committee has no evidence. It is technically "a load;" but how large or small, the term itself does not denote. Captain Davis is positive that the quantity of wheat at Agua Nueva did not exceed two hundred bushels in the grain. He does not place a value upon it. The quantity estimated by Colonel Marshall, from the volume of the stack, would show that the estimate of the petitioner is exorbitant and particularly extravagant. Under all the proof in the case, the committee reports in favor of allowing the petitioner for the wheat, the sum of \$515, which is at seventy cents per bushel for seven hundred and fifty bushels.

Mr. MARSHALL, of Kentucky. I move to amend the bill by striking out "\$515," and inserting in lieu thereof "\$588 50." I move the amendment upon the direction of the Committee on Military Affairs.

The amendment was agreed to.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass, with an amendment.

WILLIAM B. DODD AND OTHERS.

A bill (H. R. No. 507) for the relief of William B. Dodd and others.

The bill directs the Secretary of the Treasury

to pay, out of the appropriation to complete the road from *Merwota* to the Big Sioux river, contained in the act approved March 3, 1855, entitled "An act making appropriations for the support of the Army for the year ending the 30th of June, 1856, and for other purposes," into the hands of

who is thereby appointed a commissioner to dispose of the same, the sum of \$3,270, the same having been estimated for in said appropriation, and being for completing a part of said road, to be paid out by him as follows, to wit: The said commissioner shall give notice to all persons having claims against William B. Dodd, for labor or materials furnished in the construction of said road, by publication in a newspaper of general circulation in the neighborhood where said road is situated, for ninety days, and by posting written or printed notices in three public places in each county through which said road passes, to present and prove their claims within ninety days aforesaid; and all such claims, so presented and proved within the time limited, shall be paid to the parties respectively, and the residue, after the liquidation of such claims, and the payment of the expenses of the commission, shall be paid to the said William B. Dodd.

Mr. REAGAN. Is that a private bill?

The CHAIRMAN. It is on the Calendar as such, and it is for the relief of an individual.

Mr. PHELPS, of Minnesota. I move to fill the blank in the bill by inserting the name of Henry A. Swift, of St. Peter's, Minnesota.

Mr. JONES, of Tennessee. Why is that?

The CHAIRMAN. The Chair does not know.

Mr. JONES, of Tennessee. Then we had better examine this bill, if it is not known.

Mr. PHELPS, of Minnesota. I ask the consent of the House to make an explanation. The report will explain the character of the bill.

The CHAIRMAN. The Chair would suggest that the report be read, and then the gentleman can make his verbal explanation.

Mr. KELSEY. I object.

The bill was passed over.

At a subsequent time,

Mr. PHELPS, of Minnesota, said: The gentleman from New York, I understand, withdraws his objection to the explanation.

Mr. KELSEY. I withdraw my objection if the gentleman from Tennessee withdraws his objection to the bill.

Mr. JONES, of Tennessee. I will withdraw it to hear what reason the gentleman can give why he should substitute a name to fill the blank in the bill.

Mr. PHELPS, of Minnesota. I will merely say, I move to fill the blank with the name of Henry A. Swift, that is all. I now ask that the report be read for the information of the House.

The report which was read shows that the memorialist was engaged in the construction of a private road from Rockbend, a short distance above Traverse des Sioux, to St. Paul. While thus engaged, Captain J. L. Reno, brevet captain of the ordnance department, in surveying the military road provided for by act of Congress, known as the Big Sioux and Mendota military road, came upon the road being constructed by the memorialist, and adopted it as a part of the said military road provided for by act of Congress. The petitioner was to have been paid for said private road by subscription, previous to its adoption by the Government; but \$300, however, were subscribed for the same up to the time Captain Reno adopted it as a part of the Government road. After such adoption, Captain Reno having estimated the cost of the same, embraced it in the estimate for the completion of the military road, and, upon such an estimate, Congress made an appropriation for the same. In Executive Document No. 97, first session, Thirty-Third Congress, will be found, in Captain Reno's report, the following reference to it:

"Opposite Traverse des Sioux we struck a road, newly cut, from Rockbend (a short distance above Traverse des Sioux) to St. Paul, by Captain Dodd, of Minnesota. This gentleman, with a surveyor and ten men and two teams, had been employed one hundred and nine days in cutting out this road and bridging the streams. It materially assisted our survey, and enabled us to get through the 'Big Woods' several weeks sooner than we would otherwise have done without this, our only guide among this unexplored labyrinth of lakes and marshes.

"I have included in the estimates the cost of cutting out this road, and take pleasure in recommending that Captain Dodd and his party be paid for their labor out of the appropriation for making the Mendota military road. In his estimate, which was before Congress at the time it made the appropriation, which is found in the same document, he has a distinct item: 'Add, for cost of Dodd's road, &c., &c., \$3,270.'" The evidence before the committee satisfactorily proves that the actual expense incurred by Captain Dodd in making that road exceeded that sum. It is proven that Dodd never received a cent but \$300 by private subscription, the adoption of the same by the Government having obviated the necessity of subscriptions. The committee think that the intention of Congress, in making the appropriation including this item, was, that the memorialist should be paid for the road constructed by him. The committee accordingly report a bill to carry out the intent of the previous act, the accounting officer having refused to pay the said Dodd the cost of said road. The bill, it will be found, appoints a commissioner to disburse the said amount. This is done in order to secure to the workmen employed on the same the amount due them for their labor.

The amendment was agreed to.

The bill was then objected to by Mr. MORGAN.

ELIAZER WILLIAMS.

A bill (H. R. No. 508) for the relief of Eleazer Williams, sole heir of Mary Ann Williams, and Thomas Williams, deceased. [Objected to by Mr. JONES, of Tennessee.]

WILLIAM B. DRAPER.

A bill (H. R. No. 509) for the relief of the legal representatives of William B. Draper. [Objected to by Mr. JONES, of Tennessee.]

GEORGE H. HOWELL.

A bill (H. R. No. 510) for the relief of George H. Howell.

The bill directs the proper accounting officers to pay, out of any money in the Treasury not otherwise appropriated, to Dr. George H. Howell, an assistant surgeon in the Navy, the increased pay attaching to his increased rank as assistant surgeon, from the commencement of his increased rank to the time of the actual issue of his commission from the Navy Department.

The report shows that the petitioner, at the time of the examination of other assistant surgeons of his date, was absent on a cruise off the coast of Africa, from which he could not return until seven months after said examination. Upon his return he was examined and promoted, but allowed pay only from the date of the actual issuing of his commission from the Department, and not from the date of his increased rank, making a balance as against him of \$298 61.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

NEHEMIAH S. DRAPER AND OTHERS.

A bill (H. R. No. 511) for the relief of Nehemiah S. Draper and William Holden, heirs-at-law of Mary Draper, deceased.

The bill directs the Secretary of the Treasury to pay to Nehemiah S. Draper and William Holden, of Providence, Rhode Island, heirs-at-law and legal representatives of Mary Draper, deceased, out of any money in the Treasury not otherwise appropriated, the sum of \$1,416 66, for money due to her as the widow of Paul Draper, late a captain's clerk in the Navy.

The report states that Paul Draper, formerly of Providence, Rhode Island, was a captain's clerk in the Navy of the United States, and was on board the United States ship *L'Insurgente*, in the year 1800, when she was lost at sea with all on board; that he left a widow, Mary Draper, who died on the 3d March, 1853, and children, of whom the petitioner is the only survivor; and that William Holden, a grandchild, and the petitioner, are the only heirs-at-law of Paul Draper, and of his widow, Mary Draper.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

ELIJAH CLOSE.

A bill (H. R. No. 512) for the relief of Elijah Close, of Tennessee.

The bill directs the Secretary of the Interior to place the name of Elijah Close, of Washington county, Tennessee, on the list of invalid pensioners, at the rate of eight dollars per month, to commence on the 3d of December, 1855, and to continue during his natural life.

The report states that the petitioner, Elijah Close, enlisted in the service of the United States at Germantown, North Carolina, on the 10th of August, 1812, for the term of five years; was marched to the Canada frontier, where, during the war with Great Britain, he participated in four engagements with the enemy, one of which was at Plattsburg. After active service on the Canada frontier was over, he was transferred to the barracks at Carlisle, Pennsylvania, where, during the month of August, 1815, whilst in the service of the United States, he sustained severe injuries to his left side by a fall from the barracks, which, from some cause, appears to have given way. The fall bruised and injured his entire left side, and was so severe that he lay insensible for many weeks, and the injuries became permanent. He was subsequently honorably discharged.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

WILLIAM HOWELL.

A bill (H. R. No. 513) granting an invalid pension to William Howell, of Tennessee.

The bill directs the Secretary of the Interior to place the name of William Howell, of Tennessee, on the invalid pension roll, and that he be paid a pension at the rate of eight dollars per month, commencing on the 23d of February, 1858, and continuing during his life.

The report shows that, from the evidence filed, William Howell enlisted on 15th July, 1812, for eighteen months, under Captain Martin Hawkins, in the twenty-seventh regiment of infantry; was transferred shortly after to the company of Captain Thornton S. Posey, in the same regiment. Whilst on his way from Fort Knox to Fort Harrison, with a load of provisions for the army, he was shot in the left breast by a ball fired from a gun in the hands of an Indian; from the effects of that wound he has never recovered, but is now wholly disabled from obtaining a living by manual labor.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

CONRAD SCHROEDER.

A bill (H. R. No. 514) granting an invalid pension to Conrad Schroeder.

The bill directs the Secretary of the Interior to place the name of Conrad Schroeder, who was a captain in the Louisville legion during the war with Mexico, on the invalid pension roll, and pay him a pension at the rate of \$13 33 per month, commencing on the 22d January, 1858, and continuing during life.

It appears from the report, that Conrad Schroeder was a captain in the Louisville legion, commanded by Colonel Ormsby, during the war with Mexico; that at the time he left his home in Louisville, Kentucky, for the seat of war, he was a stout, hearty man, weighing two hundred and sixty pounds; that in consequence of heat, water, and marching through marshes, he became severely afflicted in his feet, to such an extent that his big toe on the left foot became a running ulcerous sore, and finally it became necessary to amputate it. After the amputation of the toe, he was seized with congestion of the lungs, occasioned, as the surgeons state, by the too sudden stoppage of the ulcerous sore. He is now an invalid on account of the hemorrhage of the lungs, as fully appears by the sworn affidavits of S. N. Hall and M. Pyles, who are certified to be physicians in good standing. The evidence of service and disability is further sustained by the sworn affidavits of the lieutenants and sergeants who served under Captain Schroeder.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

ALEXANDER S. BEAN.

A bill (H. R. No. 515) granting an invalid pension to Alexander S. Bean, of Pennsylvania.

The bill directs the Secretary of the Interior to place the name of Alexander S. Bean, of Penn-

sylvania, on the invalid pension roll at the rate of eight dollars per month, and pay him at that rate from the 29th of May, 1856, during his natural life.

It appears, from the report, that Bean was a private in the company of Captain Moses Canan, of the Pennsylvania militia, during the war of 1812; that in November, 1812, he was attacked with fever, gravel, and rheumatism, in consequence of which he was discharged on a surgeon's certificate as being unfit for duty. The original certificate of the surgeon is filed with the papers. Captain Moses Canan, under whom he served, swears to his service and disease contracted while in service. I. P. Cummins and James Carrington, who are certified to be respectable surgeons of Westmoreland county, Pennsylvania, swear to his disability, and belief that he is totally disabled.

No objection being made the bill was laid aside to be reported to the House, with a recommendation that it do pass.

MICHAEL A. DAVENPORT.

A bill (H. R. No. 516) for the relief of Michael A. Davenport, of Illinois.

It directs the Secretary of the Interior to place the name of Michael A. Davenport, of Illinois, on the invalid pension roll, at the rate of eight dollars per month, and pay him a pension, at that rate, from the 5th of March, 1858, during his natural life.

It appears from the report that the petitioner was a private in the company of Captain William Daugherty, in the second regiment of Kentucky infantry, in the war with Mexico; that he was wounded in the shoulder during the engagement at Buena Vista, on the 23d February, 1847. Captain William Daugherty, under whom he served, makes affidavit to the facts set forth in the petition. H. P. Sanders and T. Welch, who are certified to be credible and reputable surgeons, make affidavit to his present condition, and the nature of his wound. Hon. A. Snaw, a member of the House from the seventh congressional district of Illinois, furnishes a statement that he is personally acquainted with the applicant, and knows that he is a cripple for life, and wholly unable to obtain a living by manual labor.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

WILLIAM ALLEN.

An act (S. No. 117) for the relief of William Allen, of Portland, in the State of Maine.

The bill directs the Secretary of the Interior to cause the name of William Allen to be placed on the pension list, at the rate of six dollars per month, from and after the passage of the act, the pension to continue during his life, and to be in lieu of the pension to which he is now by law entitled.

The bill was laid aside to be reported to the House.

MARY C. HAMILTON.

A bill (H. R. No. 518) to continue the pension heretofore paid to Mary C. Hamilton, widow of Captain Fowler Hamilton, late of the United States Army.

The bill directs the Secretary of the Interior to continue the name of Mrs. Mary C. Hamilton on the pension rolls, at the same rate of pension allowed her under the act passed for her benefit and approved March 1, 1854, payment to commence from and after the expiration of the act, and to continue for five years from the date of the passage of the act.

The report of the Committee on Invalid Pensions was read. Captain Hamilton, it appears from the rolls, was appointed a second lieutenant of dragoons on the 1st of July, 1840; promoted first lieutenant August 31, 1843; appointed major in the tenth infantry April 9, 1847; and promoted to lieutenant colonel in the sixteenth infantry May 23, 1848. On the disbandment of this regiment at the close of the Mexican war, he was reappointed in his former position of first lieutenant second dragoons, August 5, 1848, under fourth section of act of July 19, 1848; promoted captain of second dragoons July 25, 1850, and died August 8, 1851, on the El Paso road, while in discharge of the duties of the service. It appears that he served with distinction in the Florida war, and throughout the Mexican war. During the latter war he

rose by rapid promotion to the rank of lieutenant colonel. Such was the admiration and respect for his gallant services in that war, that the Legislature of New Jersey, (his native State,) February 8, 1849, presented him a sword, inscribed "For gallant conduct displayed in the battles of Palto Alto, Resaca de la Palma, and Monterey, at Vera Cruz, and the Bridge of Madeline." During his service in the Mexican war his leg was broken by the kick of a horse, the wound from which never having healed entirely, cooperating with chronic diarrhea, there also contracted, greatly debilitated his strength and undermined his constitution.

In August, 1851, on the frontier of Texas, while in pursuit of a band of marauding Indians, he died suddenly of exhaustion, produced by the exposure and hardship of the expedition, operating on a constitution already enfeebled from the hardships and injuries of previous service. He died, as testified by Major Merrill, his commanding officer, under whose orders he was acting, "in the field, and in the discharge of his duty, and I am satisfied (Major Merrill says) that the expedition was the direct cause of his death." The deceased has left a widow and child in indigent circumstances, and the committee think that they should be indemnified for the irreparable loss of the husband and father, whose life was sacrificed in the service of the country, and in the line and discharge of duty.

The bill was laid aside to be reported to the House.

WILLIAM BULLOCK.

A bill (H. R. No. 520) for the relief of William Bullock.

The bill directs the Secretary of the Interior to place the name of William Bullock upon the roll of invalid pensions, and that said Bullock be paid a pension at the rate of six dollars a month from the 1st day of January, 1854.

The Committee on Invalid Pensions report that there is good and sufficient evidence of said Bullock having rendered service in the war of 1812; that he received severe injuries while in the line of his duty, which now unfit him for labor.

The bill was laid aside to be reported to the House.

ANTHONY WALTER BAYARD.

A bill (H. R. No. 521) increasing the pension of Anthony Walter Bayard, of Bellefonte, in the State of Pennsylvania.

The bill provides that the pension now received by Anthony Walter Bayard, of Bellefonte, in the State of Pennsylvania, be increased to twenty dollars per month, and that the pension be paid him from the 1st day of January, 1852, deducting the amount of the pension he has already received since that date; and that hereafter his pension shall be twenty dollars per month during his life, instead of eight dollars per month, which he now receives.

It appears, from the report, that the petitioner was a private in the war of 1812, and served in the wars with the Indians in the Northwest, and that he was severely wounded upon three occasions, by which he is wholly disabled, and for which he was placed on the pension roll, in 1844, at the rate of eight dollars per month. He is now poor, very helpless, and decrepit. He was a very daring and valuable soldier. At the siege of Fort Harrison the Indians succeeded in setting fire to one of the block-houses, which communicated to the roof of the soldiers' barracks. The commanding officer called for volunteers to go upon the roof, in point-blank shot of the enemy's rifles, and extinguish the fire. The petitioner and another soldier volunteered, and mounted the burning roof. His companion was instantly shot dead, and the petitioner badly wounded. He succeeded in extinguishing the fire. This service was, at the time, regarded by the officers as most hazardous, and of great value to the American forces. The petitioner claims that his disability is total, rendering him dependent; that it results from wounds received whilst rendering most gallant, hazardous, and valuable services; and that, in such a case, a pension of eight dollars per month is not sufficient.

Mr. QUITMAN moved to amend the bill by striking out "twenty dollars" and inserting "ten dollars."

The amendment was agreed to.

The bill was then laid aside, to be reported to the House.

WRIGHT FORE.

A bill (H. R. No. 522) for the relief of Wright Fore.

The bill directs the Secretary of the Interior to place the name of Wright Fore on the invalid pension roll, at the rate of eight dollars per month, to commence on the 9th of November, 1852, and to continue during his natural life.

It appears that the petitioner enlisted as a private in the mounted company of Captain David Smith, in Colonel Coffee's brigade of Tennessee troops, in October, 1813. That in the battle of Talladega, on the 9th of November, 1813, he was wounded in the left shoulder by a rifle ball fired from the camp of the enemy, which so disabled him as to render him unfit for duty; he was considered dangerously wounded, and left at Fort Strother; was carried from there to the hospital at Huntsville, Alabama, where he remained until February following, when he was sent for by his friends and taken home.

The bill was laid aside to be reported to the House.

WYATT GRIFFITH.

A bill (H. R. No. 523) for the relief of Wyatt Griffith.

The bill directs the Secretary of the Interior to place the name of Wyatt Griffith, of Tennessee, on the invalid pension roll, at the rate of eight dollars per month, from the 20th of June, 1854, and pay him at that rate during the term of his natural life.

It appears, from the report, that Wyatt Griffith enlisted as a private soldier at Ashe Court-House, North Carolina, under Lieutenant Wiley Gordon, on the 8th of September, 1814, and served in Captain Brannon's, afterwards Captain Parker's, company, Colonel Hamilton's third rifle regiment, North Carolina infantry, for and during the war with Great Britain; and for this service bounty land warrant No. 8,291, for one hundred and sixty acres, issued to him on 21st January, 1817. While marching from North Carolina towards the Canada frontier, about the 1st of December, 1814, and when near Halifax Court-House, from fatigue and exposure he took cold, which settled into rheumatism, and disabled him from service most of the time until his discharge, and has continued ever since. The disability consists of a collection and hardening of humors in the right hip joint, which has dislocated the joint, and rendered him incurably lame and totally disabled for life.

The bill was laid aside to be reported to the House.

FRANCIS CARVER.

A bill (H. R. No. 524) for the relief of Francis Carver.

The bill directs the Secretary of the Interior to place the name of Francis Carver on the invalid pension roll at the rate of eight dollars per month, and to pay him at that rate from the 18th of December, 1857, and continue during his natural life.

It appears from the report that Francis Carver has been, for a period of seventeen years, a soldier in the Army of the United States, having served through the war with Mexico. After that war he was ordered to the frontiers of Texas, where, for eight or nine months he was in active service, exposed to the damps and cold of winter, without tent or covering. During that service he contracted the disease with which he now suffers. The certificate of J. A. Thompson, acting surgeon of the military asylum at Harrodsburg, Kentucky, states that the petitioner is laboring under a disease called St. Vitus's dance; that he is wholly disabled, &c.

The bill was laid aside to be reported to the House.

ROBINSON GAMMON.

A bill (H. R. No. 525) for the relief of Robinson Gammon.

The bill directs the Secretary of the Interior to place the name of Robinson Gammon, of Roxbury, in the county of Oxford, Maine, upon the roll of invalid pensions, at the rate of eight dollars per month, from the 3d of December, 1856, during his life.

It appears that from the report of the Committee on Invalid Pensions that Gammon, on or about the 10th of September, 1814, was called out on an

alarm to serve in the war declared by the United States against Great Britain on the 18th of June, 1812; that at the time of the alarm the petitioner lived in Buckfield, in Maine; that he marched from Buckfield to Portland, in a company commanded by Captain Chase; that after his arrival at Portland he was drafted into Captain James Harlow's company of Colonel Ryerden's regiment of Massachusetts militia, and remained in service forty days, and was honorably discharged therefrom; that the march from Buckfield was a forced march, in which he contracted a disease in his feet and legs, which has continued from that time up to the present. The disease has continued to increase, until the petitioner is now a cripple, without any hope of recovery.

The bill was laid aside to be reported to the House.

FREDERICK SMITH.

A bill (H. R. No. 526) for the relief of Frederick Smith.

The bill directs the Secretary of the Interior to place the name of Frederick Smith on the invalid pension roll, at the rate of four dollars per month, and to pay him at that rate from the 1st of February, 1858, during his natural life.

It appears that the petitioner enlisted into the service of the United States as a private in the company of Captain W. H. Irwin, of the eleventh infantry, in May, 1846; that on the 11th of June, 1847, he was wounded at the National Bridge, in Mexico, by a slug, which entered the left side of his head, and became "embedded between the external and internal plates of the cranium; near the posterior margin of left parietal bone," the ball or slug was extracted on the 5th May, 1856.

The bill was laid aside to be reported to the House.

PHINEAS G. PEARSON.

A bill (H. R. No. 527) for the relief of Phineas G. Pearson.

The bill directs the Secretary of the Interior to place the name of Phineas G. Pearson on the list of invalid pensioners, at the rate of eight dollars per month, to commence on the 22d of January, 1858, and continue during life.

It appears, from the report, that Phineas G. Pearson enlisted in 1846, as a private in the company of Captain David Irie, company C, second regiment of Ohio volunteers, commanded by Colonel Morgan; that he marched with his company from Highland county, Ohio, to Camargo, in Mexico, and continued in the service of the United States until the 13th September, 1846, when he was discharged from the service on account of a surgeon's certificate of disability. The petitioner states that, while in Camargo, in the latter part of August, 1846, he was attacked with measles, which were very prevalent in the camp, was very sick for about two weeks, when he partially recovered; but in a few days after took a relapse, and became very sick with diarrhea, attended with fever, and, finally, his left leg below the knee became affected with severe pains, and was so much swollen he was unfitted for service, and was consequently discharged. He returned to the United States, and suffered very great pain on account of the ulceration of his leg, until the 10th of December, 1851, when he was compelled to submit to the amputation of the leg above the knee, in order to save his life.

The bill was laid aside to be reported to the House.

JUDITH NOTT.

A bill (H. R. No. 528) for the relief of Judith Nott.

The bill directs the Secretary of the Interior to place the name of Judith Nott upon the pension roll of the United States, at the rate of nine dollars per month, the pension to commence and be computed from the 1st January, 1835, and to continue during her widowhood.

The report having been read, the bill was laid aside to be reported to the House.

JOHN C. RATHBUN.

A bill (H. R. No. 529) for the relief of John C. Rathbun.

The bill directs the Secretary of the Interior to place the name of John C. Rathbun on the list of invalid pensioners, at the rate of four dollars per month to commence on the 15th February, 1858, and to continue during life.

The report states that John C. Rathbun enlisted as a private on the 10th May, 1814, in the company of Captain Claudius C. Boughter, of the New York militia, and served until the 8th November, 1814. It is alleged by the petitioner that he was taken prisoner by the enemy in August, 1814. At the time of being taken prisoner he received three wounds: one with a saber on the head, which fractured his skull; another with a saber on the left shoulder, which cut through the left shoulder blade; and another with a pistol ball, which passed through his left thigh, from which wounds he is unable to earn a living by manual labor.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

STEPHEN FELLOWS.

A bill (H. R. No. 530) for the relief of Stephen Fellows.

The bill authorizes and directs the Secretary of the Interior to place the name of Stephen Fellows on the invalid pension list, at the rate of four dollars per month, from the 20th of January, 1858, to continue during life.

It appears from the report that Stephen Fellows was a soldier in the Army during the war of 1812 under Captain Jonathan Stark, in the eleventh regiment of United States regulars; that he was wounded at the battle of Lunby's Lane in his left side by a piece of shell, his ribs were broken, in consequence of which he was disabled, and is now unable to procure a living by manual labor.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

JOHN PERRY.

A bill (H. R. No. 531) for the relief of John Perry, of Illinois.

The bill authorizes and directs the Secretary of the Interior to place the name of John Perry, of Illinois, on the list of invalid pensioners, at the rate of eight dollars per month, commencing on the 15th of February, 1858, and to continue during his natural life.

It appears from the report, that John Perry was a private in company C, commanded by Captain John M. Moore, in the second regiment of Illinois volunteers, commanded by Colonel James Collins; that he enlisted on the 15th of July, 1847, to serve during the war; that he marched to the seat of war, and while in the line of his duty at Puebla, in Mexico, in March, 1848, he was attacked with *serofulous irictus*, which has so affected his eyes as to produce almost total blindness.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

EBENEZER HITCHCOCK.

A bill (H. R. No. 532) for the relief of Ebenezer Hitchcock.

The bill authorizes and directs the Secretary of the Interior to place the name of Ebenezer Hitchcock, of Massachusetts, on the invalid pension roll, at the rate of eight dollars per month, and to cause him to be paid at that rate from the 1st of February, 1858, during his natural life.

It appears from the report, that Hitchcock enlisted into the United States Army on the 23d of August, 1808, for five years, served out his time, and was honorably discharged; that in March, 1813, he was appointed wagon-master by Lieutenant Colonel Bacchus, and had the promise of extra pay. He served five months as a wagon-master, and got only ordinary wages. A few days previous to his discharge there came a storm of wind and rain, which compelled him to keep up for two days and nights, by which he took cold, which caused an abscess sore on his hip, which has so disabled him that he cannot get about to earn a living.

The bill was laid aside to be reported to the House, with the recommendation that it do pass.

SHOVE CHASE.

A bill (H. R. No. 533) for the relief of Shove Chase.

The bill authorizes and directs the Secretary of the Interior to place the name of Shove Chase, of New York, upon the invalid pension list, at the rate of eight dollars per month, commencing on the 1st of January, 1856, to continue during his natural life.

It appears from the report that Chase enlisted at Staten Island, in New York, the 19th of De-

cember, 1812, for one year in the war of 1812. That while in the service he had the misfortune to break his arm by a fall while passing from one post to another in the dark. He also proves by the surgeon of the Army who attended him, and also by the certificates of two surgeons of his own county; by the former, that he was in the line of his duty when the injury was received, and by the surgeons of his county, that the injury still continues. His neighbors certify that he has not, at any time, been qualified to perform manual labor, excepting with the right hand; that he has refused to receive or rather apply for a pension while he was able to earn his board by doing small favors for his neighbors. He is now aged and unable to support himself, the injury of his wrist increasing instead of getting better.

The bill was laid aside to be reported to the House, with the recommendation that it do pass.

ALLEN SMITH.

A bill (H. R. No. 534) for the relief of Allen Smith.

The bill authorizes and requests the Secretary of the Interior to place the name of Allen Smith, of New Hampshire, upon the invalid pension list, at the rate of eight dollars per month, to commence on the 21st of January, 1858, and continue during his natural life.

The bill was laid aside to be reported to the House, with the recommendation that it do pass.

DAVID WATSON.

A bill (H. R. No. 535) for the relief of David Watson.

The bill authorizes and directs the Secretary of the Interior to place the name of David Watson, of Georgia, upon the list of invalid pensioners, at the rate of four dollars per month, to commence on the 15th of February, 1858, and continue during his natural life.

It appears from the report that Watson was mustered into the service of the United States as a private in Captain Charles H. Nelson's company of Colonel Calhoun's regiment of Georgia volunteers, for during the then existing war with Mexico; that, while in the line of his duty in the service, he was attacked with diarrhea, which has continued until the present time, disabling him, in part, from obtaining his subsistence by manual labor.

The bill was laid aside to be reported to the House, with the recommendation that it do pass.

HEIRS OF JOHN M'DONOUGH.

A bill (H. R. No. 543) for the relief of the legal representatives of John McDonough, deceased, late of Louisiana.

The bill confirms the claim numbered 39 in the report of the register and receiver of the land office at New Orleans, made on the 22d of November, 1837, in the name of John McDonough, to a tract of about one hundred and seventy-seven superficial arpents of land; and directs that a patent shall issue, as in ordinary cases, to the legal representatives of McDonough, provided that this confirmation shall only be construed as a relinquishment of all right and title of the United States, and shall not prejudice the legal claim of any other party, should such exist.

The report states, that on the 22d November, 1837, the register and receiver of the land office at New Orleans, under the act of 6th February, 1835, reported on this case as follows:

"No. 39.—John McDonough claims, in virtue of complete title or patent derived from the Government of France, in the year 1769, a tract of land lying in the parish of Jefferson, near the city of New Orleans, and on the same side of the river Mississippi, commencing at a distance of eighty arpents from the said river Mississippi, and running back or in the rear from thence, with the continuous lines of the front tract of twenty-two arpents on the river, a distance of about forty-nine and one third arpents in depth, until one of the side lines intersects the other in a point, including (as is more particularly shown by a plan drawn by Benjamin Buisson, a surveyor of said parish) within said lines the quantity of one hundred and seventy-seven and one third superficial arpents, more or less." No action was ever taken by Congress upon this report. In 1844, Congress passed an act authorizing the settlement of private land claims in Louisiana by judicial proceedings before the United States courts, in

cases where the title set up was imperfect but equitable.

As there was no tribunal with power to declare definitely what claims were supported by perfect titles, John McDonough, as his only recourse at law, brought suit before the United States court in New Orleans, to test the validity of his claim to the land now in question. That court, in 1849, gave judgment in his favor. An appeal was taken to the Supreme Court, where, in 1853, the judgment of the district court was reversed, on the ground that the court below had no jurisdiction of the case under the said law of Congress, inasmuch as the title of McDonough was claimed to be, and was adjudged to be, a perfect title. In this anomalous condition, thrown out of court because his title was not found to be imperfect, with no power to which an appeal can be taken, except to the legislative department of the Government, the representatives of McDonough ask that Congress will, without delay, confirm their claim to the said tract of land, which has been held in undisputed possession, occupancy, and cultivation, since before 1760.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

DEMPSEY PITTMAN.

An act (S. No. 95) explanatory of an act entitled "An act for the relief of Dempsey Pittman," approved August 16, 1856.

The bill provides that the act approved August 16, 1856, entitled "An act for the relief of Dempsey Pittman," be so construed as to authorize and direct the Secretary of War to pay to Dempsey Pittman the compensation and allowances of a colonel of infantry for the period of five months, in full consideration for his services in Florida in 1838.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

BENJAMIN WAKEFIELD.

A bill (H. R. No. 547) for the relief of Benjamin Wakefield.

The bill authorizes and directs the proper accounting officers of the Treasury to pay to Benjamin Wakefield the difference of pay between that of master's mate and boatswain, from the 1st of January, 1848, to the 19th of January, 1850.

The petition of Benjamin Wakefield is, that he be allowed the difference of pay between that of a master's mate and boatswain, while performing the duties of the latter grade on board the United States ship Preble. In an affidavit attached to his petition he deposes, that he entered the Navy of the United States, at the navy-yard at Brooklyn, New York, on the 24th of June, 1846; that on the 15th of August following he was transferred from the navy-yard to the United States ship Preble, Commodore W. P. Shields, and by him was ordered to perform the duties of boatswain of the ship, there being no officer of that grade attached to the ship, although the regulations of the Navy Department allowed such an officer; that, at the request of Commodore Shields, the memorialist wrote to Hon. George Bancroft, then Secretary of the Navy, asking that he should be appointed by the Department a boatswain, or an increase of pay, should he be continued in the performance of the duties of that grade; that the Secretary of the Navy, in his reply, directed to Commodore Shields, held forth inducements to the memorialist to hold on to the situation to which Commodore Shields had appointed him, until a vacancy should occur for promotion in that grade; that the memorialist proceeded to sea in the ship, and on arriving at the port of Callao, he again applied, on the 29th of February, 1848, through Commodore Jones, commanding the Pacific squadron, to the Secretary of the Navy for an increase of pay or an appointment as boatswain; that the Secretary of the Navy, under date of 18th of May, 1848, issued an order to Commodore Jones to the following effect: "You are hereby authorized to give acting appointments to Benjamin Wakefield, &c., and drop his rate as master's mate on board the Preble, to take effect on the 1st of January last."

Subsequent to the receipt of the order, the Preble sailed for San Francisco, thence to Monterey and Mazatlan, and thence to China, where, having cruised for a length of time, she returned to the Pacific station, communicating in September, 1849, with Commodore Jones, at the Sandwich Islands, and subsequently, in December of the

same year, proceeded to San Francisco, California; that on or about the 15th of January, 1850, the above-named order from the Navy Department to Commodore Jones was communicated to the memorialist for the first time, by Commander Glynn, then in command of the Preble; that the memorialist was at that time in bad health, and severely afflicted with rheumatism, induced, as he believes, by a continuous service of three years and seven months, in consequence of which he was compelled to decline said appointment, being entirely unfit for service, and to seek relief on shore; that he was discharged from the ship on the 19th of January, 1850.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

J. WILLCOX JENKINS.

An act (S. No. 74) for the relief of J. Willcox Jenkins.

The bill directs the proper accounting officers of the Treasury to pay J. Willcox Jenkins the difference between the pay of captain's clerk and a purser of a first class sloop-of-war, from the 1st of January to the 30th April, 1856, during which time he was the acting purser of the sloop-of-war Jamestown.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

FABIUS STANLEY.

An act (S. No. 203) for the relief of Fabius Stanley.

The bill directs the proper accounting officers of the Treasury to pay to Fabius Stanley, as full compensation for his services during the time he was actually on duty and attached to the navy-yard at Mare Island, California, at the rate of \$2,100 per annum, deducting therefrom the pay he received for his services during that period.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

ADVERSE REPORTS.

Mr. KELSEY. There are eight adverse reports from the Court of Claims upon the Calendar, next in order; and I move that they be passed over.

Mr. JONES, of Tennessee. I move that they be reported to the House with the recommendation that the reports be concurred in.

They were read, as follows:

An adverse report (C. C. No. 167) in the case of Charles Wilkes.

An adverse report (C. C. No. 168) in the case of William Davenport.

An adverse report (C. C. No. 169) in the case of William B. Fitzgerald.

An adverse report (C. C. No. 170) in the case of John L. Worden.

An adverse report (C. C. No. 171) in the case of John H. Waggaman.

An adverse report (C. C. No. 172) in the case of John L. Wirt.

An adverse report (C. C. No. 173) in the case of Jonas P. Levy.

An adverse report (C. C. No. 174) in the case of Logan Hunton.

Mr. SMITH, of Illinois. There are two reports which I should like to have excepted.

The CHAIRMAN. Which two?

Mr. SMITH, of Illinois. Nos. 170 and 171. I move that they be reported to the House with the recommendation that they be referred to the Committee of Claims.

The motion was agreed to; and then the remainder of the reports were laid aside, to be reported to the House with a recommendation that the reports be concurred in.

E. GEORGE SQUIER.

A bill (H. R. No. 553) for the relief of E. George Squier, of New York. [Objected to by Mr. JONES, of Tennessee.]

WILLIAM K. JENNINGS.

An act (S. No. 29) for the relief of William K. Jennings, and others. [Objected to by Mr. KELSEY.]

BASIL MIGNAULT.

A bill (H. R. No. 563) for the relief of the surviving children of Basil Mignault, an officer of the revolutionary war. [Objected to by Mr. JONES, of Tennessee.]

JOHN ROBB.

An act (S. No. 184) for the relief of John Robb [Objected to by Mr. LETCHER.]

MICHAEL NOURSE.

A bill (C. C. No. 8) for the relief of Michael Nourse. [Objected to by Mr. LETCHER.]

JOHN ROBB.

A bill (C. C. No. 5) for the relief of John Robb. [Objected to by Mr. LETCHER.]

ASBURY DICKINS.

A bill (C. C. No. 2) for the relief of Asbury Dickins. [Objected to by Mr. LETCHER.]

MOSES NOBLE.

A bill (C. C. No. 12) for the relief of Moses Noble. [Objected to by Mr. LETCHER.]

GEORGE A. MAGRUDER.

A bill (C. C. No. 11) for the relief of George A. Magruder.

Mr. LETCHER. That bill is reported with the recommendation that it do not pass. It ought not to have been here. I object to it.

GARDNER AND VINCENT.

A bill (H. R. No. 569) for the relief of Gardner and Vincent and others.

The bill directs the Secretary of the Treasury, upon the production of satisfactory evidence, to audit and settle the several accounts of Gardner and Vincent; A. S. Gardner; A. F. Holmes; G. B. Murphy; C. C. Carlton; N. E. Crittenden; O. A. Brooks & Co. and W. Bingham & Co. for goods, &c., furnished the United States marine hospital at Cleveland, Ohio, during the superintendence of John Coon, and to pay the amounts found to be due.

It appears, from the report, that these several parties furnished various materials for the completion of the marine hospital at Cleveland, Ohio, in 1851. Mr. Coon, the late superintendent, certifies to this fact. He says: "These goods were furnished for the use of the United States marine hospital under my direction, as agent for the Government. All of the goods were used in preparing said hospital for the reception of patients, under instructions to me from the Secretary of the Treasury. The prices stated in the accounts were proper and reasonable, and the accounts have never been paid." This statement is sworn to by Mr. Coon, and the reason given for not paying the accounts is that the appropriation ran out before they were paid.

The bill was laid aside to be reported to the House, with the recommendation that it do pass.

LIEUTENANT LOOMIS L. LANGDON.

A bill (H. R. No. 590) for the relief of Loomis L. Langdon.

The bill directs the Secretary of the Treasury to credit the account of second Lieutenant Loomis L. Langdon, first artillery, United States Army, with \$1,176 66; it being the amount stolen from his possession, at Fort Brown, on the night of the 23d of October, 1857.

Mr. JONES, of Tennessee. Read the report. The CHAIRMAN. The report accompanying this bill has been mislaid. The Clerk has sent for it, and it will be read as soon as it can be found.

Mr. BRYAN. The circumstances are these: Lieutenant Loomis was stationed at Brownsville. There was a fire there, and his commanding officer ordered him, with his men, to extinguish the flames. During his absence on that duty, his chest was broken open and the money stolen. These are the facts as they appear in papers referred to the committee, and with which they were satisfied.

Mr. JONES, of Tennessee. Was it his money or the money of the Government?

Mr. BRYAN. The money of the Government.

The CHAIRMAN. The Clerk has the report in this case.

Mr. JONES, of Tennessee. Read it.

It appears, from the report, which was read, that in the month of May, 1857, the assistant commissary of subsistence, United States Army, stationed at Brownsville, Texas, was ordered away from that post, and Lieutenant Loomis L. Langdon, of the first artillery, appointed to discharge

the duties as acting assistant commissary of subsistence, and as such took charge of the Government funds. The following affidavit, made and sworn to by Lieutenant Langdon himself, details the particulars of the robbery:

"On the morning of the 24th of October, between the hours of three and five, my iron safe was opened by some person or persons, at present unknown, and \$1,176 66 of public funds, belonging to the subsistence department of the United States Army, stolen therefrom. The key of this safe I always kept in my possession in my trunk, and the trunk key I carried with me. As soon as I heard of the robbery, I opened my trunk and found the safe key there. I always opened and closed the safe myself.

"The safe had been formerly kept in the quartermaster's building, but, not deeming it secure there, I had it removed to the office, a small room in front of the commissary store-house. This building is about five rods from the guard-house, with the office windows and door nearest the office looking out on the most frequented part of the garrison. The office door is an inner one. The store-house is under charge of the guard, and the sentinel on No. 1 walks within a few feet of the office, and in front of it. On the morning of the robbery, about one o'clock, a fire broke out in Brownsville, which is near Fort Brown. The fire, distant from the guard-house about thirty-five rods, raged so violently that it was deemed essential to the safety of the town to send the troops to aid the citizens. By order of the commanding officer, the whole command, with the exception of the guard, was absent, and the garrison, therefore, unusually exposed to the numerous thieves in the vicinity. The garrison and town of Brownsville have so often been the scenes of robberies, that unusual precautions have to be taken against thieves. I mention this to show what a bad neighborhood this is for the security of property. Scarcely a week passes without a robbery being committed in the town.

"Disbursing officers at this post have three times before been robbed, and in spite of sentinels almost at their very doors. The officers' quarters have been entered, and their property stolen. During the fire, ninety-five kegs of powder exploded, increasing the excitement by the loss of several valuable lives, and materially injuring all the buildings in the vicinity. In the garrison, the doors and windows of the different store-houses were violently thrown open in spite of iron fastenings. The thieves took advantage of the facilities afforded by the explosion, and the absence of the whole command at the fire, to rob me. The guard, perhaps, unconsciously partaking of the general excitement, had their attention drawn off their duty in some degree. The command saved the town by working at the fire till daylight, and thus for six hours the garrison was almost untenanted. Every precaution, with the means furnished me by Government, was taken by me to secure the property intrusted to my care.

"I had removed the safe from the place where it had been formerly kept by an officer in charge of it, not deeming it secure, and placed it in the office, where the sergeant could sleep by it, and where the office in which it was placed would be under the eyes of the guard. The only night the sergeant left it was the night of the fire; and then only at intervals to work with the rest of the command. During one of these intervals, the money was taken. As I always kept the key in my own possession, the thieves could not have obtained an impression from it."

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

DAVID M'CLURE.

A bill (H. R. No. 571) for the relief of David McClure, administrator of Joseph McClure, deceased.

The bill directs the Secretary of the Treasury to pay to David McClure, administrator of Joseph McClure, deceased, the sum of \$107 64 out of any money in the Treasury not otherwise appropriated; it being the amount of interest collected from Joseph McClure, in his lifetime, on a judgment in favor of the United States Government, which it was afterwards ascertained McClure did not properly owe, and the amount of which judgment has been previously refunded to him by Congress.

It appears from the report, that Joseph McClure, as paymaster in the United States Army, received money to pay off his regiment; that he did pay the regiment, but that the vouchers for such payment were destroyed by fire at Buffalo; that the Government brought suit against the said McClure and his sureties for the sum of money for which he could show no vouchers, on account of their having been destroyed, and recovered the same; that one of his sureties was cognizant of the fact that the money was paid to the regiment; but, being a party defendant to the suit, his evidence was not admissible, which enabled the Government to carry the suit against them. Since that time, McClure reimbursed his sureties the amount recovered against them, and his administrator now petitions Congress to allow the estate the sum of the judgment paid, amounting to \$551 36, with interest from the date of the payment.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

HENRY HUBBARD.

An act (S. No. 123) for the relief of Henry Hubbard.

Mr. JONES, of Tennessee. I move to strike out the interest portion of the bill.

Mr. GOODWIN. The interest here is allowed on well-settled principles of Government. This balance was admitted to be due, at the Treasury Department, and it is only asked that interest shall be paid from that time.

Mr. JONES, of Tennessee. I move to amend by striking out that portion of the bill.

The question was taken; and the amendment was disagreed to.

Mr. JONES, of Tennessee. I object to the bill.

Mr. MAYNARD. Is it in order for the gentleman to make that objection now?

The CHAIRMAN. It is. The bill has not passed from the committee.

LEWIS W. BROADWELL.

A bill (H. R. No. 572) for the relief of Lewis W. Broadwell.

The bill directs the Secretary of the Treasury to pay to Lewis W. Broadwell, out of any money in the Treasury not otherwise appropriated, the sum of \$12,938, it being in full compensation for transporting the United States mails, in steamboats, from Vicksburg, Mississippi, to Grand Lake, Arkansas, from the 4th of September, 1854, to the 17th of April, 1857, at the rate of \$5,000 per annum.

From the report, it appears that Captain Broadwell, in 1854, being in command of the steamboat P. H. Kimball, plying as a regular packet between New Orleans and other points on the Mississippi river, as far up as Grand Lake, in Arkansas, and finding that the residents at many landings and towns between Vicksburg and Grand Lake were without the means of mail communication, did, at the request and urgent solicitation of the residents at the points mentioned, and for their accommodation and convenience, take on board his steamer and transport mails and mail matter, delivered to him for that purpose by the postmasters of Vicksburg, Milliken's Bend, Brunswick Point, Pecan Grove, Tullula, Lake Providence, Ashton, and Princeton; and that he generally paid the drayage on the mails to and from his steamer to the post office at Vicksburg, received and delivered there. This service was continued, without intermission, from the 4th of September, 1854, to the 17th of April, 1857, when it was given up, and the Post Office Department employed Captain Porterfield, extending his contract to Napoleon. This service, Captain Broadwell alleges, was performed "under the employment of the postmasters at Vicksburg, Grand Lake, and the intermediate offices," but there being no contract with the Government, the Post Office Department is without authority to compensate him, and he asks remuneration at the hands of Congress.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

HASAM AND BREWSTER.

A bill (H. R. No. 573) for the relief of Thomas Hasam and B. S. Brewster.

The bill requires the Secretary of the Treasury to audit and settle the accounts of Thomas Hasam and B. S. Brewster, for services as inspectors of hulls and boilers at New Orleans, in

Louisiana, and to allow them the irregular compensation from the date of their appointment as if they had been sworn and properly qualified.

The petitioners, as appears by the report, were appointed inspectors of hulls and boilers, on the 3d of December, 1852, under the ninth section of the act of Congress approved August 20, 1852. They immediately entered upon the discharge of their official duties, but neglected taking the oath required of them until the 12th of May, 1853. The supervising inspector testifies: "That on the 3d of December, 1852, Thomas Hasam and B. S. Brewster were designated as inspectors of hulls and boilers, and that immediately after their designation they went to work in discharge of the duties of the offices to which they had been designated, by preparing steamboats for inspection and other preliminary work." This statement is sworn to by Mr. P. H. Skipwith, supervising inspector. The Treasury circular of July 20, 1829, says: "Compensation cannot be allowed until these requisitions (oath of office) are complied with." The account of petitioners was therefore rejected for the services rendered from December 3 to May 12, following, and it is for this compensation they now ask.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

QUIETING LAND TITLES IN MAINE.

A bill (H. R. No. 574) to provide for quieting certain land titles in the late disputed territory in the State of Maine, and for other purposes. [Objected to by Mr. JONES, of Tennessee.]

GEORGE A. O'BRIEN.

An act (S. No. 92) for the relief of George A. O'Brien.

The bill directs that there be allowed and paid, out of any money in the Treasury not otherwise appropriated, to George A. O'Brien, for his services as clerk in the office of the Second Auditor, from the 5th of July, 1845, to the 3d of March, 1846, the sum of \$549 33.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

RUFUS DWINEL.

An act (S. No. 189) for the relief of Rufus Dwinel.

The bill directs the Secretary of the Treasury to cause to be paid to Rufus Dwinel, out of any money in the Treasury not otherwise appropriated, the sum of \$11,748 03, being for interest, at the rate of six per centum per annum, on the sum of \$13,037 72, from the 4th of March, 1837, when the latter sum was due from the United States to said Dwinel's assignor, to March 11, 1852, when an appropriation was made for its payment.

Mr. JONES, of Tennessee. I believe this bill is all wrong. I suppose the person named in this bill was sued by the Government, and when the jury returned a verdict, they returned it against the Government, which, I presume, they had no authority to do. But with the understanding that the yeas and nays are to be ordered upon it in the House, I will not object to its being reported to the House, though I shall vote against it. [Cries of "Agreed."]

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

ROBERT A. DAVIDGE.

A bill (H. R. No. 575) for the relief of Robert A. Davidge.

The bill directs the Secretary of the Treasury to pay to Robert A. Davidge \$118 90, out of any money in the Treasury not otherwise appropriated, in full for his services as a temporary clerk in the office of the First Comptroller of the Treasury from March 26 to April 30, 1857.

The report states that the claimant was employed in the office of the First Comptroller of the Treasury, by the order of the Secretary of the Treasury, as a temporary clerk, for thirty-six days, at the rate of pay of \$1,200 per annum. The act of 1842 prohibits the employment of temporary clerks during the recess of Congress, except for specified purposes therein named; and hence Mr. Davidge was refused his pay, though the First Comptroller, Mr. Whittlesey, certified that he performed the duties. The claimant unquestionably performed the service, and is entitled to the pay, amounting to \$118 90.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

JONAS P. KELLER.

An act (S. No. 67) for the relief of Jonas P. Keller.

The bill directs that \$750 be allowed and paid, out of any money in the Treasury not otherwise appropriated, to Jonas P. Keller, in full for his services as a watchman or overseer of the executive building at the corner of F and Seventeenth streets, from the 1st of April, 1849, to the 30th of September, 1850.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

DOUGLASS OTTINGER.

A bill (H. R. No. 576) for the relief of Captain Douglass Ottinger.

The bill directs that there be paid to Captain Douglass Ottinger, out of any money in the Treasury not otherwise appropriated, \$10,000, in full compensation for the use of his invention of the life or surf car by the United States, and also to enable him further to test the practicability of adapting such car to the rescuing of passengers and crews during violent gales at sea.

The report states that Captain Douglass Ottinger, of the United States revenue service, represents that he is the sole inventor of the machine known as the life or surf car, and that it was the first invention whereby persons could be safely conveyed through heavy breaking waves from stranded vessels to the shore. He submits that he has voluntarily placed his invention at the life-saving stations of the United States, subject to the free use of the Government, unrestricted by patent rights. He asks some remunerative compensation for the labor and expense which the inventions have cost him, and also something, in addition, to enable him to test practically, at sea, its adaptation to rescue passengers and crews during violent gales.

The committee were satisfied that Captain Ottinger is the original inventor of the life or surf car, and that he has devoted the same to the use of the United States, and that the Government is now using them at fifty-two different stations on the coast. The evidence before the committee was conclusive as to the great value of the invention of Captain Ottinger as a means of saving life. The present Secretary of the Treasury, the Hon. Howell Cobb, in answer to a letter from the committee, says "it has proved of incalculable value in the saving of human life;" and he mentions the case of the wreck of the ship *Ayrshire*, on the Jersey coast, (when it was impossible for any boat to reach her in consequence of the heavy surf rolling in upon the beach,) where, by means of this invention, every one on board was saved—men, women, and children, and even infants in their mothers' arms. As Captain Ottinger, with a laudable public spirit, has, for many years, devoted his valuable invention to the use of the United States, and has received no compensation therefor, the committee deemed his claim for some remuneration not unreasonable.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

JOHN M'NIEL.

An act (S. No. 100) releasing to the legal representatives of John McNiel, deceased, the title of the United States to a certain tract of land.

Mr. COBB. This bill was ordered to be reported back from the Committee on Public Lands. Since it was reported, some facts have come to light which probably would change the views of the committee. I therefore object to it.

We are now through with the Calendar, I believe, and I desire to atone for a little piece of folly which I was guilty of some time since. Under a state of excitement, I objected to two House bills, (Nos. 447 and 448,) without even hearing the reports read. I acknowledge the folly, and ask leave of the committee to withdraw the objection I made to those bills.

Mr. GROW. I would suggest to the gentleman from Alabama that we go back upon the Calendar to bill No. 367, and take up those bills which did not have a proper consideration.

Mr. UNDERWOOD. I trust we shall now turn back and begin at the head of the Calendar.

The CHAIRMAN. The Chair will decide that as the regular course of proceeding, unless the committee determine to rise.

Mr. BURNETT. I move that the committee rise and report the bills to the House.

Mr. JONES, of Tennessee. I hope we will rise, for we have been here long enough for one day.

The motion was not agreed to.

The CHAIRMAN. The gentleman from Alabama asks the unanimous consent of the committee to withdraw his objection to two cases which he has indicated.

Mr. JONES, of Tennessee. I object to going back. Let us go to the head of the Calendar if you want to go through it again.

Mr. NICHOLS. I ask unanimous consent to withdraw my objection to Senate bill (No. 73) authorizing Mrs. Jane Smith to enter certain lands in the State of Alabama.

The CHAIRMAN. The gentleman from Tennessee objects to going back. The committee having refused to rise, the Chair will now order the Clerk to begin at the commencement of the Calendar.

Mr. MILLSON. I move that the committee rise and report the bills; and I ask for tellers on that motion.

Tellers were ordered; and Messrs. JEWETT and CLEMENS were appointed.

The committee divided; and the tellers reported—ayes seventy-nine, noes not counted.

To the motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WASHBURNE, of Illinois, reported that the Committee of the Whole House had, according to order, had the Private Calendar under consideration, and had directed him to report sundry bills to the House, some with and some without amendments, with a recommendation that they do pass; also sundry adverse reports from the Court of Claims, with a recommendation that some of them be concurred in and others be referred to the Committee of Claims.

D. O. DICKINSON.

Mr. CHAFFEE obtained the floor.

Mr. WASHBURNE, of Illinois. With the permission of the gentleman from Massachusetts, I desire to ask the unanimous consent of the House to discharge the Committee of the Whole House from the further consideration of House bill (No. 446) for the relief of D. O. Dickinson, a constituent of mine. It is a bill to pay him \$108 75 for services rendered in connection with keeping a light in Waukegan harbor.

There being no objection, the Committee of the Whole House was discharged from the further consideration of the bill, and it was brought before the House to be considered with the bills reported from the Committee of the Whole House.

PRIVATE BILLS REPORTED BACK.

Mr. CHAFFEE. I now demand the previous question on the bills.

Mr. JONES, of Tennessee. There is one bill there, Senate bill (No. 189) for the relief of Rufus Dwinel, which was reported to the House with the understanding that a separate vote should be had upon it by yeas and nays.

The SPEAKER. If there be no objection, the Chair will propound the question to the House, on seconding the demand for the previous question upon all the bills. The bills will then be reported, and gentlemen can indicate those upon which they desire separate votes.

Mr. GROW. I think there is only one such bill.

The SPEAKER. Is there any other bill upon which a separate vote is desired?

Mr. COBB. I should like to have a separate vote on bill (No. 504) for the relief of Elizabeth McBrier, surviving child and heir of Colonel Archibald Loughry, deceased.

Mr. UNDERWOOD. As we passed along the Calendar to-day many bills were read which I did not feel disposed to object to. I thought they were worthy of consideration, and did not like to obstruct their consideration by a single objection. I do, however, desire a separate vote upon those bills, and I desire to make the motion indicated by the Chair, that the bills be read over to-mor-

row, and any gentleman who desires a separate vote can ask for it.

Mr. MARSHALL, of Kentucky. That will cut off all the bills remaining on the Calendar.

Mr. UNDERWOOD. As it is suggested that it will retard the progress of business, I withdraw the motion.

Mr. GROESBECK. Objection was made to-day to the bill for the relief of William Rich, but the gentleman who made it afterwards offered to withdraw it. I now ask the unanimous consent of the House to discharge the Committee of the Whole House from the further consideration of that bill.

Mr. JONES, of Tennessee. I will say to the gentleman from Ohio that if this is the case of the late chargé to Mexico, I should have objected to it, if his colleague had not.

Mr. STANTON. I would suggest that the titles of the bills be read, and let gentlemen indicate such as they demand a separate vote upon.

The SPEAKER. If it is the pleasure of the House, the previous question will be seconded upon all the bills in gross. The titles will then be read, and separate votes can be taken upon such bills as gentlemen may designate.

Mr. STANTON. I think that will be the best course.

Mr. HOUSTON. If the previous question should be seconded upon all the bills to-night, the House could then adjourn, and gentlemen would have time over night to examine the bills, and be prepared in the morning to indicate such bills as they desire separate votes upon.

Mr. MORGAN. I desire to say that I objected in committee to House bill (No. 362) for the relief of Mrs. Mary Ann Henry, because the pension of fifty dollars per month is more than is allowed to officers of the same grade by law. I understand that the gentleman having charge of the bill is willing to take thirty dollars per month, with the understanding that that amendment shall be made. I withdraw my objection.

Mr. JONES, of Tennessee. I object.

The previous question was then seconded, and the main question ordered to be put, upon all the bills reported.

Mr. GARNETT. I move that the House do now adjourn.

Mr. GROW. I appeal to the gentleman from Virginia to allow us to pass such of the bills reported from the Committee of the Whole House as there is no objection to, and then we can act upon the others to-morrow morning.

Mr. HOUSTON. The objection to that is, that I cannot tell what bills to designate, as those upon which I desire a separate vote, without taking some time to look over the list. If the House should now adjourn we should then have time to look over the list and be prepared to act upon them understandingly to-morrow.

Mr. GROW. If the gentleman objects to my proposition, of course I cannot press it.

Mr. MARSHALL, of Kentucky. If we adjourn without acting upon these bills to-night, we shall take up a great part of the day to-morrow with them, and shall do great injustice to the remainder of the cases on the Private Calendar. If gentlemen have attended to the progress of business in committee to-day, they do not need additional time to look over the lists to see what bills they want a separate vote upon. I think we ought to go through with these bills to-night, and then we can to-morrow go over again with that part of the Calendar which has heretofore been passed over.

Mr. GARNETT. I will withdraw my motion to adjourn.

Mr. LETCHER. It strikes me that the most satisfactory mode of getting along with this business is to read over these bills to-night, and then in the morning indicate upon what ones a separate vote is desired. I take it, that if we undertake to pass these bills through to a vote to-night, we shall be likely to have the yeas and nays three times where we should have them but once in the morning.

Then, sir, I see nothing in the objection of my friend from Kentucky, about the remaining cases on the Calendar. To-morrow is not objection day; it is debating day, and you must either pass over those which give rise to debate, and which will give dissatisfaction to those gentlemen who desire to dispose of such bills, or you must take them

up and dispose of them in their regular order; and I want to know of my friend from Kentucky how he will get through with the Calendar?

Mr. GROW. I see no objection to the proposition made by the gentleman from Ohio [Mr. STANTON] to read over the list of bills which have been reported, and let gentlemen indicate upon what ones they desire a separate vote, pass such as there is no objection to, and allow the others to go over until to-morrow.

Mr. JONES, of Tennessee. The objection to that, I expect, is that there are gentlemen here now who have not been here during the day, and who want time to look over the list, in order to determine which bills to object to, and upon which to demand a separate vote.

Mr. LETCHER. There are, I understand, eighty-nine bills reported from the Committee of the Whole. Now, I understand that it is proposed to read over the titles of all these bills in ten minutes, and give gentlemen only that time to determine upon what bills they want a separate vote.

Mr. BURNETT. I will say to my friend from Virginia that, if he had been here all day listening to the reading of the bills and reports in committee, he would have prepared to determine without any delay what bills, in his judgment, ought to pass, and what ought not. I say to gentlemen that it is their own fault if they have not paid attention in committee to-day to the reading of bills, when a single objection would have prevented any bill from being reported; and now, to delay action in the House upon these bills until morning, would be doing injustice to the other cases on the Calendar. I hope these bills will be acted upon to-night, and that we shall go over the balance of the Calendar to-morrow.

Mr. LETCHER. I will say to my friend from Kentucky that I think I have been here to-day much more of the time than he has been.

Mr. BURNETT. I have been here the whole day, except while I was absent at dinner.

The SPEAKER. The Chair thinks he has indulged this irregular debate long enough. The titles of the bills reported by the committee will now be read over, and gentlemen can indicate upon which ones they desire separate votes.

The following House bills and joint resolutions reported from the Committee of the Whole without amendment, and upon which a separate vote was not asked, were ordered to be severally engrossed and read a third time; and being engrossed, they were accordingly read the third time and passed:

A bill (No. 344) for the relief of Captain Stanton Sholes;

A bill (No. 345) for the relief of Nancy Magill, of Ohio;

A bill (No. 346) for the relief of William Sutton;

A bill (No. 347) for the relief of Joseph Webb;

A bill (No. 353) for the relief of Eli W. Goff;

A bill (No. 356) for the relief of Roswell Minard, father of Theodore Minard, deceased;

A bill (No. 42) granting a pension to Mary A. M. Jones;

A bill (No. 366) for the relief of John Duncan;

A bill (No. 451) for the relief of the legal representatives of Jean Baptiste Devidrine;

A bill (No. 452) for the relief of Dr. Thomas Antisell;

A bill (No. 453) for the relief of Robert W. Cushman, formerly an acting purser in the United States Navy;

Joint resolution (No. 22) for the relief of Michael Papprenza;

A bill (No. 455) for the relief of Micajah Brooks;

A bill (No. 457) for the relief of Kennedy O'Brien;

A bill (No. 459) granting an invalid pension to Silas Stevens, of Virginia;

A bill (No. 460) granting an invalid pension to Beriah Wright, of New York;

A bill (No. 461) granting an invalid pension to John Lee, of the State of Maine;

A bill (No. 464) for the relief of Cornelius H. Latham;

A bill (No. 476) for the relief of James Rumph;

A bill (No. 480) for the relief of Ferdinand O. Miller;

A bill (No. 481) for the relief of Dinah Minis;

A bill (No. 486) for the relief of Alonzo and Elbridge G. Colby;

A bill (No. 169) making an appropriation for the payment of clerks employed in the offices of the registers of the land offices at Oregon and Winchester, in the Territory of Oregon;

A bill (No. 490) for the relief of Isaac Body and Samuel Fleming;

A joint resolution (No. 24) for the relief of Henry Orndorf;

A bill (No. 492) for the relief of John Dearnit;

A bill (No. 493) for the relief of Stuckey and Rogers;

A bill (No. 494) for the relief of William Doty and others;

Joint resolution (No. 25) authorizing the Postmaster General to revise and adjust the accounts of Kimball and Moore, and Moore and Walker;

A bill (No. 496) for the relief of the legal representatives of Henry King, deceased;

A bill (No. 502) for the relief of Samuel W. and Alvin A. Turner;

A bill (No. 503) for the relief of Job Stafford, of the State of New York;

A bill (No. 510) for the relief of Dr. George H. Howell;

A bill (No. 511) for the relief of Nehemiah S. Draper and William Holden, heirs-at-law of Mary Draper, deceased;

A bill (No. 512) for the relief of Elijah Close, of Tennessee;

A bill (No. 513) granting an invalid pension to William Howell, of Tennessee;

A bill (No. 514) granting an invalid pension to Conrad Schroeder;

A bill (No. 515) granting an invalid pension to Alexander S. Bean, of Pennsylvania;

A bill (No. 516) for the relief of Michael A. Davenport, of Illinois;

A bill (No. 518) to continue the pension heretofore paid to Mary C. Hamilton, widow of Captain Fowler Hamilton, late of the United States Army;

A bill (No. 520) for the relief of William Bullock;

A bill (No. 522) for the relief of Wright Fore;

A bill (No. 523) for the relief of Wyatt Griffith;

A bill (No. 524) for the relief of Francis Carver;

A bill (No. 525) for the relief of Robinson Gammon;

A bill (No. 526) for the relief of Frederick Smith;

A bill (No. 527) for the relief of Phineas G. Pearson;

A bill (No. 528) for the relief of Judith Nott;

A bill (No. 529) for the relief of John C. Rathbun;

A bill (No. 530) for the relief of Stephen Fellows;

A bill (No. 531) for the relief of John Perry, of Illinois;

A bill (No. 532) for the relief of Ebenezer Hitchcock;

A bill (No. 533) for the relief of Shove Chase, of New York;

A bill (No. 534) for the relief of Allen Smith;

A bill (No. 535) for the relief of David Watson;

A bill (No. 543) for the relief of the legal representatives of John McDonough, deceased, late of Louisiana;

A bill (No. 547) for the relief of Benjamin Wakefield;

A bill (No. 569) for the relief of Gardner and Vincent and others;

A bill (No. 570) for the relief of Lieutenant Loomis L. Langdon;

A bill (No. 571) for the relief of David McClure, administrator of Joseph McClure, deceased;

A bill (No. 572) for the relief of Lewis W. Broadwell;

A bill (No. 573) for the relief of Thomas Hasam and B. S. Brewster;

A bill (No. 575) for the relief of Robert A. Davidge;

A bill (No. 576) for the relief of Douglass Ottinger; and

A bill (No. 446) for the relief of D. O. Dickinson.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the foregoing bills and joint resolutions were passed; and also moved

that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The following Senate bills, reported from the Committee of the Whole House without amendment, were ordered to a third reading; and they were accordingly severally read the third time, and passed:

An act (No. 81) for the relief of Laurent Milaudon;

An act (No. 70) for the relief of John Dick, of Florida;

An act (No. 185) for the relief of Anna M. E. Ring, Louisa M. Ring, Cordelia E. Ring, and Sarah J. De Lannoy;

An act (No. 52) for the relief of William B. Trotter;

An act (No. 59) for the relief of James G. Benton, E. B. Babbitt, and James Longstreet, of the United States Army;

An act (No. 96) for the relief of Susanna T. Lea, widow and administratrix of James Maglen, late of the city of Baltimore, deceased;

An act (No. 35) for the relief of Michael Kinney, late a private in company I, eighth regiment United States Army;

An act (No. 136) for the relief of John B. Hand;

An act (No. 145) for the relief of Brevet Major James L. Donaldson, assistant quartermaster United States Army;

An act (No. 117) for the relief of William Allen, of Portland, in the State of Maine;

An act (No. 95) explanatory of an act entitled "An act for the relief of Dempsey Pittman," approved August 16, 1856;

An act (No. 74) for the relief of J. Willcox Jenkins;

An act (No. 208) for the relief of Fabius Stanley;

An act (No. 92) for the relief of George A. O'Brien;

An act (No. 189) for the relief of Rufus Dwinel; and

An act (No. 67) for the relief of Jonas P. Keller.

Mr. CHAFFEE moved to reconsider the vote by which the foregoing Senate bills were passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The following bills reported from the Committee of the Whole House, with amendments, were then taken up and disposed of as follows:

A bill (H. R. No. 456) granting an invalid pension to Brevet Major John Jones, of Tennessee; reported with an amendment to strike out, in line six, the words "twenty-five" and insert "forty," so that it shall read, "forty dollars per month."

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. BURNETT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

An act (S. No. 91) to continue a pension to Christine Barnard, widow of the late Brevet Major Moses J. Barnard, United States Army, reported with an amendment to strike out "thirty," in line five, and insert "twenty-five," so as to make it read "twenty-five dollars per month."

Mr. SINGLETON. I sincerely hope the House will not agree to this amendment. It has passed the Senate in this present shape; and if it is amended, it will have to go back to the Senate, and there will be great danger that it will be lost in the pressure of business. I hope the House will vote down the amendment.

Mr. READY. Mr. Speaker, I hope the amendment to the Senate bill, reported by the Committee on Military Affairs, will not be adopted. Out of the large number of private bills which the House has passed to-day, I am sure there is not one more meritorious than this. Mrs. Barnard is the widow of one of the most gallant officers who served in the Mexican war. I happen to have a personal knowledge of her. She is among the most retiring and amiable women I have ever known. Her late husband, Brevet Major Barnard, was twice wounded while heroically attempting to plant the standard of his country on the walls of Chapultepec, of which wound he died about a year afterwards. He left a widow with a

family of infant children, one of whom is an only son, and a cripple for life, to be supported and taken care of by his bereaved mother. The only inheritance he left to his family, is poverty, and a reputation honorably, nobly earned in the service of his country. With the heart of a true and lovely woman, she is bowed down with grief, and mourns the loss of that gallant husband as if he had left her but yesterday, while she devotes herself, with a mother's solicitude, to the care and support of her orphan children. Can it be, that such a case will not excite just and generous emotions in the Representatives of this great nation? The Senate bill provides but a reasonable stipend for so meritorious a case, and I trust it will, as it ought to, pass without the reduction proposed by the amendment.

Mr. QUITMAN. As I reported the amendment from the Committee on Military Affairs, it is proper that I should state that that committee had determined to deal justly and equally with all the citizens of the United States; and as the proper pension given in such cases as this was twenty-five dollars per month, we saw no reason why we should discriminate, even in favor of the widow of a brave officer. We were governed by a sense of our duty to the country and not by our sympathy with any individual case.

Mr. SINGLETON. May I be allowed to say one word more?

Mr. HOUSTON. I object to any further discussion.

The question was taken on the amendment; and it was not agreed to.

The bill was then ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. SINGLETON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

A bill (H. R. No. 458) for the relief of Evelina Porter, widow of the late Commodore David Porter, of the United States Navy, reported with an amendment to strike out the words "her death," and insert in lieu thereof the words "such intermarriage;" so as to provide that the pension shall cease at the date of her intermarriage.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. ELLIOTT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

A bill (C. C. No. 81) for the relief of the heirs of William Turvin, deceased, reported with an amendment to insert "at the rate of \$1 25 per acre," so as to make it read "upon any public lands subject to entry or private sale, at the rate of \$1 25 per acre."

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time, and passed.

Mr. TAYLOR, of New York, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

A bill (H. R. No. 506) for the relief of Horatio Boulton, reported with an amendment to strike out "\$515," and to insert, "\$588 50."

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed, and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. MARSHALL, of Kentucky, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

A bill (H. R. No. 521) increasing the pension of Anthony Walter Bayard, of Bellefonte, in the State of Pennsylvania, reported with an amendment to strike out "twenty," and insert "ten," so that it shall read, "pension at ten dollars per month."

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. KELSEY moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER. There are several bills upon which separate votes were asked.

Mr. STANTON. I think those separate votes had better be taken in the morning; and therefore I move that the House do now adjourn.

The motion was agreed to; and thereupon the House (at seven o'clock and thirty-five minutes, p. m.) adjourned.

IN SENATE.

SATURDAY, May 29, 1858.

Prayer by Rev. D. BALL.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, in answer to a resolution of the Senate relative to the improvement of the channel of the Potomac river; which was ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented a memorial of E. K. Collins, and associates, praying for the payment of the amount due them under the contract for carrying the mail between New York and Liverpool, with interest; which was referred to the Committee on the Post Office and Post Roads.

PAPERS REFERRED.

On motion of Mr. HALE, it was

Ordered, That the memorial of Georgiana M. Lewis, widow of Armstrong J. Lewis, be recommended to the Committee on Naval Affairs.

On motion of Mr. BELL, it was

Ordered, That the joint resolution (S. No. 26) for the benefit of the nearest male heir of the late Brigadier General Towson, United States Army, deceased, be recommended to the Committee on Naval Affairs.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House of Representatives had passed the following bills of the Senate:

An act (No. 35) for the relief of Michael Kinny, late a private in company I, eighth regiment United States Army;

An act (No. 81) for the relief of Laurent Milaudon;

An act (No. 70) for the relief of John Dick, of Florida;

An act (No. 185) for the relief of Anna M. E. Ring, Louisa M. Ring, Cordelia E. Ring, and Sarah J. De Lannoy;

An act (No. 52) for the relief of William B. Trotter;

An act (No. 59) for the relief of James G. Benton, E. B. Babbitt, and James Longstreet, of the United States Army;

An act (No. 91) to continue a pension to Christine Barnard, widow of the late Brevet Major Moses J. Barnard, of the United States Army;

An act (No. 96) for the relief of Susanna T. Lea, widow and administratrix of James Maglen, late of the city of Baltimore, deceased;

An act (No. 67) for the relief of Jonas P. Keller;

An act (No. 74) for the relief of J. Willcox Jenkins;

An act (No. 92) for the relief of George A. O'Brien;

An act (No. 95) explanatory of an act entitled "An act for the relief of Dempsey Pittman," approved August 16, 1856;

An act (No. 117) for the relief of William Allen, of Portland, in the State of Maine;

An act (No. 136) for the relief of the heirs of John B. Hand;

An act (No. 145) for the relief of Brevet Major James L. Donaldson, assistant quartermaster, United States Army;

An act (No. 208) for the relief of Fabius Stanley;

An act (No. 106) for the relief of Elijah F. Smith, Gilman H. Perkins, and Charles F. Smith;

An act (No. 330) for the relief of Stephen R. Rowan;

An act (No. 338) for the relief of Caleb Sherman;

An act (No. 189) for the relief of Rufus Dwinel; and

A joint resolution (No. 38) for the relief of John Grayson.

The message further announced that the House had passed the following bills, in which the concurrence of the Senate was requested:

A bill (No. 344) for the relief of Captain Stanton Shoales;

A bill (No. 345) for the relief of Nancy Magill, of Ohio;

A bill (No. 346) for the relief of William Sutton;

A bill (No. 347) for the relief of Joseph Webb;

A bill (No. 353) for the relief of Eli W. Goff;

A bill (No. 356) for the relief of Roswell Minard, father of Theodore Minard, deceased;

A bill (No. 42) granting a pension to Mary A. M. Jones;

A bill (No. 366) for the relief of John Duncan;

A bill (No. 541) for the relief of Jean Baptiste Devidrine;

A bill (C. C. No. 81) for the relief of the heirs of William Tarvin, deceased;

A bill (No. 169) making an appropriation for the payment of clerks employed in the offices of the registers of the land offices at Oregon City and Winchester, in the Territory of Oregon;

A bill (No. 452) for the relief of Dr. Thomas Antisell;

A bill (No. 453) for the relief of Robert W. Cushman, formerly an acting purser in the United States Navy;

A bill (No. 455) for the relief of Micajah Brooks;

A bill (No. 456) granting an invalid pension to Brevet Major John Jones, of Tennessee;

A bill (No. 457) for the relief of Kennedy O'Brien;

A bill (No. 458) for the relief of Evelina Porter, widow of the late Commodore David Porter, of the United States Navy;

A bill (No. 459) granting an invalid pension to Silas Stevens, of Virginia;

A bill (No. 460) granting an invalid pension to Beriah Wright, of New York;

A bill (No. 461) granting an invalid pension to John Lee, of the State of Maine;

A bill (No. 446) for the relief of D. O. Dickinson;

A bill (No. 464) for the relief of Cornelius H. Latham;

A bill (No. 480) for the relief of Dr. Ferdinand O. Miller;

A bill (No. 481) for the relief of Dinah Minis;

A bill (No. 486) for the relief of Alonzo and Elbridge G. Colby;

A bill (No. 490) for the relief of Isaac Body and Samuel Fleming;

A bill (No. 492) for the relief of John Dearmit;

A bill (No. 493) for the relief of Stuckey and Rogers;

A bill (No. 494) for the relief of William Doty and others;

A bill (No. 496) for the relief of the legal representatives of Henry King, deceased;

A bill (No. 502) for the relief of Samuel W. and Alvin A. Turner;

A bill (No. 503) for the relief of Job Stafford, of the State of New York;

A bill (No. 506) for the relief of the administrator of Horatio Boulton, deceased;

A bill (No. 510) for the relief of Dr. George H. Howell;

A bill (No. 511) for the relief of Nehemiah S. Draper and William Holden, heirs-at-law of Mary Draper, deceased;

A bill (No. 512) for the relief of Elijah Close, of Tennessee;

A bill (No. 513) granting an invalid pension to William Howell, of Tennessee;

A bill (No. 514) granting an invalid pension to Conrad Schroeder;

A bill (No. 515) granting an invalid pension to Alexander S. Bean, of Pennsylvania;

A bill (No. 516) for the relief of Michael A. Davenport, of Illinois;

A bill (No. 518) to continue the pension heretofore paid to Mary C. Hamilton, widow of Captain Fowler C. Hamilton, late of the United States Army;

A bill (No. 520) for the relief of William Bullock;

A bill (No. 522) for the relief of Wright Fore;

A bill (No. 523) for the relief of Wyatt Griffith;

A bill (No. 524) for the relief of Francis Carver;
 A bill (No. 526) for the relief of Frederick Smith;
 A bill (No. 527) for the relief of Phineas G. Pearson;
 A bill (No. 528) for the relief of Judith Nott;
 A bill (No. 529) for the relief of John C. Rathbun;
 A bill (No. 530) for the relief of Stephen Fellows;
 A bill (No. 531) for the relief of John Perry, of Illinois;
 A bill (No. 532) for the relief of Ebenezer Hitchcock;
 A bill (No. 533) for the relief of Shore Case, of New York;
 A bill (No. 534) for the relief of Allen Smith;
 A bill (No. 535) for the relief of David Watson;
 A bill (No. 543) for the relief of the legal representatives of John McDonough, deceased, late of Louisiana;
 A bill (No. 525) for the relief of Robinson Gammon;
 A bill (No. 547) for the relief of Benjamin Wakefield;
 A bill (No. 569) for the relief of Gardner and Vincent and others;
 A bill (No. 570) for the relief of Lieutenant Loomis L. Langdon;
 A bill (No. 571) for the relief of David McClure, administrator of Joseph McClure, deceased;
 A bill (No. 572) for the relief of Lewis W. Broadwell;
 A bill (No. 573) for the relief of Thomas Hasam and B. S. Brewster;
 A bill (No. 575) for the relief of Robert A. Davidge;
 A bill (No. 576) for the relief of Douglass Ottinger;
 A joint resolution (No. 24) for the relief of Henry Orndorf;
 A joint resolution (No. 22) for the relief of Michael Pappreniza;
 A joint resolution (No. 25) authorizing the Postmaster General to revise and adjust the accounts of Kimball & Moore, and Moore & Walker;
 A bill (No. 462) granting an invalid pension to James Fugate, of Missouri;
 A bill (No. 504) for the relief of Elizabeth McBrier, only surviving child and heir of Colonel Archibald Loughery, deceased; and
 A bill (No. 585) to establish certain post roads.

BILLS BECOME LAWS.

The message further announced that the President of the United States approved and signed, on the 10th of May, an act making appropriations for the support of the Military Academy for the year ending the 30th of June, 1859; on the 18th of May, an act to authorize the vestry of Washington parish to take and inclose certain parts of streets in Washington city, for the purpose of extending the Washington cemetery, and for other purposes; and on the 24th of May the following acts and joint resolutions:

An act for the relief of Isaac Drew, and other settlers upon the public lands, in the State of Wisconsin;

An act for the relief of the heirs and legal representatives of Pierre Broussard, deceased;

An act to revive an act entitled "An act for the relief of the heirs, or their legal representatives, of William Conway, deceased;"

An act for the relief of William Smith, deceased, late of Louisiana;

An act for the relief of Regis Loisel, or his legal representatives;

A joint resolution for paying the compensation of stenographers employed by committees of the House of Representatives;

An act to prevent the inconvenient accumulation in the Post Office Department of postmasters' quarterly returns;

An act to increase the pension of John Richmond;

An act for the relief of Thomas Smithers;

An act for the relief of Pierre Gagnon, of Natchitoches, Louisiana;

An act to amend an act entitled "An act granting a pension to Ansel Wilkinson;"

An act for the relief of Isaac Carpenter;
 An act for the relief of Brevet Major H. L. Kendrick;
 An act for the relief of the legal representatives of Marie Malines; and
 An act to create a land district in the Territory of New Mexico.

REPORTS OF COMMITTEES.

Mr. POLK, from the Committee on Claims, to whom was referred the petition of G. W. Bluford, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 244) for the relief of Henry G. Carson, and the opinion of the Court of Claims adverse to the claim, submitted a report concurring in the decision; which was ordered to be printed.

Mr. IVERSON, from the Committee on Claims, to whom were referred the bill (H. R. No. 254) for the relief of William Hutchinson, and the bill (H. R. No. 334) for the relief of Simeon Stedman, asked to be discharged from their further consideration, and that they be referred to the Committee on Military Affairs and Militia; which was agreed to.

He also, from the same committee, to whom was referred the report of the Court of Claims adverse to the claim of Arthur Edwards, J. Owen, and J. Davis, asked to be discharged from its further consideration, and that it be referred to the Committee on the Post Office and Post Roads; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 335) for the relief of Susannah Redman, widow of Lloyd Redman, reported it without amendment.

Mr. HUNTER, from the Committee on Finance, to whom was referred the bill (H. R. No. 466) making appropriations for the expenses of collecting the revenue from customs, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 199) making appropriations for the naval service for the year ending the 30th of June, 1859, reported it with an amendment.

Mr. MALLORY, from the Committee on Claims, to whom was referred the memorial of Captain John B. Montgomery, submitted a report, accompanied by a bill (S. No. 418) for the relief of Captain John B. Montgomery. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. SIMMONS, from the Committee on Claims, to whom was referred the bill (H. R. No. 203) for the relief of George W. Brisco, reported it without amendment.

NAVAL ACADEMY.

Mr. HAYNE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of authorizing the appointment of ten cadets at large to the Naval Academy, by the Executive, as provided with reference to the Military Academy.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker had signed the following enrolled bills of the Senate:

A bill (No. 67) for the relief of Jonas P. Keller;

A bill (No. 70) for the relief of John Dick, of Florida;

A bill (No. 74) for the relief of J. Willcox Jenkins;

A bill (No. 81) for the relief of Laurent Milaudon;

A bill (No. 91) to continue a pension to Christine Barnard, widow of the late Brevet Major Moses J. Barnard, United States Army;

A bill (No. 92) for the relief of George A. O'Brien;

A bill (No. 95) explanatory of an act entitled "An act for the relief of Dempsey Pittman," approved August 16, 1856;

A bill (No. 96) for the relief of Susannah T. Lea, widow and administratrix of James Maglenen, late of the city of Baltimore, deceased;

A bill (No. 106) for the relief of Elijah F. Smith, Gilman H. Perkins, and Charles F. Smith;

A bill (No. 117) for the relief of William Allen, of Portland, in the State of Maine;

A bill (No. 136) for the relief of John B. Hand;

A bill (No. 145) for the relief of Brevet Major James L. Donaldson, assistant quartermaster United States Army;

A bill (No. 185) for the relief of Anna M. E. Ring, Louisa M. Ring, Cornelia E. Ring, and Sarah J. De Lannoy;

A bill (No. 189) for the relief of Rufus Dwinel;

A bill (No. 208) for the relief of Fabius Stanley;

A bill (No. 330) for the relief of Stephen R. Rowan;

A bill (No. 338) for the relief of Caleb Sherman;

A bill (No. 35) for the relief of Michael Kinny, late a private in company I, eighth regiment, United States Army;

A bill (No. 52) for the relief of William B. Trotter;

A bill (No. 59) for the relief of James G. Benton, E. B. Babbitt, and James Longstreet, of the United States Army; and

A joint resolution (No. 38) for the relief of John Grayson.

BILL REFERRED.

On motion of Mr. SLIDELL the bill (S. No. 413) for the relief of Mrs. Ann Smith, widow of the late Brigadier General Persifer F. Smith, was referred to the Committee on Pensions.

PRINTING A REPORT.

On motion of Mr. SEWARD, it was

Ordered, That there be printed one thousand additional copies of the report of the Committee on Foreign Relations (No. 285) in relation to recent searches and seizures, by British cruisers, of American vessels in the Gulf of Mexico.

BILL BECOME A LAW.

A message from the President of the United States, by Mr. HENRY, his Secretary, announced that the President of the United States had this day approved and signed an act to amend the "Act to incorporate the Columbia Institution for the instruction of the Deaf and Dumb and Blind."

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles and referred as indicated below:

A bill (No. 42) granting a pension to Mary A. M. Jones—to the Committee on Pensions.

A bill (No. 344) for the relief of Captain Stanton Shoales—to the Committee on Pensions.

A bill (No. 345) for the relief of Nancy Magill, of Ohio—to the Committee on Pensions.

A bill (No. 346) for the relief of William Sutton—to the Committee on Pensions.

A bill (No. 347) for the relief of Joseph Webb—to the Committee on Pensions.

A bill (No. 366) for the relief of John Duncan—to the Committee on Pensions.

A bill (No. 455) for the relief of Micajah Brooks—to the Committee on Pensions.

A bill (No. 456) granting an invalid pension to Brevet Major John Jones, of Tennessee—to the Committee on Pensions.

A bill (No. 457) for the relief of Kennedy O'Brien—to the Committee on Pensions.

A bill (No. 458) for the relief of Evelina Porter, widow of the late Commodore David Porter, of the United States Navy—to the Committee on Pensions.

A bill (No. 459) granting an invalid pension to Silas Stevens, of Virginia—to the Committee on Pensions.

A bill (No. 460) granting an invalid pension to Beriah Wright, of New York—to the Committee on Pensions.

A bill (No. 461) granting an invalid pension to John Lee, of the State of Maine—to the Committee on Pensions.

A bill (No. 462) granting an invalid pension to James Fugate, of Missouri—to the Committee on Pensions.

A bill (No. 464) for the relief of Cornelius H. Latham—to the Committee on Pensions.

A bill (No. 512) for the relief of Elijah Close, of Tennessee—to the Committee on Pensions.

A bill (No. 513) granting an invalid pension to William Howell, of Tennessee—to the Committee on Pensions.

A bill (No. 514) granting an invalid pension to Conrad Schroeder—to the Committee on Pensions.

A bill (No. 515) granting an invalid pension to Alexander S. Bean, of Pennsylvania—to the Committee on Pensions.

A bill (No. 516) for the relief of Michael A. Davenport, of Illinois—to the Committee on Pensions.

A bill (No. 518) to continue the pension heretofore paid to Mary C. Hamilton, widow of Captain Fowler C. Hamilton, late of the United States Army—to the Committee on Pensions.

A bill (No. 520) for the relief of William Bullock—to the Committee on Pensions.

A bill (No. 522) for the relief of Wright Fore—to the Committee on Pensions.

A bill (No. 523) for the relief of Wyatt Griffith—to the Committee on Pensions.

A bill (No. 524) for the relief of Francis Carver—to the Committee on Pensions.

A bill (No. 525) for the relief of Robinson Gammon—to the Committee on Pensions.

A bill (No. 526) for the relief of Frederick Smith—to the Committee on Pensions.

A bill (No. 527) for the relief of Phineas G. Pearson—to the Committee on Pensions.

A bill (No. 528) for the relief of Judith Nott—to the Committee on Pensions.

A bill (No. 529) for the relief of John C. Rathbun—to the Committee on Pensions.

A bill (No. 530) for the relief of Stephen Fellows—to the Committee on Pensions.

A bill (No. 531) for the relief of John Perry, of Illinois—to the Committee on Pensions.

A bill (No. 532) for the relief of Ebenezer Hitchcock—to the Committee on Pensions.

A bill (No. 533) for the relief of Shore Case, of New York—to the Committee on Pensions.

A bill (No. 534) for the relief of Allen Smith—to the Committee on Pensions.

A bill (No. 535) for the relief of David Watson—to the Committee on Pensions.

A bill (C. C. No. 81) for the relief of the heirs of William Tarvin, deceased—to the Committee on Claims.

A bill (No. 452) for the relief of Thomas Antisell—to the Committee on Claims.

A bill (No. 480) for the relief of Dr. Ferdinand O. Miller—to the Committee on Claims.

A bill (No. 481) for the relief of Dinah Minis—to the Committee on Claims.

A bill (No. 486) for the relief of Alonzo and Elbridge G. Colby—to the Committee on Claims.

A bill (No. 506) for the relief of the administrator of Horatio Boulbee, deceased—to the Committee on Claims.

A bill (No. 510) for the relief of Dr. George H. Howell—to the Committee on Claims.

A bill (No. 570) for the relief of Lieutenant Loomis L. Langdon—to the Committee on Claims.

A bill (No. 571) for the relief of David McClure, administrator of Joseph McClure, deceased—to the Committee on Claims.

A bill (No. 492) for the relief of John Dearmit—to the Committee on the Post Office and Post Roads.

A bill (No. 493) for the relief of Stuckey & Rogers—to the Committee on the Post Office and Post Roads.

A bill (No. 494) for the relief of William Doty and others—to the Committee on the Post Office and Post Roads.

A bill (No. 532) for the relief of Samuel W. and Alvin A. Taylor—to the Committee on the Post Office and Post Roads.

A bill (No. 572) for the relief of Lewis W. Broadwell—to the Committee on the Post Office and Post Roads.

A bill (No. 585) to establish certain post roads—to the Committee on the Post Office and Post Roads.

A bill (No. 353) for the relief of Eli W. Goff—to the Committee on Commerce.

A bill (No. 446) for the relief of D. O. Dickinson—to the Committee on Commerce.

A bill (No. 569) for the relief of Gardner Vincent and others—to the Committee on Commerce.

A bill (No. 573) for the relief of Thomas Hagan and B. S. Brewster—to the Committee on Commerce.

A bill (No. 576) for the relief of Douglass Ottinger—to the Committee on Commerce.

A bill (No. 511) for the relief of Nehemiah S. Draper and William Holden, heirs-at-law of Mary Draper, deceased—to the Committee on Naval Affairs.

A bill (No. 547) for the relief of Benjamin Wakefield—to the Committee on Naval Affairs.

A bill (No. 453) for the relief of Robert W. Cushman, formerly an acting purser in the United States Navy—to the Committee on Naval Affairs.

A bill (No. 169) making an appropriation for the payment of clerks employed in the offices of the registers of the land offices at Oregon City and Winchester, in the Territory of Oregon—to the Committee on Public Lands.

A bill (No. 490) for the relief of Isaac Body and Samuel Fleming—to the Committee on Public Lands.

A bill (No. 563) for the relief of Job Stafford, of the State of New York—to the Committee on Public Lands.

A bill (No. 504) for the relief of Elizabeth McBrier, only surviving child and heir of Colonel Archibald Loughery, deceased—to the Committee on Public Lands.

A bill (No. 356) for the relief of Roswell Minard, father of Theodore Minard, deceased—to the Committee on Private Land Claims.

A bill (No. 543) for the relief of the legal representatives of John McDonough, deceased, of Louisiana—to the Committee on Private Land Claims.

A joint resolution (No. 24) for the relief of Henry Orndorf—to the Committee on the Post Office and Post Roads.

A joint resolution (No. 25) authorizing the Postmaster General to revise and adjust the accounts of Kimball & Moore, and Moore & Walker—to the Committee on the Post Office and Post Roads.

A joint resolution (No. 22) for the relief of Michael Pappenziz—to the Committee on Foreign Relations.

A bill (No. 541) for the relief of Jean Baptiste Devadrine—to the Committee on Private Land Claims.

A bill (No. 496) for the relief of the legal representatives of Henry King, deceased—to the Committee on Revolutionary Claims.

A bill (No. 575) for the relief of Robert A. Davidge—to the Committee on Claims.

LAND DISTRICT IN MICHIGAN.

Mr. STUART. I ask the unanimous consent of the Senate to introduce a joint resolution, of which I have not given previous notice, for the purpose of correcting an error in a bill that passed a few days ago.

There being no objection, leave was granted to introduce a joint resolution (S. No. 47) to correct an error in a certain act approved May 11, 1853; which was read a first time, and passed to a second reading.

Mr. STUART. I have a letter which states the error to have been committed in drawing the bill, in the Land Office. I ask for its passage now.

There being no objection, the joint resolution was read a second time, and considered as in Committee of the Whole.

It authorizes the Secretary of the Interior to correct an error in the act approved May 11, 1853, entitled "An act to enlarge the Detroit and Saginaw land district, in the State of Michigan," by extending the limits of that portion of the Cheboygan district which has been attached to the Detroit district, to the lines dividing ranges two and three west, instead of one and two west, the former being the line intended by the Department as the western boundary of the addition to the Detroit district.

Mr. BIGLER. I would suggest to the Senator from Michigan that the resolution, it seems to me, is very peculiar in its terms. Why authorize the Secretary of the Interior to correct the law? Why not make the resolution the law?

Mr. STUART. I noticed that myself; but the proper construction is that it enables him to divide the districts as he wishes.

Mr. BIGLER. Then authorize him to construe the law in that way.

Mr. STUART. Let it be amended so as to say that "the law shall be amended so as to read." I took this language because it was their own.

The Secretary read the resolution as proposed to be amended, as follows:

That an error in an act approved May 11, 1853, entitled "An act to enlarge the Detroit and Saginaw land districts, in the State of Michigan," be corrected, by extending the limits of that portion of the Cheboygan district, &c.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

BRITISH AGGRESSIONS.

On motion of Mr. MASON, the Senate proceeded to consider the following resolutions, reported by him yesterday, from the Committee on Foreign Relations:

Resolved, (as the judgment of the Senate,) That American vessels on the high seas, in time of peace, bearing the American flag, remain under the jurisdiction of the country to which they belong, and, therefore, any visitation, molestation, or detention of such vessels by force, or by the exhibition of force, on the part of a foreign Power, is in derogation of the sovereignty of the United States.

Resolved, That the recent and repeated violations of this immunity, committed by vessels of war belonging to the navy of Great Britain, in the Gulf of Mexico, and the adjacent seas, by firing into, interrupting, and otherwise forcibly detaining them on their voyage, requires, in the judgment of the Senate, such unequivocal and final disposition of the subject, by the Governments of Great Britain and the United States, touching the rights involved, as shall preclude, hereafter, the occurrence of like aggressions.

Resolved, That the Senate fully approves the action of the Executive in sending a naval force into the infested seas with orders "to protect all vessels of the United States on the high seas, from search or detention, by the vessels of war of any other nation." And it is the opinion of the Senate, that, if it becomes necessary, such additional legislation should be supplied in aid of the executive power as will make such protection effectual.

Mr. MASON. It is not my purpose to make a speech on these resolutions. The report accompanying them sets forth the reasons that actuated the Committee on Foreign Relations, and the authorities for the conclusions at which they have arrived. I ask the Senate to consider them immediately, so that by taking the sense of the Senate on the resolutions, whatever aid they may carry may be supplied to the Executive, before whom the question now properly remains in adjustment between the two Governments. The first resolution enunciates, I think very clearly, what the committee understand to be unquestionably the international law between the two Governments, and denies absolutely, for any purpose whatever, the right of visitation, whether accompanied by search or otherwise, by any armed ships, upon merchant vessels under the flag of another nation. The second resolution, after a brief summary of the facts, presents the true issue between the two Governments, as that of the right of visitation. The third resolution states its present posture before the Executive, and the sense of the committee, that, unless when we receive a communication from him hereafter, as to the results of the present correspondence, the national Legislature shall be satisfied that there is no danger of the future recurrence of these aggressions, legislation should be supplied by Congress to enable the public force of the United States to make good our claims.

There can be no question, I think I may confidently say, but that the international law denies absolutely any right of visitation upon the high seas in time of peace. It is a right that has been frequently claimed by foreign nations. I will not say that it has never been disclaimed by Great Britain, with whom we are now brought into apparent collision, but if it has been I am not aware that England has ever disclaimed the right; but she has certainly exercised it in more instances than one on our commerce, as well as that of other nations. The publicists all agree, so far as I have had access to them, that there is no right of visitation on the high seas in time of peace. There is a right which seems to be conceded to a belligerent in a state of war; but that right is confined to the single object of ascertaining whether the vessel visited has on board contraband subjects. Great Britain has extended it, it is true, in her wars, unjustly and against the remonstrance of other Powers, to a right when on board to search for enemies' property; but that has always been denied by other nations. We were led into the war of 1812 by another extension of this claim on the part of Great Britain; which was, that she had a right to go on board, and look for contra-

band; and being thus rightfully on board, she could look to see if any of her subjects were there, and impress them as seamen.

The report distinctly asserts that there is no right of visitation in peace for any purpose or under any pretext; and that, I believe, the spirit of this nation will make good for the protection of our commerce and for the honor of our flag—should the occasion for it ever unfortunately arise. I do not know that we can look, to satisfy the public mind, to better sources of information upon what is admitted as the law of nations, than into the decisions, upon such questions, properly presented, by the most eminent jurists of this country and of England. I will read, very briefly, from the opinion of the Supreme Court upon this question, in a case directly before it, and decided in 1826. The opinion was delivered by the late Judge Story. It is the case of the *Marianna Flora*, reported in 11th Wheaton. He says:

"In considering these points, it is necessary to ascertain what are the rights and duties of armed and other ships, navigating the ocean in time of peace."

This was the case of the capture of an armed ship belonging to the Portuguese, by an armed ship of the United States, under circumstances which will be stated:

"It is admitted that the right of visitation and search does not, under such circumstances, belong to the public ships of any nation. This right is strictly a belligerent right, allowed by the general consent of nations in time of war, and limited to those occasions. It is true that it has been held in the courts of this country that American ships, offending against our laws, and foreign ships, in like manner offending within our jurisdiction, may, afterwards, be pursued and seized on the ocean, and rightfully brought into our ports for adjudication. This, however, has never been supposed to draw after it any right of visitation or search. The party, in such case, seizes at his peril. If he establishes the forfeiture, he is justified; if he fails, he must make full compensation in damages."

That is where an armed ship, under authority of law, pursues a vessel of our own country for breach of the laws of the country, or pursues a foreign ship leaving our ports which has committed a like breach:

"Upon the ocean, then, in time of peace, all possess an entire equality. It is the common highway of all, appropriated to the use of all; and no one can vindicate to himself a superior or exclusive prerogative there. Every ship sails there with the unquestionable right of pursuing her own lawful business without interruption; but whatever may be that business, she is bound to pursue it in such a manner as not to violate the rights of others. The general maxim in such cases is, *sic utere tuo, ut non alienum laedas*."

Again:

"Every vessel undoubtedly has a right to the use of so much of the ocean as she occupies, and as is essential to her own movements. Beyond this, no exclusive right has ever yet been recognized, and we see no reason for admitting its existence. Merchant ships are in the constant habit of approaching each other on the ocean, either to relieve their own distress, to procure information, or to ascertain the character of strangers; and, hitherto, there has never been supposed in such conduct any breach of the customary observances, or of the strictest principles of the law of nations. In respect to ships of war sailing, as in the present case, under the authority of their Governments, to arrest pirates and other public offenders, there is no reason why they may not approach any vessels despatched at sea, for the purpose of ascertaining their real characters. Such a right seems indispensable for the fair and discreet exercise of their authority; and the use of it cannot be justly deemed indicative of any design to insult or injure those they approach, or to impede them in their lawful commerce. On the other hand, it is as clear that no ship is, under such circumstances, bound to lie by, or wait the approach of any other ship. She is at full liberty to pursue her voyage in her own way, and to use all necessary precaution to avoid any suspected sinister enterprise or hostile attack. She has a right to consult her own safety; but, at the same time, she must take care not to violate the rights of others. She may use any precautions dictated by the prudence or fears of her officers; either as to delay, or the progress or course of her voyage; but she is not at liberty to inflict injuries upon other innocent parties, simply because of conjectural dangers. These principles seem to us the natural result of the common duties and rights of nations navigating the ocean in time of peace."

There is a distinct disclaimer on the part of any public ship, in time of peace, to do more than approach and reconnoiter. There is a distinct denial of the right of an armed ship of any nation to interrupt, far less to board or to visit for any purpose, a ship of another nation under its flag on the high seas, in time of peace, and with the distinct declaration that the ship pursued or intended to be visited is not bound to lie by or to wait, which, I suppose, would exclude any idea of the right of visitation.

I will read a few extracts more from the decision of a very eminent English admiralty jurist, Sir

William Scott, (Lord Stowell,) in the case of the *Le Louis*, which I have also referred to in the report. This was a case of the visitation and search of a French ship, supposed to be engaged in the slave trade, in 1817, by a British armed vessel, sought to be justified under an act of the British Parliament, passed in the reign of George III.; and the judge, in speaking of the authority, declared, in terms which distinguished the legal and discriminating mind of that great jurist, that no British statute, intended to affect the rights of other nations, or the citizens or subjects of other nations, had any validity on the high seas, if it was in contravention of the public law; and upon this question of visitation he says:

"Upon the first question, whether the right of search exists in time of peace, I have to observe that two principles of public law are generally recognized as fundamental. One is the perfect equality and entire independence of all distinct States. Relative magnitude creates no distinction of right; relative imbecility, whether permanent or casual, gives no additional right to the more powerful neighbor; and any advantage seized upon that ground is mere usurpation. This is the great foundation of public law, which it mainly concerns the peace of mankind, both in their politic and private capacities, to preserve inviolate. The second is, that all nations being equal, all have an equal right to the uninterrupted use of the unappropriated parts of the ocean for their navigation. In places where no local authority exists, where the subjects of all States meet upon a footing of entire equality and independence, no one State, or any of its subjects, has a right to assume or exercise authority over the subjects of another. I can find no authority that gives the right of interruption to the navigation of States in amity upon the high seas, excepting that which the rights of war give to both belligerents against neutrals."

Again:

"But at present, under the law, as now generally understood and practiced, no nation can exercise a right of visitation and search upon the common and unappropriated parts of the sea, save only on the belligerent claim. If it be asked why the right of search does not exist in time of peace as well as in war, the answer is prompt: that it has not the same foundation on which alone it is tolerated in war—the necessities of self-defense. They introduced it in war, and practice has established it. No such necessities have introduced it in time of peace, and no such practice has established it."

I will say nothing more on the question of law. The public mind of the country, and, I doubt not, the mind of both Houses of Congress, is satisfied on that. Then as to the policy of the resolutions, they indicate nothing more than that the time has arrived, most unfortunately impressed on us by the late occurrences in the Gulf of Mexico, of a very peculiar and remarkable character. I say it is most impressively fixed on our mind that the time has arrived when this question must be settled, and settled forever. I trust it may be done through the intervention of the executive power, in the correspondence which is pending between the two countries. There is every reason why it should be, and none why it should not be. But even if it did not lead to war, the constant state of irritation, angry feeling, and disposition to re-criminate or make reprisals, would necessarily bring the two countries into collision in some way. Whether that occurred or not, I say again, the character of the offenses that have been committed are such as would so effectually arouse the most indignant feeling of the American people, that with every restraining power that Congress might exercise, it would be impossible to keep the two countries from getting into a collision on the sea on account of these acts.

At the time the report was made, the number of cases that had occurred were comparatively few. Every arrival from those seas brings to us instances of new aggressions, and some of them committed—and they are alluded to in the report, as is there stated—almost, if not actually in sight of the American coast. One was the case of a coasting vessel, owned, I think, in New York, a regular trader, bound on a domestic voyage from Mobile to New York, with a cargo of cotton, and she was fired into and actually struck, until she lay to and enabled the visiting officer to come on board. Another, equally strong, was the case of an American vessel returning home from a distant voyage to some port in Europe, which, between the Florida capes and the Island of Cuba, was in like manner fired into and arrested upon her homeward voyage, almost in sight of land. I know it will be impossible to avoid a collision, and a collision that must result in the abandonment of this right on the part of the American people, or in making it good, unless the question be now settled, and definitively settled, between the two countries.

Mr. MALLORY. I send an amendment to the Chair, which I ask to be read, as a substitute for the second resolution.

The Secretary read the amendment, which is to strike out all after the word "resolved," in the second resolution, and insert:

That the recent proceedings of British naval officers in the Gulf of Mexico, upon the high seas, in forcibly arresting and examining vessels of the United States, owned and navigated by American citizens, engaged in lawful trade, are without justification or palliation, in derogation of the cherished rights of the American people, which they can neither surrender nor suffer to be infringed with honor; and that the President of the United States be authorized to adopt immediate measures to arrest at once a continuance of such indignities.

Mr. MALLORY. I am rejoiced to see the report of the Committee on Foreign Relations, but, with due respect to the committee, I should like to see the resolutions amended somewhat in this way: so as to be a little more vigorous in their character. The time has arrived, in my judgment, for some action. If we have correct accounts, already twenty-seven of our vessels, owned and navigated by American citizens, engaged in lawful trade, have been fired upon, forcibly arrested, illegally detained, and searched by British cruisers, by naval officers, performing the duty of special constables upon the deep; and if we are to believe the accounts we receive from some of those whose vessels have thus been taken from their custody, and, for a time at least, held under British power, they have inflicted this national outrage, which is destitute of justification or palliation, with less personal civility than has distinguished many of Britain's fabled highway robbers or roadside thieves.

I say, sir, these proceedings are without justification or palliation, and I hope the Senate will so declare, for I know that there can be no man in this high forum who will not at once plant his heel upon the paltry pretext that they are the appropriate means of verifying our flag.

If this authority over our flag upon the sea, were sought to be enforced now for the first time, it could not fail to arouse our indignant resistance; but enforced as it is against the common sentiment of civilized States, against the stern remonstrances and known convictions and policy of this country, and enforced, too, near our own shore within a sea peculiarly American, in which our commerce exceeds that of the united world, it does seem to me, sir, that we should meet and crush it with something more potent than a diplomatic expression of the earnest desire of the Executive.

Sir, if the onward march of this great Republic is to be stayed to find arguments to meet this insolent aggression, we can find none more just or potent than those furnished by the judicial tribunals of the aggressor herself. The language of Lord Stowell, as bright a luminary of civil jurisprudence as England ever had, may as appropriately be addressed to the British Ministry to-day, with reference to these searches, as it was to the British captors of the French ship *Le Louis*, to which the report before us refers. But the strongest points in the case of the *Le Louis*, decided by Lord Stowell, (previously Sir William Scott,) have not been read by the chairman of the Committee on Foreign Relations. He laid down, in 1817, unequivocally—and the British courts were slow in coming to this conclusion—that this pretended right of visitation, which is nothing more than the right of search in its broadest sense, cannot be exercised in time of peace; that it is a belligerent right alone, incompatible with peaceful measures.

Let me read his very words:

"Upon the first question, whether the right of search exists in time of peace, I have to observe, that two principles of public law are generally recognized as fundamental. One is the perfect equality and entire independence of all distinct States. Relative magnitude creates no distinction of right; relative imbecility, whether permanent or casual, gives no additional right to the more powerful neighbor; and any advantage seized upon that ground is mere usurpation. This is the great foundation of public law, which it mainly concerns the peace of mankind, both in their politic and private capacities, to preserve inviolate. The second is, that all nations being equal, all have an equal right to the uninterrupted use of the unappropriated parts of the ocean for their navigation. In places where no local authority exists, where the subjects of all States meet upon a footing of entire equality and independence, no one State, or any of its subjects, has a right to assume, or exercise authority over the subjects of another. I can find no authority that gives the right of interruption to the navigation of States in amity upon the high seas, excepting that which the rights of war give to both belligerents against neutrals."—*The Le Louis*, 2 *Dodson's Admiralty Reports*, page 243.

Again:

"But at present, under the law, as now generally understood and practiced, no nation can exercise a right of visitation and search upon the common and unappropriated parts of the sea, save only on the belligerent claim. If it be asked why the right of search does not exist in time of peace as well as in war, the answer is prompt: that it has not the same foundation on which alone it is tolerated in war—the necessities of self-defense. They introduced it in war, and practice has established it."

He gives an instance where Britain herself resisted such a claim:

"A recent Swedish claim of examination on the high seas, though confined to foreign ships bound to Swedish ports, and accompanied in a manner not very consistent or intelligible, with a disclaimer of all right of visitation, was resisted by our Government as unlawful, and was finally withdrawn."

He disposes of some of the grounds on which the claim was rested:

"It is next said that every country has a right to enforce its own navigation laws; and so it certainly has, so far as it does not interfere with the rights of others. It has a right to see that its own vessels are duly navigated, but it has no right in consequence to visit and search all the apparent vessels of other countries on the high seas, in order to institute an inquiry whether they are not in truth British vessels violating British laws. No such right has ever been claimed, nor can it be exercised, without the oppression of interrupting and harassing the real and lawful navigation of other countries; for the right of search when it exists at all, is universal, and will extend to vessels of all countries."

"It is no objection to say that British ships may thus, by disguise, elude the obligations of British law. The answer of the foreigner is ready, that you have no right to provide against the inconvenience, by imposing a burden upon his navigation. If the question were even reduced to this, that either all British ships might fraudulently escape, or all foreign ships be injuriously harassed, Great Britain could not claim the option to embrace the latter branch of the alternative. When you complain that the regulation cannot be enforced without the exercise of such a right, the answer again is, that you ought not to make regulations which you cannot enforce without trespassing on the rights of others. If it were a matter by which your own safety was affected, the necessities of self-defense would fully justify; but in a matter in which your own safety is in no degree concerned, you have no right to prevent a suspected injustice towards another, by committing an actual injustice of your own."

In reference to the alleged object—the suppression of the slave trade—he declares:

"To every man it must have been evident that, without a general and sincere concurrence of all the maritime States the principle and in the proper modes of pursuing it, comparatively but little of positive good could be acquired; so far, at least, as the interests of the victims of this commerce were concerned in it; and to every man who looks to the rival claims of these States, to the established habits of trade, to their real or pretended wants, to their different modes of thinking, and to their real mode of acting upon this particular subject, it must be equally evident that such a concurrence was matter of very difficult attainment. But the difficulty of the attainment will not legalize measures that are otherwise illegal. To press forward to a great principle by breaking through every other great principle that stands in the way of its establishment; to force the way to the liberation of Africa by trampling on the independence of other States in Europe; in short, to procure an eminent good by means that are unlawful, is as little consonant to private morality as to public justice."

"If I felt it necessary to press the consideration further, it would be by stating the gigantic mischiefs which such a claim is likely to produce. It is no secret, particularly in this place, that the right of search in time of war, though unquestionable, is not submitted to without complaints loud and bitter, in spite of all the modifications that can be applied to it."

"But to establish the consequence required, it is first necessary to establish the right to interpose by force to prevent the commission of crime, commences, not upon the commencement of the overt act, nor upon the evident approach towards it; but on the bare surmise grounded on the mere possibility; for unless it goes that length it will not support the right of forcible inquiry and search. What are the proximate circumstances which confer on you the right of intruding yourself into a foreign ship, over which you have no authority whatever, or of demanding the submission of its crew to your inquiry whether they mean to deal in the traffic of slaves, not in our country, but in one in which you have no connection?"

Mr. Webster in his celebrated discussion on this point, soon after the negotiation of the Ashburton treaty, takes the same ground, and he unequivocally establishes, in my judgment, the fact that all the publicists who had written on the subject used, the words visit and visitation, where they are used, so as to imply the broadest and most unlimited right of search. Mr. Webster, too, in writing to General Cass, who put forth a document in 1841, on this very subject, in Paris, approves it entirely, and instructs him that the Executive approved everything he said in that pamphlet. It will be recollected that Great Britain did not pretend to exercise this alleged right in time of peace, and she sought privilege from the Powers of Europe to exercise it over their vessels. Hence, in 1833, she negotiated a treaty with France to permit her to examine French

vessels in order that they might guard against the slave trade. France has always been jealous of Britain's power on the deep, and she refused to concede it except in certain specified latitudes. In 1841, Great Britain sought to enlarge these latitudes, that she might have an unlimited right of search; she sought to include in that right other Powers, and the quintuple treaty was negotiated. It was then that General Cass stepped forward, and by unanswerable argument showed the French people what the right of search was, and by his interposition the French Minister, Guizot, and Louis Philippe, who had negotiated this treaty, refused to ratify it, and it was not ratified, and they have no right this day to search the French vessels on the deep.

It is very remarkable, sir, too, that the exercise of this right, for the first time since the last war, on a general scale, except in occasional and isolated instances, should have immediately followed the refusal of this Government to entertain certain propositions on the slave question. We cannot solace ourselves with the reflection that this right is being exercised by indiscreet naval officers, that they are pushing their rights to an extreme. It is not thus that Britain's naval officers ever perform their duty. They have their instructions from the admiral at Jamaica, and he has his instructions from the home Government, and under those instructions they are acting now.

It is to meet it here, that I am disposed to use a little more vigor. I am fully aware of the responsibility of taking any active measures to redress it. The true interests of our country, and of our race, equally point to ours as a mission of peace on earth. They equally declare to the Governments of the world—and we have so declared our policy—that war with us is an ultimatum, and that war should be the last resort for injured wrongs. Calamitous at all times as war is, a contest between Great Britain and our country, freighted as they are with the liberties and hopes of mankind; united by ties more precious than those which connect any two nations of the earth; equally cherishing the language of Shakespeare, the liberties of *Magna Charta*, and the religion of Christ, would present a struggle whose consequences could neither be foreshadowed nor estimated. And yet, sir, I would brave all the known, all the imaginary evils of such a contest, and make every sacrifice consistent with honor to maintain it, rather than see my country tamely submit to this insolent outrage upon her national honor. I would brave them all, sir, because a tame submission to such humiliation would be more perilous to our future than would the issue of a hundred battles. I feel it, and for that reason I am desirous to see more vigorous councils.

Mr. Webster, discussing the question of this pretended right to verify our flag, set up by Great Britain, asks:

"But if the vessel thus approached attempts to avoid the vessel approaching, or does not comply with her commander's order to send him her papers for inspection, nor consent to be visited or detained, what is next to be done? Is force to be used? And if force be used, may that force be lawfully repelled? These questions lead at once to the elementary principle, the essence of the British claim. Suppose the merchant vessel be in truth an American vessel engaged in lawful commerce, and that she does not choose to be detained—suppose she resists the visit: what is the consequence? In all cases in which the belligerent right of visit exists, resistance to the exercise of that right is regarded as just cause of condemnation, both of vessel and cargo. Is that penalty, or what other penalty, to be incurred by resistance to visit in time of peace? Or suppose that force be met by force, gun returned for gun, and the commander of the cruiser, or some of his seamen, be killed: what description of offense will have been committed?"

In the letter to General Cass to which I have alluded, in discussing the general question, Mr. Webster says:

"The Government of the United States, on the other hand, maintains that there is no such well-known and acknowledged, nor, indeed, any broad and generic difference between what has been usually called 'visit,' and what has been usually called 'search'; that the right of visit, to be effectual, must come, in the end, to include search; and thus to exercise in peace, an authority which the law of nations only allows in times of war. If such well-known distinction exists, where are the proofs of it? What writers of authority on public law, what adjudication in courts of admiralty, what public treaties, recognize it? No such recognition has presented itself to the Government of the United States; but, on the contrary, it understands that public writers, courts of law, and solemn treaties have, for two centuries, used the words 'visit' and 'search' in the same sense. What Great Britain and the United States mean by the 'right of search,' in its broadest sense, is called by continental writers and jurists by no other name than the 'right of visit.' Visit, therefore, as it has been understood, implies

not only a right to inquire into the national character, but to detain the vessel, to stop the progress of the voyage, to examine papers, to decide on their regularity and authenticity, and to make inquiry on board for enemies' property, and into the business in which the vessel is engaged. In other words, it prescribes the entire right of belligerent visitation and search."

"On the whole, the Government of the United States, while it has not conceded a mutual right of visit or search, as has been done by the parties to the quintuple treaty of December, 1841, does not admit that, by the law and practice of nations, there is any such thing as a right of visit, distinguished by well-known rules and definitions from the right of search."

"The President directs me to say that he approves your letter, and warmly commends the motives which animated you in presenting it. The whole subject is now before us here, or will be shortly, as Lord Ashburton arrived last evening; and without intending to intimate at present what mode of settling this point of difference with England will be proposed, you may receive two propositions as certain:

1st. That, in the absence of treaty stipulations, the United States will maintain the immunity of merchant vessels on the seas to the fullest extent which the law of nations authorizes."

Without detaining the Senate further on the argument of Mr. Webster and the argument of Lord Stowell, on the subject of difference between the right of search and the right of visit, I will simply say that Lord Stowell was brought to his conclusion from a regular gradation of decisions. In 1807, Sir William Grant decided the case of the *Amitie*, which was a Portuguese vessel, if I remember rightly, and justified the right of search, the slave trade being contrary to the laws of Great Britain. That was followed by the *Diana* and by the *Fortuna*, and in the first case Lord Stowell conceded the right, and felt himself bound by the higher court and the decision of the *Amitie*; but in 1817, no longer able to maintain his position against the voice of civilized States, he totally disregarded that, and expressly says in this very decision (omitted by the Committee on Foreign Relations) that the right of visit is a belligerent right; and the language which he addressed to the British captors of the *Le Louis*, might very well to-day be addressed to the Ministers of Great Britain. He asked them to put their finger on the law which authorized them to step on board a foreign vessel. He informed them that France has her rights, and if her laws have been invaded it is for her to right herself, and that she has delegated no such power to England.

I rejoice, sir, that the Secretary of the Navy has so promptly responded to the general sentiment of the country, in sending all the disposable force at his command to the Gulf of Mexico. The order was simply to protect American vessels. No British cruiser would, in the presence of an American man-of-war, attempt to pursue this right of search. They could very easily avoid it without surrendering that principle. They would say at once, "the fact that you are here in the presence of your merchant vessel, is guarantee that she *prima facie* is an American vessel, and our vocation will not be pursued." That will be the policy. They will search none while we have a fleet there. But, if our Government had given orders to one of our ships to ascertain who had fired into the American vessel, and bring the offending ship into port, we should have got something like a tangible position on this question.

I rejoice, too, that we have found no want of alacrity in our Navy. Nearly every man in it—and I believe every man—has volunteered for the service; and the only regret is, that we have found ourselves, in our home ports—from the failure of Congress to provide a Navy—without such ships as the public weal demands on this occasion, and that we have had to fit out very inferior vessels; indeed, almost ridiculous in their force to go to right a wrong of this character.

Mr. HALE. Mr. President, I have read this report with some care. Since it was made, I have examined the authorities to which it refers; and, before the question is put on the amendment of the honorable Senator from Florida, I propose to amend the resolution which he moves to strike out. I will read it as I propose to amend it:

Resolved, That the recent and repeated violations of this immunity committed by vessels of war belonging to the Navy of Great Britain, in the Gulf of Mexico and the adjacent seas, by firing into, interrupting, and otherwise forcibly detaining them on their voyage, are belligerent in their character, and should be resisted at all hazards by all the power of the country.

Nineteen years ago, sir, about this time, a citizen of Maine, sent by the authorities of Maine to a territory which was in dispute between this country and Great Britain, was made a prisoner.

He was not used very severely. I believe he was carried down to one of the British towns and made the guest of the Governor, and let go on his parole. But when that fact was known to Congress, (and I believe Congress was on the eve of adjournment,) they immediately passed an act placing the whole naval and military power of the Union at the command of the President; gave him authority to finish all the national ships that were in construction, and build other ships and other steamboats; to call forth all the militia of the country, and to accept the services of fifty thousand volunteers, in addition to \$10,000,000 of money put at his disposal. That was the response which Congress gave nineteen years ago, when a single man was formally arrested on the disputed territory between this country and Great Britain.

Now, sir, if the report of the committee is to be relied upon—and I have not the slightest question that it is—that, in connection with subsequent facts, shows that here is not a single but a continuous series of repeated aggressions upon our commerce in derogation of the public law, as decided by the highest judicial tribunals of this country and of Great Britain. What does such a case as that ask—argument? Does it want any action on the part of the Government of Great Britain? They have had their action; and the chairman of the Committee on Naval Affairs tells us—no doubt correctly—that these acts are committed by order of the admiral and commander of the fleet, and that he is acting by order of the home Government. If that is so, there is but one course for us to take. The time for argument has gone by. I never thought much of that man's courage who, when his hat was knocked off, asked the man that did it if he meant to insult him, or threatened if he did it the second or third time he would resist it. No, sir; I think this matter has been discussed long enough; and, if the facts of the committee be correct, and the reasoning sound, as I believe they are, this Government ought to take a decided position, and they ought to call these acts what they are. The resolution says that these acts—

“Require, in the judgment of the Senate, such unequivocal and final disposition of the subject by the Governments of Great Britain and the United States.”

No, sir; it is not a case for the action of the Government of Great Britain. It is a case for the action of this Government. Our commerce has been invaded over and over again; the act is persisted in, and is done by authority of the British Government. I do not think we had better ask them whether they are ready to apologize, but we had better put ourselves in a position for them to ask us to apologize. They have commenced acts of war upon the commerce of this country, and they have repeated them and continued them. Our judicial tribunals say such an act is war; the judicial tribunals of England say it is war. They understand it, and we understand it; and I say the only position this country can take with dignity or with honor, is to treat it as an act of war, and to meet it as such, force with force. That will bring it to an issue. Then there will be a settlement; then there will be a negotiation; and then we shall know, for all coming time, whether this right of search is ever to be insisted upon again by the Government of Great Britain.

I am a man of peace; and I should look upon a war between this country and Great Britain as one of the greatest calamities that could befall the civilized world; but, sir, I should look on the lowering of our national dignity, and our submitting to such an assumption as this on the seas by Great Britain, as a greater calamity than war itself; because it would be a tame surrender of the rights that were bought by blood, and have come to us by inheritance. I think the way to maintain peace, and to maintain our rights inviolate, is to let Great Britain know that upon this subject we have no argument to make; we have no remonstrances to utter: “Your officials have committed acts of war upon our commerce, and as such we meet them.” Then if they disavow them, very well; but if they avow them, and they are the acts of the Government, as no doubt is the case, they should be met by action of this Government, and not by remonstrance. For that reason, and for the purpose of testing the sense of the Senate, I simply ask the Senate to declare what every man knows to be true, that these acts are belligerent in their character. If they are belligerent in their

character, I think the latter part of the proposition follows as a corollary that belligerent acts should be resisted by the power, and not refuted by the logic of the country. I ask for the yeas and nays on the amendment.

THE VICE PRESIDENT. The Chair would inquire of the Senator from Florida if his amendment was intended in lieu of the second resolution?

MR. MALLORY. Yes, sir.

THE VICE PRESIDENT. The Senator from New Hampshire proposes first to amend the second resolution, after the word “voyage,” by striking out:

“Requires, in the judgment of the Senate, such unequivocal and final disposition of the subject by the Governments of Great Britain and the United States, touching the rights involved, as shall preclude hereafter the occurrence of like aggressions;”

and inserting in lieu thereof:

Are belligerent in their character, and should be resisted at all hazards and by all the power of the country.

MR. MALLORY. I withdraw the amendment I offered, with the permission of the Senate, and prefer the one the Senator from New Hampshire has offered. I supposed the resolution was a joint one; I see it is not. It amounts to nothing but an expression of opinion.

THE VICE PRESIDENT. The Senator has a right to withdraw his amendment, no action having been taken. The question is on the amendment of the Senator from New Hampshire.

MR. TOOMBS. It is not my purpose to argue the right of any nation to visit or to search American ships in time of peace. I consider that argument to have been exhausted; that question to have been settled for the last forty years by the American people. It was one of the causes of the last war with England. It was not settled at the treaty of Ghent; but it was there given to be distinctly understood by the American negotiators, and it has been uniformly affirmed by this Government, that whenever exercised, we should consider it a belligerent act. Therefore, there is but one point in this case: if these belligerent acts of search have been done by the authority of the British Government, they are acts of war that ought to be resisted by force; and we want no measures of prevention in the future, but redress for the insult in the past. We want something more than the resolutions of the committee offer to give us here. We want something more than pledges or securities that belligerent acts will not be committed against us in the future. We want satisfaction for the committal of these acts, if they have been done by the authority of the British Government, and that is the only question I wish to know. If they have been done by authority of the British Government, they are acts of war that we ought to resist by force, and resist now. If they have been done without their authority, we ought to seize these vessels, to prevent the performance of those acts, not only against the laws of nations, but against our rights, and against the authority of their own Government.

Therefore, I shall vote for a resolution that will not only send our Navy there to prevent the continuance of this war upon our commerce, but will seize the vessels which have committed these hostilities, with or without the authority of the British Government. That Government is too far off. We cannot afford to have our houses searched while waiting to hear what they say. It is not allowable, I believe, for the humblest man in Great Britain or in this country, to have his house searched, even with a general warrant. The British resisted that a hundred years ago. Our Constitution protects us against it. We are free from it by our own Constitution except under the most stringent circumstances; but Great Britain, a foreign Government, without any pretense, without any forms of law, claims the right of disgracing our flag, and searching our vessels in the Gulf of Mexico at our own doors. Will you send across the water, and have negotiation while these things are going on? Every gale that wafts a sail from the Gulf of Mexico, brings here accounts of new wrongs and new outrages; and I suppose we must send to England to know if she warrants the acts of this fleet who are roving over the seas, free rovers, violating our declared rights that we have stood by for forty years, to know whether it is by the authority of their masters! The military force of the country should be sent to the Gulf,

and it should seize or sink the aggressors, and get an explanation afterwards. If it is against their orders, we have treated them right; if it is not against their orders, we have treated England right; so that, in any event, I shall vote for that measure which will seize the British aggressors on our rights and bring them to our ports for condign punishment, and I shall be satisfied with nothing short of it.

MR. SEWARD. Mr. President, it is not my purpose to go into this debate further than to express with distinctness my entire concurrence in the general tone and sentiment which is pervading the Senate and the Congress and the country, in regard to these outrages upon our commerce in the Gulf of Mexico. I believe the chairman of the Committee on Foreign Relations has already stated that, in regard to this transaction, the Committee on Foreign Relations are unanimous. I wish, on behalf of the minority of the committee, to make a direct announcement of the concurrence of the minority with the majority in the resolutions which were adopted, and in the spirit which dictated them. It is a labor of criticism altogether, as it seems to me, to debate, at this time, the supposed difference between a right of naval visitation or naval search. I need no laws, I need no judicial decisions to instruct my mind upon the rights of nations on the great highway of nations. According to the theory which I have adopted, a nation is a moral person, an individual, and all nations are equal moral persons or individuals, and entitled to the same political rights. The ocean is the highway of nations. If it be right because there are thieves and robbers occasionally in the streets of Washington, that I should be arrested, stopped, and detained by any passer-by who may choose to suspect me of being a culprit, and that I am obliged to stop on my way and to give explanations and submit to be searched at the pleasure of every person who may choose to exercise this right of police over me, then it is true that one nation has the right to constitute itself a police upon the seas for the purpose of ascertaining the honesty and integrity and good conduct of another nation upon the seas. There is, sir, no such authority anywhere, either in domestic law, or in public or national law. I believe that this is a pretension which is set up by the British Government alone; and no other nation ever set it up unless it was some nation that, like Great Britain, aimed openly to exercise a mastery over the seas; and that it is a claim founded in force or in power, and not at all in right. If Great Britain has chosen heretofore to assert this right against us and other States, it was because she thought she had power to enforce it, and because she expected to derive great and exclusive advantages from it. She has, indeed, exercised it over other Powers. She has attempted to exercise it against the United States. But the United States set out with the determination to be an equal on the seas, as well as on land, with every other nation; and we have never recognized this pretension of Great Britain, and never will; and my judgment is that it has been practically abandoned by the British Government for the last forty years, or ever since the close of the war in which the right was asserted by Great Britain. It cannot be maintained.

Nor can it be maintained even in the modified form in which it is now asserted on the part of the British Government by some of their authors, and by some of their diplomatists. As I understand that matter, the same pretense or claim which in this country we call the right of search, in Europe is generally called the right of visitation, or right of visit; one nation calls it search, another calls it visit; but the terms are synonymous. In Europe, by the right of visit they mean the right to search; and in America, by denying the right of search we also deny the right of visitation, or of visit.

What is the true principle, probably, in the intercourse of nations, is this: that as there may be pirates upon the seas, as there may be culprits abroad in our avenues and streets, any person who, upon cause which he thinks sufficient, shall choose to challenge another as an unsafe and dangerous person, may seize, arrest, and detain him; but he does it at his peril. If the person arrested as a culprit proves to be such, he is abandoned to the justice against which he has offended. But if he turns out to be an innocent party, the person

who has arrested him is an aggressor, and must respond in damages to the satisfaction of the party aggrieved. This is no right at all. It is no law at all. It is the practical intercourse between nations, regulated by dictates of common prudence and common justice. This Government would never manifest any sensibility on account of a person, whether a citizen of this country or a foreigner, who should prostitute its flag to the purpose of piracy; but it must manifest its indignation, its determination to punish and to repress an aggression upon honest merchants, honest traders, honest citizens, who are molested under an injurious suspicion of being offenders upon the high seas. Therefore it is that, for twenty years past, I have never looked into a law book to ascertain the law in regard to this subject. It is enough that the claim debated cannot be permitted. It is enough that it would destroy the equality of nations. It is enough that it is a claim on the part of another Power to exercise vigilance and supervision over the conduct of this nation.

I have no particular concern whether the precise resolutions which have been reported by the chairman of the Committee on Foreign Relations shall be adopted, or some others which shall be equivalent. The committee consists of seven members; and upon a question of this kind there would naturally be some difference of opinion among the seven, and some difference of taste. What was arrived at was a result which was substantially satisfactory, I believe, to us all. Each of us, I believe, is prepared to adopt any other expression which shall be proposed to us which shall combine two qualities: the one which shall manifest greater decision and energy, and determination to accept of no compromise, to submit to no continuance of these outrages, and to repel and put down and extinguish forever the pretension out of which they have arisen; the other, that dignity and moderation which become a great nation in the expression of its opinions on a great question. It is entirely immaterial to me whether the resolutions which have been reported by the committee find favor with the Senate, or whether those which are supposed to be more energetic and vigorous, which are proposed by some gentlemen who have offered amendments, shall be preferred. It is seen that the case has already gone as far as, under the circumstances, it could be carried by any independent action which the Senate only could adopt.

In the first place, there has been no opportunity for us to learn how it happened that these transactions have occurred. All prudent and reasonable men, I believe, agree that it is absurd to suppose that the British Government itself has ordered and directed these proceedings in the Gulf of Mexico with a knowledge and intention of the extent to which they were to be carried, because it is an act of aggression and of war; and we have all good reason to believe that if Great Britain had any quarrel with the United States, and wanted to make war, she would not begin it with a gunboat in molesting our vessels in the Gulf of Mexico. We have no reason to believe that any such proceeding would have been adopted, unless there had been some previous complaint, or at least some hostile demonstration made. We suppose, therefore, that it is possible the officers who have committed these outrages may have transcended their orders, or that the orders may have originated in some blunder or error. However that may be, it was the purpose of the committee, and we agree with the Senators who have spoken, not to submit, and not to wait for explanations or apologies; not to intimate that any apology or explanation can be made which will be satisfactory to us for what has been done. We propose, that without waiting at all, the proceedings themselves shall be met with the force necessary to resist and suppress, and so shall compel a discontinuance of them. For that purpose the resolution which I offered some days ago was submitted to the Senate, which resolution directed the Committee on Foreign Relations to inquire whether any additional legislation was necessary. This report brings in the fact ascertained by the committee, in obedience to that resolution, that the President of the United States has already sent into the Gulf of Mexico all the available naval forces of the United States, enough to sink all the gun-boats and all the vessels the British Govern-

ment have there, and that they have instructions to execute the determination of this Government by suppressing this nuisance and terminating it at once. Whether more than that is necessary, is for the consideration of the Senate. The resolutions pledge the support of the Senate to the President in executing this purpose which he has already adopted, and also seeks to obtain a pledge of Congress that if it shall turn out that further legislation is necessary to provide means for war, it shall be promptly given.

Mr. DOUGLAS. Mr. President, I do not propose, at this time, to go into a discussion of this question. If we had before us a measure of practical legislation, proposing to confer power to carry out the opinions which we express here, I should feel disposed to make a brief speech on the subject. I hardly know what the Senator from New York means by saying that the minority of the committee concur with the majority in the report and resolutions which have been brought in. I do not know to whom that term applies. It may be a political designation; and, if so, he will find in the committee at least three divisions.

I concurred in the committee in the general tone of the report. I made but one reservation then, and I make but one now, in expressing that concurrence. My reservation is, that instead of contenting ourselves with the expression of opinions that these outrages must stop, we should bring forward practical legislation to authorize the President to put an end to them. I see no use in resolving on the subject. We resolved forty years ago that we would not submit to the right of search. England has been informed again and again, as firmly and as solemnly as it is in the power of any people to inform another, that this invasion of our rights must cease; and that, if it do not, we will repel it by force. I do not see the necessity of re-resolving that she must not do it over again. She has violated the sanctity of the American flag, according to the information we have, thirty-three times within four weeks; and we are to tell her that, if she continues to do it, we shall not like it. I suppose she knows now that we do not like it. We fought her upon it more than forty years ago. We have affirmed ever since that we would not submit to it. What good will it do now to resolve again that her course in this respect is a violation of our rights; that the American people look upon it as a belligerent act; that it is offensive to us; and that we will not submit to it? I think there is a more direct way of coming at the question. Clothe the President with power to put an end to this course of proceeding; and then, when our rights are again violated, let him instantly avenge the wrong on the spot.

It is said that the Executive has now exerted the whole power of the Government, by ordering all our disposable naval force into the infested seas, with instructions to protect the American flag and the property and citizens under it. I commend and admire the promptness with which the President has exercised this power, but is it sufficient to be effectual? It seems to be understood, although I am not prepared to concur in the opinion, that his power extends simply to the point of preventing a search while the act is being done. Have you force enough in the Gulf to do that? Can you have force enough there to prevent the act? You will be under the necessity of sending one war ship by the side of each merchantman, so that it may be constantly present in order to prevent it. Do you suppose that you are ever going to get an opportunity to prevent the act being done at the time? They will only make the search when the American war ship is not present. Suppose one of our ships of war should be along side the Styx when she was about to search an American vessel: undoubtedly the Englishman would say, "I am not going to search this merchantman; I will only do it in the absence of an American man-of-war; but you being here, you may search yourself to see whether she is a pirate or a slave." They will never do the act when there is an American ship present to resist it; and the moment the American ship is out of sight, they will make the search, fire a gun across the bow, a gun across the stern, then into the rigging, and then into the ship until they bring her to, and she submits to an inspection and such delay and search as the British officer may require. The Senator from New York [Mr. SEWARD] thinks we have naval force enough there to sink

all the gun-boats and ships of war the English have in the Gulf of Mexico and the West Indies. If he will compare the statistics, he will find that the British have there now three guns to our one, even after our whole disposable force shall have arrived there. You may make your calculation of every gun we have there, and every disposable gun we have under orders to go there, and when all are counted, the British have three to our one. It is idle to suppose, at least it is very brave to suppose, that our one ship is going to sink their three, and be present by the side of every merchant ship we have, for the purpose of repelling an assault. I think our force there is utterly inadequate if it is to be used only in repelling assault, pending the perpetration of the act.

It strikes me that there is another mode of proceeding, and that is to allow a ship of war to get on to the track of the Styx, or the Buzzard, or the Forward, or any English vessel that has been committing these outrages; follow and capture her, and bring her into an American port, and that will be a good time to negotiate. I think it is time to look to the offending ship for redress, instead of remonstrating with the British Government. We have protested, we have remonstrated long enough. If these outrages be continued, follow the ship and capture her and the officers, and make all persons on board prisoners, and bring them into port to answer for the offenses they have committed. When you have them here, if the British Government avows the act, then it becomes an international question between us and Great Britain. If she disavows the act, then it is for us to say what punishment we shall inflict upon the lawless persons who are thus abandoned by their Government as pirates.

I think our remedy is to take possession of the offenders and then let Great Britain either avow or disavow their conduct, and when she does, it becomes an international question between us and Great Britain; or a simple question as to what we shall do with the lawless persons who have perpetrated these outrages. It is said that our Government has not the power, under the Constitution and laws as they now stand, to capture the vessel after the act; that the extent of the executive authority is to resist the act when being done; that if our Wabash should go up to the British steamer Styx one hour after the outrage had been perpetrated, we could not take possession of the British steamer; we must follow her until she perpetrated another outrage; we must catch her in the act. You might follow her until doomsday, and she would not perpetrate another act of outrage while our ship of war was in sight of her, but would do it the moment she was out of sight. You must have an American war ship for every merchantman if you are going to protect our vessels in that way.

If the President has not the power to go any further than he has gone, I think the power should be conferred at once. I am aware that it is said if you clothe the President with the power of making the arrest and bringing the offender into port, you give him the power of making war, which, by the Constitution, is vested in Congress. It is not the war-making power which I propose to confer. I propose only to authorize the President to repel and punish aggressions in certain extreme cases, which do not admit of delay, and report the facts to Congress. The President, in fact, can involve you in war at any time. He can conduct the correspondence with the British Government concerning these outrages in such an offensive way as to compel her, in self-respect, to refuse our just demands, and thus precipitate the two countries in a war. He can do the same thing in regard to any controversy we may have with any foreign Power. But it is to be argued that, inasmuch as the President may abuse his trust, therefore you should not repose any confidence in him? That argument abolishes all Government. When you elect a President of the United States you must necessarily confide in him, for the reason that the very office vests in his hands such power as is safe only when exercised by wisdom and discretion, patriotism and justice.

I would, therefore, act on this question without reference to whether this party or that party may be in power; without reference to the political affinities or associations of the existing President. I would confer that power which a Chief Magis-

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trate ought to have in order to enable him to maintain the honor and the dignity of the nation, and protect the flag and our citizens wherever they may go—confer the power, and hold him responsible for its abuse. I have no apprehension of the abuse of this power by the present Executive, or by any that may follow him. The jealousy of executive power which animated our forefathers in framing our system of Government, was in regard to those acts which might oppress our own citizens. The President has ample, abundant authority to perform his high functions within the limits of the United States; but while he is powerful at home under the Constitution and laws, he is almost powerless abroad for the protection of our flag and our citizens. Every other Chief Magistrate in the world possesses the authority beyond the limits of his own country, not only to repel but to punish offenses upon the flag and the citizen.

Why should we make our Chief Magistrate powerless abroad? The power that he has to exercise outside of our limits, and on the high seas, is a power in aid of the flag, and in protection of the citizen. It is not a power dangerous to our own citizens. It is not a power that can inflict injury on our own citizens. It is a power in aid of them, in defense of their rights, in the protection of their lives and their property; and that power being a safe one, in aid of and not against our own citizens, ought to be ample and full for the accomplishment of the object.

Sir, I do not believe there is danger of the Chief Magistrate of this great Republic abusing his power in a contest between the rights and honor of our citizens abroad on one side, and aggressions upon their rights on the other. I should have more apprehension that the power would not be exercised often enough, than that it would be exercised too often. You cannot protect our commerce in the Gulf of Mexico and in the Caribbean sea, nor the rights of American citizens in Mexico and Central America and South America, unless the President has power in extreme cases, where delays would defeat the object, to avenge the wrongs on the spot. Why is it that the British name is respected in all Spanish America, and the American name is despised? It is because they have learned from experience that if a British ship is attacked in their ports, or if a British subject is wronged upon the land, the first British war steamer that comes along will demand instant redress, and enforce it on the spot. Hence there is a terror in those weak, irregular, revolutionary Governments lest the punishment will instantly follow the offense; and British diplomacy, with that tact and shrewdness that always characterized it, does not fail to instill into the minds of the Mexicans, the Central Americans, and the South Americans, the fact that they may rob American citizens with impunity, for the President has no power under the laws, as they stand, to punish such conduct. All he can do is to remonstrate and scold and threaten and wait for Congress to act.

Before Congress does act another revolution has taken place in the country, the men who committed the offense are out of power, and those who turned them out then make the apology, that they did not do it, and the nation has disavowed the acts of those who did it by the revolution. Revolutions follow in rapid succession in the Spanish-American countries. The party in power immediately wants to obtain money. One of their favorite modes of raising money is to commit outrages upon American commerce, trusting that they cannot be held to an account for those outrages until another revolution shall have turned them out and brought their successors into office. I hold, therefore, that, without reference even to the question of the right of search or the British aggressions which are now being perpetrated, we ought, as a general policy, to clothe the President with the legal authority to protect our commerce and our citizens outside of the limits of the United States by summary process, whenever there is a case that does not admit of delay, and requires instant action.

For these reasons, without going into the question, I desire to engage in practical legislation by empowering the Executive to protect the honor and dignity of the country, its flag, and its citizens, instead of going over this old formula of resolutions that you must not do it again. I was in hopes, sir, that we should not have had a speech upon the subject; that a bill, simple and comprehensive, conferring full authority, would have been passed unanimously, instantly, and in silence. The passage of such bill would have carried with it more terror, more power, more practical results, in preventing these outrages, than all the armies and navies that you might muster in aid of resolutions that do not confer any legislative authority to act. I think the time for the discussion of these questions has gone by. We want no threat, we want no bluster, we want no crimination. What we want is, that the Executive shall have the power to protect our commerce and our citizens abroad, and to arrest and bring into port the offenders, even after the act has been done, and then deal with them according to the law of nations when they are within our own limits. That is my idea of the mode of treating this matter.

As I said, I will not go into the discussion; I merely throw out these general suggestions as expressive of my views, as I am a member of the Committee on Foreign Relations, concurring in the report, with the reservations and exceptions to which I have referred, and as I had also brought before the Senate a bill to confer the authority which I think the President ought to possess at all times.

Mr. HAYNE. Mr. President, I rise with great diffidence. I feel that I am one of the most incompetent members of the Senate to address them on so great and so important an occasion. But, sir, I must say that I had hoped there would have been very little debate on this question. I have read the report of my distinguished friend from Virginia, the chairman of the Committee on Foreign Relations, and I have thought that the report and the resolutions were wise, dignified, manly, and proper, and such as the occasion called for. It seems, however, that others think differently.

Sir, the attack upon the Chesapeake produced the war of 1812. I entirely approve, on all such occasions, of that prompt conduct which Oliver Cromwell and Andrew Jackson invariably exhibited; but let me tell Senators that neither Jackson nor Cromwell acted without reflection. Those great men believed that war was a great evil, but not the greatest of evils. I may illustrate my meaning by stating how individuals in a personal matter ought to act, and invariably do act, where they are governed by proper motives. If I am insulted, it is not right nor just that I should challenge my opposer. I make a statement of my case; I ask for honorable reparation, and if that is given I am satisfied. I tell Senators, however, that our honor, in the course of six or seven days, will be in the hands of our gallant Navy. Go back to the history of the war of 1812; pass all through it, and was there ever such a galaxy of glory, of greatness, of everything that our great nation might be proud of? They did their duty, sir, faithfully; and if anything occurs in the Gulf which requires that our honor should be protected, those gallant men will go down to the bottom, if need be, in doing their duty. I look upon war, and I am sure every Senator does, as a great evil under any circumstances, contrary to the cause of mankind, of morality, of Christianity; but still it is a necessary evil, and we must meet it when it becomes proper that we should do so.

From the report which has been submitted to the Senate we find the object of these aggressions, and it will be seen that southern men are specially and particularly interested to see that the honor of the country is preserved:

"The documents accompanying the message disclose the fact that these acts of visitation and examination of American vessels were sought to be justified under the plea of necessity for the suppression of the slave trade, supposed to be, or actually carried on between Africa and the island of Cuba."

Now, Mr. President, of all the people in the world the British nation ought to be the last to be obtrusive on that subject. Look at the past history of the world; look at the Island of Jamaica. Sir Charles Grey assured me that the policy pursued in that colony was a total failure, and that the whole island was in a wretched condition; and yet Great Britain really undertakes to attack us upon a great principle which we have established in this country, and which never can be changed. That is all I have to say on that point.

I will not detain the Senate. I will only repeat, that I had hoped there would be no debate on this report. The dignity of the Senate and the importance of the occasion seem to prompt the silent adoption of these resolutions, which are ample for the occasion. In any emergency we may place implicit reliance on our Navy; and, Senators, be not surprised, if within ten days, intelligence shall reach us that will enlarge the page of our naval history.

Mr. WILSON. Mr. President, the people of Massachusetts, of New England, of the section of the country I, in part, represent, being largely engaged in commerce, having their ships in every clime and on every sea, are more directly and deeply interested than the people of any other section of the country in maintaining inviolate the American flag. Their ships, freighted with the precious cargoes of a lawful commerce, are now upon the waves of every sea under the whole heavens; and the flag which waves over them proclaims to the world their nationality and their "right," in the words of Daniel Webster, "to the free use of the ocean," "where none has a right to molest them." In no section of the Republic will the doctrine that the open sea is the highway of nations in time of peace be more inflexibly adhered to, or more strenuously maintained, at every hazard and at any cost. Vast pecuniary interests and a profound regard for national rights and national honor alike prompt them to respond to the declaration of the Committee on Foreign Affairs, that the United States:

"Rest on the position not to be controverted, that, by no principle of international law, can a vessel under the flag of its country be visited or detained on the high seas, in time of peace, by any foreign Power, under any pretext or for any purpose whatever, without the consent of those over whom the flag waves."

Believing that the right of visitation, or the right of search, has no foundation in the law of nations, or in the comity due from one independent nation to other independent nations, that the attempted assertion of these claims in time of peace cannot be tolerated for a moment, by any nation, without degradation and dishonor, they will, I am sure, firmly sustain the doctrine embodied in the first resolution now pending—

"That American vessels on the high seas, in time of peace, bearing the American flag, remain under the jurisdiction of the country, and any visitation, molestation, or detention of such vessels by force, or by the exhibition of force, on the part of a foreign Power, is in derogation of the sovereignty of the United States."

Sir, the people of my section of the Union, devoted as they are by sentiment and interest, to peace with all nations, will not only respond with unanimity and zeal to these declarations, but they will demand that the outrages perpetrated by the naval forces of England on the coast of Cuba shall cease; that the Government shall demand indemnity for the aggressions of the past, and pledges of security for the future. We may, Mr. President, tolerate for a time; we may bear with some degree of patience, without national dishonor, the lawless aggressions of the feeble and disorganized Powers south of us on the American continent; at any rate, we can afford to act, and it is our duty to act, towards these weak nations with great forbearance and great moderation. Not so with England. She is a great Power; the great Power of the world. Upon her flag, the emblem of her power, the sun goes not down on the sea or on the land, in any quarter of the globe. We cannot, without national dishonor, permit any aggressive acts, or any indignities of hers to go unredressed. I am, therefore, ready to adopt, at once, prompt and effectual measures to arrest her

aggressive acts, and to redress the grievances of the past. I am ready to go with him who will go furthest to maintain the honor of the American flag, and to arrest the lawless acts of the naval officers of England, which are now perpetrated almost within sight of the shores of the country.

While I am ready, Mr. President, to maintain the doctrines laid down in the report and resolutions of the Committee on Foreign Relations; while I am ready to go to the extreme verge of our rights to vindicate the honor of the country against these belligerent acts of the naval forces of Great Britain, I must avow here and now my deep mortification and shame that the flag of our country has been, and now is, prostituted with impunity by pirates engaged in the damning crime of the slave trade. I confess, Mr. President, that I read with feelings of the deepest mortification the letter of Lord Napier to the Secretary of State, in which he narrated the capture by British vessels of more than twenty ships engaged in the unlawful and infamous slave traffic under cover of the American flag. We are jealous of the rights and honor of our flag. We should not, we cannot, ay, we will not, permit any Power to violate it or tarnish it. The recent acts of British officers have touched the national heart, and aroused the national pride. We are indignant at these aggressive acts, and we demand instant reparation. That flag, the emblem of our sovereignty on the decks of our ships in every quarter of the globe—that flag of whose honor we are so jealous, has been, and now is, prostituted, shamelessly prostituted, by pirates engaged in an inhuman traffic in the bodies of our fellow-men. These accursed ships, launched in our own ports, in violation of our own laws, hover on the coasts of Africa and line the shores of Cuba, under the protecting folds of the American flag. Yes, sir, that flag, for the honor of which we are ready to peril the peace of the world, is shamelessly prostituted by men our own laws pronounce pirates—prostituted to cover a traffic our own laws pronounce piracy; a traffic which the Christian and civilized world abhors.

This prostitution of the American flag to cover a traffic abhorred of man and accursed of God, is known throughout the world, and it has brought dishonor upon the American name, and the American character. The apathy and cold indifference we have manifested at this prostitution of our flag have made the world question the sincerity of our hostility to the African slave traffic. Well may the philanthropist and the Christian whose sympathies embrace the children of misfortune—the bondsmen of Africa, torn by an inhuman traffic from their native land, and condemned to a life of unpaid toil, doubt the sincerity of our declarations of hostility to the slave trade when they witness this prostitution of our flag, our indifference to the humiliation it brings upon us, and the efforts now making in this country to repeal our laws branding the traffic as piracy, to abrogate the treaty by which we bound ourselves to cooperate with England on the coast of Africa for the suppression of the traffic, and for the reopening of that proscribed trade.

I am ready, Mr. President—I believe the people I represent are ready—to maintain with inflexible firmness the doctrine that American vessels on the high seas, in time of peace, bearing the American flag, remain under the jurisdiction of the country; and that any visitation, molestation, or detention by force, by any foreign Power, is in derogation of the sovereignty of the United States. I am ready, and I believe the people I represent are ready, to use the whole power of the country, if necessary, to repel and redress any acts by any Power, however great, which shall violate the rights or honor of the country on any deck over which the American flag waves. But I demand, Mr. President, and the people I represent demand, that the Government shall fulfill, in good faith, its treaty obligations to cooperate with England in an honest effort to suppress the slave trade. We demand that the country shall no longer be dishonored before the nations by the open and shameless prostitution of our flag to the prosecution of an inhuman and accursed traffic.

Sir, if the Government is sincerely desirous to suppress the slave trade; if it wishes to fulfill its treaty obligations; if it means to redeem the honor of the nation, now tarnished by allowing the flag of the Republic to be prostituted by pirates to cover their piracy on the coasts of Africa and on

the shores of Cuba, let it at once send to the African coast, and to the waters around Cuba, vessels adapted to the work of breaking up the commerce in the bodies and souls of men, now prosecuted under cover of the American flag. If we have not ships adapted to that work, let us build them at any cost at the earliest moment, and send them to the seas now covered by pirate crafts, over which waves the flag of the Republic. By so acting we can redeem the honor of the nation, now tarnished, and demonstrate to the world that the American Government "should execute its own laws and perform its own obligations, by its own means and its own power." But if experience shall demonstrate the fact that an honest and energetic effort on our part cannot prevent the prostitution of our flag, cannot break up the slave traffic under cover of our flag, then it seems to me that justice, honor, and humanity, will alike demand that we enter into treaty obligations with England under certain limitations and restrictions, by which she shall yield the right of visitation and search, and that we shall, for a limited time, and within certain lines of latitude and of longitude, exercise the power of visitation to ascertain the character of suspected vessels sailing under our flag.

But our business now, Mr. President, is to vindicate, not the prostitution of our flag by the pirates engaged in the slave trade, but to vindicate the violation of the rights and honor of our flag by the naval forces of England, almost within cannon-shot of our own shores. This cannot be accomplished by words here. If it is necessary, in the present position of the question, for the Senate to act at all, let us look to deeds, not to words. I am ready, not to declare war, but to authorize the President to send to the Gulf, to the shores of Cuba, a naval force, with positive orders to sink or capture the British ships of war that have committed the belligerent acts complained of, and to bring them to our shores, and hold the officers of those ships personally responsible for those acts of hostility, until the British Cabinet defines its position, by avowing or disavowing their acts.

The VICE PRESIDENT. It is the duty of the Chair to call up the special order at this hour.

Mr. MASON. It is hardly to be said that this is a debate. It is rather an expression of the opinion of the Senate; and I think it will terminate in a short time. It seems to me desirable that we should go through with it. It will have to be done at some time, and I must insist on disposing of the subject now.

Mr. HUNTER. I cannot consent to postpone the special order.

Mr. MASON. I move to postpone the special order until we dispose of these resolutions.

Mr. HUNTER. On that motion I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MALLORY. If the motion be debatable, as I understand it is, I suggest to the Senator from Massachusetts, that he go on and conclude his remarks on this motion.

Mr. WILSON. Oh no; I do not wish to do that.

Mr. FESSENDEN. I hope the Senator will allow this matter to go over until Monday. As is suggested to me by the Senator from Vermont, [Mr. COLLAMER,] I do not think that settling it to-day will operate very severely on the proceedings in the Gulf between now and Monday. At any rate, if we settle it then, we shall attain as much good; and I am told there are other Senators who desire to speak on the subject. There are several appropriation bills behind, and I hope the Senate will not break over the rule of confining these matters to the morning hour, until we get through with the necessary appropriation bills. There are many of them, and they are certainly more important than the talk about this thing.

Mr. WILSON. I desire to move an amendment to the amendment offered by the Senator from New Hampshire, and then I shall not object to the matter going over.

Mr. MASON. We shall lose time if this debate be prolonged on another day. I take it for granted these resolutions must be acted on during the session; and, therefore, as far as the time of the Senate is concerned, it is a matter of little moment whether it precedes or follows the close of this appropriation bill. We are the more likely to

end it in a brief space, if we continue it, than if we postpone it now and resume it hereafter. I would say, also, as my impression, that in the altered relations between the two countries, it is a matter of great importance to the American people to know the decision of the Senate. I hope the special order will be postponed.

Mr. HUNTER. I suggest to my colleague that the appropriation bills have to be passed three days before the adjournment; we have had an intimation on that subject; and we had better take the early portion of the time left to us, to pass the appropriation bills, and devote the latter days of the next week to these resolutions, and other matters that may come up. I must, therefore, insist on the special order.

The VICE PRESIDENT. If there be no objection, before the vote is taken on the postponement, the Secretary will read the amendment proposed by the Senator from Massachusetts.

The Secretary read it, as follows:

Add to the amendment of Mr. HALE:

And the President is hereby authorized and empowered to employ the naval force of the United States, and to send such force to the scene of the recent outrages, with instructions to capture the ships which have committed, or which may commit these belligerent acts.

Mr. SEWARD. I think there is no more important question that can come before Congress than the question which is now under consideration, none that is so urgent. The session may be prolonged for the passage of the appropriation bills, and I, for one, am prepared to sit here until the appropriation bills are passed, and until the action of the Senate is had on the subject now before it. I shall therefore vote for continuing the consideration of this subject, and if it is postponed, I shall ask the Senate then to take up the joint resolution to extend the session.

Mr. FOSTER. I do not propose at present to give any opinion as regards the importance of the subject now under consideration, except so far forth as to say that if it be as important as gentlemen urge it to be, it seems to me far more important to pass the naval appropriation bill, which probably the Senator from Virginia will bring forward, than to continue this discussion. So far as words conquer, we have had enough, and it seems to me we had better pass the naval appropriation bill before we do anything further on this subject at all.

The question being taken by yeas and nays on Mr. MASON's motion, resulted—yeas 20, nays 32; as follows:

YEAS—Messrs. Allen, Brown, Durkee, Fitch, Fitzpatrick, Harlan, Houston, Johnson of Tennessee, Kennedy, King, Mallory, Mason, Rice, Sebastian, Seward, Shields, Thompson of New Jersey, Toombs, Trumbull, and Wilson—20.

NAYS—Messrs. Bell, Bigler, Bright, Broderick, Chandler, Clark, Clay, Clingman, Collamer, Crittenden, Davis, Dixon, Fessenden, Foot, Foster, Gwin, Hale, Hamlin, Hammond, Hayne, Hunter, Iverson, Jones, Pearce, Pugh, Reid, Simmons, Slidell, Stuart, Thompson of Kentucky, Wade, and Wright—32.

So the motion to postpone was not agreed to.

CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 209) making appropriations for sundry civil expenses of Government for the year ending the 30th of June, 1859; the question pending being upon the motion of Mr. KING to amend the amendment of the Committee on Finance, with respect to the completion of certain custom-house buildings, by the addition of the following clause:

The Secretary of the Treasury is required to execute the provisions of the acts of Congress, approved August 16, 1853, and March 3, 1857, authorizing and directing the said Secretary to cause to be constructed buildings therein mentioned for custom-house and post office purposes, and for the accommodation of the courts of the United States, and the appropriations made by the said acts are continued for the purpose of the execution of the said provisions of said laws.

Mr. KING. I offered the amendment, not because I believed in the ordinary and proper course of proceedings on the part of the different departments of the Government it was necessary, but because I understood it was the intention of the Secretary of the Treasury not to carry out these laws; and I ask the chairman of the Committee on Finance whether it is not his understanding that these appropriations are not to be expended?

Mr. HUNTER. I do not understand any such thing. I understand that if there was money

enough in the Treasury for them all, the Secretary of the Treasury would carry out these laws. I stated, yesterday, the reasons which governed him, and, I think, properly governed him, in his selection.

Mr. KING. Will the gentleman state what his views about that are? I understood him, yesterday, that the law was not to be carried out.

Mr. HUNTER. The Senator certainly misunderstood me. I stated that the appropriations exceeded the money in the Treasury, and that being the case, the Secretary had to discriminate, and the discrimination which he made was this: he took those on which there were existing contracts, those on which a great deal of money had been expended, and only a few thousand dollars were necessary to cover them in and complete them. He applied the money to those buildings, leaving others, where there had been no commencement, to be prosecuted when there should be more money in the Treasury. I did not understand—on the contrary, I understood the opposite—that the Secretary has any design to permit them to lapse, if the state of the Treasury should be such as to enable him to carry them on.

Mr. KING. The declarations now made by the chairman of the Committee on Finance are somewhat modified from what I understood him to say yesterday; but I had a conversation with the Secretary of the Treasury himself on this subject, and I stated to him that I should have to make this point, if the law was not carried out. Gentlemen talk about the want of money in the Treasury. Is it the business of the Executive Departments to execute the laws of the country, or have they a power of dispensation in reference to these matters, to dispose of the Treasury as they please? Are appropriations made by Congress, in which the law is express, in which the Secretary is not only authorized but directed to construct these buildings, distributed about the country, to be carried out by him or not at his pleasure? It is claimed that he has the right to determine for what purposes he will make these expenditures, if there is not money enough in the Treasury. Well, sir, how much money does he want in the Treasury? He commenced this fiscal year with a surplus of fifteen or twenty millions. At the commencement of the present session, he asked for a loan of \$20,000,000, and it was promptly granted by Congress. Within the past ten days he came forward again, and asked for an additional loan of \$15,000,000, which has been granted so far as this body is concerned. In addition to this, he has the revenues of the country, the duties on imports, and the proceeds of the public land sales. All these moneys go into the Treasury; and it is the business and duty of the Secretary of the Treasury to make his estimates, and to call for his supply of funds to meet the appropriations which are made by Congress, and especially those which have been made a year or two in advance. It is the strangest thing in the world to me, that people will have the assurance to come in here before Congress and attempt to justify the Executive Departments of the Government for refusing to carry out and execute the acts of Congress, and put in their *ifs* and their *ands*, saying if there is enough of money in the Treasury they are going to do this and that.

Sir, there is money enough here to expend eight or ten million dollars for a foray on the Utah people, which I never believed was designed against the people of Utah; but I always regarded it as designed rather against Kansas than against Utah. Some six or eight million dollars to be expended by this Government to force the Lecompton constitution on the people of Kansas against their will; and yet the Secretary of the Treasury cannot find money to carry out an appropriation of sixty or eighty or a hundred thousand dollars in a dozen places, scattered over the country, amounting, perhaps, in all to a million dollars, because he chooses to apply the funds in the Treasury to some other purpose, and to say that there is not any for this purpose. According to my ideas, it is the business of the executive department to carry out the appropriations made by Congress. If I could have the assurance of the chairman of the Committee on Finance that this would be done, or if I had not understood that it was the expectation that these appropriations were to pass by and to lapse, so that a distinct appropriation would hereafter be required from Congress to carry them out, I should not have

deemed it necessary to offer this proposition; but I regard an intimation of that sort as entirely sufficient that some action should be taken on this matter. If Congress and the country choose to recognize the idea that the Executive Departments shall not execute the laws, but are to exercise their discretion, and are to assign to us as a reason that they are not to do so on account of want of funds in the Treasury, and we to be told every time we ask them to carry out an act of Congress, "Give us the money;" be it so. But, sir, Congress has given them \$35,000,000 in addition to the revenue for this single year; and yet they call for more money. When you ask them to carry out an appropriation made by an act of Congress passed two years ago, they want more money. It would be cheaper, in the locality I feel concerned in, to carry round a subscription paper and raise the funds, and execute these works ourselves, than it would be to call on the Government, if this is the way they dispose of the moneys they have on hand, and then ask for more. The chairman of the Committee on Finance does not state as explicitly as he did yesterday his understanding of this matter; but I state mine distinctly, and that is the reason I have deemed it proper to offer this proposition, and to bring it to the attention of the Senate and of the country.

Mr. TOOMBS. I suggested yesterday the impropriety of taking action upon the defective information which the Senate necessarily had with reference to this question, and especially upon the Ogdensburg custom-house. The Senator from New York said he knew all the facts. If he did, and had explained them to the Senate, I think there would have been very little difficulty about the matter. Some of the charges that I understood him to make are fully repelled by the record, which, I presume, he knew, or might have known, as he seemed to have interested himself in the locality. The original appropriation for the Ogdensburg custom-house was made on the 18th of August, 1856, and an additional one on the 3d of March, 1857. The site was conditionally purchased by Mr. Guthrie on the 20th of January, 1857, and the validity of the title certified to by the Attorney General on the 27th of February, 1857. It thus appears, from the facts, that the charge which the Senator made yesterday, as I understood him, that the present Secretary of the Treasury had given the money for the site to a favorite of his, is shown to be without the least shadow of foundation. The contract for it was made before the present Secretary came into office. So much for that point.

In the next place, the payment was delayed, under the conditions of the purchase, until the disability was removed. According to law, nothing could be done in the work until the revenue collected in that collection district equaled the expenses of its collection. The previous Secretary of the Treasury made a conditional contract for the purchase of a lot, to take effect when that should happen, whenever the receipts should equal the expenses of the collection of the revenue in that district. The conditional contract which Mr. Guthrie made had to be complied with; and on the 27th of August, 1857, the Attorney General certified it to the Department to be his duty, under Mr. Guthrie's contract, to pay for the land. So far from the Treasury Department attempting to make the contract with a favorite, and pay him money, the contract was made by the predecessor of the present Secretary, and he resisted the performance of it, believing that there was no power to make even a conditional contract for the purchase of land until the happening of the contingency upon which the law authorized him to build a custom-house. The present Secretary, taking this view, declined to comply with that contract, and the matter was referred to the Attorney General, who, on the 27th of August, 1857, in the midst of the commercial disturbances of the country, a certificate having been given shortly before by the collector of the customs that this provision of the law had been complied with, said that the Secretary was bound to comply with the contract of Mr. Guthrie, and so the money was paid for the site.

The Senator would have the Senate believe that this work ought to have been going on ever since the 16th of August, 1856, when in fact it was never determined that this case was within the law until the 27th of August, 1857, in the very midst

of the commercial revulsion. The Secretary of the Treasury resisted compliance with the contract. So far from desiring to put money into the pocket of a favorite, he resisted the whole payment to the extent of carrying it to the Attorney General to know whether the Government was bound to carry out the contract for the purchase of the lot. Owing to the objections of the citizens to the site selected, no payment therefor was made until March 9, 1858. This speedy favoritism by which to pay a friend for the lot, was secured under the coercion of the Attorney General, under his judgment that the law compelled the Secretary to pay the money, and it was not paid until the 9th of March, 1858.

Again, and owing to the same causes, although a site was paid for, the commencement of the work was delayed in consequence of the state of the finances, which made it necessary to confine the expenditures for such objects to buildings already commenced. The contractor changed his own contract, even when a partial one had been made. He did not include iron, it seems, and altered his contract and refused to carry it out. On looking into the proper sources of information, I am further authorized to say, that in regard to every one of these custom-houses where the legal prerequisites were complied with, the jurisdiction of the States ceded, and the power of taxation relinquished, and the other conditions of the law complied with before the convulsion came on, every one of them was put in operation. The others were not, because it could not have been done without a violation of law. The whole difficulty, I have no doubt, was in this law, and that is the anxiety of the Senator from New York. This appropriation could not stand by itself, but under the log-rolling system by which such things are passed, it got in, probably with better works, and if the money should go back into the Treasury, the Senator knows he could not get the appropriation, because it cannot stand on its own merits, and hence no doubt the anxiety he manifests on this subject.

The Secretary of the Treasury has done precisely his duty. He has not, he will not, and he ought not to apply the money to carry on this custom-house until the funds are provided by Congress. The Senator talks about a dispensing power. The Secretary of the Treasury does not claim it; nobody claims it. The Senator urges it from time to time in the face of the disclaimer and when the reasons are full, fair, and perfectly satisfactory to everybody in the Senate, I presume, but himself. The Secretary has claimed no power to prevent the execution of a law of Congress, whatever he may think of it, even though it might direct him to throw money into the sea. He exercised no such power, but has simply endeavored to protect the public interest according to law, and according to the terms of the act which directed him to make the expenditure. He was charged yesterday with spending large sums in buying up the public debt. That was done in accordance with law, and no doubt if at that time that custom-house had been in a condition to be built, a portion of the surplus in the Treasury would have been applied to it. Under the conditions of the law, the commissioner of customs had first to certify that there was revenue enough collected in the district to meet the expenses of its collection, and I think on close examination it will be found that this custom-house was carried up to that point by some casual importation, perhaps, of railroad iron. It was carried up probably by temporary causes, and it ought not to have been done at all. I have no doubt a close examination into the matter will show it to be a doubtful case whether even to-day it is within the law. There has been no assertion at any time by the Secretary of the Treasury, or by any part of the executive Government as far as I know, of any right or power to withhold the execution of the law according to its letter and tenor, whatever that law may be; but the ground is taken, and it will be maintained by Congress and the country, that when the appropriations of Congress have exceeded the revenue, it becomes the duty of the executive Government first to apply the money in the Treasury to those great objects which are necessary to carry on the Government, and if there is any to be applied to such works, to expend it first in finishing those already pending where there would

be a loss to the Government if they were not carried on, and to leave those which have not been commenced until Congress chooses to supply the money by loans, or until the revenues of the country afford the means. I know of no object in that whole class which could better afford to wait than the custom-house at Ogdensburg, where they have now barely thrown the collection of of revenue above the expenses of collection. It would have been a marked case I suppose of all in the United States. If there was a place for retrenchment, for avoiding the expenditure of money with a deficient fund, it was in Ogdensburg. I say then that the amendment ought not to prevail. There is no occasion for it in order to carry out the law. The law will be carried out if the money comes in within the three years that an appropriation is allowed to stand, and if it does not, it is not the public interest to do it at all.

Mr. KING. The Senator from Georgia puts this on a ground upon which I resist it, except in one respect. He seems to regard the Secretary of the Treasury as having some personal position in this matter. I spoke of the Secretary of the Treasury—the officer; whether it is Mr. Guthrie or Mr. Cobb is a matter of indifference to me. This is not a personal matter between the incumbent of the Treasury Department and this law. It is a question whether the Secretary of the Treasury, whoever he may be, shall have the right to dispense with the law. It seems now, from the reports that are made, that the money was not paid until the 9th of March last. I made no inquiries about the case until very recently, when I learned that the site had been purchased and paid for, and that it was not intended to do anything more. That was the information I had, and that the conclusion reached in the judgment and decision of the Secretary of the Treasury, was that the state of the finances was such that the Treasury Department had determined not to go on with this work. I presented this very point which I now present to the Senate—and it is a matter in which every Senator and every person in the country has just as much interest as I have—to ascertain and determine whether this discretion, this dispensing power—for it is that—exists in the Treasury Department or not.

The Senator from Georgia talks of the want of money. Well, sir, how much money does the Secretary of the Treasury or the Administration want? They have all the funds collected from the revenue; they have all the proceeds of the sales of the public lands; and I believe they have recently been selling some military reservations, not at a very great price; and they have had \$35,000,000 of loans during the present year. It is the business of the Secretary of the Treasury, it is the business of the Departments, to estimate for what Congress has required them to expend; and let us have the estimates, that the money may be furnished, and not come here and tell us that if we want the laws carried out we must supply the money. How do they want the money supplied? Do they want a special act to raise the funds upon every appropriation? It is absurd. A proposition was made the other day by the Senator from Rhode Island, [Mr. SIMMONS,] to endeavor, by the protection of the revenue against frauds arising from false and foreign valuations, to bring us a home valuation, and put a little money into the Treasury; but that was resisted by these very gentlemen.

Now, the point in relation to which I think the executive department of the Government is wrong—and I speak of it in that respect—is this attempt to set up a discretion on their part to carry out appropriations that are made by Congress for one object, and refuse to carry them out in another, on the ground that one is more expedient or more appropriate to the public interest than another. I deny that any such discretion exists, or ought to exist, in the Department. There are reasons, just reasons, to complain of this partiality and favoritism; for it leads to that, and it leads to corruption of the grossest and basest character. Here contracts are made without appropriations, and then the friends of the Administration in Congress insist that appropriations must be made to meet the expenditures on these contracts, because the debt has been contracted; and yet in other cases, where Congress has made an appropriation, the Department refuses to make contracts to carry it out. Where is the power of this Govern-

ment, under such an administration of it? There is no law or authority to direct and control these matters, and this should be a Government of law; and it is as much the business of the President, of the Secretaries, and of all the high functionaries and high officials of the Government, to submit to and execute the law, as it is of the humblest citizen of the country; and any doctrine opposite to that, which claims for them this arbitrary discretion, is dangerous to the safety, and dangerous to the administration of the Government everywhere.

Mr. HUNTER. I must say that I am surprised at the pertinacity with which the Senator from New York repeats his statement of the case, after he has been so often corrected as to the real state of the facts by the Senator from Georgia. If he disputes those facts, he ought to bring his evidence. Now, the Secretary of the Treasury has shown that he has not failed to carry out any appropriation, except in those instances in which the conditions of the law were not complied with before the general break-down in the Treasury. But, sir, what is the case before us? The Senator evidently does not understand that—

Mr. KING. I dislike very much to interrupt a Senator when he is speaking; but the Senator from Virginia persists in putting this case differently from what I do. He speaks of it as if the Secretary intended to execute the law. The Senator from Georgia, with more frankness, tells us that he does not, unless there is money put into the Treasury to carry it out; and that is the point about this matter. If I could have an assurance that the Secretary intended to execute the law; indeed, if he had not indicated that he did not intend to execute it, I should not have brought forward this proposition.

Mr. HUNTER. Does the Senator from New York impute to me a design to misrepresent the Secretary?

Mr. KING. I do not know what the Senator's design is; I stated nothing about his design.

Mr. HUNTER. What does the Senator mean by saying that the Senator from Georgia spoke with more frankness than I did? Does he impute to me a design to conceal anything?

Mr. KING. I speak plainly; I intend what I say, and I intend nothing else. I impute nothing of design; but I say that the Senator, in speaking of this matter, speaks of a scheme which the Secretary designs to execute. My ground is, that the Secretary does not design to execute this law.

Mr. HUNTER. Well, the Senator has undertaken to make that statement; and I say, if I can trust the Secretary, the gentleman is mistaken. I learn very differently from the Secretary; I learn that he would execute the law if there was money in the Treasury, and I have stated that to the gentleman; and now he gets up and says I misstate the Secretary's intentions. How does he know them? Has he learned them from him?

Mr. KING. The Senator asserts that I am in error, and he goes on and reiterates the same statement. I say the Secretary states that he does not intend to carry out these laws, because, as he alleges, of the small amount of money in the Treasury, and the Senator from Virginia says he would do it if there was money in the Treasury; he puts in the condition. If there were ample funds in the Treasury, money for every purpose, and this too, I do not say that the Secretary then would not carry out this law; but my complaint is, that he discriminates in this matter, and contracts are made for which appropriations are not made, and those are carried out; and that he refuses to make contracts to carry out objects for which appropriations are made. I hope the Senator will understand me.

Mr. HUNTER. The Senator from New York misunderstands the whole matter. He has not stated the case as it is really presented to us. I do not know why; it is not because he has not been corrected often enough. I do not know why it is that he will persist in misstating it in this manner. What is it that the Secretary asks for? He asks here for appropriations to authorize him to expend money on certain works in regard to which there have been contracts—contracts not made by himself. There are no appropriations in order to carry them out, and he asks that appropriations may be made, in order that he may carry them out. But, in the cases to which the Senator from New York refers, there have been appropriations; he wants no new appropriation;

there is the authority, and how does the Senator know that he will not use that authority? I say he tells me if he had the money he would use it. If he has not the money, how can you make him use it, unless you mean, by passing such an amendment as the Senator now proposes, to say that he shall expend the money in the Treasury on these works, in preference to expending it on the Army and Navy, and on the most indispensable wants of the Government? That is the whole point. You propose, by this amendment, to force him to expend it on these custom-houses, in regard to which he has had no authority to expend it, until recently, until this break-down in the Treasury, no matter if every other interest in the country suffers; because you choose to assume, on the statement of the Senator from New York, made without authority, (for I will venture to say the Secretary never told him so, as I understand very differently from the Secretary,) that he means these appropriations to lapse, and does not design to spend a dollar upon them. Now, I say, in regard to that, so far as the future is concerned, if there be more appropriations than revenue, the Secretary ought, in exercising a sound discretion where there is not money enough for all, to expend it for those objects in regard to which there exist contracts, and contracts, let me say here, not made by himself. I learn, on inquiry, that the contracts made for New Orleans and Charleston were made before either he or Mr. Guthrie came into office—contracts for materials in these structures which the Government was engaged in erecting. It is in order to carry out these contracts, and to carry out the contract for the Treasury building, made by Mr. Guthrie, who was authorized, as he supposed, by the terms of the existing law directing the building to be constructed on a certain plan. It is to carry out these contracts that most of these appropriations are desired.

I know that my friend from Ohio [Mr. PUGH] seemed to complain that these appropriations were sectional in their character—for the Treasury building here, and for custom-houses in Charleston and New Orleans. Now, I learn from the Commissioner of Customs that probably four out of every five dollars of these appropriations will go to the North; for they are for materials. They will go to New Jersey and New York for the iron, they will go to New England for the granite and marble which are to be furnished. These are quarried by New England men, and conveyed by New England ships; and, so far as there is any sectional aspect in the matter, I learn that nearly all the money will go North, and north even of Pennsylvania.

I say, then, that it is unfair, on any evidence which is before us, upon anything which is before the Senator from New York, to impute to the Secretary of the Treasury a design to claim any dispensing power. He claims no such thing. He comes before you and asks for appropriations to enable him to fulfill existing contracts, or appropriations to enable him to make little expenditures which are necessary, in some cases, to cover in and complete buildings nearly finished, upon which large sums have been expended. He asks for appropriations for that purpose; but he does not ask for appropriations for anything beyond what is already appropriated in regard to custom-houses where there is no such necessity. So far as those works are concerned of which the Senator speaks, there are appropriations; he wants no further authority from Congress, but he may want money; and, if he has not enough money to execute all the laws, no man can blame him for preferring to execute those in regard to which there are existing contracts in preference to those where there are none. That is the real state of the case; and I say that, in view of the condition of the Treasury, he has estimated for enough on these buildings. Indeed, I felt some reluctance in voting as much as he did estimate for; but we know that the means which have been granted have been considered, even by gentlemen on the other side, as not sufficient to meet the expenditure for which we have estimated. Why, then, should we force him—especially why should those who refuse to give him means by way of loans, undertake to press him to execute such works as these in preference to measures indispensably required for the good of the country? for the effect would be to make him expend money on these

buildings in preference to all other objects, if there was not enough for all.

Mr. TRUMBULL. Mr. President, the country will, I think, owe a debt of gratitude to the Senator from New York for exposing this matter. It is another evidence of the tendency of the executive power to assume authority—a point to which I have attempted, on several occasions, to call the attention of the country; and I am very glad to have the assistance of the Senator from New York in exposing a part of this assumed authority. Now, sir, what is the charge? The charge is, that the Secretary of the Treasury is omitting or refusing to apply the money appropriated by Congress, and that that Department of the Government is going on and making contracts without authority of law; and to carry out those contracts, the Finance Committee recommended appropriations, thus, as I conceive, holding out a reward for favoritism and partiality on the part of the Executive. I am not talking of this particular Secretary; I care not whether this course of conduct is pursued by the present Secretary of the Treasury, or the former Secretary of the Treasury, or the one who preceded him. I am against the exercise of unwarranted authority, by friend or foe. I care not who is President, or what Administration assumes authority contrary to the Constitution and the laws of the country; I will denounce and condemn it in every one, and in all alike.

Now, sir, let us look at the facts of this case. The act of Congress of 1820 declares:

"Sec. 6. And be it further enacted, That no contract shall hereafter be made by the Secretary of State or of the Treasury or of the Department of War or of the Navy, except under a law authorizing the same, or under an appropriation adequate to its fulfillment; and except, also, contracts for subsistence and clothing of the Army or Navy, and contracts by the quartermaster's department, which may be made by the Secretaries of those Departments."

These exceptions relate to supplies for the Army and Navy, and have nothing to do with the point now in controversy. That is the law. Now what has the Government done? In 1856, an appropriation was made "For completing the custom-house at Norfolk, Virginia, \$54,652 53." It was for completing the work. Will the Senator from Virginia tell me that under that law the Secretary of the Treasury had authority to make a contract for completing that building which should cost more than \$54,652 53? The appropriation was to complete the custom-house at Norfolk; and the Secretary of the Treasury had no authority to make a contract for a larger amount than was appropriated to its completion. But what does the Senator from Virginia report here? He brings in an amendment from the Finance Committee, in which he recommends—

"For the completion of the custom-house at Norfolk, Virginia, \$20,000."

And then he tells us that the Finance Committee report merely appropriations to carry out existing contracts; and an attempt is made to draw a distinction between the obligation to pay money which the officers of the Government have contracted to pay, and its actual payment. When the executive department is charged with disbursing money without authority of law, the Secretary of the Treasury tells us, "No, they have not disbursed a dollar; they have only made the contract by which they have agreed to disburse!" Is not that a violation of law? They have made a contract to disburse \$20,000 for the completion of the Norfolk custom-house according to the authority of the Senator from Virginia, for he says this appropriation is merely to carry out existing contracts; but I say there was no authority of law to make such a contract.

Mr. HUNTER. I will state that I learned this morning that some of these items are small appropriations, as I stated in my remarks just now, designed to complete buildings on which a good deal has already been expended. The amount for such cases is small. Many of them, I am told, have occurred. For instance, here is a case at Portsmouth, New Hampshire, where they contracted with the lowest bidder; but the man broke, and could not execute the work. What are we to do? The work is partly completed, and the Department asks for a sum to complete it. The same is the case in New Haven, Connecticut; the man broke. In Galena, Illinois, they contracted to build a custom-house according to specifications for a certain sum; but upon digging down

the foundation they found quicksand. That, of course, increased the amount. That, of course, was a contingency, an accident, for which provision will have to be made. It is the same case with the marine hospital at New Orleans, and the marine hospital at St. Louis. At St. Louis, they came to quicksand seventeen feet in depth, which they did not expect—had not anticipated; yet they had made a contract for a certain depth of foundation, and a certain size; but they found that they had to drive piles to secure the foundation. In most of these instances, where there is any large difference, it occurred in that way. There are some small appropriations asked for that are merely to complete buildings that are nearly completed.

Mr. TRUMBULL. Then this is a change of ground. Yesterday the appropriations recommended were to carry out existing contracts. Yesterday I understood it to be denied that any contracts had been made contrary to law. I show the law where an appropriation was made to complete a particular work, and a further appropriation is asked at this time for this very work; and now I am answered by being told that a further sum is necessary; that these are a different class of cases. I have not looked into every one of these cases.

Mr. HUNTER. The very large bulk of this appropriation is to carry out existing contracts; most of the items are for existing contracts. There are some few instances, to which I have just referred, in which the estimate is for the completion of the building. There may be no existing contract for it. I believe there is none.

Mr. TRUMBULL. I find that the appropriation bill of 1856 contained this clause:

"For the completion of the marine hospital at New Orleans, in addition to the appropriations heretofore made by an act approved August 4, 1854, \$151,659 20."

Now, here is proposed to be appropriated by this amendment of the chairman of the Committee on Finance, for the completion of the same work, \$85,000.

Mr. HUNTER. I can explain that. I am informed by the constructor or agent, Colonel Bowman—

Mr. TRUMBULL. I will hear the explanation. I think a good many will be necessary.

Mr. HUNTER. That occurred in this way: when they got down to the depth required by the contract, they came to water, and it was necessary to drain and fill in, in order to protect the building. It was useless to put up the structure with water undermining it, and that occasioned a cost not anticipated when the contract was made for the whole building.

Mr. TRUMBULL. Doubtless some excuse will be found for all these extraordinary appropriations. I presume that the officers of the Government will not come out and acknowledge the truth of the accusation which the Senator from New York has brought against the administration of the Executive Departments. I could hardly expect it. But New Orleans is not the only case. Norfolk is another. The Senator from Virginia did not tell us that the appropriation fell short at Norfolk, and I presume if I were to look through this list I could find many instances such as those to which I have called attention.

What was the excuse set up yesterday by the Senator from Missouri [Mr. GREEN] and the Senator from Georgia [Mr. TOOMBS?]? When the Senator from New York first made this accusation against the Department, he was answered by the Senator from Missouri that there was no money. He was told it was unjust to charge upon the Department the refusal to carry out the law in erecting a building which Congress had directed him to erect, when they did not furnish him the money with which to do it. The Senator from Georgia reiterated the charge. Well, sir, what are the facts? The Senator from New York turned to the law, and showed that in 1856 these appropriations were made, and the Secretary was then required to erect certain buildings. We turn to the Secretary's report, and we find by his annual report communicated to us, that at the commencement of the fiscal year, in July, 1857, nearly a year after the time when the appropriations were made, there were lying idle in your Treasury something more than seventeen million dollars. Looking further at the report, you find that the receipts for the next quarter

were nearly twenty-one million dollars, and the expenditures \$23,000,000, leaving some fifteen million dollars on hand on the 1st of September last. Was there no money? There was so much money that the Secretary of the Treasury did not know what to do with it, and was appropriating it to the purchase of the indebtedness of the United States not yet due, by paying the extravagant premium of some fifteen or seventeen per cent. This excuse was then abandoned, and it is said now we have no money. Is that so? Has the Treasury of the United States ever been empty? Are there not millions in it to-day? The truth is, that the Government of the United States has never been without money, and the Senator from Virginia is very ready with his loans of twenty and fifteen millions to supply it in advance with all the funds it may need.

But, sir, the Government has upon hand, and has had all the time, money sufficient to have proceeded with the erection of these public buildings. Why, then, has it not been done? I suppose it has not been done for some such reason as this. The Secretary in his annual report tells us:

"There are other public works of less necessity, which for a variety of causes have not been commenced. A temporary postponement of them will violate no existing contracts; will deprive no one of employment to which he is authorized to look; will inflict no wrong upon any portion of the people; but will enable the Government to realize its means in advance of its expenditure of them, and perhaps avoid the necessity of increasing the public debt."

Here we see foreshadowed the reason why these works have not been commenced. The money was diverted by the Secretary of the Treasury to other works, to carry out contracts which had been made, and made, if this appropriation now asked for is to carry out contracts, I reiterate, without authority of law; for no Senator can justify an officer of this Government in making a contract to complete a work which requires more money than he is authorized to use for its completion. Will the Senator from Georgia, or the Senator from Virginia undertake to justify that? If not, then strike from this appropriation which is now pending the provisions made for the completion of works where money has been appropriated sufficiently for that purpose heretofore.

I do not understand the basis upon which the Finance Committee have proceeded in recommending these appropriations. The second of them is:

"For continuing the work on the custom-house at Charleston, South Carolina, \$300,000."

It would be, I have no doubt, interesting to the country to know what the custom-house at Charleston is to cost. Has any one any idea what it is to cost? I do not profess to know, for this \$300,000 is not for finishing it; it is "for continuing" the work; but I will tell you what I can inform the Senate and the country of: I can tell them that more than one million seven hundred thousand dollars have been appropriated to the construction of a custom-house at Charleston, and \$300,000 is asked "for continuing" the work. If it were for the completion of the work, we could see where the thing was to end. I will take that back, however. We cannot see the cost when the money is appropriated for the completion of the work—it is not completed. We have the example here before us that when Congress appropriates \$150,000 to the completion of a particular work, we are called upon at the next session to appropriate \$80,000 more to complete the same work; and we are urged to vote for it on the ground that contracts are entered into.

Now, I agree entirely in what the Senator from New York has said, that there is no excuse for the Secretary of the Treasury for not having applied the money appropriated by Congress, within a reasonable time, to construct the works which he was required to build; and I reiterate that there is no excuse for any officer of this Government making a contract to pay money which an act of Congress has not given him authority to make; and that every one of these appropriations contained in this bill, which money had before been appropriated to complete, is holding out a reward and an inducement to the Department to enter into a contract without authority of law, with the idea that then Congress will foot the bill. There are some cases like this: where appropriations were made for the erection of public buildings, and the amount appropriated was found to be insufficient to complete such a building as the

Government would require, the Secretary has refused, in some instances, though not in all, it seems, to commence the work. Well, what is the condition of those localities? The work is not begun, and therefore this Congress will make no appropriations to commence it; but if the Secretary of the Treasury could have been induced, where \$100,000 had been appropriated, to construct a building which he ascertained it would cost \$150,000 to make of appropriate dimensions, to commence the work and expend the \$100,000, then Congress, according to the principle adopted by the Finance Committee, would come in and appropriate the other \$50,000 to complete the work, because contracts had been made, and it was in process of erection; but if he had done his duty, and not used the money at all where the law directed him not to make a contract, unless he could make it for completing the work for the amount appropriated, then he is not to be directed to proceed and construct such a building as the money would erect. I hope, sir, the amendment proposed by the Senator from New York will be adopted. I think it a most important one.

Mr. IVERSON. Is the amendment of the Senator from New York in a condition to be amended by a proviso?

The PRESIDING OFFICER. (Mr. STUART.) Not at this time. It is an amendment to an amendment proposed by the Committee on Finance.

Mr. IVERSON. If the amendment prevails, I understand I shall then have a right to amend it, and I give notice that if it prevails, I shall move to attach a proviso to it in the following words:

Provided, The condition of the public finances shall, in his (the Secretary of the Treasury's) opinion, authorize the immediate expenditure, if necessary for the immediate prosecution of said works.

It is true, Mr. President, that the Administration have determined not to commence works which have not already been commenced, because I have it personally from the Secretary of the Treasury, and the Secretary of the Navy. They have determined not to go on with works which Congress have authorized to be constructed that have not already been commenced. At what time that determination was made, I am not informed, but I suppose immediately after the great revulsion in our commercial affairs, when it was seen that the Treasury would be in a deplorable condition. I had occasion to apply to the Secretary of the Navy on this subject, sometime since, by the passage of a resolution of this body, calling for information. It will be remembered that at the last session of the last Congress \$200,000 was appropriated for the construction of a naval depot near Brunswick, Georgia. As no work had been commenced there, I called on the Secretary of the Navy to state the reasons why the work had not been commenced. In response to that resolution, the Secretary of the Navy, on the 13th of May, 1858, sent a communication to the Senate setting forth what had been done in that case precisely as it is understood and stated here, has been done in the case of the Ogdensburg custom-house. They have gone on and purchased a site; they have bought the land on which the depot is to be erected, after a negotiation in relation to the price, on ascertainment of the legal title, and a cession of jurisdiction by the State of Georgia; but they have not commenced the works which Congress authorized to be constructed. The reason why that has not been done is disclosed in the communication of the Secretary of the Navy. He says:

"In reply to the inquiry why the commencement of the necessary works has not been made, I would state that there is no money in the Treasury which can be applied for that purpose without diverting it from other indispensable objects. They fall within the class of public works authorized by Congress, which not having been commenced, it is not deemed expedient or proper to commence during the present condition of the Treasury."

There is the whole of it. Congress has gone on to appropriate money for the construction of this, that, and other works: the Administration finds itself without the necessary means to complete them or to go on with them; and it determines to suspend their construction until the Treasury gets in a better condition. I think that is right. I make no issue whatever with the Secretary of the Navy in relation to the construction of a naval depot at Brunswick, because I believe he has acted fairly and properly on the subject. The Administration find they have no money; the revenues have fallen off nearly fifty per cent., and the Gov-

ernment has not the money to construct these works. What is it to do? The Senator from New York and the Senator from Illinois complain that it exercises a discretion. That is not only proper, but the executive officers are bound, from necessity, to exercise a discretion. Congress appropriates so much money for this object, and so much for another, and so much for another, and appropriates altogether, fifty, or sixty, or seventy, or eighty million dollars; and the Secretary of the Treasury finds that he has not got money enough to carry out all these objects of appropriation. What is he to do? He must necessarily exercise his judgment as to how the money is to be applied; he must of necessity, as well as of propriety, determine which of these appropriations shall be carried out; he must exercise his judgment, according to the best dictates of his conscience, as to what the public service demands; and this I understand he has done, and it is just and proper that he should exercise this judgment. The Government could not be carried on in any other way. If Congress demands of the Executive to perform certain functions, and does not place the money in his possession to perform them, I want to know how he is to do it? Gentlemen on the other side come forward here and appropriate large sums of money for the construction of certain works; the money is not in the Treasury to accomplish the object; and then they complain of the Secretary that he does not do the works without the money to accomplish them; and when the Secretary calls on them to raise money by loans or Treasury notes, they refuse to do it. They say, "we will not give you a dollar; we will not vote you a loan; we will not vote you Treasury notes; we will not vote anything by which you may put additional sums in the Treasury; but we demand of you to carry out these appropriations and expend the money: we insist that you shall build the Ogdensburg custom-house, although you have not the money, nor will we give you the means of doing it." This is a very extraordinary doctrine to me. I do not understand in what school of ethics, or of morals, or of honor, or of honesty, the gentlemen have studied. They vote against every bill which authorizes the raising of money; they vote against the loan bill; they vote against the Treasury-note bill; they vote against everything by which the Government call on you to put money in the Treasury, in order to enable them to carry out these objects; and yet they are all the time piling on appropriation after appropriation that the Government are called upon to execute. I do not understand that mode of fairness. If that is fair legislation, or a fair mode of dealing with the Administration, I certainly have misunderstood the true meaning of terms. I think that the Secretary of the Treasury is entitled to exercise his discretion; the Government are bound to exercise discretion when they are called upon to expend money for various objects of appropriation. If they have not money enough to carry them all out, they must select those which, in their judgment, the public exigency and the public service demand. If they did not do that, they would be subject to a public odium under which no Administration could ever stand.

I give notice, that if the amendment of the Senator from New York prevails, if he wants this amendment of his for the purpose of calling the attention of the Secretary of the Treasury to this work, if he wants it for the purpose of stimulating him to the construction of this work when means are provided, or if he wants it for the purpose of preventing the lapse of the appropriation, to prevent the money going into the surplus fund at the expiration of the time at which the law provides such appropriations shall lapse, I propose to add this proviso of mine, still reserving a discretion in the Secretary of the Treasury to go on with the works if the public finances will justify it, and not otherwise.

Mr. PUGH called for the yeas and nays, on the amendment to the amendment; and they were ordered.

Mr. MASON. I have paired off on this question with the Senator from New York, [Mr. Seward.]

Mr. SIMMONS. I have paired off with the Senator from Missouri, [Mr. Polk.]

The question being taken by yeas and nays, resulted—yeas 13, nays 29; as follows:

YEAS—Messrs. Bell, Broderick, Chandler, Dixon, Dur-

kee, Foot, Foster, Hamlin, Harlan, King, Trumbull, Wade, and Wilson—13.

NAYS—Messrs. Allen, Bigler, Brown, Clay, Clingman, Davis, Finch, Fitzpatrick, Green, Gwin, Hammond, Hayne, Houston, Hunter, Iverson, Johnson of Tennessee, Mallory, Pearce, Pugh, Reid, Rice, Sebastian, Sidel, Stuart, Thompson of Kentucky, Thomson of New Jersey, Toombs, Wright, and Yulee—29.

So the amendment to the amendment was rejected; and the question recurred on the amendment of the Finance Committee, as follows:

For continuing the extension of the Treasury building, \$500,000.

For continuing the work on the custom-house at New Orleans, Louisiana, \$350,000.

For continuing the work on the custom-house at Charleston, South Carolina, \$300,000.

For the completion of custom-houses at the following places, namely: at Ellsworth, Maine, \$2,000; at Portsmouth, New Hampshire, \$50,000; at Bristol, Rhode Island, including fencing and grading, \$5,000; at New Haven, Connecticut, \$60,000; at Oswego, New York, \$10,000; at Flatsburg, New York, \$10,000; at Newark, New Jersey, \$10,000; at Norfolk, Virginia, \$20,000; at Pensacola, Florida, \$5,000; at St. Louis, Missouri, \$20,000; at Mobile, Alabama, including fencing and paving, \$30,000; at Galena, Illinois, \$10,000; at Milwaukee, Wisconsin, \$10,000; and for annual repairs at custom-houses, \$15,000.

For the completion of marine hospitals at the following places, namely: at Portland, Maine, \$3,000; at St. Mark's, Florida, \$2,500; at New Orleans, Louisiana, including filling up site, grading, introducing gas and water pipes, and fixtures, and fencing, \$85,000; at Cincinnati, Ohio, \$50,000; at Galena, Illinois, \$5,000; and for annual repairs at marine hospitals, \$15,000.

For fencing, grading, paving, and furnishing the custom-houses at the following places, namely: at Ellsworth, Maine, \$3,000; at Bath, Maine, (for furniture alone,) \$1,100; at Burlington, Vermont, \$1,600; at New Haven, Connecticut, \$8,500; at Oswego, New York, \$7,300; at Plattsburg, New York, \$9,900; at Newark, New Jersey, \$5,200; at Alexandria, Virginia, \$3,700; at Norfolk, Virginia, \$12,000; at Mobile, Alabama, (for furniture alone,) \$2,600; at Pensacola, Florida, \$2,500; at St. Louis, Missouri, \$14,000; at Louisville, Kentucky, \$3,900; at Cleveland, Ohio, \$7,100; at Galena, Illinois, \$3,700; at Milwaukee, Wisconsin, \$7,700.

For fencing, grading, paving, and furnishing, the marine hospitals at the following places, namely: at Burlington, Vermont, \$3,400; at Chelsea, Massachusetts, (out buildings, grading, and fencing,) \$19,700; at St. Mark's, Florida, \$1,200; at Detroit, Michigan, \$7,500; at Galena, Illinois, \$3,800; at Burlington, Iowa, \$4,100.

Mr. WILSON. I desire to move an amendment to the amendment. It contains this clause:

"For continuing the work on the custom-house at New Orleans, Louisiana, \$350,000."

I want to add these words:

And the superintendent of the said custom house shall act as commissioner and disbursing agent of the same.

This amendment proposes to grant \$350,000 to continue the work on the custom-house at New Orleans, on which \$2,675,000 have already been expended. If it should pass, \$3,025,000 will have been granted for building the custom-house at New Orleans. This is a most extraordinary expenditure. The custom-house at New York cost \$900,000; the custom-house at Boston \$1,100,000; and here is an expenditure for New Orleans that will amount, if this amendment be adopted, to \$3,025,000, and the report says it will cost \$3,228,000 to complete it. I find that there is a commissioner and disbursing agent appointed at a salary of \$6,000 a year; and that \$6,000 a year of the money appropriated to build this custom-house is used for what seems to be no service at all. There is a superintendent with a salary of ten dollars per day, amounting to \$3,650 a year. The superintendent can act as commissioner and as disbursing agent for that building, and I think there is more fitness that he should, than that anybody else should be appointed. Your officer, Captain Meigs, employed on this Capitol, and in the construction of the aqueduct to this city, at a salary of about two thousand eight hundred dollars a year, acts as superintendent and disbursing agent. Two years ago this last month, Mr. Guthrie discontinued the payment of eight dollars a day for a commissioner of this building. Mr. Penn, of Louisiana, was commissioner and disbursing agent at sixteen dollars a day—\$6,000 a year. Mr. Guthrie discontinued, in April, 1856, the pay as commissioner, and this gentleman was allowed eight dollars a day as disbursing agent, which amounts to \$3,000 a year. In April, 1857, Mr. Cobb restored the pay to the commissioner, and reappointed this gentleman with a salary of \$6,000 a year as commissioner and disbursing agent.

Now, sir, the expenditures upon this custom-house have exceeded all bounds. There is no justification for it; and if it existed in any other portion of the country we should have a storm of denunciation about the extravagant appropriations expended there. Is it necessary to employ

a man at \$6,000 a year to pay out the money that is appropriated for this building? Surely, sir, there is no necessity for it. Put the duty on the superintendent, and it will not cost you a dollar.

Besides, we have employed in New Orleans, in the marine hospital, a gentleman at a salary of \$3,000 a year as disbursing agent. I intend, if this motion carries, to move a similar amendment to the appropriation for the marine hospital. It seems to me that the superintendents on these buildings can disburse the sums appropriated for them, and thus save the Treasury \$9,000 a year; and in the present condition of the Treasury, and considering the enormous expenditures that have been made there, I think it our duty to do it; and therefore I hope this amendment will be adopted. I shall ask for the yeas and nays upon it.

Mr. SLIDELL. I think it will be found that the discharge of the duties of superintendents of the various buildings being erected throughout the country, and those of the disbursing officers, has always been conferred upon different individuals. I think I cannot be mistaken in making that assertion in the most unqualified manner. It is not peculiar to New Orleans. I do not think any expenditure has been made for the purpose of erecting custom-houses or post offices in any part of the country in which this distinction has not been made. I am not aware that both of these duties have been imposed on the same individual in any part of the United States. Therefore, that portion of the charge of the honorable gentleman from Massachusetts falls to the ground.

In relation to the double pay received by Mr. Penn, I can only say that it continued throughout the whole period of the preceding Administration, with the exception of a very few months towards its close. What the particular reason was at that moment for cutting off the emoluments of Mr. Penn, I shall not pretend to say. The fact was so, however. He had been in receipt of those two allowances for years; and he is one of the most faithful disbursing officers of the country. I would state one peculiarity in relation to the employment of officers of this sort in Louisiana, which probably does not exist in any other part of the United States. Our climate is such as to require imperatively the occasional absence of the employes of the Government from their post for the good of their health. This is one of the most important works in the country. The superintendent of the custom-house is Major Beauregard, one of the most distinguished officers in the engineer corps. He for many years has been in rather infirm health, and it has been occasionally found absolutely necessary, on the advice of his physicians, that he should be absent for several months. During that period there was no person to whom he could confide the duties which devolved upon him by his office. Taking into view all these facts, the Secretary of the Treasury thought it proper that the gentleman who is charged with the disbursing of the public moneys there, the payments made on account of the custom-house, and who was obliged during many months of the year to devote a large portion of his time to the superintendency of the building, should be allowed something for his additional services.

In relation to Mr. La Sere, I will state, that, so far from being overpaid, in comparison with other officers throughout the country, he does not receive what is considered a fair and just compensation. Mr. La Sere is the disbursing officer, not only for the marine hospital in New Orleans, involving an expenditure of some \$400,000 or \$500,000 altogether, but for repairs of the mint, for which, at various times, appropriations have been made to the extent of \$130,000 or \$140,000. Mr. La Sere received this appointment last spring, on the occurrence of a vacancy by the death of the previous incumbent. He accepted the position as the disbursing officer for the marine hospital, and gave bond for a very large amount for the faithful discharge of that duty. Previous to that time, I think there had been a separate disbursing agent for the mint, who was receiving his regular allowance of eight dollars a day. I am not so very confident in asserting this fact; however, I believe it to be true. After he received his commission and appointment, and was in discharge of his duties, a vacancy having occurred in the place of the disbursing officer of the mint, the Secretary of the Treasury appointed Mr. La

Sere to discharge also the duties of disbursing officer of the mint. He was obliged to give a separate bond for the proper discharge of the duties of that office. The Secretary of the Treasury, with a degree of rigor which I believe has been applied to no other part of the country, refused to allow Mr. La Sere any additional compensation for this additional labor. I think I have disposed of that case.

Now, as the amendment of the Senator from Massachusetts does not touch at all the question of the propriety of this appropriation of \$300,000, it will not be necessary for me to enter into a long explanation of the condition of the custom-house, and the immense cost of that building. I will state, however, that this probably is the largest public building in the United States, with the single exception of the Capitol. Its foundations have been very massive. They were necessarily so from the character of the soil. It covers an area of some four hundred feet by three hundred. The former Secretary of War, probably, can give the exact dimensions of the ground, the block which it covers. That ground was made a donation by the city of New Orleans, for the purpose of having that custom-house erected. If a similar extent of ground, in an equally advantageous position, had been necessary to be acquired by the Government in any other city of the Union, I venture to say it could not have been purchased, or it would not have been purchased, for less than \$2,000,000. That was a most munificent donation on the part of the city of New Orleans. I suppose that had some influence with the Secretary of the Treasury in the plans which he adopted for the erection of this building. He considered that so munificent a donation required, in some degree, a corresponding disbursement on the part of the General Government. Had the same building been required in New York, in a corresponding position, I venture to say the ground could not have been acquired for less than \$4,000,000, and that the whole expense would have been six or seven millions.

Now, as to another error of fact on the part of the Senator from Massachusetts. He says that the custom-house at New York cost but \$1,000,000. I have here a statement of the estimated cost, prepared by the construction department of the Treasury, of the custom-house building, and I presume it is the custom-house building proper in the city of New York, and it is \$2,000,000; so that on this point the Senator made a slight mistake of one half. Everybody admits that the custom-house at New York is totally insufficient for the wants of that great commercial metropolis. It ought to be three times as large as it is. But in addition to that, at this moment the General Government is paying for occupation of various buildings, among others, a large portion of the assay office there, in interest upon the capital or, in the actual form of rent, some sixty or seventy thousand dollars, representing, at six per cent., an additional capital of one million or one million two hundred thousand dollars. At the same time the accommodations for the discharge of business are totally inadequate in New York, as everybody knows.

As regards abuses of the Government, I will not pretend to say exactly under whose Administration these things occurred; but I know very well that during the whole period employed in the construction of the custom-house in New York three commissioners were employed by the Government at eight dollars a day in the discharge of these duties; and I think it will be found that under this Administration, and under all past Administrations, there has been no more economical disbursement of the public money than in New Orleans, in the employment of officers to whom this branch of the service has been confided. As regards the custom-house in New Orleans, it has been a very expensive building. There are various reasons, one or two of which I have enumerated before. The character of the soil required a foundation such as had not been known in any other part of the country. Besides, instead of employing the material which might have been found on the spot, pursuing a policy which has never met with my concurrence, the General Government has derived every material for that custom-house from the North. The granite comes from New Hampshire; the iron from Pennsylvania, New York, and New Jersey; and so far as our mechanics are concerned in New Orleans,

they have derived no advantage at all from this vast expenditure; but as it seems to be admitted that the main object of this particular section is not objectionable, I shall say nothing more upon that subject. It may, however, be proper to state that this sum of \$300,000 is the lowest possible sum which could have been required by the Secretary of the Treasury to provide for the fulfillment of existing contracts. If this appropriation be not made, the men who have delivered and are now delivering the granite of New Hampshire, the iron of New Jersey, New York, and Pennsylvania, cannot be paid; and I would suggest to the Senator from Massachusetts that if he were to strike out this appropriation he would probably affect his own constituents much more than mine.

Mr. GREEN. I have not a word to say against Mr. La Sere, or any other disbursing agent in the city of New Orleans, or elsewhere. I know Mr. La Sere personally, and what I know of him is all to his honor. He is a high-minded, honorable gentleman, worthy of the position; but I really think the amendment proposed by the Senator from Massachusetts just and proper. There is no uniform rule in the United States with regard to disbursing agents in making payments for public works. At a majority of the ports where custom-houses, post offices, and court-houses, are being built, the customs' officer is made the disbursing agent, without any compensation for it; and I think that very wise and very proper. There is no uniform law as to the number of supervisors of the building. There is always a local architect, and must of necessity be, to conduct the building, and see that its parts are all properly adjusted. There is generally a superintendent to see that all is carried on according to contract. That may be proper; but when contracts are made and amounts are to be paid out in large sums, there can be no necessity for a separate disbursing agent to make the payments in fulfillment of the contract. If it be a percentage, it is paid in large amounts, from \$25,000, or \$30,000, or \$50,000 at a time. The contractor pays the day laborers; he pays for materials, &c., and therefore it is not necessary to keep a multiplicity of accounts. The superintendent can do it without any very serious hardship. I would suggest to the Senator from Massachusetts an amendment of his proposition. Whoever is the disbursing agent, ought to be under bond and security, and he ought to put that provision to it. Let the Secretary require the requisite security to protect the interests of the Government of the United States; then dispense with all supernumerary officers, in doing which we injure no public service. We do not strike at the custom-house in the city of New Orleans; we are willing to let the appropriation go as it ought; but let the money be applied to the purpose. Do not abstract \$6,000 of it in payment of the salary of an officer who can be dispensed with, and his duties imposed upon another, without any injury to the public service. I shall vote for the amendment, but I suggest the modification I have indicated.

Mr. SLIDELL. The Senator from Missouri is altogether mistaken about the fact of the buildings in New Orleans—I do not know how it may be in other parts of the country—being conducted exclusively on the contract system. The contracts, as I said before, are made for the iron and for the granite; the laborers are employed by the Government, and paid by it. The pay roll includes some five or six hundred men, who are paid off by the week, and the disbursing officer is obliged to attend to the payment of each of them.

Mr. HAMLIN. The amendment now pending, offered by the Senator from Massachusetts, is an amendment to an amendment; and I cannot, therefore, offer any additional amendment to it; but I will read one which I think appropriate, and I suggest it to the Senator from Massachusetts to adopt it as a portion of his amendment:

And in all cases where there is a superintendent for the erection of public buildings, he shall act as disbursing agent, and shall give bonds for the faithful discharge of his duties.

That makes it general. I do not know, sir, that there is any evil in the administration of our Government which can be corrected by the Senate; but if there is any, it would seem to me that this is one which should be examined into and be corrected by the Senate. The Senator from Missouri is mistaken when he says that all the custom-houses now in process of erection are done

under contract. A few—the New Orleans and Charleston custom-houses—were begun before the system of contracts was adopted by the Department. Perhaps there are none other than these two which are not erected under a system of contracts.

Mr. PUGH. There are three or four.

Mr. HAMLIN. But the great number are being constructed under a system of contracts. On referring to the Finance Report for last year, I find at page 129 a list of all the custom-houses, court-houses, and marine hospitals, that are in process of erection, and I find there that uniformly in every case they have a superintendent whose pay varies all the way from four to six, eight, and ten dollars per day; and they have also at each and every place a separate disbursing agent. I think that if we examine this simple table that is before us, we shall learn where a very considerable portion of the moneys that have been appropriated for the erection of public buildings has gone to. I find, too, that in very many cases the disbursing agents are the collectors of the port. I do not understand by what authority of law they are allowed to act as disbursing agents, receiving additional compensation for that service. The chairman of the Committee on Finance knows better than I do what is the law; but, as I understand it, no person in the employ of the Government, who receives a fixed salary, can receive compensation for discharging the duties of another officer. I do not know but that that provision of the law is confined to Army and Navy officers; but I think it is general. If, however, it does not apply to civil officers it ought to apply to them.

Mr. FESSENDEN. Will my colleague allow me to make a statement?

Mr. HAMLIN. Certainly.

Mr. FESSENDEN. As to Army officers, I know that while the custom-house and marine hospital were in process of construction at Portland, eight dollars a day was paid to Lieutenant Franklin as superintendent, and he was at the same time, as he is now, an officer of the Army. He was then employed as superintendent of light-houses out there, for which also he received pay. He received eight dollars a day continuously, being an officer of the Army—four dollars for each building as superintendent.

Mr. HAMLIN. There is some such provision of law certainly applicable to some classes of officers. Now, let me call the attention of the Senate to the table to which I have alluded. I have it before me; and I commence with my own State, with which I am familiar, and know something about. In Bath they are erecting a custom-house, and T. G. Stockbridge is superintendent, and Joseph Berry, who is the collector of the port, is disbursing agent. Stockbridge receives four dollars a day, and Berry four hundred dollars a year for this service, in addition to his pay as collector. I think a superintendent of such a building ought to be a practical mechanic. In running my eye over the list in regard to Maine—and there are five works in process of construction there—I do not see a single one who is a mechanic. Still, waiving that objection, these superintendents do not occupy beyond a single hour in the day, and probably not more than one hour in the week, in this service. The custom-house officer, who is also disbursing agent, receives pay as the disbursing agent in addition to his compensation as collector. I believe every disbursing agent in my State is a custom-house officer—Berry, Smart, Jones, Leavitt, Macdonald, and Kennedy—every one of them. At the end of the week, or only perhaps at the end of the month, they pay out money, or give checks for the money which is due to the operatives or contractors. It may take two or three hours in a month; and they receive their four hundred dollars per annum for this service.

I submit to the Senate that this is a state of things which ought to be arrested. It is only for the purpose of sustaining, in many cases, mere political partisans. I have nothing to say in relation to the case in New Orleans. I know both the gentlemen in office there, whose names have been mentioned; and I know them to be highly respectable gentlemen. I have nothing to say against them individually; but I affirm that this system abstracts from the Treasury a large amount of money, for no adequate service rendered. Take the case in New Orleans. How

much time does it take the disbursing agent who disburses the money there? Does it take him one day in a week? I do not believe it takes more than one day in a month.

Mr. SLIDELL. I will answer that question. I happen to be in the custom-house very often, and I know that the duties of the superintendent and disbursing officer are of such a character as to require their constant presence. They are always in the building; and you may find them there every day in the year, from nine o'clock until four, unless they are absent on account of indisposition.

Mr. HAMLIN. I presume that is so, as the Senator says so. I only say that there is not a particle of necessity for the disbursing agent ever treading the threshold of the building. All he does is to pay out the money when he gets the proper vouchers on which to pay it. He may go there and spend all of his time, if he pleases; I only say there is nothing about the discharge of his duties that requires him to go there at all.

Now, one word in relation to making the superintendents disbursing agents. They are the best officers for it. They ought to know better, they do know better, to whom the money is to be paid. They are the persons who superintend the erection of the building, and they only know how far it has progressed, what sums are due, and how far the contract is completed. It must be on the certificate of the superintendent that the disbursing officer pays. He is just the man who is, by his position, qualified, and knows just when and how much to pay. The small duty of paying out money would not be a great addition to his labor. If, however, it should require a trivial addition to the compensation already received by the superintendent, make that addition; but I do not believe there is a superintendent who does not receive an ample compensation for both superintending and disbursing.

I have no feeling in this matter. I do not imagine it is going to commend itself to the Senate; but in these days when you are talking about retrenchment, in these days when we are all looking at the enormous expenditures that are made, if there is a place where the pruning-knife can be applied, this is one; and I think it is one where it ought to be applied. I do not know where or when this system originated; I never knew of its existence until I saw it here. I can only say, however, it exists, wherever it came from; it has probably grown up gradually; and I would act and vote at any time, and at all times, precisely as I mean to do now, because I believe, in my heart, the thing is right, and ought to be done. I should not vote to make New Orleans an exceptional case; I do not understand why it should be so; but I will vote to put them all on the same footing. I will vote to make every superintendent of any of these buildings the disbursing officer, and I think we ought to do that.

Mr. CLAY. I shall vote for this amendment; but I would rather vote for one dispensing with all these disbursing agents.

Mr. KING and others. Make it that.

Mr. CLAY. I will prepare an amendment, if I have time, for that purpose. I think that these officers are entirely supernumerary, and that we may dispense with them. I remember that during the last Congress there came before the Committee on Commerce a memorial from the collector of Charleston—I think it was Mr. Colcock—asking a very small percentage, one or two per cent., upon money which he had disbursed as agent of the Government there. It was submitted to Mr. Guthrie, then Secretary of the Treasury, and, in reply, he very promptly said that the claim was without any just foundation, either in law or in equity. He said that it was the collector's duty to disburse as well as to collect the moneys of the Government, and the committee reported against the claim.

Amongst other objections that I have to this system, any man who will run his eye over the report and see the rates of compensation allowed at different places, will perceive that it appears to be governed rather by favoritism than by the expense of living at these places. For instance, let me call attention to the compensation in Maine. At the various custom-houses there the disbursing officer gets his \$400 per annum; but in New Hampshire, at Portsmouth, Mr. Hatch is allowed five dollars a day. I do not know whether they

include Sundays, or whether they include every day in the week except Sunday; but from what the Senator from Louisiana says, I suppose you may count at least six days in the week. Then he gets over fifteen hundred dollars per annum salary for doing what is required to be done in the State of Maine for \$400. Looking further down, I find that the disbursing agent at Providence gets six dollars a day, which is more than eighteen hundred dollars per annum, for the same service obtained in Maine for \$400 per annum. Then, when I come to the southern custom-houses, I find that the disbursing agent in Mobile is the collector of the port, (Mr. Sanford,) and there appears to be allowed him, in addition to his compensation as collector, the sum of \$400 as disbursing agent; but in New Orleans, where the cost of living is not higher, Mr. Penn gets sixteen dollars per day, or upwards of six thousand dollars a year, for performing the same service.

The inequality of this system, it seems to me, will strike every man in the Senate. And if the collector at Charleston was forced to disburse a very large amount, for which he was refused all compensation whatever, the then Secretary of the Treasury maintaining that it was his duty to disburse as well as to collect moneys, upon the order of the Government, why, I ask, should we pay \$6,000 to an agent in New Orleans for performing this service? I think it is an unnecessary and superfluous expense—one that we might well dispense with; and I shall vote for an amendment to strike out all appropriations for every one of these disbursing agents, and require the duty to be performed by the collectors. I do this at the same time with a consciousness that I am disobliging, perhaps, a friend and constituent of my own—Mr. Sanford—whom I esteem very highly, as a gentleman and a good citizen; but I think we ought to reduce the expenditures of the Government as much as possible, and I do not doubt that there are a large number of supernumeraries in all the collection districts, and that these disbursing agents may be very well dispensed with.

Mr. WILSON. The Senator from Louisiana tells us that superintendents are not appointed as disbursing agents. I know that it is not usual to do so, but that is no reason why it should not be done. The power of appointing disbursing agents is exercised by the Secretary of the Treasury. I offered a resolution the other day, which was adopted by the Senate, calling on the Secretary for the authority by which these appointments were made, and his answer has been received. The Senator from Louisiana, however, is mistaken in the fact. There are a few such cases. I find that at Pensacola, in Florida, the superintendent is disbursing agent; and at Natchez, in Mississippi, and Napoleon, in Arkansas, the superintendent is disbursing agent. Here, in the District of Columbia, on the Treasury building, Mr. Bowman is superintendent and disbursing agent. There is also a case in Louisiana returned, where Mr. Duncan acts in both capacities. Now, I see no reason why the superintendents of these buildings should not act as disbursing agents in all cases. I believe the duty of disbursing the moneys appropriated for the erection of these buildings can be performed without any additional cost to the Government by the superintendents, and better performed than they can be by any other persons who may be appointed.

I find in the amendment proposed by the Committee on Finance, an item of \$300,000 for continuing the custom-house at Charleston, South Carolina. That, with the appropriations heretofore made, makes \$2,300,000 for that custom-house at a port where they collect about half a million of revenue per annum. I think it is a very unwise and unnecessary expenditure for a city of that size. I find that the collector of the port of Charleston, at a compensation of only \$400 a year in addition to his salary as collector, acts as disbursing agent, and we propose to appropriate \$300,000 for that custom-house, and \$365,000 for New Orleans. Why cannot the superintendent at ten dollars a day in Charleston—for I find that the superintendent there has ten dollars a day—act as disbursing agent?

Mr. HAYNE. I will tell you why. He is an engineer, and I am very much mistaken if he does not enter into all the contracts; and if he were disbursing agent besides, there would be no check

on him. The collector receives the funds, and he is accountable. He gives ample security. Many of the superintendents would not do it. I do not think it would be proper to make the superintendent the disbursing agent.

Mr. WILSON. I disagree with the honorable Senator from South Carolina, and I see no reason why that gentleman, receiving \$3,650 a year should not disburse the money necessary to be disbursed at Charleston, and give bonds to the Government for the faithful discharge of the duty. Therefore, without applying this amendment specially to this case, I accept the suggestion of the Senator from Maine, and am willing to take his amendment as it has been modified.

Mr. HUNTER. I suggest to the Senator from Massachusetts that it would be safer to have the collector the disbursing agent. The superintendent is very often a mere architect.

Mr. HAYNE. The superintendent is daily at his post. As the honorable gentleman from Louisiana has said, he is always there; and, if I mistake not, he makes all the contracts. At any rate, he is always at his post, and the office is exceedingly overous.

Mr. CLAY. I have prepared an amendment, which I think will cover the object of the Senator from Massachusetts. It is to insert this provision as an additional section to the bill:

And be it further enacted, That the collectors of customs in the several collection districts of the United States shall be, and they are hereby and hereafter, required to act as disbursing agents for the payment of all moneys appropriated for the building of custom-houses, marine hospitals, or other public buildings; and that hereafter disbursing agents and the clerks of disbursing agents shall be dispensed with.

Mr. WILSON. I certainly have no objection to that form. I understand it meets the approbation of the chairman of the Committee on Finance.

Mr. HUNTER. I will vote for it. I do not understand the subject very well, but I know that the superintendents are frequently mere architects, and it would not do to make them disbursing agents. We know that the collectors are safe disbursing agents.

Mr. FESSENDEN. One difficulty about this amendment is that some of the public buildings are erected at places where there are no collectors of customs. For instance, you do not always erect a court-house in a place where there is a collector.

Mr. HUNTER. The buildings are for custom-houses and court-houses together.

Mr. FESSENDEN. All I want is to make the provision broad enough to cover all these buildings in the United States.

Mr. WILSON. The Senator from Alabama and the Senator from Virginia wish to have the collectors made disbursing agents. The Senator from Maine suggests that this cannot be done in all cases. Now why not say, "collectors or superintendents." There may be a few cases where a superintendent would act in that way, and, if the Senator from Alabama will agree to that modification, I will accept his amendment.

Mr. CLAY. I have no objection to that.

Mr. FESSENDEN. I would suggest another thing, to add to the amendment, that he shall receive no additional compensation for the discharge of these duties.

Mr. CLAY. I shall be sure to do that.

Mr. FESSENDEN. If you do not do it, they will go on and give them eight dollars a day additional.

Mr. PUGH. If Senators had looked at the end of this table, on page 132 of the Finance Report, they would have found a note answering some of their objections:

"NOTE. Those disbursing agents whose rate of compensation is stated at \$400 per annum are collectors, whose compensation is fixed at two and a half per cent. on the amount disbursed; provided such percentage, in addition to the percentage received for light-house and all other disbursements, does not exceed four hundred dollars per annum. Generally, where there is a collector at the location of a work, he is appointed disbursing agent; but at New Orleans, and a few other places, a separate disbursing agent is employed."

I think the cheapest plan would be to make them all collectors where there is one, and to bring him under the \$400 provision, which is a mere additional per centum to his compensation. He does not get that, unless the percentage amounts to it; it is a limitation. Where there is no collector, I have no great objection to appointing a

superintendent; but when I look over this column, I see that many of these superintendents are Army officers, and I do not want to give them any more power.

Mr. HUNTER. There is a law in regard to designating depositories. If a collector be designated as a depository, he receives a certain per centum, so much on the \$100,000. I suppose it is under that law they get the \$400 alluded to; but I am not certain of that. I think it probable, from hearing this note read, that it is under that law that the collectors get it.

Mr. PUGH. I will vote for an amendment to make the collector a disbursing agent, wherever there is a collector.

Mr. HUNTER. The Senator from Alabama is preparing his amendment as a separate section.

Mr. CLAY. If the Senate will go on and perfect this bill, I shall endeavor, in the mean time, to compass the views of all gentlemen, by writing an amendment which shall be a concluding section of the bill.

The PRESIDING OFFICER. (Mr. STUART in the chair.) Does the Senator from Massachusetts withdraw his amendment with that understanding?

Mr. WILSON. I do.

The PRESIDING OFFICER. Then the question recurs on the amendment proposed by the Committee on Finance.

Mr. WILSON. I find in this amendment an item of \$300,000, for continuing the work on the custom-house at Charleston, South Carolina. I wish to ask the chairman of the Committee on Finance, if that is necessary? I find in a report made by Captain Bowman, a statement that \$100,000 is needed. I am willing to vote whatever is necessary.

Mr. HUNTER. I am assured by Captain Bowman—I saw him this morning—that this sum is necessary, and it is all for material, except so much labor as will be necessary to put up the material when it gets there, and not leave it exposed to the weather. That is the explanation made to me.

Mr. HAYNE. The custom-house in Charleston is in a peculiar condition. It is not near so far advanced as the New Orleans custom-house; and, unless you make an appropriation sufficient to use up the material, a great deal of it will be destroyed. The proper kind of mechanics have been collected. It is a beautiful building, a very costly one, and if you discharge your good workmen you may not be able to get them again.

The amendment was agreed to.

The last reported amendment of the committee was to insert as a new section:

SEC. 3. *And be it further enacted, That section six of an act passed August 18, 1856, entitled "An act making appropriations for certain civil expenses of the Government, for the year ending 30th of June, 1857," shall apply to the subsistence of the commissioner therein named from the time he entered upon the discharge of his duties, and the same shall be paid out of appropriations already made.*

Mr. PUGH. What commissioner is that? I dislike this voting in the dark.

Mr. HUNTER. The Senator from Maine can explain.

Mr. FESSENDEN. It is the commissioner under the reciprocity treaty for fixing the line agreed upon; and if the Senator wants an explanation of the necessity of the provision, I will give it to him. The salary of the commissioner was originally fixed at \$2,000. It was supposed at the time the salary was fixed that he would receive, in addition to it, his expenses. His expenses have necessarily been, for several years, more than his salary, and the amount to pay them was not appropriated because it was supposed to be covered by the previous legislation. It was discovered by my colleague, however, that that was not provided for, and he suggested it to the Secretary of State, who admitted at once its propriety, but said he had no authority, under the act, to pay the expenses, and an allowance must be made him for subsistence, at four dollars a day. It was made two years ago. It was supposed, at the time, that this provision was made for the preceding years—that it covered the year which had elapsed; but on examination it has been found that although it applied to that year, and all succeeding years, and has since been regularly estimated for, it did not apply to the first year. There is money out of which the payment

can be made already appropriated, and this proposition is simply to give him his subsistence for the first year, which he has never received.

The amendment was agreed to.

Mr. HUNTER. I offer another amendment from the Committee on Finance, to insert at the end of the first section:

To enable the Library Committee to complete the payments for a series of portraits of the Presidents of the United States, contracted for under authority of Congress, and for framing the same, \$5,000.

The amendment was agreed to.

Mr. HUNTER. I offer another amendment:

For paying the expenses of the commissioners appointed in pursuance of the joint resolution of the 24th of February, 1857, to inquire into, and testing the processes of J. T. Barclay, for preventing the counterfeiting of the coins of the United States, in addition to the sum appropriated by said resolution, \$800.

Mr. TOOMBS. I move to amend the amendment by adding to it \$1,200 for Dr. Barclay. The commissioners who have tested these experiments under a resolution I introduced at the last session, speak very favorably of them, and they state in their report, which I handed to the chairman of the Finance Committee, that Mr. Barclay had been attending during the whole progress of the experiments, and they turned out advantageously to the country in testing the means discovered by him to prevent counterfeiting. They recommend that his expenses at least be paid, and they say \$1,200 would be right for them. I hope the Senate will agree to add \$1,200 for Mr. Barclay's expenses.

Mr. HUNTER. Eight hundred dollars is for machinery to test the improvement. The Committee on Finance agreed to the sum of \$800 for machinery.

Mr. TOOMBS. I move to add \$1,200 for the expenses of Dr. Barclay. He is a gentleman, without means, who has attended to this business. It is likely to be advantageous to the Government. So the commissioners report—two scientific gentlemen who have considered the matter; and I think it is but fair to allow the old man his expenses while giving his labor. I propose to amend the amendment by adding to it—

And \$1,200 to the said J. T. Barclay, for payment of his expenses while attending at the Mint for that purpose.

Mr. FESSENDEN. This commission was originally appointed at the request of Dr. Barclay, for the purpose of testing an invention which he alleged he had made. It had not then been tested; he had not the means to do it himself, and therefore he applied to Congress to furnish him with the means. If it turns out to be successful it will be very valuable; if unsuccessful, of course it will be worth nothing. He being deeply interested in the matter, asked for, and obtained the assistance of, the Government to test his experiment. We have paid the expenses of the commission, for which purpose a sum was appropriated; I do not know how much.

Mr. TOOMBS. Two thousand five hundred dollars.

Mr. FESSENDEN. The commissioners have been acting; they now say that they think, from present appearances, the discovery will turn out to be advantageous, and they need \$800 more to enable them to complete the examination; and they recommend that as Dr. Barclay has given his time to aid them, \$1,200 should be appropriated for his use. The question then is, whether Congress will only pay the expenses of making the experiment, which will be advantageous to Dr. Barclay if successful, and stop there, or whether they will also go further, and pay his expenses while it was being made. It is very evident that if it turns out to be unsuccessful the expenses of the experiment will have been paid by the Government, and they will get no benefit from it. If it turns out to be successful, this man will have all the benefit of the examination and experiment which have been carried on at the expense of the Government. The question is whether Congress will pay his expenses in addition to trying his experiment at their expense.

Mr. TOOMBS. This is a small matter, but the Senator from Maine does not state it quite fairly.

Mr. FESSENDEN. I certainly intend to do so.

Mr. TOOMBS. I know you intend it, but you do not state all the facts of the case. From the nature of the discovery, it is of no use to any

body but the Government. He has tested it himself, so as to be satisfied of his theory, and the commissioners seem to be satisfied with it. If it turns out to be a great advantage to the currency of the country, as he supposes, Congress will allow just as much compensation as they may consider him entitled to for the benefit of the country. It is not a thing the man can use as private property, in any shape or form; for it is an invention in regard to coining, to prevent counterfeiting by the various modes in which modern science has aided it. He cannot sell it to anybody but the Government.

Mr. FESSENDEN. Still it is settled to be a matter of so much consequence to this Government, if it turns out successfully, that, as a matter of necessity, the Government will avail themselves of it; and unquestionably, if they do, they will pay him liberally.

Mr. TOOMBS. The Government will pay what they think it is worth. All we ask now is to allow him his expenses while he was assisting the Government officers in testing the matter. The old gentleman came to me more than two years ago, and showed me his process; and I thought it was very worthy of public attention, and would be of immense advantage to the public in preventing counterfeiting. The matter has been tested by a scientific commission appointed by the Government, who recommended the payment of \$1,200—his expenses in attending at the Mint in Philadelphia. It is a small matter; and I hope the money will be voted.

Mr. SIMMONS. I hope there will be no objection to this amendment. Though the improvement may be very valuable, and the man may get a fair price for it when it is done, you should give him enough to live on while the experiment is going on.

Mr. FESSENDEN. I do not believe in that. I want the Senate to understand the matter fairly. If the principle applies to Dr. Barclay, it applies to anybody else who comes forward and says he has something very valuable to the Government. I have heard gentlemen on this floor object over and over again against the Government being at the expense of trying experiments to test the value of inventions and discoveries, which inventors might say would be of advantage to the Government. Here is a case where the Government has not only gone to the expense, saving him the necessity and consequent expense of testing it; that is to say, of proving to a certainty that it would be valuable; making the experiment at its own cost, but where he calls on us in addition to that to pay him for his own time in attending to what is to be very important to him as well as to the Government if it succeeds. My own constitutional difficulties on such subjects are not great, but I would suggest to gentlemen who are rather apt to present such objections on occasions like this, that I think this is a very good case for them.

Mr. SIMMONS. I know that if this experiment succeeds, it must be for the benefit of the Government, and the inventor will not have more than we choose to give him anyhow. He has got so far with it as to satisfy the scientific men that it is likely to be successful. So far he has gone without bread; and when he gets to that point, to obtain a recommendation in his favor from them, I think we can afford to pay him enough to live.

Mr. DAVIS. From the statement of the case—and I know nothing except from the statement here—I think it was wrong in its inception, and the further we go the more wrong it will be. If the Government is to undertake, from the public Treasury, to make experiments upon everything which an inventor may bring, we shall have not only a necessity for a home valuation, but for an increase of duties in addition, to provide the means; and if every inventor who has something which he says will be useful to the Government, and nobody else, is to have experiments made because he suggests it, and is to be supported while the experiments go on, we have not Treasury enough, and the country never will have Treasury enough to conduct the experiments. It has been the practice of this Government, save where Congress intervened and directed otherwise in special cases, to require every one who suggested that he had discovered or invented something, to bring it to its practical test, to present it in a form fit for use, and then to subject it to experiment and see

whether it was valuable or not; in order that the Government might take it if good, and reject it if bad. During the late war in Europe, the inventive genius of the country seemed to be particularly excited on the subject of improvements in arms; and if the United States had undertaken to make all the experiments upon various arms, and particularly upon cannon, which would be of no use in any private enterprise, and the various modifications of fortification suggested by men who had no knowledge, who had not learned even the elements of the subject on which they claimed to teach, the amount appropriated for fortification would have been but a mite compared to the sum required for the expenditures. I think the Government has acted generously, even more generously than wisely, in undertaking to conduct experiments in relation to these inventions; and clearly the inventors should be held to support themselves while the experiment is going on, if that be the only check you intend to interpose between the Treasury and those men whose minds are busy in suggesting things they cannot themselves carry out.

Mr. TOOMBS. The remarks made by the Senator from Mississippi have no sort of application to the case; and the Senator states that he did not know of it before it was brought up. This gentleman, who is a scientific man, had demonstrated upon scientific principles that there was a mode of preventing the counterfeiting of the coin of the country, the abrasion and deterioration of it, and detecting a great many scientific means which were used for the purpose of deteriorating, or abrading, or otherwise lessening the value of the currency. He demonstrated to those competent to judge of it, that his system would do this; and he proposed that the Government should make coin on these principles for itself. It is of no value to anybody else. The Government appointed two of the most scientific men who could be selected to test it. They approve the process, and say the discovery is what he declared it was. The matter has been tested at the Mint at the small cost of \$2,500—about three per cent. of the entire gold and silver coin in the United States now in circulation is counterfeited. It is a matter of vast importance to the country. Scientific men were appointed to inquire into the matter, and test whether it was of value. If not, the Government lost nothing; if it turned out to be of value, the Government would make a great deal. The discovery was complete, and the action of the Government was only putting it in practical operation for its use. Nobody else wanted it. It was of no use to him. He could not "coin money," or "regulate the value thereof." It is not like the case of an ordinary invention of fire-arms, which the party has a direct interest in, and he merely requires mechanical means to put it into operation. The Government alone was interested in this matter; and it is a question whether the old man shall have the \$1,200 while he was attending upon experiments of the Government? It is not worth five minutes, nor these speeches, and, therefore, I will not detain the Senate.

Mr. DAVIS. The principle is worth more than five minutes; and I will show that my remarks had more application than the Senator's answer. He says it is of no value. If it is of no value, why give ten cents for it?

Mr. TOOMBS. I said it was of no value, except to the Government. The discoverer cannot coin money.

Mr. DAVIS. If it succeeds, and answers the purposes of the Government, it will become the property of the Government only on paying for it.

Mr. TOOMBS. On their own terms.

Mr. DAVIS. Then they are to pay if it succeeds.

Mr. TOOMBS. Yes; I have stated the case fully.

Mr. DAVIS. If the Government have not the right to use it, in the event it succeeds, then I say they are incurring expenditures for his benefit. If they cannot use it without paying him for it, it is his property. Though it is clear he cannot coin money in the United States, or regulate the value thereof, yet, if he discovers something which will effect all that is described by the Senator from Georgia, what is to prevent him from selling it to other Governments, as well as to this Government? Inventors, when they come forward and ask the Government to make their experiments,

not very unfrequently say, "if you will make the experiment, you shall have the use of the invention to any extent the Government requires; all I desire is, the right to sell this elsewhere; if the Government will make the experiment, I will agree that the Government shall have a right to use it free of all charge." Here is a case where it seems the Government is to pay for the right to use that which they themselves perfect. It is but one of the multitude of cases where men have opinions or crude notions; they may be sound or unsound; the judgment of the savans who have examined it may prove correct or incorrect; but, in any event, the Government is to bear the expense; and in any event, if the Government uses the discovery it has to pay for it.

Mr. MALLORY. I will ask the Senator from Georgia, for information simply, whether there is any report from the experts of the value of this, and whether it has really succeeded?

Mr. TOOMBS. I stated that there was; and these very experts recommend the payment of the \$1,200. They say that, as far as they have gone, they believe it will be of great value to the country; and it is on their recommendation that the amendment is offered for the very sum they propose to pay this man for his expenses.

The question being taken on the amendment to the amendment, there were, on a division—yeas 12, nays 13—no quorum voting.

Mr. DAVIS. I call for the yeas and nays.

Mr. GREEN. I move that the Senate adjourn. The motion was not agreed to.

The yeas and nays were ordered.

Mr. MALLORY. I move that the Senate proceed to the consideration of executive business.

Mr. HUNTER. Let us go through with these amendments.

The PRESIDING OFFICER. The Chair will suggest to the Senator from Florida that, in the present condition of things, his motion cannot be put. There was no quorum voting on the last motion. The Secretary will call the roll on the amendment to the amendment.

The question being taken by yeas and nays, resulted—yeas 22, nays 23; as follows:

YEAS—Messrs. Allen, Bell, Bigler, Broderick, Clingman, Collamer, Dixon, Durkee, Fout, Gwin, Harlan, Hayne, Houston, Rice, Sebastian, Seward, Simmons, Stuart, Toombs, Wade, Wilson, and Yulee—22.

NAYS—Messrs. Bright, Brown, Chandler, Clay, Davis, Fessenden, Fitch, Fitzpatrick, Foster, Green, Hamlin, Hammond, Hunter, Iverson, Johnson of Tennessee, Mason, Pearce, Pugh, Reid, Stidell, Thomson of New Jersey, Trumbull, and Wright—23.

So the amendment to the amendment was rejected.

The committee's amendment was agreed to.

Mr. HUNTER. I propose another amendment from the Finance Committee:

For printing ordered by the Senate and House of Representatives during the Thirty-Third and Thirty-Fourth Congresses, and paper for the same, \$50,000.

For binding documents ordered to be printed by the House of Representatives during the Thirty-Third and Thirty-Fourth Congresses, and for engravings, lithographs, and electrotypes for the same, \$123,000.

For binding documents ordered to be printed by the Senate during the Thirty-Third and Thirty-Fourth Congresses, and for engravings, lithographs, and electrotypes for the same, \$113,000.

This is the result of an examination directed by the House of Representatives into the documents which have been ordered to be printed. At the commencement of the session there was a deficiency bill introduced for printing which failed in the House of Representatives, because they were unwilling to vote as much money as it would take to carry out the previous orders of the House and Senate for printing books. The subject was referred to their committee, who made a report, in which they recommended a curtailment of the documents which had been ordered, a diminution of the number of volumes, and the number of copies of particular volumes. That report was concurred in by a very large majority of the House, I think four fifths. When they concurred in it, they referred it, by order, to the Committee of Ways and Means, that it might become a subject of legislation in this bill; but the bill had passed from that committee, and they sent it to us. The result is a great saving over the liabilities which would exist if we should print the documents heretofore ordered to be printed. I have before me the report explaining the whole matter; and it can be read, if desired. ["Oh, no!"] Some Senators, I hear, say that they will

vote against the amendment. If they do, I wish them to understand that then they will leave existing a large liability for a much larger amount, and will probably involve six or seven hundred thousand dollars. That will be the effect of voting it down.

The amendment was agreed to.

Mr. HUNTER. I have another amendment from the Finance Committee as an additional section:

And be it further enacted, That in addition to those now authorized by law, there may be employed by the Secretary of the Treasury, in the office of the Register of the Treasury, an additional clerk of the third class, and in the office of the Treasurer of the United States an additional clerk of the third class; and such sum as may be necessary to carry into effect the provisions of this section to the 30th of June, 1859, is hereby appropriated.

These are the two clerks which were asked for in the loan bill, and which the Senate struck out. I was not then so well informed on the subject as I am now. Since then, I have seen the Secretary of the Treasury, and I am convinced that these clerks are necessary. The state of the case is this: Out of the contingent fund which was given when the Treasury notes were allowed, he employed four temporary clerks. When Congress adjourns, under a standing law, these temporary clerks must be dismissed. He asks to retain two out of the four as permanent clerks; and their services are necessary in order to enable him to execute the act in regard to the Treasury notes, which we know have been issued and are to be reissued, and also to execute the loan bill, if it should pass. I believe it is necessary. They are the only clerks I have voted for this session, or expect to vote for; but I think it would expose the Department to a good deal of inconvenience not to allow them.

Mr. IVERSON. Does the amendment limit the time of their employment?

Mr. HUNTER. It only makes an appropriation up to the end of the next fiscal year.

The amendment was agreed to.

Mr. HUNTER. I have another amendment:

And be it further enacted, That so much of the act of the 3d of March, 1845, "making appropriations for civil and diplomatic expenses of the Government for the year ending the 30th of June, 1848," as provides "that no part of the appropriations for the contingent expenses of either House of Congress shall be applied as payment or compensation to any clerk, messenger, or other assistant, employed by resolution of one of the said Houses," be, and the same is hereby, repealed; and that such payments as have been heretofore made to persons so employed, after being approved and certified by the proper committee of either House, shall be allowed at the Treasury.

The explanation of that is this: there are clerks in both Houses who are employed under resolutions of each House; those clerks have been heretofore paid, since the passage of the law of 1845; but the present Comptroller has decided that, under that law, he cannot pay any clerk who has been appointed by mere resolution, out of the contingent fund. This is to repeal so much of the law as interferes with what has been the practice ever since that time, and without which we should not be able to pay many of our employes in both Houses. The accounts of the Secretary of the Senate and Clerk of the House of Representatives have been suspended, or rather the Comptroller has refused to pass them, on that account.

The amendment was agreed to.

Mr. HUNTER. I have only one more amendment from the Finance Committee:

And be it further enacted, That the extra compensation paid out of the contingent fund of the Senate, to the clerks of committees under the resolution of the 14th March, 1857, be allowed at the Treasury.

That has been refused under this law, and if it were extra compensation would have been properly refused; but I regard it not as extra compensation but as an addition to the salaries of the clerks of committees. We not only added to their salaries but we passed a resolution to pay them for their services during the extra session. Under the law, I believe, they could have been paid nothing without this resolution after the regular session expired, but under the construction of the law these clerks of committees cannot be paid that compensation unless this provision be adopted.

The amendment was agreed to.

Mr. FESSENDEN. I have an amendment from the Committee on Finance, which I offer at the request of the Senator from Maryland, a member of the committee, [Mr. PEARCE] who is out

at present, but he will be here in a moment. The amendment is:

To enable the Secretary of the Interior to complete the digest of the statistics of manufactures according to the returns of the seventh census, \$3,500.

Mr. PEARCE. I will state to the Senate that heretofore all the census tables have been completed, and indeed have been published, except those which relate to manufactures. The tables of agriculture, of population, and of vital statistics, have all been completed and published. The tables of manufacturing products have only been completed in part. I think something like twenty or twenty-one States have been completed, and for the rest there are very loose returns, simply sheets. They have not been collated and put in tabular form. The plan originally was to have the tables of all the returns prepared, exhibiting the counties of each State separately. That is not what is now proposed, but simply to prepare the returns so as to show by State sheets the products of manufacturing industry in the different States; nor is it proposed to publish them. We understand that the editors of certain statistical works would be very glad to get the material, if they can be furnished with it, and they can be furnished only by the Government preparing it, for it would not trust it out of its hands, and it will take about three thousand five hundred dollars to do this. It seems to many of us desirable that these tables should be made, that we may have means of comparison between the condition of the country in this respect at the period of the last census, and at the period of the census which is to come. This subject was called to our notice by a letter from the Secretary of the Interior. I admit very frankly that the Secretary does not press the appropriation of the money, but he states that it will require \$3,500 to do this work, and he rather thinks it ought to be done. In conversation, he has expressed himself to me more strongly than in the letter. It is a small affair, and I hope the Senate will have no objection to it.

The amendment was agreed to.

Mr. BROWN. I have some amendments to offer from the Committee on the District of Columbia. The first is to come in after an amendment of the Committee on Finance, which has already been inserted at line two hundred and two, making an appropriation of \$3,000 for the repair of Pennsylvania avenue. My amendment is to insert:

For graveling Pennsylvania avenue from the Capitol enclosure to Eleventh street east, \$5,000.

That is Pennsylvania avenue from the Capitol to the Congressional Burying-Ground. I think the Senators who passed over it on a late melancholy occasion must have observed that it was almost in an impassable condition.

Mr. HUNTER. I should like to know where this appropriation is to be applied?

Mr. BROWN. On Pennsylvania avenue, east of the Capitol.

Mr. HUNTER. It is hardly necessary, it seems to me.

Mr. BROWN. I have no interest in it beyond anybody else; but the street is almost in an impassable condition. All the improvements on it heretofore have been made by the Government. The city has never taken jurisdiction over it, and Congress has never recognized its right to exercise jurisdiction over it. The estimate was made by the engineer under a resolution.

The amendment was rejected.

Mr. BROWN. I move another amendment from the District Committee, as additional sections:

And be it further enacted, That it shall be the duty of the Commissioner of Public Buildings to cause obstructions of every kind to be removed from such streets, avenues, and sidewalks in the city of Washington as have been, or may be hereafter, improved in whole or in part by the United States, and to keep the same, at all times, free from obstructions; and, for this purpose, he shall have power to institute suits in any court having competent jurisdiction in the District of Columbia; and it shall be the duty of the district attorney for said District to prosecute the same; and whenever any person shall desire to remove the paving stones, or to displace any other work done by the authority of the United States, for the purpose of laying gas pipes, or for any other purpose, it shall be the duty of such person to obtain a written permit from the said commissioner; and such persons shall obligate themselves to replace the said work to the satisfaction of the said commissioner, and within such time as he may prescribe.

And be it further enacted, That if any person shall place obstruction in the streets, avenues, or sidewalks aforesaid,

such person shall pay the costs of removing the same, and shall, moreover, be subject to a penalty of ten dollars, to be recovered as other debts are recovered in the District of Columbia, for each and every day the said obstruction may remain after the commissioner shall have given notice for its removal. And if any person or persons removing the paving stones or other work done by the authority of the United States, shall fail to replace the same to the satisfaction of the commissioner, within the time presented by him, he or they shall be subject to a penalty of twenty-five dollars for each and every failure, and shall, moreover, pay the costs of replacing the same, the whole to be recovered before any court in the District of Columbia having competent jurisdiction; and that this and the preceding section shall continue in force until repealed by Congress.

These two sections were passed during the last Congress by an almost unanimous vote here; in fact, I believe, entirely unanimous. The explanation is briefly this: Congress every year makes appropriations to repair Pennsylvania avenue, and to make other repairs. Every time people are disposed to put down gas pipes, or to take up the work for any purpose whatever, they do it without any express permission of any one acting under the authority of the United States, and they replace it in a very slovenly way—do the work badly, and the omnibuses and heavy vehicles running over it presently get it all out of repair, and you are called upon to make appropriations to put it in repair. These sections are designed to require the work to be put back again when it is taken up, and to give the Commissioner of Public Buildings the power to require it to be done.

Mr. HUNTER. This is very good legislation. The only objection I have to it is, that it is inappropriate to this bill, and I am afraid to begin with it.

Mr. BROWN. I think not. We are making appropriations to repair Pennsylvania avenue, and I shall move to reconsider the vote by which the appropriations were made unless the work can be protected by this or some other means; for I have seen quite enough of this thing of putting down work and taking it up and replacing it in a slovenly manner.

The amendment was agreed to.

Mr. BROWN. I have a little amendment to come in at the end of the first section:

For making necessary repairs to the jail in Washington city, and putting venetian blinds to the windows, the sum of \$340.

A Senator near me asks me what we have to do with it. We have this to do with it: it contains nobody but the prisoners of the United States; the judges are appointed by the authority of the United States; the prisoners are fed by the United States; the jail was built by the United States. Six hundred and forty dollars of this money is for putting blinds to the windows; not for the accommodation of the prisoners, but to keep them from exposing themselves in an unseemly manner to persons passing in the streets.

The amendment was agreed to.

Mr. BROWN. I have another amendment to insert at the end of the first section:

For the extension of the court-house portion of the City Hall so as to provide necessary and suitable accommodations for the criminal court of the District of Columbia, \$33,000: *Provided,* That no obligation shall be incurred, or contract entered into, which looks to any increased appropriation by the United States for said purpose.

The appropriation has been recommended by the late Secretary of the Interior, Governor McClelland, and by the present Secretary; has been asked for by all the judges of all the courts in Washington, and has been urged by some half a dozen grand juries. The facts, as I understand them, are these: whenever the circuit court of the District of Columbia, and the criminal court, have to sit at the same time, as frequently happens, one or the other is compelled to adjourn, to give way, for the reason that both sit in the same room. Within the last few months the criminal court has been denied the privilege of holding its sessions, and more than one hundred persons, waiting for trial, have been locked up in jail and fed at the public expense. I suppose there are not less than eighty or one hundred there now. If the criminal court could have a room of its own, where it could hold perpetual sessions if the business required them, this would not be. I trust, therefore, that the amendment will pass.

Mr. HUNTER. At another time, when we were not appropriating so largely as we are to public buildings in Washington city, I would vote for this; but at present, and in view of the appro-

priations already contained in this bill, and the state of the Treasury, I think we ought to save a little, and let the courts wait.

Mr. BROWN. No one wants to economize more than I do, and I show it by the very meager appropriations I ask for the District. This is the last one we have. Five thousand dollars was voted down a little while ago, and you have given but \$800. There is no economy in refusing this appropriation, for the reason, as I said before, that you keep your jail constantly full of prisoners, fed at the public expense, simply because the courts cannot sit for their trial. They cannot sit unless you provide some place for holding the courts. As to asking this city to provide court-houses for the Federal courts, that would be unreasonable. It never has been done, and I suppose never will be.

Mr. HAMLIN. I want to say one word in regard to this appropriation, as I did not agree to it in committee; and the reason I did not agree to it was that a few years since we made an appropriation of \$30,000 to finish the exterior of the City Hall, and there was contained in that statute an express provision that the city authorities should thereafter furnish the United States courts with all the rooms they required for courts of all kinds in that building. It was fairly made in the shape of a contract, and I am for holding the city to it.

Mr. BROWN. In reply to the Senator from Maine, I will state very briefly certain facts, to which I hope the Senate will listen. The City Hall was built originally by the city of Washington, at a cost of seventy-eight thousand dollars and upwards. Afterwards, in 1823, Congress appropriated \$10,000 for accommodations in that house. They made no other appropriation up to 1849, when they appropriated the \$30,000, of which the Senator from Maine now speaks. That made their appropriation \$40,000, and the city appropriation \$78,750, for the erection of that building. When you made the \$30,000 appropriation, the city gave up to the Federal Government one half of the building, and therefore gave you all the accommodation they could give. If Congress invited them into an agreement with which they could not comply, by asking you to give them more accommodation than the subsequent growth of the business of the Government enabled you to give them, it would be very hard to try to enforce the contract, especially seeing, as you must, that for the cost of the building, you having one half of it, you are in arrears \$38,000. You paid \$40,000 and the city \$78,000; you own half the building; and all you are asked to do is, to come up pretty well to the standard of paying for your half. Your courts sit there. It is not for the accommodation of any officer of the city government, but the accommodation of your own criminal court, that this appropriation is asked. There is no room in the building for that court, and none can be provided without a further outlay of money from somebody. Will you demand it of the city? I hope not. It has paid already \$78,000 to your \$40,000. I know such a provision exists as the Senator from Maine speaks of. I think I moved the original amendment myself, and that proviso was put on in the Senate. It passed in that form. The money was expended under the authority of the United States. The Secretary of the Treasury had it all arranged to his satisfaction at that day. The increased demands for the accommodation for courts in the District of Columbia show that there is not room enough in the building to accommodate the courts. I hope the amendment will pass.

Mr. GREEN. I have no word to say on this amendment; but the Senator from Illinois [Mr. TRUMBULL] is not now in his seat. He told me he had an amendment to propose to strike out the appropriation for the coast survey. I intend to vote with him, and I intend to support his amendment when it comes up. I mention this to show that it is utterly impossible to get through the bill to-night. ["Let us go on."] I have one or two amendments to propose on my own hook. As we cannot get through to-day, and we have done pretty good work this week, I move that the Senate adjourn. ["Oh, no!"]

Mr. BROWN. I hope not. Let us get through these little District amendments.

The motion to adjourn was not agreed to.

Mr. BIGLER. I, like the Senator from Mississippi, have nothing to say on the amendment,

but I should be glad to have some understanding as to the chance of finishing this bill.

Mr. BROWN. Take the vote; that is the best way.

Mr. BIGLER. If we are to be kept much longer with this bill, we ought to go into executive session. There are a large number of nominations that ought to be confirmed, and some to which I presume there will be no objection. A number are important, and ought to be disposed of to-day. If the Senator from Virginia thinks we cannot get through with the bill to-day, I will make a motion for an executive session.

Mr. HUNTER. I hope not. I cannot say whether we can get through the bill or not. I cannot say what amendments are to be offered. Let us go on.

Mr. BRIGHT. I have several amendments from the Committee on Public Buildings and Grounds that I wish to offer, and among them is the amendment now pending. I am very glad the Senator from Mississippi has offered it.

Mr. BIGLER. I move that the Senate proceed to the consideration of executive business.

Mr. IVERSON. Is that motion debatable?

The PRESIDING OFFICER. The Chair thinks not.

The motion was not agreed to.

Mr. BRIGHT. I intended to say something on the amendment; but if it is likely to pass, I shall not occupy the time of the Senate. I have a letter from the Secretary of the Interior, and also from the judges of the courts on the subject, containing an unanswerable argument as to the propriety of this appropriation, but if it is likely to pass I will not say a word.

The amendment was agreed to.

Mr. BROWN. In line two hundred and one of the original bill, I move to strike out the word "Potomac" in the following clause:

"For repairs of the Potomac, Navy-Yard, and Upper bridges, \$6,000."

This is the old controversy about the Long Bridge. I have been opposed to the bridge all the time, as Senators know. The Senate expressed its determination at the last session of Congress to make no further appropriations to that bridge for reasons which I will not undertake to weary the Senate at this late hour of the evening, by recapitulating, taking it for granted they are fresh in the recollection of every one. Why it is that this estimate was made in the face of the refusal of Congress to keep up the bridge, I do not understand. I suppose there is some law, under which the Secretary feels it his duty to make the estimate, but I feel it my duty to move to strike it out. I move to strike out the word "Potomac."

Mr. FESSENDEN. I do not propose to argue the matter, but I wish to say that if it had not escaped my notice, I would have moved to strike it out in committee. It must have got there by indirection I think, for I am satisfied it would not pass either House without inspection.

Mr. HUNTER. It is in the bill from the House.

Mr. FESSENDEN. I know it is; and I should have moved to strike it out if I had noticed it.

Mr. HUNTER. This is a matter in which a large portion of the people of my State feel a deep interest; and I believe a majority of the people of Washington feel equally as much interest. I believe that if it were put to the people of the city of Washington to say, a large majority of them would be found to declare that they believe this one of the most useful connections that exists. I am sure that so far as the people of Virginia are connected with it—from where we get our marketing—there is no other connection which they would value as much. Now, I do not see why this should be stricken out; I do not see why it is that we keep up bridges to connect us with Maryland, over the Eastern Branch, and strike this out. So far as the old objection is concerned of the mud flats, I believe that when it comes to be examined, it will be found that those flats would exist in any event; and I am unwilling to stand by without remonstrance and see that bridge stricken down. The effect will be to break up the connection, and leave us to a ferryage over the river; and that at a time, too, when a through ticket has been established in order to accommodate the whole line of travel from New York to New Orleans.

Mr. MASON. If the motion of the Senator from Mississippi is persevered in, I shall feel it

my duty as a citizen of Virginia, representing her and interested in the welfare of the city of Washington, to state somewhat at large the reasons which will operate on me in voting against striking out the appropriation, without any discourtesy, certainly, to the honorable Senator. It seems to me that to do so would involve to some extent the faith of the United States.

Mr. THOMSON, of New Jersey. I move that the Senate do now adjourn.

Mr. HUNTER. I hope not.

Mr. JONES. It is raining very hard, and we cannot get home. It is no use to adjourn.

The PRESIDING OFFICER. It is not a debatable question.

The motion was not agreed to; there being, on a division—ayes 15, noes 22.

Mr. MASON. The Long Bridge was built a good many years ago by a private company, an incorporation. They found it an unprofitable investment, and after expending a great deal of money in keeping it up, the Congress of the United States took it off their hands, paid them, I do not know what, and relieved that company from the duty of furnishing this communication; and ever since that day, now nearly twenty years ago, if not more, Congress has acted as though under an obligation to Virginia to keep that bridge up, and has from time to time appropriated for it. The bridge which is across the Eastern Branch, near the navy-yard, and the bridge which is across the Potomac above Georgetown, both being toll bridges, have been also taken possession of by Congress purchasing out the proprietors, and from time to time they have expended public money in keeping those bridges up. Now it is proposed by the honorable Senator from Mississippi to withhold an appropriation from the Long Bridge. This is a very scanty one and can have the effect only of making the most temporary repairs. It is proposed by the honorable Senator to withhold that appropriation for the purpose of allowing that bridge to become impassable and to be no longer of use. That can be the only object the Senator has in withholding this appropriation.

I would say, with all respect to the Senate, that Congress having taken this bridge out of the hands of the original owners, who were citizens of Washington, and having come under at least an implied faith to keep up this communication, to destroy it at once without substituting something in its place, would be a want of faith on the part of the Government. I hope, therefore, that the appropriation will not be stricken out.

Mr. BROWN. The clause is this:

"For repairs of the Potomac, Navy-Yard, and Upper bridges, \$6,000."

How the money is to be apportioned, I do not understand; but I suppose about \$2,000 to each bridge. I stated in the beginning, that I moved to strike out the word "Potomac," and if that prevailed I should move to reduce the appropriation by \$2,000, the sum which I suppose is intended for the repair of that particular bridge.

Mr. GREEN. It is the most important bridge of all, and I shall vote for it.

Mr. HUNTER. I wish to suggest one consideration. They have lately established a through ticket for the shortest line of travel from New York to New Orleans, and that line of travel has either to pass over the Long Bridge in the winter, or else be interrupted; because let that go down, and there is no other in its place. Just at the time we have entered into this arrangement, the Senator from Mississippi proposes to strike out this connecting link.

Mr. BROWN. I do not know that it is any business of the Government to be providing bridges for private companies to sell through tickets. You might as well say let us provide one over every other river, and if one happens to be broken down, let us provide a new one. It is none of our business to do any such thing. This whole business of keeping up this bridge involves the question of running railroads through your principal streets and across your principal avenues. There are half a dozen companies now importuning Congress, log-rolling, seeking in every shape and form, to be allowed to cross through the heart of your city and through your principal streets with a railroad. There is a company urging the right to cross this very bridge with railroad cars: I am opposed to it. I have no objection to see them cross a bridge above the

point of navigation. That is only about a quarter or half a mile above Georgetown where piers have already been erected, over which a bridge can be constructed at comparatively little cost.

By making that connection, the engineer who made the survey says the railroad connection between Washington city and Alexandria will be some twenty minutes shorter in time than it ever can be by crossing at the Long Bridge, though the distance is greater. That is so, for the reason that railroad cars can only cross bridges at the rate of five miles an hour; the Long Bridge is a little more than a mile long; the other route would be about two hundred and fifty or three hundred yards long; and the time saved from crossing the bridge, would more than compensate the loss in distance between the two cities. Then you would do no injustice to Georgetown; you would not be constantly obstructing navigation to her port; you would have no Government work below your presidential mansion, creating miasma, sickness, disease, and death, as this Long Bridge has been doing for the last twenty and more years. I did not think of alluding to these things in the beginning; because the Senate has so often expressed a determination not to keep the bridge up, that I supposed it was one of the foregone conclusions; and no one now would struggle to keep the Government's hands on this bridge, if it was not his settled determination sooner or later to force a railroad passage across there at the expense of the Government, for there is no railroad company on God's earth that ever will construct a railroad bridge there. The estimates are, that a bridge can be built at the point above Georgetown, for less than one million dollars; and the estimate for a bridge at the site of the Long Bridge, is largely over three million dollars.

I know what this will result in, in the end. I know why it is so pertinaciously insisted upon. It is, ultimately, to force a railroad bridge across at the site of the present Long Bridge. Apart from that, there is nothing in the question. It is not the little \$2,000 that is connected with this appropriation. I do not care a sixpence about that; I would just as soon it was made as not. But there are very important considerations of health, commerce, and great public convenience, connected with this question. Make your railroad connection at Georgetown. You need not annoy the city of Washington by having railroad cars running through your principal streets and avenues, a dozen or twenty times a day. The connection can be made, as is shown by a survey, from very near the site of the present depot, through one of the back streets, even so far out as Boundary street, down Rock creek, to its junction with the Potomac, then up to the present site of the aqueduct, and across the Potomac to the South, in less time than it can be made the other way, and with no annoyance to anybody. If the Government will not build a railroad bridge at the site of the present Long Bridge, private companies will construct their roads in the other direction, as they ought to do.

Mr. GREEN. I look upon this bridge as one of the great conveniences of Washington. I have seen nothing on this side of the Potomac to sustain the city either in meat cattle, in the ordinary provisions, or anything else. If you destroy it, I do not know what will become of Washington. Maryland has nothing to supply its place. But, apart from that, the Senator from Mississippi says that it is no business of this Government to keep up bridges to accommodate the public for mails or otherwise. I answer, that his own amendment leaves an appropriation to make a bridge across the east branch of the Potomac, and other bridges in the District of Columbia; and so far as the principle is concerned, he is violating it just as much, if you adopt his amendment, as if you do not adopt it. But the great question comes back: ought this bridge to be kept up? Ought Congress to help to keep it up? These are the two points to which our attention ought to be directed. So far as I am concerned, I think it ought to be kept up. I have no prejudices to Georgetown. If they want a bridge there, it can be made; and if proportionate aid ought to be given to Georgetown to make a bridge, let it be done. But here is an appropriation already made. Three fourths—yes, four fifths of this bridge is permanent. It is founded upon the base, and built up from the foundation of the river. It is not temporary work. Across

the channel, on the east and on the west side, perhaps I ought to say on the north and on the south side, it is tressel work, which does decay and require repair. It leaves open the channel of communication. Vessels can still pass through, and do pass through, as I see nearly every day. It is a convenience to the city of Washington; it is a convenience to the traveling public; it is a convenience to the citizens of Virginia; and it affords a good supply to the market of the city of Washington. I should very much dislike to see the bridge destroyed.

On the score of health, I think it a very late period to rise here and make objection that it, by its obstruction of the channel, has generated a miasma detrimental to the Executive mansion. I do not suppose that the insalubrity of the Executive mansion will cause anybody to decline being President. [Laughter.] The incumbent can go to the Soldiers' Home, or some other point, to recuperate. If you fail to keep up the repairs, the very point of this bridge at which it is pretended the accumulation of the sediment has caused the miasmatic influence, is where there is a permanent embankment in the center of the stream. If you intend to remove that it will cost you \$10,000,000. I announce to the Senate to-day, if you intend to counteract the very thing to which exception is taken, it will cost you \$10,000,000. Will you do it? I know you will not. If you will not, why will you consider the pretext that is urged? Take away the tressel work on both sides, and the cause of the increase of the sediment still remains, and it ever will remain until you take away that which first produced it. If you remove all that embankment and remove all that sediment collected west of it, it will cost you more than ten million dollars, and it will cost you more than one million to keep it removed. I reason from the nature of the thing itself. You have thrown in your embankment, and I challenge any engineer to call in contest a single assertion I make on this subject. I challenge any one. I say it will cost \$10,000,000 to remove that which you say is a cause of objection. What Senator here proposes to remove it? Does the Senator from Mississippi? I ask him, do you propose to remove that?

Mr. BROWN. I will say to the Senator from Missouri that it seems to me he is talking entirely out of the record. A very intelligent civil engineer, employed by the Government on account of his superior intelligence to make the survey and estimate what it would cost, came to the conclusion that it not only would not cost \$10,000,000, but, under a proper system of management, it would absolutely be a matter of pecuniary profit to the Government; and I will explain how that is. By making the improvement according to the calculation of Captain Rives, a very highly intelligent scientific man, the filling in from the grading of the grounds above would make ground inside, where the marsh now lies, and above the tide, which being sold at the existing price of land, would return all the money you pay.

Mr. GREEN. Is it possible that the United States is to engage in the business of making land in order to sell it? I recollect reading an anecdote that occurred in Europe. A Yankee there was approached by some of the Europeans, and asked, "Well, you have approached the Pacific coast; you have gone up to the Pacific border; where now will you go?" Well, now," he replied, "don't take on any airs; we are going to cart the Rocky Mountains out into the Pacific, and make a hundred miles of land there." [Laughter.] That is just like the Senator from Mississippi. He is going to cart in the mud out of the bottom of the Potomac to make land; and whose property will it be? You say you are going to pay the expense of carting it out and making land by selling the land; but whose land will it be? Where are the riparian rights of proprietors? What right have you to put the mud of an embankment opposite my land, and sell that as public land, and cut me off from the river? You have no right, and the moment the question ever comes before the courts, they will so decide.

Then, where will you put it? You will put it opposite the Washington Monument, and when you put it opposite the Washington Monument, how will you sell it? "Oh," you will say, "this must be appropriated to the public benefit; ornamented with trees; and \$50,000 will be required

to ornament it;" and so you will lay the foundation for a new tax upon the Treasury.

In every aspect in which you view this question it is fraught with danger; beware of it! There is a cause now existing to which the Senator turns attention that cannot be removed without an expenditure of \$10,000,000. If you do not intend to expend that \$10,000,000, pay no attention to that cause. If you do intend to expend the \$10,000,000, do it at once; say so boldly at once. That being thrown out of the question, we have a communication which can be kept up with \$2,000 a year. It will accommodate the city of Washington; it will accommodate the State of Virginia; it will accommodate the traveling public. It is but carrying out a promise which the public had a right to expect would be fulfilled. Will you forfeit all that on arguments and hypotheses that have no foundation in truth? for all these questions about miasma and the filling up of the Potomac have no word of truth in them in point of fact; and if there is any truth in them, it will take \$10,000,000 to remove them. It cost \$10,000,000 to build a canal where you did not remove more square yards of mud than you will find in this bridge and in the sediment west of the bridge. I know the expense of erecting the mud machines. I know the difficulty of excavating from the bottom of a river. If you undertake to remove it you will incur an expense which this Government will never be able to bear; and that is not all: in five years after you have removed it, bridge and all, you will find one half of the difficulty that now exists, and in ten years you will find the whole difficulty. It is from the current of the Potomac, and the channel, and the wash.

Why, sir, in Scotland and in England there are rivers which, a century ago, were navigable one hundred miles, that could not now be navigated by even a canoe. Take Aquia Creek in Virginia. I have seen warehouses there, and large vessels freighted with hogsheads of tobacco from the door of the warehouse; and the last time I was there, I saw an old man standing out in the middle of the meadow, and he told me the water had drawn off until land had been made; and that is the way it was the last time I was there. You cannot now approach within two and a half miles of Aquia.

It is the natural course of things. In the wash and settlement of a country, the Potomac must fill. It does fill. Bridge or no bridge, the Potomac is destined to fill, and why need we talk about keeping up, by excavating machines, the channel of the Potomac up to Georgetown. I tell you, Mr. President, that I believe that bridge to be important. I believe the pretext urged against it to be frivolous, unfounded in fact, unphilosophical, unstatesmanlike, and that this amendment ought to be rejected. It leaves still an appropriation of the same amount for a bridge across this little creek out here, called the Eastern Branch. Why, I understand that within the memory of men now living, vessels went up the Eastern Branch as far as Bladensburg, and took in freights.

Mr. MASON. Far above that.

Mr. GREEN. I am told by the Senator from Virginia, far above that.

Mr. MASON. Up to the Relay House.

Mr. GREEN. The Senator tells me up to the Relay House. Will you excavate the Eastern Branch? Will you keep up your navigation? Will you make people sickly along there by permitting sediment to collect? How are these things to be obviated? It just shows that it is utterly impossible to obviate these things. Natural causes work by natural laws and produce natural results. Let the bridge alone; keep it in repair; keep up this communication; accommodate the great traveling public; accommodate the city of Washington; accommodate the people of Virginia, who supply the markets of Washington, by which we get something to eat.

Mr. FESSENDEN. This matter has been voted down several times since I have been in the Senate, and I am a little surprised to see it come up in this shape. I am very confident that if it had been understood in the House, it would not have got into the bill without debate. I believe heretofore that these propositions making appropriations for bridges have stood separately, and we ought to consider them separately; but being all together for one object, it certainly was overlooked; for, as I stated before, I would not have

acceded to it in committee, if I had observed it at all.

The debates that took place heretofore exhibited two points. In the first place that this was a bridge to be kept up at the expense of Georgetown, and at the expense of the salubrity of the upper portion of this city for the purpose of accommodating some farmers over in Virginia, and for the great purpose of accommodating a railroad, by having connection across the river. That is the simple explanation of it. We had that fight here at the last Congress. Those rails were laid down a year or two ago without our permission, and contrary to our suggestion. We absolutely refused to allow them to cross the city, and they were laid down by the permission of the corporation of Washington, after the vote taken in the Senate, and they remain there still, for they have never been taken up. The idea is not abandoned. It is kept up to this day, and will be kept up, and I do not know that any vote we can pass here will convince them that they cannot carry it, either directly or indirectly, some time or other.

After the repeated expressions of opinion on the part of the Senate, by so large a vote as we have had, I am really surprised that this matter should be again urged. It only shows the extreme pertinacity of corporations. I do not feel disposed to go over the subject again. I do not feel disposed to punish Georgetown any longer, or to punish ourselves and the city by keeping up this bridge for the sake of affording facilities to this railroad corporation. I wish simply to say it is no argument to my mind because the Government chose, upon the solicitation of others, to be generous enough some years ago, to make that a free bridge, and keep it up year after year, there is a moral or legal obligation to keep it up eternally, whatever may be the evil consequences following from it. That seems to be the argument of the honorable Senator from Virginia, that because at a previous date, on the solicitation of the people interested, Congress assumed the expense of making that bridge free, and have ever since, or up to a recent period, kept it up, at the expense of the Government; we, therefore, have entailed upon ourselves the obligation to keep it up perpetually and cannot let it go down without a breach of faith. If the people of Washington want to rebuild that bridge, they can do so. We do not propose to interfere with them; but have urged it upon them repeatedly. It is a matter of contest between these two cities in great part.

Mr. MASON. The Senator will indulge me a moment. He does not do justice to my view of that matter. I said the public faith was pledged, as I considered, to continue this bridge as a means of passage across the river until some other mode was provided for that object. Now, the honorable Senator says that I go to the extent of saying it is incumbent on the country to keep it up forever. Certainly not; but I said they should keep it up until some other mode is provided of accommodating the interests that have grown up under the bridge. The bridge is now the property of the Government. Who has any right to interfere with it? Will it be expected, either, that a private company, the city of Washington, or anybody else, will invest their money in what appears necessary to keep that bridge up while it is the property of the Government, without some assurance that they shall be reimbursed in some manner? Let the Government turn it over to the city, or let it turn it over to the private company from which it took it, or make some disposition of it which will enable those interested, or the localities of country that are interested, to keep it up. That is what I mean to say. They must provide some means.

Mr. FESSENDEN. Then let those who want it, or the city, come here and ask it, if that is your proposition. When that proposition shall be made, and there is time enough to decide it, I have no doubt Congress will be ready to abjure all right to interfere with it in any shape or form at any time; but that is not the question. The question is, whether we shall keep it up ourselves, not whether we shall give it to somebody else, and whether we shall do it by making these appropriations year after year.

Now, sir, the argument of the honorable Senator is the same precisely, when carried out, as it was before. He says we are under an obligation to keep up that bridge until some other mode of

passing the river is found. What is the consequence of that sort of argument? It is this: that as long as these people will not build another bridge—which they will not do so long as they hope to have this one rebuilt—the obligation is upon us to build another for them before we refuse to keep up or repair this one; that is to say, because we bought it for them and kept it up for a series of years for them, the legal and moral obligation upon us is to build another or keep this one up perpetually; and when we build another bridge we are to keep that up perpetually, too. The argument seems to me perfectly inconclusive. I do not propose to weary the Senate with it. I wish them to understand precisely what the question is, and to call the attention of the Senate to the fact that we have acted upon it hitherto and so decidedly, time after time, that it seems to me it ought to satisfy people, and that we should not be solicited further on this subject. I know that the Senators from Virginia always take the same precise ground that they have to-day. They have urged this matter upon Congress, session after session, and the Senate, as often as they have urged it, has refused to listen to their solicitations in regard to it. I hope the Senate will still continue to do so. At any rate, do not let us expend money and place ourselves in a position where we shall be sprung upon again. I believe the proposition is now before the Senate in the shape of a petition, at any rate, to allow this railroad to run its trains across Pennsylvania avenue and through some other avenues of the city, from the place where the depot is now, to and over the Long Bridge. What is the reason for it? The engineers have decided that the proper place would be above; and the only motive for this plan is to save money to a railroad company. They can save money by going this way; they can save the cost of excavating; although they do not save time, they save distance and expense: and that is the great interest which is at the bottom of this thing at this present moment, in my judgment.

Mr. HAMLIN. I will vote at any time to transfer this bridge to its original proprietors, or the District of Columbia. I do not think it ought to be a tax upon the Government. It is so now. I shall vote for this appropriation, however, upon a simple principle of what I believe to be economy to the Government; for, but for the embarrassed state of the finances of the Government, I think I am justified in saying that you would have had submitted here to you, at this session, a bill making an appropriation for a new bridge at Georgetown, and there is the whole secret of the matter.

Mr. MASON. Will the Senator allow me to move that the Senate adjourn?

Mr. HAMLIN. I will not detain it two minutes. I shall, therefore, vote to keep in this appropriation for the very purpose of avoiding that necessity which will be forced upon us of building a new bridge; and, however earnestly my colleague may resist it, I tell him—and I hope he will remember it—that, when that time comes he will witness the project go through. Just as certain as he is a living man; just as certain as the proposition will be made, there will be a new bridge built when the proper state of the finances will justify it; and we should have had a bill here this session but for the embarrassed condition of the Treasury. I am going to vote for this limited appropriation for the very purpose of avoiding that necessity.

Mr. TOOMBS. I move that the Senate adjourn. We cannot get through the bill this evening.

The motion was agreed to; there being, on a division—ayes 20, noes 15; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, May 29, 1858.

The House met at eleven o'clock, a. m. Prayer by Rev. T. H. Boccock, D. D.

The Journal of yesterday was read and approved.

NATHANIEL GODDARD AND OTHERS.

Mr. COMINS. I desire to enter a motion to reconsider the vote laying upon the table the adverse report of the Committee of Claims in the case of Nathaniel and Benjamin Goddard. I do not propose to call it up at this time, but at some

future day I shall make a few remarks upon it, showing the injustice which Congress is doing to these claimants and to itself, by the summary manner in which it disposes of private claims.

The motion to reconsider was entered.

LOUISVILLE AND PORTLAND CANAL.

The SPEAKER, by unanimous consent, laid before the House a report of the Secretary of the Treasury in reply to House resolution asking information as to the Louisville and Portland canal.

Mr. ENGLISH. I move to refer the communication to the Committee on Roads and Canals, and that it be printed.

The motion was agreed to.

SMITHSONIAN INSTITUTION.

The SPEAKER also laid before the House a report from the Secretary of the Smithsonian Institution; which was laid on the table, and ordered to be printed.

Mr. ENGLISH. I move that ten thousand extra copies of the report be printed.

Mr. JONES, of Tennessee. I hope no extra copies of it will be printed.

The motion was referred to the Committee on Printing.

JOHN CASSADY.

The SPEAKER also laid before the House a communication from the Secretary of the Navy transmitting, in compliance with a resolution of the House, the papers having reference to the claim of John Cassady for services at the Charlestown navy-yard; which were referred to the Committee on Naval Affairs, and ordered to be printed.

ANTHONY WALTON BAYARD.

Mr. JONES, of Tennessee. I wish to call the attention of the House to a bill which was passed yesterday increasing the pension of Anthony Walton Bayard, of Bellefonte, in the State of Pennsylvania.

The Committee on Invalid Pensions reported the bill giving him twenty dollars per month. The House struck out "twenty" and inserted "ten." I have been informed by the clerk of the Committee on Invalid Pensions that this gentleman is now upon the pension roll, placed there under the law, at twenty dollars per month, and that his application was for an increase of pension, or for extending it back. The committee reported in favor of giving him twenty dollars, the exact amount at which he has been pensioned at the Pension Office, and we amended the bill so as to give him only ten dollars per month. I think, under the circumstances, the House ought to reconsider its action, and reject the bill.

By unanimous consent the vote by which the bill was passed was reconsidered, and the bill was laid on the table.

POST ROAD BILL.

Mr. ENGLISH. I am instructed by the Committee on the Post Office and Post Roads to ask the consent of the House to report a bill establishing certain post roads.

The bill was read a first and second time.

Mr. REILLY. I object to that bill.

Mr. PHELPS, of Missouri. I would inquire of the gentleman from Indiana if there is any general legislation in the bill?

Mr. ENGLISH. I will state in reply to the gentleman, that there is nothing in the bill except the establishment of certain post routes.

Mr. REILLY. The bill establishes two post routes close alongside of one another, and it must destroy either one or the other of them.

Mr. ENGLISH. I desire to say, that if any routes have been omitted in the bill, and gentlemen will indicate them, the bill can be amended in the Senate.

Mr. HOUSTON. I understand that the objection of the gentleman from Pennsylvania is that the bill establishes two post routes within a mile or two of each other.

Mr. ENGLISH. If it is not desirable that the service be put upon both routes, the Post Office Department will not put it on both.

Mr. HOUSTON. I was going to suggest to the gentleman from Pennsylvania that this bill simply establishes the routes; it puts no service upon them. That is a matter in the discretion of the Postmaster General.

Mr. JONES, of Tennessee. How many sections are there in the bill?

Mr. ENGLISH. There are sixty-five pages of it.

Mr. JONES, of Tennessee. The first section, I suppose, is about the routes.

Mr. ENGLISH. There is nothing whatever in the bill but what its title indicates—the establishment of post routes.

The bill was being to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

DELEGATE FROM MINNESOTA.

Mr. HARRIS, of Illinois. I am instructed by the Committee of Elections to make a report upon the petition of William W. Kingsbury, Delegate from the Territory of Minnesota. I do not know that there will be any difference of opinion in the House on the conclusion at which the committee have arrived. If it is the desire of any gentleman that the report shall be printed, I shall not object; but, if not, I desire that it shall be acted on now. It is known that, by the resolution of the House, Mr. Kingsbury is excluded from his seat. The committee have come to the conclusion that he ought to be admitted to his seat, and I present the report, accompanied by a resolution to that effect.

Mr. WASHBURN, of Illinois. I hope the report will be printed.

Mr. GROW. Let us devote to-day to private business, and act on the report on Monday.

Mr. HARRIS, of Illinois. Then, sir, I move that the report be laid upon the table, and printed; and I will call it up on Monday.

The motion was agreed to.

Mr. CLARK, of Connecticut. I ask that the minority have leave to present their views, and have them printed.

Mr. GILMER. I do not know that it is proper to call it a minority report, but Mr. Fuller, who claims a right to represent the Territory, wishes to have the whole case presented for the consideration of the House.

Leave was then given to the minority of the committee to present their views, and have them printed.

PRIVATE BUSINESS.

Mr. CHAFFEE. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the standing committees be called for reports of private bills; and that to-day, in Committee of the Whole House on the Private Calendar, bills to which no objection shall be made shall first be considered and passed off.

Mr. SMITH, of Virginia. I object.

Mr. WASHBURN, of Maine. I call for the regular order of business.

Mr. KELSEY. I move to suspend the rules to enable me to offer the resolution which I send to the Clerk's desk.

The SPEAKER. The motion is not in order.

Mr. KELSEY. I believe that we are within ten days of the end of the session.

The SPEAKER. That is true; but the previous question was ordered yesterday on four or five bills.

Mr. PHELPS, of Minnesota. I ask the unanimous consent of the House to introduce a bill of which previous notice has been given.

The SPEAKER. The regular order of business has been called for.

RUFUS DWINEL.

The bill of the Senate (No. 189) for the relief of Rufus Dwinel, reported yesterday from a Committee of the Whole House, upon which a separate vote had been asked, was then taken up; the question being on ordering the bill to be read a third time.

Mr. WASHBURN, of Illinois. In accordance with the understanding which was had in committee yesterday, I demand the yeas and nays upon that bill.

Mr. JONES, of Tennessee. I think it is right that the report shall be read to the House.

The report was read.

Mr. TAYLOR, of Louisiana. It was the understanding yesterday, when this bill was laid aside, that I should have an opportunity of saying three words in reference to it. I dissented from the conclusion of the majority of the committee in favor of this bill, but did not make an objection yesterday, as I was unwilling to prevent the action of the House upon it, when I had no hope that the principle on which I based my

opposition to the bill would be recognized by a majority of the House. I now merely wish to state the grounds upon which I dissented. It is well known, as a matter of course, that there is no right of action against the United States, and that whatever may have been the decision of a jury or court, it would not be binding upon Congress. That, however, is not the ground upon which I based my objection to the bill. I opposed it upon the ground that this claim had been at a previous period submitted to Congress; that it had been considered by Congress, and that Congress had decided to allow the principal, but not to allow any interest. According to my opinion, when a claim has been once presented to Congress, and has been fully considered and decided, that should terminate the matter. Congress, in such cases, acts in a judicial character; and I am clear that a party should be concluded by a final decision, in the same manner with respect to a claim as he is when a claim has been presented to a court of justice and finally adjudicated upon. I merely wished to state the principle upon which I dissented from the majority of the committee in relation to this bill, and will not attempt to enforce my views by argument.

Mr. WASHBURN, of Illinois. I call for the yeas and nays.

Mr. STEPHENS, of Georgia. Do I understand that a jury has decided upon this case?

Mr. TAYLOR, of Louisiana. Yes, sir; they decided to allow the principal, but no interest.

Mr. STEPHENS, of Georgia. Well, if the jury decided to give the principal, I think Congress ought to give the interest.

The yeas and nays were ordered.

Mr. MAYNARD. I should like an opportunity to make a few remarks in explanation of the principles upon which the majority of the committee acted.

Several MEMBERS objected.

The question was taken; and it was decided in the affirmative—yeas 119, nays 49; as follows:

YEAS—Messrs. Abbott, Adrain, Andrews, Arnold, Billingshurst, Bingham, Bishop, Blair, Bowie, Bryant, Bullington, Burlingame, Burns, Burroughs, Case, Caskie, Cavanaugh, Chaffee, Ezra Clark, Horace F. Clark, Clawson, John Cochrane, Colfax, Conliss, Corning, Cragin, James Craig, Curtis, Davidson, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Daves, Dodd, Durfee, Edie, Fenton, Florence, Foley, Foster, Gillis, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Hatch, Hawkins, Hoard, Horton, Howard, Kelllogg, Kelly, Kelsey, Kilgore, Knapp, Lamar, Leiter, Lovejoy, Macloy, Samuel S. Marshall, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Palmer, Parker, Pettit, William W. Phelps, Pike, Potter, Pottle, Ready, Reilly, Ricard, Ritchie, Roberts, Royce, Russell, Sandidge, Searing, Seward, Aaron Shaw, John Sherman, Judson W. Sherman, Singleton, Robert Smith, Spinner, Stanton, Stephens, William Stewart, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Walton, Ward, Cadwalader C. Washburn, Ellihu B. Washburn, Israel Washburn, White, Wilson, Winslow, Wood, Woodson, Augustus B. Wright, and Zolllicoffer—119.

NAYS—Messrs. Atkins, Avery, Boyce, Branch, John B. Clark, Clemens, Cobb, Cockrell, Crawford, Curry, Davis of Indiana, Dowdell, Edmundson, Garnett, Gartrell, Goode, Greenwood, Gregg, Lawrence W. Hall, Harlan, Hopkins, Houston, Hughes, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Lawrence, Letcher, McQueen, Mason, Miller, Millson, Moore, Peyton, John S. Phelps, Quimlan, Reagan, Ruffin, Seales, Henry M. Shaw, William Smith, Stallworth, Miles Taylor, Vallandigham, Waldron, Watkins, and John V. Wright—49.

So the bill was ordered to a third reading.

The bill was then read the third time, and passed.

JAMES FUGATE.

House bill (No. 462) granting an invalid pension to James Fugate, of Missouri, reported yesterday from a Committee of the Whole House, upon which a separate vote was asked, was next taken up for consideration.

Mr. JEWETT. I simply desire to say that I think that bill ought to pass.

The bill was ordered to be engrossed, and read a third time; and, being engrossed, it was accordingly read the third time.

Mr. LETCHER. I think the gentleman who reported that bill ought to explain it.

Mr. PHELPS, of Missouri. Let the bill and report be read.

The bill and report were read.

The bill was then passed.

Mr. BLAIR moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ELIZABETH M'BRIER.

A bill (H. R. No. 504) for the relief of Elizabeth McBrier, surviving child and heir of Colonel Archibald Loughery, deceased.

The SPEAKER. That bill has been reported from the Committee of the Whole House, with the recommendation that it do pass.

The bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. KELSEY moved to reconsider the vote just taken; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ADVERSE REPORTS.

An adverse report (C. C. No. 162) upon the petition of Arthur Edwards and others.

An adverse report (C. C. No. 170) in the case of John L. Worden.

An adverse report (C. C. No. 171) in the case of John H. Waggaman.

The SPEAKER. These adverse reports were reported from a Committee of the Whole House, with the recommendation that they be referred to the Committee of Claims.

The reports were referred accordingly.

LOGAN HUNTON.

An adverse report (C. C. No. 174) in the case of Logan Hunton.

The SPEAKER. This report has been reported from the Committee of the Whole House, with the recommendation that the report of the Court of Claims be concurred in.

Mr. TAYLOR, of Louisiana. I move that the bill be referred to the Committee on the Judiciary.

The motion was agreed to.

JONAS P. LEVY.

An adverse report (C. C. No. 173) in the case of Jonas P. Levy.

The SPEAKER. This report was reported from the Committee of the Whole House, with the recommendation that the report of the Court of Claims be concurred in.

Mr. FLORENCE. I move that it be referred to the Committee on Foreign Affairs.

The motion was agreed to.

COURT OF CLAIMS ADVERSE REPORTS.

An adverse report (C. C. No. 159) upon the petition of Joseph Ratcliff.

An adverse report (C. C. No. 160) upon the petition of Oliver Dubois.

An adverse report (C. C. No. 164) upon the petition of A. O. P. Nicholson.

An adverse report (C. C. No. 166) upon the petition of Joshua J. Guppy, judge of the county court of Columbia county, Wisconsin, as trustee for the claimants and occupants of Portage City.

An adverse report (C. C. No. 167) in the case of Charles Wilkes.

An adverse report (C. C. No. 168) in the case of William Davenport.

An adverse report (C. C. No. 169) in the case of William B. Fitzgerald.

An adverse report (C. C. No. 172) in the case of John L. Wirt.

The SPEAKER. These adverse reports from the Court of Claims have been reported from the Committee of the Whole House, with the recommendation that they be concurred in.

The reports were concurred in.

REPORTS FROM COMMITTEES.

Mr. CHAFFEE. I ask unanimous consent to introduce the following resolution:

Resolved, That the standing committees be called over for reports of private bills, for reference only; and that to-day, in the Committee of the Whole House on the Private Calendar, bills to which no objection shall be made shall be first considered and disposed of.

Mr. KELSEY. I propose to offer the following as a substitute for the gentleman's resolution:

Resolved, That the Committee of the Whole House to-day be instructed to take up the Private Calendar, and such bills as are not objected to shall be laid aside to be reported to the House; and in cases where objection is made, the opponents of each bill, and the friends of each bill shall be allowed five minutes to answer such objections; and the vote shall then be taken on such bill and such amendments as may be proposed thereto.

Mr. STANTON. I have a resolution which is similar to that of the gentleman from New York.

Instead of five minutes, it allows ten minutes for explanation on bills objected to.

The SPEAKER. Is there any objection to the resolution of the gentleman from Massachusetts?

Mr. HUGHES. I want first to have read a resolution which I have drawn up.

Mr. CHAFFEE. I prefer my own resolution, and would like it to be put to the vote of the House.

Mr. MILLSON. Has the proposition of the gentleman from New York been accepted by the gentleman from Massachusetts?

The SPEAKER. It was not.

Mr. JONES, of Tennessee. I object to any such change of the rules as that proposed by the gentleman from New York. It would cut off debate.

Mr. SMITH, of Virginia. I object to the resolution of the gentleman from Massachusetts.

Mr. CHAFFEE. I move to suspend the rules for the purpose of offering my resolution.

Mr. SMITH, of Virginia. I suppose it is not in order to enter into debate; but I desire to say that I would like to see the resolution of the gentleman from New York passed.

Mr. STANTON. That will come in as a substitute.

Mr. LETCHER. Will the gentleman from Massachusetts allow me to make a suggestion? I see, by the terms of the resolution, that all bills reported from committees are to be referred, although there may be no objection to them in the mind of any member. Why should that course be adopted? Those bills are of as much interest as others; many of them are Senate bills, to which there will be no objection. I do not see why they should be placed upon the Calendar while it is agreeable to the House to pass them.

Mr. CHAFFEE. My object was not to give bills coming in to-day precedence of business already on the Calendar.

Mr. GROW. I suggest that bills from the Court of Claims ought to have precedence.

The question was taken; and, on division, there were—yeas 112, nays 35.

So (more than two thirds voting in favor thereof) the rules were suspended, and Mr. CHAFFEE's resolution received.

Mr. CHAFFEE demanded the previous question.

The previous question was seconded.

Mr. STANTON. Now, as we cannot have an opportunity to vote upon a substitute, I call the yeas and nays upon ordering the main question.

Mr. KELSEY. I ask for tellers upon the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The main question was then ordered to be put; and under the operation thereof, the resolution was agreed to.

Mr. RITCHIE moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER then commenced the call of committees for reports of a private nature, commencing with the Committee of Elections.

JOHN WOOD AND OTHERS.

Mr. PHELPS, of Missouri, from the Committee of Ways and Means, to which was referred the petition of John Wood and Benjamin T. Riley, reported it back, and asked that the committee be discharged from the further consideration of the same, and that it be laid on the table. It was so ordered.

APPRAISERS IN CUSTOM-HOUSE.

Mr. J. GLANCY JONES, from the same committee, to which was referred the petition of the appraisers in the Charleston custom-house, asked that the committee be discharged from the same, and that it be referred to the Committee on Commerce. It was so ordered.

CALEB SHERMAN.

Mr. CRAWFORD. I am instructed by the Committee of Ways and Means to report back Senate bill (No. 338) for the relief of Caleb Sherman, and to ask that the bill be put upon its passage. It appropriates no money whatever.

The bill was read. It directs the proper accounting officers of the Treasury, in settling the

accounts of Caleb Sherman, collector at Paso del Norte, to allow to his credit \$975 60, the amount of Government money of which he was robbed on the 6th of November, 1855.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

SMITH, PERKINS, AND SMITH.

Mr. LETCHER. I am instructed by the Committee of Ways and Means to report back Senate bill for the relief of Elijah F. Smith, Gilman H. Perkins, and Charles F. Smith, of Rochester, New York; and I ask that it be put upon its passage. It seems that the firm in Rochester, for whose relief the bill is, purchased of Sturges, Bennett & Co., one hundred bags of coffee, which were in bond in Boston, and executed the usual bond for the payment of the duty. But by mistake the coffee was sent on to New York, and delivered to Redfield & Co., who forwarded it to Albany. The parties, when they heard of it, transported it back to New York, and asked to have it rewarehoused; but in the mean time the bond executed at Boston had come to maturity, and the collector refused to receive the coffee, and exacted one hundred per cent. penalty on the amount of duty. The simple object of this bill is to authorize the refunding of this one hundred per cent.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. MORGAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

J. W. COCHRAN.

Mr. HOWARD, from the same committee, reported adversely on the petition of J. W. Cochran; which was laid upon the table.

MARY PETERY.

Mr. MARSHALL, of Illinois, from the Committee of Claims, reported back, with a recommendation that it do pass, Senate bill (No. 173) for the relief of Mary Petery; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

BERNARD M. BYRNE.

Mr. MARSHALL, of Illinois, from the same committee, reported back, with a recommendation that it do pass, Senate bill (No. 282) for the relief of Bernard M. Byrne; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

RICHARD FITZPATRICK.

Mr. MARSHALL, of Illinois, from the same committee, reported back, with a recommendation that it do pass, Senate bill (C. C. No. 393) for the relief of Richard Fitzpatrick; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CHARNER T. SCAIFE.

Mr. MARSHALL, of Illinois, from the same committee, reported back, with a recommendation that it do pass, Senate bill (C. C. No. 183) for the relief of Charner T. Scaife, administrator of Gilbert Stalker; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

FRANKLIN PEALE.

Mr. MARSHALL, of Illinois, from the same committee, reported back, with a recommendation that it do pass, Senate bill (No. 293) for the relief of Franklin Peale; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ELIZA E. OGDEN.

Mr. MARSHALL, of Illinois, from the same committee, reported back, with a recommendation that it do pass, a bill (H. R. No. 363) for the relief of Eliza E. Ogden; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CHANGE OF REFERENCE.

On motion of Mr. MARSHALL, of Illinois, Ordered, That the Committee of Claims be discharged from the further consideration of the memorial of George K. McGunagle, and the memorial of George M. Weston; and that the same be referred to the Committee on Military Affairs.

CORNELIUS BOYLE.

Mr. MARSHALL, of Illinois, from the same

committee, reported back, with an amendment in the nature of a substitute, bill (C. C. No. 24) for the relief of Cornelius Boyle, administrator of John Boyle, deceased; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JAMES HUGO.

Mr. MARSHALL, of Illinois, from the same committee, made an adverse report upon the memorial of James Hugo; which was laid on the table, and the report ordered to be printed.

FREDERICK ZARRACHER.

Mr. MARSHALL, of Illinois, from the same committee, made an adverse report upon the memorial of Frederick Zarracher; which was laid on the table, and the report ordered to be printed.

H. A. CLOPPER.

Mr. MARSHALL, of Illinois, from the same committee, made an adverse report upon the memorial of H. A. Clopper; which was laid on the table, and the report ordered to be printed.

WILLIAM P. BOWBAY.

Mr. MARSHALL, of Illinois, from the same committee, reported back the memorial of William P. Bowbay, and moved that the committee be discharged from the same, and that it be referred to the Committee on Naval Affairs. The motion was agreed to.

P. S. DUVALL AND CO.

Mr. DAVIDSON, from the same committee, reported back Senate bill (No. 331) for the relief of P. S. Duvall & Co., with an adverse report thereon. The bill was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JOHN GRAYSON.

Mr. DAVIDSON, from the same committee, reported back Senate joint resolution (No. 38) for the relief of John Grayson, and asked that it be put on its passage.

There being no objection, the joint resolution was read.

It appropriates \$526 13 to refund money advanced upon the certificate of the Commissioner of Pensions.

The joint resolution was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. DAVIDSON moved that the vote by which the joint resolution was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

STEPHEN R. ROWAN.

Mr. TAYLOR, of Louisiana, from the same committee, reported back Senate bill (No. 330) for the relief of Stephen R. Rowan.

Mr. TAYLOR, of Louisiana. I ask the consent of the House to put that bill upon its passage. It makes no appropriation of money; and it is important that it should pass at this time, in order that the person for whose benefit it is intended may receive the advantage of it. It is to relieve a judgment against him.

No objection being made, the bill was read.

It provides that Stephen R. Rowan shall be released from the judgment entered against him in the district court of the United States for the district of Illinois, upon the payment of costs.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. TAYLOR, of Louisiana, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SAMUEL V. NILES.

Mr. MOORE, from the same committee, reported back Senate bill (No. 131) for the relief of Samuel V. Niles, with an adverse report thereon.

The bill was laid on the table; and the report ordered to be printed.

C. EDWARD HABICHT.

Mr. MOORE, from the same committee, reported back Senate bill (No. 284) for the relief of C. Edward Habicht, administrator of J. W. P. Lewis; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

TUESDAY, JUNE 1, 1858.

NEW SERIES....No. 158.

HALL AND COZZENS, AND NAYLOR AND CO.

Mr. GOODWIN, from the same committee, reported a bill for the relief of Hall & Cozzens, and Naylor & Co., which was read a first and second time.

Mr. GOODWIN. I ask the consent of the House to put this bill on its passage. These men entered into a contract with the proper officers of the Government for furnishing the Government with iron roofing and cornices for the United States Government buildings at the capital of the Territory of Nebraska. They have fulfilled their contract, as appears from a communication which we have received from the Treasury Department, which is embodied in the report. They have been paid a portion of the amount of their contract, but before it was finished the appropriation was exhausted. This bill simply authorizes the Treasury Department to pay what shall be found due them. I hope there will be no objection.

Mr. KELSEY. I object to putting this bill upon its passage, and will object to any bill being put on its passage in this way, for the reason that it is doing great injustice to the cases which have been heretofore reported and placed upon the Private Calendar, where a single objection will prevent them from being reported. I want these bills all to take the same course, and take their chances together.

Mr. GOODWIN. I appeal to my colleague to withdraw his objection. These men have performed their contract, and have been without their pay ever since 1855.

Mr. KELSEY. I cannot withdraw my objection.

The bill was then referred to a Committee of the Whole House, and, with the report, ordered to be printed.

HENRY SMALLY.

Mr. JOHN COCHRANE, from the Committee on Commerce, made an adverse report upon the memorial of Henry Smally; which was laid on the table, and the report ordered to be printed.

SIMON DE VISSER.

Mr. EUSTIS, from the same committee, reported back Senate bill (No. 103) for the relief of Simon De Visser and Joseph Villarubia, of New Orleans; which was referred to a Committee of the Whole House, and ordered to be printed.

SETTLERS ON PUBLIC LANDS IN ILLINOIS.

Mr. DAVIS, of Indiana. I am directed by the Committee on Public Lands to report back House bill (No. 538) for the relief of settlers on certain lands in the State of Illinois. I ask the unanimous consent of the House that the bill be put on its passage.

The bill was read *in extenso*.

Mr. DAVIS, of Indiana. This bill has been unanimously reported from the Committee on Public Lands. A similar bill was passed a few days ago, for like settlers in Wisconsin. It is recommended by the Commissioner of the General Land Office. It is necessary that it should pass.

Mr. BRANCH. I make the point of order that this is not a private, but a public bill.

The SPEAKER. The Chair thinks that it is not a private bill.

Mr. WASHBURN, of Illinois. I hope that all objection will be withdrawn, and that the bill will be passed.

Mr. HOPKINS. I object; and I shall object to putting any bill on its passage until all the committee's have been called. My objection is not directed specially against this bill. Some committees have not been called for months.

Mr. DAVIS, of Indiana. The bill passed for settlers in Wisconsin, a few days ago, was decided to be a private bill.

The SPEAKER. That bill set out that it was for the relief of Simon Drew and others.

Mr. DAVIS, of Indiana. I can make the title of this bill read in the same way.

The SPEAKER. If that bill had been read through, instead of going to a Committee of the

Whole House, the Chair would have referred it to the Committee of the Whole on the state of the Union.

Mr. WASHBURN, of Illinois. I hope that this bill will be allowed to go to a Committee of the Whole House, and take its chance with the other bills. It is a meritorious case.

Mr. BRANCH. I insist on my point of order.

The SPEAKER. The Chair cannot receive it as a private bill.

JOHN L. ALLEN AND ASA R. CARTER.

Mr. COBB, from the Committee on Public Lands, moved that the committee be discharged from the further consideration of Senate bill (No. 162) for the relief of John L. Allen and Asa R. Carter, and that the same be referred to the Committee of Claims.

It was so ordered.

Mr. COBB. I have a small Senate bill here, for a poor man, which I am directed to report from the Committee on Public Lands. I will ask that it be put upon its passage.

Mr. BARKSDALE. I object.

GENERAL LA FAYETTE.

Mr. WALBRIDGE. I have a report to make, which I ask may be put on its passage.

Mr. HOPKINS objected.

Mr. WALBRIDGE then, from the Committee on Public Lands, reported back Senate bill (No. 71) to amend an act entitled, "An act to authorize the relocation of land warrants Nos. 3, 4, and 5, granted by Congress to General La Fayette, approved February 26, 1845," with an amendment; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

BOOKS FOR A COMMITTEE.

Mr. COBB. I ask to offer a resolution. There are missing from the Library of the Committee on Public Lands two volumes of the Statutes at Large. The resolution authorizes the Clerk to supply them. They were lost during the recess.

Several MEMBERS objected.

SHELDEN M'KNIGHT.

Mr. ENGLISH, from the Committee on the Post Office and Post Roads, made an adverse report on the petition of Sheldon McKnight; which was laid upon the table, and the report ordered to be printed.

CHARLES H. MERCER.

Mr. ENGLISH, from the same committee, made an adverse report on the petition of Charles H. Mercer; which was laid upon the table, and the report ordered to be printed.

CITIZENS OF CLARK COUNTY, OHIO.

Mr. ENGLISH, from the same committee, made an adverse report on the petition of sundry citizens of Clark county, Ohio; which was laid upon the table, and the report ordered to be printed.

GEORGE G. SMITH.

Mr. ENGLISH, from the same committee, made an adverse report on the bill (H. R. No. 579) for the relief of Dr. George G. Smith, late postmaster at Atlanta, Georgia; which was laid upon the table, and, with the report, ordered to be printed.

ALLEN L. PORTER.

Mr. ENGLISH, from the same committee, reported a bill for the relief of Allen L. Porter; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

LUCIEN B. ADAMS.

Mr. ENGLISH, from the same committee, reported a bill for the relief of Lucien B. Adams, executor of James Adams, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

PUBLIC BUILDINGS.

Mr. ENGLISH. I ask the unanimous consent of the House to report a general bill, merely to have it printed and referred. It is a bill making appropriations for post offices, and other public buildings, &c.

Mr. KELSEY. I object.

SAMUEL H. WOODSON.

Mr. CRAIG, of Missouri, from the same committee, reported a joint resolution for the relief of Samuel H. Woodson; which was read a first and second time.

Mr. CRAIG, of Missouri. I ask that that resolution may be put on its passage.

Mr. KELSEY. I object.

The resolution was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JOHN SCOTT AND OTHERS.

Mr. DAVIS, of Iowa, from the same committee, reported back Senate bill (No. 118) for the relief of John Scott, Hill W. House, and Samuel O. House; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JOHN KELLY.

Mr. DAVIS, of Mississippi, from the same committee, reported a bill for the relief of John Kelly; which was read a first and second time, and, with the report, ordered to be printed.

JOHN W. NYE.

Mr. WARD, from the Committee for the District of Columbia, reported a bill for the relief of John W. Nye; which was read a first and second time, and, with the report, ordered to be printed.

TWO PER CENT. FUND OF MISSOURI.

Mr. TAPPAN, from the Committee on the Judiciary, reported back House bill (No. 303) giving the assent of Congress to a late law of the Missouri Legislature for the application of the reserved two per cent. land fund of that State; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

AUSTIN E. SMITH.

Mr. HOUSTON, from the same committee, made an adverse report on the petition of Austin E. Smith, assignee of W. Wallace Ward; which was laid on the table, and the report ordered to be printed.

NOTARIES PUBLIC.

Mr. HOUSTON, by unanimous consent, from the same committee, reported back, with a recommendation that it do not pass, an act (S. No. 3) authorizing notaries public to take and certify oaths, affirmations, and acknowledgments in certain cases; which was laid on the table.

JOHN ROBERTSON.

Mr. CHAPMAN, from the same committee, made an adverse report on the petition of John Robertson, of Petersburg, Virginia; which was laid on the table, and the report ordered to be printed.

EXPLANATORY RESOLUTION.

Mr. BILLINGHURST, from the same committee, reported back, with a recommendation that it do not pass, Senate resolution (No. 17) explanatory of a joint resolution giving an increased compensation to all the laborers employed in the Legislative and Executive Departments of the Government in the city of Washington, approved August 16, 1856, and asked that it be laid upon the table.

Mr. ENGLISH. I wish to know if that explanatory resolution is the one referring to the compensation of messengers in the Post Office Department?

Mr. BILLINGHURST. It is.

Mr. ENGLISH. It ought not, then, to be laid upon the table. It ought to pass. The resolution proposes to put the messengers in the Post Office

Department upon the same footing with the messengers in the other Departments. It can be amended, I presume, so as to make it satisfactory to the gentleman from Wisconsin.

Mr. BILLINGHURST. I will withdraw my motion to lay it upon the table.

Mr. ENGLISH. If it is more satisfactory to the House, I will move to refer the resolution to the Committee on the Post Office and Post Roads, which is the committee to which it properly belongs.

Mr. HOUSTON. There is more in that resolution than the distinct proposition to increase the compensation of the messengers. It proposes to give a construction to a law by which you make three regular bureaus out of the offices of Assistant Postmasters in the Department. That will be the effect of its passage.

Mr. KELSEY. Is debate in order?

The SPEAKER. It is not.

Mr. KELSEY. Then I object to it.

The resolution was referred to the Committee on the Post Office and Post Roads.

COSTS IN UNITED STATES COURTS.

Mr. BILLINGHURST, from the same committee, made an adverse report on a resolution of the House directing them to inquire into the expediency of so amending the law regulating criminal prosecutions in courts of the United States that defendants shall be entitled to recover their costs in cases where the Government fails in the prosecution, and the defendants are acquitted; and also on two memorials on the same subject; which were laid on the table, and the reports ordered to be printed.

RICHARD D. ROWLAND.

Mr. READY, from the same committee, reported back Senate bill (No. 262) for the relief of the heirs or legal representatives of Richard D. Rowland and others, and asked that the same be put upon its passage.

Mr. COX objected.

The bill was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

GIDEON WALKER.

Mr. COX, from the Committee on Revolutionary Claims, reported a bill for the relief of Gideon Walker; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

REPRESENTATIVES OF C. PORTERFIELD.

Mr. COX, from the same committee, reported back, with a recommendation that it do pass, Senate bill (No. 203) for the relief of the representatives of Charles Porterfield, deceased; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JANET M'CALL.

Mr. COX, from the same committee, reported back, with a recommendation that it do pass, Senate bill (No. 130) for the relief of Janet McCall, only child of Captain James McCall, of the revolutionary army; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HEIRS OF ABRAHAM LIVINGSTON.

Mr. TAYLOR, of New York, from the same committee, reported a bill for the relief of the heirs of Abraham Livingston; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ELIZABETH MONTGOMERY.

Mr. TAYLOR, of New York, from the same committee, reported back, with a recommendation that it do pass, Senate bill (No. 30) for the relief of Elizabeth Montgomery, heirs of Hugh Montgomery; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CAPTAIN LEWIS MARNAY.

Mr. CHAFFEE, from the same committee, reported a bill for the relief of the legal representatives of Captain Lewis Marnay; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

REPRESENTATIVES OF PIERRE AYOTT.

Mr. CHAFFEE, from the same committee, reported a bill for the relief of the legal representatives of Captain Pierre Ayott, a revolutionary officer; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JAMES BELL.

Mr. CRAGIN, from the same committee, reported a bill for the relief of the heirs or legal representatives of James Bell, late of Chambly, in the Province of Lower Canada, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CHILDREN OF MRS. BAKER.

Mr. CRAGIN, from the same committee, reported a bill for the relief of the children of the late Mrs. Harriet de la Palm Baker, deceased, daughter and legal heir of the late Colonel Frederick H. Weissenfels, of the army of the Revolution; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HEIRS OF GIRARD WOOD.

Mr. CRAGIN, from the same committee, reported a bill for the relief of the heirs and legal representatives of Girard Wood, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOHN DENMAN AND GEORGE TOWNLEY.

Mr. CRAGIN, from the same committee, reported a bill for the relief of the legal representatives of John Denman and George Townley; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

BRIGADIER GENERAL THOMPSON.

Mr. CLAWSON, from the same committee, reported a bill for the relief of the legal representatives of Brigadier General John Thompson, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

SARAH MANDEVILLE.

Mr. CLAWSON, from the same committee, reported a bill for the relief of Sarah Mandeville; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HEIRS OF ROBERT PAUL.

Mr. CLAWSON, from the same committee, reported a bill for the relief of the heirs of Robert Paul, a soldier of the Revolution; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CHILDREN OF COLONEL JOHNSTON.

Mr. CLAWSON, from the same committee, reported a bill for the relief of the orphan children of Colonel Philip Johnston; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HEIRS OF BARNARD DE KLYN.

Mr. CLAWSON, from the same committee, reported a bill for the relief of the heirs of Barnard De Klyn; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOHN G. SEWELL.

Mr. ATKINS, from the Committee on the Post Office and Post Roads, reported a bill for the relief of John G. Sewell; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

J. H. SHEPPERD AND WALTER K. CALDWELL.

Mr. ATKINS, from the same committee, reported back, with a recommendation that it do not pass, House bill (No. 390) for the relief of

J. H. Shepperd and Walter K. Caldwell, of Pike county, Missouri; which was laid upon the table, and the report ordered to be printed.

ADVERSE REPORTS.

Mr. ATKINS, from the same committee, made an adverse report on the resolutions of the State of Tennessee in regard to postal laws; which was laid upon the table, and ordered to be printed.

Mr. SANDIDGE, from the Committee on Private Land Claims, made adverse reports on the following petitions; which were severally laid upon the table, and ordered to be printed:

The petition of George McClachan;
The petition of Samuel Delevan; and
The petition of R. K. Smith.

PRIVATE LAND CLAIMS IN NEW MEXICO.

Mr. SANDIDGE, from the same committee, reported a bill to confirm certain private land claims in the Territory of New Mexico; which was read a first and second time, referred to a Committee of the Whole House, and, with the report and accompanying papers, ordered to be printed.

MRS. AMBROISE BROU.

Mr. SANDIDGE, from the same committee, reported back Senate bill (No. 276) for the relief of Mrs. Ambroise Brou, of the parish of St. Charles, in the State of Louisiana; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

BENJAMIN E. EDWARD.

Mr. SANDIDGE, from the same committee, reported back Senate bill (No. 186) confirming the title of Benjamin E. Edward to a certain tract of land in the Territory of New Mexico; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JEHU UNDERWOOD.

Mr. SANDIDGE, from the same committee, reported back Senate bill (No. 129) to provide for the final settlement of the claims of Jehu Underwood, in Florida; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

OLIVIA LANDRY.

Mr. SANDIDGE, from the same committee, reported back Senate bill (No. 80) for the relief of the heirs and legal representatives of Olivia Landry; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

MISSOURI LAND CLAIMS.

Mr. BLAIR, from the same committee, reported a bill to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ABRAHAM STAPLES.

Mr. FENTON, from the same committee, reported a bill granting bounty land to Abraham Staples, heir-at-law of Isaac Staples, a revolutionary soldier; which was read a first and second time.

Mr. FENTON asked the consent of the House to put the bill on its passage.

Mr. DEAN objected.
The bill was then referred to a Committee of the Whole House, and, with the report, ordered to be printed.

SYLVESTER TIFFANY.

Mr. FENTON, from the same committee, reported a bill granting bounty land to Sylvester Tiffany, a private in the war of 1812; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

HYMEN HODGES.

Mr. FENTON, from the same committee, reported back the memorial of Hymen Hodges, and moved that the same be referred to the Committee on Public Lands.
It was so ordered.

ADVERSE REPORTS.

Mr. FENTON, from the same committee, presented a number of adverse reports; which were laid on the table, and ordered to be printed.

DANIEL WHITNEY.

Mr. FENTON, from the same committee, reported back Senate bill (No. 72) for the relief of Daniel Whitney; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

WILLIAM MARVIN.

Mr. HAWKINS, from the same committee, reported back Senate bill (No. 177) to confirm the claim of William Marvin to a title to lands in East Florida, and asked consent of the House to put the bill on its passage.

Mr. DEAN objected.

The bill was then referred to a Committee of the Whole House, and, with the report, ordered to be printed.

GEORGE M. GORDON.

Mr. COBB, from the Committee on Public Lands, reported back Senate bill (No. 83) to vest the title to certain warrants for land in George M. Gordon; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ELEAZER WILLIAMS.

Mr. COLFAX, from the Committee on Indian Affairs, reported back Senate bill (No. 166) for the relief of Eleazer Williams, and asked the consent of the House to put the bill on its passage.

Mr. DEAN objected.

The bill was then reported to a Committee of the Whole House, and, with the report, ordered to be printed.

HENRY W. JACKSON.

Mr. RUSSELL, from the same committee, made an adverse report upon the claim of Henry W. Jackson; which was laid on the table, and ordered to be printed.

MUNSEE INDIANS.

Mr. RUSSELL, from the same committee, made an adverse report upon the claim of the Munsee Indians; which was laid on the table, and ordered to be printed.

WINNEBAGO CLAIMS.

Mr. LEITER, from the same committee, made an adverse report upon the petition of the Winnebago claimants; which was laid on the table, and the report ordered to be printed.

J. B. THOMAS.

Mr. LEITER, from the same committee, made an adverse report upon the joint resolutions of the Legislature of the State of Iowa, upon the claim of J. B. Thomas and family; which was laid on the table, and the report ordered to be printed.

CALIFORNIA WAR BONDS.

Mr. LEITER, from the same committee, reported back House bill (No. 412) making an appropriation for the payment of the bonds and certificates of the State of California for the payment of expenses incurred in the suppression of Indian hostilities, with an adverse report thereon. The bill was laid on the table, and the report ordered to be printed.

LIVINGSTON, KINCAID, AND COMPANY.

Mr. LEITER, from the same committee, reported back Senate bill (No. 199) for the relief of Livingston, Kincaid, & Co.; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

DAVID GORDON.

Mr. LEITER, from the same committee, reported back Senate joint resolution (No. 21) for the relief of David Gordon, and asked the consent of the House to put it on its passage.

Mr. KELSEY objected.

Mr. SINGLETON. If the gentleman will withdraw his objection to that resolution, I will be amiable for the balance of the session. It is a very meritorious case.

Mr. WASHBURN, of Illinois. Let the resolution pass.

Mr. WALBRIDGE. I object.

JACOB THOMAS.

Mr. LEITER, from the same committee, reported a bill for the relief of Jacob Thomas;

which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

KERR, BRIERLY, AND COMPANY.

Mr. WOODSON, from the same committee, reported a bill for the relief of Kerr, Brierly, & Co., of Missouri; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

J. B. BEAUGRAND.

Mr. GREENWOOD, from the same committee, made an adverse report on the petition of the heirs of J. B. Beaugrand; which was laid upon the table, and the report ordered to be printed.

WILLIAM S. BRADFORD.

Mr. QUITMAN, from the Committee on Military Affairs, reported a bill for the relief of William S. Bradford; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

MRS. HARRIET O. READ.

Mr. QUITMAN, from the same committee, reported back Senate bill (No. 226) for the relief of Mrs. Harriet O. Read, executrix of the late Brevet Colonel A. C. W. Fanning, of the United States Navy; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

THOMAS PHENIX, JR.

Mr. QUITMAN, from the same committee, reported back Senate bill (No. 102) for the relief of Thomas Phenix, jr.; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

EPHRAIM HUNT.

Mr. QUITMAN, from the same committee, reported back Senate bill (No. 107) for the relief of Ephraim Hunt; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

MRS. AGATHA O'BRIEN.

Mr. QUITMAN, from the same committee, reported back Senate bill (No. 101) for the relief of Mrs. Agatha O'Brien, widow of Brevet Major J. O. J. O'Brien, late of the United States Army; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CHARLES M'CORMICK.

Mr. MARSHALL, of Kentucky, from the same committee, reported back Senate bill (No. 253) for the relief of Charles McCormick, assistant surgeon United States Army; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HORACE BROWN.

Mr. BUFFINTON moved that the Committee on Military Affairs be discharged from the further consideration of the memorial of Horace Brown, and that the same be laid upon the table.

In was so ordered.

CAPTAIN J. L. PHILLIPS.

Mr. BUFFINTON moved that the Committee on Military Affairs be discharged from the further consideration of the memorial of Captain J. L. Phillips, and that the same be laid upon the table. It was so ordered.

UTAH VOLUNTEERS.

Mr. MARSHALL, of Kentucky, moved that the Committee on Military Affairs be discharged from the further consideration of the memorial of volunteer officers and soldiers of the army in Utah, praying compensation from Congress, and that the same be laid upon the table. It was so ordered.

JOHN S. JONES.

Mr. STANTON, from the same committee, made an adverse report on the petition of John S. Jones and William H. Russell, surviving partners of Russell & Co.; which was laid upon the table, and the report ordered to be printed.

CERTAIN CALIFORNIA CLAIMS.

Mr. STANTON, from the same committee, re-

ported back Senate bill (No. 367) to provide for the payment of certain California claims; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

FRANCISCO ROBALDO.

Mr. CURTIS, from the same committee, reported a bill for the relief of the legal representatives of Francisco Robaldo, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. J. B. HENRY, his Private Secretary, notifying the House that he had approved and signed

An act for extending the land laws east of the Cascade mountains in Oregon and Washington Territories;

An act for the relief of Nancy Serena; and

A joint resolution making appropriations to pay the expenses of the several investigating committees of the House of Representatives.

WIDOW OF LIEUTENANT HERNDON.

Mr. SEWARD. I wish to report from the Committee on Naval Affairs, and put on its passage, a joint resolution appealing to the patriotism and sympathies of every member here. It is a bill for the relief of the widow of Lieutenant Herndon.

Mr. DEAN. I object.

Mr. SEWARD. Then I will content myself by reporting back the resolution, and asking that it be put upon its passage.

Mr. S. thereupon, from the Committee on Naval Affairs, reported back a resolution (S. No. 32) for the benefit of the widow of Commander Lewis William Herndon, of the United States Navy.

Mr. JONES, of Tennessee. I object to putting it on its passage.

Mr. SEWARD. I appeal to the gentleman from Tennessee to withdraw his objection.

The SPEAKER. The gentleman from Tennessee and the gentleman from Virginia [Mr. HOPKINS] both object.

The bill was referred to a Committee of the Whole House, and the bill and report ordered to be printed.

MRS. A. W. ANGUS.

Mr. CORNING, from the same committee, reported a bill for the relief of Mrs. A. W. Angus, widow of the late Captain Samuel Angus, United States Navy; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ALBERT G. ALLEN.

Mr. CORNING, from the same committee, reported back Senate bill (No. 277) for the relief of Albert G. Allen; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JOHN C. CARTER.

Mr. SHERMAN, of Ohio, from the same committee, reported back Senate resolution (No. 43) for the relief of Lieutenant John C. Carter, and asked that the same be put on its passage.

Mr. KELSEY objected.

The resolution was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

HENRY ETTING.

Mr. HAWKINS, from the same committee, reported back Senate bill (No. 301) for the relief of Henry Etting; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ELIZA M. ARCHER.

Mr. HAWKINS, from the same committee, reported a bill for the relief of Eliza M. Archer; which was read a first and second time, and, with the report, ordered to be printed.

PANAMA RAILROAD COMPANY.

Mr. HAWKINS, from the same committee, reported a bill for the relief of the president and directors of the Panama Railroad Company; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JOHN G. TODD.

Mr. HAWKINS, from the same committee, reported a bill for the relief of Captain John G. Todd, late of the navy of Texas; which was read a first and second time, and, with the report, ordered to be printed.

COMMANDER THOMAS I. PAGE.

Mr. BOCKOCK, from the same committee, reported back a bill (S. No. 159) for the relief of Commander Thomas I. Page, United States Navy; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

THOMAS I. PAGE.

Mr. BOCKOCK, from the same committee, reported back a bill (S. No. 160) for the relief of Thomas I. Page; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

EDWARD D. REYNOLDS.

Mr. BOCKOCK, from the same committee, reported back a bill (S. No. 132) for the relief of Edward D. Reynolds; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

RICHARD W. MEADE.

Mr. BOCKOCK, from the same committee, reported back a bill (S. No. 221) for the relief of Richard W. Meade; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

F. M. GUNNELL.

Mr. BOCKOCK, from the same committee, reported back a bill (S. No. 253) for the relief of F. M. Gunnell, passed assistant surgeon in the United States Navy; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

DAVID D. PORTER.

Mr. FLORENCE, from the same committee, reported back a bill (S. No. 295) for the relief of David D. Porter; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

WATCHMEN AT THE OBSERVATORY.

Mr. FLORENCE, from the same committee, reported a bill to increase the pay of watchmen at the United States Naval Observatory, at Georgetown; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

DAVID MYERLE.

Mr. FLORENCE, from the same committee, reported a bill for the relief of David Myerle; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

WILLIAM D. MOSELEY.

Mr. WINSLOW, from the same committee, reported back a bill (S. No. 172) for the relief of William D. Moseley; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JOHN A. FROST.

Mr. WINSLOW, from the same committee, reported back a joint resolution (S. No. 34) for the relief of the legal representatives of John A. Frost; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

WILLIAM HUNTER.

Mr. HOPKINS, from the Committee on Foreign Affairs, reported a bill for the relief of William Hunter; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

J. E. MARTIN.

Mr. HOPKINS, from the same committee, reported back, with a recommendation that it do pass, Senate bill (No. 134) for the relief of the legal representatives of J. E. Martin; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ANTON L. C. PORTMAN.

Mr. HOPKINS, from the same committee, reported back, with a recommendation that it do pass, Senate bill (No. 332) for the relief of Anton L. C. Portman, which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

TOWNSEND HARRIS.

Mr. HOPKINS, from the same committee, reported back, with an amendment, Senate bill (No. 244) for the relief of Townsend Harris; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

Mr. HOPKINS, from the same committee, reported adversely on the memorial of Jonas P. Levy; and the proceedings of citizens of Anderson county, South Carolina, with reference to the seizure of the schooner Flirt; which were severally laid upon the table, and the reports were ordered to be printed.

FRANCES ANN MACAULAY.

Mr. BARKSDALE, from the same committee, reported back, with a recommendation that it do pass, Senate bill (No. 223) for the relief of Frances Ann Macaulay; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

GEORGE W. LIPPITT.

Mr. BRANCH, from the same committee, reported back, with a recommendation that it do pass, Senate bill (No. 140) for the relief of George W. Lippitt; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

LIEUTENANT MAURY.

Mr. BRANCH, from the same committee, reported back, with a recommendation that it do pass, joint resolution (No. 31) authorizing Lieutenant M. F. Maury to accept a gold medal awarded to him by the Emperor of Austria; and asked that it be put upon its passage.

The joint resolution was ordered to be engrossed, and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

HEIRS OF HANNAH WILCOX.

Mr. PARKER, from the Committee on Revolutionary Pensions, made an adverse report on the petition of the heirs of Hannah Wilcox; which was laid upon the table, and ordered to be printed.

CHANGE OF REFERENCE.

On motion of Mr. PARKER, it was *Ordered*, That the Committee on Revolutionary Pensions be discharged from the further consideration of the petition of the heirs of Simeon Bacon, and that the same be referred to the Committee on Revolutionary Claims.

JOHN SAWYER.

Mr. PARKER, from the same committee, reported a bill for the relief of John Sawyer, a soldier of the revolutionary war; which was read a first and second time.

Mr. PARKER. This soldier is one hundred and three years old, and I hope that, in consideration of his great age, the House will put the bill upon its passage.

Mr. JONES, of Tennessee. I would inquire why he has never got a pension at the Pension Office?

Mr. PARKER. The case is not one which comes under the general law.

Mr. SMITH, of Virginia. I object to putting the bill upon its passage.

The bill was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

NOAH SMITH.

Mr. JEWETT, from the Committee on Invalid Pensions, reported back, with a recommendation that it do pass, Senate bill (No. 249) for the relief of Noah Smith, late a private in the Army of the United States, and moved that it be laid upon the table, and that the report be printed.

Mr. MILLSON. I move that it be referred to a Committee of the Whole House, and be ordered to be printed.

dered to be printed. Courtesy to the Senate requires that the bill should be considered by the House.

The motion was agreed to.

ADVERSE REPORTS.

Mr. JEWETT, from the same committee, made adverse reports, on the following cases: Margaret McGuire, Caroline M. Hutchinson, Sarah M. Yeates, Samuel Janney, Isaac W. Green, John Shaw, John H. Babb, and Cyreneus and C. Blacknow; which were severally laid on the table, and ordered to be printed.

JEREMIAH PENDERGAST.

Mr. JEWETT, from the same committee, reported back Senate bill (No. 116) for the relief of Jeremiah Pendergast, of the District of Columbia; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JAMES H. GLANDING.

Mr. JEWETT, from the same committee, reported back Senate bill (No. 292) for the relief of James H. Glanding; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JOHN BREST.

Mr. JEWETT, from the same committee, reported back Senate bill (No. 242) for the relief of John Brest, a soldier of the war of 1812; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

MRS. ELIZA MERCHANT.

Mr. JEWETT, from the same committee, reported back Senate bill (No. 163) for the relief of Mrs. Eliza Merchant, widow of the late Brevet Captain Charles G. Merchant, of the United States Army; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

CATHARINE HAMAR.

Mr. JEWETT, from the same committee, reported back House bill (No. 559) for the relief of Mrs. Catharine Hamar, and asked the consent of the House to put the bill on its passage.

Mr. KELSEY objected.

Mr. JEWETT. I hope the gentleman will withdraw his objection. This is a very meritorious case.

Mr. KELSEY. No, sir; I cannot withdraw my objection.

JOHN PURCELL.

Mr. ROBBINS, from the same committee, reported a bill granting an invalid pension to John Purcell; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

WILLIAM B. THOMPSON.

Mr. ANDERSON, from the same committee, reported a bill granting an invalid pension to William B. Thompson; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

GEORGE W. BEAN.

Mr. ANDERSON, from the same committee, reported a bill increasing the invalid pension of George W. Bean; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ISAAC ALLEN.

Mr. ANDERSON, from the same committee, reported a bill increasing the pension of Isaac Allen, of Maine; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

WILLIAM BURNS.

Mr. ANDERSON, from the same committee, reported a bill granting an invalid pension to William Burns, of Ohio; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

SIMEON RECORD.

Mr. ANDERSON, from the same committee, reported a bill for the relief of Simeon Record; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ADVERSE REPORTS.

Mr. ANDERSON, from the same committee, made adverse reports upon the following cases; which were laid on the table, and the reports ordered to be printed.

The petitions of Benjamin Yates, Sarah Brown, Mary Parker, Micajah Pickett, Michael O'Brien, William Wright, Thomas Glasgow, Samuel Boynton, Farley F. Coon, Archibald A. Gibson, Alexander A. Morrow, John Tarlton, and Edward R. Jones.

PAPERS REFERRED.

On motion of Mr. ANDERSON, it was

Ordered, That the Committee of Invalid Pensions be discharged from the further consideration of the memorials of the heirs of William Lomax and Jacques Charlant, and that the same be referred to the Committee on Revolutionary Pensions.

WEBSTER STEELE.

Mr. ANDERSON, from the same committee, reported back Senate bill (No. 291) for the relief of Webster Steele; which was referred to a committee of the Whole House, and ordered to be printed.

JOHN PIPER.

Mr. CHAFFEE, from the same committee, reported a bill granting an invalid pension to John Piper; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

EMMA A. WOOD.

Mr. CHAFFEE, from the same committee, reported a bill for the relief of Emma A. Wood, widow of the late Brevet Major George W. Wood, of the United States Army; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

MARY SHIRCLIFF.

Mr. CHAFFEE, from the same committee, reported a bill granting a pension to Mary Shircliff; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

THOMAS BERRY.

Mr. CHAFFEE, from the same committee, reported a bill for the relief of Thomas Berry; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolutions of the Senate of the following titles; when the Speaker signed the same:

A resolution (No. 38) for the relief of John Grayson;

An act (No. 298) for the relief of Fabius Stanley;

An act (No. 185) for the relief of Anna M. E. Ring, Louisa M. Ring, Cordelia E. Ring, and Sarah J. De Lannoy;

An act (No. 338) for the relief of Caleb Sherman;

An act (No. 145) for the relief of Brevet Major James L. Donaldson, assistant quartermaster United States Army;

An act (No. 189) for the relief of Rufus Dwinel;

An act (No. 106) for the relief of Elijah F. Smith, Gilman H. Perkins, and Charles F. Smith;

An act (No. 330) for the relief of Stephen R. Rowan;

An act (No. 70) for the relief of John Dick, of Florida;

An act (No. 74) for the relief of J. Wilcox Jenkins;

An act (No. 91) to continue a pension to Christine Barnard, widow of the late Brevet Major Moses J. Barnard, United States Army;

An act (No. 92) for the relief of George A. O'Brien;

An act (No. 95) explanatory of an act entitled "An act for the relief of Dempsey Pittman," approved August 16, 1856;

An act (No. 117) for the relief of William Allen, of Portland, in the State of Maine;

An act (No. 96) for the relief of Susanna T. Lea, widow and administratrix of James Maglennen, late of the city of Baltimore, deceased;

An act (No. 136) for the relief of John B. Hand;

An act (No. 35) for the relief of Michael Kinny, late a private in company I, eighth regiment United States Army;

An act (No. 67) for the relief of Jonas P. Keller;

An act (No. 52) for the relief of William B. Trotter;

An act (No. 59) for the relief of James G. Benton, E. B. Babbitt, and James Longstreet, of the United States Army; and

An act (No. 81) for the relief of Laurent Milaudon.

ISAAC SEYMOUR AND OTHERS.

Mr. FLORENCE, from the Committee on Invalid Pensions, made an adverse report on sundry claims of Isaac Seymour and others; which was laid upon the table, and ordered to be printed.

DAVID FOWLER.

Mr. FLORENCE moved that the Committee on Invalid Pensions be discharged from the further consideration of the memorial of David Fowler, Bristol, New Hampshire, and that the same be referred to the Committee on Public Lands.

It was so ordered.

JAMES SMITH.

Mr. FLORENCE, from the same committee, reported back Senate bill (No. 302) for the relief of James Smith; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

LEMUEL WORSTER.

Mr. FLORENCE, from the same committee, reported back Senate bill (No. 294) for the relief of Lemuel Worster; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ABNER MORRILL.

Mr. FLORENCE, from the same committee, reported back Senate bill (No. 335) for the relief of Abner Morrill; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JANE SMITH.

Mr. FLORENCE, from the same committee, reported a bill granting a pension to Jane Smith; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

DANIEL LOOKINGBILL.

Mr. FLORENCE, from the same committee, made an adverse report on the petition of Daniel Lookingbill; which was laid upon the table, and the report ordered to be printed.

JOHN HOLLAND.

Mr. FLORENCE. I am directed by the Committee on Invalid Pensions to report a bill granting an invalid pension to John Holland, of Arkansas.

The bill was read a first and second time.

Mr. FLORENCE. I ask to put that bill on its passage. This man is ninety-three years old.

Mr. KELSEY. I object. You refused, a little while ago, to let a bill pass for a man one hundred and three years of age.

Mr. FLORENCE. I did not.

Mr. KELSEY. Somebody else did.

The bill was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CONRAD DUVAL.

Mr. BURNS, from the same committee, reported a bill granting an invalid pension to Conrad Duval; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ABRAM CRUM.

Mr. BURNS, from the same committee, reported a bill granting an invalid pension to Abram Crum; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HENRY SNYDER.

Mr. CASE, from the same committee, reported

a bill for the relief of Henry Snyder, of Jefferson county, Ohio; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOHNSTON WILLIAM SWIFT.

Mr. CASE, from the same committee, reported a bill for the relief of Johnston William Swift; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

DANIEL HAY.

Mr. CASE, from the same committee, reported back Senate bill (No. 230) for the relief of the legal representatives of Daniel Hay, deceased; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ANTHONY CASLO.

Mr. CASE, from the same committee, reported back Senate bill (No. 255) for the relief of Anthony Caslo, a soldier in the war of 1812; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOHN PICKELL.

Mr. CASE, from the same committee, reported back Senate bill (No. 328) for the relief of John Pickell; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

Mr. CASE, from the same committee, reported adversely on the following Senate bills; which were laid upon the table, and the reports ordered to be printed:

An act (No. 309) for the relief of John B. Miller; and

An act (No. 267) for the relief of G. Alonzo Breast.

JOHN ALLEN.

Mr. CASE moved that the Committee on Invalid Pensions be discharged from the further consideration of the petition of John Allen; and that leave be granted for the withdrawal of the papers, for presentation to the Pension Office.

It was so ordered.

ORESTES HUTCHINS.

Mr. MORSE, of New York, from the same committee, reported a bill granting an invalid pension to Orestes Hutchins; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

NATHAN RANDALL.

Mr. MORSE, of New York, from the same committee, reported a bill granting an invalid pension to Nathan Randall; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOSEPH NOCK.

Mr. REILLY, from the Committee on Patents, reported a bill for the relief of Joseph Nock; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

EDWARD N. KENT.

Mr. STEWART, of Maryland, from the same committee, reported back a bill (S. No. 188) for the relief of Edward N. Kent; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

LYDIA FLETCHER.

Mr. SAVAGE, from the Committee on Military Affairs, reported a bill for the relief of Lydia Fletcher; which was read a first and second time, and, with the report, ordered to be printed.

EDWARD P. VOLLUM.

Mr. SAVAGE, from the same committee, reported back a bill (S. No. 336) for the relief of Edward P. Vollum, with a recommendation that it do not pass.

The bill was laid upon the table, and, with the report, ordered to be printed.

CHARLES KNAP.

Mr. EUSTIS, from the Committee on Com-

merce, reported back a bill (S. No. 272) for the relief of Charles Knap, and asked that the same be put upon its passage.

Mr. KELSEY objected.

The bill was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

PUBLICATION OF CERTAIN DOCUMENTS.

Mr. PETTIT, from the Joint Committee on the Library, reported a bill authorizing the collection and publication of certain public documents; which was read a first and second time.

Mr. MARSHALL, of Kentucky. Is that a private bill?

Mr. PETTIT. It was not clear to the committee whether this should rank as a public or a private bill; but, upon examination, it will appear that it was initiated by a private memorial. The labor proposed to be done under it is prescribed to be done by particular individuals, and on a particular subject. It is, therefore, I think, a private bill.

The SPEAKER. The Chair is of the same opinion.

Mr. MARSHALL, of Kentucky. It relates to the publication of certain documents, to wit: the American State Papers; and proposes that the work shall be done by gentlemen who have published them heretofore. It is public work, not predicated upon any claim which they have more than any other persons. The bill involves the questions, first, whether we will have the work done? and, secondly, by whom we will have the work done?

The SPEAKER. The merits of the bill are not now under consideration.

Mr. MARSHALL, of Kentucky. I am showing that it is not a private bill, and cannot, in the proper sense of the word, be considered as such.

The SPEAKER. The Chair thinks if the gentleman will read the bill he will change his opinion.

Mr. MARSHALL, of Kentucky. Then I ask that the bill be read.

The bill was read *in extenso*.

Mr. MARSHALL, of Kentucky. I make the point of order that that is not a private bill, and is not admissible under the resolution. This work has not been provided for by any existing law. It is a mere proposal of these persons. They have no claim upon the Government. There is no law and no determination on the part of Congress to extend this publication; and certainly, under the guise of a private bill, a proposal cannot be brought in here by individuals to go on and conduct a public work or publication that has not been provided for by law.

The SPEAKER. The suggestion of the gentleman from Kentucky might be of weight when the question came up whether the bill should or should not be passed.

Mr. MARSHALL, of Kentucky. Well, I make the point of order that it is not admissible under the resolution under which we are acting.

The SPEAKER. The bill provides for contracting with certain persons named for certain books. It does not propose to go into the market. It is not general in its character; it is special, restricting the contract to particular individuals; and if that does not make it a private bill, the Chair cannot imagine what would.

Mr. STANTON. It strikes me that the idea of a private bill is where there is some liability or obligation on the part of the Government.

The SPEAKER. And is not this a proposal to enter into an obligation on the part of the Government to particular persons?

Mr. STANTON. Certainly; but that does not make it a private bill.

Mr. JONES, of Tennessee. I wish to say, in addition to what the gentleman from Kentucky has said, in relation to the point of order, that this is no claim. There is nothing to base the bill upon; and it seems to me that it is not a private one, even though the contract is to be made with private individuals. It is for the general purposes of the Government, and I cannot see how it can possibly be construed to be a private bill. We are trying to reduce this printing business, and here is a proposition which involves an expenditure of half a million of dollars or more.

The SPEAKER. That may all be true; and yet it does not affect the question of order. It

may affect the decision of the House, when it comes to pass upon the bill; but it does not touch the question of order.

Mr. JONES, of Tennessee. A private bill is one relating to the claim of a private individual upon the Government.

Mr. EDIE. I object to debate.

Mr. MARSHALL, of Kentucky. Does the Chair overrule my question of order?

The SPEAKER. The Chair does.

Mr. MARSHALL, of Kentucky. I take an appeal.

Mr. EDIE. I move to lay the appeal upon the table.

Mr. MARSHALL, of Kentucky. Is the appeal debatable?

The SPEAKER. The Chair thinks not.

Mr. MARSHALL, of Kentucky. Why not?

The SPEAKER. The House is acting this morning under a special order, which is not debatable. This question, arising incidentally under it, comes under the same rule as an appeal after the previous question has been seconded.

Mr. MARSHALL, of Kentucky. My proposition is, that this bill does not come under the operation of the resolution.

The SPEAKER. That is the point in controversy. If the Chair is wrong, and the House should so determine, then the bill will not be before the House at all.

Mr. MARSHALL, of Kentucky. Very well; let us have the question.

The SPEAKER. The gentleman from Kentucky objects to the bill being received as a private bill. The bill proposes that the Committee on the Library shall be directed to contract with the publishers of the first series of State Papers, going on to specify the number of volumes and the price to be paid.

Mr. MARSHALL, of Kentucky. Which is not authorized by law.

The SPEAKER. Of course, there is no law. This bill proposes to create a law. The Chair decides that the bill is a private bill, and from that decision the gentleman from Kentucky appeals.

Mr. PHILLIPS. I would inquire if the bill indicates the individuals who are to do the work?

The SPEAKER. It refers to the publishers of the first series as specifically as if they were named.

Mr. SMITH, of Virginia. I demand the yeas and nays on the motion to lay the appeal upon the table.

The yeas and nays were not ordered.

The question was taken; and the appeal was laid upon the table.

Mr. JONES, of Tennessee. I raise another question of order upon the bill. I ask if this question has ever been referred to the Committee on the Library? And if it has not, I ask by what authority they have brought this bill here?

Mr. PETTIT. I will answer the gentleman from Tennessee that this matter was presented to the House by the memorial of Messrs. Gales & Seaton, then referred by the House to the Joint Committee on the Library, and in pursuance of such reference, is now reported back by the committee.

Mr. JONES, of Tennessee. I move to lay the bill upon the table; and upon that motion I ask for the yeas and nays.

The yeas and nays were not ordered.

The motion to lay upon the table was disagreed to.

The bill was then referred to a Committee of the Whole House, and ordered to be printed.

Mr. STANTON. I desire to offer the following resolution, to which, I presume, there will be no objection:

Resolved, That after the Calendar shall be called through, and all cases not objected to are disposed of, the Calendar shall be again called, and five minutes shall be allowed for debate on each bill, and any amendments that may be offered, and five minutes against each bill and amendments; and the committee shall then proceed to vote upon the bill and pending amendments, without further debate.

A MEMBER objected.

Mr. STANTON. I move to suspend the rules.

Mr. JONES, of Tennessee. Will that be in order under the resolution which was adopted this morning?

The SPEAKER. The Chair does not think the resolution conflicts with that which passed the House this morning.

Mr. MILLSON. I wish to inquire if the effect of the resolution which the gentleman from Ohio proposes to offer is that when the Calendar shall have been called over the bills are to be taken up in their order, and disposed of upon merely five minutes' discussion?

Mr. STANTON. That is the effect.

Mr. MILLSON. Well, sir, it seems to me unnecessary. When we go into committee and take up the bills for discussion, we can rise upon each particular bill and close debate.

Mr. STANTON. If we have to rise to close debate upon each particular bill, we shall not get through with more than three cases in the course of the day.

Mr. MILLSON. I want to see what cases are to come up, before I consent to close debate upon them.

Mr. STANTON. I think any bill on the Calendar may be explained in five minutes to the satisfaction of any gentleman.

Mr. RITCHIE. I object.

Mr. STANTON. At the request of gentlemen around me, I will withdraw the resolution.

Mr. CHAFFEE. I move that the rules be suspended, and that the House resolve itself into a Committee of the Whole House upon the Private Calendar.

Mr. JOHN COCHRANE. I appeal to the gentleman to withdraw the motion for a moment, to enable me to submit a resolution.

Mr. CHAFFEE. I cannot.

Mr. SMITH, of Virginia. Is it in order to suspend the rules?

The SPEAKER. If the motion of the gentleman from Massachusetts should be voted down, and the gentleman from Virginia should get the floor, it would then be in order for him to move to suspend the rules.

Mr. CHAFFEE's motion was agreed to.

So the rules were suspended; and the House resolved itself into a Committee of the Whole House, (Mr. CHAFFEE in the chair,) and proceeded to the consideration of the Private Calendar. Under the order of the House, the bills were read over in their order, and such as were not objected to were laid aside to be reported to the House.

CYRUS H. M'CORMICK.

An adverse report (C. C. No. 11) upon the petition of Cyrus H. McCormick. [Objected to by Mr. WASHBURN, of Illinois.]

WILLIAM NEILL, AND OTHERS.

An adverse report (C. C. No. 10) upon the petition of William Neill, and others. [Objected to by Mr. WASHBURN, of Illinois.]

CHARLES J. INGERSOLL.

A bill (H. R. No. 197) for the relief of Charles J. Ingersoll. [Objected to by Mr. KELSEY.]

HENRY LEEF AND JOHN M'KEE.

A bill (H. R. No. 206) to indemnify Henry Leef and John McKee for illegal seizure of a certain bark. [Objected to by Mr. SMITH, of Virginia.]

WILLIAM HEINE.

A bill (H. R. No. 219) for the relief of William Heine, artist in the Japan expedition.

The bill directs that there be paid to William Heine, artist of the late Japan expedition under Commodore Perry, compensation at the rate of \$1,800 per annum during the time he was actually employed in such service; provided the amount already paid him as master's mate on said expedition be deducted therefrom.

Mr. SMITH, of Virginia, objected to the bill; but subsequently withdrew his objection.

From the report it appears that William Heine entered and served as a master's mate, under Commodore Perry, on the Japan expedition, from August 1, 1852, to April 25, 1855; that, while thus employed, he performed the duties of artist to the expedition, and, in that capacity, prepared very many of the illustrations of the report of the work called for by Congress. During the whole of his service in the capacity of master's mate, as appears from the papers from Commodore Perry and Lieutenant Maury, he "was exclusively employed as the principal artist of the expedition, in which capacity he evinced superior talents, and elicited the entire approbation of the commander of the expedition;" and, since his

return to the United States, has been of great service to the hydrographical work of the expedition in sketching headlands, topography," &c., and in drawing and superintending the publication of the illustrations to the report on the same.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

ELIPHALET BROWN, JR.

A bill (H. R. No. 220) for the relief of Eliphalet Brown, jr. [Objected to by Mr. SMITH, of Virginia.]

KATHARINE K. RUSSELL.

A bill (H. R. No. 223) for the relief of Katharine K. Russell. [Objected to by Mr. SMITH, of Virginia.]

Mr. HAWKINS. I move that the committee rise. There is no use in sitting here when objections are made indiscriminately. It is worse than puerile.

The question was taken; and the motion was not agreed to.

CHARLOTTE BUTLER.

A bill (H. R. No. 226) for the relief of Charlotte Butler. [Objected to by Mr. SMITH, of Virginia.]

Mr. CURTIS. I would like to ask the gentleman from Virginia whether he intends to object to all of the bills upon the Calendar?

Mr. SMITH, of Virginia. I will answer that question.

The CHAIRMAN. Debate is not in order.

Mr. NICHOLS. I move that the committee rise. When one member sets himself up against the whole House, it is no use for us to go on.

The question was taken; and the committee refused to rise.

JOSEPH M. PLUMMER, ETC.

A bill (H. R. No. 227) for the relief of Joseph M. Plummer and Mary R. Plummer, minor children of Captain Samuel M. Plummer. [Objected to by Mr. SMITH, of Virginia.]

Mr. NICHOLS. I move that the committee rise. The last four bills have been objected to by one gentleman. It is useless to go on, if all the bills are to be objected to.

Mr. GROW. If the gentleman wants to object let him go on. The responsibility is with him.

The committee refused to rise.

Mr. HUGHES. I wish to submit a question of order in regard to objections. I understand that this is not objection day under the rules, but only by virtue of the resolution passed by the House. Now, two thirds of the House consented to suspend the rules for the purpose of introducing that resolution, but there was not a two-thirds vote for the passage of that resolution. I submit the point that a majority vote—

The CHAIRMAN. The Chair has no jurisdiction of the question. Debate is out of order.

Mr. HUGHES. Can a majority of the House make this objection day over the rules? That is the question.

HENRY TAYLOR.

A bill (H. R. No. 228) for the relief of Henry Taylor. [Objected to by Mr. LETCHER.]

SAMUEL GOODRICH, JR.

A bill (H. R. No. 229) for the relief of Samuel Goodrich, jr.

The bill directs the Secretary of the Interior to place the name of Samuel Goodrich, jr., of New York, upon the roll of invalid pensioners, and to pay him a pension, at the rate of eight dollars per month, during his natural life, to commence on the 1st of January, 1856.

It appears from the report that in September, 1814, Mr. Goodrich entered the service of the United States, in the militia, in Oswego county, New York, and marched to Sackett's Harbor, New York. There, in camp, he was exposed to the hardships of a soldier; destitute of barracks, exposed to the wet, sleeping on the wet ground, he was seized with the prevailing camp distemper, which soon became a bilious fever and inflammatory rheumatism, which caused the formation of many tumors upon his body and limbs, that were often lanced—resulting finally in the formation of an abscess on the left hip, injuring the hip-joint, contracting of the muscles, shortening of

the left leg, making it almost useless, attended with extreme pain. On reaching home, he was confined to his bed or room one year and a half; and since that day he has continued a cripple, unable to perform hard labor, with a diseased hip incurable, and without hope of improvement.

The bill was laid aside to be reported to the House, with the recommendation that it do pass.

MARY BENNETT.

A bill (H. R. No. 230) for the relief of Mary Bennett.

The bill directs the Secretary of the Interior to place the name of Mary Bennett, who is the widow of the late Captain Charles W. Bennett, of the United States revenue service, who died June 15, 1855, from disease caused by extraordinary exposure in the line of his duty while engaged in the revenue service, on the pension roll, at a compensation of thirty dollars per month, commencing with the 15th of June, 1855, and to continue to her during her widowhood, and after her death or intermarriage to be paid to her children until they, respectively, arrive at the age of sixteen years, agreeably to the provisions of the act of August 11, 1848.

Mr. LETCHER. That bill goes back to 1855. I move to amend by inserting, in lieu of that provision, that the pension shall commence with the date of the passage of this act.

The amendment was agreed to.

It appears from the report that Mary Bennett is the widow of Charles W. Bennett, deceased, late a captain in the United States revenue service. Captain Bennett was commissioned as lieutenant in that service April 10, 1839; served at various stations on the Atlantic coast until the spring of 1850, when he was ordered to the San Francisco station, to which he repaired on the bark Polk, as first lieutenant. After his arrival, he was transferred to the revenue brig Lawrence, and remained thereon doing active duty, under Captain Douglass Outinger, until November 25, 1851, when the brig was wrecked and lost. Up to this time, as is testified by Captain Webster, of the bark Polk, there was not a more healthy or robust person in the service. On the night of the wreck he engaged actively on the beach, and in the water, in saving valuable Government property from the vessel. The weather was inclement, and he was much exposed in the water. From that time his health was broken and declined. He returned from San Francisco in 1852, under the care of Captain Webster, and during the voyage his health failed so rapidly that Captain Webster did not expect him to survive long enough to reach home. He reached home; and, from illness, was excused from duty until August 9, 1853, when he was so far restored as to be ordered to the Wilmington station, and attached to the cutter Forward. In January, 1854, he was dispatched, in command of the Forward, in search of the survivors of the wreck of the steamer San Francisco. From a report of that cruise, made by Captain Bennett to the collector of customs of the Delaware district, January 24, 1854, it appears that he was sent to sea with but one officer, to wit, a third lieutenant; that this officer, though of unexceptionable character, was too inexperienced to be left in charge of the deck during such severe weather as was encountered, and that nearly one half of the crew were disabled and sick the greater part of the time. Thus it became necessary that Captain Bennett should keep the deck during snow and rain, and in so doing he contracted a severe cold from which he never recovered. After his return he had frequent hemorrhage of the lungs, which rendered him incompetent to discharge the duties of his office, and of which he died on the 15th of June, 1855.

The bill, as amended, was laid aside to be reported to the House, with a recommendation that it do pass.

SYLVANUS BURNHAM.

A bill (H. R. No. 233) for the relief of Sylvanus Burnham.

The bill directs the Secretary of War to place the name of Sylvanus Burnham upon the roll of invalid pensioners, and cause to be paid to him eight dollars per month, commencing from and after the 14th of November, 1850, and to continue during his natural life.

Mr. LETCHER. That bill provides that the

Secretary of War shall put Sylvanus Burnham on the pension roll. I move to strike that out, and insert, in lieu thereof, that the Secretary of the Interior be so directed.

The amendment was agreed to.

Mr. LETCHER. That bill also goes back to 1850, nearly eight years. I move to strike that out, and to provide that the pension shall commence with the passage of this act.

Mr. CASE. In all instances, I believe, it has been the rule to provide that the pension shall commence when the proofs in the case were completed.

Mr. LETCHER. If the proof was completed then, there have been seven or eight sessions of Congress since, and it seems to me it ought to have been reached in one of them. If the amendment is objected to, I shall object to the bill.

Mr. CASE. I do not object.

The amendment was agreed to.

It appears from the report in this case, that Sylvanus Burnham was a private soldier in the Indian war, under General Wayne, for three years from February 28, 1792, and was honorably discharged. While engaged in the discharge of his duties as such soldier he was injured by the explosion of a canister of powder. By this explosion his face was burned, and his eyes nearly ruined. So seriously was his sight impaired, that for the last forty years, he has been unable to read. He had received no pension, nor even a bounty land warrant, at the date of his application.

The bill as amended, was then laid aside to be reported to the House, with the recommendation that it do pass.

JOHN HOPPER.

A bill (H. R. No. 236) for the relief of the heirs of John Hopper. [Objected to by Mr. SMITH, of Virginia.]

JOHN A. HOPPER.

A bill (H. R. No. 237) for the relief of the heirs of John A. Hopper. [Objected to by Mr. SMITH, of Virginia.]

RICHARD TARVIN.

A bill (H. R. No. 238) for the relief of the heirs of Richard Tarvin.

The bill requires the Secretary of the Treasury to pay to the heirs of Richard Farren, alias Richard Tarvin, who was a friendly Creek Indian in the war of 1813 and 1814, the sum of \$600, for losses sustained by him during that war.

The report states that Richard Tarvin, alias Richard Farren, was a friendly Creek Indian, in the war between the United States and his tribe, in 1813-14, and sustained loss by the depredations of the hostiles to the extent of \$600, as reported by General D. B. Mitchell, the agent of the Federal Government; that, by the treaty negotiated with the Creek tribe of Indians at the close of the war, the United States guaranteed indemnity to those Indians who had remained friendly to our cause, for whatever property they had lost during the war by the common enemy. Claims were presented against the Government for such losses, on the part of the friendly Creeks, amounting, in the aggregate to \$195,417 90, all of which has been provided for and paid by Congress. In addition to the claims embraced in the above amount, a supplemental abstract of claims was presented by General Mitchell in favor of six other friendly Creek Indians, amounting, altogether, to \$9,770. Among these latter claimants is found the name of Richard Farren, alias Richard Tarvin, and his damages were assessed at the sum of \$600. Of the half dozen claimants included in the supplemental abstract of General Mitchell, \$5,925 were paid to Peter Randall in an act passed by the Thirty-Third Congress. The claims of Arthur Sigmond, for \$1,420, and of John Simmance, for \$1,163, were provided for in the Indian appropriation bill of last Congress. The committee saw no good reason why the claim of Richard Farren, alias Richard Tarvin, through his legal representatives, should not also be liquidated.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

ZINA WILLIAMS.

A bill (H. R. No. 239) for the relief of Zina Williams.

The bill directs that the Secretary of the Interior place the name of Zina Williams, of New

York, upon the invalid pension list, at the rate of eight dollars per month, commencing on the 4th of December, 1855, to continue during his natural life.

It appears from the report that the petitioner was called into the service in the war of 1812, in September, 1814, from Montgomery county, New York, and marched to Sackett's Harbor, in New York, where he was on duty, without shelter, sleeping (if it all) upon the ground; sickness prevailed in camp, and on the 1st of October, 1814, he was taken sick of the prevailing camp disease and was sent to the hospital, where he was attended by two surgeons; his sickness settled into a fever; his friends sent for him; with difficulty carried him home on a bed; he was confined to his bed eighteen months, the fever concentrating in his left hip, causing great pain and contraction of the muscles, resulting in almost the entire loss of the use of the left leg; the disability continuing from that time to the present, and of a nature incurable; that he is a farmer, a sober, temperate, prudent man, and is clear from any charge of imprudence or exposure as the cause of the continuation of his disability.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

BRIG GENERAL ARMSTRONG.

An adverse report (C. C. No. 149) upon the petition of the claimants of the brig General Armstrong.

Mr. JONES, of Tennessee. I move that that case be reported to the House with a recommendation that the report of the Court of Claims be concurred in.

Mr. CLAY. I desire to amend that motion by moving that the case be referred to the Committee on Foreign Affairs.

Mr. UNDERWOOD. I would inquire whether it has not already been referred to some committee?

Mr. CLAY. It has not been.

By unanimous consent the report was referred to the Committee on Foreign Affairs.

BENJAMIN F. HALL.

A bill (H. R. No. 244) for the relief of Benjamin F. Hall.

The bill and report were read.

Mr. MORGAN. I will state to the committee that this claim has been settled by the Department, and I have just received a draft for it.

The bill was laid aside to be reported to the House, with a recommendation that it be laid upon the table.

A. BAUDOUIN AND OTHERS.

A bill (H. R. No. 245) for the relief of A. Baudouin and A. D. Roberts.

Mr. JONES, of Tennessee, objected; but subsequently withdrew his objection with the understanding that the yeas and nays should be taken in the House on the passage of the bill.

The bill directs the Secretary of the Treasury to pay, out of any moneys in the Treasury not otherwise appropriated, the sum of \$2,000 to A. Baudouin and A. D. Roberts, in full compensation for the damages sustained by them arising from the sinking of a flat-boat of ice, at New Orleans, by a steamboat in the service of the United States.

The petition states that the petitioners have, by proper proof, satisfied the committee that they were, on the 21st of March, 1846, owners of a flat-boat of ice, containing two hundred and twenty tons, which boat, loaded with ice, had on that day been towed down to the landing in the first municipality in the city of New Orleans, set apart to them by the wharfinger; that just before she was properly fastened to the wharf, and whilst their boat was tied to another boat, the name of which is not given in the proof, but declared by the petitioners to be schooner Commerce, Captain Pierce, she was run into by the steamer Colonel Harney, then in the service of the United States, and commanded by the officers of the Government. The proof shows that the Colonel Harney was under a heavy pressure of steam; and that the act was apparently the result of great carelessness or wantonly mischievous, whereby the petitioners lost the boat, which was sunk, and the ice, valued at \$2,000; the proof is that there was two hundred and twenty tons, and that it was

worth ten dollars per ton. Suit was brought in the United States district court; and the evidence on file, which makes this case, was taken contradictorily with the United States attorney, and would, between individuals, have given the plaintiffs a judgment for \$2,000; but the case was dismissed upon an exception, which was, that the Government could not be sued; whereupon the parties appealed to Congress for redress; and, on the 15th December, 1846, the case was referred to the Committee of Claims, and referred to the same committee again on the 17th December, 1847; that on the 30th March, 1848, a bill was reported to this House for \$2,000, accompanied by a report from Mr. Rockwell; that the report and bill was referred to the Committee of the Whole on the state of the Union, and recommended by the committee to the House for passage, but was not reached. The papers were again referred to the Committee of Claims on the 23d of January, 1850; and on the 13th of February following, a report was made from that committee by Mr. Nelson, with a bill for the relief of the parties, which report and bill was referred to the Committee of the Whole on the state of the Union, and reported back with a recommendation that it do pass the House; that the report of the committee was not finally acted on. The bill went to the Speaker's table, and was not reached.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

NANCY D. HOLKAR.

A bill (H. R. No. 249) for the relief of Nancy D. Holkar.

Mr. TAYLOR, of New York. This bill was reported from the Committee on Revolutionary Claims under a deception. The committee have discovered facts which authorize them to ask the committee to report it back to the House, with a recommendation that it be recommitted to the Committee on Military Affairs.

MARY JEMISON.

A bill (H. R. No. 252) for the relief of Mary Jemison, deceased.

The bill and report were read.

Mr. LETCHER. I do not want to object to this bill if it is right, but I do not think it is. I understand that the parties named in this bill had some money coming to them upon a mortgage, and that they deposited evidence of that sum with the Indian agent of the Government. If that be the case—if they chose to go and deposit money with the Indian agent—it strikes me that the Government is under no more obligation to pay it than I am; and if Congress ever passed a bill to pay the sum, I think they did wrong.

Mr. GREENWOOD. The committee of which I am a member has a number of times reported in favor of this bill. One ground on which they reported it was, that the Indians have a right to rely upon the Government agent, appointed for the transaction of their business. In addition to that, Congress heretofore passed a bill to pay this money, but the Government, in paying it, paid it to the wrong party. The committee thought that inasmuch as the Government had originally acknowledged its liability, and having made an appropriation for it heretofore, which was paid out to a wrong party, the Government was, in good faith, bound to pay the money to the parties entitled to it.

Mr. LETCHER. I do not hold to the doctrine that if the Government has an agent, and a party chooses to deposit money with him, we are liable to pay it. I must object to the bill.

JOHN J. BULOW.

A bill (H. R. No. 253) for the relief of the heirs of John J. Bulow, jr., deceased.

The bill was read.

Mr. MARSHALL, of Kentucky. This bill has been before the Committee on Military Affairs. It appears that the claim is for \$63,000; that \$20,000 of it was for crops destroyed by the enemy, and the remainder for other property which this man lost, as sworn to by several witnesses. The bill proposes to reduce that remaining sum of \$63,475 down to \$49,175. I think if we are going to pay a debt we ought to pay it according to the testimony. I therefore move to amend the bill by striking out "\$49,175," and inserting "\$63,475."

Mr. GREENWOOD. I would ask the gentle-

man whether his amendment would not allow consequential damages in addition to the loss of property?

Mr. MARSHALL, of Kentucky. No, sir, it allows exactly what was sworn to as items of account, and nothing more.

Mr. RUSSELL. I shall object to the bill if that amendment is adopted.

Mr. MARSHALL, of Kentucky. Rather than rob these persons entirely, I will withdraw the amendment; but I think the bill does great wrong.

Mr. MORGAN. I would like to know something more about this bill, and I object to it.

THOMAS PHENIX, JR.

A bill (H. R. No. 255) for the relief of Thomas Phenix, jr., late paymaster's clerk in the service of the United States.

Mr. QUITMAN. There is a Senate bill lower down on the Calendar which is precisely the same as this. I ask that this bill be laid aside, and the Senate bill taken up.

There being no objection, the bill was passed over, and Senate bill (No. 102) for the relief of Thomas Phenix, jr., was taken up.

The bill was read. It directs the Secretary of War to pay Thomas Phenix, jr., during the time he was acting as paymaster's clerk, three dollars a day, deducting therefrom the salary of \$500 per annum already received by him.

There being no objection to the bill, it was laid aside, to be reported to the House.

Mr. LETCHER. I understand that that man was an officer, whose pay was fixed by law. We have had a good deal of fuss here about going back and giving pay. I think this is a good place to stop it; and I object to the bill.

Mr. QUITMAN. I would say to the gentleman from Virginia that this man was not an officer in the Army. He was employed as a paymaster's clerk at a fixed salary, but shortly after he was thus employed, a law passed fixing the pay of clerks, to be hereafter employed, at three dollars a day. He now asks that he may receive the same pay which others have received for similar services.

Mr. LETCHER. He was a clerk, and his salary was fixed by law at the time he took the place.

Mr. DAVIDSON. I make the point of order that the objection of the gentleman from Virginia comes too late. The bill had been laid aside to be reported to the House when he made it.

The CHAIRMAN. The Chair sustains the point of order. The bill has been laid aside to be reported to the House, and the objection of the gentleman from Virginia comes too late.

AUGUSTUS J. KUHN.

A bill (H. R. No. 258) for the relief of Augustus J. Kuhn.

The bill directs the Secretary of the Interior to place the name of Augustus J. Kuhn, of Pennsylvania, upon the invalid pension list, at the rate of eight dollars per month, commencing on the 25th of July, 1856, and to continue during his natural life.

It appears, from the report of the Committee on Invalid Pensions, that the petitioner in this case was called into the service in the war of 1812, then a resident of Pennsylvania; that he marched with his company to Baltimore, Maryland, where he was stationed. At this time he was a hardy, healthy person, capable of endurance; but the camp life of a soldier, exposed as he was to cold, rain, and sleeping upon wet straw and in wet clothing, he took a violent cold, so severe as to lay him down sick; which settled in his head, making him almost distracted; causing severe pains in his head and ears, and confused noise and partial deafness; all of which increased upon him, affecting his whole nervous system, and prostrating him altogether; that he continues in this low situation, only failing and becoming more prostrated, his deafness increasing with his weakness, until he became totally deaf, or so far so that he could only hear through an ear-trumpet, and, at times, but partially even then—with his constitution so shattered as to be hardly able to walk.

The bill was laid aside to be reported to the House.

HECTOR ST. JOHN BEATLEY.

A bill (H. R. No. 262) for the relief of Hector St. John Beatley. [Objected to by Mr. JONES, of Tennessee.]

HENRIETTA S. CLARK.

A bill (H. R. No. 263) for the relief of Henrietta S. Clark.

Mr. JONES, of Tennessee. I would inquire if this widow has not now a pension under the general law?

The CHAIRMAN. She has.

Mr. JONES, of Tennessee. There is a bill from the Senate now on the Speaker's table to extend these pensions during the lives of widows. I think we had better pass this bill over and take that bill up in the House.

Mr. DAVIDSON. I will offer the Senate bill as a substitute for this.

Mr. HOUSTON. If the gentleman does that, the bill will have to go back to the Senate. It would be better to wait until the general bill can be reached.

Mr. JONES, of Tennessee. The gentleman had better move in the House to take up the Senate bill. I have no doubt that the House will pass it.

Mr. DAVIDSON. I will do so.

Mr. JONES, of Tennessee. That will dispose of all these cases.

The bill was then passed over.

MARY W. THOMPSON.

A bill (H. R. No. 265) for the relief of Mary W. Thompson.

Mr. CURTIS. That case is just like the last. It had better be passed over.

The bill was passed over.

HEIRS OF WILLIAM YORK.

A bill (H. R. No. 266) for the relief of William York. [Objected to by Mr. JONES, of Tennessee.]

TIMOTHY L. O'KEEFE.

A bill (H. R. No. 267) for the relief of Timothy L. O'Keefe.

The bill and report having been read, the bill was laid aside, to be reported to the House.

WILLIAM CRAMPTON.

A bill (H. R. No. 268) extending the patent granted to William Crampton for an improvement in figure and fancy power looms for seven years from the 25th day of November, 1853. [Objected to by Mr. PIKE.]

DAVID BRUCE.

A bill (H. R. No. 269) for the relief of David Bruce.

The bill directs the Commissioner of Patents to extend the patent of David Bruce, dated November 6, 1843, for a new and improved mode of casting type, for seven years from the date of its expiration, subject to the rules and regulations now in force for granting extensions; provided it shall appear, on examination, that the failure to extend his patent occurred through an official mistake.

The bill was laid aside to be reported to the House.

HARRIS AND MORGAN.

A joint resolution (H. R. No. 9) authorizing the Postmaster General to revise and adjust the accounts of Harris & Morgan, on principles of justice and equity. [Objected to by Mr. MORRIS, of Illinois.]

J. W. NYE.

A bill (H. R. 275) for the payment of the claim of J. W. Nye, assignee of Peter Bary, jr., and Hugh Stewart. [Objected to by Mr. JONES, of Tennessee.]

MARYETT VAN BUSKIRK.

A bill (H. R. No. 276) for the relief of Maryett Van Buskirk, heir of Thomas Van Buskirk, deceased, late of Bergen county, New Jersey.

The bill authorizes and directs the Secretary of the Treasury to pay to Maryett Van Buskirk, out of any moneys in the Treasury not otherwise appropriated, the sum of \$20,367 principal, together with interest from the 1st day of January, 1780, in full payment for the claim for forage, grain, cattle, and other supplies furnished to the American Army by the late Thomas Van Buskirk, deceased, of Bergen county, New Jersey, during the revolutionary war.

It appears from the report that the petitioner, Maryett Van Buskirk, is the lineal descendant of Thomas Van Buskirk, who was in his lifetime a

citizen of Bergen county, New Jersey. That during the period of our revolutionary struggle he was a wealthy farmer and grazier, and a man of great influence. The evidence before the committee shows that he was one of the most ardent Whigs of the Revolution, and in a community where a large part of the population was hostile to the American cause. It further appears from the evidence and certificates on file that the American troops, at different times, under the command of Generals Wayne, Greene, and other officers, during the period ranging between the years 1777 and 1780, encamped at Harrington, (or Peramus, as sometimes called.) In the winter of 1779-80, General Washington, with the main army, were encamped at Morristown, near by. When the committee state that, as early as 1777, dates the poverty and extreme wants of the army, and the prostration of the credit of the Government, they state facts known to all men. It abundantly appears by the evidence that from this time, while our army was in winter quarters at Valley Forge, until 1780, Thomas Van Buskirk was frequently applied to by the several officers commanding the American troops for supplies of cattle, horses, forage, grain, and other necessary articles, all of which he furnished; and he frequently purchased articles from others with his own money, to enable him to supply the army. The difficult task of obtaining supplies at this time, and in a part of the State notoriously disaffected, the resort to force by our officers to obtain them, under the command of a resolution of Congress, are facts known in history. The evidence establishes the fact that it was during this time that the ancestor of the petitioner, Thomas Van Buskirk, furnished these supplies, as the evidence shows, with cheerfulness and alacrity. It is also proven that when the British had possession of Philadelphia, in 1778, and Colonel Lee had been sent into New Jersey to carry off and destroy all that otherwise might fall into the hands of the enemy, in order to cut off their supplies, among those that suffered in this expedition was Thomas Van Buskirk, who cheerfully gave up what he had.

It appears that he seldom was paid in money for his property, but, instead, received certificates, executed by the several officers in command, as proven by the depositions of parties who saw the officers sign many of the same. One of the witnesses, examined on the 1st of December, 1854, says that he was then ninety-six years of age, and that he saw Colonel Lee subscribe certificates, Nos. 3 and 5, and that he saw the property described in the certificates, Nos. 1, 2, and 7, delivered to Major Tilghman.

Mr. JONES, of Tennessee, objected; but subsequently withdrew his objection, with the understanding that the yeas and nays would be taken in the House on the passage of the bill; and the bill was laid aside to be reported to the House, with a recommendation that it do pass.

MARY BOYLE.

A bill (H. R. No. 277) for the relief of Mary Boyle.

The bill directs the name of Mary Boyle to be placed on the pension roll, at the rate of twenty dollars per month, from the 1st of January, 1858.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the petition of Mary Boyle, have had the same under consideration, and find by reference to Niles' Register for the years, — that the facts set forth by the petitioner, relative to the remarkable and gallant services of her late husband, Captain Thomas Boyle, are abundantly substantiated as matters of history. The petition is as follows:

To the honorable the Senate and House of Representatives of the United States:

The undersigned, widow of the late Captain Thomas Boyle, respectfully represents that, in consideration of the remarkable services of her late husband in the war of 1812, she respectfully solicits such aid as Congress may vouchsafe her in her declining years, and to secure her from want the little time she has to stay. My husband, first as the commander of the schooner Comet, of fourteen guns, and then in the Chasseur, of twelve, during the war captured more than seventy sail of British vessels, thirty-two of which were equal to him in force, and eighteen superior. He met and beat off a Portuguese man-of-war, carrying twenty-three two-pounders, convoying three British vessels, killing her first lieutenant and five men, and wounding many more, capturing two of the three British vessels, one carrying fourteen guns, and the other ten guns. Also, he captured the ship *Hop*, with fourteen guns. Soon after he met and captured the ships *Atlantic* and *Jama*, in company, carrying twenty guns; *Hop*, fourteen guns; ship *John*, fourteen; London Packet, twelve; Henry, ten; Alexander, ten; Dominio Packet, ten; and brig *Industry*, of ten guns. On the 26th of February, 1815, he fell in with and captured,

after a desperate fight of fourteen minutes, his Britannic Majesty's schooner *St. Lawrence*, mounting fifteen guns, four and twelve-pound carronades, and a long nine, commanded by Lieutenant James E. Gordon, royal navy, with a complement of seventy-five men and a number of soldiers, marines, and several naval officers (passengers) on board. The Chasseur lost but five killed and eight wounded. The *St. Lawrence* had fifteen killed and twenty-three wounded. All this, and much more, was done by my late lamented husband, and neither he nor I have ever received or asked anything at the hands of Government; and now, at the age of eighty, and poor, I respectfully solicit such measure of relief as you, in your wisdom, may think proper to grant.

WASHINGTON CITY, January 15, 1858.

There being no objection, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

ISAAC S. SMITH.

A bill (H. R. No. 31) for the relief of Isaac S. Smith, of Syracuse, New York. [Objected to by Mr. PHILLIPS.]

COURT OF CLAIMS BILLS.

Mr. TAYLOR, of New York. The other cases on the Calendar, down to 319, may as well be passed over.

Mr. DAVIDSON. I offer a substitute for all these bills, which I desire to have read.

Mr. JONES, of Tennessee. I do not think that this is the proper time to offer a general bill, because no explanation can be given, or debate had upon it, and it will be necessary to have some discussion of it.

Mr. DAVIDSON. Let it go to the House.

Mr. JONES, of Tennessee. It cannot be debated.

Mr. DAVIDSON. Yes, sir; I agree not to call for any vote on it, till discussion shall have been had.

Mr. JONES, of Tennessee. Yes; but there are others who might not assent to that arrangement.

Mr. DAVIDSON. I will guaranty for them. Let my substitute be read.

The Clerk proceeded to read the substitute, but was interrupted by

Mr. CURRY, who objected.

Mr. DAVIDSON. Well; I notify the House that I will, on Monday, move to suspend the rules for the purpose of offering it.

Mr. JONES, of Tennessee. All the bills on page 7 and page 8, down to 319 on page 9, are on the same principle; and if one passes, all the others should pass. Therefore, until the House decides the principle, it is better to pass them over.

The following Court of Claims bills, reported back by the Committee of Claims with a recommendation that they do not pass, were passed over informally:

A bill (No. 44) for the relief of Jane Smith, of the county of Clermont, State of Ohio.

A bill (No. 45) for the relief of Lucinda Robinson, county of Orleans, State of Vermont.

A bill (No. 46) for the relief of Hannah Weaver, of Wayne county, Pennsylvania.

A bill (No. 47) for the relief of Ann Clark, of Madison county, Tennessee.

A bill (No. 48) for the relief of Mary Burt, of Scioto county, Ohio.

A bill (No. 49) for the relief of Esther Stevens, of Van Buren county, Michigan;

A bill (No. 50) for the relief of Mercy Armstrong, of Gloucester county, Rhode Island;

A bill (No. 51) for the relief of Nancy Madison, of Fairfield county, Ohio;

A bill (No. 52) for the relief of Anna Parrot, of Clinton county, Ohio;

A bill (No. 53) for the relief of Margaret Taylor, of Putnam county, Tennessee;

A bill (No. 54) for the relief of Lavina Tepton, of White county, Tennessee;

A bill (No. 55) for the relief of Lucretia Wilcox, of Wayne county, Michigan;

A bill (No. 56) for the relief of Mary Robbins, of Westmoreland county, Pennsylvania;

A bill (No. 57) for the relief of Tempy Connelly, of Johnson county, Kentucky;

A bill (No. 58) for the relief of Rosamond Robinson, of Belknap county, New Hampshire;

A bill (No. 59) for the relief of Jane Martin, of the county of Harrison, State of Virginia;

A bill (No. 60) for the relief of Melinda Durkee, of the State of Georgia;

A bill (No. 61) for the relief of Sarah Weed, of the county of Albany, State of New York;

A bill (No. 62) for the relief of Mary Pierce, of the county of Courtland, State of New York;

separately voted on, the Chair will be happy
put them aside and present them separately.

Mr. JONES, of Tennessee. I have no fault to find with the Chair.

I will state, with the permission of the Chair, that a new rule has been adopted in the Committee of the Whole House. The Speaker not being here all the time, of course cannot be expected to know it. There are some bills agreed to be laid aside to be reported to the House, with the recommendation that they do pass, with the understanding that a separate vote shall be taken on each, and that that separate vote shall be taken by yeas and nays. This bill for the relief of William Heine is one of them. At first, I thought I had renewed the objection to it when objection was withdrawn, and that it was not laid aside.

Mr. WASHBURNE, of Illinois. The gentleman withdrew his objection on the understanding that there should be a separate vote.

Mr. GOODE. I wish to say that the rule referred to by the gentleman from Tennessee, is a new rule, adopted in committee by his suggestion. The SPEAKER. Separate votes will be taken on the bills which have been indicated.

Mr. SMITH, of Virginia. Is it in order to move a suspension of the rules?

The SPEAKER. It is not. The House is now acting under the previous question.

The following bills, upon which separate votes were not required, were then ordered to be engrossed, and read a third time; and being engrossed, they were accordingly read the third time, and passed:

A bill (No. 229) for the relief of Samuel Goodrich, jr.;

A bill (No. 238) for the relief of the heirs of Richard Tarvin;

A bill (No. 239) for the relief of Zina Williams;

A bill (No. 258) for the relief of Augustus J. Kuhn;

A bill (No. 267) for the relief of Timothy L. O'Keefe, of Missouri;

A bill (No. 269) for the relief of David Bruce; and

A bill (No. 321) for the relief of John B. Roper.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the House bills above reported were passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MARY BENNETT.

The SPEAKER. The following bills have been reported from the committee, with amendments:

A bill (H. R. No. 230) for the relief of Mary Bennett.

The SPEAKER. The committee report that that bill be amended by striking out the words, "the said 15th day of June, 1855," and to insert in lieu thereof, the words "commencing with the passage of this act;" so that the pension, instead of running back, would commence when the act was passed.

The amendment was concurred in.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

SYLVANUS BURNHAM.

A bill (H. R. No. 233) for the relief of Sylvanus Burnham.

The SPEAKER. The Committee of the Whole House recommends the passage of that bill with two amendments: to strike out the word "War," and insert in lieu thereof the word "Interior," so that the Secretary of the Interior shall be directed to place the name of Sylvanus Burnham upon the pension roll; and to strike out the words "14th day of November, 1850," and to insert in lieu thereof "the passage of this act," so as to provide that the pension shall commence at the passage of the act.

The amendments were concurred in.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

THOMAS PHENIX, JR.

A bill (S. No. 102) for the relief of Thomas Phenix, jr.

The SPEAKER. The Committee of the Whole House recommend the passage of that bill.

The bill was ordered to be read a third time;

and it was accordingly read the third time, and passed.

Mr. UNDERWOOD moved to reconsider the votes by which the last three bills were passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. SICKLES. If the House should now adjourn, will not the remaining bills come up as the first business in order on Monday morning?

The SPEAKER. They will.

Mr. SICKLES. I move that the House do now adjourn.

Mr. REAGAN. I ask the gentleman to withdraw that motion until I ask leave of the House for the withdrawal of certain papers.

Mr. SICKLES. I withdraw it for that purpose.

JOHN WORK.

On motion of Mr. REAGAN, it was

Ordered, That leave be granted for the withdrawal from the files of the House of the papers in the case of John Work, and others, applying for additional compensation to certain assistant surgeons in the United States Army, for the purpose of presenting them in the Senate.

The SPEAKER. Separate votes have been asked on the four following bills; and if there be no objection, the question on their engrossment and third reading will be put on them together:

A bill (H. R. No. 277) for the relief of Mary Boyle;

A bill (H. R. No. 245) for the relief of A. Baudouin and A. D. Roberts;

A bill (H. R. No. 276) for the relief of Maryett Van Buskirk, heir of Thomas Van Buskirk, deceased, late of Bergen county, New Jersey; and

A bill (H. R. No. 324) to allow the legal representatives of Samuel Jones five years' full pay in lieu of half pay for life.

There was no objection; and the bills were ordered to be engrossed and read a third time; and being engrossed, they were accordingly severally read the third time.

Mr. PHILLIPS demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

MARY BOYLE.

The question was first on the bill (H. R. No. 277) for the relief of Mary Boyle.

Mr. JEWETT demanded the yeas and nays. The yeas and nays were ordered.

The Clerk commenced the call of the roll, but was interrupted by

Mr. SICKLES. How many bills are there upon which separate votes have been called?

The SPEAKER. Four.

Mr. SICKLES. If the demand for the yeas and nays could be withdrawn, we could take a vote by division in a short time.

Mr. JONES, of Tennessee. It was understood that we were to have the yeas and nays upon these bills.

Mr. SICKLES. Then I move (half past five o'clock) that the House adjourn.

The SPEAKER. The Chair cannot entertain the motion, inasmuch as a response has been made on the call of the yeas and nays.

The question was taken; and it was decided in the affirmative—yeas 96, nays 32; as follows:

YEAS—Messrs. Abbott, Anderson, Billingshurst, Birmingham, Bishop, Blair, Bowie, Brayton, Bullinton, Burlingame, Case, Cavanaugh, Chaffee, Clawson, Clemens, John Cochrane, Cockerill, Colfax, Comins, Covode, Cox, James Craig, Curtis, Davidson, Davis of Massachusetts, Davis of Iowa, Daves, Dean, Durfee, Fenton, Florence, Foley, Foster, Gilman, Glimmer, Gooch, Goodwin, Granger, Greenwood, Gregg, Grow, Lawrence W. Hall, Harlan, Hawkins, Horton, Hughes, Huyler, Jewett, Kelsey, Kilgore, Knapp, Leiter, Lovejoy, Matteson, Maynard, Morgan, Isaac N. Morris, Oliver A. Morse, Murray, Palmer, Parker, Pettit, William W. Phelps, Pike, Potter, Powell, Prunty, Reilly, Roberts, Royce, Sandidge, Scott, Seward, Aaron Shaw, Shorter, Robert Smith, William Smith, Spinner, Stanton, James A. Stewart, William Stewart, George Taylor, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwallader C. Washburn, Edwin B. Washburne, Israel Washburn, Wilson, Winslow, Woodson, and Augustus R. Wright—96.

NAYS—Messrs. Andrews, Atkins, Avery, Bonham, Caskey, John B. Clark, Cobb, Crawford, Davis of Indiana, Davis of Mississippi, Dodd, English, Garrett, Goode, Hopkins, Houston, George W. Jones, J. Glaney Jones, Owen Jones, Letcher, Milson, Pendleton, Peyton, Phillips, Quitman, Ritchie, Kaitin, Seales, Henry M. Shaw, Miles Taylor, Watkins, and Wortendyke—32.

So the bill was passed.

Mr. CHAFFEE. I move to reconsider the

vote by which the bill was passed; and also move to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. DAVIS, of Mississippi. I move to be excused from further attendance here to-day. As a six o'clock man, I desire to absent myself.

The SPEAKER. The Chair cannot entertain the motion, as the House is acting under the operation of the previous question.

Mr. DAVIS, of Mississippi. Then I shall take the liberty to go anyhow.

MARYETT VAN BUSKIRK.

The next bill upon which a separate vote had been asked was a bill (H. R. No. 276) for the relief of Maryett Van Buskirk, heir of Thomas Van Buskirk, deceased, late of Bergen county, New Jersey.

Mr. LETCHER. I would like unanimous consent to make an inquiry of the gentleman from New York, [Mr. TAYLOR,] in connection with that bill. [Cries of "Go on!"] Is it true that the bill will require \$115,684 56 to discharge it?

Mr. TAYLOR, of New York. I have not estimated the amount. The amount of the bill is \$20,367, with interest.

Mr. LETCHER. Read the bill.

The bill, which was read, directs the Secretary of the Treasury to pay to Maryett Van Buskirk, out of any moneys in the Treasury not otherwise appropriated, the sum of \$20,367 principal, together with interest from the 1st of January, 1780, in full payment for the claim for forage, grain, cattle, and other supplies furnished to the American army by the late Thomas Van Buskirk, deceased, of Bergen county, New Jersey, during the revolutionary war.

Mr. LETCHER. I demand the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

Mr. TAYLOR, of New York. If the House will allow me, I will read two of the certificates upon which this claim is founded:

Bergen, New Jersey, February 19, 1778. Thomas Van Buskirk, Esq., of Paramus, has contributed voluntarily cattle, horses, grain, flour, forage, and cloth, for the public service, to the value of \$2,317, for which this is his claim upon Congress, with interest, to be paid in hard money.

ANTHONY WAYNE,
Brigadier General United States Army.

PARAMUS, NEW JERSEY, December.

[Date uncertain, being defaced, 1777 or 1779.]

I certify that Thomas Van Buskirk has supplied the American army with heaves, three horses, forage, flour, and other articles, to the sum of \$1,350, for which the Congress of the United States is chargeable in specie currency, and interest payable in like manner.

THOMAS MIFFLIN,
Quartermaster General United States Army.

Mr. LETCHER. I understand that the original certificates are lost, and that these are only copies.

Mr. TAYLOR, of New York. There are gentlemen in the House who have had the originals. These are only two out of thirteen certificates upon file.

Mr. LETCHER. I wish to inquire what is the difference between this and a continental loan?

Mr. RITCHIE. I desire to know the reason why these certificates were not funded under the act of Congress authorizing the funding of the national debt?

Mr. TAYLOR, of New York. I should be very glad to answer the gentleman from Pennsylvania.

Mr. PHELPS, of Missouri. I also desire to inquire whether information was sought from any Executive Department of this Government in relation to this claim, and whether they could throw any light upon it?

Mr. TAYLOR, of New York. Information was sought from every source, but none could be found except that contained in the papers upon file in the committee-room. The certificates which are said to be lost, the gentleman from Pennsylvania [Mr. RITCHIE] had in his hands last session.

Mr. RITCHIE. I have no recollection of it. It may be so, but I do not remember it.

QUESTION OF ORDER.

The SPEAKER. The Chair desires to call the attention of the House to the fact that upon the call of yeas and nays upon the adjournment, after the committee found itself without a quorum, the Clerk made a mistake of ten votes in counting

the names. On that count it was announced that a quorum was present; and the House went back into committee, and then rose and reported the bills back to the House. Upon a recount, it appears that the vote lacked two or three of a quorum; so it appears that when the House went into committee, and then rose and reported the bills to the House, no quorum had answered to their names.

Mr. TAYLOR, of New York. That cannot make any difference now.

Mr. WASHBURN, of Illinois. Was there not a quorum when action was taken upon the bills in the House?

The SPEAKER. There was a quorum voting on all votes taken since the committee rose. The Chair felt it his duty, however, to call the attention of the House to the fact. But the Chair holds that the bills, having been passed by a quorum in the House, have been properly passed.

Mr. HOUSTON. If the House acquiesces in that it answers every end; but then it seems to me that unless the Chair asks the House to give its unanimous consent to that state of things, it would be setting a bad example which might sometimes work very great injury. The vote by which the bills were brought into the House was not only no vote at all, but in truth the bills are yet in a Committee of the Whole House.

The SPEAKER. The Chair would suggest to the gentleman from Alabama, that there is no official evidence that there was no quorum when the bills were ordered to be reported from the committee; but, in addition to that, even if that fact be true—if the bills have been acted upon in the House, and passed—the Chair thinks that would cure any defect which might exist in bringing them into the House.

Mr. HOUSTON. I do not object to the bills being passed. I do not want to undo what has been done; but the precedent may be important in the future legislation of the House.

Mr. CRAWFORD. I desire to say that I was in the House while the vote was being taken, although not when my name was called.

Mr. WASHBURN, of Illinois. And there are several others who are in the same position.

Mr. JONES, of Tennessee. I understood the Chair to state upon official information that there was not a quorum present.

The SPEAKER. At the time the bills were reported?

Mr. JONES, of Tennessee. When the list of yeas and nays is corrected, will it not show that there was not a quorum present?

The SPEAKER. It will show that upon that vote there was not a quorum.

Mr. JONES, of Tennessee. That the House went back into committee without a quorum?

The SPEAKER. So far as that is concerned, although it is not true in point of fact, a quorum might have appeared before the House went into committee, and the Chair might have ascertained that fact, although the Chair does not pretend to say that he did so.

Mr. JONES, of Tennessee. That does not satisfy me, when I know myself that the contrary was the fact.

Mr. HOUSTON. I suppose the better plan would be to let members who came in after their names were called, place their names on the list so as to make up a quorum.

[Loud and general cries of "Agreed!"]

Mr. CRAWFORD. How many are required? I was here and the gentleman from Kentucky [Mr. CLAY] was here.

Mr. HALL, of Ohio. And I was here.

Mr. BUFFINTON. My colleague, Mr. DAVIS, was here.

Mr. UNDERWOOD. I was here also.

Mr. ENGLISH. I desire to have my name entered.

The SPEAKER. That is six, which is a sufficient number to make a quorum and meet the views of the gentleman from Alabama.

MARYETT VAN BUSKIRK.

The House then resumed the consideration of the bill for the relief of Maryett Van Buskirk.

Mr. TAYLOR, of New York. I would like now to answer the question of the gentleman from Pennsylvania, [Mr. RICHME.]

Mr. WASHBURN, of Illinois. I object. I want to vote.

Mr. HOUSTON. I would like to have one question answered.

Mr. WASHBURN, of Illinois. I object.

The yeas and nays were ordered on the passage of the bill.

Mr. JONES, of Tennessee. I would like to inquire when this claim was first presented to Congress.

[Cries of "Order!" "Object!" and "Call the roll!"]

Mr. MILLSON (at five minutes to six o'clock, p. m.) moved that the House adjourn.

The motion was not agreed to.

Mr. PHILLIPS. I move to lay the bill upon the table.

Mr. ATKINS. I should like to have the bill read.

Mr. TAYLOR, of New York. I would like to answer the question of the gentleman from Tennessee.

Mr. DAVIDSON. I object.

Mr. LETCHER. I would like to make an inquiry of the Chair.

Mr. WASHBURN, of Illinois. I object.

Mr. LETCHER. I have a right to make an inquiry of the Chair as to a matter of practice in connection with this bill.

The SPEAKER. If the gentleman desires to raise a question of order, he has a right to do so.

Mr. LETCHER. It is a question of practice of the House. I wish to inquire whether the Speaker knows of any instance, under the practice of the House, in which interest has been allowed on a claim for over seventy years?

[Cries of "Order!"]

The SPEAKER. The inquiry is not in order, and the Chair cannot answer it.

Mr. TAYLOR, of New York. I will answer the question, if the House will allow me.

[Loud cries of "Order!" and "Object!"]

Mr. PHILLIPS. I withdraw the motion to lay the bill upon the table.

Mr. HUGLIES. I would suggest that as the House is not full we had better, by unanimous consent, pass this bill over until Monday informally under the operation of the previous question.

Mr. LETCHER. I object to that. Let us dispose of it now.

The bill was again read.

The question was taken: "Shall the bill pass?" and it was decided in the negative—yeas 17, nays 11; as follows:

YEAS—Messrs. Anderson, Chaffee, Clawson, Cragin, Curtis, Davis of Massachusetts, Dawes, Gilman, Ginnier, Hawkins, Horton, Huyler, Humphrey Marshall, Maynard, Aaron Shaw, Robert Smith, and George Taylor—17.

NAYS—Messrs. Abbott, Andrews, Atkins, Avery, Billingham, Bingham, Bishop, Blair, Bowie, Brayton, Bullington, Burlingame, Caskie, Cavanaugh, Chapman, John B. Clark, Clay, Clemens, Cobb, Clark B. Cochrane, John Cochrane, Coffax, Cokerill, Colfax, Conins, Corning, Cox, James Craig, Crawford, Davidson, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dodd, Dowdell, Durfee, English, Fenton, Florence, Foley, Foster, Garnett, Goode, Goodwin, Granger, Gregg, Grov, Lawrence W. Hall, Harlan, Hopkins, Houston, Hughes, Jewett, George W. Jones, J. Glancy Jones, Kelly, Kelsey, Kilgore, Knapp, Leiter, Letcher, Lovejoy, Maclay, Matteson, Milson, Morgan, Isaac N. Morris, Oliver A. Morse, Murray, Parker, Pendleton, Pettit, Peyton, John S. Phelps, Phillips, Potter, Powell, Purviance, Quitman, Reagan, Reilly, Ritchie, Roberts, Royce, Ruffin, Sandidge, Seales, Scott, Seward, Henry M. Shaw, John Sherman, Shorter, William Smith, Spinner, Stanton, William Stewart, Miles Taylor, Tompkins, Underwood, Vallandigham, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Watkins, Wilson, Winslow, Woodson, and Augustus R. Wright—11.

So the bill was rejected.

Mr. COX stated, during the call of the roll, that he had voted against the bill in committee, and voted against it now, because it allowed interest; but he thought the principal ought to be paid.

Mr. PHILLIPS moved to reconsider the vote by which the bill was rejected, and also moved to lay the motion to reconsider on the table.

Mr. TAYLOR, of New York, (at eighteen minutes past six o'clock, p. m.) moved that the House adjourn.

The motion was not agreed to.

Mr. STANTON. I ask the gentleman from Pennsylvania to withdraw the motion to lay the motion to reconsider upon the table, so as to give us time to look into the bill, and see if any part of the claim is just.

Mr. PHILLIPS. I insist upon my motion.

Mr. TAYLOR, of New York. I ask the gentleman from Pennsylvania and the House to indulge me for one moment. It appears that gentlemen have voted against this bill because it allows interest.

Mr. JONES, of Tennessee. Is debate in order?

The SPEAKER. It is not.

Mr. JONES, of Tennessee. Then I object to it.

The motion to reconsider was laid upon the table.

A. BAUDOUIN AND A. D. ROBERTS.

The SPEAKER stated the question next in order to be on the passage of a bill (H. R. No. 245) for the relief of A. Baudouin and A. D. Roberts.

Mr. JONES, of Tennessee, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 78, nays 46; as follows:

YEAS—Messrs. Abbott, Andrews, Avery, Billingham, Bingham, Brayton, Bullington, Case, Cavanaugh, Chaffee, John B. Clark, Clawson, Clark B. Cochrane, Colfax, Conins, Cox, Cragin, Curtis, Davidson, Davis of Massachusetts, Davis of Iowa, Dawes, Dodd, Dowdell, Durfee, Fenton, Florence, Foley, Foster, Gilman, Ginnier, Goode, Goodwin, Grov, Harlan, Hawkins, Horton, Kilgore, Knapp, Leiter, Lovejoy, Humphrey Marshall, Maynard, Morgan, Morrill, Edward Joy Morris, Oliver A. Morse, Mott, Murray, Niblack, Palmer, Parker, Pettit, Peyton, William W. Phelps, Potter, Royce, Ruffin, Sandidge, Scott, Aaron Shaw, John Sherman, Spinner, Stanton, George Taylor, Miles Taylor, Thompson, Tompkins, Underwood, Wade, Walbridge, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Woodson, and Augustus R. Wright—78.

NAYS—Messrs. Anderson, Atkins, Bowie, Caskie, Clemens, Cobb, Cokerill, Corning, James Craig, Crawford, Davis of Indiana, English, Goode, Gregg, Lawrence W. Hall, Hopkins, Houston, Huyler, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Letcher, Maclay, Matteson, Milson, Pendleton, John S. Phelps, Phillips, Powell, Quitman, Reagan, Reilly, Ritchie, Roberts, Seales, Henry M. Shaw, Robert Smith, William Smith, William Stewart, Waldron, Watkins, and Wortendyke—44.

So the bill was passed.

Pending the vote,

Mr. SEWARD said: I was not in the Hall when my name was called. If I had been, I do not know which way I should have voted, because I do not know anything about the bill.

Mr. DAVIDSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SAMUEL JONES'S HEIRS.

The bill (H. R. No. 324) to allow the legal representatives of Samuel Jones five years full pay, was next taken up, the question being on its passage.

Mr. QUITMAN. I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 87, nays 38; as follows:

YEAS—Messrs. Abbott, Anderson, Billingham, Bingham, Bowie, Brayton, Bullington, Burlingame, Case, Caskie, Chaffee, Clawson, Clay, Clark B. Cochrane, John Cochrane, Colfax, Corning, Cox, Cragin, Curtis, Davidson, Davis of Massachusetts, Davis of Iowa, Dawes, Dodd, Dowdell, Durfee, Fenton, Florence, Foster, Garnett, Gilman, Ginnier, Goode, Goodwin, Grov, Harlan, Hawkins, Hopkins, Horton, Jewett, J. Glancy Jones, Owen Jones, Kellogg, Kilgore, Lawrence, Leiter, Letcher, Lovejoy, Maclay, Humphrey Marshall, Samuel S. Marshall, Maynard, Morrill, Edward Joy Morris, Oliver A. Morse, Murray, Palmer, Parker, Pettit, William W. Phelps, Phillips, Pike, Potter, Purviance, Reilly, Roberts, Royce, Scott, Aaron Shaw, John Sherman, Robert Smith, William Smith, Spinner, William Stewart, Tappan, Thompson, Tompkins, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wortendyke, and Augustus R. Wright—87.

NAYS—Messrs. Atkins, Avery, Bishop, John B. Clark, Cobb, Cokerill, Crawford, English, Foley, Gregg, Houston, Hughes, Huyler, George W. Jones, Kelsey, Knapp, Matteson, Milson, Morgan, Niblack, Pendleton, Peyton, John S. Phelps, Powell, Quitman, Reagan, Ritchie, Ruffin, Sandidge, Seales, Henry M. Shaw, Stanton, Miles Taylor, Underwood, Wade, Walbridge, Watkins, and Winslow—38.

So the bill was passed.

Mr. GOODE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MOTION TO RECONSIDER.

Mr. CORB. I rise to a question of privilege. I have sat here and helped to pass a hundred and odd bills, and now I wish the House to pass a little Senate bill, which is as meritorious as the best of them. I wish to move to reconsider the

vote by which the bill in question was referred to a Committee of the Whole House.

The SPEAKER. The motion of the gentleman can be entered, but not acted on at this time.

THE BRIG GENERAL ARMSTRONG, ETC.

The adverse report from the Court of Claims (No. 149) in the case of the brig General Armstrong was next taken up for consideration.

The report was brought from the Committee of the Whole House, with the recommendation that it be committed to the Committee on Foreign Affairs.

The report was accordingly committed.

House bill No. 249, reported from the Committee of the Whole House, with the recommendation that it be committed to the Committee on Revolutionary Claims, was taken up and accordingly committed.

BENJAMIN F. HALL.

House bill (No. 244) for the relief of Benjamin F. Hall, reported from the Committee of the Whole House, with the recommendation that it be laid on the table, was accordingly laid on the table.

OUTRAGES AGAINST THE UNITED STATES.

Mr. CLAY. Some days ago I asked the unanimous consent of the House for leave to introduce a bill. I wish again to ask that unanimous consent. And I wish to say that this whole country, from one end to the other, is ringing with the subject of the outrages committed upon our flag and upon our vessels, while the Senate Chamber itself has been ringing with the same subject; and it does seem to me, at this time, that this House ought to take some action in the matter. I desire to introduce a bill upon the subject for the purpose of having it referred to the Committee on Foreign Affairs.

The bill was read, as follows:

A bill to restrain and redress outrages upon the flag and citizens of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in cases of flagrant violation of the laws of nations, by outrage upon the flag, soil, or citizens of the United States, or upon their property, under circumstances requiring prompt redress, and when, in the opinion of the President, delay would be incompatible with the honor and dignity of the Republic, the President is hereby authorized to employ such force as he may deem necessary to prevent the perpetration of such outrages, and to obtain just redress and satisfaction for the same when perpetrated; and it shall be his duty to lay the facts of each case, together with the reasons of his action in the premises, before Congress, at the earliest practicable moment, for such further action thereon as Congress may direct.

Mr. GARNETT. Being opposed to converting this Government into a military despotism, I object.

Mr. CLAY. I move to suspend the rules.

The SPEAKER. The motion is not in order at this time.

Mr. WASHBURN, of Illinois. I move that the House adjourn.

Mr. CLAY. I demand the yeas and nays upon the motion, and tellers upon the yeas and nays.

Tellers were ordered; and Messrs. MARSHALL, of Kentucky, and WRIGHT, of Georgia, were appointed.

The House divided; and the tellers reported—ayes nineteen—not one fifth the members present. So the yeas and nays were not ordered.

The question was then taken; and the motion was agreed to.

And thereupon (at twenty minutes past seven o'clock, p. m.) the House adjourned until Monday next, at eleven o'clock, a. m.

IN SENATE.

MONDAY, May 31, 1858.

Prayer by the Rev. G. W. BASSETT.

The Journal of Saturday last was read and approved.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House had passed the following bills, in which the concurrence of the Senate was requested:

A bill (No. 219) for the relief of William Heine, artist in the Japan expedition;

A bill (No. 229) for the relief of Samuel Goodrich, jr.;

A bill (No. 230) for the relief of Mary Bennett;

A bill (No. 233) for the relief of Sylvanus Burnham;

A bill (No. 238) for the relief of the heirs-at-law of Richard Farren, alias Richard Tarvin, deceased;

A bill (No. 239) for the relief of Zina Williams;

A bill (No. 245) for the relief of A. Baudouin and A. D. Roberts;

A bill (No. 258) for the relief of Augustus J. Kuhn;

A bill (No. 267) for the relief of Timothy L. O'Keefe;

A bill (No. 269) for the relief of David Bruce;

A bill (No. 277) for the relief of Mary Boyle;

A bill (No. 321) for the relief of John B. Roper; and

A bill (No. 324) to allow the legal representatives of Samuel Jones, of the eleventh Virginia regiment on continental establishment, five years full pay as captain of infantry, in lieu of half pay for life.

A subsequent message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the following bill and joint resolutions of the Senate:

An act (No. 102) for the relief of Thomas Phenix, jr.;

A resolution (No. 47) to correct an error in a certain act, approved May 11, 1858, and

A resolution (No. 28) for the adjustment of difficulties with the Republic of Paraguay.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, communicating, in compliance with a resolution of the Senate, a report of the Secretary of State, with accompanying papers, in regard to the seizure of the American vessel Panchita on the coast of Africa; which was ordered to lie on the table; and a motion by Mr. MASON to print the documents, was referred to the Committee on Printing.

He also laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate, information in relation to the pay of the naval officers whose cases were acted on by the late naval courts of inquiry and the President, and who have been advanced to a higher grade and pay than that assigned them by the late "retiring board," though not restored to the active-service list, with a list of such officers, and the positions assigned them by said board, and those they now hold; which was ordered to lie on the table; and a motion to print, by Mr. IVERSON, was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. BROWN presented a petition of citizens of Washington, who are property holders on Pennsylvania avenue, and engaged in business thereon, praying that the bill passed by the House of Representatives for a railroad on the avenue may become a law; which was referred to the Committee on the District of Columbia.

Mr. KING presented a petition of Samuel S. Powell, and others, praying an examination of Samuel Nowlan's plan for bridging the East river at New York; which was referred to the Committee on Commerce.

Mr. CHANDLER presented a petition of citizens of Shiawassee county, Michigan, praying an extension of mail route No. 13157, from Chesaning, in Saginaw county, to St. Charles, in the same county, so that said mail route will extend from Corunna, in Shiawassee county, to St. Charles, in Saginaw county, Michigan; which was referred to the Committee on the Post Office and Post Roads.

Mr. BRODERICK presented resolutions of the Legislature of California, in favor of an appropriation for the payment of bonds issued by that State for the payment of expenses incurred in the suppression of the Indian hostilities within her bounds; which were referred to the Committee on Claims.

He also presented resolutions of the Legislature of California, in favor of the appointment of a commissioner on the part of the United States, to act in conjunction with a commissioner on the part of California, in ascertaining and determin-

ing the boundary line between that State and the Territory of Utah; which were referred to the Committee on Territories.

He also presented resolutions of the Legislature of California, in favor of the appointment of American consuls at the ports of Guaymas, Mazatlan, Manzanillo, and La Paz, in Mexico; which were referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom were referred the joint resolution (S. No. 46) authorizing the payment of certain moneys to certain Cherokee Indians, remaining east of the Rocky Mountains; and the bill (S. No. 201) to execute the treaties of 1817 and 1819, with the Cherokees, by making provision for the reservations under the same, asked to be discharged from their further consideration; which was agreed to.

He, also, from the same committee, to whom was referred the petition of citizens of New York, praying the adoption of measures for the preservation and elevation of the American Indians, asked to be discharged from its further consideration; which was agreed to.

Mr. IVERSON, from the Committee on Claims, to whom was referred the bill (H. R. C. C. No. 65) for the relief of Benjamin L. McAtee, and J. N. Eastham, of Louisville, Kentucky, reported it without amendment.

Mr. DAVIS, from the Committee on Military Affairs and Militia, to whom were referred the following bills and joint resolution, reported them without amendment, with a recommendation that they do pass:

A bill (H. R. No. 56) making an appropriation for the completion of the military road from Astoria to Salem, in Oregon Territory.

A bill (H. R. No. 332) for the relief of Richard B. Alexander.

A bill (H. R. No. 334) for the relief of Simeon Stedman; and

A joint resolution (H. R. No. 10) for the relief of General Sylvester Churchill.

Mr. FOSTER, from the Committee on Pensions, to whom were referred the bills (S. No. 110) for the relief of Mrs. Jane Turnbull, and the bill (S. No. 229) for the relief of Jane Turnbull, reported them without amendment, and that they ought not to pass.

Mr. FOSTER, from the Committee on Public Lands, to whom was referred the petition of Thomas Jones, and others, of Clermont county, Ohio, praying to be allowed bounty land for services in the war of 1812, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of Lemuel Worster, who served in the war of 1812, praying to be allowed bounty land, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of Mary S. Taylor, widow of Alexander S. Taylor, a volunteer in the last war with Great Britain, praying to be allowed bounty land, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of Eliphalet Lyman, praying to be allowed bounty land for his services as surgeon to a militia company in the war of 1812, reported adversely thereon.

He also, from the same committee, to whom was referred the memorial of William Fleming, in behalf of himself and others of the marine artillery who served in the war of 1812, praying to be allowed bounty land, reported adversely thereon.

He also, from the same committee, to whom was referred the memorial of Henrietta Carroll, widow of William Carroll, praying to be allowed bounty land for the services of her husband during the last war with Great Britain, reported adversely thereon.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 511) for the relief of Nehemiah S. Draper and William Holden, heirs-at-law of Mary Draper, deceased, asked to be discharged from its further consideration, and that it be referred to the Committee on Pensions; which was agreed to.

He also, from the same committee, to whom were referred the following bills, reported them without amendment:

A bill (H. R. No. 547) for the relief of Benjamin Wakefield; and

A bill (H. R. 453) for the relief of Robert W. Cushman, formerly an acting purser in the United States Navy.

Mr. KING, from the Committee on Pensions, to whom was referred the petition of Thomas Jenkins, praying to be allowed a pension, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of Joseph Plummer, guardian of the minor children of the late Captain Samuel Plummer, of the United States Army, praying the continuation of the pension heretofore granted to said children, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of Frank Madison, a colored man, who served as a waiter to Major Lee, in the Seminole war in Florida, praying to be allowed bounty land, reported adversely thereon.

Mr. PUGH, from the Committee on Public Lands, to whom were referred the following bills, reported them without amendment:

A bill (H. R. No. 169) making an appropriation for the payment of clerks employed in the offices of the registers of the land offices at Oregon City and Winchester, in the Territory of Oregon;

A bill (H. R. No. 490) for the relief of Isaac Body and Samuel Fleming;

A bill (H. R. No. 503) for the relief of Job Stafford, of the State of New York; and

A bill (H. R. No. 504) for the relief of Elizabeth McBrier, only surviving child and heir of Colonel Archibald Loughry, deceased.

POST ROUTES IN IOWA.

Mr. JONES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post route from Sioux City, Iowa, via the mouth of the Vermilion river, at the present established ferries on those rivers, to Fort Randall, Nebraska Territory; also from Neolara, Nebraska Territory, to Fort Randall, Nebraska Territory, (four miles.)

PRIMING APPARATUS.

Mr. CAMERON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of reporting an amendment, providing an appropriation to the Army bill, to authorize the Secretary of War to adopt and apply to the present or future arms of the United States, the priming apparatus invented by Jesse S. Butterfield, of Philadelphia.

SECRETARY OF NAVAL SCHOOL.

Mr. KENNEDY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the propriety of increasing the compensation of the secretary of the Naval School at Annapolis, in consideration of extra duties devolving upon that office.

CIVIL WAR IN PERU.

Mr. KENNEDY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to inform the Senate, before the adjournment of Congress, if not incompatible with the public interest, whether the Government of the United States has, in its correspondence with his Excellency the Peruvian Minister, recognized that a state of civil war existed in Peru during the late struggle between Vivanco and Castello, and whether any, and what, measures have been taken to protect American interests in cargoes of guano purchased from Vivanco, or his officers or agents, during his occupation of any of the guano islands within the territory of Peru.

And be it further resolved, That the President be requested, if not incompatible with the public interest, to communicate to the Senate, before the close of the present session, the correspondence which may have taken place between this Government and the Government or the Minister of Peru to the United States on this subject.

WAR STEAMERS.

Mr. DAVIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into, and report upon, the expediency of providing for the construction of steam-engines suitable for the propulsion of vessels of war, in order that the Government may at all times have in depot a supply of such engines adequate to its probable wants, whenever the occurrence of war shall render necessary a rapid and large increase of the Navy.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 219) for the relief of William Heine, artist in the Japan expedition—to the Committee on Naval Affairs.

A bill (No. 229) for the relief of Samuel Goodrich, jr.—to the Committee on Pensions.

A bill (No. 230) for the relief of Mary Bennett—to the Committee on Pensions.

A bill (No. 233) for the relief of Sylvanus Burnham—to the Committee on Pensions.

A bill (No. 238) for the relief of the heirs of Richard Tarvin—to the Committee on Claims.

A bill (No. 239) for the relief of Zina Williams—to the Committee on Pensions.

A bill (No. 245) for the relief of A. Baudouin and A. D. Roberts—to the Committee on Claims.

A bill (No. 258) for the relief of Augustus J. Kuhn—to the Committee on Pensions.

A bill (No. 267) for the relief of Timothy L. O'Keefe—to the Committee on Pensions.

A bill (No. 277) for the relief of Mary Boyle—to the Committee on Pensions.

A bill (No. 321) for the relief of John B. Roper—to the Committee on the Post Office and Post Roads.

A bill (No. 324) to allow the legal representatives of Samuel Jones five years' full pay in lieu of half pay for life—to the Committee on Revolutionary Claims.

A bill (No. 476) for the relief of James Rumph—to the Committee on Claims.

A bill (No. 557) making supplemental appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1859—to the Committee on Finance.

A bill (No. 269) for the relief of David Bruce—to the Committee on Patents and the Patent Office.

ENROLLED BILLS SIGNED.

The VICE PRESIDENT signed the following enrolled bills and joint resolution, which had heretofore received the signature of the Speaker of the House of Representatives:

An act for the relief of Laurent Millaudon;

An act for the relief of John Dick, of Florida;

An act for the relief of Anna M. E. Ring, Louisa M. Ring, Cordelia E. Ring, and Sarah J. De Lannoy;

An act for the relief of William B. Trotter;

An act for the relief of James G. Benton, E. B. Rabbitt, and James Longstreet, of the United States Army;

An act for the relief of Susanna T. Lea, widow and administratrix of James Maglenen, late of the city of Baltimore, deceased;

An act for the relief of Michael Kinny, late a private in company I, eighth regiment United States Army;

An act for the relief of John B. Hand;

An act for the relief of Brevet Major James L. Donaldson, assistant quartermaster, United States Army;

An act for the relief of William Allen, of Portland, in the State of Maine;

An act explanatory of an act entitled "An act for the relief of Dempsey Pittman," approved August 16, 1856;

An act for the relief of J. Wilcox Jenkins;

An act for the relief of Fabius Stanley;

An act for the relief of George A. O'Brien;

An act for the relief of Rufus Dwinell;

An act for the relief of Jonas P. Keller;

An act to continue a pension to Christine Barnard, widow of the late Brevet Major Moses J. Barnard, of the United States Army;

An act for the relief of Caleb Sherman;

An act for the relief of Stephen R. Rowan;

An act for the relief of Elijah F. Smith, Gilman H. Perkins, and Charles F. Smith; and

A joint resolution for the relief of John Grayson.

RECOMMENDED.

On motion of Mr. SEBASTIAN, it was

Ordered, That the petition of citizens of Michigan, relative to a division of the Indian agency in that State, be re-committed to the Committee on Indian Affairs.

WITHDRAWAL OF PAPERS.

Mr. STUART. I desire to withdraw the pa-

pers in the case of Thomas Henderson. There has been a report upon his case; but, in order to perfect some additional testimony, it is necessary for him to have the papers. I therefore move that he have leave to withdraw them from the files of the Senate.

Mr. COLLAMER. I object to it. I know nothing about this particular case, but I think it is a dangerous thing for us now to institute the practice of letting papers be taken away after an unfavorable report has been made. It is very important, in afterwards considering the case, to have the papers as they actually were when first presented. If he be allowed to take the papers away, we cannot verify their true character at the time he presents them again, when they may assume an entirely different aspect. It will do no harm to let the papers remain.

Mr. STUART. I only wish to suggest to the Senator, as I did to the Senate, that the applicant informs me that he cannot make the additional proof, which is simply the fact that a certain person, alleged to be the heir, is really the heir-at-law of an individual, without having these papers.

Mr. COLLAMER. I should want something to show that, because palpably on the face of it, unless from some extraordinary cause, that could hardly be necessary.

Mr. STUART. I will say this: that I will ask the leave of the Senate to withdraw these papers, leaving on file copies of them, so that there shall be no such difficulty.

The order to withdraw the papers was agreed to.

Mr. KING. I ask leave to withdraw the papers in the case of John A. Pitts and Hiram Pitts. It is an application for an extension of a patent which has been reported against; but the parties desire to use the papers as evidence in a trial now pending in court, to be tried about the 20th of June, at a place in New York. There is an application through their attorney. I move that they have leave to withdraw their petition and papers. The motion was agreed to.

On motion of Mr. FITZPATRICK, it was *Ordered*, That Edward D. Tippet have leave to withdraw his petition and papers.

RECESS—FINAL ADJOURNMENT.

Mr. HUNTER. I desire to offer a resolution for a recess, and ask for its present consideration:

Resolved, That on and after to-morrow the Senate will take a recess from four o'clock until six o'clock, p. m., until otherwise ordered.

Mr. WADE. I move to amend the resolution by adding:

Resolved, That no member of the Senate, during the remainder of the session, shall speak more than five minutes on any question, except on leave of the Senate, to be granted or refused without debate.

Mr. HUNTER. I believe that is not in order. It proposes a change of the rules, and requires a day's notice.

Mr. WADE. If it is objected to, it will lie over, of course.

Mr. HUNTER. The Senator had better give notice that he will offer it to-morrow morning.

Mr. WADE. I give notice that I shall offer it as an independent proposition, and call it up to-morrow morning.

Mr. JOHNSON, of Tennessee. Do I understand the resolution of the Senator from Virginia to be before the Senate?

The VICE PRESIDENT. Yes, sir.

Mr. JOHNSON, of Tennessee. I merely wish to suggest, that if the public business is such as to require us to take a recess from four to six o'clock, and is so urgent that discussion should be narrowed down to five minutes, would it not be better to postpone the adjournment, and transact the public business in proper manner. I can work as hard, and can endure as much, as most men; I have done it, and am willing to do it again; but to come here at eleven o'clock, sit until four, then take a recess and sit here in the night, disqualifies men from properly attending to business. It is by such a process and system that the worst legislation is always transacted, to the injury of the country. At night sessions we are always in a hurly-burly, and legislation is done when members are all tired.

When members' pay was regulated by the number of days they sat, the country could then say they had some inducement for a long session. Their pay is now fixed by law; they get a certain sum; and if we leave here, take our pay, and neg-

lect the public business, it seems to me the argument will be on the other side of the question; that it is the pay the members come here for, and not to transact the public business. I voted for fixing next Monday as the day of adjournment; but if the public business is such as to require it, I will vote to prolong the day of adjournment, and let the public business be dispatched in a proper manner.

Mr. SEWARD. I hope the mover of the resolution will withdraw it, and let me call up my resolution for the prolongation of the session, and take the sense of the Senate on that.

Mr. HUNTER. I would rather have the vote on my resolution. Let us take the sense of the Senate on that. The Senator from New York can try the sense of the Senate on his proposition hereafter.

Mr. SEWARD. Then I shall vote against this resolution, in order to take up mine.

Mr. GWIN. I hope the Senator from New York will bring up his resolution, and let us have a test vote on that.

Mr. SEWARD. I will do so the first moment I get the opportunity.

The VICE PRESIDENT. The question before the Senate is the resolution of the Senator from Virginia. Is the Senate ready for the question?

Mr. HOUSTON. I will make but a single remark on that subject. I have been an observer of the course of legislation for several sessions, and I have seen this recess system, I think, effectually tried. It seems to me that the attention of the members is rarely called to a subject under debate after dinner.

The VICE PRESIDENT. The Senator from Texas will pause for a moment. The Chair regrets that he feels obliged to call Senators to order. There is great confusion in the Chamber.

Mr. HOUSTON. I will raise my voice, Mr. President, and try if I can drown the surrounding noise; but I think it doubtful.

The VICE PRESIDENT. The Chair requests Senators to come to order.

Mr. HOUSTON. Mr. President, I have observed that gentlemen are about the lounges and in the reception room, at evenings, after a recess has been taken and the Senate has reassembled, so that there are but a few persons attending to business. Indeed, I have often seen it when there were but three in the Hall, the President, the one that was engaged on the floor, and one other in reserve to occupy the residue of the time. I think that at evening sessions matters are hurried through without consideration, and without any degree of vigilance or care. For that reason I am not in favor of voting for a recess. I am willing to meet at any hour in the morning; I am willing to vote for the prolongation of the session; I am willing to do anything that will dispatch, in a becoming manner, the public business of the country; but I am not in favor of a recess, having the experience I have had of the manner in which business is transacted under the recess system. For that reason I cannot vote for a recess; but I think the adjournments ought to be regular; our meetings ought to be regular; our adjournments at four or four and a half o'clock, and you may say meet at nine o'clock in the morning. I am willing to do that.

Mr. SEWARD. I offer the resolution which I introduced a day or two ago to prolong the session, as a substitute for the resolution now before the Senate offered by the Senator from Virginia.

The VICE PRESIDENT. The Chair has doubts whether it is in order. The resolution of the Senator from Virginia is not a joint resolution; but that of the Senator from New York is a joint resolution.

Mr. HUNTER. I suggest to the Senator from New York, whether he had not better take the sense of the Senate on his proposition separately.

Mr. SEWARD. Very well.

Mr. TRUMBULL. I move to amend the resolution of the Senator from Virginia, before the words "until otherwise ordered," by inserting the words "and will not continue such sessions beyond ten o'clock, p. m."

Mr. HUNTER. I hope the Senator will not press that amendment. He had better leave that matter to the Senate.

Mr. WILSON. I hope the amendment proposed by the Senator from Illinois will not be

adopted; but that the proposition made by the Senator from Virginia will be adopted and adhered to. I voted against fixing this early day of adjournment. I did not believe it right then, and I do not believe it right now; but I find Senators, who were fierce then to fix the day, now say that we are paid by the year, and ought to sit here. They ought to have thought of that before they fixed the day of adjournment. I think we may possibly get through this week, by meeting evenings, meeting early, working hard, and making short speeches. I am in favor of adopting the proposition made by the Senator from Virginia, as the only proper and practical one; and if, towards the close of the week, we find that we cannot get through, let us then adopt the proposition made by the Senator from New York.

Mr. GWIN. I hope this resolution will be voted down, and that we shall extend the time of the session. It is perfect folly to think that we can get through legislation, if we have to commence now holding evening sessions, with any degree of accuracy. I hope this resolution will be voted down, and that then we shall have a vote on the resolution of the Senator from New York.

Mr. FESSENDEN. I am in favor of the resolution offered by the Senator from Virginia, because I believe it will be very much better for us to go away at four and return at six o'clock, and work two or three hours in the evening, than it will be to keep on as we have been doing. It will be accompanied with a less degree of exhaustion, and more benefit to ourselves and the country. I am opposed to taking a vote on extending the session until we find that it is absolutely necessary. If it should become absolutely necessary, we can do it at a subsequent period. I am perfectly certain, in my own mind, that, if we endeavor to do it, and spend as little time as may be absolutely necessary in talking, we can get through with all the public business before the day fixed for adjournment; but, if it be found that the interests of our constituents require that we should sit a few days longer to dispose of private business, I would not object to that; for I think the Private Calendar has been too much neglected. But, in regard to the public business, I have no doubt that we can finish it if we endeavor to do so. I hope, at any rate, we shall make the experiment. I have no fears that, at evening sessions, we shall not behave here decently. We are an older set of men than the members of the House, and I have not heard complaints of their behaving very improperly, although they have had evening sessions for some time.

Mr. TRUMBULL. I am in favor of staying here just as long as is necessary to do the business in reasonable hours, but I do not believe at all in punishing ourselves by sitting through the night and endangering our health in order to close this session at a particular day. I think if we meet daily at eleven o'clock, and continue in session for five hours, and then meet again at seven and continue until ten, making eight hours, it is as many hours as we ought to be required to sit; and, in fact, I am opposed to evening sessions at all, and shall vote against this resolution. I think five or six hours is long enough for the daily sessions to continue. Business is pressing on us, and we want time to consider it, and do it properly. I cannot conceive why there should be this immense pressure to close the session on a particular day, and force us to night sessions, which are always attended with evil.

Mr. WILSON. Will the Senator allow me to ask him a question?

Mr. TRUMBULL. Yes, sir.

Mr. WILSON. I want to ask him if he did not vote to fix this day? I have his name on the yeas and nays voting to fix this particular day.

Mr. TRUMBULL. I think it very probable that I did, but I will vote to unfix it when it becomes necessary. Because I voted a month ago to fix a day, and I find that we shall not get through the business by that day, and I to be told that I cannot extend the time? It matters not whether I voted to fix the day or not, I was for an early adjournment then, I am for an early adjournment now—as early as is consistent with the business before Congress, and with allowing reasonable time for its dispatch; but I am not for adjourning to-day week, if, in order to accomplish it, I have got to sit here every night between this and next Monday. I think night sessions are very un-

profitable. Men get worn out, and improper legislation takes place. Men cannot sit here through twenty-four hours and keep a watch on every bill which comes up. The extravagant, improper appropriations are all made at such times. It has now become the practice that the general legislation of the country is put on to appropriation bills; and why? Because it is supposed, under the pressure of an appropriation bill, and the short time allowed for its consideration, it can be got through the Senate when it could not be got through standing on its own merits. I hope that the resolution will not be adopted at all; but if it is to be adopted, I think we should modify it so that we shall not continue the sessions later than ten o'clock at night.

Mr. JOHNSON, of Arkansas. I hope very much that the resolution offered by the Senator from Virginia will be adopted. I find in the course of the discussion here but three points in the matter. To one of them, those who have discussed the question have not given that attention to which it is entitled. It is that the resolution for adjournment has been passed by both Houses, and the Senate cannot repeal it. This is the attitude in which the Senate stands unquestionably. We may repeal the joint resolution as far as our action is concerned, but the other House may refuse to agree to it. In this condition, when by the almost unanimous action of the Senate we have concurred with the House in fixing a day of adjournment, and that day the 7th of June, the Senator from Virginia comes before us, and asks us to give the means of consummating the public business, other gentlemen who do not want to adjourn, who did not want to adjourn at the time the resolution was adopted, and who do not want to adjourn now, for one reason or for another, it is immaterial to me what, propose to extend the time. I venture to say that every gentleman who wishes to extend the time will vote against the adoption of this resolution which will promote the transaction of the public business.

The majority here did fix a day for adjournment, and the majority are called upon to carry out that resolution by transacting the public business, which it is apparent is not to be transacted in time to meet the day of adjournment, unless this resolution be agreed to. Why shall we not grant it? I see no reason. Even if you adopt a resolution which repeals the present day fixed for adjournment, the proposition ought to be granted as proposed now by the Senator from Virginia, because you do not know that the House will concur in repealing the joint resolution for adjournment. To say that we will not provide for continued and longer sittings to attend to the public business, is to declare that we intend the public business shall not be transacted, and we know if the business should not be transacted, Congress, even if it should adjourn on the 7th will be called back again, and in that way Congress would be forced, with or without their will, by the refusal to transact business, to repeal the joint resolution as it stands. That is our situation. Suppose the sense of the Senate be taken on repealing the joint resolution for adjournment and we agree to do it, we must send our action to the House and it will require their concurrence; still it is but just to the public business and to the past action of the Senate, that we should adopt the proposition made by the Senator from Virginia for the immediate and as rapid as possible transaction of the public business.

Now, as for the proposition of the Senator from Illinois, which is the third one before us, it is to declare that at ten o'clock at night we shall have an adjournment. I suppose that empowers and requires the Chair, at ten o'clock, to declare that the Senate stands adjourned, without a vote. Every one, who is a close observer of the business of the Senate, knows that whenever there is a bill before the Senate to which there is any earnest opposition, it is debated; and if such a proposition were adopted, it would be very easy to continue a discussion from the hour of nine to the hour of ten, and thus defeat it. It is idle to sit here if two or three men can talk until the hour of ten o'clock and compel an adjournment, thus wasting the very time we have provided for business. I do not think that proposition ought to be adopted under any circumstances; but I really cannot think that we ought to reject the resolu-

tion of the Senator from Virginia, which furnishes us time to prosecute the public business, so as to get it through, if it is possible, by the 7th of June.

Mr. GWIN. Mr. President—

The VICE PRESIDENT. The Senator from California will pause a moment. The Chair will state to the Senator from New York that, upon examining these two resolutions further, he believes the amendment suggested by the Senator from New York would be in order if it be desired hereafter to offer it.

Mr. GWIN. I hope he will offer it.

Mr. SEWARD. I will then, with the consent of the honorable Senator from California, offer my resolution as a substitute for that of the Senator from Virginia.

The VICE PRESIDENT. The immediate question is on the amendment of the Senator from Illinois.

Mr. SEWARD. But, if the Senator from California will allow me, I will state very briefly that the resolution to rescind the former one fixing the day of adjournment, if it is to be passed by both Houses, ought to go to the House of Representatives as early as to-day. If it is postponed until Thursday or Friday it will be too late. I wish to state further, that I think we are only in the beginning of a great question about curtailing the legislative sessions of this country. The policy of the States for several years past has been to abridge the sessions of their Legislatures. In some States they will not allow the Legislature to sit over one hundred days; in some States, sixty days. In other States they will not allow a Legislature even to meet more than once in two years. And finally this policy which has thus been adopted in so many of the States has reached us here, and we are engaged in curtailing the sessions of the National Legislature, the only fruit of which must be the increase of the power of the executive department, transferred from our own supervision to the uncontrolled supervision of the executive administration. I wish to meet that question at the threshold. I shall hereafter vote to retain Congress in its place to perform its duties and render the necessary support to the Executive, and supervise executive action, instead of voting to release them from attendance; and I am glad I can do it under circumstances which will relieve me and the Congress of the United States from any suspicion of pecuniary interest in insisting upon such a measure.

Mr. HUNTER. I understand that the resolution of the Senator from New York is not before the Senate.

The VICE PRESIDENT. It is not before the Senate.

Mr. HUNTER. I hope we shall have a vote on the question pending.

Mr. GWIN. Then I will speak to the resolution before the Senate. Its passage must, necessarily, preclude a portion of the members of the body from participating in its proceedings. Every member of the Senate, whose health is such that he cannot attend the evening sessions, will not attend those sessions. There are some members here whose health will not permit them to attend night sessions. The Senator from Mississippi, (Mr. Davis) for instance, who has been a long time out of his seat, and has just been able within the last few days to resume it, and who is chairman of one of the most important committees of the body. It will be impossible, I take it for granted, for him to do so without endangering his health. Then there is the Senator from Texas, (Mr. Henderson,) who is not even now able to be in his seat, and in bad weather cannot attend the Senate. There are other Senators in the same condition. It seems to me that the proper course for us to adopt, would be to meet at ten or eleven o'clock, and sit until five or six or seven o'clock, if need be, in the evening, and then adjourn; but we ought to pass the resolution of the Senator from New York, first, and see whether the House of Representatives will extend the session.

If the resolutions of the Senator from Virginia [Mr. Mason] should pass, as they will, it seems to me that we assume a belligerent attitude towards the greatest naval power of the world, and adjourn without providing any means for the President to enforce the principles avowed in these resolutions, and thus maintain the honor and dignity of the country. If, as some suppose, and as I suppose, this difficulty is not to be amicably settled, I am

astonished at the pertinacity with which this effort to adjourn Congress on the 7th of June is pressed by members of this body and the other House of Congress. For a quarter of a century, Congress has never adjourned at a long session within that period of time; and we have got more important questions that it is our duty to act upon at this very time than ever have been before the Congress of the United States within a week of its adjournment. I hope, therefore, that the resolution of the Senator from Virginia [Mr. Hunter] will be voted down in the first place, and that the resolution of the Senator from New York, [Mr. Seward,] postponing the adjournment, will be adopted. It is a farce to pass the resolutions of the Senator from Virginia [Mr. Mason] without giving the President the means to enforce them. If England insists on the right of visitation, there will be war, and the sooner we prepare for the contest the better.

Mr. HUNTER. I hope the Senator from New York will not push his proposition as an amendment to my resolution. I myself believe that we shall have to extend the session; and while I would vote against such a proposition as an amendment to the resolution I have offered for a recess, I might be willing to vote for some scheme of extending the session. I do not think it will require to be extended so long as the Senator from New York proposes. I believe that to-day fortnight we shall probably get through with everything that requires our attention; and therefore I should not be unwilling to vote against every scheme for extending the session, but I must vote against it as an amendment to this resolution. I think we ought to take a recess, and make an honest effort, if we can, to carry out this joint resolution. I am willing to do so; and then, if we find that we cannot carry out the joint resolution, and cannot get through with the business in a week, let us extend the time another week. That seems to me to be proper. I hope the Senator will let us take the sense of the Senate on this, and offer his resolution afterwards.

Mr. FESSENDEN. I wish simply, by way of explaining my own vote, to express my concurrence with the views of the Senator from Virginia. I am perfectly willing, if the public business requires it, to stay here longer than the time fixed; but I wish, in the first place, to make an honest, sincere effort to get through by the time fixed. I believe that we can accomplish very much if we get together in the evenings at six o'clock, instead of sitting here to the late hour we do in the afternoon. We shall not be so exhausted, and we can accomplish more. At any rate, we can show a desire to the other House to get through by the time fixed—an honest desire to meet their wishes which have been expressed on the subject—and then, if the public business requires it, I would stay here longer; but I do not anticipate the difficulties spoken of by the Senator from New York. If we send his resolution down to the other House at any time, it will go there with much more force after we have ascertained to a reasonable certainty that the business cannot be concluded, than if we send it down in advance. Therefore, while I shall vote against this as an amendment, I wish to say that, if at the proper time I find the business requires it, I am perfectly willing to extend the session to such time as will enable us to finish the business; but until that time comes, until the necessity is manifest, I hope we shall go on and endeavor to do what we can.

The VICE PRESIDENT. The question is on the amendment of the Senator from Illinois, to add to the resolution the words "and will not continue such session beyond ten o'clock, p. m."

The amendment was rejected; and the question recurred on the original resolution.

Mr. SEWARD. I offer my resolution as an amendment, to strike out all after the word "resolved," and insert:

The House of Representatives concurring, that the resolution directing the President of the Senate and the Speaker of the House of Representatives to declare their respective Houses adjourned *sine die* on the first Monday of June next, at 12 o'clock, m., be, and the same is hereby, rescinded, and that the President of the Senate and the Speaker of the House of Representatives declare their respective Houses adjourned *sine die* on Monday, the 21st of June next, at twelve o'clock, m.

Mr. BIGLER. Is that amendment in order?

The VICE PRESIDENT. The Chair thinks the amendment is in order.

Mr. BIGLER. It destroys the original proposition entirely, for it is of a different character. The original resolution proposes to regulate the order of business in the Senate; the amendment has reference to the adjournment of Congress; they are entirely different propositions; the one is not necessarily affected by the other. I suggest to the honorable Senator from New York whether his amendment can be entertained. It does not relate to the transaction of business here.

The VICE PRESIDENT. The Chair has decided the amendment to be in order.

Mr. BIGLER. I shall not appeal from the decision of the Chair; but I think it is a settled principle that a proposition which destroys entirely the sense of an original motion, ought not to be entertained.

The VICE PRESIDENT. The Chair will say to the Senator that it is expressly laid down that it may be done. That is a mode often adopted to make the friends of the original proposition desert it. An amendment may be totally inconsistent; but it is not for the Chair to reject it on the ground of inconsistency.

Mr. HAMLIN. I move to strike out "21st," and insert "14th." I shall then vote against the proposition.

Mr. WILSON. I voted against the foolish project to limit this session. I thought it wrong then; but I find those gentlemen who were so earnest to do it then, very anxious now to retrieve their blunder. The Senator from Virginia has made a fair proposition that we make an honest effort to redeem the vote we gave, and now comes in this proposition here, with an evident attempt to embarrass some of us who were then right, and who want to carry out what they forced upon us. I hope the Senator from Virginia, if this be proposed, will withdraw his motion, and let us take a vote on this, and I will vote to extend the session, and then make his motion, and I will vote with him. I do not want to be complicated by this amendment, and I have asked, personally, that it should not be pressed upon me.

Mr. BAYARD. I shall vote against the amendment of the Senator from New York, because we do not know yet whether the session should be extended.

Mr. COLLAMER. There is a motion made to insert the "14th" for the "21st."

Mr. BAYARD. I understand that. I shall vote both against the amendment of the Senator from Maine and the amendment of the Senator from New York on this ground: it requires the joint action of the House, and in the *interim* it is perfectly evident that we must pass the resolution of the Senator from Virginia. The House may or may not act upon our resolution, if we should pass it to-day; and in the mean time, if we should go on without a recess, the House may determine that they will not extend the session. I think it much more appropriate to pass the resolution of the Senator from Virginia, and then, as a distinct resolution, if it is considered necessary that the session should be extended, pass one for the 14th or the 21st June, and send it to the House, and let them determine whether they will accede to it or not; but we cut ourselves off from the benefit of a recess and probably of finishing our business, by passing the resolution of the Senator from New York, as a substitute, in this form, because we cannot know what the action of the House on it will be, probably for two or three days.

Mr. TOOMBS. It was on my motion that the Senate took up the resolution of the House of Representatives to adjourn on the 7th of June, which seems now to be assailed by the Senator from Massachusetts on the ground that somebody committed a blunder. I thought it was right on that day, and I do to-day, and there is no contingency except public war that will make me vote to rescind it. I have sat here many years, in the two Houses of Congress, as long as ten months at a time, and I never knew what you call the business of the country to be more advanced a week before adjournment than it is now. In the thirteen years I have sat in Congress I never knew a time when the public business was so far advanced within seven days of the end of the session, as it is to-day. The House of Representatives have sent you all the public bills, and all the private bills that ought to pass. They have been considered by our committees, and are before us. It is true that if we go on and argue the question of repair-

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ing a bridge two days, as we did on Saturday, there are not days enough made by God Almighty to get through. [Laughter.] We could never get through in a thousand years; eternity would be too short to get through. [Laughter.] But we can get through with all the business we need to do. We can give all the time the public business requires; and if we prolong the session for three months we shall be no nearer the end of public business two weeks from now, the 14th of June, or the 21st of June, than we are to-day. The time will be spent as six months have been spent heretofore—in talking generally to people out of doors, and not to the business before us. Give a month, and the public business will be abandoned, and we shall begin to talk generally on the state of the Republic, watching, as the Senator from New York said, the Executive. That seems to have been the chief business, instead of legislating—watching and abusing the Executive. In my judgment the time is too long; I wish it was to-morrow.

Mr. STUART. I desire to appeal to the Senator from New York to withdraw his proposition for the present. If it be necessary to extend the session at all, the necessity will be obvious two or three days hence. I do not think it advisable to push it now, and I ask him to withdraw it, and let us vote upon the question submitted by the Senator from Virginia, and we shall then in a day or two be able to determine his proposition. I hope he will withdraw it, and that we shall then get a vote on the question.

Mr. SEWARD. At the request of the Senator from Michigan, I will withdraw my proposition, stating my regret and my surprise that my honorable friend from Massachusetts should have thought that I was willing, under any circumstances, to embarrass him or anybody else. I voted, when it seemed to be the sense of both Houses of Congress, to fix the day for adjournment, under the expectation that it would have the effect to expedite the public business, and with the belief that if the business was not sufficiently matured when the time fixed for adjournment came, it would be changed. I have nothing to regret about the vote I gave then. I believe the vote fixing the day has been beneficial thus far; I believe that to extend the time now will be a wise policy, as it was to fix it at that time; but I say circumstances have occurred which render it necessary. Here is this great question of the disturbance in the Gulf of Mexico; here is a proposition giving power to the Executive; and a great many other propositions. At the suggestion of the honorable Senator I withdraw my amendment.

Mr. CRITTENDEN. I move to lay the resolution of the Senator from Virginia on the table.

The motion was not agreed to.

The resolution was adopted.

MEXICAN PROTECTORATE.

Mr. HOUSTON. I move to take up the resolution I introduced some time since, providing for raising a select committee to consider the propriety of a protectorate over Mexico, Nicaragua, Costa Rica, Guatemala, Honduras, and San Salvador. I make this motion for the purpose of obtaining a vote upon it. The session is drawing to a close, and I desire, if it is to be referred, that there may be an opportunity at the next session, if not at this, to make a report on the subject. I hope the Senate will take it up. It is not with a view to make a speech that I make the motion.

The motion was not agreed to.

BRITISH AGGRESSIONS.

Mr. MASON. I offer the following resolution, and ask for its present consideration:

Resolved, That the Senate will proceed on Friday next, at twelve o'clock, m., to the consideration of the resolutions reported by the Committee on Foreign Relations touching the alleged aggressions of British armed vessels on the commerce of the United States in the Gulf of Mexico and adjacent seas, to the exclusion of all other business.

Mr. IVERSON and others. I object.

Mr. MASON. Objection having been made to the consideration of that resolution to set aside a

particular day for the disposition of the report of the Committee on Foreign Relations, I ask that that report be now taken up. I take it for granted the Senate will see the propriety of some final disposition of the subject.

Mr. GREEN. I desire to appeal to the Senator from Virginia to permit a formal resolution to be taken up, and passed, which will not take up a minute. It is the resolution I offered on Friday in reference to custom-houses. The Senator from Maine has a little amendment to offer to it, and it can then be passed.

Mr. MASON. I do not feel at liberty to yield the floor. In my judgment this question is a matter of too much moment to permit me to yield it. I am sorry that I cannot do so.

Mr. IVERSON. I hope the motion of the Senator from Virginia will not prevail. I do not see any necessity for hurrying the consideration of these resolutions. There is a great deal of important business that ought to be acted upon by this branch of Congress, in order that it may go to the House of Representatives before Friday, because, as we all know, by joint rule no original bill can be sent to the House of Representatives after Thursday next. We can act on bills which have come from the House, on Friday and Saturday, but we cannot send any bill to the House of Representatives on these days. I think that all our time that is not taken up in the consideration of appropriation bills ought to be expended upon bills of this body, so that we may pass them, and send them to the House of Representatives that they may act upon them on Friday and Saturday next. These resolutions in relation to our difficulties with England can be taken up on Friday or Saturday next, when we cannot act on our bills, if we have nothing from the House of Representatives to act upon, or on Monday; or even, if it be necessary, the Senate can sit over, after the day of adjournment, upon this business. It is unnecessary that it should adjourn on Monday; it may prolong its session when the House of Representatives has gone, and then we can act on this business having reference to executive considerations. I hope, therefore, that the resolutions will not be taken up now.

Mr. HALE called for the yeas and nays on the motion; and they were ordered.

Mr. PUGH. I wish to say that, whilst I am in favor of the general views indicated by the Committee on Foreign Relations, I see no necessity for separate Senate resolutions. If these were joint resolutions, requiring the assent of the other House as a matter of legislation, I would vote to take them up; but as it is, I see no benefit that is to result from them. I shall vote against the motion.

Mr. HUNTER. I wish to say, in reference to the question of taking up, that I am very willing to vote with my colleague to fix Friday for the consideration of his resolution; but I shall vote against taking them up now, because I think we ought to get up the appropriation bill.

The question being taken by yeas and nays, resulted—yeas 33, nays 21; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Benjamin, Bright, Broderick, Brown, Cameron, Clay, Davis, Fitzpatrick, Foot, Gwin, Hale, Hammond, Houston, Johnson of Tennessee, King, Mallory, Mason, Polk, Reid, Rice, Sebastian, Seward, Shields, Sibley, Stuart, Thomson of New Jersey, Toombs, Wilson, and Wright—33.

NAYS—Messrs. Bigler, Chandler, Clark, Collamer, Crittenden, Dixon, Fessenden, Foster, Green, Hamlin, Italian, Hunter, Iverson, Jones, Kennedy, Pearce, Pugh, Simmons, Thompson of Kentucky, Trumbull, and Wade—21.

So the motion was agreed to; and the Senate resumed the consideration of the following resolutions:

Resolved, (as the judgment of the Senate.) That American vessels on the high seas, in time of peace, bearing the American flag, remain under the jurisdiction of the country to which they belong; and therefore any visitation, molestation, or detention of such vessels by force, or by the exhibition of force, on the part of a foreign Power, is in derogation of the sovereignty of the United States.

Resolved, That the recent and repeated violations of this immunity, committed by vessels of war belonging to the navy of Great Britain in the Gulf of Mexico and the adjacent seas, by firing into, interrupting, and forcibly detaining them on their voyage, requires, in the judgment of the Sen-

ate, such unequivocal and final disposition of the subject, by the Governments of Great Britain and the United States, touching the rights involved, as shall preclude hereafter the occurrence of like aggressions.

Resolved, That the Senate fully approves the action of the Executive in sending a naval force into the infested seas with orders "to protect all vessels of the United States on the high seas from search or detention by the vessels of war of any other nation." And it is the opinion of the Senate, that, if it became necessary, such additional legislation should be supplied in aid of the Executive power as will make such protection effectual.

Mr. MASON. There remains now but half an hour before one o'clock, when the special order will come up, of course. The Senate on Saturday, by its vote, refused to postpone the special order in order to dispose of this subject. I presume, therefore, I take it for granted, such will be the will of the Senate to-day, that they will not postpone the special order for the purpose of disposing of this subject. I therefore move that the resolutions be postponed until Friday next, and made the special order for that day, to the exclusion of all other business, at one o'clock.

Mr. HALE. I want to say that Friday has been before assigned by the Senate for private bills; and there are a very great number of private bills that have passed the House of Representatives that are waiting the action of the Senate; and next Friday, perhaps, is the only day left for them. I hope, in justice to those claimants, that day will not be taken from them.

Mr. MASON. I have no desire in the world to take Friday from private bills; but we must remember that but Friday and Saturday remain for the business of the Senate under the present order of the two Houses. I should have no objection to fixing Saturday; but we know Saturday will necessarily be occupied in disposing of the business of the session.

Several Senators. Take the vote now.

Mr. MASON. I certainly would take the vote now if there would be no debate.

Mr. HALE. I do not think there will be any debate.

Mr. MASON. I withdraw the proposition, to see if the vote can be taken.

The VICE PRESIDENT. The question is on the amendment of the Senator from Massachusetts [Mr. Wilson] to the amendment of the Senator from New Hampshire, [Mr. Hale.]

Mr. TOOMBS. I should dislike very much if these resolutions were to pass in their present form, as I do not at all concur in the report of the Committee on Foreign Relations. I should like to have a substitute adopted by which something could be done. As to these resolutions expressing the opinion of the Senate, I would not give them any time at all, if that is all we are going to do. If we are going to do more, I think Friday will be too late. I think we ought to go on and pass a joint resolution, instructing the President to seize those ships and bring them in until we hear from England. As to merely saying that we must palaver about it with England again, I would not vote for such resolutions.

Mr. MASON. The honorable Senator from Georgia says the resolutions of the committee are not worth the paper on which they are written—being the mere expression of the opinion of the Senate. I will say nothing in reply to that, except that they were the judgment of six members of this House, constituting six of the seven members of the committee to whom the subject was confided. I do not mean to go into a debate; but I would ask permission to say, that the action of the committee was framed upon this condition of things: they found that the question was under the present charge of the Executive; they were satisfied with the disposition the Executive so far had made of it; they were reluctant to do anything which might unnecessarily and improvidently involve the country in a war which might be averted; and, therefore, their recommendation was only prospective. I consider that the judgment of the Senate, should it be pronounced upon these resolutions, will have very great weight in aid of the Executive arm, in the correspondence now pending between the two countries. The

Senator from Georgia may think otherwise. He may be right, but the alternative proposed by the amendment is either to give additional force, by way of language, to the resolutions, which I think will amount to but very little, or to change their character, and substitute an act of war for the resolutions; which are recommendatory and prospective. I hope the amendments will not prevail.

Mr. TOOMBS. My objection, as I stated very fully, to the resolutions of the committee was, that they proposed nothing but the expression of the opinion of the Senate. I believe that, as far as opinion has been expressed, it is unanimous, not only here, but in the country; but it leads to nothing. There is no power in the Executive to do what, in my judgment, ought to be done. He cannot act without the action of the two Houses; he has no authority to go down there to do anything more than prevent further aggression; he can do nothing for the past. I desire to authorize him to do something for the past. As for our committing an act of war, I hold that an act of war has been committed, in the face of our declaration from the last war with Great Britain to this hour, in the face of the uniform policy of the country at all times; and we are to talk to England again about this thing; to go to her, and inquire whether she authorized the commanders of the Buzzard and Styx to commit these outrages. If that is the opinion of the Senate, the Senator is right; but it is not worth while to make a special order of those resolutions; I am utterly opposed to that. It amounts to nothing except the expression of the opinion of the Senate, when I believe there is but one opinion throughout the whole country. I am opposed to the resolution which says it is time for England and America to settle this question. It is settled; the argument is exhausted; and we have nothing to do but to stand by our arms.

The VICE PRESIDENT. The Secretary will read the pending amendment.

The Secretary read the amendment of Mr. HALE; which is, to strike out all after the words "voyage," in the fourth line of the second resolution, and insert:

Are belligerent in their character, and should be resisted at all hazards, by all the power of the country.

Mr. WILSON proposed to amend the amendment, by adding:

And the President is hereby authorized and empowered to employ the naval force of the United States, and to send such force to the scene of the recent outrages, with instructions to capture the ships which have committed or which may commit these belligerent acts.

Mr. HAMMOND. I wish to say, Mr. President, that I differ with the honorable Senator from Georgia. I think there is much substance in these resolutions; I think the resolutions of the Committee on Foreign Relations have taken high, strong, clear, and true ground; and that if it is maintained earnestly and faithfully by this Government and by the country, they will accomplish all our purposes. It is not a small thing to resolve that we are determined that England shall abandon the right of search. I think it will probably bring war. I hardly believe that England will abandon the right of search without a war.

I am not for making a declaration of war by indirection. If it is the intention of the Senate, if it is the will of this country, whether we are prepared or not, to go into a war, let us make a formal declaration of war. It is a momentous matter. Let it be done with all proper form. If we intend to abandon the ancient usages, if we omit the "*Feciales*" of the Romans, and send no messengers for explanation; let us at least cast the bloody spear in due and solemn form. I am not willing to be swept by the very first wave of public excitement into so great a war as this—still less am I willing to be smuggled into it by an amendment to an amendment. If we intend war let us declare war. I do not say that I am opposed to it. We have just and ample cause of war. We have received the most flagrant insults; and I repeat that if this country is prepared to go into it and will make a solemn declaration of war, I shall not hang back, nor will the people whom I represent. But a war with England will be the most momentous event of the last three centuries, if not of any century since the world began. I am not blind to the disasters and calamities the earlier periods of it will probably inflict on us; yet I believe that if England provokes us to it, she will

be rushing on her fate. It is perhaps inevitable, sooner or later, and whenever she sets her time for it, that must be our time. But, sir, let us adhere to these resolutions; let us give her a chance to postpone an event, which, whenever it comes, will change the whole face of human affairs.

Mr. CRITTENDEN. It seems to me, sir, that it becomes us, upon such an occasion as this, to proceed with firm, determined, but cautious step. If we are to go to war, let it be for injuries done to our country. Let us not go to war for words which are impatiently and passionately used by us. I want to do nothing precipitately, but all things firmly, patriotically, and bravely. Great Britain has done us a wrong—I think we are all agreed about that; a wrong for which we are bound in interest and in honor to require some reparation and proper and ample reparation. But, sir, it becomes our dignity to proceed to obtain that redress in a proper and dignified manner. How is that to be done? We want no war of words; we want to say nothing but that which is just necessary to convince Great Britain that we feel with proper national sensibility the outrage, as we call it, which has been committed upon us. We want, then, in an appropriate, becoming, and dignified manner, to ask her for reparation; and when we have received her answer we shall know what to do; but surely it becomes us not to go to war upon the instant; not to go to extremities until we have demanded of her reparation. If one gentleman offends another he asks first for reparation, voluntary reparation, and that being refused, he takes his own hostile course if he thinks proper; and for infinitely stronger reasons ought that to be the case among nations, whose subordinates may do a wrong that the nation itself may be willing to disavow and make ample atonement for.

I think, therefore, we should do nothing rashly; that we should not make war ourselves before we have informed Great Britain of the cause, and the inevitable consequences of her act unless proper satisfaction be made. When that voluntary satisfaction is refused, it seems to me it will be time enough for us to engage in actual hostilities. Hence I think these resolutions, although I confess they do not perhaps go to the extremes of that prudence which we are bound to observe, still are sufficient to convey the meaning of the American people; and, if we are to err, I would rather err in the forbearance of angry and quarrelsome words, or angry and quarrelsome acts. It is a cause of too much consequence between parties of too much power and dignity, to indulge in anything that is hasty or inconsiderate, to indulge in quarrelsome words, or in quarrelsome acts. Our dignity requires a different course; and the more firmly and resolutely we intend to have satisfaction, the more dignified it will be in us to endeavor to obtain first the voluntary retribution and reparation which we have a right to expect from England. When we have done that; when we have demanded it in a manner becoming us, and becoming her, without insult, or without aggravating circumstances, and it is refused, then we feel that we stand on firm and solid ground, and are acting to maintain the dignity and honor and rights of our country.

Sir, I am like the gentleman from Georgia in one respect. The officers of the English Government have perpetrated acts upon our commerce, on the high seas, which we cannot permit. These resolutions seem, under one interpretation of them, to imply that it is our wish to enter into negotiations with Great Britain about the right of search or right of visitation, and to require of her an open and express abandonment of that right. I do not want any negotiations with Great Britain, or any discussion with Great Britain, about the right of search or right of visitation. That is a subject which is exhausted; our minds are made up on that question; and we do not wish that the Government of England should understand that we consider the question on our part as open for any argument. We have made up our minds on it. We only wish to negotiate with her about these acts. When she refuses to make reparation for them, then we will decide whether they are of consequence or importance enough, either to our honor or our interest, to make them cause of war. Great Britain may be perfectly willing to renounce these acts, to disavow them; and that is all we have a right to demand. What her reasons may

be for the commission of these acts, is entirely unimportant to us. Whether she has done them under any supposed emergency, whether she has done them because she feels authorized to do them in virtue of any right of search or visitation to which she may pretend, is a matter of indifference to us. We may say to her: "Hold your opinions, but forbear to do those acts which are injurious to us and for which we must make war; that is all we ask." She is fully authorized, so far as I am concerned, to maintain her pretensions to visitation and search until time shall wear them out and obliterate them. I will not quarrel with her for an opinion; I will not go to war with her for a difference of opinion; but when she undertakes to perform acts under those opinions, those acts I am concerned with, and those acts I must resist or submit to, as it best suits me. I want no discussion about the right of visitation or the right of search, and I should think it unworthy of this Government to enter into any negotiation on that subject. I care not upon what grounds she may found her pretensions. All I ask of her is, to forbear such action as is injurious to my country; and when she has done that, she may weigh as she pleases, in her national pride before the world, all these sovereign rights of hers about visitation and search on the high seas, to the nations who please to submit to them. I want to negotiate about these acts, these acts merely, and no further negotiation than to inform Great Britain of the acts that have been perpetrated or performed by her officers on our coast, and to know of her whether she is willing to make that reparation which this country thinks it is entitled to. I want an answer on that point—no more negotiation about it, unless it relates to the simple facts that are brought in question. Was the attack made? Under what circumstances was it made? With what aggravations, or with what circumstances of mitigation, was it made? These are the only topics of negotiation between us. I want no more learning, I want no more diplomacy, upon the question of visitation. I will not ask Great Britain for a renunciation of that, because I care nothing about it. Upon whatever pretensions, high or low, ancient or modern, you find a right to stop our ships engaged in lawful commerce on the high seas, that thing we will not submit to. As long as you entertain these opinions, and hold them as opinions merely, we will not quarrel with you about them, however erroneous we may think them; but the moment you attempt to act on that or any other pretense, and to perform acts injurious to us, we will resist those acts.

With that understanding, and that interpretation of these resolutions, I think they are of some consequence, and I shall vote for them; but I want no negotiation. I want it understood that we have no negotiation about abstract rights. It is practical wrongs and injuries alone for which this country wants redress; and I will not enlarge, and allow that matter to be diluted, and to run into a long volume of diplomacy about abstract rights and laws of the sea. We will submit to no actual wrong; we will resist that; but if Great Britain will forbear that as to us, I am satisfied; but I think it is our duty, before we take redress into our own hands, to apply to the Government of that country for redress. I think this is demanded of us by our own character. It is demanded of us by the peace of the world; demanded of us by all nations, and by all laws, to apply to her for reparation. That refused, we are either to submit, or we must take redress into our own hands; and the world will warrant and justify us, and our country will warrant and justify us. That is the course I desire to pursue. I would not have it understood by the world that we are proceeding recklessly and passionately; that there is anything like intimidation intended by our course. I want it to be understood in all our acts that we intend a little more than we say, and that we are certain to do what we intimate it is our purpose and intention to do, in everything that concerns our national honor and our national rights. That is the language I desire to hold towards foreign nations; the language of peace; the language of remonstrance; the language of friendly demand for satisfaction for wrongs done; and that refused, then comes the time for quarrel; and then the Senate of the United States will be prepared, I am sure, to go as far as any equal number of citizens of the

United States, and a step further, because of their places, to vindicate whatever has been done, which we ought to vindicate, and which we ought to resist. I shall vote for these resolutions with this understanding and this view of them.

Mr. MASON. The pending question, I understand, is on the amendment offered by the Senator from Massachusetts. Now, that amendment proposes to confer a power upon the President to capture any offending ship, and bring it in. It is a proposition, therefore, to confer a power on the President by vote of the Senate, which, upon its face, could not be done. Apart, therefore, from the objections to the measure itself, I think that is improper.

Mr. WILSON. I have been appealed to by the Senator from New Hampshire, who moved the original amendment, to withdraw my proposition; and, on careful reflection, I find that these resolutions are to be simply the expression of the opinions of the Senate, and propose no action. The amendment I submitted, in order to be of any value, would have to be adopted by both Houses of Congress. I therefore withdraw that amendment. I have simply to say, however, that I hope the Executive has given the orders, and that the ships which have been offending against us will be sunk or brought into the harbors of the United States.

The VICE PRESIDENT. The question is on the amendment of the Senator from New Hampshire, [Mr. HALE.]

Mr. MALLORY. The complaint I have of the resolutions is that they propose nothing but what is fully established and known at this day. They point only to giving an expression of this body, which expression of opinion is fully understood by our people, and by the civilized world. They do not confer on the President any power to meet the contingency before us. The opinions of this Government on this subject are distinctly known to the civilized States of the world. They have heretofore been acted upon. There is no dissenting voice throughout the United States in regard to them; and the British Government knew perfectly well that this course of procedure would involve a collision. The resolutions simply express an opinion, without conferring on the President a single solitary ounce of power that he does not possess now. They point only to negotiation. I would suggest that the resolutions be so amended as to imply negotiation or active resistance; and if it be in order to move a joint resolution as a substitute for the three resolutions before the Senate, I will move a joint resolution which will point to the power of negotiation, and at the same time, in the failure of that, authorize the President at once to proceed to right this wrong. I ask the Chair if it is in order to move to substitute a joint resolution?

Mr. TOOMBS. That was decided this morning.

The VICE PRESIDENT. Will the Senator send up the amendment? The Senator from Florida gives notice that he will offer an amendment to the resolutions after they have been perfected. The Secretary will read, for information, the amendment to be proposed by the Senator from Florida.

The Secretary read Mr. MALLORY's substitute, as follows:

Be it resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That the recent proceedings of the British naval officers in the Gulf of Mexico, upon the high seas, in forcibly arresting and examining vessels of the United States, owned and navigated by American citizens engaged in lawful trade, are without justification and palliation, in derogation of the cherished rights of the American people, which they can neither surrender nor suffer to be infringed with honor; and that the President of the United States be authorized to adopt immediate measures to arrest at once a continuance of such indignities.

The VICE PRESIDENT. The question at present is on the amendment offered by the Senator from New Hampshire to the second resolution reported by the Committee on Foreign Relations.

Mr. MASON. The amendment of the Senator from New Hampshire is to strike out certain words from the resolution and insert other words declaring that the act of England in these aggressions on our commerce is the act of a belligerent. Now, the act of a belligerent is an act of war; and if the Senate is prepared to say that these acts of England, in these aggressions, are acts of war, then it may be that we should meet them by

acts of war on our side, which the resolutions carefully avoid. They are acts of offense, and very high offense, which are now being inquired into by the Executive. At most, the language used by the amendment is only language of more explosive character than that contained in the resolutions, and I hope it will not be adopted.

Mr. HALE. I do not want to occupy time, but simply wish to say that by the authority upon which the report is founded—the case of the *Marianna Flora*, in 11 Wheaton—the Supreme Court of the United States judicially declare that these are belligerent rights and acts, and can only be justified as such. Now, if they are belligerent, and such is the doctrine of the Supreme Court of the United States, why shall not the Senate say so? I think we all know it. Our own tribunals have so decided, and I think it becomes us to say so. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. GWIN. It seems to me, Mr. President, that we are making a declaration of war by the passage of these resolutions, without providing any means for the President to prosecute that war. Certainly it is impossible that these acts of the officers of Great Britain can have been committed without authority. I have never for a moment entertained the idea that they were not authorized to do precisely what they have done. Therefore, they are the acts of the British Government. I cannot see how it is possible for them to withdraw after they have progressed to such an extent as to bring down the indignation, not only of this Government, but of the people of the United States. It seems to me that the best thing we can do, would be to give authority to the President of the United States to pursue the offending vessels and bring them into port for what they have done, and then, if Great Britain objects to it, and makes a declaration of war, we should be ready to meet it. What are we doing? We are passing resolutions that certainly look to difficulty with Great Britain, and we are making no preparations to meet it. It looks more like a farce than anything else.

The VICE PRESIDENT. The Chair must call for the special order at this hour.

Mr. FESSENDEN. I was very much in hopes—

Mr. GWIN. I have not got through.

The VICE PRESIDENT. The Chair calls up the special order.

Mr. FESSENDEN. I hope it will be taken up.

Mr. MASON. I move to postpone the special order for one hour—until two o'clock—in order that we may end this discussion.

Mr. HUNTER. I hope not.

The motion was not agreed to.

Mr. MASON. I now move that these resolutions be postponed until Saturday next, at one o'clock, and be made the special order then, to the exclusion of all other business. ["Oh, no."] I make that motion.

The VICE PRESIDENT. That motion is in order, if there be no objection.

Mr. TOOMBS. I object to that. I wish them to be postponed; I do not want them passed at all. They can be taken up on Friday or Saturday, as they do not require joint action.

Mr. MASON. I ask for a vote on my proposition—

The VICE PRESIDENT. The special order is before the Senate, and it must be postponed in order to give the Senator from Virginia an opportunity to make the motion he desires to submit.

Mr. HUNTER. My colleague can make his motion to-morrow in the morning hour.

Mr. MASON. I yield, when I cannot make my motion.

CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 200) making appropriations for sundry civil expenses of Government for the year ending 30th June, 1859; the pending question being on the amendment of Mr. Brown, to strike out the word "Potomac" from the item appropriating \$6,000 to repair the Potomac, navy-yard, and upper bridges in the District of Columbia.

Mr. BROWN. I hope we shall have a vote on this question. I do not want to discuss it. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. IVERSON. If this motion of the Senator from Mississippi prevails it will not only deprive the Long Bridge of any appropriation for repairs, but it will give the whole \$6,000 to the two other bridges undoubtedly.

Mr. BROWN. I have already notified the Senate that in case this amendment shall prevail, I shall propose to reduce the appropriation *pro rata*.

Mr. IVERSON. If the Senator from Mississippi will move to strike out the whole appropriation, I will go with him, because I do not believe Congress ought to keep up these bridges for the benefit of the people of Washington or Georgetown either. Congress has paid the expense of constructing these bridges, and now I think the people of the District ought at least to pay the expense of repairing them; but if you repair one, I think you are in duty bound to repair all. I am not in favor of appropriating money to repair bridges at Georgetown and do nothing for the bridges of the city of Washington. If the Senator from Mississippi, or any other gentleman, will move to strike out the whole clause, I will vote for that motion; and if I had been here when the original proposition was presented to construct these bridges, I should not have voted a dollar for their construction. I do not put the construction or repairs of these bridges on the same footing with your construction of water-works. The Government, as a Government, is not interested in these bridges. Individuals are; the traveling community are; and the Long Bridge is of more concern, of more importance, and of more interest to the people of this District, and to the people of the United States generally, than fifty such bridges as are in Georgetown and over the Eastern Branch, that the Senator from Mississippi has so much care about. He takes especial care against this one, and the inclusion of one is the exclusion of the other. That is an old rule, I believe, which the Senator will recognize. He is very hostile to the Long Bridge; and in exhibiting this hostility to that, we infer that he is exceedingly friendly to the others; but I do not understand this discrimination, and I am not in favor of making it.

Mr. BROWN. I do not wish to discuss the question, and do not mean to do it; but I will say again that my object in withdrawing appropriations from this bridge is that we may ultimately do what I think Congress ought to do—construct a proper bridge at the proper place. The present bridge, as has been charged over and over again, and proved a dozen times, and yet the proof has to be made every time the question comes up, not only obstructs the navigation of the river below Georgetown, but, in the judgment of the medical faculty of Washington, and of all living in the western end of the city, is detrimental to the health of all that portion of the city; and the best informed believe it is detrimental to the health of the presidential mansion. To cross it will require, in going from the depot at Washington to Alexandria, some fifteen or twenty minutes longer than to cross the river at Georgetown. To reconstruct the bridge, which will have to be done if this site be maintained, for it is now almost worn out, will cost whoever does it \$2,000,000 more of money.

I avow my whole object to be in the end to get clear of the bridge, to get clear of it entirely, for three reasons: first, that it obstructs navigation; second, that it is destructive to the public health; and third, that it requires more time to reach a given point that way than it will the other way. These are the three grounds upon which I base my opposition to it. So long as you continue to patch it up and keep it there, you will build no bridge anywhere else; nor will anybody else. If it was away, then the great interests of the country would require the construction of a proper bridge at a proper place, and I want to cut loose from it.

Mr. JOHNSON, of Tennessee. How much will it cost?

Mr. BROWN. A bridge can be built for all the purposes of a railroad bridge, and for the purposes of common travel, together with the reconstruction of the aqueduct over the piers above Georgetown, for \$1,000,000. The estimate is, that to build a railroad bridge at the site of the present Long Bridge, will cost upwards of three million dollars. I do not pretend to say that the obligation is upon Congress to build the one or the other of them. I have brought forward no proposition, and do not mean to bring forward

any, to build a railroad bridge at either point now, or at any time. I am in favor of crossing the Potomac river by railroad, not at the site of the present Long Bridge, where you must always have draws, obstructing the passage—where you must always have the risk of running off through those draws, but where it may be permanent, constructed upon stone piers, and the railroad will run over a distance of three hundred yards, instead of running largely over a mile, across a bridge. As I said before, I do not want to discuss the question. These are the reasons for the movement. I hope we shall have a vote.

Mr. HUNTER. I hope we shall have a vote. As much interested as I am in the bridge, I am unwilling to debate it, and delay the bill. I will only say that I differ very much with the Senator from Mississippi in regard to the grounds he has taken. I do not believe the Long Bridge affects the health of the city; I believe it can be shown that the mud flat was there before the bridge was put there. It may give some little inconvenience to navigation, but that is all. The convenience of the bridge is to market people and those who are trading here. There is a system of roads on the other side, in Virginia, made in reference to this bridge, which has been there forty years. But I shall not detain the Senate with discussion. I hope we shall have a vote.

Mr. DAVIS. I believe with the Senator from Georgia, but I shall not repeat his argument, that all the bridges stand on the same footing so far as appropriations from the Treasury are concerned. I wish to say, however, that I do not believe this bridge is injurious to the navigation of the Potomac as high as Georgetown. I believe it is beneficial to it. The bar which is formed now above the causeway is the result of the great expansion of the river. It would be distributed through the whole channel if there were no obstruction interposed there of an artificial character. The bar results from the causeway; and from the bar results the deeper channel under the draw-bridge. I believe it is an improvement to the navigation of Georgetown; I believe it is an injury to the health of the western part of Washington; but if we are to continue appropriations for bridges leading from the capital into Maryland and Virginia, I do not see why this should be excluded, for I think it the best of the whole brood.

The question being taken by yeas and nays, resulted—yeas 21, nays 29; as follows:

YEAS—Messrs. Bell, Benjamin, Bright, Brown, Chandler, Clay, Fessenden, Foot, Foster, Johnson of Tennessee, Kennedy, Mallory, Polk, Pugh, Rice, Seward, Slidell, Stuart, Thompson of Kentucky, Wilson, and Wright—21.

NAYS—Messrs. Allen, Bigler, Brodbeck, Clark, Clingman, Collamer, Crittenden, Davis, Dixon, Durkee, Fitzpatrick, Green, Hamlin, Harlan, Hayne, Houston, Hunter, Iverson, Johnson of Arkansas, Jones, Mason, Reid, Sebastian, Simmons, Thompson of New Jersey, Toombs, Trumbull, Wade, and Yalee—29.

So the Senate refused to strike out.

Mr. BROWN. I move to amend the bill by adding after line one hundred and ninety-five, which makes an appropriation for lighting Pennsylvania avenue:

For extending gas pipes through the public reservation, commonly known as the Mall, on Four-and-a-half and Seventh and Twelfth streets, \$16,400, or so much thereof as may be found necessary, to be expended under the direction of the Secretary of the Interior, so soon as the gas pipes shall be extended to the edge of the reservation or Mall aforesaid, by the city authorities, or citizens interested therein.

The House of Representatives have passed a bill, which lies upon the table, for this object, and it was unanimously agreed to by the Senate Committee on the District of Columbia. I move it in this form, the substance of it at least, to avoid the necessity of discussion, or an attempt to pass that bill. The public reservation called the Mall, divides all of the southern portion of the city from all the northern portion. The city authorities and persons interested, are very anxious to extend the gas into the portion of the city in which the penitentiary and other public buildings are, but they are not disposed to pay the expense of running gas pipes and putting up lamp-posts through the public grounds. This is simply to do for the Government what every citizen is required to do in front of his own house, to put down your own gas pipes and put up your own lamp-posts over your own grounds.

Mr. HUNTER. It seems to me that the people of the city ought to provide the pipes which

are to carry gas. It is for the benefit of the city. If we light Pennsylvania avenue and the public buildings, it is as much as we ought to be required to do.

Mr. BROWN. If the Senator had listened to what I said, he would have seen that it is confined exclusively to the public grounds, and the appropriation is not to be made until the gas is taken through all the property which belongs to the city and private citizens. All you are asked to do is simply to extend it through the ground that belongs to the public—the Mall, the public reservation on which the Smithsonian Institution, the Washington Monument, and the Public Armory are located.

Mr. HUNTER. I do not think there is any public interest in lighting that up with gas. I hope the amendment will be voted down.

The amendment was rejected.

Mr. HAMLIN. I am instructed by the Committee on the District of Columbia to offer the following amendment; after line one hundred and sixty-one, appropriating for the insane hospital, insert:

For the salaries and incidental expenses of the Institution for the instruction of the Deaf and Dumb and Blind in the District of Columbia, authorized by the act approved May 29, 1858, \$3,000.

Subsequent to the time when the estimates were made by the Department, we passed a law, which I hold in my hand, appropriating \$15,000—\$3,000 a year, for five years—to this institution. The amendment is drawn in the language of the law. It was approved by the President on the 29th day of this month.

Mr. HUNTER. Are these the salaries provided by law?

Mr. HAMLIN. Yes, sir. The language of the appropriation is the language of the law, which is, "shall be allowed for five years for the payment of salaries and incidental expenses of said institution." That is the language of the amendment.

The amendment was agreed to.

Mr. HAMLIN. I am directed by the same committee to offer the following amendment, to follow line one hundred and ninety-five.

That hereafter the northern boundary of the corporation of Georgetown shall be terminated by the prolongation of a line along the road and Eighth street, to the western limits of the present corporation: And provided, That the property set apart from the incorporated limits, as above, shall be appraised by three commissioners, appointed by the circuit court of the District, and the owners thereof shall pay into the treasury of the corporation of Georgetown, in equal annual installments of one, two, three, four, five, and six years, such sums as said commissioners shall appraise as an equitable ratio of the several estates set apart, to the whole value of the appraised real estate of Georgetown, as shown by its last assessment: And provided, That an appeal from the said commissioners may be taken by the owner or owners of any piece, or pieces of property, to the circuit court, and that the decision of said court shall be final and conclusive: And also provided, That the report of the said commissioners shall be entered up in said court as judgment against the property, to be collected by suit, as other taxes on real estate are collected.

I will detain the Senate for a very few moments, while I state the reasons which brought the committee to the conclusion at which they arrived in this matter. It will be seen, if Senators will take the trouble to look at the plan which I hold in my hand, that the city of Georgetown is very nearly a parallelogram. At the northeast corner of that city is a little strip of land, about sixty rods wide, and very nearly a mile long, projecting into the county. It is suburban; it is rural; it is as much a part of the county as all the rest of the county that surrounds it.

Mr. HUNTER. Will the Senator from Maine allow me to appeal to him? We cannot put this sort of legislation on an appropriation bill. If we do, we shall not get through in three, or four, or five months.

Mr. HAMLIN. I am not going to detain the Senate five minutes; I will make short speeches. This strip of land runs up, as I say, about three quarters of a mile, and contains lots that are estimated at about four acres each. The onerous part of it is that upon these lots, which are little farms, the authorities of Georgetown assess front taxes to make roads and to pay for gas lights down in the city. All, or nearly all of the committee went to the ground for the purpose of looking at it and examining it. A majority of the committee—I think every member who went there—was decidedly of the opinion that it was a severe tax to compel these men to remain within the corporation limits of the city proper, who want

to keep the property still for taxation. The corporation of Georgetown asked a rehearing and we gave it; and after that rehearing, we all came to the same conclusion again, and the committee instructed me to offer this amendment. There is a city debt; I think the Mayor told me it was about two hundred thousand dollars. No matter what it may be, the amendment provides that the property shall be assessed, and that the owners shall pay, in six equal annual installments, the amount which would be their proportion relatively, on the value of their property.

Mr. MASON. How are you to enforce the payments?

Mr. HAMLIN. The section pledges the lands for the payment of them, by which pledge they will certainly be holden.

Mr. MASON. I agree with my colleague perfectly, independently of the merits or demerits of this question, be they what they may; the proposition is to put alien matter on an appropriation bill.

Mr. HAMLIN. I want to state one fact. This amendment comes in at the very point where we are called upon to make an appropriation for these very streets. I want it to go on here, and cut off that tail end of the city running up into the county, for the purpose of saving us hereafter from appropriations to that part which is in the county substantially; and we might just as well make appropriations for all the rest of the county of Washington as for that little point of land. That is my judgment.

Mr. MASON. I still say it is to ingraft alien matter altogether on an appropriation bill, and matter exceedingly interesting to the persons who live in that part of the county. We cannot inquire into, or discuss, or understand it on an appropriation bill. I hope it will not pass.

The amendment was rejected; there being, on a division—yeas 18, nays 19.

Mr. MASON. I am instructed by the Committee on Foreign Relations to offer an amendment, to come in at the end of the first section of the bill:

For satisfying the claims of the States of Maine and Massachusetts, under the stipulation of the treaty between the United States and Great Britain, concluded on the 9th day of August, in the year 1842, a sum not exceeding \$11,496 61 in satisfaction of such claims of the State of Maine; and \$9,215 13 in satisfaction of like claims of the State of Massachusetts; to be audited by the proper accounting officers of the Treasury.

Mr. HUNTER. What are those claims for? I should like to have some explanation.

Mr. MASON. Those claims are to return to those States respectively that amount of money, which the States of Maine and Massachusetts expended in defense of the Aroostook country, as it was called, and is provided for by the treaty of 1842. The States have paid, from time to time, the claims as they came in. They were sent to the Treasury Department, examined by the proper accounting officer, and are said to be just and correct.

Mr. HUNTER. Are they provided for in the treaty?

Mr. MASON. Yes, sir.

Mr. POLK. I will also state that one of them has already passed the Senate—the one in favor of the State of Maine.

Mr. FESSENDEN. Not this; that is another matter.

The amendment was agreed to.

Mr. MASON. I am instructed by the Committee on Foreign Relations to offer another amendment of like character:

And he further enacted, That the proper accounting officers of the Treasury be directed to ascertain, as among the expenditures of the State of Maine in defending the territory heretofore in dispute with Great Britain, the amounts paid in borrowing money for those expenditures beyond the rate of six per centum per annum, whether in the form of discounts, or otherwise, in all cases in which the principal of such expenditures and interest upon them at the rate of six per centum have heretofore been refunded to said State by the United States; and that the Secretary be directed to pay the amount so ascertained out of any moneys in the Treasury not otherwise appropriated, to any properly authorized officer of said State. In making the ascertainment herein directed, the accounting officers shall compute the principal and interest of the difference between the cash received by Maine in negotiating stocks and notes, and the nominal amount of such stocks and notes, and the interest accrued thereon; and in cases where Maine was obliged, in negotiating for moneys, to increase the rate of interest on previous loans, the amount of such increase shall be computed and allowed, but not so as to reckon interest upon interest.

Mr. HUNTER. I should like to hear this explained. What moneys were expended by Maine?

Mr. MASON. The amendment is in the words of a bill which was reported by the Senator from Missouri, [Mr. Polk,] from the Committee on Foreign Relations, by their instructions, and they further instructed that as the bill could not possibly get through at this session, it should be offered as an amendment to the appropriation bill. The bill was accompanied by a report, which explained it fully, and which can be read, if desired.

Mr. PUGH. Before that, I should like to make a question of order: this is a private claim. The other was in pursuance of treaty, but this is a private claim.

Mr. HAMLIN and Mr. FESSENDEN. This is also based on the treaty.

Mr. MASON. If one is under the treaty, this is just as much so.

Mr. PUGH. This is to pay an additional rate of interest to what we have already paid.

Mr. MASON. If gentlemen will allow the report of the committee to be read, I think they will see the character of the claim, and be satisfied that it is not a private claim, but to carry out the provisions of the treaty.

The Secretary read the following report, made by Mr. Polk, from the Committee on Foreign Relations, on the 30th of March:

The Committee on Foreign Relations, to whom was referred the memorial of George M. Weston, the commissioner of the State of Maine, have had the subject under consideration, and now report:

That by the fifth article of the treaty of Washington, concluded the 9th day of August, A. D. 1842, between the United States of America and her Britannic Majesty, it was covenanted by the United States to pay and satisfy the State of Maine for all claims for expenses incurred by her in protecting the thereupon disputed territory on the northeastern boundary of the United States. That in the year 1839, upon the sudden emergency of the Aroostook war, for the purpose of raising the means of protecting said disputed territory, the State of Maine issued and sold her six per cent. stocks to the amount of about eight hundred thousand dollars, at a discount below their nominal value. Also, that in order to raise additional amounts of cash, she exchanged six per cent. stocks for five per cent. to the holders of such five per cents. Under the act of Congress of the 3d of March, 1851, the United States has paid back to Maine the actual amount of money she realized by such sale and exchange of stocks, and also interest thereon at the rate of six per cent. per annum. Under said act, Maine claimed not only the amount so paid to her by the United States, but also the amount of discount and loss, with interest thereon, which she was compelled to incur by the aforesaid sale. On the 10th of April, 1852, the Treasury decided to pay as is stated above, refusing the claim for losses in the sale and exchange of her stocks. The agent of Maine at once applied to Congress for further relief, and the Senate decided in her favor, in August, 1852; but having failed to obtain the relief sought, owing to the fact that action by the House was not had on her claim, she now presses her claim before Congress.

Your committee think that the losses so incurred by Maine, in the sale and exchange of her stock, for the purpose of raising money to defend the disputed territory, as aforesaid, together with interest on the same, is as much a part of the expenses incurred by her, in the sense of the treaty of Washington, as the amount already refunded to her by the United States, and ought, accordingly, to be paid and satisfied to her. They therefore beg leave to report a bill for that purpose.

The PRESIDING OFFICER, (Mr. STUART in the chair.) The Senator from Ohio raises a question of order, that this amendment is excluded by the 30th rule of the Senate, the last clause of which reads: "no amendment shall be received whose object is to provide for a private claim, unless it be to carry out the provisions of an existing law, or a treaty stipulation." The Chair in this case would feel bound by the decision of the committee as contained in their report, which states that this provision is to carry out a treaty stipulation, and he therefore decides the amendment to be in order.

Mr. HUNTER. This seems to me to be a very important precedent which we are about to establish. The whole amount of the claim of the State of Maine was that we should refund her money she actually expended in defending her rights, with legal interest upon it. That we have done; and she now comes to us for a claim in the shape of damages, saying that because she chose to raise the moneys in a particular way, that is by the sale of stocks, we are to make good to her any loss she may have experienced in raising the money in that mode. If we do this, how many of the States may come upon us, for there are a great many who have advanced to the United States, and whose claims have been settled heretofore? How many have probably sold their stocks

—some of these advances were made in time of war—below par? Are we to go back and ascertain what they may have lost by a particular mode of raising money in order to remunerate them? Take the case of a claim between you and me. I may have advanced money for your use, and having advanced the money, I am entitled to be refunded the money and the interest upon it, but surely I have no right to raise a claim of damages, to say that I chose a particular mode of raising this money, and I lost by that mode. That is my concern. All you have to do is to repay me with interest whatever I advanced for you. It seems to me that the United States have done that in relation to Maine, and she has no right now to claim more. I believe that if we sanction this claim, we shall find it to be a precedent out of which will grow a great many claims for many other States of the Union.

Mr. FESSENDEN. I knew that the Senator from Virginia was very sharp, but I did not think he could carry his sharpness to the extent to which he has carried it in this case; and I can only account for it by supposing that he really does not understand the question before the Senate. It is this: Maine was called upon to defend her territory; she had not money in her treasury to the amount of \$800,000; she had to raise that money by a loan; she had to borrow money, just as the United States are compelled to borrow sometimes; she issued her bonds to the amount of \$800,000; of course she had to go into the market with them; and, in going into the market with them, she could only obtain money by selling those bonds at a discount of some twenty thousand dollars. She had to pay the whole \$800,000. The treaty stipulation is, that Maine shall be refunded what she expended, with interest. How much did she expend in good faith? Eight hundred thousand dollars, with interest; because she had to pay \$800,000, and the interest on that. Now, when the United States are called upon to make good their treaty stipulation that they would refund to Maine what she had paid, with interest, is it for them to say that they will pay her only the money she received on the sale of her bonds? She did not sacrifice her bonds willingly. It was a contingency arising at once; the money must be had at once; she got it on the best terms she could; she put her bonds into the market, and sold them as well as she was able; she got \$780,000 for bonds of \$800,000; those bonds of \$800,000 bear interest, and a portion of them are bearing interest to this day. Do the United States remunerate Maine by saying they will not pay the discount? The discount is part of the interest which the United States agreed to pay; and the stipulation was, to refund her what she paid, with interest. To do this, you must pay her the face of the bonds she issued, with interest upon them; otherwise, you make Maine lose what she was absolutely obliged to pay to obtain the money. Now, the objection comes singularly from the Senator from Virginia, for the United States have done this very thing for his State. The United States have paid Virginia more than six per cent. interest, because she was compelled to pay it.

Mr. HUNTER. When?

Mr. FESSENDEN. I do not remember the exact time, but the Senator's colleague can tell him that it is so. The statute has been pointed out to me, and with a little time I could show it. It is an absolute fact, as I know, for I have investigated it; but if it had not been, is there anything more just? The stipulation of the treaty is, that the United States would refund to Maine what she paid with interest. What did she pay? Eight hundred thousand dollars and the interest on that sum. The Senator from Virginia objects that, because she was compelled to sell her bonds for a few thousand dollars less than their face, she must lose the difference. Is that making her whole? That debt exists to the present day, and is the foundation of the greater part of the claim.

Another part which is a small part, only about a thousand or two thousand dollars, arises from another circumstance. Maine was compelled, as I said, to borrow money. The amount which she borrowed on her six per cent. bonds in the way I have described, did not cover the whole case. Under a provision of our statute, the banks bind themselves, when they take their charters, to lend the State, on certain contingencies, a certain

amount of money at five per cent. interest. That loan was up to its highest pitch, and Maine could not get another dollar from her own banks, but the banks told her, "if you will take a certain portion of the five per cent. bonds which we have for your other loan, and give us six per cent. bonds in their place, we will let you have the money." In that case she gave only six per cent., but she lost the difference between five and six per cent. That made a difference of a thousand dollars or so. That is the mode in which she had to obtain money. In both cases, Maine has absolutely paid out money, and the treaty provides that she shall receive what she expended, with interest. There cannot be anything more fair and honest. The proper committees of the House and of the Senate are unanimous in saying that the claim is manifestly just and proper, without a single dissenting voice in either.

Mr. MASON. I will read the provision of the treaty under which this claim is made. The United States stipulated by the fifth article, among other things—

"To pay and satisfy the States of Maine and Massachusetts respectively, for all claims for expenses incurred by them in protecting the said heretofore disputed territory, and making a survey thereof, and to pay and indemnify them for all claims for expenses incurred," &c.

The committee thought this was an expense, and a legitimate expense, incurred in getting money by the sale of depreciated stocks.

Mr. HUNTER. I apprehend the Senator from Maine will find himself very much mistaken, if he thinks any such advance has been made to Virginia on this principle. He will probably hear something on that subject from the chairman of the Committee on Claims, and he will see that a pretty large amount is involved on this very principle. I maintain that all the Government is bound to do, is to repay the State her advances with interest. It has nothing to do with the selling of bonds; it has nothing to do with the mode in which the State has raised the money.

Mr. MASON. The stipulation of the treaty is that which we are to be governed by.

Mr. HUNTER. Certainly.

Mr. MASON. Now, the stipulation of the treaty is not that this Government will reimburse to the State, or refund to the State any moneys that it advanced; but the stipulation of the treaty is that it will repay to the State all expenses that it incurred. The claim is that, in raising this money, Maine was obliged to raise it at depreciated rates, and that was an expense incurred.

Mr. HUNTER. It is a claim for damages.

Mr. POLK. I happened to be on the committee which examined this case, and drew up the report. The State of Maine is in this fix: she executed her bonds to raise this money, and she has got to pay the full amount of dollars called for by these bonds, and the interest called for by them. If she has sold these bonds at a discount of five per cent., for instance, to raise money, and has spent that money, her expenses are not refunded by paying back to her the money that she got. She has to pay the full amount, and the amount she pays is the amount of expense she is at. That is the language of the treaty—not that she shall be refunded all moneys that she may have paid out; but that she shall be made good for all expenses that she has incurred. Now, what is true in the case of the bonds sold by her, is also true in the case of the exchange of six per cent. for five per cent. bonds. She could not get the money on her five per cent. bonds, and was compelled to issue her six per cent. bonds, and now she has to pay the amount of those bonds, with six per cent. interest; and when she has paid the bonds, with six per cent. interest, I ask any man if that is not the amount of expense she has been at? The language of the treaty is that she shall be paid the expense. I do not think it is a case for argument.

Mr. PUGH. I do not want to debate this matter; but I ask for the yeas and nays on the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 42, nays 7; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Bright, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Hammond, Harlan, Hayne, Houston, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, King, Mallory, Mason, Polk, Seward, Summons, Stuart, Thompson of Kentucky, Thompson of New Jersey, Trumbull, Wade, Wilson, Wright, and Yulee—42.

NAYS—Messrs. Davis, Green, Gwin, Hunter, Pugh, Sli-
dell, and Toombs—7.

So the amendment was agreed to.

Mr. MASON. I have an amendment to offer on my own account to carry out an existing law. It is to add at the end of the first section:

For defraying the expense of carrying into execution the joint resolution, approved May 11, 1858, "authorizing suitable acknowledgments to be made by the President to the British naval authorities at Jamaica for the relief extended to the officers and crew of the United States ship *Susquehanna*, disabled by yellow fever," \$3,000, or so much thereof as may be necessary.

That is under estimates made by the Departments of State and of the Navy to carry out the joint resolution of May 11.

The amendment was agreed to.

Mr. MASON. I offer the following amendment by instruction of the Committee on Foreign Relations:

And in the settlement of the accounts of the Minister Plenipotentiary from the United States to France, there shall be allowed and paid to him, from the 1st day of July, 1855, to the 1st day of January, 1857, such sum as will make his salary for the period mentioned equal to that allowed to the Minister of the United States at London.

Mr. PUGH. That is for back pay. It is a private claim, and I object to it.

Mr. MASON. I will state the character of the amendment. By the law of 1855, the salary of the Minister at France was fixed at \$15,000, and all expenses for his clerk hire and office rent were taken away. By the same law, the salary of the Minister at London was put at \$17,500, and all like expenses were taken from him. By the law of 1856, the salary of the Minister to France was placed on the same footing with the salary of the Minister to London; but in the intermediate time that mission had been deprived of the appropriation for office rent and clerk hire. It is admitted on all hands, I believe, that although there was a time when London was the most expensive court, France is now; and the purpose of Congress, in the following year, to equalize the salaries, would, in the impression of the committee, be carried out by equalizing them from the time the law passed. As to the objection that it is a private claim, the distinction, as it seems to me, is this: the law fixes the salary of these Ministers, and the effect of the amendment would only be to make the salary of the Minister at France date back, instead of commencing from 1856. It only makes it retrospective.

Mr. PUGH. It is obviously not to carry out any law. It is to give back pay previously to the compensation bill. It seems to me strictly forbidden by our rule. It may be a meritorious case, but I should prefer to hear it on private-bill day.

The PRESIDING OFFICER. If the point be insisted upon by the Senator from Ohio, the Chair will feel obliged to rule that the amendment is excluded, under the rule excluding private claims.

Mr. MASON. I must ask respectfully that the Chair will either allow me to appeal, or submit the question to the Senate.

The PRESIDING OFFICER. Does the Senator take an appeal?

Mr. MASON. I will, if it is necessary.

Mr. COLLAMER. Is this reported by a committee?

The PRESIDING OFFICER. Yes, sir; by the Committee on Foreign Relations.

Mr. MASON. It is only to affect a salary under an existing law, in my judgment.

Mr. GREEN. If there is an existing law, you do not need any such provision. If there is no existing law, this is a proposition to make a new one, and therefore not allowable on this bill.

The PRESIDING OFFICER. The rule provides that—

"No amendment shall be received whose object is to provide for a private claim, unless it be to carry out the provisions of an existing law or a treaty stipulation."

The Chair has decided that under this clause of the rule the amendment cannot be received. From this decision the Senator from Virginia appeals. The question is, "Shall the opinion of the Chair stand as the judgment of the Senate?"

The decision of the Chair was sustained.

Mr. MASON. I am instructed by the Committee on Foreign Relations to offer another amendment:

And that all diplomatic and consular officers who were appointed under the act entitled "An act to remodel the diplomatic and consular systems of the United States,"

approved March 1, 1855, shall have the same compensation during the time necessarily occupied in making the transit to, and returning from, their respective posts, and while they were receiving their instructions, as is provided for diplomatic and consular officers in the eighteenth section of the act entitled "An act to regulate the diplomatic and consular system of the United States," approved August 18, 1856: *Provided*, That the foregoing shall not be construed to apply to any diplomatic or consular officer who was in office and at his post of duty when said act, approved March 1, 1855, took effect, except to allow compensation to such officers during the time necessarily occupied in returning from their respective posts.

In 1855, by the law affecting diplomatic and consular officers at that date, it was provided that their compensation should not commence until they arrived at their posts and entered upon the discharge of their duty. It gave salaries to certain consuls, and affected the salaries of foreign ministers, but provided that they should not commence until they arrived at their place of duty, and entered upon the discharge of their duty. In 1856, that was thought to be oppressive, and the law was so far modified as to allow their compensation to commence from the period they left the country on their way to their place of duty, and some period not exceeding thirty days additional while they should be receiving instructions; and the law of 1856, as construed by the Committee on Foreign Relations, was intended to apply to those who were appointed after that law of 1855 took effect; but it has not been so construed at the Treasury. The effect of this amendment only is to authorize those consular officers who are salaried and diplomatic officers, who have been appointed since the act of 1855, to have the benefit of the act of 1856, in allowing their compensation to commence while they were *in transitu* between the two countries, or while they were receiving instructions; that is the whole of it.

Mr. KING. It seems to me that this proposition is objectionable to the same point of order that was made on the other. It is a question of allowance to representatives abroad not authorized by law, and is thus in the nature of a claim, although it embraces a considerable number of persons.

Mr. MASON. Its effect is simply to place a construction upon the act of 1856. The act of 1856, as we construe it, gave the allowance which this amendment is intended to give; but it was decided at the Treasury not to give it.

The PRESIDING OFFICER. The Senator from New York makes a question of order on this amendment, that it provides for a private claim.

Mr. IVERSON. It does not seem to me to be a private claim. It is an enactment affecting the salaries of officers. It is not a private claim, because it acts *in futuro*. It may possibly affect the interests of these officers to some extent while they were receiving instructions and going out; but under the law as it now exists, some of them can get no pay on their return voyage. Certainly it is competent, in an appropriation bill, to enact a law giving that pay. It is not, therefore, a private claim.

Mr. KING. I understand that this provision relates only to past services, and not to future services.

Mr. IVERSON. It is simply construing the law. At the last Congress a precisely similar provision was reported by the Committee on Foreign Relations, and put into an appropriation bill by the Senate, and it was agreed to by the other House; but the Attorney General, in construing the provision, said it did not meet the case which the committee, and the Senate and the House of Representatives, on full consideration, intended that it should meet. I drew it up myself, and presented it to the Committee on Foreign Relations; but the Attorney General construed the language as not sufficient to embrace the case, and therefore the parties were excluded; and this amendment is intended to obviate the decision of the Attorney General by unmistakable language.

The PRESIDING OFFICER. So far as the Chair can ascertain the object of the amendment from its terms, or from the statement of the Senator who presents it, he thinks it is not excluded by the rule. It is not strictly in the nature of a private claim.

Mr. CHANDLER. I should like to inquire of the chairman of the Committee on Foreign Relations, if the present salaries are not sufficient to secure applicants for the offices? It is a very singular thing that it is proposed to raise in this way

the salaries of our foreign ministers and consuls, when it is well known that they receive an outfit which is intended to cover this very claim. ["Not now."]

Mr. KING. But they have an increased compensation in lieu of it.

Mr. IVERSON. This does not raise the salaries one dollar.

Mr. CHANDLER. But it provides for commencing them before they reach their destination.

Mr. IVERSON. That is the law now.

Mr. CHANDLER. Then what is the object of this amendment?

Mr. IVERSON. Some were cut out by a pre-existing law; and this is to put them on the same footing with all others. It does not increase salaries.

Mr. PUGH. I was not in when the question of order was raised; but I think this is a private claim, and I shall vote against it on that ground, notwithstanding the decision of the Chair. It provides for five or six persons; and if they were named by name the amendment could not be received; but by merely calling them persons who were in office on such a day, the rule is avoided. If these gentlemen are entitled to this back pay, let their claims come up in separate private bills, and let us hear them discussed; but I do not believe in this thing of four or five persons who have private claims being picked out by the committees of this House, and have their claims put on these bills, while all the other claimants are compelled to travel over the regular routine. I hope the Senate will resist every attempt to load this bill with a private claim for anybody; and I demand the yeas and nays on the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 17, nays 34; as follows:

YEAS—Messrs. Allen, Bell, Bigler, Broderick, Collamer, Fessenden, Foot, Hammond, Iverson, Jones, Kennedy, Mallory, Mason, Polk, Seward, Thomson of New Jersey, and Wright—17.

NAYS—Messrs. Bayard, Benjamin, Bright, Brown, Cameron, Chandler, Clark, Clay, Clingman, Crittenden, Davis, Dixon, Durkee, Foster, Green, Hale, Harlan, Houston, Hunter, Johnson of Tennessee, King, Pearce, Pugh, Reid, Rice, Simmons, Slidell, Stuart, Thompson of Kentucky, Toombs, Trumbull, Wade, Wilson, and Yulee—34.

So the amendment was rejected.

Mr. MASON. I have another amendment:

And be it further enacted, That the President be, and he is hereby authorized, to extend the provisions of the joint resolution, approved March 3, 1853, entitled "A resolution for the relief of the Spanish consul, and other subjects of Spain residing at Key West and New Orleans," by indemnity for losses occasioned in the year 1851, to the case of one Michael Pappreniza, an Austrian subject, who, it is alleged, sustained losses at the same time, in consequence of his being supposed to be a Spaniard: *Provided*, That the amount allowed as indemnity to said Pappreniza shall not exceed the sum of \$200.

Mr. HUNTER. Is not that a private claim?

Mr. MASON. In 1853, Congress passed a joint resolution appropriating a sum of money to indemnify the Spanish consul and Spanish subjects who had been despoiled by a mob at New Orleans, sometimes called a popular meeting, but it turned out that one unhappy subject was not a Spaniard, but an Austrian, who was supposed to be a Spaniard, as it appeared. He was one of the subjects thus despoiled, but being an Austrian, and not a Spaniard, the provisions of that resolution could not extend to him. Now, the object of the amendment is only to authorize the President to treat him as though he were a Spanish subject, and to allow him to be indemnified out of the money appropriated. It is not to exceed \$200.

Mr. HUNTER. It may be all right, but I think we ought not to dispense with the rules of the Senate. It seems to me to be a private claim.

The PRESIDING OFFICER. The Chair feels bound to say that it is a private claim, excluded by the rules.

Mr. YULEE. I have an amendment to offer from the Committee on Patents and the Patent Office.

Sec. 1. And be it further enacted, That so much of the laws now in force as fix the rates of the Patent Office fees are hereby repealed, and in their stead the following rates are established: On filing each caveat, ten dollars; on filing each original application for a patent, except for a design, twenty dollars; and on the issuing of the patent, ten dollars in addition; on every appeal from the examiners in chief to the Commissioner, twenty dollars; on every application for a patent for a design, fifteen dollars; on every application for the reissue of a patent, thirty dollars; on every application for the extension of a patent, fifty dollars; on filing each disclaimer, ten dollars; for all certified copies, fifteen cents

per hundred words; for recording every assignment or other writing, of three hundred words or under, one dollar; for recording every assignment or other writing, over three hundred and under one thousand words, two dollars; for recording every assignment or other writing, if over one thousand words, three dollars; for copies of drawings, the reasonable expense of making the same.

Mr. SIMMONS. I think the Senator from Florida, in repealing the existing law with reference to these fees, should have put in the other provision with regard to patents issued to foreigners, which was reported by the committee, or else the proposition will not be as the committee intended to have it.

Mr. YULEE. I intended to move that afterwards; but it can be added now.

Mr. SIMMONS. I should not like to repeal the present law without making a complete provision for all cases.

Mr. YULEE. Then I will offer this proviso as an addition to the amendment:

Provided, That the sums to be charged upon the application for, and issue of, a patent to any person being a citizen or subject of a foreign country, shall be the same as are charged in the country to which such person belongs upon the application for, and issue of, a patent to a citizen of the United States, but not less than the sums herein provided.

Mr. HALE. I hope the amendment will not be urged here; and if it is, I hope it will be voted down. This is no place for it. It proposes a pretty important and radical change in the Patent Office laws; and before I vote to impose a further tax upon the applicants for patents, and for the continuation or extension of them, upon the ground that the institution cannot support itself as a self-sustaining institution, I should like to know how much money has been taken from the patent fund to erect that immense building which the Government have constructed, not for the use of the Patent Office entirely, but for the use of other Departments of the Government. If this fund, which has been accumulated by the tax upon the ingenuity of the country, has been squandered in building this immense temple for the Government of the United States, I say it is unjust to the ingenuity and the labor of the country to impose a further tax upon them for replacing money which the Government have taken to erect this building. I hope that when the patent laws are reviewed, it will be done at leisure, and it will be made a subject of debate when gentlemen have time to examine it. The Committee on Patents reported, some time ago, a general bill, and this was a part of their system. From the imperfect knowledge I had of the matter, I thought I saw in that bill some things that were crude and imperfect, and I notified the chairman of the Committee on Patents that when it was called up, I should be prepared to say something in opposition to the measure. I had no idea that it was to be sprung upon us in this appropriation bill. I hope it will not be urged here; but if it is urged here, I hope it will be voted down.

Mr. YULEE. This amendment has been offered now because I had become hopeless of the action of the Senate upon the larger bill, to which the Senator from New Hampshire refers, in time for action by the House of Representatives at this session. I had, therefore, by the authority of the committee, and by their direction, proposed to confine the legislation at this session to the single section which I have taken from that bill, and which relates to the fees alone. The purpose of the amendment is to enable the Patent Office to be self-sustaining—

Mr. HALE. And build buildings for the Government besides.

Mr. YULEE. I shall come to that point presently. The Secretary of the Interior informs us, in his report, that the expenditures in the last three quarters are considerably beyond the receipts; and, in consequence of the continuing deficiency, they have been obliged to discharge a number of clerks and some examiners, whereby the business is greatly delayed, to the injury of applicants for patents. The deficiency in three quarters amounted to some three or four thousand dollars; and the Secretary asks with great earnestness the action of Congress, at this session, upon the subject. The Commissioner of Patents, in his report, also urges the necessity of immediate action; and the committee have received one or two letters from the Commissioner during the session, urging the necessity of some action in relation to the fees.

The Senate will see the necessity and propriety of the addition which we propose to make to the patent fees. We propose much less than the House committee had determined upon, and we propose less than the Department and the Commissioner have desired; but we have thought that, with the experiment of the small increase which we propose, we may try whether the income of the office will be sufficient to sustain its expenditures; and if not, at the next session the greater increase which the Departments ask may be considered by Congress. As the matter at present stands, the patent fee, upon the first filing of a *caveat*, is ten dollars; and afterwards, on filing an application, the applicant deposits twenty dollars more, and the Patent Office is obliged to go through the full examination whether it be a good case or a bad case; but if the decision be against the application, the applicant is allowed to withdraw twenty dollars, and then ten dollars is the whole compensation of the Department for all the labor which they give to a case in its examination and decision—which labor is quite as much if it be rejected as if it be granted. One of the very alterations in the patent fee, which this amendment proposes, is to obtain for the Department the full value of its services. The explanation is fully made in a brief paragraph of the report of the Commissioner, which I will read to the Senate, and which will explain the necessity and propriety, and the equity of the change which is proposed to be made in the fees:

"It will be observed that of the \$211,582.09 set forth as the aggregate expenditures of this office for the year 1857, \$38,919.98 consisted of fees returned on applications withdrawn after examination and rejection. The necessity of a change in this feature of the existing law has been heretofore expressed, and is still felt with increasing force. Did the patent constitute the consideration for which the fee of thirty dollars is paid, it would be but reasonable that this sum, or a part of it, should be returned upon the abandonment of the claim. Such, however, is not the case. The consideration of the patent is the surrender of the invention to the public at the expiration of the fourteen years for which the monopoly is granted. The thirty dollars form the compensation (and it is no more than a just one) for the labor bestowed by the office in the preparation and examination of the application. When, then, this has been performed, it is neither just nor expedient that the well-earned compensation for it should, in whole or in part, be withheld. A tariff of fees, which, while dividing the services required, provides that they shall be paid for, step by step, as they progress, has been proposed, and, it is hoped, will be favorably considered by Congress. This would be alike agreeable to the inventor and to the office, protecting, as it would, the former from the oppression of paying for any services not in fact rendered, and the latter from the injustice of performing any labor for which it is not remunerated."

The principal other alteration is in the fee for extension, which is proposed to be increased from thirty to fifty dollars, which is only considered a reasonable allowance. Now, with regard to the question made by the Senator from New Hampshire, in respect to the amount which has been invested in the building of the Interior Department and Patent Office from the patent fund, I will say to him, that I have not the means of advising him distinctly as to the figures, but I am informed that only a very small proportion of the cost of that building was derived from the patent fund. A number of years ago the building was commenced, (perhaps ten or twelve years ago,) in contemplation of use for the Patent Office alone, when there was a considerable excess in the receipts over the expenditures. Since then the appropriations have been made from the general Treasury, and have not fallen on the patent fund. Now, inasmuch as the receipts have become less than the expenditures, and it is indispensable to the interests of the applicants for patents themselves that some change should be made by which the Department may keep up the clerical force necessary to transact their business with expedition, in which they are all interested, or else it must fall on the Treasury to sustain it, we are called upon to make this legislation. We have one of the two alternatives: either to diminish the clerical force, and thus interfere with the progress of business and affect injuriously the interests of patentees, or we must call upon the Treasury for the support of the Patent Office—one or the other, in failure of the adoption of this proposition.

Mr. HALE. I wish to interpose a question of order here. I think this is clearly a proposition for raising revenue. It proposes to tax the people. It is a measure, by the confession of the chairman of the Patent Office Committee, to raise revenue; and as such I take the ground that we have no right to originate it in the Senate.

Mr. YULEE. It is to regulate the fees of an office.

Mr. HALE. It is to raise revenue, confessedly.

Mr. YULEE. It is not to raise revenue for the Government. It is to regulate the fees which shall be paid by applicants for patents.

The PRESIDING OFFICER. The Senator from New Hampshire makes a question of order that this amendment is not within the constitutional power of the Senate, being a proposition, as he insists, to raise revenue within the meaning of the Constitution. The present occupant of the Chair will follow the example of the Vice President, and submit that question to the Senate.

Mr. HUNTER. I hope the Senator from New Hampshire will not press the point, for this is not a measure to raise revenue. It is merely charging fees on the sale of the services of the officers of the General Government. The first bill constituting the Post Office Department originated in the Senate. It was construed not to be a bill raising revenue, but a sale of the services of the Government; for the service of transporting a letter, it received so much in exchange as a matter of bargain and sale; and so with regard to other fees. It is not like a bill laying duties on imports, which is a tax on the people. I hope the Senator will not press this point, for it would be cutting down our jurisdiction largely; and it would be found that a very large portion of our legislation had been unconstitutional, if his view be correct.

Mr. HALE. I listen to that appeal, and I withdraw the point of order; but I hope the amendment will be voted down.

Mr. SIMMONS. I do not think any question of order can be raised on this matter. I conceded that this proposition might be reported to the Senate; but when I came to hear the extent of it, and the reasons urged for placing it in this bill, I thought the Senator from Florida had better reserve it for consideration on the general bill. The Senator will recollect the reasons urged in committee for making this change in the fees and in the amount returned to the applicants, if patents should not be granted. It was stated that there was a necessity for a larger income, with a view to a new board of examiners, and various improvements in this establishment, which were contemplated in the bill we reported. It was in consideration of these improvements, and with a desire to meet them by the receipts of the Department, that the bill was reported by the committee. Here it seems, however, is a proposition to put in the taxing part of the bill, and leave out all the parts which were beneficial to inventors. I think the bill, as a whole, might have been an improvement; I so thought, at any rate, when it was before the committee; but I should not think it was proper or right to put into an appropriation bill all those portions of that measure which were burdensome to inventors, and leave out all that was considered to be to their advantage.

The Senator from Florida says the patent fund has fallen short some three or four thousand dollars in the last three quarters; and he states, at the same time, that there is an annual return to inventors of some \$38,000 of fees in cases where patents are not granted. Then we are to cut off a return of \$38,000 to supply a deficiency of \$3,000. That does not look to me to be very appropriate. I say the propriety of the amendment depends altogether, in my judgment, on passing the general provisions of the bill reported by the Patent Office Committee; and I cannot conceive how the Commissioner, or anybody else, can expect to improve the revenues of that office at a period when persons do not apply for patents because of the hardness of the times, by increasing the amount exacted from them. This is one of those cases where, if anybody believes that low charges would increase the amount of business as they have done in the Post Office Department, it is a bad time to raise them when the portions of the country where these applicants generally come from are so much depressed as they are now.

I certainly would do anything in my power to improve the condition of this establishment; I have no factious opposition to any part of it; but I cannot conceive the propriety of pushing sections of bills into the general appropriation bill because there is no time to consider those bills themselves. That is a singular mode of legislation. I do not think our time is so precious as to

require us to act in such a manner. If we cannot do the business of the session in six days, let us take six more. This is garbling the bill, and I think making it more unacceptable to the people than it would be to have the whole bill. I was told, and the committee was told, that the inventors themselves desired this change, and would be satisfied with this increase in the compensation they paid, with the other improvements; and with them, I take it for granted, they would have been satisfied. I know nothing about it any more than from the representations made to the committee, and I took them for granted and voted for the bill throughout in committee; and should have voted for this proposition here, did I not perceive, when I come to hear it, that it takes those particular features in the bill which impose burdens, without any of that portion which confers benefits. I hope the Senator from Florida will withdraw the proposition for the present. I do not see how we can legislate understandingly by taking a single section out of a bill and putting it into a general appropriation bill. It is a curious place for the Patent Office to look to for the laws to govern them in the transaction of their business. I do not mean to say that I shall vote against it if the Senator insists that it is necessary, but I think this is not the proper place nor the proper time to insert such an amendment.

Mr. YULEE. The charges proposed by the committee in the fees were reported at a very early day, and have been before the Senate for the last two or three months. I take it for granted, therefore, that if there had been any very great objection on the part of the patentees to the change in the fees, some opposition would have been urged on the Senate through their representatives, or we should have been informed of some objection. The bill to which the Senator from Rhode Island refers, contained various ameliorations, and, as we supposed, reforms, in the business of the Patent Office. Its passage would have been very desirable; but at this stage of the session, that is hopeless. The Senator from Rhode Island is mistaken in supposing that this section was at all a dependent section on any other section of that bill. This section was intended to meet a request of the Secretary of the Interior, contained in a paragraph of his annual report, which I will read now, and from which the Senate will perceive that there is a distinct and separate necessity for action upon this particular subject, independent of, and separate from, all the other subjects to which the general bill relates. The Secretary says:

"The law now authorizes a return, upon the rejection of an application, of two thirds of the fee required to be deposited by the applicant on presenting his claim. Of the \$163,942 04 expended during the last three quarters, \$27,939 99 was made up of fees restored to applicants, after the labor of examining their cases had been performed. There seems to be neither justice nor expediency in this requirement. Its consequence has been to bring into the office a large amount of business, frivolous in its character, and which seems, in fact, obtained but as an experiment upon its credulity. If it is desired that this bureau should be, as heretofore, supported by its own earnings, this feature of the financial administration of the office should be revised and reformed."

I will state further, as the Senate may not be cognizant of the fact, that I move this amendment at the request of the chairman of the committee, [Mr. Reid,] in behalf of the committee—his own health not permitting him to undertake the burden of its support and recommendation to the Senate—and, I believe, at the instance of the Department.

Mr. HUNTER. This is an excellent measure. I should like to vote for it as independent and separate legislation; but I am afraid to begin this process of legislating on the general appropriation bills. I think it will be safer to try it as a separate measure. I am unwilling to vote for general legislation in the general appropriation bills, if we can help it. I think the Senator from Florida had better withdraw his amendment, and try it as a separate measure. We shall evidently have a debate on it that will delay us; and we have but little time left to act on these bills.

Mr. YULEE. I shall be governed entirely by the views of the chairman of the committee at whose request I moved the amendment.

Mr. REID. I suppose the Senate understands this question, and the debate will not go further. I think we can get a vote on it in a few minutes. I do not see any necessity for debating it. It is a simple question.

Mr. SIMMONS. In reference to what fell from the Senator from Florida about the \$27,000 returned in the last three quarters, I will say that, by the showing of the Senator, there were \$27,000 returned, and there was \$3,000 deficiency.

Mr. YULEE. Yes; but numerous clerks were discharged for the purpose of reducing the expenditures.

Mr. SIMMONS. If the business fell off very much, I suppose the duties of the clerks were not very onerous. I am not going to make a point on this matter; but I will call the attention of the Senate to the fact that when these fees were being fixed in committee they were fixed in reference to the increased expenditures of the Department, on account of the organization proposed by the general bill. I asked the Commissioner, on various occasions, if he could get along with such and such a fee; and he said that as the expenses now were, he could; but if the new machinery, as I call it, the new corps of officers were instituted, it would require more; and we put in more, in order to accommodate the fees to the increased expenditures and accommodations.

Now as to the complaints of those who represent inventors. I have had, since we reported the bill, a great many complaints made to me because I assented to the bill; but they did not alter my opinion about its propriety. I was satisfied that the bill, as a whole, would probably be an improvement on the old system; and, therefore, I went for it. Outside complaints have not changed my mind about it; but I think there is an impropriety in taking out a single section of such a bill, and ingrafting it into an appropriation bill. That is the only objection I have to the amendment. I think it is extremely unjust and improper to do so when it is manifest, by the statement of the Department, that this will prevent the return of some thirty-eight thousand dollars per annum to the inventors, whose applications are rejected, in order to supply a deficiency of three or four thousand dollars per annum. I cannot cipher in that way. The amendment was rejected.

Mr. DOUGLAS. I have an amendment to offer based upon a letter from the Secretary of State, and I offer the amendment in the language of his letter:

For the payment to Robert J. Walker, late Governor of Kansas Territory, for extraordinary expenses to which he was subjected in that Territory, \$7,903 75, or so much thereof as may be necessary.

The letter is accompanied by a statement of the account and part of the vouchers. There is also a statement on the files of the Department that no money will be claimed except that for which vouchers are furnished satisfactory to the Secretary of State. The Secretary of State asks the appropriation, and I offer it in his language.

Mr. HUNTER. Is not this a private claim?

Mr. DOUGLAS. Clearly not.

Mr. HUNTER. It is on the same principle on which we decided in regard to the Minister at Paris.

The PRESIDING OFFICER. Unless there is some explanation offered beyond what is furnished by the amendment, the Chair would not think it in order.

Mr. DOUGLAS. The explanation is this: Mr. Walker, as Governor of the Territory of Kansas, incurred these expenditures, and has made his return to the State Department, and the Department sends a communication to the chairman of the Committee on Territories asking that committee to move this as an amendment to the appropriation bill, and the committee have directed me to offer the amendment in the language furnished by the Department. It is for contingent expenses incurred there necessarily under orders, and I suppose it is perfectly right. It has been usual to make such appropriations in the appropriation bills.

Mr. CLAY. I will ask the Senator whether it is made in compliance with any law of Congress? That would bring it within the rule.

Mr. DOUGLAS. It is within the rule already, because it is reported by a committee, and recommended by the Department.

Several SENATORS. It is a private claim.

Mr. DOUGLAS. It is not a private claim.

The PRESIDING OFFICER. If there is any previous law authorizing the expenditures, the Chair will consider the amendment in order.

Mr. DOUGLAS. The previous law provides

for the contingent expenses of the Territory on the estimate of the proper Secretary; and I suppose it comes fairly within the law. It is for contingent expenses of the executive department of Kansas Territory. The law provides so much appropriation each year for contingent expenses of the executive department. [Laughter.] I confess I do not like this mode of trying to laugh down propositions. If gentlemen can answer them it is one thing; but to laugh them down, is another.

Mr. SLIDELL. I confess I do not at all like the tone of the Senator from Illinois.

Mr. DOUGLAS. Very well.

Mr. SLIDELL. It is extremely arrogant and offensive.

Mr. DOUGLAS. I desire to say, in reply, that this laughing had proceeded in a manner that was exceedingly annoying. I never interrupt a gentleman on the floor. I will answer him after he concludes, if I think proper.

Mr. SLIDELL. Now, Mr. President, if the gentleman wants an answer he shall have it. I should be paying a very poor compliment to his good sense, at the expense of his ingenuousness and fairness, if he did not admit that this was a private claim. I was not alone. The remarks made by the Senator from Illinois attracted the universal attention of the Chamber, and I was very far from being the only individual that laughed at him. If the Senator from Illinois chooses to single me out for any criticisms of that sort, he will find me ready to respond on all occasions, at all times, and in every way.

Mr. DOUGLAS. It may be that the Senator from Louisiana was not the only one. He happened to sit by my side, and I can hear his remarks when I may not hear others. I thought they were not courteous and proper. I alluded to them in that way. That he is always responsible I have no question. There is nothing remarkable in that; and in that assurance he does not stand isolated as the only member in the body that holds himself so.

The PRESIDING OFFICER. The Chair decides the amendment out of order, unless there be some other law than the law providing for a contingent fund of the Territory.

Mr. CLAY. I propose to offer an amendment as an additional section to the bill. It is an amendment that was agreed on, I think, in respect to dispensing with disbursing agents in future in the erection of public buildings.

Mr. DAVIS. That will probably involve debate; and I ask the Senator from Alabama to allow me to offer some amendments from the Committee on Military Affairs that will not produce discussion.

Mr. CLAY. I do not think my amendment will produce any debate; but I will not press it now. I wish to offer it as a concluding section to the bill.

The PRESIDING OFFICER. The amendment of the Senator from Alabama will be informally passed over.

Mr. DAVIS. The Committee on Military Affairs instructed me to report this amendment as an additional section:

And be it further enacted, That, in addition to the number of clerks in the office of the Quartermaster General, as authorized by the existing laws, there shall be appointed in that office four clerks of class one as established by the act of the 3d March, 1853.

Mr. DOUGLAS. Is that in order under the rule?

The PRESIDING OFFICER. The Chair thinks it is.

Mr. DOUGLAS. Then I have not a word to say.

Mr. HUNTER. This is a proposition to add clerks to the Departments. The present seems to me to be a bad time for that.

Mr. DAVIS. My friend from Virginia will allow me to inform him that this is the same proposition which passed both Houses last year, as I understand, but was lost by some mishap before a committee of conference. It is nothing new. If the country has fallen into a peculiar condition, I am afraid its peculiar condition will require more rather than fewer clerks in that Department which has the settlement of all extraordinary military expenses.

Mr. HUNTER. In the Army bill, which has not yet come up, there is a provision "to enable the Secretary of War to employ temporary clerks

in the office of the Quartermaster General, and bounty land office, \$5,000." This will be in addition to that.

Mr. DAVIS. That has nothing to do with this. The Quartermaster General does not want these clerks for the bounty land business that is thrown on him. These clerks are required, two of them for the regular business of his office, and two of them for that business which connects his office with that of the Third Auditor. I will only say that I know of no class in Washington, or out of it, who are worked as hard as the clerks of the Quartermaster General. I think he has long required, and when Secretary of War I recommended that he should have, these four additional clerks. The necessity exists to-day, as it did then. I leave the matter with the Senate.

The amendment was rejected; ayes twelve, noes not counted.

Mr. DAVIS. The next amendment is an appropriation to pay some officers who were employed to examine California claims growing out of the services of the Frémont battalion:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay each of the officers composing the board appointed under the sixth section of the act approved August 31, 1852, to adjudicate claims presented to them for funds advanced, and subsistence and supplies furnished, or taken for the use of Frémont's California battalion, in 1846, such sums of money for their services and expenses in the discharge of that duty, as he may deem reasonable and just; and that the same be paid out of any money in the Treasury not otherwise appropriated: *Provided*, The whole amount shall not exceed \$1,500.

Mr. KING. Why, is not this a private claim? It is for services for which no law authorized compensation, performed some years since.

The PRESIDING OFFICER. The admissibility of the amendment, in the opinion of the Chair, depends on the section of the law to which it refers.

Mr. TOOMBS. I ask the Senator from Mississippi whether these gentlemen were not in the public service as officers of the Army receiving their regular compensation?

Mr. DAVIS. Yes.

Mr. TOOMBS. I hope this amendment will not be adopted without some further explanation.

Mr. DAVIS. I have very little explanation to make. These officers were employed here in the examination of these California claims, a portion of which, as the Senate may recollect, were accepted by Congress, and paid, on their report. They ask that a sum be given to them in the discretion of Congress, in consideration of their extra labor and extra expense. They were employed here about two years and a half, I think.

Mr. POLK. It strikes me that this is like any other private claim.

The PRESIDING OFFICER. The Chair is inclined to think, from the statement of the case, that it is a private claim within the meaning of the rule.

Mr. DAVIS. All the legislation I know of was that which created the board and that which accepted their report and appropriated money on it. If the amendment be out of order, I shall not press it.

The PRESIDING OFFICER. The Chair does not think it is in order.

Mr. DAVIS. I have another amendment from the same committee:

For the payment of three companies of volunteers called into the service of the United States in Kansas, in 1855, by the order of the Governor of that Territory, \$8,668 14.

I will merely state that this is to pay three companies of volunteers, who were called out by Governor Geary, when he was Governor of Kansas Territory, employed to keep the quiet of the country there, ostensibly, or really, I do not know which. He has paid some portion of the money to those volunteers, and some portion of it is unpaid. The gross amount is stated in the amendment. So far as it has been paid, it is a claim of Governor Geary to have the money reimbursed to him. So far as it has not been paid, it remains due.

Mr. TRUMBULL. I am not sufficiently advised in regard to this matter to be prepared to oppose the amendment; but I know that many of the companies acting in Kansas Territory under the name of volunteers were performing anything but a part calculated to preserve the peace of the Territory. I regret that this proposition should be offered; and it exhibits the objection to this mode of legislation—coming in with propositions

of this kind on appropriation bills, when we have no time to look into the facts. The Senator from Mississippi is aware that it is a delicate matter to appropriate money to pay the different classes of companies that were raised in Kansas Territory. I do not know that I should have any objection to the amendment if I understood the case; but I am sorry that it is presented in this form; and, as at present advised, I shall vote against it.

Mr. DAVIS. I have very little information to give to the Senator. His objection as to the peculiarity of the case is one that will apply to all other cases of the sort, and would apply to the case we were considering a short time ago, in relation to the State of Maine; so that, he will perceive, has no value. As to the special character of the case, I can only say that the Governor was authorized to call out the militia to preserve the peace of the Territory; and it appears he called out three companies. They were mustered into service, and remained some time in service. This amendment appropriates the amount necessary to pay the officers and men for the time they were in service. He has paid part of the money.

The amendment was agreed to.

Mr. DAVIS. I have another amendment to offer, as an additional section:

And be it further enacted, That the sum of \$5,954 54 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to be paid to the State of Georgia for that amount paid by said State to the companies of Captains John E. Price and Samuel Patterson, called out by the Governor of Georgia, in 1838, to protect the citizens against apprehended hostilities of the Cherokee Indians.

Mr. HUNTER. Does that case come within the rule?

The PRESIDING OFFICER. The Chair cannot answer these questions of the Senator from Virginia, unless he knows something of the law. The amendment itself specifies no authority.

Mr. IVERSON. This is a case in which my State is interested, and I trust I may be indulged in a remark.

The PRESIDING OFFICER. The Chair will state to the Senator that a question of order is raised on the admissibility of the amendment.

Mr. IVERSON. The explanation of the case itself may possibly obviate the point of order. The Senator will remember that a treaty was made by the United States with the Cherokees, by which they agreed to emigrate to the West in the year 1838. As the time approached for their removal West they became exceedingly restive, and it was apprehended by the people of Georgia, and especially by the authorities of the State, that they would rise in arms, and probably commit depredations of a serious character against the lives and property of the citizens who inhabited that country—the people of the State of Georgia—following the example of the Creeks of 1836, who, after the time came for their emigration, rose in arms—a great number of them in Alabama and Georgia—and committed depredations of a great many kinds, and destroyed a great deal of property of the inhabitants. For the purpose of preventing anything of that sort, an act was passed by the Legislature of Georgia, which I will read:

"An act to provide for the protection of the citizens of the Cherokee country, and for the removal of the Cherokee and Creek Indians from the limits of this State.

"SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Georgia, in General Assembly met, and it is hereby enacted by the authority of the same*, That there shall be organized, in the counties of Union, Gilmer, Lumpkin, Murray, Walker, Floyd, Cass, Paulding, Cobb, Cherokee, and Forsyth, a company of sixty mounted men each, including officers, to be raised by volunteers, where no company is already organized and commissioned for that purpose.

"SEC. 2. *And be it further enacted by the authority aforesaid*, That so soon as said volunteer companies are formed, they shall proceed to elect the usual company officers, and report the same to his Excellency the Governor, who shall issue the necessary commissions for each, accordingly.

"SEC. 3. *And be it further enacted by the authority aforesaid*, That said companies shall be organized, commissioned, and considered in the service of the State, when called out by the Executive of this State, unless a movement among the Indians should create such an emergency as will require, in the opinion of the commanding officer, immediate action, in which case he may call them forth with to the field, and report his reason to the Executive for having done so.

"SEC. 4. *And be it further enacted by the same authority aforesaid*, That it shall be the duty of said commander to cooperate with the United States troops, if necessary, in removing all the Cherokee and Creek Indians from within the limits of this State, immediately after the 24th day of May next.

"SEC. 7. *And be it further enacted by the authority aforesaid*, That the officers and men who may be called into service under the provisions of this act, shall receive for and during the time of actual service, such pay as is allowed to mounted men in the service of the United States, and that the Governor shall be and he is required to pay the same, as well as all other expenses incident to the whole of said service in this bill mentioned, out of any moneys which shall be appropriated for that purpose."

Some of those companies were called out. An act was passed appropriating \$175,000 to reimburse the State for the payment of those volunteers, and those engaged in the Creek and Seminole wars; but the appropriation has been exhausted or has gone to the surplus fund. These men never received any compensation, although they were called into service, as will appear by the muster rolls I have before me, and were in service a month or two months—I do not recollect the precise time. During the session of the Legislature, in 1855-56, a provision was made by "An act to provide compensation to the commissioned officers, non-commissioned officers, musicians, and privates, of certain companies of volunteers mustered into the service of the State of Georgia, by virtue of an act assented to on the 26th of December, 1837."

That is the act I have just read to the Senate. The act of 1856 provides:

"Whereas certain companies of mounted volunteers were raised, organized, and mustered into the service of the State of Georgia, in terms of an act assented to 26th December, 1837; and whereas certain of those companies have received no compensation: Therefore,

"SEC. 1. *Be it enacted, &c.*, That the commissioned officers, non-commissioned officers, musicians, and privates, of each of those companies who have at no time heretofore received compensation for said services, be, and they are hereby, authorized to receive from the State of Georgia the same pay as, by the Army regulations of the United States and the laws thereof, allowed to commissioned officers, non-commissioned officers, musicians, and privates, respectively, in said Army of the United States."

Then it goes on to state the circumstances under which these persons may come forward and present their claims, and authorizes the Governor, by the appointment of an auditor, to receive their accounts, and audit them; and then, on the auditing of the account by this auditor, the treasurer is authorized by this act to pay the money. I will not trouble the Senate with reading the whole act. I merely state its provisions.

The PRESIDING OFFICER. Will the Senator allow the Chair to inquire for the purpose of determining the question of order, whether it is based upon any law of the United States?

Mr. IVERSON. It is not based on any law of the United States that I know of; but I think that these claims from States have generally been considered by Congress as on a different footing altogether from claims of private individuals. I know such have been the precedents, and I am prepared to show two cases now before me. To an appropriation bill for the Indian department in 1850, there were two amendments proposed and passed by the Senate, and subsequently met the concurrence of the House of Representatives.

One was:

"To pay the Central Bank of Georgia, assignee of H. W. Jarnegan & Co., and others, the sum of \$21,044."

That was a claim for spoliation committed by these very Creek Indians in 1836, on the property of H. W. Jarnegan & Co. That claim against the United States for spoliation was assigned by Jarnegan & Co. to the Central Bank of Georgia.

The Central Bank of Georgia belonged to the State of Georgia. The State owned the stock. It was a mere mode taken by the State to loan out its funds under the name of the Central Bank of Georgia. This claim of H. W. Jarnegan & Co. was assigned to the Central Bank of Georgia, and to the Indian appropriation bill of 1850 an amendment was appended paying to the State of Georgia the amount of this claim. That was put on because it then became a State claim—a claim due to the State of Georgia, although in the name of the Central Bank; but it was understood, ascertained, and admitted, that the claim really belonged to the State of Georgia, and not to a private corporation; and thereby it was admitted on the appropriation bill of 1850. There was another appropriation of this very character put on that bill. By the second section it is enacted:

"That the accounting officers of the United States Treasury be, and are hereby, directed to audit and settle the accounts of the companies of Texas mounted rangers, commanded by Captains B. F. Hill, J. M. Smith, J. Roberts, J. S. Sutton, S. P. Ross, H. E. McCulloch, J. W. Johnson, and C. Blackwell, who were retained or called into service by the Governor of said State, and out of any money

in the Treasury not otherwise appropriated: *Provided*, That the amount to be so paid shall not exceed \$72,000."

There was precisely a similar case to the one now under consideration put upon an appropriation bill.

Mr. HUNTER. In the House or the Senate?

Mr. IVERSON. Put on in the Senate, I presume. I know the Central Bank case was put in by the Senate, because I was here personally representing the case. I think the other was put in on an appropriation bill, by the Senate appropriating money to pay the Texas rangers that were called into the service of that State. This is a stronger case than that. In the case of the Texas rangers, the money was appropriated directly to pay the companies. The State of Texas had not paid those companies off, and it did not come here in the position of a State claim, but it was in fact a private claim of the Texas volunteers who were called into service by the State, and who had a claim against the Government. In the case now under consideration, the claim is on behalf of the State of Georgia; and as I have proceeded to show, she has already paid to these volunteer companies the amount due them. I hold in my hand the executive order under the act of 1856, that I have read, appointing Thomas M. Bradford auditor, to audit these accounts. It is unnecessary to read it to the Senate. I have it here, and any gentleman can read it if he desires. Here are the regular muster rolls which have been sent to the Senators and Representatives of Georgia. Here is the "pay roll of Captain John E. Price's company of mounted volunteers of Gilmer county, organized under an act of the General Assembly of the State of Georgia, assented to December 26, 1837, for the protection of the Cherokee country, and the removal of the Cherokee and Creek Indians, from the 25th May, 1838, to the 12th July, 1838, both days inclusive, including pay, rations, and forage." Then the names of the members of the company are put down with the amount due to each, the items amounting to \$3,056 54. It is indorsed "audited and allowed: T. M. Bradford, auditor of the Cherokee claims."

There is also a receipt:

Received of John B. Trippe, Treasurer of the State of Georgia, \$3,056 54, in full of this pay roll, 24th September, 1857.
JAMES A. GREEN,
Agent for the Company.

I have also the pay roll of Captain Patterson's company, verified in the same manner.

I do not think this can be considered a private claim in the ordinary acceptation of that term. Being from the State of Georgia, it stands upon a higher dignity, a higher footing, than an individual claim. It is one of those claims that Congress, of course, cannot object to allowing. Such claims have been allowed and paid to other States. Texas rangers, as I have already read to the Senate, and other companies of the State of Georgia, have been paid. An act was passed in 1842, appropriating money to pay the State of Maine for troops called out during the difficulties in the Aroostook country, and that amount has been refunded by the United States to the State of Maine. This is only calling on the Government to do precisely what it has ever done in similar cases heretofore. It is to refund to our State the amount she has actually expended in protecting her citizens from apprehended difficulties with the Indians. I show you precedents where precisely similar cases have been put on the appropriation bills. This very claim has been ruled out in the House of Representatives, I understand, with another that I have to offer, on the very ground that it is not a private claim. They ruled it off the Private Calendar on the ground that it was not a private claim; and here the objection is, that it is a private claim. In one House it is ruled out because it is not a private claim, and in the other it is to be ruled out because it is a private claim. It is like an honest man falling between two thieves, to be crushed between the two Houses, because the two Houses adopt different rules in the transaction of business.

The PRESIDING OFFICER. The Senator from Virginia makes a question that this is a private claim within the 30th rule. Since the present occupant of the chair has been in the Senate, claims of States have always been regarded as private claims, and have been acted on upon private bill days as such. The Chair thinks, unhesita-

tingly, that this is a private claim within the meaning of the rule.

Mr. IVERSON. The Senate made an exception in the case of the State of Maine this very day.

The PRESIDING OFFICER. That was a case which fell within the exception, being provided for by a treaty. The 30th rule contains this language:

"Unless it be to carry out the provisions of an existing law, or a treaty stipulation."

The case of the State of Maine was based upon a treaty stipulation.

Mr. IVERSON. I must appeal from the decision of the Chair in this case; and I call for the yeas and nays on the appeal.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, "Shall the decision of the Chair stand as the judgment of the Senate?"

Mr. DAVIS. I think there is a very broad distinction between a debt due to a State which has interposed to perform the functions of the Federal Government in the absence of the capacity on the part of the Federal Government to do its duty, and claims which arise from an individual bringing his case before Congress, and asking indemnity. Our Government represents the States, derives its power from the States; and when it fails to perform any particular function and the States perform it and present the case before Congress, it ought not to be treated as a private claim. I do not think it respectful to a State to put it in the attitude of a mere claim, and treat the case of an account presented and audited by a State as that of a private claim, to be put on the Calendar of private bills, and treated as such.

The question being taken by yeas and nays, resulted—yeas, 24, nays 14; as follows:

YEAS—Messrs. Allen, Benjamin, Chandler, Collamer, Dixon, Durkee, Foot, Foster, Green, Hale, Harlan, Hunter, Johnson of Arkansas, Johnson of Tennessee, King, Mallory, Polk, Pugh, Reid, Seward, Sidel, Trumbull, Wade, and Wright—24.

NAYS—Messrs. Bright, Broderick, Cameron, Clay, Clingman, Davis, Douglas, Gwin, Hayne, Houston, Iverson, Jones, Rice, and Toombs—14.

So the decision of the Chair, ruling the amendment out of order, was sustained.

Mr. IVERSON. I have an amendment to offer from the Committee on Claims:

And be it further enacted, That the sum of \$35,555 42, with interest at the rate of six per cent. from the 1st day of January, 1853, be appropriated out of any money in the Treasury not otherwise appropriated, to refund to the State of Georgia that sum, paid by said State, of Peter Trussivant, legal representative of Robert Trussivant, deceased, on account of supplies furnished by Robert Farquhar to certain troops of said State during the revolutionary war: *Provided*, That it shall not appear that said State has already received a credit for the purchase of said supplies in any settlement or appropriation heretofore made by the United States.

Mr. HUNTER. Does not this amendment come within the rule? Is it not a private claim?

The PRESIDING OFFICER. It depends, in the opinion of the Chair, on what is the existing law on the subject. If there is no law to authorize it, it is not in order.

Mr. IVERSON. This claim arises out of the advances made by the State of Georgia during the revolutionary war.

Mr. COLLAMER. Has the Court of Claims passed on it?

Mr. IVERSON. No, sir, I do not know that the Court of Claims has jurisdiction of the case. It has never been presented to them. The papers before me show that in 1777, while the troops of the State of Georgia were stationed at Savannah, and in a great state of destitution, the Legislature of Georgia authorized the commissioners of the State to make a purchase from Robert Farquhar of supplies of clothing and other articles absolutely necessary for the troops in their destitute condition. They purchased a cargo from Mr. Farquhar, of clothing and other materials necessary for the supply of the troops, and agreed to pay him in continental money. The State, however, did not pay at the time specified, and subsequently Mr. Farquhar brought an action against the State of Georgia in the Federal courts, and recovered a judgment against the State for the amount of this indebtedness. The State, after that judgment, issued what were called funding certificates to the administrator of Mr. Farquhar for a portion of that indebtedness, amounting to

some seven thousand pounds sterling. Some portion of those certificates were probably paid, at least we have no account of them, and they were probably taken up by the State of Georgia. Subsequently, however, the certificates were presented to the State to the amount of over five thousand pounds sterling; and by an act of the Legislature, passed in 1845, if I mistake not, that debt was recognized as a just and valid debt, and was provided for by the State of Georgia, issued in bonds, payable on the 1st day of last January, and the State has just accomplished the payment of the whole debt, with interest.

Now, sir, I think this is one of those cases which may very properly come under the obligations of the Constitution itself, and therefore may be considered as coming under the provisions of a law, because the Constitution is the highest law known to this country. It will be remembered that the Constitution declares that "All debts contracted and engagements entered into before the adoption of this Constitution, shall be as valid against the United States under this Constitution as under the Confederation." This was an obligation which the Confederation owed to the various States to refund back all the expenses of the war; and it may be, as I have provided for in this amendment, that the State of Georgia has already received credit for these advances. That, of course, I cannot tell without a critical examination at the Treasury; but I have provided for that contingency by declaring in this amendment that if the State of Georgia has ever received anything for the supplies she furnished to these continental troops, she shall receive nothing more. But this is an obligation growing out of the revolutionary war; and was a debt which was due and owing to the State of Georgia by the Confederation; and by the adoption of the Constitution this obligation of the Confederation was transferred to the present Government of the United States. It has, therefore, in my opinion, the obligation of a law of the very highest character, and hence may legitimately be put on this bill.

Mr. TOOMBS. This case has additional claims and comes within the exception to the rule, because, by the assumption of the act of 1790, all moneys spent by the different States for the general or particular defense, were funded. All the States have been paid under that act, and this is a debt which the State of Georgia has paid since that time. I think the State of Virginia, by an act passed in 1832, received over a million dollars that she was compelled to pay subsequent to the act of 1790, being a fund that might have been funded, and provided for by the assumption act, and I believe the Treasury now pays all that class of cases. This case comes under that act, and is plainly within the Constitution. The other point the Senate has just decided, and that I suppose it is not necessary to argue, for certainly the decisions are on no principle. The case just decided was where a State, under the Constitution, had a right to call out troops, and keep them in her pay when the danger was so imminent that she could not wait. The Constitution declares, that no State shall have troops in her pay without the consent of Congress except the danger is imminent. The point in that case was, whether the danger was so imminent that she ought to have called out the militia. If it was not, they ought not to have been paid at all; if it was, they ought to have been paid, because it was under the supreme law of the land. This is under the assumption act. As stated by the Senator from Mississippi, they are not private claims to go on the Private Calendar, especially as they are connected with the public defenses.

Mr. COLLAMER. Has the Chair decided this amendment to be in order?

The PRESIDING OFFICER. The Chair predicated his opinion upon the custom of the Senate, which he has stated has been uniform since he has been here, to regard claims from States as private claims, to be considered on private-bill days. He felt himself bound by that uniform action of the Senate.

Mr. TOOMBS. I admit there may be claims of States that would be private claims, but *non constat* that all State claims are private claims. Some individuals have claims that are not private claims, because they are in pursuance of law. The Senate may have decided that a claim of a State may be a private claim; but to hold that all

claims of States are private claims is a very different thing.

The PRESIDING OFFICER. The Chair was about stating his views, and he will do so very briefly. The practice of the Senate has been to regard all claims from States as private claims, and to be acted upon as on the Private Calendar. The rule rejects all private claims except those which fall within these two classes: claims to carry out the provisions of an existing law, and claims to carry out a treaty stipulation. These are admissible upon general appropriation bills, notwithstanding they are private claims. The Chair does not see that the amendment presented falls within either of the exceptions, and therefore thinks it is excluded by the rule.

Mr. IVERSON. I must appeal from the decision of the Chair, and ask for the yeas and nays upon it. I do not see that this is a different case in principle from the one presented a while ago from the State of Maine.

The yeas and nays were ordered.

Mr. SIMMONS. I understand this to be a claim that is embraced within the provisions of the Constitution; that it originated in the war of the Revolution. The debt was assumed by the United States at the close of the Revolution and the adoption of the Constitution; and if the provision is to pay no more than what may be found due to the State of Georgia, if this has never been a credit to that State as part of her quota furnished as one of the members of the Confederation, I think the debt was assumed when the Constitution was adopted; and such a debt would be a singular private claim.

Mr. COLLAMER. I must correct what has been said in relation to the assumption of the debts of the Revolution. The Confederation owed none of the private debts of the States, never assumed them, and was under no legal obligation to pay them. The Confederation made such requisitions on the States as it thought proper, and the States did as they pleased about responding to those requisitions; they generally did respond if they were able to furnish the money and men which constituted their quota; but the separate debt which each State incurred in the prosecution of the revolutionary war was not a claim at all upon the Confederation, nor was it assumed by the Constitution. It was entirely assumed by the act of 1790, to which the Senator from Georgia referred. It was assumed, then, in this way: the funding act of 1790, after the adoption of the present Constitution, provided that a settlement should be made with each State; the States brought in their accounts, and they went in with the Confederation expenses; the whole was apportioned among the States, and those to whom a balance fell received funding certificates. But the idea that a debt incurred by each State in the Revolution was a debt of the Confederation, was not so. They were not assumed by the Constitution. It became a very debatable point whether they should be taken into the final settlement under the act of 1790, whether that act should stand as General Hamilton recommended, to take in all the State debts as well as the United States debt, and have the whole of it funded together, and the balance struck. If this was a debt against the Confederation, which came within the article of the Constitution which the honorable Senator has read, it would be a clear case, and the United States were bound, by the very terms of the Constitution, to pay it. It was because they were not bound to do it that all the debate was occasioned in regard to the funding act of 1790.

In relation to the merits of this case, notwithstanding what I have said, I do not undertake to say there is no merit in this claim; it may be that there is. The only question is, whether the act of 1790 was such an act as makes the amendment now proposed an amendment to carry out an existing law. The Senator from Georgia, last up, says that under the act of 1790, the debts of the several States were assumed, and therefore this amendment is to carry out that act. It may be that is tenable ground; I am not sufficiently acquainted with questions of order to say whether it is or not; but here is the difficulty with that: that act of 1790 did not provide that the United States should assume those debts; it only provided that a settlement should be made, and each State should bring in its expenses, and then they struck the balance, to see whether the State was on the

debtor or creditor side of the account. The account was stricken long since and settled, and all the States that had balances due them have been paid—I do not say that those who had balances against them ever paid their debts.

Mr. TOOMBS. Vermont, for instance. [Laughter.]

Mr. COLLAMER. Vermont was never settled with. I do not say, as the honorable gentleman would intimate, that the reason was that Vermont was a debtor State. That might be true, on the foundation which they took to settle it, and the gentleman knows what that was because his State suffered as much as we did. The apportionment was made on the population of 1790, which was unjust; and whether the State of Vermont would not have come out debtor in that business I do not know. But, after what has been the experience, we might as well have come out debtor as not, because none of them paid anything. Those who fell in debt have never paid, and it would be no hurt if we had settled it; but, for fear that we should have a balance to pay, our fathers did not present the claim. [Laughter.]

But it is not true that even under the act of 1790 the United States ever undertook to pay the State debts for the expenses of the Revolution. They did not become the debts of the individuals to whom they were due, against the United States. The United States did not assume the debts themselves. They agreed to settle with the States for what they should settle with the individuals. Now, I do not know but that this may be a claim which was good against Georgia, and which she has subsequently paid, as I understand. I do not know whether it went into that settlement or not; but I insist that the amendment, as proposed, is to change the whole order of business, and to make it out that we are to pay every debt, unless it did go into the settlement. The presumption is, that the settlement having been made, and every State having settled its claims, everything was settled.

Mr. TOOMBS. This claim is part of the public history of the United States. The State of Georgia did not pay it until 1845, and therefore it could not have come into the settlement.

Mr. COLLAMER. That is a *non sequitur*, as I view it. It was totally immaterial whether the States had paid the expenses brought into the settlement or not. A large part of them were not paid at that time. They were debts assumed by the United States, which had been existing against the States, and were carried into account by the States.

Mr. TOOMBS. The Senator does not understand me. I say that this was a disputed debt. A suit was commenced in the district court of the United States; for the State did not acknowledge it for a long time afterwards.

Mr. COLLAMER. It might be. The gentleman talks about a lawsuit against the State.

Mr. TOOMBS. It was the case of Chisholm, executor of Farquhar, vs. the State of Georgia. The question was raised in 1795, and brought about an amendment of the Constitution of the United States. It had so much celebrity that the Senator, as a lawyer, ought to know of it.

Mr. COLLAMER. I know they had a case of that kind; but I did not know this was it.

Mr. TOOMBS. This was it. The case of Chisholm, executor of Farquhar, vs. the State of Georgia, in which it was decided that an individual of one State might sue another State.

Mr. COLLAMER. A claim may have been existing against the State of Georgia which claim they then did not know of, or if they did know, they disputed whether it was contracted by authority, and therefore did not bring it into the final settlement. Such a case as that may exist, and if they have been constrained ultimately to pay it, we ought to pay; but this is a matter which should go to the proper authority. It should go to the Court of Claims, and these facts should be shown. The general presumption that all these matters were settled in the final settlement provided for in the act of 1790 should be overcome by direct and affirmative proof on the trial, showing that it did not come in, and that it remains against them a just debt that they had to pay, or ought to pay, which I think is the same thing, for I do not believe any statute of limitation should be urged on such a matter. This amendment is urged here that we shall provide for paying this bill unless

it shall appear affirmatively that it has been settled. The burden of proof should be the other way. The claimant should, by direct and satisfactory proof, overcome the presumption of settlement, and on the other hand prove that it was not included in the settlements. If we open this account, there is no knowing what is to become of the final settlements made with the Old Thirteen; they are all to be opened again. I do not mean to say that if a State can show there was a just debt which was not settled, they proving the debt, it ought not to be provided for; but the whole order is reversed in this proposition. To my mind this claim should be presented to the Court of Claims. They have had a great many cases about these very final settlement certificates, and have passed on some of them. Upon proper litigation and proper showing, it may be that this is a just claim; but for anything that yet appears here, we cannot know whether it is or is not. I think it should be on the side of the claimants to rebut the presumption which I say arises from the settlement; and you should not reverse the order so as to require the Government to pay it unless it shows affirmatively that the claim has not been paid.

The question being taken by yeas and nays, resulted—yeas 26, nays 15; as follows:

YEAS—Messrs. Allen, Bigler, Cameron, Chandler, Colamer, Crittenden, Dixon, Durkee, Fessenden, Foot, Foster, Green, Harlan, Hunter, Johnson of Arkansas, Johnson of Tennessee, Kennedy, King, Pugh, Reid, Seward, Shildell, Thompson of Kentucky, Trumbull, Wade, and Wright—26.

NAYS—Messrs. Benjamin, Bright, Broderick, Brown, Clay, Davis, Gwin, Hammond, Hayne, Houston, Iverson, Polk, Rice, Thomson of New Jersey, and Toombs—15.

So the decision of the Chair was sustained; and the amendment was ruled out of order.

Mr. IVERSON. I have another amendment to offer in behalf of States; and I suppose it will be ruled out of order, because it is in behalf of States:

And be it further enacted, That the proper accounting officers of the Treasury be authorized and directed to examine the accounts between the United States and the several States which have been, or may be, allowed interest upon claims against the United States, which have accrued during or since the war of 1812 with Great Britain, and apply in such examination the provisions and principles of the twelfth section of the act of March 3, 1857, entitled "An act making appropriations for certain civil expenses of the Government for the year ending the 30th of June, 1858," and that any money found upon such reexamination to be due any State, shall be paid to such State out of any money in the Treasury not otherwise appropriated.

Mr. HUNTER. That is clearly within the rule, it seems to me, and out of order. This is an amendment to provide for the different States to make an additional allowance—one to which they are not entitled under the law—under the principle of some act previously passed.

The PRESIDING OFFICER. Will the Senator from Georgia be good enough to refer to the law stated in the amendment?

Mr. IVERSON. If it is a private claim I can only say that the last Congress—of which the Senator from Virginia was a member, and most of the gentlemen who were present who were members—committed the same error in the act of 1857. The twelfth section of that act is in these words:

"And be it further enacted, That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to reexamine the account between the United States and the State of Maryland, as the same was, from time to time, adjusted under the act passed on the 13th May, 1823, entitled 'An act authorizing the payment of interest due to the State of Maryland,' and on such reexamination to assume the sums expended by the State of Maryland for the use and benefit of the United States, and the sums refunded and repaid by the United States to the said State, and the times of such payments as being correctly stated in the account, as the same has heretofore been passed at the Treasury Department; but in the calculation of interest due under the act aforesaid the following rules shall be observed, to wit: interest shall be calculated up to the time of any payment made. To this interest the payment shall be first applied, and if it exceed the interest due, the balance shall be applied to diminish the principal: if the payment fall short of the interest, the balance of interest shall not be added to the principal so as to produce interest. Second, interest shall be allowed the State of Maryland on such sums only on which the said State either paid interest or lost interest by the transfer of an interest-bearing fund."

That is the twelfth section of the act of March 3, 1857, making appropriations to defray certain civil expenses of the Government, precisely the act now before the Senate. That was a provision changing the mode of computing interest. Many of the States, nearly all the States who

have made advances to the General Government, have had acts passed by Congress binding this Government to pay the principal and interest—my own State, South Carolina, Maine, Maryland, and other States. This is only a provision as to the mode in which interest shall be computed. It is not a private claim. It is a regulation, a rule by which, in the computation of interest, the accounting officers shall be governed by certain principles, which principles are undoubtedly correct, such as have been applied in every State of the Union and everywhere else, except by the accounting officers of the Treasury of this Government. They have applied a rule, that they calculate interest on the amount of advances made by the State up to the time of the settlement, and then take the payments made back to the State, and calculate interest on those sums up to the same time, and strike a balance. That is the mode of computing interest of the accounting officers of the Treasury, which is clearly incorrect, not recognized by the laws of any State of the Union. The laws everywhere make the calculation precisely upon the basis applied in the twelfth section of the act of the last Congress to the State of Maryland, and that is correct and proper. It is not in my opinion, I do not see how the gentleman from Virginia can torture it, nor do I see how anybody can torture it, into a private claim, unless he believes what was announced from the Chair, that any claim from a State is a private claim.

Mr. HUNTER. This is to reopen all the accounts settled with the States for advances made, and to settle with them on a different principle from that on which they have been settled with, and with which they were entirely satisfied. I know there have been two exceptions; but I believe they originated under peculiar circumstances—one in Maryland, and one in Alabama. This is now to carry the principle of those cases to all State claims ever adjudicated between the States and the General Government; and it does come, it seems to me, within the decision made by the Chair, and sustained by the Senate. At any rate, it is a subject which ought to be brought upon a separate bill, and not in any appropriation bill. I raise the objection that it is not in order.

The PRESIDING OFFICER. The Chair will beg the indulgence of the Senate to state a word or two in consequence of the act that has been read, and hopes he will not be considered out of order. The provision in the act of 1857, referred to by the Senator from Georgia, was reported from the Finance Committee by the present occupant of the chair as an amendment to the bill of last year; and the recollection of the Chair is, that that was an open account between the State of Maryland and the United States; that there was an existing dispute as to the mode of computing the interest under the law directing the payment; and that, to settle the basis on which the interest should be cast, the amendment was made to the appropriation bill last year. As the Chair understands this amendment, however, it proposes to open all the accounts that have been closed with the States of the Union, and to make a readjustment of interest on the same basis.

Mr. IVERSON. No, sir. It applies the principles and provisions of the twelfth section of the act of last year, on which Maryland was settled with, to the other States. It does nothing more than that.

The PRESIDING OFFICER. Will the Senator allow the Chair to ask him if he is correct in stating that it applies to accounts of cases between the United States and States, which are closed?

Mr. IVERSON. No, sir; no more than was the case of the State of Maryland. The act in relation to Maryland directs that:

"The proper accounting officers of the Treasury be, and they are hereby, authorized and directed to reexamine the accounts between the United States and the State of Maryland as the same was from time to time adjusted under the act," &c.

That proposed a reexamination of an account which had been adjusted, did it not? Precisely. Whether the account had been closed or not, whether it had been adjusted or not, whether it was still in existence or not, this act directed the accounting officers to reexamine the account for interest, and make the computation on a particular basis. It was done in the case of Alabama. I desire to apply the same rule to all the States. It is just, equitable, and proper, if you apply it

to two States, that you shall give it to all. I do not know that my State is interested in any great extent. The State of South Carolina is interested, and her account has not been settled. The comptroller of that State, in his report to the Governor, made a few years ago, states the difficulties between the accounting officers of the United States and himself. That account is still lying open. The State of South Carolina protested against the settlement by its officers at the time. This amendment will meet that case, and authorize the accounting officers to readjust the accounts of South Carolina on the basis applied to the State of Maryland. This amendment simply directs that the provisions and principles applied under the twelfth section of the act of 1857 to Maryland, shall be applied to all the States. It does not reopen accounts.

Mr. BENJAMIN. Will the Senator from Georgia give us some information on one or two points suggested by his amendment? First, in what way this matter comes before the committee of which he is the organ. Is there a claim from the States? Has it been referred to the committee on behalf of the States?

Mr. IVERSON. Yes, sir; a memorial from the State of South Carolina was referred to the Committee on Claims, and it was upon that memorial that the committee have predicated their amendment.

Mr. BENJAMIN. A general section?

Mr. IVERSON. Yes, a general section, believing that it was equitable to apply the rule to all the States.

Mr. BENJAMIN. The next question I would desire to ask the Senator is: if he has any idea what the amount involved in this appropriation will be?

Mr. IVERSON. I have no idea. The comptroller of the State of South Carolina alleges in his report to the Governor of that State, which I have in my hand, that in the settlement between him and the accounting officers of the United States, the State of South Carolina lost \$55,000 in interest. That is the difference between the mode of computation of the accounting officers, and the mode of accounting as regulated by the act in relation to Maryland. I do not know how other States may be affected. I do not suppose the amounts are very large. I expect that the amount of the State of South Carolina is larger than that of any other State.

Mr. BENJAMIN. It does not seem to me that this section is liable to the objection made by the Senator from Virginia. This is not to pay a private claim of the State of South Carolina. It is a general rule by which the Treasury is to be guided in its settlements with the States; and we having already sanctioned the payments to some of the States on this basis, this section provides that even in cases which have already been closed by the Comptroller of the Treasury, not to the satisfaction of the State, as the Senator from Virginia suggests, but to the dissatisfaction of the State, the account shall be reopened and examined, and settled according to principles which we have declared to be just. The idea of applying a payment made at any time by the Government of the United States to the extinction of a part of the capital of the debt due to a State whilst there remains interest unsatisfied, is contrary to all principle, to every rule by which computation of payments is made. The State of South Carolina having presented this memorial, if the proposition of the Senator from Georgia now was to pay that claim, I admit it would be a private claim; but the committee, instead of treating this as a private claim, preferred to report a section which amounts to a general law, for the very reason that they are not willing to act upon the claim of one State as a private claim. My State has no interest in this question; but I do think that justice requires that the adjustment of these accounts with the States should be made all upon the same footing; and as it has already been made on this footing with the States of Alabama and Maryland, I cannot conceive why South Carolina should be made an exception, or any other State which has had accounts to adjust with the General Government. It is a general rule now provided by Congress for the settlement of accounts with States, and the mode of adjusting the interests that arise in accounts with States. It is not an appropriation for the benefit of the State of South Carolina.

The committee, it appears to me, have carefully avoided reporting a private claim, and have *ex industria* changed the legislation into a general law. I do not see that it comes under the rule of the Senate which has been cited, and I shall vote for the amendment.

The PRESIDING OFFICER. Inasmuch as authority is given by the rules to take the opinion of the Senate on questions of this sort, and inasmuch as the facts in this case are disputed, the Chair will submit the question of order to the Senate.

Mr. HAMLIN. I think the matter has been so clearly and so well stated by the Senator from Louisiana, that really there can be no doubt about it. Certainly there is none in my mind; and I have only risen for the purpose of inviting the attention of the Senate to its action on other cases which I think are very similar, if not entirely parallel to this. We pass pension laws, in which we prescribe the time of service; we prescribe the rules which shall entitle a person to a pension. We find, outside of that class of pensions, a very large class of cases that come very nearly up to the rules we have prescribed; they come here, and what is done? Our Committee on Pensions recommend this special case, and that special case, and they are passed. By and by we see there are so many special cases that we remove the limitation by general law, and it has been done in appropriation bills, precisely in the way now proposed.

I will cite an instance. We removed the limitations as to the time or mode of proof required at the Department, and that takes in a whole class of cases. True, if each one came here and asked action separately by itself, it would be a private claim; but you make a general law to include all cases. That is precisely this case.

I refer now to an instance in my mind, with regard to those who drew pensions for revolutionary service. You prescribed, originally, that only those widows of revolutionary soldiers should draw a pension who were married previous to 1783, I think. Then you limited it to 1794; and then you limited it to 1800, because you found such a large number of cases coming so nearly up to the time, that it was deemed advisable to extend it. The last amendment, I recollect distinctly, because I drew it, was ingrafted on an appropriation bill in 1853, and it was to meet a class of special cases here pending.

Mr. GREEN. I will inquire when the rule is to apply under the resolution adopted this morning, for a recess, to-day or to-morrow?

The PRESIDING OFFICER. To-morrow.

Mr. GREEN. Then I move that the Senate do now adjourn.

Mr. HUNTER. I hope that we shall get through with this bill.

Mr. GREEN. We cannot get through, because I have an amendment to offer, and so have others.

Mr. HUNTER. Let us hear them.

The motion to adjourn was not agreed to.

The PRESIDING OFFICER. Will the Senate receive the amendment proposed by the Senator from Georgia?

The amendment was received.

The PRESIDING OFFICER. The question now is on agreeing to the amendment.

Mr. HUNTER. The amendment is a proposition which certainly ought to receive some examination before it is passed. We ought to know how much money it will take from the Treasury; we ought to know what changes it is to make in the principles on which accounts have been settled with States. I apprehend it will be found that it makes other changes besides the one which has been referred to by the Senator from Louisiana—the mode of stating the account as to interest and principal. I believe there have been some rules as to whether interest shall be allowed to States at all, and upon which settlements have been made with most of the States, and that will be changed if this provision be adopted; and it is probable that under the change it will be found that very large sums will be due to the States of this Union. I have no doubt that most of the old States would come in if this amendment be adopted, and some of them might claim very largely. This is eminently a subject for separate legislation. We ought to know what changes are made. We ought to know whether, under this amendment, we shall not pay to some States interest on claims on which interest has never been voted.

The first deviation, if I remember, was in the case of Alabama; but there it was determined to make certain allowances of interest, because the State had paid the interest, because it had sold stocks, as was done in Maine; and an exception was made in the case of Alabama for that reason. I believe that was the case, also, in Maryland, where the allowance was on the principle of the Alabama case. Unless you treat this as having arisen out of those exceptional circumstances, you will reopen all the settlements that have been made with the States; and you will pass out of the Treasury a large sum of money, in my opinion. I speak, though, only from general recollection; I have had no time to examine the amendment particularly; but I am afraid it will be found, when we come to see the effect of it—if it should be adopted—that it will go much further than any of us suppose.

Mr. FESSENDEN. The Senator from Virginia, if he would take the pains to read the amendment, would see that it is not open to the objections he has stated. It does not provide, if I read it rightly, for the payment of any interest to a State, in any case whatever, where interest has not been allowed heretofore. It does not make any new claim in that respect. The whole amount of it is simply this: the Treasury, as I understand, has adopted the rule that where a certain amount of debt is owing to a State, and a certain amount of interest has accumulated on that debt, and where the principal thus owing bears interest, and the interest thus owing does not, if the claim is paid in part, they apply that part payment to the principal which bears interest, instead of to the interest which does not, thus reversing the rule which exists in every State in the Union, and operating most unjustly towards the States themselves. For instance: suppose a debt is due to a State, which debt bears interest, and by the law at the same time there is an amount of interest accumulated upon it which does not bear interest—let us call one \$50,000 and the other \$30,000—the \$50,000 bearing interest, and the \$30,000 not bearing interest. The Government, in these circumstances, instead of paying the whole, pay up \$30,000. Then, instead of applying it to the interest which does not bear interest against the Government, and which the State has paid, they apply it to the principal, reducing the claim which bears interest to \$20,000, and leaving the State to lose its interest on \$30,000.

Mr. TOOMBS. It is worse than that.

Mr. FESSENDEN. That is bad enough. The provision is, in regard to all these claims which the States have where the United States will not pay accumulating interest, as they ought to do, that the partial payment shall first go to sink the interest that is due. If a man owes me money, and interest has been accumulating year after year which he has failed to pay, and especially if I am in debt for it, as is very often the case with the States, he ought to indemnify me; but the rule adopted by the Treasury is worse than that. They say they will not only not indemnify me, and leave me to pay my interest, but when they do make a payment, it shall not go to sink the interest, but to sink the principal, leaving the interest to stand. That is unjust. It does not apply in the case of any private claim anywhere, but has been arbitrarily adopted by the accounting officers of the Treasury. In the case of Maryland, which was precisely similar, Maryland remonstrated, and at the last session Congress said that account should be adjusted upon proper principles—the same principles that exist in every State of the Union between man and man—that where principal and interest are due, and the Government paid any part, that payment should be applied to the interest first; if it paid it off, very well; if it overbalanced it, the balance should be so much towards the principal. This was on the common, ordinary principles of justice.

In the case of the State of South Carolina, if I understand it, the officers went so far as to keep an account with the State, crediting her with interest accumulating on the principal, and if there was any left they then took the part they had paid, cast interest on that, and then offset the two! That is to say, they paid their principal in part, and retained to themselves the right of offsetting the interest which accrued on their own payment of money due to the State, to pay the rest of the debt with! [Laughter.]

It does not do to make it a matter of account current between the two, because the account is really all on one side; but the Treasury officers apply the principle of accounts current to it as if so much was due from Maryland and so much from the United States, and cast interest on both and then offset the two; but, instead of that, it is all due from the United States. They say, "we will owe you the interest; we will pay you part of the principal; we will cast interest on the money we allow you, and pay you interest with it." That is the principle they have adopted. This is simply to set that right, and to say that where these things exist, the Government shall do what is proper. I submit that the argument of the Senator from Virginia is inapplicable, in any sense of justice and decency, to say we ought to inquire first how much money this will amount to before we pay it. Why, sir, what difference will it make how much money it amounts to? If there be more or less, the Government ought to pay, and pay it at once, without the slightest hesitation, and calculate the interest upon proper principles.

Mr. HUNTER. When we are bestowing gratuities we have a right to inquire the amount. If we have settled with the States to their satisfaction, it seems to me we have discharged all our debts, and if we are asked to give them more—and that, too, not on the application of many of them—I think we may very well inquire how much is to be disposed of by way of gratuity? We are asked to disturb a mode of settlement that has been practiced for years, and with which the States have heretofore been perfectly satisfied.

Mr. FESSENDEN. The Maryland provision came from the Senator's own Committee on Finance, and was agreed to by the Senate. If it was proper in that case, why is it not in every other?

Mr. HUNTER. I have stated that was made under peculiar circumstances that I do not recollect perfectly. The Senator from Maryland can explain them. It will be found, I think, that they do not apply to other cases.

Mr. PEARCE. I will state the facts in relation to the claim of Maryland. The State of Maryland advanced large sums of money to the Government of the United States during the war of 1812, and some time after the close of that war the United States reimbursed the principal. In 1826, an act was passed for the payment of interest to the State of Maryland, and the interest was paid upon a mode of calculation novel to me, though I find it has been adopted as the usual rule of computation in such cases at the Treasury. That is to say, having determined to settle the accounts, and commenced to make payments on it, the first payment was applied to the reduction of the principal, the interest being made to stand aside; and so payments were made from time to time, until the whole of the principal was liquidated; and then they went back to the period when they began to pay, and ascertained what the amount of interest due at that time was, and paid that sum without any interest on it. In 1829, or 1830, an act was passed through both Houses of Congress authorizing the payment of interest to the State of Maryland upon the proper principle, such as prevailed in mercantile transactions, and it was vetoed by General Jackson, and the veto came in at the next session of Congress, on the ground that it was disturbing the usual mode of settlement. [Laughter.]

After I became a member of the Senate, I received this claim of Maryland, under instructions from my State Legislature, and I introduced a general bill, providing for the liquidation of the interest due to the different States of the Union, which had made such advances in a body. It was objected to by a gentleman, then a Senator from Alabama, who preferred that each State should have its own claim rest on its own basis. He introduced another bill for the benefit of the State of Alabama, and it was passed through the Senate, and under that bill the State of Alabama was paid according to the old mode of computation. The Senate will remark, however, that this rule was always adopted in the allowance of interest. The Government of the United States never paid interest, except where the State had paid interest itself upon its advance, or had lost interest, and Alabama obtained her allowance of interest because the funds which she had applied to aid the General Government were taken from a bank

which was her property, and she had thus been obliged to contract her line of discounts, and so lost interest. The State of Maryland obtained interest because she had liquidated the bonds which she had given to her creditors for the money she applied for the service of the Government during the war, by selling United States stock of which she was owner, thus transferring to the liquidation of this obligation an interest-bearing fund. The principle was that the United States would pay no interest, except where interest had actually been paid or lost by the State.

As the State of Maryland came within that category, she was entitled to interest; and after long years of dispute on the subject, the Congress of the United States at the last session passed the act which has been referred to, providing for the reexamination and readjustment of the account of the State of Maryland, and directing that the interest should be calculated according to certain rules laid down by the Supreme Court of the United States for that purpose; that is to say, first applying the payments to the interest, and when the interest was all liquidated, then applying them to the principal; and under that act I think the State of Maryland received after the last session of Congress about two hundred and seventy thousand dollars. There are several States interested in like manner, I do not now recollect how many; but when I originally introduced the bill, I carefully noticed the States interested and their number, and no doubt the amount will be very large. Delaware, South Carolina, Virginia, and several other States, are interested, and the amounts very large; but I do not know that magnitude of the obligation is any defense against the passage of an act for payment according to the principles of equity which have been applied to the State of Maryland. This is an inconvenient time, it is true, for us to be dunned for this money; but I think we ought to settle fairly, if we do nothing else. If we cannot pay the money, we ought at least to acknowledge the obligation.

Mr. PUGH called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 33, nays 19; as follows:

YEAS—Messrs. Bell, Benjamin, Bright, Broderick, Colamer, Crittenden, Dixon, Durkee, Fessenden, Fitch, Foot, Foster, Hamilton, Hammond, Harlan, Hayne, Houston, Iverson, Jones, Kanedy, Mason, Pearce, Polk, Rice, Seward, Simmons, Thomson of New Jersey, Toombs, Wade, Wilson, Wright, and Yulee—33.

NAYS—Messrs. Allen, Bigler, Brown, Cameron, Chandler, Clingman, Davis, Fitzpatrick, Green, Hunter, Johnson of Arkansas, Johnson of Tennessee, King, Pugh, Reid, Sebastian, Sidel, Stuart, and Trumbull—19.

So the amendment was agreed to.

Mr. IVERSON. I have another amendment to offer, to come in at the end of the first section:

That the several acts granting twenty per cent. additional pay to the clerks employed at the Washington navy-yard be so construed as to embrace the inspector of timber in the service at the time of the passage of said acts.

Mr. HUNTER. Is not that a private claim?

The PRESIDING OFFICER. The Chair thinks it is.

Mr. IVERSON. Then I have nothing more to say. I have another amendment to offer, to come in after line two hundred and fifty-eight. The provision is:

"For binding twenty-four hundred copies of Code of the District of Columbia, at seventy five cents per copy, authorized by act approved 3d March, 1855, \$1,875."

I propose to add this amendment:

And that all the ruling and binding for the several Executive Departments shall be executed by practical and competent bookbinders, to be appointed by the head of the Department.

We have already, in a previous bill, directed that all printing shall be done by practical printers; and all engraving by practical engravers. I wish to put the binding on the same footing, and regulate and control it so that it may not be given to special favorites or persons who are to be benefited by these appointments. Let it go to practical mechanics.

Mr. CRITTENDEN. How are they appointed now?

Mr. IVERSON. At the discretion of the heads of Departments, and given out as they choose.

Mr. CRITTENDEN. That is the way they are to be appointed by the amendment, I understand.

Mr. FESSENDEN. But they are to be practical bookbinders.

The amendment was agreed to.

Mr. DIXON. I wish to offer an amendment:

And be it further enacted, That when any district judge is, or shall be designated and appointed, under and by virtue of the act entitled "An act to provide for holding the courts of the United States in the case of the sickness or disability of the judges of the district courts," approved July 29, 1830, and under and by virtue of the act amendatory of the same, approved on the 2d day of April, 1852, to perform the duties and exercise the powers in said acts specified, there shall be allowed and paid to each district judge, as a compensation for such service, in addition to his expenses, as provided by said acts, the further sum of eight dollars per day, while engaged therein; which, when certified by the clerk and the district attorney, shall be paid by the marshal, with such expenses, and shall be allowed him in his accounts with the United States.

Mr. HUNTER. This is legislation. I do not know where we shall stop. We might as well take up the Calendar, and put all the bills on the appropriation bills.

Mr. DIXON. I think this is in order. It is carrying out the provisions of the laws referred to in the amendment.

Mr. HUNTER. I hope the Senator from Louisiana will state whether the committee have ever agreed to this amendment.

Mr. BENJAMIN. We had the subject under consideration in the Committee on the Judiciary, and we came to the conclusion that we would not recommend it to the Senate, after a full discussion in committee. The Senator from Ohio, [Mr. PUGH,] I think, was in favor of reporting an amendment of this kind to the appropriation bill, but he was the only member of the committee who agreed to it; and, upon full discussion in the committee, the proposition of the Senator from Ohio was rejected. I think the Senator will remember it.

Mr. PUGH. I was never in favor of putting any proposition on an appropriation bill for legislation. That is a mistake of the Senator from Louisiana; but I was in favor of increasing the salary of the district judge for Connecticut, because that judge was compelled to go to the city of New York, and hold court almost as much as the judge of that district. I am now in favor of increasing his salary, and increasing it largely; but as to this particular proposition, which I suppose is meant to cover his case, I do not think I can go for general legislation on this bill.

Mr. GREEN. I call for the reading of the first part of the amendment again.

The Secretary read it.

Mr. GREEN. My object in calling for the reading of that was to see whether it would have a tendency to reach back. There was a case referred to the Committee on the Judiciary, the design of which was to reach back and pay a certain judge who had held a certain post. We thought it a private claim. The law which authorizes this transfer of jurisdiction specially says that the judges shall be paid their expenses, as certified by the clerk, under a certain statement of facts, without any addition to their salaries; and it was our opinion, and it is mine now as an individual, that their salary is enough. If, however, the salary is not enough, we ought to add to the salary, and not to undertake, in an indirect method, to increase the compensation the law authorizes. I hope the amendment will be voted down.

The PRESIDING OFFICER. The Chair understood the Senator from Virginia to make a question of order on this point.

Mr. HUNTER. No, sir. I do not see how I can raise a question of order. I say it is legislation, and we ought to vote it down for that reason.

The PRESIDING OFFICER. The question is on the amendment.

The amendment was rejected.

Mr. BRIGHT. I have a few amendments to offer from the Committee on Public Buildings and Grounds. First, I move to insert, at the end of the first section:

For filling up the grounds belonging to the United States south of, and immediately adjoining, the present Capitol structure, \$30,000.

Mr. TRUMBULL. It is manifest that we cannot get through with this bill to night; and I move that the Senate adjourn.

The motion was not agreed to—ayes sixteen, noes not counted.

Mr. BRIGHT. This appropriation is one of many recommended by the Secretary of the Interior as embracing an improvement very important

to be made. The Committee on Public Buildings, however, agreed to but two of the great number of recommendations—only those that they considered indispensably necessary at this time. This is the only speech I have to make.

Mr. CLAY. What is the necessity?

Mr. GREEN. I would inquire if it is not proposed to buy out certain lands to enlarge the grounds; and whether we ought not to consider the whole matter together? This is to fill up south. I would prefer postponing the whole matter until we see how we are to enlarge the grounds.

Mr. BRIGHT. Whether the public grounds be enlarged or not, this is an improvement necessary and proper to be made. I have no doubt that if the public grounds be enlarged we shall go, at least, as far as C street. If we should go as far as C street, the improvement contemplated by this amendment will have to be made.

Mr. MASON. What is the object?

Mr. BRIGHT. To fill up the low lands adjoining the Capitol.

The amendment was rejected.

Mr. BRIGHT. I have another amendment to offer.

For making improvements provided for in the fifteenth section of the city charter, approved May 15, 1830, and the twelfth section of the amended charter, approved May 17, 1848, \$5,000.

Mr. HUNTER. What is that?

Mr. BRIGHT. The laws referred to in the amendment provide that whenever the owners of property, private individuals, shall go on to improve their grounds, the Government, if owning on the opposite side of the street, shall make a corresponding improvement. It is an appropriation to be placed at the disposal of the Secretary of the Interior, for the purpose of carrying out the existing laws referred to in the amendment.

The amendment was rejected.

Mr. BRIGHT. I have another amendment from the Committee on Public Buildings and Grounds, to add at the end of the first section:

That the President of the United States cause the sum of \$6,000 to be advanced to Clark Mills, in addition to the sum already advanced, out of the \$50,000 appropriated by the act of January 25, 1833, to erect at the capital of the nation, an equestrian statue of Washington, on the personal application and receipt of the said Mills: Provided, That the said Mills furnish the Secretary of the Interior with security for the completion of the statue as the Secretary may require.

Mr. Mills has made his own speech in favor of this appropriation, in the shape of a memorial, which I will ask the Secretary to read.

The Secretary read it, as follows:

To the honorable the Senate and House of Representatives, in Congress assembled:

By an act of Congress passed on the 25th January, 1853, \$50,000 were appropriated, to enable the President of the United States to employ the undersigned to erect an equestrian statue of Washington at the capital.

In the contract drawn up between the President and the undersigned, and signed by them, it was stipulated that only \$20,000 should be paid to the undersigned until after the statue was completed and erected.

The undersigned had collected materials, and his work was in advance when, unfortunately, a fire destroyed all his works and machinery.

In consequence of this, the undersigned has not been able to complete and erect this statue up to this time, but it is completed except the pedestal.

Congress has already given to the undersigned \$5,000 more than the contract stipulated, in consideration of his great losses by fire, but he yet finds himself unable to complete and end this statue, without being permitted to draw \$6,000 more from the Treasury at this time; and the object of this memorial is to petition your honorable bodies to allow him this amount out of the \$25,000 of the appropriation yet unexpended.

And your petitioner will ever pray, &c., &c.

CLARK MILLS.

WASHINGTON, May 21, 1858.

The amendment was agreed to.

Mr. BRIGHT. I have one other amendment to add at the end of the first section:

To pay the draftsman employed by the Committees on Public Buildings and Grounds of the two Houses of Congress, for drawings and calculations furnished, and incidental expenses defrayed by him during the last and present session of Congress, \$28.

The amendment was agreed to.

Mr. BRIGHT. I have still another amendment. There was an amendment passed on Saturday, on motion of the Senator from Mississippi, [Mr. Brown,] providing for the appropriation of \$30,000 for the purpose of completing rooms for the several courts in this District. It is necessary to strike out the word "criminal." I think

the amendment, as it now reads, provides for the criminal court. It should be "courts for the District," leaving it to the proper authorities to determine what courts shall occupy the buildings proposed to be erected. I propose to strike out the word "criminal" before "court," and insert the letter "s" after "court."

Mr. HUNTER. That can be done by general consent.

Mr. BRIGHT. By unanimous consent.

The PRESIDING OFFICER. The Chair hears no objection, and the correction will be made.

Mr. SEWARD. I offer an amendment as an additional section:

And be it further enacted, That the public lands in the Territory of Kansas shall not be offered at public sale until the expiration of one year from and after the 1st day of November next.

Mr. HUNTER. That is general legislation of a very important character. Certainly that ought not to be put on the bill.

Mr. SEWARD. What is the objection?

Mr. HUNTER. The objection is, that it is a matter of general legislation relating to a subject of great importance.

Mr. SEWARD. I will be content with the yeas and nays on it.

The yeas and nays were ordered.

Mr. PUGH. Does the Chair decide the amendment to be in order?

The PRESIDING OFFICER. No question of order was raised.

Mr. PUGH. I raise the question of order. It has no sort of pertinency. We cannot put on anything. I refer to Jefferson's Manual. It says an amendment must have some pertinency to the bill.

The PRESIDING OFFICER. The Chair is not aware of any rule that excludes it.

Mr. MASON. It is irrelevant.

Mr. CLAY. Does not the general principle of the Manual exclude irrelevant matter?

The PRESIDING OFFICER. The Chair is not aware of any general parliamentary law which excludes an amendment on the ground of irrelevancy.

Mr. TOOMBS. I take an appeal. I supposed everybody knew an amendment must have something to do with the bill.

Mr. PEARCE. I think the Senator from Georgia is mistaken; I think it has been decided, over and over again, that incongruity is no reason for ruling out an amendment. The Senate must recollect an example, not very ancient, when an invalid pension bill was here, and I moved to it an amendment to repeal a law granting certain lands to a railroad in the West. I think you recollect it, sir, for you opposed it very vehemently; and it was then decided that incongruity was no objection to an amendment for the purpose of ruling it out of order, as it had been decided before. That was not the first time it was so decided. The Senate have so ruled again and again. I do not think the amendment is out of order; but I shall certainly not vote for it.

Mr. SEWARD. The nearest approach I have ever seen to an objection like this occurred in the State of New York, where an amendment was ruled out of order because it was a very long amendment made to a very short bill. [Laughter.] I have avoided that point here by offering a very short amendment to a very long bill; and I am quite satisfied that it is very important, however incongruous it may be.

The PRESIDING OFFICER. The question is: Shall the decision of the Chair stand as the judgment of the Senate?

Mr. BENJAMIN. I hope the appeal will be withdrawn, and let us vote on the question.

Mr. TOOMBS. Well, I withdraw it.

The PRESIDING OFFICER. The question is on the amendment.

The question being taken by yeas and nays, resulted—yeas 17, nays 33; as follows:

YEAS—Messrs. Broderick, Cameron, Chandler, Dixon, Durkee, Fessenden, Foster, Hamlin, Harlan, Kennedy, Rice, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—17.

NAYS—Messrs. Allen, Benjamin, Bigler, Bright, Brown, Clay, Cleggman, Crittenden, Davis, Fitch, Fitzpatrick, Green, Gwin, Hammond, Hayne, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Mason, Pearce, Polk, Reid, Pugh, Sebastian, Sidel, Thomson of New Jersey, Toombs, Wright, and Yulice—33.

So the amendment was rejected.

Mr. STUART. I am requested by the Secretary of the Interior to offer the following amendment, to regulate appeals from the Land Office to the Secretary, to have them in the first place go to the Commissioner of the General Land Office. It is the only effectual way. The amendment is to insert as a new section:

And be it further enacted, That the eleventh section of the act of Congress approved September 4, 1841, entitled "An act to appropriate the proceeds of the public lands, and to grant preemption rights," be so amended that appeals from the decisions of the district officers, in cases of contest between different settlers for the right of preemption, shall hereafter be decided by the Commissioner of the General Land Office, whose decision shall be final, unless appeal therefrom be taken to the Secretary of the Interior.

Mr. HUNTER. This is legislation. It may be very good legislation, but we shall never end the bill if we put amendments of this character upon it.

Mr. STUART. It is not only very good legislation, but legislation which will save a great deal of trouble and expense to the Government. It simply authorizes an examination by the Commissioner of the General Land Office first, because of the change of the law, and giving to the Secretary of the Interior what at the time was given to the Secretary of the Treasury. I hope there will be no objection to it.

Mr. HUNTER. I think we ought not to put such things in this bill.

The amendment was agreed to.

Mr. STUART. I offer another amendment, which, as it is to save a good deal of money, I hope will not be objected to. It is to add as a new section:

And be it further enacted, That so much of all acts and parts of acts as require or authorize the Postmaster General to publish notice of letting contracts to carry the mails in the respective States, in newspapers published in the city of Washington, in the District of Columbia, be, and the same is hereby, repealed.

I will only say that in response to a resolution which I submitted, directed to the Secretary of the Treasury, it was ascertained that the cost of publishing the mail lettings at this season, in these Washington papers, was \$47,000. It amounts to about this sum every time they are published, and it is agreed by the Post Office Department that it is utterly useless. The amendment proposes to repeal such laws as make that necessary.

Mr. HUNTER. It may be a very good amendment; but it is legislation.

Mr. FESSENDEN and Mr. HAMLIN. But it is necessary legislation.

Mr. TOOMBS. My opinion is that they should be published but in one paper, and that one here. The amendment was agreed to.

Mr. STUART. I have only one further amendment to offer—to add as an additional section:

And be it further enacted, That the line surveyed by John C. McCoy, in 1838, as the western boundary of the half-breed tract, specified in the tenth article of the treaty made between commissioners on the part of the United States and certain Indian tribes at Prairie du Chien, on the 15th of July, 1830, be, and the same is hereby, established as the true western boundary of said tract.

If the Senate will give me its ear for a moment, I think there will be no objection to this amendment. The tenth article of the treaty provided that a certain tract of land west of Missouri, being ten miles deep, and lying between the Great and Little Nemaha, should be retained by those Indians in possession, and that at some subsequent time the President of the United States should be authorized to give a fee simple to such portions of them as were thought proper. The line was run twenty years ago, by Mr. McCoy. When we passed the Kansas-Nebraska act, we provided for the survey of the remainder of the land. The lands were surveyed up to that line, subject to preemption, occupied and settled by a large number of settlers. The amount of property there, as is proved to the committee, is over seventy thousand dollars. A town is built upon it. Now a question arises as to whether that land was correctly surveyed; whether it is about a mile and three quarters too short at one end; but there is more land there than is necessary to do justice to the half-breeds under that article of the treaty. The conflict is now made, and it is imminent. The Secretary of the Interior is now adjusting those fee simples under the treaty, and it is necessary that the action be speedy, in order to be of any value.

I have submitted the question to, and consulted with, the chairman of the Committee on Indian

Affairs, [Mr. SEBASTIAN,] who also understands this question, and agrees with me, that the line surveyed by McCoy twenty years ago, ought to be now established as the true line. It varies it, as I said, at one end, perhaps a mile and three quarters, and does not vary it at all at the other; it leaves the gore of land now thickly settled, and which the Indian Office proposes to disturb by adjusting these fees simple. There are some three hundred half-breed Indians there, and an abundance of land, it being ten miles by twenty, for the whole of them, with this line as it stands. The Senator from Virginia may say it is legislation—it is; but I think, at all events, it is legislation as important as the general appropriation bill. You cannot disturb those settlers at this time without producing immense mischief in the country.

Mr. HUNTER. If we could confine the appropriation bills to proper subjects of appropriation, it would not take us the tenth of the time we now consume in acting upon them. The consequence of this sort of legislation is, that any chairman of a committee can bring up all the bills reported by his committee, and unless I can show it is bad legislation, it goes on the appropriation bill. I have not examined this amendment. It may be very good, or it may be very bad. All I can do is to examine the question of appropriation; but if we are to admit that any measure which is good, or any bill which is good, is a proper subject of legislation upon appropriation bills, there is no end to it.

Mr. STUART. I only wish to say that I am as much opposed as the Senator is to adding to the general appropriation bills any legislation which is not indispensable; but that Senator himself or his own committee has introduced general legislation upon this bill. It was that species of general legislation, however, that required immediate action, and so does this. I do not move it for any other purpose in the world. I say that the President and the Secretary of the Interior, in obedience to the tenth article of that treaty, are now adjusting these fees simple, and it becomes necessary to determine at once that line. The settlers upon that gore of land there have gone on it in good faith, it being land open to preemption. We said to them, by proclamations, that it was open to preemption. They have respected the line of McCoy. Not a man of them has gone or attempted to go over it, but they are simply on public land. It is reported that there is an abundance of land to make the assignments under that treaty in good faith and to spare within the boundaries of McCoy's line run twenty years ago. The Government will be involved in immense difficulty and immense expense, unless we settle it now.

Mr. POLK. It is evident that we cannot get through with the bill; and I therefore move that the Senate adjourn.

The motion was not agreed to.

The VICE PRESIDENT. The question is on the amendment of the Senator from Michigan.

Mr. BIGLER. I hope the amendment will be adopted. It is indispensably necessary.

The amendment was agreed to, there being, on a division—ayes twenty-one, noes not counted.

Mr. FITCH. I offer the following amendment from the Committee on the Post Office and Post Roads, to add at the end of the first section:

For the construction of a building for a post office, and other Government purposes, in the city of Brooklyn, State of New York, \$50,000, and also such additional sum as may be necessary to purchase a suitable site for such building.

For the purchase of a site, and the erection of a building thereon, in Columbus, in the State of Ohio, for a post office and other Government purposes, \$50,000.

For the purchase of a site, for the building for public purposes, authorized to be erected at Tallahassee, by the act of March 3, 1837, the sum of \$30,000.

For a site, and building for a post office, and other Government purposes, in Hartford, in the State of Connecticut, the sum of \$50,000.

For the purchase of a site, and the erection of a building thereon, in Harrisburg, State of Pennsylvania, for a post office, and other Government purposes, \$50,000.

Mr. HUNTER. The Treasury is already nearly broken down in carrying out appropriations made for existing buildings. It seems to me this can be no time to add to those burdens by authorizing these new buildings. I will say no more, but I hope the Senate will vote the amendment down. I cannot think they will put it on this bill.

Mr. POLK. If an amendment to the amendment is in order, I offer one to appropriate for a post office building, and other public offices, in

the city of Jefferson, in the State of Missouri, \$30,000.

Mr. FITCH. I admit the depressed condition of the Treasury; but if this amendment is adopted it will place the towns where these post offices are asked, or rather place these appropriations on the same footing with many others. Appropriations have already been made for this object for which there is no money in the Treasury. They amount only to a declaration on the part of Congress of their willingness that the money shall be expended for such purposes whenever we have it. The Senator from Virginia deems it his duty, as doubtless it is, to object. I would simply remind the Senator that the capital of his State, and the capital of my own State, are provided for, and I cannot, therefore, consistently vote against appropriations of this kind for the capitals of other States, where they are asked.

Mr. JOHNSON, of Arkansas. Is any further amendment in order?

Mr. THOMSON, of New Jersey. I have an amendment to offer.

The PRESIDING OFFICER. (Mr. STUART in the chair.) The Senator from Arkansas has the floor, but the Chair will state to him that an amendment to the amendment has been proposed by the Senator from Missouri, which he is preparing.

Mr. JOHNSON, of Arkansas. I wish to offer an amendment, that \$30,000 be appropriated for a custom-house and post office at Little Rock, in the State of Arkansas. There never has been any appropriation made at that city. There is no place for the courts or post office there. This appropriation has already passed once in this body, and if it be in order, I now move it as an amendment.

The PRESIDING OFFICER. The Chair will suggest to the Senator that the amendment is not in order, as the Senator from Missouri is now preparing an amendment to the amendment.

Mr. HUNTER. I suppose that the amendments are not in order unless they are in pursuance of estimates from a Department or come from a committee. I hope the Chair will ask that question.

Mr. BIGLER. Let us vote on the amendment of the Senator from Indiana.

Mr. CLAY. To save time on these points of order, I ask whether the amendments are in order unless they come from some committee, or in pursuance of an estimate from a Department?

The PRESIDING OFFICER. That is a question of fact to be ascertained from the Senator who offers the amendment.

Mr. POLK. I do not propose it from a committee.

The PRESIDING OFFICER. If it is not authorized by a committee, or to carry out a resolution of the Senate, or in pursuance of an estimate from a Department, it is out of order, under the rule.

Mr. CLAY. Then let us have the question on the amendment of the committee.

Mr. BROWN. I understand that the amendment moved by the Senator from Indiana did come from the Committee on the Post Office and Post Roads.

The PRESIDING OFFICER. The Chair so understands.

Mr. BROWN. And the objection made to the amendment of the Senator from Missouri is, that it does not come from a committee. Well, sir, I have yet to learn, when an amendment is offered and is received, that nothing can be in order as an amendment to that amendment which does not come from a committee. That is a mode of legislation that I have never heard of before. If a committee can recommend the building of a post office at Hartford, Connecticut, then, according to this idea, I must go to a committee to get them to consent to an appropriation to build a post office in Mississippi, which amendment I intend to move at the first opportunity. There can be no such rule; and from such ruling I take an appeal to the Senate, if the chairman of the Committee on Finance insists upon making such a rule. We shall next be told that if a bill is before the Senate from a regular committee, then you cannot move an amendment to it unless you get the consent of a committee to do so.

Why, sir, such legislation is perfectly monstrous. After a while we shall be told that we

must take the rulings of committees; that the precise sum which they offer must be accepted; and that you can neither move to increase or diminish it upon the suggestion of a single Senator. You might as well give up the whole business of legislation to the Departments and committees, and rule out individual Senators entirely. The position of individual Senators will be utterly ignored and rendered worthless here, and all your legislation will be done in committee room, and not in the Senate. I protest against it; I protest that when a subject is before the Senate, I, as a single individual Senator, have the right to move any amendment I choose to the proposition standing for legislation before the body. Any other rule is in derogation of my rights as a member of this body. If a proposition comes from a committee to build a post office at Hartford or at any other point, I insist that I have the right to add to that proposition, as I mean to do, an amendment to build a post office at the city of Jackson, that being the seat of government in my own State.

Mr. CLAY. Monstrous as it may sound to the Senator, it is, nevertheless, the rule of this body which prevents such an amendment being made, as out of order; and if he never learned it before it is because he sat here with his ears stopped, or never read the rules. The 30th rule of the Senate provides:

"No amendment proposing additional appropriations shall be received to any general appropriation bill."

Mr. BROWN. Precisely.

Mr. CLAY. Will the Senator wait until I get through?

"unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or moved by direction of a standing or select committee of the Senate, or in pursuance of an estimate from the head of some of the Departments."

Now, sir, to say that because an amendment offered by a committee proposing an appropriation is made, and is in order, that any other amendment to that amendment, making appropriations for similar objects in other cities is in order, is certainly shirking the rule in a way that cannot be countenanced by the Senate. Upon that principle, all that is necessary in order to prevent any amendment being ruled out of order, is to get some amendment moved by a committee; and every individual member of this Senate, by the reasoning of the Senator, may move an appropriation for like objects in some other State. I will not argue so plain a proposition as this. I ask the Chair to decide the point of order.

The PRESIDING OFFICER. The Chair did decide the point of order.

Mr. BROWN. And I appealed.

The PRESIDING OFFICER. And the Senator from Mississippi appealed from the decision.

Mr. BROWN. The construction which the Senator from Alabama puts upon this rule, that you cannot move an appropriation except in pursuance of the precise language of the rule he reads, just amounts to this: that if the committee brings in a proposition to make an appropriation for a given sum, then I cannot move to increase the sum unless I can have the consent of a standing committee to do it. That is what it amounts to. I thought that no such construction was ever put upon the rule at all. But there is another rule that I have a right to move an amendment to any given proposition, provided it is germane to the subject. If this subject of this post office building was not before the Senate, then I should not insist that I had the right, on my individual responsibility, to bring in a new proposition; but the proposition being before the Senate, I simply insist that I can move any amendment which is germane to the subject before the body under a different rule. The rule read by the Senator is intended to apply to bringing in subjects entirely new. In reference to the subject brought in by the Senator from Indiana, it is a new one. I could not bring it in, nor could any other Senator, except from a committee; but the subject being here, I insist, under a different rule of the Senate, that I have a right to move any amendment I choose which is germane to that principal subject.

Mr. JOHNSON, of Arkansas. I wish to ask the gentleman who brings in the original amendment a question in regard to it. How did the subject come before the committee which now reports this amendment?

Mr. PUGH. The committee had charge of the whole subject.

Mr. JOHNSON, of Arkansas. Was there any resolution referring the subject of a post office in Connecticut to the Committee on the Post Office and Post Roads which gave it jurisdiction?

Mr. FITCH. There was no resolution from the Senate by which it came before the Post Office Committee.

Mr. JOHNSON, of Arkansas. Was there any in regard to any other case?

Mr. FITCH. I cannot speak positively as to how the subject of a post office in Connecticut came before the committee, but I believe at the request of the Representative from that district.

Mr. JOHNSON, of Arkansas. Then it seems that this subject was never referred to them, and the States that had no representatives on the Committee on the Post Office and Post Roads, not being aware of the action of the gentlemen upon the committee, have had no notice in this matter. In my own State I know that we are suffering for the want of such a building; but still the Treasury is depressed, and we were not disposed to press it. We did not think such a proposition would be received here. The Senator offers an amendment for the erection of such buildings, and he represents that those States which are not represented on the committee are not to bring in an amendment germane to the proposition, or to have any hope of relief at all. That is our situation. I do not believe they have jurisdiction of these matters in the first place, unless the Senate referred them to them properly, and that they could not originate propositions for appropriations unless the subject was referred to them. I think the whole amendment ought to be rejected.

Mr. POLK. There were resolutions of the Legislature of Missouri submitted to the Senate at the commencement of the session in favor of my proposition. It somehow happens, though, that a parcel of other places are recommended, and this one excluded. Now, sir, I think with the gentleman from Mississippi, that, when the subject-matter is offered by a standing committee, it is perfectly proper for another member to move to amend by inserting an amendment for building a post office in any other place where he may deem it proper such a building should be erected.

Mr. THOMSON, of New Jersey. At the last session of this body, an amendment was adopted providing for the erection of a building in the State of New Jersey at Trenton, the capital of the State, for a post office, a custom-house, and the courts of the United States. It was recommended by everybody in the State of New Jersey, by the judges of the supreme court, and by the circuit and district judge of the State of New Jersey. It passed; but an amendment was offered by my friend from Arkansas which rather complicated the matter, and it failed in the committee of conference, as I was informed by my distinguished friend from Virginia, the chairman of the Committee on Finance. I introduced a bill at the commencement of this session for the same purpose; and it was referred to the Committee on Commerce. That was the committee to which always heretofore applications for buildings for purposes of post offices, custom-houses, and offices for holding the courts of the United States had been referred. The application was referred by the committee to the Secretary of the Treasury; and the Secretary of the Treasury said, in his communication to the chairman of the Committee on Commerce, that Trenton was not a port of delivery, but a port of entry, with very little commerce. That is true enough; but we propose to change it, and it may be a very important place in the course of a short time. But he left entirely out of view the fact that it is the capital of the State of New Jersey; that the post office there is a very important one indeed; and that there is no place there in which the courts of the United States can hold their meetings; no place in which the records can be kept. A room is hired for that purpose from time to time, or the clerk of the court carries them backwards and forwards from one place to another, as he happens to travel from Patterson, where he lives, down to Trenton. An adverse report was made upon that application by the Committee on Commerce; and great injustice has been done to the State of New Jersey—very great injustice. I desire now to offer an amendment; and I hope Sen-

ators will accept it for the purpose of doing justice to that gallant little State:

And for the purchase of a site, and for the erection of a building for the courts of the United States, the post office, and collector's office in Trenton, New Jersey, \$50,000.

The PRESIDING OFFICER. The Chair will state that he must first dispose of the question of order which has been raised. The Senator from Mississippi takes an appeal from the decision of the Chair ruling out of order the amendment offered by the Senator from Missouri. The Senator from Missouri stating that it is not reported from any committee, or recommended by the Department, the Chair decides that, under the 30th rule, which is in these words—

"No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or moved by the direction of a standing or select committee of the Senate, or in pursuance of an estimate from the head of some of the Departments," &c., this amendment is not in order. The Senator from Mississippi appeals from that decision, and the question is: "Shall the decision of the Chair stand as the judgment of the Senate?"

Mr. IVERSON. I do not rise to make a speech; but I wish to put a case to the Senator from Mississippi, and ask him a question under this point of order. Suppose a committee reports an amendment to an appropriation bill for \$100,000. That is in order, because it comes from a committee. Suppose another Senator moves an amendment appropriating another \$100,000, and that is put on; and another Senator proposes another amendment of \$100,000, and so on until it is \$1,000,000. Is that the amendment of the committee? Is that the report of the committee? Is it the amendment of any committee? Certainly not. The report of the committee is for \$100,000, and the amendment is for \$1,000,000.

Mr. PUGH. As I want the benefit of all these precedents that gentlemen set, I demand the yeas and nays on that question. If gentlemen claim the right to add amendments to those of committees, I want the question fixed.

The yeas and nays were ordered.

Mr. JOHNSON, of Arkansas. Before the question is taken, I wish to put a question to the Chair; and that is, whether it is in my power to raise a question of order on the first proposition offered by the Senator from Indiana?

The PRESIDING OFFICER. The Chair thinks it will be, when this question is disposed of.

Mr. BROWN. I hope not, because the Chair has entertained the first proposition, and was about to put the question. Then an amendment was moved by the Senator from Missouri. The question was clearly in possession of the Senate without objection from the Chair or any member of the Senate; and I hold, after an amendment has been moved to it, and a question has been raised on the amendment to the amendment, and an appeal taken from that, we are not to go back to the original proposition. The question has been waived.

Mr. GREEN. The whole of this question grows out of the rule of the Senate No. 30. That rule does not permit any individual Senator to move an amendment unless he has an estimate from a Department, or is authorized by a committee to offer it. If it be an amendment to reduce an appropriation, or if it be to change a general law, he can; but if it be to increase the appropriation he cannot offer it. Here an amendment was offered by the Senator from Indiana, and came by authority of a committee. I raised no question of order, nor did anybody else. The rule says no amendment shall be moved to the bill without the authority of a committee, or of an estimate. The amendment offered by my colleague is not an amendment to the bill; it is an amendment to the amendment, and unless the Senate persist and push it on the bill, it will never go there. It is all a technical rule with no foundation in reason or common sense, cutting off the rights of individuals, and doing injustice to the public; and hence it ought to be strictly construed. Yes, sir, I think it ought to be stricken out; but while this rule stands, you, as administrator of the rules, must administer it, but administer it to the letter. The amendment proposed is not an amendment to the bill; it is an amendment to the amendment. The technical literal construction of the rule does

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not exclude it. I know it may be said if it be adopted it will go as an amendment to the bill; but that just depends upon the action of the Senate; and ought not the Senate to have the power to control this thing?

In the absence of all rule, every man would have the right to move anything he pleased; but we have rules; we choose to go by rules for the purpose of expediting business, and to protect rights; but when a rule is in derogation of individual rights, and in derogation of State rights, it ought to be construed in the most strict possible manner. Construe this rule in the most strict possible manner, and it will say, if you move the amendment to the bill, the rule says you shall not do it unless authorized by a committee, or you have estimates from the Department: if you move it to an amendment, the rule says nothing at all about it—not one word about it. You may say the reason of it applies. That is none of your business, sir. I say the whole rule is in derogation of my right. You say the reason of the rule applies in one case as well as in the other. I say the reason of the rule is none of your business, and when you undertake to legislate, you are doing what does not properly belong to you as Presiding Officer of this body. The rule itself simply says you shall not move it to the bill. Nobody has moved it to the bill. If the Senate orders it as an amendment to what a committee has proposed; the Senate has done it, and not the individual, and it will never be proposed to the Senate unless the Senate first indorses it as an amendment to the amendment; and the rule technically construed does not exclude it.

I think that if all these appropriations are to be considered, Jefferson City is entitled to as much consideration as other places, and the public business of the courts and the post office of Trenton, in the State of New Jersey, is entitled to as much consideration as others. All of them appeal to the Senate, not to an individual. If the Senate does not indorse, they fail; but your technical rule, wrong as it is, arbitrary as it is, does not, strictly construed, exclude this amendment. I plant myself upon that position, for the rule says you shall not move it to the bill. This is not moved to the bill; it is moved to the amendment.

Now, if the rule be technical; if the rule be in derogation of an inalienable right; if the rule be wrong in itself—how dare you say that the reason of the rule will apply as well in the one case as in the other? I say it is wrong. The rule does not say so; and if you assume the right to say that the reason of the rule applies as well in one case as in the other, you are assuming to yourself a right that does not belong to the Presiding Officer of this body. It is not the law. The technical law is a harsh law; and yet that technical law does not exclude the amendment. I insist upon the right of permitting the Senate to pass upon the question whether they will put in Jefferson City and Trenton, or whether they will permit Jefferson City and Trenton to be passed over, and injustice to be done to them.

Mr. PUGH. Let us hear that rule read again, as the Senator thinks it is not applicable to this case.

The Secretary read it, as follows:

"No amendment proposing additional appropriation shall be received to any appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or moved by direction of a standing or select committee of the Senate, or in pursuance of an estimate from the head of some of the Departments."

Mr. BROWN. I want to say, in a single word, that this is simply an attempt to perfect the amendment reported by the standing committee before it passes—that is the point. The amendment is here; this is a proposition to perfect it; and I insist that if the Senate refuses that right to individual Senators, then the whole right of legislation is at an end; and the position of individual Senators is utterly absorbed, blotted out, destroyed, by the action of your rules. Am I to be told that I can move to diminish an appropriation, and cannot move to increase it; that I can add

nothing to the proposition, under the rule, as construed by the Chair, because it interferes with the action of a standing committee; that we must take propositions precisely as they come from committees, or not take them at all? I have said before, I never insisted that I had a right, as an individual Senator, to move one of these appropriations; but since the proposition is here, I have the right to perfect it, by moving to amend it, and to amend it by any sort of proposition germane to the thing itself which I choose to move. The Senate may vote down my amendment; but to say that I have not the right to perfect the proposition by my own motion, before called upon to vote for it, is utterly to ignore my position as a Senator, and I say that cannot be done.

Mr. PUGH. As the Senator from Missouri and the Senator from Mississippi seem disposed to press the question, I am bound to say that I am amazed that any gentleman in this Senate Chamber should presume to think that there was a doubt about the rule. What is the object of the rule?

Mr. BROWN. What it says.

Mr. PUGH. Is it to invest the standing committees with any power? It is to require deliberation; it is to prevent this very thing. I do not say that Jefferson City is not a proper place for these buildings; but why is it sprung upon the Senate now? We have never heard anything about it. We have none of the safeguards that the Senate has sought to provide, and the object of the rule is, that those cases which have gone to a committee, and been examined and found proper, shall not be defeated by loading them down in the Senate with appropriations which nobody has considered. That is the whole of it.

The Senator talks about perfecting the amendment. He means defeating it. I acknowledge you can move to reduce the appropriation; nobody denies that. You can move to reduce it, but you cannot move to increase it. That is the safeguard against these amendments. The committee on Saturday reported an appropriation for a custom-house in one place; and can I, as an individual Senator, tack on every town in the United States? Why, sir, I would keep you here from the 1st day of January to the last day of December debating one appropriation bill under such a rule as that; but I do not care whether the Senate decide this amendment to be in order or out of order; I want a record of it. If the Senator claims a right individually to add amendments without the consideration of a committee, I want that right myself in the future. I am not opposed to these appropriations. They may be proper, but they have not been considered.

Mr. GREEN. When the Senator from Ohio says the object of the law means so and so, he admits that the letter of the rule does not accomplish it.

Mr. PUGH. I beg the Senator's pardon; the letter of the rule is as much against him, I think, as the reason.

Mr. GREEN. If the letter was, why appeal to the object? Now I have always thought when I have practiced before justices of the peace—and I have had a little practice there—that one good reason was always enough, and my old preceptor at law told me, when you have one good reason, stand upon that and take no other. He says the object of the law is to do thus and so. How does he know the object, except from the language? How dare he infer the object, except from the language? I have as much right to prescribe the object as he has, and every other man has, but yet he assumes to know the whole object of the law. I think I know the object, and I think that object is this: when the bill is pending, an arbitrary and harsh unfeeling rule has been instituted, which says no member shall propose an amendment unless that amendment has been authorized by a committee, or the estimates have been made by the head of a Department. That rule is in derogation of a constitutional right. I might stop here, and ask where is the power to take away my constitutional rights as one of the representatives of a

State? You can only answer it by saying each House shall regulate its own proceedings, and in the process of regulation it has adopted this rule. This rule is an arbitrary rule; it is a harsh rule; it is an unfair rule. It gives to old members, who have happened to have been here some six, eight, or ten years, time enough to become chairmen of committees, power superior to that which is possessed by young members, who must always go to the foot and "spell up;" while those young members may represent a State as much entitled to rights as any others. When your rule is thus harsh, thus unconstitutional, thus in derogation of rights, if I can by any fair process avoid it, I will do it. Does the rule say that I shall not propose an amendment to an amendment? I pause for a reply. I ask the Senator from Ohio, does it say it?

Mr. PUGH. Practically, it does.

Mr. GREEN. Practically! What does it say? *Quien sabe?*

Mr. PUGH. I had it read once for the Senator's information.

Mr. GREEN. You have it read, but you do not say it. I am insisting upon my original rights; and when I say no rule of the Senate does, *ex vi termini*, take away these original rights, as it would be a harsh construction of the rule, I intend to stand by them; and when he appeals to the object and spirit of the rule, it is an admission that the words of the rule do not exclude it. This is my position, and I intend to stand by it. It is harsh, it is unfair, it is in derogation of ordinary constitutional rights; and it can subserve no public benefit. Do you suppose, Mr. President, that any proposition will be made here and deceive the Senate if you cannot deceive a committee—mislead the Senate, if you could not mislead the committee—bamboozle the Senate, if you could not bamboozle a committee? I have no fear of it. I believe that there is as much virtue in the Senate, and a little more so, because the members are increased, than there is in a committee. I believe there is as much intelligence, and I think a little more, in the Senate, than in any committee.

Mr. JOHNSON, of Arkansas. Question, question!

Mr. GREEN. I hear a Senator say "question." That is just what I am on. I am on the question, and I intend to discuss the question, and I think I am discussing the question. If the Senator thinks I am not, he can call me to order. But for him, illegally and in violation of the proprieties of the Senate, to call "question," when I am discussing the question, is what I do not intend to submit to. When no man is addressing you, Mr. President, and there is an anxiety upon the part of the Senate to have a vote, I am pleased to hear Senators call "question;" but when there is an implied dissatisfaction, when a man is on the floor, and talking pertinently to the question, to say "question," is unpleasant. I do feel hurt, and I do not intend to take it tamely.

Mr. CLAY. The Senator need not be addressing himself to me. I did not call "question."

But, sir—

Mr. GREEN. Then I do not know who did it. Mr. CLAY. But, Mr. President, I do not think the Senator need exhibit so much feeling that we should be impatient at this hour of the evening.

Mr. GREEN. I think not either.

Mr. CLAY. The Senator has addressed himself to me.

Mr. GREEN. I did, because I believed you to say "question."

Mr. CLAY. I did not.

Mr. JOHNSON, of Arkansas. Mr. President, I said it.

Mr. GREEN. The Senator from Arkansas said it.

Mr. JOHNSON, of Arkansas. But I do not know of any particular—

Mr. GREEN. Take your seat, sir. I have the floor.

Mr. JOHNSON, of Arkansas. Very well, sir: I yield to you.

The PRESIDING OFFICER. The Chair calls

the Senators to order. The Senator from Missouri has the floor.

Mr. GREEN. I have the floor, and I intend to keep it.

The PRESIDING OFFICER. The Chair will suggest to Senators that the rule requires every Senator to address the Chair.

Mr. GREEN. I am addressing the Chair; and I thought I was talking pertinently to the question, showing why this amendment was in order, and why the arguments addressed against it were not sufficient to defeat the point that I had made.

Mr. HUNTER. Will the Senator give way to me for a moment, and I will move to adjourn?

Mr. GREEN. If it is a motion to adjourn, I will.

Mr. HUNTER. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Monday, May 31, 1858.

The House met at eleven o'clock, a. m. Prayer by Rev. J. G. BUTLER.

Mr. CLEMENS. Mr. Speaker, is there a quorum present?

The SPEAKER. There are one hundred and twenty members present.

The Journal of Saturday was read and approved. Pending the reading of the Journal,

Mr. DAVIS, of Indiana, said: Mr. Speaker, I understand that there are sixty pages of Journal, and with a view of economizing time, and as nobody seems to be listening, I move that the further reading be dispensed with.

Mr. JONES, of Tennessee. We had better have it all read.

The Clerk proceeded with the reading of the Journal.

Mr. WASHBURN, of Illinois. Mr. Speaker, it will take an hour and a half to read that Journal, and I move that its further reading be dispensed with.

The SPEAKER. It can only be done by unanimous consent.

Mr. JONES, of Tennessee. I say that it had better be read.

Mr. WASHBURN, of Illinois. I move to suspend the rules for the purpose I have indicated.

The SPEAKER. The Chair cannot entertain the motion.

The reading of the Journal was concluded, and the Journal approved.

CORRECTION OF AN ERROR.

A message was received from the Senate, by Mr. DICKINS, their Secretary, informing the House that the Senate had passed a joint resolution (No. 47) to correct an error in a certain act approved May 11, 1858, in which he was directed to ask the concurrence of the House.

Mr. WALBRIDGE. This resolution is to correct a clerical error in an act which passed this House some two weeks since, prescribing the boundaries of certain land districts in the State of Michigan. It is recommended by the officers of the General Land Office, and I hope it will be passed without objection.

There being no objection, the resolution was taken up, received its several readings, and was passed.

DELEGATE FROM DACOTAH.

Mr. GILMER, in accordance with the permission of the House of Saturday last, submitted the views of the minority of the Committee of Elections in the case of Mr. Kingsbury.

ARTISTS' COMMISSION.

The SPEAKER. The business first in order, is the motion made by the gentleman from Kentucky [Mr. MARSHALL] to suspend the rules so as to enable him to present a memorial of the artists of the United States, and offer the following resolution:

Resolved, That the memorial of the artists of the United States be, and the same is hereby, referred to a select committee of five, to be appointed by the Speaker, with instructions to report upon the expediency of granting the petition of the memorialists, and with power to report by bill or otherwise.

Mr. McQUEEN. I would like to know what is the object of that memorial?

Mr. MORGAN. I ask for the reading of the memorial.

The Clerk read the memorial, as follows:

To the Senate and House of Representatives of the United States:

The memorial of the artists of the United States, in convention assembled, respectfully represents:

That your memorialists appear before your honorable bodies to solicit for American art that consideration and encouragement to which they conceive it to be entitled at the hands of the General Government.

They cannot but deem it a matter of deep regret that so important an element of national progress should have received, as yet, so limited a share of attention at the hands of our legislators, and that opportunities for the illustration of our country's history, rich as it is in material for the pencil and the chisel, should have been, with a few exceptions, denied to those whose province it is, and whose pride it would be, to embody in enduring and beautiful forms, for the benefit of our own and future generations, all that is glorious and ennobling in our history, character, and life, as a people.

Your memorialists submit that the time is now at hand when we may assume a position in the world of art as enviable and exalted as that which we have attained in our social and political relations; that the capacity of our artists to accomplish this glorious end is abundant; and that the appropriate field for its development and exercise is in the adornment and completion of the noble structures now being reared by the nation for the nation's use.

A liberal, systematic, and enlightened encouragement is, they believe, all that is needed for the establishment of a national art that shall worthily illustrate the genius of our institutions; and they cherish the earnest hope that the golden opportunity now afforded in the erection of spacious and costly Government buildings will not be neglected; but that, by the wisdom of the means adopted by your honorable bodies, an impulse may be given to the cause of American art, the beneficent and ennobling influences of which shall extend to our remotest posterity.

Your memorialists respectfully urge that the great end proposed—namely, the advancement of art in the United States—may be most surely and completely attained by the establishment of an art commission, composed of those designated by the united voice of American artists, as competent to the office, who shall be accepted as the exponents of the authority and influence of American art; who shall be the channels for the distribution of all appropriations to be made by Congress for art purposes; and who shall secure to artists an intelligent and unbiased adjudication upon the designs they may present for the embellishment of the national buildings.

Your memorialists believe that the appointment of such a commission would be hailed throughout the country as an evidence of a just and generous appreciation by your honorable bodies of the claims and interests of art, and would secure for it a future commensurate with the exalted character of the history and the times which it is its purpose to commemorate.

Mr. MARSHALL, of Kentucky. I will say to the House, that it cannot err in subjecting that memorial to the consideration of a committee.

Mr. McQUEEN. My only objection is that it provides for another select committee, and it seems to me that we have had enough of them during this session. I will withdraw my objection if the memorial be referred to the Committee on the Library.

The House divided; and there were—ayes 108, noes 38.

Mr. SMITH, of Virginia, demanded the yeas and nays.

The yeas and nays were not ordered.

So (two thirds voting in favor thereof) the rules were suspended, and the resolution was received.

Mr. MARSHALL, of Kentucky, moved the previous question on the passage of the resolution.

Mr. JONES, of Tennessee. As we cannot get the yeas and nays, I move to lay the resolution on the table.

The motion was not agreed to.

Mr. MORGAN. Is it in order to move to refer the resolution to the Committee on the Library?

The SPEAKER. It is not, pending the demand for the previous question.

The previous question was seconded, and the main question ordered; and under its operation the resolution was adopted.

Mr. MARSHALL, of Kentucky, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

DIFFICULTIES WITH PARAGUAY.

Mr. RITCHIE. I ask the unanimous consent of the House to report from the Committee on Foreign Affairs, a joint resolution of the Senate (No. 23) entitled "A resolution for the adjustment of the difficulties with the Republic of Paraguay." I desire to say to the House that it is of great importance that this resolution should be disposed of one way or the other. It passed the Senate, and has the unanimous recommendation of the Committee on Foreign Affairs in the House. If the resolution be taken up, I think I

can explain the grounds of it fully in ten minutes; as fully, at least, as there is any necessity for, unless gentlemen wish to examine the whole subject.

There being no objection, the joint resolution was taken from the Speaker's table and read.

It authorizes the President of the United States to adopt such measures and use such force as, in his judgment, may be necessary and advisable in the event of a refusal on the part of the Republic of Paraguay to settle justly the differences between the United States and that Republic in connection with the attack on the United States steamer *Water Witch*, and with other matters referred to in the annual message of the President.

Mr. LETCHER. Mr. Speaker—

Mr. RITCHIE. I desire to make a short explanation in which I think I shall answer the inquiry which the gentleman from Virginia [Mr. LETCHER] is about to make.

Several MEMBERS. Let it go.

Mr. RITCHIE. Is it the desire of the House that I should make any explanation?

Several MEMBERS. No, no!

Mr. RITCHIE. Then I move to put the resolution on its passage. If the gentleman from Virginia wishes to make an inquiry, I will give him an opportunity.

Mr. LETCHER. I desire to amend the resolution by striking out the words, "and use such force."

Mr. RITCHIE. I desire to say, with respect to that, that if those words be stricken out, the resolution will be of no manner of use. These people of Paraguay have but recently come into the family of nations. Very lately, on a mere exhibition of force at the mouth of the river, they settled their differences with France and Brazil, neither of which nations received half the provocation that we have done. If a commissioner be sent there without a force to back him, we might as well let the matter pass.

The origin of the difficulty is this: the United States steamer *Water Witch*, while engaged in the survey of the Parana—the main branch of the river La Plata—between the province of Corrientes, in the Argentine Republic, and the Republic of Paraguay, not only with the permission, but at the earnest request of the President of the Argentine Republic, and of the Governor of Corrientes, (the Argentine Republic having joint jurisdiction with Paraguay over that river,) was fired upon by a Paraguayan fort ten times; the man at the wheel was shot dead; and the fort continued to fire on the vessel till it had drifted out of range.

I desire to say further, to the gentleman from Virginia, that that act on the part of the Republic of Paraguay was so totally unexpected, that Captain Page, commander of the *Water Witch*, was not even on board of his vessel at the time, and every other officer, with the exception of the engineer of the *Water Witch* and Lieutenant Jeffers, were absent on service in the other parts of the river. It was an attack totally without provocation and totally unexpected. There have been also some difficulties between the President of Paraguay and a manufacturing company which had gone out there from the United States under the laws of Paraguay.

All these things I can explain, if the House choose to allow me to do so; but it strikes me that unless the resolution pass now, it would be better to drop the whole subject altogether. The resolution has the unanimous recommendation of the Committee on Foreign Affairs; and unless further debate be desired, I move the previous question.

Mr. CRAWFORD. I desire the gentleman to withdraw the previous question to allow me to offer an amendment.

Mr. RITCHIE. I will hear it read.

Mr. CRAWFORD. I desire to amend by adding the following section:

Be it further resolved, That the President of the United States be, and he is hereby, authorized to use such force as may in his judgment be necessary and advisable to protect American commerce and prevent the search of American vessels by British cruisers in the waters of the Gulf of Mexico.

Great Britain ought to be put upon the same footing precisely as Paraguay.

Mr. RITCHIE. I decline to accept the amendment, and insist upon the call for the previous question.

Mr. CRAWFORD. The gentleman yielded the floor to me to allow me to introduce my amendment.

Mr. RITCHIE. I desire to say to the gentleman from Georgia that the subject of this resolution has no connection at all with the difficulties with Great Britain. The attack on the Water Witch occurred in February, 1855—three years ago last February. I am opposed to the amendment, as I think the difficulties it refers to can be easily settled by negotiation.

Mr. CRAWFORD. All that I desire is to get a vote upon it.

Mr. LETCHER. I desire to say a word, if the gentleman will withdraw the previous question.

Mr. RITCHIE withdrew it.

Mr. LETCHER. My objection to the resolution is this: The Constitution of the United States vests in Congress the power to declare war, and yet, by this resolution, we propose to vest the President with discretionary power in the matter. It is, practically, a transfer from Congress to him of the authority to declare war against Paraguay. It seems to me in view of this resolution and of the amendment suggested by the gentleman from Georgia, that we are transferring the whole war-making power of the Government into the hands of the Executive, who is to use it according to his discretion. Now, if there is a necessity for war with either of these Powers, I am for the Congress of the United States taking the responsibility which belongs to it—to declare that war and to furnish the Executive with men and money to prosecute it to a successful conclusion. I know that wrong has been done in both of these cases; but, as I said, I am for Congress taking the responsibility which the Constitution devolves upon it, and not transfer it to any other on whom the Constitution does not devolve it. The Constitution defines our powers and points out our duty.

Mr. RITCHIE. In reply to the gentleman from Virginia, I say that this resolution does take the responsibility which Congress ought to take; and whatever the President does under this resolution, is done by the authority of Congress. But it is believed by every man acquainted with this affair, that the mere exhibition of a few small vessels at the mouth of the river will settle the whole difficulty, and that there will be no necessity for the actual use of the force. We do not want to drive the President into a war, whether or no. We merely authorize him to use force in case he cannot help it; and whenever he does use it, the force will be used by our authority. This resolution takes the whole responsibility. That was the understanding of the Committee on Foreign Affairs, and that is the plain meaning of the resolution.

Mr. LETCHER. The gentleman does not exactly understand my point.

Mr. RITCHIE. Yes, I do; the gentleman says that we give authority to the President to use force. So we do, and we take the responsibility of all the force which may be necessary. The President has nothing to do except in fulfillment of our resolution.

Mr. LETCHER. My point in regard to it is this: that it is for Congress to judge of the necessity of declaring war, and that it ought not to be dependent upon the discretion of anybody. We ought to act for ourselves.

Mr. RITCHIE. My reply is that the resolution does recognize the necessity of using force in this case. But this is a very distant region of the world. It is the case of a half barbarous people just entering into the family of nations. But a few years since they had no communication whatever with any nation. And the object of this resolution is to bring that country under the laws of nations, as recognized by everybody. I now move the previous question, and will not withdraw it.

Mr. CRAWFORD. I desire to ask the gentleman a question.

Mr. RITCHIE. No, sir; I insist on the previous question.

Mr. CRAWFORD. I desire to know what is the difference between firing into the Water Witch and firing into twenty-seven other vessels?

The SPEAKER. The gentleman from Georgia is not in order.

Mr. CRAWFORD. I am aware of that. I shall move a suspension of the rules in order that I may

offer my amendment in the shape of a separate resolution.

The SPEAKER. Debate is not in order. The previous question was seconded, and the main question ordered.

The joint resolution was ordered to a third reading, and was accordingly read the third time.

Mr. RITCHIE moved to reconsider the vote by which the joint resolution was ordered to a third reading, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. RITCHIE. I move the previous question upon the passage of the joint resolution.

The previous question was seconded, and the main question ordered.

Mr. DAVIS, of Mississippi. Does the resolution provide any men and money to carry on the war with Paraguay?

The SPEAKER. Debate is not in order.

Mr. STANTON. I demand the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 115, nays 7; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Billingshurst, Bishop, Bocock, Bowie, Boyce, Branch, Bratton, Burlingame, Burnett, Burns, Burroughs, Caskie, Cavanaugh, John B. Clark, Clay, Clemens, Clark B. Cochran, John Cochran, Cockrell, Cox, Crawford, Curry, Davidson, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dick, Dimmick, Dowdell, Durfee, Edie, Edmundson, Elliott, English, Eustis, Faulkner, Florence, Foley, Gartrell, Gills, Gilman, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hill, Hopkins, Horton, Hughes, Huyler, Jackson, Jewett, J. Glancy Jones, Owen Jones, Keely, Kelsey, Landy, Leidy, Lovejoy, MacIay, McKibbin, Humphrey Marshall, Samuel B. Marshall, Mason, Maynard, Miller, Morrill, Isaac N. Morris, Niblack, Parker, Peyton, William W. Phelps, Phillips, Poole, Powell, Ready, Reagan, Reilly, Ricard, Ritchie, Robbins, Roberts, Royce, Ruffin, Sandidge, Savage, Seales, Scott, Searing, Henry M. Shaw, Shorter, Sickles, Singleton, Robert Smith, William Smith, Stephens, James A. Stewart, Talbot, George Taylor, Tompkins, Vandandigham, Elihu B. Washburne, White, Winslow, Wood, Wortendyke, and Zollcofer—115.

NAYS—Messrs. Abbott, Andrews, Bennett, Bingham, Blair, Bliss, Bryan, Buffinton, Cuse, Ezra Clark, Clawson, Colfax, Comins, Covode, Cragin, Curtis, Davis of Maryland, Davis of Mississippi, Dawes, Dean, Dodd, Fenton, Foster, Garnett, Gooch, Goode, Goodwin, Granger, Grow, Harlan, Hawkins, Hoard, Houston, Howard, George W. Jones, Kellogg, Kilgore, Knapp, Lawrence, Leiter, Leitcher, McQueen, Matteson, Millson, Moore, Morgan, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mont, Murray, Nichols, Palmer, Pettit, John S. Phelps, Pike, Potter, Purviance, Quitman, Aaron Shaw, John Sherman, Spinner, Stallworth, Stanton, William Stewart, Tappan, Thayer, Thompson, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Israel Washburn, and Augustus R. Wright—79.

So the joint resolution was passed.

During the call of the roll,

Mr. ATKINS stated that Mr. WATKINS was detained at his room by indisposition.

Mr. JENKINS, who was not within the bar when his name was called, asked leave to vote, but objection was made.

Mr. RITCHIE moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. J. GLANCY JONES. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HOUSTON. I would ask the chairman of the Committee of Ways and Means to allow me to move that the bills upon the Speaker's table be taken up and referred to the respective committees without debate.

Mr. J. GLANCY JONES. I have no objection to that.

Mr. SEWARD. I object to any such limitation on the disposal of the bills.

Mr. BARKSDALE. I desire to appeal to the gentleman from Pennsylvania to withdraw his motion to give the gentleman from Georgia [Mr. CRAWFORD] an opportunity to offer his resolution.

Mr. CRAWFORD. I merely want to put Great Britain on the same footing with Paraguay.

Mr. J. GLANCY JONES. I must decline to do so.

Mr. BARKSDALE. I ask the yeas and nays on the motion to go into the Committee of the Whole on the state of the Union.

The yeas and nays were not ordered.

The motion was agreed to—ayes one hundred and thirty-eight, noes not counted.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, Mr. Bocock in the chair.

SUPPLEMENTAL APPROPRIATION BILL.

The CHAIRMAN stated the business first in order to be the consideration of the bill of the House (No. 557) making supplemental appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1859.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. J. GLANCY JONES. This bill is for supplemental expenses of the Indian department on the Pacific coast, for the next fiscal year. It will be remembered that at an early period of the session the regular Indian appropriation bill was passed. The estimates in accordance with law were made up to the commencement of the session of Congress; but, in consequence of the reports not being received from the Pacific coast in time, the estimates for the Indian service on that coast were not included in that bill. This bill and House bill No. 555 might almost be considered in one bill. But in consequence of the appropriations contained in that bill being to supply deficiencies in the appropriations for the service of the department, the Committee of Ways and Means have therefore separated those two bills. This bill appropriates between six and seven hundred thousand dollars; and is, properly speaking, an appendix to the regular Indian appropriation bill. All the items of appropriation reported by the Committee of Ways and Means in this bill are in accordance with the requirements of treaty stipulations and the expenses necessary for carrying on the Indian department; and the bill cannot therefore be properly amended. I move that the bill be read through by clauses, for amendment.

Mr. SEWARD. I should like to ask the chairman of the Committee of Ways and Means why, if the appropriations provided for in this bill are in accordance with treaty stipulations, there should have been any necessity for deficiencies?

Mr. J. GLANCY JONES. The inquiry of the gentleman from Georgia, I presume, is intended to apply to bill No. 555, which is a deficiency bill.

Mr. SEWARD. I thought this was the bill.

The Clerk commenced reading the bill by clauses, for amendment.

Mr. STEVENS, of Washington. I desire to amend, by inserting at the end of line seventy-four the following:

For the expenses of bringing to this and other cities of the States a delegation of Indian chiefs from the Territories of Oregon and Washington, \$30,000.

Mr. J. GLANCY JONES. Is that provided for by treaty stipulations?

Mr. STEVENS, of Washington. It is contained in the estimates of the Department, and I think should be included in the bill.

Mr. J. GLANCY JONES. As it is not provided for by treaty stipulations, I submit that it is not in order.

The CHAIRMAN. The Chair will be compelled to decide the amendment out of order.

Mr. OTERO. I move to amend by striking out "\$75,000" in the following paragraph, and inserting "\$150,000":

"For the general incidental expenses of the Indian service in New Mexico, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes and sustain themselves by the pursuit of civilized life, to be expended under the direction of the Secretary of the Interior, \$75,000."

Mr. Chairman, I have offered this amendment for the purpose of asking the chairman of the Committee of Ways and Means why it is that the estimates of the superintendent of Indian affairs in New Mexico have been reduced one half, in the face of the fact that the superintendent had, to my own knowledge, reduced his estimate to the lowest possible point before he handed them in, in consideration of the bankrupt condition of the Treasury? It is a fact, sir, susceptible of no contradiction, that many of the Indian tribes in the Territory are actually compelled to steal or to starve to death, in consequence of the pitiful allowance made by the Government for their subsistence. They have been, during the past winter, stealing and robbing the citizens of the Territory

of their property for the purpose of keeping themselves alive; and I say now, sir, that the whole of the \$150,000 estimated for by the superintendent will be needed to purchase their peace.

Permit me to read here extracts from letters and other sources, that I have in my possession, in order to show the condition of our Indian relations in that Territory, that gentlemen and the committee may know the necessity of this appropriation, as asked for by the superintendent.

In a letter which I received from S. M. Yost, Esq., present Indian agent of the Pueblos in the Territory, dated February 14, 1858, he says:

"I have sent John Ward off to-day to the Navajo country to examine into an alleged murder of some Mexicans by the Navajoes; and the stealing of sheep, &c. Colonel Harley's resignation, I fear, will have a bad effect on the Indians. He was forced, however, to leave; he had no money to meet the demands of his agency, and the Indians were constantly pressing upon him for food."

Further on, in the same letter, he says:

"I very much fear we will have trouble with the Indians this coming spring. There is much restlessness among them, and an evident disposition to be quarrelsome. General Garland, however, is on the *qui vive*, and will arrest any incipient symptoms. I expect he will have to make a campaign against the Navajoes this spring or summer."

I will read, also, an extract from the *Santa Fé Gazette*, dated February 20, 1858, which is as follows:

"This tribe of Indians [speaking of the Navajoes] have suffered much during the winter for want of provisions. Last year their crops were a failure. Heretofore they have generally raised enough produce to support themselves comfortably; and consequently it has not been the policy of the Government to feed them to such an extent as other tribes of this superintendency. They will have to be fed, or their suffering will be great. It is thought that a special agent will have to be sent among them, in the absence of a regular agent. This policy, it is believed, will have to be adopted immediately, in order to prevent depredations. They must either be fed, or they will have to steal or to starve."

I have here also a letter from Don José L. Perea, a leading and influential citizen in the Territory, and upon whose statement can be placed implicit reliance. I will read:

BERNALILLO, March 30, 1858.

SIR: By the mail which arrived here on the 10th instant, I received your favor, dated January 17th.

The Navajo Indians, during the last month, have been committing depredations upon the citizens in various parts of our frontier, by stealing their property, and by killing some of them. The latest information which we have received is, that the Navajoes have attacked, near the Pueblo of Jemez, a herd of live stock, and have driven off a number of the horses, mares, and mules belonging to said Pueblo. In Abiquiu a few days since, the same Indians stole two thousand head of ewes; and the rumor is now afloat that the Navajoes have declared war. If such be the case, sir, what can we, the citizens of this Territory, do with regard to this matter? Nothing, absolutely nothing! The Federal troops, some at least, have been sent for service to Utah, to attend to the Mormons, who it is believed have had something to do with the disturbance on the part of the Navajo Indians. The other tribes of Indians which surround us threaten us daily also, and it is impossible to say what will befall our interests during the coming six months.

HON. M. A. OTERO.

I might read many more extracts, sir, from different other sources of respectability, which I have in my possession, but which I do not desire to occupy the time of the committee in reading, as what has been read ought, and I trust will, satisfy the committee with regard to the action it ought to take upon this matter. I think that the appropriation asked for by the superintendent should be granted.

I am not advocating, sir, here the necessity of this appropriation of \$150,000, for the reason, as some gentlemen might suppose, that it is to be expended in the Territory of New Mexico, and because my fellow-citizens expect to derive any benefit from it. No, sir, far from that. The whole appropriation cannot enrich the people of New Mexico, nor any portion, nor any one of them. It is well known, sir, that the Government has adopted the policy of feeding the Indian tribes living within its territorial limits. In New Mexico we have some thirty-two thousand Indians, for whom it is asked to be appropriated the pittance of \$150,000, being a fraction less than five dollars a year per head, about forty cents per month for each Indian, one cent and one third per day for every Indian. So far as I am concerned, sir, and I am authorized to speak for the people of New Mexico, it is our wish that the Government had never inaugurated such a policy. I wish you had coerced them, as you ought to do, to settle in military reservations, and there compel them to work for their bread, and gain their livelihood "by the sweat of the brow," as every

creature of Heaven is bound to do; and you ought not, sir, to ignominiously purchase their peace; and, by feeding them, put a price upon indolence. I confess I have no sickly sympathy for a thief of any kind, and of any race, much less for a set of men who are called Indians, but who are not only thieves but murderers. Why they should be treated with consideration, and even go so far as to allow them a price, as it were, for the property and blood of our citizens, I cannot comprehend, nor can anybody who has any sense at all, and who understands and appreciates the character of our present roving tribes of Indians. But I will not argue this point now.

Mr. Chairman, there are now about thirty-two thousand Indians under the superintendency of New Mexico, within ten thousand of the whole number comprehended under the superintendency of Oregon and Washington Territories. The appropriation which I ask for is, indeed, insignificant and almost useless, specially so when it is reduced to one half, which allows for every Indian a little less than two dollars and fifty cents a year, about twenty cents per month, and not one cent per day. I have here, sir, the letter of the Secretary of the Treasury, of March 24, 1858, transmitting "a communication from the Secretary of the Interior, with supplemental estimates of funds required for the Indian service upon the Pacific coast, and in remote Territories upon either side of the Rocky Mountains, for the next fiscal year; also, estimates for deficiencies for the same service for the year ending June 30, 1858, together with such transcripts of correspondence between the Indian office and its agents, as it is thought may be serviceable in explanation of the same. I find in it, sir, the following estimates:

"For general incidental expenses of the Indian service in the Territory of Oregon, &c., \$59,700.

"For adjusting difficulties and preventing outbreaks among the Indians in the Territory of Oregon, \$12,500.

"For defraying incidental expenses of removal and subsistence of Indians in Oregon Territory to Indian reservations therein, &c., \$222,000."

Total amount asked to be appropriated for Oregon, \$294,200, which, when reduced one half, is almost as much as the whole appropriation required for New Mexico, without reduction.

Washington Territory is put down as follows:

"For general incidental expenses of the Indian service in the Territory of Washington, &c., \$36,000.

"For adjusting difficulties and preventing outbreaks among the Indians in Washington Territory, \$12,500.

"For defraying the expenses of the removal and subsistence of the Indians in Washington Territory to the reservations therein, &c., \$123,000."

Total, \$171,500, being \$21,500 more than the entire appropriation asked for New Mexico. I admit that this estimate, also, has been reduced by the Committee of Ways and Means one half; but even then, it exceeds the reduced estimate for New Mexico, \$10,750.

I do not desire, sir, to make any invidious comparison between these Territories and the one I have the honor to represent upon this floor. But justice to my Territory and to myself, requires me to state something more here, in order that you may see and judge whether the reduction made in the case of New Mexico is right and proper under all the circumstances.

What, sir, is the number of Indians under each superintendency in these Territories? From a letter that I have received from the Secretary of the Interior, the number of Indians now under the superintendency of Oregon and Washington Territories, is estimated at forty-two thousand; that of New Mexico at thirty-two thousand. Divide forty-two thousand among the two Territories; and give, for the sake of argument, Oregon thirty thousand and Washington twelve thousand, which probably may be a fair proportion, and I ask impartial and fair-minded gentlemen here, whether the proportion of appropriation between New Mexico and those Territories, even after the reduction made by the committee, is equal? If Oregon has thirty thousand Indians—which, for the sake of argument, I have allowed—why, I ask, give her for her Indian purposes, even as reduced by the committee, \$147,100? being, as I have said already, almost as much as the entire estimate asked to be appropriated by the superintendent of New Mexico for Indian purposes in that Territory.

But this is not all. Washington I allowed twelve thousand Indians, and she, according to the amount allowed by the committee, gets \$35,750,

\$10,750 more than New Mexico, which has thirty-two thousand Indians. Now, sir, I ask, is it right, is it fair? I ask for nothing more than justice, and that justice which ought always to be meted out to equals. You have established a policy towards your Indian tribes: carry it out. I repeat, sir, I do not ask for this money because it is to be expended in New Mexico, and thereby to put money in the purses of any of my constituents. No, sir. They, as well as I, scorn it. All that we ask, since you will not whip the Indians into submission, and make them work for their bread, is to carry out your policy of feeding them, and do not come here now with the disgraceful excuse that you reduce the appropriations asked for because there is no money in the Treasury; for it is unworthy of this great and mighty Government, to say the least. What! will you let the powerful nations of Europe—your rivals—and the whole world know that you are bankrupt, and thereby unable, for want of means, to carry out any policy that you may have inaugurated? If it is so, I can only express my regret to know that fact; and that it is so, the daily cry of the gentlemen from the Committee of Ways and Means against all sorts of appropriations outside of the regular ones, proves it. But, for the honor of the Government, I hope it is not so. I ask this appropriation, sir, in good faith, and I hope the committee will grant it. It is but a matter of justice and of humanity to the starving Indians in New Mexico. With these remarks, sir, I ask for a vote upon my amendment.

Mr. J. GLANCY JONES. Mr. Chairman, the appropriation, as estimated for, was as the gentleman from New Mexico [Mr. Otero] has stated. The whole of this appropriation has arisen from a new policy adopted by the Government in its intercourse with the various Indian tribes. The old system was to treat with the Indians, and then act in accordance with the treaty stipulations entered into with them. The new system in the main is good and benevolent. The Indians are collected together prior to the making of treaties with them. They are taught to cultivate the soil and follow in the steps of civilized life. There they are treated with all kindness and humanity. The policy is, I think, for the benefit both of the Indians and the white settler. They are permitted to remain there until Congress is ready to negotiate treaties with them. There can be, of course, no limits prescribed in appropriation bills, except in so far as the exigencies of the case may demand. I have no doubt that the policy is a good one, if carried out, and that it would be still better if all the Indians in our States and Territories could by this sort of humane treatment, be brought to settle upon fixed reservations and placed under the control of the Government. This policy has only recently been inaugurated. In the case of New Mexico, the sum estimated for was a large one, and in view of the straitened resources of the Treasury, it was the opinion of the Committee of Ways and Means that \$75,000 would answer for the next fiscal year. I have no doubt that it is equal to the demand. There is no basis for the appropriation at all, other than this policy which has been established, and which has frequently been indorsed by Congress. I consulted with the acting Commissioner of Indian Affairs, and he admitted that they could get along, with prudent management, with the sum appropriated in the bill, during the next fiscal year.

The question was taken on the amendment, and it was disagreed to.

Mr. BRYAN. I offer the following amendment, to come in after line ninety-six:

And the Secretary of the Interior is hereby authorized to accept and survey the Indian reservation designated by the act of the Legislature of the State of Texas, approved February 4, 1856, and to appoint an Indian agent for said reservation.

Mr. Chairman, I will state in reference to the amendment which I have offered, that the State of Texas designated five leagues of land, to be located on the west of the Pecos river. There has been an appropriation made already for the Indians of Texas; and this asks no additional appropriation, but merely authorizes the Secretary of the Interior to accept that reservation, and to appoint an agent for the purpose of collecting the Indians upon it. It asks not a cent of money, but merely authorizes the Secretary of the Interior to execute the act of Texas.

Mr. J. GLANCY JONES. For reasons already stated, I am opposed to the amendment, and ask for a vote.

The amendment was agreed to.

Mr. SMITH, of Virginia. Is general debate in order?

The CHAIRMAN. Debate has not been closed on this bill.

Mr. SMITH, of Virginia. I desire to occupy the attention of the committee for a short time. I acknowledge it is with very great regret that I feel myself constrained at this period of the session to throw myself upon the indulgence of the committee; but I shall be pardoned, I am quite sure—

Mr. J. GLANCY JONES. I hope my friend from Virginia will defer his remarks until we have gone through with this bill. I will take up another bill immediately, and he can submit his remarks on that bill.

Mr. SMITH, of Virginia. I will yield with that understanding.

Mr. J. GLANCY JONES. I offer the following amendment:

Shawnees.

For the fifth of seven annual installments in payment for lands, per third article of the treaty 10th May, 1854, \$99,000, the same having been omitted in the enrolling of the act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1859, approved May 5, 1858.

Mr. Chairman, the regular Indian appropriation bill appropriated \$100,000, as per the treaty provision referred to; but in the enrollment of the bill there was an omission, so as to leave the amount only \$1,000. This amendment is to supply that omission. In the letter of the Secretary of the Interior is the following paragraph:

"I also have the honor to invite attention to what is presumed to be a clerical error in the act recently passed making appropriation for the expenses of the Indian service, by which the sum of \$1,000 only is appropriated for paying the fifth of seven annual installments of money in payment of lands to the Shawnees, per third article of the treaty of 10th May, 1854, instead of \$100,000, as required by the treaty."

The amendment was agreed to.

The bill having been read through,

Mr. J. GLANCY JONES moved to lay aside the bill, to be reported to the House with the amendments, and with a recommendation that it do pass.

The motion was agreed to.

DEFICIENCIES IN INDIAN DEPARTMENT.

Mr. J. GLANCY JONES. I now ask that bill No. 555, to supply deficiencies in the appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1858, be taken up, and that the first reading be dispensed with.

The motion was agreed to.

Mr. J. GLANCY JONES. I shall not now occupy the time of the committee with any remarks on this bill, because, in my remarks on the other bill, I stated the character and nature of this bill. It is for deficiencies in the Indian department—on the Pacific coast mainly—and for some few other items relative to the Indian department, and to the Indians in some other sections of the country.

Mr. SMITH, of Virginia. I am unaffected when I assure the committee that I rise to trespass on its time, at this late period of the session, with extreme reluctance, because the subject to which I intend to refer has an age which ought, perhaps, to prevent its further introduction here.

It will be recollected, Mr. Chairman, by the committee, that in the discussion on the Lecompton question, I participated. I would not now advert to it but for certain personal aspects, which make it necessary for me, in view of a proper self-respect, to notice it. On the 26th of March last I addressed the committee on the Lecompton question at length. In the progress of my remarks on that occasion, I reviewed the antecedents of certain gentlemen, and presented them to the consideration of the country, under a sense of duty to the position which I occupied. These remarks were, it will be recollected, noticed at the time by various members, especially by the gentleman from Illinois, [Mr. MARSHALL.] While I spoke on the 26th of March, it was the pleasure of the gentleman [Mr. MARSHALL] on the 31st of March

—five days thereafter, at a night session, when I was not present—to indulge in a criticism on that speech, which criticism, I understood from friends, did not call for any notice from me. His speech, delivered on that occasion, was not published in the Globe till the 16th of April. It had passed from my memory, and nothing had occurred to induce me to examine his remarks. I was informed by gentlemen who had heard those remarks as delivered on the floor of the House, that they did not call for my attention, and I was never induced by a circumstance to examine them as published till very recently, when a friend called my attention to the subject. I looked at a single paragraph of the speech, and presumed, from the representations of those who heard the speech, that it was unnecessary for me to notice it.

Mr. MARSHALL, of Illinois. I wish to say, Mr. Chairman, in this connection—as it is most pertinent at this time—that at the time the gentleman from Virginia made the charge, I denied its truth on the floor of the House; but I was not permitted to take the floor and go into the matter at length. I got the floor as soon thereafter as I could, and notified the gentleman from Virginia before I got the floor, and on the same day that I expected it, that I would allude to the remarks which he made in regard to that matter. I could only get the floor late at night—the night before the vote was taken. The gentleman from Virginia asked me if it was important that he should remain, and I told him that he might determine that matter for himself; that I intended to refer to his speech; that the charge which he made was untrue, and that I intended to comment upon it.

Mr. SMITH, of Virginia. If the gentleman had not interrupted me, he would have seen that there was no necessity for the interruption. The gentleman certainly did, as I have done to him on this occasion, give me notice that he intended to advert to my remarks; but on account of my health, it was not very agreeable, or perhaps not prudent, for me to remain out late at night. I inquired next morning whether or not anything had fallen from the gentleman, requiring my attention, and was informed that nothing had. I was going on to make a statement—and I beg the gentleman not to interrupt me, unless it is clearly necessary, as I desire to present a connected whole of the question. On an examination of the gentleman's speech, I found that if it had been spoken as it was published, my friends could not have represented to me that there was nothing in it requiring my attention. And hence I was led to infer, that, as is too frequently the case, the gentleman published one thing, when he had delivered another. I am the more particular in presenting this aspect of the question, because I want the committee and the country to understand that I am not one of those who are in the habit of lying still under criticisms that I do not think do me full and proper justice. Of course the committee will understand, that, at this late day of the session, I have no disposition to indulge in a class of remarks beyond what is indispensably necessary to a right understanding of the position I occupy and the course I pursued. On the occasion when I addressed the committee, I made an extract from Judge DOUGLAS's speech of the 12th of June, 1857, and commented upon it in the manner that I am now going to show:

"Of the Kansas question, but little need be said at the present time. You are familiar with the history of the question, and my connection with it. Subsequent reflection has strengthened and confirmed my convictions in the soundness of the principles and the correctness of the course I have felt it my duty to pursue on that subject."

That is the quotation which I made. I then comment on it as follows:

"What has occurred since to induce a change of this course? I fear ambition has done its work. I fear imaginary private griefs have been actively at work. I have heard of a meeting of the Illinois delegation to consider of the policy to be pursued. I give at least one gentleman from Illinois notice that I shall bring up a matter in connection with the movement of that delegation in reference to this defection on the Kansas question, when I have an opportunity to do so."

Mr. Chairman, I wish the committee to understand that this extract from my Kansas speech is the sharpest criticism which I made upon the course of Judge DOUGLAS. I said: "I fear ambition has done its work." "I fear imaginary private griefs have been actively at work." And if the gentleman can put his finger on any remark in the whole of that elaborate speech of mine

which is of sharper significance than this, I should be glad if he would do it. This, and my array of the history of the past to confront the doings of the present, was the utmost point of my offense. What follows? I went on and said:

"I will say this, in conclusion, that the delegation from Illinois, or a portion of them at any rate, met together here, when Congress assembled, to consider the course which a certain gentleman in the other end of the Capitol should pursue, and the means he should use to secure his reelection to the United States Senate. I say that much; and I will make out the case when I have the time. I say that certain extraordinary action has resulted in a concerted movement having an eye alone to his reelection."

Cut off in my remarks by the expiration of my hour, the following immediately occurred:

"Mr. PALMER obtained the floor.

"Mr. MARSHALL, of Illinois. Will the gentleman allow me a moment?

"Mr. PALMER. I will yield to the gentleman for a moment.

"Mr. MARSHALL, of Illinois. I would like to state that the charge of the gentleman from Virginia is wholly and entirely unfounded.

"Mr. SMITH, of Virginia. I do not know about it of my own knowledge; but when a member of that delegation speaks to that effect, when he tells it to me without reserve, tells it to another person, and, I may say, to still another—I allude to the successor of the gallant Richardson—I take it to be true. He told me that they had a conference; that in that conference they came to the conclusion that the only chance for the reelection of Mr. DOUGLAS to the United States Senate was in the course he has pursued. I speak openly and squarely, because I have nothing to fear nor favor to ask.

"Mr. MARSHALL, of Illinois. I do not know from whom the gentleman received his information; but if he intends to include the whole Illinois delegation, I, as one of that delegation, can tell him that it is wholly and entirely unfounded, so far as I am concerned. I do not believe any such general conference ever was held."

The next day a personal explanation took place, from which I make the following extract:

"Mr. SHAW, of Illinois. Mr. Speaker, I rise to what I regard as a privileged question. I see by the published proceedings of yesterday that the gentleman from Virginia [Mr. SMITH] used this language in reference to the Illinois delegation:

"I allude to the successor of the gallant Richardson. I take it to be true. He told me that they had a conference; that in that conference they came to the conclusion that the only chance for the reelection of Mr. DOUGLAS to the United States Senate was in the course he has pursued."

"I wish to say that no such consultation was ever held, to my knowledge; that I never participated in any such consultation.

"Mr. SMITH, of Illinois. I say the same for myself."

Mind you, that was what I said. I stated my conclusions; I stated the evidence upon which those conclusions were founded; I referred to the witness—that witness the colleague of the gentleman himself—all occurring in the presence of the committee and in the presence of the gentleman, [Mr. MARSHALL.] The committee will see that this whole subject was understood then.

Here, then, was a distinct understanding, that my statement of the conference rested exclusively upon the testimony of, and upon the statement made to myself and to other gentlemen by one of his colleagues, whose name was given. He, himself, had come into the discussion and entered a disclaimer, covering the ground entirely in a manner that was satisfactory. The thing was understood, and it was understood by every man. I shall not, therefore, refer further to the discussion on that occasion; but will now proceed, briefly and rapidly, to state the grounds of my complaint. I have no doubt that if the gentleman from Illinois could have got the floor earlier he would have done so. But in the Globe of the 16th of April, appeared the speech of the gentleman from Illinois, claiming to have been delivered on the previous 31st of March, and which I shall now proceed to read in detachments.

The gentleman from Illinois says:

"But the honorable gentleman from Virginia [Mr. SMITH] has made himself conspicuous by his assaults upon Illinois and her distinguished Senator."

Why, sir, in my speech I stated the evidence and views upon which I relied. I indulged in no abuse; I indulged in no vituperation, no assault. My purpose was, and I state it here without hesitation, to break down the moral force of the distinguished Senator of Illinois. He had taken a position which had filled with astonishment the whole country; and, according to my impression, the course of the whole Illinois delegation had filled the country with equally as much astonishment. They came here, sir, a unit in opposition to the Administration. And, sir, such a combination is not likely to pass without exerting its influence upon the public sentiment. Represent-

ing as I do a portion of the Democracy and people of the country, I felt it to be my duty and my right, for the purpose of defeating the moral influence exerted by the Senator from Illinois, to place his past history in contrast with his present position.

But the gentleman says I made an attack upon the State of Illinois, as well as upon her distinguished Senator. I have said what was the attack which I made upon the Senator, and I now deny emphatically that I have said anything which can be construed into an attack upon Illinois, unless, indeed, the distinguished Senator from Illinois, and the Illinois delegation in this House, are that State. I deny that I uttered one solitary word derogatory of the State of Illinois. On the contrary, I acted upon the presumption that she had been ill-treated by those to whom she had given her confidence in this great controversy. I went upon the idea that the character of that State had been assailed by the course taken by her Representatives upon this floor. But the gentleman says:

"Following the example of ladies of doubtful reputation, he, too, seems desirous of patching up his own political character by assailing that of other men."

Now, sir, I am not able to draw illustrations from ladies of that character. The gentleman, however, who, in another part of his speech, said he never spoke without information, I presume has not violated his own rule, and therefore speaks from his own personal knowledge. But, sir, the gentleman says further:

"He has arrogated to himself a superior sanctity, and stands up in the market-places and thanks God that he is not as these publicans and sinners."

Sir, when have I used any such language? When have I assumed any air of superiority? I call upon the gentleman to lay his finger upon any evidence of it. He goes on to say:

"Towards the close of his singular speech he abandons, for a time, generalities and insinuations, and attempts, by distinct charges, to assail the motives of Judge DOUGLAS and his associates. One of these arraignments is in these words:

"Mr. SMITH, of Virginia. I will say this in conclusion: that the delegation from Illinois, or a portion of them, at any rate, met together here, when Congress assembled, to consider the course which a certain gentleman in the other end of the Capitol should pursue, and the means he should use, in order to secure his reelection to the United States Senate. I say that much; and I will make out the case when I have the time. I say that certainly extraordinary action has resulted in a concerted movement, having an eye alone to his reelection."

Mr. Chairman, what I have to complain of in this connection is, that the gentleman should have torn from the context of my speech a detached paragraph, and presented it to the country as all that I said on the subject to which it refers.

Mr. MARSHALL, of Illinois. If the gentleman will permit me, I wish to say right here, in this connection, that I did not speak of what seemed to be an insidious attack upon Judge DOUGLAS running through the whole speech, but I quoted the whole paragraph, and everything in connection with it. I stated that there was no truth in the statement; and I now state that there is no truth, and never was any truth, in it. I had no purpose to misrepresent the gentleman, and I am sorry if I have done so. But, sir, I deemed it to be my duty to state that there was not a word of truth in any statement that any such conference was held by the Illinois delegation such as that referred to by the gentleman from Virginia.

Mr. SMITH, of Virginia. What I complain of, is that the gentleman should have taken a single paragraph, making what purports to be a charge, without explanation, when I stated precisely the grounds upon which I made my statement, and stated that I had no personal knowledge in relation to the matter whatever. I say, sir, that the publication of this paragraph, simply without explanation, is plainly unjust, and violates all the rules of evidence. Upon the same principle, you could make the Scriptures assert, by leaving off the first part of the sentence, "the fool hath said in his heart there is no God," that there is no God.

Mr. MARSHALL, of Illinois. I do not intend to submit to any such line of criticism. I quoted the entire passage. I so stated to the House, and there was no suppression in spirit or in fact.

Mr. SMITH, of Virginia. The gentleman must not use the term *not to me*. I will do

just what I please. That is all. I shall do exactly what I deem right.

I have quoted from the speeches which were submitted, for the purpose of putting in my speech what I did say, and what I said to the committee and the gentleman when he had the floor, and was making his disclaimer. I do assert that the gentleman has not done me justice, in publishing a part of those remarks, all bearing on the same subject, and which, as published by him, gives an impression to the country, different from that which the character of the case would justify.

The gentleman then goes on:

"I have already stated on the floor of the House that this charge is wholly and entirely destitute of truth."

I wish that paragraph particularly noted. It can be contrasted with what the gentleman actually did say on the floor, and which I have quoted in the early part of my remarks, and we are left to judge how far he was warranted in taking that line of remark on this occasion:

"It has no foundation whatever, in fact. I allude to it now for the purpose of adding that the honorable member ought to have known at the time that it could not be true."

The gentleman goes on to tell us of the various rumors in the papers of an interview between Senator DOUGLAS and the President, and the various stories of the matter which are floating about. Let me tell the gentleman that, when he made that statement he ought to have known from the evidence which had been delivered in his presence by his own colleague, [Mr. MORRIS,] that he was unwarranted in making it.

Sir, let us look and see what his colleague did say in this very discussion, a discussion, do you not observe, which induced the gentleman to make the statement which I have just read, "that I ought to have known." How ought I to have known? Was I to give credence to the thousand and one rumors which float about in the political circles of this country? No, sir, certainly not. "I recollect," says the gentleman from Illinois, [Mr. MORRIS,] in the presence of his colleague [Mr. MARSHALL,] on this floor, on the 27th March last:

"I recollect, further, (and I apprehend that out of this has grown this whole trouble,) having a conversation with the gentleman from Kentucky [Mr. BURNETT] upon this subject. However he may have understood me, I have a distinct recollection in regard to it, and of stating that, after our arrival here, and after ascertaining that Judge DOUGLAS would take a position antagonistic to the Lecompton constitution, the question occurred as to the time when he should make his speech. The conference upon that subject, however, took place between Judge DOUGLAS, Colonel Richardson, and myself, without any knowledge of it on the part of the other members of the Illinois delegation. It was a mere casual meeting at Brown's Hotel, where Colonel Richardson was stopping. I remarked to Judge DOUGLAS, at that conference, that if he had made up his mind to oppose the Lecompton constitution, in my judgment, he should avail himself of the earliest opportunity to deliver his views in regard to it; for if he should wait until after the election on the 21st of December, when the vote was to be taken upon the adoption of the constitution, his motives would be impugned, and his enemies thereby gain an advantage of him. This, as he freely expressed himself, corresponded with his own opinion."

That was the evidence of the gentleman's own colleague, delivered in the face of the American people. Even the gentleman's own colleague did not know the fact as to the course which Judge DOUGLAS was going to take. After coming here, he ascertained that course. Yet the gentleman, in the face of the testimony which I have just read, says that I ought to have known better; I, who have a sanguine nature and a credulous one; I, who believe in the fidelity of men; I, who give up with profound reluctance the attachments I form, political and personal; I, who had watched the course of the distinguished gentleman to whom I refer with admiration and with pride and pleasure; I, who had been his friend, was asked upon vague, indefinite rumor to believe that all his glorious antecedents were to be disregarded, and that he was to take a new direction. I could not believe it unless officially informed of the fact. It seems that it was not known to the colleague of the distinguished gentleman that he would take ground against the Lecompton constitution.

And Judge DOUGLAS did not, even in that interview, tell the gentleman what was his purpose. Yet, sir, I ought to have known; I, a stranger, outside of the councils and confidence of this distinguished man, I was to know better than those who were in concerted action with him!

But the gentleman proceeds:

"It was known throughout the whole country (the matter was discussed in the newspapers some time before Congress convened) that the Senator from Illinois was opposed to the unqualified admission of Kansas under the Lecompton constitution."

I deny the fact. I deny that it was known throughout the country. I deny it utterly. I prove that it was unknown to his own colleagues. I say that it is a hard rule to expect that by intuition I should have been able to anticipate the political friends of the Senator. I did not know that he would take a new course; and if the gentleman desires to be assured of it, I will assure him that I did not. I did not believe it to the last. I did not believe it until Judge DOUGLAS, in the Senate of the United States, in hot haste jumped upon the President's message, and took upon himself the ungracious task of pulling down his own political friends. So much for that.

As to the question of fact, there is no occasion for any additional testimony. From the testimony of the gentleman from Kentucky, [Mr. BURNETT,] and others, it clearly appears that we had good reason to believe that there was such a conference as the one of which we have been speaking. That is a question of fact for the gentleman from Illinois to settle with his colleague.

The honorable member from Illinois then goes on to say:

"The honorable member has been equally unfortunate in the other specific charge which he thought proper to make. It is equally baseless, and equally destitute of the semblance of truth. That charge is made in the following language:

"Let me say here, also, that Mr. Calhoun wrote to Judge DOUGLAS, not as a Senator, but as a friend, stating the plan that was to be pursued, and asking his advice in reference to it. No answer to that letter was ever received, but the Chicago Times came out and indorsed the proposed plan. I state, as a fact, which will not be disputed in any quarter, that Senator DOUGLAS, not as a Senator, but as a conspicuous friend of this gentleman, was written to in the month of September, asking his advice as to the course to be pursued in the submission of the constitution, and that he never responded to that letter by dissent or affirmation."

Mr. Chairman, I will state, as a fact which will not be disputed, that Senator DOUGLAS, not as a Senator, but as a friend, was written to in the month of September by Mr. Calhoun, who asked his advice as to the course which ought to be pursued in the submission of the constitution of Kansas. It is not denied by Judge DOUGLAS or the honorable member, [Mr. MARSHALL,] that Mr. Calhoun wrote to Judge DOUGLAS, and that Judge DOUGLAS never responded on this great question in which so deep an interest was felt throughout the country; and in connection with which the Senator from Illinois was so thoroughly interwoven. His personal friend writes to him for counsel and he withholds it. He responds not. He counsels not. He advises not. I do not undertake to speak of the courtesy due from one friend to another who writes for advice. Friendship ought to have induced one friend to step in and save the other from the deep damnation of an erroneous policy, deemed, it seems, so fatal and so mischievous to the country. But Judge DOUGLAS was silent. And why? But let me proceed:

"I repeat, the Chicago Times, understood to be under his influence, was published, containing an article indorsing the suggestions of that letter. I have not time to go into this question as I would like; but such are the facts in relation to this matter."

The only question then on this particular subject is, how the Chicago Times—understood to be under the influence of Judge DOUGLAS—advised. I shall not pause to consider that question. I can only repeat what is known perhaps to every man familiar with Illinois politics, that that paper is under the influence of Judge DOUGLAS. It is the organ now, of the DOUGLAS wing of the Democracy in that city. It is in its confidence; it is now doing battle fast and furious in support of that interest, and—as I gather from the papers—in hostility to the friends of the Administration. But let that pass.

The next question is, did the Chicago Times contain such an article? You know how difficult it is to procure copies of these papers after the lapse of considerable time. I made my best endeavors to get hold of that paper, but I was unsuccessful for a long time. The gentleman, however, [Mr. MARSHALL,] in his speech, published an article from the Chicago Times, of the 14th of October, different from that which was ascribed to it by Mr. Calhoun. I know that that article does not support the allegation. But why

was that article selected? The gentleman says in his speech that he selected it because he understood that Mr. Calhoun had given the date of that paper as being the paper containing it.

Mr. MARSHALL, of Illinois. Let me state to the gentleman—

Mr. SMITH, of Virginia. I quote what you say in your speech.

Mr. MARSHALL, of Illinois. Let me state the fact.

Mr. SMITH, of Virginia. I will state it myself. The article was selected because, as the gentleman represents in his speech, it appeared in the paper of the date designated by Mr. Calhoun. Well, I believe Mr. Calhoun did designate such a date. He spoke from memory, however. He spoke from information as to the contents of a paper published last year; and the thing remained in that indefinite and uncertain shape up to a recent hour. A short time ago, however, I received an Illinois paper. I know that gentlemen will scout the authority, as it is a Black Republican paper. I received it, and it furnished me, for the first time, with a criticism on my course, and on the speech of the gentleman from Illinois, which aroused me to this exposition.

Mr. KILGORE. I object to the gentleman from Virginia reading from Black Republican papers here.

Mr. SMITH, of Virginia. I read from the Springfield (Illinois) State Journal of the 19th of May, 1858. The editor says:

"We give the first paragraph from the Times's article: 'In a speech delivered in the House of Representatives by Mr. WILLIAM SMITH, of Virginia—otherwise called 'Extra Billy'—he is reported as having said that the mode adopted by Calhoun and his Lecompton associates in not submitting the Lecompton constitution to a vote of the people, was adopted because it was suggested by the Chicago Times, which was supposed by Calhoun to express the opinion of Judge DOUGLAS on that point.'

"We did not meet with this statement by Mr. SMITH until we saw it quoted in a speech by Mr. MARSHALL, of this State, who quoted it to brand it as it deserved. But having met it, we now have to state that it is utterly destitute of truth. No article of the kind ever appeared in the Chicago Times. From the earliest meeting of the convention to its adjournment, we always assumed it to be an ascertained fact, that the convention would submit the constitution, and the whole of it, to the people of Kansas for rejection or approval."

"The Times, it will be seen, talks out in flat denial of this with an immense amount of emphasis."

The editor of the Journal proceeds:

"It may be forgetfulness on the part of the Times, but it is nevertheless a fact, that the organ of Senator DOUGLAS did, in the first place, as charged by Mr. SMITH, come out against a general submission of the Lecompton constitution. We do not know anything about the letter which Calhoun wrote to DOUGLAS, though it is understood in town here that such a letter was written. Neither do we know anything about the failure of DOUGLAS to respond to the 'plan to be pursued,' but it is a fact, which the Chicago Times cannot successfully contradict, that that sheet, about that time, did publish such an editorial as Mr. SMITH refers to. The editorial was of such a remarkable character that we cut it out and put it in our scrap-book for safe keeping. We have the article before us now, and the following are paragraphs taken from it:

"We think the convention that will frame the new constitution in Kansas will exhibit far more regard for public tranquility and public honesty, by conducting their proceedings without any reference to the Topeka adherents; and, as they have declared it shall never go into operation in the State, we think there is about as much propriety in submitting it to their approval as there would be in submitting it to the approval of the inhabitants of the Feejee islands."

"As the adherents of the Topeka convention refused to participate in the election of delegates, and are sworn to resist the new State government when established, they have no right to be consulted in the formation of that State government."

It will be observed that the paper vindicates what I stated as to the course of the Chicago Times. The gentleman emphatically says:

"The most amazing fact in reference to this calumny is, that no such article as the one indicated by the honorable gentleman from Virginia has ever, at any time, appeared in the columns of the Chicago Times. This fact, at least, if it existed, could be easily proven; and I defy the gentleman to produce the evidence. If he fails, which he most assuredly will, the charge is not only shown to be false, but utterly destitute of foundation or plausibility from the beginning."

To this I have only to say that, having no personal knowledge myself, and acting necessarily upon the information of others, as the gentleman himself does, I furnish a complete answer to the paragraph quoted, in the extracts I have read.

Mr. MARSHALL, of Illinois. Does the gentleman give the date of the Chicago Times in which that article appeared?

Mr. SMITH, of Virginia. Only as I stated. Mr. MARSHALL, of Illinois. Have you given any date?

Mr. SMITH, of Virginia. No, sir; only as I have read. The gentleman wants to hang upon the absence of a specific date.

Mr. MARSHALL, of Illinois. I do not want to hang upon anything. I stated some time ago on the floor of the House, and now repeat, that no article such as the one indicated in the gentleman's former remarks ever did appear in the Chicago Times. I care not what garbled extracts the gentleman may bring from the unscrupulous Black Republican organs, which are the proper backers of the gentleman in his tirade against the Democratic party of Illinois.

Mr. SMITH, of Virginia. I hope the gentleman will keep cool. I read again. Says the Journal:

"But it is a fact which the Chicago Times cannot successfully contradict, that that sheet, about that time, did publish such an editorial as Mr. SMITH refers to. That editorial was of such a remarkable character that we cut it out and put it in our scrap-book for safe keeping. We have the article before us now," &c.

He must be a most unscrupulous Black Republican if he would make such a statement as that when there was no foundation for it.

Mr. MARSHALL, of Illinois. The Chicago Times denies the publication of any such article.

Mr. SMITH, of Virginia. I have the evidence of it here. Let me get through and then the gentleman can respond to me. The extract goes on as follows; the editor says—

"The above is only a small part of the Times's article, but the whole of it is to the same stunning effect. If this was not a bold stand against submitting the Lecompton constitution to the people and an indorsement of the Calhoun plan, then what is it?"

Here, then, is an extract distinctly sustaining my statement, if it be a veritable extract from a veritable article. I beg the gentleman to remember that I am acting upon such evidence as I have before me. I am making a statement founded upon the article that I have just read, in which it is clearly and distinctly stated that it would be as mad to submit this constitution to the Topekaists as it would be to submit it to the inhabitants of the Feejee islands, as they had sworn it should never go into operation. Well, sir, if this be a veritable extract, then my statement, founded upon the information of others, is indicated and maintained beyond all human question. This article in the Springfield paper, then, goes on to speak of the Chicago Times as being the paper of Judge DOUGLAS—not as being under his influence, but that it was his paper.

Now, the gentleman says that this is a Black Republican paper. Well, sir, I confess that I should desire pretty strong evidence, where there was a great issue, to satisfy me that any partisan press always spoke the truth. But, without meaning to compliment the Black Republicans, I know enough of many of the members of that party, to know that there are many of them who would be as apt to speak the truth as many others.

Mr. KILGORE. Will the gentleman permit me for a moment? I simply want to suggest to the gentleman from Virginia, and the gentleman from Illinois, that they must strike out the word "black" if they mean to use this testimony, for I believe they both object to blacks giving testimony. [Laughter.]

Mr. SMITH, of Virginia. That is the reason that this testimony is received with so much hesitation.

Mr. KILGORE. Will the gentleman give it credit, coming from the source it does?

Mr. SMITH, of Virginia. I am making this explanation in order to excuse myself for doing it. But, sir, this statement, thus made, under the responsibility which attaches to every man who occupies a decent social position, has been extensively circulated. I have not seen it denied in the Chicago Times. The National Union, an Administration Democratic paper, established at Chicago by some warm Administration Democrats, to counteract the malign influence of the Chicago Times, gives sufficient credit to this Republican article to give it insertion in its columns of the 21st instant. I see no doubt expressed or intimated; but, on the contrary, it is headed by an article having direct reference to the gentleman

[Mr. MARSHALL] himself, and which, perhaps, he has seen.

Mr. MARSHALL, of Illinois. The paper to which the gentleman now refers is a paper calling itself the national Democratic organ, and representing a very small and unscrupulous clique, who are acting in perfect harmony with the Black Republicans—the unscrupulous portion of that party—to defeat the regular Democratic organization of the State of Illinois.

Mr. WASHBURN, of Illinois. I deny that they are acting with the Republicans.

Mr. MARSHALL, of Illinois. They are patting each other upon the back for the purpose of breaking down the regular Democratic organization, and are copying each other's articles with commendation.

Mr. KELLOGG. I wish to deny here in my place that there is any arrangement, express or implied, between the Administration-Democratic party and the Republicans in the State of Illinois.

I wish to say one word more. The gentleman has assailed the veracity of the Springfield State Journal in my State. I do not know the editors of that paper personally. I know it to be a highly reputable and able paper; and if my colleague denies that that is a correct quotation from the Chicago Times, I assure him that I will prove that it is as soon as I can communicate with the editors of that paper; or, if I am wrong, I will make a public explanation of it. I do this merely with a view of saying what I ought to say as an honorable man, when the character of gentlemen in my State is assailed.

Mr. MARSHALL, of Illinois. I wish to remark that it is just as I expected. The gentleman from Virginia is acting in harmony with the Republican party to make an assault upon the regular Democratic organization of the State of Illinois, and has their sympathy in so doing. He is patted on the back, and sustained in his efforts by the Republicans, just as the same movement is sustained in Illinois.

The charge of the gentleman against Judge DOUGLAS was, in effect, although it was not directly made, that he had indicated the mode adopted by the Lecompton convention of submitting the constitution. I stated that that was untrue; that there was no truth in it; and I repeat it here to-day. In regard to the articles in the Chicago Times, I say that, admitting the quotation from it to be correct, in common fairness the whole article ought to have been quoted, so that the committee could be able to judge of the effect of it; and that the date should be given: otherwise, I say the gentleman is entitled to no credit for the assertion. I do not pretend to say that the extracts which the gentleman has quoted here may not possibly, at some time, have appeared in the Chicago Times; but I say that there is nothing in the course of that paper which indorses any such sentiment; nor has it ever been indorsed by Judge DOUGLAS.

I do not know what concert of action there may be between the party of the gentleman from Virginia and the Republicans, for the election of John Wentworth to the United States Senate.

Mr. WASHBURN, of Illinois, and Mr. KELLOGG. Abraham Lincoln is the Republican candidate for Senator from Illinois.

Mr. KELLOGG. In reply to the charge of our patting the heads of both wings, or either wing, of the Democratic party in Illinois, I desire to say that we intend to 'pat them so hard that we will beat them both, and elect our own man; which I believe we shall do.

Mr. SMITH, of Virginia. I never knew a beaten party in my life that did not cry out "victory" before election. And what will be done by the Republicans of Illinois in the future, will be judged by their experience in the past. But let me resume—for I presume, from the frequency of the gentleman's interruptions, that he does not intend to reply.

Now, sir, I presume it is not denied that General Calhoun, being a personal and political friend of Judge DOUGLAS, addressed to him a letter indicating the policy which he proposed to pursue. It is undeniable that Judge DOUGLAS received this letter, and assented to it so far as his silence could give that assent. I have read an article in the Chicago Times. Now, sir, I will present other testimony. On the 21st of May last, the National

Union, a paper also published in the city of Chicago, which copied the article I have referred to from the Springfield Journal, with the following comments—

[Here the hammer fell.]

Mr. MARSHALL, of Illinois. I am aware that the committee cannot take a great deal of interest in these personal matters; and it is unpleasant to me at any time to engage in them.

In the remarks which I made on a former occasion, in reply to the gentleman from Virginia, I did it with no purpose of misrepresenting or reflecting unjustly upon the gentleman. But, sir, I deemed it due to myself, to the Senator from Illinois, and to the people of Illinois, to say what I did on that occasion. I cannot now go into the details of that discussion. I understood the whole course and tenor of the speech of the gentleman from Virginia to have been, in effect, an assault upon Judge DOUGLAS, and not a regular discussion of the principles involved in the Kansas controversy. That was the bearing and the object of it. The gentleman intimates that my speech as printed probably differs, so far as it refers to him, from that delivered. In this he is mistaken. There may have been some verbal changes—nothing more. The article from the Chicago Times, which I appended to my printed speech, I did not have time to read then, but I gave notice that I would print it. This objection sounds strange, coming from the gentleman from Virginia. Why, sir, the speech of the gentleman, which he was but one hour in delivering, covered thirty columns of the Congressional Globe—matter that he could not have delivered in two hours; and yet the gentleman complains of my having printed what I did not speak.

Mr. SMITH, of Virginia. It is well known, as I said, on that occasion, that gentlemen very frequently intimate, as I did several times in the course of that speech, that extracts will be published which there is not time to read. But, sir, never put in personal matters which are not spoken.

Mr. MARSHALL, of Illinois. Well, sir, to proceed. It is well known to gentlemen here that the speech which I delivered on that occasion, was delivered late in the evening, and I will add was almost wholly impromptu, without preparation or premeditation; and it would not have been very strange if, in the heat of debate, I had said what my cooler judgment would not wholly approve. But, sir, that the House may know exactly what I did say in regard to the gentleman from Virginia, I send up to the Clerk's desk, and will ask to have read all that portion of the speech which relates to the gentleman.

The Clerk read as follows:

"But the honorable gentleman from Virginia [Mr. SMITH] has made himself conspicuous by his assaults upon Illinois and her distinguished Senator. Following the example of ladies of doubtful reputation, he, too, seems desirous of patching up his own political character by assailing that of other men. He has arrogated to himself a superior sanctity, and stands in the market-places and thanks God that he is not as these publicans and sinners." Towards the close of his singular speech, he abandons, for a time, generalities and insinuations, and attempts by distinct charges to assail the motives of Judge DOUGLAS, and his associates. One of these arraignments is in these words:

"Mr. SMITH, of Virginia. I will say in conclusion: that the delegation from Illinois, or a portion of them at any rate, met together here, when Congress assembled, to consider the course which a certain gentleman in the other end of the Capitol should pursue, and the means he should use, in order to secure his reelection to the United States Senate. I say that much; and I will make out the case when I have the time. I say that certainly extraordinary action has resulted in a concerted movement, having an eye alone to his reelection."

"I have already stated on the floor of the House that this charge is wholly and entirely destitute of truth. It has no foundation whatever in fact. I allude to it now for the purpose of adding that the honorable member ought to have known at the time that it could not be true. It was known throughout the whole country (the matter was discussed in the newspapers some time before Congress convened) that the Senator from Illinois was opposed to the unqualified admission of Kansas under the Lecompton constitution. Upon his arrival in this city, some days before Congress convened, almost his first act was to wait on the President, and state to him frankly his views in regard to this question. Their meeting was said to be cordial, and their conference frank and friendly; but their differences on this question were also said to be radical and irreconcilable. An account of this visit and conference was at the time published in the various papers throughout the country, and ought to have been known to the honorable gentleman. I take it for granted, however, that he had forgotten or overlooked these facts, which were so well known to the whole country."

"The honorable member has been equally unfortunate in the other specific charge which he thought proper to make. It is equally baseless, and equally destitute of the

semblance of truth. That charge is made in the following language:

"Let me say here, also, that Mr. Calhoun wrote to Judge DOUGLAS, not as a Senator, but as a friend, stating the plan that was to be pursued, and asking his advice in reference to it. No answer to that letter was ever received, but the Chicago Times came out and indorsed the proposed plan. I state as a fact, which will not be disputed in any quarter, that Senator DOUGLAS, not as a Senator, but as a conspicuous friend of this gentleman, was written to in the month of September, asking his advice as to the course to be pursued in the submission of the constitution, and that he never responded to that letter by dissent or affirmation. I repeat, the Chicago Times, understood to be under his influence, was published, containing an article indorsing the suggestions of that letter. I have not time to go into this question as I would like; but such are the facts in relation to this matter."

"Mr. Chairman, I am utterly amazed that any gentleman, and especially the honorable member, should travel out of his path and his line of argument for the purpose of bringing forward, and placing on record, a charge of this character against a distinguished leader of his own party; and that leader a man who has been more prominent, open, bold, and constant in the advocacy of the constitutional rights of the South, and the principles of the Democratic party, than any man now living. If the charge were true, the propriety of that gentleman bringing it forward in the manner and under the circumstances in which he lugged it into his speech, would be at least questionable; but what will the House and the country think of it when I state, what I now do, broadly and distinctly, that in every essential particular it is utterly destitute of foundation or truth? Let me be distinctly understood. It is not contended that Judge DOUGLAS ever wrote to Mr. Calhoun on the subject. The charge plainly and distinctly insinuates, rather than directly made, is that the author of the Kansas-Nebraska act, not openly and boldly, but in an underhand and skulking manner, indicated to Calhoun, through the columns of the Chicago Times, the mode of submission of the constitution which was adopted by the Lecompton convention. I repeat, sir, that the charge is as destitute of truth as any charge could possibly be. Judge DOUGLAS is in no manner responsible for the editorial conduct of the Chicago Times. That is an independent Democratic journal, friendly in its main, to the distinguished Senator from Illinois; but its editorial conduct is in charge of a gentleman who thinks, acts, and writes for himself, without submitting to the direction or dictation of any one. But this disavowal is not important. The most amazing fact in reference to this calumny is, that no such article as the one indicated by the honorable gentleman from Virginia, has ever, at any time, appeared in the columns of the Chicago Times. This fact, at least, if it existed, could be easily proven, and I defy the gentleman to produce the evidence. If he fails, which he must assuredly will, the charge is not only shown to be false, but utterly destitute of foundation or plausibility from the beginning."

"I do not, Mr. Chairman, charge the honorable gentleman from Virginia [Mr. SMITH] with willful falsehood or misrepresentation. Far be that from me. I have too high an appreciation of what is due to this body, and to the position of the honorable gentleman, even to insinuate such a charge for a moment. I would not believe for a moment that any gentleman occupying a seat on this floor, much less one so distinguished as the honorable member, would be guilty of so base a fabrication, or of giving it currency, knowing it to be false. But what I complain of, is that the friends of Judge DOUGLAS have a right to complain of, is that the gentleman should, without investigation, pick up from the parlous and streets of Washington anonymous slanders against a distinguished statesman, fabricated by plundered parasites, and the miserable leopards, hungry pack who are ready to bark at the heels of any one who they may think is under the bar of power—slanders which have been floating around the streets of Washington all winter, but which the friends of Judge DOUGLAS deemed wholly unworthy of their notice. We have a right to complain that so distinguished a gentleman should lend his name to give currency to charges which before were unworthy of notice, and allow himself to become the conduit through which this miserable spawn of malice and defamation should be poured forth upon the House, and sent out to infect the moral atmosphere of the whole country."

"Mr. Chairman, I shall append to my remarks, when printed, the article which Mr. Calhoun has indicated as the one which he supposed reflected the views of Judge DOUGLAS on the question of submission of the constitution to be framed at Lecompton. Calhoun first saw it in a Kansas paper, copied from the Chicago Times. It appeared first in the Daily Times of the 14th October, 1856. I have evidence, satisfactory to myself, that Judge DOUGLAS knew nothing of this article at the time it appeared, and probably never saw it until I furnished him, a few days ago, a copy of the Times in which it appeared. But be this as it may, it will be seen that the article, instead of sustaining, utterly disproves the charge made by the honorable member from Virginia; and I have no hesitation in saying, that if the mode of submission, indicated in that article, had been adopted in good faith, the result would have been satisfactory to the people of Kansas, and to the whole country, ultra factionists, North and South, alone excepted."

"The following is the article which appeared in the Chicago Times, October 14, 1856, which has been indicated by Mr. Calhoun as the one which he supposed reflected the views of Mr. DOUGLAS in regard to the mode in which the constitution framed at Lecompton should be submitted to the people of Kansas for their ratification or rejection:

"KANAS—THE CONSTITUTIONAL CONVENTION.—The convention which was elected in Kansas to frame a State constitution for that Territory will soon meet again. They cannot fail to have observed, what all the rest of the world has observed, that the voice of the people of Kansas is in favor of a free State. We know not what may be the purpose or the feelings of the delegates upon the question of slavery, but the recent election has demonstrated that nothing else than a constitution which shall exclude and prohibit

slavery will be accepted by the people of the Territory. That fact is so patent that no man can shut his eyes to it."

"It is said that the convention, when elected, was unanimously pro-slavery; that we know to be untrue; we know that there were many delegates who were in favor of obeying the wishes of the people; and a majority in favor of submitting their action, no matter what it was, to popular approval or rejection at the polls. What that convention will do, or what it will not do, we have not the means of knowing. But we know that any attempt to force a pro-slavery constitution upon the people without the opportunity of voting it down at the polls, will be regarded, after the recent expression of sentiment, as so decidedly unjust, oppressive, and unworthy of a free people, that the people of the United States will not sanction it. It would add thousands to the vote of the Republican party in every State of the Union, and give to that organization what it has never had yet—a show of justice and truth."

"To the Democratic members of that convention the course is plain. The people have decided in favor of a free State; though they have not voted on the naked issue of 'free State' or 'slave State,' they have voted practically in favor of a free State. Two thirds of the Democratic party in Kansas have voted with the 'free-State' party at the recent election, in order to make the popular decision more emphatic. As Kansas must be a free State, even those persons in the Territory, who are known as 'pro-slavery' men, must recognize in the late election a decision which must not be slighted nor put at defiance. To that expression of the popular will there should be a graceful, if not a cheerful submission. Kansas is to be a free State! That fact being ascertained, let the convention frame a constitution to suit her best interests upon all other questions, and let the prohibition of slavery be put in it, clearly, and without quibble; plainly, without disguise; explicitly, broadly, and firmly. Let the convention then submit that constitution to the people. If it be adopted, Kansas will come into the Union at the next session, and the Republican party will expire for want of sustenance. If any members of the convention desire to prolong the controversy, or to have a regular direct vote upon slave State and free State, let a free State constitution—the Topeka constitution, divested of such of its provisions as time has shown to be unsuitable—and a slave State constitution be prepared. Let them both be submitted to the people—the vote to be 'free-State constitution, yes,' or 'free-State constitution, no;'' 'slave-State constitution, yes,' or 'slave-State constitution, no.' Let them, if they desire to vote in favor of a slave State, have the opportunity; but let the constitution be submitted to the popular vote, and at an early day."

"Let the present convention submit this matter to the people without delay, and have the long controversy settled finally, and in the only effectual manner that is possible. In six months after the admission of Kansas, Black Republicanism will be no more."

Mr. MARSHALL, of Illinois. I shall detain the committee but a moment longer. In the remarks which I then made, I did not intend to do any injustice to the gentleman from Virginia. After hearing his remarks to-day, and giving them all the weight and importance I think they are entitled to, I do not believe that I did the gentleman from Virginia any injustice in the remarks which I then submitted. I intended to cast no personal reflections upon him, but I intended, in as direct and distinct language as I was capable of using, to say to the House, that the specific charges made against Judge DOUGLAS and the Illinois delegation were not true, and had no foundation in fact. And I now repeat, after hearing the evidence which the gentleman has brought forward, that I do not think any man can believe that he has brought forward even the semblance of proof to establish the truth of one of the charges. I did not propose, nor do I now, to go over the entire columns of the Chicago Times, in order to ascertain whether there was any such statement introduced as a quotation or illustration, or in some connection of which I could know nothing, as that referred to in the Journal, introduced here by the gentleman.

I will say this to those who seem to be sensitive about the Illinois Journal: that I mean now to cast no particular reflection upon the Journal or its conductors, other than to state, what we all know to be the fact, that it is too often the case that little reliance is to be placed upon statements of fact in mere partisan papers. When the editor of the Times, and gentlemen upon this floor state that no such article appeared in that paper, if anybody intends to assert the contrary, in common fairness the article ought to be produced *in extenso*, and the date of the paper ought to be given, so that the assertion may be directly and distinctly met. But we have nothing of that kind. The article I copied I took from the Times of the date therein indicated. There is no question about it that indicates what was the policy of the editor of the Times—at that time, at least. It is also the article which was indicated by Mr. Calhoun, while he was in this city, as the one to which he referred when he made the charge which has been floating about this city, and which the gentleman from Virginia [Mr. SMITH] took up

and poured out upon this floor, that Judge Douglas had indicated the course to be pursued by the Lecompton convention. As I have said, the article appended to my speech was the one he referred to.

Taking all these facts together, I do not think that the gentleman from Virginia has supported himself in any respect by the evidence he has brought forward on this occasion; and whatever may be produced hereafter, it is my conviction—indeed I have not a particle of doubt about the matter—that the charge which has been floating about, and to which the honorable gentleman is endeavoring to give currency, that Judge Douglas interfered in any way or form with the conduct of the convention in Kansas or any of these conventions, is utterly destitute of truth. The gentleman has abandoned his original charge. He says now that Judge Douglas ought to have answered the letter written to him by Mr. Calhoun. I have spoken to Judge Douglas about this. He does not pretend to say that Mr. Calhoun may not have written to him. He thinks that he did; but he does not recollect the purport of such letter. Judge Douglas, as everybody is aware, has a large correspondence, and is daily receiving a large number of letters from all portions of the country. Acting on his general policy of not interfering, directly or indirectly, with the affairs of the people of that Territory, as a matter of course he would not have given any advice upon the subject. It would have been improper for him to have attempted in any manner to influence or control the free action of the people of Kansas. He could not have done so without abandoning his policy of non-intervention, of letting the people of Kansas settle their affairs in their own way. Acting on that policy, it was his duty to pay no regard to any such letter, if received. Such, at least, is my view of his duty. He never did give any answer to it. Gentlemen may arraign him, and think that he did wrong. I think that he did right. No one can object to any one making any fair criticism upon facts which do exist. What I object to is the assertion of things as facts which have no foundation whatever.

Mr. SMITH, of Virginia. I want five minutes. The gentleman has occupied my time, and I only ask a small portion of his.

The gentleman will readily see, that when these rumors were rife throughout the country, and, moreover, when Judge Douglas took the position he did, it filled the breasts of a great many Democratic gentlemen with alarm and with distrust, and prepared them to entertain, with some degree of belief, any further statements corresponding therewith.

In reference to this particular fact, I have adverted sufficiently. I believed it because an honorable gentleman, as I supposed, John Calhoun, an old friend of Judge Douglas, so stated it. I bring this evidence up in support of my statement. I could not be erroneous in believing these things, especially when there were other circumstances which justified it. I think that the only blame, perhaps, that I can be charged with, is the moderation of my criticism. It is remarkable that, in a speech of some elongation, I was so forbearing.

Mr. MARSHALL, of Illinois. I will not detain the committee. This is a matter of little importance. If I have done any injustice to the gentleman from Virginia, I should say so, and say so frankly. I have never desired to do him injustice. I do not desire to do him injustice now. In regard to this matter, I think the gentleman has assumed to himself too much importance. If the Democracy of Judge Douglas or any other gentleman is to be tried, I should object, at least, to the jurisdiction of the gentleman from Virginia. I should insist on some man trying him, or them, who has a much more unquestionable record than the gentleman possesses. I think that the honorable member, who has been endeavoring for years to affiliate the dark-lantern order, as it has been called throughout the country, may be a very proper person to come forward to assail the Democracy of other gentlemen with garbled extracts from a bitter partisan Republican paper of Illinois. As I have said before, I do this with no purpose of casting any special censure upon that paper. The extracts quoted may have appeared at some time, and in some connection, in the Chicago Times; but without the connection, without

the date, without anything about the context, it is impossible for anybody to form a correct judgment in regard to it. It is unfair for gentlemen to bring them forward here even if they were derived as stated, without stating the date and the context, and the circumstances under which the language was called forth.

I will say, in conclusion, that if I have used language which the gentleman deems offensive in regard to his associations with other parties—

Mr. SMITH, of Virginia. I trust that the gentleman will allow me a word here. I will say that I have a pretty long record, and that no man can put his finger where I have departed from any principle of the Democratic party; and the gentleman, must remember that I was never found working against the Democratic party, as the gentleman has been in the recent struggle on the Kansas question; and it is remarkable that the gentleman, who has affiliated with the Black Republicans in overthrowing the Democratic party, and did his best with that object in view to the last, should talk about my affiliation with the American party.

Mr. MARSHALL, of Illinois. Such reflections, Mr. Chairman, do not disturb me a particle. I have never acted in opposition to Democratic principles, or any legitimate or authorized Democratic organization, and no man can, with truth, charge that I have. All that I have done in regard to this matter, and every act of mine on the floor of this House, has been dictated by my own judgment and my convictions of right and duty—duty to myself, to my constituents, to the country, and especially to the Democratic party, which never can be benefited by an abandonment of principles. I do not set myself up as the great organ of the Democratic party, to read other men out of it, or to make assaults upon them in regard to their course. I have done nothing of the kind. In my course on Kansas, and all other matters, I have acted according to the dictates of my own judgment, and I do not object to other gentlemen doing so. What I do object to is, that the gentleman should arrogate to himself the office of censor, and bring up far-fetched and unauthentic charges, having no foundation in fact, against those who have occupied, and now occupy, higher positions in the Democratic party than he ever did or ever can occupy; men who have devoted their whole lives to its service, and upon whose record there is neither spot or blemish.

Mr. Chairman, I have said all that I desire at this time to say in regard to this matter. If the gentleman from Virginia is satisfied, I can certainly have no motive or desire to continue this discussion any further, and will therefore let it stop here.

Mr. GROW. I move that the committee rise for the purpose of closing debate.

Mr. MORRIS, of Illinois. Will the gentleman yield me the floor?

Mr. GROW. If it be only for a moment, I will yield.

Mr. J. GLANCY JONES. If the gentleman from Illinois will allow me, I will move that the committee rise for the purpose of terminating debate on this bill in five minutes after the committee shall have resumed its consideration.

Mr. MORRIS, of Illinois, yielded.

Mr. J. GLANCY JONES then moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. Bock reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly House bill No. 557, which he had been directed to report back with certain amendments; and also House bill No. 555, as to which the committee had come to no resolution.

SUPPLEMENTAL APPROPRIATION BILL.

Mr. J. GLANCY JONES moved the previous question on the passage of House bill No. 557, making supplemental appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1859.

The previous question was seconded, and the main question ordered.

The several amendments reported back by the Committee of the Whole on the state of the Union were agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. J. GLANCY JONES moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CLOSE OF DEBATE.

Mr. J. GLANCY JONES. I move that all debate in Committee of the Whole on the state of the Union on bill No. 555 be closed in ten minutes after its consideration shall have been resumed.

The motion was agreed to.

Mr. J. GLANCY JONES. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

DEFICIENCIES IN INDIAN DEPARTMENT.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. Bock in the chair,) and resumed the consideration of a bill (H. R. No. 555) to supply deficiencies in the appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1858.

Mr. MORRIS, of Illinois. Mr. Chairman, the controversy which sprung up some time ago at the instance of the member from Virginia, he has chosen, on this occasion, voluntarily, to renew. It has ever been my object, since I have had a seat on this floor, to treat every gentleman here with courtesy and kindness. But I found myself unexpectedly involved by the exposure which the member from Virginia thought proper to make, of what he claimed to be a private conversation in my private room. Sir, while I seek no controversies, if they are forced upon me, I shall not shrink from them. The object of the gentleman in renewing the matter here to-day is evident to the House, and will be evident to the country. He desired, sir, to assail, and, as far as he could, to blast the reputation of the honorable Senator from Illinois, Judge Douglas, the latchet of whose shoes he is unworthy to unloose.

Mr. SMITH, of Virginia. I just want it distinctly understood that if the gentleman utters any word of offense to me I will not stand it one instant.

Mr. MORRIS, of Illinois. The gentleman may stand it or not, as he pleases.

Mr. SMITH, of Virginia. I call upon the Chair to preserve order, or I will preserve it myself.

The CHAIRMAN. The gentleman from Illinois must remember that it is contrary to the rules of the House to indulge in remarks casting personal reflections on any member, and will please to refrain from doing so.

Mr. MORRIS, of Illinois. If I have trespassed upon the order or decorum of the House, I certainly owe the House an apology for it, while I owe none to the member from Virginia, and have none to make to him. This controversy, let me repeat, has been voluntarily renewed by him; and inasmuch as he has read what he says is an article from the Chicago Times, I ask the Clerk to read an editorial in that paper in relation to the point of controversy involved, which I send up to the desk.

The Clerk read the article, as follows:

"A STALE FALSEHOOD.—In a speech delivered in the House of Representatives by Mr. WILLIAM SMITH, of Virginia, (otherwise called 'Extra Billy,') he is reported as having said that the mode adopted by Calhoun and his Lecompton associates in not submitting the Lecompton constitution to a vote of the people was adopted because it was suggested by the Chicago Times, which was supposed by Calhoun to express the opinion of Judge Douglas on that point.

"The following is the portion of the speech of Mr. SMITH in which this statement was made:

"Let me say here, also, that Mr. Calhoun wrote to Judge Douglas, not as a Senator, but as a friend, stating the plan that was to be pursued, and asking his advice in reference to it. No answer to that letter was ever received; but the Chicago Times came out and indorsed the proposed plan. I state as a fact, which will not be disputed in any quarter, that Senator Douglas, not as a Senator, but as a conspic-

uous friend of that gentleman, was written to in the month of September, asking his advice as to the course to be pursued in the submission of the constitution, and that he never responded to that letter by dissent or affirmation. I repeat, the Chicago Times, understood to be under his influence, was published, containing an article indorsing the suggestions of that letter. I have not time to go into this question as I would like; but such are the facts in relation to this matter."

"We did not meet with this statement by Mr. SMITH until we saw it quoted in a speech by Mr. MARSHALL of this State, who quoted it to brand it as it deserved. But, having met it, we now have to state that it is utterly destitute of truth. No article of the kind ever appeared in the Chicago Times. From the earliest meeting of the convention to its adjournment, we always assumed it to be an ascertained fact that the convention would submit the constitution, and the whole of it, to the people of Kansas for rejection or approval."

"When we ascertained that the convention had inserted a clause establishing and perpetuating slavery, in defiance of the popular wish, as expressed in the election of Parrott, we took the ground that the constitution was a ridiculous mockery, because the people, when they came to vote upon it, would vote it down. When the news came that the convention had so framed the schedule that the people would not have the privilege of voting upon the constitution—either for or against it—we were perfectly astounded, not only with the rascality of the proceeding, but with the bold, unblushing repudiation of solemn pledges which necessarily accompanied it."

"During the winter, however, we understood that Mr. John Calhoun justified his conduct by alleging that the course he had pursued had been followed because it had been recommended by the Chicago Times. Indeed, Mr. Calhoun so stated in a private letter which he addressed to us upon the subject. We took pains to have Mr. Calhoun indicate the particular article in the Times upon which he forwarded his impudent and craven apology for his own shameful conduct. That article is as follows:

"KANSAS.—THE CONSTITUTIONAL CONVENTION.—The convention which was elected in Kansas to frame a State constitution for that Territory will soon meet again. They cannot fail to have observed, what all the rest of the world has observed, that the voice of the people of Kansas is in favor of a free State. We know not what may be the purpose or feelings of the delegates upon the question of slavery, but the recent election has demonstrated that nothing else than a constitution which shall exclude or prohibit slavery will be accepted by the people of the Territory. That fact is so patent that no man can shut his eyes to it."

"It is said that the convention, when elected, was unanimously pro slavery; that we know to be untrue; we know that there were many delegates who were in favor of obeying the wishes of the people; and a majority in favor of submitting their action, no matter what it was, to popular approval or rejection at the polls. What that convention will do, or what it will not do, we have not the means of knowing. But we know that any attempt to force a pro slavery constitution upon the people, without the opportunity of voting it down at the polls, will be regarded, after the recent expression of sentiment, as so decidedly unjust, oppressive, and unworthy of a free people, that the people of the United States will not sanction it. It would add thousands to the vote of the Republican party in every State of the Union, and give to that organization what it has never had yet—a show of justice and truth."

"To the Democratic members of that convention, the course is plain. The people have decided in favor of a free State; though they have not voted on the naked issue of 'free State' or 'slave State,' they have voted practically in favor of a free State. Two thirds of the Democratic party in Kansas have voted with the 'free-State' party at the recent election, in order to make the popular decision more emphatic. As Kansas must be a free State, even those persons in the Territory who are known as 'pro slavery' men, must recognize in the late election a decision which must not be slighted or put at defiance. To that expression of the popular will, there should be a graceful, if not a cheerful submission. Kansas is to be a free State! That fact being ascertained, let the convention frame a constitution to suit her best interests upon all other questions, and let the prohibition of slavery be put in, clearly, and without quibble, plainly, without disguise, explicitly, broadly, and firmly. Let the convention then submit that constitution to the people. If it be adopted, Kansas will come into the Union at the next session, and the Republican party will expire for the want of sustenance. If any members of the convention desire to prolong the controversy, or to have a regular direct vote upon slave State and free State, let a free-State constitution—the Topeka constitution, divested of such of its provisions as time has shown to be unsuitable—and a slave State constitution be prepared. Let them both be submitted to the people—the vote to be 'free-State constitution, yes,' or 'free-State constitution, no,' 'slave State constitution, yes,' or 'slave State constitution, no.' Let them, if they desire to vote in favor of a slave State, have the opportunity; but let the constitution be submitted to the popular vote, and at an early day."

"Let the present convention submit this matter to the people without delay, and have the long controversy settled finally, and in the only effectual manner that is possible. In six months after the admission of Kansas, Black Republicanism will be no more."

"And this is the article which John Calhoun, when driven to a corner, represented to the President and Cabinet as the one from which he derived the plan not to submit the constitution to the people at all! And this poor, pitiful falsehood, framed by Calhoun as an apology for conduct of which even he was ashamed, is taken up by Smith, and gravely repeated to the House of Representatives. The statement when made by Smith has not even the questionable excuse which Calhoun might have offered for his fabrication. Smith had not been a member of the Lecompton convention, like Calhoun, and therefore was not driven by personal motives to hide his own political turpitude by a falsehood."

The CHAIRMAN. The Clerk will suspend the reading. This is a part of the speech of the gentleman from Illinois; and the Chair, in as kind and polite a manner as possible, notified the gentleman from Illinois that it was not in order to indulge in personalities.

Mr. MORRIS, of Illinois. Well, sir, the only part of the editorial that I cared anything about has been read. I wanted the editor of the Times to speak for himself in regard to this matter. He states in that editorial—and that was one object in having it read—that he took pains to have Calhoun indicate, when he heard he was making the charge that his course in Kansas was based upon an article which had appeared in the Times, to what article he referred; and Calhoun responded that he referred to the article quoted there, which is identically the same article which my colleague [Mr. MARSHALL] incorporated in his speech. Now, sir, I have done with that branch of the subject. It fixes the misrepresentation where it belongs.

The gentleman has again referred to a conversation which he says occurred with me in my private room. When this matter was before the House some time ago, I remarked:

"I invited the gentleman to my room for the purpose—as I think the gentleman will bear me witness—mainly of introducing to him an old soldier friend, who formerly lived in Virginia, and who had come on here for the purpose of obtaining a pension, and I was desirous of enlisting the members of the House in his favor."

To that remark the gentleman from Virginia replied as follows:

"It is said by the gentleman from Illinois [Mr. MORRIS] that this conversation occurred in his room, in the presence of his family. That is true, sir; but I went with a view to consult with him, as he has stated, and this public subject came up in conversation after that private matter was disposed of."

He came to my private room to consult with the old soldier, as I stated, and as he has admitted. Now, sir, that old soldier, the member from Virginia, and myself and family, were the only persons present at that interview. I desire that old soldier to speak for himself as to what was said on that occasion. I ask that the affidavit which I send to the Clerk's desk may be read as a part of my speech. Not a word or line of it was written or dictated by me, nor do I know who did write it. It embodies his own recollections of the facts.

The affidavit was read, as follows:

STATE OF ILLINOIS, McDONOUGH COUNTY, ss:

The undersigned, Thomas Smithers, being duly sworn, doth depose and say, that he was at Washington city during a part of the winter last past, for the purpose of prosecuting a claim for a pension; and while there, some time in the month of December, he, affiant, spent an evening at the room of Hon. J. N. Morris, and was informed by said Morris that ex-Governor Smith, of Virginia, would be there to see affiant in reference to said claim. Affiant further states that said Smith came to said room about half past seven o'clock p. m. of said day, and remained there from one half to three quarters of an hour. That the only persons present were the said Smith, Morris and his wife, and affiant; and affiant now most positively states that no such statements as said Smith has attributed to said Morris, in a speech recently delivered by him, Smith, in the House of Representatives, in substance that "the Illinois delegation in Congress had had a conference, and determined or agreed that the only way for Judge Douglas to secure his reelection to the United States Senate was by opposing the admission of Kansas under the Lecompton constitution," were made by said Morris at the time, nor was anything said by said Morris which could be so construed to bear any such meaning; but on the contrary, said Morris, in said conversation, insisted, in the strongest terms, that said constitution was a fraud on the people of the Territory of Kansas, and that the same ought not to be forced upon them, against their well-known and expressed wishes, and that the admission of Kansas under said constitution would be a clear violation of the principles of popular sovereignty, and would defeat and ruin the entire Democratic party; and I am sure that Mr. Morris said nothing, in said conversation, which could have been fairly construed to imply that the Illinois delegation were opposed to the admission of Kansas for merely selfish or personal motives; nor was anything said, in said conversation, about any meeting or conference of the Illinois delegation upon the subject, or any action having been taken by them. Affiant was at the room of said Morris when said Smith came, and remained there nearly an hour after he left, and was participating in the conversation, and heard all that was said while Governor Smith remained.

THOMAS SMITHERS.

STATE OF ILLINOIS, McDONOUGH COUNTY, ss:

This day personally came before me, the undersigned, clerk of the circuit court of said county, the above-named Thomas Smithers, who made oath before me that the foregoing statement, by him subscribed, was true, to the best of his knowledge and belief.

In testimony whereof, I have hereunto set my hand and the seal of said court, this 5th day of April, 1855.

W. T. HEAD, Clerk.

Pending the reading of the affidavit, the time for debate having expired, the hammer fell.

Mr. MORRIS, of Illinois. I would like to have five minutes more. I would like to have time in which the Clerk might finish reading the papers I have sent to his desk.

Mr. J. GLANCY JONES. I wish to act in perfect fairness. I will yield to the gentleman, that he may go on with his remarks, for five or ten minutes. I hope the discussion will be soon brought to a close, and that the bill will be laid aside to be reported to the House.

Mr. MORRIS, of Illinois. I desire to say that the gentleman from Pennsylvania [Mr. J. GLANCY JONES] has treated me with great courtesy, and I thank him for his kindness. I ask that the affidavit be read through.

The Clerk finished the reading of the paper.

Mr. MORRIS, of Illinois. I send another paper to the Clerk to be read.

The Clerk read as follows:

The undersigned citizens of McDonough county, Illinois do state that they have known Thomas Smithers, whose petition to the Congress of the United States is hereto annexed, for more than twenty years; that they know him to be an honest, upright, honorable old man, whose veracity cannot be impeached; and that they have read the foregoing petition, and firmly believe the facts set forth therein are true.

George A. Taylor,
Isaac Grantham,
Thompson Chandler,
J. P. M. Buchanan,
John M. Crabb,
James D. Walker,
Thomas Adcock,
T. B. B. Maury,
G. S. Farwell,
C. A. Lainsan,
J. H. Wilson,
D. Laisson,
W. T. Head,
J. L. Turgan,
Charles Chandler,
J. H. Baker,
J. W. Atkinson,
Daniel Clarke,
John Wiley,
James Henderson,
John S. Anderson,
J. H. Atkinson,
Benjamin Vail,
B. Broadus,

Charles Hays,
J. W. Westfall,
Hugh Kinkade,
William S. Hall,
R. Naylor,
S. G. Canon,
John O. C. Wilson,
W. H. Franklin,
B. T. Naylor,
J. W. Maury,
J. C. Roberts,
J. L. N. Hall,
F. G. Cary,
William S. Bailey,
William W. Bailey,
J. E. Wyne,
J. D. Walker,
Thomas Pickett,
Loren Garrett,
Thomas Beard,
C. W. Wyne,
J. E. Jackson,
J. Nankivill,
L. A. Hunt,

G. W. Smith.

MACOMB, January 1, 1855.

Mr. MORRIS, of Illinois. That paper was sent here under the charge of Colonel Richardson, at the time when Mr. Smithers made his application for a pension. He was here himself, as he states in his affidavit, during the month of December last; was before the Committee on Invalid Pensions, and told his own story, and exhibited to them honorable scars and wounds received in the battles of his country. It is gratifying to me to be able to say that that committee were unanimous in reporting a bill for his relief, and that it has since passed both Houses of Congress, and become the law of the land, placing his name upon the pension roll of the Government. He is a highly intelligent and honorable gentleman, and stands as fair as any man in the country for truth and veracity; but I have no particular comments to make in reference to his affidavit. It speaks for itself. The people will judge of it; and they will judge, too, of this renewed attack of the member from Virginia [Mr. SMITH] upon the Senator from Illinois.

It was not my purpose to indulge in crimination or recrimination on this or any other subject; but as the member from Virginia has undertaken to assail the Democracy of Illinois, and to read out of the party Governor Wise, of Virginia, and many other prominent gentlemen, I must say a word or two in regard to him. I could go into the political history of the gentleman from Virginia, and show fully his affiliation with Know Nothingism. Indeed the evidence of that is to be found on the public records of the country. What was the character of his speech delivered in this Hall a few days ago against the admission of Minnesota but a violent Know Nothing speech? He objected to her admission, because her constitution permitted aliens to vote after a certain residence; for there was no other objection to it, and none other was assigned. It was, I repeat, a purely Know Nothing speech. Besides, a gentleman of his district, whose name I will be happy to furnish him, if he desires it, has offered me any amount of testimony to prove the gentleman's Know Nothing

proclivities. He has sent to me voluntarily (I did not ask it) some evidence on that point. Here is a Know Nothing ticket, a true-blue ticket, in which the gentleman's name is printed as the Know Nothing candidate for Congress. It is headed the "American ticket." Here it is in full:

THE AMERICAN TICKET.

For Governor.

THOMAS STANHOPE FLOURNOY,
of Halifax county.

For Lieutenant Governor.

JAMES M. H. BEALE,
of Mason county.

For Attorney-General.

JOHN M. PATTON,
of Richmond city.

For Commissioner of Board of Public Works.

RICHARD G. MORRIS,
of Richmond city.

For Congress.

WILLIAM SMITH,
of Fauquier county.

For State Senate.

For House of Delegates.

I hold here, too, a Know Nothing paper, published in the gentleman's district, in which it is contended that the gentleman was elected by the Know Nothings. Let me add that I have also been informed by a distinguished Democrat of the gentleman's district that a young man who is in the custom-house at Alexandria, and whom the member tried to have removed from office, filed in the Treasury Department certain charges of a grave political character against him, and the member agreed, if he would withdraw them, that he would withdraw his demand for his removal. He was glad to play "quits" with him. I know nothing of my own knowledge of the truth of this matter; but the member can have the name of my informant if he desires it. He will find him responsible for what he says.

But, in addition to all this, I can take the speeches the gentleman has made in this Hall, at this and at previous sessions, and prove Know Nothingism upon him beyond all controversy. He may say that he is not a member of any lodge, and has not taken their oaths, but if he eats soup out of the same bowl with them, he is with them in spirit and in fact. It may be that he is like the wolf that watches round the flock, and wishes to get the booty without being caught. He was elected to this House by Know-Nothing votes. I have read the Know-Nothing ticket on which the gentleman ran for Congress. The gentleman can decide whether the ticket is genuine or not. [Here Mr. MORRIS held out the ticket to Mr. SMITH, but he refused to take it.] He will see that his name is upon it for Congress, and how came it there if there was no community of interest or fellow-feeling?

[The committee here informally rose, and a message in writing was received from the President of the United States, by JAMES BUCHANAN HENRY, his Private Secretary, when the committee resumed its session.]

Mr. MORRIS, of Illinois. Now, if he goes outside the Democratic organization; if he refuses to support the Democratic nominees, as he did refuse to support Governor Wise, what right has he to come into this Hall and talk about reading men out of the Democratic party? It is not modest in him, to say the least. The gentleman has brought this controversy upon himself. I might add additional proofs. I have a publication of the member's in which he complains of a certain Know Nothing letter which found its way to the public, being used in that way, when it was a private one, but I will not read it. I said, Mr. Chairman, that I would not trespass upon the patience of the committee by entering into any lengthy controversy. I have set myself right, and put the member from Virginia in a position from which he cannot escape; and I will not trouble the committee further.

Mr. SMITH, of Virginia. I ask the committee to allow me ten minutes to reply.

Mr. ADRIN. I object. The gentleman has already had his hour.

Mr. SMITH, of Virginia. But new matters have been brought up now. I hope the committee will not deny me ten minutes.

Mr. J. GLANCY JONES. Having given way ten minutes for the gentleman from Illinois, it is no

more than right that I should yield a like amount of time to the gentleman from Virginia.

Mr. MORRIS, of Illinois. The gentleman from Virginia has occupied an hour, while I have only occupied fifteen minutes of the time of this committee; and now I will not permit him to have the last word. I am more than willing he should speak, if an opportunity is given me to reply. I offered to yield the floor to him when I was speaking, but he declined; seeking for some advantage.

Mr. J. GLANCY JONES. I do not propose myself, to occupy but a small part of my hour, and as I have yielded ten minutes to the gentleman from Illinois, I am willing to yield ten minutes more to the gentleman from Virginia, with the understanding that I will not again give way.

Mr. GROW. I object for this reason. The gentleman from Virginia has already occupied an hour, and I think we had better go on with the public business.

Mr. SMITH, of Virginia. I understand that no one objects. Surely no one will object.

Mr. GROW. I am appealed to by my friends all around me, to withdraw my objection. I will state that my object in moving that the committee rise, was to stop this debate. I will, however, withdraw my objection, if the committee want this debate go on.

Mr. LOVEJOY. I object, unless the gentleman from Illinois shall have the same length of time to reply.

Mr. HALL. Then I object altogether.

Mr. J. GLANCY JONES. Then I will go on with what I have to say.

Mr. SMITH, of Virginia. I will make one more appeal to the committee. If they will give me permission, I will take five minutes.

Mr. STANTON. The gentleman from Virginia has occupied one hour already. If he has the floor now, he will, I am sure, say something that some gentleman will want to reply to. I think we had better go on with the public business. I do not think this matter should have been brought here at all, and I object.

Mr. J. GLANCY JONES. I wish to say a very few words in explanation of this bill. It is a bill to supply deficiencies in the appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1858.

The first clause makes an appropriation for restoring and maintaining, by peaceable measures, friendly relations with the Indian tribes in Oregon Territory, during the year ending 30th of June, 1858.

This is the same provision which is contained in the regular bill for the other Territories.

The second clause is for the general incidental expenses of the Indian service in the Territory of Utah, or so much thereof as may be required for expenditure during the year ending 30th of June, 1858.

The third clause is for the payment of the claim of Overton Love and John Guess Chullasasos, for the value of property forcibly taken from them by citizens of Texas.

The fourth clause is for payment to such Cherokees as were omitted in the census taken by D. W. Siler, but who were included and paid under the act of July, 1848, the same per capita allowance that was paid the other Indians under that distribution, provided the Commissioner of Indian Affairs shall be satisfied they ought to be included in said per capita distribution.

The fifth clause is for contingencies of the Indian department, or so much thereof as may be required for expenditure during the year ending June 30, 1858.

The seventh clause is, for indemnity to George W. Stedham, a Creek Indian, for property stolen from him and injured by a citizen of the United States, \$125. That is under the intercourse act.

The eighth is, for general incidental expenses of the Indian service in the Territory of Washington, or so much thereof as may be required during the year ending June 30, 1858, \$16,000.

The ninth and last is, for the Senecas, of New York, for interest, in lieu of investment, on \$75,000, at five per centum, per act of 27th June, 1846, \$3,000; and for payment of the difference in salaries of the agents for the Sioux and Seminole Indians, for the Omaha agency, for the Kickapoo agency, for the Kansas agency, and for the Ne-

osho agency, between the rates as fixed previous to the act of 3d March, 1857, and the rate authorized by said act from the 3d March, 1857, to the 30th June, 1858, \$3,991 68.

The bill was read by clauses for amendment.

Mr. LANE. I move to amend by striking out, in the thirteenth line, "\$264,000," and inserting in lieu thereof "\$362,349 09;" so as to make the clause read:

For restoring and maintaining, by peaceable measures, friendly relations with the Indian tribes in Oregon Territory, or so much thereof as may be necessary for expenditure during the year ending 30th June, 1858, \$362,349 09.

I find, by looking over the estimates, that this item has been cut down from the sum I propose to restore, to that which I move to strike out.

Mr. J. GLANCY JONES. The gentleman will find that the sum estimated for was \$264,000, and that is the amount reported by the committee.

Mr. LANE. If the gentleman from Pennsylvania will look at the estimates, he will find that the committee made a mistake, and that the whole amount estimated for is that which I propose to insert.

Mr. J. GLANCY JONES. I think the gentleman from Oregon is referring to estimates of the Indian agent, not to those of the Department.

Mr. LANE. No; I am right, and certainly the chairman of the Committee of Ways and Means will see the necessity of having my amendment adopted.

Mr. J. GLANCY JONES. This item to which the gentleman refers me is an additional matter which the committee thought might be dispensed with.

Mr. LANE. Will the gentleman permit me to explain?

The CHAIRMAN. No further debate is in order.

The question was then taken; and Mr. LANE's amendment was not agreed to.

Mr. SEWARD. I move to strike out the following clause:

"For restoring and maintaining, by peaceable measures, friendly relations with the Indian tribes in Oregon Territory, or so much thereof as may be necessary for expenditure during the year ending 30th of June, 1858, \$264,000."

We have heard much complaint, Mr. Chairman, about the Treasury being depleted, and about the want of money, and about the very great apprehensions which existed at headquarters, that the Government could not possibly be carried on in the present depressed condition of the commerce of the country. Now, sir, there is not a solitary item given for this aggregate of \$264,000; and I want to ask the chairman of the Committee of Ways and Means to give me one solitary item going to make up that amount; whether it is to go for clothing the Indians, or for food, or for carrying out treaty stipulations, or for any other purpose. I say it is an outrage to come here and demand this enormous appropriation without some explanation; and when the gentleman, or those whom he represents, talk to the country about economy, I arraign them and ask them to act like intelligent, sensible men, when they call upon the people of the country to contribute, in the shape of taxation, this amount of money for indefinite purposes.

Whenever appropriations are called for for regular purposes, the rules are either interposed, unnecessarily, to cut them off, or the powers that be are brought to work to crush out and interrupt the healthy legislation of the country, and to hold laws, already existing, in subserviency to their will and dictation. If money has got to be paid, I shall object to anything unless the objects are distinctly specified, and unless we have the items, and the reasons making appropriations for them necessary. I will oppose this system of voting money blindly, without having even the question discussed. I object to the plan of one gentleman having always the floor at pleasure, by the consent of the occupant of the chair, whoever he may be. For these reasons, I hope the House will take the business in charge, and not submit to dictation from any quarter.

Mr. J. GLANCY JONES. I have but a very few words to say in reply to the gentleman from Georgia. In the first place, my friend from Oregon moves to increase the sum \$98,000, and I am obliged to object to that, because we have not as much money as we want to spend, admitting that it could be well expended, and now the gentleman

from Georgia wants to strike out what is left in the bill. I have simply to say that this policy has been inaugurated for some years, and I will send to the Clerk's desk what the Secretary says about it, and if the gentleman from Georgia will take the trouble, he will find all the items in detail.

Mr. SEWARD. I not only want the items, but I want the law on which they are predicated.

Mr. J. GLANCY JONES. It was not supposed that the items would be very interesting in Committee of the Whole on the state of the Union, but if gentlemen wish to have them, it will give me great pleasure to produce them.

Mr. SEWARD. I ask not only for the items but for the law.

Mr. J. GLANCY JONES. I ask that the Clerk will read what the Secretary says. I have simply to remark in addition, that this policy has been adopted, and that this amount will be required to carry it on.

The Clerk read, as follows:

"As explanatory of the propriety and necessity of estimating for this sum to supply the deficiencies of the Indian service in Oregon, reference is made to copies of letters received from Superintendent Nesmith, numbered from 1 to 3, herewith, with copies of accompanying estimates made by the superintendent for funds required for the fiscal year ending June 30, 1858; also, to copies of letters from the same, treating, at length, the subject of the policy pursued in managing Indian affairs in Oregon, the wants of the service, and the inadequacy of the means provided therefor, numbered from 4 to 6; and to copies of letters addressed from this office to the superintendent, showing the action thereof in connection with the control and direction of the appropriations made by Congress at its last session, and the remittances made therefrom for the Indian service in this Territory, numbered from 7 to 14. From the estimates made by the superintendent for the fiscal year ending June 30, 1858, exclusive of treaty stipulations, which amount, in the aggregate, to \$910,918 95, taken in connection with the remittances made for the same period, and for the same general objects, amounting, altogether, to \$516 431 07, it would seem that the actual deficiency for this service would be greater than now asked for; but, inasmuch as the superintendent has stated that the remittances for the Indian service in Washington Territory will suffice therefor to the close of the year ending June 30, 1858, the amount asked for is deemed sufficient to meet the deficiencies in Oregon, and is the same as the amount appropriated for like purposes and objects by the act of March 3, 1857, for the fiscal year ending June 30, 1857."

Mr. SEWARD. I have no desire to embarrass the business of the committee, and will withdraw my amendment.

Mr. UNDERWOOD. I move to strike out the following clause:

"For the general incidental expenses of the Indian service in the Territory of Utah, or so much thereof as may be required for expenditure during the year ending 30th June, 1858, \$55,500."

I make the motion, for the reason that but a few moments ago we passed an appropriation bill for the Indian service of the Government, which contained this clause:

"For the general incidental expenses of the Indian service in the Territory of Utah, presents of goods, agricultural implements, and other useful articles, including traveling expenses of the superintendent, agents, and clerk hire, \$55,500."

Now, if gentlemen will look at those two clauses, they will observe that they are almost word for word the same, except that that which we have already passed upon makes specifications which ought always to be made in all these appropriation bills. But in this clause, which we are now called upon to pass, there is no specification at all, but an appropriation for a general purpose, undefined and unlimited.

Mr. J. GLANCY JONES. The clause in the other bill was for the next fiscal year; this is for a deficiency for the current year.

Mr. UNDERWOOD. Then the remarkable fact is presented that the deficiency in the past appropriation is more than a thousand dollars greater than the original appropriation for the next fiscal year. The appropriation in the first bill was \$55,000, and this is a deficiency amounting to \$56,593, being \$1,593 more than the total appropriation for the next ensuing fiscal year. Sir, I can give no sanction of mine to any legislation of that character. I move, therefore, that the clause be stricken out.

The motion was agreed to.

Mr. REAGAN. I move to strike out the following clause:

"For the payment of the claim of Overton Love and John Guess, Chickasaws, for the value of property forcibly taken from them by citizens of Texas, \$3,700."

I desire to call the attention of the committee

to that item. It is a small one, it is true; but I wish the committee to know what we are appropriating money for. I find in the estimates this recommendation:

"For the payment of the claim of Overton Love and John Guess, Chickasaws, for the value of property forcibly taken from them by citizens of Texas, \$3,700."

I find the following note appended to that recommendation:

"A copy of a letter from the Commissioner of Indian Affairs, dated June 26, 1857, addressed to D. H. Cooper, agent, &c., marked I, herewith, will show the character of this claim, and also the promise of the Commissioner to render an estimate therefor."

I now wish to call the attention of the committee to the letter which is the authority, and the only authority, for this appropriation. I read the letter:

DEPARTMENT OF THE INTERIOR,
OFFICE INDIAN AFFAIRS, June 26, 1857.

SIR: Your letter of the 27th ultimo, calling my attention to the claim of Overton Love and John Guess, Chickasaws, for the value of seven negro slaves forcibly taken out of their possession in 1847, and carried off by certain citizens of Texas, has been received.

I have very carefully examined and considered the case, and am of opinion that, under the treaties and laws, they should be paid the value of the same by the United States. I have taken the valuation placed upon them by David Wall, a disinterested witness, together with the comments of late Agent Smith, to be nearer their true value than that placed upon them by the other witnesses. As there are no funds at the disposal of this office applicable to the payment, I shall send in an estimate for the amount assessed by Wall, to Congress, at its next session, and ask that an appropriation may be made.

Very respectfully, your obedient servant,

J. W. DENVER, Commissioner.

DOUGLAS H. COOPER, Esq., Agent, &c., present.

Now, sir, we have a letter from one Indian agent to another Indian agent, and upon this is founded the opinion of Commissioner Denver that this claim of \$3,700 ought to be paid to certain Indians named. There is not a particle of proof; not one fact; nothing upon which the judgment of any living man can be passed. We are to take on credit the opinion of the Commissioner of Indian Affairs of the law and facts of the case, without disclosing the law under which he adjudges the case, or the facts upon which he renders his decision. I take it that that is too loose a way to appropriate the money of the Government; and if no better foundation can be shown for this proposition, I trust the committee will strike it out.

Mr. J. GLANCY JONES. I state upon information which I believe to be authentic, that this is due under the intercourse act. The gentleman will not, I presume, question the liability of the Government to pay for property taken or destroyed under the intercourse act.

Mr. REAGAN. I do not question the liability of the Government to pay, under the intercourse act. But what I object to is, that this item is here inserted in an appropriation bill, without any evidence of the facts upon which the claim is founded.

Mr. J. GLANCY JONES. The only reply that I have to make to that is, that the Department have received the evidence, and I have no doubt they have carefully examined it. The evidence has satisfied them of the justice of the claim, and they have therefore recommended the appropriation.

Mr. LETCHER. If the gentleman from Pennsylvania will allow me, I will read what the Commissioner says. Here is the letter:

DEPARTMENT OF THE INTERIOR,
OFFICE INDIAN AFFAIRS, June 26, 1857.

SIR: Your letter of the 27th ultimo, calling my attention to the claim of Overton Love and John Guess, Chickasaws, for the value of seven negro slaves forcibly taken out of their possession in 1847, and carried off by certain citizens of Texas, has been received.

I have very carefully examined and considered the case, and am of opinion that, under the treaties and laws, they should be paid the value of the same by the United States. I have taken the valuation placed upon them by David Wall, a disinterested witness, together with the comments of late Agent Smith, to be nearer their true value than that placed upon them by the other witnesses. As there are no funds at the disposal of this office applicable to the payment, I shall send in an estimate for the amount assessed by Wall, to Congress, at its next session, and ask that an appropriation may be made.

Very respectfully, your obedient servant,

J. W. DENVER, Commissioner.

DOUGLAS H. COOPER, Esq., Agent, &c., present.

Mr. REAGAN. One word right here. I say there is no evidence before us of the information upon which the Department arrived at its conclusions. We want the testimony of witnesses ex-

amined under oath to prove the right to the property, and the value of the property.

Mr. LETCHER. I have referred the gentleman to the letter of the Commissioner.

Mr. REAGAN. That is as to the value of the property; but not one word is said about the right to the property.

Mr. LETCHER. Why, sir, the right to the property is the first thing that the Department must be satisfied in relation to, before it takes any steps in relation to ascertaining the value.

Mr. KELSEY. I wish to ask if this is not precisely within the class of cases of persons who come here, from session to session, to prosecute their own private claims? I do not understand why the claims of these individuals should be singled out and placed in an appropriation bill.

Mr. LETCHER. I understand that this case was satisfactorily made out. It is for a violation of the intercourse act. The Department had all the evidence before them, and became satisfied that these were just and honest claims, and ought to be satisfied by Congress.

Mr. STANTON. I could not hear the letter read by the gentleman from Texas. I ask him to send it up and have it read, so that we may see upon what this claim is founded.

Mr. REAGAN. I will send it up.

The Clerk read the letter again.

Mr. STANTON. Now I want to know from the gentleman from Virginia, under what intercourse law the Government of the United States is bound to pay for slaves taken from Indians?

Mr. PHELPS, of Missouri. I will answer the gentleman. It is the intercourse act of 1833, which provides that where a white man steals the property of an Indian, remuneration shall be made; and *vice versa*, where Indians, receiving annuities of the Government, despoil white men of their property, the value of that property shall be taken from the next annuity of the Indians.

Mr. STANTON. I understand the whole case; and it furnishes two or three good reasons why this provision should be stricken out. In the first place, I do not recognize the obligation of the United States to pay for slaves when they are only described by the general term, "property." I do not believe that, *ex vi termini*, slaves are recognized in the general term "property." And again, if the United States are bound to pay for this property which has been taken away, these are claims which should go on the Private Calendar and take their chances with the others; unless there is some reason for the adoption of this clause in the bill other than what has been presented, I think the provision should be stricken out.

The amendment of Mr. REAGAN to strike out the clause was agreed to.

Mr. SEWARD. I move to strike out the appropriation in the following clause of the bill:

"For contingencies of the Indian department, or so much thereof as may be required for expenditure during the year ending June 30, 1858, \$25,000."

Mr. Chairman, I find in this bill an aggregate of some \$375,560, made up mostly of indefinite appropriations in the shape of contingencies. In spite of the doctrines of the gentleman from Pennsylvania, the chairman of the Committee of Ways and Means, that specific appropriations should be made for specific items of expenditure, here is an appropriation made on the policy which superintendents of Indian affairs and Indian agents have sought to inductinate upon the Administration—an appropriation which is not in accordance with law, but to furnish employment for speculators. And yet, strange to say, when the Administration, in carrying out their economical policy, when Congress has made appropriations for the construction of important works they are stopped, and the commerce of the country is strangled, at the same time the Administration adopts the most outrageous, ruinous policy, indicated at the suggestion of men in power; and this House of Representatives is called upon to vote the money, in obedience to the behests of these Departments, which, in my opinion, are doing more to embarrass the Treasury, to strike down the public credit, and destroy public confidence, than any other cause. Two hundred and seventy thousand five hundred dollars for incidental expenses in one bill, and \$375,000 in another for the same purpose. The estimates are made out, I

suppose, by some officer of the Department sent here, indorsed by the Commissioner of Indian Affairs or the Secretary of the Interior, and then communicated to this House. It seems almost a vain effort to resist such appropriations; and I make these statements now, because I intend that the country shall know the cause of the expenditures of the public money.

Mr. J. GLANCY JONES. I oppose the amendment. I admire the spirit of my friend from Georgia, [Mr. SEWARD,] and I am sorry that it is not within my power to redress the grievances of which he complains.

Mr. SEWARD. I am not entitled to the gentleman's sympathies, and do not claim them.

Mr. J. GLANCY JONES. I wish to correct one statement that he made. He says that we take the statements of Indian agents. The estimates are sent here from the Secretary of the Interior, and reduced to as low a point as they can be put without injury to the public service.

The amendment was agreed to.

Mr. PHELPS, of Missouri. The amendment of the gentleman from Georgia was to strike out "\$25,000." I move to amend by inserting "\$24,500."

The gentleman from Georgia is mistaken when he states that this is an appropriation made upon reports of Indian agents to the Commissioner of Indian Affairs. It is for contingencies of the Indian department, which arose in this way: during the last Congress a resolution was introduced calling upon the Secretary of the Interior to furnish all the correspondence which had taken place on Indian affairs in the Territories of Washington and Oregon. It will be recollected that we received a message from the President of the United States in answer to that resolution. I believe that there was some two or three cubic feet of manuscript sent here containing that information. A proposition was made to print it, but was negatived. Several clerks have been employed during the last year and since the adoption of that resolution, in order to comply with the request of the House. The resolution was introduced by a gentleman from New York, (Mr. Sage,) not now a member. The amount of this appropriation is what was necessary to pay for extra clerk hire in answering this call of the House for information, as well as others. The regular force of the office was insufficient to answer the call, as well as the regular duties devolving on them.

Mr. SEWARD. We hear a great deal said about incidents and contingencies. Now I want to know what these are incident to?—of what are they contingencies?

Mr. PHELPS, of Missouri. If the gentleman will yield me the floor I will read. I refrained from reading while I was up.

Mr. SEWARD. I object to reading. I know that the gentleman can make up items from those letters from the Departments. That is what I object to—that these items are made up. I want to know what these appropriations are incident to, what they are contingent to, and upon what law they are predicated—contingent to what? I will tell you what they are contingent to. They are contingencies growing out of the reckless extravagance that is tolerated in some of the Departments of Government. They are incidents to estimates and expenditures made for objects with out the authority of law. The Departments inaugurate a policy, and send here orders for us to sanction it. I am determined, as far as I can, to break up this matter. I say that unless we are resolute in holding the Executive Departments down to the execution of the law, the Treasury will be subject to their entire control.

Here, Mr. Chairman, the chairman of the Committee of Ways and Means exercises a predominating influence over the judgment of this House by reason of the importance attaching to the organization of that committee. I do not look upon the recommendation of the Committee of Ways and Means, or of any other committee, as conclusive upon my judgment, especially when that recommendation is more or less dictated from the other end of the avenue, and by those in the Departments, who are not careful in obeying the behests of the law, and who, indeed, are too often prone to set themselves above the act of Congress.

Mr. LETCHER. I move to amend the amendment by adding \$250.

My friend from Georgia has undertaken to read a lecture to the Departments about the misapplication of public money, and about the preparation of estimates to operate upon the House. If the gentleman had taken the trouble to look at what the War Department has sent here, he would have seen the precise reason for this expenditure of \$25,000.

Mr. SEWARD. I want the law for it.

Mr. LETCHER. The law is this: that you, in all probability, in connection with others, in the last Congress, passed an order here demanding from the Department this information. It will be recollected that a mass of correspondence came here, weighing some fifteen hundred pounds, and that it took two stout men to place bundles of it upon the Speaker's table. It was for the copying of that correspondence, which occupied nine months, that the money is asked.

Mr. SEWARD. The gentleman from Virginia is always candid. Does he tell me that this is a contingency in the Indian department, and falls with the charge?

Mr. LETCHER. Yes, sir, it is; and I am only astonished that my friend from Georgia does not know it. The estimate is:

"For contingencies in the Indian department, or so much thereof as may be required for expenditure during the year June 30, 1858, \$5,000. This estimate is made to meet and supply the deficiency in this appropriation, arising from the extraordinary demands thereon in the employment of additional clerical force consequent upon answering sundry calls for reports by Congress, and which are still in progress of execution, and for the performance of which the regular force of this office was and is inadequate."

Mr. SEWARD. Is that a contingency?

Mr. LETCHER. I say it is a contingency. Will the gentleman tell me who could have foreseen the order of this House that would have required one thousand five hundred pounds of paper to be written over? If that is not a contingency I would like to know what is. Is it not something which could not be foreseen? I think it would puzzle God Almighty himself, although it is said that His foreknowledge extends to everything—to know of some things which this House have done and will have done before the close of the session. There is a case where the House goes on and makes an order, without knowing what it is ordering. The Department is called upon to answer; and when it does answer, the House will not order the information to be printed, so absolutely worthless is it; and when money is asked for this expenditure, the gentleman from Georgia objects, on the ground that it is not a deficiency.

Mr. SEWARD. The gentleman has made out a very bad case. I voted for no such resolution of inquiry; and even if I had, I would still hold that the act of the Secretary was a usurpation of power in creating offices and in employing new clerks beyond the number of employees authorized by law.

Mr. LETCHER. How was he to answer the resolution?

Mr. SEWARD. He should have answered that he had not the requisite clerical force.

Mr. PHELPS, of Missouri. Each Department of the Government has authority, when its force is inadequate, to employ an additional force, temporarily, for the purpose of answering a call made upon it by Congress, or any branch thereof.

Mr. SEWARD. In the first place, I take issue with the Department about the necessity of employing an extra clerical force. Judging from the general idleness of the clerks there, I should deem an extra force unnecessary; but if it was, the head of the Department has no such discretion. If his clerical force was insufficient to allow of his carrying out the order of the House, he should have announced that fact to the House.

Mr. GREENWOOD. I desire to ask the gentleman a question for information.

Mr. SEWARD. I am seeking for information myself.

Mr. GREENWOOD. Does the gentleman know the number of clerks employed in the Indian bureau?

Mr. SEWARD. I do not; but, taken in the aggregate, there are a great many of them. I see a great many of them in the streets more frequently than in the department; and when they are in the department, I generally find them sitting there smoking cigars.

Mr. GREENWOOD. There are only twelve or fourteen regular clerks in that department.

Mr. SEWARD. Well, there ought to be no such department. But that is not my position. I say that a public officer, in the exercise of his discretion, who does such a thing, becomes almost as obnoxious to the charge of corruption as if he had acted in defiance of law.

Mr. GREENWOOD. Will the gentleman allow me to read a section of the law?

Mr. SEWARD. I have but little time; and I will admit all that gentlemen say—that discretion is vested there. It only makes the matter worse. It is an abuse of discretion that ought not to be tolerated.

The question being on the amendment of Mr. LETCHER,

Mr. LETCHER withdrew it.

The question recurred on the amendment offered by Mr. PHELPS, of Missouri; and it was agreed to.

Mr. BINGHAM. I move to amend by striking out the following clause:

"For indemnity to George W. Stidham, a Creek Indian, for property stolen from him and injured by a citizen of the United States, \$125."

I offer the amendment because I think the clause is a private claim, and ought not to be contained in a general appropriation bill at all. It ought to be reported to the House in a private bill for the relief of the party entitled to it. I beg leave to inquire of the chairman of the Committee of Ways and Means what property this was which was stolen, and how the Government is responsible for it?

Mr. LETCHER. I will tell the gentleman. If he will look at page 52 of Executive Document No. 93, he will find this entry:

The United States To George W. Stidham, Dr.
1857.—January 1.—For the value of one mule stolen from him by Thomas Burkhead, a white man, who was convicted of the larceny of the same, as per the accompanying transcript of the record of the United States district court. . . . \$80
For injury done to one mule, also stolen from him by the said Burkhead, &c. . . . 45

\$125

And this is accompanied by a copy of the record and notice of the conviction to the Department. Then the gentleman will find that the law on the subject is this:

"Where, in the commission, by a white person, of any crime, offense, or misdemeanor, within the Indian country, the property of any friendly Indian is taken, injured, or destroyed, and conviction is had for such crime, offense, or misdemeanor, the person so convicted shall be sentenced to pay to such friendly Indian, to whom the property may belong, or whose person may be injured, a sum equal to twice the just value of the property so taken, injured, or destroyed. And if such offender shall be unable to pay a sum at least equal to the just value or amount, what such payment shall fall short of, the same shall be paid out of the Treasury of the United States."

Mr. BINGHAM. I have attained my object in offering the amendment, by getting information on the subject, and I now withdraw my amendment.

Mr. GARNETT. I move to strike out the following clause:

"For general incidental expenses of the Indian service in the Territory of Washington, or so much thereof as may be required during the year ending June 30, 1858, \$16,000."

Mr. Chairman, I have been a member of Congress for two sessions. At the last session, as I well recollect, the appropriation bills were passed by this House almost without debate, and were sent back from the Senate loaded with amendments to the amount of millions of dollars. We heard those amendments read from the Clerk's desk, and, without being printed or considered, and without a separate vote, they were passed upon in gross. We are doing business now with a little more deliberation, but not much better. You are applied to for deficiencies in the Indian department, amounting to one or two million dollars; and we are acting on them under the force of the gag law, with but few members understanding anything about them; and I say this with all respect to the members around me. For one, I must say that I do not consider such legislation creditable to the House or to the country.

If this were a bill confined to specific appropriations, according to the principle inaugurated in the administration of Mr. Jefferson, there would be rather reason and plausibility in this method

of passing it. But what is its character? The very first clause is:

"For restoring and maintaining, by peaceable measures, friendly relations with the Indian tribes in Oregon Territory, or so much thereof as may be necessary for expenditure during the year ending 30th of June, 1858, \$264,000."

Does the chairman of the Committee of Ways and Means call that a specific appropriation? The next clause is:

"For the general incidental expenses of the Indian service in the Territory of Utah, or so much thereof as may be required for expenditure during the year ending 30th June, 1858, \$56,599 31."

Does the chairman of the Committee of Ways and Means call that a specific appropriation? Then come some private claims; and then:

"For contingencies of the Indian department, or so much thereof as may be required for expenditure during the year ending June 30, 1858, \$25,000."

And then comes the clause which we are now considering:

"For general incidental expenses of the Indian service in the Territory of Washington, or so much thereof as may be required during the year ending June 30, 1858, \$16,000."

Does the gentleman from Pennsylvania call any of these specific appropriations? And is it reasonable to ask us to vote them without explanation?

I think, Mr. Chairman, that gentlemen will find how these appropriations have grown up to some extent if they look to Document No. 93, which my colleague [Mr. LETCHER] has quoted from. It consists principally of correspondence between Mr. Nesmith, the superintendent of Indian affairs in Oregon and Washington Territories, and the Commissioner of Indian Affairs; and the correspondence is marked by a disrespectful and almost impudent tone on the part of the subordinate. It seems that this Mr. Nesmith has been asking a great deal more money than was sent to him—a great deal more than Congress appropriated, and a great deal more than the department authorized. And how does he write to the department when they require him to send them estimates? He tells them in one sentence:

"In this remitting dribbling sums, [amounting to thousands and thousands] applicable only to particular quarters and none others, you have inadvertently hit upon the most direct and certain method of embarrassing the different agents in their accounts."

Again, he says:

"I can see no use in wasting time to prepare estimates if they are to be disregarded in making remittances."

This, mark you, is an agent writing to the department here. Again, sir, he says:

"If you have not confidence in the officers here, and can trust nothing to either their honesty or discretion, remove them and appoint others in whom you can repose confidence."

[Here the hammer fell.]

Mr. PHELPS, of Missouri. The gentleman from Virginia seems to prefer a general bill of indictment against this appropriation bill. He finds fault with the whole of it on the single item now under consideration; after permitting appropriations to the amount of some two or three hundred thousand dollars to pass, he makes a point upon an appropriation of \$16,000 on account of the incidental expenses of the Indian service in Washington Territory. Let me inform the gentleman and the committee that these expenses accrued under the administration of the present Delegate from the Territory of Washington, as Governor and *ex officio* superintendent of Indian affairs in the Territory of Washington; and that it was when an Indian war raged throughout that Territory, and when he was compelled to rely upon his own judgment of the laws of the land, and, if it became necessary, to expend money there for the purpose of restoring peace and quiet in that distant Territory, he had no opportunity to consult his superior officers, but was bound to incur expenses if he believed it would tend to the suppression of hostilities and the preservation of the lives and property of the citizens of the Territory. In this way the incidental expenses were incurred; or, in other words, the superintendent of Indian affairs having money in his hands for treaty stipulations, applied the money for incidental expenses. I will read the explanation of this item:

"On examination of the accounts of Governor Stevens and agents unsettled, it is perceived that although in the main balanced as to aggregate of debits and credits, yet, in the disbursements made by them, they will be creditors on settlement under this general head, and debtors to a corresponding amount under other heads; consequently, it will require this appropriation by Congress to make the necessary transfers on adjustment."

Mr. GARNETT. I now withdraw my amendment, and move to strike out "16,000" and insert "15,000."

I was not aware that the honorable gentleman from Washington was at all concerned in this item, and the gentleman from Missouri knew very well my remarks were not applied especially to this item, but to the general character of the bill.

I was commenting, at the close of my last speech, on the character of the correspondence of Mr. Nesmith, and I was quoting from his letters. Now, one of the points which we have made specially here, during this session, and it seems to me with great force, is that when Congress appropriates particular sums for a particular service it is not proper for the Executive Departments to exceed the appropriation. Well, it seems that Mr. Denver, the Commissioner of Indian Affairs had taken the same view, and tried to enforce it on the agents in Washington and Oregon. What does Mr. Nesmith say? He says on page 29:

"It may be said that I have acted improperly in creating liabilities so far exceeding the remittances, and, for aught I know, the charge may be true."

This agent, after having been told by the Department that he must not exceed the estimates, acknowledges that he ought not to have done so, and yet goes on to do it, and accompanies it with language of official insubordination.

Mr. MAYNARD. Has not he been removed?

Mr. GARNETT. Removed! No, sir. Listen to the reply of the Commissioner of Indian Affairs to him—

Mr. PHELPS, of Missouri. I submit that the gentleman ought to confine himself to the subject-matter under discussion.

Mr. GARNETT. I appeal to the House to say whether, after having put the gag-law upon such a bill as this, it is for the Committee of Ways and Means to prevent its discussion?

The CHAIRMAN. The rule requires the gentleman to confine his remarks to the amendment.

Mr. GARNETT. I cannot immediately turn to the letter of the Commissioner, but Mr. Mix wrote to this agent almost apologetically, that, really, in remonstrating against his extravagance, he thought he was simply doing his duty. Now, these expenditures in Oregon and Washington have gone beyond all compass and beyond all bounds. I presume that, at the time this war was commenced, there probably were not more than fifty thousand men, women, and children in both Territories; and yet they have incurred a war debt something like two hundred dollars apiece all round. Mr. Chairman, these Indian wars are too often systems of speculation upon the Government. The war is not upon the Indians, but upon the Treasury. A class of individuals living upon the frontier settlements get up these wars; they incur enormous expenses, then expect the Government to pay them. This Mr. Nesmith tells the Commissioner of Indian Affairs that the Indians of Washington Territory do not cost as much as those of Oregon, for they live in part by hunting and fishing; but that it costs the Government about one thousand dollars a day to feed the Oregon Indians; that they are located on a tract of country which can afford nothing to supply their natural means of life. They are, in fact, kept prisoners, at an expense to this Government of \$1,000 a day. I would suggest to my friend from Pennsylvania whether, if the Government has to support these Indians at this rate, it would not be cheaper to bring them to the city of Washington, and board them in some of the hotels here.

Mr. STEVENS, of Washington. I think, Mr. Chairman, that injustice is done by the honorable gentleman from Virginia [Mr. GARNETT] to the present superintendent of Indian affairs for these two Territories. He is a man of large experience in that country; a man of integrity of character, and of very superior business qualifications. I saw much of Colonel Nesmith when I turned over to him the superintendency of Indian affairs in Washington, and I can say that I never met a public officer in my life who was more anxious to do his entire duty to the Government. He was anxious to impress economy upon the Indian service, and I know that he has labored faithfully during his whole term of office, working many hours to reduce the expenses of that service. I visited Salem last August; I went to his office; I saw his instructions to the agents. I

have had many of those instructions sent to me since I have been here, and I find a constant persevering effort running through all those instructions to bring down the expenses of that Indian service to the very smallest possible amount.

But here I meet the honorable gentleman from Virginia, firmly and squarely, on the charge of speculation and extravagance. I tell him that there has been no speculation or unnecessary expenses incurred by these two Territories, either in their Indian intercourse or their volunteer services—a service which enabled us to suppress these Indian hostilities and check the spread of rapine and massacre of our own people. It is easy to make these charges here; but, sir, we, as representing this people, deny these charges, and demand proof—unequivocal, positive proof—sworn testimony, showing the parties, showing the time, and showing the amount. If these things are not shown, then the charges will remain entirely unproved, are entitled to no weight, and will have no weight with this committee. Sir, we have been in an extraordinary position in those Territories. We have been exposed in all portions to attacks of Indians; so much exposed that, as I observed a few days since, the whole people of Washington for six months were compelled to live in block-houses. The people of Washington and Oregon have endured the most severe distresses; and yet, in that Indian service they have taken care to protect the Indians. That service has been a service of beneficence to the Indian tribes of these Territories. It has been a service which has dissuaded them from war, and has prevented them from going to war. Sir, these things ought to be known, for they are true of the people of both these Territories. It is due to the Indian agents of these Territories that they should be known; for never have officers worked in the midst of greater dangers; labored more assiduously for the Government; resisting clamor; resisting importunity; having only the service of the Government in view.

The amendment was not agreed to.

Mr. GREENWOOD. I am instructed by the Committee on Indian Affairs to offer three amendments, as separate clauses to the bill.

The CHAIRMAN. The gentleman will send up one at a time.

Mr. GREENWOOD. I move, then, to amend, by adding the following:

For compensation of five extra clerks, employed in the office of Indian affairs, \$7,000.

Mr. SEWARD. I want to know whether that amendment is in order. If it is, I have no objection to it.

The CHAIRMAN. The Chair considers it in order.

Mr. SEWARD. I am glad the Chair has so decided, for I have a very similar amendment which I want to offer.

The CHAIRMAN. The Chair will be very happy to apply the same rule to the gentleman from Georgia.

Mr. GREENWOOD. I send up the following communication from the Commissioner of Indian Affairs, which will explain the necessity for the amendment.

"DEPARTMENT OF THE INTERIOR,

"OFFICE INDIAN AFFAIRS, May 25, 1858.

"Sir: By acts of Congress of the 5th August, 1854, and 3d of March, 1855, and under appropriations made thereupon from year to year, five extra clerks have been kept in employment in this office; but for whose compensation no estimate has been made for the ensuing year. They have been employed at a compensation each of \$1,400 per annum; and, as their continuance is indispensably necessary, I respectfully recommend and request that application be made to Congress for an appropriation of the required amount, namely, \$7,000.

"Indeed, in view of the greatly increased and more complicated and difficult character of the duties of the office, occasioned by the extension of our relations and intercourse to and with many additional and distant tribes, and the numerous treaties entered into since 1853, there should be at least five more clerks, with salaries of not less than \$1,400 per annum, added to the permanent force of the office. The condition of the business and the interests of the public service require such an addition, which would obviate the necessity of these special applications to Congress from year to year. A reorganization of the office and a new classification of its business is very much required, but to effect this in a proper and efficient manner, such an increase of the number of its clerks is necessary."

Mr. SEWARD. I am opposed to that amendment. In the first place, we are met by the fifteenth section of the act of 1842, which is brought here by way of justification for those extraordi-

nary expenses. It is said that, under that act, the Department has a right to employ these extra clerks. That act authorizes the employment of clerks during the session of Congress, if necessary, and during the recess, if the information sought to be elicited is to be presented at the succeeding session of Congress.

I do not understand how all these expenses have arisen. We have treaties with the Indians in the western country, under which we pay them annuities of thousands annually. We have agreed to provide them with mechanical tools, to build them school-houses, &c.; yet, outside of those expenses provided for by law, we are called on to pay millions for contingencies. We begin with contingencies in the Treasury Department, and go on with contingencies in the War Department, and in the Navy Department, and in the Interior Department. We have contingencies for Indian service; contingencies for the Indian department; and we have made appropriations for them; but, besides that, we are asked now to pay, for five extra clerks in this Indian department, the sum of \$30,000; who are claimed to have been employed under the fifteenth section of the act of 1842.

Mr. GREENWOOD. They have been employed for a considerable length of time. It is recommended that they shall be made permanent.

Mr. SEWARD. The law only allows the employment of such clerks during the session of Congress and upon extraordinary occasions. We are now called upon, in this time of great economy, to ingraft upon the Government this additional source of expense. I do not believe that the additional labor is necessary; and I, therefore, hope that the amendment will be rejected.

The amendment was rejected.

Mr. GREENWOOD. I offer the following amendment:

For compensation of one clerk in the Indian office, employed to enable the Secretary of the Interior to carry out the regulations prescribed to give effect to the seventh section of the act of the 3d of March, 1855, granting bounty lands to Indians, \$1,400.

Mr. Chairman, in explanation of the amendment, I will read from the letter of the acting Commissioner. He says:

"The regulations prescribed to carry into effect the seventh section of the act of 3d March, 1855, granting bounty land, &c., as to its reference to Indian claimants, have also caused additional duties, for the discharge of which one clerk has been employed and paid heretofore out of the contingencies of the Indian department; and the treaty of 1832, with the Chickasaws, requiring a settlement to be made with them, involving much labor, to which none of the regular force of the office could be assigned, it has been necessary to employ two clerks specially for that purpose, whose compensation has likewise been paid from the same fund. The continuance of these three clerks is also necessary; and as the contingent fund is not adequate for their compensation, and other heavy drafts upon it, a further appropriation of \$4,200, for their payment, at the rate of \$1,400 per annum, should likewise be applied for."

Mr. SEWARD. I have no objection to that amendment.

The amendment was agreed to.

Mr. GREENWOOD. I offer the following amendment, to come in after the one just adopted:

For compensation of two extra clerks, employed to carry out the treaty with the Chickasaws, in the adjustment of their claims, \$2,600.

Mr. Chairman, it will be recollected that the Government disposed of the Chickasaw lands in Mississippi, for the benefit of those Indians.

The Chickasaws complained of the settlement, and by the treaty of 1852, they required a settlement which involved a vast amount of labor upon the Department, for which none of the regular force could be assigned. It was necessary to employ extra clerks, and this appropriation is for compensating them.

The amendment was agreed to.

Mr. SEWARD. I offer this amendment, by way of addition:

And be it further enacted, In order to avoid the expenses for extra clerk hire for contingencies in the Indian department, and other Departments of this Government, that the fifteenth section of the act of 1842, conferring that authority, be, and the same is hereby, repealed.

Mr. J. GLANCY JONES. Is that amendment in order? It proposes new legislation.

The CHAIRMAN. The amendment is not in order.

Mr. SEWARD. I appeal from that decision, and desire to say a word on the appeal.

The CHAIRMAN. The appeal is not debata-

ble. Debate is only allowed to the extent of five minutes in favor of an amendment, and five minutes in opposition to it.

Mr. SEWARD withdrew his appeal.

Mr. PHELPS, of Minnesota. I offer the following amendment:

For defraying the expenses of the several expeditions against Ink-pa-du-tah's band, and of the search, ransom, and recovery of the female captives taken by the said band in 1857, the sum of \$20,000, or so much thereof as may be necessary, the amount to be ascertained and paid under the direction of the Secretary of the Interior.

I desire to have read certain letters on this subject from the Department of the Interior.

Mr. CURTIS. I hope the reading will be dispensed with, and that the gentleman will state the facts briefly.

Mr. REAGAN. I do not want to vote against a just appropriation; but I would like the gentleman to explain why he proposes to appropriate \$20,000.

Mr. PHELPS, of Minnesota. My amendment is to appropriate \$20,000, or so much thereof as may be necessary to defray the expenses incurred in the search and ransom and recovery of female captives in the several expeditions which set out against Ink-pa-du-tah's band. Every one will remember hearing of the atrocities committed near Spirit Lake, in the spring of 1857, by this band of Indian outlaws and murderers.

Immediately after the commission of these atrocities, expeditions were organized under the direction of the Indian agents, and in several parts of the country, for the purpose of following Ink-pa-du-tah and his band. Females were known to be held captives by these marauders. The public sympathy was intensely excited in their behalf, and earnest efforts were at once made for their recovery.

When the attack was made on the settlement at Spirit Lake, the men were brutally killed and the women carried into captivity and subjected to outrages worse than death itself. The expeditions were got up to rescue these women, and a portion of the supplies was furnished by the Indian agent. The Indians, also, were employed for this purpose, and certain expenses have accrued; how much, I am unable to say. Therefore, my amendment is so framed as to leave the amount to be ascertained and adjusted by the Secretary of the Interior.

Mr. REAGAN. How many persons were employed in this business, and for what length of time?

Mr. PHELPS, of Minnesota. I have here an estimate of expenses incurred in the organization of parties for the protection of settlers, the punishment of murderers, and the release of captives, during the Ink-pa-du-tah excitement in Minnesota, in 1857. There was paid for the ransom of Mrs. Marble, \$1,200; and of Miss Gardner, \$1,500; and \$100 for clothing, subsistence, and transportation of Mrs. Marble and Miss Gardner previous to their arrival at St. Paul. There was \$100 paid for the expenses of three Indians who accompanied Miss Gardner to St. Paul; \$600 for four horses in the equipment of a party sent after Miss Gardner; \$250 for goods furnished the Indians sent out; and \$2,500 for the equipment of a party sent out, and which killed four of Ink-pa-du-tah's band; and \$2,000 for the pay of one hundred men on the expedition for twenty days, at one dollar each per day, &c.; in all, \$14,335.

One of the captives, Miss Gardner, was ransomed from the Upper Yanktons, who had purchased her from the Sioux Indians; but I believe that, at this time, the whole of Ink-pa-du-tah's band is exterminated.

Mr. UNDERWOOD. By whom was this ransom made, and out of what fund has it been paid?

Mr. PHELPS, of Minnesota. The ransom was made by persons acting under the direction of the local Indian agent and Governor Medary, and has been paid in this way: the Indian agent, Mr. Flaudreau, has given his note for a portion, Governor Medary has advanced a portion, and a portion of it has been lent by the citizens, who now hold the notes of the Governor of the Territory, or agent Flaudreau, perhaps both.

Mr. REAGAN. I have no objection to a proper appropriation, but I think the amendment should be amended so as to provide—

The CHAIRMAN. The gentleman has the right to propose an amendment.

Mr. REAGAN. My amendment is:

Provided, The amount shall be proven to the satisfaction of the Commissioner of Indian Affairs.

Mr. PHELPS, of Minnesota. My amendment proposes that it shall be ascertained, not by a subordinate, but by the Secretary of the Interior. It is certainly a matter of little importance, as it will necessarily come under the supervision of the Commissioner of Indian Affairs. This is an act of humanity, as well as justice, and I hope the amendment, as modified, will be adopted.

Mr. GROW. I propose to amend by adding to the amount five dollars. The facts of this case being somewhat within my personal knowledge, I desire to say one word on the amendment of the gentleman from Minnesota, [Mr. PHELPS.] On the 15th of March, 1857, this band of Ink-pa-du-tah, numbering some twenty-five or thirty warriors, attacked the settlement at Spirit Lake, in Iowa, and massacred fifty-one men, women, and children, and carried four women, one a young girl, sixteen or seventeen years old, into captivity. These captives, with the exception of Mrs. Whitney, who was killed in crossing the Big Sioux a few days after the massacre, suffered for three months the horrors of an Indian captivity, such as have not been known up to that time in our history, since the war of 1812. While it was the duty of the Government to protect this frontier and to send its troops to retake these captives, the troops were ordered from Fort Ridgely, within sixty miles of the scene of this massacre, and from Fort Snelling, within one hundred and twenty miles, to Kansas, to protect the constitutional convention, which sat there during the summer, against the indignation of an outraged people, and this frontier was left with but thirty soldiers at Fort Ridgely; and the women who were carried into captivity had to be rescued by the settlers who assembled and took steps to ransom them. Mrs. Marble was bought by a friendly Indian, and brought back to the white settlements. Miss Gardner was purchased from the Yanktons who had purchased her from Ink-pa-du-tah's company.

Now, Mr. Chairman, it is due to these men who have thus protected the frontier, and ransomed from the savages American citizens who had been carried into captivity, and whom it was the duty of the Government to have protected—it is due to them that this amount should be paid. It is doubly the duty of the Government when it has a military force stationed on the frontier for its protection, if they withdraw that force from the scene of such disasters as that at Spirit Lake, and send them to a distant part of the Confederacy for any purpose, to indemnify the citizens whose homes have been destroyed, and whose families have been carried into Indian captivity by reason of the negligence of the Government, for the ransom that they have paid for the captives. These persons were in captivity for three months, and had been carried off before this order was given to remove the troops, and the Government never raised its arm to bring them back, or to shield the settlements on the frontier of Minnesota. Under these circumstances, the Indian agent, by the advice of the Governors of Minnesota and Iowa, hired these Indians to go and ransom the captives and bring them back. Two of the captives had been murdered by the Indians, but the other two were brought back, and this appropriation is to refund the money advanced to pay the ransoms.

Mr. WASHBURNE, of Illinois. I understand that there is no opposition to the original proposition. I am opposed to the amendment, and ask for a vote upon it.

Mr. MARSHALL, of Kentucky. There was one suggestion made by the gentleman from Pennsylvania which I want to understand. Did I understand the gentleman to say that there was an obligation on the part of the Government to indemnify these citizens for their losses?

Mr. GROW. Oh, no; this is not to indemnify the citizens for losses, but to pay the ransoms which had to be paid for these females who were carried into Indian captivity. I now withdraw my amendment.

The amendment proposed by Mr. PHELPS, of Minnesota, was agreed to.

Mr. COBB. I have an amendment which I desire to offer; but perhaps the Chair will rule it out of order. I have recommendations from the Secretary of the Interior and the Commissioner of Public Lands urging the necessity of an appro-

priation to run, mark, and establish the western boundary of the State of Minnesota. If it is in order, I will offer an amendment for that purpose.

The CHAIRMAN. The Chair believes it is not in order.

Mr. GROW. I hope it will be put in by unanimous consent.

Mr. COBB. An indispensable necessity has arisen for this appropriation.

The CHAIRMAN. If no objection be made, of course the Chair will receive the amendment; but if objection be made, the Chair must rule it out of order.

Mr. SEWARD. I object to it.

Mr. J. GLANCY JONES. I move that the bill be laid aside to be reported to the House, with a recommendation that it do pass.

Mr. SEWARD. I move that the bill be laid aside to be reported to the House, with a recommendation that it do not pass.

The CHAIRMAN. The motion of the gentleman from Pennsylvania takes precedence.

The motion of Mr. JONES was agreed to.

VOLUNTEER REGIMENTS.

Mr. J. GLANCY JONES. I now move to take up the bill (No. 561) making appropriations for three regiments of volunteers.

The motion was agreed to.

The first reading of the bill was dispensed with. Mr. J. GLANCY JONES. Mr. Chairman, this is a bill making appropriations for a service which is familiar to the whole committee. On the 7th of April, 1858, Congress passed a law providing for raising three regiments of volunteers—one to protect the frontier of Texas, and the other two to prosecute the war in Utah.

Some time since—the precise date I do not now remember—the Executive of this nation, in the discharge of his duty, deemed it proper and expedient to nominate and appoint a Governor for the Territory of Utah. Brigham Young, the incumbent of that office, who had occupied it for some six years, had outraged the sentiment of the nation in sustaining, by the exercise of arbitrary power, a combination of Church and State, until, in the opinion of the Executive, the time had arrived when he should appoint a civilian to that office who would not combine, or attempt to combine, the fanaticism of a religious opinion with the discharge of the civil duties of the Territory. He soon received information that Brigham Young would not surrender his office, or recognize the power of the Executive of the nation to appoint his successor. This created what may be properly called a state of *quasi* rebellion in that Territory—a resistance to the laws and to the enforcement of the laws. The President of the United States having appointed his Governor, called out a sufficient force to compel the people and the authorities of Utah to recognize and receive him. Information was received by the Government, in an official communication, that the entire population of the Territory of Utah was a unit, and governed by religious fanaticism; that they were determined the President should not send a Governor into the Territory to preside over them, and were prepared to set the Government at defiance.

Now, sir, the Army of the United States being small and scattered over a most extensive frontier, every man being wanted at his post, the President found that he could not discharge his duty as Commander-in-Chief of the Army, and could not profitably enforce the laws in Utah, without subjecting our extensive frontier to inroads from Indians, and the settlers there to the loss of life and property. He applied to Congress, at the opening of the session, for an increase of the regular Army. In a message sent to Congress, he set forth the object of it; that the frontier of the country required every soldier to remain at his post, that he ought not to detach one; that if the soldiers were gone from any particular post, the frontier in that vicinity would be left exposed to the depredations of the Indians. Congress, in its wisdom, thought proper, instead of increasing the regular Army, which the President recommended, and which, I think, they should have done, to authorize, as they did, by the law passed on the 7th of April, 1858, the President of the United States to raise one regiment of mounted volunteers to protect the frontier of Texas, and two regiments of volunteers to be used in the Utah service, if, in the judgment of the President, they became necessary.

Now, Mr. Chairman, as this Congress, at the present session, passed this law, it is to be presumed they understand the whole subject, and are prepared to vote for supplies without the necessity of further explanation or delay. It is to be presumed that, for the purpose of calling out these three regiments and putting them into service, if the President of the United States shall deem it necessary, Congress will not hesitate to provide the money, to pay, clothe, and subsist them, and this bill is for that simple purpose. The only question that can possibly arise, will be as to whether two of the regiments will be needed. I believe it is admitted on all hands that, in any event, the regiment for Texas will be wanted. But the question is, whether the other two regiments will be needed? I have simply to say that, for the purpose of ascertaining that fact, I have kept the bill back till the very last moment, in order that if any information be received justifying the President in not calling out these regiments, the appropriation might be dispensed with. I am sorry to say that no such information has reached here yet; nothing reliable going to show that they may not be wanted. They may not be wanted; but there is nothing which will justify Congress in adjourning without putting the money at the disposal of the Executive, in case they are wanted. I say that I have kept this bill back for the purpose of getting information; but no information having reached me, I am obliged now, within a week of adjournment, to bring up this bill, which is the last appropriation bill, which is simply to pay for the regiments which Congress has placed at the disposal of the President. It is very likely they may not be wanted; but it would not be safe for Congress to decline action on the subject. The very fact itself that Congress had declined, might be sufficient to prevent these difficulties from being brought to a close. I am authorized to say that, if this money is appropriated, the President will not use it, unless it becomes absolutely necessary to enforce the law.

I wish now to give notice to the committee that as this is the last appropriation bill, and as I have understood it is the wish of gentlemen to make speeches upon other matters this evening, I propose to pass this bill, and, as soon as it is laid aside, to take up the loan bill, which is the last bill reported by the Committee of Ways and Means, on which we require the action of the House, and then to take a recess for the evening, for the purpose of general debate.

RIVERS AND HARBORS.

Mr. JOHN COCHRANE. I wish to give notice to the committee, that at the very earliest moment I propose to bring up the bill for the improvement of harbors and rivers, and press it to a final vote.

VOLUNTEER BILL—AGAIN.

Mr. SHAW, of North Carolina, obtained the floor.

Mr. J. GLANCY JONES. I wish to know of the gentleman from North Carolina if he proposes to speak upon this bill?

Mr. SHAW, of North Carolina. I do not.

Mr. J. GLANCY JONES. Then I will suggest to the gentleman that he allow us to go through with this bill. I will then move to take up the loan bill, and I have no doubt that, by general consent, he will be allowed to have the floor upon that bill. ["Agreed."]

Mr. SHAW, of North Carolina. With that understanding I will give way.

Mr. GILMAN. I presume the chairman of the Committee of Ways and Means has official information, and I would be very glad to know from him whether Governor Cummings has entered Salt Lake City unaccompanied by any military power?

Mr. J. GLANCY JONES. I have no information except what the gentleman himself has. There is no official evidence of the fact.

Mr. GILMAN. I wish to inquire of the chairman of the Committee of Ways and Means whether he believes Governor Cummings has entered Salt Lake City unaccompanied by military power?

Mr. J. GLANCY JONES. I am satisfied of this fact from unofficial evidence that Dr. Kane, without any official authority, went to Salt Lake City, and that Governor Cummings, in response to his invitation, did go there without escort, for

the purpose of hearing what Brigham Young has to say. From that time nothing has been heard from him.

Mr. COMINS. I wish to ask the chairman of the Committee of Ways and Means whether, as soon as this bill is disposed of, he will not permit me to take up the light-house appropriation bill and dispose of it before the committee goes into general discussion. It will not require more than thirty minutes to dispose of it.

Mr. J. GLANCY JONES. I have no objection, if that is the wish of the committee.

Mr. SMITH, of Virginia. I wish to know of the chairman whether appropriation bills must take precedence of all other bills on the Calendar?

The CHAIRMAN. The Chair will say, in reply to the question of the gentleman from Virginia, that it is always in order to move to take up an appropriation bill, and to that extent they have precedence.

Mr. SMITH, of Virginia. All I desire is this. There are other bills on the Calendar, some of which there is great necessity for action upon, which I believe are ahead of the appropriation bills in their order, and unless the appropriation bills, under the rule, have precedence, I do not see why those bills should be passed over.

Mr. WASHBURN, of Illinois. I hope that by common consent the light-house bill will be taken up and disposed of this evening.

Mr. J. GLANCY JONES. If that is the will of the committee, I am satisfied; but I would suggest to the gentleman from Massachusetts, [Mr. COMINS,] who has charge of that bill, that as the committee is very thin, and he may perhaps break up the committee by pressing action upon that bill, he had better not insist on it this evening.

Mr. COMINS. I do not insist on it.

Mr. MARSHALL, of Kentucky. I rise to a question of order. Here stands the chairman of the Committee on Military Affairs for the purpose of going on with the business regularly before the House. Instead of bargaining what we shall do, let us go on with the business before us.

The CHAIRMAN. The proposition was made with a view to facilitate business. If there be no objection, the Chair will consider that general debate on this bill is terminated.

There was no objection.

Mr. QUITMAN. The Committee on Military Affairs have had this bill informally under consideration, and have ascertained, in some instances, that the appropriations in the bill may be diminished. I believe that the Committee of Ways and Means are satisfied with the amendments proposed by the Committee on Military Affairs.

The Clerk proceeded with the reading of the bill:

"For regular supplies of the quartermaster's department—fuel, forage, straw, and stationery, \$360,147 24."

Mr. QUITMAN. I move to strike out of that paragraph the words "\$360,147 24," and insert in lieu thereof the words "\$240,093 16."

Mr. J. GLANCY JONES. The act for the raising of this volunteer force provided for not exceeding eighteen months' service, and the estimates sent to us were for that time. The Committee of Ways and Means struck off six months. The gentleman from Mississippi [Mr. QUITMAN] has attracted my attention to sundry amendments, where this appropriation may still be reduced. I have compared views with him, and am satisfied that his amendments are all right and proper. I do not propose to discuss them *seriatim*.

The amendment was adopted.

"For incidental expenses of the quartermaster's department—for blacksmiths' and shoing tools, horse and mule shoes and nails, iron and steel, horse medicines, picket ropes, shoeing horses, and miscellaneous, \$22,500."

Mr. QUITMAN. I move to strike from that paragraph the words "\$22,500," and in lieu thereof to insert the words "\$17,000."

The amendment was agreed to.

"For transportation of supplies, transportation of clothing, camp and garrison equipage, ordnance, subsistence, quartermasters' and medical stores, for the purchase of mules, and the purchase and repair of wagons, and for the hire of teamsters, \$2,094,689 23."

Mr. QUITMAN. I move to strike from that paragraph the words "\$2,094,689 23," and in lieu thereof, to insert the words, "\$1,396,459 43."

The amendment was agreed to.

"For clothing, camp and garrison equipage, \$224,443 02."

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Mr. QUITMAN. I move to strike from that paragraph the words "\$224,443 02," and to insert in lieu thereof, "\$149,628 68."

The amendment was agreed to.

Mr. QUITMAN. I now submit an amendment, which has not been submitted to the Committee of Ways and Means, but which has met with the approval of the Committee on Military Affairs:

Provided, That in the event the President shall not deem it advisable to call out one or both of the two regiments of the volunteers provided for by law for the Utah and frontier service, the several sums of money herein appropriated shall be reduced one third for each regiment so dispensed with.

Mr. MARSHALL, of Kentucky. At my own suggestion, I move to add to that the following: And that none of this appropriation shall be used for any other service than that herein designated.

Mr. HOUSTON. As I understood the amendment of my friend from Mississippi [Mr. QUITMAN] as it was read from the Clerk's desk, it does not accomplish the object he has in view. When this bill has been passed, and the money stated in the several provisions appropriated, I would suggest that the better way would be to provide that in case of the non-calling into service of any one of the regiments, one third of these appropriations shall return into the Treasury. The object the gentleman has in view is a good and proper one.

Mr. J. GLANCY JONES. I hope the amendment to the amendment will not prevail. According to the law, it cannot possibly be used for any other purpose.

Mr. MARSHALL, of Kentucky. I am told by the chairman of the Committee of Ways and Means that we should not put this in, because it cannot possibly, by law, be used in any other way than in the manner in which it is designed. The House has a practical illustration of that. It is certainly no reflection on anybody connected with the Government or the War Department, for Congress to limit the appropriations to the very service for which it is made. Now, sir, I say in contradistinction to the proposition of the gentleman at the head of the Committee of Ways and Means, that if we appropriate this for the regiments which are not to go to Utah, and do not say that it shall not be used for any other purpose by the War Department, it is within the competency of the War Department, under the existing law, to take the appropriation and to use it for the regular troops, or for any other military purpose; and my amendment is exactly to guard that point—to let the Department know that we make this appropriation for those regiments and for no other purpose.

Mr. HUGHES. I am opposed to the amendment of the gentleman from Kentucky. It is an attempt, in the appropriation bill, to limit the authority of the President of the United States over the Army. By the Constitution of the United States, he is Commander-in-Chief of the Army. This House may raise troops, and may appropriate money to pay them; but this House cannot dictate to the President what regiments he shall put in the van of any proposed movement, or what regiments shall remain in garrison. I understand the amendment of the gentleman from Kentucky to contemplate that object, and none other.

Mr. MARSHALL, of Kentucky. It has no such idea, and no such effect.

Mr. HUGHES. I understood the gentleman from Kentucky to argue that his amendment was offered with a view to cut off the authority of the President as to whether he shall put these troops in garrison, and send forward regular troops.

Mr. MARSHALL, of Kentucky. Oh, not at all.

Mr. J. GLANCY JONES. That would be the effect of it.

Mr. HUGHES. I have very greatly mistaken the gentleman's argument if it is not that he is driving at.

Mr. J. GLANCY JONES. With the consent of the gentleman from Indiana, I will say that the effect would be this: if the Executive were obliged

to withdraw from many of the garrisons on the frontier the regular troops of the Army, and should be disposed to order one of these volunteer regiments to man these garrisons until the return of the regular troops, he could not do so, were this amendment to prevail.

The amendment, and the amendment to the amendment, were again read.

Mr. HUGHES. I now assert what I asserted before, that the amendment of the gentleman from Mississippi, and that of the gentleman from Kentucky, will, if adopted, restrict the payment of this appropriation, and make it conditional to the using of these volunteer regiments in Utah.

Mr. MARSHALL, of Kentucky. They are for frontier service.

Mr. HUGHES. I am in favor of the President of the United States sending to Utah any troops which he may think most efficient. The state of things in that Territory has been such as to require a military expedition and the presence of an armed force there. I cannot state what I desire to say, more fully than to quote the language of my colleague [Mr. COLFAX] in the early part of the session, before the gentlemen on that side of the House discovered that this Utah expedition was the war of the Executive. My colleague made use of the following language on the 23d of December last:

"Now there has not been a more declared intent to oppose the Government of the United States; but it has been actually carried into effect. And we are to say here whether a people like this, having openly and defiantly and insultingly thrown off all allegiance to the General Government; having sent a message through their Legislative Assembly, to the President, that they will have such and such men as officers, and no others; having thus disrobed themselves of their allegiance to the Government, shall be allowed to send their representatives here with equal rights as to his speaking, with ourselves, to occupy a seat on this floor as our peer, and to draw his salary and per diem from the Treasury of the United States? The matter has been trifled with too long. This Brigham Young has been making treasonable threats against the General Government from the days of the administration of Mr. Fillmore to the present day; and he has over and over again declared publicly in the face of the assembled people, that he will be the Governor of Utah, not so long as the Government of the United States may see fit, but so long as God says he shall be Governor, declaring that he derives his commission from God instead of from the President. He has gone on fostering rebellion, till it has broken out into open war. And yet he sends, with credentials signed by the same hand which penned his proclamation of defiance to our Government, a representative here; and we are not to be allowed, because, *forsooth*, there has been no precedent for it, to have a committee of inquiry to ascertain if we cannot purge ourselves from the presence of a Delegate from such a Territory! I trust the resolution will be adopted."

[Here the hammer fell.]

Mr. CLARK B. COCHRANE. I desire to know whether the gentleman is in favor of the President using this money for any other object than that specified in the bill?

Mr. HUGHES. I am in favor of the President using this money to pay these regiments; and without an appropriation for that purpose, the regiments could not be brought into service at all. But I am opposed to Congress prescribing to the President, or the major-general commanding the Army of the United States, what corps he shall put in the advance of a column of attack.

Mr. CLARK B. COCHRANE. I am not entirely satisfied with that answer. I want to know whether the gentleman is in favor of the President using this money for objects other than those specified in the bill?

Mr. HUGHES. I am in favor of the bill, as it was reported by the Committee of Ways and Means.

Mr. CLARK B. COCHRANE. Because that is the only effect of the amendment of the gentleman from Kentucky.

Mr. QUITMAN. I will, then, propose to amend the amendment, by inserting the words "provided that the amount so reduced shall return into the Treasury."

The CHAIRMAN. The Chair would say that the amendment is not in order.

Mr. MARSHALL, of Kentucky. I would suggest to the gentleman from Mississippi, that after a vote has been taken on my amendment,

we shall then come back to his, and it will be still open to amendment.

The CHAIRMAN. The Chair would state to the gentleman from Mississippi, that the rule of the House does not permit a gentleman to withdraw an amendment offered in Committee of the Whole on the state of the Union, and that has been construed to mean that he shall have no control over it, not even to modify it; and therefore a gentleman is not allowed to amend his own amendment. When an amendment is proposed in Committee of the Whole, under the rules it goes out of the possession of the mover, and he has no control over it.

The question was taken on Mr. MARSHALL's amendment; and it was agreed to.

Mr. QUITMAN. I now move to amend the amendment, by inserting immediately before what has just been adopted, the words:

Provided, That the same shall be returned into the Treasury.

I offer the amendment simply for the purpose of explaining to the gentleman from Indiana [Mr. HUGHES] that he is entirely mistaken as to the meaning of the proposition which I have introduced. The object of the Committee on Military Affairs in offering this amendment is to provide that, if these regiments are not required, the money appropriated for them by this bill shall not be used for any other purpose; but shall return into the Treasury, under the law, at the expiration of two years. They did not, however, desire to intimate that, in the opinion of the House, the Texas regiment was not required. They therefore desired to apply the proposed amendment only to the other two regiments. But how will you distinguish them except by using the language of the bill by which this force was authorized to be raised? That bill provides for two classes of troops—one class designed for the protection of Texas, and the other two regiments to be raised for the service in Utah and on the frontier. That bill has passed. It is now the law; and this amendment is intended to be alone applicable to those regiments designed by the original bill to be used on the frontier and in the Utah service.

Mr. LETCHER. I desire to oppose the amendment of the gentleman from Mississippi. I do not understand that the bill in regard to the three regiments designates any regiment for any particular service, except the one that is to be applied for the benefit of Texas. If my recollection is not actually at fault, there is nothing said about the use or application of these regiments to Utah, but they are to be put under the control of the President for the defense of the country; and under that law, the President may use this force in that way which is most likely to secure the object, and at the same time promote the efficient prosecution of the service.

Mr. QUITMAN. Permit me to read the law. It is as follows:

"That for the purpose of quelling disturbances in the Territory of Utah, for the protection of supply and emigrant trains, and the suppression of Indian hostilities on the frontier, the President of the United States be, and he is hereby, authorized to call for and accept the services of any number of volunteers, not to exceed, in all, two regiments of seven hundred and forty privates each."

Mr. LETCHER. Will the gentleman from Mississippi contend that, under that clause of the law, the President is bound to send these regiments to Utah, or that he is even bound to employ them for the suppression of Indian hostilities? that he cannot use them for any other purpose? that if he shall regard them as better troops to garrison the forts, and that the regular troops will be better for Utah and the Indian service, he has not a right under that law to employ them in that way? Now, I maintain, that under that law, the President is to act in that way which shall be most likely to accomplish the purpose for which the regiments are to be raised and placed at his disposal.

Mr. QUITMAN. Permit me to say that I have thought of no such thing. But I point the

gentleman to the law which he stated did not contain the word "Utah."

Mr. LETCHER. Then I stand corrected upon that point. But, what is the meaning of this amendment which is proposed here, and which does restrict them to Utah and to the frontier? Now, if my construction of the law be right, then it strikes me that the amendment must be palpably wrong.

Mr. CURTIS. I would say to the gentlemen that these regiments are restricted to the Utah service, and the defense of the frontier. They could not be brought into the interior, for Kansas or any other service of that sort.

Mr. LETCHER. I should like to know if Kansas is not on the frontier? And, if Kansas is on the frontier, the President has the right to order the volunteers there, if he sees fit. It would be an anomaly in legislation, when these volunteers are placed in charge of the President, if this House should undertake to prescribe that he shall not use the regular troops for a particular service, although they may be found more effective for that service.

And now, sir, in reference to the gentleman's remarks about the power of the President to make war. This House has this morning authorized the President in his discretion to make war upon Paraguay; and yet it seems they cannot trust these three regiments to his discretion without putting in a provision in this appropriation bill saying how the money shall be used.

The amendment to the amendment was agreed to.

The amendment, as amended, was then adopted.

Mr. HUGHES. I offer the following amendment, to come in at the end of the bill:

Provided, That nothing in this act, or in the act authorizing three additional regiments for the Army, shall be construed to limit the authority or discretion of the President in assigning the said regiments to duty.

Now, Mr. Chairman, if it be true, as the gentleman from Kentucky [Mr. MARSHALL] has said, and as the gentleman from Mississippi [Mr. QUITMAN] has said, that the object of the amendments proposed by these gentlemen is, not to limit or restrict the constitutional authority of the President of the United States over the Army, there can be no objection to the amendment I have proposed, which simply declares that nothing in this act, or in the act raising three additional regiments in the Army, passed by this Congress, shall be so construed as to limit the authority or discretion of the President of the United States in assigning these regiments to duty; and unless there is an objection to his exercising his ordinary constitutional power; unless it is the object to say where those regiments shall go or—which seems to me to be the purpose of gentlemen in offering the amendment—to say where they shall not go, I apprehend that the amendment I have proposed will pass unanimously; but if it is the object of gentlemen to restrict the power of the President in this exercise of his constitutional functions, I want gentlemen to avow their purpose and to disclose their position. I want it to be put on record in some unmistakable form.

Mr. MARSHALL, of Kentucky. I am opposed to the amendment of the gentleman from Indiana, for the reason that it can produce no effect in the world. The President has a constitutional right in regard to the disposition of the Army; and any attempt, upon the part of this House to limit that right would be void; therefore, it is no use for us to declare that there is nothing in this act contained which we intend shall be construed to limit the right of the President to control the Army.

Mr. HUGHES. Will the gentleman allow me to ask him one question? If this declaratory provision is practically a redundancy, if it is simply affirming what is in the Constitution of the United States, it can certainly do no harm; and what objection has the gentleman, therefore, to the adoption of the amendment?

Mr. MARSHALL, of Kentucky. My objection is, that there is no necessity for it; that it is simply a declaration that we do not intend to do what we have no right to do; and I object to it for the further reason that there seems to be some mistake upon the part of my friend from Indiana, and his amendment might mislead the President. The law authorizing the use of these volunteer troops authorized them for a specific purpose;

but, if I understand the remarks of the gentleman from Indiana, the law may be construed to mean that, notwithstanding those troops were raised for the frontier service, it is within the competency of the President to send them anywhere. I suppose the gentleman would hold that the President would have the right, under the law raising these volunteers for frontier service, to throw a noose around them, and send them off to Paraguay. Now, sir, I am not disposed to indicate the propriety of such a course to the President for the disposition of these volunteers, whether they are raised in the East or in the West.

Mr. HUGHES. I understood the gentleman to oppose my amendment on the ground that it would amount to nothing.

Mr. MARSHALL, of Kentucky. My amendment attaches to nothing but the money, and I do not want the money to be paid out for any other purpose than that intended by the law. That was the only object of my amendment.

Mr. WASHBURN, of Illinois. I rise to a question of order. Is the amendment of the gentleman from Indiana in order?

The CHAIRMAN. The Chair is of opinion that the amendment is not in order; but he is at the same time of opinion that the question raised by the gentleman comes too late.

Mr. WASHBURN, of Illinois. Very well. I hope the amendment will not be adopted.

The amendment was not agreed to.

Mr. GROESBECK. I move to amend by adding the following proviso, to come in at the end of line thirty-one:

Provided, That if it shall be determined that the two regiments not raised for the State of Texas shall be mounted, the Secretary of the Treasury shall furnish the horse equipments; and the sum of \$60,000 is appropriated for that purpose; And provided further, That he shall purchase the horses for said two regiments; and for that purpose shall use the fund to which such regiments are entitled for the use and risk of horses, to wit: forty cents per day for each horse; and so much of the act approved April 7, 1853, as is inconsistent herewith, is repealed.

Mr. HUGHES. I rise to a question of order. That amendment is certainly not in order.

The CHAIRMAN. The Chair decides that the amendment is not in order.

Mr. J. GLANCY JONES. I move that the committee rise and report the bill to the House. The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BOCK reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly a bill (H. R. No. 555) to supply deficiencies in the appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1853; and also a bill (H. R. No. 561) making appropriations for the support of three regiments of volunteers, authorized by the act of Congress approved 7th April, 1853; and had directed him to report the same back to the House, with sundry amendments.

MESSAGE FROM THE PRESIDENT.

Mr. BOCK. I understand that an important message has been received from the President relative to the outrages of British cruisers upon American shipping in the Gulf; and I propose that it be taken up, and referred to the Committee on Foreign Affairs.

There was no objection.

The SPEAKER then laid before the House a message from the President of the United States, transmitting, in answer to the resolution of the House of Representatives of the 17th instant requesting information relative to attacks upon United States vessels in the Gulf of Mexico and on the coast of Cuba, a report from the Secretary of State; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

Mr. BLAIR. I move to reconsider the vote by which Senate bill (No. 41) to locate certain confirmed land titles in the State of Missouri, and for other purposes, was referred to a Committee of the Whole House. I only ask that the motion shall be entered, intending to call it up for action hereafter.

Mr. J. GLANCY JONES. I move to recommend the bills just reported from the Committee of the Whole on the state of the Union to the Committee of Ways and Means; and I call for the previous question.

Mr. GARNETT. I move that we adjourn. I think that we have done business enough for one day.

Mr. J. GLANCY JONES. I only propose that we shall go into the Committee of the Whole on the state of the Union for general debate; and if the gentleman will withdraw his motion to adjourn, I will submit that motion.

Mr. GARNETT. I withdraw the motion to adjourn.

Mr. WILSON. I wish to make a statement personal to myself. When the question was up this morning on the adoption of the Paraguay resolutions, I was absent, attending to the business of the Committee of Elections. If I had been present when my name was called, I would have voted in the negative.

SHERLOCK AND SHIRLEY.

Mr. GROESBECK. I ask the unanimous consent of the House to take from the Speaker's table Senate bill (No. 287) for the relief of Sherlock & Shirley, for reference to the Committee on the Post Office and Post Roads.

There was no objection.

The bill was taken up, read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. HOUSTON. I ask that all the bills upon the Speaker's table be taken up and referred. It may be that some of them will be acted on at this session.

TREASURY NOTE BILL.

Mr. J. GLANCY JONES. I insist on my motion to go into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOCK in the chair.)

Mr. J. GLANCY JONES. Mr. Chairman, I move that the committee take up House bill (No. 582) to authorize a loan not exceeding the sum of \$15,000,000. It is the understanding that the bill shall be open this evening for general debate, and that no votes shall be taken.

Mr. SHAW, of North Carolina, obtained the floor.

Mr. COMINS. I trust that the gentleman from Pennsylvania will agree that I shall, in the morning, move for the reconsideration of the light-house appropriation bill before this loan bill is considered.

Mr. MARSHALL, of Kentucky. Oh, no; there is the river and harbor appropriation bill, that ought to be acted on too.

A general debate then ensued, in the Committee of the Whole on the state of the Union, in which Messrs. WRIGHT of Georgia, SHAW of North Carolina, GILMER, HAWKINS, STEVENS of Washington, WINSLOW, ANDREWS, HATCH, GOODWIN, LEITER, SMITH of Virginia, and COX, participated.

[These speeches will be published in the Appendix.]

At the close of the debate,

Mr. COX moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WINSLOW reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally, under consideration, and particularly a bill (S. No. 396) to authorize a loan not exceeding the sum of \$15,000,000, and had come to no conclusion thereon.

And then, on motion of Mr. WINSLOW, (at eleven o'clock and thirty-five minutes,) the House adjourned.

IN SENATE.

TUESDAY, June 1, 1858.

Prayer by Rev. B. F. BITTINGER.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented the memorial of John Gardner, agent of the American Timber Bending Company, praying that a commission, to be composed of naval officers and naval constructors, may be appointed to examine Blanchard's patent for bending timber for ships' knees, and if approved, that the Secretary of the Navy

be authorized to purchase the right to it in the construction of ships of war; which was referred to the Committee on Naval Affairs.

Mr. BRIGHT presented two petitions of Robert Ould, Henry Addison, and other property holders and merchants of Georgetown, District of Columbia, praying that the bill passed by the House of Representatives, for a railroad along Pennsylvania avenue, in the city of Washington, may become a law; which were referred to the Committee on the District of Columbia.

Mr. FITCH presented the petition of R. F. Hunter, a lieutenant in the Army, praying to be allowed a credit in his accounts for certain public money stolen while in his custody; which was referred to the Committee on Military Affairs and Militia.

Mr. BIGLER presented a petition of citizens of Pennsylvania, praying for the establishment of a mail route from Coalmount to Burnt Cabin, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. GWIN presented the petition of Samuel J. Hansley, praying Congress to recall his papers from the Court of Claims, and to make an appropriation to pay him for cattle purchased of him by O. M. Wozencraft, commissioner and Indian agent of the United States to fulfill the stipulations of Indian treaties; which was referred to the Committee on Indian Affairs.

Mr. MALLORY presented a memorial of the Faculty of Georgetown College, District of Columbia, praying that the bill which has passed the House of Representatives for a railroad along Pennsylvania avenue, in Washington, may become a law; which was referred to the Committee on the District of Columbia.

Mr. YULEE presented papers in relation to the claim of Captain William H. Payne's company of mounted volunteers to compensation for services during the Seminole war, in 1838 and 1839; which were referred to the Committee on Military Affairs and Militia.

Mr. TOOMBS presented papers in relation to the claim of Israel D. Andrews, late agent of the United States, in reference to the reciprocity treaty with Great Britain; which were referred to the Committee on Foreign Relations.

Mr. HUNTER presented papers in relation to the claim of Messrs. Majors & Russell, contractors for Army transportation, to indemnity for losses of trains, animals, &c., destroyed and run off with by the Mormons during the past season; which were referred to the Committee on Military Affairs and Militia.

PROTECTION TO INDUSTRY.

Mr. CAMERON. I am requested to present a petition, signed by a large number of laboring men engaged in the manufacture of iron in Pennsylvania. I receive a great many letters daily from persons of this class, and I will say here what will save me the trouble of writing a great many letters. They think the Congress of the United States can relieve them from all their troubles. There never has been a time, in the history of the iron business of Pennsylvania, when there was so much real distress among the laboring men of my State—the men who do the work, the men who go to the forge before daylight, and remain there long after the moon has risen—as there is at present. It is not a complaint now on the part of the capitalist. Men of capital, men of fortune, can take care of themselves—capital can always take care of itself; labor, poverty, indigence, want, always need sympathy and protection.

These persons reside in the town of Norristown, on the Schuylkill river, some twenty miles above Philadelphia. The river Schuylkill is traversed on both sides by a railroad, one extending some twenty or thirty miles, another one hundred miles. On one side of the river is a canal. All these works have been made for the purpose of conveying coal and iron to the place of manufacture and sale. The county of Schuylkill, the great coal deposit of Pennsylvania, has a population of some eighty or ninety thousand people, all of which has grown up within the last twenty-five years.

At this time the whole laboring population engaged in the iron and coal business of the country extending from Philadelphia to the mountains of Schuylkill county are entirely idle; the boats

are tied up; the locomotives are in a great measure standing still; and the laborers are running about hunting for employment and hunting food. These are the persons who complain; they think that Congress can relieve them. I have told them and I have written to them that they have the power in their own hands.

The laboring men of this country are powerful for good always. They do control when they think proper, and I think the time is coming when they will control the politics of this country. I tell them that before they can get proper protection they must change the majority in this Senate, they must change the majority in the other House of Congress, and above all they must change the occupant of the White House, who is the dispenser of the power which controls the legislation of this country. In place of gentlemen who sneer when we talk about protection, they must send men here who know something of the wants, something of the interests, something of the usefulness of the laboring man.

Hitherto they have not acted as if they cared for their own interests; while they talked about a tariff which would guard their labor from competition with the pauper labor of Europe, they would go to the elections under some ward leader and vote for men to represent them here and elsewhere who cared only for party drill, and who had no interest above party success. This system they must change if they hope for success. I think the laboring men of Pennsylvania, at least, are now beginning to put their own shoulders to the wheel, and I believe they will make such a noise in next October, as will alarm the gentlemen all over the country who laugh at them.

The canals, railroads, and mining operations of this region of country have cost more than a hundred million dollars; the furnaces and other works connected with the manufacture of iron an enormous sum; and the people interested in the iron and coal business, directly or indirectly, along the valley of the Schuylkill, amount to more than three hundred thousand souls.

Since 1855 there has been a blight upon the business growing out of the unwise legislation of Congress, which has really protected the iron of England, Russia, and Sweden, and thus taken the labor and the bread from our own workmen.

The iron interest of Pennsylvania, in which these men are employed, commenced in 1820, with a production of only two thousand tons. In 1855, when it was up to its greatest extent, the production was a million tons of pig metal. When this pig metal is worked into the various uses in which iron is to be consumed, it amounts to many, many million dollars. The annual produce of coal in Schuylkill county alone, in 1855, amounted in value to \$20,000,000. When it is known that it requires two tons of coal to make one ton of iron, you can imagine the number of persons who rely for their daily bread on the production of iron and coal. Iron, in its native mountains, is worth but fifty cents a ton; when it is worked into pig metal, it ranges from twenty to thirty, and some times to forty dollars a ton; and when worked into its various uses, it frequently amounts to many hundred dollars a ton. I have said that these people have the power in their own hands—I am speaking to them now—and I wish them to exercise the power they have. I cannot help them, much as I desire to do so, nor can any of their friends here; but when they go to work, as men determined to succeed should do, I have no doubt they will get protection.

The people in this valley, and on the slope of the Schuylkill mountains have votes enough to change and control the politics of the Union; for as Pennsylvania goes, so goes the Union, in all great elections; and their votes can at all times decide the politics of Pennsylvania. Let them exercise the power wisely, and they will no longer be without plenty of work and good prices. I move that this petition be referred to the Committee on Finance.

The petitions were referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. JONES, from the Committee on Pensions, to whom were referred the following bills, reported them without amendment:

A bill (H. R. No. 344) for the relief of Captain Stanton Sholes;

A bill (H. R. No. 347) for the relief of Joseph Webb;

A bill (H. R. No. 455) for the relief of Michael Brooks;

A bill (H. R. No. 462) granting an invalid pension to James Fugate, of Missouri;

A bill (H. R. No. 512) for the relief of Elijah Close, of Tennessee;

A bill (H. R. No. 514) granting an invalid pension to Conrad Schroeder;

A bill (H. R. No. 515) granting an invalid pension to Alexander S. Bean, of Pennsylvania;

A bill (H. R. No. 523) for the relief of Wyatt Griffith; and

A bill (H. R. No. 530) for the relief of Stephen Fellows.

He also, from the same committee, to whom was referred the petition of John Leach, praying to be allowed the benefits of the act of June 7, 1832, granting pensions to soldiers of the Revolution, submitted an adverse report; which was ordered to be printed.

Mr. THOMPSON, of Kentucky, from the Committee on Pensions, to whom was referred the bill (H. R. No. 257) to increase the pension of Henry E. Read, a citizen of Kentucky, and for other purposes, reported it without amendment.

Mr. THOMSON, of New Jersey, from the Committee on Pensions, to whom were referred the following bills, reported them without amendment:

A bill (H. R. No. 42) granting a pension to Mary A. M. Jones;

A bill (H. R. No. 516) for the relief of Michael A. Davenport, of Illinois;

A bill (H. R. No. 518) to continue the pension heretofore paid to Mary C. Hamilton, widow of Captain Fowler Hamilton, late of the United States Army;

A bill (H. R. No. 524) for the relief of Francis Carver;

A bill (H. R. No. 525) for the relief of Robinson Gammon;

A bill (H. R. No. 526) for the relief of Frederick Smith; and

A bill (H. R. No. 535) for the relief of David Watson.

He also, from the same committee, to whom was referred the bill (H. R. No. 522) for the relief of Wright Fore, reported it with an amendment.

Mr. KING, from the Committee on Pensions, to whom was referred the bill (H. R. No. 460) granting a pension to Beriah Wright, of New York, reported it without amendment.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 219) for the relief of William Heine, artist in the Japan expedition, reported it without amendment.

Mr. YULEE, from the Committee on the Post Office and Post Roads, to whom were referred the following bills and resolution, reported them without amendment:

A bill (H. R. No. 492) for the relief of John Dearnit;

A bill (H. R. No. 493) for the relief of Stuckey & Rogers; and

A joint resolution (H. R. No. 24) for the relief of Henry Orndorf.

Mr. IVERSON, from the Committee on Claims, to whom was referred the bill (H. R. No. 510) for the relief of Dr. George H. Howell, reported it without amendment.

Mr. CRITTENDEN, from the Committee on Revolutionary Claims, to whom was referred the bill (H. R. No. 496) for the relief of the representatives of Henry King, deceased, reported it without amendment.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom were referred the following bills, reported them without amendment:

A bill (H. R. No. 356) for the relief of Roswell Minard, father of Theodore Minard, deceased;

A bill (H. R. No. 451) for the relief of the legal representatives of Jean Baptiste Davidrine; and

A bill (H. R. No. 543) for the relief of the legal representatives of John McDonough, deceased, late of New Orleans.

He also, from the same committee, to whom was referred the bill (S. No. 327) to affirm certain entries of land in the State of Louisiana, reported it without amendment, and submitted a report; which was ordered to be printed.

Mr. STUART, from the Committee on Public Lands, to whom were referred the memorial of James H. Birch, jr., and the petition of T. D. W. Yonley and others, submitted a report; which was ordered to be printed.

Mr. STUART. There is a large mass of papers in the case which I do not ask to have printed, but I think they had better be placed on the files of the Senate.

Mr. PUGH. I think, as a member of the committee, the papers ought to be printed. I move that they be printed.

The VICE PRESIDENT. That motion will go to the Committee on Printing, under the rules.

Mr. BRODERICK. I wish to say that I entirely dissent from the report which has been made by the Senator from Michigan, as chairman of the Committee on Public Lands, in this case.

BINDERS OF THE GLOBE.

Mr. BRIGHT submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the binders of the Congressional Globe and Appendix for the Thirty-Fourth Congress be paid the same price per volume as is allowed by law for binding the same for the Thirty-Fifth Congress.

POST ROUTES IN DACOTAH.

Mr. JONES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing the following post routes in Dacotah Territory: from Sioux City, in Iowa, via mouth of the Big Sioux river, the mouth of James river, and Choteau creek, to Indian agency on the Yankton Sioux reserve and Fort Randall; from Sioux City, via Nebraska, to the Indian agency of the Ponka Indians, and the valley of the Nebraska river, to the South Pass of the Rocky Mountains; from Sioux City, via Sioux falls, to the mouth of Snake river; from Fort Randall, via the mouth of White Earth river, to the mouth of Little Medicine Knoll river; from Sioux falls to Fort Randall; from the mouth of James river, via Blue Earth, Rocky Hill, and Sandy Hill, to Wakandapi Hills; from Nebraska, via the Ponka reserve, to Chimney Rock.

WILLIAM H. PAYNE.

Mr. YULEE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and Militia inquire into the claim of Captain William H. Payne's company for service in 1838-9, in the Seminole war.

BILLS INTRODUCED.

Mr. GWIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 419) for the relief of John Ferguson and others; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

OUTRAGES ON AMERICANS.

Mr. MASON. The Committee on Foreign Relations, to whom was referred a joint resolution (S. No. 42) to confer additional powers on the President for the redress of injuries upon the persons and property of citizens of the United States in the Central American States, and to whom was referred a bill (S. No. 402) to restrain and redress outrages upon the flag and citizens of the United States, have instructed me to report them back to the Senate, with an amendment by way of substitute for the bill. I ask that the bill be made the order for to-morrow at one o'clock.

Mr. FOOT. Let the substitute be read.

Mr. PUGH. I should like to hear the original bill read, as well as the substitute.

The Secretary read the bill (S. 402) introduced by Mr. DOUGLAS on the 24th of May, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in cases of flagrant violation of the laws of nations, by outrage upon the flag, soil, or citizens of the United States, or upon their property, under circumstances requiring prompt redress, and when, in the opinion of the President, delay would be incompatible with the honor and dignity of the Republic, the President is hereby authorized to employ such force as he may deem necessary to prevent the perpetration of such outrages, and to obtain just redress and satisfaction for the same when perpetrated; and it shall be his duty to lay the facts of each case, together with the reasons of his action in the premises, before Congress, at the earliest practicable moment, for such further action thereon as Congress may direct.

The substitute of the Committee on Foreign Relations was read, as follows:

Whereas, grave and repeated outrages have been at various times committed against the persons and property of

citizens of the United States by the Governments; or by those acting under authority of the Governments, of the Republics of Mexico, Nicaragua, Costa Rica, and New Granada, or by insurrectionary or revolutionary forces within those Republics respectively; and after earnest remonstrance, and in many cases protracted negotiation, with said Governments, neither reparation for such injuries past, nor security against their repetition, has been obtained; for remedy and prevention whereof:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he is hereby, authorized to employ such force as he may deem necessary, by blockade or otherwise, to obtain reparation and redress for such injuries or outrages as may be shown to him to have been committed by the Governments of said Republics, or by those acting under the authority of said Governments, or by insurrectionary or revolutionary forces within the respective territories of Mexico, Nicaragua, Costa Rica, and New Granada, or elsewhere, upon the persons or property of citizens of the United States, or to afford protection to the persons or property of citizens of the United States against any sudden attack, or threatened attack, on the persons or property of such citizens passing in transit over the Panama railroad, or any other transit route, across the Isthmus of Central America or Mexico; or further, as the case may require, to prevent the commission of such injuries and outrages; and that the President communicate to Congress, as early as may be practicable thereafter, the facts in each case, together with the reasons for his action in the premises, for such further action, if any, thereon, as Congress shall direct. This act to continue in force until the 1st day of January, 1860.

The VICE PRESIDENT. The question is upon the motion to make this bill the special order for to-morrow.

Mr. HUNTER. I trust that no such order will be made. I think it ought to be the understanding of the Senate that we shall dispose first of the appropriation bills, and then, if there be any time remaining of the session, devote that to measures of this character. I hope we shall not make any special order that will interrupt the progress of the appropriation bills. We are very much behind on them now. I shall have to call for the yeas and nays on this proposition, if it be persisted in.

The yeas and nays were ordered.

Mr. MASON. If the Senate should make it the special order for to-morrow, and the Senate should then agree with my colleague that there are more important measures requiring action, it can be deferred by a vote of the Senate.

Mr. STUART. I move to amend the motion of the Senator so as to make it the special order for Saturday, with the hope that his resolutions will be postponed until that day, and that we may dispose of the whole subject then.

Mr. GWIN. I hope the Senator from Michigan will withdraw that amendment. This is a bill; the other is a mere resolution for the action of the Senate; and if we intend to act on this subject at all, we ought to act on it at once, so that the other House shall have an opportunity to act during the session. If, after reporting this bill, Congress adjourns without doing anything on this subject, it will be looked upon by these Republics that they have full license to depredate upon our citizens, and there never will be redress. I hope the motion of the Senator from Virginia to make it the special order for one o'clock will be so modified as to say twelve o'clock.

Mr. MASON. I have no objection to that.

Mr. GWIN. This is a bill, not a resolution of the Senate alone; and I hope the Senator from Michigan will withdraw his proposition. The other resolution we can act upon on Saturday, because it requires only the action of the Senate; but if, after this bill has been reported, it is permitted to go over without being acted upon at all, we have no safety for our citizens in any of the Republics named in the bill.

Mr. SEWARD. I was on the committee by which this proposition was reported, and I am one of a minority which dissented from it entirely. I am entirely satisfied that there is no advantage to result from discussing the bill, even if it should be right in itself, unless it should be passed; and I am satisfied that such a bill cannot pass Congress during the present session, if the session is to end on Monday next. I think, therefore, the first question for the Senate to determine is, whether they will ask the House of Representatives to rescind the resolution for adjournment on Monday next. I shall vote against making this the special order for any day until the session shall be prolonged, or the expression of the will of the Senate on that subject shall be obtained.

Mr. GWIN. I am sorry to hear the Senator say that he is entirely opposed to this bill. It is merely to redress outrages committed on our own

citizens. They have been murdered and robbed in the Central American States, and there has not been the first step taken by the Government of the United States to protect them, except by treaties, which have always been evaded. I should not think there was any member of the Senate opposed to a measure intended to protect our own citizens from depredations by foreign Governments. I hope the bill will be made the special order for twelve o'clock to-morrow, that we may see who is opposed to the passage of a measure which will protect our citizens from the depredations that are committed on them.

Mr. SEWARD. I am sure the honorable Senator from California will be very much mistaken if he supposes that there is only one member of the Senate who will be opposed to making war, in the aggregate, against all the nations on this continent south of us; and that there is not more than one Senator here who will oppose giving the President of the United States power to make war against even one nation, much more half a dozen, or all together.

Mr. GWIN. I do not care how many there are; I want them on the record, to see who they are.

Mr. STUART. I made my motion simply in a business point of view. This very question has occupied the Senate for two days in the morning hour; and, in regard to it, we have accomplished nothing yet, as I think will be conceded by everybody. If we put it into as many morning hours as you choose, we shall have the same result. If we postpone it until Saturday, with the understanding that we shall then take it up, and act upon it decidedly, we can, in the mean time, dispose of two or three appropriation bills without difficulty, and dispose of the private bills from the House on Friday, and be prepared to act, and act definitely. The proposition to throw this into the morning hour to-morrow, and spend an hour on it then, will accomplish nothing; and so you may continue it here until the end of the session. My object was solely to put it over to Saturday, at a time when the Senate can take it up, and decide what they will do, both upon the bill and upon the resolutions. I therefore hope that, inasmuch as we all desire, I think, alike to dispose of the proper business of the session, it will be put off until Saturday, and that we shall be able to get along with the business without consuming the entire morning every day in debating this question, without coming to any definite action.

Mr. MASON. My proposition was, to make it the special order for to-morrow at one o'clock. The Senator from California asked that it should be made the special order for twelve o'clock, and I had no objection. I did not thereby mean to limit any discussion that might take place upon it to the morning hour. It will be in the power of the Senate to continue the subject under consideration then, or to defer it, if there be any other business, in the estimation of the Senate, more important; but I want to bring it to the attention of the Senate, in order that part of the public business may be disposed of as to the Senate may seem right and proper.

Mr. TOOMBS. I ask my friend from Virginia if the bill includes Great Britain?

Mr. MASON. No, sir.

Mr. TOOMBS. I hope it will be so amended.

Mr. MASON. It contains Mexico, Nicaragua, Costa Rica, and New Granada.

Mr. TOOMBS. I think we ought to put the same rule to the strong as to the weak.

Mr. MASON. The Senator may have very good reasons for that, and may induce the Senate to agree with him. It is confined now to those four Republics. I cannot go into the merits of the bill further than to say that upon these transit routes there pass now annually probably some fifty thousand citizens of the United States, going and coming, all of whom are in peril of their lives, of their liberty, and of their property, in making these transits; and there is no means of affording them protection. The last Administration, and the present, have been obliged to keep ships of war at each of the termini, by their presence to afford such protection as their presence may do. We know that two years ago a riot occurred there—whether under the authority of the local Government or not is not known at this day. It is believed to have been countenanced by the Government of New Granada or the authorities

of Panama. A riot took place which resulted in putting some of our citizens to death who, as passengers, were passing through under treaty obligations. A great many others were wounded. Their property was despoiled, and that goes unredressed to this day; and why? Because, as to Nicaragua, as to Mexico, as to Costa Rica, whenever the Government of the United States presents itself, it finds no Government with which to put itself in communication. They are in such a decrepit state as to appear incapable of constructing a Government that will last from month to month or from year to year. So with our commerce. It goes into their ports under treaties of protection, and it is seized and despoiled there by the Government or some insurrectionary force. That is the existing state of things within the last three weeks at Tampico. Vessels going from our ports to Tampico, under the protection of a treaty, arriving at the port, were seized by insurrectionary forces, the men imprisoned, the flag insulted, and the property despoiled. Where is the redress? There is no Government to redress it; there is none that a Minister can be put in communication with; there is no means of affording redress; and when a Government is reconstructed the remonstrance will go upon file; and there it will lie; because of the utter inability of the Government of Mexico to afford redress.

Now, the purpose of the bill is to do whatever Government must have power to do if its citizens are to be protected, not against accredited nations of the world, who are able to afford redress or to refuse it, but against that character of unsettled population that are found from Mexico, certainly, down to the continent of South America, incapable of constructing Governments, and yet claiming the immunities of Governments. They are to be treated, in my judgment, as such a people must be treated when they are found in such a condition—be compelled by force to respect the laws of civilized man. That is all that is proposed.

Now, in reference to the very proper criticism of the Senator from Georgia; the committee, after a great deal of consideration, by a majority deemed it proper, for the present, to confine the object of the bill to the Republics named in it. It will be in his power, if he thinks it proper, to extend it to more, or to extend it to the whole world. In my judgment, that would have been wrong. The bill, I think, deserves consideration at the present session. If it be put over to Saturday, it will amount to nothing. Even if it should pass the Senate, it may not, at that late period, pass the House of Representatives. At any rate, I hope it will be made the order of the day for an hour to-morrow, that the Senate may then determine whether it is one of those public measures which deserve present consideration.

Mr. HOUSTON. I have had the pleasure of hearing the gentleman from Virginia, and his remarks have only convinced me of the necessity and propriety of the adoption of the resolutions which I introduced some time since in relation to a protectorate, and the expediency of giving some attention to that subject. It is admitted by the gentleman from Virginia, who is possessed of the first order of intelligence in this body on international subjects, that Mexico, and the other States alluded to, are not in a condition of self-government; that they are disorganized; that they are irresponsible; that treaties negotiated with them are not binding upon them, and that some course must necessarily be adopted that will give security to our citizens and our transit through their country. Nothing could be more conclusive to my mind as to the expediency, at least, of an inquiry into the course that ought to be adopted.

I have long been satisfied of the incapacity of these people for self-government. They have had the opportunity of the experiment for nearly or more than a quarter of a century, and they have accomplished nothing of order, of regularity, of good government. Instead of advancing in civilization, and improvement, and good government, they are greatly deteriorated, and are becoming more wretched and more anarchical in their condition. Feeling this, I was anxious that we should make a grave inquiry into the subject of their condition; that we should know what our future relations were to be with these several nations, and whether or not they were to go on as they have done on our borders, insulting our people and annoying them, slaughtering them when it

served their convenience, robbing and committing every outrage possible on them. It was necessary, I thought, to inquire into these circumstances; but I have met with but little countenance in the efforts which I have made.

Mr. President, it is an extraordinary thing that we are apprised that France, too, has arisen and has her eye on a consolidated Republic of these small States, under the protectorate of France. It is enough to alarm the United States and direct their attention, with some degree of particularity and gravity, to the subject. France is not indifferent to the condition of the South American States. She has an imperial scepter, wielded by hands capable of controlling it. France has now a master, and when she has a master she is a mighty nation; she shapes the nations of the earth about her; and that she should cast her eye to the transatlantic settlements and communities that are here in a situation to be appropriated to her ambition in the aggrandizement of her commerce and her dominion, is not at all to be wondered at. Whilst we are lying here in tranquillity, reposing with our arms folded, indifferent to the passing events of the world, they are alert on the other side of the Atlantic, and they are directing their eyes to this side of it for the purpose of aggrandizement and monopoly.

If we are to maintain the principles that we have set forth; if they are not to be to us, at a future day, a reproach, we have something to do. Are we to remain like the dog in the manger, contending that no one shall touch or lay hand upon this continent, or set foot upon it; that no transatlantic Power shall appropriate any portion of it, and yet do nothing ourselves by which these nations may be made useful to the community of nations, and advantageous to the cause of commerce, social organization, and good government? Does it not behoove us to turn our attention to it with a careful eye, and a just regard to our own situation and our own interests? Sir, we have proclaimed to the nations of the earth that we will not allow any transatlantic Power to interfere with the Governments of America, or with the affairs of this continent. It is time that we should not only assert the principle upon paper, but should give some practical manifestation of our purpose, and show that we are capable of making something out of a declaration that we have held forth to the world, of our rights, our privileges, and what we have assumed to be our national prerogative.

If we are disposed to abandon the Monroe doctrine, if we are disposed to relinquish to foreign Powers, as we have partially done to England in relation to the occupation of Roatan under the Clayton-Bulwer treaty, in violation of their own construction of that treaty in the first instance, let us do it gracefully; let us recede from our position; this is the occasion to do it; and let us ignore the indications that have already been given in the Senate, and that are making their way in the hearts of the American people. Do this, and you will bring disrepute upon the Government, and the people will rise in their majesty. The Monroe doctrine has been asserted; it has been contended for. We must maintain it or shrink from it. We cannot maintain our national dignity and abandon the position we have taken before the world. We must either maintain the attitude we have pretended to assume, and make it a reality, or we must shrink back degraded and humbled in the eyes of the world.

I have proposed nothing in the resolution that I have introduced here, but an inquiry into the affairs of Mexico and these other nations. Now, we may contemplate these transactions at a distance, but scenes are every day transpiring which tend to force us to take our stand. We must soon form our determination whether we shall become humbled and degraded in the eyes of the world, or whether we shall step forward in a manly attitude, assuming our position, and vindicating our declarations to the world. Either one or the other must be done. I am in favor of any measure that will advance the national character and national honor, and will trench in our rights, and enable us to vindicate our citizens, and give them protection wherever they may travel on the earth. The earth is ours with other nations, and we must occupy our share of it. Sir, the boasted ensign of our nation will cower and lose all its pride and prestige unless we uphold it, and vindicate our national honor by an onward, determined course;

not by boast or bravado, but by acting in our legislative capacity so as to vindicate the feelings of the nation, and show that we are a part of the mighty whole, and that we are determined to uphold our rights, and maintain our honor.

Mr. HUNTER. I believe it is not in order to discuss the merits of a proposition on a motion to make a subject a special order; and I shall have to ask the Chair to enforce the rule, because we shall have the whole debate on our foreign relations; and the motion we now have before us is one which will supersede the special order and everything else, unless we have a vote on it. I hope it will be the pleasure of the Senate to vote, and let us go on; because, if they determine to postpone the appropriation bills to take up this subject, then I think we ought to take up the resolution of the Senator from New York, and prolong the session. Two weeks more will not do it; it will take a month at this rate.

The VICE PRESIDENT. The Chair will suggest to Senators that the subject is not under discussion. The question is on fixing a time for discussion. The question before the Senate is on making the subject the special order for a particular period.

Mr. PUGH. I have waited for the last four or five days for the Senator from Virginia to get his appropriation bill out of the way; but if the hours of the Senate are to be taken up in these Senate resolutions fixing the order of time for considering subjects, I feel it my duty to call up for consideration the question of privilege which I reported from the Committee on the Judiciary. It has been decided to be a question of privilege, and I call for its present consideration. It is the resolution relative to the seats of the Senators from Indiana.

Mr. SLIDELL. Is not this question pending?

Mr. PUGH. If it leads to no debate, I am willing Senators should take the vote on this motion; but if it is to involve further discussion, I shall insist on taking up the question of privilege.

Mr. SLIDELL. I merely wish, before this bill is made the special order, to give notice of an amendment. It is a proposition authorizing the President, under certain circumstances, to suspend the operation of the neutrality laws, which I intend to offer as an amendment to the bill. I ask that the amendment may be printed.

It was ordered to be printed, by general consent.

Mr. HUNTER. Let us vote on the question.

The VICE PRESIDENT. The question is on the amendment of the Senator from Michigan to the motion of the Senator from Virginia, to make the report and bill the special order for Saturday.

Mr. GWIN. I hope the Senator will withdraw that motion.

Mr. PUGH. I do not think it is necessary to put that question. They can be called up whenever a majority of the Senate are ready to consider them. I propose my question of privilege to the Senate. They may make any disposition of it they think proper. I ask the Senate to take up the report of the Committee on the Judiciary on the contested-election case from Indiana.

Mr. HUNTER. I hope the Senator from Michigan will withdraw his amendment, and let us see if we cannot vote down the motion.

Mr. STUART. Very well. If the Senator from Virginia wishes it, I withdraw my amendment.

The VICE PRESIDENT. The question now is on the motion of the Senator from Virginia, [Mr. MASON,] to make this subject the special order for twelve o'clock to-morrow.

The question being taken by yeas and nays, resulted—yeas 16, nays 37; as follows:

YEAS—Messrs. Allen, Bell, Benjamin, Bigler, Clingman, Davis, Green, Gwin, Houston, Iverson, Kennedy, Mason, Polk, Pugh, Reid, and Slidell—16.

NAYS—Messrs. Bayard, Bright, Broderick, Brown, Cameron, Chandler, Clark, Clay, Colhaver, Crittenden, Dixon, Doollittle, Durkee, Fessenden, Fitch, Fitzpatrick, Foot, Foster, Hale, Hamlin, Hammond, Harlan, Hunter, Johnson of Arkansas, Jones, King, Mallory, Pearce, Seward, Simmons, Stuart, Toombs, Trumbull, Wade, Wilson, Wright, and Yulee—37.

So the motion was not agreed to; and the bill takes its place on the Calendar.

APPROPRIATION BILLS.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the following bills, in which the concurrence of the Senate was requested:

A bill (No. 561) making appropriations for the support of the three regiments of volunteers authorized by the act of Congress approved April 7, 1858; and

A bill (No. 555) to supply deficiencies in the appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1858.

On motion of Mr. HUNTER, these bills were read twice by their titles and referred to the Committee on Finance.

INDIANA SENATORIAL ELECTION.

Mr. PUGH. I call up the question of privilege in regard to the seats of the Senators from Indiana.

Mr. HUNTER. Is it in order for me to move to postpone the question of privilege and all other business, in order to take up the miscellaneous appropriation bill?

The VICE PRESIDENT. The Chair thinks so.

Mr. HUNTER. I make that motion.
The motion was agreed to.

CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, accordingly resumed the consideration of the bill (H. R. No. 200) making appropriations for certain civil expenses of the Government for the year ending June 30, 1859.

Yesterday, Mr. FITCH, from the Committee on the Post Office and Post Roads, presented an amendment for the construction of certain post offices, to which Mr. POLK moved to add:

For the erection of a building for a custom-house and the courts of the United States at Jefferson City, Missouri, \$30,000.

The VICE PRESIDENT. The Chair understands that this amendment was decided not to be in order by the Presiding Officer who occupied the chair yesterday, and an appeal was taken; and upon the appeal the yeas and nays were ordered.

Mr. GREEN. I was addressing the Chair on the subject of the appeal when the Senate adjourned yesterday. I do not desire to consume the time of the Senate unnecessarily. I believe the subject is as well understood now as it would be if I were to elaborate it. I made remarks which, perhaps, had reference to the Senator from Alabama, [Mr. CLAY,] from which he exculpated himself; and I beg leave, therefore, to say that I do not desire to apply them to him, but to the Senator from Arkansas, [Mr. JOHNSON.] The points I made I will merely recapitulate: that the mere technical rule is a very harsh and arbitrary one, in derogation of the common rights of Senators and of States, and it therefore ought to be most strictly construed by the strictest letter of the rule. It does not apply to the pending amendment, and for that reason I think the decision of the Chair was incorrect; but if it be the resolve of the Senate to vote down all these propositions, I am content to permit Missouri to abide by the fate of the other States. I am not willing, however, to see that State slipped over, and made an exception. I want them all to stand alike. Equality is equity.

Mr. JOHNSON, of Arkansas. I believe I was the cause of the interruption which took place last night. I avowed it at the time. I was a little amused myself throughout the whole transaction; and the remark which gave rise to it was one that is very usual under such circumstances. I must say now, that our friend from Missouri was entirely unconscious that he was consuming a great deal more time than the sense of the Senate could possibly concur in believing was necessary. It was merely as a friendly suggestion that I cried out "question," thinking he would take it as a hint; certainly with no other intention. As to the remarks made to the Senator from Alabama, I did not consider them very severe, by any manner of means; but if I am now to understand them differently from what I did then, as they are to be applied to me, I shall have to ask what they were.

Mr. CLAY. I do not think it necessary to repeat the remarks. I did not object to them because of what was said; but I thought it would perhaps shorten the question if I should let the Senator from Missouri know he was shooting at the wrong mark. I do not think there was anything to wound the sensibility of my friend from

Arkansas, and I hope the Senator from Missouri will not repeat them. We shall see them in print after a while in the Globe.

Mr. GREEN. I shall not consume time. It was not for the Senate merely that I was speaking. There are responsibilities resting on Senators to discharge their duty to the satisfaction of their constituents at home; and sometimes the Senate may be a little tired of a subject. But you want to prove to the people whom you represent that you are doing your duty. I was speaking with that view; not to satisfy the Senator from Arkansas, but to satisfy a higher power—the great State of Missouri.

Mr. JOHNSON, of Arkansas. The great State of Missouri has no more rights here than any other; certainly no more than Arkansas, and Arkansas does not respect her any more.

Mr. STUART. I am not desirous of extending this debate; I only wish to do now what I could not do in the chair so well—make a suggestion or two in regard to the apparent distinction attempted to be made by the Senator from Missouri. He concedes that the rule excludes an amendment to an appropriation bill, the effect of which is to increase the appropriation; but he insists that when there is an amendment to that bill pending, a member may offer to amend that amendment to any amount. Now, sir, this is not a harsh construction; it is a fair construction of the rule. If the question of order cannot be made when the amendment to the amendment is pending, it cannot be made at all, because the amendment proposed by a committee is in order. If an individual member can amend that amendment to the sum of \$1,000,000, that amendment, being amended, is not open to the question of order; and it would therefore be a mere evasion, and an entire evasion, of the whole rule. The fair construction of the rule is, in my judgment, the true construction; not an extended one, not a very strict one, but a fair construction. That construction, and that alone, will carry out the rule, and it was that construction which I gave.

Mr. BROWN. I want only a moment to say that there is nothing at all extraordinary in proposing this amendment, in this connection. I find, by reference to the Journal of March 2, 1855, that:

"On motion of Mr. MASON to amend the bill"—the civil and diplomatic bill—

"by inserting after line one thousand and fifty-eight, 'to reimburse Commodore M. C. Perry, of the United States Navy, the extraordinary expenses incurred by him,' &c.,

"Mr. TOOMBS moved to amend the amendment, by proposing to add:

"And the Secretary of the Treasury is hereby directed to pay, out of any money in the Treasury not otherwise appropriated, to Robert C. Schenck, of Ohio, his full compensation, &c., \$20,000."

On the same day—

"A motion being made by Mr. MASON, from the Committee on Foreign Relations, to amend the bill by inserting: "That the Secretary of the Treasury be, and he is hereby, directed to audit and settle the accounts of George P. Marsh, &c.,

Mr. SEWARD moved to amend by adding:

"And that the sum of \$18,000 be paid to John S. Pendleton," &c.

There was no pretense that either the proposition, moved at that day by the Senator from Georgia, or the one moved by the Senator from New York, came from any committee. They were moved simply as amendments to amendments, and were to pay money to parties who had claims against the Government. The committee commenced by bringing in a proposition to pay one man, precisely as the committee have brought in here the proposition to build one post office. The Committee on Foreign Relations then brought in a proposition to pay Commodore Perry, and the Senator from Georgia moved an amendment to pay Mr. Robert C. Schenck. The Senator from Virginia, from the Committee on Foreign Relations, brought forward a proposition to pay Mr. Marsh; and the Senator from New York, acting on his individual account, brings in his proposition to pay Mr. Pendleton.

Mr. SEWARD. Was the question of order raised?

Mr. BROWN. There was a question of order raised, as I will show by the record.

Mr. CLAY. I was going to ask the Senator if those propositions were not reported by committees?

Mr. BROWN. No, sir; there was no pretense

of that kind. I will read from the Globe. The Senator from Virginia having offered an amendment in regard to Mr. Marsh, from the Committee on Foreign Relations:

"Mr. SEWARD. I move to amend the amendment by adding:

"And that the sum of \$18,000 be paid to John S. Pendleton, in full compensation for his services in the missions in which he was associated with Mr. Schenck, deducting anything which he may heretofore have received as compensation for the same.

"The VICE PRESIDENT. The Chair is under the impression that both amendments, the amendment and the amendment to the amendment, are excluded by the 30th rule, which excludes private claims."

A discussion ensued, in the course of which the Senator from Georgia, [Mr. TOOMBS,] said:

"The amendment of the honorable Senator from New York is precisely similar to one which I gave notice at the last session I would move, if the one which I offered in regard to Mr. Schenck should be approved. Those two gentlemen, one from Virginia and one from Ohio, were engaged in the same missions."

The discussion went on for some time upon the point of order. The Senate ultimately determined to receive the amendment, and it was carried with the bill, and became a part of the law. That is precisely the ground on which I put the appeal now from the ruling of the Chair, that the Committee on the Post Office and Post Roads bring in a proposition to build one post office, and I may move to amend it by adding another post office. The Committee on Foreign Relations proposed to pay Commodore Perry, and I say if the rule was not violated by proposing to pay somebody else, I simply insist that I violate no rule by proposing to add another post office.

Mr. BAYARD. I have no doubt that on any question of order, you can find, if you choose to look back to the records of the Senate, a dozen conflicting decisions, because, it seems to me, it nearly always depends on the temper of the body on the particular subject-matter, whether an amendment is ruled in order or out of order. Agreeing myself with the Chair that it is not in order, I say you might as well abandon the rule if you permit this amendment to be moved.

The question being taken by yeas and nays, resulted—yeas 32, nays 11; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bigler, Chandler, Clark, Clay, Clingman, Colman, Crittenden, Dixon, Doolittle, Fessenden, Fitzpatrick, Foster, Hale, Hamlin, Harlan, Hayne, Hunter, Johnson of Tennessee, Kennedy, King, Mallory, Mason, Pugh, Reid, Sebastian, Seward, Sill, Wade, and Wilson—32.

NAYS—Messrs. Bright, Broderick, Brown, Cameron, Douglas, Fitch, Generators, Houston, Johnson of Arkansas, Jones, and Polk—11.

So the decision of the Chair was sustained, and the question recurred on the amendment of the Committee on the Post Office and Post Roads.

Mr. JOHNSON, of Arkansas. Is it in order now to raise a question of order on the original amendment?

The VICE PRESIDENT. A question of order can properly come up.

Mr. JOHNSON, of Arkansas. I raise the question of order, that the subject of building post offices under no action of the Senate has ever been referred to the Committee on the Post Office and Post Roads, and that they have consequently no jurisdiction in that matter; none has been given them by the Senate, and therefore an amendment offered by them, though with the sanction of their committee, is unauthorized and not in order.

Mr. POLK. I wish to ask whether there has been by the Senate a reference of any single one of these cases to that committee?

Mr. FITCH. I did not answer that question fully yesterday. I think there has not been. They have all been brought before that committee, I believe at the personal solicitation of the Representatives or Senators from the different localities; yet I do not think the question of order is well taken.

The VICE PRESIDENT. The question of order is not debatable until decided by the Chair. If there be an appeal, that appeal will be debatable. The Chair will cause the amendment to be read.

The Secretary read it, as follows:

For the construction of a building for a custom-house and other Government purposes, in the city of Brooklyn, State of New York, \$50,000, and also such additional sum as may be necessary to purchase a suitable site for such building.

For the purchase of a site and the erection of a building thereon, in Columbus, in the State of Ohio, for a post office, and other Government purposes, \$50,000.

For the purchase of a site for the building for public purposes, authorized to be erected at Tallahassee, by the act of 3d March, 1857, \$30,000.

For a site and building for a post office and other Government purposes, in Hartford, in the State of Connecticut, the sum of \$50,000.

For the purchase of a site and the erection of a building thereon, in Harrisburg, in the State of Pennsylvania, for a post office and other Government purposes, \$50,000.

THE VICE PRESIDENT. The Senator from Arkansas raises the question of order that this amendment, though offered by a standing committee of the Senate, is not in order, because the subject-matter has not been referred to the committee by the Senate. The Chair will cause the 30th rule to be read.

The Secretary read the 30th rule, as follows:

"No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or moved by direction of a standing or select committee of the Senate, or in pursuance of an estimate," &c.

THE VICE PRESIDENT. Under that rule the Chair decides the amendment to be in order.

Mr. JOHNSON, of Arkansas. Then, I appeal from the decision of the Chair, and I do so on this ground: whilst the rule requires such an amendment to come from a standing committee in order to be admissible, there is a parliamentary rule which exists behind that, requiring that the committee shall properly have jurisdiction of the subject-matter. I call the attention of the Senate to the evident injustice that must result from a course the contrary of this. Hitherto, it is well known throughout the Senate, the Committee on Commerce has had charge of all these subjects. We have been very well aware in the Senate that from the manner in which the Committee on Commerce was framed, there was little, if any, hope whatever that anything of this sort could be obtained from them. We are also aware that the subject-matter of building post offices has never been referred to the Committee on the Post Office and Post Roads. If notice had been given to us by even any movement of reference of this character, so as to enable gentlemen who had similar claims to come before the Senate and present them to the committee, then those of us who are here with equal rights, in some instances, I think, far greater rights than those cases now provided for, would have made inquiries, and presented their cases also. It may be that a few who happen to be upon the Committee on the Post Office and Post Roads have thought perhaps of their own States, and of a few of their friends, besides. They can put on any proposition, and have it considered and carried through, while cases more meritorious are not to be considered at all. The desire of preventing anything of that sort may have been one reason of the rule; but there are other reasons. Certainly, it is settled parliamentary rule that a committee must have jurisdiction of a subject before it can be permitted to report on that subject. I do not believe a committee can offer an amendment of this character upon a subject which has not been referred to them at this session, or any other session that I have ever heard of. I hope the appeal will be sustained.

Mr. CLAY. I think there is a great deal of force in what has been said by the Senator from Arkansas; but yet without the production of some rule of the Senate to support his argument, I shall vote to sustain the decision of the Chair. I think the Chair is constrained by the rule which was read by the Secretary, to make that decision. At the same time I think it proper to say that resolutions for the construction of all these works were referred to the Committee on Commerce, and they were referred, together with propositions in regard to a large number of similar works, either offered by members of the Senate, or passed by Legislatures of the States, and in every instance the Committee on Commerce reported, I believe unanimously, against making the appropriation. They did so after communicating with the Secretary of the Treasury, and after receiving communications from him adverse to the appropriations. After those adverse reports had been made, I do not know that it was strictly in order to bring the matter before another committee of the Senate without the consent of the Senate itself. I understand that individual Senators interested in these appropriations have gone before the Committee on the Post Office and Post Roads, and have submitted their propositions, shown the es-

timates for the construction of these works, and have prevailed on that committee to make a report, and they make a report against the adverse report of another standing committee of the Senate.

Mr. HAMLIN. I shall be obliged, very reluctantly, to vote with the Senator from Arkansas on the question which he has made. I want to state, in a word, the reason which will control my vote, and the reason which draws me irresistibly to the conclusion that the Senator from Arkansas is right. I hold that the committees of the Senate are simply the organs of the Senate, and they can act on no question, however germane to the business of the committee, unless that subject is first committed to them by the Senate. These subjects have never been committed to the Post Office Committee, as I understand. If a committee can originate propositions, they become originating bodies. They are not such; they are the organs, and only the organs, of the Senate, to mature that which the Senate commits to them, and nothing else. If they can do else, where does it end? I desire to know the necessity of presenting petitions, and memorials, and resolutions to the Senate, and having them referred to committees, if committees are originating bodies, and can act upon matter other than that which has been referred to them by the Senate? If so, they may act upon any question in the world, and they may take up any subject and the Senate may have no knowledge of it. You may have prohibited subjects in the Senate—you have, some of them—and yet a committee may take up a prohibited subject, and bring in a bill of which the Senate had no knowledge, on a subject which had never been committed to that committee. I am aware that the practice of the Senate has been sometimes different. I can only say that a service of eleven years upon the Committee on Commerce, justifies me in saying that no original proposition ever originated there.

There is another point in this matter which I do not think as important as the one I make, but still it is a point. If these questions had been submitted to the Committee on the Post Office and Post Roads, I think they are more properly the committee to consider them than the Committee on Commerce; but there were some of them referred to the Committee on Commerce in connection with other buildings; that is, the question of erecting a custom-house and post office at certain points. The Committee on Commerce gave these questions a careful consideration; and, as the chairman says, we came to the unanimous conclusion—I believe I am right; I concur in the chairman's recollection that we were unanimous—that it was not wise or expedient at this time to make the appropriations; and we reported them back. There is the action of the Senate on this subject once during this session. Now, if the committee can originate subjects, what is the object of acting upon the report of a committee? Suppose I refer any question you choose to any committee you please, and that committee deliberate and examine it, and come forward with a report, and that report is considered by the Senate and unanimously adopted; still, some other committee takes that subject up without notice to the Senate, without notice to the parties who are interested, and comes in here and makes a report on nothing, for they have got nothing on which to make a report: you might as well build a superstructure without a foundation. I never vote against a decision of the Chair without great reluctance; but, with this view of the case, I shall be obliged to vote with the Senator from Arkansas.

Mr. BENJAMIN. The same question was raised by the Senator from Georgia [Mr. TOOMBS] some time ago, and the Chair decided it as he has on the present occasion. The Senator from Georgia took an appeal, which, I think, was withdrawn. I thought at the time that the decision of the Chair was incorrect; at the same time, I must say that it is astonishing there are so few of the decisions of the Chair which do not command the entire approbation of the Senate, considering the suddenness with which the questions are sprung, and the degree of common law on this subject, I may say, that rules in the Senate. Our rules have become the subject of interpretation by a kind of usage with which the Chair cannot yet be familiar. I rarely say a word on a question of order; but I think there is a principle

lying behind this, to which I beg to call the attention of the Chair and of the Senate. I fully agree with the Senator from Arkansas, that the rule of the Senate provides against the abuse which originated in the attempt of Senators to increase appropriations; and to prevent that abuse, it was established that no proposition to increase appropriations in a general appropriation bill should be in order, unless reported from a committee of the Senate. That is the part of the rule now under discussion.

Now, sir, is it not true, as the Senator from Arkansas says, that behind that lies the other parliamentary rule that no committee has a right to report upon a subject that is not germane, at all events, to the business of the committee? I am chairman of the Committee on Private Land Claims: can I introduce, here, an appropriation from that committee to build a fort in Louisiana, if I can get my committee to agree to it; or, if I cannot get that committee to agree to it, can I go to the Committee on the District of Columbia, and ask them to move such an appropriation as that, or ask them to move an appropriation to build a new custom-house in New Orleans? Do not these things all strike us at once as shocking common sense, as clearly not embraced within the rule of the Senate? The rule must receive such an interpretation as to carry out the objects which are palpable upon its face. Those objects are to restrain appropriations that have not been properly considered, and that have not been considered with the consent of the Senate. The consent of the Senate to the consideration of an appropriation is evinced in one of two ways: either by previous action of the Senate as an entire body, or, as has been well said by the Senator from Maine, by the action of the Senate through an appropriate committee, to which the Senate has confided the investigation of the particular subject, by referring it to the committee. I agree thoroughly with the Senator from Maine, that no committee has a right to originate business and bring it in here; that the committees are not independent bodies; but that they receive the instructions of the Senate in relation to business which they are to prepare, and to bring before the Senate. Now, here comes an appropriation to an appropriation bill, forbidden unless reported from a committee of the Senate; but is not this report to be made legitimately, legally, according to the forms and rules of the Senate?

What is the case before the Senate? It is of a large series of appropriations reported from a committee which, according to the confession of its organ, volunteers to take up the subject, and to bring it before the Senate. These very appropriations, or a part of them, had previously been committed by the Senate to the appropriate committee, and reported on.

Mr. PUGH. The Senator is entirely mistaken about that. These are appropriations for post office buildings—all of them.

Mr. BENJAMIN. I understand it.

Mr. PUGH. How did they get to any committee, but the Post Office Committee?

Mr. BENJAMIN. If the Senator will reflect a moment, he will remember that these public buildings, in different States, are generally constructed under one roof for post offices, court-houses, and custom-houses—in many instances all under one roof. Frequently, propositions are made for building a custom-house and court-house—

Mr. PUGH. These are not custom-houses—not one of them.

Mr. BENJAMIN. I understand that perfectly well—these are post offices alone; but if I am not mistaken, I heard familiar names in the list contained in the amendment that was read.

Mr. POLK. If the Senator from Louisiana will allow me, I will state that I recollect distinctly that one is for "a post office and other purposes."

Mr. BENJAMIN. "A post office and other public buildings." We had this very subject of public buildings before the committee, to which the Senate has hitherto always referred it—that is, the Committee on Commerce. The Committee on Commerce has jurisdiction of the subject of public buildings for custom-houses, post offices, and court-houses. They have been sent there by the usage of the Senate. We discussed the subject, we examined the statistics, and we

came to the unanimous conclusion that the whole system was wrong and ought to be stopped—at all events, that at the present session of the Senate, and in the present condition of the Treasury, we would not recommend a solitary new appropriation for these objects. If the Committee on the Post Office and Post Roads, to whom the subject was not committed, can bring it forward in this way, any other committee of the Senate can do the same, and the entire business of the Senate is thrown into confusion. This is no ordinary point of order, and I trust that the Senate will decide it on principle. I shall be compelled, with my friend from Maine, to dissent from the opinion of the Chair, with entire respect for the Chair itself, and with the renewal of my expression of astonishment that I so seldom have occasion to dissent from his opinion.

Mr. STUART. I only wish to say a very few words on this question; very few, indeed, for the consideration of the Senator from Louisiana and the Senator from Maine. With great respect to the opinions of those gentlemen, I think, on a review of this question, they will see that the Chair has decided correctly; not that they are incorrect on the point they make, for they are entirely correct, according to parliamentary law, it is undoubtedly true that no committee can originate business. It must be referred to them either by the committee of the President's message, or by some communication from a Department, or by a direct vote of the Senate. There can be no doubt, I think, on that point; but that is not the question. The question is, what authority has the Chair to rule an amendment out of order? That authority is found in the 30th rule alone. If it is reported by a committee, that is the end of the inquiry so far as the Chair is concerned on the point of order. It is competent for any Senator to move, and for the Senate to reject, an amendment, or reject a bill that has originated with a committee without authority. It is perfectly competent for the Senator from Arkansas, or any other Senator, to move to reject this amendment on the ground, not of its merits, but that it is improperly brought to the attention of the Senate. But, sir, I would ask gentlemen what is to be the consequence if they call upon the Chair to exercise the authority now contended for on the appeal? It is not every case, probably not one in twenty, that is free from dispute as to the jurisdiction of the committee. A committee claims that it has jurisdiction on some ground or other, and would you refer to the Chair that disputed question, which is a question solely to be determined by the Senate? The Chair's authority to rule an amendment out of order is confined to the rule. The parliamentary law alone would not authorize the Chair to decide a bill out of order because it had originated with a committee, without the subject having been referred to that committee.

Mr. BENJAMIN. Will the Senator permit me to ask him a question?

Mr. STUART. Certainly.

Mr. BENJAMIN. Suppose, for instance, the Committee on Public Lands, of which the Senator is chairman, should bring in a bill for the construction of fortifications, and an objection by a member was made to the Chair that that bill was not in order; that the committee had no right to bring in a bill without previous notice, unless the Senate had committed the business to its charge: would not that be a question of order for the Chair?

Mr. STUART. I say to the Senator from Louisiana, with great respect, but I confess with great confidence, that it would not; and the Senator will see that if he seeks to clothe the Presiding Officer of this body with such authority as that, he puts the whole power of the Senate in the Chair. The Senate may refuse to consider the proposition, and, I take it, would refuse to consider the proposition, where there was no dispute upon the question and a committee had assumed to report upon a subject that never had been committed to them. But, sir, the Chair must clearly be right in the decision he has made on this rule; the Chair cannot reject a proposition and withhold it from the consideration of the Senate, unless he finds his authority to do so in the rules of the Senate. Whether the Senate will consent to waive this rule and consider a proposition upon grounds of great public interest, or for any other reason of its own, is another question. As a ques-

tion of order, however; I respectfully submit, I say it again, with a great deal of confidence, that the Chair has not only made a correct decision under the rule, but the only decision which would be a safe one for the action of the Senate. It is in order to move to reject this amendment; and in the case of a bill, as suggested by the Senator from Louisiana, it would be in order, and undoubtedly the best way, to move to lay the bill on the table for that reason; to postpone it indefinitely, or to do anything else with it not signifying the opinion of the Senate upon the merits of the bill, but that it was a question brought here without authority.

Mr. PUGH. I do not consider it important that the rules of order of the Senate should be founded on the most correct principles; but I do consider it important that they should be uniform, and uniformly administered. If this point of order be well taken, there is not an amendment now put to the bill in order; not one of the two hundred that are now probably in the bill is in order; for I will venture to say that there is not a standing committee of this body which has reported here, in the course of the last four days, that has had authority from the Senate, by resolution or petition, or otherwise, to report on the subject of its amendment.

But, sir, it is remarkable how short the memories of some Senators are—my friend the Senator from Arkansas and the Senator from Maine. It is hardly ten days ago since the Committee on the District of Columbia, through its chairman, reported an amendment to pay John C. Rives divers sums of money. My friend, the Senator from Georgia, wanted to know how the Committee on the District of Columbia came in possession of the subject-matter. It was never committed to them; it was not even germane to their duties. He raised the question of order; but the Senator from Arkansas was anxious for the amendment, and, altogether, the point of order raised by the Senator from Georgia was put out; for nobody seconded it. He stood alone, as he very often does; he is able, of course, to take care of himself, with nobody to second him. I have seen in the Senate, since I have been a member, the Committee on Military Affairs report an amendment to an appropriation bill increasing the salary of a judge, and it has gone upon the bill under this rule. I can show it in the records of the Senate since I have been a member. I do not care which way the rule works; but I want it to be fixed one way, and stay there. If it is decided that no committee can report an amendment to an appropriation bill, except where the subject has been specifically committed to the committee, I am ready to acquiesce; but I want the same law for all cases. I do not want, when gentlemen are favorable to an amendment; when they want to pay Mr. Rives or Mr. Rives's reporters—

Mr. JOHNSON, of Arkansas. The Senator will allow me to ask if he has ever raised this point of order on any case himself?

Mr. PUGH. I tell the Senator that the Senator from Georgia raised it on the very question.

Mr. JOHNSON, of Arkansas. I say that he did not raise it.

Mr. PUGH. My recollection is that he did.

Mr. JOHNSON, of Arkansas. Mine is the contrary; but I ask the Senator from Georgia, because I say he did not raise it. I dispute it.

Mr. PUGH. If I am mistaken, I shall be happy to be corrected.

Mr. TOOMBS. I raised the question of order on the Committee on the District of Columbia introducing an amendment to pay the reporters. I raised that point of order.

Mr. JOHNSON, of Arkansas. State it again.

Mr. TOOMBS. I objected to the Committee on the District of Columbia introducing an amendment, by their sanction, to pay the reporters of the Globe.

Mr. JOHNSON, of Arkansas. You objected because no committee had brought it in. That was the objection; and the gentleman who offered it then said he would have it brought before his committee, and he would bring it up in that form.

Mr. TOOMBS. The next morning I took the point of order when they did sanction it, and the record will show it. Probably the Senator from Arkansas was not in his seat at the time.

Mr. JOHNSON, of Arkansas. The gentleman from Ohio is very complimentary—

Mr. PUGH. That time I was right, surely.

Mr. JOHNSON, of Arkansas. I see you were; but I say I urged no portion of it. Another thing I venture to say; there was no vote taken on that point of order.

Mr. TOOMBS. I think there was; and it was against me.

The VICE PRESIDENT. If the Senator from Arkansas will address the Chair, he will give him an answer.

Mr. JOHNSON, of Arkansas. Yes, sir.

The VICE PRESIDENT. The recollection of the Chair is, that the Senator from Georgia appealed from the decision of the Chair on that occasion, and afterwards withdrew it.

Mr. JOHNSON, of Arkansas. That is it. The point has not been decided heretofore; and the Senator from Ohio speaks, in his complimentary remarks, of the very short memory of Senators here, when he refers back to these things.

Mr. PUGH. To that case.

Mr. JOHNSON, of Arkansas. Or any other.

Mr. PUGH. That is the case I referred to.

Mr. JOHNSON, of Arkansas. He speaks of two hundred cases of amendments offered here, every one of which was out of order. Can that be really believed in this body? Can it be that there are two hundred amendments now on this bill, every one of which is out of order, if this decision be wrong? I think not. But that is no argument as to the truth or correctness of the rule at all. I know, from a service of some years in the other branch of Congress, that daily, on appropriation bills, questions like this are raised constantly and decided, and gentlemen who have come immediately and recently from that body into this, also are aware of this fact. The jurisdiction of a committee is clearly defined, and distinctly acted upon there. Here, however, the question is not usually raised. I raise it this time. I have never heard a committee asked here, "was the subject-matter referred to you?" but I think it necessary to ask it, in order to restrict the operation of the rule which allows committees to offer amendments, so as to protect the appropriation bills from being heavily burdened.

Mr. PUGH. I say again, I have no objection to any rule the Senate makes. Make the rule, and I shall promise you, for one, to stand by it. I do not know anything about the rules of the House of Representatives; I never had the honor to be a member of that branch, but I have been a member of this body for three years; and when I came, I found this rule established; and I repeat that at the very first session of which I was a member of the Senate, I saw the chairman of the Committee on Military Affairs report an amendment to increase the salary of the district judge of California. I asked him the question, how the committee got jurisdiction? He said it was the rule of the Senate that any standing committee could report any amendment. It was done, and it went on the bill. I could enumerate twenty other instances in two or three years. But the point of short memory was, that I thought my friend from Arkansas was in his seat at the time the Senator from Georgia made that point of order. I know that Senator was anxious to get that appropriation on the bill.

Mr. JOHNSON, of Arkansas. I do not even know what the appropriation was of which the Senator speaks.

Mr. PUGH. To enable John C. Rives to pay his reporters extra pay.

Mr. JOHNSON, of Arkansas. On the contrary, I was directly against it, and got up and made remarks here which I thought would conclude it, in which I asserted that he did not want the appropriation at all, and it was simply on the application of the reporters of this body; and I voted against it in the end.

Mr. PUGH. If the Senator is right, my memory is shorter than his. I shall not prolong that. I leave it to the Senate and the record. I think it is matter of record; and if I am mistaken, I will take back my assertion; and if he is mistaken, let him take it back.

Mr. JOHNSON, of Arkansas. Look at the record for my vote.

Mr. PUGH. I insist the decision of the Chair is the settled practice; and if the rule now contended for be established, then when the bill shall come out of Committee of the Whole, I will insist on knowing, in regard to various amendments,

whether the subject-matter has or has not been committed to the committees that offered the amendments.

Mr. HUNTER. I rise to entreat the Senate to decide this point of order. We shall never get through the bill if we take up time in this way in regard to points of order. With regard to the point itself, I think it is well taken. I do not think a committee can report on what has not been committed to them.

Mr. FITCH. My opinion on the point of order is good for nothing, and therefore I shall content myself by expressing it by my vote; but some remarks fell from the Senator from Arkansas to which I desire to call his attention, and that of the Senate. He objected to amendments of this kind being brought in, concocted in committee, perhaps, for the benefit—

Mr. JOHNSON, of Arkansas. I did not use the word "concocted."

Mr. FITCH. I did not pretend to quote the language of the Senator; but the idea that they were introduced by gentlemen on committees for the benefit of their own particular localities. I must do the Post Office Committee the justice to say that no such consideration operated on them. There was before the committee a long list of similar appropriations—I may as well say a House bill making appropriations for certain purposes, including mostly the erection of post offices. The committee saw proper not to act upon the suggestions of gentlemen who brought that bill before them, and report it; but there were some items in it, and some brought to their attention which were not embraced in that bill, under circumstances and arguments alleged in their behalf, which fixed the attention of the committee, and secured a majority in favor of them. If the Senator from Arkansas had, as other gentlemen did, presented an item asking for an appropriation for a post office in Little Rock, urging the same considerations of a public character which were urged by others in behalf of their particular items, I have very little doubt the committee would have agreed to report it. There is nothing in the amendment for Indiana, and it is due to the Senator from Connecticut to say that the appropriation for the erection of a post office at Hartford was not brought before the committee by him originally. It came from a Representative in the other House from that State.

Now, a word as to this question of order. I agree with the Senator from Ohio, that if the decision of the Chair be overruled by the Senate, and that ruling of the majority is to be made operative on this or any other appropriation bill, it will exclude very nearly, if not quite, perhaps one half of the items embraced in the bills. I think the Chair has ruled correctly. There is an effort made to have the Senate overrule him. I think, if the past history of the appropriation bills be closely scrutinized, it will be found that three fourths of the items in the appropriation bills were never referred to the committees who reported them. Then it strikes at the very root of legislation. As for these points of order, they are, after all, mere expressions of the individual wishes of the members voting. If they wish a particular item to be in order, so as to secure its passage, their wishes generally control their votes; but where a majority rules, in a doubtful case like this, a particular measure not in order, their ruling is usually brought up in judgment against them in a very short time subsequently, perhaps much to their own regret. If the subject of the construction of post offices is not legitimately within the control of the Committee on the Post Office and Post Roads, I take it nothing is. These appropriations are said to have usually come from the Committee on Commerce, perhaps appropriately, especially where custom-houses were provided. The amendment offered from the Committee on the Post Office and Post Roads, now contemplates only post offices. But, sir, I have no feeling whatever in the matter. I merely rise to do what I have done—exonerate the committee from any intimation that they had been governed by partiality in reporting the amendment.

Mr. BAYARD. As I concur in the ruling of the Chair, and think there is something of danger in reversing the practice of the Senate, as it has been established ever since I have been a member, I will very briefly state the reasons why I support these views.

The question of order must, in my judgment, depend on the written rules of the Senate. A question of order raised on parliamentary law, apart from the written rules of the Senate, must depend on how far, and to what extent, the usage of the Senate has modified it; because the practice of the Parliament of England, or of the House of Representatives of this country, cannot bind the Senate contrary to its own usages. Apart from the binding force of the 30th rule of the Senate, what would prevent any member of the Senate from moving this amendment? What restricts him? Have we ever acted on the parliamentary rule requiring that an amendment must be germane to the bill? No. We have every day permitted anything or everything to go on an appropriation bill that the will of the Senate pleases to let go there; but we have established, as a rule of order, in order to qualify the action of members in offering amendments to the appropriation bills, that "no amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session"—then any individual member may move it—"or moved by direction of a standing or select committee of the Senate." Does it not necessarily follow that this rule, as it is a negative on the previously existing right of every member of the body, conveys an implied authority on the part of any standing or select committee of the Senate to move an amendment to an appropriation bill? It is not like originating new bills. We have no rule of order that would restrict individual members apart from this; and if this rule of order, which does not restrict the individual member from offering such an amendment, qualifies that restriction by implying that an amendment may be offered if reported by a standing or select committee of the Senate, on what principle can you rule it out of order? It must be on some settled principle of parliamentary law, if it is so, which has been recognized by the custom and action of the Senate; no special rule provides for it.

I am perfectly willing to agree in the views of the honorable Senator from Louisiana if you will alter the 30th rule so as to prevent committees from reporting amendments on subjects which have not been referred to them or are not within their jurisdiction; but you have no such special rule now; and if you go to the practice of the Senate, I think, in the seven years I have been in the Senate, this is the first time I have known the question raised on an appropriation bill, unless it was the other day, in the case which the Senate did not really decide, the objection being waived. It is the first time I have known an amendment moved by a standing committee of this body objected to as out of order; it may have been voted down. Amendments on subjects within or without their jurisdiction, have, as a matter of course, been moved. It was enough that the committee moved the amendment; and the question for the Senate was not whether it was in order, but whether they chose to sanction that amendment or not.

There is great force in the remarks made on the other side as to what ought to be the rule of the Senate; but what is the rule of the Senate is a very different question. In the absence of a written rule, beyond all question, no parliamentary law or practice of the House of Representatives, or the Parliament of England, can bind the Senate of the United States as a matter of order, apart from their own usages and customs; and, so far as my memory goes, I have never known a single instance in which it has been attempted to make the objection, with the exception of the solitary case the other day, that an amendment was out of order to an appropriation bill when it was moved by a standing or select committee of this body. I shall therefore vote to sustain the decision of the Chair; but if any gentleman will move an amendment of the rule so as to restrict committees hereafter, I shall vote for it.

Mr. SEWARD. Our time is too precious to be occupied in questions of order; but, as I feel some interest in this appropriation, I must state that the simple question now before us is an appeal from the decision of the Chair. The decision of the Chair is that this amendment is in order. If it is out of order, it is out of order by virtue of

some rule which exists defining and showing what shall be in order. The only rule which is referred to is a rule which prohibits the offering of such an amendment as this, unless it shall be moved by some committee of the Senate. It is not a rule which prohibits the offering of such an amendment by a committee, if the subject-matter has not been referred to the committee; but it is simply a rule which declares that an amendment shall not be received unless it is recommended by a committee. *Mutatis mutandis*, that is in order which is recommended by a committee of the Senate. If the rule is inadequate to meet the policy in which it is supposed to be founded, it is easier and safer to perfect the rule than it is to stretch and pervert it. The rules of order are very important, but they cannot be maintained unless they are strictly and conscientiously and honestly maintained; and if this rule shall be perverted so as to defeat an amendment upon its merits, under the pretense that it is out of order, there will be no respect hereafter for this rule, or for any other rule of the Senate.

Nor do I think that the reasoning is sound; that the committees of the Senate are limited and restrained and chained down so closely that they can report no amendment to the Senate making appropriations upon a matter of detail, which matter of detail has not been referred to the committee. This amendment is reported from the Committee on the Post Office and Post Roads. The subject which is referred to them, is the general care and management of post offices and post roads under the laws of the United States and under the messages of the President; and here is a bill from the House of Representatives on the subject of post offices and post roads. The committee, as a matter of detail in regard to the general management of the system may, and they undoubtedly have a right to recommend the erection, and an appropriation to defray the expenses of the erection of a post office anywhere. They may abuse their discretion; and, in that case, the remedy is not by an appeal or a rule of order, but by discussing the subject, and rejecting it on its merits. I think, therefore, that the decision of the Chair ought to be sustained.

Mr. BIGLER. I hope we shall dispose of this question. It is exceedingly important that we should proceed with the public business. If there be any question of order here, it certainly is not a question on the rule; it is one of those questions which necessarily refer themselves to the body to be decided by the power of the body.

I have a word only to say in regard to the presentation of this amendment. I am confident that it never occurred to the members of the Committee on the Post Office and Post Roads, that there would be any doubt as to their right to offer such an amendment as this under the practice in this body, under the practice which we have witnessed here since this bill was taken up. A practice of this kind has been undoubtedly indulged in. The honorable Senator from Ohio is, perhaps, too strong in his expression of the extent to which this practice has gone, but that it has been indulged in there is no doubt. The Committee on the Post Office and Post Roads, of the House of Representatives, reported a bill embracing appropriations amounting to an aggregate of six or seven hundred thousand dollars. That bill was presented to the committee of the Senate; they were asked to offer it here as an amendment, for the purpose of expediting the transaction of business, the House committee having failed to have the bill prepared to offer it in the House of Representatives. On an examination of the subject, it was agreed that it was not probable Congress, at this time, would attempt to make appropriations so extensive; and looking over the various propositions and items contained in that bill, those only were favorably regarded which seemed to be distinguished from the others by their pressing necessity or on account of the peculiar locality to which the appropriation was required; that at Brooklyn, because Brooklyn is a very large city with very bad accommodation. In other cases, the seats of government and other important points were selected. The committee reported these four items. For my own part, I have no feeling about it. I hope the Senate will decide the question.

Mr. CAMERON. I know very little about the rules of this body, and I generally take the de-

cision of the Chair as being correct. This morning I tried to follow the lead of my friend on my left, [Mr. GREEN,] and I found myself in a very small minority, and I think I shall not very soon again differ from the opinion of the Chair. In this case, I am very desirous that this appropriation shall be carried. I hope it will be agreed to. Sir, the operations of the human mind are very strange. This morning I listened to a very able and learned speech from the distinguished Senator from Louisiana, and I believe he would have convinced me that he was right, if I had not remembered that he, like the rest of us, is sometimes governed by his interest, without knowing it; I mean his public interest. Now, the city of New Orleans has had expended, on a custom-house there, nearly three million dollars. The Senator from Maine is my personal friend, and I always listen to him with respect; but I am inclined to think that his notions are governed by the interest of his State. On looking at the list of public buildings which have been erected, I find four or five in the State of Maine—at Belfast, Bath, Bangor, and Portland. The State of Maine may now be pretty well supplied with post office and custom-house buildings. I find that several gentlemen, who disagree with the decision of the Chair, have had these public edifices erected in their towns, and, therefore, they do not care about any more being constructed. My case is different. The town of Harrisburg, the capital of the State of Pennsylvania, has never had any public buildings put there by this Government. The postmaster is compelled to rent a house, from time to time, and he often gets an inconvenient one.

Mr. FESSENDEN. I should like to explain to my friend the difference in the cases. These appropriations were to finish certain post office and custom-house buildings, and were estimated for by the Department. This is not so estimated.

Mr. CAMERON. Precisely. This appropriation for Harrisburg will begin and finish the work. There is a population in and about Harrisburg who go to that post office for their mails, of something over twenty thousand people. The mails are kept in inconvenient places. Nothing has been done for Pennsylvania. On the contrary, Congress has always done everything it can against her interests. Why shall not this little appropriation be suffered to go along without being discussed for hours on a question of order?

The VICE PRESIDENT. The question is: Shall the decision of the Chair stand as the judgment of the Senate?

Mr. JOHNSON, of Arkansas, called for the yeas and nays; and they were ordered.

Mr. COLLAMER. I have a remark to make simply on the question of order, without saying anything on the merits of the amendment, as the yeas and nays have been ordered. Practically, those of us who have served in this body for two or three years, know that whatever amendment any committee has recommended, has been considered as in order to be passed upon. That has been the practice and usage under the rule. But, sir, I will not put it on that. I think the Chair puts it on a broad principle. In passing on a question of order, the Chair ought to be enabled to decide upon the looks of the proposition, from the inspection of the face of the proposition, whether it is in order or not, by the rule. Now, what is asked? Gentlemen insist upon it that when an amendment is proposed by a committee, and a question of order is raised upon it, the Chair shall proceed to inquire whether there has been any memorial or petition sent to that committee which would enable it to report this proposition; whether there has been any measure, whether there has been any resolution, whether there has been any bill; and, in short, he must go through the examination of the records of the whole proceedings of this session to see whether the committee are authorized to report the proposition. That I consider impracticable; and it would be applying the rules in such a way that it would be impracticable to carry them into effect. I therefore think the Chair is right in saying that simply by the rule, and by the inspection of the amendment, the question is to be decided; and this is in order by such a rule as that.

Mr. YULEE. I will state, in a single word, that it has been the habit of the committees with which I have been connected, to report upon

any subject with regard to the general business of the particular department to which their duties relate. I have supposed that we were at liberty to consider any subject connected with the administration of the Post Office Department, and to report upon it.

Mr. COLLAMER. I cannot but feel it my duty to protest against such a practice as that. I do not believe it has existed, except to a very limited extent, of committees originating anything that they think belongs to their department, unless there has been something authorizing them to act on the subject.

The VICE PRESIDENT. With the leave of the Senate, the Chair will make a single remark on the point of order. Except for this rule, this amendment would certainly be in order; that is, would have to be received by the Chair. If it is not in order, it is because of the limitations of this rule. The limitations of this rule are in derogation of the common right of members of the Senate to offer amendments. The Chair did not feel himself at liberty, in his construction, to push it beyond the scope of its language, nor did he suppose it was proper for him to decide any question of order, as suggested by the Senator from Vermont, the propriety of reports from committees, especially when he found the practice of the Senate had been in accordance with the ruling which he had made. The question is, "Shall the decision of the Chair stand as the judgment of the Senate?" The Secretary will call the roll.

The question being taken by yeas and nays, resulted—yeas 46, nays 9; as follows:

YEAS—Messrs. Bayard, Bell, Bigler, Bright, Broderick, Brown, Cameron, Chandler, Clark, Olingman, Collamer, Crittenden, Davis, Dixon, Doolittle, Douglas, Durkee, Fessenden, Fitch, Fitzpatrick, Foot, Foster, Gwin, Hammond, Harlan, Hayne, Iverson, Johnson of Tennessee, King, Mallory, Mason, Pearce, Polk, Pugh, Reid, Rice, Seward, Simmons, Stuart, Thomson of Kentucky, Thomson of New Jersey, Trumbull, Wade, Wilson, Wright, and Yulee—46.

NAYS—Allen, Benjamin, Green, Hamlin, Hunter, Johnson of Arkansas, Jones, Sebastian, and Toombs—9.

So the decision of the Chair was sustained.

The VICE PRESIDENT. The question now is on the amendment of the Committee on the Post Office and Post Roads.

Mr. GREEN called for the yeas and nays; and they were ordered.

Mr. JOHNSON, of Tennessee. I wish to offer an amendment to the amendment:

For the increase of the appropriation made at the Thirty-fourth Congress, for a court-house and post office at Memphis, Tennessee, \$140,000; and that said building be used for a custom-house and post office.

Mr. HUNTER. Is that in order?

Mr. JOHNSON, of Tennessee. There is a law existing on the subject.

The VICE PRESIDENT. Is there an existing law providing for the payment of this amount of money for the purpose?

Mr. JOHNSON, of Tennessee. The amendment refers to the law passed at the last Congress.

The VICE PRESIDENT. The Chair must assume, on the Senator's statement, that it is to carry out the provisions of a law.

Mr. HUNTER. On its face, this amendment is to increase an appropriation. No doubt there has already been an appropriation; but this is not to carry out that law, but to change it.

The VICE PRESIDENT. The Chair finds, on looking at the amendment, that it is for the increase of an appropriation. Unless there is some provision in the law for that increase, the Chair cannot receive the amendment.

Mr. JOHNSON, of Tennessee. The law authorizes the erection of the building. My amendment proposes to carry out that law by appropriating a sufficient amount.

The VICE PRESIDENT. The Chair does not think it is in order under the rule.

Mr. JOHNSON, of Tennessee. Well, sir, I withdraw it.

Mr. COLLAMER. I am exceedingly unwilling to interfere with the progress of the business of the Senate on appropriation bills; but when the yeas and nays are ordered, and I am compelled to give a vote to go upon the record, on such a question as this, I desire to say a few words in explanation. This amendment has not been printed, and I have had no opportunity to examine it; I have to rely entirely upon hearing it read from the desk. I understand that all the items in it are

for the erection of post offices. In relation to that subject I would say, that until within the last five or six years, we did not own a post office in the Union. Within that time, appropriations have been made to provide post offices at Baltimore, at Philadelphia, at New York, and at Boston. I think I am safe in saying that these are the only places where we have provided for post offices. I know that in many instances, where court-houses have been required to be built, and in many other instances, where custom-houses have been required to be built, we have taken the opportunity to put a post office room into those buildings; but I am safe in my statement that we have never provided for the building of a post office, as such, except in the large cities I have named. To furnish post offices generally is no advantage to the Government, and only inures to the benefit of the postmasters. The postmaster pays the expenses of his office out of his commissions; and if you build a post office for him the effect is to enable him to pocket more commissions and get up to his maximum of two thousand dollars. The Government does not pay for the hire of post offices; that is paid for by the respective postmasters; and if we build post offices for them, we only help them so much. That is the case with the large run of post offices, except where there are large distributing offices.

If we are to enter upon this business of building post offices at the expense of the Government, I wish to pursue the course recommended by the clergyman to his congregation when there was notice given that there was a wreck. The clergyman got at their head and said, "now let us all start fair." I want to start fair in this matter, to fix some rule and carry it through. If you say you will build a post office at the capital of every State, put your bill so; if you say you will build a post office at every place where there is a distributing office, put your bill so; but do not adopt this plan of saying you will have one for A, and another for B, and another for C, making a log-rolling operation out of it, and putting in just enough to carry the measure through. That does no justice to the country at large. The effect is, when those of us who do not get post offices go home to our people, we are told, "see, there was a post office built in that State and this State, and why did you not get one for us? We have larger towns, and why are we not provided for?" We are much in the condition of those gentlemen who think it is an element of popularity to distribute public documents, by which you offend ten men where you gratify one that gets a book. It is an element of dissatisfaction, and that is all; and so it will be unless it is started on some system, some rule. I object utterly to the whole amendment.

Mr. BENJAMIN. I will merely add a word to what has been said so well by the Senator from Vermont. If this amendment passes, we must be prepared to appropriate between one and two hundred million dollars to build post offices; for if you will take your list and carry out this measure to its legitimate consequences, you cannot tell now where you will stop in building post offices. Do gentlemen know how many post offices there are in the United States? My friend from Vermont says twenty-two thousand, and others say twenty-six thousand. Long before you get the buildings constructed that are provided for in this amendment, you will have thirty or forty thousand post offices to build. You are providing no system, as the Senator from Vermont says; no line of distinction; nothing by which the country is to be guided. You are going now to set the example, and plunge headlong into a system of extravagance that no man can see the end of; and that without consideration, and when a committee which has examined the subject has reported unanimously against it. I will not add another word. I want to call the attention of Senators to this point, that they do not know where they are going; if they vote for this appropriation, there is no stopping; there is no line of demarkation. Begin it, and you will have to build post offices throughout the United States by thousands and tens of thousands.

Mr. PUGH. I only want to say one word to the Senator from Louisiana. I think we are all satisfied now that we did not know where we were going when we commenced the custom-house at New Orleans; and we do not know where the custom-house house is going to, for it

is beginning to disappear, notwithstanding the lavish expenditure of money upon it.

Mr. BENJAMIN. I admit that; but what has it to do with this?

The question being taken by yeas and nays, resulted—yeas 13, nays 32; as follows:

YEAS—Messrs. Bigler, Cameron, Dixon, Fitch, Foster, Gwin, Hamlin, Iverson, Pugh, Rice, Seward, and Wade—13.

NAVS—Messrs. Allen, Bayard, Benjamin, Broderick, Brown, Clark, Clay, Clingman, Collamer, Doolittle, Fitzpatrick, Green, Hale, Hammond, Hayne, Houston, Hunter, Johnson of Arkansas, Johnson of Tennessee, Jones, King, Mason, Pearce, Polk, Reid, Sebastian, Sidel, Stuart, Thompson of Kentucky, Thomsen of New Jersey, Toombs, and Wright—31.

So the amendment was rejected.

LEGISLATIVE, ETC., APPROPRIATION BILL.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 201) making appropriations for the legislative, executive, and judicial expenses of Government for the year ending the 30th of June, 1859.

Mr. PEARCE. I ask leave at this time to submit a report from a committee of conference.

The report was received and read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 201) making appropriations for the legislative, executive, and judicial expenses of Government for the year ending the 30th of June, 1859, having met, have, after a full and free conference, agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate do recede from its first, sixth, eleventh, twenty-first, and twenty-seventh amendments to the bill.

That the House of Representatives do recede from its disagreement to, and concur in, the fourth, twenty-third, and twenty-fifth amendments of the Senate.

That the House of Representatives agree to the twenty-sixth amendment of the Senate, with an amendment as follows:

At the close of the said amendment add the following words: "And that such clerks shall not be employed under the authority of this act after the 3d day of March, 1859."

That the House of Representatives agree to the fifth amendment of the Senate, with an amendment as follows:

At the close of the said amendment add the following words: "For the Senate, and for stationery for the fiscal year ending 30th of June, 1859, \$5,000 for the House of Representatives."

Upon the thirtieth amendment the committee have not been able to agree.

J. A. PEARCE,
BENJAMIN FITZPATRICK,
LYMAN TRUMBULL,
Managers on the part of the Senate.
J. GLANCY JONES,
JAMES JACKSON,
V. B. HORTON,
Managers on the part of the House of Representatives.

Mr. PEARCE. Since the committees have prepared this report the House of Representatives has acted upon the thirtieth amendment. The House has taken the action recommended by its committee on the various amendments which are stated in the report, and has also receded from its disagreement to the thirtieth amendment of the Senate. I therefore move that the Senate concur in the report, and that will dispose of the bill. If any Senator desires to know what are the amendments proposed to be receded from, I will state them.

Mr. POLK. I should like to hear them.

Mr. PEARCE. The first amendment from which it is proposed the Senate shall recede, is that which provides for the payment of mileage to the newly-elected members of the Senate who were in attendance at the extra session of the 4th March last. The next, the sixth amendment, is for miscellaneous items for our contingent fund for the fiscal year ending June 30, 1858, \$3,000. We found that was provided for in another bill. The next, the eleventh amendment, is one striking out the compensation for certain draughtsmen and clerks employed on land maps by the House of Representatives. The twenty-first was an amendment of the Senate providing "for clerk hire, office rent, fuel, and lights, at the several district land offices, of the land States and Territories, to be apportioned in such manner as in the judgment of the Secretary of the Interior the public interest may require, \$60,000." The House of Representatives agree to the fifth amendment of the Senate with an appropriation of a like sum for a deficiency in stationery for the House of Representatives. The House agree to the twenty-sixth amendment of the Senate, with a limitation which provides that

the clerks who are authorized to be employed by the district attorney of the northern district of California to transcribe records of the district court in certain land cases, shall be limited in their work to the 3d of March, 1859. I believe I have explained all the disputed points. I move that the Senate concur in the report.

The motion was agreed to.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HENRY, his Secretary, announced that the President of the United States had this day approved and signed the following acts and resolutions:

An act for the relief of Laurent Millaudon;
An act for the relief of John Dick, of Florida;
An act for the relief of Anna M. E. Ring, Louisa M. Ring, Cordelia E. Ring, and Sarah J. De Lannoy;

An act for the relief of William B. Trotter;

An act for the relief of James G. Benton, E. B. Babbitt, and James Longstreet, of the United States Army;

An act for the relief of Susannah T. Lea, widow and administratrix of James Maglenen, late of the city of Baltimore, deceased;

An act for the relief of Michael Kinny, late a private in company I, eighth regiment United States Army;

An act for the relief of John B. Hand;

An act for the relief of Brevet Major James L. Donaldson, assistant quartermaster United States Army;

An act for the relief of William Allen, of Portland, in the State of Maine;

An act explanatory of an act entitled "An act for the relief of Dempsey Pittman," approved August 16, 1856;

An act for the relief of J. Wilcox Jenkins;

An act for the relief of Fabius Stanley;

An act for the relief of George A. O'Brien;

An act for the relief of Rufus Dwinel;

An act for the relief of Jonas P. Keller;

An act to continue a pension to Christine Barnard, widow of the late Brevet Major Moses J. Barnard, United States Army;

An act for the relief of Elijah F. Smith, Gilman H. Perkins, and Charles F. Smith;

An act for the relief of Stephen R. Rowan;

An act for the relief of Caleb Sherman; and

A resolution for the relief of John Grayson.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. ALLEN, its Clerk, announced that the House had passed the following bills of the Senate:

A bill (No. 41) to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes; and

A bill (No. 83) to vest the title to certain warrants for land in George M. Gordon.

CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 200) making appropriations for certain civil expenses of the Government for the year ending 30th of June, 1859.

Mr. GREEN. I have an amendment to propose as an additional section:

And be it further enacted, That the provisions of the fifth section of the act entitled "An act making appropriations for the civil and diplomatic expenses of Government for the year 1841," approved the 3d day of March, 1841, and the eighth section of the act entitled "An act making appropriations for certain civil expenses of the Government for the year ending June 30, 1858," approved March 3, 1857, are hereby construed and declared to direct the Secretary of the Treasury to allow and pay to surveyors of ports performing or having performed the duties of collectors of customs since the passage of the law first above recited, the same compensation, and no other, as is allowed to collectors for like services.

Mr. HUNTER. This amendment is designed to give back pay to a large class of officers, as I understand, surveyors of ports; and if it is, it comes within the ruling of the Chair in regard to the amendment from the Committee on Foreign Relations.

Mr. GREEN. There is no question of order that can possibly be raised on this amendment. It is declaring the law, and it is declaring the law exactly as the law now is, and I have only put it in this imperative form because the Secretary will not do his duty in executing the law. It proposes

no appropriation. It asks no appropriation. It is to carry out an existing law. I will read the law; and I leave it to every Senator present whether this section, which is now the law of the land, is not exactly the same as the section I propose, with this single difference only: that this is mandatory, and speaks to the Secretary in language that he cannot evade. Here is the eighth section of the act of last year, passed with the vote of the Senator from Virginia, as well as my own and others, and approved the 3d of March, 1857:

"Sec. 8. *And be it further enacted, That the provisions of the fifth section of the act entitled 'An act making appropriations for the civil and diplomatic expenses of the Government, for the year 1841,' approved the 3d day of March, 1841, which established and limited the compensation of collectors of customs, shall be construed to apply to surveyors performing, or having performed, the duties of collectors of the customs, who shall be entitled to the same compensation as is allowed to collectors for like services in the settlement of their accounts.'*"

That is the present law. How anybody can misunderstand that law, is a mystery to me.

Mr. COLLAMER. What has been the construction?

Mr. GREEN. That if they performed the duties of collectors they still are only to be paid as surveyors, and not as collectors. The difference is this, and it applies to but very few offices: the surveyor of a port is limited, under the law of 1841, to \$3,000, and the collector of a port is limited to \$6,000. The compensation of a collector is dependent on the amount collected, but cannot go beyond the \$6,000. At many of the ports they have a surveyor and a collector, as at New York, Boston, and other points; but at some of the small ports they have nothing but a surveyor, and no collector; and, under the law, those surveyors have to give bond to perform the duties of collector, incurring the whole responsibility and discharging all the duties of a collector.

Now, my opinion under the old law was, that they were entitled to the pay of collectors if they performed the duties of collectors; but to remove all doubt, and to make it so plain that no man could misunderstand it, this eighth section was put in the law of the 3d of March last, which declares expressly that they shall be paid as collectors, and that that is the meaning of the law; and yet, in spite of that, the Secretary of the Treasury says he will not pay them as collectors, but only as surveyors, holding them down to the short limitation of \$3,000. I say that if they collect a large amount, the commissions ought to be paid to them under the same limitations as apply under the law providing for the compensation of collectors. Is there anything inequitable in it? No. Do they not discharge the same duty? They are not named collectors, but they give the bond, and do perform the duty of collectors; and the law says they shall have the same pay, but yet they cannot get it. That is the whole case.

One word more: the surveyor at Mobile, knowing his rights, refused to be cut down to the \$3,000 limitation. The Solicitor of the Treasury ordered suit against him. Suit was brought. He pleaded this law, claiming the compensation of a collector, and the courts sustained him and defeated the United States Government; and so every surveyor performing the duties of a collector in the United States can defeat them to-day; but that does not meet the case, for this reason: here are men in office; they do not want to be turned out of office; they do not want to incur the hazards of a suit and the name of being a defaulter; they want the law executed. The head of the Treasury can say to any surveyor of a port, "if you do not come up and settle according to my construction of the law, I can give you your walking papers and dismiss you from office; I will hold you as a defaulter; I will institute suit against you, and hurt your character in the public estimation." I want to avoid all that; I think the law is plain, and I should like to hear the Senator from Virginia upon it, whether it is not express that they are not entitled to the same pay as collectors.

Mr. HUNTER. I believe I shall lose more time than I gain by making a question of order, because it would require an exposition of the law to make it. I would rather, therefore, take the question in this case on the amendment. This section of the law of 1857, as it was originally passed, was in these words:

"Sec. 8. *And be it further enacted, That the provisions of the fifth section of the act entitled 'An act making ap-*

appropriations for the civil and diplomatic expenses of the Government for the year 1841, approved the 3d day of March, 1841, which established and limited the compensation of collectors of customs, shall be construed to apply to surveyors performing or having performed the duties of collectors of the customs, who shall be entitled to the same compensation as is allowed to collectors for like services in the settlement of their accounts."

This section, as I understand it, was not carried into execution by the Secretary of the Treasury, because it was considered indefinite; it was uncertain whether it meant to apply to surveyors only in the future, or to surveyors in the past. If it meant to apply to surveyors in the past, it had a retroactive effect until 1841, and would be so construed as to allow salaries to men who had received their salaries, been content with them, gone out of office, and some of them were dead. We should thus revise the accounts of all that class of persons; and although they had received all they expected, or desired, or ever claimed, the accounts would be reopened. I admit that whatever is the law ought to be carried out; but I merely mean to refer to this as showing the effects, if we should make it imperative. If it should turn out that the construction of the Secretary of the Treasury, in which I believe he is sustained by the law officer of the Government, is correct, and that this provision was indefinite, and could not be carried out without further legislation, then, I say, I am unwilling to pass further legislation in order to enforce a provision which would have that effect. Why should we go back and pay men who received all that they were entitled to, who received all they asked, and were satisfied with the settlement? As to the construction of the Secretary and the law officer on this provision, I have nothing, just now, to say. That is the construction they have put on it; and I am not willing to force them to carry this out; that is to say, to pass a declaratory provision which shall say that this provision is to have a retroactive effect, and to allow these men this back compensation.

Mr. GREEN. I have one word to say, and it is merely this: the law is so plain that how there could be a doubt about its construction is to me a mystery. It says, surveyors of ports performing or having performed the duties of collectors, shall be paid at the rate of collectors for like services. There can be no doubt about its construction. About the bugbear to be raised up for the purpose of frightening the Senate from their propriety, with reference to the number of officers, I will say that the number of surveyors collecting enough under the ordinary percentage to go above the \$3,000 is very small, only some three or four, or five, I think. At the large offices there are collectors; they receive money as collectors; they give bonds as collectors, and are limited only by \$6,000. Take St. Louis: it has a surveyor of the port; he was limited to \$3,000. How much revenue does he collect? From eight hundred to twelve hundred thousand dollars a year; the average is a million. He incurs that responsibility, and the law says for that responsibility and labor he shall be paid at the same rate as a collector, and yet he cannot get it. I want the law made mandatory. So with Cincinnati; so with Mobile; so with some very few ports; but the number of offices where the surveyor would, under this law, go above the limitation of \$3,000 provided for surveyors, is very small.

Mr. PUGH. I agree with the Senator from Missouri completely. I believe these men have arbitrarily been deprived of what the law has given them; and therefore I shall vote for the amendment.

Mr. DOUGLAS. I think we may as well settle this matter by a specific provision. It is very clear, in my opinion, that under the law each one of these surveyors, four, or five, or six in number, is entitled to this allowance; and if we do not settle it now, we force them to be branded as defaulters, and go into the courts to get that to which they are entitled under the law. I think it is not just to them, nor to ourselves, to force them to go into the courts, and to be thus branded, in order to enable them to get that which is clearly their right under the law, as it exists. I think we had better pass a declaratory act. It is better for the Department, for the surveyors, and for the public.

Mr. GREEN called for the yeas and nays; and they were ordered.

Mr. HALE. I have not time to investigate

this matter; but it strikes me, that as it is stated by the friends of the proposition, this is a clear case for the Court of Claims. It is a question as to the construction of a law. If these parties have a right to the money under the law, let them go to the Court of Claims and get it.

The question being taken by yeas and nays, resulted—yeas 14, nays 29; as follows:

YEAS—Messrs. Bright, Douglas, Fitzpatrick, Green, Houston, Iverson, Jones, Polk, Tugh, Sebastian, Seward, Simmons, Stuart, and Wade—14.

NAYS—Messrs. Allen, Bell, Benjamin, Bigler, Broderick, Brown, Cameron, Clark, Clay, Collamer, Davis, Dixon, Doolittle, Fessenden, Foster, Hale, Hamlin, Harlan, Hayne, Hunter, Johnson of Arkansas, Johnson of Tennessee, Mason, Reid, Sidel, Toombs, Trumbull, Wright, and Yulice—29.

So the amendment was rejected.

Mr. SEWARD. I submit the following amendment, on behalf of the Committee on Foreign Relations, as a new section:

And be it further enacted, That the Secretary of State be, and he is hereby, authorized to adjust, upon principles of equity and justice, the accounts of J. D. Andrews, late agent of the United States in connection with the reciprocity treaty, and that the same be paid according to said adjustment.

Mr. HUNTER. This is a private claim to allow back pay.

Mr. TOOMBS. It is not for back pay. This gentleman was appointed a secret agent of the Government, under authority of law, to conduct this treaty; but the funds for miscellaneous expenses gave out, so that he could not be paid. The account is to be adjusted under the law. The President had authority to appoint him, and this is merely to pay him. It has the approbation of the Department.

Mr. HUNTER. This phrase, "upon principles of equity and justice," generally covers private claims that cannot go through according to law.

Mr. TOOMBS. It covers nothing but services in connection with the treaty. I took occasion to ask the Secretary of State about it, and, as far as his examination went, he said it was correct.

Mr. SEWARD. The Committee on Foreign Relations unanimously reported this proposition.

The PRESIDING OFFICER. (Mr. STUART in the chair.) The Chair will feel bound by the statement of the committee that it is to carry out an existing law.

Mr. HUNTER. Of course; but I should like to know why it is to be adjusted according to the principles of equity and justice. Does not the law cover it?

Mr. SEWARD. I suppose it does; but that is the usual form.

Mr. HALE. I am sorry that it could be an objection on the part of the chairman of the Committee on Finance, that this is to be done according to the principles of equity and justice. That rather commends it to my mind.

Mr. HUNTER. Such provisions are generally designed to give a discretion to the head of a Department, which does not exist under the law; and some of the worst claims we have ever had have passed in that shape.

Mr. SEWARD. The honorable Senator ought to have objected to those former claims that he says were bad claims, and not to this.

Mr. MASON. I think the facts connected with that matter are very briefly these: during the administration of President Fillmore, when Mr. Webster was Secretary of State, while they were preparing material, and getting information with a view to the reciprocity treaty, this gentleman, Mr. Andrews, who was perfectly well informed on all subjects connected with the fisheries and the trade between Canada and this country, was employed by Mr. Webster to collect material for information on those matters, and he made reports, as the Senate is aware, which were subsequently printed in large books, containing really a fund of very valuable information. Afterwards, during the administration of President Pierce, the same gentleman was continued in employment, or employed anew by Secretary Marcy, for the same object. He was at Washington, I know, for I had a great many interviews and conferences with him, while the treaty was pending, and he did render very valuable services. How he was paid I do not know; but I am very well satisfied, on looking at the documents sent to the Department of State, connected with his mission,

that in its discharge, which was very faithfully done, he incurred heavy obligations that it was not in the power of the Government to relieve him from, no money being appropriated, and the object of this amendment is to enable the Government, after examination, to do justice to the services he rendered on that occasion.

The amendment was agreed to.

Mr. BELL. I am directed by the Committee on Naval Affairs to offer an amendment:

And be it further enacted, That from and after the 1st of July, 1856, the clerks and messengers in the Washington navy-yard and marine barracks, shall be entitled to receive, as theretofore, the compensation authorized by the acts of the 22d of April and the 5th of August, 1854; for the payment of which, such sum as may be necessary is hereby appropriated.

Mr. HUNTER. Is not that for back pay—a private claim?

Mr. BELL. Allow me to explain it first. It is to carry out the provisions of a standing law. These clerks have had no appropriations made for them under that law, since 1856. The Senator from Virginia, I think, will not fail to remember that this has been before the Senate three times, and lost in the other House because of the lateness of the session. It has been twice passed by the Senate, and I have brought the records to show that. The Senator from Virginia, I remember, at one time took exception to it, when it was first offered; but the second and third times, I think, he was silent. I have the record before me to show that it passed the Senate twice. I believe the Senator from Ohio [Mr. WANE] presented the matter to the Senate, and had it referred to the Naval Committee; and it was placed in my charge because I was supposed to know something about it. From 1854 to 1856, this was regularly estimated for, and they were paid; but from 1856, up to this time, there has been no estimate and no appropriation for them. It is a standing law, but there has been an omission on the part of the officers that made the estimates. I have the law before me, and it is plain. In acts which have passed, or will pass at this session, the other clerks and messengers provided for in the act of 1854 have their appropriations made, while these are left out. The amendment is only to restore them to equal rights under the standing law.

Mr. HUNTER. Does this not propose to give them back pay? If it does, it comes within the rule.

Mr. BELL. It is not back pay. It is only from 1856. I will read the law, and I think my friend from Virginia will see that he ought not to object. The act of the 22d of April, 1854, provides:

"Sec. 2. *And be it further enacted*, That the stamp and blank agent for the Post Office Department receive the same salary as clerks of the second class provided for in the first section of this act; and an addition of twenty per cent. is hereby added to the pay now authorized by law to each of the messengers, packers, laborers, and watchmen, of the different Executive Departments of the Government, in Washington; to the clerks employed at the navy-yard and marine barracks, at Washington," &c.

On the 6th of August, in the appropriation bill, there was a section including the messengers at the navy-yard. These two acts are those upon which this appropriation is asked. All the other persons included in the law have been regularly estimated for, and paid, not only before 1856, but subsequent to that time. If any discrimination can be made between the two classes by gentlemen, it goes beyond my power to do it; I have no such faculty. It was not denied on the two last applications made here. The Committee on Naval Affairs are unanimous in agreeing to the propriety of it. There is no difficulty, except that the matter has not been supposed to be well understood by the Senate.

The PRESIDING OFFICER. Does the Senator from Virginia make the question of order?

Mr. HUNTER. Yes, sir.

The PRESIDING OFFICER. It is impossible for the Chair to decide such a question. If the act which has been read is a continuing act, the amendment is in order; if it is an act which expired in that fiscal year, it is otherwise.

Mr. BELL. It is a permanent act.

The PRESIDING OFFICER. The Chair, under the circumstances, prefers to submit the question of order to the Senate.

Mr. HUNTER. Then we may as well take the question on the amendment. I withdraw the point.

The PRESIDING OFFICER. The question, then, is on the amendment.

The amendment was rejected.

Mr. MASON. By instruction of the Committee on Foreign Relations, I offer this amendment:

And be it further enacted, That when, in the absence of a secretary of legation at Constantinople, who discharges the duty of dragoman, or in like manner when there is no dragoman at that mission, the consul, or consul general, of the United States shall act as dragoman, he shall receive the compensation now provided by law for a dragoman, and for such time as he shall act as such.

The condition of things to which the amendment looks is this: the mission at Constantinople consists of a minister resident, a secretary of legation, and a dragoman, the dragoman being the interpreter; it is necessary that the dragoman should understand not only the Turkish language, but the Italian certainly, and if practicable the French language, as well as his own. Heretofore we had at Constantinople, a gentleman named Brown, who was thus accomplished. He was the dragoman, and acted as such for a series of years. Recently, probably some twelve months ago, Mr. Brown was appointed consul general, and since then there has not been at that mission either a secretary of legation or a dragoman—no dragoman, because they cannot find a competent man; and a secretary of legation, it appears, was not appointed, from the desire to combine the two offices, as the law had provided; and thus for some time, I know, while the last minister was there, as at present, there was neither secretary of legation nor dragoman. The existing law provides that when the secretary of legation discharges the duties of dragoman, he shall receive the compensation of dragoman as well as his own. The compensation of dragoman is \$1,000. It has thus resulted that the consul general, Brown, the former dragoman, has been, from necessity, discharging the duties of dragoman, and the law does not authorize him to receive the compensation of dragoman, which is but \$1,000. I have a letter from the present minister there, Mr. Williams, who states these facts. They were known to me from correspondence with the former minister and with Mr. Brown. The effect of the amendment only is to authorize the consul general, when he acts as dragoman, to receive the compensation now provided for the dragoman; as the law does provide that, if these duties were discharged by the secretary, the secretary should receive the compensation. There is no appropriation of course, but the amendment directs the application of an existing salary.

Mr. FESSENDEN. I do not know that I have any sort of opposition to this amendment, but I wish to understand it. I happened to be looking over a list of these officers the other day, and I found that Mr. Brown, at Constantinople held four offices, for all of which he was paid, making the whole pay he received, \$6,000.

Mr. MASON. Can you enumerate them?

Mr. FESSENDEN. I cannot; but I think one was consul, another dragoman, another commissioner, or something of that sort, and another dragoman to the commissioner; he was his own dragoman in both cases, and received \$6,000, according to that list. It is a little list I saw in the hand of one of the Representatives, giving an account of our ministers and consuls, and what they received. These four offices at Constantinople were put down to Mr. Brown, who was his own interpreter in two different offices; and for being his own interpreter in those two different offices, received two separate salaries, making \$6,000 in the whole. I should like to have an explanation of what this amendment is calculated to effect.

Mr. MASON. I do not know to what the Senator refers, but I do know that the only office held by Mr. Brown at Constantinople is the office of consul general. The law provides for the office of dragoman and for the office of secretary of legation; and the law further provides, that when the secretary of legation discharges the duties of dragoman, he shall receive the same compensation that the dragoman would receive if he were an independent officer; but, as I have said, there being no dragoman, and there being no secretary of legation, Mr. Brown, who was formerly dragoman, and who is now the consul general, has been discharging the duties of dragoman. I am not aware of what compensation has been made

to him. I learned, by a conversation recently with the Secretary of State, that Mr. Brown had, in fact, discharged the duties of dragoman from the necessity of the case. A letter from the present minister, Mr. Williams, who recently arrived there, states that he found the mission without a dragoman; and found that Mr. Brown had been discharging the duties of that office for his predecessor; and, at his request, Mr. Brown continued to discharge them.

Mr. FESSENDEN. I will say to the Senator that I looked over the list carefully, and I was struck by the appearance of it. I cannot say that it was an official paper, but it was a printed paper in which I saw all these offices drawn out. Where it came from, I do not know; and I will not undertake to vouch for it. I should, of course, take the statements of the Senator from Virginia, from his sources of information, as much more entitled to confidence.

Mr. MASON. I think I can explain the matter. I was going on to state that the Secretary of State, in conversation the other day, speaking of this state of things, said it seemed to be right—it certainly was just—that Mr. Brown, who discharged the duties of dragoman, should receive the compensation provided by law for the dragoman; but, according to my recollection, said it had not yet been determined by the accounting officers, or by the proper authorities, whether it was competent to give it to him without a provision of law. What has been done in the premises, I do not know.

Mr. FESSENDEN. I would ask, what is the necessity of an interpreter to a gentleman who is perfectly competent to interpret for himself? The only reason for having an interpreter connected with the mission, I suppose, is because he is needed on account of the individual who performs the service of minister. Now the minister is perfectly competent; and why should we pay him a salary as minister and consul, and also pay him for interpreting his own communications, whatever they may be?

Mr. MASON. The criticism of the Senator would be perfectly just if Brown were the minister.

Mr. FESSENDEN. It is so stated in that paper.

Mr. MASON. I do not know anything about the paper; but I say again, the only office held by Mr. Brown is that of consul general. The minister is Mr. Williams. If it should happen, and doubtless it would happen, that Mr. Brown would be obliged to avail himself of his attainments in the Turkish language in the discharge of his office as consul general, of course he is not to be compensated for that. That is very true. But if, in addition to the office of consul general, he discharges the office of dragoman to the minister, the amendment I propose merely says that he shall then stand in the same relation to the compensation of the dragoman that the secretary of legation would have stood if there was any secretary of legation. The effect of it will be that he will receive the compensation of dragoman in the absence of a secretary of legation who is competent to discharge the duties of dragoman, or in the absence of a dragoman, when there is a secretary of legation who is not competent to discharge them. It will direct only the application of the compensation of dragoman when there is no such officer there to discharge the duties.

Mr. KING. I think there is objection to this provision on another ground. The distribution of these offices into the hands of different persons, furnishes to our citizens abroad, and to our interests there, the opportunity of more than one person to look after them; and I know that in the case of this Mr. Brown, complaint has existed. It comes under my own observation from an extensive ship-builder in Brooklyn, who went out to Constantinople to construct vessels for the Sultan, and who complained that his interests were not properly attended to by our representatives abroad, and who obtained from the Department a letter in relation to them, which has gone out. I speak of it incidentally in this matter. His statement was that Mr. Brown, who understands the Turkish language, is the principal man there; and, as interpreter, has the chief management of our affairs there, with our present minister, as well as all others. I think that the provision of law

which distributes these officers, had better be carried out universally, rather than heap the discharge of all their duties on a single individual, and give him the salary of all. I should oppose it on that ground also. I know nothing specially of Mr. Brown except in this particular instance; but if there is a provision for a dragoman, I should prefer that a dragoman should be appointed.

Mr. MASON. The amendment does not in the slightest degree interfere with the existing law. The existing law provides for the appointment of a dragoman at \$1,000. Mr. Brown filled that office until he was appointed consul general. The office is now vacant; but if the honorable Senator can find any man who is competent to fill that office from his attainments in the eastern languages, and has other qualifications, and which belongs to the right political complexion, doubtless he would not only receive the appointment, but the Administration would be very glad to have him. But the amendment provides that in the absence of such an officer, the officer who discharges the duties shall receive the compensation. It is but \$1,000. As to what the Senator may have heard of complaints of Mr. Brown, I know very well that Senator would prefer no complaint unless he knew it to be properly founded. Of the particular instance I know nothing, nor have I the good fortune of a personal acquaintance with Mr. Brown; but I do know, that not only has he had the confidence of the Department of State in the successive administration of that Department for years past, but of all our ministers who have been there, three or four in number, within the last eight or ten years, and in every instance where Mr. Brown has been brought into personal or official communication with any individual or official personage of our Government, they have spoken of him always in terms of respect and confidence, and of his zeal, ability, and diligence in the discharge of his office. That is the character he bears.

Mr. KING. The case I refer to is that of a Mr. John Reese, a stranger to me, but who sent a communication here, stating that while at Constantinople he was unable to procure a proper understanding of his claim, as he alleged, owing to some prejudices or difficulties existing between him and Mr. Brown. I have no disposition to make any general complaint, or any charge against Mr. Brown, for I do not know him or anything about him, except in this case. I take it this proposition originates in the idea of having Mr. Brown discharge all these duties; and if he obtains the salary, whatever of influence he or his friends have will be exerted to prevent the appointment of another person. Although I have no person to recommend, I have no doubt one can be found. The reasons which I have suggested are those which will influence me to vote against conferring all these offices, with their salaries, on one individual.

The question being put, the "noes" appeared to prevail.

Mr. MASON. I hope the amendment will be adopted. I call for a division.

Mr. KING. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MASON. As was very natural, I saw that the attention of the Senate was not directed to this matter; and I have to say, in a single word, that the effect of the amendment is only to allow the consul general to receive the \$1,000 a year provided for the dragoman, when he acts as dragoman or interpreter to the mission—the existing law providing that when the secretary of legation discharges the duty he shall receive it, and the facts being that there is no secretary of legation and no dragoman there. That is the whole case.

The question being taken by yeas and nays, resulted—yeas 33, nays 13; as follows:

YEAS—Messrs. Allen, Bell, Benjamin, Bigler, Bright, Broderick, Brown, Clay, Collamer, Davis, Dixon, Doon, Fessenden, Foot, Foster, Hammond, Harlan, Hayne, Hunter, Iverson, Kennedy, Mallory, Mason, Folger, Pugh, Seward, Simmons, Sill, Stuart, Thompson of New Jersey, Toombs, Wade, and Wright—33.

NAYS—Messrs. Chandler, Cingman, Fitch, Fitzpatrick, Hale, Houston, Johnson of Arkansas, Johnson of Tennessee, King, Reid, Sebastian, Trumbull, and Yuice—13.

So the amendment was adopted.

Mr. CHANDLER. I desire to offer an amend-

ment, in the form of an additional section to the bill:

And be it further enacted, That \$54,037 be appropriated for completing the improvement of the channel over the St. Clair flats, in the State of Michigan.

Mr. HUNTER. Is there any estimate or recommendation of a committee for that?

Mr. CHANDLER. Yes, sir; I hold in my hand the estimate of the Department.

Mr. HUNTER. Recommending it, or merely saying what the cost would be?

Mr. CHANDLER. It is an estimate by the Department of the cost of the work, and comes within the rule.

Mr. HUNTER. I submit to the Chair whether that sort of estimate brings it within the rule?

Mr. CHANDLER. I will state very briefly the necessities of this case. I have the ordinary estimates of the Department in the usual form. Perhaps it will be better to have the point of order decided before speaking on the merits of the question.

Mr. POLK. There was an estimate, if I am not mistaken, for another matter that was voted down as an ordinary estimate. If that is the kind of estimate that is contemplated by the rule, I take it there have been cases in which decisions have ruled particular appropriations out of order when there has been such an estimate as that. I do not make that as an objection to the amendment offered by the Senator from Michigan; but I only wish that the rules shall be administered so that everybody shall have the benefit of them, or everybody stand subject to the disadvantages of them.

Mr. CLAY. I wish to make this suggestion: this amendment is not moved from any committee of the Senate, either standing or select; on the contrary, one of the standing committees of the Senate reported against that appropriation. It is not moved "in pursuance of an estimate from the head of some of the Departments," because I venture to say that when you come to examine the estimate, it will be found that it has been made in reply to a call by a resolution of the Senate, and it has been made by the chief of the topographical bureau, and not by the head of a Department; and hence it does not come either within the letter or the spirit of this rule. Of course it was intended by the rule that the estimate should come from one of the Cabinet officers, with his recommendation. This does not come from the Secretary of War, nor does it come with his recommendation. It is an estimate made by the topographical engineer who has that work in charge, and is transmitted in compliance with a request of the Senate, by the Secretary of War, as the estimate of the topographical engineer.

Mr. CHANDLER. This estimate comes in the usual form on an application to the Secretary of War for this specific information. He sends me a letter in his own handwriting, and accompanies his letter with the report of the bureau. It is in the ordinary, usual form of all communications from the Secretary of War; and I submit to the Senate that this amendment is strictly within the rule. The estimate is in the usual form, according to the invariable method of communicating information from the Secretary of War to the Senate.

The PRESIDING OFFICER. Will the Senator send the papers to the Chair?

Mr. SEWARD. Let them be read.

The Secretary read as follows:

WAR DEPARTMENT, WASHINGTON, March 1, 1858.

SIR: In answer to your letter of the 16th ultimo, I have the honor, herewith, to transmit a report of the colonel of the corps of topographical engineers, inclosing copies of communications respecting the cost of completing the channel over the St. Clair flats and St. Mary's river, in the State of Michigan, together with maps of the same.

Very respectfully, your obedient servant,

JOHN B. FLOYD, Secretary of War.

Hon. Z. CHANDLER, Senate.

BUREAU OF TOPOGRAPHICAL ENGINEERS,
WASHINGTON, February 26, 1858.

SIR: In reply to the letter of the Hon. Z. CHANDLER, of the 16th instant, asking for "estimates of the cost of completing the channel over the St. Clair flats and the St. Mary's river, in the State of Michigan, likewise a map of each work," I have the honor of transmitting herewith, copies of communications from Captain A. W. Whipple, corps of topographical engineers, dated 18th and 20th January, from which it will be seen that recent examinations of these works, and an amendment necessarily made in the contract for dredging St. Mary's river, a considerable change

in the estimates for the completion of these works is made necessary.

According to the estimate given in Captain Whipple's annual report, the amount required to complete the improvement of St. Mary's river was \$15,461 53

According to his modified estimate, submitted in his letter of 20th January, the amount would be 148,681 53

Showing an increase over the former estimate of \$33,220 00

The amount of Captain Whipple's estimate for completing the excavation of a channel through the St. Clair flats, as given in his annual report, was \$23,421 00

As will be seen from his letter of the 18th January, his first estimate contemplated a depth of twelve feet, and he now suggests an increased depth of two feet; making the whole cut fourteen feet deep, instead of twelve feet; the cost of which he estimates at 30,616 00

Which, added to the sum specified in his annual report, would make the amount required to complete the proposed cut \$54,037 00

Copies of the maps of St. Mary's river and St. Clair flats are transmitted herewith.

Respectfully, sir, your obedient servant,

J. C. WOODRUFF,

Captain Topographical Engineers, Assistant in charge.

Hon. JOHN B. FLOYD, Secretary of War.

Mr. DAVIS. I understand the question to be whether an estimate from the head of a Department justifies this amendment. Is that the question?

The PRESIDING OFFICER. The question is whether the amendment is admissible under the 30th rule of the Senate.

Mr. DAVIS. The point is that it is admissible, because it is an estimate from the head of a Department.

The PRESIDING OFFICER. That is the ground taken.

Mr. DAVIS. I suppose that must be the ground, as it cannot come under any other. Then the question is whether that is an estimate from the head of a Department. I say it is not. The chief of a bureau is not the head of a Department.

Mr. CHANDLER. When the head of a Department adopts the recommendation of the chief of a bureau, does not that make it an estimate of the head of the Department?

Mr. DAVIS. I have known exactly such statements to be made in regard to another head of a Department, here frequently, and with as little truth. When the Senate, by a resolution, or a committee, call on the head of a Department for an estimate, it is usually furnished to them. In this case, I understand this estimate to have been sent back in answer to a resolution. The compliance with the resolution was an obligation on the head of the Department; but the estimate made by the chief of the bureau is not the estimate of the head of the Department; neither is the publication, in the annual report of the Secretary of War, of any estimates made by the head of a bureau, an estimate from the Department. It is made in compliance with a resolution which directs it—a resolution of the Senate—which requires all correspondence, all reports and estimates, in relation to works of internal improvement, that had been projected at the time the resolution was introduced, to be sent to the Senate, with a statement of all expenditures accruing from appropriations then existing. These are the reports, estimates, and correspondence, sent here annually, to an amount exceeding what it can be profitable to any one to read—sent, not because the head of the Department desires to send them, but because a resolution of the Senate has commanded him to do so. Here I understand the answer to be in reply to a special resolution; and the estimates which are made by the officer in charge of the work, and sent to the head of the bureau, are furnished when called for. It is information which is there deposited, and subject to be called for. The head of a Department has no option, and therefore no responsibility for transmitting it.

If there be any reason in the rule, it must be that, in order to bring amendments under the operation of the provision, they shall be confined to those subjects which had been recommended by the head of a Department. He having charge of the operations of a particular branch of the Government, and knowing what that branch of

the Government requires, calls upon Congress to make an appropriation, and sends an estimate. If there be any reason in the rule, that must be the meaning of it; and as this amendment comes under no other provision of the rule, and rests entirely on the question of whether it be an estimate from the head of a Department, I have nothing further to say in relation to it.

The PRESIDING OFFICER. The question raised by the Senator from Virginia, is whether this amendment is admissible under the 30th rule, it being claimed to be in pursuance of an estimate from the Department. The question being disputed whether it is an estimate from the Department or not, the Chair will not decide it, but will submit the question to the Senate.

Mr. SEWARD. Read the rule.

The PRESIDING OFFICER. The 30th rule is:

"No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law or some act or resolution previously passed by the Senate during that session, or moved by direction of a standing or select committee of the Senate, or in pursuance of an estimate from the head of some of the Departments."

Mr. SEWARD. Let me say that it is not a recommendation that is required by the rule, but it is an estimate and nothing more nor less than an estimate; and this is an estimate in the same sense and with the same effect, and precisely the same form which has always been accepted by the Senate, as a compliance with the rule heretofore. The practice of the Senate under the rule, is the illustration of the sense of the rule of the Senate. We have uniformly received estimates in that form as complying with the rule. It may be that the rule ought to be altered, and that the recommendation or formal adoption of an estimate by the head of a Department ought to be required; but standing, as the rule does, according to the practice heretofore, I think the amendment is receivable under the rule.

Mr. DAVIS. I wish to ask the Senator from New York, before he closes, whether he considers that the fact that the Secretary of War covers an estimate made by somebody else, and sends it here in answer to a resolution of the Senate, makes it an estimate by the Secretary of War?

Mr. SEWARD. I answer the honorable Senator—I do, if he does not dissent from it in transmitting it to the Senate.

Mr. DAVIS. I ask the Senator, still further, if it be a simple inquiry as to the estimate for a work, and the Secretary sends the estimate of the local engineer, whether it is proper for him to send with it his dissent to the application of money for that purpose?

Mr. SEWARD. The honorable Senator will excuse me. I have never held an administrative trust, and I presume I never shall.

Mr. DAVIS. The Senator, however, has held a place in the Senate; and when he sends an inquiry from the Senate to an executive officer, I ask him what would he think of that executive officer if he interposed his opinion as to the propriety of the Senate acting on it?

Mr. CHANDLER. It is usual to employ a clerk to copy the estimates. It is an estimate, and as much an estimate as was ever submitted to the Senate from the head of a Department.

Mr. DAVIS. I am waiting.

Mr. CHANDLER. I do not propose to discuss this question of order. The case is so clear that I am willing to submit it either to the Chair or to a vote of the Senate.

The PRESIDING OFFICER. The Senator from Mississippi has the floor, unless he yields it.

Mr. DAVIS. I wanted him to get through; I wanted to hear what he had to say. I asked the Senator from New York a question; I believe he can answer it.

Mr. SEWARD. What is the question the honorable Senator puts to me?

Mr. DAVIS. The Senator from New York says he has never held an executive trust; but he has held a place in the Senate, and I ask him whether, when the Senate sends an inquiry directly to an executive officer to report an estimate for a work, knowing that an estimate has been made by a local engineer employed on it, and that executive officer sends it back, he expects the executive officer to inform the Senate as to the propriety of appropriating the money or not?

Mr. SEWARD. I do not see that the question is relevant to the present purpose; I will answer, however, that on the precise case which the honorable Senator makes, I should not regard that as an estimate by the Department. That is, I understand him to say, it is the estimate of a local engineer; and the Senate, when the application is made, knows that the estimate has been made by that local engineer; and the Secretary understands that he is called upon to transmit that as a matter of information. That is quite a different thing from the estimate as I understand it here when the Department is called upon, not for a paper in its possession, but for an estimate for a specific work of improvement. If I stated that I never had held an executive trust, I beg to correct myself, so far as to say that what I meant was, that I never held an administrative one.

Mr. DAVIS. The Senator states, with some circumlocution, exactly the case which he has said is the practice of the Senate. They call on the Secretary to report an estimate. They know very well that the Secretary has no estimate to make himself. They know full well, when they pass the resolution, that the only reply the Secretary can make will be the statement of the engineer in charge of the work, and that the resolution is necessarily sent to the bureau where the estimates of all the engineers in charge of specific works are aggregated in one place and deposited; and that this local engineer, having sent his estimate for the ensuing year to the bureau of topographical engineers, it is copied and sent over to the War Office to be transmitted in answer to the resolution of the Senate. The Senate knew that when the various resolutions were passed from year to year, and which, from year to year, have been represented just in the terms he represents them now, and on which he rests his claim to a practice of the Senate, knowing, when the resolution was passed, and when the answer was received, that if they had given the Secretary an opportunity to say whether he adopted the estimate or not, whether he recommended the work or not, they would obtain from him a response that would not answer the purpose of those who usually move in such matters.

Mr. SEWARD. I think the honorable Senator from Mississippi misapprehends altogether the rule of the Senate which we are discussing. It is not a recommendation or a sanction that is wanted. All that the rule requires is an estimate from a Department, and that is complied with. What I said was, that that is the construction of the rule which has hitherto prevailed. It may be wrong; it may be right to reverse that practice; but the practice which has obtained here is such as I have stated.

Mr. DAVIS. Perhaps I was unfortunate in my language, but the Senator does not seem to comprehend me. I tell him that the Secretary of War no more makes the estimate than the chief of the bureau does; that neither of them makes it; that the local engineer makes it, and the papers show the fact.

Mr. TRUMBULL. I was about to call the attention of the Senate to the distinction which the Senator from New York has drawn. The difficulty in this case arises out of the construction of the language of the rule. If the rule requires what the Senator from Mississippi supposes, then, clearly, this amendment is out of order; but the rule does not require what the Senator from Mississippi supposes, according to one reading of it; according to its language it does not. The question here is not whether the Secretary approves of this expenditure of money. The question is, is this an estimate from the Department? Now, we call on one of the Departments to know what the expense of erecting a custom house at Buffalo is. The Department sends in an estimate, made by a local engineer at Buffalo. Is not that an estimate from the Department?

Mr. DAVIS. Certainly it is; but not from the head of the Department. The language of the rule is, the head of a Department.

Mr. TRUMBULL. Is not that an estimate coming from the head of a Department, I will ask them?

Mr. DAVIS. Oh, no.

Mr. TRUMBULL. I apprehend that it is an estimate from the head of a Department. It is received through him.

Mr. DAVIS. Yes.

Mr. TRUMBULL. We do not suppose that the head of a Department in any instance goes to any of these places. Take, for example, the fortifications at New York which the Secretary of War may be in favor of improving. Suppose that he is in favor of expending one or two hundred thousand dollars upon a fortification at the city of New York, the Secretary of War will not himself make up that estimate, but he will direct the proper officers to estimate what is necessary to be done, and what it will cost. They will submit an estimate in detail; and when the Department is called upon to know what amount of money would be necessary to put that particular work in repair, he will send to the Senate this estimate made up by the proper officer. That I understand to be the estimate of the head of a Department; and if that is what the rule means, then clearly this amendment is in order. It need not be indorsed by the Secretary.

Mr. DAVIS. The Senator will not argue with me on a question on which we do not differ. The Secretary may make an estimate his own, and rely upon some one else as authority; as for instance, he may, by the examination of an engineer, learn the cost of a work, adopt the report of the engineer, adopt the estimate and recommend the work, and then it becomes an estimate which he submits; it is his estimate; but not when he answers you and sends you papers which contain the estimate merely.

Mr. TRUMBULL. That is exactly what I would understand the Secretary as doing. Whenever he sends an estimate, made by his subordinate, in answer to an inquiry, he adopts that estimate as the estimate of the Department, not recommending the expenditure of the money at all; but still, if the work is to be constructed, he estimates that as the amount it would cost. That is all the Secretary does. He gives no opinion about the propriety of deepening the St. Clair flats; but if the St. Clair flats are to be deepened, and Congress wants to know how much it will cost to do it, then he sends in the report of the local officer showing the amount; and I suppose, unless he dissents in the communication from the correctness of the estimate, that is an estimate from the head of the Department; but I would by no means hold that the head of the Department had recommended that work to be done, or concurred in its policy. He may be opposed to the whole of it; and we all very well know that the Senator from Mississippi, when at the head of the War Department, was opposed to many of the internal improvements directed by Congress. That was well understood; but I did not understand that the Secretary of War, at that time, meant to be understood as saying that the estimates for the works were not proper; that is, that they would not cost the sum estimated, in case Congress went on to do the work. He gave us that information not approving of any such work. I do not understand, now, that the Secretary of War recommends the deepening of the St. Clair flats, or recommends this particular appropriation; but I do understand that the Secretary of War has estimated what it will cost to do it—that is all; and if that is all the rule requires, then, clearly, the amendment is within the rule. Now, let us look at the rule to see what it does require:

“No amendment shall be received to any general appropriation bill proposing additional appropriations, unless”

Then follow some exceptions, one of which is:—“in pursuance of an estimate from the head of some of the Departments.”

If it is in pursuance of an estimate from the head of one of the Departments, it is in order; but if to be in pursuance of an estimate from a Department requires an indorsement of the head of the Department, then most clearly it is not in order.

Mr. DAVIS. I have but a word to say in answer to the last remarks of the Senator from Illinois. He says it is in pursuance of the estimate of the head of a Department, if the head of a Department has been the channel through which the estimate is transmitted—that is the amount of it. If I understand any meaning in the language employed—“in pursuance of an estimate of the head of some of the Departments”—must imply that the head of a Department asks for the execution of a work, and states the sum it would cost, not merely that he has been the channel through which the

estimate is transmitted. As well might it be said, when the letter came through the post office, that the Postmaster General was the head of a Department, and that it was from him because it was transmitted through the Post Office Department. It is the mere channel of correspondence, the mode being provided as well how you should call for information as how the information should be sent. You cannot call on the bureau for the information; you cannot call on the local engineer for the information; or if you did, he would not send it. The channel of correspondence requires that it should pass through the War Office; and thus the Secretary of War becomes the channel for the transmission of the answer, and that is his whole connection with it.

Mr. HUNTER. I rise to appeal to gentlemen on the other side not to offer such amendments as this—debatable, disputed matters; disputed even with regard to their constitutional propriety—on an appropriation bill which is merely designed to carry out existing laws, and to enable the Government to execute its ordinary machinery. Surely such subjects ought to be kept for separate bills. If gentlemen have a majority for this proposition, let them pass it in the shape of a separate bill, but not put it on an appropriation bill in order to force gentlemen who are willing to provide the means to carry on the Government, to vote against their own appropriation bill. Certainly that cannot be proper or fair. I submit to gentlemen it cannot be right to put such matter as that on an appropriation bill. If they have a majority, let them pass their bills separately, but not place them on this bill, and thus force many of us to vote against the bill itself. You thus disable the Government from getting along; you place it in a position in which the subject-matter of the bill becomes so complicated that it cannot command a majority. Why, sir, if you would leave the bill where it was designed to stand, applying only to the mere proper subjects of appropriation, those that are necessary for carrying on the Government, we might always be able to pass the proper appropriation bills.

Mr. JOHNSON, of Arkansas. I do not feel much interest in this point of order as to the relevancy of the amendment now before us, but I desire to make an appeal to those gentlemen on the other side of the House with whom I have acted, as well as to those with whom I act on this side, upon the subject of internal improvements by the General Government.

A portion of those gentlemen with whom I have acted heretofore are now putting the whole question in an attitude that is exceedingly unpleasant; and I wish to appeal to the friends of the various internal improvement measures not to attempt to put them upon a general appropriation bill. Such a course is intrinsically wrong. I have always, it is well known on every side, against the will of many of my Democratic associates, voted for these measures of internal improvement. Now, however, I am called upon by those who are more anxious in reference to these matters than I am, to violate one of the very first and one of the most sacred principles of action here by putting the whole of our internal improvement bills upon a regular appropriation bill. If this is commenced, I know to what point it may lead: it may go to the size that our internal improvement appropriation bills have hitherto gone, and may appropriate \$6,000,000. The whole movement is unusual; it is extraordinary; it is dangerous; it is in no respect safe, just, or fair, whether for the measure itself or for the general interests of the Government.

I am a friend to this class of measures, as I have proved by my votes. Why is it that those with whom I have acted will force me and a number of others, who have hitherto favored these measures, and yet concur with me, into a false position, by the urging of these propositions on a general appropriation bill? For one, I must say that I will not vote for them upon a general appropriation bill. Some Senators on the other side, I know, concur with me in this; others upon this side do; and the result will be, that measures which are favorites on their own merits will be voted down by putting them in a false position. We gain nothing by this process. It is not in accordance with any safe rule of legislation; it is entirely wrong, and it puts those who cannot consent to it in a false position, and may drive them

to an extent that we cannot now foresee. I hope that the few who are leading in this movement will reflect. The question of these internal improvements is before the Senate already in another form. I hope they will reflect, and not destroy the consistency of gentlemen on this point. Leave the measure to general legislation in accordance with the usual custom hitherto, and do not now start a new system that must result in conflicts between this House and the other and perhaps in the loss of appropriation bills, which would be seriously detrimental to the public interests and drive many of the very best friends of these measures from their support altogether. I cannot, for one, consistently, with my belief, vote to place these measures on the general appropriation bills; although bills are now reported here in favor of my own State, I cannot regard it as honest legislation to do so, and I hope it will not be insisted upon.

Mr. BAYARD. I desire to know whether this appropriation, which is proposed by the honorable member from Michigan, comes from a committee?

The PRESIDING OFFICER. The Chair understands that it does not.

Mr. BAYARD. If it does not come from a committee, I ask, further, the question, whether any resolution has passed the Senate authorizing such an appropriation?

Mr. CLAY. No.

Mr. BAYARD. Then, if the question of order has not been raised for the decision of the Chair, I must raise it. Without at all promulgating any opinions on the subject of internal improvements—

The PRESIDING OFFICER. There is a question pending on the admissibility of the amendment, and the Chair has submitted that question to the Senate, because it is disputed whether the papers presented here are estimates from the head of a Department or not.

Mr. BAYARD. The question, then, is submitted to the Senate.

The PRESIDING OFFICER. The question is: "Shall the amendment be received?"

Mr. BAYARD. I am sorry the Chair did not decide it, because our decision this morning seems to me to cover it. I shall not take this occasion to promulgate my opinions on the subject of internal improvements; I am willing they should rest upon my votes in other cases; but it is very evident to me that if we attempt to ingraft, on a general appropriation bill for other purposes, a system of internal improvements, it will lead to interminable confusion. It is literally out of order altogether; and not only is it out of order, but it is impracticable legislation. If an honorable Senator from one State can move an appropriation which he considers desirable as connected with his State, and which may be of importance to the country at large, and the Senate ingraft it on a bill of this kind, of course other Senators will feel it necessary, where improvements exist in their own States which also may be important to the country at large, to include them, and we shall thus really be considering questions which are alien to the bill. The whole proceeding is irregular in itself. If I understand the decision of the Senate this morning in a different aspect on another amendment, this amendment is clearly out of order. No vote of the Senate has recognized, at this session, the propriety of the appropriation; no committee has proposed the appropriation. Then, by the express terms of the rule, it is not in order to propose it as an amendment to a general appropriation bill. This is a general appropriation bill; and therefore I think the amendment is entirely out of order. Without reference, therefore, to whether I would vote for it or against it, as a separate measure, (for I do not think it necessary to disclaim as to what would be my vote when it comes appropriately before us,) I hold myself bound to adhere to something like order in the business of the Senate. I shall vote against any and all amendments of this kind, desirous as I might be to move an amendment of a similar kind, which in some measure connects it with my own State, but which I should consider I had no right to move as an amendment to this bill.

Mr. BROWN. The question before the Senate, as I understand it, is, whether we shall receive this amendment? Well, sir, I must say, with perfect deference to the judgment of my colleague and

other gentlemen who have spoken to the Senate, that I shall vote to receive it, because I believe it is in order. I shall vote against the amendment when it is once received: that is altogether a different question. The language of the rule is that the amendment must be in pursuance of an estimate from the head of a Department. I take it that if a resolution passes the Senate calling for an estimate, and it is sent in, it is as much an estimate as though it was sent in by the head of a Department without the call. The rule is not that it shall be in pursuance of a recommendation by the head of a Department, or that he shall, in any manner, commit himself for or against the proposed improvement. You do not ask his opinion as to whether the work ought to be made, or ought not to be made. What you want of him is to tell you how much it will cost: whether it will cost so many thousand dollars, or so many more thousand, that you may exercise a judgment as to whether the work will be worth the cost of it, you reserving to yourselves the right to judge as to whether the work ought to be done or not, on the estimated cost sent to you; and therefore the head of a Department is not called upon, it would be impertinent—I use the term in no offensive sense—to volunteer an opinion as to whether the work ought to be made or not. You do not ask him for an opinion; you simply ask him to tell you how much it would cost; you determining for yourselves whether you will or will not make the improvement. Why do you ask? If it cost half a million dollars to deepen the St. Clair flats, the Senate might refuse; if it only cost \$50,000, the Senate might then adopt it. What you want to know is simply how much money it will take to do the work, and that is all the Secretary is called upon to furnish you. He does not furnish you any estimate made by himself individually. He can make none. How can the Secretary of War know what it would cost, personally? He must rely upon the judgment of engineers, persons schooled in the art of surveying, who make an examination and send him their reports; and, relying on their science and their skill, he adopts their estimate as his own, and sends it to you. That is all he can do; that is all the nature of the case admits of; but he does not recommend you to apply the money; he does not say you ought to apply it; he does not say anything about that; he has no business to say anything about it.

Thus understanding the case, I think the proposed amendment comes within the rule. It is an estimate, as I understand it; for this is information sent here in obedience to a resolution of the Senate, that it is sent through the head of a Department; not that he says "this is my estimate," but he sends it in, in obedience to your resolution. Half the information you call for through the President we all know comes from the Departments and bureaus; you do not expect the President to know anything about it personally; but he sends it through the Departments; but it is his act when he sends it here, and he simply sends the facts without comment on them one way or the other. Thus regarding the case, I shall vote to receive the amendment; and then when it is once received I shall vote against it on its merits.

The PRESIDING OFFICER. Will the Senate receive this amendment?

Mr. PUGH. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HUNTER. With the consent of the Senate, I will withdraw the point of order, and take the question on the amendment.

Mr. BAYARD. I think, under the rule, after I have looked at the question about estimates, that if there has been an estimate from the Department, the amendment is not objectionable to a point of order. It is simply a question of the incongruity of the amendment, and the impropriety of it.

Mr. HUNTER. I withdraw the question of order.

The PRESIDING OFFICER. The question is on the amendment itself. On that the Chair understands the yeas and nays have been demanded.

Mr. CLAY. Yes, sir.

The yeas and nays were ordered.

Mr. CHANDLER. I merely wish to occupy about three minutes of the time of the Senate. I hold in my hand, as I said before, the estimate of the Secretary of War for the amount it will cost

to complete this improvement of the channel over the St. Clair flats. The Committee on Commerce have reported a bill granting about one half, in other words, the sum of \$23,421, to protect the channel over the St. Clair flats. The estimates from the War Department show that \$54,037 will complete the channel.

I have here a map of the St. Clair flats; and if Senators will look at it, they will perceive that a channel is being excavated from this point to this, a distance of four thousand one hundred and seventy-five feet in a straight line. At present vessels have to make a circuit of seven miles, and have to box the compass almost, to take every wind that blows, to get around that channel. I ask that this amount, as estimated by the Secretary of War, may be appropriated on the bill, and I will tell you why. I hold in my hand letters of recent date, from the engineer who has charge of the work, Captain Whipple, one of the ablest engineers in the Army, from which I will read a few brief extracts. He says:

"DETROIT, April 19, 1858.
"MY DEAR SIR: The work upon the St. Clair flats has been recommenced, and I am happy to inform you that my examinations prove that the cut made last year remains constant. It has not filled up, as many predicted."

"Three dredges and one tug are now at work widening the cut. I expect another dredge and another tug from Buffalo for this work in a few days. With these four dredges and two steam-tugs, the remainder of the last appropriation will soon be used up; therefore, I have considerable anxiety in relation to the addition for which Congress has been asked. Upon the fate of that bill depends the question of success. Give me the amount of my estimate, and I have no doubt of being able to obtain an excellent channel through the flats."

Under date of May 3, he writes:

"I regret that the importance of an appropriation for St. Clair flats fails to be appreciated in Congress. The contractor has now four dredging machines and two steam-tugs at work, so as to complete the channel this season, if Congress will grant the means. Fifty thousand now would do more good than twice that sum next year, I believe."

The amount asked to complete the channel is only \$54,037. The Senate will bear witness that I have persistently, perseveringly sought to pass a separate bill for this improvement from the opening of the session. Nearly four months ago, I introduced a bill and sent it to the Committee on Commerce. I applied at the office of the Secretary of War for the estimates, maps, and all the information requisite, and submitted the papers to the Committee on Commerce. They slept in their hands for more than three months. Since then, I have been using my best efforts to get a bill before the Senate, believing they would pass it. There is no hope, in my estimation, of passing the measure at this time when it is so much needed, unless we can introduce it upon this appropriation bill. The question of order is withdrawn, and I believe it is just as much in place, and far more important in this bill, than any other appropriation in it. I will not occupy the time of the Senate, but I hope the Senate will adopt this amendment as a part of this bill at once.

Mr. PUGH. I am loath to disagree to the appeal made by the Senator from Virginia, the Senator from Arkansas, and others; but I do not think, in justice to the people whom I have the honor in part to represent, that this amendment, and other amendments which I shall hereafter propose, ought to be withdrawn. If I believed, as some of those Senators do, that those appropriations were unconstitutional, I would not vote for them on any bill anywhere, but I believe they are as legitimate as any appropriations in this bill, and that this is the place where they ought to be, and ought to be every year. What is this bill for? The first item is "survey of the coast;" and under that I find "for continuing the survey of the Atlantic and Gulf coast," so many hundred thousand dollars; "for continuing the survey of the western coast," so many hundred thousand dollars; "for continuing the survey of the Florida reefs and bays, and running a line to connect the triangulation on the Atlantic coast with that of the Gulf of Mexico, across the Florida peninsula;" and so on a whole chapter. Then there is a chapter on the light-house establishment, and then we come to the survey of the public lands, and then here are some other items:

"For compensation of two superintendents for life-saving stations on the coasts of Long Island and New Jersey, \$3,000.

"For compensation of fifty-four keepers of stations, at \$200 each, \$10,800.

"For contingencies of life-saving apparatus on the coast of the United States, \$12,000."

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1st Session.

WEDNESDAY, JUNE 2, 1858.

NEW SERIES...No. 162.

How much have you expended for the protection of life on lake Erie? That is unconstitutional! It is very constitutional on the coast of New Jersey. It is the general appropriation bill, it is the regular appropriation bill, it is the orderly appropriation bill to give money to save life on the coast of New Jersey, but it is very unconstitutional to do it on the coast of Ohio, or Michigan, or Wisconsin. The whole bill is full of cases. If you put them on the ground of public works, look at the appropriations of millions on millions to be spent in the District of Columbia. If it is not the business of the Government of the United States to protect the life and property concerned in the navigation of the lakes, those who think so ought to vote such a proposition down anywhere. Those who think otherwise ought to insist that the Government shall distribute its favors equally—no, not its favors, but shall discharge its duties equally. If it is the duty of the Government to do this, the Government neglects its duty. That is my reason for voting to put it on this bill, and I believe it belongs to this bill. I do not intend, because some of the Executive Departments choose to recommend some portions of the appropriations due from the Government and to leave out others, that therefore we shall be here as members of Congress merely to register their decrees. This, then, is a vital difference between some of those Senators who make this objection, and those who agree with me. They think the Government ought not to do it. I say if the Government ought not to do it, it ought not to be on any bill; but if it is the business of the Government to do it, if they have taken from us the means of doing it ourselves, if they have forbidden it to us and taken it into their own hands, then it is our duty, representing the people concerned, to insist that it shall go on the regular appropriation bill.

Senators tell me it will defeat the bill. I cannot help that; let it defeat the bill. If this Government cannot discharge its duty to the western country, let the bill fail. Such an event has no terrors for me. Am I to stand here and tax my constituents year after year, to wring from their wages, in order that you may build great public works in the District of Columbia, and all over the Union, and then to say: "Oh, this bill will fail if you offer to put on it that which the Government ought to do for your part of the Union?" Let it fail. Probably when one of these bills has failed, the executive officers of this Government will understand what the majority of the people's representatives intend to do.

Now, sir, I say again, this Government is as much bound to take care of these improvements, and take care of them every year, as she is to survey the Atlantic and Pacific coasts; and this miscellaneous bill which consists of items of this description, is the very place for these appropriations. I shall not only vote for the amendment of the Senator from Michigan, but I shall move to add to it the provision of the other bills, which the Committee on Commerce, upon the estimates reported, have shown us to be proper for the service of the next fiscal year. I send the amendment to the Chair.

Mr. CHANDLER and Mr. SIMMONS. Let us have one at a time.

Mr. PUGH. I think we had better have the whole dose at once.

The Secretary proceeded to read Mr. PUGH's amendment.

Mr. HUNTER. I hardly think it is worth while to read the amendment; we know what it is.

Mr. PUGH. As the Senator from Michigan seems to think he can get along better by himself, I withdraw my proposition for the present; but I shall offer it if his prevails.

Mr. BAYARD. Regretted to hear the remarks of the honorable Senator from Ohio, because I am one of those who believe that sectional questions can be raised apart from the question of slavery. It is not the first time I have heard that

honorable Senator endeavor to impress upon the mind of the Senate the idea that there was a disposition in the Atlantic States or the old States to refuse to the western States the same character of appropriations that they claim for themselves. I think his views are unjust. I can see nothing in this bill of a similar character to the amendment proposed by the Senator from Michigan. There is not a work of construction attempted in the bill. Light-houses may exist in any part of the country, and I have heard no Senator contend that a light-house on the lakes was not just as competent to be appropriated for in this bill as a light-house on the Atlantic coast. But, sir, this, as every one understands, is not a bill for the improvement of rivers and the construction of harbors. The appropriations in this bill, be they contingent or miscellaneous or not, have no connection with a measure of that kind. A river and harbor bill is perfectly understood, and every member of the Senate understands whether an appropriation falls within a class that ought to be included in such a bill or not. My objection to this proposition is, that it is incongruous to the bill; that it is an attempt to weave into a bill of this kind, which is a general appropriation bill connected with what are conceded to be the proper duties of the Government, a system of improvements which many members of the Senate believe to be unconstitutional and improper; and which, others think, though it may be within the constitutional powers of the Government, ought to be restricted, and ought, at all events, to be the subject of separate consideration, in a separate bill. We have never yet, to my knowledge, attempted to tack on an appropriation bill of this kind a river and harbor bill—I care not whether it is for the protection or repair or extension of improvements. They are bills of a different character altogether; they do not connect themselves with this bill; they are incongruous to it; and though I might be disposed to vote for a river and harbor bill, whatever I might do as to any future works, I would vote for works already commenced, looking to the general importance of the works, and to the state of the Treasury, as my guide to determine the number and amount of appropriations. It seems to me utterly incompatible with the condition of the country, or any rule of order in the Senate, that an appropriation of that kind should be placed in this bill, because it makes coercive legislation. The honorable Senator from Ohio may deem it of no importance whether this bill should be rejected or not; he may think it would lead to a desirable result; that by arraying sectional influence you should defeat a bill which connects itself with the general interests of the country. He it so—

Mr. PUGH. Where did the Senator get the idea of a sectional question? The charge was made that it was incongruous to this bill, and I was replying to that.

Mr. BAYARD. I spoke only from the Senator's own language. He named no one, but he appealed generally that an appropriation was constitutional if it was made for the Atlantic seaboard, and it was not constitutional if it was made for the lakes. That is what the honorable Senator announced. What does that mean? We all understand it. Sir, in my feelings, I never ask myself the question where an improvement is located, or where an expenditure is to be made, provided it is to be made in the United States. I do not desire to see any such feeling exist in the Senate. I would just as cheerfully vote for an improvement in the State of Michigan, or in the State of Ohio, as for one within the borders of my own State. But the question which must always arise is, whether the matter is appropriate to the particular bill before the Senate, and whether the general interests of the country require the particular appropriation, if it is proper and congruous with the bill. I regret whenever I hear Senators pressing a measure on a ground which is calculated to rally a sectional influence for the purpose of carrying it. Whenever it becomes the doctrine in the United States that the different sec-

tions of the country can rally for the purpose of carrying measures without regard to the propriety of those measures otherwise, you may bid farewell to the harmony of the Union. I am perfectly aware, and every one must see that, in a few years, the power of this country, at least in the representative branch, must pass to the great West. My hope is that, in the exercise of that power, she will exhibit the same adherence to the Federal Constitution and regard to the rights of the whole Union, that has hitherto characterized the course of the Atlantic States.

Mr. WADE. I am sorry to detain the Senate, at this period of the session, and I shall not do so for more than a very few minutes. I agree in everything my colleague has suggested on this subject. I think the argument he has made in favor of the proposition before the Senate, has not been and cannot be answered. If these improvements are to be made, I know of no place more proper for the appropriations for them than this bill. This is the miscellaneous appropriation bill; it contains a great many provisions of a general nature that do not differ in principle, so far as I can see, from the one under consideration. The provisions made for surveying the coast I understand to be upon the same principle precisely as the improvement of harbors on the lakes, or the rivers of the country. It is in furtherance of the commerce and navigation of the country. There are a great many provisions in this miscellaneous bill of a kindred character. I know it would be better to have them all in a bill by themselves, as they commonly have been; and I was anxious that the bills reported some time ago by the Committee on Commerce should have been passed; but it was intimated, in language that could not be misunderstood, by the chairman of that committee, that those bills would not be suffered to pass at this stage of the session. If I construed his declaration aright, it was that they would be argued down if they were placed in a bill by themselves. When an intimation of that kind was given, it seemed to drive us to the necessity of putting them upon some appropriation bill; and it is not incongruous, for I say again, there are many provisions of this bill that are in principle precisely like the amendment.

There are some, undoubtedly, who believe that it is perfectly constitutional and right to expend vast sums of money in order to survey the Atlantic coast, and that it is entirely unconstitutional to improve the navigation of the lakes. To me the principle of the two provisions seems to be the same; they are both for the same purpose; and all you can say is, that one is for the Atlantic and the other for the West; and that, heretofore, has created a difference which I believe has been recognized. Sir, it is time for Senators from the West to insist upon their rights. Suppose these improvements have not heretofore been ingrafted on an appropriation bill, I ask any gentleman here, do they differ in principle from many things that are contained in this bill? I know very well that there are many Senators who will neither vote for these measures as an amendment to an appropriation bill or as a separate bill, because they believe them to be unconstitutional. I expect no vote from that side; but I say to the friends of these measures, I hope you will not be so fastidious as to object to this movement because you suppose this is not exactly the time to get that justice which belongs to us of the West. To the friends of these improvements I say, be not over nice where you go for a measure right in itself. It is not particularly inappropriate that these appropriations should be inserted in this bill; here is the place for them; here is the place where their enemies cannot talk them to death without peril. I hope the real friends of these measures will vote for the amendment. I know that to their enemies there is no place appropriate for them. You cannot provide a time, a place, or a manner, when it will be right to bring them forward; but I trust those who are heartily the friends of these improvements will not be over nice as to the time and place of passing them, provided in so doing they conflict with no fair rule of the Senate. It is admitted that they

are in order; they are of a kindred nature, similar in principle to many other things contained in the bill; and I cannot recognize any member of the Senate as friendly to these appropriations who shall now give his vote against them because they are sought to be added by way of amendment to this appropriation bill. Why, sir, our western lakes and harbors have been most singularly overlooked.

I observe that the chairman of the Committee on Finance rises in his place and watches me while I talk. Well, sir, I am as anxious to have this vote taken as anybody, but I wish to speak of the injustice that has been done to the West in regard to light-houses and—

The PRESIDING OFFICER. The Senator from Ohio will allow the Chair to announce that, in obedience to the order made yesterday, the hour of four having arrived, the Senate will now take a recess until six o'clock.

EVENING SESSION.

The Senate reassembled at six o'clock.

The PRESIDING OFFICER (Mr. STUART) took the chair, and called the Senate to order.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker of the House had signed the following bills and joint resolutions; which thereupon received the signature of the Vice President:

An act for the relief of Thomas Phenix, jr.;

A resolution for the adjustment of difficulties with the Republic of Paraguay;

A resolution to correct an error in a certain act approved May 11, 1858;

An act to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes;

An act to vest the title to certain warrants for land in George M. Gordon; and

An act making appropriations for the legislative, executive, and judicial expenses of Government, for the year ending the 30th of June, 1859.

CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 200) making appropriations for sundry civil expenses of Government for the year ending the 30th June, 1859; the pending question being on the amendment of Mr. CHANDLER, in regard to the St. Clair flats.

Mr. WADE. Mr. President, at the time the Senate took a recess, I had said almost all I had intended to say upon this subject. It has been so often argued here, that there is no occasion for any prolonged argument as to the necessity of the Government undertaking these improvements. If it were a new question, I might think that at this period of the session it was too late to attach these measures for internal improvements to an appropriation bill; but the argument has been entirely exhausted upon this subject, as we have seen. Year after year they have come up, and the same arguments have been recapitulated, until I believe they are familiar to everybody. When the bills containing these same appropriations were under consideration the other day, Senators who agreed in nothing else except in voting against those bills, consumed very nearly two days of this session, not in settling the principles upon which the measures ought to move, but the principles upon which they themselves should place their objections to them. They were perfectly agreed that these appropriations were unconstitutional, and they were willing promptly to vote against them; but it took them two days to settle between themselves the principles upon which they should vote against them, and the principles upon which they were supposed to be unconstitutional. That fact shows that the argument has been entirely exhausted. There is no occasion for any more.

Some of the friends of these appropriations seem to hesitate as to whether this is the proper place in which to put them. They have no doubt, however, as to the merits of the amendment. They could hardly have any doubts as to its merits. In the first place, the amounts have been fixed by the Department which has the matter in charge. They have been called upon to say what ought to be done, not for the purpose of continuing and

extending improvements, but merely to do that which even economy requires for the purpose of rendering secure those works which we have already built. That is the extent to which this amendment proposes to go. We are not launching into any new system of internal improvements. It is a matter of economy, and he who is most careful of the expenditures of the public Treasury, if he would impartially and candidly consider this matter, in my judgment, would find that small appropriations, such as is proposed in this amendment, are necessary to secure the works and prevent much greater outlays hereafter.

It has been said, however, that the money appropriated for these internal improvements is money thrown away. Now, sir, of all the expenditures of the public money that I know of, none has been so beneficial to the public as that which has been spent in the improvement of the lake harbors. What would the western country be to-day, if the Government had never expended any money upon that great chain of lakes? Suppose no artificial improvements had been made there. Why, sir, it would have been as impossible to navigate those lakes as it would be to navigate the air. If you suffer them to go to decay, and you should have a war with Great Britain, as many gentlemen suppose we are about to have, you will want harbors for your shipping there. The British Government, your great antagonist, is not neglecting her harbors. She will have good ones, and she will have them perfectly secure on her side; but it is "economy" with us to let ours run to waste!

Living along the lake shore, I know something about the necessity for the appropriations now sought to be added to this bill. I know that your harbors are in ruins. I know that a small expense now will save millions hereafter, for every one acquainted with the action of the waters of the lakes knows that when decay commences upon your harbors, and they begin to succumb to the storms, they are in danger every day of being entirely swept away; whereas small appropriations by way of improvements may render them secure for years. Nothing would be more profitable, in point of economy, than to grant those improvements, and to grant them now. Are the friends of this measure at fault because we have not got it through the Senate and through Congress in a separate form? We have tried it; we have done all we could do to get these bills passed by themselves—not that I supposed they had not as much business here, and are not as proper upon this bill as the other expenditures contemplated by it; I know they are; I have already said they are on the same principle; they are on the same subject, and they are for the same purpose—that is, to improve your navigation.

But I intended to have made a few remarks about the neglect of the great West by this Government. Notwithstanding the great communication between the Atlantic coast and the West, men on that coast do not seem to realize yet the importance of the West. Why, sir, the commerce of these great lakes is scarcely inferior to that of the Atlantic itself. I have the means of showing the importance of the lakes, the amount of their tonnage, the number of their ships, and the immense fuses that have been consequent upon the decay of those harbors, from year to year; but I cannot, at this period of the session, undertake to set them forth to the Senate as they ought to be. I say we are overlooked. While the Department has provided for all your light-houses along the coast, and made the estimates necessary to repair and keep them up, I believe, as near as I can ascertain, they have totally neglected all the light-houses along the entire coast of our lakes. I know many of them are in a state of decay. There is one at the mouth of the Vermilion river, an important harbor on Lake Erie, where the piers are all washed away; and your light-house is in the lake, inaccessible in time of storms. At the very time of all others that it should be lighted up, the light-house keeper cannot get to it to put up a light there. It has been entirely overlooked. That is more or less the case with all the harbors upon the whole of the lake coast.

I am sorry, sir, that the Senator from Arkansas [Mr. JOHNSON] is not present. He has always stood by these bills, generously, as a western man, and has given us his support. They are of

great interest to his constituents as well as to mine, and yet it seems that he would sacrifice the substance to the mere form; and because we desire to attach them to an appropriation bill, meritorious as they are, driven into the last stages of the session, as we have been, and this being our only chance, I understood him to say that he would feel himself compelled to resist them here although he would vote for them in another form. Sir, his constituents will not appreciate the wisdom of that argument. When this great injustice is done to them as to my constituents, they will never question us as to the form by which the act was done. The amendment is but an act of justice; it is justice to that section of the country; it is in accordance with that beneficent spirit which demands that the Government should administer its favors to all parts of the country alike, and the people will never stop to inquire whether all forms and proprieties were conformed to or not. Every man knows, the friends of these appropriations know full well, that unless they attach them to this bill, all these harbors will go unprotected during the season. It is our last, our only chance; and therefore I hope that no friend of these measures will sacrifice them to the mere shadow of form. It will cost the Government no more to place these appropriations upon this bill, than it would to pass them in separate bills, each by itself. It will be no waste to the Government; it will be the same to the people. It is the same act of justice, whether it is done in this manner or in any other, and it will cost no more.

Why, then, should any man withhold his vote from them because we propose to attach them to this bill? In a bill by themselves, you say you would pass them; and yet the enemies of these appropriations gave us warning that we should not be permitted to pass them in that way. Sir, they will force the friends of these measures always to attach them to an appropriation bill, because they have given us warning that the question shall not be fairly tried, unless we overpower them by placing these measures where they cannot defeat them without defeating something that they like. I am glad that they are proposed to be inserted on this bill. It is the very place for them. If it is proper that appropriations to a large amount should be made for the survey of your coast and for your light-house system on the Atlantic coast, it is equally proper that you should provide for repairing the harbors of the lakes. The subjects are not incongruous; they are, in principle, the same. Why, sir, no one thinks it is unconstitutional or wrong to expend almost any amount of money upon your Atlantic coast. What was your Japan expedition for? It cost a large sum of money; it cost more than we thought it would. What was it for? It was professedly to open trade with the Empire of Japan for the benefit of our commerce. We cheerfully voted for it. I voted for it myself. I believed that a great nation should foster the great interests of commerce everywhere, and I am sorry to see that there seems to be a penurious disposition when we endeavor to further the same great objects in the great and growing West.

Mr. President, I have not undertaken, nor shall I undertake, to make any formal argument upon this subject. I know very well, that to do justice to it, I ought to unfold the evidence in my possession of the enormous and growing importance of the commerce of those great lakes; for I really fear, that in the multiplicity of business, Senators have overlooked the amount and value of that commerce. I apprehend they do not appreciate it. Perhaps, if I lived at a great distance, this commerce springing into existence so recently—growing up, as it were, by magic—I should not have been able to ascertain its full importance, and should never have taken the pains probably to have done so. If you will look, however, to the tables of your Department, to the amount of revenue, and the amount of tonnage stated there, and even the amount of losses by the neglect of Government to improve your rivers and harbors from year to year, you would not longer doubt the importance of the commerce of the great lakes.

Why, sir, as I have said before, it is scarcely inferior to your Atlantic commerce, and in a very few years it will equal, if it does not surpass it.

It cannot be in the contemplation of anybody totally to abandon the commerce of the lakes to Great Britain. On her side she has the shrewdness

to provide for her harbors; she is doing it every day. She is making canals round the obstructions and she is forcing us to use her canals and her improvements to carry on that commerce which it would be more honorable for us to carry on through improvements in our own country. At all hazards, she will have her harbors, and every facility for navigation; she will have her commerce, and have it protected, too. If you drive the United States into a war with her, you will not be slow in finding out the importance of the harbors you have erected upon the lakes, even for war purposes. Let those harbors all go to ruin, and then encounter Great Britain, with her portion of the lake shore all prepared, with her lakes and harbors improved, and what would be the consequence? You could keep no navy there, and the whole commerce of the lakes would lie prostrate under the heel of Great Britain. Some gentlemen act as if they thought that would be honorable to the nation, and would be an excellent policy for us to pursue. Sir, I know that these harbors are not to be abandoned by the Government; I know they cannot be abandoned. It is only, then, a question of mere economy; and in the present state of the Treasury I do not stand here to urge on you appropriations for new and doubtful subjects. I only ask you to vote to preserve that to which you are already committed. I hope I shall not ask in vain.

I will not detain the Senate longer upon this subject. I know very well, if gentlemen are opposed to appropriations for internal improvements, that it is exceedingly easy for them to say, "I would favor the project if the form was right; if it was in a bill by itself, I would vote for you." I know it is easy to dodge around the question in that manner where gentlemen are opposed to the improvements themselves; but, sir, it is no answer to the earnest man who sees and feels and knows the importance of the improvements that we propose. He will stand not at all upon form; but, reaching out to the substance, he will grant that which does justice wherever he can do it. I hope the friends of these appropriations, at least, will not be frightened from their support because we offer them now, and are driven to offer them as an amendment to this appropriation bill. I hope it will receive the vote of every friend of the measures. From those who oppose it on constitutional grounds, of course, I do not expect any help.

Mr. BENJAMIN. I merely desire to say I think no one can doubt, from my previous course in the Senate, that I am in favor of a reasonable and judicious expenditure for the improvement of rivers and harbors; at the same time, none can doubt that that is a question which has long been debated in this Government, upon which there are conflicting opinions which every member of the Senate has a right to consider upon independent grounds. I cannot consent to vote in favor of this amendment, however willingly I would support and advocate a bill independently of the appropriation bill. I cannot consent, for the purpose of carrying out this policy, to stop the wheels of Government, or to force gentlemen either to vote against the ordinary expenditures, the ordinary appropriations necessary for carrying on the Government, or else vote for a bill to which they are opposed on principle. I think these measures ought to be carried or defeated on independent grounds. I therefore desire, in order that my vote may not be misunderstood, to make these observations, and I shall vote against the amendment to the appropriation bill.

Mr. SEWARD. Mr. President, the question of the improvement of the western rivers, and the harbors upon the lakes, is only a question of time. Every day increases and demonstrates the necessity of the policy which is proposed by those who have offered these amendments to the Senate. It was a policy that had no friends sixty or seventy years ago when the Government began, because there were then only thirteen States in the Union, and they were all Atlantic States. In the course of seventy years, however, we have reached the point when there are seventeen Atlantic States, and thirteen States located upon the rivers, and upon the lakes of the West. If Atlantic gentlemen want to know how long they can pursue this policy of throttling, strangling, crushing the West, they can ascertain it by a geometrical process, and see how long it will be before the valley

of the lakes, and the valley of the Mississippi will give them twenty or twenty-five States to balance seventeen eastern States.

Sir, I have no patience with Atlantic men, North or South, who cannot comprehend this simple principle that the streams, the fountains of the revenue of this country, are in the West, and that if they will have full rivers of revenue in the Atlantic portion, they must cherish and develop the fountains in the Mississippi valley, and on the lakes. Perhaps I have seen this policy earlier and more obvious than other Senators, because I happen to live in that ravine, in that valley, where the Alleghany mountains stoop for the passage of the outlet of the lakes through the Gulf of St. Lawrence to the Atlantic ocean. The State of New York has been able to conduct the waters of the Mississippi through that valley to meet in the Hudson the tides of the Atlantic ocean. Railroads, canals, and lakes carry by my door, at my feet, I might say, the tribute of the great West to the commerce of the world, and from that tribute, indirectly but certainly, comes an unfailing river of revenue which supports this Federal Government. Sir, I have no peculiar interest as a western man, as you well know. I hardly know whether I belong to the West or to the East. I stand just at that point where, commercially, the West and the East mingle together. If any man has interest, has pride in the developments of the Atlantic States, surely I ought to have it, because it culminates within the State which I represent; but if any man could be unpardonably blind to the fact that that interest is derived from free regions far away toward the setting sun, it would be one whose life has been spent, as mine has been, and yours has been spent, sir, [Mr. SEWARD in the chair,] in binding the great West with the Atlantic States.

The old States, the Atlantic States, may go on with this policy for a time, but every day that they deny this justice to the West; every day that they deny equality to the West, weakens their power, and builds up the political influence of the western States. I am amazed to hear in this Senate, where the thirty-one States are equally represented, appeals to our magnanimity, appeals to our forbearance, not to distract the Senate, not to delay and embarrass the public business by this amendment. One honorable Senator tells us that we will add too much, and swell the appropriations of this bill too largely. He says it will make it amount to \$6,000,000 per annum. Sir, for the harbor of Oswego, in the State of New York, the second of the grain ports of the world, you are asked to appropriate the sum of \$46,391. If you do not appropriate it, your light-house will be immersed, will be buried in the sands of the lake before another year. Not only will that be the case with your light-house, but your piers which you erected to make a harbor, will be washed into the channel, and the trade will have to make its way over or around the obstructions, resulting from the dilapidation, and decay, and ruin of the works that you have built there for the purpose of opening the harbor in better days. What is true of Oswego, is true more or less of every other harbor. It is the basis of the principle which underlies every appropriation in this bill that is made for the lakes, and for the improvement of the lakes and rivers of the Northwest. Altogether, what do they amount to? Where you have spent millions, and have millions of property invested, it amounts in the whole aggregate to \$585,085, and that \$585,000 is just no more than is indispensably necessary to protect, to preserve, to maintain the works that the Government has erected at such a vast cost, and for such a beneficent and so necessary a purpose, exactly in their present state and condition. When you appropriate and spend the whole \$585,000, you have not improved a single river, or a single harbor in the United States, but you have merely put in the way of preservation the harbors and rivers, just as you left them when you withdrew your hands from improving them.

Why, then, should we, who deem these improvements so important, forbear from offering them as an amendment to this bill? What is this \$500,000 compared with the eighty or ninety million dollars which you are spending by these appropriation bills? It is insignificant. Why is it not as proper or more proper than any other expenditure which is provided for in this bill? No

one of us objects to paying the collectors, the tide waiters, the appraisers, and the whole army of Government agents at the sea-ports; no one has objected to paying the salaries for the administration of the Government; no one has objected to paying the wages of members of Congress; no one has objected to paying money by the half million and the million for improving and beautifying the Capitol; and which one of these is half as important as the protection of the public works we have already constructed, and the security of the lives and property of the seamen, the navigators, the merchants, the farmers, and producers, who use these public works on which all our revenues depend? Why, then, I again ask, should we forbear?

Senators tell us this is the wrong time and the wrong place. That is a good argument, always a reasonable argument, but it must be founded in a reasonable statement of facts and circumstances. It implies that there is a right time, that there is a right way, and a right place. I appeal to those who object to our taking this time, this place, and this way, when they have shown us, or when they have allowed us to show them a right time, a right place, and a right way? There has been no such indulgence allowed us; nor do they pretend that there ever will be, or that there ever was during this whole session of Congress, a right time, a right place, and a right way, if I may use the word "right" as a comparative word. On the contrary, we have tried every other, and it has proved to be wrong; every other time, and it has proved to be incurably wrong; and we are left to this the last and the only time and the only way. What did we do? We offered, in the first place, year after year, bills covering these improvements. That was the wrong way; the subject must be put into one bill covering all rivers and harbors. No sooner had we done that than it was altogether wrong to combine so many distinct objects in one bill, as to appeal to the interest, the cupidity, the fears, the hopes, and the expectations of members from many States, and so the bill must be disavowed. We resolved it again into the original elements of which the general bill was composed, and then the separate bills were more objectionable than ever. We only reached finally a time when we could get the Senate to consider them three or four days ago, last week. We were then within ten days of the end of the session, and not one friend of any one of these measures advocated his particular object or interest, and not one friend of any or all of them uttered one word in behalf of the policy. We submitted it to the judgment and the patriotism of the Senate, and how was it met? Opponents started from every side. Then it was demonstrated, that although it was right and reasonable and just in itself that rivers should be improved, and that harbors should be built and preserved, yet it was not to be done by the Congress of the United States; it was to be done by the States, and Congress must grant to the States leave to levy tonnage duties in order to make those improvements. When we stood patiently by, and waited for Senators to show us how that new system could be rendered practicable, and to substitute it by their act, and commit themselves to a system which would enable us to carry out this policy, we were told the time for debate had passed; other and more important questions had arisen; and a majority of the Senate decided that they would hear no more upon the subject in any shape whatever.

When that had passed, when it became evident that these bills, separately or collectively, could not be carried through the Senate for want of time, then I offered a proposition to extend the time of the session, so that that consideration might be allowed which the subject confessedly demanded; and that proposition has received no more favor, no more toleration than any other. So the question resolves itself simply into this: is there any right time and any right way to foster, cherish, and protect the commerce of the lakes and of the western rivers? The answer of the Senate will be, if this proposition is rejected, that there is none; and the responsibility will rest upon those who shall pronounce that decision.

Mr. BAYARD. I am not surprised at the remarks of the honorable Senator from New York. They have a presidential odor about them, of which, I suppose, the most obtuse olfactory nerve in the Senate must have been readily sensible.

The question before us now is not whether we will pursue a system of river and harbor improvements in reference either to the West or East, or any part of the country. The question is, whether, contrary to all our former practices, and contrary to what really the requisite order of business requires, we shall attempt, by enforced legislation, to ingraft upon an ordinary appropriation bill a river and harbor bill, whether to a limited extent, or not, is immaterial? There are other works in the country that ought to be prosecuted as well as those reported by the Committee on Commerce, which are for the mere purpose of protection, it is said. The particular amendment before the Senate is not among those recommended by the Committee on Commerce; but is an appropriation for the removal of obstructions in the St. Clair flats, to be followed, as I understand, by the different bills for the mere protection of works recommended by the Committee on Commerce. The particular amendment, however, is for the construction of a work confined to a particular portion of the country, however valuable it may be.

Now, I have said, as to existing works, that I am disposed to carry them out at a proper time, and when the capacity of the country, as regards her means, will enable her to do it. Admitting the power fully, I confess that my mind has halted, from what I have seen of the corruption necessarily incident to such a system of appropriations, as to whether, beyond the extent to which we have commenced, we ought to go one step further. I doubt it, sir. I have formed no definite conclusion, though I admit the existence of the power when confined to the navigable streams of the country—and when I use that word I do not mean tide-water streams; but I mean streams capable of public navigation, tide-water or not. I am not opposed to the system on the ground of constitutionality. I doubt its expediency when I look to its ultimate results beyond the extent into which we have already embarked.

All these measures, I admit, are for works which we have already commenced; but the particular question before us is, whether we shall ingraft upon an ordinary appropriation bill a bill for the construction of an internal improvement connected with a harbor, or the navigation in a particular section of the country? That is the question. Honorable Senators refer to the existing bill, and talk of the coast survey. What has the coast survey to do with anything like a river and harbor improvement? There is no construction there; there is an appropriation for a survey of different parts of the country; and if this bill embodied an appropriation for the purpose of surveying the lakes of this country, I should vote for it just as readily as for the survey of the Atlantic sea-board. But a work of construction and a work of survey are essentially different things. One involves nothing but information to the Government; the other involves local action and local benefit, though it may be that incidental benefit may result to the trade of the country at large. In the previous practice of the Government, (and I have a right to appeal to that,) it is very evident we have always treated river and harbor bills as distinct from bills of appropriation. We have subdivided what was called the civil and diplomatic bill into two bills. This is the secondary bill, called the miscellaneous bill, if you will; but hitherto we have certainly always kept river and harbor appropriations disconnected with either of those bills. I think the precedent a bad one which would connect them. The Senator from New York may not think so, and it may suit his views to talk about our "throttling" the West, and destroying the trade of the West. Sir, no such object is desired here. It does not connect itself at all with the objections made to the bill, though it may sound very well for the purpose of enlisting public sentiment, and appealing to the western part of this country, as if there was a peculiar friendship and regard for its interests on the part of the honorable Senator from New York. They will credit that just to the extent to which intelligence exists among the masses of the people there—no further, I believe.

Now, sir, the objection is distinct that the amendment is inappropriate on the bill. But supposing it right and proper—not only constitutional, but expedient and proper—not only to make the appropriations recommended by the Committee on Commerce, but more extended ap-

propriations for the purpose of carrying on improvements of rivers and harbors: the question is, whether, at this time, in the present state of the Treasury, those objects stand in a relation to us that would require us to go altogether beyond our means for the purpose of carrying them on now. What is the fact? You have the clouds lowering in the political horizon; you have—I will not say even the probability of a war, but you certainly have the possibility in the present aspect of things. Notwithstanding that fact, you refuse to carry on and complete the existing fortifications of the country; you leave them half finished, tumbling into ruins, with arches half turned, and will not appropriate one dollar for their protection, though they are works which cannot be constructed in time of war, and must be constructed in time of peace if you mean to put the country in a position to resist all that this country will ever have reason to fear, which is the first onset of a war—your House of Representatives will not do that, for no other reason than that the state of your Treasury does not justify an appropriation of that kind; and yet the honorable Senator from New York asks you to appropriate money for the purpose of carrying on internal improvements connected with rivers and harbors, and impliedly, from the course of his argument, imputes to those who are opposed under those circumstances to such appropriations that they are opposed to the growth and expansion of the great West! That is the substance of the argument, however it may be colored or clothed.

I want to bring it down to the ground, and the real ground, on which I, and most of those who agree with me, are opposed to inserting this appropriation in the present bill: First, that it is inappropriate to the bill; that it is a violation of the usage and practice necessary in a legislative body to keep measures distinct in themselves, in distinct bills; next, taking the recommendations of the committee and the existing state of the Treasury and the action of Congress, that your Treasury is not in a condition to justify these appropriations now. Therefore, without reference to where these appropriations are to be expended, whether in New York, in Ohio, or any other State of this Union, they ought to be voted down. It is on that ground, and that ground alone, that my opposition to these appropriations rests.

THE PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan.

The Clerk proceeded to call the roll.

MR. SEWARD. I have been requested to say that the honorable Senator from Wisconsin [Mr. DOOLITTLE] has paired off with the honorable Senator from Alabama, [Mr. CLAY.]

MR. SIMMONS. I wish to state that I have paired off with the honorable Senator from South Carolina, [Mr. HAYNE,] and do not vote.

The result was then announced—yeas 20, nays 20; as follows:

YEAS—Messrs. Bell, Bright, Broderick, Chandler, Colamer, Crittenden, Dixon, Fessenden, Foot, Foster, Harlan, Kennedy, King, Polk, Pugh, Seward, Stuart, Trumbull, Wade, and Wilson—30.

NAYS—Messrs. Allen, Bayard, Benjamin, Bigler, Brown, Clingman, Fitzpatrick, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Mason, Pearce, Reid, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Yulee—20.

So the amendment did not prevail.

MR. PUGH. I move, after the two hundred and forty-sixth line, on the 11th page, to insert the amendment I before offered, including the paragraph which continues the appropriation for the St. Clair flats; and upon the amendment I ask for the yeas and nays.

THE PRESIDING OFFICER. The amendment was suggested to-day, and need not be read unless some Senator desires it.

The yeas and nays were ordered on the amendment.

MR. PUGH. I wish it understood that an appropriation of something over twenty thousand dollars for the St. Clair flats is a part of the amendment.

MR. ALLEN. Let the amendment be read. The Secretary read the amendment; which is, to insert on the two hundred and forty-sixth line, on the 11th page of the bill, the following:

For repairing and securing the public works at the harbor of Chicago, Illinois, \$87,225 37.

For the preservation and repair of the piers at the mouth of Milwaukee river, Wisconsin, \$38,630.

For repairing the piers at the harbor of Sheboygan, Wisconsin, \$5,000.

For repairing the public works at the harbor of St. Joseph's, Michigan, \$10,000.

For repairing the public works at the harbor of Monroe, Michigan, \$8,588.

For deepening and widening the channel, through the St. Clair flats, Michigan, \$23,431.

For securing and repairing the public works at the harbor of Cleveland, Ohio, \$28,143 15.

For repairs upon the public works at Huron harbor, Ohio, \$30,000.

For repairs upon the public works at Black River harbor, Ohio, \$16,940 95.

For repairs upon the public works at Grand River harbor, Ohio, \$8,679 55.

For repairing the public works at the harbor of Ashtabula, Ohio, \$8,630.

For repairing the public works at the harbor of Conneaut, Ohio, \$3,021.

For the immediate repair of the piers at Erie harbor, Pennsylvania, \$3,638.

For the immediate repair of the public works at Dunkirk harbor, New York, \$5,259 95.

For repairing the public works at Buffalo harbor, New York, \$27,679 35.

For repairing the piers at Oak Orchard harbor, New York, \$9,735 65.

For repairing the public works at Genesee harbor, New York, \$41,084 34.

For repairing the piers atodus bay harbor, Wayne county, New York, and for dredging between the channel piers, \$40,595.

For immediate repairs required for the preservation of the harbor of Oswego, New York, \$43,391 14.

For the repairs of the piers at Burlington, Vermont, \$2,185 40.

For completing the improvements in the raft region of Red river, \$110,000.

For the preservation of steam dredges and appurtenances, \$10,000.

For unforeseen contingencies of lake harbors, \$20,000.

MR. SLIDELL. I would ask, for information, whether the appropriations mentioned in this amendment for Chicago and Milwaukee have not already been the subject of separate consideration by the Senate, and whether bills have not passed making appropriations for those places? I should like to be informed on that subject.

MR. PUGH. Undoubtedly; two bills have passed the Senate.

MR. SLIDELL. Then I raise the point of order whether these two appropriations, the Senate having already passed upon them, and voted that amount, can now be introduced in this form? I shall make no argument upon the subject. I submit it for the consideration of the Chair.

MR. PUGH. There are several items in the amendment for which separate bills have been passed by the Senate.

THE PRESIDING OFFICER. The Senator from Louisiana makes the point of order to the Chair. If the Senator is aware of any rule that excludes those appropriations, the Chair would be glad to hear it suggested.

MR. SLIDELL. I am not; only the rule of common sense, that we cannot make two appropriations for the same subject. I do not profess to be at all cognizant with the rules; but it seems to me it needs no authority on a point of that kind. At any rate, I make the point of order for the decision of the Chair.

THE PRESIDING OFFICER. The Chair thinks it a question that may be considered by the Senate, and not a question of order to be submitted to the Chair.

MR. SLIDELL. Then I will submit that question to the decision of the Senate.

MR. SEWARD. What question?

MR. SLIDELL. Whether the Senate, having already by separate bills, made two of the appropriations contemplated by the amendment, can repeat them in this form?

MR. SEWARD. I understand the question, but I should have asked the Senator how he proposed to take the sense of the Senate upon it.

MR. SLIDELL. I submit it to the Chair for decision.

THE PRESIDING OFFICER. The Senator misunderstood the Chair. The Chair stated that, in his opinion, it was not a question of order, but a question to be determined by the Senate in its action upon the amendment.

MR. SLIDELL. Very well. I am very well satisfied with it in that form. I wished simply to call the attention of the Senate to that feature in the amendment.

MR. POLK. I do not wish to detain the Senate, but I desire to state in vindication of myself that while I should vote, and did vote an appropriation for the improvement of St. Clair flats, which is in the direct channel of the commerce of

the great lakes, I cannot vote for that improvement when it stands connected with the appropriation of money for the improvement of harbors for the benefit of cities situated on the lakes. I cannot vote for the amendment now offered, although it contains an appropriation for the St. Clair flats, which I could vote for, and for which I have voted separately, and should be willing to do so again, because the appropriations which it proposes are intended mainly for the benefit of the cities that are situated on or around those harbors.

Mr. PUGH. The Senator from Missouri is mistaken. There is no appropriation here to continue any work or make any improvement. It is simply to preserve, for one year, the works and property already begun by the Government, and those who vote against this amendment vote to destroy that amount of public property. The simple question is, can it be protected against storms for twelve months? We do not ask you to go on with the work; we simply ask you to preserve that much public property. If it be that we are so unfortunate in the Northwest, even if we have a little public property, that it must be destroyed, let the Senate say so by its vote.

Mr. BAYARD. I cannot concede to the Senator from Ohio, that we are voting to destroy any public property whatever, because we may differ with him in judgment. My own belief is, that, if we should vote anything at all for river and harbor improvements at this session, we should vote for a continuation of the works. I consider that the appropriations, based on an estimate obtained from the Secretary of War on the subject-matter of each one, will be literally money thrown away. It will be no profit to the works themselves, or to the general interests of the country, in my judgment; and, therefore, I shall vote against them.

Mr. KENNEDY. In order to satisfy myself, in regard to my vote, I should like to ask the honorable Senator from Missouri what appropriations are made for cities outside of this appropriation for the St. Clair flats? I wish simply to be informed on the subject.

Mr. POLK. I will state to the Senator. For instance, take the city of Chicago. The piers have been made there by the United States, as I am told, at a former period, in crib and wood work. The wood work is giving way, and the stones are falling out, and that is impeding that harbor, as I understand, and the appropriation proposed in this amendment is not for the purpose of securing works that are now going on, or in process of construction, from going into dilapidation, but for repairing this dilapidated state of the piers there. The work is of the same nature with the work which has been carried on in my own State by taxing the people hundreds of thousands of dollars, and an expenditure which is more especially and particularly beneficial to the particular State in which the harbor is situated.

Mr. KENNEDY. I am not fully informed. I understand that the appropriation is simply for the St. Clair flats.

Mr. POLK. Oh, no; that has been voted upon. The St. Clair flats is put in the amendment now under consideration in connection with the harbors of Milwaukee, Sheboygan, St. Joseph's—

Mr. KENNEDY. I will not require the Senator to repeat them. I will only say that I am in favor of appropriations for all those harbors. They may not be perhaps all entirely regular in form, and especially in the way in which this amendment has been offered, but I desire to accomplish their purpose in the end. I want to vote for an appropriation for those harbors as well as for the St. Clair flats. I do not know how far I am out of order in voting for this particular appropriation upon the ground the gentleman assumes that I am voting for an appropriation for harbors. I shall myself, as far as I am now informed, vote for the amendment offered.

Mr. KING. That is right.

Mr. KENNEDY. I think so; though it may be wrong.

Mr. TRUMBULL. I do not know that the remarks of the Senator from Missouri will mislead any one in the Senate, for I presume the whole Senate, and the whole country, know that the improvements upon that part of Lake Michigan near Chicago, are not simply for the city of Chicago. They are necessary for the millions of property floating upon that lake. It is necessary

that there should be places of security for the shipping, whether the city of Chicago was there or not. Does the fact that there is a city near this particular point make the appropriation local? You might as well say, because the city of New York exists, that therefore upon the Atlantic sea-board near the city of New York, there should be no improvement, because, forsooth, it is for the benefit of the city of New York! It is for the benefit of the whole country, and for the commerce that is upon the ocean. This improvement at Chicago, at that point where the improvement is made, is near the city of Chicago; but is not for the benefit of Chicago alone. It is for the benefit of property *in transitu* to the Senator's own city; and if there is a national work anywhere upon the lakes, that is one of them. The idea of asserting that it is a local improvement for the city of Chicago merely, and for the benefit of that city, is not doing justice, I apprehend, to the proposition to improve the lake at that particular point.

Mr. JONES. I desire to know whether it will be in order to move to amend the amendment?

The PRESIDING OFFICER. It is in order.

Mr. JONES. Then I offer the following amendment, to be inserted at the end of the amendment: And that there shall be, and is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$53,000, to be expended under the superintendence of the Secretary of War, for continuing the improvement of the navigation of the Mississippi river at the Des Moines and Rock river rapids, in the said Mississippi river.

Mr. POLK. I ask for the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered.

Mr. COLLAMER. Is that amendment in order?

The PRESIDING OFFICER. The Chair thinks it is.

Mr. JONES. It is as much in order as the other one.

Mr. MASON. It is an amendment to an amendment.

Mr. JONES. There have been regular estimates made by the War Department for this improvement; not at this session of Congress, but at the last session but one. An appropriation was then made for the improvement of the navigation of the Mississippi river to those rapids. This appropriation is designed for the removal of the obstructions in the Mississippi river at Rock river rapids, near the mouth of Rock river, in the Mississippi river.

Mr. MASON. I did not hear the amount proposed to be appropriated.

Mr. JONES. Fifty thousand dollars.

Mr. MASON. I will ask the honorable Senator from Ohio, if he will give me his attention for a moment, what is the aggregate amount of appropriation in the amendment he has offered?

Mr. PUGH. Five hundred and seventy or five hundred and eighty thousand dollars.

Mr. POLK. Five hundred and eighty-five thousand dollars.

Mr. MASON. Then I understand that the works now in progress under former laws require \$580,000 to be appropriated to prevent their being destroyed by time or decay, or from other sources, in the next twelve months.

Mr. PUGH. I was wrong in stating that they were in progress of construction. My colleague corrected me in that regard. They have not been repaired for ten or twelve years. The St. Clair flats is the only one, I believe, actually in progress.

Mr. POLK. It was about to make the same explanation.

Mr. PUGH. It gives me no uneasiness whatever. I call the attention of the Senator to the fact that on the 10th page of this bill he will find, for the continuation of the work on the Washington aqueduct, an appropriation of \$800,000, and, in addition, "so much of the appropriation of \$250,000, for paying existing liabilities for the Washington aqueduct and in preserving the work from injury" as has not been spent for that purpose. If we are to appropriate \$1,000,000 to continue one work in the District of Columbia, it seems to me no great hardship to appropriate less than \$580,000 for continuing twenty or thirty.

The Clerk proceeded to call the roll.

Mr. CLARK. I desire to say that I have paired off with the honorable Senator from South Carolina [Mr. HAMMOND.] during these night sessions, not being able, on account of my health, to be all the time in my seat.

Mr. HUNTER. I have been requested by the Senator from Mississippi [Mr. DAVIS] to state that he has paired off with the Senator from Wisconsin, [Mr. DURKEE.]

The result was then announced—yeas 17, nays 30; as follows:

YEAS—Messrs. Broderick, Chandler, Douglas, Foot, Foster, Harlan, Jones, Kennedy, King, Polk, Pugh, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—17.
NAYS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Bright, Brown, Clingman, Collamer, Crittenden, Dixon, Fessenden, Fitch, Fitzpatrick, Hale, Hayne, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Mallory, Mason, Reid, Rice, Slidell, Thomson of New Jersey, Toombs, Wright, and Yulee—30.

So the amendment to the amendment was rejected; and the question recurred on the amendment offered by Mr. PUGH.

The question being taken by yeas and nays, resulted—yeas 23, nays 26; as follows:

YEAS—Messrs. Bell, Broderick, Chandler, Collamer, Crittenden, Dixon, Douglas, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Jones, Kennedy, King, Pugh, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—23.
NAYS—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Brown, Clingman, Fitch, Fitzpatrick, Hayne, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Mallory, Mason, Polk, Reid, Rice, Sebastian, Slidell, Thomson of New Jersey, Toombs, Wright, and Yulee—26.

So the amendment was rejected.

Mr. PUGH. I move to strike out from the seventy-fifth to the ninety-second line, inclusive, in the first section of the bill, in the following words:

"For compensation of two superintendents for the life-saving stations on the coasts of Long Island and New Jersey, \$3,000.

"For compensation of fifty-four keepers of stations, at \$200 each, \$10,800.

"For contingencies for life-saving apparatus on the coast of the United States, \$12,000.

"For the purchase of 'Holmes's life boat,' to be placed at each of the twenty-eight life-saving stations on the coast of New Jersey, \$6,440.

"For the purchase of the best life-boats, to be approved by the Treasury Department, for use on the coast of Long Island, \$10,000.

"For procuring two additional improved metallic life-boats, a metallic life-car, and necessary harness, lines, and other suitable articles, to be used under the direction of the Secretary of the Treasury in saving life, in cases of marine disaster, off Galveston station, Texas, \$10,000."

Mr. TOOMBS. My honorable friend from Ohio having started in the right direction, it will give me great pleasure to travel with him on that road. This amendment has my hearty concurrence. I do not wish to set off one bad thing against another; but he is now striking in the right way, and he will get my support with great pleasure.

Mr. PUGH. I know I shall get the Senator's support unless I make a dash against the Brunswick navy-yard, and I regret that I have not an opportunity to do so at present. If there be not money enough in the Treasury to discharge the duties of the Government towards the people who have the misfortune to live on the northwestern lakes, I wish to know if you have money enough to take care of the Atlantic coast? And in order that we may understand whether the people of the Northwest are entitled to any benefit from this Union, or whether they are merely conquered provinces, to be taxed for the benefit of the Atlantic coast, I demand the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. SEWARD. My honorable friend from Ohio will be obliged to excuse me from going with him, inasmuch as it will strike most decidedly at the State of New York, his best friend. I shall have to stand by New York.

The question being taken by yeas and nays, resulted—yeas 15, nays 31; as follows:

YEAS—Messrs. Bright, Brown, Douglas, Fitch, Fitzpatrick, Hayne, Hunter, Iverson, Johnson of Tennessee, Jory, Polk, Pugh, Rice, Toombs, and Yulee—15.

NAYS—Messrs. Allen, Bayard, Benjamin, Bigler, Broderick, Clingman, Collamer, Crittenden, Dixon, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Houston, Johnson of Arkansas, Jones, Kennedy, King, Mason, Reid, Sebastian, Seward, Simmons, Stuart, Thomson of New Jersey, Trumbull, Wade, Wilson, and Wright—31.

So the amendment was rejected.

Mr. POLK. I move to strike out the words "two hundred and fifty" in the twelfth line of the first page, and insert "one hundred;" so that the clause will read:

"For continuing the survey of the Atlantic and Gulf coast of the United States, (including compensation to superintendent and assistants, and excluding pay and emoluments of officers of the Army and Navy, and petty officers and men of the Navy employed on the work,) \$200,000."

I will merely state that about four hundred and fifty-two thousand dollars are appropriated in this bill for the coast survey. I believe that work commenced in 1790. It was then a pretty small affair; but it has been going on increasing, from that time down to the present, until the appropriation for that purpose has now reached the neighborhood of half a million dollars. If it goes on at this rate, it will bankrupt the Government. For one, I think it is time to begin reform on it. I do not mean to debate the question. I call for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. FESSENDEN. I only wish to say that, making the alteration proposed in the amendment, will about as effectually stop the work as striking out the whole appropriation.

Mr. TRUMBULL. I trust this amendment will prevail. Like the Senator from Missouri, I have had my attention turned to the appropriations for the coast survey in this bill, which, including the publication of the books, amount to upwards of half a million dollars. This seems to be an appropriation that is to continue forever. I suppose, so long as there can be a harbor to examine or any change in the currents of the ocean, or any sand bars, this coast fleet will be at work. At any rate, they will be at work as long as you pay them \$500,000 annually to keep up this establishment. The book which has been published, according to a little statement I have here, cost, in 1855, over sixty-eight thousand and some hundred dollars; and in 1856, \$78,000. Adding that to the amount appropriated in this bill, and it costs \$500,000 for the coast survey.

The Senator from Maine tells us we might as well vote nothing as to vote \$100,000. A few years ago that would have been considered a very large sum to appropriate for this work. I have no doubt the surveys of the coast have been of benefit to the country; but I do not think such an amount of money as this should be appropriated to this particular object. The Senate has just refused to improve any of the harbors upon the lakes, where millions of property are destroyed every year; and yet you appropriate \$500,000 for surveys upon the Atlantic coast, where they have been making surveys for the last half a century, and I suppose will be making them so long as the Government lasts; and this appropriation, instead of diminishing, will go on increasing. I trust the sum of \$250,000 will be stricken out, and \$100,000 inserted in its place. Even that, I think, is a large amount to appropriate, under the circumstances in which the Government is now placed.

Mr. FESSENDEN. My friend from Illinois talks of this survey of the coast taking time. He seems to be under the impression that the Atlantic coast of the United States falls somewhat short of the coast of the State of Illinois, and that the survey of it ought to have been finished long ago. I do not accede at all to this mode of reasoning. This work has continued for some time, and it cannot be finished in a day, or in a year, or in many years. I really have no sympathy with that kind of argument, addressed to the Senate of a great nation, which says that a work ought to stop, not because it is not beneficial, not for the reason that it is not useful, not for the reason that it is not a very great work, and must necessarily, of course, to be finished, take a great time, but for the reason that it does take time and does take money. Why, sir, we have begun this, and continued it for many years, and everybody who has examined this question knows that a very few more years will complete it. If the book cost more last year than it did the year before, it was because the book itself was a larger record than the record of the year before, and more work was done.

The truth of the matter with reference to this coast survey is, that it has been going on, as everybody well knows, managed with care, with skill, with fidelity, and with ability, and as cheaply as the nature of the work would allow. What do you want more, when you have undertaken a great work for the benefit of the whole country, extending from the north to the south, and on the Pacific as well as the Atlantic? Cannot we do something else than simply stop it because it cost a few thousand more for more work one year than it did the year before, and because it costs something more in order to complete it? Why, sir, in the name of common sense, are we to stop appro-

riating money for the great purposes of this nation, simply because we cannot get along without money? I do not accede to that reasoning. I must say to my friend that, although this does not strike at me, because I believe the survey of the coast, so far as Maine is concerned, is completed and record made thereof, and we have nothing more to do with it directly; yet I consider that that is a part of the country, and I feel just as much interest, as a friend of the great commerce of the country, in having that work completed on the Pacific coast as on the Atlantic, and on one part of the Atlantic coast as on the other.

I said you might as well appropriate nothing as \$100,000. It is not because \$100,000 is a small sum; not because it was not a sufficient sum at one year or at one time, and is not now. It was sufficient for the operations at one time, but the surveys are now carried on upon a much larger scale than they were years ago. We began on a small scale, but we have been increasing in population, means, wealth, and extent of our country, and the necessities of the country. I said that you might as well appropriate nothing as \$100,000, simply for the reason that, if we are to carry on operations with the present force employed, by employing the vessels now in operation we would save money by not unnecessarily striking down the amount without any inquiry as to what the effect of striking down would be; that it would be much cheaper to appropriate \$250,000 now, and we would lose less and pay less, in point of fact, in the long run, in the course of two or three years, than to appropriate \$100,000 now. It is in order to save expense and conduct the work economically, and not throw away that which we have done, that I am in favor of retaining the sum named in the bill. If Senators are disposed, as I think they are not, to stop the surveys entirely, and say they will go no further, that is one thing; I am perfectly willing they should do so according to their own pleasure, as they have a right to act; but, if we undertake to do it at all, let us do it in a business, common-sense manner—not appropriate a quarter of the sum necessary, and in that way conduct the business in the niggardly form in which a man conducts his who does not know enough to carry it on, and must eternally carry it on at a loss, because he has not soul enough to do it on a scale commensurate with the undertaking.

Sir, I do not quarrel with gentlemen who oppose this appropriation on principle; that is all very well. Let them strike it out if they are strong enough to do it; but let the friends of the work act with sense and discretion, according to the interests of the measure, and, at any rate, not find fault with the surveys which, so far as they have been continued, have been conducted well, and, I believe, with sufficient economy, and certainly to very good purpose.

I must say one other thing: I have stood by these rivers and harbors upon the lakes because I believed the appropriations proper, and that they should be made; but it is hardly fair that gentlemen should turn round and crush the whole Atlantic coast, because a portion of the Atlantic States did not support them in their motions. Let us, at any rate, have the benefit of our action from those gentlemen who are in favor of the thing as a whole, and not strike it down piecemeal, because they did not get all the votes they wanted to get for their own favorite measure.

Mr. HUNTER. The Senator from Illinois is mistaken if he supposes the whole of this appropriation is for the Atlantic coast. We have a Pacific coast, also; and the two together, I think, would compare with the lake coast. They may not be as great in his eyes; but still, I think, they will compare tolerably well with his lake coast.

Mr. POLK. I will state that the clause to which my amendment refers is for the survey of the Atlantic coast only.

Mr. HUNTER. I do not know why we should strike out the appropriation for the Atlantic coast alone. Why should it be singled out, and the appropriations for the Pacific coast and the lakes left? The Senator will find, when the Army bill comes up, an analogous appropriation for the survey of the lakes, which has been going on for years.

Mr. PUGH. Whereabouts?

Mr. HUNTER. In the bill making appropriations for the support of the Army, in which there

is an appropriation of \$75,000 for this year. One hundred thousand dollars was the estimate. That survey has been going on *pari passu* with the survey of the coast.

Nor do I admit that the survey of the coast stands on the same ground with the improvement of rivers and harbors. The improvement of rivers and harbors is strictly for commercial ends, and are many of them improvements within the jurisdiction of the States. This coast survey is within the jurisdiction of the United States; and although it may incidentally be of advantage to commerce, it is defensible upon military grounds. We are bound to know the channels on our coast, both for naval and military purposes. We ought to know the channels leading into New York, that we may defend its harbors. So with regard to the entrance into Charleston; so into Norfolk; so into Mobile and New Orleans.

Mr. PUGH. Do you not expect to defend the Northwest too, in case of war?

Mr. HUNTER. There is a similar appropriation for the Northwest.

Mr. PUGH. An appropriation of only \$75,000. I think the motion of the Senator from Missouri entirely right.

Mr. HUNTER. The Senator will find that it has been going on in the Northwest for some time, and he will find that it is progressing quite as rapidly in proportion to the extent of lake shore as it is in proportion to the extent of the shores of the two seas. When examined, he will find, so far as that is concerned, that all the coasts and shores of the country are provided for.

Now, sir, it is a very different thing carrying on surveys which are strictly for military and naval purposes, and making improvements looking only to commerce, and which are also within the jurisdiction of the States thus claiming for the United States jurisdiction over the commerce of the States, and over those improvements which look to the commerce of the States. If we can improve rivers and make harbors for that purpose, why not railroads? why not canals? If we can take that particular jurisdiction of the States, what will remain to them?

But, sir, it was not my purpose to enter into a discussion of that question. I merely rose to show the distinction in point of principle; and when that is admitted, then the argument of the Senator from Maine is unanswerable. We have been carrying on this coast survey for a long time, and it is economy to appropriate enough to bring it to a conclusion within a reasonable space of time. I will not say there may have been no waste in regard to this work; I will not say that everything that has been done has been as economically done as it could have been; I will not undertake to indorse them to that extent; but I will say that it is a great work, which has been executed in such a manner as to command the admiration of all practical and scientific men, I believe, all over the world, who are acquainted with the manner in which it has been executed.

Mr. PEARCE. I am afraid that the Senator from Illinois is not so much moved in his opposition to this appropriation for the coast survey by a thorough study of the subject as by a little feeling of resentment, because some appropriations to objects which he deems of great importance and interest have not been made. I regret it, sir. In addition to what has been so justly said by the Senator from Virginia, I beg leave to add that the Senator from Illinois is under a great mistake as to the period of time during which this work has been in progress. He assumes that it has been going on at this rate for half a century. Now, sir, this great work, so useful to the commerce and other interests of this country, was commenced under the recommendation of Mr. Jefferson, about fifty years ago. It made no progress for a number of years, because the first step was to procure a scientific person, of proper attainments, and send him to Europe for instruments. Nothing was actually done until after the war of 1812, and very little then. There was another series of years during which the work was suspended; and not until about the year 1830 were active operations commenced on a limited scale. More active operations were carried on in 1842; but it was not until about the year 1850 that we adopted the present scale of expenditure and progress, and the results have been more than proportionate to the increased expense. That was demonstrated some

years ago when this subject was fully discussed in the Senate. We then appropriated \$250,000—the sum which is now given for the Atlantic coast. Since then we have extended our operations into the Gulf coast, and largely upon the Pacific coast, where the expense is greater in proportion than it is on the Atlantic.

Here I beg leave to say, that the Senator from Virginia is very correct in assuming that the expenses for the survey of the lakes have been proportionate to those on the Atlantic. A sort of equity has been attempted to be observed in that regard, and the appropriations have always been so apportioned as to bear a fair and reasonable rate in comparison with each other.

Neither is the gentleman warranted in saying that this is a work which is to go on forever. It has been going on with great rapidity for a number of years, because Congress has made liberal appropriations, and they have been judiciously and economically expended. I venture to say that no department of this Government, or of any other Government under the sun, has ever applied a sum of money of no greater amount more economically, more beneficially, and more effectually, than have the appropriations which have been made for the coast survey, been applied by that office.

The Senator assumes that this work is to go on forever; but we have the calculations of the superintendent of the coast survey—a man whose sincerity and integrity have never been questioned—calculations based upon facts, upon data about which there is no dispute, in which he shows that at the rate of progress they are now making, this work will be completed in twelve years. The Senator, perhaps, did not know that fact; nevertheless it is a fact.

I trust that the Senate will not now, in the meridian of its usefulness, when the work is making rapid progress to completion, interrupt one so essential to the commercial interests of the country. We shall, at all events, find money enough in the Treasury for this purpose. Surely it is no objection to an appropriation for an object like this, that the improvement of certain rivers and harbors, not in the West only, but on the Atlantic coast as well as in the West, have been stopped, and that we give no money for rivers and harbors from Maine down to Galveston. They are a different class of objects. They do not fall within the same rule of constitutional power. Almost everybody admits the constitutional power of this Government to provide for the survey and delineation of the coast of the United States for the protection of commerce. Many gentlemen do deny the constitutionality of the other works; and perhaps it is to that constitutional objection, more than to anything else, the gentleman owes the defeat of his favorite projects. I trust we shall not, because some gentlemen are disappointed in the success of favorite measures, strike down an establishment like this, conducted, as it has been, honorably to the science of the country, usefully to the commercial interests, which has met the approval of the judicious and wise of our own country, and has the ratification of the very highest indorsements which European science can give.

Mr. TRUMBULL. I do not understand how it can be constitutional to appropriate money to the survey of the lakes, and unconstitutional to appropriate money for the improvement of navigation upon the lakes. You can appropriate \$75,000, we are told by the Senator from Maryland, and the Senator from Virginia, to the survey of the lakes; there is no objection to that; and they are giving as a reason why this large appropriation of \$500,000 to the Atlantic and Pacific coast should pass, that in some other bill \$75,000 is provided for the survey of the lakes. By what constitutional authority, I ask?

Mr. PEARCE. I beg leave to say to the gentleman from Illinois that the appropriation for the survey of the lakes is expended and applied under the authority of the engineer corps, and that is a reason why the appropriation for the survey of the lakes comes in the Army appropriation bill. As to the constitutional question, I have said nothing about that point, except what everybody knows to be the fact: that some gentlemen do not believe appropriations for the improvement of rivers and harbors to be constitutional. I do not hold that opinion myself, and even take pleasure in supporting some of those objects the gentleman

has so much at heart; and if I do not do so now, it is for reasons that are palpable to the Senate, which influence my judgment. While I have frequently supported these appropriations I have not in every case given my vote for the objects proposed. I think they have sometimes been carried too far, and applied to objects altogether unworthy of national protection.

Mr. TRUMBULL. It is thrown out here as an objection to appropriations for the northern lakes, that they will probably be voted down because they are not constitutional; that many persons regard them as unconstitutional. Now, sir, that very class of persons who regard them as unconstitutional, it seems have no difficulty (although the Senator from Maryland is not one of them) in voting appropriations for the survey of the Atlantic coast. For my own part, I see no difference between voting money for the survey of a coast and voting money for an improvement of the harbors upon the coast, when both are for the preservation and protection of commerce; and especially do I see no difference between an appropriation of \$75,000 to survey the northern lakes, and an appropriation of money to improve the harbors upon those lakes. We all know that the commerce upon the lakes is exposed to great hazards; that millions of property are annually destroyed for the want of safe harbors upon the lakes; and yet gentlemen urge as an objection to protecting those harbors, or protecting the shipping upon the coast, that it is unconstitutional; and still cite, as an instance why they will vote for this appropriation to survey the Atlantic coast, that a similar appropriation is to be made in another bill for the lakes.

Now, sir, it will do very well to talk in this general way, as the Senator from Maine has done, about the largeness of soul and the liberality of making appropriations, and to belittle the opposition to this appropriation, as if it were narrow-minded and illiberal. But are we to vote money on such considerations, because the Senator talks of the largeness of soul and the nobleness of this pursuit in examining the sand-bars and the rocks in the ocean, and learning the currents of the ocean, and because the Senator from Maryland tells us that it meets the approbation of the scientific world? I apprehend, if you had no coast survey at an expense of more than half a million dollars to the Government, that then the private enterprise of this country would ascertain where your harbors are on the Atlantic coast. It seems that this great undertaking, according to the Senator from Maryland, first commenced within a few years. It was not until the year 1850 that it amounted to anything. What was the condition of the commerce of this country before that time? It originated, he tells us, in Mr. Jefferson's time, and he says that I was in great error in saying it had gone on for fifty years; because nothing was really done until 1850.

Mr. PEARCE. From 1830.

Mr. TRUMBULL. But if I understood the Senator from Maryland correctly, nothing efficient was done until about 1850. The commerce of this country was carried on before that time with some hazard, doubtless, and is carried on with some hazard now. How much safer it is to-day than it was before 1850, I am not prepared to say; nor do I believe the Senator from Maine, who is so zealous for this appropriation, or the Senator from Maryland, can tell us. They tell us that these books have been published. Well, sir, I do not know how it may have been in Maryland and Maine, but I know that in the State of Illinois these books are of very little value. The chief benefit derived from them if any, is to make the mail contractors earn their money, by dragging them through the country. A more useless book for a great portion of this country was never published. The Senator from Maine talks about this as an appropriation for the whole country. The whole country! What do you mean by the whole country? Your Atlantic sea-board? Is that the whole country?

Mr. FESSENDEN. Will my friend allow me to ask him a question? Have the western States no sort of interest in the commerce of the Atlantic coast, and the defense of the coast? Do not they feel that they have an interest in it?

Mr. TRUMBULL. I suppose we do, and I suppose the Senator from Maine and his constituents have some interest in the wheat and the

bread with which we feed them. They ought to have some interest in it.

Mr. FESSENDEN. We show it by our votes in voting for his harbors; but because the Senate struck them out, he is without scrutiny going against us.

Mr. TRUMBULL. I am very glad to have the Senator's assistance, but because he voted for harbor improvements, I am not therefore to be made to vote for an appropriation of half a million dollars to a purpose for which I believe it is not needed and required by the wants of the country; nor is the opposition to this matter put upon any such ground. The Senator from Indiana and the Senator from Maine intimate that the only opposition we have to this clause is because the Senate refused to vote appropriations for rivers and harbors. I intended to move to strike out this appropriation, if some other person did not do so, days ago, before I knew whether the Senate would defeat the proposition to make appropriations for the improvement of the lakes or not; and had they voted to-night every appropriation demanded for that object, I should have moved, if some other person had not done so, to strike out a portion of this very appropriation. One is not dependent on the other at all.

If you are to go on making appropriations until the officers engaged in this coast-survey business tell us they have enough, I ask when the time will come when the appropriations shall cease? We are told by the Senator from Maryland that twelve years will be sufficient to finish it. Why, sir, there will be other points they can find to survey after twelve years; there will be other localities that they can examine, or they will go and examine the old ones over again. Even the Senator from Maine will want his coast examined again, I apprehend, by the time the dozen years have run out, to see if, by the shifting currents of the ocean, sand has not been deposited in some new place; and thus the thing will go on perpetually. It seems to be admitted now that a dozen years are to be required. Well, sir, I believe we had better begin to curtail this expense, and that this is a very good place to begin. I think that this appropriation of \$250,000 for the survey of the Atlantic sea-board should be reduced to at least \$100,000; and I hope that the other appropriations in the bill will be reduced proportionately.

Mr. SEWARD. It is impossible for commerce, either domestic or foreign commerce, to be carried on in this country unless there be an accurate survey and chart of the Atlantic coast and of its bays and tributaries, and of every point and part of it from Maine to the Rio Grande. This is equally true in regard to commerce on the Pacific. This survey must be accurate, it must be minute—so minute that the depth of the water off the coast for the distance of a mile, and often for many miles, at every point, must be known, and every variation in the depth of the water. Moreover, every object on the coast, of any magnitude, which may serve for a beacon by which to direct the course of the mariner, should be delineated with certainty and specified in its exact position, so that the mariner may know exactly how to enter every port, and to avoid every reef and shoal, and how to manage his craft if overtaken either by a calm or by adverse winds or by storms wheresoever he may be. To make such surveys and to reduce them to charts is a work of immense magnitude. It has to be done by somebody, because the world is interested in our commerce, and we are reciprocally interested in the commerce of the world.

The honorable Senator from Illinois tells us that private enterprise will do it. Private enterprise never did it in any country, and never will; yet it has been done heretofore with much success along parts of our coasts, as it has been done to some extent on every other important coast throughout the world. The States cannot do it, and will not do it, because deprived of the revenues derived from commerce. Some Government must do it, and therefore it must be the Government of this country or some other Government. Now, the British Government has heretofore done this work for all the Pacific ocean, and we sail by their charts throughout all the Pacific seas. The British Government has explored, and mapped, and charted every one of its colonial possessions with the minuteness which I have described. I myself, in going down the St. Lawrence river through the British territory, was able, with a chart in my

hand, to describe and define every object visible from the deck of the ship, and myself alone, though no sailor or mariner, was able so to direct my course as to avoid a reef and find shelter in case of storm.

As I said, somebody will do this. If we do not do it the British Government, which is the greatest commercial nation besides ours, will do it, and we must prepare to lay open our coasts, with their bays, and our rivers, to the British surveyors to map and chart the way for themselves and for us. That is just what we have done ourselves in South America. What have we done this very session? We have authorized the President to make *quasi* war against the Government of Paraguay, because the President of that Republic interfered with a surveyor we sent there to explore the course of a river which the Government of that country neglected to explore. I want no such relations with Great Britain—no such dependence on her.

With regard to the manner in which this great work is done, it has indeed taken time. The only reason that it has taken time is that it was not finished, and the reason why it was always unfinished was because the Republic itself has not at any time been finished. If the country is finished now, and if it will stand fast just as it is for twelve years, then this work will be finished in twelve years; but if the country remains unfinished, and if we are to yet include the Gulf of California, or if we are to take in the islands on the shores of the Caribbean sea, then it will take still twelve years more to finish the coast survey. With regard to the manner in which this work has been done, I believe it may be said of this department that it is one—I do not say it is the only one—but it is certainly one in which there is not a sinecure, there is not a supernumerary, there is not an idle man, there is not an idle vessel, and there is not, so far as it is possible to practice economy in the affairs of Government, a dollar of waste.

Mr. HAYNE. I rise, sir, to contribute my mite in behalf of the coast survey. I regret to be compelled to do so, nor should I do so, if I should occupy the time of the Senate more than five minutes. It is a question which I think we can reach in less than five minutes. I can tell Senators, and I think with great truth, that where the Treasury of the United States will expend one dollar for this great work, it will have returned our money—ay, thousands for one. Is there a nation on the whole earth that possesses such a magnificent sea-coast, from Passamaquoddy to the Rio Grande? It is unparalleled. We have duties to perform, as God has given us this great and extensive sea-shore. I hope the Senate will not hesitate to agree to the appropriation of the exact amount which has been requested of them. If there can be a national work, one above all others that contributes to every man's pocket, if not directly, indirectly, if not immediately, mediately, that work is the coast survey. Some of my friends here from the distant West do not reflect that they could not prosper without the prosperity of their friends on the Atlantic, particularly my talented and excellent friend from Illinois, [Mr. TRUMBULL.] He happens to live in a different section of the country from that in which I do, but I tell him emphatically he will derive as great advantage in Illinois, from this appropriation, as we will on the Atlantic border.

Under these circumstances, sir, how can we hesitate? It is a glorious work; it is a noble work; it is a work which attracts the attention of all Europe, and it gives us a moral power besides our deeds in arms which should not be forgotten. I pray the Senators not to hesitate at a few dollars. The appropriation has been reduced in accordance with the crisis, some ninety thousand dollars. It has been reduced to the smallest point.

I must say one word more. If there could be selected on earth a purer, a wiser, or a more honorable man than he who is at the head of this great work, I know not who he should be. I think that in Professor Bache we have the exact man for the place. He is the pattern of Franklin over and over. I hope Senators will think of these things, and not vote to destroy this noble work. I will not detain you, sir, a moment longer. I shall vote for the appropriation.

Mr. MALLORY. I would like to ask the Senator from Missouri, who introduced this amend-

ment, to explain it. I have not heard a single reason given yet for the amendment, and the Senator from Missouri has not had an opportunity of explaining it.

Mr. POLK. It is simply to strike out \$250,000 and insert \$100,000. I would like very much to be informed by some gentleman who knows, for instance the chairman of the Committee on Finance, what was the appropriation for last year for this specific object, for carrying on the survey on the Atlantic coast?

Mr. PEARCE. I will say to the Senator from Missouri that it has not been increased during the present year.

Mr. POLK. Has it been diminished?

Mr. PEARCE. The appropriations have been diminished.

Mr. HAYNE. Diminished upwards of ninety thousand dollars.

Mr. PEARCE. Seventy thousand or ninety thousand dollars, I do not recollect which; but I know it has been reduced.

Mr. POLK. It struck me that the appropriation was an exceedingly large one. All the reports made by the committees of the Senate with regard to the expenditure of public money have been based on the idea that no money was to be expended, except for the purpose of protection mainly, and in some cases for repairs. Here is an appropriation of \$250,000; and, without professing to know the details of this subject, it seems to me a case in which reduction might well be made, and it ought to be made in the condition in which the Treasury now is. Among my earliest recollections is this coast survey. I was struck with the fact stated by one of the Senators—I do not recollect which one, perhaps the Senator from Georgia—in some remarks upon the floor of the Senate a few days ago, that this coast survey did not complete a given locality, but that it had to be done over again when it may be supposed that the tide and the currents may have produced a change in the channel. If that is so, this thing will not stop in twelve years, and might not in one hundred. It has been going on now for half a century. It commenced, I believe, in 1790, or the first appropriation was then made for it then, if I do not mistake.

Mr. PEARCE. Oh, no. The Senator is mistaken.

Mr. POLK. I looked at it a few days ago. I am not certain about that. I know there was legislation on the subject authorizing the sending to Europe for the purpose of getting competent men to make the surveys as early as 1807.

Mr. DUNTER. The appropriation last year was \$250,000.

Mr. POLK. That is the exact sum that is to be appropriated this year. I ask if this work cannot be suspended for a year? or if this is the only thing in which there can be no reduction?

Mr. PEARCE. It has been reduced.

Mr. POLK. Two hundred and fifty thousand dollars was the appropriation last year, according to the Senator from Virginia, the chairman of the Committee on Finance. I mention his name because I suppose he is good authority on such a question. It is the same amount now. Everything else is reduced except this.

Mr. PEARCE. Will the Senator allow me to explain?

Mr. POLK. Certainly.

Mr. PEARCE. The sum of \$250,000, which was appropriated last year, was recommended this year; but, nevertheless, there has been a reduction: that is to say, items specifically mentioned which have been dropped and left out of the appropriation for the present year. One item I recollect of \$15,000 has been left out. It is true the general sum—

Mr. POLK. Still the aggregate seems to be the same.

Mr. PEARCE. The aggregate is not the same. The Senator is under a mistake. I am perfectly cognizant of the fact. The Secretary of the Treasury sent around to the different Departments of the Government when about to make the different estimates, to know in what way it would be possible to retrench, and he retrenched on this subject as well as on others.

The Senator will allow me to say one word more while I am up. He made some remarks on the necessity of resurvey. I beg leave to say it is not necessary to do all that work over again, as

seems to be supposed, after a few years. It may be necessary at particular points where the currents make deposits of mud to have a resurvey. The resurvey, however, is a small affair. It does not cost more than one tenth the original survey, and can never be applied to but few parts of the coast or harbors. In the general line of the coast, all of which is delineated exactly in the coast survey, the only resurvey was that of the harbor of New York, induced, I believe, by the action of the New York authorities. That survey, which was complete, cost just one tenth of the original survey; so that, although we may be compelled to resurvey particular portions of the coast, it will only be the harbors, the mouths, and the entrances of rivers, and cases of that sort; and then the resurvey will cost only about one tenth of the original survey.

Mr. GWIN. If the Senator from Missouri will permit me, I understood the Senator from Virginia said there had not been a reduction.

Mr. POLK. The answer was that the amount appropriated last year was \$250,000—the same amount which is appropriated this year.

Mr. GWIN. In answer to the Senator, I will state that there has been a reduction of \$90,000—\$30,000 for the Florida reefs, and \$60,000 in other items in the bill.

Mr. POLK. The Senator will observe that the amendment does not relate to the Florida reefs and keys; but there is a separate appropriation for that object. I ask the chairman of the Committee on Finance if there is any reduction in this item?

Mr. GWIN. It has been reduced there. I thought the Senator alluded to the aggregate.

Mr. POLK. I apprehend the Senator from Maryland is under a mistake. The \$250,000 is for the survey of the Atlantic coast alone. The whole of the appropriations if I have added them up correctly amount to \$452,000. The reduction to which the Senator from Maryland refers, and which is also mentioned in round numbers by the Senator from South Carolina, may have been in other items, that go to make up the \$452,000, than the first item.

Mr. PEARCE. Yes, sir; I will tell the Senator two of the items. I do not recollect them all—but there were several items which were reduced.

Mr. POLK. Is there any reduction in the expenditure to which the appropriation covered by this amendment is applicable?

Mr. PEARCE. I will observe, if the Senator will allow me, that there are several items which go to make up the mass of all that is appropriated. One of them is this one of \$250,000 for the Atlantic coast. One of those items was an appropriation for the repairs of vessels employed in the coast survey. That has been omitted during the present year. That is a portion of the sum left out. There was a sum, I think, of \$15,000 also for the publication of certain charts. That has been dropped for the present.

Mr. POLK. Is there not an appropriation here of \$10,000 for repairs of vessels?

Mr. PEARCE. I said they were reduced by a considerable sum—I do not know what—but in the whole \$30,000 on all the different items.

Mr. POLK. The question still recurs whether there was any reduction in this particular item of \$250,000, to which this amendment is offered. I must say it is not demonstrated to my satisfaction that there may not be a curtailment in this particular item, to which \$250,000 are to be appropriated.

Mr. FESSENDEN. I understand that there has been a reduction in fact, of \$90,000 from last year.

Mr. POLK. Yes, sir; but that, I apprehend, will be found to be made up by a general reduction of the items.

Mr. FESSENDEN. No. Last year there was an appropriation of \$30,000 for the Florida keys.

Mr. POLK. And this year there is an appropriation of \$40,000 for the Florida keys.

Mr. FESSENDEN. But I understand that the whole appropriation is \$90,000 less.

Mr. POLK. That is just what I am answering. I suppose on the whole appropriation that there has been a reduction, as gentlemen say, but still it is not known whether there has been any reduction on this appropriation. The Senator who is at the head of the Committee on Finance, as I understand him, said that last year there

was an appropriation of \$250,000 for this item. Now, when you look at the condition of the Treasury, and when you look at the fact that we are compelled to borrow, in order to get along with those things that are indispensable for carrying on the Government, it does seem to me that we might well reduce the appropriation of \$250,000 to the amount that my amendment proposes. We can do that, I think, without doing very serious damage to the coast survey. Suppose this work is compelled to stop for a year, or during this commercial crisis, or until the trade of the country should fill the coffers of the country, as they were filled before this revulsion came on, what would be the dilapidation? It is said these works do not change, that they do not have to be resurveyed. If not, I can see no damage to be produced except such as may grow out of the dilapidation of the vessels used in the work. The materials are not dilapidated, and will not grow worse. The bill proposes \$10,000 for the repair of the vessels. The \$10,000, I take it, ought to preserve them. It seems to me the worst dilapidation would be the dilapidation of the salaries of those employed, and I submit that this is an item in which retrenchment in that respect might be applied.

Mr. MALLORY. I will answer some of these objections, and the last one first. The honorable Senator from Missouri, I presume, has not given that attention to the coast survey that he has to the general business of the Senate. He asks why we cannot reduce now, and speaks of dilapidation, and says the dilapidation would be in the salaries of those who are employed. Well, sir, perhaps the Senator from Missouri never thought of the fact, that to constitute a corps of men for the coast survey, you have got to select one man in a hundred thousand—just about. In the first place, it takes an education peculiar for the service, and great practical experience. The objection I have to his last argument is, that if you constrain the chief of the Coast Survey, who has now made his arrangements commensurate with the sum estimated to have them in the field, to discard these employes, he will not gather them together again in time to commence the work without a very great expenditure, such as would be a very bad economy here.

It has been intimated, Mr. President, that this measure is opposed by gentlemen who concede its propriety, its constitutionality, and nationality, because others will not go into their schemes, and appropriate money for the rivers and harbors of the West. I should regret if that is so; I should exceedingly regret that the Senate of the United States should, at any time, come to such a conclusion as this. It would argue a very great decay of public virtue. Why, sir, the State of Illinois is immediately interested with the coast survey. Every bag of wheat she produces is enhanced or lessened in value by all the expenses which grow immediately or are decreased by the coast survey. They are enhanced by all the expenditures of shipment, by pilotage, by insurance, and by many other expenditures which the coast survey is intended immediately to decrease.

We have a duty to perform with reference to harbor defenses, with reference to naval and military defenses, and to establish which we must have the coast survey. Now, let me state here, that the British, who, as has been well remarked by the Senator from New York, survey their own rivers and harbors and all others, were engaged here under the guns of Fort Delaware in making a survey of our own harbors as late as 1842 and 1843. In 1846, they were engaged in making a survey of Cat island upon our own coast. They survey all the world, and in many parts of our southern coast now Gall's chart for a portion of the West Indies and Florida is the standard chart by which vessels navigate the ocean. We owe something to foreign nations with reference to the coast survey as a civilized community. We owe it to civilized communities to furnish them with charts. Our self-respect will not permit us to remain idle, and let the dangers of our coast be unknown to navigators who approach them.

If there were no other work during the last year to demonstrate the efficiency and the value of this corps, I could point to the harbor of Charleston alone. It has been alluded to by the honorable Senator from South Carolina. The channel

which has been there lately discovered was known to have existed a hundred years ago. It has only lately been rediscovered. Almost every month has deepened that channel; and it bids fair speedily to become the principal channel for commercial purposes to Charleston. Within the last two months, a large channel, of twenty-two or twenty-four feet of water, has been discovered, by the coast survey, leading into the sound of St. George, and making the bar of Appalachicola—near which no large ships have hitherto approached—one of the deepest harbors south of the Chesapeake. Now, if nothing else than this had been discovered by the coast survey this year, it would demonstrate its value. We cannot decrease the amount of money estimated for the reason I assigned without entailing a larger expenditure. Many of the men employed on the coast survey would be cast adrift; they would go abroad, and we could not reclaim them again.

Mr. POLK. I will state that I have the act of the last session before me, and I find that in this first item of the present bill there is no reduction; there is no reduction in the survey of the Pacific coast; there is no reduction in the appropriation for the Florida keys. The first reduction we come to is in the clause, "for running a line to connect the triangulation of the Atlantic coast with that of the Gulf of Mexico, across the Florida peninsula, \$15,000." There is a reduction there of \$5,000. Then, there was last year appropriated for "publishing the observations made in the progress of the survey of the coast of the United States, \$15,000." That is stricken out. The appropriation for the repairs of vessels connected with the survey is \$5,000 less than it was last year. That is all the reduction there is in this bill. With those exceptions, the same amount is appropriated. When the Treasury was plethoric and overflowing, it might have been very well to have appropriated those amounts; but now, when the Treasury is so lean that we have to replenish it by loans of \$20,000,000 and \$15,000,000, there is no reduction to be made in this matter. It seems to me very certain that it is a work to which the knife might very well be applied.

The question being taken by yeas and nays, resulted—yeas 11, nays 36; as follows:

YEAS—Messrs. Brown, Green, Harlan, Johnson of Arkansas, Johnson of Tennessee, Jones, Polk, Pugh, Rice, Stuart, and Trumbull—11.

NAYS—Messrs. Allen, Bayard, Bell, Benjamin, Bledsoe, Bright, Brodbeck, Clingman, Collamer, Crittenden, Dixon, Fessenden, Foot, Foster, Gwin, Hale, Hamilton, Hays, Houston, Hunter, Iverson, Kennedy, King, Mallory, Mason, Pearce, Reid, Sebastian, Seward, Simmons, Thompson of New Jersey, Toombs, Wade, Wilson, Wright, and Yates—36.

So the amendment was rejected.

Mr. CLINGMAN. I desire to offer an amendment to carry out a clause in an act passed two years ago. It is to insert, as a new section:

And be it further enacted, That to enable the Secretary of the Interior to carry into effect the twenty-fourth section of the civil and diplomatic act of March 3, 1855, by paying the claims on the order to be assessed by Messrs. Upton and Summey, and Washington and Ma-on, commissioners under the Cherokee treaty of 1835, § 30,900.

To show that the amendment is in order, I hope the Senate will indulge me in reading the twenty-fourth section of the civil and diplomatic act of March 3, 1855. It is:

"Sec. 24. *And be it further enacted,* That the tenth section of the act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, approved July 31, 1854, be carried into effect by paying the valuations ascertained and reported by Messrs. Upton and Summey, and other official assessors, as ordered by the commissioners under the Cherokee treaty of 1835 and 1836, with interest on said valuations, respectively, from the date of the said commissioners' orders for assessment; and that the Secretary of the Interior be further directed to fill the blanks in such awards as are on his files with such amounts, respectively, as may be established by proof of value satisfactory to him, and pay the same."

This makes a reference to a clause in the Indian bill of the previous session, the session of 1854. I will read that also. It refers to the tenth section:

"Sec. 10. *And be it further enacted,* That to enable the Secretary of the Interior to settle and pay the award of commissioners on file for reservations, preemptions, and for rents and improvements under the twelfth, thirteenth, and sixteenth articles of the Cherokee treaty of 29th December, 1825, in pursuance of the stipulations of the third article of the treaty of August 8, 1816, the sum heretofore appropriated for those purposes and carried to the surplus fund, is hereby reappropriated."

That was the act passed in 1854. These pay-

ments were not made, and in 1855 the clause directing them to be paid was passed. They have not been paid yet, however, and on inquiry of the Secretary of the Interior, I learn that there is no money on hand. This is simply an appropriation to enable him to make the payments referred to in the act of 1855.

Mr. HUNTER. Do I understand the Senator from North Carolina to say that the debt was assumed by law, but no appropriation made to carry it out? Is that the reason?

Mr. CLINGMAN. There was in the Indian bill of 1854, an appropriation of the fund in these terms:

"The sum heretofore appropriated for those purposes, and carried to the surplus fund, is hereby reappropriated."

That is the act of 1854. Then this is the act of 1855:

"That the tenth section of the act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, approved July 31, 1854"—

referring to the preceding one—

"be carried into effect by paying the valuations ascertained and reported by Messrs. Upton and Summey, and other official assessors, as ordered by the commissioners under the Cherokee treaty of 1835 and 1836, with interest on said valuations, respectively, from the date of the said commissioners' orders for assessment; and that the Secretary of the Interior be further directed to fill the blanks in such awards as are on his files with such amounts, respectively, as may be established by proof of value satisfactory to him, and pay the same."

That is the appropriation directing him to pay it, or rather that is the law; but there was no appropriation contained in it, and I learn that there is no money on hand by which he can comply with that act.

Mr. HUNTER. I should like to hear the amendment read.

The Secretary read it.

Mr. HUNTER. This is to carry out an existing law, and I have no objection to it.

The PRESIDING OFFICER put the question; and declared that the "noes" appeared to have it.

Mr. CLINGMAN. I will ask for the yeas and nays on the amendment. ["Oh, no."]

Mr. HUNTER. The Senator can put it on the Indian bill.

The PRESIDING OFFICER. Does the Senator demand the yeas and nays?

Mr. CLINGMAN. No, sir.

The amendment was rejected.

Mr. WILSON. It will be remembered, Mr. President, that I submitted an amendment to cut off disbursing agents, and to put that duty on the superintendent. It was suggested by the Senator from Alabama [Mr. CLAY] that he would prepare an amendment which would incorporate that idea. I now offer that amendment, which was drafted by him, in consultation with several Senators, as an additional section to the bill:

And be it further enacted, That the collectors of customs in the several collection districts be, and they are hereby and hereafter, required to act as disbursing agents for the payment of all moneys that are, or may hereafter, be appropriated for the construction of custom houses, court houses, post offices, marine hospitals, and other public works, at a compensation not exceeding two and a half per centum: *Provided,* Such percentage, in addition to the percentage received for light-houses, and all disbursements, shall not exceed \$400 per annum: *And provided further,* That where there is no collector at the place of location of any public work, the superintendent of such public work shall act as disbursing agent without any additional compensation therefor; and all laws, and parts of laws, inconsistent with this section be, and the same are hereby, repealed.

Mr. HUNTER. I am a little afraid that we are making it worse than it was before. What is the meaning of the two and a half per centum? I should like to hear that.

Mr. WILSON. I will explain it to the Senator. There are, I think, some forty-four persons now who receive \$400 a year as disbursing agents. This amendment provides that they shall in no case receive more than \$400, but shall have two and a half per centum on what they disburse, if it does not exceed \$400.

Mr. HUNTER. That is right.

Mr. WILSON. It will save about thirty-five thousand dollars a year, according to my calculation.

Mr. POLK. I should like to ask the Senator a question. Do I understand him that at every place where the Government expends money, there shall be a disbursing agent at a compensation of \$400 a year?

Mr. WILSON. If the Senator will look into

the Treasury report, he will find that there are now about fifty disbursing agents; forty-four, or nearly all of them, are collectors, and receive \$400 a year. There are some seven or eight persons engaged, one at sixteen dollars a day, some at eight dollars, some at five dollars, some at six dollars, some at two dollars and a half, and some at three dollars, amounting to \$25,000. This amendment puts them all on this footing. They will receive \$400 a year, if they distribute money enough at two and a half per cent. to amount to that, but only receive two and a half per cent. It will save \$25,000 by cutting off persons who work by the day, and I think it will reduce the \$17,000 paid to others nearly one half, making from thirty to thirty-five thousand dollars annually saved to the Treasury.

Mr. MALLORY. I desire to ask the Senator a question. Is not the effect of this amendment that a collector whose salary is now \$400 a year, shall distribute this money for nothing?

Mr. WILSON. He will receive \$400.

Mr. MALLORY. In addition to what he receives now?

Mr. WILSON. Yes, sir, to distribute it.

Mr. MALLORY. If a collector of the customs now receives \$400 a year, I will ask the Senator whether he will receive more under this amendment?

Mr. PUGH. The Senator does not understand. It is an addition to the salary. The only thing it does is to cut off extras.

Mr. SLIDELL. I will explain this matter. The collectors in the different ports in the United States receive salaries which are based upon their commissions; not, however, to exceed in any case the sum of \$6,000 a year. In addition to that they are allowed to receive two and a half per cent. on all disbursements, not exceeding \$400 a year. The effect of this is, that in the principal ports of the country, Boston, New York, Philadelphia, Baltimore, perhaps, and New Orleans, they are to receive \$6,400 a year. The inspectors and surveyors, the duties of which offices are much less onerous, and infinitely less responsible, and do not require so high an order of intelligence and experience, receive a maximum compensation of \$5,000 a year.

I should probably not detain the Senate at all, had it not been for the form in which this matter was originally introduced. The amendment of the Senator from Massachusetts struck at the disbursing officers at New Orleans, and New Orleans alone, for what he asserted to be a great abuse on the part of the Secretary of the Treasury. I then said, and I now repeat, having more of the particulars at hand, that the system of compensation that was provided at New Orleans was by no means an exceptional case; that it existed in almost every other part of the country where the Government had buildings going on, and heavy disbursements consequent upon those buildings; that this was not at all an exceptional affair; but a system which had grown up with the very commencement of the system, which, I confess, has perhaps been carried to an extravagant extent, of erecting buildings in various parts of the country. I think it would be better to pursue the old system of hiring buildings. Be that as it may, I wish to defend not only the present Secretary of the Treasury, but the Secretary under the previous Administration, from any charge of abuse, or of favoritism in this matter.

The building in New Orleans, as I before stated, is by far the largest in extent in the country. It is not only intended for a custom-house, but it is intended to accommodate the courts, the post office, the land officers, the district attorneys, and in fact all the officers of the Government in New Orleans, with the exception of the officers of the mint. That is a separate establishment. There were two disbursing agents; one disbursing agent for the mint and the marine hospital combined, involving an expenditure last year of some three or four hundred thousand dollars for those two services, for which separate bonds were exacted; and for the disbursement of the mint, the duty was imposed upon the gentleman who was commissioner for the other building, and he has performed that additional duty without any extra compensation. As I said before, the disbursing officer of the custom-house at New Orleans is, for the time, commissioner for the building. I thought then, I think now, that although perhaps the ser-

vices of one of those gentlemen might be dispensed with, yet there was no great abuse in employing two in consideration of the extreme importance of the work, and the degree of labor and responsibility attending it.

Now, sir, to show that this is an abuse not at all of a recent date, but commenced with the very beginning of this system of public buildings, I will call the attention of the Senate to a memorandum which I hold in my hand. W. W. Reed and Thomas D. Robinson were appointed commissioners for the erection of a custom-house at Bath, Maine, on the 15th July, 1852; and, if I mistake not, the Senator from Maine, who was somewhat eloquent on the subject of these abuses, or who made some remarks in relation to this particular abuse—if he did not, I beg his pardon; I think he did, and I should like to know—

Mr. HAMLIN. I assure the Senator I never attempted to be eloquent in all my life. I did call the attention of the Senate to what I thought were some abuses. At the same time, the Senator will do me the credit, I know, to state that I spoke in decided terms of commendation of the two persons at New Orleans, whom I knew personally.

Mr. SLIDELL. I will read from this memorandum:

"W. W. Reed and Thomas D. Robinson were appointed commissioners for the erection of a custom-house at Bath, Maine, on the 15th of July, 1852. It does not appear of record that they were to have any compensation, but they now claim pay at the rate of \$400 per year each, and their claim is supported by the honorable Mr. HAMLIN, who says he was personally cognizant that this pay was promised them."

Mr. HAMLIN. Yes, I do say so.

Mr. SLIDELL. Again:

"E. L. Hamlin, M. L. Appleton, and William C. Ham-math, were appointed commissioners to superintend the construction of a custom-house at Bangor, Maine. These gentlemen were each paid \$774 66 for their service, (\$2,323 98 in all), on the 19th of February, 1855."

The Senator from Maine is probably familiar with the cost of this building, to superintend the erection of which three persons were appointed.

Mr. HAMLIN. Will the Senator state how long they served?

Mr. SLIDELL. They were paid on the 19th of February, 1855.

Mr. HAMLIN. When appointed?

Mr. SLIDELL. I do not know. Again:

"Robert G. Shaw and Hall J. How, in connection with the collector of the port, were appointed commissioners for the construction of a new custom-house at Boston, Massachusetts, and the compensation of each was fixed at one third of two and a half per centum on the annual amount disbursed. The gross amount of disbursements for the work was \$1,001,658."

The two and a half per cent. on that, I think, is \$25,000. So it appears that the commissioners of the customs at Boston, in the State of the Senator who made this charge, received \$25,000 for their services.

"Walter Brown and Elisha Tibbetts were appointed commissioners for the New York custom-house. The date of their appointment does not appear. Secretary Woodbury, on coming into office, could find no record of the facts, but fixed the compensation of each at eight dollars per day for the period of actual service, and gave them a clerk and an office, and also an assistant at five dollars per day. The collector, Mr. Swartwout, was also, in connection with them, appointed commissioner, but his rate of compensation was left for Congress to determine."

"Messrs. Ringbolt and Jackson were subsequently (by Mr. Woodbury) appointed consulting commissioners, in addition to the other appointments, but without any compensation."

Now, I do not state these facts with any view at all of impeding the passage of this amendment. On the contrary, I am prepared to go as far as the Senator from Massachusetts, or any other Senator on this floor, in the correction of abuses, and shall vote for his amendment; but I will propose an amendment to it which I am sure will recommend itself to the favorable consideration of the Senate. The collector at New Orleans, as I said before, receives a maximum compensation of \$6,400 a year, for which he has given bond. The surveyor and naval officer receive, for very inferior service—I do not mean that they are gentlemen in point of respectability and character and talent at all inferior to the collector, for I think we have a very good set of custom-house officers at New Orleans—\$5,000, and their labor is much less than, and their responsibility is not at all to be compared to, that of the collector. Now, I ask if it is right, after a gentleman who has accepted an office of high responsibility from the Govern-

ment, with certain duties imposed upon him which are sufficiently onerous to occupy the time of any man, that he should not, when other and very responsible duties are imposed upon him, receive some compensation for them? I do not wish that compensation to be extravagant. I wish it to be commensurate with the degree of labor and responsibility devolved on him. The collector of New Orleans (and I merely state his case as an exemplification of all the others) will probably have to disburse, during the next year, the sum of five or six hundred thousand dollars—\$350,000 for the custom-house, and \$250,000, perhaps three or four hundred thousand dollars, for the marine hospital.

I ask, is it fair, is it right and equitable, to impose upon him this additional responsibility, and compel him, as I believe he is compelled by the amendment of the Senator from Massachusetts—he having adopted that of the Senator from Alabama—to give additional bonds to a large amount, and then to say that he shall discharge all these duties without any additional compensation? I had drawn up an amendment—I cannot put my hand on it at present, but can replace it in a moment. I will state the substance of it. It is, that in imposing these duties, a commission not exceeding one fourth of one per cent., under the control and direction of the Secretary of the Treasury, should be allowed to these disbursing officers for the additional responsibility and labor imposed upon them. In the case of the collector at New Orleans, it would probably give him for the next year twelve hundred and fifty dollars; the year after it would give him less. Perhaps I underestimate the amount of duty imposed upon him, because he is also the disbursing officer of the mint. At the same time I wish to say that two more honorable and respectable gentlemen, worthy in every respect, do not exist in any part of the United States than Messrs. Penn and La Sere; and on the part of Mr. La Sere, who happens now to be accidentally in Washington, I am authorized by him to say that he has not the slightest objection to the passage of this amendment; that, if he had the honor of holding a seat on the floor of the Senate, he would very probably vote for it, as I do. I will assure those gentlemen on the other side, that, wherever they can point out an abuse, or suggest any mode by which the expenses of this Government can be reduced, they will find no more hearty coöperator than they will in me. I shall move that amendment to the amendment of the Senator from Massachusetts, and I hope he will accept it.

Mr. HAMLIN. I do not know why the Senator from Louisiana should have drawn me into the remarks which he has seen fit to submit upon the present occasion. He has read or quoted twice from minutes which he has in his possession in relation to officers who were appointed at Bath and Bangor, in the State of Maine. Now, I have not seen what the reporters said of me the other day; but if the Senator from Louisiana will have the interest to look there, he will see that I stated distinctly, on the occasion to which he referred, that I thought this was an abuse that had insensibly grown upon us, and I did not attribute it in any degree to this Administration.

Mr. SLIDELL. Perhaps I misunderstood the Senator.

Mr. HAMLIN. Now, sir, I want to allude to those particular cases with which he has connected my name. One is Bath, where there were two commissioners appointed at \$400 a year each, making \$800 in the aggregate. They alternated, and received about two dollars and a half a day each for their services; or, doing duty all the time, about a dollar and a quarter a day. I am free to confess that I recommended the appointment of those two officers at that compensation, and if there is any abuse in that, I am perfectly willing to share it.

Then, sir, in the case of Bangor, I recommended, I think, at that day, the appointment of three persons who served as commissioners there, and who received about \$2,000 in all. My recollection is, they served about three years, or in other words got about seven hundred dollars each, they alternating, for three years' service. If there is any abuse in that, I am willing to share the responsibility of it. I ought to state that the commissioners appointed at Bath were never paid one dollar, never one farthing, never one mill; though

I have no doubt, from an examination of the case as it is now being examined by the Department, that when they fully understand it they will pay them the \$400, which sum pays the commissioners, men of high intelligence, men of high integrity, about a dollar and a quarter a day for the services which they gave on that occasion. I do not think that is a very extraordinary case, or one which would justify the logging of my name into this debate.

Mr. WILSON. I wish to say to the Senator from Louisiana, that in bringing this subject before the Senate, I had no desire to cast any reflection upon the gentlemen who fill these positions, for I have not the honor of their personal acquaintance. I saw, Mr. President, that in the House of Representatives there was a very earnest debate upon a proposition to appropriate \$350,000 for the custom-house at New Orleans. In looking into the report of the Secretary of the Treasury, I saw the return made that one of those gentlemen who acted as disbursing agent received thirty-two dollars a day, the other sixteen dollars. I made that statement. The Senator from Louisiana corrected me. I find that the Senator from Louisiana was right, as I had no doubt he was when he did correct me. I was led into error by the statement of the Secretary himself. Here it is plainly stated.

Now, sir, I wish to say in regard to this amendment, that I have moved it without any personal feeling. If it had been in any other portion of the country I should have made it. I think it unnecessary, for the money that we distribute in that quarter, that we should pay \$9,000 annually to two disbursing agents. I think the collector can perform that duty without any difficulty; and as he receives a large compensation, I think he may do it without any addition. I will say to the Senator that I cannot accept his amendment. I do not know that it is not in itself fair, and I will make no opposition to it in this special case. I find, however, that at Charleston, South Carolina, where we propose to appropriate \$300,000 by this bill, the collector of that port has a smaller salary, I think, than the collector at New Orleans, and is disbursing agent, and receives only \$400 for it.

However, the Senator says he is in favor of the amendment, and is ready to go as far as I will go, or any of us on this side of the Chamber, for economy. I am glad to hear it. I am free to say I intend to point out all the cases I can that I think will save money, and to vote for all that are pointed out, come from what source they may. It so happens that I have no abuses to advocate, having never in modern times belonged to a "healthy political organization." I have no abuses of any of the parties for the last dozen years to defend here; for I happen to belong to a party that never had the privilege of bestowing any of the patronage of the Federal Government.

Mr. GREEN. And I hope never may.

Mr. SLIDELL. Will the Senator from Massachusetts allow this matter to pass over for a moment, so that I can put my hand on the amendment I intend to offer?

Mr. WILSON. Certainly.

Mr. SLIDELL. I take this occasion to say that I am happy to be informed I misapprehended the tenor of the remarks made by the Senator from Maine some days ago. I thought that he had joined the Senator from Massachusetts in his denunciation of what he was pleased to call abuses of the Government. I merely wish to say that he tells me I mistook him, and of course I withdraw what I said on that subject.

Mr. CAMERON. I desire to move the reconsideration of a vote taken two days ago, which, unless it is entered now, cannot be considered. It was a vote that was taken here on an amendment to confine the Post Office advertising to one paper in the city of Washington. I desire to move a reconsideration of the amendment. I voted for it.

Mr. HALE. I think we should cut them all off.

Mr. CAMERON. I think not. I make my motion, that it may be entered.

The PRESIDING OFFICER. Does the Senator refer to an amendment to this bill?

Mr. CAMERON. Yes, sir.

The PRESIDING OFFICER. The motion will be entered.

Mr. SIMMONS. I am directed by the Com-

mittee on Patents and the Patent Office to propose an amendment with a view to keep up the present clerical force in the Patent Office unless there should be a general act passed upon that subject during the present session. I am informed that the falling off of business has so crippled the resources of that establishment, that they have been compelled to reduce the clerical force, and have done so as far as they could, and it is necessary to make a small appropriation to supply the deficiency that they may keep the regular order of business going on. I suppose there will be no objection to the amendment. I consulted with the Secretary of the Interior, and he said the amount proposed in it would be ample. If we should pass a general law this session on the subject, it is provided that it shall not take effect at all. I hope we shall do it before we get through. The amendment is to add, at the end of the first section:

For payment of expenses in administering the patent laws, or so much thereof as may be necessary to provide for maintaining the same clerical force which is now employed in the Patent Office, \$20,000: *Provided*, That this provision shall not take effect if a general law upon the subject of patents and the Patent Office shall be passed at the present session of Congress.

Mr. HUNTER. The Senator from Florida [Mr. YULEE] moved an amendment which, as it was in the nature of legislation, it seems was voted down, to raise the fees so as to enable the Patent Office to support itself. Now, sir, I should prefer the amendment of the Senator from Florida to this one. This is designed to put this office upon the Treasury, and to begin with an appropriation of \$20,000 to support the clerks. I shall vote against this amendment, and if the Senator from Florida should renew the one he before offered, I will vote for it. He can renew it in the Senate. I think it much safer and better to raise the fees and make it self-sustaining than to begin by quartering it on the Treasury.

Mr. SIMMONS. I am not going to debate this matter, but it is reported from that Department that there is a great falling off in the receipts of the Patent Office. Every one knows that there is a general prostration of the mechanical business of the country, and because there is such a prostration of business the Senator from Virginia proposes to tax these mechanics, who invent something extraordinary, in order to make up for the losses the Department sustain this year. This is a mere temporary appropriation for a single year. If we pass the general bill giving patentees an opportunity to have greater facilities for the transaction of business, I should consent to raise the fees. The committee have reported a bill for that purpose; but the Senator from Virginia wants us to raise the fees without giving any of the facilities that the bill provided for transacting the business and keep up their expenses the same as if they had not raised the fees. I do not think it is always best to tax the laborers for everything, for their misfortunes as well as their inventions.

Mr. YULEE. As I stated the other day, one or the other of these amendments is indispensable. We must either make an appropriation to enable the office to maintain its organization, or we must increase the fees to enable it to furnish the means. I will state, upon the authority of the Commissioner of Patents, that there are now vacant the places of several examiners, assistant examiners, and clerks. These vacancies have been made and continued in consequence of the deficiency of means to pay salaries. The effect of that, as he states in a note to me, is that the business of the office cannot be executed with the dispatch necessary to the interests of applicants for patents. A further discharge of clerks will be necessary unless some relief shall be afforded by the legislation of this session, either by an appropriation or an increase of fees that will enable them to support themselves. I had despaired of the possibility of passing, at this session, or, if it passed through this House, of its passage through the other, of the general bill to which the Senator alludes. I have no hope of it at all now. A few days only remain of the session; and very few of the appropriation bills have been acted upon. I hope, therefore, that the Senate will either adopt the amendment proposed by the Senator from Rhode Island, or permit me now to substitute for it the amendment I proposed the other day, and which I offered at the instance of the committee. Is it practicable to do so?

Mr. HALE. If I mistake not, when the Senator from Florida was speaking the other day as chairman of the Committee on Patents, he stated the deficiency then to be something like three or four thousand dollars.

Mr. SIMMONS. It turns out to be more.

Mr. HALE. And the Senator from Rhode Island objected to the amendment that he offered, inasmuch as it proposed to raise over thirty thousand dollars to supply a deficiency of \$3,000.

Mr. YULEE. The Senator will allow me to say to him that that \$3,000 deficiency was for a part of the year reported by the Secretary of the Interior, and was derived from his report. Since then I learn the deficiency has increased to \$15,000, and will go on increasing, unless some change is made in the character of the fees.

Mr. HALE. I am inclined to think there is something rotten in the management there. I remember that, when the subject was up the other day, something was said about amending the tariff; it was said—I thought very justly—that it would not do to regulate our duties—it was the Senator from Virginia who said it—on imports by the experience of the past year, which was a year of great revulsion, and that we ought to leave them to themselves until next year; that it would be an unsafe system to undertake to raise the revenue upon the business of the last year. I suppose the same philosophy will apply to the Patent Office that will apply to custom-houses; and I think the best way is to leave the Patent Office as it is. I think that one reason why—no, I will not say I think so—but I have had my doubts whether one great reason of business falling off is not that political considerations have influenced the appointment and the turning out of Commissioners there, and the appointment of examiners confessedly without the qualifications necessary for the office. I may be mistaken about it; and, if I am, I will take it all back when satisfied of it; but I understand that the last Commissioner, who was a most faithful, intelligent, and efficient officer, had to give way because he wanted to administer it as a Patent, instead of a political office. He would not consent to be made a tool of, and turn out the best examiners, and put in politicians who knew nothing but politics in their place; and, because he would not do that, he had to walk the plank. The result is found in the present condition of the Patent Office. These are my opinions and I am unwilling to give them another dollar.

Mr. SIMMONS. I am not going to waste my strength in defending the Patent Office. I have never heard of any complaints of the character of which the Senator from New Hampshire speaks. I do not suppose I hear these political complaints as much as he does. I was told by the Secretary of the Interior, and by the Commissioner of Patents, that there was a deficiency in that office. I objected the other day to a partial revision of the patent laws, by increasing the fees, and refusing a return of a portion of the money, which now takes place, under a severe pressure of business in moneyed affairs. I found that my views were agreed to by the Senate, and that amendment was rejected. I was perfectly willing, if gentlemen pass the bill which will make it a self-sustaining establishment, to make a temporary appropriation that should keep up the present force, and that is all that can be done. If \$20,000 is not required, it cannot be spent under the provisions of this amendment; and if we should succeed in passing the general bill, none of the money will be expended. If the Senate wants to embarrass the Patent Office, it can do so.

The amendment was not agreed to.

Mr. SLIDELL. I have now got the amendment that I referred to a few moments ago in relation to disbursing officers. I move to amend the amendment of the Senator from Massachusetts, by striking out from the words "public works" to the words "and provided further," and insert

Such compensation, not exceeding one fourth of one per cent, as the Secretary of the Treasury may deem equitable and just.

So that the amendment will read:

And be it further enacted, That the collectors of customs in the several collection districts, be, and they are hereby, and hereafter, required to act as disbursing agents for the payment of all moneys that are, or may hereafter, be appropriated for the construction of custom houses, court-houses, post offices, marine hospitals, and other public works, such compensation, not exceeding one fourth of one per cent., as the Secretary of the Treasury may deem equitable and

just: And provided further, That where there is no collector at the place of location of any public work, the superintendent of such public work shall act as disbursing agent without any additional compensation therefor; and all laws and parts of laws inconsistent with this section be, and the same are hereby, repealed.

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

Mr. JOHNSON, of Tennessee. Will it be in order for me to move to strike out from line two hundred and thirty-one to line two hundred and forty, being the appropriation for the completion of the Washington aqueduct?

The PRESIDING OFFICER. The proposition of the Senator would be in order.

Mr. JOHNSON, of Tennessee. There is a great deal of talk here about economy, and curtailing public expenditures, and the necessity of appropriations merely for the continuance of works; to prevent the dilapidation of works already commenced, and all that. If you will examine this bill, you will find that from line two hundred and thirty-one to line two hundred and forty, there is an appropriation of \$1,000,000 for the completion of the aqueduct, to bring water to Washington city. I do not intend to make a speech; but the engineer—Mr. Meigs, I believe he is commonly called—told me the other day, before our committee, that of the whole amount of water to be brought into this city by the construction of the aqueduct, the Government would not require more than one fifth or one tenth of it for its purposes. Its cost will amount to some four or six millions by the time it is completed. I want to know where is the great necessity for the construction of this work at this particular period? The Treasury is bankrupt; we are borrowing money in order to meet the necessary expenses of the Government; and yet here is a simple proposition to appropriate \$1,000,000 to bring water to Washington city. The Government does not need one tenth of the water intended to be brought by the aqueduct, and if it should not be brought at all, we should still have plenty of water here to supply all the wants of the Government.

In addition to that, in the construction of our buildings here, we appropriate large sums and pay extravagant prices to make them all fire-proof; and after we have constructed them and made them fire-proof, it seems we must expend six or eight or ten million dollars to bring water into the city to preserve them from destruction by fire! So far as the consumption of water is concerned, for ordinary purposes, there is plenty of it here. As this is a time to retrench, as the Treasury is bankrupt and we are borrowing money and paying six per cent. on it, it seems to me that this expenditure might be gotten clear of. I therefore move to strike it out of the bill. I have no idea that the motion will be agreed to—none in the world; but I want to make a record on it; and I am in hopes that those gentlemen who are for it, and who intend to continue it, will have the moral courage to give us the yeas and nays upon my motion, if they intend to sustain it in the bill.

The PRESIDING OFFICER. The question is on the motion of the Senator from Tennessee to strike out the following clause:

"For the completion of the Washington aqueduct, \$800,000; and in addition thereto, so much of the appropriation of \$250,000 for paying existing liabilities for the Washington aqueduct, and preserving the work already done from injury," contained in the act entitled "An act making appropriations for certain civil expenses of the Government for the year ending the 30th June, 1857," approved 18th August, 1856, as may not be required for said purposes."

The yeas and nays were ordered.

Mr. DAVIS. I do not think there is a more abused word in the English language than "economy." I can scarcely imagine a greater abuse of the word than that which is now applied. Whether Congress should have undertaken to make an aqueduct or not, is a question which might have led to long argument. That question, however, is closed. They have progressed so far in the completion of the aqueduct, that to stop where they are would certainly be the worst economy in the world. They had better complete it, if they were going to sell the work, than stop where they are. They have progressed by sections, which are useless as they stand, but will be very useful if completed. The water will certainly be in excess over what is wanted for public buildings. After the water is introduced, if the Gov-

ernment choose to make a speculation out of it, I suppose they can sell it to the uses of the cities of Washington and Georgetown, and that it will be a very good speculation in that form.

Nor do I think that the only purpose for which water may be introduced is the extinguishment of fire and the supply of the public buildings. The health and comfort of members of Congress, and of other employees of the Government, is to be considered. The health of this city, as it is now built up, requires a large amount of water, and underground drainage, and sewers, in order that we may not be subjected to such diseases as visited one of the hotels last year. It is useless, however, to argue the policy or the propriety of stopping the work on the aqueduct now. It is a thing which the Government undertook to do, and with which the Senator from Tennessee, like myself, had no connection. The question is now whether we shall complete the work which has progressed too far for us to stop.

Mr. JOHNSON, of Tennessee. Sometimes the construction of terms is brought about by very different considerations. If the term "economy" is abused in the sense in which I use it, I might be censured for the use of that term. I think it would be economy here to-night for the Government to abandon this work, and throw away every dollar it has expended upon it. After it has expended this \$1,000,000 in the completion of the work, there will still be a continued expense in keeping it up, and keeping this city supplied with water. The idea of the Federal Government dealing out water to those who may want it, with a view of making a profit on it, is rather utopian to my mind. It seems to me there is no economy in that construction of the term. The idea of the Government erecting water-works and selling water out to the different cities, with a view of making money! Did this Government ever commence a speculation of that kind but what resulted in total loss of the expenditure? Can there be a single instance found? The idea of the Government speculating in water-works and making a profitable investment, seems to me to be a very strange notion of economy. My own honest conviction here to-night is, that it would be better for the Government to abandon this whole concern. It will take a long time before the pipes rot; they would not decay much while the Treasury is exhausted and we are talking about the revenues; the aqueduct is constructed of brick and substantial material that will not rot. We might suspend the work upon it for a short time, until we see what the receipts into the Treasury amount to; and whether it will be necessary to increase the taxes on the people to carry on the Government. I do not think, if we were to suspend it until that could be ascertained, that it would cause any great delay or any great expenditure. I believe it would be profitable, and the safest investment for the Government, to appropriate a certain amount of money to get clear of the whole work, and authorize it to be sold. If we had been so disposed, it would have been very easy for us to have constructed machinery somewhere on the Potomac, of sufficient capability to supply all the water the Government might want. Such a work could have been constructed and kept up for one tenth or one twentieth, or perhaps one thirtieth, the amount the present plan will cost.

Sir, this appropriation is not based on the interests of the Government, but on the convenience and wants of the people of Georgetown and Washington. We might as well talk about the thing seriously. What amount of water do we need here? Is it necessary to construct water works, to cost some six or eight or ten million dollars before they are finished, to supply the Government with what water it wants about the public buildings in Washington city? Can anybody think so? While we are talking about economy, while the Government is in great straits, while we are talking about half a dozen wars with all the southern Republics, and Great Britain thrown in, (which, by the by, has heretofore been considered a nation of some importance,) while we are borrowing \$35,000,000, while the receipts are falling off, the people complaining, the expenditures of the Government, still increasing—yet, when it is proposed to cut off a simple item of a million dollars for water-works, the stoppage of which can injure nobody, and especially the Government, it is said, "oh, this is not the place; that

is a bad notion of economy." I refer to this, not with any feelings of personal unkindness; and the Senator from Mississippi knows it. It is a mere difference in construction. He thinks that to strike out this item would be an abuse of the term "economy." Now, it seems to me that we could get clear of that single clause of a million dollars. That is something. If we should cut down a million dollars here, and five hundred thousand dollars somewhere else, and two hundred and fifty thousand dollars somewhere else, and if we should go on at that rate, in a short time we can bring down the expenditures of this Government within the receipts under the operation of the present tariff.

While I am up, I will call attention to another item which has been reported by the Committee on Finance:

"For continuing the grading and planting with trees the unimproved portions of the Mall, \$10,000."

That is a very great work of necessity, is it not? I want to know whether the Senate referred that subject to the Committee on Finance? The question was considered here to-day whether a committee had any authority to report anything to the Senate, unless the subject-matter was first referred by the Senate to the committee. When did the Senate refer the question of the improvement of the Mall to the Committee on Finance? Here are \$10,000 appropriated for continuing the grading and planting of trees on the Mall. How long has the Mall been in its present condition? Very nearly since God Almighty created the globe. It has, at least, been in that condition very nearly since this Government commenced; and now, all at once, we have got into a great strait for grading and planting trees, and continuing the improvement of the Mall. This is the way we are going along with economy and retrenchment!

Well, sir, here is another little item. I know the Senator from Mississippi and myself will not agree upon that, for he offered an amendment, the other day, to make it \$1,100,000 instead of \$750,000:

"For the United States Capitol extension, \$750,000."

That is a work of great necessity, is it not? With three wars in prospect, Great Britain to come along in the lead, the Treasury exhausted, your tariff too low, here are \$750,000 appropriated for the extension of the Capitol. We have expended a large sum already upon that extension. In this connection, I will say that I would vote more cheerfully this night for an appropriation of money to pull down these extensions and haul them away, than I would vote for a single dollar to continue them. Look at that old Hall of the Representatives, which comports with our ancient notions of republican simplicity, plainness, and grandeur; compare it with that new Hall which you have constructed, and how does it compare? I expect, for convenience of the times, that we shall have to convert that old Hall—a representation of the fathers of the country—into a grocery, or make a saloon of it, or something of the kind. There is that Hall lying waste which would have answered the purposes of this Government, and which corresponded, too, with our notions of republican simplicity, for the next one hundred years. By a little remodeling and taking out some of these partition walls, this Senate Chamber could have been made capacious enough to have contained everybody that desired to witness and hear what was transpiring in the Senate Chamber. But there are a set of cormorants, contractors, stock-jobbers—I will not stop there—plunderers of the Federal Treasury, that hang around, and can make programmes, and draughts, and drawings, and all that description of things, and who appeal to members—Senators and Representatives—to do this and do that by way of maintaining the national dignity and character. You must do something in the way of sculpture, something in the way of architecture, something in the way of magnificent buildings, to keep up our importance and maintain our character abroad, so that they can obtain jobs, contracts, speculations, and make employment out of the Government, and swindle it of thousands, from which no real good can result.

Look at that new Hall of the House of Representatives, and then recall the description given of it by my distinguished friend on my left, [Mr. Houston,] in his remarks on the subject the other day. He was speaking about the god-

ness of Liberty. I did not know he was such a critic before. I do not make any pretensions of that sort, but it struck me with some force that he was a critic. He was speaking about the unnatural attitude and the position of the figure intended to represent the goddess of Liberty. He disclaimed, however, very gallantly, taking any undue liberties with the goddess; but his criticism, I thought, was merited upon all the gorgeous gilt thrown about the new Chambers, that it does not comport with our character and dignity as a free people. We talk about republican simplicity. Our public buildings should be erected upon a plan that should combine utility, while, at the same time, consulting appearance, to some extent.

Here are three appropriations, of \$1,000,000 for water-works; \$10,000 for the Mall—a work of great necessity—and \$750,000 for the extension of the Capitol. Let me ask every Senator here, and every one that hears me, does the Government need the expenditure of this money now? Would it not be better, coming up to the strict meaning of the term "economy," so far as that is concerned, to dispense with these extensions, to omit this improvement of the Mall, and let the water-works go where they may, or pay something to get clear of them, than continue them, and make these appropriations at the present time? But even if we are disposed to continue these works, would it not be prudent and judicious to suspend them for the present, until we can see what receipts will be in the Treasury under the operation of the reduced tariff? If we go on making these heavy appropriations, the argument will come in upon us, with tenfold force, to increase the tariff, and make the duties higher. We know this will be so.

We now see that the expenditures of the Government have run up to \$75,000,000. Let me say to Democrats, Know Nothings, and Black Republicans, in the Senate Chamber of the United States, to-night, if the expenditures of this Government are not arrested, in 1860 the party that stands by and maintains them will be run over by the same irresistible avalanche that swept over the country in 1840. I am no prophet, nor the son of a prophet; but if these things are not arrested, like causes will produce like effects; and I tell you, when agitation ceases in the country, in reference to Kansas and negroes South and negroes North, and the public mind can be brought to consider these vast expenditures of the Federal Government, the party that stands by them and maintains them will be run over with an irresistible current, in 1860. I intend, so far as I am concerned, that my skirts shall be clear of these unnecessary, extravagant, and profligate appropriations of the people's money by the Federal Government. I believe them to be so. I do not intend to be personal to anybody; but I believe them to be so; I know them to be so. Here, then, are three little items, by the striking out of which, we can bring down the expenditures of this Government over a million and three quarters of dollars. When it is proposed to do so, however, we are told this is not the place for retrenchment; these works should go on; we are committed to them. You may even go into the States and find works for which the Government have commenced unnecessary appropriations; but if there is an attempt made to discontinue them, you are told the work has been commenced, and you must not stop it, or you will lose all that which has been done. Nine times out of ten, it would be better to lose it and go no further with the thing. Here we have commenced the erection of water-works. Do not stop that. Oh, no; that must go on. Then we come to the Mall, and propose to strike out that item, and it will not do to stop that. You come to the appropriation for the extension of the Capitol, and it will not do to apply retrenchment there.

If you propose to reduce or strike out any of the appropriations for these improvements, you will have to meet the argument—I have been expecting it for some time—here are a great many men employed, and they will be turned out of employment if the proposition should be agreed to. The mere statement of the argument shows you where we are driving and tending, that the Government must make improvements in the shape of extensions of the Capitol, or the adornment of the Mall, or the erection of water-works, or the

construction of a harbor, or something else—and for what? To give employment to the people—the most dangerous doctrine that ever was sustained in any government: that the Government must be the undertaker, that the Government must be the giver out of jobs for the sake of giving employment to the great mass of the people! The theory is wrong. Why do I say so? You are making the people look to the Government for employment; and just in proportion as you make the people dependent on the Government, the Government controls the people, instead of the people controlling the Government. Let the Government be dependent on the people, and let the people fall back on their own resources, on their own avocations, and not look to the Government of the United States, or even to the State governments, for employment; for just in proportion as the people look here for employment, and become dependent on the Government, State or Federal, for employment, in the very same proportion they cease to be freemen; the Government becomes paramount and the people inferior.

But we will be met here, as we are met in every attempt of this kind to reduce our expenditures, by the plea that this is not the place. Oh, no; do not touch that appropriation. When we come along to another item, and propose to reduce that, that is not the place; do not touch that. You come along to another appropriation, and propose to reduce that, and you are told, do not touch that; it is not the place to reform. Mr. President, where is the place? Has anybody ever yet found out the right place? If you happen to find the right place, the next argument you are met with is, that this is not the time to retrench. The term is unmeaning. We go along in time of peace, but that is not the time, that is not the place, and that is not the occasion. When war breaks out, and we talk about retrenchment, it is said it is no time to talk about retrenchment in time of war. Well, when will it come? It is not the time of peace, it is not the proper time in war. I wish we could get an interval between peace and war, to see if that would be the time. I do not think the time will ever come. It never will come until the voice of the people comes in upon the Congress of the United States, and speaks to them in unmistakable language what their feelings and their sentiments are on this subject. I move that from line two hundred and thirty-one down to two hundred and forty be stricken out, and then I shall move that these two other propositions be stricken out; or I would prefer that the vote should be taken on all together, if it would suit, to save time.

Mr. DAVIS. I feel somewhat gratified that the Senator has announced to us that he is not a prophet, and I hope his prophecy, so far as he has made it, will not be verified; that the fate of the Democracy does not hang on the reduction of annual expenses. I rely on the good sense of the people when they examine the gross amount expended, and inquire, also, for what purpose it was done. I hold an Administration responsible that wastes a dollar: I applaud the Administration that judiciously expends \$100,000,000—the more the better, if the country is made richer by the expenditures.

The Senator also announces that his skirts will be clear when the sad reckoning which he expects in 1860 arrives. I hope better for the Democracy yet, than that we have reached the condition he speaks of. I have no fear of that crushing out. I have no fear, if the Administration disburse the appropriations honestly, and show returns for every disbursement worthy of the amount, that the people have not judgment enough to discriminate between that and the simple cry of so many dollars.

I concur heartily with the Senator in his remarks against making the Government of the United States the great almoner of the people. I concur with him entirely, that we should not undertake works and make appropriations to give employment to the people; that the Government is but the agent of the people, not to give, but to receive. It struck me somewhat curiously, in connection with an argument which the Senator made recently, that whilst he was striking so fiercely at the very idea (though I do not know that anybody ever announced it) that the Government should give work to the people, he had himself, for many hours together, harangued the Senate to show that the Government ought to

give land to the people. What is the difference in principle?

Mr. JOHNSON, of Tennessee. Neither the Senator, nor anybody else, ever heard me harangue the Senate for hours, to give land to the people. I have harangued the Senate and the country to permit the people to take that which is theirs.

Mr. DAVIS. That is a very nice distinction. I thought the Government was the trustee for the disposition of the public land, and that it was a part of that revenue which supplied the wants of the Government. I suppose he might as well say the Treasury belonged to the people, and that money should be distributed from the Treasury. What is the difference? The Treasury does belong to the people as much as the land; and if the Government were to give employment to do work, and should have something left, it would be just that much better than dividing the Treasury—just that much better than giving away land.

There is one thing, however, Mr. President, I am in favor of giving away; and that is water, and advising the people to drink it pure, to take it simple. I am in favor of washing the streets of the metropolis of the nation; and though I would do nothing simply on that point of national pride that should elevate us to a fair comparison with any other country, I am not without the sentiment. I do glory in seeing my country advance in everything beyond all others. I do glory in seeing her capital surrounded by monuments of art that show how far our generation has progressed.

But this seems to be a point at which the Senator is startled in connection with that which he speaks of as the extension of the Capitol. Now, I do not know that anybody proposes to extend the Capitol any further than the present wings. It is the completion of the buildings which are commenced. One wing already has received the House of Representatives; the other is not prepared to receive the Senate. This money is to complete those wings to receive the committees; to receive the Senate, and give those accommodations which experience has shown the House and the Senate both require. He puts the Senator from Texas in a wrong position. His criticism—though I do not think it at all just—was not in relation to the painting of the House of Representatives. He never mistook the gilding for the goddess of Liberty. The Senator is too good a critic for that. He did find a female statue. It was that which he was describing, and not the gilding of the House of Representatives.

But the Senator from Tennessee is struck with the architectural and artistic display in the House of Representatives, and he refers to the old Hall. That old Hall is in a much higher style of architecture than the new. It was the embellishment of that old Hall, in its columns, breaking the sound, that gave back echoes, which rendered it useless for legislative purposes. The old Hall was made for beauty, the new Hall for use. That is the difference. The old Hall was made so beautiful, filled with dead points, or foci, that it was impossible to hear, all over the Hall, any speaker in any position he could occupy. These facts are familiar to the Senator, for he served in that Hall. It interfered with the deliberations; it affected legislation; it was injurious to the whole country; it was felt by every member of the House. The constant solicitation was for some change of the Hall that would fit it for hearing and speaking; and despairing of that, they used the only remedy that was possible—the construction of a new one. It is true, you may suspend the work. Both wings are covered in. They would not be injured by suspension so far. The vast material that is collected around here, and which is intended, however, to complete these wings, would suffer, and it would be liable to injury, and at last you would have the amount to spend increased by having interrupted the progress of the work. Now, I do not see the economy of that. But to take the other branch of the Senator's proposition, to tear down the wings and haul them away—would that be economy? That would involve expense. I see no view in which it strikes my mind. The Senator aptly says, however, that we view the same thing in different lights. There is no view, however, that I am able to take of the subject, which brings either of his propositions within the just meaning of economy, unless it be to stop planting those few trees on the Mall.

Mr. IVERSON. I do not rise to make a speech, but simply to state a fact of which the Senate may not be apprised, and which may have some influence upon the decision of this question. Two years ago, the House of Representatives refused to appropriate money for the prosecution of the work upon the aqueduct. After a contest between the two Houses, \$250,000 was appropriated simply to preserve the work already done. The consequence was, that the contracts which had been entered into by the superintendent had to be abrogated or suspended; and at this session of Congress, claims have been presented by those contractors demanding very large damages from the Government for the injury which they sustained on account of the suspension of their contracts. Those cases have been referred to the Committee on Claims, of which I am a member, and they are now under consideration. We have not yet sufficiently looked into them to know whether they are founded in law or in equity; but at any rate, they are presented, and probably they are only a beginning of a large number that may be presented hereafter. Now, if you refuse this appropriation, what will be the result? I understand contracts have been entered into by the superintendent to complete the whole of his work, from one end of the line to the other, in anticipation, probably, of an appropriation being made. If, therefore, this proposition of the Senator from Tennessee prevail, and this appropriation be not made, we must look, of course, for applications for damages, amounting, perhaps, to quite as much as the appropriation itself.

Mr. JOHNSON, of Tennessee. I think the Senator from Mississippi misunderstood what I said in reference to the Senator from Texas. I understood the remarks of the Senator from Texas to be made in reference to the new Senate Hall, and I thought I so stated. It was not my intention to locate his criticism, but as I understood it I rather approved it. I pretend not to understand anything about sculpture or paintings, or the construction of halls; I do not pretend to have any taste for matters of that kind. If I come into a splendid hall, and look at it, I can tell whether it strikes me as of proper dimensions, and as being properly constructed, taken as a whole. There is something in it that pleases or displeases me. I confess that, when I went into the new Hall of the House of Representatives, it did not strike me as being so imposing, and of a style of architecture so well adapted to the American character, as the old Hall of Representatives.

Mr. DAVIS. It is not as beautiful as the old Hall.

Mr. JOHNSON, of Tennessee. The old Hall is not gaudy; there are about it no unnecessary flourishes in gilding and painting; but there is a grandeur, a dignity, a republican simplicity about it, with which the new structure cannot at all compare. I do not care whether you call it beauty or not. I think it is much better adapted to our character. I know an objection was made that it was difficult to hear the Speaker when he was putting a question in the old Hall, and that it was difficult to hear members who were addressing the House; but it seems to me that the same means which have been resorted to in the new Hall to prevent that could have been applied as a remedy in the old Hall. The structure of the ceiling might have been altered, and in that way a remedy applied. Be that as it may, however, I do not think the reply of the Senator from Mississippi, on that point, has much to do with the remarks I made as to what had been said by the Senator from Texas.

The Senator from Mississippi seems to admit that there is one item of the bill to which I object that might be stricken out—the \$10,000 for the improvement of the Mall. I infer from his remarks, though he did not say so expressly, that he thinks that is not necessary. He is, however, in favor of giving the citizens of Washington, and those persons who visit Washington, plenty of water—good, pure water, unadulterated, unmixed. Well, sir, if he were to pass a law of that character, and appropriate ten times the cost of the water-works to complete them, with a distinct understanding that the water is not to be adulterated, this city, and the comers to it, would vote down such a proposition at once, for pure water is the last thing they want. [Laughter.] That is not the article they desire. If that was

to be the result of the completion of these water-works, the people of Washington would come *en masse*, at least two thirds or three fourths of them, and three fourths of all the visitors here, and protest most zealously, earnestly, and emphatically, against the passage of any such law that would give them water without dilution. So, I do not think there is much in that portion of the argument.

But, in reply to what I said as to the Government giving employment to the people, the honorable Senator from Mississippi wants to know if the Government might not as well give employment to its citizens as give them land. Let me ask him how much the expenditure of \$10,000 for the Mall, \$750,000 for the Capitol extension, and \$1,000,000 for the Washington aqueduct, will add to the productive capacity, or to the revenue, of the country? Do they bring one cent into the Treasury of the United States? Do they add anything to the productive capacity of the country? You may give a man employment on the work; you may pay him for days and months and years, while he labors on it; but he appropriates what he gets from the Government to his own support, and does not add anything to the production of the country. So far as he is concerned, I have no objection to the benefit done to him; my objection is on other grounds.

But, here is an indirect attack upon the homestead policy. The Senator speaks of it as giving away land. I do not admit that proposition. You have a large amount of public domain—fifteen hundred million acres—that has been acquired by the blood and treasure of the nation. To whom does it belong? The Federal Government, it is true, holds it in trust for the great mass of the people; and the proposition of the homestead bill is not to give land away, but to permit the head of a family to settle upon and take a part of that which is his, and for which he or his ancestors, or some connected with him, shed their blood and expended their money. Yes, sir; and many of them were with my honored friend on the field of battle. I prize him much higher when I call him Colonel DAVIS than Senator DAVIS, for the brightest and most imperishable laurels that encircle his brow were won under the appellation of Colonel. Many of those gallant men who, in Mexico, fought the battles of their country by his side, now sleep in a foreign grave. The result of that war was a large acquisition of territory. That domain was acquired by the United States as a consequence of their bravery, their patriotism, and their valor, in the battle-field with him. When I propose that the descendants of those men may go upon, settle, and occupy, a part of that which was won by the blood and the valor of their fathers, live upon it, and cultivate it, so as to make a support for their wives and their children, I am told that I propose to give away the public property; that these men are here asking charities in land. No, sir; they do not ask you to give them anything; but I demand, in the name of their valor, their blood, their patriotism, and their suffering widows and children, that you let them go and take that which belongs to them, which is the price of their blood and treasure.

Mr. MASON. Will the Senator allow me to ask him a question?

Mr. JOHNSON, of Tennessee. Certainly.

Mr. MASON. If the public lands belong to the people, why do not the people take them without any authority of law? I understand the Senator to say that he has not asked that the land should be given to the people—lands to the landless, and homes to the homeless; but that he asks that the people shall be allowed to take what belongs to them. Now, if the lands belong to the people, why should they require a law to allow them to use them?

Mr. JOHNSON, of Tennessee. The Senator is a lawyer, and I will put a case to him. Suppose there was a trustee to hold an estate in his hands for the benefit of heirs; there are certain legal processes required to be gone through with before they can obtain possession of the estate, and use it. The Federal Government is the trustee of the public domain; but is it the owner of the soil? Is not the equity in the people? The Government being the trustee, we propose a mode according to the forms of law, of permitting the people to take that which belongs to them. Does not this Government belong to the people? Does

not all the public domain belong to the people? The Government holds it in trust for the whole; and all we ask is, that you prescribe a mode by which each individual may possess himself of that which is his. Is there anything wrong in that? You have nearly seven million quarter sections of public lands; there are three million heads of families in the United States; and if you permit every head of a family to take a quarter of a section, you would still have half the domain left in the hands of the trustee to be disposed of. Is that giving? No; it is simply permitting each individual to go and possess himself of a part of that which is his, and not what belongs to anybody else. Who does he take it away from? Who is deprived of anything by permitting a man to go forward, and take a portion of that domain which is actually his? Who is deprived of any right, who is deprived of any soil by it? Nobody. But what is the effect? Leave the land as it is, and it is wholly unproductive; allow it to be occupied, and you increase its production, and of course increase the capacity of the settler upon it for consumption, and thereby increase the Federal revenue. While you do this for the Treasury, what do you do for the man himself? You give him an interest in the country; you make him a better man and a better voter; he goes to the ballot-box, and votes his own will, not that of his landlord or his master. So much for the land; so much for the pure water. I hope we shall have a vote.

Mr. PEARCE. I think there are about twenty-four Senators in their seats, and I do not see that we are making much progress in business. I think we had better adjourn, and I make that motion.

Mr. FESSENDEN and others. Oh, no; let us get the bill out of committee.

Mr. HALE. I call for the yeas and nays.

Mr. HUNTER. I think the debate is through, and we can take the question. I hope the Senator from Maryland will not press his motion, but will let us get the bill out of Committee of the Whole, and order it to its third reading.

Mr. PUGH. You cannot get the bill through without a great deal of debate.

Mr. PEARCE. I shall withdraw the motion if the understanding is, that we shall proceed to vote; ["Yes."] but I do not want to sit here to hear any more speeches.

Mr. PUGH. I renew the motion to adjourn. The motion was not agreed to.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Tennessee.

Mr. PUGH. I wanted the Senate to adjourn; but if the Senate is not disposed to adjourn, I wish to say a word or two on this proposition. Before the Senator from Tennessee insists on striking out the whole clause, I hope he will permit me to perfect it under the rules of the Senate, by moving to strike out "eight," and insert "four," so as to reduce the appropriation from \$800,000 to \$400,000.

The PRESIDING OFFICER. That motion will be first in order.

Mr. PUGH. Mr. President, I wish to understand whether the little breeze of economy with which we have been favored, is really intended to apply to the magnificent and extravagant works of the Government in this neighborhood, or whether it is only meant to frighten those who happen to live remote from the city of Washington. The Administration began the fiscal year with \$17,000,000 of surplus, and in twelve months finds a deficiency of \$35,000,000. I want to know whether there is to be a reduction of a cent on these works, which are not works of necessity, which can be postponed to next year or the year after just as well, when we are told that the Government is too poor to take care of anybody else. Sir, I am utterly amazed at the presumption of the Senator from Tennessee. He is not only, it seems, ignorant of architecture, but he is ignorant of the science of geography. I had scarcely recovered my amazement at the presumption of the Senator from Missouri and the Senator from Illinois, who imagined that those two great empires, the States of Missouri and Illinois, had any interest in this Government comparable to the importance of rediscovering the entrance into Charleston harbor! Why, sir, the Senators do not understand geography. They forget that their States are west of the Alleghany mountains, and that the only in-

terest they have in this Government is to be taxed. Yes, sir, under the miscellaneous appropriation bill now pending, it has gone forth as the decree did in the days of Cæsar Augustus, that the world shall be taxed, and taxed for what? Why, sir, we are watered both ways under this bill. We have not salt water in our country and we are held up to contempt for that; and then we are compelled to furnish fresh water to the people that live in the neighborhood of the salt water.

I ask if this is the rigid economy that is preached in the Cincinnati platform, or has the Cincinnati platform become a myth? Is this what your \$15,000,000 of loan were for? Is this what your \$20,000,000 of Treasury notes were for? You appropriate \$1,000,000 a year to furnish water works in the city of Washington. The Senator from Virginia [Mr. Mason] suggests that if I will give way, he will move an adjournment. I have not quite got through my speech; but I will make the motion to adjourn myself.

The motion was not agreed to; there being, on a division—ayes 17, noes 18.

Mr. PUGH. Well, Mr. President, the Senator from Virginia [Mr. Hunter] is very anxious to have me quit; he wants to pass this bill; I do not want it to pass; and, therefore, I am not at all to be appeased. I want the bill defeated; I think it ought to be defeated. If you stand on the ground of economy, and say that it is necessary to bring the expenses of this Government within its revenue, there is not a single appropriation in the bill that ought to pass. It is not to carry on the Government. We have passed that bill to our hearts' content, and to the sore discontent of the pockets of our constituents. This is the miscellaneous bill; this is to put in all the odds and ends; every loose dollar that is lying in the Treasury, or can be gathered from the pockets of the people, to carry certain favorite appropriations. As I said before, I am lost in amazement at the presumption of the Senators from Missouri, and Illinois, and Tennessee, to imagine that any attempt they could make, or any of the rest of us could make who live west of the Alleghany mountains, can arrest the extravagance, the lavishness, with which the Federal Government pours out its revenues on the Atlantic coast. I know the Senator from Delaware read me a lecture for saying that; that was sectional; that was very sectional! Well, sir, I have supposed, strangely enough, that the Constitution of the United States was designed to have the same operation throughout the whole Union; but, as it is now administered, I see no benefit that is produced to the vast agricultural States west of the Alleghany mountains. As I said to-night before, they are conquered provinces under the system of abuse with which the Federal Government levies tribute from them to contribute to the aggrandizement of the Atlantic States.

Now, sir, what is this appropriation for? What is the necessity of it? Why do we want millions on millions to bring water into the city of Washington? If you had plenty of money, I should not make much objection. Although I voted against it, I said nothing while your Treasury was overflowing; but now when the time for retrenchment has come—

Mr. SEWARD. Will the honorable Senator allow me to make a motion to adjourn?

Mr. PUGH. Yes, sir, I will make the motion myself.

Mr. SEWARD. I move that the Senate adjourn.

Mr. HALE called for the yeas and nays, and they were ordered; and, being taken, resulted—yeas 21, nays 22; as follows:

YEAS—Messrs. Allen, Bell, Broderick, Brown, Cameron, Chandler, Crittenden, Green, Harlan, Houston, Iverson, Kennedy, King, Mallory, Mason, Pearce, Pugh, Sebastian, Seward, Wade, and Yulee—21.

NAYS—Messrs. Bayard, Benjamin, Clingman, Collamer, Fessenden, Foot, Foster, Gwin, Hale, Hamlin, Hunter, Johnson of Arkansas, Johnson of Tennessee, Polk, Reid, Rice, Slidell, Stuart, Thomson of New Jersey, Toombs, Wilson, and Wright—22.

So the Senate refused to adjourn.

Mr. PUGH. Well, Mr. President, I shall waive the rest of my speech until the bill comes up on its final passage.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio to reduce the appropriation for the Washington aqueduct from \$800,000 to \$400,000.

Mr. PUGH called for the yeas and nays; and they were ordered.

Mr. POLK. I was requested to state that the Senator from Illinois [Mr. TRUMBULL] and the Senator from Pennsylvania [Mr. BIGLER] have paired off.

The question being taken by yeas and nays, resulted—yeas 10, nays 31; as follows:

YEAS—Messrs. Cameron, Chandler, Fitch, Hamlin, Harlan, Johnson of Arkansas, Johnson of Tennessee, Polk, Pugh, and Wade—10.

NAYS—Messrs. Allen, Bayard, Benjamin, Broderick, Brown, Clingman, Collamer, Crittenden, Fessenden, Foot, Foster, Green, Gwin, Hale, Houston, Hunter, Iverson, Kennedy, Mason, Pearce, Reid, Rice, Sebastian, Seward, Slidell, Stuart, Thomson of New Jersey, Toombs, Wilson, Wright, and Yulee—31.

So the amendment was rejected.

Mr. SEWARD. I move that the Senate do now adjourn.

The motion was not agreed to.

The PRESIDING OFFICER. The question is on the motion of the Senator from Tennessee to strike out the clause making an appropriation for the Washington aqueduct, on which the yeas and nays have been ordered.

The yeas and nays were taken, with the following result:

YEAS—Messrs. Cameron, Harlan, Johnson of Tennessee, Polk, Pugh, and Wade—6.

NAYS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Broderick, Brown, Clingman, Collamer, Crittenden, Fessenden, Fitch, Foot, Foster, Green, Gwin, Hale, Hamlin, Houston, Hunter, Iverson, Kennedy, Mason, Pearce, Reid, Rice, Sebastian, Seward, Slidell, Stuart, Thomson of New Jersey, Wilson, Wright, and Yulee—35.

So the Senate refused to strike out the clause.

On motion of Mr. SEWARD (at half past ten o'clock, p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, June 1, 1858.

The House met at eleven o'clock, a. m. Prayer by Rev. T. M. CARSON.

The Journal of yesterday was read and approved.

SELECT COMMITTEE ON ART.

The SPEAKER announced that he had appointed Messrs. MARSHALL of Kentucky, KEITT, TAYLOR of New York, MORRIS of Pennsylvania, and PENDLETON, the select committee, to whom was referred the memorial of artists, presented by Mr. MARSHALL, of Kentucky.

CHICKASAW BONDS.

The SPEAKER laid before the House the annual report upon the bonds held in trust for the Chickasaw Indians; which was laid on the table, and ordered to be printed.

EXPLORATIONS OF THE AMOOR.

Mr. JOHN COCHRANE, by unanimous consent, offered the following resolution; which was referred to the Committee on Printing.

Resolved, That there be printed ten thousand extra copies of Executive Document No. 98, being Dallas's report on the Amoor river.

ADJOURNMENT OF CONGRESS.

Mr. KELSEY asked the unanimous consent of the House to offer the following resolution:

Whereas, the recent acts of British armed vessels in the Gulf of Mexico and on the coast of Cuba have placed the relations of this country and Great Britain in a critical and delicate position, which may require early action on the part of Congress to uphold the rights of our citizens and the honor of our flag; and whereas, this Government is compelled to issue Treasury notes, and to borrow money to defray its current expenses, while the revenue under its present laws is wholly inadequate to pay those expenses, without making any provision whatever for paying the indebtedness already created; and whereas, the House has devoted only three days during the present session to the consideration of bills on the Private Calendar to which objection has been made, thus failing to give this class of claimants a hearing upon their claims, though the entire time of members of this House is now paid for by the Government: Therefore,

Be it resolved by the Senate and House of Representatives in Congress assembled, That it is inexpedient for Congress to adjourn without making provision for protecting the rights of our citizens and the honor of our flag on the ocean, and without making provision for repaying the money we are compelled to borrow, and without hearing that class of private claimants whose bills remain upon the Calendar, because a single objection has been made against them.

And be it further resolved, That the joint resolution requiring the President of the Senate and the Speaker of the House of Representatives to adjourn their respective Houses *die* at twelve o'clock, at noon, on the 7th day of June, instant, be, and the same is hereby, rescinded.

Mr. J. GLANCY JONES. I call for the regular order of business.

Mr. KELSEY. I move to suspend the rules. The SPEAKER. The motion is not in order.

Mr. COBB. I give notice that if the gentleman's resolution is received, I will offer an amendment which I have had ready to offer for several days—a simple one, without a stump speech in it—to repeal the resolution proposing to adjourn on Monday next. It reads as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution requiring the President of the Senate and the Speaker of the House of Representatives to adjourn their respective Houses *sine die* on the first Monday of June next, at twelve o'clock, m., be, and the same is hereby, repealed.

ENROLLED BILLS.

Mr. PIKE, from the Committee on Enrolled Bills, reported as truly enrolled, the following act and joint resolutions, when the Speaker signed the same:

Resolution for the adjustment of difficulties with the Republic of Paraguay;

Resolution to correct an error in a certain act approved May 11, 1858; and

An act for the relief of Thomas Phenix, jr.

DEFICIENCIES IN INDIAN DEPARTMENT.

The SPEAKER stated that the business first in order was the motion to recommit the bill (H. R. No. 555) to supply deficiencies in the appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1858.

Mr. J. GLANCY JONES. I withdraw that motion, and move the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

The several amendments recommended by the Committee of the Whole on the state of the Union were agreed to, with the exception of the third amendment, which was to strike out "\$25,000" in the following clause, and insert "\$24,900;" which was rejected:

For contingencies of the Indian department, or so much thereof as may be required for expenditure during the year ending June 30, 1858, \$25,000.

The bill was then ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

VOLUNTEERS' APPROPRIATION BILL.

The SPEAKER stated that the business next in order was the motion to recommit the bill (H. R. No. 561) making appropriations for the support of three regiments of volunteers authorized by the act of Congress approved 7th April, 1858.

Mr. J. GLANCY JONES. I withdraw the motion to recommit; and move the previous question on the passage of the bill.

The previous question was seconded; and the main question ordered.

The several amendments recommended by the Committee of the Whole on the state of the Union were agreed to.

The bill was then ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time.

Mr. J. GLANCY JONES demanded the previous question on the passage of the bill.

The previous question was seconded; and the main question ordered.

Mr. MORGAN demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 101, nays 66; as follows:

YEAS—Messrs. Adrain, Anderson, Atkins, Avery, Barksdale, Billingshurst, Bishop, Bocock, Bonham, Boyce, Branch, Bryan, Burnett, Caruthers, Caskie, Cavanaugh, Horace F. Clark, John B. Clark, Clay, Clemens, John Cochran, Corning, James Craig, Burton Craig, Crawford, Curry, Curtis, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Dowdell, Edie, Edmundson, Eustis, Foley, Gartrell, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, J. Morrison Harris, Hatch, Hawkins, Hill, Houston, Hughes, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, Landy, Lawrence, Leidy, Letcher, Macfar, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Milson, Edward Joy Morris, Niblack, Pendleton, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Quimman, Ready, Reilly, Ruffin, Sandidge, Savage, Scales, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Robert Smith, Stevenson, James A. Stewart, Talbot, Miles Taylor, Underwood, White, Wilson, Winslow,

Woodson, Wortendyke, Augustus R. Wright, and Zollcoffer—101.

YAY-S.—Messrs. Abbott, Andrews, Bennett, Bingham, Bliss, Buffinton, Burlingame, Case, Chaffee, Ezra Clark, Cobb, Clark B. Cochrane, Colfax, Cragin, Davis of Iowa, Dawes, Dodd, Dutrie, Farnsworth, Fenton, Foster, Gilman, Goeb, Goodwin, Granger, Grow, Harlan, Hoard, Horton, Kellogg, Kilgore, Knapp, Lovejoy, Matteson, Morgan, Morrill, Oliver A. Morse, Morrill, Murray, Palmer, Parker, Pettit, Pike, Potter, Portie, Purviance, Ricard, Ritchie, Robbins, Royce, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, and Israel Washburn—66.

So the bill was passed.

Mr. JONES, of Tennessee, stated, during the call of the roll, that Mr. Watkins was detained at his room by indisposition.

Mr. J. GLANCY JONES moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MEETING OF CONGRESS.

Mr. J. GLANCY JONES. I ask the unanimous consent of the House to introduce a bill fixing the time for the next meeting of Congress.

The bill provides that, after the adjournment of the present session of Congress, the next meeting of Congress shall be on the second Monday in November next.

Several Members objected.

Mr. J. GLANCY JONES. I shall endeavor to introduce the bill hereafter.

Mr. MILLSON. I would suggest to the gentleman from New York, [Mr. KELSEY,] who offered a resolution a while ago, that if he were to offer a simple resolution to rescind the order for adjournment on the 7th of June, perhaps there would not be any objection.

REPORT OF CONFERENCE COMMITTEE.

Mr. J. GLANCY JONES. I desire to present the report of the committee of conference on the disagreeing votes of the two Houses on the bill making appropriation for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1859. Before the report is read, I wish to make a brief statement of the amendments about which the two Houses disagreed. The Senate amendments were thirty in number. The House agreed to several of them, reducing the number to twelve. The committee of conference have had three meetings. They recommend that the Senate recede from six of the amendments, that the House recede from three, that the House recede from two with amendments, and they were unable to agree about the other. I now ask that the report be read.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on but of the House (No. 24) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1859, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate do recede from its first, sixth, eleventh, twelfth, twenty-first, and twenty-seventh amendments to the bill.

That the House of Representatives do recede from its disagreement to, and concur in, the fourth, twenty-third, and twenty-fifth.

That the House of Representatives agree to the twenty-sixth amendment of the Senate, with an amendment as follows:

At the end of said amendment add the following words: And that said clerks shall not be employed under the authority of this act after the 31 day of March, 1859.

That the House of Representatives agree to the fifth amendment of the Senate as follows:

To the clause add the following words: For Senate; and for stationery for the fiscal year ending 30th June, 1859, \$5,000 for the House of Representatives.

And upon the thirtieth amendment the committee has not been able to agree.

JAMES A. PEARCE,
BENJAMIN FLIZPATRICK,
LYMAN TRUMBULL,
Managers on the part of the Senate.
J. GLANCY JONES,
JAMES JACKSON,
V. B. HORTON,
Managers on the part of the House.

Mr. J. GLANCY JONES. The first amendment of the Senate, on which there was a disagreement, was as follows:

And a sufficient sum, in addition thereto, to pay the mileage of the newly-elected members of the Senate in attendance at the called executive session, commencing on

the 4th day of March, 1857; but nothing herein contained shall be so construed as to allow constructive mileage.

From that amendment the Senate recedes.

The fourth amendment—and the second in order of the disagreeing votes—was as follows:

For the additional compensation allowed by the resolution of the Senate of the 11th of May, 1858, to a messenger in the office of the Secretary of the Senate for the fiscal year ending the 30th of June, 1858, \$330.

That being a provision of the Senate, for one of its own officers, the House receded from it.

The fifth amendment was as follows:

For stationery for fiscal year ending 30th June, 1858, \$5,000.

The House recedes from that amendment, with an amendment to add the words:

For Senate; and for stationery for fiscal year ending 30th June, 1858, \$5,000 for the House of Representatives.

The \$5,000 in the Senate amendment was to provide for a deficiency for stationery for the use of Senators.

The House amended by adding \$5,000 for the use of the House. The House is familiar with the fact that there is a standing law providing forty-five dollars for stationery for each member for long sessions, and twenty-five dollars for each short session. I understand that the fund set apart for that purpose, for the present session, has been exhausted.

The sixth amendment is:

For miscellaneous items for the fiscal year ending the 30th of June, 1858, \$34,000.

From this amendment the Senate receded.

The eleventh amendment of the Senate was, to strike out a provision inserted by the House in the original bill, as follows:

For the compensation of the draughtsman and clerks employed upon the land maps;

and reducing the appropriation from \$17,000 to \$8,000. The Senate receded from this amendment.

The twenty-first amendment is:

For clerk hire, office rent, fuel, and lights, at the several district land offices of the land States and Territories, to be appropriated in such manner as, in the judgment of the Secretary of the Interior, the public interest may require, \$65,000.

From that amendment the Senate receded.

The twenty-third amendment, to which the House made an amendment, was as follows: the Senate added to the clause of the bill for the general purposes of the building at the corner of F and 17th streets, as follows:

And the compensation of superintendent may be allowed to the clerk who has performed, or may hereafter perform, the duties of that officer; the allowance to be made to such superintendent, with his salary as clerk, not to exceed \$25.00.

The House amended by striking out the words "has performed or," making the operation of the amendment prospective only. The committee recommend that the House recede from its amendment.

The twenty-fifth amendment was as follows:

For services of special counsel, and other extraordinary expenses, in defending the title of the United States public property in California, \$40,000.

From this amendment the House receded. When I say the House receded, of course I refer to the House managers of the committee of conference.

The twenty-sixth amendment was:

For the employment of such number of clerks, not exceeding three, by the district attorney of the northern district of California, as may be necessary to transcribe the record of the district court, in land cases, upon which appeals have been or may be taken to the Supreme Court, such sum as may be necessary is hereby appropriated, provided the compensation shall not exceed \$150 a month for each.

The House amended this amendment by adding a provision that it should not take effect before the 31 of March, 1859.

The Senate agreed to the amendment of the House.

The twenty-seventh amendment of the Senate was as follows:

For the reasonable expenses of the late and present district attorneys for the northern district of California, for assistance in their office, such sum as is to be paid out of the judicial fund, if such expenses shall be approved by the Attorney General: *Provided*, That those expenses shall not exceed \$300 per month: *And provided further*, That this appropriation shall be applicable only to the present fiscal year and the next succeeding fiscal year, which will terminate on the 30th day of June, 1859.

The Senate receded from this amendment.

This brings me to the last amendment, upon which the committee could not agree: The House appended to the bill, in the form of a second section, the following clause:

Sec. 2. *And be it further enacted*, That no part of the amount appropriated by any act of Congress for the service of any one fiscal year, shall be used for or applied to the service of any other year, nor be transferred to or used for any branch of expenditure than that for which it may be specifically appropriated: *Provided*, That nothing herein contained shall apply to appropriations for the present or next fiscal year.

The Senate amended by striking out the words inserted by the House, and inserting, in lieu thereof, the following:

Hereafter, the estimates for the various Executive Departments shall designate, not only the amount required to be appropriated for the next fiscal year, but also the amount of the outstanding appropriation, if there be any, which will probably be required to be used for each particular item of expenditure.

The committee of conference upon the part of the House could not agree with the committee on the part of the Senate in this amendment after three several meetings.

As a member of that committee upon the part of the House, I concurred, in my own private judgment, with that of the Senate upon this amendment; but as a member of this House, feeling it to be my duty, acting as I did in my representative character, in consequence of the very decisive vote of the House I did not feel at liberty to recede. The Senate committee would not recede. The committee, therefore, agreed to report to the House the fact that they had failed to agree upon this amendment.

Mr. JACKSON. If the report of the committee of conference, of which I am a member, shall be adopted by the House, there will be but one matter of disagreement between the two Houses, which is in reference to this last amendment of the Senate. The Senate struck out a provision in the bill, which was inserted on motion of the gentleman from Ohio, [Mr. SHERMAN,] and inserted a substitute therefor. I desire to submit a motion that the House recede from its disagreement to the Senate amendment; and I do so for the purpose of expediting the business of the session. We are all anxious to adjourn on next Monday. This legislative, executive, and judicial appropriation bill must be passed. If this single amendment hangs fire much longer between the two Houses, we may be compelled to prolong the session. I desire, therefore, to test the sense of the House upon this amendment, and shall move that the House recede from its disagreement to the Senate amendment.

Mr. J. GLANCY JONES. Can that motion be made now?

THE SPEAKER. The proposition of the gentleman from Georgia cannot be entertained until the report of the committee of conference has been disposed of.

Mr. JACKSON. If the report of the committee of conference be agreed to, will the motion then be in order?

THE SPEAKER. It will.

Mr. JACKSON. I give notice, then, that if the report of the committee of conference be agreed to, I shall submit the motion to recede from the disagreement to that Senate amendment.

Mr. SHERMAN, of Ohio. I simply desire to give notice that if the report of the committee of conference be agreed to, I shall move that the House insist on its disagreement.

Mr. RUFFIN. I desire to ask a question of my friend from Pennsylvania. There seems to be an appropriation inserted by the committee of conference of \$5,000 for stationery for members. It seems the Senate has put in an appropriation of \$5,000 for stationery, and that the committee of conference have put in a like appropriation of \$5,000 for the House. I want to know how this amount becomes necessary? I should like to have the gentleman from Pennsylvania explain.

Mr. J. GLANCY JONES. I will answer the question with great pleasure. Before the meeting of the committee of conference I received an estimate from the Clerk of the House informing me that that amount would be necessary for the present session to pay for the stationery of the members. A deficiency to this amount had arisen, and I thought it better to put it in the appropriation bill in preference to passing a joint resolution, which I had in my desk ready to offer. The sum appropriated for this purpose at the last session

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was expended, as I understand, by the Clerk of the last House.

Mr. RUFFIN. I want to know how it came to be exhausted?

Mr. J. GLANCY JONES. I cannot answer that question. The present Clerk reports that there is no money in hand for the purpose stated. I demand the previous question.

Mr. HOUSTON. I rise to a question of order, and for the purpose of presenting to the House a character of legislation which has crept into appropriation bills of late, not through the instrumentality of either House, but through the instrumentality of conference committees. A conference committee has no right to introduce new matter into an appropriation bill that has been referred to it on disputed amendments.

The SPEAKER. The chair overrules the point of order.

Mr. HOUSTON. I have not stated my point of order fully. I desire to state it a little more distinctly. The appropriation for the Senate, in this case, is one single proposition. I raise the point that the conference committee cannot introduce a new and distinct appropriation. The House has taken no action on the new matter introduced.

Mr. EDIE. Has not the previous question been called?

The SPEAKER. It has.

Mr. HOUSTON. I was not aware of that. This appropriation has never been discussed in the Committee of the Whole on the state of the Union; and the rule requires that all appropriations shall have their first consideration in the Committee of the Whole on the state of the Union. It has never been discussed in the Committee of the Whole on the state of the Union; it has never been discussed, either in the House or in the Senate. That being the fact, I make the point of order that the amendment is not in order in this bill; and I make the point purely because of the principle involved.

The SPEAKER. The Chair overrules the question of order. It is perfectly competent for a committee of conference to report an amendment, or to agree, or to disagree, to an amendment with an amendment. The gentleman from Alabama will remember that, in this House, the bill which has given rise, perhaps, to more feeling and discussion than any other considered here, was matured, from beginning to end, in the committee of conference.

Mr. HOUSTON. The Chair does not reply to my point as I make it. I do not pretend to say that a committee of conference cannot agree with an amendment; but then the amendment must be of the subject-matter referred to the committee. Here the committee report a new appropriation, and not of the subject-matter referred to it. The instance the Chair has cited is not against my position. The report of the committee was precisely of the same subject-matter that was referred to them.

The SPEAKER. The Chair understands the point of order raised by the gentleman from Alabama.

Mr. HOUSTON. I call the attention of the Chair to this point. This is an appropriation which has not been discussed in the Committee of the Whole on the state of the Union. Has the committee of conference more power than the House? The House could not pass the appropriation until it had its first consideration in the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair overrules the latter branch of the gentleman's point of order; and his decision is predicated upon the uniform practice of the House, with which the gentleman from Alabama must be familiar, that appropriations recommended by the committee of conference are not required to be discussed in the Committee of the Whole. The bill has passed beyond that stage.

Mr. HOUSTON. I have only a word to say in reply to that.

Mr. J. GLANCY JONES. I object to this

discussion, unless I am allowed to reply. The previous question has been called.

Mr. HOUSTON. I am willing that the gentlemen shall be allowed to reply to me, if he can.

Mr. DAVIS, of Maryland. Is it in order for the committee of conference to make a report on some matters referred to them, and to disagree to others?

The SPEAKER. It has been the uniform practice of the committees of conference to report as many amendments as they choose. It reduces the disagreement between the two Houses.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof, the report of the committee of conference was adopted.

Mr. J. GLANCY JONES moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. JACKSON. I now move that the House recede from its disagreement to the thirtieth amendment left out of the report; and I desire to say a word or two on it. I will not detain the House longer than five minutes. I ask first that the Clerk read the clause inserted by the House, and the one which the Senate proposes to substitute for it.

The Clerk read the House clause, as follows:

"Sec. 2. And be it further enacted, That no part of the amount appropriated by any act of Congress for the service of any one fiscal year shall be used for or applied to the service of any other year, nor be transferred to or used for any branch of expenditure than that for which it may be specifically appropriated: *Provided*, That nothing herein contained shall apply to appropriations for the present or next fiscal year."

The Senate amendment, as a substitute for the House clause, was read, as follows:

"Hereafter the estimates for the various Executive Departments shall designate not only the amount required to be appropriated for the next fiscal year, but also the amount of the outstanding appropriation, if there be any, which will probably be required to be used for each particular item of expenditure."

Mr. JACKSON. I desire to call the attention of the House very briefly to the point of difference between the Senate and the House, in view of those two provisions. It will be seen that the provision of the House amounts to nothing in the world practical, because it does not apply to one dollar of the money appropriated by that bill. The proviso says that it shall not take effect for the next two years. The law, as it now stands, provides that all the money not used in the next two years shall go into the surplus fund, and shall not be applied without reappropriation. Therefore, it is not practical as applied to this bill. I say that the amendment is useless, and that the House should recede from it. It is not worth a snap of my finger as regards the money appropriated in this bill.

Mr. SICKLES. I desire to inquire from my friend from Georgia, what would be the effect of striking out the proviso to the House clause? Would it not then apply to the existing bill?

Mr. JACKSON. Of course it would then apply, but I understand that that cannot be done now. It would be then practical legislation; but as it now stands it is not practical legislation. It is incongruous to the bill, and would not affect a dollar of the appropriations contained in it. Therefore, the two Houses should no longer disagree in regard to it.

Further, Mr. Speaker, if it were even practical legislation, and applied to the appropriations in the bill, it is wrong. Why do I say that? For the reason that, if it were adopted it would cause the suspension, on the 1st of July, of all the public works of the country, where the appropriations were not expended, but were not reappropriated. That would be the practical effect of it, and I want to know whether any man wants that to be done? My friend from Georgia [Mr. SEWARD] has a deep interest in a work in his State; and would he like, when the 30th of June came, and while the appropriation was still unexpended, to have the work stopped and the men discharged

because Congress had not appropriated the money?

Again, the other part of the House amendment requires that there shall be no transfer of money appropriated from one branch of the public service to another. I say that that is wrong, as to the War Department. The law now authorizes the War Department to transfer appropriations for forage and supplies from one object to another. Indian hostilities break out in one section of the country. Money is appropriated to suppress them. They are suppressed. Some of the money is left in the Treasury. During the recess of Congress Indian hostilities break out somewhere else. By the law, as it now stands, the War Department can transfer any amount of means appropriated for the purpose of suppressing these hostilities anywhere; and this amendment would prevent such a necessary discretion. In my opinion the amendment is wrong, even if it were practicable; but I think it does not affect the amount appropriated in this bill at all. The conferees on the part of the Senate—consisting of two Democrats and one Republican—were, I believe, unanimously against the House amendment, and I believe the private judgment of each of the conferees on the part of the House was against it. But the gentleman from Pennsylvania [Mr. J. GLANCY JONES] and the gentleman from Ohio [Mr. HORTON] thought we were bound to regard what the House had done, and therefore we insisted upon it. Hence it comes back to the House. I move that the House recede from the amendment, and on that I demand the previous question.

Mr. SHERMAN, of Ohio. I desire to submit a motion to insist, and I ask the gentleman to withdraw his call for the previous question.

Mr. JACKSON. I will, if the gentleman will renew it.

Mr. SHERMAN, of Ohio. I desire to say but a few words (as this matter has been already discussed) in reply to the gentleman from Georgia. He says that the House proviso does not take effect till after the next fiscal year. That is true; and the reason for that ought to have been known to the gentleman from Georgia. The House agreed to that amendment on the condition that it should not apply to the next fiscal year, because it was said that the estimates had been made on the basis of using the old appropriations and applying the surplus to the next fiscal year. At the suggestion of the gentleman from Tennessee, [Mr. JONES], this proviso was added, so that this reform should commence in the future, and should not embarrass the administration of the Government. It does not apply to this or the next fiscal year, but after that it commences. That is a sufficient reply in regard to that point.

Now, sir, the proposition is simply this: to bring back this Government to the original policy of appropriating a specific sum of money for a specific purpose, to be expended by the executive department within a given time, and to refuse to the Executive the power to spend this money for any other purpose or at any other time. The proposition is plain, simple, and practical. The gentleman talks about difficulties in public works when Congress is not in session. Why, Congress is always in session within three or four months before the beginning of the fiscal year. If any disturbances or any difficulties or any wars grow up in the course of the year, these difficulties should be submitted to Congress, and Congress ought to consider whether money appropriated for one purpose should be used for another, or whether money appropriated for one fiscal year should be used for another. But by abuses and by our neglect, the Executive has seized on all these important powers, and exercises them instead of Congress doing so.

The amendment is simply declaratory of principles contained in the Constitution—that all moneys shall be appropriated by Congress. It simply cures and wipes away the abuses that have grown up in the administration of the Executive Departments—not by one party only, but by all parties—and brings us back to constitutional prin-

ciples. The amendment proposed by the Senate means simply nothing at all. It requires the Executive Departments to give us the very information which is given to us every year. It is, therefore, perfectly nugatory to put in that provision. The Senate provision is an evasion, and amounts to nothing at all. If the House surrenders the great principle contained in the second section, they surrender more than they have done this session, because there is more of reform secured by that section than in any other provision of law passed this session.

Mr. STANTON. I would suggest to my colleague that he is mistaken in one thing. The gentleman from Georgia says that if Congress be not in session when the fiscal year expires, the works will have to stop. My colleague says that Congress is in session three or four months before the close of the fiscal year. I say he is mistaken, for Congress is always in session eighteen months before the fiscal year expires. Congress meets in December, and the fiscal year does not expire till June in the second following year, so that there are eighteen months to anticipate deficiencies.

Mr. SHERMAN, of Ohio. The objection is made, that when we appropriate money to erect custom-houses, and when the year expires, unless Congress makes another appropriation, the money cannot be expended. Well, that is right. Congress ought to appropriate so much money to be expended in a given year, and if it cannot be judiciously expended by the executive department, Congress ought to determine whether any more money will be expended there. If there is a deficiency, the department must call on Congress to supply the deficiency; but they have no right to take money appropriated for one purpose and apply it to another. Congress must, in its wisdom, determine whether the work ought to stop, and Congress ought to have power to stop it at any time. If you do not insist on that right, you recognize the validity of that very usurpation and abuse on which all parties have agreed during the present session of Congress. And therefore this proposition, which the Senate have stricken out, when it was first offered here received the unanimous assent of the House; and afterwards, when it was again considered, it received the votes of more than two to one. The more it is considered and discussed, the more important and practicable it appears to my mind. I hope, therefore, that the House will insist upon its disagreement to the amendment of the Senate; and now, in pursuance of my promise to the gentleman from Georgia, I move the previous question.

Mr. MILLSON. Will the gentleman yield to me for a moment?

Mr. SHERMAN, of Ohio. The previous question is not under my control. I renewed it at the instance of the gentleman from Georgia.

Mr. JACKSON. I have no objection to its withdrawal for a few moments.

Mr. SHERMAN, of Ohio. Then, of course, I withdraw it.

Mr. MILLSON. I desire to say only a few words in explanation of what I regard as one of the most important subjects connected with our appropriation bills that has come up for the consideration of Congress at its present session. The gentleman from Ohio is entirely in error in stating that this amendment was unanimously adopted.

Mr. SHERMAN, of Ohio. No objection was made to it, I believe.

Mr. MILLSON. There was objection. I objected to it myself.

Mr. SHERMAN, of Ohio. The first time it was offered?

Mr. MILLSON. Yes, sir; I objected to it.

Mr. PHELPS, of Missouri. There were many objections to it; but the chairman of the Committee of Ways and Means, to a certain extent, accepted it.

Mr. SHERMAN, of Ohio. I only know that when the amendment was first offered, the chairman of the Committee of Ways and Means said that there was no objection to it, and I understood that none was made.

Mr. MILLSON. I have no doubt in the world that the object of the gentleman from Ohio is perfectly right and proper, and that he desires to effect what he considers a salutary reform. I have no doubt his purpose is good; but I wish simply to show him that the amendment is utterly impracticable, and that if it were to become the law

now, it would be repealed by the general consent of both Houses of Congress, and upon the united demand of every Department of the Government, at the very next session. I desire briefly to call his attention to one or two considerations which, I think, will make this evident to his own mind. We have a law already which provides that all the moneys appropriated by Congress, and not expended for the objects for which they are appropriated, shall return to the Treasury after the next fiscal year. The effect of the amendment of the gentleman from Ohio is, that these moneys shall be returned to the Treasury at the end of the first fiscal year.

Now, I beg leave to call his attention to the difficulties which would prevent the successful execution of such a provision of law. The gentleman must know or ought to know that it is not until appropriations are made by Congress that contracts are made by the different Departments of the Government for the purpose of obtaining the supplies, purchasing the merchandise, engaging the services, or prosecuting the works which are the objects of appropriations. No bureau of the Government will make a contract for any supplies or for any labor in advance of appropriations. They wait until the money is appropriated. The law requires that the contracts shall be advertised for from four to six weeks in the public papers throughout the United States. Then proposals come in sometimes from the most distant parts of the country; sometimes the proposals from California do not come in for months after the passage of the law, or the commencement of the fiscal year. Then the Departments sometimes require weeks and months to scale the bids and ascertain upon an inspection of all the various proposals, who is the lowest bidder for any specific article. You have then got to three or four months after the commencement of the fiscal year before you even ascertain who is to receive the contracts. Then you have a delay of from three to four weeks in the execution of the contracts, and in the contractors providing securities. And when you have got the contracts executed, then sometimes three, six, nine, or twelve months are required for the delivery of the articles, and in almost all cases, you come to the winter season before you commence. Well, when you come into the winter season, the weather is altogether unsuited for the commencement of the work. You have to purchase granite, it may be, for the construction of custom-houses. That cannot be had in the winter. The spring will sometimes open before a work can be commenced which has been provided for in a previous law, and for which a contract has been executed by the Government. So that it will almost invariably happen that you will exhaust eight or nine months of the fiscal year before you can expend a dollar of the money appropriated for that year.

Now, the effect of the amendment of the gentleman from Ohio would be to restrict the payment of the money appropriated by Congress, to about three months of the fiscal year. Sometimes the money will not be called for by the contractors during the first fiscal year. Always ten or twenty per cent. on the amounts due to contractors, is withheld until the final execution of the contracts. They are not entitled to demand that money, and to say that no portion of the money appropriated shall be drawn from the Treasury except during the fiscal year for which it is appropriated, is to so cripple the operations of the Government as to prevent it from doing almost anything that the public necessities may require. I will state to the gentleman, that a similar proposition was made in the Senate, and was adopted by the Senate on motion of a Senator from Maine, [Mr. FESSENDEN.] The Senate had not then considered the subject at all, but in the interval between the agreement to the amendment in Committee of the Whole of the Senate, and the final action upon the amendment in the Senate itself, the members of that body had become perfectly assured that the change was highly inexpedient and would prove mischievous, and by general consent they disagreed to the amendment which they had before agreed to. Now, it was for these reasons that the Senate disagreed to the amendment of the House, the Senate having been themselves led into the error into which the gentleman from Ohio has fallen, and into which he has led this House, and they took the promptest method

of repairing their error, and I trust the House will do also by receding from their amendment. And now, in compliance with the engagement which I made, I renew the demand for the previous question.

Mr. SHERMAN, of Ohio. I trust the gentleman will allow me a moment to reply.

Mr. JACKSON. How long will the gentleman wait?

Mr. SHERMAN, of Ohio. About three minutes.

Mr. JACKSON. Well, I have no objection to the floor being yielded to the gentleman for three minutes, as we have had two speeches on this side.

Mr. MILLSON. I withdraw the demand for the previous question.

Mr. SHERMAN, of Ohio. I will not detain the House but for a moment. I have considered the objections of the gentleman from Virginia, [Mr. MILLSON.] I have conversed with him upon the subject, and he has already stated frankly his objections before. I have great respect for his opinions, but I am unable to see that these objections apply at all. The provision inserted by the House in this bill does not prevent the Departments from using the unexpended balances of one year to pay the unpaid debts of that year, where contracts have been made in the current year and the debt accrued in that year. It only prohibits the application of balances for the service of future fiscal years—for contracts made in future years.

And here is the difference between the House amendment and the Senate amendment, proposed by the Senator from Maine, referred to by the gentleman from Virginia, [Mr. MILLSON.] The House amendment is designed, and I believe it will have the effect, of correcting a practice which has been carried on during several Administrations, Whig and Democratic. A gentleman says for the last thirty or forty years. The gentleman from Georgia [Mr. JACKSON] says that Senator TRUMBULL concurred in the amendment of the Senate. I do not so understand it; I conversed with him this morning, and he spoke of the provision as one of much importance.

Mr. JACKSON. I only wish to say that I know nothing of the views of Senator TRUMBULL, except from the views which he expressed in the committee room.

The SPEAKER. The Chair does not think it in order to refer to the individual opinions of members expressed in committee.

Mr. JACKSON. I only referred to it because the gentleman from Ohio referred to the views of Senator TRUMBULL.

The SPEAKER. The attention of the Chair was not called to the allusion of the gentleman from Ohio, or he would have interrupted him.

Mr. SHERMAN, of Ohio. I demand the previous question on the motion.

The SPEAKER. The effect of the previous question, if seconded, will be to bring the House to a vote first upon the motion of the gentleman from Georgia to recede; and, if that fail, then upon the motion of the gentleman from Ohio to insist.

Mr. DAVIS, of Maryland. I wish to ask the Chair whether the motion of the gentleman from Ohio is not received as an amendment of the motion of the gentleman from Georgia?

The SPEAKER. They are independent motions. If the gentleman will refer to the one hundred and tenth page of the Manual, he will find the order in which the motions are to be put.

The previous question was seconded, and the main question ordered to be put.

Mr. HARLAN asked the yeas and nays upon the motion to recede.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 100, nays 87; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Arnold, Atkins, Barksdale, Bishop, Bowie, Boyce, Branch, Bryan, Burnett, Caruthers, Caskie, Cavanaugh, Ezra Clark, Horace F. Clark, John B. Clark, Clay, Clemens, Cobb, John Cochrane, Cockerill, Corning, Cox, Burton Craig, Crawford, Curry, Davidson, Davis of Indiana, Davis of Iowa, Dinmick, Dowdell, Faulkner, Florence, Foley, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Houston, Hughes, Huyler, Jackson, Jewett, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Landy, Lawrence, Leidy, Letcher, McClay, McKibbin, McQueen, Samuel S. Marshall, Mason, Miles, Millson, Moore, Isaac N. Morris, Niblack, Peyton, John S. Phelps, Phillips, Powell, Quitman, Ready, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Scales, Scott, Searing, Seward,

Henry M. Shaw, Shorter, Robert Smith, Samuel A. Smith, Stallworth, Stevenson, James A. Stewart, Talbot, Miles Taylor, Vallandigham, White, Winslow, Woodson, Wortendyke, and Augustus R. Wright—100.

YAYS—Messrs. Abbott, Andrews, Bennett, Billinghurst, Bingham, Blair, Bliss, Buffinton, Case, Clawson, Colfax, Collins, Covode, Cragin, Curtis, Davis of Maryland, Dawes, Dean, Dick, Dodd, Edie, Eustis, Farnsworth, Fenton, Garnett, Gilman, Gilmer, Gooch, Goodwin, Grow, Harlan, J. Morrison Harris, Hill, Hoard, Horton, Howard, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, Lovejoy, Humphrey Marshall, Matteson, Maynard, Miller, Morgan, Morrill, Edward Joy Morris, Oliver A. Morse, Mott, Murray, Palmer, Parker, Pendleton, Pettit, Pike, Potter, Pottle, Purviance, Ricard, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, William Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Zollicoffer—87.

So the House agreed to recede from its disagreement to the amendment of the Senate.

Mr. JACKSON moved to reconsider the vote by which the House agreed to recede from its disagreement; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LOCATION OF LAND CLAIMS IN MISSOURI.

Mr. CARUTHERS obtained the floor.

Mr. PHELPS, of Missouri. I ask the consent of the House, at the instance of my colleague, [Mr. CARUTHERS,] who is not well enough to address the House, to take up Senate bill (No. 41) to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes. It is known to the House that my colleague has been absent, from indisposition, the greater portion of the session. This is a bill in which his constituents feel a good deal of interest, and I hope there will be no objection to taking up the bill and putting it on its passage. The bill relates to certain old land claims which have been the subject of adjudication. I ask that the Committee of the Whole House may be discharged from the further consideration of the bill, and that it may be put on its passage.

The SPEAKER. It is the recollection of the Chair that the gentleman from Missouri [Mr. BLAIR] the other day entered a motion to reconsider the vote by which the bill was referred to a Committee of the Whole House.

Mr. BLAIR. I made the motion at the request of my colleague, [Mr. CARUTHERS,] I reported the bill from the Committee on Private Land Claims. It was referred to a Committee of the Whole House, and I entered a motion to reconsider the vote.

Mr. PHELPS, of Missouri. Then I call up the motion to reconsider. The bill was reported, as I understand, without objection, by the Committee on Private Land Claims, and I presume there will be no objection.

Mr. EDIE. I would suggest to the gentleman from Missouri to allow the vote to be taken upon the motion to reconsider. It will not then require unanimous consent to bring the bill before the House.

Mr. PHELPS, of Missouri. That is my intention.

Mr. BLAIR. I ask that the vote may now be taken upon the motion to reconsider, and the bill brought before the House for action.

The bill was read *in extenso*.

Mr. BLAIR. The claims for land provided for by this bill were confirmed under previous laws, but the land for which they were confirmed had previously been sold and entered. There was then no land to satisfy them. This bill only allows the claimants to locate their claims upon any of the public lands of the United States open to public entry.

Mr. LETCHER. I should like to inquire of the gentleman from Missouri, as I see that these confirmations were made in 1812, why it is that forty-six years have intervened between this and that time, and no action has been taken on the subject?

Mr. BLAIR. It was supposed for a long time that these claims could be located elsewhere, after it had been found that the lands for which they had been confirmed had been sold or entered by other persons. Some of the land was embraced by the school sections. Attorney General Gilpin, under Mr. Van Buren's administration, decided that the claims could not be floated and located elsewhere. A special act was then passed

for the relief of some of the claimants. This bill provides for them all, and saves the necessity of passing an act in every single instance.

Mr. COBB. Does this bill allow the claimants to go upon any of the public lands and upon the alternate railroad sections which are held at \$2 50 per acre?

Mr. PHELPS, of Missouri. The bill provides that the entry shall be made upon lands of the United States held for sale at \$1 25 per acre.

The motion to reconsider was agreed to.

Mr. BLAIR withdrew the motion to refer; and demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. BLAIR moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

GEORGE M. GORDON.

Mr. COBB. On Saturday last I entered a motion to reconsider the vote by which Senate bill (No. 83) to vest the title to certain warrants for land in George M. Gordon was referred to a Committee of the Whole House. There was then a disposition to pass the bill, which was unanimously reported from the Committee on Public Lands; but as other matters of public importance pressed, I did not ask that the motion should be considered.

The bill directs the Commissioner of the General Land Office, under such regulations as he may prescribe, to recognize the assignment made to George M. Gordon on the 21st of January, 1852, by Edmund Hugill, sergeant in Captain Gordon's company, third regiment of United States infantry, and James McIntyre, a private of the same company and regiment, to whom warrants Nos. 78,402, and 78,403 respectively, issued on the 13th of July, 1853, so as to vest the legal title in said warrants in George M. Gordon, his heirs or assigns, according to the intention of the parties.

The motion to reconsider was agreed to.

The question then recurred on the motion to refer; and it was disagreed to.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. COBB moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

FORT SNELLING.

Mr. MORRILL took the floor.

Mr. PHELPS, of Missouri. I ask the gentleman to yield me the floor one moment, to take from the Speaker's table a private bill for the purpose of putting it on its passage. The circumstances are these: a firm in Missouri agreed to transport railroad iron to certain points. The railroad iron was in bond at New Orleans. A portion was to be delivered at Keokuk, Iowa; and another portion at St. Louis. These gentlemen gave their bonds for its delivery. By mistake all of it was delivered at St. Louis. There is a judgment rendered against them by confession.

Mr. MORRILL. I cannot yield for that bill, as it must occupy some time in discussion.

Mr. PHELPS, of Missouri. It is a case on which action should be taken.

Mr. LOVEJOY. I ask the gentleman to yield to me a moment to take up a bill.

Mr. MORRILL. I must decline. I think that the question we have before us to-day, as the special order, ought to be considered; and I do not think that we have more time than is necessary for its consideration.

Mr. GROW. The loan bill has not been passed; and as this discussion can go on another day, I move that this Fort Snelling report be postponed until Thursday next, at twelve o'clock, m.

The question being on Mr. GROW's motion, there were, on a division—ayes 52, noes 71.

Mr. GROW. I want to take up the loan bill to-day. I do not care whether the Fort Snelling matter goes over till to-morrow or till Thursday. I modify my motion to make it to-morrow at twelve o'clock, instead of Thursday.

Mr. FAULKNER. It has been already postponed twice.

Mr. DAVIS, of Maryland. I raise the question of order that one motion to postpone having been voted down, another motion to postpone is not in order.

The SPEAKER. The question was not finally disposed of.

The question was taken on Mr. GROW's motion as modified; and it was not agreed to; there being, on a division—ayes 59, noes 85.

Mr. MORRILL. In order, Mr. Speaker, that my remarks may be intelligible to those members of the House who have not been able to read through the vast volume of testimony in this case, I shall confine myself mainly to a recital of the facts as they appear in the evidence, and leave the conclusions to the judgment of the House.

This site, Mr. Speaker, about which there has been so much controversy, was occupied first during the administration of Secretary Calhoun in the War Department, nearly forty years ago. It was then selected by the military officers on account of its superior advantages as a military site. Through all the time, from that day down to and through the administration of General Pierce, it has been one of the most useful positions on our western frontier—more occupied, perhaps, than any other military position on our whole northwestern border. It is a position which has attracted also a good deal of attention on account of its superior beauty of location, its agricultural advantages, and its more notable advantages for a town site. Whatever witnesses in this case may have differed upon as to other matters, they nearly all agree that, as a point for a town site, it possesses superior advantages over any other in that part of the country. Therefore, it has been an object with speculators for some years to bring it into market. It was brought into market here when the present Secretary of War came into office, within a few days after it was brought to his notice, and before he had been in his place more than about six weeks. Such haste would imply some strong compelling motive. I think it was not the public interest.

I do not propose to discuss this question in a political point of view. I would have no political feeling to gratify on this subject. I shall endeavor that neither sympathy for, nor political disgust against, the parties who have been mixed up in the transaction, shall affect my judgment. I conceive that a great wrong has been done to the country; and this House, as the grand inquest of the nation, is in duty bound to look into it, calmly and deliberately, and true deliverance make as to all the parties in the transaction. If there is any disposition on the part of gentlemen on the other side of the House to mix up party feelings in this question, I would warn them against making this a precedent, to be followed in all coming time.

I know that it is customary, when a party obtains power in this country, that they shall monopolize the offices; but I have yet to learn that the Treasury is to be illegally plundered, or that the interests of the country are to be sacrificed in consequence of such a monopoly, and therefore I think that it would be a great misfortune to the country that this case should go into the history and records of our country as a precedent, to be distinctly avowed and acted upon by all parties.

Mr. Speaker, the very impartial and careful report of the majority of the committee, made by the gentleman from Indiana, [Mr. PETTIT,] relieves me from a considerable amount of labor. The report of the minority—and I take pleasure in testifying to the high-toned bearing of the gentlemen of the minority throughout the whole progress of this investigation—the report of the minority, in my judgment, does not make a single position that is maintained in the majority report untenable. The gentleman from Virginia, [Mr. FAULKNER,] who made the minority report, says:

"They felt no dissatisfaction at the fact that a majority of the committee, with whom they were called upon to act, were politically arrayed against the leading policy of the Government, and might, in addition to their sense of public duty, feel stimulated by the rare gratification of discovering something worthy of condemnation in the official conduct of an Administration to which they were opposed."

I find no fault with that rather ingeniously constructed sentence, although I think that, perhaps unintentionally, it contains a little sarcasm on the present Administration. Certainly, if one was disposed to seek for gratification of this sort, it

seems to me that the occasions when it might have been indulged have not been rare. It may be the gentleman is stimulated by the gratification of a defense of an Administration to which he is not opposed.

There is one circumstance, Mr. Speaker, which I think calls upon us for our reprobation. It occurs to me that a frank and honorable man, placed in the position of the Secretary of War, when he found, as he must have found, in my judgment, that he had made a blunder, a mistake in the appointment of his agents, or that he had been circumvented by this combination in New York and Virginia, would have frankly admitted the fact and sought to have corrected it. But instead of that, I find not only a remarkable persistence in the wrong, but a studied effort to persuade us that it is all right; and for this purpose and no other, in my judgment, it appears that, upon the 18th of May, sundry petitions were presented to this House. I have taken the pains to examine these petitions. There are seven of them. Six of them are word for word and comma for comma alike, and there is only a slight verbal alteration in the seventh. These petitions come from St. Paul or its neighborhood; and who are they from? Why, sir, from the acting Governor of the State of Minnesota; from the United States collector; from the postmasters; from the assistant justices of the supreme court; from the two district attorneys; from the clerks of the courts; from the receiver general, the surveyor general, and the Indian traders—all of them connected with and dependent upon this Government, and some particularly, perhaps, upon the Secretary of War. But out of the whole number of those who have signed these papers, many with their occupations designated, there are but two farmers, as named. One is a party in interest, Mr. Sibley, and is to have thirty acres of the land, at the rate of the original purchase. Among the signatures are such names as these: J. Flynn, Jeremiah Daly, Michael Hann, Teneau Danteman, David Volleux, Lanimif Tadiski, Samuel Slouganborg, Foxe Schietz, Gottlob Weckwerth, Friedrik Kruse, — B. Gumpel, Bened. Hippber, &c. These may be very respectable names; I know nothing about them. I do not think it would be difficult to send out cut-and-dried counter petitions, and get them quite as numerous and respectfully signed.

Now, sir, in my judgment, these petitions—three of them in the same hand-writing—are not worth the paper upon which they are written. They all set forth that an effort is being made to set aside the sale, and they protest against it; and they, all of them, say that they do not believe that a higher price than eleven dollars an acre could be obtained for the land. All of them agree in that. I do not know, sir, whether the purchasers of the land got up these petitions or not, but the hand of Job is in all this thing.

Having passed these preliminary remarks, I propose, so far as my time will allow me, to speak from the evidence touching

1. The concealment which distinguishes this sale.
2. Incompetency of the commissioners.
3. Artful combination of the New York and Virginia partners, by which the Government was defrauded.
4. Inadequate price.
5. Quantity of land probably under-estimated.
6. Division of spoils.
7. Military authority against the sale.

Sir, there has been from the start a studied concealment of this matter. No corpse in the tomb of the Capulets was ever so securely locked from the light of day, as the whole of this transaction has been from the public eye. In various parts of the country, information was sought concerning the sale of Fort Snelling, and no one could worm out of the Secretary of War an inkling of what was going on. The epistle of St. Paul, to the Secretary, by a very worthy gentleman in my own State, is a trying instance of this pursuit of knowledge under difficulties. I will read a passage from that somewhat celebrated epistle:

"I possess some pecuniary ability, and have several relatives and acquaintances in Minnesota Territory, where I want to remove myself, so as to get out of a State where genuine Democracy is poorly thought of by the great colored party who rule, and always will here."

"If this property is to be sold, I very much desire to purchase the whole or a part of it; and may I not ask that, if it is to be sold, you will have the goodness to apprise me of

the fact; also, of the mode I can adopt to make a definite offer? If it is for sale, I should esteem it a favor—perhaps it is my right, but that I do not discuss now—to be so informed, that I may have a chance for a bargain, and think I should come to Washington to confer personally with you."

I believe that all this gentleman says of himself is nearly true; but it only shows to what a depth this doctrine of the spoils has sunk the morality of the country. He goes on further:

"Let me add another word as to myself. I was a member of the 28th and 29th Congresses (I think) from Vermont, and was very well acquainted with several members from Virginia, among whom were George W. Hopkins and Governor McDowell. Mr. Cobb, the present Secretary of the Treasury, and Mr. Thompson, Secretary of the Interior, will remember me well; so, I believe, the Postmaster General; so of any and all the United States officers at Vermont, and I believe, on being referred to, will any or all vouch for me as a man standing well wherever known."

"Do you want to know why I am anxious to get a good foothold in the West? I give the reason in few words. I have four fine boys, the oldest of which is now twenty years, the youngest eight years, and if this is not enough, I will speak again."

Under these circumstances, I say, this gentleman spoke as correctly as to himself as could have been expected from one so eager for "a chance for a bargain." But, at his time of life, it is hard to make him "speak again," and it is absolutely cruel to leave those fine boys where they will, if they follow the teachings of the father, be so "poorly thought of."

To this letter no reply was vouchsafed, or none that the committee could obtain, upon application to either party, and several communications sent to the Secretary of War, making inquiries as to the time and manner of the sale of this property. No answers are on record. It appears that the Secretary of War sent a circular in response, but we have not been able to trace out the fact that any were ever received, except in one instance, in Missouri.

Well, sir, let us look at some of the other parties in this business. Mr. Richard Schell did not like to incur liabilities, and so his name does not appear in the contract. Mr. Heiskell admits that he may have informed Doctor Graham his business, but the fact that they traveled out there and back together, does not leak out until near the close of the investigation; and Heiskell did not know at all, as he says, to this day, only by rumor, that Doctor Graham was one of the purchasers.

"Question 2992. Did you meet Dr. Graham while you were at St. Paul?"

"Answer. I did."

"Question 2993. Were you a previous acquaintance of his, or did you make his acquaintance there?"

"Answer. I have met him before. I believe I was introduced to him once. I have seen him frequently. I saw him in Richmond during the session of the Legislature, of which I have spoken, when I was a member."

"Question 2994. Was Dr. Graham aware that you were at St. Paul for the purpose of making this sale?"

"Answer. I suppose he was; I saw him in this city before I went West, and again in Philadelphia. He told me that he was going out there, and I agreed to wait for him in Philadelphia."

"Question 2995. Did not you tell him that you were authorized to make the sale, and did you not confer with him about the mode of sale?"

"Answer. I think I told him I was going to sell it, but we had no conference about the manner of sale."

Major Eastman kept the secret with guarded sanctity. In reply to question 87, he says:

"We offered it first to Mr. Steele; we wanted to make as little noise about it as possible, to prevent anything taking place to defeat the sale."

He made no noise about it, lest it should affect the sale; no one, not even a brother officer, was taken into confidence by him. He even practiced duplicity to conceal the fact. He told Colonel Thomas, when asked in reference to the sale, on the 1st of August, that the fort had been or would be sold, carefully concealing the fact that it had been already sold, or that he had had anything to do about it. Dr. Graham says the commissioners did not learn from him that he was connected with the purchase, and that he might have known that there were other parties in New York who were parties to the contract, but that he never made any inquiry. He knew who the commissioners were to be before they were appointed, and knew what were their instructions, but says he did not see the Secretary of War only at his first interview.

Mr. Steele thinks that he might have informed the commissioners there were other parties, after the sale, but not before. As to his object in con-

cealing the fact, he says he had "none in particular."

Another purchaser, John C. Mather, was a "stranger," and he seems to have preserved his character as such:

"Question 675. Did you conceal from Major Eastman and Mr. Heiskell, at that time, that you were one of the purchasers?"

"Answer. I do not know as there was any concealment about it."

"Question 676. Was there any open talk that you or any other party was a purchaser besides Steele?"

"Answer. I believe that Steele was the only man that had conversations with the commissioners in regard to the purchase."

"Question 677. Had you any conversation with Major Eastman or Mr. Heiskell, by which he was informed of the fact that you were a purchaser in part of that property?"

"Answer. I took no pains to conceal the fact or to make it known. I drew up the writing at the request of Steele, and I believe the commissioners changed it. I do not know whether Major Eastman or Heiskell knew the fact that I was a part purchaser. I was a stranger to both."

The only excuse Mr. Mather gives for this concealment is that "it was not thought necessary for our names to be incorporated in the contract." Mr. Steele was informed by Major Eastman, according to Dr. Graham, a few days before the sale was consummated, that it would be disposed of privately, owing to combinations.

And Dr. Graham confirms the same thing. So it will be seen, Mr. Speaker, that it was communicated to no other person whatever but to the ultimate purchasers, after Heiskell arrived in this city, and after he had received his instructions, with a single exception, which was the bar-keeper at one of the hotels at St. Paul. It seems that he and Dr. Graham stopped at the same hotel, and that Heiskell had assigned to him an inferior room. Feeling his dignity injured he left in high dudgeon and went to another place, and, as we may suppose, in order to create a good impression upon the mind of the bar-keeper there—to impress him with plenipotentiary importance—he discloses to that bar-keeper that he is the agent of the United States appointed to sell this military reservation.

We find, by the testimony, that not a single Army officer was consulted by the present Secretary of War in relation to it. General Scott was not consulted; General Persifer F. Smith was not consulted; General Churchill was not consulted; Colonel Thomas was not consulted. No man in the Army was consulted, and the military opinions on record were all against the propriety of selling it, as well as that, if sold, it should be sold for no such price as that which was received for it.

Can it be possible that all this secrecy was purely accidental and without concert? There can be no answer save that it served the interest of the operators.

Mr. Speaker, I propose to refer to the testimony of two or three of these gentlemen, and I begin with that of Major Eastman, not for the purpose of impeaching it, but to show the utter incompetency of the men who were sent to discharge such a duty as was devolved upon them by the Secretary of War. Major Eastman says, at one time, that Graham was there, and then, again, that he cannot tell whether he was there or not. As to whether Fort Snelling is more valuable as a town site than St. Paul, or any other town in that region, he says:

"I should think it was, if the others had not had the start. I have always supposed that a town would be built there; I suppose that if the reservation had been sold seven or eight years ago, before St. Paul was established, the town would have been there; now, I think it is too late."

But we find that he was ready to go to a combination for the purchase of some of the lots in this town site, and to pay a liberal price for them, showing that it was not too late, when he wanted to buy, though it was when he wanted to sell. I refer now to the testimony of Captain Thom:

"Question 2130. I ask you whether you ever had any conversation with Major Eastman in regard to the purchase of a part of the Fort Snelling property; and, if so, what that conversation was?"

"Answer. I had some conversation with him upon that subject; the exact time I do not recollect, but it was after the sale was known to the public. He accented me in the grounds of Fort Snelling, and said he had proposed to some of the officers to make an investment. He asked me if I would like an opportunity to do so with them, saying that they proposed to put in a couple of hundred dollars each and buy a block. The price, he mentioned, would probably be about sixteen hundred dollars, and saying that he thought he could get it at that price. I then mentioned to him that as a block usually contained only six or eight acres, I thought it a pretty large advance upon the price which I understood was paid for it, as that price would make it cost

about two hundred dollars an acre. I said that at that price I supposed we might have our choice or pick of the blocks upon the reservation. He said, no; at that price we would have to take a block back, at about an average place on the reservation. He said the blocks composing the water lots would cost several thousand dollars. He suggested to me that this would be a good investment. He offered me the opportunity to go in with him and such others as he might find to join together."

Whether this lot was to be paid for, or whether it is one of those Mr. Steele speaks of having given away on condition that it should be built upon, does not appear, but it shows Major Eastman's real estimate of the property as a town site. He says that,

"During a long life, I have never bought any land."

Notwithstanding, the Secretary of War again placed this man with John C. Mather, so late as September 9, 1857, to sell Fort Ripley; it is not probable this officer will again be detailed to sell any land. Certainly, Dr. Graham would not employ him. When asked, from what he observed, if they (the commissioners) were such persons as he would intrust property with to sell, Dr. G. says:

"I would not have selected them, probably, as the keenest agents."

Seeing that before the sale he was constantly urging that it was a very valuable piece—over-estimating it, he says—and that since that, he says, we have "got too much for it," that a large portion of it is "only fit for duck ponds," neither his judgment or candor will be likely to be over-estimated.

But, Mr. Speaker, the fault I have to find with Mr. Eastman, is this. He was sent out to make a survey and preliminary report, but it does not appear that he ever made any such report, nor that he ever completed the survey. The land was sold without its being known how much there was of it. It is not known now. At the first interview with Mr. Heiskell he learned, to his surprise, that he was appointed one of the commissioners, because Mr. Heiskell wanted some good man with him, and decided to sell at private sale. At the second interview, they decided to sell to Mr. Steele. In less than thirty-six hours after Major Eastman knew of his appointment the contract was made. The instructions of the Secretary of War were disregarded, and it is clear that he was a cipher alongside of the other commissioner. Indeed, Mr. Heiskell is quite ready to take the responsibility, and claims that he was responsible for the private sale.

We find that Dr. Graham, of Virginia, called here to pay his respects to the Secretary of War. Here is his testimony:

"In the month of April, 1857, I was on a visit to Washington city. I called to see the Secretary of War, Governor Floyd, whom I had known in my State, and during a conversation with him I told him I was going to Minnesota to make some investments, and asked him if he had anything in his Department there I could do for him, to pay expenses. He told me he had nothing, unless I took the agency of selling some old forts that Congress had directed the sale of. He mentioned Fort Snelling and Fort Ripley. I had been in Minnesota in 1854, and knew something of the value of Fort Snelling, and preferred being interested as a purchaser, to taking the agency for the sale of it. Therefore I declined to have anything to do with the sale of it. That I did not state to him."

He was going "to make some investments." The sequel shows he had no money to invest.

"Question 274. You yourself, then, did not furnish any money to pay upon the purchase?"

"Answer. The purchase was made, and they advanced for me for a little while, and I paid it back."

"Question 275. In money, or in part of the property?"

"Answer. I paid it in my services—by my salary."

He had "been in Minnesota in 1854, and knew something of the value of Fort Snelling." Herein he had a decided advantage of the Secretary of War. He knew what he was about. The Secretary did not. Thus:

"Question 301. In the interview you had with the Secretary, was there any hint suggested, or intimated of any kind, directing your attention to the advantages of the Fort Snelling reserve, or any part or parcel thereof?"

"Answer. There was not; nor do I believe that the Secretary had the most remote idea of the value of either of those forts; he spoke of them to me as old forts, and I am satisfied that he had not any knowledge of the value of the property."

Dr. Graham did not accept the appointment, preferring to be a purchaser. This, he says, was about the 1st of April.

"Question 260. You then went immediately to work to form the combination to purchase it?"

"Answer. A combination was already formed."

"Question 261. You had, then, before you went to the Secretary, formed a combination."

"Answer. I did not. I did not know it."

"Question 262. You were afterward admitted?"

"Answer. I was; I did not make the combination, except so far as Mr. Steele was concerned."

It appears that a combination had already been formed to make the purchase, but the agents to sell had not been fixed upon. The Secretary now tendered the appointment to Mr. Heiskell, of Virginia. The incompetency of this commissioner has been shown up so fully in the report, that little need be added. His narrative of his interview with the Secretary of War is graphic and Boswellian to the last degree. If the friendship of Johnson for Boswell is unaccountable, that of Governor Floyd for Heiskell is not less extraordinary. Here it is:

"But I will commence at the beginning. Before Governor Floyd was appointed as Secretary of War, he and myself ran a race for the Legislature in 1855. Shortly after he had received notice from Mr. Buchanan that he would be in the Cabinet—the next morning, I believe—I remarked to him, jocularly, 'Now, old fellow, we have had a rather hard fight of it together, against the Know Nothings here, and when you get in office you must not forget me. I want you to give me a place. I want one that will pay not less than four or five thousand dollars a year. I don't want anything else.' Said he: 'Well, old boy,' in his way, to me, 'if I can do anything for you, you shall have it.' After he had been here in office for two or three weeks, he wrote a letter to me, telling me, 'there is nothing here that you would want. There is no office in my gift, or in the gift of the President, that you would have.' Sometime in the month of April, he wrote to me that he had a little business for me to do, that would pay my expenses, and he wanted me to come on here. I wrote to him, 'I do not want to do anything that will not pay well.' He wrote to me to come on here; that he had some business he wanted me to attend to; that there was a reservation he wanted me to sell."

It seems that his qualifications for this position were, that he was a hard student of newspapers, and that he had run a race for the Virginia Legislature and was elected after a hard fight with the Know Nothings. There he seemed to have got a good deal of information. He had been an agent to keep a depot for a large supply of salt, and for a short time corporal in a company of Virginia militia. He says that "we were writing to each other every week." It seems that he and Governor Floyd were old cronies and very intimate. He called the Governor "old fellow," and the Governor called the corporal "old boy."

Mr. Heiskell says:

"A good deal has been said about this matter being kept private. When I left Abingdon I reckon two thousand men knew where I was going and what my business was."

Upon looking at the Gazetteer, I find that Abingdon is a very flourishing village in southwestern Virginia, containing, in 1854, fifteen hundred inhabitants. Must he not have been diligent to have informed two thousand men in a village containing only fifteen hundred inhabitants in all, men, women, and children?

Why, sir, it appears to me that Falstaff's men in buckram or Kendal green, were nothing to these two thousand gentlemen in Abingdon. But after a while it will be seen that this gentleman was studiously keeping his business private, and this is the reason for his doing so:

"Question 269. Is it your habit, when you have a piece of property for sale, to communicate the fact to but one individual to whom you want to sell it, or do you let it be known publicly, and get the best price you can?"

"Answer. That is a question which I do not conceive has anything to do with this matter; but I have no feeling upon the subject, and will answer it. When I go to make a sale of land of my own to a particular individual, I say nothing to anybody else about it until he is either off or on; because by intermeddlers, who thought they were doing a friendly deed, I have lost first rate sales. They knock me out of good chances."

It appears that after he had got his instructions here in Washington, and after he had got alongside of Dr. Graham, with whom he had an appointment to meet in Philadelphia, he was entirely mum. The great chance with the New York and Virginia company was not to be knocked out of him. After he had arrived at St. Paul, to counteract the effect of his communicativeness to the two thousand men at Abingdon, he wrote a letter very promptly to one gentleman, informing him that there "was a bad chance for speculation;" that "combinations among the people were being made;" and, of course, advising him not to come there at all. He did not see anything more of him until he got home. In the report of the commissioners to the Secretary of War it is said that the buildings cost not less than \$30,000. Mr. Steele is far more moderate, and estimates his own at eight or ten thousand dollars, and all the rest at six or eight thousand dollars, or from fourteen to

eighteen thousand dollars, instead of \$30,000. The Government buildings were estimated by Heiskell at \$10,000; by Eastman at fifteen to twenty thousand dollars. The facts are, that the Government had laid out over ten thousand dollars in permanent improvements there within the last year; and the best opinion is, that the buildings could not have cost, constructed in part by labor of soldiers at fifteen cents per day, less than fifty or sixty thousand dollars; and are to-day worth more than that to the Government. Colonel Thomas thinks the Government could afford to give the parties \$90,000 for the fort and buildings alone—allowing them to keep nearly all the eight thousand acres of land—rather than to surrender and abandon the post!

It is quite apparent that the purpose of these commissioners was to elevate the value of private and depress that of public property on the reservation. Heiskell told Major Eastman, as he says, that if the reservation was sold at public sale they might force it up to \$50,000.

Alluding to the same conversation subsequently he fixes the sum as low as \$20,000. The combination night-mare greatly depresses him.

Mr. Heiskell says, he got to St. Paul on Sunday. Monday was election. Tuesday he went to see Major Eastman, but failed. The next day he went to Stillwater on a little business. On Thursday he went to Fort Snelling and delivered to Eastman his commission. They talked it over. That, he immediately says, was on Friday. On Saturday, he says, he went back and they got to talking about whom they could sell to, and sent a note to Mr. Steele, who replied. They declined to take less than \$90,000. Steele then replied, as he says, on Monday, that he would give the \$90,000. They signed a brief contract. Steele came to St. Paul the next day, which was Thursday, as he says, and the next (or Friday) they signed the papers.

This is a singular time-table, to say the least.

Now what are the facts? It appears from Mr. Steele's testimony that both offers were made the same day, and the contract is conclusive on the point, as that is dated 6th June, (Saturday.) Therefore it was made on Saturday, or the next day after Heiskell's delivery of his commission to Eastman.

Here was extraordinary dispatch of business! Scarcely less deliberation could have been yielded to the sale of an ordinary mule.

It has already been seen that at first he told Secretary Floyd, "I want you to give me a place." On page 310, he says, "I never intimated I wanted a place."

But such discrepancies—as "the very next morning after" changed into "three or four days after"—are merely alluded to for the purpose of showing the character of the commissioner—not as of much moment touching any other issue.

But what reliance can be placed on the testimony of a man with so poor a memory, and who uses his tongue with this perfect looseness? He sets it in motion as a man sets a saw-mill, and leaves it utterly irresponsible for what it says. He tells his story with such a hearty jollity that I can hardly impute intentional misrepresentation, but he certainly appears to be an off-hand, reckless talker. But we have the secret at last, when he says:

"Question 2173. When you made the sale, did you expect the deferred payments would draw interest?"

"Answer. I do not know. I gave no thought about it. I was only anxious to get home. I do not think that I really thought of it at all. I do not think it was mentioned between Major Eastman and myself at all."

There is a model commissioner for you, who, with the interest of the Government at heart, is "only anxious to get home."

This commissioner, like the other one, just as soon as the sale is completed, began to run the property down, telling Mr. Steele "that he had got a hard bargain." One more extract:

"Question 2670. You say you were selected by Governor Floyd from the fact that you were regarded as a sharp trader at home?"

"Answer. When I got here he told me that I should have to keep my eyes open; that I was regarded at home as a pretty good trader. I do not think he selected me on that ground alone."

I think the House will be apt to concur in all this, especially that he was not selected on the ground alone that he was a sharp trader.

These gentlemen seem to have been anticipating that there might be some fuss made about

what they had been doing, and therefore they are anxious to create an opinion, to forestall the public judgment, that they made the best bargain they could, and the best bargain that was ever made.

The next bargainer in the matter whose course I will comment upon, is Mr. John C. Mather. It is a little curious to see how artfully some of these witnesses conceal things at some times, and give vent to them at others. This man says he had passed through Fort Snelling, on his way to Fort Ripley. Now, it will be seen that his instructions were one day later than those of Mr. Heiskell, and the testimony of other parties is that he arrived there about the same time. He admits that Graham went ahead of him; but that they were there nearly at the same time. He says he was returning; but gives the idea that he was only there a few hours. He says so. Mr. Heiskell says he (Mather) did not go from Fort Snelling to Fort Ripley while he was there; that he was taken sick.

Well, now, Mr. Heiskell says in another place that he went with Mather to the stage office and bought his ticket, and after that went to church with him. In another place, Mr. Heiskell says that Mather was not present. Mather says he was there, and drew up the contract, although it was subsequently changed; and that he was there just after the sale. Steele says that Mather was there, and perhaps drew up the contract. He also says:

"Question 1319. Was Mr. Mather present at the time of the sale?"

"Answer. He was."

"Question 1320. How long had he been at Fort Snelling before the sale?"

"Answer. A few days. I do not recollect how long."

"Question 1321. What was his purpose in going there?"

"Answer. I presume to make the purchase. I know of no other."

Mr. Mather says that the appointment to go and make an investigation in relation to Fort Ripley was unsolicited by him, and was made before any purpose had been formed, on his part, of purchasing Fort Snelling. Graham, on the contrary, says that the New York company was formed before they left, and even before he called on the Secretary, early in April. Mather admits that he was here before the sale was confirmed, and that he asked the Secretary of War if it had been confirmed. It is also in evidence that he had intelligence when the sale was confirmed, and that he telegraphed the fact to Steele. There is a bill annexed for his services. It is for thirty-five days, at eight dollars a day, and expenses. He received his appointment on the 26th day of May. Well, if he had completed his service, and was here in Washington before the sale was confirmed, it will be seen that he must have charged for some constructive days, up to the date of his report. It will also be seen, by Mr. Heiskell's testimony, that he (Heiskell) was paid for sixty-odd days. His commission is dated on the 25th day of May, and the sale was confirmed on the 17th day of June, making but twenty-one days; so that he must have received something like forty days' constructive per diem; and yet he says that, in consequence of his having made the best bargain for the Government that ever was made, he ought to have \$213 more!

Mr. Speaker, I have some comments to make in relation to the price that was paid for this property, and some comments upon the testimony as stated in the minority report. I do not complain of the minority report; but if gentlemen will read the full report of the testimony, I think they will see that in every instance where evidence is quoted in regard to the value of the land—its being worth a higher price than was paid for it—the evidence as fully reported is still stronger, and in other instances, where the value is underrated, they will find that in the cross-examination the testimony is very much changed and softened down, so as to alter the whole complexion of the case. This testimony contains the evidence of three Indian agents and some seven or more gentlemen from St. Paul. How they came here I know not, but I suppose somewhat as those petitions came. St. Paul, like other smart towns, has a small opinion of outsiders. It is perfectly apparent that the gentlemen who live at St. Paul imagine that "the axis of the world sticks out just there," or, to quote the witty author of the Autocrat of the Breakfast Table, substituting, for the words "Boston State House," St. Paul, they imagine that "St. Paul is the hub of

the solar system; you could not pry that out of a man from St. Paul if you had the tire of all creation straightened out for a crow-bar."

As an instance where the full testimony is stronger than the extract, I take the testimony of Mr. M. C. Smith, as stated in the minority report:

"M. C. Smith thinks it was worth twenty-five dollars per acre for agricultural purposes; but, considering its advantages as a town site, he estimates its value at \$400,000."

Here is his testimony:

"Answer. I could not. I have seen a small portion on the creek, back from the river, which is rather sandy, but at the same time, adjoining that, on the other side of the creek, I wanted to buy some land, the price of which was thirty dollars an acre, and I advised a friend of mine to purchase it at that price. It is not only equally as sandy, but nine or ten acres were a bog hole."

"Question 1349. Do you regard the site of Fort Snelling as an eligible point for the location of a city or a town?"

"Answer. I do."

"Question 1350. What would you say that tract of land was worth, taking into consideration its advantages as a town site at that time?"

"Answer. I should not put it under \$400,000. I think it was worth not far from that."

Take, as another instance, the testimony of Mr. Rice. It will be seen, by referring to his testimony, that he thinks it would have been wrong for the Government to make any money out of the sale, and that they ought to have disposed of it at the lowest price possible. He is not in favor of the Government receiving more than \$1 25 per acre, and of course he gives his testimony in accordance with that theory. But I shall not have time to go through with the testimony upon this point *seriatim*, as I had proposed. I argue that the price paid was not enough, because Dr. Graham says that they proposed to give at least \$100,000, if they could not get it for less. Steele says that they would have given \$110,000, and Mather \$100,000; and Graham admits that they would have given \$20,000 more, if they did not have anything to pay to these outsiders for their improvements. Dr. Graham admits that it is worth double what they gave for it. Mather thinks he would not sell it for that, but finally concluded rather reluctantly that he would take double what he gave for it. Colonel Robert Smith says that he would have given four times eleven dollars an acre, and would have gone "the extent of his pile," and would do so now. I do not regard the price of any material consequence; but I do regard it as of some consequence that we should set the seal of our disapprobation upon the manner in which this sale has been conducted.

Mr. Steele sold a part of this land to railroad men, as a particular favor, and also because they were railroad men, whose aid and assistance it was desirable to enlist, and hence there was an inducement for him to put it at a low figure, and yet that was for about double the rate he paid for it.

Matthew Johnson had offered to him one twenty-seventh part of it for \$25,000, bringing the whole reservation up to \$675,000, and the seller figured the prospective value up to \$1,400,000. J. C. Hall would like to buy half at double the cost price. The price paid was inadequate, on account of the terms in regard to interest, a credit having been given of one and two years upon two thirds and one third of the price. So that, with the price of money as it could be loaned by Mr. Steele at three per cent. a month, it was better terms than \$65,000 would have been, cash in hand. The price paid for it was not as much as was offered by Mr. Steele for it one year ago, for then he offered fifteen dollars per acre, or, to take it in the lump, and call it five thousand acres, for \$75,000, while eight thousand acres were sold to him now for \$90,000. The reserve was then computed by Mr. Steele to contain five thousand acres, but now he admits that there are eight thousand acres. His offer a year ago conceded to the Government the retention of the fort, buildings, and a tract of land for Government use. It is now sold for \$90,000, on time, without interest, including all the Government buildings and all the surrounding land. It does not appear, from the report of the commissioners, that they knew anything at all about the exact quantity of land in the reserve. The contract says that there were seven thousand acres. In that a deception was practiced upon the Secretary of War, for Major Eastman admits in his testimony that there are seven thousand five hundred acres. He says he did not complete the survey, but that he had progressed so far that he

could determine the number of acres. But it does not appear that he ever did compute the number of acres. It was guess work, and I have no more confidence in his guesses than in another man's.

Captain Whitall testifies that there were eight or nine thousand acres. M. C. Smith thinks there were eight thousand; and many think, he says, there are more than ten thousand acres. Major Martin says that Major Eastman told him that it had been underestimated, and that there were eleven thousand acres.

That there were combinations, the report of the commissioners to the Secretary roundly asserts they have "upon good authority." But upon the closest investigation, all the stories and rumors sink into utter insignificance. Mr. Steele probably whispered the tale to Major Eastman, and he very greedily swallowed it. Beyond this, it appears in Mr. Heiskell's supplementary letter to the Secretary of War, June 17, 1857, that Major Eastman, being there on the spot, was fully aware of all the movements going on, and the combinations being formed. But the major flatly contradicts this, and says he had no personal knowledge of any such combinations; and that he "could only glean it from rumors; but the other gentleman, (Heiskell) who mixed freely with the people, being a stranger, and being more or less at the hotels, heard things which led him to believe that such was the fact, and he told me."

On the whole, the knowledge of the commissioners on this point was entirely reciprocal. Mr. Heiskell was informed by Major Eastman, and Major Eastman was told by Mr. Heiskell!

The military authority in favor of the retention of the post is overwhelming; but I have no time to quote it.

I now come to the division of the spoils. Mr. Steele testifies that his share is one third, and the written contract between the parties shows that was his *bona fide* share.

Dr. Graham testifies that his share is one ninth; but the contract referred to shows it was fixed at one third, however subsequently partitioned.

Mr. Richard Schell testifies that the interests of Mr. [himself] and Mrs. Schell and Mather have not been separated, but that he thinks, his wife will have two twelfths and himself nearly two twelfths. He also says that he and Mather paid \$20,000, and that he paid about \$13,000, which left \$7,000 for Mather to pay. If, therefore, Mather's interest is just what he contributed, according to this there would be, with Schell's \$3,000 excess, over one third, and Mather's \$3,000 short, the sum of \$6,000, or one fifth of the purchase lying waste, ready to be entered upon by Hard Schell Augustus, or any other enterprising favorite.

The commissioners (Heiskell and Eastman) knew no other party but Steele.

Mr. Steele knew no other parties but himself, Mather, and Graham.

Mr. Mather knows only Steele, Graham, Schell, and himself.

Mr. Schell knows only Steele, Graham, Mather, himself, and wife.

Mr. Graham says "there are other parties, possibly in New York, connected with it, whom I do not know."

Mr. Richard Schell had "never seen any contract." He says, in answer to question 809:

"I rather think he [Mather] told me that it had been made at private sale; but really I do not remember, for I did not pay any attention to the matter, or think it of any consequence. I did not give it much attention then, nor do I give it much attention now."

Again:

"Question 856. Then your sole reliance is on the honor of the parties as to any future distribution?"

"Answer. Yes, sir. I never should ask a question outside those gentlemen. I was perfectly satisfied."

Then again:

"Question 858. Who furnished the money for this purchase, and of whom did you have the money which you paid?"

"Answer. I had it of Mrs. Richard Schell—my wife—who has an estate of some hundred thousand dollars."

"Question 859. Who furnished the other portion?"

"Answer. Mr. Mather furnished his portion. I think he furnished some eight or nine thousand dollars."

"Question 860. State whether you received any portion of it from your brother, Augustus Schell?"

"Answer. My wife borrowed some money of my brother."

"Question 861. How much?"

"Answer. I think \$5,000."

Once more:

"Question 787. What interest or expectation in it did

you have before the return of Dr. Graham and Mather from Minnesota?

"Answer. I expected to go into it just where they meant to place me in it. I did not consider it a matter of any great moment or consequence. Those men did the business, and I was invited to rely upon them."

Mr. Mather says he proposed to admit Augustus Schell. Mr. Richard Schell asked his brother about taking an interest. It was declined because he was about to become, or had become, a Government officer. Mr. Augustus Schell does not say whether he shall be a public officer four years hence; and it is to be remembered that the interests or shares of the purchasers have not yet been separated; but he does say the \$5,000 loan to Mrs. Schell, his brother's wife, who was a purchaser unawares, has not yet been repaid.

Graham says the company was made up before he left this city, so far as the New York interest was concerned.

Mather says the understanding was had after he arrived out there. He also says Schell had no interest in the purchase when made, and not until his return to New York.

Schell says there was an understanding about it, and that they would not pay more than ninety thousand dollars; and yet he afterwards says:

"Question 818. Up to what price, before making the purchase, did you undertake to go in order to get it?"

"Answer. I do not think I ever had anything to do with it in that way, or ever made arrangements in that way."

At one time he cannot swear positively, and at last he says, "Yes, there was a general understanding before Graham and Mather left New York."

Mather does not remember exactly the amount of money which he paid.

From such conflicting statements as these, by which it is clear the purchasers do not know their own copartners, or that they do not understand their own business alike, we are left to draw our own inferences; but there is no clew to all the real owners.

Under all these circumstances, with all these facts, drawn mostly, too, from parties directly interested, I submit that the reputation of our common country demands that we brand this sale with the seal of our strongest disapprobation. The purchasers have no title as yet, and they deserve none.

[Here the hammer fell.]

[A message was here received from the Senate, by Mr. DICKINS, their Secretary, informing the House that the Senate had agreed to the report of the committee of conference, upon the disagreeing votes of the two Houses on the bill (H. R. No. 201) making appropriations for the executive, legislative, and judicial expenses of the Government, for the year ending 30th of June, 1859.]

Mr. FAULKNER. It is not to be supposed that within the limited period allotted to a member upon this floor, it would be possible for me, in any detail, to discuss the several points of law and the question of facts that arise in this case. Fortunately it cannot be necessary. The majority and the minority reports of the select committee have been for weeks in the possession of this House, and it is fair to presume that they have received from every member of this body that careful and intelligent consideration which might be expected from their own high characters, and from the grave charges which are preferred against a high functionary of this Government.

Mr. Speaker, I will say one or two words in reference to those reports, which have been alluded to by the gentleman who preceded me. The minority, in their report, have sought in a fair and impartial manner to present to this House and to the country the real character of this transaction. It is true, we have passed over many irrelevant matters, some of which have been the subject of comment by the gentleman from Vermont [Mr. MORRILL] this morning. But I speak with confidence when I here assert that we have omitted no fact material to a just judgment of this case. We have followed the law as it has been recognized by this Government for the last thirty years of your history, and as it has been expounded by the highest judicial tribunals of the country. And, sir, if we have committed any error, it has not resulted from a disposition to screen any man from just condemnation, nor to cover up any abuse from the exposure which it merits. Sir, arrogating, as I do, to the report signed by the gentleman from Kentucky

[Mr. BURNETT] and myself, the claim of strict impartiality, it may seem a little ungracious, especially after the compliment which the gentleman from Vermont has bestowed upon the gentleman from Kentucky and myself, as members of that committee, to express—as I must do in the discharge of the duty which I owe to this House—my strong condemnation of the tone and temper of the report of the majority. Sir, I do not question the tact and ability with which that document has been prepared. My complaint is, that its ability is displayed in presenting this case to the House, and before the country, in a light wholly different from what the testimony warrants. As a report from a committee of Congress, I have no hesitation in saying that it is more marked by partisan feeling and partisan bitterness than any document of a similar character that I have ever read. And I appeal to the members of this House who have listened to the gentleman from Vermont this morning, whether his speech is not characterized by the same partisan spirit, manifested in culling and collating from that evidence everything calculated to exacerbate party feeling, in at least a portion of this House.

Sir, that document abounds in loose and inaccurate statements of the evidence. It deals unfairly with the witnesses opposed to its views. In the same spirit of injustice which the gentleman has manifested this morning, it culls every hasty and incautious remark which happened to fall from a witness, and parades it with the skill of a practiced attorney, before this House as a fair illustration of his testimony; and, in its anxiety to produce an effect upon the country, and to cast ridicule upon a witness who has also been made a special object of assault by the gentleman from Vermont, it has transferred the answer given by him to one question, to another, altogether different from the one propounded to him. It deals in hypothesis, substitutes conjecture where the evidence is deficient in facts, and reaches its conclusions by disregarding the weight of the evidence embodied in the volume before you. It has censured the Secretary of War upon subordinate points where the record shows that he was not justly liable to censure; and (what, sir, in my mind is of far higher importance) it has omitted to do justice to that public officer in the only material and important point of this whole inquiry, and in a point in which I assume to say, and do say, without the fear of contradiction, that these gentlemen concurred in the effect and conclusion of the evidence with the gentleman from Kentucky and myself. Sir, I say that that committee have failed to do justice to the Secretary of War in the only material and vital point in this whole inquiry.

Mr. MORRILL. If the gentleman wishes, I will state precisely what my position is.

Mr. FAULKNER. I hope the gentleman will not interrupt me. He will find it unnecessary. Let me say what I was going to say; and then, if I am in error, I shall be most happy to be corrected. I say that the committee has failed to do justice to the Secretary of War in the only vital and material point in this whole inquiry. Sir, for what object and for what purpose was this committee ordered by this House on the 4th of January last? Was it to supervise a mere act of executive discretion? Was it to inquire how far the President of the United States and the Secretary of War had discharged, with good or bad judgment, a trust conferred on them by law? I cannot do this House the injustice to suppose that it ever meant to institute any such inquiry. Was it to ascertain whether of the millions of acres of the public lands which this year, and every year since the foundation of this Government, have been sold for one half, one quarter, or one tenth of their value, this parcel of seven thousand acres of public land, situated at the junction of the Mississippi and Minnesota rivers, had sold for a few dollars less than it was actually worth? I say, sir, that no such subordinate object ever entered into the contemplation of this House when they authorized the appointment of this committee of investigation. You ordered this inquiry to satisfy your mind and to satisfy the country whether, as rumor had asserted, there was any corruption in the high places of this Government; and, if so, to bring the offender to punishment.

It is well known that immediately succeeding the sale of this reservation at Fort Snelling, there

commenced, in the northern papers of this Union, attacks impeaching in strong terms the integrity and honor of the Secretary of War. So systematically and pertinaciously were these assaults maintained, that it is not to be disguised that through the North and South there was created a painful impression upon the public mind that he had in some form prostituted his official influence and power to some enormous and flagitious speculation, in which he, or some persons nearly connected with him, were interested.

When, therefore, on the 4th of January, the gentleman from Illinois [Mr. SMITH] brought before this House his resolution of inquiry into the facts and circumstances connected with the sale of Fort Snelling, with power to send for persons and papers, it was supposed that he gave credit to those imputations, and that he sought this committee as a means of establishing the facts before the country. It was in that sense that the resolution was received and acted upon by this House; it was in that sense that it was received by the country; it was in that sense that it was received by the committee of investigation; for, on the first day of our appointment, on the very first meeting of the committee, I introduced a resolution calling upon the gentlemen from Illinois to appear before that committee in person, and also to give us the names of all the persons upon whom he relied, from information or otherwise, as witnesses to establish any matter of fraud, corruption, or impropriety, in the sale of the Fort Snelling reservation. That, sir, I supposed was the only material and substantial inquiry for which that committee was appointed. I never dreamed that for three months we should have been occupied, at an expense to the people of the United States of some twenty thousand dollars, to determine for the benefit, either of the successful purchaser, or of the disappointed land speculator, whether Fort Snelling would or would not, at some future time, become the seat of a great and flourishing city; whether provisions could be transported more cheaply upon the backs of Government mules from Fort Snelling to Fort Ridgely, or more cheaply by steamboat from St. Paul to Fort Ridgely; whether it would better satisfy the people of the United States that Franklin Steele, or Robert Smith, or M. C. Smith, or any other Smith, should be the owner of this property; or whether one mode of sale might not be likely to put a larger sum into the Treasury than that which was adopted by the agents of the Government. That committee was in session for three months. It had surveyed the whole field of inquiry. Its search had been thorough and complete. It has found time to criticize the military judgment of the Secretary of War; to criticize his political errors; and even his temper. They have found time to assail the character of a private citizen of this Republic, to cast ridicule upon the witnesses, and to announce many propositions of bad law; yet, sir, in that report of forty pages there is not to be found one word or syllable touching that great, vital, and material point submitted to them—the official purity and integrity of the Secretary of War. Everything, in their judgment, is worthy of some notice, but that. I complain of this omission as an outrage upon justice. The official purity and disinterestedness of that functionary was, in my judgment, the main point of the whole inquiry. If guilty, his guilt should have been announced in thunder tones to the world. If free from all official taint or ground of just suspicion, that committee owed it to itself, to this House, and to the country, to say so, and thus dispel the clouds which malignity and falsehood had gathered around his name.

Now, sir, so long as there was any room for investigation upon that branch of the investigation; so long as it was not absolutely precluded by the fixed and admitted facts of the case, I was a constant attendant upon that committee; and I will appeal to the journal of the committee, and to the testimony of my colleagues, if any man manifested a more determined purpose than I did to ferret out and expose whatever might constitute a public wrong in this transaction. And, sir, had I elicited one single fact or circumstance from the beginning to the end of this affair, calculated, in the slightest degree, to taint the personal or official honor of the Secretary of War, so far from being restrained by the fact that he was from my own State and a Cabinet minister

of an Administration to which I give my cordial support, I would have felt it a peculiar and especial duty which I owed to the State of Virginia, to the South, and to the Democratic party and to the country, to have been first and foremost to strike him down from a position which he would then have dishonored. But, sir, when the testimony conclusively exhibited the most absolute freedom from official guilt—when the very worst aspect which his worst enemies could give to it was to call it an official blunder, the result of inexperience, committed within the first forty days of his administration of that Department—I turned from the subject as one no longer worthy to be dignified as a congressional inquiry.

Mr. Speaker, this is not the first time in the history of this country in which the official conduct of a Cabinet officer has been the subject of investigation before this House. Some of the purest and noblest statesmen who have adorned the executive posts of this Government have been arraigned by the malignity of their enemies before this high tribunal of justice. But this, sir, is the first example in the history of this country, so far as my memory reaches, where, when such investigation has been ordered, and has resulted in the absolute exoneration of the high officer of the Government from all imputation upon his official honor and dignity, that it has not afforded pleasure to the committee charged with that duty to announce such to be the conclusion of their minds to the country.

The public character of our public men is a portion of the moral wealth of the country; and where they are free of offense, it should be our pride to guard it with jealous care. It is true, sir, that no purity of private character, and no fidelity to public trust, can arrest that rage for slander which marks the venal and prostituted portion of the press of this country, and of which we have some recent evidences. Yet, thank God, it has never yet been found in the history of this nation that the representatives of the people have failed to protect the official reputation of a public man, though an opponent, from unjust censure, when his conduct is made the subject of investigation here.

When Alexander Hamilton was charged with having defrauded that Treasury over which he presided, and to which he gave organization and life, although there were developed some matters not very creditable to him as a husband and a man, yet the committee, composed, as it was, of his political opponents, did not hesitate, when they perceived that his official robes were free from all stain, to make a prompt and cheerful annunciation of the fact to the world.

When Mr. Calhoun, in 1823, was arraigned, as Secretary of War, before this body, and charged with having made a private contract with Charles E. Mix, through the engineer department, for furnishing stone at Point Comfort, in violation of the usage and public policy of the Government, which prescribed that such contracts should alone be made, after public advertisement, to the lowest bidder, and when, after full investigation, the committee reported to the House that there was no fraud in the transaction, however irregular and against the usages of the Government, the whole subject was, without discussion or debate, laid upon the table by the House.

In 1824, when William H. Crawford, then Secretary of the Treasury, was charged with official corruption in the management of the western banks, in connection with the duties of the fiscal affairs of the Government, in all the turmoil and excitement of a presidential election—himself a candidate for the Presidency—and the committee of this House appointed by a rival candidate for the Presidency; whilst that committee may have found many matters of detail not in conformity to their own opinions of a sound and discreet administration of affairs, they nevertheless, upon a full investigation of the facts, concurred in a unanimous report exonerating him from all censure, so far as his official integrity was concerned; and when the fact was announced to the public, the whole country, without regard to party predilections, rejoiced at the result, as they will always rejoice, without distinction of party, when a high public officer is relieved from false imputations upon his official conduct; for the public feel an interest in the character of the public men of the country, unless, indeed, a high officer of the Gov-

ernment has done something which dishonors his place; and then we all feel that he should be stricken down by the arm of the public justice of the nation.

So, sir, as late as 1846, when that great and illustrious son of New England, Daniel Webster, was charged before this body with embezzling the secret service fund which was placed under his control as Secretary of State, the committee charged with that investigation, while they did not undertake to pronounce upon the propriety of the expenditure of that fund, yet they saw enough to exonerate his public and official character from the base assault made upon it, and they so promptly announced to the country. And when they did so, sir, there was not a man within the broad limits of this Republic—no, sir, not one within the limits of the civilized world—who had ever felt the power and influence of his mighty intellect, who did not rejoice at the result as a personal triumph, as sincerely and as fully as if he had himself been the subject of such investigation and acquittal.

Such, sir, has been the character of the investigations which have been heretofore instituted by this body, where high functionaries of the Government have been brought before it. The great and substantial point of every such inquiry, has been into the official integrity of the officer, and whether the facts sought, if ascertained to be true, would afford ground for impeachment. Congress has never undertaken to supervise the mere discretion of executive agents; this is the first example, I apprehend, in our history, where the attempt has been made to constitute this House the judge of the mere details of executive action, in the absence of all charge of official guilt and corruption.

Now, sir, I do not mean to place the present Secretary of War, as an historical character, upon the same pedestal with those distinguished statesmen to whom I have just referred; yet, sir, he is a Cabinet officer of your Government—he is a high public functionary of this Republic, and I assert, sir, that not Alexander Hamilton, nor John C. Calhoun, nor William H. Crawford, nor Daniel Webster, presented a cleaner record, and one more free from official guilt in the matters of their trial before the House, than the Secretary of War does in this investigation, and yet while men of all parties concurred in their triumphant vindication, there is not one word in the report of the majority that announces this result, or that seeks to shield his official honor and integrity from the malignity of his foes. Is this just? Is it manly? Is it honest? If he is guilty, condemn him. If innocent, he is entitled to something more than mere silence; he is entitled to your judgment of acquittal.

This is one of the fundamental points of difference between the reports of the minority and majority in this case. With the fact before them, which they cannot controvert, that there is not one fact in this entire evidence that affects or touches the official integrity of the Secretary of War, there is not a word in their report that awards to him an honorable acquittal. The minority report responds to that accusation which was essentially implied in the very character of this inquiry, and announces that there is nothing to impeach his honor or integrity.

I do not ask, and have not asked in my resolutions, that this House shall pass a vote of approval of his official conduct. I do not ask them to say whether he acted wisely or unwisely in the sale of this site. I do not ask them to sanction the mode of the sale, or the price paid for it to the Government. I regard all those as executive details, or judicial inquiries, over which this body has no rightful or legitimate jurisdiction. But I do ask, in the name of justice, and of my country, that when the evidence exonerates the Secretary of War from all official guilt, that you will have the manliness to say so.

Mr. Speaker, I differ altogether with this committee as to the powers and functions which it arrogates to the House of Representatives. I concede, to the fullest extent, the power of this House as one branch of the Legislature. I concede, to the fullest extent, the power of Congress to regulate and control executive discretion, where it is not derived directly from the Constitution. I concede, to the fullest extent, the power of this body to originate impeachments to be tried in the Sen-

ate; and I should not be disposed to quarrel with the gentleman from Ohio, [Mr. SHERMAN,] that there might be some occasional exercise of this right to show that such a power practically exists in Congress. I cannot agree with this committee, however, that this House may rightfully and properly administer legislative rebukes upon the good or the bad judgment exercised by the Executive in the performance of his official duties. Still less can I concede to this House the right to declare a sale void between a citizen of this Republic and the authorized agents of this Government. Such an exercise of power is a rank usurpation of the judicial functions of the Government, and is only relieved from features that would cause us to recoil and revolt at its exercise by the utter imbecility and impotency of any attempt to execute the judgment here decreed.

Sir, the powers of the three great departments of this Government are clearly and accurately defined by the Constitution, and are known to every tyro in jurisprudence. But I do not mean to discuss these points now. I shall not enter any plea to the jurisdiction of this House. I design to meet the questions raised here, and to meet them upon their broadest merits.

The chief assault which has been made against the Secretary of War in this case is against the military judgment which he exhibited in the sale of the Fort Snelling reserve. The French Convention made itself supremely ridiculous in history, by its efforts to regulate and control the movements of the revolutionary army of that Republic, and this body would find itself occupying a similar position in the eyes of the American people if it shall undertake to regulate the details of executive action. The committee finds fault with Mr. Heiskell because they say, that as he had never attained to the dignity of a third corporal in a militia company, therefore he must necessarily be unfit to make a sale of a piece of land that had once been set apart for the use of soldiers. Have these gentlemen of the committee attained the high dignity of third corporal in the militia, either of Vermont or any other State? Yet, sir, here they are with singular inconsistency, having no claim to military experience themselves, having never been third corporal in a militia company, sitting in judgment upon the act of the Commander-in-Chief of the American Army, done in the performance of his constitutional function, and sustained by an array of genuine military authority sufficient to sustain any question upon which a controversy could arise. Still, I do not mean to except to the competency of these gentlemen. Neither do I mean to pronounce any judgment upon the general fitness and capacity of the Secretary of War for the discharge of the duties for which he has been selected by the President. Let time develop whether the Secretary of War is, or is not fit for the place which he now fills. I have no judgment to pronounce on that point; but this I do say, that whether this act was the result of a fortunate guess or the result of military sagacity, it stands, according to the evidence in this record, so fully and conclusively vindicated, that no man can question the propriety of parting with that reserve who will take the pains to read and examine it carefully.

The gentleman from Vermont [Mr. MORRILL] has given to some extent the history of the Fort Snelling reserve. It is sufficient to say that it was originally established to defend the frontier from Indian aggression; that it accomplished that purpose up to 1851, when, by treaties, the Indian title to forty-five thousand square miles was extinguished, and the Indians were removed to the northern and western portion of that Territory, since which time it has ceased to possess any value as a military post. Fort Ridgely and Fort Ripley were then established on the frontiers to accomplish precisely the purpose for which Fort Snelling had been erected some forty years before; a population of from two to three hundred thousand had poured into that portion of Minnesota lying between Fort Snelling and the Indian reserves; and it is now rare to see an Indian at Fort Snelling. The committee themselves tell us there is a population of thirty thousand within a radius of six miles of the fort. As a post of defense since 1851, Fort Snelling is as important as it would be to keep up a body of troops in the vicinity of Wheeling or Cincinnati, to protect the

population of those two cities from the aggressions of the Indians.

You have before you the opinion of twenty Army officers, more or less distinguished for their high intelligence and military experience, every one of whom, without, a solitary exception, declares to you that Fort Snelling has ceased, since 1851, to be a post useful for any of the purposes of military defense, for which it was originally established. There is not one dissenting opinion in the whole record—not one. This, then, disposes of that aspect of the question. But a new idea has been suggested, as to the purposes for which that property might still be used; that having ceased to be valuable for any of the purposes of military defense, it might still be convenient to appropriate it as a depot, or place of storage, from whence clothing and subsistence stores might be forwarded by Government transportation to the frontier posts of Ridgely and Ripley; and it is alone in reference to this latter use that there has been expressed any diversity of opinion among the officers of the Army. The whole controversy, therefore, has been reduced to the simple inquiry: what is the most efficient and economical mode of furnishing supplies to those two frontier posts?

Now, sir, this idea of converting an old abandoned military site into a commercial storehouse, into a great Government depot, where wagons, oxen, mules, horses, and employes are to be kept up at the expense of the national Treasury, and at a cost, as General Jesup tells us, of indefinite thousands of dollars, for the purpose of competing with God and man, with steamboat and river navigation, in the supply of two small frontier forts with clothing and subsistence stores, is one of the most obsolete conceptions that ever entered into the head of a sensible man. It belongs to the worst fogism of the retired list of the Army. You complain of the enormous and increasing expenditures in the quartermaster's department. Never open your lips again in complaint, if you can censure the Secretary of War for exploding a fallacy and an absurdity so rank as this. The State of Minnesota is abundantly supplied with all the means and facilities of transportation. The rivers in that State are alive with steamboats. The best commission houses are to be seen in St. Paul, with competition to reduce all prices to a reasonable standard. There are no means of transportation which are not to be found in Minnesota, for all needful purposes, to as great an extent as in any other State of the Union. And yet, in the face of these admitted facts, it is contended that we must keep up an expensive Government establishment there, involving a large capital and at a heavy annual cost, to forward supplies, for the transportation of which, one small steamboat, once a year, would be adequate.

But the committee who made this report seems to treat this as an exclusively military question; as one wrapped up in all the mystery of professional learning, on which no man is authorized to have or express an opinion except he has epaulets on his shoulders. Why, Mr. Chairman, this is no military question at all. It is an ordinary commercial question. It is a simple question of economy of transportation. It is simply whether subsistence and provisions can be more cheaply carried on Government mules or in Government wagons from Fort Snelling to Fort Ridgely, or whether they can be more cheaply transported by steamboats from St. Paul to Fort Ridgely. Sir, there is an absurdity in calling this a military question, or in attaching this sort of professional mystery to it. Any man of common sense, acquainted with the course of business in the country, is as competent to decide questions of this kind as Winfield Scott, or Napoleon Bonaparte, if he were alive and on the spot. Military stores, it is true, are the subject of transportation; but the point to be solved is not strategy, but cheapness. They might as well call a steamboat a military steamboat because it carries bacon and flour to the soldiers at Fort Ridgely. You might, with as much propriety, call Pennsylvania avenue a military road, because a regiment of soldiers occasionally march over it, as to talk about this being a grave military question, because military stores are the subject of transportation. It is a mere question of economy of transportation. Is it cheaper, is it more economical, to transport supplies by means specially provided by Government, or by those usual and

ordinary facilities furnished by the advantages of a cheap navigation and the enterprise of private citizens? The ridicule which they have sought to cast upon Mr. Heiskell, because, as a plain citizen, of vigorous common sense, and not having attained a higher grade than third corporal in a Virginia company, he has presumed to have his opinion on this subject, will fall harmless at his feet, or take wings and return to light upon their own shoulders.

But, if this is a military question, determinable only by military authority, let us see how it stands on the testimony of the officers of the Army. The majority of the committee say there are several professional experts on whose testimony they rely. I cannot concede them quite so many. There are but three officers whose opinions are worth referring to, who have taken what I regard strong and decided opinions in favor of the retention of this fort as a depot. The first is Colonel Thomas, an assistant quartermaster general of the Army; and, pray, sir, upon what ground does he justify his opinion? Whilst he admits that transportation can be readily furnished from St. Paul, by the citizens of that place, he proceeds to say that there are two modes of supply—one by our own teams and trains, and the other by citizens:

"As a military man, I would not wish to throw myself into the hands of citizens; for in an emergency they will combine against you. At first you might get supplies from citizens at a reasonable rate; but the moment you break your own supply trains they will combine against you."

And is it by slanders of this kind—slanders upon the patriotism and public spirit of our people—that this obsolete, foggy policy of keeping up expensive Government establishments is to be justified and defended?

But I have not time to proceed with the just criticism which I might make upon the opinions, and reasons for their opinions, given by Captain Thom, Major Martin, General Churchill and Captain Simpson. I pass them by to grapple with all those weightier names, whose authority has been so freely invoked by the committee. General Scott, in all his testimony, uses no stronger language than that Fort Snelling may be of some convenience to the troops on the frontier. It remains of some little utility as a depot of storage. It would have been inconvenient to have abandoned it last summer. This is the usual language in which he speaks of it. General Jesup thinks supplies could be forwarded as cheaply by private enterprise as by Government means, but not so certainly. He admits that he may be biased in favor of the retention of Fort Snelling, by the fact that it was selected originally by Mr. Calhoun, upon his report. He states that he has found no difficulty heretofore in obtaining in that country the means of transportation. That much of the value of Fort Snelling as a depot has been removed by the rapid settlement on the frontier; that the supplies could now be placed at St. Paul, the head of navigation, and taken up from there to Fort Ridgely by the river or by land.

Now, what is the evidence on the other side? You have, first, the opinion of General Persifer Smith, the commandant of the military division in which Fort Snelling is situated, and you have his clear, logical, and conclusive reasoning on the subject. He shows that the site fulfills none of the conditions requisite for a point of supply. You have the opinion of Colonel Francis Lee, who, by the transfer to Utah, and death of General Smith, is now in command of the same military department, and who was four years in command of that post. You have the opinion of Major Eastman, who was for nine years also stationed there. You have the opinion of Captain Whitall, who was two years at that post; and of Lieutenant Drum, a most intelligent young officer, who has been, for some six or seven years, stationed in that department, all concurring in its utter inutility as a depot of supply.

But, Mr. Speaker, there are facts in this case which are stronger than even the opinions of the ablest military minds, to which I can only briefly advert. The very location of Fort Snelling unfits it for a depot. In the ordinary stages of water the river is not navigable for large boats above St. Paul; and in the fall and winter access to it by the river is frequently cut off by the running ice, requiring a circuit of eighteen miles to reach it. It is situated on a high bluff—some two hundred feet high—so high that an intelligent officer of the

Army has said, in the course of his testimony, that he would rather, in an ordinary stage of water, take provisions from St. Paul to Fort Ridgely—one hundred and thirty miles—than have them removed up the high hill to the warehouses at Fort Snelling. You have another fact; and that is, that it was not used for any such purpose. Colonel Lee, who was in command of the fort from 1851 to 1854, tells you that such an idea was never thought of as the use of Fort Snelling as a depot; that the stores were all purchased at St. Paul, or elsewhere, and sent direct to the respective forts, and never deposited at Fort Snelling, to be thence forwarded. Then you have the fact, in the testimony of General Jesup, that a responsible citizen in the West has made a proposition to the War Department, in which he has expressed his readiness to transport all these stores to the frontier posts at one half what it has cost the Government; and the Quartermaster General says he means to hold him to the offer.

Now, sir, in the face of these opinions from some of the ablest military men in the country, and in the face of the clear and incontrovertible facts to which I have referred, the select committee announce the following as the conclusion of their minds:

"The committee has come to the conclusion of the importance of Fort Snelling, for military purposes, up to the present time, and for some time to come, on the official opinions, clear and concurrent, of those having the frontier defense, as a system, in charge, and who, besides having a personal knowledge of the post, are, from superior position and a knowledge of the requirements of the service, best able, and only able, to give a reliable opinion of its local and general advantages."

"By relying on such superior means of information and judgment only, the committee has been compelled to reject some subordinate and unprofessional opinions as of no value whatever."

Subordinate and unprofessional opinions! Is this the language in which the opinions of General Persifer Smith, Colonel Lee, Major Eastman, Captain Whitall, and Lieutenant Drum are to be characterized? Who could have a better personal and official knowledge of the value of that post than officers who had resided for years at the post, and who stood in direct and immediate official connection with the spot?

So far the case rests upon the testimony as it stood before the report of the committee. But important evidence has accumulated since. During the latter part of April and early in May, a board, composed of the ablest and most experienced officers of the Army, met upon the spot, and, after a careful examination of the whole ground of inquiry, presented their report.

I have no hesitation in saying that, had I been consulted by the Secretary of War, I never would have advised him to have convened that board of officers. I would have been content to let the case rest as it stood upon the testimony before the committee, which sufficiently vindicates his military sagacity. Yet, sir, I cannot censure the Secretary of War for choosing to support his military judgment before the country by a piece of testimony so conclusive as this. A committee of this House, whether composed of third corporals or not, I cannot say, but still a committee of this body, had brought in a report condemning the military judgment of that high officer. Now, sir, the military judgment of the Secretary of War, so long as he presides over that Department, is as important and as valuable to him and to the country as the prestige of military judgment is to the commander-in-chief of an army in the field. And no one, surely, can censure a faithful and conscientious officer, under these circumstances, in seeking to have that military judgment fairly and properly sustained before the American people. He was no party to these inquiries that were prosecuted before the select committee. So far as he was concerned, they were all *ex parte*.

Was he summoned, sir, before that committee? Was he interrogated as to the grounds and reasons of his opinion and action? Was he even advised of his proceedings? Was he called upon for a defense? Was he even asked to furnish a list of witnesses to appear before the committee? No, sir. Upon the motion of the gentleman from Vermont, [Mr. MORRILL] the whole matter was placed under the seal of secrecy and confidence. The Secretary of War was indirectly assailed by the committee; his military sagacity and fitness for his place were questioned; not his honor nor his integrity; for they could not find, in all the

testimony, one hint nor one suggestion to impugn either his honor or integrity; but his military judgment was assailed. Was it not, then, justifiable in him, under these circumstances, as there happened to be a very able body of officers collected in that western country, to constitute them a board to examine this site, and to report to the country whether it was or was not important, either as a point of defense or a point of supply? Now, who composed this board? General Harney, Colonel Johnston, Major Macrae, Major Chapman, Major Sherman, Captain Humphreys, and Captain Pleasanton. Most of these officers are known to the country.

I had a conversation upon this subject, a few days ago, with the late Secretary of War, the Hon. JEFFERSON DAVIS, whose authority has been most unfairly invoked here in opposition to the action of the present Secretary of War, as I could satisfactorily show if I had time; and when I stated to him the names of the officers who composed this board, he said to me, "Sir, it is a most able board; there is one single man upon it, Captain Humphreys, whose single opinion, if my own judgment had been the other way, would be sufficient to make me reconsider my views, such is my confidence in his knowledge, his integrity, his capacity, his power of judging what is and what is not demanded in that particular by the interests of the country." I asked him if I might be at liberty to repeat the substance of his remarks before the House, in the discussion of this question, and he told me that I could. Now, what do these able and experienced officers say? I can only quote an extract from its conclusion:

"The resources of Minnesota are sufficient to meet all the demands which the Government will ever be called upon to make in that quarter for the transportation of troops and supplies, at a very reasonable cost.

"The board is satisfied that the town of St. Paul, being the head of ordinary navigation on the Mississippi, would be the most suitable point of deposit and transshipment for the posts on the frontier to the north and west. By establishing a depot of supplies at Fort Snelling, the expense of an additional shipment would often be incurred, to say nothing of other material disadvantages arising from its locality, that will involve a loss of time and additional expense. The cost of maintaining a depot at Fort Snelling will be at least five times as great as the expense of forwarding supplies through St. Paul to the frontier. The duties of the subsistence and quartermaster's departments, in the receiving, purchasing, and forwarding supplies, being mostly of a commercial character, the experience of service has proved it more expedient to use the business facilities of commercial places for these purposes than to establish depots at military stations in their vicinity.

"The board respectfully suggest the entire abandonment of Fort Snelling, both as a military station and depot, and the establishment of an agency at St. Paul to forward the necessary supplies to the posts on the frontier by means of private transportation. This method of supply by private transportation, which was used here for several years, proved to be the most economical to the Government, and is the mode by which the quartermaster's department supplies, generally, the numerous posts established on the whole of our extensive frontier.

"The board is unanimous in the opinion expressed in these proceedings."

Here is this board of officers, who proclaim to you, and to the country, the precise idea upon which the Secretary of War has acted, that to maintain Fort Snelling as a depot of supply would cost the Government five times as much as an agency established at St. Paul.

The gentleman from Vermont has made some allusions to certain memorials from the people of Minnesota, which were presented here a few days ago by me because the Representatives of that State had not then been admitted to their seats. Those petitions disclose a most remarkable state of facts. In most portions of the country a great popular demand is made for the establishment of these military posts; and that demand has led to the vice which too universally prevails in our military system, of having numerous posts scattered over the country. But what do we see here? In 1855, the Legislature of Minnesota petitioned Congress and the Secretary of War to sell Fort Snelling, as being useless to the Government for any purpose, either of defense or supply. In 1857, the constitutional convention of Minnesota petitioned the Secretary of War—with the name, I believe, of every member appended—urging him to sell Fort Snelling. And now, in 1858, petitions to the same effect come here, with three hundred and sixty-six signatures to them—not signed, as the gentleman from Vermont has said, by a few Federal officeholders, but signed by the bone and sinew of the country—by the Governor, the judges, attorney general, merchants, farmers,

lawyers, land agents, and men of every pursuit in life—of men that give character, dignity, and respectability to the community in which they live. But I shall leave the defense of their own constituents to the able Representatives of Minnesota. They know these signers, and can testify that they are entitled to all the weight that I claim for their opinions. These memorialists say that Fort Snelling is not only no longer useful for any military purpose, but they go on further, and say that they believe it has been sold for its full value, or beyond it. Here is the judgment of the vicinage—the declaration of hundreds residing almost in sight of the reservation, testifying to the honesty and fairness of the sale, and declaring their full approval of the action of the Secretary of War.

Mr. Speaker, I must take time to make a word of comment upon an expression made use of by the gentleman from Vermont, which, in my judgment, perfectly illustrates the spirit that has actuated this whole proceeding from beginning to end. From what part of the evidence did the gentleman from Vermont get this term which he applies to these gentlemen when he speaks of them as the Virginia and New York Company?

Mr. MORRILL. Does the gentleman wish an answer?

Mr. FAULKNER. Yes, sir, I do.

Mr. MORRILL. The testimony of Dr. Graham speaks of a New York company; and from the fact that Dr. Graham was a Virginian, I thought I was justified in applying the term which I used.

Mr. FAULKNER. Justified by what?

Mr. MORRILL. Justified by the testimony of Dr. Graham himself. As he was also a member of the company which he speaks of as the New York Company, I thought I was justified in calling it the Virginia and New York Company.

Mr. FAULKNER. Sir, it is a sheer interpolation. The gentleman was not justified in the use of any such term. But, sir, it is characteristic of the spirit which animates this whole proceeding. It was to excite prejudice against the Secretary of War, who is from Virginia. Appeals are thus made to the prejudices of the country, instead of addressing its justice and reason.

The committee have rebuked the Secretary of War for appointing incompetent agents of sale; and they ask you to adopt a resolution declaring them to be incompetent, unqualified, and inexperienced. And who are these agents?

Major Eastman, of the Army, who has been for thirty years in the military service of the country, and who, for nine years, was stationed at Fort Snelling—an officer of intelligence, of unimpeached honor, and of high character. Who was the other commissioner of sale? William King Heiskell—a plain Virginia farmer, I admit—one who had no previous experience in the sale of public property, but a man of great shrewdness, of keen observation, and of unbending fidelity to the trust reposed in him. When Senator Rice found some fault with his conduct as one of the commissioners of sale, I asked him whether he censured his conduct for a want of zeal or for an excessive zeal for the interest of the Government. He replied that he found fault with him for the excess of zeal which he manifested for the interest of the Government. Such is honest William K. Heiskell. He is a frank, outspoken man; and, in his bluntness and honesty, says many things that a more discreet and cautious witness would reserve to himself. It was remarked of Charles II. of England, that he never said a foolish thing, and never did a wise one. Mr. Heiskell is one of those men of opposite character—he may sometimes say a foolish thing, but, I believe, rarely does an unwise one. Let the manner in which he executed the trust reposed in him decide the question of his competency. Judge him not by the portrait made of him by the select committee. I undertake to say that, from the foundation of the Government to the present time, no land belonging to the Government has sold for a better price, in proportion to its value, nor has any land sold for as much, with the exception of a small reservation located in the heart of the city of Chicago. I should like to notice some of the comments of the committee upon his evidence, but time will not permit.

Now, sir, I desire to say something upon the mode in which this property was sold. I have already, in my report, stated in very distinct terms

my repugnance to all sales of Government property at private sale. I need not repeat my views. They are founded upon general considerations of policy, and not because experience has shown that public sales of Government lands have been beneficial to the Treasury. The reverse has been the case.

Still, no law has been violated by this mode of disposing of this reserve. The law of Congress authorizes a private sale; and the evidence shows a condition of things in which the exercise of this discretion may well be pardoned under the circumstances. I reject the case as a precedent, and judge it only on its special circumstances.

The committee has fallen into a very grave error in their reasoning on this subject. They contend that whilst the law of 1819 and 1857 gave full authority to the Secretary of War to sell when a site was useless, still that in executing the sale he should conform to those general provisions of law which regulate our land policy, by dividing it into small sections and selling it at public auction.

Sir, I see no warrant for this opinion in any fair construction of the law. A very marked diversity of policy has, from the commencement of our Government, characterized the legislation of Congress in reference to the great mass of the public domain and the reserves severed from it. The first has already been required to be sold at public auction; the disposition of the latter has been left discretionary with the Secretary of War to sell as he may think will best promote the interests of the Government. I have before me an opinion of Judge McLean, that, to my mind, is perfectly satisfactory on this point. It accords with the uniform construction given to this statute, from its passage. I will read an extract from it. After citing the act of 1819, and especially that portion of it which provides "that the Secretary of War is hereby authorized, on the payment of the consideration agreed for, into the Treasury of the United States," to execute a deed, &c.:

"This law (continues the judge) was not intended to be a general regulation; but authorized the sale of military reserves, which, at that time, had become useless. It changed the settled mode of selling public lands, as it authorized the Secretary to sell for a price agreed on, which precludes, or, at least, renders unnecessary, a sale by public auction, as the general law for the sale of the public lands required. This consideration, as well as the purport of the section, showed that it was not a general regulation, but was intended to operate upon military reservations, which then existed and which were unnecessary."—*McLean's Reports*, vol. 6, page 526.

This decision seems to answer all the objections which I have heard urged against the details of this sale—so far, I mean, as its mere legality is concerned—

[Here the hammer fell.]

Mr. DAWES. I was not one of the committee to which the subject of this transaction was originally referred; but being one of the body to which they have brought back their report and the evidence which sustains it, I have felt it my duty to submit some of the views which will control my vote upon this subject.

Mr. BURNETT. I ask the gentleman to give me the floor for a minute. I wish to know of gentlemen on the other side of the House, whether it is their intention to press this subject to a vote to-day?

Several MEMBERS. No.

Mr. BURNETT. Then I would suggest that we agree to take the vote to-morrow at twelve o'clock, and let the debate go on to-night as long as gentlemen may see fit to speak.

Mr. LOVEJOY. I wish to know if it is the intention of the gentleman that this debate shall continue to-morrow until twelve o'clock?

Mr. BURNETT. That was my proposition.

Mr. LOVEJOY. Then I shall object, and hope the vote will be taken to-night.

Mr. BURNETT. Then let the debate go on this evening, and the vote be taken to-morrow, without debate.

Mr. MORRILL. I would suggest that it be the understanding that the previous question shall be seconded to-night, but that the vote shall not be taken till twelve o'clock to-morrow.

Mr. JONES, of Tennessee. I wish to make an inquiry about this arrangement; whether it is to be the understanding that there be nothing else done to-day, and that this discussion go on?

Mr. BURNETT. My proposition is this: that this discussion shall go on to-night, with the understanding that the previous question shall be

ordered before we adjourn; that we shall then take the vote to-morrow at twelve o'clock, but that no other business shall be done to-night.

Mr. MORRIS, of Illinois. As one member of that committee, I cannot consent to the proposition of the gentleman from Kentucky.

Mr. MARSHALL, of Kentucky. Before the proposition of my colleague [Mr. BURNETT] is acceded to, I wish to make a single suggestion. If it is the intention, by this arrangement, to cut off all propositions to amend, I shall object. I think the resolutions of the committee ought to be modified or amended, and I cannot consent to any arrangement which will prevent amendments from being offered.

Mr. BURNETT. I have no objection myself to any amendment whatever being offered.

The SPEAKER. The Chair would suggest that only one amendment can now be offered.

Mr. STANTON. I wish to inquire of the gentleman from Kentucky if there is any reason why, if the vote is to be taken until some time to-morrow, the discussion shall not go on until the time agreed on?

Mr. BURNETT. I have no objection at all to that; I have no feeling in the matter.

Mr. MORRIS, of Illinois. The gentleman from Illinois [Mr. LEVEY] objected to the adoption of the proposition of the gentleman from Kentucky, unless debate is to be closed to-night.

Mr. STANTON. I hope the gentlemen from Illinois will not insist upon his objection. I think it is unreasonable to ask us to vote upon this mass of testimony with only three or four hours' discussion. I would propose that the time for taking the vote be postponed till two o'clock to-morrow, and that in the mean time the debate go on.

Mr. BURNETT. I will make this proposition to the House: that we take the vote to-morrow at twelve o'clock, with the understanding that this debate is continued up to that time.

Mr. MORRIS, of Illinois. I cannot consent to that arrangement; and I will state my reasons why. Another special committee was raised to examine into the purchase of the Willett's Point property. I understand that the report of that committee will be made to-morrow morning. I understand, too, that these two transactions, of Fort Snelling and the Willett's Point property, are somewhat connected together. The same parties, it appears, who purchased Fort Snelling, a few days before had sold to the Government the Willett's Point property.

Mr. DAWES. Does this come out of my time?

The SPEAKER. It does.

Mr. MORRIS, of Illinois. I wish to say further that I want to have the privilege of seeing that report before I cast my vote.

The SPEAKER. The Chair thinks that it is hardly in order to discuss a report not yet submitted.

Mr. FLORENCE. I am a member of that Willett's Point committee; and if the gentleman knows that the report will be submitted to-morrow, he knows more than I do.

Mr. MORRIS, of Illinois. I was so informed by the chairman of that committee.

Mr. DAWES. I only yield if I can have my time afterwards.

The SPEAKER. That can only be done by unanimous consent.

Several MEMBERS objected.

Mr. GROW. Has there been any arrangement in reference to the time when the vote shall be taken?

The SPEAKER. There is none, objection having been made.

Mr. WRIGHT, of Georgia. I give notice, that to-morrow, or to-night, when the discussion is closed, I will call for the previous question.

Mr. HARRIS, of Illinois. I ask the gentleman from Massachusetts to give way to me for a moment, that I may present a report from the Committee of Elections, in order that it may be ordered to be printed. It will only take a moment, and it will save a day in acting on the question.

Mr. DAWES. Mr. Speaker, it is very evident that I cannot have my allotted time while this discussion goes on, and therefore I am constrained to claim the floor. I was about saying, when I was interrupted, that having read the reports and the evidence in this case, and being called upon to take my share of responsibility in

the vote we shall take on this matter, I have made haste to get the floor, to offer, at this time, what little I may desire to say, that the debate upon this important question might close with the views of abler and more experienced gentlemen who might participate in the discussion.

Mr. Speaker, I have read those reports, and am prepared to vote for the resolution submitted by the majority of that committee. In coming to this conclusion, I do not affect an absence of party bias. I am conscious, perhaps, of as much party bias in the consideration of subjects here, as any member upon this floor; but I trust that in weighing a question of this kind, I have honesty enough to hold the scales of justice even, and to give the evidence submitted, and the circumstances which hang around this case, all the weight they ought to have. In the discussion of a question whether fraud may exist in a transaction of this nature, it ought not to be so much whether it may be found on one side or the other, as whether, when found, it shall be so concealed and defended. It is the concealment or the defense of fraud that justly brings odium upon any party. When fraud or corruption shall come to be a party question; when one side or the other shall attempt to cover up the tracks of the guilty in its ranks, then it is that odium commences to attach itself, and that party only suffers that undertakes to conceal, or omits to lay bare and probe the sore. That there may be on the one side and the other, accusations made without foundation, I doubt not; but it is only when we fail to weigh, as a judicial tribunal, all evidence of fraud or corruption that shall be brought to our notice—it is only when we feel called upon by party ties and party restraints to cover up and palliate a wrong, that we are bringing down upon ourselves, as a party, that odium which will weigh us to the ground.

Sir, I believe that the sale of Fort Snelling, in the manner, for the price, to the person, and at the time it was sold, was the consummation of a scheme laid in the past Administration, and carried out in the present one, before the eyes of the Secretary of War, in such a manner that blindness to it is the gravest official fault. I have not undertaken, in the evidence that is presented, to search after the direct testimony of anybody that these men who engaged in this scheme proclaimed their connection with it from the house-tops. My little observation of the world has taught me that, when men do thus undertake such a scheme as this, they never proclaim it to the world; and until some one of them turns State's evidence—the biggest rascal of them all, usually—it is only then that you find from the lips of any of them a confession of guilt.

But, sir, there are circumstances over and above the testimony of the witnesses which carry conviction to my mind, and constrain me to believe that the resolutions of the majority of the committee are sustained by the facts which existed in the case. What are the circumstances of the case? This Fort Snelling reservation is a large tract of country, situated at the confluence of the Mississippi and Minnesota rivers. The quantity of land has never been made certain. It is variously estimated, even at this late day of the investigation, at five thousand, six thousand, seven thousand five hundred, eight thousand, and eleven thousand acres. The Lord knows best how much there is in it. It is the most beautiful tract of country, I am told, that there is on the face of the earth. On this territory was situated the dwelling and the property of one man, and only one, besides the property of the Government. Mr. Steele had built his house and had erected property on the soil of the Government, without any right, as he confesses, to the amount of \$30,000, according to the report of the commissioners. He had lived there twenty years, and had made an immense fortune while living there. Seven children had been born to him there. There he had settled down to live. This was the position of Mr. Steele. He had in his eye all along, he testifies, the time when the land should be brought into market, and that he himself would secure it.

It was generally understood all about there, that he was calculating, by some means or other, to become the possessor and owner of this soil. Otherwise, all his property was gone. He had no hold, in law, on his improvements. Unless he became the possessor and owner of this soil, he had no security that all his investment there would

not be taken away by some other person, and applied to his own use. He says himself, and that is the testimony of the other witnesses, that he had calculated from the beginning to become the owner of that property. More than a year before, he tried to purchase it, and made a written offer to the Government for it, at fifteen dollars an acre, cash down; but the then Secretary of War was against the sale. A year passed over. That Administration went out of power and a new one came in. With it, came in a provision of law—inserted by the direct influence of the very man who carried his first proposition to Secretary Davis to purchase—authorizing the sale. On the 7th of April, afterwards, this same man made a new application, for Mr. Steele, to the new Secretary of War, for the purchase of this property. That application was referred to General Jesup, and came back with an unfavorable report. These facts were known to the Secretary of War; and yet, in a short time, a man is sent out there to survey that property, preparatory to its sale. Mr. Steele is residing there. Nobody else is there. He sits by quietly, without any apprehension as to any other person becoming the purchaser of the property. He occasionally remarks to the surveyor that "it might be better to sell this at private sale. It would be dangerous to trust it at auction." Beyond that, not a word was said. He was the only mortal man who knew that Major Eastman was there surveying the property for the purpose of its sale, and he was at perfect ease as to the person who was ultimately to be the purchaser. Would any man, having \$30,000 involved, who had not, from some source or other, ascertained that, in the fullness of time, he would be permitted to purchase on his own terms, have sat down so quietly as did Mr. Steele? It is pretended that there had been no communication between him and the Government as to what this all meant. No question had been, forsooth, put by him to mortal man as to whether the Government contemplated driving him from his home, or exposing him to the chances of a sale to some other person who would drive with him such a bargain as he pleased, or none at all, as might best suit his cupidity. Sir, his acts from the beginning, all through, are open to but one construction, and tell but one story. No other story is consistent with the action and course of that man. He knew, before Major Eastman reached Fort Snelling, who was to be its purchaser, and what forms were to be gone through with before the sale was to be consummated, and his knowledge did not mislead or fail him.

This man had been there a sufficient length of time surveying, but before he had ascertained how many acres there were there to sell, before he had uttered to mortal man his purpose of surveying it, except to this Mr. Steele, there joins him a new commissioner, Mr. Heiskell, who is authorized, jointly with him, to sell this property. Now, Mr. Speaker, I should like to know how this is to be construed as an ordinary business transaction? Not an anxious look, not an anxious inquiry, followed the announcement of the object of this commission. Indeed, no announcement at all of that object was made, save in the ear of Mr. Steele. No step was taken by him that would indicate the least anxiety on his part as to the reason why, or the person to whom, this property was to be sold. The next day after Heiskell came there he came to Mr. Steele with an offer to sell to him. There was no manifestation of surprise on his part. It was in accordance with his belief. It was in accordance with his understanding. For, if he had not that understanding, there was no reason in his conduct and in his management of his affairs. It was the fulfillment of promise or prophecy.

Now, sir, in corroboration of this is the whole course of conduct on the part of the commissioners themselves. Major Eastman, who first went out there as a surveyor, preparatory, as he says, to the sale, understood, when he went there, that he was to survey that property, and ascertain how much there was of it, and get it in readiness for the sale when the man should come there who was authorized to sell it; and yet, sir, he kept that fact a secret. He went out there without the necessary implements to discharge the duty for which he was sent. He had to borrow the instruments he needed from an officer of the Army who was upon the spot, but he kept secret from him

the ultimate purpose of their use. He told no man. He hardly believes that he told Mr. Steele himself what he was there for. And all this, he would have us believe, without any instructions to keep it secret; without any intimation from the War Department that he was to keep it secret; without any idea of a combination having been entered into here or any where else at that time! Sir, there was something understood by the parties that did not need words; something that talked plainer and more directly to the point than any words that man could use. He kept the object of his visit a profound secret until Mr. Heiskell came there to join him in the sale of that land; and, then, sir, on the very next day, before he had ascertained how much land there was, or who desired to purchase it, he, with Mr. Heiskell, made a written offer of this whole property, without reserve, without condition, without stipulation, to Mr. Steele.

Now, sir, I say that is inexplicable. Why, these men went to work and sold the property before they knew how much there was of it. If there was any need of a surveyor going out there at all, there was need of his bringing to some definite account the result of his labors: but up to this day, or up to the last day he appeared before the committee—if they have reported his testimony correctly—he cannot tell how much land there is there. He expressed the opinion, on examining his papers and data, some months after the sale, that there were about eleven thousand acres of the land. He has, before the committee, fixed different amounts, and finally said, "I cannot tell you the exact number of acres;" and that is all the testimony, as to the extent of the property, which we have from the man who thinks, or would have us think, that he was sent out there to ascertain how much land there was.

The course of the other commissioner corresponds with this policy. He went there as ignorant of this land as I am. He had never crossed the Ohio river in his life. He had never owned a foot of land outside of Virginia. He had never superintended a public work, except a salt-pit. He had never sold land for anybody in all his days. According to his own account, he went over this property twice on those two days before it was sold—the first time to hunt for Major Eastman, and the next time, he says, he went about the buildings, although he says he saw nobody—no officers or soldiers, and spoke to nobody. The commanding officer of the fort says he never saw him there. You can judge how much he examined the buildings. And with no more knowledge than that of the value of the property, he joined with Major Eastman in an offer to sell it to Mr. Steele, to the exclusion of everybody else.

Sir, that they sold it at the price for which they did, in pursuance of a scheme—a plan laid down in the past Administration—is just as evident as any other step in this whole proceeding. Well, sir, they sold it, nominally, for \$90,000. When they made the offer to Mr. Steele to sell this property to him, he made them an offer of \$75,000 for it. It would hardly do on paper to say, your offer is a very fair one, and you shall have the property at your own price. No; they had solemnly made up their minds that they would have \$90,000 for that property. And in order to carry out, as nearly as possible, what somebody understood to be the plan, it was arranged, that, although these parties should pay \$90,000 for the property, they should only pay \$30,000 of it down, and \$30,000 next year, and \$30,000 the year after, without interest.

Now, it is in the testimony, and it is known to every member of this House, that at a rate of interest which money was worth in that market, at a rate of interest at which you could have invested \$1,000,000 in that Territory, in a month these gentlemen more than made up the difference between \$90,000, which they nominally gave, and \$75,000 cash down, which they offered a year before, and which they determined now to offer. Money was then, and is now, worth at least two and a half per cent. a month there; and the interest of \$30,000 for one year, and of \$30,000 for two years, is \$22,500, which was thus given Steele in this purchase, bringing the cost of Fort Snelling down to \$67,500.

It is quite evident, too, from the conduct of the parties interested in this sale, that it was but carrying out a part of the plan before laid and under-

stood from the beginning between the parties to this transaction—Mr. Steele, Mr. Graham, Mr. John C. Mather, Mr. Richard Schell and wife. The wife, I presume, had no connection with the matter more than was necessary to make her one of the parties to the contract. Mr. Steele had originally calculated to get the whole of the property. He made his proposition to the Secretary of War a year before, which was rejected; and rejected upon one ground, among others, that the price offered was far below its value. That reason Mr. Steele saw on record. It was on file with the adverse report of General Jesup upon the application. Then appeared, for the first time in this affair, Dr. Graham. He first enters upon the stage in the character of a gentleman at court, paying his respects to a Cabinet minister. He was bound, as a true Virginian, to call on the Secretary of War. He did call on him; and incidentally, not accidentally, suggested to him that he was going out West "to invest." I do not know what, for it appears that he had not a dollar of money to invest; but he wanted to know of the Secretary of War if he could not give him something that would pay his expenses out there. The Secretary replied that he could not, unless it was to sell some old forts. It was then, he would have us think, the first idea occurred to him that this fort was for sale. As a high-minded man, he at once eschews temptation, and decided not to take the agency. He starts for New York, and there enters into a combination with Mather and Schell to purchase the reservation. But before he goes to New York, he sees Steele, goes round by the way of Fort Snelling, and holds a consultation with him on the subject. He then comes back to Washington by New York, and this combination was organized, in which Mr. Steele was embraced, and was alone thereafter to appear upon the surface and move the springs and conduct the game. He then starts back to Minnesota with Mr. Heiskell, who held in his pocket a commission for selling the property. He goes in the same train of cars with him, but only now as a gentleman at large, traveling for pleasure and to see the country. No one uninitiated knows the purpose of this second visit. Mr. Mather follows him the next day, taking with him a commission to examine for sale Fort Ripley. I suppose, for the sake of decency, he did not go in the same train of cars, but the parties arrived there nearly at the same time and for the same purpose. I can come to no other conclusion, from the evidence. It appears from the testimony that about this time, at least before the sale, Dr. Graham got sight of Heiskell's instructions, and played out his game with the Government, like the man at cards who looks into the hand of him he plays against. Heiskell spends the first day in hunting up Major Eastman. He spends the second day in making an offer to Steele, in receiving a proposal, and in closing up the bargain; and John C. Mather, who was there for the purpose of making an examination of Fort Ripley preparatory to sale, drew up the contract as the lawyer of Steele. Now, sir, you have in all this a key of the motives by which they were actuated, the purposes they were to accomplish, and the agencies through which they succeeded.

These commissioners say they were afraid of combinations, yet themselves nursed into success the only combination which existed. Who are the men who intimated to them the danger of combination? Why, sir, Mr. Steele, who purchased, intimated it; Mr. Rice, who was aiding him, intimated it. Mr. Steele, the man who wanted to perfect the sale, and Mr. Rice, the man who procured the clause to be inserted into the bill authorizing the Secretary of War to make the sale. They, according to the evidence before us, were the men, and the only men, who intimated to these commissioners the danger of combination if the property was sold at public sale. But when Major Eastman was called to say who told him that there would be combinations formed, he said that Heiskell knew more about it than he did, and that he got his idea of combinations from Heiskell. When Heiskell is asked where he got his information on the subject, he replies that Major Eastman knew more about it than he did, and that he got his idea of combinations from Major Eastman.

The conduct of the Secretary of War also, if the gentleman from Virginia will pardon me, leads me to this same conclusion. He had been in

office but a few weeks, or a month, when he sent this man on this mission. There was on file the opinion of his predecessor in office, a gentleman distinguished in that branch of the public service, against this sale. He had also on record the offer of Mr. Steele, made a year before, of fifteen dollars an acre for the whole of this reservation, cash down; and General Jesup's report upon that offer, that it was far below the real value. But, sir, he had not within himself made up his opinion that this property was no longer needed for the public service. At least, he put on paper that he had not; for, in his instructions to the commissioners he requires them to "examine Fort Snelling with reference to its being retained as a military depot for the use of the Government." But he then put these two men in commission, and required of them first to pass upon the propriety of selling Fort Snelling. One of the commissioners appointed to determine this fact had, as the gentleman from Vermont [Mr. MORRILL] this morning remarked, arrived at that proud and dazzling height of military advancement of third corporal in the Virginia militia. The other, though a military man, had not been upon the ground for about ten years. But, in the face of the evidence in his office against this sale, he sends out this commission. He sends one man who had never sold a foot of land in his life, and another man who had never crossed the Ohio river in his life,—a man who, according to his own confession, knew so little about the preemption laws of the Government, that he supposed Franklin Steele would be entitled to hold a thousand acres by preemption; another man, who did not know the difference between a private sale and a secret sale; a man who did not know the terms of the agreement that he had himself entered into, and a man who swore before the committee that he could not tell whether \$60,000 of the public money, which he had lent out in this way, was drawing interest or not; another man, who said that it had never entered his mind to ask interest; two men, who said that the reason they sold this land on these terms was, because they knew the Government did not want the money; these men wanted to have it so; and they were in a hurry to get home. One of them, appointed by the Secretary of War, is a near neighbor and associate, and with whom he had carried on a successful and awful war "against the Know Nothings" in Virginia. He knew him; he knew his capacity to sell Fort Snelling; he selected him; he gave him his instructions; he sent him on this mission; he knew beforehand exactly what this man was to do, and what he would do when he got there; he was guilty of culpable negligence in the public service in intrusting such a man with any discretion at all.

Then there are some circumstances about this matter other than these. The Secretary of War had numerous applications before this time to sell this property. There is not on record an answer to one of them. Some of them were in the most imploring, sycophantic terms, claiming a chance in for political services and sufferings. It was due to the Secretary of War and the Government that he should have left upon record an answer that would have rebuked and forever silenced any such language addressed to a Department of this Government. He says that he answered all these letters. I am sorry to say that there is not a copy of any of these letters produced; and none of these particular letters have been kept, although there are copies of all the others. I am sorry to find that in the investigation of the committee, they have not been able to find that an answer to one of these letters was ever received. One man appeared at his Department in person for the purchase of this property. He made the application himself at the door of the Secretary's room.

It so happened that on the 1st day of July he did not find the Secretary of War in, although he had a long conversation with the clerk. He went back to his hotel, and on the second day he addressed a note to the Secretary. It turns out, on comparing dates, that on this very day that he addressed this note to the Secretary, the Secretary indorsed on this sale the approval of the Government. After all these statements, after the public mind had been aroused, and the Secretary of War warned and put on his guard, these parties failed to comply with their own contract, and there was no further obligation on the part of the Secretary of War, either in honor or law, to com-

ply on the part of the Government. After they had failed, as they did, to make their payment on the 10th day of July, he was at liberty to take no further notice of that contract whatever. Yet on the 25th day of July, in the midst of these accusations, and when he had letters in his office, making representations and putting him on his guard, so that he might have known that the property had been sold for one fourth of its value, he voluntarily waived the non-fulfillment of this contract on the part of these parties, and ratified this foul scheme of plunder, so far as he could, by receiving the money.

As to the manner of sale. In the report of the minority, great stress is laid upon what they believe to be the fact that enough was paid for this property; and they seem to think that no censure should be cast upon this transaction, because, in their opinion, the full value of this property was received by the Government in this sale. They, to some extent, make that a test that they got all that it was worth, and not that it was a proper sale. I suppose that if a game of dice or cards, or any other game of chance, had settled this sale at what it was worth, that then they would have been justified. Yet as to the manner of sale, this is the reasoning of the gentlemen. Here is what the minority say, as to such kind of sales "generally." I read from the minority report:

"As a general rule of executive action, we concur most cordially with the majority in the opinion that all sales of Government property should be made at public auction, and after due notice, thereby affording to every citizen who desires it, a fair and equal opportunity to participate in the purchase. This is a rule demanded, not only by the relation which exists in a country like ours between the Government and the people, but it is an important check to official favoritism and partiality, and operates beneficially in guarding against that sense of individual injustice which springs from the preference of one man over another, where all have common rights. So strong are our individual convictions on this subject, that it would require proof of a very perverted sentiment in any State or Territory to excuse, in our judgment, a departure from so sound and salutary a rule of action. The amount which the Government will at any time realize from a sale of its property, must be insignificant, compared with the more important benefit which it must derive from an all pervading impression of its fairness, justice, and disinterestedness."

That is true. That is good, sound doctrine. But, after delivering such an opinion in court, what do you think is the judgment entered up? Here is their judgment on the opinion of their court, delivered in the words I have read:

"And yet it is difficult for any fair-minded man who reads the accompanying evidence, and learns that system of combination which controls the results of public sales in the West, to cast the slightest censure upon the motives and conduct of the commissioners of sale. We would not applaud their act as a precedent. We cannot condemn it as an individual case, under the circumstances."

This opinion and judgment are a *non sequitur*, and very much after the manner of an opinion and judgment rendered once by a village magistrate on a time when a gray-headed old sinner had been trifling with one of the commandments in the decalogue, and had been overtaken, as the lawyers say, *flagrante delicto*; and when brought before the magistrate, and the evidence was put in the case, and the whole charge proved by very much that sort of testimony by which I can at this moment determine with confidence who occupies the chair—the testimony of the eye—the magistrate delivered the opinion and judgment of the court in these words:

"Mr. Smith, stand up: Sir, it is the opinion of the court that, under the circumstances, you are not guilty; but don't you never do so again."

Now, one word more about the manner in which the sale was effected. There was a written offer, by this very Mr. Steele, in the Department, of \$15 an acre for this property; and yet the Secretary authorized these men to sell it at \$7 50 an acre. Their construction of their instructions was—and that is the plain language and meaning—that they were to sell at not less than \$7 50 an acre, and make a final sale binding on the Government at that price. There was a written offer in the Department of \$15 an acre, on which was indorsed General Jesup's opinion that that was far below the true value; and yet these men sold the property for \$90,000, in the teeth of that offer—reduced by the terms of the agreement to less than seventy thousand dollars, and less than \$7 50 per acre, it will be found, in my judgment, if the number of acres shall ever be known.

In conclusion let me say, that the manner in which this property was sold calls louder for condemnation than anything else. I do not care what

it brought; I do not care whether it was needed for a military depot or not. I want the sale of the public domain to be so conducted as that it shall be above reproach. The doctrine that "to the victors belong the spoils," is not a new one in this country, nor does its odium belong to any particular party. I am sorry to say that it has come to be the almost universal doctrine of parties. When it was first broached, Mr. Jefferson felt called upon in his first inaugural to discountenance it, and to declare that in the distribution of favors we were all Republicans and all Federalists. But it got possession of the minds of the men who managed the affairs of the Government, and it came stealthily, gradually, but certainly, to possess the minds of men of all parties. It was a good many years after that before it was publicly avowed, but more recently men of high position have declared the doctrine and practiced it. But if there is to be ingrafted on that doctrine the idea that the public domain is to be parceled out to political favorites, then I say, so demoralizing has come to be the working of this doctrine upon the political character of all parties in this country, that one might well despair of the Republic. If it has come to be understood, and the doctrine is here to-day to be sanctioned by a vote of this House, that by a secret sale, special political favorites are to have rich slices of the public domain parceled out to them to the exclusion of all others, then, sir, there has come to be such a demoralization of political integrity in this country, as ought well to cause alarm in the breasts of all true patriots.

Sir, who are the men who figure in this matter? Who is this Mr. Heiskell? A man who was such a political favorite that, in the opinion of the Secretary of War, there was no place in the gift of the President commensurate with his merits. He is commissioned to sell this reservation. To whom? Who is Mr. Steele? Who is Mr. Rice? Who is Mr. Mather? Who is Mr. Schell? Who is Dr. Graham? They have a right to be of any particular party they choose. I am only saying that it is a great misfortune that they made a secret sale of this property in which no mortal man figures but special party favorites. The public domain, the common property of all, is thus set apart as the political plunder of the victors. The real consideration for this sale, as well as its secrecy, are enough to damn it in any court and before the people.

I have a word or two to say in behalf of a New England Democrat. If this is to be the policy, I demand, in the name of New England Democracy, an equal participation in the division of the public lands. Sir, Mr. Paul Dillingham, of Vermont, put his application on record, based on the fact that he had been "a sound, reliable Democrat," had done, if not "works meet for repentance," certainly service that deserved *meat*, and had been condemned to live in "a State where genuine Democracy is poorly thought of by the great colored party who rule and always will here"—turned out on the barren waste of New England Democracy to seek a precarious livelihood. As he grew old, and his eye became dim, he turned, with the true instinct of those who know their master's crib, and made application to the Secretary of War for "a chance for a bargain" out of Fort Snelling. It is a touching letter, Mr. Speaker, and must have brought tears to the eyes of the Secretary. I wish we could have had the Secretary's reply. I doubt not he gave him a moral lecture on the vanity of human expectations—on the folly as a business transaction of laying up his treasures here in Washington. But, sir, his merit has not been appreciated. It costs something to be a Democrat in New England, while it rather pays in New York city. This is another evidence of the prejudice against New England. My friend, Paul Dillingham, comparing his claim with those of John C. Mather, who had fattened at the public crib in Troy and in New York city, or with those of Richard Schell, or of Mr. Steele, who had grown immensely rich on the crumbs which had fallen from his master's table at Fort Snelling, will be justified in exclaiming, "my sufferings is intolerable!" These men are chosen; and he who had sacrificed all his hopes and all his ambitions in undertaking to stem the current of political affairs in Vermont, is passed by.

[Here the hammer fell.]

Mr. BISHOP obtained the floor.

Mr. BURNETT. Before the gentleman from Connecticut proceeds, I desire to know from gentlemen on the other side, whether it is their intention to press any vote on this matter to-night? [Cries of "No!" "No!"]

Mr. PETTIT. I would say to the gentleman from Kentucky that it is not proposed to ask for a vote on it to-night.

Mr. BURNETT. Very well; let that be understood.

Mr. LOVEJOY. I object; unless the previous question be demanded.

MARYLAND CONTESTED ELECTION.

Mr. HARRIS, of Illinois. With the consent of the gentleman from Connecticut, I ask to present the report of the Committee of Elections in the Maryland contested-election case. I ask that it may be printed. I believe that the views of the minority are ready for presentation, and I ask that both may be printed.

Mr. WILSON presented the views of the minority.

The reports were ordered to be printed.

COMPENSATION OF MEMBERS.

Mr. NIBLACK, by unanimous consent, introduced a joint resolution amendatory of an act entitled "An act to regulate the compensation of members of Congress," approved August 16, 1856, so far as relates to such members as shall die during their terms of service; which was read a first and second time, and referred to the Committee on Mileage.

BARK ADRIATIC.

Mr. BURLINGAME, by unanimous consent, from the Committee on Foreign Affairs, reported back, without amendment, the joint resolution relative to the seizure of the bark *Adriatic*, accompanied by a report in writing. The joint resolution was referred to the Committee of the Whole on the state of the Union, and, with the report, ordered to be printed.

PAY OF FORAGE MASTERS.

Mr. WILSON, by unanimous consent, and in pursuance of previous notice, introduced a bill extending to forage masters of the Army the benefits of the act entitled "An act to increase the pay of officers of the Army," approved February, 1857; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. BISHOP. Does all this come out of my time?

The SPEAKER. The propositions are introduced by general consent, and the time occupied will not be deducted from the gentleman's hour.

ATLANTIC STEAM FERRY.

Mr. MILES, by unanimous consent, and in pursuance of previous notice, introduced a bill authorizing the Atlantic Steam Ferry Company, incorporated by the General Assembly of Virginia, to purchase foreign-built vessels; which was read a first and second time, and referred to the Committee on Commerce.

SALE OF FORT SNELLING—AGAIN.

Mr. BISHOP. Mr. Speaker, with a view of contributing, so far as I was able, to the dispatch of the public business, and with the desire of effecting a speedy adjournment, I have refrained thus far from participating in the discussion of most of the questions which have been presented for the consideration of this House. Many subjects have been acted upon by the House, upon which I should have been glad to have expressed my views, but I have waived my own personal feelings for the sake of expediting the public business; and, without any disrespect to any other gentleman, I must say that if many others had talked less and acted more, the business of the session might have already been completed, and we might be able now to return home to our constituents and be met with the approving words, "well done, good and faithful servants."

Impressed as I am with these views, I should not attempt, at this late day in the session, to occupy the attention of the House, did I not believe that a movement was set on foot in the report of the majority of this investigating committee, intended solely to bring disgrace upon the chief executive officers of this Government—a movement, as I believe, conceived and carried out for

the purpose of gratifying that spirit of political dishonesty which seeks to establish its own purity and perfection by heaping disgrace and ridicule upon those who are entitled to confidence and respect. It seems to have become the peculiar province of a certain party in this House, independent of any action on the part of the coordinate branch of the national Legislature, to set itself up as a conservator over the executive officers of this Government; to place upon the laws of the United States its own construction; and to say to the heads of the Departments: "You must be governed by that construction, or be branded as dishonest men, and incompetent to perform the duties of your offices."

Now, Mr. Speaker, I am not one of those men who believe that any political capital can be made by attacking the honor and integrity of any man who may differ from me in his political views. I have a right to differ from him in his political opinions; I have a right, if possible, to show that the doctrines which he seeks to establish are false in principle, and dangerous in their tendency. But, sir, until I can read the secrets of the human heart, and, with the eye of Omniscience, behold the hidden springs which move the judgment, I have no right to question his motives, or to brand him as a dishonest man.

Mr. Speaker, this system of indiscriminate personal abuse, among men differing in their political views, has already created mischief enough throughout this country. The time seems to have arrived in the history of this Government, when, no matter how pure or patriotic a man may have been, no matter how devoted to the interests of his country or the welfare of the Union, if he but suffers himself to be placed in any high official position under this Government, he is compelled to pass through a fiery ordeal most difficult to withstand. His honor, his character, and even his ancestors, relatives, and friends, must all be subjected to the taunts, the ridicule, and the insults of party malice; so that a man who has any character to lose may well tremble at the thought of allowing himself to be placed in any official position within the gift of the Government or of the people. It is not strange, sir, that it should already have become a matter of wonder and astonishment, among civilized as well as barbarous nations throughout the world, that Americans, according to their own showing, should invariably place their most consummate scoundrels in their most responsible offices.

Now, Mr. Speaker, I know nothing about this Fort Snelling case except what appears from the report of the committee, and what I have gathered from persons well acquainted with the property disposed of, and with its value; and in speaking upon this report, I shall view it, not so much in the light of an expression of opinion on the part of the gentlemen composing the majority of that committee, as in the light of an electioneering political document for the benefit of the Republican party. The whole report, from the beginning to the end, in its statements and its arguments, in its assumptions and conclusions, bears unmistakable evidence of being a deep-laid party scheme intended to disgrace, in the eyes of the people, one of the chief officers of the Government, whom I believe to be as honest a man as ever honored the position of Secretary of War; and, sir, I am not surprised that the gentleman from Illinois, [Mr. MORRIS,] although not particularly favorable to the present Administration, should have repudiated the statements, reasonings, and arguments, of his Republican associates upon that committee. I do not believe it possible for any man having one drop of Democratic blood still left in his veins to stamp with the seal of his approval such a report as this.

But the gentleman from Illinois [Mr. MORRIS] does not favor us with the reasonings which have influenced his judgment. He merely gives his assent, and sings us the song:

"I do not like thee, Dr. Fell,
The reason why, I cannot tell;
But this I know, and know full well,
I do not like thee, Dr. Fell."

Perhaps the gentleman will give us his views hereafter. The first resolution reported by the committee declares that the sale of Fort Snelling was without authority of law. The arguments upon which this charge is based are of such a peculiar character that I cannot but allude to them.

The charge is that the Secretary of War has violated the law of the land. The law which the committee say he has violated reads as follows:

"Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized, under the direction of the President of the United States, to cause to be sold such military sites belonging to the United States as may have been found or become useless for military purposes. And the Secretary of War is hereby authorized, on the payment of the consideration agreed for into the Treasury of the United States, to make, execute, and deliver all needful instruments, conveying and transferring the same in fee; and the jurisdiction which had been specially ceded for military purposes to the United States by a State over such site or sites shall hereafter cease."

In March, 1857, this law was amended as follows:

"Sec. 4. And be it further enacted, That the provisions of the act approved March 3, 1819, entitled 'An act authorizing the sale of certain military sites,' be, and they are hereby, extended to all military sites, or to such parts thereof, which are or may become useless for military purposes: Provided nevertheless, That nothing in this act, nor in the act above mentioned, shall be so construed as to impair in anywise the right of the State within which any such site or reservation may be situated, to impose taxes on the same, in like manner as upon other lands or property owned by individuals within the State, after such sale."

Now, according to my understanding of the English language, the Secretary of War, under the direction of the President of the United States, in accordance with the law of 1819, as amended in 1857, has full and unlimited power to sell any military reservation now owned by the General Government within the United States of America, whenever he shall consider it no longer necessary for the purposes of the Government. It is true there is a limitation in this act that such military reservations are only to be sold when they are no longer necessary for military purposes. But who, I ask, is to be the judge of the necessity of selling? Why, the committee would have you believe that some individual who was at the head of the War Department two or three years ago, was now to be the judge of the necessity of the case, and the Secretary of War must be governed by his opinion. Or they would have us believe that certain subordinate officers of the Army were to be the judges of the law, or that certain Senators and members of Congress were to be the judges, or that even half a dozen land speculators in the West were to be the judge and jury to decide upon this question, and that the Secretary of War was to be bound by their decision.

Mr. Speaker, I do not pretend to be a lawyer; but there are some things which are so plain that "a wayfaring man, though a fool, need not err therein." And as every man can best illustrate his views by comparisons drawn from some business with which he is intimately acquainted, I propose to illustrate this point of the case by a railroad comparison. Suppose the directors of a railroad company, finding that they had on hand more cars and engines than were necessary for the economical transaction of the business of the road, should pass a resolution authorizing me, under the direction of the president of the company, to sell such engines and cars, or any part thereof, as were or might become unnecessary for the purposes of the company: I take it that under that resolution, I should have full power, under the direction of the president of the road, to dispose of any car or engine owned by the company, and that no court of justice on earth would declare that sale to be illegal or void. "But," say this committee, "the sale would be illegal, because there was another agent of the company three or four years ago, who was clothed with precisely the same power, who reported that no engines or cars could be spared, and that they were all necessary to transact the business of the road." My answer to that would be, that was the opinion of the first agent, but it is not my opinion. His opinion, expressed three or four years ago, when he desired to pursue one course of policy, has no weight with me now, when I propose to pursue a different policy, particularly as the business of the road has materially diminished since that time, and is now constantly diminishing. "Oh," say this committee, "the sale was illegal, because you did not consult the superintendent of the road. It is illegal because you did not consult the engineers and firemen. It is illegal because you did not consult the brakemen and the laborers employed on the road. It is even illegal because you did not consult the passengers in the cars and the inhabitants upon the line of the road." My answer to that would be that

I am authorized, by a resolution of the company, to sell such cars and engines as are unnecessary for their business. The same resolution which authorizes me to sell, constitutes me the judge of the necessity of selling; and when I desire your advice, I will send for you.

Well, Mr. Speaker, we will suppose that I have sold a car, and soon after it is discovered that the very car which I sold is even now used by the company in the transaction of their business. "Ah!" say the committee, "the sale is evidently illegal now, because the very fact that the company are still using the car, is indisputable evidence that it is not unnecessary for the transaction of their business." My reply to that would be, that when I sold the car, it was laden with freight, destined for the other end of the road; and I made it one of the conditions of the sale, that it should not be delivered over to the purchaser until it was no longer needed by the company for the transportation of that particular lot of freight; and I apprehend that most courts of justice would pronounce that sale legal and binding, even though this committee should declare it null and void, because the car was not standing empty on a side track.

Now, Mr. Speaker, suppose that, soon after that sale had taken place, the annual meeting of the stockholders should be held. What kind of position, I ask you, would a committee, appointed by those stockholders to investigate the sale of that car, occupy? Should they bring in a report, that for such reasons as these I had violated my authority and made an illegal sale, particularly if it should be known that the gentlemen making that report belonged to a party which was seeking to disgrace me and drive me from the company, for the purpose of taking the control and management of the affairs of the road into their own hands, I think, sir, that they would occupy about as favorable a position as that political party which, through its agents, has the boldness to assert that, for such reasons as these, the Secretary of War has violated the laws of the land.

There can be no doubt of the legality of this sale, so far as the Secretary of War was concerned. The same authority which authorized him to sell constituted him the judge of the necessity of selling. If he chose to act upon his own judgment, he had the legal right to do so. If there is anything in a public officer which I admire, it is that spirit of independence which prompts him not to be governed too much by the advice and opinions of fawning sycophants and interested advisers, but to rely upon the dictates of his own sound judgment. Nothing in the character of that immortal hero, General Jackson, commended him so much to the admiration, the confidence, and the affection of the American people, as that indomitable will, self-reliance, and fixedness of purpose, which induced him to take upon himself the responsibility, and to administer the laws in such manner as his own sense of justice and right declared to be for the best interests of the country; and I, sir, for one, am glad to know that we have at the head of the Department of War a man who possesses, to some extent, at least, the qualities of the illustrious Jackson.

The committee, after passing judgment upon the law in the first resolution, proceed, in the second resolution, to denounce the action of the Secretary of War as a grave official error, because he differed in opinion from his predecessor in office, and from certain subordinate officers in the Army, and relied upon his own judgment and the judgment of two disinterested commissioners. I think, Mr. Speaker, that I have already shown that he had the legal right to rely on his own judgment. I doubt very much the propriety of his being governed too much in his action by the advice and opinions of those Army officers who were stationed upon the very ground which it was proposed to sell.

The committee, in their report, lay great stress upon the fact that these Army officers who testified that this reservation was no longer required by the Government, and should not have been sold, were stationed upon the very ground, and knew all about it, while those officers who testified to the contrary opinion had only passed over it occasionally. These very circumstances confirm to my mind the wisdom of the course pursued by the Secretary of War. Army officers are a good deal like other men. They like very well to be stationed near to a large and populous city, where

the conveniences and luxuries of life are close at hand; where there is society for themselves, their wives, and their daughters; and when it is proposed to sell such a site, and there is a fair prospect that they will be removed hundreds of miles into the interior, where there is no society but Indians and bears, it is not strange that they should be of opinion that such a reservation should not be disposed of, but that it was extremely important for the military defenses of the country. Why, sir, I would just as soon rely on the judgment of the people immediately round a little county post office, situated in the distant corner of a town, to decide whether the people of the whole town would not be better accommodated by removing the office nearer to the center of population. However honest they might be, their judgment would certainly be biased by their interest.

I regard, therefore, the opinions of such men as entitled to little weight. The question as to whether the Secretary of War committed a grave official error or not, can best be decided by the result accomplished; and for that purpose, the evidence of officers, and others, taken since the sale, is just as good, and entitled to just as much weight, as the evidence of persons taken previous to the sale. The report of this committee, and the evidence presented with that report, shows most conclusively, that as many, if not more, reliable persons, both in civil and military life, have given it as their opinion that this reservation was no longer required for any military purpose whatever, as have testified to the contrary. The Secretary of War must have known, from the very circumstances of the case, that this was a question upon which officers and others would differ; and knowing this, he did just as he ought to have done, and just as the law authorized him to do—relied on his own judgment.

I think, Mr. Speaker, that a little common sense in matters of this kind is sometimes extremely valuable, and it does appear to me that if the majority of the committee had thought less of party capital, and looked more at the facts and the evidence in the case, they would have been inclined to agree with me. Why, sir, there is not a man, woman, or child in this country, who knows anything of its situation and condition, who does not know that a military post within ten miles of St. Paul is no more necessary to protect the inhabitants against the incursions of the Indians, than it is in the very center of the State of Connecticut. This reservation is situated in the midst of the most populous portion of a State which we have just admitted into this Union, with population sufficient to entitle her to three Representatives; and yet this committee would have us believe that the discontinuance of this post was to let in hordes of savage Indians to murder and massacre the defenseless inhabitants at St. Paul, St. Anthony, and Minneapolis.

I think, sir, that not a person who has testified in this case has expressed the opinion that this reservation was any longer needed for any purpose whatever, except as a depot for supplies. To my mind, that is about as ridiculous an idea as that it is required for military defense. If it is to be used as a depot for supplies, it must be used to furnish those posts lying north and northwest of it. But it is shown by this report, and the evidence contained therein, most conclusively, that those posts lying at the north would be much better and more cheaply supplied by the way of Fond-du-Lac, on Lake Superior. The committee, then, would have you purchase supplies at St. Paul, or St. Anthony, transport them ten or fifteen miles to this military depot, unload them, put them into storehouses, lock the doors, keep a company of soldiers and bevy of officers to stand guard over them, take them out again in the morning, and send them on their way to the frontier posts; and this, I presume, the committee call economy.

Why, sir, I am surprised that the committee did not report an additional resolution recommending the purchase of ground and the erection of military depots ten miles west of St. Louis, in order to furnish the western posts. If it is so extremely important to have a military depot within ten or twelve miles of St. Paul, where military stores can be purchased at all seasons of the year, that the Secretary of War must be accused before the country and the whole world of violating the law of the land, and of committing a grave offi-

cial error in having disposed of it, he is much more responsible in not having recommended to Congress the purchase of the ground and the erection of storehouses within ten miles of St. Louis, whence many stores are to be forwarded to the western posts. The idea of establishing military depots within ten or twelve miles of points where stores can be purchased at all seasons of the year, and of transporting them a few miles from the point of purchase to a military depot, unloading them, reloading them, and then forwarding them to the frontier posts, is about as ridiculous a thing as can well be conceived.

The claim is all a subterfuge and a pretense. There is no reason, no common sense in it. And yet the Secretary of War must be charged with being incompetent for the discharge of his duties, and as having committed a grave official error, because he has not given his sanction to such a system as that. So impressed are the committee with the magnitude of this great official error, that they are led to use the following language:

"This was more than an error. It was a fault affecting the most interesting branch of the public service, and where incaution, want of judgment, and want of skill, are least excusable. In cases where professional and technical judgment is of so much importance, such a fact as has been stated, from whatever cause or want of cause it proceeds, is enough to occasion just distrust of the competent management of that branch of the Administration charged with the whole power of national defense and offense."

Let the country judge of the justice or injustice of these attacks and insinuations. I, for one, am perfectly satisfied that the sale was not only legal, but that the Secretary of War was in duty bound to dispose of it, it being no longer required for any military purpose whatever.

The committee seem to have been laboring under the idea that they were not merely to investigate the sale of Fort Snelling, but were to lay down rules and regulations for the government of the Secretary of War and his subordinate officers; and in doing this they seem to have discovered some new lights which have heretofore been concealed from the visions of American statesmen, and which are now, for the first time, revealed to the majority of this investigating committee. That is, that the head of the Department of War is, in reality, and should be regarded as the tail, and that the Secretary of War should be the mere tool in the hands of his subordinate officers, to do their bidding; and, in that connection, they use the following language:

"It is granted that, by law, the Secretary of War is the superior and head of the whole military service of the country. But practically he is not so—not in popular judgment merely, but because, in fact, without reference to his official position, he has but a minor part in projecting and executing matters of strategy. His office is rather administrative than executive; and in the absence of the legal idea that he is the chief of the Army, with no superior but the President, his office might be considered civil and not military."

Upon the same ground, I suppose the committee would hold that the heads of all the other Departments, including the President, were to be but mere tools in the hands of their subordinate officers; and, by following out the same process of reasoning, that the highest subordinate officers were to be governed in their action by the decisions of the officers next in rank, and so on down through the scale, until the very lowest officials and the common soldiers should become the supreme judges and executors of the law. They seem to go a good deal upon the principle of the little boy who claimed that he was king, because, though his father was in reality king, yet his mother ruled father, and he ruled mother. But I do not regard it as a very good doctrine to teach, either to children or to subordinate officers, that they are to set themselves up as dictators to prescribe rules and regulations for the government of their superiors.

Sir, I believe that the Secretary of War is not only in law, but in fact, the head and front of the military force of this country, and has been so regarded by the people and statesmen of this country, from the organization of the Government down to the present time.

The third resolution of the majority of the committee reads as follows:

"3. That with a knowledge of the great value of the Fort Snelling post and reservation, and the importance of great caution and judgment in making the sale, the Secretary of War appointed as agents for the purpose, unqualified, inexperienced, and incompetent men."

Now, sir, I have no acquaintance with either

of the gentlemen appointed upon the commission, although I do know one of them; Major Eastman, very well by reputation; and I should require something more than such a report as has emanated from this committee to convince my mind that he and his associate were not fully qualified to perform the duties of their appointment. The principal objection to Mr. Heiskell seems to be that he is a Democrat, instead of a Republican; and the committee appear to be wonderfully exercised in mind because the Secretary of War did not appoint a political and personal enemy instead of a political friend and neighbor.

The committee, in this connection, see fit to lumber up their report with a jovial conversation held between the Secretary of War and his old neighbor in Virginia, in regard to some of their old political contests, all of which is logged into this report, having no bearing upon the case, for no other purpose whatever except to throw ridicule upon the Secretary of War. Then follows a long disquisition upon the impropriety of appointing political friends to office, from which I suppose they would have us infer that the Republican party, if they ever get the control of this Government, will only discharge those Democrats from office who are found to be either dishonest or incompetent to perform their duties. When that time arrives, and our Republican friends practice what they preach, I shall be inclined to view with more favor this gratuitous lecture. The evidence in regard to Mr. Heiskell, if it proves anything, proves that he was a plain, honest, unpretending man, not mixed up with any of the land speculations in the western country, but standing entirely aloof and independent from all connection with land speculators; and that the Secretary of War appointed him, not so much on account of political and personal friendship, but because he knew, of his own knowledge, that he was an honest man, and well qualified to attend to the duties of his appointment.

It would seem, Mr. Speaker, that this exhibition of party malice would have satisfied our Republican friends upon that committee; but not content with this, they have descended to even a lower depth of party meanness by instilling into their report comments upon a letter addressed by a Vermont Democrat, formerly a member of Congress, to the Secretary of War, in which he sets up a claim that, on account of old party services, and on account of the peculiar position of the country in which he resides, he is entitled to make a good bargain out of the sale of Fort Snelling; and the committee, after insinuating in their report that the Secretary of War acknowledged the justice of his claim, and coincided with him in his opinion, illustrate the injustice of the charge by admitting that no answer was ever made to this letter, or to many others of a similar character. Why then, I ask, incorporate this into the body of their report? A few attacks of this kind are enough to mark the whole report as nothing but a miserable electioneering political document, unworthy of the consideration of a deliberative body.

I do not know who would have been regarded by the committee as suitable persons to have conducted the sale; but, judging from the tenor of their report, I presume they would have selected two western land speculators, who would have divided the reservation up into lots and squares; who would have flooded the country with paper maps, showing the lots all numbered, and the streets all graded, with many magnificent buildings already erected, and many others in process of construction, with a note at the bottom, stating that it is expected the county seat will soon be removed to this new city, by which means, some weak brethren might have been deceived, a high price obtained for the land, and many honest people sorely cheated. I do not think that is the way for this Government to do business.

A large portion of this report seems to be taken up with a history of the transactions between the parties interested in the purchase; what Mr. Mather was doing, what Mr. Schell was doing, and what Dr. Graham was thinking about. But not one particle or scintilla of evidence is produced to show that the Secretary of War, or either one of the commissioners had the most remote idea in the world that any living man except Mr. Steele was interested in the purchase, or that any combination was formed; and yet insinuations are thrown out all through this report that the Sec-

retary of War might himself have been personally interested in the purchase.

"I know there is no charge of that kind openly made, but my translation of the report is, 'although we do not charge the Secretary of War with being personally interested in the sale, yet circumstances look very suspicious.' I say, sir, that a bold charge of this kind, based upon no evidence whatever, is a gross outrage; an outrage upon the Secretary of War—an outrage upon the dignity of this House. But I will not dwell upon this point of the case further. The question as to whether the commissioners were qualified to perform the duties devolved upon them by their appointment, can best be determined by the result.

The committee state in their fourth resolution that provisions for and management of the sale were so negligently, carelessly, and injudiciously made as to induce successful combination against the Government, exclude all competition, and bring loss on the Government. Now, is that charge true? For if it is not, the charge of incompetency on the part of the commissioners, falls to the ground. If the reservation sold for all it was worth, the commissioners did their duty, and their whole duty. If they had sold it for more than it was worth, somebody would have been cheated, and the Government would have been a swindler. The evidence in regard to this point of the case however seems to be very conflicting, but the report of the committee shows that the weight of evidence is very decidedly and conclusively to sustain the position that the Government received for the property every cent that it was worth.

I know that some gentlemen have testified that they would have given much more for it; but it must be remembered that all these magnificent offers were made after the sale, when it was well known that they could not possibly be entertained. It is a very easy thing for a man to make a large offer for a piece of property when he knows that his proposition cannot possibly be accepted, for he is entirely safe in making the offer, whether he has the means to pay or not. Why, sir, I have purchased property myself which had been exposed to public sale for years at a given price, without finding a purchaser; and yet just as soon as I had purchased it at that very price, the seller would be besieged with inquiries, "why did you sell that property so low? I would have given you fifty per cent. more for it;" others would offer one hundred per cent. advance; but I take it the offers of men, under such circumstances, would be entitled to little weight in establishing the true value of the property.

There are men residing in my own town, men of intelligence, wealth, and influence, men interested in, and well acquainted with, the value of western lands, who have examined this Fort Snelling reservation, and have given it to me as their united opinion, that the Government realized for this property all that it was worth, and that they would not be willing to take it from the purchasers at the price paid. I have as much confidence in the judgment of these men as I have in the judgment of any land speculators in the western country.

The idea of this reservation being the site of a large and flourishing city, situated as it is within a few miles of St. Paul and St. Anthony, cities already established, is too ridiculous to deserve a moment's consideration. It is too far off ever to become a part of either of these cities, and yet too near to both of them to become even a village.

I know that a speculative fever may be gotten up, and town lots sold, and that large prices may be realized; but somebody will be sure to be cheated, and Fort Snelling will only be a tolerably decent farm after all. In my judgment, the Government obtained for this property all that it was worth; and it had no business to take any more, even if it could get it. It is no part of the business of the Government to be speculating in lands, or to seek to make money by deceiving people; and, whatever may be said of this Fort Snelling reservation, you never can convince the people of this country that ordinary farming land in a new State, two thousand miles away from the sea-coast, is worth more than ten or twelve dollars per acre. If, then, this property sold for all it was worth, the commissioners did their duty, and are not liable to the charge of being incompe-

tent or unqualified to perform the duties of their office.

But, sir, I do not care to dwell longer upon this case. I think I have said enough to satisfy our friends on this side of the House, that the Government realized for this land every cent that it was really worth. I think I have said enough to satisfy them that their report is nothing but a miserable electioneering political document, intended to disgrace, in the eyes of the people of the country, one of the chief executive officers of the Government, and, as such, should receive the condemnation of every honest man.

I know, Mr. Speaker, that it is very easy to raise the cry of bribery and corruption, and to start the idea that there is great iniquity in the administration of the Government; but it will require something more than such a party report as this to satisfy the minds of the people. From the commencement of this Congress down to the present hour, scarcely a day has passed that the Administration has not been assailed by gentlemen upon the other side of the House. The President has been accused of buying up members with promises of offices to their relations and friends. The Secretary of War has been accused of buying them up with promises of contracts for horses and mules. All the chief officers of the Government have been assailed—some in one way, and some in another. The language of the Opposition has been, "there is none of you that doeth good; no, not one."

I think, Mr. Speaker, it is high time that this kind of argument should be abandoned, and that we, the Representatives of the people, should be willing to accord, by courtesy, to the highest officers of the greatest nation upon earth, at least as much as is accorded by law to the meanest criminals at the bar—the right of being considered innocent until they are proved guilty.

And now, sir, when the Republicans on the other side of the House get control of this Government, which disaster I pray Heaven to avert, if, during their brief reign, they will only give us as honest and as faithful officers as we have given them during almost the entire period of our country's history, I, for one, shall rest content, and shall console myself with the reflection that the country will be safe, even though such a party may be in power.

Mr. GROW. Mr. Speaker, in the short time I shall trespass upon the patience of the House, I shall not stop to notice the panegyrics pronounced upon the Secretary of War by his friends. The course of the gentlemen who have spoken in his defense reminds me of what is often seen in criminal courts, when the advocate, throwing aside his brief, appeals to the jury in behalf of his client because of his former virtues and noble character as a man. It is the official conduct of the Secretary of War, and not his private character or past life, that is now passing under scrutiny. When the facts of delinquency of conduct stand upon the record, the criminal at the bar cannot plead against those facts that he has before lived an irreproachable life. If the facts be proven in the record, then the condemnation of the jury passes, and private character or past life cannot be pleaded in bar of judgment. Arnold himself, up to the night of his arrest by Paulding, Van Wert, and Williams, could have referred to some of the most brilliant achievements upon the bloodiest battlefields of the Revolution in proof of his valor and heroism, as one of the noblest patriots of his country.

What are the facts in this case, and how do they affect the Secretary of War? is the only question involved. It is the *motive* and *manner* of this sale that we complain of; and I agree with the gentleman from Connecticut [Mr. Bishop] that it is a minor consideration what was the amount received for the property. That is not the important consideration. It is to be considered in determining whether the transaction was conducted fairly or not; and goes only to the integrity of the motive for it. Whenever an executive officer of this Government shall so conduct the affairs of his office, as by collusion, or in any other way, secretly, to give one citizen an advantage over another, in their dealings with the Government, it is a maladministration of his office. That is this case. It is not necessary that there should be an advantage accruing to himself; nor is it necessary, in order to justly deserve the condemnation of the

people, that he should personally receive filthy lucre. It is not necessary that he should receive any personal advantage in order to make him amenable to an outraged public sentiment. If he so manages the affairs of the Government intrusted to him, as knowingly to give undue and unfair advantage to one citizen over another, he is then subject to the condemnation of the people. What are the facts in this case? During the pendency of the Army bill in the Senate, last session, the following amendment was proposed by Mr. Weller:

"That the provisions of the act approved March 3, 1819, entitled 'An act authorizing the sale of certain military sites,' be, and they are hereby, extended to military sites, or to such parts thereof, which are or may become useless for military purposes."

When this amendment was offered Mr. BRIGHT said:

"I should like to inquire if there is any provision for a public sale?"

"Mr. WELLER. Those sold under the act of 1819 were sold at auction; but it has been decided that that act was retrospective, and did not apply to any military sites established after the passage of the law. Since that time, of course, many military posts have become wholly useless to the Government; and this amendment is to sell them.

"Mr. BRIGHT. At public, or private sale?"

"Mr. WELLER. At public sale."

"The amendment was agreed to."—*Congressional Globe*, vol. 34, page 1046.

That is the whole record of the proceedings in both Houses on that amendment attached to one of the regular appropriation bills in almost the last hours of the session. It was the understanding of those who put the provision into the bill, that there was to be a public sale. Was not the Secretary of War bound to take notice of this intention of the law-making power? The gentleman from Connecticut [Mr. Bishop] says that the law clothed the Secretary with power to sell in any way he pleased, either at public or private sale. Grant that it did. Would that give him the right to sell at *secret* sale? This sale was neither a public nor a private one. It comes under the designation of neither. A private sale is where property is sold on offers of purchasers, accepting such offer as the seller thinks best, but with knowledge to purchasers that the property is for sale. But when no one in a whole community knows that a piece of property is to be sold, and it is sold, that is not a private but a *secret* sale; and that was this sale. It is for this that the Secretary of War is arraigned. Instead of allowing all citizens who desired to purchase the property, to compete for it, it was sold without any knowledge in the community that there was to be a sale.

What was the law revived by this amendment to the Army bill at the last session? The law of 3d March, 1819, thus revived, is in these words:

"That the Secretary of War be, and he is hereby, authorized, under the direction of the President of the United States, to cause to be sold such military sites belonging to the United States as may have been found to become useless for military purposes; and the Secretary of War is hereby authorized, on the payment of the consideration agreed for into the Treasury of the United States, to make, execute, and deliver all needful instruments, conveying and transferring the same in fee; and the jurisdiction, which had been specially ceded for military purposes to the United States by a State over such site or sites, shall thereafter cease."—*Statutes at Large*, vol. 3, page 520.

The sales which were made under that law were, as Mr. Weller stated in answer to the question of Mr. BRIGHT, public sales. The law revived by the amendment of the last session provided for the sale of—what? *Such military sites as had become useless for military purposes.* Under the construction of this law, given by the gentleman from Connecticut, [Mr. Bishop,] the Secretary could sell any of your military reservations anywhere that he deemed useless. The gentleman thought the Secretary somewhat of a second Jackson, because of his indomitable will, that would receive no counsel or advice from any quarter, and because he disposes of the public property at his own caprice, even against the advice and written report of General Jesup, indorsed by General Scott. I take it that these generals have a slight knowledge of the military wants of the country, although they may not be as competent, perhaps, to judge of the uselessness of military reserves as the gentleman from Connecticut, who devoted much of his time to an effort to prove that this military reservation was no longer needed by the Government.

Under the law, the Secretary could not sell any reservation except such as had become useless for military purposes; but by the doctrine laid down

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on the other side, he could, and can now, sell any reservation anywhere that he deems useless, no matter what might be the opinion of the most competent military judges as to their importance for national protection or defense. Even if the Secretary of War is made the judge of whether any reservation could be dispensed with, he is responsible for the exercise of a sound judgment, and if he sells to the prejudice of the public service it is a plain and palpable violation of the spirit of the law. But the same censure would not, of course, be visited on an error of judgment as for a willful neglect of duty.

Now, was the reserve at Fort Snelling necessary for the Government? If so, the Secretary had no right to sell it. On the 15th of April, 1857, a proposition was submitted to the Secretary of War, by Mr. Rice of Minnesota, for the purchase of Fort Snelling. That was three months before the sale. The Secretary of War submitted the proposition to General Jesup. In his report to the Secretary of War, on this proposition, page 155 of the committee's report, he says:

"If this policy is to be adopted, and it is certainly the true policy, not a foot of the site of Fort Snelling can be spared without weakening the defense of the frontier."

Here is an officer who has served the country almost the allotted period of man's life, in high military positions, the officer who had this department of our military service under his inspection, reports officially to the Secretary of War that not one foot of this reservation could be spared without weakening the defense of the frontier. This was on the 15th of April, 1857; and yet, immediately following this, the Secretary of War sends Major Eastman to make a survey of that reservation. For what purpose? To make a survey, as Major Eastman supposed at the time, to ascertain the quality of the land, its value, &c., in order to fix the price at which it should be sold. But before any report on this subject is made, and before the Secretary of War ever hears from the surveyor, he dispatches another agent, named Heiskell, who meets Eastman in Minnesota. They meet together, and the last agent says he has authority to sell the reservation in any way he pleases, public or private. These two agents agree to make the sale—and how? They agree to sell it under the instructions of the Secretary of War, notwithstanding the report from the Quartermaster General, that not one foot of the reservation could be spared without weakening the defense of the frontier—an opinion in which he was sustained by Colonel Thomas, by General Churchill, and by other officers—concurred in by General Scott, the first military name of the age.

Colonel Thomas, senior officer of General Scott's staff, and acting as inspector general, when he visited Fort Snelling says, in his testimony, page 135:

"Question 460. You say you see no reason to change your views as expressed to the general-in-chief as to the propriety of retaining Fort Snelling as a place of military supply. Do you mean by that that it would be desirable for the Government to repossess itself of Fort Snelling?"

"Answer. I think so."

"Question 461. How much do you think the Government could afford to pay for it to repossess itself of the property?"

"Answer. It is only valuable as a station for troops to send out upon an emergency, and as a supply for posts at a distance. It is important, as you have there all the supplies and the means of transportation."

"Question 462. Would it be of more value to the Government than the Government received for it?"

"Answer. I think so."

"Question 464. Do you think the Government could, with propriety, and as a matter of economy, purchase back such portions of the property as you have specified as being necessary, for the amount paid for all, if they could not buy it for less?"

"Answer. Yes; I think so."

General Churchill, in his testimony, page 282, says:

"Question 1755. Were you, or any of the officers connected with your department, consulted as to the propriety of selling that reserve?"

"Answer. I was not."

"Question 1756. Had you been consulted, would you have advised a disposal of it?"

"Answer. I would not."

Major J. G. Martin, assistant quartermaster general in the Army, and who had been stationed

at Fort Snelling for two years, in his testimony, page 355, says:

"Question 2358, (by Mr. BURNETT, resuming.) Would you give it as your opinion that Fort Snelling ought to have been retained as a military depot?"

"Answer. Yes, sir."

Perhaps the gentleman from Connecticut [Mr. BISHOP] would say that these men thus connected with the Army did not know what the wants of the country were in a military point of view. The Secretary of War ascertained from no human being that this was a useless reservation before he ordered it to be sold; but on the contrary, he sold it in direct opposition to the opinion of some of the most experienced officers in the Army. That is our first complaint. It was his duty to ascertain from the commandant of the position, or some other competent person, whether the reservation could be spared from the military defenses of the country. This he did not do. This is the first act for which we arraign him. Next, for ordering a sale in express opposition to the opinions of those who had the subject in charge, and who would be supposed to know most about it. And thirdly, we arraign him because after he had determined to sell, instead of giving all citizens an opportunity to buy this property which belonged to the General Government, and in the sale of which every one had a right to be a competitor, he sold it at secret sale to one man, and he the first to whom it was offered, and at the first interview; and the community knew nothing of the sale until after its completion, and were unable to obtain any information as to the sale previous to its taking place, though they applied to the Secretary for it. The honorable member from Illinois [Mr. SMITH] had written to the Secretary of War two months before this sale, inquiring if this reservation was to be sold, and an ex-member of Congress from Vermont (Mr. Dillingham) had also written to make a similar inquiry. But the Secretary of War was so busy that they, like every one else, save these favored parties, could get no answer till after the sale was completed. That is the evidence as testified to by Mr. SMITH and Mr. Dillingham.

Now, I ask my friend from Connecticut, [Mr. BISHOP], and his side of the House, if there is not good reason for scrutiny by the Representatives of the people into such acts of the executive officers of the Government? Under our form of government, it is the first and highest duty incumbent on the Representatives of the people to watch, with jealous care, the conduct of the executive officers of the Government. It was one of the maxims of the sage of Monticello, that "the price of liberty is eternal vigilance;" and it is not for the representatives of popular liberty to defend or vindicate an executive officer in the clear and flagrant violation of the laws of the country, because, perchance, he may have maintained a noble character in the history of the past. I have nothing to do with the private character of the Secretary of War, or his past history. His conduct in this transaction, and that alone, is on trial; and, if wrong, it is not to be screened by any of the elements of character which his friends may imagine he possesses kindred to those of Andrew Jackson.

Now, I need not take up the time of the House, or weary their patience by any further references to this testimony as to the importance of this post as a military reservation. All the military men examined by the committee sustain the one idea that Fort Snelling is important to the country, and could not be abandoned as a military post at present without detriment to the defense of the frontier. Yet the gentleman from Virginia [Mr. FAULKNER] told us that a military commission, sent by the Secretary of War, reports that this reserve is not needed. When was that commission organized? After the committee had made its investigation, and reported. The Secretary of War, it seems, unwilling to risk his case on the evidence taken by the committee, at his own instance orders a military commission to visit Fort Snelling, and report as to its utility as a military

post. A superior officer commands his subalterns to make a report in a case affecting his own reputation, and the character of the service; and they go and perform his bidding, and there I leave their report. They were sent after this evidence was taken, and the report made. If the Secretary of War deemed it necessary to have the opinion of military men as to whether this reservation was important to the military defense of the country, why did he not get their opinion before he ordered the sale? Why did he wait till an investigating committee of Congress took testimony and made its report to Congress? Was it to ascertain the facts as to whether this reserve was useless in order to govern his action in ordering the sale? or was it for his defense against the testimony impeaching his conduct? Why have a commission to determine whether the reservation was useless after the same was sold?

But, sir, how was the sale made? Major Eastman, one of the agents who sold it, says, in his testimony before the committee, page 89:

"Question 1. Please to state all the facts and circumstances within your knowledge touching the recent sale of the military reservation at Fort Snelling."

"Answer. In April last I received verbal instructions from the Secretary of War to proceed to Fort Snelling and make a survey of the place." * * * * "He stated that after I had finished the survey he would send an agent out there to sell it. I proceeded to the place, and went to work immediately. After I had the survey nearly completed, an agent arrived and reported to me, and, at the same time, I received the appointment as agent myself to act with him." * * * * "The instructions were to sell it at public sale or private sale, as the agents thought best for the public interest, either in small lots or as a whole. After we had consulted on the matter, we came to the conclusion that it would be better for the Government to sell it at private sale."

"We determined to sell it at private sale, that being the best for the Government, and before doing it we determined to make an estimate of what we thought to be a fair price or a good price. We fixed the price at \$90,000. After we had gone that far, the question arose as to whom we should first offer it to, and we determined to offer it to Mr. Steele, for these reasons: he had lived there for about twenty years, he had built him a house, and, I believe, had possession of all the private property there." * * * * "We thought it no more than justice that we should give him the refusal of it. We did so; but he thought the price we had fixed was too high, and offered a less sum. We told him that we could not take less than that amount. He then accepted it, and made an agreement with us, which was to give \$90,000, \$30,000 of which was to be paid on the 10th of July, I think, \$30,000 on the 10th of July following, and \$30,000 on the 10th of the July next succeeding."

"Question 37, (by Mr. MORRIS.) If you had been the private owner of that property and had desired to sell it, would you have mentioned it to but one individual, and have sold it to him upon your first interview with him?"

"Answer. No, sir; if I had been my own private property I should have managed it entirely differently."

What are the reasons given for selling at private sale, or rather at secret sale? For if there is any significance in words between "secret" and "private," the former applies to this case. Now, what is the reason given by these agents why they sold at secret sale, instead of giving notice to the community? They say there would have been a combination to prevent the land from selling for as much as they could get at a secret sale.

When asked who told them there would be a combination, Heiskell says Major Eastman told him, and Major Eastman says Heiskell told him; and when you find out from both who told them, it is Dr. Graham who mixed with the people as they say. Dr. Graham, by his own account, went to the Secretary of War in this city, stated he was going to Minnesota to make some investments, and asked if the Secretary had anything for him to do; and the Secretary says "nothing, unless it be the selling of Fort Snelling." But the Doctor preferred to be a purchaser, rather than a commissioner for the selling of the reserve. Before he leaves the city he forms a company with Mather to buy Fort Snelling, and it is this company, thus formed, composed of Graham, Mather, and Schell; and when they go to Minnesota they take in Frank Steele, that makes the purchase. How did Dr. Graham know that this reservation was to be sold thus privately?

There is no positive evidence that shows that he did know it. But the evidence shows that they make this arrangement for its purchase here in Washington, and Mather gets appointed a com-

missioner to go to Fort Ripley, and draws the contract for the agents to sell to Steele, and then returns to Washington to see that the sale is confirmed. Dr. Graham says he was going to Minnesota to make investments, and that is the reason he asked the Secretary of War the question he did. The evidence shows that he had no money to put into this company, or, at least, that he did not put in any, but that Mather and Schell advanced all the money, and that Dr. Graham's interest in it was to be repaid to them in salary, and for his services, although they paid nobody else any salary or for any services. Well, what was done? As soon as it is determined by the agents to sell at secret sale, or private sale, as they call it, they offer the property to Frank Steele before letting any one else know that it is for sale; and the only reason given for this course is, because he lived there, and had an interest in the reserve, by reason of living on it. He had no legal rights there, of course, for he was on the reserve only by the sufferance of the Government. It is true that Steele had a house on the reserve, and was living there; but so had McKenzie. McKenzie's property was worth fifteen or twenty thousand dollars, while Steele's was not worth more than ten thousand dollars, at the highest estimate, and part of the witnesses put it at six or eight thousand dollars.

Mr. PHELPS, of Missouri. McKenzie was living in St. Louis. He lived there then, and does now.

Mr. GROW. I speak from the testimony. I cannot take the word of any member, however good it may be. The evidence is that McKenzie was living on the reserve, and had a store, a hotel, and other property there.

Mr. BURNETT. I am satisfied that the gentleman from Pennsylvania does not intend to do injustice; and I will say to him, that the proof shows that McKenzie lived in St. Louis, was not on the ground, and that Henry M. Rice was his agent.

Mr. GROW. Do you say he had not an interest there?

Mr. PHELPS, of Missouri. Justice to myself requires that I should make a statement, as I interrupted the gentleman when he was alluding to Mr. McKenzie. Kenneth McKenzie resides in St. Louis, and has done so for many years. He was interested in property on that reserve.

Mr. GROW. Exactly.

Mr. PHELPS, of Missouri. But before this sale took place, Mr. Steele had acquired the whole interest of McKenzie.

Mr. GROW. I am not arguing on technicalities. It is claimed that this offer was made to Steele, because he had a greater interest in the reserve than any one else, and it will not do for the gentleman to raise the technicality that McKenzie was not there in person. I believe that is true, and that the statement of the gentlemen from Missouri [Mr. PHELPS] and from Kentucky, [Mr. BURNETT], as to the whereabouts of his person, is correct. I do not care where he was in person. The point is, what was his interest in this reserve. The evidence is, that Steele agreed to pay McKenzie \$15,000 for his interest there, which is almost twice as much as Steele's interest alone.

Now, why was this one man selected, and the sale made to him, when no other citizen knew that the property was for sale, or could find out anything about it from the Secretary of War, even on formal application, until the sale was completed? It is for this conduct that we arraign the Secretary of War. It is for the mode and manner of the sale. So far as this point is concerned, we care not whether the Government got the full value of the property or not. A wrong was done to other citizens, who wished, or might have been disposed, to purchase the property, by the course of the Secretary of War and his agents, in selecting this one man, and permitting him to buy it, without the knowledge of any one else except his confederates.

As to McKenzie's interest, a friend calls my attention to a portion of the testimony, which I will read. This is a part of an agreement signed by Franklin Steele, Archibald Graham, and John C. Mather, on page 456 of the report of the testimony:

"The said Steele is also further authorized to arrange with Kenneth McKenzie for his claim; and, if he requires

one hundred and sixty acres of land; (and in no case is it to exceed that amount,) he is to be confined to what is known as the Baker claim; and should the said Steele deem it advisable, he is authorized, instead of deeding him the land aforesaid, to pay him, for the relinquishment of his entire claim, a sum not exceeding \$15,000."

This was after the sale. The agents, in their negotiation with Steele, stipulated with him to pay McKenzie; and it was understood by them that Steele was to purchase McKenzie's interest.

Here is further testimony on the subject, which I read from page 91:

"Question 10, (by Mr. FAULKNER.) Did you afford any opportunity for competition at private sale?

"Answer. No, sir. After we had determined to sell it at private sale, we thought it best, for the reasons I have given, to offer it to this gentleman. If he had refused, we should probably then have gone to the next man who owned property on the reserve, who was a Mr. McKenzie. He owned a hotel there, &c."

That is the testimony of Major Eastman, one of the commissioners. The gentleman from Connecticut [Mr. BISHOP] wished that gentlemen would have a little common sense. I call his attention to this point, and let us see what he considers common sense. Would the gentleman sell property of his own by giving notice to but one person that he wanted to sell it, and sell it to him at the first interview and upon the first offer? This witness says that Steele offered \$75,000, but they wanted \$15,000 more, and he agreed to give it, and they sold it to him. Now, where was the common sense in this transaction? The facts of the case stand thus: The Secretary of War has authority to sell only such reservations as are *useful* for military purposes. That is all the authority which the law gives him. Without taking the opinion of military men as to whether the reserve is needed or not, he orders its sale, and he orders its sale in such a manner that but one man and his associates in the purchase, knows of it, and he purchases the property at the first offer. The House can draw its own deductions from these facts. It is not my purpose to draw the inferences legitimately deducible from the facts disclosed in this testimony. Each member can draw them for himself. The citizens of the country, pursuing a lawful business, have been wronged by the mode and manner of this sale. It is of that that we complain, and for that that blame rests upon the Secretary of War. Whether he did it corruptly or not, is of no consequence except as to the amount of reprobation which the act deserves. He violated the law of Congress in selling public property needed for public use. He trampled down the rights of the citizens of the country, and that, too, under the sanction of the President of the United States, by depriving them of equal opportunities in a fair business transaction.

The gentleman from Connecticut complains that this side of the House has before, during this session, arraigned the President and executive officers. Sir, when the time comes that the Representatives of the people hesitate to arraign any executive officer of the Government for a perversion of his powers under the Constitution, we shall be at the verge of the downfall of the Republic. When the Executive demands of the Representative of the people allegiance to him instead of to the constituency which elected him, and brings party power and Administration patronage to overcome his scruples or to convince his judgment, it is time that a warning voice was heard from the tribunal of the people. It is the duty of the Representative who is true and loyal to those who sent him here, and to the convictions of his heart, to arraign any Executive who demands of the Representative, as has been done by the present Executive, allegiance to himself, instead of the people whom he ought to represent.

There is but one other point, Mr. Speaker, to which I desire to refer, and that is as to the value of the land; though, in my view of this case, that is of but little consequence, except so far as it goes to show whether this transaction was an underhanded and fraudulent one or not. If the property sold for much less than its value, the sale being thus secret, it would be still more open to the suspicion that there was improper collusion between the power which ordered the sale and the men who purchased the property. It is in that view alone, that the amount received for the property, compared with its real value, becomes of great consequence. It is important, so far as it is a circumstance to fix the character of the trans-

action, whether it was fair and manly, or whether there was collusion for improper purposes.

Now, as to the value of the property, I shall cite but few witnesses, and those from both military and civil life, in order that we may have the opinions of each. I read first from the testimony of Captain James H. Simpson, (page 387,) who is a captain of the corps of topographical engineers, in the United States Army, and had been in charge of the Government roads, in Minnesota, from 1851 to 1856, and was stationed at St. Paul, a few miles from the fort. I read a part of his testimony, as to the value of this reservation:

"Question 2597. Had you any interview with either of the commissioners who were sent there for the purpose of selling that reservation?

"Answer. Not previous to the sale, for I was not up at the fort; but subsequent to the sale I saw Major Eastman and had some conversation about it.

"Question 2598. What was it?

"Answer. He admitted that the sale had taken place, and he thought the Government had received a fair price for the land. I told him he could not talk in that way to me, a person who had lived five years in Minnesota, and who knew more about the value of land there than he did.

"Question 2603. What, in your opinion, was the value of that tract of land by the acre, taking it as a whole, in June, 1857?

"Answer. If it had been put up in small parcels, I think some portions of it would have brought \$200 per acre, and the lowest price realized for any of it would have been, I think, about twenty dollars an acre."

To this same point I read from the testimony of Mr. M. C. Smith, who has resided at Minneapolis, a few miles up the river from the fort, for the past three years, and whose business is dealing in land; page 238, is the following testimony:

"Question 1341. Are you acquainted with this reservation, the character of its soil, the number of acres it contains, and so forth?

"Answer. Yes, sir; pretty definitely, I think. I do not think the exact number of acres is known. I have heard it more generally estimated at eight thousand acres. Many think it will overrun ten thousand.

"Question 1342. Taking into consideration the character of the soil, its location, and everything, what was the reservation worth per acre for agricultural purposes at the time of the sale?

"Answer. Considered exclusively for agricultural purposes, I should think it would average about twenty-five dollars per acre."

Page 239:

"Question 1349. Do you regard the site of Fort Snelling as an eligible point for the location of a city or town?

"Answer. I do.

"Question 1350. What would you say that tract of land was worth, taking into consideration its advantages as a town site at that time?

"Answer. I should not put it under four hundred thousand dollars. I think it was worth not far from that."

This witness seems to be an intelligent man and well acquainted with the value of property in the neighborhood.

I now read from the testimony of Hon. ROBERT SMITH, a member of this House, who speaks from personal acquaintance of the value of the property. I read from page 146 of the report:

"Question 519. Did you make an examination in June for the purpose of purchasing the property in the whole or in part?

"Answer. Since 1848 I had been from one to four times a year in that region. I had, from the fact of my living in the West, and having rather a mania for land, examined that reservation always when I was up there. I know the country there almost as well as I do from my dwelling house to the post office in my town. When I wrote the Secretary of War, I wrote after having maturely reflected on the subject, and I say there what I believe. I would have been willing to have gone to the extent of the money I could raise in buying that property at the price which I stated in my letter. I would have sold property at cash prices, to be appraised by disinterested persons, to have raised the money to have purchased the property at four times the rate at which it was sold; that is, at four times eleven dollars per acre, for which I have been informed it sold; for I will say to the committee that I do not know to-day the price the property was sold for.

"Question 520. The property sold for \$90,000. Do you mean that you would have been willing to have paid four times that amount?

"Answer. Yes, sir; I would have gone to the 'extent of my pile,' to use a western phrase, to have purchased it at four times \$90,000. If it is not traveling out of the record, I will say to the committee, as sincerely as I ever made a remark in my life, that I think I could have sold that property last spring, if, when the act passed last March, I had been commissioned, with one or two other good, discreet, sensible men; we could have cut up the property, and sold it for half a million dollars, making the last payment within the time I am informed the last payment is to be made by the present purchasers."

He repeats the statement in a subsequent portion of his testimony, that he would have sold property in Illinois, at cash prices, to be appraised by three disinterested persons, and have purchased the reservation at four times the price for which it was sold.

So far, then, as the value of this property is

concerned, I will not stop to read more testimony on that point. I think, as the gentleman from Connecticut [Mr. Bisnor] remarked, in his case, I have cited enough to satisfy this side of the House, and, I trust, all the fair-minded men on that side, that the price received was entirely inadequate. The testimony shows conclusively that if the fact of the intention of the Government to sell the property had been known, and persons desiring to purchase had been allowed to put in bids for the property, in whole or in part, a much larger price would have been realized than was received for it.

But it is argued that if the property had been exposed at public sale, there would have been combinations to prevent the property from being sold for a fair price.

If the commissioners had advertised for sealed proposals, to be accepted or rejected by the commissioners, how could there have been combinations so as to defeat a fair sale? It seems to me, that mode, if no other, would have been a common-sense course to have been pursued; but the Secretary must show his *indomitable will* by placing the sale of this property into the hands of inexperienced persons, to say the least, and have it sold against the opinions of some of the most competent judges of its value to the defenses of the country. He must not be influenced by the opinions of others who would be likely to have more knowledge upon the subject than himself; he must show his *indomitable will* by selling this property at a secret sale, and allowing it thus to be sold at one fourth its value. Sir, if this conduct constitutes greatness, and is Jackson-like, then it is very easy to make General Jacksons in these days.

But, Mr. Speaker, as was well said by the gentleman from Massachusetts, [Mr. Daves,] this testimony is as conclusive as you could expect to obtain to prove improper conduct under such circumstances. If there was a fraudulent collusion, you must, from the necessity of the case, prove it from circumstantial evidence. No man, in office or out, is likely to stand before the world his own accuser. You must prove his corruption or improper conduct by incidents and circumstances, which, taken in connection with each other, make up the case. It is impossible to do it in any other way. Sir, take this whole testimony together, and it shows in the first place that the reservation was necessary for the purposes of the Government, and therefore ought not to have been sold, for it was not within the scope of the law; next, it shows that the Secretary ordered it to be sold in such a way that it could only be purchased by two or three men to the exclusion of all other citizens who might desire to buy. That fact alone proves a violation of law by the Secretary, and therefore official misconduct. All citizens of the country are to be treated alike by the executive officers of the Government; and if advantages are given to one, or to any class over another by the deliberate action of the officer, it is a breach of official duty. This reservation was sold by the Secretary, so that no other persons, save the purchasers, had any knowledge that it was to be sold, and failed to obtain that knowledge, even on application to the Secretary; and when other persons of equal responsibility, if they had been informed of the sale, would have given a larger price for it, on equally advantageous terms for the Government. In my judgment it would be difficult to prove a clearer case of official misconduct on the part of an officer of the Government, unless you could show, by positive proof, that he had received a pecuniary or other valuable consideration for his official acts.

Mr. PHELPS, of Missouri. I desire to say a few words upon the question now pending before the House. Before I proceed to comment upon the evidence in this case I must, and this House must, certainly come to the conclusion that the gentleman from Pennsylvania [Mr. Grow] has introduced a new rule for the construction of law, while commenting upon the subject of the amendment to the Army appropriation bill of the last Congress, and the debate which occurred in the Senate upon that amendment. The gentleman from Pennsylvania argues that because Colonel Weller, the chairman of the Committee on Military Affairs, who proposed the amendment, stated in debate that this reservation was to be sold at public auction, therefore the law must be construed as if the words "at public sale" were in-

serted therein. It is the first time I have known a construction of the statutes of the country to depend upon the debates of the law-making power. The debates of the legislative body have been quoted sometimes for the purpose of construing a law, if there was ambiguity in it; and perhaps the gentleman might derive some benefit from the statement of Colonel Weller, if such were the fact now.

But, sir, the statute in this case is positive and imperative, authorizing the Secretary of War to dispose of such military sites as have become, or may hereafter become, useless. It therefore vested in the Secretary of War power to dispose of such military sites in the manner he might deem proper and prudent. If he chose to sell at private sale, he had full authority to do so. If he chose to invite propositions at public sale, the authority to do so was fully conferred upon him. It has sometimes so turned out in the history of the country that the sale of military reservations, or other portions of the land of the United States, can best be made on better terms at private sale than it can be at public sale. We have the example of that in the sale of a portion of the Fort Snelling reservation, when it was offered at public auction two or three years ago, and none of it brought more than \$1 25 per acre. At the time of the reduction of this reserve, a portion of the land was advertised for sale. At the sale, the very combination took place by which some twenty or thirty thousand acres passed into the hands of citizens of this country at the price of \$1 25 per acre. Therefore I say that it was with these facts before the Congress of the United States at the time this amendment was put upon the Army bill, that it was deemed wise policy to leave it to the Secretary of War to dispose of the property either at public or private sale.

It seems to me, Mr. Speaker, that there are in this question but two points to be made: first, was Fort Snelling useless as a military post. If it was useless, then the Secretary of War had full authority to sell; but if it was needed for the military defense of the country, or even as a depot for supplies, then I am willing to admit that it ought not to have been sold. The gentleman from Pennsylvania [Mr. Grow] cited the opinion of military men on this question, but in his citations he has not quoted correctly the opinions given. In replying to the testimony of General Jesup, he reads from the indorsement made by him on an application a year ago for the sale of that property. General Jesup then gives it as his opinion that if troops are to be concentrated in large bodies, Fort Snelling may be needed for military purposes; but if another system is to be pursued and the troops are to be sent upon the frontier for the purpose of giving protection to the frontier settlements, then Fort Snelling is not needed for the military defense of the country. I desire to refer to the testimony of General Jesup, that there may be no mistake in reference to it; for General Jesup has given his opinion on this subject on two different occasions.

The gentleman from Pennsylvania, to make out his case, read as follows:

"If this policy is to be adopted, and it is certainly the true policy, not a foot of the site of Fort Snelling can be spared without weakening the defense of the frontier."

Again, in 1856, when application was made for the sale of this Fort Snelling reservation, he delivers this opinion:

"The site is no longer of any value as a position for defense. Its only value now is as a depot of supplies for the frontier posts in advance of it."

He was speaking of it here as a depot, as a place of deposit of stores to be sent forward to posts still further on the frontier. The opinion of General Scott is, that it is no longer needed for military defense, and he states that it is of little or no value as a depot for supplies. I ask you whether you are to take the opinion of military men on this subject? I am willing to rest the case upon the opinion delivered by military men. You will find that the majority of those who have expressed an opinion on the subject, decide that it is not needed as a post of defense or as a military depot.

But let us see the location of that reserve? It is situated at the confluence of the Minnesota and the Mississippi rivers, and is more than one hundred miles from the frontier. It is in the very midst of a population of more than thirty thou-

sand souls, embraced within the radius of six miles.

Mr. GROW. Is there not, in the gentleman's State, a military reservation upon the borders of St. Louis?

Mr. PHELPS, of Missouri. Yes, sir; and as a post of military defense it is useless. It is of no service whatever, and the gentleman from Pennsylvania is aware of it; it is a place where troops are concentrated to be sent forward to the frontier. They are sometimes brought down the Missouri river, and stationed at Jefferson barracks until they can be sent to other positions of the country; they are sometimes placed there for drill and discipline. I would be willing to dispose of it unless it should be agreed to be retained as a national foundry or manufacturing arsenal. The system of keeping useless military reservations is a system which has been condemned by Congress over and over again. Why do you want troops stationed within the borders of Missouri for the purpose of defending her citizens from the attacks of Indians? Ought the soldiers to be placed within the line of settlements, or ought they not to be in advance of the line of settlements? I pretend to no military skill; but it is my opinion that they ought to be in advance of settlements. Then if the Indians should be disposed to make an attack, and should go to the settlements to rob and murder, information would reach the post, and the troops would be enabled to cut them off before they could return.

Officers become attached to these posts in the populous parts of the country, where they can have society, and all the conveniences of life, and always remonstrate with the Secretary of War against breaking them up. It is for their own convenience and for their own comfort that they remonstrate against the abandonment of a post within the line of settlements. I have no doubt, if the opinion of military men were obtained, that it would be found that Fort Leavenworth is not necessary as a post of military defense. Settlers have gone one hundred miles beyond it. Many military men, I know, only look upon it as a depot for supplies to be sent forward to the various military posts upon the plains and upon the routes of emigration to the Pacific. It is a place, too, where supplies can be got cheap, and the troops are brought to winter, thus saving the cost of the transportation of supplies to them.

Can any gentleman rise in his place and say that Fort Snelling was needed for the military defense of the settlers of the State of Minnesota? There is the military post of Fort Ridgely, one hundred miles west of it, and Fort Ripley, one hundred and twenty miles to the north of Fort Snelling. These two forts are the proper places for the troops to be stationed, instead of at a fort in the heart of a population of thirty thousand.

The gentleman from Pennsylvania [Mr. Grow] adverted to the fact that a board of Army officers was convened for the purpose of forming an opinion whether this was needed as a military post for defense, or as a depot? and he took occasion to remark that that board of officers was convened immediately after the report was made to the House in this case. That is true; and yet the order had gone forth prior to that time that these officers should visit Fort Snelling, examine that post, and give their opinion on this question. Why was that resorted to? From the fact that certain officers of the Army had, in their testimony before the committee, declared that, in their opinion, it ought to be retained longer as a military post; while other officers came forward and gave their opinion, in as positive a manner, in the opposite view. That board of Army officers assembled. After an examination of that site, after taking into consideration the matter of defense and the matter of furnishing supplies to the military posts lying beyond Fort Snelling, they were unanimously of opinion that it was no longer needed for military purposes. The testimony of Captain Todd is also embraced in the report of the committee. It is true he no longer holds a commission in the Army of the United States; and, perhaps, in the opinion of some gentlemen, his may, therefore, be incompetent testimony on military affairs. This gentleman had been in the Army, and had been in command of Fort Snelling for two years and upwards; and had, therefore, an opportunity of forming an opinion of the value of that property for military purposes; and he de-

clared it as his opinion that it is no longer needed for defense or as a depot. Colonel Thomas, however, testifies that it is needed as a military depot, and that supplies should be brought there from St. Louis, and forwarded thence to Fort Ridgely and Fort Ripley. Now, what has been the practice? While Captain Todd was in command of Fort Snelling, he testifies that the supplies for Forts Ridgely and Ripley were brought up to St. Paul, and not to Fort Snelling—only six miles distant—there landed, and sent forward to Forts Ridgely and Ripley. When you find this to have been the practice of the Government when that military post was occupied, I ask if there is any probability that a change of that practice would have taken place? The reason given why supplies were reshipped at St. Paul, is, that it was formerly considered the head of navigation for boats of large size. Supplies were deposited at St. Paul, and stored there until they were needed to be sent forward to the other posts.

I think, then, Mr. Speaker, from the testimony in the case, from the testimony given by these military men, from the position of this and the other posts, that it is conclusively shown that Fort Snelling was no longer needed for purposes of defense or as a military depot.

The only other question, then, in the case, is, was the price received by the Government for this property an adequate price? What is this military reserve? It is represented as being a tract of land situated about six miles above St. Paul, and estimated to contain six or eight thousand acres. That is the minimum and maximum of the estimate. In regard to the situation and the quality of the land, the witnesses testify variously. One witness testifies that he thinks that at least two thousand acres of it is overflowed land; land which, under the swamp-land act, would have gone to the State of Minnesota. Another witness testifies that a large portion of it is sandy. Other witnesses testify that a portion of it is in the bluff; and others, that the quality of the soil is not remarkably fine, but, on the contrary, poor; and they express the opinion that for agricultural purposes, or any other purpose whatever, the Government of the United States has received more than the land was worth. In the opinion of others, it has received its fair equivalent; but in the opinion of some half dozen witnesses who give a fictitious value to it because they think it is a good location for a town site, the Government received an inadequate price for it. They express the opinion that it could have been sold for more. But the current of the testimony of the witnesses residing in Minnesota, of those acquainted with the land, and who have examined it with respect to its value, is, that they would not give the price which Steele obliged himself to pay. They consider that he paid too much for the property, and they would not have it at the price.

This, Mr. Speaker, is a fair summary of the testimony; and if it be, I ask whether there has been anything culpable in the conduct of the Secretary of War? I ask whether he had not authority to dispose of this property as he did dispose of it? And I ask whether his agents, whom he appointed to negotiate the sale, have not obtained a fair equivalent and fair consideration for this property?

But the gentleman from Pennsylvania [Mr. Grow] comments on the fact that the sale was made to Franklin Steele. Yes; and he had a good claim on it, as we say in the West. He had the strongest right which is recognized among us all in the West. It is a part of the unwritten law of the land, but nevertheless it is enforced on all occasions. He had a stronger claim to become the purchaser of that property than any other person; because, by the permission and consent of the Government, he had erected valuable improvements upon it—improvements estimated to be of greater value than thirty thousand dollars.

The gentleman from Pennsylvania, however, says that Mr. McKenzie lived there. Mr. McKenzie did not live there, but at St. Louis, and was not the owner of the property in his own right. He became possessor of it as the administrator of Baker. It is so testified to by Steele, who also testifies that he acquired all the interest which McKenzie had in the property before making his purchase. If any witness contradicts the testimony of Steele, I have yet to learn who

that witness is. All the improvements on that military reservation, at the date of the sale, belonged to Franklin Steele, and were estimated as being worth thirty or forty thousand dollars. The very hotel which had been owned by McKenzie was then owned and controlled by Steele.

Mr. BURNETT. When Steele became the purchaser of this property, under an arrangement between him and the agent of McKenzie, he supposed that he had acquired all the claim which McKenzie might have to the improvements made upon the reservation, but he was to satisfy McKenzie, the administrator of Baker, who was entitled to the claim.

Mr. PHELPS, of Missouri. Here is the testimony to which I was referring:

"Question 1307. At what time did you purchase from McKenzie?"

"Answer. I never purchased any land from McKenzie. I bought, or agreed to buy, from him some improvements upon the reserve. It was after Major Eastman arrived there and commenced making the survey.

"Question 1308. Was this before the sale?"

"Answer. Yes, sir.

"Question 1312. How do you know that McKenzie was authorized by the War Department to settle upon it and use it for any purpose he pleased?"

"Answer. He was never authorized to settle upon it. I have not stated that he was authorized to make improvements; I stated that he was authorized to occupy the improvement which he owned by purchase. He purchased the improvement, or it came to him as the trustee, or administrator, of Mr. Baker. These improvements were there for the purpose of Indian trade."

At the time the contract was made, Steele represented that he had acquired all the interest of McKenzie, and the interest which McKenzie had in the property was as administrator of Baker, who had been permitted to settle upon the reservation.

Mr. Speaker, I remarked that I thought there were but two questions involved in this inquiry: First, had this military post become useless, either as a work of defense or as a depot for military supplies to be sent elsewhere? I have but one additional remark to make in reference to that point, and that is, that if it was maintained as a military depot, the cost of maintaining it, superadded to the interest on the value of the property, would far exceed the expense of storage at St. Paul, or of paying the salary of an officer to manage the property at St. Paul. The annual cost of maintaining this post, if one company only should be stationed at it, would be more than \$27,000. The interest on the purchase money would be \$5,400. The other question is, has the property been sold for an adequate price, or has the Government of the United States been the loser? Taking into consideration the liability to form combinations, and the fact that a combination had taken place at a former sale, at this very point, I think that the commissioners were justified in making the sale privately instead of publicly; and a majority of the witnesses testify that the amount received was an adequate sum, while several of them testify that it is greatly more than the property is worth. The attempt, for political purposes, as I believe, has been made to assail the Secretary of War in this transaction. As far as his conduct is concerned, I consider there is no just cause of assault on this faithful public officer. He ought not to receive the censure of the public or of this House.

Mr. CAVANAUGH. Mr. Speaker, it is not my intention to discuss the merits of the sale of Fort Snelling; but the gentleman from Vermont, [Mr. MORRILL] this morning, in making his speech, saw fit to assail the character, and allude sneeringly to some of the citizens of the State which I have the honor in part to represent. The gentleman read some of the names attached to petitions from the citizens of that State, which I have no doubt are disgusting and obnoxious to that gentleman, and a majority of the gentlemen upon the other side of the House, simply and solely because most of those read by him are foreign names.

Allow me to say to the gentleman, and also to the gentleman from Massachusetts, [Mr. DAWES], that they have assailed gentlemen here by name who are their peers in every walk of life, and in every position in which they may or can be placed. The gentleman from Massachusetts descended to a lower depth, as was remarked by the gentleman from Connecticut, [Mr. BISHOP], than any other gentleman who has spoken upon that side of the question. He announced to the House that Mr.

Franklin Steele had resided on the reservation for a long time, and had had seven children born there. Now, I wish to ask the gentleman from Massachusetts a question. Do you, sir, when that good time comes, of which your party dreams, and for which it prays, when you will have a majority in Congress, and a Republican President at the other end of the avenue, mean, by calling this matter of the children in question, to regulate the increase of humanity by act of Congress?

Mr. DAWES. Does the gentleman wish a reply?

Mr. CAVANAUGH. If the gentleman wishes to reply, he can do so.

Mr. DAWES. Does the gentleman from Minnesota understand my speech, or any portion of it, from the beginning to the end, to have reflected on Mr. Franklin Steele, because he had made his home upon that reservation, because he had resided there for twenty years, and because seven children had been born to him there? If he does, then I very much regret that he does not understand the English language better.

Mr. CAVANAUGH. The gentleman from Massachusetts alluded to Franklin Steele, and asked those gentlemen who are defending the Secretary of War by what right Steele was upon this land, and if he had a preemption right, or had filed a claim upon a reservation belonging to the United States? He stated, further, that Franklin Steele had accumulated a princely fortune whilst residing upon this reservation. Now, it may be owing to my ignorance in not being able to comprehend the English of the gentleman from Massachusetts, but I certainly drew the inference from those remarks, that, in the gentleman's opinion, Franklin Steele was to blame for having accumulated a fortune, and in having children born to him on the reservation; and that the Secretary of War was to blame for selling this property to this Minnesota millionaire, when it ought to have been sold to some other individual.

Now, for the information of that gentleman, and of the House, I will say that Franklin Steele has resided in the Territory of Minnesota for the last twenty years. He went there a poor young man, unknown, unprotected, and unprotected; and by the labor of his own arm, and his own energy of character, he has made his way to fortune. And now, because this man upon the extreme frontier has risen from poverty and obscurity to wealth and station, he must be sneered at here by gentlemen from the older States. Mr. Henry M. Rice has also been lugged into this discussion. The gentleman from Massachusetts asked who John C. Mather and Augustus Schell were? The friends of those gentlemen can answer for them. I speak only for my own friends—residents and distinguished citizens of Minnesota.

I think, myself, that I need not say who Henry M. Rice is. He had the honor of a seat upon the floor of the old Hall as a representative of the Territory of Minnesota, and, in that capacity, won for himself not only a State, but a national reputation for industry, talent, and energy, a purity of character, and a manly fearlessness in the discharge of every duty he was called upon to perform. The people of Minnesota have indorsed him by sending him to the United States Senate as their first choice. The expression of approval was not confined to his own party friends. Even Republicans were compelled to vote for him in consideration of the eminent ability with which he represented that Territory while he was Delegate. Henry M. Rice, Mr. Speaker, needs no defense from me. The public records of the nation, and his past services to his State, speak for him. But there are other individuals who have been alluded to here, not so well known as the gentleman I have mentioned.

The gentleman from Vermont [Mr. MORRILL] spoke of a band of office-holders in Minnesota, and has alluded to the present Governor of that State, the Hon. Henry H. Sibley, formerly a Delegate from that Territory in this body. Now, sir, I remember very distinctly, during the last campaign in that State—and I wish to say here, that this Fort Snelling difficulty, this Fort Snelling "swindle," as it is called, is no new subject to me or the people of Minnesota—that Governor Sibley was repeatedly charged by the Republican press and orators with being a party to this transaction, a participator in the "swindle;" and it was by him pronounced false. The charge was

unfounded then, and I pronounce it unfounded now. It had its origin in party malice, for a party purpose, which it failed to accomplish.

Sir, the people of Minnesota have given the lie to this contemptible falsehood, by elevating Mr. Sibley to the gubernatorial chair of that State.

Mr. GROW. The evidence shows that he was connected with it.

Mr. CAVANAUGH. I say that the evidence shows no such thing.

Mr. GROW. The evidence shows that he was to have thirty acres of the reservation at the price paid for it by the purchasers.

Mr. CAVANAUGH. He was to have thirty acres of the land at the same price, because he agreed with the parties interested, after the purchase from Government had been consummated, to sustain a ferry from Fort Snelling to the south side of the Minnesota river. But, sir, I was going on to speak of the effect of this Fort Snelling "swindle" on the politics of that State. I have seen a paper—and I presume some gentleman in this Hall now has it—dated the 25th May, I think, published at St. Paul, that claims to be the leading organ of the Republican party of the State of Minnesota—a lying, vituperative, and venal press—which for the past year has been constantly engaged in vilifying the character of every prominent Democrat in the State, and every respectable Republican, too, who has had the manliness and independence to speak and act for himself. I say I have read, in such a paper, a letter addressed to the editor from a distinguished member of Congress, in which he states that the committee on the Fort Snelling swindle would report in a few days, and that he would send him a copy of the testimony. For what purpose, sir? For no other purpose than that for which it was used in the canvass last fall—to make political capital of, as a great political machine for the purpose of carrying the State against the Democratic party.

Now, a word about the reservation. I know Fort Snelling from one end to the other; I have been all over it, all around it. Gentlemen have complained here, and have undertaken to censure the Secretary of War because this reservation was sold secretly. Now, sir, what has been the history of all the public sales of military reservations? I would like to ask the gentleman from Wisconsin how much they got for Fort Winnebago, which was sold a few years ago at public auction, and which was nearly as valuable as Fort Snelling? It was sold for \$5 40 per acre. I ask, again, how much did Fort Jesup, which was sold a few years ago, bring the Government? It was sold at public auction for \$3 88 per acre. And I go further: after the sale of Fort Snelling, the Fort Ripley reservation, up the Mississippi river, in Minnesota, containing several thousand acres of valuable land, was sold at public auction, and brought from half a cent to ten cents per acre.

Mr. GROW. That sale was set aside.

Mr. CAVANAUGH. It was set aside because of the inadequacy of the price which it brought at public auction.

Mr. DAWES. Who sold that reservation?

Mr. CAVANAUGH. Major Eastman.

Mr. DAWES. Yes, it was sold by Major Eastman as a back-fire on the sale of Fort Snelling.

Mr. LETCHER. Does the gentleman say that Major Eastman and Mr. Heiskell sold the Fort Ripley reservation?

Mr. DAWES. No, sir. Those gentlemen sold the Fort Snelling reservation at secret sale. Major Eastman afterwards sold Fort Ripley at public auction, or at least went through the form of a sale, which was set aside in order to show that the sale of Fort Snelling was more successful.

Mr. LETCHER. Why was it set aside? Was it not on account of inadequacy of price, growing out of the mode of sale adopted?

Mr. DAWES. I have no doubt in the world it was sold just as Major Eastman intended it should be sold, to accomplish the purpose I have stated.

Mr. LETCHER. I would like to know by what authority the gentleman undertakes to charge that Major Eastman has been guilty of that species of corruption in the sale of Fort Ripley? Is there a particle of evidence going to justify the charge? Is there one solitary, isolated fact stamped upon the record to sustain the charge?

Mr. DAWES. That is the inference which I

draw from the testimony. The gentleman is at liberty to draw such inferences as he chooses.

Mr. LETCHER. I do not ask for inferences; I ask for facts. Here is a charge impeaching the character of Major Eastman, and I want the facts upon which it is based.

Mr. DAWES. The gentleman is at liberty, and is bound, to draw just such inferences from the facts presented here as his own judgment shall require. I, sir, have the same liberty, and am responsible only for the honest exercise of that judgment. I state my own opinions, founded upon the evidence in this case.

Mr. LETCHER. I ask the gentleman if there is one particle of evidence which implicates Major Eastman, or which complicates Major Eastman, or which involves his character or conduct in the sale of Fort Ripley, in any way? If there is, I should be very glad if the gentleman would refer to it.

Mr. CAVANAUGH. I believe I shall have to stop this side discussion.

Mr. LETCHER. I hope the gentleman will allow the gentleman from Massachusetts to respond.

Mr. CAVANAUGH. Very well.

Mr. DAWES. I have to repeat that the testimony, taken as a whole, brings the conviction upon my mind as I have stated it here. I have no doubt that the pressing necessity growing out of the circumstances of this case, which has led the Secretary to fortify himself, even after this report had been made here in this House, by a board of Army officers, also led to the sale of Fort Ripley in the manner in which it was sold, which, after the form had been gone through with, was set aside for the purpose of satisfying the clamor of the public, as the only possible way of concealing the impropriety of the secret sale of Fort Snelling made to political favorites.

Mr. HUGHES. I ask the gentleman from Massachusetts to state, for the information of the House, whether this back-fire of which he speaks was so managed as to exclude any person from bidding at the sale of Fort Ripley; and whether there was not a combination formed which prevented the land from selling at any higher price?

Mr. DAWES. I must refer the gentleman to his own Secretary of War for an answer to his question. It was very easy to have taken such precautions as would have prevented a combination being formed to defeat a fair sale.

Mr. HUGHES. I wish to ask the gentleman a question.

Mr. GROW. I object.

Mr. HUGHES. The Republican candidate for Speaker of the next House of Representatives desires the rules to be enforced.

The SPEAKER. The gentleman is not in order.

Mr. BURNETT. I ask the gentleman to yield to me a moment; for I am satisfied that the gentleman from Massachusetts [Mr. Dawes] will take back what he has said when he understands the facts.

The SPEAKER. The Chair understands the gentleman from Pennsylvania to object.

Mr. GROW. Yes, sir; I do.

Mr. BURNETT. If the gentleman is in favor of getting at the truth, I hope that he will not object.

Mr. GROW. I will say, in reply to the gentleman from Kentucky—

Mr. HUGHES. I object to the Republican candidate for Speaker, making any speech out of order. [Laughter.]

Mr. CAVANAUGH. I consider the remark made by the gentleman from Massachusetts as entirely gratuitous. I do not believe that he has the slightest foundation for making it. I know there is nothing in the record upon which to base it. If the Secretary of War gets a fair price for a piece of land, whether at public or private sale, of course it will not suit the Republicans, and they must impute fraud in the transaction. They constantly cry "fraud! fraud!" Perhaps it may be that we shall forget the corruption exposed on the part of the other side at the last session.

Here was the Fort Ripley reservation. That was sold at public auction after due advertisement in the public papers, and it sold from a half cent up to ten cents per acre. Neither sale, however, and neither position, satisfies these gentlemen, who seem not to be willing to be satisfied. Do

they want a public sale? As I have said, they have had it at Fort Ripley. Do they want a private and secret sale? They have had it at Fort Snelling. The honorable Mr. Becker, who was elected a member and entitled to a seat on the floor of this House, from the State of Minnesota, in a remark before the committee, embraces the whole thing in a nutshell. He says that "there is an unwritten history of the West in these land speculations." I attended a public sale of land in Iowa. I did not own an acre there, and I did not buy any. I saw farming land run up to \$190 75 per acre. Why? For the purpose of plastering it over next morning with land warrants bought in the city of New York at eighty cents per acre. Gentlemen from the West know of these combinations, and I say that no officer, even though he be as pure as an archangel, can avoid and destroy these combinations in any other way than by withdrawing the whole parcel of land from sale, which he has no authority to do.

Mr. HUGHES. Mr. Speaker—

Mr. GROW. I object to any interruption.

Mr. HUGHES. I only got up to draw the fire of the Republican candidate for Speaker.

Mr. CAVANAUGH. The gentleman from Vermont [Mr. Morrill] made some allusions this morning to the people of Minnesota, and especially to the people of St. Paul. I will tell him that I live one hundred and fifteen miles from St. Paul, and have no interest in the growth or prosperity of that city, save a pride that every man should feel in the welfare of every portion of his State. He said that the people there supposed that was "the great hub round which the world revolved." He sneered at them. I will tell him that there is more life and energy and progress in that one city of the State of Minnesota than there is in the entire fossil State he represents upon this floor. Look back at St. Paul ten years ago! Then it was a mere trading station, surrounded with thousands of vagabond and savage Indians, and with here and there a birch canoe, a "dug-out," or a stray steamer upon the river's side. Now it is a city of fifteen thousand inhabitants, compactly and elegantly built. There, sir, religion has erected her altars; there, too, have art, science and literature their votaries; education, refinement, and all the best characteristics of the older cities of the Union are to be found there.

Commerce, too, with its busy and ever active hands and energy, has built its temples upon the banks of that mighty river, which, nineteen hundred miles below, empties its waters into the Atlantic. Is there nothing in all this, sir, of which the people of St. Paul may not feel justly proud?

Only ten miles above are the twin sisters, Minneapolis and St. Anthony, joined together by a work of art that the gentleman cannot find an equal for in his own State. Those cities have ten thousand inhabitants. He will find there, too, the finest water power upon God's broad earth, which, by the energy of Minnesotians, has been made useful in mechanical industry in driving the busy wheels of the mills, shops, and factories at the falls of St. Anthony.

You will find there, also, the University of Minnesota, a superstructure of which even the State of Vermont might feel justly proud.

We are a laboring, a living people there, and we believe we are just as good as are to be found elsewhere in the Union. Improvements and enterprise and progress are not confined to the places I have mentioned. On the Mississippi, up the valley of the Minnesota, in the interior, north and south, are thriving cities, towns, and villages; splendid farms, cultivated fields—all the evidences of a prosperous, happy, and intelligent people. And all this, sir, has been accomplished in eight or nine years.

The gentleman says that we believe the State of Minnesota to be the greatest in the Union. Even were this true, I should not look upon it as a very serious crime. The gentleman's remarks only show the feelings of the older and fossilized States against the young and growing West. The young, the enterprising, the energetic, the men with living blood in their veins, are the founders of new States. And therefore I do not wonder at the jealousy manifested by the East, for it feels that the "scepter is departing from Judah." Sir, we may well feel proud of the progress of Minnesota. In 1849, her entire population was four

thousand nine hundred and forty. Now it is nearly or quite two hundred thousand souls. In soil, climate, natural resources, and all the elements that go to make up a great and prosperous State, we are not inferior to the most favored portion of this broad Union. Again, I say, we have a right to be proud. We have wrested this country, as it were, from the very clutch of the savage. We have made it to bloom and blossom as the rose. All the substantial institutions of the older States we have in our midst, but we may lack those higher ones that wealth cannot buy. We have every means and facility for the purposes of education and the growth of the arts and sciences. We have there all the appliances of civilization and growth they have in any other State. This much I felt bound to say in reply to the gentleman from Vermont.

One word more about this Fort Snelling property, and I have done. I would like some gentleman upon the other side to state how long ago it was when the last attack was made upon the white settlements near Fort Snelling? Standing at the commandant's door, the eye can scan a circle of forty miles, and look down upon a population of thirty thousand souls.

Go a little further. Of what use was this Fort Snelling at the time of the massacre last March? Why, it was more than one hundred and fifty miles from the scene of slaughter. Would you send troops in March up the valley of the Minnesota, to stop the forays of the Indians? No, sir; but if Fort Snelling had been dismantled long ago, and if the Army had been sent to Fort Ridgely, where it properly belonged, these murders and atrocities would not have been perpetrated. Look again, to August last, when five thousand Indians bid defiance to Major Sherman and his battery. Why did not Major Sherman fight them then? Because he had to send one hundred and twenty-five miles to Fort Snelling, to bring up the men who were lying there idle for months. I know the facts, because I accompanied the troops myself from Fort Snelling up to the south bend of the Minnesota river. Fort Snelling is a very elegant appanage to very elegant gentlemen, who have a very elegant place for parade and show.

But some gentlemen say that the land is good for farming business. It has been just stated by the gentleman from Missouri, [Mr. PHILPS,] that over two thousand acres of this land are utterly worthless, and yet they say it is good for agricultural purposes. It is, as the gentleman from Massachusetts says, a level, beautiful spot; one of the most magnificent spots on the earth. But the gentleman from Vermont says that the land ought not to have been disposed of because it is wanted as a military post for the protection of the frontier of Minnesota. Now, for the last eight or ten years the people of Minnesota have not called on the United States Government to protect them in anything. They are abundantly able to protect themselves. It is absurd to say that Fort Snelling is to keep the Winnebagoes in subjection. Seventeen hundred of these Indians reside in the valley of the Minnesota, ninety-five miles above Fort Snelling, where they are quietly passing their time on their reservation.

Were it not, Mr. Speaker, for the purpose of being used as an electioneering document, this report would never have been made. And I say further, that I believe this committee would never have been created, had it not been for a feeling of disappointment which certain gentlemen entertained because they did not have a slice of this reservation.

Mr. SMITH, of Illinois. I desire to ask the gentleman, as it has been charged in hiring presses that my course was dictated by disappointment in not becoming the purchaser of this reservation, whether he alludes to me in that connection?

Mr. HUGHES. I ask the gentleman from Pennsylvania [Mr. Grow] to object.

Mr. GROW. I only object when there is a want of courtesy.

Mr. HUGHES. Well, I object out of courtesy to the gentleman from Pennsylvania.

Mr. CAVANAUGH. I am only now speaking as to the course of some of the leaders of the Republican party in my own State.

Mr. SHERMAN, of Ohio. The gentleman from Illinois rose to a personal explanation.

Mr. SMITH, of Illinois. I understand the gentleman from Minnesota to say that his remark applied to persons in his own State. Is that so?

Mr. CAVANAUGH. Yes; and to gentlemen who have spoken here. After the sale was made, distinguished and leading members of the Republican party in that State used it as a cat's-paw to pull their hot political chestnuts out of the ashes. Now, so far as Minnesota is concerned, and her people, this is a transaction between the Secretary of War and one of Minnesota's most respectable citizens.

I will say, in conclusion, as I said in the beginning, that the gentlemen whose names have been dragged into this controversy by the gentleman from Vermont and the gentleman from Massachusetts, are the peers of either of those gentlemen, and the peers of any gentleman on this floor.

Mr. STANTON. Mr. Speaker, I do not propose to occupy much of the time of the House in this discussion. I confess I was a little pained to hear the gentleman from Minnesota in a maiden speech, take upon himself to say that he believed that this report made by the majority of the committee appointed by you, sir, was made for the purpose of accomplishing partisan objects and for no other purpose. I trust that when he has a little more experience, he will be satisfied that whatever may be his private opinion about the action of any of the committees of this House, or about any member of the House, he will learn that it is not consistent with decorum in debate, for him to impute improper motives of this kind to any committee or any member.

Mr. Speaker, I do not propose to go into any details of the evidence in this case, but I desire to present what I regard as the controlling points and considerations which ought to govern this House in the decision of the case. I agree with the gentleman from Virginia, [Mr. FAULKNER,] in his very able speech of this morning, (if it had only been applicable to the question before the House,) that the amount for which this Fort Snelling reservation was sold is a matter of comparatively secondary importance. I agree, too, that the only thing that is essentially worthy of the consideration of the House, and worthy the attention of the country, is the integrity of the functionaries in the administration of the laws. I regard this question as very important for that reason, and really I do not regard it as of importance for any other reason.

I will say, at the outset, that I do not believe that the evidence in this case shows that the Secretary of War, in person, has been guilty of any overt act of fraud in the sale of the Fort Snelling reservation. I will say, however, to the gentleman from Virginia, in answer to his complaint that the committee have not exonerated the Secretary of War expressly from blame, that I do regard the associations with which he is surrounded, and the circumstances connected with the sale, as throwing such a suspicion over the whole transaction that I cannot say that I am satisfied that he is free from all complicity with it. As a juror in the box, I would return the Scotch verdict of "not proven."

But, Mr. Speaker, there are other parties besides the Secretary of War connected with it. All persons who are intrusted by the Government with the execution of its laws, with places of trust and power, are responsible to the constituted authorities of the country, and to the people, for the integrity with which they discharge their several duties.

Now, I do believe that the proofs presented to this House by this committee are sufficient to satisfy the mind of any reasonable man that there was a fraudulent combination between the agents of the Government and the purchaser of the Fort Snelling reservation.

Now, Mr. Speaker, this transaction cannot be examined fairly, the conduct of these parties cannot be investigated intelligently, without looking back a little, and seeing the springs and motives of human action, and the action of political parties.

Sir, you know, and this House knows, that for thirty years past this Government has been administered upon the principle that "to the victors belong the spoils," and that all the offices and emoluments of the Government are to be distributed as rewards for party services. You will view this

transaction, then, from that stand-point. You will start there, and see what this transaction means. What follows? Having started out upon that maxim, as I said on a former occasion, you are all the time under an increasing necessity to increase your expenditures, and to multiply jobs, in order to enhance the value of the rewards that are to be dispensed for partisan services. I say that that is the natural and inevitable result of the principle upon which the Government is administered.

Now, Mr. Speaker, what is this case? The Government was the owner of some eight thousand acres of land at the junction of the Mississippi and Minnesota rivers; as beautiful a spot, according to the evidence of all the witnesses, as the sun ever shone upon, and the best site in the whole Northwest for a great commercial metropolis of that growing region. They do say, it is true, in that connection, that perhaps it will not occupy this position in the future, because other cities have got the start of it. But that is its natural position; that is what its natural position would entitle it to claim. Well, sir, the question is as to the sale of this reservation, amounting, it is said, to some eight thousand acres; and it is marvelous that we do not know how much there is. As the gentleman from Massachusetts [Mr. DAWES] says, the Secretary of War sent an agent to Fort Snelling to survey the land and subdivide it, and yet that surveyor who went there does not know the number of acres. One would have supposed that the first thing he would do would be to run the exterior lines, and ascertain how much land there was there. But he came back; and we are now here discussing, as a controverted question of fact, the number of acres, and we differ to the extent of two thousand acres as to the actual number of acres contained in that reservation. That is a marvelous circumstance.

Mr. MARSHALL, of Kentucky. I understand Major Eastman to say that he had run the exterior boundaries, and there are about seven thousand five hundred acres.

Mr. STANTON. He says distinctly that he does not know the number.

Mr. FAULKNER. He says expressly that after the survey, he found there were seven thousand five hundred acres there, and the one thousand acres was irreclaimable swamp.

Mr. STANTON. He does not ascertain that by calculations. That is what I complain of. He makes his survey; and instead of making an estimate from that survey, he makes a guess, and comes, perhaps, within five hundred or one thousand acres of the whole amount.

[Mr. PIKE, from the Committee on Enrolled Bills, reported as truly enrolled the following bills; when the Speaker signed the same:

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1859;

An act to vest the title to a certain warrant for land, in George N. Gordon; and

An act to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes.]

Mr. STANTON. It is not strange that as settlement advanced beyond the locality of Fort Snelling, and it became probable that the Government would abandon it in a few years, persons in the neighborhood should have been looking to the time when it would be brought into market, and when they would have an opportunity to make investments in it; and accordingly you see that in the year 1856, Mr. Rice, in behalf of Mr. Steele, the present purchaser, applied to the Secretary of War to know whether it would be brought into market or not. The then Secretary of War, Mr. Davis, applied to his Quartermaster General, and took the advice of his subordinate, and in conformity with that advice, informed Mr. Rice that the reservation was not for sale. Acting upon the supposition that it was to be retained for some years, the Government spent about ten thousand dollars upon it, during the year 1856, for the purpose of repairs and of keeping it in a proper condition to be used for military purposes.

Well, sir, on the 4th of March, 1857, this provision authorizing the sale was put into a general appropriation bill. It then became the duty of the Secretary of War to manage and control the sales, to prescribe the mode of the sale, and to appoint the agents by whom it was to be conducted.

Now, sir, my own judgment, looking to the

whole matter, is, that the Secretary of War has entirely misjudged the capacity and qualifications of the agents that he appointed to sell this property; and he has done so for the reason that he has acted upon the principle that these, as well as all the other offices of the Government, were mere spoils, to be distributed for the benefit of political partisans; and hence he called up his old *quondam* friend, Mr. Heiskell, from the State of Virginia, to go into Minnesota to make this sale.

Now, Mr. Speaker, what were the evident considerations that operated upon the mind of the Secretary to induce him to make this selection? You know, sir, and every gentleman here knows, that it was not because he regarded him as the best qualified by a knowledge of the value of lands in that locality, by experience in business of this description, or by his general intelligence upon matters of this character. It was not for that reason that he was selected. But you find, from the testimony of Mr. Heiskell himself, that he was selected because he had gone through a political campaign with the Secretary of War; they had fought that campaign together; they had been ancient cronies in Virginia; and, according to Mr. Heiskell's own statement, he was expecting, at the hands of the Secretary, on the first opportunity, as a reward for his partisan services, some office—and no trifling one at that—which he regarded as due from the Secretary for personal and political considerations. "I do not want," said he, "any twopenny office; I do not want any small sixpenny office; I want something that will pay about four or five thousand dollars." Well, the Secretary writes to him that he has not got anything of that magnitude just at the present writing; but in the course of a little time the Secretary writes to him that he has these forts for sale, and that he can have that job.

Now, do not you see, Mr. Speaker—does not every member here see—that the Secretary has started from a wrong stand-point in the selection of an agent to make this sale? He consulted his personal friendships, his political relations, and all the influences which personal and political associations bring to bear upon him, instead of having only regard to the qualifications of the man selected by him for this important trust. Is not that so?

There are some other extraordinary circumstances about this matter, but I do not propose to go into any details. I find that Dr. Graham of Virginia, an intimate acquaintance of the Secretary of War, calls on him and proposes to go West to make investments.

As has already been said, I do not know what he had to invest. It seems that he did not invest anything except his personal services to manage property. But, sir, at the same time the Secretary was appointing Mr. Heiskell as agent of the Government to sell the Fort Snelling reservation, he was appointing John C. Mather, of New York, as agent to sell Fort Ripley—a very prudent and economical arrangement upon the part of Mr. Mather, while he was going West to purchase this property, to get the appointment to sell another reservation, and, with his eight dollars per day and mileage, to pay expenses. But you will bear in mind that the gentleman who conducted that sale was a political friend of the President, and a political and personal friend of the Secretary of War; and when the gentleman from Virginia [Mr. FAULKNER] undertakes to charge us with being influenced with party considerations in this matter, I do not allude to it for the purpose of awakening party prejudice, but as a circumstance from which you may infer that there has been some other motive than a single eye to the public good. Sir, I claim, at the hands of this House, credit for sincerity when I say that I shall endeavor to discharge my duty, as far as I can, without being influenced by party considerations. Gentlemen will remember that in the last Congress I did not allow party considerations to govern my conduct when my own political friends were arraigned before this House; and they will remember that, during the present session I have not, in the discharge of my duty as a member of a somewhat similar committee, sought to protect my political friends from exposure or condemnation. I therefore claim the right to speak when I believe that political opponents have been guilty of frauds upon the Government; to speak out fairly and fully, without having an imputa-

tion cast upon my sincerity. I admit that I am subject to party influences and party prejudices which operate upon other men.

But, Mr. Speaker, here are Mather, Schell, and Dr. Graham; two of them go out there substantially and practically in company with Mr. Heiskell. One may have gone a day before, or a week before, the other; but, for all practical purposes, they went out together. They went there about the same time; they were together there, and conversed about these matters. They remained there about the same length of time.

Now, sir, I pray you, what sort of service did Dr. Graham render for this \$5,000 a year? Mr. Steele lived there, and understood the management of such property certainly much better than Dr. Graham. And what sort of service could Dr. Graham bring to bear to earn this \$5,000 a year? It passes my comprehension entirely, if this whole transaction was fair and aboveboard.

Well, sir, these parties met there. Fort Snelling was to be sold in such manner as the commissioners should prescribe, at public sale or at private sale. If they intended to make a private sale, they ought to have had one of two objects in view: either to secure the largest amount of purchase-money to the Government, or to sell it in such a manner as would aid the largest number of people who might desire to be engaged in the purchase.

Now, sir, I hold that the first thing to be considered in such a sale is, the settlement of the public domain; and that, if the Government has a fixed price for it, the largest number of people who will cultivate it with their own hands should be permitted to become purchasers. I would not sell eight or ten thousand acres to any man, for him to cut up and make a speculation on. If there was a speculation in it, I would extend it to as many hardy sons of toil as possible, and give each one his share in the speculation, if they gave the Government price for it. I say these commissioners should have disposed of it at public sale, and distributed it among actual settlers, or they should have sold it to the man who would give the most money for it, and they should have taken the means to ascertain who would give the most for it. I say, therefore, that, as shrewd and sagacious agents of the Government, if the object had been to effect the sale on the best terms, the commissioners would not have withheld all knowledge of the fact that the property was for sale from every one except Franklin Steele. That is a circumstance to my mind totally incapable of explanation. There is no sane man, there is no man out of a lunatic asylum, in this Union, who would manage the sale of property in that way. If my friend from Virginia wanted to sell his farm, he would not go to his neighbor, and immediately tell him, "I will take so much for my farm," without inquiring whether he could not get \$1,000 more from somebody else.

Now, sir, I pray you, why was it not given out in speech, if the gentleman could not publish it in the newspapers? Why was it concealed from everybody at Fort Snelling and St. Paul and in all that neighborhood, that these gentlemen had the Fort Snelling reservation for sale, either in subdivisions or in the aggregate to whoever would give the highest amount of purchase money? Why was not that done? I tell you the fact that that question cannot be answered stamps the transaction as fraudulent. There is no help for it; there is no escape from it; there is no answer for it, consistent with common honesty. There is no man who has read this evidence who does not know what the real reason was. John C. Mather, a citizen of New York, now occupying a position as Senator of that State and had before held an official position in the State; Richard Schell, a brother of the collector of New York, a man of great political influence, and in the possession of large funds; and another gentleman, a prominent politician, residing at Lexington, Virginia—these were to be favored, and that is why, sir, I say the testimony makes that impression upon the mind of every man. Now, sir, that in my judgment, is enough to condemn this sale. It ought to be set aside for collusion between the agents of the Government and the purchasers. Sir, it is a pretext—I do not mean it in any offensive sense—but I say it is a mere pretext that Franklin Steele was entitled to purchase this property, because he lived upon it.

As the gentleman from Pennsylvania [Mr. Graw] has said, Mr. McKenzie had a larger interest in that reservation than Mr. Steele had. If that was the consideration, then there were others who had claims upon them for preference. You cannot get rid of that by saying that Mr. Steele had said that he had made an arrangement to buy that interest. Look at the testimony of Mr. Heiskell. Look at the testimony of Mr. Rice. What do they say about it? That Mr. Heiskell, Mr. Steele, Mr. Rice, as agents of Mr. McKenzie, discussed the question of the latter's interest. They met for the purpose of discussing it, and they quarreled over it. They called each other hard names. The dispute waxed warm. Thereupon Mr. Rice and Mr. Steele retired apart, where they had a private conversation about how this thing should be fixed up. Mr. Steele then agreed to give Mr. McKenzie \$15,000 for his interest or improvements.

There is another thing. If these commissioners intended to act up to the spirit and letter of the preemption law in this case, Mr. Steele had no right to have more than one hundred and sixty acres. They gave him the exclusive right to purchase some eight thousand acres. There was no reason for giving this preference to Mr. Steele. I do not care, for the purposes of my argument, whether Mr. Steele gave full value for the property or not. The only view in which the value of it is essentially important is, that it is a circumstance to show the fraud; that is all. But, sir, the real question here is, whether, in the administration of the Government, you will justify public functionaries, in using the trust reposed in them by the people, to exclude those who differ from them in political opinion from any of the benefits of the public land? I should be glad to know if some Black Republican, as the gentleman from Minnesota gracefully styles the members upon this side, who was willing to give \$100,000 for that land, was not entitled to it? Why should not Mr. Heiskell and Mr. Eastman sell it to a Black Republican for \$100,000? That was not a part of the programme. Let it be agreed, for the purposes of the argument, that it is admissible; that you may make a secret sale; that sellers and purchasers may combine for the purpose of throwing immense speculations into the hands of political partisans: I would be glad to know if the gentlemen on the Democratic side of the House will be content to acquiesce in personal discriminations made among themselves; and that a few favored specimens of Democracy, such as Mr. Mather, Mr. Steele, and Dr. Graham, shall have the pick of speculations of this sort to the exclusion of the Democracy of the Northwest? Is not that thing worth thinking about?

There is a fact which has been adverted to, which bears harder upon the Secretary of War than any other, perhaps, in the case, and it ought not to be omitted. That is, the gentleman from Illinois [Mr. SMITH] and an ex-member of Congress from Vermont, early in April, wrote to the Secretary of War to know whether Fort Snelling was for sale, and if so, when and how? No answer was received to any one of these letters.

Mr. FAULKNER. Where does the gentleman get that fact? According to the Secretary of War, the answers were sent.

Mr. STANTON. But they were never received, and no copies of them seem to be kept in the War Department. I understand it to be one of the fixed rules of the Departments of Government, that a copy of every official letter shall be preserved. But there is no such thing in the War Department as copies of these answers.

Mr. FAULKNER. Permit me to state a fact. The answer was directed by the Secretary of War to be made by his chief clerk, and upon all those original letters, there is an indorsement, in the hand-writing of the clerk, that they were answered. Now, we have no complaint from any source, and the gentleman is without any authority in stating that answers were not received by all the parties, except the honorable member from Illinois, [Mr. SMITH.] He did not receive his answer. Why it was, we do not know. But there is no proof, no allegation, that the answers were not received by the other parties to whom letters were sent.

Mr. STANTON. I accept the gentleman's statement, and it is with something to the Secretary of War in this view, that he handed the letters to his chief clerk and directed him to answer

them, which, I take it from the facts in the case, he did not do. It may be that the Secretary supposed that he did answer them. Let him have that credit. But the idea that two letters to the gentleman from Illinois [Mr. SMITH] should have miscarried—

Mr. BURNETT. He got one of them.

Mr. STANTON. Here is property of the description I have mentioned. I have no doubt that in twenty-five years there will be twenty-five thousand inhabitants upon that reserve, and that it will be worth millions of dollars. I have no doubt that there is an immense speculation in it. No other reason can be urged why these gentlemen should be so exceedingly desirous to purchase it; and there is no earthly excuse for the manner in which that sale was made. It is not enough for gentlemen to tell me that the sale at public auction may be defeated by combination. I know very well that the residue of Fort Snelling was sold under orders and rules prescribed by the laws and regulations of the General Land Office. The proof is, I believe, that there were two settlers upon every quarter section of it, and of course it was sold subject to the preemption law.

Mr. FAULKNER. There were upwards of five thousand acres sold at public auction in the Stillwater district, and not an acre produced more than \$1 25 an acre, and no part of it was preempted.

Mr. STANTON. That is the general rule. I have no doubt that, if lands are set up at public auction in the West, without any guards to protect the Government against combinations, that generally they would be sold at the minimum price. I think that is the probability. But does not the gentleman from Virginia know that there is a long distance between such a sale as that and a secret sale, studiously, laboriously, and successfully concealed from the world? That is the point I make. You might have sold it at public auction, fixing the minimum price or reserving a bid to the officer of the Government; there could have been no difficulty about that. You might have sold it according to the precedent set by Judge Burchard in the sale of the reservation at Chicago, by receiving written bids, so that there could be no favoritism.

Mr. Speaker, if this sale was an honest sale; if the Government got all that this land is worth; if there was no fraudulent purpose in making it in the manner they did, still it is a description of sale which is so exceedingly liable to abuse, which is so liable to result in party favoritism and fraud, that it ought not to be tolerated for a moment. Gentlemen here do not pretend that it is a wholesome practice. They say they would not recommend such a sale as that. Then, I pray you, why not hold it as it is upon its face, fraudulent, and set it aside?

Mr. Speaker, if I had this purchase on trial before an honest jury of twelve farmers in any State of the Union, I would get a verdict of fraud, as to this sale, and the judgment of the court that it was void. I have no doubt of it. My experience as a lawyer for twenty-four years, has always satisfied me that whenever there is a case presented, there are always some leading ear-marks about it which indicate unmistakably its true character. You always know whether a transaction is honest or dishonest from its leading features, from the facts which stand out boldly on the face of the transaction; and I tell you that this sale has all the marks of favoritism and all the marks of fraud that can be found in any case that was ever investigated in any court in Christendom. It was sold by political partisans to political partisans. It was sold in secret. It was sold by an agent of the Government appointed to make one sale to an agent of the Government appointed to make another sale. It was sold by special friends, who received their appointment as a reward for party fidelity and party friendship. It has all those marks of fraud which stamp it, in my judgment, with infamy, and this House ought to rescind it.

Mr. BURNETT. Mr. Speaker, I have listened with attention, I must say with some surprise and great regret, to the remarks of the gentleman upon the other side of the House upon this question. It is a remarkable fact that all of their speeches to-day manifest that they have not regarded the testimony. Detached portions of it have been culled by them, and repeated here.

Whether intentional or not, it has the effect of making a false impression upon the country.

And here, sir, in the offset, I must congratulate the House upon the fact that the gentleman from Ohio, [Mr. STANTON], the gentleman from Pennsylvania, [Mr. GROW], and the gentleman from Massachusetts, [Mr. DAWES], have become conservators of the public morals; that they are now keen to detect wrong and expose fraud and corruption; for it will be recollected that during the last Congress—I dislike to refer to the past, but the bad spirit which animated these gentlemen in their remarks to-day justifies the reference. I say it will be recollected, for it is not so long as to be forgotten, that when fraud and corruption were charged in this body last Congress, the investigation proved these grave and odious crimes to rest on none other than members of the gentlemen's own party. I can account for the zeal of the gentlemen now, and attribute it to that motive of human action which teaches misery to love company. I tell them, however, that they had better direct their zeal to some just object of official scrutiny, and not engage in the vain endeavor to detect something in this transaction justifying their indignant and virtuous clamor.

Let us, Mr. Speaker, refer to the history of this sale, so far as the Secretary of War is connected with it. I am willing to rest the case upon that history, and appeal to the judgment of every candid man, I care not to what party he belongs if he will discard party prejudice, if there is anything in the conduct of the Secretary of War in it, separated from that of every other party to it, which will justify the least breath of suspicion affecting his integrity as a public agent, or his honor as a private citizen? There is nothing in the testimony which can be tortured, by any mode of inference, remote or direct, into the least degree of anything that is wrong in the official action of that distinguished functionary. Let us look at the authority under which he acted. The act of 1819 authorized the Secretary of War to sell such of the military sites as had become useless for military purposes. The Attorney General decided that his right to sell was limited under the law to sites acquired previous to its enactment. On the 3d of March, 1857, Congress passed a law extending the act of 1819 to such sites as had since become useless, or might thereafter become so. The discretion, then, was clearly vested in him, of determining when they became useless, and of selling them when they did. One of the very objects of the act of 1857, was to effect the sale of this very Fort Snelling site.

By a reference to the evidence of Mr. Rice, who was then the Delegate from Minnesota, he introduced a special bill for the sale of Fort Snelling. He consulted with those favorable to the measure, and it was deemed best to put a general provision in an appropriation bill, which would provide for the sale of all military sites which were useless, which general provision would embrace Fort Snelling. Fort Snelling had then become worthless for military purposes; its sale was then deemed due to a just regard for the public interests, and that sale was one of the very objects of the act of 1857. It is, then, clear that the Secretary of War was vested with the authority of determining when a military site became useless for military purposes, and of selling it when he had so determined.

Gentlemen endeavor to throw some suspicion upon the manner in which this official judgment vested in him by law was exercised, and to discredit the idea of their judgment being properly and legitimately used in this transaction, by insinuating that combinations existed between Graham, Mather, the commissioner, the Secretary of War, and everybody else who acted either as seller, commissioner, or purchaser in this transaction. I will here say to the gentleman from Massachusetts, [Mr. DAWES], that if he has any sense of justice, he ought to strike from his speech that portion of it where he says that it was determined by the Secretary of War, on consultation with Mather, and after conversation with Eastman, that this sale was to take place.

This charge was also made by the gentleman from Vermont, [Mr. MORRILL], while the fact is shown by the record, clearly and conclusively, that he had determined to sell it before he had an interview with either of them. Why did he determine to sell it? He did so because he had been

authorized, by the act of 3d March, 1857, to sell all military sites useless for military purposes, and he had determined Fort Snelling to be one of that character. His attention had been clearly directed to it by the history of the legislation on the subject. He gave the matter his consideration; and, exercising the discretion vested in him under the law, made the sale. Other gentlemen have gone on and made a statement as to the interview between Dr. Graham and the Secretary of War, and that between Mr. Heiskell and that functionary. The character of these interviews justifies none of their insinuated suspicions; indeed, they are hardly worth alluding to in the discussion of this subject. I desire to direct the attention of gentlemen on the other side to Major Eastman's testimony. He says that in the beginning of April the Secretary of War gave him instructions to go to the site and survey it, and that he would send an agent there to sell it.

It is, then, clear that the Secretary of War had determined to make this sale before any interview was had between him and any other person. It is shown by the record of this case, from the beginning to the end.

What else? While I must do the gentleman from Ohio [Mr. STANTON] the credit of saying (because, as a general thing, I believe) that he is the fairest man among the Opposition upon this floor, I was the more surprised at the qualifications with which he accompanied the statement of his belief that fraud was not proved upon the Secretary of War in this transaction. He did not, with his usual boldness, march up like a man and say even that he believed there was fraud, and that the Secretary of War was a party to it, but he leaves the country to infer the truth of the charges of fraud, by saying that, if upon a jury, he would feel bound to bring in a Scotch verdict of "not proven."

This is an unfair way of dealing with this question. It leaves an inference which no candid mind will, on an examination of the testimony, concede that it justifies.

Let us now look at the instructions given by the Secretary of War to these agents; and I ask if there is a man in this country who could have guarded the interests of the country more securely than he has in this sale? Those instructions were of the fullest nature, and provided all the safeguards necessary to protect the public interest against combinations in the Territory and against collusion, on the part of the agents, with the purchasers. By those instructions, what were those commissioners to do? They were to cut up and divide that reservation into forty-acre lots, and to sell it either in whole or in part, after public advertisement, or by private sale. It directs, furthermore, in accordance with the suggestions of the former distinguished Secretary of War, (Jefferson Davis,) and of the Quartermaster General, General Jesup, that they shall not sell it below a certain minimum price. The Secretary tells them to ascertain whether there are parties living on the reserve who are equally entitled to a preemption right; and whether improvements have been placed there by the authority of the Government. He further instructs them to ascertain the value of the public improvements upon it, and whether the reserve is longer needed for military purposes. This is the substance of the instructions; and I appeal to the fairness of gentlemen upon the Republican side of the Chamber to say whether those instructions of the Secretary of War did not embrace everything that a sagacious and prudent statesman would have suggested to guard the interests of the Government? Was there anything left undone in those instructions that he ought to have done? I cannot for my life see that a single thing was omitted.

Such is the history of the connection of the Secretary of War with the sale previous to its disposal. If gentlemen will read the report of the commissioners, they will find that every aspect of the Secretary of War's instructions was noticed by them and regarded. The Secretary received their report on the 17th of June; and submitted it to the President on the same day. It was approved by the President on the same day; and afterwards, on the 2d day of July, he confirms the sale.

This is the entire history of the connection of the Secretary of War with the matter; and I ask, is there a single fact elicited which has not been

detailed by me? I appeal to the House, if there is anything in all this, so far as that distinguished functionary of the Government is concerned, upon which you can say that he has been guilty of fraud, corruption, or want of sagacity in the discharge of his duties? In my judgment there is nothing.

Now, sir, let it not be understood that I charge gentlemen with motives which they do not avow. The members who made this majority report have been polite and courteous to me during all of our intercourse upon this investigation. I speak of the gentlemen from Vermont and Indiana, [Mr. MORRILL and Mr. PETTIT.] They will bear me witness that there never was an investigation made in connection with this Government, more searching in its character than that of this select committee. I went upon it with impressions upon my mind unfavorable to that sale; and why? On account of the publications which had been made in the partisan newspapers of the country, I was impressed with the belief that there was something wrong about it. I determined, as a member of the committee, to make a searching and rigid investigation of all the facts; and the gentlemen making the majority report will bear me witness that my colleague [Mr. FAULKNER] and myself allowed them to take their own course in the investigation, without asking the least restriction of their very extensive license. They went into the affairs of the witnesses themselves, and into matters which had nothing to do with the subject of investigation; but we did not demur to it. We interposed no objection, but left them free to pursue their own wishes.

Let me, then, tell the gentlemen who made the majority report why I complain of it. I understood them as agreeing with the entire committee that there was nothing in the transaction which showed fraud and corruption, or want of integrity, in that officer. But those gentlemen had not, I like to have said, the manliness to make the charge openly; anyhow, they did not, for some cause, I know not what, do it in their report; but they insinuate it under the guise of a grave official error.

Mr. MORRILL. I do not suppose the gentleman from Kentucky intends to do us any injustice, and I wish to recall to his mind precisely the position which we occupied. It was this: that the private character of the Secretary of War was not on trial; that it was his public act which was on trial; and when this particular matter was discussed in committee, the gentleman will remember that my words were:

"While I do not think that any of the money has gone into the pocket of the Secretary, yet I do think he was guilty of gross personal and political partiality in the sale."

Mr. BURNETT. You did not come up and make the charge of fraud, because that is a specific accusation which could have been met, and that we were prepared to meet and refute. Yet, by innuendo and insinuation, the majority charge that there was collusion between the commissioners and the purchasers, and by inference rest a charge upon the Secretary of War that he was a party to it. If these gentlemen had believed that the Secretary of War was guilty of any conduct which showed a want of integrity upon his part, or that he had been guilty of any official conduct which did not become him as an executive officer of this Government, they ought to have said so. Instead of doing that, their report is characterized by a diversion upon collateral facts; and in some instances they mistook the testimony—not intentionally, I trust—and they parade before this House and the country such matters as that Mr. Commissioner Heiskell said that "he had been a hard student of newspapers," and also a conversation between Heiskell and Secretary Floyd, all for the purpose of converting the familiar conversations between the Secretary and the commissioner, who was his old and tried friend, into a means of creating a suspicion that something, not exactly right, was at the bottom of this social intercourse.

Mr. PETTIT. With the permission of the gentleman from Kentucky, I desire to say a word.

Mr. BURNETT. Certainly, if I have done the gentleman injustice. I do not want to do any gentleman injustice.

Mr. PETTIT. The gentleman from Virginia [Mr. FAULKNER] also referred to improper quotations of the testimony. I trust the gentleman from Kentucky will indicate wherein improper quotations have been made.

Mr. BURNETT. I will say to the gentleman that here are three gross misquotations of the testimony. I have not time to stop to go into that matter now, however.

But I want to call attention to another fact connected with this report. After making these statements, instead of taking up the matters which we were charged to investigate by the resolution of the House, there is an evident attempt, on the part of the majority, to mislead the public mind from the acts of the officers charged with this sale, and the conduct of the Secretary of War in connection with it, by bringing into their report the actions of the purchasers of the property; and they not only do that, but they undertake to connect the Secretary of War with the conduct of witnesses who have testified in this case. Now, if there had been anything improper on the part of the Secretary of War; if he had been guilty of any act, in his connection with this matter, that stamped his conduct as an officer with fraud or corruption of any sort, the gentlemen ought to have made the charge specifically, so that the House and the country might have known what it was.

It will be impossible for me, Mr. Speaker, in the course of one hour, to notice all the matters involved in this investigation; but I want to call the attention of the House to the reasons which controlled the agents of the Government in making the sale in the manner in which it was made, and I think if the gentleman from Ohio [Mr. STANTON] will give me his attention, he will see that so far as the interests of the public Treasury were concerned, the mode of sale adopted by those agents was the only one by which anything could be realized. If you will examine the evidence of Mr. Rice, now a Senator from the State of Minnesota; of Mr. Becker, who was elected to a seat upon this floor, and of other witnesses, you will find that they prove that there is a systematic organization in the neighborhood of this site, formed for the express purpose of preventing any lands owned by the Government being sold for more than the minimum price of \$1 25 an acre. This fact is fully established by the testimony of those gentlemen, and refutes the idea that at a public sale the property would have brought as much as it did. Another fact justifying this mode of sale is this: gentlemen can find not one single instance in the whole history of land sales by this Government where they have sold for as good a price as this, except in the case of the sale made by Judge Burchard, I believe, within the corporate limits of the city of Chicago, where the immense value of town lots in so growing a city necessarily appreciated greatly the value of the property, and where the large competition for city lots prevents combination. The evidence discloses the fact that in all other sales of military reservations made by the Government, there have always been combinations which prevented a fair price being obtained.

If you will raise a committee, and make an investigation in regard to a former sale of a portion of this reservation, I think you would discover some facts which will disclose the results of these combinations to which I have alluded, and indorse the action of the agents of the Government in making this sale.

In 1852, this reservation was reduced, and immediately afterwards it was understood that some twenty-odd thousand acres of the land were to be sold. A combination was then formed by which that land was to be bought up at \$1 25 an acre. But they did not stop at that; they went upon the lands on the east side of the river, and squatted; there were as many as two claims upon every quarter section, and these men agreed among themselves that they were to buy that land and hold it, and that certain individuals were to bid it off at \$1 25 an acre. An act of Congress was afterwards passed, giving settlers the right to preëmpt on the east side of the river, and they took that land at \$1 25 an acre, under the preëmption laws. But there were still five thousand acres of this land unsold, in what is known as the Stillwater district. I want the House to bear in mind that, according to the testimony, there was upon that land perhaps the best water power in the Union, and it included what is now the city of Minneapolis.

Now, sir, how was that land sold? It was sold at public auction. There was no charge of cor-

ruption or fraud on the part of the agents who sold it; and how was it sold? The proof in this record shows—I speak from the record and intend to confine myself to it—that the beneficiaries of this sale made contracts with the parties upon the land, in direct and express violation of law; they made contracts as to who were to bid that land off, and by which the parties were to have the benefit of their preëmptions, and the claim was proved up and they got possession of the land, having purchased the preëmptors' claim before the sale was made. That land is situated, as I have said before, in the Stillwater district, and includes a valuable water power, and what is now a portion of the town of Minneapolis.

Mr. SMITH, of Illinois. The lands in Minneapolis were sold at the Minneapolis land office. The lands on the east side of the river were sold at Stillwater. I was not there at the time, but I am conversant with the facts.

Mr. BURNETT. Some of these lands were worth \$1,000 an acre, and some selling for \$6,000 and \$10,000 an acre, whilst, by a combination between the parties, when sold at public auction, the Government received for it but \$1 25 an acre. This fact shows the wisdom of the course in resorting to private instead of public sale in disposing of the balance of the reserve. I wish to say that I agree with my colleague on the committee, [Mr. FAULKNER,] in his report, in disapproving of sales of this character. I hold that as a general rule, the lands of the General Government ought to be sold in such a manner and in such quantities as to afford to every man a fair chance of buying them. But there is everything in this transaction that would make it a just exception to such a rule.

Now, let us look at it, and see whether the commissioners acted wisely and discreetly, under the circumstances, in selling the lands in the manner they did. The gentleman from Indiana says, in his majority report, that Mr. Heiskell did not understand the preëmption laws, did not understand the laws under which he was acting, and thought that Steele was entitled to a thousand acres of land.

Now, I say to the gentleman that there is not one particle of testimony in this record to support any such assertion, and they do injustice to Mr. Heiskell in this, as in another quotation from the testimony. He says, in his testimony, that Steele was not legally entitled to preëmption, and that McKenzie had no legal right to preëmption. He places it upon the ground that these men, having gone there and made valuable improvements with the permission and under the authority of the Government, were equitably entitled to preëmption rights, and that such rights ought to be allowed them; and so say I. Because of this sound opinion Mr. Heiskell is held up to the public scrutiny as a man who did not know what he was about.

Well, now, sir, let us look at the qualifications of Mr. Heiskell. He was not an ignorant man. It is true, he had been "a hard student of the newspapers;" but, sir, if some gentlemen on this floor had studied the newspapers a little more, they might know more.

Mr. PETTIT. Will the gentleman allow me to refer him to the evidence?

Mr. BURNETT. The gentleman will have his hour hereafter.

Mr. PETTIT. I only wish to refer the gentleman to the evidence now to give him an opportunity to reply to it.

Mr. BURNETT. No, sir; I cannot yield. I say there is no man in this House who will take the evidence and read it, who will not find a satisfactory reason given by Mr. Heiskell for his conduct in this sale. When he is asked why he disposed of the property at private sale, what reason does he give? Why, sir, that nearly all public property which has been disposed of at public auction has been sold at a very low rate, in consequence of combinations formed; that not many years before, when a reduction of this reservation took place, the most valuable part of it was sold at public auction for \$1 25 per acre; that according to all precedent, as soon as the fact had been made public that the reservation was to be brought into market, men would have gone on it and squatted, and then would have procured the passage of an act by Congress allowing them preëmption rights. He knew that an organization existed there for the purpose of preventing the

lands of the Government from being sold at more than \$1 25 per acre. He tells you that citizens of Minnesota, along the river, in the hotels, and everywhere, said that there were combinations formed. Mr. Rice, a gentleman of high standing and character, in whom the people of Minnesota have reposed their confidence by electing him to the United States Senate, told him there were combinations already formed; that if the land was exposed to public sale there would be combinations which would prevent it bringing more than \$1 25 per acre. Mr. Heiskell tells you that he was told by the Secretary of War to get a good price for the property, and that he went there with a determination to do it.

These were the just reasons which operated upon this unjustly abused commissioner; and now I ask the gentleman from Indiana, [Mr. PETTIT,] with this testimony before him, with the history of all the land sales of this country, with the precedent of the sale of the most valuable portion of this very reservation only a very few years ago at public auction for only \$1 25 an acre, was Mr. Heiskell not justified in the course he pursued? What do the witnesses say upon the point? They all concur in telling you that this reservation was sold for a better price than any on record, with the single exception of the small one in the city of Chicago, sold by Judge Burchard, to which I have already referred. These, sir, were the motives which operated upon the commissioner to sell this land at private sale.

But, sir, the gentleman states in the report that Major Eastman did not know the difference between a private and a public sale. Here is another case in which he does not quote the evidence correctly. In answer to the interrogatory why he did not advertise this property, he replied, that if he had advertised it, it would not have been a private sale—an answer that any sensible man would have given.

There is another matter to which I desire to call the gentleman's attention, though I will not enter into discussion with regard to it. The gentleman speaks of the character of Dr. Graham, of Mr. Mather, and of Mr. Steele. I have no personal acquaintance with any of those gentlemen, except that made during this investigation; but I believe they are all esteemed by their own neighbors. Mr. Mather has held distinguished official positions in the State of New York; Dr. Graham has occupied a high official position—I believe that of commissioner of public works in Virginia; Mr. Steele has been regarded as one of Minnesota's best citizens. They are all gentlemen of high respectability, and it is not my purpose, nor is it necessary for me, to enter into any defense of them; nor has it anything whatever to do with the question which this House has under consideration.

But let us look at another part of this transaction. The majority report takes the position that the contingency under which the Secretary of War was authorized to make sale of the reservation had not arisen; that it was longer needed for military purposes. Upon this point I take issue with them. They undertake to show that it was longer needed, by stating that the Secretary of War still occupies it with troops. I have already shown that he had the legal discretion vested in him to sell it under the law.

The gentleman contrasts in connection with this matter the opinion of Colonel Davis and General Jesup, with those of Secretary Floyd. Sir, the gentleman does not do justice to the present Secretary by the quotation he makes. General Jesup basis his opinion that Fort Snelling ought not be sold upon a peculiar view of the military policy of the Government. He says, that if it is the policy of the Government to collect troops in large numbers at interior posts and send them to the frontier as they are wanted, that Fort Snelling ought to have been retained, and that he thinks this policy would have a better effect upon the Indian tribes. The policy of the Government had been directly the reverse. The policy had been to establish military posts upon the frontier. General Davis recommended the retention of Fort Snelling in the event of the policy being adopted to collect large bodies of troops at particular points, to be thence distributed to the frontier as occasion might demand. General Jesup says that if that is not to be the course of the Government, then Fort Snelling can only be valuable as a military

depot, and for that purpose only one hundred and fifty acres, with the improvements, would be needed. His opinion is made with so many qualifications, that as testimony it is not worth a jot against the validity of this sale; but anyhow it proves, that under the settled military policy of the country, it was useless.

Mr. Speaker, where is Fort Snelling? This everybody can answer for himself. The gentleman from Minnesota says that standing upon that reservation one can look upon the smoke curling from the chimney tops of the dwellings of twenty thousand people. The whole proof in the case shows that the fort is at the center of population in the Territory. And, sir, there is but one single military man, Major Martin, who is of opinion that it is now required for military defense. The concurrent testimony of Army officers is, that as a post of defense, it is useless. Its retention for military purposes is limited by all of them to the idea of a depot of supplies. Look at Fort Ripley, which is far beyond towards the frontier. That was abandoned as a military post until last summer, when troops were stationed there to operate against the hostilities of Ink-pa-du-tah's band. There was a post at Fort Ridgely, one hundred miles beyond. These gentlemen, however, insist that Fort Snelling should be retained as a depot to supply the two forts upon the frontier which I have just mentioned. The testimony is that never at any time have either of them been supplied from Fort Snelling. Captain Thom, when questioned in the matter, makes a statement of his belief that they had been supplied from Fort Snelling. If the majority, when making their report, had looked a little further they would have seen that when I interrogated him he stated that he had no knowledge of those forts being supplied from Fort Snelling. Colonel Lee, who was commandant at the fort, said that no such supplies were sent to Fort Ripley, or Fort Ridgely, at any time between 1851 and 1854.

After all, this is a question of economy: shall the Government retain this property at an annual cost of many thousands of dollars for the purpose of transshipping supplies? Is it the better and more prudent course to make but one shipment from the sources of supply? Shall the Government remove supplies from the St. Louis posts to the storehouses of Fort Snelling, and then ship them again for forts upon the frontier? Is that economical when they can be directly shipped to those posts? It is a question which appeals to the common sense of every man; it requires no military skill to determine it; it is purely a commercial one, and I would rather have the opinion of a shrewd business man in the premises than the opinion of all the military men in the country.

Let us look at the question in another point of view. The officers at Fort Snelling were opposed to the sale and it was natural that they should be. They had a beautiful place of residence, they had the most comfortable quarters, and a superabundance of stores for their subsistence. There they were living upon the fat of the land, without anything under God's heaven to do. Society was near at hand in a city populous, and furnishing all the luxuries of life. They of course did not want to surrender such quarters and such comforts for the hardships and trials of a frontier station. That is the secret of the whole affair, and I will venture to say that it is the secret of every remonstrance made against the sale of the military reservations heretofore.

We have in addition to the testimony taken by the committee, the report of a board of the most distinguished officers in the country, of whom General Harney was the president. These men answer all the points, in favor of the view that this reservation was no longer needed for the military purposes of the Government.

Then I would ask members, upon all sides, whether, with all these facts before them, the contingency did not arise in which the Secretary of War was authorized to sell this reservation? If it was no longer needed as a post of military defense, then the Secretary of War, under the law, had the control of its disposal; and if, in compliance with the demands of his duty, he did cause its sale, can any action of this House invalidate or set aside that sale? It was purely an executive act. The Secretary of War had the power conferred upon him to do what he has done. The sale was made. Have we the right

to set it aside? If there is any question about it, it is purely a judicial question.

Mr. Speaker, I have called the attention of the House to this sale from its inception to its perfection. I have shown the reasons why the Government made the sale in the manner in which it was made. I have shown that the contingency had arrived in which the Secretary of War was vested with discretionary power to make the sale.

The next question is, was the price adequate? The gentleman from Ohio [Mr. STANTON] says that it was not. On this subject there is a difference of opinion. It is shown that it is the best sale of a military reservation ever made, save and except the one in Chicago, to which I have already referred. Was the price fair and adequate? I do not regard this as a question of importance, but I wish to show that this transaction, stripped of everything that does not properly attach to it, has nothing in it to which blame can be ascribed by any man. The witnesses who speak as to the value of the property differ; but when we go to what those say who are most familiar with it, we find that they testify that the Government got all that it was worth, if not more.

What is the testimony of those seven gentlemen from St. Paul, referred to by the gentleman from Vermont? They all tell you that they know this land, and have known it for years; and that it sold for more money than it was worth, and for more than the purchaser can now get for it. What does Mr. Rice tell you? He is a man who knows the property well. He tells you he has land lying alongside of it which he offered for ten dollars an acre, and that he could not get that.

What else does this testimony show? The great majority of the witnesses express the opinion that these purchasers could not sell that reservation for the money they agreed to pay for it. Now let us look at the equitable right which these parties had to become the purchasers. The commissioners say they had no legal right of preemption. So say I. But had they an equitable right? Mr. Steele went on the reservation twenty years ago, as the sutler of the Army. He made his improvements there, as the testimony shows, by the authority of the Government, by the authority of the commanding officer at the post. What else is shown? That McKenzie also made his improvements there by the authority of the Government; that these ferry-houses were erected, and these ferries established there, by its express authority.

Now the question is this: whether, when the Government comes to sell this reservation, these parties who have thus made their improvements under its authority were not equitably entitled to protection, and whether, if they do not become the purchasers, the Government would not have become equitably bound to compensate them for their improvements? No man who speaks of these improvements puts them at less than \$30,000. The gentleman from Indiana, in his report, says that Mr. Heiskell speaks of them as worth \$50,000. Now, he is again mistaken. My friends ought to adopt the Christian maxim of forgiving those who speak evil of them; and ought not to bear malice. Mr. Heiskell merely stated it as his opinion that if they had sold this land, and denied to Steele the right to buy, and if he had come before Congress, his Republican friends would have voted him \$50,000 for his improvements.

Mr. CLAY. I would like to know whether any act of Congress gave authority to this sutler to put these buildings there?

Mr. BURNETT. By act of Congress, this reservation is set apart for military purposes. The Secretary of War had the power to give authority for the erection of these buildings, and their erection was authorized by the commanding officer. Some of them were necessary, to enable the sutler properly to discharge his duty as sutler of the post.

Mr. CLAY. Do I understand my colleague to say that the commanding officer of a military post has a right to grant a preemption right to a sutler?

Mr. BURNETT. No, sir: I do not take any such position; but I say that where the subordinates of the Government, with the consent of the Secretary of War, authorize A, B, or C, engaged in discharging official duties at the point, to build a house on a military reservation belonging to this Government, when you come to sell the land and

deprive the man of the value of his improvements, he has the equitable and just right to be compensated for them.

The value of the improvements, added to the price paid for the land, makes the cost \$120,000. A portion of the property has been sold, the gentleman from Indiana says, at the rate of \$180,000. Now, sir, Mr. Steele speaks, I believe, of building warehouses, and of grading, &c., to the amount of between fourteen and fifteen thousand dollars. Is there anything, then, made in the profit which should startle the country, or make gentlemen hold up their hands in holy horror and talk about fraud and collusion? Both Judge DOUGLAS and Mr. STUART, the Senator from Michigan, unite with the weight of testimony and say the amount paid for the land was adequate; and those who know the land best, say that it is sold for more than it is worth.

In addition to the number of witnesses who say that the property sold for its full value, we have the statement of three hundred and sixty-six men who reside there, and whose respectability cannot and will not be questioned by the gentlemen on the other side. They give it as their opinion that this land sold for more than it was worth; that eleven dollars an acre was a fair price for it. And with all these facts before us, I ask whether there is any reason for attaching blame either to the Secretary of War, or to the agents of the Government who were authorized to sell this property?

Now, sir, let us look at the reasons which operated on the commissioners in offering this property for sale to Mr. Steele. First, he had been living there for twenty years; he had raised his family there; he had made these valuable improvements there. The commissioners knew this. They made an estimate as to the value of the property—a careful one, too, based on their own knowledge of it, and on the information derived from others; and they determined to offer it to him because he had these valuable improvements upon it, and on that account would be likely to give more for it. Is there anything wrong in that, when he paid all for it that it was worth?

Now I wish to call attention to another fact. An attempt is made to impeach the character of a gentleman—Major Eastman—without a single particle of legal testimony to base it upon. The majority undertake to show a palpable and positive contradiction of his testimony. Now, there is not a county-court lawyer, who has ever practiced, who does not know that there is no rule of law so well established as that a statement made by a party to a witness, who testifies to the purport of a mere fugitive conversation, is the weakest of all testimony. And why? Because it is easily forgotten, easily misunderstood, and never repeated as said. Now, you have here Captain Thom's statement of this conversation. I asked him the question, "Where did it occur, when, and who was present?" and he could neither fix the time, the place, nor who was present. I mean the particular place; he said it was on the reservation. In contradiction to that, you have Major Eastman's unqualified statement of what he regarded as the value of the property, that, though he had never bought a foot of land in his whole life, he had lived on the reservation for nine years, and believed it had been sold for more than it was worth. Now, if, for political or any other purposes, gentlemen are willing to take mere hearsay evidence in regard to a conversation which occurred more than a year ago, to impeach the veracity of a respectable gentleman—one who has been in the service of the country for thirty years, and who stands unimpeached as a high-toned, honorable man—then, I ask you, to what lengths will they not go?

Now, the gentleman from Massachusetts, [Mr. DAWES,] who seemed to take peculiar pleasure to-day in misstating everything—not intentionally, I presume, but from not understanding what he was talking about—said that this was a scheme formed during the last Administration for the purpose of obtaining Fort Snelling. Where is there any evidence of that? Now, sir, that statement by a Representative on this floor is made, and goes out, for the purpose of poisoning the minds of the people of the country when there is not a particle of evidence to sustain it!

[Here the hammer fell.]

Mr. BINGHAM. It was not my purpose, at

the opening of the debate, to have mingled in this controversy; but the course which has been pursued by gentlemen upon the opposite side of the House constrains me, in vindication of the votes which I may give upon the final settlement of this question, to state, as briefly as possible, some of the views which I entertain of the facts connected with this transaction. Before proceeding, however, to notice those facts, I desire to take notice of some of the strange and curious propositions which have been put forth by gentlemen upon the opposite side, for the purpose, I suppose, of evading the force of the testimony which is spread out here before the House and the country.

What was the proposition of the gentleman from Connecticut, [Mr. BISHOP?] Why, that we were not to judge this case because we are not permitted to judge of the secret motives which move men in the performance of any act. It is strange that any man should attempt to set up a proposition of that sort, when every man who has ever read the horn-book of the profession of the law knows that the judgment as to a man's motives is not the judgment of the triers, but the judgment of the law. It is a principle that has been recognized for a thousand years by the common law and the common judgment of mankind, that men do mean and intend exactly the natural consequences of their own acts. I say, then, that we deal here with facts, and the law pronounces the judgment which we are bound merely to record here by our votes. What becomes, then, of the ingenious device of the gentleman from Connecticut, that although the facts be proved, yet the motives of the officers of the Government may have been very good, or, at all events, that it is not for us to sit in judgment upon them?

Mr. BISHOP. The gentleman will remember that that remark was made in speaking of the general habit of questioning the motives of political opponents, and not in connection with the facts in this particular case.

Mr. BINGHAM. I am glad to know that the gentleman will not attempt to spread that proposition of his over the official misconduct of any of the gentlemen who have been connected with this transaction; but I am sorry, on the other hand, that the gentleman saw fit so soon to forget that very benevolent proposition of his, that it is wrong to sit in judgment upon the motives of political opponents, and straightway proceed himself to judge the motives of gentlemen upon this side of the House, who have the misfortune to differ with him in regard to the facts of this transaction. I recognize the right of the gentleman to form for himself his own judgment upon those facts, and to act accordingly; but I claim for myself the right also to judge of the facts as they stand proven on this record, and to act accordingly. It had been as well, perhaps, for the reputation of some of the public officials connected with the sale of this reservation, if the gentleman had dealt with the facts as they stand proved here, and less with propositions wholly untenable and outside of the case.

There are but three points arising upon this evidence to which I wish to call the attention of the House. One is the inadequacy of the price for which this reservation was sold; another is the marked secrecy and concealment which attended the transaction from beginning to end; and the other is the flagrant and palpable violation of the written law of the land—of the written power of attorney, so to speak, under which the Secretary of War and his subordinates acted in this contract of sale. That this contract is in violation of the statute, is a point which, in my judgment, could not have escaped the notice of the astute gentleman from Virginia, [Mr. FAULKNER,] but for the fact that he seemed to be greatly interested in the reputation of his friend and neighbor, the Secretary of War. I honor him for the zeal, earnestness, force, and eloquence with which he sought to vindicate and cover the character of his friend from the suspicion of any dishonorable, or dishonest, or unworthy conduct in this transaction; and I am not prepared to say, in view of the testimony, that the Secretary of War is by any means as culpable as some of the other parties connected with this matter, or that he can be justly charged or suspected of any corrupt or dishonorable motive in the transaction.

In regard to the inadequacy of the price, whilst I do not mean to say that any court of equity, or

any tribunal governed by equitable considerations, will set aside and declare void a sale merely on the ground of inadequacy of price, still I affirm it is a badge of fraud, and as such is always to be taken notice of; and I further affirm that the inadequacy of consideration in connection with the other facts proved in this case, would be held sufficient before any court of equity in the world to set aside this sale; that in view of these facts, this contract could not stand one hour in any court of equity. There was gross inadequacy of consideration in this case. The Secretary of War knew it; the agents of the Secretary of War knew it; the purchasers knew it; they had acknowledged it themselves in writing a year before the sale; that writing was upon file in the War Department, and therefore within the knowledge of the Secretary of War. With that fact written out and confessed by all the parties to the sale, gentlemen rise in their places here, and say there is no fraud proved. Inadequacy of price, I tell you, does, in itself, constitute an element of fraud, and no man will undertake to gainsay it. The general proposition is admitted, that of itself it is insufficient to invalidate and set aside a sale; but it is, notwithstanding, held to be evidence of fraud.

Now, I shall not stop to read all the proof that is detailed in this report, but I undertake to say that the weight of the evidence here before the House proves incontestably that that land on the day of the sale was worth at least twenty-five dollars an acre, whether sold in parcels or in gross. I might go further, but that is far enough for my purpose. The testimony of Eastman, one of the commissioners, is that the quantity of land is about eight thousand acres. I take it that if the land was properly surveyed it would be found that there are from one to two thousand acres more. But adopting the estimate of eight thousand acres, the land which passed by that sale was, according to the weight of this evidence, worth on that day, \$200,000. It sold for \$90,000, being \$110,000 less than half its value. The purchaser himself, Mr. Steele, who acted for himself as well as for Mr. Mather, Mr. Schell, and Dr. Graham of Virginia, had a year before made application to the Secretary of War to sell this reservation to him, for himself and others, and was ready to purchase it at the rate of fifteen dollars per acre. That application is on file in the War Department, and is published at length in the report of the committee. Well, sir, at fifteen dollars per acre, this land would have brought \$120,000.

Sir, this gentleman, having put his written proposition on file in the War Department, goes back to his place. These commissioners are appointed, and proceed to Minnesota. They disclose the fact of their appointment to no one. As soon as they arrive there, they address a polite note to Mr. Steele. They do not explain to anybody how it occurred to them to open a correspondence with Mr. Steele; they do not tell us whether they were advised before they started that Mr. Steele had a year before proposed to give what would amount to \$120,000 for this same reservation; they simply state that, when Mr. Heiskell arrived there, they determined to sell the property at private sale, and addressed a note to Mr. Steele, inviting him to purchase, and asking him what he would give for the property. Mr. Steele informs them that he would give \$75,000; and, after a private dicker over the transaction, they conclude they will take \$90,000, it being \$30,000 less than Mr. Steele proposed only a year before to give for the very same property. It will not do for Mr. Steele, or any gentleman speaking in behalf of Mr. Steele, to say that it was not their intention, in this transaction, to cheat the Government?

Mr. FAULKNER. Will the gentleman permit me to ask him whether, as a lawyer, he will say that the effect of the proposition of Mr. Steele, sent to Secretary Davis, to purchase this property, was not for \$75,000 in gross? Is not that the legal and only common-sense view you can take of that proposition?

Mr. BINGHAM. No, sir, the proposition was to pay fifteen dollars per acre for it. It is true he states that he supposed the land would amount to about five thousand acres, at which the sum total would be \$75,000; but his proposition was distinctly to pay fifteen dollars per acre, and I say that the legal as well as common-sense construction of the proposition would have required

him to pay fifteen dollars per acre for all the land included in this reservation.

Mr. HUGHES. I desire to ask the gentleman whether this proposition was made to Secretary Floyd or Secretary Davis?

Mr. BINGHAM. In answer to the gentleman from Indiana, [Mr. HUGHES,] I remark that the proposition of Steele, before referred to, was made by letter, dated April 23, 1856, addressed to the then Secretary of War, (Mr. Davis.) But, sir, that letter was on file in the Department, and a copy of it was furnished by the present Secretary of War (Mr. Floyd) to the committee. That letter contains, amongst other things, these words:

"The undersigned, for himself and others, propose to pay, and hereby offer, the honorable Secretary of War, for the lands included in the Fort Snelling reservation, fifteen dollars per acre."—House Report No. 351, page 413.

Now, sir, as I remarked before, if there was nothing else about this transaction, this, of itself, coupled with the fact that this same Mr. Steele purchased this land at \$30,000 less than he had offered, is sufficient to stamp it as fraudulent. According to the confession of Mr. Steele himself, they had agreed to give \$120,000 if it could not be obtained for less; and they did get it for \$30,000 less than Steele had offered the year before. Sir, the whole transaction is marked with that degree of secrecy which only attends gross frauds; it has none of the characteristics of an honest, bona fide sale, either of a private or a public sale. In this record you find that letters of Mr. Smith, Mr. Sherburne, and Mr. Dillingham, two of them written in April, and the other in May, 1857, were addressed to the Secretary of War, informing him, among other things, that many persons were desiring to purchase portions of this reservation; that they themselves desired to purchase portions of it, and were particularly anxious to know of the Secretary of War whether the reservation was to be sold; when it was to be sold, and how it was to be sold. Well, sir, what answer did they ever get to these letters? Can anybody tell? No, sir; not even the Secretary of War is able to give us light upon these points.

I have observed the statement, on this subject, of the Secretary of War, to which his friend, the honorable gentleman from Virginia, [Mr. FAULKNER,] referred, wherein he says that, from the indorsement upon the letter in the Department of the Hon. Mr. SMITH, "the character of the replies to the other letters may be inferred." You cannot infer, from that indorsement, whether he informed these parties how or when this land was to be sold. I regret to observe that this indorsement on SMITH's letter is scarcely intelligible as an answer to his inquiries, and is not sufficient for the purposes of this investigation. How were these letters replied to? When were they replied to? You will observe that they all bear date before the sale of the reservation, about the time that the Secretary of War had made up his mind to sell the reservation, and about the time his friend, Dr. Graham of Virginia, called upon him in the month of April, 1857. The Secretary of War does not undertake to inform us whether, in the replies that were made to these men, he stated when the reservation would be sold, by whom it would be sold, the terms on which it would be sold, or anything about it. He simply tells us that the letters were replied to, as may be inferred from the following indorsement on Mr. SMITH's letter:

"Have it carefully surveyed first; divided into lots of forty acres each. The object to obtain the largest amount for the Government, and give all who desire an opportunity to purchase."—Report, page 410. Letter of Secretary of War to the Committee.

How could any man infer from this when this land was to be sold, by whom it was to be sold, and how it was to be sold—whether by public or private sale? Who could infer from this that Eastman and Heiskell were authorized to sell in May, 1857? that they were on the ground, and would sell in the most secret way the whole tract by addressing a private note to the man whom they preferred as the purchaser?

Now, sir, there is blame here which ought not to attach to the Secretary of War, but which does attach to his subordinates in the Department, or to some of them. This failure to give the information desired, this concealment in the premises, no matter to whom it attaches, goes far to invalidate this sale. There is enough in this

transaction to affect all the parties immediately connected with it—the purchasers and the commissioners. In my judgment, the whole transaction, so far as they are concerned, is marked all over with fraud. Here is this Dr. Graham, who called at the War Department for the purpose of talking, in a friendly way, with the Secretary of War. It turns out that he was not so much concerned about paying his compliments to the honorable Secretary as in looking after the spoils—"the five loaves and two fishes." He was there to look after a job, to use his own words, "to pay expenses." "Well, sir," says he, "what can be done for me?" The Secretary of War replies that they are going to sell the Fort Snelling reservation, and offered, or suggested, to the Doctor the agency to sell it. The Doctor was tempted by the Secretary's offer to take charge of the sale. He resisted the temptation! But he resisted it, and declined the proffered agency for the reason, as he swears, that he "preferred to be a purchaser"—a speculator in the matter. The Doctor swears that he did not tell him (the Secretary) that. Why conceal it? He knows, and knew at an early day, that others had been intrusted with the delicate duty of selling this reservation. In pursuit of the property, he went to Minnesota the last of April, 1857. Having full knowledge on the subject while Eastman and Heiskell, the commissioners, were there, the Doctor was frequently there also, "confering with Steele as to the purchase." (Report, page 104, Graham's testimony.) And, according to the testimony, they agreed to become the purchasers at less than one third of its value. Such a man is not to receive much quarter in any tribunal where either law or equity is regarded. The testimony we have is testimony out of his own mouth. It is not heresy; it is his own confession.

The Secretary of War may have appointed, and doubtless did appoint, Messrs. Heiskell and Eastman in good faith. It is due to him, as well as to myself, that I should state that his instructions contain not a word that authorizes or suggests to these commissioners the concealment of the intention to sell. Most carefully did they conceal that fact. They concealed the fact both here and while they were in the Territory. Both are pressed for the reason of that concealment, and both make futile attempts to answer it. They would not trust anybody with the secret, fearful of these combinations, and that competition would prevent a sale of the property at its value. They studiously conceal the fact that they are about to sell; but Dr. Graham knew all the time that the property was to be sold. He knew all the time that this correspondence was going on, that Mr. Steele was to get this property for himself, Dr. Graham, Schell, and Mather. God only knows how much interest (if any) these two gentlemen, Mr. Heiskell and Major Eastman, have had in it. They were very kind and very partial, certainly, to Mr. Steele and Dr. Graham. It turns out that one of the purchasers, Mr. Mather, was at that time in the employment of the War Department, for the survey of Fort Ripley, and was out there on pay at the time he was engaged in this combination with his two confederates to cheat the Government, secretly to purchase at \$90,000 this reservation which, I undertake to say, is worth \$500,000 in the hands of any man who has the sense to manage it.

Unhappily for the argument of the gentleman from Kentucky, [Mr. BURNETT,] there is in the terms of this agreement of sale a gross violation of the law. This written agreement is so clearly in conflict with the law, that no gentleman can fail to see it when his attention is called to it. What is your Secretary of War but the agent to carry out, in that Department of the Government, the law as recorded upon the statute-book? What is the act of 1819, and what is the amendatory act of 1857, extending the provisions of the act of 1819 to other reservations? The Secretary of War was authorized, in pursuance of these acts, and not otherwise, to sell these public reservations. Will any gentleman rise in his place and say that the Government of the United States, and the people of the United States, through their Representatives in Congress, are not as much principals in this transaction as between their agents as a man is a principal to the agent whom he constitutes his agent by his letter of attorney? Will any gentleman say that this letter of attorney to the Secre-

tary of War, this statute, is any less revocable than a letter of attorney between man and man? Will any gentleman undertake to say here that if A gives a general power of attorney, with clauses of revocation therein, to sell, that he cannot revoke it at any time before the property passes? Here, the act of 1819 authorized the Secretary of War to sell certain national reservations of land. Because the Congress of 1819 enacted that law, which was extended to this reservation by the act of 1857, does it prevent this Congress from passing a repeal? The act is as follows:

"Be it enacted, &c., That the Secretary of War be, and he is hereby, authorized, under the direction of the President of the United States, to cause to be sold such military sites belonging to the United States as may have been found or become useless for military purposes. And the Secretary of War is hereby authorized, on the payment of the consideration agreed for, into the Treasury of the United States, to make, execute, and deliver all needful instruments, conveying and transferring the same in fee, and the jurisdiction which had been specially ceded for military purposes to the United States by a State over such site, or sites, shall hereafter cease."

Now the act of 1857 in no manner changes the general provisions of the act of 1819, as a limitation on the powers of the Secretary of War. What is this limitation? It is simply that upon the payment of the consideration agreed upon into the Treasury of the United States, he may make and execute a deed in fee simple for the land so sold. Now what is the contract in this case? The contract is set out at length at page 52 of the report, and, after describing the property, it goes on to provide

"For and in consideration of the above, the party of the second party agrees, &c., to pay to the United States Government, or authorized agent or agents, the sum of \$90,000 one third of the said sum on the 10th July next, and the residue in two equal annual payments thereafter. Possession of said lands and improvements to be given as soon as the Secretary of War can dispense with it for military purposes, and a deed given when the first payment aforesaid is made, and satisfactory security for the deferred payments given."

The deed is to be given when the first installment is paid—to wit, on the 10th day of July, 1858, and approved security is given for the deferred payments at one and two years: that is not according to the letter or spirit of the statute. Those parties were bound to take notice of that provision of the general law, and when they set their hands to that contract they were bound to take notice that their contract was in violation of the law. I say that contract could not be enforced in any court of equity in the world, and for that reason I say it ought not to be regarded here, and ought to be set aside. Why? Because it is in violation of the law, and is of itself an evidence of intention upon the part of those gentlemen to defraud the Government. Why were they in such hot haste to get the title transferred to them in violation of law? Of course so that they could divide the land up, and parcel it out to A, B, and C for a valuable consideration, in order that these new purchasers might come in afterwards when a question might be raised as to the title, and say that they were innocent purchasers without notice of any fraud in the transaction. It is as clear evidence of fraud as was ever brought into a court of justice. If you choose to drop the term "fraud," still the fact stands that because this contract is in violation of the spirit and letter of the law, it is invalid and ought to be set aside.

The title to this property, I understand, has not yet passed. By the terms of the contract, however, it may pass any day, and if you give this transaction your approval, most likely it will pass. I want to know what excuse gentlemen will make before their constituents and to the country for voting down the propositions made by the majority of the committee, one of which, and the most material of which, is the fifth and last one, and which does not touch the Secretary of War? I have no desire or purpose to cast any aspersion upon his character. What excuse can gentlemen give, in view of the fact that this contract is in violation of the law of the land, for voting down that proposition declaring the contract void? I would go a step further, and repeal the authority to convey, now existing in the Secretary of War, by virtue of the act of 1819, and the amendatory act of 1857, so far as this reservation is concerned. I would go further, sir, and provide for refunding this \$30,000 to the parties, and if they are dissatisfied, let them seek their remedy where best they can find it. I submit

that this House owes it to itself, to fair dealing, to the country, and to the violated law of the land, to treat this case in that way. It is not necessary, as I said before, that this House shall find any specific or implied accusation against the Secretary of War. It is sufficient to find that this last resolution of the committee is true, which does not reflect upon the conduct of the Secretary of War. What is that proposition? It is this:

"5. That John C. Mather, agent of the Department of War for the examination and sale of the Fort Ripley reservation, after having already joined a combination for the purchase of the Fort Snelling reservation, acted, in making such purchase, in violation of his official duty, and against the known policy of the Government, and that, as to him and Richard Schell, represented by him as agent, and Steele and Graham, who were complicated in the sale with him, with a full knowledge of this official character, the sale of the Fort Snelling reservation was at the time and is now void."

I ask any gentleman to say what objection there is, upon the proof as it now stands, to find this proposition true, and declare that fact, and having declared it, to follow it out by repealing the power of the Secretary to confer the title in this case, and providing for paying back this \$30,000 to the purchasers, and let them go their way rejoicing? What objection can there be to such a course? It will not do for gentlemen to get up any sort of special pleading, and say that this contract is void only in part. I say it is a proposition which will not be disputed by any lawyer, that the contract being void in a material part is void *in toto*, that it is invalid and contrary to law, and that it could not be specifically executed by any court of law.

I know that the Government of the United States is not liable to be sued; but if it were, those purchasers could not have this contract enforced in court. Let justice be done, and let this fraud be rebuked; let those who perpetrated it be told at once that they shall take nothing by it, that it shall yield them neither profit nor honor.

[Here the hammer fell.]

Mr. LETCHER. It was not my purpose to have said anything in connection with this question; but I have heard here, to-day, from several gentlemen upon the other side of the House, the grossest imputations upon the honesty, integrity, and character of one of my own constituents, and I would be doing injustice to my representative character, as well as to him, if I permitted them to pass by unnoticed.

Let me say to the gentleman who last addressed the House, [Mr. BINGHAM,] and to other gentlemen upon that side who have undertaken to charge that Dr. Graham had combined with other persons for the purpose of plundering the Government, that they know nothing of his character as a man, and it strikes me they know very little of what is disclosed by the evidence, or such a charge would not have been preferred in this discussion. The evidence taken by the committee, and reported to the House, justifies no such imputations.

Sir, on the score of character, on the score of intelligence, on the score of respectable standing in the community in which he was born and has lived for fifty years, he is the full peer of any man on the other side of the House—of those gentlemen who have indulged in these assaults upon him. His standing and position in our community, personally, socially, and professionally, are deservedly high, and there is no man in whose character and conduct less can be found to warrant such imputations and such aspersions. Sir, is there anything in this evidence to justify it? What single witness comes forward to testify to any one fact which shows misconduct on his part; which shows that he has attempted to plunder the Government, or to secure to himself, in any way, advantages to which he is not entitled? The gentleman who last addressed the House, [Mr. BINGHAM,] (while he did not say so in express terms,) intimated pretty broadly that Dr. Graham went there, and, by collusion with the agents of the Government, Heiskell and Eastman, obtained the advantages which he was in pursuit of. The evidence shows that this statement is entirely unfounded; for if you will look to the 105th page of this record, you will find that the question is propounded to him distinctly:

"Question 154. Did you seek to exercise any influence in producing the result upon the part of the commissioners, by which they subjected this property to a private instead of a public sale?"

"Answer. I do not recollect that I had any conversation with the commissioners upon the subject of the sale until after it was over. The negotiation with the commissioners was carried on by Mr. Steele."

With that question and answer upon the record, one gentleman rises and makes the charge, and others follow and repeat it, that he went to Minnesota with a full knowledge acquired from Governor Floyd, in this city, and that he used that knowledge for the purpose of operating on the commissioners, and inducing them to subject this property to private sale. Now, I put it to these gentlemen to say how they can excuse themselves to their own consciences for this act of injustice? The facts upon the record establish the reverse, and yet gentlemen continue to charge that he was there exercising this improper influence over the commissioners. There is not a particle of testimony to justify the charge. The record palpably, positively, directly, unequivocally, and emphatically disproves it.

There is still another point, Mr. Speaker, in this connection. It has been intimated here that there was collusion between Governor Floyd and Dr. Graham, and that Governor Floyd was aware of Dr. Graham's purpose in going to Minnesota; and that when Dr. Graham called upon the Secretary, he did so not with a view to get business that would pay his expenses to the Territory at that time; but that he called there to ascertain whether, to use the language of the gentleman from Ohio, [Mr. BINGHAM,] he could not get part of the five loaves and two fishes, in the shape of the Fort Snelling purchase. Now, let us see whether anything occurred between Dr. Graham and the Secretary of War, which justifies this imputation. On the 104th page I find the following questions and answers:

"Question 151. Do you know whether the Secretary of War had any knowledge, or information of any kind, of the existence of the company of which you were the head?"

"Answer. I do not. He certainly had none from me."

"Question 152. Will you state to the committee who constituted the company of which you were the agent?"

"Answer. As far as I know the company, they are John C. Mather, Steele, Schell, and myself."

These questions and answers show that Dr. Graham did not communicate his purpose in visiting Minnesota to the Secretary of War; that he kept it confined to his own breast, not even hinting at it; and yet the inference is sought to be deduced that he and the Secretary of War were combining for a purpose then a few months ahead! Sir, it is absurd; and I will say nothing more about it.

Now, sir, there is another thing. It has been charged here, in this debate, that, after Dr. Graham and Heiskell reached Minnesota, communications passed between the parties, by which it was known that Dr. Graham was interested with Steele in the purchase. Look at page 108, and see what the testimony is there:

"Question 192, (by the chairman.) Did or did not Major Eastman or Mr. Heiskell, or either of them, know that you and these other parties in New York were interested with Mr. Steele before the purchase was made?"

"Answer. They never knew it from me."

"Question 193, (by the chairman.) Did you learn from either, or both of them, in any conversation you had with them, that the fact had been communicated to them that you were interested in the purchase, provided Steele made it?"

"Answer. I did not."

There is the direct answer to the question on that point, but it is persistently argued here that these parties were directly in communication with the agents, and that the evidence of that communication furnished the proof of the fraud. I insist that the evidence shows nothing of the sort. I called upon the gentleman from Massachusetts [Mr. DAWES] to furnish one solitary fact which went to show that Major Eastman was in complicity with Dr. Graham; and if there was, I asked him to name the place in the record, and to name the witness who proved the fact. The gentleman declined to name the witness, and said that he had a right to draw his own inference from what was recorded.

Mr. DAWES. I call the gentleman's attention to Dr. Graham's answer to the 366th question, on page 123, and I ask him, in connection with it, to give me his opinion as to what made Dr. Graham insist on getting possession of the instructions given to these commissioners before the sale. The question is this, Mr. Speaker:

"Question 366. Did you know the instructions of the Government to the commissioners before the sale?"

"Answer. I think I did."

"Question 357. Did you know that the instructions limited the extent of Steele's settlement on the land to one hundred and sixty acres?"

"Answer. I think I did."

That was before the sale, and he says he went out to Fort Snelling in company with the commissioner who took these instructions out there.

Mr. LETCHER. Precisely so. He went out there with him; but does the gentleman seek in that way to get rid of my question?

Mr. DAWES. I ask the gentleman to answer my question.

Mr. LETCHER. Stop a moment; you have charged, distinctly and unequivocally, that Major Eastman made this communication to Doctor Graham.

Mr. DAWES. I have made no such charge, Mr. Speaker.

Mr. LETCHER. Did you not charge that he was in complicity with him?

Mr. DAWES. I made no such charge, Mr. Speaker.

Mr. LETCHER. What did you charge upon him?

Mr. DAWES. To what time do you allude?

Mr. LETCHER. When you and I had the colloquy this morning.

Mr. DAWES. I charged Major Eastman then, that after public clamor was raised about this secret sale, and it was attempted to justify it, as a protection against combinations, he went up to Fort Ripley and sold, at public auction, without any protection against combinations, all the Fort Ripley reservation for the purpose, as I said, of setting up a back-fire.

Mr. LETCHER. Precisely so—for the purpose of setting up the back-fire, to protect himself from the inference of complicity with Doctor Graham. And, now, when the gentleman interrupts me, he does not pretend that he can find, upon this record, in the testimony of any one witness who has been examined, a particle of evidence of any communication between Doctor Graham and Major Eastman, prior to the sale.

Mr. DAWES. Has the gentleman answered the question I put to him a moment ago?

Mr. LETCHER. Yes, I think I have, pretty distinctly.

Mr. DAWES. Will he be kind enough to repeat the answer to my question, which was, by what method, in his opinion, Dr. Graham acquired a knowledge of the instructions in the pockets of these commissioners before the sale?

Mr. LETCHER. I do not know, unless it was by publications in the newspapers.

Mr. DAWES. They were published in the newspapers, were they?

Mr. LETCHER. I think they were. I do not know where Dr. Graham got his information—whether he got it from Heiskell or not; but if he did get it from either of the commissioners it was the easiest thing in the world for the committee to make him say so. They had him before them under oath, and did not choose to interrogate him on the subject; and if they fell short of procuring testimony when they had every opportunity to procure it, they ought not now to infer anything against the witness which the committee were not willing to inquire into upon his examination.

It is somewhat remarkable that all these gentlemen set out with a declaration that nothing is proven against the Secretary of War, which shows either personal or official impropriety; but yet they cannot get through a half dozen sentences in the way of a speech, before they charge that this trouble is the result of a fixed purpose, on his part, to enrich his friends, at the expense of the Government. Some gentlemen have gone on to say that the Secretary of War acts upon the principle that the spoils of office belong to his friends, and that he set apart this amount of the spoils for these four particular friends.

A word in regard to that. It strikes me that it comes with a very bad grace from gentlemen on the other side of the House to condemn a party for standing by its friends. I have noticed on every occasion, whenever there was an officer to be elected, so devoted were they to their own nominees, even when they were powerless to elect them, that they refused to vote for Democrats who were bound to be elected, and against whom there was no personal objection. If their party prejudices were as weak as they now pretend, while ours

are so strong, what was their objection to voting for Mr. ORR, as Speaker of the House? On what occasion have they not stood by their party friends? Place their party in power to-morrow; give them the control of the Administration; give them the President of the nation, and does any gentleman on the other side of the House pretend that he would not, in the selection of officers for his Administration, confine that selection to his own party friends wherever such could be found? Go to the different State governments; let the gentleman from Massachusetts go to his own State, where even the judicial robe does not protect a man from being struck down by his opponents for a scrupulous regard to his oath in the discharge of his official duty. I imagine he approves of the removal of Judge Loring. It is generally approved throughout his State. And yet the gentleman who represents a State where a judicial officer is stricken down for an honest discharge of his duty, comes here and talks about parties being controlled by "spoils." I imagine the spoils of Judge Loring's position went to feed some member of the Republican party, after he was stricken down.

The same state of things exists in all the State governments under Republican control. In all these States, the party in power confers the offices upon its friends. And not only is it so with this party, but it is so with private individuals. If you want to employ an agent for any purpose, and you have a friend and an enemy, I imagine that, all other things being equal, you will employ your political friend for that particular purpose in preference to an opponent. Gentlemen say that our party acts upon the principle that the spoils are to go for the support of its friends. I ask if there is a solitary one of the gentlemen upon the other side, who have spoken to-day, who would not appoint his own party friends to office in preference to his political opponents?

Mr. DAWES. Nobody said they would not.

Mr. LETCHER. Then what did gentlemen mean, when they got up here and talked about the Democratic party taking care of its friends and rewarding them with office? [Laughter.]

Mr. DAWES. If the gentleman alludes to me, I said no such thing. I said it was the common doctrine of all parties.

Mr. LETCHER. Well, the gentleman from Ohio [Mr. STANTON] set out distinctly with that proposition, and the gentleman from Ohio [Mr. BINGHAM] who last addressed the House, maintained it also. But it seems the gentleman from Massachusetts was more considerate; as it had not been very long since Judge Loring was executed, he concluded not to tread on that delicate ground. [Laughter.]

Mr. BINGHAM. As the gentleman has alluded to me, I beg leave to say that I said nothing about parties.

Mr. LETCHER. Well, but you did say something about "the spoils."

Mr. BINGHAM. I did say that the gentleman's particular friend went to the Secretary of War—as he was honest enough to testify—to look after the spoils.

Mr. LETCHER. I had supposed that a gentleman who so much concerned about the spoils would have had a very poor opinion of any one who enjoyed any part of them; but it seems that his horror of the doctrine grows out of the fact that he is himself without a teat. [Laughter.]

But, besides all this, it strikes me that the majority of the committee read us an exceedingly long homily, and a pretty strong one, upon that subject. I call the attention of the gentleman from Indiana [Mr. PETTIT] to that branch of the subject. If I should ever live to see his party in power, I have no doubt I shall find him here in Washington—if he be still in Congress—protesting against his President removing Democrats from office to put in men of his own party. He will have to do it, if he practices what he preaches.

The gentleman from Ohio, who was last up, undertook to comment upon the letter of Mr. Steele, written on the 23d of April, 1856, and said that the letter contained a proposition that he would pay fifteen dollars an acre for the land, no matter how much there was of it. Now, let us look at that letter and see if it is possible for any gentleman who has any regard for the mean-

ing of language to put that construction upon it. I will read the whole of it. It is as follows:

Proposition of Franklin Steele.

WASHINGTON CITY, April 23, 1856.

The undersigned, for himself and others, propose to pay, and hereby offer, the honorable Secretary of War for the lands included in the Fort Snelling reservation, fifteen dollars per acre.

Said purchase to include all improvements on said reservation; the United States to have, free of charge, the use of the fort and all other buildings belonging to the Government, including ——— acres of land, so long as, in the opinion of the War Department, they shall be required for military purposes; said fort, buildings, improvements, and land so reserved to be under the full and entire control of the Department during said term.

The reservation, including the overflowed lands, amounting to about five thousand acres, at fifteen dollars per acre, will amount to \$75,000.

The undersigned, for himself and others, also propose to take it at the above estimate, and pay therefore, the sum of \$75,000; payment for the whole to be made at once, if the proposition is accepted.

FRANKLIN STEELE.

Now, I submit that the plain meaning of that proposition is that he would give fifteen dollars an acre for the land, if it was limited to his estimate of five thousand acres. Mr. Steele is a man of intelligence, as the gentleman knows; and if his construction of the proposition was right, he would have said that he resented the alternative proposition, and was ready to comply with either of the propositions that might be accepted. But, sir, this case has proceeded, it seems to me, from beginning to end, upon an improper construction of the letter before us. Mr. Steele made but a single proposition, namely: that, estimating the quantity of land at five thousand acres, he would pay fifteen dollars per acre—making up the specified sum of \$75,000.

There is another thing in this connection. When this contract had been made, and when they had returned to the Secretary of War with it, the evidence on record shows that it was submitted to the President of the United States on the 17th day of June last, and that it was "approved," as certified by the Secretary of War, on the 2d day of July following. It thus appears that the President was consulted; and, if I am not misinformed, the Cabinet were consulted before this contract was approved; and will the gentlemen on the other side undertake to say that there was complicity upon the part of the President and members of the Cabinet in what they are pleased to call a fraud? It was a most extraordinary course of proceeding, if it be true, that the Secretary of War had made up his mind to disregard the will of this House, and the law of the land, for the purpose of extending favors to his friends; that he should have then laid the whole matter before the President and Cabinet for their approval.

But did he disregard the law? Had not he, as the officer in charge of the military Department of this Government, the right to decide whether the reservation was no longer needed for military purposes? I apprehend there will be no dispute about that. I apprehend there will be no difficulty about his power in that respect. I apprehend that no gentleman will say that he has not the power to determine that any reservation in the country is no longer needed for military purposes, and that it shall be abandoned, the troops withdrawn and placed at some other point. If he has this power, then, how will it be argued that under the provision of 1857, authorizing him to sell such reservations as were no longer needed, he had not the absolute power to dispose of this reservation, and to order its sale? How else can it be? And the same paragraph declares that he shall prescribe the mode and manner of the sale. What restriction, I ask gentlemen, is placed upon him in the exercise of his judgment, in the execution of the law as to the manner of sale?

It seems to me, then, that the conclusion may be fairly drawn, from the evidence which is before us, that the Secretary of War acted within the law, and that he exercised his power with prudent discretion; that he did nothing in the way of confirming the sale, until he had taken the advice of those with whom he is associated—with the President and Cabinet. But not content with assailing the Secretary of War, gentlemen come forward and attack the private character and integrity of the commissioners. Now, sir, I have known Major Eastman from the time I first came to Congress. My acquaintance commenced with him in this way: a portion of his family (a brother-in-law) resides in my own town, and when I came

here, I brought a letter of introduction from him to Major Eastman. I have seen him frequently since, and have always heard him well spoken of. Everybody who knows him speaks well of him as a man of integrity, as an officer of the Army. For the last thirty years he has rendered valuable service to the country, and never, until this day, have I heard anybody undertake to assail his character, and affix to it a brand of disgrace. Major Eastman has resided in this city, when he has not been away on duty, for many years, and it is easy for gentlemen to ascertain what character he bears here. They can make any examination they please, and I venture to say they will find that this is the first time in his life, not now a short one, that any assault has been made upon his character as a man, or his honor and integrity as an officer. Gentlemen on the other side of the House, and particularly the gentleman from Ohio, [Mr. STANTON], who first addressed the House, said that these things were to be *inferred* from the record. Now, sir, what is there on the record to establish an inference of fraud? Nothing whatever. Gentlemen have acted in violation of the universally recognized principle that fraud is never to be presumed—it must be clearly proven.

Well, sir, there is another thing that is entirely consistent with the whole course of action that gentlemen on the other side of the House have seen proper to adopt from the commencement of this proceeding. They have referred to a sale which took place in Chicago many years ago, for the purpose of exciting prejudice in this case. Well, sir, what does that case prove? Does it make out any case against Secretary Floyd? It has nothing whatever to do with this case. What concern is it to the House in the consideration of this subject? And, sir, the gentleman from Illinois this morning undertook, for the purpose of still further exciting prejudice against Governor Floyd, to connect this matter with another investigation about the purchase of a fortification site at Willett's Point. Why, sir, what matters it to us, in the consideration of this case, what was done in that investigation? Had it any legitimate connection with this investigation in any way? None, whatever; and why then did the gentleman ask that the decision of this case should be suspended until it is seen what can be made out of the other case, unless it is to carry out a determination to make out such a case against the Secretary of War as will justify them in condemning him. I insist that they shall confine themselves to the facts which are proved, as shown by the record; and if these facts are not sufficient to warrant the conclusion that these parties are guilty, then I think I have a right to demand here that they shall acquit them. They are gentlemen of respectability. They are gentlemen of character and standing. They are gentlemen who have never been the objects of suspicion before. They are gentlemen whose neighbors and friends and acquaintances will be astonished to hear the terms of denunciation which have been applied to them by gentlemen on the other side, who know nothing of them personally, and know nothing of their standing at home.

When a question of this sort is to be dealt with, gentlemen who deprecate assaults in debate by one member upon another, ought to be careful to withhold their censure from individuals who have not a right to be heard here in defense of themselves; they ought at least to do that justice to outsiders in a little stricter measure, which they might not accord in as full measure to those who are here to defend themselves. I ask no favors in behalf of these gentlemen. I ask only that they shall be judged by their acts, by their lives, by their character; and by them they will stand or fall. Of one thing I am satisfied, they will be sustained where they are known, and where the evidence is read, whatever may be the partisan verdict of the other side of this House.

Mr. HUGHES obtained the floor, but yielded to

Mr. MARSHALL, of Kentucky. I would prefer as well to follow the gentleman as to precede him, with the remarks I desire to make.

Mr. HUGHES. I yield the floor to the gentleman, and will take my chances afterward.

Mr. MARSHALL, of Kentucky. Mr. Speaker, I regard it as unfortunate, in a case like this, where so much is at stake, that there should have been exhibited in this Hall anything at all like

party feeling. I have not had an opportunity to bestow upon this record as much examination as it deserves, although I have read critically the reports of both branches of the committee, and the testimony of the principal witnesses who have deposed in this case. As I do not belong either to the Republican or the Democratic party, I feel that I may be credited by the House, when I say that I entered upon the consideration of this case without any party aim or purpose. I came to it, I confess, with a feeling of personal partiality for the gentleman who plays the most conspicuous part in this transaction, although he belongs to another political party than that to which I am attached; but I would not throw a gauze over any fault committed by the Secretary of War, nor would I conceal, in the slightest degree, the impression that this testimony has made upon my mind. I act in this matter as nearly as I can, exactly as if I were a sworn juror in the box. I will not give to the Secretary of War that mincing modicum of a verdict proposed to be dealt out to him by the gentleman from Ohio, [Mr. STANTON,] to wit, that the matter charged is "not proved;" on the contrary, sir, looking over the whole testimony in this case, I see no fact upon which to rest a charge of corruption against the Secretary, and I freely pronounce his acquittal of that.

In the first place, what is the law under which this officer acted? He acted under the law of 1819, modified by the law of 1857. When did he form his official determination to act on the subject-matter of selling Fort Snelling? The proof is clear and uncontradicted that when he gave his verbal order to Major Eastman, early in April, 1857, for the survey of that reservation, he informed that officer at the same time that he intended to send an agent there to sell it. When he gave this verbal statement of his official determination to his subaltern officer, he had not seen any of the parties who are complicated in the subsequent stages of this transaction. It was his duty, as Secretary of War, to determine whether he would sell. He formed that determination alone, and without aid from Mr. Mather, Mr. Schell, Mr. Graham, Mr. Heiskell, or anybody else.

How, then, can any gentleman, acting upon the testimony only, so far as this act of the Secretary is concerned, attach the censure of corruption to his determination to sell? I find him not surrounded by any persons when he announced his decision, uninfluenced by any of these confederates. There is not a scintilla of proof that, up to that time, anybody had talked to him of the matter. Having the instruction to survey the reservation into forty-acre tracts, Major Eastman left Washington early in April for the theater of his duty. The Secretary gave his instructions to Eastman and Heiskell on the 25th of May. I have examined these instructions. They gave to the agents the right to sell at public auction, on public advertisement, and in small lots to suit purchasers, or to sell the whole together. With that instruction I can find no fault, unless I choose to be hypercritical, and to find fault that the Secretary of War, after he had formed his determination to sell, should have left any latitude of discretion at all in his agents. I am not disposed to go so far. Had I been the Secretary of War, I should have probably felt disposed to do just what he did. Not being myself personally acquainted with the locality or personally cognizant of what ought to belong to the transaction, having confidence in the men whom I had selected, I would have reposed in them at least the discretion to determine whether they would sell in gross or in detail, because the question, at last, is limited to that.

In forming an opinion upon this transaction, I am bound to regard only the evidence in the case. Mr. Heiskell has been brought to the book; so have Mr. Schell, Mr. Mather, Dr. Graham, and Major Eastman. Our committee has not only examined and cross-examined them, but after a cross-examination, carried out in all its details, to suit the fancies of the interrogators, these persons have, at different times, been brought back to the stand, in order to be reexamined. Their testimony speaks but one voice upon the point whether the Secretary was a party to any combination; they all swear positively to the fact, that there was no combination between any one of them and the Secretary of War. They all, in the most

emphatic terms, acquit the Secretary of War, of all knowledge of any combination that they may have had with one another.

Now, sir, permit me to do the majority of the committee the justice to say, that after the most critical investigation of their report, I have not found in it any point on which gentlemen on the opposite side of the House can charge them with an intention to impute corruption to the Secretary of War. Had they intended to impute anything against the integrity of the Secretary of War, I suppose that, as men, as statesmen, as legislators, they would have spoken it out in phrase unmistakable. So far from their doing so, as I read their report, they have studiously guarded themselves against going a single point beyond the testimony; and there is nothing in the report of the majority of the committee at which any friend of the Secretary of War has the right to take offense. I do not think that the Secretary of War is entirely blameless. I think he acted improvidently in the transaction. I believe he acted honestly in it, but I think he acted improvidently. One of the greatest errors that he committed in the transaction was in his instructions to the commissioners to establish the minimum price of the land at \$7 50, when he had in his own office a bid for it at fifteen dollars an acre. Judges who open sales always start the minimum price at the bid which has been made.

The Secretary of War had not been more than a month in office. There is a possibility that he had not read this correspondence in regard to Fort Snelling. If he had not, yet fixed the minimum at \$7 50, that would only verify my idea that he had been very improvident about it. I do not see anything, however, in this which enables me, as a gentleman, to touch his integrity. There are some little circumstances all through this case at which a captious man might start. As, for instance, that his tastes should have lead him into western Virginia, to select Mr. Heiskell, on the 25th of May, and to the city of New York to select Mr. Mather, on the 26th of May, and that he should not have been provident enough to have guarded his country against the charge of double mileage for two sets of agents, one of whom was to go to Fort Snelling and the other to Fort Ripley—that he should have selected them from different quarters of the Confederacy, and started them to the same neighborhood to do the same sort of business. But I would not assail his integrity for a fault like that, especially when all these persons who have been brought to the book have sworn that he knew nothing at all about their combinations. Nor would I impeach the Secretary of War on account of the very curious operations of Dr. Graham.

Dr. Graham testifies that at the time of his first coming to Washington, a combination was already formed; but he swears emphatically to the fact that when he informed the Secretary of War that he was going west, for the purpose of making some investments, and wanted to know if the Secretary had anything for him to do that would pay his expenses, the Secretary told him he had nothing there except to sell Fort Snelling, or some old forts; and that, on this hint, he came in his own mind to the conclusion that if Fort Snelling was to be sold, he would rather be a speculator in the sale than an agent to sell. He says, in his testimony, that he did not tell the Secretary of War what was passing in his own mind. He declined becoming the agent of the Secretary, but found Mr. Mather, who was here with the same object in view. They very readily formed a combination—Mr. Mather agreeing to let Dr. Graham in—but it is a curious feature in this case, that this gentleman who intended to speculate, does not seem to have advanced any money for the speculation. His talents are very manifest, for he gets a ninth of the property without advancing a cent towards the purchase, and besides, obtains for himself, with an astuteness that must be peculiar, a salary of \$5,000 to manage other people's business.

Mr. Mather was brought to the stand. "Mr. Mather, how came you to know anything about this Fort Snelling property being for sale?" He answers, "I do not know where I heard it; probably I saw it in an act of the last Congress." Now, sir, there is where the New York company started. It was in the mousing of a New York speculator among the acts of Congress, to see where a penny might be turned. Seeing that a favorite reserva-

tion was to be sold, he came to Washington to learn how he should set about the speculation, and opportunely met Dr. Graham, with whom he combined at once! He had previously agreed in conversation with Mr. Schell that something might turn up under this law; and like Micawber, he came here to wait to see whether "something would turn up." Having agreed with the Virginian, (Graham), he started him off to Minnesota to attach Franklin Steele, a man of property who was living on the land, and had some equity. Steele is soon secured, and then Graham and Mather return to Washington, and find Mr. Heiskell, the agent, just ready to start out to Minnesota. They determine to escort him. Heiskell may be a very smart sheriff in his part of Virginia, yet why did Governor Floyd send down to Virginia to pick up this "old boy?" I answer myself the question without any difficulty. Governor Floyd is a Virginian too; Heiskell was his countryman, his personal friend, and had been his political associate; and the Governor felt like "doing something for him." The practice of the Governor's school of politics did not forbid him from gratifying his personal partiality in distributing his share of public patronage. The sentiment belongs to every-day life. The indulgence of it may convict the Secretary of improvidence; but at the same time it does honor to his heart.

I do not intend to strain myself for the purpose of getting anything against a man who may have acted, and I verily believe, has acted, honestly in this transaction. I am willing, so far as I am concerned, to pass a resolution as broad as the friends of Mr. Floyd may choose to make it, that we have found nothing at all in this investigation to attach suspicion to his integrity as a public officer. But, nevertheless, I am not willing to carry out the sale. I believe he has exceeded his powers—I have no doubt about it. You are to read these two acts together.

The act of 1857 enacts that the provisions of the act approved March 3, 1819, shall be extended to all military sites, and so forth. What are those provisions?

"And the Secretary of War is hereby authorized, on the payment of the consideration agreed for into the Treasury of the United States, to make, execute, and deliver all needful instruments, and so forth."

Now, sir, the point at which I strike this sale is, that neither the Secretary of War, nor his agents, had any right—even if the contingency had happened on which he might sell—to sell the property of this Government upon a credit. The provision of the act of 1819 is in close analogy with all our laws in regard to the sale of the real estate of the Government, and they had no right to make a sale upon time. Before they could execute a contract with any purchaser, the consideration was to be paid into the Treasury. But here was a contract to sell this property for \$90,000, \$30,000 to be paid down, and the balance at one and two years without interest, and without security. Such a transaction has been ratified, upon mature deliberation, by the President; but I have no hesitation in saying, here, in my place, as a member of Congress, that it is in violation of the law of 1819; that the agents of the Government exceeded the authority vested in the Secretary of War by that act; that the sale ought not to be ratified and confirmed; and that a patent ought not to issue upon that sale.

What bounds the discretion of this executive officer, under this act, if he has the full liberty claimed for him here to-day? May he, upon his mere executive responsibility, sell, for instance, the million dollars' worth of public reservation in the vicinity of St. Louis, upon terms of payment extended through fifty years? And if he does that, is there no power in this Government, while that law remains upon the statute-book, to arrest him *in transitu*, while his contract is yet executory? I think that our remedy is to be found in the reading of the law: that the limitation upon his discretion is, that the consideration must be paid into the Treasury; and that, therefore, when his agent undertakes to sell upon time, he is outside of the law, and his act is void.

I am not disposed to discuss very minutely the course of Mr. Mather and Mr. Schell. A great many of the witnesses think they have not acquired any advantage. My own opinion, based upon the testimony, is that they have acquired a very great advantage—a piece of property

which the Hon. Mr. SMITH, of Illinois, says he would have "spread his pile" for—would have given \$400,000 for.

Why, it is Mr. SMITH's idea that the site is not of such great value for agricultural purposes; but, as a town site, that it would have been worth four times as much as it was sold for. Some three or four witnesses put a valuation upon it as a town site at three or four hundred thousand dollars. Gentlemen may reply that these are speculative prices. Sir, whether speculative or not, land is worth what it will command in money in the market. The amount which it will bring in money, whether for speculative purposes or not, is its market value; and it was the business of the Secretary of War, or rather of his agents, to have looked to its market value. I have no doubt at all that they made a good sale, considering it only as a piece of land to be used for agricultural purposes. I have no doubt at all that they made a very bad sale, considering it as a town site; and I have no doubt that, if they had not sold it in the way they did, the amount received would have been much larger.

With regard to the proposition, whether it ought to have been reserved still further as a military site, I am constrained to differ with my friend from Indiana, who thinks it ought to have been reserved. I, of course, advance this opinion as against that of General Jesup, who is a military man of high reputation, with great diffidence; but, sir, had I been the Secretary of War, I would have disposed of this property; for I do not believe it ought to be maintained there, either as a military position or as a depot for provisions. I think it ought to have been disposed of. I cannot understand how, lying, as it does, in the center of thirty or forty thousand people, with settlements extending fifty or one hundred miles back of it, a necessity can exist for retaining it as a military position. It lies at the confluence of two streams, both of which are navigable a considerable distance beyond that point, and a vessel, laden with provisions, can go to the point of consumption to distribute cargo.

I see by the statements of some of these witnesses that the fortification is situated upon a high hill, and that transportation up to it is difficult. It is also true that transportation around the falls is somewhat difficult. But, sir, my determination, as an executive officer, would have been controlled by the consideration that it could not be a matter of economy to the Department to keep men there all the year for the purpose of guarding stores. It would be more economical to transport the provisions and supplies directly to the points where they are required. But, while I think the Secretary might well have sold, I do not think the sale which was in fact made is valid, because the contract retains the property indefinitely for military purposes; and because the sale was made on credit; because the sale was secret; and because I think there was collusion among those who claim to be the beneficiaries under the contract to prevent an open sale, whether public or private. I have thus, in brief terms, and in a very discursive manner, presented some of the impressions which this affair has produced upon my mind. I feel that the reputations of public officers should not be assailed unjustly. I think there is no man in the House who, in the absence of proof sustaining a charge against the Secretary of War, should allow party prejudice to sway his mind for a moment. I feel that I am above it. I am sure, also, that whenever I shall have descended to a point where the private reputation of a political adversary, when I am acting here under oath, cannot be intrusted to me for a judicial canvass of a transaction in which it may be involved, I will no longer be worthy a seat in this House.

Mr. HUGHES. I propose to detain the House only for a very short time. On the 4th day of January last, a select committee was raised to inquire into the facts of the sale of the Fort Snelling reservation. The book which I hold in my hand, [holding up the report,] is the result of the labors of that committee. I believe that this book, and this investigation, have cost this Government about twenty thousand dollars. We are now called upon, at the close of this session, when every moment is valuable, and when we are pressed with large arrears of public business, which has accumulated upon our hands, to pass upon the propositions which this committee have submitted to

the House as the result of their investigations. It seems to me that gentlemen on the other side of the House, who have participated in this discussion, have been much more zealous in urging the passage of these resolutions than in the transaction of the practical legislative business of the country; and it is a question for this House to consider, whether the results of this investigation are a sufficient equivalent for the time and public money which have been spent upon it.

I must say, sir, that, after having listened somewhat attentively to all the gentlemen who have spoken upon this question, I am strongly inclined to coincide in the views of the gentleman from Connecticut, [Mr. BISHOP,] who addressed the House some time ago, that this whole matter looks more to its influence upon the partisan politics of the country than to any legitimate action by the House, or by Congress.

Mr. DAVIS, of Mississippi. If the gentleman will allow me, I would like to ask the gentleman from Kentucky, [Mr. MARSHALL,] if that land had been offered at public sale, would not the capitalists upon the ground have entered into combination to have it sold for much less than it would bring at private sale? Is it not the gentleman's opinion, judging from the past land sales, that that would have been the case?

Mr. MARSHALL, of Kentucky. The gentleman has as good a chance to judge of that as I have; but, as he has asked my opinion, I will say that, from the testimony in the case, a combination would have been inevitable. The Secretary of War, however, by proper regulations, as in the Chicago case, might have evaded that, where there was an inadequacy of price, and kept the title in the hands of the Government.

Mr. HUGHES. Where did this Fort Snelling matter originate? My opinion is that it originated in the newspapers, because I saw it there long before this Congress convened, where most of the other investigations which have caused the raising of select committees, and the profuse expenditure of the public money, have started; and where has it been carried on? In the public newspapers, and there, sir, it is to end. When this report was presented to the House proposing to arraign a member of the Cabinet before Congress and the country, where he had been arraigned previously through the columns of the newspapers, his accusers in the case came into this Hall and proposed that the whole subject should be postponed until the next session of Congress.

Mr. SHAW, of Illinois. To whom does the gentleman refer?

Mr. HUGHES. I refer to the Republicans; and if the gentleman has any sympathy with them, I refer to him.

Mr. SHAW, of Illinois. I have taken no part in this matter. I thought the gentleman referred to my colleague, [Mr. SMITH.]

Mr. HUGHES. How did he vote on the postponement?

Mr. SHAW, of Illinois. He voted against it; and, sir, let me say to the gentleman, that my colleague has the reputation of being a good Democrat where he is known.

Mr. HUGHES. I am not talking about Democracy or Republicanism; I am talking about the question that is before the House; and the gentleman has been asleep, indeed, if he has ignored the fact that the Secretary of War has been arraigned before the country by the Republican party, and that the Administration and Democratic party have been arraigned in consequence of the alleged mismanagement of this Fort Snelling sale. I say that when the labors of this committee were completed and their report was presented to this House, a proposition was made and supported by a large majority of that party, as will be seen by reference to the Journal, for a postponement of this matter until the next session of Congress. In the intermediate time it could have been used in the elections of the country.

I repeat, that I submit the question to the House and the country whether, if there had been anything in this matter, it would not have been pressed, and earnestly pressed, to an adverse decision? Undoubtedly it would. But the proposition was made to postpone it, and the vote was taken by yeas and nays. A majority of this House decided not to postpone it. Of whom did that majority consist? It consisted of the personal and political friends of the Secretary of War, who demanded not only

an investigation, but an early decision. And today, sir, when this matter was again called up, being the special order, the gentleman from Pennsylvania, [Mr. GROW,] who has spoken upon this floor, and pronounced his judgment upon the testimony, came forward and moved a further postponement. I allude to these circumstances to show that those who originated this investigation, that those who have carried it on, that those who have carried it into the newspapers of the country, that those who are advocating an adverse decision of this question, seem more desirous to postpone the matter, in order to carry it into the elections of the country, than to bring it to a decision by a vote of the House. Whether that comports with the principles of justice or not, is easily determined.

Now, sir, I propose to call the attention of the House to the propositions submitted by this committee for our action. I conceive that it is not necessary to go beyond those propositions to demonstrate the whole character of this proceeding from beginning to end. Who authorized the sale of the Fort Snelling reservation? Was it the act of the Cabinet? Was it the act of the Administration? Was it the act of the Secretary of War? No, sir; it was the act of Congress. I would like to inquire if the gentleman from Indiana [Mr. PETTIT] who, we are informed by the Indiana newspapers has taken a leading part in this proceeding, voted for that law? Congress authorized the sale of this reservation, and invested the Secretary of War with full power and discretion to make it. In pursuance of that authority he acted. Now, in making that sale he either made an honest bargain, or a corrupt bargain. If he acted corruptly, he is amenable to Congress for it. If he made a bad bargain, and acted honestly, it is a question which will admit of considerable discussion and doubt, whether or not, he is answerable to this House.

But, the position I take is this: that the majority of this committee, after having thoroughly investigated this subject, taken unlimited range in the examination of witnesses, and having reported their testimony to this House, have reported propositions which, upon their face, show that there is no foundation for arraigning the Secretary of War, and no just foundation for this investigation, which has cost the Government \$20,000. The majority of that committee report a series of resolutions, and propose that this House shall pass them. The first of these resolutions is as follows:

"Resolved, 1. That the sale of the military post of Fort Snelling and so much of the reservation attached to it as was necessary for military purposes, made on the 8th day of June, 1857, under the authority of the Secretary of War, the same being then and now retained under the authority of that Department because necessary for military purposes, was without authority of law."

Well, sir, that is a legal proposition. What would the passage of this resolution by the House amount to? Will it rescind the sale? Will it have the effect of a judicial decision? Not at all, sir. It is an important declaration of opinion, but an idle declaration, because this House alone has no jurisdiction over the matter. The authority of the Secretary of War to make this sale was derived from an act of Congress in which both branches of the national Legislature participated, and which had the approbation of the President. If it was proposed to repeal that law, the committee, instead of reporting this resolution, should have reported a bill or joint resolution. Is it to be presumed that the committee did not know that? By no means. The conclusive presumption is that they did know it. Then, why have they not taken that course? The fact that they have not reported to the House a measure for its action, which would have some effect if adopted, is a conclusive answer to all which they may say upon this floor in regard to this transaction.

The second resolution is as follows:

"That said sale was made by the Secretary of War notwithstanding his knowledge of the official opinions of his predecessor, the Hon. JEFFERSON DAVIS, and of other officers in superior military command to the contrary, without consulting with, without the advice, and without the knowledge of any officer in the service of any rank, leaving the question of the retention of that post to the discretion of the commissioners appointed to make the sale, and that this action on the part of the Secretary of War was a grave official fault."

Here it is proposed that the House of Representatives shall declare by resolution that the Secretary of War who made this sale, knowing that an officer, high in rank in the Government, dis-

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approved of it, committed a grave official fault. Well, sir, if the evidence in this book will sustain any such conclusion as that, this committee was derelict in duty in not going further than simply reporting this resolution. If it is true that the Secretary of War has committed a grave official fault which is within the cognizance of this House, and if this committee has arrived at a knowledge of that fact from an investigation of the case, why did they not report a remedy for that fault? That remedy should be either a law in which the other branch of the Legislature could participate; an act rescinding the contract; or it should be a resolution of instructions proposing to put this contract in suit before the courts of the country through the proper representatives of the Federal Government—her district attorney or those otherwise authorized to represent her.

But it was a grave official fault! Sir, I recognize the right of this House, as a House, to originate specific charges against a member of the Cabinet and to impeach him. But I protest that this House has no right to record its condemnation of the official conduct of any member of the Cabinet in a form which he cannot put in issue and have subjected to a trial by his peers.

The third, fourth, and fifth resolutions are as follows:

"3. That, with a knowledge of the great value of the Fort Snelling post and reservation, and the importance of great caution and judgment in making the sale, the Secretary of War appointed as agents for the purpose unqualified, inexperienced, and incompetent men.

"4. That provision for and management of the sale were so negligently, carelessly, and injudiciously made, as to induce a successful combination against the Government, exclude all competition, and bring loss on the Government.

"5. That John C. Mather, agent of the Department of War for the examination and sale of the Fort Ripley reservation, after having already joined a combination for the purchase of the Fort Snelling reservation, acted, in making such purchase, in violation of his official duty, and against the known policy of the Government, and that, as to him and Richard Schell, represented by him as agent, and Steele and Graham, who were implicated in the sale with him, with a full knowledge of this official character, the sale of the Fort Snelling reservation was at the time and is now void."

These resolutions, I suppose, if passed, will satisfy the sense of public duty of this committee or those who originated this investigation. But what will they amount to when they are passed? Will they set aside the sale? Will they reinstate the United States in any right of which they have been defrauded in this transaction? Not at all. It will leave the matter precisely where it stood before; but the information to the public will have cost this Government \$20,000.

I respectfully submit that this committee are not in earnest about this matter; I respectfully submit that no committee composed of members of this House, acting under the solemn obligations of an oath, could have arrived at any such conclusions as those expressed in these resolutions without proposing some practical measure which would have furnished a remedy against the injuries which the public had sustained in this matter. It cannot be possible that a majority of this committee could believe all these things to be true, and yet content themselves with a simple expression of opinion upon the subject. No, sir; if they were in earnest about this matter they certainly would have reported a bill to repeal the law, to rescind the sale, or at least they would have reported a resolution instructing the district attorney to put this matter in suit in the proper court, where the question of fraud between the Government and the purchasers of this land, could be tried.

Why, sir, the committee leave room for us to regard this whole matter as a stupendous joke! and I can only account for it from the fact that I have seen in the metropolitan organ of the Republican party, in my State, a statement in connection with this matter, that my colleague [Mr. PERRIN] ought to be reelected to this House. I can understand the thing very well in that view of the subject. But really, as a grave legislative procedure, calculated to rebuke and punish a high functionary, or to restore to the Government its rights, of which it may have been deprived by

fraud and misconduct, the resolutions are certainly a most lame and impotent recommendation to be presented to this House. Taking this matter, then, as the committee have presented it, I respectfully submit, that whatever may have been the facts in regard to this transaction, these resolutions ought not to pass this House.

But, sir, the House has been repeatedly told, by almost every gentleman who has advocated the passage of the resolutions, that the Secretary of War is untouched by the evidence in this book. The gentleman from Ohio [Mr. STANTON] absolves him. The gentleman from Kentucky [Mr. MARSHALL] absolves him. No member has arisen on this floor, and undertaken to say, from the testimony in this book, that the Secretary's integrity is touched by the evidence. But the gentleman from Kentucky says, he was very *improvident*. Well, sir, I have no doubt that there can be fifty thousand men found within the limits of this Republic who would say, every day, "if I were the Secretary of State I would, in a particular matter, have acted in a different manner. I would have acted differently from Secretary Floyd if I had been Secretary of War. If I was Secretary of the Interior I would have acted differently from Secretary Thompson. If I were Postmaster General I would have acted differently from Governor Brown." These differences of opinion are but the every-day occurrences of life. But, sir, are these differences of opinion by men not familiar with the official course and views of those occupying these high positions, and not informed as to the details of business on which they pass judgment, sufficient ground to induce a branch of the national Legislature to institute a solemn investigation, and to expend \$20,000 of the public money, all to result in "a few mouthfuls of articulate air," expressed in inoperative resolutions? If you adopt these resolutions they will rescind no contract, repeal no law, rectify no fraud, reinstate the Government in none of its rights, and punish no deception. Sir, it occurs to me that since select committees are the order of the day, we have quite as much foundation for raising a select committee on the majority of this committee, as the House had for raising a select committee on the sale of the Fort Snelling reservation.

The gentleman from Ohio [Mr. STANTON] took a good deal of credit to himself for being especially impartial, and for being above partisan feeling and partisan influence. He alluded to the fact that in the last Congress he had voted to expel members of his own party. He omitted to state that during this Congress he had grave doubts as to the jurisdiction of the House over one of the same party implicated in the investigation of the last Congress, while his mind was perfectly clear as to the propriety of sending a man to jail under the previous question for refusing to testify in a matter over which, on the face of the record, in my opinion, the House had no jurisdiction.

He alluded also to the tariff investigation, to show that he was above any partisan bias. Now, I should not have thought of arraigning the course of the gentleman on that question, but he has challenged attention to it. I find, in reading the newspapers of the day, divers matters purporting to be the report and official action of a committee of this House. It has not yet, I believe, been published by the authority of the House. I do not know whether I can altogether impute to the gentleman a partisan bias or not. Perhaps the gentleman from Massachusetts [Mr. DAVES] would aid me in solving that question. But I do not know that the gentleman from Ohio [Mr. STANTON] can claim any special credit before the House, in being a sympathizer with the present Governor of Massachusetts, or in manifesting extraordinary zeal in tracing home certain acts of delinquency to the partner of Governor Gardner, who was the recent competitor of the present Governor of Massachusetts for the office he now holds. But the gentleman challenged inquiry as to his course, and I think it no more than proper to indulge him in that respect.

I have no desire, Mr. Speaker, to pursue this matter further. All I proposed to do was to call the attention of the House to the plain, practical question in the resolutions submitted for its action; and I say this to the House now, that if half were true which the advocates of these resolutions maintain is proven by the testimony contained in this volume, then something more than these resolutions ought to be adopted by this House. I conceive that if it were true, those who have offered these resolutions ought to have offered something more. I do not think they ought to have stopped short of the extremest measures that justice and a proper regard for public morals require. I take it that all this investigation, all this testimony, all these newspaper paragraphs, all these speeches on this floor, resulting in a few unmeaning, ineffectual, impotent resolutions, are conclusive evidence that the whole of this matter is just a proceeding of that character described by the gentleman from Connecticut.

Do you believe, Mr. Speaker, that if the Secretary of War had been inculcated by the testimony here, the gentlemen on the other side of the House would have wanted to postpone the consideration of the matter until the next session of Congress? Do you believe, sir, that they would not have been prepared to remain in session a month or six weeks longer, to bring to justice a high public functionary, who stood convicted of malfeasance in office? You do not believe it. I do not believe it. I apprehend very few members of this House believe it; and I conceive the country does not believe it. And when all the newspaper publications, all the manifestoes we have had upon this floor about the Fort Snelling investigation, and all the testimony, have resulted in the presentation of these resolutions for the action of the House, which, as legislative propositions, are absolutely harmless and void, how does it happen that all those gentlemen who sympathize with this movement were in favor of leaving it an open question until the next session of Congress? Why, sir, if it had been postponed until after the coming election, it might have answered as a hobby for some gentlemen to ride who are hard pressed, and whose constituents are tired of "freedom shrieking" and talk about Kansas, and when Congress reassembled the whole proceeding would have been permitted to die out as calmly and mildly as anything ever was hushed up in the world. But when they are brought up to the question, as they have been by the vote of the House, respect for appearances requires that a few speeches should be made, and a little zeal manifested; but the empty seats on the other side of the House show how much interest they feel in the subject, and how much confidence they have in their cause.

Mr. MARSHALL, of Kentucky. Why, there are as many empty seats on your side of the House as on the other.

Mr. HUGHES. You are mistaken. Now, I maintain that this House is not invested with any judicial functions in reference to this Fort Snelling sale. I maintain that the Congress of the United States is to blame, if any one is to blame, for having ordered this sale. They invested the Secretary of War with full power to make the sale; and if he has made a bad bargain it matters not, provided he has acted honestly. I do not admit that he has made a bad bargain. I have heard it insinuated more than once that the very purchasers of this tract of land, in consequence of the hard times, are urging forward this proceeding, in the hope that Congress will set aside the sale, release them from their bargain, and give them back their \$90,000. I do not know whether that is true or not; but, be that as it may, the Secretary of War was invested with this discretion by act of Congress, and has exercised it honestly, as is admitted; and there is no case, not for this House—for the House has nothing to do with it—but for any court having proper jurisdiction of the subject to deal with.

The idea advanced here to-night, that inadequacy of price is a sufficient ground for setting

aside a contract or sale, is a proposition at which the merest tyro in forensic learning ought to blush. Sir, I deny it. If there is any principle well established by the uniform current of judicial decisions it is that inadequacy of price is no ground for setting aside a sale or contract.

Mr. CLARK, of New York. Unless it is gross.

Mr. HUGHES. No matter how gross, unless it be connected with fraud. But, when we come to look into the question of inadequacy, we find that \$90,000 has been given by these parties for this tract of land.

Mr. CLARK, of New York. They have only paid \$30,000 of that sum down.

Mr. HUGHES. They are responsible for the residue. The gentleman is too good a lawyer not to know that the real estate is responsible for the residue, if they do not pay it.

Mr. CLARK, of New York. The land would not be liable for the residue if an absolute title was delivered on the first payment, and security taken.

Mr. HUGHES. What is the fact in this case? Has the title been delivered?

Mr. CLARK, of New York. It has not been.

Mr. HUGHES. Then the gentleman is arguing on a state of facts which does not exist, and I submit that that is hardly fair in a case of this kind. It is well enough to argue the case on the facts as they exist. Why introduce a statement of facts that do not exist, in order to predicate an argument against the Secretary of War?

Mr. Speaker, if I, as a member of this House, had believed that the Secretary of War had been guilty of corruption in this matter, I should have felt it my duty to offer articles of impeachment against him. If I had believed, upon investigation, that he had not been guilty of corruption, I would have come into this House and said so; I would not have attempted to shoot a Parthian arrow at him—to make a charge against him which this House has no right and no power to make, and which is wholly unsupported by the testimony. I regard this as another of the operations, of which we have had several this session, to make a little capital by getting up an investigating committee, and take a little testimony.

The gentleman from Ohio [Mr. STANTON] has reminded us of his labors in that respect, and I am disposed to give him full credit for them. He is chairman of an investigating committee, which, at an expense of some three thousand dollars, has come to the sagacious conclusion that this House ought to discharge them from the further consideration of the particular subject. They have labored hard, have had a man in prison here, and have traveled over the country taking evidence, and at last have come to the solemn conclusion that "somebody was cheated." Well, sir, if the Government can afford to pay for investigations of that kind, to send men roving over the country to take testimony of that kind, it ought not to interfere with private citizens who have invested \$90,000 in Government lands, to prejudice their purchase, impair their title, and keep their capital suspended and unprofitable to them, while the attention of the whole country is attracted to what is going on.

And just here, in conclusion, allow me to say, that the Government of the United States is no dealer in real estate for profit. There is no land broker's office connected with it. When the Government wants land for military purposes, it buys it, and buys it at a high price. When it has land of that description, for which it has no use, it sells it, and generally sells it at a sacrifice. It is not an object of the Government to make any money out of land estate, and to investigate the question as to whether the land sold for as much as it was worth. You might as well undertake to investigate whether the snag boats in the Mississippi, which are purchased by the Government, at a large price, and after being used, are generally sold for a hundredth part of what they cost—I say you might as well go into an investigation as to whether those boats have been sold for as much as they are worth. There is no instance on record where real estate owned by the Government has been sold for as much as it was worth. Why, then, has this, which brought more in proportion than any other, been sought out as a solitary exception?

I should have said nothing upon this subject but for the fact that other gentlemen have undertaken to make so much out of it. One witness stated,

as the gentleman from Kentucky [Mr. MARSHALL] remarked, that he would "spend his pile" upon this property at four times the amount it sold for. Well, sir, it may be so, but it looks very much to me like the talk of a disappointed speculator; and I believe, from all the lights before me, that disappointment upon the part of certain individuals is at the bottom of this whole affair, by which \$20,000 has been spent for the purpose of black-balling the Secretary of War, and for the passage by the House of a set of inoperative, impotent resolutions; for if the resolutions reported by the committee are passed unanimously, they will amount to nothing. Sir, if the committee had believed that there had been any corruption, if they had believed that there was any dishonesty, they would have reported resolutions which would have had some practical effect. But, sir, if you pass these resolutions it will still leave the contract untouched.

[Here the hammer fell.]

Mr. CLARK, of New York, obtained the floor.

Mr. HOPKINS. I ask the gentleman to yield the floor for a very few minutes.

Mr. CLARK, of New York. I will yield the floor to the gentleman.

Mr. HOPKINS. I have no disposition to participate in this debate; but it so happens that two of the parties implicated in these proceedings—the Secretary of War and one of the witnesses—are constituents and friends of mine; it is perhaps hardly proper that I should stand by and give a silent vote, without adding my humble testimony, especially in relation to one of them, who is perhaps known to but few members of this House, and to none so well as to myself. The question has been asked to-day, in the course of this debate, why the Secretary of War selected Mr. Heiskell as one of the agents for the sale of the Fort Snelling reservation? I think I can, in all sincerity and candor, answer that question satisfactorily to every gentleman here.

Mr. CLARK, of New York. Will this come out of my time?

The SPEAKER. The Chair supposes, by general consent, it will not be deducted.

Mr. HOPKINS. My answer would be this: I am sure, from my knowledge of the parties, and from the relations which have so long existed between them, there is no man living in whose integrity the Secretary of War reposes more absolute and unqualified confidence than in that of William King Heiskell. He has known him from boyhood, and I volunteer the assertion with entire confidence, that if this Fort Snelling property had been his own private property, amongst the numbers of persons known to him in Virginia he would have selected this very man to have made sale of it. His character has been known to me for thirty years. He has occupied various public positions, and, until I heard the debate here this day, I have never heard his integrity assailed, even by his bitterest political opponents.

It was, therefore, no matter of surprise in the community in which Governor Floyd has been born and raised, that he should have selected W. K. Heiskell as one of the agents to go to Fort Snelling, and participate in the sale of this property.

Mr. Speaker, the Secretary of War had but recently been installed in office when this sale was ordered to be made. The law under which the sale of the property was authorized, was passed in 1857. It was therefore important for a public officer having the entire responsibility of the sale to select, as the agent of sale, a man in whom he reposed entire confidence, a person of known personal integrity and honesty. So far as the Secretary of War is concerned, I have nothing to say. His defense has fallen into other hands. Two of my colleagues [Messrs. FAULKNER and LETCHER,] have vindicated him, if indeed, the evidence reported to this House had not done that.

But, sir, I must at least tender my thanks to the gentleman from Ohio, [Mr. STANTON,] and the gentleman from Kentucky, [Mr. MARSHALL,] for having interposed to save the Secretary of War, whose immediate representative I am, from the consequences of an *ex parte* proceeding of this House. He has had no opportunity of confronting his accusers or cross-examining the witnesses who have testified against him; nor have the purchasers, or commissioners to sell the property. The committee have proceeded against these par-

ties in a private committee room in this House, and they have pronounced a verdict of condemnation without giving them an opportunity of being heard.

This much, sir, I have desired to say; this much was due, both to myself and to the gentlemen implicated. I am ready to submit the question to the House, with full confidence that they will—as I think the evidence does—fully exonerate and acquit the parties implicated.

Mr. CLARK, of New York, obtained the floor.

Mr. FAULKNER. I ask the gentleman to yield to me to make a motion to adjourn?

Mr. CLARK, of New York. I am ready to go on with my remarks at this time. I want to have my resolutions reported.

The Clerk reported the resolutions, as follows:

1. *Resolved*, That the evidence reported by the select committee as to the recent sale of the military reservation at Fort Snelling has failed to exhibit any fact or circumstance impeaching the personal or official integrity of the Secretary of War.

2. *Resolved*, That the management of the sale by the agents authorized by the Secretary of War to conduct the same, was injudicious and improper, and resilted, by reason of its want of publicity, in the exclusion of that competition among persons desiring to purchase, which, under the circumstances, should have been permitted.

3. *Resolved*, That the terms of sale adopted by the agents appointed by the Secretary of War to make said sale are disapproved, for the reasons, first, that a credit unauthorized by law was given to the purchaser; and, second, that the right of possession after the sale, reserved to the Government, was calculated to prevent a fair sale at a fair price.

4. *Resolved*, That the evidence taken by the select committee appointed under the authority of the resolution of this House of January 4, 1858, be transmitted to the Secretary of War, to the end that, in conjunction with the Attorney General of the United States, he may adopt such measures in respect of the sale as they shall be of opinion, in view of the facts developed by such evidence, that the public interest requires.

Mr. FAULKNER. I wish when the question comes up directly for the action of the House, to submit some resolutions from the minority of the select committee, as a substitute for those reported by the majority. The resolutions of the minority are not before the House at all as yet.

Mr. CLARK, of New York. I wish to say what I have to say upon the resolutions which have just been read from the Clerk's desk. I will be willing to accept any modifications of my resolutions that are reasonable and in harmony with their spirit.

Mr. FAULKNER. I understand that the gentleman offers his resolution as a substitute for those already pending.

The SPEAKER. The resolutions of the minority are presumed to be before the House, although, in point of fact, they have not been moved. The Chair supposes that the gentleman's object can be accomplished in the morning, by moving the resolutions of the minority of the committee before the honorable gentleman from New York [Mr. CLARK] moves his proposition.

Mr. FAULKNER. With that understanding, I move that the House adjourn; the gentleman yielding to me for that purpose.

The motion was agreed to; and thereupon the House (at twenty minutes past eleven o'clock, p. m.) adjourned.

IN SENATE.

WEDNESDAY, June 2, 1858.

Prayer by Rev. T. H. BOCOCK, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a message of the President of the United States, transmitting a report from the Secretaries of State and of the Navy, with the accompanying papers, in compliance with the resolution of the Senate of the 11th of March, 1858, requesting the President "to communicate to the Senate any information in possession of any of the Executive Departments, in relation to alleged discoveries of guano in the year 1855, and the measures taken to ascertain the correctness of the same; and also any report made to the Navy Department in relation to the discovery of guano in Jarvis and Baker's Islands, with the charts, soundings, and sailing directions for those islands;" which, on motion of Mr. SEWARD, was referred to the Committee on Foreign Relations; and a motion by him to print it was referred to the Committee on Printing.

WITHDRAWAL OF PAPERS.

Mr. STUART. An act has been passed at this

session for the relief of George M. Gordon, with regard to the assignment of certain land warrants. Those warrants are on file among the papers in the case. He desires to use the warrants under the law. I therefore move that he have leave to withdraw his papers.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented papers relative to a cargo of guano received by Schuyler and Livingston, in the bark Evadne, which was libeled by the Peruvian Minister and sold, and the proceeds deposited in the United States Trust Company, to abide the decision of the court; which was referred to the Committee on Foreign Relations; and a motion by Mr. SEWARD to print the papers, was referred to the Committee on Printing.

Mr. BENJAMIN presented the petition of Claude Samory, praying the confirmation of certain land titles; which was referred to the Committee on Private Land Claims.

Mr. HUNTER presented papers relative to the payment of certain volunteers called into service by the Governor of Florida in 1855 and 1856; which were referred to the Committee on Military Affairs and Militia.

Mr. JOHNSON, of Tennessee, presented a petition of citizens of Wisconsin, praying that the public lands may cease to be considered a source of public revenue, and be reserved hereafter for the use of actual settlers; which was ordered to lie on the table.

Mr. MASON presented the petition of Ferdinand Coxe, late secretary of legation at Brazil, praying compensation for services rendered as chargé d'affaires at that court; which was referred to the Committee on Foreign Relations.

ST. REGIS INDIANS.

Mr. SEWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior communicate to the Senate such information as his Department may afford concerning any right or claim of the St. Regis Indians, now residing in the State of York, to any contingent, conditional, or other interest in the lands set apart for the New York Indians in Kansas, or in the Indian Territory; and whether the Canadian portion of the St. Regis Indians has any such interest.

CHAPLAINS OF THE SENATE.

Mr. MASON. I offer the following resolution; which can lie over for consideration:

Resolved, That the Secretary of the Senate be directed to pay to the several ministers of the gospel who have officiated as chaplains at the invitation of the Senate, during the present session, the sum of fifty dollars each.

I hope the Senate will allow me to say that I offer the resolution on my own motion, without consulting any gentleman who may appear to be interested.

The resolution lies over under the rules.

COMMERCIAL RELATIONS.

Mr. MASON submitted the following resolution; which was referred to the Committee on Printing:

Ordered, That one thousand additional copies of the report of the Secretary of State, relating to foreign regulations of commerce, received from that Department on the 4th ultimo, be printed for the use of that Department.

CANADIAN CONSUL GENERAL'S FEES.

Mr. HAMLIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to communicate to the Senate what fees or charges the consul general for Canada is authorized to make and receive on goods or articles imported into the United States from Canada, under what law said fee or charge is made, the annual amount thereof, and how the same is disposed of.

REPORTS OF COMMITTEES.

Mr. HUNTER, from the Committee on Finance, to whom was referred the bill (H. R. No. 557) making supplemental appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1859, reported it without amendment.

Mr. BROWN. A majority of the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 451) in relation to a railway on Pennsylvania avenue, in Washington city, in the District of Columbia, have instructed me to report it back with an amendment. I beg

to remark that a minority of the committee, of which I am one, do not assent to that report.

He also, from the same committee, to whom was referred the bill (S. No. 414) to reimburse the corporation of Georgetown, in the District of Columbia, a sum of money advanced towards the construction of the Little Falls bridge, reported it without amendment.

Mr. BROWN. I am also instructed by the Committee on the District of Columbia, to whom was referred the bill (S. No. 227) authorizing the organization of a fire department in the District of Columbia, passed by the House of Representatives, with an amendment, to report it back and say that the committee recommend a non-concurrence with the amendment of the House of Representatives; and as it is important that the subject should be acted upon now, I hope the Senate will indulge me with a vote on the amendment. I move that the Senate non-concur in the amendment of the House of Representatives.

Mr. IVERSON. I have a dozen reports to make.

The VICE PRESIDENT. Reports must be received.

Mr. IVERSON, from the Committee on Claims, to whom were referred the following bills, reported them without amendment:

A bill (H. R. C. C. No. 81) for the relief of the heirs of William Turvin, deceased;

A bill (H. R. No. 238) for the relief of Richard Tarvin;

A bill (H. R. No. 245) for the relief of A. Baudouin and A. D. Roberts;

A bill (H. R. No. 476) for the relief of James Rumph;

A bill (H. R. No. 480) for the relief of Dr. Ferdinand O. Miller;

A bill (H. R. No. 481) for the relief of Dinah Minis;

A bill (H. R. No. 570) for the relief of Lieutenant Loomis L. Langdon;

A bill (H. R. No. 571) for the relief of David McClure, administrator of Joseph McClure, deceased; and

A bill (H. R. No. 575) for the relief of Robert A. Davidge.

He also, from the same committee, to whom were referred the following bills, asked to be discharged from their further consideration, and that they be referred to the Committee on Military Affairs and Militia; which was agreed to:

A bill (H. R. No. 452) for the relief of Dr. Thomas Antisell; and

A bill (H. R. No. 506) for the relief of the administrator of Horatio Boulton, deceased.

He also, from the same committee, to whom was referred the bill (H. R. No. 486) for the relief of Alonzo and Elbridge G. Colby, asked to be discharged from its further consideration, and that it be referred to the Committee on Commerce; which was agreed to.

Mr. IVERSON. I am also instructed by the same committee, to whom was referred the bill (S. No. 290) for the relief of the legal representatives of George Mayo, deceased, to ask to be discharged from its further consideration, the Committee on the Post Office and Post Roads having previously made a report on the same case. The papers were subsequently withdrawn from the files, and referred to the Committee on Claims. The Committee on Claims do not feel at liberty to reverse the report of the previous committee by which the claim was adjudged.

The committee was discharged.

Mr. FITZPATRICK, from the Committee on Military Affairs and Militia, to whom was referred the bill (H. R. No. 254) for the relief of William Hutchinson, reported it without amendment, and that it ought not to pass.

Mr. FOSTER, from the Committee on Public Lands, to whom was referred the petition of Benjamin Ward, reported a bill (S. No. 421) to authorize the Secretary of the Interior to issue a land warrant to Benjamin Ward; which was read, and passed to a second reading.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 59) in relation to courts, and the holding of the terms thereof, in the several Territories of the United States, reported it without amendment.

Mr. SIMMONS, from the Committee on Claims, to whom was referred the petition of John R. Bartlett, submitted a report, accompanied by a bill (S.

No. 422) for the relief of John R. Bartlett. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. YULEE, from the Committee on the Post Office and Post Roads, to whom was referred the bill (H. R. No. 572) for the relief of Lewis W. Broadwell, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 419) for the relief of John Ferguson and others, reported it without amendment.

Mr. WRIGHT, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred a resolution to allow compensation to B. L. Bogan for the services of his son in the document-room of the Senate, reported it without amendment.

Mr. JOHNSON, of Arkansas, from the Committee on Printing, to whom was referred a motion to print a resolution of the corporation of Georgetown, and a memorial of citizens of Georgetown, relating to re-ceding a portion of that city to the county of Washington, reported in favor of the motion; and it was agreed to.

He also, from the same committee, to whom was referred a motion to print resolutions of a meeting of citizens of Georgetown relative to re-ceding a portion of that city to the county of Washington, reported in favor of the motion; and it was agreed to.

He also, from the same committee, to whom were referred a motion to print resolutions of the Merchants' Exchange Association of Washington; a motion to print the memorial of the executive board of the American Indian Aid Association; a motion to print the message of the President in relation to the accounts of Edward F. Beale; a motion to print the report of the Secretary of the Navy communicating Lieutenant Craven's report of explorations of the Atrato and Truando rivers; and a motion to print the report of the Secretary of the Treasury relative to frauds on the revenue committed by the commercial house of Simon De Visser and José Villarrubia, of New Orleans, reported adversely thereon.

He also, from the same committee, to whom was referred a motion to print the message of the President in relation to the seizure of the American bark Panchita, on the coast of Africa, reported in favor of it, and the motion was agreed to.

He also, from the same committee, to whom was referred a motion to print the report of the Secretary of the Navy relative to the pay of certain retired naval officers, reported in favor of the motion; and it was agreed to.

He also, from the same committee, to whom was referred a motion to print the message of the President, with the correspondence, in relation to the arrest of William Walker by Commodore Paulding, reported in favor of the motion; and it was agreed to.

He also, from the same committee, to whom was referred a motion to print the petition of James H. Birch, jr., and the memorial of T. D. W. Youley, with regard to certain lands in Missouri, and the accompanying papers, reported in favor of the motion; and it was agreed to.

Mr. JOHNSON, of Arkansas. There was also referred to the Committee on Printing a motion to print the petition of Perry McDonough Collins, praying compensation for commercial researches in northern Asia, and an exploration of the Amoor river. We find by the papers, that the House of Representatives some one or two months since, called for information from the State Department upon the subject, received it, and printed it. The memorial and papers show, that under an appointment of the last Administration, as a commercial agent, an office, I believe, in regard to which there is no law providing a salary or pay unless by special act, and there was none I think in this case, he made these travels and has made this report since. The committee find nothing to print but the memorial, unless they print the report made by the State Department, which has already been printed by the House of Representatives. They find that the memorial is not lengthy at all, and the committee who will investigate the subject can very well do it without printing the memorial. We report adversely to the printing of the memorial.

BILLS INTRODUCED.

Mr. GWIN asked, and by unanimous con-

sent obtained, leave to introduce a bill (S. No. 420) for the relief of James Collier; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. MALLORY (at the request of Mr. HAYNE, who was sick) asked, and by unanimous consent obtained, leave to introduce a bill for the relief of Jane Perry; which was read twice by its title, and referred to the Committee on Pensions.

Mr. IVERSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (No. 48) for the payment of an unexpended balance to the State of Georgia for militia services; which was read, and passed to a second reading.

Mr. IVERSON. I hope the Senate will allow this resolution to pass at this time. I do not suppose that it will give rise to any debate whatever. I think there will be no objection to it.

Mr. HUNTER. What is the joint resolution?

Mr. IVERSON. I will state it in a moment. On the 11th of August, 1842, \$175,000 was appropriated to refund to the State of Georgia amounts she had paid to her militia companies called into service in the Creek, Seminole, and Cherokee country. Out of that appropriation she has been refunded all her payments with the exception of \$7,112 94, which remains in the Treasury unexpended. The State of Georgia has, since the passage of that act, paid off a number of other companies, and filed the claims in the Auditor's office; but the Auditor returns that the money cannot be applied to the payment of those companies, or to refund back to the State the amount, because the act of 1842 limited the payment to the payments that had then been made by the State. The State has subsequently paid off other companies; and the object of this joint resolution is simply to appropriate the unexpended balance of the act of 1842 to the amounts the State has paid since the passage of that law—that is all.

Mr. KING. I think this subject should be understood. The reasons for the payment may not have been the same.

The VICE PRESIDENT. The question is, "Is there objection to the consideration to-day?"

Mr. KING. I think it had better lie over. I object to its consideration.

COMMANDER M. F. MAURY.

Mr. MASON. I am directed by the Committee on Foreign Relations, to whom was referred the joint resolution (H. R. No. 31) authorizing Commander M. F. Maury to accept a gold medal awarded to him by the Emperor of Austria, to report it back without amendment, and recommend its passage. It is a very short resolution, and I ask that it be put upon its passage now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution; which is as follows:

Resolved, &c. That Commander M. F. Maury, of the United States Navy, be, and he is hereby, authorized to accept the great gold medal of the arts and sciences recently presented to him by his Majesty the Emperor of Austria.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

TITLE TO LAND WARRANTS.

Mr. STUART. I moved to reconsider, a few days ago, the vote passing the bill (H. R. No. 300) declaring the title to land warrants in certain cases. Since that time, the committees of both Houses have agreed upon a substitute for the first section. It is very important that the bill shall be passed now, in order that the amendment may be agreed to by the House of Representatives. I entered the motion to reconsider some days ago. I wish to reconsider the bill that I may offer this substitute for the first section. It will take no more than five minutes.

The motion to reconsider was agreed to.

Mr. STUART. I move to reconsider the vote by which the amendment of the Senator was ordered to be engrossed, and the bill to be read a third time.

The motion was agreed to.

Mr. STUART. I now move this substitute for the first section of the bill:

That when proof has been, or shall hereafter be filed in the Pension Office, during the lifetime of a claimant, establishing to the satisfaction of that office, his or her right to a warrant for military services, and such warrant has not been, or may not hereafter be issued until after the death of the claimant, and all such warrants as have been heretofore

issued subsequent to the death of the claimant, the title of such warrant shall vest in the widow, if there be one, and if there be no widow, then in the heirs or legatees of the claimant; and all such warrants, and all other warrants issued pursuant to existing laws, shall be treated as personal chattels, and may be conveyed by assignment of such widow, heirs, or legatees, or by the legal representatives of the deceased claimant, for the use of such heirs or legatees only.

The amendment was agreed to, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

CHRISTIAN INDIANS.

Mr. SEBASTIAN. I desire to ask the Senate to take up and act on the reconsideration of a little bill which was objected to by the Senator from New York, [Mr. KING;] and I am sure I have his assent to take it up. It will be disposed of in a minute. I understand that the Senator withdraws his objection, but only wishes to state a fact or two in regard to it. I move that the Senate take up the motion of the Senator from New York to reconsider the vote by which the bill (S. No. 323) to confirm the sale of the reservation held by the Christian Indians, and to provide a permanent home for said Indians, was passed.

The motion to take up was agreed to; and the Senate proceeded to the consideration of the motion to reconsider the vote passing the bill.

Mr. KING. A day or two after I made this motion, I asked the Senate to take up the question of reconsideration, but other business set it aside, and it was not attended to. When this bill came up I knew nothing about it, had never heard of it before, and there was no report and no statement of fact in relation to it. It came up on objection day, and I thought it had better lie over for a statement of facts. The Senator from Arkansas had a talk with me about it, and misunderstanding me or supposing that I waived my objection, he had it considered, but I did not intend to withdraw my objection—I wanted more information about it. The bill passed under those circumstances, and I moved to reconsider. Since then I have had a conversation with the Senator from Arkansas. My opinion is, that the bill ought to be reconsidered and placed upon the Calendar to take its fate upon such discussion or such exposition of the facts as shall be made in the case. I have inquired, as I stated to the gentlemen interested in it I would do, of the Delegate from Kansas about the bill; my objections to its passage were, that I had seen in the papers a good many statements about the value of these lands, and that in such transactions with the Indians, speculations are gone into for the purpose of making money rather than for any public interest. I stated to them that I would inquire of him, and be guided by his opinions. The Delegate from Kansas states to me that the Indians themselves are opposed to this sale, that the people in the vicinity are opposed to it, and that the bill ought not to pass. He stated that the price was not such as would justify him in making an imputation of any fraud in relation to the contract or transaction; but that it was less than the land was worth, and that the Indians could get more for it, and that they were unwilling to sell it. The sale was made under some arrangements, I suppose, which were not entirely legal, or they would not find it necessary to come to Congress to pass it. I think it better that the bill should be reconsidered; and that then, upon a statement of facts, it should be considered and decided by the Senate.

Mr. SEBASTIAN. I understand the Senator from New York to desire some explanation from the proper committee of the facts of this case; and I will give them in as brief a manner as possible. This little band of Indians, numbering some thirty or forty souls in all—half a dozen families—occupied, by an arrangement between the United States and the Delaware Indians, four sections of land, located about five miles from the city of Fort Leavenworth.

Mr. DOUGLAS. Will my friend from Arkansas pardon me for interrupting him? I know the Senator is very familiar with these subjects; but I take it for granted that the Senate will vote down the motion for reconsideration without further explanation.

Mr. SEBASTIAN. I do not wish to lose the bill by the unfriendly kindness of talking when the humor of the Senate is in favor of taking the question; and I will adopt the suggestion of the Senator from Illinois, which I know he makes on

a full knowledge of the facts of the case. I just ask the Senate to take the vote without any further explanation. I believe they are pretty well acquainted with it.

The VICE PRESIDENT. The question is: "Will the Senate reconsider the vote by which the bill was passed?"

Mr. KING. I had some reasons for believing that this bill should be reconsidered. My opinion is that official personages intrusted with the charge of these matters ought not to be speculators in the property of the Indians, who are, to some extent, under their care. The gentleman who was the purchaser of this land was the district attorney of Kansas Territory. He was brought into connection with these people through the position he occupied, by means of which he was enabled to acquire their confidence. The Delegate tells me that the Indians themselves are opposed to this transaction. That the value of these lands is very considerably beyond the price to be paid, I have not a doubt. I state that because of the suggestion of the Senator from Illinois, that this bill is to be passed by the Senate without any reference to the facts of the case, and without any statement of them. We all know how bills are often got through the Senate, and through both branches of the Legislature, simply by the application of persons who go about to Senators and solicit them to vote for them; and thus, without any knowledge of the facts, the bills are acted upon by the two Houses. In this mode, without investigation, and without discussion, the very worst forms of bills pass both Houses of Congress. I thought it was a matter of suspicion in this case that no report or statement of facts accompanied the bill. There have been various facts stated to me; and that there is considerable interest taken in the passage of this bill, I know from the solicitation that has been made to me to waive my objection, in such a manner as rather to confirm me in the opinion that substantial and good objection exists to it.

The Senator from Texas [Mr. Houstons] was at one time opposed to this bill—and he will make that explanation, if it is desired—on account of some objection made by a missionary there; but since that time, I understand, this particular missionary has been conciliated by an agreement to pay him \$2,300. I do not see why, if that man has a right to the property, and a contract for it, he should be constrained to make these payments to outside parties, to obtain their consent to the acquisition of his rights. It would seem to me that instead of being a reason for the passage of this bill, it would rather be an objection to it. While I have no other knowledge of this case than such as has come to me incidentally and accidentally, the more I have seen of it, and the more I have heard of it, the more I have come to the belief that it is one of those land speculations in the neighborhood of Leavenworth that are not entitled to the sanction or consideration of Congress, and that the matter had better be disposed of in the usual way—by a treaty with the Indians. With this explanation, I am of course content that the Senate shall dispose of it in any way they may see proper. I have rather regretted, on account of the unpleasantness of being brought into collision with anybody, that I had incidentally said anything about the case; but entertaining these views, I felt constrained to express them, and to express my opinions against the passage of the bill.

Mr. HOUSTON. My attention, as a member of the Committee on Indian Affairs, has been called to this subject, and I believe I understand it pretty thoroughly, and have examined it with some degree of care. When it was first presented to me it was by some Indian and by a missionary; and I then imbibed a very strong prejudice against the claim. I thought it was well enough to make myself acquainted with both sides, and I had an opportunity of doing so. I thought in the first instance that perhaps the Moravians, a very respectable community to whom the missionary belonged, had possessed an advantage with these few families of Christian Indians, and had erected buildings for which they wished to be remunerated. The sale was made to Mr. Isaacs by the Indians, for it was considered that they had the right of making sales. The lands had been patented to them in their individual, and not in their tribal characters, as I understand, with a

right of making a disposition of them; else patents would not have been given to them. They are only a few families. The Indians represented to me at the same time that the missionary was present with them, that the white people had taken possession of their lands, that they had fired into their houses, that they had killed an Indian in the house of the chief, that their lives were threatened if they did not immediately leave the land. Mr. Isaacs who had been employed by the Indians to defend their titles, found it impossible to retain their lands for them. They had granted permission to some man for a slaughter-pen within their reservation, and the consequence was, that so soon as he got there he claimed the right of preëmption, and said the land belonged to the squatters. They have thrust themselves upon it; they have slaughtered the timber of the Indians; they have made great waste with their lands, they have taken life there, and they are threatening to drive the Indians off, and will do so, unless some power intervenes for their security, and none are there capable of doing it, because they are all interested in the common business of possessing land, right or wrong.

In this situation, the Indians proposed to make a sale of their land, and Mr. Isaacs agreed to give them all they asked at the time, which was, I think some seventeen dollars an acre, \$43,000. He made a regular purchase; the papers are all in due form. He deposited, as is certified, \$40,000 and some cents in the Bank of Missouri; that is there now to their credit. The Indians stated, or their interpreter for them told me, they wished to realize their money, and if they could not purchase a tribal interest with the Delawares, they desired to go back to Canada, and situate themselves there. Mr. Isaacs, as I understand, had an interview with the missionary, and the missionary agreed that if he would pay the Moravians for the price of their improvements, the cost they had been to them, they would withdraw all objection and be satisfied. After that, the missionary, who was here, and who spoke to me, went to the Mission Board in Pennsylvania, at Bethlehem, I think, and from thence addressed a letter to me, stating that if their property was secured, or they were recompensed for the outlay they had made, \$2,300, they would be perfectly satisfied. Mr. Isaacs deposited his obligation. I held it in my hands. I handed it to the chairman of the Committee on Indian Affairs, and I believe he has it now.

This is the true state of the case. I am satisfied that these Indians will be driven off; that it was a liberal price and a *bona fide* transaction at the time it was made, and the question now simply is whether this sale shall be confirmed or these Indians shall be sacrificed, and the lands claimed by preëmption, so that they will be unable to litigate in regard to them, and will have to go off to the Delawares, or somewhere else, without the means of securing an abiding place on earth, and the rest of them be slaughtered by intruders. The question is whether this sale shall be ratified; whether these few families shall be benefited by the receipt of this amount of money, so as to enable them to purchase a location amongst the Delawares or return to Canada. This sale is to be confirmed under the sanction of the Secretary of the Interior, so as to secure to the Indians the realization of this contract. That is the way I understand it, and I believe I am literal in the statement I have made of the facts. I will say to my friend from New York that I really intend no collision, no controversy. I am satisfied he was actuated by the purest motives. I am sure that his prejudice was not stronger than mine was, until I examined into and investigated the case. It was referred to the Indian Committee; and I believe they were united in opinion that it was a fair, *bona fide* transaction, to be executed in good faith; that it was liberal at the time the land was purchased, and that no injustice was done to the Indians whatever. That is my candid opinion.

The motion to reconsider was not agreed to.

BRITISH AGGRESSIONS.

Mr. HUNTER. I move now to postpone all prior orders, for the purpose of taking up the civil appropriation bill.

Mr. MASON. I think my colleague is rather exacting with his appropriation bill. The morning hour, by general understanding, if not by resolution, does not terminate till one o'clock. I

want, and I ask his permission to do so, if I am obliged to do it, to call up the resolutions of the Committee on Foreign Relations, with reference to British aggressions on our commerce, that they may be made the order of the day for Saturday. I hope he will allow me to do that.

Mr. HUNTER. If I withdraw the motion for one, I shall have to withdraw it entirely.

Mr. MASON. If debate ensue on it, I shall have to withdraw it.

Mr. HUNTER. I withdraw my motion.

Mr. MASON. I ask that the resolutions of the Committee on Foreign Relations, in reference to British aggressions in the Gulf of Mexico, be made the special order for Saturday, for twelve o'clock, to the exclusion of all other business.

Mr. HUNTER. I have no objection, if we get through with the appropriation bills, but I am opposed to making any special orders to take precedence of them.

Mr. MASON. I consider it my duty to the country, as well as to the Senate, to make this motion. If we are to adjourn on the day agreed upon, I think it is indispensable that these resolutions should be disposed of one way or the other. I will vary the time, and make it one o'clock on Saturday instead of twelve o'clock.

The VICE PRESIDENT. The first question is on taking up the resolutions.

The motion was agreed to.

The VICE PRESIDENT. The question now is on the motion of the Senator from Virginia to make them the special order for one o'clock on Saturday, to the exclusion of all other business.

Mr. MASON. I ask for the yeas and nays on the motion.

The yeas and nays were ordered; and being taken, resulted—yeas 28, nays 24; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Brown, Chinggis, Crittenden, Davis, Douglas, Fitz, Fitzpatrick, Green, Gwin, Hammond, Houston, Iverson, Kennedy, Mason, Polk, Reid, Sebastian, Siddle, Thomas of Kentucky, Thomson of New Jersey, Toombs, Wright, and Yale—35.

NAYS—Messrs. Bright, Broderick, Cameron, Clark, Collamer, Dixon, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Johnson of Arkansas, Johnson of Tennessee, Jones, King, Pearce, Pugh, Seward, Simmons, Traubull, Wade, and Wilson—24.

So the motion was agreed to.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HENRY, his Secretary, announced that the President had this day approved and signed the following acts and resolutions:

An act to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes;

An act to vest the title to certain warrants for land in George M. Gordon;

A resolution to correct an error in a certain act approved May 11, 1858; and

A resolution for the adjustment of difficulties with the Republic of Paraguay.

DAILY RECESS.

Mr. ALLEN. I propose that the daily session shall commence at ten o'clock in the morning, and close at six, for the remainder of the session. We see how little was done last evening by having a night session; and we shall get as many hours for business by the arrangement I propose as by coming in the evening.

Mr. HUNTER. I must object to that. If we meet at ten o'clock, what time will the Committee on Finance have to prepare bills? The committee have now to meet at half past nine o'clock, and it takes us until eleven o'clock to prepare business.

Mr. ALLEN. The committee can meet after six o'clock in the evening; or, as the mornings are very long, they can rise a little earlier than usual for three or four days.

Mr. FESSENDEN. This is a proposition to change the rules; and, if objection be made, it cannot be done without a day's notice.

The VICE PRESIDENT. The Chair supposes it to be in order.

Mr. FESSENDEN. If objected to?

The VICE PRESIDENT. The resolution passed the other day was, that a recess should be taken for the remainder of the session until otherwise ordered by the Senate. The motion of the Senator from Rhode Island is to change it.

Mr. FESSENDEN. My objection was, that

it became a rule, and therefore a day's notice must be given before it could be changed.

The VICE PRESIDENT. The Chair thinks not.

Mr. ALLEN. I think we shall do business better by the course I propose.

The VICE PRESIDENT. It is moved and seconded that the Senate meet at ten o'clock, and adjourn at six o'clock, until otherwise ordered.

Mr. STUART. That motion cannot be made to-day, except by unanimous consent. It changes the time of meeting. There must be notice given of it for one day. It changes the rules of the Senate, in that respect.

The VICE PRESIDENT. Will the Senator from Michigan be good enough to suggest what rule he refers to?

Mr. ALLEN. I propose, then, that we meet at eleven o'clock, and sit until six o'clock.

Mr. STUART. To that I have no objection.

The VICE PRESIDENT. It is moved and seconded that the Senate meet at eleven o'clock, and adjourn at six o'clock, until otherwise ordered.

Mr. COLLAMER. I would inquire whether, under such an order as that, it would not be the duty of the Chair, when six o'clock came, to adjourn the Senate without motion?

The VICE PRESIDENT. It would.

Mr. COLLAMER. Then our evening sessions might be broken up from this time forward through the rest of the session.

The VICE PRESIDENT. It will be in the power of the Senate to make any order it chooses.

Mr. COLLAMER. We should have to make a new order.

Mr. BAYARD. As regards the time of adjournment, it seems to me it is a subject for the decision of the Senate depending upon the state of the business at the time the motion to adjourn is made. We should not prescribe beforehand an arbitrary hour at which to adjourn, without reference to the state of the business. We might be just on the eve of the close of a debate on a bill. I do not think any hour of adjournment ought to be fixed except by the will of the Senate on the particular day.

Mr. ALLEN. I withdraw my motion; and instead of it, I move simply to rescind the order for a recess.

Mr. HUNTER. I merely wish to say, in regard to that, that I am willing to abide by the sense of the Senate, whatever it is, and in whatever mode they think they can transact the business with most comfort. My own opinion is, that it is best to take a recess; but I have no feeling about it, provided they give us time to work in committee. I object to meeting sooner than eleven.

Mr. GWIN. If the Senator will say from and after to-day, I think it will be better.

Mr. HOUSTON. I only wish to remark to the chairman of the Committee on Finance, that perhaps the morning business will occupy time until he will have ample opportunity of attending to the business of the committee; and the Senate could go on while the committee would be in their room attending to matters. If the meeting at an earlier hour would not interfere with the committee, I make that suggestion. I really think a recess is not favorable to the progress of business. We have tried it for many years.

Mr. COLLAMER. Do I understand that the motion now is to meet at ten o'clock, and have no recess?

Mr. ALLEN. To meet at eleven o'clock.

The VICE PRESIDENT. The motion is to rescind so much of the order of the Senate as provides for a recess from four to six o'clock.

Mr. COLLAMER. That is all the order there is; and the simple question is whether we shall rescind that order.

Mr. JOHNSON, of Arkansas, called for the yeas and nays; and they were ordered.

Mr. COLLAMER. That we must have night sessions from this time forward is perfectly certain. Now, the whole question is, shall we have them with a recess or without it? It seems to me to be perfectly clear that, by obtaining dinner at some reasonable and usual hour, we shall be much more likely properly to discharge our business at evening sessions than we shall without.

The question being taken by yeas and nays, resulted—yeas 32, nays 23; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler,

Bright, Broderick, Brown, Clay, Clingman, Crittenden, Davis, Douglass, Durkee, Fitch, Fitzpatrick, Hayne, Houston, Johnson of Tennessee, Jones, Kennedy, King, Pearce, Reid, Rice, Sebastian, Seward, Simmons, Stuart, Toombs, Wright, and Yulee—32.

NAYS—Messrs. Cameron, Chandler, Clark, Collamer, Dixon, Fessenden, Foot, Foster, Green, Gwin, Hale, Hamlin, Harlan, Hunter, Iverson, Johnson of Arkansas, Mason, Pugh, Thompson of Kentucky, Thomson of New Jersey, Trumbull, Wade, and Wilson—23.

So the resolution directing a recess was rescinded.

ENROLLED BILL SIGNED.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the Speaker had signed a joint resolution authorizing Commander M. F. Maury to accept a gold medal awarded to him by the Emperor of Austria; and it was signed by the Vice President.

MEXICAN PROTECTORATE.

Mr. HOUSTON. I rise for the purpose of moving to take up the resolution I introduced some time since in relation to a protectorate over Mexico. In doing so I have a very few remarks to make, and I hope the Senate will consider them in the light in which I intend to present them. The introduction of my resolution was in all good faith and sincerity, believing that the necessities of Mexico were such, in connection with the frontier of the United States, and particularly the State which I have the honor in part to represent, that it was a duty upon me to initiate some measure on the subject. I saw that the disorganized situation of Mexico was well calculated to invite aggression from surrounding countries, and to provoke aspiring spirits and men who were disposed to depredate and maraud upon a feeble nation. This induced me to present the resolution for the consideration of the Senate of the United States. As I have said, it was done in all good faith, believing that it was a subject to which the attention of the nation ought to be called, both in justice to its relations to, and the distracted condition of, Mexico. It has met with disfavor in this body, I grant you, for which I have no reflections to make; but that does not impair my opinion as to the necessity of a protectorate, or at least of some action on the part of this Government.

Mr. President, we are apprised of the fact that persons are now making incursions into the Republic of Mexico, which, in its defenseless situation, is unable to repel them. Depredations, violence, and wrong, will pervade the whole frontier unless some interposition is had. Even the moral effect of taking the subject under consideration by this body would deter adventurers from going to prey on Mexico. If it were known that the eye of the United States was placed on them, persons would abstain, who would be stimulated to aggression if you withhold all expression of opinion that it is necessary for the United States to look to that country. If you do nothing, the tendency will be to encourage more adventurers in continual enterprises of wrong and robbery upon the inhabitants. Moreover, it is impossible to restrain the Indians from attacking the defenseless Mexicans; and, when you superadd the marauding parties actually invading that country, what must their condition be? It was sufficiently deplorable before, but now it is rendered intolerable.

Mr. President, if you do not take it into consideration, and refer the subject for investigation to have it looked into and reported upon by a committee of this body, or by some branch of this Government, you may rely upon it that things will become worse from day to day; and not only that, but if this nation, to whom the proposition has been presented in all good faith and sincerity, does not think proper to act in the matter, men who may have power to accomplish something, feeling stimulated by motives of humanity, may undertake such an enterprise, the necessity of which they would deprecate if the Government would only consider it in a proper point of view. I should not feel myself restrained at any age to interpose in behalf of humanity, and to arrest the cruelties on, and to stop the murders of, a defenseless people. It is a duty due to humanity; and if this nation will not exercise the functions of fraternity to a neighboring nation to whom they are under treaty obligations, and individuals should step forth who are willing to give their

lives and their blood to redeem a people from thralldom and anarchy, they will not deserve the opprobrious epithet of filibusters, who invade a country for the purpose of depredating, robbing, and committing sacrilege, and burning cities. Sir, any citizen of the United States who can accomplish in this respect what the Government withholds its power from doing, or even regarding with a proper consideration, will be vindicated against the charge of marauding or filibustering.

It is with this view I announce to the Senate that I wish for an expression of this body, to say whether they will consider the subject, or will leave Mexico to float on in its downward course to ruin, or to a cataract that awaits it—to that gulf from which nothing can extricate it. I do hope that I shall at least be allowed to receive an expression of the Senate, by yeas and nays, on taking up the resolution.

Mr. HUNTER. Let the question be taken on taking it up; and if we decide against it, I hope the Senator will consider that conclusive.

Mr. HOUSTON. I will, if I get the yeas and nays.

The yeas and nays were ordered.

Mr. HALE. I simply rise to say that I hope the resolution will be taken up, and made the special order of the day at the same time with the resolutions of the Senator from Virginia. They seem to be intimately connected, and I hope they will be considered at the same time.

Mr. HOUSTON. I only wish to refer the subject to a special committee, as indicated in the resolution. A report cannot be made on it at the present session; but in the interval developments may be made, and we may have the means of acquiring information more satisfactory to this body.

The question being taken by yeas and nays, resulted—yeas 16, nays 32; as follows:

YEAS—Messrs. Clingman, Crittenden, Fitch, Hale, Houston, Johnson of Tennessee, Mallory, Polk, Pugh, Rice, Simmons, Stidell, Stuart, Toombs, Trumbull, and Wade—16.

NAYS—Messrs. Benjamin, Bigler, Broderick, Brown, Cameron, Clark, Clay, Collamer, Davis, Dixon, Douglas, Durkee, Fessenden, Foot, Foster, Green, Hamlin, Hammond, Harlan, Hunter, Iverson, Jones, Kennedy, King, Mason, Pearce, Reid, Sebastian, Seward, Thompson of Kentucky, Wilson, Wright, and Yulee—32.

So the Senate refused to consider the resolution.

STATUE OF WASHINGTON.

Mr. PEARCE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 50) authorizing the President to designate a site for the equestrian statue of Washington, and for other purposes; which was read twice by its title.

Mr. PEARCE. I ask the Senate to put the joint resolution on its passage at once. I presume there will be no objection to it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which authorizes the President to cause the equestrian statue of George Washington, contracted for with Clark Mills, to be placed in the grounds north of the executive mansion; and also, to remove the statue of Thomas Jefferson to such other place in the public grounds as he shall think suitable.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

STEPHEN K. ROWAN.

Mr. POLK asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 49) to correct an error in the act for the relief of Stephen R. Rowan, approved June 1, 1858; which was read twice by its title.

Mr. POLK. I hope the Senate will indulge me in passing the resolution at once. In a bill we passed a few days ago there was a mistake; "1856" was inserted in place of "1857"; and this is merely to remedy that defect. There can be no objection to the resolution.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution which directs the act for the relief of Stephen R. Rowan, approved June 1, 1858, be so corrected as to read as follows:

"That the attorney of the United States of America for the southern district of Illinois be, and he is hereby, authorized and directed to enter satisfaction of a judgment rendered by the district court of the United States for the said southern district of Illinois, at its June term, A. D.

1857, in favor of the United States of America against Stephen R. Rowan, on his paying all the costs in said case."

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 200) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1859.

Mr. BROWN. I move an amendment, to come in after line two hundred and six. I report it from the Committee on the District of Columbia.

Mr. JOHNSON, of Tennessee. I thought there was an amendment noticed upon last night when we adjourned.

The PRESIDING OFFICER. (Mr. STUART in the chair.) The Senator from Tennessee submitted an amendment, which was rejected by the Senate before the adjournment.

Mr. JOHNSON, of Tennessee. But I submitted three propositions.

Mr. BROWN. The Senator can only offer one at a time.

The PRESIDING OFFICER. The Senator from Tennessee submitted in form only one proposition. The Senator from Mississippi proposes the following amendment:

For painting the hand rails and iron work of said bridge \$400; and the bridge is hereby placed under the protection of Georgetown, with power to regulate the speed of travel, and the passage of droves of cattle over the same, but no tolls shall be charged.

Mr. BROWN. This relates to the Little Falls bridge, which was built at a cost of \$108,000 to the Government. It has been paid for, but a portion of the wood work, and all the iron work is without paint, and it is liable to rust and decay. The sum is a very small one. The Government has no one to take charge of it, and therefore the latter part of the proposition, in the judgment of the committee, was necessary, to give some sort of protection to it.

The amendment was agreed to.

Mr. PUGH. I am instructed by the Committee on Public Lands to report the following amendment as an additional section:

And be it further enacted, That the salary of the surveyor general of Washington Territory shall be \$3,500 a year from the commencement of the present fiscal year; and there is hereby appropriated so much as may be requisite for that purpose.

In 1855, while the appropriation bill was pending, the salary of the surveyor general of Washington Territory was \$3,500, and a motion was made by the Senator from Indiana, [Mr. BRIGHT,] I think, to increase the salary of the surveyor general of New Mexico to \$4,000. Then an amendment was put on to apply that to the surveyor general of Washington. The amendment to the amendment prevailed, but the original amendment did not, and thus the surveyor general of Washington, instead of having his salary increased, got it reduced, which was not the intention of the mover at all. The matter is explained in a letter of the Delegate of the Territory. This proposition restores the salary to what it was before.

The amendment was agreed to.

Mr. DAVIS. I wish to offer an amendment from the Committee on Military Affairs:

For the contingent expenses of the Senate, to wit: For miscellaneous items, \$5,500.

The object of the amendment is to cover the expense incurred in the mileage and per diem of witnesses summoned before the committee of investigation into the sale of military reserves in the vicinity of Fort Crawford.

The amendment was agreed to.

Mr. BENJAMIN. I am instructed by the Committee on the Judiciary, to offer an additional section:

And be it further enacted, That in all cases of judgment and decrees, in any territorial court of the United States, now rendered, or hereafter to be rendered, and from which there might be a writ of error or appeal to the Supreme Court of the United States, there may be prosecuted such writ of error or appeal within the time and under the other restrictions limited by law, to said Supreme Court, notwithstanding such Territory may, after such judgments and decrees, have been admitted into the Union as a State; and said Supreme Court shall, when the same is decided, direct the mandate to such court as the nature of the writ of error or appeal, in their judgment, may require.

There is an objection that this is incongruous

to the bill. That is true; but it requires immediate legislation, resulting from the admission of Minnesota. It requires some provision for the appeals which may be taken from the superior court of the late Territory to the Supreme Court of the United States. Unless something be done justice may be obstructed in that new State. The provision embodied in the bill admitting the State into the Union only applied to appeals heretofore taken, but it does not apply to appeals that may be taken; and, as this provision requires immediate passage, the Committee on the Judiciary ask that it may be put on this bill.

Mr. HUNTER. I am told that the House of Representatives has very little to do; has passed all the appropriation bills; and a separate bill on this subject would doubtless pass. I am opposed to loading this bill with measures of legislation. Others will start up; and we shall never get through with it. If we can once get rid of this bill we may see light for the future; we may get along with the others; but I see no prospect at this rate of ever concluding it. There is a great deal of other legislation that doubtless would be very useful, and ought to be passed, but not on the appropriation bill.

Mr. BENJAMIN. This is only urged on the ground that it is a measure of immediate necessity. Any other useful legislation would, of course, be offered in a separate bill; but it is necessary for this new State, to prevent the obstruction of justice there.

The amendment was agreed to.

Mr. SIMMONS. I wish to offer an amendment to this bill, with some hope of having it passed, and partly with a view of answering some objections that were urged to an amendment of a similar character that I offered to the loan bill. I should not take this occasion to answer those objections if an opportunity had been afforded me to do so when the bill was up; but, some day or two after that bill had passed, the chairman of the Committee on Finance took occasion to assail my proposition, as I thought, with some degree of unmerited severity; and I suppose he intended some portion of his remarks to apply to me personally. He said that I had endeavored, by a cunning device, to try to largely increase the schedules, which were above the average. When I offered that amendment, I stated that my object was simply to prevent frauds by the undervaluation of imported merchandise.

Mr. HUNTER. Before the debate goes on I should like to know what the amendment is, that I may see whether it is in order.

Mr. SIMMONS. I am going to propose it, and I suppose it is in order; but, before I do propose it, I wish to state why it is in order. I know the question of order was raised on the other bill, but I supposed it would not be raised on this. My amendment is to prevent the undervaluation of foreign imports.

Mr. HUNTER. I should like to hear the amendment. We have a right to hear that first.

Mr. SIMMONS. I think I have a right to make some explanatory remarks before the amendment is read. I have understood, though perhaps I am not correctly informed, that the House of Representatives, at the last Congress, decided that the appropriation bills were in the nature and character of revenue bills, and must originate in that House; and therefore, the objection which was taken to my amendment to the loan bill, does not apply to it when offered to the appropriation bill which has originated in the House of Representatives. This bill is certainly subject to be amended in the form I propose. Although the objection may have lain to the amendment as applied to the loan bill, because that bill originated in the Senate; yet, if the nature of this bill is one raising revenue, it comes within the provision of the Constitution which allows us to amend such bills.

Mr. HUNTER. I must ask the decision of the Chair. If it is in order, of course I have no objection to make; but if it is not, I must object, for we are anxious to get on with the bill.

Mr. SIMMONS. I do not suppose I shall be allowed to reply, unless I am in order.

Mr. SEWARD. I must say that I do not see any ground for complaint that the honorable Senator from Rhode Island is out of order. He certainly has a right to discuss the bill; and, if there is no amendment before the Senate, the question is on the bill itself.

The PRESIDING OFFICER. (Mr. STUART in the chair.) Undoubtedly it is more regular for a Senator to send up his amendment before he makes any remarks on it; but the Chair knows of no rule of the Senate which would compel him to send his amendment to the desk to be read before he states the substance of it, or makes any other statement in regard to it that he chooses. The Chair does not feel himself authorized to say that a Senator must send his amendment to the desk and have it read to the Senate before he can make any comments upon it.

Mr. SIMMONS. I supposed I was in order, but it seems to be exceedingly difficult for any Senator to say anything on these questions, and keep within the rules of order, except the Senator from Virginia. When the river and harbor bills were up, it was perfectly in order for him to discuss the merits of this proposition that had been passed upon two or three days before. Now, I am going to vindicate myself from the charge of any scheme in the proposition I offered to protect and encourage certain departments of industry by largely increasing the duties on the higher schedules, while they were very highly increased on the lower schedules comprising articles which were employed in manufactures. In order to do this, I have drawn up a section that I wish to have put in this amendment, making a different classification of the imports—such a one as was recommended by the late Secretary of the Treasury to the last Congress, after mature reflection and deliberation, with a view of preventing undervaluations, or placing dutiable goods under schedules where they do not properly belong. I will read the recommendation of the Secretary of the Treasury, in order to show that the amendment I am going to offer, and in which I hope to get the assent of the Senator from Virginia, is sanctioned by him:

"In carrying into effect the tariff of 1846, considerable difficulty has been encountered under the eight schedules of that act applying different rates of duties on the merchandise embraced in each. The difficulty, instead of diminishing as the adjustment of the questions arising at the Treasury and in the courts takes place, seems to increase, owing to the ingenuity of foreign manufacturers and merchants in mingling materials and modifying fabrics, giving them new names, &c. In remodeling the tariff, I think it would be proper to retain schedule A of that act, and constitute another schedule, to embrace iron, manufactures of iron, steel, &c., and all fabrics of silk, wool, cotton, flax, or hemp, and to impose a duty on the same of twenty-five or thirty per cent."

And then he places everything else in another schedule. Now, what I propose with reference to this recommendation of the Secretary of the Treasury, is:

The goods, wares, and merchandise, imported into the United States, shall be put into five classes. The articles of importation included in schedules A, B, C, and D, of the existing tariff law, and all other textile fabrics subject to duty, shall be placed in class No. 1, and a duty levied thereon of — per cent.

That embraces the four schedules above the average, and which the Senator from Virginia thinks I am inclined, by my process, to largely increase the duties upon. If the Senator thinks it wise to so modify this classification, and put them all into one schedule, I have left the rate blank, in order that he may fill it himself with any rate he thinks proper. I propose this, not as a means of raising the rates of duty, but as a means of stopping frauds. I am willing to submit it to the Senator from Virginia to say what, in his judgment, should be the rates imposed on these four schedules of goods. I never have been able to see, and I doubt whether he has ever been able to see any reason for making these different schedules, excepting so far as the liquors are concerned, and they are now brought down. Whether this list shall embrace brandies and liquors, I am perfectly willing to leave that Senator to determine; but so far as the different classes of dry goods are scattered into three or four schedules differing in the rates of duty, I never could see any reason for it, and doubt whether there is any living man who can tell any. In the schedule paying fifteen per cent. now, you find all velvets of silk and cotton. What reason is there for putting silk and cotton velvets into the fifteen per cent. schedule, instead of the twenty-four per cent. one, where most of the dry goods are?

I have, then, said that the other schedules as they are now enumerated shall stand as they are, with the exception of schedules F and C, which now pay twelve and eight per centum, respect-

ively; and I propose to put ten per centum on them, and I propose to increase schedule H from four to five per centum. The Senator accused me of trying to favor these low schedules, and to get less additional duty on those articles which are used in manufactures, and which are nearly free. Instead of that, I propose to raise them a little, in order to bring them within the decimal rule. If the Senator will admit that there is a propriety in the recommendation of the Secretary of the Treasury of putting these goods into one schedule, that the ingenuity of men may not be exerted to evade the duty on them, I trust that he will admit that this is a good provision; and if he fixes the duty at such a rate as, in his judgment, will give a fair revenue, he will not accuse any friend of the industry of the country with attempting indirectly to raise the rates of duty. I say he may put the rate of twenty, or twenty-five, or thirty per cent., just as he pleases.

When I offered a similar proposition last week, I urged upon the Senate that, in the present state of our revenue, there should be some means provided, at least, to stop the frauds upon it; that we should not go on borrowing money to meet the ordinary expenditures of Government without taking some action to prevent frauds, which every one, I think, who has examined the subject, will say, are now perpetrated by undervaluations to the extent of from seven to fifteen millions annually. I hope the Senator from Virginia will not throw this off by a mere technical objection as to where the bill originated, and then get rid of the force of the argument by saying that those who advocated it had some secret purpose which they were not willing to avow. I undertake to carry out any proposition I make in good faith. I stated, when I first suggested this measure, that the rates of duty to be collected on the different schedules might be fixed at such a percentage as would, in all human probability, meet the wants of the Government. I ask no more. I am perfectly willing to change the schedules, and put them all into one. The present rates imposed on them now are twenty-five and three fourths per cent. If the Senator thinks home valuation, instead of foreign valuation, would so far increase them as to get too much money, I am willing that he should put the rate at twenty per cent., if he believes that will give money enough; but these different schedules deserve the same rates so far as any incidental encouragement is given to the industry of our own country. Nobody can pretend that one class of business should have one rate and another another. If that is called equality, I do not know what inequality is. Besides, so far as the danger of undervaluation is concerned, those descriptions of goods that are least liable to undervaluation have now the largest rates of duty; but I am willing they should, and I rather think they ought all to be put in one schedule.

I will now say something as to the assertion of the Senator from Virginia about the change I propose being entirely novel. He says that, from the foundation of this Government, the foreign cost has been the basis for the dutiable value in levying the duties in this country on all dutiable imports.

Mr. HUNTER. I did not say all dutiable imports. I said that, from 1795, the *ad valorem* duties had been levied in that way.

Mr. SIMMONS. Of course the Senator meant *ad valorem* duties. Was there any change in 1795 from what had previously been the course?

Mr. HUNTER. I think there was; that was my information at the Department—from 1795 down.

Mr. SIMMONS. The Senator said that the principle I ingrafted was a new principle; that the foreign value, excluding the freight and all incidental charges, had been the uniform practice of the Government from its origin. I had previously had a conversation with him on this subject, and referred him to a report I made on a petition for the return of overpaid duties, in which I thought I had pretty clearly proved that the home valuation has always been the true rule of our laws. He said, however, that he was willing to go before the country on the position he then assumed; and to my utter surprise he used very many of the arguments that I have seen in pamphlets and newspapers in reply to that very report, to show that the freight, as part of the dutiable value, had always been

excluded. Now, I will call the attention of the Senator and the Senate to the history of the modes of levying duties. I have got the first law passed on this subject in the United States, to see which of us is correct about the principle on which duties have been levied at the outset. I say that, at least for the first forty years of the history of this Government, the principle involved in the amendment I propose was nearer complied with by the early laws than the principle for which he contends. In the first act, which was passed July 4, 1789, this phraseology is used: "on all other goods, wares, and merchandise, five per centum on the value thereof at the time and place of importation." That, surely, has no reference to the foreign cost in any foreign port; it is the cost at the time and place of importation in the port of this country. I do not say that this means the market value at that place as sold in open market, which would include the duty as among the elements of value; but I think the fair construction of that law on its face would be, that it included every increment of value up to the time of entry at the port of entry. I take it, the Senator and myself do not disagree about that. If we do, I hope he will state his opinion now.

The general rates of *ad valorem* duties in the first bill passed in 1789 (with the single exception of a discriminating duty in favor of goods imported in American vessels and four-wheel carriages, which seem to have had an extra rate of duty on them,) were ten per cent., seven and a half per cent., and five per cent. By the way, I may say here that a very large list of specific duties was embraced in that bill. In the following month an act was passed in reference to the mode of valuation, to which I beg to call attention:

"That the *ad valorem* rates of duty on all goods, wares, and merchandise, at the place of importation, shall be estimated by adding twenty per cent. to the actual cost thereof if imported from the Cape of Good Hope, or from any place beyond the same; and ten per cent. on the actual cost thereof if imported from any other place or country, exclusive of all charges."

I say that that ten per cent. and twenty per cent. are items sufficient to cover the duties, and to cover the interest on the voyages, in each of these cases, which are fair charges upon the value of the importations when they are landed. The duties under that act average seven and a half per cent., and the ten per cent. additional on cost of goods imported from Europe would cover the amount of duties and the interest on the voyage, and the twenty per cent. additional on voyages from beyond the Cape of Good Hope, which then took about eighteen months, would cover the duties on those goods and the interest on their voyage. That brings the valuation to the fair cost of the goods, duty paid, in the market of importation.

In 1795, there was another clause that the Senator has referred to, not repealing, however, this ten per cent. or twenty per cent. provision, but which said this:

"That after the said last day of March, the valuation of all goods, wares, and merchandise, subject to payment of duties *ad valorem*, shall be made on the actual cost at the place of exportation, including all charges, commissions, outside packages, and insurance only excepted."

Now, I should like to ask the Senator from Virginia if that includes the freight? You are to include all charges except outside packages, commissions, and insurance. Does that exclude the freight? From this phraseology, as I commented before, taking the place of exportation, has resulted the blunder about freight; but there has not been a law passed since 1795 down to the present day, but what, fairly considered without prejudice, would not justly and legitimately include the freight. I hazard nothing in saying that.

The Senator from Virginia, not content with the general practice on which he relied, quoted from the decision of some court, and stated that there would be great inequalities in the ports of this country if the freight was included. He instanced that New York was more eligibly situated in reference to Liverpool than other ports, and freights would be more from Liverpool to New Orleans than from Liverpool to New York. Well, that is an argument I have seen in the newspapers; but I have yet to learn, that taking all the ports in the world, New York is any nearer to them than Charleston is. It may be nearer to some ports with which we have a great deal of commerce, but it is no nearer to many ports of the world with

which we have commerce than any other of our ports. This idea results from the notion that New York is about the only port in the United States, and that Liverpool is about the only port in Europe with which we have any intercourse. I should like to know if New Orleans is not much nearer to the Island of Cuba, where we have a commerce half equal to that with England, than New York is? These arguments are used to mislead and divert the public.

I will read one other law in regard to the valuation of goods. The act of 1799 provides:

"That the *ad valorem* rates of duty upon goods, wares, and merchandise, at the place of importation, shall be estimated by adding twenty per cent. to the actual cost thereof, if imported from beyond the Cape of Good Hope, and ten per cent. to the actual cost thereof, if imported from any other place or country, including all charges, commissions, outside packages, and insurance only excepted."

Does that exclude the freight? So I say of every law that has passed from that time to this. No man can doubt that when you except insurance from among the dutiable charges, you mean the insurance upon the voyage of importation. It is a charge which is usually entered on the invoice book of every merchant who imports goods as among the costs and charges. This term, "costs and charges," has a meaning among accountants and is recognized in all the laws after 1799, with the single exception of two years, when the law of 1816 was in existence, which expressly excluded all these charges. Every law that I have been able to examine on the subject, and I have examined them pretty closely, states specifically what shall be excepted from the dutiable charges, and, in the earlier laws, it was commissions, outside packages, and insurance. In the act of 1795 they excepted outside packages, and there was a provision that the bottles in which wines were imported should not be excepted, but should pay the same duty as upon empty bottles. In the early times, they thought something of having the laws consistent. I have here the laws of 1789, 1790, 1795, 1816, 1818, 1828, 1832, 1833, 1842, and 1846, in reference to the valuation of goods. In every one of those acts, and in the law of 1851, under which the decisions of Judge Nelson and Judge Curtis, that have been quoted as entirely settling this question, were made, the same provision will be found. Those decisions related to the coastwise freight, as it is called. Judge Curtis said that if it was a new question, he could not perceive why freight was not a dutiable charge as well as anything else; and Judge Nelson, in his reasoning, stated that the cost of an article, at a certain place, included everything that had been paid for it up to landing at that place. If that does not include freight, I do not know what does.

I wish now to call the attention of the Senate to some of the evidences the Senator from Virginia gave of the unexampled prosperity that had resulted from low duties. In the first place, to show the prosperity of the manufacturing interest, he said that the exportations of American manufactures had increased threefold, under the low rates of duty, and that, he said, was conclusive as to their prosperity. I should like to ask you, Mr. President, if the Government of the United States should adopt a policy that destroyed the home market of the home producers, and forced them to export their whole products, would that be any evidence of their prosperity? The increase of the exports of American manufactures, instead of being an evidence of the prosperity of the manufacturers themselves, is only an evidence that the policy of the country has destroyed the value of the American market for the manufactures. This is a clear proposition. I should like to ask the Senator from Georgia, if the prostration of the present year had entirely disabled the manufacturers of the United States from consuming any cotton, and had forced the cotton growers to export their entire crop of this year, would he have thought that was any evidence of prosperity?

Mr. TOOMBS. I will state to the honorable Senator from Rhode Island that I do not think this is the proper time to discuss the subject, and I do not wish to answer any question in regard to it. We are very busy with the appropriation bills, and I really think we ought to go on with them.

Mr. SIMMONS. I was in hopes I could get

the Senator to aid me in putting this provision in this bill.

Mr. TOOMBS. We have but three days left.

Mr. SIMMONS. We cannot get through in that time. If I am not likely to get this proposition on the bill now, I will not waste the time of the Senate; but I desire to show, on some occasion, as briefly as possible, that there is nothing improper in it, as I have been assailed for endeavoring to do it improperly.

Mr. TOOMBS. I do not pass any judgment on the Senator. I do not deem it a proper time for me to discuss the tariff. I judge for myself. I do not assail the Senator. He can use his privilege and talk until Monday morning, if he chooses; but it is not according to my ideas.

Mr. SIMMONS. I do not mean to talk an hour, but I wish to answer the evidences presented by the Senator from Virginia, as showing that the tariff of 1846 had done a great deal of good, and that we should adhere to the policy of it, though the country is bankrupt and the Treasury impoverished by it. I think it is our duty, when we are providing appropriations, to look after the means to pay them. I think that, if we could adopt some plan by which to increase our revenue ten or fifteen millions a year by preventing frauds and giving the business to our own country, two or three hours would be judiciously spent in such a service. I regard it as of more consequence than all the appropriation bills we have passed, or are likely to pass. I know the Senator from Georgia is friendly to my proposition, and therefore I would take his advice sooner than that of almost any one I know, for I believe he understands the matter as well as any man in the Senate; and I take the remarks which were made by the Senator from Virginia, in reference to home valuation, as applying as much to him as to myself, for he defended it with a great deal more ability than I did.

There was another fact stated in the speech of the Senator from Virginia which he intended, he said, to send before the country, in reference to the influence of low duties and fraudulent undervaluations, for they constitute a part of the lowness of the duties, to wit: the exports of breadstuffs. He stated that the exportations of breadstuffs and provisions had increased threefold since the operation of the tariff of 1846. Now, I have taken the annual exportations of breadstuffs in the last four years of the tariff of 1842, which are returned. The returns are made up to the 30th of June of each year, and I should have taken another year but that the fiscal year was altered in 1843, and for that year we have not the full returns. I find that in the last four years of the tariff of 1842 the exportations of the crops of those four years amounted to \$130,227,900, making an average of \$32,556,000. Then, in the six years under the low tariff of 1846, as the Senator from Virginia calls it, which bring us down to the time of the reciprocity treaty with Great Britain, since which period the exports of all her American provinces went included with ours, give a total of \$183,000,000, or an average of \$30,500,000, which is not so much by \$2,000,000 as under the higher tariff; and yet the Senator talks about their increasing threefold. There is a way of stating figures in which you can make out almost anything from them; but I take a series of years to see what the result of all measure is.

In the arguments used on this question, although there is no fact to justify them either in the history of the Government or the laws of the country, it is assumed that freight may be excluded, and the duties be imposed upon the foreign value when every law we have had heretofore has been predicated on the value of the goods in this country instead of abroad. Why, sir, the argument of the Senator from Virginia last year, when the present tariff bill was passed with regard to wool, was one of the most singular ones I ever heard, and yet it seemed to have a great effect then. Now, if I could induce the Senate without an argument to take a vote on my proposition and adopt this system, I would most certainly cheerfully waive any opportunity that might be afforded me of giving an argument; but there were one or two observations made by the Senator from Mississippi [Mr. DAVIS] in reference to the uncertainty and impossibility of executing a law of this kind to which I wish to call attention. My amendment proposes to assess the duties on the market

value in the principal markets of the United States. Your present law predicates that the duties must be levied on the value at the principal market in the country where the goods are produced. Does any man undertake to say or believe that we cannot better ascertain the market value of articles in the city of New York, where at least two thirds of the duties on imports are paid, than we can in the principal port of China, to wit: Shanghai; or is it in the nature of things that there must be more difficulty in ascertaining what an article sells for in New York than in Europe or Asia? It appears to me too plain a proposition to be argued.

The Senator from Mississippi said there were some articles imported into New Orleans that were not known in New York. That, I think, is a mistake; but I have provided that in any such cases the duties should be taken in kind, and that gets over all those difficulties. My proposition was so hastily printed that the printed copy contains some errors. No time is given for a man to prepare an amendment to an appropriation bill, or any other bill, here. I have corrected the printed copy, and made it so that I think there can be no difficulty on that score.

There is another provision, that the goods shall be valued in the currency of the United States. Senators would hardly imagine the difference between the valuation of goods here and in China, simply on account of the currency. I addressed a note to one of the largest houses in China for the purchase of goods destined for Europe and the United States, to inquire in regard to the different currencies in the different ports of China, and the answer which I received is a very intelligent and instructive one. I will refer the Senator from Virginia, if he has any doubt about the responsibility of these men, to my colleague, who knows the partner of the firm that wrote me this letter. He says that on one invoice of \$1,000 purchased in Shanghai, per invoice cost, the cost to the importer in New York, including exchanges, transit, and expenses, is \$2,300. An invoice of \$1,000 worth of goods bought at Shanghai, costs the importer \$2,300 when it is laid down in the city of New York. Upon some articles, such as silks, the duty is not over nine per cent. on the actual value here. Is there any propriety in keeping up such a system? If you valued these goods in New York, you would get duties on \$2,300 instead of \$1,000. If they are entered from Foo Choo, the difference would be less, on account of the exchange, and from Hong Kong it would be eighteen or nineteen hundred to one thousand dollars. These are some of the inequalities we are now subject to, and we import \$20,000,000 annually from China; and we do not get, on an average, half the duties, owing to the difference between the currencies and the valuations.

The Senator gave one other illustration, and spoke with great apparent triumph that I had not answered his figures exhibiting the favorable influence of low duties upon exports. He gave us the exports of tobacco, and said they had increased threefold under a low-duty system. I should like Senators who live in regions where they grow tobacco, to say if it ever occurred to them that the increase in the exportation of tobacco was in consequence of low duties? I suppose the duties on tobacco in all the consuming countries are from three hundred to eight hundred per cent.; and yet the Senator parades the figures about the export of tobacco as an evidence of the stimulant that low duties give to exportation. I dare say the duties on tobacco average five hundred per cent. in all the consuming countries of Europe; and yet, in the last ten years, the exportation of it has increased threefold; and the Senator says that it is an evidence of the influence of low duties on the exports of the country! I should like to have had time to review every single instance he gave upon which he said he was going to the country to justify him in refusing to correct frauds when he was hiring money to supply deficiencies in the revenue. He took the ground that low duties were producing the most beneficial results on the classes he enumerated. I have given every one of the instances he stated from his tables. I could tell the reason why the exports of manufactures have increased. I have already indicated it by saying that low duties had destroyed the home market for some of those articles, and had induced the manufacturers to carry the coarser

fabrics into the market of the world to dispose of, very much to their injury and the detriment of the general prosperity of the country. But you may cipher out tables, and you might say that if you were to destroy all manufacturing here you would benefit the cotton planter, because he would have to export his whole crop; whereas, every cotton planter knows that the consumption of one fifth or one sixth part of the crop in this country enables him to sustain the prices all over the world: We come into the market early; and it is our purchases that give tone to the market, and enable them to sustain prices by diminishing the amount they are obliged to send abroad.

I should like to have the vote on this proposition to incorporate into this bill a measure for valuing goods in this country, and I had intended to accompany it, if I got the assent of the Senator from Virginia, with a proposition to classify the articles above the average rate so as to put them all on an equality, and then let him, or any friend of his who has charge of the revenue, fix the rates, and then let them not charge upon us, or upon me at any rate, any disposition to increase the duties, or increase protection. I said in the outset, and I say still, that if you stop the frauds, and put the different producers on a fair footing of equality, you may fix the rates, and get your revenue to suit yourselves. I do not like to see a discrimination by which one interest has less than another with a view to break down the interests of the country in detail. Let them all fare alike, put an equal rate on all the articles you intend indirectly to encourage, and fix the rate to suit yourselves. I think, myself, that twenty per cent. would yield more revenue, if you could prevent frauds, than the present rates; and I would be content with it, because it would be uniform and certain, and American importers could import as favorably as foreigners; and when the trade comes to be in the hands of responsible men, that is a great security to producers in this country as well as those who deal with them. I send the amendment to the Chair, and I ask that it may be read. It is so modified, I think, as to meet the objection offered by the Senator from Mississippi about his New Orleans goods.

Mr. HALE and others. We do not want it read.

Mr. SIMMONS. Then I will state the parts I have changed, with a view to meet the objections suggested by the Senator from Mississippi. I see, however, that the Senator from Virginia has got back; and I must ask him if he is satisfied with classing all the goods together, and putting a rate to suit himself?

Mr. HUNTER. I will say to the Senator from Rhode Island that I do not mean to be drawn into a discussion of the tariff on this bill. When it comes up legitimately, if I should be so fortunate as to be here, and he should be here next year, I shall be very willing to hear him, and compare opinions with him; but that is a matter I do not desire now to debate. I raise a question of order on this amendment. We ruled out the amendment of the Senator from Mississippi to the river and harbor bills; and I ask the Senate to apply the same rule to this amendment.

The amendment of Mr. SIMMONS is as follows:

Sec. — And be it further enacted, That the provisions of the sixteenth and seventeenth sections of the act of 30th August, 1842, the eighth section of the act of 30th July, 1846, and the first section of the act of 3d March, 1851, so far as the same relate to and direct the manner of ascertaining and determining the value of merchandise imported into the United States, at the principal markets of the countries from which the same are imported, shall remain and continue in force, and in all cases, when the same is practicable, the invoices of all goods, wares, and merchandise at the place or port of exportation shall be verified by the certificate of the consul of the United States at such port; and in no case shall the duties upon goods be levied in any port of the United States upon an amount less than the value stated in such invoices, as required in the proviso to the eighth section of said act of 30th July, 1846, unless the quantity of the articles imported shall be lessened, or the quality injured upon the voyage of importation.

Sec. — And be it further enacted, That, in order to prevent the continuance of fraud upon the revenue by the undervaluations of foreign imports, and to provide for the valuations of imports in the same currency of the United States, it is hereby provided that, in addition to the existing provisions of law for the entry and appraisement, or valuation of any goods, wares, or merchandise imported into the United States, it shall be the duty of the owner, importer, consignee, or agent of any goods, wares, or merchandise imported into any port of the United States, to exhibit to the collector or other proper officer of the customs of such

port, a true invoice of the goods, wares, and merchandise entered by such person or persons at such port, embracing a statement of the quantity, description, nature, quality, and the true wholesale market price or value of the same or similar articles in the principal market of the United States, to wit: the city of New York, at the time of such entry of importation, or at the time nearest thereto which is practicable, and such invoice shall be verified and proved by the oath of the said owner, importer, consignee, or agent, who, on conviction of false swearing thereon, shall be subject to the forfeiture and penalties as provided by the laws of the United States in like cases, and prosecuted as for wilful and corrupt perjury; and, upon such wholesale market price or value, to include all elements of cost or increments of value which enter into and become a part of such wholesale market price or value, the rates of duty imposed by the existing laws of the United States, at the time of entry of such importation, upon each article enumerated in such invoice, shall be assessed and paid: *Provided*, That if any collector or other proper officer of the customs shall have doubts as to the correctness of the valuation as above described, or should complaint or information be made or given by any person or persons, of the incorrectness of any such valuation, it shall be the duty of the collector or other proper officer of the customs to cause the true and actual wholesale market price or value of the same or similar articles in the city of New York, at the time of entry at the port of entry, to be ascertained and appraised in the same mode and manner as the wholesale market price or value is now ascertained and appraised in the principal markets of the countries from which the same is imported; and it shall in every such case be the duty of the appraisers of the United States, and every one of them, and every person who shall act as such appraiser, or of the collector and naval officer, as the case may be, by all reasonable ways and means in his or their power, to ascertain, estimate, and appraise the true actual market value, or wholesale price of such goods, wares, and merchandise, in the city of New York, at the time of entry of such goods, wares, and merchandise, at the port of importation, without regard to any other invoice, valuation, or appraisement, or verification of the same by oath or otherwise, or the difference of any such invoice or valuation to the contrary notwithstanding. And if such last mentioned appraisal, or valuation shall exceed by ten per centum or more the value so declared on the entry, then, in addition to the duties imposed by law on the same, there shall be levied, collected, and paid a duty of twenty per centum *ad valorem* on such appraised value, as provided in the eighth section of the act of the 30th July, 1846, entitled "An act reducing the duties on imports, and for other purposes." And the several collectors or other proper officers, under such regulations as may be prescribed by the Secretary of the Treasury, whenever it may be impracticable to ascertain the actual market value at said port of New York, or from any other cause they shall deem it necessary to secure the proper payment of the revenue due to the United States upon the importation of any goods, wares, or merchandise, may, and they hereby are required, whenever the same is practicable, to take the amount of duties chargeable on any articles bearing an *ad valorem* rate of duty in the article itself, according to the proportion or rate per centum of the duty on said articles; and such goods so taken the collector or other proper officer shall cause to be sold, at public auction, within twenty days from the time of taking the same, in the manner prescribed by law, and place the proceeds arising from such sale in the Treasury of the United States. And the said collector or other proper officer of the customs is further authorized and required, when he shall deem it necessary, to secure the proper payment of the duties accruing to the Government of the United States, to proceed in the manner prescribed in the eighteenth section of the said act, approved the 30th day of August, 1842, even though no fraud or intentional undervaluation shall be imputed; and as compensation to the collector and appraisers for their services in such proceeding, they shall be entitled to a commission of one per centum, to be shared by them, upon the amount of duties thus secured and paid, in addition to such other compensation as they are, by law, entitled to.

Sec. — And be it further enacted, That should any person or persons complain or give information to the collector or other proper officer of the customs, that any false or undervaluation of any goods, wares, or merchandise has been made by any owner, importer, consignee, or agent, as aforesaid, under the preceding section of this act, or of any existing law of the United States, with a view to defraud the Government of the duty legally due upon the same, the proper officer shall proceed to ascertain and appraise the true market value, as provided for in the preceding section and according to law, and if any forfeiture or penalty shall be incurred by any such owner, importer, consignee, or agent, one half the amount or value of such forfeiture shall accrue to the benefit of the person or persons complaining or giving information which may have led to the detection of such fraud or undervaluation.

Sec. — And be it further enacted, That all acts and parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed.

THE PRESIDING OFFICER. The Senator from Virginia makes a question that it is not in order to originate in the Senate such an amendment as this. That question the Chair will submit to the Senate. Is this amendment in order?

The question being taken, it was decided in the negative.

Mr. CRITTENDEN. I am well aware, Mr. President, how weary the Senate must be of this bill, which has occupied so much of its time and attention; but I wish to offer an amendment, the object of which is to continue the publication of the American State Papers. The character of this work I need not undertake to explain to the Senate. Under the authority of Congress, this publication has been brought down to 1834; the publication since that time has been discontinued, and

the object of the amendment which I offer, is to continue the publication. I know the prejudice which exists against the publication of books; but I think that this publication does not come within any of the reasons upon which the general objection to the publication of books, under the encouragement of Congress, has been founded. It is a sort of monumental history of all great transactions of the Government. It is a work eminently useful, if not necessary, in the course of legislation, and in the course of the administration of the Government, by all its high officers, from the President down. We often find it necessary to appeal to it. It is a work which we, and we alone, are competent to execute. It is a work not only necessary but useful to those who act under our Constitution as the representatives and officers of the people; and it is a contribution which we owe to the general political history of the whole world. It is a documentary history of the proceedings of Congress, and of the executive department of the Government. It embraces congressional as well as executive documents. It is an authentic monumental history which we owe to ourselves, as part and parcel of the operations of our Government, connecting itself so nearly with the Government that I may almost say it forms part of the Government. The information is now so dispersed and scattered that all reference to it is impracticable. It must be brought together, and published.

The amendment, then—because I intend as far as in me lies to recommend, rather by the brevity of my remarks than by the remarks themselves, this amendment to the favorable consideration of the Senate—does not provide, nor is it my intention at all, or within the scope of my anticipation, that any portion of the work proposed to be published, shall be distributed gratuitously to members of Congress. The amendment provides for the distribution of a certain number, not including members of Congress in the distribution, and reserving all not distributed by this amendment for future distribution by Congress. We ought to supply with it, in the first place, all those officers of the Government whose duties may require them, and will require them, if they discharge their duties understandingly and well, to have reference to those volumes. After supplying these public officers properly with them, this amendment provides that the public libraries of the country shall be furnished with a copy, and the rest retained for your future distribution. I shall hope that they will be presented to all the Governments of the world, and we shall receive in exchange for them, no doubt, ample satisfaction in works of the same character, giving us an authentic documentary account of the operations of those Governments. Therefore, I say this is a general contribution to the political world of the operations of one of its great Governments, a certain and true history of public transactions. They may be given in exchange to all the Governments of the world. I should hope to do that. It is a worthy gift—a gift worthy to be given by a nation, and worthy to be given to nations. It is the record of the proceedings and grave transactions of one of the great Governments of the world. It stands by itself, and is a peculiar work; and it is the peculiar duty of the Government to provide for its publication.

I shall trespass no longer on your time, sir, except to say further, that we have the opportunity now of having it continued by those who published the former series of this work, and in whose integrity, in whose intelligence, in whose ability, in whose candor, and truthfulness, and accuracy in the publication of such a work, we may entirely rely. It provides that the publication here shall be continued by the publishers of the former series, Gales & Seaton.

With these remarks, which I have limited as far as possible, I submit this amendment to the consideration of the Senate, and hope it will be adopted as part of the bill. It makes no appropriation. It avoids all questions of order, as I understand. No appropriation is made—none whatever.

And he it further enacted, That the Secretary of the Senate and Clerk of the House of Representatives be, and they are hereby, directed to continue down to the 4th of March, 1839, the compilation of the congressional documents published by Congress, under the name of the American State Papers, in the same manner as the first series thereof, under the authority of the act of Congress of March 2, 1831, and the joint resolution of Congress of March 2, 1833, and with

the same particular index to each class, and a general index to the work; and the said Secretary and Clerk are hereby directed to contract with Gales & Seaton, publishers of the first series thereof, for publishing the same, not to exceed two thousand copies in number, at a price per volume not exceeding that paid for the first series, to be delivered to the Secretary of the Interior as the same may be published; and the said Secretary of the Interior shall place three hundred copies in the Department of State, for its use, and for exchange with foreign Governments, and seven hundred copies in his own Department, for distribution to public libraries in the several States and Territories, and hold the residue of the copies in his custody, subject to the future direction of Congress.

Mr. CLAY. I am not going to make a speech on a point of order. We have consumed fully one day in the last five discussing points of order; and I do not suppose anybody's opinion has been changed by an argument that has been made; but I raise a point of order on the amendment; and it is this: that, under the 30th rule, such an amendment must be proposed by some select or standing committee of the Senate. I ask the Senator from Kentucky whether it comes from any standing or select committee, and is reported by their authority?

Mr. CRITTENDEN. No, sir.

Mr. CLAY. Then I raise the point of order. The Senator seems to have anticipated it by saying that it appropriates no money. That is very true; but I do not suppose that anybody thinks these gentlemen will do this work gratuitously; and I predict that, if the Senate adopt it, it will require an appropriation hereafter of \$300,000 to satisfy it. I do not know that I would vote against such a proposition if it came as an independent bill; but I think it is clearly in violation of the 30th rule of the Senate as an amendment to this bill. I make that point, and ask the Chair to decide it.

Mr. CRITTENDEN. Certainly, I do not mean to debate any question of order. I know very little about such questions, and I have very little taste for debates in this body on them, which, as the gentleman says, have occupied so undue a portion of our time. I have understood, on a former occasion, when the amendment was offered, its containing no appropriation was considered as putting it out of the rule, relied upon by those who have made questions of order in reference to such amendments—

Mr. DAVIS. Mr. President—

The PRESIDING OFFICER. The Chair will state his opinion on the question of order. The language of the rule is this:

"No amendment proposing additional appropriations shall be received," &c.

The Chair thinks the rule is confined strictly to amendments which propose, in themselves, appropriations of money, and does not include those which may make appropriations necessary hereafter.

Mr. DAVIS. The decision of the Chair then is, that it is in order.

The PRESIDING OFFICER. Yes, sir.

Mr. DAVIS. I had nothing to say, when I rose, to the point of order, further than that if it was not in order, I hoped the form would be changed so as to make it in order. I am very anxious to see the continuation of the publication of the State Papers. I believe it the most valuable work that has ever been issued for the country at large, and I am at a loss to know how any one who is charged with the examination of old subjects can possibly pursue them without that work. If I had never been in an Executive Department, I probably never would have made the experiment. I will merely say, as the result of that experiment, that I do not believe any one has time enough to examine two or three questions in the course of a season, if they are those which have been connected with our history from an early period, by pursuing them through the Executive Documents. In the State Papers you find them collected in a few volumes, grouped according to the subject to which they belong, and the references are easy. The ability to pursue it, therefore, is such as will give some confidence, when you have closed the investigation, that you have found all that has been done in the history of your country upon it. I know nothing of what this would cost. I take it for granted that it cannot exceed the value. If the work be done judiciously, I am sure it will be one of the best expenditures of money which the country could make. Far better, if this question be one merely

of dollars and cents, that we should stop the publication of the Executive Documents, and that we should only publish in this form, and publish from time to time, every lustrum, collect them together, and publish volumes devoted to a particular subject, and thus render it possible for a public man who is engaged in an investigation to pursue the subject as contained in his country's history.

Mr. PEARCE. I think, on an estimate which I caused to be made a few weeks ago, that there are something like nine hundred volumes of public documents since the beginning of this Government. The first series of American State Papers came up to 1831, that being the period of the original resolution. The public documents have annually swollen since that period, so that I apprehend there are about five hundred volumes of public documents which have been published since the date of the authority given to publish the first series of American State Papers; so that in order to prosecute an inquiry regularly through the public documents, it may be necessary to examine the indexes of five hundred different volumes. At all events, information is scattered through about five hundred different volumes which would be condensed into this one publication, all classified and arranged under proper heads, indexed by classes, and a general index, too; so that a very easy reference might be had in the investigation of any subject and the documents relating to it. I think this is unquestionably a desideratum. Every member of the Senate knows how very convenient the original series of American State Papers have proved. Nobody thinks of examining the original documents, but always goes to the State Papers for a convenient reference and easy finding whatever he seeks for. I consider it a great desideratum, unquestionably. It is for the Senate to say whether they will prosecute this continuation now. As the money which it will cost us will not be payable immediately, as it will take some time, probably a series of years, before the whole work can be completed, the payments will be distributed over a considerable time, and will average lightly each year. I believe the work well worth its entire cost, which I suppose to be about what the Senator from Alabama has assumed.

Mr. BENJAMIN. I ask if the amendment provides for the distribution of any of those documents among the members of Congress?

Mr. CRITTENDEN. No, sir.

Mr. BENJAMIN. If it does not, I will support it very heartily. I will say nothing on the subject, if nobody objects to it.

Mr. CAMERON. I have opposed the increase of expenditures in this House from the commencement, and I have been particularly desirous of reducing the amount of public printing. If this were any ordinary document I should certainly oppose it; but it is of a different character. As has been properly stated by the gentlemen who have preceded me, it is a work which will some day or other be published. It is only a question of time. Then, it is for us to decide whether these gentlemen, who have had charge of the former portion of the work, shall continue it, or some other gentlemen, who may not be so properly qualified or so faithful. It is useless for me to say anything of the character of these gentlemen. They are known to everybody. There is hardly a man in the United States who does not know Gales & Seaton by reputation; but to the members of the printing business, the editorial corps, as we call ourselves, they are especially known. In very early life I was in their employment, and there are no better men in the world than both of those gentlemen. As printers, as editors, their history is known to the whole country, perhaps to the world, but as men they are not so well known. These gentlemen have expended the whole labor of their lives in doing good. No men that I have ever been acquainted with have so much of kindness, so much of generosity, and so much of benevolence.

I could recount fifty instances of men going into their office when it was inconvenient to them to part with any portion of their means; and I have never seen a man go out of that office without receiving some aid and comfort. I remember a case which occurs to me at this moment. Thirty years ago, or more, there came into the printing office of Gales & Seaton a pale, emaciated, sickly-

looking man, who seemed to be on the verge of dissolution. He called on the foreman for employment. He was poor, sick, and had no money. The foreman said to him rather sharply, "I am sorry for it, but I have no work to give." He left the printing office. At the door he met Mr. Gales. He looked so miserable that he attracted the attention of Mr. Gales, who said, "My good man, what is the matter with you?" "Why, sir," he replied, "I am very sick, and I have been here to get work, and the foreman says he cannot give me any." "Oh," said Mr. Gales, "he has forgotten; we never turn a man out of this house who is sick. Go in; I will find something for you to do." That act of kindness saved that man's life; and I have traced him through his history since. I saw him afterwards a learned member of the bar in his own State, a member of the Legislature, a judge of the court, a member of Congress, and now a supreme judge in one of the States of this Union.

That is but one of the instances of the kindness of these people. Their whole life has been spent in doing good. You can employ nobody who will do this work so faithfully as they will; probably nobody can do it so well. That it will be done hereafter, there can be no doubt. It is only a question as to time, then. Under the lead of my respected friend, the chairman of the Committee on Printing, we have already saved, on the cost of printing documents ordered previous to this session, over three hundred and sixty thousand dollars. I think the Senator from Arkansas will bear me out in that. The expense of printing will be, probably, eight or nine thousand dollars less than several years past. It seems to me that that and other reasons show this to be the proper time for this work. I confess, I have more personal feeling in this matter, because I know these men are not only men of intellect, but men of heart, and I never saw a man of heart who was not a good citizen. I have scarcely ever seen appeals in favor of men of generosity and benevolence, such as these are, that did not meet a response from generous and kind men, such as this body is composed of.

Mr. HAYNE. I consider this to be a great work. So far as it has gone, it has been well performed. The gentlemen who have done the work well so far, it seems to me, are entitled to complete it. It is a national work; it is a work which every great statesman would like to possess; and, really, I hope, under these circumstances, Senators will give it a favorable consideration, and sustain it by their votes.

Mr. TOOMBS. This is a business transaction, and one of very considerable importance. I should like to know, from some of the friends of the proposition, what the probable cost will be? There seems to be no response.

Mr. MASON. I understood the Senator from Alabama to suggest that it would cost probably about two hundred thousand dollars; and the Senator from Maryland said that would be the amount distributed over a number of years.

Mr. TOOMBS. The Senator from Alabama does not pretend, I suppose, to know whether it will cost \$200,000 or more. I heard, in the same irregular way, when the Senator from Louisiana introduced this proposition at the last session, that it would cost \$800,000.

Mr. BENJAMIN. I do not think it is possible to tell, with any approximation to accuracy, what it will cost, for the reason that no man can tell what will be the number of volumes formed after the selection shall have been made out of the material, of those things that are required for preservation as part of the documentary history of the country, and those portions of the executive documents which merely refer to temporary and transitory matters. I do not think anybody can calculate the cost, because we cannot tell how many volumes there will be.

Mr. TOOMBS. I should like to ask gentlemen what rates of compensation are to be paid? It provides for paying the same price that was paid before. I should like to know how those rates compare with the present prices of public printing? This is a business transaction; and we ought to know whether we are to pay more or less than the work can be done for by the printing establishment of the United States. It is to that branch of the subject particularly that I wish to direct my attention. Can anybody tell me how the max-

imum rates proposed vary from the amount we now pay under the printing law?

Mr. CAMERON. I have paid some attention to the prices, and from the inspection I gave them, as a printer, my belief is that the former prices are less than those now paid, except as to press-work.

Mr. TOOMBS. If that was so, I should be much better satisfied, but I do not want to have the work done for less, and therefore I shall move to amend the amendment, by putting in a proviso that the rates allowed shall not exceed the prices now paid for public printing. I think these gentlemen, whose personal characters I can bear testimony to, as far as it goes, ought not to get less than is now paid for similar work, if it is proper and necessary that this publication should be made. I shall therefore move to amend the amendment by inserting a proviso that the rates allowed shall not exceed the prices now paid for congressional printing.

Mr. CAMERON. There may be some difference in the price of press-work between the present system and the one in existence at the time this work was done. The edition is a small one, two thousand volumes. The prices for composition then were less than now, but the press-work was more.

Mr. TOOMBS. I asked the question for the purpose of laying the foundation of the few remarks I wish to make on this subject. It is a very large business and nobody can tell anything about it. Not a single Senator knows whether it will involve us in \$200,000 or \$800,000, or what the expense will be.

Mr. JOHNSON, of Arkansas. My attention was called to this matter this morning, for the first time. I have no objection in the world to the work being given to the parties to whom it is proposed that it shall be given. I do not entertain any but the sincerest and most kindly feelings for them. I shall not interpose any factious opposition to this movement, but it is my duty to point out to the Senate two or three considerations connected with the expense of printing books of various descriptions. The amendment is directly in conflict with the provisions of a bill that the Senate have passed, and sent to the other House. That bill provides that we will not contract for, nor order to be printed, any work which is not already compiled, and ready to be delivered into the hands of the Printer, with an estimate of its cost. It is apparent, now, that we are about to order these gentlemen to proceed to make up a work which no one can tell the limits of, either in point of time or expense. We have no limitation as to the number of volumes or their cost. We presume, from the character of the proposition, that the completion is to be printed in quarto form, as the former edition of the American State Papers was, and that it will be done in the same manner, and with about the same number of pages in each volume. This amendment provides for paying not exceeding the same rate that the work cost previously, per volume. This shows nothing as to what the former work cost, per volume. I have no idea that each volume cost the same; I presume some volumes cost a great deal more than others. The contract is to be made by the Secretary of the Senate, and it is to be made before we know what is to be printed, and even at the next session we shall not know, nor at the next after that, nor at any other session, until the whole of the work has been prepared for publication. Then, the proposition is directly in the teeth of what the Senate considered would be good policy in passing the bill to which I referred, by requiring a work to be completed ready for delivery, and to be accompanied by an estimate of the cost of printing it, based on the work itself, in manuscript, before you would consent to make an order or contract for printing at all. That is the past action of the Senate at this session.

Another provision was made in that bill, which this proposition is in the teeth of, but not so pointedly as in the respect which I have already pointed out. I do not know whether it is contemplated by the honorable Senator who offers the amendment that the Secretary of the Senate and Clerk of the House of Representatives shall receive extra compensation for making the compilation, or whether it is to be regarded as embraced in their usual duties. I do not see any limitation here on the cost in that respect. I should like to be fur-

nished with some data to go upon; but there is nothing here by which we can tell what the cost will be.

Mr. CAMERON. Allow me to say to the Senator that the amendment to restrict the prices, as proposed by the Senator from Georgia, will be acceptable as far as I am concerned. I am willing to provide that they shall be restricted to the prices now paid.

Mr. JOHNSON, of Arkansas. The question the Senator from Georgia put was in regard to the rates of printing. The amendment provides that—

"The Secretary of the Senate and Clerk of the House of Representatives be, and they are hereby, directed to continue down to the 4th of March, 1859, the compilation of congressional documents published by Congress, under the name of the American State Papers, in the same manner as the first series thereof under the authority of the act of Congress of March 2, 1831, and the joint resolution of Congress of March 2, 1833, and with the same particular index to each class, and a general index to the work. And the said Secretary and Clerk are hereby directed to contract with Gales & Seaton, the publishers of the first series thereof, for publishing the same: not to exceed two thousand copies, at a price per volume not exceeding that paid for the first series."

The Senator who presents the amendment did not state, or, if he did, I did not hear, what that price was; and we have no means by which to judge of that price. In answer to the question of the Senator from Georgia, I say I cannot tell how that price corresponds with the present price at all.

Mr. TOOMBS. This is a most extraordinary proceeding, that grave Senators should insist, whatever may be the value of this work, that you should go on and direct your officers to contract for printing certain papers, exceedingly voluminous, at a price that nobody here knows whether it is enough, half enough, or twice too much. I have asked every Senator present if he has any idea whether the contract made twenty-five years ago was a reasonable or unreasonable one, or even what it was. We have no conception even of what it was, so that we can compare it with the present prices. I know that books are much cheaper now than they were a quarter of a century ago: I am no printer, and I know very little about these matters. I know, however, that the Senate, not understanding these matters, have adopted the policy which my honorable friend from Arkansas, at the head of the Printing Committee, has suggested, and that we have deemed it necessary to require an estimate of how much a book will cost before we print it. I desire to know the cost of these books. I do not think them valuable; but if they are valuable, I wish to know whether we are going to pay what the work can be done for, or simply to give a job. My question involves that exactly. If the object of the Senate is, on account of the value of these papers, to have them printed for the use of the Government, prudence, and a common regard for the public interest, would require that they should see that they give no more for the printing than the work can be fairly done for in the market. It appears, however, that there is no human being in this body who knows what the price is—whether it is four times or ten times too much, or only one half what the work can now be done for. I say if this is a proper thing to be done, it ought to be done with deliberation; it ought not to be brought up every session on an appropriation bill. Why has it not been brought to the attention of the proper committee during the session of Congress? It has not been overlooked; for it seems there is a gap of more than thirty years to be filled up. It was brought to the attention of the Senate at the last Congress by my honorable friend from Louisiana on an appropriation bill in the same way. It seems to be a favorite spot, I believe, where printing jobs have been put on. We are taking this up at a time when investigation is not possible, and when its friends, even, are unable to give that information which it becomes the Senate to have, if they will make contracts, which I do not think ought to be done; but if it be a fit thing to be done, if it be a wise thing to be done, if it be a proper thing to be done, let it be done wisely and properly, with some regard to the public interest. It is not a question whether this be a valuable publication. If you settle that in your mind, the next point is, are you having it done on the ordinary terms, giving to the laborer his hire? I wish to take nothing from him, but to give the fair price of doing such work in the market.

Mr. DAVIS. I will say to the Senator from Georgia, as I was one of those who said I was willing to take the price, that my impression is that the present price would be more favorable to the publisher than the old one, and the limitation proposed is one to which no objection can be made except that I think, with such information as I have, it will cost a little more money.

Mr. TOOMBS. I would risk what little estate I have in the world on that.

Mr. CAMERON. I have prepared an amendment such as was suggested by the Senator from Georgia, which I think will meet his views. I understand he has no objection except as to the cost.

Mr. TOOMBS. The Senator is mistaken, for I am opposed to it entirely. This is not the way to do such a thing. Nothing will satisfy me except bringing it in in a separate bill, giving it proper examination, and allowing me to vote intelligently upon carrying on so important a branch of the public service as this.

Mr. CAMERON. My amendment is:

Provided, That the rates for such work shall not exceed the rates now paid for congressional printing.

Mr. PUGH. I call the attention of the Senator from Pennsylvania to the fact that we have passed a bill intended to retrench some of the extravagance in the printing. Why not as well have the benefit of our own experience?

Mr. CAMERON. We have not passed any bill to reduce the prices.

Mr. PUGH. We have retrenched a great many other things, and I thought we had retrenched the prices.

Mr. CRITTENDEN. Did I understand the Senator from Georgia to move an amendment?

Mr. TOOMBS. Yes, sir.

Mr. CRITTENDEN. I am willing, so far as I know anything about it, to accept an amendment restricting the prices to the present rates of public printing.

Mr. TOOMBS. I have not come to that point yet. I have been endeavoring to seek from those who are anxious to adopt this amendment to get some sort of idea as to the basis they are voting upon, and I again repeat, there does not seem to be a human being in the Senate who knows. All they say is, do it. Why do it to-day? Why do it without investigation? Why not let me and other gentlemen know, and let yourselves know, that, in contracting for this work, which it is supposed on the one side may cost \$200,000, and on the other \$800,000, you are having it done properly, having it done at fair rates? That is all I ask. The reason I moved the amendment was, that rather than be in the dark about it, I wanted to have something in the way of a check. I profess to be ignorant about it, and I think it is the duty of those who ask me to vote away hundreds of thousands of public money to enlighten my ignorance, and let me know what this is to cost. I should not be willing to vote on an amendment involving so large an amount of public money without giving some account.

Mr. DAVIS. I will say to the Senator that it is utterly impossible that anybody, even if he had made a special study of the subject, could give him that information. The gross amount to be paid must depend on the amount of matter to be printed. That amount of matter will depend upon the action of the servants of the Senate and House of Representatives. These persons are not to select what they will print, but the Secretary of the Senate and Clerk of the House of Representatives will send to them that which is to be printed, and they will print what is sent to them. It is utterly impossible, therefore, for any one now to tell what the amount of matter will be, and what the cost will be.

Mr. TOOMBS. The Senator is off my point. I want to know whether the terms granted by the amendment are such as are now given for public printing, as I presume that must be considered by Congress to be the standard of fairness.

Mr. DAVIS. I will say that all the information I had on that subject before the debate commenced was, that it was a hard contract on the publishers to take the rates of 1819; and the information I have is, that the present rates of composition are so much higher as to more than counterbalance the advantage in press-work by the old rates.

Mr. TOOMBS. There seems to be a very great desire to give these gentlemen a contract, and I

am sure I have no objection so far as they are personally concerned, but I do not want them to have a hard contract. I do not wish to put even on bad men a bad contract, much less on good men. It is said these gentlemen are excellent people. I think the Government ought not in any case to employ anybody to do work without paying a fair and honest consideration for it. If the terms are hard, I do not want to put them on them on that account. It is no recommendation to me that the terms you propose to put on these old gentlemen are hard. I will not put a hard contract on them. If they can do the work as well as other people, and the contract is a hard one, I will make it an easy one. I am willing to pay fairly and honestly what it is worth. I know nothing about it and nobody here can tell me anything about it. Supposing from the indications exhibited by those who have spoken on the amendment, that it would prevail, I wanted some check. From my general knowledge of the book business, which is very limited, confined pretty much to my own profession, I know that law books are generally about one half what they were a century ago.

Mr. CAMERON. Will the Senator allow me to interrupt him?

Mr. TOOMBS. Yes, sir.

Mr. CAMERON. The Senator from Georgia, and no other Senator, can tell what the prices are now. The prices are fixed by law, but he cannot tell me what they are. The work before was done under the law of 1819, fixing certain rates of prices for printing, which no man but a printer understands. That is one of the difficulties. If we had time we could go on and show the cost of each volume. It would be difficult to tell the number of volumes, but the amendment suggested by the Senator covers the whole difficulty, by confining the prices to those now allowed, so that what is compiled by the clerks of the two Houses will be printed according to the present law. Those ordered before were printed under the law of 1819.

Mr. TOOMBS. I wanted to get at that fact, for it is within my knowledge, from my legislative experience, that the rates of 1819 were exorbitant. I know that, in the Twenty-Ninth Congress, a public Printer was elected on the condition that he should take off one third those prices; and we had at some previous time agreed with these very gentlemen to do the public printing for a reduction on the prices of 1819 of twenty-five per cent., or it may have been as much as thirty-three and a third per cent. I speak from memory; I do not profess to be accurate; but I am sure they agreed to do the public printing at a very large reduction on the rates of 1819. I recollect that at one session Mr. Ritchie was appointed public Printer, and inasmuch as the reduction was not made at the time he was elected, he refused to print under the reduced price, and there was a difference of some \$50,000 or \$75,000. Those rates were considered so exorbitant, that a bill was passed, at the Twenty-Ninth Congress, ordering the public printing to be put out to the lowest bidder, and it was taken at one fourth the rates of 1819. I happen to know these facts in the discharge of my duties here. It is now proposed to print this work, extending over a series of years, thirty years back, and we do not know the number of volumes, and we are told it is impossible to tell. Ought we not, then, at least to have some security that the rates we are proposing to allow are reasonable and proper, and according to the prices of such labor in the country now? Why should we go back to the rates of 1819? I am unwilling to do so. I think it unwise and injudicious. I would not manage my own business in that way, and I should be almost ashamed to trade with a Senate or a body that would deal with me in that way. I would rather deal with the committee of a man who would act in that way, than with himself. We do not know whether the prices are too much or too little; but I put the standard now allowed by law. Whether that standard be accurate, I do not know; whether it is too much or too little, I cannot say. Certain I am, however, that the rates of 1819 are excessive, and have been so decided by Congress, and have been so regarded by these very contractors. I presume that the rates at which we now have such business done are just and fair, or rather it is more probable

that they are just, than that the prices of 1819 are.

In the first place, I do not believe in the necessity of this publication; and I would oppose it at all hazards. I would not order the publication at all, and especially not now. This is not a good time to make a contract to the amount of eight hundred thousand or a million dollars, if it be so much; and nobody can say that it is not. In the next place, when so large a work is to be done, and is to continue for so great a length of time, I think it is important that you should have it done at the best rates you can, giving a fair remuneration to the printer. You might get the Harpers, or somebody else who have greater facilities for publishing, to do the work.

The integrity of these gentlemen, of which we have heard so much, is not at all involved; for, according to the amendment, the Secretary of the Senate and the Clerk of the House of Representatives are the persons to give out the documents. I do not know that these gentlemen are very good compilers. The Clerk of the other House is generally changed at every new Congress; and you may have a different Secretary here whenever you choose. I do not know that these officers are the proper persons to collect papers of such importance, for preservation by this Government. At all events, these are facts which ought to be looked into and inquired about. I should think they were worthy of a special committee; certainly they deserve some investigation by a regular committee, in order that Senators, before they vote away so large an amount of public money, may understand the facts of the case. Now, they do not understand them; they are acting ignorantly, as they admit. Nobody can give any information as to the amount of the work, or its cost, or whether the rates are right or not. I know the public printing has been done at a large reduction on the rates of 1819; and if these are the rates, as the Senator from Pennsylvania says they are, I have no doubt this is a splendid bonus to be given to these parties.

Mr. BENJAMIN. I have been endeavoring ever since I have been in Congress to get the consent of the Senate to the printing of these books. I have done so because I have found them entirely indispensable in the study of the questions that are brought before the Senate. Perhaps in the particular committee of which the Senate has done me the honor to name me chairman, these books are in more daily use than in any other committee of the Senate. We could not proceed a week without them. I have felt the difficulty and labor of investigating questions submitted to that committee in having to look over the executive documents, through the scattered volumes in which they are to be found. I will not enlarge on the subject. I formerly stated my opinions on it to the Senate.

A gentleman of the ability of the Senator from Georgia can find specious objections to a measure to which he is generally opposed, as he professes to be to this. It is not astonishing that he can find something to say against it; and yet I do think there is something inconsistent in the different objections he urges. This work has been commenced; it has been done formerly by men who have done it to the entire satisfaction of the country. The proposition is that they go on and bring their work to date; and what is more natural than to say that it should be continued as it had formerly been done, compiled as it had formerly been compiled, printed as it had formerly been printed, and paid for as it had formerly been paid for? No objection was made to any of these points; and therefore it was but natural to offer the proposition for the continuation of the entire work on the same terms as those on which it was originally commenced. Yet there was a consideration that did strike me, and to which the Senator from Georgia has alluded, and into which I required. The proposition was to do the work at the same rates as were formerly paid, or not to exceed these rates. I did then make inquiry as to the relative cost of printing in 1831, and at the present day, and I was informed that the rates at that time were thirty-three and one third per cent. lower than now; that the price was not as good as the price at the present day.

Mr. FESSENDEN. There is a great falling off in press-work and paper, and all materials.

Mr. BENJAMIN. There may be a falling off

in material, but there is a great rise in the price of labor. At all events, from the information I could obtain, I could not find that there was very much difference to result in the price of that day or the present day. Now the Senator from Georgia suggests that the price of the former day was extravagant, and moves an amendment by which a double guard is thrown over the contract. We want the work done as it was before, the same printing, the same compilation, and the same price, provided that price shall not exceed what we are now paying. Here you have the double guard that the contract is to be made at a price not exceeding the former price, and not exceeding what you are now paying for all other similar work. I must confess that I am entirely ignorant of the practical part of the printer's profession. I have to pay for a great deal of printing; I have to buy a great many books, and it is true that in our profession, as the Senator from Georgia suggests, books are cheaper than they were formerly; but that I have been inclined to attribute rather to the sale of enlarged editions than to any diminution of the cost of getting up the volumes. Formerly, where you would not sell ten copies of a law book, you now sell one hundred or one hundred and fifty.

The present edition we propose to publish is a small one. You publish fifty, or a hundred, or a hundred and fifty thousand copies of the Patent Office report, and at the same rate of your President's messages and other executive documents. The great profits, as we are informed, and I take it for granted, on all those printing matters, result from an increased number of copies. Here you limit the copies to a small number. There is no demand for them by the public at large. These are works intended to be Government works, and regarded, in the language of the Senator from Kentucky, as historical monuments of the progress of the country, something that is to remain for which posterity is to thank us; that they will want; that they cannot do without. Now, sir, provided there be nothing in this proposition that points to any distribution of this book amongst members of Congress or the public, if it is confined to furnishing the Government officers, if it is confined to providing the public Departments of the country—the Department of State for exchange with foreign countries, and the libraries of the States with convenient books of reference, to which men may, at all times, recur for the examination of any subject in which the Legislature or the history of the country is concerned, I am willing to vote an adequate appropriation, and I am willing to vote it blindly to this extent: that it is utterly impossible, from the very nature of the work, to ascertain, in advance, how many volumes will be published, and, therefore, how much money will be eventually required; and I agree with those who say that; I am sure, whatever may be the amount, the work will be worth more to the country than it will cost. I would not be willing to enter into any job—I would vote for no job; but when the contract is authorized, at prices not exceeding those already paid for the commencement of the work, with the further guard suggested by the Senator from Georgia, that it is not to go beyond the price we pay to-day for other similar work, I cannot see that we are justly liable to the charge of advocating a job. But, so far as regards the motion to put it on the appropriation bill, the motion is not singular in regard to this work. Everybody that has an interest in a particular subject tries to get it on to an appropriation bill, for the simple, sensible, reason that those bills are sure to pass, and other bills frequently fail for want of time between the two Houses.

I hope the Senate will adopt this amendment. I did not offer it when I first came into the Senate myself, but I have advocated it strenuously, and I have offered it more than once since. I have watched it with interest, and I hope to see the day when it will be consummated.

Mr. SEWARD. Mr. President, it is now twenty-six years since the Congress of the United States thought it necessary and expedient to provide for the publication of important executive and other State papers of the Government, in a convenient and accessible form, as well for the use of those concerned in public affairs at that time contemporaneously, as for the instruction of future times. That policy was continued, I

believe, to the entire satisfaction of Congress, and of the country, for a considerable period. I recollect that several years before I came into Congress I had become the holder of the volumes of State papers thus published, and I found that that publication was one in which any person desiring to be conversant with public affairs could learn the development and progress of every great question and of every great interest in the country. I have those volumes now, and if I were to say what portion of my library I could least afford to spare, I should say that it was the volumes of American State Papers. So, since I came to be connected with the Government, on the question of fisheries, on diplomatic questions, on questions of search, I have found it perfectly easy and perfectly safe to begin with these volumes, and to go through to the point where their publication was arrested. But from that time we are all at sea. It is a herculean task, out of the volumes that are published here so rapidly, to ascertain the course and progress of any question whatsoever since this publication ceased. The publications of the last Congress alone amounted to one hundred and one volume, and supposing that to be the ordinary increase of volumes of public documents, every one can see that it is impossible to consult so many volumes for the purpose of pursuing the history of any subject.

Now, what was the reason why that publication was discontinued or suspended? I suppose it to be the one hinted at by the Senator from Louisiana. Some members of Congress were so regardless of their responsibilities and of their high position, that they made a matter of bargain and sale, of speculation, of those volumes, which were furnished to them for their use in legislation, and they brought themselves, and Congress, and the publication, into disgrace; and it became necessary to arrest a proceeding which, if it were not corrupt, bordered on the verge of corruption. With that reform, however, there occurred a great loss in the suspension of this publication. It is now proposed, in precisely the same way in which the measure originated, to renew the publication. It is to be made by the same persons, Gales & Seaton. The selection of the compilation to be published is to be made by the Secretary of the Senate and Clerk of the House of Representatives, just as the original law required the publication to be made, and as it was made with such entire satisfaction to the public. Then, in regard to the terms, or cost, or expense, the original law provided, "that the price paid for the printing of the said volumes shall be at a rate not exceeding that paid to the Printer of Congress for printing the documents of the two Houses." This amendment provides payment at the same rate. It is a question whether, when you include work and materials, the rates of 1831 are more or less profitable to Congress or to the other party. Upon that subject I have no choice. I am willing to leave it to the judgment of others who are more familiar with the subject. I am willing either to take the proposition as it stands, or with an amendment so as to limit the expense to the present rates of printing.

I have said that at the time this policy was adopted, it was a contribution to political knowledge, a contribution to the science or knowledge of public affairs, and the statesmanship of the country, and to the political science of the world. At the time it was adopted, the Government of the United States expended thirteen to sixteen million dollars a year. It made its expenditures in proportion to its income. Has this nation grown, in twenty-six years, so much less able, so much less rich, that it cannot now, with \$80,000,000 revenue, make to political science and history a contribution so important as this, on precisely the same scale as before?

Mr. President, we are asked, "why not leave this matter to private enterprise?" I answer that, like the reporting of our debates, owing to the circumstance of our location here, instead of in a great city, it is a work that, if it be done at all, must be done at the expense and under the care of the Government. We are asked, "why do it in this way, and tack it to this bill?" For the simple reason that those who favor this proposition have waited for six months, and there have been no other times, and no other ways, in which it could be done. This is the time and way in which it must be done, if it be done at all.

Mr. TOOMBS. I did not exactly understand the Senator from Louisiana in regard to his point that I was inconsistent in my objections. I wish to put myself right about that. I did not catch his specifications of inconsistency.

Mr. BENJAMIN. The objection of the Senator was, that we had not provided any check on this contract. He himself suggested that there ought to be a check; that the price should not exceed that now paid. After that had been done, he still contended that we had no check on the expenditure, and that nobody knew anything about it. I considered that to be, to a certain extent, inconsistency.

Mr. TOOMBS. I wish to say to the Senator—and I desire this to go on the record—that I do not profess to know how to put a check. I have too often seen these amendments carried, voting millions, when it was supposed they only voted hundreds by those who voted for them. I am not competent to put a check on such propositions. The paper is one great element; then there is the binding, and many other things connected with the business of printing. Not being a printer, I have no knowledge of such matters. I could not contract to build your Capitol; I could not contract to do a printing job. I think it is due to the Senate and the public that the proposition should be referred to the proper committee of this House, that they should go to those having knowledge of all such subjects to obtain the necessary information. If you referred it to me, I would go and seek information from those who are skilled in this business. That is the way all other legislative bodies do as to business they do not understand themselves. It is an ordinary parliamentary rule. If you had made it my duty to go and seek this information, and bring it here, I could vote understandingly. I say my own amendment does not meet the case; the check is not there. I know, in casually looking over the matter of public printing, that one of the largest profits of the printers has been on the paper. There is no provision here for that. The abuse in that respect got to be so outrageous that Congress determined to buy paper for themselves; and that is the present law in regard to the public printing. That, it was said, was one of the greatest elements of pirating on Congress; and I presume it was so, because Congress certainly would not set up a paper warehouse unless there was great abuse in the matter. I think the paper costs as much as the mere printing itself—probably more in some cases. I have noticed, in some of the reports of our own Committee on Printing, that it is a very great element.

I heard my honorable friend from Arkansas, the other day, enlightening us on many of the terms they have; I have heard gentlemen on the Printing Committee tell us about the difference between day work and night work, and fat work and lean work, and work that paid, and work that did not pay. These are terms of art. I do not know anything about them. If the subject had been referred to a committee of the Senate who had given me the facts necessary to put my vote on, I should be informed, but I have not got the facts. My own course is, I think, more consistent than that of the gentleman from Louisiana, who is willing to take it any way, with limitation or without. I think his proposition at the last Congress did not limit it at all. He simply proposed to pay the rates of 1832, without giving any information to the Senate as to what those rates were, and now not a Senator has risen who pretends to know what those rates were, and whether they were good or bad according to the present rates of doing public printing. Now, I wish to say, and put on the record, that it may stand, that I do not pretend that my amendment does meet this difficulty. In my judgment it does not. I believe the public have got no protection, and I have not a doubt that the work will be done at greatly enhanced rates over what it could be purchased for in open market. If it had not been connected with the idea of giving very clever gentlemen work, we should not have had it put in this appropriation bill. But for sympathy for the men who are to take this contract, I do not believe it would be made in this way.

Mr. JOHNSON, of Arkansas. There is no one, I imagine, in the Senate, who disputes for a moment the propriety of the continuation of this compilation.

Mr. PUGH. I do.

Mr. JOHNSON, of Arkansas. There may be some one that does, and it would not be singular if it was the Senator from Ohio, [laughter;] but I think it is certain that a majority of this body are in favor of continuing the compilation. The first half of the amendment proposed by the Senator from Kentucky provides for that. I am ready at once to vote that the compilation shall be made. I only ask for some little investigation as to what shall be the compensation allowed the Secretary of the Senate and the Clerk of the House of Representatives for making the compilation. No provision is made in regard to that at all. It is the last half of the amendment that attracts attention—that goes on to prescribe that the Secretary and Clerk “are hereby directed to contract with Gales & Seaton, the publishers of the first series, for publishing the same, not to exceed two thousand copies in number, at a price per volume not exceeding that paid for the first series.” Our idea in attempting to fix checks has been that it is time enough to order a book to be printed when the manuscript or a copy is ready to be delivered and shown to us, and then it is in our power to ascertain the entire cost. The existing printing laws provide a particular method by which paper shall be procured. No price is fixed for that, but on the contrary, by the law, the paper is given out to the lowest bidder. Our law is exceedingly defective even upon that, for in that particular much partiality may be shown, and we have attempted to remedy it by the bill which the Senate recently passed. No check can be attached to this provision which will be any security on that point unless you provide that the Superintendent of Public Printing shall furnish the paper; and when you do that, the pay per volume will not answer as a rule, because, when the old volumes were printed, the printers furnished the paper. Precisely the same criticism may be made in regard to the binding.

In regard to setting up the types and striking off the number after the type is set up, the law now establishes precisely what shall be paid per thousand ems, so that if you have before you the manuscript you can estimate exactly what it comes to. These are the advantages of having the work compiled before you proceed to make a contract for its publication. The terms of this amendment are, that the payments shall be made at a price per volume not exceeding that paid for the first series. That price per volume embraced binding and paper, as well as everything else connected with the work. This could all be done very much cheaper if the party chose to publish the book without dry pressing, and then the volume would be very defective. A party taking a contract of this description would not be bound, I think, to throw in any extra work to make the volumes more complete.

I have before me some of the volumes of the former edition of this work, and I find that some of them are eight hundred pages, and some a thousand pages. I have two volumes now on my desk, one of which is eight hundred and forty-six pages, and the other one thousand and forty-three pages. Here is a difference of two hundred pages. Certainly, the one volume must have cost more than the other. The amendment provides for a price per volume. Which of these volumes is to be the standard for the Secretary of the Senate and Clerk of the House of Representatives in arranging the price? It will be impossible for them to fix a price under such a provision, unless they run considerable risk, and take a responsibility which I presume they would not be willing to take.

I cannot fix checks myself, and I do not propose to make any attempt to do so. I should not like to undertake to do it. I believe the original idea adopted here is the true one; and that is, to have the work compiled and laid before us, previous to making any order for its printing. When it is given out, I have no objection to its being given to these gentlemen, but it ought to be given to them at the same prices that similar public work is done for.

It is said that the price of composition has greatly increased over what it was when the former edition was printed. It may be so; but I have no doubt that the price of binding and of paper has greatly decreased; and it may be that there is no increase at all in the price of setting up the type. I think it would be not more than fair to

take the prices of public printing as now established by law, and even they are complained of by some as too great, but they are not adopted as the rates here. The mere printing of this book is a matter of no greater difficulty than the printing of any other book; and I see no reason why we should depart from the prices established by the printing law under which we deal with all other persons. I see no prudence, no propriety, in going back to a period when we know nothing about the prices, and can know nothing about them.

Mr. CRITTENDEN. Allow me to say to the Senator from Arkansas that I have been doing all I could to get an opportunity to say that I accept the very amendment he wants to make. I am willing to provide that the price shall not exceed that which was formerly given, nor exceed that which is now paid for printing the documents of Congress. I will accept an amendment of that kind.

Mr. JOHNSON, of Arkansas. That will be satisfactory on that point. Then I will say we must fix the price of paper. There is no price established here for it at all. How is that to be done? Will you say that the price allowed shall be the average price for which the Superintendent makes contracts for paper? That would settle that point, I suppose. You might also provide for paying the same price for binding, which is fifty cents for quarto volumes. I think it would be unsafe to fix a price per volume. I have before me now a volume of the former edition, which contains only three hundred and sixty-one pages. I believe the first half of the amendment ought to be adopted, and that the second half ought not to be. However, I shall not be pained in the least if the amendment be adopted by the Senate.

Mr. CRITTENDEN. I desire to hear the amendment, which has been proposed by the Senator from Georgia and the Senator from Arkansas, as a modification of my amendment, read.

The Secretary read it as follows:

Add at the end of the section:

Provided, That the prices or rates to be paid for the printing of this work shall not exceed those paid at present for the printing of the documents of Congress.

Mr. CRITTENDEN. I accept that as part of my amendment.

Mr. FESSENDEN. I do not propose to debate this matter; but if the contract is to be given out I should like to bring it somewhere within the life of man at any rate, so that we may have control over it within some reasonable time. I therefore propose to amend the amendment by adding to it:

And provided further, That the execution of said work shall not be continued after the 31st of December, in the year 1869, and shall not exceed ten volumes in number, of equal size and character with those previously published.

Allowing ten dollars per volume, and I have no idea it will cost less, two thousand copies would amount to \$20,000 for each volume, and multiplying that by ten would give us \$200,000 as the cost. Ten volumes is as much as can possibly be completed within the time limited by my amendment, and before that time we shall know something about the rates, and we shall have sufficient data to determine whether we shall continue it, and see whether anything more ought to be done. I propose the amendment in order to get the matter somewhere within the control of Congress.

Mr. CRITTENDEN. I cannot accept that amendment. I hope we shall have the question.

Mr. TOOMBS. I hope that amendment will be adopted, for the very reason given by the Senator from Maine. When we have continued the work until 1869, and printed ten volumes, we shall then know what we are about; and that is a great deal. I would rather have it five volumes; and then if the work was done to the satisfaction of Congress, it might be continued. Here the contractor has to make no outlay; for the manuscript is to be handed to him by the Secretary of the Senate and the Clerk of the House. I think, to allow three years for the printing of ten volumes, is a limitation which ought to be put in to keep the matter under our control.

Mr. HUNTER. I acknowledge the value of this work; and if it is to be continued, there are no persons to whose hands I would more willingly see it consigned than to those who commenced it. Indeed, there would seem to be equity in allowing them to continue it. But I think the debate has fully satisfied the Senate that this ought to be the

subject of a separate bill. It is a subject which ought to be considered by a committee, and digested; and if it should be so considered and presented to the Senate, I should be ready to decide on its merits, and to decide upon it, too, with the opinion that if it could be done on safe terms to the Government, there ought to be some continuation of this work, unless it should cost us too much; for I feel the force of what has been said by the Senator from Georgia, that this is no time to commence expensive enterprises. Surely, after what has been shown and proved here, we ought not blindly to put it on an appropriation bill. It ought to be the subject of a separate bill; and when it comes up in that shape, I shall be ready to consider it fairly. The objections that have been urged by the Senator from Arkansas have struck me with great force; and I really cannot see my way, if I were willing to vote for it on an appropriation bill, how to do it in the present state of our information.

Mr. COLLAMER. I wish to make a single remark in relation to this last proposition, confining the work to ten volumes, or any particular number. This compilation cannot, in reasonable probability, be made for any one volume. The manner of making the compilation is to take your elements, the materials, the volumes out of which the compilation is to be made, run through them, posting each subject in the ledger, under the head to which it belongs. That is the course to be pursued with each of the hundreds of volumes. You desire to condense, posting them all under the different heads to which they belong. Of course one volume is never made up by itself. When you get your work done, it is done for them all, all are finished. If you undertake to confine it to ten volumes, the amount which those ten volumes would contain must determine the compilers as to what they would select. If they are to be confined to ten volumes, there will never be any more but those ten. If they do not contain all we wish to preserve, and deem it important to preserve, there will be no way of adding to them, because you will have gone through your materials, and if then you undertake to make other volumes, they will be supplementary volumes, made up of unimportant materials, and that would not do at all.

With this view of the subject, it seems to me that the compilation must go on for the whole work, and it must be determined, not by fixing your number of volumes first, and then regulating your selections with a view to that; but selecting your materials as the others were, from the importance and value of them, and then making whatever volumes they will necessarily make. Otherwise it cannot be done, as I think, for any of the purposes for which the other compilation was made.

Mr. FESSENDEN. The Senator from Vermont has made a capital argument, in my judgment, in favor of my proposition. He says you have got to ascertain what the whole material is; and, if you confine it to ten volumes, those ten volumes will embrace the most important subjects, and you will not be likely to publish the rest, because they will be of little value. That is precisely one of the objects I aim at. If you leave this unlimited, and give out a contract, and agree to take two thousand copies of as many volumes as the publishers choose to publish, nobody can foresee what the number of volumes will be, or what will be the value of the volumes themselves. We may have a great deal of matter published of no consequence at all, merely because it is a job which pays. I shall vote against this proposition anyhow, in the present state of things; but, if we are to undertake it, let us have some limitation by which we can control the character of the book, as well as the quantity of it. If we adopt the suggestion of my amendment, we accomplish the object of getting the book somewhere within our control in reasonable time, and seeing what it is to be, and what it is to cost, and insuring a careful attention to the nature of the selection. Otherwise we do, as suggested by the Senator from Georgia, let out a stupendous job, of which nobody in the Senate can possibly see the end or the consequences.

Mr. COLLAMER. I supposed that if the design was to continue this publication, it was because the Senate was satisfied with the character of that which had been made; that so far as it had

gone it was satisfactory; that is, that the materials of which it was composed were precisely those that we desired to retain. Then the compilers will have a guide. They will put into the new compilation just such materials as composed the former one. No man can tell how many volumes it will make until the compilation is completed. But if you take the other course, if you fix this Procrustean bedstead, and say that you will have but ten volumes, you cannot have such a publication as you had before.

Mr. FESSENDEN. We can publish the others afterwards.

Mr. COLLAMER. You have already said that you do not mean to publish them. I understood the gentleman to say that he wanted to have it limited to ten volumes, so as to limit the publication.

Mr. FESSENDEN. No; but so that we may keep the control of it. I say that by the time these ten volumes are published, we shall know what the character of the book is, and what the cost of the book is; and we shall then be able to act understandingly. Of course, I shall favor continuing the publication if other matter of importance remains to be published.

Mr. COLLAMER. By that means we have to go over the same matter in the additional publications, and probably compel these people to go over material, all of which they regard as equally important, to select for the first ten volumes—leaving what they regard as less important to run the chance of being never published afterwards. We thus have an imperfect work, which does not answer the purposes intended. It is intended to be a depository of all that is valuable.

Mr. BROWN. My judgment quite concurs with the Senator from Vermont, that the publication of this book ought not to be confined to any given number of volumes, because it is very easy to be seen that if the compiler cannot comprise all the matter that ought to be published into ten volumes, then you must necessarily leave it to his judgment as to what you shall put out. I would much rather publish irrelevant matter, than leave out of the books material matter. It is much less deleterious to public interest to have that in which ought not to be in, than to have that left out which ought to be inserted. If there be any apprehension that the publication is going to run into abuse, that can be stopped, by simply putting a proviso to this amendment that Congress may, at any time during the publication, arrest it by paying the publisher for what he has done, and stopping. If he is going on publishing books of matter which amount to nothing, simply for the purpose of getting the pay, reserve to yourself the privilege of putting a stop to it on paying up to the time for the work he had done. I think the whole objection raised by the Senator from Maine can be met in that way. I think this is a vastly important publication, worth all the picture books that you have printed from the foundation of the Government, and not at all likely to cost one tithe of the money. When published, it is a book of real substance, on every page of which you find something to which the statesman, first or last, must refer. It is not a mere description of animal nature, and of geology, and all that, but it is something relative to the business of Senators, of Representatives, of the President, of members of the Cabinet, and of foreign ministers. It is a political history of the country, with which you could not by any sort of possibility dispense. I want to see the publication continued. I would admit of no abuse in it if I could prevent it.

Now sir, as to the objection raised by my friend from Arkansas, in reference to the purchase of paper, that can be easily avoided if it be a real objection. Let the paper be purchased as you purchase paper for other purposes, through the agency of your Superintendent of Public Printing. I believe that is the manner in which paper is purchased. I want no job for Gales & Seaton; no job for anybody; but I want a good substantial book. This is the first one I have advocated during this session because it is about the only one except the Congressional Globe that I consider worth the paper on which it is printed for the uses of the Government. The Congressional Globe is a proper book; this is a proper work, and beyond these two I do not believe you have published a book during the last ten or fifteen

years by special legislation that amounted to anything. Of course you must publish your Journals, and publish the general proceedings of Congress; nobody objects to that; but when it comes to special publications, I think the Congressional Globe, which contains the debates of the two Houses of Congress, and this compilation, which contains the State papers, are about the only books you ought to publish, and I thank God and Congress that there are no pictures in them.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Maine to the amendment.

The amendment to the amendment was rejected.

Mr. TOOMBS. I move another amendment to the amendment. After the word "printing," I move to insert the words, "paper and binding," so that the printing, paper, and binding, should not cost more than the present price. I wish some guide. I suppose we are paying people fair rates now. It is considered a great party job to get the public printing.

Mr. BROWN. I think that amendment ought to be accepted.

Mr. TOOMBS. That the prices are profitable now, I do not suppose will be denied.

Mr. COLLAMER. I wish to suggest to the Senator from Georgia to say, "paper and binding of equal quality." We may want a better quality.

Mr. TOOMBS. I accept that.

Mr. BIGLER. Leave the class of paper discretionary with the Committee on the Library.

Mr. TOOMBS. Have you an amendment answering the purpose?

Mr. BIGLER. No, I have another.

Mr. TOOMBS. If you will amend mine, as you are better skilled in this business, I shall be obliged to you.

The Secretary read the amendment, as follows:

Provided, That the prices or rates to be paid for the printing of this work shall not exceed those paid at present for the printing of the documents of Congress, including paper and binding.

Mr. TOOMBS. Of equal quality and value.

Mr. SEWARD. Say, "or having regard to the quality and value of the material used."

Mr. TOOMBS. Very well.

The amendment, as modified, is:

Provided, That the prices or rates to be paid for the printing of this work shall not exceed those paid at present for the printing of the documents of Congress, including paper and binding, having regard to the quality and value of the material used and work done.

Mr. TOOMBS. I accept it in that form.

Mr. BIGLER. The original proposition fixes the price of the work per volume as it was in 1831. The amendment accepted by the Senator from Kentucky restricts it to the present rates of congressional printing. The original price has not been stricken out.

Several SENATORS. It is not necessary.

Mr. FESSENDEN. It is not to exceed the original rate nor to exceed the present price.

Mr. COLLAMER. So that we get it at the lowest rate.

Mr. BIGLER. The first rate is a rate per volume; that remains, and you fix an additional, a new rate, without knowing how it will affect that.

Mr. TOOMBS. There is not the slightest difficulty. The first is that it shall not exceed per volume the price paid for the old edition, and then it says it shall not exceed the present rates for printing or binding the documents of Congress.

Mr. BIGLER. How do you make the two consistent?

Mr. TOOMBS. It shall not exceed the prices paid for the cheaper of the two.

Mr. BROWN. I wish to suggest to my friend from Georgia a difficulty in this matter. He has confined the cost of printing, paper, and binding to the present price. Who are to pay for the compilation? Gales & Seaton. They are to get up this work. That adds somewhat to the cost. They are not to print what outsiders send to them, but have the compilation made, as I understand.

Mr. TOOMBS. If it is not provided in the original amendment, I have nothing to do with that. I think it ought all to be defeated.

Mr. BROWN. The pay your public printer gets is for printing matter sent to him. It does not make any difference to him whether it is sense or nonsense. You send him so much matter; he puts

it up in type and prints it. That is all he has to do. But these men have some reputation at stake. They have to make the compilation. They must do it at some cost. It must cost them not only labor, but money. They cannot do it personally. If they do they are entitled to be paid for their labor. Somebody has to do it. Where is the material to come from? Are you to confine them down to the rigid rule of the exact sum which you pay to the public printer for printing a manuscript sent to him drawn off in a clear, pretty hand? That will not do. If this amendment must pass, then provide by some means that they are to be paid for the compilation.

Mr. TOOMBS. The mover and the gentlemen who are for the amendment say they are to print what the Secretary of the Senate and Clerk of the House send them.

Mr. BROWN. Not at all. The Secretary of the Senate and Clerk of the House are not the compilers. They simply make the contract; but have nothing to do with the compilation.

Mr. BENJAMIN. The Senator from Mississippi is entirely mistaken, as he will find, if the amendment is read.

Mr. BROWN. Let it be read.

The Secretary read it, as follows:

And be it further enacted, That the Secretary of the Senate and the Clerk of the House of Representatives be, and they are hereby, directed to continue down to the 4th of March, 1859, the compilation of the congressional documents, &c.

Mr. BROWN. I did not understand heretofore that the Secretary of the Senate and the Clerk of the House of Representatives did make the compilation. Then I have no objection on that point.

Mr. JOHNSON, of Arkansas. The method of compilation may as well be understood. The Secretary of the Senate and Clerk of the House of Representatives did make the compilation before. I have made some inquiry, and I find that to be the case. I thought at first it was not so; but the Secretary of the Senate and Clerk of the House made the compilation. It was not given into the hands of the Printer, so as to have some safeguard that no document should be put in and published which ought not to go in, as a mere book-making collection; but provision for their payment was separate and distinct, as I understand; and I believe I have it from the very best authority. They were paid separately by Congress for the work they did in compiling, and they were allowed just double their usual compensation. To a man who received \$250 a month, this extra service would give him \$250 a month more during the time he might be engaged in the compilation; and so with each clerk engaged upon it. That was the method by which it was done before, so that you will perceive whatever rate you may give under this contract, has nothing to do whatever with the cost of the compilation. It is a separate and independent charge.

The amendment of Mr. Toombs to the amendment was agreed to; and the question recurred on the amendment as amended.

Mr. PUGH called for the yeas and nays; and they were ordered.

Mr. BAYARD. I desire to move a further amendment. I can vote for this amendment, though with some reluctance, if the number of copies does not exceed one thousand. The amendment, as it now stands, proposes to print two thousand copies. It also proposes that three hundred copies shall be given to the Department of State for distribution. That may be reasonable enough. It also proposes to give seven hundred copies to the Secretary of the Interior—I think five hundred would be sufficient—and that the other thousand should be reserved for the future direction of Congress. We have no right to print except for some purpose that the work may be valuable in itself. What do we want with the extra thousand copies? To distribute among members of Congress? If we do, we are going back again to the system we have been endeavoring to reform. If not, they are useless. There is no necessity for printing, then, beyond the extent of one thousand copies. I conceive that would be a liberal allowance—sending five hundred to the Secretary of the Interior, for distribution among colleges and libraries, and three hundred to the State Department, and reserving two hundred for the uses of both Houses of Congress and the Library. That would, in my judgment, cover all the wants we

have, if we do not mean to give books to ourselves. I move, therefore, to strike out two thousand, and insert one thousand. If the proposition carries, I shall vote for the amendment; if not, I shall be compelled, with my views, to vote against it.

Mr. DAVIS. The proposition is to reduce the number to one thousand. It is intended to destroy the original amendment altogether.

Mr. BAYARD. How?

Mr. DAVIS. Surely you must expect greatly to increase the rate to be paid, if you diminish it to one thousand. The profit on the printing of one thousand, with the double restriction as to price which has been imposed, would not allow the work to be undertaken. It could not be printed at all on any such small scale. The expense incurred is in composition. As this is letter work, you may multiply the copies after you have paid for the composition without keeping up the same rate of expense. If the proposition had been made to make it six thousand instead of one thousand copies, I should have thought better of it.

Mr. BAYARD. I would rather vote for a proposition to limit it to one thousand copies without limiting the cost of the work, whether it is to cost more or less; because we have a right to print this work for the purposes of the country to the extent to which it is justifiable to use it, without regard to the question of cost. I am not going to stop on that. I do not care if you strike out the proviso as to the cost, provided you reduce the number; but if the object is to print two or more thousand copies, in order to go into the system of distributing among members of Congress, (for that is what it will come to,) I must vote against the proposition. If the object is—though it may be expensive—to publish a work which will be valuable in itself, to distribute a proper number of copies to the public offices, and give a proper number to the Interior Department for distribution among the libraries of the country, and reserve a reasonable number for the use of Congress—not individual members—then I am willing to vote for the proposition, apart from any restriction on the price; but I am not willing to vote for printing such a number of copies that the inevitable result will be distribution among members.

Mr. DAVIS. I find in this no proposition to distribute to members of Congress. I do not understand that to be the purpose of the amendment. So far from it, the amendment guards that these copies, or a certain number of them, shall be deposited as directed, in depot. I should be perfectly willing to give to members of Congress the authority to buy this work at the actual cost to the Government; and I know of no Senator whom I have heard speak on the subject who has not said he would buy the continuation, so as to complete the set which he has. I should be very glad indeed, myself, to have it. I have not heard a Senator who did not say he was not ready to pay the cost in his own case. But if you are to have a large edition, this is not a thing which will change; it will be the same a hundred years hence that it is to-day; it is the old fixed history of the country which you are to print. If you keep it in depot a hundred years, still there would come, year after year, members who would want the books for reference to enable them to perform their duties intelligently; and to those I would still give the privilege of obtaining them at their cost, and that would be the means of securing distribution to men who would make use of them, and not do with them what has been represented as having been done in relation to other public documents.

This whole matter of public printing is a subject of which I know little. Like the Senator from Georgia, I have not paid attention to it. I do not know myself how to make a calculation in regard to it; but I think it far better, whilst we are printing the edition, that it should be larger, rather than smaller than what is proposed in the amendment of the Senator from Kentucky. I would rather increase it to six thousand, first guarding against the distribution in the manner suggested by the Senator from Delaware, and then keep the books in depot, to be thrown out from time to time, as the interests of the country might indicate.

Mr. CAMERON. The proposition of the Senator from Delaware will be the same as voting down the amendment. It will be impossible to

do the type-setting of one thousand copies for the price agreed to be paid, with the guards put on this amendment now. The number the Senator from Delaware proposes to print would not be done at all. The amount to be paid, under the restriction, would not pay for setting the type. I doubt whether it would pay for compilation.

Mr. BAYARD. That depends on the sum we allow for printing.

Mr. CAMERON. You have a fixed sum, and have put on a guard. If the Senate think proper to have this printing, they ought to leave the number as it is. I should myself agree with the Senator from Mississippi in fixing a larger number.

Mr. BAYARD. It regards only my own vote.

The honorable Senator from Mississippi may suppose that the result would be that members of Congress like himself would be willing to buy these works after they are prepared. It may be so. There are some that would. I think it is probable I would do so myself; but I am perfectly satisfied in my own mind, from what I have heard and know of the past transactions of the Government, that we should get back to the same abuse that we have endeavored to escape from after a hard struggle, in reference to the publication of books and distribution among members of Congress for their individual use. As regards the necessity for the use of members of Congress, if you choose to provide a Government library for the Senate when you get into your new wing of the Capitol, you can do so; and there we can have the use of them not only for to-day, but for the future. You may put them in your library, and in the library two hundred copies would suffice for all. These are not public works to sell. I cannot see that we ought to publish a number of copies beyond those which the wants of the Government require. I admit the value of the work. I am willing to take off the restrictions as to price, and I do not care whether the work is to cost ten, or twenty, or twenty-five dollars a volume; but I am not willing to print such a number of volumes that the result will be that they will either perish, or more probably hereafter, as that is in the discretion of Congress, they will be divided among individual members. I have heard enough of the history of that to know what the effect of that is as regards its corruptive tendency. I am not willing, therefore, to vote beyond the number of one thousand copies, for I cannot see any possible use the Government can have of printing more.

Mr. HALE. I have got up to discharge my duty to the country by making a speech, as that seems to be the order of the day; but, if the Senate are willing to vote, I shall be very glad to forego that duty.

Several SENATORS. Let us vote.

The amendment to the amendment was rejected; and the question recurred on the amendment of Mr. CRITTENDEN, as amended.

The Secretary proceeded to call the roll.

Mr. PUGH. The Senator from South Carolina [Mr. HAYNE] requested me to pair off with him; otherwise I should vote in the negative.

The result was announced—yeas 34, nays 15; as follows:

YEAS—Messrs. Allen, Bell, Benjamin, Bigler, Bright, Broderick, Brown, Cameron, Chandler, Clark, Collamer, Crittenden, Davis, Dixon, Doolittle, Douglas, Foot, Foster, Hale, Houston, Kennedy, Mallory, Mason, Pearce, Sebastian, Seward, Simmons, Stuart, Thompson of Kentucky, Thompson of New Jersey, Wade, Wilson, Wright, and Yulee—34.

NAYS—Messrs. Bayard, Clay, Fessenden, Fitzpatrick, Green, Harlan, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Polk, Reid, Toombs, and Trumbull—15.

So the amendment was agreed to.

Mr. DOUGLAS. I have two or three little amendments that I am directed to offer, by the Committee on Territories. The first is to insert at the end of the first section:

To John B. Motley, for compensation as acting Secretary of the Territory of Nebraska since the vacancy created by the death of T. B. Cummings, \$316 35.

He performed this duty after the death of the Secretary.

The amendment was agreed to.

Mr. DOUGLAS. I have another amendment, from the same committee.

And be it further enacted, That there shall be paid, out of any money in the Treasury not otherwise appropriated, to Charles H. Mason, Secretary of the Territory of Washington, the difference between the salary of Governor and superintendent of Indian affairs, and the salary of Secretary

of the Territory of Washington, for the time the said Charles H. Mason was acting Governor and superintendent of Indian affairs of said Territory.

The amendment was agreed to.

Mr. DOUGLAS. I have one more amendment to add at the end of the first section:

For contingent expenses of the Territory of Kansas, \$9,003 75, to be disbursed under the direction of the Secretary of State, upon the production of satisfactory vouchers.

The amendment was agreed to.

Mr. GREEN. I renew my amendment that I moved yesterday, in a modified form.

The PRESIDING OFFICER. The Chair understands the Senator to offer the same amendment.

Mr. GREEN. It is changed as follows:

And be it further enacted, That the provisions of the fifth section of the act entitled "An act making appropriations for the civil and diplomatic expenses of Government for the year 1841," approved the 3d day of March, 1841, and the eighth section of the act entitled "An act making appropriations for certain civil expenses of Government for the year ending the 30th of June, 1858," approved the 3d day of March, 1857, are hereby construed and declared to direct the Secretary of the Treasury to allow and pay to surveyors of ports performing or having performed the duties of collectors of customs since the passage of the law last above recited, the same compensation, and no other, as is allowed to collectors for like services.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. Will the Senate take the question on all the amendments separately?

Several SENATORS. Together.

Mr. TRUMBULL. There are some amendments that I hope will not be adopted—the amendments for completing custom-houses and marine hospitals.

Mr. BRIGHT. I have an amendment to offer.

Mr. HUNTER. Let us take the question first on the amendments made in committee, excepting such as Senators desire to take the question on separately.

The PRESIDING OFFICER. Will the Senator from Illinois indicate the amendment he desires to be excepted?

Mr. TRUMBULL. I think it would be better to take the question separately on all the amendments. ["Oh, no."] I imagine it is very difficult for every Senator to know what all the amendments are, there are such a number of them. They are not printed, and we do not know what we are voting for. Some of these amendments have been inserted *sub silentio*, without having a direct vote upon them. I think it would be better to have each of them presented; but the amendments to which I particularly direct attention, and on which I wish a separate vote at any rate, are those embraced in the amendments recommended by the Committee on Finance, and which apply to public buildings. They are on pages 4 and 5 of the printed amendments of the committee.

Mr. FESSENDEN. Then they can be excepted.

The PRESIDING OFFICER. The Senator from Illinois desires that the amendments indicated by him shall be excepted.

Mr. HUNTER. The Senator from California, [Mr. GWIN], who is not here, asked me to except the amendment in regard to the price of surveying private land claims in California. At his request I ask that that be excepted.

Mr. BROWN. I suggest that the amendments be read over in the order in which they were adopted. ["Oh, no."]

Mr. DOUGLAS. It will take all day. Except what you want.

The PRESIDING OFFICER. Does the Senator from Mississippi insist on that course. ["Oh, no."]

Mr. BROWN. No, sir.

The PRESIDING OFFICER. The question is on the amendments not excepted.

The amendments were concurred in.

The PRESIDING OFFICER. The question now is on the amendments which have been excepted to; and first on those indicated by the Senator from Illinois.

Mr. TRUMBULL. I wish to call the attention of the Senate to this item:

For continuing the work on the custom-house at Charles ton, South Carolina, \$300,000.

I should like to inquire of the chairman of the Committee on Finance, upon what estimate that is based? I find, by the report of the Secretary

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of the Treasury on the finances, that the amount estimated, as necessary for that work, is \$100,000, and I do not know why a larger amount than that estimated by the Department should be required.

Mr. HUNTER. Will the Senator allow me—

Mr. TRUMBULL. I will yield in a moment, as soon as I get through with my statement. In the report on the finances, it is stated that the total amount of appropriations required, is \$1,703,000; amount expended up to the 30th of September, 1857, \$1,246,810 77; leaving a balance available for the completion of the work, of \$456,189 23. The superintendent estimates that there will be required for the year ending the 30th of June, 1857—that is manifestly a mistake, because there has been a report made for that year; it means 1859—an appropriation of \$100,000. The Committee on Finance have recommended an appropriation of \$300,000. It seems to me that is one of those items that ought to attract the attention of the Senate. The report does not state what the whole amount necessary to complete this building will be. I apprehend, if the question had been submitted to the Senate when this custom-house was commenced, whether they would appropriate \$2,000,000 for building it, such a proposition would not have carried. I wish to be informed why \$300,000 are asked for by the committee, when the superintendent requested but \$100,000? I should like to know what the total cost of the building, if it should ever be completed, is to be?

Mr. HUNTER. I will state to the Senator from Illinois that this amendment was based on an estimate sent in after the annual report of the Secretary. It was based upon an estimate made by Major Bowman, the superintendent of construction, and recommended by the Secretary of the Treasury. It was founded, as I said before, upon the information that the contracts for material which would have to be executed during the next fiscal year, and the labor which would be necessary in order to put that material in the building, would amount to this sum of \$350,000; and I was assured that the Department estimated only to employ so much labor as was necessary, in order to place this material *in situ*, and to save it from waste. I understood it was upon that principle that all the estimates were made, with the exception of some that were made for custom-houses and marine hospitals which were nearly finished, and for which a small sum was necessary in order to complete them. That estimate was made after the report to which the Senator refers. In regard to this amendment, I suggest to the Senator that we had better take the vote on the whole of it in a lump, since it is only to this special clause of it to which he has objection.

The PRESIDING OFFICER. The Chair would say to the Senator that but one amendment has been reported by the committee. The question will be on concurring in that amendment, unless some proposition be made to divide it.

Mr. HUNTER. Then I wish to say one word in regard to the rest of the amendment. I acknowledge it was improvident legislation that ever authorized these custom-houses to be built by the Government of the United States at Charleston or New Orleans, or any of these other places, without limiting the expenses of construction within a sum thought reasonable and proper by Congress. That was an error of long standing—one which cannot be corrected now by any legislation which we may enact. The whole question is, whether we shall finish these buildings or not. That is the first question; and the next is, if we mean to finish them, what is the most economical mode of managing those buildings during the next fiscal year? The most economical mode, as far as the committee could see, seemed to be to pay for that material which would be delivered by contract, and then to use so much labor as might be necessary to place that material in proper position, in order to save it from waste, and let the building progress to that extent, and to restrain any expenditure in the present condition of the Treasury beyond that limit. That, we were assured, was the ground upon which this estimate

was recommended. It will be for the Senate to say whether they choose even to do so or not.

Mr. TRUMBULL. There is one branch of my inquiry which the gentleman has not answered, and upon which I should be glad to have information; and that is, what is the estimate for finishing this building, if there is any estimate of the probable cost of completing this custom-house?

Mr. HUNTER. There is no accurate estimate. I asked the superintendent that question. I believe he thinks it will be built for a little under three million dollars, but he could not venture to make an accurate estimate. I have got none for the Charleston custom-house.

Mr. TRUMBULL. Now I ask and appeal to Senators to know whether they are prepared to go on voting \$300,000 a year on such information as this? Here is a building for which you have already appropriated, including the amount in this bill, upwards of two million dollars. The superintendent is unable to give an estimate of what the building will cost—probably about three million dollars. Why, sir, this is a monstrous sum of money to be appropriated to the construction of a single custom-house. Three million dollars for erecting a custom-house for the single city of Charleston! Are we to go on appropriating money without any estimate whatever as to what the expense is to be? Is there no plan for this building?

Mr. HUNTER. There was a plan adopted by Congress long ago. It is being constructed according to that plan, and that is one reason why it has cost so much. I believe the only two custom-houses which we are making in that way are those in Charleston and New Orleans. They were made, not upon contract, but upon plans adopted by Congress, and that is one reason why they have been so costly. During the last year or two the Departments have adopted the plan of estimating first the cost, and contracting in reference to that supposed cost. When a contract was made in reference to the supposed cost, it has turned out in most instances that the cost was a little more, owing to some accident not foreseen when the estimate was made and the contract was entered into.

Mr. TRUMBULL. I think that a very great improvement in our legislation that we should have an estimate for every work proposed to be constructed, and that the contract should be made with reference to the completion of the building; but it seems to me not too late now to provide that this building shall not cost more than a certain sum. In order to test the sense of the Senate in regard to these appropriations, whether they are to go on or not—\$100,000 being all that was asked by the superintendent when the official report was sent to us—I will move to amend the clause, which now reads, "For continuing the work on the custom-house at Charleston, South Carolina, \$300,000," by striking out "three" and inserting "one," if it be in order.

Mr. HUNTER. The Senator can move to amend the amendment, by striking out "three," and inserting "one;" but, if he will allow me, here is a letter that I will read to him from the superintendent.

The Secretary read the following letter:

TREASURY DEPARTMENT, May 6, 1858.

SIR: In my annual report to you on the condition of the several buildings being erected under the Treasury Department, I had the honor to call attention to the appropriations required to be made to carry on the works with economy, having a proper regard to the pecuniary embarrassment of the Treasury.

Since that period (September 30) the works have progressed with increased vigor, owing to the abundance and comparative cheapness of materials and labor, consequent upon the hard times. The result has been that larger expenditures have been made than could then be anticipated. As most of the works are being done by contract, it was impossible to restrain the increased expenditures.

From this cause the increased balances that were expected to be available for the first two quarters of the next fiscal year are greatly reduced, and in some instances entirely expended. Owing to this increased vigor in prosecuting the works, many of them will be finished, if the necessary appropriations are now made, before the next meeting of Congress.

In view of these circumstances, and to avoid damages

which the contractors will not fail to demand if the works are suspended, and at the same time to save the large amounts now annually paid for rent of buildings, which those in question are designed to replace, I would most respectfully recommend that Congress be requested to make the following appropriations: All designed to complete, in every particular, all the buildings named, except the custom-houses at New Orleans and Charleston, and the Treasury extension, of which latter the sum asked will finish the south and a portion of the west wing.

I also submit estimates in gross, accompanied by others in detail, of the amounts necessary to fence, grade, and furnish those buildings that are now completed or that will be finished before the next meeting of Congress.

I have the honor to be, very respectfully, your obedient servant,

A. H. BOWMAN,

Engineer in charge of Treasury Department.

Hon. HOWELL COBB, Secretary of the Treasury.

Mr. TRUMBULL. That is a general letter; applicable, I suppose, to all these appropriations.

Mr. HUNTER. Yes, sir; applicable to them all.

Mr. TRUMBULL. It does not relate principally to the custom-house at Charleston. In regard to most of the public works for which appropriations are made by this amendment reported from the Committee on Finance, it is in contemplation that the appropriation will finish the building; but that is not so in respect to the custom-houses at Charleston and New Orleans, and the Treasury building. Therefore it does not seem to me that there would be any particular necessity for increasing the amount from \$100,000 to \$300,000 in this case. Let us appropriate \$100,000 now, and see if, before another appropriation is called for, we cannot limit, in some way, the expenditures upon the very extravagant custom-houses at these particular points. I am not aware whether the motion to strike out "three," and insert "one," is in order at this stage of the proceeding. I suppose, however, if it is not in order in that form, it can be reached in some other way.

The PRESIDING OFFICER. The Chair will inform the Senator that the motion would be in order.

Mr. TRUMBULL. Then I make that motion, to strike out "three," and insert "one."

Mr. SIMMONS. I merely wish to make one suggestion. As I understood the letter, most of these appropriations are designed to pay contracts now made; and if there should be a contract made to furnish material for a larger sum than it is now proposed to appropriate, you cannot reduce the material at all and you have nothing to do but put it up. I understand that the custom-house is now in a condition where some very costly and elaborate work for the inside is going on, and I am told by those interested that the contractors will have claims on the Treasury for over two hundred thousand dollars in the ensuing fiscal year. I do not see any economy in having a lawsuit for damages by suspending the contract and laying by the materials, and having this work knocked over to next year rather than trying to finish it. If the work is to cost \$2,000,000 and the plan was extravagant, I would not spoil it, but finish it. The capitals for the pillars have cost a great deal of money. I do not believe it is economy to stop it.

Mr. HUNTER. I would say to the Senator, if he will allow me, by way of explanation, that I saw Major Bowman himself, in reference to this matter, for it seemed a large estimate, and he told me it was no more than was necessary, in order to pay for the material contracted for and to put it up. I asked him if any loss would accrue to the Government if we should simply pay for the material, and not put it up, for I was anxious to confine it to that, if I could. He said there would be a great loss, because there was a great deal of carved marble, and if exposed to the weather it would be injured by that exposure. Upon that explanation, for one, I agreed to the item, reluctantly, I admit.

Mr. TRUMBULL. I wish to state for the information of the Senator from Rhode Island, that there is almost half a million of dollars now applicable to this work—\$456,000; or there was, when the report was made on the 30th of September. There cannot have been a great amount of

work done since, and, at that time, \$100,000 was all the officer anticipated. It will be borne in mind that we do not know what this building is to cost. Can it be possible that it will take \$750,000 to complete the contracts now made?

Mr. HUNTER. That balance was for the fiscal year, and this estimate is for the next fiscal year. In winter they can work in that climate.

Mr. TRUMBULL. It is dated the 30th of September.

Mr. HUNTER. That was for this fiscal year.

Mr. TRUMBULL. For this fiscal year, but I suppose it to extend into the next fiscal year, if not expended.

Mr. HUNTER. I imagine it is absolutely necessary to meet contracts for the next fiscal year; and it could not be, unless there was a balance unexpended in this fiscal year.

Mr. TRUMBULL. This was the balance available for the completion of the work on the 30th of September, 1857; and I suppose that if it were not of use this fiscal year, it would be applicable to the next fiscal year; but certainly a very large amount of money is asked for this particular work, the cost of which is indefinite. Why should it not wait? The Senator from Rhode Island tells us that when we undertake to build a magnificent building, we should finish it. We have not undertaken to build it.

Mr. HAMLIN. Yes you have.

Mr. TRUMBULL. There is no information to-day of what it is to cost. Will not the contracts show what it is to cost? The very statement of the case shows that no contracts have been made for its completion. If there were, you could state what it would cost. The superintendent is afraid to give the estimate. Why? It is so monstrous, so enormous, that it would startle Congress; and he is afraid to name the sum, for fear that pains would be taken to prevent the appropriation; but if we go along year after year, \$300,000 at a time, he may make it cost three millions or thirty millions. Now I think \$100,000, under the circumstances, is as much as ought to be appropriated, until we ascertain what the building is to cost, and know definitely what sum of money is finally to be appropriated to the completion of this extravagant work. I hope the amendment will prevail.

Mr. SIMMONS. I have but a word to say. I understood the letter read by the Senator from Virginia to exactly explain the reasons why this large amount should be spent this year; because there have been hard times, they can get labor cheap, and they have made more, and had a right to make more, under their contracts, and have exhausted the money. No very extravagant appropriation is asked for the next year—not near as much as they have spent this year. The Senator from Illinois seems to think some very great difficulty exists with this superintendent, because he did not submit a plan for the building. Congress, I suppose, when it sets out to build a custom-house, should not complain if it is undertaken to be built upon a very magnificent plan. I agree we should not spend \$2,000,000 on a custom-house; but I would not spoil the building by saving something on the last million. That is my idea.

Mr. HUNTER. That is what the superintendent says. He had nothing in the world to do with the plan. The contracts for the materials were made as long back as eight years ago, and more than that.

Mr. DAVIS. There seems to me to be a misunderstanding about this matter. The plans which were prepared for these two custom-houses were submitted to Congress, and adopted by Congress. Then contracts were made, and specifications were drawn out to furnish the material called for by the specifications. Neither the contractor nor the superintendent could convert them into dollars at the time. It has gone on in this manner, and a number of contracts have been made. I merely say that, about seven years ago, a then Senator from Louisiana and myself made great efforts in this Chamber to get the plan of the New Orleans custom-house modified—to get some authority to modify it; but the Senate clung tenaciously to the plan which had been adopted by Congress. It had radical defects. They progressed with it until they have brought a mass of stone, upon the supposition that a building in New Orleans must be exactly like one in Boston,

and put that mass of stone upon the earth until the earth commenced sinking beneath it, and then, for the first time, they waked up to the fact, and granted so much power as to enable the Department to substitute iron, and reduce the weight. Now, I think, with the Senator from Illinois, that this is a very large sum to pay for a custom-house, at a port, too, where the revenue is not very large; and if the proposition were to change the plan of the building, or authorize somebody to prepare a modification of the plan so as to reduce the cost, I should be ready to vote for it. I think both the plans were wrong in the beginning.

Mr. TRUMBULL. The Senator will allow me to ask him a question: whether that be practicable now? Is it too late now to some extent to modify it?

Mr. DAVIS. I suppose, to some extent, it is still practicable. I do not know how far they have progressed; I have not seen either of these buildings for some time. I am sorry that neither of the Senators living at the place is here to give information. When the attempt was made to change the plan, it might have been modified even to the foundation, which was built upon the mere superstratum of the earth. The only plan on which they could have made a foundation to bear the weight of such a building was one which they did not adopt—by inverted arches to sustain it; but they proceeded on the hypothesis of digging a trench, and laying down a foundation, just as they did when the supersoil rested on stone beneath. The whole thing was a blunder; the plan was a blunder. Congress blundered, as it always does when it undertakes to direct the execution of a work, and forced the plan upon those who succeeded. It has been prosecuted from time to time; and it has cost a great deal more money at either place than both works ought to have cost on a proper and judicious plan.

Mr. TRUMBULL. If it is not too late to modify this plan, it seems to me it would certainly be better not to appropriate the full amount now asked for. Congress meets again in December. Now, I do not wish to be tenacious about the amendment I propose. If the work has gone so far that we are compelled to appropriate this money, like the Senator from Virginia, I shall unwillingly have to consent to it; but, if it is practicable yet, I would modify the plan. I think there should be an opportunity afforded to do it. Let us appropriate \$100,000 now, and when Congress meets in next December, we can have an inquiry made and ascertain whether it is possible to make any change.

Mr. DAVIS. I will say to the Senator, since he asked me the question, that a Representative from one of the States, who is particularly interested in one of the custom-houses in question, that at Charleston, informs me that it is now impracticable to change the plan; that it has to be completed as it has been undertaken.

Mr. HUNTER. I so infer from what the superintendent told me. He said the real progress was much greater than the mere height of the wall indicated. The stone has been almost all cut and the material prepared upon a plan, and that hereafter it will go up much more rapidly in proportion to the money expended than heretofore. So I presume there is no chance of changing the plan. But I do not think we shall effect anything in the way of economy by diminishing the appropriation. If I did, I would vote with the Senator from Illinois, cheerfully.

The amendment to the amendment was not agreed to.

Mr. TRUMBULL. I will not raise a separate question upon the other amendment. This tests the question. I wish to call the attention of the Senate to it as far as I am able to do.

The amendment made as in Committee of the Whole was concurred in.

Mr. HUNTER. There is an amendment which the Senator from California, who is now present, [Mr. GWIN], asked me to except. He will be here presently, and as there are other amendments to be proposed, it had better lie over until he returns.

Mr. HAMLIN. I suppose the Senator means to renew a proposition which was voted down.

Mr. HUNTER. No, sir; not to renew it. It was an amendment reported by the Committee on Finance, and the Senate, in Committee of the Whole, voted it down. Of course, the question

comes up, will the Senate concur in the action of the Committee of the Whole?

The PRESIDING OFFICER. The Chair thinks that it is necessary to renew the amendment in order to have a vote upon it. An amendment offered by a committee is the same as one offered by an individual; and if it be voted down it is not in the bill. That must be the result.

Mr. FESSENDEN. It is an amendment made to the report, and, of course, it must be adopted by the Senate.

Mr. HUNTER. We reported it from the Finance Committee.

The PRESIDING OFFICER. The Chair thinks there is no distinction between an amendment offered by a committee and one offered by an individual Senator. Having been voted down, it is not in the bill at all, and has to be renewed again, or it cannot be voted upon.

Mr. HUNTER. I suppose, then, that to accommodate the Senator from California, I ought to renew the amendment, and let it lie until he returns, when the sense of the Senate can be taken upon it.

Mr. HAMLIN. Is that the only amendment now pending?

The PRESIDING OFFICER. All the amendments offered as in Committee of the Whole have been disposed of; and the question now is upon the amendment which has just been offered by the Senator from Virginia.

Mr. HAMLIN. I renew the amendment which I offered in Committee of the Whole, by instruction of the Committee on the District of Columbia, and that is, to set off the tail end of Georgetown from the corporate limits of the city.

The PRESIDING OFFICER. The amendment moved by the Senator from Virginia will be informally passed over, and the question is on the amendment proposed by the Senator from Maine, which will be read.

The Secretary read the amendment, as follows:

Sec. —. *And he further enacted*, That hereafter the northern boundary of the corporation of Georgetown shall be terminated by the prolongation of a line along the road and Eighth street, to the western limits of the present corporation: *And provided*, That the property set apart from the incorporated limits as above shall be appraised by three commissioners appointed by the circuit court of the District, and the owners thereof shall pay into the treasury of the corporation of Georgetown, in equal annual installments of one, two, three, four, five, and six years, such sums as said commissioners shall apportion as an equitable ratio of the several estates set apart to the whole value of the appraised real estate of Georgetown, as shown by its last appraisal: *And provided*, That an appeal from the said commissioners may be taken by the owner or owners of any piece or pieces of property, to the circuit court, and that the decision of said court shall be final and conclusive: *And also provided*, That the report of the said commissioners shall be entered up in said court as judgment against the property, to be collected by suit, as other taxes on real estate are collected.

Mr. HUNTER. I hope that will not be put on this bill. Let the Senate pass it as a separate measure if they desire to do so.

Mr. ALLEN. I ask the Senator from Maine if any vote has been taken, showing the consent of those who are proposed to be set off from the corporate limits of Georgetown?

Mr. HAMLIN. There has not.

Mr. ALLEN. Would you want to set them off without asking their consent?

Mr. HALE. If I can get the attention of a few Senators—I do not expect to get more than a few—I should like to make a short statement in regard to this matter. At the request of one or two citizens of Georgetown, yesterday, or the day before, I went over to look at this ground, and I understand from them that more than three fourths of the people living upon the territory do not wish to be set off. Several of them are here, and protest against it. Something was said the other day, by the Senator from Maine, about the irregular form of the city of Georgetown, and this being a little strip running out into the country. The irregularity in the form of the city of Georgetown arises from a former act of injustice perpetrated by Congress upon that corporation, by which all the property of the college and nunnery, by an arbitrary act of Congress, was taken off the limits of the city, and set off into the county, the effect of which was to give to them all the benefit of the police and the fire department of the city, and relieve them from the burdens of taxation.

A few gentlemen have moved into this part of the district and erected buildings. It is as much in the city of Georgetown as this Capitol is in

Washington; but the road on the north would make a convenient separation, and some of these gentlemen desire to enjoy the benefits of the city without the burden of taxation, and they have petitioned to be set off; but I am instructed to say, and I have no doubt of the fact—I have it from the most respectable gentlemen in Georgetown—that more than three out of four of the very men you propose to set off by this act are opposed to it this moment, and do not desire to be set off, but desire to stay where they are.

Now, sir, at this stage of the bill I think it would be an arbitrary act to interfere with the corporation of Georgetown in this manner. Besides, this is the only possible way in which the city can ever expand into the country. You have cut off the corporate property of the literary institutions of Georgetown on one side, and the other boundary is a natural one. Here is the only chance of running out into the country, and the only way in which the city can expand. But a very small minority of the people living upon the land desire the separation. I think the Senator from Maine was very much mistaken when he said this slip was only about sixty rods wide. I went over and looked at it; I went on the ground myself; and from the best judgment that I can form, in conjunction with the gentlemen who were with me, that slip was over half a mile wide where it starts, and it grows narrow as it runs up. But aside from that, a great majority of the people who live upon it do not want it separated. I think, to say the least of it, it ought to be postponed until next year, and give the city of Georgetown, and the inhabitants of this disputed territory, a right to be heard.

Mr. BROWN. If the amendment now proposed by the Senator from Maine shall carry, will it then be in order to move a further amendment to the same amendment?

The PRESIDING OFFICER. It will be in order to move to amend the bill. The amendment offered by the Senator from Maine is amendable now.

Mr. BROWN. I understand that the amendment moved by the Senator from Maine is an amendment to the bill. If it becomes part of the bill by adoption, can I then move to amend that part of the bill?

The PRESIDING OFFICER. Certainly.

Mr. HAMLIN. I want the attention of the Senate for two or three minutes only. I have a plan of the city here, and if Senators will look at it they will see that I am certainly very nearly right if the plan be true, (and it is a plan furnished by the city,) that this strip of land is only, on the average, about sixty rods wide, and it is three quarters of a mile long. It is true, as I understand, and as it appeared before the committee, that one half of the persons in number, who are not the owners of any property to any considerable extent, do not consent to going off, while a very large majority of those interested are in favor of going off, and it is for the reason that the system of taxation upon them is oppressive. Their lots are acres, not mere house lots, and they tax them by a foot-tax on the front. Now, it may be a very reasonable tax to tax a man in the city two dollars a foot, but it will become very onerous when you carry it to a man's farm. There they tax a front foot-tax on the front of those lots for the purpose of lighting the city below. I say it is very onerous, because the lights are not in sight of them. This same city of Georgetown, at the present session, came here and asked Congress to relieve them from contributing to the making of roads in the county that led into the city, and were as much for the benefit of the city as the county; and we did it. The city said they ought not to be compelled to contribute money to make roads in the county. The committee reported a bill, and I think—the chairman will know—that that bill has passed the Senate and has gone to the House of Representatives.

Mr. BROWN. It has not passed the House.

Mr. HAMLIN. I say it has passed the Senate, and gone to the House. Treat these men equally; treat them fairly. If you will relieve the city of Georgetown from a small tax which they contribute to make county roads, then I say relieve these men, who live substantially in the county, from a system of taxation that is onerous upon them. I will not detain the Senate longer.

Mr. BROWN. My colleague on the District

Committee and myself differ upon this question. I do not think the ancient city of Georgetown ought to be divided. I think it was somewhere about the year 1786 that this portion of Georgetown was attached to the city, upon the application of the people who lived there.

Mr. HAMLIN. In 1784, I think.

Mr. BROWN. It has been there ever since. A majority—and I wish Senators would mark that—of the property-holders living upon the part of the city proposed to be stricken off, protest against it. It is a disputed point as to whether a majority of those in interest want to stay in or out. All of us know that there is a vast deal of difference in the value of city property. Those who want to stay out declare that they are the majority in point of interest; those who want to stay in say they are the majority in point of interest; but upon the point of numbers there is no dispute. The Mayor of the city tells me that, according to the assessment roll, a majority in point of interest want to stay in the city; and I put my vote upon that point, that they desire to stay inside of the city, and do not want to be stricken off. Now, sir, I am very equally divided on this matter. I care nothing about it personally one way or the other; but what I want to do is simply to hold the scales of justice in equal balance between these parties. I think myself the weight of testimony is in favor of those who are opposed to going out, and therefore I vote on their side. If I thought it was otherwise, I would vote on the other side.

Mr. BRIGHT. There can be no doubt about the fact that a very large majority in number of the persons residing within the district proposed to be stricken off are against the proposition of the Senator from Maine. I have it from most reliable authority that out of the thousand persons residing within those limits—

Mr. HAMLIN. There are not a thousand.

Mr. BRIGHT. Yes, sir, out of the thousand residing there, only three were found to favor it. That was the statement made to me by that city.

Mr. BROWN. Thirteen.

Mr. BRIGHT. Then the number has increased. Perhaps they have been able to raise thirteen since the statement of three was made to me. Now, as the Senator from Mississippi very truly stated, Georgetown was organized according to her present limits more than half a century ago without any effort since that time to change it, until a gentleman who has been living there a few months proposes to disarrange everything by cutting the city organization in two. Now, if we are entitled to look to what the majority of parties in interest desire, there can be no doubt that a majority are in favor of letting the district remain just as it is; and I hope no vote of the Senate will change it.

The amendment was rejected.

Mr. CLINGMAN. I desire to renew an amendment which I offered last evening. I would not do so but for the fact that three Senators voluntarily came to me and stated that on inquiry they were satisfied that the amendment was right. It is to insert:

And be it further enacted, That to enable the Secretary of the Interior to carry into effect the twenty-fourth section of the civil and diplomatic act of March 3, 1855, by paying the claims on file as ordered for assessment by Messrs. Upton and Sumney, and Washington and Mason, commissioners under the Cherokee treaty of 1835, there be appropriated the sum of \$30,000.

I ask the Secretary to read the twenty-fourth section of that act.

Mr. HUNTER. The Senator read it last night. The amendment is to carry out an existing law, and I presume there will be no objection to it.

Mr. CLINGMAN. I hope there will be none.

The amendment was agreed to.

Mr. HUNTER. I would now like to call up the amendment in relation to the California survey. It is the last of the committee amendments; and I think it would probably be better to act on it. It is to insert, after line one hundred and thirteen:

For making the surveys of the confirmed private land claims in California, the surveyor general is hereby authorized to pay such sum as he may deem reasonable, according to the circumstances connected with each case, not exceeding at the rate of twenty-five dollars for each mile of the boundary lines of any claim, and also for such lines as may necessarily be run and marked, or measured, in order to connect the lines of such claim with those of the adjacent public surveys.

Mr. BRODERICK. I am not anxious that the Senate should act upon this amendment. If the Senator is disposed to do so, let it remain until my colleague arrives.

Mr. FESSENDEN. Let us pass the bill.

Mr. HUNTER. I only want to close my bill.

Mr. BRODERICK. I do not want to take any advantage. I am willing to wait until my colleague returns, if the Senator is willing.

Mr. HUNTER. It is justice to the Senator from California, who is absent, to say, that I voted against this amendment in committee and in the Senate; but I have seen the Secretary of the Interior, who tells me that he believes it essential to increase the price of surveying private land claims in California, or the work cannot be done at all. He said it had been done before by the assistance of the owners of the private land claims themselves, who paid a portion of the compensation to the surveyors, and he, thinking that would lead to corruption, has ordered the practice to be discontinued, and therefore did not think the claims could be surveyed at fifteen dollars a mile. That is all I have heard in relation to it.

Mr. FESSENDEN. We had his opinion to the same effect in writing.

Mr. BRODERICK. I believe that six dollars a mile is the amount now allowed by law in Minnesota, Kansas, and the States of Iowa and Wisconsin. The law provides that surveyors shall receive fifteen dollars a mile in California. If the chairman of the Committee on Finance will make the calculation of the number of dollars that this amendment will take out of the Treasury, I think he will be inclined to vote against it. This amendment proposes to give an additional ten dollars for every mile surveyed. I stated the other day, when this question was up, that the price of living was very nearly as low in California as it is here. I suppose it is about one third higher there, although it costs me as much to live here as it would cost me to live in San Francisco; and I live here very frugally. I hope that the amendment will not prevail; for I believe that the surveyors who will be appointed by the surveyor general to do the work will never receive a dollar of this money; and that it will go into the surveyor general's pocket. For that reason, I am opposed to it. I am sorry my colleague is not present; and I have no disposition to urge the vote upon the Senate. I would rather that the vote should go over until he is present.

Several SENATORS. It cannot go over.

Mr. HARLAN. I think this amendment should not pass. I am told it will not, and I will say no more. ["Question! question!"]

Mr. JOHNSON, of Arkansas. Before the vote is taken, I should be very glad to make a suggestion, in which I think it is highly probable the Senator from California will agree with me, that is for the public good in this matter. I would be glad, in the first place, to have the amendment read. Some modification is certainly needed, and some step ought to be taken, though in a different form.

The Secretary read the amendment.

Mr. JOHNSON, of Arkansas. That is the way the proposition now reads. Is there any limitation to it?

Mr. HUNTER. There is a limitation of twenty-five dollars a mile. The existing law allows fifteen dollars, and this amendment proposes to allow the surveyors of private land claims twenty-five dollars a mile.

Mr. JOHNSON, of Arkansas. It is understood to be customary there—if I am wrong, the Senator from California will correct me—for surveyors appointed under the law to adjudicate, determine, survey, and ascertain the exact limits of a claim, after being employed by the Government of the United States, to receive pay from the parties who are the owners of claims. Thus the control of them is, in a measure, taken from the Government, which, in the first instance, employs them. The supposition is, that this leads to a survey, and the determination of the boundary of claims, not consistent with justice, or the decision and facts of the case. I therefore desire to connect with this a further amendment, to provide in substance—I will state merely the substance—that no such additional compensation, from any source whatever, shall be received by any surveyor in the employment of the United States,

from any party, directly or indirectly; and that whenever any such shall have been proven to have been received, directly or indirectly, the survey shall be taken to be fraudulent.

Mr. BRODERICK. Will the Senator permit me to interrupt him for a moment?

Mr. JOHNSON, of Arkansas. Yes, sir.

Mr. BRODERICK. I would like to ask the Senator from Arkansas whether, in case there was an agreement made between the owner of the property and the surveyor, the surveyor general could know whether the deputy surveyor received that compensation or not, if the parties themselves were not disposed to disclose it?

Mr. JOHNSON, of Arkansas. I will answer the Senator in this way: in the first place, it is alleged that the amount of compensation is insufficient; and the amendment is justified, I understand, upon the ground that it is not sufficient, and that they cannot do the work for the compensation the Government allows. I am informed by the Department that, without doubt or denial, it is an admitted fact that the surveyors receive additional compensation from the parties who own the claims, and consequently the boundaries may be run to suit themselves.

Mr. HUNTER. My friend will allow me to say to him that I am informed, by the Secretary of the Interior, that he has issued orders to prevent them from receiving fees hereafter from any claimant, and therefore it is unnecessary to add the proviso.

Mr. JOHNSON, of Arkansas. Exactly; and that leads to just this consequence: as the compensation of fifteen dollars a mile is not sufficient, and the Department do not believe it to be sufficient, that direction will merely make them do privately and secretly that which they now do openly and publicly. I believe the remarks of the Senator from California to be in some measure just about this business; but I do not believe we give sufficient compensation to have purity in the service. In answer to his question, I will say that, if two men, equally corrupt, enter into a corrupt agreement, the world may not easily make a discovery of the fact; but we do know that it is ordinarily the case, that from their indiscretion or over-confidence, or some cause, they will, in the end, develop and publish their transactions so as to let them be known to the public. Then they might be compelled, upon oath, in a court of justice, having asserted the fact incautiously in the hearing of some one else, to develop it. If you render the survey fraudulent by the very fact of a bribe having been received, you have a high guarantee against improper conduct in these matters.

I have no question, from what I understand of the difference between the surveying of a private claim in California and the surveying of ordinary straight lines in running the regular surveys of a country, that the pay for this service is not enough. There are very great differences—a great difference in the time it takes to perform it; there is a great difference in the character and class of investigation to get starting points, and to conform to the decisions of the courts, which do not trouble the public surveyor under the ordinary law; so that the compensation, I am satisfied, ought to be increased upon these private surveys; but there ought to be a limitation that the whole survey shall be fraudulent *per se*, whenever it shall be proved that the surveyor has received any other compensation than that which the law itself allows. We cannot escape the difficulty which the Senator from California suggests; but we can do this: we can allow a reasonable compensation; and a man who is inclined at all to be honest, or to have any respect for himself, having received enough, it is to be hoped that he will act honestly.

Mr. BENJAMIN. I desire to say a word or two on this amendment. It is a matter which I think I understand somewhat. It was referred to the Committee on Private Land Claims. The system by which the public lands are surveyed is well established. There is a certain price laid down by Congress for the survey. That price is not sufficient in exceptional cases undoubtedly. In my own State, for a long series of years, the practice which is complained of has been prevalent, and been unaccompanied by any evil effects. The Government allows a certain sum per mile for surveying. The surveyor general of the State is ready to give the contract for surveys, at that rate,

to any deputy surveyor; but the survey of a particular locality is difficult; there are swamps, there are difficulties in finding marks or lines, there is a confusion in private claims. When that occurs, the deputy surveyors do not apply for a contract, and do not survey the particular district. Things remain so, perhaps, for one, two, five, or ten years, when an individual becomes interested in having that district of country surveyed. He wants to buy the land, or he wants his own lines fixed, and what does he do? He applies to the surveyor general of the State, and says: "I want an order for the survey of that particular district." "I am ready to give it, sir, but nobody is ready to do the work at the Government price." "Well, sir, I will make up any extra sum that is required to induce a deputy surveyor to take the contract." That is legitimate, it is fair; there is nothing conducive to fraud in it.

Now, sir, in California most of these private land claims depend upon natural marks and bounds; then there is a prescriptive limit in many cases. There is necessity for taking oral testimony amongst the inhabitants in relation to the names given to particular rocks, to particular peaks, to particular valleys, by which the different grants by the Mexican Government are found. In some cases the matter may be plain and clear. Then you can get a surveyor, who, for fifteen dollars a mile, which is the limit allowed by Congress, will undertake to make the survey. In other cases, owing to particular difficulties either in the manner in which the private claim is described or from the locality in which the land is situated, nobody can be got to do the work for that price. I see no impropriety, I see no immorality in the private claimants in such cases, going to the surveyor general, and saying "if you cannot get a deputy surveyor to do the work in relation to my claim for the Government price, I want my land marked out, and if there is a special difficulty here, and five or ten dollars a mile more is required, I am willing to pay it to get my land marked out." I see no objection to that, nothing fraudulent or immoral in it. It has never produced any evil effects in our State, and has always been a prevalent custom there.

Now, a proposition is made to extend the limit to twenty-five dollars a mile. The result will be that your surveyor general will give twenty-five dollars a mile to all the deputy surveyors. Everybody knows how that works. You will get no more surveying done at less than twenty-five dollars. I hope, therefore, this amendment will not be adopted. At the same time I must say that I have seen no reason why the Secretary of the Interior should prohibit private claimants where the surveys cannot be done for the price fixed by law, from eking it out by an additional allowance. Still there ought to be regulations on the subject. So far as the amendment is concerned I hope it will not pass.

Mr. HUNTER. I will say that the explanation of the Senator from Louisiana seems to me entirely satisfactory. I hope we shall take the vote.

Mr. BAYARD. I have a word or two to say before the vote is taken. The Government of the United States by treaty with Mexico, stipulated that the Mexican claims there that were valid in themselves should belong to the parties, although the jurisdiction passed from one country to the other under the treaty. By a subsequent law, passed in 1851, the United States provided for an adjudication of the rights of the parties to their respective claims under the Mexican grants, and required them in all cases where they held under Mexican grants to appear before the constituted tribunal in order to have the adjudication made. The law required that they should take a patent from the United States after the adjudication on a survey being made, which survey the Government undertook to make. Now, sir, if the sum of fifteen dollars a mile will not provide for the survey which an act of justice to the parties where claims were adjudicated and requires should be made, because they cannot get a title without the patent, and the survey is to precede the patent by your own law, on what principle is it that you deny them a sufficient sum to make those surveys in order that patents may issue? It comes to that. The surveys cannot be performed for fifteen dollars a mile. That you get from the Interior Department and the surveyor

general. You say to the claimant through the Interior Department by its regulation that he shall not pay the surveyor to survey it. The survey is necessary in order to obtain his patent. Without a patent he cannot have any title because the law requires it, and therefore you leave him in this position: your Executive Department refuse to let him pay the additional sum (whether right or wrong according to the views of the honorable Senator from Louisiana); they refuse it by an express order, and you do not allow in your law a sufficient sum to obtain a deputy surveyor to make surveys other than the straight line surveys of the United States; they will not survey the claim, and hence the contract cannot be performed, for you deny the title to the party until the survey is made.

This amendment cannot be just; it cannot be right. You either must pass this amendment or you must require your General Land Office to rescind its order, and suffer the parties to make up the sum that is requisite to have a survey made, which is out of the ordinary duties of the surveyor. You cannot get deputy surveyors to make surveys of these claims. The labor is worth more than fifteen dollars a mile. This provision only authorizes the amount to be extended in these cases. You are bound to make the surveys because you refuse to carry out the treaty until the surveys are made. In order to perfect these grants which you have said by your treaty are good and valid, you have declared that the parties shall take a patent from the United States; you say they shall not have a patent without a survey, and now you will not provide means to make the survey, and the executive Government refuse to allow parties to provide means to do it themselves. That cannot be justice.

Mr. HOUSTON. Perhaps I am not well enough acquainted with this subject to give an opinion understandingly upon it; but I really think the rates now given are very exorbitant. I have no idea that the survey costs five dollars a mile. I think in our contracts three dollars is the usual price for surveying, and people do it very well at that. It seems to me if there is danger of corruption in deputies receiving from private citizens whose claims they are allowed to survey, additional fees to what they are allowed by law, fifteen dollars per mile, that there will be a stronger inducement by this Government giving \$60,000, and placing it at the disposition of the surveyor general. If you place it within his discretion he can obtain vouchers, for I have no doubt there are thousands of applicants now that are disappointed and cannot obtain employment from him. It is strange that there has been no remonstrance here to Congress asking for an increase of wages if it is so necessary as is supposed; but it seems that the plea is that the surveyors will be induced to act corruptly, and receive bribes from those who have land, the lines of which are to be run out.

Now, Mr. President, I am perfectly satisfied that fifteen dollars per mile will be amply sufficient not only to accomplish the work, but to give a liberal recompense to the surveyor. It is a very easy matter to calculate it. I should at least suppose they would survey twenty miles a day; and if you multiply fifteen by twenty, you will find that it is a very handsome *per diem*; and if you allow for contingencies, there would still be a residuum left that must make it greatly profitable. It seems to me that every inducement of this kind that you hold out to officers of this Government, making them irresponsible, and leaving it discretionary with them to pay moneys, is a temptation to deviate from the path of honesty, if they have previously pursued it, and to obtain false certificates and vouchers to settle with the accounting officers for the amount. I do not know who the surveyor general in California is, and I am casting no reflections of a personal character; but would it not be an easy matter to obtain forged certificates of different individuals to the amount of \$10,000, and come on here and receive a bonus of \$50,000, and put it in his pocket?

So you find that it is a temptation to corruption; and so far from resisting the evil that you desire to guard against, you are encouraging corruption of the rankest character, and rendering officers at a great distance from the seat of Government irresponsible where neither vigilance nor check can be put upon them. I cannot vote for

this amendment, because, in the first place, it is unreasonable, and, in the next place, it is holding out inducements to corruption, rather than restraining those who are supposed to take private perquisites for their labor. It is the custom in most countries with which I have been acquainted, that individuals pay for the work that is done; and it is for their account it is done, subject to the revision of the county surveyor.

Mr. HUNTER. I am satisfied. I thought it due to the Senator from California to offer the amendment; but I should prefer to withdraw it. What has been said by Senators has induced me to return to my original opinion, and I shall vote against the amendment.

Mr. BRODERICK. I am very willing that this question should not be considered until my colleague arrives. After the remarks of the Senator from Delaware, I care very little whether this money is taken out of the Government Treasury to enrich this officer or not. I wish, if it is taken out, that it shall not be counted or shall not be charged against California, for I believe that the ten dollars additional will be put into the pocket of the surveyor general, and that the owners of private land claims will have to pay an extra sum for the purpose of having their lands surveyed. It will be a contract between them and the deputy surveyor, and the surveyor general will know nothing about it. He will get the additional sum. It would be very easy, as the Senator from Texas has stated, for him to come here with a claim of fifty or one hundred and fifty thousand dollars against the Government; and the Secretary of the Treasury, I suppose, would pay it. I am against this amendment, because I believe it is a bid for the purpose of making the surveyor general dishonest. I am willing that it should remain on the table until my colleague arrives. I hope, therefore, it will lie on the table.

Mr. HUNTER. I think we had better vote. Let us get rid of this question. I want to get a vote on the bill.

The PRESIDING OFFICER. The Chair will suggest to the Senator from California that a motion to lay the amendment on the table will carry the whole bill with it.

Mr. BRODERICK. Well, sir, if there is any doubt on the part of any Senator here, I do not want this vote to be taken, for I do not wish to cripple the people of my State. I am as anxious to have the lands there surveyed as the Senator from Delaware, I think. I am somewhat interested myself, and I believe, therefore, I have as much interest in this question as the Senator from Delaware, or any other Senator upon this floor. But I do not wish to take any unfair advantage of my colleague. He may have information that may satisfy the Senate that I am wrong. I hope, therefore, the matter will not be disposed of at this time.

Mr. HUNTER. I think, under the circumstances, that I shall withdraw the amendment. The Senator from California, when he returns, can offer it if he chooses.

Mr. JOHNSON, of Arkansas. I shall feel bound to offer an amendment to it.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. CHANDLER. I desire now to renew the amendment I offered yesterday, making an appropriation for the improvement of the channel of the St. Clair flats. It is to insert, as a new section:

And he it further enacted, That \$54,037 be appropriated for completing the improvement of the channel over the St. Clair flats in the State of Michigan.

I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CLAY. I have paired off with the Senator from New York, [Mr. SEWARD.]

Mr. PUGH. I have paired off, or I should vote for the amendment.

Mr. WADE. I have paired off with the Senator from Georgia, [Mr. TOMBS.]

Mr. FITZPATRICK. I have paired off with the Senator from Connecticut, [Mr. DIXON.]

The question being taken by yeas and nays, resulted—yeas 21, nays 16; as follows:

YEAS—Messrs. Bell, Bright, Broderick, Chandler, Clark, Collamer, Crittenden, Doolittle, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Polk, Rice, Simmons, Slidell, Stuart, and Trumbull—21.

NAYS—Messrs. Allen, Bayard, Benjamin, Bigler, Clingman, Hammond, Houston, Hunter, Iverson, Johnson of

Arkansas, Johnson of Tennessee, Jones, Reid, Sebastian, Wright, and Yulee—16.

So the amendment was agreed to.

Mr. SLIDELL at first voted in the negative; but before the result was announced, changed his vote, in order, as he stated, to move a reconsideration.

Mr. JOHNSON, of Arkansas. I move that the Senate do now adjourn.

Mr. BIGLER. I hope not.

The PRESIDING OFFICER put the question, and declared that the "ayes" seemed to have it.

Mr. BIGLER. I ask for the yeas and nays on the motion. I want an executive session.

The yeas and nays were ordered.

Mr. YULEE. I think the result had been announced by the Chair before the Senator called for the yeas and nays.

The PRESIDING OFFICER. It had not been announced.

The Secretary proceeded to call the roll.

Mr. BIGLER. I wish to suggest that it is important that we should go into executive session.

The PRESIDING OFFICER. Debate is not in order, the Senator from Rhode Island [Mr. ALLEN] having answered to his name.

Mr. WADE. I have paired off with the Senator from Georgia.

The question being taken by yeas and nays, resulted—yeas 28, nays 13; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bright, Broderick, Clay, Clingman, Crittenden, Fessenden, Fitzpatrick, Green, Hale, Hammond, Harlan, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Polk, Reid, Sebastian, Slidell, Stuart, Wilson, Wright, and Yulee—28.

NAYS—Messrs. Bigler, Chandler, Clark, Collamer, Doolittle, Foot, Foster, Hamlin, Houston, King, Rice, Simmons, and Trumbull—13.

So the motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, June 2, 1858.

The House met at eleven o'clock, a. m. Prayer by Rev. A. G. CAROTHERS.

The Journal of yesterday was read and approved.

FORT SNELLING

Mr. CLARK, of New York, took the floor.

Mr. FAULKNER. I will, if the gentleman will yield to me, offer the resolutions of the minority of the committee, in order that they may be before the House with the resolutions of the majority.

Mr. CLARK, of New York. I supposed that the resolutions of the majority and the resolutions of the minority were before the House, and that I was in order in moving a substitute.

The SPEAKER. The resolutions submitted by the majority of the committee are before the House, but the resolutions of the minority of the committee are not before the House. The Chair did not understand on yesterday that the gentleman from New York offered his resolutions, but simply that they were read for information, the gentleman stating that he proposed to offer them.

Mr. J. GLANCY JONES. I wish to inquire of the gentleman from Virginia whether the resolutions he proposes to submit from the minority of the committee are the same as those published in the report, or those resolutions modified?

Mr. FAULKNER. They are not the same.

The resolutions offered by Mr. FAULKNER were read, as follows:

Resolved, That the evidence reported by the select committee has failed to exhibit any fact or circumstance in connection with the recent sale of the military reservation at Fort Snelling which in any degree impeaches the personal or official integrity of the Secretary of War.

Resolved, That all other questions connected with said sale, and suggested by the testimony, being matters of executive discretion, or subjects alone proper for judicial inquiry and redress, and not falling within the appropriate jurisdiction of this House, it is ordered that the committee be discharged from the further consideration of the subject, and that the report of the committee be laid on the table.

PERSONAL EXPLANATIONS.

Mr. LOVEJOY. I rise to a question of privilege. I observe, in the Globe of yesterday, a speech in respect to the scriptural sanction of slavery. My first impulse was to reply to it this session; but sharing, as I do, in the impatience of members to get through, I content myself with giving notice that I shall embrace the earliest opportunity, next session, to give my views on the question whether the Bible sanctions slavery.

Mr. MASON. And I give notice that when the gentleman makes that speech I intend to answer it.

Mr. PENDLETON. My attention has been arrested by a speech published in the Globe of Saturday, which was delivered by my colleague from the fourteenth congressional district of Ohio, [Mr. BLISS.] I send it to the Clerk's desk to have two sentences read, which I have marked.

The extracts were read as follows:

"Mr. CHAIRMAN: During the crowded Lecompton debate, I refrained from seeking the floor upon it, chiefly because I desired to see the new opponents of the Kansas outrages, and especially my colleagues, learn to stand and, if possible, to walk alone; and also because the subject itself was one I could with great difficulty coolly consider."

"And when the Administration and its masters, foiled in naked wickedness, incubated with those whose plighted faith, if not their principles, should have been their guard, and hatched the nasty substitute—a substitute establishing the principle of non-submission, while claiming to provide for its effect, though coupled with conditions fraud inviting and deeply insulting to Kansas, to freedom, and the North—I watched the new-born men, to see whether a soul had been actually given them."

Mr. PENDLETON. I did not hear the speech of my colleague delivered, and I presume it was not delivered during any of the hours appropriated to the ordinary and proper business of the House. The first knowledge I had of it was when my attention was called to it last Saturday evening by one of my colleagues as it appeared printed in the Globe of that morning. The speech, Mr. Speaker, contains the opinion of my colleague as to some of his colleagues on this floor. He imputes to them a breach of their plighted faith in their action on the conference bill. The member has not specified which of his colleagues he intends to include within the scope of that remark; and I now desire to ask him whether it was his intention to include me?

Mr. BLISS. I ought perhaps to say in regard to myself, that there was no personal communication between me and any of my colleagues on that subject.

Mr. PENDLETON. I should like to have the question answered directly. I have nothing to say as to other gentlemen.

Mr. BLISS. I will answer the question. I will say that through third parties the action of my colleagues was pledged to me, and that my subsequent action was based upon that pledge; and, I will say further in respect to the gentleman who is asking the question, [Mr. PENDLETON,] that I have been informed since the vote—and, indeed I may say, within a few hours past—that neither of the gentlemen from the Cincinnati district [Mr. PENDLETON or Mr. GROESBECK] authorized any such pledge to be given to me. It may appear hereafter that others failed to authorize such a pledge. But I do say that the pledge was made to me. It was represented to me that all my colleagues who acted with me in voting for the Montgomery amendment were pledged to carry out their own principles as embodied in their amendment, and to the end. I was thereby induced to give the votes I did, which apparently conflicted, though not really, with my settled principles.

Mr. PENDLETON. I wish to ask a simple question, and to have it directly answered. It is whether or not the gentleman then intended, or now intends, to include me within the remarks he then made?

Mr. BLISS. I think I have answered the question fairly and fully. I have stated that all my colleagues were included in the pledge given to me by these persons. I have stated, also, that within a short period I have been informed that my colleagues from the metropolis of my State [Messrs. PENDLETON and GROESBECK] were not intended to be included in that pledge.

Mr. PENDLETON. As I understand, Mr. Speaker, that the gentleman disclaims any intention to include me in that remark, I leave the matter to those interested, having no further interest in it.

SALE OF FORT SNELLING.

Mr. CLARK, of New York. I ask to have read, for the information of the House, the resolutions which I offered last night as a substitute for the resolutions reported by the majority and minority of the committee.

The amendment proposed yesterday by Mr. CLARK, of New York, was then read, as follows:

1. *Resolved, That the evidence reported by the select com-*

mittee as to the recent sale of the military reservation at Fort Snelling has failed to exhibit any fact or circumstance impeaching the personal or official integrity of the Secretary of War.

2. *Resolved*, That the management of the sale by the agents authorized by the Secretary of War to conduct the same, was injudicious and improper, and resulted, by reason of its want of publicity, in the exclusion of that competition among persons desiring to purchase, which, under the circumstances, should have been permitted.

3. *Resolved*, That the terms of sale adopted by the agents appointed by the Secretary of War to make said sale are disapproved, for the reasons, first, that a credit unauthorized by law was given to the purchaser; and, second, that the right of possession after the sale, reserved to the Government, was calculated to prevent a fair sale at a fair price.

4. *Resolved*, That the evidence taken by the select committee appointed under the authority of the resolution of this House of January 4, 1858, be transmitted to the Secretary of War, to the end that, in conjunction with the Attorney General of the United States, he may adopt such measures in respect of the sale as they shall be of opinion, in view of the facts developed by such evidence, that the public interest requires.

Mr. LETCHER. I desire to say that I shall ask for a separate vote upon those resolutions.

The SPEAKER. That question does not now arise, but if it be the pleasure of the House, when the House comes to vote upon the respective resolutions, a division of the amendment will be allowed by the Chair. The Chair doubts whether a division can be had of such an amendment. It must be taken as an entirety. If not, the effect of it practically would be to allow a gentleman, instead of offering one amendment, to offer two or three, and instead of there being an amendment and an amendment to an amendment pending, it might result in there being five or ten amendments pending. But the views of the House upon this question can, perhaps, be better obtained by allowing a division to be called, and the Chair, if there be no objection, will so propound the question to the House when the House comes to vote upon the resolutions.

Mr. JEWETT. Is it in order to offer an amendment to the substitute offered by the gentleman from New York?

The SPEAKER. It is not.

Mr. GROW. I desire now to ask a separate vote on the resolutions of the minority of the committee, in case we should reach them.

Mr. CLARK, of New York. I believe I am entitled to the floor.

Mr. BISHOP. I would like to inquire whether it was not the understanding yesterday that the vote was to be taken at twelve o'clock to-day?

Mr. CLARK, of New York. There was no understanding by which I am to be restricted of the time to which I am entitled. I claim the floor.

The SPEAKER. The gentleman will proceed.

Mr. MORRILL. I desire to ask the gentleman from New York if he intends to move the previous question at the conclusion of his remarks? because I desire to say that the gentleman from Illinois, [Mr. MORRIS,] who was a member of the committee, was indisposed yesterday, and was not able to participate in the debate; and he ought not to be deprived of an opportunity of making some remarks on the subject.

Mr. CLARK, of New York. I am willing to move the previous question at the conclusion of my remarks, if it is the pleasure of the House.

Mr. MORRILL. I hope the gentleman will not move it till the gentleman from Illinois has had an opportunity of being heard.

Mr. JEWETT. I ask the consent of the House to have the amendment which I desired to offer read for information.

Mr. CLARK, of New York. I have no objection, if my time is not thereby abridged.

The proposed amendment was read, as follows:

1. *Resolved*, That the facts and circumstances reported and relied on by the majority of the committee do not authorize the conclusion to which they have come, that the action on the part of the Secretary of War was a grave official fault.

2. *Resolved*, That the contingency had not occurred upon the happening of which alone was the Secretary of War authorized to sell Fort Snelling or the land attached thereto; and that the sale, in the opinion of this House, is void.

Mr. CLARK, of New York. Mr. Speaker, I ask the attention of the House while I offer some unpremeditated remarks upon the questions which are now presented for our consideration. I should have been content, at this late hour of the session, to have given a silent vote upon the resolutions submitted to us, had I not arrived at the conclusion, after a deliberate examination of the reports of the majority and minority of the committee,

and of the evidence adduced before them, that the subject is one which deserves, and should receive, the careful attention of every member of this House. Mr. Speaker, it involves a subject no less grave than that of the mode in which the national defenses of the country may be alienated. We are officially informed by the reports of this committee of investigation, that one of our military reservations, long since established, embracing an extensive and valuable tract of land in the midst of a settled and rapidly improving section of the country, has ceased as such to exist. Well may this House pause and inquire by what authority has this alienation been made, and under what circumstances, and for what pecuniary consideration, has the title been contracted to be ceded away.

Mr. Speaker, this is not a party question, and involves the fate of no Administration measure, and hence no member of this House is hampered or embarrassed by the opinion of any other man or any set of men, or of any of the officials of the Government, in pronouncing his judgment upon all the facts developed.

It is not to be unheeded that the case involves, to a very considerable degree, the conduct and character of the Secretary of War, the deportment of the commissioners appointed by him to make this sale, and the transactions of the alleged purchasers at that sale. All these gentlemen and their acts, as connected with the subject-matter of inquiry, pass in review before us.

I may be permitted to say that I am one of those who think that the character of any man, be he a public man or a private citizen, is a thing almost too sacred to be touched by the legislation of this House. In dealing with it whenever such dealing becomes indispensable, we cannot fail to exercise a care most considerate, and a judgment unswayed by party or personal prejudices.

Mr. Speaker, I have examined with no inconsiderable attention the reports of the majority and minority; and while I render full credit to each for the signal ability displayed, I find myself unable to concur with either in the results at which they have arrived. I shall endeavor to state briefly the grounds of my dissent from the resolutions both of the majority and minority, and then address myself directly to the series which I have offered as a substitute.

Mr. Speaker, the resolutions of the majority condemn everything and everybody. I concede that, in their report, they have developed a chain of circumstantial evidence, tending to draw in question the official conduct of the Secretary of War, and affecting the integrity of the sale itself to such a degree that I am free to say that I should hesitate long before I could give my approbation to that sale. I cannot indorse the resolutions of the majority which propose to implicate the Secretary of War, which propose to impeach the commissioners appointed to make the sale, which propose to impeach the alleged purchasers, which propose to impeach the sale itself, and thus invite a universal condemnation of every person and everything connected with the transaction.

I am as strongly disinclined to adopt the resolutions of the minority, which seem, with equal failure of discrimination, to exonerate everything and every person. They propose to exonerate the Secretary of War, the commissioners of the sale, the alleged purchasers, and the machinery by which the sale was effected, from every kind of criticism or censure. They propose to give the sanction of this House, in official and legislative form, as well to the mode by which the sale was conducted as to the terms of the sale. Their exoneration covers the whole scheme of the speculation. Sir, I dissent from both. It is with no ordinary satisfaction that I can say that a critical examination of all the evidence leaves not the slightest ground for implication of the personal or official integrity of the Secretary of War. I am by no means satisfied with the manner in which the sale was conducted, nor with the terms of the sale. There are circumstances surrounding this sale which, in my judgment, should not be permitted to attend the sale of any of our national defenses, or any portion of the public domain.

Mr. Speaker, what is alleged in the report of the majority, touching the official conduct of the Secretary of War? If I have eliminated with accuracy the substance of that report, the charges are two, and only two. The first is, that he ex-

ceeded the power and abused the discretion vested in him by law in directing the sale. The other is, that he confided the conduct of the sale to inexperienced and incompetent agents.

Now, sir, I think I may assume that no member of this House is to such a degree the enemy of the Administration as to be willing to cast unmerited censure upon the conduct of a gentleman of distinguished reputation, of courtly manners, of unimpeached and unimpeachable character, for the reason that he fills a Cabinet office under that Administration. And I hope I may, with equal confidence, assume that there is no man in this House who, from mere sympathy with the Administration, would hesitate, upon a question like this, to pronounce his condemnation of the manner of a sale which, if it had been made under the administration of political adversaries, would have met with clear and marked reproof.

Mr. Speaker, I propose to consider a moment the allegation that the Secretary of War has exceeded his power in directing the sale of the military reservation at Fort Snelling. Well, sir, what if he has? Is that any impeachment of his good faith in ordering the sale? Suppose he has made a mistake as to the law, (and I am not, by any means, certain that he has not,) does it follow that this House, differing with him in opinion, is at liberty to assail him? Assume, if you please, that the legal power did not exist in the Secretary of War to order a sale of the reservation at Fort Snelling—and I cannot but deem the question at least doubtful, in view of all the facts disclosed, touching its capability for military use—it by no means follows that his erroneous judgment, as to his legal powers, or an indiscreet exercise of them, is to subject him to such censure as is implied in the resolutions of the majority. It is clear, it is conceded by all, whether friends or foes, that he was not concerned in the speculation; that he was not to have one single dollar of the profit; that if he has erred at all it was by mistake, and without intent to permit the Government to be defrauded of its domain, or the Treasury to be despoiled of the money.

It is charged that, in the appointment of the agents to conduct the sale, he was governed by the rules of party discipline and selected personal and political friends. It will scarcely be questioned that such considerations may properly, and that, at any rate, they at all times do influence the appointments made by the persons for the time being in the possession of the power of the country. Sir, this discrimination in favor of his friends is no ground of accusation—scarcely of criticism. It casts no imputation upon his personal or official integrity. It is true that he ought to have selected discreet and capable men as the agents to perform the services which the statute did not contemplate that he should discharge in person. But there is not an item of evidence proving that the agents selected by him for that purpose were men of known incapacity. The criticism upon their official conduct, to which the result of the investigation exposes them, is one to which the Secretary of War had no reason to expect that they would subject themselves; and no Administration can be justly censurable, or be at all times held responsible, for the acts and errors of its appointees.

If the circumstances justify the conclusion to which my reflections have led me, I can recognize no embarrassment in relieving the personal and official integrity of the Secretary of War from all imputation, while at the same time we pronounce upon the sale, and the circumstances attending it, such judgment as the transaction merits upon the evidence disclosed.

Mr. Speaker, if the Secretary of War committed an error in directing the sale, it is an error into which very many others have fallen. The minority of the committee—both, I believe, professional men of acknowledged ability—and many other members of the House, appear to entertain no doubt of the legal power of the Secretary to make the sale. I will briefly speak to that question—had the Secretary of War the power to make the sale? It is conceded on all sides that the power to sell, if it existed at all, is derivable under the statute of 1819, or that of 1857. The act of 1819 reads as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized,

under the direction of the President of the United States, to cause to be sold such military sites, belonging to the United States, as may have been found or become useless for military purposes. And the Secretary of War is hereby authorized, on the payment of the consideration agreed for, into the Treasury of the United States, to make, execute, and deliver all needful instruments, conveying and transferring the same in fee; and the jurisdiction, which had been specially ceded for military purposes to the United States, by a State, over such site or sites, shall thereafter cease."

The act of 1857, amendatory of the act of March 3, 1819, is as follows:

"And be it further enacted, That the provisions of the act approved March 3, 1819, entitled 'An act authorizing the sale of certain military sites,' be, and they are hereby, extended to all military sites, or to such parts thereof which are, or may become, useless for military purposes: *Provided, nevertheless, That nothing in this act, nor in the act above mentioned, shall be so construed as to impair in any wise the right of the State within which any such site or reservation may be situated to impose taxes on the same, in like manner as upon other lands or property owned by individuals within the State, after such sale.*"

It is claimed that this latter act is not applicable; for that the sale was made under the provisions of that of 1819. Each of these acts authorizes the Secretary of War, under the direction of the President of the United States, to cause to be sold such military sites as have been found, or as have become, useless for military purposes. The act of 1857—which, as I have already stated, is to be regarded as inapplicable—varies in the language prescribing the contingency upon which the sale is authorized. It is, perhaps, broad enough, *literally construed*, to authorize the sale of any military site which may become useless for military purposes, or of such parts of any military sites which are useless, or which may become useless. The argument addressed to us in the report of the minority of the committee is, that the military site at Fort Snelling had actually become useless, and had been found useless prior to the order for its sale.

It may, I think, well be questioned whether either of these acts ought to be deemed applicable to the cases of military sites existing in our Territories. Does not each of them by its terms contemplate that the military sites or reservations authorized to be sold, in the event of their *uselessness* having been established, shall be such, and of course such only, as those existing within the jurisdiction of a State? The act of 1819 declares that the jurisdiction which had been specially ceded for military purposes to the United States by a State over such site or sites shall cease. Has it not, therefore, manifest reference to the cases of military sites of which a cession for military purposes had been derived from a State? The case of Fort Snelling, in the Territory of Minnesota, does not answer that description. No State had ceded to the United States jurisdiction for military purposes over the site; nor was there then any State to which the jurisdiction could be retroceded by the United States upon a sale. The term "*reservation*" is not found in the act of 1819. This word first appears in the proviso attached to the act of 1857. But the language of this proviso seems to contemplate that the "*reservation*" to which the act applies shall be one situated within a State whose general power of taxation might be restricted or impaired but for the special provision.

I am not unmindful that the intended meaning of an act of Congress may be ascertained by reference to contemporaneous acts of the Government; and that a state of things existing at the time of its passage, may be referred to as indicative of the remedial purpose of the act. I am not informed by either of these reports what particular military sites were, at the time of its passage, designed to be alienated under the law of 1819. As to the law of 1857, we have more light. I am quite satisfied that the mischief intended to be remedied by that act, was that resulting to parties desirous to purchase by reason of the proprietorship of the General Government; and that the reservation referred to in the proviso, was the military reservation at Fort Snelling. It is to be remarked that this act of 1857 was probably passed by this House without the knowledge of perhaps any persons beyond the circle charged with the accomplishment of the purpose.

It turns out, upon inquiry, that in respect of this, as may, perhaps, be justly said of very much of the general legislation of the country, it crept noiselessly and stealthily into a bill making appropriations for the support of the Army; and that, too, upon a report of a committee of conference. It is, therefore, one of those instances which

may, perhaps, for aught I can tell, justify a remark made a few days ago, in my hearing, by a distinguished gentleman upon this side of the House, that a very great part of the legislation of the House comes within the designation of "an accident, a blunder, or a swindle."

Mr. FAULKNER. I wish to say to the gentleman that this sale took place under the act of 1819, and not under the act of 1857; and further, that upon the recommendation of the Secretary of War, Hon. Jefferson Davis, a bill has been pending in this body for three years prior to the passage of this act, for the very objects contemplated by this section of this appropriation bill.

Mr. CLARK, of New York. So I understand it, and therefore I have proposed to examine the law of 1819 for the purpose of ascertaining whether, by its fair legal construction, it authorized the sale; and I wish here to be expressly understood that the point I have presented is one which I do not raise with entire confidence of its accuracy. It is in my judgment a doubtful legal question on which I do not think this House need pass, but which should, I think, be transmitted to the Secretary of War and the Attorney General that, upon a review of the case, they may, if they shall be so advised, procure the decision of a legal tribunal upon the question, if the House shall be of the opinion that there is doubt on the subject. I have not failed to observe that when in 1856 application was made by the present honorable Senator from Minnesota, Mr. Rice, to the late Secretary of War, Mr. Davis, that the sale of the reservation at Fort Snelling be authorized, such application was declined by the late Secretary of War, not upon the ground that a further act of Congress was essential to authorize him to make the sale, but upon the ground that the reservation was still actually needed for military purposes, and that therefore the offer to purchase could not be entertained. Nor am I unmindful that in the recommendation made by the honorable Senator to the present Secretary of War, on the 7th of April, 1857, that the military reservations at Fort Snelling and Fort Ripley be sold, the suggestion as to the sale of Fort Snelling was rested upon the law of 1819, and not upon the law of 1857. I have therefore called the attention of the House to the precise phraseology of the act of 1819, in order that the House may consider whether the point which I have presented in respect of the naked power to make the sale is, or is not well taken. I can readily imagine that Congress should give authority to the Executive to make sale of military sites existing in the States—while it might well hesitate to authorize the alienation of those situated nearer to the frontier, and within the confines of a Territory. Sir, in a State there is a government which can by its unaided power protect the rights of person and property. There is a jurisdiction, sir, which can maintain forts and arsenals, which can provide for the public defense and secure the inhabitants against the danger of invasion, while in the Territories of the United States, with a sparser population and less of the elements constituting the sources of public protection, occasions might arise when resort to the protection of the military establishment of the General Government might become necessary.

Mr. Speaker, in each of the acts of 1819 and 1857 the condition, or contingency, upon which the power to sell is to be exercised, is specifically declared. It is a limited power, to be strictly pursued. Its construction is governed by clear, well-defined, and well-settled rules. The condition is express that the military sites should have first become *useless for military purposes*.

Mr. HUGHES. As the gentleman has drawn a distinction between military reservations outside of States and those inside, I desire him to say where he derives the power of the Secretary of War to acquire such a reservation as this, and if the very same source from which he derives the power to acquire such a reservation would not give him a power to sell it?

Mr. CLARK, of New York. I will reply to that interrogatory by saying that no one of the executive officers of the Government has the power to sell, without the authority of Congress, one shilling's worth of the public property. They do not own it. The title is not vested in them, and they have no power to sell it. I have not till now heard that it is pretended by any one that the

power to make the sale existed, unless it is to be found in the plain language of the acts of Congress to which I have referred. If the act of 1857 can be rightfully construed to authorize the Secretary of War to alienate any military site which may at some future time become useless, and the absolute power of determining the fact of future uselessness is committed to him, some future Secretary of War may sell Fort Hamilton or Governor's Island at his pleasure, and the transaction be valid. He may traffic away any one of our sea-board defenses; and if the power to sell, and the discretion which is to control its exercise is absolute, and the terms of sale and mode of sale adopted in the case of Fort Snelling are approved, we may wake up some morning to find that we have been deprived of our national defenses, and that the national Treasury has not profited by their sale.

Mr. Speaker, what does the term *useless* signify? Does it not mean *incapable of use*? Is the term "*useless*" equivalent to the term *unoccupied*? Was not the term "*useless*" designed to describe an old dilapidated fort, decayed and fallen, with the ivy creeping over its battlements, long since abandoned, because useless and good for nothing for military purposes? Because a fort is unoccupied it does not necessarily follow that it is useless. Are Fort Hamilton and Fort Schuyler, if peradventure at this moment almost unoccupied, of necessity useless? Or does the term *useless*, as employed in the act, fairly mean incapable of use for military purposes or any one of the purposes which, without violence of construction, may be deemed a military purpose?

But while I dissent from the conclusions of the minority of the committee as to the question of the power which has been sought to be exercised, I still concede the full force of the argument that the act of an executive officer, to whom a power is confided by law, is not subject to be reversed because of the opinions of others not intrusted with the responsibilities of office.

If the act of Congress in question had conferred upon the Secretary of War the privilege of determining, at his own discretion, that a military site had become useless, and upon such determination subjected it to immediate sale, there would be an end of all question as to power. But I do not so construe it. The power does not come into existence until the event has transpired which constitutes the contingency upon which the power is to become active.

In the case of any of our military sites, the President of the United States, as Commander-in-Chief of the Army, may direct their occupation or their abandonment. But I am not satisfied that the removal of troops, munitions of war, or stores, from a military post, and its consequent abandonment, is equivalent to the *incapacity for military use* which can alone justify its alienation.

But to resolve censure upon the Secretary of War for his exercise of judgment in this case, assuming the same to be erroneous, is to bestow equal censure upon the President. The act of 1819 prescribes that the power of sale therein conferred shall be exercised by the Secretary of War only under the direction of the President; and we are to presume that it has been so exercised.

The record before us shows that, in the month of July succeeding the sale, the same was approved by the President. Neither the President or Secretary is to be deemed responsible for the particular mode of sale; but the ratification by the President, though without the knowledge of the facts since developed, must be regarded as his official sanction of the preliminary action of the Secretary of War directing the sale. Now, if the President of the United States, in the exercise of his prerogative as Commander-in-Chief of the Army, has deemed it proper to approve the sale of the military reservation at Fort Snelling, is it just to the Secretary of War, under whose more immediate direction the sale was made, to pronounce him chargeable with grave official fault, because of the conduct of those to whom he intrusted the management of the details?

My conclusion on this subject of power is, that it is at least doubtful whether, in the first place, the act of Congress of 1819 is applicable at all; and, if it be applicable, whether the contingency had actually arisen in which alone this special power could have been rightfully exercised. But I cannot consent to subject any officer of the Gov-

ernment to public censure because, peradventure, there may have been a mistaken construction of the power conferred, or an error as to its exercise.

Mr. Speaker, assume, if you please, that there was no defect of power, and that the contingency had occurred which authorized its exercise, it nevertheless by no means follows that the sale itself, when viewed in respect of the circumstances attending it, which have been developed by the investigation of the committee, ought to receive the sanction of this House. I am aware that this House, when employed in the consideration of the subject-matter of this investigation, is not exercising judicial powers. Sir, judicial power is not conferred upon us; our legislative power can only be exercised in conjunction with the Senate and with the President. It is true, sir, that this was a subject of which the House might well take cognizance. I deem it within the appropriate sphere of this House to take notice of every act of any one of the officers of the Government which may, in any manner, affect the revenue of the country, or which may tend to deprive us of any of the national property or national defenses. But, sir, as we cannot exercise judicial power, we cannot annul this sale, or deprive any party, claiming under it, of any right. If any such has been acquired, we cannot divest it by force of legislative power, unless in violation of the Constitution. We may express our opinion, and we may leave it to the courts of justice to determine, in view of all the circumstances of the case, whether the sale is void, and, if not void, whether it is not voidable.

Mr. Speaker, I do not propose, because I have not the time remaining to me, to analyze this mass of evidence, and to attempt to array it before this House in such a manner that it can be carefully and justly weighed. I will, however, refer to one or two of the acknowledged features of the case, in respect of which I call upon the House to pronounce its calm, unbiased judgment, free from the influence of party or personal prejudice.

It is established by the reports of the majority and of the minority, and may be taken as conceded, that this sale was secret. That it was so severely, so dreadfully secret, that this one of our national defenses passed from the control of the Government, while the officer in command of the fort was unaware of it, and while the citizens in the neighborhood in which it is located, anxious as they appear to have been for an opportunity to purchase the land, had not the slightest idea that the sale was going on. This much cannot be controverted, and the question then presented is, Shall this House give its assent to the sale of one of the national defenses, under this act of Congress, conducted in a manner which, without intending unjustly to characterize it, I do not hesitate to pronounce clandestine? Now, if there is any one principle better settled than another, applicable as well to sales made by authority of law as to judicial sales, it is that the sale shall not be secret—shall not be clandestine—but that it shall be open, exposed, notorious. No argument, having a respectable foundation, can be urged in favor of a secret sale. We are irresistibly urged to the conclusion that this sale, because of this undisputed feature, should not be established as a precedent, or receive the sanction of the Government.

Mr. Speaker, I can hardly hesitate to express the opinion that there is not a single court of justice in Christendom that, upon the case presented by this report, would hesitate a moment to annul that sale upon that ground alone. But it is said that the property brought its full value. I do not propose to examine the evidence upon that subject. While there is some foundation for the assertion that if the land had been sold at an open, public sale, it might for all have been sacrificed; it is, nevertheless, my judgment, upon the evidence, that it would at that time have brought twice or three times the sum contracted to be paid if it had been sold in a manner to invite competition, and under such circumstances as would have rendered nugatory that kind of fraudulent combination to deprive the Government of the value of its property, (whenever it has recourse to a public sale,) which is said to be sanctioned by the general sentiment of the people of the Northwest.

Mr. Speaker, it may be regarded as an established principle, applicable to judicial and other sales, that mere inadequacy of price is of itself an

insufficient ground for setting them aside; and, sir, it is a matter almost of indifference whether this property realized \$100,000 or \$500,000. I agree with the majority of the committee that the sum which the Government is likely to receive from any sale of any portion of the public property is very inconsiderable, and far beneath its value; but I would myself much more readily have given my assent to this sale at three cents an acre, if it had been open and fair. It is important that the country should know and feel that whenever any of these reservations are to be alienated, they are not to be permitted, under any circumstances, to be bestowed upon personal or political favorites, and if this sale had been made in a less exceptionable manner by the commissioners who conducted it, the criticism which has been directed against the transaction by the majority of the committee would have been spared.

Mr. Speaker, I shall assume that it is established by the evidence that the commissioners intentionally concealed the fact of their instructions to make the sale. Why, sir, the secret was so profound, that a friend of mine who was in Minnesota somewhere in the latter part of June, supposed, from the information of those residing in the vicinity of Fort Snelling, that the sale was to take place, when, in truth and fact, it had already taken place nearly a month before. It was so secret that the news had not reached St. Louis on the 19th of August, 1857, when Mr. Reynolds addressed a letter to the Secretary of War, asking him when the site was to be sold.

Now, I feel justified in saying that there is no denial to be made by any man, who, in respect of this transaction, seeks the truth of the allegation, that this sale, whether it was fair or not, whether it was for an adequate price or not, was nevertheless suspiciously secret. For that reason, alone, if no others existed, I think the sale, under all the circumstances attending it, should be reviewed by the Secretary of War, who has never had an opportunity to pronounce his judgment upon the facts now developed, and who acted upon the report of the commissioners long before the public, or those who set this inquiry on foot, had any knowledge of the train of circumstances which now casts suspicion and distrust upon the integrity of the sale.

The subject which I next propose to present to the consideration of the House, relates to the terms of the sale. I will premise what I have to say upon this point by stating, that so far from the secrecy of the sale and the peculiar terms upon which it was made being in accordance with the directions of the Secretary of War, they are, in my judgment, directly antagonistic to their spirit and letter. If I supposed that the Secretary of War had given instructions to the commissioners appointed by him to make that sale, to keep it a secret, locked up in their own breasts, and not to permit the fact that the property was for sale to be known only to men who had been already selected to purchase it, there is no man on this floor who would more readily than myself pronounce strong condemnation. Upon a careful examination of his letter of instructions, I find that although it gave the authority that the property might be sold at public sale or private sale, yet it is not consistent with the scope of those instructions to suppose that it was his wish or expectation that there should have been any such extraordinary secrecy employed. The commissioners might have advertised the property to be disposed of at private sale, or have sold upon sealed biddings, first fixing a minimum, as directed by the Secretary.

A MEMBER. But he confirmed the sale after it had been made by the commissioners in this manner.

Mr. CLARK, of New York. In respect to that suggestion I will say, that if the Secretary of War with all the facts elicited by this investigation before him should confirm that sale, unless for reasons which are not to me apparent, I should consider that he had assumed a great responsibility. But, sir, I deny that there was before the Secretary of War, at the time he confirmed that sale, the evidence that now exists upon the subject of the secrecy with which it was conducted. So far as the terms of the sale are concerned, undoubtedly they were before him and before the President, who appears on the 2d of July to have given his official sanction to it. But, I cannot find

in the case, as it was then presented to the Secretary of War and the President, a scintilla of the evidence which now leads to the conclusion that the only combination which the commissioners had real occasion to be wary of, was that into the snare of which they perhaps unwittingly fell.

Mr. Speaker, in respect of the terms of the sale, the resolutions which I have proffered present the objections that it was a sale on credit—such credit being unauthorized by law; and that there was at the time of the sale, and as a part of its terms, a right reserved to the Government to retain possession of the property for an indefinite period—which reserved right was calculated to present a fair sale at a fair price.

These provisions of the sale appear to have been original with the commissioners or with the purchasers. They are in no wise in accordance with the instructions of the Secretary of War. The arrangement for a credit of two thirds of the purchase money without interest, was, without doubt, the suggestion of the purchaser. The provision for the retention of possession, was doubtless, inserted at the suggestion of the commissioners and with a view to the convenience of the Government. This latter provision of the contract seems to furnish a kind of record evidence that the site was at the time of the sale in actual use for military purposes, and that such use could not be instantly dispensed with. How can it be said that the site was useless?

Mr. Speaker, the Government of the United States has abolished the credit system in its dealings with the people. It receives only coin in payment, and it pays coin when it pays at all. The contract for the sale made by the commissioners provides for a credit to the purchaser of two thirds of the purchase money, and for the delivery of the deed upon payment of the remaining one third, and security given for the deferred payments. The kind or class of security is not defined. It was to be made satisfactory to the Secretary of War, or to agents appointed for that purpose. Was such a credit allowable? I read from the act of Congress, of 1819:

"And the Secretary of War is hereby authorized, on payment of the consideration agreed for into the Treasury of the United States, to make, execute, and deliver all needful instruments conveying and transferring the same in fee."

The consideration referred to in the act, is the whole consideration for the sale. The security to the Government, provided by law, is no less than the payment of the whole consideration, in coin, into the Treasury of the United States. The law is clear and imperative. It demands the money. The contract is equally clear and imperative. It exacts the credit. Which shall prevail?

It may be said that the Secretary of War has not executed any conveyance to the alleged purchaser, and that, therefore, he can prevent any infraction of the provisions of the law, and the possibility of pecuniary loss to the Treasury by withholding the deed till the whole purchase money shall be first paid. I think that the Secretary has acted with discretion in withholding the deed; and I cannot imagine that he will, under any circumstances, permit the Government to be complicated in any credit arrangement touching the unpaid portion of the purchase money. Nor do I believe that, whatever may be his judgment as to the facts and circumstances attending the sale, as now disclosed, he will subject himself to the charge of disregarding a plain, clear, statutory provision, touching the execution of any conveyance to which any person may become entitled. It is unwise policy to permit the relation of debtor and creditor to exist between the Government and a purchaser in respect of a sale like this. It exposes the Treasury to the hazard of ultimate loss, and may subject Congress to the importunity for relief, to which the transaction may give rise.

It is asserted that the military post at Fort Snelling is still occupied by the Government for military purposes; and it appears, in the evidence reported by the committee of investigation, that a difference of opinion already has arisen between the alleged purchaser and certain Army officers, as to the extent and duration of the right of occupation reserved in the contract of sale. This conflict of views may yet exhibit itself to Congress in the form of an application for relief. No such embarrassments could possibly arise had the terms of sale been discreet, and had the mode of sale been judicious. I protest against the alienation of large

tracts of land to speculators who, on the payment of a small portion of the purchase money, and becoming debtors to the Government for the residue, may secure the possession and commence a traffic, for the success of which I have not a particle of sympathy. My conclusion is, that the credit was unauthorized by law, and that the entire contract is for that reason voidable, if not absolutely void.

Mr. Speaker, the provision for the retention of the possession may be said to relieve the Government from the inconveniences which might flow from a sudden and unexpected sale of a military site while in actual occupancy for military purposes. I regard the provision as one liable to lay the foundation of a claim for use and occupation, and, as one of the terms of sale, consider it eminently calculated to prevent a sale other than to perhaps a single purchaser, who might have the requisite capital to buy the property and wait for an indefinite period for the actual delivery of possession essential to enable him to realize the profit of his speculation. Ordinary purchasers would be unwilling to buy the property at fair market prices, pay their money, and then be without right to claim possession of their lands until the Secretary of War could make new military dispositions, dispensing with the necessity of a continued occupation of lands which had been sold by the Government while they were needed for its military uses.

Mr. Speaker, what is the legitimate result of the views I have expressed? What is the remedy proposed? It is this: transmit to the Secretary of War the evidence taken before the committee of investigation, with such expression of the opinion of the House as it may see fit to utter, to the end that, in conjunction with the Attorney General, (the law officer and adviser of the Government,) he may review the whole transaction in the light now shed upon it; and if they shall be of opinion that for any reasons which we may assign, or for others which shall suggest themselves to them, the circumstances of the sale are such as do not meet their approbation, they may take or permit recourse to the judicial tribunals of the country, to the end that the sale may be annulled or confirmed, as justice may require. In that mode no injustice will be done to any one. We shall then not essay to deprive the alleged purchasers of the fruits of their speculation, and that without a hearing before a judicial tribunal. We then need not adopt resolutions which by plain terms defame the reputation of private citizens, who are not on trial before us, and whom we can only know as claimants of a military site, acquired, as they insist, by valid purchase. The Secretary of War will have the opportunity of reviewing the official conduct of the commissioners of sale, and of approving or disapproving their acts, as in his judgment they shall deserve. We place the responsibility where it belongs. We devolve upon the executive officers of the Government the duty of making a re-examination of the whole transaction upon its merits as now disclosed, and under their responsibility to their party, and their higher responsibility to their country, take such measures as, upon a careful and conscientious review of all the facts, they shall come to the conclusion that the public interests require.

Mr. BARKSDALE. The majority and minority reports in this case, together with the testimony taken by the select committee, have been before this House for weeks. We have been engaged in their discussion for twelve hours. There is yet a vast amount of public business to be transacted, and only four days remaining of the session. It strikes me, under the circumstances, that the discussion ought to be closed. [Cries of "Agreed!" from both sides of the House.] I take it for granted that every gentleman has made up his mind as to how he will vote. I therefore call for the previous question; and I hope that the House will sustain it.

Mr. SMITH, of Illinois. I appeal to my friend to allow me to say a word personal to myself.

Mr. BARKSDALE. How much time does the gentleman want?

Mr. SMITH, of Illinois. Five minutes.

Mr. BARKSDALE. I yield to the gentleman with the understanding that I retain the floor.

Mr. SMITH, of Illinois. Mr. Speaker, I would not have trespassed upon the patience of the House were it not that hiring presses have attempted to impeach my motives in bringing before

the House the matter now under consideration. The source whence such imputations against me have proceeded are not such that I feel bound to treat them in any other way than with scorn and contempt. When my honor and integrity as a man are impeached from a respectable source, I shall know how to resent it.

I wish to say only a word in reference to this Fort Snelling investigation. If my nearest and dearest friend had been occupying the position of Secretary of War; if the distinguished Senator from my own State, whom I have known long, and whose career I have always admired, had been in that position, I would have felt it to be my duty to call for this investigation. When the resolution asking for the investigation was presented, I disclaimed that there was made any charge of fraud or corruption against anybody. I believed then, as I believe now, that a wrong was committed. It is due to the Secretary of War, and to myself, for me to say that I do not believe he acted corruptly or dishonestly. I believe, sir, that he was deceived. I am not well acquainted with him. I am told that he is a good, kind-hearted man. I have no doubt that in this thing he has been impelled to do what now, with all the facts before him, he would not do.

I declined going upon the committee, for I did not know that my feeling might not be too strong, and that I had not prejudged the case. I knew enough then to know that the sale was an improper one, and I believed that it ought to be annulled. I did not want to go upon the committee prejudging the case, and with my mind made up. I wanted an investigation of the matter. Many of the best Democrats that I knew, men who have always been Democrats, urged upon me the necessity of a Democrat calling for this investigation. We have denounced our opponents for improper official conduct; and I say, sir, that we ought not to shrink from a rigid investigation of all matters that charged improper conduct upon a public officer in our own party.

I have said that I exonerate the Secretary from corrupt or dishonest motives in his act. I am bound to say that I think he was unfortunate in the agents he selected. And let me say here, for I have no wish to do injustice to any man—I would rather steal than detract from the good name of any man—that I have no doubt of the honesty and integrity of the gentleman from Virginia, whom he selected to go up there and make that sale; but I do not think he had served any time in a new country, or learned the ropes which are brought to bear in sales of this kind. I have no doubt that he was an honest and honorable man; but I think that his selection was an unfortunate one. I was introduced to Major Eastman on one occasion. I have not seen him here, and would not know him if I saw him. I believe he was born in my native State. When I went to the West first it was not much in a man's favor that he came from Yankee-land. But I cannot forget the land of my birth, and I believe that the fact of a man's coming from my native State, is *prima facie* evidence of his being a clever fellow. I have no unkind feeling towards Mr. Eastman. I have been told that he is a very fine painter; and I think he would have been better employed painting than selling Government lands. A man may be a distinguished and eminent military man and have no financial capacity at all—may be a perfect child, and wholly unfit to negotiate a sale of public land.

I am aware of the diversity of opinion in regard to the value of this property; and I am not surprised at the variety of testimony in regard to it. But in that connection, I wish to call attention to one fact: Mr. Steele has testified that soon after the purchase he sold a portion of the lands to Mr. Duke, Mr. Wells, and Mr. Prince. Mr. Duke and Mr. Wells are as sharp men as can be found anywhere. They have lived there for a long time, and know all about this property; and yet they paid him double what he paid for the land. The report does not say that the McKenzie house, and the Steele property, were excluded; but I would hazard my ears that they are. Mr. Matthew Johnson's testimony is worth something in this connection. He has been appointed marshal for the northern district of Ohio, and is properly indorsed. Mr. Prince, one of the purchasers, wanted to sell one twenty-seventh part to Mr. Matthew Johnson for \$25,000; and he showed

him by figures that he would get \$1,400,000 for the property.

Now, I have not an unkind feeling towards the Secretary, or towards the gentlemen who purchased this property. I cannot be driven from the principles of the Democratic party. I was a Democrat when I offered the resolution; I am now, and, God willing, I will die a Democrat. I am in favor of the resolution of the gentleman from New York exonerating the Secretary from the charge of corruption, and of the resolution to annul the sale. I thank the gentleman from Mississippi for granting me his indulgence.

Mr. BARKSDALE. I now move the previous question.

Mr. MORRIS, of Illinois. I desire to occupy the floor for a few minutes.

Mr. SEWARD. I object. I want to make a speech myself, but I think we have had talk enough.

Mr. BARKSDALE. If I yield to the gentleman from Illinois, I will have to yield to others. I insist on the previous question.

Mr. PETTIT. I hope the House will consent to let my colleague on the committee [Mr. MORRIS, of Illinois] be heard. In consequence of ill health, he was unable to reply, yesterday, to the arguments on the other side, and it is a matter of justice to him that he should be heard now.

Mr. BARKSDALE. We have had enough discussion upon this subject. I insist on my demand for the previous question.

The previous question was seconded; there being, on a division—ayes 109, noes 27; and the main question was ordered.

Mr. PETTIT. Mr. Speaker, the House having ordered the main question, and my colleague on the committee [Mr. MORRIS, of Illinois] desiring to be heard, I now cheerfully yield him a portion of my time.

Mr. DAVIS, of Mississippi. I object to that.

Mr. PETTIT. Mr. Speaker, I propose, then, coming at once to the matter which has been under discussion in the House. This transaction, in my judgment, has been correctly characterized in the resolutions reported by the majority of the committee. If, before the scrutiny and criticism which its report has just undergone, I had allowed myself, at any time, to doubt the propriety of its conclusions, the manner in which it has stood this ordeal has left me without doubt. The act by which the important military position of Fort Snelling, and the military reserve of several thousand acres belonging to it, was lately so silently and so strangely disposed of from public into private ownership, is utterly indefensible. It cannot be defended in law or morals, on principle, policy, or usage; nor even, if the right or wrong of the transaction is of no consequence, can it be defended on the consideration pressed by the minority of the committee—that the Government has lost no advantage by it. It is wrong throughout. No man can defend it. I mean just what I have said; but, since the gentleman from Virginia [Mr. FAULKNER] was pleased, on yesterday, to sound, for the first time in this connection, the clarion note of party, and call a muster of his political friends to join him in opposition to the action proposed by the committee, I am not at liberty to say, in recollection of what has sometimes come under my observation here, when it is submitted to the arbitrament of a vote—that final arbitrament to which all of us here must submit—that it will not be defended by force of party numbers. Let there be no mistake about it. The apparent indignation that moved the gentleman from Virginia to impute party reasons for the action of the committee in connection with this inquiry, was not because so grave an impeachment was deserved, for at this very threshold I repel it; but was dramatic only, and meant, because it implied that the Administration was attacked by its political enemies, that it should be defended by its political friends. It is a stratagem, only, to avoid a judgment of the case; and substitute in place of it a numerical count of political friends.

It is hardly necessary to say that this committee acted under the immediate authority of the House, was charged with specified duties, and that its members were obliged by the same official responsibilities. No one was more important than any other member of the committee; and I submit that it has hardly been decorous in the gentleman

from Virginia to erect a private tribunal of his own, and arrogantly summon the majority of the committee to his judgment-seat.

And now, Mr. Speaker, in order that this matter may be correctly understood, and the matter of difference made plain, I ask for the reading of the resolutions reported by the majority of the committee.

The Clerk read the resolution of the majority, as follows:

"Resolved, 1. That the sale of the military post of Fort Snelling, and so much of the reservation attached to it as was necessary for military purposes, made on the 6th day of June, 1857, under the authority of the Secretary of War, the same being then and now retained under the authority of that Department because necessary for military purposes, was without authority of law.

"2. That said sale was made by the Secretary of War notwithstanding his knowledge of the official opinions of his predecessor, the Hon. JEFFERSON DAVIS, and of other officers in superior military command to the contrary, without consulting with, without the advice, and without the knowledge of any officer in the service of any rank, leaving the question of the retention of that post to the discretion of the commissioners appointed to make the sale, and that this action on the part of the Secretary of War was a grave official fault.

"3. That with a knowledge of the great value of the Fort Snelling post and reservation, and the importance of great caution and judgment in making the sale, the Secretary of War appointed as agents for the purpose unqualified, inexperienced, and incompetent men.

"4. That provision for and management of the sale were so negligently, carelessly, and injudiciously made, as to induce a successful combination against the Government, exclude all competition, and bring loss on the Government.

"5. That John C. Mather, agent of the Department of War for the examination and sale of the Fort Ripley reservation, after having already joined a combination for the purchase of the Fort Snelling reservation, acted, in making such purchase, in violation of his official duty, and against the known policy of the Government, and that, as to him and Richard Schell, represented by him as agent, and Steele and Graham, who were complicated in the sale with him, with a full knowledge of this official character, the sale of the Fort Snelling reservation was at the time and is now void."

Mr. PETTIT. I now ask the reading of the resolution proposed to be substituted by the minority.

The Clerk read, as follows:

"Resolved, That the recent sale of the military reservation at Fort Snelling, having been made by the Secretary of War, under the direction of the President of the United States, in strict conformity to law, and the evidence reported by the select committee having failed to exhibit any fact or circumstance tending, in the slightest degree, to impeach the fairness of the sale, or the integrity of any of the officers or agents of the Government concerned in the same, or to exhibit any fact or circumstance which should make the said sale a proper subject for the opinion and action of this House, it is ordered that the committee be discharged from the further consideration of the subject; and that the report of the said committee be laid upon the table."

Mr. FAULKNER. I will say to the gentleman, that the resolution which accompanies the views of the minority has not been offered. I submitted two resolutions this morning.

Mr. PETTIT. I did not know that till now. Let the resolutions submitted by the gentleman from Virginia be read.

The Clerk read the resolutions, as follows:

"Resolved, That the evidence reported by the select committee has failed to exhibit any fact or circumstance in connection with the recent sale of the military reservation of Fort Snelling, which in any degree impeaches the personal or official integrity of the Secretary of War.

"Resolved, That all the other questions connected with said sale and suggested by the testimony, being matters of executive discretion, are subjects alone proper for judicial inquiry and redress, and not falling within the appropriate jurisdiction of this House; and it is ordered that the committee be discharged from the further consideration of the subject, and that the report of the committee be laid upon the table."

Mr. PETTIT. Mr. Speaker, it was argued yesterday, by the various gentlemen who have defended the sale of the military reservation at Fort Snelling, that the majority of the committee had made a grave impeachment of the integrity of the Secretary of War. It will be observed that this has been delicately and studiously avoided. The resolution has no such meaning. Whatever the committee has clearly inferred has been expressed in its resolutions. I have called the attention of the House to the very language of the resolutions for the purpose of obviating that unkind conclusion. It will be seen that the committee has said the following things, and no more. First, that, under the circumstances, the sale was without authority of law. Second, that the Secretary of War directed it to be made, notwithstanding his knowledge of the official opinion of his predecessor, and of officers in superior military command to the contrary, without consulting with them; without their advice, and without their knowledge;

leaving the whole question to the commissioners appointed to make the sale, and that this action was a grave official fault. Third, that with a knowledge of the value of the reservation, and the importance of great caution and judgment, the Secretary of War appointed unqualified, inexperienced, and incompetent agents. Fourth, that the sale was conducted so negligently and injudiciously as to induce a successful combination, exclude competition, and bring loss on the Government. Last, that the complicity of the purchasers was a legal fraud, and made the sale nugatory.

This is all that has been submitted by the committee as proper matter for the examination and judgment of the House. It imputes fraud against the purchasers at the sale, and there it stops. The resolution proposed by the minority vindicates the sale, says that it was in strict conformity to law, vindicates the integrity of the officers and agents of the Government concerned in it, and denies that any fact or circumstance in connection with it is a proper subject for the opinion and action of the House. This is a wide difference. The majority finds the act of making the sale unlawful, careless, and injudicious, and its conclusion a fraud. The minority thinks better of it. The officers and agents in connection with it are blameless in integrity. The sale was fair, and the facts and circumstances of selling an important public defense and a public property which could at once have been sold for three or four hundred thousand dollars, for one fourth the sum, in bulk, to a close political family, is such a trifle as to be unworthy of further notice. How very quietly this vexed difference is disposed of in the resolution proposed by the gentleman from Virginia!

He deals with his colleagues, composing the majority of the committee, just as easily, and chastises them for their difference of judgment. The report of the minority says:

"They felt no dissatisfaction at the fact that a majority of the committee with whom they were called upon to act were politically arrayed against the leading policy of the Government, and might, in addition to their sense of public duty, feel stimulated by the rare gratification of discerning something worthy of condemnation in the official conduct of an Administration to which they were opposed."

The gentleman from Virginia has acquitted everybody connected with the sale of Fort Snelling, and is sitting on trial of his colleagues of the committee. They are only a majority arrayed against the leading policy of the Government. But the gentleman from Virginia magnanimously feels no dissatisfaction on account of it. The gentleman from Virginia sees the committee stimulated to a rare gratification, which he has described, but yet he feels no dissatisfaction. The unreasonable majority proposes to discern something to be condemned in the official conduct of the Administration to which it is opposed; but yet he is unmoved, and expresses in his report an entire contentment of mind. This language intends to say that the committee has been actuated by an improper malevolence to the official conduct of the Administration.

The able and eloquent gentleman from Virginia did not stop at this, but in his argument on yesterday complained again that the majority of the committee throughout this investigation has been in fault, has persisted in fault in spite of him, has yielded to unjustifiable motives, and arrived at improper conclusions. The following is a part of his language:

"He did not question the ability with which the document had been prepared; but he did complain that it was ability displayed in presenting the case to the House, and to the country, in a light, in his judgment, wholly different from what the testimony warranted. As the report of a committee of Congress, he had no hesitation in saying that it was more characterized by partisan feeling than any document of a similar character that he had ever read."

Facts, he said, were misquoted, and much bad law uttered.

It is pleasant to turn from this, and contemplate the serene minority, the gentleman from Virginia and the gentleman from Kentucky [Mr. BURNETT] as they represent themselves in the conclusion of the minority report. "Upon this evidence," they say, "the undersigned, as impartial judges of the facts, can reach no other conclusion," &c. It was well, at least, that there should be two honest and impartial judges on such a committee.

The majority of the committee was unfair and bent on the rare gratification of party malice! It

was only the gentleman from Virginia and the gentleman from Kentucky, as they have been pleased to subscribe to the fact at the end of their report, who signalized themselves for their impartiality and judgment. Mr. Speaker, Providence, in its mysterious system of compensations, has kindly lent to some men the pleasing self-delusion that they only are wise and good, and that they have been sent upon the earth to observe the errors and follies and faults of others. The distinguished gentleman from Virginia is an illustrious example of this innocent hallucination. He is pleased to have two eyes, one of which, jaundiced to all others but himself, sees only their poor human frailties, while the other, always kept on duty, looks admiringly forever on the wisdom, integrity, and consequence of himself. Such is the self-made heaven, high above our common infirmities, where pride and vanity dwell.

Now, I have been compelled to mention this matter, because it has been thrown in my way, and I have not felt at liberty to go round it; but yet I will do the gentleman from Virginia the justice of expressing my honest judgment, and if I do him wrong, I shall take pleasure in correcting it: that his complaint of the party action of the committee has not been meant so much to wound his late colleagues of the committee, as to make it a trumpet-note to rally political friends to his support. I scorn, utterly, the paltry considerations that will allow a matter of grave inquiry like this to be treated as a simple party transaction. When there is imbecility in office; when there is crime in office, the weakness, or the offense, loses party quality, and becomes an immense public calamity. Parties cut loose from it, and their contentions are forgotten in the sense of the public disgrace, or the public danger.

Besides, may I respectfully be allowed to ask the gentleman from Virginia, if he has been pleased to consider that if a majority of a committee could be induced, from party considerations, to take improper action against persons in office, merely because they were political opponents, whether upon his part, and on the part of his friends, similar motives may not exist for defending them?

I wish, in short, here, to say another thing. The gentleman from Virginia, who is the author of the minority report, has, in the language already quoted, alluded to this committee as being organized with a majority against the leading policy of the Administration. It is not so. I am not now speaking for myself. I proudly confess to no marked admiration of its policy, and I think I am only just to my colleague from Vermont, [Mr. MORRILL,] in saying that his measure of admiration is no more than mine. But while the gentleman from Illinois has been compelled to be silent, it is but just to him to mention to the gentleman from Virginia that he owes it that he is now permitted to support this Administration, and load it with his praises, to those who, like the gentleman from Illinois, in the days of ripe October, 1856, when a steady tide of victory had been sweeping from the Atlantic westward, and yet knew no ebb, lifted up the standard which had been beaten down in this succession of conflicts—and I regret that such brave men did so for so poor a cause—and raised on the political battlefields of Indiana and Illinois, won by themselves, the first shouts of victory in that memorable campaign that gave the administration of the Government into its present hands. Those States were the firm shore against which the tide rolled, and first broke, and then fell back.

"Against the leading policy of the Administration!" The gentleman from Illinois, it is well known, has not sympathized with the Lecompton policy of the President; but does not the gentleman from Virginia confess that he has been faithful in everything but this? It is less than a year since the President himself was against it. Is this Lecompton policy, on which he dared to differ, and kept his virtue when it was crushed out of other men, its only leading policy, and the sum of its policy? Has the Administration nothing else to stand upon? Is this poor, crooked, deformed Lecompton brat the only thing it loves? Policy belongs to the people. What right has the Administration to have a policy? What is the Administration but the Executive and his subordinates? When I turn to the Constitution of the United States to find how the powers of Gov-

ernment are shared out, I find that the people make policy. It is done by Congress, after all, only so many multiplied agents of the people, and representing its sovereignty, will, and policy. I find that Congress may do certain things by a grant of agency derived from the people; and that the prescription of all acts is with Congress, the legislative power, and that the Executive is only the dumb right hand by which the people executes its purposes. It is a usurpation of functions for the President to attempt a policy which is not the people's policy, or to have a policy separate from the people. He has exhausted his duties when he has taken care that the laws are faithfully executed. It will be a sad day for the liberties of this dear land of ours when the President has a policy, but the people have no longer a policy. We shall then have passed the culminating point of the national glory, and steadily hasten down, through decline, to the decrepitude and old age of nations; and history, writing with its iron pen, will teach the lesson that we have justly deserved the doom, for our infidelity to the trust of popular government our fathers left us, and which we have allowed tyrants to rob from our unfaithful keeping.

But I am bestowing too much time on such a subject. It would be uncivil to the gentleman from Virginia, who is quick at observing the errors of others, to suppose that he could be guilty of any. I make no such imputation against him; but content myself with saying that between us there is a singular misapprehension of terms. I shall have occasion to refer to other differences; but I allude to one now, because it will not occur fitly anywhere else. "Every call upon the War Department," says the minority report, "no matter how irrelevant"—implying that irrelevant calls were made, when, in fact, the matters obtained in every instance have been incorporated in the report—"every call upon the War Department, no matter how irrelevant, was promptly acceded to." If gentlemen having the report in their hands will be kind enough to turn to page 82, they will find that the committee asked certain information from the Secretary of War on the 13th day of February. If they will again turn to page 86, they will find that the Secretary of War, not having furnished that information, was again applied to on the 15th day of March. Between the two ends of the avenue, it required more than a month to enable the Secretary of War to be prompt. If, again, gentlemen will turn to page 87, they will find that on the 25th day of March the same call for information was again pressed on that Department, and, on page 452, that the information was communicated on the 29th of March. "This last was immediately before the final adjournment of the committee. So much deliberation and caution, in order to be prompt, is unusual, even in public offices. This is a difference of terms simply.

Mr. FAULKNER. The gentleman misapprehends my remarks. I said promptly acceded to by the minority of the committee.

Mr. PETTIT. The language I have quoted is the very language of the report, and there is no more of it.

Mr. FAULKNER. There is a material difference between what the Secretary of War did and what the minority of the committee did.

Mr. PETTIT. I have no time or wish to enter into a controversy on that subject.

The gentleman from Virginia, in his argument yesterday, flippantly treated the action of the committee as secret and inquisitorial. He is even unwilling to allow a proper consideration to the generous motives of my colleague on the committee from Vermont, [Mr. MORRILL,] in offering the resolution declaring that the proceedings of the committee should be kept secret, and to which he himself gave his assent. It was passed, as he well knows, with the single and avowed object of preventing the information obtained by the committee from transpiring, from an apprehension of injury to persons, official and unofficial. Such delicacy was worthy of better treatment. The gentleman from Virginia thus finds fault with his own act. This is not all. He, and others taking up the same line of statement, have complained that no opportunity was allowed the Secretary of War of meeting the proof taken by the committee. If the gentleman will turn to page 77, he will find there, as a part of the reso-

lutions of secrecy referred to, the following resolution:

"Resolved, That, if any evidence shall be submitted to this committee implicating any person not a member of Congress, a copy of the same, when fully completed, shall be transmitted to the party implicated, and an opportunity granted to rebut the same, and of meeting the witnesses face to face."

It is the act not only of the majority, but of the gentleman from Virginia, as well as the gentleman from Kentucky, [Mr. BURNETT,] both of whom thus had it in their power to furnish the opportunity of defense so cheerfully and so justly accorded by all the members of the committee. It is an afterthought that the Secretary of War has been wronged, and had no opportunity to be heard, and is only now a disingenuous stratagem of defense. Sir, I state it upon my judgment, without knowledge, that, during the progress of this investigation, there was a steady, intimate, and confidential intercourse held by the gentleman from Virginia with the Secretary of War, upon all subjects connected with this transaction; and there was no portion of this proof which was not already familiar to that officer.

Mr. FAULKNER. Do I understand the gentleman from Indiana to state that as a fact?

Mr. PETTIT. I state it as my judgment, without knowledge.

Mr. FAULKNER. I will tell the gentleman that very few conversations occurred between the Secretary of War and myself during the progress of that investigation.

Mr. PETTIT. It is sufficient for my purpose, and to justify the conclusion I have expressed, that there were a few conversations between these gentlemen.

Another thing. The gentleman from Virginia has dealt with this transaction as if the inquiry of the committee was limited to the action of the Secretary of War, and seems to have forgotten that Mather, Major Eastman, and William King Heiskell, Esq., were bound by the same official proprieties. His argument has opposed no statement of the majority report, nor any expression of law governing the facts, but has been limited to panegyric of the head of the War Department; and he seems to have felt a personal offense that the committee have not shared with him in the same view, and come to the same conclusion. His whole argument "hath this extent—no more." Lest I might be mistaken in the metes and bounds of the duties imposed by the House on the committee, I have turned back to the resolution appointing it, to see what, under the authority of the House, the committee was required to do. The following is the resolution:

"Resolved, That a committee of five members be appointed by the Speaker to investigate all the facts and circumstances connected with the sale of the military reservation at Fort Snelling, the manner in which such sale was made, to whom made, the consideration paid, the terms of payment, whether the price paid or agreed to be paid was adequate or not, and whether the said reserve, at the time of said sale, was longer wanted for the public service; and that said committee have power to send for persons and papers, and to administer oaths to witnesses."

Here are prescribed duties imposed on the committee. The Secretary of War is in no manner named as a particular object of its consideration. Acting in fidelity to the commandment of the House, and under the solemn sanctions of our oaths, that did not spare us from this unpleasant duty, we were compelled to a careful inquiry of the whole transaction; in honor bound to injure and offend no one; but not to gloss with fulsome eulogy persons public or private, however exalted their position. The committee has aimed to do their prescribed duty, and no more.

Let me meet at once the ungenerous complaint of party reasons for the action of the committee. From the beginning to the end, through the whole voluminous testimony, in all the language of the report, it is not true that any party allusion has been made, except in the single instance where the occasion was obtruded upon us by the Secretary of War. The committee called on him for information. Among other letters which had been received by him on the subject of buying Fort Snelling, was one from Vermont, from a person of public consideration, who recited in it his past party services, made aspersions on his political enemies, and implied, in consideration of it, that he was entitled to buy Fort Snelling at a bargain. This unworthy letter, confessing the venality of the writer's opinions, was thus brought to no-

tice. The fact that it had been put on the files of the Department implied that it had not been deemed improper. Besides, the examination of Mr. Heiskell, one of the commissioners appointed to make the sale, a gentleman, in the judgment of the committee, utterly unfit for such an appointment, showed that he had demanded it, and obtained it merely for party services. The public interest was hazarded by such a practice; and it was not without much caution, and only upon a consideration of duty, to expose it to the House, that such facts falling under its observation were deemed proper for the animadversion of the committee. Indeed, the advantage and convenience of distinguished politicians were so connected with the transaction that it was impossible to hide this important motive from a faithful narrative of the transaction.

The committee thought the Secretary of War at fault in treating such appointments as political favors only, and it was no less a fault that the individuals who think themselves the beneficiaries of this sale are those who were allowed to be such because they composed a part of the President's political family, and for no other reason. In this republican Government of ours, I submit there is no other just standard of official qualification except that made by Jefferson, that officers shall be honest and capable, equal to their tasks of duty, and so honest that the public interest in their hands will take no detriment; and I submit with equal confidence, that in this transaction there was at least one distinguished instance of a person in office requiring unusual care, caution, skill, and judgment, who was incapable, and that there was one other who preferred his own to the public advantage. The practice was obnoxious, and the committee condemned it, not especially to apply to the present Administration, but at all times, everywhere—a practice, notwithstanding it has been heartily approved by another gentleman from Virginia, [Mr. LETCHER,] so far as it makes political favors of the dispensation of offices, which is plainly incompatible with sound public morals. For, if the dispensation of official patronage and the favors of office are regulated by party partialities merely, the commercial value of office or the favor is a bribe for compliances to the superior authority as much as if it were a price paid for a vote at an election. Such a practice may strengthen parties, but debauches public morals.

Turning from this least agreeable part of the subject, I come to the transaction itself. Fort Snelling is at the confluence of the Mississippi and Minnesota rivers. The reservation attached to the post at the time of the sale was nearly eight thousand acres—perhaps nine or ten thousand acres. The reservation had once been much larger, but, by previous acts of Congress, portions had been detached and added to the common stock of public lands, leaving at last only this quantity as the military reservation belonging to the post. It enjoys a fine, healthy climate; it is in a region of unsurpassed fertility, on the highway, by the way of the Mississippi, from Lake Superior to the Gulf; so that the present and future commerce exchanged between these sections must pass under its walls. Both rivers are navigable. The Minnesota, coming in from the southwest, makes it certain that the whole commerce of the region lying north and west of it must find its way to market by its very doors. Within a dozen years settlement has extended west and reached it. St. Paul, near by, has become a considerable city. The villages of St. Anthony and Minneapolis, standing on opposite shores of the Mississippi, have a water power that promises to unite them into a future Manchester. The Fort Snelling reservation, if from its favorable position it does not become the seat of a rival city, promises to be the suburban region of St. Paul, Minneapolis, and St. Anthony. There was, at the time, no single point of the whole Northwest on which the eyes of speculation looked with more lust than the body of land that this action of the Secretary of War brought to sale.

Fort Snelling, too, had long been an important defense of the northwestern frontier. The gentleman from Virginia [Mr. FAULKNER] has referred to its establishment before the act of March 3, 1819, his particular object then being to show that, as it was a military site, belonging to the Government at that time, it was competent to sell

it under that law, and that the act of March 3, 1857, was not necessary in order to confer this power on the Secretary of War. The gentleman from Virginia is mistaken in this, if I may be permitted to apply such a word to him, for want of a better. The foundation of Fort Snelling was laid on the 10th day of September, 1820; nor, although from that time it continued to be occupied as a post, was the military reservation belonging to it distinguished and separated from the public domain until 1838. For many years it had been the principal, almost the only defense of the frontier, and stood between the settlements and countless savages that roamed over the plains beyond it. Other military positions had been established depending on it, Fort Ripley, higher up on the Mississippi, and Fort Ridgely to the southwest, on the Minnesota, deriving supplies and troops from it. The gentleman from Kentucky [Mr. BURNETT] disclaimed that it had been recently used as a post of supplies, forgetting the testimony of Major Martin, assistant quartermaster, and stationed for the previous two years at Fort Snelling, that "it had been the practice of the Government to furnish Forts Ridgely and Ripley from Fort Snelling. Only one instance had occurred," he said, "in that time where supplies had gone directly from St. Louis." Nor had it lost its importance. But a few weeks before the Secretary of War directed the sale of the post and reservation at Fort Snelling, Indian outrages, marked by the worst atrocity of savage hostilities, had occurred within half a dozen days' march off, and the population beyond was flying for safety from the frontier to the thicker settlements in the neighborhood of the Mississippi. William J. Cullen, Esq., superintendent of Indian affairs for the northern superintendency, in his report of September 27, 1857, made the following statement on the subject:

"I reached the Sioux agency on the 3d of July last, and remained among the Sioux until the middle of August. The deplorable murders at Spirit Lake and vicinity, in March last, where forty-seven persons—men, women, and children—were brutally massacred by a wandering band of Sioux Indians, and outrages of the most harrowing character were perpetrated, had created a wide-spread panic throughout the frontier settlements, driving many from their homes, and demanded from the Government prompt and decisive action.

"The fact that the murderers had passed into the Indian country, and were there protected; that they were annuity Indians; and were moreover connected by marriage and blood to both the upper and lower bands of Sioux, and the conduct of the latter proved that sympathy, and a general inclination to palliate, existed among several of the prominent bands of these Indians towards the murderers.

"A long and tedious struggle here commenced with them, during which I discovered that they were, to a great extent, infected with feelings of disaffection towards the Government, and a great disinclination to respect either the officers of the Government, or the propositions made by them."

Captain Bee, who led a company of infantry in pursuit of the Indians, added to this the following statement:

"A great check has been given to settlement and civilization by this massacre. Settlers and pioneers would be most unwise to risk their lives and those of their families in a region which, from its facilities for hunting and fishing, and (should the settlement extend) for plunder and violence, may be termed the Indian paradise."

Such was Fort Snelling and the military reservation at the time it was sold, and such was the attitude of threatened hostility among the Indians surrounding the posts north and west of it. Even at the very time of making the sale, Lieutenant Colonel Thomas was engaged, under the authority of the War Department, in giving an increased garrison to Fort Ridgely, reorganizing Fort Ripley, and establishing other posts beyond them, all to be made dependent on Fort Snelling. It is astonishing that, at that very moment, the Secretary of War was defeating these judicious arrangements, by bringing this post and the reservation to sale.

The committee has said that in that act, the Secretary of War acted without the authority of law. The minority of the committee answers that the law gave him discretion to make such sales, and that this discretion is not to be questioned. The single and conclusive answer is that the law confers on the Secretary of War this discretion, on certain conditions, and that he has no discretion where these conditions do not exist. By the act of 1819, sales of military sites, then belonging to the Government, and which were useless, might be sold. The authority to sell them under that law, depended upon the two facts—first, that the military reservation belonged to

the Government on the 3d of March, 1819; and second, that, in process of time, it had become useless, and the Government did not want it any longer. I observe, by the quotation of that law in the report of the minority, that the gentleman from Virginia has allowed himself to put in italics the words, "belonging to the United States," as if the other condition, that the site had "become useless for military purposes," was of no consequence, though, providing, as it did, that useless posts only, and no others, should be sold.

Mr. FAULKNER. I have underscored it simply for the reason that that was the opinion of the Attorney General, to which I desired to call attention, that it embraced only those forts then belonging to the United States.

Mr. PETTIT. The law of 1857 principally differed from the law of 1819, in allowing this power to sell, not only military reservations that had then been made, but all others made since, and whenever they should become useless. In this connection, it is only necessary to ask the question, was Fort Snelling, at the time of the sale, useless, so as to enable the Secretary of War to make sale of it? Did the legal condition exist? and if so, did that officer use a legal discretion on the subject? I do not purpose here to explore at large the testimony of military officers of the highest grade, whose almost uniform, and whose positive opinion has been given against the propriety of the sale of Fort Snelling. This task has already been well done by my colleague from Vermont; but I content myself with condemning this rash and improvident act of the Department of War, by the opinions of the Secretary himself. At the time of the sale he had not himself determined on its propriety. In his instructions to the commissioners to make the sale, he says:

"You will examine Fort Snelling with reference to its being retained as a military depot for the use of the Government."

He thus delegated the discretion to them, not having at the time determined whether it was proper or not. At the very time, the post was garrisoned. That it was not useless is shown by the further fact that that garrison was continued, and is yet kept up; and on the 9th day of March, 1858, there were, according to Major Martin, two companies of infantry there, besides hundreds of animals, mules, horses, and oxen, for the use of the service. Even in midwinter, the Secretary of War had not determined that Fort Snelling was useless, but inquired of General Scott, who told him that he could not conveniently dispense with it until in autumn next, and not until the establishment of other posts. Still more: when the deliberations of the committee were drawing to a close, as if still perplexed on this subject, he sent abroad a military commission to Fort Snelling for the purpose of examining and reporting upon the necessity and advantage of maintaining Fort Snelling as a military depot. General Harney was withdrawn by special orders, on the 28th day of April last, from his march on Utah, for the purpose of going to Fort Snelling, and presiding over a military commission to settle this vexed question. What the conclusions of that board, acting at the instance of their military superior, holding in his single hand the fortune and honor of all of them, would be, nobody could doubt. The report of this extraordinary military commission, sent out for the purpose of finding out whether it was sensible to retain Fort Snelling and the reservation, almost a year after the Government had parted with the ownership of it, for the reason that it was no longer of any use, was presented to the House by the gentleman from Virginia. The reason for the commission is not given. I take the liberty of supposing that it was for the purpose of satisfying the still doubting but inquiring mind of the Secretary of War. It may have been to operate on the House on this very subject of inquiry. At least, presenting it here was meant to have that effect. The gentleman from Virginia was so sensible of the indecorum of this extraordinary proceeding on the part of the Secretary of War, that he took pains to say he thought he would not himself have done so. But here his sensibility stopped, and the country owes it to him that he obtained this military report from the Secretary of War, because it could only be obtained from his office, and asked the House the civility of printing it. I thank the gentleman from Virginia for having furnished this

proof of the continued indecision of the Secretary of War. It makes complete my argument, that up to the time of ordering this commission in April last, he had not himself decided that Fort Snelling was useless, and ready to be abandoned. At first he directed its sale, without having determined that it could be dispensed with, having delegated the whole function of his official discretion on the subject to his fellow-townsmen, Mr. Heiskell, and to Major Eastman. He afterwards caused it to be continuously occupied as a military post, notwithstanding it had been sold many months before, for the only reason the law allows, that it was then useless. Steele and his successful associates being the owners of the fort and reservation, and, as they say, entitled to possession from the 2d day of July last, the Secretary of War still continued its occupation as the principal winter quarters of the Northwest, for troops and trains, and horses and cattle. He was not even decided in midwinter, but asked General Scott, when it was too late to do any good, whether the post was useless. He had neither asked him nor any other Army officer any such question till then. General Scott told him it could not be dispensed with till next autumn. If Fort Snelling was useless, why has the Secretary of War been using it? Why ask General Scott at all, if that question had already been determined before authorizing Heiskell and Eastman to sell it in May last? Why ask General Scott, last winter, when he did not think his opinion of any importance before making the sale? And why, still later, did the Secretary allow himself to dwell on the subject until the military commission of 4th May, 1858, appointed by himself, determine the vexed questions, unless for the reason that it was undetermined in the Department of War until then? And why send abroad a commission, in April, 1858, when Heiskell and Major Eastman were enough to settle the question in May, 1857? The acts of the Secretary condemn him overwhelmingly for disposing of this important military post in violation of law, while it was then kept, is kept now, and for some time must be kept up for military uses, and the effect has been to turn the Government out of an important fortress as an owner, and make it the poor tenant of private gentlemen. This is a novelty that Mr. Floyd has admitted into the military history of the Government. The act of sale was without authority of law. But it rested in the Secretary's discretion, the gentleman from Virginia says. So Hull's surrender was within his official discretion and authority; but the hero of that national disgrace was not spared from inquiry and condemnation. I answer that if it rested in the Secretary's discretion to determine that Fort Snelling was useless, and then to proceed to make sale of it, these general circumstances show that he had never applied that discretion officially until long after he had made the sale. I may add that the alarmed and dangerous circumstances of the surrounding frontiers prove that the sale was indiscreet and inopportune. The act was wholly lawless, and has enriched a few private individuals, while the Government has been humiliated into the condition of a gentleman's lessee.

But in this connection the Secretary of War is more obnoxious to censure. Let the facts be briefly told. This large and valuable reservation had been a long time watched by speculators with a quick prophetic sense of its future importance. Application was made to the Secretary of War, the Hon. Jefferson Davis, early in 1856, through the agency of Mr. Rice, then Delegate from the Territory of Minnesota, to buy it at the rate of fifteen dollars per acre. Secretary Davis referred the subject to General Jesup, Quartermaster General. On the 3d of May, 1856, he answered that the fort, the wharf, and a considerable quantity of land, ought to be retained for the public use, "not temporarily, but in fee." He said, at the same time, that a higher bid than fifteen dollars per acre might be expected. Secretary Davis answered Mr. Rice at a dash of the pen, and disposed of the matter. His letter of May 6, 1856, is unusually short, clear, and nervous:

"In reply, I have to say that the reservation is still needed for military purposes; and Mr. Steele's offer cannot, therefore, be entertained."

It was not pressed again in this quarter; but took the new form of an application to Congress. At the close of the last session of the last Con-

gress, the clause that has been referred to as the amendatory act of 1857, was proposed in the Senate to an appropriation bill, and passed; and the following conversation then took place in regard to it, as reported in the *Congressional Globe*. When this amendment was offered, Mr. BRIGHT said:

"I should like to inquire if there is any provision for a public sale?"

Mr. WELLER. Those sold under the act of 1819 were sold at auction; but it has been decided that that act was retrospective, and did not apply to any military sites established after the passage of the law. Since that time, of course, many military posts have become wholly useless to the Government; and this amendment is to sell them.

Mr. BRIGHT. At public or private sale?

Mr. WELLER. At public sale.

"The amendment was agreed to."—*Congressional Globe*, vol. 34, page 1046.

It rested in this manner until, at the beginning of Mr. Buchanan's administration, Mr. Davis was succeeded by the present Secretary.

The Fort Snelling reservation was not particularly named in the law of 1857, but the testimony of Mr. Rice shows that it was meant. Thus the official opinion of his immediate predecessor, recently expressed, and of the superior Army officer in charge of the subject of supplies, was brought to the notice of Secretary Floyd. It was part of a recent report of General Jesup, that this and two or three other reservations were of the value of \$1,000,000, and enough to provide posts for the defense of the whole frontier. The necessity of caution in making the sale had been particularly noticed. These views had been enforced by a recent report of Secretary Davis, and unusual caution urged, in order to secure the Government against loss in making the sale, especially in providing a minimum, which should be up to the value of the property. In addition to this, the improvident and lawless sale of that part of the reservation adjoining Minneapolis, which had, a short time before, been detached by law from the same reservation and brought to market, admonished him of the importance of rare sagacity, caution, and judgment, in officers appointed to this duty.

Then followed the brief transaction. Early in April, 1857, without advice, without seeking advice, from any persons connected with the military service, Secretary Floyd sent Major Eastman to Minnesota to survey and subdivide the Fort Snelling reservation with a view of bringing it to sale. Eastman's instructions were limited to making the survey, for the Secretary of War told him that he would afterwards send another person to make the sale. At the same time, Mather and Schell, for some inscrutable reason, suddenly appeared at Washington. They at once learned what no one else knew, and what could only have been known at the Department of War, that the Fort Snelling reservation was about to be sold, and entered into a mutual combination to buy the post and its thousands of adjoining acres—not to occupy, for Mather, a citizen and Senator of New York, and, by the statement of the Secretary of War, a highly respectable individual, only wanted an investment; and Mr. Schell, who is also a citizen of New York and a Senator, with a larger public spirit, wished to buy it, as he afterwards expressed a willingness to buy the Capitol, for the profit of the thing. How did these favored individuals know that Fort Snelling was to be sold, to induce them into such a combination, when it was unknown to everybody else? Soon after, in the same month of April, Dr. Graham, of Lexington, Virginia, ambitious, though without money, of an investment in Minnesota, stops at Washington on his way, and asks his particular friend, the Secretary of War, the modest question, if he has anything out West to be done for his Department, that will pay? The Secretary answers, "Nothing, unless you will sell some old forts." The gentleman from Virginia [Mr. LETCHER] has expressed a high sense of the ability and character of Mr. Graham. His shrewdness is not doubted. The defense of a transaction that has plundered the Government of hundreds of thousands, and changed a principal northwestern defense into private ownership, is put only on presumptions of character. All the parties in connection with it have had their advocates. Doctor Graham is defended by one gentleman from Virginia, [Mr. LETCHER,] and Mr. Heiskell, by another, [Mr. HOPKINS,] while the Secretary of War exalts Mr. Mather. Schell dwells in the security of his

own invulnerable mail. The public has suffered in its tenderpoints of military defense and money; but these gentlemen argue that the public loss is mitigated from having been occasioned by an association of very honest gentlemen. On the same evening, Graham is brought in conjunction, by an extraordinary chance, with Mather and Schell. None of them can explain the accident; but, suddenly, these three persons are melted into the same combination, and the valuable public property of Fort Snelling, more than a thousand miles away, is the object. But there is a condition to the admission of Doctor Graham. He is to unite Franklin Steele in the transaction. Mr. Steele has long been the Army sutler at that post, and is now the only resident on that large reservation; and the forthcoming instructions of the Department of War will require that any settlers on the reservation shall be provided for by the commissioners that make the sale. Such an instruction means Franklin Steele, and nobody else. How does this triumvirate, in advance of "the rest of mankind," get the information that the instructions of the Secretary of War will take care of Mr. Franklin Steele, as a particular ward of the Government, and make it important for the success of their plans to unite him in the combination? Doctor Graham accepts the condition and proceeds to Minnesota in search of Mr. Steele. Thus, Graham, Mather, Schell, and Steele, have the only knowledge that the reservation is to be sold, and have already effected a combination to buy; Graham investing his character, Mather and Schell the money, and Steele, the singular advantage of having lived on the reservation as Army sutler.

In the mean time, Mr. Heiskell, of Abingdon, Virginia, has been refreshing the Secretary of War with a recital of his political services, and asking for an appointment, some good office, one that will pay, worth not less than four or five thousand dollars a year. The Secretary of War writes him to come on to Washington. He receives an appointment to make sale of the Fort Snelling reservation with reluctance, because he is disappointed in not getting five per cent. commissions on the sale; but now, from modesty, he wishes some one to be appointed with him; and for the first time the name of Major Eastman is thought of and put in the commission. But Heiskell is the principal, obtaining first the appointment, then advising the appointment of some other person with him; and, as he himself testifies, recommending the manner of sale, in which Major Eastman complacently concurs. The arrival of Mr. Heiskell at Washington is signalized by the return of Dr. Graham from Minnesota, in company with Mr. Mather, who has been taken up at New York. The unsuspecting Heiskell proceeds with Dr. Graham on his way to Minnesota, communicates to him his business, makes him familiar with the official instructions under which he is to act. It cannot be doubted that, in the progress of this journey, the capable Dr. Graham instructed the artless and untraveled Mr. Heiskell on all important matters connected with his duty—how the Government might be wronged by combinations, the importance of keeping his counsels secret, and all other things that were useful to keep him under the private management of the combination. Of course, whatever was known to Dr. Graham was freely told to his associates.

At the same time, Mr. Mather was unwilling to make an unprofitable journey to Minnesota. It somehow happened, as can be best explained by the Secretary of War, that that officer was suddenly struck with the rare merits of Mr. Mather, and that Mather received from him a commission, first to make an examination of Fort Ripley, with a view of bringing it to sale, and then a commission to sell it; his first commission being dated just one day after the commission to Heiskell and Eastman. Thus Fort Snelling was thrown in the way of Mr. Mather's duties. He was, accordingly, present with Graham and Steele when this important reservation was silently sold, himself preparing the first written agreement for the sale. It was not used, however, for Heiskell testifies that he afterwards used nearly a "quire of paper" in getting it into proper form. At the time of the sale the survey was incomplete. This important public duty was dashed off in two or three days after Mr. Heiskell

met Major Eastman. The progress of it was unknown to everybody. The transaction was complete, without the knowledge of any officer at the post, or of any person of the neighborhood, except Mr. Rice, in the midst of that populous community, feverish with speculation and anxious for an interest in the rich lands surrounding Fort Snelling. The transaction was extraordinary and shameless. Mather returned, and soon after obtained from the Department information that the sale had been confirmed, and telegraphed so to Steele. The manner and circumstances of sale are the more remarkable, from the attention of the Secretary of War having been frequently called by letters to the great value of the reservation, and the general interest to buy in it. It is not known that any answers to these various letters were received from the War Department. These facts have been referred to because they have been deemed necessary as a means of explaining the conclusions to which the committee has come.

From what has already been said, it is plain that under the acts of Congress of 1819 and 1857, which have been referred to, the sale of this reservation was utterly without authority of law.

But, in the judgment of the committee, it has been deemed no less a fault—indeed, has been regarded by the committee as a grave official fault—that the Secretary of War should have attempted the sale without first consulting with persons in superior military command, and connected with the defense of this most dangerous frontier, and one that so freshly had been the scene of Indian atrocities unknown in the recent settlement of any part of the West. But yet it was unknown to any officer of the whole service until Fort Snelling had been silently sold, in this manner, from under their very feet. The committee does not attempt to bring in question his superior authority over all matters in his Department, but yet his duties are esteemed principally administrative, and rather civil than military. The arrangement of the public defenses must be made and kept up on system, and the details of defense must be supervised by persons in actual military service. The carelessness of the Secretary of War in this instance, is shown in the fact, that while under his authority, the sale of Fort Snelling and the reservation was being made, under the same authority, by his own authority, the first officer in command under General Scott, was, at the same time, in Minnesota, in the midst of thousands of unfriendly Indians, reinforcing one post, reestablishing another, and making additional posts, all to be made dependent on Fort Snelling. But this subject has already been examined by the committee, in its views already submitted, and I shall not press it further.

The next subject is the fitness and competency of the commissioners appointed to make the sale. The gentleman from Kentucky [Mr. BURNETT] has done the committee injustice in supposing it intended to wrong the good name of Major Eastman. Nothing of the kind has been meant or said. The utmost complaint against him was his extreme unfitness for the particular duty he was acting in, in no manner questioning his good conduct and ability in his proper province of duty. But he was out of place. He confessed it, and the objection is not to Major Eastman for performing a duty to which he had been commanded by his superior, but against the Secretary of War for not selecting agents qualified for this particular office, and having the rare ability, under the necessities of the occasion, of providing that the public interest should not suffer. Perhaps, as much might be said of the merit of Mr. Heiskell, though he seems to have acted without any definite purposes of good or evil. It was a weakness in Major Eastman, after having stated, in his official report, that the overflowed lands along the rivers were of no value, to wish to buy afterwards, on the same river shore, city blocks of a half dozen acres, at thousands of dollars. But the committee has ingeniously allowed for the contagious speculation that afterwards caught him, and does not in any manner ascribe this act to considerations affecting the propriety of his conduct at the time of the sale. Mr. Heiskell is not to be described. It is true, as shown by the evidence, that the Secretary of War appointed, to make sale of a valuable public property, worth hundreds of thousands of dollars, two commis-

sioners, who did not even know the law under which they acted, the manner of subdividing and making sales of public lands, and the minutiae of business in this Department, indispensable to a reasonable performance of their duty. They accordingly first sold the Fort Snelling reservation of several thousand acres in bulk, when they were only authorized to sell in the well-known legal subdivisions of forties, eighties, and quarters. They made this extraordinary sale on time, and reported to the Secretary of War the ability of Mr. Steele to give security, when the law allowed the sale to be made for cash only. The law demanded publicity as a first condition of the sale; but they sold secretly and without advertising, and, with a studied purpose, hid the transaction for weeks from the community living in the neighborhood, most anxious and most interested, and altogether unknown, until the meritorious Mather telegraphed the confirmation of it by the Secretary of War to Steele, to the astonishment of Minneapolis, St. Paul, and St. Anthony. They sold with the agreement that the Government should "make a deed" on the payment of the first installment, when the law expressly forbade it, except on the full and final payment of the purchase money. Steele disclaimed that he had any claim as a preëmptioner, legal or equitable; but the commissioners had extraordinary reasons for treating him as such, and for that cause preferred him as the purchaser of the whole reservation. The preëmption law forfeits every preëmption right where a settlement on the land ceases, or where it has been sold. But the commissioners witnessed a pretended transaction, in violation of this just law, between McKenzie and Steele, and reported the fact to the Secretary of War as a consideration for confirming the sale, because McKenzie would then have no claim upon the Government; when, in fact, McKenzie was without such claim, and when, in fact, no such arrangement as had been reported had been made. They even innocently believed that a preëmption right lawfully extended over a thousand acres, and perhaps indefinitely. The gentleman from Kentucky [Mr. BURNETT] says "no" to this, and quotes the statement of the committee as one of two blunders he has been pleased to impute to me as the organ of the committee in expressing its opinions in the report. I respectfully submit that that usually cautious gentleman is himself mistaken, and in proof of it I quote confidently from the report of the sale made by the commissioners to the Secretary of War:

"Upon questioning Mr. Steele, he very frankly said that he did not go on the reservation, neither did he make or purchase improvements upon the same, with the expectation of having the preëmption right extended to him; and we could not come to the conclusion that he should have the right to purchase the lands covering his improvements at \$1 25 per acre. It is true that his improvements have cost a large amount; but then, for each separate and valuable one to permit him to purchase one hundred and sixty acres, the amount of land he would be enabled to obtain, at that price, would amount to nearly one thousand acres, or one seventh of the reservation."

Let this decide the question of accuracy between us. The commissioners attempted to agree with Steele in regard to the possession; as if, after a military site had been sold, for the reason that it was useless, any residuary discretion remained with any one. They sold on credit, they say, because "Steele wished to purchase in that way."

Let me here correct another error imputed to the committee by the gentleman from Kentucky; for, with these two, he exhausted his fault-finding. It is objected that Major Eastman, in the report of the majority, is said not to have known the difference between a private and a secret sale. The language of the gentleman from Kentucky is, "not one word of it." My answer is, that Major Eastman, in his testimony, and in connection with the particular subject of not letting any one know that the sale was being made, said: "we did not advertise, because it then would not have been a private sale." Heiskell's language is, "if it had been advertised, it would have been a public sale." Both little seemed to think that the law required that a knowledge of the sale should be made public.

Such a variety and magnitude of official blunders cannot be found, it is believed, in the records of any public office. Heiskell sunk into absolute nonsense. He says:

"I remarked to Steele that I looked upon the sale about

like this: 'If the sale had been made to anybody else, the Black Republicans in Congress would have been unscrupulous enough to have given you \$50,000 for your buildings. You are a Democrat, it is true; but for all that the Black Republicans would have given you \$50,000 for your buildings; so that I looked upon the sale as in reality made for thirty or forty thousand dollars more than the price named.'"

This is not sense. It is absolute, paltry, unmitigable nonsense, to be got on the modest expectation of four or five thousand dollars a year. Nothing is right. Everything is done wrong. And such are the agents employed by the Department of War to determine the military importance of Fort Snelling, and to manage the public riches sufficient, according to General Jesup, for the defense of the lives and property along thousands of miles of frontier! Scott, Jesup, Persifer F. Smith, passed by, and questions of public defense put in the safe keeping of William King Heiskell! It may well be supposed that such counsels might lead to the winter campaign, which history promises to make immortal, of thousands of troops left, a thousand miles from supplies, to freeze and starve in the mountains about Fort Bridger.

Of this extraordinary sale, the modes by which it was conducted are the most extraordinary. The importance of the post and of the reservation, and of other reservations like it, had often been a matter of consideration in the Department of War. The means of protecting such large interests were not difficult. If practice and precedent were wanting, the suggestions of common sense at once proposed a means of keeping the public from loss. The gentleman from Virginia and the gentleman from Kentucky, and various other gentlemen, seem to think that it was easy, in this instance, to form combinations by which the Government would be defrauded. The word "combination" is alarming. It was the perpetual nightmare of Mr. Heiskell. The gentleman from Kentucky particularly has referred to the improvident sale of that part of the Fort Snelling reservation in the neighborhood of Minneapolis, now worth thousands of dollars per acre, sold a few years ago at Stillwater. Why, the majority of the committee has referred to this very act of improvidence and lawlessness as a reason why the Secretary of War was bound to unusual caution, in order to prevent the remainder of the reservation from being sold at a sacrifice. But he will please remember that that portion of the reservation had already been by law detached from the Fort Snelling reservation, and added to the common stock of public lands, giving the right of settlement at once, as upon other public lands—a right which is never acknowledged on a military reservation. In that instance, that very right of settlement made inducements to combinations. In this instance, there was no right of settlement, and combination was impossible. Indeed, the Government title could never be divested until the public had first received an adequate price for it.

The concern, therefore, of the gentleman from Kentucky, about combinations, may be dismissed. No combination was possible; no combination was probable. Though asserted by Heiskell and Eastman, each upon the authority of the other, it is indignantly denied by all who had the means of knowing the public feeling in the vicinity at the time of the sale.

But, if combinations were threatened, the Department of War furnished examples by which they could be successfully met. Not this only, but the Department of War furnished the only safe precedents by which such sales could be conducted; for the reason that military reservations being chosen because they are sightly and valuable positions, before being brought to sale are usually retained by the Government, on the verge of the frontier, until population has crowded densely around them, and they have become greatly appreciated in value. Then, it is not reasonable that they should be settled and preempted as other public lands; and, being thus valuable, the Government has a profit in their retention; and, in order to secure their full value, great caution and judgment are necessary in making the sale.

The gentleman from Kentucky [Mr. BURNETT] has argued that the danger of making combinations in cases like this is so great that the only public safety is to make sales secretly, as in this instance. If that gentleman in fact respects, as he pretends to do, the opinions of the Secretary

of War, he will find himself at once in antagonism with that distinguished functionary; for, within two days of the time that this committee submitted its report to the House, the Secretary of War having occasion to make sale of the Fort Armstrong reservation on Rock Island, adopted the very recommendations of the majority of the committee, in utter contempt of the opinions held by the gentleman from Kentucky. The advertisement will be found in the Washington Union of April 29. It will be seen to be of that date, and subscribed by John B. Floyd, Secretary of War. This advertisement states that sealed proposals will be received at the War Department until the 31st day of May, for parts of "not less than one legal subdivision of the unsold land of the 'island of Rock Island,' in the State of Illinois, heretofore reserved for military purposes." The descriptions and areas of the unsold tracts for which proposals are invited, are set out by catalogue. No parcel of the descriptions exceeds fifty acres, and then occur the following specifications of purchase:

"Bids will be received until twelve o'clock, m., of the 31st day of May, at which hour all then before the Department will be opened."

"Bids will be received for the purchase of the lands in gross, or for separate parcels, as above described; the Department reserving to itself the right to accept or reject either or both, as may be deemed most advantageous to the Government."

"Proposals should be sealed, and indorsed 'proposals for the purchase of the island of Rock Island.'"

"Payment to be made in cash to the assistant Treasurer at St. Louis, or to the Treasurer at Washington, within fifteen days after the acceptance of the bids, and receipts transmitted immediately to this Department."

It is unpleasant to bring, in this manner, my good friend from Kentucky in conflict with the Secretary of War; but that distinguished Cabinet officer has one memorable instance to justify his conduct and convince me that his action now is right, and that the gentleman from Kentucky is wrong. When the Fort Dearborn reservation at Chicago was brought to sale in 1839, Secretary Pointsett prescribed the same course. The population, within a radius of half a dozen miles, was then less than five thousand—not one sixth of the population now living in equal vicinity to Fort Snelling. In that instance the sale occurred in the midst of great pecuniary distress. In this instance speculation was feverish, money easy, and prices extravagant. That a full price was not realized at the sale of the reservation at Fort Snelling, is due only to carelessness and unconcern in not making proper provisions for it. In that instance less than fifty-five acres of land realized to the Government a net profit, exclusive of expenses, exceeding one hundred thousand dollars. In the judgment of the gentleman from Kentucky, it is perhaps a public calamity that Mr. Heiskell was not present to manage the sale of the reservation at Fort Dearborn.

In the sale of Fort Snelling, so soon as the commissioners had determined, against all usage and propriety, that they would not sell the Fort Snelling reservation in parcels, so as to enable persons of small means to buy, as so many desired to do, but one thing remained, and that was to get the best price. The minority of the committee rests on the evidence of some witnesses that \$90,000 was an adequate price. What they have said I esteem of little importance, as I am confident it is little worthy of credit, for the reason, principally, that the witnesses had but little means of judgment. Some of them had never been on the reservation; some of them had only crossed it in a carriage-drive from St. Paul to St. Anthony; and the manner in which, by interested parties, they were ingeniously brought before the committee, does not add to their credit. But I dismiss this. The true question, then, was, what could the Government get for it, if put up properly to sale? There is no difficulty in the answer. The testimony is demonstrative, that at that very time, at least four hundred thousand dollars could have been realized from the sale. Even the parties themselves, when put to their oaths, do not express themselves willing to dispose of their interest at less than twice the price. Some portions have already been sold to other parties, who have been supposed to be able, from wealth, and other reasons, to give great appreciation to the rest, at double the price. The purchasing company has subdivided a single section, only six hundred and forty acres, of the whole reservation, into city

lots; and has sold, and is quoting that part only, at more than half a million dollars. The partner of Mr. Steele, Mr. Prince, soon after the sale, offered a detailed account of the value of the reservation, to Mr. Matthew Johnson, now United States marshal of the northern district of Ohio, at the larger figures of \$1,400,000. From such facts as these, the committee has been warranted in declaring, as it has done in its resolution, now submitted to the House, "that provision for, and management of the sale, were so negligently, carelessly, and injudiciously made, as to induce a successful combination against the Government, exclude all competition, and bring loss on the Government."

This brings the inquiry back to the point of the argument of the distinguished gentleman from Virginia, [Mr. FAULKNER,] that the petitions of three hundred and sixty-six people of Minnesota—the uncorrupted people, as he pleasantly calls them—were here, in addition to the report of the military commission, modestly suggesting to us now the confirmation of this most remarkable sale, whereby, by reason of an indulgent credit, Mather, Schell, Graham, and Steele, on an investment of \$30,000, can now go into market and realize \$500,000 on their bargain. It can well be conceived that after the profound judgment of Mr. Heiskell on the military importance of retaining Fort Snelling, the Secretary of War might feel it of consequence to detach the public heroes now on their march to Utah, General Harney at the head, for the sake of putting at rest a question of no great consequence, except to the reputation of the Secretary, a year after the Fort Snelling reservation had been sold. But it is not so plain how these extraordinary petitions to confirm this extraordinary sale were inspired, without looking at the papers themselves. The gentleman from Virginia brought them here, and asked them to be printed. He knows the reason for it, and at whose instance it was done.

The petitions are all in the same language. Most of them are in the same handwriting. The leading and imposing signatures are registers and receivers of land offices, United States marshals for the Territory and district of Minnesota, territorial justices, surveyors, postmasters, &c. Of course, they are in favor of the confirmation of the sale. The most imposing one is headed by H. H. Sibley, who subscribes himself "Governor elect of the State of Minnesota," and who, by the evidence, has an interest in thirty acres of the most valuable part of the reservation, which may be fairly quoted at a thousand dollars per acre. Of course, he is in favor of a confirmation of the sale, and "protests against any action of Congress to the contrary, and submits his statement expressive of his views thereon." The gentleman from Virginia may well feel proud of such auxiliaries in his gallant defense.

The rest of the transaction, and that upon which the committee has felt confident in declaring the invalidity of this sale, is made plain by the proofs. Mather was foremost in the invention of the means by which this outrage to the public was done. He was present at the outset. Schell's notion of morals rose only to the "profit of the thing." Mr. Mather thus obtained an indorser. With an appetite for profit, as the reward of the virtues of political life, both were at Washington, waiting for something to turn up. In an inscrutable manner, they gained from the Department of War the mysterious knowledge that the Fort Snelling reservation was to be sold. It is singular that their attention was turned in that direction. Then followed Dr. Graham, bent on making investments without money, and with the same hearty appetite for Fort Snelling. These three gentlemen may be supposed to have been drawn together by moral affinities, for the conference and subsequent combination, to buy Fort Snelling, is only explicable on this reason. Then, the importance of embracing Steele becomes apparent to them because the instructions of the War Department—mysterious knowledge—were to embrace Mr. Steele. Then, Graham is dispatched to Minnesota, afterwards returns, reports his success to Mather at New York, and reaches Washington in time to accompany the unsuspecting Heiskell, blushing with the fresh honor of his commission, to Minnesota. In this way Heiskell is rewarded for past political services, but short of his expectations. In the same time, Mather's appointment to Fort Rip-

ley sends him necessarily past the gates of Fort Snelling. Heiskell and Eastman are present, devising modes of opposing and defeating combinations. Two or three short days of public service there, and Heiskell and Eastman are caught in the trap of Mather, Schell, Graham, and Steele, and the public is at once plundered of hundreds of thousands of its wealth.

The gentleman from Virginia, [Mr. FAULKNER,] on yesterday, in recounting the story of this transaction, was pleased to speak of it, if I understood him right, as an official blunder. If I am correct in that, the conclusion of the majority, as expressed in its report, avers no more; and he, in turn, has been faithless to the inquiry committed to him, in not having said so much in his report.

Mr. FAULKNER. The gentleman will remember that I said this: that the very worst aspect that the worst enemy of the Secretary of War gave to the transaction was to characterize it as an official blunder.

Mr. PETTIT. I stand corrected, having had no opportunity of examining a full report of his remarks, and not catching his words with entire distinctness. Then, sir, it was an official blunder. The facts themselves are singular. There is no law that indicates, or that attempts to indicate, that Fort Snelling was to be sold in the summer of 1857. The act of 1857 no more meant Fort Snelling than it meant the defenses of the entry of the port of New York, or Charleston, or Boston, or New Orleans. It meant just what it said—a large discretion in the Secretary of War, to be applied on proper occasions.

It is singular, in this connection, that, soon after Mather and Schell were attracted here, by reasons they can best explain, they were aware of this fact that could only have been communicated by some person in connection with the Department of War; that Graham should have been combined with them; that they should have been aware of the unusual instructions soon to come from that Department, to embrace Franklin Steele, and nobody else, and that he should have been brought into the combination; that Graham should go out for the purpose; that Graham should return at the moment the commission was to go into the hands of Heiskell, empowering him, with Major Eastman, silently and secretly to dispose of one of the most important defenses of the Government, unknown to everybody, and without consultation with superior Army officers on whom the Secretary of War must principally rely to advise him in the execution of duties connected with the field. It is singular that such a person as Heiskell was appointed to so important a trust. It is singular that Mather should obtain a kindred appointment in the same section, on the succeeding day. It is singular that, of our whole people, Mather should, of the Secretary's own choice, receive that kindred appointment. General Jesup, in order to secure the Government against loss, had recommended the adoption of a minimum, which should not be less than the full value of the reservations; and it is no less singular that, with an offer on the files of the Department of War for the Fort Snelling reservation at fifteen dollars per acre, the Secretary should have adopted a minimum of \$7 50 per acre; and it is no less so that while, at one time, Mather, quick in gaining the knowledge that the sale of the reservation had been confirmed to Steele, was telegraphing to him that fact, the Hon. ROBERT SMITH, soon after, at the War Office, protested against the fairness of such a sale, and that, on the next day, it was confirmed by Secretary Floyd; but that, under such circumstances, the disastrous and shameless result followed, is in no manner singular.

However these facts may affect the Secretary of War, it is conclusive, from these facts, that Mather, Schell, Graham, and Steele, conspired in a transaction against the known policy of the Government, disposing, as they well knew, of one of its most important defenses, violating law and usage in regard to the sale of public lands, and deliberating and executing an enormous fraud on the Government.

From such considerations as these, the committee, in the discharge of its duty, has had no alternative left but to characterize it in this manner. If, on the part of the Secretary of War, it is a blunder, it has, in its consequences, the dignity of crime. The purchasers, at least, are com-

plicated in fraud, and the duty of the Government is to declare an abandonment of the sale. To these arguments, and to the solid law on which these conclusions are based, the minority of the committee, though complaining of faults, wrong quotations, and wrong conclusions, have made no answer. No single word of reply has been made to any of the specifications insisted on by the majority of the committee, unless to the first, which asserts, that in making this sale the Secretary of War acted without authority of law. Even the argument of the gentleman from Virginia, as it is stated on the fifty-fourth page of his report, admits this, but insists only that the discretion of the Secretary is unlimited, and beyond question. Sir, if I apprehend rightly the authority of this House, which, as it provides the means for revenue, is likewise authorized to prescribe the manner of its disbursement, this transaction is not above its inquiry. I do not speak of its power of impeachment, which, if applicable to this case, is clearly within the competency of the body, but in that other sense, that it is especially the guardian of the public riches, and may at all times inquire how the resources from which its revenues are derived are wasted by weakness, fault, or crime. The badges of fraud are over this whole transaction, if not in its inception, at least at its end.

Mr. Speaker, I am admonished, as I proceed, that I have entered on the last minute of time allowed for this argument. Other topics multiply before me, some of which have, so far, escaped my notice; but now, having done this duty, as well as I might, I leave the question for the action of the House.

Mr. MORRILL. I do not know whether I understand the state of the question. I wish to know of the Chair whether there will be an opportunity to vote upon the resolutions of the majority of the committee or not?

The SPEAKER. That depends upon whether the amendments are adopted as a substitute.

Mr. WASHBURN, of Maine. There will be a final vote, as I understand it, between the amendments, if any of them are adopted, and the resolutions of the majority.

Mr. HUGHES. I wish to inquire of the Chair whether he has determined upon the right of the House to have a separate vote upon each of the several amendments?

The SPEAKER. One amendment was offered this morning by the gentleman from Virginia, and subsequently another amendment by the gentleman from New York. The Chair stated when a division was called, so that separate votes should be taken upon each resolution embraced in the amendments, that each amendment must be treated as an entirety, unless by the unanimous consent of the House, separate votes should be taken upon each of the resolutions in the amendments as well as in the original proposition. The unanimous consent of the House was then given to the proposition for a division of the question. The question, therefore, will first be upon agreeing to the first resolution offered by the gentleman from New York, then to the second, then to the third, then to the fourth, and that portion of the amendment which the House may agree to, if it should agree to any of the resolutions, will then be voted upon as an amendment to the proposition of the gentleman from Virginia, [Mr. FAULKNER,] if that prevails the question will arise upon the amendment as amended and the original propositions of the committee. If the amendment proposed by the gentleman from New York fails, the proposition will then be upon the first resolution of the gentleman from Virginia, then upon the second, and then between the two, if they should be agreed to, and the original resolutions of the committee. The Chair will endeavor to propound the questions in such way that the House can have an expression of opinion upon each of the resolutions contained in the several propositions.

Mr. BOCKOCK. Do I understand the Chair to say that if any one of the resolutions of the gentleman from New York should be agreed to, that would be considered as a substitute to the resolutions offered by my colleague, [Mr. FAULKNER,] and that the resolutions offered by my colleague would be excluded?

The SPEAKER. The Chair stated that if any one of the resolutions offered by the gentleman from New York, should be adopted, the question

would then be as between the amendment thus adopted and the amendment proposed by the gentleman from Virginia. It is the same as if it were an entirety, the House taking the preliminary votes in order to determine in what shape the amendment of the gentleman from New York shall be presented as an amendment to the amendment of the gentleman from Virginia.

Mr. CLARK, of New York. What would be the effect on the amendment of the gentleman from Virginia, if I should permit his first resolution to be received as a substitute for my first resolution? The vote might then be taken upon the others, and, to that extent, disembarass the action of the House.

The SPEAKER. That could only be done by unanimous consent, inasmuch as the main question has been offered.

Objection was made.

Mr. SEWARD. We now vote between the proposition of the gentleman from Virginia [Mr. FAULKNER] and that of the gentleman from New York, [Mr. CLARK;] and afterwards the vote will be between the amendments adopted and the original proposition.

The SPEAKER. The House will have an opportunity of expressing an opinion on every proposition that is submitted.

Mr. MARSHALL, of Kentucky. Will there be an opportunity when we come to vote on the resolutions of the gentleman from Virginia to affirm his first resolution, and put the amendment in lieu of his second resolution? I understand that we vote separately on the resolutions of the gentleman from Virginia. At some stage of it, should we adopt a portion of the resolutions of the gentleman from New York, I understand that then the choice will be between these resolutions and the resolutions of the gentleman from Virginia. We will vote separately on the various clauses of the resolutions of the gentleman from Virginia, and may we not affirm the first clause, negative the second, and take the amendments of the gentleman from New York?

The SPEAKER. If the House should adopt any portion of the resolutions proposed by the gentleman from New York and the question comes up between those adopted and the proposition of the gentleman from Virginia, one or the other must fall—both of them cannot be adopted.

Mr. HUGHES. I would like to know whether gentlemen see any difference between the first resolution of the gentleman from New York and the first resolution of the gentleman from Virginia.

Mr. PHILLIPS. If one of the resolutions of the gentleman from New York be adopted and the others rejected will that one be considered a substitute for the resolutions of the gentleman from Virginia?

The SPEAKER. If one be adopted and the others rejected, the question will arise as though that had been the original proposition. The question will be between the resolution adopted and the resolutions of the gentleman from Virginia.

The resolutions were again reported.

Mr. FOLEY. I move to lay the whole subject upon the table.

Mr. WASHBURN, of Illinois. I demand the yeas and nays.

Mr. PHILLIPS. I hope the gentleman will withdraw that motion.

Mr. FOLEY. I withdraw it.

Mr. PHILLIPS, of Missouri. I desire that the gentleman who asked for a separate vote on each resolution of the proposition of the gentleman from New York shall withdraw that call. We have three sets of resolutions presented; and it seems to me that every gentleman can find in one of three sets his opinions clearly expressed. Let us take the vote on the proposition of the gentleman from New York as a whole.

Mr. WASHBURN, of Illinois. I insist on a vote on the question as it now stands.

Mr. UNDERWOOD demanded the yeas and nays on the first resolution.

The yeas and nays were ordered.

Mr. WASHBURN, of Maine. The first resolutions of both propositions are precisely the same; and I do not see the necessity of voting twice on the same thing. I hope, therefore, that the first resolution of the amendment will be withdrawn.

Mr. UNDERWOOD. Understanding that the

first resolution of the proposition of the gentleman from New York is the same as that of the gentleman from Virginia, I will withdraw the call for the yeas and nays.

The SPEAKER. The question recurs first on the adoption of the following resolution:

Resolved, That the evidence reported by the select committee as to the recent sale of the military reservation at Fort Snelling has failed to exhibit any fact or circumstance to impeach the personal or official integrity of the Secretary of War.

Mr. LETCHER. I renew the call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 133, nays 60; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bingham, Bishop, Boeck, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caskie, Cavanaugh, Chapman, Horace F. Clark, John B. Clark, Clawson, Clay, Clemens, Cobb, John Cochrane, Cockerill, Corning, Cox, James Craig, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dimmick, Dowdell, Edmundson, Elliott, English, Estis, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, J. Morrison Harris, Thomas L. Harris, Hatch, Hawkins, Hopkins, Horton, Houston, Howard, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, John C. Kunkel, Lamar, Landy, Leidy, Letcher, MacLay, McQueen, Humphrey Marshall, Samuel S. Marshall, Maynard, Miles, Milson, Moore, Niblack, Nichols, Pendleton, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Quitman, Ready, Reagan, Reilly, Ricard, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Tripp, Underwood, Vallandigham, Ward, White, Whiteley, Winslow, Wood, Woodson, Wortendyke, John W. Wright, and Zollcoffer—133.

NAYS—Messrs. Abbott, Andrews, Bliss, Buffinton, Burlingame, Burroughs, Case, Chaffee, Ezra Clark, Clark B. Cochrane, Colfax, Comins, Covode, Curtis, Davis of Maryland, Dawes, Dean, Dick, Dodd, Durfee, Edmundson, Estis, Farnsworth, Fenton, Foster, Gartrell, Gilman, Gilmer, Goodwin, Granger, Greenwood, Groesbeck, Grow, Harlan, Hoard, Kellogg, Knapp, Leiter, Lovejoy, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Palmer, Parker, Pettit, Potter, Pottle, Robbins, Royce, John Sherman, Judson W. Sherman, Spinner, Tappan, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, and Wilson—60.

So the resolution was adopted.

Pending the above call,

Mr. CRAIGE, of North Carolina, stated that on this question he had paired off with Mr. ERIE.

Mr. DAWES stated that his colleague, Mr. DANRELL, had paired off with Mr. CARUTHERS.

Mr. MORRIS, of Illinois, said, that not having had an opportunity to explain his position, he would refrain from voting.

Mr. BARKSDALE. I object to debate.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled a joint resolution authorizing Commander M. F. Maury to accept a gold medal awarded to him by the Emperor of Austria; when the Speaker signed the same.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. J. B. HENRY, his Private Secretary, informing the House that he had approved and signed the bill making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1859.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, their Secretary, informing the House that the Senate had passed an act (S. No. 323) to confirm the sale of the reservation held by the Christian Indians, and to provide a permanent home for said Indians; in which he was directed to ask the concurrence of the House.

SALE OF FORT SNELLING.

Mr. DAVIDSON. As this report is going to take up the whole day, I move to lay the subject on the table.

Mr. WASHBURN, of Illinois. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. CLARK, of New York. I rise to a point of order. It is, that after we have voted for the first resolution, it is not in order to lay the subject on the table, the House having agreed by common consent that there should be a separate vote taken on each resolution.

The SPEAKER. The motion is in order. The effect of the motion is to lay the whole subject on the table, together with the proposition voted for.

Mr. MARSHALL, of Kentucky. That is not the point. The question is, whether this motion is not a breach of good faith?

The SPEAKER. That is not a question for the Chair to decide.

Mr. DAVIDSON. If that is the view taken of it, I withdraw my motion.

Mr. BURNETT. I was in the House when this matter was discussed, and I say there was no such understanding or agreement with me.

Mr. JONES, of Tennessee. As the first resolution has been voted upon as a substitute, it is but fair that we should have a vote on the other.

Mr. DAVIDSON. I have withdrawn my motion.

Mr. CLEMENS. I renew it; and call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 68, nays 140; as follows:

YEAS—Messrs. Adrain, Anderson, Arnold, Avery, Barksdale, Bishop, Bonham, Bowie, Burnett, Burns, Caskie, Chapman, Clemens, Cockerill, Corning, Crawford, Curry, Davidson, Dimmick, Dowdell, Elliott, English, Faulkner, Florence, Foley, Garnett, Gillis, Goode, Gregg, Lawrence W. Hall, Hawkins, Hopkins, Hughes, Jackson, Jenkins, J. Glancy Jones, Owen Jones, Ruffin, Russell, Sandidge, Savage, Scott, Searing, Shorter, Samuel A. Smith, Vallandigham, Ward, White, Whiteley, Winslow, and John W. Wright—68.

NAYS—Messrs. Abbott, Andrews, Atkins, Billingshurst, Bingham, Bliss, Boeck, Boyce, Branch, Brayton, Buffinton, Burlingame, Case, Cavanaugh, Chaffee, Ezra Clark, Horace F. Clark, John B. Clark, Clawson, Clay, Cobb, Clark B. Cochrane, John Cochrane, Colfax, Comins, Covode, Cox, Cragin, James Craig, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edmundson, Estis, Farnsworth, Fenton, Foster, Gartrell, Gilman, Gilmer, Goodwin, Granger, Greenwood, Groesbeck, Grow, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hatch, Hill, Hoard, Horton, Houston, Howard, Huyler, Jewett, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leidy, Leiter, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Milson, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, John S. Phelps, Pike, Potter, Pottle, Purviance, Ready, Reagan, Reilly, Ricard, Ritchie, Robbins, Roberts, Royce, Seales, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, Singleton, Robert Smith, William Smith, Spinner, Stallworth, Stanton, Stephens, Stevenson, James A. Stewart, William Stewart, Talbot, Tappan, George Taylor, Miles Taylor, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wortendyke, Augustus R. Wright, and Zollcoffer—140.

So the whole subject was not laid upon the table.

The next of the resolutions proposed by Mr. CLARK, of New York, was then read, as follows:

Resolved, That the management of the sale by the agents authorized by the Secretary of War, to conduct the same, was injudicious and improper, and resulted, by reason of its want of publicity, in the exclusion of that competition among persons desiring to purchase, which, under the circumstances, should have been permitted.

Mr. CLEMENS demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 123, nays 64; as follows:

YEAS—Messrs. Abbott, Andrews, Atkins, Avery, Billingshurst, Bingham, Bliss, Boyce, Buffinton, Case, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Clay, Cobb, Clark B. Cochrane, John Cochrane, Colfax, Comins, Cragin, James Craig, Curtis, Davis of Maryland, Davis of Indiana, Dawes, Dean, Dick, Dodd, Durfee, Estis, Farnsworth, Fenton, Foley, Foster, Gartrell, Gilman, Gilmer, Goode, Goodwin, Granger, Groesbeck, Grow, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hill, Hoard, Horton, Houston, Howard, Jewett, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leiter, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Milson, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Quitman, Ready, Reagan, Ricard, Ritchie, Robbins, Roberts, Royce, Seales, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, Sickles, Singleton, Robert Smith, Spinner, Stallworth, Stanton, William Stewart, Tappan, George Taylor, Miles Taylor, Thayer, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Winslow, Augustus R. Wright, and Zollcoffer—123.

NAYS—Messrs. Adrain, Ahl, Barksdale, Bishop, Bonham, Bowie, Burnett, Caskie, Cavanaugh, Chapman, John B. Clark, Clemens, Corning, Cox, Crawford, Curry, Davidson, Dimmick, Dowdell, Edmundson, Elliott, Florence, Gillis, Goode, Greenwood, Gregg, Hawkins, Hopkins, Hughes, Huyler, Jackson, J. Glancy Jones, Keitt, Kelly, Lamar, Landy, Leidy, Letcher, Miles, Miller, Niblack, Peyton, John S. Phelps, Powell, Reilly, Ruffin, Russell, Sandidge, Savage, Scott, Searing, Shorter, Samuel A. Smith, William Smith, Stephens, Stevenson, James A.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

FRIDAY, JUNE 4, 1858.

NEW SERIES....No. 167.

Stewart, Talbot, Vallandigham, Ward, White, Whiteley, Wood, and Wortendyke—64.

So the resolution was agreed to as a part of the amendment to the amendment.

Mr. BURLINGAME stated, during the call of the roll, that he was compelled to be absent from the House at the time his name was called, or he should have voted in the affirmative.

The third resolution was then read, and agreed to as a part of the amendment to the amendment, as follows:

Resolved, That the terms of sale adopted by the agents appointed by the Secretary of War to make said sale, are disapproved of for the reasons, first: that a credit, unauthorized by law, was given to the purchasers; and second, that the right of possession, after the sale, reserved to the Government, was calculated to prevent a fair sale at a fair price.

The fourth resolution was then read, as follows:

Resolved, That the evidence taken by the select committee, appointed under authority of the resolution of this House, of January 4, 1858, be transmitted to the Secretary of War, to the end that, in conjunction with the Attorney General of the United States, he may adopt such measures in respect of the sale as they shall be of opinion, in view of the facts developed by such evidence, that the public interest require.

Mr. CLEMENS demanded the yeas and nays on the resolution.

The yeas and nays were not ordered.

Mr. WASHBURN, of Maine, demanded tellers.

Tellers were not ordered.

The resolution was agreed to.

The SPEAKER. The question now recurs upon agreeing to the resolutions of the gentleman from New York, as an entirety, in lieu of the two resolutions offered by the gentleman from Virginia, [Mr. FAULKNER.]

Mr. CLEMENS. Upon that I demand the yeas and nays.

Mr. STANTON. I supposed that those resolutions had been adopted as a substitute for the resolutions of the gentleman from Virginia.

The SPEAKER. The Chair did not so state. The Chair stated that the vote would first be taken on the resolutions of the gentleman from New York *seriatim*, and that the vote would then be taken on such of the resolutions as the House might adopt, as an amendment to the resolutions offered by the gentleman from Virginia. It was in that way only that a vote could be obtained, as the House desired, upon each of the resolutions.

The Chair will be permitted to say further, that if the House agrees to the resolutions of the gentleman from New York as a substitute for the resolutions of the gentleman from Virginia, the question will then recur between the amendment thus amended, and the resolutions reported by the majority of the committee. If the proposition of the gentleman from New York shall be voted down, then, under the understanding of the House, a separate vote may be had upon the two resolutions of the gentleman from Virginia; and then the question will be presented between the proposition of the gentleman from Virginia as an entirety and the original proposition. If the resolutions of the gentleman from Virginia are voted down, then the House can have a separate vote upon each of the original resolutions.

Mr. GROW. We are to vote now on substituting the resolutions of the gentleman from New York for the entire resolutions of the gentleman from Virginia.

The SPEAKER. That is the question. The proceeding is an unusual one; but, as the Chair stated this morning, it is the only way in which a separate vote could be had upon all the resolutions.

The question was taken; and it was decided in the affirmative—yeas 116, nays 86; as follows:

YEAS—Messrs. Abbott, Andrews, Billingshurst, Bingham, Bliss, Burlington, Burlingame, Case, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Clay, Cobb, Clark B. Cochrane, Coffax, Combs, Cragin, James Craig, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, East, Farnsworth, Fenton, Foster, Garnett, Gilmer, Goode, Goodwin, Grossbeck, Grow, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hill, Hoard, Horton,

Houston, Howard, Jewett, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leiter, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Millson, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Quinman, Ready, Reagan, Ricard, Ritchie, Robbins, Roberts, Royce, Seales, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, Sickles, Singleton, Robert Smith, Spinner, Stallworth, Stanton, William Stewart, Tappan, Miles Taylor, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Wilson, Wood, and Augustus R. Wright—116.

NAYS—Messrs. Adrain, Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Bocoek, Bonham, Bowie, Branch, Burnett, Caskie, Cavanaugh, Chapman, John B. Clark, Clemens, John Cochrane, Cockerill, Corning, Cox, Crawford, Curry, Davidson, Davis of Mississippi, Dimmick, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Foley, Gartrell, Gillis, Goode, Greenwood, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Hughes, Huyler, Jackson, Jenkins, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Leidy, Letelier, Maclay, McQueen, Miles, Miller, Moore, Niblack, Pendleton, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Keilly, Ruffin, Russell, Savage, Scott, Searing, Shorter, Samuel A. Smith, William Smith, Stephens, Stevenson, James A. Stewart, Talbot, Vallandigham, Ward, White, Whiteley, Winslow, Wortendyke, and John V. Wright—86.

So the amendment to the amendment was agreed to.

Pending the call of the roll,

Mr. MORRIS, of Pennsylvania, stated that his colleague, Mr. Covone, was absent from the House in consequence of a death in his family.

Mr. GILMAN stated that he had paired off with Mr. SANDIDGE.

Mr. ATKINS. I voted upon the resolutions offered by the gentleman from New York as an expression of opinion upon the whole transaction. I understand that the last resolution proposes an expression of opinion upon the part of the House as to the proper course to be pursued in reference to this sale. As the President and Cabinet can take charge of this matter and prosecute it if they desire to do so, feeling that it would be an improper instruction, I therefore change my vote, and vote "no."

The question then recurred upon the amendment as amended; or, in other words, between the proposition of the gentleman from New York [Mr. CLARK] and the resolution reported by the committee.

Mr. FAULKNER. Can I, by the consent of the gentleman from New York, and by the unanimous consent of the House, have an amendment placed at the end of the last resolution, so as to make it the duty of the Attorney General and Secretary of War to report to this House?

The SPEAKER. By unanimous consent.

Several members objected.

Mr. BARKSDALE. Is the question now between the resolutions reported by a majority of the committee and the resolutions offered by the gentleman from New York?

The SPEAKER. It is.

Mr. BARKSDALE. Well, sir, I am opposed to all of them. [Laughter.]

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 88, nays 108, as follows:

YEAS—Messrs. Anderson, Atkins, Avery, Billingshurst, Bocoek, Bonham, Branch, Bryan, Caskie, Horace F. Clark, John B. Clark, Clawson, Clay, Cobb, John Cochrane, Cockerill, Cox, Cragin, James Craig, Crawford, Davis of Indiana, Davis of Iowa, Durfee, Edmundson, East, Farnsworth, Faulkner, Foley, Garnett, Gartrell, Gilmer, Goode, Greenwood, Grossbeck, Lawrence W. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hill, Horton, Houston, Howard, Jenkins, Jewett, George W. Jones, Kelsey, John C. Kunkel, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Millson, Moore, Edward Joy Morris, Isaac N. Morris, Niblack, Nichols, William W. Phelps, Phillips, Pottle, Purviance, Quinman, Ready, Reagan, Kelly, Ricard, Ritchie, Robbins, Roberts, Ruffin, Seales, Scott, Henry M. Shaw, Shorter, Sickles, Singleton, Robert Smith, William Smith, Stallworth, Stanton, Miles Taylor, Thayer, Underwood, Winslow, Wood, and Zollicoffer—88.

NAYS—Messrs. Abbott, Adrain, Ahl, Andrews, Arnold, Barksdale, Bingham, Bishop, Bliss, Bowie, Buffinton, Burlingame, Burnett, Case, Cavanaugh, Chaffee, Chapman, Ezra Clark, Clemens, Clark B. Cochrane, Coffax, Combs, Corning, Curry, Curtis, Davis of Maryland, Davis of Mississippi, Davis of Massachusetts, Dawes, Dean, Dick, Din-

mick, Dodd, Elliott, Fenton, Florence, Foster, Gillis, Gilman, Gooch, Goodwin, Granger, Gregg, Grow, Hawkins, Hoard, Hopkins, Hughes, Huyler, Jackson, J. Glancy Jones, Owen Jones, Keitt, Kellogg, Kelly, Knapp, Jacob M. Kunkel, Leidy, Leiter, Letelier, Lovejoy, Maclay, Miles, Miller, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Palmer, Parker, Pendleton, Pettit, Peyton, John S. Phelps, Pike, Potter, Powell, Russell, Sandidge, Savage, Searing, Aaron Shaw, John Sherman, Judson W. Sherman, Samuel A. Smith, Spinner, Stevenson, James A. Stewart, William Stewart, Talbot, Tappan, Tompkins, Tripp, Vallandigham, Wade, Walbridge, Walton, Ward, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, White, Whiteley, Wilson, Wortendyke, and John V. Wright—108.

So the amendment, as amended, was not agreed to.

Pending the call of the roll,

Mr. BURNETT said: I am opposed to the resolutions of the gentleman from New York, but prefer them to those of the committee, and shall therefore vote "ay."

Mr. SAVAGE. If the proposition of the gentleman from New York fails to be adopted as a substitute, what will be the next question?

The SPEAKER. The resolutions proposed by a majority of the committee.

Mr. SAVAGE. I shall then vote "ay."

Mr. DAVIS, of Mississippi. As everybody is making explanations, I desire to ask whether, if I vote "no," and the substitute is lost, I then vote against the resolutions reported by the committee and they are lost, if there will be anything before the House?

The SPEAKER. The Chair thinks not.

Mr. PEYTON. I desire to know, if the report of the committee be voted down, and the resolutions of the gentleman from New York be voted down, whether there will be anything before the House?

The SPEAKER. Upon further consideration, the Chair thinks that the report of the committee will remain undisposed of.

Mr. SMITH, of Virginia. I desire simply to say, that I vote between these two propositions as a choice of evils.

Mr. BURNETT. Upon further consideration, I cannot vote for the last resolution of the gentleman from New York under any circumstances. I therefore change my vote, and put it "no."

Mr. KILGORE stated that he had paired off with Mr. DAVIDSON.

Mr. DAVIS, of Massachusetts, stated that Mr. STEPHENS, of Georgia, had paired off with Mr. ROYCE.

Mr. CLARK, of New York, stated that his colleague, Mr. THOMPSON, had paired off with Mr. ENGLISH.

The vote was then announced as above recorded.

[A message was here received from the President of the United States, by J. BUCHANAN HENRY, his Private Secretary, informing the House that he had, on this day, approved and signed a bill making appropriations for the legislative, executive, and judicial expenses of the Government, for the year ending 30th of June, 1859.]

The SPEAKER stated that the question recurred on agreeing to the resolutions reported by the committee.

Mr. CLARK, of New York, called for a division.

Mr. RUSSELL moved to lay the whole subject upon the table.

Mr. KELSEY demanded the yeas and nays.

The yeas and nays were ordered.

Mr. RUSSELL withdrew his motion.

Mr. CLEMENS renewed the motion to lay on the table; and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 90, nays 95; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Arnold, Barksdale, Bishop, Bocoek, Bonham, Bowie, Branch, Bryan, Burnett, Burns, Caskie, Cavanaugh, Chapman, Clemens, Cobb, John Cochrane, Cockerill, Corning, Cox, Curry, Davis of Mississippi, Dimmick, Dowdell, Edmundson, Elliott, Florence, Foley, Garnett, Gartrell, Gilmer, Goode, Greenwood, Gregg, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, J.

Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Leidy, Letcher, Maclay, McQueen, Miles, Miller, Millson, Moore, Niblack, Pendleton, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Reagan, Reilly, Rufin, Russell, Sandidge, Savage, Scales, Scott, Searing, Henry M. Shaw, Shorter, Singleton, William Smith, Stevenson, James A. Stewart, Talbot, Vandaligham, Ward, White, Whiteley, Winslow, Wood, Wortendyke, and John V. Wright—90.

YAYS—Messrs. Abbott, Andrews, Billingshurst, Bingham, Bliss, Buffinton, Burlingame, Case, Chaffee, Ezra Clark, Horace F. Clark, John B. Clark, Clawson, Clay, Clark B. Cochrane, Colfax, Comins, James Craig, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Eustis, Farnsworth, Fenton, Foster, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Harlan, Thomas L. Harris, Haskin, Hill, Hoard, Horton, Howard, Kellogg, Kelsey, Knapp, Leiter, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Pike, Potter, Polite, Purviance, Robbins, Roberts, Aaron Shaw, John Sherman, Judson W. Sherman, Sickles, Robert Smith, Spinner, Stallworth, Stanton, William Stewart, Tappan, Thayer, Tompkins, Trippe, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Zollcoffer—95.

So the motion was dissented to.

Pending the call,

Mr. BRYAN stated that he had voted for the substitute in good faith, but that now he must vote against the original report.

Mr. SMITH, of Tennessee, stated that he had paired off with Mr. KUNKEL, of Pennsylvania, until five o'clock.

Mr. UNDERWOOD stated that he had paired off with Mr. DAVIS, of Mississippi.

The question then recurred on the first resolution reported by the committee, as follows:

Resolved, That the sale of the military post of Fort Snelling, and so much of the reservation attached to it as was necessary for military purposes, made on the 6th day of June, 1857, under the authority of the Secretary of War, the same being then and now retained under the authority of that Department, because necessary for military purposes, was without authority of law.

Mr. BURNETT demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 81, nays 86; as follows:

YEAS—Messrs. Abbott, Andrews, Billingshurst, Bingham, Bliss, Buffinton, Burlingame, Case, Chaffee, Horace F. Clark, Clawson, Clay, Clark B. Cochrane, Colfax, Comins, Cragin, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Eustis, Fenton, Foster, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Harlan, Thomas L. Harris, Haskin, Hill, Hoard, Horton, Howard, Kellogg, Kelsey, Knapp, Leiter, Lovejoy, Humphrey Marshall, Maynard, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Parker, Pettit, Pike, Potter, Robbins, Roberts, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, Tappan, Thayer, Tompkins, Trippe, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—81.

NAYS—Messrs. Adrain, Ahl, Anderson, Arnold, Barksdale, Bishop, Bocoock, Bonham, Bowie, Branch, Bryan, Burnett, Burns, Caskie, Cavanaugh, Chapman, John B. Clark, Clay, Clemens, Cobb, John Cochrane, Corning, Cox, James Craig, Dowdell, Edmundson, Elliott, Faulkner, Florence, Foley, Garnett, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Houston, Huyler, Jackson, Jenkins, J. Glancy Jones, Keitt, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, Maclay, McQueen, Samuel S. Marshall, Miles, Miller, Millson, Moore, Niblack, Pendleton, Peyton, John S. Phelps, William W. Phelps, Powell, Quitman, Reilly, Rufin, Russell, Sandidge, Savage, Scales, Scott, Searing, Henry M. Shaw, Shorter, Singleton, William Smith, Stallworth, Stevenson, James A. Stewart, Talbot, Vandaligham, Ward, Whiteley, Winslow, Wortendyke, and John V. Wright—86.

So the resolution was rejected.

Pending the call,

Mr. WARD stated that his colleagues, Mr. KELLY and Mr. PALMER, had paired off.

Mr. FAULKNER, Mr. Speaker, as the leading resolution reported from the committee has been rejected, I move to lay the whole subject upon the table.

Mr. WASHBURN, of Maine, demanded the yeas and nays.

Mr. PHILLIPS. Has there been any change in the question which will make the repetition of the motion to lay upon the table in order?

The SPEAKER. A vote has been taken since, and a resolution rejected.

The question was taken; and it was decided in the affirmative—yeas 83, nays 76; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Arnold, Barksdale, Bishop, Bocoock, Bonham, Bowie, Bryan, Burnett, Burns, Caskie, Cavanaugh, Chapman, John B. Clark, Clay, Clemens, Cobb, John Cochrane, Corning, Cox, James Craig, Curry, Dimmick, Dowdell, Edmundson, Elliott, Eustis, Faulkner, Florence, Foley, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hopkins, Houston, Huyler, Jackson, Jenkins, J. Glancy Jones,

Keitt, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, McQueen, Miles, Miller, Moore, Niblack, Pendleton, Peyton, John S. Phelps, Phillips, Powell, Quitman, Reilly, Rufin, Russell, Sandidge, Savage, Scales, Scott, Searing, Seward, Henry M. Shaw, Singleton, William Smith, Stallworth, Stevenson, James A. Stewart, Talbot, Vandaligham, Ward, Whiteley, Winslow, Wortendyke, and John V. Wright—83.

NAYS—Messrs. Abbott, Andrews, Billingshurst, Bingham, Blair, Bliss, Buffinton, Burlingame, Case, Chaffee, Clark B. Cochrane, Colfax, Comins, Curtis, Davis of Maryland, Davis of Mississippi, Davis of Massachusetts, Dawes, Dean, Dick, Dodd, Durfee, Fenton, Foster, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Harlan, Thomas L. Harris, Haskin, Hill, Hoard, Horton, Howard, Kellogg, Kelsey, Knapp, Leiter, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Parker, Pettit, Pike, Potter, Robbins, Roberts, Aaron Shaw, John Sherman, Judson W. Sherman, Sickles, Robert Smith, Spinner, William Stewart, Tappan, Thayer, Tompkins, Trippe, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, and Israel Washburn—76.

So the subject was laid upon the table.

Pending the call,

Mr. PURVIANCE stated that he had paired off with Mr. WHITE.

Mr. MOTT stated that Mr. CLAWSON had paired off with Mr. PHELPS, of Minnesota.

Mr. FLORENCE stated that Mr. SHORTER had paired off with Mr. CRAGIN.

The vote was then announced as above reported.

Mr. CLEMENS moved to reconsider the vote by which the subject was laid upon the table; and also moved to lay the motion to reconsider upon the table; but subsequently withdrew both motions.

JOHN HOLLAND.

Mr. GREENWOOD. Mr. Speaker, I have received letters which require me to go home tomorrow. There is only one bill on the Private Calendar in which a constituent of mine is interested, and he is an invalid soldier, ninety-three years old. I ask the unanimous consent of the House to take up his case. [Cries of "Agreed!"]

Then I move that the Committee of the Whole House be discharged from the further consideration of House bill (No. 631) granting an invalid pension to John Holland, of Arkansas.

The motion was agreed to.

The bill was then ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. GREENWOOD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

SETTLERS IN WISCONSIN.

Mr. BILLINGHURST. I ask unanimous consent to offer the following resolution:

Resolved, That the Committee of the Whole House be discharged from the further consideration of House bill (No. 246) entitled "A bill for the relief of certain settlers on the public land in the State of Wisconsin," and that said bill be considered at this time.

Mr. SMITH, of Virginia, objected.

Mr. BILLINGHURST moved to suspend the rules.

Mr. SMITH, of Virginia, withdrew his objection.

Mr. CURRY. I move to amend the motion of the gentleman from Wisconsin by taking up Senate bill No. 262.

The SPEAKER. The Chair cannot entertain more than two propositions at a time. [Laughter.]

Mr. HUGHES. I desire to say that I objected the moment the resolution was offered; and I never withdrew my objection.

Mr. BILLINGHURST. I move to suspend the rules, so as to enable me to introduce the resolution.

Mr. ELLIOTT. I move that this House do now adjourn.

The motion was not agreed to.

Mr. HUGHES. I withdraw my objection; but I give notice that I will object to everything out of order.

The question was taken on Mr. BILLINGHURST's resolution; and it was adopted.

The bill (H. R. No. 246) for the relief of certain settlers on the public lands in the State of Wisconsin was then taken from the Speaker's table.

The bill directs that so much of the even-numbered sections of land selected by Wisconsin in

June, 1849, to satisfy the quantity of land due the State under the act of Congress of August 8, 1846, granting land in aid of the improvement of the Fox and Wisconsin rivers, as have been sold, or contracted to be sold, by the State or its assigns, under the laws thereof, be confirmed to the State, as part of the grant, and the title of the purchasers declared to be valid as though the selections had been made in conformity with law; provided, that nothing contained in this act shall be construed to increase the quantity of land to which the State is entitled under that grant; and provided further, that a schedule, duly certified by the owner, of the lands sold and contracted for to be sold, prior to the passage of the act, shall be filed in the General Land Office within six months from the date of the act.

The second section enacts that every person, being the head of a family, widow, or single man over the age of twenty-one years, who, on the 11th of June, 1849, was, or since that time has become, an actual settler and housekeeper, and has made other improvements on any tract embraced in the even-numbered section selection, which Wisconsin or its assigns has not sold or contracted to sell, is entitled to the same right of preemption, and upon the same terms and conditions as are prescribed by an act entitled "An act to appropriate the proceeds of the sales of the public lands and to grant preemption rights," approved September 4, 1841; provided, that this act shall not be construed to convey to Wisconsin any parts or portions of the even-numbered section selections which the State or its assigns have not actually sold, or contracted to sell, and the title to which is not confirmed by the first section of this act.

Mr. BILLINGHURST moved the previous question on the engrossment of the bill.

The previous question was seconded, and the main question ordered; and, under its operation, the bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time.

Mr. BILLINGHURST moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. QUITMAN. I would inquire whether this bill has come from a committee; and if so, from what committee?

Mr. BILLINGHURST. This bill has been before the Committee on Public Lands at the last session, and at this; and has received the unanimous sanction of that committee, and is recommended by the Commissioner of the General Land Office.

The bill was then passed.

Mr. BILLINGHURST moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LOCATION OF LAND WARRANTS.

Mr. DAVIS, of Indiana. I move to take from the Speaker's table Senate bill No. 47, with a view to putting it on its passage.

Mr. HUGHES. I object.

Mr. DAVIS, of Indiana. I move to suspend the rules, so as to take the bill from the Speaker's table.

The motion was agreed to.

So (two thirds voting in favor thereof) the rules were suspended, and the bill (S. No. 47) confirming the locations of land warrants under certain circumstances, was taken from the Speaker's table, and was read a first and second time.

Mr. DAVIS, of Indiana. I desire to say that the Committee on Public Lands of the House, of which I am a member, have had a bill exactly like this under consideration, and have unanimously recommended its passage. It has been in my drawer for the last three months, and I have not had an opportunity to report it. The Commissioner of the General Land Office recommends its passage.

The bill directs that in all cases in which locations have been made with bounty land warrants on lands which were subject to entry at private sale, but upon individual competition were put up to the highest bidder, and excess paid for in cash, such locations shall be confirmed, if in all other respects regular; and authority is given to issue

patents accordingly; provided, that such confirmation shall only extend to cases existing prior to the passage of this act.

Mr. DAVIS, of Indiana. I move the previous question.

The previous question was seconded, and the main question ordered; and, under its operation, the bill was read the third time, and passed.

Mr. DAVIS, of Indiana, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. HARRIS, of Illinois. I move to take up the report in the case of the Delegate from Minnesota.

Mr. HOUSTON. Will the gentleman from Illinois allow me to present a report which it is important to have acted upon?

Mr. HARRIS, of Illinois. Yes, retaining the right to the floor, however.

IMPEACHMENT OF JUDGE WATROUS.

Mr. HOUSTON. I am instructed by the Committee on the Judiciary to submit the following report:

Resolved, That the chairman be authorized to report to the House the memorials, answers, and testimony, taken by the Judiciary Committee, on the charges against the Hon. John C. Watrous, district judge of the district court of the United States for the district of Texas.

Resolved, That the chairman be further authorized to report the two following resolutions, offered in committee, each of which failed to receive the sanction of the committee by an equally divided vote, namely:

Resolved, That John C. Watrous, United States district judge for the district of Texas, be impeached for high crimes and misdemeanors.

Resolved, That in the opinion of the Judiciary Committee, there was not sufficient grounds furnished by the testimony in the case against Judge John C. Watrous, district judge of the United States, for the district of Texas, to authorize his impeachment for high crimes and misdemeanors.

Resolved, That the chairman ask leave of the House for each minority of the committee to submit their views to the House by Saturday next.

The portion of the committee—consisting of eight members—which examined into the subject of the proposed impeachment of Judge Watrous, were unable to agree upon a resolution. The committee was equally divided upon these resolutions, and so each failed. Under a previous order of the House authorizing the committee to have the testimony printed for their own examination, the original papers have been sent to the printing office; and I presume they are there now. I therefore ask an order that the papers, memorials, answers, and evidence, shall be printed. They are in fact printed; but it is necessary, in order that they may be delivered to the members, that a general order for their printing shall be made. The latter part of the report asks that the two branches of the committee shall be permitted to present each its separate report on next Saturday. I do not know that they will be ready to report at that time. If not, I am satisfied that the House will grant a further indulgence. I ask the order for printing, and that the resolutions and the subject-matter be postponed till Saturday next. I do not know that they will be called up at all.

The resolutions were agreed to; and an order to print was made.

WIDOW OF LIEUTENANT HERNDON.

Mr. SEWARD. I ask the unanimous consent of the House to take up Senate resolution (No. 32) for the benefit of the widow of Commander William Lewis Herndon, of the United States Navy, and to discharge the Committee of the Whole from its further consideration.

There being no objection, the Committee of the Whole on the state of the Union was discharged from the further consideration of the joint resolution.

The resolution, which was read, provides that Mrs. Herndon shall be entitled to receive a sum equal to three years' full pay of a commander in the Navy.

The joint resolution was ordered to a third reading, and was accordingly read the third time.

Mr. SEWARD demanded the previous question on the passage of the joint resolution.

The previous question was seconded, and the main question ordered.

Mr. RUFFIN demanded the yeas and nays.

The yeas and nays were not ordered.

The joint resolution was passed.

Mr. SEWARD moved to reconsider the vote

by which the joint resolution was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

REPRESENTATIVES OF GEORGE FISHER.

Mr. SINGLETON. I believe the objection made by the gentleman from Virginia is withdrawn. I will say to the House that if they will give me about three minutes now, I do not think I will open my mouth again this session, except to vote.

Mr. HUGHES. I regret very much to interfere; but I understand that the regular order of business is the report of the select committee on the Doorkeeper, and I want to get at that.

Mr. SINGLETON. I ask the unanimous consent of the House to discharge the Committee of the Whole House from the further consideration of joint resolution (S. No. 22) devolving upon the Secretary of War the execution of the act of Congress, entitled "An act supplemental to an act therein mentioned," approved December 22, 1854. It only proposes to carry out a law passed at a former session of Congress. There is no money in it, nor will it affect the interests of any gentleman's constituents.

Mr. SMITH, of Virginia, (who had made several efforts to get the floor.) I am representing a case of crying necessity of twenty-five years' standing; and that I should give way for new cases is entirely out of the question.

The SPEAKER. Does the Chair understand the gentleman from Virginia as objecting?

Mr. SINGLETON. No, sir; he does not object to mine.

The joint resolution was read. It provides that the duties imposed, or required to be performed, by the act of Congress entitled "An act supplemental to an act therein mentioned," approved December 22, 1854, including the act to which it is supplemental, be transferred to the Secretary of War, who shall proceed *de novo* to execute them in their plain and obvious meaning; provided that, from any amount which may be found just and equitably due to the legal representatives of George Fisher, deceased, there shall be deducted all sums which may have been heretofore allowed and paid by the United States.

There being no objection, the Committee of the Whole House was discharged from the further consideration of the joint resolution; and it was ordered to a third reading, and was accordingly read the third time.

Mr. SINGLETON moved the previous question on the passage of the joint resolution.

The previous question was seconded, and the main question ordered; and, under the operation thereof, the joint resolution was passed.

Mr. SINGLETON moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MOUTH OF THE MISSISSIPPI RIVER.

Mr. EUSTIS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be, and he is hereby, requested to furnish this House with copies of the contracts entered into between the United States and Messrs. Craig & Rier, on the 13th of December, 1856, for deepening the channel of the Southwest Pass and the Pass à l'Ouvre, at the mouth of the Mississippi river, together with the report of the board of engineers appointed to examine the several proposals made therefor, the reports of the officers superintending said work, and all the information in the possession of the Department, respecting the progress and fulfillment of said contract.

HEIRS OF RICHARD D. ROWLAND.

Mr. CURRY obtained the floor.

Mr. SMITH, of Virginia. How does the gentleman get the floor?

Mr. CURRY. By the consent of the gentleman from Illinois, [Mr. HARRIS.] I shall not take two minutes.

Mr. SMITH, of Virginia. I represent a claim that is twenty-five years old, and for the benefit of persons who are starving, and I will not yield any longer. I must stop somewhere.

Mr. CURRY. I appeal to the gentleman from Virginia to withdraw his objection.

Mr. SMITH, of Virginia. Well, I will do it this once, but for the last time.

Mr. CURRY. I ask the unanimous consent of

the House, that the Committee of the Whole House be discharged from the further consideration of the bill (S. No. 262) for the relief of the heirs or legal representatives of Richard D. Rowland, deceased, and others.

The bill was read. It directs the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to the heirs, executors, administrators, or legal representatives of Richard D. Rowland, deceased, late of Alabama, the sum of \$3,200; and to the heirs, executors, administrators, or legal representatives of whomsoever possesses whatever title the United States gave to the southeast quarter of section two, township fourteen, range eight east, of the lands selected in Alabama, and sold under treaty of March 24, 1832, with the Creek Indians, for the benefit of the orphans of the tribe, the sum of \$2,260, with interest, at the rate of five and a half per cent. per annum, upon both aforesaid sums, from November 1, 1836.

Mr. MORGAN. I object.

Mr. CURRY. I move to suspend the rules, so as to put the bill upon its passage.

Mr. MORGAN. I object to it, because not three gentlemen here heard the bill read, owing to the confusion in the House.

Mr. PEYTON. I would like to hear the report read.

Mr. CURRY. The report explains the bill fully, and I hope the House will hear it read.

The report was read, as follows:

By the treaty of 24th March, 1832, with the Creeks, twenty sections of land were to be selected, under direction of the President, for the orphans of that tribe. The land was to be subdivided and retained by them, or sold for their benefit, as the President might direct. The lands were selected in Alabama, subdivided, sold, and proceeds funded by the United States in trust for benefit of the Creek orphan fund in five, five and a half, and six per cent. stocks. Cureton, Smith, and Heifner were joint purchasers of one half of the southeast half of section two, township fourteen, range eight east, for \$2,260; and Richard D. Rowland, purchaser of the other half of same half section, for \$3,200. The sales were approved by the President, and patents issued to vendees. Sally Ladign, a Creek, living upon this half section, claimed it under another provision of the same treaty.

Her claim was rejected by the United States locating agent when he selected the lands, but was subsequently prosecuted in the courts, and after a tedious litigation, during which the case reached the United States Supreme Court, the final decision was in her favor, and the original purchasers from the United States, and those holding under them, were rejected. The parties in interest now claim that the Government should refund the purchase money, with eight per cent. (Alabama) interest, and indemnify them for all expenses of litigation. As Government received the money as proceeds of sale of land to which the courts have decided it had no title, and could convey none, the claim for repayment of principal is indisputable; and as the money thus received was and is invested in either five, five and a half, or six per cent. stocks, upon which interest has been regularly received, the committee think it will be but just to pay claimants five and a half per cent. interest from time of such investment. They can see no good reason why Government should allow a higher rate of interest, nor why it should be held responsible for expenses incurred in defending title, as it gives no warranty, and has had no interest in the land, but has acted only in good faith as trustee of the Creeks' orphan fund.

The committee coincide with the Commissioner of Indian Affairs that it will be better to retain the orphan fund in the security of its present investments than to selling of its stocks to meet this claim. If any of the stocks are sold for such purposes, a subsequent appropriation will be necessary to supply the deficiency; they, therefore, report a bill for a direct appropriation from the Treasury for the satisfaction of the claim. The parties claiming can probably satisfactorily establish their legal right as representatives of the original purchasers; but as such right is not fully established by the papers before the committee, the bill directs payment to such representatives when ascertained.

Mr. CURRY. I now ask for the previous question on the third reading of the bill.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. CURRY moved to reconsider the motion by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DELEGATE FROM MINNESOTA.

Mr. BLAIR. I believe I have the consent of the House to take up Senate bill No. 230.

The SPEAKER. The Chair understands the bill is in the hands of the Printer.

Mr. WASHBURN, of Illinois. I ask the consent of the House to take up Senate bill No. 230.

Mr. HARRIS, of Illinois. I think I had better

go on and dispose of the case in reference to the Delegate from Minnesota.

Mr. WASHBURN, of Illinois. I appeal to the generosity of my colleague to allow this bill to come up.

Mr. SMITH, of Virginia. I must object to this mode of obtaining the floor. I have a case of twenty-five years' standing, which I wish the House to take up.

Mr. FENTON. I hope the gentleman from Illinois will give way to me for a moment.

Mr. SMITH, of Virginia. I object.

Mr. MARSHALL, of Kentucky. I have a single request to make of the House; and if I can be permitted a moment to explain it, there will be no objection.

Mr. SMITH, of Virginia. It is not worth while to explain it; I shall object.

Mr. FLORENCE. I understand that the gentleman from Illinois yields, to allow Senate bill No. 291 to come up. It is a bill granting half pay to certain widows and orphans.

Mr. HARRIS, of Illinois. I cannot yield further to any one. So far as I am concerned, I have been willing to yield; but if it continues, at the end of the hour there will be the same demand for the floor that there is now. I must go on.

I wish to take up the case of the Delegate from Minnesota Territory. If the House will give its attention, the matter need not occupy it more than fifteen minutes. If the reports of the minority and majority of the committee are read, I presume that the House will then be prepared to vote. If the House is content with that, I shall not occupy a minute of its time, further than to ask that a couple of letters bearing on the case shall be read.

Mr. HUGHES. I have an amendment which I wish to offer to the resolution of the Committee of Elections.

Mr. HARRIS, of Illinois. I will hear the gentleman's resolution.

The Clerk reported the resolution, as follows:

Resolved, That the admission of the State of Minnesota into the Union with the boundaries prescribed in the act of admission operates as a dissolution of the territorial organization of Minnesota, and that so much of the late Territory of Minnesota as lies without the limits of the present State of Minnesota is without any distinct legally organized government, and the people thereof are not entitled to a Delegate in Congress until that right is conferred upon them by statute.

Mr. HARRIS, of Illinois. I cannot yield for that purpose. It raises a new issue in the case, not necessary for its determination.

The Clerk read the report, as follows:

The Committee of Elections, to whom were referred the resolution of the House of Representatives directing an inquiry into the right of W. W. Kingsbury to a seat in the House of Representatives as a Delegate from that portion of the Territory of Minnesota not included within the limits of the State of Minnesota; and the memorial of Alpheus G. Fuller, requesting to be admitted to a seat in the House of Representatives as a Delegate from the Territory of Dacotah; and a certificate from certain officers of Midway county, in the Territory of Dacotah, of the election of said Fuller as such Delegate, respectfully report:

That by the act of Congress approved March 3, 1849, entitled "An act to establish the territorial government of Minnesota," the boundaries of said Territory were defined and fixed as follows:

"Beginning in the Mississippi river, at the point where the line of 43° 30' of north latitude crosses the same; thence running due west on said line, which is the northern boundary of the State of Iowa, to the northwest corner of the said State of Iowa; thence southerly along the western boundary of said State to the point where said boundary strikes the Missouri river; thence up the middle of the main channel of the Missouri river to the mouth of the White Earth river; thence up the middle of the main channel of the White Earth river to the boundary line between the possessions of the United States and Great Britain; thence east and south of east along the boundary line between the possessions of the United States and Great Britain to Lake Superior; thence in a straight line to the northernmost point of the State of Wisconsin, in Lake Superior; thence along the western boundary line of said State of Wisconsin to the Mississippi river; thence down the main channel of said river to the place of beginning."

The fourteenth section of said act provides, "That a Delegate to the House of Representatives of the United States, to serve for the term of two years, may be elected by the voters qualified to elect members of the Legislative Assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the Delegates from the several other Territories of the United States to the said House of Representatives."

Under this provision the Territory of Minnesota has been, without interruption, recognized in the House of Representatives by a Delegate, elected in conformity with law. It further appears that William W. Kingsbury was regularly elected on the 13th day of October, 1857, as such Delegate; and in that capacity was, at the opening of the present session of Congress, admitted to, and has held, a seat in the House of Representatives, until the passage of the act of May, 1858, for the admission of the State of Minnesota into the Union, when his right to retain it was brought

in question. Of the legality of the election of Mr. Kingsbury as the Delegate from the Territory of Minnesota there seems to be no doubt. A copy of his credentials, signed by Governor Medary, and attested by the seal of the Territory, is appended to this report. The number of inhabitants in the Territory not included in the bounds of the State is not very clearly settled; but, as far as can be learned, it amounts to several thousands, and is said to be rapidly increasing. There were five counties established by law, and two of them fully organized, with the proper officers for regular municipal government.

By the act of Congress approved February 26, 1857, "to authorize the people of the Territory of Minnesota to form a constitution and State government preparatory to their admission into the Union on an equal footing with the original States," the boundaries of the State were limited upon the west by the line of the Red River of the North, the Bois des Sioux, the center of Lake Traverse, a direct line from the southern extremity of Lake Traverse to the head of Big Stone lake, the center of Big Stone lake to its outlet; thence, by a due south line, to the State of Iowa. The inhabitants of all that portion of the original Territory of Minnesota east of this line were by this act "authorized to form for themselves a constitution and State government by the name of the State of Minnesota, and to come into the Union on an equal footing with the original States, according to the Federal Constitution," and the question is presented, does the admission into the Union of a State formed out of a part of the original Territory of Minnesota annul the election of the Delegate, repeal or set aside the law creating the Territory, and all other laws; deprive the people inhabiting that part of the Territory not included in the limits of the new State of the right or privilege of being heard in the House of Representatives by an agent or delegate; substitute anarchy for a government of law, and resolve society into its original elements? Such is not the opinion of your committee. There is nothing in the act authorizing the people of Minnesota to form a constitution and State government, nor in the act for the admission of the State of Minnesota into the Union, which repeals in anywise the law creating the Territory, or deprives the people inhabiting that part not included in the new State of any rights or privileges to which they were entitled under any laws existing at the time of the admission of that State. It matters not whether one State or half a dozen have been carved out of an organized Territory; if a portion remains, and, more especially, if inhabited, and counties and towns, with their corporate governments, exist, created by law, it would seem to be a most violent presumption to hold that they became, *eo insidente*, upon the admission of the State, a disfranchised people—a mere mob or rabble. The fact that the admitted State bears the same name as the Territory may lead to some confusion of ideas, but it does not alter the fact. The existence of the State of Minnesota does not destroy the existence of the Territory of Minnesota, nor deprive the inhabitants of such Territory of any of their rights. No such result can be by implication. The territorial law must be repealed before such consequences could follow, and even then a grave question would arise here how far such repeal could operate upon the rights of the people.

These views and conclusions are not without precedent. By the act of Congress of May 1, 1802, the State of Ohio was authorized to form a constitution and enter the Union. On the 6th of December following, a question was raised as to the right of Mr. Paul Fearing to a seat, who had been elected before the passage of the act of May 1, 1802, a Delegate to Congress from the Territory of the United States northwest of the river Ohio, and took his seat in the House of Representatives. On the 24th day of January, 1803, a resolution was introduced declaring that, inasmuch as Paul Fearing had been elected by the late territorial government of the Territory northwest of the river Ohio, he was no longer entitled to a seat in the House. This resolution was referred to the Committee of Elections, and they reported in favor of his retaining his seat, and he was retained by the House. This case seems directly in point.

The case of Henry H. Sibley, in 1848-49, a Delegate from the Territory of Wisconsin, is similar in character to that under consideration. He was elected as a Delegate from the Territory of Wisconsin after the State of Wisconsin had been admitted into the Union. He was elected from that portion of the original Territory of Wisconsin not included within the boundaries of the State.

The question as to his right to a seat was raised and referred to the Committee of Elections, who reported in his favor, and the House, by a vote of 141 to 62, gave him his seat. These precedents, based as they are upon the soundest reason, seem conclusive of the case, and establish the right of Mr. Kingsbury to his seat as the Delegate in this House from the Territory of Minnesota.

Having arrived at this conclusion, it seems to dispose of the question involved in the memorial of Mr. A. J. Fuller and his certificate of election under the hands of the county officers of Midway county, in the Territory of Dacotah. There is no Territory of Dacotah, known to your committee, which is authorized to elect a Delegate to the House of Representatives. It is also conceded by Mr. Fuller that this so-called "Territory of Dacotah" is the same geographical area as that portion of the Territory of Minnesota not included within the limits of the State of Minnesota. In other words, the so-called "Territory of Dacotah" is the Territory of Minnesota, the Delegate from which Territory is already recognized in the person of William W. Kingsbury. The committee are informed, on what they consider good authority, that on the 13th of October last, at the election for Delegate to Congress, the people of this so-called Territory of Dacotah, or a part of them, did vote for Mr. Kingsbury for their Delegate, and they so claim him to be, notwithstanding the admission of the State of Minnesota into the Union. The committee append to this report a copy of Mr. Fuller's certificate and memorial, but they discern nothing in them to authorize or render expedient his admission to a seat in this House.

The committee submit to the House, for adoption, the following resolutions:

Resolved, That William W. Kingsbury be allowed to retain his seat in the House of Representatives as a Delegate from the Territory of Minnesota.

Resolved, That the Committee of Elections be discharged

from the further consideration of the memorial of Alpheus J. Fuller, asking to be admitted to a seat in the House of Representatives from the Territory of Dacotah.

Exhibit 1.

EXECUTIVE OFFICE, MINNESOTA,
ST. PAUL, December 4, 1857.

I, Samuel Medary, Governor of the Territory of Minnesota, hereby certify that, at an election held in the Territory of Minnesota on the 13th day of October, 1857, William W. Kingsbury received the highest number of votes cast for territorial Delegate to Congress, and, having received a majority of all the votes so cast at said election for said office, was decided by the board of canvassers duly elected as Delegate to Congress from the Territory of Minnesota, and entitled to his seat as such.

In testimony whereof, I have hereunto set my hand and the great seal of the Territory, this 4th day of December, 1857. S. MEDARY, Governor.

Exhibit 2.

OFFICE OF REGISTER OF DEEDS,
MIDWAY COUNTY, DACOTAH TERRITORY.

At an election held in the several precincts in the counties of Midway, Big Sioux, Pipe-Stone, Rock, and Pembina, on the 13th of October, A. D. 1857, in pursuance of public notice thereof, for the election of a suitable person as Delegate to Congress to represent that portion of the former Territory of Minnesota not included in the lines of the State of Minnesota, returns of the several precincts in said counties were made to the register of deeds of Midway, the senior county, and were canvassed by the register of deeds in the presence of the county commissioners and sheriff of said county; and William E. Brown, register of deeds and clerk of board of county commissioners, and D. F. Brawley, chairman of said board of commissioners, and Andrew J. Whitney, sheriff of said county of Midway, do certify that, upon the canvass of all the votes polled at said election in the several precincts in the counties of Midway, Big Sioux, Pipe-Stone, Rock, and Pembina, Alpheus G. Fuller received a majority of said votes, and was duly elected a Delegate to Congress to represent that portion of the former Territory of Minnesota not included in the State of Minnesota.

In witness whereof, we have hereunto affixed our hands and the seal of Midway county, at Midway, the county seat of Midway, this 23d day of November, anno Domini 1857.

WILLIAM E. BROWN,
Register of Deeds.

D. F. BRAWLEY,

Chairman Board of County Commissioners.

A. J. WHITNEY,

Sheriff of Midway county.

Exhibit 3.

To the honorable the House of Representatives of the United States.

The memorial of the undersigned would respectfully represent to your honorable body, that he has been selected by the citizens of that portion of the former Territory of Minnesota not included within the limits of the State of Minnesota, known as the Territory of Dacotah, as Delegate or agent of said citizens to the House of Representatives of the United States, and presents the following statement, relative thereto, for your consideration:

The Legislative Assembly of the Territory of Minnesota, at its session in May, 1857, enacted laws resulting in the apportionment of that portion of the Territory within the limits of a proposed State, into districts, preparatory to the election of a new Legislative Assembly at the then ensuing fall election, which election took place on the 13th day of October last.

By this apportionment, those persons residing outside of said proposed State limits, were not permitted to participate in said election for members to compose said Legislative Assembly. Section fourteen of the act organizing the Territory of Minnesota, approved March 3, 1849, provides that a Delegate to the House of Representatives of the United States may be elected by the voters qualified to elect members of the Legislative Assembly, &c.

An election was held under this provision of the organic act, in which citizens residing without the limits of the apportionment did not participate. In addition to the election of a Delegate, by the voters of the proposed State, to represent them until the admission thereof into the Union, members of Congress were also elected by the same voters, at the same time and places, to represent them after said admission.

The citizens residing without said proposed State limits, now settlers on a portion of the public domain, subject only to future legislation of Congress—all territorial laws and offices being abrogated—deemed it expedient, without the form of law, but on the inherent principle of self-government and protection, to send a Delegate to the House of Representatives who was known to be identified with their interests, believing Congress, in its discretion, had the power to admit and recognize such Delegate, though elected by a people resident in an unorganized portion of the public domain. This people, numbering from ten to fifteen thousand, are settled principally in the eastern portion of said Territory.

Within the valley of the Big Sioux river large settlements have sprung into existence as if by magic, and scarce twenty miles can be traversed on its banks without passing a compact settlement.

The steam engine is already at work there; the black smith, carpenter, mason, and various other mechanics, are at their daily avocations; the merchant has there displayed his stock of merchandise; the farmer, with his prairie team, is busily engaged turning the broad furrow, preparing the soil to receive the seed.

Thus, improvements are being made, and not the least shadow of law to protect those who are making them.

Entire counties, which once formed a portion of Minnesota, are now destitute of law.

These, added to the fact that they are on the extreme frontier, surrounded by bands of hostile savages, daily exposed to their predatory excursions, are some of the reasons which induced those settlers to send a Delegate here to request and urge that, after the admission of the State, which sundered the last legal tie which connected them with Minnesota, you would, as the least you could do for them, acknowledge their Delegate, and give them an ordinary territorial government.

Very respectfully,

A. G. FULLER.

Views of a minority of the committee:

In the case of W. W. Kingsbury, who claims to represent that portion of Minnesota not included in the State of Minnesota, by virtue of an election, held on the 13th of October, 1857, the undersigned, a part of the Committee of Elections, find and report the facts to be as follows:

The territorial act included a larger space. The enabling act divided the Territory into two parts: that which now composes the new State, and the balance that which Mr. Kingsbury now claims to represent as a Delegate. Mr. Kingsbury was elected by the people resident in the limits of the State, and by no others; those resident in the balance of the Territory, outside the proposed State limits, not being allowed by law to vote in his election.

On the said 13th day of October, 1857, the people resident in the limits of the State voted entirely to themselves. They elected a Delegate, (Mr. Kingsbury,) who had opposition; also elected Representatives. On the same day, the inhabitants outside said State limits held a separate election for themselves and elected A. G. Fuller their Delegate, said Fuller also having an opponent. The people outside the State limits acted and voted separately and independently; so did the inhabitants within the State.

Section fourteen of the act organizing the Territory of Minnesota, approved March 3, 1849, provides that a Delegate to the House of Representatives of the United States may be elected by the voters qualified to elect members of the Legislative Assembly. The election for Governor, State officers, members of Assembly, and Representatives, as well as Delegate, was confined to the voters within the limits of the proposed State. No polls were opened for these elections to the people outside the limits of the proposed State.

We further find and report, that the said W. W. Kingsbury is not a resident of the Territory which he now claims to represent, but resides within the limits of the State, whose inhabitants alone elected him, and that he received no votes from the people of the Territory without the State limits.

We further find and report, that the people residing out of the limits of the proposed State, after being separated, in anticipation of a separate territorial organization for the remaining territory, under the new name of Dacotah, held an election for a Delegate on the 13th of October, 1857, as stated in the memorial of A. G. Fuller, when the said A. G. Fuller received a large majority of the legal voters resident in the said Territory, and he holds the best evidence thereof which the present imperfect legal provisions in the Territory will admit of; and, according to the precedent in the case of H. H. Sibley, from Wisconsin, would be entitled to his seat as a Delegate representing the resident citizens of the remaining territory, who voted for him, and who were not by law allowed to vote for or against W. W. Kingsbury.

We present, for the approval of the House, the following resolutions:

Resolved, That W. W. Kingsbury is not entitled longer to retain a seat in this House as a Delegate from the Territory of Minnesota.

Resolved, That A. G. Fuller be allowed to qualify and take a seat in this House as a Delegate from the said Territory without the limits of the State of Minnesota.

JAMES WILSON,
EZRA CLARK, JR.,
JOHN A. GILMER.

May 31, 1858.

Mr. HARRIS, of Illinois. I have thus caused the reports of the minority and majority of the committee to be read with a view of presenting the facts sufficiently full to enable the House to vote on the question. I wish to make one remark and that is that the views of the minority, as presented here, in my judgment, embrace statements that are entirely erroneous. I wish to call the attention of some of the members who signed that report to some of the points. First, it is stated in the views of the minority that Mr. Kingsbury was elected by the people, residents of the State, and by none others. That statement is in direct conflict with the report of the committee; as a question of fact the report of the committee states that Mr. Kingsbury was voted for as the Delegate by the people outside of the limits of the State. The views of the minority assert directly the contrary. To settle that question, if anything need be had to settle it, I send to the Clerk's desk, to be read, two letters, one from a civil officer of the Territory, residing out of the State limits, and the other from the Secretary of the Territory, who canvassed the votes, both showing fully that a large number of votes were cast, and that the only ones cast were for Mr. Kingsbury.

Mr. WILSON. Were those letters before the committee when this question was up?

Mr. HUGHES. I object to any yielding of the floor. When the gentleman gets through I want to have an opportunity to offer my proposition.

Mr. HARRIS, of Illinois. I might, with equal propriety, ask the gentleman [Mr. Wilson] where

he derived the information that no votes were cast for Mr. Kingsbury? The statement made in the presence of the committee was, that votes were cast for Mr. Kingsbury. These letters were not before the committee, but, as they are in print, I ask that they be read.

Mr. WILSON. If they were not before the committee—

Mr. HUGHES. I want my colleague to be heard, and I want to be heard myself; but I do not want members upon this floor to hold the right to speak on important questions from either the gentleman from Illinois or any other gentleman.

Mr. HARRIS, of Illinois. The gentleman from Indiana cannot indicate when the gentleman from Illinois desires to hold the floor for gentlemen to speak at his pleasure. He has no right to indicate or intimate any such thing. He can make a point of order, but he need not interlard what I have to say on this question with remarks of that kind.

Mr. HUGHES. The gentleman has pursued that course heretofore on this very question.

Mr. HARRIS, of Illinois. The gentleman has no authority for the statement he makes.

Mr. HUGHES. The statement is true.

Mr. HARRIS, of Illinois. It is false.

Mr. HUGHES. You are a liar.

Mr. HARRIS, of Illinois. If the gentleman takes the charge of falsehood, he can wear it at his pleasure.

The Clerk read the letters, as follows:

WASHINGTON, D. C., May 31, 1858.

SIR: Having had a conversation with you, in which you desired some information concerning the number of votes cast for Hon. W. W. Kingsbury, Delegate from Minnesota, west of the present boundary line of that State, I have the honor to say: that I acted as secretary of the board who canvassed the votes for Delegate, and that Mr. Kingsbury did receive votes west of the line, which were counted for him. My recollection is, that about two hundred votes returned from the county of Pembina were so counted; and that votes cast for him in precincts on the Missouri river were also canvassed. As I have not the returns at hand, I cannot give you the exact number; but my recollection is distinct, that votes cast for Mr. Kingsbury in the Territory west of the present State boundary line, were returned, and canvassed by the board.

I have the honor to be, very respectfully yours,

EDWARD M. MCCOOK.

HON. THOMAS L. HARRIS, Chairman of Committee of Elections.

WASHINGTON CITY, May 31, 1858.

SIR: In a conversation had with you to-day, you desired me to give you such information in regard to the election held last fall for a Delegate in Congress from Minnesota as was in my possession.

I have the honor to state, such an election was held on the Missouri river, at the precinct of Kennerly, on the 13th of October, 1857, at which I was present and administered the prescribed oath to the judges of election, in my official capacity as one of the notaries public for the Territory of Minnesota.

At this election there was but one candidate voted for for the office of Delegate, and the Hon. W. W. Kingsbury received every vote which was cast, of which number mine was one.

I am, very respectfully, your obedient servant,

J. B. S. TOND.

HON. THOMAS L. HARRIS, Chairman Committee of Elections, House of Representatives.

Mr. HARRIS, of Illinois. I caused these letters to be read, because one is from the officer of the Territory who canvassed the votes, and the other from a functionary in the Territory who swore the judges of election in one of the precincts—both outside of the present State of Minnesota.

Mr. KELSEY. I wish to know whether the election at which Mr. Kingsbury received votes west of that line was the same election at which Mr. Fuller received votes; or were there two separate elections?

Mr. HARRIS, of Illinois. If the gentleman had observed the statement in the report he would have found his question answered. It is there distinctly stated that both elections, or alleged elections, were held on the same day. One was held under the existing law of the Territory, and under all the forms of law. The votes were returned to the capital of the State by the returning officers in due form of law.

Mr. KELSEY. It is here stated that Mr. Fuller had an opponent at the election. What I want to get at is, whether Mr. Kingsbury was that opponent.

Mr. HARRIS, of Illinois. That statement in the views of the minority was something that I was not aware of before. There was nothing said in the committee as to Mr. Kingsbury having an opponent. The committee having arrived at the

conclusion that Mr. Kingsbury was properly elected, the question of Mr. Fuller's election was not considered, as is stated in the report of the committee.

It appearing that this election was held in conformity with law, and that Mr. Kingsbury received a large number of votes outside of the limits of the present State of Minnesota, I cannot conceive why it should be stated that Mr. Kingsbury was not voted for at that election, and only received votes inside of the State.

Mr. KELSEY. I desire to ask one question further. It is, which of these two candidates received the majority of the votes outside of the present State limits?

Mr. HARRIS, of Illinois. There is not one word of testimony before the committee as to Mr. Fuller's number of votes. There was nothing furnished to the committee stating the number of votes which Fuller did receive. It appears, from the statement of the Secretary of the Territory, that in Pembina county alone, which lies entirely west of the Red River of the North, and outside the limits of the State, Mr. Kingsbury received two hundred votes.

The statement of one of the officers was, that Kingsbury received all the votes cast at his precinct on the Missouri river, and that Fuller received none.

Mr. SMITH, of Virginia. I desire to ask the gentleman from Illinois whether, if Mr. Kingsbury be allowed to retain his seat, he does so as the Delegate from the Territory of Minnesota? or is there such a Territory now?

Mr. HARRIS, of Illinois. The views of the committee are presented in the report. They are of opinion that, where an act of Congress establishes a territorial government, and fixes the area of the Territory, and that subsequently a State is carved out of a portion of it, the territorial law is not repealed by implication; and the precedents sustain that view.

Mr. SMITH, of Virginia. Is the law authorizing the election of a territorial Delegate in Minnesota regarded as still in force, outside of that which has been formed into a State? Could a new election for territorial Delegate in that part be held now under the law?

Mr. HARRIS, of Illinois. I can never answer that inquiry more plainly than I have answered it. It is true, we are not now dealing with an election held subsequent to the admission of the State. We are dealing with an election held when the Territory was one unbroken whole. The only question is, whether, a portion of the Territory having been admitted as a State, that annuls the law creating the Territory, and vacates the seat of a Delegate who was elected partially by votes outside of the limits of the State? I cite the precedent in the case of Wisconsin. There the Delegate, Mr. Tweedy, was elected for the whole Territory. A portion of the Territory was admitted into the Union as the State of Wisconsin. After the State was admitted, Mr. Tweedy resigned. Mr. Sibley was then elected as Delegate in Congress for the remaining portion of the Territory of Wisconsin. He came here, and was admitted to his seat by a vote of more than two to one. That case was put on the same ground that this is: that the law creating the Territory, of Wisconsin was not abrogated by the admission of a State carved out of a part of that Territory.

There are other cases where the judges held over and performed their official functions, and were recognized by all the officers of the Government; and I may add further that I am informed even now that the President has sent in the nomination of officers for this very Territory of Minnesota not included within the limits of the State, and recognizing it as still continued.

Mr. SMITH, of Virginia. The Constitution of the United States requires that the Representatives shall be residents of the States which they undertake to represent. Do I understand the gentleman to say that by analogy those who claim to represent Territories must not necessarily be residents therein?

Mr. HARRIS, of Illinois. I really do not see what that inquiry has to do with the question presented.

Mr. SMITH, of Virginia. I understand that this Mr. Kingsbury does not reside in the present Territory of Minnesota.

Mr. HARRIS, of Illinois. I do not know how that fact is. There was no testimony before the committee as to where either of the gentlemen resided, and there is none before the House—not a word relating to the subject. What I understand is, that as Mr. Kingsbury was elected by the people of the Territory of Minnesota, when a portion of it is taken and created into a State, he has a right to elect his residence, and to continue to represent those people who participated in his election, whether he resides in the territorial portion or in the State. A Delegate from a Territory is admitted to a seat here as an act of courtesy. There is nothing obligatory on the House as to his residing in the Territory, and it is entirely within the competency of the House to require residence, or not, as it may please. But on examining the territorial acts that have been passed, I have not noticed one of them where it was required that the Delegate should be a resident of the Territory. It is simply provided that they shall be entitled to a Delegate to represent them in the House of Representatives; but not that he shall be a resident of the Territory.

Now, sir, there are some other statements made by the minority of the committee to which I might allude; but they were made without any evidence before the committee, and I have answered the main point in issue by presenting the letters which have been read. As I stated before the committee, Governor Medary, who was one of the canvassing officers, has stated that the votes cast outside of the limits of the State were canvassed; that Mr. Kingsbury did receive votes, and that Mr. Fuller received none. With all these facts before them, the committee could come to no other conclusion than that Mr. Kingsbury was entitled to a seat as Delegate.

Now, if any of my colleagues upon the committee desire to make any remarks, I will yield for that purpose; but I wish to have this question disposed of, and disposed of speedily.

Mr. WASHBURN, of Maine. I desire to say that I concur entirely in the positions taken by the gentleman from Illinois [Mr. HARRIS] in reference to this question. The Territory of Minnesota embraced a much larger area than is now embraced within the limits of the State of Minnesota. The enabling act passed by the last Congress declared that the people of a certain portion of the Territory of Minnesota should be authorized to form a State constitution, and become one of the States of the Union.

A constitution was accordingly prepared, and an election was ordered to be held upon the 13th of October. Now, at that time it was not known that the constitution would be adopted by the people, or that Minnesota would be admitted by Congress, and of course it was proper for the people of the Territory of Minnesota, of the whole Territory, to elect a Delegate, as they were authorized to do by the act organizing the Territory of Minnesota. They did elect a Delegate at that time, by votes which we are bound to presume and infer were cast wherever in all the Territory the people were authorized and permitted by law to vote. We must infer, and in the absence of evidence to the contrary it is the legal presumption, that men voted for a Delegate to Congress in every county and at every precinct within the limits of the Territory, where they ever had a right to vote, and at that election, the people not knowing whether the State would be admitted or not, a Delegate was chosen. He presented his credentials here, was admitted and sworn, and no objection was ever made that he was not legally here as the Delegate from the Territory of Minnesota. Now, he having been duly elected by the people of the whole Territory, not merely of that part of it which is now the State, but of the whole Territory, the simple question is, whether, by the admission of the State, we have so destroyed and extinguished the Territory, that it can have no Delegate here? I think it has been shown very clearly and satisfactorily by the report of the committee, sustained by precedents in all the Departments of the Government, and by this House, as long ago as 1803, and since, in 1847, by a vote of two to one, John Quincy Adams leading off in the majority, that by the admission of a State, carved out of a portion of a Territory, you do not destroy the organization, so far as the remainder of the Territory is concerned. Well, if that doctrine be true, then,

Mr. Kingsbury, having been properly and legally elected, is now the Delegate from Minnesota Territory, for there is a State of Minnesota and a Territory of Minnesota. The Territory is all that portion of Minnesota which has not been included in the State limits, and it strikes me that the conclusion is irresistible, that Mr. Kingsbury should be allowed to occupy his seat here, as Delegate from the Territory, for the time for which he was elected by the people.

I will state that there are organized precincts and organized counties outside of the State limits, containing, I believe, in all, a population of something like fifteen thousand souls, and it would be as inexpedient and impolitic, as it would be against principle and precedent, for us, by voting that that Territory has been destroyed, and that Mr. Kingsbury is not here properly as its Delegate, to resolve the society there into the original elements from which the Territory was formed, and leave the people, who were the citizens of an organized society, in a state of disorganization—without officers, or law, or protection.

Mr. Speaker, so far as the claim of this other gentleman (Mr. Fuller) is concerned, it is founded upon an election held, not under the authority of any territorial election officer, but under the authority of the register of deeds for a single county, (and he is no officer for any purpose if there be no existing territorial organization;) and I understand, though I may be mistaken, that the only votes which he received were given in a single county, and I believe at a single precinct. He introduced no evidence of any kind before the committee, tending to show how many votes he received, or whether he received votes at more than one precinct. It has been shown, on the other hand, that Mr. Kingsbury was voted for outside of the State limits, that the facts of this case run with the presumption of it, that at one place more than two hundred votes were given for him, and that he was voted for at other places, at some of which he received all the votes cast. So that we have neither law nor popular sovereignty to justify us in admitting Mr. Fuller to a seat or in ousting the sitting Delegate from Minnesota.

Mr. WILSON. Mr. Speaker, I regret very much the misunderstanding which took place between my colleague [Mr. HUGHES] and the gentleman from Illinois, [Mr. HARRIS.] The gentleman from Illinois had very courteously yielded the floor to me to allow me to ask him a question, and he had not answered that question when he was interrupted by my colleague.

Mr. GILMER. Will the gentleman from Indiana allow me just five minutes to make a brief statement?

Mr. WILSON. Not just now. Mr. Speaker, this question was hastily decided in the Committee of Elections. I think the committee gave not more than half an hour to the consideration of the entire case. I was not present in the committee-room during a portion of that time, and, for that reason, I asked the chairman of the committee if the papers which he presented to the House had been before the committee, because they might have been before the committee before I came in. But they were not in evidence, as the chairman himself admits, before that committee, for the purpose of making up either the majority or the minority report; and I will now make a statement of the evidence upon which the minority came to the conclusion that they did in regard to the right of the Delegate from the so-called Territory of Minnesota.

In the first place, we have the memorial upon which that report was in part founded, in regard to the right of Mr. Fuller, who claims to represent that portion of the Territory of Minnesota which is outside the limits of what is now the State of Minnesota. What does that memorial set forth?

"The Legislative Assembly of the Territory of Minnesota, at its session in May, 1857, enacted laws resulting in the apportionment of that portion of the Territory within the limits of a proposed State, into districts, preparatory to the election of a new Legislative Assembly at the then ensuing fall election, which election took place on the 13th day of October last.

"By this apportionment, those persons residing outside said proposed State limits were not permitted to participate in said election for members to compose said Legislative Assembly."

This was never denied in the committee-room or elsewhere.

Mr. HARRIS, of Illinois. The gentleman will bear with me one moment. He has made too broad a statement—unadvisedly, of course. He was not in the committee-room when these papers were read. It was then stated in the committee-room, as I have stated to the House, that persons residing in that Territory outside the present State limits, did vote.

Mr. WILSON. I stand corrected. But, sir, I read further from the same document:

"Section fourteen, of the act organizing the Territory of Minnesota, approved March 3, 1849, provides that a Delegate to the House of Representatives of the United States may be elected by the voters qualified to elect members of the Legislative Assembly."

Now, sir, there were two elections held on the 13th day of October, 1857. Within the limits of the Territory of Minnesota, W. W. Kingsbury received a majority of the votes as a Delegate to this House. In regard to that part of the Territory which is without the limits of the State, in what is commonly known as the Territory of Dacotah, but which is of course no Territory organized by law of Congress, it being that part of the Territory of Minnesota outside the limits of the State, we have direct evidence that those persons residing outside of the present State limits, did not participate in the election, either for the purpose of electing a Delegate to the House of Representatives, as stated in the memorial, or for the purpose of electing members to the Legislative Assembly.

Now, then, the gentleman from Maine [Mr. WASHBURN] says, there were no votes cast for Mr. Fuller, except in one county. Why, sir, here is a certificate that an election was held in the several precincts of the counties of Midway, Big Sioux, Pipe-Stone, Rock, and in Pembina—some five counties. And what further does it state? That Alpheus G. Fuller received a majority of the votes cast outside the limits of the present State of Minnesota.

Mr. WASHBURN, of Maine. I wish to ask the gentleman if all the evidence here of the fact that votes were cast for Mr. Fuller in the several counties which the gentleman has named, is not the certificate of the register of deeds in the county of Midway? And, if so, I desire to know what authority a register of deeds of one county has to certify to votes cast in another county?

Mr. WILSON. It is not all the evidence we have of the fact.

Mr. KELSEY. I wish to ask the gentleman from Indiana how the officers of one county could certify to the votes cast in other counties?

Mr. WILSON. They do certify that votes were cast, and that all the votes were cast for Fuller. And, now, I will ask the gentleman from Maine whether there was before the committee any evidence that one single vote was cast for Mr. Kingsbury outside the limits of what is now the State of Minnesota?

Mr. WASHBURN, of Maine. The evidence was this: it is proved that there were organized courts in the Territory outside the State limits, and it is to be presumed that the people in those counties had the right to vote, and in the absence of evidence to the contrary, that they did vote in the election of a territorial Delegate. There is no proof that there were any votes at all cast for Mr. Fuller, except the certificates presented by Mr. Fuller, which are no evidence at all, and were not received by the committee as such. I will state further, that we now have evidence of the fact, that two hundred votes were cast in one county outside the State limits, for Mr. Kingsbury, and that votes were cast in several of the precincts in other counties.

Mr. WILSON. There was evidence satisfactory to three members of the committee that votes were cast for Mr. Fuller. But the gentleman from Maine says he has the right to infer that votes were cast for Mr. Kingsbury outside the limits of the State. What right has he to infer that, when we have a certificate that all the votes were cast for Mr. Fuller? He relies on a presumption; I on proof. He makes a presumption; I bring a certificate, and that certificate shows clearly and conclusively that Mr. Fuller received a majority of the votes.

Mr. HARRIS, of Illinois. My friend from Indiana speaks of a certificate. I would like to know what certificate he has?

Mr. WILSON. The certificate of three per-

sons, officers of the county of Midway, who certify that Mr. Fuller received a majority of the votes cast.

Mr. HARRIS, of Illinois. Where is the county of Midway, and who are the men that gave that certificate?

Mr. WILSON. Here is the certificate.

Mr. HARRIS, of Illinois. On what authority have they given any such certificate?

Mr. WILSON. They are officers of a county in the Territory of Minnesota, outside the limits of the State.

Mr. HARRIS, of Illinois. What authority have they to certify to the election of a Delegate to this House?

Mr. WILSON. They do not certify that. They only prove the votes cast outside the limits of the State.

Mr. HARRIS, of Illinois. There is evidence that Mr. Kingsbury received votes over the whole Territory.

Mr. WILSON. I wish to ask the gentleman what evidence there is that Mr. Kingsbury received any vote outside the limits of the State?

Mr. HARRIS, of Illinois. There is a statement of Governor Medary, which is quite as good evidence as that which Mr. Fuller produces.

Mr. WILSON. The statement of Governor Medary was not before the Committee of Elections. The evidence of Mr. Fuller was before us. But, sir, I have no feeling in regard to the matter. I have no political bias in regard to the matter. Both of these gentlemen are of opposite politics from me. The majority of the committee have presented the case on the part of Mr. Kingsbury, and the minority have merely presented that on the part of Mr. Fuller. I admit frankly that the only evidence we have of Mr. Kingsbury being within the limits of the State, and therefore outside the Territory—for which it is proposed to admit a Delegate here—is the statement made by Mr. Fuller himself. In fact, almost the entire evidence before the committee is made up of the statements of one or the other of the parties.

Mr. FARNSWORTH. I wish to inquire of the gentleman whether either of these gentlemen reside within the limits of the Territory, and outside the State of Minnesota?

Mr. WILSON. I understand that Mr. Fuller lives outside the limits of the State.

Mr. HARRIS, of Illinois. I understand he was never in the Territory outside the State but once in his life, which was on the day of election; and that then he came back the next day.

Mr. WILSON. I understand that he resides outside the limits of the State. But, sir, these facts were all hastily passed upon by the committee. I do not think the matter was under consideration there for more than half an hour. The minority determined to present every fact they could obtain, and then let the House determine the matter as they think proper. I shall be perfectly satisfied whichever one of the Delegates they admit; and I shall be satisfied if they send them both back.

Mr. HUGHES obtained the floor, but yielded to

Mr. GILMER. Mr. Speaker, I desire to state all I know about this matter. I voted against Mr. Kingsbury holding his seat, not entirely for the reasons which appear in the minority report. It struck me as an anomaly that when, by the organization of a State, the Governor, and other territorial officers, were superseded, the Delegate's office here was not also superseded. After the committee adjourned, I was met by Mr. Fuller, who complained that he had not been notified to appear before the committee, and that the facts of his case had not been made known. I heard him, agreed that he might state the facts, and that I would present them to the House as a matter of personal favor to him. Well, sir, I am satisfied that Mr. Kingsbury was not voted for by any except citizens living within the confines of the State; and the case of Mr. Fuller is completely made out, if members will turn their attention to the provisions of the State constitution, and the legislation which took place under it. None are authorized to vote for Delegate except those who are authorized to vote for members of the Territorial Legislature. How could a man vote outside the confines of the State? If he did, he voted against the law.

On the 13th day of October there was an election held in the State of Minnesota. There the citizens elected State officers, members of the General Assembly, three members to Congress, and also a Delegate. There were opposing candidates in the State, and opposing candidates outside of the State—separate and distinct elections. Mr. Kingsbury had an opponent. The Democratic members who ran for Congress had opponents. A similar election was held in the Territory outside of the State. Mr. Fuller was the Democratic candidate for Delegate, and he was opposed by a candidate of different politics. The election was held regularly outside of the Territory, as regularly as the imperfect organization of things would permit. Mr. Fuller was elected and returned. He has advised me that the attempt to retain Mr. Kingsbury in his seat any longer has entirely taken him by surprise. I state from the best investigation that I could give to the subject, that my mind is clear that Mr. Kingsbury has no right to be here. Whether Mr. Fuller has or not, may be another question.

Mr. HUGHES. I submit as an amendment, the resolution which was read from the Clerk's desk a short while ago—

Mr. HARRIS, of Illinois. A great many gentlemen desire to leave the Hall, and I will give notice now that I will call the previous question to-night, and ask for a vote to-morrow, after the reading of the Journal.

Mr. HUGHES. Mr. Speaker, it is a matter of no small importance, and not to be too hastily dispatched to decide whether or not a man has a right to a seat upon this floor. When this question was first presented to this House, believing that although it in part pertained to matters which lie within the jurisdiction of the Committee of Elections, yet it also embraced a large field of inquiry proper for the Committee on Territories, of which I am a member, I endeavored to get a motion before the House to refer the matter to that committee, but was prevented by the previous question.

I have carefully read the reports of the minority and majority of the Committee of Elections, and I have examined the precedents which are referred to in both of them; and, sir, I must be permitted to say, that if either of the gentlemen applying for a seat upon this floor, as a Delegate from Minnesota Territory, is entitled to a seat, it is Mr. Fuller and not Mr. Kingsbury. But I do not admit that the fact that Mr. Fuller received a majority of the votes cast in the area outside of the limits of the State of Minnesota, alone entitles him to walk in here and take his seat upon this floor, although there is a precedent for it. That precedent is in the case of Sibley, the former Delegate from Wisconsin, which the majority of this committee relied upon in their report to sustain the claim of Mr. Kingsbury. I assert that it is directly in the face of, and opposed to, the claim of Mr. Kingsbury, and directly a precedent for the admission of Mr. Fuller upon this floor; and I make that statement upon the authority of the report of the Committee of Elections in that case.

On that occasion there was a majority and a minority report. Mr. Thompson, of Indiana, made the majority report. Mr. Sibley in that case occupied the status that is occupied by Mr. Fuller here. He claimed to be the representative of that portion of the Territory which lay outside of the State limits. Mr. Tweedy, who occupied the status now occupied by Mr. Kingsbury, believing his right to a seat upon this floor doubtful, voluntarily resigned, and then the question came up whether the House would admit Mr. Sibley. The majority reported in favor of his admission, and the minority against it. The House admitted him. If that is a precedent to govern our action in this case, then Fuller is entitled to a seat on this floor, and Kingsbury is not.

But how far is that precedent binding on the House? The cases are exactly parallel. Mr. Sibley was admitted to a seat on this floor in the month of January, and the Territory was not organized till March following. The Territory of Dacotah is not organized. That is the Territory which Fuller claims to represent. A bill is pending before Congress to erect it into a separate territorial government; but it is a matter to be passed upon by Congress. Congress is to say whether or not any Territory ought to be organized there.

I suppose that each case will stand on its own merits. In that case, I apprehend, it was plain to the Congress that admitted Mr. Sibley that the territorial bill organizing the Territory of Minnesota would pass, and therefore they felt no hesitation in admitting Sibley to his seat. But is it at all clear, is it at all certain that the Territory of Dacotah will be organized into a separate and independent territorial government? That is a question yet to be passed upon. How many inhabitants are there in those counties? May it not be ultimately found to be the wiser and better policy, instead of going to the expense of a Governor, Legislative Assembly, and all the machinery of a territorial government there, to attach these counties to the Territory of Nebraska, and give to that Territory an additional judicial district? That would dispose of the whole question. Then what right would Fuller or Kingsbury have to a seat on this floor?

I am not in favor of hot haste in admitting men to this House before the people of a Territory have fairly asked for a Delegate. I understand the facts in this case to be as stated in the report of the minority of the committee. A paper has been handed to me, which I wish to have read, to show who received the votes in these outside counties. The fact appears to be, if these papers are true, that while the people inside of the limits of the present State of Minnesota were voting for Kingsbury, the people, in what is called Dacotah, were voting for Fuller; and that Kingsbury lives within the limits of the State, and not of the supposed Territory.

Mr. CAVANAUGH. Do I understand the gentleman to say, that the elections within the State, and outside of the State, were held on the same day?

Mr. HUGHES. Yes; it is so stated in the reports of the committee.

The paper was read, as follows:

MEDARY, November 23, 1857.

The following is the result of the election for Delegate to Congress in Dacotah Territory:

Midway County.

Medary precinct, A. G. Fuller.....	103 votes.
Flandrau precinct, A. G. Fuller.....	77 "
Renshaw precinct, A. G. Fuller.....	45 "

Rock County.

Colan Perce precinct, A. G. Fuller.....	83 votes.
Split Rock precinct, A. G. Fuller.....	34 "

Big Sioux County.

Sioux Falls City precinct, A. G. Fuller.....	97 votes.
Emanaja precinct, A. G. Fuller.....	51 "
Summit City precinct, A. G. Fuller.....	29 "

Pipe-Stone County.

Pipe-Stone City precinct, A. G. Fuller.....	47 votes.
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Pembina County.

Big-Stone Lake precinct, A. G. Fuller.....	47 votes.
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The above is a true copy of the record filed in the office of the register of deeds of Midway county.

WILLIAM E. BROWN,
Register of Deeds.

D. S. BRAWLEY,
Chairman Board of City Council.
A. J. WHITNEY,
Sheriff of Midway county.

Mr. KELSEY. If the gentleman from Indiana will yield to me, I will submit a motion which I think will accomplish the object he has in view, and dispose of this matter at once. I agree with the principles of his amendment offered here, but it would be idle for us to waste more time on the subject; and, if the gentleman will yield to me, I will submit a proposition to lay the whole subject on the table.

Mr. HUGHES. After I shall have redeemed my promise to my colleague, [Mr. Wilson,] I will do so. I promised to yield the floor to him to allow him to submit his proposition.

Mr. WILSON. I move to amend the resolution offered by the majority of the committee, by striking out all after the word "resolved," and inserting the following:

That W. W. Kingsbury is not entitled longer to retain a seat in this House as a Delegate from the Territory of Minnesota.

Resolved, That A. G. Fuller be allowed to qualify and take a seat in this House as a Delegate from the said Territory without the limits of the State of Minnesota.

Mr. HUGHES. This proposition of my colleague is offered as an amendment to the resolu-

tions of the majority of the committee. I offer my proposition as an amendment to his amendment. I simply wish to say, in addition, that I would be perfectly content to see the whole subject go to the table; but it seems to me that, if this House is not satisfied to exclude both these claimants, and disposed to take further action on the subject, the wiser and better mode of deciding the question as to who is entitled to the seat is, to refer the whole matter to the Committee on Territories, and let them inquire into the facts, the number of the population, and the necessity for organizing a territorial government there.

Mr. KELSEY. Does the gentleman from Indiana allow me to submit my motion?

Mr. HUGHES. I do.

Mr. KELSEY. Then I move to lay the whole subject on the table; and on that I ask the yeas and nays.

Mr. HARRIS, of Illinois. I think the gentleman from New York will withdraw his motion when I tell him that the Delegate from Minnesota, who is more familiar with the matter than either of us, desires to be heard.

Mr. KELSEY. I am under the directions of the gentleman from Indiana.

Mr. HUGHES. If the discussion is to go on, I will desire to submit the remarks I intended to submit.

Mr. KELSEY. I am urged by gentlemen on both sides to withdraw my motion, and to hold on to it. I think the House is in possession of everything necessary to form its judgment, and therefore that we should come to a vote.

Mr. HARRIS, of Illinois. I gave notice to the House some time ago that no vote would be taken to-night, and I doubt whether there is a quorum in the Hall now.

Mr. KELSEY. I understood that that proposition was objected to on this side of the House.

Mr. HARRIS, of Illinois. I heard no dissent. A great many members have left under the impression that no vote will be taken to-night.

The SPEAKER. The motion is not debatable.

Mr. KELSEY. This matter can be passed over informally till the morning. Let the motion that I have made stand, and let us proceed with other business.

Mr. HARRIS, of Illinois. I am willing to agree to that arrangement. If the House choose to lay the whole subject on the table, it is a matter of no consequence to me. I only object to taking the vote in an empty House, when members have left with the understanding that there was no vote to be taken to-night.

Mr. CLEMENS. I appeal to the gentleman to withdraw that motion, as many gentlemen have left under the impression that no vote would be taken to-night.

Mr. BURNETT. I ask the Chair if the motion cannot stand, and let the subject go over till to-morrow at twelve o'clock?

Mr. HARRIS, of Illinois. The motion of the gentleman from New York is in order at any time, and it does not prejudice his motion, to wait till to-morrow. If no other business can be done to-night, and gentlemen wish to speak to-night on this subject, it certainly interferes with no other business in the world.

Mr. RUFFIN. If there are members enough here to determine other important business, it seems to me that there are enough to vote on this question. I do not approve of this plan of doing business with less than a quorum; and I move that the House do now adjourn.

Mr. WILSON. I desire to say that, on the last vote to lay the resolutions in the Fort Snelling case on the table, I had paired off with Mr. HAWKINS; otherwise I would have voted "no."

Mr. SMITH, of Illinois, demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. WASHBURNE, of Illinois, called for tellers.

Tellers were ordered; and Messrs. BUFFINTON, and CLARK of Missouri, were appointed.

The House divided; and the tellers reported—ayes 62, noes 20.

So the motion was agreed to; and thereupon (at five minutes after seven o'clock, p. m.) the House adjourned.

IN SENATE.

THURSDAY, June 3, 1858.

Prayer by Rev. J. G. BUTLER.

The Journal of yesterday was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the following bills of the Senate:

An act (No. 47) confirming locations of land warrants under certain circumstances;

An act (No. 262) for the relief of the heirs and legal representatives of Richard D. Rowland and others;

A resolution (No. 21) devolving upon the Secretary of War the execution of the act of Congress entitled "An act supplemental to an act therein mentioned," approved December 22, 1854; and

A resolution (No. 32) for the benefit of the widow of Commander William Lewis Herndon, United States Navy.

The message further announced that the House had passed the following bills; in which the concurrence of the Senate was requested:

A bill (No. 246) for the relief of certain settlers on the public lands in the State of Wisconsin; and

A bill (No. 631) granting an invalid pension to John Holland, of Arkansas.

PETITIONS AND MEMORIALS.

Mr. GREEN presented a memorial of the Chamber of Commerce of the city of Kansas, in Missouri, on the subject of a railroad to the Pacific ocean, by the valley of the Kansas river, or the route of the thirty-ninth parallel of latitude; which was referred to the select committee on the Pacific railroad.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 246) for the relief of certain settlers on the public lands in the State of Wisconsin—to the Committee on Public Lands.

A bill (No. 631) granting an invalid pension to John Holland, of Arkansas—to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. DOUGLAS, from the Committee on Territories, to whom was referred the bill (S. No. 409) making an appropriation for the completion of connected sections of a road from Albuquerque, in New Mexico, to the Colorado river, reported it without amendment.

He also, from the same committee, to whom was referred the memorial of the Legislature of Kansas, praying that an appropriation may be made to build a penitentiary in that Territory, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of the Mayor and the Council of the city of Omaha, Nebraska Territory, praying to be reimbursed for money expended by them upon the capitol building in that Territory, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom were referred resolutions of the Legislature of California, in favor of the appointment of a commissioner on the part of the United States to act in conjunction with a commissioner on the part of California in ascertaining and determining the boundary line between that State and the Territory of Utah, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of citizens of the county of Pembina, in the Territory of Dacotah, praying for an early organization of the Territory, and for the establishment of the capital at St. Joseph, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a memorial from citizens of Medary, in Dacotah, praying for the organization of a territorial government, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a memorial of citizens in Big Sioux

and Midway counties, in Dacotah, praying the organization of a territorial government, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of J. Grimes and others, citizens of Illinois, praying for protection for the overland mail route to California, through Arizona Territory, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of J. Knox Walker and others, members of the Legislature of Tennessee, praying for protection for the overland mail route to California, through Arizona Territory, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of A. P. Cook and others, citizens of New York, praying for protection to the overland mail route to California, through Arizona Territory, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of James M. Wright and others, citizens of Illinois, praying for protection for the overland mail route to California, through Arizona Territory, asked to be discharged from its further consideration; which was agreed to.

Mr. DIXON, from the Committee on the Post Office and Post Roads, to whom was referred the bill (H. R. No. 502) for the relief of S. W. and A. A. Turner, reported it without amendment.

Mr. STUART, from the Committee on Public Lands, to whom was referred the bill (S. No. 399) to amend an act entitled "An act to extend preemption rights to certain lands therein mentioned," approved March 3, 1853, reported it without amendment, and that it ought not to pass.

He also, from the same committee, to whom was referred the memorial of Hosea B. Horn and others, praying for a grant of land on Green river, in the Territory of Utah, for the purpose of making a settlement, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a petition of citizens of Taylor county, Iowa, praying the enactment of a law for the relief of settlers from wrongs in consequence of the closing of the land offices in that State to enable the railroad companies to make their surveys and selections, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of William Nicholson, praying that the children of Marvel Nicholson, deceased, be authorized to locate or assign a land warrant granted to her, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of Richard H. Long, praying permission to locate upon the reserves on St. Andrew's bay, in Florida, certain preemption claims, asked to be discharged from its further consideration; which was agreed to.

Mr. PEARCE, from the Committee on Finance, to whom was referred the bill (H. R. No. 243) making appropriations for the support of the Army for the year ending the 30th June, 1859, reported it with amendments.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred the petition of Robert Morris, asked to be discharged from its further consideration, the Secretary of the Navy having jurisdiction to grant the redress prayed for; which was agreed to.

Mr. FITZPATRICK, from the Committee on Military Affairs and Militia, to whom was referred a report of the Secretary of War in relation to the claims of Blocker & Gurley, and James F. Davis, reported a bill (S. No. 425) for the relief of R. F. Blocker, E. J. Gurley, and James F. Davis; which was read, and passed to a second reading.

Mr. FOSTER, from the Committee on Public Lands, to whom was referred a letter of the Secretary of the Interior, in relation to the claim of Russell Fitch, reported a bill (S. No. 426) to authorize the Secretary of the Interior to issue a land warrant to Russell Fitch, of Ohio; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the petition of citizens of Marblehead, Massachusetts, relative to bounty land to privateersmen in the war of 1812, asked to be discharged from its further consideration; which was agreed to.

Mr. JONES, from the Committee on Pensions, to whom was referred the bill (S. No. 395) to authorize the increase of invalid pensions in certain cases, reported it without amendment, and submitted a report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Anna M. McKenney, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of James Munroe, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom were referred the following bills, reported them without amendment:

A bill (H. R. No. 461) granting an invalid pension to John Lee, of the State of Maine;

A bill (H. R. No. 513) granting an invalid pension to William Howell, of Tennessee;

A bill (H. R. No. 530) for the relief of William Bullock; and

A bill (H. R. No. 533) for the relief of Shove Chase, of New York.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred a letter of the Secretary of the Senate in relation to the compensation of the Senators from Minnesota, reported:

"That there is no express provision in the act regulating the compensation of members of Congress applicable to the particular case presented; but, in the opinion of the committee, a correct construction of the act of August 16, 1856, forbids the allowance of compensation until the State of Minnesota was admitted into the Union, and that the compensation to the Senators from that State should commence on the day of admission—May 11, 1858."

Mr. CLAY, from the Committee on Commerce, to whom was referred the bill (H. R. No. 353) for the relief of Eli W. Goff, reported it without amendment; and that it ought not to pass.

He also, from the same committee, to whom were referred the following bills, reported them without amendment:

A bill (H. R. No. 486) for the relief of Alonzo and Elbridge G. Colby;

A bill (H. R. No. 573) for the relief of Thomas Hasam and B. S. Brewster; and

A bill (H. R. No. 569) for the relief of Gardner & Vincent, and others.

He also, from the same committee, to whom was referred the petition of Thomas W. Ward, reported a bill (S. No. 427) for the relief of Thomas W. Ward, late United States consul to Panama; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the petition of Samuel S. Powell, and others, praying an examination of a plan proposed by Samuel Nowlan, for bridging the East river, at New York, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of J. Hosford Smith, praying additional allowance during the time he was United States consul at Beirut, in Syria, reported adversely thereon, a bill for his relief having been already passed.

Mr. REID, from the Committee on Patents and the Patent Office, to whom was referred the bill (H. R. No. 269) for the relief of David Bruce, reported it without amendment.

Mr. DAVIS, from the Committee on Military Affairs and Militia, to whom was referred the bill (H. R. No. 452) for the relief of Dr. Thomas Antisell, reported it without amendment.

He also, from the same committee, to whom was referred the memorial of Robert Hale, for compensation for improvements in war rockets, asked to be discharged from its further consideration; which was agreed to.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of Ebenezer Ballard and Rishworth Jordan, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Michael Nourse, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Charles Vinson, sub-

mitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of James Myer, submitted a report, accompanied by a bill (S. No. 428) for the relief of James Myer. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Jane J. Wingerd, submitted a report, accompanied by a bill (S. No. 429) for the relief of Jane J. Wingerd. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. STUART, from the Committee on Public Lands, to whom were referred the following bills, submitted an adverse report; which was ordered to be printed:

A bill (S. No. 22) for the relief of certain citizens of Sioux City, in the State of Iowa; and

A bill (S. No. 220) for the relief of the citizens and owners of property in the city of Omaha, Nebraska Territory, and Sioux City, State of Iowa.

Mr. HARLAN submitted the views of the minority of the Committee on Public Lands on the subject; which were ordered to be printed with the report made by Mr. STUART.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred the petition of Claude Samory, submitted a report; which was ordered to be printed.

PATENT OFFICE REPORT.

Mr. JOHNSON, of Arkansas, from the Committee on Printing, to whom was referred a motion to print the report of the Commissioner of Patents, on Agriculture, and a resolution for printing sixty thousand additional copies of the report, reported the following resolution:

Resolved, That there be printed for the use of the Senate, thirty thousand extra copies of the report of the Commissioner of Patents, on Agriculture, for the year 1857, five thousand copies of which for distribution by the Interior Department and the Patent Office: *Provided*, That the aggregate number of pages contained in said report shall not exceed five hundred and sixty-eight, including ten pages of illustrations on wood: *And provided further*, That the entire amount of copy necessary to complete said report, be placed in the hands of the Superintendent of Public Printing on or before the 31st day of August next.

Mr. JOHNSON, of Arkansas. This is only half the number which has heretofore usually been printed.

The resolution was considered by unanimous consent, and agreed to.

SMITHSONIAN REPORT.

Mr. JOHNSON, of Arkansas, from the Committee on Printing, to whom was referred a motion to print the report of the regents of the Smithsonian Institution, and a motion to print extra copies, reported the following resolution:

Resolved, That ten thousand additional copies of the report of the board of regents of the Smithsonian Institution for the year 1857 be printed—five thousand for the use of the Senate, and five thousand for the use of the Smithsonian Institution: *Provided*, That the aggregate number of pages contained in said report shall not exceed four hundred and forty, without wood-cuts or plates, except those furnished by the Institution: *And provided further*, That the entire amount of copy necessary to complete said report be placed in the hands of the Superintendent of the Public Printing before the commencement of printing any portion of said report.

Mr. IVERSON. I object to the resolution, unless the five thousand copies for the use of the Senate be stricken out. I have no objection to the other five thousand being printed for the Smithsonian Institution.

Mr. JOHNSON, of Arkansas. I do not care whether it be published or not. I submit to the will of the Senate.

The VICE PRESIDENT. Objection being made, the resolution will lie over.

D. O. DICKINSON.

Mr. CLAY. The Committee on Commerce, to whom was referred the bill (H. R. No. 446) for the relief of D. O. Dickinson, have directed me to report it back without amendment, and as it is a small matter to which nobody will object, I ask for the passage of the bill at the present time.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which provides for the payment to D. O. Dickinson of the sum of \$108 75, being the amount due him by the United States for services

rendered by him in connection with keeping a light in Waukegan harbor, Illinois.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

GEORGIANA M. LEWIS.

Mr. HALE. The Committee on Naval Affairs to whom was referred the memorial of Georgiana M. Lewis, widow of Armstrong Irvin Lewis, late a lieutenant in the Texan navy, have instructed me to report a bill for her relief.

The bill (S. No. 424) for the relief of Georgiana M. Lewis, was read the first time, and ordered to a second reading.

Mr. HALE. I ask the Senate to consider the bill now. I will make a statement about three minutes long, and then the Senate can judge of it. Congress passed an act to pay the surviving officers of the Texas navy five years' waiting-orders pay, not full pay, and it has been paid. There are two widows whose husbands were officers in the Texas navy, and lived five years after annexation, but were not living at the time of the passage of the act. Mrs. Lewis is one; the other widow has since married, so that in fact Mrs. Lewis is the only widow that is left. Her husband survived the five years, but died before the passage of the act; and this bill proposes to give her what she would have got if her husband had been living last year. That is the whole of it.

The bill was read a second time, and considered as in Committee of the Whole. It directs that the twelfth section of the naval appropriation act passed March 3, 1857, shall be so construed as to allow to Georgiana M. Lewis the five years' pay for which it provides, which would have been paid to her deceased husband, Armstrong I. Lewis, if he had been living at the time of the passage of that act.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. DOUGLAS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 431) to revive and put in force the provisions of "An act giving to the President of the United States additional powers for the defense of the United States in certain cases against invasion, and for other purposes," approved March 3, 1839, with modifications; which was read twice by its title, and ordered to be printed.

Mr. KENNEDY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 430) to establish a line of mail steamships between certain ports of the United States and Great Britain; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

FORTS JEFFERSON AND TAYLOR.

Mr. MALLORY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs be directed to inquire into the condition of Forts Jefferson and Taylor, at Key West and Tortugas, and the expediency and expense of putting them in a defensible condition.

RECOMMITTAL OF A REPORT.

On motion of Mr. JONES, it was

Ordered, That the memorial of James Munroe, with the adverse report of the Committee on Pensions thereon, be recommitted to the Committee on Pensions.

ENROLLED BILLS COMMITTEE.

Mr. JONES moved that an additional member be placed upon the Committee on Enrolled Bills; which was agreed to; and Mr. Rice was appointed.

GEORGIA VOLUNTEERS.

Mr. IVERSON. Yesterday, I introduced a joint resolution asking for the application of a small balance in the Treasury to the State of Georgia for payments which she has made to her troops under a former bill, which appropriated a certain amount to pay those troops. The Senator from New York [Mr. KING] objected. He is willing to withdraw his objection.

Mr. KING. I will state, that having looked at the resolution, I waive my objections.

Mr. IVERSON. I move that it be taken up. It is the joint resolution (S. No. 48) for the payment of an unexpended balance to the State of Georgia for militia services.

The motion was agreed to; and the joint resolution was read a second time, and considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

Mr. DAVIS. I think some explanation ought to be given of that resolution.

Mr. IVERSON. By the act of 1842, \$175,000 was appropriated to refund to the State of Georgia amounts which she had paid to her troops or militia engaged in the Seminole, Cherokee, and Creek wars. All that has been paid back to the State of Georgia with the exception of \$7,000 now in the Treasury unexpended. Since the passage of that law, the State of Georgia has paid three or four of the companies engaged in that service who had not been paid by the State at the time the law was passed. Upon application to the Secretary of the Treasury the accounting officer declines to pay it, on the ground that the law of 1842 limits the payments to those which had then been made by the State of Georgia, and these companies were paid about three years subsequent to that time. The State has paid for three or four more of those companies, and this resolution is to allow about \$7,000 to go to the State of Georgia to pay the troops which have been employed subsequent to that time. That is the whole case. The joint resolution was read the third time, and passed.

POST OFFICE DEPARTMENT.

Mr. YULEE. I ask the Senate to oblige me by taking up the bill (S. No. 143) to create the office of Fourth Assistant Postmaster General. I presume there will be no debate upon it.

Mr. SEWARD. What is the bill?

Mr. YULEE. It is the bill to create the office of Fourth Assistant Postmaster General. It has been heretofore before the Senate and sufficiently explained. Further explanation is not necessary. I think it will not require longer than to vote.

Mr. SEWARD. I think it will give rise to debate; I must therefore interpose an objection.

The VICE PRESIDENT. The motion to take up is in order, subject to a vote of the Senate.

Mr. SEWARD. If there will be no debate, I have no objection to the vote being taken.

Mr. BRÖDERICK. I hope the motion of the Senator from Florida will not prevail. I intend to oppose that bill, and I shall occupy as much time as possible, if I can prevent its passage. I give the Senator from Florida notice now that I shall do so.

Mr. YULEE. In the face of such a threat, I hope the Senate will take the bill up and dispose of it. It is necessary to the public service. I trust the Senate will not be thwarted in its legislation upon matters interesting and proper to the public service, by a threat that, as much time shall be occupied upon the subject as possible for the purpose of defeating its action. I hope the Senate will take up the bill.

Mr. SEWARD. I hope the Senator will waive his motion, until I can call up the resolution for extending the session.

Mr. YULEE. Certainly; I withdraw it for that purpose.

EXTENSION OF THE SESSION.

Mr. SEWARD. I move that the Senate now proceed to the consideration of the joint resolution submitted by me a few days ago, proposing to extend the session; and on that motion I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 33, nays 20; as follows:

YEAS—Messrs. Allen, Bell, Benjamin, Bigler, Bright, Collamer, Davis, Doolittle, Douglas, Fitch, Foot, Green, Gwin, Hayne, Houston, Hunter, Iverson, Johnson of Tennessee, King, Mallory, Mason, Polk, Reid, Rice, Sebastian, Seward, Slidell, Stuart, Trumbull, Wade, Wilson, Wright, and Yulee—33.

NAYS—Messrs. Broderick, Brown, Cameron, Chandler, Clark, Clay, Crittenden, Dixon, Durkee, Fessenden, Fitzpatrick, Foster, Hale, Hamlin, Hammond, Johnson of Arkansas, Jones, Kennedy, Pearce, and Toombs—20.

So the motion was agreed to.

Mr. SLIDELL. If it be in order, I move to amend the resolution by substituting the 14th for the 21st.

Mr. HAMLIN. That is the amendment now pending.

The VICE PRESIDENT. The resolution will be read.

The Secretary read it, as follows:

Resolved, (the House of Representatives concurring,) That

the resolution directing the President of the Senate and the Speaker of the House of Representatives to declare their respective Houses adjourned *sine die* on the first Monday in June next, at twelve o'clock, meridian, be, and the same is hereby, rescinded, and that the President of the Senate and the Speaker of the House of Representatives declare their respective Houses adjourned on the 21st of June next, at twelve o'clock, m.

Mr. SLIDELL. I move to amend the resolution by substituting the 14th for the 21st.

Mr. SEWARD. I wish to suggest to the Senator from Louisiana that he modify his motion so as to strike out the proposed day for adjournment and leave it blank, so that it can then be perfected with such day as he proposes, or any other day the Senate prefer.

Mr. SLIDELL. I do not insist on the amendment in that form, and I move to strike out the date and leave it blank.

Mr. CLARK. I move to insert the 14th.

Mr. HAMLIN. When this resolution was up the other day, I moved to strike out the 21st and insert the 14th, and it was so stated when it was passed over.

The VICE PRESIDENT. That being the state of the question, it cannot be modified.

Mr. GWIN. Cannot the motion be divided, and the question be first taken on striking out, and then on inserting?

The VICE PRESIDENT. No, sir. A motion to strike out and insert cannot be divided.

Mr. SEWARD. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HALE. When different days are proposed, is the longest or the shortest put first?

The VICE PRESIDENT. In filling blanks, the largest sum and the longest period are put first.

Mr. HALE. This is not to fill a blank, but a motion to strike out and insert. I move to strike out the day proposed, and insert Saturday, the 12th. I do not see any need of staying here over Sunday; and if we can do up our business, we can just as well adjourn on Saturday as on Monday morning. I do not see the sense of keeping us here on Sunday. I move to insert "Saturday, the 12th."

Mr. COLLAMER. The 14th would be first in order, would it not?

The VICE PRESIDENT. The Chair thinks not.

Mr. COLLAMER. Is not the longest time to be first put?

The VICE PRESIDENT. There was no blank in the first instance to be filled.

Mr. COLLAMER. It will cost the Government nothing for us to stay here from Saturday to Monday.

Mr. HALE. It will cost us something.

Mr. JOHNSON, of Arkansas. The adjournments have always been on Monday in consequence of the difficulty of making up the records. That is the reason why we always adjourn on Monday.

Mr. HALE. I withdraw my amendment, but I protest against the clerks working on Sundays to make up our records.

The VICE PRESIDENT. The question is on the amendment of the Senator from New Hampshire, [Mr. CLARK,] to strike out the "21st," and insert the "14th."

Mr. CLARK. That is the amendment of the Senator from Maine, [Mr. HAMLIN.]

The question being taken by yeas and nays, resulted—yeas 39, nays 17; as follows:

YEAS—Messrs. Bayard, Bright, Broderick, Cameron, Chandler, Clark, Clay, Clingman, Collamer, Crittenden, Davis, Dixon, Durkee, Fessenden, Fitch, Fitzpatrick, Foot, Foster, Green, Hale, Hamlin, Harlan, Hayne, Houston, Hunter, Iverson, Johnson of Arkansas, Jones, Kennedy, Mason, Pearce, Reid, Rice, Sebastian, Slidell, Stuart, Toombs, Wilson, and Wright—39.

NAYS—Messrs. Allen, Bell, Benjamin, Bigler, Brown, Gwin, Hammond, Johnson of Tennessee, King, Mallory, Polk, Seward, Thompson of Kentucky, Thomson of New Jersey, Trumbull, Wade, and Yulee—17.

So the amendment was agreed to.

The resolution, as amended, was adopted.

Mr. JOHNSON, of Arkansas, subsequently said: I rise to a privileged question. The vote on the resolution for adjournment was taken so quickly that I did not observe it, and I find that several others did not. I am entirely opposed to the extension of time; and I move to reconsider the vote by which the resolution fixing the day of adjournment for the 7th was repealed, and another day substituted in its place.

Mr. TOOMBS. I hope that will be done. I was in the position of my friend from Arkansas. I did not observe the announcement of the vote, and I desire very much that there shall be a yeas and nays on the question of extending the day of adjournment. I do not want it to seem to pass *sub silentio*. I am very much opposed to it.

The VICE PRESIDENT. It is moved and seconded to reconsider the vote by which the resolution to change the time of adjournment to the 14th of June was adopted.

Mr. JOHNSON, of Arkansas. I ask for the yeas and nays on the reconsideration.

The yeas and nays were ordered.

Mr. HUNTER. We had better agree to the reconsideration, and take the yeas and nays on the passage of the resolution.

Mr. JOHNSON, of Arkansas. Very well.

The VICE PRESIDENT. By general consent, the call for the yeas and nays may be withdrawn. The Chair hears no objection.

The motion to reconsider was agreed to.

The VICE PRESIDENT. The question is on the passage of the resolution.

Mr. JOHNSON, of Arkansas. On that I call for the yeas and nays.

The yeas and nays were ordered; and, being taken, resulted—yeas 32, nays 21; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Chandler, Collamer, Davis, Doolittle, Durkee, Fessenden, Fitch, Foot, Green, Gwin, Hamlin, Hayne, Houston, Hunter, Iverson, Johnson of Tennessee, Kennedy, Mallory, Polk, Reid, Sebastian, Seward, Slidell, Stuart, Trumbull, Wade, and Wright—32.

NAYS—Messrs. Bright, Broderick, Brown, Clark, Clay, Crittenden, Dixon, Douglas, Fitzpatrick, Foster, Hale, Hammond, Harlan, Johnson of Arkansas, Jones, King, Pearce, Pugh, Thompson of Kentucky, Toombs, and Yulee—21.

So the resolution was adopted.

Mr. HALE afterwards said: I rise to a privileged question. I happened accidentally to be in the House of Representatives a few minutes since, when our resolution for adjournment came over, and it was announced that we had voted to adjourn on the 21st. I find by the record, what I supposed to be the fact, that we voted to adjourn on the 14th. I know the resolution has gone to the House of Representatives that we voted to adjourn on the 21st. I move that a message be sent to the House requesting the return of that resolution to the Senate.

The VICE PRESIDENT. The mistake occurred in the Secretary's office.

Mr. JOHNSON, of Arkansas. Does the Senator say that the resolution was to adjourn on the 21st?

Mr. HALE. I said the House have been so notified.

The VICE PRESIDENT. The resolution was to adjourn on the 14th; but by some mistake in the Secretary's office, it was made to adjourn on the 21st. The Senator from New Hampshire moves that a message be sent to the House asking the return of the resolution.

The motion was agreed to.

The resolution was returned from the House of Representatives, and the error rectified.

ANTHONY S. ROBINSON.

Mr. POLK. I move to take up the bill (S. No. 158) for the relief of Anthony S. Robinson, heir and legal representative of John Hamilton Robinson.

The motion was agreed to; and the bill was considered as in Committee of the Whole.

It provides for the payment to Anthony S. Robinson, heir and legal representative of John Hamilton Robinson, deceased, for services rendered by John Hamilton Robinson to the Republic of Mexico, of the sum of \$16,956, with a proviso that this sum shall not exceed the residue of the \$3,250,000 mentioned in the fifteenth article of the treaty between the United States of America and the Republic of Mexico, concluded at Guadalupe Hidalgo, on the 2d of February, 1848.

Mr. TOOMBS. I should like to have some explanation of these services, or what claim this party has on this fund.

Mr. POLK. I will state to the Senator. The present claimant, Anthony S. Robinson, is the only heir and legal representative of John Hamilton Robinson. John Hamilton Robinson was a citizen of the United States, resident at one time in Missouri, and at the time of his death at Natchez, in Mississippi. He went to Mexico during

the struggles for independence there, and was a major general in the Mexican army. This is a claim against the Government of Mexico for services rendered by him to that Government; and, therefore, I suppose, is in the class of cases intended to be covered by the provision of the treaty of Guadalupe Hidalgo, which appropriated a certain amount of money in favor of claims of American citizens against the Government of Mexico. I will state also, while I am on this ground, that the amount of that fund unexpended is ten times as large as the amount proposed to be given here.

Mr. TOOMBS. This case is clearly outside of the treaty of Guadalupe Hidalgo. We did not undertake to pay the contracts of Mexico, but damages done to our citizens illegally; not agreements which she had made for military services, such as this man Robinson rendered to Mexico. We did not undertake to pay the debts of Mexico arising *ex contractu*. He has no claim on the fund. If the United States chooses—and I do not see why she should not do so, as in other cases—to pay the debts of Mexico, that is a fair question for the Senate to determine; but to pay our citizens who go off and enlist in the service of a foreign Government, will not do. If we are under obligations to pay it, it is all right, but it is not under the treaty of Guadalupe Hidalgo. It is not of the class of cases that comes under that treaty. It is no charge on the fund of \$3,250,000.

Mr. POLK. I think the Senator is mistaken in that entirely. The treaty was not confined to cases of tort.

Mr. BENJAMIN. The Senator from Georgia is clearly right in his objection to this bill. It is out of the question for us to construe the treaty of Guadalupe Hidalgo as meaning that this Government is to provide for the payment of the debts of the Mexican Government to our own citizens *ex contractu*; that we are to provide for the payment of sums due by Mexico to her own generals for their salaries, their pay in her army. That never was pretended. The sum of \$3,000,000 was reserved by the treaty stipulations with Mexico for the purpose of settling the claims of our citizens against that Government, which our Government was bound to support and protect. Our Government does not go down to Mexico, and protect contracts of the Mexican Government with our own citizens for furnishing supplies, making sales, and furnishing labor to them. I have no idea that any precedent can be found for this. I never so understood the treaty. I think it is wrong.

The bill was reported to the Senate without amendment.

Mr. BENJAMIN. I object to the engrossment of the bill.

The VICE PRESIDENT. Then it cannot receive its third reading to-day.

Mr. BENJAMIN. I withdraw my objection to taking the vote on it. I suppose we may as well take the vote to-day.

The bill was ordered to be engrossed for a third reading, was read the third time, and rejected.

Mr. HAMMOND afterwards moved to reconsider the vote rejecting the bill; and the motion was directed to be entered.

S. W. AND A. A. TURNER.

Mr. HUNTER. I now move to postpone other prior orders, and take up the civil appropriation bill.

Mr. WADE. The time for that has not come. I hope the Senator will allow me to take up a bill to which there is no objection.

Mr. HUNTER. I will wait until one o'clock.

Mr. WADE. Then I move to take up the bill (H. R. No. 502) for the relief of Samuel W. and Alvin A. Turner.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which proposes to direct the Secretary of the Treasury to pay \$23,825 to Samuel W. and Alvin A. Turner in full for their services in transporting the United States mail on their steamers from Cleveland, Ohio, and Detroit, Michigan, to Mackinaw, Sault Ste. Marie, Marquette, Copper Harbor, Eagle Harbor, Eagle river, and Ontonagon, Michigan, and La Pointe, Bayfield, and Superior City, in the State of Wisconsin.

Mr. KING. Is there any report in that case?

Mr. HUNTER. I should like to hear the report, or some explanation.

The VICE PRESIDENT. There is a report from the committee of the House of Representatives, which will be read.

The Secretary read the following report, made by Mr. HORTON on the 17th of April:

The Committee on the Post Office and Post Roads, to whom was referred the petition of S. W. and A. A. Turner, report:

This claim is for compensation for transportation of the United States mails, in steamboats, between Cleveland, Ohio, and Detroit, Michigan, and the several post offices on Lake Huron and Lake Superior, during the years from 1851 to 1857, both inclusive, viz:

From Detroit to Sault Ste. Marie, 500 miles, and back, summer of 1851.....	27 trips.
From Detroit to Sault Ste. Marie, five hundred miles and back, summer of 1852.....	25 "
From Detroit to Sault Ste. Marie, five hundred miles, and back, summer of 1853.....	29 "
From Detroit to Sault Ste. Marie, five hundred miles, and back, summer of 1854.....	26 "
From Cleveland to Sault Ste. Marie, 1854.....	9 "
From Cleveland to La Pointe, one thousand one hundred miles, 1855.....	34 "
From Cleveland to La Pointe, one thousand one hundred miles, 1856.....	15 "

Making..... 165 trips.

For which \$125 per round trip is charged, amounting to \$20,625; and from Cleveland to Superior City, about one thousand two hundred miles, and back, during the summer of 1857, sixteen trips, at \$200 per trip—\$3,200; making a total of \$23,825.

It appears from a statement furnished by the Post Office Department, in answer to a call from the chairman of this committee, that prior to 1852 there was no contract in existence for the service on Lake Superior, but in June of that year the postmaster of Sault Ste. Marie was authorized to engage steamboat service between his office and Ontonagon, including the supply of intermediate offices, at fifteen dollars per trip. Under this arrangement the claimants appear to have received \$1,410, and for this special service no further charge is made, and that item is not included in this claim.

In May, 1856, the claimants were offered fifty dollars per trip to carry the mail between Cleveland and Ontonagon three times a week. They claim to have performed fifteen trips that season, but have received no pay. They claim \$125 per trip, which the Department declines to admit.

It does not appear from the statement from the Department that any portion of the service for which compensation is now claimed has been paid for, and the committee are entirely satisfied that such payment has never been made.

The actual performance of the service seems to be fully proved by the affidavits of the masters of the several steamboats engaged in it, and the certificates of postmasters.

Benjamin G. Sweet deposes that he was master of the steamer *Northerner* from the spring of 1851 to the close of 1853, and of the *North Star* from September, 1854, to the close of 1856, and that these vessels performed the service for which payment is claimed. He states that "the mails were put on board at Detroit by the employé of the post office at that place, and received by the postmasters at the other points, who, in return, made up and redelivered the way mail, which was changed at each office west of the Sault."

He states the usual quantity of bags each trip, for each boat, from thirteen to twenty, and in the fall and spring a much larger number, making the average for the season as high as twenty bags per trip; that the mail bags were put in the baggage-room, in charge of the porter, and took up a large amount of room that might have been profitably employed; that it was sometimes necessary to deliver the mails in a boat, because of the danger and difficulty of getting into the harbor.

The most abundant evidence of the performance of the service is to be found in the testimony of Captain John Wilson, confirmed by the testimony of E. P. Door. Captain Wilson was engaged in similar service, and at the times in which this service is alleged to have been performed. His evidence is so full in relation to the service, its risks, and its value, that your committee propose to make it a part of their report, and hereto append it, marking it "A."

The table attached to it is an epitome of the service, the time when rendered, the distance passed over, and the charges made for said service.

The committee can only refer to the testimony of the other witnesses, without recapitulating it at length.

John E. Turner deposes "that while he was master of the *Northerner*, he heard the master, acting under instructions of said Turners, refuse to take the mails at Detroit, assigning as a reason that no compensation was made, and the postmaster at Detroit assured him that an allowance would be made, and upon that assurance they continued to carry the mail."

Hon. HENRY M. RICE, and J. S. Watrous, Esq., state that they are familiarly acquainted with the services performed by these claimants, and that they are fully satisfied that the amount charged for the service (\$125 per trip) is a moderate remuneration, and ought to be allowed.

Hon. George W. Manypenny (late Commissioner of Indian Affairs) and Hon. S. A. DOUGLAS, speaking from personal knowledge, state that the price charged is reasonable, and that the service is worth the amount asked for it.

The committee are satisfied, from the evidence in the case, and from the statements and certificates of reliable persons having a personal knowledge of the facts, and competent to form a reliable judgment, that the services for which compensation is claimed were actually and faithfully performed; that the interests of a large and active business community, engaged in the development of an important source of national wealth, required the facilities which those services afforded, and that no compensation has been made therefor.

It is the general policy of the Post Office Department to limit the amount and grade of the mail service by the revenues derived from the particular routes. This is illustrated by the fact that fifteen dollars per trip was offered for the service between Sault Ste. Marie and Ontonagon, a distance of five hundred miles, and fifty dollars per trip between Cleveland and Sault Ste. Marie, a distance of five hundred miles.

It is clear that these prices bear no reasonable proportion to the cost of performing the service, whatever relations they may have to the revenues of the offices supplied; and, although the service was performed in compliance with the earnest solicitations of the business community, and the assurances of postmasters that compensation would be made, the inadequate offers of the Department were declined.

The rate charged for this service is less than an average of ninety dollars per mile (reckoning one way only) for daily steamboat service throughout the year, while the price paid from San Francisco and Stockton is \$200 per mile per annum, and from \$100 to \$200 per mile is paid on many other routes.

It is doubtless true that the expense of the service will considerably exceed the revenues directly derived from it; but the same is also the fact of nearly all the other steamboat service, particularly in newly developed sections of the country, like California and the Lake Superior regions. But it will not be denied that the general interests and business of the country demand that these facilities should be afforded to the progressive spirit and energies of our people, and that the wise policy of the Government, in opening such facilities, is amply remunerated in the rapid development of great sources of our national wealth and prosperity. The committee, therefore, being satisfied that the service has been performed, that it has been useful and valuable to the country, and that the compensation asked is reasonable, report a bill for its payment, and recommend its passage.

Mr. HUNTER. Can the Senator state whether the services were in pursuance of contract?

Mr. WADE. I am not able to state. The bill comes from the Post Office Committee.

Mr. RICE. I am somewhat acquainted with the service performed, and I would say to the Senate that it was done in pursuance of an order given by the postmasters on the various routes, that the post offices on the northern lakes and in the eastern portion of Minnesota should be supplied during the summer season for several years by this line of boats. I know the service was performed in good boats. I believe the amount is justly due, as several of the postmasters informed me that they had requested the service to be performed.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARY C. HAMILTON.

Mr. THOMSON, of New Jersey. I ask the consent of the Senate now to take up a bill which passed this body at the last session, but was not reached in the House of Representatives for want of time. It has now passed that body and come here. The lady has been without her pension for eighteen months, and she is in great distress. It is one of the most meritorious cases presented. I am sure it will not take two minutes to act on it. It is the bill (H. R. No. 518) to continue the pension heretofore paid to Mary C. Hamilton, widow of Captain Fowler Hamilton, late of the United States Army.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which proposes to direct the Secretary of the Interior to continue the name of Mrs. Mary C. Hamilton on the pension rolls, at the same rate of pension allowed her under the act passed for her benefit and approved March 1st, 1854, the payment to commence from the expiration of that act, and to continue for five years from the date of the passage of this.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

POST OFFICE DEPARTMENT.

Mr. YULEE. I now renew my motion to take up the bill (S. No. 143) to create the office of Fourth Assistant Postmaster General.

The VICE PRESIDENT put the question, and decided that the noes appeared to have it.

Mr. YULEE. I ask for the yeas and nays. I desire to know whether the Senate is disposed to act on the subject.

The yeas and nays were ordered.

Mr. BRODERICK. I have seen the chairman of the Committee on the Post Office and Post Roads since this question came up a few minutes since, and he says it is very necessary that the office should be created for the benefit of the Post Office Department. I do not agree with the chair-

man of the committee, but I shall not make any factious opposition to the consideration of the bill.

Mr. YULEE. I will state that it is not at all possible this bill can occupy exceeding ten minutes. There may be some gentlemen desirous of debating it, but I am sure there will be no protracted discussion on our side.

The question being taken by yeas and nays, resulted—yeas 29, nays 20; as follows:

YEAS—Messrs. Benjamin, Bigler, Bright, Brown, Collier, Davis, Fessenden, Fitch, Fitzpatrick, Green, Gwin, Hammond, Hayne, Houston, Johnson of Arkansas, Jones, Kennedy, Mallory, Polk, Pugh, Rice, Sebastian, Simmons, Slidell, Stuart, Thomson of New Jersey, Toombs, Wright, and Yulee—29.

NAYS—Messrs. Bell, Bröderick, Chandler, Clark, Clay, Crittenden, Dixon, Doolittle, Foster, Hamlin, Harlan, Hunter, Johnson of Tennessee, King, Pearce, Reid, Seward, Trumbull, Wade, and Wilson—20.

So the motion was agreed to; and the bill was considered as in Committee of the Whole.

It provides for the appointment by the President, with the consent of the Senate, of a Fourth Assistant Postmaster General, to receive the same compensation which is paid to each of the other Assistant Postmasters General; and the Fourth Assistant is to send and receive letters, packages, and other matters on official business, through the mails, free of postage, subject to the same restrictions and penalties as the other Assistant Postmasters General.

Mr. YULEE. Having, on a former occasion, explained the reasons of the Department for requesting this addition to the organization of the Department, I refrain from repeating them.

Mr. DAVIS. I shall vote against the bill, and I will very briefly state the reasons. I think the whole organization of the system of Assistant Secretaries is bad. It is a mere cover to conceal the salary of a clerk. We cannot transfer the responsibilities of the head of a Department by calling them assistants. Every clerk is his assistant. I think, in the classification of clerkships, there should be salaries fixed to command the highest abilities, and that the lower clerkships should have less than they now receive. Young men should be taken and trained to the special duties of each Department, and, as they acquired the ability to occupy higher positions, they should be advanced to them with an increase of salary. I am perfectly willing the higher clerks should receive the salary given to the so-called Assistant Secretaries. I think the whole organization a bad one—a misnomer. I am opposed to increasing it; I am opposed to doing anything which will fix it on the country; and I hope, some day or other, to see it repealed.

Mr. YULEE. The objection of the Senator from Mississippi is only to the name, the designation of the officer. It is not an objection to the necessity for the creation of this office, but only to the designation of the officer. Inasmuch as the law, as it now stands, has organized the Post Office Department into different divisions, at the head of which are Assistant Postmasters General; and inasmuch as the duties belonging to the division which it is proposed to place under the direction and superintendence of a Fourth Assistant Postmaster General, require the supervision of an officer of equal grade with those who superintend the other divisions, I hope the Senator will not press an objection to the mere designation as an objection to the bill. If the organization of the Post Office Department is defective, let it be amended by general reform; but, while the organization stands, as the law now requires, we may perfect that organization as far as may be necessary for the due administration of public business.

Mr. CHANDLER. Will the Senator allow me to inquire the difference in salary between a first class clerk and an Assistant Postmaster General?

Mr. YULEE. The pay of chief clerk, I think, is two thousand or perhaps eighteen hundred dollars. The pay of an Assistant Postmaster General is \$3,000. The Fourth Assistant Postmaster General proposed to be now created will receive the same pay as is paid to the other Assistant Postmasters General.

Mr. CHANDLER. I wish to inquire the difference between the salary of the chief clerk and that of the Assistant Postmaster General?

Mr. YULEE. About a thousand dollars, I think.

Mr. KING. While I concur in the objection

which the Senator from Mississippi presents to this bill, my objection is chiefly to the increase of salary at this time. I regard this bill as designed chiefly for that object, and that, with me, is a more important objection than the name by which the officer shall be called. I do not propose to discuss the question; everybody understands it. I shall vote against the bill. I voted against taking it up because I was opposed to the bill.

Mr. YULEE. The objection of the Senator from New York is that the purpose, as he supposes, is simply to increase salary. The Senator could not have attended to the contents of the letter of the Postmaster General which was read on a former occasion. The reason of the necessity for this office is that the very large business of inspection and distribution of mail-bags, &c., is much beyond the ability of either of the three Assistant Postmasters General to superintend. The consequence is that the Postmaster General, for the last ten or twelve years, has been obliged to appropriate his chief clerk to that duty. The effect has been to withdraw entirely from his service the aid of a chief clerk, and he occupies the anomalous position of being the only head of a department in the Government who has no chief clerk. It is because the chief clerk has been obliged necessarily to be devoted entirely to the duties of the superintendence of the inspection office. The inspection office employs seventeen clerks, and has as large a mass of business as either of the other divisions, involving a great deal of responsibility and very important judicial questions. In fact, it is one of the four divisions into which the business of the Department naturally divides itself, especially judicial, and requires an officer of high character. The consequence of the present arrangement is not only that the Postmaster General loses the services of a chief clerk, but besides that, the grade of character and ability which can be employed at the salary of a chief clerk is not that which is required for the performance of the very large duties of the inspection office. In order that Senators may understand how important and extensive those duties are, I will read a schedule which enumerates the duties of the inspection division of the Post Office Department:

"Inspection Office.—G. C. Poindexter, Esq., chief clerk"—

he has resigned since the date of this—

"—and seventeen clerks. To this office is assigned the duty of receiving and examining the registers of the arrivals and departures of the mails, certificates of the service of route agents, and reports of mail failures; of noting the delinquencies of contractors, and preparing cases thereon for the action of the Postmaster General; furnishing blanks for mail registers, and reports of mail failures; providing and sending out mail bags and mail locks and keys, and doing all other things which may be necessary to secure a faithful and exact performance of all mail contracts.

"All cases of mail depredation, of violation of law by private expresses, or by the forging or illegal use of postage stamps, are under the supervision of this office, and should be reported to it.

"All communications respecting lost money, letters, mail depredations, or other violations of law, or mail locks and keys, should be directed 'Chief Clerk, Post Office Department.'"

The duties are very large. They are connected with very large disbursements of the Government. It is important to the economical as well as successful administration of the Department, that this very large and important division of its duties should be superintended by a competent agent. It will be an economical measure. It is indispensable. Formerly, and before the chief clerk was appointed to this business, it was a desk in one of the other divisions of the Assistant Postmasters General; but by our increase of territory, the business of that Department has increased so much that the experience of all gentlemen here must have acquainted them that it is impossible for the First Assistant Postmaster General to do more than attend to the appointments; for the Second Assistant to do more than attend to matters of contract; and for the Third to do more than attend to the financial affairs of the Department. This office is necessary to perfect the organization of the Department; and I trust the Senate will allow what the present Postmaster General, concurring with two or three of his predecessors, has pressed on the legislative department as necessary.

Mr. HAMLIN. Will the Senator from Florida be good enough to inform me who is the person that now discharges the duties?

Mr. YULEE. I cannot tell the gentleman. Mr. Oakford discharged them under Mr. Campbell. Mr. Poindexter was appointed in his stead by the present Postmaster General; but he resigned a month or two ago, and I cannot inform the Senator who succeeded him.

Mr. HAMLIN. I think the objection stated by the Senator from Mississippi is one which cannot be answered. I think this whole matter lies in a nutshell. It is a simple question of increasing salaries—no more, no less—call it chief clerk, or Assistant Postmaster General, it matters not which. I believe the Senator from Mississippi is right when he says—and the position he has occupied entitles the declaration to great weight—that you cannot change the responsibility from the head of a Department to a secondary officer, whether you call him clerk or Assistant Secretary. I think this bill is objectionable because it increases salaries at this time, when it ought not to be done.

I object also to giving this appointment to the President. I would trust the head of a Department, who knows what the duties to be discharged are, to judge of the qualifications better than the Executive, who would not know those duties as well as the head of the Department, who is responsible. But the other objection I make is a broader one, and which ought to control us, and will control me; it is this: I presume the same person who now discharges the duties of the office will continue to discharge them, and receive the increased salary under this bill, if it should pass. You can go into every Department of the Government and find chief clerks who are required to discharge as onerous and responsible duties as any that are discharged in the Post Office Department; and you do injustice to another class of chief clerks, by simply changing the name of one in one Department, and giving him an increased salary. I concur with the Senator from Mississippi, when he says the chief clerks ought to be very competent men, and perhaps we ought to pay them more than we do now, though I think we pay them two thousand or two thousand five hundred dollars. I do not believe in taking one class in one Department, styled by one name, and giving them an additional compensation over the same class in another Department. That is the objection I make to this bill. If you are going to make the compensation of this chief clerk higher, or if you choose, on account of the name, to give him a compensation of \$3,000 a year as Assistant Postmaster General, go into the other Departments, and see whether their chief clerks ought not to be assistant secretaries, and mete out to them the measure of justice, if it be justice, that you are meting out in this case.

Mr. HUNTER. I think the hour for the special order has arrived.

Mr. YULEE. We can soon get through with this subject.

Mr. HUNTER. I must insist on the special order. I have given up two hours this morning.

Mr. CAMERON. I desire to say a word. When this proposition was first brought into the Senate, I was inclined to vote for it; but the honorable chairman of the Committee on the Post Office and Post Roads has convinced me that I ought to vote against it. My opinion is, that the division of responsibility always does harm. I was at first under the impression that the person was to be selected by the Postmaster General, and that the whole responsibility of the Department would be under its chief. I perceive, however, that it is otherwise.

The VICE PRESIDENT. The Chair must announce to the Senate that the hour has arrived for the consideration of the special order.

Mr. YULEE. If it is the pleasure of the Senate, I should be very much gratified if this bill could be proceeded with to its termination. It is not likely to occupy more than five or ten minutes. I shall have nothing more to say.

Mr. HUNTER. Let us go on with the appropriation bill.

Mr. YULEE. I move to postpone the appropriation bill, with the expectation that this measure will not occupy the Senate more than five or ten minutes.

Mr. HUNTER. I call for the yeas and nays on the motion. ["Oh, no!"]

Mr. BIGLER. I hope the Senator from Florida will withdraw his motion.

Mr. YULEE. I promise that if the bill occupies more than ten minutes I will yield.

Mr. HUNTER. Other Senators may want to debate it.

The motion to postpone was not agreed to.

CIVIL APPROPRIATION BILL.

The Senate resumed the consideration of the bill (H. R. No. 200) making appropriations for sundry civil expenses of Government for the year ending June 30, 1859.

Mr. CLINGMAN. If a motion to reconsider a little amendment of mine is in order I will make it, that the chairman of the Committee on Indian Affairs may add an amendment to it. I do not think it necessary; I think the existing law is right; but I hope by general consent the chairman of the Committee on Indian Affairs will be allowed to make his amendment. I see no objection to it.

The VICE PRESIDENT. There is a pending amendment, which the Secretary will read.

The Secretary read:

"For making the surveys of the confirmed private land claims in California"

Mr. HUNTER. I withdrew that amendment. It is not pending.

Mr. BRODERICK. I hope that amendment will be taken up. My colleague is now in his seat. I believe it was postponed for the purpose of giving him an opportunity of explaining it. I wish to hear his explanation.

The VICE PRESIDENT. The Senator from California may renew the amendment.

Mr. GWIN. I renew it.

The PRESIDING OFFICER. (Mr. STUART in the chair.) The Senate will allow the Chair to state that he thinks strictly the first question in order is the motion of the Senator from Louisiana [Mr. SLIDELL] to reconsider the amendment in regard to the St. Clair flats. With the unanimous consent of the Senate, however, he will permit that to lie over.

Mr. SLIDELL. I changed my vote for the purpose of moving a reconsideration; but I am not aware that I did move it yesterday. I enter the motion now. I think the Journal will show, probably, that I did not make the motion then.

The PRESIDING OFFICER. The Chair is mistaken, then, in that respect.

Mr. GWIN. I offer the amendment which was withdrawn by the Senator from Virginia; after line one hundred and thirteen to insert:

For making the surveys of the confirmed private land claims in California, the surveyor general is hereby authorized to pay such sum as he may deem reasonable, according to the circumstances connected with each case, not exceeding at the rate of twenty-five dollars for each mile of the boundary line of any claim, and also for such lines as may necessarily be run, and marked or measured, in order to connect the lines of such claim with those of the adjacent public surveys.

Mr. JOHNSON, of Arkansas. I offer this as an addition to the amendment:

Provided, That any survey executed under this provision shall be deemed and held void for fraud in all cases where it shall appear that additional compensation shall have been accepted by the surveyor, directly or indirectly, from the owner or owners of the claim.

Mr. GWIN. I am perfectly willing to agree to the proposition of the Senator from Arkansas. In the act "to ascertain and settle the private land claims in the State of California," approved March 3, 1851, it was provided:

"And for all claims finally confirmed by the said commissioners or by the said district or supreme court, a patent shall issue to the claimant on his presenting to the General Land Office an authentic certificate of such confirmation, and a plat or survey of the said land duly certified and approved by the surveyor general of California, whose duty it shall be to cause all private claims which shall be finally confirmed to be accurately surveyed and to furnish plats of the same."

It is made the duty of the surveyor general under the law, after a claim has been confirmed, to have it surveyed. The necessity for the legislation now proposed, as I stated a few days ago, arises from the fact that nearly all the finally confirmed private land claims have accumulated in the surveyor general's office within the last year. The late Attorney General, Mr. Cushing, before he went out of office dismissed a great number of those cases, and they are now ready for final survey; the United States having withdrawn its opposition, they were finally confirmed to the claimants. The surveyor general, in his report to the

Secretary of the Interior, has given the following statement in regard to this very question:

"It is ten years since we took possession of California, which was soon followed by the discovery of its vast mineral wealth, and a consequent influx of immigration unprecedented in the annals of civilization. Many of these immigrants soon found that independent of the mineral attractions, the agricultural advantages were also superior to those of any of the older States. It was soon ascertained, however, that the best lands of the State were, in the main, covered by numerous large grants derived from the former Government, with limits, in most instances, but very loosely defined; and hence the settlers were often in doubt whether particular tracts formed portions of the public domain to which they could acquire preemption rights, or whether they were within the limits of a grant. The uncertainty incident to this state of affairs not only created much ill feeling between the settlers and the rancho claimants, but it has very greatly retarded permanent improvements, as well as the development of the agricultural resources and capabilities of the country, few being willing during this state of doubt to make permanent improvements. Under the operations of the act of 1851, for the examination of land titles in this State, very many cases have already been finally decided; and in a short time the great mass of them will be definitely settled, as far as the titles are concerned, and only the action on the part of this office will be needed to discriminate between the private claims thus recognized and the contiguous public lands.

"As soon as this discrimination and segregation shall be effected, a brighter day will dawn upon the prospects of the agricultural portion of our citizens, who will be enabled to secure titles to their homes, either by preemption from the United States, where they are on public lands, or by purchase from the confirmees, where they are within the limits of a private grant. In either event they will go on with renewed vigor and spirit in the great work of proving the vast agricultural advantages of this country. Permanent and valuable improvements will take the place of their temporary ones, and they will speedily demonstrate the fact that the proper cultivation of our productive soil is as certain a road to competency, if not to wealth, as the working of our gold placers and quartz veins.

"So soon as the ranchos are properly surveyed, then the adjacent public lands can be safely subdivided and brought into market; and as those lands are generally the most valuable and desirable farming lands in the State, they will be speedily entered, and the Government will begin to derive a revenue therefrom. Hence it is, in my opinion, the true policy of the Government, having regard for the interests of all concerned, to see that every effort be made to draw the lines between the confirmed claims and the public lands at the earliest period possible. But to enable this office to do so, not only must the means be provided by timely and ample appropriations, but further legislation is needed in respect to the compensation which this office is allowed to make for the performance of such service, as well as other matters connected with such surveys.

"The business of surveying these claims is one requiring not only the highest grade of professional qualifications on the part of the deputy, but it should be confided only to those of known ability and of the most incorruptible integrity, as during the process of the work they will have, in very many cases, to act and decide upon testimony which may be adduced in explanation of doubtful questions of boundary.

"The work, as it will be readily perceived, will not be one continuous course of field operations, as in cases of the ordinary surveys of the public lands, but will have to be performed at intervals, and frequently in places widely separated from each other, and not of great extent at any one period, and involving much loss of time in making preliminary examinations, receiving and examining evidence, and also in making the laborious calculations, and other clerical work, necessarily connected with such surveys. As the best and clearest method of presenting my views as to the legislation which is required to meet the necessities of the subject, I have taken the liberty of placing them before the Department in the form of the accompanying "bills," marked (B), to which, and the explanatory remarks connected therewith, I beg leave to solicit your consideration, with the hope that you will concur with me as to the necessity of some such legislation being requisite to obviate the difficulties now retarding the efficient execution of this branch of my duties."

In explanation of the bill here referred to, the surveyor general says:

"SEC. 1. The present price allowed for surveying the claims alluded to is such that it is almost impossible to procure competent deputies to execute the work. Hence the present state of uncertainty as to the lines which are to separate the private claims from the public domain will have to continue, unless the additional sums requisite to compensate the deputies for their time and labor in making such surveys shall be paid them by the confirmees. The injustice of this throwing additional burdens upon the land claimants must be acknowledged by all. Not only so, but the impolicy of making the deputy dependent upon the claimant for compensation, and thus creating a mutual interest between them, is a prominent objection to such a course. Therefore the maximum allowance for making such surveys should be increased, leaving it to the surveyor general to decide what sum, under all the circumstances growing out of the locality of each claim and the nature of its boundaries, would be a fair and reasonable compensation for the services performed. In many cases the proposed maximum would not be more than a just allowance for the execution of the field work."

This is the official report of the surveyor general of California to the Secretary of the Interior. Following that was a recommendation of the Commissioner of the General Land Office, and the Secretary of the Interior, that the increased compensation shall be given for the purpose of facilitating the surveys of private land claims in Cal-

ifornia, and efficiently to perform the public service in separating the public domain from private land claims. I will also state that the Secretary of the Interior has issued a peremptory order to the surveyor general of California that he shall, under no circumstances, permit the private claimant to pay for his survey. Now, according to the official documents read the other day, and to-day; in regard to that order, it seems to be impossible to survey these claims; and I suppose my colleague will agree that nothing would advance the interests of California, and the permanent settlement of the country more, than to complete the survey of these claims, and separate them from the public lands.

In regard to the amendment of the Senator from Arkansas, I am willing to agree to it. I do not want the claimants to have anything to do with running the lines. I will state another fact in relation to the act of 1851, directing the issue of patents for these lands. They do not affect the rights of third parties, notwithstanding the issuing of the patent. Parties can go into the State courts and set them aside. The object is to have the United States acquitted of all connection with these claims; and if there is any wrong in the original survey or confirmation, it can be corrected in the State courts.

Mr. JOHNSON, of Arkansas. Do I understand the Senator from California to accept the amendment I offered?

Mr. GWIN. I have no objection to it.

The PRESIDING OFFICER. The Chair understands the amendment before the Senate to be an amendment of the Committee on Finance. It is not, therefore, in the power of the Senator from California to accept an amendment to it; but one may be offered.

Mr. BRODERICK. I have not changed my opinion in regard to this subject; but I do not want to prevent the owners of property in California from having their lands surveyed. I believe that the work can be done for fifteen dollars a mile; but the Interior Department are of a different opinion, and I do not wish to raise a public clamor against me in my State. I am as anxious as my colleague to further the surveys of the owners of property in California. I understand that the public lands cannot be exposed for sale until the private lands are surveyed and set apart. I hope that the Senators who have voted with me will see the position in which I stand, and change their votes. The surveyor general, I suppose, will shut his office; for the Secretary of the Interior is satisfied that the work cannot be performed for fifteen dollars a mile, and the people will have to wait until Congress assembles again. I did not think, when I first urged my objection to this proposition, that the Interior Department approved of it. I have ascertained since that they do, and that they are satisfied this work cannot be performed for fifteen dollars a mile. I do not agree with them; I believe it can be done for that; but still I do not wish to prevent the owners of land claims having their claims surveyed during the coming summer. I withdraw my objection to the amendment, and I hope it will pass; because I am satisfied blame will be attached to me if the claimants cannot have their lands surveyed.

Mr. HARLAN. I would very cheerfully vote for this amendment if I thought that there was any necessity for it; but I do not see the necessity. It is true that it will cost the surveyor more per mile to survey an isolated claim, if it be a small one, than to execute public surveys at large. Some elements of the expense will be greater, but others will be smaller. If the surveys be made in the settlements, (and I suppose these private claims are generally within the settlements in California,) the expense of transporting men and provisions would be very greatly diminished. But if these private land claims are surrounded by public lands, the same deputy surveyor that surveys the public lands can survey the private claims in the execution of his public work with the same ease that he could meander a lake, embraced within the limits of his district. There would be no more difficulty in surveying a private claim, however irregular, than in meandering the margin of a lake or river. In the execution of a contract to survey the public lands, the deputy surveyor would be compelled to do this at the ordinary rates. I notice by the report of the Commissioner of the Gen-

eral Land Office for 1856-57, that the General Government has now expended in the surveys of lands in California, in field work, \$1,000,000, for which some twenty thousand miles, including nine million acres of land, were surveyed during that year—that is during the fiscal year ending the 30th of June, 1857.

It will be remembered by the Senate that in a previous discussion on the subject of the payment of deficiencies arising on account of public surveys in California, it was stated that the deputies had proceeded beyond the limits of their contracts; or, in other words, that their contracts were general; that they were without limit as to time, and they had surpassed the amount of money granted by Congress to pay for these surveys because they had traveled many miles into the interior of the country; they had traveled into the depths of the pine forests, I think it was said, in the execution of these surveys, so that the work could not be readily arrested. Now, sir, as these deputy surveyors were not forced to execute the contract, as it was a voluntary contract entered into between them and the General Government, and which doubtless would have been canceled, at their request, the fact that they surveyed a sufficient amount of land to amount to \$220,000 beyond the money appropriated, is proof conclusive, to my mind, that it was paying work. If this work had not been paying work to the contractors, they would not thus have proceeded beyond the amount of the money appropriated by Congress; and especially will this appear to be true from the statement that these contracts were not continuous contracts, as was stated in the Senate-Chamber some time since. I had the curiosity to go to the General Land Office and examine them, and I ascertained that they were mere duplicates of the contracts used in my own State and the States of the Northwest, which terminated on the 4th of March succeeding their date, and, if I remember correctly, consequently the extension of the duration of each contract must have been through the solicitation of the deputy himself, as is often the case in my own district.

From these facts it is evident that these deputies solicited the extension of the time that they might increase the quantity of work, at the rate then paid, which was about fifteen dollars per mile. It is known to every one that the price of labor and price of subsistence in California is lower now than it was at that time; and if the work could be executed far in the interior, in the heavy pineries, for fifteen dollars a mile, it is evident that it can be executed in and around the settlements for the same now. If I were satisfied that there was a necessity for increasing the pay, I would vote it cheerfully; but with the knowledge I have on the subject I do not believe it is necessary. On the other hand, I believe that any deputy would take the whole contract for a much less price than that now allowed by law. I believe it could be done for ten dollars a mile, and that men could amass immense fortunes at such a rate.

Mr. GWIN. The Senator from Iowa says it is well known that the compensation of labor and the expense of living are cheaper now than in 1856. I should like to know his authority for that statement.

Mr. HARLAN. I suppose it to be true from the general facts on that subject. The cost of labor and provisions is lower now than it was a year since, in all the Atlantic and interior States, and I suppose the same to be true in California. I will make this additional remark since I am up. The lands in Iowa have been principally surveyed for \$2 75 a mile. There is a vast disparity between \$2 75 and fifteen dollars. I have been told by my colleague here, who acted as surveyor general in that district for some time, that the average maximum paid in that district has been six dollars a mile. Between six and fifteen dollars there is a very large margin—two hundred and fifty per cent.—for California now, under the law, above the highest price paid in the surveying district in which I live.

Mr. GWIN. I have resided a little while in California. I was there in 1856 and in 1857, but I have not been there in 1858. I have no evidence, and I have never seen any, that the prices of labor and the prices of living have decreased there since last year. I was a housekeeper there at that time. I know that the expenses of living are infinitely beyond what they are here, I was a housekeeper

there in 1857; and, although rents had fallen greatly from what they formerly were, (and probably there is more difference in this item of expense than any other,) yet the rents I paid there were larger than I pay here for a house with four times the accommodation. I will state, furthermore, that the revulsion which crushed everything in the Atlantic States last year has produced no effect there. The rents in California are as high as they were a year ago, and I believe that the prices of provisions rule the same as a year ago, as the commercial tables will show. In addition to that, I was applied to, only yesterday, by a gentleman who has recently been appointed to command the navy-yard in California, who informed me that the present commandant of that yard is now paying upwards of one thousand dollars for the hire of two servants. The expense of living in California is controlled by the price of labor in the mines, and that has been the foundation of the high prices there from the first. The labor in the mining regions, since 1849-50, has been reduced, but it now stands at from two to five dollars a day. The expenses there for servant hire, it is well known, range from thirty to sixty dollars a month. I have paid that myself for years and years. The cost of living in California, so far as my information and experience go, has changed but little within the last two years, especially within the time stated by the Senator from Iowa.

But, sir, the question is in regard to the deputy surveyors and their expenses. The bill to which the Senator from Iowa referred has passed, and I do not wish to bring it up; but here is the fact that I wish to bring to the notice of the Senate. Before the acquisition of California there never was a surveyor in that territory. It was a semi-civilized government. Mexico never sent a surveyor there. There never was a scientific official line run, and it is a matter of great difficulty exactly to ascertain the meaning of grants, and the precise location of the claims. It has to be done on taking testimony, and it is an exceedingly difficult and important question to determine. It requires a great deal of time to take testimony. There is a great deal of uncertainty in regard to boundaries between private claims and also the public domain, and the lands are immensely valuable. For instance: one of these claimants owns a tract of land covering a league, in which is included the county seat of one of our richest agricultural counties, and the surveyor would not get more than two hundred dollars for surveying it. He stated himself to me, within the last few days, that it was impossible, at present rates, to survey that land; yet it is worth one hundred dollars an acre, and it must be surveyed with great accuracy. The owner is renting the lands at ten dollars an acre, and this shows its value, and also the value of labor.

I do not wish to continue the discussion. I know it is of great consequence to my constituents to have these private claims separated from the public domain. We have the testimony of all the officers of this Government connected with this service, that this is necessary; and on that alone I base my action. I do not bring it in as personal to myself, but in view of the many benefits which will result to the people of California from a speedy survey of these lands, that they may be actually relieved from all controversy in regard to the lines.

Mr. BRODERICK. I have stated here more than once that the price of living had fallen in California; and that the price of labor had fallen, although, I believe, labor is better rewarded there than in any other State of the Union. In 1850, mechanics received from sixteen to twenty dollars a day; in 1852, they received ten dollars; they now receive from four to five dollars a day. Servants' hire there, it is true, is very high; but not so high as my colleague says.

Mr. GWIN. I stated what I paid.

Mr. BRODERICK. Well, sir, I think it costs my colleague a thousand per cent. more to live here than it costs him in California. The rent of a house, I acknowledge, is there very high, but not one half higher than it is here. But, sir, as I stated a few minutes since, I do not wish to assume the responsibility of defeating this amendment. The Secretary of the Interior will tell the surveyor general to shut his office, and the people will be told that the Senator from California

prevented them from having their land surveyed. I want to obviate that difficulty. I am very anxious that the public lands should be exposed for sale in California, and they will not be exposed for sale, I understand, until the private land claims are surveyed. I hope the Senate will see the position I am in, and allow the Government to pay this additional ten dollars out of the Treasury, for the benefit of the private land claimants in California.

Mr. DAVIS. The debate must have suggested to other minds, as it has to my own, the inquiry whether we are not pursuing a bad method of surveying in California. Soon after the admission of California, before any Government surveys had been commenced, a knowledge of the fact that grants had been made, and that a large portion of the land would not be brought into market for a remote period, perhaps might never be purchased at private sale by entry, caused a proposition to be submitted to the Senate at that time, that instead of pursuing the old method of survey, we should adopt one, which was real and true, and which would save the vast expense that is now described—the geodetic method, the filling up of the primary triangulations to be delayed where the land was worthless, and to be filled up immediately where the land was covered with private claims, or where it was valuable. It is an exact method by which, where land was very valuable, as in the case of heavy gold deposits, the line would be run so accurately that there would be no future contest as to where that line was. It was known then, as now, that the present method could only progress by surveying from base lines regularly on, surveying the mountains and the deserts as well as the land which was to be inhabited, that it must take a long term of years before it could be completed. It was known then as well as it is now, that the method had inherent hazards in it, that it proceeded upon the false supposition that the earth was a plane instead of a spheroid, which the surveyors correct from time to time as they progress north; but the error still remains, being inherent in the method. Before any Government surveys were commenced in California, it would have been an easy method to have adopted a plan which was accurate, which was founded upon a just theory, and which would have diminished the expense perhaps a hundred fold. The Senators from California can tell how far that method might now be applied to the surveys in California, but at the present rate of survey the expense involved seems to me to be so great that we had better give away the land than survey it.

Mr. GWIN. The Senator from Mississippi knows that I was in favor of that mode of surveying lands when it was suggested here eight years ago. It was adopted; but, I may say, unfortunately, it was left to the decision of the Department whether they should take that or the present system; and I will say further, unfortunately, they have adopted the present system, and I think it would be impossible to incorporate one into the other at this time. At that time it would have been easy to have adopted the geodetic method. I will say further to the Senator, as evidence of my belief in the system which he then suggested, that it has, under a proposition made by me, been applied to the survey of the islands on our coast, by the coast survey, for some years past.

Mr. HUNTER. I was originally against the amendment, and voted against it, but I was informed by the Secretary of the Interior that he had ordered the surveyors not to take fees from the private land claimants themselves; and if they were not allowed to take fees they could not execute these surveys at fifteen dollars a mile; and under that information I was somewhat disposed to change my vote until I heard the Senator from Louisiana [Mr. BENJAMIN] say that in Louisiana it had been tried, and it was not found that it led to frauds. I am rather disposed to see that restriction removed from the private land claimants than to increase the price of surveying the public lands so largely as this amendment proposes to do. I do not see why we may not do it. If the officers are well selected, they may be trusted in this regard, and if not they could be operated upon by bribes at any rate. If we are to give twenty-five dollars a mile, we ought surely to prohibit them from receiving fees from private land claimants. I may, therefore, vote for the amendment

of the Senator from Arkansas to the amendment; but I think I shall vote against the whole. If they shall not be restricted, I am inclined to think fifteen dollars will be enough. I am afraid to make this large increase of price in California. If we do it, we shall have to increase the prices elsewhere, where we have been paying much less. I understand that in your own region of country, sir, [Mr. STUART in the chair,] where there were difficulties, the highest price paid was six dollars a mile. Under these circumstances, I shall not support the amendment.

Mr. GWIN. I hope the Senator from Virginia will not oppose the amendment. It is a mere temporary increase. Of the one hundred and twenty million acres within the boundaries of the State of California, there are five or six millions only covered by private claims. It is a temporary service, and will speedily cease. It has been directly and earnestly recommended by all the officers of the Government connected with our land system; and I look upon it as an outrage that this additional expense should be thrown on the private land claimants in California. Why, Mr. President, we have put them through an ordeal already of establishing their claims that was never known before in the history of this Government. They have had to defend their claims before the courts, with counsel at a heavy expense, and it has nearly bankrupted the whole of them; and now to put on them the additional expense of doing what the law expressly declares shall be done by the United States, what it is the imperative duty of the United States to do, seems to me to be a degree of oppression unparalleled in the history of the country. They have already been nearly bankrupted by the continual litigation the Government has imposed on them. That course was taken because it was thought best to examine and settle these titles by the highest tribunals in the country, and not go through that long process which has been resorted to in Louisiana, Arkansas, and Florida, so that, no matter how sharp the remedy, the settlement of the titles should be speedy and final. The claimants have been put to an expense that is enormous. As this is temporary, as it cannot establish any precedent—for the surveys of private land claims in all the other States are nearly completed, and those in our own State will very soon be completed—I hope the Senate will agree to the amendment.

Mr. JOHNSON, of Arkansas. I hope we shall have a vote on this question. I have offered an amendment to the amendment, which the Senator from California is willing to accept; and it meets the approbation even of those who are opposed to any increase of price. Let that amendment, for the sake of guarding the public interest, be placed on the amendment; and then let the Senate vote the entire amendment down, or accept it, as they please.

Mr. BRODERICK. The Senator from Virginia and the Senator from Louisiana must be satisfied now that the Secretary of the Interior intends not to allow the deputy surveyors to receive any compensation from the owners of private land claims in California; and the surveyor's office will be closed against all applicants. If the Secretary of the Interior could be induced to allow the old system to be carried out, I should have no objection; but I hope the Senate will see the necessity of not voting this amendment down; for the blame, I suppose, will fall on my shoulders, that I, the representative of the State, prevented the Government from paying the expenses of surveying the private land claims. I wish not to be placed in that position.

Mr. BENJAMIN. I see no reason why we should come to the conclusion that the Secretary of the Interior will persist in the instructions, after the Senate, by its debates and votes, shall show that it disapproves of them.

Mr. GWIN. I have understood that it is by an official order of the President that this instruction of the Secretary was issued; and I have no doubt he will adhere to it.

Mr. BENJAMIN. I can understand very well that the President and the Secretary of the Interior both may have been misled into the belief that a system like this, which at first blush seems exceptional, might lead to frauds or improper practices; but upon reflection, it will be seen that if a deputy surveyor can be induced to give wrong lines, or to extend private surveys, simply on the

ground that he is paid by the private claimant, nothing is more obvious than that that surveyor will do the same thing if he is paid wholly by the Government, provided the private claimant is willing to bribe him, and he is willing to receive the bribe. It all comes back to that; whether your deputy surveyor is a man who can be bribed, and whether the private claimant is a man willing to bribe him. If the claimant is willing to bribe him, and he is willing to be bribed, all your Department regulations can do nothing. They are utterly futile. If, on the contrary, the officers selected are such as ought to be selected for a work of this kind, then the ordinary price will be paid according to the law as it now stands, and when an exceptional case arises for extra labor in the survey, the private claimant, if he is desirous to have the survey completed immediately, will pay that extra price. There is no reason why that should lead to fraud. All the instructions of the Department, of the President, or of anybody else, are not going to change this thing. We know, as practical men, that they may send a thousand instructions of that kind; but how can they help themselves? Suppose the Congress of the United States chooses to say it will not pay more than fifteen dollars a mile for the survey, as we have said—

Mr. GWIN. I will answer the gentleman. Then the contract will not be given out; nobody will take it at that.

Mr. BENJAMIN. I understand all this matter perfectly. We cannot be hoodwinked in this way. Congress determines by law to pay but fifteen dollars a mile; the Department sends out orders there to give no contracts to surveyors at more than fifteen dollars a mile, and orders the deputy surveyors not to receive pay from private individuals. What effect will that order have? Is there a solitary man in the State who will obey it? What right has any man to give such orders? If the deputy surveyor takes a contract to execute a survey under the law for the price fixed by the law, and he has got easy work that he can do at that price, what power has the Department to tell him, "Sir, you shall not take a contract from Mr. Smith provided he agrees to pay you ten dollars extra because his work is more difficult than other work you can get?" Suppose the Department does order him: he will not obey it; and who can help it? It is one of those regulations that does not fall within the power of the Department to make or enforce.

Mr. BRODERICK. Will the Senator allow me to interrupt him for a moment?

Mr. BENJAMIN. Undoubtedly.

Mr. BRODERICK. I would ask the Senator from Louisiana whether he believes the surveyor general will go on and survey this land at fifteen dollars a mile, if that officer supposes that, by waiting some four or five months, he can get twenty-five dollars? Does he believe the surveyor general will be anxious to have the work done at once, for fifteen dollars a mile, when he can receive twenty-five dollars a mile by waiting a few months?

Mr. BENJAMIN. I really do not understand the pertinency of the Senator's question.

Mr. BRODERICK. I will try to put it in different language.

Mr. BENJAMIN. I understand the question, but I do not see its bearing on the point.

Mr. BRODERICK. I understand from the chairman of the Committee on Finance, that the Secretary of the Interior says the work cannot be done for fifteen dollars a mile. My colleague says the same thing, and that the President of the United States has directed the owners of private land claims not to pay the deputy surveyors any compensation in addition to that allowed by law, and paid by the United States. The surveyor general of the State is anxious to have this money to disburse. If he waits until Congress meets again, I suppose Congress will allow him the twenty-five dollars. So you might as well vote it now as vote it next year; because the surveyor general, I have been assured, will close his office, and the owners of private land claims in California will have to wait another year before they can have their lands surveyed.

Mr. BENJAMIN. The point I am at is this: the Department of the Interior threatens the Senator and his constituency with closing the office in California, provided this augmentation is not

granted. How? Because they think the surveying cannot be done for the price allowed, and they have issued orders prohibiting private claimants from eking out the sum to a just compensation?

Mr. BRODERICK. That is it.

Mr. BENJAMIN. But suppose, now, by this debate and this vote, the Senate refuses to increase the price, and indicates its approbation of the system that has heretofore existed: what right then will the Department of the Interior have to carry out a system on its own theories of what is right and proper, in contradiction to the wishes of the legislative department of the Government? That is the point.

Mr. GWIN. The Secretary of the Interior has not threatened to close the surveyor general's office. He has made no such threat. The surveyor general of California is not interested at all in the disbursement of the \$100,000 proposed to be appropriated. The mere question is, whether or not he will expend it on surveying public lands at the present rates, or whether he will spend it on what is more important and more vital to the best interests of the people of California, at this juncture, in separating the private land claims from the public lands? It is a question with which the surveyor general has nothing in the world to do; it is a matter in which he takes no interest, directly or indirectly, other than giving out the contracts; because, if this \$100,000 be not disbursed in surveying private land claims, for the reason that he cannot get deputy surveyors to take contracts to survey private land claims at the present rates, and can get them to survey public lands, then the money will be disbursed in surveying public lands where there is no conflict with private land claims. The Secretary of the Interior never intimated that he would close the surveyor general's office. It will go on precisely as before; but if this amendment does not pass, the character of the work will be different, and will not be so beneficial to the people of the State.

Mr. BRODERICK. I do not know that the Secretary of the Interior has threatened that this office will be closed; but my colleague stated here, a few minutes since, that it would be closed against the owners of private land claims, or at least that the work could not be performed for this amount of pay.

Mr. GWIN. If the Senator will permit me: I said that was the opinion of the officers connected with the subject.

Mr. BRODERICK. That is what I fear; if it was not for that, I should vote against this increase. But the power that has been brought to bear within the last twenty-four hours has satisfied me that no surveys will be made this year, unless Congress votes the ten dollars additional. If I could be satisfied that the land in California could be surveyed for fifteen dollars a mile, I assure the Senate I would not urge the additional ten dollars; but the Secretary of the Interior says the work cannot be done for fifteen dollars, and I am satisfied that he knows more about this work than I do, and I am willing to vote the additional ten dollars.

Mr. HOUSTON. This is a subject in which I have no special interest, other than as a Senator on this floor, but it does seem to me to bear a very singular aspect. I have every disposition to defer to the opinions of the heads of Departments, and to the head of the Interior Department, of whom I have a very high opinion. I know nothing of the surveyor general of California. I respect the feelings of the Senators from California on this floor, and I desire that their constituents shall have every possible advantage which legislation can fairly give them; but I am not prepared to vote for this appropriation. I believe it is only the trifling sum of \$100,000, and it is premised that it will close up one avenue to corruption and to bribery that otherwise would exist with the subordinate surveyors. I have no idea of making men honest by legislation, or by bonuses given to them for the purpose of keeping them honest; you cannot do it. If you undertake to feed cupidity, and to minister to avarice, you will not make a man honest, for the more he gets the more he wants; and I am clearly of opinion that the sum now given to these deputy surveyors is amply sufficient to defray the expense and render them a recompense for their service. If it is announced that the surveyors in California receive fifteen dollars a mile, you will find the surveyors in this

country, who are receiving two and three, and some less than two dollars a mile, going to California, and there will be a demand for work there that will reduce their wages, and they will be very glad to obtain employment at a more reasonable price than fifteen dollars. If individuals choose to contribute, by way of inducement to the execution of work in which they are interested, a douceur to those gentlemen, I am sure that no legal prohibition you can make will be sufficient to prevent them from receiving it.

There is another feature in this matter that I condemn; and it is the placing at the discretion of the officer a sum of money which he is to appropriate and disburse according to his mere will and choice. He will necessarily, in the multitude of deputy surveyors that he will have around him, have some favorites. They will have assigned to them the most pleasing and agreeable portions of the country, and they will be enabled thereby to accomplish a greater amount of work and receive a much larger bonus than others, and he will pay them, under a pretext of their having done more work than others, a greater sum than is due them when you compare their labor with that of others. It affords an opportunity for discrimination and partiality that I think is unfavorable to the ends of justice, and the accomplishment of labor for the public. Thus it is that I am clearly of opinion, so far as these two points are concerned, that there is no just demand for this appropriation; and if, at the distance California is off, money would be an inducement to them to do wrong in designating and defining the boundaries of private claims, what guarantee is there that the same inducement might not operate on the surveyor general? Here is an inducement of \$100,000. If he were to disburse one half of it he would have a handsome residuum left; and I cannot but think that, if he is honest now, the best way is to keep this money out of his hands. I have no idea that we are to abstain from an act of inhibition on our part in regard to this appropriation, because we are threatened that the office will be closed. There is a remedy for that. Dismiss the officer, and say, "if you have not the competency to do this labor and to execute this work, I will place one there who will do it." Then you get your work done; but to menace Congress, and tell the Senate—

Mr. GWIN. Who made that threat?

Mr. HOUSTON. It is done by the Department. I do not charge the Senator with it.

Mr. GWIN. It has never been done by anybody.

Mr. HOUSTON. Did not the gentleman say that the office would be closed?

Mr. GWIN. No, sir; I said no such thing.

Mr. HOUSTON. I understood the Senator that the office would be closed; and the junior Senator from California stated that he did not wish to have the responsibility on him of having closed the office. How are the offices to be closed, I would ask the Senator from California?

Mr. BRODERICK. I will try to inform the Senator from Texas. The surveyor general says that the work cannot be done for fifteen dollars a mile, and he will turn every man away from his office who applies to have his land surveyed.

Mr. HOUSTON. I would have the officer for rent, or he should go on. If he turned them away, I would turn him away. There is a remedy at hand, if he chooses to do this, and hold the whole Congress and the legislation of the nation in check. Does he hold them by intimations of this sort?

Mr. BRODERICK. He does; and the law gives him that power. He has absolute power.

Mr. GWIN. Let me tell the Senator from Texas that the surveyor general has nothing to do with it. If he cannot get the deputy surveyors to do it for this sum, that is the end of it. The point is, what is the amount he can get the work done for? If he cannot get it done for the present price, if no deputy surveyors will do it for that, then he will disburse the money for public surveys, and the office will go on as heretofore. The question is, whether or not he can get contracts for surveying private land claims at this price?

Mr. HOUSTON. Yes. This year they will exhaust this \$100,000; and next year, unless they get half a million, they will strike for higher wages! That is it. You are holding out inducements to them to extort from the Government. I am for giving them a fair and just recompense; but I am not for cringing to their demands, but meet-

ing them with the just rebuke of removing the officer in whose hands the control remains; for you need not tell me that surveying cannot be obtained, and plenty of it, in California, or in any other part of this continent, for fifteen dollars per mile. It is an extravagance that has not heretofore been heard of. If they are receiving fifteen dollars a mile, is their labor more assiduous, more toilsome, and laborious than that of the mechanics who can be obtained for four dollars and a half? If their science is greater, if they have had to devote more hours to study and to application to obtain a scientific preëminence to enable them to be surveyors, you give them two or three hundred per cent. on their attainments. I cannot believe that this is just or fair, or that the Government is bound to succumb to it and let the surveying stop. It is a singular idea that individuals must not be employed by those who are interested in the lands. If I wish lands surveyed in Texas, I go and employ the surveyor myself, and pay him. Is there any law prohibiting that? No; but the law says what his wages may be; and if I choose to give him a douceur of five or ten dollars, to hurry on with the work, anticipating the necessity of having mine accomplished by a certain time, can the Government prohibit me? Is not that a private transaction between us? That is the burden of complaint on this occasion, that the surveyors have received perquisites from private land claimants. I have no idea of attempting to prohibit it. It is mockery. How will you restrain the private transactions between man and man? You cannot do it. You may give them \$100,000, and that will not restrain them; and all your legal prohibitions that you may attempt to impose here, by starting amendments, will be mere cobwebs, mere mists, not tangible. I am decidedly of opinion that the recompense offered is fair.

But we are told that the surveyor general has nothing to do with this. Has the surveyor general complained, and has the subject been investigated in such a way as to lead the head of the Department to the conclusion which has been stated? He has to rely on the information of others. We have heard no complaints urged in the Senate or House of Representatives heretofore, that it is impossible to do the work for the present price. Certainly the expenses of living in California are less now than heretofore; and if the officer would make it known at large that he had contracts to let, he would induce the competition of surveyors from every part of the United States; they would flock there for the purpose of obtaining fifteen dollars a mile, when they received in the several States a per diem of not five dollars. They would resort to California; the competition would become great; the facility of obtaining employes would be no question of difficulty there. I will not vote to place at the disposition or discretion of any individual \$100,000 that he may issue it with or without vouchers, and when the vouchers may be a mere mockery and sham. I have no reliance on them; and if the vouchers should not be produced, it will only be necessary to pass an act of Congress saying, let the Auditor settle it agreeably to the principles of equity and justice, and that is done on the statement of individuals, so that the accounts are never stopped here for want of vouchers. The day was when a picayune had to be explained, or it was stopped at the Treasury; but those good old days have gone by. Honesty is in slack demand now, and there is not much encouragement given to it, whilst we extend lenity and discretion beyond all reason and all bounds. We must begin to be more stringent and more exacting in our legal enactments here, or we shall find that the settlement of officers' accounts will become a mere form, a sham, and the only difficulty will be to keep the Treasury sufficiently full to gratify the cormorants, the vampires, who choose to suck the blood of the nation through the Treasury, on the pretense of official duties discharged in an extraordinary manner, or extraordinary services rendered. If a stop be not put to this, the nation will be drained of its treasure to pamper individuals who may become favorites, and have an advocacy, either here or with the heads of Departments, to force through their claims without a pretense of justice. Sir, I am not prepared to vote for this. I shall vote against it, and vote against anything that extends to an officer an extraordinary discretion; for the more you give the more you will have to grant.

Mr. BAYARD. I am very clear in my own mind that the amendment must pass, if you mean to do justice, according to the terms of your treaty with Mexico, by which you acquired California, to the rights of private claimants, unless you substitute an express clause of legislation in accordance with the views of the honorable Senator from Louisiana. The case stands precisely in this way: the law which you passed in order to carry that treaty into effect, which binds you to secure the titles in California, requires that all titles of every kind under the Mexican Government shall be submitted to a board of commissioners. After they have been submitted, if the final adjudication is in favor of the claimants, there is to be a survey made by your officers, and under that survey a patent is to issue. The title must, therefore, be evidenced by a patent from the United States, consequent upon a survey made under the authority of the United States; otherwise, the claimant is helpless, although the treaty binds you to give him a title if he has a good claim. Under these circumstances it was found that in making surveys in California, though, under the general law, which authorized the payment of not exceeding fifteen dollars a mile as to ordinary Government surveys in straight lines or parallel lines, that amount would be sufficient, contracts could not be made for this sum with the deputy surveyors for the purpose of surveying these irregular grants where the boundaries have to be hunted out at great labor, and the expense is greater. You cannot obtain the services of deputy surveyors by a contract to perform it for that sum; but the claimants themselves, in a variety of cases, stepped in and paid the expenses of the deputy surveyors. The Department ascertained to their satisfaction that the effect of suffering the claimant to become a payer to the deputy surveyor was that very often grants were improperly located, that the claimant had too much control over the contracting surveyor on account of his being allowed to receive money from him additional to what he received from the Government; and the consequence was that it led to an improper location of grants which the Department, if that system was continued, would be unable to keep correct, so as not to trespass on the rights of preëmption settlers, or persons who purchased under the Government. With a view to check this, they have issued a peremptory order not to permit any payments to be received by a deputy surveyor from any claimant. They have determined not to recognize a survey made where the fact is ascertained that the claimant has contributed to the expenses of the deputy surveyor.

Be this right or be it wrong, after making this determination, the Secretary of the Interior tells you that, for fifteen dollars a mile for that species of survey, he is unable to obtain deputy surveyors to do the work. You are bound to have the survey made to do justice to the parties. If you issue an order saying that they shall not pay, surely you are bound to let your surveyor general, who has no interest in this matter, unless you suppose him fraudulent, have power to pay more than the amount now given for a particular class of surveys—twenty-five instead of fifteen dollars a mile; it being found that for fifteen dollars you cannot have the service rendered. You deprive the claimant, by executive authority, of the privilege of paying for it; and you must remedy that by authorizing a sufficient sum to be paid in order to have the survey made, because the claimant cannot get his title under the treaty without having the survey made. There is but one other course left; and it is this: if you adopt the idea of my friend from Louisiana, that the Department are wrong in supposing it leads to any impropriety or fraud to allow private claimants to make compensation to the deputy surveyor over and above what he receives from the Government, then you ought to put in the law a clause preventing the Secretary of the Interior from inhibiting the payment by private claimants of an additional sum when it is requisite for the purpose of making the survey. I think you will hardly be prepared to do that, because, from what I know of the matter, I believe there is force in the objection made by the Secretary of the Interior. There is danger in allowing the officer, though he is an officer by contract under the surveyor general, to be in the pay of the private claimant for the purpose of locating a grant; and the Government in

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the end may lose more under that system than they would by allowing the deputies additional compensation, in cases where it is requisite in the opinion of the surveyor general, on his responsibility. If the surveyor general is not an honest and fair man, remove him. He is not entitled, under the provision, to receive one dollar himself; and he cannot do so unless by fraud; and he will be liable to punishment for that. You are simply limiting, by a different limit than you do now, the amount which he shall be allowed to contract to give deputy surveyors per mile for a certain stipulated survey of lands. I think it is a wiser course to take that, inasmuch as you cannot get the survey performed for less; at least, you cannot get it performed for fifteen dollars a mile. So the Secretary of the Interior tells you. It is the wiser course to expend the difference between fifteen dollars and twenty-five dollars, in that manner, in these contracts, than it would be to permit the deputy surveyor, who is an officer under contract, and ought to represent the Government alone, to represent in part the interests of the private claimant by receiving compensation from him. The Senate may choose between the two. If they determine that they will not adopt this amendment, then, in common justice to the claimants, if they desire to carry out the treaty, (and the law entitles them to have a survey of the lands and a patent consequent on the survey after a final adjudication of the title,) they are bound to put in a clause which shall require the Secretary of the Interior or the head of the Land Office to rescind the order which prohibits the private claimant from paying any portion of the expense of surveying private land claims. One or the other you are in justice bound to do.

The PRESIDING OFFICER, (Mr. STUART.) The first question is on the amendment of the Senator from Arkansas to the amendment.

The amendment to the amendment was agreed to.

Mr. HARLAN. I propose further to amend the amendment by inserting:

Provided, That it shall be the duty of the surveyor general of California to award each contract to execute said surveys to the lowest responsible bidder, he being a practical surveyor, after reasonable notice, to be published in two newspapers of the largest circulation in the State of California.

Mr. BRODERICK. I hope that amendment will be adopted. There is no objection to it, I believe.

The amendment to the amendment was agreed to.

Mr. CRITTENDEN. I wish to make an inquiry of my honorable friend from Arkansas, whether we have adopted the amendment—I believe it is his—which makes void the survey at any subsequent time, upon proof that the claimant had paid a fee to the surveyor?

Mr. JOHNSON, of Arkansas. That has been adopted.

Mr. CRITTENDEN. I beg the gentleman to consider for a moment the consequences and effects of that.

Mr. JOHNSON, of Arkansas. The whole amendment has not been adopted—only an amendment to the amendment.

The PRESIDING OFFICER. The amendment indicated by the Senator from Kentucky, offered by the Senator from Arkansas, has been agreed to by the Senate.

Mr. JOHNSON, of Arkansas. As an amendment.

Mr. CRITTENDEN. It ought not to be allowed that the title, at any subsequent time, may be vacated. It may have gone into the hands of innocent purchasers. Put any punishment you please on the offenders; but do not let it affect the land. Do not sow such a seed of discord and of litigation and of uncertainty in land titles. Of all things in society that description of property ought to be kept as free as possible from all collateral questions. Let the guilty party be punished; but do not let the land be affected with a

doubt that is to follow it into the hands of innocent purchasers.

Mr. JOHNSON, of Arkansas. I suggest to the Senator from Kentucky that it would be well for him, then, to strike out that portion of my amendment and leave the first part.

Mr. CRITTENDEN. Strike out all which affects the title.

Mr. JOHNSON, of Arkansas. I will assent to that. It will have to be reconsidered on the ground the Senator names.

The PRESIDING OFFICER. The change can be made by unanimous consent. The Senator from Arkansas will make the change.

Mr. JOHNSON, of Arkansas. It will then read:

Provided, That the surveyor or surveyors hereafter executing any such surveys of private land claims, shall accompany his or their return of such surveys with his or their affidavit that no compensation has been received by him or them, directly or indirectly, or agreed to be paid to or received by him or them for the same, from any quarter other than the Government of the United States.

The PRESIDING OFFICER. Is it the unanimous consent of the Senate that that part of the amendment not read shall be stricken out? The Chair hears no objection. The question recurs on the amendment of the committee as amended.

Mr. TOOMBS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 25, nays 22; as follows:

YEAS—Messrs. Bayard, Bright, Broderick, Cameron, Chandler, Collamer, Crittenden, Dixon, Doollittle, Douglas, Durkee, Fitch, Foot, Gwin, Hammond, Harlan, Iverson, Jones, Mallory, Seward, Simmons, Stuart, Trumbull, Wade, and Yulee—25.

NAYS—Messrs. Allen, Benjamin, Bigler, Brown, Clay, Clingman, Davis, Fitzpatrick, Hale, Hayne, Houston, Hunter, Johnson, of Arkansas, Mason, Pearce, Polk, Pugh, Reid, Rice, Sidel, Toombs, and Wright—22.

So the amendment, as amended, was agreed to, as follows:

"For making the surveys of the confirmed private land claims in California, the surveyor general is hereby authorized to pay such sum as he may deem reasonable, according to the circumstances connected with each case, not exceeding at the rate of twenty-five dollars for each mile of the boundary lines of any claim, and also for such lines as may necessarily be run and marked, or measured, in order to connect the lines of such claim with those of the adjacent public surveys: *Provided*, That the surveyor or surveyors hereafter executing any such surveys of private land claims, shall accompany his or their return of such surveys with his or their affidavit that no compensation has been received by them, directly or indirectly, or agreed to be paid to or received by him or them for the same, from any quarter other than the Government of the United States: *Provided*, That it shall be the duty of the surveyor general of California to award each contract to execute said surveys to the lowest responsible bidder—he being a practical surveyor—after reasonable notice to be published in two newspapers of the largest circulation in the State of California."

Mr. SLIDELL. I ask now for the consideration of my motion to reconsider the vote upon the amendment in regard to the improvement of the St. Clair flats.

The PRESIDING OFFICER. That is the question before the Senate.

Mr. SLIDELL. It was not my intention to say anything upon the subject of internal improvements; and I should not do it now did I not occupy a somewhat peculiar position, having yesterday changed my vote for the purpose of moving a reconsideration. There were several reasons that induced me to take that course. The Senate was very thin, and this was a very grave matter—involving serious questions of public policy; and it struck me that it was proper a full Senate should decide it. That was one reason why I changed my vote for the purpose of moving a reconsideration. Had it not been for that, I should, probably, have allowed this matter to pass.

I will now state very briefly my reasons for urging the reconsideration of this vote; and I will premise by saying that I have in no degree changed or modified the opinions upon the constitutional question involved that I entertained some two years since, when I had the honor to express them to the Senate on the occasion of the veto by the President of the bill for the improvement of the mouths of the Mississippi river. I

concede that it is within the constitutional power of Congress to make appropriations from the public Treasury for objects that are confessedly national. The great difficulty with me has always been to define the line where these objects cease to be national and become local. I considered then, and I consider now, the appropriation immediately in question as of a national character; and could I be assured that the legislation of the country in this regard would be confined entirely to appropriations for works of this character, to my mind unquestionably national, I should have no objection to considering each of them upon its merits, and voting proper sums towards their completion. But the question now presents itself in a very different aspect.

I object to this appropriation at this time for several reasons. I object to it because it is incongruous to the bill. It is out of place; it is inappropriate; it should not be here. A question of this kind should be discussed in the Senate, not only upon the peculiar merits of the distinct appropriation, but upon the great principle of public policy which it involves, and should not be mixed up with other matters which are entirely foreign from it. My next objection is, that the state of our finances is such that I think we are imperatively called upon not to vote for any appropriations that are not absolutely necessary for the proper carrying on of the public service, and working the regular machinery of the Government at home and abroad, and providing for the national defenses at sea and on shore. My third objection—and perhaps it is the most important of all; it certainly is in my own mind—is that, while I see no reason, as I before stated, to change my opinion in regard to the constitutional aspect of this question, I have, from experience and observation, arrived at the deliberate conclusion that the whole system is mischievous; that, however national and praiseworthy any particular object may be, it will never obtain the assent of Congress without some understanding or agreement, implied or expressed, that other works of a very different character, if not coupled with it in the same bill, shall be passed by the same aid. I will now say that, entertaining this opinion, if an appropriation were introduced to-morrow providing any sum of money for deepening the mouths of the Mississippi, it would not command my vote; for the reason that I am perfectly persuaded that, on account of the constitutional objections of a large portion of those Senators with whom I am in the habit of acting, and with whom I am always proud to act, and the objections of other Senators who entertain different notions, but who would not be willing to vote for what I consider a legitimate appropriation, without connecting it with something exceptionable in itself, it would be difficult, if not impossible, to confine the appropriations to improvements of a strictly national character. From these considerations, I am inclined to think that, on the ground of expediency alone, apart from all constitutional scruples, no bill of a similar character will hereafter receive my support. I shall adhere to this opinion, unless I see very good reasons to change it. Perhaps an overflowing Treasury might induce me, in some degree to modify it; but, with the views I now entertain, I do not consider it probable.

Mr. HANDLER. I shall not occupy the time of the Senate in discussing this question. I regret that the motion to reconsider has been made. I think this bill was a very proper place on which to put this appropriation. It contains an appropriation of \$450,000 for the coast survey; \$800,000 for the Washington water-works; \$300,000 for the Charleston custom-house; \$300,000 for the New Orleans custom-house. I deem it of more consequence to provide for this improvement than for all the other works for which the bill provides. This is the last chance we have to get the appropriation through at this session, and I hope it will be retained in the bill. I ask for the yeas and nays on the motion to reconsider.

The yeas and nays were ordered.

Mr. POLK. I have voted for the improvement

of the St. Clair flats; I believe it is a case where it is proper to expend money for such improvements, but at the same time I voted against appropriations for the harbors on the lakes. When the question was up on its merits, I had no doubt about it, and voted for it, and when it was first offered as an amendment to the appropriation bill, my desire to see the work accomplished was great enough to overcome my objections to its being introduced into an appropriation bill. I have uniformly voted against putting on this bill measures which I thought were inappropriate to it. I voted to reduce the amount proposed to be appropriated for the survey of the coast; so in the case of the Capitol extension; so also, and especially, in the case of the contract for printing the American State Papers, which I conceived to be eminently out of place in such a bill as this. I voted against them all. Now I shall vote for this reconsideration, though I am in favor of the expenditure of the money in deepening the St. Clair flats, for the reason that it was out of place in this bill, and for the further reason that with the prolongation of the session for a week we shall have an opportunity to pass the measure on its merits as a separate bill.

Mr. SEWARD. There was, Mr. President, it seems to me, some plausibility and some reason in the argument that there was an impropriety in placing indiscriminate appropriations, and vague or large appropriations for internal improvements upon this bill; but I think that objection is entirely removed in this case; because what is proposed as a single work, a necessary work, one indispensable to the inland commerce of the country, and which is itself the representative of a principle which commands the assent of all the interests that sustain that commerce. Regarding it of this importance, so far from agreeing with the honorable Senator from Missouri that it is right to reconsider for the purpose of striking out the appropriation, I shall vote against the reconsideration; and if it be reconsidered, and this amendment be stricken out, I shall then feel it to be my duty to vote against the bill, leaving every member of the Senate to take his own responsibility as well in regard to the passage of the bill as to the action of Congress on internal improvements.

The question being taken by yeas and nays on the motion to reconsider, resulted—yeas 31, nays 25; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Brown, Clay, Clingman, Davis, Fitch, Fitzpatrick, Green, Hammond, Hayne, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mason, Pearce, Polk, Reid, Rice, Sebastian, Sidel, Thomson of New Jersey, Toombs, Wright, and Yulee—31.

NAYS—Messrs. Bell, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Pugh, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—25.

So the Senate agreed to the reconsideration; and the question recurred on the following amendment of Mr. CHANDLER:

And he it further enacted, That \$54,037 be appropriated for completing the improvement of the channel over the St. Clair flats in the State of Michigan.

Mr. CHANDLER called for the yeas and nays; and they were ordered.

Mr. CHANDLER. I am very much surprised at the course pursued in regard to this proposition. It is almost in the language of a bill which passed the last Congress by a two-thirds vote over a presidential veto. It is an appropriation for the same purpose, and of about the same amount. That was for the commencement of this work; this is for its completion. It is supposed by some that it is a measure for Michigan. It is no such thing, sir. Michigan has less interest in the improvement of the St. Clair flats than almost any other northwestern State. Michigan has three parallel lines of railroad running through her borders, from lake to lake, on which nearly all her commerce passes, and lands below the St. Clair flats. This improvement is for the benefit of the whole country. Wisconsin has a thousand fold greater interest in it than Michigan; Illinois has an infinitely greater interest; and even Indiana is more concerned in it than Michigan.

I hold in my hand an official document, published by the last Congress—Executive Document No. 36, for the third session of the Thirty-Fourth Congress—in which some facts are given as to the commerce over the St. Clair flats. In

1855, the total value of the merchandise passing over those flats, according to custom-house statistics, was \$251,167,705, or \$1,092,000 for each day during the season of navigation in 1855. A very large proportion of this merchandise was of the cheaper descriptions, such as lumber, coal, and farm products; and it is well known that the cargoes of those cheap products do not equal the value of the hull carrying them, so that the actual commerce passing over the St. Clair flats in 1855 was about \$500,000,000, including the value of the hull and the cargoes. This vast commerce is being obstructed for the want of a little, paltry appropriation of \$54,037, or less than one fourth of one per cent. on the annual commerce that yearly passes over those flats.

Now, sir, shall this little appropriation, to complete a great national work, be stricken out for any paltry reason, or because it is not exactly appropriate to this bill? What appropriation for this Government is more properly in the bill than this identical appropriation for the improvement of the St. Clair flats? You can vote \$450,000 to survey the Atlantic coast, and find where there are sand-bars to be avoided; but yet, to accommodate the vast commerce on the lakes, you cannot appropriate \$54,037. I hope Senators will review their action in reconsidering this vote, and still retain this paltry appropriation in the bill. The report to which I have already alluded says:

"It is making no more than a reasonable allowance for the effect of the obstructions to commerce, now existing at the St. Clair flats, to say that, had that obstruction not existed, the value of the merchandise and produce that would have passed in 1855 would have been fully fifty per cent. more than it actually was; or that it would have amounted, during the navigable season of 1855, to \$376,751,538. This would have been an average per day of \$1,633,050."

This is more than twenty times the estimate of the cost of completing the work. The same official report says:

"The increase of the rates of freight, owing to the obstruction as it now exists, may be estimated at fully fifteen per cent., or annually the sum of \$2,064,276."

This is the actual expense that you put on the farmers of the West because you refuse to vote a paltry appropriation of \$54,000 to complete this work. I know that much is said as to the constitutionality of such appropriations. I should like to know in what clause of the Constitution of the United States you find the right to vote \$800,000 to supply the city of Washington with water? That appropriation is in this bill. When you find the clause in the Constitution to do that, you will find the right also to make this little appropriation which interests the whole Northwest. If the President has any constitutional scruples about signing a bill containing this appropriation, he can find authority for it in the same clause which authorizes you to vote \$800,000 for water-works for the benefit of a population of sixty thousand here in the city of Washington. I should like to pursue this argument a little further, but I have not the time to do so.

I have endeavored this winter to pass the St. Clair flats bill on its own merits. Five months ago, I introduced a bill making a sufficient appropriation to complete the work, and that bill was referred to the Committee on Commerce. I immediately went to the Department and obtained the maps, charts, surveys, and all necessary estimates for their information. Those papers lay in the hands of the committee more than three months without being opened. On the expiration of the three months, I introduced a resolution instructing the committee to report a bill granting sufficient money to complete the work. That resolution would have carried in its naked form; but an amendment was added which vitiated the whole effect of it. That was lost, and finally the committee reported a bill appropriating \$23,421 for preserving those works. I then introduced an independent bill, making an appropriation of the exact amount required to complete the work; but I have never been able to get action on it. There was always something to interfere with the consideration of that bill. Now, in the last few days of the session, I asked to have this small appropriation put on an appropriation bill in a proper way, and it is to be voted down. I want to have the yeas and nays upon it. I want to see who is friendly to the great Northwest, and who is not; for we are about making our last prayer here. The time is not far distant when, instead of coming here and begging for our rights, we shall ex-

tend our great hands and take the blessing. After 1860 we shall not be here as beggars. I hope my amendment will not be voted down, but will be reaffirmed.

Mr. TRUMBULL. The Senator from New Hampshire, Mr. CLARK, has paired off on this question with the Senator from Alabama, Mr. FITZPATRICK.

The question being taken by yeas and nays, resulted—yeas 24, nays 30; as follows:

YEAS—Messrs. Bell, Broderick, Cameron, Chandler, Collamer, Crittenden, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Pugh, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—24.

NAYS—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Brown, Clay, Clingman, Davis, Fitch, Green, Hammond, Hayne, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mason, Pearce, Polk, Reid, Rice, Sebastian, Sidel, Thomson of New Jersey, Toombs, Wright, and Yulee—30.

So the amendment was rejected.

Mr. COLLAMER. I rise to a privileged motion. I move to reconsider a vote; I do not wish the question taken now. It is on the amendment adopted on the motion of the Senator from Massachusetts, [Mr. WILSON,] in relation to disbursing agents. I wish that reconsidered.

The PRESIDING OFFICER. The motion will be entered.

Mr. MASON. I desire to renew an amendment which was offered in Committee of the Whole, but did not then prevail:

And he it further enacted, That all diplomatic and consular officers, who were appointed under the act entitled "An act to remodel the diplomatic and consular systems of the United States," approved March 1, 1855, shall have the same compensation during the time necessarily occupied in making the transit to and returning from their respective ports and while they were receiving their instructions, as is provided for diplomatic and consular officers in the eighth section of the act entitled "An act to regulate the diplomatic and consular systems of the United States," approved August 18, 1856: Provided, That the foregoing shall not be construed to apply to any diplomatic or consular officer who was in office and at his post of duty, when said act approved March 1, 1855, took effect, except to allow compensation to such officers during the time necessarily occupied in returning from their respective posts."

Mr. HUNTER. I rise to a point of order. Does not that give back pay? I think this very amendment was ruled out in Committee of the Whole.

Mr. MASON. It was offered in committee, and rejected by a very close vote. It was not ruled out, according to my recollection. The indorsement will show that it was rejected.

Mr. IVERSON. The point of order was made in committee by the Senator from New York, [Mr. KING,] and overruled by the present occupant of the Chair, [Mr. STUART,] and the question recurred on the amendment on the yeas and nays; and it was rejected. It is now offered again, and of course is in order. It is in order, because it makes future legislation. The point of order was overruled.

The PRESIDING OFFICER. The recollection of the Chair, though it would not be very strange if he did not recollect distinctly—was, that he ruled it in order on the ground that a portion of it was prospective, and that it was not divisible.

Mr. IVERSON. I offer a substitute for the amendment:

That all the diplomatic and consular officers who were appointed under the act entitled "An act to remodel the diplomatic and consular systems of the United States," approved March 1, 1855, shall have the same compensation during the time necessarily occupied in making the transit to and from their respective posts, and while they were receiving their instructions, as is provided for diplomatic and consular officers in the eighth section of the act entitled "An act to regulate the diplomatic and consular systems of the United States," approved August 18, 1856: Provided, That the above provision shall only apply to such diplomatic and consular officers who were appointed, or who proceeded to the post to which they were appointed, after the passage of said act of the 18th of August, 1856."

Mr. GREEN. I rise to a point of order. If the amendment undertakes to construe a law differently from the construction already put on it, it is legislation; if it does not undertake to do that, then it is void, and means nothing. The law now fixes their compensation from the time they assume their duties. I am not going to say they ought to be paid from the time they are appointed and are waiting instructions. I will not say it. That may be right; but the question I raise is, that the present law does not do that, and that this proposes to change the present law, and apply it to anterior appointments, which makes it amount in substance to a private bill.

Mr. IVERSON. The fact that it legislates, is no argument to show that it is out of order. Everything in the bill legislates. The proposition is to apply the provisions of another law to particular officers.

The PRESIDING OFFICER. The Chair thinks the amendment and substitute are in order.

Mr. GREEN. I take an appeal.

The PRESIDING OFFICER. The question is, "Shall the decision of the Chair stand as the judgment of the Senate?"

Mr. GREEN. On that question I desire to make one remark. I understand this amendment to say that consuls and diplomatic agents shall be paid from the date of their appointment, and while they are waiting instructions.

Mr. IVERSON. It does not do any such thing.

Mr. GREEN. Well, let it be read. I ask the Secretary to read it.

The Secretary read it.

Mr. GREEN. It is precisely as I construed it, with one single exception. It does not date from the time of the appointment, but from the time they were waiting their instructions. The law gives them their pay from the time they assume their duties. There is a vast difference. The law more than doubled the compensation. In a little bit of a post down in South America, which was \$4,500, they made it \$7,500. In England, which was \$9,000, they made it \$17,500.

Mr. MASON. But it took away the outfit and infinit.

Mr. GREEN. They took away the outfit and infinit. Before this law was passed there was an outfit of a full salary, and an infinit of half a salary.

Mr. MASON. And took away the allowance for clerks.

Mr. GREEN. It took away no allowance for clerks. The allowance for clerks is exactly now as it was then. I join issue with the Senator. Although it is a very small matter, I join issue, for there never was under the law an allowance for clerks from the year one in the history of this Government down to this day. Secretaries were allowed when they were named as such, but never a clerk—never in the history of the Government. When you passed this new consular and diplomatic bill, to the consuls you said: "We will take away the fees for receiving ships' papers, making clearances, presenting their manifests, discharging the vessels, and the reshipping of all the cargoes, and so on; we will take away all fees, and give you a salary." Consuls are not diplomatic agents, and never have any diplomatic power except under special instructions. Diplomatic agents had an outfit of a salary, and they had an infinit of half a salary. When the new law was passed, it more than doubled on the average all the salaries, in doing which Congress said: "We take away the outfit, we take away the infinit," and the argument made in the House of Representatives, and made in the Senate, and sanctioned by both Houses, was that the whole amount of expenditure would be less under the new bill than under the old. Very well. Whether that argument is right or wrong, I have nothing to say about it. Here comes a proposition to change the law, and say that their compensation shall commence from a time at which it would not commence under the existing law. Although it may be right—and on that it is not my privilege to speak, for this is a point of order—if you are giving them that which under the present law they are not entitled to, you are making them a gratuitous compensation, and it is a private claim. That is my whole point. I have stated it, and I will not extend it.

Mr. IVERSON. I shall not occupy five minutes.

Mr. BAYARD. Allow me to ask the Senator a question; whether the effect of either of these amendments is strictly retrospective? It is meant to bring persons within the law of 1856, who otherwise would not be within the law of 1856.

Mr. IVERSON. To some extent it is retrospective. I will state the whole case if the Senate will listen to me, and I will not occupy its time five minutes, to show that the Senator from Missouri is mistaken in the position he takes. He says that this amendment proposes to give salaries to diplomatic agents from the time they received their appointment. It does no such thing.

Mr. GREEN. I corrected that. I made that statement first, and when the amendment was read I changed it, and said from the time they were waiting instructions.

Mr. IVERSON. The amendment provides no such thing as that.

Mr. GREEN. Read it again, Mr. Secretary.

Mr. IVERSON. I will explain.

Mr. GREEN. I want it read, and then you can explain.

Mr. IVERSON. I have no objection to its being read.

The Secretary read the amendment.

Mr. IVERSON. The act of 1855, commonly called the Perkins consular act, provided, in the sixth and seventh sections:

"Sec. 6. That no envoy extraordinary and minister plenipotentiary, commissioner, secretary of legation, dragoman, interpreter, consul, or commercial agent, who shall, after the 30th day of June next, be appointed to any of the countries or places herein named, shall be entitled to compensation until he shall have reached his post and entered upon his official duties.

"Sec. 7. That the compensation of every envoy extraordinary and minister plenipotentiary, commissioner, secretary of legation, dragoman, interpreter, consul, and commercial agent, who shall, after the 30th day of June next, be appointed to any of the countries or places herein named, shall cease on the day that his successor shall enter upon the duties of his office."

There are two provisions which gave compensation only from the time the minister reached the place of his mission and entered on the discharge of his duties, and the compensation ceased from the time his successor came and superseded him. Now, the act of 1856, which was passed on the 18th of August, 1856, changes that provision, and the eighth section reads in these words. It reenacts one of the provisions of the act of 1855:

"That no person appointed after this act shall take effect—"

It is to take effect on the 1st day of January, 1857, by another clause.

—"to any such office as is mentioned in the first, second, third, sixth, or seventh sections of this act"—

Embracing the ministers and consuls.

—"shall be entitled to compensation for his services therein, except from the time when he shall reach his post and enter upon his official duties, to the time when he shall cease to hold such office"—

Precisely as under the act of 1855; but here comes additional legislation:

—"and for such time as shall be actually and necessarily occupied in receiving his instructions, not to exceed thirty days, and in making the transit between the place of his residence when appointed, and his post of duty at the commencement and termination of the period of his official service."

That is the law of 1856. Now, according to that, a minister is entitled to receive his pay while he is in the city of Washington receiving instructions, provided that time does not exceed thirty days, and is entitled to receive his pay for the time necessarily occupied in making the transit from his own home to the seat of Government to which he is accredited, and returning from that country to his home in the United States. That is the law of 1856, but it did not take effect until the 1st of January, 1857. The case in which I feel a personal interest, and which is embraced in the amendment I have offered to the amendment of the Senator from Virginia, is the case of the Minister at Mexico, Mr. Forsyth. He was appointed in July, 1856, only a few days before the passage of the act of 1856. He received his appointment at that time. He was directed by the President of the United States to come here from his home in Mobile, Alabama, to receive his instructions. He came here, and was here at the very time of the passage of the act of 1856 receiving his instructions. He proceeded to Mexico; at least, he attempted to go, but finding no steam conveyance, the steam line being broken up between New Orleans and Vera Cruz, he was detained until the month of October. In the mean time the Government was compelled to send him out by a revenue cutter because there was no other conveyance. This amendment simply places him in the condition of all the diplomatic agents who are affected by the act of 1856. It gives him pay for the time he was here receiving his instructions, not exceeding thirty days, and gives him pay for the time he occupied in going to Mexico from his home, and will give him pay for the time he will occupy in returning to the United States, neither of which he will be entitled to under the act of

1856. The act of 1856 limits the pay, and says any person appointed under it shall not have any pay except so and so. It is not, therefore, a private claim, because it gives compensation to him for the time hereafter to be expended by him in returning from Mexico, which, according to the law under which he was appointed, he would not be entitled to receive. Certainly it is competent for the Senate to legislate on that subject, and, as the Chair has properly decided, the question is indivisible, and the whole amendment must stand or fall as an entirety. There may be some consular agents affected by this provision; I do not know who they are; but the act of 1856 exhibited the fact that the Government intended to change the act of 1855, and instead of cutting out ministers from compensation for the time they actually spent in going to and returning from the Government to which they were accredited, it intended to give them compensation for that time. Is it not just that they should have it? Why should they be cut out of their salary for the time occupied in going to the seat of Government and coming back? Why should they be paid nothing for the time they were compelled to remain here by direction of the President in receiving their instructions? Is it not just and proper that they should all be put on the same footing?

Mr. BENJAMIN. I wish to ask the Senator from Georgia whether Mr. Forsyth is the only foreign minister who was appointed between the two laws?

Mr. IVERSON. It is the only case that I know of. There may be one or two consuls; but I am not aware that there are; and if so, there are only one or two, which are unimportant; but I know Mr. Forsyth is the only case of a minister. It is simply to place him on the same footing, because, although he was appointed before the act of 1856, he did not go out to Mexico until after the act was passed, and after the policy and design of Congress as to the compensation was changed.

Mr. GREEN. This is a very plain and simple proposition. The equity of the case that the Senator from Georgia presents, when he asks the question, "why should he not have as much as others?" is not the point before the Senate. The point before the Senate is a question of order—is it in order? The Chair says, "yes." I appeal from him, with all due respect, for I have a great deal of confidence in the parliamentary skill of the present occupant of the Chair; but the very presentation of the case, as made by the Senator from Georgia, shows it not to be in order. When this minister was appointed, the law fixed his compensation at a certain rate. Afterwards the law changed it; but that law did not take effect until 1857, before which he was a minister. That is all true. The proposition now is to make the law of 1857 reach back and apply to his case, because the equity of it is just as strong as—

Mr. IVERSON. But it reaches forward.

Mr. GREEN. Exactly. I understand both sides of the question. One is future, and one is retrospective, and all that is retrospective is illegal in its application as a present amendment to an appropriation bill. It is to grant a gratuity. Though it may be honorable, fair, just, and proper, yet why should you put the Minister to Mexico, in granting him what the Government owes him, on equity? It will not grant to David Myerle what it owes on principles of equity; and if I were to propose to amend, by adding to it that bill which is here pending for the relief of David Myerle, I should get a thousand attacks all round the Senate; and yet it is equitable, it is just, it is fair. This may be so; but it is a proposition to relieve Mr. Forsyth, to give him that which under the present law he is not entitled to, to make it reach back to a period at which it would not otherwise apply without this law. As such it is a private claim.

So far as the future application of the law is concerned, as to his infinit, his return compensation, it is a different question. I say nothing about that. "Sufficient unto the day is the evil thereof." That part of the amendment which is in violation of your rules, is in attempting to make his compensation commence at a period at which it did not commence under the law under which he was appointed, and for that very reason I say it is illegal, it is out of order, it is a private claim, it is a gratuity. It may be just, it may be proper, but it is in violation of the rule of the Senate. I

will not say that I will not vote for it if it comes as a private claim; but I say that it is an attempt, because it connects a thing that is in order with one that is not in order, to make them both in order, and for that very reason it is out of order.

Mr. IVERSON. To show that this has been held to be not out of order, I will read precisely a similar case. In 1855, the Senate had under consideration, in Committee of the Whole, the bill making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1856. To that an amendment was offered:

"That the Secretary of the Treasury pay to M. C. Perry, of the United States Navy, the extraordinary expenses incurred by him on his recent mission to Japan," &c. "And the Secretary of the Treasury is hereby directed to pay to Robert C. Schenk, as minister, full compensation while employed as such."

It also covered Pendleton's case. That was back pay. A point of order was raised there, and on the decision of the Senate, it was ruled in, and the amendment passed.

Mr. GREEN. We all know that.

Mr. BAYARD. I have no doubt there are precedents of this kind; but I think the amendment is out of order. Suppose it had been proposed naming the individual alone who has been mentioned by the honorable Senator from Georgia; can there be a doubt that that would be anything more than a private claim, whether urged as a gratuity, or as appealing to the sense of equity and justice of the Senate? I mean to make no objection otherwise than as a question of order. If it included only a single individual there could not be a doubt; can there be a doubt that it is a private claim because it chooses to classify that individual with others, and to apply to retrospective service a compensation which the parties are not entitled to under existing law? Whether it is on the ground of equity or the ground of legal right, you say the parties ought to receive this because the law was not broad enough to include them, and ought to have been broad enough; yet it is nothing but doing equity to the parties, and it is a private claim. If the rule of the Senate is right, you must maintain it altogether; and however proper it may be to make this compensation in a different form, it is not proper to attach it to an appropriation bill. If you admit it by evasion in one case, necessarily it will lead to others; and the contrivances of language will enable you to have constant debates in order to elude your own rule. Repeal the rule, if you choose; but, if you mean to adhere to it, do so in good faith.

Mr. CHANDLER. If this is to pass, I desire to move an amendment, that no foreign minister or diplomatic agent who shall have received his outfit shall receive the benefit of this provision.

The PRESIDING OFFICER. The Chair will say to the Senator, that, at this time, the amendment is not in order; there being an amendment to an amendment now pending.

Mr. CHANDLER. I hope the amendment will not prevail; for I understand it extends to those who have received their provision under the old compensation act.

Mr. HUNTER. I hope we shall decide the question of order. It is time we were closing up this bill. We are getting on very slowly.

The PRESIDING OFFICER. An amendment is proposed by the Senator from Georgia to provide "That all diplomatic and salaried consular officers who were appointed under an act entitled an act," &c. The effect of the amendment, as it appears on the face of it, is to increase the pay of those officers and to ante-date the increase of the pay. The Chair decides that that is not a private claim within the meaning of the rule. The Senator from Missouri appeals from that decision. The question is: "Shall the decision of the Chair stand as the judgment of the Senate?"

The question being put, the decision of the Chair was sustained.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Georgia to the amendment.

Mr. HUNTER. If we adopt this, we shall have to apply the principle to other officers who are not allowed to be paid until they get to their posts of duty. That is the case with Indian agents and Governors of Territories, and there are many other officers who come within this category.

Mr. IVERSON. They get their salaries from the time of appointment.

Mr. HUNTER. Not the Indian agents, I think.

The PRESIDING OFFICER put the question, and decided that the amendment to the amendment was rejected.

Mr. IVERSON. I call for a division. ["Too late."] I will state that my amendment is better than the amendment of the Senator from Virginia, for the reason that it restricts the operations of his amendment. My amendment only gives pay to those who have gone out since the passage of the law of 1856. I hope the Senate will indulge me in a division on my amendment, and then take the question on it instead of the amendment offered by the Senator from Virginia, from the Committee on Foreign Relations.

The PRESIDING OFFICER. If there be no objection, the Chair will divide the Senate on the amendment of the Senator from Georgia.

Mr. GREEN. I object.

Mr. IVERSON. Then I trust we shall adopt the amendment as reported by the Senator from Virginia, from the Committee on Foreign Relations. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 21; as follows:

YEAS—Messrs. Bell, Bigler, Bright, Broderick, Brown, Cameron, Clay, Dixon, Douglas, Fitch, Fitzpatrick, Hale, Hammond, Houston, Iverson, Mallory, Mason, Polk, Reid, Sebastian, Seward, Simmons, Thomson of New Jersey, Wright, and Yulee—25.

NAYS—Messrs. Allen, Chandler, Clingman, Collamer, Davis, Durkee, Fessenden, Foster, Hale, Harlan, Hayne, Hunter, Johnson of Arkansas, Johnson of Tennessee, King, Pearce, Pugh, Stuart, Wade, and Wilson—21.

So the amendment was adopted.

The PRESIDING OFFICER. The question now is on the motion of the Senator from Vermont, [Mr. COLLAMER,] to reconsider the vote adopting the amendment in regard to disbursing agents.

Mr. COLLAMER. I made the motion at the suggestion of the honorable Senator from Mississippi, [Mr. Davis;] but I think that I can explain what it is. The amendment provides that disbursing agents shall be dispensed with in a certain way, so that superintendents shall disburse the money appropriated for the erection of court-houses, custom-houses, and marine hospitals; and then it adds, "and all other public works." These other works—the erection of fortifications and barracks, the public buildings in this District, &c.—were not intended to be included at all. I desire to have it reconsidered for the purpose of striking out the words "and all other public works." If the gentleman from Mississippi desires more, he can say so.

Mr. DAVIS. I shall be content with that.

The motion to reconsider was agreed to.

Mr. COLLAMER. I move to strike out the words "and all other public works."

Mr. DAVIS. Then how will it read?

The Secretary read it, as follows:

"That the collectors of customs in the several collection districts be, and they are hereby and hereafter, required to act as disbursing agents for the payment of all moneys that are, or may hereafter be, appropriated for the construction of custom-houses, court-houses, post offices, marine hospitals, &c."

The motion to strike out was agreed to; and the amendment, as modified, was adopted.

Mr. SEWARD. I moved, in committee, an amendment in regard to the sale of public lands in Kansas Territory. I renew it now in the Senate; and ask for the yeas and nays on it. It is:

And be it further enacted, That the public lands in the Territory of Kansas shall not be offered at public sale until the expiration of one year from and after the 1st day of November next.

The yeas and nays were ordered.

Mr. HUNTER. I only want to remark that it ought to be an object of the Government to put as much of their public lands into market as they can, in order to meet the wants of the Government for the next fiscal year.

Mr. DIXON. I have paired off with the Senator from Georgia, Mr. Toombs, and ask to be excused from voting on this question.

The question being taken by yeas and nays, resulted—yeas 17, nays 29; as follows:

YEAS—Messrs. Broderick, Cameron, Chandler, Collamer, Durkee, Fessenden, Foot, Foster, Hale, Harlan, King, Rice, Seward, Stuart, Trumbull, Wade, and Wilson—17.

NAYS—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Brown, Clay, Clingman, Davis, Fitch, Fitzpatrick, Green, Hammond, Hayne, Houston, Hunter, Iverson, Johnson of

Arkansas, Johnson of Tennessee, Mallory, Pearce, Polk, Pugh, Reid, Sebastian, Slidell, Thomson of New Jersey, Wright, and Yulee—29.

So the amendment was rejected.

Mr. JOHNSON, of Arkansas. An omission has occurred in this bill, and I am instructed by the Committee on Public Printing to offer the following amendments:

For lithographing and engraving ordered by the Senate, during the present session, the sum of \$45,000.
For binding documents ordered to be printed by the Senate during the present session, the sum of \$40,000.

I will state to the Senate that this subject was before the Committee on Finance, and for want of any explanations in regard to it, as I understand, no appropriation was provided by them. My attention was called to it this morning, and I subsequently instituted some inquiries, and in reply I have received a letter which I will read to the Senate:

OFFICE SUPERINTENDENT PUBLIC PRINTING,
WASHINGTON, June 3, 1858.

SIR: I learn from the office of the Secretary of the Senate that no appropriation exists for engraving and lithographing and for binding of the extra numbers of documents ordered to be printed during the present session of the Senate. A very considerable quantity of work has already been ordered by the Senate, amounting, for lithographing and engraving, to the sum of about forty thousand dollars, and for binding extra numbers of documents to about twenty thousand dollars. A very considerable amount, I also understand, will be required for binding the reserved documents for the present session of the Senate. I would, therefore, recommend that appropriations be made as follows, namely:

For lithographing and engraving ordered by the Senate during the present session, the sum of \$45,000.

For binding documents ordered to be printed by the Senate during the present session, the sum of \$40,000.

Very respectfully, your obedient servant,
GEO. W. BOWMAN, Superintendent.

Hon. R. W. JOHNSON, Chairman Committee on Printing, United States Senate.

The first item is about five thousand dollars over what has already been ordered, and I presume presents a margin that will be entirely filled by orders that will be made even between now and the adjournment. For binding documents ordered to be printed by the Senate during the present session, the sum of \$40,000 is needed. About twenty thousand dollars of work of this sort has already been ordered by the Senate up to the time of this letter, and the binding of the reserved documents will amount to about as much more. It is not possible that we can do without this appropriation, unless we mean that the documents which have been ordered by Congress shall go without binding, and that the documents which require illustration shall go without illustrations. With this explanation I ask for the adoption of the amendments. I have explained them to some members of the Finance Committee, and I believe they concur in their necessity.

The amendments were agreed to.

Mr. BRIGHT. I have an amendment from the Committee on Finance:

To supply a deficiency in the appropriation for legislative and contingent expenses of Washington Territory for the fiscal year ending June 30, 1857, the sum of \$7,500, or so much thereof as may be necessary.

I will ask that a short letter I send to the Chair may be read. ["No, no."] If there is no objection, the letter need not be read.

The amendment was agreed to.

Mr. WILSON. I ask the unanimous consent of the Senate to make a change in an amendment moved by me, to carry out the amendment proposed by the Senator from Vermont, about disbursing officers. After "public works," the words "herein specified" ought to be added.

There being no objection, the amendment was so modified.

Mr. JOHNSON, of Tennessee. I wish to call the attention of the Senate to two amendments I indicated some time ago, one, striking out \$10,000 for the improvement of the Mall, and the other, \$750,000 for the extension of the wings of the Capitol. I move first to strike out the appropriation for the Mall, and I ask for the yeas and nays on the proposition.

The yeas and nays were ordered.

Mr. BROWN. I am not the author of that.

Mr. JOHNSON, of Tennessee. It is an amendment reported by the Committee on Finance.

Mr. BROWN. It rather belongs to the Committee on Public Buildings and Grounds. I think if there is any provision called for for public buildings and grounds in Washington, this is one, and

no one will fail to see it who will look at the present condition of the Mall.

The question being taken by yeas and nays, resulted—yeas 13, nays 30; as follows:

YEAS—Messrs. Bigler, Broderick, Clay, Fitzpatrick, Houston, Hunter, Iverson, Johnson of Tennessee, Polk, Pugh, Reid, Trumbull, and Wilson—13.

NAYS—Messrs. Allen, Bell, Benjamin, Bright, Brown, Cameron, Clingman, Davis, Douglas, Durkee, Fessenden, Fitch, Foot, Foster, Green, Gwin, Hammond, Hayne, Johnson of Arkansas, Mallory, Mason, Pearce, Rice, Sebastian, Seward, Simmons, Stuart, Thomson of New Jersey, Wade, and Yulee—30.

So the amendment was rejected.

Mr. JOHNSON, of Tennessee. I move now to strike out the appropriation of \$750,000 for the extension of the Capitol; and I call for the yeas and nays.

Several Senators. Oh, no.

Mr. JOHNSON, of Tennessee. Give us a record, gentlemen; do not be afraid.

Mr. BENJAMIN. Nobody is afraid to vote on these things; but they have been voted on a thousand times. There are a dozen records.

Mr. JOHNSON, of Tennessee. A motion has not been made to strike it out this session.

Mr. BENJAMIN. But we have had a hundred records about it.

Mr. JOHNSON, of Tennessee. It will not hurt to make another.

Mr. BENJAMIN. It will consume public time.

Mr. JOHNSON, of Tennessee. Others have consumed as much public time as I have.

The question being taken by yeas and nays, resulted—yeas 3, nays 43; as follows:

YEAS—Messrs. Johnson of Tennessee, Polk, and Pugh—3.

NAYS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Bright, Broderick, Brown, Cameron, Clay, Clingman, Collamer, Crittenden, Davis, Durkee, Fessenden, Fitch, Fitzpatrick, Foot, Foster, Green, Gwin, Hammond, Harlan, Houston, Hunter, Iverson, Mallory, Mason, Pearce, Reid, Rice, Sebastian, Seward, Simmons, Sidel, Stuart, Thomson of New Jersey, Trumbull, Wade, Wilson, Wright, and Yulee—43.

So the amendment was rejected.

Mr. YULEE. I ask the Senate to allow the vote to be taken on the amendment I offered with respect to the fees of the Patent Office. I hope the chairman of the Committee on Finance will accept it. It has been already read, and I presume it will be unnecessary to have it read again. It is understood by Senators.

The PRESIDING OFFICER, (Mr. STUART.) Does any Senator desire the reading of the amendment?

Several Senators. Yes, sir.

The Secretary read it as follows:

Sec. — And be it further enacted, That so much of the laws now in force as fix the rates of the Patent Office fees are hereby repealed, and in their stead the following rates are established: On filing each caveat, ten dollars; on filing each original application for a patent, except for a design, twenty dollars; and on the issuing of the patent, ten dollars in addition; on every appeal from the examiners in-chief to the Commissioner, twenty dollars; on every application for a patent for a design, fifteen dollars; on every application for the reissue of a patent, thirty dollars; on every application for the extension of a patent, fifty dollars; on filing each disclaimer, ten dollars; for all certified copies, fifteen cents per hundred words; for recording every assignment or other writing, of three hundred words or under, one dollar; for recording every assignment or other writing, over three hundred and under one thousand words, two dollars; for recording every assignment or other writing, if over one thousand words, three dollars; for copies of drawings, the reasonable expense of making the same.

Mr. BENJAMIN. I will appeal to the Senator from Florida to withdraw his amendment. We cannot discuss such an amendment as this on an appropriation bill. Here is a whole new system for the Patent Office. If the amendment is pressed, it will be but keeping us here uselessly.

Mr. YULEE. The Senator was not present, I suppose, when it was before the Senate on a former occasion. I presume there will not be objection to it.

Mr. FESSENDEN. Everybody is against it. We cannot act on it now.

Mr. YULEE. I will not force it on the Senate if that is the sense of the Senate; I withdraw it.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time.

Mr. PUGH. I was one of a glorious minority of three a while ago; and I am willing to be one of another minority; and I call for the yeas and nays on the final passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 35, nays 13; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Bright, Broderick, Brown, Clay, Clingman, Davis, Douglas, Fessenden, Fitch, Fitzpatrick, Foot, Foster, Green, Gwin, Hammond, Houston, Hunter, Iverson, Kennedy, Mallory, Mason, Pearce, Polk, Reid, Rice, Sebastian, Stuart, Thomson of New Jersey, Wright, and Yulee—35.

NAYS—Messrs. Cameron, Chandler, Doolittle, Durkee, Hamlin, Harlan, Johnson of Tennessee, King, Pugh, Seward, Trumbull, Wade, and Wilson—13.

So the bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had concurred in the amendments of the Senate to the following bills and joint resolution:

An act (H. R. No. 152) authorizing the President of the United States, in conjunction with the State of Texas, to run and mark the boundary lines between the Territories of the United States and the State of Texas;

An act (H. R. No. 300) declaring the title to land warrants in certain cases; and

A resolution (H. R. No. 26) authorizing the arrangement and disposal of public buildings in the city of Philadelphia.

The message further announced that the House had passed the bill of the Senate (S. No. 297) to extend an act entitled "An act to continue half pay to certain widows and orphans," approved February 3, 1852.

Also, that the House had concurred in the Senate resolution for the extension of the session, with an amendment.

NAVY APPROPRIATION BILL.

Mr. HUNTER. I now move to take up the Navy appropriation bill.

Mr. GREEN. I move that the Senate proceed to the consideration of executive business.

Mr. HUNTER. I shall not object to that motion after we take up the Navy bill, so that we may adjourn on it, and thus make it the special order for to-morrow.

Mr. GREEN. There is a great deal of executive business that we must transact.

Mr. HUNTER. Let us take up the appropriation bill first, and then we can transact that business.

The motion of Mr. HUNTER was agreed to; and the Senate, as in Committee of the Whole, took up the bill (H. R. No. 199) making appropriations for the naval service for the year ending the 30th of June, 1859.

ENROLLED BILLS SIGNED.

A message from the House of Representatives by Mr. ALLEN, its Clerk, announced that the Speaker had signed the following enrolled bills and joint resolutions; and they were signed by the Vice President:

An act confirming locations of land warrants under certain circumstances;

An act for the relief of the heirs or legal representatives of Richard D. Rowland, deceased, and others;

A resolution devolving upon the Secretary of War the execution of the act of Congress entitled "An act supplemental to an act therein mentioned," approved December 22, 1852;

A resolution for the benefit of the widow of Commander William Lewis Herndon;

An act to extend an act entitled "An act to continue half pay to certain widows and orphans," approved February 3, 1853;

An act for the relief of D. O. Dickinson;

An act for the relief of Samuel W. Turner and Alonzo A. Turner;

An act declaring the titles to land warrants in certain cases;

A joint resolution authorizing the arrangement and disposal of public buildings in the city of Philadelphia; and

An act to continue the pension heretofore granted to Mary C. Hamilton, widow of the late Captain Fowler Hamilton, of the United States Army.

EXECUTIVE SESSION.

Mr. HUNTER. Now, I will agree to an executive session.

Mr. GREEN. I make that motion.

Mr. DOOLITTLE. Before that motion is put, I hope the honorable Senator will allow me to

call up the resolution of the Senate fixing the final adjournment, which has come back to us from the House with an amendment, which ought to be disposed of. I simply wish to say—

Mr. HUNTER. We can dispose of that to-morrow.

Mr. DOOLITTLE. I wish to say but a single word. If Thursday is to be fixed as the day of adjournment, it may guide us a little in the length of time occupied in debating questions by fixing it at once. It is very important to have the date fixed, so that we may remember it in the discussion of questions.

The PRESIDING OFFICER. On a motion to go into executive session, debate is not in order.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, June 3, 1858.

The House met at eleven o'clock, a. m. Prayer by Rev. W. H. CHAPMAN.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, containing estimates of appropriations for fulfilling treaty stipulations with the Pawnees; which was referred to the Committee of Ways and Means, and ordered to be printed.

TITLE TO LAND WARRANTS.

Mr. KELSEY. I ask the unanimous consent of the House to take up from the Speaker's table bill (H. R. No. 300) declaring the title to land warrants in certain cases, which has been returned from the Senate with amendments. The amendments are merely verbal, except that the Senate have inserted the words "or legatees" after the word "heirs;" so that a will made by a person entitled to a land warrant will pass the title to the warrant.

The SPEAKER. The Chair would suggest that there are three bills on the Speaker's table returned from the Senate with amendments which can be disposed of in a very few minutes.

Mr. DAVIS, of Mississippi. I object.

Mr. KELSEY. I move to suspend the rules.

DELEGATE FROM MINNESOTA.

The SPEAKER. The motion cannot now be entertained, as there is a privileged question pending. The business first in order is the consideration of the report of the Committee of Elections, on the right of W. W. Kingsbury to a seat, as Delegate from the Territory of Minnesota; and the pending question is the motion of the gentleman from New York [Mr. KELSEY] to lay the report and resolutions upon the table.

Mr. KELSEY. I hope the gentleman from Mississippi will withdraw his objection.

Mr. DAVIS, of Mississippi. I have been endeavoring to get the floor this morning, because I wish to present to the House what I think is a privileged question, although I am not familiar with the rules of the House. It will take but a moment.

The SPEAKER. The matter now pending before the House is a question of privilege, and cannot be superseded by another question of privilege.

Mr. DAVIS, of Mississippi. This proposition would take but a moment. I am not disposed to be captious; but I want it to be distinctly understood that if I cannot have my privileges here, I shall interpose objections to everything that comes before the House.

The SPEAKER. The gentleman from Mississippi is not in order.

Mr. KELSEY. I desire to propound a question to the Chair. I desire to know whether the gentleman who has occupied a seat as Delegate from the Territory of Minnesota, will retain his seat as such Delegate if the resolutions are all laid upon the table?

The SPEAKER. The resolution referring the subject to the Committee of Elections, provided that the committee be authorized to inquire into, and report upon, the right of W. W. Kingsbury

to his seat upon this floor as Delegate from that portion of the Territory of Minnesota outside of the State limits, and that in the mean time no person should be entitled to occupy a seat as Delegate from the said Territory. The Chair is of opinion that when the committee submitted a report to the House the proviso ceased to operate, and the Chair, following the precedents, without intimating whether the Chair thinks the precedents right or wrong, would recognize the Delegate from Minnesota.

Mr. CLARK B. COCHRANE. Then I hope the motion to lay on the table will be withdrawn.

Mr. KELSEY. Under that intimation from the Chair, I desire to withdraw the motion to lay on the table, and demand the previous question, which, I suppose, would bring us to vote first on the proposition of the gentleman from Indiana, [Mr. HUGHES,] then on the proposition of the minority of the committee, and then on the resolution of the majority.

Mr. JOHN COCHRANE. I renew the motion to lay the whole subject upon the table.

Mr. JONES, of Tennessee. Do I understand the Chair to say that if the report and resolutions are laid upon the table, the Delegate from that country out there, who recently represented the Territory of Minnesota, will be entitled to a seat upon this floor?

The SPEAKER. The Chair would recognize him.

Mr. JONES, of Tennessee. Believing that there is no Territory there which can be properly represented in this House, I hope the resolutions will not be laid on the table.

Mr. CURTIS. If we lay this subject upon the table, will the Chair recognize Mr. Kingsbury as Delegate any longer than this session?

The SPEAKER. Following the precedents upon the subject, the Chair will be under the necessity of recognizing him till the close of this Congress.

Mr. MAYNARD. What will be the effect, if the subject is not laid on the table, but the resolutions of the majority and minority are voted down?

The SPEAKER. That will leave the report still before the House, and it will be competent to offer any resolution disposing of the subject.

Mr. MAYNARD. In that case would the Chair still recognize the Delegate?

The SPEAKER. He would; because the action of the House upon the subject would be negative, and he would be compelled to follow the precedents upon the subject.

Mr. CLARK B. COCHRANE. Would the Chair regard the action of the House, laying this subject on the table as equivalent to declaring that Mr. Kingsbury was entitled to a seat?

The SPEAKER. The Chair has already stated what would be his ruling in that contingency.

Mr. CLARK B. COCHRANE. Has the previous question been called?

The SPEAKER. It has; but the first question is on the motion of the gentleman from New York [Mr. JOHN COCHRANE] to lay the whole subject on the table.

Mr. CLARK B. COCHRANE. I hope that motion will not prevail.

The SPEAKER. There are two motions pending, neither of which is debatable. The Chair cannot indulge the discussion any longer.

Mr. LETCHER. Was the amendment offered by the gentleman from New York received?

The SPEAKER. It was.

Mr. LETCHER. Is it still pending?

The SPEAKER. It is.

Mr. HARRIS, of Illinois. I hope the gentleman from New York will withdraw the motion to lay on the table. I think the House ought to decide this matter one way or the other.

Mr. STANTON. I understand the Speaker to say, that if the subject should be laid on the table he would recognize the Territory of Minnesota as an existing territorial organization, entitled to a Delegate, and that he will treat the sitting Delegate as the Delegate for this Congress. That is all I desire to accomplish. I do not care which gentleman sits here as Delegate, and I hope, therefore, that the report will be laid on the table.

The motion to lay on the table was not agreed to.

The question then recurred on seconding the demand for the previous question.

Mr. MAYNARD. I should like to offer an amendment to the resolution under consideration.

The SPEAKER. An amendment would not be in order while the demand for the previous question is pending.

The previous question was seconded, and the main question ordered to be put.

Mr. HARRIS, of Illinois. I do not desire to occupy many minutes in discussing this question. The report of the committee presents nearly all I desire to say in respect to the right of Mr. Kingsbury to a seat upon this floor as Delegate. I only desire to make a remark in reply to some of the views presented yesterday. They were rather statements than arguments. In the first place it is contended by some gentlemen that the admission of a State formed out of a part of a Territory, abrogates or repeals the law organizing the Territory. Such has not been the practice under this Government heretofore.

Mr. JONES, of Tennessee. I should like to inquire of the gentleman from Illinois, whether the gentleman now claiming a seat lives within the Territory which he now proposes to represent?

Mr. HARRIS, of Illinois. I have already replied to that question once; but I will answer again that I do not know and do not care whether he lives there or not—all I know is, that Mr. Kingsbury represents upon this floor, and has from the commencement of this session, the Territory of Minnesota; that the Territory of Minnesota does still exist; that it is so recognized by the Executive, and so recognized by the precedents which have been settled by this House, and it is not now questionable whether we can annul it by withdrawing the Delegate from this floor.

Mr. UNDERWOOD. The honorable gentleman from Illinois does not answer the question as propounded by the honorable gentleman from Tennessee. I understood, in the course of certain statements made yesterday, that neither of the gentlemen now claiming seats as the representatives of that part of the Territory of Minnesota, outside the State limits, has resided in that part of the Territory. If I am misinformed on this subject, I shall be glad to be corrected by any gentleman now present. I see one gentleman from Minnesota [Mr. CAVANAUGH] in his seat, and perhaps he can give us information on the subject.

Mr. HARRIS, of Illinois. I can meet the whole inquiry in its length and breadth. At the time the Delegate from Minnesota came here there was no State of Minnesota, and a residence in any part of the Territory was sufficient. The admission of a State formed out of a part of what then constituted the Territory of Minnesota, leaves it, in my opinion, a matter of election of the parties to recognize their residence in whatsoever part they please. Such has been the precedent heretofore in similar cases. I think the precedent is a correct one. It does not matter whether the parties lived inside of what is now the Territory of Minnesota, or in what was the Territory of Minnesota when they were elected. They were elected by the people of the whole Territory; they have the right to represent the people of the whole Territory, and the right to represent the people of each part of the Territory; and so long as a part of the Territory exists in its territorial condition, under the act organizing that Territory, it is entitled to be heard in this House by a Delegate here. There is nothing in the law creating the Territory, or in any law that I have seen which requires that a Delegate should be a resident of the Territory from which he comes. The law simply provides that the Territory shall be entitled to have a Delegate in Congress. Such an opinion may have existed by analogy supposed to exist between the requirements in respect to a Territory and those of a State. But, sir, there is no reason for such analogy, and such a requirement has never been made by any law of Congress. It would not be competent, in my opinion, for the House to undertake to put such a construction upon the law.

Mr. LETCHER. I know nothing about the facts in the case; but I desire to know whether an election was ever held in the Territory outside of the State limits for a Delegate to Congress?

Mr. HARRIS, of Illinois. I will reply to the gentleman that an election was held on the 13th of October last, a day fixed by law for the election of a Delegate to this House from the whole Territory.

Mr. LETCHER. That was under the Territory of Minnesota, as it then existed.

Mr. HARRIS, of Illinois. Under the territorial law of Minnesota.

Mr. LETCHER. And, under that law, the people outside held that election for member of Congress.

Mr. HARRIS, of Illinois. The people outside voted for a Delegate to Congress; and they voted outside, as well as inside, the State limits.

Mr. LETCHER. What was the state of the vote as between the two?

Mr. HARRIS, of Illinois. It is not given in its aggregate. The certificate of the Secretary of the Territory, which was read yesterday, shows that the vote was two hundred for Mr. Kingsbury; and there is a written statement of another officer of the Territory, who resided on the Missouri river, outside of the State limits, showing that Mr. Kingsbury received the entire vote of the precinct where he voted.

Mr. LETCHER. Was that in Dacotah or Minnesota?

Mr. HARRIS, of Illinois. It was in Minnesota. We do not know such a Territory as the Territory of Dacotah. It was outside the State limits of Minnesota, and in what is called Dacotah.

Mr. WASHBURN, of Illinois. Did not the other party receive votes outside of the Territory; and a larger number than Mr. Kingsbury?

Mr. HARRIS, of Illinois. It is stated that Mr. Fuller did receive votes outside of the Territory. The number of votes he received I do not know; nor can it be said by any one upon this floor, so far as I know, that Mr. Fuller received more than Mr. Kingsbury, or Mr. Kingsbury more than Mr. Fuller. The votes which were cast for Mr. Kingsbury were cast in conformity with law, before the proper officers authorized to receive them, and to make the returns. They did make the returns to the proper officer. They were canvassed by the Governor, the Secretary of the Territory, and the officers appointed to canvass the votes. The returns were made; and Mr. Kingsbury was declared the Delegate from the Territory. He came here under the operation of that law, and the result of the election, and occupied a seat without question until the admission of the State. It is entirely unnecessary to inquire into the number of votes Mr. Fuller received, because he received no votes cast in conformity with any existing law. There is no certificate from the functionary authorized to send certificates of election to this House that he ever received a vote. A paper was read here yesterday purporting to be from the President of the Board of County Commissioners of Midway county, Dacotah Territory, stating that Mr. Fuller had received a certain number of votes. It was verified by a seal of Dacotah Territory, or a picture representing it. There is no such Territory as Dacotah Territory; and the very fact that these officers, who assume to be returning officers, attached to their seal a territorial designation, which does not exist by law, unknown to law, is a piece of presumption and a piece of impertinence which ought not to be recognized for a moment. There is no such Territory as Dacotah; and it is time enough to receive certificates from officers of the Territory of Dacotah, when such Territory is organized.

Mr. WILSON made a remark here which was not heard at the reporters' desk.

Mr. HARRIS, of Illinois. Whatever officers there are outside of the present State of Minnesota hold their offices by the appointment of Governor Medary, as the Governor of the Territory; all the justices of the peace, all the executive officers, except, perhaps, in this county of Midway where there may have been an election for officers. I do not know how that is; it is a matter of no sort of consequence. They seem there to have gotten up, for their own uses and purposes, a Territory which they call the Territory of Dacotah, and they want us to recognize it, when, in fact, the law recognizes the Territory of Minnesota, extending over and operating upon that very Territory. I prefer to follow the directions which the law gives, and to recognize the Delegate who came here through the forms of law to taking any Delegate who comes here with such papers as are presented by Mr. Fuller.

Mr. WASHBURN, of Maine. It seems to me that this question lies in a nutshell. We are

simply to inquire whether there is now existing the Territory of Minnesota. If the Territory of Minnesota is not in existence, if it was absorbed or destroyed by the admission of the State of Minnesota, then there is no Delegate here; but if there is such a Territory now in existence, then there is a Delegate from that Territory, and it is the Delegate who was originally elected. If the Territory was destroyed, then there is no territorial organization; and upon the precedents in the case of Carr, who came from New Mexico in 1848; in the case of Babbet, who came from Utah, in 1848; and in the case of the Delegate who came from Kansas before it was organized; there is no Delegate here.

Mr. HARRIS, of Illinois. My friend from Maine says that this matter is in a nutshell. It is a very large nut, according to his statement. The gentleman has presented the case strongly. I presented the case in that way yesterday, and it was only in view of the point that because Mr. Fuller received a certain number of votes of the people residing there, he ought to be received rather than Mr. Kingsbury, who is the legally-elected Delegate of the Territory, that I have said what I have. If there is a Territory of Minnesota in existence, (and that there is, the law declares,) then Mr. Kingsbury is the Delegate properly elected from that Territory, and entitled to a seat here.

Mr. JONES, of Tennessee. Here is the act organizing the Territory of Minnesota, which declares that,

"From and after the passage of this act all that part of the territory of the United States which lies within the following limits, to wit," &c.

It goes on to give the boundaries of what shall constitute the Territory of Minnesota. Now, you have admitted as a State nearly all of this Territory, and the law says that it shall require all of it to constitute the Territory of Minnesota. Can a Territory exist there when you have admitted as a State that which the law requires shall constitute the Territory? I take it that there is no Territory, and nobody entitled as Delegate to a seat here.

Mr. HARRIS, of Illinois. If Congress creates a Territory of one hundred thousand square miles area, and subsequently makes a State out of twenty-five thousand square miles of it, leaving seventy-five thousand square miles of the original area outside of the portion admitted into the Union, with a population scattered over it, and with the existing institutions of counties and towns, I ask if it is legal, if it is consistent, to hold that the admission of the one fourth abrogates and nullifies the laws as to the other three fourths, and deprives the people of their right to have represented here, by a Delegate, the important interests connected with the public lands, with their intercourse with the Indian tribes, and with everything that would render life desirable? And to do that, too, by the merest, wildest implication in the world! Not a word in the act contemplates such a thing. The precedents from the beginning of the Government down do not sanction such a thing, and the House certainly ought not to sanction it now.

Mr. CLARK B. COCHRANE. I desire to ask the gentleman whether, if he were right, it would not follow, as a necessary, legal, logical conclusion, that all the Federal officers of the Territory of Minnesota might go back to the wilderness, organize a new Government, and hold their respective offices?

Mr. HARRIS, of Illinois. The gentleman begs the question. He proposes to ask if officers could not move back and organize a Territory, while the Territory is already organized under the law. The officers have been heretofore recognized as being in office. It was so in the case of Minnesota, after the admission of Wisconsin. It was so in the case of the Northwest Territory, after the admission of Ohio. The Territory was recognized as in existence, after the admission of a State formed out of part.

Now, as to the inquiry propounded by the gentleman from Tennessee, [Mr. JONES.] He undertakes to draw a distinction as to the area of the Territory that may be included in the State. That does not affect the principle. If the admission of one fourth or one tenth does not annul the law and destroy the existence of a Territory, then the admission of nine tenths does not do it. You

must repeal your law by the same power which enacted it, or it still stands upon your statute-book.

Mr. JONES, of Tennessee. If the gentleman will permit me: I think the reverse has been the history of the action of Congress on that subject. The Northwest Territory was formed of all the territory of the United States northwest of the Ohio river. When Ohio was about to be admitted as a State, the Territory of Indiana was organized by act of Congress. Subsequently, the Territory of Illinois was organized; subsequently that of Michigan, and subsequently that of Wisconsin; and finally, the remaining fraction of that Territory was included within the Territory of Iowa. If I am right in my recollection of it, Congress never, on the admission of a Territory as a State, recognized, in the Northwest Territory, a Territory under the organization under which a portion had been admitted as a State.

Mr. HARRIS, of Illinois. The gentleman is partly right, and partly wrong. He is right in saying that Territories were organized by law after the admission of the States respectively; but he is wrong in saying that the original Territory in existence was abrogated by the admission of a State. I stated yesterday, in my argument, the fact that the Delegate from the Territory northwest of the Ohio, who was elected after the admission of the State of Ohio, from the Territory west of the Ohio river, was received, and admitted to a seat on the floor of the House, showing that the House had recognized the existence of the Territory northwest of the Ohio river as entitled to a Delegate. I stated also yesterday the fact that the territorial officers of the Territory of Minnesota were continued, and a Delegate, elected after the admission of the State of Wisconsin, was admitted to a seat in the House. Judicial officers have been uniformly continued in office. All the laws passed by the Territory have continued in full force over all parts of the Territory, after the admission of the State. There is not a solitary departure from that principle—not one. Then, sir, under the provision of law, under the uniform practice of the House, I claim that the committee are right in their conclusions—that the Territory of Minnesota does exist; that it is entitled to a Delegate under the law creating it; that the Delegate has been already admitted to his seat here, and that he ought not to be ousted from it. This, Mr. Speaker, is all I desire to say on the subject. And now let the House take action upon it.

The question was first on Mr. HUGHES's amendment to the amendment, as follows:

Strike out all after the word "that" in the amendment, and insert as follows:

—the admission of the State of Minnesota into the Union with the boundaries prescribed in the act of admission operates as a dissolution of the territorial organization of Minnesota; and that so much of the late Territory of Minnesota as lies without the limits of the present State of Minnesota, is without any distinct, legally-organized government, and the people thereof are not entitled to a Delegate in Congress until that right is conferred upon them by statute.

The yeas and nays were demanded and ordered. The question was taken; and it was decided in the affirmative—yeas 102, nays 80; as follows:

YEAS—Messrs. Abbott, Adrain, Anderson, Atkins, Avery, Barksdale, Billingshurst, Bishop, Blair, Bocock, Bonham, Branch, Bratton, Buffinton, Burnett, Caskey, Ezra Clark, John B. Clark, Clay, Clemens, Cobb, Clark B. Cochrane, Comins, Coming, James Craig, Crawford, Curry, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dean, Dick, Dowdell, Durfee, Edie, Edmundson, Eustis, Gartrell, Gilmer, Goode, Gregg, Robert B. Hall, Harlan, Hill, Houston, Howard, Hughes, Huyler, Jackson, George W. Jones, J. Glancy Jones, Owen Jones, Kelsey, Knapp, Jacob M. Kunkel, Leiter, Leitcher, McClay, McQueen, Maynard, Miller, Milson, Mott, Murray, Nichols, Parker, Pettit, Peyton, John S. Phelps, Pike, Potter, Purviance, Ready, Ricard, Ritchie, Robbins, Rufin, Sandidge, Savage, Seales, Seward, Henry M. Shaw, Shorter, Singleton, William Smith, Spinner, Stallworth, William Stewart, Tappan, Thayer, Thompson, Tripp, Underwood, Wade, Cadwalader C. Washburn, Elihu B. Washburne, Whiteley, Woodson, Wortendyke, and John V. Wright—102.

NAYS—Messrs. Ahl, Andrews, Arnold, Bingham, Bliss, Boyce, Burlingame, Burns, Case, Cavanaugh, John Cochrane, Cockrell, Coffax, Cox, Cragin, Curtis, Davidson, Davis of Maryland, Davis of Indiana, Dawes, Dimmick, Dodd, English, Farnsworth, Faulkner, Fenton, Florence, Foley, Foster, Gillis, Gilman, Gooch, Granger, Groesbeck, Grow, Lawrence W. Hall, Thomas L. Harris, Hawkins, Heard, Horton, Kellogg, Kelly, Lowry, Humphrey Mar, Isaac N. Morris, Morgan, Morrill, Niblack, Palmer, Pendleton, William W. Phelps, Phillips, Quitman, Reagan, Reilly, Royce, Russell, Scott, Searing, Aaron Shaw, John Sherman, Robert Smith, Stanton, Stephens, Stevenson, Talbot, Tompkins, Vallandigham, Walbridge, Waldron, Walton,

Israel Washburn, White, Wilson, Wood, and Augustus R. Wright—80.

So the amendment was agreed to.

Pending the vote, Mr. BARKSDALE stated that Mr. Hopkins was absent on business, at the request of the Committee on Foreign Affairs.

Mr. JEWETT stated that if he had been in when his name was called, he would have voted "no."

Mr. HUGHES moved to reconsider the vote by which the amendment to the amendment was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The question then recurred on substituting the amendment, as amended, for the original proposition; and it was agreed to.

The question recurred on the proposition as amended.

Mr. HARRIS, of Illinois. I move to lay the whole subject on the table; and on that I ask the yeas and nays. I think this is a perfect monstrosity, and against the whole practice of the Government.

Mr. WASHBURNE, of Illinois. I ask what would be the effect of that motion? If it were carried, would it allow the Delegate from Minnesota a seat here?

The SPEAKER. In the opinion of the Chair, it would.

Mr. LETCHER. Would the Chair still recognize the gentleman claiming to be the Delegate?

The SPEAKER. The Chair would do so.

Mr. LETCHER. Then I hope it will not be laid on the table.

Mr. DAVIDSON. I object to debate.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 53, nays 128; as follows:

YEAS—Messrs. Ahl, Andrews, Arnold, Bishop, Bliss, Boyce, Burlingame, Cavanaugh, John Cochrane, Cockrell, Cox, Curtis, Davidson, Davis of Indiana, Dimmick, Dodd, English, Eustis, Florence, Foley, Gillis, Granger, Groesbeck, Grow, Thomas L. Harris, Hawkins, Huyler, Kellogg, Kelly, Landy, Lovejoy, Morgan, Niblack, Pendleton, William W. Phelps, Phillips, Reagan, Reilly, Royce, Russell, Aaron Shaw, John Sherman, Robert Smith, Stanton, Stephens, Stevenson, Talbot, Vallandigham, Walbridge, Waldron, Israel Washburn, White, and Wood—53.

NAYS—Messrs. Abbott, Adrain, Anderson, Atkins, Avery, Barksdale, Billingshurst, Bingham, Blair, Bocock, Bonham, Bowie, Branch, Bratton, Buffinton, Burnett, Case, Caskey, Chaffee, Ezra Clark, Horace F. Clark, John B. Clark, Clawson, Clay, Clemens, Cobb, Clark B. Cochrane, Coffax, Comins, James Craig, Crawford, Curry, Davis of Maryland, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dean, Dick, Dowdell, Durfee, Edmundson, Farnsworth, Fenton, Foster, Garnett, Gartrell, Gilman, Gilmer, Gooch, Goode, Goodwin, Gregg, Robert B. Hall, Harlan, Hatch, Hill, Hoard, Horton, Houston, Howard, Hughes, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keltz, Kelsey, Kilgore, Knapp, Jacob M. Kunkel, John C. Kunkel, Leiter, Leitcher, McClay, McQueen, Mason, Matteson, Maynard, Miller, Milson, Moore, Morrill, Edward Joy Morris, Mott, Murray, Nichols, Palmer, Parker, Pettit, Peyton, John S. Phelps, Pike, Potter, Purviance, Quitman, Ready, Ricard, Ritchie, Robbins, Rufin, Sandidge, Savage, Seales, Seward, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, William Smith, Spinner, William Stewart, Tripp, Underwood, Wade, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Whiteley, Wilson, Woodson, Wortendyke, and John V. Wright—128.

So the motion was not agreed to.

The original resolution, as amended, was then adopted.

Mr. HUGHES moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, their Secretary, informing the House that the Senate had passed a resolution (S. No. 50) authorizing the President to designate a site for the equestrian statue of Washington and for other purposes, in which he was directed to ask the concurrence of the House.

Also, that the Senate has passed, without amendment, a bill of the House (No. 446) for the relief of D. O. Dickinson.

Also, that the Senate had disagreed to the amendments of this House to the bill of the Senate (No. 227) authorizing the organization of a fire department in the District of Columbia.

Also, that the Senate had adopted a resolution changing the day of the adjournment of Congress.

ENROLLED BILLS AND RESOLUTIONS.

Mr. PIKE, from the Committee on Enrolled Bills, reported as truly enrolled the following bills and resolutions; when the Speaker signed the same:

An act confirming the location of land warrants under certain circumstances;

An act for the relief of the heirs or legal representatives of Richard D. Rowland;

A resolution devolving upon the Secretary of War the execution of the act of Congress entitled "An act supplemental to an act therein mentioned," approved December 22, 1854; and

A resolution for the benefit of the widow of Commander William Lewis Herndon, United States Navy.

OUTRAGES ON AMERICAN VESSELS.

Mr. DAVIS, of Mississippi. I ask the unanimous consent of the House to introduce the following resolution for reference to the Committee on Foreign Affairs:

Whereas, visitation of American merchantmen is now being exercised in the waters of the Gulf of Mexico and in the ports of Cuba, by British war steamers, in direct violation of international law, in the course of which lawless conduct an American citizen has been killed: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he is hereby, required to give instructions to our Navy to arrest all offending vessels until ample and full reparation is made by the British Government for the outrages committed, and guarantee is given for future exemption from visitation.

Mr. CLAY. I desire merely to observe that the Committee on Foreign Affairs have this subject now before them. In respect to the telegraphic dispatch received this morning and published in the morning papers, the committee are now obtaining information from the Department, and expect to make a report upon the subject—

Mr. CLEMENS. Debate is not in order, and I object to it.

Mr. HARRIS, of Illinois. I hope the gentleman from Mississippi will strike out that portion of the preamble in his resolution which assumes the fact of the murder of an American citizen. I think that is assuming too much.

Mr. DAVIS, of Mississippi. I will strike that out.

Mr. HARRIS, of Illinois. The telegraphic dispatch published in the morning papers is from the interior of the country, and is not reliable.

Mr. SICKLES. I object to the resolution, on the ground that we have no official information before us.

Mr. DAVIS, of Mississippi. I move to suspend the rules, to enable me to introduce the resolution, in order that it may be referred to the Committee on Foreign Affairs.

Mr. SICKLES. Do I understand the gentleman from Mississippi to have modified his resolution, by omitting that portion of it which assumes the murder of an American citizen?

Mr. DAVIS, of Mississippi. Certainly, sir.

Mr. SICKLES. I should like to have the resolutions, as modified, read.

Mr. BARKSDALE. I hope there will be no objection to the reception of the resolution. I understand that the object of my colleague is merely to have it referred to the Committee on Foreign Affairs.

The resolution, as modified, was read.

Mr. GROW. I object.

Mr. DAVIS, of Mississippi. I move to suspend the rules.

Mr. CLEMENS. I demand the yeas and nays on that motion. I want a record on this question.

Mr. KEITT. I wish to inquire of the gentleman from Mississippi whether, if that resolution is introduced, it is his intention to have it referred to the Committee on Foreign Affairs or to have it put upon its passage? If it is to be put upon its passage, I shall certainly vote against its admission.

The SPEAKER. The gentleman from Mississippi stated that he wished to introduce the resolution for reference only.

Mr. CRAWFORD. I wish to say that I would vote for it, if it was upon its passage.

Several MEMBERS. And so would I.

Mr. KEITT. I would not.

Mr. DAVIS, of Mississippi. I only desire to have it referred to the Committee on Foreign Affairs.

The yeas and nays were ordered.

The question was taken; and there were—yeas 154, nays 43; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Arnold, Atkins, Avery, Barksdale, Bishop, Blair, Becock, Bonham, Bowie, Branch, Burlingame, Burnett, Burns, Case, Caskie, Cavanaugh, Horace F. Clark, John B. Clark, Clay, Clemens, Cobb, Clark, B. Cochrane, John Cochrane, Cockrell, Colfax, Conning, Cox, Cragin, James Craig, Crawford, Curry, Curtis, Davidson, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Dick, Dimmick, Dowdell, Edmondson, Elliott, English, Eustis, Faulkner, Florence, Foley, Foster, Garnett, Gartrell, Gillie, Gilmer, Gooch, Goode, Goodwin, Gregg, Groesbeck, Lawrence W. Hall, J. Morrison Harris, Thomas L. Harris, Haskin, Hawkins, Hill, Hoard, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kellogg, Kelsey, Jacob M. Kunkel, Lamar, Landy, Leidy, Leiter, Letcher, Macley, McQueen, Humphrey Marshall, Mason, Maynard, Miles, Miller, Milson, Moore, Morrill, Edward Joy Morris, Isaac N. Morris, Murray, Niblack, Nichols, Palmer, Pendleton, Pettit, Peyton, John S. Phelps, Phillips, Pottle, Quitman, Ready, Reagan, Reilly, Ricard, Ritchie, Royce, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Seward, Aaron Shaw, John Sherman, Sickles, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stanton, Stephens, James A. Stewart, Talbot, George Taylor, Miles Taylor, Tompkins, Tripp, Underwood, Vallandigham, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, White, Wilson, Winslow, Wood, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—154.

NAYS—Messrs. Bingham, Bliss, Brayton, Buffinton, Chaffee, Ezra Clark, Clawson, Comins, Davis of Maryland, Davis of Iowa, Dawes, Dean, Dodd, Durfee, Farnsworth, Fenton, Gilman, Granger, Grow, Robert B. Hall, Harlan, Horton, Howard, Kilgore, Knapp, John C. Kunkel, Lovejoy, Matteson, Morgan, Freeman H. Morse, Mott, Parker, Pike, Potter, Purviance, Robbins, Spinner, William Stewart, Tappan, Thayer, Thompson, Wade, and Walbridge—43.

So (two thirds voting in favor thereof) the rules were suspended, and the resolution was received.

During the call of the roll,

Mr. SHAW, of North Carolina, stated that if he had been within the bar when his name was called, he should have voted "ay."

Mr. SAVAGE stated that if he thought his vote would be construed as an approval of the resolution as drawn up, he would change it, and vote "no."

Mr. LAMAR stated that he voted "ay," for reference.

Mr. COBB made a similar statement.

Mr. HILL voted "ay," with the understanding that the resolution was to be referred to the Committee on Foreign Affairs.

The result of the vote having been announced, Mr. DAVIS, of Mississippi, moved that the resolution be referred to the Committee on Foreign Affairs, and demanded the previous question.

Mr. CLAY. I hope the gentleman will withdraw the demand for the previous question for a moment.

Mr. STEPHENS, of Georgia. If there is to be debate upon the resolution, I trust that it will be unlimited.

The SPEAKER. The Chair is of the opinion that debate would not be in order. The motion to suspend the rules was for the reference of the resolution only. The Chair so understood it, and so stated it to the House.

Mr. CLAY. I hope the gentleman from Mississippi will withdraw the demand for the previous question for a moment.

The SPEAKER. The Chair would suggest to the gentleman from Kentucky that in the opinion of the Chair debate is not in order.

Mr. CLAY. I do not wish to debate the question, but to make a personal explanation.

[Cries of "Question!"]

The SPEAKER. The gentleman from Kentucky asks the unanimous consent of the House to make a personal explanation.

Several MEMBERS objected.

The previous question was seconded, and the main question ordered; and, under the operation thereof, the resolution was referred to the Committee on Foreign Affairs.

Mr. DAVIS, of Mississippi, moved to reconsider the vote by which the resolution was referred; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. ASBURY DICKINS, its Secretary, asking the return to that body of the resolution changing the day of the adjournment of Congress, for the purpose of correcting an error in the enrollment of said resolution.

Mr. HOUSTON. I suppose there will be no objection to sending that resolution back at once.

There was no objection; and the resolution was ordered to be returned to the Senate.

Mr. KELSEY obtained the floor.

PURCHASE OF BUILDINGS.

Mr. FLORENCE. I rise to a privileged question. I desire to make a report from the select committee on the purchase, by the Government, of the banking-house of the Bank of Pennsylvania, in the city of Philadelphia. The committee was authorized to report at any time, and it will take but a moment. I ask that the report be laid upon the table, and ordered to be printed, and that the resolution appended to it be adopted by the House.

The resolution was read and agreed to, as follows:

Resolved, That the committee be discharged from the further consideration of the subject referred to them.

The report was then laid upon the table, and ordered to be printed.

PAY OF STENOGRAPHER.

Mr. FLORENCE. I desire to offer a resolution simply to pay a clerk.

Mr. KELSEY. The gentleman cannot take the floor from me for that purpose. I desire to take up three bills from the Speaker's table with Senate amendments. It will take but a very few minutes to dispose of them.

Mr. FLORENCE. I ask the consent of the House to offer a resolution to pay the stenographer employed by our committee. I do not think there will be objection.

Mr. KELSEY. I do not yield the floor.

Mr. FLORENCE. I had not relinquished the floor. This resolution is so nearly connected with the report of that committee that it may be properly considered as a part of the report.

The SPEAKER. If it is a part of the report, the gentleman from Pennsylvania is entitled to present it.

Mr. FLORENCE. It is not exactly a part of the report, but I do not think there will be objection. I ask that it may be read for information.

The resolution was read for information, as follows:

Resolved, That there be paid to the stenographer employed by the select committee appointed to inquire into the facts and circumstances connected with the sale of the Pennsylvania Bank property, in the city of Philadelphia, to the United States, \$200, for his services in reporting the testimony taken before said committee.

Mr. HOUSTON. I do not know how much testimony has been taken by this committee; but there is a regular rule established for paying these stenographers of committees.

Mr. FLORENCE. I am perfectly willing to put it at the usual rate of compensation.

Mr. HOUSTON. If the gentleman will strike out the amount, and make it "the usual compensation," I have no objection.

Mr. SHERMAN, of Ohio. The House has already passed a resolution regulating this subject. I object.

The SPEAKER. In the opinion of the Chair, it is not such a report as the committee are authorized to make.

Mr. FLORENCE. I did not say it was a report made by the committee.

The SPEAKER. That was the only ground upon which the gentleman obtained the floor.

LAND WARRANTS.

Mr. KELSEY. I now desire to take up, from the Speaker's table, House bills Nos. 300, 26, and 152, for the purpose of concurring in amendments of the Senate to the same. The first is a bill to declare the title to land warrants in certain cases, and I know it should be passed. The others I do not know so much about; but I think the House should take them up, and dispose of them.

Mr. CLAY. I ask the unanimous consent of the House to make a personal explanation.

Mr. MORGAN. I object to everything out of order.

Mr. CLAY. Then I rise to a privileged question.

The SPEAKER. The gentleman's proposition can hardly be received until that of the gentleman from New York is disposed of.

Mr. KELSEY. I now ask first to take up House bill No. 300.

Mr. STEWART, of Maryland. Would it be in order to now amend the motion so as also to take up another bill?

Mr. JOHN COCHRANE. I should like to amend so as to take up all the House bills on the Speaker's table.

The SPEAKER. The Chair is of opinion that the motion cannot be so amended.

Mr. KELSEY. I now ask to take up the first of the bills I have indicated.

No objection being made, the bill was taken up for consideration.

Mr. KELSEY. There is but a single amendment of the Senate, which is to insert after the word "heirs," the words, "or legatees." The whole section is rewritten, but this is really the only change. I demand the previous question on the amendment.

Mr. MARSHALL, of Kentucky. Will the gentleman from New York allow me to make a suggestion? I do not think Congress has the right, after the title of a warrant has vested, to declare the course of descent, or where the title shall go.

Mr. JONES, of Tennessee. I think the gentleman from Kentucky is laboring under a misapprehension. There is no right to the warrants provided for in this bill at this time, but this bill proposes to create a right *de novo*. It is held at the Pension Office, under the present law, that if a person entitled to a land warrant makes his application and dies before the warrant is issued, he is not entitled to it. This bill is to vest that right, notwithstanding he may die. The amendment of the Senate proposes to amend the House bill so as to give the applicant the right to devise by will the warrant, if it is not received before his death. In the absence of a disposition by will, the warrant goes to his heirs.

Mr. MARSHALL, of Kentucky. I did not so understand it. I have no objection to it if that is the case.

Mr. KELSEY. I now insist upon my demand for the previous question.

The previous question was seconded, and the main question was ordered to be put; and, under the operation thereof, the Senate amendment was concurred in.

Mr. KELSEY moved to reconsider the vote by which the House concurred in the amendment of the Senate; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TEXAS BOUNDARY.

The House then took up, by unanimous consent, and proceeded to consider the Senate amendment to the bill of the House (No. 152) to authorize the President of the United States, in conjunction with the State of Texas, to run and mark the boundary lines between the territories of the United States and the State of Texas.

The Senate amended the bill by adding a proviso, that no persons appointed by the State of Texas, in connection with running and marking said boundary, should be entitled to receive compensation upon the part of the United States, and also providing certain regulations in respect to the survey.

Mr. KELSEY demanded the previous question.

The previous question was seconded, and the main question ordered to be put. The amendment of the Senate was then concurred in.

Mr. KELSEY moved to reconsider the vote by which the House concurred in the amendment of the Senate; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PHILADELPHIA POST OFFICE.

The House, by unanimous consent, next took up from the Speaker's table, for consideration of the Senate amendments thereto, the joint resolution (H. R. No. 26) authorizing the arrangement and disposal of public buildings in the city of Philadelphia.

Mr. PHILLIPS. I wish to say that the amendment of the Senate provides that any property sold shall be sold at public sale.

The SPEAKER. The amendment will be read.

The amendment of the Senate was read, as follows:

Strike out all after the enacting clause, and in lieu thereof insert the following:

That the Secretary of the Treasury, the Postmaster Gen-

eral, and the Attorney General, be, and are hereby, authorized to decide whether the custom-house at Philadelphia shall remain in its present location, or whether public convenience and interests require that the location of the custom-house be changed to the ground and building purchased of the Bank of Pennsylvania by authority of the law of the 2d of August, 1854, for the purposes of a post office, and the post office be removed to the present custom-house; and also to decide whether it is best to sell the building and lot of ground now used for the purposes of the United States court, and establish court-rooms in the building of the present custom-house; and that they be further authorized and empowered to so arrange the buildings for said offices and purposes as may, in their judgment, best promote the public convenience: *Provided*, That the expenses incident to such change and arrangement of the buildings shall not exceed the sum already appropriated for any or all of such purposes, and any additional sum that may be received for the building and ground herein authorized to be sold: *And provided further*, That should it be deemed best to sell the said court-house building and lot of ground, the President of the United States may cause the same to be sold after due public notice.

Mr. KELSEY. I demand the previous question on the amendment.

The previous question was seconded, and the main question was ordered.

The amendment was concurred in.

Mr. PHILLIPS moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

HALF PAY TO WIDOWS AND ORPHANS.

Mr. DAVIDSON. I ask unanimous consent to take from the Speaker's table a bill (S. No. 297) to extend an act entitled "An act to continue half pay to certain widows and orphans," approved February 3, 1853.

Mr. JOHN COCHRANE. If it be in order, I would wish that the House would proceed to the consideration of all the bills upon the Speaker's table. We are now extending privileges to particular members; but if we go to the Speaker's table we will all have a chance.

There being no objection, Senate bill No. 297 was taken up, and read a first and second time.

Mr. MARSHALL, of Kentucky. I hope the gentleman will yield to me that I may suggest an amendment.

Mr. DAVIDSON. I will yield to the gentleman.

Mr. MARSHALL, of Kentucky. I desire to call the attention of the gentleman from Louisiana, and the House, to my amendment. There is in the bill a proviso that limits the pension to the half pay of a lieutenant colonel. I say that it is unfair to limit the pension of those above the rank of a lieutenant colonel to that of a lieutenant colonel. You have few generals and few colonels in the service, and it seems to me that the restriction ought to be stricken out. I think that the pensions ought to be according to rank. I am the more satisfied of that since the passage of acts in the case of the widow of General Worth, and in other like cases, where there was no more merit than there is in the remaining cases. I move to strike out the words:

"And that no greater sum shall be allowed to any such widow or minor children than the half pay of a lieutenant colonel."

Mr. FENTON. I ask leave to offer an amendment.

Mr. DAVIDSON. I will hear the gentleman's amendment.

Mr. COBB. Let us know what we are doing. The bill has not yet been read.

Mr. JONES, of Tennessee. Who is entitled to the floor?

The SPEAKER. The gentleman from Louisiana.

Mr. JONES, of Tennessee. I object to his yielding to anybody. This is one of the most important bills which has come before Congress at this session; and if amendments are allowed to be put on it, it will be as large again. We ought to have an opportunity to discuss the bill, and have it rightly understood.

Mr. GROW. Had not the gentleman from New York [Mr. Fenton] the floor to move his amendment?

Mr. DAVIDSON. I do not yield for the amendment to come in. I call for the previous question.

Mr. HOUSTON. Is the amendment of the gentleman from New York in order?

Mr. MARSHALL, of Kentucky. I rise to a

question of order. I have offered an amendment on which there has been no vote, and the gentleman's [Mr. Fenton's] amendment cannot come in as an amendment to my amendment.

Mr. JEWETT. I hope my colleague [Mr. MARSHALL] will withdraw his amendment. It will kill the bill.

Mr. HOUSTON. I ask whether the amendment of the gentleman from New York is in order? If not, I object to it.

The SPEAKER. The Chair does not know what the amendment proposed by the gentleman from New York is.

Mr. HOUSTON. Nor do I. I desire to hear it.

Mr. J. GLANCY JONES. I understand that this bill was taken up by general consent, with the understanding that it would be put upon its passage as it is, without any amendment.

The SPEAKER. The Chair did not so understand it.

Mr. MARSHALL, of Kentucky. In order to facilitate business, and let the bill pass, I withdraw my amendment.

The bill was read. It grants to all those surviving widows and minor children who have been or may be granted and allowed five years' half pay under the provisions of any law or laws of the United States, a continuance of such half pay under the following terms and limitations: to such widows during life, and to such child or children, where there is no widow, whilst under the age of sixteen years, to commence from the expiration of the half pay provided for by the first section of the act entitled "An act to continue half pay to certain widows and orphans," approved February 3, 1853; provided, however, that in case of the marriage or death of any such widow, the half pay shall go to the child or children of the deceased officer or soldier whilst under the age of sixteen years; and, in like manner, the child or children of such deceased officer or soldier, when there is no widow, shall be paid no longer than while there are children or a child under the age aforesaid; provided, further, that the half pay of such widows and orphans shall be half the monthly pay of the officers, non-commissioned officers, musicians, and privates of the infantry of the regular Army of the United States, and no more, and that no greater sum shall be allowed to any such widow or minor children than the half pay of a lieutenant colonel; provided also, that the act shall not be construed to apply to or embrace the case of any person or persons now receiving a pension for life; and, further, that wherever half pay shall have been granted by any special act of Congress, and is renewed or continued under the provisions of this act, the same shall commence from the date hereof.

Mr. FENTON. I ask that my amendment may now be read.

The amendment was read, as follows:

Sec. 3. *And be it further enacted*, That the second section of the act approved the 3d day of February, 1853, entitled "An act to continue half pay to certain widows and orphans," shall be construed, in accordance with the decision of the Court of Claims in the case of Jane Smith, as granting pensions to the widows therein provided for, from the 4th day of March, 1848; and that all amounts due under said second section of the act aforesaid, for pensions accruing between said 4th day of March, 1848, and the 3d day of February, 1853, shall be paid to the persons respectively entitled thereto, at the several pension agencies, out of any money in the Treasury not otherwise appropriated, under such rules and regulations as may be prescribed by the Secretary of the Interior: *Provided*, That no pension shall be allowed to any widow for the same time during which her husband was living, and in the receipt of a pension.

Mr. MAYNARD. I should like to state that the subject embraced in this amendment has been before the Court of Claims and before the Committee of Claims. It arises on the construction of the act of February 3, 1853. This is declaratory of the meaning of the act of 1853. The question arises in this way. In 1848, Congress passed a law granting pensions to widows of officers and soldiers—

Mr. COBB. If the question is open to debate, I desire to debate it.

The SPEAKER. It is not. The gentleman from Louisiana called the previous question.

Mr. FENTON. I hope the gentleman will withdraw the call for the previous question, so as to let me offer my amendment.

Mr. DAVIDSON declined to withdraw the previous question, and called for tellers.

Tellers were ordered; and Messrs. MARSHALL of Kentucky, and WALDRON, were appointed.

The House divided; and the tellers reported—ayes 90, noes 34.

So the previous question was seconded.

The main question was then ordered to be put.

The bill was ordered to a third reading, and was accordingly read the third time.

Mr. DAVIDSON demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. CLEMENS demanded the yeas and nays on the passage of the bill.

Mr. JONES, of Tennessee, called for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The bill was passed.

Mr. MARSHALL, of Kentucky, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. J. GLANCY JONES. We have occupied two hours this morning in the consideration of general business. I wish now, if it be the pleasure of the House, to proceed to the consideration of the public business.

Mr. BARKSDALE. I hope the gentleman from Pennsylvania will give me an opportunity of asking the unanimous consent of the House to put a private bill upon its passage. I am not in the habit of asking favors of the House, and I trust the gentleman from Pennsylvania will yield to me for a moment.

Mr. J. GLANCY JONES. I would yield for anything the House would give its unanimous consent to, except to put a bill upon its passage. I hope the gentleman will not ask me to do that.

Mr. BARKSDALE. That is my object. The bill can be disposed of in a moment. I have no idea that any gentleman will object to it.

Mr. JOHN COCHRANE. I have one that is in the same predicament.

Mr. SMITH, of Virginia. I have one twenty-five years old.

EXCUSED FROM SERVING ON A COMMITTEE.

Mr. CLAY. I hope the gentleman from Pennsylvania will allow me to present what I believe to be a privileged question to the House. I do not wish to debate it, but simply to explain my reasons.

Mr. J. GLANCY JONES. I yield to the gentleman.

Mr. CLAY. I ask this House to excuse me from further service on the Committee on Foreign Affairs; and I ask it for this reason: during two weeks past, I have repeatedly asked the leave of this House, as a member of the Committee on Foreign Affairs, to introduce a bill or resolution in reference to the recent outrages committed upon the American flag. That leave never has been accorded to me, a member of that committee; but it has been accorded, this day, to a gentleman who is not a member of that committee.

The SPEAKER. Perhaps it is due to the gentleman from Kentucky himself, that the Chair should call his attention to the fact that, when he asked the consent of the House, a single objection was sufficient to defeat it. An objection was made when the gentleman from Mississippi proposed to offer his resolution this morning; but it was then in order to move to suspend the rules, and it was under a suspension of the rules that the proposition of the gentleman from Mississippi was received by the House.

Mr. CLAY. And I would respectfully observe that I have repeatedly asked for the same suspension of the rules. While I ask to be excused from further service on the committee, I wish to say that I am glad and happy, and congratulate the country that the subject of these outrages on the American flag has at last, by any means, got before the House, and been referred to the committee from further service upon which I now ask the House to excuse me.

Mr. STEPHENS, of Georgia. I trust the House will not excuse the gentleman from Kentucky. I think he is one of the best men in the House to whom that resolution could be referred. [Cries of "Question!"]

The question was taken; and Mr. CLAY was

excused from further service on the committee—ayes 92, noes 63.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, notifying the House that the Senate had passed a resolution changing the day for the adjournment of Congress, in which he was directed to ask the concurrence of the House.

ADJOURNMENT OF CONGRESS.

Mr. WRIGHT, of Georgia. I would suggest to the gentleman from Pennsylvania whether it would not be better, before we proceed to any other business, to take up the resolution of the Senate on the subject of the adjournment, and dispose of it one way or the other.

Mr. J. GLANCY JONES. Before moving to go into the Committee of the Whole on the state of the Union, I desire to ask the unanimous consent of the House to make one or two reports from the Committee of Ways and Means.

Mr. BURNETT. I appeal to the gentleman from Pennsylvania to permit the House to dispose of the resolution upon the subject of adjournment. We shall then know what we have to do. If we intend to adjourn on Monday, it is important that the Senate should know it. It will not take long to dispose of the resolution, and it will expedite the public business.

Mr. BARKSDALE. I would inquire if the Senate have rescinded the resolution to adjourn next Monday?

Mr. BURNETT. They have, and the resolution is now on the Speaker's table.

Mr. J. GLANCY JONES. I am disposed to accommodate the wishes of the House. I have no feeling on the subject.

[Mr. DAVIDSON, from the Committee on Enrolled Bills, here reported that the committee had examined and found truly enrolled an act for the relief of D. O. Dickinson; when the Speaker signed the same.]

Mr. BURNETT. I now ask that the resolution of the Senate in respect to the final adjournment be taken up.

The resolution was read for information. It rescinds the joint resolution of the two Houses fixing the period for the final adjournment of Congress on the 7th day of June, and provides that the President of the Senate and the Speaker of the House, shall declare their respective Houses adjourned *sine die* on Monday, the 14th day of June, at twelve o'clock, m.

Mr. PEYTON. I object to that resolution.

Mr. BURNETT. I move to suspend the rules.

The question was taken, and the rules were suspended, two thirds having voted therefor.

Mr. PEYTON. I hope the resolution will not be adopted. If we find we cannot get through by next Monday we can take it up and adopt it then.

Mr. BURNETT. I move to amend by inserting Wednesday, the 9th day of June, and call the previous question. I hope that amendment will be agreed to; because that will give both Houses abundant time to do all the public business.

Mr. JOHN COCHRANE. I move to lay the resolution on the table.

Mr. BOCOCK. I call for the yeas and nays on that motion. I want my vote recorded in favor of doing the public business before we adjourn.

Mr. BURNETT. And I want the country to understand that it will not be the fault of this House if the public business is not transacted so that we may adjourn on Monday next.

Mr. HOUSTON. I appeal to the gentleman from New York to withdraw the motion to lay on the table, and let us take a vote directly on the resolution. I do not care whether it is the fault of the House or the Senate; we ought to remain until—[Cries of "Order!" "Order!"]

The SPEAKER. Debate is not in order.

Mr. WASHBURN, of Maine. I wish to ask the gentleman from Kentucky to substitute Thursday next for Wednesday. I think the Senate will be able to get through its business by that time.

Mr. BURNETT. Very well; I accept the amendment.

Mr. WASHBURN, of Illinois. I hope the gentleman will allow me to move to insert Wednesday, so that the vote of the House can be taken on the two propositions.

Mr. BURNETT. No, sir; I move to insert

Thursday, at twelve o'clock, m., and call the previous question.

Mr. JOHN COCHRANE. I withdraw the motion to lay on the table.

Mr. DAVIS, of Indiana. I renew the motion. Mr. REAGAN. I appeal to the gentleman from Indiana to withdraw the motion, and allow me one minute for explanation.

Several MEMBERS objected.

Mr. COBB. I should like to be permitted to make a motion to strike out altogether the latter clause of the resolution, which fixes a day for adjournment.

Mr. DEAN. I object.

The motion to lay on the table was not agreed to.

The previous question was seconded, and the main question ordered to be put.

The question being first on the amendment to strike out Monday the 14th, and insert Thursday the 10th,

Mr. CLEMENS demanded the yeas and nays.

Mr. BURNETT. I beg leave to suggest to the gentleman from Virginia that without the consumption of time, we can as well settle this question by tellers.

Mr. CLEMENS. No, sir, I want the record for the country.

The yeas and nays were ordered.

The question was taken, and it was decided in the affirmative—yeas 105, nays 98; as follows:

YEAS—Messrs. Abbott, Anderson, Atkins, Bingham, Bishop, Bliss, Brayton, Bryan, Buffinton, Burnett, Case, Cavanaugh, Chaffee, Ezra Clark, John B. Clark, Clawson, Clark B. Cochrane, John Cochrane, Cockerill, Corning, Cox, James Craig, Curry, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Dawes, Dick, Dowdell, English, Farnsworth, Foley, Foster, Garnett, Garrett, Gillis, Gilmer, Gooch, Grow, Harlan, J. Morrison Harris, Hill, Hoard, Hopkins, Horton, Jackson, Jenkins, Jewett, J. Glancy Jones, Keitt, Kelly, Kilgore, John C. Kunkel, Landy, Leiter, Lovjoy, MacIay, McQueen, Matteson, Maynard, Miles, Moore, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Pettit, Peyton, William W. Phelps, Phillips, Potter, Pottle, Purviance, Quitman, Ricard, Robbins, Roberts, Royce, Russell, Scales, Seward, Aaron Shaw, John Sherman, Maynard, Miles, Moore, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Pettit, Peyton, William W. Phelps, Phillips, Potter, Pottle, Purviance, Quitman, Ricard, Robbins, Roberts, Royce, Russell, Scales, Seward, Aaron Shaw, John Sherman, Maynard, Miles, Moore, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Pettit, Peyton, William W. Phelps, Phillips, Potter, Pottle, Purviance, Quitman, Ricard, Robbins, Roberts, Royce, Russell, Scales, Seward, Aaron Shaw, John Sherman, Maynard, Miles, Moore, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Pettit, Peyton, William W. Phelps, Phillips, Potter, Pottle, Purviance, Quitman, Ricard, Robbins, Roberts, Royce, Russell, Scales, Seward, Aaron Shaw, John Sherman, Maynard, Miles, Moore, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Pettit, Peyton, William W. Phelps, Phillips, Potter, Pottle, Purviance, Quitman, Ricard, Robbins, Roberts, Royce, Russell, Scales, Seward, Aaron Shaw, John Sherman, Maynard, Miles, Moore, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Pettit, Peyton, William W. Phelps, Phillips, Potter, Pottle, Purviance, Quitman, Ricard, Robbins, Roberts, Royce, Russell, Scales, Seward, Aaron Shaw, John Sherman, Maynard, Miles, Moore, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Pettit, Peyton, William W. Phelps, Phillips, Potter, Pottle, Purviance, Quitman, Ricard, Robbins, Roberts, Royce, Russell, Scales, Seward, Aaron Shaw, John Sherman, Maynard, Miles, Moore, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Pettit, Peyton, William W. 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Mr. MILLSON. I hope that motion will not be insisted on; for, if the resolution be now voted down, we may want to reconsider.

The motion to reconsider was withdrawn.

Mr. McQUEEN. If the resolution as amended be not adopted, then we adjourn on Monday?

The SPEAKER. That will be the case if the existing resolution be not rescinded.

The question was taken; and it was decided in the affirmative—yeas 142, nays 61; as follows:

YEAS—Messrs. Abbott, Adrain, Anderson, Andrews, Atkins, Avery, Barksdale, Bingham, Bishop, Blair, Bliss, Boeck, Bonham, Bowie, Branch, Brayton, Bryan, Burnett, Burns, Caise, Caskie, East Clark, John B. Clark, Clawson, Clark B. Cochran, John Cochran, Cockerill, Colfax, Corning, Cox, Cragin, James Craig, Curry, Curtis, Davidson, Davis of Indiana, Davis of Massachusetts, Dean, Dick, Dimmick, Dodd, Dowdell, Durfee, Edie, Edmundson, Elliott, Farnsworth, Faulkner, Fenton, Foley, Foster, Garrett, Gartrell, Gooch, Goode, Granger, Groesbeck, Grow, Lawrence W. Hall, Harlan, Thomas L. Harris, Hatch, Hill, Hoard, Horton, Houston, Hughes, Huyler, Jackson, Jenkins, Keitt, Kelly, Kelsey, Jacob M. Kunkel, John C. Kunkel, Lamar, Leiter, Letcher, Humphrey Marshall, Mason, Millson, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Parker, Pendleton, Pettit, Peyton, John S. Phelps, Pike, Pottle, Powell, Purviance, Quitman, Ready, Reagan, Ricard, Ritchie, Robbins, Roberts, Royce, Russell, Sandidge, Savage, Seales, Scott, Searing, Henry M. Shaw, John Sherman, Judson W. Sherman, Shorter, Sickles, Singleton, Samuel A. Smith, William Smith, Spinner, Stillworth, Stanton, Stephens, Tabbot, George Taylor, Miles Taylor, Thompson, Tompkins, Underwood, Walbridge, Waldron, Walton, Israel Washburn, Wilson, Winslow, Wood, Wortendyke, John V. Wright, and Zollcoffer—142.

NAYS—Messrs. Adrain, Billingshurst, Buffinton, Burlingame, Cavanaugh, Chaffee, Clemens, Cobb, Comins, Crawford, Davis of Maryland, Davis of Mississippi, Davis of Iowa, Dawes, English, Eustis, Florence, Gillis, Gilman, Gilmer, Gregg, J. Morrison Harris, Hawkins, Hopkins, Howard, Jowett, George W. Jones, J. Glancy Jones, Owen Jones, Kellogg, Kilgore, Knapp, Landy, Leidy, Lovejoy, Macley, McQueen, Matteson, Maynard, Miller, Moore, Palmer, William W. Phelps, Phillips, Potter, Reilly, Ruffin, Aaron Shaw, Robert Smith, James A. Stewart, William Stewart, Tappan, Thayer, Tripp, Vallandigham, Wade, Cadwalader C. Washburn, Ellihu B. Washburne, White, Whitely, and Augustus R. Wright—61.

So the resolution, as amended, was adopted.

Mr. BURNETT moved to reconsider the vote by which the resolution as amended was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARYLAND CONTESTED-ELECTION CASE.

Mr. HARRIS, of Illinois. Mr. Speaker, I wish to give notice that on to-morrow I will call up the Maryland contested-election case. The reports are printed, and members can obtain them.

Mr. GROW. To-morrow is objection day in the Committee of the Whole House, and I hope that the gentleman will not call up the matter then.

Mr. HARRIS, of Illinois. I will call it up to-morrow, and then the House can do what they please.

ENROLLED BILLS.

Mr. PIKE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill to extend an act entitled "An act (S. No. 297) to continue half pay to certain widows and orphans," approved February 2d, 1853; when the Speaker signed the same.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution and bills of the following titles:

A joint resolution (H. R. No. 26) authorizing the arrangement and disposal of public buildings in the city of Philadelphia;

An act (H. R. No. 300) declaring the title to land warrants in certain cases;

An act (H. R. No. 502) for the relief of S. W. and A. A. Turner; and

An act (H. R. No. 578) to continue the pension heretofore paid to Mary C. Hamilton, widow of Captain Fowler Hamilton, late of the United States Army; when the Speaker signed the same.

DISBURSEMENT OF THE REVENUE.

Mr. J. GLANCY JONES. I have several reports to make from the Committee of Ways and Means. I am directed to report back House bill (No. 467) to amend an act entitled "An act to provide for the better organization of the Treasury, and for collection and safe-keeping, transfer and disbursement of the public revenue." I propose to put the bill on its passage. Under the act

of 1846, the disbursing officers of the Government drew the money out of the Treasury and disbursed it from time to time as they thought proper. This subjects the public moneys to some considerable risk. Congress, on the 3d March, 1857, amended that act by providing that the disbursing officer should deposit the money in the various sub-Treasuries, and should not draw out in money more than twenty dollars at a time, and that for all sums over twenty dollars he should draw checks upon the Treasury. While the law is generally a good one, the inconveniences arising from it in certain cases is such that it is impossible for the Government to carry it out. The amendment reported, and which is recommended by the Secretary of the Treasury, provides that where it may be absolutely necessary, the disbursing officer may be allowed to draw more than twenty dollars. It keeps the general law still in force. It is utterly impossible to carry out the law in the distant Territories of Utah and New Mexico, and in other places. It is proposed to enforce the law wherever it is practicable, and where it is not practicable the proper Department assumes the responsibility, and allows the disbursing officer to draw more than twenty dollars. I ask the Clerk to read the letter of the Secretary of the Treasury.

The Clerk read the letter, as follows:

TREASURY DEPARTMENT, February 11, 1858.

SIR: I have the honor to acknowledge your letter of the 10th instant, asking for the form of such a bill as is proposed on the twenty-fourth page of the printed copy of my annual report on the finances.

The intention of this Department in carrying into effect the act referred to, of which copies are herewith ordered, have given a practical construction to its provisions. These instructions do not probably transcend the lawful authority of this Department, except where disbursing officers of the Department are directed in certain cases to pay money of the United States, intrusted to them for disbursement, without depositing it in any depository and checking for the same, as is expressly required by the terms of the act.

Perhaps in no case of the service under the direction of this Department would it be absolutely impracticable to make such deposits and payments by check—but in many instances it would be extremely onerous and expensive, without the slightest advantage or security. In the service in charge of some of the other Departments, the difficulty of carrying out the terms of the act in this respect, amounts to actual impossibility.

It is, therefore, respectfully proposed to modify the act in this particular, so as to place the responsibility of any other custody and mode of payment than allowed by the act, directly upon the head of the Department to which such disbursing officer belongs; as will be seen by the draft of a bill inclosed, agreeably to your request.

Very respectfully, your obedient servant,
HOWELL COBB,
Secretary of Treasury.

Hon. J. GLANCY JONES, Chairman of the Committee of Ways and Means, House of Representatives.

Mr. J. GLANCY JONES. I ask that the bill be put upon its passage, and on that I call the previous question.

Mr. JONES, of Tennessee. I do not think that is a right sort of legislation.

Mr. J. GLANCY JONES. That is a matter of opinion entirely.

Mr. JONES, of Tennessee. This is a bill changing the whole law, and giving discretion to heads of Departments.

Mr. J. GLANCY JONES. I beg the gentleman's pardon, it is not. It is utterly impossible to carry out the existing law. This does not change it, but gives the Secretary a little discretion. Let the bill be read.

The bill was read. It modifies and amends so much of the first section of the act entitled "An act to amend an act entitled 'An act to provide for the better organization of the Treasury, and for the collection, safe-keeping, transfer, and disbursement of the public revenue,'" approved 3d March, 1857, as provides "that each and every disbursing officer or agent of the United States, having any money of the United States intrusted to him for disbursement, shall be, and he is hereby, required to deposit the same with the Treasurer of the United States, or with some one of the Assistant Treasurers or public depositaries, and draw for the same only in favor of the persons to whom payment is to be made in pursuance of law and instructions," so that whenever the Secretary or other officer at the head of any Executive Department to which any disbursing officer or agent is attached or shall belong, to whom money of the United States is or may be intrusted for disbursement, shall deem it necessary or expedient to order and direct that such money intrusted to such disbursing officer or

agent shall be held by him, and paid directly to the person to whom payment is to be made in pursuance of law and instructions, without depositing the same in the manner required in said first section, such custody and payment of the money of the United States by such disbursing officer or agent, under the express order and direction of such head of the Department to which such disbursing officer or agent is attached or shall belong, shall be taken and deemed to be a sufficient compliance with that part of said first section of the act above mentioned.

Mr. JONES, of Tennessee. With the permission of the gentleman, the question which I wish to propound to him is this: by the law, as it is there quoted, all disbursing officers of the Government are required to deposit the money in their hands with the Treasurer or some one of the Assistant Treasurers, and to draw for it in favor of the persons to whom it is disbursed. Now, I wish to ask the gentleman if this bill does not propose so to modify that law as to authorize the head of each Department to give instructions to the disbursing officers under them respectively, to dispense with that observance of that law when they think proper, and let them, at their discretion, deposit funds or not—if, in other words, it is not to place within the discretion of each head of Department, to say whether its disbursing officers shall comply with the law?

Mr. J. GLANCY JONES. If my friend from Tennessee had listened attentively to the letter of the Secretary of the Treasury he would not have propounded the inquiry he has propounded. The effect of this bill is not as the gentleman from Tennessee supposes. The law remains the same in regard to the deposits of disbursing officers, and as to checking out all sums over twenty dollars. It merely lodges a discretionary power in the heads of Departments in cases of absolute necessity, and to be exercised on their responsibility. As for instance, this bill does not touch the existing law, except where the disbursing officer finds that checks will not answer, as in Utah or New Mexico. The Secretary of the Treasury has written to this House that it is impossible to execute that law in all cases, and he merely asks you to give him a discretionary power in cases where it is impossible to execute it.

Mr. SPINNER. The chairman of the Committee of Ways and Means has stated that this bill is only to apply in cases where it is absolutely necessary. Will he permit the words "or expedient" to be stricken out of the bill?

Mr. J. GLANCY JONES. The head of the Department is to be the judge.

Mr. UNDERWOOD. I regard this bill, from the hasty reading of it, as making a radical change in the principles of the Government since its foundation. I think it requires and ought to receive much greater consideration than we can give it now. I therefore move to refer it to the Committee of the Whole on the state of the Union.

The SPEAKER. The motion cannot be entertained; the gentleman from Pennsylvania demanded the previous question.

Mr. UNDERWOOD. I hope the previous question will be voted down.

Mr. J. GLANCY JONES. I hope we will have a vote upon it and let the House dispose of the matter.

The previous question was not seconded, only thirty-nine members voting therefor.

Mr. UNDERWOOD. I now move to refer the bill to the Committee of the Whole on the state of the Union.

[Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled, an act to authorize the President of the United States, in conjunction with the State of Texas, to run and mark the boundary lines between the Territories of the United States and the State of Texas; when the Speaker signed the same.]

Mr. PHELPS, of Missouri. I desire to make a brief explanation of the necessity of the passage of this act. At the last session of Congress, all disbursing officers were required to deposit their moneys with some one of the designated depositories, under the independent Treasury act; and where the payment which a disbursing officer had to make to an individual exceeded, in amount, the sum of twenty dollars, that disbursing officer was required to draw his check in favor of the person to whom the payment was to be made upon the

depository for the sum of money to which he was entitled. Now it is an impossibility to execute that law. Your paymasters in the Army are required to pay the soldiers. Under the law of the last Congress, they are required to keep the money with which to pay the troops at some one of the designated depositories, and if the sum which a paymaster is to disburse to any one individual amounts to more than twenty dollars, he must issue his draft upon the depository for that sum of money. Your Indian agents are disbursing officers. They are required to pay the annuities to which the Indians are entitled, and those annuities are paid *per capita*. Many of the Indians have annuities payable to them, amounting from thirty to a hundred dollars, and if the agent executes the law of the last Congress, he must give his check in favor of each Indian on the designated depository, and thus expose the Indians to be cheated and swindled by those white men who hang about the tribes. The same remarks are applicable to pursers in the Navy, who disburse large sums of money, and to the disbursing officers at the several navy-yards, where sums greater than twenty dollars are frequently disbursed to individuals. There is therefore a necessity for an amendment of the law; and I think the provisions of the bill now before the House enforce a rigid accountability on the officers of the Government, and do not relax any provision of law designed for the safety of the public money.

Mr. WASHBURN, of Illinois. I move the previous question.

Mr. J. GLANCY JONES. I appeal to the gentleman to withdraw that motion.

Mr. WASHBURN, of Illinois. I insist on my motion. If the House does not see fit to refer the bill to the Committee of the Whole on the state of the Union, the previous question will bring us to a vote on the bill. I call for tellers.

Tellers were ordered; and Messrs. BLAIR and SICKLES were appointed.

The House divided; and the tellers reported—ayes 88, noes 39.

So the previous question was seconded.

The main question was then ordered to be put.

The question was taken; and the bill was referred to the Committee of the Whole on the state of the Union.

Mr. UNDERWOOD moved to reconsider the vote by which the bill was referred to the Committee of the Whole on the state of the Union, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CONSULAR AND DIPLOMATIC BILL.

Mr. J. GLANCY JONES, by unanimous consent, reported back from the Committee of Ways and Means the bill of the House (No. 6) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1859, with the amendments of the Senate.

First amendment:

Page three, line ten, strike out the word "for," and insert "and miscellaneous expenses of," so that the paragraph, as amended, would read:

"For the purchase of blank books, stationery, arms of the United States, seals, presses, and flags, and for the payment of postages and miscellaneou expenses of the consuls of the United States, \$40,000."

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a concurrence in that amendment. It does not affect the amount appropriated in the item which is for the ordinary expenses of consuls. The insertion of the words "and miscellaneous expenses of," merely enlarges the sphere of distribution. I suppose there will be no objection to concurring in the amendment. The amendment was concurred in.

Second amendment:

Strike out the second section of the bill, as follows:

"Sec. 2. And be it further enacted, That no part of the money herein appropriated shall be paid out of the Treasury for any expenses which accrued, or shall accrue, before the commencement or after the termination of the fiscal year ending the 30th of June, 1859."

Mr. J. GLANCY JONES. This is the amendment offered by the gentleman from Ohio, [Mr. SHERMAN,] at an early day in the session. I believe by the common consent of the House a similar amendment, offered to another bill, was considered objectionable in this form, and was modified on motion of the gentleman from Ten-

nessee, [Mr. JONES,] by adding a proviso that it should not take effect until after the end of two fiscal years. This provision, as it stands in this bill, does take effect immediately. I think gentlemen of all sides of the House are satisfied that the provision is not a proper one as it stands here.

Mr. SHERMAN, of Ohio. The gentleman from Georgia [Mr. JACKSON] the other day objected to the provision contained in the legislative, executive, and judicial bill for the reason that it did not apply to that particular bill.

Mr. JACKSON. I merely wish to say, as the gentleman has referred to me, that the objection which he has mentioned, was one of the objections which I urged; but I, at the same time, objected to the provision as being incongruous, and an improper provision to be attached to the bill.

Mr. STANTON. It seems to me there is a misapprehension about this amendment. It is not like the amendment which was rejected in the House the other day. That was a proposition that the expenditure of all appropriations whatever, made by Congress, should be limited to the fiscal year for which they were made; that balances going over from one year to another should not be used. This is simply a proposition that the money appropriated by this bill shall only be expended during the fiscal year for which it is appropriated. Now, if there is any difficulty in the practical application of that rule it passes my comprehension. I do not see the difficulty, I do not see the objection.

Mr. J. GLANCY JONES. The difficulty is this. The estimates made for the consular and diplomatic service were based upon balances holding over from the current fiscal year; this amendment attaches to this bill, and if the bill passes with this provision in, not one dollar of the balances left over from the current fiscal year can be expended in the next.

Mr. SHERMAN, of Ohio. That is exactly what I want to do. I think the balances ought to go back into the Treasury.

Mr. J. GLANCY JONES. I thought it was the unanimous opinion, the other day, that such a provision should not apply to the money now appropriated.

Mr. DAVIS, of Maryland. I think the chairman of the Committee of Ways and Means is mistaken as to the operation of that section. It merely applies to the money appropriated in this bill. It does not operate like the amendment offered by my friend from Ohio, [Mr. SHERMAN,] which was voted in and voted out of the bill a day or two ago. That was a general law, declaring that no money hereafter appropriated should be used for any purpose other than that for which it was specially appropriated, and for no other year than that for which it was specially appropriated. The effect of that amendment, as originally offered, would have been to prevent the Treasury Department from using any of the existing balances which now remain unexpended from last year's appropriations. To meet the difficulty a proviso was introduced that it should not apply to this or the following year. The difference between this amendment and that is, that it applies merely to the moneys appropriated by this act.

The balances of the last year are not appropriated by this act. Only the moneys included in this bill are appropriated by this act. The only effect, therefore, of this proviso is, that the moneys in this act shall not be applied to pay expenses incurred in the last year, nor to expenses to be incurred in the year following that for which they are appropriated.

Now I take it, Mr. Speaker, that that is the existing law of the Republic. I think that it is a violation of the existing law for any portion of the money appropriated for the use of one year to be applied for the use of another year. I take it that that is a direct violation of the language of the appropriation bill itself. I agree that it has been sanctioned, impliedly, by our making appropriations on the supposition that the balances unexpended under previous appropriation bills might be applied; and it is only that indication resulting from the proceedings of this House that can raise even a doubt upon the law; but I suppose that that indication itself only arises from the fact that each year we pass an appropriation bill upon the footing of accounts returned to us by the Secretary of the Treasury. We therefore see that the accounts returned to us embrace the

balances which the Department contemplates it is to be at liberty to use; and that we receive those balances and impliedly sanction the use of them for the coming fiscal year, by making them the basis of our calculations, and appropriating only so much as will be necessary for the services of the Government after counting in the balances due us. I think that that is a bad system of procedure. I think that it is in violation of law. It only becomes valid by our adopting the reports of the Secretary as the basis of our legislation.

The provision in this bill does nothing more than put an express limitation on the moneys appropriated in that bill, which limit is already an implied one from the terms of the bill, and is only put there to set an example that hereafter the House means to adhere to what is now the law, that the money appropriated for a year shall only be used within that year. I think that the House set a bad example; that they defeated a great and salutary reform, when, for reasons quite inadequate, they receded from their adherence to the amendment of the gentleman from Ohio—

Mr. J. GLANCY JONES. Does the gentleman want to force the officers of the Department to expend every dollar of the appropriations, and to leave not a cent of balance? The clause in respect to the surplus fund comes in every two years, and sweeps all balances back into the Treasury.

When this thing was first offered, believing that it might effect the object in view, I concurred in it; but it must be remembered that if applied to the present year it will make the reporting of another appropriation bill absolutely necessary. If the provision is made for future acts, so that all embarrassment will be prevented, I will cheerfully go with the gentleman.

Mr. DAVIS, of Maryland. My friend at the head of the Committee of Ways and Means has suggested a grave consideration. If I supposed that the amendment gave any additional incitement to any of the Departments to spend more freely than they have hitherto been spending, I am sure I would reverse the language of the amendment, and put it in other phraseology; for surely, sir, there has been no difficulty in getting money out of the Treasury for the past year, or for the four past years; and, indeed, I do not know at any time and under any Administration that there has been the slightest tendency in the money to remain there when there was any opening for it to come out. The purpose of the amendment is to stop the leak, if possible. The purpose of the amendment is to bring the Government back to what is the theory of our appropriation bills. Congress says that so much money, in our judgment, is needed for the use of this year. We choose to hold the Executive Departments responsible *de die in diem*, from day to day, from year to year. We do not propose to resign the power of controlling them, after we have once made the appropriations. We choose to require that there shall be an adjustment of the accounts and a review of the expediency of the appropriation every year. We make appropriations for this year, and at the end of the year, or when we get near the end of the year, we will have an opportunity of judging how that money has been expended, and we will apply such limitations as our experience makes necessary. I suppose that is the policy of all of our appropriation bills; and it is an abuse, without one shadow of legal authority, to apply one cent of money appropriated for the purposes of one fiscal year to the use of another fiscal year. And if my friend at the head of the Committee of Ways and Means will now rise in his place and show me any law that can raise even a doubt on that point, I will agree to vote against the amendment.

I desire to say that I have studiously and carefully examined all the statutory enactments that I could find relative to this subject; and that there is nothing to be found on the subject, except a proviso at the end of one of the acts which allows within the limits of the quartermaster's department some authority to make a transfer—a proviso to that authority to transfer from one head of appropriation to another, prohibiting a transfer of money appropriated for one purpose in one fiscal year for another purpose in another fiscal year. That proviso can have no meaning in the place where it is inserted, unless to limit the generality of the language declaring that moneys appropriated for one purpose within those limits might

be used for another purpose within those limits without a limitation of time; those words not being in an appropriation act, but being general, that the moneys appropriated for one of these purposes may be used for another of these purposes. There was no limitation in that act confining its operations to the year for which the appropriation was made. It might have been supposed that the transfer might be made at any time. As the law now stands, there is not only no law authorizing the application of money for one fiscal year to purposes beyond it, but there is an inhibition where the generality of the act allowing transfers might otherwise have admitted possibly of that interpretation.

What was the objection when we substituted the Senate's amendment for an admirable proviso inserted by my friend from Ohio, [Mr. SHERMAN?]. The objection was made that money, which was not actually expended and paid out in the course of the fiscal year, would have to be reappropriated. I think the gentlemen who urged that objection were not aware of the real state of the law on this subject. When money is appropriated for the purpose and use of a fiscal year, if a contract is made and the money is due in the course of that year, of course the money can be paid whenever it is demanded. If the money is allowed to remain in the Treasury, still it can be drawn for at any subsequent time, but the two-year limitation restores it to the Treasury. If the money is not applied to the purpose for which it is appropriated in the course of that year, then, of course, it cannot be spent for that purpose after the expiration of the year.

Mr. Speaker it is possible there are two different classes of appropriations relative to which the law may be very different. There is a large class of appropriations for public buildings, for objects of a permanent character, not limited either expressly or by implication to the year, where the one amount is given for a particular purpose, and where there is no limitation in point of time. I suppose, for instance, if there was an order to build a custom house in New Orleans, and that there had been, in the bill providing for certain civil expenses, an appropriation made to carry on that building, it is possibly immaterial whether that money is drawn from the Treasury within that year or within the following year. It may be regarded as not an appropriation for an annual purpose, but as an appropriation for a definite object and is dedicated to that purpose—to be spent at any time when the purpose may require it. Consequently all that class of cases may not fall under the proviso, which says that money appropriated for the use of one fiscal year shall not be used and applied to the service of another fiscal year; because the money is not, if this view be right, appropriated to any particular fiscal year, but it is applied to the object and purpose without limitation of time; the only limitation on general appropriations of that kind is, that money which is not actually spent and paid for the purpose for which it is appropriated, irrespective of time, shall at the end of two years go back to the Treasury. If this distinction be not tenable then it is illegal now to use any money appropriated even for a particular building in an annual appropriation bill after the expiration of the year.

But I apprehend that money which is appropriated for the payment of the Army for the year 1851 cannot be applied to the payment of the Army for the year 1850. If it can, then the money appropriated for the year 1853 can likewise be applied to pay the Army for 1850; and all that the President has to do is to incur any expense he may choose in any one fiscal year, with respect to the Army, and then bide his time and apply the money which Congress may appropriate to subsequent years to pay the debt which has accrued in previous years; and I submit to every gentleman, that unless there be a limitation on the expenditures of the Government, the public service, in the War Department, for instance, may be seriously injured. I put that case, because it has already occurred for three years in succession. In the year 1855 there was a deficiency in the quartermaster's department beyond the amount of even the deficiency. They did not wait for the passage of a deficiency bill in the following year, but took the money appropriated for the year 1856 and applied it to pay the balance expended over and above the appropri-

ations of 1855. The deficiency bill which was passed some days ago exhibits the startling fact that the quartermaster's department was deficient for the last year to the extent of \$1,000,000, actually paid out of the appropriations for this year—not obligations incurred in that year, but deficiencies existing in the previous year, but paid out of this year's money, of which no mention was made to Congress, after Congress had last year passed a large deficiency bill of over a million dollars for that very department. Without any authority of law, without any leave of Congress, without any reference to us whatever, \$1,000,000 more is sunk by the quartermaster's department in transporting the troops, in provisions, in clothing, and in such expenditures. The bill which we have passed this session of some nine million dollars has comprised in it not merely the amount over and above that which was appropriated at the last session of Congress for this fiscal year; but there is also included in it the \$1,000,000 which was consumed in the last fiscal year over and above the amount that was appropriated in the deficiency bill in the last session of Congress.

I say that these are grave matters. I have not risen here for the purpose of wasting the time of the House, or to cast odium on any department of the Administration. But I desire to say that when the House yesterday voted down, under the previous question, the amendment of my friend from Ohio, [Mr. SHERMAN,] it took off a most important limitation that has been placed on executive abuse of the public money. It was to prevent abuses done, not only without law, but directly in the teeth of the very first principles on which we are called upon here to appropriate money. Why, sir, the only limitation that exists in the statute-books on the power of the House to appropriate money, is that no money shall be appropriated for the use of the Army or Navy for more than two years; and on the principles on which the department has been acting, I say that there is no limitation at all on the authority of the Executive; but he may incur any amount of debt, and make use of any amount of money, and dispose of the funds which we give him in any manner he sees fit, and then when we make the next annual appropriation for the use of the Army, why can he not leave the whole Army destitute within that year, taking the chance of our being willing to break up the military establishment, and apply the money to pay debts incurred in the previous year, in violation of his duty?

Mr. Speaker, allow me to make one other observation. One of the implied limitations on the use that is to be made of the Army is to be found in the amount appropriated for the Army. If we expect the Army to be employed in putting down disturbances, we appropriate a larger amount; if we expect it to be kept in cantonments, if we expect it to remain in the fortifications, we appropriate a smaller amount. But by the construction of the Administration for the last three or four years, that limitation is entirely disregarded; and one great cause of the enormous deficiency which we are called upon this year to make up is the disregard of that limitation by the Executive. It is because the President has seen fit, without consulting Congress, without asking its leave, to march an army on a war campaign under circumstances of improvidence and carelessness, which, in my judgment, entail a total loss of the whole deficiency in the quartermaster's department which that march has occasioned, that these vast deficiencies exist. Nobody will pretend that the troops now on the borders of Utah were sent there either prudently or wisely, or that their being exposed to the dangers of a winter attack, or to the no less danger of a winter spent on the plains, has at all promoted the object of reducing Utah to obedience to the General Government; and had application been made to Congress to authorize that proceeding, in my judgment, they would have refused authority to commence, at an inauspicious season of the year, an expedition which must necessarily result only in expenditure, and in nothing but expenditure.

I think, therefore, that the limitation in this bill is a salutary declaration on the part of Congress that they have reached the end of their patience with this perpetual misapplication and squandering of the public funds, and that they

mean now to call the attention of the Executive Departments of the Government to it, so that they shall confine themselves to the expenditures within the year; and that if they wish to use the Army and Navy for purposes for which the money appropriated during the year is not sufficient, they shall come to Congress, specify the purposes, and ask a special appropriation, as they have done this session in asking for the new regiments of volunteers which we have authorized to operate in the campaign in Utah. It is for this purpose that I call the attention of the House to the importance of this amendment, and to the great loss the public service has sustained by the rejection of the amendment of the gentleman from Ohio to the bill which we considered a day or two ago.

Mr. LETCHER. My colleague [Mr. HUNTER] in the Senate has explained this matter so clearly, in remarks submitted there, that I do not deem it necessary to do much more than to call the attention of the House to those remarks as they are reported in connection with the motion to strike out the proposition of the gentleman from Ohio, [Mr. SHERMAN,] in the legislative, executive, and judicial bill. They are as follows:

"Mr. COLLAMER. I wish the Senator from Virginia to explain the occasion of striking out the second section.

"Mr. HUNTER. There is occasion for doing so. That section proposes to restrict the expenditures within the year.

"Mr. COLLAMER. The second section confines the expenditures to the year; and why is it stricken out?

"Mr. HUNTER. Because it is found, from experience, that it is impossible to confine the appropriations of one year to the expenditures of that year. There is already a general provision, which is a sufficient safeguard, that when an appropriation is more than two years old, it goes to the surplus fund, and can no longer be used. I am assured by the State Department—and I should have known it if I had not been so assured—that the evidences of many of the expenditures, within the year for which it is designed to provide, do not come in during the year, but perhaps early in the next succeeding fiscal year; and the effect of this section would be, that the money could not be applied to them.

"Mr. COLLAMER. It could if the expense accrued within the year.

"Mr. HUNTER. Not according to the construction which the Department put upon it, and the construction which, I suppose, is designed by the House of Representatives."

Mr. DAVIS, of Maryland. Mr. Speaker, the extract which my friend from Virginia has read, shows that the gentleman from whose speech he has quoted, was laboring under the precise confusion of ideas which I think has prevailed somewhat in this House. I suppose that money is spent when it is due, that it is gone from the Government when the Government ought to pay it. I take it that if, upon the western coast, an obligation is incurred and the accounts only are not sent in here to the Treasury Department, so that the money can be drawn, that is not a case within the provisions of the amendment of my friend from Ohio. That money is spent, and, no matter how long it lay in the Treasury, it would be paid out on demand, till it goes back again with the unappropriated money; for two years the parties, by applying at the Treasury at any time, would have a right to receive that money. When, therefore, there is once an obligation on the part of the Government to pay it, the money is spent, and it may be paid after the year. For instance, suppose that on the western coast the Government has bought military stores in the quartermaster's department, to the extent of \$1,000,000: that money is expended for the use of that fiscal year. When that expenditure is made, if the money is not on the coast, the person acting in the quartermaster's department sends in his account to the Department here. It is possible that that account may get here before the fiscal year has expired. If it does, then the money is immediately delivered over to him. If the account does not get here until after the fiscal year has expired, still the money has been expended within the fiscal year, for the service of that fiscal year, and can be paid at any time, at least within the two years under the existing law.

Well now, what is the effect of the amendment of the gentleman from Ohio? It is this: suppose that an amount of money is appropriated for the use of the quartermaster's department, and that all that money is not used in the course of the fiscal year for which it is appropriated; suppose that contracts have not been made for the supplies of the quartermaster's department within that year, and the year expires: then the effect of the limitation in the amendment of the gentleman from Ohio is, that after the expiration of the year there can be no expenditure of that money made.

Mr. SHERMAN, of Ohio. Both the gentlemen have fallen under misapprehension in regard to the phraseology of my proposition. They are both lawyers, and will understand the meaning of the words "expenses which accrued or shall accrue." The word "accrue" has a definite meaning, and it is different entirely from the meaning of the words "pay out." When a debt accrues, is when it becomes due, when it becomes payable; and therefore, whenever expenses accrue or become due and payable within the fiscal year, then they can be paid at any time.

Mr. DAVIS, of Maryland. That is exactly the view that I have been endeavoring to explain; that whenever the money is due and owing, it is, for all practical purposes, expended. Your Departments, under that provision of law, and, in my opinion, under the law as it now stands, have a right to make a bargain to spend money. But if the money is not already spent by a bargain, purchasing goods, or is not already due for the pay of soldiers, for instance, within the limits of the fiscal year, then the Government has no right to apply any portion of that money to the buying of new goods or the payment of soldiers after the expiration of that year, on the account of the next fiscal year.

Mr. MILLSON. With the permission of my colleague, I desire to ask the gentleman from Maryland a question. He avoids the difficulty that would result from the passage of the amendment of the gentleman from Ohio by supposing that where there is an amount due by contract, although it may not be actually claimed or paid during the fiscal year, yet that it is considered as appropriated, and may be paid after the expiration of the fiscal year. Now, I want to put a question to him from which he will see, I think, that he does not get rid of the difficulty at all, by such a construction of the law. Suppose that the Government asked an appropriation of \$100,000 for the purpose of constructing or completing a particular work; a contract is made for materials involving an expenditure of only \$20,000, but it is estimated at the Department that the cost of labor in constructing the work will be \$80,000; and that work has to be done within the fiscal year. But the delay of the contractor to furnish the material within the fiscal year may prevent the Department from having the work performed, and the expense of the labor which is not performed until after the expiration of the fiscal year will not have accrued; and I ask the gentleman from Maryland, whether, under this provision, it can be paid?

Mr. DAVIS, of Maryland. I suggest that appropriations for the purposes of building may not, in their nature, nor by the language of the bill, be confined to the service of the fiscal year. It is for the accomplishment of a definite object, and not limited to any particular time. But if the language of the law show the appropriation to be confined to the year, then none can be used for expenses incurred after the year. But when money is appropriated for the service of the quartermaster's department for a particular year, it is limited to that particular period, and I say they have no right to go beyond. It is for the support of the Army for a particular period of time.

Mr. MILLSON. That begs the whole question.

Mr. DAVIS, of Maryland. Well, sir, to satisfy the mind of my friend from Virginia, I will say that you cannot adopt any other principle without running foul of the Constitution. Suppose we appropriate money here to the amount of \$100,000,000 for the service of the quartermaster's department for this year. The Constitution says that no appropriation shall be made for the Army or Navy for a period of more than two years. Does my honorable friend from Virginia suppose that is no limitation upon it; or does he suppose that because the money is appropriated to be used within that one fiscal year it may lie as an unexpended balance, to be used at any period beyond the two years to which the appropriation is limited by the Constitution itself? It all comes at last to the construction of each particular law. When the money is appropriated for a longer period no question can arise. If we appropriate money for the service of the Army or Navy for two years, then unquestionably that money cannot be used in any period beyond the two years; but if we appropriate money for the

support of the Army for the year ending June 30, 1857, is it conceivable that under the Constitution or law that money may be used for the payment of expenses which accrue in 1852 or 1860? Such a construction is in violation of the Constitution; nay, more, it assumes an inherent power in the Executive to use money appropriated for a particular time at any other time he may see fit. It assumes that the President can do anything we do not forbid, when the constitutional assumption is that he can do nothing with money but what we expressly authorize. If the law does not authorize the money to be used for any but one year, it is a gross usurpation to use it for another year; for an appropriation limits money not merely to an object but to a specific time, and the President can no more use money for a different year or object than he can without any appropriation at all.

Mr. LETCHER. It strikes me that my friend from Maryland begs the entire question when he undertakes to say that this section does not apply in all cases—in other words, when he undertakes to say that you cannot apply it to appropriations for the construction of buildings, although there is nothing in the section indicating a purpose so to apply it. I say the gentleman begs the entire question, and surrenders the principle which he is seeking to have ingrafted into our legislation.

Now, sir, if this amendment is to be regarded as excepting anything, I take it that the officers of the Treasury, in construing it, must ascertain that exception from the identical words employed in the law limiting it to particular cases, and declaring that it shall not apply to other cases. Well, sir, let us see if there is any limitation of this sort in this second section. It reads:

"That no part of the money herein appropriated shall be paid out of the Treasury for any expenses which accrued, or shall accrue, before the commencement or after the termination of the fiscal year ending the 30th of June, 1859."

Is there any limitation in those words which would authorize the Secretary of the Treasury, in case of a building, or of a contract for material, or in any other conceivable case, to so construe this law as to exempt any one thing for which an appropriation was made, if the expenditure was not strictly confined within the limits of the year? It strikes me that it could not be so construed; that it is patent and palpable that it could not be so construed.

But my friend from Maryland says there is no trouble at all in executing this provision of law. Why, sir, if he will take the trouble to look at the estimates submitted at the opening of this session, he will find there are some sixteen million dollars appropriated in the last year, which are to be expended for the purposes for which the appropriations are made, in the next fiscal year. Now, sir, will it not, under the terms of this section, be absolutely necessary that every one of these items of expenditure should be strictly confined to the year for which it is appropriated?

Mr. DAVIS, of Maryland. The language of this section only makes the provision apply to the money appropriated in this bill.

Mr. LETCHER. The principle is the same; and the gentleman undertakes, not only to apply it to this bill, but to every bill that comes up. The gentleman cannot get rid of the difficulty by telling me that it only applies to the moneys appropriated in this bill.

Mr. DAVIS, of Maryland. My friend will do me the justice to allow me to explain my position. I say the difference between this provision in the bill and the one which the gentleman from Ohio proposed to apply to another bill is, that in that case the existing estimates were made upon the supposition that the balances of the last year could be applied to the following year. To avoid that difficulty a proviso was added. That proviso was then necessary, because that was a general enactment covering all appropriations, and the difference between this bill and that is, that the limitation here only applied to the moneys appropriated in this bill.

Mr. LETCHER. There is no difference in principle, nor is there any reason why, if the principle is applied here, it should not be applied generally. I refer, for instance, to page 42 of the estimates, in which the Secretary reports that there was a balance of \$173,750 for the salaries of consuls unexpended at the close of the last year. He reports that unexpended balance to the House, and asks that, instead of appropriating \$273,000,

which is the amount necessary for the present year, that we should only appropriate \$100,000, leaving the balance to be made up from the surplus holding over from the last year. These two sums make up the required amount of \$273,750.

Mr. DAVIS, of Maryland. It is to prevent exactly that application of the appropriation that this section is intended.

Mr. LETCHER. Well, sir, I confess I cannot understand the difference; the money has to be used, whether you appropriate the whole amount, or only appropriate enough to make up the whole amount with the unexpended balance on hand.

Mr. DAVIS, of Maryland. If there is an unexpended balance let it go back into the Treasury, and be reappropriated for the next year. The object I wish to have accomplished is to bring the Department under the control of Congress in their expenditures.

Mr. LETCHER. *Cui bono?* The money must go back into the Treasury, and be reappropriated if this provision is adopted. Now, if this \$173,750 was appropriated for the payment of the salaries of consuls, what difference does it make whether it is applied to the payment of these salaries for the present year, and only \$100,000 appropriated to make up the full amount required; or whether the money goes back into the Treasury, and you appropriate the full amount of \$273,750?

Mr. DAVIS, of Maryland. It makes this difference. It is the right of Congress to say whether we will appropriate any money at all for this purpose, and if Congress decides it will not, still the Executive may use the unexpended balance in defiance of the will of Congress, unless the principle which we contend for is recognized.

Mr. LETCHER. I put it to my friend to say whether the State Department or the President could use this excess for any other purpose than consular services?

Mr. DAVIS, of Maryland. Under the construction of the law and the practice of the Departments, it seems to me that they can use it for almost any purpose at any time.

Mr. LETCHER. I imagine the gentleman refers to the War Department. We have now upon the statute-book a provision of law which applies to the War and the Navy Departments, and which authorizes them, under certain circumstances, to make contracts beyond the amount appropriated for the purpose. Is there any such express authority, or can there be any contract connected with the consular and diplomatic service, where this money could be so applied unauthorized by law?

Mr. DAVIS, of Maryland. My friend will allow me to make a suggestion. Suppose that this House should not be desirous of continuing a consularship at Liverpool, or anywhere else; if there is a balance of appropriation from the last year, it is out of our power to do so, unless we pass an affirmative law, because the President can go on and pay him. Whereas, if annually we are called on to appropriate, we will have, as we ought to have, the absolute control of saying affirmatively whether any money shall be expended for that purpose or not.

Mr. LETCHER. All very true, Mr. Speaker; but if Congress should think that a consularship should be abolished, of course they will abolish it, and will not appropriate the money, because there will be no reason then for the appropriation. There can be none; but does that relieve the difficulty here under this clause of the law? It strikes me, not; but let us see: here is the law in regard to the surplus fund; let us see where my friend's argument is going to take him. He says that, if money is appropriated now, and that money is intended to be applied to a particular purpose, and is not applied, it is still applicable to that purpose, and does not revert to the Treasury, even under the two-years law.

Mr. DAVIS, of Maryland. No, sir; it does not say that. I am not sure as to the construction of the two-years law. I do not mean to express an opinion on it, but it is probable that the operation of the two-years law is to carry back to the Treasury everything which is not actually paid out. That is my impression of the effect of it. Not merely that which is unexpended, but that which is not actually paid out.

Mr. LETCHER. Precisely; and I maintain that there cannot be a constructive expenditure of

the public money; that, under any law Congress passes, to be called an expenditure, it must be *actually paid out*. But let us look at the provisions of this act. The fifth section reads as follows:

"Where any moneys shall have remained unexpended upon any appropriations by law, other than for the payment of interest on the funded debt, or the payment of interest and reimbursement according to contract of any loan or loans made on account of the United States, as likewise moneys appropriated for a purpose in respect to which a larger donation is specially assigned by law, for more than two years after expiration of the fiscal year in which the act shall have been passed, all and any such appropriations shall be deemed to have ceased and been determined; and the moneys so unexpended shall be immediately thereafter carried, under the direction of the Secretary of the Treasury, to the account on the books of the Treasury denominated the 'surplus fund,' to remain, like other unappropriated moneys, in the Treasury; and it shall not be lawful, for any cause or pretense whatsoever, to transfer, withdraw, apply, or use for any purpose whatever, any moneys carried, as aforesaid, to the surplus fund, without further and specific appropriations by law."

That act was passed on the 26th day of August, 1842. It was reported, sir, by Mr. Fillmore, and passed by his political friends, who then had a majority in each House of Congress. It was approved by the President, whom my friend from Maryland aided in electing, and is, I think, a most wise and excellent law, that ought not to be altered or repealed.

Mr. DAVIS, of Maryland. My friend must recollect that that does not vary the construction of the law.

Mr. LETCHER. It does this: where there is that restriction placed upon the officers of the Government, according to the terms and provisions of that law, it is clear and distinct that they cannot, under the concluding terms, apply this money in any other way, when the two years expire, than to return it to the Treasury; and there it remains until it shall be specifically applied by legislative action on the part of the two Houses of Congress, and approved by the President.

Well, sir, I now ask, in the terms of my colleague in the other end of the Capitol, whether that restriction upon the President and the Departments is not ample for the purposes of protecting the public funds from any misapplication on their part to any purposes not intended by Congress?

But let us see how this matter will work out, according to the views of my friend from Maryland. We had, some time ago, to run a boundary line between the United States and Great Britain. We made a specific appropriation of so much money for the purpose of running and marking that boundary line. It was not intended, at the time of its passage, that this line could be run and marked in the space of twelve months, but that it might be run and marked in the space of two years, or a less time. Now, sir, under the operation of the doctrine which is insisted upon by my friends upon the other side, whatever amount was unapplied at the close of the fiscal year after the passage of the bill, would have to go back into the Treasury, and could not be applied to the purpose of running or marking this line, for which it had been by law specifically set apart. But, if it is not done within two years, under this law of 1842, whatever was unexpended at the end of two years, goes back into the Treasury. Under their view, the object would be to return at the close of the first year whatever was left unapplied to the purpose, although it may then be in progress of execution; and it would require, therefore, the legislation of two successive sessions to accomplish what one act of legislation would effect as the law now stands.

Now, sir, can it be a matter of so much importance that where a purpose of this sort is to be effected you shall make an annual appropriation? You know, at the time you make it, you cannot accomplish the purpose within the year, and at the same time you make it with the understanding that you are to come back next year to appropriate again. What good end would such legislation subserve? Would it save the Treasury? Would it expedite the work? Would it facilitate the purpose Congress had in view in making the appropriation in the first instance? I apprehend not. While it would accomplish none of these purposes, it might be productive of very serious embarrassment and difficulty to the Departments of the Government who have these expenditures in charge.

But let us look at our own country. Here is a portion of it lying upon the Pacific coast, thousands of miles distant from this point; and when appropriations are made, it requires months to communicate with the officers there, and make the necessary arrangements for the purpose of executing the laws of Congress. My friend from Maryland [Mr. DAVIS] and myself both know that during the present session of Congress the returns for the Indian service from that distant portion of our country did not arrive here in time to be submitted to the Committee of Ways and Means with the annual reports at the opening of the session. And they never did come in to us, I believe, till the latter part of the month of April, some four months after Congress had convened. Now, we see, at once, that where this correspondence has to be carried on, where instructions have to be given, and parties to be heard from, you may lose one half or more of the entire year before you can apply a dollar of the appropriation to the purpose for which Congress designed it.

Then, I say, this restriction would operate badly; and I say that while we have this two-years restriction, we have every protection that the Treasury needs, and have, at the same time, none of the embarrassments that would grow out of the provision which it is proposed to insert in the appropriation bill.

Mr. WASHBURN, of Illinois. I move the previous question.

Mr. J. GLANCY JONES. I think we had better have a call of the House.

Mr. GROW. I wish the gentleman would withdraw the demand for the previous question to let me introduce a bill to have printed and referred.

Mr. WASHBURN, of Illinois, declined.

The previous question was seconded.

Mr. HARRIS, of Maryland. Is there a quorum in the House?

The SPEAKER. There was no division called for, and the fact whether there is a quorum or not was not ascertained.

Mr. HARRIS, of Maryland. Did I understand the Speaker to announce his decision?

The SPEAKER. The Chair announced that the previous question had been seconded, and was just announcing that the main question was ordered, when the gentleman from Maryland rose.

Mr. HARRIS, of Maryland. I do not insist on my point of order.

The main question was then ordered.

Mr. WASHBURN, of Illinois. I am applied to by the gentlemen from Pennsylvania and Indiana to give way to introduce bills. I desire to have a little private bill for the relief of one of my constituents taken up. It is a bill which passed the Senate, and if there is no objection I will move to suspend the rules so as to discharge the Committee of the Whole House from its further consideration. It is Senate bill (No. 230) for the relief of the legal representatives of Daniel Hay, deceased.

Mr. CLEMENS. I object.

Mr. WASHBURN, of Illinois. I move to suspend the rules.

The SPEAKER. The motion to suspend the rules cannot be entertained.

Mr. WASHBURN, of Illinois. Then I hope that my friend from Virginia will withdraw his objection.

Mr. CLEMENS. There is not a quorum here; the bill appropriates money, and I object.

Mr. MARSHALL, of Kentucky. This is a bill the exact counterpart of one which was passed at last Congress. I hope the gentleman from Virginia will withdraw his objection.

Mr. CLEMENS withdrew his objection.

Mr. GROW. I desire the consent of the House to permit me to introduce a bill for reference and to be printed.

Mr. HARRIS, of Maryland. Is it in order to transact business without a quorum?

The SPEAKER. It is not.

Mr. HARRIS, of Illinois. But it has not been announced that there is no quorum.

Mr. HARRIS, of Maryland. I think the House is setting a bad precedent; and I move that the House do now adjourn.

Mr. WASHBURN, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. CLEMENS and BURTINOTON were appointed.

The House divided; and the tellers reported—ayes 64, noes 45.

Mr. HOWARD demanded the yeas and nays. The yeas and nays were not ordered.

So the motion was agreed to; and thereupon (at twenty minutes past four o'clock, p. m.) the House adjourned.

IN SENATE.

FRIDAY, June 4, 1858.

Prayer by Rev. T. M. CARSON.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Postmaster General, communicating, in compliance with a resolution of the Senate, information relative to the lists of post offices, regulations, &c., published by George S. Gideon in 1855, and by John C. Rives in 1857; which, on motion of Mr. STUART, was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. BRIGHT presented the petition of J. W. Cummins, for himself and other temporary clerks employed under authority of law, praying to be allowed the benefit of the act of April 22, 1854; which was referred to the Committee on Finance.

Mr. FOSTER presented the petition of George B. Bacon, who performed the duties of purser, while holding an appointment as captain's clerk, on board the sloop-of-war Portsmouth, praying compensation for his services as purser; which was referred to the Committee on Naval Affairs.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed a bill (H. R. No. 538) for the relief of settlers on certain lands in the State of Illinois, in which the concurrence of the Senate was requested.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the enrolled bill entitled "An act authorizing the President of the United States, in conjunction with the State of Texas, to run and mark the boundary line between the Territories of the United States and the State of Texas;" which thereupon received the signature of the Vice President.

HOUSE BILL REFERRED.

The bill (No. 538) from the House of Representatives, for the relief of settlers on certain lands in the State of Illinois, was read twice by its title, and referred to the Committee on Public Lands.

BILLS INTRODUCED.

Mr. STUART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 432) to amend an act entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1856;" which was read twice by its title, and referred to the Committee on Public Lands.

Mr. STUART also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 433) to run, mark, and survey the western boundary of the State of Minnesota; which was read twice by its title, and referred to the Committee on Public Lands.

REPORTS OF COMMITTEES.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom was referred the memorial of the executive board of the American Indian Aid Association, reported adversely thereon, the existing law making sufficient provision on the subjects treated of in the memorial.

Mr. DAVIS, from the Committee on Military Affairs and Militia, to whom was referred the petition of R. F. Hunter, praying to be credited for public moneys stolen while in his possession, submitted an adverse report thereon.

Mr. HUNTER, from the Committee on Finance, to whom was referred the bill (H. R. No. 556) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1859, reported it without amendment.

He also, from the same committee, to whom

was referred the bill (H. R. No. 555) to supply deficiencies in the appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1858, reported it with an amendment.

Mr. THOMSON, of New Jersey, from the Committee on Pensions, to whom was referred the petition of John H. Yewell, praying to be allowed a pension, submitted an adverse report.

Mr. YULEE, from the Committee on the Post Office and Post Roads, who were instructed by a resolution of the Senate to inquire whether the post office laws authorize a postmaster to refuse to deliver letters to a person authorized to receive them by the individuals to whom they are addressed, and if any legislation be required on the subject, submitted a letter of the Postmaster General in relation to the subject; which was ordered to be printed.

Mr. FOSTER, from the Committee on Pensions, to whom were referred the following bills from the House of Representatives, reported them back without amendment, and recommended their passage:

A bill (No. 534) for the relief of Allen Smith;
A bill (No. 221) for the relief of Mary Bainbridge;

A bill (No. 239) for the relief of Zina Williams;
A bill (No. 459) granting an invalid pension to Silas Stevens, of Virginia; and

A bill (No. 529) for the relief of Samuel Goodrich, jr.

He also, from the same committee, to whom was referred the bill (H. R. No. 224) for the relief of Stephen Bunnell, reported it with amendments.

Mr. JONES, from the Committee on Pensions, to whom was referred the bill (S. No. 423) for the relief of Jane Perry, reported it without amendment, and asked to be discharged from the further consideration of the same, and that the petitioner have leave to withdraw her papers; which was agreed to.

Mr. KING, from the Committee on Pensions, to whom was referred the bill (H. R. No. 233) for the relief of Sylvanus Burnham, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 366) for the relief of John Duncan, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 464) for the relief of Cornelius H. Latham, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 532) for the relief of Ebenezer Hitchcock, reported it without amendment and adversely.

Mr. CLAY, from the Committee on Pensions, to whom was referred the bill (H. R. No. 511) for the relief of Nehemiah S. Draper and William Holden, heirs-at-law of Mary Draper, deceased, reported it without amendment and adversely.

He also, from the same committee, to whom was referred the bill (H. R. No. 528) for the relief of Judith Nott, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 458) for the relief of Evelina Porter, widow of the late Commodore David Porter, of the United States Navy, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 277) for the relief of Mary Boyle, reported it without amendment.

Mr. DAVIS, from the Committee on Military Affairs and Militia, to whom was referred the bill (H. R. No. 506) for the relief of the administrator of Horatio Boulbee, deceased, reported it without amendment and adversely.

Mr. YULEE, from the Committee on the Post Office and Post Roads, to whom was referred the bill (H. R. No. 321) for the relief of John B. Roper, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 200) in relation to the duties of postmasters, reported it without amendment, and that it ought not to pass.

Mr. THOMSON, of New Jersey, from the Committee on Pensions, to whom were referred the following bills from the House of Representatives,

severally reported them back without amendment:

A bill (No. 531) for the relief of John Perry, of Illinois;

A bill (No. 346) for the relief of William Sutton;

A bill (No. 457) for the relief of Kennedy O'Brien; and

A bill (No. 527) for the relief of Phineas G. Pearson.

He also, from the same committee, to whom was referred the bill (H. R. No. 267) for the relief of Timothy L. O'Keefe, reported it without amendment and adversely.

Mr. THOMPSON, of Kentucky, from the Committee on Pensions, to whom were referred the following bills, reported them without amendment:

A bill (H. R. No. 529) for the relief of John C. Rathbun; and

A bill (H. R. No. 345) for the relief of Nancy Magill, of Ohio.

Mr. STUART, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 246) for the relief of certain settlers on the public lands in the State of Wisconsin, reported it without amendment.

Mr. JOHNSON, of Arkansas, from the Committee on Public Lands, to whom was referred the petition of Theresa Dardenne, submitted a report, accompanied by a bill (S. No. 434) for the relief of Theresa Dardenne, widow of Abraham Dardenne, deceased, and their children. The bill was read, and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 54) to revive an act entitled "An act for the relief of the representatives of John Donelson, Stephen Heard, and others," approved May 24, 1824, reported it with an amendment.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of James T. V. Thompson, submitted a report, accompanied by a bill (S. No. 435) for the relief of James T. V. Thompson. The bill was read, and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Peter Trezvant, reported a bill (S. No. 437) to refund to the State of Georgia the amount paid by said State to Peter Trezvant for supplies furnished certain troops during the revolutionary war; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the petition of Charles M. Perry, submitted a report, accompanied by a bill (S. No. 439) for the relief of Charles M. Perry. The bill was read and passed to a second reading; and the report was ordered to be printed.

Mr. SIMMONS, from the Committee on Patents and the Patent Office, to whom was referred the petition of Nathaniel Hayward, submitted a report, accompanied by a bill (S. No. 436) for the relief of Nathaniel Hayward. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. POLK, from the Committee on Claims, to whom was referred the report of the Court of Claims on the claim of Joseph Clymer, submitted a report, accompanied by a bill (S. No. 438) for the relief of Joseph Clymer. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. JOHNSON, of Arkansas, from the Committee on Printing, to whom was referred a motion to print one thousand extra copies of the report on commercial relations, for the State Department, reported in favor of the motion; and it was agreed to.

He also, from the same committee, to whom was referred a motion to print certain papers relating to the case of Schuyler Livingston, reported in favor of printing the same; and the motion was agreed to.

He also, from the same committee, to whom was referred a motion to print the report of the Secretary of the Treasury relative to the appointment and compensation of A. G. Penn and Emile La Sere, reported in favor of printing the same; and the motion was agreed to.

PRINTING OF BOOKS.

Mr. JOHNSON, of Arkansas. I am directed, by the Joint Committee on Public Printing, who

were instructed by a resolution of the House of Representatives of the 5th of April last, "to inquire into the propriety of suspending the printing of any books which may have been ordered by any previous Congress; and if the printing of any of said books has been commenced, that they inquire how far the work has progressed, and whether it is proper to discontinue their publication, and pay for the work which may have been done; and that they report, by bill or otherwise," to submit a report, accompanied by a couple of resolutions, counterparts of which have already been adopted in the House of Representatives, and which are the results of the investigations made by the Joint Committee on Public Printing. If these resolutions shall be adopted in the Senate, as they have been in the House of Representatives, they will effect a saving of some three hundred and thirty thousand dollars on the public printing this year in regard to three outstanding unfinished works, to wit: the Pacific railroad survey, the Mexican boundary survey, and the Chili astronomical exploration. I ask the adoption of these resolutions. I presume it will hardly be necessary to consume the time of the Senate by reading the report in full.

Mr. KING. If it is to be acted on it ought to be read.

Mr. JOHNSON, of Arkansas. Very well; read the report.

The Secretary read it, as follows:

That they have carefully examined into the matters referred to them, and have found that all the reports ordered to be printed by Congress previous to the present session have either been completed, or are in such a state of forwardness that the suspension of the publication of either of them would result in the loss of much valuable information to the country, which has been collected at very great expense.

Their investigations, however, have led them to the conclusion that, while they recommend the completion of the printing of all the reports heretofore ordered, the number of copies may be so reduced upon some of the volumes, not yet printed, as to effect a very considerable saving of the public money, and, at the same time, furnish as many copies of each as will meet all the just requirements of the Government and of the public.

The unfinished works are three in number, as follows:
1. *The report of the results of the United States naval astronomical expedition to Chili*, ordered to be printed at the first session of the Thirty-Third Congress. This work will comprise six volumes, four of which are printed; and the printing of the remaining two are progressing simultaneously. The number of extra copies being small—one thousand for the Senate and two thousand for the House—the saving of expense to be effected by rescinding the resolutions to print them would be so inconsiderable that the committee do not deem it expedient to recommend any interference with existing orders.

2. *Reports of explorations and surveys to ascertain the most practicable route for a railroad from the Mississippi river to the Pacific ocean*. These reports will make twelve large quarto volumes, (including one volume of charts,) elaborately illustrated. The Senate has ordered the printing of twelve thousand four hundred copies, and the House eleven thousand five hundred and twenty copies. The printing of eight volumes has been completed; the ninth and tenth have been nearly finished; the eleventh (comprising the narrative of Governor Stevens's expedition) has not yet been commenced, nor the copy furnished; and the printing of the twelfth, being the volume of charts, has not yet been commenced, though the whole expense of engraving these charts in copper, amounting to about forty-five thousand dollars, has been incurred. Inasmuch as the volume comprising the narrative of Governor Stevens's expedition will not be prepared in time to commence the printing previous to the next session of Congress, and, as a disposition is manifested to curtail all expenditures in reference to this work that can with propriety be made, your committee submit a resolution herewith which dispenses with the publication of this volume until Congress shall otherwise direct. The cost of this volume is estimated at \$103,000.

The committee also recommend that the number of copies of the volume of charts be reduced from twenty-three thousand nine hundred and twenty to three thousand nine hundred and twenty copies, which will give the usual number of copies for the two Houses of Congress, five hundred copies for the use of the War Department, and fifty copies, heretofore ordered by the Senate, to each of the officers commanding expeditions. This will effect a saving of upwards of eighty thousand dollars. Should the wants of the Government hereafter require an additional number of these charts they could be procured at small expense, as the plates from which they are printed are the property of Congress, and will be preserved for future use.

3. *Report of the United States commissioner to survey the boundary line between the United States and the Republic of Mexico*, ordered to be printed at the first session of the Thirty-Fourth Congress. This report comprises two volumes, the first of which has been completed. Of the second volume, the Senate has ordered the printing of two thousand extra copies; and, if the order of the House to print the report included also the printing of the appendix, or second volume, there are required for the House ten thousand extra copies. This volume will contain about five hundred pages of text and two hundred and eighty-two pages of illustrations, and its entire cost will be \$107,900. The engraved plates for this volume have all been contracted for, under the authority of the Secretary of the Interior, and are nearly completed.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1st Session.

SATURDAY, JUNE 5, 1858.

NEW SERIES.....No. 169.

As the number of copies ordered appears to be more than the public interests require, the committee recommend that it be reduced to one thousand extra copies for the Senate, and three thousand for the House, thereby effecting a saving of about sixty thousand dollars.

There are, also, six large index maps, engraved on copper; but as they are not intended to be bound in either of the volumes of the report, and as there appears to be no general interest attached to them, it is recommended that they be turned over to the Secretary of the Interior, who can have copies printed, from time to time, as the public interests may require.

The amount required to complete the printing and binding of these three reports, with the illustrations, is estimated at \$643,423. To stop all of them, at present, would effect an apparent saving of probably four hundred thousand dollars; but this would cut off entirely the fourth and fifth volumes of the Astronomical Report, four volumes of the Pacific Railroad Report, and the second volume of the Mexican Boundary Report, and would render wholly valueless printed and engraved matter, which has either been paid for, or is yet to pay for, amounting to more than half a million dollars, much of which, doubtless, is absolutely necessary for the uses of Government, and all of which is valuable or interesting to the public. If, however, the recommendations of the committee meet the approbation of Congress, it is believed that the sum of \$316,000 will complete all these reports in reduced numbers, (though sufficiently large for all necessary purposes), and a saving thereby effected of about three hundred and thirty thousand dollars.

The committee therefore recommend the adoption of the following resolutions:

Resolved, That the resolution of the Senate of the 24th of February, 1855, directing the printing of eleven thousand extra copies of the reports of the explorations and surveys to ascertain the most practicable and economical route for a railroad from the Mississippi river to the Pacific ocean, be so far modified as that no extra copies of the volume of charts be printed for distribution by the members of the Senate; and that the printing of the volume comprising the narrative of the expedition under Governor Stevens be suspended until the further order of the Senate.

Resolved, That the resolution of the Senate of the 15th of August, 1856, which directs the printing of two thousand extra copies of the appendix to the report of Major Emory on the Mexican boundary survey, be so far modified as to authorize the printing of only one thousand extra copies of said report.

The committee would further report, that the sums necessary to complete the works herein specified, in accordance with the plan recommended by your committee, are as follows:

For printing ordered by the Senate and House of Representatives during the Thirty-Third and Thirty-Fourth Congresses, and paper for the same, \$80,000.

For binding documents ordered to be printed by the House of Representatives during the Thirty-Third and Thirty-Fourth Congresses, and for engravings, lithographs, and electrotypes for the same, \$123,000.

For binding documents ordered to be printed during the Thirty-Third and Thirty-Fourth Congresses, and for engravings, lithographs, and electrotypes for the same, \$113,000. All of which is respectfully submitted.

The resolutions were considered by unanimous consent, and agreed to.

JOHN JONES.

Mr. FOSTER. I am directed by the Committee on Pensions, to whom was referred the bill (H. R. No. 456) granting an invalid pension to Brevet Major John Jones, of Tennessee, to report it back, with an amendment; and as this is a very peculiar case, and the petitioner is a very old man, I ask that the bill be considered at the present time.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 456) granting an invalid pension to Brevet Major John Jones, of Tennessee.

The original bill directed the Secretary of the Interior to place the name of Brevet Major John Jones, of Tennessee, on the invalid pension roll, and pay him a pension, at the rate of twenty-five dollars per month, from the 4th of September, 1856, and to continue during his natural life.

The committee reported it with an amendment to strike out all after the word "month," in the sixth line, and insert, "from and after the date of his application, and to continue during his natural life," so as to make the bill read:

That the Secretary of the Interior be, and he is hereby, directed to place the name of Brevet Major John Jones, of Tennessee, on the invalid pension roll, and pay him a pension at the rate of forty dollars per month, from and after the date of his application, and to continue during his natural life.

Mr. POLK. I should like to hear the bill, as it originally was, read.

The Secretary read it.

Mr. JONES. The amendment is simply to prevent the payment of back pay, to cut off three

months' pension. The House proposes to give him three months more than we do by the amendment.

Mr. POLK. I think he ought to have it. I want the House bill.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

EXTENSION OF THE SESSION.

Mr. IVERSON. If there be no further reports I want to make a motion.

Mr. WILSON. I wish to ask the Senator from Georgia to allow me to take up a bill that came from the Committee on Military Affairs, of which he is a member, and I think it will take no time. We have a letter from the Adjutant General on the subject.

Mr. IVERSON. Is it a private bill?

Mr. WILSON. No, sir. It is the bill in relation to enlistments and administering oaths in the Army.

Mr. IVERSON. To-day is set apart for the Private Calendar, and I am disposed to go on with it; but I will give way to the Senator, if his bill will lead to no debate.

Mr. SEWARD. I wish to appeal to both the honorable Senators to call up the resolution in regard to the adjournment.

Mr. IVERSON. That is a privileged question, and I suppose the Senator can make the motion at any time.

The PRESIDING OFFICER. (Mr. FITZPATRICK in the chair.) The Chair will remark, that at the first blush he thought it not in order to consider this resolution to-day. On subsequent reflection, at the suggestion of gentlemen more conversant with the rules than the present occupant of the chair, he inclines to the opinion that it is a privileged question, and therefore, if the Senator makes the motion, it can be considered.

The Senate proceeded to consider the message of the House, announcing that the House had passed the resolution of the Senate in reference to the final adjournment, with an amendment to strike out "Monday, the 14th," and in lieu thereof to insert "Thursday, the 10th."

Mr. SEWARD. I desire to vote against that amendment, and ask the yeas and nays upon it.

Mr. MASON. I submit to the better knowledge, on this matter, of the Senator from New York, that it would be proper to let the resolution lie until next week, and see if we cannot finish up the business. I presume we can.

Mr. FOOT. Without action, the old resolution stands.

Mr. SEWARD. We shall have to adjourn on Monday, if we do not act.

Mr. MASON. It shows that I was fortunate in appealing to the Senator's better intelligence.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on concurring in the amendment of the House of Representatives.

Mr. FOSTER. I suppose we are all agreed that it is better to continue the session until Thursday, than to adjourn on Monday. If we vote this amendment down, in my belief, we shall adjourn on Monday.

I think it better, therefore, to adopt the House amendment; and if, on Thursday, a necessity should exist for a continuance, I have no doubt it will be continued. I hope the Senate will concur in the amendment of the House.

Mr. GWIN. I have not the most remote idea that the House will adhere to their amendment, if we vote it down. I hope it will be voted down. We are just as little qualified to adjourn on Thursday, as we are on Monday.

Mr. HALE. I do not believe that I ever knew the business of the session done up so closely as it will be done if we adjourn on Monday, since I have been a member of Congress, now some fifteen years. Still, to gratify the whims of some gentlemen who think it is necessary to make a show, I shall vote to concur in the House amendment;

but I can tell the Senator from California that if he thinks the House will back down further than that, he is exceedingly mistaken.

Mr. GWIN. Let us try them, anyhow.

Mr. HALE, and others. We will not try them.

The question being taken by yeas and nays, resulted—yeas 29, nays 27; as follows:

YEAS—Messrs. Bayard, Broderick, Brown, Cameron, Chandler, Clay, Clingman, Collamer, Crittenden, Dixon, Donnell, Durkee, Fessenden, Fitzpatrick, Foster, Green, Hale, Hamlin, Hammond, Johnson of Arkansas, Pearce, Pugh, Reid, Sebastian, Simmons, Thompson of Kentucky, Toombs, Wade, and Wright—29.

NAYS—Messrs. Allen, Benjamin, Bigler, Bright, Davis, Fitch, Foot, Gwin, Harlan, Hayne, Houston, Hunter, Iverson, Johnson of Tennessee, Jones, Kennedy, King, Mallory, Mason, Polk, Seward, Slidell, Stuart, Thomson of New Jersey, Trumbull, Wilson, and Yulee—27.

So the amendment of the House was concurred in.

ORDER OF BUSINESS.

Mr. HUNTER. I wish to submit a motion to postpone all prior orders for the purpose of taking up the naval appropriation bill.

Mr. YULEE. I hope the Senator will give us until one o'clock, before the motion is pressed.

Mr. HUNTER. I want to try the sense of the Senate. We have determined to adjourn on Thursday, and if so, we must go on with these bills.

Mr. SEWARD. I call for the yeas and nays.

Mr. WILSON. I hope the Senator will give way and allow me to move to take up a bill.

Mr. HUNTER. If I give way to one, I must give way to all. I want the sense of the Senate upon it.

Mr. TRUMBULL. I hope, if the Senator from Virginia will not give way, that we shall vote down his proposition. Give us the morning hour. We can pass a number of private bills. The parties are importunate about them. The Senator from Virginia has the whole day after one o'clock.

Mr. HUNTER. After one o'clock, there will be an order for private bills. If it were not for that I might yield.

Mr. TRUMBULL. We shall all agree, I apprehend, by general consent, that at one o'clock we shall take up the appropriation bill.

Mr. HUNTER. I withdraw my motion if the understanding is that we shall take up the appropriation bills at that time.

Mr. TRUMBULL. I will agree to it.

Mr. PUGH. I object to it. I think the Senator from Virginia took last Friday for his appropriation bills. We have had but one private bill day during the session, and I hope the motion will be voted down.

Mr. HUNTER. I think, then, we had better take the sense of the Senate. I shall submit to whatever it is very cheerfully.

Mr. IVERSON. I move that the Senate proceed to the consideration of the Private Calendar.

Mr. HUNTER. My motion is pending.

Mr. IVERSON. What is the motion?

The PRESIDING OFFICER. To postpone all prior orders, and take up the naval appropriation bill.

Mr. IVERSON. I trust that motion will not prevail; but that the Senate will proceed to act on the Private Calendar, at least so far as to act on Senate bills that may not be objected to. We may postpone the House bills until next week, and act on them on Tuesday, because it is not essential that they should be acted on to-day; but we can make much progress with the bills reported in this branch, which may not give rise to debate, if we commence where we left off the last day we had the Calendar under consideration. It will be useful and proper that they should be passed, so that they can go to the House of Representatives before the termination of the session, in order that they may be acted on there, and receive the sanction of the House of Representatives.

The yeas and nays were ordered.

Mr. FOOT. I understand there are one hundred and fifty private bills on our table from the

House of Representatives. Unless they are acted on to-day, I see no chance at all for acting on them in the Senate. I think we had better go to the Private Calendar.

Mr. HALE. I am as much in favor of disposing of the private bills as anybody here; but I think we ought to pass the appropriation bills first, and then we can pass the private bills.

The question being taken by yeas and nays, resulted—yeas 27, nays 27; as follows:

YEAS—Messrs. Bayard, Bigler, Cameron, Clay, Clingman, Collamer, Davis, Dixon, Durkee, Fessenden, Fitzpatrick, Gwin, Hale, Hammond, Hayne, Hunter, Johnson of Arkansas, Mason, Pearce, Polk, Reid, Sebastian, Sidel, Thompson of New Jersey, Toombs, Wright, and Yulee—27.

NAYS—Messrs. Allen, Bell, Benjamin, Bright, Broderick, Brown, Chandler, Doolittle, Fitch, Foot, Foster, Green, Hamlin, Harlan, Houston, Iverson, Johnson of Tennessee, Jones, Kennedy, King, Mallory, Pugh, Seward, Simmons, Trumbull, Wade, and Wilson—27.

So the motion was not agreed to.

Mr. IVERSON. I move that the Senate proceed to the consideration of the Private Calendar, beginning where we left off when the Calendar was up before, and acting on those bills which shall not give rise to debate.

Mr. GWIN. I object to that, and hope the order will be reversed.

Mr. IVERSON. I can only say, that at the commencement of the Calendar the first two or three cases are the most debatable cases on the Calendar, and if we take them up, we shall occupy the whole day in debating them, and probably not pass one of them; whereas, if we go on with those bills that shall give rise to no debate, we shall do some good.

Mr. TOOMBS. I insist that we go through with the public business.

Mr. IVERSON. I submit my motion, and let the Senate decide it. I ask for the yeas and nays.

The yeas and nays were ordered, and taken, with the following result:

YEAS—Messrs. Bell, Benjamin, Bigler, Bright, Brown, Davis, Dixon, Doolittle, Durkee, Fessenden, Fitch, Fitzpatrick, Foot, Foster, Hamlin, Houston, Iverson, Jones, Kennedy, Mallory, Mason, Polk, Pugh, Reid, Seward, Simmons, Sidel, Stuart, Thompson of Kentucky, Trumbull, Wade, and Wilson—32.

NAYS—Messrs. Allen, Bayard, Clay, Clingman, Green, Gwin, Hammond, Thompson of New Jersey, Toombs, Wright, and Yulee—11.

So the motion was agreed to.

MYRA CLARK GAINES.

The first bill on the Calendar was the bill (S. No. 383) for the relief of Myra Clark Gaines.

It directs the Secretary of the Interior to place the name of Myra Clark Gaines, widow of the late Major General Edmund P. Gaines, on the pension roll, at the rate of half the pay per month to which he was entitled at his death, to commence from the 6th of June, 1849, and to continue during her natural life.

Mr. TOOMBS. Read the report in that case.

Mr. PRESIDENT OFFICER. (Mr. FITZPATRICK.) No report accompanies the bill.

Mr. TOOMBS. Then I object to it.

OLIVER P. HOVEY.

The Senate, as in Committee of the Whole, next proceeded to consider the bill (H. R. No. 256) for the relief of Oliver P. Hovey.

It directs the Secretary of the Treasury to pay to Oliver P. Hovey \$1,555, compensation for printing the "Kearny Code" of laws for New Mexico, in 1856.

Mr. KING. I do not see how this Government is liable. The claim should, I think, be against the government of New Mexico. I object to the consideration of the bill.

The PRESIDING OFFICER. The bill will be passed over.

Mr. KING subsequently said: I ask that the bill which was laid over in relation to printing the laws of New Mexico be passed. On examination and a statement of that case, I am satisfied that there is no just objection to it. I waive my objection, and ask that the bill be passed.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 256) for the relief of Oliver P. Hovey.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM MONEY.

The bill (H. R. No. 398) for the relief of Wil-

liam Money, was read a second time, and considered as in Committee of the Whole.

It authorizes the Secretary of the Treasury to inquire into the alleged seizure of certain horses in California, by the orders of General Kearny, said to be the property of William Money; and the value of the horses seized, which were appropriated to the use of the Army of the United States, and to pay the value of each horse.

Mr. WRIGHT. Is there a report in that case? I wish to hear it read.

The Secretary read the report, from which it appears that the claim is for forty-five horses seized under the orders of General Kearny in California, and for other articles lost, as he avers, in consequence of the conduct of the troops. The horses are valued at \$100 each. The memorialist alleges that he had been engaged for many years as a naturalist, in exploring California, studying the geology, geography, and productions of the country, with a view to publish the information accumulated by his observations and researches; and that he had compiled a large manuscript volume, containing many drawings, paintings, and maps, which was worth \$10,000. He says he had instruments connected with his scientific investigations in natural history worth \$320, and personal baggage and provisions worth \$680. He states that in November, 1846, he left the town of Los Angeles for Sonora, and having reached an Indian village, called Howargo, was there deprived of his horses by the troops under the command of General Kearny, and thus deprived of the means of pursuing his journey or of returning. He moreover states that information having been given by General Kearny's troops to those Indians and to the neighboring tribes, that the country was under the American flag, and that it became the duty of those Indians to aid and assist in the American cause, and to prevent the passage of all persons from the settlements to Sonora, it was a sufficient incentive to the Indians for the exercise of their natural inclination for pillage; and after the departure of the troops of General Kearny, the Indians took prisoners the whole of the memorialist's party, and commenced an indiscriminate plunder of his property and baggage, and in a few moments totally destroyed all his valuable manuscripts, drawings, maps, and interesting documents, the result of more than twenty years' arduous labor, and upon which he placed his sole dependence for his future maintenance.

He also mentions the sufferings to which his wife was subjected in consequence of his losses. His statements on this subject present a case of female suffering of very aggravated character, and well calculated to make a deep impression on the sensibilities of the heart.

The committee determined to report a bill authorizing an inquiry into the truth of the allegations of the petition, and to provide for the payment of as many of the horses of the petitioner as were taken under the orders of General Kearny, and appropriated to the service of the United States. They would have reported a bill for the immediate payment of the value of the horses claimed, but for certain circumstances which in a great degree threw suspicion upon the whole claim. The affidavits which prove the value of the horses and the property, state, in words written at length, the value of the articles. It appears, from the inspection of the affidavits, that the value for each horse was first written *forty* or *fifty* dollars, and that the word "*forty*" or "*fifty*" had been erased, and "*100*," in figures, inserted in its place, preceding the word dollars. It is clear that the word erased was *forty* or *fifty*, but which, cannot be distinctly told. At the time General Kearny invaded California, the committee has ascertained from various sources that the usual price for the best horses in California did not exceed the price of twenty-five dollars per head, on an average. It seemed to the committee that the valuation put upon the horses by the witnesses whose affidavits are filed, was very extravagant, compared with reliable information obtained from other sources; but when the valuation as originally written in the affidavits has been erased, and figures inserted, doubling the price, such fact brings a just suspicion upon the whole claim.

The committee perceive no ground, no proof, upon which the Government of the United States can justly be made responsible for the depredations committed by Indians in the manner stated.

There is no evidence that General Kearny, or any of his officers or men, gave directions to the Indians to make prisoners of the memorialist and his family, or depredate on his property. Nor does the committee perceive that the loss of the manuscripts, &c., &c., was a necessary consequence of the seizure of the horses. Thieves may have stolen the property, even if the horses had not been taken. The damage complained of for the loss of all the property, except the horses, is too contingent and uncertain to constitute a valid claim against the Government. Moreover, the committee have no means of forming a judgment in regard to the value of the maps, drawings, manuscripts, &c., said to have been destroyed by the Indians; and some samples of the talent of the memorialist which have been exhibited to the committee do not produce any favorable opinion of the value of manuscripts said to be destroyed.

Mr. WRIGHT. I am satisfied.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN F. CANNON.

The next bill on the Calendar was the bill (H. R. No. 273) for the relief of John F. Cannon.

It requires the Postmaster General to pay to John F. Cannon, at the rate of \$120 per annum, for and during the time he carried the mail, according to his contract, in addition to the amount already paid to him, for additional expense incurred and extra service performed by him on mail route No. 2627.

Mr. KING. Is there a report accompanying that bill?

The PRESIDING OFFICER. No, sir; there is no report.

Mr. KING. Then let it go over.

DISMAL SWAMP CANAL.

The bill (S. No. 400) to surrender the stock of the United States in the Dismal Swamp Canal Company, upon certain conditions, to said company, was read a second time, and considered as in Committee of the Whole.

The shares held by the United States in the stock of the Dismal Swamp Canal Company are, by this act, to be released and surrendered to the company, upon condition that the proceeds or profits thereof are to be applied to the prosecution and completion of the work commenced by the company to connect the southern termination of the canal with Pasquotank river, below the Moccasin Track; and also that the United States shall not be thereafter subject to any contribution or expense for the work, or for repairing or extending the canal, or for any object resulting from its interest as one of the joint proprietors.

Mr. KING. Is there a report or a statement of the facts?

Mr. CLAY. The report is among the papers; but I can state the case briefly if the Senate chooses to hear me. The Government of the United States has been a stockholder in this company for a good while.

Mr. STUART. To what amount?

Mr. CLAY. To an amount equal to about one third of the stock.

Mr. KING. What is the whole amount?

Mr. CLAY. The stock is of little value unless the work is completed in the way proposed. They came here with a memorial, and asked Congress either to appropriate money, its proportionate share, towards completing this work, or to afford such other relief as it thought proper. The Committee on Commerce unanimously determined that they would surrender the stock on condition that the Government should be discharged, and I think it was pretty generally agreed that we would surrender all other stock we have got in every other work of improvement.

Mr. KING. I am content.

Mr. COLLAMER. Is it provided that, if we go out, they will complete it?

Mr. CLAY. Yes, they undertake to do that. The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

NEW YORK INDIANS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 389) providing for the allotment of lands to certain New York Indians, and for other purposes.

The President is directed, as soon as practicable, to cause three hundred and twenty acres, or one half section of land, to be set apart and allotted to each individual Indian entitled to lands in the tract set apart for the use of the New York Indians, by the treaty of January 15, 1838, made and concluded at Buffalo Creek, in New York, and the treaty made at the same place on the 20th day of May, 1842: the lands are to be selected within the reserve, in Kansas Territory, in conformity to the legal subdivisions of the public surveys, and so as to include the improvements of each Indian, and patents for the same are to be issued to the head of each family. When the selections shall have been thus made and allotted, the remainder of the reserve is to be considered a part of the public lands, and to be subject to settlement, preemption, and entry, as other lands belonging to the United States.

The bill was reported from the Committee on Indian Affairs, with an amendment to insert in the seventh line, after the word "Indians," the words "and now residing thereon."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed and read a third time. It was read the third time, and passed.

GEORGE STEALEY.

The bill (S. No. 403) for the relief of George Stealey was read a second time, and considered as in Committee of the Whole.

The account furnished by George Stealey, for services rendered and expenses incurred by him as agent, appointed by the Indian commissioners of the United States for the State of California, to visit the northern tribes of Indians in that State, is to be referred to the Third Auditor of the Treasury, with authority to cause the same to be settled upon principles of equity and justice, and the amount thereof to be paid. This settlement is to be made upon satisfactory vouchers showing that the expenses were actually incurred, and that the prices paid were just and proper under the peculiar circumstances of the case.

Mr. KING. I call for the reading of the report.

The Secretary read the report; from which it appears that the memorialist was employed in the winter of 1850-51 by the United States Indian commissioners in California to visit the tribes in the northern portion of that State, with a view to arrest the aggressions upon the miners in their neighborhood, and establish peaceful relations between those Indians and the white inhabitants until permanent treaties could be made, in which he was successful. In consequence of the separation of the commissioners before he had returned from his mission, and the exhausted state of the fund provided for the purpose, he, as he alleges, has not been compensated for his services, nor reimbursed the money expended by him out of his own funds in carrying out the object of his mission. He now asks payment for his services and reimbursement of his expenses, a list of which is among the papers, furnished under oath, but unaccompanied by any proper vouchers, other than the statement of one of the commissioners, also filed with the papers, that the memorialist was employed on the service indicated, which was one of great danger and exposure, and had succeeded in effecting the object of his mission, as the memorialist had alleged in a letter written to the commissioner. The committee are of opinion that the memorialist should be compensated for any services he may have performed under the direction of the United States commissioners, and reimbursed any expenses actually incurred in the performance of the duty assigned to him, on production of satisfactory vouchers, showing that the expenses were actually incurred, and that they were necessary to the attainment of the end that he had in view.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MARGARET WHITEHEAD.

The bill (H. R. No. 232) for the relief of Margaret Whitehead, was considered as in Committee of the Whole.

It requires the Secretary of the Interior to place the name of Margaret Whitehead, widow of William Whitehead, a boatswain in the United States

Navy, on the pension roll, and cause to be paid to her the sum of ten dollars per month, from the 9th day of April, 1854, and to continue during her natural life or widowhood.

Mr. CLAY. I ask for the reading of the report.

The Secretary read it; and it appeared that the petitioner is the widow of William Whitehead, deceased, who was a boatswain in the United States Navy. While engaged, under orders, in removing some cannon and balls at Old Point, he received a strain in the groin, resulting in hernia; and he died of strangulated hernia and hydrocele, April 9, 1854.

Mr. TOOMBS. I should think it was time the Senate was taking some action, and adopting some principle, in reference to these questions. Here, it seems, was a person in the civil service in time of peace, who, in lifting cannon, was supposed to have been affected at the time, and subsequently died; and his widow is to be pensioned. If that is a ground for a pension, it ought to be made a general rule for pensions. None of these cases ought to be entertained here at all. These are mere applications to us for gratuities; and all public business must stand aside that you may give people gratuities. If this man is entitled to a pension under these circumstances, what is the limit? You see it is a far-fetched case. When he died, or how he died, is not stated; but it is supposed that his death resulted from his services in removing cannon balls! If persons, by casualties in time of peace, contract diseases by which they may subsequently die, are they to be pensioned? If so, that ought to be a principle. We ought not to be lumbering up Congress here. They ought to go to the proper Department and get it. The class of cases that are beyond all principle come here. Because they are not within the principle, they ought not to pass. I object, therefore, to the passage of the bill.

The bill was passed over.

MILES JUDSON.

The bill (S. No. 407) for the relief of Miles Judson, surety on the official bond of the late Purser Andrew D. Crosby, was read a second time, and considered as in Committee of the Whole.

It requires the proper accounting officers of the Treasury Department to readjust the accounts of the late Purser Andrew D. Crosby, and to allow credits therein for sundry suspended or rejected items to the aggregate amount of \$1,196 87; and that that sum, together with interest thereon at the rate of six per centum per annum, from the 1st of January, 1843, to the date of payment, be reimbursed to Miles Judson, being so much of the amount paid by him upon a judgment obtained against him as one of the sureties on the official bond of Purser Crosby.

Mr. CLAY. Read the report.

Mr. IVERSON. I can state to the Senate the facts in the case. Crosby was a purser in the Navy; Judson was his security. Crosby died in the Gulf. He fell from the mast-head. He was ordered up aloft, fell, and was killed, under Commodore Perry, in the Gulf of Mexico. His accounts are unadjusted at the Treasury Department. There were a number of items objected to because of the want of vouchers, and the vouchers could not be produced on account of the death of Mr. Crosby. Judson was sued, judgment recovered on the bond, and he has paid the debt, amounting to something over four thousand dollars. Since that vouchers have been produced, and sustain some of the items, not all; but as far as the committee have had the vouchers we have authorized the money to be paid back to Mr. Judson. It is perfectly fair.

The particulars of the claim are more minutely set forth in the report from the Committee on Claims, from which it appears that Judson was one of the sureties on the official bond of Andrew D. Crosby, late a purser in the United States Navy. Purser Crosby was killed in 1846, while engaged in the duty of piloting the United States steamer Vixen, under the command of Commodore Perry, along the coast of Yucatan. On the settlement of his accounts at the Treasury, a balance was found in favor of the United States for the sum of \$3,326 31, for which suit was instituted against the sureties, and judgment recovered, in 1855, against the petitioner, Miles Judson, who subsequently paid into the Treasury, through the marshal of the

eastern district of Louisiana, in satisfaction of the same, the sum of \$4,320 70, including interest and costs. This application is for the reimbursement of that sum, on the ground that the sudden death of Purser Crosby, in the active discharge of his duty in time of war, must have left his accounts in a deranged condition, and that the presumption, arising from his high character, is that, if he had not been thus deprived of the possibility of properly presenting his accounts and vouchers, no defalcation would have appeared.

A claim was presented to the Twenty-Ninth Congress, in behalf of the representatives of Purser Crosby, to be allowed certain sums alleged to have been paid by him to certain warrant officers of the United States ship Ontario, in 1841, and which had been disallowed in the settlement of his accounts with the Government. The amount thus claimed was \$550 99. The claim was referred to the Committee on Naval Affairs of the Senate, who reported in favor of its allowance, but it does not appear that any action was had upon the bill.

During the present session the committee referred the petition of Mr. Judson to the Secretary of the Treasury, with the request that he would cause the committee to be furnished with any information on the files of the Department calculated to lead to a proper decision of the merits of the present claim. In answer, the Secretary communicates a statement of the Fourth Auditor, containing a list of items rejected in the settlement of Purser Crosby's accounts, which is among the papers in the case, and sustains the report of the committee in 1847 in favor of allowing the sum of \$550 99, and also an allowance of several other items in the heretofore rejected accounts of Purser Crosby, amounting to an additional sum of \$218 97.

The committee concur in the opinion expressed by the committee of the Twenty-Ninth Congress in favor of the allowance of the \$550 99 paid to the warrant officers of the Ontario, and with the Fourth Auditor, who thinks that, in addition to the above, a further sum of \$218 97 on other items should be allowed.

There are amongst the papers lately filed by the agent of Mr. Judson several original vouchers for money paid out by Crosby, and which do not appear ever to have been allowed him, namely: First, one large table, March 5, 1843, \$15. Second, for freight on specie, May 4, 1843, \$30. Third, for beef, bread, and vegetables purchased for the United States ship Preble, April 12, 1845, \$110 66. These vouchers and purchases appear to have been authorized and approved by the commanding officers of the ship in which Crosby was purser. These make up an additional sum of \$155 66, which ought, in the opinion of the committee, to be allowed.

The Fourth Auditor, in his communication, admits the propriety of allowing the twenty-sixth, twenty-seventh, and twenty-eighth items of the suspended accounts of Crosby, if there was any evidence that he had ever received the drafts and Treasury notes which are the foundation of the items. Since that letter was received by the committee, the agent of the petitioner has filed the certificate of George Curtis, cashier of the Bank of Commerce, New York, in 1844, stating that Mr. Crosby, as purser of the Ontario, handed him \$9,500 of Treasury notes to sell for him, which Curtis sold at a discount of three fourths per cent.; the loss being \$71 25, the identical amount charged in item No. 28. In support of the twenty-sixth and twenty-seventh items, letters of the then Secretary of the Navy, Mr. Upshur, are exhibited, of 9th May and 6th of July, 1842, authorizing Mr. Crosby to draw on the Department at thirty days' sight for such sums as he might want for the use of the ship, and to negotiate the drafts on the best terms that could be obtained in New Orleans. This is strong presumptive proof in support of these two items, and authorizes the committee to allow them. These three items make the sum of \$271 25, and all added together make up an aggregate sum of \$1,196 87. The committee think the above sum ought to have been allowed Purser Crosby in the settlement of his accounts; and that as his surety, Mr. Judson, has been charged interest on the amount of Crosby's liability upon his official bond, it is reasonable and just that interest should be allowed on the above sum from the average period of the various ex-

penditures, which would be about the 1st of January, 1843. The committee therefore report a bill for the sum of \$1,196 87, with interest at six per cent. There are several other items in Purser Crosby's suspended account which the committee have reason to think were just, but, as there is no proof to sustain them, they are compelled to reject them.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LAND CLAIMS IN LOUISIANA.

The bill (S. No. 410) to confirm certain land claims in the Florida parishes of Louisiana, to the city of New Orleans, was announced as next in order.

By this bill the city of New Orleans is to be confirmed in its title to the one undivided one half part of several tracts of land following: First, nineteen thousand arpents of land sold to Don Louis de Clonet and Don Alexander de Clonet by Don Juan Ventura Morales, Governor General of Louisiana and West Florida, on the 15th and 16th days of November, 1803; second, one hundred and twenty thousand arpents of land sold to Don Jeronimo Chiapella by Don Juan Ventura Morales, Governor General of Louisiana and West Florida, on the 5th and 7th of October, 1803; third, thirteen thousand three hundred and thirty-three arpents of land, being the one third part of a tract of forty thousand acres of land, sold to Don Juan Delapize by Don Juan Ventura Morales, Governor General of Louisiana and West Florida, on the 16th of May, 1804; fourth, twenty-one hundred acres of land described in the acknowledgment made in favor of Philip Robinson by Don Thomas Estevan, commandant at the port of Galveston, on the 20th of January, 1804; and fifth, fourteen hundred and twenty acres of land, being the unconfirmed remainder of a tract of twenty-seven hundred acres of land granted by Don Thomas Estevan, then commandant of the Amite district, to John McDonough and Sheppard Brown, on the 5th of March, 1806.

Joseph Reynes is also to be confirmed in his title to a certain tract of land in the parish of East Feliciana, and State of Louisiana, containing about forty thousand arpents; which tract was sold to his late father, Joseph Reynes, senior, on his application, dated the 19th of November, 1803, and which sale was confirmed by Don Juan Ventura Morales, Governor of Louisiana and West Florida, on the 31st of December, 1803.

John Johnston, and Harriet Johnston, now widow Marshall, sole heirs of James Johnston, deceased, are also to be confirmed in their title to a tract of thirty-five thousand arpents of land, lying in the Florida parishes of Louisiana, on the waters of Thompson's creek, or Feliciana river, and the Cemite, immediately south of the thirty-first parallel of north latitude; the tract being the same which was sold to Don Manuel Langos by Don Juan Ventura Morales, Governor of Louisiana and West Florida, on the 2d of January, 1804.

The heirs, assigns, and legal representatives of Cristoval de Armas, and his son, Miguel de Armas, are also to be confirmed in their title to twenty thousand arpents of land, situated in the Florida parishes of Louisiana, sold to them by Don Ventura Morales, Governor of West Florida and Louisiana, by deed, dated at Pensacola on the 28d October, 1806.

And it is to be made the duty of the Commissioner of the General Land Office to cause to be surveyed, under instructions to be issued by him, these several tracts of land, and to issue patents for them in favor of the several parties respectively confirmed; but if any of the lands are owned or possessed by third persons, claiming or deriving title from the Government of the United States, then the lands so owned or possessed by such third persons are not to be included in these confirmations, but in lieu thereof the parties entitled to confirmation are to receive from the Commissioner land warrants authorizing them to locate and enter, in legal divisions or subdivisions, any other land of the United States that may be subject to entry at \$1 25 per acre, which land warrants shall be assignable in the same manner and according to the same rules and regulations as are now applicable to military bounty land warrants.

Mr. KING. Is there a report in this case? Let us hear it.

Mr. BENJAMIN. I will state that the report is nearly thirty pages long. If the Senator would like information, and will permit me, I will give it as succinctly as I can, and in a much shorter time than the reading of the report will occupy.

Mr. KING. I should like to know whether portions of the land are not settled, so that one of the objects of the bill is to get land clear?

Mr. BENJAMIN. Not at all. This whole section of Louisiana has remained almost unsettled, by reason of the difficulty of these titles. There may be some settlements, here and there, where the Government has sold parts of it. It is not proposed to disturb the settlers there, but to enter the same quantity elsewhere in the State.

Mr. KING. If most of this land was settled, I should prefer to leave it to the parties to litigate their claims.

Mr. BENJAMIN. There is very little of it settled. That whole district of Louisiana has remained unsettled in consequence of these titles being in an incomplete condition. If the Senator would like to hear the case, I will state the facts.

Mr. KING. I will hear the Senator.

Mr. PUGH. I should like to hear the Senator from Louisiana explain the last provision of the bill, giving unlimited authority to locate land warrants. I am willing to confirm the land claim if it be just; but I do not like to give this privilege.

Mr. BENJAMIN. I shall be compelled to trespass on the attention of the Senate for a few moments. This is a subject of great interest to the people of Louisiana, and has remained unsettled now for nearly fifty years. At the time of the acquisition of Louisiana from France, there was a dispute as to the eastern boundary of Louisiana. The United States claimed under the title from France that Louisiana extended eastward to the Perdida river, occupying a great deal of what is now the southern part of the State of Alabama. Spain contended that, on the contrary, all lying east of the Mississippi river and the island of New Orleans formed a portion of the province of West Florida, belonging to Spain. That title between the United States and Spain remained in litigation for some sixteen years. It remained in actual possession of Spain. It remained so, with the acquiescence of the United States, until the year 1810.

Mr. KING. The Senator will excuse me. I dislike to do so; but I think this bill had better go over.

The PRESIDING OFFICER. The bill will lie over, under the rule.

Mr. BENJAMIN afterwards said: A bill was a short time ago objected to by the Senator from Ohio, who joined with the Senator from New York in his objection to the bill to confirm certain land titles in Louisiana. The Senator from Ohio has examined the matter, and is willing to withdraw his objection. It is the bill (S. No. 410) to confirm certain land claims in the Florida parishes of Louisiana to the city of New Orleans and others.

Mr. HUNTER. Is there any report accompanying it?

Mr. BENJAMIN. The bill has been read three times, and it has been examined by the Senator from Ohio, who made the objection.

Mr. IVERSON. It is suggested by a Senator near me that it confirms a title to the extent of five hundred and fifty thousand acres of land.

Mr. BENJAMIN. It does.

Mr. HUNTER. It is a large claim. I never heard of it before.

Mr. PUGH. The report is as large as the claim. It is very long.

Mr. CLAY. If it is not to be read, I shall have to object.

The PRESIDING OFFICER. The bill must be passed over.

EBENEZER RICKER.

The bill (S. No. 411) for the relief of Ebenezer Ricker was read a second time, and considered as in Committee of the Whole.

It directs the Secretary of the Interior to place the name of Ebenezer Ricker, late a corporal in the Army of the United States, on the invalid pension list of the United States at the rate of eight dollars per month, commencing on the 4th of March, 1856, and to continue during his natural life, on account of a wound received in the military service of the United States.

He enlisted as a private in the Army of the

United States, and was attached to company A, second regiment United States dragoons, commanded by Captain G. A. H. Blake. On the 16th of October, 1839, he was made a corporal. In the month of May, 1840, he was put in charge of the guard, guarding the baggage train passing along St. John's river, in Florida. While in service in the line of his duty, he had occasion to take his carbine from its resting place in the saddle, when it was accidentally discharged, and the ball passed through his left wrist. The consequences of this wound were a permanent disability, and it has totally disqualified him from procuring his subsistence by manual labor.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

IOWA SETTLERS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 322) for the relief of purchasers of public lands within the timber reserve opposite Fort Kearny, and for the settlers within the Winnebago agency reservation, the Fort Atkinson reservation, and the timber reserve opposite Fort Crawford, all in the State of Iowa.

By this act all entries heretofore made at Council Bluffs, in the State of Iowa, by preemption or otherwise, of lands situated within the timber reserve opposite Fort Kearny, in township number sixty-eight north, of ranges forty-three and forty-four west, are confirmed, and patents are to be issued thereon. By the second section the privileges of the preemption act of the 4th of September, 1841, are extended to all bona fide actual settlers, who, prior to and at the passage of this act, have made actual settlements upon the lands heretofore reserved (and which remain undisposed of) for the Winnebago agency, in township ninety-six north, of range nine west; upon lands within the military reservation at Fort Atkinson, in the same township and range; and upon lands within the timber reserve opposite Fort Crawford, in township ninety-five north, of ranges three and four west—all in the State of Iowa; but within three months from the first newspaper publication of this act in the land district in which the lands are located, the settler is to file a declaratory statement with the register, showing the description of the land claimed by him, and to file proof showing his right under this act, and make payment at the rate of \$1 25 per acre for the same, within twelve months.

The Committee on Public Lands reported the bill, with an amendment in lines nine, ten, and eleven, in the second section, to strike out the words, "and upon lands within the timber reserve opposite Fort Crawford, in township ninety-five north, of ranges three and four west."

From their report it appears that the timber reservation opposite Fort Kearny had been long abandoned by the War Department, and its existence, as a reserve, apparently forgotten. It was surveyed, brought into market, and sold as other public lands. The issuing of patents seems to have been suspended because these lands had not been formally transferred by the War Department to the Department of the Interior. The Fort Atkinson and Mission reservations, and timber reservations opposite Fort Crawford, were abandoned by the War Department many years since, and were settled on and improved by settlers as other public land. In 1854 the buildings at Fort Atkinson were sold to Catharine Newington, who, by a subsequent special law of Congress, was allowed to purchase one section, on which the buildings were situated, as a preceptor, at \$1 25 per acre. The Secretary of War, after an examination of the subject, by special agent on the grounds, in the year 1857, ordered the sale of that part of the timber reservation opposite Fort Crawford, in the possession and occupancy of actual settlers, not exceeding one hundred and sixty acres to each, at \$1 25 per acre to the settlers; which sale has been made. The committee, therefore, as at present informed, see no sufficient reason for special legislation in relation to this reservation, but recommend the application of the same principle, in the sale of the Fort Atkinson and Winnebago reservation, as was applied in the sale of the timber reservation opposite Fort Crawford.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed and read a third time. It was read the third time, and passed.

The title was amended so as to read:

A bill for the relief of purchasers of public lands within the timber reserve opposite Fort Kearny, and for the settlers within the Winnebago Agency reservation and the Fort Atkinson reservation, all in the State of Iowa.

WILLIS A. GORMAN.

The bill (S. No. 417) for the relief of Willis A. Gorman, was read the second time, and considered as in Committee of the Whole.

It provides that there be paid to Willis A. Gorman, as Governor of Minnesota Territory, the sum of \$820, as compensation for his services as commissioner to investigate the alleged frauds of Alexander Ramsey, late superintendent of Indian affairs for the northern superintendency, and for reimbursement of his necessary expenses incurred therein.

The bill was reported to the Senate without amendment; ordered to be engrossed for a third reading, read the third time, and passed.

HENRY G. CARSON.

The next bill on the Calendar was the bill (S. No. 244) for the relief of Henry G. Carson.

It directs the Secretary of the Treasury to pay to Henry G. Carson, administrator, with the will annexed, of Curtis Grubb, deceased, surviving partner of the firm of Curtis and Peter Grubb, the amount of a certain final settlement certificate numbered two hundred and sixty-five, letter N, dated January 5, 1784, issued by Benjamin Stelle, commissioner for settling debts of the United States in the State of Pennsylvania, to Curtis and Peter Grubb, on account of cannons, shot, and shells, furnished during the revolutionary war, now certified by the Register of the Treasury to be still outstanding and unpaid.

Mr. POLK. The Court of Claims have reported adversely on that case. The committee concur in the adverse report of the Court of Claims, and ask to be discharged.

Mr. STUART. Then I move the indefinite postponement of the bill.

The motion was agreed to.

CONSULAR APPROPRIATION BILL.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 6) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1859.

SUSANNAH REDMAN.

The bill (H. R. No. 335) for the relief of Susannah Redman, widow of Lloyd Redman, was considered as in Committee of the Whole.

It authorizes the Secretary of War to pay to Susannah Redman, widow of Lloyd Redman, formerly of Captain Clay's company of Kentucky volunteers, \$170, being the amount adjudged as due to Lloyd Redman for three horses lost by him while in the service of the United States during the Mexican war.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

GEORGE W. BISCOE.

The bill (H. R. No. 203) for the relief of George W. Biscoe, was considered as in Committee of the Whole.

It provides that the proper accounting officers of the Treasury shall audit the claim of George W. Biscoe to indemnification under the first article of the treaty of Ghent, for the loss of the schooner Speedwell, captured in the Patuxent river by the British naval forces on the 22d August, 1814, and which was in the waters and within the territorial jurisdiction of the United States on the 17th day of February, 1815, the day of the exchange of the ratifications of the treaty of Ghent, and was carried away out of the waters and territorial jurisdiction of the United States, in violation of the first article of the treaty; and that the officers shall ascertain the value of the schooner Speedwell, from such proof as may be exhibited to them, within six months from the date of this act, and that the amount so ascer-

tained shall be paid, not exceeding the sum of two thousand dollars.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN B. MONTGOMERY.

The bill (S. No. 418) for the relief of Captain John B. Montgomery was read a second time, and considered as in Committee of the Whole.

It directs the proper accounting officers of the Treasury Department to allow to Captain John B. Montgomery, of the United States Navy, in the settlement of his accounts, the sum of \$91 85, being for public money intrusted to him for recruiting purposes, and lost by the failure of the Phoenix Bank in Charlestown, Massachusetts.

In 1841 Captain Montgomery was ordered to take charge of the recruiting service at Boston. This service involved the disbursement of public money, which was placed in his hands for that purpose. This money he, in common with other disbursing officers in that vicinity, kept on deposit in the Phoenix Bank, then regarded as a safe and reliable bank, equally by the public officers and the mercantile community. In October, 1842, the bank suddenly failed, at which time Captain Montgomery's deposits amounted to \$687 95, as appears from the official statement of the receivers of the bank assets. Of this sum \$596 10 have since been paid in dividends out of the assets of the bank, and Captain Montgomery now asks that the balance of \$91 85 may be passed to his credit on the books of the Treasury. Acts of Congress have been passed for the relief of Pursers Wilson and Taylor, whose funds were deposited in the same institution and lost at the same time.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CHEROKEE INDIANS.

The joint resolution (S. No. 46) authorizing the payment of certain moneys to certain Cherokee Indians remaining east of the Rocky Mountains, was announced as next in order.

It directs the Secretary of the Treasury to ascertain the amount, if any, of the Cherokee appropriation of June 12, 1838, that was carried to the surplus fund June 30, 1847-48; and the amount so ascertained is hereby appropriated for reimbursement of the appropriation, and as much thereof applied as may be necessary to set apart in the Treasury a sum equal to \$53 33 to each individual Cherokee Indian, or descendant of Cherokee blood, that remained in the States east at the time of the ratification of the treaty of New Echota, May 23, 1836, and who has not removed west of the Mississippi, or received the commutation for removal and subsistence; whereupon the Secretary of the Treasury is to cause to be paid to every such individual Cherokee now living east of the Mississippi the same amount, respectively, as provided for by the act of July 27, 1848, for the North Carolina Cherokees.

Mr. IVERSON. The committee was discharged from the consideration of that resolution. It is an adverse report.

THE PRESIDING OFFICER. (Mr. FITZPATRICK.) The Senate has to act on it. What motion does the Senator make?

Mr. IVERSON. I move to postpone it indefinitely.

The motion was agreed to.

CHEROKEE TREATIES.

The next bill on the Calendar was the bill (S. No. 201) to execute the treaties of 1817 and 1819 with the Cherokees, by making provision for the reservations under the same.

It sets forth that whereas a reversion in fee simple, reserving to the widow her dower, was granted to the children of heads of families taking reservations under the eighth article of the treaty of 1817 with the Cherokees, and under the second article of the treaty of 1819 with the Cherokees, which reversion in fee simple and reservation of dower could not be affected by any act or omission of the tenants of the life estate in such reservations; and that many of these reservations are now held, under the laws of the States where they are situated, or otherwise, by titles or permission adverse to the just rights of the children and widows of such heads of families, the President

of the United States is therefore required to appoint, by and with the advice and consent of the Senate, two suitable commissioners, whose duty it shall be to appraise the full and fair value of the reversion in fee simple of the children, and of the reserved dower of the widows, of the heads of families, where such reservations may now be held by adverse titles; but no appraisement is to be made of such reversions in fee simple, or of reserved rights of dower, which may have been heretofore paid for by the United States. The commissioners, after making the appraisement, are to report the same to the Secretary of the Treasury, whose duty it shall be to pay the same—the children or widows, or legal representatives, first filing in the office of the Secretary full releases to the United States of their titles respectively.

Mr. HAMLIN. The committee have also been discharged from the consideration of that.

Mr. FOOT. I move the indefinite postponement of the bill.

The motion was agreed to.

M'ATEE AND EASTHAM.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. C. C. No. 65) for the relief of Benjamin L. McAtee and J. N. Eastham, of Louisville, Kentucky.

It directs the Secretary of the Treasury to pay to Benjamin L. McAtee and J. N. Eastham the sum of \$6,000, in full, for transporting extra mail matter over routes Nos. 3960 and 4169, between the 1st day of July, 1846, and the 30th day of June, 1850.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

SIMEON STEDMAN.

The bill (H. R. No. 334) for the relief of Simeon Stedman, was considered as in Committee of the Whole.

It directs the Secretary of War to instruct the proper disbursing officer to pay to Simeon Stedman, who served in Captain Christopher Ripley's company of the thirty-seventh infantry, during the war with Great Britain, in 1812, such sum or sums as may have accrued to him from the time of his last receiving payment for services till the end of the war.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

RICHARD B. ALEXANDER.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 332) for the relief of Richard B. Alexander.

It authorizes the proper accounting officers of the Treasury to pay to Richard B. Alexander, late a major in the first Tennessee regiment, the sum of \$250 in full of the value of one horse and one mule lost by him during the Mexican war.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SYLVESTER CHURCHILL.

The joint resolution (H. R. No. 10) for the relief of General Sylvester Churchill, was considered as in Committee of the Whole.

It requires the proper disbursing officer to allow and pay to General Sylvester Churchill, inspector general, the pay and allowances of inspector general, from the 29th of April, 1845, the date of his discharge, to the 21st of January, 1846, when he was reinstated in his office, according to the rates of pay then allowed, deducting from the pay and allowance any amounts which may have been paid to him for service performed between the time of his discharge and restoration to office.

Mr. HALE. Is there a report in that case?

Mr. BENJAMIN. Perhaps the Senator from Mississippi can explain it.

Mr. DAVIS. Formerly, as now, there were two inspectors general. An act was passed to reduce them to one inspector general, and General Churchill was disbanded and remained out of service about nine months, when Congress repealed the law reducing the inspectors general to one, and restored the number to two, so far as I am advised, on account of the high consideration they had for General Churchill, and not anticipating that he was to be the particular inspector general who was to be retired. When disbanded, under a provision of law, he received three months' pay.

There are six months, then, for which he received nothing. When restored under the act of Congress, he took rank from the date which he had previously held, so as to leave no interval in his commission. It appears also, in the evidence before the committee, that during the period he was out of service the accounting officers frequently referred to him muster rolls—particularly the mustering in and mustering out of volunteers, in which he had been specially engaged in the Florida war—and that he was thus employed during a great portion of the time in the discharge of public duties, and of a character connected with the duties he had performed as an inspector general. This is to give him the pay for the time he was out of the service.

Mr. HALE. I think that is an unsound principle. If he had been illegally out or unjustly put out of the Army, I should not object; but I understand he was legally and fairly out.

Several SENATORS. Withdraw the objection.

Mr. HALE. If others do not object, I shall not; but I shall vote against the bill. I think it wrong.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MRS. JANE TURNBULL.

The next bill on the Calendar was the bill (S. No. 110) for the relief of Mrs. Jane Turnbull, which had been reported on adversely from the Committee on Pensions.

Mr. BENJAMIN. Let it be passed over.

The bill was passed over.

The next was the bill (S. No. 229) for the relief of Jane Turnbull, which had been reported adversely from the Committee on Pensions.

The bill was passed over.

ROBERT W. CUSHMAN.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 453) for the relief of Robert W. Cushman, formerly an acting purser in the United States Navy.

It directs the proper accounting officers of the Treasury to pay to Robert W. Cushman, acting purser of the Germantown, the flag-ship of the African squadron, the difference of pay between that of a purser and a captain's clerk, for such time as he so acted as purser.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BENJAMIN WAKEFIELD.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 547) for the relief of Benjamin Wakefield.

It directs the proper accounting officers of the Treasury to pay to Benjamin Wakefield the difference of pay between that of master's mate and boatswain, from the 1st of January, 1848, to the 19th of January, 1850.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

OREGON LAND OFFICES.

The bill (H. R. No. 169) making an appropriation for the payment of clerks employed in the offices of the registers of the land offices at Oregon City and Winchester, in the Territory of Oregon, was considered as in Committee of the Whole.

It provides that the sum of \$7,000, or so much thereof as may be necessary, be appropriated to enable the Secretary of the Interior to reimburse the registers of the land offices at Oregon City and Winchester, in the Territory of Oregon, for expenses incurred by them in the employment of clerks actually required for the transaction of the business of their respective offices, growing out of an act entitled "An act to create the office of surveyor general of the public lands in Oregon, and to provide for the survey, and to make donations to settlers of the said public lands," approved September 27, 1850.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ISAAC BODY AND SAMUEL FLEMING.

The bill (H. R. No. 490) for the relief of Isaac Body and Samuel Fleming was considered as in Committee of the Whole.

It directs that Isaac Body be allowed to enter at the land office at Springfield, Illinois, at the minimum price, at any time within one year after the date of this act, the southeast quarter of section nineteen, of township twenty-six north, of range twelve west; and that Samuel Fleming be allowed to enter, at the same land office, and on the same terms and conditions, the northwest quarter of section twenty, township twenty-six north, range twelve west; but this act is only to operate as a relinquishment of title on the part of the United States.

Mr. TOOMBS. I call for the reading of the report.

Mr. PUGH. These are parties who made locations without any fault. They are *bona fide* settlers. I think it is a short report. Let it be read.

The Secretary read the report, from which it appears that Isaac Body and Samuel Fleming, in or about the year 1842, settled, each for himself, upon certain quarter sections of land in the State of Illinois; that they have continued to reside, and have made considerable improvements thereon up to the present time; that the lands so settled upon by them were selected by the State of Illinois, under the act of Congress approved September 4, 1841; but for some reason such selections were not approved by the General Land Office, and were rejected; that such rejection, although notified to the State, were not notified to the local land office, and in consequence, Body and Fleming have been, and still are, unable to procure titles to their farms either from the United States or State of Illinois. They have often applied, both to the United States and State land offices to pay their moneys and procure titles; but each disclaiming the right to sell them, have failed to attain their object, and now ask Congress for relief.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JOB STAFFORD.

The bill (H. R. No. 503) for the relief of Job Stafford, of the State of New York, was considered as in Committee of the Whole.

It instructs the Commissioner of Pensions to issue to Job Stafford, of New York, a bounty land warrant for one hundred and sixty acres of land, the same to be held, located, or assigned, as if it had issued in the ordinary way, on application under existing laws.

Mr. TOOMBS. I ask for the reading of the report.

Mr. PUGH. I can explain that case to the Senate, as I reported the bill, probably sooner than the report can be read. This man was enlisted, and went out to fight the enemy, and received a wound from a cannon ball the next day after his enlistment, but they decided that it was not received in battle, although the man was disabled for life. I think it is much nearer to service than those fourteen-day gentlemen who never saw powder at all. I think it is a case for a bounty land warrant.

Mr. TOOMBS. I am satisfied.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELIZABETH M'BRIER.

The bill (H. R. No. 504) for the relief of Elizabeth McBrier, only surviving child and heir of Colonel Archibald Loughrey, deceased, was next considered as in Committee of the Whole.

It requires the Secretary of the Interior to issue land scrip in eighty-acre certificates, receivable in payment for public lands at any of the land offices in the United States, in favor of Elizabeth McBrier, only surviving child and heir of Colonel Archibald Loughrey, deceased, or to her order, for an amount equal to six thousand six hundred and sixty-six acres and two thirds of an acre of land, which may be located on land subject to private entry, at one dollar and twenty-five cents per acre, or less.

Mr. TOOMBS. Read the report.

The Secretary proceeded to read the following report:

The Committee on Private Land Claims, to whom were referred the claims of Jane Thompson and Elizabeth McBrier, of Westmoreland county, Pennsylvania, make the following report:

That the Commonwealth of Virginia, on the 2d day of January, 1781, yielded to the Congress of the United States,

for the benefit of said States, all right, title, and claim which the said Commonwealth had to the territory northwest of the river Ohio, subject to the conditions annexed to the said act of cession; which said act of cession, with the conditions annexed, the Congress of the United States accepted, among which conditions was the following: "That a quantity not exceeding one hundred and fifty thousand acres of land, promised by the State of Virginia, should be allowed and granted to the then Colonel (now General) George Rogers Clark, and to the officers and soldiers of his regiment who marched with him when the posts of Kaskaskias and St. Vincent's were reduced, and to the officers and soldiers that have since incorporated into the said regiment; to be laid off in one tract, the length of which not to exceed double the breadth, in such place on the northwest side of the Ohio as a majority of the officers shall choose; and to be afterwards divided among the said officers and soldiers in due proportion, according to the laws of Virginia."

The committee further report that it appears, by the affidavits of credible witnesses, that Colonel Archibald Loughrey, father of the above-named claimants, (which affidavits are hereto annexed, and made part of this report,) some time during the summer of 1781 raised several companies of volunteers, of which he was chosen commander, for the purpose of joining the forces of General George Rogers Clark, in the expedition against the Mohawk and Seneca Indians, inhabiting the country now belonging to the State of Ohio; that in August, 1781, he marched with his men to Wheeling, Ohio, expecting to join the forces under the said General Clark; but when he and his men arrived at Wheeling, they found General Clark had left that place a few days before they arrived, but had left boats for Colonel Loughrey and his men to follow them; that they took the boats thus left for them; but somewhere near the mouth of the Big Miami river Colonel Loughrey and his men landed to cook and eat some food, and were attacked by a large body of Indians, and the said Loughrey and a number of his men were killed, and the remainder taken prisoners by the Indians, and never joined the forces under General Clark, as was intended.

Mr. WADE. I move that the further reading of the report be dispensed with.

The motion was agreed to.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

STANTON SHOLES.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 344) for the relief of Stanton Sholes.

It authorizes the Secretary of War to place Captain Stanton Sholes upon the list of invalid pensioners of the United States, at the rate of twenty dollars per month, to commence on the 1st of January, 1853.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOSEPH WEBB.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 347) for the relief of Joseph Webb.

It directs that the monthly pay heretofore allowed by law to Joseph Webb, as an invalid pensioner, be increased to eight dollars per month; and that the Secretary of the Interior pay him at that rate from and after the 1st of January, 1852.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MICAJAH BROOKS.

The bill (H. R. No. 455) for the relief of Micajah Brooks, was considered as in Committee of the Whole.

It directs the Secretary of the Interior to place the name of Micajah Brooks, of Georgia, on the pension roll, at the rate of four dollars per month, or forty-eight dollars per annum, and that he be paid at that rate from the 1st of January, 1850.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JAMES FUGATE.

The bill (H. R. No. 462) granting an invalid pension to James Fugate, of Missouri, was considered as in Committee of the Whole.

It instructs the Secretary of the Interior to place the name of James Fugate, of Missouri, upon the roll of invalid pensioners, and pay him a pension at the rate of eight dollars per month, instead of four dollars per month, the amount he now receives; the pension to commence on the 4th of March, 1853, and to continue during his natural life.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ELIJAH CLOSE.

The bill (H. R. No. 512) for the relief of Eli-

jah Close, of Tennessee, was considered as in Committee of the Whole.

It requires the Secretary of the Interior to place the name of Elijah Close, of Washington county, Tennessee, on the list of invalid pensioners, at the rate of eight dollars per month, to commence on the 3d of December, 1855, and to continue during his natural life.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

CONRAD SCHROEDER.

The bill (H. R. No. 514) for the relief of Conrad Schroeder, was considered as in Committee of the Whole.

It authorizes the Secretary of the Interior to place the name of Conrad Schroeder, who was a captain in the "Louisville Legion" during the war with Mexico, on the invalid pension roll, and pay him a pension at the rate of \$13 33 per month, commencing on the 22d of January, 1858, and continuing during life.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ALEXANDER S. BEAN.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 515) granting an invalid pension to Alexander S. Bean, of Pennsylvania.

It directs the Secretary of the Interior to place the name of Alexander S. Bean, of Pennsylvania, on the invalid pension roll at the rate of eight dollars per month, and pay him at that rate from the 29th of May, 1856, during his natural life.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WYATT GRIFFITH.

The bill (H. R. No. 523) for the relief of Wyatt Griffith, was considered as in Committee of the Whole.

It directs the Secretary of the Interior to place the name of Wyatt Griffith, of Tennessee, on the invalid pension roll, at the rate of eight dollars per month, from the 20th of June, 1854, and pay him at that rate during the term of his natural life.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

STEPHEN FELLOWS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 530) for the relief of Stephen Fellows.

It directs the Secretary of the Interior to place the name of Stephen Fellows on the invalid pension list, at the rate of four dollars per month, from the 20th of January, 1858, and continue during life.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MARY A. M. JONES.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 42) granting a pension to Mrs. Mary A. M. Jones.

It directs the Secretary of the Interior to place the name of Mary A. M. Jones, widow of Brevet Major General Roger Jones, deceased, late Adjutant General of the Army, upon the roll of pensioners, and pay her a pension at the rate of one half the pay, monthly, to which her late husband was entitled at the time of his death; the pension to commence on the 15th of July, 1852, and continue during her natural life or widowhood.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HENRY E. READ.

The Senate proceeded, as in Committee of the Whole, to consider the bill (H. R. No. 257) to increase the pension of Henry E. Read, a citizen of Kentucky, and for other purposes.

It provides that the half pension heretofore allowed to Henry E. Read, of Kentucky, a non-commissioned officer in the Mexican war, be raised to thirteen dollars a month, to commence March 3, 1848, and continue for and during his natural life.

Mr. CLAY. I object to that bill.

Mr. PUGH. I hope the Senator from Ala-

bama will hear the report in that case, and he will withdraw his objection.

Mr. CLAY. I object to paying these arrears of pensions.

Mr. PUGH. If you will read the report, you will find that this is an exceptional case.

Mr. CLAY. I do not think there are any exceptional cases; but I will hear the report read.

The Secretary read the following report, made by Mr. JEWETT, in the House of Representatives, February 3, 1858:

The Committee on Invalid Pensions, to whom was referred the petition of Sergeant Henry E. Read, of Kentucky, having had the same under consideration, unanimously report:

That Sergeant Read entered the Army intended for the invasion of Mexico, in the city of Louisville, State of Kentucky, in the spring of 1847; that he was in every battle fought by the American arms from Vera Cruz to the city of Mexico, and until he fell desperately wounded in the abdomen, in the right shoulder and right arm, at the storming of Chapultepec; that his conduct in every engagement was that of a truly courageous citizen soldier, until his fall at the storming of Chapultepec, with the colors of his regiment in his hands, on the 13th September, 1847. Your committee would further report that Sergeant Read's profession or calling before he entered the Army was that of a blacksmith; and that he has been compelled, in consequence of the wounds received in the defense of his country, to abandon his trade, and that he is wholly unable to perform manual labor, and is in that condition at this time. Your committee beg leave further to report that Sergeant Read was honorably discharged from the service in the city of Mexico, while in the hospital, where he lingered for seven months, and had ultimately to find his way home as best he could.

Mr. CLAY. What does the bill give?

Mr. THOMPSON, of Kentucky. Thirteen dollars a month. I know this man, and I know how he was shot. He was shot all to pieces.

Mr. CLAY. I will let it go.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MICHAEL A. DAVENPORT.

The bill (H. R. No. 516) for the relief of Michael A. Davenport, of Illinois, was considered as in Committee of the Whole.

It directs the Secretary of the Interior to place the name of Michael A. Davenport, of Illinois, on the invalid pension roll, at the rate of eight dollars per month, and pay him a pension, at that rate, from the 5th of March, 1858, during his natural life.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

WRIGHT FORE.

The bill (H. R. No. 522) for the relief of Wright Fore was the next in order.

It directs the Secretary of the Interior to place the name of Wright Fore on the invalid pension roll, at the rate of eight dollars per month, to commence on the 9th of November, 1852, and to continue during his natural life.

The bill was reported from the Committee on Pensions with an amendment, in line five, to strike out "eight dollars," and insert "six dollars."

The amendment was agreed to.

Mr. TOOMBS. Let the report be read

The Secretary read it, as follows:

The Committee on Invalid Pensions, to whom were referred the petition and accompanying papers of Wright Fore, of the State of Mississippi, report:

That the petitioner claims to have enlisted as a private in the mounted company of Captain David Smith, in Colonel Coffee's brigade of Tennessee troops, in the month of October, 1813. That in the battle of Talladega, on the 9th day of November, 1813, he was wounded in the left shoulder by a rifle ball fired from the camp of the enemy, which so disabled him as to render him unfit for duty; he was considered dangerously wounded, and left at Fort Strother; was carried from there to the hospital at Huntsville, Alabama, where he remained until February following, when he was sent for by his friends and taken home.

John Moore, Robert Haygood, and John Rutherford, who were in the same service and company with the petitioner, testify fully to his having been wounded in the service.

The Third Auditor of the Treasury, who has the custody of the rolls of the company to which the petitioner belonged, states that the name of Wright Fore appears on said rolls from the 24th of September, 1813, to the 16th of May, 1814. On said roll he is noted as "wounded 9th November, 1813."

John Shelby and Boyd McNairy, who sign themselves M. D., swear, on the 1st of December, 1817, that he is disabled one half by reason of said wound.

J. J. Thornton and H. H. Parker, who are certified to be reputable and credible physicians, swear, on the 11th of July, 1852, that said Wright Fore is disabled three fourths. All the witnesses are certified to be men of veracity and truth. The committee are unanimous in the opinion that this is a meritorious case, and demands relief at the hands of Congress. They therefore report a bill.

Mr. TOOMBS. If these allegations be true, he would have got the pension long ago at the Pension Office. I object to the bill.

Mr. BROWN. I want to say to my friend from Georgia that I know this man perfectly well, and have known him twenty years. I do not know why he does not get a pension at the Pension Office; but he ought to have one.

Mr. TOOMBS. If the facts stated in the report be true, he would. It does not come under the law, or the case would not be here; therefore I take the statement not to be true.

The bill was passed over.

FRANCIS CARVER.

The next in order was the bill (H. R. No. 524) for the relief of Francis Carver.

It directs the Secretary of the Interior to place the name of Francis Carver on the invalid pension roll at the rate of eight dollars per month, and to pay him at that rate from the 18th December, 1857, and continue during his natural life.

Mr. TOOMBS. Let the report be read.

The Secretary read the following report:

The Committee on Invalid Pensions, to whom were referred the memorial and papers of Francis Carver, report:

That it appears, from papers submitted, that said Francis Carver, has been, for a period of seventeen years, a soldier in the Army of the United States, having served through the war with Mexico. After that war he was ordered to the frontiers of Texas, where for eight or nine months he was in active service, exposed to the damps and cold of winter, without tent or covering. During that service he contracted the disease with which he now suffers.

The discharge of the petitioner is filed with his papers. Said discharge is signed by C. A. May, brevet colonel, and states that Francis Carver is discharged for ordinary disability.

The certificate of J. A. Thompson, acting surgeon of the military asylum at Harrodsburg, Kentucky, states that the petitioner is laboring under a disease called St. Vitus's dance; that he is wholly disabled, &c. In view of these facts your committee think this a case of merit, and report a bill for his relief.

Mr. TOOMBS. I object to that.

The bill was passed over.

ROBINSON GAMMON.

The bill (H. R. No. 525) for the relief of Robinson Gammon was next announced.

It requires the Secretary of the Interior to place the name of Robinson Gammon, of Roxbury, Oxford county, Maine, upon the roll of invalid pensions, at the rate of eight dollars per month, from the 3d of December, 1856, during his life.

Mr. TOOMBS. Read the report.

The Secretary read the following report:

The Committee on Invalid Pensions, to whom were referred the petition and papers of Robinson Gammon, submit the following report:

That his case was before the Committee on Invalid Pensions at the first session of the Thirty-Fourth Congress, and was favorably acted on, as will be seen by the following report, which your committee will adopt:

"The Committee on Invalid Pensions, to whom was referred the petition of Robinson Gammon for a pension, ask leave to report:

"That said Gammon, on or about the 10th day of September, A. D. 1814, was called out on an alarm to serve in the war declared by the United States against Great Britain on the 18th day of June, 1812; that at the time of aid alarm the petitioner lived in Buckfield, in the State of Maine; that he marched from Buckfield to Portland, in said State, in a company commanded by Captain Chase; that after his arrival at Portland, he was drafted into Captain James Harlow's company of Colonel Ryerden's regiment of Massachusetts militia, and remained in service forty days, and was honorably discharged therefrom; that said march from Buckfield was a forced march, in which he contracted a disease in his feet and legs, which has continued from that time up to the present. Said disease has continued to increase, until the said petitioner is now a cripple, without any hope of recovery.

"From the proof it further appears that the petitioner is a poor man, with no visible means of support. The foregoing facts are proved to our satisfaction by the evidence accompanying the petition. There is also a petition signed by nearly all the legal voters in the town where the petitioner resides, in aid of his said petition.

"For the foregoing reasons the committee believe the said Robinson Gammon justly entitled to the relief prayed for, and report the accompanying bill, and recommend that the same pass.

"The committee report a bill granting relief, to commence on the 3d day of December, 1856."

Mr. TOOMBS. I object to that.

The bill was passed over.

FREDERICK SMITH.

The next bill on the Calendar was the bill (H. R. No. 526) for the relief of Frederick Smith.

It directs the Secretary of the Interior to place the name of Frederick Smith on the invalid pension roll, at the rate of four dollars per month, and to pay him at that rate from the 1st of February, 1858, during his natural life.

Mr. TOOMBS. Read the report.

The Secretary proceeded to read the following report:

The Committee on Invalid Pensions, to whom were re-

ferred the papers of Frederick Smith, of Pennsylvania, reported:

That they have examined the same, and that the petitioner alleges that he enlisted into the service of the United States as a private in the company of Captain W. H. Irwin, of the eleventh infantry, in the month of May, 1846; that on the 11th day of June, 1847, he was wounded at the National Bridge, in Mexico, by a slug, which entered the left side of his head, and became "imbedded between the external and internal plates of the cranium, near the posterior margin of the left parietal bone;" said ball or slug was extracted on the 5th of May, 1856.

John J. Marks, who signs himself M. D., swears to the character of the wound, and to the fact of his having performed the operation by which the ball was extracted.

Captain William H. Irwin, under whom he served, swears that Smith was wounded while in the line of his duty.

The committee report a bill granting relief, at the rate of four dollars per month, from the 1st February, 1858.

Mr. CLAY. I wish to make this remark about all these claims: if they were entitled to a pension, they could get it without appealing to Congress; but they cannot make the proof that would be required in any court of justice to establish their claim, and that is required at the Pension Office; and, to supply the deficiencies of proof, they appeal to Congress.

The bill was passed over.

DAVID WATSON.

The next bill on the Calendar was the bill (H. R. No. 535) for the relief of David Watson.

It directs the Secretary of the Interior to place the name of David Watson, of Georgia, upon the list of invalid pensioners, at the rate of four dollars per month, to commence on the 15th of February, 1858, and continue during his natural life.

Mr. HAMLIN. I object to that bill.

The bill was passed over.

WILLIAM HEINE.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 219) for the relief of William Heine, artist in the Japan expedition.

It provides that there be paid to William Heine, artist of the late Japan expedition under Commodore Perry, compensation at the rate of \$1,800 per annum during the time he was actually employed in that service; but the amount already paid him as master's mate on that expedition is to be deducted therefrom.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HENRY ORNDORF.

The joint resolution (H. R. No. 24) for the relief of Henry Orndorf, was considered as in Committee of the Whole.

It authorizes the Postmaster General to revise and adjust the account of the Department with Henry Orndorf, for mail service on route No. 9157, from Zanesville to Columbus, Ohio, and to allow him full pay for the service, the same as if his bid had been for service six times a week, as required by the advertisement, instead of daily service.

Mr. FESSENDEN. I object to that.

Mr. WILSON. And I object.

Mr. PUGH. It is merely to correct a mistake.

Mr. WILSON. I withdraw my objection, if that is all.

Mr. FESSENDEN. Let us hear the report read.

Mr. PUGH. The proposition was for a mail six times a week; and the party, under a mistake, bid for a daily mail, which included Sunday, and these fines are for that Sunday, when the Department really had no service for him to perform.

Mr. FESSENDEN. I want to hear the report read.

The Secretary read it, as follows:

The Committee on the Post Office and Post Roads, to whom was referred the petition of Henry Orndorf, of Ohio, report: That it appears from the papers filed in this case that George Manville contracted to carry the United States mail from Zanesville to Columbus, Ohio, (being route No. 9157,) daily, from July 1, 1856, to June 30, 1860. The mail was carried six times a week, and a deduction was made by the Department for deficiency of service, the Department insisting that the word daily, in the contract, required service seven days each week. The contractor, on the other hand, alleged that Sunday service was not wanted, and that his intention, when he made his bid, was for service six times a week. The Department did not allege that Sunday service was wanted on the route, but as the contract calls for daily service, the Department had no alternative but to make the proportional deduction from the pay.

In May, 1857, George Manville transferred his contract to Henry Orndorf, to take effect from April 1, 1857.

The Department continued to deduct \$53 30 per quarter

from the pay for the failure of the Sunday trip, the whole pay as per contract being \$1,495 a year. Mr. Orndorf remonstrated with the Department. He asserted that it was not the intention, when the bid was made, to run more than six times a week, and that the postmasters on the route would neither receive or deliver the mail on Sunday.

Mr. Orndorf, failing to convince the Post Office Department, applies to Congress, and the matter has been carefully examined by your committee.

It appears from the papers before the committee that the advertisement issued by the Department was for mail service upon route 9157 three times a week and six times a week, and that the bidder used the term daily, as per the advertisement of the Department. This shows, to the satisfaction of your committee, that the bidder supposed he was bidding for daily service during the business portion of the week. To corroborate this view of the case, there are among the papers the affidavits of those conversant with the facts, that such was the understanding of the bidder when his bid was made out.

It is proper to add that it appears from the papers in the case that it had not been customary to have Sunday service on the route, and that neither the interests of the Department nor the public required it.

Your committee, therefore, come to the conclusion that Henry Orndorf is entitled to full pay, and they have accordingly reported a joint resolution to that effect.

Mr. FESSENDEN. I am satisfied.

The resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN DEARMIT.

The bill (H. R. No. 492) for the relief of John Dearmit was considered as in Committee of the Whole.

It directs the Postmaster General to pay to John Dearmit the sum of \$295, in addition to the amount already paid him by the Government, under his contract for carrying the mail upon route No. 1601, from July 1, 1844, for four years.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

STUCKEY AND ROGERS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 493) for the relief of Stuckey & Rogers.

It instructs the Postmaster General to pay to Stuckey & Rogers, mail contractors on route No. 6078 from Winstboro' to Pinckneyville, in South Carolina, at the rate of \$333 per annum, for the transportation of the mails on that route; deducting therefrom whatever payments may have been made, at the rate of \$138 per annum, by the Post Office Department.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

HENRY KING.

The next bill on the Calendar was the bill (H. R. No. 496) for the relief of the legal representatives of Henry King, deceased.

It directs the Secretary of the Treasury to pay to the legal representative of Henry King the sum of \$1,817 36, it being for his services in the third Maryland regiment, and in the commissary department, during the revolutionary war.

Mr. TOOMBS. I object to that.

The bill was passed over.

GEORGE H. HOWELL.

The next bill on the Calendar was the bill (H. R. No. 510) for the relief of George H. Howell.

It directs the proper accounting officers of the Treasury to pay to Dr. George H. Howell, an assistant surgeon in the Navy of the United States, the increased pay attaching to his increased rank as assistant surgeon, from the commencement of his increased rank to the time of the actual issue of his commission from the Navy Department.

Mr. TOOMBS. I object to that bill. He wants pay before he gets his office.

The bill was passed over.

ROSSELL MINARD.

The bill (H. R. No. 356) for the relief of Roswell Minard, father of Theodore Minard, deceased, was considered as in Committee of the Whole.

It provides that the Commissioner of the General Land Office shall issue to Roswell Minard, the father of Theodore Minard, deceased, a warrant for one hundred and sixty acres of land, in lieu of bounty land warrant No. 34,754, heretofore issued to Theodore Minard, deceased, and when so issued it shall be in all respects of the same effect as the warrant No. 34,754 would have been had it been issued to Roswell Minard; but the Commissioner of the General Land Office

is to be satisfied that Roswell Minard is the father of Theodore Minard, deceased; that Theodore Minard died without leaving a wife or lawful children; and that Theodore Minard never assigned or transferred the bounty land warrant. The Commissioner of the General Land Office is to be authorized to institute legal proceedings, in such manner as he may deem proper, to vacate the patent issued upon the last mentioned bounty land warrant to recover the land embraced in that patent, for the benefit of the United States, or for such other relief as he may deem suited to the case, and to cause the person or persons guilty of forging the assignment of the bounty land warrant, and all persons criminally connected with the forgery, or of uttering or passing the forged assignment, to be prosecuted for such offense; the lawful expenses of which legal proceedings and prosecutions are to be paid for by the Secretary of the Treasury.

Mr. PUGH. That appears to have general provisions in it: I should like to hear the report.

Mr. BENJAMIN. There is no general provision in the bill. It is the case of a man whose warrant has been located by the Land Office on a forged transfer. They tell him that they cannot give him a right to his land, because it has been divested by a forgery. The committee say, the Government must retrace its own wrong, and give him his land, and sue the man who has possession of it under the forged transfer.

Mr. STUART. I know we cannot debate this question; but there is a part of this case which I do not like at all. A man that is in possession, an honest purchaser of the land under a forged assignment with which he has had no connection, should not lose the land.

Mr. BENJAMIN. The Senator is mistaken. This bill simply provides that Government shall give the heirs of this soldier his bounty land. The answer made at the Land Office is, we have already given his bounty land to somebody else, on a forged assignment of the warrant.

Mr. STUART. The first part of the bill I am for; but it goes on further to provide that the Government shall out the man in possession under the forged assignment. That I do not think ought to prevail.

Mr. BENJAMIN. As a matter of course, if the party in possession is innocent he will retain his land.

Mr. PUGH. I would rather the second section of the bill were stricken out.

Mr. BENJAMIN. I have no objection to its being stricken out.

Mr. PUGH. That will give the party all he claims. The prosecution will cost more than twice the value of the land. I move to strike out the second section of the bill.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

MOTION TO RECONSIDER—MRS. JONES.

Mr. TOOMBS. While I was out, a bill was passed granting a pension to the widow of General Roger Jones, on a bad principle. I move to reconsider it; and I should like to hear from the committee some reason for it. I ask that the motion to reconsider be agreed to at once.

Mr. HAMLIN. I wish to debate the motion to reconsider; and I suppose it will go over.

The PRESIDING OFFICER. (Mr. Foot in the chair.) The Chair thinks that, under the general order, all bills that lead to debate must go over to-day.

Mr. TOOMBS. After a bill has been passed, and the question is on reconsidering?

Mr. HAMLIN. I propose to debate that.

Mr. TOOMBS. The motion?

Mr. HAMLIN. Yes, sir.

Mr. TOOMBS. That is not under the rule. Whenever the passage of a bill is objected to, or gives rise to debate, it is to pass over; but here a bill was passed *sub silentio*. It escaped notice. I want to put it where it was before its passage. This has brought debate on its passage.

Mr. HAMLIN. I beg the Senator's pardon. It did not bring any debate on its passage; but he proposes now to reconsider it, and I notify him that I want to debate that proposition.

Mr. TOOMBS. You cannot pass any more pensions, until that is reconsidered, to-day. I give you notice of that.

Mr. HAMLIN. Very well.

Mr. TOOMBS. I want it understood that I object to all bills for pensions to-day.

The PRESIDING OFFICER. The motion to reconsider, in the case of the bill for the relief of Mrs. Jones, will be entered.

Mr. HAMLIN subsequently said: I interposed an objection to a motion which was made by the Senator from Georgia, a few moments since. I have since made such examination as satisfies my own mind on the claim, and I have no objection to taking the question. It was the motion to reconsider the bill (H. R. No. 42) granting a pension to Mrs. Mary A. M. Jones.

The motion to reconsider was agreed to; and the question occurred on the passage of the bill.

Mr. BENJAMIN. Let the bill remain now as if it was objected to.

The PRESIDING OFFICER. Objection being made, it lies over.

JOHN M'DONOUGH.

The Senate, as in Committee of the Whole, proceed to consider the bill (H. R. No. 543) for the relief of the legal representatives of John McDonough, deceased, late of Louisiana.

It provides that the claim numbered thirty-nine in the report of the register and receiver of the land office at New Orleans, Louisiana, made on the 22d of November, 1837, in the name of John McDonough, to a tract of about one hundred and seventy-seven superficial arpents of land, be confirmed; and that a patent issue, as in ordinary cases, to the legal representatives of McDonough; but this confirmation is only to be construed as a relinquishment of all right and title of the United States, and is not to prejudice the legal claim of any other party, should such exist.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JEAN BAPTISTE DEVIDRINE.

The bill (H. R. No. 451) for the relief of the legal representatives of Jean Baptiste Devitrine, was considered as in Committee of the Whole.

It provides that the legal representatives of Jean Baptiste Devitrine, late of Louisiana, be confirmed in their claim to that tract or parcel of land known on the public surveys of the southwestern land district of that State as lot forty-five, in township four south, range three east, and lot seventy-three, in township four south, range four east, containing about four hundred arpents, or three hundred and fifty acres, of land, and that a patent issue therefor, as in other cases; but this act is only to be construed as a relinquishment of whatever title may be now vested in the United States, and is in nowise to interfere with any valid adverse claim of other or third parties, should such there be.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

BERIAH WRIGHT.

The next bill in order was the bill (H. R. No. 460) granting an invalid pension to Beriah Wright, of New York.

It directs the Secretary of the Interior to place the name of Beriah Wright, of New York, upon the roll of invalid pensioners of the United States and pay to him a pension, at the rate of four dollars per month, from the 16th of February, 1858, during his natural life.

Mr. CLAY. I ask for the reading of the report.

The Secretary read it, as follows:

The Committee on Invalid Pensions, to whom were referred the petition and accompanying papers in the case of Beriah Wright, of the State of New York, report:

That he was in service in the United States Army as a corporal, and he testifies himself, very clearly, that owing to exposure for want of tents and clothing, he was attacked with rheumatism so severely, that Major Bayly, commanding the regiment, allowed him to procure a substitute and return to his home, some four or five weeks before the expiration of his term of service; which fact is shown by the major's affidavit. The term of service commenced May 19, 1813, and Corporal Wright left in the winter of 1813-14 to go home. Dr. Kenrick testifies that Wright left home in good health, robust and vigorous, and returned for medical advice; his complaint was rheumatism; and that it has disabled him, the said Wright, one half or three quarters. David Palmer, another physician, testifies that said Wright is disabled from same cause one half. These gentlemen are certified by justices of the peace as physicians of good re-

pute. Amos W. Brown, a lieutenant in the thirty-first United States infantry, the regiment in which Wright served, swears to the disability of Wright having been incurred in the service of the United States, and in the line of his duty. The Hon. Francis E. Spinner, a member of this House, files a letter in which he refers to the extreme poverty of the petitioner; he is personally acquainted with Wright, and believes that his case is truly a meritorious one. Your committee are of the opinion that the petitioner is entitled to a pension of four dollars per month, from the 16th day of February, 1858. They therefore report a bill.

Mr. CLAY. There is no explanation there why he does not apply at the Pension Office, or why they will not give him a pension.

Mr. TOOMBS. Is that a pension?

Mr. CLAY. Yes.

Mr. TOOMBS. I object to all pensions.

The bill was passed over.

LAND ENTRIES IN LOUISIANA.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 327) to affirm certain entries of land in the State of Louisiana.

It provides that the following described entries of land made by the persons hereinafter named, in the southwestern land district of Louisiana, be affirmed and held to be valid: Lots one and two, of section five, township fifteen south, range eleven east, containing one hundred and fifty-four and forty hundredths acres, entered by John Dawson; lots two, three, four, and five, section six, township fifteen, range eleven east, containing one hundred and fifty-five and seventy-one hundredths acres, entered by John D. Alston, and fractional southwest quarter of section thirty-two and fractional section thirty-one, township fourteen south, range eleven east, containing sixty-eight and four hundredths acres, entered by Joseph T. Hawkins.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LITTLE FALLS BRIDGE.

The next bill on the Calendar was the bill (S. No. 414) to reimburse the corporation of Georgetown, in the District of Columbia, a sum of money advanced towards the construction of the Little Falls bridge.

It provides that a sum be appropriated to repay the corporation of Georgetown, in the District of Columbia, all moneys heretofore advanced by the corporation for and towards the construction of the bridge over the Potomac, at the point known as the Little Falls. And the corporation of Georgetown, by accepting the provisions of this act, is to waive and surrender all further claim or demand on the Government of the United States, founded on any advancement of money or other thing towards the object therein specified to any other purpose whatsoever.

Mr. IVERSON. That bill seems to appropriate nothing. The Senator from Mississippi, the chairman of the Committee on the District of Columbia, who reported the bill is not in his seat. It had better be passed over informally.

Mr. HAMLIN. We had the sum in our committee.

Mr. IVERSON. We had better let it pass over informally.

Mr. HAMLIN. Very well.

The bill was passed over.

Mr. BROWN subsequently said: A few moments ago, while I happened to be out of my seat, a little bill for refunding to Georgetown certain moneys paid by her was laid aside.

The PRESIDING OFFICER. The Chair will take it to be the sense of the Senate to proceed with the consideration of that bill.

Mr. BROWN. The report shows that the amount is \$4,600. The blank can be filled with that sum. I move that amendment.

The amendment was agreed to.

Mr. POLK. I call for the reading of the report.

The Secretary read it, as follows:

The Committee on the District of Columbia, to whom was referred the memorial of the Mayor of Georgetown, praying to be reimbursed the sum of \$5,000, advanced by the corporation of Georgetown towards the construction of the bridge over the Potomac, at the Little Falls, have, according to order, had the same under consideration, and beg leave to submit the following report:

In the month of March, 1853, the sum of \$30,000 was appropriated by Congress for the construction of a bridge across the Potomac river, at a point known as the Little Falls, and the work was placed in process of construction under the direction of George Thom, captain in corps of topographical engineers.

In the fall of 1853, when the work had been prosecuted near to completion, the appropriation was found to be exhausted—the sum of \$30,000 having been expended—and it became necessary to suspend operations until other funds could be procured applicable to the object.

It was supposed that several months must pass before an additional appropriation could be expected from Congress; and the abandonment of the work, in an unfinished condition, at the approach of winter, must expose it to serious injury, whilst its suspension would involve a necessity for a sale of the stock on hand, by which the Government would suffer a heavy loss. To avoid these evils, the officer in charge, on consultation with the Secretary of the Interior, applied to the corporate authorities of Georgetown to advance a sum of \$5,000, which would enable him to continue his operations, and carry forward the bridge to a condition in which it might be used for travel during the then following winter. This proposition was acceded to, and, by several acts of the corporation, the sum of \$5,800 was placed to the credit and subject to the order of Captain Thom, to be expended in the construction of the Little Falls bridge, his assurance being given, with the consent of the Secretary of the Interior, that the amount should be reimbursed to the corporation of Georgetown when the further appropriation should be made by Congress. It also appears that some lien on the stock on hand was executed in favor of the corporation of Georgetown, as a security for the reimbursement of the amount advanced; but it is believed that nothing was realized by the corporation from this lien, the entire stock having been applied to the uses of the Government.

In August, 1854, Congress appropriated a further sum of \$15,000 for completing the bridge; but a serious accident had befallen it, which created a necessity for the appropriation of a large sum, and the corporation of Georgetown postponed its claim for immediate payment, unwilling to delay the completion of the work; accordingly, the sum of \$13,800, part of the appropriation of \$15,000, was applied towards the completion of the bridge, leaving a balance of \$1,200, which was applied towards the payment of the sum of \$5,800, leaving the sum of \$4,600 due to the corporation of Georgetown; for the payment of which a bill is herewith reported.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

WILLIAM TURVIN.

The bill (H. R. C. C. No. 81) for the relief of the heirs of William Turvin, deceased, was considered as in Committee of the Whole.

It directs that the heirs of William Turvin, deceased, be authorized to locate, free of cost, nine hundred and sixty arpents of land, or as near thereto as the same can be done, not exceeding that quantity, according to the legal subdivisions, on any of the public lands of the United States subject to entry at private sale, at \$1 25 per acre; which lands, when so located, shall be in full for the claim of their father to a tract of land lying on the east side of the Mobile river and west of the Bayou Pascual, under a grant from the Spanish Government, which was recommended for confirmation on the report of the register and receiver of the land office for the district of St. Stephens.

Mr. PUGH. I do not understand that. Has the Court of Claims got to be giving judgment to be paid in bounty land warrants? It seems to be a judgment for a certain number of acres of land.

Mr. POLK. I will state to the Senator from Ohio the facts in the case. The bill was referred to the Committee on Claims. The committee were somewhat doubtful whether they ought not to report it back to the Senate, and ask to be discharged, and have it sent to the Committee on Private Land Claims; but they considered that the case was a very plain one, and that if that course was taken, perhaps it might not come before the Senate at this session, and they had better report in favor of it; which they did.

Mr. STUART. Do I understand that this case was adjudicated by the Court of Claims?

Mr. IVERSON. It was.

The PRESIDING OFFICER. The case must go over if it leads to debate.

Mr. IVERSON. I wish only to make an explanation.

The PRESIDING OFFICER. Very brief explanations are usually received.

Mr. IVERSON. The case went to the Court of Claims, on an original petition. It was decided by the court in favor of the petitioners, and the decision sent to the House of Representatives.

It was referred to the Committee of Claims, of that body, at this session. That committee reported the bill with a recommendation that it should pass, accompanied by a report. The bill passed the House of Representatives, came here, was referred to our Committee on Claims, and reported upon favorably.

Mr. STUART. The difficulty I have, is that the Court of Claims has no jurisdiction whatever

with specific performances of land titles. That is a power which we cannot recognize in that court.

Mr. POLK. The bill has passed the House of Representatives.

Mr. STUART. I am aware of that. I do not mean to oppose the bill; but I wish now to say that I do not, and I trust the Senate will not, recognize any such jurisdiction as that in the Court of Claims.

Mr. IVERSON. The bill simply authorizes these parties to have the land.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

RICHARD TARVIN.

The bill (H. R. No. 238) for the relief of the heirs of Richard Tarvin, was considered as in Committee of the Whole.

It requires the Secretary of the Treasury to pay to the heirs of Richard Farrin, alias Richard Tarvin, who was a friendly Creek Indian in the war of 1813 and 1814, the sum of \$600, for losses sustained by him during that war.

Mr. TOOMBS called for the reading of the report, and it was read, as follows:

The Committee on Indian Affairs, to whom was referred the memorial of Neal Smith, administrator of Richard Tarvin, deceased, praying indemnity for property destroyed in the Creek war of 1813-14, ask leave to report:

That Richard Tarvin, alias Richard Farrin, was a friendly Creek Indian in the war between the United States and his tribe in 1813-14, and sustained loss by the depredations of the hostiles to the extent of \$600, as reported by General D. B. Mitchell, the agent of the Federal Government; that, by the treaty negotiated with the said Creek tribe of Indians, at the close of said war, the United States guaranteed indemnity to those Indians who had remained friendly to our cause, for whatever property they had lost during the war by the common enemy. Claims were presented against the Government for such losses, on the part of the friendly Creeks, amounting, in the aggregate, to \$195,417 90, all of which has been provided for and paid by Congress. In addition to the claims embraced in the above amount, a supplemental abstract of claims was presented by General Mitchell in favor of six other friendly Creek Indians, amounting, altogether, to \$9,770. Among these latter claimants is found the name of Richard Farrin, alias Richard Tarvin; and his damages were assessed at the sum of \$600. Of the half dozen claimants included in the said supplemental abstract of General Mitchell, the sum of \$5,925 was paid to Peter Randall, in an act passed by the Thirty-third Congress. The claims of Arthur Sigeonond for \$1,420, and of John Simmanee for \$1,183, were provided for in the Indian appropriation bill of last Congress.

Your committee can see no good reason why the claim of the petitioner, Richard Tarvin, alias Richard Farrin, through his legal representatives, should not also be liquidated; and therefore they report a bill.

Mr. TOOMBS. I object to that. This is the third time that class of claims has been paid. The Creek treaty was on the very basis of that bill by which we paid them.

Mr. IVERSON. The objection of my colleague passes the bill over, of course; but he is wholly mistaken. This claim has never been settled.

Mr. TOOMBS. I do not say the individual claim, but the class of claims.

Mr. IVERSON. There were six cases that were exceptional cases, and this is the sixth. All the rest have been paid.

Mr. TOOMBS. I have no doubt they will all want to be paid over again.

Mr. SEBASTIAN subsequently said: A bill for Richard Tarvin's relief was passed over this morning, on the objection of the Senator from Georgia. I have since called his attention to the facts, and he is satisfied with my explanation.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

BAUDOUIN AND ROBERTS.

The bill (H. R. No. 245) for the relief of A. Baudouin and A. D. Roberts, was announced as the next in order.

It directs the Secretary of the Treasury to pay the sum of \$2,000 to A. Baudouin and A. D. Roberts, in full compensation for the damages sustained by them, arising from the sinking of a flatboat of ice, at New Orleans, by a steamboat in the service of the United States.

Mr. TOOMBS. I call for the reading of the report.

The Secretary read as follows:

The Committee of Claims, to whom were referred the petition and proofs of A. Baudouin and A. D. Roberts, of New Orleans, was referred, report:

That the petitioners have, by proper proof, satisfied your committee that they were, on the 21st day of March, 1846, owners of a flatboat of ice, containing two hundred and twenty tons, which boat, loaded with ice, had on that day been towed down to the landing in the first municipality in the city of New Orleans, set apart to them by the wharf-

ger; that just before she was properly fastened to the wharf, and whilst their boat was tied to another boat, the name of which is not given in the proof, but declared by the petitioners to be the schooner Commerce, Captain Pierce, she was run into by the steamer Colonel Harney, then in the service of the United States, and commanded by the officers of the Government. The proof shows that the Colonel Harney was under a heavy pressure of steam, and that the act was apparently the result of great carelessness or wantonly mischievous, whereby the petitioners lost the boat, which was sunk, and the ice, valued at \$2,000; the proof is that there were two hundred and twenty tons; and that it was worth ten dollars per ton.

Suit was brought in the United States district court, and the evidence on file which makes this case was taken contradictorily with the United States district attorney, and would between individuals have given the plaintiffs a judgment for \$2,000, but the case was dismissed upon an exception—which was that the Government could not be sued—whereupon the parties appealed to Congress for redress; and, on the 15th of December, 1846, this case was referred to the Committee of Claims, and referred to the same committee again on the 17th of December, A. D. 1847; that on the 30th of March, 1848, a bill was reported to this House for \$2,000, accompanied by a report from Mr. Rockwell, which report and bill is herewith submitted; that the report and bill was referred to the Committee of the Whole on the state of the Union, and recommended by the committee to the House for its passage, but was not reached. The papers were again referred to the Committee of Claims on the 23d day of January, 1850, and on the 13th day of February following a report was made from this committee by Mr. Nelson, with a bill for the relief of the parties, which report and bill was referred to the Committee of the Whole on the state of the Union, and reported back with a recommendation that it do pass the House; that the report of the committee was not finally acted on. The bill went to the Speaker's table, and was not reached. In view of all these facts, the committee report back all the papers, with a bill for \$2,000 for the relief of the petitioner.

Mr. J. A. Rockwell, from the Committee of Claims, made the following report:

The Committee of Claims, to whom was referred the petition of A. Baudouin and A. D. Roberts, of the city of New Orleans, report as follows:

The petitioners represent, and prove to the satisfaction of the committee, that on the 21st March, 1846, a flatboat, belonging to them, loaded with ice, while lying at the wharf at the city of New Orleans, in proper place, was struck by the steamer Colonel Harney, which was coming up the river under full steam; that, by the force of the collision, the bottom and side of the flatboat were so broken and disjointed that it commenced filling with water so rapidly that the cargo could not be saved, and the boat and cargo soon sunk to the bottom of the river. The steamer was in the service of the United States at the time, and under command of an officer of the United States; and the act was one of manifest negligence. Under the state of facts existing in this case, as between individuals, there could be no doubt of the right of the party to claim the amount of damages sustained; and the obligation of the Government is the same. The steamer was libeled in the United States court at New Orleans by the petitioners, and most of the testimony was taken in the presence of the United States district attorney, who cross-examined the witnesses. The libel was dismissed on the ground that the Government could not be sued. The proof is, that the loss sustained by the petitioners was \$2,000; and for this sum the committee report a bill, and recommend its passage.

Mr. TOOMBS. I object to that bill. It involves a very important principle.

The bill was passed over.

JAMES RUMPH.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 476) for the relief of James Rumph.

It directs the Secretary of the Treasury to pay to James Rumph the sum of \$760, in full compensation for medical aid rendered to soldiers in the service of the United States in 1837.

Mr. SLIDELL. I desire to hear the report in that case.

Mr. IVERSON. I will state the facts. During the Creek war of 1836-7 there was a severe battle between the troops of Alabama, under General Wellborn, and the hostile Creek Indians, on the banks of the Pedee river in that State, in which many were killed and wounded on both sides. There was a large number of wounded troops. There was no medical attendant at all. They had to send for Doctor Rumph a distance of sixty miles, and he came and attended them for several weeks, and this is his account for that service.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FERDINAND O. MILLER.

The bill (H. R. No. 480) for the relief of Dr. Ferdinand O. Miller was considered as in Committee of the Whole.

It authorizes the proper accounting officers of the Treasury to audit and settle the account of Dr. Ferdinand O. Miller, and allow him the pay of an assistant surgeon in the Army, from the 6th of July, 1846, to the 28th of February, 1847, for his services as surgeon and assistant surgeon during the late war with Mexico, deducting there-

from the amount paid him as a private soldier during the same time.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DINAH MINIS.

The next bill on the Calendar was the bill (H. R. No. 481) for the relief of Dinah Minis.

It directs the Secretary of the Treasury to pay to Dinah Minis, or her legal representatives, out of any money in the Treasury not otherwise appropriated, the sums due on loan office certificates—No. 93, for \$37 27½; No. 94, for \$74 55½; and No. 104, for \$81 66; all dated August 19, 1791, and signed by Richard Wyly, commissioner of loans—on the surrender of the original certificates at the Treasury Department.

Mr. PUGH. Let us hear the report in that case.

The Secretary proceeded and read part of the report.

Mr. PUGH. I do not know that it is necessary to read the report. I object to the consideration of the bill. It appears to be a very old claim.

The bill was passed over.

LOOMIS L. LANGDON.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 570) for the relief of Lieutenant Loomis L. Langdon.

It directs the Secretary of the Treasury to credit the account of Second Lieutenant Loomis L. Langdon, first artillery, United States Army, with \$1,176 66, being the amount stolen from his possession at Fort Brown, on the night of the 23d of October, 1857.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

DAVID M'CLURE.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 571) for the relief of David McClure, administrator of Joseph McClure, deceased.

It directs the Secretary of the Treasury to pay to David McClure, administrator of Joseph McClure, deceased, the sum of \$107 64, it being the amount of interest collected from McClure, in his lifetime, on a judgment in favor of the United States Government, which, it was afterwards ascertained, he did not properly owe, and the amount of which judgment has been previously refunded to him by Congress.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ROBERT A. DAVIDGE.

The next bill on the Calendar was the bill (H. R. No. 575) for the relief of Robert A. Davidge.

It directs the Secretary of the Treasury to pay to Robert A. Davidge the sum of \$118 90 in full for his services as a temporary clerk in the office of the First Comptroller of the Treasury from March 26 to April 30, 1857.

Mr. HUNTER. I object to that bill.

The bill was passed over.

GEORGE MAYO.

The next bill on the Calendar was the bill (S. No. 290) for the relief of the legal representatives of George Mayo, deceased.

It directs the Secretary of the Treasury to pay to the legal representatives of George Mayo, deceased, late a clerk in the General Post Office Department, the sum of \$400, in consideration in full of services performed by him, during six months, as an extra clerk in that Department, with the sanction and under the direction of one of the Assistant Postmasters General.

Mr. BENJAMIN. I move its indefinite postponement. There is an adverse report in that case.

The motion was agreed to.

WILLIAM HUTCHENSON.

The next bill on the Calendar was the bill (H. R. No. 254) for the relief of William Hutchenson.

It instructs the Secretary of War to pay to William Hutchenson the sum of \$150, in full settlement of his claim for compensation for services as a spy during the late war with Great Britain.

Mr. BENJAMIN. I make the same motion in that case. There is an adverse report. The motion was agreed to; and the bill was postponed indefinitely.

BENJAMIN WARD.

The bill (S. No. 421) to authorize the Secretary of the Interior to issue a land warrant to Benjamin Ward, was read a second time, and considered as in Committee of the Whole.

It directs the Secretary of the Interior to issue to Benjamin Ward, of Maine, a land warrant for one hundred and sixty acres of land, in consideration of his detention as a prisoner in the Dartmoor prison, during a portion of the last war with Great Britain.

Mr. HUNTER. Is there any report in that case? Why is the warrant to be given?

Mr. FESSENDEN. Several bills of this kind have passed for Dartmoor prisoners.

Mr. FOSTER. It stands on the same ground as a bill which passed the Senate at the last session, but was lost in the House of Representatives, and again passed the Senate at this session, for three individuals. It was a practice which I found was recognized in the Committee on Public Lands.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN R. BARTLETT.

The next bill on the Calendar, was the bill (S. No. 422) for the relief of John R. Bartlett.

It requires the proper accounting officers of the Treasury Department, in the settlement of the accounts of John R. Bartlett, late commissioner on the Mexican boundary, to allow and credit him with the several items of his accounts for moneys paid by him in the discharge of his duties as commissioner, which have been heretofore rendered to the Department, with the proper vouchers, and disallowed, not exceeding in all the sum of \$4,724 39; and that the balance which shall be found due to him after the allowance of those items, if any, be paid.

Mr. WRIGHT. I should like to hear the report in that case.

Mr. SIMMONS. The report is pretty long, and I think I can state the facts briefly. These are the accounts of Mr. Bartlett, who was commissioned to run the Mexican boundary line. Some of the vouchers were not sworn to under circumstances like these: he was away off in an Indian country; and sometimes he appointed a secretary, for instance, who happened to be a doctor, as surgeon, and allowed him a certain additional sum for serving as surgeon to the corps. He divided the corps into two. One portion went to the Pacific, and the other started from the Rio Grande. The accounts appear to be all fair, and the sums due have been paid, and the vouchers were proper, but some of them were not sworn to. He had no justice of the peace before whom they could be sworn to in the Indian country. I know the money has all been paid out by him; and it is said by the Auditor to have been in conformity with the allowances made to the commission that ran the northeastern boundary.

Mr. TOOMBS. I know something of these accounts of Mr. Bartlett, and they were very unsatisfactory to the Government at the time. I object to the bill, until we can look into it further. The bill was passed over.

LEWIS W. BROADWELL.

The bill (H. R. No. 572) for the relief of Lewis W. Broadwell was considered, as in Committee of the Whole.

It directs the Secretary of the Treasury to pay to Lewis W. Broadwell the sum of \$12,938, in full compensation for transporting the United States mails, in steamboats, from Vicksburg, Mississippi, to Grand Lake, Arkansas, from the 4th of September, 1854, to the 17th of April, 1857, at the rate of \$5,000 per annum.

Mr. WILSON. I desire to hear the report.

Mr. BENJAMIN. I can in a word state the facts. This mail service was contracted for under the head of the Department at \$100 a week with another contractor. After running ten or twelve weeks, he gave it up, being unable to do the service for the price. The contract had been made by the local postmasters, under the instructions of the Postmaster General. When the contrac-

tor gave it up, the price being limited to \$100 a month, the mail was stopped, and the local postmasters induced Mr. Broadwell to carry the mail on the promise that they would endeavor to get him a reasonable compensation, to be approved by the Postmaster General. He carried the mail for about two years, until the Postmaster General readvertised and relet the route. When that had been done, the price was found to be \$10,000 a year. The Postmaster General was applied to for the purpose of fixing, according to the subsequent contract, what was a reasonable rate to Mr. Broadwell, and he has fixed the proper rate at the sum which the committee have reported. The mail carried by him was not in conformity with a contract, but it was carried without a contract on the promise of a fair compensation, the previous contractor having abandoned the service.

Mr. WILSON. I withdraw my objection.

Mr. YULEE. I will state in addition, that not being fully satisfied myself in reference to the case, I had an interview with the Representative in the House for that district, who communicated to me the fact, which, at my request, he placed in writing among the papers, that the Postmaster General (Mr. Campbell) had agreed with him to adopt the service, and to pay for it, but that agreement was not carried into effect in consequence of some misunderstanding on another subject.

Mr. POLK. I believe a part of this claim is for money actually paid by this party for the transportation of the mail from the boat to the post office.

Mr. BENJAMIN. Yes, sir.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JOHN FERGUSON.

The next bill on the Calendar was the bill (S. No. 419) for the relief of John Ferguson and others.

Mr. WILSON. I object to that bill.

The bill was passed over.

JOHN LEE.

The bill (H. R. No. 461) granting an invalid pension to John Lee, of the State of Maine, was next announced.

It provides that the name of John Lee be placed upon the pension list of the United States, at the rate of eight dollars per month, from the 22d of December, 1857, and to continue during life.

Mr. WRIGHT. I ask for the reading of the report.

The Secretary read the following report:

The Committee on Invalid Pensions, to whom was referred the petition of John Lee for a pension, ask leave to report:

That said Lee, under the name of John Richards, a private, enlisted into the service for the war on the 3d of February, 1813, in the ninth regiment of United States Infantry, and has been traced on the rolls of his company up to the 15th of May, 1815. Said Lee fought in five pitched battles: Battle of Williamsburg, in said regiment, in General Covington's brigade; at Fort Erie; at Chippewa, Queenstown, and Fort George; at Bridgewater, or Lundy's Lane; the siege of Fort Erie, which lasted fifty or sixty days; and was in the fight when Fort Erie was blown up, and at the sortie near said fort when the enemy's batteries were taken and blown up by the American forces. It further appears that in said ninth regiment, at said battle of Lundy's Lane, that all of said Lee's company, with the exception of himself and one other private, were either killed, wounded, or left the field before the termination of said battle. From the proof it further appears that at said battle, and in the night time, he was hit by a musket ball in the left shoulder and badly injured; that in consequence of said injury his left arm and hand have become almost disabled. For the foregoing reasons the committee believe the said John Lee justly entitled to the relief prayed for, and report the accompanying bill, and recommend that the same pass.

Mr. WRIGHT. I am satisfied.

Mr. CLAY. I object to it.

The bill was passed over.

R. F. BLOCKER AND OTHERS.

The next bill on the Calendar was the bill (S. No. 425) for the relief of R. F. Blocker, E. J. Gurley, and J. F. Davis.

It authorizes the Secretary of War to pay to R. F. Blocker, E. J. Gurley, and J. F. Davis, the sum of \$1,500, in full for their claim against the United States for their professional services in defending Lieutenant Anderson and his detachment, who were arrested and tried for a criminal offense alleged to have been committed while acting under orders of their commanding officer in Texas, in the year 1834.

Mr. TOOMBS. I object to that bill.

The bill was laid over.

RUSSELL FITCH.

The bill (S. No. 426) to authorize the Secretary of the Interior to issue a land warrant to Russell Fitch, of Ohio, was read the second time, and considered as in Committee of the Whole.

It directs the Secretary of the Interior to issue a land warrant for one hundred and sixty acres of land to Russell Fitch, of Ohio, in consideration of military services rendered in the Army of the United States during the last war with Great Britain.

Mr. TOOMBS. I ask for the reading of the report.

Mr. FOSTER. There is no written report in that case, but I can state the facts very briefly. The petitioner shows service to within a very few days of the amount required at the Pension Office, by proof which they agree to be sufficient. The amount of time claimed was much more than sufficient but was not within their rules; but a letter from Mr. Whittlesey, of Ohio, who is well known to the Senate, recommended the case as being within the equity and within the reason of the law, as he thought. It was a question of technical deficiency of proof at the Pension Office as to a portion of the time. There were six days which they required which were not proved technically.

Mr. TOOMBS. I withdraw the objection.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

INVALID PENSIONS.

The next bill on the Calendar was the bill (S. No. 395) to authorize the increase of invalid pensions in certain cases.

It provides that the Secretary of the Interior shall have the same power to increase the pension in case of increased disability of all persons who may receive an invalid pension by virtue of a special law that he would have in case of like pensions granted by a general law.

Mr. PUGH. That is a general bill. I object to it.

THOMAS W. WARD.

The bill (S. No. 427) for the relief of Thomas W. Ward, late United States consul at Panama, was read a second time, and considered as in Committee of the Whole.

It requires the Secretary of State to settle, upon principles of equity and justice, the account of Thomas W. Ward, late consul of the United States at Panama, for expenditures made by him in procuring testimony in relation to the outrages committed on American citizens in the riot at Panama, on the 15th of April, 1856, and appropriates such sum as may be found due.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM HOWELL.

The bill (H. R. No. 513) granting an invalid pension to William Howell, of Tennessee, was next in order.

It directs the Secretary of the Interior to place the name of William Howell, of Tennessee, on the invalid pension roll, and that he be paid a pension at the rate of eight dollars per month, commencing on the 23d of February, 1858, and continuing during his life.

Mr. CLAY. Read the report.

The Secretary read it, as follows:

The Committee on Invalid Pensions, to whom were referred the papers of William Howell, of the State of Tennessee, asking an invalid pension, for injuries received in the war of 1812, report:

That it appears from the evidence filed, that said William Howell enlisted on the 15th July, 1812, for eighteen months, under Captain Martin Hawkins, in the twenty-seventh regiment of infantry; was transferred shortly after to the company of Captain Thornton S. Posey, in the same regiment. Whilst on his way from Fort Knox to Fort Harrison, with a load of provisions for the army, he was shot in the left breast by a ball fired from a gun in the hands of an Indian; from the effects of said wound he has never recovered, but is now wholly disabled from obtaining a living by manual labor.

William Hargies and Abraham Dye, who were in the same company with him, swear to the fact of his having received the wound whilst in the line of his duty.

D. B. Cliff and S. S. Mayfield, who are certified to be physicians of good standing in Franklin, Williamson county, Tennessee, certify that he is now disabled one half or more.

The committee are of opinion that he is entitled to relief, and therefore report a bill.

Mr. CLAY. The Senator from Georgia, I believe, objected to all these cases.

Mr. TOOMBS. Yes, sir; I object to them. The bill was passed over.

WILLIAM BULLOCK.

The next bill on the Calendar was the bill (H. R. No. 520) for the relief of William Bullock.

It directs the Secretary of the Interior to place the name of William Bullock upon the roll of invalid pensions, and that he be paid a pension at the rate of six dollars a month, from the 1st of January, 1854.

Mr. TOOMBS. Read the report.

The Secretary read it, as follows:

The Committee on Invalid Pensions, to whom were referred the petition and papers of William Bullock, beg leave to submit a report:

That there is good and sufficient evidence of said Bullock having rendered service in the war of 1812; that he received severe injuries whilst in the line of his duty, which now unfit him for labor. At a former session of Congress a bill was introduced for his relief, but for want of time it failed to become a law. Your committee now report a bill granting him relief.

Mr. TOOMBS. I object.

The bill was passed over.

SHOVE CHASE.

The bill (H. R. No. 533) for the relief of Shove Chase, was considered as in Committee of the Whole.

It directs the Secretary of the Interior to place the name of Shove Chase, of New York, upon the invalid pension list, at the rate of eight dollars per month, commencing on the 1st of January, 1856, to continue during his natural life.

Mr. TOOMBS. Read the report.

The Secretary read the report, as follows:

The Committee on Invalid Pensions, to whom were referred the petition and papers of Shove Chase, having had the same under consideration, beg leave to report:

The petitioner proves by his own oath, and the certificate of the captain, that he enlisted at Staten Island, in the State of New York, the 19th day of December, 1812, for one year, in the war of 1812. That while in said service he had the misfortune to break his arm by a fall, while passing from one post to another in the dark. He also proves, by the surgeon of the army who attended him, and also by the certificates of two surgeons of his own county, by the former that he was in the line of his duty when the injury was received, and by the surgeons of his county that the injury still continues. His neighbors certify that he has not at any time been qualified to perform manual labor, excepting with the right hand; that he has refused to receive, or rather apply, for a pension while he was able to earn his board by doing small favors for his neighbors. He is now aged, and unable to support himself; the injury of his wrist increasing instead of getting better. The committee, deeming this a case where relief should be granted, introduce the accompanying bill.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ELI W. GOFF.

The next bill on the Calendar was the bill (H. R. No. 353) for the relief of Eli W. Goff, which had been reported adversely by the Committee on Commerce.

It provides that the proper accounting officer of the Treasury, upon satisfactory proof being presented that Eli W. Goff, late inspector of customs for the district of Vermont, actually sustained damages and losses by his efforts faithfully to execute the revenue laws of the United States, shall audit his account, and pay to him the amount of his damages and losses; but the amount allowed is to be for damages resulting directly from a proper discharge of his legal duties as inspector of customs, and is not to exceed the sum of \$5,000.

Mr. WILSON. I move that the bill be indefinitely postponed.

Mr. CLAY. I reported it adversely; but the Senator from Vermont [Mr. COLLAMER] asked me not to act on it in his absence.

The bill was passed over.

ALONZO AND E. G. COLBY.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 486) for the relief of Alonzo and Elbridge G. Colby.

It appropriates \$2,502 11 for Alonzo Colby and Elbridge G. Colby, of the town of Buckport, in Maine, that sum being the balance due to them on their contract with the United States, dated July 24, 1855, for constructing a breakwater at Owl's Head harbor, Penobscot river, Maine.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

GARDNER AND VINCENT.

The Senate, as in Committee of the Whole,

proceeded to consider the bill (H. R. No. 569) for the relief of Gardner & Vincent and others.

It directs the Secretary of the Treasury, upon the production of satisfactory evidence, to audit and settle the several accounts of Gardner & Vincent, A. S. Gardner, A. F. Holmes, G. B. Murphy, C. C. Carlton, N. E. Crittenden, O. A. Brooks & Company, and W. Bingham & Company, for goods, &c., furnished the United States marine hospital at Cleveland, Ohio, during the superintendency of John Coon, and to pay the amounts found to be due.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

HASAM AND BREWSTER.

The bill (H. R. No. 573) for the relief of Thomas Hasam and B. S. Brewster was considered as in Committee of the Whole.

Its purpose is to require the Secretary of the Treasury to audit and settle the accounts of Thomas Hasam and B. S. Brewster, for services as inspectors of hulls and boilers, at New Orleans, Louisiana, and to allow them their regular compensation from the date of their appointment as if they had been sworn and properly qualified.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

THOMAS ANTISELL.

The bill (H. R. No. 452) for the relief of Dr. Thomas Antisell was considered as in Committee of the Whole.

It directs the Secretary of the Treasury to pay to Dr. Thomas Antisell, the sum of \$274 65, in full of his account for services rendered as acting assistant surgeon to the command (company G, third artillery) escorting Lieutenant Parke's party of survey from California to New Mexico in 1855.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

DAVID BRUCE.

The bill (H. R. No. 269) for the relief of David Bruce was considered as in Committee of the Whole.

It empowers the Commissioner of Patents to extend the patent of David Bruce, dated November 6, 1843, for a new and improved mode of casting type, for seven years from the date of its expiration, subject to the rules and regulations now in force for granting extensions; provided it shall appear on examination that the failure to extend his patent occurred through an official mistake.

Mr. PUGH. I object to that bill.

Mr. REID. Will the Senator permit me to make a remark, which I think will satisfy him in relation to the bill?

Mr. PUGH. Certainly.

Mr. REID. This is not to grant an extension of a patent. It expired some time during the last year. Before its expiration, the patentee made application for a renewal in time, and the examiner made his report, but one of the clerks misplaced the report, so that the Commissioner did not act upon it until after the expiration of the time, and then decided that he could not take up the case because the clerk had made the mistake, and the papers had not reached him in time. This bill is merely to permit him to take up the case and examine it as he could have done if his clerk had not made the mistake. The case is not at all changed. The bill only gives the right to examine it, as the Commissioner would have done if the clerk had not made the mistake.

Mr. PUGH. How long did the patent run? Has it ever been renewed before?

Mr. REID. It has never been renewed.

Mr. PUGH. I withdraw the objection.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JAMES MYER.

The bill (S. No. 428) for the relief of James Myer was read a second time, and considered as in Committee of the Whole.

It directs the payment to James Myer, late quartermaster to the Mexican boundary commission, of the sum of \$1,093 71, being in full for his time and expenses in returning to his home after he was relieved from duty as a member of the commission.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

JANE J. WINGERD.

The bill (S. No. 429) for the relief of Jane J. Wingerd was read a second time, and considered as in Committee of the Whole.

It directs the payment to Jane J. Wingerd, of the sum of \$233 33, in full for two months' services of her late husband, Jacob B. Wingerd, deceased, as a temporary clerk in the office of the First Comptroller of the Treasury in 1843.

Mr. TOOMBS. I object to that bill.

Mr. IVERSON. Will my colleague allow me to make an explanation of the case to him?

Mr. TOOMBS. Certainly.

Mr. IVERSON. This is a poor woman; and the facts of the case are simply these: in the Comptroller's office, one of the clerks became largely behindhand; and the Comptroller found it necessary to employ a temporary clerk to bring up the business, and, by doing that, he was enabled to transfer another clerk to a higher branch of duty. This man Wingerd was employed in the office to perform the service for two months.

Mr. TOOMBS. This purports to have been in 1843, fifteen years ago.

Mr. IVERSON. I do not recollect the time.

Mr. TOOMBS. That is the date given, fifteen years ago.

Mr. IVERSON. I hardly think it was so long ago.

Mr. TOOMBS. I wish to know why the services have never been paid for before, as they were rendered fifteen years ago?

Mr. IVERSON. Read the report.

The Secretary read the report; from which it appears, from a statement of James W. McCulloch, Esq., late First Comptroller of the Treasury, that, in consequence of a large accumulation of business in that office, in the year 1843, Mr. Jacob B. Wingerd was duly sworn and employed as a temporary clerk in that office for two months, on a grade of service for which the regular clerks were paid at the rate of \$1,400 per annum. For this service no payment has been made, there being no fund out of which to pay compensation to extra clerks. Although the committee disapprove of the employment of extra clerks in the Departments or bureaus without authority of law, yet, as this service appears to have been regarded as necessary by the Comptroller, and to have been faithfully rendered, they think a proper compensation ought to have been made.

Mr. TOOMBS. I object, unless some account can be given of the fifteen years' delay.

The PRESIDING OFFICER. The bill will be passed over.

Mr. TOOMBS subsequently said: The Senator from Texas [Mr. Houston] having satisfied me in regard to the case of Jane J. Wingerd, I withdraw my objection.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

SYLVANUS BURNHAM.

The next bill on the Calendar was the bill (H. R. No. 233) for the relief of Sylvanus Burnham.

It requires the Secretary of War to place the name of Sylvanus Burnham upon the roll of invalid pensioners, and cause to be paid to him eight dollars per month, commencing from and after the 14th of November, 1850, and to continue during his natural life.

Mr. CLAY. I object to that bill.

The bill was passed over.

CORNELIUS H. LATHAM.

The bill (H. R. No. 464) for the relief of Cornelius H. Latham was considered as in Committee of the Whole.

It directs the Secretary of the Interior to allow and pay Cornelius H. Latham, of New York, an invalid pensioner, the sum of eight dollars per month during his natural life, in lieu of the pension now allowed him by law, to commence on the 25th of February, 1856.

Mr. PUGH. Let us hear the report in that case.

The Secretary read it, and it appears that the petitioner was, by special act of Congress for his relief, approved July 17, 1854, placed on the pension list, at the rate of four dollars per month, on account of disease contracted while in the line of his duty, in the service of the United States, as a private in Captain E. V. Sumner's company of United States dragoons.

The petitioner now states that the disease has continued to this time, and renders him unable to perform any labor. He presents the affidavits of two physicians, who are certified to be reputable in their profession, who state that he is not only still disabled, but, in consequence, is disabled to a degree amounting to a total disability.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JOHN DUNCAN.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 366) for the relief of John Duncan.

It requires the Secretary of the Interior to place upon the list of Navy pensioners, at the rate of sixteen dollars per month, the name of John Duncan, who was a landsman in the United States Navy on board the United States ship-of-war Brandywine, and who has become totally blind in consequence of disease contracted and injuries received by him while in the line of his duty in the service of the United States; the pension to commence on 1st of December, 1855, and continue during his natural life; but it is not to be paid if he remains a beneficiary in the United States naval asylum.

The bill was reported, with an amendment to strike out "sixteen dollars," and insert "eight dollars."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in; and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

EBENEZER HITCHCOCK.

The next bill on the Calendar was the bill (H. R. No. 532) for the relief of Ebenezer Hitchcock, which had been reported adversely by the Committee on Pensions.

It directs the Secretary of the Interior to place the name of Ebenezer Hitchcock, of Massachusetts, on the invalid pension roll, at the rate of eight dollars per month, and to cause him to be paid at that rate from the 1st of February, 1858, during his natural life.

Mr. CLAY. I move the indefinite postponement of the bill.

The motion was agreed to.

ALLEN SMITH.

The bill (H. R. No. 534) for the relief of Allen Smith, was next considered by the Senate as in Committee of the Whole.

It requests the Secretary of the Interior to place the name of Allen Smith, of New Hampshire, upon the invalid pension list, at the rate of eight dollars per month, to commence on the 21st of January, 1858, and continue during his natural life.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

Mr. CLAY. I move to reconsider that vote. I ask for the reading of the report.

The motion to reconsider was agreed to; and the question recurred on the passage of the bill.

Mr. CLAY. Read the report.

The Secretary read it; and it appears from the affidavit of the petitioner, (and his statement is corroborated by the certificate of the Adjutant General,) that he enlisted in the company of Captain Weeks, eleventh regiment of United States infantry, on the 20th May, 1812, for five years, and served the full period of his enlistment, and was honorably discharged. It further appears from his statement that he was transferred to the recruiting service, being a drummer, and was ordered from place to place; that whilst stationed at Plattsburg, New York, he had an attack of measles, and before he had entirely recovered, was ordered to Champlain, in the same State, and whilst there, and in feeble health, he was obliged to encamp in the woods, without covering, exposed to the cold, wet and snow, which produced sickness, and from the effects of which he has never recovered; but, on the contrary, he has grown worse, until he is now wholly incapable of supporting himself, and that his present disabled condition is owing to disease contracted whilst in the discharge of his duty as a soldier. Two or three respectable physicians fully confirm his statement as regards his present disability, and give it as their opinion that it is in consequence of exposure to the inclemency of the weather. It also appears

from the affidavit of the officer who enlisted the petitioner, (Gould,) and who served with him during the whole five years, and also by that of Lieutenant Stephenson, who also served with him, that he was, at the time of entering the service, a strong, able-bodied man, and that his present disability is the result of an incurable disease, contracted whilst in the Army, and in the discharge of his duty.

Mr. CLAY. That case is obnoxious to the common objection which I make to all these cases. When they fail to make the proof required at the Pension bureau, they come before Congress; and sometimes by sympathy, and sometimes from the importunities of friends of these parties, their bills are passed, while others, equally meritorious, are rejected. I object to it.

The bill was passed over.

MARY BAINBRIDGE.

The next bill on the Calendar was the bill (H. R. No. 221) for the relief of Mary Bainbridge.

It directs the name of Mary Bainbridge, of Massachusetts, to be placed upon the pension list of the United States; and the Secretary of the Interior is to pay, or cause to be paid, to her the sum of thirty dollars per month, commencing on the 1st of June, 1857, and to continue during her natural life.

Mr. PUGH. Read the report.

Mr. CLAY. I can state in a word the character of the bill, and the point in issue. I will state here that I oppose all these claims, but I am but one in the committee. Her husband did not die in service, and therefore it does not come within the general law; but this bill proposes to pension her.

Mr. PUGH. The report will explain the case.

Mr. FESSENDEN. It is of no use to read the report, if the bill is objected to.

Mr. CLAY. I understand the Senator from Georgia to object to it.

Mr. FOSTER. I think, if the report was read, the bill would not be objected to.

Mr. TOOMBS. I object.

The bill was passed over.

ZINA WILLIAMS.

The next bill on the Calendar was the bill (H. R. No. 239) for the relief of Zina Williams.

It directs the Secretary of the Interior to place the name of Zina Williams, of New York, upon the invalid pension list, at the rate of eight dollars per month, commencing on the 4th of December, 1855, to continue during his natural life.

Mr. TOOMBS. Read the report.

The Secretary read it; and it appears that the petitioner was called into the service in the war of 1812, in September, 1814, from Montgomery county, New York, and marched to Sackett's Harbor, in New York, where he was on duty, without shelter, sleeping (if at all) upon the ground; sickness prevailed in camp, and on the 1st of October, 1814, he was taken sick of the prevailing camp disease, and was sent to the hospital, where he was attended by two surgeons; his sickness settled into a fever; his friends sent for him, with difficulty carried him home on a bed; he was confined to his bed eighteen months, the fever concentrating in his left hip, causing great pain and contraction of the muscles, resulting in almost the entire loss of the use of the left leg; the disability continuing from that time to the present, and of a nature incurable; that he is a farmer, a sober, temperate, prudent man, and is clear from any charge of imprudence or exposure as the cause of the continuation of his disability.

Mr. TOOMBS. I object.

The bill was passed over.

SAMUEL GOODRICH.

The bill (H. R. No. 229) for the relief of Samuel Goodrich, jr., was announced as next in order.

It directs the Secretary of the Interior to place the name of Samuel Goodrich, jr., of New York, upon the roll of invalid pensioners, and to pay him a pension, at the rate of eight dollars per month, during his natural life, to commence on the 1st of January, 1856.

Mr. TOOMBS. Let the report be read.

The Secretary read it; and it appears that in September, 1814, the petitioner entered the service of the United States in the militia, in Oswego county, New York, and marched to Sackett's

Harbor, New York; there in camp he was exposed to the hardships of a soldier; destitute of barracks, exposed to the wet, sleeping on the wet ground, he was seized with the prevailing camp distemper, which soon became a bilious fever and inflammatory rheumatism, which caused the formation of many tumors upon his body and limbs, that were often lanced, resulting, finally, in the formation of an abscess on the left hip, injuring the hip-joint, contracting of the muscles, shortening of the left leg, making it almost useless, attended with extreme pain; on reaching home he was confined to his bed or room one year and a half, and since that day he has continued a cripple, unable to perform hard labor, with a diseased hip, incurable, and without hope of improvement.

Mr. TOOMBS. I object. I know no reason why he could not get a pension at the Pension Office.

Mr. CLAY. Because he cannot make proof to satisfy the Commissioner of Pensions.

Mr. TOOMBS. So I thought.

Mr. CLAY. But it requires a much less amount of proof to satisfy Congress.

Mr. TOOMBS. It does not require any proof here.

The bill was passed over.

SILAS STEVENS.

The next bill on the Calendar was the bill (H. R. No. 459) granting an invalid pension to Silas Stevens, of Virginia.

It directs the Secretary of the Interior to place the name of Silas Stevens, of Virginia, on the invalid pension roll, and pay him a pension, at the rate of four dollars a month, from the 1st of February, 1858, during his natural life.

Mr. PUGH. I do not think it worth while to go through with these cases, as we are satisfied all this class of pension bills will be objected to. If the rest are objected to, I think they ought all to stand together.

The bill was passed over.

STEPHEN BUNNELL.

The next bill on the Calendar was the bill (H. R. No. 224) for the relief of Stephen Bunnell.

It provides that the name of Stephen Bunnell, of Indiana, a sergeant major of the war of 1812, be placed upon the list of pensioners of the United States, for and during his natural life, at the rate of fifteen dollars per month, to commence from and after the 1st of January, 1855.

Mr. CLAY. I object to it.

The bill was passed over.

THERESA DARDENNE.

The bill (S. No. 434) for the relief of Theresa Dardenne, widow of Abraham Dardenne, deceased, and their children, was read a second time, and considered as in Committee of the Whole.

It provides that Theresa Dardenne, widow of Abraham Dardenne, or, in case of her decease, any one of her children by Abraham Dardenne, deceased, be allowed to enter, in legal subdivisions, at any land office in Arkansas, free of cost, the quantity of six hundred and forty acres of unappropriated land belonging to the United States, and subject to private entry, as an indemnification for losses sustained on account of an erroneous sale of land by the land officers at Little Rock, Arkansas, on the 20th of January, 1836.

Mr. JOHNSON, of Arkansas. I will state that this case has passed unanimously every committee it has been before, and it has passed the Senate heretofore, but never passed the House.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN DONNELSON AND OTHERS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 54) to revive and extend an act entitled "An act for the relief of the representatives of John Donnelson, Stephen Heard, and others," approved May 24, 1824, and the several acts extending, continuing, and reviving the same.

The original bill proposed to revive and extend the provisions of the act approved May 24, 1824, entitled "An act for the relief of the representatives of John Donnelson, Stephen Heard, and others, and the several acts extending and reviving the same," to the representatives of John

Donnelson, deceased, subject to the conditions imposed by those acts, for the term of two years. The Committee on Public Lands reported the bill with an amendment to strike out all after the enacting clause and insert:

That the provisions of the act approved the 24th May, 1824, entitled "An act for the relief of the representatives of John Donnelson, Stephen Heard, and others, and the several acts extending, continuing, and reviving the same," be, and the same are hereby, revived and extended to the representatives of John Donnelson, deceased, subject to the conditions and limitations imposed by the aforesaid acts, for the term of two years from the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed. Its title was amended so as to read: "A bill to revive and extend an act entitled 'An act for the relief of the representatives of John Donnelson, Stephen Heard, and others,' approved May 24, 1824, and the several acts extending, continuing, and reviving the same."

MARY BOYLE.

The next bill on the Calendar was the bill (H. R. No. 277) for the relief of Mary Boyle.

It directs that the name of Mary Boyle be placed on the pension roll, at the rate of twenty dollars per month, from the 1st of January, 1858.

Mr. FESSENDEN. Let the report be read.
Mr. CLAY. The point is that her husband did not die in the service. I object to all such cases.

The bill was passed over.

EVELINA PORTER.

The next bill on the Calendar was the bill (H. R. No. 458) for the relief of Evelina Porter, widow of the late Commodore David Porter, of the United States Navy.

It directs the Secretary of the Interior to place the name of Evelina Porter, widow of the late Commodore Porter, deceased, of the United States Navy, upon the list of invalid pensions, to be paid at the rate of thirty dollars per month, for five years, from the 9th of February, 1858.

Mr. CLAY. I object.

Mr. GREEN. Let it be considered. Vote it down if it is wrong. I consider it a very meritorious case.

Mr. CLAY. I have no objection to that.

Mr. HAMLIN. I object. Let them all go the same way.

The bill was passed over.

JUDITH NOTT.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 528) for the relief of Judith Nott.

It directs the Secretary of the Interior to place the name of Judith Nott upon the pension roll of the United States, at the rate of nine dollars per month, from the 1st of January, 1855, and to continue during her widowhood.

Mr. PUGH. Read the report.

The Secretary read the report. It appears from the evidence in support of the application of Judith Nott that her husband, John Nott, now deceased, was a seaman in the Navy of the United States during the late war with Great Britain. It further appears, from the certificate of Jonathan D. Ferris, late lieutenant in the United States Navy, (who is also deceased,) that in December, 1814, when the British were off the coast of Louisiana, and threatened their attack upon New Orleans, he selected, among others, the said John Nott as one of a picked crew to man gun-boat No. 5 on Lake Borgne, of which he was in command, to resist the landing of the enemy. It further appears that Nott was in command of a piece of ordnance, and that the boat, among others, had a severe engagement on the 14th of December, 1814, with the enemy on the lake. After the battle Lieutenant Ferris observed that the hand of John Nott was wounded, and that he appeared lame. Upon inquiry into the cause, he learned that while John Nott was in the act of elevating his gun the breech fell and smashed his fingers; and that the lameness proceeded from a splinter entering his hip, but neither supposed the wounds serious, or of much moment. It appears from the certificate of Lieutenant Ferris that he did not consider the wounds sufficiently serious to report in his return of casualties to his commanding officer,

though he was wounded by a splinter at the same time, which he passed unnoticed, but which subsequently became serious. The wounds subsequently assumed a serious character, and John Nott was confined a year at the hospital in Philadelphia, and was subsequently discharged, his wounds still uncured.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

HORATIO BOULTBEE.

The next bill on the Calendar was the bill (H. R. No. 506) for the relief of the administrator of Horatio Boulton, deceased, which had been reported upon adversely by the Committee on Military Affairs.

It provides that there be appropriated the sum of \$588 50 to the administrator of Horatio Boulton, deceased, being payment in full for a stack of wheat which was burned by the troops of the United States on the 21st of February, 1847, at Agua Nueva, in Mexico.

Mr. CLAY. I move its indefinite postponement.

The motion was agreed to.

JAMES T. V. THOMPSON.

The bill (S. No. 435) for the relief of James T. V. Thompson was read a second time, and considered as in Committee of the Whole.

It provides that there be paid to James T. V. Thompson, the sum of \$627 75, in full for loss or damage on a quantity of flour purchased by him at a public sale, under the direction of the United States commissary, at Fort Leavenworth, in August, 1851, and which flour proved to be unsound.

Mr. FESSENDEN. I should like to hear the report read.

The Secretary read the report, from which it appears that by order of the commissary of subsistence, a sale of about one thousand bags of flour was advertised on July 25, 1851, to take place on the 16th of August following, at Fort Leavenworth. The advertisement represented the flour to be "in good order, and perfectly sweet." The petitioner purchased four hundred and five sacks, at \$1 95 per sack, amounting to \$789 75. After the flour was delivered and paid for, it was ascertained, as is alleged, to be sour and unfit for use, and was afterwards sold by the petitioner for the best price he could get, and netted him about forty cents per sack, subjecting him to a loss of \$627 75, which he asks to have reimbursed.

Mr. FESSENDEN. There have been two favorable reports. That is enough for me.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CHARLES M. PERRY.

The next bill on the Calendar was the bill (S. No. 439) for the relief of Charles M. Perry.

It provides that there be paid to Charles M. Perry the sum of \$1,172 94, being the difference between his salary as a messenger and the salary of a clerk, the duties of which he performed from the 23th of September, 1853, to December 30, 1856.

Mr. FESSENDEN. I object to that bill.

The bill was passed over.

NANCY MAGILL.

The bill (H. R. No. 345) for the relief of Nancy Magill, of Ohio, was announced as next in order.

It directs the Secretary of the Interior to place the name of Nancy Magill, widow of James Magill, of Ohio, on the pension roll, at the rate of eight dollars per month, for five years, commencing on the 4th of March, 1858.

Mr. PUGH. That is an exceptional case, to which I presume my friend from Georgia will not object.

Mr. HAMLIN. Let us hear the report.

Mr. TOOMBS. I think that it is a good case.

The Secretary read the report; and it appears that James Magill, the husband of Nancy Magill, enlisted as a private for the war, in the company of Captain Hoagland, Colonel Morgan's regiment of infantry, on the 28th of April, 1847, was wounded at Chapultepec 13th September, 1847, and discharged from the service August 4, 1848; was subsequently appointed brevet second lieu-

tenant, and promoted first lieutenant for his bravery during the war. On the 29th of March, 1849, he was compelled to resign his commission as lieutenant, on account of ill health. Some time in the year 1849, after he resigned his commission as lieutenant, he left his residence in Coshocton, Ohio, for the purpose of going to Cincinnati on business, since which time he has not been heard from.

Mr. PUGH. The case appears to be this: this man resided—

Mr. HAMLIN. I object, if nobody else does.

Mr. CLAY. Just let me say one word.

Mr. PUGH. I can show the Senate that it is a proper case.

Mr. CLAY. I want to show the great difference between this and the other cases.

The PRESIDING OFFICER. Objection being made, the bill lies over.

JOHN C. RATHBUN.

The next bill on the Calendar was the bill (H. R. No. 529) for the relief of John C. Rathbun.

It directs the Secretary of the Interior to place the name of John C. Rathbun on the list of retired pensioners, at the rate of four dollars per month, to commence on the 15th of February, 1858, and continue during life.

Mr. PUGH. I object to the bill.

The bill was passed over.

PHINEAS G. PEARSON.

The next bill on the Calendar was the bill (H. R. No. 527) for the relief of Phineas G. Pearson.

It directs the Secretary of the Interior to place the name of Phineas G. Pearson on the list of invalid pensioners, at the rate of eight dollars per month, to commence on the 22d day of January, and continue during life.

Mr. PUGH. I object to the bill.

The bill was passed over.

JOHN PERRY.

The next bill on the Calendar was the bill (H. R. No. 531) for the relief of John Perry, of Illinois.

It directs the Secretary of the Interior to place the name of John Perry, of Illinois, on the list of invalid pensioners, at the rate of eight dollars per month, commencing on the 15th of February, 1858, and to continue during his natural life.

Mr. WRIGHT. I should like to hear the report in that case.

The Secretary read it; from which it appears that Perry was a private in company C, commanded by Captain John M. Moore, in the second regiment of Illinois volunteers, commanded by Colonel James Collins; that he enlisted on the 15th day of July, 1847, to serve during the war; that he marched to the seat of war, and while in the line of his duty as a soldier at the town of Puebla, in Mexico, in the month of March, 1848, he was attacked with *serofulous irietus*, which has so affected his eyes as to produce almost total blindness.

Mr. CLAY. There is nothing on the record to show all this sickness, and therefore I object to the bill.

The bill was passed over.

KENNEDY O'BRIEN.

The next bill on the Calendar was the bill (H. R. No. 457) for the relief of Kennedy O'Brien.

It directs the Secretary of the Interior to place the name of Kennedy O'Brien on the list of invalid pensioners, and that he be paid a pension, at the rate of eight dollars per month, from the 1st of January, 1854.

Mr. PUGH. I object to the bill.

The bill was passed over.

WILLIAM SUTTON.

The next bill was the bill (H. R. No. 346) for the relief of William Sutton.

It directs the Secretary of the Interior to place the name of William Sutton on the roll of invalid pensioners, and cause him to be paid the sum of six dollars per month, to commence from and after the 5th of February, 1858, and to continue during the period of his natural life.

Mr. PUGH. I object to the bill.

The bill was passed over.

NEHEMIAH S. DRAPER.

The next bill on the Calendar was the bill (H.

R. No. 511) for the relief of Nehemiah S. Draper and William Holden, heirs-at-law of Mary Draper, deceased, which had been reported adversely by the Committee on Pensions.

Mr. CLAY. I move the indefinite postponement of the bill.

The motion was agreed to.

TIMOTHY L. O'KEEFFEE.

The next bill on the Calendar was the bill (H. R. No. 267) for the relief of Timothy L. O'Keeffe, which had been reported adversely by the Committee on Pensions.

Mr. CLAY. I move its indefinite postponement.

The motion was agreed to.

JOHN B. ROPER.

The bill (H. R. No. 321) for the relief of John B. Roper was next considered by the Senate as in Committee of the Whole.

It directs the Postmaster General to pay to John B. Roper, in addition to the sum already paid him, the sum of \$300 for services performed on mail route No. 13336.

Mr. FESSENDEN. Let the report be read.

The Secretary read the report; from which it appears that Roper, at the mail lettings in the winter of 1854, put in two bids on routes Nos. 13335 and 13336. The first-named route, running from Carlyle, Clinton county, Illinois, to Muscota, is twenty-seven miles, and the other, from Carlyle to Hillsboro', Montgomery county, is forty miles' distance. Route No. 13336, a distance of forty miles, was given to him under his bid, as stands upon the books of the Department, for \$200, and route No. 13335 was given to another for \$169. The petitioner alleges that he intended to have reversed the order of his bids, making the highest bid cover the longest route; they should have been, and were designed by him to be, on route No. 13336, forty miles, \$275, and on route No. 13335, twenty-seven miles, \$200, just transposing them. He has performed the service on route No. 13336, forty miles, for \$200 per annum, and the committee are clearly of the opinion that he is justly entitled to the additional sum of seventy-five dollars per annum, which, for the four years, the period of his contract, amounts to the sum of \$300.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOSEPH CLYMER.

The bill (S. No. 438) for the relief of Joseph Clymer, was read a second time, and considered as in Committee of the Whole.

It provides that there shall be paid to Joseph Clymer the sum of \$15,670, in full for all claims by him for losses or damages on account of the contract entered into between himself and the United States, represented by Thomas Swords, lieutenant colonel, quartermaster of the United States Army, on the 18th of April, 1851, and by reason of the failure of the United States to perform the same.

Mr. WILSON. I ask for the reading of the report.

Mr. HUNTER. I object to the consideration of the bill. The Court of Claims, I understand, have decided against the claim.

WIDOWS' HALF PAY.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House had passed a joint resolution (H. R. No. 36) giving construction to the second section of the act of February 3, 1853, to continue half pay to certain widows and orphans, in which the concurrence of the Senate was requested; which, on motion of Mr. HAMLIN, was read twice by its title, and referred to the Committee on Pensions.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HENRY, his Secretary, announced that the President had approved and signed, the 3d instant, the following acts and resolutions:

A resolution devolving upon the Secretary of War the execution of the act of Congress entitled "An act supplemental to an act therein mentioned," approved December 22, 1854;

A resolution for the benefit of the widow of

Commander William Lewis Herndon, United States Navy;

An act confirming locations of land warrants under certain circumstances;

An act for the relief of the heirs of Richard D. Rowland, deceased, and others; and

An act to extend an act entitled "An act to continue half pay to certain widows and orphans," approved February 3, 1853.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; and they were thereupon signed by the Vice President:

An act for the relief of Benjamin L. McAtee and Isaac N. Eastham, of Louisville, Kentucky;

An act making appropriations for the payment of clerks employed in the offices of the registers of the land offices at Oregon City and Winchester, in the Territory of Oregon;

An act for the relief of George W. Biscoe;

An act for the relief of Oliver P. Hovey;

An act for the relief of Richard B. Alexander;

An act for the relief of Simeon Stedman;

An act for the relief of Susannah Redman, widow of Lloyd Redman;

An act for the relief of Captain Stanton Sholes;

An act making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1859;

An act for the relief of Joseph Webb;

An act for the relief of Robert W. Cushman, formerly an acting purser in the Navy;

An act for the relief of Micajah Brooks;

An act for the relief of Isaac Body and Samuel Fleming;

An act for the relief of Job Stafford, of the State of New York;

An act for the relief of Elizabeth McBrier, only surviving child and heir of Colonel Archibald Loughrey, deceased;

An act for the relief of Benjamin Wakefield;

An act for the relief of Lewis M. Broadwell; and

A resolution for the relief of General Sylvester Churchill.

THOMAS LAURENT.

Mr. PUGH. I objected the other day to the consideration of a small bill (S. No. 334) for the relief of Thomas Laurent, surviving partner of the firm of Benjamin & Thomas Laurent. I withdraw my objection, and move that that bill be now taken up.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole.

It requires the Secretary of War to pay to Thomas Laurent, surviving partner of the firm of Benjamin & Thomas Laurent, or to his legal representatives, the sum of \$15,000, being the amount paid by that firm, on that day, to Major General Winfield Scott, in the city of Mexico, for the purchase of a house in that city, out of the possession of which they were since ousted by the Mexican authorities.

Mr. PUGH. I offer an amendment, in line seven, after the word "dollars," to insert "with interest at the rate of six per cent. yearly, from the 11th of November, 1847."

Mr. HUNTER. I must object to the consideration of this bill, if we are to have a discussion about interest.

Mr. PUGH. If this bill does not pass, which is a plain case, the parties will sue General Scott, and we shall not only have to pay the money, but have to pay four or five lawyers. It is a plain case of having got the money of these people on a failure of title. The bill is simply to pay back the purchase money.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading.

Mr. SLIDELL. I object to the third reading of the bill to-day.

The PRESIDING OFFICER. Then it must be passed over.

NAVAL APPROPRIATION BILL.

Mr. HUNTER. I move to postpone the prior

orders, and take up the naval appropriation bill.

Mr. GREEN. I hope the Senate will not take that course. We have gone through the Calendar, and passed bills to which there were no objections. There are other bills that one or two Senators may object to, and yet a majority may want to pass. I desire to give those men a hearing, and I think it is right, and just, and proper, that they should have a hearing. I hope the Senate will vote down the proposition of the Senator from Virginia.

Mr. CRITTENDEN. I would submit to the Senator from Virginia, whether, as the Senate has been going on very successfully with the private business, he had not better allow us to conclude the Private Calendar entirely.

Mr. HUNTER. We have got through the Private Calendar; none but objected cases remain, and we might lose the whole day on a single one of them. I have waited until we got through the Calendar before making this motion. If we are to adjourn on Thursday next, we ought surely to dispose of the appropriation bills.

Mr. BENJAMIN. We have not got through with the Calendar. There are a large number of bills that have not been disposed of, because some one Senator said, "I object." I think we could very soon pass from thirty to forty private bills which have not been acted upon to-day.

Mr. HUNTER. Let us take the sense of the Senate; I have not a word more to say.

Mr. SEBASTIAN. I agree with the Senator from Missouri, in expressing the hope that the Senate will not proceed to the consideration of the Navy appropriation bill this evening, and if the Senate decline to take up that bill, I shall ask for an executive session. I am, of course, not at liberty to do more than allude to the nature of the business calling for an executive session, but the Senator understands it, and I think the majority feel quite as much interest in the accomplishment of that business confided to my charge as any other. I know it is equally as pressing; and if the Senate does not afford me an opportunity of considering it early, and some days before the adjournment, we shall probably be called upon to consider it in such a manner as not to please many of us who are desirous to get home soon. I hope the Senate will vote down the motion of the Senator from Virginia, and then proceed to the consideration of executive business.

Mr. TOOMBS called for the yeas and nays on Mr. HUNTER's motion; and they were ordered.

Mr. IVERSON. I wish to ask a question of the Senator from Virginia. If we take up the naval appropriation bill, does he expect us to go on with it and finish it to-night? If not, I do not see any use in taking it up.

The question being taken by yeas and nays, resulted—yeas 22, nays 22; as follows:

YEAS—Messrs. Allen, Bigler, Bright, Clark, Clay, Clingman, Fessenden, Fitzpatrick, Gwin, Hale, Hunter, Johnson of Arkansas, Kennedy, Mallory, Mason, Pearce, Polk, Reid, Slidell, Thomson of New Jersey, Toombs, and Wright—22.

NAYS—Messrs. Bell, Benjamin, Broderick, Brown, Crittenden, Doolittle, Fitch, Foot, Foster, Green, Hamlin, Houston, Iverson, Johnson of Tennessee, Jones, Pugh, Sebastian, Seward, Simmons, Stuart, Wade, and Wilson—22.

So the motion was not agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the following bills, in which the concurrence of the Senate was requested:

A bill (C. C. No. 84) for the relief of Ferdinand Cox; and

A bill (C. C. No. 85) for the relief of Peter Parker.

EXECUTIVE SESSION.

Mr. SEBASTIAN. I move that the Senate proceed to the consideration of executive business.

Mr. THOMSON, of New Jersey. I move that the Senate adjourn.

The motion to adjourn was not agreed to; there being, on a division—ayes 13, noes 23.

Mr. SEBASTIAN's motion was agreed to; there being, on a division—ayes 21, noes 19; and after some time spent in the consideration of executive business, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, June 4, 1858.

The House met at eleven o'clock, a. m.
The Journal of yesterday was read and approved.

CONSULAR BILL.

The SPEAKER announced the business first in order to be the consideration of the Senate amendment to House bill (No. 6) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1859.

COMMITTEE ON FOREIGN AFFAIRS.

Mr. MORRIS, of Illinois. I rise to a privileged question. I move to reconsider the vote by which the gentleman from Kentucky [Mr. CLAY] was, yesterday, excused from further service on the Committee on Foreign Affairs. I will not ask that the motion be disposed of now, as the gentleman is not in his seat; but I desire to have it entered.

CREDITORS OF THE UNITED STATES.

Mr. GROW. I desire the unanimous consent of the House to permit me to introduce a bill to amend an act to establish a court for the investigation of claims against the United States, so as to permit creditors of the Government to sue in the district courts of the United States. I desire simply to have it referred.

Mr. PHILLIPS and others objected

SETTLERS IN ILLINOIS.

Mr. LOVEJOY. I desire to submit a motion to discharge the Committee on Public Lands from the further consideration of the bill (H. R. No. 538) for the relief of settlers on certain lands in the State of Illinois—simply to secure the right of preemption. I ask that the gentleman from Indiana [Mr. DAVIS] be allowed to report back the bill.

There being no objection,

Mr. DAVIS, of Indiana, reported back the bill above described, and asked to have it put upon its passage.

The bill declares that all settlers in good faith, prior to the passage of this act, on any of the public lands heretofore selected by the State of Illinois, but which have not been confirmed to said State, under the provisions of the act of September 4, 1841, shall be entitled to preempt their several claims by legal subdivisions, not to exceed one hundred and sixty acres, at the ordinary minimum of \$1 25 per acre, except within the six-mile limits of any railroad grant; and in that case at the double minimum of \$2 50 per acre; provided such settlers shall establish their rights according to the rules and regulations prescribed by the act of September 4, 1841, and that they pay for the same within three months from the date of the publication of this act by the register of the proper district, and provided that no declaratory statement shall be required to be filed by such settlers.

The bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. DAVIS, of Indiana, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

KEEP, BARD AND CO.

Mr. PHELPS, of Missouri. I ask the unanimous consent of the House to take from the Speaker's table Senate bill (No. 318) for the relief of Keep, Bard & Co. I desire to have it read for the information of the House, and then to have it put upon its passage.

Mr. CLEMENS. I object.

Mr. PHELPS, of Missouri. I hope the gentleman from Virginia will withdraw his objection till he shall have heard the bill read.

Mr. DEAN. Would it be in order to move to proceed to the business on the Speaker's table, and to dispose of all these bills?

Mr. WASHBURNE, of Illinois. I call for the regular order of business.

Mr. PHELPS, of Missouri. I move to suspend the rules.

The SPEAKER. The Chair cannot entertain the motion of the gentleman from Missouri.

PENSION BILL.

Mr. SAVAGE. I move that the House resolve itself into the Committee of the Whole on the state of the Union, to take up the bill for granting pensions to the officers and soldiers of the war of 1812.

The SPEAKER. The Chair cannot entertain the motion of the gentleman from Tennessee until the House shall dispose of the pending proposition on which the previous question was seconded yesterday evening, and the main question ordered to be put.

CONSULAR BILL—AGAIN.

The Senate amendment to the consular bill, pending when the House adjourned yesterday, was then taken up for consideration. The Senate proposed to strike out the following section of the bill making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th June, 1859:

"Sec. 2. And be it further enacted, That no part of the money herein appropriated shall be paid out of the Treasury for any expenses which accrued, or shall accrue, before the commencement or after the termination of the fiscal year ending the 30th of June, 1859."

The question being on agreeing to the amendment of the Senate,

Mr. DEAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 84, nays 81; as follows:

YEAS—Messrs. Anderson, Atkins, Avery, Barksdale, Bishop, Bonham, Bowie, Burnett, John B. Clark, Clemens, Cobb, John Cochran, Cockerill, Corning, Cox, James Craig, Crawford, Curry, Davidson, Davis of Indiana, Dimmick, Dowdell, Edmundson, English, Eustis, Faulkner, Florence, Foley, Gartrell, Goode, Gregg, Lawrence W. Hall, Thomas L. Harris, Hatch, Hawkins, Hopkins, Hughes, Jackson, Jenkins, Jewett, J. Glancy Jones, Owen Jones, Keitt, Kelly, Landy, Leidy, Letcher, Maclay, McKibbin, McQueen, Samuel S. Marshall, Mason, Miles, Millson, Moore, Niblack, Peyton, John B. Phelps, Phillips, Quitman, Rengun, Reilly, Rufin, Russell, Sandidge, Savage, Seales, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, William Smith, Stephens, Stevenson, James A. Stewart, Vallandigham, White, Whiteley, Winslow, Woodson, Wortendyke, and Augustus R. Wright—84.

NAYS—Messrs. Abbott, Andrews, Bingham, Blair, Bliss, Branton, Buffinton, Burlingame, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Cragin, Curtis, Davis of Maryland, Davis of Massachusetts, Dawes, Denn, Dodd, Durfee, Edie, Farnsworth, Fenton, Foster, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Harlan, J. Morrison Harris, Hill, Hoard, Howard, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, Leiter, Lovejoy, Mattoon, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Pike, Potter, Purviance, Ready, Richard, Ritchie, Robbins, Royce, John Sherman, Stanton, William Stewart, Thayer, Tompkins, Trippe, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Wilson, and John V. Wright—81.

So the Senate amendment was concurred in.

Mr. J. GLANCY JONES moved to reconsider the vote by which the amendment was concurred in, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. DICKINS, its Secretary, informing the House that the Senate had passed, with amendments, the bill making appropriations for sundry civil expenses of the Government, for the year ending June 30, 1859.

SLOOPS-OF-WAR.

Mr. BOCKOCK. I ask the unanimous consent of the House to permit me to report a bill from the Committee on Naval Affairs.

MARYLAND CONTESTED ELECTION.

Mr. HARRIS, of Illinois. If the gentleman will give way for a moment, I wish to make a statement. I gave notice yesterday that I desired to call up to-day the Maryland contested-election case; but from the disposition of gentlemen to proceed with other business, I am willing to waive that, and propose to call it up to-morrow. In the mean time I hope gentlemen will give what consideration they can to the case.

ACCOUNTS OF THE LATE CLERK.

Mr. MAYNARD. I am directed by the special committee appointed to investigate the conduct and accounts of the late Clerk, to present to the House a report, accompanied by a resolution. I

move that the report be laid upon the table, and ordered to be printed; and ask that the resolution be put upon its passage. I move the previous question.

The resolution was read, as follows:

Resolved, That the committee, appointed by the resolution of the House of Representatives of December 18, 1857, to investigate the conduct and accounts of William Cullom, late Clerk of the House of Representatives, have leave to sit at the next session, and then to submit their final report.

Mr. STANTON. How does the resolution get before the House? I understood that the gentleman from Virginia [Mr. BOCKOCK] had the floor, on a motion to suspend the rules.

The SPEAKER. The gentleman from Virginia was recognized, and the gentleman from Tennessee rose and stated that he rose to a privileged question. On examination, the Chair learns that the resolution constituting the special committee authorizes that committee to report at any time.

Mr. JONES, of Tennessee. Is this the report?

The SPEAKER. It is a report in part.

Mr. JONES, of Tennessee. I suppose their authority was to report the result of their investigation, not to report a resolution for the extension of time.

The SPEAKER. The Chair thinks that this comes within the scope of the authority, the committee not being able to conclude its investigation.

Mr. JONES, of Tennessee. I suppose they might report the testimony they have got, and let us have it to examine during the recess. I suppose that what testimony is taken is perfect, and will not be amended.

Mr. MAYNARD. The report we now submit was agreed to unanimously. We understand that it is necessary to adopt this resolution, in order that the committee may continue in existence. There is no time, nor am I authorized, to inform the House what we have been doing, what is the state of the investigation, or anything about it. I ask that the report may be read, and that will give the House such information as I am directed to impart at this time.

The report was read. It sets forth that the subject was found to be very extensive, embracing the disbursement of between one and two million dollars, generally in small sums, and to many persons, involving the whole administration of the House contingent fund; that the committee had devoted to it all the leisure they could command from other, and, as they considered, paramount duties; that their labors had been greatly aided by their prompt, attentive, and efficient clerk, Mr. William Blair Lord; that they had taken a large amount of testimony, written and oral, having examined seventy-seven witnesses, several of them more than once; and that the approaching close of the session prevents them from examining the voluminous evidence already taken so as to report the facts. They therefore ask leave to sit during the next session.

The previous question was seconded, and the main question ordered; and, under its operation, the resolution was adopted.

The report was laid on the table, and ordered to be printed.

Mr. MAYNARD moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

DOORKEEPER'S ACCOUNTS.

Mr. HUGHES. I rise to a privileged question. I desire to call up the report of the select committee on the conduct and accounts of the late Doorkeeper, so as to have it disposed of by the House, either by postponing it, or otherwise.

Mr. BOCKOCK. I must raise a question of order in respect to this matter. I would have done so on the gentleman from Tennessee, [Mr. MAYNARD], but that I want to get all the votes that I can for my proposition, and I did not wish to press a point of order which I might legitimately have made; but since I see that privileged questions are the order of the day, I must make the point of order on the gentleman from Indiana. Although he may have the right to call up his report at any time, he must get the floor in order to do so. He has not the right to take the floor from me. If he can take it at the beginning, he can take it when I have been on the floor for half an hour.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

MONDAY, JUNE 7, 1858.

NEW SERIES....No. 170.

The SPEAKER. The Chair sustains the point of order.

Mr. HUGHES. If I had known that the gentleman from Virginia was on the floor, I should not have sought it.

The SPEAKER. The Chair recognized the gentleman from Virginia. The floor was taken from him by the gentleman from Tennessee; but, had the point been raised, the Chair would have ruled that the gentleman from Tennessee could not have taken the floor from the gentleman from Virginia.

Mr. BOCK. I ask the consent of the House to introduce, from the Committee on Naval Affairs, a bill to construct ten small sloops-of-war. I hope there will be no objection to the introduction of the bill. I hope the House will then, without objection, allow the bill to take its first and second reading, and let it be finally acted upon. If there is objection I shall move to suspend the rules.

Mr. SEWARD. I object.

Mr. BOCK. I move to suspend the rules.

Mr. JOHN COCHRANE. I wish to give notice, that if the rules are suspended I shall move to amend so as to make the number twenty instead of ten.

The bill was read.

Mr. BOCK. I now offer my motion to suspend the rules, in the following form:

Resolved, That the rules be suspended for the purpose of allowing the Committee on Naval Affairs to report a bill authorizing the construction of ten sloops-of-war, and that the bill be considered in the House at this time.

Mr. HATCH. I desire to give notice, that if the rules are suspended, and the bill brought before the House, I shall move to amend so as to provide for the construction of three war steamers for the northwestern lakes.

The yeas and nays were ordered on the motion to suspend the rules.

The question was taken; and it was decided in the negative—yeas 127, nays 66; as follows:

YEAS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bock, Bonham, Bowie, Boyce, Burnett, Burns, Caskey, Cavannah, Chapman, John B. Clark, Clawson, Clay, Clemens, Cobb, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Comins, Corning, Cox, James Craig, Burton, Craige, Crawford, Curry, Davidson, Davis of Indiana, Davis of Massachusetts, Dick, Dimmick, Dowdell, Edie, Edmundson, English, Eustis, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Gilman, Gilmer, Goode, Gregg, Groesbeck, Lawrence W. Hall, Robert B. Hall, J. Morrison Harris, Thomas L. Harris, Hatch, Hawkins, Hill, Hoard, Hopkins, Houston, Hughes, Jackson, Jenkins, Jewett, J. Glancy Jones, Owen Jones, Keitt, Kelly, Landy, Leidy, Letcher, Maclay, McKibbin, McQueen, Samuel S. Marshall, Mason, Maynard, Miles, Miller, Millson, Moore, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Niblack, Nichols, Peyton, William W. Phelps, Phillips, Powell, Quitman, Ready, Kegan, Reilly, Ricard, Robbins, Royce, Ruffin, Russell, Savage, Seales, Scott, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, William Smith, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Tripp, Underwood, Vallandigham, Ward, White, Whiteley, Winslow, Wood, Woodson, Wortendyke, Augustus K. Wright, John V. Wright, and Zollisoff—127.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Case, Chaffee, Ezra Clark, Cragin, Curtis, Davis of Maryland, Davis of Iowa, Davies, Dean, Dodd, Durfee, Farnsworth, Fenton, Foster, Gooch, Goodwin, Granger, Grow, Harlan, Horton, Howard, George W. Jones, Kellogg, Keisey, Kilgore, Knapp, John C. Kunkel, Leiter, Lovejoy, Matteson, Morgan, Morrill, Oliver A. Morse, Mott, Murray, Palmer, Parker, Pettit, Pike, Potter, Purviance, Ritchie, Roberts, John Sherman, Stanton, William Stewart, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, and Wilson—66.

So the rules were not suspended, two thirds not having voted therefor.

Pending the call of the roll,

Mr. DAVIS, of Mississippi, stated that he had paired off with Mr. BURROUGHS, otherwise he should have voted "ay."

Mr. DICK stated that Mr. ADRAIN was ill, and was unable to attend.

Mr. MORGAN stated that Mr. SHERMAN, of New York, had paired off with Mr. SEARING.

Mr. BRANCH stated that if he had been within the bar when his name was called, he should have voted in the affirmative.

Mr. SANDIDGE stated that if he had been within the bar when his name was called, he should have voted in the affirmative.

Mr. HALL, of Massachusetts. With the understanding that my vote shall not be construed into an approval of this war humbug, but because I am in favor of an increase of the present peace establishment, I change my vote, and vote "ay."

HALF PAY TO WIDOWS AND ORPHANS.

Mr. STANTON. I ask the unanimous consent of the House, as it is private bill day, to introduce a joint resolution, which will dispose of thirty-six bills on the Calendar. It is a subject which this Congress should not adjourn without disposing of. I ask unanimous consent to introduce the following joint resolution:

Resolved, &c., That the second section of the act approved the 3d day of February, 1853, entitled "An act to continue half pay to certain widows and orphans," shall be construed in accordance with the decision of the Court of Claims in the case of Jane Smith, as granting pensions to the widows therein provided for, from the 4th day of March, 1848, and that all amounts due under the said second section aforesaid, for pensions accruing between the said 4th day of March, 1848, and the 3d day of February, 1853, shall be paid to the persons respectively entitled thereto, at the several pension agencies, out of any money in the Treasury not otherwise appropriated, under such rules and regulations as shall be prescribed by the Secretary of the Interior: *Provided*, That no widow shall be allowed any pension for the same time during which her husband was living, and in the receipt of a pension.

Mr. COBB. I hope I shall be allowed to make a statement in reference to this bill. I was the chairman of the committee of conference when the bill which this proposes to construe was passed; and I can state exactly what was the intention of the committee of conference.

Mr. STANTON. I will first state, if the House will permit me—

Mr. COBB. Will the gentleman permit me to make a statement then?

Mr. STANTON. I have no objection, if no other gentleman objects.

Mr. J. GLANCY JONES. I have no objection to the resolution of the gentleman from Ohio if he will demand the previous question, and cut off debate upon it.

Mr. STANTON. Very well. I will call the previous question after having made a short statement.

Mr. COBB. Then I shall object to the resolution.

Mr. DAVIDSON. I ask the gentleman to allow me to make a statement?

Mr. STANTON. Let me first have a single minute.

Mr. JONES, of Tennessee. Do I understand that the resolution has been received?

Mr. STANTON. No, certainly not. But I wish to make a single statement, if the House will permit me. The Committee of Claims were divided upon the construction of the law. There is a majority report and a minority report. It is purely a question of law; and I propose, if the rules are suspended, to have the report of the majority and minority read, which will present a fair view of the case on both sides; and I then propose to demand the previous question.

Mr. COBB. I object to the resolution, if that course is to be taken. I know as much about this case as the Court of Claims do, and I shall object, unless I can be heard. I know the court has made a wrong decision.

Mr. JONES, of Tennessee. The gentleman has made his statement about it, and now I wish to say a word. I concur with the gentleman from Ohio that it is right that the House should act upon this question during the present session. There are various claims under this law—I do not know how many widows of revolutionary soldiers there may be under it—and unless a general act is passed, they will bring their claims here, perhaps, until every one is disposed of. And not only that, but they will have to apply to the Court of Claims for similar decisions, and pay attorneys for prosecuting their claims. There are now, I understand, thirty-six cases upon the Private Calendar, coming under this construction of the

law. I think the decision of the Court of Claims is wrong, but I think it is better for the House to dispose of this matter in some way by a general law.

Mr. COBB. I object to this debate, unless I can have an opportunity to reply.

Mr. DAVIDSON. Mr. Speaker—

Mr. LETCHER. I rise to a question of order. It is not in order for three gentlemen to speak at the same time.

Mr. JONES, of Tennessee. I think the gentleman from Virginia has made one of a dozen before now.

Mr. TAYLOR, of New York. I object to all debate.

Mr. JONES, of Tennessee. There is one other point I should like to notice.

Mr. TAYLOR, of New York. I withdraw all objection, so far as the gentleman from Tennessee is concerned.

Mr. JONES, of Tennessee. The point to which I wish to call the attention of the gentleman from Ohio, and members of this House—

Mr. CHAFFEE. I object to debate.

Mr. JONES, of Tennessee. If that is the disposition, I hope that the rules will not be suspended.

Mr. CLEMENS demanded the yeas and nays. Mr. McQUEEN demanded tellers on the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

The House was divided; and there were—ayes 121, noes 27.

So the rules were suspended, (two thirds voting in the affirmative.)

The resolution was read a first and second time.

[A message was here received from the Senate, by ASBURY DICKINS, their Secretary, notifying the House that that body had concurred in the amendment of the House to the joint resolution changing the day for the adjournment of Congress.]

Mr. STANTON. This resolution proposes to put a construction upon the law of 1853, upon which pension certificates have already issued to the pensioners. It may be that, under the resolution which was read at the Clerk's desk, it would be necessary to issue new certificates to entitle the parties to the pensions accruing between 1848 and 1853. The gentleman from Louisiana [Mr. DAVIDSON] has placed in my hands a substitute, which is like my own resolution, except that it has incorporated in it a provision that the pension shall be paid by the several pension agencies, on the certificates heretofore issued under the law of 1853. I desire, if it is in order, to accept the substitute of the gentleman from Louisiana, in lieu of the proposition I have offered.

The SPEAKER. That can only be done by unanimous consent.

Mr. JONES, of Tennessee. I suppose that the resolution was got in under the suspension of the rules. It has been read a first and second time, and is now upon its engrossment and third reading. It is, therefore, now open to amendment.

The SPEAKER. It is open to amendment. The suggestion of the gentleman from Ohio was to accept the substitute of the gentleman from Louisiana. The Chair was going to suggest that the purpose the gentleman had in view could be better answered by moving an amendment.

Mr. JONES, of Tennessee. The gentleman can offer that, and the House can vote between the two.

Mr. STANTON. I move to insert, then, as a substitute, what I send to the Clerk.

The amendment was read, as follows:

That the second section of the act approved February 3, 1853, entitled "An act to continue half pay to certain widows and orphans," in the following words: "that the widows of all officers, non commissioned officers, musicians, and privates of the revolutionary army, who were married subsequent to January, 1800, shall be entitled to a pension in the same manner as those who were married before that date," shall be construed as granting pensions to all widows therein provided for from the 4th day of March, 1848, instead of from the date of the act hereby amended, as decided by the Court of Claims in the case of Jane Smith; and the amount due under said act from the 4th of March,

1848, to the 3d of February, 1853, shall be paid out of any money in the Treasury not otherwise appropriated, to be paid to the persons respectively entitled, upon the pension certificates heretofore issued to them, upon proof of identity, under such rules, regulations, and instructions to the several agents for paying pensions as shall be prescribed by the Commissioner of Pensions: *Provided*, That no pension shall be allowed to any widow for the same time during which her husband was living and in the receipt of a pension.

Mr. MOORE. I desire to ask the unanimous consent of the House to have read a short letter from the Secretary of the Interior, which fully explains this whole question, and shows that it involves \$1,000,000, or more.

Mr. DAVIDSON. I object.

The SPEAKER. It can be read in the time of the gentleman from Ohio, if he has no objection.

Mr. STANTON. I think myself that the case is as well presented in the report of the Committee of Claims as in any other document. The views of the Department are known to be adverse to this construction of the law.

Mr. WRIGHT, of Georgia. I should be very glad if the gentleman from Ohio would permit the paper to be read. We want to vote understandingly.

Mr. STANTON. Very well; let it be read.

The Clerk commenced the reading of the paper.

Mr. STANTON. I think I will ask the Clerk to read the reports of the majority and minority of the Committee of Claims instead of that paper, so that we may hear both sides. I shall then, under the pledge I gave the House before the suspension of the rules, move the previous question.

Mr. MOORE. I think it but an act of justice to the Department, that the reasons which influenced the Department should be understood. This is a matter of great importance, involving over a million and a half of dollars.

Mr. DAVIDSON. I object to the reading of any document from the Department. I think we are capable of discussing this question for ourselves.

Mr. MOORE. I rise to a question of order. The gentleman from Ohio consented that the letter should be read during his time, and the Clerk commenced to read the letter. It was then too late to interpose any objection.

The SPEAKER. The Chair thinks the gentleman from Ohio had a right to withdraw his assent to the reading of the paper.

Mr. MOORE. But the reading had been commenced.

The SPEAKER. It was being read during the time of the gentleman from Ohio, and he has a right to control it.

Mr. STANTON. I propose, now, in lieu of speaking myself, to have the reports of the majority and minority of the Committee of Claims read, thus arguing the case on both sides, and then I shall move the previous question.

Mr. HOUSTON. I rise to a question of order. As I understand the joint resolution, it makes an appropriation of money, and must go to the Committee of the Whole on the state of the Union.

Mr. STANTON. If we had not suspended the rules.

Mr. HOUSTON. The rules were suspended for the purpose of allowing the joint resolution to come into the House; but now that it is in the House, I ask the Chair if it must not go to the Committee of the Whole on the state of the Union? The gentleman admits that the joint resolution makes an appropriation, and it has not been considered in the Committee of the Whole on the state of the Union.

Mr. WASHBURN, of Maine. I understand that the resolution does not make an appropriation.

The SPEAKER. The Chair thinks the point of order is well taken.

Mr. STANTON. I move to suspend the rule requiring the joint resolution to be considered in the Committee of the Whole on the state of the Union.

Mr. HOUSTON. I ask the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. MASON. I desire to ask the Chair a question. If the rule is suspended, will it be in order to offer the general pension bill giving pensions to all soldiers and widows of soldiers as a substitute for this resolution?

The SPEAKER. The Chair thinks not.

The question was taken; and there were—yeas 133, nays 54; as follows:

YEAS—Messrs. Abbott, Ahl, Anderson, Arnold, Atkins, Avery, Bennett, Bingham, Blair, Bliss, Bowie, Brayton, Bryan, Bufington, Burlingame, Burns, Case, Cavanaugh, Chaffee, Chapman, Ezra Clark, Clawson, Clay, Clark B. Cochrane, John Cochrane, Coffey, Comins, Corning, Cox, James Craig, Curtis, Davis, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dimmick, Dodd, Dowdell, Durfee, Edie, Edmundson, Elliott, Estis, Farnsworth, Fenton, Florence, Foley, Foster, Gartrell, Gillis, Gilman, Gilmer, Goech, Goodwin, Granger, Groesbeck, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Hatch, Hawkins, Hoard, Horton, Howard, Hughes, Huyler, Jenkins, Kellogg, Kelsey, Kilgore, Knapp, Laudy, Leidy, Leiter, Lovejoy, Humphrey Marshall, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Palmer, Parker, Pettit, William V. Phelps, Pike, Potter, Purviance, Ready, Reilly, Ricard, Robbins, Roberts, Royce, Scott, Aaron Shaw, John Sherman, Sickles, Singleton, Robert Smith, Spinner, Stanton, James A. Stewart, Tappan, George Taylor, Thayer, Tompkins, Tripp, Underwood, Wade, Washbridge, Waldron, Walton, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Whiteley, Wilson, Wood, Woodson, Augustus R. Wright, John V. Wright, Bonham, Boyce, NAYS—Messrs. Barksdale, Bishop, Bonham, Boyce, Branch, Burnett, Caskey, John B. Clark, Clemens, Cobb, Curry, Davis of Indiana, Dean, English, Garnett, Gregg, Hill, Hopkins, Houston, Jackson, Kelly, Jacob M. Kunkel, Glancy Jones, Owen Jones, Keitt, McKibbin, McQueen, Samuel S. Marshall, Mason, Miles, Milner, Moore, Peyton, John S. Phelps, Phillips, Quitman, Rangan, Ritchie, Ruffin, Sandridge, Seales, Seward, Henry M. Shaw, Shorter, William Smith, Stallworth, Stevenson, Talbot, Vallandigham, and Wortendyke—54.

So (two thirds voting in favor thereof) the rule requiring the joint resolution to be first considered in Committee of the Whole on the state of the Union was suspended.

During the call of the roll,

Mr. SAVAGE stated that, if he had been within the bar when his name was called, he should have voted in the affirmative.

Mr. DAVIS, of Mississippi, stated that he had paired off with Mr. BURROUGHS.

Mr. STANTON. I now ask for the reading of the reports.

The SPEAKER. The Chair would inform the gentleman that the majority report is not at the Clerk's desk.

Mr. STANTON. Well, let the minority report be read first. The majority report will be here before the reading is through.

The Clerk read the minority report, as follows:

The minority of the Committee of Claims, to whom was referred the bill from the Court of Claims for the relief of Jane Smith, with accompanying documents, beg leave to submit the following report:

The only question involved in this case is purely a legal one. It is a question as to the true legal construction of an act passed by a prior Congress. There is no controverted question of fact in the case. The claimant is the widow of a revolutionary soldier, whose service during the whole period of the revolutionary war is undisputed. She was married to him subsequent to the 1st of January, 1800, and he died prior to the 4th of March, 1848.

After the passage of the act of February 3, 1853, entitled "An act to continue half pay to certain widows and orphans," she applied for the benefit of said second section, and of a prior act of July 29, 1848, she was entitled to a pension from the 4th of March, 1848, during her widowhood; but she was allowed a pension from the 3d of February, 1853, only. She filed her petition in the Court of Claims for the purpose of recovering the arrears of pension from the 4th of March, 1848, to the 3d of February, 1853, alleging that, according to the true legal construction of existing laws, she was entitled to a pension from the former date. The Court of Claims (all the judges concurring) has decided that she is so entitled, and reported a bill to carry that decision into effect.

In a case of this kind, where a question of mere legal construction has been submitted to and decided by the Court of Claims, and then comes before Congress for affirmance or reversal, it becomes the province of this body to act in a judicial rather than in a legislative capacity. Sitting as a high court of appeal, Congress is called upon to say what the law of the case is, and not what, in the judgment of members, it ought to have been. All questions, as to the wisdom or expediency of enacting the law, which we are called upon to interpret and expound, are matters foreign to the issue.

The minority of your committee, taking this view of the subject, and regarding their duties in the premises to be merely such as judges reviewing the decision of a court on a strictly legal question may rightfully exercise, after a very careful consideration of the question, have found it impossible to arrive at any other conclusion than an entire concurrence in the decision of the Court of Claims in this case.

By the first section of the act of July 29, 1848, entitled "An act for the relief of certain surviving widows of officers and soldiers of the revolutionary army," it is provided: "That the widows of all officers, non-commissioned officers, musicians, soldiers, marines, or marines, and Indian spies, who shall have served in the continental line, State troops, volunteers, militia, or in the naval service, in the revolutionary war with Great Britain, shall be entitled to a pension during such widowhood, of equal amount per annum that their husbands would have been entitled to, if

living, under existing pension laws; to commence on the 4th day of March, 1848, and to be paid in the same manner that other pensions are paid to widows. But no widow now receiving a pension shall be entitled to receive a further pension under the provisions of this act; and no widow married after the 1st of January, 1800, shall be entitled to receive a pension under this act."—First Session Thirtieth Congress, chapter 120.

The second section of the act of February 3, 1853, simply declares: "That the widows of all officers, non-commissioned officers, musicians, and privates of the revolutionary army, who were married subsequent to January, anno Domini 1800, shall be entitled to a pension in the same manner as those who were married before that date."

When these two statutes are examined together, it seems to us impossible to arrive at any other legitimate conclusion than that said second section of the act of 1853 was intended to extend the benefits of the act of 1848 to a class of widows not originally embraced in it, namely, to widows married after the 1st of January, 1800. In other words, it was intended to abolish and repeal so much of the first section of said act of 1848 as excluded widows married after the 1st of January, 1800, from enjoying its benefits, and to place them on an equal footing, under said act, with those married before that date. In the opinion of the undersigned, that intention is clearly expressed, in language free from any embarrassing ambiguity. It must be admitted that said second section of the act of 1853 grants some kind of pensions to widows married subsequent to the 1st of January, 1800, but in and of itself it prescribes none of the conditions of such pensions, neither the rate of the pension per annum, nor the time of its commencement, nor the time of its continuance. All these conditions it prescribes by referring to the act of July 29, 1848, and declaring that the widows married subsequent to January, 1800, shall be entitled to pensions "in the same manner" as widows married prior to that date are entitled to pensions under that act. The conditions prescribed by said act of 1848 are as follows: first, the pension is to be of equal amount per annum that the husband would have been entitled to, if living, under existing pension laws; second, it is to "commence on the 4th day of March, 1848;" and third, it is to continue "during widowhood." If widows married subsequent to January, 1800, are "entitled to pensions in the same manner," do not all these conditions necessarily attach?

It has been contended that the second section of the act of 1853 would refer as well to the act of July 4, 1836, and the act of July 7, 1838, as to the act of July 29, 1848; and that consequently it might, with as much propriety, be construed to grant pensions from the 4th of March, 1831, or the 4th of March, 1836, as from the 4th of March, 1848. An examination of the several acts referred to, however, will show that this argument is utterly untenable. The act of 1836 grants pensions only to widows married before the expiration of the last period of their husband's service, to commence on the 4th of March, 1831. The act of 1838 grants pensions only to those married prior to the 1st of January, 1794, to commence on the 4th of March, 1836. But the act of July 29, 1848, grants pension to all widows married prior to the 1st of January, 1800, whose husbands would be entitled to revolutionary pensions, if living, to commence on the 4th of March, 1848. To say that the act of 1853, when it speaks of the pensions to which widows married prior to January, 1800, are entitled, refers to the act of 1836, or the act of 1838, just as specifically as it does to the act of 1848, is to ignore all distinction in point of time between the 1st of January, 1800, the 1st of January, 1794, and the close of the revolutionary war. On this point the reasoning of the court is so clear and conclusive, that any attempt on our part to make it clearer would be a work of supererogation. It is in substance as follows: To prove *merely* that a widow was married to a revolutionary soldier before January, 1800, would not entitle her to a pension under the act of 1836, or the act of 1838. To be entitled under the act of 1836, she must prove that she was married before the termination of her husband's service. To be entitled under the act of 1838, she must prove a marriage prior to the 1st of January, 1794. But to entitle her to a pension under the act of 1848, it would be sufficient to prove *merely* that she was married prior to January, 1800. Hence, when the act of 1853 refers to the pensions of widows married prior to January, 1800, it clearly and indubitably refers to the act of 1848, specifically, that being the only act which grants pensions to widows who were married before that date *merely*.

Again, it has been contended that the words "in the same manner," &c., in the act of 1853, refer only to the *mode* in which the claim is to be established, the money paid, &c., and not to the time of the commencement of the pension. But will the language admit of this construction? The words "in the same manner" relate expressly to the *title* by which the pension is to vest and be enjoyed. The language is, that she shall be "entitled to a pension in the same manner," &c. Can it be said that two widows, one of whom is entitled to a pension from the 4th of March, 1848, and the other entitled to a pension from the 3d of February, 1853, only are "entitled to a pension in the same manner?" This point will be best illustrated by putting a case; not a supposed case, merely, but one of common occurrence in the execution of these laws. Two widows of revolutionary soldiers come forward asserting their claims to pensions. The facts upon which their rights depend are exactly alike in every other particular, except that one was married prior to January, 1800, and the other subsequent to that date. The law declares that the latter is "entitled to a pension in the same manner" as the former. Yet the Department gives the law a construction by which one is allowed a pension going back to the 4th of March, 1848, and the other is allowed a pension going back only to the 3d of February, 1853. Is not this construction clearly repugnant to the plain letter of the law? To limit the application of the words "in the same manner" *merely* to the mode of adjudicating and paying the claims, and not to extend their application so as to embrace the conditions of the pension itself, would render the second section of the act of 1853 utterly void for uncertainty. For, to leave out of view the question as to the time of the commencement of the pension, there is nothing in said section to show at what rate per annum the widow shall be pen-

sioned, nor how long her pension shall continue. If the words "in the same manner" do not refer to the act of 1848 in a sufficiently comprehensive manner to embrace all these conditions of the pension, how is it to be determined whether the widow is to be allowed a pension of twenty, forty, eighty, or one hundred dollars per annum? Or how is it to be determined whether she is to be allowed a pension to continue for life, or during her widowhood only?

It will be seen that, in order to execute the second section of the act of 1853 at all, it must be construed to refer to the act of 1848, so as to embrace the provisions of that act in relation to the rate of the pension, and the time of its continuance, at least. Is not the time at which a widow's pension is made to commence as much an element of the manner in which she is entitled to her pension as the rate of her pension per annum, or the time of its continuance? It has been attempted to draw a distinction between the rate of the pension and the time through which it shall run, and to argue that the words "in the same manner" may be construed to refer to rate but not to time. But the words must be construed to refer to time as well as rate, else you cannot determine when the pension under the act of 1853 is to cease, whatever rule you adopt as to its commencement. The Department has construed it to cease on the subsequent marriage of the widow. And why? Simply because the prior act to which it refers gives the pension "during widowhood," only. It will hardly be contended that the words "in the same manner" have reference to the time for which the pension shall continue, and not to the time at which it shall commence. And yet this position must be assumed to render the argument on the other side at all consistent.

But the argument that the words "in the same manner," do not refer to the time of the commencement of the pension, and that, consequently, the pension can only commence at the date of the act of 1853, fails for another reason, which we deem entirely conclusive.

The first section of the act of July 29, 1848, in the body of it, grants pensions to all widows of revolutionary officers and soldiers, whose husbands, if living, would be entitled to pensions, without reference to the time of their marriage; and then comes in a final clause, in the nature of a proviso, which declares that widows "married after the 1st day of January, 1800, shall not be entitled to receive a pension" under said act. But for this final clause, or proviso, widows, married after the 1st of January, 1800, would have been entitled to pensions under said act of 1848, as well as those married prior to that date. The second section of the act of 1853 is nothing more nor less than a simple repeal of the final clause of the first section of the act of 1848. That final clause simply declares that widows married subsequent to the 1st of January, 1800, shall not be entitled to pensions under said act. The second section of the act of 1853 declares that the same class of widows shall be entitled to pensions, in the same manner as other widows are entitled who are embraced by said act of 1848. It thus entirely nullifies said final clause, and leaves the act of 1848 to be executed precisely as if it had never been inserted therein; consequently, widows married subsequently to the 1st of January, 1800, are left entitled to all the benefits of the act of 1848, in as full and perfect manner as if the clause excluding them therefrom had never existed.

When a subsequent statute is passed, which is directly repugnant to a prior statute, or any clause in a prior statute on the same subject, such prior statute or clause is thereby repealed, by implication, although no express words of repeal are used. This is a rule of law so well established that no one will deny it. The attorney for the petitioner in this case, in his brief before the Court of Claims, has cited numerous authorities upon this point; but it is deemed unnecessary to incumber this report by authorities in support of a position so well established. It is impossible to conceive of two propositions more directly repugnant to each other than the last clause of the first section of the act of 1848 and the second section of the act of 1853. The one declares that a certain class of widows shall not be entitled to certain pensions, while the other presumptively affirms that the same class of widows shall be entitled thereto. The latter clause, therefore, just as effectually repeals the former as any express words of repeal could have done.

If, then, the last clause of the first section of the act of 1848 has been repealed, what is the legal effect of such repeal upon the rights of widows who were excluded from the benefits of said act of 1848, by virtue of said final clause only, while it remained in force? On this point, also, the law is so well settled as to leave no ground for doubt or controversy. In the case of *Doe vs. McQuilkin*, (8th Blackf., 161,) in which it was decided that a certain statute was repealed by implication, the learned chief justice, in delivering the opinion of the court, says: "The law is well settled, that when a statute is repealed, it must be considered (except as to transactions passed and closed) as if it had never existed."

And for this reason, when a statute is repealed, whether by express words or by implication, it is so completely nullified, *ab initio*, that an action at law based upon it, pending at the time of the repeal, will fall to the ground, although the verdict of a jury had been rendered in the case, if the repeal takes place before final judgment. (*Commonwealth vs. Kenhall*, 21 Pick., 373.)

The same point has been more recently decided by the Supreme Court of the United States, in a case arising under one of the celebrated compromise acts of 1850. A suit had been commenced in the United States circuit court of Indiana, to recover the \$500 penalty imposed by the fourth section of the act of 12th February, 1793, "respecting fugitives from justice and persons escaping from the service of their masters," against any person obstructing a claimant, his agent, or attorney, in arresting a fugitive from labor, or rescuing such fugitive, after he had been arrested, or harboring or concealing the fugitive, knowing him to be such. While the action was pending, the act of September 18, 1850, was passed, the seventh section of which provides, that for committing either of said offenses, the party so offending shall be subject to a fine of \$1,000, and imprisonment not exceeding six months. Although the act of 1850 does not expressly repeal the fourth section of the act of 1793, yet the court held that it repealed it by implication. Judge Catron, in delivering the opinion of the court, says: "The act of 1850 has repealed, so far as relates to penalty, the fourth section

of the act of 1793." (*Norris vs. Crocker*, 13 How., 429.) And consequently it was decided that the action brought to recover the \$500, under the act of 1793, was barred by the repeal, though pending at the time of the repeal. This was but the legitimate result of the well-known rule of law above stated, that "when a statute is repealed, it must be considered (except as to transactions passed and closed) as if it had never existed."

If it be true that the second section of the act of 1853 does repeal the last clause of the first section of the act of 1848, and if the effect of the repeal of that clause be to leave the act to be executed as if that clause had never existed, then it necessarily follows that widows married subsequent to the first of January, 1800, are entitled to all the benefits of the act of 1848, in precisely the same manner as if they had been expressly embraced by the act originally. And this view of the subject disposes of all questions as to whether the words "in the same manner" have a more limited or comprehensive application to the provisions of said act of 1848.

It has been said that the act of 1853 cannot be construed to take effect prior to the time of its passage; and thus we admit. We apprehend that it is not claimed by any one that it ever took effect before its passage. But when it did take effect, it took effect according to its own express provisions. It will hardly be contended that Congress lacks the power to grant a pension commencing at a day anterior to the date of the granting act. If so, then Congress has exceeded its powers in passing every revolutionary pension act, from that of May 15, 1828, down to the said act of 1853, at least—for every one of these acts grants a pension to commence at a date anterior to its passage. The acts of 1828 and 1848 each grant pensions commencing more than two years anterior to their dates; and the act of 1853 grants pensions commencing more than five years anterior to its date. Every act passed prior to said 3d of February, 1853, grants the pension from the 4th of March of some year anterior to its passage. Is there any such strong reason for supposing that Congress intended to depart from this uniform practice in passing the act of 1853 as will justify a forced construction of its language to give it that effect?

In some cases, where there are strong reasons for believing that the Legislature intended that a statute should have a different effect from that which the most obvious import of the words used would seem to indicate, a forced construction of the language is resorted to (whether justifiably or not) for the purpose of carrying out the supposed intention of the Legislature. But there can be no such excuse in this case. There can be no strong reason for supposing that Congress intended to make an invidious distinction between the pensions of widows married to revolutionary soldiers in 1800, and those married in 1799. It would be difficult to point out any difference between the merits of the two cases on which to base any such distinction.

In fact, if it were allowable to refer to the debates in the House in which said second section of the act of 1853 originated, at the time it was under consideration, in order to arrive at the intention of Congress, it could be shown that those who supported the measure in debate avowed their object to be to put widows married subsequent to the 1st of January, 1800, upon precisely the same footing as those married before that date. But inasmuch as courts do not allow what was said in debate, on the passage of an act, to control the construction of the act, we forbear any further reference to that subject.

In conclusion, the minority of your committee beg leave to say that, in their opinion, the Court of Claims, in giving the construction which it has given to the acts in question, has but made a fair and legitimate application of the fundamental rules of law for the interpretation of statutes, and that said decision cannot be impeached without disregarding rules of construction which have been consecrated by the wisdom of ages.

Entertaining these views, we cannot but regard it as the bounden duty of Congress to pass the bill which has been reported by the court, for the purpose of carrying its decision into effect in this case.

THOMAS G. DAVIDSON,
For the minority of the Committee.

Mr. STANTON. The majority report is very long, and if the House will be as well satisfied, I am willing that the letter of the Secretary of the Interior shall be read instead of the majority report.

Mr. CLEMENS. I object to that. Let both of them be read. I want to understand this whole case.

Mr. STANTON. Very well, let the majority report be read.

The Clerk proceeded to read the majority report.

Mr. WRIGHT. I move to dispense with the further reading of that report. The gentleman from Virginia, [Mr. CLEMENS,] who insisted on it, seems to be satisfied, and has left his seat.

The motion was agreed to by unanimous consent.

Mr. STANTON. I now demand the previous question.

Mr. COBB. I hope the gentleman will allow me five minutes.

Mr. STANTON. There are at least twenty gentlemen who want five minutes, and I do not know any reason why they are not as much entitled to it as the gentleman from Alabama.

Mr. COBB. I was on the committee of conference when the bill in question was passed.

Mr. STANTON. Insist on the previous question.

Mr. JONES, of Tennessee. I wish to make a

request of the House, and that is, that the reports of the majority and the minority, and the letters of the Secretary of the Interior, may be reported in the Globe.

No objection was made.

Mr. CLEMENS. I was called out for a moment to see a gentleman. I should like to hear the rest of the majority report.

Several MEMBERS objected.

The following is the report of the majority of the Committee of Claims:

The Committee of Claims, to whom was referred the report of the Court of Claims (No. 65) in the case of Jane Smith, have had the same under consideration, and now report:

The question presented in this case grows out of the second section of the act entitled "An act to continue half pay to certain widows and orphans," approved February 3, 1853, which declares: "That the widows of all officers, non commissioned officers, musicians, and privates, of the revolutionary army, who were married subsequent to January, Anno Domini 1800, shall be entitled to a pension in the same manner as those who were married before that date."

The petitioner, Jane Smith, made application as one of the beneficiaries under the act. The claim was admitted, and her name was placed on the pension roll, and a pension, beginning on the day of the approval of the act, has since that time been paid to her, under the construction given to the act by the officers charged with its execution. This construction of the act is now called in question. The petitioner claims that of right, under the law, the pension allowed her should have begun on the 4th of March, 1848, because the second section of the act of 1853 has, by necessity, a direct reference to the act approved July 29, 1848, to fix the rate and duration of the pensions granted by it, and that, in consequence of this reference for those purposes, it necessarily follows that the same act must be referred to in like manner to fix the time when the pension should begin.

Before the Court of Claims the pretensions of the petitioner were supported by counsel who strenuously enforced their views on the court, while the solicitor of the United States, in his brief, printed among the papers of the case, declared that it seemed to him the claim was well founded. The only argument before the court, in support of the construction given to the act by the executive department of the Government, was contained in a letter from the Commissioner of Pensions to the solicitor of the United States, dated on the 25th of May, 1856, and written in reply to one to him from the solicitor, inclosing a copy of the "brief" of petitioner's counsel, which will be found at page 10, in the report from the Court of Claims. After hearing the case, the court overruled the construction given to the act by the Department of the Interior, and decided that the claimant was "entitled to the arrears of her pension, from the 4th day of March, 1848, to the 3d of February, 1853," the date of the act in question.

This decision is based by the court upon the ground that, inasmuch as it was clear that the act of 1853 was passed with reference to the act of 1848, and it was necessary to go to that act to determine the intent and meaning of the act of 1853 for some purposes, it was therefore proper to go to it for all purposes. In the opinion of the court, the expression in the act which declared that the widows who were married after the 1st day of January, 1800, should "be entitled to a pension in the same manner as those who were married before that date," was decisive of the whole question. Speaking with reference to this expression, the court said: "In what manner, then, were those who were married before 1801 entitled to a pension?" and then say: "The answer to this is that they were entitled to a pension equal to that which their husbands would have received under existing laws, commencing on the 4th of March, 1848, and continuing during their widowhood; and this answers the question in all its details, so far as relates to 'the manner.'" The court then proceed to show that "it follows as a necessary consequence that a widow who was married subsequent to the year 1800 is entitled to a pension equal to that which her husband would have received under existing laws, commencing on the 4th day of March, 1848, and to continue during her widowhood; because she is entitled to it in the same manner as if she had been married on or before the 1st of January, 1800."

From this language of the court it is at once apparent that the judges of the Court of Claims construe the words "in the same manner" as necessarily referring to the clause in the act of July 29, 1848, which fixed the time when the pensions granted under that act should "commence," as well as to the other portions of it, which determined their rate and duration. This construction, in the opinion of your committee, is clearly erroneous, and is in direct conflict with well-settled principles of law, and with the plain significance and meaning of the word "manner."

It is an elementary principle in the construction of statutes that they take effect from their date of promulgation, unless they contain within themselves provisions fixing some other time for their going into operation. The act of 1853 contains no such provision in express terms; and, under the operation of this rule, it must have gone into effect on the day of its date, and the rights created by it must have then begun to exist, unless there is something in the act which necessarily gives them a different time of beginning. The Court of Claims in this instance say that that something in the act under consideration is to be found in the expression "in the same manner." Your committee think that this is a mere assumption on the part of the court, growing out of a misconception as to the meaning of the word "manner," and that it is in no degree sustained by the authorities to which they refer.

There are three distinct and separate facts necessarily involved in every particular event or occurrence which transpires, to wit: the place where, the manner how, and the time when. Neither of these classes of facts have any necessary connection with, or relation to, each other. The

manner or mode in which a particular thing is done may be the same at different times and places. And it is the same with respect to "rights," as connected with individuals. Every "right" is distinguished by three distinct features, which exist independently of each other. If the right be one to real property, there are—first, the thing with respect to which the right exists; second, the nature of that right and its extent; and third, the time when it began to exist. If the right be a personal one, then, also, there are three distinct facts involved, namely: first, what is its nature and extent? second, who is entitled to it? and third, when did it begin to exist in his favor?

In the case under consideration, an act of Congress created a right—first, of a particular nature and extent; and second, in favor of a particular class of persons. Nothing whatever was said as to the time when the persons entitled to this right should begin to enjoy it. The rule of law is, that a legislative act takes effect from its date. In this case, however, owing to the language of the act creating the right, it is necessary to refer to another act, in order to determine the nature and extent of the right; and because of this necessary reference to that act for that particular purpose, it is insisted that the same act must be referred to for another purpose—that is, to fix the time when the right accrued. The act itself is complete upon its face; first as to the creation of the right to a pension; and second, as to the persons who were to be entitled to enjoy it. And it is also complete as to the time when their enjoyment of this right to a pension is to begin by the operation of that rule of law which makes all laws take effect from their date; so that there is no necessity to look beyond the act itself, but for a single purpose, namely: to ascertain the nature and extent of the right; or, in other words, the rate and duration of the pension. And now your committee ask, if there is no necessity to look elsewhere, why look?

There is nothing whatever in the expression "in the same manner" to require, or even justify, a reference to another act to fix the time when the right to a pension is to begin. The word "manner" not only has no relation to time, but it is used invariably to describe the mode or fashion in which a particular transaction or event transpires, or thing exists, in contradistinction to the time when it transpires or exists. And this use of the word is distinctly shown in the very sentence of the Constitution of the United States to which the court referred for a very different purpose. "The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but that Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators," says the Constitution. Here the word "manner" is used in its only proper sense, as referring to the mode *how*, as contradistinguished from the times *when*, and the places *where*; and it will be in vain for any one to look into dictionaries or books of synonyms, in the hope of finding any instance in which it has a different signification.

Neither is there anything in the case of Ludlow's heirs, 23 Ohio Reports, 571, cited by the court, which tends in the opposite direction. Indeed, when critically examined, it will be found that the language of the court in that case is, in point of fact, opposed to the conclusion it was cited in support of; for the word manner is used in it in the sense of the mode *how*, and it declares that "when in one statute a reference is made to an existing law in prescribing the rule or manner in which a particular thing shall be done," "the effect generally is not to revive," "the statute referred to for the purpose for which it was originally enacted, but merely for the purpose of carrying into execution the statute in which the reference is made." If this be true, and there can be no doubt that it is, then the act of 1853 alone is to be executed; and as that act is complete in itself, except as to the rate and duration of the pensions granted by it, the act of 1848 can be referred to to ascertain their rate and duration only, and for no other purpose whatever.

Your committee, then, believe that, upon a fair interpretation of the words of the act of 1853, in obedience to the established rules of statutory construction, the pension of the petitioner rightfully began on the 3d day of March, 1853, the date of the act; and this view, as to the intention of the law maker, is, in their opinion, supported by the history of the act itself.

On January 3, 1853, the Senate took up the bill "to revive a portion of the act for the relief of widows of deceased soldiers," and Mr. Hamlin (pages 185, 186 of Congressional Globe) moved to amend it by adding an additional section. This additional section is in the very words of the second section of the act of 1853, under which the question under consideration has arisen. Mr. Rusk, in speaking of the bill before the Senate, said that "it revives the pension from the expiration of the act of 1816;" upon which Mr. Borland remarked: "It commences from this time." Mr. Butler then observed: "I am entirely confident the last section, added by the Senator from Maine, [Mr. Hamlin,] will have the effect to give a pension from 1834, when the act was passed."

The next day the Senate resumed the consideration of the same bill, when the amendment of Mr. Hamlin was concurred in without a division. Mr. Borland then said, (Congressional Globe, 204, 205:) "That, during the discussion yesterday, some objection was made to this bill, upon the ground that its phraseology was not sufficiently precise to define at what time the pensions proposed by it should commence. I propose, therefore, to amend the bill in the first section, by adding, after the word 'extended,' the words 'from and after the passage of this act.' &c." This amendment was also agreed to without a division, and the bill was passed.

The Senate bill No. 477, which was received by the House on the 6th of January, 1853, (House Journal, 110) was a different bill from the one just mentioned, as it was entitled "An act to continue half pay to certain widows and orphans." The House amended this last bill on the 17th of January, (House Journal, 136, 137,) and sent it back to the Senate. When this bill went back to the Senate, as amended by the House, it had but one section. Mr. Hamlin then moved to amend it by adding as a second section the same amendment that had been added as a fourth section to the bill "to revive a portion of the act for the relief of deceased soldiers." When Mr. Hamlin made his motion he said:

"It will be recollected by the Senate that a few days since a bill passed this body which includes precisely what the amendment of the House to this bill contains, but we also added to that bill a section in the same words as that I have now offered; and if we adopt it it will do precisely what I and I therefore hope that my amendment will be adopted." This was agreed to, and the amendment of the House to the original bill, as thus amended, was concurred in, and the bill sent back to the House. The House disagreed to this amendment of the Senate, which now constitutes the second section of the act of 1853, and the bill containing it did not become a law until after there had been a number of disagreeing votes on the part of the House, and the contest had given rise to two committees of conference. (House Journal, pages 164, 201.)

From this narrative, it is certain that when the section was first presented to the Senate as an amendment to the bill "to revive a portion of the act for the relief of widows of deceased soldiers," it was intended that all of the pensions to be granted should commence at the date of the act; and that there could have been no intention on the part of the House to extend the grant proposed to be made by the Senate, because the House was opposed to this particular grant altogether, and only consented to its being ingrafted on the original bill after a long contest. And as there is nothing in the act itself, or in the circumstances connected with its passage, to take the pensions created by it out of the rule which makes all legislative acts take effect from their date, when they contain no provision for their going into operation at another time, so neither is there anything to take it out of the rule, in the nature of the claim itself.

These pensions are not given in payment of debts. The beneficiaries under this, and all other acts of a similar character, had no legal or equitable claim on the Government. The pensions conferred on them are mere liberality bestowed by gratitude, and not rights yielded to justice; and under such circumstances there can be no reason for wresting the words of the act from their usual signification, or doing violence to the ordinary rules of interpretation, to enlarge its construction. If the Government has not already given enough to the objects of its bounty, embraced in the provisions of the act of 1853, it would be far better to make additional provision for them by direct legislation, than to accomplish that purpose by sanctioning a principle in the construction of statutes which will be brought into precedent and may hereafter be applied so as to be productive of great public mischief.

For these reasons your committee now report back the bill from the Court of Claims with the recommendation that it do not pass.

The following is the letter of the Secretary of the Interior:

DEPARTMENT OF THE INTERIOR, February 25, 1857.

SIR: In obedience to the resolution of the Senate of the 18th instant, requesting me to report the "number of widows now drawing pensions, under the second section of the act approved February 3, 1853, and also what amount of money will be required to pay said pensions from the 4th of March, 1848, up to the time of the passage of said act of 1853," I have the honor to transmit herewith a communication and accompanying papers from the Commissioner of Pensions, by which it will appear that the number of widows now drawing pensions under the second section of the said act, is two thousand seven hundred and ten, and that the sum of \$1,187,500 will be required to pay pensions of this class from the 4th of March, 1848, to February 3, 1853. It may be observed, however, that this sum does not reach the amount which will be necessary to give full effect to the decision of the Court of Claims, since it must necessarily be augmented in proportion to the number of pensioners which may be added to the rolls subsequent to the 30th of June, 1858; and this additional amount derives greater importance from the fact that the surviving children of those widows who shall have died subsequently to the passage of said act, without having been pensioned, would be, by the established practice of the Department, entitled to the arrears due from the 4th of March, 1848, to the date of their mothers' deaths, respectively.

In submitting these facts, I deem it not irrelevant to the object of the inquiries of the Senate to advert briefly to the grounds upon which the Department placed such a construction upon the second section of the act of February 3, 1853, as limited the commencement of the gratuity provided by it to the date of its passage.

1st. The allowance of large amounts of arrears of pension is at variance with the whole legislation of Congress upon the subject, as will be perceived by referring to the acts granting such gratuities. The act of March 18, 1818, and the supplementary acts of May 1, 1820, and March 1, 1823, make the gratuities granted commence from the date of the completion of the proof. Under the act of May 15, 1828, the allowance is made to commence from March 3, 1826; and the gratuity provided by the act of June 7, 1832, commences, by express provision, from March 4, 1831; so with the acts granting provisions to widows; for, although the act of July 4, 1836, allows the pension to run back to the 4th of March, 1831, it was clearly for the reason that the husband had already been allowed a pension under the act of 1832, commencing at that date; since by subsequent legislation the widow is prohibited from drawing a pension for the period during which her husband *actually received* one under the act of 1832. The gratuity granted by the act of July 7, 1838, is made to commence on the 4th of March, 1836; and that given by the act of July 29, 1848, is, in like manner, made to commence on the 4th of March of that year. It will be observed that the only distinction in these classes of female pensioners is the *date of marriage*; and that alone has been the guide for Congress in fixing the date at which the pensions should commence.

2d. That it was not, in fact, the intention of Congress, in enacting the second section of the act of 1853, (which was introduced as an amendment to a pending bill,) to give it a retrospective operation, is sufficiently manifest from the debate to which it gave rise when the law was under consideration in the Senate, (see Congressional Globe for Thirty-Second Congress, second session, page 201, et seq.) and

from the further fact that laws have been passed granting arrears of pensions, the date of the commencement of the pension has been expressly stated in the act, so far as I am informed.

3d. That the words "in the same manner," as used in the second section of said act, even in their technical sense, do not necessarily include the time designated in any preceding act, as the date at which the pension should commence. Two cases are cited to sustain the contrary view; but the first, (in which the opinion of Judge Hitchcock is quoted,) would seem not to go beyond the practice of the Pension Office, as his language is: "When in one statute a reference is made to an existing law, in prescribing the rule or manner in which a particular thing shall be done, or for the purpose of ascertaining the powers with which persons named in the referring statute shall be clothed, the effect generally is not to revive or continue in force the statute referred to for the purposes for which it was originally enacted; but merely for the purpose of carrying into execution the statute in which the reference is made."

And the second, (the case in Congress,) if it can be regarded as having any bearing on the point in question, gives force to the decision of the bureau, since the House of Representatives, after careful consideration, concluded that the word "manner," in the Constitution, did not authorize Congress to prescribe to the States the single district system. Why should those words be held to have special relation to the act of 1848? The widows who were pensioned under the acts of 1836 and 1838, were married prior to the year 1800, as well as those who were pensioned under the act of 1848; and if the terms used, "in the same manner," can relate to the act of 1848, why may they not, for like reasons, be held to relate as well to the act of 1836, which made the pension commence from the 4th of March, 1831?

4th. By the act of June 7, 1832, pensions were provided for those officers and soldiers of the revolutionary war who had served at least six months therein. Soon after the passage of this law, it was held that the widows and children of such of those officers and soldiers as had died subsequently to the passage of the act, without claiming its benefits, were entitled to the amounts due as arrears, and that the children of widows who were entitled to pensions under any of the general pension laws, were likewise entitled to unclaimed amounts due their mothers. This practice has continued to the present time. The question as to its *legality* has been recently very fully considered; and, although held to have been at the first clearly without warrant of law, yet, in view of its long continuance, and the fact that Congress, by making successive appropriations (founded upon specific estimates) to pay such allowances, had given a legislative sanction to this interpretation of the executive department, it was not thought expedient to reverse the practice at this time. If this course has been proper, if the action of Congress has thus legitimized the practice as to arrears under the act of June 7, 1832, may it not now with equal force be held that the interpretation given to the act of February 3, 1853, has in like manner been sanctioned and approved by the subsequent appropriations made by Congress; especially as the small amount of \$34,000, estimated as sufficient to carry the act into effect for a period of nearly eighteen months, (commencing at the date of the act,) was so wholly at variance with the idea of relating the period of the commencement of the pension back to the 4th of March, 1848?

While it is competent for Congress in its wisdom to direct that the class of pensioners shall be paid from the 4th of March, 1848, or even from an earlier period, up to the time at which they have been allowed to commence by the decision of this Department, it is equally clear that the claim, as a right, when presented to Congress, has no foundation. The pensions granted by the act of 1853, as before remarked, are mere gratuities, and seem to have been viewed as such in the discussion referred to, and as such, future payments may be wholly withheld, by the repeal of the law, should Congress at any time be so disposed, or the exigencies of the country should require such action; and this, without the violation of any legal or vested right.

It is deemed proper to add, that if there were a reasonable certainty that the amounts of money now sought to be drawn from the Treasury, in virtue of the legal construction placed upon the act of 1853, by the Court of Claims, would, in the event of the favorable action of Congress, reach the hands of the designated beneficiaries, without abatement, the proposed appropriation, large as it is, might be less objectionable; but the experience of the Department establishes the fact that intermediate parties are not only the agents in the origin and prosecution of such claims, but the largest sharers in the bounty their importunities extort from the Government.

I am respectfully, your obedient servant,

R. McCLELLAND, Secretary.

Hon. J. M. Mason, President of the Senate.

The previous question was seconded, and the main question ordered.

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time.

Mr. STANTON demanded the previous question on the passage of the joint resolution.

The previous question was seconded, and the main question ordered.

Mr. CLEMENS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 143, nays 35; as follows:

YEAS—Messrs. Abbott, Ahl, Anderson, Andrews, Arnold, Atkins, Avery, Bennett, Bingham, Bishop, Bliss, Bowie, Bratton, Buffinton, Burlingame, Burns, Cace, Cavanaugh, Chadice, John B. Clark, Clawson, Clark B. Cochran, John Cochran, Colfax, Comus, Corning, Cox, Cragin, James Craig, Curtis, Davidson, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dean,

Dick, Dimmick, Dodd, Dowdell, Edie, Edmundson, Elliott, Farnsworth, Fenton, Florence, Foley, Foster, Garrett, Gillis, Gilman, Gilmer, Gouch, Goodwin, Gregg, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, J. Morrison Harris, Haskin, Haws, Hawkins, Hill, Hoard, Horton, Hughes, Huyler, Jackson, J. Glancy Jones, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, Landy, Leidy, Leiter, Lovejoy, Humphrey Marshall, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Niblack, Nichols, Parker, Pendleton, Pettit, Peyton, Phillips, Pike, Potter, Purviance, Ready, Reilly, Ricard, Ritchie, Robbins, Roberts, Royce, Russell, Sandberg, Savage, Scott, Seward, John Sherman, Shorter, Sickles, Robert Smith, Samuel A. Smith, Spinner, Stanton, Stevenson, William Stewart, Talbot, Tappan, George Taylor, Thayer, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Ward, Elihu B. Washburne, Israel Washburn, White, Whiteley, Wilson, Wood, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—143.

NAYS—Messrs. Barstada, Bocock, Boyce, Burnett, Caskie, Clemens, Cobb, Crawford, Curry, Davis of Indiana, Garnett, Harlan, Hopkins, Houston, George W. Jones, Keitt, Jacob M. Kunkel, Lamar, Leitcher, McQueen, Samuel S. Marshall, Millson, Moore, John S. Phelps, Quitman, Reagan, Ruffin, Seales, Aaron Shaw, Henry M. Shaw, Singleton, William Smith, Stallworth, Stephens, and Valandigham—35.

So the joint resolution was passed.

Mr. CLARK, of New York, stated, during the call of the roll, that if he had been within the bar when his name was called, he should have voted "ay."

Mr. STANTON moved to reconsider the vote by which the joint resolution was passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled a bill making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1859; when the Speaker signed the same.

MISCELLANEOUS APPROPRIATION BILL.

Mr. J. GLANCY JONES. Before moving to go into the Committee of the Whole on the state of the Union, with a view to take up the loan bill, I ask that the miscellaneous appropriation bill, with the amendments of the Senate thereto—of which there are sixty-four—be taken up and referred to the Committee of Ways and Means.

There being no objection, it was so ordered.

CLOSE OF DEBATE ON THE LOAN BILL.

Mr. J. GLANCY JONES. I now move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union; but, before that motion is put, I move that all debate in the Committee of the Whole on the state of the Union, on the loan bill, be closed in two hours after the committee shall again resume the consideration of the same.

Mr. GROW. I rise to a question of order. That bill has not been considered in the Committee of the Whole on the state of the Union, and it is not, therefore, in order to close debate on it.

The SPEAKER. The Chair overrules the question of order. The bill has been considered in the Committee of the Whole on the state of the Union. It was taken up, and there was debate upon it.

Mr. GROW. I move that the rules be suspended, and that the House resolve itself into a Committee of the Whole House on the Private Calendar.

The SPEAKER. This being Friday, the motion of the gentleman from Pennsylvania to go into Committee of the Whole House takes precedence.

Mr. KELSEY. I move to amend by the adoption of the following resolution, which I send to the Speaker's chair:

Resolved, That the House go into a Committee of the Whole to-day, and take up the Private Calendar, and such bills as are not objected to, shall be laid aside to be reported to the House. In case objection is made to a bill, five minutes shall be allowed to state objections; and five minutes shall be allowed to reply to such objections, and a vote shall then be taken without further debate.

Mr. SMITH, of Virginia. I hope there will be no objection to the resolution of the gentleman from New York.

Mr. GROW. I insist on my motion.

Mr. MAYNARD. Is this objection day?

The SPEAKER. It is; and there are ten pages of private bills on the Calendar which have never been read in committee.

Mr. KELSEY. There are fourteen pages more

of bills which have been on the Calendar the whole session, and have not been considered at all.

Mr. LETCHER. I think we can compromise this matter in some way. I propose that we go into Committee of the Whole House on the Private Calendar to-day, and that to-morrow we take up the loan bill.

Several MEMBERS. Agreed.

Mr. J. GLANCY JONES. I wish to ask the Chair if the gentleman from Illinois [Mr. HARRIS] did not give notice that he would call up the Maryland contested-election case to-morrow?

The SPEAKER. He did.

Mr. GROW. We can postpone that case. I insist on my motion.

Mr. CLEMENS. I call for the yeas and nays on the motion.

The yeas and nays were not ordered.

Mr. CLEMENS. I call for tellers.

Tellers were not ordered.

Mr. SAVAGE. Is it in order to move to suspend the rules to make the old soldiers' bill a special order?

The SPEAKER. The motion of the gentleman from Pennsylvania will take precedence.

Mr. SAVAGE. I think my motion takes precedence.

The SPEAKER. Upon what ground?

Mr. SAVAGE. Upon the ground that the motion of the gentleman from Pennsylvania is under a general rule allowing suspension. My motion is one to suspend the rules specially.

The SPEAKER. The Chair differs with the gentleman.

The question was taken on the motion submitted by Mr. Grow; and it was decided in the affirmative—ayes 108, noes 32.

So the rules were suspended.

The House accordingly resolved itself into a Committee of the Whole House, (Mr. READY in the chair,) and proceeded to the consideration of the Private Calendar.

This being objection day, the bills on the Calendar were called over, and those to which no objection was made were, without debate, laid aside to be reported to the House, with a recommendation that they do pass.

MENOMONEE INDIANS.

A bill (H. R. No. 329) to authorize the Commissioner of Indian Affairs to adjudicate and settle certain claims against the Menomonee Indians. [Objected to by Mr. SMITH, of Virginia.]

GEORGE CHORPENNING.

A bill (H. R. No. 330) for the relief of George Chorpenning and Elizabeth Woodward, deceased, and the children of said Elizabeth Woodward. [Objected to by Mr. KILGORE.]

DENT, VANTINE AND COMPANY.

A bill (H. R. No. 331) for the relief of Messrs. Dent, Vantine & Company, for provisions furnished to Indians in California during the years 1851 and 1852. [Objected to by Mr. SMITH, of Virginia.]

Mr. MARSHALL, of Kentucky. I move that the committee rise, in order that the House may adopt some rule by which we can get on with the business of the Calendar.

Mr. CRAWFORD. What does the gentleman propose when we get into the House?

Mr. MARSHALL, of Kentucky. To pass some resolution by which cases upon the Calendar, objected to, and which have not been attended to, may be heard.

Mr. KELSEY. I ask that my proposition may be read.

The Clerk again read Mr. KELSEY's resolution. Mr. KELSEY. That affords all parties a chance to be heard.

Mr. KILGORE. I wish to withdraw my objection to the bill for the relief of George Chorpenning and Elizabeth Underwood.

Mr. JONES, of Tennessee. I object. The proposition of the gentleman from New York suspends all the rules, and I hope that it will not be adopted.

Mr. REAGAN. The proposition only allows five minutes' debate, and there are upon this Calendar cases involving as well large sums of money as important principles. I hope that the time will be extended.

Mr. QUITMAN. Does the resolution pro-

pose that we shall commence with the Calendar, or begin where we left off on the last day?

Mr. KELSEY. When we get into the House I will modify my proposition so that I think it will meet the views of members.

Mr. WASHBURNE, of Illinois. I demand tellers on the motion.

Tellers were ordered; and Messrs. CLEMENS and BUFFINGTON were appointed.

The House divided; and the tellers reported—ayes 45, noes 73.

So the committee refused to rise.

HIRAM PAULDING.

A bill (H. R. No. 337) for the relief of Hiram Paulding. [Objected to by Mr. HALL, of Ohio.]

Mr. SEWARD moved that the committee rise. The committee refused to rise.

JOHN M. BROOKE.

A bill (H. R. No. 338) for the relief of John M. Brooke. [Objected to by Mr. LEITER.]

Mr. CURTIS. I move that the committee rise. I am sure that we are only wasting time now in the manner in which we are proceeding.

The committee refused to rise.

PETER VAN BUSKIRK.

A bill (H. R. No. 340) providing an increase of pension to Peter Van Buskirk, of Washington city, in the District of Columbia.

The Clerk proceeded to read the bill.

Mr. CURTIS. I move that the committee rise. From conversations which I have had with some gentlemen, I believe that every bill upon the Calendar will be objected to. What is the use of our sitting here and listening to reports read, unless we accomplish something practical?

Mr. COLFAX. I wish to remind the gentleman from Iowa that last objection day he made the same statement, that we would accomplish nothing, and yet we went on, refusing to rise, and passed some eighty-two bills.

Mr. LEITER. I wish to call attention to the fact, that bills of as much merit as those laid aside have been permitted to remain upon the Calendar unheard. Now, some plan should be adopted by which all the cases should have an equal chance.

Mr. UNDERWOOD. I raise the point of order that it is not in order for the gentleman to interrupt the reading of a bill on this, objection day, by making a motion that the committee rise. Let us go on and transact the business properly.

The CHAIRMAN. The Chair sustains the point of order.

Mr. LEITER. Then I object to the bill.

Mr. CURTIS. I move that the committee do now rise.

The committee refused to rise.

Mr. BOWIE. I want to make a point of order. Can a member object after a bill has been received and read? If there be objection, it must be made at the time it is called up.

The CHAIRMAN. The Chair overrules the point of order.

JOHN HARRIS.

A bill (H. R. No. 341) for the relief of John Harris, of Warren county, Kentucky.

The bill grants a pension, at the rate of ninety-six dollars per annum, to John Harris, of Warren county, Kentucky, commencing on the 1st of January, 1850, and to continue during his natural life.

It appears from the evidence in the case, corroborated and confirmed by the records of the Pension bureau, that the petitioner, now nearly ninety years of age, enlisted in the year 1792, from the State of New York, as a common soldier in a company of light dragoons, first commanded by Captain Lee, and subsequently by Captain James Taylor, and joined the Army of the United States in what is called "Wayne's war;" that he served faithfully from the period of his enlistment to the close of this memorable war, when he was discharged in 1793; that in one of the hard-fought battles in which he was engaged he received a wound, yet visible upon his person; that the petitioner, formerly a man of competency and good estate, is now, by habitual kindness and generosity, reduced to great poverty and distress; that he has heretofore applied for a pension, but because his case was not embraced in any of the general pension laws, his application has been rejected. The committee, without recurring to many inter-

esting considerations which commend this old man's case to the favorable consideration of Congress, report a bill for his relief.

Mr. JONES, of Tennessee. I object.

Mr. SMITH, of Virginia. These cases that we are now calling over, have had a calling since the first part of the Calendar was called, and I now submit the motion that we go back and commence at the beginning of the Calendar.

Mr. JONES, of Tennessee. There are a good many cases here that have not been called over.

Mr. PALMER. It is perfectly evident that we will waste time by continuing in committee, as the gentleman from Virginia [Mr. SMITH] insists on it that he will object to every bill on the Calendar.

Mr. SMITH, of Virginia. I did not object to that bill.

Mr. PALMER. There is no use in reading over these long reports. I move that the committee rise.

Mr. UNDERWOOD. I want to say a word. I beg to address myself to my friend from Tennessee, [Mr. JONES], who objects to the bill. I am sure that if he was to consider for a moment the circumstances of that old man's case he would not object. I appeal to him to withdraw his objection, with the agreement that there shall be a vote upon it in the House by yeas and nays.

Mr. JONES, of Tennessee. I have no objection, if that be the agreement.

Mr. SEWARD. I hope the gentleman from Tennessee will make the same agreement in regard to other similar cases. Let them all be put upon the same footing.

Mr. JONES, of Tennessee. I am willing to do so with every one of them. I wish to say here, to the gentleman from Kentucky, that I know two gentlemen who were soldiers in the same war of Wayne, who went from the State of Kentucky. One of them is a cripple, and has been confined to the house for years. If we pass laws for some of these men we ought to make a general law for them.

Mr. UNDERWOOD. My friend will allow me to say that I will go as far as the farthest for the purpose of putting these men on the pension list. The fact that other men who deserve pensions have not received them, ought not to prevent this man getting a pension.

Mr. JONES, of Tennessee. A general law would include the whole of this class of cases. I withdraw my objection, with the understanding that there shall be a vote upon it in the House by yeas and nays.

The bill was then laid aside to be reported to the House, with a recommendation that it do pass.

Mr. SEWARD. I ask to have the same rule applied to all other cases. Let us have the yeas and nays in the House on all cases that are objected to.

Mr. HUGHES. I inquire of the Chair if these agreements to take the yeas and nays do not require the unanimous consent of the committee?

The CHAIRMAN. The Chair understands that the committee has no right to make such an order.

Mr. HUGHES. I do not wish to interfere with this or any other case, but I do object to having rules made which will require the taking of yeas and nays in the House, and consume the entire day.

Mr. PALMER. As I understand that these objections will not be persisted in, I withdraw my motion.

Mr. JONES, of Tennessee. I think the most sensible and reasonable thing the committee can do, would be to go to the bills that have been last reported to the committee, and that have never been called over. There are a good many of those bills that have never been called over at all. All the others have been called; and I think the most just and reasonable course would be to go to the part of the Calendar that has never been called over.

Mr. PHILLIPS. I rise to a point of order. I wish to know if there is any question before the Chair which justifies debate?

The CHAIRMAN. There is not.

Mr. PHILLIPS. Then I object to debate.

Mr. PALMER. I move that the committee do now rise.

The motion was not agreed to.

JOHN CAMPBELL.

A bill (H. R. No. 342) for the relief of John Campbell.

The bill increases the pension of four dollars per month, given to John Campbell by special act of Congress, to eight dollars per month, the increase commencing on the 3d of December, 1855; and the Secretary of the Interior is authorized and required so to place the name of John Campbell upon the invalid pension roll.

The report shows that John Campbell enlisted on the 29th March, 1814, in the service of the United States, and was subsequently wounded in his right thigh and left arm by a musket ball. That for said wounds he was placed on the pension list, by special act of Congress, on the 8th of August, 1846, at the rate of four dollars per month; said pension to commence on the 1st January, 1846. Since that time additional evidence has been filed, showing that said Campbell is now wholly disabled by reason of the aforesaid wounds.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

MARY BLATTENBERGER.

A bill (H. R. No. 343) granting a pension to Mary Blattenberger, widow of John Blattenberger. [Objected to by Mr. SMITH, of Virginia.]

EDWIN M. CHAFFEE.

A bill (H. R. No. 348) for the relief of Edwin M. Chaffee. [Objected to by Mr. CURRY.]

R. L. B. CLARKE.

A bill (H. R. No. 351) for the relief of R. L. B. Clarke. [Objected to by Mr. JONES, of Tennessee.]

ENOCH B. TALCOTT.

A bill (H. R. No. 352) for the payment of extra compensation to Enoch B. Talcott, for his services and expenses in recovering Government funds embezzled by Jacob Richardson. [Objected to by Mr. LEITER.]

Mr. DUFFEE. I hope the gentleman from Alabama will withdraw his objections to the bill for the relief of Mr. Chaffee, and let a vote be taken on it in the House.

Objection was not withdrawn.

Mr. JOHN COCHRANE. I think it is time for the committee to rise, as I see the sentinel [Mr. LEITER] rise at the outposts, and stand there with his objections. I move that the committee do now rise.

The motion was not agreed to.

NAHUM WARD.

A bill (C. C. No. 27) for the relief of Nahum Ward.

Mr. MAYNARD. I move that that bill be laid aside, to be reported to the House, with a recommendation that it do not pass.

The motion was agreed to.

Mr. JOHN COCHRANE. I renew my motion that the committee rise. I think the committee is not disposed to do business properly.

The motion was not agreed to.

SAMUEL MILLER.

A bill (H. R. No. 354) for the relief of the heirs of Captain Samuel Miller. [Objected to by Mr. JONES, of Tennessee.]

WILLIAM EDMONDSTON.

A bill (H. R. No. 355) for the relief of the heirs of William Edmondston. [Objected to by Mr. MILLSON.]

ABEL M. BUTLER.

A bill (H. R. No. 357) for the relief of Abel M. Butler.

Mr. COBB. I suggest that that bill be amended so as to restrict the right of entry to lands open for entry at the minimum price of \$1 25 per acre.

Mr. FENTON. I accept that amendment.

Mr. SMITH, of Virginia. The report, as I understand, says that this claim was rejected at the Pension Office because there was no record evidence. I know that record evidence is not required; therefore, I must object.

Mr. JOHN COCHRANE. I renew my motion that the committee do now rise. We make just as much progress in this way as in calling the Calendar.

The motion was not agreed to.

GEORGE P. MARSH.

An act (S. No. 1) for the relief of George P. Marsh. [Objected to by Mr. JONES, of Tennessee.]

Mr. MORRILL. I hope the gentleman from Tennessee will let this bill go to the House and have the yeas and nays upon it.

Mr. SMITH, of Virginia. I object.

HANNAH LITTEL.

A bill (H. R. No. 358) for the relief of Hannah Littell, and for other purposes. [Objected to by Mr. JONES, of Tennessee.]

JOHN P. BROWN.

A bill (H. R. No. 360) for the relief of John P. Brown. [Objected to by Mr. JONES, of Tennessee.]

WILLIAM RICH.

A bill (H. R. No. 361) for the relief of William Rich.

The bill directs the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to William Rich, late United States secretary of legation in Mexico, \$830, it being the difference between the compensation allowed to a secretary of legation and that to a chargé d'affaires, for the period during which he acted in the latter capacity.

It appears from the report of the Committee on Foreign Affairs, that the petitioner was secretary of legation under the Hon. Robert P. Leitch, United States Minister at Mexico; that Mr. Leitch left Mexico on the 2d of August, 1852, and his successor, the Hon. Mr. Conkling, presented his credentials on the 30th of November, ensuing; that, during this interval, a period of three months and thirty days, the petitioner acted as chargé d'affaires, and has only received for such service the compensation of a secretary of legation. He asks to be allowed, for the period above named, the difference between the compensation of a secretary of legation and that of a chargé d'affaires. Letters, one of May 30, 1854, from Secretary Marcy, and the other of March 6, 1853, from Secretary Cass, sustain the foregoing statement of facts. They further show that, during the interval named, there was no other accredited representative in Mexico from this Government, and that the services of Mr. Rich, while acting as chargé d'affaires, were faithful and important, and, in the opinion of the Department, fully entitle him to the compensation claimed.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

MESSAGE FROM THE SENATE.

The committee rising informally, a message was received from the Senate, by Mr. DICKINS, its Secretary, informing the House that the Senate had passed the following bills:

An act (S. No. 3-9) for the allotment of lands to certain New York Indians, and for other purposes;

An act (S. No. 398) for the relief of William Money;

An act (S. No. 403) for the relief of George Stealey;

An act (S. No. 400) to surrender the stock of the United States in the Dismal Swamp Canal Company upon certain conditions to said company;

An act (S. No. 407) for the relief of Miles Judson, surety on the official bond of the late Purser Andrew D. Crosby;

An act (S. No. 417) for the relief of Willis A. Gorman;

An act (S. No. 418) for the relief of Captain J. B. Montgomery;

An act (S. No. 411) for the relief of Ebenezer Ricker;

An act (S. No. 322) for the relief of the purchasers of public lands within the timber reserve opposite Fort Kearny, and for the settlers within the Winnebago agency reservation, and the Fort Atkinson reservation, all in the State of Iowa;

Joint resolution (H. R. No. 10) for the relief of General Sylvester Churchill;

An act (H. R. C. C. No. 65) for the relief of Benjamin L. McAtee and Isaac N. Eastham, of Louisville, Kentucky;

An act (H. R. No. 203) for the relief of George W. Biscoe;

An act (H. R. No. 169) making appropriations for the payment of clerks employed in the offices of the registers of the land offices at Oregon City and Winchester, in the Territory of Oregon;

An act (H. R. No. 332) for the relief of Richard B. Alexander;

An act (H. R. No. 334) for the relief of Simeon Stedman;

An act (H. R. No. 335) for the relief of Susanah Redman, widow of Lloyd Redman;

An act (H. R. No. 344) for the relief of Captain Stanton Sholes;

An act (H. R. No. 347) for the relief of Joseph Webb;

An act (H. R. No. 256) for the relief of Oliver P. Hovey;

An act (H. R. No. 456) granting an invalid pension to Brevet Major John Jones, of Tennessee, (with an amendment);

An act (H. R. No. 453) for the relief of Robert W. Cushman, formerly an acting purser in the United States Navy;

An act (H. R. No. 455) for the relief of Micajah Brooks;

An act (H. R. No. 490) for the relief of Isaac Body and Samuel Fleming;

An act (H. R. No. 503) for the relief of Job Stafford, of the State of New York;

An act (H. R. No. 504) for the relief of Elizabeth McBrier, only surviving child and heir of Colonel Archibald Loughrey, deceased;

An act (H. R. No. 547) for the relief of Benjamin Wakefield; and

An act (H. R. No. 572) for the relief of Lewis W. Broadwell.

The Committee of the Whole House resumed, and proceeded with the consideration of the Private Calendar.

MARY ANN HENRY.

A bill (H. R. No. 362) for the relief of Mrs. Mary Ann Henry.

The bill authorizes and requires the Commissioner of Pensions to inscribe the name of Mrs. Mary Ann Henry, of Pennsylvania, widow of the late Captain Henry Henry, of the United States Navy, on the naval pension roll, at the rate of fifty dollars per month, to commence from the 26th of July, 1857, the day of his death, and to continue during her life, unless she shall again marry, in which case the pension shall cease from the date of such marriage.

Mr. FLORENCE. I propose to amend that bill by striking out "fifty dollars" and inserting "thirty dollars" per month.

The amendment was agreed to.

The bill was then objected to.

Mr. OWEN JONES. I move that the committee do now rise.

The motion was not agreed to.

HENRY MILLER.

A bill (H. R. No. 363) granting an invalid pension to Henry Miller.

Mr. ELLIOTT. I can say that that is a very just claim, and I hope the bill will be passed.

Mr. JONES, of Tennessee. It is a violation of the general law.

Mr. SMITH, of Virginia. I object to the bill.

Mr. REILLY. It is no use trying to pass any bill here; I therefore move that the committee rise.

The motion was not agreed to.

Mr. FLORENCE. I consider it an insult offered to the Committee on Invalid Pensions, who have been engaged in investigating these cases, and have presented the bills in good faith, that these causeless objections should be made.

Mr. JONES, of Tennessee. I have a substantial objection to this bill.

Mr. ELLIOTT. I am willing that this bill shall go to the House, and a vote shall be taken upon it by yeas and nays.

Mr. JONES, of Tennessee. I will agree to that. Indeed, I am willing that you may go through the whole Calendar in the House, if you will take a vote upon each of the bills by yeas and nays; but this is no way to legislate, begging gentlemen to withdraw their objections, when they have substantial objections to bills.

Mr. SMITH, of Virginia. I object to the bill.

MARY B. DUSENBERRY.

A bill (H. R. No. 364) for the relief of Mary B. Dusenberry.

Mr. MARSHALL, of Kentucky. I would inquire if this case does not fall under the general law passed yesterday?

Mr. BOWIE. No, sir; this is an original application.

Mr. JONES, of Tennessee. No law has ever been passed providing for cases of this kind. The husband of this lady was educated at West Point, was in the quartermaster's department, a staff officer, and died of sickness in time of peace.

Mr. MARSHALL, of Kentucky. I do not object to the bill.

Mr. JONES, of Tennessee. I object to it.

JEREMIAH WRIGHT.

A bill (H. R. No. 365) granting a pension to Jeremiah Wright.

Mr. JONES, of Tennessee. That bill was objected to the other day. It is upon the same principle as bill No. 363. If gentlemen will give us a vote upon it in the House by yeas and nays, I will not object.

Mr. MARSHALL, of Kentucky. Well, let us lay bill No. 363 aside also, on the same condition.

Mr. JOHN COCHRANE. I object to having the yeas and nays upon these bills in the House. We occupy enough time upon them here.

Mr. JONES, of Tennessee. I will say to the gentleman from New York, that Congress proposes to adjourn on Thursday next. The Government will pay him and every other member his salary from now until the first Monday in next December; and if these bills ought to be passed at all, you ought to take time to do it.

The bill was laid aside to be reported to the House.

Mr. MARSHALL, of Kentucky. Has bill No. 363, granting an invalid pension to Henry Miller, been laid aside also?

The CHAIRMAN. It has not. It was objected to by the gentleman from Virginia, [Mr. SMITH.]

CREEK INDIAN DEPREDATIONS.

A bill (H. R. No. 367) to provide for the examination and payment of certain claims of citizens of Georgia and Alabama, on account of losses sustained by depredations of the Creek Indians.

Mr. MORGAN. That bill is too important to be passed without discussion. I object to it.

Mr. SHORTER. If the gentleman from New York will withdraw his objection, and let the bill go before the House, we will give him ample time for discussion.

Mr. MORGAN. I know how it will be, if the bill goes to the House. The previous question will be called, and there will be no chance for discussion.

Mr. SHORTER. The previous question shall not be called until there has been opportunity for ample discussion; but we have been here for ten years with this claim, and have never yet had a hearing.

Mr. RUSSELL. I will say to my colleague that this is a very worthy claim, and I hope he will let it go.

Mr. MORGAN. It may be a very worthy claim, but I must object to it.

Mr. EUSTIS. It seems to be very evident that it is impossible for us to proceed with business. I have several bills upon the Calendar, but I am sure they will be objected to; and I therefore move that the committee do now rise.

Mr. COLFAX. That motion has been made and voted down a dozen times; and I think gentlemen ought to submit to the decision of the committee.

Mr. EUSTIS. I withdraw my motion.

Mr. MORRIS, of Illinois. I wish to say that, a few days since, I made objection to a joint resolution in which my friend from New York [Mr. KELLY] is interested; and I desire now to withdraw that objection.

Mr. MARSHALL, of Kentucky. I trust we shall go on with the regular order.

The CHAIRMAN. Debate is not in order.

Mr. MORGAN. I understand that the friends of this bill are willing that, if it is brought into the House, it shall be put in such a position that it shall go over to the next session, when it can be discussed; and I have no objection to that.

Mr. STANTON. Let it be reported to the House, with a recommendation that it be postponed until some day certain next session.

Mr. PHILLIPS. I object to going back.

FERDINAND COXE.

A bill (C. C. No. 84) for the relief of Ferdinand Coxe.

Mr. LEITER. I object to that bill.

Mr. COLFAX. I appeal to the gentleman to withdraw his objection. This claim is recommended by the Secretary of State and by the Court of Claims.

Mr. LEITER. It is no better off than the rest of them. Cases which committees have unanimously recommended have been objected to.

Mr. PHILLIPS. I desire to say that when I made the objection to bill No. 367, I stated that I objected to going back. That was the objection I made. If the point before the Chair did not involve that question my objection did not apply.

Mr. MORRILL. I desire to make a proposition to the committee to which I think they will agree. I propose that the committee shall rise in order that I may offer the following resolution in the House:

Resolved, That when the House shall again have resolved itself into a Committee of the Whole House on the Private Calendar, it shall be in order only to take up the Senate bills in their order, and those not objected to shall be reported to the House, with the recommendation that they do pass, and that upon all such as shall give rise to discussion, debate shall be allowed and limited to five minutes for and five minutes against each bill, when the vote shall be taken.

Mr. MARSHALL, of Kentucky. I object to that.

The CHAIRMAN. Is there objection to the pending bill?

Mr. SMITH, of Virginia. I object to it, and I desire to make a proposition to the committee. I propose that all these bills, between this point and the end of the Calendar, be objected to in lump, and that we begin again at the top of the Calendar. I tell gentlemen that that will obviate a good deal of this difficulty.

Mr. GROW. The first part of the Calendar has been called over three times, and there are a large number of bills that have never been called at all.

Mr. WASHBURN, of Maine. I desire to submit a proposition to the committee.

Mr. MARSHALL, of Kentucky. I object, and I will state the reason. I do so because the very next case is a case, which, at a former meeting of the committee, was objected to. It is a bill for the relief of Peter Parker, who was acting chargé in China, during the absence of the minister, and this money is due to him. It is recommended by the Court of Claims, recommended by the State Department, and recommended by the committee. When that bill is passed I shall be willing to do almost everything.

Mr. EUSTIS. It is perfectly evident that neither that bill, nor any other, will be passed today.

Mr. MORGAN. I believe the objection was withdrawn to bill No. 84.

Mr. SMITH, of Virginia. I renewed it.

Mr. TAYLOR, of New York. I hope the gentleman from Virginia, will allow it to go to the House and a vote to be taken upon it.

Mr. SMITH, of Virginia. No, sir; I have made a suggestion that would save time and difficulty, but it is objected to.

The CHAIRMAN. Debate is not in order.

PETER PARKER.

A bill (C. C. No. 85) for the relief of Peter Parker.

Mr. SMITH, of Virginia. I object to that bill.

Mr. EUSTIS. I move that the committee rise.

Mr. FLORENCE. I call for tellers on the motion.

Tellers were ordered; and Messrs. CHAFFEE and FLORENCE were appointed.

The committee divided; and the tellers reported—yeas 63, noes 53.

So the committee rose; and the Speaker having resumed the chair, the chairman (Mr. READY) reported that the Committee of the Whole House had, according to order, had the Private Calendar under consideration, and had directed him to report sundry bills to the House, with the recommendation that they do pass, and one bill with the recommendation that it do not pass.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. DICKINS, their Secretary, informing the House

that the Senate had passed bills of the House of the following titles:

An act (No. 570) for the relief of Lieutenant Loomis L. Langdon;

An act (No. 571) for the relief of David McClure, administrator of Joseph McClure, deceased;

An act (No. 533) for the relief of Shove Chase, of New York; and

An act (No. 486) for the relief of Alonzo and Elbridge G. Colby; in which he was directed to ask the concurrence of the House.

Also, that the Senate had postponed indefinitely a bill of the House (No. 254) for the relief of William Hutchenson.

The House proceeded to consider the report of the Committee of the Whole on the Private Calendar.

Mr. WASHBURN, of Maine. I demand the previous question upon all the bills.

Mr. JONES, of Tennessee. I want a separate vote upon two or three of these bills, and I understand that the yeas and nays are to be taken upon House bills Nos. 361 and 365.

Mr. BOWIE. I think the bill of the House (No. 364) for the relief of Mary B. Dusenbery was laid aside to be reported to the House with the recommendation that it do pass.

Mr. JONES, of Tennessee. I think I objected to that bill.

Mr. UNDERWOOD. I wish to give the gentleman the benefit of my record. I have kept a record of the bills which have been laid aside; I marked this bill as objected to. The gentleman objecting then, I think, withdrew his objection; and I have marked the bill as being laid aside, to be reported to the House.

Mr. JONES, of Tennessee. I have no objection to the bill being reported to the House if we can have the yeas and nays upon it.

Mr. ELLIOTT. I hope the gentleman will withdraw his objection.

Mr. MARSHALL, of Kentucky. And I hope, at the same time, the gentleman from Virginia [Mr. SMITH] will withdraw his objection to bills (No. 84 and No. 85) for the relief of Ferdinand Cox, and for the relief of Peter Parker.

Mr. SMITH, of Virginia. Very well. I will withdraw my objection, unconditionally, to the bills which have been named; but, at the same time, I hope House bill (No. 325) for the relief of the legal representatives of Gustavus Horner, deceased, will be, by unanimous consent, reported to the House.

Mr. BARKSDALE. I object to that.

The SPEAKER. Does the Chair understand that unanimous consent has been given to allow bills of the House Nos. 363, 84, and 85, to be reported to the House?

Mr. JONES, of Tennessee. I object.

The SPEAKER. The Chair thinks he had better take the report of the chairman of the Committee of the Whole as it comes to the House.

Mr. MARSHALL, of Kentucky. Very well. Let us dispose of the bills reported, and the others can come up afterwards.

The SPEAKER. Is there any objection to discharging the Committee of the Whole House from the further consideration of House bill No. 363?

Mr. MORGAN. I want the business of the House to proceed regularly.

NAHUM WARD.

A bill (C. C. No. 27) for the relief of Nahum Ward.

The SPEAKER. The Committee of the Whole House have reported that bill, with the recommendation that it do not pass.

The report of the Committee of the Whole House was concurred in, and the bill was rejected.

Mr. MAYNARD moved to reconsider the vote by which the bill was rejected; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

JOHN CAMPBELL, WILLIAM RICH.

A bill (H. R. No. 342) for the relief of John Campbell.

A bill (H. R. No. 361) for the relief of William Rich.

The SPEAKER stated that the bills were reported from the Committee of the Whole House, with the recommendation that they do pass.

The bills were severally ordered to be engrossed and read a third time, and being engrossed, they were accordingly read the third time, and passed.

Mr. ELLIOTT moved to reconsider the vote just taken, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

JOHN HARRIS.

A bill (No. 341) for the relief of John Harris, of Warren county, Kentucky.

The SPEAKER stated that the bill had been reported from the Committee of the Whole House, with the recommendation that it do pass.

The bill was ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time.

Mr. JONES, of Tennessee, demanded the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

Mr. JONES, of Tennessee. The only claim in this bill is that this gentleman was a soldier in the Indian war, under General Wayne, about 1793 or 1794. There is no general law providing for a service pension at that time. For that reason, I object to it.

Mr. UNDERWOOD. If there ever was a meritorious claim, it is this. This man was wounded in the service.

Mr. BARKSDALE. Was he permanently disabled?

Mr. UNDERWOOD. He was wounded, I believe, in the head, and in actual battle. He is ninety years of age. From affluence, he has been reduced to want. His case has merit in it, and I hope that it will be passed.

The question was taken, and it was decided in the affirmative—yeas 122, nays 8; as follows:

YEAS—Messrs. Anderson, Andrews, Arnold, Atkins, Avery, Barksdale, Bingham, Blair, Bowie, Brayton, Buffington, Burnett, Case, Caskie, Cavanaugh, Chaffee, Ezra Clark, John B. Clark, Clawson, Clay, Cobb, Clark B. Cochran, John Cochran, Coffax, Comins, Corning, Cox, Craig, James Craig, Curtis, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Dean, Dodd, Durfee, Edie, Elliott, Eastis, Fenton, Florence, Foley, Garrett, Gilman, Gilmer, Goodwin, Gregg, Groesbeck, Grow, Thomas L. Harris, Hill, Hoard, Hopkins, Horton, Howard, Huyler, Jackson, Owen Jones, Kellogg, Kelly, Kelsey, Knapp, John C. Kunkel, Lamar, Leiter, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Maynard, Miller, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Mott, Murray, Niblack, Nichols, Palmer, Parker, Pendleton, Peyton, William W. Phelps, Phillips, Potter, Purviance, Ready, Reilly, Ritchie, Robbins, Roberts, Royce, Russell, Shorter, Sickles, Singleton, Robert Smith, Spinner, Stanton, Stevenson, Talbot, George Taylor, Thayer, Tompkins, Trippe, Underwood, Wade, Walbridge, Walton, Elihu B. Washburne, Israel Washburn, White, Whiteley, Wilson, Woodson, Wortendyke, and Augustus R. Wright—122.

NAYS—Messrs. Clemens, Curry, George W. Jones, Quitman, Rufin, Seales, Henry M. Shaw, and William Smith—8.

So the bill was passed.

On motion, the reading of the list, after the call had been gone through, was dispensed with.

JEREMIAH WRIGHT.

A bill (H. R. No. 365) granting a pension to Jeremiah Wright.

Mr. KELSEY. The bill only proposes to pay this man a pension from 1824 to 1828. In 1824 his leg was amputated in consequence of the injury he received in the service in 1814. It was not until 1828, four years after his leg was amputated, that his name was placed upon the pension roll. The committee have reported that he shall receive these four years of pension, and I hope that it will pass.

Mr. JONES, of Tennessee. The general law of the country, granting invalid pensions, provides for such pensions according to the degree of disability. The law provides a half-pay pension not to exceed the half pay of a lieutenant colonel, if the claimant proves that he is totally disabled from making a living by manual labor; and for any degree less than a total disability a pension as the degree of disability is to the full-pay pension. And the law is, that his pension, when he has established his right to it, shall commence from the time that he proved and established his disability, and that it is not to go back to the time that the disability is alleged to have occurred—that it shall commence at the time of its allowance, and continue for his life. This gentleman applied and established his disability, and consequently his right to a pension, in 1828, and he was then put upon the pension roll at a full

disability pension. This bill proposes to go back and give him a full pension from 1824, the time it is alleged that the disability occurred, up to the time that he established his right to a pension and was placed upon the pension roll.

It is a strong case, I admit; and I would have no objection in the world to the law providing in all cases that, in all cases where the party had lost a limb it should be regarded as a full disability; but we cannot disguise from ourselves the fact that there are gentlemen throughout the country upon the pension roll who have sustained but little disability or injury from the wound for which they are pensioned. This is one of the strong cases which comes here as a pioneer case, and will hereafter be used as a precedent why we should take up these pension laws and go back and give every man, who has been placed upon the invalid pension roll in consequence of injuries received in the war of 1812, a pension from that war. The law was passed upon the principle that, whenever any person was injured, the pension should commence from the time that the disability was proved, and therefore I am not for opening all this class of cases, and hope this bill will be rejected.

Mr. FLORENCE. The Committee on Invalid Pensions reported this case upon the facts stated by the gentleman from New York, [Mr. KELSEY.] They allow this man a full-pay pension from 1824 to 1828, to which he is undoubtedly entitled. If the committee had thought that it would be an unjust precedent, they would not have reported the bill; but there are precedents for the bill filed upon the statute-book. His case appealed to their sympathy and justice, and it was unanimously agreed to.

Further than that, I will take occasion to say that there is a difference of opinion as to the fact whether there is a law or not, whether the law of 1801 does not provide that pensions shall begin at the time of the disability, and not at the time the proof is perfected. I have submitted a bill appealing to the justice and fairness of members, and I hope that it will pass. It is a bill providing for the equalization of Army, Navy, and marine pensions. This old man deserves this four years' pension, and I hope that it will be given to him. I demand the previous question.

BILLS BECOME LAWS.

A message was received from the President of the United States, by JAMES B. HENRY, his Private Secretary, notifying the House that he had approved and signed a joint resolution, and bills of the following titles:

A joint resolution authorizing the arrangement and disposal of public buildings in the city of Philadelphia;

An act for the relief of D. O. Dickinson;

An act declaring the title to land warrants in certain cases;

An act for the relief of S. W. & A. A. Turner; and

An act to continue the pension heretofore paid to Mary C. Hamilton, widow of Captain Fowler Hamilton, late of the United States Army.

ENROLLED BILLS SIGNED.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles:

An act (H. R. No. 203) for the relief of George W. Biscoe;

An act (H. R. No. 334) for the relief of Simon Stedman;

An act (H. R. No. 335) for the relief of Susanah Redman, widow of Lloyd Redman;

An act (H. R. No. 344) for the relief of Captain Stanton Sholes;

An act (H. R. No. 347) for the relief of Joseph Webb;

An act (H. R. No. 169) making appropriations for the payment of clerks employed in the offices of the registers of the land offices at Oregon City and Winchester, in the Territory of Oregon;

An act (H. R. No. 256) for the relief of Oliver P. Hovey;

An act (H. R. No. 332) for the relief of Richard B. Alexander;

An act (H. R. No. 455) for the relief of Micajah Brooks;

An act (H. R. No. 490) for the relief of Isaac Body and Samuel Fleming;

An act (H. R. No. 503) for the relief of Job Stafford, of the State of New York;

An act (H. R. No. 504) for the relief of Elizabeth McBrier, only surviving child and heir of Colonel Archibald Loughrey, deceased;

An act (H. R. No. 547) for the relief of Benjamin Wakefield;

An act (H. R. No. 453) for the relief of Robert W. Cushman, formerly an acting purser in the United States Navy;

An act (H. R. No. 572) for the relief of Lewis W. Broadwell;

An act (H. R. C. C. No. 65) for the relief of Benjamin L. McAtee and Isaac N. Eastham, of Louisville, Kentucky; and

Joint resolution (H. R. No. 10) for the relief of General Sylvester Churchill;

When the Speaker signed the same.

The question occurred on seconding the demand for the previous question.

The previous question was seconded, and the main question ordered.

Mr. EUSTIS. The gentleman from Tennessee having had an opportunity by unanimous consent to express his views in regard to this bill, I hope he will now withdraw his call for the yeas and nays. He has placed himself on the record, and there is an evident disposition to pass the bill.

The SPEAKER. The yeas and nays have been ordered.

The question was taken; and it was decided in the affirmative—yeas 99, nays 27; as follows:

YEAS—Messrs. Anderson, Andrews, Arnold, Billinghurst, Bingham, Blair, Bowie, Brayton, Buflinton, Burlingame, Burns, Case, Cavanaugh, Chaffee, Clawson, Clay, Clark, B. Cochrane, John Cochrane, Colfax, Conins, Cragin, Curtis, Davidson, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Dean, Dodd, Durfee, Edie, Elliott, Eustis, Farnsworth, Fenton, Florence, Foley, Gilman, Gilmer, Goodwin, Granger, Grow, Lawrence W. Hall, Horion, Howard, Owen Jones, Kellogg, Kelsey, Knapp, John C. Kunkel, Leiter, Lovejoy, Humphrey Marshall, Matteson, Maynard, Moore, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Palmer, Parker, Peyton, William W. Phelps, Phillips, Potter, Purviance, Ready, Reilly, Roberts, Royce, Russell, Sandidge, Aaron Shaw, Judson W. Sherman, Shorter, Singleton, Robert Smith, Spinner, Stanton, Stevenson, William Stewart, Talbot, George Taylor, Tompkins, Underwood, Wade, Walbridge, Waldron, Edwin B. Washburne, Israel Washburn, Whiteley, Wilson, Woodson, and Wortendyke—99.

NAYS—Messrs. Atkins, Barksdale, Branch, Burnett, Caske, Cox, Davis of Mississippi, Dowdell, Faulkner, Garrett, Thomas L. Harris, Hopkins, Jackson, George W. Jones, Letcher, Samuel S. Marshall, Pendleton, John S. Phelps, Powell, Quitman, Rufin, Seales, Henry M. Shaw, Stallworth, Trippe, Vallandigham, and John V. Wright—27.

So the bill was passed.

Pending the vote,

Mr. WRIGHT, of Tennessee, said: Before I vote I would ask the gentleman from New York whether this man has not been drawing a pension since 1828?

Mr. KELSEY. He has been. This bill merely gives him a pension from 1824, when his limb was taken off, till 1828.

Mr. WRIGHT, of Tennessee. I vote "no."

Mr. GARTRELL said: As this gentleman is already drawing a pension, I vote "no."

Mr. MARSHALL, of Kentucky. I move to discharge the Committee of the Whole House from the further consideration of bills Nos. 84 and 85.

Mr. QUITMAN. I thought I had the floor, to ask permission to report a bill from the Committee on Military Affairs.

The SPEAKER. The Chair only recognized the gentleman from Kentucky, because there seemed to be an understanding in the House that, when the report of the Committee of the Whole House should be disposed of, these cases would be acted upon.

Mr. MARSHALL, of Kentucky. I would state to the House that these bills (C. C. Nos. 84 and 85) are bills which have passed the Court of Claims, and been recommended by the Department of State and by the Committee of Claims. I ask the unanimous consent of the House to discharge the Committee of the Whole House from their further consideration.

Mr. ELLIOTT. I hope the gentleman will also include House bill No. 363.

Mr. BOWIE. Also House bill No. 364.

Mr. JONES, of Tennessee. I shall object, unless we have the yeas and nays upon them.

Mr. MARSHALL, of Kentucky. If the gen-

tlemen objects, I will move that the rules be suspended.

The SPEAKER. The Chair thinks that that would be hardly just to the gentleman from Mississippi.

Mr. MARSHALL, of Kentucky. I did not know that I had the floor by the sufferance of the gentleman from Mississippi.

The SPEAKER. The Chair recognized the gentleman from Kentucky, supposing that the general consent of the House would be given to discharge the committee, without a motion to suspend the rules.

Mr. MARSHALL, of Kentucky. Does the gentleman from Tennessee object?

Mr. JONES, of Tennessee. Unless the vote be taken by yeas and nays on the bills.

Mr. MARSHALL, of Kentucky. Certainly. I have no objection. I will yield to the gentleman from Mississippi.

HARRIET O. READ.

Mr. QUITMAN. I appeal to the House to permit me to move to discharge the Committee of the Whole House from the further consideration of Senate bill (No. 226) for the relief of Mrs. Harriet O. Read, executrix of the late Brevet Colonel A. C. W. Fanning, of the United States Army.

It has been reported unanimously by the Committee on Military Affairs, in the House as well as in the Senate. It is a bill in which the party interested is a lady who has been, for the last two months, almost constantly in the gallery; and I have no doubt the members have all become familiar with her modest face. It is a bill for the relief of the executrix of Brevet Colonel Fanning, who was an officer of artillery, and employed on the ordnance service. In 1827-28 he was ordered to the arsenal, in Augusta, Georgia, while it was being constructed, and against his remonstrance, he was put on the duty of disbursing superintendent, and disbursed \$50,000, for which he accounted to the last dollar. The committee report that it is usual, in many cases, where extraordinary duties are placed on an officer, especially where he protests against them, to allow him a commission on the funds disbursed by him. His heirs now ask \$1,250 for commission on this troublesome disbursement of \$50,000, in a duty which did not belong to him, and which he remonstrated against. I therefore ask that the committee be discharged from the further consideration of the bill, and that it be put upon its passage.

The bill was read. It authorizes and directs the Secretary of the Treasury to pay to Mrs. Harriet O. Read, executrix of the late Brevet Colonel A. C. W. Fanning, of the United States Army, the sum of \$1,250, being the amount claimed to be due the estate of Brevet Colonel Fanning, as commissions of two and a half per cent. upon the sum of \$50,000 disbursed by him in 1827 and 1828, at the United States arsenal, in Augusta, Georgia.

There being no objection, the Committee of the Whole House was discharged from the further consideration of the bill.

Mr. ENGLISH. It occurs to me that, at last Congress, an act was passed for the relief of this same party. I should like to be informed whether that is so or not?

Mr. QUITMAN. I have been informed that, at some former session of Congress, there was such a bill passed. The same gentleman was appointed by the Government a commissioner to superintend the cession of Florida from the Spanish Government to the American Government, and a bill was passed giving him the same compensation as the other commissioners.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. QUITMAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

FERDINAND COXE AND PETER PARKER.

Mr. MARSHALL, of Kentucky. I now ask the unanimous consent of the House that the Committee of the Whole be discharged from the further consideration of bill (C. C. No. 84) for the relief of Ferdinand Cox, and bill (C. C. No. 85) for the relief of Peter Parker.

There being no objection, the Committee of the

Whole House was discharged from the further consideration of the bills.

Mr. MARSHALL, of Kentucky, demanded the previous question on the bills.

The previous question was seconded; and the main question ordered.

The bills were severally ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed.

Mr. MARSHALL, of Kentucky, moved to reconsider the vote by which the bills were passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ENROLLED BILLS AND RESOLUTION.

Mr. PIKE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and resolution of the following titles, when the Speaker signed the same:

An act (H. R. No. 571) for the relief of David McClure, administrator of Joseph McClure, deceased;

An act (H. R. No. 570) for the relief of Lieutenant Loomis L. Langdon;

An act (H. R. No. 533) for the relief of Shove Chase, of New York;

An act (H. R. No. 492) for the relief of John Dearnit;

An act (H. R. No. 356) for the relief of Roswell Minard, father of Theodore Minard, deceased;

An act (H. R. No. 543) for the relief of the legal representatives of John McDonough, late of Louisiana;

An act (H. R. No. 486) for the relief of Alonzo and Elbridge G. Colby;

An act (H. R. No. 451) for the relief of the legal representatives of Jean Baptiste Devidrine;

An act (H. R. No. 476) for the relief of James Rumph;

An act (H. R. No. 493) for the relief of Stuckey & Rogers;

An act (H. R. C. C. No. 81) for the relief of the heirs of William Turvin, deceased; and

A joint resolution (H. R. No. 24) for the relief of Henry Orndorf.

BREVET MAJOR JOHN JONES.

Mr. ATKINS. I ask the unanimous consent of the House to take up House bill (No. 456) granting an invalid pension to Brevet Major John Jones, of Tennessee, which has been returned from the Senate with an amendment reducing the amount about one hundred and twenty dollars. I ask that the amendment of the Senate be concurred in.

There being no objection, the bill was taken from the Speaker's table, and the amendment of the Senate was concurred in, as follows:

Strike out the words, "from the 1st day of September, A. D. 1853, and to continue during his natural life," and insert in lieu thereof: "from and after the date of his application, and to continue during his natural life."

Mr. ATKINS moved to reconsider the vote by which the amendment was concurred in, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

KEEP, BARD AND CO., AND OTHERS.

Mr. PHELPS, of Missouri, obtained the floor.

Mr. SMITH, of Virginia. I rise to a question of order. I desire to know if there is not a rule which requires members to rise from their seats to address the Chair? If there is, I should be glad to have it enforced.

The SPEAKER. The Chair will endeavor to correct the practice of members crowding near the Speaker's desk by recognizing those who are furthest from the Chair. [Laughter.]

Mr. PHELPS, of Missouri. I ask the unanimous consent of the House to take from the Speaker's table Senate bill (No. 318) for the relief of Keep, Bard & Co., J. Caulfield, and Joseph Landis & Co.

I will state, in order to save time, that the bill proposes merely to relieve the parties from a judgment rendered against them on a penal bond given to secure the payment of duties withdrawn from a port of entry to be taken to a port of delivery. The judgment was entered by confession; the parties paid the duties and the costs of the suit; and the Secretary of the Treasury recommends that the relief be granted.

There being no objection, the bill was taken from the Speaker's table, received its several readings, and was passed.

Mr. PHELPS, of Missouri, moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

CHRISTIAN INDIANS.

Mr. LEITER. I ask the unanimous consent of the House that Senate bill (No. 323) to confirm the sale of the reservation held by the Christian Indians, and to provide a permanent home for said Indians, be taken from the Speaker's table, and put upon its passage. It was unanimously reported by the Committee on Indian Affairs in the Senate, and has the unanimous approval of the committee of this House.

Mr. GROW. The gentleman has been objecting to-day to meritorious cases; but as it is not my habit to object to bills without good and sufficient reason, I will not object to this one.

There being no objection, the bill was taken from the Speaker's table, received its several readings, and was passed.

Mr. LEITER moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

HEIRS OF GUSTAVUS B. HORNER.

Mr. SMITH, of Virginia. I ask the unanimous consent of the House to discharge the Committee of the Whole House from the further consideration of House bill (No. 325) for the relief of the legal representatives of Gustavus B. Horner, deceased.

Mr. GROW. The gentleman from Virginia has been objecting all day to bills in committee. I believe his troubles all originated from his objecting to a bill for the relief of an old soldier, one hundred and three years old. I have no objection to this bill; but, at the same time, I hope we shall do justice in the other case, and discharge the committee from the case which the gentleman from New York [Mr. PARKER] wished to have passed for the benefit of the old soldier.

Mr. FLORENCE. I have no objection, if the gentleman from Virginia will withdraw his objections to all the meritorious claims which he has objected to in committee to-day.

Mr. JONES, of Tennessee. I object to that bill.

Mr. SMITH, of Virginia. I move to suspend the rules.

The House divided; and there were—ayes 87, noes 35.

So the rules were suspended, (two thirds having voted therefor.)

The bill and report were read. The bill provides that the proper accounting officers of the Treasury be required to settle the account of Gustavus B. Horner, deceased, as a surgeon's mate of the general hospital of the Army of the United States during the revolutionary war, and to allow his legal representatives compensation equal to half pay for life of a captain of infantry in the service of the United States on continental establishment, from the close of the war to the time of the death of said Gustavus B. Horner, without interest; to be paid to the legal representatives of Gustavus B. Horner.

The report states that the petitioners are the legal representatives of Dr. Gustavus B. Horner, and they claim commutation of five years' full pay, or half pay for life, as justly due to them for his services as surgeon's mate; and they rest their claim on the promise made by Congress on the 21st of October, 1780, the 17th of January, 1781, and by the act of March, 1783. It is clearly proved that Dr. Horner was a surgeon's mate of the general hospital of the middle district, by commission from the Continental Congress, dated in 1778; that he was in actual service for about four years, and until the autumn of 1782, and after the French forces had returned to the North from the surrender of the enemy at York, in Virginia. It is probable that he was not again engaged in active service during the few remaining months of the war which elapsed after that period; but it appears, from the evidence filed with the petition, that he did not, after the aforementioned actual service, resign his commission, but only retired as a super-

numerary, ready for service whenever he should be required; for, in addition to the other parol evidence, it appears that he held his commission till the end of the war; and the commission itself, left by him among his papers, is now produced by the petitioners. And as evidence of the view in which the Legislature of Maryland, of which State he was a citizen, and in whose line he served, regarded his services, they also file a copy of a resolution of the General Assembly of that State, allowing to his widow a pension for her life equal to the half pay of a surgeon's mate, in consideration of the revolutionary services of her husband in the line of that State. The only question which has arisen to obstruct this claim is, that in the resolution of Congress, in 1781, providing for the medical and hospital department, surgeons' mates, *eo nomine*, are omitted, while physicians, surgeons, apothecaries, purveyors, and other inferior and subordinate classes, all belonging to the hospital department, are mentioned and provided for. The committee believe that the omission of surgeons' mates, a class commissioned by Congress as useful and indispensable to the service, was either accidental, (*a casus omissus*), or was intended and regarded as embraced in the generic term, surgeons, before mentioned, by the resolution of Congress, in the list of officers of the hospital. In either of these constructions, surgeons' mates may be considered as within the law; but if not embraced in the law, they certainly are within the equity of the provision intended by the Congress of the Confederation.

Mr. JONES, of Tennessee. I merely wish to make a single remark why I object to this bill. In the first place, surgeons' mates were not entitled to half pay; and in the next place, if he is to come under the resolutions of 1781, 1782, and 1783, he did not serve in the manner required by those resolutions.

Mr. MORGAN. I wish to state, in a single word, why I shall vote against this bill. The gentleman from Virginia has voted here to-day to slaughter twenty-five good and honest claims, and I will not vote to pass his.

Mr. COLFAX. I hope we shall pass this bill, and then go back into committee, and we may be able to transact some business.

Mr. MORGAN. I hope we shall defeat this bill, and then go back into committee.

Mr. MARSHALL, of Kentucky. I do not know whether I understand this bill or not. Is it merely to give half pay? It seems to me there is a proposition to settle something.

Mr. SMITH, of Virginia. It is merely to settle what is due the claimant under the resolution of 1780.

Mr. JONES, of Tennessee. At what time did Dr. Horner die?

Mr. SMITH, of Virginia. I do not know. Gentlemen are mistaken in supposing that this is a large claim. It is not a large claim.

Mr. MORGAN. I move to lay the bill on the table.

Mr. FLORENCE. I demand tellers upon the motion.

Tellers were ordered; and Messrs. BUFFINTON and PEXTON were appointed.

The House divided; and the tellers reported—ayes 70, noes 50.

Mr. SMITH, of Virginia, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 70, nays 54; as follows:

YEAS—Messrs. Abbott, Andrews, Bingham, Blair, Bliss, Branch, Bratton, Burlingame, Claflie, Clemens, Cobb, Cockrell, Colfax, Collins, James Craig, Curry, Curtis, Davis of Maryland, Davis of Indiana, Dean, Dodd, Durfee, Eustis, Farnsworth, Fenton, Foley, Foster, Garnett, Goodwin, Grow, Hill, Horton, Houston, Howard, George W. Jones, Owen Jones, Kilgore, Knapp, John C. Kunkel, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Millson, Morgan, Morrill, Murray, Palmer, Phillips, Potter, Purviance, Robbins, Roberts, Royce, Seales, Aaron Shaw, Henry M. Shaw, John Sherman, Shorter, Stallworth, William Stewart, Talbot, Tompkins, Underwood, Wade, Walbridge, Waldron, Elishu B. Washburne, and Wilson—70.

NAYS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Bowie, Boyce, Buffinton, Burnett, Caskey, Cavanaugh, John B. Clark, Clawson, John Cochrane, Cragin, Davidson, Davis of Mississippi, Dawes, Dowdell, Elliott, Florence, Gartrell, Gooch, Grainger, Gregg, Hopkins, Huyler, Jackson, J. Glancy Jones, Kellogg, Leiter, Leitcher, Lovejoy, Matteson, Niblack, Nichols, Parker, William W. Phelps, Quinman, Reilly, Ruffin, Russell, Sandidge, Judson W. Sherman, Singleton, William Smith, Spinner, James A.

Stewart, George Taylor, Walton, Israel Washburn, Whiteley, Woodson, and Wortendyke—54.

So the bill was laid on the table.

Mr. JONES, of Tennessee, moved to reconsider the vote by which the bill was laid on the table, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. DICKINS, their Secretary, informing the House that the Senate had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act (No. 54) to revive and extend an act entitled "An act for the relief of the representatives of John Donelson, Stephen Heard, and others," approved May 24, 1845, and the several acts extending, continuing, and reviving the same;

An act (No. 327) to affirm certain entries of land in the State of Louisiana;

An act (No. 414) to reimburse the corporation of Georgetown, in the District of Columbia, a sum of money advanced towards the construction of the Little Falls bridge;

An act (No. 421) to authorize the Secretary of the Interior to issue a land warrant to Benjamin Ward;

An act (No. 426) to authorize the Secretary of the Interior to issue a land warrant to Russell Fitch, of Ohio;

An act (No. 427) for the relief of Thomas W. Ward, late United States consul at Panama;

An act (No. 428) for the relief of James Myer; and

An act (No. 429) for the relief of James T. V. Thompson.

Also, that the Senate had passed bills of this House of the following titles:

An act (No. 238) for the relief of the heirs of Richard Tarvin;

An act (No. 267) for the relief of Timothy O'Keefe;

An act (No. 269) for the relief of David Bruce;

An act (No. 321) for the relief of John B. Roper;

An act (No. 452) for the relief of Dr. Thomas Anis ell;

An act (No. 466) for the relief of Cornelius H. Latham;

An act (No. 480) for the relief of Dr. Ferdinand O. Miller;

An act (No. 528) for the relief of Judith Nott;

An act (No. 569) for the relief of Gardner & Vincent, and others; and

An act (No. 573) for the relief of Thomas Hassam and B. S. Brewster.

Also, that the Senate had passed a bill of this House (No. 366) for the relief of John Duncan, with an amendment, in which he was directed to ask the concurrence of the House.

Also, that the Senate had indefinitely postponed bills of the House of the following titles:

An act (No. 586) for the relief of the administrator of Horatio Boulbee, deceased;

An act (No. 511) for the relief of Nehemiah S. Draper and William Holden, heirs-at-law of Mary Draper, deceased; and

An act (No. 232) for the relief of Ebenezer Hitchcock.

ENROLLED BILLS SIGNED.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that the committee had examined, and found truly enrolled, bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 219) for the relief of William Heine, artist in the Japan expedition; and

An act (H. R. No. 436) granting an invalid pension to Brevet Major John Jones, of Tennessee.

JOHN SAWYER.

Mr. PARKER. I ask unanimous consent that the Committee of the Whole House be discharged from the further consideration of House bill No. 319, for the relief of John Sawyer.

There being no objection, the committee was discharged, and the bill taken up for consideration.

Mr. BURNETT. I ask for the reading of the report.

Mr. PARKER. The report is at the printer's. I will state the points of the case, if gentlemen desire it. This bill is for an old soldier. He is

one hundred and three years of age, and poor. Under the general law, his term of service will not entitle him to a pension; but under all the circumstances of the case, the committee believe that he deserves a pension from his country. He was at the taking of Burgoyne. I hope that there will be no objection to the passage of the bill.

The bill directs the Secretary of the Interior to enter the name of John Sawyer, of Garland, Penobscot county, Maine, on the roll of revolutionary pensioners, and pay him a pension at the rate of twenty-four dollars a year, during his natural life, commencing on the 4th of March, 1831.

Mr. WASHBURN, of Maine, demanded the previous question.

Mr. GRANGER. Mr. Speaker, I hope that no one will object to granting a pension to a soldier who, at the age of a hundred, "still lives," and who assisted in the capture of Burgoyne.

The previous question was seconded, and the main question ordered to be put.

The bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Maine, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

LAND OFFICE AT VINCENNES.

Mr. NIBLACK. I ask the unanimous consent of the House to report, from the Committee on Public Lands, House bill (No. 302) to continue the office of register of the land office at Vincennes, Indiana.

Mr. JONES, of Tennessee. That office has been continued several times already, and I object.

Mr. COBB. I think that there ought not to have been any objection to the gentleman's proposition. It is the first thing he has asked this session. I move that the rules be suspended for the purpose he has indicated.

The rules were suspended.

Mr. NIBLACK then reported the bill back from the Committee on Public Lands.

Mr. KILGORE. Have not the books and papers of that office been transferred to Indianapolis?

Mr. NIBLACK. They were some years ago, and then brought back.

Mr. KILGORE. I am not properly advised in regard to this matter. I know that a number of land offices in Indiana have been ordered to be closed.

Mr. NIBLACK. They were closed, but reopened by special act. This bill is desired in reference to the settlement of old donation claims.

Mr. KILGORE. I understand that the papers of the office have been transferred to the seat of government, and facilities for getting there are very great in that State. I will do as much as any gentleman to accommodate my colleague; but I hope that he will excuse me in objecting to the propriety of reopening the land office at Vincennes. There were land offices in the northern part of the State more remote than this, and there is no application for reopening them.

Mr. COBB. I referred the question to the Secretary of the Interior, and he wrote a letter here recommending the passage of this bill. The gentleman from Indiana withdrew the letter and took it to the Senate, or I would ask to have it read. I demand the previous question.

Mr. LETCHER. How much land is there for sale at that place?

Mr. NIBLACK. Two thousand acres. It is, however, desired more for the settlement of old donation claims.

Mr. HOUSTON. Mr. Speaker, I understand that this bill is important to adjust and settle old claims. There is but \$500 of expense, and it seems to me that the bill ought to pass.

Mr. LETCHER. I think it would be better to give up the two thousand acres rather than reopen the land office there.

Mr. HOUSTON. The disposal of the two thousand acres is only a small part of the necessity for this bill.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time.

Mr. COBB demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put; and, under the operation thereof, the bill was passed.

Mr. NIBLACK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

HENRY MILLER.

Mr. ELLIOTT. I move to discharge the Committee of the Whole House from the further consideration of a bill (H. R. No. 363) granting an invalid pension to Henry Miller.

Mr. JONES, of Tennessee. If the yeas and nays are taken on its passage, I have no objection.

Mr. WASHBURN, of Illinois. I object to such an arrangement.

Mr. ELLIOTT. I move to suspend the rules. Mr. CRAWFORD. I ask whether this bill grants a pension from 1817 up to this time?

Mr. ELLIOTT. No, sir. It gives a pension from 1817, the time this man's limb was amputated, up to 1850, when he was placed on the invalid pension list.

Mr. CLEMENS called for tellers on the suspension of the rules.

Tellers were ordered; and Messrs. CLEMENS and WALDRON were appointed.

The House divided; and the tellers reported—ayes 90, noes 31.

So (two thirds voting in favor thereof) the rules were suspended.

The committee was then discharged from the further consideration of the bill.

The bill directs the Secretary of the Interior to inscribe the name of Henry Miller, of Kentucky, on the invalid pension roll of the State, and pay him at the rate of eight dollars per month from the 28th of August, 1817, the pension to continue during his natural life; whatever amount of money he may have received under the general pension law to be deducted from the amount to which he will be entitled by this bill.

It appears from the report that said Henry Miller enlisted as a private soldier in the company of Captain Anderson, in the regiment commanded by Colonel Gaines, Tennessee militia, in the month of December, 1812; that he continued in service until the month of February, 1814, when he got his foot and ankle badly mashed whilst he was building a breastwork; that, subsequently, in the month of August, 1817, his leg was amputated. He has been allowed a pension by the Secretary of the Interior, said pension to commence in the year 1850. The committee are of the opinion that the pension allowed should have commenced at the time of the amputation of his leg, in August, 1817.

Mr. ELLIOTT moved the previous question on the engrossment of the bill.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time.

Mr. ELLIOTT moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. CLEMENS demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 86, nays 36; as follows:

YEAS—Messrs. Abbott, Ahl, Anderson, Andrews, Arnold, Bingham, Blair, Bliss, Bowie, Brayton, Buffinton, Burlingame, Burns, Case, Cavanaugh, Chaffee, John B. Clark, Clawson, John Cochran, Cockrell, Colfax, Comins, Corning, Cragin, James Craig, Curtis, Davis of Massachusetts, Davis of Iowa, Dawes, Duriee, Edie, Edmundson, Farnsworth, Fenton, Florence, Foster, Gilmer, Granger, Gregg, Grow, Harch, Hawkins, Horton, Howard, Kelly, Kelsey, Kilgore, Knapp, Leiter, Lovejoy, Humphrey Marshall, Mason, Matteson, Maynard, Edward Joy Morris, Freeman H. Morse, Mott, Murray, Nichols, Palmer, Parker, Peyton, Potter, Purviance, Ritchie, Robbins, Roberts, Royce, Scott, Judson W. Sherman, Spigner, Talbot, Thayer, Thompson, Tompkins, Underwood, Wade, Wallbridge, Walton, Elihu B. Washburne, Israel Washburn, Whiteley, Wilson, Woodson, and Wortendyke—86.

NAYS—Messrs. Atkins, Boyce, Burnett, Clemens, Cobb, Crawford, Curry, Davis of Mississippi, Dodd, English, Faulkner, Foley, Gartrell, Hopkins, Houston, Jackson, George W. Jones, Owen Jones, Leitcher, Samuel S. Marshall, Morgan, Niblack, Phillips, Sherman, Rutlin, Russell, Scales, Henry M. Shaw, John Shuman, Robert Smith,

Stallworth, Stanton, William Stewart, Waldron, Winslow, and Zollcoffer—35.

So the bill was passed.

Mr. ELLIOTT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MARY B. DUSENBERRY.

Mr. BOWIE. I ask the unanimous consent of the House to discharge the Committee of the Whole House from the further consideration of a bill (H. R. No. 364) for the relief of Mary B. Dusenberry.

There being no objection, the Committee of the Whole House was discharged from the further consideration of the bill.

The bill directs the name of Mary B. Dusenberry to be placed on the pension roll at the sum of thirty dollars per month, to commence on the 3d day of December, 1855, and continue for the term of five years.

Mr. BOWIE moved the previous question on the engrossment of the bill.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. BOWIE moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MISSOURI TWO PER CENT. LAND FUND.

Mr. BLAIR. I move to discharge the Committee of the Whole House from the further consideration of the House bill (No. 303) giving the assent of Congress to a law of the Missouri Legislature for the application of the reserved two per cent. land fund of said State.

Mr. JONES, of Tennessee. I move that the House do now adjourn.

Mr. SMITH, of Virginia, called for the yeas and nays, and for tellers upon the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

The motion was not agreed to; there being, on a division—ayes 37, noes 88.

The bill was read. It gives the assent of Congress to the act of the Legislature of the State of Missouri, entitled "An act supplemental to an act to amend 'An act to secure the completion of certain railroads in this State, and for other purposes,'" approved November 19, 1857, appropriating the two per centum of the net proceeds of sales of public lands in that State, reserved by existing laws to be expended under the direction of Congress, but hereby relinquished to that State; and authorizes and requires the proper accounting officers of the Government to audit and pay the accounts for the same, as in the case of the three per centum land fund of said State.

The report states that the claim presented by the State of Missouri is founded on the third article of the compact between the United States and the State, contained in the fifth section of the act of 6th March, 1820, (3 Stat., page 547), entitled "An act to authorize the people of Missouri Territory to form a State government," &c., which is in these words: "That five per cent. of the net proceeds of the sales of the public lands lying within said Territory or State, and which shall be sold by Congress from and after the 1st day of January next, after deducting all expenses incident to the same, shall be reserved for making public roads and canals; of which three fifths shall be applied to those objects within the State under the direction of the Legislature thereof, and the other two fifths in defraying, under the direction of Congress, the expenses to be incurred in the making of a road or roads, canal or canals, leading to the said State." That portion of the fund which it is contemplated by this article shall be applied by the State to improving its internal communications, has been duly paid over by the Government of the United States. But the two per cent. received by the United States in trust, to be applied to communications leading to the State, have not been so applied; the trust has not, therefore, been duly discharged, and the money which the article recognizes as the property of the State, and to be applied for its benefit, should be accounted for to the State by the Government of

the United States. The two per cent. fund in question belonged to the State, and the interest of the Federal Government was but that of a trustee; and the sole reason for the arrangement was, that as the Government of the United States had authority outside of the limits of the State which the State did not possess, it could apply that portion of the fund intended to facilitate communication to and from the State, and promote its external commerce better than the State itself could do. If the terms of the article itself admitted of any question that this was the nature of the interest of the State in this fund, the original of this provision, which is found in the corresponding article of the seventh section of the act of 30th April, 1802, (2 Stat., page 175,) entitled "An act to enable the people of the eastern division of the Territory northwest of the river Ohio to form a constitution and State government," &c., in which it is expressly admitted that the five per cent. was given to the State as a consideration for the exemption of the lands of the United States within its limits from taxation, would be conclusive on the point. This was certainly a small consideration for the release by the State of a right to tax the forty million acres of Government lands within its limits, and there is, therefore, the more reason why it should be certainly and fully paid according to the agreement between the parties, or accounted for to the State, if the purpose to which it was to be devoted under the agreement between the parties has been abandoned. That purpose was the construction of a road (the Cumberland road was intended) to the boundary of Missouri, a purpose which has long since been abandoned, and the Government should, therefore, deal with Missouri as it has dealt with Mississippi and Alabama under similar circumstances—direct the two per cent. fund, which was reserved for the purpose thus abandoned, to be paid to the State. (See sections 16 and 17, act 4th September, 1841, 5 Stat., page 457.)

Mr. JONES, of Tennessee. I should like to have the report to which that refers read.

Mr. BURNETT. I move that the House do now adjourn.

Mr. JONES, of Tennessee. I ask for the yeas and nays.

Mr. BURNETT. I ask the Chair whether, if the House adjourn now, this bill will not come up as the first business in the morning?

Mr. GROW. The Maryland contested-election case is set down for to-morrow.

Mr. BLAIR. I move to suspend the rules.

Mr. COLFAX. I ask whether the House has not agreed to adjourn on Thursday next, on the motion of the gentleman from Kentucky [Mr. BURNETT] himself? He ought to be willing to stop here till twelve o'clock to-night, and attend to private business.

Mr. JOHN COCHRANE. Let us go to the business on the Speaker's table, and we may—

The SPEAKER. Debate is not in order.

Mr. HOUSTON. Will not the gentleman's motion to suspend the rules be the first thing in the morning?

The SPEAKER. It will.

Mr. HOUSTON. I have examined the bill which the gentleman from Missouri proposes to bring up, and I am satisfied that it is right, and ought to pass; but I think the House ought to adjourn now.

Mr. BURNETT. I withdraw the motion to adjourn.

The question was taken on Mr. BLAIR's motion, and it was agreed to.

So the rules were suspended; and the Committee of the Whole was discharged from the further consideration of the bill.

Mr. BLAIR moved the previous question.

The previous question was seconded; and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. BLAIR demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and, under the operation thereof, the bill was passed.

Mr. BLAIR moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

EDWIN M. CHAFFEE.

Mr. EDIE. I move a suspension of the rules, and that the Committee of the Whole House be discharged from the further consideration of the bill (H. R. No. 349) for the relief of Edwin M. Chaffee, with a view of putting it upon its passage.

Mr. BURNETT, (at twenty-three minutes after six o'clock, p. m.) I move that the House do now adjourn; and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 36, nays 95; as follows:

YEAS.—Messrs. Anderson, Atkins, Bishop, Burnett, Caskie, Clemens, Cobb, John Cochrane, Cockerill, Corning, Crawford, Curry, Davis of Indiana, Faulkner, Garnett, Gregg, Hatch, Hopkins, Houston, Jackson, George J. Jones, Leitch, Mason, Peyton, Purviance, Quitman, Rufin, Russell, Sandidge, Seales, Searing, Henry M. Shaw, Singleton, William Smith, Stallworth, and Talbot—36.

NAYS.—Messrs. Abbott, Ahl, Andrews, Arnold, Bingham, Blair, Bliss, Bowie, Boyce, Brayton, Buffinton, Burlingame, Burns, Case, Cavanaugh, Chaffee, Clawson, Clark B. Cochrane, Colfax, Conins, Cox, Cragin, James Craig, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Durfee, Edie, Elliott, English, Farnsworth, Fenton, Florence, Foley, Foster, Gilman, Gooch, Goodwin, Granger, Grow, Hawkins, Hill, Horton, Howard, Huyler, Kelly, Kelsey, Knapp, Leiter, Lovejoy, Macley, Samuel S. Marshall, Matson, Maynard, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Palmer, Parker, John S. Phelps, William W. Phelps, Phillips, Pike, Potter, Reilly, Robbins, Roberts, Royce, Scott, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, James A. Stewart, William Stewart, Thayer, Thompson, Tompkins, Underwood, Wade, Waldron, Walton, Ellihu B. Washburne, Israel Washburn, Whiteley, Wilson, and Winslow—95.

So the House refused to adjourn.

The question recurred upon Mr. EDIE's motion to suspend the rules.

The bill, and the report accompanying it, were read.

The bill provides that there be granted to Edwin M. Chaffee, of the city and county of Providence, Rhode Island, for his sole and exclusive benefit, and for the benefit of his heirs, administrators, and to those to whom he may hereafter assign the same, for the term of seven years from the passage of this act, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, his improvement in the application of undissolved caoutchouc to cloth, leather, and other articles, in coloring the same without the aid of a solvent, and in the machinery used in the process, for which letters patent were granted to said Chaffee on the 31st of August, 1836, and which is described in the schedule annexed to the letters patent granted as aforesaid; and the Commissioner of Patents is directed to make a certificate of such grant in the name of Edwin M. Chaffee, and to append an authenticated copy thereof to a duly certified copy of said letters patent, and to deliver the same to Edwin M. Chaffee, his administrator or assigns, whenever the same shall be requested by him or them.

The Committee on Patents reported that Edwin M. Chaffee, prior to the 31st day of August, 1836, applied for, and on that day obtained from the Government of the United States, letters patent for "an improvement in the application of undissolved caoutchouc to cloth, leather, and other articles, in coloring the same without the aid of a solvent, and in the machinery used in the process." The patent expired in 1850, and was renewed by the Commissioner of Patents, under existing laws, for the term of seven years, which term expired during the year 1857. Application is now made to Congress for an extension, by legislative enactment, for a further term of seven years. The committee is satisfied that the improvement made and claimed by the memorialist is an original invention, and that he is the inventor. They are also fully satisfied that the invention is one of great public utility. By the introduction into general use of the improvement of the memorialist, the manufacturers of India-rubber goods are enabled to dispense with the use of a solvent, an article altogether indispensable until the improvement of the memorialist was made, and thus save some fifty cents on every pound of crude caoutchouc worked up into manufactured articles. When the vast number of pounds of the raw material used in the fabrication of India-rubber goods is considered, it must be apparent that the invention of the memorialist enables the manufacturer to produce his goods at

a vastly reduced price to the consumer, and thus both the producer and the purchaser are generally benefited on account of the genius and skill employed by the memorialist in the perfection of his improvement.

The profits which have accrued to the memorialist have not, in the opinion of the committee, been at all commensurate with the benefit he has conferred upon the public by his invention. The memorialist exhibits an account of all his receipts for or on account of his improvement, which account amounts in gross to the sum of \$22,500, and the same account exhibits disbursements, compensation claimed for time expended, and losses sustained, amounting to the sum of \$19,500; leaving to the memorialist the small pittance of \$3,000 as his whole remuneration for years of toil spent in the perfection of an invention which has enabled the manufacturer of India-rubber goods to save thousands in the cost of producing his goods, and the public, who buy the goods, to save tens of thousands, on account of the reduction of price brought about by dispensing with the use of all solvents in the manufacture of the fabrics. In the opinion of the committee, no blame should attach to the memorialist because he has failed, up to this time, to realize a sufficient reward for his invention. He was a poor man, surrounded with difficulties, and unable, from his poverty, to take those energetic measures necessary to secure to himself great pecuniary benefits from his newly-invented process of grinding, instead of dissolving, the raw material used in the manufacture of India-rubber goods. He did all that his limited means permitted, and the result was an insufficient remuneration.

Mr. JONES, of Tennessee. I wish to make but one remark. This gentleman got a patent for fourteen years; he then got an extension of that patent for seven years longer; that extension expired in 1857, and, by the laws of the country, this invention then became the public property, and you have no more right now to reinvest him with the sole and exclusive use of it, than you have to take up anything else, and give an individual an exclusive right to it.

Mr. SMITH, of Virginia. I understand that this patent has been in litigation for the last seven years, and that hence the patentee has not been able to realize anything by it. I am against the extension of patents as a general rule; but I rather think there is something in this case which would justify it.

Mr. EDIE. I will state, in addition to the facts stated in the report, that an India-rubber manufacturing company made an agreement with the inventor by which they obtained the patent, and part of the consideration was, that they were to employ him at a regular yearly salary. A very short time thereafter that company failed, and its effects were sold under the hammer.

Mr. WASHBURN, of Illinois. Is debate in order at this stage?

The SPEAKER. It is not.

Mr. WASHBURN, of Illinois. Then I object to it. The gentleman will have an opportunity to be heard after the rules are suspended.

The question was taken on the motion to suspend the rules; and there were—ayes 64, noes 45; no quorum voting.

Mr. CLEMENS demanded tellers.

Mr. CLARK B. COCHRANE moved that the House do now adjourn.

The motion was agreed to—ayes 70, noes 58. And thereupon (at ten minutes to seven o'clock, p. m.) the House adjourned.

IN SENATE.

SATURDAY, June 5, 1858.

Prayer by Rev. A. G. CAROTHERS.
The Journal of yesterday was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the following bills, in which the concurrence of the Senate was requested:

A bill (No. 302) to continue the office of register of the land office at Vincennes, Indiana;

A bill (No. 303) giving the assent of Congress to a law of the Missouri Legislature for the application of the reserved two per cent. land fund of said State;

A bill (No. 341) for the relief of John Harris, of Warren county, Kentucky;

A bill (No. 342) for the relief of John Campbell;

A bill (No. 361) for the relief of William Rich; A bill (No. 363) granting an invalid pension to Henry Miller;

A bill (No. 364) for the relief of Mary B. Dusenbury;

A bill (No. 365) granting a pension to Jeremiah Wright; and

A bill (No. 619) for the relief of John Sawyer, a soldier in the war of the Revolution.

The message further announced that the House had passed the following bills of the Senate:

An act (No. 226) for the relief of Mrs. Harriet O. Read, executrix of the late Brevet Colonel A. C. W. Fanning, of the United States Army;

An act (No. 318) for the relief of Keep, Bard, & Co., J. Caulfield, and Joseph Landis & Co.; and

An act (No. 323) to confirm the sale of the reservation held by the Christian Indians, and to provide a permanent home for said Indians.

Also, that the House had concurred in the amendment of the Senate to the bill of the House (No. 456) granting an invalid pension to Brevet Major John Jones, of Tennessee.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker had signed the following enrolled bills and joint resolution; which thereupon received the signature of the Vice President:

An act for the relief of the heirs of William Tarvin, deceased;

An act for the relief of the legal representatives of Jean Baptiste Devidrine;

An act for the relief of James Rumph;

An act for the relief of Alonzo and Elbridge G. Colby;

An act for the relief of John Dearmit;

An act for the relief of Stuckey and Rogers;

An act for the relief of Shove Chase of New York;

An act for the relief of the legal representatives of John McDonough, deceased, of Louisiana;

An act for the relief of Lieutenant Loomis L. Langdon;

An act for the relief of William Heine, artist in the Japan expedition;

An act granting an invalid pension to Brevet Major John Jones, of Tennessee;

An act for the relief of David McClure, deceased; and

A joint resolution for the relief of Henry Orndorff.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 341) for the relief of John Harris, of Warren county, Kentucky—to the Committee on Pensions.

A bill (No. 342) for the relief of John Campbell—to the Committee on Pensions.

A bill (No. 361) for the relief of William Rich—to the Committee on Foreign Relations.

A bill (No. 363) granting an invalid pension to Henry Miller—to the Committee on Pensions.

A bill (No. 364) for the relief of Mary B. Dusenbury—to the Committee on Pensions.

A bill (No. 365) granting a pension to Jeremiah Wright—to the Committee on Pensions.

A bill (No. 619) for the relief of John Sawyer, a soldier in the war of the Revolution—to the Committee on Pensions.

A bill (No. 302) to continue the office of register of the land office at Vincennes, Indiana—to the Committee on Public Lands.

A bill (No. 303) giving the assent of Congress to a law of the Missouri Legislature for the application of the reserved two per cent. land fund of said State—to the Committee on Public Lands.

EXTENSION OF THE SESSION.

Mr. BIGLER submitted the following resolution for consideration:

Resolved, (the House of Representatives concurring.) That the resolution directing the President of the Senate and Speaker of the House of Representatives to declare their respective Houses adjourned *sine die* on Thursday the 10th of June, at twelve o'clock, m., be and the same is hereby rescinded; and that the President of the Senate and the Speaker of the House of Representatives declare

their respective Houses adjourned *sine die* on Monday the 21st of June, at twelve o'clock, m.

DEATH OF MR. HENDERSON.

Mr. HOUSTON. Mr. President, a few short months ago it was my painful and melancholy duty to announce the decease of my late lamented colleague, General Rusk. That announcement had been postponed in consequence of the absence of his successor, who I desired should be present on the occasion; but he was not present. The duty again recurs, melancholy truly in its character, to announce the decease of my more recent colleague, General J. PINCKNEY HENDERSON, the successor of General Rusk. These events are very well calculated to impress the mind with the instability of all human affairs, and to admonish us that "in the midst of life we are in death." The proud hopes and anticipations of both have been cut down, and I am left the solitary representative of my State in this body. A recurrence to the scenes which have passed in relation to both these gentlemen awakens emotions difficult to repress, and inexpressible in their character.

General HENDERSON was born in Lincoln county, North Carolina, in 1808, on the 31st of March. He received a liberal education, and chose the profession of the law as a pursuit, in which he soon acquired a prominent position. His health becoming impaired, he was induced to make a visit to the Island of Cuba, where it was partially repaired. Returning, he selected a location in the State of Mississippi, and resumed the profession of the law. In the awakening scenes of the South consequent on the invasion of Texas by the Mexicans, he was aroused from his professional pursuits, and induced to busy himself much in rousing the chivalry of the South to repair to the rescue of that devoted country. On his arrival there, in association with companions, he was selected by the Government *ad interim*, and received the appointment of brigadier general in the army. The army soon after being disbanded, he stepped into the walks of private life, but was soon called by the Executive of the constitutional Government, then inaugurated, to the office of Attorney General of the Republic. He continued in it for some months, when the decease of General Austin, the distinguished father of Texas, an illustrious citizen, created a vacancy in the State Department, and General HENDERSON, after General Rusk had declined the position owing to his professional engagements and private business at home, was selected. He held that Department until the latter part of 1837, when he was appointed Minister Plenipotentiary and Envoy Extraordinary to England and to France, to negotiate for the recognition of Texan independence. He continued in that position, employed busily for the attainment of the objects which had been assigned to him, until 1840, when he returned to Texas, and again resumed the practice of the law. He located himself in San Augustine, and was associated in practice with General Rusk. He continued there until 1843, declining, in the mean time, a situation in the new cabinet that was formed in December, 1841, preferring to pursue his profession.

In 1843 he was appointed, by the Executive, an adjunct to Mr. Van Zandt, the resident minister here at Washington, for the purpose of negotiating a treaty for annexation. The treaty was negotiated, but the Senate of the United States failed to ratify it. He again returned to Texas and resumed his legal practice, and so continued until the annexation of Texas was consummated and a convention was called to frame a State government. He was elected a member of the convention from the county of San Augustine, and acted a conspicuous part in that body in forming the constitution of the new State. He was subsequently elected the first Governor of the State of Texas. After remaining some time in the discharge of the duties of that office, a requisition was made upon Texas in consequence of the Mexican war, for troops to aid General Taylor. The troops of Texas were called out, and, by a resolution of the Legislature, Governor HENDERSON was authorized to assume the command, which he did, and he acted a conspicuous part in the battle of Monterey. He was one of the commissioners, on the part of the American forces, to negotiate the articles of capitulation of the garison of Monterey. On his return from the war

he resumed the duties of Governor, and continued to execute them during the term for which he was elected, declining a reelection. Since that time, he has assiduously pursued the practice of the law, distinguished in his profession, and eminently successful in the practice, until the meeting of the last Legislature, when he was elected unanimously, I believe, to fill the place in this body vacated by the lamented event of General Rusk's death.

Thus, gentlemen, you will perceive that he was no ordinary man. He made his mark upon the history of Texas; and the nation is not unacquainted with his reputation. He will be long remembered. He was a bold, enterprising spirit; a man of indomitable will, of daring enterprise, and firm of purpose. His intellect was of a high order, and cultivated to the extent that opportunities of professional engagements would permit. This is the colleague whose loss I have to deplore. I regret his death. To me, individually, it is but little; the bereavement falls not upon me as it will upon others. His friends had confidence in, and were ardently attached to him; they were deeply devoted to him; and the chord that is broken will be one of thrilling sensibility. When we contemplate the ties which bind man to man, we know that the course of events causes their separation: but, sir, when we contemplate the deep agony of an affectionate wife that is now the bereaved widow, and the prattling children that are orphans in the world, here is a scene that closes the picture of true distress, and tells us that

"The paths of glory lead but to the grave."

Mr. President, I offer the following resolutions:

Resolved, unanimously, That the members of the Senate, from a sincere desire of showing every mark of respect to the memory of the Hon. J. PINCKNEY HENDERSON, deceased, a Senator from the State of Texas, will go into mourning for the residue of the present session by the usual mode of wearing crape on the left arm.

Resolved, unanimously, That the members of the Senate will attend the funeral of the deceased from the Senate Chamber, at three o'clock, p. m., to-morrow; and that the committee of arrangements, consisting of Messrs. BAYARD, CAMERON, CLAY, WADE, HAMMOND, and SEWARD, superintend the same.

Ordered, That the Secretary communicate these proceedings to the House of Representatives.

Mr. DAVIS. Mr. President, in rising to second the resolutions, my long acquaintance with, and warm attachment to, the deceased, impel me, however feebly, to pay some tribute to his character. It is not at a time when the heart is agitated by sudden and poignant grief, and sympathetically responds to the wail of the widow and the orphan, that we can hope to do justice to the public and private character of one whom we have lost. In both relations it has been my fortune to know the deceased intimately and long. Together with him I have shared toil and danger; and the association taught me to esteem him more and more with every succeeding trial. Associated with him in the attack on Monterey, his command and my own closed the active operations of that eventful siege. On the third and last day of the attack, when night was closing around us, and we were near to the main plaza, we learned that we were isolated; that orders had been sent to us to retire; that the supports had been withdrawn; and that we were surrounded by a large number of the enemy. A heart less resolved, a mind less self-reliant, than HENDERSON's, might have doubted, wavered, and been lost. The alternative was presented to him of maintaining a post which he was confident we could hold, or of retiring, when it was doubtful whether we could cut our way through the enemy: he asked no other question than, "Are we ordered to retire?" On learning that such was the fact, he decided, at whatever hazard, to obey; and narrowly, on that occasion, he escaped with his life. The sense of duty rose with him superior to all other considerations; and he obeyed an order which he might have been justified in disobeying, because of the dangers to which it would subject him. It was the same trait in his character which hastened him on when coming to take his seat in the Senate. He had paused at the Island of Cuba, in a condition to warn him not to meet this rigorous and changing climate; but the news reached him that Texas required his vote in this Chamber; and it was enough. Duty pointed the path, and he hesitated not to tread it. He came; and the sacrifice of his life was the result.

Connected with the early history of Texas, and known to the whole of its population, their appreciation of him has been shown in constantly renewed offers of positions of trust and responsibility. The manner in which he discharged his duty requires no other testimony. The last office he filled was among us. Had he remained here longer, he would have been better known; and I might have been spared even the poor effort which I now make to pay some tribute to his memory. He was gentle and just; quick, but too generous to bear malice against any man. Superior to personal fear, he was incapable of personal hate. He was lofty and dignified in all his relations, gentle as the lamb in the hour of peace, and in the midst of his friends; but bold as the lion in the face of danger, and when confronted by an enemy. Such is a rude sketch of the beautiful elements which constituted his character. The people by whom he had been so often, and so highly honored, claimed his first allegiance, and had his last love. He died as he had lived, anxious to fulfill his obligations to his fellow men, resolved to discharge the duty of his station, and left behind him that good name without which "glory's but a tavern song." I will not invade the sanctity of domestic grief, to speak of those who are most bereaved by his death. The State he represented must long regret him, and feel his loss. But it is a loss to the whole country; for, emphatically, in our country, because of the nature of its Government, its safety and its wealth are the intelligence, the integrity, and the patriotism of its citizens; each owes to all his best exertions for the common good, and it peculiarly belongs to the public servant to meet whatever hazards may lie in the path of his duty. At a solemn moment like this, we are warned how vain and transitory are the objects of our pursuit. The eternal surge of time and tide rolls on, and the next wave engulfs alike our labors and our existence. Yet it is well that we do not rise to that dignity of philosophy which would measure things by their true value. It is well that we exaggerate the importance of the little things which occupy us; for it is this exaggeration which gives the necessary stimulus to prompt the public man to sacrifice his ease and private interest to the discharge of his public duty. Shall we not then, even in the midst of this solemn warning, mingle with the reflections which it creates, the tribute of our admiration for the patriotic devotion which forgetful of self, sacrificed the individual to the public interest, and gave substance to the objects which, as we stand by the side of the mournful bier, pass before us, and vanish like fleeting shadows.

Mr. CRITTENDEN. Mr. President, I have but a very few remarks to address to the Senate on this melancholy occasion. General HENDERSON has been long known to me, though I have not ever enjoyed the pleasure of much personal intercourse or acquaintance with him; but from sources of public and private information, and especially from the more animated testimony given by all those who formed the circle of his friends, I have known him well. A concurrent testimony from all these sources has established his character as one of the most estimable of men, amiable, brave, and magnanimous. He was too frank for any concealment, too disinterested and too brave to dissemble. It was not difficult to know such a man. There was no disguise about him. His thoughts were not more free than was the expression of them. He seemed to have no other object in his public life than his country's interest, and the cause of truth. There was not a feeling or a purpose in his heart that he might not have frankly and bravely avowed in the face of the whole world. This is the character of the man; as I have learned it from my own brief and limited intercourse with him, as well as from all the sources of information to which I have had access.

As honorable Senators who have spoken on this occasion have well remarked: in peace, in the bosom of society he was altogether gentle; in war, he was as daring and as forward as the foremost. Soon after the battle of San Jacinto, in 1836, led by his daring and enterprising spirit, he went to Texas to share in her fortunes and participate in her hardships. He took a distinguished part in all the difficulties of rearing up out of the wreck of her revolution an organized and constitutional

community. His personal qualities attracted to him public attention. There was a manifest integrity about him, a courage that none could doubt; a frankness that enabled everybody about him, and all the Commonwealth of Texas, to understand and know him. By this standard they estimated him. He shared in all the honors which they could confer. As we have learned from the illustrious Senator who headed that great revolution in Texas, he was Secretary of State for the infant Commonwealth; he was their ambassador to the great courts of London and of Paris; immediately after annexation, he was made the first Chief Magistrate of the State of Texas; and lately, as I understand, unsought for by him, he was made, by the unanimous vote of the Legislature of Texas, a member of this honorable body.

This is his public career. He may have had his indiscretions, as who of us has not, but they were swallowed up in his many and amiable virtues. After a very brief service here, too short to afford this honorable body the opportunity of judging of him for themselves, he is taken from us. Sir, the grave may confine his body within its narrow limits, but his name will be buried in the hearts of his countrymen, and more especially in the heart of Texas.

From the time when, attracted by her glorious struggle for liberty, he arrived in Texas, he became a chief actor in all the troubled and perilous scenes through which she had to pass; and in those severe and stern trials, which strip from men all disguises, he won for himself the affection and the admiration of the true and brave, the patriotic people of Texas. There, in that glorious little community, the eye-witness of his life and conduct, he was known and judged, and the high trusts and honors which have been awarded to him are honorable testimonials to all the world of the estimation in which he was held.

I repeat, sir, that though the grave may have his body, his name will live and be cherished in the hearts of his many friends, and especially in the grateful, noble heart of the country that he helped to redeem and to save. Texas, with softened heart, will shed tears for his death—warm tears, more precious and honorable to his memory than all the cold marble that could be heaped upon his grave.

Mr. REID. Mr. President, the event which causes the Senate to mourn will cast a gloom over the native, as well as the adopted State of the deceased.

General HENDERSON was a native of Lincoln county, North Carolina, and descended from an ancient and honored family. He chose the legal profession, in which he was eminently successful, till, inspired by a laudable ambition, he left the State to unite his destiny with Texas in her gallant struggle for independence. The part he performed in that contest forms a conspicuous place in the eventful history of that State.

After Texas achieved her independence he was honored, at different periods, with the appointment of Attorney General, Secretary of State, and Minister to France. These positions he filled with fidelity and marked ability. He was one of the commissioners appointed by Texas to negotiate with this Government in relation to the annexation of that Republic to the United States. The active and efficient part he took in the consummation of this great measure is fresh in the recollection of his countrymen.

He was a member of the Texas convention, and subsequently Governor of the State. Then resuming his profession, in which he ranked among the first lawyers of his State, he pursued its practice till called, by the unanimous vote of the Legislature, to fill the seat in this body, made vacant by the death of his lamented predecessor, who, I believe, was his law partner.

During the short period he was permitted to occupy a place in the Senate, though oppressed by a fatal disease, he won the friendship of all, and evinced to the last that patriotic devotion to his country which had characterized his whole life.

His career has been distinguished and useful, without a spot or blemish to dim its luster. The Senate and country will long cherish his memory, and his friends may point to his eventful history with pride and pleasure; but, to the wife of his bosom, and the children of his affection, the loss

is irreparable, and brings with it an anguish that no tongue can describe. I hope they may find consolation in their sad affliction, for "virtue, though planted in earth's ungenial clime, will bloom and ripen in heaven!"

Mr. HAYNE. I would add, sir, only a single word. It was my happiness to become acquainted with that distinguished Senator, now no more. On his way to England and France he visited Charleston; and there I first met with him at the table of my lamented brother. He tarried with us some three weeks; and he won the esteem of every one of us, for not only his gallant bearing, but that noble simplicity of character and truthfulness which marked his whole life. As a statesman, he ranked high. He passed over the water abroad; and there he consummated the object which he went to secure—the recognition of the independence of his State. Sir, he was a bright example to all of us. He had an eye alone to the public good, and the glory of his great country.

Mr. SEWARD. Mr. President, having not long ago taken a part in the tribute rendered by the Senate to a late eminent Senator of Texas, I should have deemed it indelicate to offer my sympathies on this occasion if it had not been intimated to me by the surviving Senator of that State that it would not be unacceptable if I would express the feelings, should I be able to do so, which are entertained by the Senators from that part of the country with which I am more immediately connected. I could not refuse such a request from such a source.

It seemed to me to be one of those marked incidents which occur to us in our lives when the hero of San Jacinto, the founder of Texas, with tears streaming from his eyes, announced to me, a representative from a far distant portion of the Republic, that it would not be unwelcome to Texas if I should bear a part in the funeral honors paid to a late distinguished companion of his in arms and in council. I hope those who do sometimes, as most of us on some occasions do, entertain fears of the centrifugal tendencies in our political system, will take notice of this fact, and of the sincere commingling of sympathy over this bier, and learn that there is a centripetal power in the Senate of the United States and in the Congress of the United States which is able to surmount all the agencies that tend towards a dissolution of this American Union.

Mr. President, it is less than seventy days ago since the honorable Senator, whose loss we deplore, met me, and an acquaintance, gratifying and honorable to myself, was formed, on the basis of his appreciation of the friendship which had existed between his predecessor, the lamented General Rusk, and myself. During that short period that he remained with us I saw every confirmation, in his public course and in his private life, of the virtues and intelligence which are awarded to him by those who belong to the region which he represented.

If anything on this occasion has seemed to me more worthy of remark than another, it is, that although Senator HENDERSON was yet a young man, he had been a most successful and fortunate man, and, at the same time, a type of the public man of America. In listening to the eulogiums which have been pronounced upon him, I have been surprised as they have followed him from the bar to the head of a brigade, from the head of a brigade into the cabinet of his State, from the cabinet into a foreign mission, from a foreign mission back to the bar, from the bar, flushed with success, transferred again to the diplomatic corps—the ambassador of his State to foreign lands, the ambassador of his State to form a union with the United States—thence back again to the bar, then a member of the constitutional convention to frame the organic law for his State, then the Governor of that yet new but already great State, then a major general in the Federal service, and, finally, a Senator in the Congress of the United States. It is a singular and a successful career for a revolutionary man, a man who has spent his whole life in revolutionary times. It was his felicity, one which rarely happens to revolutionary men, that he did not survive either the fortune of his State or its favor.

The resolutions were unanimously adopted.

On the motion of Mr. CLAY, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, June 5, 1858.

The House met at eleven o'clock, a. m. Prayer by the Rev. Mr. KERSHAW.

The Journal of yesterday was read and approved.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

- An act for the relief of Judith Nott;
- An act for the relief of Thomas Hasam and B. S. Brewster;
- An act for the relief of the heirs of Richard Tarvin;
- An act for the relief of John B. Roper;
- An act for the relief of Timothy L. O'Keefe;
- An act for the relief of David Bruce;
- An act for the relief of Dr. Ferdinand O. Miller;
- An act for the relief of Dr. Thomas Antisell;
- An act for the relief of Cornelius H. Latham; and
- An act for the relief of Gardner & Vincent and others.

CASE OF JUDGE WATROUS.

Mr. HOUSTON. Mr. Speaker, I believe the matter in relation to the conduct of Judge Watrous was postponed until this morning, and I suppose it will come up first in order.

The SPEAKER. The motion of the gentleman from Pennsylvania [Mr. EDIE] to suspend the rules is the first business in order.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. ASBURY DICKINS, its Secretary, informing the House that the Senate had passed a bill for the relief of Theresa Dardenue, widow of Abraham Dardenue, deceased, and their children, in which he was directed to ask the concurrence of the House.

ADMISSION OF OREGON.

Mr. STEPHENS, of Georgia. I ask the unanimous consent of the House to take from the Speaker's table the bill (S. No. 239) for the admission of Oregon into the Union, in order that it may be referred to the Committee on Territories.

Mr. EDIE. I must insist on my motion.

Mr. COLFAX. I trust the request of the gentleman from Georgia will be acquiesced in.

Mr. EDIE. Well, I have no objection.

The bill, no objection being made, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Territories.

Mr. BINGHAM. I have an amendment for that bill in the nature of a substitute, which I desire to offer when the bill comes up for action. I ask that it may be referred with the bill, to the Committee on Territories, and printed.

It was so ordered.

EDWIN M. CHAFFEE.

The SPEAKER stated that the business first in order was the motion of the gentleman from Pennsylvania [Mr. EDIE] to suspend the rules to enable him to move that the Committee of the Whole House be discharged from the further consideration of the bill (H. R. No. 348) for the relief of Edwin M. Chaffee; upon which tellers had been demanded.

Tellers were ordered; and Messrs. DEAN and HAWKINS were appointed.

The House divided; and the tellers reported—yeas 89, noes 44.

Mr. JONES, of Tennessee, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 92, nays 70; as follows:

YEAS—Messrs. Abbott, Ahl, Andrews, Arnold, Bennett, Billingshurst, Bingham, Bliss, Bowie, Brayton, Burlingame, Burns, Case, Cavanaugh, Chaffee, Chapman, Ezra Clark, Clawson, Cobb, Clark B. Cochrane, Colfax, Corning, Cragin, James Craig, Curtis, Davidson, Davis of Massachusetts, Dean, Dewart, Dunick, Durfee, Edie, Elliott, Florence, Foley, Foster, Gilman, Gilmer, Goodwin, Grainger, Gregg, Robert B. Hall, J. Morrison Harris, Hatch, Hopkins, Howard, Kellogg, Kelsey, Kilgore, Knapp, Jacob M. Kunkel, John C. Kunkel, Leidy, Leiter, Lovejoy, Maclay, Humphrey Marshall, Mason, Maynard, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mort, Nichols, Palmer, Parker, Pettit, William W. Phelps, Pike, Potter, Purviance, Ready, Reilly, Robbins, Roberts, Royce, Savage, Scott, Searing, Aaron Shaw, Robert Smith, William Smith, James A. Stewart, William Stewart, Tap-

pan, George Taylor, Thayer, Tompkins, Walbridge, Waldron, Walton, White, Wilson, Wood, Wortendyke, and Augustus R. Wright—92.

NAYS—Messrs. Anderson, Atkins, Avery, Barksdale, Bishop, Bonham, Branch, Buffinton, Caskie, John B. Clark, Clay, Clemens, John Cochrane, Cockerill, Comins, Crawford, Curry, Davis of Indiana, Dawes, Dodd, Dowdell, Edmundson, Eustis, Faulkner, Garnett, Gartrell, Gooch, Goode, Groesbeck, Lawrence W. Hall, Harlan, Thomas L. Harris, Hawkins, Hill, Hoard, Houston, Hughes, Jackson, Jewett, George W. Jones, J. Glancy Jones, Kelly, McQueen, Samuel S. Marshall, Miles, Miller, Morgan, Murray, Pender-n, John S. Phelps, Pottle, Quitman, Ricard, Ritchie, Ruffin, Russell, Sandidge, Henry M. Shaw, John Sherman, Shorter, Sickles, Spinner, Stanton, Stevenson, Miles Taylor, Thompson, Underwood, Wade, Ellihu B. Washburne, and Winslow—70.

So the two thirds not voting in favor thereof) the rules were not suspended. During the call of the roll, the following proceedings took place:

Mr. LETCHER. I was not within the bar when my name was called. I was detained in the Ways and Means Committee room.

The SPEAKER. On business of the House?

Mr. LETCHER. In the discharge of my duties as a member of the committee. Does the Chair think I have a right to vote under these circumstances? Because it may happen that I shall be engaged there during a great part of the remainder of the session, and I do not want to lose my right to vote here.

Mr. JONES, of Tennessee. If the gentleman would ask leave of the House for his committee to sit during the sessions of the House, he would then have the right to vote when absent on the business of the committee.

Mr. PHELPS, of Missouri. To settle this matter at once, I ask the unanimous consent of the House that the Committee of Ways and Means have leave to sit during the sessions of the House.

Mr. BARKSDALE. I object.

Mr. PHELPS, of Missouri. It is absolutely necessary.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. BARKSDALE. I object.

Mr. TALBOT. I was not within the bar when my name was called, or I should have voted "no."

Mr. PHELPS, of Missouri. I now renew the request which I made just now—that the Committee of Ways and Means have leave hereafter to sit during the sessions of the House. I understand that the gentleman from Mississippi withdraws his objection.

Mr. BARKSDALE. I objected because I do not believe that distinctions should be made between committees of the House. But, as it is near the close of the session, and as the Committee of Ways and Means has very important duties to discharge, I am willing, under the circumstances, to withdraw the objection.

No further objection being made, leave was granted to the Committee of Ways and Means to sit during the sessions of the House.

The result of the vote having been announced as above recorded,

Mr. MORGAN moved to reconsider the vote; and also moved to lay the motion to reconsider upon the table.

The SPEAKER. The Chair cannot entertain the motion to reconsider, inasmuch as the motion of the gentleman from Pennsylvania can be repeated *ad infinitum*.

CASE OF JUDGE WATROUS.

Mr. HOUSTON. I now propose to call up the report of the Judiciary Committee on the subject of the impeachment of Judge Watrous. The House will remember that, a few days since, when a report was made by myself, from the Committee on the Judiciary, the matter was postponed until this morning, and leave was given to the three branches of the committee that they should be allowed until this morning to present their reports to the House. It is important that the reports should be presented this morning. The branch of the committee with which I act is ready to report; and I desire now, if the other branches of the committee are ready, to present our report to the House.

Mr. READY. In behalf of one branch of the committee with whom I act, I must say to the House that we are not ready at present to make a report. We have a report in course of preparation; we have been doing all we could to complete it, and shall be ready, certainly, by Monday next to present it. It has been utterly impossible to prepare it up to this time; and we must therefore

throw ourselves upon the indulgence of the House until Monday morning. It is a subject of great importance. There is an immense mass of testimony, oral and written, which must necessarily be gone over, to some extent, in order to be able to present the prominent points.

There are a good many questions which may probably come up in the course of the investigation of the subject, and as that portion of the committee with which I act differ in the degree of guilt to be ascribed to Judge Watrous by another portion of the committee, inasmuch as we hold the negative, it is a matter of more labor perhaps to prepare a report, than it is to prepare a report on the affirmative side of the question. We have, to some extent, at least, to go upon the suppositions as to the points which will be presented by the affirmative report. Of course we are anxious to meet all the points which may arise in the case, and it may turn out that we will spend a good deal of time and labor upon points which will not be presented. But we are not certain of that. We have not had perhaps as full information upon the points on which that portion of the committee who hold the affirmative will rely in their report, as we should have desired. We have not, of course, seen their report. Their points were not stated in committee; and, though I am bound in justice to some of the gentlemen to say that, in conversation with them since, they have manifested a disposition, in response to my inquiries, to give me information as to the points upon which they will rely, the negative have, perhaps, to use a common expression, "the laboring oar in their hands."

Mr. WINSLOW. I desire to ask if there is any report of the majority in this case at all? Have they recommended any action to the House?

The SPEAKER. There was a report presented the other day by the majority of the committee.

Mr. READY. A simple resolution, stating that they had been unable to agree.

Mr. WINSLOW. So I understood—that four of the committee were in favor of impeachment and four against it.

The SPEAKER. The Chair will state, that a few days ago a report was presented from the committee—a unanimous report, as the Chair understood—setting forth the fact, that in committee, four of the members were in favor of articles of impeachment, and four against it. The report further craved permission of the House that each branch of the committee should be permitted to present their views to the House to-day. The gentleman from Alabama, as the Chair understands, as the representative of one branch of the committee, proposes now to submit his report. The gentleman from Tennessee, [Mr. READY,] representing the other branch, states that he is not ready to submit his report.

Mr. WINSLOW. So I understand it. But does the Chair hold that either of these can be received as reports of committees? I understand that in Parliament a committee must report, or ask to be discharged. If a subject is referred to a committee, as this subject has been referred to the Judiciary Committee, they must report what action the House, in their judgment, shall take. But in this case, instead of executing the order of the House, they come back and tell us they cannot make up their minds what the House ought to do.

Mr. HOUSTON. If the gentleman will permit me, I will explain. The Committee on the Judiciary, under the previous orders of the House, procured a large mass of testimony. When that testimony was closed, upon the voting of the committee, the vote was, of course, taken upon a resolution to impeach, and then upon a resolution setting forth the converse of the proposition. The committee were equally divided, four and four, one member of the committee not having acted with the committee in this investigation. Both resolutions necessarily failed; and then the committee unanimously instructed me to report to the House that fact, together with the two resolutions, and also with the request that the House would allow the various branches of the committee to present their views to-day; for although it is true they were divided four to four upon the resolutions, yet they were divided, four, three, and one upon their reports, one gentleman not being willing to concur in the reasoning of the other three with whom he voted. The House granted the per-

mission which was asked, and now it is the right of the committee to present their views; and though it may not be formal, yet a report was formally presented by me as the organ of the committee; it was received by the House as such, and the permission for the minorities of the committee to present their views granted.

Mr. GROW. I presume it is hardly the intention of the gentleman from Alabama to have the resolutions presented in this case acted upon during the present session. If it would meet the gentleman's approbation, I propose that the several branches of the committee have leave to present their views at any time during the session; that they shall be printed, and the subject postponed until the third Monday in December. The testimony, I understand, is very voluminous, and the House could hardly be expected to act upon it before that time.

Mr. HOUSTON. So far as I am concerned, I should have no objection to that course. I understand the gentleman from Tennessee [Mr. READY] to say that he is not ready to present his report, and desires time until Monday. I, of course, can present no objection to that proposition, though I think it is very desirable that the reports should be presented this morning. I am aware of the great labor which the gentleman must necessarily incur in preparing that report. I can very readily conceive how the gentleman should be justified in the use of the expression that he had the "laboring oar" in his hands. I am willing to concede that, with the evidence before us, it is an easier matter for the affirmative to make out their case, and I presume the House will concede the fact when they come to examine the evidence. But, sir, unless the gentleman is prepared to make his report at this time, I am not willing to present the views of that portion of the committee which I represent at this time, and I therefore move to postpone the matter until Monday, and that the various branches of the committee have leave to report at that time.

I was going to say this in reply to what the gentleman from Pennsylvania has propounded: that it is important that the House should act upon the matter on Monday or Tuesday or Wednesday next, and either adopt a resolution of impeachment or defeat it, especially if the determination of the House shall be to adopt it.

Mr. GROW. How voluminous is this testimony?

Mr. HOUSTON. The testimony which was not in the case at the last session of Congress consists of about four hundred pages.

Mr. GROW. And with that of last Congress, how much?

Mr. HOUSTON. With that of last Congress, it is presumed the gentleman from Pennsylvania is familiar.

Mr. GROW. I know it is very long, but I have not read it through.

Mr. HOUSTON. With that testimony, there will be probably six or seven hundred pages. I answer at a mere guess.

Mr. READY. Over a thousand pages, I should think.

Mr. HOUSTON. Admitted. But I was going to make this reply: when the two reports, or the three reports, come in, as they will come in on Monday morning, if it be postponed to that time, then the members of the House will be able, from an examination of the reports, to come to a conclusion, and vote either for or against the resolution of impeachment. The resolution, as my friend from Pennsylvania very well knows, is simply that a trial shall be had. It does not conclude the rights of Judge Watrous, or of anybody. It simply proposes that the case shall be sent to the Senate for trial.

Mr. GROW. My only object in making the proposition was to facilitate business. I did not propose to interfere with the recommendation of the gentleman. I am satisfied with his explanation.

Mr. HOUSTON. My purpose is, not to put the case out of the control of the House at this time, so that if the House shall determine to pass the resolution, it will have the power to do so. As the gentleman from Tennessee [Mr. READY] proposes to ask till Monday next to make his report, I move that leave be granted, and that the case be postponed till that day.

Mr. READY. One word further. I am very

much obliged to the gentleman from Alabama for the motion which he has made. I think that is the fair and liberal course, and I am only sorry he did not adopt it a little sooner and save the time of the House consumed in this discussion. But I want to say one word in reply to a little fling which the gentleman has made at the portion of the committee with which I act. He says we have the laboring oar, and that he is not at all surprised we would find it difficult to make our report. I join issue with my friend from Alabama. I deny that we have the laboring oar, while I admit that it is a matter of considerable difficulty and time to prepare a proper report. But that is because the grounds on which we suppose the gentlemen with whom my friend from Alabama acts are so intangible and imperceptible that it would require a microscopic vision to perceive anything in them on which to base a report. But still, small and minute as the points may be, we think it is but respectful to the gentlemen with whom we are associated, and also to the House, to meet the points which they may think proper to present. Therefore it is that our report requires so much labor. It is suggested to me to call the previous question.

Mr. HOUSTON. I will do that myself. I regret very much that my friend from Tennessee seems to take it in such high dudgeon that I agree with him—

Mr. WASHBURN, of Illinois. What is before the House?

The SPEAKER. The motion to further postpone the further consideration.

Mr. HOUSTON. I am not going to make a speech. I just wish to say to my friend from Tennessee, that he argued to show that he had the laboring oar, and had a hard case to make out. I agreed with him; and he now complains of me for doing so. I hardly know what to do to satisfy him.

The motion to postpone till Monday next was agreed to.

Mr. HOUSTON moved to reconsider the vote by which the motion to postpone was agreed to, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

DISTRIBUTION OF PUBLIC DOCUMENTS.

Mr. WINSLOW. I ask the unanimous consent of the House to allow me to report back, from the Joint Committee on the Library, the bill (H. R. No. 583) providing for keeping and distributing all public documents. I desire to put it upon its passage. I think there will be very little objection to the bill.

The bill was read. The first section charges the Secretary of the Interior with receiving, arranging, safe-keeping, and distribution of all printed Journals of the two Houses of Congress, and all other books and documents, of every nature whatever, already or hereafter directed by law to be printed or purchased for the use of the Government, except of such as are directed to be printed or purchased for the particular use of Congress, or of either House thereof, or for the particular use of the Executive or of any of the Departments; and for this purpose the Secretary of the Interior is directed to set apart a proper room or rooms in the Patent Office building to be used for this and no other purpose; and the Superintendent of Public Printing, public printer, binder, or contractor, or any other person whose duty it shall be by law to deliver any of the same, shall deliver the same to him there.

The second section provides that it shall be the duty of the Secretary of the Interior to obtain and remove from the other Departments and offices, and from the Congressional Library, and other places where the same are now kept, all such Journals, books, and other documents now on hand and described in the foregoing section; and for this purpose, so much as is necessary of the appropriation made in the following clause of the act entitled "An act making appropriations for certain civil expenses of the Government for the year ending the 30th of June, 1858," approved March 3, 1857, to wit: "For expenses of packing and distributing congressional Journals and documents, in pursuance of the provisions contained in the joint resolution of Congress, approved 28th of January, 1857, \$22,000," as remains unexpended, is appropriated.

Section three provides that a register of such Journals, books, and other documents shall be kept under the authority of the Secretary of the Interior, showing the quantity and kind of each at any time received by him in pursuance of this act; and it shall be his duty to cause to be entered in such register, at the proper time, when, where, and to whom the same, or any part of them, have been distributed and delivered, and to report the same to Congress at the first session of each Congress.

Section four provides that the same shall be delivered out by the Secretary of the Interior only on the written requisition of the heads of the Departments, Secretary of the Senate, Clerk of the House of Representatives, Librarian of Congress, and other officers and persons, private and corporate, who are by law authorized to receive the same, except where by law the Secretary of the Interior is required, without such requisition, to cause the same to be sent and delivered; and that in either of such cases it shall be the duty of the Secretary of the Interior to cause the same to be sent and delivered, the expenses thereof, except when otherwise directed, to be charged on the contingent fund of the Department.

Section five provides that all such Journals, books, and other documents, shall hereafter be distributed according to and for the purposes now prescribed by law, except that the distribution of the same to the Governors of the States and Territories, and to the judges of the courts of the United States, and other officers and public bodies within the States or Territories shall be wholly under the control of the Secretary of the Interior; and the joint resolution approved March 20, 1858, supplementary to the joint resolution of January 28, 1857, respecting the distribution of certain documents, is hereby repealed, except so much of it as strikes out the words "by him" at the end of the third section of said joint resolution, and substitutes in place thereof the words "to him by the Representative in Congress from each congressional district, and by the Delegate from each Territory in the United States;" provided, that such distribution shall first be made at the instance of the Representatives in Congress from districts in which said public documents have not already been distributed, so that the quantity distributed to each congressional district and Territory shall be equal.

Section six repeals the tenth section of an act entitled "An act to establish the 'Smithsonian Institution' for the increase and diffusion of knowledge among men," approved August 10, 1846.

Section seven declares, that by this act the distribution of all the works mentioned in the first section as public documents is intended and directed to be made, except the "Exploring Expedition" conducted by Commander Wilkes.

Section eight provides, that all books, maps, charts, and other publications of every nature whatever, heretofore deposited in the Department of State according to the laws regulating copyrights, together with all the records of the Department of State in regard to the same, shall be removed to, and be under the control of, the Department of the Interior, which is charged with all the duties connected with the same, and with all matters pertaining to copyright, in the same manner and to the same extent that the Department of State is now charged with the same; and that hereafter all such publications, of every nature whatever, shall, under present laws and regulations, be left with and kept by him.

Section nine provides, that the Joint Committee on the Library may, at any time, dispose of duplicate, injured, or wasted books of the library, or any other matter in the library not deemed proper to it, in such manner as such committee may deem best.

Section ten provides, that all such books and documents, when received at the proper office, libraries, &c., as provided by law, shall be kept there and not removed from such places.

DEATH OF SENATOR HENDERSON.

A message was received from the Senate, by Mr. DICKINS, its Secretary, communicating to the House the fact that the Senate had passed the following resolutions:

IN SENATE OF THE UNITED STATES,

June 5, 1858.

Resolved, unanimously. That the members of the Senate, from a sincere desire of showing every mark of respect to

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

TUESDAY, JUNE 8, 1858.

NEW SERIES....No. 171.

the memory of Hon. J. PRICKNEY HENDERSON, deceased, late a Senator from the State of Texas, will go into mourning, for the residue of the present session, by the usual mode of wearing crape on the left arm.

Resolved, unanimously, That the members of the Senate will attend the funeral of the deceased, from the Senate Chamber, at three o'clock to-morrow; and that the committee of arrangements, consisting of Messrs. BAYARD, CAMERON, CLAY, WADE, HAMMOND, and SEWARD, superintend the same.

Ordered, That the Secretary communicate these proceedings to the House of Representatives.

Attest: ASBURY DICKINS, Secretary.

Mr. BRYAN. Mr. Speaker, the announcement just made from the Senate reminds us that another has been stricken from the roll of great men.

Texas again sorrows. She has lost her Rusk and her HENDERSON!

She comes among you, Representatives of the States united, a stricken State. Her mighty men have fallen. She weeps for the loss of the gifted and the able, the eloquent and the chivalrous. HENDERSON was a soldier by nature, a statesman by experience, knowledge, and wisdom; a good man from heart and reason.

He stood in the front rank of southern patriots and Texan heroes. True to his friends, false to no man or cause, he was elevated to the seat that death has just vacated, by the unanimous voice of the Representatives of his State—a place once filled by a Rusk; and which, had health and life been accorded to him, would have been honored by a HENDERSON.

You cannot know him as we in Texas knew him. Had he been spared to us in his usefulness and vigor of health and mind, you would have admired, esteemed, and loved him. His character was frank and liberal, of indomitable will and purity of purpose, with great originality of thought and action. He scorned everything like trick or artifice; with a free spirit and an untrammelled mind, he would have been the Rusk and the Clay of the Senate. This may strike some as language too strong. It is what I mean, and, because believing it to be true, I speak it. Engaged by his bed-side in his last moments, and since in his behalf, I have had no time to prepare such remarks as are appropriate to the occasion. Consequently, I can give but little information as to his early life. Born in Lincoln county, North Carolina, on the 31st of March, 1808, he grew up in that State, in body and in mind, as straight as the pines of the old North State. He fitted himself for the law, and was practicing with success his profession when the wail of Goliad and the stern cry of the Alamo reached his ears.

His noble soul was moved to decisive action. He left the scenes and friends of his childhood for the rough life of a Texan soldier. He came to Texas as a volunteer in 1836, and entered the army as a brigadier-general. When the army was disbanded, he was appointed Attorney General in the cabinet of the President of Texas. He was afterwards appointed Secretary of State. In 1838 he was sent as minister to France, where he remained three years. He here met with his wife, Miss Cox, of Philadelphia. On his return to Texas he was offered a situation in the cabinet, which he declined.

He commenced the practice of the law, with General Rusk as partner, in Eastern Texas. In 1843 he was associated with the resident minister at Washington, Mr. Van Zandt, to negotiate a treaty of annexation with the United States Government. He was a member of the convention that framed the State constitution of Texas, and was inaugurated the first Governor of the State after annexation.

In the war with Mexico, as major general, he commanded the Texan troops called into the service of the States. His gallantry at Monterey placed upon his brow the laurel of the soldier, while his ability as a statesman had previously obtained for him the civic wreath.

Upon the expiration of his gubernatorial term he returned to his home at San Augustine, and resumed the practice of his profession, with emi-

nent success, until he was called by the voice of his State to fill the place of the illustrious Rusk. This position he did not seek; it was thrust upon him. Would that he had never accepted it; for, had he not, he would now be within the influence of the balmy clime of Cuba. He was in Havana when the political strife upon the Kansas question within these Halls was at its height. Believing that his duty to the South and country required his presence here, he came; he came to fall a martyr to his fidelity to the State of his love and the institutions of his section.

Although for a long time he refused to accept office, yet, in retirement, he never forgot the duties of the citizen. He was an active State-rights Democrat, of the Calhoun school; and, as such, contributed as much as, if not more than, any other man in his State, to bringing Texas to the present high position she now occupies among her sisters of the South.

He regarded the continued agitation of the slavery question as full of peril to the Union, and as humiliating to the sovereign States of the South, and destructive of their rights in the Union. He regarded the opposition to slavery as having entered into the head and heart of the great masses of the people at the North, and that they were honest in entertaining this opposition. He believed that nothing could save the South in the Union but union and decisive action on the part of the South. For he thought, until the South convinced the North that they were united in wisdom, feeling, and action, upon that great question, which rises superior to every other, so long would they of the North regard the protests of the South as idle tales made for political effect only. Hence he was opposed to any concession in the late contest upon the Kansas question. We cordially conferred and acted together up to the vote upon the conference bill.

A short time before the vote was taken in the House, he sent for me to come to him in the Senate Chamber. We then finally determined our course. We were both opposed to the measure. He said that he could not vote for it; but, rising superior to and far beyond the feelings of the politician, looking at the future with the forecast of a statesman, he said, "I cannot vote for the bill, but I cannot be instrumental in dividing the South: I would rather know that I am right than aid error for the sake of appearing right; consequently, I will not vote at all." These statements I make as an act of justice to the lamented Senator, so that it may go back to his people that he was ever mindful of the interests and honor of Texas. He died yesterday of disease of the lungs, at half past five, p. m., with his accomplished and bereaved wife, his physician, my colleague, and myself, at his bedside.

He retained his consciousness to the last moment. His last intelligible words were, "It is my last prayer." He has too soon followed (to join) his friend and partner, the noble Rusk. Texas mourns the loss of her noble sons. A great people weep over their hier.

"There is a tear for all who die,
A mourner o'er the humblest grave;
But nations swell the funeral cry,
And triumph weeps above the brave."

Mr. Speaker, I offer the following resolutions:

Resolved, That the House of Representatives of the United States has received with the deepest sensibility intelligence of the death of J. P. HENDERSON, a Senator from the State of Texas.

Resolved, That the officers and members of the House of Representatives will wear the usual badge of mourning for thirty days, as a testimony of the respect this House entertains for the memory of the deceased.

Resolved, That the officers and members of the House of Representatives, in a body, will attend the funeral of J. P. HENDERSON on to-morrow at three o'clock, p. m., in the Chamber of the Senate.

Resolved, That the proceedings of this House, in relation to the death of J. P. HENDERSON, be communicated to the family of the deceased by the Clerk.

Resolved, That, as a further mark of respect for the memory of the deceased, this House do now adjourn.

Mr. QUITMAN. It was but an hour before the meeting of the House that I received a noti-

cation that the members from Texas desired that I should take part in adding a tribute to the memory of their deceased Senator. Without any preparation, therefore, I come before the House to give my full approval to all that has been so eloquently said by my friend from Texas [Mr. BRYAN] in regard to the talents, character, and virtues of the lamented Senator from Texas. It is, sir, but a few months since I was called upon similarly in this House to make some remarks upon the melancholy announcement of the death of the late Thomas J. Rusk, Senator from Texas. Since that time our sister State, yet grieving for the loss of her distinguished and deceased Senator, proceeded to select, from among her most patriotic and well-tried men, a representative of her sovereignty, to fill the place vacated by the death of the lamented Rusk. Following the direction of general public sentiment, the Legislature unanimously selected for this prominent and responsible station J. PRICKNEY HENDERSON, whose lamented death has just been so eloquently announced by the member from Texas, [Mr. BRYAN.]

The garlands cast upon the tomb of the late illustrious Rusk are scarcely withered ere we are again called upon to sympathize with our sister State in the loss of an equally worthy and distinguished successor, who had scarcely taken his seat before he was summoned to another and better world.

Thus, in the short space of a few months, we have twice been called upon to mourn with Texas in her irreparable bereavements. There is, Mr. Speaker, a remarkable parallel between the history and character of these two men, who have succeeded one another so rapidly in the Senate. They were friends, and at one time partners in the practice of their profession. Both, for similar reasons, emigrated to Texas in 1836; both took prominent part in the war of their independence, and in the construction and afterwards the administration of the government which was founded upon the success of that war. Both were ardent friends of annexation; and, at last, both were appointed representatives of their State in the Senate of the United States, and died in the performance of their duties. Both enjoyed the entire confidence of the people of their State, and both departed to their long homes without a stain or imputation upon their private character.

General Rusk had, from his long services in the Federal councils, acquired more reputation beyond the limits of Texas; but it is believed by all who knew General HENDERSON that, had he been favored with an opportunity of displaying his talents and statesmanship, the high traits of character which he possessed, he would soon have been placed amongst the first statesmen of the country.

I knew him personally well, both as a soldier and statesman. We were associated in the attack upon Monterey, in the war with Mexico. We assimilated in political creeds, and after the Mexican war we frequently corresponded upon political subjects. General HENDERSON's public and private character was unblemished and without a stain, and he had traits of character which at once attracted the attention of all who had the good fortune to form his acquaintance. He was frank, high-toned, and honorable, without guile or dissimulation. Abhorring deception in political matters, as well as in private transactions, he gave his opinions on all subjects with candor and truth, never practicing or countenancing dissimulation on any subject. It was these bold and prominent traits that acquired for him in his own State that high reputation and confidence which few ever acquire among their fellow men. It was these noble qualities that drew forth my admiration and respect. I rose, however, Mr. Speaker, merely to add a few words to what has been said by my friend from Texas, and to second the resolutions which have been presented by him.

The resolutions were then agreed to; and the House accordingly (at two o'clock, p. m.) adjourned.

IN SENATE.

MONDAY, June 7, 1858.

Prayer by Rev. J. MORSELL.

The Journal of Saturday last was read and approved.

CREDENTIALS.

Mr. DAVIS presented the credentials of the Hon. ALBERT GALLATIN BROWN, elected a Senator of the United States by the Legislature of the State of Mississippi, for the term of six years, beginning the 4th of March, 1859; which were read, and ordered to be filed.

PETITIONS AND MEMORIALS.

Mr. PUGH presented a petition of citizens of Muskingum county, Ohio, praying the enactment of a general bankrupt law; which was ordered to lie on the table.

He also presented the affidavit of John W. Blake, relative to the election of the Hon. JESSE D. BRIGHT and the Hon. GRAHAM N. FITCH, as Senators of the State of Indiana in the Congress of the United States; which was ordered to lie on the table.

Mr. BIGLER presented a petition of citizens of Bourbon county, Kansas, praying the establishment of a mail route from Kansas City to Fort Scott; which was referred to the Committee on the Post Office and Post Roads.

Mr. KENNEDY presented resolutions of the Legislature of Maryland relative to the construction of a new canal around the falls of the Ohio river; which were referred to the Committee on Commerce.

HOUSE BILL REFERRED.

The bill, (C. C. No. 84,) received from the House of Representatives on Saturday last, for the relief of Ferdinand Coxe, was read twice by its title, and referred to the Committee on Claims.

PETER PARKER.

The bill (H. R. C. C. No. 85) for the relief of Peter Parker, was read twice by its title.

Mr. IVERSON. I wish to make a motion in relation to that bill. The Committee on Claims of the Senate, to which it would be referred, have already considered the question, having had a similar bill before them; and I therefore ask the Senate to act upon it now, without referring it to the committee. The Senate, at the last session, passed precisely the same bill. It simply allows him the difference between his pay as chargé d'affaires and commissioner to China for the time he acted in that capacity. It is, I believe, in accordance with a well-settled principle.

There being no objection, the bill was considered as in Committee of the Whole. It was reported to the Senate, ordered to a third reading, read the third time, and passed.

CORRECTION OF AN ERROR.

Mr. DOOLITTLE. A mistake has occurred in reporting to the House of Representatives the action of the Senate upon House bill No. 356. It was reported to the House by the Secretary of the Senate, as having passed this body without amendment, when, in fact, it passed the Senate with an amendment. I ask leave to move that the House of Representatives be requested to return the engrossed bill, in order that the report from the Senate to the House may be corrected.

The VICE PRESIDENT. The Chair will state to the Senate that this was a House private bill. It passed the Senate with an amendment striking out the second section. By some mistake in the office that amendment was not noticed, and the bill was sent back to the House of Representatives as having passed the Senate without amendment. It has been enrolled and signed by the Presiding Officers of the two Houses, and it will be for the Senate to say what is the best disposition to make of the subject. No doubt the President, on a suggestion, would veto the bill on that ground; but it may be within the power of Congress to arrest it.

Mr. STUART. I should like to know when the bill was passed.

Mr. FOOT. I think it was on Friday.

Mr. STUART. If it was passed last Friday, it can be reconsidered; the time allowed for reconsideration has not expired.

The VICE PRESIDENT. The Chair is in-

formed that the Senate passed the bill on Friday last.

Mr. PUGH. I think it is better to send to the House of Representatives for the bill, and then we can act upon it.

The VICE PRESIDENT. The question is on the motion that the Secretary be directed to request the House of Representatives to return the bill.

The motion was agreed to.

Mr. JONES. I delivered that bill to the President, this morning, and you cannot get it back now without a foot race.

The VICE PRESIDENT. The Chair will state to the Senate that he had a conference with the Speaker of the House of Representatives this morning in regard to the bill, and deeming it probable that the bill had gone to the President, it was suggested between them that the suggestion might be made to him.

Mr. JONES. I took it to the President this morning.

Mr. PUGH. If the bill is here, we had better return it to the House of Representatives; that is the shortest way.

Mr. FESSENDEN. What is the bill?

The VICE PRESIDENT. A bill for the relief of Roswell Minard, father of Theodore Minard, deceased.

Mr. JONES. That is not the bill I alluded to. That has not yet been taken to the President.

Mr. PUGH. Then I move that the Secretary return the bill to the House of Representatives.

Mr. STUART. That cannot be done. The only way to reach it is to go on with a motion to reconsider, and then we can take such action as is necessary. We cannot return a bill to the House unless they request it.

Mr. PUGH. Then I will make a motion to reconsider.

Mr. DOOLITTLE. It strikes me that the point of mistake in regard to this bill was, in making the report from the Senate to the House of Representatives, that the bill had passed the Senate without amendment, when, in fact, it had passed with an amendment. There is the origin of the mistake, and there is the point at which we should begin. The truth is, this bill has now passed both Houses, but there has been a mistake in reporting the action of the Senate to the House of Representatives, and I think the true course for us to take is to request the House of Representatives to return the engrossed bill to the Senate.

The VICE PRESIDENT. That motion has been agreed to.

Mr. STUART. Then, sir, if that be the state of the case, the Senate may correct its message to the House.

Mr. DOOLITTLE. And then the House can concur in our amendment or otherwise.

MISSOURI TWO PER CENT.

Mr. PUGH. I move to reconsider the vote by which the bill (H. R. No. 303) giving the assent of Congress to a law of the Legislature of Missouri, for the application of the reserved two per cent. fund of the said State was referred to the Committee on Public Lands. A similar bill has already been favorably reported upon by that committee, and I think this House bill had better be put on its passage, or placed on the Calendar now.

Mr. HUNTER. It would be better to move to discharge the committee from its consideration.

Mr. PUGH. I make that motion.

The motion was agreed to.

Mr. PUGH. I now ask that the bill to be put upon its passage. It relates to the two per cent. reserved from several States for the purpose of completing the national road. The Government never completed the road west of Springfield, Illinois.

Mr. COLLAMER. I object to the passage of that bill.

Mr. PUGH. It is a fund that belongs to the State.

Mr. COLLAMER. I say it does not belong to the State.

The VICE PRESIDENT. Objection being made, the bill cannot now be considered; but must take its place upon the Calendar.

ANNUAL EXPENDITURE.

Mr. HUNTER submitted the following resolution for consideration:

Resolved, That the President of the United States be requested to cause the heads of the Executive Departments to submit estimates, at the next session of Congress, upon the basis of an expenditure not exceeding sixty million dollars, exclusive of the payment of the public debt for the fiscal year commencing the 1st of July, 1859.

BILLS INTRODUCED.

Mr. STUART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 440) for the relief of James Tilton; which was read twice by its title, and referred to the Committee on Public Lands.

REPORTS OF COMMITTEES.

Mr. STUART, from the Committee on Public Lands, to whom was referred the bill (S. No. 392) to continue the office of register of the land office at Vincennes, Indiana, reported it without amendment.

He also, from the same committee, to whom were referred the following bills, reported them without amendment:

A bill (H. R. No. 489) for the relief of congressional township number twenty-seven north, of range number six east, in Wabash county, in the State of Indiana; and

A bill (H. R. No. 358) for the relief of settlers on certain lands in the State of Illinois.

He also, from the same committee, to whom was referred the bill (S. No. 365) authorizing the judges of the late Territory of Minnesota to discharge certain trusts, reported it with amendments.

He also, from the same committee, to whom was referred the bill (S. No. 34) explanatory of an act entitled "An act to settle certain accounts between the United States and the State of Mississippi and other States," approved the 3d of March, 1857, reported it without amendment, and submitted a report; which was ordered to be printed. The bill was ordered to lie on the table, no action on the subject being deemed necessary.

He also, from the same committee, to whom was referred the bill (S. No. 433) to run, mark, and survey the western boundary of the State of Minnesota, reported it without amendment.

He also, from the same committee, to whom was referred the memorial of the city of St. Paul, Minnesota, reported a bill (S. No. 441) relinquishing the interest of the United States in certain land to the city of St. Paul, Minnesota; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the bill (S. No. 432) to amend an act entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1856," reported it with an amendment.

He also, from the same committee, to whom were referred the following bills and resolution, asked to be discharged from their further consideration; which was agreed to:

A bill (S. No. 105) to ascertain and adjust the titles to certain lands in Kansas;

A bill (S. No. 246) to provide for the geological and mineralogical survey of the Territory of New Mexico;

A joint resolution (S. No. 27) authorizing the suspension of sales of public lands in the Territory of Kansas;

A bill (S. No. 24) to secure to actual settlers the alternate sections of the public lands reserved in the grants to the States for railroads;

A bill (S. No. 415) to extend the principles of the preemption act to certain lands herein mentioned, and for other purposes;

A bill (S. No. 378) to enable Columbian College, in the District of Columbia, to found and establish a professorship of agriculture and mechanical science, and to complete her endowment fund, and for the benefit of the public schools of Washington, District of Columbia; and

A bill (S. No. 379) to enable the Columbian College, in the District of Columbia, to found and establish a professorship of agriculture and mechanical science, and complete her endowment fund, and for the benefit of the public schools of Washington, District of Columbia.

He also, from the same committee, to whom was referred two petitions of citizens of Wash-

ington, praying a donation of land or an appropriation of money for the permanent endowment of the Columbian College in the District of Columbia; a memorial of the trustees of Columbian College, at the city of Washington, praying a grant of land for the endowment of said college; a memorial of the Minnesota Legislature, praying relief to those settlers whose preëmption claims have been lost by the grant of lands to Minnesota for railroad purposes; a petition of R. T. Walton and other heirs-at-law of Jehu Walton; a memorial of the Minnesota Legislature for an amendment to the second section of an act granting land to Minnesota for railroad purposes; a petition of commissioned officers of the rifle company of the fourteenth regiment of the fourth division of Michigan militia; a resolution by Mr. JONES instructing the Committee on Public Lands to inquire into the expediency of establishing two new land offices in Nebraska Territory; a petition of citizens of the town of Fort Scott, Kansas; a petition of citizens of Bourbon county, Kansas, settlers on lands known as the New York Indian lands; a petition of S. Gilbert and others, praying that a grant of land may be made to aid in the construction of a ship canal around the Falls of Niagara; a petition of Noah Gammon; a memorial of the Legislature of Missouri, praying that the unsurveyed swamp lands may be patented to that State without being surveyed; resolutions of the Legislature of California in favor of the enactment of a law granting to that State five per cent. of the proceeds of the sales of the public lands in California for school purposes; resolutions of the Legislature of Wisconsin in favor of a donation of land to aid in the construction of a ship canal around the Falls of Niagara; a resolution of the Legislature of California in favor of the enactment of a law granting land to actual settlers in that State; a petition of E. G. Spaulding and others, that the public lands be not granted to corporations; resolutions of the Legislature of California in relation to school lands in that State; a communication from A. J. Moulder, superintendent of public instruction of California; a memorial of the Legislature of Nebraska in relation to the establishment of a new surveying district and the office of surveyor general for that Territory; a petition of citizens of Buffalo, New York, against the granting of the public lands to corporations, and that they be retained for actual settlers only; asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom were referred the memorial of the register and receiver of the land office at Detroit, Michigan; a memorial of the register and receiver of the land office at Huntsville, Alabama; a memorial of the register and receiver of the land office at Helena, Arkansas; a memorial of the register and receiver of the land office at Fort Des Moines, Iowa; a memorial of the register and receiver of the land office at Jackson, Mississippi; a memorial of the register and receiver of the land office at Indianapolis, Indiana; a memorial of the register and receiver of the land office at Fort Dodge, Iowa; a memorial of the register and receiver of the land office at Montgomery, Alabama; a memorial of the register and receiver of the land office at Huntsville, Alabama; a memorial of the register and receiver at the land office at Fayette, Missouri; a memorial of the register and receiver at the land office at New Orleans, Louisiana; a memorial of the register and receiver of the land office at St. Stephens, Alabama; a memorial of the register and receiver of the land office at Superior, Wisconsin; a memorial of the register and receiver of the land office at Washington, Mississippi; and a memorial of the register and receiver of the land office at Mineral Point, Wisconsin, severally praying an increase of compensation, asked to be discharged from their further consideration; which was agreed to.

Mr. JONES, from the Committee on Pensions, to whom were referred the following bill and joint resolution, reported them without amendment:

A bill (H. R. No. 342) for the relief of John Campbell; and

A joint resolution (H. R. No. 36) giving construction to the second section of the act of February 3, 1853, "to continue half pay to certain widows and orphans."

Mr. THOMSON, of New Jersey, from the

Committee on Pensions, to whom was referred the bill (H. R. No. 258) for the relief of Augustus J. Kuhn, reported it without amendment.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of citizens of Barnstable, Massachusetts, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 264) granting a pension to Thomas Allcock, of Rochester, New York, reported it with an amendment.

Mr. HUNTER, from the Committee on Finance, to whom was referred the bill (H. R. No. 558) making appropriations for the transportation of the United States mail by ocean steamers and otherwise, during the fiscal year ending the 30th June, 1859, reported it with amendments.

Mr. CLAY, from the Committee on Pensions, to whom were referred the petition of William R. Whiting; resolutions of the Legislature of New York, relative to pensions to soldiers of the Indian wars of 1791 and 1795; the petition of Margaret McGuire; and the memorial of Elizabeth Spear, asked to be discharged from their further consideration; which was agreed to.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom were referred the papers relating to the claim of Louis Roberts; the papers in relation to the claim of Alexander Wood, administrator of the estate of William Wood and George M. Wood; the papers relating to the claim of Adam P. Shegley; the papers in relation to the claim of John N. Dodgson; the papers in relation to the claim of Alexander Wood, administrator of the estate of Josiah W. Stewart; the memorial of George T. Durham; and the petition of Samuel J. Hensley; asked to be discharged from their further consideration; which was agreed to.

Mr. ALLEN, from the Committee on Commerce, to whom were referred two memorials of citizens of New York and Brooklyn, praying the adoption of measures to ascertain the correctness of certain alleged discoveries of guano in Jarvis and Bakers' Island, in the Pacific ocean, the quality of guano, and its accessibility to merchant vessels, submitted a report; which was ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. ALLEN, its Clerk, announced that the House had passed the following bills, in which the concurrence of the Senate was requested:

A bill (No. 647) to change the time of holding the spring term of the district court of the United States for the western district of Texas; and

A bill (No. 648) for the relief of Gottlieb Scherer.

The message further announced that the House had passed the following bills of the Senate:

A bill (No. 198) for the relief of Joseph Hardy and Alton Long; and

A bill (No. 230) for the relief of the legal representatives of Daniel Hay, deceased.

MARY A. M. JONES.

Mr. THOMSON, of New Jersey. On Friday last, the bill (H. R. No. 42) granting a pension to Mary A. M. Jones, was passed; but afterwards, a motion was made to reconsider, and that motion was taken up and agreed to. I ask that the bill may now be taken up and put upon its final passage. I make that motion.

The motion was agreed to; and the Senate resumed the consideration of the bill; the question being on its passage.

Mr. TOOMBS. I ask the Senator from New Jersey upon what principle this bill is founded; what are the grounds on which this pension is excepted from the general law of the land, which does not allow it? and then, if he thinks proper to answer the question, I have some observations to make.

Mr. THOMSON, of New Jersey. Let the report be read.

The Secretary read the following report, made in the House of Representatives by Mr. FLORENCE, on the 12th of March last.

The Committee on Invalid Pensions, to whom was referred the petition of Mrs. Mary A. M. Jones, widow of the late Brevet Major General Roger Jones, report:

That they have carefully examined the claim, and fully concur in the report made to the House by the Committee on Invalid Pensions at the first session of the Thirty-Third

Congress. That report is herewith annexed and made part of this.

IN THE HOUSE OF REPRESENTATIVES, June 13, 1854.

Mr. DEUT, from the Committee on Invalid Pensions, made the following report:

The Committee on Invalid Pensions, to whom was referred the petition of Mrs. Mary A. M. Jones, widow of the late Brevet Major General Roger Jones, report:

That the petitioner is the widow of the late Brevet Major General Roger Jones, who entered the military service of his country in 1809, and so continued to the day of his death, July 15, 1832; that he served throughout the war of 1812, and was distinguished in almost every action fought on the Canada frontier; was wounded with a bayonet in one, and was twice brevetted for gallantry on the field of battle; that he filled the important post of Adjutant General from 1825 to the day of his death—in the language of the Commander-in-Chief of the Army, "bringing to the discharge of his highly difficult and responsible duties an intelligence, honesty of purpose, and untiring devotion, which carried him through every emergency with credit to himself and advantage to the public service." That his distinguished and valuable services during the Mexican war won for him the brevet of major general, it being the fifth brevet won by him for gallant and meritorious services. It is clearly proved by his attending physician and other testimony, that the close and continued confinement, occasioned by the accumulation of business in the Adjutant General's office during the Mexican war, impaired his health, undermined his constitution, and abridged his life; in fact, that the unintermitting and arduous labors called for by the exigencies of the public service—labors which he perseveringly and often painfully discharged at times when his enfeebled health demanded a relaxation of his official duties—were eventually the cause of his death.

The petitioner was left, by the untimely death of her husband, with a family of eleven children, eight of whom are infants and daughters, without adequate means for their education and support, which has compelled her to appeal to the equity and justice of Congress for relief by way of pension, according to the usage in such cases, furnishing numerous precedents of the last and present Congress in cases analogous to hers. The committee, in view of the facts, the long and distinguished services of General Jones, and the impoverished condition of the widow and children, report a bill.

Since the date of that report your committee have received the following letter from Major General Winfield Scott on the subject:

February 9, 1858.

I beg to say to the Hon. Mr. Jewett, and the House Committee on Pensions, that I was intimately acquainted, throughout his long services, with the late Major General Jones, having often seen him in battle, and almost daily, for a great many years, in his capacity of Adjutant General. I am, therefore, enabled to say, from personal knowledge, that nearly all the facts set forth in the within memorial I know to be perfectly true, and those not witnessed by me I fully believe to be true. So much merit, continued in various ways for so many years, it would be difficult to exaggerate, as it would be the merits of the family seeking relief at the hands of a great and liberal country.

WINFIELD SCOTT.

Your committee report a bill.

Mr. TOOMBS. I moved the reconsideration of this bill because it was establishing a precedent as to pensions to which I am opposed. The officer to whose widow it is sought by this bill to give a pension was a gentleman of character, and did his duty—a brave and courageous man; but for the last thirty years of his life he was in this city as Adjutant General of the Army of the United States. This is not one of the cases in which the law of the country, and I think the policy of the country, have entitled the family to a pension. He died after a residence of more than thirty years in this city, in the bosom of his family, with a compensation the greatest allowed in any Army in the world. There are no special reasons of any sort connected with this case. During the Revolution no man's widow was pensioned unless he died in action. For fifty years afterwards no man's widow was pensioned. It was in 1832 that the first pension to widows was granted, on the ground that they had shared with the soldiers in the toils and privations of the revolutionary struggle. Subsequently it was carried to those who were married before 1794, and then to 1800; and within the last four years you have given pensions to those who were widows of revolutionary soldiers, no matter when they were married. It was the general relaxation of principle under the tendency of the country, day by day increasing, of squandering the public money upon any object whatever.

Now, sir, this bill establishes a principle which, if it be a sound one, ought to be universal, and ought to be extended to the case of every man who has done his duty, as long as he lived. As to so much of the report as states that the life of General Jones was abridged by attending to his duties, it is discreditable to the committee of the other branch to report it. It is not a reason. He attended to civil duties five or six hours of the day, and he lived to a ripe old age. I believe he passed the ordinary period of life which the good book

prescribes. I think he went beyond his three-score years and ten. He lived to a green old age, and died in his bed, after spending the last thirty or forty years of his life in this city as Adjutant General of the Army of the United States, with high emoluments, and had not even seen the face of an enemy from his early youth.

If this bill be passed, you ought to give a pension to the widow of every officer who dies in his bed. The whole policy is wrong. If you are going to grant pensions on exceptional grounds, the exception ought to be for some great and eminent service. If you take anybody out of the rule, you ought to do it for exceptions plain, apparent, and very carefully done. This very committee, I think, has refused to grant a pension to the widow of another officer of merit and distinction, Colonel Turnbull. I do not know that that was well refused; I only say this is ill granted, and on insufficient reasons. It will not do to speak of the toils of office. Probably there is not a gentleman in this body who could not make as good a case. I have heard complaint that our sittings here and long service impair the health of some gentlemen, and many have lost their lives while in the Senate. Why not give pensions to their widows? Sir, this is made a pretense; it is not a reason for pensions. It is against the well-settled policy of the Government, established from the foundation of the Republic. This is a system of favoritism that ought not to be allowed. To record my protest against the case, and against the policy, I shall call for the yeas and nays on the passage of the bill.

Mr. THOMSON, of New Jersey. The honorable Senator from Georgia objects to the passage of this bill on the ground that it establishes a new precedent. Now, sir, nothing in the world can be a greater mistake than that. Congress has been in the habit of legislating in this way, granting pensions to widows in a great many cases; and, with the permission of the Senate, I will state a few. Mrs. Margaret L. Worth, widow of the late Brevet Brigadier General Worth, received a pension of fifty dollars a month, by the act of January 7, 1853; Mrs. Elizabeth Armisted, widow of Colonel Armisted, of the third artillery, received a pension by the act of January 20, 1853; Mrs. Elizabeth McNeil, widow of the late Brigadier General McNeil, who was not in the Army at the time of his death, or for many years previous, received a pension by the act of February 11, 1853; Mrs. Mary V. Lomax, Mrs. Frances E. Baden, Mrs. Elizabeth Monroe, Mrs. Mary E. Winship, and many others, have received pensions on the same principle. All those acts have been passed by Congress, granting pensions to widows of meritorious officers who had died, not from wounds received or disabilities incurred in the service of the United States. The case is a highly meritorious one, and I hope this bill will pass.

Mr. HAYNE. I rise to say a single word. I can tell my distinguished friend from Georgia that the cases of Colonel Turnbull and General Jones, between which he has drawn a parallel, are exceedingly different. He understands as well as any individual, the difference between a veteran soldier from A to Z, and a young man of high talent, character, and respectability, as Colonel Turnbull was. I cannot, on this occasion, avoid saying a word in behalf of an old comrade who, from the moment he joined the service, performed the most arduous duties, distinguished himself in every engagement; a man of liberal feelings, honest, praiseworthy in every respect; who left behind him a large family in poverty. After the cases stated by my honorable friend from New Jersey, I do not see why this is not the strongest case of the whole. General Jones was wounded in action. At Chippewa, at Bridgewater, on every occasion that added honor to the glory and fame of the country, Jones was always at his post, imitating the Father of his Country, being a native of the same State.

Mr. SLIDELL. I should like to be informed what will be the pension granted under this bill. It directs the Secretary of the Interior to put the name of Mrs. Jones on the roll of pensions, and pay her a pension at the rate of one half the monthly pay to which her husband was entitled at the time of his death. I always prefer, when voting for a bill of this sort, to know exactly what I am voting for; and if the Senator who reported

the bill will inform me what one half the monthly pay of her late husband was, I shall be glad to know.

Mr. THOMSON, of New Jersey. I think about fifty dollars a month; not exceeding that.

Mr. SLIDELL. Then I should prefer to say in this bill "not exceeding fifty dollars a month." I would vote for the bill in that form. I move that amendment.

Mr. IVERSON. I suggest that the best course would be to insert the word "proper" after the word "pay."

Mr. SLIDELL. Say not exceeding fifty dollars a month.

The VICE PRESIDENT. The amendment can only be received by unanimous consent at this stage. The Chair hears no objection. The question is on the amendment.

Mr. MASON. I understand that the language of the bill is that adopted by the usage of legislation and understood by the Department. One half the pay per month is the ordinary pension given. That is considered to mean one half the pay proper. The bill comes from the House of Representatives; the application has been before Congress for several years; and I should be very much indisposed now to agree to any amendment.

Mr. SLIDELL. I had occasion to look at this subject lately, as I introduced a bill the other day for the relief of the widow of General Smith, and I prepared that bill in conformity to past usage. I really do not know what the half pay of a major general is. I very much prefer to call things by their right names. Though I am not inclined to support these bills generally, I am not at all opposed to an allowance of fifty dollars a month to Mrs. Jones; and I really can see no sort of objection to putting into the bill an amendment that it shall not exceed fifty dollars a month. The idea thrown out that to amend the bill will cause difficulty in the House of Representatives, is a mere bugbear. There is no difficulty at all. If the bill be sent back to the House of Representatives with such an amendment, the House will concur in the amendment, and the bill will be finally passed before the adjournment of Congress, without the slightest difficulty.

Mr. JONES. I hope the amendment of the Senator from Louisiana, will not be agreed to. These pensions are gratuities granted by the Government of the United States to the families of the brave men who have served their country. There is no exact rule by which to judge of the amount that shall be paid to them, and I insist upon it, that if paid at all, they ought to be paid liberally. It has been the uniform practice in both Houses of Congress to report a bill granting half the pay to which the officer was entitled at the time of his death according to his rank, and I hope that will be given in this case, whether it amounts to fifty dollars a month or seventy-five dollars a month. I hope, that as gallant a man as General Jones was, may be honored after his death by a pension to his widow and children of half the amount of his monthly pay, whether it be seventy-five or one hundred dollars. In fact, however, it is not more than forty-five or fifty dollars. The Senator from Louisiana wishes to fix it at fifty dollars. That will cause the bill to go back to the House. There is no rule by which to judge of the matter. It is altogether a matter of gratuity on the part of the Government, and if we propose to be liberal, I want to be really so. I shall vote against the amendment.

Mr. TOOMBS. I am very much astonished at the indifference, I will not use another term, of the statements made by gentlemen as to the rule. If this man had died, sword in hand, storming the city of Mexico, his widow would have got the half pay of a lieutenant colonel in the Army, and no more.

Mr. JONES. Under the general law.

Mr. TOOMBS. The Senator said there was no rule. Here is a rule. Will Congress make an exception when a man dies in his bed after forty years' residence in this capital? Will it give greater pay to his widow than to the widow of a man who dies storming the batteries of the enemies of the country? Take all the men who shed their blood on the Canada frontier, at New Orleans, in Mexico, and not one of their widows gets more than the half pay of a lieutenant colonel. That is the law of the land. You may make an exception of course; you may give any favorite

the pay of a lieutenant general; but if General Scott fell to-morrow in defense of the flag of his country, his widow could only get half the pay proper of a lieutenant colonel in the Army of the United States by law.

But the honorable Senator from New Jersey tells me of instances. What are his instances? He is mistaken as to my ground. I said it was against principle and against ancient practice; and every case he read was in 1853, or since that time. His precedents were set when we were departing from principle, when we were breaking up the very moorings of the Republic, when we have carried the Government from \$30,000,000 to \$80,000,000 a year, and there is no arresting the sluice—it is then that these extraordinary precedents come in. You did not apply any such principle to the men of the Revolution. My honorable friend from South Carolina talks of the gallantry of General Jones in two or three actions of the last war with England. Sir, there were brave men before Agamemnon. The men who shed their blood on the fields of the Revolution never got this bounty. The men who shed their blood in defense of your flag in the war of 1812 never got it. Why, then, shall the family of this man get it? Is it a question of patriotism? No, it is one of favoritism. There are thousands of cases where men have died sword in hand, and you have given their families what the country has judged a fair compensation; and more than that, it was part of the contract of their blood. You gave it to them when they entered the Army. They did not get a gratuity—which ought not to be given to anybody. Every case which has been presented or can be presented by the Senator from New Jersey, on behalf of the Committee on Pensions, is since 1853. Then, for seventy years of the Republic, there is not a case to be found by the committee; none for the Revolution; none for the war of 1812; none for your Indian wars. But for a few years past, when Congress has become profligate; when favoritism, not principle, rules their action; such provisions have been made. Some of the cases which he cited, however, were really within the equity of the general law, and then they ought to be exceptions. I recollect one case that met me here, where an officer was killed in the discharge of his duties. It was not in war, but he was engaged in arresting some deserters, and was killed while performing that duty. That was one of the cases. The case of McNeil was a flagrant violation of all principle. It passed here, as many other cases pass the Senate and House of Representatives, *sub silentio*, when principle is departed from. For the first forty years of the Government, if you look over the different reports of the Committees on Pensions, as I did when I served on that committee, you will find that they put them down on hard principles, and stood to them. Favoritism did not then control. It is only within the last four or five years that this profligacy has led to the violation of principles established since the foundation of the Government, bestowing gratuities and bounties on whoever would ask for them.

I know, sir, that it is a disagreeable task to oppose such bills. I know it brings nothing probably but denunciation. I know it is painful. I knew this man well. I had a high estimate of him as a gentleman who did his duty, and did it faithfully; but he was well rewarded for it. He reached the highest honors of his profession. At one time, I know, because we supposed he did not get his office of Adjutant General quite as soon as he ought to have got it, because Mr. Monroe did not act as we thought he ought to do, he came to Congress, and a special act was passed giving him \$5,000 for an office he never held. Now, when he dies; after the Mexican war; after he has lived beyond the appointed age of mankind; we are told that his widow shall have half the pay of a major general in the United States Army. This cannot be a stronger case than that of many who have shed their blood in defense of the country. The bill ought to be amended, at least, to bring it down to half the pay of a lieutenant colonel in the Army; and I move that amendment; but I suppose the Senate will pass this, or any other bill, for a pension.

The VICE PRESIDENT. The present amendment is that offered by the Senator from Louisiana, which came in by unanimous consent.

Mr. TOOMBS. I hope the Senator from Lou-

isiana will accept my amendment, as the general rule of pensions is not to allow more than half the pay of a lieutenant colonel, in any case.

Mr. SLIDELL. I prefer not. I shall make no opposition to the passage of a bill for the relief of Mrs. Jones to the extent I suggested. It is the same rate allowed to the widow of Major General Worth, and other officers of similar grade. I should rather present the amendment in the form I offered it.

Mr. PUGH. It seems to me that my friend from Georgia is mistaken in the point on which he presses his amendment. It is undoubtedly true that General Jones, at the time of his death, was a brevet major general; but he never, as far as I learn, was assigned to his brevet rank. He was simply assigned to discharge the duties of Adjutant General, his ordinary rank being that of a colonel; and we all know that brevet rank confers no extra pay unless the officer is assigned to his brevet rank. He was brevetted as brigadier general, and afterwards, for services during the Mexican war, as major general; but I am not aware of any order of the Department assigning him to his brevet rank. He was simply serving as a colonel on the staff, for the rank of Adjutant General is a colonel; and, if that be so, this bill, as it now stands, will only give his widow half the pay of a colonel.

Mr. SLIDELL. How much is that?

Mr. PUGH. I am not able to state exactly. It was increased last year; but I think it cannot be more than fifty dollars a month. That increase was made since the death of General Jones. My recollection is, that this bill is in the language of the bill for the relief of Mrs. General Worth.

Mr. SLIDELL. It is not. I examined that bill the other day. That bill expressly puts Mrs. Worth on the pension roll at the rate of fifty dollars a month; and I want to assimilate this bill to that.

Mr. PUGH. I have sent to the clerk of the Military Committee to ascertain the exact amount this bill will allow. My impression is, that it will not go over fifty dollars a month.

Mr. SLIDELL. Then there can be no objection to fixing that sum.

Mr. PUGH. This bill will only allow half the pay of a colonel at the time of General Jones's death, before the increased rates of compensation now allowed to the Army. It is not the half pay of a major general or a brigadier general. That is not in any sense pay proper. As to what my friend from Georgia said in other respects, undoubtedly we have a general law, by which a pension equivalent to half pay of a lieutenant colonel may be granted for five years, and renewed for five years more, and, under a law passed at this session, may be extended for life; but the very object of these private bills is, that the Senate and the House of Representatives may carry out the equity of the general statutes. If Mrs. Jones were entitled to a pension under the general law, she would not come here at all. It is because her case, on the statement of General Scott, and the statement of the physician, which I had occasion to examine at the last Congress, satisfied me that she was entitled, under the equity of the general law, to a pension, that I brought in the bill at that time, referred it to the Committee on Pensions, and it passed the Senate unanimously, in almost the very words of this bill. My impression at that time was, that she would have half the pay of a colonel, and I suppose that will be the construction of the bill now.

Mr. THOMSON, of New Jersey. I wish to call the attention of the distinguished Senator from Georgia to an act that was passed on the 15th of January, 1798, to show that this system of pensions is not so modern as I understood him to intimate.

Mr. TOOMBS. Allow me to say that I took the Senator's cases, and I was perfectly accurate in stating that he gave none before 1853. If he brings more, I shall, if necessary, reply to them.

Mr. THOMSON, of New Jersey. The act of 1798, to which I have alluded, was in these words:

"An act authorizing the payment of certain sums of money to the daughters of the late Count De Grasse, approved January 15, 1798.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in consideration of the important services rendered to the United States by the late Count De Grasse, there be paid, annually, in quarter payments, during five years, from the

time of passing this act, out of any moneys in the Treasury not otherwise appropriated, the sum of \$400 to each of the four daughters of Count De Grasse, namely, Amelia De Grasse, Adelaide De Grasse, Melanie de Grasse, and Silvie de Grasse, if they shall, respectively, so long live."

Mr. TOOMBS. That is not a violation of the principle. I let that speak for itself—the case of the Count De Grasse.

The VICE PRESIDENT. The question is on the amendment of the Senator from Louisiana, after the word "death," to insert "not exceeding fifty dollars per month."

Mr. PUGH. According to the Blue Book the pay proper of the Adjutant General is \$110 a month under the increase made at the last Congress, so that the half pay of a colonel, at the time of General Jones's death, would not amount to fifty dollars a month.

Mr. TOOMBS. Is the Senator from Ohio opposed to fifty dollars a month?

Mr. PUGH. No; I am simply satisfied that, as the Senator from New Jersey has said, if we amend the bill at this day, it amounts to a defeat, for it can hardly be reached in the House in the few days left.

Mr. TOOMBS. As it is a gratuity, I suppose it can stand over until the next session of Congress. Why are you bound to pass it now? Why is it that a gratuity shall be pressed through, without allowing the Senate to express their fair judgment on it? Does it make much difference whether the pension shall begin now or six months hence?

The amendment was agreed to; there being, on a division—ayes 21, noes 12.

Mr. TOOMBS. I move to strike out the provision in regard to half pay, so as to provide that the pension shall be not exceeding fifty dollars a month. The bill now contains the two provisions, and they are inconsistent with each other. I propose to make it consistent; and say fifty dollars a month.

The VICE PRESIDENT. The amendment can only be received by the unanimous consent of the Senate.

Mr. MASON. I object to it.

Mr. TOOMBS. I see no reason for having two rates in the same bill.

The VICE PRESIDENT. The amendment is not in order at that stage, except it be received by unanimous consent, as the amendment of the Senator from Louisiana was. If the vote by which the bill was ordered to a third reading be reconsidered, the amendment will be in order.

Mr. MASON. I withdraw the objection.

The VICE PRESIDENT. The objection being withdrawn, the amendment of the Senator from Georgia will be received. It is to strike out the words "one half the pay monthly to which her late husband was entitled at the time of his death, not exceeding fifty dollars per month," and insert, "at the rate of fifty dollars per month."

The amendment was agreed to.

The VICE PRESIDENT. The question is on the passage of the bill as amended.

Mr. THOMSON, of New Jersey. How does it read now?

The Secretary read the bill as amended, as follows:

Be it enacted, &c., That the Secretary of the Interior be directed to place the name of Mary A. M. Jones, widow of Brevet Major General Roger Jones, deceased, late Adjutant General of the Army, upon the roll of pensioners, and pay her a pension at the rate of fifty dollars a month; such pension to commence on the 15th day of July, in the year 1852, and continue during her natural life or widowhood.

Mr. TOOMBS. Is it too late to strike out the provision carrying the pension back to 1852?

The VICE PRESIDENT. The amendment may be received by the consent of the Senate; but otherwise it is not in order, unless the vote, ordering the bill to a third reading, be reconsidered.

Mr. TOOMBS. I move, then, to reconsider it, with a view of striking out "1852," and inserting "1857." I see no reason why a pension of this kind, a mere gratuity, should go back. I know there are cases of back pay, but I know no reason for back pensions.

The VICE PRESIDENT. The amendment may be received by unanimous consent.

Mr. THOMSON, of New Jersey. I object to receiving the amendment.

Mr. TOOMBS. Then I move to reconsider the vote by which the bill was ordered to a third reading.

Mr. CLINGMAN. This bill has been once reconsidered, and is it in order to make a second motion to reconsider?

The VICE PRESIDENT. The vote passing the bill has been reconsidered.

Mr. CLINGMAN. Now, is it in order to reconsider anything else connected with it?

The VICE PRESIDENT. It is in order to reconsider the preceding votes.

The motion to reconsider was agreed to; there being, on a division—ayes 19, noes 17.

The VICE PRESIDENT. The question now is, "Shall the amendments which have been made be engrossed, and the bill be read a third time?" It is still open to amendment.

Mr. TOOMBS. I move to strike out the provision in the bill as to the time at which the pension shall commence, and insert "the 1st of July, 1857."

Mr. SLIDELL called for the yeas and nays; and they were ordered.

Mr. DOUGLAS. I would inquire why 1857 is put in rather than any other year?

Mr. TOOMBS. I want the pension to commence with the present fiscal year—not before. I am willing to take 1858 or 1868, if the Senator prefers it.

Mr. DOUGLAS. I thought that perhaps there was some reason for fixing that particular time. Eighteen hundred and fifty-two, the time fixed in the original bill, was the date of General Jones's death.

Mr. CLAY. The reason, if it be a reason, is, in the general run of these cases, to date the pension from the time the application is made; and I suppose the petition was before that date.

The question being taken by yeas and nays, resulted—yeas 22, nays 28; as follows:

YEAS—Messrs. Allen, Benjamin, Bigler, Bright, Cameron, Chandler, Clay, Fessenden, Fitch, Foster, Green, Harlan, Hunter, Iverson, Johnson of Tennessee, Polk, Slidell, Stuart, Thompson of Kentucky, Toombs, Wright, and Yates—32.

NAYS—Messrs. Broderick, Brown, Clark, Clingman, Collamer, Dixon, Doolittle, Douglas, Gwin, Hale, Hamlin, Hammond, Hayne, Houston, Jones, Kennedy, King, Mallory, Mason, Pugh, Reid, Sebastian, Seward, Simmons, Thomson of New Jersey, Trumbull, Wade, and Wilson—28.

So the amendment was rejected.

Mr. SEWARD. I offer the following amendment as an additional section:

Sec. 2. And be it further enacted, That the name of Myra Clark Gaines, widow of Major General Edmund P. Gaines, be placed on the pension roll; and that she be paid at the rate of half the pay proper per month to which the said Gaines was entitled at his death, to commence from the 6th day of June, 1849, and to continue during her natural life.

Mr. THOMSON, of New Jersey. Is that amendment in order?

Mr. SEWARD. Certainly; and it is very proper, too, I think.

Mr. THOMSON, of New Jersey. I can object to it, I presume.

The VICE PRESIDENT. The Chair does not perceive that the Senator can object. The question is on the amendment.

The amendment was agreed to; there being, on a division—ayes thirty-three, noes not counted.

Mr. HALE called for the reading of the bill as amended; and it was read.

Mr. HALE. I ask if these two widows are put on an equality by this bill. I am told that they are; but it does not strike me so from the reading of the bill. I understand that General Jones was a major general by brevet, and I believe General Gaines was nothing more; and yet different sums are proposed to be paid.

Mr. HUNTER. Allow me to suggest to the Senator from New Hampshire that we take a vote on this question, and get at the appropriation bills.

Mr. HALE. I only want these two widows made equal; that is all.

Mr. SLIDELL. I presume it is by inadvertence on the part of the Senator from New York that his amendment does not conform to the bill for the relief of Mrs. Jones in another respect. Mrs. Jones's bill is, "during her natural life or widowhood." This does not contain that restriction, and I hope the Senator from New York will accept an amendment, inserting the words "or widowhood."

Mr. SEWARD. I have no objection to extending the provision in favor of Mrs. Jones during her natural life, and I would cheerfully vote

for such a proposition; but I should not like to cut off, on this occasion, Mrs. Gaines from the benefit of this measure in order to make the bill conform to a less reasonable standard.

Mr. MALLORY. I should like to ask the Senator from New York what is the amount of pension the amendment will give?

Mr. SEWARD. Fifty dollars a month, I understand.

Mr. BROWN. It is half the pay proper of a major general.

Mr. POLK. Fix it at fifty dollars a month.

Mr. SLIDELL. I move to amend the section which has been inserted on the motion of the Senator from New York, by inserting the words, "or widowhood." I understand there is no law on the statute-book which does not confine these pensions to widowhood. This is a solitary exception to the system of pensions.

Mr. HAMLIN and others. The amendment of the Senator from New York cannot now be amended.

Mr. BENJAMIN. My colleague can reach his object by offering an additional section.

Mr. SLIDELL. It can be accomplished by a motion to reconsider.

Mr. IVERSON. I voted in the majority on the amendment of the Senator from New York, and, in order to allow the Senator from Louisiana to offer his amendment, I move to reconsider the vote agreeing to the amendment of the Senator from New York.

The motion was agreed to.

Mr. SLIDELL. I now move to amend the amendment of the Senator from New York, by adding the words, "or widowhood."

Mr. DAVIS. This is a movement that seems rather to reflect upon the gallantry of the Senate. It is to be an objection entertained to be a beautiful, still rather young widow ever getting married again. But if this makes the difference between pension and no pension, I am sure the pious reverence and affection she feels for her deceased husband, who, from youth to age adorned his country's service, an ensign under Jefferson, and, to the very close of his life, still busy with great matters for the defense of that country to which he had devoted his whole existence, will induce her to conform to your wishes. If the Senate desire merely to put a little restraint, which morally will have no effect, for a contingency which I am sure can never arise, I shall not object; and I am certain, if the lady could speak, she would not.

Mr. SLIDELL. This amendment was intended to conform to the bill just passed for the relief of the widow of General Jones. I have proposed an amendment to make it conform to that bill. I presume it is scarcely necessary for me to disclaim any personal feeling in this matter; but here is an innovation upon the whole framework, the whole system, of our pension laws—the solitary exception, as I am well informed, that is to be found of a pension being given to the widow of any officer except during the period she remained unmarried. As to the remark of the Senator from Mississippi, I will state that I do not think we are to be governed by what are called the feelings of gallantry in the performance of our legislative duties here.

Mr. DAVIS. Oh, no.

Mr. HIOUSTON. It seems to me that it would have better conformed to the characteristic gallantry and liberality of the Senator from Louisiana, if he had moved to take the restriction from Mrs. Jones instead of proposing to place it on Mrs. Gaines. That would have been more conformable to my notions of liberality and gallantry, and I desire to move that amendment when I have an opportunity. I have felt, sir, that I had no right to participate in any debate of this kind. I have thought that gentlemen more competent than myself would regulate these matters; but the recollections of olden times come upon me when a proposition is made in regard to a man who, forty years ago, shed so much luster and honor upon the arms of his country as General Gaines did in the defense of his country. Whenever I see the hem of his garment touched, or aught associated with his gallant achievements, referred to, I cannot but feel that the country owes him a debt of gratitude which money can never liquidate; and I shall cheerfully go for whatever conduces to the national acknowledgment of our obligations to him for his gallant conduct in

defense of his country and the commemoration of his perfect and spotless life, his chivalry, and his honor. Sir, he was the Bayard of the American Army. No man was so spotless and so gallant as Gaines on the occasion to which I have alluded. When I think of this, it wounds me to the heart to see an effort to restrict the privileges accorded to his widow. I trust the Senate, on this occasion, will accord to the relict of General Gaines what he could command if he were living. Sir, we have thrown bounties into the lap of others, as much as fifteen thousand dollars per annum to a single officer. Here the widow of Gaines is needy at your door. We are to refuse this pittance, or to grant it with such limitations and restrictions as to incumber it. I feel ashamed for the Senate, and I feel humiliated in the presence of this august body as one of its representatives, that I should see such selfish restrictions imposed. I beg the gentleman's pardon; it was not selfish in him, but certainly it will, in its character, so present itself to her. I hope the amendment will not be agreed to.

Mr. HAMLIN. I should vote for one of these bills, and against the other, if they were separate. United, I must vote against them both; I vote, however, as I think I ought, upon the separate amendments. I desire to correct an error into which the Senator from Louisiana has fallen. He said just now that the history of legislation had all been one way, and that was to limit all the pensions to widowhood. The Senator has forgotten that the Committee on Pensions, during this session, reported a bill extending for life the pensions of all the widows who had received a five years' pension, and striking off that limitation, and a direct proposition was made in the Senate to attach it, and it failed by a very large vote. That bill has passed the House, and has now become a law. The latest precedents, therefore, are against this restriction. I think the restriction is wrong, and I shall vote against it.

Mr. IVERSON. I am against this bill, upon principle, and in favor of the amendment offered by the Senator from Louisiana, upon principle; but it is proper that the other side should have the benefit of any precedent in relation to this amendment, and I will, therefore, read the act for the relief of Mrs. Worth, to show that the Senator from Louisiana is, to some extent, mistaken as to the limitations heretofore imposed. The act for the relief of Mrs. Worth reads:

"That the Secretary of the Interior be directed to place the name of Margaret L. Worth, &c., on the pension roll, at the rate of fifty dollars per month, from the 12th day of May, 1849, for and during her natural life."

Mr. FOSTER. A question was asked in regard to the amount of pay that will inure to Mrs. Gaines under this section, if it be added to the bill and the bill passed; and the reply was, fifty dollars per month. I think that is a mistake. The pay of a major general of the Army, which General Gaines was, and had been for several years—

Mr. DAVIS. Oh, no; the Senator is mistaken. He ought to have had the rank of major general; but he was only a brigadier general, and a major general by brevet.

Mr. FOSTER. I am mistaken, then. It was stated that he was a major general; but the Senator from Mississippi is undoubtedly correct. I was only going to say that the full monthly pay of a major general is \$469; and the pay proper, which is the amount recognized by our pension laws, is \$220. It is stated, however, that General Gaines was not a major general; and, of course, that pay would not be his.

Mr. WILSON. Is it in order now to move to strike off the restriction on Mrs. Jones?

The VICE PRESIDENT. There is a pending amendment. That will be in order after the pending amendment shall have been disposed of. The question is on the amendment of the Senator from Louisiana, to amend the amendment of the Senator from New York, by adding the words, "or during widowhood."

The amendment was agreed to.

Mr. WILSON. I now move to strike out the words "or widowhood," in the first section of the bill, as applying to Mrs. Jones.

The motion was agreed to.

Mr. TOOMBS. I now move to amend the amendment of the Senator from New York, so as to provide that the pension to Mrs. Gaines shall

not exceed fifty dollars a month, and shall not commence before the 1st of July, 1857. I do that because, according to the law of the United States, when officers have fallen in battle, the pensions to their widows are not entitled to exceed half the pay of a lieutenant colonel; and if General Gaines had fallen in battle, his widow would only have been entitled to half the pay proper of a lieutenant colonel in the Army, and that, too, from the time the proof was made. Why should you make this exception and bring into the pension law persons not entitled to come within it? Why throw the door open for officers who are already a privileged class in this country; who are paid a greater amount for their services than any other people in the service of the United States, civil or military; whose children are educated at the public expense; for, by law, ten of your cadets at West Point are their children, exclusively confined to them. I say you pay them enormous compensation; you educate their children; if they fall in battle you pension them. If they die in their beds, having squandered the magnificent dowry of the public, you pension their widows and children. But let him be a soldier—let him belong to the mass of the people—and there is none so poor to give him a grave.

Mr. BIGLER. I hope the Senator from Georgia will divide his proposition. The limitation as to amount and the limitation as to time are two distinct propositions. I am disposed to vote with him on one and against him on the other.

Mr. TOOMBS. Then I move the first amendment, to provide that the pension shall not exceed fifty dollars per month. To do this, it will be necessary to strike out the words "half the pay proper to which the said Gaines was entitled at his death," and insert "at a rate not exceeding fifty dollars per month."

Mr. DAVIS. The argument of the Senator from Georgia rests on assumptions which I do not believe to be facts. The first is, that officers of the Army are better paid than any other officers of the Government. I think the reverse is true; they are generally worse paid—worse paid, for instance, than a Senator who goes to the place he chooses to attend and remains a part of the year, whereas the Army officer goes to the last place he desires to go; goes at the will of the Government; is moved before he desires to be removed; sacrifices his furniture every time he is moved; changing his post from time to time, as the service may require, and not to suit his own convenience or his wishes; and his whole compensation added together is a smaller sum, until he has attained very high rank, than is received by the officers of the Government generally. During that period of his life when he is most effective and performs the most service, his pay is less than you give to one of your first-class clerks. As to their children being educated, so far from that assertion being sustained by the fact, they are the very ones usually who encounter the greatest difficulty in getting appointed to the Military Academy. But for the provision that gave the President the power to appoint ten cadets without reference to their residence, the son of an officer of the Army would be excluded entirely from an opportunity to enter the service in the warrant grade. The law requires that the cadet shall be actually a resident of the district from which he is appointed, at the time of his appointment. His father is serving here, there, and elsewhere; he may be a citizen of Georgia serving in Minnesota; the residence of the child will be claimed to be where the father is; he is not allowed constructively to reside in the place of which his father is a citizen; and thus they were excluded until the law kindly interposed and gave the President power to appoint ten cadets without reference to their residence. Of these ten, a part is ordinarily given to the Army, a part to the Navy, and some one or two usually to civil life; but, sometimes, I am sorry to say, a great many more.

What is this rich "dowry" that they squander? Their engagement is to serve their country. They receive a bare pittance for their services. Some officers of high grade, stationed at agreeable places, receive a compensation which is equal to that of any portion of the civil service; but in the great mass of the Army the pay is quite inadequate to support them, and you were compelled to raise the monthly pay twenty dollars a month, in order to give them a decent support. It re-

remained stationary, while the compensation of every other class of officers had advanced. I think the allowance of half pay, taking it one case with another, as a general rule, would be a much better rule than any fixed sum. A man in our service, where promotion is by seniority, will never attain high rank until he has attained great age. It is therefore to be expected that he will leave behind him a family requiring a larger monthly sum for their support than one who has died in his youth. I know the provision of law to which the Senator refers does limit it to half the pay of lieutenant colonel as the pension to be received where the officer is killed in battle. The question I raise is, whether that be just or not; whether a man who has given fifty years of his life to the service of his country, and attained a higher rank than that of lieutenant colonel, will not usually leave behind him a family requiring more pay than that which he had when he held the grade of lieutenant colonel; and whether, if we give a pension at all, the proper rule is not to give the half pay of the grade the officer holds at the time of his death?

Then, again, I hold the pension system to officers of the military service to be proper, eminently proper. It enables you to keep down the pay of the officer during his life. Otherwise you drive him to the alternative of leaving the service if you will not give him a compensation which will enable him to leave a support for his family. If you give to every officer a compensation sufficient to enable him to make adequate provision for his family in the event of his death, your expenditures would greatly exceed those which would be entailed by giving to the family of every officer who dies in the service a pension equal to one half his pay at the time of his death. I believe it to be a just provision; just in its operation upon individuals, and just in its public policy; and I would prefer to extend the pension laws so as to give half pay pensions to the family of every officer who dies in the line of his duty, and in that way you are able to keep down the pay during life.

Mr. TOOMBS. I am not at all surprised at the difference between the honorable Senator from Mississippi and myself on all questions of expenditure. We look at them in a very different light. I am against all military pensions; he is in favor of them. Therefore we start from opposite positions; but I am accurate in all the facts of the statement I made. Take the average pay of the officers of the Army, and I say it is greater than the pay of any other department of this Government. Of course I must take into consideration the different grades and different qualifications. A lieutenant in the Army gets from one thousand six hundred to two thousand dollars a year, according to your Blue Book that I have now before me. What are the qualifications required? That he shall be about twenty years of age; that he shall be a man of ordinary respectable character, and no attainments at all.

Mr. DAVIS. Where does the gentleman find that standard?

Mr. TOOMBS. In the daily appointments that are made here—a great many of them I know.

Mr. DAVIS. I am sorry, then, that you confirmed them.

Mr. TOOMBS. Some of them I have resisted here. We have had persons who showed their want of attainments by not even being able to get through West Point one year. They had not capacity or moral character to get along for six months; but they were good enough for a commission in the Army. I have had an opportunity of testing that matter at this session; and I believe those appointments were confirmed almost unanimously. That is one of the evidences of qualification. That is the judgment of the Senate of the United States. They put that test. A colonel in the United States Army gets more than a Senator; and I take it it requires rather higher qualifications to discharge the duties of a Senator than those of a colonel in the Army of the United States; and besides that, it is a provision for life, which makes a very great difference in salary. As to the education, I am more than right. The ten appointments to the Military Academy are given to the Army and Navy, almost as a universal rule. I believe the last appointments were all from persons in the service; at least seven out of the ten usually are. There may have been exceptional cases. I alluded to that law when I said you educated their children. You give them the highest compensa-

tion of any service that I know of, from the day they enter it until they get through the ranks. All grades, lieutenant, captain, major, lieutenant colonel, and colonel, so far as my observation extends, certainly all below colonel, receive a much greater compensation than England, France, Austria, and Prussia give. I had occasion to refer to tables showing that.

As to the amount of capacity and acquirements to discharge the duties, I say there is no branch of the service requiring anything extraordinary. I have no doubt the experience of the honorable gentleman, when he was at the head of the War Office, was that he was beset with constant applications for commissions. I know that one of his predecessors in the War Department said, that if a lieutenant in our Army was sold at the rate that commissions brought at the Horse Guards in England, it would sell for \$50,000 in market overt. Put it on the basis of the regulations and practices in England, and a commission of lieutenant in the Army of the United States would be worth \$50,000. Nobody pretends that they require better qualifications than an ordinary young man with academic education, sound health, and good character, such as would be fit for any other business in the country. That is all the qualification, even putting it on the highest scale—that he shall be physically able to do the duties of a lieutenant in the Army, and shall have an ordinary academic education; and even these attainments are often passed over. The rush for places in the Army is universal, because it is the best provision any man can make for his children in the United States. It gives him a life support; it gives him a compensation which, with half the prudence that is used by the great body of our people, would secure him independence for life, if he lives to be fifty years of age, and then if he dies in the service of his country in battle, his family is pensioned; and if he does not come under that provision, if he is an officer who has lived for forty years, especially about Washington, and never heard the fire of a gun except in peace for forty years, and has acquaintances here about the Capitol, his widow can get fifty dollars a month, or such sum as what is called the liberality of the Senate may choose to give.

Take gentlemen of good character and collegiate education in any State of the Union, and what do they get? Look through New England; look through the South; come to my own State. Such a man will go to the profession of the law; he will study diligently, laboriously; become a useful man in society; and he does well if he gets an income of \$1,500 in ten years. He does well if, at the end of thirty years, he gets on the bench of his State at \$2,000. Many of the respectable common lawyers of this country, when they have devoted their whole lives to the pursuit of knowledge, and the practice of virtue, according to the standard of mankind, with occasional service in the field whenever their country demands it—for after all it is the citizen soldiers who have fought its battles, from the Revolution down, and always will—do not get as much as a captain in your Army. In Mexico you had but eight thousand in your whole Army when the war commenced. Of the fifty thousand that went there, the regular Army did not furnish eight thousand. Of the thousands whose bones are bleaching on that foreign soil, the most of them are the citizen soldiers, taken from the workshops, the plow handles, the professional offices of the United States. Nobody ever thinks of giving them anything that is not nominated in the bond, within the contract, when they entered into service. As to gratuities to them afterwards, I have no doubt such a proposition would be laughed out of the Senate. But in the regular service there are influences that bring an *esprit du corps* to bear. Oftentimes they have associations with gentlemen here, with those who make the laws in Washington, and others, and if they can get their brothers in arms, from the major general down, to certify to them, as in one of these cases, there is scarcely any limit to the benefits they may receive from the country except what they have the face to ask.

Mr. DAVIS. Mr. President, I shall briefly reply to some of the remarks of the Senator from Georgia; and in the first place, as to the citizen soldiery. Pray, sir, has it come to this, that a man who bears his country's commission, or a man who enlists in his country's service without

a commission, has ceased to be a citizen? Why this distinction of "citizen soldiery"? Are they not all citizens? I hope the day will never come when our flag will be entrusted to the keeping of others than citizens of the United States; and that the day is still more distant, if there be a time more distant than eternity, when it shall be held in a republican government that to serve his country for life, or a term of years, is a loss of the name of citizen.

Then as to the matter of compensation. It is the volunteers who have friends in this House, and in the other. It is they who have gone out of service, that have representatives in this Chamber and in the other House, and being represented and having the power to vote, they seldom require defense from any one; they are less often the subject of attack; but is it true that they do not get any more pension than is nominated in the bond? or otherwise, is it not true that you grant extraordinary pensions, up to twenty or thirty dollars a month, for a man who has lost an arm in the volunteer service, and that to the soldier regularly mustered in, you give but half his monthly pay, six, or eight, or ten dollars, according to the period of his service?

Then is it not true that you have granted extraordinary pensions, extraordinary in their character as well as amount, to the commissioned officers of the volunteer army?—not that they are less meritorious. They have made patriotic sacrifices, or have entered the military service from that sort of enthusiasm which is characteristic of our people. I give them all due credit for it; but I say the practice is otherwise than the Senator states it. The difficulty is to find anybody that will advocate the case of a man who, separated from civil life, having no power to control elections, must come here and stand on the simple merits of the case he presents.

Then, sir, the Senator falls into the very common error of taking all the allowances of an officer commuted, and calling this his pay; he compares it with salaries in civil life, where a man lives at home, and engages in other pursuits in addition to the office which gives him a salary. For instance: in the very table on which I know his eye was resting, he takes up the amount the officer has received for mileage, and has added that into his annual salary; he takes the amount of forage for his horse, and has added that into his annual salary. Now, sir, his mileage is for actual travel, not for travel like a Senator's, over the usual route, but travel over the shortest mail route; and he is not allowed, like a Senator, forty cents a mile for travel, but ten cents. In a case which I had occasion once to examine, where an officer of the Army and a Senator traveled together over the same route, from one point to another, the Senator's mileage was exactly double that of the officer. It was from Detroit to New York. It was four times the amount of money per mile, and double the number of miles. Your rule is to pay by the usually traveled route; the officer is paid by the shortest mail route, whether he has traveled it or not.

Then the Senator goes across the water; he brings up the armies of Europe to answer the comparison on which I originally met him—the pay of the officers of the Army and the pay of citizen employees of this Government. Now, if he will take the pay of a captain, he will find it lower than that of the lowest clerk employed about the Capitol, and he will find that nearly all the allowances which he commutes to make up the annual salary on which he rests his statement are allowances which, when commuted, are to the officer a positive loss. I referred to forage; let us take it. If the officer kept his horse in this city, he would pay from eighteen to twenty dollars a month for keeping him, in addition to the risk and the interest on the purchase money. The Government would give him just eight dollars a month in commutation of his forage, so that he loses from ten to twelve dollars a month, without counting in the risk of the loss of the horse and the interest on his value. They ought never to have been added and presented here to deceive members of Congress, under the supposition that they are salary. They are allowances given only when they keep the thing. In this case, the officer must actually keep the horse to draw the forage; and the Quartermaster General, who has especial charge of that matter, you will find, in different years and

months, allows different amounts. The reason is, that an officer never charges forage for a horse unless he has a horse in service enlisted. If a horse dies, he instantly drops him from the forage account.

But the Senator says that the standard of qualification for an officer of the Army is, that he shall have a good character, and that there is no inquiry at all about his capacity. He went on to state how he established that standard, and he alluded to some nominations on which the Senate acted this session. I was not present, and I am glad to know, from his remarks, that he was opposed to those nominations. It was an outrage upon the rights of the graduating class; it was an outrage on the law of the land; it was an outrage on every principle of justice; and I regretted very much that I was not here at the time to say so in executive session. I am glad to know that there is one point, at least, if we must differ on pensions, where, on military questions, the Senator from Georgia and myself concur. But he says the qualifications are nothing except good character. Well, sir, what are the qualifications for a seat in the Senate? I suppose he would say a Senator should not be of infamous character; but we have no standard of education, no standard of attainment. We leave that to the State which sends a Senator here. If the War Department does not examine the persons whom it chooses to appoint into the Army, the rule has been very recently changed; but these are the exceptional cases. Take them to be all the Senator assumes, they are still the exceptional cases. The great body of the officers annually are appointed in the warrant grade; they are compelled to go through that warrant grade of cadet, and to pass their regular examinations up to the last at West Point, which, except two of the schools of France, I believe, is the best military school in the world—affording the most thorough military education. Having passed that examination, they enter the service with that amount of qualification. If you look abroad over the United States for the last thirty years, I ask the Senator to lay his hand upon one great work of internal improvement which has been devised and executed without the aid of some graduate of that same Military Academy which he so undervalues? I know of none which has not, either in the original conception or in the final execution, had to call in exactly that aid, and none with which they are not intimately associated. I know of no one great railroad on this continent that has not had, at last, to rely on that species of aid, and well I know that, even in the construction of turn-pike roads, the great Cumberland road lingered along as the subject of annual fraud, until General Jackson, with that wisdom which he showed on all executive occasions, put it in the hands of officers of the Army, and it went on without any further allegation of fraud. Such is the general rule, and such is the general evidence of the qualifications of the great body of the officers of the Army who have entered the service for the last thirty years. The exceptional case of young men appointed from civil life, merely proves what standard you would have if you had no such thorough training in the warrant grade as is required by the existing regulations.

Mr. CAMERON. I hope the amendment of the Senator from Georgia will not be agreed to. As a general thing there may be an objection to pensions; but this is an extraordinary case. General Gaines was one of the most gallant, one of the most able, one of the most patriotic, one of the most beloved officers of the whole American Army. Almost everybody in the country believed he was a major general when he died. He ought to have been a major general long ago. By some fault, not his own, by some act of the Government, or of those more managing, he was prevented from getting that grade to which his services entitled him. He lived to be a very old man; he was constantly in service; one of the most efficient and bravest men who served during the last war with Great Britain, and who was, after that, constantly upon the confines of the country engaged in its service. He died a poor man, without leaving any property at all. His wife comes here without any means of support, and asks the pension which has ordinarily been given to the widows of officers and soldiers of the Army. It is now proposed to cut her down to less than one half the lowest pay given to the ser-

vants of your House. I do not look on her case at all like Mrs. Jones's. General Jones was here, at the seat of Government, for forty years, living all the time with his family. General Gaines was away in places where he was compelled to expend large sums of money, constantly in danger of disease. He was a brigadier general. General Jones was, I believe, but a colonel in the line of the Army. Now, the Senator from Georgia proposes to cut down General Gaines's widow to half the pay of a lieutenant colonel in the Army. Her husband was a brigadier general when he died. Why not give her half the pay of a major general, to which rank that old man was entitled?

We hear a great deal of talk about wasting money on soldiers of the Army. That is but talk. There is, to be sure, a great anxiety to get commissions in the Army, but that arises from the public spirit, the patriotism, and the love of military life, which our whole people have. They enter the military service, and the result is that they die poor old men. I remember a man coming here, and receiving an appointment in the Army when I first came to the city of Washington. I found him here twenty-five years after that a gray-headed old man, who would leave his children penniless. You generally find in the Army men of fifty and fifty-five years of age without a cent, whereas the greater portion of those in the Army enjoying the situations which gentlemen seem to envy so much, would have made themselves comfortable if they had devoted themselves with half their knowledge, and half their talents to any other profession in life. Why, sir, a journeyman shoemaker, if he sticks to his last, can make more money and leave more to his family, than a captain in the Army can. I hope there will be no change in the bill for Mrs. Gaines, but that this lady will have the full amount which it will give to her in its present shape.

Mr. TOOMBS. I ask for the yeas and nays on my amendment, to see whether we are to violate the general rule in this case.

The yeas and nays were ordered.

Mr. HOUSTON. I can assure the honorable Senator from Georgia that this is not an exceptional case in my support of this pension. In the first place, I think it is just and right; and, apart from all personal considerations, I believe it to be due to the family of Major General Gaines. For that reason I have supported it. I have voted for every pension of every disabled soldier, or every soldier's widow or orphan heirs who have come forward asking for a pension where he has died in the service. I have voted for granting pensions to volunteers who died in Mexico. Sometimes I have voted for them as high as twenty dollars a month; when, according to the general law, the parties would only strictly have been entitled to four dollars a month, knowing that that was insufficient to support the individual, and to pay the incidental expenses arising from the attention of doctors, and the treatment of wounds yet unhealed. But to show that this is not an extraordinary case, and that it is on the very lowest footing, comparing all the circumstances together, I will state that a pension was granted at the last session of Congress to an individual who could only have claimed four dollars a month according to the general law. If Senators will look at the bill for the relief of John Mitchell, of the District of Columbia, passed at the last Congress, they will find that he was placed on the pension roll at the rate of thirty dollars per month. If the honorable Senator from Georgia alludes to individuals in humble circumstances, who are neglected, and their voice not heard here, I have to say to him that I have always voted for the highest rate of pension where there was merit in the case. In the present instance, I regard the half pay of the deceased as but a pittance, compared with the services rendered, and the glory he shed upon his country's arms. I am prepared to vote against this amendment.

The question being taken by yeas and nays on the amendment of Mr. TOOMBS to limit the pension to fifty dollars a month, resulted—yeas 24, nays 24; as follows:

YEAS—Messrs. Benjamin, Bright, Broderick, Clay, Clingman, Durkee, Fessenden, Fitzpatrick, Foster, Hamlin, Harlan, Hunter, Iverson, Johnson of Tennessee, King, Mallory, Mason, Pearce, Polk, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Wright—24.

NAYS—Messrs. Allen, Brown, Cameron, Clark, Collamer, Crittenden, Davis, Dixon, Douglas, Foot, Green,

Hayne, Houston, Johnson of Arkansas, Jones, Kennedy, Reid, Seward, Simmons, Stuart, Thompson of Kentucky, Trumbull, Wade, and Wilson—24.

The VICE PRESIDENT voted in the affirmative, and the amendment was adopted.

Mr. CRITTENDEN. I wish to offer an amendment:

And be it further enacted, That the name of Jane Turnbull, widow of the late Lieutenant Colonel William Turnbull, be placed on the pension roll as a pensioner for life, at the rate of fifty dollars per month.

Mr. HUNTER. Has not the time come for the special order?

The VICE PRESIDENT. The hour for the consideration of the special order has arrived.

Mr. HUNTER. Then I move to postpone the prior orders for the purpose of taking up the Navy appropriation bill. I understand that the Paulding medal resolution is the first special order, and I move to postpone that and all other prior orders for the purpose of taking up the naval appropriation bill.

Mr. BIGLER. I suggest to the Senator from Virginia that he waive his motion for the purpose of allowing us to consider the resolution to extend the session.

Mr. HUNTER. That can be taken up to-morrow. I cannot waive my motion for anything. I think we owe it to the House of Representatives to take up the appropriation bills.

Mr. MASON. I wish to inquire whether the special order made for Saturday last, to consider on that day the resolutions reported from the Committee on Foreign Relations, with reference to the aggressions on the commerce of the country in the Gulf of Mexico, is not, by the rules of the Senate, transferred to to-day, or whether it is to be passed over?

The VICE PRESIDENT. The recollection of the Chair is, that those resolutions were made the special order for Saturday to the exclusion of all other business; but the Chair does not think they come up to-day to the exclusion of other business.

Mr. MASON. I wish to give notice that I shall to-morrow, if I can get the floor, ask the Senate to take up for consideration the bill reported from the Committee on Foreign Relations to give additional powers to the President in our intercourse with the Central American States. I deem it my duty to submit the question to a vote of the Senate. It is certainly proper that we should pass the appropriation bills before we adjourn; but, in my opinion, it is equally proper that we should dispose of the public business before we adjourn; and therefore I shall ask the Senate to take up that bill to-morrow.

Mr. GWIN. Was not the bill to which the Senator from Virginia refers made the special order for twelve o'clock on Saturday; and does it not stand upon the record as the special order for twelve o'clock on each day until disposed of? ["No!" "No!"] This is the first time I ever heard of a special order expiring, if on any account it should not be taken up on the day fixed.

Mr. BIGLER. I desire a little information on a question with regard to the rules. The Senator from Virginia has moved to postpone all prior orders for the purpose of proceeding to the consideration of the Navy appropriation bill. Suppose that proposition be decided in the affirmative: will it be in order to move to postpone the special order to take up the resolution for the extension of the session?

The VICE PRESIDENT. The Chair thinks so.

The motion of Mr. HUNTER was agreed to.

FLORIDA CLAIMS.

Mr. MALLORY. I ask permission of my friend from Virginia to notify gentlemen that on Wednesday I shall ask the Senate to take up and consider for final action the bill (S. No. 373) declaratory of the acts for carrying into effect the ninth article of the treaty of 1819 between the United States and Spain; and I invite the attention of Senators to the report in the case, made by the Senator from New Hampshire, [Mr. CLARK.] It is a bill to redeem the plighted faith of the country in our treaty with Spain in relation to the Floridas.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the

Speaker of the House had signed the following enrolled bills; which thereupon received the signature of the Vice President:

An act for the relief of John B. Roper;
 An act for the relief of Timothy O'Keefe;
 An act for the relief of David Bruce;
 An act for the relief of Ferdinand O. Miller;
 An act for the relief of Judith Nott;
 An act for the relief of Thomas Hasam and B. S. Brewster;
 An act for the relief of the heirs of William Tarvin, deceased;
 An act for the relief of Cornelius H. Latham;
 An act for the relief of Dr. Thomas Antisek;
 An act for the relief of Gardner Vincent and others;
 An act for the relief of Keep, Bard & Co., J. Caulfield, and Joseph Landis & Co.;
 An act for the relief of Mrs. Harriett O. Read, executrix of the late Brevet Colonel A. C. W. Fanning, of the United States Army;
 An act to confirm the sale of the reservation held by the Christian Indians, and to provide a permanent home for said Indians; and
 An act for the relief of Peter Parker.

BILL BECOME A LAW.

A message from the President of the United States, by Mr. HENRY, his Secretary, announced that the President had approved and signed, on the 5th instant, an act for the relief of Thomas Phenix, jr.

HOUSE BILLS REFERRED.

The following bills, from the House of Representatives, were read twice by their titles, and referred to the Committee on the Judiciary:

A bill (No. 647) to change the time of holding the spring term of the district court of the United States for the western district of Texas; and

A bill (No. 648) for the relief of Gottlieb Schreiner.

EXTENSION OF THE SESSION.

Mr. BIGLER. I move that the special orders be postponed for the purpose of taking up the joint resolution to extend the session of Congress.

Mr. HUNTER. I will suggest to the Senator from Pennsylvania that to-morrow, in the morning hour, we can dispose of that. If he should succeed in getting it up now, the whole effect would be to have a debate on it, and postpone action on the appropriation bills. We had better go on with them, at least, after the morning hours. The motion was not agreed to.

NAVAL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 199) making appropriations for the naval service for the year ending June 30, 1859, which had been reported by the Committee on Finance with an amendment, to insert after line two hundred and twenty-three:

To enable the Secretary of the Navy to pay the salary of Professor James P. Espy, \$2,000, the payment to be made in the same manner and under the like control as former appropriations for meteorological observations: *Provided*, That the employment of a meteorologist, under the contract of the Secretary of the Navy, shall cease on and after the 30th of June, 1859.

Mr. HALE. I wish to ask the chairman of the Committee on Naval Affairs, if there was not some action of that committee on this subject? It strikes me there was.

Mr. MALLORY. None.

Mr. HUNTER. This amendment is one in which I feel no interest. I do not see in his seat the Senator from Maryland, [Mr. PEARCE,] who does feel an interest in the matter. I understand it is to allow Mr. Espy to hold his salary for one year, and no more.

Mr. TOOMBS. The amendment is a very meritorious one, and I hope it will prevail. It will close the whole work. The Senator from Maryland, on the Finance Committee, has attended to the matter, and understands it. I have looked into it for some years past, and I understand that, with this appropriation, he will be able to continue his observations, and close them within the year. It is only for a year.

The amendment was agreed to.

Mr. MALLORY. I have some amendments to offer from the Committee on Naval Affairs. The first is, on page 1, after line six, to insert:

That the Secretary of the Navy, under the direction of

the President of the United States, be, and he is hereby, authorized to cause a stone dry-dock for the naval service to be constructed upon the most approved plan at the navy-yard at Pensacola, Florida; and that, towards defraying the expense thereof, the sum of \$100,000 be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated.

Mr. HUNTER. I hope the Senate will not agree to commence such a work at this time, and on this bill. I do not know that it is recommended by any Department; I do not know that we have any estimate of its cost; I do not know that we have laid before us any statement of the depth of water on the bar, to know whether we could get a ship of the line over, if we had the stone dock. It seems to me that this is a most unpropitious time to commence the work, and I hope the Senate will not agree to do it. We are making large appropriations if we go to the amount that is estimated for; but if we exceed that amount and add as now proposed by undertaking these costly works, it will be impossible to bring the expenditures of the Government within the means which are provided for the next fiscal year; and this is a matter of so much importance that I hope the Senate will consider it well before they add any such expenditure. It is to be commenced with an appropriation of \$100,000; but will ten times \$100,000 finish it? Is this a time for it, when we have no estimate, and when we have no proof of the capacity of this harbor for ships of the line, even if we were to build the dock? I hope it will be postponed.

Mr. MALLORY. I am sorry to see my friend from Virginia so much in error on this occasion, for he is usually very accurate. He says we have no estimate. Sir, the estimate has been before us two years. A detailed report has been before us two years. It has been twice recommended to this body; and the Senator from Virginia himself, two years ago, advocated this very measure, and voted for it. I anticipated his opposition now, and looked at what he said two years ago; and here is his language: "I believe we are acting wrongly in this matter in opposing this amendment. The wooden dock at Pensacola, it is said, is worn out." The report then had come in, of a board of three engineers, announcing that the dock would last five years from that time, and no longer, unless it were reconstructed; "and, if so, they are entitled to a new one. I must vote with the Senator from Florida upon this question." Now the Senator from Virginia turns round, upon this occasion, and votes against it on the ground that there is no estimate. Why, sir, the estimate is here, printed in due form. That disposes of that ground. The depth of water on the bar of Pensacola has been before us for four years—twenty-four feet—and the dock will admit such vessels as will pass over the bar. There is now no means of repairing either a national or a merchant vessel south of Virginia. We have no docks there. What is the use of having a navy at all in the Gulf of Mexico, if we are obliged to take one of the ships from there and send her North for repairs? You constructed a wooden dock at Pensacola, and you ordered a board of engineers, consisting of a naval, a civil, and a military engineer, to examine it. They have reported that in that climate the wooden dock is inapplicable, that it would be useless in five years from the time they made their report; and you are expending large sums of money every year to keep a useless dock in repair, and in three years it will be worth nothing without reconstruction. The construction of a dock is a work of long time. You cannot, in a moment of necessity, construct a stone dry-dock. If we had a naval difficulty to-morrow, where is the fleet in the Gulf of Mexico to go for repairs? For a repair which would be done in two days with a stone dock, you have to withdraw her from the station, and send her North, or not do it at all. If we are to maintain a navy in those seas, we must have a dry-dock; and to have it, you must commence it by degrees. It is a work of time; years will be required to accomplish it. Here is a paltry sum of \$100,000 for a great national work. I hope the amendment will be adopted.

Mr. HUNTER. The Senator has found a vote of mine at a time when there was an overflowing Treasury. Now, sir, in regard to that I have this to say: that when the Treasury is full, if he will choose a more auspicious time, and can show me that there is water enough on the bar to make a

stone dock useful for ships of the line, I shall not then object to it, because I think Pensacola would be a very good place for a naval station or a navy-yard in the Gulf of Mexico, but I am utterly opposed at this time to commencing any of these expensive structures, and especially without an estimate. The Senator says it was recommended two years ago. I spoke of the estimates of the present year. I see none from the present Secretary of the Treasury, and I believe, in regard to this matter, we might wait, and if the Senator will show that it is a proper place, that there is water enough on the bar to enable ships to get over it in order to get into the stone dock, without being floated as they now are into the wooden dock, as I said before, when the Treasury is in a better condition, I shall be willing to vote for something of the sort; but I am not willing to vote for it at this time, and especially when they have the balance dock, or wooden dock, which has cost us so much money. I understand the officers to report that such a structure is perishable in the waters at Pensacola, but I do not understand them to say that it is not very useful at this time. It has not yet rotted; this dock, as I understand, can still be used. What is the report in regard to it? The bureau of yards and docks, in their annual report, say:

"The balance floating dock, basin, and railway at Pensacola have been carefully attended to, and are in good condition, but the effect of the climate at this place is such as to produce rapid decay, and consequently frequent repairs will be required upon these works."

I understand at present the dock is in very good condition. Why not wait? There will be time enough to substitute something else hereafter, when we shall be in a better condition to meet such expenditures; but for the present this dock seems to be doing very well, and I am not sure, if it should turn out that there is not water enough on the bar, but that it may be the best sort of dock for ports that are situated as this is said to be. At any rate, this is not the time to commence these expenditures.

Mr. MALLORY. The Senator from Virginia will find that I did not come here half prepared, as he has, on this subject. He says if he is informed that there is water enough, he will do so and so. If he will look at the public documents given to him years ago, he will find the draught of water stated in the coast survey report. There are twenty-four feet of water on the bar at high tide. We do not ask for a dock for a ship of the line; we ask for a dock commensurate for the depth of water on the bar.

Mr. HUNTER. How much is it at low tide?

Mr. MALLORY. Twenty-one feet. Here is the official document showing it. Now, as to the present condition of the wooden dock, they have never docked but one small sloop-of-war in it, because they are afraid to use it. That is its present efficiency. The estimate was made in March by the bureau of yards and docks, the very bureau from whose report the Senator reads. Their estimate is published in the document which I hold in my hand, in these words:

"The board of engineers who examined the dock report, under date of 8th December, 1853"—

that is the report to which I alluded—

—"that, after the lapse of five years [from that date] it will be hazardous to dock a ship unless the sides of the dock and its gates shall have first been reconstructed."

As to the cost of building a new dock, they estimate it at \$1,524,980 for the largest stone dock they can construct there. We ask \$100,000 to commence. I say there has never been but one ship put into the present dock, because it is hazardous to dock a ship there. The commander of that ship himself told me he regarded the vessel as in very great danger, and he never felt so happy as when the ship came out of the dock. It is an immense structure, a scow of not the slightest use. You have an estimate this year for repairing it, when this report tells you that in five years from 1856 it will be worthless without reconstruction.

Mr. CLINGMAN. What is the cost of repairs?

Mr. MALLORY. I think the average is about fourteen thousand dollars a year.

Mr. HUNTER. I ask the Senator from Florida if he has any estimate from the present Secretary of the Navy or from the head of the bureau of yards and docks?

Mr. MALLORY. Yes, sir; I am reading from his report, made in March last. He says:

"The cost of repairs, including the expenses of mooring the dock, from the 1st of July, 1853, to the 31st of December, 1857, (four years and a half) is \$68,908 42, making an average annual expenditure of \$15,312 98."

I ask the Senator from Virginia, if, with the lights I give him, having a dock so perfectly useless, in which we are afraid to place a ship, he is willing to expend \$15,000 a year to keep it in repair, when in three years it will be worthless, instead of commencing at once a structure which the interests of the country require and which will only take \$100,000 now?

Mr. HUNTER. I ask the Senator from Florida if he can show me any estimate from the Department for this stone dry-dock recommending it or stating what it will cost. He refers me to a document, which document is a report of a board made in 1856, saying that the wooden dock would be worthless in five years. I show you a report from the bureau of yards and docks two years afterwards, in which they say it is in good order.

Mr. MALLORY. This report is made in March, 1858. The Senator is entirely mistaken. The report is dated March 25, 1858, in which the bureau refers to the report of the engineers made in December 1856. Here is the letter of the Secretary of the Navy, dated April 1, 1858.

Mr. HUNTER. Let us hear the letter of the Secretary of the Navy.

Mr. MALLORY. Here it is:

NAVY DEPARTMENT, April 1, 1858.

SIR: I have the honor to acknowledge the receipt of your letter of the 23d ultimo, desiring certain information in relation to the floating dock at the Pensacola navy-yard, and asking the opinion of the Department as to the expediency of constructing a stone dock at that yard.

Having referred your letter to the chief of the bureau of yards and docks, I inclose, herewith, a copy of his reply, dated the 25th ultimo, which affords all the information desired, except the opinion of the Department, as to the expediency of constructing a stone dock at the Pensacola yard.

Mr. HUNTER. "Except the opinion of the Department as to the expediency" of the work.

Mr. MALLORY. That the bureau was not called on to give; but the head of the Department proceeds to give his opinion:

I am clearly of opinion that a floating dock is but a temporary expedient; and that, in view of its perishable nature, for a series of years a stone dock would be the most economical.

As the board of engineers who examined the floating dock at Pensacola, in 1856, state that it would be hazardous to dock a ship in it, after a lapse of five years, without a reconstruction of very material parts, the advantage of a stone dock is very apparent.

I am, very respectfully, your obedient servant,

ISAAC TOUCEY.

Hon. S. R. MALLORY, Chairman Committee Naval Affairs, United States Senate.

The estimate was transmitted by the Secretary at that time.

Mr. HUNTER. That is as near to nothing as anything I have ever heard read. The Secretary makes no recommendation, but merely gives an abstract opinion as to the superiority of a stone dock over a wooden dock. We knew that before; that, I believe, is a universal opinion; but he does not state what it is to cost us, nor does he say that the present dock is not in good order. On the contrary, the chief of the bureau of docks and yards has told us that so far from this being out of order it is in very good order, and why not continue to use it until we have more time and more money to replace it by some other kind of dock, if that yard be fit for a stone dock? I do not know how that will turn out to be. If it be, and there were plenty of money in the Treasury, I would vote for a stone dock there, because I think the location is an excellent one for a navy-yard; but in the present condition of the Treasury I would not vote for it, even if the Senator were armed with an estimate, which he is not; he cannot show us what it is to cost, or whether the head of the Department is of opinion that this stone dock ought to be made. In regard to these wooden docks, and this hearsay statement of the officer, I have to put the experience of California of a similar dock, which, I am told by the Senator from California, works admirably. He says they have docked the largest steamships upon it, and it works admirably. If it works in California, I do not see why it cannot be made to work in Pensacola, at least until we can get time and money to replace it with something better.

Mr. MALLORY. In reply to the question of the Senator from Virginia, why, if it works in Cal-

ifornia it should not work in Pensacola, let me tell him that the difference in climate constitutes the difference between using the wooden dock in Pensacola and in California. You have to get a dock copped. That lasts five years; and then it has to be recopped. The sea-worm at Pensacola eats six inches of wood through in twelve months. It does not do so in San Francisco. The dry-rot in Pensacola will destroy this work twenty times sooner than in San Francisco. The difference in climate constitutes the difficulty. The wooden dock never should have been placed at Pensacola; it was a blunder. Now, the Senator says we have no estimate. He is entirely mistaken. I have given him the estimate sent here with the letter which I have read. That estimate was sent in under the Secretary's own hand; and he says that according to the estimate made by the engineers appointed by himself, the cost will be \$1,524,980. The Senator voted for this measure before, and he now gives as a reason for opposing it, only that we have not the money in the Treasury. If he could vote for it in 1856, the reasons for his voting for it now are greater, because the dock is in a worse condition now than it was then. He speaks of its good condition now. If he will look at the estimates he will find that \$15,000 are asked to repair the dock and put it in condition. It has never had but one small sloop-of-war in it. If he could vote for it before, I say he has greater reason for voting for it now; and his sole objection is that the money is not in the Treasury. If the dock were useless to-morrow, and it were found necessary, to repair our fleet, to have a dock there, we could not construct one. It is a work of years. The excavation and the caisson works would require six or seven, or eight or nine years; and I propose merely to appropriate dribblets of money to keep the work going.

Mr. TOOMBS. I shall oppose this amendment, with my friend from Virginia, and I will very briefly state the reasons on which I shall do so; and I wish to call the attention of the Senate to some of our past legislation on this subject. I want some real responsibility; I want some officer of the Government, some of those distinguished engineers whose eulogies we heard this morning, or somebody else responsible, and I will tell you why. About seven years ago, two sets of rogues came to Congress; one of them had a floating dock, and the other a sectional dock. They bored along in the other House and this House for one session, and neither could succeed because the other was in the way. They then united their interests, and in order to make it national, which is the ordinary excuse for robbing the public Treasury, they said, we will build a floating dock at Kittery, in Maine, one at Philadelphia, and one at Pensacola; and that they could do it for \$300,000. They urged their contract through Congress, and they so urged us that they got about a million apiece for these three docks. I resisted them all the time in the House and in the Senate. I pointed out that there was no responsibility attached to it, that it was a legislative contract, a job. Finally, before they were paid, they were, by the contract, actually to dock a vessel of war with a full armament; and the Navy Department sent down Commodore Tattnall, Colonel Chase, and some other distinguished officers to Pensacola, and they reported that these people had not complied with their contract; they could not get a ship in their dock, nor on the railway, nor in the basin—for they had a dock, railway, and basin, all combined in this patent. I stated at the time that no Government in the world had ever built one of them but us, and nobody would ever do it, except as a congressional job. It turns out that the dock at Kittery is a failure, so I am informed, and next session they will be here for a stone one. That at Philadelphia is a failure. The honorable Senator from Florida, who was then, I believe, as now, at the head of the Naval Committee, says the dock at Pensacola is a failure.

Mr. MALLORY. I was not here then.

Mr. TOOMBS. Two years ago, when it came to the final payment, I resisted it. We had the report of an official board that they could not dock a ship. Finding those officers honest and immovable, they were sent away to sea, and then a merchant vessel was sent down there, and I believe they got her on the dock, or at least they

brought the evidence of it here so as to get \$120,000—the balance of the money; and I am not certain whether that was not more than three years ago.

Mr. MALLORY. About that time.

Mr. TOOMBS. Two years ago the Senator says these estimates were made—a year after the work was finished. Having succeeded in getting the money by all this robbery, they now want a stone dock. While this was pending, and when it was known they had failed, they came here and wanted one for San Francisco—a sectional dock, basin, and railway. Congress passed that law, in which they said they might make it at the discretion of the Secretary of the Navy. There we have spent, I think, the last time I looked at the account, over a million and a half of dollars; and I do not know but that it will go to three millions. Instead of building ships, instead of appropriating money to the increase of the Navy, to mounting an additional number of guns, to giving efficiency to the service, we have spent in this single job, which I know of, and which I resisted here for seven years, between three and a half and five millions of money. When you commence another dry-dock, I want some responsibility for it; I want a report from somebody that I can hold responsible. I find that nobody is responsible for this. The Navy Department says Congress did it. Go to Congress, and some of them will say the Navy Department ought not to have paid the money, because it was a failure. It is now found that the worms in Florida will eat six inches of plank in a year. We knew what the worms would do before we put the plank there as well as now. The Senator says it is a failure. That, I presume, is the case. If it had been a matter concerning ourselves, we should have acted prudently before we squandered \$5,000,000 in worthless docks. We should have required them, I think, to dock a ship, at least, and to lift it on the railway and place it in the basin. They gave us marvelous accounts of their dock, basin, and railway. One would suppose that they could stow away a whole fleet in the basin. I think it will be a great thing until all the money is paid; and the moment the money is paid, it will be found that it will not do.

Mr. MALLORY. If I had been in Congress at the time the appropriations for these wooden docks were made, I should have opposed them. I have always been opposed to them. I knew, of course, they would be a failure. The reasons the Senator has given against wooden docks do not apply to this case. They are nothing against a stone dock, but on the contrary fortify the proposition for a stone dock.

Mr. HUNTER. I find that the paper from which the Senator from Florida read, sustains what I have said. The estimate is not from the present Secretary of the Navy with a recommendation. He transmits the old estimate made in 1856. Here is the answer of Commodore Smith to certain queries propounded by the chairman of the Committee on Naval Affairs, dated March 25, 1858:

"1. As to the present condition of the dock.

"Answer. The dock is believed to be in serviceable condition, although signs of decay have manifested themselves in the framing of the side walls and upright timbers of the gates."

Again:

"6. The length and capacity of the dock.

"Answer. The length of the dock is three hundred and fifty feet, and it is capable of docking United States war steamers of the largest class."

"7. As to its capability of docking the new steam frigates."

"Answer. It is of capacity sufficient to dock the new steam frigates."

Mr. HAYNE. I consider the perfect and complete protection of the harbor of Pensacola as a desideratum that should not be overlooked. The mighty West is as much concerned in that work as any portion of the Union. It is the only harbor between the Chesapeake and the Rio Grande that can be made useful to protect the great wealth of the West. Why, sir, in time of war with England, Pensacola is the only point in the Gulf where your ships, whether men-of-war or merchant vessels, can run in and be in safety. This work ought to have been commenced the very moment Florida became ours; it should have been done years ago. I have seen the dry-dock, and I know that no wooden work can answer in that water. The worms are injurious to an extent which the

people of California and my New England friends cannot imagine. Nothing will stand that climate but stone. The forts that were erected at the mouth of the harbor of Pensacola have already been suffered to go to ruin for the want of an appropriation; but if kept up, they would give an ample protection to that harbor, and this is a point that we should not overlook. I consider the appropriation of \$100,000 for this purpose as exceedingly small. We have neglected our duty; and I say to my distinguished friend from Kentucky, that if this harbor be not protected, and we go to war with England, especially, the wealth and the produce of his section of the country will not have a chance of being sold in any way whatsoever; and really, looking forward to Cuba, and the difficulties there, Pensacola is the only position on the Gulf where our men-of-war can go in and be safe.

I cannot agree with my distinguished and talented friend from Virginia on this occasion. I think \$100,000 to commence this work is too pitiful a sum to be considered. Senators, are you to neglect your duties because you have to borrow money, when for your five and six per cent. bonds you can get a premium? You can get as much as you want; but do not throw it away; apply it to legitimate purposes; and this is a most legitimate object, in which the whole Union—Boston and New York—are as much concerned as New Orleans and the West. I must sustain my friend from Florida on this occasion. I shall not detain the Senate longer.

Mr. PUGH. I ask for the yeas and nays on this amendment. It is an old acquaintance. I recollect the debate at the last session, when the late Senator from Pennsylvania (Mr. Brodhead) assured us that we had just finished the wooden dock at that time. I believe he said it had just been six months out of the contractor's hands. If, as soon as we build one dock, we are to take it down and put up another, we shall never be done with this business. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered, and taken, with the following result:

YEAS—Messrs. Allen, Bell, Benjamin, Bigler, Bright, Hale, Hammond, Hayne, Iversen, Mallory, Sebastian, Simmons, Thompson of Kentucky, Thomson of New Jersey, Wright, and Yulee—16.

NAYS—Messrs. Brodhead, Cameron, Clark, Clay, Colamer, Crittenden, Davis, Dixon, Doolittle, Fessenden, Fitzpatrick, Foot, Foster, Harlan, Houston, Hunter, Johnson of Arkansas, Johnson of Tennessee, Kennedy, King, Mason, Pearce, Pugh, Reid, Rice, Seward, Stuart, Toombs, Trumbull, and Wade—31.

So the amendment was rejected.

Mr. MALLORY. The next amendment of the Naval Committee is to insert on page 8 after line one hundred and sixty-three:

That the Secretaries of the Treasury and Navy be, and they are hereby, authorized and required to ascertain, in such way as they may deem best, the actual value of the ten acres of land heretofore belonging to the naval hospital estate at Chelsea, Massachusetts, and ceded by the sixth section of "An act making appropriations for the civil and diplomatic service of the Government," approved the 3d March, 1855, for the purposes of a marine hospital for the district of Boston and Charlestown. And the Secretary of the Treasury shall pay the so ascertained value of the said ten acres, out of any money in the Treasury not otherwise appropriated, to the credit of the naval hospital fund, out of which the original purchase of the property so ceded was made.

Mr. HUNTER. I should like to have some explanation of that.

Mr. MALLORY. The chairman of the Committee on Finance will find an explanation of it in the report of the surgeon's bureau, to be found at page 931 of the President's Messages and Documents for this year, part 3. In 1855, by an amendment to an appropriation bill, made in the House of Representatives, the President of the United States was authorized to take a certain portion of the land which the United States had reserved for a naval hospital at Chelsea, and give it for a marine hospital to the Treasury Department, though the land was bought by the Navy hospital fund, which is a fund contributed by the twenty cents per month of the seamen and officers of the Navy. It was a sacred fund; and without knowing that, I presume, on a mere amendment to an appropriation bill, the House of Representatives, without discussion, took ten acres of that land and gave it to the Treasury Department for a marine hospital. The amendment contemplates the repayment of the value of that land back into

the naval hospital fund. It has been twice recommended by the head of the surgeon's bureau.

Mr. HUNTER. Was not the money thus expended devoted to a marine hospital?

Mr. MALLORY. Yes, sir; but the Senate will remember that the naval hospital service is entirely distinct. We build marine hospitals for the merchant service under the Treasury Department, administered by the several collectors; but we build naval hospitals for the sailors and officers of the Navy. Congress took ten acres of land which had been bought by the naval hospital fund—a fund made up by the contributions of the Navy—and devoted it to a marine hospital for the merchant service. The amendment is to pay back from the Treasury, into the naval hospital fund, the value of that land. This provision passed the Senate once before, but failed in the House.

The amendment was agreed to.

Mr. MALLORY. I have another amendment to come in after line six, on the first page:

That medical officers and engineers of the Navy shall be entitled to the pay of their several grades from the date of their appointments or commissions therein respectively.

Medical officers and engineers undergo several examinations for promotion. Frequently when they are entitled to an examination for promotion their chief sends them out of the country, and detains them perhaps a couple of years when they might have passed, and they are thus kept from their promotion. The practice has been to give them the date of their commission from the time they were entitled to their examination, but under an opinion of the Attorney General, the practice of giving them pay from the date of their commission has been suspended, and they now only get their pay from the time they actually passed. The amendment contemplates making their pay and commission go hand in hand.

Mr. BENJAMIN. I rise to a question of order. This is a proposition to put a private bill on the naval appropriation bill. I objected to these bills—there are half a dozen of them on the Calendar—when they came up. The proposition, as I understand it, is neither more nor less than this: to pay a man at the rate allowed for his advanced grade as a medical officer in the Navy before he has reached it, upon the ground that being abroad he has not actually reached it as soon as he would have reached it if he had been in the country. That is the whole of it. We have four or five of these bills now on the Private Calendar. They were reported from the committee as private bills, and I objected to them, on objection day, upon the ground that the principle was wrong.

Mr. MALLORY. If this be a private bill I trust it will not be put on the appropriation bill, because it is not contemplated to permit any private bills to go on it, but I think the Senator is mistaken. It does not reach the case he supposes. It is prospective in its character. It is to provide in future that officers who are abroad, when entitled to their examination, shall have their pay from the date of their commissions.

Mr. BENJAMIN. I withdraw the point of order, if it does not refer to the past.

Mr. MALLORY. It is prospective entirely. If it is not, the Senator can make it so.

Mr. BENJAMIN. Let it be read again.

The Secretary read the amendment.

Mr. HUNTER. That is retrospective.

Mr. MALLORY. Put in the word "hereafter." It was intended to be prospective.

Mr. IVERSON. The Senator from Louisiana is somewhat mistaken in regard to his objection to private bills; and the non-passage of them. On Friday last the bill for the relief of Dr. George H. Howell, which had previously passed the House of Representatives, passed this body, and is now a law. It was passed for his relief precisely under the circumstances indicated in this amendment.

Mr. BENJAMIN. It escaped my scrutiny.

Mr. IVERSON. There is another bill of the same character still pending before the Senate, which has not yet passed the House of Representatives. There are only two bills of that character before the present Congress. It is right, proper, and just, that these officers should receive the pay. They are ordered out upon a cruise; and, while they are engaged in the service of the country, performing active duties, the time of examination fixed by law comes on; and they cannot be here, of course, to undergo examination

and get the promotion. If they were here, doing nothing, as other surgeons and assistant surgeons are doing nothing, on land, they would be entitled to their examination and to their promotion, and they would get their pay. The refusal to do justice in this case, is simply a bounty to those who stay on land and do nothing, and actually imposing a penalty on those who go to sea and perform service. That is the result of it. I hope the amendment will prevail.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) The word "hereafter" will be inserted after the word "that," as suggested by the Senator from Florida, by unanimous consent.

The amendment was agreed to.

Mr. MALLORY. The next amendment of the Committee on Naval Affairs, is to insert after line fifty-eight:

That the Secretary of the Navy cause to be constructed, as speedily as may be consistent with the public interests, five steam screw sloops-of-war, with full steam power, whose greatest draught of water, in active service, shall not exceed twelve feet, and four steam screw sloops of war, with full steam power, whose greatest draught of water, in active service, shall not exceed fourteen feet, which ships shall combine the heaviest armament and greatest speed compatible with their character and tonnage; and, in addition thereto, one side-wheel war steamer, whose greatest draught shall not exceed eight feet, armed and provided for service in the China seas; and that there be, and is hereby, appropriated, to be expended under the direction of the Secretary of the Navy, for the purpose above specified, the sum of \$1,200,000, out of any money in the Treasury not otherwise appropriated.

Mr. HALE. I move to strike out that part of the amendment which relates to the four additional steam sloops of fourteen feet draught, so that the amendment will stand simply for the five steam sloops not exceeding twelve feet draught of water, and the side-wheel steamer for the Chinese seas. My reason for making this motion I will state. Being a member of the Naval Committee, I agreed in recommending the first five sloops, and disagreed as to the latter part of the proposition. If we are going to have any use for steam ships, we shall want something larger than these little vessels. We have on the stocks at Portsmouth and Kittery, a ship which has been razed down and made into what, according to the opinions of the officers of the Navy, and Mr. Lenthall, the chief constructor, is as fine a model of a ship as there is in the world; and I shall propose, by direction of the Naval Committee, an amendment providing for an appropriation of \$300,000, to put that ship to sea with full steam power. Then, I think, if we increase our steam marine by five new sloops, and a side-wheel vessel for the Chinese, and the Franklin, which will require \$300,000, it will be as much as we can afford at the present time. Besides, I think the sum recommended by the committee for the construction of these steam vessels is altogether inadequate to finish them. I have stated my proposition; I do not want to argue it. My proposition will leave the five steam sloops and the side-wheel steamer, and then I shall offer the amendment to fit out the Franklin.

The PRESIDING OFFICER. It is moved to amend the amendment, by striking out that portion of it which provides for building four sloops-of-war of a draught not to exceed fourteen feet.

Mr. HUNTER. I hope that will be stricken out. This is no time to add to the Navy in the mode in which it is now proposed; but as I am anxious to get along with the bill, I shall say nothing in regard to the amendment of the Senator from Florida until I see whether the Senate consents to strike out this portion of it. I hope the Senate will agree to the motion of the Senator from New Hampshire.

Mr. MALLORY. I am sorry to hear the Senator from Virginia say that he can see no reason for an increase of the Navy in the manner here pointed out, and I should like him to indicate in what way he thinks the Navy ought to be increased. If the size of these ships, or their draught of water, or their contemplated armament be insufficient or inadvisable, I should like him to indicate what he considers advisable; or is not that simply saying that he is opposed to any increase of our naval armament at all? If that is the objection, I can understand it.

Now, sir, I presume the Senate will not object to an increase of the naval establishment of the country when they consider the wants of our commerce and the present condition of the Navy

with reference to our merchant tonnage, and with reference, too, to the condition of our foreign relations. For this purpose, to satisfy my own mind of the inadequacy of our naval defenses, I have looked abroad, as we must all look when we build ships, at the condition of other navies. If other countries had none, we should, perhaps, require none. England and France have a built navy; we have a navy to build. They are restricted in the qualities of their ships by the want of that enlarged timber which we have; and in constructing our navy, we must unavoidably build our ships in reference to those navies with which we come in contact. If we find Great Britain's frigates of a certain size, we should make ours no smaller, because all the glory we acquired in the last war was in combats of ship to ship; there was no fleet fighting. It was a brilliant succession of single combats on the sea, in which frigate was matched against frigate, sloop against sloop, brig against brig. We had nothing to deplore for the reason that we inculcated the philosophy which I hope to see carried out now. Great Britain had a built navy, and we had one to build; and when we laid down the keel of a frigate, we laid it and armed it so as to render all the advantages on our side in single combat of frigate to frigate. Great Britain has recently launched one hundred and eighty-four gun-boats. She has divided them into four classes. Each class is precisely alike, not only in tonnage, and in armament and draught of water, but in the engines, so that if you take an engine out of one boat and put it into another, it fits precisely as does every part of it.

Here I may say, in passing, as a monument to the remarkable constructive power of Great Britain, that she built these one hundred and eighty-four gun-boats within the period of four months; and one single manufacturing house, Penn & Co., of Manchester, took the contract to build eighty steam-engines for the fourth-class boats, of sixty horse power, in four months, and they were built, and absolutely put on board the vessels, within the contemplated time. I mention this to show the constructive power of Great Britain to launch a steam navy at any moment. These boats were built for a specific purpose, and when they were launched Senators will remember, perhaps, the magnificent display of naval power on the waters of the Solent. It was the fleet launched to contend against Cronstadt. Great Britain's fleet, at that time, extended in two lines twelve miles in length, and between the two lines the sovereignty of Britain advanced with her Court, and received the cheers of forty thousand seamen. It is with reference to such a naval power as this that we keep up a naval force at all; and shall we not increase our defenses, when this is the condition of Great Britain?

We have extensive sea-coasts, and a vast commercial marine, larger than any other on the face of the globe. What ships do our peers keep upon our coast? I find, from the latest official intelligence, coming down to the 1st of April last, two months ago, that Great Britain had thirty-four vessels upon our coast altogether. That is, she had ten in the Pacific, mounting two hundred and ninety-three guns; sixteen in North America and the West Indies, which are now all on the coast of Cuba, mounting the three hundred and sixty-nine guns, and she had on the coast of South America eight vessels, mounting one hundred and thirty-two guns; or, in other words, she had thirty-four vessels on our coast, mounting seven hundred and ninety-four guns. She had in commission at that time, the 1st of April, five hundred and sixty-six vessels, mounting sixteen thousand and thirteen guns, propelled by eighty-eight thousand three hundred and sixty-two horse power. She had, in addition to that, one hundred and eighty-five steam gun-boats, and she had one hundred and thirteen ships for port service. She had sixteen thousand seven hundred and fifty-three guns—nearly twelve guns to one of the United States.

Now, it may be very well to look at our own Navy. This is the condition of Great Britain on our own shores, in the Pacific, and in the West Indies. We find, from the returns of the Secretary of the Navy, that we have afloat twenty-nine vessels all over the world, Great Britain having thirty-four on our own coast, and those twenty-nine vessels have six hundred and twenty-eight

guns. Recollect that these twenty-nine vessels, with their six hundred and twenty-eight guns, are in commission scattered over the face of the habitable globe. How do we compare with Great Britain, which has thirty-four vessels and seven hundred and ninety-four guns on our own coasts? We have, in ordinary, twenty-eight vessels with eight hundred and twenty-two guns, and when you have said that, you have named all of our Navy, except the five sloops that are building. I say this to contrast the Navy we have at our control now, with that which Great Britain has placed immediately on our own coasts; but last year she had nearly one hundred more guns on our coast than she has this year. The Senator from Virginia remarks that he does not see the utility of increasing the Navy in this manner. Does he refer to the class of vessels? The Secretary of the Navy, to whom we have delegated power on this subject, tells us, in his last report:

"The act authorizing the five sloops-of-war having specified the class of vessels to be built, did not admit of the construction of small steamers of light draught, which are very much wanted in the public service. For some years past the Government has had no means of supplying its indispensable wants, except by hiring small steamers as occasion might require. At this moment, when much needed, we have no vessels which can penetrate the rivers of China. We have few that can enter most of the harbors south of Norfolk. Harbors which are the recipients of hundreds of millions of our commerce are not accessible to most of our public ships. This state of destitution is so remarkable that it should attract particular attention, especially as some of our greatest interests and most vulnerable points are thus left exposed. Besides, this class of steamers, of light draught, great speed, and heavy guns, would be formidable in coast defense. They cost but little in construction, and require but little to keep them in commission; and, for most practical purposes in time of peace, are as effective as larger vessels, and often more so. One or more of them should be at every point where we maintain a squadron. Three or four should be constantly employed on the Atlantic and Pacific coasts. Economy, efficiency, and utility, combine to recommend them as almost indispensable. Ten of them would be of incalculable advantage to the naval service, and would cost \$2,300,000."

That is the estimate of the Navy Department. The Secretary says truly that we have scarcely a vessel which can enter any of our southern ports; and from the abstract of the coast survey report, I have marked such ports as we have that no man-of-war except the smallest steamer can enter, which our sloops-of-war could not enter; for instance, Hatteras inlet, Ocracoke inlet, Cape Fear, Georgetown, South Carolina, Charleston, St. John's river, Florida, the Cedar Keys, St. Mark's, Cat Island harbor, Galveston bay, and a great many other points which would afford admirable harbors for our naval vessels, and to which they would naturally be driven if chased by an enemy in the Gulf of Mexico. The maximum is fixed in this amendment; the draught of water is not to exceed fourteen feet for one class, and not to exceed twelve for another. The naval constructor and the Secretary, whose responsibility is here invoked, will construct them according to the best plans. We leave that to them. With fourteen feet of water they may enter all the ports I have mentioned south of Virginia; with twelve feet of water they may enter a great many of the inlets which are mere roadsteads and harbors, but which are useful for national defense. The British gun-boats, which have been committing the outrages upon our commerce, are gun-boats of the fourth class. They draw six and a half feet of water, and they have sixty horse power engines. They have coal for about five or six days; they are right in the vicinity of Jamaica, their own island and coal depot; and in any maritime war with Great Britain, these gun-boats would never be twenty-four hours out from a coal depot anywhere. These small vessels of ours are principally designed for home defense; they would take the place of the home squadron, because, carrying a small quantity of coal, they would not be sent upon long voyages.

I know, if it be proper to say it here, that the House Naval Committee are anxious to pass a bill for twenty vessels. I think the present condition of the country eminently demands such a measure. Here, when circumstances have arisen which have rendered it necessary to send vessels to the Gulf of Mexico, what have we done? One commissioned vessel that we have sent is a water tank, built in the Potomac river for the supply of a squadron. She has been put into the shape of a steamer, with four or five small guns. Then there is the Arctic, a slow vessel, with perhaps two guns; the Fulton, a small vessel, perfectly

useless as a war steamer—a side-wheel steamer, though, as a dispatch boat, very useful, with perhaps six large guns, perfectly inefficient before a single one of the British gun-boats. The whole combined would not be considered a fair match for one of these gun-boats. We have not placed it in the Secretary's power to meet this contingency; we have not the power now; and when, after all the speeches made here a few days ago, and the unanimous opinion expressed with relation to the outrages on our commerce, this proposition is made, are we to be told that these vessels are not essential? The gun-boats which are now contending against our commerce draw but six and a half feet of water. They can enter the very smallest harbors in our country. Are we not to build vessels to follow them? I do not think there has been a man-of-war in the port of Charleston since 1832; and I do not know that in any harbors of the South have we had a single ship, certainly not a sloop. I know not a frigate of ours that could get into them.

Mr. CLINGMAN. I should like to ask the gentleman—he speaks of many of the British vessels drawing six and a half feet water—whether there is any proposition for vessels of light draught—say eight or ten feet draught? If not, I hope he will move an amendment, or I will move it. I desire to have some vessels of the kind he refers to, from six to ten feet draught.

Mr. MALLORY. I have, of course, paid some attention to the subject, and I consider the responsibility of recommending the building of a six-foot vessel as very great. If the Senator will look at the harbors on our coast, he will find that, where a vessel of six feet can enter, a larger vessel can enter; and the amendment does not restrict the Navy Department to any draught as the minimum; it restricts them to the maximum. They cannot go over twelve or fourteen feet; but they may build them as small as they please. I should think it very unwise to say to the Navy Department, you shall build a vessel drawing precisely so much water. I think we had better fix the maximum, and leave the responsibility where it ought to be.

Mr. CLINGMAN. I fully agree with the Senator from Florida that it would not be wise to say six or seven feet. I made the remark because of what he previously said; but, on the other hand, this difficulty presents itself to my mind: if you propose that the limit shall be twelve feet, I do not believe the Department, judging from their course formerly, will make a single ship that will not be of that draught. In fact, whenever we order any vessel to be built, they seem to select the largest possible class that will answer the description. I am reminded of an anecdote of some person who had a disposition to magnify all that he had himself. "Well," said one of his friends, "I have got one thing that you never can have, and that is a fine flock of geese." "Why," said he, "when I have geese, all your geese will be swallows." [Laughter.] The disposition of the Navy Department always has been to make the largest class of ships; and the consequence is, that out in the China seas, where they are very much wanted, none of our ships can get in. I remember Mr. HUMPHREY MARSHALL told me our affairs would have been in better condition if we had vessels to go into the Chinese rivers. Our commerce and people are protected in those waters, and in South America and other countries, where they get any protection, by British ships of light draught that can go in.

We want two things: We want vessels that can go into shallow seas, and we want enough of them to be stationed wherever our commerce is to be protected. Senators are well aware that our Navy is not more efficient now than it was about forty years ago. In 1816, I believe, it was about as efficient as it is now, and we have four times the shipping interests now to protect that we had then. What I desire, is to get a liberal increase of small vessels. I would not select six or seven feet; I should like them to have about ten feet draught. You may call them gun-boats or what you please; but I would not allow the Department to exceed ten feet. If such an amendment be in order, I will move a proposition of that kind. In time of peace such vessels are exactly what we want. All the difficulties that the President's message complains of, and our Committee on Foreign Affairs make a fuss about, generally origin-

ate from the fact that there is nobody there to look after our interests. By having a large number of small ships that can be scattered all over the world, at least where our commerce is, we shall escape these disadvantages; and in time of war they will be very useful. We never can expect, without an expenditure to which the people of this country will not submit, to meet Great Britain fleet for fleet, but if we should be involved in a war with that country, there is one thing we might do; Great Britain could send a fleet to New York, or Boston, or Philadelphia, where we could not meet it; she could blockade those points; but suppose she breaks up her fleet into small detachments, they could only operate at one point on the coast, and we ought to be able to beat them. Our coast is very extensive. It would be impossible for her, if we had a tolerable Navy, to blockade the whole of it, and I think there ought to be a steady increase that would enable us at least to make defense to that extent, and also to cripple her commerce. It seems to me that light ships, whether you call them gun-boats or anything else, that could move rapidly, that could get out of the way of a large ship, and overtake a merchant vessel or anything it could fight, and readily escape from a formidable armament into shallow waters, are what we need. Therefore, if it be in order, I move an amendment for building ten steamers that do not exceed ten feet in draught.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) The question now is on an amendment to an amendment, and another amendment is not in order.

Mr. CLINGMAN. I give notice that, if it meets with any favor, I shall make a motion of that kind.

Mr. HUNTER. Before the vote is taken, I should like to say a word or two in regard to the propositions for increasing the Navy; and first, in reply to the ground taken by the Senator from Florida, as to preparation for war. My idea of the proper mode of disposing of this bill is to regard it solely as a bill for a peace establishment. If the Senate or Congress should believe there is danger of war, and it is necessary to provide for war, that ought to be done in another bill. We ought to separate our extraordinary from our ordinary expenditures; because I consider it to be very important to hold the Departments, if we desire economy, to a certain scale of ordinary expenditure. Let us appropriate, in these bills which are designed to carry on the Government, what is necessary for that purpose. If the Senate should hereafter think something more is necessary, in order to put the defenses of the country on a war footing, that ought to be the subject of another bill. We can thus secure responsibility in the Departments; we shall thus, too, ourselves be held to a readier responsibility by the people.

There are two wars: there is not only this war of which the Senator speaks, but there is another of which I am very apprehensive—and that is the war upon the Treasury; and for the purpose of protecting the country against that, I desire to make these bills only for the ordinary expenditures of the country. Let us do that, and if it be necessary to make war preparations, we can take another bill. The sole question, then, for us to consider is whether, if we are passing a bill for the usual ordinary expenses of the Navy, we ought at this time to make this addition. I think we ought not. I am willing, when the Treasury is full, to vote for additions to the Navy. I think that is the time. It occurs in our financial history that we have periods of plethora in the Treasury. I think when they occur, we ought to devote the excess to adding to the Navy, and to the establishment of fortifications, &c.; but in times like these we ought to restrict the expenditures, if possible. We ought to do it, because there is no sort of hope of avoiding the necessity of resorting to another loan at the next session of Congress, unless we restrict the appropriations somewhere within the estimates that have been made.

In regard to these steamers, as to the size proposed, and all that, I have nothing to say. If the Senator from Florida chooses to bring up the scheme in a separate bill which looks to a state of war, and of preparation for war, at another time, we shall be able then to consider it; but I submit that upon an ordinary appropriation bill, we ought not, in the present condition of the Treasury, to make these appropriations; nor ought

we to do it anywhere until we know what is to be the size of the ships, and what is to be their probable cost. All this is indefinite here. A steamship drawing twelve feet of water, I suppose, may be of almost any size. I have no particular knowledge on the subject, but I presume it is no limitation, at all, except as to the mere matter of draught, none in regard to the expense, to say they must not draw more than twelve or fourteen feet of water. In a better condition of the Treasury, I believe it would be very wise and politic to build some small steam screw gun-boats, which the Secretary of the Navy recommends. At another time, it might be very well, especially for coast defense. I should judge, from the report of Lieutenant Dahlgren, that they could hardly be of much service to us on foreign stations, because they could not carry coal enough. They might be very useful at home; and if the Treasury were in a better condition, I should not oppose the construction of a few of them; but I am unwilling now on this bill to add anything of this kind. Let us keep the bill within the estimates; and if the Senate then think it proper to have preparations for war, let them bring forward the measure in another bill.

Mr. CLINGMAN. I wish merely to remind the Senator from Virginia that the British gun-boats have gone into the Baltic, the Crimea, and elsewhere. They use their sails, except on particular occasions, and then steam power can be used. They might be sent anywhere as sailing vessels, with auxiliary steam power. That would depend on their construction.

Mr. HUNTER. This is the report of Commander Dahlgren, who was sent out to examine into the subject. He says, speaking of screw gun-boats:

"As may be supposed, the vessel is nearly occupied by this amount of ordnance and steam power, and little space is left for stores of coal, provisions, or water, or for the accommodation of men; wherefore, such craft cannot cruise far from their depots, whether afloat or ashore, but quite as far as would be required for coast defense."

Mr. BELL. I should like the honorable Senator from Virginia to tell us what prospect there will be if we take this advice—and his reasoning is very plausible indeed—and omit to make this amendment to this bill, of ever making any provision for new steam vessels of war at this session? Does he think a separate bill for increasing our naval force can be passed at this period of the session? I think that if we mean to move in the policy of increasing our naval force, this is the only opportunity we shall have of doing it during the present session; and many months must elapse before we shall be together again, unless we be called by the President on some special emergency. If it be true that there is no occasion for any increase of our naval force now, particularly when the Treasury is so low, I must plead in my own defense for having given my assent to this proposition, in the Committee on Naval Affairs, that I have been misled, I have been misguided, I have been deceived into the idea that it was proper to make some addition to our naval force; and that even it might be proper to go on and greatly increase our Navy, beginning at the present time, if we had to borrow money to do it; and I should like now to call up from their hiding places, if they be about the Senate Chamber, those war spirits from whom we heard so much the other day. Has anything occurred to change the feeling and the temper of the Senate since that debate? Where is the honorable Senator from Georgia, for example, who told us that he not only wanted war with England now, but had wanted it for years past, and was ready for it at any time.

Mr. TOOMBS. I am now; but we shall not get a fight out of this crowd.

Mr. BELL. He was dissatisfied with the report of the chairman of the Committee on Foreign Relations, and thought it was not worth the snap of a finger for any effect it was likely to have. Where is the honorable Senator from Illinois, [Mr. DOUGLAS,] whose proposition lies on the table? Where is the honorable Senator from New Hampshire, [Mr. HALE,] I do not see him now; but I believe he is not much in favor of any increased naval force. Those gentlemen were not content with the moderate counsels of the chairman of the Committee on Foreign Relations, who, I thought, went quite far enough. He found that he was far behind the spirit of the Senate as well

as of the people of this country, and at the close of the debate I thought he rather shrank from his position. He certainly did not answer with any energy, or vigor, or determination, the arguments of these worthy gentlemen.

My friend from Florida is acting in character, and acting up to his professions. He did not mean any bravado in the speech he made the other day; but I call on other gentlemen who thought it was time we should be facing Great Britain at once, who not only expressed the opinion that we ought not to be content with any apology or explanation she could make, but that we ought to prosecute this controversy until she abandoned her doctrine or principle of the right of visitation and the right of search, that we should compel her to admit an abstraction. Other gentlemen were for authorizing the President to send our naval force immediately to catch or capture the British vessels. I thought "catch" was a term well enough to apply, because, according to an old saying, "there is catching before hanging." [Laughter.] I thought then, it was very likely it might occur that we should find ourselves hardly able to do that in the present condition of our strength in those seas; but I know that the spirit of the country is such that if it would be necessary to vindicate our honor we ought to authorize the President to send our little fleet there, and make war upon these aggressors upon the honor of our flag, even if they were sunk in the conflict. That was the spirit of the debate the other day. There was no margin left for any gentleman who did not speak on that occasion, if he wanted to come up to the supposed spirit of the people of this country, to make any proposition. I shrank from it, not being one of those who like to place themselves in the position of going beyond what is the sober-tempered spirit of the people of the country. There was no margin left for any gentleman who wanted to distinguish himself as the undaunted champion of the honor of his country under all circumstances, except to propose that the President should give orders to our naval forces to sink the whole British navy. [Laughter.] You might as well make such an order as that as one to capture her forces even in the West Indies at the present time, the disparity is so great; but, nevertheless, if it be necessary to vindicate our honor, we must come up to it.

But I ask now, in reference to the remarks of the honorable Senator from Virginia, where are those war spirits that excited us so much the other day? I thought, even before the recent occurrences in the Gulf, and these insults to our flag, we ought to go on from year to year making a moderate addition to our naval force, such as the increasing wealth and resources of the country would justify, such as our credit, if not the money in the vaults of the Treasury, would justify; but I confess that after I heard those speeches from those gentlemen, I felt it my duty as a member of the Committee on Naval Affairs to give my support to an increase even beyond what we had before talked of or considered.

Mr. PUGH. May I ask my honored friend does he support this proposition on the ground that he thinks these vessels are to be used for fighting Great Britain? Is that the ground of the Naval Committee?

Mr. BELL. From the first I have considered that there was no probability of a war with Great Britain.

Mr. PUGH. That is what I want to know. If there is war I am ready to vote for them; but if they are for peace I am against them.

Mr. BELL. I have acted on the principle, since the time of the acquisition of our States and Territories upon the Pacific ocean, that it would be the proper policy of this country to put ourselves in an attitude of defense for the contest which was likely to come sooner or later with that great arrogant Power across the ocean, as rapidly as that policy could be pursued with our means and the support of the country, and that the way to postpone such a contest to the latest period, if it could be done consistently with the honor and dignity of this country, was to prepare gradually and silently, and never to use bravado on any occasion; add to your ships of war, adopt the modern improvements in all of them, the application of steam as an auxiliary to the sails of your vessels; qualify them to go upon long cruises, and to be able to take coal enough to supply them with the aux-

iliary power when it might be needed in battle on the coast of another continent if necessary, and make intercommunication with the Pacific through your own country. I am sorry that scheme is so gigantic as to alarm so many men; but from the time we acquired our possessions on the Pacific coast, I thought it was the duty of this Government to provide a means of overland communication, as safe and convenient a one as was practicable and possible. We have neglected that for ten years. The country has not come up to my notions on that question.

In the debate, the other day, I refrained from taking any part. I could not conceive it possible that Great Britain intended to insult this country in her present condition, or as it will be for a long time to come. With her still unsettled affairs in India, with the condition of her relations with France, in the opinion of many, lowering and scowling upon her—the French army, at least, courting a contest with the English, and the monument of Waterloo still glaring in their faces and in their minds—I could not suppose that England courted hostility with this Government. I thought there must be some mistake; some violation of orders, and in considering the other connections, the trade and the dependency of Great Britain, in some degree, for the subsistence of her own population, and keeping her manufacturers at work, by getting cotton from this country, I could not suppose England meant any such thing; but still we ought to have all the reparation that a country, jealous of its honor and confident of its resources in the end to meet Great Britain, or any other Power, ought to expect from a country always proud of her honor. Certainly, more we ought not to demand; and if she will not give that, we ought to meet her at all hazards. I will tell my friend from Ohio, further, what I thought. From the temper of the debate, and from the interest that seemed to be felt in getting up an excitement in the country, (except that I have heard that none of our naval officers are very young men,) I feared they might take fire, light up their feelings according to the spirit which they found prevailing in Congress and among the people of this country, and transcend their orders a little, if necessary, to come in conflict with the war vessels of Great Britain, in the Gulf of Mexico; and I should not be surprised if some of our ships-of-war, sent there, have captured some of the British vessels, after a conflict, or have been captured. When I heard the debate, I did not know but that there was an interest felt in some quarters that we should have war with Great Britain, and I thought then, as I think now, that if we wanted it, we can have a war out of this business in the Gulf. The President can have a war, if he wants it. He holds in his hands the power of giving orders to our vessels, and they are not more likely to obey them strictly now, than they were recently, on another occasion.

Sir, I am trespassing too long on the Senate; but I want the gentlemen who were so warlike the other day to come up to the support of this proposition for a small increase of our naval force. It is half an hour since the Senator from Virginia took the position that if we needed an increased naval force the measure should be brought forward in a separate bill. I have given attention to the fact that it is not likely that an opportunity will be presented for such a separate bill during the present session; and if there was any sincerity, if it was not all hollow bravado, which it would have been better for the honor and dignity of the Senate to have pretermitted altogether in the debate the other day, there is occasion for this increase, and it ought to be followed up by some real movement which will show that we are in earnest, and that although the Treasury is low we are ready to use the credit of the country to make an addition to our naval forces. That was my object in rising, and if now this amendment shall be voted down, I shall not think that it has been consistent entirely with the spirit manifested the other day, and will show that that was hollow.

Mr. BROWN. I think, sir, the Senate will bear me witness that I do not belong to the category to which the Senator from Tennessee has alluded—the war-making portion of the Senate. Since this English difficulty has existed, I have not said one word about it. I have purposely abstained from doing so; and therefore no part of

the remarks on that point, of the Senator from Tennessee, has the slightest reference to me. I shall vote for this amendment with great pleasure. I should vote for it with more pleasure if it proposed to build twenty instead of ten ships. As to the size of the ships, I am unable to say now whether they are a proper size or not, and should be just as little able to say it the next year or the year following. The capacity of ships must necessarily be determined upon by those who have the command of them, and those under whose supervision they are to be placed. It is impossible that I can ever understand what sized ships are best for naval purposes. I assume necessarily that the Naval Committee, charged with the settlement of that question, the Secretary of the Navy, and officers of the Navy who have been called into consultation, have properly considered that subject, and have made a proper recommendation. I feel that your Navy is too small; that there is a necessity for increasing it—a necessity which has existed for years, and exists in greater force now than at any former period. If the Secretary of the Navy, the Naval Committee, and the naval commanders, have made a false or improper recommendation as to the size of the ships, the responsibility must be upon them. If I could be better instructed at the end of six months than I am now, I might say, let us wait a little while; but I shall not be. At the opening of the next session you will have to rely on the same sources of information on which you rely now, because each individual Senator for himself can have but very slight information on a point of this kind, and he would not like to risk his own individual opinion against the opinion of the Secretary, the committee, and the officers of the Navy.

The Senator from Virginia says that at another time, when the Treasury is full, he will be willing to vote for this supply. When will the Treasury be fuller than it is now? No man can tell. When can you borrow upon better terms than you can borrow now? Your credit, instead of rising, in case you get into difficulties with Great Britain, will fall, and fall rapidly. Instead of being able to borrow at three or four per cent. then, you will have to borrow at ten, fifteen, or twenty per cent., and perhaps at a higher rate. You now borrow because you choose to do it. Get into a war with England, and you will borrow because you are forced to do it; and a forced loan, a loan when you are compelled to have it, is always obtained upon harsh terms. This is the only object for which I would agree to borrow money to any extent. I would not borrow money in any large sum to keep up your Army. In the proper administration of your Government, you have very little use for an army. About all the service it performs in time of peace is to watch Indians, and I very much agree with my venerable friend from Texas, [Mr. Houston,] that if you let the Indians alone, they want very little watching. But your flag, according to the declaration of gentlemen all around the Chamber, has been insulted, again and again, on the sea. We have heard the Senator from Tennessee recapitulate the simple facts that war speeches have been made on both sides of the Chamber, speeches calculated to stir up the blood of young America, speeches calculated to excite English spirit, if she be acting upon a system, speeches calculated to produce an issue, to bring the two Governments face to face—that you must either have a fight or have a back out, on one side or the other. English courage never has receded from a conflict, nor has the courage of America. I hope that at the last hour we are not to shrink from the conflict, and do it on the miserable plea that, after all the boasting we have had here, we are unprepared for war. Do gentlemen calculate that their speeches are to be read in the British Parliament, by British statesmen, and no notice taken of them? Do gentlemen calculate that Great Britain is to take down her flag, and not to stand up to any national position she has assumed? If they make such calculation, then let me say, history does not justify their making it. If they are quite assured that the recent transactions in the Gulf of Mexico are unauthorized, then their speeches were unworthy of Senators. I supposed that those speeches were made because there was a settled conviction on the minds of Senators that Great Britain did authorize these outrages, that we were talking, not to the poor creature who com-

mands the Styx or the Buzzard, but that we were talking to Lord Derby and his council, that we were talking to the Queen upon the throne. If we were, if that was the view of the subject, then Senators ought to consider that the words uttered here are not light and frivolous words, and will not be so considered and treated by the world, but that these bold words ought to be backed by bold and manly actions.

Mr. President, I know very well that, in case of a conflict with Great Britain, the great burden is to fall on that section of the country from which I come, and upon no portion of it more heavily than upon my own State. Mine is a cotton State; purely a cotton producing State. We sell scarcely a penny's worth of anything else than that great staple, and Great Britain is our best customer; but I say before the Senate to-day, and before the world, that, sooner than allow my flag to be insulted, I would have my people carry every bale of their cotton to New Orleans and Mobile, to make barricades, and, if necessary, I would put the torch to it and burn up every fiber of it without one sixpence of insurance from any quarter. With me, sir, the defense of the flag is the first great duty of an American patriot, and I would defend it, cost what it may. But I should talk idly if I said I was for a war with Great Britain. I want no war with her. I want her to respect the rights of these States united; I want her to pay proper deference to the glorious banner of the stars and stripes. If she refused that, I would not stop an instant to count the cost in dollars and cents—nay, sir, not in blood and life. I indorse what my friend from Tennessee has said, that these violent speeches, unbacked by acts, amount to little. When they are carried across the Atlantic, and are read there, British statesmen cannot fail to see that this is mere bravado; that you will talk valiantly to the populace about war; but when it comes to preparation you do not make the preparation.

It is confessed now that you have not an available naval force to vindicate your flag in the Gulf of Mexico. Who does not know that that is true? How often has it been stated here without contradiction that the British guns in the West Indies and the Gulf of Mexico outnumber yours more than two to one, and that you have not an additional force to send there? Yet, in the face of these facts, gentlemen have talked of war, of blowing Great Britain out of the sea, capturing her vessels, and bringing them into port, holding them as hostages, and all that! If you mean to meet an issue with a Government like Britain, you have a very different game before you; and it is high time you commenced preparing for the conflict. These war speeches have satisfied me that there is danger, imminent danger; that, if you vindicate the honor of your flag, you will have war. I do not say that you will have it absolutely, but that there is danger of it; and, in the face of that danger, I will provide for the contingency in advance of its coming. Let us have the twelve sloops. I repeat again, I am sorry the committee did not propose twenty. Twenty would not be half enough. Better borrow the money now, when you can get it at three or four per cent., than stumble headlong into war and borrow at twelve, fourteen, fifteen, or perhaps twenty, or even a higher percentage.

But even in a time of profound peace you need the vessels. If there was no menacing anywhere, I might say that, inasmuch as there is no pressing necessity for it, I will not go for an increase of the Navy; but in view of the present danger I am for the increase, cost what it may. I think it will have a wholesome effect on diplomacy. While I would not undertake to menace a Power like Great Britain, because she is not a Power to be menaced or bullied, yet I think if she saw that you were backing up your bold words by equally bold and valiant deeds, she would not be quite so likely to be so overbearing and haughty as a nation as we know her to be—as she would be—if you simply talk and do nothing. I am for backing up all we have said by equally bold deeds. I am not finding fault with gentlemen now for talking. It is all well enough. Up to this hour I have taken no part in it; but I choose to put my declaration on the record not only in favor of vindicating the flag on this question in words, but in favor of preparing to do it by deeds. These sloops, if you would build them will not encumber your Navy.

Your Navy is not, it never has been, large enough. Your coast has been extended. If you had no further service for it, your coast has more than doubled within the last fifteen years; there is a greater amount of coastwise trade to guard on both sides of the continent. It requires a greater expenditure; and if there be grumbling among the people about the expenditure, the answer is easy: "you insisted upon the addition to the country; you knew when you were getting all this coast that it would need defense; if you are a sensible and thinking people, you must have seen it would involve an expenditure to protect it, and keep it, and maintain it." I am for increasing the Navy from ten sloops up to twenty, and I would vote for forty.

Mr. TOOMBS. Being one of those who felt it their duty to propose, and to advocate, very decided measures for seeking redress for the insults to our flag by the British authorities in the West Indies, I feel called upon, by the extraordinary speeches of the Senator from Tennessee and the Senator from Mississippi, to vindicate that course of policy which I deemed it proper to pursue. I can tell the Senator from Mississippi, that the great difference between him and me is, that I am for a war with England and he is for a war on the Treasury. That is what marks our respective policies. Sir, no country on the face of the earth is better prepared for war to-day than the United States of America; no country better prepared to vindicate its honor by land or by sea. The best preparation any people can have is to have all the material of war. You have got men; you have got money; you have got provisions; you have got all the material necessary for a war with any nation upon earth, or with all nations upon earth. Therefore, give me a war measure and I will give you war supplies; but I will not give you war supplies with peace. Go, and pass your resolutions, and order your President of the United States to take the aggressors in the Gulf of Mexico, the English officers who have seized and insulted and trampled upon your flag and fired into your ships, and then come to me for war supplies and you can get them; but you cannot have just war enough to make it a siphon to drain the Treasury and be kicked again in the Gulf, as you have been year after year. That is my policy. I think we are prepared now, on the general principle. I again repeat, that the best preparation for war is the development of the great material interests of the people. You have two hundred thousand seamen accustomed to navigation; you have ample means in the general prosperity of the country; you have a vast military force, sufficient to meet the whole world; and I think we are ready.

I do not belong to that class who are disabling the country for war by an overshadowing peace expenditure. The worst preparation for war is to break down your Treasury by spending eighty or a hundred million dollars a year, squandering it in time of peace. I would leave it in the pockets of the people for the development of the great resources of the Republic; and when war came, they could improvise a navy. You have the men; you have the means; you have the material; you have everything that a great nation needs. What has been the great need of nations in the most recent wars? Look at the Crimean war. England went all over her dominions, and she could not find men. The crooked-backed people about her factories were unfit to serve in the Crimea. Ninety-nine out of a hundred were rejected by her surgeons. She even came here, and followed the exile, whom her policy had driven from her own shores, in order to take him up with her drum and fife to enlist under the banner from which he had fled. She had not men enough; that was her great need. She could not get them. She went to foreign countries to hire them; she went to Switzerland; she went to Germany; everywhere, begging for foreign troops to vindicate the flag of England. When this great country, on the contrary, had a war with a foreign nation, the only difficulty was, what to do with the thousands and tens of thousands upon every hill who were rallying at the call of their country to march to a foreign land to vindicate its honor. This was our picture; that was hers. She ransacked the whole earth to get the quota of soldiers which her treaty required her to furnish France. Our whole difficulty was to select among the multitude of able and patriotic men, who jumped on the first proclamation, to the de-

fense of their country. That is the preparation. You have the means; you have the men; you have the material of war—every possible element for war, and you have not overtaxed them; you have not broken down industry by very heavy expenses in time of peace. You have not, as England has, run your expenses to \$350,000,000 a year. You have not drained the last cent from the people. You have not drawn the last penny that you could from their income. You have not resorted to treachery, as she has in India, to wring pence out of poverty. You have a great, a powerful, a prosperous people, ready and willing, at any hour, to vindicate the national honor. That is my preparation for war; and therefore, if you agree to the proposition of my honorable friend from Illinois, pass the bill which was passed in 1839 by a unanimous vote; then, with a war measure, I will give you war supplies; but I will not give you war supplies on a peace measure.

As for our naval estimates, I believe they are from thirteen to fifteen millions. Some comparisons have been drawn between the Navy of the United States and of other countries, and a vast difference has been shown between us and France. I had occasion last night to look into the last estimates of the French navy. Their budget for their navy was 120,000,000 francs, ours eighty—two thirds of what theirs is. The French navy is represented to be some four or five hundred ships, ours fifty or sixty. Look through our Navy estimates now at eighty million francs, \$16,000,000, and what is it? It is like Falstaff's reckoning, so far as efficient service is concerned—"a penny worth of bread to all this sack." You have a beggarly account of some few hundred guns afloat. I took my pencil just now when the patriotic Senator from Mississippi was arguing for war supplies, to estimate how much of the appropriations in this bill were for navy-yards, and they lack but little of two million dollars. That is the way you are spending money—\$2,000,000 for navy-yards, besides the appropriation of \$100,000 asked by the honorable chairman of the Naval Committee for another naval dock, which is not such a very good defense to ships as my honorable friend from South Carolina seems to imagine.

Then, I say, I agree with my honorable friend from Virginia—it is too great for a peace establishment, and I will not vote for it as a peace measure; but pass the bill of my honorable friend from Illinois; tell the President to defend the honor of the country; punish the past and prevent the future; and authorize him in that bill, as our fathers did in 1839, to employ the military power; and I will give it all to him, to be used for that purpose; but not to be thrown about your navy-yards, not to be squandered in the inefficiency and effete ness that have marked and characterized the administration of your Navy for twenty years. I do not want a dollar there; you had better not own a navy-yard; you had not a single one of them in the last war with Great Britain. It is not navy-yards, it is not ships, that prepare a people for war. We can build five hundred as soon as we can one hundred, or one ship. We have private yards and public yards sufficient to build five hundred ships within the same time that we can build one. We can provide a navy, man it, and victual it, as soon as England or France, with their ships on the stocks. We ought to know what time it takes to put one of ours to sea when lying in ordinary. We can build ships; but, so far as we are concerned, the standing policy of our country has never been to make our Navy as great as that of France or England, or the other naval Powers. On the basis of our expenditure, if it costs us from thirteen to sixteen millions per annum for fifty ships, how much would it cost us if we had five hundred, as England has? The wealth of the whole world would not maintain them. They would cost more than the profits of the entire industry of the people of the United States. You would beggar the people in peace by way of preparing them for war! Hence, our policy has been to make the nation strong and powerful and great, by developing its material interests, making the people rich with abundance of food, abundance of men, and light taxation, and then you are always ready for war. That is my policy, and not the one of the honorable Senator from Mississippi.

Mr. HAMMOND. I should like to know what is the exact proposition before the Senate.

The PRESIDING OFFICER. The amendment of the Senator from New Hampshire to the amendment reported from the Committee on Naval Affairs. The amendment of the committee proposes to build three classes of vessels. The amendment of the Senator from New Hampshire is to strike out that portion of the committee's amendments which proposes to build four sloops-of-war drawing not less than fourteen feet of water.

Mr. HAMMOND. Then I inquire whether it would not be in order first to move to strike out and insert?

Mr. CLINGMAN. I send an amendment to the Chair for ten gun-boats with full steam power, as I believe it is in order to perfect the clause before striking out any portion of it.

The PRESIDING OFFICER. It is.

Mr. CLINGMAN. My amendment I suppose comes in to perfect the section. I move it in that way.

Mr. HUNTER. The Senator cannot move an additional appropriation.

Mr. CLINGMAN. I do not move any additional appropriation. I leave the appropriating clause to stand as it is, but after the provision for an eight-foot vessel for the Chinese seas, I propose to add "and ten gun-boats, with full steam power."

Mr. HALE. I rise to a question of order. I think the Chair is mistaken. It is in order to perfect a section before a motion is taken to strike out the whole section; but it is a matter of judgment whether a section is perfected by striking out one particular clause or adding a particular clause. As I do not propose to strike out the section, but to leave it, and my motion is to amend it by striking out the provision for four sloops-of-war drawing fourteen feet water, I put it to the Chair that that is in order, in preference to the amendment of the Senator from North Carolina to add ten gun-boats; because the rule is, that where there is a motion made to strike out the whole section, it shall be left for the friends of the section to amend it before that motion prevails. Therefore, I contend that my amendment takes precedence, and is in order.

The PRESIDING OFFICER. The Chair is of the impression that, in that view of the case, the question must first be taken on the amendment of the Senator from New Hampshire to the amendment.

Mr. HAMMOND. My only object in asking the question was to enable me to say that so far from concurring in the striking out proposed by the Senator from New Hampshire, all the members of the Naval Committee except himself are in favor of doubling the number of vessels; and as far as I am concerned, I concur in the amendment which I understand the Senator from North Carolina intends to offer. I do not regard this as a war measure. I think, from the sentiments I uttered a few days ago in the Senate, it is understood that I am not an alarmist; that I am not disposed to take any measures that would precipitate this country into a war with Great Britain, while I am ready to meet that war whenever it occurs. If I recollect aright, the Secretary of the Navy, in his annual report, recommended that ten new steam sloops should be built, long before there was any apprehension of a difficulty with any foreign Power. Ten sloops, therefore, will be recognized specifically as a peace measure as necessary to sustain the Navy Department in time of peace. The opinion of the Naval Committee is that the recommendation falls short of the necessity, and that twenty such vessels are required for the Navy in time of peace. If we were going into a war with a great naval Power like Great Britain, this would be but a meager preparation; yet, of course, in all creations of a navy, we must necessarily have an eye to war; and without intending to advocate these twenty sloops as a war measure, whoever advocates them must necessarily do it with a view to the protection of our commerce, and of the incidents connected with it.

I imagine that there are few members of the Senate who know the condition of our Navy. Why, Mr. President, it is playing at sham with a navy. Comparing our Navy with our commerce, with our population, and with our extended and defenseless coast, it is perfectly ridiculous. If it were not for the gallantry which animates the officers of the Navy, and for the fine vessels that we have built, which have commanded the

admiration of the world, I would say it was contemptible. As far as our Navy does go, it is equal to any other navy; and I would be willing to risk it at some odds against any other navy; but when we consider the proportions between our Navy and our commerce, I repeat, it is a mere sham. Why, sir, we have a commerce equal to that of Great Britain; our tonnage is equal to hers. She has a navy of twenty-two thousand guns to protect her commerce. What have we got? We have a Navy—counting all the ships in service, all the ships in ordinary, and all the ships on the stocks—of less than two thousand guns. Where ever we meet Great Britain, even in our own seas, she appears as ten to one; and throughout the whole world she is nearly as fifteen to one. Great Britain, at this moment, has more guns in the waters of America, and a greater number of seamen in our own waters, than our entire active Navy. She has seven hundred and ninety-four guns surrounding our coast, and we have but seven hundred and eighty-nine, all told, to meet her.

Mr. MALLORY. Six hundred and twenty-eight.

Mr. HAMMOND. I have seen an estimate of seven hundred and eighty-nine, and I wish to state it on the largest scale. Statements vary. Certainly Great Britain has a larger force in our own waters than we can control, if every ship we have was brought together at once. Are we safe? I do not wish to allude to the late outrages on our commerce, for I do not advocate this proposition as a war measure, but as a measure of decent regard to our dignity, and to the prospects of peace. Why, sir, when these outrages occurred, what had we in the Gulf? Thirty-five guns, all told. And what had Great Britain? Three hundred and sixty-nine, that she could concentrate at any point of the Gulf; and we could not, by any possibility, within any reasonable time, send over two hundred guns there. We are at the mercy of England. It is well known that England protects our commerce in the distant seas. It is well known that, but for the kindly and motherly protection which Great Britain condescends to afford us, our commerce would be at the mercy of the pirates of the world in all the distant seas; and yet we set up for a great commercial nation; and, when England insults us, we talk of sending down ships to capture hers. Where would you get them from? The Senator from Massachusetts, the Senator from Georgia, and the Senator from New Hampshire, insist that these belligerent acts of Great Britain should be met instantly, and that force should be sent to sink or capture her vessels. Where is the force to come from? Is there any possibility of building a fleet as Aladdin's palace was built, in a night? Are you to create ships by resolution of Congress?

As the Senator from Georgia has just said, with all the material you have, can you get a navy on the instant? You may readily raise an army; you have nothing to do but to light the beacon fires from hill top to hill top, and an army will spring up as if by enchantment; but a navy cannot be had at call. You cannot season wood, you cannot put it together, you cannot obtain practical seamen in a moment. Seamanship, unlike mere soldiery, is a profession; and a nation which intends to protect itself, its rights, and its commerce, must be more or less prepared with a navy at all times. The little State of Denmark, whose commerce might be annihilated from the ocean and it would never be missed, of whom most of us in America never heard until the question about the Sound dues arose, has a navy superior to ours. Sweden, another small State, has a navy five times stronger than ours. Even Spain, of whom we talk with so much contempt, every stump orator in the country thinking it a small matter to seize Cuba and to chastise Spain if she resists—Spain has a navy twice as large as ours. The navy of Russia is three-fold as large as ours; yet what did that perform in the late Crimean war? The navy of France is seven times as large as ours. Are we to pretend to be a great people, to pretend to compete with England in the only legitimate competition for the mastery of the seas, in commercial tonnage, yet have such a contemptible navy as this, so that we can be insulted anywhere and everywhere without any power of immediate resistance? Sir, I feel these insults in the West Indies as much as any man. I feel that we have

been stricken in the face. I do not feel that a mere apology without reparation will be satisfactory. I wish we had the force, and I do hope that fortune will so favor us that some of our vessels may capture or sink one of the British vessels with or without orders, for that is almost necessary to put us on an equality in any negotiations that may happen.

Mr. MASON. You are filibustering.

Mr. HAMMOND. I am not filibustering; I am only lamenting that our Navy is so weak that whatever we say here in the way of defiance will be considered empty braggadocio. It can mean nothing else in the present condition of our Navy.

Mr. TOOMBS. I would ask my honorable friend from South Carolina how many ships we had afloat when our fathers declared war in 1812?

Mr. HAMMOND. I do not know what number we had afloat; but when we declared war in 1812, England was engaged in a war with France. Her ships were all well employed. She could not afford to send a squadron to this country. We met her single-handed at sea.

Mr. TOOMBS. I will say to my honorable friend that France had not a vessel on the ocean at that time. They had all been taken away before then.

Mr. HAMMOND. It is of no consequence whether she had a vessel on the ocean or not; England had to blockade the French ports to prevent the French vessels from coming out. But I have said I do not put the necessity for these vessels on the ground of war. In the Chinese seas, which swarm with the boats of the natives, the waters are shallow, and though we have sent vessels out there, they are utterly incompetent to any good purpose, and at this moment we are hiring a small steambot there at a cost of \$5,000 a month in order to effect anything whatever. In Puget Sound the Indians come down in their large canoes, with fifty or sixty Indians in them, and land on the shores and commit any depredations they please. A shallow steambot placed there would save us hundreds of thousands of dollars from the Treasury every year, and save the lives and property of the people there. What are we to do for all the insults that we are constantly receiving in the shallow waters of South America? We have no vessels to go there. Our commerce may be interrupted anywhere by any little State, and if war should come upon us we have scarcely one vessel that can enter more than two or three ports south of the Chesapeake.

It is agreed by all who are acquainted with these matters that light steamboats, such as have been described by the honorable Senator from North Carolina, which can go into shallow waters, which can escape large vessels—active, spry, effective—are indispensable to every squadron on every station which our flag visits; and therefore I advocate these ten sloops, and the twenty which the Senator from North Carolina will propose as a peace measure distinctly, yet, like all peace measures connected with the Navy, with a view to war. At the same time, I will say, frankly, that I do not wish the United States to become a great naval Power. We have no desire for a Navy for conquest; we have no desire for a Navy to hold the balance of power among the great navies of the world; but, in peace and in war, we must have a Navy large enough to at least enable us to predominate at all times in our own seas. Interest, honor, safety, demand that much.

Mr. DOUGLAS. I agree, Mr. President, with most that has been said by my friend from Georgia, [Mr. Toombs,] and especially that we ought to determine what we are to do in reference to the outrages upon our flag in the Gulf of Mexico and the West Indies before we decide the amount of money we shall vote for war purposes. If we are going to content ourselves with simple resolutions that we will not submit to that which we have resolved for half a century should never be repeated, I see no use in additional appropriations for Navy or for Army; if we are going to be contented with loud-sounding speeches, with defiance to the British lion, with resolutions of the Senate alone, not concurred in by the other House, conferring no power on the Executive, merely capital for the country, giving no power to the Executive to avenge insults or prevent their repetition, what is the use of voting money? I find that patriotic gentlemen are ready to talk loud, resolve strong; but are they willing to appropriate the

money, are they willing to confer on the Executive power to repel these insults, and to avenge them whenever they may be perpetrated? Let us know whether we are to submit and protest, or whether we are to authorize the President to resist and to prevent the repetition of these offenses. If Senators are prepared to vote for a law reviving the act of 1839, putting the Army, the Navy, volunteers, and money at the disposal of the President to prevent the repetition of these acts, and to punish them if repeated, then I am ready to give the ships and the money; but I desire to know whether we are to submit to these insults with a simple protest, or whether we are to repel them.

Gentlemen ask us to vote ships and money, and they talk to us about the necessity of a ship in China, and about outrages in Tampico, and disturbances in South America, and Indian difficulties in Puget Sound. Every enemy that can be found on the face of the earth is defied, except the one that defies us. Bring in a proposition here to invest the President with power to repel British aggression on American ships, and what is the response? High-sounding resolutions, declaring in effect, if not in terms, that whereas Great Britain has perpetrated outrages on our flag and our shipping, which are intolerable and insufferable, and must not be repeated; therefore, if she does so again, we will whip Mexico, or we will pounce down upon Nicaragua, or we will get up a fight with Costa Rica, or we will chastise New Granada, or we will punish the Chinese, or we will repel the Indians from Puget Sound, [laughter,] but not a word about Great Britain! What I desire to know, is whether we are to meet this issue with Great Britain? I am told we shall do it when we are prepared. Sir, when will you be prepared to repel an insult, unless when it is given? England has her ships of war, of various sizes, searching our vessels, firing across their bows, firing into their rigging, subjecting them to search, not only in the Gulf of Mexico, but in the Caribbean sea and upon the Atlantic. It is not confined to one captain, or one vessel, or one locality, but the outrages are committed by various ships, by the Styx, on the coast of Cuba; by the Forward, five hundred miles east of there; by the Buzzard, a thousand miles from Cuba. Every arrival at our ports brings us information of the repetition of these offenses, clearly demonstrating the fact that they are not accidental. They are not confined to one locality. They are not the acts of one ship or of one officer. They are the result of orders from Great Britain to execute this system of outrages on the American flag and American commerce. Are we to submit to it? If so, let us not say another word about it, pass no resolutions, make no speeches, vote no extra appropriations that we would not vote if these things had not occurred. If, on the contrary, we are not going to submit to them, why not act as we did on the northeastern boundary question in 1839? When the news arrived here on the 2d of March, 1839, that an American citizen had been taken prisoner on the disputed boundary of Maine, showing a disposition on the part of Great Britain to insist on her claim to the exclusive possession of that country, instantly the Senate, by a unanimous vote, passed a bill authorizing the President to repel any attempt on the part of Great Britain to enforce that claim, and, for that purpose, putting at his disposal the Army, the Navy, the militia, fifty thousand volunteers, and ten millions of money, to enable him to execute the will of the nation in that respect.

Now, sir, why not revive that act, striking out the disputed boundary and inserting "her claims to the right of visitation and search," and then every provision of that bill would be applicable to the present case. My friend from Missouri [Mr. Green] calls my attention to the vote of the House of Representatives on that occasion. It stood 197 in the affirmative, and 6 in the negative. The vote in the Senate was forty-one in the affirmative, none in the negative. Your Clays, your Calhouns, your Websters, the great men of former times, were here then; men differing in politics in times of high party strife, at a period when Mr. Van Buren was President, and Clay, Webster, and Calhoun led the Opposition. Still, the moment this outrage was perpetrated by Great Britain upon our rights, all party dissensions were hushed; the Opposition and the Administration stood as one man when the honor of the nation

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was assaulted. They did not hesitate to confer upon Mr. Van Buren the power to resist the outrages committed by Great Britain, in case they should be persevered in. Why not now revive the same law which was then passed by a unanimous vote in the Senate, and with only six dissenting voices in the other House, and confer upon President Buchanan the same power and authority which was then conferred upon President Van Buren on the motion of Mr. Senator Buchanan? Do that, and then I am prepared to vote the ships, the money, the men, anything, everything, necessary to vindicate our firm resolve. Yes, sir, I will go further, I will vote the ships and the money even now, trusting that Congress, before it adjourns, will arm the President with the necessary power and authority to prevent a repetition of these aggressions. I am, however, extremely unwilling to bury up the outrages of Great Britain under all the talk and noise that is made about the injuries perpetrated by the South American Republics. I know that in South America outrages have been perpetrated on our commerce, on our citizens and their property, which ought to have been punished on the spot. I know they are continuing, and will continue, from day to day, and year to year, until you clothe the Executive with the authority to punish them as promptly as the British Government punish similar outrages on their commerce and their rights; but these things have been going on in South America for years. They are weak, feeble, unstable Powers, entitled to our sympathy and our contempt mingled together. While I would clothe the Executive with power to punish them, I would only do it after I had avenged the insults perpetrated by Great Britain, or I would in the same act authorize the President to avenge them.

Sir, I tremble for the fame of America, for her honor, and for her character, when we shall be silent in regard to British outrages; and avenge ourselves by punishing the weaker Powers instead of grappling with the stronger. I never did fancy that policy, nor admire that chivalry which induced a man, when insulted by a strong man of his own size, to say that he would whip the first boy he found in the street in order to vindicate his honor; or, as is suggested by a gentleman behind me, that he would go home and whip his wife, [laughter,] in order to show his courage, inasmuch as he was afraid to tackle the full-grown man who had committed the aggression. Sir, these outrages cannot be concealed, they cannot have the go-by; we must meet them face to face. Now is the time when England must give up her claim to search American vessels, or we must be silent in our protests and resolutions and valorous speeches against that claim. It will not do to raise a navy for the Chinese seas, nor for Puget Sound, nor for Mexico, nor for the South American Republics. It may be used for those purposes, but England must first be dealt with. Sir, we shall be looked upon as showing the white feather if we strike a blow at any feeble Power until these English aggressions and insults are first punished, and security is obtained that they are not to be repeated.

I shall vote for the amendment offered by my friend from Florida, under the authority of the Committee on Naval Affairs, providing for ten sloops-of-war. I shall also vote for the proposition of my friend from North Carolina for the ten gun-boats. I wish he had increased the number to fifty, because I understand they can be constructed for about \$100,000 apiece, and \$5,000,000 would give you fifty gun-boats, vessels of a character more serviceable for coast defense than any other vessels you could have. They could enter every harbor, every creek, every bay, every nook where it is necessary to afford protection, and each one of them singly would be strong enough in time of war to capture an enemy's merchant vessel, and bring it into port or sink it, as easily as a seventy-four, or the largest class of ships of war. I would increase the number of gun-boats to fifty, I would give the sloops asked for by the committee, but I would never permit this Congress to adjourn,

after all the resolutions we have had reported and all the brave speeches we have made, until we give the President power, and thereby make it his duty, to repel in future every repetition of these British outrages on our flag; and to use the Army, the Navy, the militia, and the Treasury, to any extent which may be necessary for that purpose.

Mr. MALLORY. I must protest, sir, against connecting the recommendation for the construction of these ten ships with any war measure which Senators may have in view who engage in this discussion. The Secretary of the Navy, at the commencement of the session, recommended the construction of these vessels without any reference whatever to our present relations. He recommended it, because years had demonstrated the value of just such ships, of which we now have none. The Committee on Naval Affairs have taken the subject into consideration, and have recommended this measure without reference to our relations with Great Britain. I agree with everything the Senator from Illinois and the Senator from Georgia have said on this point. We have been too supine, and we may find ourselves drifting into war when we least think of it, not because we take active measures, but because we have not met the occasion in a proper spirit. Already we have authentic accounts that thirty of our vessels have been boarded and searched, for disguise it as you will, this right of visit is a right of search. Visit is a social term; it implies the consent of both parties, it implies frequently an invitation. It certainly does not imply forcing and searching a neutral vessel without its consent. It is a right of search in the broadest sense; and as I before remarked, in exercising this right of search, British officers have conducted themselves with less civility than has frequently marked England's roadside robbers and highway thieves. I regret that our Secretary of the Navy did not deem it expedient to order our frigates in the Gulf to bring one of the offending vessels into port, and so begin negotiations with equality.

Gun-boats are not wanted for that purpose. How contemptible is this measure, regarded as a war measure! Great Britain has now on our shores seven hundred and ninety-four guns. We have throughout all the world afloat six hundred and twenty-eight guns. The vessels which are contemplated may possibly if they are fully manned mount one hundred guns; they may have an average of ten guns apiece, certainly not more. Great Britain has now in these seas one hundred and sixty-six guns more than we have throughout the whole world. We shall then fall sixty-six guns behind Great Britain on our own shores, when we add this hundred.

Mr. TOOMBS. I would ask the honorable chairman if his statement about guns is not deceptive in one thing. Take, for instance, the Niagara and Colorado of forty guns; are they not equal to any eighty or one hundred and twenty gun ships?

Mr. MALLORY. It is not deceptive in any particular, because we have precisely the same kind of guns that England has.

Mr. TOOMBS. Eleven-inch guns?

Mr. MALLORY. She has no eleven-inch guns, and there is not an eleven-inch gun on board one of the ships the Senator mentioned. They have eight and nine-inch guns.

Mr. TOOMBS. There is one in the Gulf now.

Mr. MALLORY. It may get there possibly on the 1st of July, in the Plymouth; but it will take her thirty days, at least, to get there. We have not an eleven-inch gun in the Gulf. The guns on board our frigates are of two calibers, eight and nine inch. As a war measure, this sinks beneath contempt; it is not recommended by the Secretary of the Navy, or the Naval Committee, as a war measure. It was deemed expedient to recommend this proposition, because, as the honorable Senator from South Carolina observed, we have not any steamer except those which are useless as war vessels, that can enter our southern ports; and let me tell the Senator from Georgia,

that if ever this country does get into a controversy with England or France, or any maritime Power, the first contest must, necessarily, be in the Gulf of Mexico. The distance from the Florida shore to Cuba is but ninety-one miles, and six steamers will bridge it across and speak each other every fifteen minutes; and that Gulf, if we were at war with a superior naval Power, would be as hermetically sealed as if nature had reared up a great wall at its mouth, and every ship we have would be shut out of the Gulf. The Senator from Georgia is for waiting until the contingency arrives before he builds ships, and the Senator from Virginia has the same view. I imagine that if we had these ships, we should conduct ourselves just as we are doing now. If we had these ten gun-boats, the Secretary of the Navy would not have ordered any of them to capture the Styx and the Forward. He had power to do it, I think, and the force, as I conceive, if he had chosen to do it. If he had done it, it would have awakened a throb in this country; because whatever leaders may think, the heart of the people is always right. If we are to have a war with Great Britain, we can never have it on higher ground than now.

I differ with the honorable Senator from Georgia as to our preparation for war. I concede that the American people are naturally soldiers, and on every field the blood of our volunteers has been nobly shed, but a navy is necessarily a work of years. A sailor is not the creation of a day; he requires a long and painful training, and when a sailor, he is good for nothing else. The most opposite creature on earth from a sailor is a soldier. You cannot make sailors of soldiers, nor can war ships be built in the time they could formerly. The constructive power of Great Britain is shown in the construction of these gun-boats. As I remarked before, a single house constructed eighty within four months, and put them up. I can only compare it with the constructive power of this country in 1815. We wanted a ship on Lake Ontario; and our constructor was Henry Eckford, and from the time the first ax was struck into a tree at Sackett's harbor, until the three-decker was built up to her third deck, was precisely six weeks. She was ready for launching. He picked up carpenters as he went along the road; he cut down the trees where the ship stood, and put up her frame, and he laid every particle of timber in the ship as he found it; and astonishing to say, that ship is perhaps the soundest one in the Navy to-day. There is a decay of but one square yard of timber throughout the ship built in 1815 of timber as it then stood in the forest. We can construct a navy to any extent, but in the first six weeks of a war with a naval Power our maritime towns would necessarily be destroyed, our Navy and all our commercial tonnage would be swept from the ocean.

The Senator from Georgia has contrasted the expense of our Navy with that of France. I do not know where the Senator from Georgia gets his French estimates. They are very different from mine. According to my information, the naval estimates of France were 243,000,000f. or \$48,000,000; and I know that the naval budget of England for the present year is £11,000,000, and that excludes her ordnance and a large number of half-pay retired officers. A large portion of the expense of our Navy, as the Senator from Georgia has said, has been exhausted in navy-yards. Why did the Senator from Georgia bring forward a new one? He brought forward the Brunswick yard, if I mistake not.

Mr. TOOMBS. That is a mistake.

Mr. MALLORY. I may be mistaken; but that the Senator from Georgia indicated it with his usual zeal, I am certain. If he had then the views of navy-yards that he has now, would he have exhausted his strength in constructing a new yard of doubtful propriety at least? I agree that much of the money of this expenditure has been taken away from the legitimate purposes of vessels. How much of it goes for mail service every year? I think \$900,000.

Mr. HUNTER. Not in this bill.

Mr. MALLORY. That expense is included in the estimates for the Navy.

Mr. TOOMBS. None of that is in this bill.

Mr. MALLORY. I think I am right about that matter. A portion of it is here, I am informed.

Mr. HUNTER. That is in the mail-steamer bill.

Mr. MALLORY. Is not a portion of the mail service included in this bill?

Mr. HUNTER. Not the mail-steamer service.

Mr. MALLORY. Now, sir, when we speak of our coastwise defenses, we speak of a line of coast exceeding that of almost the entire coast of Europe. Our coast extends from Canada to Puget Sound, a voyage greater than any European Power would perform in coming to America. That is the coasting trade. A vessel clears coastwise from New York to San Francisco. On our coast route there are thousands upon thousands of inlets, where, in a foreign war, our vessels could escape into neutral ports. There are thousands of other places where they would have to go to a neutral port to get a supply of coal. We have vessels that cannot approach them. Our large naval steamers now could not receive a supply of coal at any of our southern ports that I know of, except Key West or Pensacola. They would have to go North for coal. Our home squadron should consist expressly of such vessels as are here contemplated, that have great speed, with heavy guns, and carry a small supply of coal, and have their depots immediately under their lee; while for foreign service we are necessarily compelled to build a larger class of vessels, which will cross the Atlantic with their coal, using sails as an auxiliary power. These small vessels cannot go abroad. The honorable Senator from North Carolina says the British gun-boats have gone to China, and are all over the world. There are one hundred and eighty-four of them. Great Britain uses them in China, in India, in the Pacific. Why? Wherever a standard can be reared, or a gun can be planted, there she has a power, and there you will find a coal depot, rendezvous, or fitting station. They are never twenty-four hours from a depot; while, the very instant we leave our own shores, we are at the mercy of a neutral for coal, without which steam vessels cannot cross the seas; and, in a maritime war tomorrow, we should have to rely upon neutrals for coal. I concede that, if we were at war with England, France would have a right to open her coal depots to both belligerents alike, and we might obtain a supply of coal; but we should be dependent on her mercy. For foreign service we are compelled to build vessels that will carry their own supplies, and be floating batteries. Another reason is, that we are compelled to build them as other nations do. If other nations build frigates of four thousand tons, we must put ours at four thousand. If they use eleven-inch guns, we must do the same, because we cannot pretend to compete in fleet fighting; and it is not the policy of the country to have a grand, large Navy, to extend over the world; but we do pretend that, wherever, in open warfare, yard-arm to yard-arm, on the high seas, an American frigate meets one of another nation, she finis no superior; and it is the duty of Congress to provide for that emergency now, to say that when we build a frigate, we build it with reference to those she has to contend with, and we are not at liberty to decrease the size of our frigates or sloops. We find Great Britain and France have abandoned the idea of having many large vessels for special service, and are building a smaller class. The gun-boats draw six and a half feet of water. I find, on referring to an authentic report made by one of our own officers, that their third-class gun-boats, drawing six and a half feet water, with sixty horse power, are the most numerous. They can enter every American port from Galveston to Maine, and we have not a single vessel deserving the name of a man-of-war that will do it to-day; and still we are told this is a war measure.

I would say to the honorable Senator from Illinois that, in bringing forward this measure, it is not proposed at all, or sanctioned by the Naval Committee, as a war measure under the guise of peace. It is not that we want vessels really for a war with Great Britain, and choose to name them vessels for the Chinese seas—by no means. If

we were to give orders to-morrow to take the Forward, the Buzzard, or the Styx—those vessels that have infringed on our commerce—I am not willing to admit that it would be a war measure. If the Secretary of the Navy were to order the Colorado to-day to bring either of these vessels into port, it would be simply an act of reprisal, such as Great Britain herself has resorted to in hundreds of cases, and we should then be in a condition to negotiate fairly with her. In the Chinese seas we are now paying \$5,000 a month for a vessel, and we have been doing it for six months past.

Mr. TOOMBS. I would ask the chairman of the Naval Committee by what authority \$5,000 a month is paid for a vessel there to help the British and French to superintend the Chinese?

Mr. MALLORY. I am not here to say by what authority our foreign relations are conducted abroad, for I know nothing about them.

Mr. TOOMBS. Is there any authority of law for that?

Mr. MALLORY. I do not know. The simple fact is stated, and I believe it is true, that our Minister is paying, in China, \$5,000 a month for the use of a steamer, because we have no steamer of our own in which his official negotiations can be carried on. What his authority is I do not know. If that be the fact, it only shows the propriety of constructing a ship of our own for those waters. Great Britain has frequently constructed gun-boats for the Chinese rivers. Some steamers will be wanted for Oregon, where the Indians transport themselves in large canoes across the sea. A single steamer would be worth regiments of troops there. In addition to what I have said, the steamers are wanted for the southern coast.

Mr. PUGH. I think the Senate has derived a vast deal of useful information from this debate. We are now solemnly assured that, with an expenditure of over fifteen millions a year, the Navy is absolutely contemptible; that it renders no service; that it can fight nobody; that it can render no service to the country. That is the argument of the honorable members of the Committee on Naval Affairs.

Mr. MALLORY. Where does it come from? Who says that?

Mr. PUGH. The Senator from South Carolina said the Navy was a sham. If I misunderstood him I shall be happy to be corrected.

Mr. HAMMOND. I said comparatively. I did not say it is an absolute sham; but comparatively it is child's play, compared with our commerce and our relations to the world; and I will take this occasion to say what I intended to have said before, that I am perfectly certain that our Navy, if the Department was properly managed, could be increased at least three-fold with the same expenditure. I am not responsible for that.

Mr. PUGH. The Senator has expressed the very point to which I was about to come. If an ordinary annual expenditure of \$15,250,000 gives us a navy that is unable to protect our commerce, I am willing to go with the Committee on Naval Affairs for any increase of the number of ships; but they ought to accompany the proposition with some attempt to reduce the abuses which evidently exist in the system. There must be abuse in the Navy; there must be shameful profligacy at some place, if \$15,000,000 every year cannot give us a navy that does not even rise above the dignity of a sham. Let my honorable friend from Florida tell us where we can take money out of the navy-yards, or some other place, and put it into ships, and he shall have my vote; but it is a continual recommendation of increase, increase—no retrenchment, no improvement. I am not satisfied that while this system continues any amount of money will produce any greater efficiency. That is my difficulty on this occasion. I asked the honorable Senator from Virginia how much money this bill contains, and he told me \$13,250,000—that is a peace bill—without the amendment. Where is all this money spent, and where do we want these new ships? We do not want them to capture the Styx and the Buzzard; it seems we intend to keep away from them. We want one, I am told, in China, and the amendment provides for one to go to China. The Senator from South Carolina says one is required at Puget Sound. Where do you want the other eight? Do you want them to go with the Niagara to carry the cable of Great Britain from one

of her provinces to another? Do you want them to visit the Mediterranean sea? Where is all our Navy? Two years ago we had plenty of ships to lend England. This great Power, which had more ships afloat than we had guns, came to us to borrow our ships to lay her own cable, and we lent her the Niagara and the Susquehanna, and now we have lent her the Niagara again; and if we get into a war with her, she will be very foolish if she does not keep it to fight us with. This Navy needs retrenchment and reform somewhere. I do not understand it. I am a land lubber, and my constituents are land lubbers; we live here on the fresh water; but I beg the Committee on Naval Affairs, when they offer this proposition, to which I am not opposed, to accompany it with some measure to reduce the estimates somewhere else.

Mr. CLINGMAN. At this point, with the consent of the Senator from Ohio, I would say to him, and I say it in the presence of the Committee on Naval Affairs, that a Democratic member of Congress from the State of New York, in reply to a remark of mine about the large expenditure and small return, told me that, in his opinion, in one of the navy-yards, I shall not specify which, two thirds of the money was wasted. He said he knew enough about it to be satisfied that one third of the money could get all the service the Government now got by that expenditure. I make this remark for what it is worth, in the hope that the Committee on Naval Affairs will at least inquire into these matters.

Mr. PUGH. I think that is very probable, for it is my experience, that two thirds of the money we vote for any purpose is wasted; that only about one third of it comes to any good. Gentlemen call this a peace measure. Well, sir, I have made no warlike speeches, because I have seen nothing like war in the Senate; and I think if the President had intended to go to war, he would have sent us a message. He was fast enough to send us a message when your Pauldings and Chatards went to Central America to capture American citizens. He sends this without any expression of opinion.

Mr. POLK. Will the Senator from Ohio allow me to ask the Senator from North Carolina whether the member of Congress from New York, to whom he alludes, mentioned the navy-yard?

Mr. CLINGMAN. He did mention it; but I do not wish to be the cause of getting up any committee of investigation. I hope the Committee on Naval Affairs will inquire into the condition of all our navy-yards. He seemed to be pretty well informed, and said he could give many facts, and that he had no doubt one third or one fourth the money would pay for all the service we got; and he thought it could be ascertained how the money was wasted. I was remarking on the fact that, with a large expenditure of from twelve to fifteen millions a year, we had not more ships, and did not get more service, than when we only spent one third or one fourth the amount; and then he made the statement which I have given. I prefer not referring either to the navy-yard or to the member, except to say that he is a Democratic member of Congress from the State of New York.

Mr. PUGH. I was about to say that I had not seen any warlike indications in the Senate. I do not hear the President sending us any word on the subject. I do not hear any proposition that is received with favor in the Senate which is to go down to the coordinate war-making power of this Government and be passed on by them. When the Senator from Illinois introduced one bill, it was eviscerated and disemboweled, and the part of Hamlet expressly left out of it. When he brought us in another bill, it got on the table, and there, I imagine, it will stay, so long as a majority of the Senate can keep it there. Consequently, when my friend from Tennessee began to lecture us on the subject, I asked him whether the committee intended this as a war measure? Do you want these ships to fight with? Do you want to attack the Styx and the Buzzard—for these have become familiar names to us of late. If you want them for that purpose, I agree these are not enough, and I am ready to vote you more. If you say that is the purpose, I will vote you any number; I will put the taxes on my constituents to the last extremity, and I know they will stand it; but I do not understand why it is that, when you are talking about war, all of you are sheering away from it in every direction; and I sheer away

too, as is natural, being one of the younger members.

You tell me you want this as a peace measure, and propose to add to this enormous expenditure, and yet suggest no retrenchment in that. I do not understand it; I want to understand it. I have the greatest confidence in the Senator from Florida, as he knows; and if his committee will bring in any proposition for retrenchment, I will sustain it. If they cannot hit it in any other way, I recommend them to put in an amendment of three or four lines before the appropriation for the navy-yards, saying that "seventy-five per cent. of the following sums be appropriated." If you cannot retrench in any other way, introduce the horizontal principle of the great tariff of 1833, and I think you will come somewhat near retrenchment. We do not understand these estimates, and we may stay here until doomsday afternoon, and we shall not understand them then. They are not made to be understood. I have heard it said that figures cannot lie, but the fact is they tell more lies than anything else; they conceal everything. The great fact stares us in the face, that, with an annual expenditure which is greater than the whole expenditure of this Government at the beginning of Jackson's administration, with that sum of money lavished on the Navy, you are now told that it is of no account, that you cannot go to war with anybody; that you not only cannot fight England with it, but that you even cannot carry on a foray against the pirates of China with your present Navy. Then where has our money gone? What account can we give of our stewardship? How can we go to our constituents, and say, "we have levied these taxes on you, but cannot tell where the money has gone; what has become of it, what is to be shown for it." If Senators want a war measure, I think we had better tack on to this bill the bill which was introduced by my friend from Illinois. That is in earnest; that is talking right; and if the Senator from Florida will withdraw his amendment, I hope my friend from Illinois will offer his as an additional section; if he does not, I shall do so myself.

Mr. MALLORY. I wish to remind the Senator from Ohio that, whether the United States have a ship afloat or not, they must make preparations for having ships afloat, and a large portion of the annual estimates necessarily consist of amounts needed for keeping up a state of preparation. We have here, on our coasts, nine navy-yards. They have been created by Congress; the Administration must suppose that Congress intended to maintain them; and that involves an expense in providing work-shops, quarters, and other preparations for putting a fleet afloat; and we might increase our Navy double what it is without incurring anything like a proportionate increase of expense.

Mr. PUGH. What state of preparation do you mean? Do you mean to say we are laying up timber?

Mr. MALLORY. We lay up timber every year.

Mr. PUGH. Lay up timber for the sea-worm we have heard of this morning to destroy?

Mr. MALLORY. The Senator comes from an agricultural State, and he may be very excusable for not knowing anything about this question. A large portion of these expenses must be incurred whether we have few or many ships afloat. That the Senator will readily understand. Here I will remark, in continuation of what was said by my friend from South Carolina, that I do not, by any means, agree to any censure on our Navy. So far as our ships and men go, it is the most brilliant navy afloat, or that the world has ever seen. Our ships cannot be matched by any nation. England, at this day, is engaged in an endeavor to match them. When she saw the *Merrimack*, she laid down one to match her.

Mr. PUGH. Inasmuch as they cost more than anybody else's ships, they ought to beat anybody's.

Mr. MALLORY. Then I will say it is unfair and not exactly logical, to compare the expenses of the Navy now, to what they were at the time of the last war with England. For instance, the expense of sailing an ordinary sloop-of-war is \$95,000 a year, but if you put a propeller into that sloop you make the expense \$154,000 a year, at once. France and Great Britain have sent their propellers all over the world. We have to do

that. The expenses of our Navy have been very materially increased by the introduction of steam navigation.

Mr. KENNEDY. Mr. President, I cannot let this question pass away from the Senate without making a single remark, representing, as I do in part, the third commercial city of this Union. I am desirous, especially as gentlemen here have declared their willingness and their readiness at any time to proclaim war against Great Britain, to know in what position we, who are upon the Atlantic coast, are to find ourselves when that declaration of war shall be made. I have not opened my lips on this question; I have not said one word in regard to courting the war with England to avenge our insults; but I agree entirely in every word that has fallen from the distinguished Senator from South Carolina, and if this is to be the prevailing sentiment of the country, I hope the Senate of the United States will take some steps, and adopt some measures, by which we may not be stripped entirely of our possessions and our homes.

I ask gentlemen when they consider the question of war, what is to be the position of the Atlantic States in such an event? I have been surprised to find gentlemen representing the cities of the Atlantic coast upon this floor, with the single exception of the honorable Senator from South Carolina, [Mr. HAMMOND,] willing to let this debate pass without one word being said. From the great city of New York there is not a word, nor is there from the representatives of Philadelphia, or of Boston. I ask gentlemen representing maritime States, what is their hope if this declaration of war shall be made with your forty-one effective ships of (all told) less than two thousand guns in the American Navy? Sir, while I indorse the sentiment of the distinguished Senator from South Carolina that the American Navy may be a sham—I take it in his sense—I go further, and say it is a reproach to the country. I do not mean the *personnel* of the Navy, for as far as that Navy goes, I am willing to proclaim here and elsewhere that it is equal, to that extent, to the navy of any other Power on the face of the earth; but what is it, sir? Forty-one or forty-two effective vessels to contend against a great maritime Power like England! When, with such a force, we are vaunting and bragging that it is only necessary to show fight and they will back down, what is the amount of tonnage and of marine that we have scattered all over the world? Is it statesmanlike, is it proper, is it in accordance with the duty that is devolved upon us to protect American interests that we shall vauntingly and boastfully proclaim our readiness for war, and yet use the argument that we are not declaring war against England, but against the Treasury of the United States? No, sir. All that I have, or hope to have upon God's earth, in that event, shall be at stake. No man is more tenacious of the American people and of the American flag than I am. No man in this American Senate, from inland or the sea-coast, will go further to protect the honor and dignity of that flag than myself; but I cannot sit here tamely and quietly and hear Senators upon the floor of the American Senate say that they are better prepared to resist aggressions now than they have ever been, with almost every fort dismantled, and hardly a stone one upon another that an ordinary gun-boat could not knock off.

I did not rise to make any speech on this occasion. I only rose, in vindication of the interests of my own constituents, to ask if belligerent speeches are to be made here, if taunts are to be thrown to England, that we may not play the coward; that when the chip is put upon our own head, and we defy them to knock it off, we are not tamely to say, "You are the larger man; but if you do so a little longer I would fight you anyhow!" I have not been one on this floor who has raised his voice for war. I have thrown no taunt. I am prepared to adopt the pacific measures of any gentleman here; but I wish it distinctly to be understood that, although living upon the Atlantic coast, no man will be more ready or more willing to take up the gage when it is thrown down, against insulted honor and indignity to our flag.

If such a proposition would be in order, I would go further than any gentleman yet. It is no excuse to me, to say the Treasury is impoverished. I do not here mean to bring up charges against

the Administration as to why it is impoverished. With that I shall now have nothing to do. But, whether that be the fact or not, it is not to be weighed as the feather in the balance, when the national honor and the dignity and safety of our country are at stake. For myself, representing, as I do in part, a sovereignty here, and that one of the most exposed, with the great Chesapeake bay leading to its metropolis, which would be the very first to be laid bare, with hardly a gun mounted, with hardly an arm to raise, except that which may be raised in defense upon the land, against the thundering cannon of an English seventy-four sailing into our ports to lay waste our homes and our firesides, to break up our commerce, to bring ruin and desolation—I am willing to yield all these when the honor and dignity of the American flag are assailed. But I wish to be understood as not making a war speech now. It is emphatically a measure of peace that I am advocating. I am not here to blow the war-trumpet at all; but in the vindication of the rights of the American flag, when unjustly assailed, I am prepared to go as far as he who goes farthest; and, as a question of statesmanship, and of wise and sound policy, which all Senators are bound to enforce, I demand, when we take that stand, that we shall not place ourselves in the position of a vain braggart; but to be sure that we are right, to prepare for any emergency whatever; and then, whatever the consequences or cost may be, to maintain the dignity, the honor, and glory of the flag, and the country at large, by sacrificing to the last cent any interest that our Commonwealths may have in this great Confederacy, when the great bond of the Union that binds us together requires it.

While my honorable and distinguished friend from Ohio, [Mr. PUGH,] and other gentlemen inland, may look with calm indifference upon the situation of our defenses, and believe that one American citizen is a match for ten other men, I have none of that sentiment myself. I believe that human muscle and blood are pretty much the same; and especially if you come to oppose the Anglo-Saxon blood here against those from whom we have derived our highest boast and glory. Believe me, sir, it will be no child's play. I believe the American people are warlike; I believe they are brave; I believe they are equal to any emergency that may arise; but I am not one who believes that one American is better, or greater than, or superior in physical power to, any other three men in creation.

You have had an exhibition to-day from the Committee on Naval Affairs of the power of England; you have had an exhibition of the contemptible—and I use it with full force—power of the American Navy. I speak of it numerically—not so far as the *personnel* of the American Navy is concerned—as compared with the navies of other Powers; for I do not believe that one American sailor is equal to five or three of any other nation.

It is because I have a just regard to my own interests and the interests of my State and of this country, that I am in favor of this amendment. But when you come to adopt an amendment like this, what is it? Some ten little gun-boats, involving an expenditure of two or three million dollars, for the protection of this country. With your marine scattered over every sea, your flag floating everywhere, with an American heart beating in every breast, full of this pride and glory, let me say to the American Senate, that that pride may be humbled when the least expected.

I do not make these remarks in any view to excite popular indignation or popular feeling upon a question like this; but I do so, that in regard to the protection of American interests and the exposed condition of the whole Atlantic coast, I may call upon gentlemen, upon Senators here, representing the large commercial towns and cities of this Atlantic coast, to unite, at least, with me in endeavoring in time of peace to prepare for war.

I say again, I wish not to be understood as making a war speech. I am speaking in vindication of my own interests, the interests of my own people of the State of Maryland; and I beg and trust that Senators all are willing to unite in a manly and open advocacy of that principle which is to maintain the honor of this country—not to see the flag lowered and disgraced, and rendered contemptible in the eyes of the world by a sudden emergency or a *coup de main*. I beg to say

that I believe the distinguished Senator from Georgia [Mr. Toombs] is much more experienced in legislative matters than myself; from him I am willing at all times to receive lessons of experience; his heart I believe is right, patriotic, and just; but upon this occasion I believe him to be eminently wrong, when he declares the sentiment that we are better prepared now for war than we have ever been. I am but a tyro here, but I have an interest to serve; I have a constituency whose interests are at stake; but, whether I may be regarded as a "land lubber" or not, we shall be the first to suffer, while gentlemen inland may sleep secure in their beds.

Mr. PUGH. I would remind my friend from Maryland that the danger is much nearer to a poor land lubber like me than it is to him. We had just as much trouble during the last war as they had in Maryland. The British outnumber us as much on the lakes as they do on the ocean.

Mr. KENNEDY. We do not differ. The gentleman denominated himself a land lubber.

Mr. PUGH. Certainly.

Mr. KENNEDY. I am only quoting from your own remarks.

Mr. PUGH. I am in that regard just as much a land lubber as the Senator from Maryland, but we are as much in danger.

Mr. KENNEDY. Perhaps we are both equally land lubbers in one sense of the word. I am speaking for the interests of my State. I am speaking, I hope, for the honor and glory of the American flag. I do not wish to see, by any little petty economy, any dread of the responsibility of incurring a debt to defend that flag when grave Senators propose measures of war. I do not desire it; I am the last to desire it; but, when a war comes, as has been justly said, between England and ourselves, Mr. President, it is a war of extermination to one Power or the other. I do not believe it will be a war of extermination to America. There are moral considerations by which it can operate on that Power abroad more injuriously than on us. At home we are invincible.

But, sir, put us in a position to meet, if we cannot now meet, that gallant, great, and glorious Power as it is; and here, I am proud to have the opportunity to say that I do look upon England and her institutions as carrying out the principles of liberty and freedom upon that continent; and that at least entitles her to our consideration, and will bring us to her support in the illustration of liberal principles against arbitrary monarchies. But, sir, when that Power makes war with us it will be no child's play. It will end in the annihilation of all the hopes of mankind for free government. As I honestly and sincerely believe, however much we may be damaged, it will be the beginning of the end of that Power upon the continent of Europe.

Sir, deprecating, as I do, all this state of things, deprecating war as I do, I ask the Senate of the United States to pause and consider before you rush headlong into it by bold and violent declarations of power and intention, and at least to go to the little extent of some four or five millions in the way of defense. If in order, I should like to move (and I had intended to go further than the honorable Senator from North Carolina) for twenty little steamers with four or five guns. These would be but a small thing for a country like this. I am not accurately informed as to the amount of coast line we have to defend, but I think, if you take the indentations of this coast, we have not less than twenty thousand miles upon the Atlantic side, leaving out the Pacific. That may startle gentlemen, but when you come to an investigation of the fact you will find that I am not very far out of the way. We have large ships that can lay across the mouths of our rivers and bays, but I want an armed defense of our estuaries, our rivers, and our bays. I want to have some means to defend ourselves. When you do not make appropriations to build forts and fortresses, at least allow us the poor privilege of having some wooden walls upon which we can place a few large guns to take long shots in the shallow water of our bays and rivers.

I have made these few crude remarks, induced entirely by the debate that has arisen this morning around me, without any premeditation or preparation on my own part. I have done it in justice to the interests I am representing here. I have done it in justice to the rights of the whole

Atlantic sea-board. I have been somewhat amazed that the representatives of the large Atlantic cities have not contributed one particle, except the distinguished gentleman from South Carolina. If in order, I now give notice that at the proper time I will move to amend the amendment by adding twenty steamers, in accordance with the recommendation of the Secretary of the Navy.

Mr. SEWARD. If the representatives of great commercial cities are justly subject to the censure of the honorable Senator from Maryland, there is a double weight of censure to be thrown down on my head in regard to the support of this bill, for I represent, with my colleague here, not only a commercial city upon the sea-board, but I represent large commercial cities upon an interior sea-board. A war with Great Britain, which is the war that the honorable Senator apprehends, will take the State which I represent in front and in rear and cut it all up to the middle through and through. It is exposed on all sides, and whenever there has been a war with Great Britain it has had experience of that sort.

But, Mr. President, I must think that my honorable and excellent friend from Tennessee [Mr. BELL] is responsible for having misled the Senator from Maryland and many other Senators on this occasion; and I think, as he sometimes indulges in wit and humor, that he must have done it designedly. What is the question which the honorable Senator from Maryland has discussed? The necessity of increasing the Navy and preparing for immediate war with Great Britain. What is the question before the Senate? The question of building ten small sloops-of-war. What is the connection between them? Why, there was, a few days ago, a debate in the Senate about what ought to be the attitude of the country in regard to aggressions committed.

Mr. KENNEDY. If the Senator will allow me. I did not raise that point.

Mr. SEWARD. The honorable Senator must be satisfied that the point which he did raise must be ascertained through the whole tenor of his remarks. I do not know on what ground the Senator lectured so severely the representatives of Atlantic cities, if it was not that there was an imminent danger of a war with Great Britain in which the cities which we represent would suffer severely.

Mr. KENNEDY. The gentleman will allow me a moment. I will say, so far as my remarks are concerned, that they were merely in reference to speeches which had been made upon this floor some few days since, in which the probabilities of war were discussed fully and freely; and that, myself, entertaining no great fear of immediate war now, I thought we might slide into a war from this sort of talking; and that, if war was to occur, that we should at least have the benefit of these little light-draught steamers to be running into shallow water to protect us; and, therefore, I was a little surprised that the same view which I entertained myself had not been taken by the representatives of the Atlantic cities generally. Inland gentlemen felt entirely secure, and did not see the necessity of a measure of this sort as I did; and, therefore, I was desirous, I am frank to confess, to hear the sentiment of New York. I think the Senator from New Hampshire [Mr. Hale] went as far, in his war sentiments, together with the gentleman who represents the city of Boston, [Mr. Wilson,] whom I do not now see in his place, as any others; but yet, I heard no proposition from those gentlemen to protect the Atlantic. The little forts or fortresses you have got there as against the ordnance of England and the power she will bring, in my judgment, are mere ant-hills; and therefore, I want to get the views of other gentlemen in Atlantic cities to see how far they are willing to go in this declaration of war.

Mr. SEWARD. I still think that the honorable Senator from Tennessee is to blame for having, somehow or other, brought into connection two subjects entirely different and separate from each other; the one a question about the attitude which the Government should take in resisting British aggressions on our commerce in the Gulf of Mexico, and the other the amendment proposed to the appropriation bill to build ten sloops-of-war. I am the more satisfied that it is so, because every Senator upon the Committee on Naval Affairs has expressly disclaimed that there is any connection between any popular war with Great Britain to

result from those aggressions, and the measure of increasing the Navy, which they now defend and maintain. They may well disclaim it, for it would be an addition to the naval power of the country inconsiderable, inefficient, and contemptible. Why, sir, of these ten sloops-of-war to be built, one is to go to Puget Sound to chastise the Indians, one is to go to China to protect the American interests in that distant sea; and if this is a war measure, three or four at least must be sent into the Gulf to sink the Buzzard and the Styx. I must have two or three upon Lake Ontario, to protect the rear of the State of New York, one added to the defense of the city of New York, and how many would be left for the protection—

Mr. KENNEDY. I will go with the honorable Senator, if he will propose one hundred ships. I admit it is contemptible, and that twenty is hardly less so. If the gentleman will propose one hundred I will go for them.

Mr. SEWARD. I will explain to the honorable Senator, and he and I will agree. I know he would not see the city which I represent in jeopardy, and I am sure I am the last to see the monumental city exposed to any danger. I will tell him what my course has been about these British aggressions, and I think he will see the logic and consistency of it. When there was an alarm in the country and in Congress, I called upon the President to know whether he would desire from Congress or not any additional force or any legislation, to enable him to protect our commerce against those aggressions. The President has answered that message; he has sent the correspondence here, and left us, by his silence, to infer that he wants nothing for the redress of those aggressions.

I said, on that occasion, that no prudent man believed Great Britain wanted to make war with the United States; no prudent man believed that if Great Britain did want to make war upon the United States she would begin by attacking with gun-boats our commercial vessels in the Gulf of Mexico; no prudent man believed that if the British Government wanted to quarrel with the United States she would begin in that indirect and pitiful manner instead of making her complaints known according to the laws and customs of civilized nations; but that, nevertheless, inasmuch as men bearing her commissions, and sailing under her flag, had committed aggression upon our commerce, which must be abandoned, which must be disclaimed, which must be redressed, or for which satisfaction must be given, that I was not one of those who were willing to indicate beforehand that there was any satisfaction which she could render. I stand ready to pledge the whole military and naval power of the United States to maintain ourselves in resistance so as to suppress those outrages. If she makes an explanation, be it what it may, it must be one which in no sense revives, retains, or maintains any pretense of a right, on the part of Great Britain, to exercise police over the vessels of the United States. So I say now. I stated then that I believed such would be the issue on that question. I believe these pretensions will all be disclaimed and abandoned. We have evidence already that they have been disclaimed in the Gulf of Mexico to the extent of the arrest of the captain of the Buzzard, who has been sent into Jamaica for trial on complaint of the Spanish Government.

Mr. MALLORY. If my friend from New York will allow me to ask a question just here, I would like to know the authority upon which he says that the captain of any British vessel has been arrested for any insult or outrage upon one of our vessels?

Mr. SEWARD. I have none except what I state in regard to an aggression committed upon one of our vessels at Sagua La Grande.

Mr. MALLORY. I see that that report is contradicted by the passengers who came home from the vessel, who state that no such arrest was made.

Mr. SEWARD. Very well, sir; I can concede all that. I proceed upon such intelligence as we have. I know that the British Government is not bewildered, delirious, or crazy; and I know that it is not to be conceived, standing as the present British Ministry does, standing as the British nation does, in the attitude which it maintains towards the United States, that the British Government will sustain or sanction those outrages. If

they do, then is the time to meet, and the time to redress them.

The Senator from Illinois [Mr. Douglas] has proposed to Congress and to the Administration to anticipate any intelligence from Great Britain by giving to the President of the United States the power to redress those injuries, and chastise the offenders. Everybody knows that neither the President, nor the Senate, nor Congress, is prepared to adopt that measure. What measures are they prepared to adopt? No other but to let the matter stand as it is until it shall be ascertained how far the British Government is compromised by those transactions. Now, in order that we might occupy a safe ground in that respect, I have from first to last proposed to extend the period of this session until that intelligence should be obtained, and that Congress should be here in order to defend the country, and put it in an attitude of aggressive resistance against Great Britain, if it shall be necessary, when that time comes. That is my attitude.

What other one is proposed? The honorable Senator from Maryland supposes that a different course is involved in this proposition to build these ten war-sloops. It is no remedy. It will add but one hundred guns to the whole of our Navy, to be distributed to all parts of the world when exposed in time of war. Shall we, then, vote to add these ten sloops to our Navy, and say we have put the country in a condition of defense when we expect a war—that a war is imminent; that it is inevitable; and yet the country is safe, because we have authorized to be added to the Navy ten sloops-of-war which it will take two years to build?

I agree very distinctly and very decidedly with the Senator from Georgia, in the proposition which he has made, and which has so excited and disturbed the nerves of Senators here, that this country was never in an attitude so strong and safe for a war of defense, or even of aggression, if he went so far as that, as it is to-day. We challenged a war with Great Britain eighty years ago, when we had no navy, and no army. We challenged a war forty years ago, with Great Britain, a war upon sea and land, when we had, all told, including our revenues from imports, from direct taxation, and from loans, \$16,000,000, and owed a debt of \$100,000,000. To-day, we have practically—for we had last year, and we have the same power to make it again—a revenue of \$80,000,000, subject only to a drawback of \$30,000,000, for the debt which we owe. We have all the elements for defense, but we have more than that. We had then the weakness that provoked insult and aggression; and when insults and aggressions were committed, we were so weak that complaint only brought upon us the attempt to chastise us. We are now forty years older, a vast deal greater, a vast deal more populous, a vast deal more rich, and we have yet to see the nation that, within ten years, or twenty years, or thirty years, upon the face of the earth, has willingly or deliberately, and of premeditation, insulted us. It is impossible. Character—character for justice, character for moderation, character for conscious strength and power—this is a greater resource than Cesar's legions on the plains of Pharsalia, or than a navy that would cover the German ocean. That character, I am sure we have got. We have acquired it, we have deserved it—we have deserved it by establishing a Government that consults the arts of peace, and that regulates its intercourse with nations by the rules of doing no injustice and of submitting to no wrong. In that I confidently rely, holding myself ready at any moment, for the purpose of maintaining that character when it shall be necessary, to vote all the means of defense; but until that time, deeming it right and wise that the nation should act with that moderation which its character and position entirely entitles it to, I shall vote none.

Mr. CAMERON. Mr. President, my friend, the Senator from Maryland, has made it necessary that I should say something on this subject. He has remarked that nobody representing the cities upon the ocean has taken any part in the debate or expressed any anxiety about this question. Of all the gentlemen in this Senate, no man is so well or so favorably known in my own State as the Senator from Maryland. A very large proportion of my people have a great respect for his character and his opinions. If I were to sit still

and let his speech go abroad without saying a word, they might imagine that we were going to have a war immediately, and that I had not done my duty to prepare the country for war. Now, all the people in Pennsylvania do not know that my friend, the Senator from Maryland, represents a very small State, and small States, like small people, are very apt to be afraid of a big State; but a big State will have no such fear. Now, I come from a great State, with four times the population of his State and ten or twelve times the wealth. We are not afraid—

Mr. KENNEDY. If my honorable friend will allow me, I beg to correct him in one single remark. He says that I represent a small State, and, like all small States, we are likely to be afraid. Allow me to say to the Senator, that there is not the slightest fear in the world on the part of Maryland; not the least.

Mr. CAMERON. I know, Mr. President, that my friend, the Senator, has no fear. I know, so far as they go, that the people of Maryland have as much courage as any other people in the world. I remember that, amongst the first people I ever saw in military array, was a gallant company from Baltimore, which marched to Fort Du Quesne. I know that they are always ready to defend the country, as far as they go; but it is no discredit to say that a small State may be afraid of a war; but, I say again, a great State like Pennsylvania has no apprehensions on this subject. They believe, as I do, that the Administration here, whose head is a citizen of our State, believes that there is going to be no war; he has told us that it is so. Whenever the Administration say to the Senate here that they desire ships and money and men, I will vote for just as many as they desire; but until that time comes, I am not disposed to make a speech for Buncombe; I am not disposed to be apprehensive of war, or of danger of war. Whenever they say that there is danger, the State of Pennsylvania will do as she always has done—she will give her quota, and, if necessary, a great deal more than her quota of men and money.

I do not believe, and I have not believed from the first, that the Government of Great Britain desired to go into a war with this country. They cannot afford to do it. Their thousands of millions of debt, with the taxes necessary to pay the interest upon that debt, their wars in India, their difficulties with France, are sufficient for them to take care of. The last people in this world that Great Britain would make a war upon will be the United States of America. They tried us in our infancy, they tried us in our youth, and they may now, if they will, try us in our manhood; but in every struggle they have been worsted, and will be worsted.

I do not believe that they desire to make a war upon us, and therefore I will not apprehend that they are going to do so. States are like men. A gentleman never believes an insult is going to be put upon him, but he is always ready to resent it and protect himself when it comes. So it is with this country. Whenever a war comes everybody in the land will be ready to step out from their fire-sides and homes to defend the honor and glory of the country. I do not believe, either, that it is necessary to have a great navy. I believe that the strength of England, about which Senators talk, is her weakness. Her great naval array, her mighty army, for which she makes a debt, paralyzes her people. If she had a simple Government like ours, without great armies and navies and an enormous civil list, she would be in much less danger of ultimate dissolution and destruction. The day will come when that great debt of England will destroy her. It may be long, and I trust it will, because, next to us, she is the only hope for liberty in this world. But it is her debt, it is the extravagance of her people and her Government which is destroying her. No measure comes up before this Senate but we are told of the expenditure, the power, and the extravagance of England. We are a simple people and we desire to have a simple Government. While I shall give everything for the defense of the country, I will not give one dollar for extravagance or waste, and when I say that I only speak the sentiments of my people. I do not believe we are going to have a war, but when it comes I am ready for it.

Mr. HAYNE. I wish to say but one word, sir, if you please. I have heard this great debate, and the speech of my honorable and distinguished

friend from Kentucky. I have thought of it over and over again. I would not take from it, nor add to it, one word. The course of my honorable friend from New York, if I mistake not, has been somewhat inconsistent on this subject; and glad am I to hear him say, on this floor, that he is for a judicious course of conduct. If there be a man in this Senate that blew the trumpet of war louder than any other, it was that distinguished gentleman. I was astonished at him; but, Senators, I believe there is no one here that thinks of war. Those who have talked the loudest believe it is furthest from us; and some of whom, if I were in the House of Representatives, I would have called to order, and asked the Speaker where we were, to tell us our latitude; for debate that should come up to-morrow, is anticipated to-day, contrary to everything that is right. I simply rose to express the wish that the vote may be taken.

Mr. DAVIS. I should like to hear the amendment read.

The PRESIDING OFFICER. (Mr. Foster in the chair.) It is proposed by the Senator from New Hampshire to strike out the following words:

"And four steam screw sloops-of-war with full steam power, whose greatest draught of water in active service shall not exceed fourteen feet."

Mr. HALE. I wish to explain that amendment, and will not occupy a minute. If this amendment should be adopted, it will leave five ships with a draught not less than twelve feet, and will also leave the side-wheel steamer, making six. That is all I have to say, except simply to excuse myself from making a speech, by stating that I am not a candidate for the Presidency of the United States. [Laughter.]

Mr. MALLORY. I hope the amendment will not be adopted. It reduces the number of ten ships, recommended by the Navy Department, to six.

Mr. HALE. I hope it will be adopted.

Mr. KENNEDY called for the yeas and nays on the amendment to the amendment, and they were ordered; and being taken, resulted—yeas 22, nays 31; as follows:

YEAS—Messrs. Cameron, Chandler, Clay, Crittenden, Davis, Doolittle, Fessenden, Hale, Hamlin, Harlan, Houston, Hunter, Johnson of Tennessee, King, Polk, Pugh, Seward, Toombs, Trumbull, Wade, Wilson, and Yale—22.

NAYS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Bright, Broderick, Brown, Clingman, Dixon, Douglas, Fitch, Foster, Green, Gwin, Hammond, Hayne, Iverson, Johnson of Arkansas, Jones, Kennedy, Mallory, Mason, Pearce, Reid, Rice, Sebastian, Simmons, Slidell, Thomson of New Jersey, and Wright—31.

So the amendment to the amendment was rejected; and the question recurred on the original amendment.

Mr. HUNTER. Before the vote is taken, I want to say just a word or two. If this bill is designed to provide for the Navy on its peace establishment, it surely can be no time to add to the expense which will be entailed on it by the adoption of the amendment reported by the Committee on Naval Affairs. If, on the other hand, we are going to build these ships with a view to war, then I maintain that we ought to do it by a separate bill. We ought to do it by a bill which would provide adequately for such a contingency, because, as was well said by the Senator from Ohio, this is no preparation for war. This is a mere bagatelle, looking to such an event as that. If we design to provide even contingently for it in the shape which is proposed by the Senator from Illinois, we ought not only to provide more largely for the finances of the country, but ought to make provision for borrowing the money. The loan which passed through this Senate was upon the estimate of a peace establishment. It is manifest that we cannot add to the appropriation these various amendments which are to increase the expenditure so much, and meet them with the sources of revenue which are now provided. I say, then, that it is but just to the country, that it is but fair to the Treasury, if we are going to do these things, to bring them, in a separate bill and provide an additional loan, in order to raise the money which is necessary to carry them out. They cannot be carried out with the existing sources of revenue. We shall have to provide for it, and ought to do it at the same time, by making the appropriation. I think that we ought not to insert such amendments on this bill, and if we have this purpose of preparing for

war, we ought to prepare and report a different set of measures.

Mr. BROWN. The Senator from Virginia talks about putting this appropriation upon a separate bill. I ask why? Does not the Senator know perfectly well that at this late day of the session no separate bill would have the slightest chance on earth to pass?

Mr. HUNTER. If the Senator will allow me, for I do not want to speak on this question again, I take it for granted that a majority of Congress, if they should believe there was danger of war, would, no doubt, stay here long enough to pass the necessary measures in a separate bill. If they had believed there was any such danger, surely they would not have begun with such a paltry provision as this, in such a contingency as that.

Mr. BROWN. Then I come back to the original question. Why not put this proposition in this bill? It is in order here; no one disputes that. Why have two separate bills? Why put yourselves to the trouble of passing two bills through all the forms of law? Put it on here. It is in order under your rule. It is in the right place, made by the right parties, and at the right time. When the Senator brings in his question whether this is a proposition of peace or of war, I reply, as I said before, that I hope there is to be no war. Heaven knows I want no war, for I know where it will fall; but I know, if the honor of the flag is to be vindicated, that there is danger of a war, and I would provide for it right here, and now; not by ten sloops, but by twenty—nay, sir, by forty. I would go even to a larger figure, but I suppose we can get nothing more than ten now, and I am for putting it on here, because, if you do not do it now, at this time and this place, you will not do it at all. Everybody knows that we have no time now to introduce a new bill, and pass it through all the forms of law. I hope that those who are in favor of maintaining the flag and vindicating your rights in the Gulf of Mexico will here vote for an increase of the Navy, and I shall expect those who have spoken heretofore in favor of vindicating the flag to vote for this amendment.

Mr. CLINGMAN. I will inquire whether my amendment will be the next in order?

The PRESIDING OFFICER. That is next in order. The Senator from North Carolina moves to amend the amendment in line eleven, after the word "seas," by inserting "and ten gun-boats, with full steam power." The question is on the amendment to the amendment.

Mr. CLINGMAN. The Senator from Virginia insists that we ought not to adopt this amendment without providing additional means. Now we have agreed to give the Government \$35,000,000 in the way of loans, in addition to all the revenue. That is the amount that it is supposed they will need for twelve months. Does not the Senator from Virginia remember that Congress will convene in six months? I do not believe this additional expenditure will require any increased loan; but if necessary, surely it will be time enough to do it in January or February next. There is, therefore, no necessity whatever for an additional loan at this time, and I do not believe the money will be needed.

But, sir, he says this is not a war measure. Well, it may be a very good measure if we should be involved in war. He means, I take it, by that, that if we are going to war, we should go much further than this. Why not take this proposition, then? These vessels will answer a very good purpose. The Senator from Virginia and every gentleman here knows that if the views which have been maintained by Senators on this floor are to be carried out—and I am not prepared to say that they are not right, and I stand ready to vote for those measures—of course we are involved in war, and in less than six months shall be attacked on a hundred points. In such an event there will be a great panic, and we shall have to spend \$100,000,000; so that even as a war measure, this will be very well, and as a peace measure, Senators all around have argued that it is eminently necessary and proper.

On consulting with the members of the Committee on Naval Affairs in the House of Representatives, they have expressed the opinion to me that the House would very readily adopt the additional expense of twenty gun-boats; and therefore, upon the suggestion of the Senator from Maryland and several other Senators, including the Senator from

Mississippi and the Senator from Illinois, I should be very glad to go to the extent of twenty gun-boats. In fact, there has been no time within the last five years that I would not vote \$25,000,000 to the public defenses, in addition to the expenditure made. I believe, that by expenditures for useful and necessary purposes, you will not increase so much the entire expenditures. The money will be wasted to private purposes and jobs, unless it is going to something useful. I desire to see the Departments pinched as much as possible, and driven to make the money go as far as possible. I do not care, therefore, to see a very full Treasury. I think we can afford to vote two or three millions for the public defense. I wish, therefore, to modify my amendment so as to make it twenty gun-boats, and I hope the Senate will adopt it.

Mr. KENNEDY. I should like to ask the honorable Senator from North Carolina what he means exactly when speaking of twenty gun-boats? and in making that inquiry I do it because really I am entirely ignorant of what that term implies. If the ten steamships of small draught, recommended by the Secretary of the Navy, are to be included under the head of gun-boats, then perhaps I may agree with him. If not, I would like him to say what he means by the power of these twenty gun-boats. I do not know what they are. I am, as the distinguished Senator from Ohio said some time ago, upon these matters a mere "land lubber," and therefore I should like to know.

Mr. CLINGMAN. I will answer with very great pleasure, and state what I mean. I had supposed, though, from the discussion which had already taken place to-day, and from what the Senator from Maryland must have read, that he would not require to be enlightened by one like myself, who am eminently what he is pleased to term a "land lubber." Why, sir, the chairman of the Committee on Naval Affairs told us to-day that some of these British ships were found to be among some of the most effective. Did the Senator state what was the draught of the Styx and Buzzard?

Mr. MALLORY. The Styx is not a gun-boat. She is a side-wheel battle steamer of one thousand two hundred tons.

Mr. CLINGMAN. What vessel was that to which the gentleman referred?

Mr. MALLORY. I stated that the fourth class gun-boats, built by Great Britain, drew five and a half feet of water with twenty horse power, and the third class were of sixty horse power.

Mr. CLINGMAN. I was about to say, I supposed the gentleman had named the draught of some of those ships. He went on to mention those of five and a half and six feet to be effective, some of which were sent off into the China seas.

Mr. MALLORY. Of twelve feet.

Mr. CLINGMAN. We all remember, Mr. President, that Great Britain got up a large fleet of what were commonly called gun-boats, but propelled with steam, and armed with heavy guns, and sent them into the Baltic; and such boats are used by her in all parts of the world. I do not mean, therefore, in adopting that term, a less class of ships than those described by the original amendment from the committee. That amendment provided for two classes, of fourteen and twelve feet draught. I learn, from conversing with gentlemen who are officers of the Navy, that a vessel may be made of seven or eight hundred tons quite formidable in armament, and draw perhaps as much as ten feet of water. Of course, a great deal will depend upon the mode of construction. My purpose, therefore, was to leave the Department to build a class of ships which would not draw perhaps as much as twelve feet. At the same time, I think it advisable not to put in any limit. The Department, perhaps, might select one class of six or seven feet, and another of eight or ten feet. I was willing to leave that, therefore, to the Secretary of the Navy; but inasmuch as we specified two classes of sloops, one of fourteen and the other of twelve feet, I take it for granted that he will select those of an inferior class as to the tonnage, draught of water, and armament. But every Senator at all conversant with the subject knows that ships may be made not to draw more than ten feet of water that could get into all the ports North and South, and be very serviceable, and yet be very formidable in time

of war; sufficiently so to capture not only any merchant vessel, but dangerous, when there were several of them, to the largest ships, by being armed with large guns. Half a dozen, or two or three of them, could take positions where they could be very annoying to the most formidable ship, because, by having full steam power, they would be able to get out of the way of a more powerful ship, and afterwards approach her, and take her own distance. That is what I mean by using the term gun-boats.

Mr. KENNEDY. While the answer made by the Senator from North Carolina to my interrogatory has been very full, he does not seem exactly to have comprehended the scope of my inquiry; and I beg to put the interrogatory to the honorable chairman of the Committee on Naval Affairs, and ask him to inform me, if these twenty gun-boats are added, how far, or how much, they would increase the armament of the Navy; and what would be the amount of guns upon each coast?

Mr. MALLORY. The term gun-boat received a signification during the last war, when recommended by Mr. Jefferson. It has received a very large signification, and they have been adopted by Great Britain. The gun-boats contemplated in the last war carried two guns, as a general thing. The gun-boats contemplated by Great Britain, one hundred and eighty-four in four months, for the Crimean war, carried from one to six guns.

Mr. KENNEDY. Of what size?

Mr. MALLORY. Ten inch caliber. Her largest gunboats are eight hundred tons, and two hundred and eighty horse power. They carry two heavy guns, one on the fore-castle, one between the two masts, and four side guns. Her smallest gun-boats are twenty horse power, and of two hundred tons; carry one heavy gun, of ten inch calibre, and, I believe, two side guns. They were designed to have great speed. They are very low in the water, built very long and sharp, with light draught of water, and carrying the heaviest caliber, and from six guns to two.

Mr. KENNEDY. May I ask further, of what draught those are?

Mr. MALLORY. The heaviest gun-boats of Great Britain draw twelve, and the lightest five and a half, feet of water.

Mr. KENNEDY. One question further, if the gentleman will allow me—not with any desire to catechise him or embarrass him, but really for information: is that the precise class suggested by yourself?

Mr. MALLORY. I have suggested none. In relation to this amendment, the Committee on Naval Affairs followed the recommendation of the Navy Department. It is not recommended as a war measure. The question of gun-boats is not presented from the Committee on Naval Affairs; but, if the amendment be adopted, I suppose the Department will follow out the system adopted by Great Britain, and build our gun-boats with reference to hers.

Mr. KENNEDY. Then, I have to say that I am prepared to accept the amendment of the honorable Senator from North Carolina, if it includes guns and vessels of that size and class.

Mr. DOUGLAS. That is what it means.

The PRESIDING OFFICER. Is the Senate ready for the question?

Mr. MALLORY. Before the amendment passes, I will repeat again that, from the sentiment expressed by the Senate here, I fear we are not prepared to adopt this amendment to the amendment of twenty gun-boats. I would prefer it, if the Senator from North Carolina would put his amendment as a separate measure, distinctly from the amendment now before the Senate. The Committee on Naval Affairs recommended this increase of ten vessels, prescribing the draught for various reasons, one of which was not adverted to, but which is acknowledged on all hands. The American flag is prostituted to the slave trade; that furnishes a pretense to Great Britain, as it did in 1852, to board vessels; and the vessels now proposed to be built, will be the best vessels for the purpose of protecting our own flag from that trade in the Gulf of Mexico. A minimum draught is not provided; they may be built of a lighter draught; but the maximum is provided. We have no vessels suited for that purpose, and that is one of the objects. I should like to limit the amendment reported by the committee to the

ten vessels, and ask the Senator to withdraw his, and propose it as a separate section.

Mr. CLINGMAN. I cannot do it. We have heard a great deal said about this being a war measure. I think the best peace measure you can possibly have is to make some preparations for war. I want to be able to vote for the resolutions of the distinguished Senator from Virginia, [Mr. Mason,] if I can; but I cannot vote for those resolutions unless we do something practical. I wish to go much further than he proposes, but I am not willing to make any declarations here that we will resist those aggressions unless we do something. If you get some small increase in the public defense, it will look as if you were in earnest. In England, when they are threatened with a foreign war, they usually increase their defenses; in the United States we are to pass resolutions. I wish to vote for the resolutions of the Senator from Virginia, if I can; but, unless coupled with something practical, I am rather ashamed to do it. I hope, therefore, that the Senate will adopt this proposition. It makes no difference, if it is a good measure, whether it is to go on to the amendment of the Committee on Naval Affairs or be kept separate. I must remind the Senator from Florida that his colleague on that committee, the Senator from South Carolina, [Mr. Hammond,] told us that the committee were unanimously for this proposition, with the single exception of the Senator from New Hampshire. If the Committee on Naval Affairs were all for it, except one, and might have reported it, it might just as well go on here as anywhere else; and I hope, therefore, that he will withdraw his opposition and let it be put in.

Mr. MALLORY. I had no opposition to it, but would very much prefer that the proposition should be offered as a separate amendment.

Mr. CLINGMAN. No one knows better than the Senator from Florida that if I moved the appropriation it would be ruled out of order. Let it go in here: the Department can begin these things, and I have no doubt they will find money enough; or when Congress meets in December, if they have not sufficient, we can make additional appropriations. I hope, therefore, that he will consent to let it go on. If it shall be adopted, and the Senate then reject the amendment as amended, I will move to reconsider, and disentangle them; but I have no doubt if a majority of the Senate vote for my proposition they will pass the whole as amended.

Mr. HALE. I want to say, Mr. President, to let the Senate understand where we are, that I shall propose, with the consent of the Committee on Naval Affairs of the Senate, this amendment.

For the engine, machinery, ordnance, and ordnance stores for equipment and fitting for sea of the United States frigate Franklin, \$300,000.

If we are going to war, we want some such ships as that instead of gun-boats. I wish the Senate to determine, because if they vote for these gun-boats, they will probably not vote for the Franklin. Having said that, I leave this matter to them.

Mr. WILSON. I want simply to say, Mr. President, that I have listened to-day to this debate, and I think we have made ourselves supremely ridiculous. This talk about preparing ourselves to go to war by constructing ten or twenty little gun-boats, it seems to me is ridiculous, and it is unworthy of the Senate, and of the country.

Mr. CLINGMAN. Will the Senator allow me to ask him one question?

Mr. WILSON. Certainly; half a dozen.

Mr. CLINGMAN. I wish to ask but one. I understood the Senator the other day to bring forward a proposition advising the President to go and seize those British ships. Does he believe our present means sufficient to do so?

Mr. WILSON. Yes, sir, I do.

Mr. CLINGMAN. We differ on that point. I will ask the gentleman this further question, for I want to be enlightened. It is stated in the papers, and I suppose truly, that the British have three times the force in the Gulf that we have. Of course, if our ships go there and commence war on the Styx and Buzzard, the other British ships will not stand idly by. Does the Senator believe our ships so excellent, and our men so brave, that we can with confidence rely upon

their capturing three times the force that is opposed to them?

Mr. IVERSON. If the Senator from Massachusetts will allow me, I will make an answer to the question which the Senator puts. I heard the Secretary of the Navy say on Saturday that he had sent thirteen national ships into the Gulf, so that the British have not such a disproportion.

Mr. CLINGMAN. But I have seen the statement of those thirteen, and the number of guns they have; and it was stated that they were only one third the British force, and when war begins there, we shall have guns at other points.

Mr. IVERSON. That was the statement before the additional force was sent by the Secretary of the Navy. I apprehend now that our force is quite equal to that of Great Britain.

Mr. WILSON. If the honorable Senator from North Carolina will allow me—who, I am sorry to say, has brought a great deal of the habit of the House of Representatives into the Senate, of cross-questioning—I will go on and state what I wish to say. I suppose we all wish to take these boats. I have made up my mind to vote for the proposition of the committee. I am willing to vote any year for a small annual increase to the naval force of the United States; but this is a proposition to build ten small vessels. I voted for the proposition of the Senator from New Hampshire because I thought we had better, in the present condition of the Treasury, vote for five of these vessels, and I would be satisfied with that; but the committee have proposed ten. It is a small force anyhow, and I am willing to vote for it; but I wish it to be distinctly understood that I do not vote for it with reference to all to its being a war measure.

I wish to say one thing further. We have heard a great deal to-day about our weakness and the strength of England. We heard this talk before the war of 1812, and the Halls of Congress of those days rang with the charges of our weakness, and our inability to meet that Power. I have none of this feeling whatever. I have no fear of war. We have got guarantees on this continent for peace. There are three thousand square miles of British territory north of us, and three million people. Yes, sir; three thousand square miles north of us, with three million people; and in six months after a war commenced that would be ours, and England knows it.

The Senator from Florida tells us that these boats will be adapted to vindicate our flag; that it has been dishonored beyond all measure by the prostitution of it by pirates in the slave trade. I am going to vote for the proposition of the committee to furnish this Administration, this Federal Government, with ships adapted to vindicate the flag of our country, now prostituted by persons engaged in the slave trade on the coast of Africa, and on the shores of Cuba. When we have given the Administration these ten small sloops, this small power, that the chairman of the committee tells us can be maintained for from fifty to sixty thousand dollars upon the ocean annually, I then want this Administration to do what the honor of the country requires us to do—to see that the flag of the country shall no longer be prostituted to that accursed and inhuman traffic.

Mr. MALLORY. Allow me to offer the Senator information right here. It costs us now to keep a steam frigate afloat \$274,000 per annum; and it costs us, to keep a sailing frigate afloat, \$195,000 per annum. The difference is in the steam masts. The little Fulton would be about the size of one of these small sloops. We sail her for \$57,000 per annum; and the effect of building ten vessels would be to enable us to withdraw from sea some of the large frigates, of which there are six, to withdraw four or five, having substituted smaller at far less expense.

Mr. WILSON. I thank the chairman of the committee for the information he has given us; and I wish to say that, with this information, and for the object of doing what we ought to do, furnish the Government of this country with power, and then command this Government to exercise that power to preserve the flag of the country from prostitution in the slave trade, I shall vote for this measure for that purpose. I go further. Whenever you require men, ships, or money, to defend the flag of the country, whether assailed by England or any other Power, my vote is for it; and I shall not stop to ask whether we are prepared or

not, whenever that time comes, for plunging into it, for I know how we shall come out of it. I have no anxiety on that point; but I agree with the remark made to-day by the Senator from Illinois about this hue-and-cry against these outrages in the Gulf, that has been made in the Congress of the United States, and in this country, and which has ended in a proposition that I believe dishonorable to the American character and the American name, that we shall turn from the Power that has insulted us, and authorize the President to make war, if he chooses, on the poor and feeble Republics south of us. I am opposed to that scheme. The very thought of it has dishonored this country more than all the insults our flag has received from the guns of the British in the Gulf of Mexico.

Mr. MASON. The Senator from Massachusetts says the resolutions reported from the Committee on Foreign Relations are dishonorable to the country.

Mr. WILSON. The bill, not the resolutions. Mr. MASON. Then the Senator from Massachusetts says that the bill reported by the Committee on Foreign Relations is dishonorable to the country. The country will understand that the Senator from Massachusetts may have one sense of honor, and the Committee on Foreign Relations a different one. The report of the Committee on Foreign Relations was intended to protect the peace of the country, and at the same time preserve its honor, both in the resolutions that have been proposed and commented upon here, and the bill which is intended for the protection of our interest in the adjacent States of Central America.

Sir, the honor of the country is interested in preserving its peace. War is the resort of barbarism or ruffianism. Peace is the result of civilization and refinement. It is the great end that nations have attained in ages past; and the object, I trust, of that committee, was to preserve the peace of the country while it was protecting its honor. I am not one of those, I confess, (and I had the honor to report those resolutions,) who look upon war as some Senators seem to look upon it here, as the only mode of preserving the honor of the country. There is another mode of preserving our honor than by fighting; that may be the idea of the Senator from Massachusetts. Sir, the honor of this great nation, which, I trust, it will pursue, is in its example, which it will set to the world, to look upon war as the greatest evil that can befall a country next to its degradation before a foreign Power.

I regret to see Senators permit themselves to go to the country, in this debate about peace and war, upon this proposition, not to increase the naval power for any purpose of war, but to increase it for a peace establishment. It is the pleasure of honorable Senators to do so, and to do so although, by formal vote, the Senate refused to consider that very bill which Senators now permit themselves to denounce; for I asked the Senate, on a former day, to take up the bill, that it might be discussed, and the Senate refused to do so. The honorable Senator from Illinois has been pleased, in a very statesmanlike speech, certainly, this morning, to say that it was setting the great example of shunning and evading a war with a great Power, England, and at the same time preparing to go to war with the miserable Republics upon our borders. He said that we are making warlike speeches here, (in which I think the honorable Senator set the example, or has followed the example,) in one breath, and in the next making a miserable and puny declaration that, if England insults us, a war with Mexico must be the consequence—a statesmanlike view of the subject, I dare say, in the opinion which that honorable Senator may entertain of the manner in which the honor of his country is to be preserved.

Mr. President, there are two propositions before the Senate that came from the Committee on Foreign Relations, both intended to protect the honor of the country; the one, not making war upon England because there is no cause for it—none, none; yet—what may happen, we do not know—one expressive of the sense of the Senate, that the country will expect the result of the discussion, now pending between this Government and England, to put an end forever to that question; and declaring, as the sense of the Senate, if an end is not put to it, that Congress will give the President power to put an end to it. Now, I am not at all

aware that the honor of the country, more than the honor of a gentleman, is involved in at once considering, on every occasion, that he must fight, set an example to the world of a breach of the peace in the relations of society, without giving an opportunity to the adverse party, as was said upon this floor the other day, either to avow or disclaim. I am not aware that the honor of the country is involved in that course. If it is, I confess I am not one of those to espouse the honor of the country at such a cost—a cost, not of money alone, but of moral example and character in the world.

The other is not a war measure in any sense of the word any more than an order to one of our majors general to take a part of the Army and protect the frontier from Indian depredations—not one bit more; but entertaining, as I endeavor to do, all proper respect for the Republics on our borders in Central America, or in Mexico, I cannot be unconscious—their own experience shows it—that, for some reason or other, which others may be more competent to explain, they are utterly incapable of self-government. Nearly two generations have passed since 1824, when they threw off what they called the yoke of Spain. What has been their condition ever since? Utterly unable to maintain government at home; utterly unable to protect the lives and fortunes of their countrymen at home; and utterly unable to protect the lives and the fortunes of persons who go there. That is their condition.

I say, therefore, that this bill which has been introduced is not for making a war upon those Republics, but for doing for them what they are incompetent to do for themselves, as far as we are concerned, protecting our people and commerce—nothing more. I submit, then, to the honorable Senator from Illinois, that when he seeks to throw this reproach or stigma, whichever it may be, upon the policy which those resolutions indicate, or upon those who introduced them, as a purpose to avenge ourselves upon England by a war upon Mexico, it is not altogether the mode of treating a subject of such serious character before the Senate. Sir, I will tell the honorable Senator, if the day should come, or the necessity should arise when we should prepare ourselves for a war against England, I presume he will find no Senator on this floor behind him in that preparation, or in the action that may follow it, and yet we make no boast of it.

He instanced the case in 1839, upon which he has modeled a bill to supersede that reported by the Committee on Foreign Relations. What was the case there? The case was this: there was a part of the territory of Maine in dispute between Maine and New Brunswick, and, by a general assent not expressed by convention, it was agreed, as we understood, that, until the actual condition of that disputed territory should be arranged between the two Powers, England and the United States, matters should remain *in statu quo*; neither party should assume or exercise greater jurisdiction than it had, up to that time, assumed or exercised. A British force was marched into the territory and seized three citizens of Maine, two of them officers of the State government of Maine, and carried them as prisoners of war into New Brunswick; and when their release was demanded, upon the part of the State of Maine, before the Federal Government intervened at all, the answer given by the Lieutenant Governor of the Province, who was major general of the army, and who commanded the whole force, was, that those men were accused of offenses higher than the ordinary grade of municipal offenses; that they were considered by the law of England as State offenders; and that he could not release them until he had orders from England to do it. Maine then took measures, like a gallant State, as she is, to march an army into the disputed territory. She sent there six or seven hundred men, and was increasing them every day, when she received an admonition, from the same Lieutenant Governor and major general, that unless that army was immediately removed, his orders from his Government were peremptory to remove it by force, and take possession of the territory. That was the condition of things under which this law passed. Congress was about to adjourn. It was at the short session, the end of February, and Congress passed a law, without a dissenting voice in the Senate, and but six in the House of Rep-

representatives, placing the Army and Navy, with \$10,000,000, at the disposal of the President, to protect American citizens upon the territory in dispute, which we claimed.

The honorable Senator says that the same case has arisen now. Why, sir, if he is right, we would never have a collision upon the sea, you would never have any unexplained cause from any quarter, that the honorable Senator would not advise the whole public force of the country to be placed in the control and at the discretion of the President, with the Treasury to back him. If that is his reasoning, I regret very much to say, with the entire respect which I entertain for him, I hope he will have very few followers. He would jeopard the peace and jeopard the honor of the country with him. Not an accidental collision might arise at sea or elsewhere with any foreign Power, before it was explained, that he would not place at the discretion of the President, the war-making power, with the Army and Navy to back him. I say, if that is the policy of the honorable Senator, I trust he will find very few who will follow him.

Mr. DOUGLAS. I concur entirely with the Senator from Virginia in the reasons he has given for the necessity of applying the provisions of the bill which he has reported from the Committee on Foreign Relations, as a substitute for one I introduced, to Mexico, Nicaragua, Costa Rica, and New Granada; but I do not perceive the necessity of limiting the application to those countries, and not extending it beyond them. If his objection be true that my proposition was to confer a war-making power upon the President, then, by applying the whole power of these provisions to Mexico, and the other three countries, he confers a war-making power to that extent. I suppose, if it is a violation of principle to give the President a war-making power as applied to one country, it is no more so to give it to him generally. The objection I had to his provision was this: I had introduced a bill to authorize the President, in cases of flagrant violations of the law of nations, under circumstances admitting of no delay, to repel and punish the aggression. The Senator from Virginia takes the provisions of that bill and indorses them as to four feeble, crippled Powers, and omits the very country that is now committing outrages upon our flag and our shipping. I had introduced a bill, general in its provisions, applicable to England, France, Spain, Mexico, Central America, South America—everywhere where there were flagrant violations upon our flag, under circumstances admitting of no delay.

Mr. MASON. Will the Senator allow me to interrupt him for a moment?

Mr. DOUGLAS. Certainly; with great pleasure.

Mr. MASON. Has the Senator remarked the difference between the causes of quarrel existing between Great Britain and the United States and those existing between these Republics of Central America and Mexico, and the United States? Great Britain has certainly committed, or those in command of her armed vessels have committed, high offenses against this country. But we are utterly uninformed whether those are avowed or disavowed, whether reparation will be extended or refused on the part of that Government. The matter is open for explanation and renunciation. That is our position with England. What is our relation with Mexico? What is our relation with Nicaragua, and those States in that neighborhood? Our people are taken by the Government forces within the territory of Mexico and imprisoned, and are imprisoned at this hour? At Tampico, one of her sea-ports, from the decrepitude of the Government it is unable to protect our people when they go there. They have been seized and imprisoned within the last sixty days, and stripped of their property, which has been confiscated with a knowledge that the Government of Mexico is too feeble to extend redress. I say the measure reported by the committee is not to make war upon Mexico. It is only to do for Mexico what Mexico is bound to do herself. That is the whole of it. I submit to the honorable Senator, as I cheerfully submit to the country, whether the one bill is not properly authorized in morals towards those Governments of Central America and Mexico, when, if it were done in like manner toward England for the purpose of plunging us into war, it would be an offense unpardonable in the legislative power? Such is my judgment.

Mr. DOUGLAS. I repeat that I agree with the Senator from Virginia that there was abundant cause for the application of the power which I proposed to confer, with reference to Mexico, Nicaragua, Costa Rica, and New Granada. I agree, also, that the conferring of that power was not a war power, but a peace measure. The Senator does not consider it a war power; I do not consider it a war power. If it is not a war power with reference to them, it is not a war power when applied to other countries. Hence the very fact that he acknowledges that it is not a war power when applied to the countries to which he proposes to apply it, is an admission that it would not be a war power if it were made applicable to England, unless we are to understand that we are to apply one rule to a weak Power, and another to a strong Power. I do not understand that to be the rule. The measure that I have proposed with reference to these difficulties has been a measure of peace. I intended the one which I brought forward, for which the Senator from Virginia has introduced a substitute, adopting the same measure, but limiting its application, as a peace measure. It ought to exist in time of peace. It only confers on the President of the United States, outside of the limits of the Republic, that power which the Chief Magistrate of every other nation does already possess; it is only putting our Executive, in the vindication of the rights of American citizens abroad, on an equality with the Chief Magistrate of every other nation on earth. If it is not a dangerous power in the hands of all the Kings, all the Prime Ministers, all the Presidents of Republics outside of the United States, I apprehend that it cannot be deemed a very dangerous one to be exercised by the President of the United States on other people, and not upon our own citizens abroad.

Then, sir, what is the point of complaint? The point at issue is, that Great Britain is searching our vessels. The Committee on Foreign Relations agreed unanimously that she had no right to do it; that the practice of the right of search was a belligerent right; that it was an invasion of our sovereign rights; that we could never submit to it, and would never submit to it. Having resolved that far, the committee being unanimous to that extent, there was a difference of opinion as to how much further we should go. One side resolved that we will not submit to it; the other side so resolved, with a provision that, if it should be done again, we would repel it. That is all there is in the case. If it is right to resolve not to submit to it, it is a point of honor to repel the aggression when it is repeated. I ask if we are not disgraced as a nation; if, after resolving that it is a belligerent act, that it is an infraction of our sovereignty, that we will never submit to it, we then refuse to authorize the President to repel the insult if it be repeated. That is the whole point. I desire, instead of bringing forward a substitute for the Senator's resolutions, to give the President power and authority to carry out the assertion which the Senator from Virginia, as chairman of the Committee on Foreign Relations, has made.

Mr. COLLAMER. I wish to ask the Senator a question, if he will allow me?

Mr. DOUGLAS. Certainly.

Mr. COLLAMER. I wish to ask where it is declared, either by the committee or the Senate, to be a belligerent act?

Mr. DOUGLAS. The report of the Committee on Foreign Relations so declares it, I think.

Mr. COLLAMER. That report has been presented to the Senate, but it has never been acted upon as yet. I wish to ask the Senator one more question; whether he regards the word "belligerent" as applying to a nation, and whether a belligerent act is a national act? If this is a belligerent act, and is a national act, we should declare war.

Mr. DOUGLAS. It does not follow that for every belligerent act we shall declare war. The Senator from Virginia, in his report, as chairman of the Committee on Foreign Relations, quoted Chief Justice Marshall to show that the practice of the right of search was a belligerent act. All belligerent acts do not necessarily produce war. You may repel them, you may grant letters of marque and reprisal—there are various remedies short of war for repelling and redressing belligerent acts. It does not follow, by any means,

when one nation perpetrates a violation of right against another, which, of itself, is a belligerent act, that war is the inevitable consequence, any more than it follows, when one gentleman says something offensive to another, that a peremptory challenge is a necessary result. A demand for explanation may be necessary. There are pre-ludes to a declaration. So it is between nations. There may be a belligerent act performed. It leads to negotiation, to remonstrance. When these means fail, then the question comes, whether our rights or our honor are involved to such an extent as to make it imperative to go to war as a final resort? If this violation of the freedom of the seas were a new thing; if the assertion of the right to search American vessels were now made for the first or even the second time, we might not, although treating it as a belligerent act, deem it necessary to go to war. But when the question has gone through half a century of dispute; when it has reached such a point that we refuse to discuss the question of right any further; when we have asserted that the argument is exhausted, and that the only thing left is to resort to resistance if it be persevered in any further; it will not do for us, in the face of these outrages repeated each day, to be silent with regard to them, and proceed to legislate for the punishment of Mexico, Nicaragua, and other weak and feeble Powers at a distance. The bill reported by the Senator from Virginia would be right if it were brought forward at a time when the aggravation came from those countries, and not from England. I will vote for it. But to pass that by itself, and remain silent with regard to these British outrages, is to confess to the world that we are afraid of Great Britain, but we will maintain our courage by punishing some smaller, feebler, weaker Power. I do not bring forward the proposition to revive the act of the 3d of March, 1839, as a substitute for the bill reported by the Senator from Virginia, as he imagines. On the contrary, the two bills ought to go together. The one which I bring forward is applicable to England, and to her alone. It covers the present quarrel between us and England; not as a war measure, but as a peace measure. The only change that I make between that act as I bring it forward now, and as it was in the shape in which it originally passed, is to strike out the words "territory in dispute," and insert "the claim of the right of search." Then the two cases are parallel, and the provision is as applicable to one as it is to the other.

Sir, there was one member of this body, who, when the measure was brought in, in 1839, was disposed to treat it as an act of war, until the great minds of the Senate, the patriots of that day, came forward and said: no, Great Britain is performing a belligerent act; we must resist it at all hazards; if she perseveres in the wrong, then the consequences be on her head for having persevered in the wrong. Hence, you find that Clay, Calhoun, Webster, Buchanan, and the leaders of the Senate of all parties of that day, united with entire unanimity in conferring upon President Van Buren the power to resist it. One man only hesitated. A distinguished and respected Senator from New Jersey made the very point that is now being made, as to its being an act of war; but a distinguished Senator from Mississippi appealed to him, after a preliminary vote had been taken, and it was ascertained that the Senate were unanimous with one exception, not to persevere in his opposition, but allow the Senate to stand unanimous in the assertion of a principle upon which all agreed; and Mr. Southard, in deference to the opinion of the remainder of the Senate, waived his objections, and allowed the bill to pass by a unanimous vote. Sir, did it turn out to be a measure of war then? On the contrary, it resulted in peace, and you were saved from a war with Great Britain on the northeastern boundary question, by the unanimity of Congress, at that time, in preparing to repel the assault. The vote in the Senate was unanimous, and in the House of Representatives it was 197 against 6. This unanimity among the American people, as manifested by their representatives, saved the two countries from war, and preserved peace between England and the United States upon that question. If the Senate had been nearly equally divided in 1839; if there had been but half a dozen majority for the passage of that measure; if the vote had been nearly divided in the House of Representatives,

England would have taken courage from the divisions in our own councils; she would have pressed her claim to a point that would have been utterly inadmissible, and incompatible with our honor, and war would have been the inevitable consequence.

I tell you, sir, the true peace measure is that which resents the insult and redresses the wrong promptly upon the spot with a unanimity that shows the nation cannot be divided. Unanimity now, prompt action, and determined resistance to this claim of the right of search is the best peace measure, and the only peace measure to which you can resort. You have said that this nation will not submit to the right of search; every department of this Government has repeated it, all political parties unite in the sentiment; there is one point on which the American people are united, and on which they have stood for half a century. It is violated now. The question is, whether we shall present the same unanimity in resistance that we do in denying the right to commit the outrage. Unanimity on our part, unanimity in our councils, firm resolve, but kind and respectful words will preserve peace. Sir, I desire peace. I would lament a war with England, or with any other Power, as much as any other man in the Senate. Nor do I think that my constituents desire war, but I believe that the true way to prevent it is to be prepared to resist aggression the moment it is made. What is the argument we hear used to-day? The Senator from South Carolina, [Mr. HAMMOND,] who knows that I have for him the highest respect, portrays to us our weak, feeble, and defenseless condition; our thousands of miles of coast; our small Navy; our limited resources; to show that we are not ready for a war now. Sir, let Great Britain believe that picture, and she will be ready now for a war with us.

Mr. HAMMOND. I did not speak about war to-day. The measure proposed by the Naval Committee was one recommended before this speck of war arose upon the horizon, and it was a necessary peace measure. Six out of the seven members of the Naval Committee thought that as a peace measure we should construct double the amount of vessels that it is proposed to build; but I studiously avoided bringing in this question of war in portraying our resources to-day. I stated distinctly that if I was advocating this measure as a war measure, I should think it a very meager one; and I regret that this debate, which is on a necessary peace measure, has extended into the question of war, which would be much more appropriate on two or three measures that are to come up. I would be glad if Senators would avoid the question of war with England, and let us take a vote upon this measure, which, whether we have war or peace, in my opinion, should pass.

Mr. DOUGLAS. I am very grateful to the Senator from South Carolina for the correction that he has made. I would not misrepresent him, and I am sorry to have misapprehended him. I only say that I concur fully with him that the measure which he advocated is a wise and judicious one as a peace measure; but I think the necessity for it is more imperative in consequence of the little specks of war that we see upon the horizon. I have reason to suppose so from the fact that no Senator can rise to discuss it without referring to the possibility or probability of war with England. But, sir, I cannot join with him in the expression of surprise or regret that the discussion of the possibilities of war or of collision with England should have grown up upon the discussion of this measure. He says it will all be repeated again. Very true; but if the Senators who have alluded to the English question had let it come up first, as the Senator from Virginia himself knows I desired to have it, and had let it be decided, then when the Navy bill came up we should know whether it was necessary to make provision in the Navy bill for the contingencies that might be presented by this English difficulty. If we could have been allowed to have taken up that question, and discussed the bill reported by the Committee on Foreign Relations, and the bill that I introduced, for which the committee reported theirs as a substitute, and the subsequent bill that I introduced, or agreed upon any measure to authorize the President to resist the British pretension of a right of search or visitation; then the Senate, with entire unanimity,

would have joined in the support of whatever was necessary to carry it out; then the recommendation of the Committee on Naval Affairs would have met with no opposition; Senators who oppose it now would have supported it then. I desired that question to come up first. I think we ought to lay aside the Navy bill now; we ought to refuse to take up the Army bill until we decide whether or not we are going to sustain the President in resisting this practice of the right of search. If we are going to sustain him on that point, we must give him the means, trust him, rally around him, strengthen his hands, support him in protecting our flag, and maintaining the honor of the country. If, on the contrary, we are not to do that, let us say no more about British aggressions, no more about the right of search, no more in regard to her shooting across the bows of our vessels. Let us be silent on all these points, and recognize them as right, unless we are going to resist them; and if we are to resist them, now is the time. Present unanimity now, a unanimous vote, as you did in 1839, give the means to the President, and you will have no more war, and no repetition of the right of search. Our divisions are the only encouragement that Great Britain has. Our vacillation, our hesitation, our nervousness about the defenseless condition of our coasts and of our cities, are the sources of encouragement to England.

Sir, I repel the idea that the American coast is so defenseless as represented. I have passed round a great portion of the British coast, and I undertake to assert that the American coast is in a better condition of defense than that of Great Britain. New York is better defended than Liverpool or London to-day. It is easier for a fleet to enter the harbor of Liverpool or London than New York. There are not as many obstacles in the way in the British cities as in the American. It is possible that a steam fleet might run by the fortifications into either. It is not probable that it would ever escape from there if it did; but it is possible that it might effect its escape. But, sir, I do not believe that our coast is more exposed than hers, and I do not believe our commerce is more exposed than hers. I do not believe England is any better prepared for war with us than we are with her. If she has a larger navy, she has a more exposed interest to protect by that navy. She has her troubles in India; she has them at the Cape; she has them all over the world; and her navy is divided, and her army divided to protect them in those detached places on every continent, and every island of the globe. Sir, the extent of her power spreading all around the globe is one of the greatest sources of her weakness; and the other fact that she is a commercial nation, and we are an agricultural people, shows that she may be ruined, and her citizens starved, while we, although at war abroad, are happy and prosperous at home.

Besides, sir, as has been intimated by the Senator from Massachusetts, England has given pledges for her good behavior on this continent. She is bound over to keep the peace. She has large possessions upon this continent, of which she could be deprived in ninety days after war existed, and she knows the moment that she engages in war with us that moment her power upon the American continent, and upon the adjacent islands ceases to exist. While I am opposed to war; while I have no idea of any breach of the peace with England, yet, I confess to you, sir, if war should come by her act, and not ours; by her invasion of our rights, and our vindication of the same; I would administer to every citizen and every child Hannibal's oath of eternal hostility as long as the English flag waved, or their Government claimed a foot of land upon the American continent, or the adjacent islands. Sir, I would make it a war that would settle our disputes forever, not only of the right of search upon the seas, but the right to tread with a hostile foot upon the soil of the American continent or its appendages. England sees that these consequences would result. Her statesmen understand these results as well as we, and much better. Her statesmen have more respect for us in this particular than we have for ourselves. They will never push this question to the point of war. They will look you in the eye, march to you steadily, as long as they find it is prudent. If you cast the eye down, she will rush upon you. If you look her in the eye stead-

ily, she will shake hands with you as friends, and have respect for you.

Mr. HAMMOND. Suppose she does not?

Mr. DOUGLAS. Suppose she does not, my friend from South Carolina asks me. If she does not, then we will appeal to the God of battles; we will arouse the patriotism of the American nation; we will blot out all distinctions of party; and the voice of faction will be hushed; the American people will be a unit; none but the voice of patriotism will be heard; and from the North and the South, from the East and the West, we will come up as a band of brothers, animated by a common spirit and a common patriotism, as were our fathers of the Revolution, to repel the foreign enemy, and afterwards differ as we please, and discuss at our leisure matters of domestic dispute. Sir, I am willing to suppose the case which is suggested by the Senator from South Carolina. Suppose England does not respect our rights, to fight her now—

Mr. HAMMOND. I said, suppose England would not submit to be bullied.

Mr. DOUGLAS. Who proposes to bully England?

Mr. HAMMOND. I understood the Senator to say that if we looked down she would rush on us; but if we looked up she would give way. I consider that bullying.

Mr. DOUGLAS. Precisely; that is the case of a bully, always. He will fix his eye on his antagonist, and see if it is steady. If it is not, he will approach a little nearer. If it is, he stops; but if his eye sinks, he rushes on him; and that is the parallel in which I put England, playing the bully with us. The question is, whether we will look her steadily in the eye and maintain our rights against her aggressions? We do not wish to bully England. She is resisting no claim of ours. She sets up the claim to search our vessels, stop them on the high seas, invade our rights, and we say to her that we will not submit to that aggression. I would ask to have the United States act upon the defensive in all things, make no threat, indulge in no bullying, but simply assert our right, then maintain the assertion with whatever power may be necessary and the God of our fathers may have imparted to us for maintaining it, that is all. I believe that is the true course to peace. I repeat, that if war with England comes, it will result from our vacillation, our division, our hesitation, our apprehensions lest we might be whipped in the fight. Perhaps we might. I do not believe it. I believe the moment England declares war against the United States, the prestige of her power is gone. It will unite our own people; it will give us the sympathy of the world; it will destroy her commerce and her manufactures, while it will extend our own. It will sink her to a second-rate Power upon the face of the globe, and leave us without a rival who can dispute our supremacy. We shall, however, come to that point early, through the paths of peace. Such is the tendency of things now. I would rather approach it by peaceable, quiet means, by the arts and sciences, by agriculture, by commerce, by immigration, by natural growth and expansion, than by warfare. But, if England is impatient of our rising power, if she desires to hasten it, and should force war upon us, she will seal her doom now, whereas, Providence might extend to her, if not a pardon, at least a reprieve for a few short years to come.

I repeat, again, that I am for peace, and not for war. I have proposed no proposition except with a view to peace. I believe that the power I desire to intrust in the hands of the President is advisable, and necessary for peace, and the friends of peace should rally, as a unit, and give him that power. I am willing to trust him with the very power, in the precise terms, and for the same object for which he and his compatriots, in 1839, intrusted it to President Van Buren.

Mr. HAMMOND. I regret very much the turn this debate has taken. There are two or three propositions before the Senate to which it would have been more appropriate. The question now, however, is not war or peace with England, but the voting of a small increase of our Navy, required for our peace establishment. When the question of war comes up, Senators can express their views upon it directly. I will only say, for myself, as I have said before, that while I do not wish to have any part in provoking a war, while

I feel we have just cause for war, unless what has been done be satisfactorily accounted for, I do not think the proper way to make war is by violent speeches or gassy resolutions. I am not willing to take one step towards a war that I would ever retreat from. I will vote for no gasconading resolutions, and support no war speeches, to alarm so great a nation as England, or to alarm anybody. I think the weakest, and silliest, and the most unsuccessful calculation in the world is to count upon alarming or bullying your antagonist. Sir, I will not move an inch in that direction; but, so far as I go, and so far, I hope, as Congress goes, we will maintain our position to the last, and will go no further, in speech or in measure, than we intend to risk all upon; but at this moment the question is upon these ships, and I hope Senators will confine themselves to that question, and avoid the discussion upon war, and take the vote at once on the pending question. It is late. We can settle the whole matter in twenty minutes; and when the bill of the Senator from Illinois, or the resolutions of the Committee on Foreign Relations, come up, we can then repeat, as will be repeated, all the speeches upon the war business.

Mr. GREEN. I wish to give notice that at the proper time I shall offer an amendment, and I wish to present it now, so as to indicate to the Senate questions that may come up which may influence the vote on the pending question. I think it proper to notify Senators in advance of these other questions, and I do not say this to consume any time, for I am as much opposed to the consumption of time as anybody else. My amendment is:

SEC. —. And be it further enacted, That if, after the flagrant commission of outrages on our citizens by other Powers, the President deem it necessary and important for the protection of our citizens, rights, and commerce, or for speedy redress of such wrongs, he shall be authorized and empowered to grant and issue letters of marque and reprisal to American vessels, to continue until the meeting of Congress next thereafter; and he shall then inform Congress of all the facts that induced his action in that regard.

I give notice of that for this reason: we are now considering the subject of the increase of the Navy. The great strength, the great power of the marine of the United States, consists in the merchant marine. It is for their protection that we have a Navy, and also for the vindication of our own honor. That merchant marine in four weeks can have an armament upon it, which in force and efficiency will make it an overmatch for any Power on the globe. But while I know that to be true, I would not have the President invested with a dangerous power, and hence I have thrown guards around it. In the language of this section, it must be a case of flagrant wrong, it must be upon the commerce of the United States, it must not be internal to the nation, it must be foreign in its character, it must be imminent in its nature, and redress must be required for the protection of rights. If in such a case we should not have Navy enough, and power afloat sufficient to protect your constituents and mine, who have rights and lives floating upon the ocean, the great highway of nations, and we can by the issuance of letters of marque and reprisal, command sufficient force to effectuate this great end, I desire to give the President the power. It is a power of protection, a power of defense, a power for the benefit of all. And yet, lest there might be danger of an abuse of the power, this section says it shall only continue until the next meeting of Congress, leaving it for Congress then to continue it or not, and requiring the President then to communicate to Congress all the reasons that induced him to issue those letters of marque and reprisal.

I ask you, sir; I ask Senators; and I ask the country, where is the difference between war conducted by privateers and war conducted by national naval vessels? If your President can command them in the one case, is there not as much danger in it as if he commanded them in the other? At the great congress of nations at Paris, when Russia and France and England undertook to settle great questions affecting the diplomatic relations of the world, it was proposed that all should relinquish the right of privateering; but we had a Secretary of State who had the ability, the manliness, the intellect, the patriotism, and the power to oppose and defeat it; for our power consists in the merchant marine.

Mr. KENNEDY. I move that the Senate adjourn

Mr. GREEN. I have not got through.

Mr. KENNEDY. I thought you had done.

Mr. GREEN. I am not half done. As Paul Jones said, when he was asked to surrender, "I have just commenced to fight."

Mr. KENNEDY. If the Senator from Missouri has just begun the fight, as it is now half past six o'clock, I think we had better adjourn.

Mr. GREEN. I cannot yield to an adjournment.

Mr. KENNEDY. We shall have to have gas light presently.

Mr. GREEN. I have no gas to expend, and I have but a few words more to say.

Mr. POLK. With the permission of my colleague, I wish to say a word in this connection. Before the Senate adjourns, I desire to have an executive session for the purpose of making a motion, of which I gave notice on Saturday in executive session.

Mr. GREEN and Mr. STUART. That is not necessary.

Mr. POLK. The time does not expire except in executive session.

Mr. GREEN and others. That is understood.

Mr. POLK. Then I shall take that to be the understanding of the Senate.

Mr. KENNEDY. Is it in order to move an adjournment?

The PRESIDING OFFICER. Not unless the Senator from Missouri yields the floor.

Mr. GREEN. I cannot yield it; because I desire to have the bill disposed of to-night, and I did not take the floor to consume time; but I really think that, if we need an additional naval force, to be at the command of the President whenever an extreme necessity may arise, the single section I have drawn up will afford all that service to him without any of these extraordinary expenses, and be more effective. I propose to authorize him to grant letters of marque and reprisal whenever the occasion may justify it, leaving him responsible for the exercise of the power, and making it his duty to report his action to Congress at the next session. I shall not go into this war question. I take it for granted that we are all alike. We may differ about terms and phraseology; but we are one people; we are united; and when the time comes, we shall stand together, "terrible as an army with banners."

Mr. PUGH. I move that the Senate adjourn. The motion was not agreed to.

The PRESIDING OFFICER. The question is on the amendment of the Senator from North Carolina [Mr. CLINGMAN] to the amendment of the Committee on Naval Affairs.

Mr. KENNEDY called for the yeas and nays; and they were ordered.

Mr. DAVIS. I wish to make a few remarks in reply to the speech of the Senator from Illinois, who argued with much zeal for unanimity in the country, unanimity in Congress, unanimity in the Senate. If he would wait until he got an answer from England, he would probably have unanimity. If England avows that she asserts the right to search American vessels on the high seas, that Senator will not alone be foremost amongst those who are ready to vindicate our flag. If on the other hand England should declare that her officers had acted without her orders, and should abandon the right to search American vessels on the high seas, what becomes of the Senator's war speech? *Brutum fulmen*. There are two parties to which I never have belonged and never intend to belong—the war party in peace, and the peace party in war. I have no idea of proclaiming war when the world is covered with peace, peace to us and all of ours. I have no idea of getting up a war fever in the country for the mere purpose of declamation in the Senate.

But the Senator from Illinois, with a view to encourage us to unanimity, assures us that if we will only stand firm and will not show that we are going to back out, England will back out. The bold words of the Senator sufficiently convince us that he is not alarmed. Then why does he assume that others are? I know not anybody that is scared, and some like myself believe there is not a great deal of danger.

But, sir, what is the proposition on which the Senator makes his war speech, invoking us to prepare for war as the best means of preserving peace? Twenty gun-boats—twenty little gun-boats, to go and take the police of the high seas,

and compel England to abandon her pretensions on blue water—little things, that hardly dare to go out of sight of land; useful, perhaps, for some purposes of sea-coast and harbor defense, and for all that inner navigation in which our country is so rich, whether in Puget Sound or the inner channel between Mobile and New Orleans, or from the St. John's river up to the Savannah, or at other places—very useful, and readily built. I am not disposed, in a remote contingency of a war, to build vessels, in order that they may decay and become useless before they are needed. The number we require for the police of the seas in peace I am willing to keep; for the rest, I prefer to make preparations which will enable us, on short notice, to put the country on a war footing, so far as its Navy is concerned. I prefer to make engines rather than vessels, to collect timber rather than to put it together. Green timber made ships with which some of the most glorious battles of the war of 1812 were fought. Since then the steam marine has, to a great extent, taken the place of the sailing marine; and steamships now constitute the best preparation we can make for war. Steamships, guns, shot, shells, powder—these are what we want.

The Senator refers to the specks of war in the horizon. Reared in a climate which approaches the tropical, I have been too accustomed to flying clouds to find in each the portent of a storm. It is not every little collision that may occur on the high seas which means war between two Powers tied together by their commercial relations to such an extent that neither Government can desire war with the other. It may be that we may drift into a war with England, without either Government intending it; it may be that indignities may be offered which cannot be sufficiently atoned for by apology, and may require blood to be shed between these two great Powers. When it comes, it will be the war of the giants; and if the mountains are not upheaved from the seas, the face of the ocean will be furrowed all over. Are twenty gun-boats to carry on a war like that?—twenty little gun-boats to war on the great navy of Great Britain. I am sure the Senator who moves this amendment cannot have looked upon it as a war measure. I am sure no Senator who hears me can consider it anything else than a little means for keeping the police of our coast, and, in the event of war, guarding our inner channels of navigation, and our harbors that cannot be approached by greater vessels.

I love the flag of my country too well to trust its honor to a little gun-boat. When I send a vessel upon the high seas, there to maintain the honor and the name of the United States, I would send her with the tonnage and the metal to confront any enemy, and to maintain her position without fear of disgrace. These poor little things, if they ever ventured to brave the elements, would sink to the fathomless depths of the sea, if a single shell by a direct fire were dropped upon their deck from the upper tier of an armed vessel. There were three wise men of Gotham that went to sea in a bowl, and if that mighty army of militia that the Senator proposes to raise were to be sent to sea in these gun-boats, I fancy he would find the descendants of those three wise Gothamites, and nobody else, would go in gun-boats to the sea.

As to the state of preparation of our country, it is not complete, and never will be. I hope we shall never maintain in peace a navy large enough for the purposes of war; and I hope we never shall in peace maintain an army large enough for the purposes of war. Our fortifications are not so poor as have been described; and even in their present unfinished condition, they might defy any fleet that could be sent across the Atlantic to come into the harbor of New York. The anchorage might be commanded; the port might be blockaded; but the city could not be taken. If an enemy's fleet should attempt to enter the harbor of Charleston, Fort Sumpter, with her threatening brow now mounted with many guns, will form a very different defense from the little old fort of Moultrie that tried the courage of the British fleet on a former occasion. Moultrie was on an inner navigation; Sumpter stands out in the water, bristling on every side like a hedgehog; and woe be to the fleet that attempts to sail under her guns; such, at least, is my conviction. And Boston harbor, too, since she has been threatened, has probably the strong-

est work ever erected on this continent, and the armament of which may be placed in at any time; and woe be to the fleet that attempts that harbor. We have gone on, not very rapidly, it is true, but steadily, in the increase of the guns that constitute the armament of the fortifications, as well as field defenses, in the manufacture of small arms, in the collection of material, the manufacture of powder, of shot, and of shell; and we may well say the country was never before in so good a state to go to war as now, whether we look at it in relation to our military preparation, in relation to our population and the vast resources of the country; or whether we look at it in the mere aspect of the fortifications that have been erected to guard our important cities and harbors. I do not see that anybody ought to be scared. I think the Senator's speech was a little out of place. The people are not scared. Moreover, I think they are in no danger; and, if they were convinced that they were threatened by a bully who would only attack them in the belief that they might be intimidated, I do not believe there is such danger from assaults of that kind as would make even weak nerves to quail. At the beginning of a war we should suffer reverses; our commerce would almost be swept from the sea, for our Navy is not large enough to protect it.

But the Senator's gun-boats were to be used in catching merchantmen of the enemy. What would the merchantmen of the enemy come into our ports for in time of war? It is the last place into which they would go then; and, as his gun-boats could not leave the coast, the enemy's commerce would be rather free from their attacks. I am not, myself, much disposed to vote for gun-boats. They brought the great intellect, known as the apostle of Democracy, into contempt; and, though they may be improved, though they may be made larger, though they may be made steam-propellers, though they may put on heavier guns, still they are miserable things for any purpose except the defense of such harbors of shallow draught as cannot be attacked by an enemy's fleet. Where a bar presents an obstacle to sea-going vessels, the gun-boats would be very effective against launches that might be sent from the fleet. These are the exceptional cases. Small iron steamers, plying along our inner lines of navigation, we shall want in time of war. If we have engines and material collected beforehand, in less time than Perry's fleet was built we can put them together and have this little iron marine plying on our inner lines of navigation. I do not look on it, therefore, as necessary to prepare for war; neither have I any disposition to build vessels that we may send them to the China seas. Our policy is continental, domestic. We have no colonies, and we want none. We have no purpose to force our commerce on any people. We invite their commerce to us, and are ready to exchange with them. Having no such purpose, I know of no use we can have for a steamer in the China seas. The small vessels which have been referred to, may answer very well in the Chinese and some other seas into which Great Britain sends a navy, but they would not answer along the Atlantic coast. That rock-bound coast and stormy sea would never suit vessels of such shallow draught. We should be preparing the way to the wreck of our own vessels and the loss of our own seamen, and, if such be the purpose, I am opposed to it. I am opposed to putting them outside the coast of Virginia, or North Carolina, or anywhere north of that. I rose, however, rather to reply to those remarks of the Senator from Illinois which seemed to be of a war character; and my great object was to say, that I shall be for war when we get an answer from Great Britain that justifies it, and I am not for war when I expect that we shall have no occasion for anything but peace.

Mr. DOUGLAS. The Senator from Mississippi seems to be under a strange misapprehension. He speaks of my having made a war speech. Why, sir, I did not introduce the subject. Various Senators treated these measures as war measures and discussed the question of war before I uttered a word. The remarks I made, to which the Senator from Mississippi alludes, were principally in reply to the Senator from Virginia [Mr. Mason]—not upon the measure proposed by the Senator from North Carolina [Mr. Cline] for the gun-boats, but in reply to the topics brought into debate by the Senator from Virginia.

Mr. DAVIS. The Senator will pardon me. It was not his last speech only that I heard, for I pay so much attention to him that I recollect more than one speech of his. He spoke before to-day; and I thought his proposition was to have fifty gun-boats to catch the commerce that came into our ports.

Mr. DOUGLAS. I am gratified to find that the Senator from Mississippi pays so much attention to the speeches that I make. I have no doubt he will profit by them; and, as I am in the habit of paying attention to his, I have no doubt that is the reason we are both so well informed on all subjects that come up in the body. [Laughter.]

As to my proposition for fifty gun-boats instead of twenty, I have only to say that I prefer the larger number; and with all the respect I have for the Senator from Mississippi and his superior knowledge on all matters of military defense, I must be permitted to entertain doubts whether he is correct in this particular. As to the usefulness of those vessels called gun-boats, the experience of the last few years shows that a gun-boat can wander from the Carolina coast, and can venture to sea. England constructed immense numbers of them expressly for the Black sea and the Baltic during the Russian war; and she used them with great effect. She used them in the Gulf of Finland and at Sweaborg. They were built expressly for that service, and had to go three thousand miles to get to the Black sea, and nearly two thousand to get into the Gulf of Finland. England has sent them to the West Indies; and the very outrages of which we now complain are being perpetrated by gun-boats. The *Forward*, that seized our vessels five hundred miles east of the Island of Cuba, on the high seas, is a gun-boat. The *Buzzard*, that seized our vessels one thousand miles from Cuba, off in the Atlantic ocean, is a gun-boat. All the vessels England is using now, for the annoyance of our commerce, are gun-boats—that very despised little craft which the Senator from Mississippi thinks will never venture out from shore. I think that if a gun-boat is powerful enough to stop our merchantmen on the high seas, search them, and take them into port, or do what she pleases with them, such vessels will be efficient enough in time of war for us to annoy the enemy's commerce with. I think daily experience proves that these gun-boats are efficient not only in the defense of harbors, in running into the mouths of rivers and shallow bays, but in annoying the enemy's commerce, as they are being used by England for that very purpose at this time. But, Mr. President—

Mr. DAVIS. Before the Senator leaves that point, I wish to correct what I think is a misapprehension on his part. The small vessels of which he speaks are not all gun-boats: some of them are, and these are just hugging the shores of Cuba, where they have coal depots to supply them as they get out. As the chairman of the Committee on Naval Affairs said this morning, we have nowhere on the face of the globe a coal depot; therefore we cannot send them out.

Mr. DOUGLAS. I am surprised again at my friend from Mississippi. He has not paid that attention to the transactions in the Gulf and the West Indies that he usually does to such matters. It so happens that the only one of the vessels of Great Britain that have been perpetrating these outrages on our commerce, which has hovered around the coast of Cuba, is not a gun-boat, but a small side-wheel steamer—the *Styx*.

Mr. DAVIS. What is she?

Mr. MALLORY. A side-wheel steamer, of about twelve hundred tons, and six guns. If my friend from Illinois will allow me, I will settle this question about gun-boats. I have the official report as to the first, second, third, and fourth class gun-boats. Now, as to the first class:

"The largest of these vessels are three-masted schooners of fine model, two hundred tons, and three hundred and fifty feet long, with engines of three hundred and fifty horse power, and steam from ten to eleven and a half knots. They have a crew of one hundred men, and their armament consists of two sixty eights, one between the foremast and mainmast and one on the forecastle, and four thirty-twos, carriage guns."

Mr. DOUGLAS. I was going to remark that the gun-boats *Forward* and *Buzzard*, which have been perpetrating outrages on our commerce, did so at sea, while the steamer *Styx* kept near shore. The gun-boats were a thousand miles from Cuba, on the ocean. The British gun-boats range from

two to eight hundred tons, and carry from one to six guns, according to their tonnage. They are intended to enter harbors, rivers, and bays, where the water is shallow, and seize an enemy's vessels, where one gun, or two, or three, are sufficient to take a merchantman; and thus they save the trouble of sending a large ship of war after a mere merchantman. It strikes me, therefore, that this class of boats would be peculiarly useful, and admirably adapted to our coast defense, and to annoy an enemy's commerce. But in everything I have said on this question I have treated it as a peace measure, and not a war measure. Those who have assailed my views have insisted all the time in bringing in the war question. I have acted on the defensive in regard to it, and I have insisted that the vote I was giving was given for a peace measure, on a peace establishment, as a defense against war, rather than as a war measure.

Mr. MASON. I think it is very manifest that the Senate has the wrong bill before it. We have been detained here now for four hours on a discussion of measures not before the Senate, but which, if the Senate adjourns now, I shall ask it to take up to-morrow morning, and when they are ended we can then go on with the appropriation bills.

Mr. HUNTER. I hope we shall not adjourn. I ask for the yeas and nays.

The yeas and nays were ordered, and taken, with the following result:

YEAS—Messrs. Bell, Benjamin, Bigler, Broderick, Clark, Clingman, Douglas, Hammond, Harlan, Houston, King, Mason, Pugh, Thomson of New Jersey, Trumbull, Wright, and Yulee—17.

NAYS—Messrs. Allen, Bayard, Bright, Brown, Cameron, Collier, Crittenden, Davis, Doolittle, Fessenden, Fitch, Fitzpatrick, Foster, Green, Hale, Hamlin, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Pearce, Polk, Reid, Rice, Sebastian, Simmons, Stuart, and Wilson—31.

So the Senate refused to adjourn.

The PRESIDING OFFICER. The question is on the motion of the Senator from North Carolina, [Mr. CLINGMAN], to amend the amendment by inserting, "and twenty gun-boats, with full steam power."

The Clerk proceeded to call the roll on the amendment, and Mr. ALLEN responded to his name.

Mr. CLINGMAN. I desire to modify my amendment at the suggestion of the chairman of the Naval Committee, by reducing the number of gun-boats to ten.

Mr. HUNTER. One member has answered. It cannot be done.

Mr. ALLEN. I withdraw my vote.

Mr. HALE. The Senator from Rhode Island cannot withdraw his vote. I object to its being done.

The PRESIDING OFFICER. A member having answered, the proposition cannot be changed. The Secretary will continue the calling of the roll.

Mr. BENJAMIN. I desire to state, on behalf of my colleague, Mr. SIDELL, and the Senator from New York, [Mr. SEWARD], that they have paired off on this measure.

Mr. HAMLIN. I was requested by the Senator from Ohio [Mr. WADE] to state that he had paired off with the Senator from Alabama, [Mr. CLAY].

The vote being taken, resulted—yeas 12, nays 34; as follows:

YEAS—Messrs. Benjamin, Bigler, Brown, Clingman, Douglas, Fitch, Green, Hammond, Kennedy, Reid, Sebastian, and Thomson of New Jersey—12.

NAYS—Messrs. Allen, Bayard, Bright, Broderick, Cameron, Chandler, Clark, Collier, Crittenden, Davis, Doolittle, Fessenden, Fitzpatrick, Foster, Hale, Hamlin, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, King, Mason, Pearce, Polk, Pugh, Rice, Simmons, Stuart, Toombs, Trumbull, Wilson, Wright, and Yulee—34.

So the amendment to the amendment was rejected; and the question recurred on the amendment of the Naval Committee.

Mr. GREEN. I move this as an addition to the amendment now pending:

And that if, after the flagrant commission of outrages on our citizens by other Powers, the President deem it necessary and important for the protection of our citizens, rights, and commerce, or for speedy redress of such wrongs, he shall be authorized and empowered to grant and issue letters of marque and reprisal to American vessels, to continue until the meeting of Congress next thereafter, and he shall then inform Congress of the facts that induced his action in that regard.

Mr. PUGH. I should like to have the yeas and nays on that.

The yeas and nays were ordered.

Mr. TRUMBULL. Mr. President—

Several Senators. It is of no use.

Mr. TRUMBULL. I think it is of some use to expose these propositions that are made, and I think it is time some one did it. We have had the proposition talked about all day of throwing upon the President the responsibility and authority of making war, and now it is proposed to allow him to grant letters of marque and reprisal. By what authority do you divest yourselves of this power which the Constitution puts upon you—upon Congress—and undertake to cast it upon the President? The Constitution of the United States declares that "the Congress shall have power" "to declare war," and to "grant letters of marque and reprisal;" and yet we have heard propositions discussed here the whole day to shirk this responsibility, and cast it upon the President. Sir, I think the President of the United States has drawn to himself quite too much power, and I am surprised to hear these speeches, and to see these propositions made by persons so tenacious, as they tell us, of the rights of the States. They talk about authorizing the President to send out a vessel to capture the *Styx* and bring her into port. I am not going to discuss the question of these outrages; but if Senators are serious, let them take the responsibility themselves; do not talk about adjourning Congress and going home, and casting off the responsibility which the Constitution has devolved upon them. Bring in your bill to declare war against Great Britain, if you mean it; bring in your bill to direct the seizure of the British vessels and reprisals if you mean it; do not call on the President to do it if he thinks proper, and report to the next meeting of Congress. Sir, we have no right to divest ourselves of the responsibility which is upon us. If a crisis has arisen, if the time has come when we are to talk about war with England, and about seizing her vessels, what excuse has Congress for adjourning, and attempting to put the responsibility on somebody else?

The state of things now has been compared to the state of things during Mr. Van Buren's administration, when, upon one occasion, the Congress of the United States gave very large powers to the President. But, sir, when that was done, if I recollect aright, the Congress was about expiring; it was then near the 3d of March; on the 2d day of March, I think, the information came that might render it necessary to act, and Congress was about to be dissolved. No such case occurs now; and I am opposed to surrendering that power which justly belongs to us and casting it upon anybody else. If the time has come when we are to enter into any such great measure as that of war with England, let us stand up to it. I am not for making belligerent speeches; I am for peace. I do not believe in any of these measures. I know, we all know, without its being repeated here, that the people of this country are ready for a just war at any time. But, sir, we do not want these proclamations; we do not want to cast the responsibility which justly rests upon the Congress of the United States on the President, nor have we any power to do it. I deny that we have any authority to surrender the war-making power to the President of the United States. He is not vested with it by the Constitution; and we have no right to divest ourselves of that power which the Constitution vests in us. I trust, therefore, that this measure and all like measures will be voted down; and if, when we investigate our difficulties with England, there is a cause for war, let us declare it; if there is a cause for reprisals, let us direct them to be made.

Mr. GREEN. I presume there is not a Senator here who does not know the difference between perfect war and imperfect war, as understood in international law; and I also presume everybody knows that the power to declare war is lodged in Congress alone; yet Congress has a right, in anticipation, to arm the Executive with authority to do certain acts of a warlike character. It is an act of a warlike character to protect a citizen, to protect a ship, to protect our commerce; yet, in contemplation of international law, it is not a declaration of war; it is defense. It is an act of war to redress a grievance; but yet the act of redressing that special grievance is imperfect

war—a thing not contemplated under the Constitution of the United States; and it has been held, and wisely held, that the Executive alone, as the head and commander of the Army and Navy, has the right to protect our ships, to protect our people, to protect our commerce, and to interpose for speedy redress without any previous declaration on the part of Congress. A declaration of war is a declaration of a state of relation between two Powers. A specific act is a difficulty growing up in consequence of the action of certain officers, men in the employ of the Government, or assuming to be in the employ of the Government. When two nations formally declare war, all the citizens of each are at war with all the citizens of the other. Every citizen who owes allegiance to the one, is at war with every citizen that owes allegiance to the other Government; but when a difficulty springs up, when a collision upon the seas, when a wrongful act upon your commerce, when a wrongful visitation of your vessel takes place, it is not war—it is a wrong; in other words, it is an outrage; and to authorize the Executive to take proper steps to correct that outrage is not a declaration of war.

Mr. DOOLITTLE. I have no doubt the principle of law for which the honorable Senator contends is correct; but if he is willing, I should like very much that we come to a vote on this question.

Mr. GREEN. I am much obliged to the honorable Senator. I am as anxious for a vote as he is, and a little more so; but I have more interest in this question than he has. I regard the safety of our Treasury as a matter of great importance. I have proposed an amendment which I think will secure that, for it arms the Executive with power to protect our citizens, to protect our commerce, to redress our wrongs in all these little accidental cases without any war, without any violation of international law; and as he can do it without building up a big navy, as he can do it by the use of a merchant marine which we possess stronger than any Power in the world, I propose to give him the privilege to do it.

Now, Mr. President, the Senator from Illinois [Mr. TRUMBULL] is wrong when he supposes that I propose to transfer to the Executive the war-making power. I propose no such thing. It is to redress wrongs, to repel wrongs, to protect our rights. It is no war-making power; and if I had the time, and the Senate was not too impatient, I could illustrate this so clearly that no man could misunderstand it. International law, the principles of right reason, those rules that govern the conduct of nation with nation, will vindicate me in all the positions I take. If, however, the Senate choose rather to vote down this privilege, and to leave the Executive unarmed, unprotected, without power of calling upon our merchant marine, let them do it. I made the proposition; I have done it as a measure of economy; I have done it as a means of protecting our rights without extravagant expense; but I have no right to obtrude my opinions upon other people; and if they do not accord with me, I cannot quarrel with them, or find fault with them. I can simply give my vote, and ask for the yeas and nays on the proposition.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 6, nays 40; as follows:

YEAS—Messrs. Brown, Douglas, Green, Johnson of Tennessee, Pugh, and Rice—6.

NAYS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Bright, Broderick, Cameron, Chandler, Clingman, Collier, Crittenden, Davis, Dixon, Doolittle, Fessenden, Fitch, Fitzpatrick, Foster, Hale, Hamlin, Houston, Hunter, Iverson, Johnson of Arkansas, Kennedy, King, Mallory, Mason, Pearce, Polk, Reid, Sebastian, Simmons, Stuart, Toombs, Trumbull, Wilson, Wright, and Yulee—40.

So the amendment to the amendment was rejected.

The PRESIDING OFFICER. The question is on the amendment of the Committee on Naval Affairs.

Mr. PUGH. I move that the Senate do now adjourn. [Oh, no!]

The motion was not agreed to.

Mr. MALLORY and Mr. PUGH called for the yeas and nays on the amendment of the committee, and they were ordered.

Mr. KENNEDY. I ask that the amendment be read.

The Secretary read it, as follows:

Insert after line fifty-eight:

That the Secretary of the Navy cause to be constructed, as speedily as may be consistent with the public interests, five steam screw sloops of war, with full steam power, whose greatest draught of water in active service shall not exceed twelve feet, and four steam screw sloops of war, with full steam power, whose greatest draught of water in active service shall not exceed fourteen feet, which ships shall combine the heaviest armament and greatest speed compatible with their character and tonnage; and one side-wheel war steamer, whose greatest draught shall not exceed eight feet, armed, and provided for service in the China seas; and that there be, and is hereby, appropriated, to be expended under the direction of the Secretary of the Navy, for the purpose above specified, the sum of \$1,200,000, out of any money in the Treasury not otherwise appropriated.

The question being taken by yeas and nays, resulted—yeas 20, nays 24; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Brown, Clingman, Crittenden, Douglas, Fitch, Iverson, Kennedy, Mallory, Mason, Pearce, Reid, Sebastian, Simmons, Wilson, and Wright—20.

NAYS—Messrs. Broderick, Cameron, Collamer, Davis, Dixon, Doolittle, Fessenden, Fitzpatrick, Foster, Green, Hale, Hamlin, Houston, Hunter, Johnson of Arkansas, Johnson of Tennessee, King, Polk, Pugh, Rice, Stuart, Toombs, Trumbull, and Yulee—24.

So the amendment was rejected.

Mr. MALLORY. I now move a portion of the same amendment as a distinct proposition for five sloops of war instead of ten.

Mr. HALE. I do not raise a question of order; but I would suggest that the usual mode is to go through with the amendments of the committee before individual amendments are offered, and the Committee on Naval Affairs have not proposed any such amendment.

Mr. MALLORY. I have other amendments from the committee. I shall offer this in the Senate again. The next amendment of the committee is to come in on line one hundred and six, on page 5:

That the pay of the purser at each of the navy-yards at Portsmouth, New Hampshire, and Philadelphia, Pennsylvania, shall hereafter be at the rate paid to pursers at the other navy-yards in the United States.

Mr. POLK. I ask the chairman of the Committee on Naval Affairs if that increases the compensation? I suppose it does.

Mr. MALLORY. I will say to the Senate that by some legislation, to me unknown, some years ago, a distinction was made between pursers at our navy-yards. There is no distinction, or very little, in the duty they perform, and the proposition is to equalize the pay at the different yards.

Mr. POLK. Equalize them by raising them?

Mr. MALLORY. Yes, sir. It puts them all on an equality hereafter.

Mr. TRUMBULL. I should like to inquire of the chairman of the Committee on Naval Affairs, if it could not be equalized by reducing the others, so as to conform to these two?

Mr. MALLORY. If the honorable Senator knew what the salary was, and the duties to be discharged, I presume he would not propose to reduce them, and the committee is not in favor of that proposition. I do not think the Senator would advocate a reduction of these salaries.

Mr. TRUMBULL. I have never known an equalization to take place in the way I suggested, and I wanted to know if it was practicable to get the salaries equal, by reducing the higher ones so as to conform to the lower. I wanted to see if we could make this rule once work both ways.

Mr. KENNEDY. I should like to understand what are the salaries of the various officers of the Navy of the United States. When I come to compare them with those of the officers of the Army, it strikes me that they are below them. I have no idea upon what principle of justice such a distinction has been founded; and therefore I should like to ask the chairman of the Naval Committee if he can explain why it is that officers performing in the Navy the same grade of duty as officers of the Army are receiving much less, in some instances not more than half, the Army pay? I was struck with that on looking over the Navy list the other day. I may be wrong, but I should like to be informed.

Mr. TOOMBS. I should like to know of the chairman of the Committee on Naval Affairs, whether his amendment does not carry all the pursers in the navy-yards up to the salary paid to the one in San Francisco, California?

Mr. MALLORY. The pay of pursers at the navy-yards was fixed by the act of 1842, I think, when the distinction was made. The pursers of

the navy-yards at Boston, New York, Norfolk, Washington, and Pensacola get \$2,500; the pursers of the navy-yards at Portsmouth and Philadelphia get but \$2,000. There was a distinction of \$500 made—wherefore I never could perceive—before I came to the Senate, in favor of Pensacola and the other navy-yards, and against Philadelphia and Portsmouth.

Mr. TOOMBS. Can the Senator tell me what is the pay of the purser at San Francisco?

Mr. MALLORY. I do not remember. The pay at San Francisco was placed upon a larger scale.

Mr. TOOMBS. So I say.

Mr. MALLORY. The commander there received the pay of a captain, and there was no purser there that I know of. The navy agent was doing purser's duty. I never heard that there was a purser there.

Mr. TOOMBS. I think the effect of this amendment would be to put all these offices on that basis; but there is no evidence that \$2,000 is not enough. As was said by the Senator from Illinois very appositely, we have been acting all the while on the idea of equalizing salaries by raising them. I think the Naval Committee would do much better in these times, at least, if they would propose equality by cutting down and paying them all at \$2,000. If the committee wants equality, bring them to \$2,000, and I will vote for that proposition, unless they can show us that \$2,500 is necessary at these other places. We are without the least information, except that we are told it is proposed to make them equal by putting them up. I will go with the Senator from Illinois and others to make them equal by putting them down. It does not appear that \$2,000 is not enough anywhere. I hope the amendment will not pass, unless the chairman alters it, and proposes to put Portsmouth and Philadelphia on an equality with the others, and I will vote for that.

All this system of putting captains and other people at navy-yards, and giving them extra pay, is an enormous abuse, a fraudulent abuse. It is a great deal better for a captain to come here to this navy-yard and be waited on and have a house, than it is to go to Georgetown and hire his own, for they give him \$1,000 more pay and find him all these things; and if he comes to Georgetown or this city, he gets \$2,000 less money than if stationed at a navy-yard, and no conveniences. It is a mere piece of favoritism. They ought not to get one dollar more on duty than off duty. If they are in the public service they ought to do duty when the public want it. This system is an inconvenience, a great evil, social and pecuniary. You take two captains who come from sea, and put one at the Washington navy-yard, and turn one loose, and he rents his own house, and pays eight hundred or one thousand dollars for it, and all his own expenses. The one at the navy-yard will come to the Naval Committee, or somebody who has influence at the Navy Department, to get him a place; and you not only pay him extra, but you double the expenses of the man you leave out. The whole system is wrong. As for giving a purser in the navy-yard more than a purser in Washington city, it is a mistake. You have not one hundred people to pay at one of those navy-yards. You have not five hundred at the Washington yard. It cannot be five hours' duty every three months that he would have to do.

Mr. HALE. There has been very singular legislation about this subject. I speak in reference to the navy-yard in my own State; for the law happens to be so at this moment that, while the purser there and the purser at Philadelphia are paid less by the law of Congress, the purser's clerk at the navy-yard at Portsmouth is paid higher than the purser's clerk at any navy-yard in the United States. It must have been the result of accident. These pursers feel that the discrimination against them is unjust. Some time ago, there was a distinction made between the clerks at the yards of Portsmouth, Philadelphia, and Washington. Subsequently Washington was taken out and put on the same footing with the other yards. Since that time, the yards at Philadelphia and Portsmouth have been made yards for repairing, where there is a very large amount of work done—a great deal more than at Pensacola or Washington now. The pursers feel that it is very unjust that these yards should be sub-

jected to less pay than others, and it creates a feeling of dissatisfaction.

Mr. TOOMBS. I ask the Senator from New Hampshire if this is a proposition of his to reduce that clerk at Portsmouth?

Mr. HALE. No; this has nothing to do with the clerk.

Mr. TOOMBS. Why not bring him to the same basis with the others?

Mr. HALE. Because the Senate, by a unanimous vote at this session, have passed a bill to bring the others up.

Mr. TOOMBS. Count me out of that vote. It could not have been unanimous, unless it was one of those matters that nobody observed.

Mr. HALE. I cannot count anybody out, for the bill was reported from the Senate Committee on Naval Affairs, and passed the Senate upon an explanation without a division. There has been a proposition before both Houses, and there has been a joint meeting of the Naval Committees of the two Houses, to raise the whole pay of the Navy. You cannot put it down. The feeling is that it is vastly lower than the Army pay, and that whatever it is, high or low, it ought to be equal. This proposition is simply to raise the salary of these two officers \$500 each. I hope the Senate will agree to it.

Mr. CAMERON. I know something about Philadelphia, and my impression is that \$2,000 a year is ample compensation for an officer of this kind there. If I were a purser living at Philadelphia, I should prefer \$2,000 there to \$2,500 at Charleston, Pensacola, or New Orleans. I think the law was right in making the discrimination. In regard to the clerks, I remember that by some accident, a year or two ago, the pay of the clerks at a number of the navy-yards was reduced from eleven or twelve hundred dollars to six or seven hundred dollars. This year it has been raised to a sufficient sum to enable the clerks to live on it. I am sure there is no necessity for increasing the pay of the purser at Philadelphia; and I think that in Portsmouth, New Hampshire, a man can live as well and as cheaply as in Philadelphia for that sum of money. In my opinion, we had better leave this matter as it is. This is a bad time to increase the pay of anybody.

The amendment was rejected.

Mr. MALLORY. The next amendment of the Naval Committee is to insert after line two hundred and fifty-one, following the clause making an appropriation to pay for the preparation of a naval code, this proviso:

Provided, That the provisions of the seventh section of the naval appropriation bill, approved March 3, 1857, directing the Secretary of the Navy to have prepared and to report to Congress at this session, for its approval, a code of regulations for the government of the Navy, &c., be extended to the next session of Congress.

Mr. PUGH. I think the bill already contains a provision for a code of regulations. Do we want two codes? The bill from the House of Representatives has an appropriation for a code.

Mr. TOOMBS. This is only to extend the time for its coming in.

Mr. PUGH. If it is all one code I have no objection.

Mr. TOOMBS. Only one.

The amendment was agreed to.

Mr. MALLORY. My next amendment is to insert at the end of the bill:

That the Superintendent of Public Printing be, and he is hereby, directed to transfer to the Bureau of Ordnance and Hydrography the plates from which the illustrations and charts of the late Japan expedition were printed.

The amendment was agreed to.

Mr. MALLORY. I have another amendment from the Committee on Naval Affairs, to come in after line one hundred and fifty-seven, following the appropriations for navy-yards:

For the completion of the coal depot at Key West, Florida, \$20,000.

The Secretary of the Navy recommends this appropriation in his annual report; and I have also a letter from him on the subject, in which he says:

"The present condition of the coal depot at Key West is such as to render it useless for the purposes for which it is intended. The walls only had been put up when the appropriation was exhausted. It has no roof or other necessary convenience for protecting the coal from the weather; and the Department is obliged to pay for the storing of the coal in a private lot. I would therefore suggest that an appropriation of \$20,000 be added to the naval

appropriation bill for the purpose of roofing and otherwise making the coal depot available."

Mr. POLK. This is a subject about which I am not very well informed. I should like to know the extent of this coal depot. Will it take \$20,000 to put a roof on it? How much ground does it cover?

Mr. MALLORY. The ground purchased by the United States for military and naval purposes at Key West, on which this coal depot stands, is very extensive. Previous to building the coal depot, the Government placed about ten thousand tons of coal there, which took fire by spontaneous combustion, and burnt up. As they use Cumberland with anthracite, the Cumberland takes fire. The Government have built a very large stone building, but it is without a roof.

The amendment was agreed to.

Mr. MALLORY. The next amendment is to insert, after line one hundred and forty-two, at the end of the appropriation for the Norfolk yard:

To enable the Secretary of the Navy to purchase tools and furnish the machine-shop and foundry at the Norfolk navy-yard, \$20,000.

This item was sent to the House of Representatives too late to be inserted in the bill there, and it was then sent here by the chairman of the Committee of Ways and Means, with an accompanying letter from the Secretary of the Navy. In this letter the Secretary says:

"To enable the Department to fit the machine-shop and foundry at the Norfolk navy-yard, to construct the engines, boilers, &c., for the new steam-sloop building there, an addition to the estimates submitted, of \$20,000 for the next fiscal year, will be necessary. I have to request and urge, therefore, that that sum may be added to the estimate for that yard for that purpose."

Mr. HUNTER. We have built the foundry; this is an estimate for the tools.

The amendment was agreed to.

Mr. MALLORY. I have another amendment, as an additional section:

Sec. —. *And be it further enacted*, That it shall be lawful to enlist boys for service in the United States marine corps, with the consent of their parents or guardians, not being under eleven nor over seventeen years of age, to serve until they shall arrive at the age of twenty-one years; the boys so enlisted to receive the same pay, rations, clothing, &c., now received by boys enlisted in said corps under the authority of the Secretary of the Navy.

The amendment was agreed to.

Mr. MALLORY. I next propose, on page 6, after line one hundred and seventeen, to insert the words "and the new purchase" after "yard;" and in lines one hundred and twenty, one hundred and twenty-one, and one hundred and twenty-two, to strike out "\$263,516," and insert "\$320,166," so as to make the clause in relation to the navy-yard at Brooklyn, New York, read:

For boiler-house and setting boilers, water pipes, drains, quay wall, sewer extended to quay-wall, boiler to dredger, timber-basin, repairs of oakum shop, filling ponds in yard and the new purchase, dredging channel and scows, piling site for marine barracks, machinery for machine-shop, boiler-shop, saw mill, foundry, smithery, and brass-foundry, and repairs of all kinds, \$320,166; and the amount heretofore appropriated for coal-house may be applied to the completion of the store-house.

This amendment increases the appropriation \$50,650, for filling the new purchase, as recommended by the Department. (See Book of Estimates, page 233.) If the dirt which can now be had is not used, it will cost the Government twice as much next year.

Mr. HUNTER. I believe the amount is necessary to render this land available. The appropriations for all the navy-yards were reduced by the Committee of Ways and Means, but this item was, I think, left out by mistake.

The amendment was agreed to.

Mr. MALLORY. I am also directed by the Committee on Naval Affairs to offer this amendment as an additional section:

And be it further enacted, That the President of the United States, by and with the advice and consent of the Senate, shall appoint a judge advocate general for the naval service, to hold his office for four years, unless sooner removed by the President, and who shall receive for his service \$2,500 per annum and his traveling expenses. It shall be his duty to prepare, under the direction of the Secretary of the Navy, all charges and specifications of charges to be preferred before naval courts-martial and courts of inquiry, and to keep accurate records thereof, and to prepare specific instructions in each case to the acting judge advocate to be designated by the Secretary of the Navy, to codify and arrange all the laws of Congress, and the rulings and decisions of the district, circuit, and supreme courts of the United States touching courts-martial and courts of inquiry, and to compile and submit to the Secretary of the Navy general instructions, forms, and principles applicable to them, and

the manner of conducting them, and to preserve perfect records of all such courts and of the cases tried or heard before them: *Provided*, That nothing herein contained shall preclude commanders of squadrons on foreign stations from ordering such courts, when in their opinion the exigencies of the public service may demand them, under such rules and regulations as said judge advocate general, with the approbation of the Secretary of the Navy, may prescribe.

I think the Senate should adopt this amendment as a matter of economy. We now pay annually a great deal more for performing badly the duty which this amendment contemplates, than the salary of this office would be. The Army have a judge advocate general—not by that title, but an officer who does precisely these duties, as I understand, that this officer would be called upon to do for the Navy. At present, the laws applicable to courts-martial are construed differently on different stations, and many persons who should be punished escape punishment for the want of the system which would be produced by having such an officer.

Mr. DAVIS. I move to amend the amendment by inserting after "appoint," the words, "by selection from among the officers of the Navy."

Mr. MASON. I would suggest to the honorable Senator from Mississippi whether we can place that restriction on the sphere of choice of the President. We may create the office, but he must have, by the Constitution, the unlimited sphere of choice.

Mr. DAVIS. I do not doubt the constitutional power, because the Constitution confers on Congress the right to provide a Navy and to make rules and regulations for it. This is but a regulation of the Navy.

Mr. MALLORY. With the view I have of a judge advocate general—an officer who is to be familiar with the administration of military law, as applied to courts-martial, who is to compile the decisions of the supreme, circuit, and district courts of the United States, in reference to courts-martial and courts of inquiry, and who is to prepare the charges, and specifications of charges, to be preferred before those courts—I do not think there will be found now, in the Navy, an officer competent to enter on this task. We shall find such a man, probably, at the bar. It may, however, be possible to get such a man in the Navy, and, if so, I should prefer it, but I do not think we shall find the requisite information there.

Mr. DAVIS. The reason I offered the amendment was, that I think nowhere out of the Navy can you find a man who will understand the sentiment of the Navy, and the laws peculiarly governing the service. Mr. Wirt, with all his high legal ability, when called upon once for an opinion, in relation to the Army, said that he did not consider any lawyer's opinion as good as that of an officer of sound judgment, and accustomed to the rules of the service and the application of the laws to them.

Mr. BAYARD. I differ so far from the honorable Senator from Mississippi that, for my own part, I shall necessarily vote against the amendment of the Naval Committee if his amendment be adopted. I think the last place to go for justice is to courts-martial as they are generally constituted, and it is simply for the want of a proper presiding head.

The amendment to the amendment was rejected; there being, on a division—ayes 13, noes 21.

Mr. TOOMBS called for the yeas and nays on the amendment of the Naval Committee; and they were ordered.

Mr. STUART. I wish to inquire of the Senator from Florida what compensation is proposed to be paid to this officer?

Mr. MALLORY. Two thousand five hundred dollars a year.

Mr. DAVIS. The Senate should understand that the appointment of this officer will not relieve the Navy from the appointment of special judges advocate. This one officer will be in a central position. He may attend a court here, and occasionally somewhere else. If we have many courts we must have special judges advocate at the same expense as now.

Mr. MALLORY. No, sir. This judge advocate would unquestionably attend all the courts-martial in the United States.

Mr. DAVIS. He could not do it.

Mr. MALLORY. With the knowledge I have of them, I am certain he could attend all the

courts-martial in the United States, and compile the rulings and decisions in addition; but it would not deprive the commander of a fleet on a foreign station of the power of calling in special judges advocate, under such rules and regulations as might be prescribed and matured.

Mr. IVERSON. The Government is in the habit now of paying judges advocate, who are employed for the purpose of attending to courts of inquiry and courts-martial, twenty-five dollars a day. It is paying that now to Mr. Carlisle, of this city, for attending the court-martial about to assemble to try Captain Routwell. It paid him and two others twenty-five dollars a day each for attending the courts of inquiry on the retired naval officers last year. This proposition, I think, would save a great portion of that expense—certainly much more than the salary of this officer.

Mr. STUART. That is certainly very much a matter of opinion, and, with the lights before me, I differ entirely from the Senator from Georgia. During the last year we have had three or four courts of inquiry in existence at the same time. If you have a court of inquiry in existence in one city, and another somewhere else simultaneously, or nearly simultaneously, this officer cannot attend both. The result will be that you have a supernumerary officer at \$2,500 a year, and all the expenses attendant on that.

Mr. MALLORY. I do not know of a single instance in the whole history of our Navy where two courts-martial or courts of inquiry have been sitting within the country at the same time, except under the law passed last year in relation to the retiring board. No contingency can possibly arise, under ordinary circumstances, where two courts-martial or two courts of inquiry will be sitting at the same time, and one judge advocate can, ordinarily, attend all the courts-martial and courts of inquiry within the United States.

The question being taken, by yeas and nays, resulted—yeas 17, nays 26; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Benjamin, Bright, Crittenden, Dixon, Fitch, Foster, Hale, Iverson, Kennedy, Mallory, Mason, Pearce, Sebastian, and Wright—17.

NAYS—Messrs. Bigler, Broderick, Chandler, Clingman, Collamer, Davis, Doolittle, Douglas, Fessenden, Fitzpatrick, Hamlin, Houston, Hunter, Johnson of Arkansas, Johnson of Tennessee, King, Polk, Pugh, Reid, Rice, Seward, Sidel, Stuart, Toombs, Trumbull, and Wilson—26.

So the amendment was rejected.

Mr. MASON. I am requested by the Committee on Foreign Relations to offer an amendment.

Mr. HALE. If the Senator will give way, there are one or two amendments yet to be offered from the Committee on Naval Affairs.

Mr. MASON. I hope the Senator will allow me to offer this amendment, for reasons which I am sure he will appreciate. It is to add as an additional section:

Sec. 4. *And be it further enacted*, That, to defray the expenses and compensation of a commissioner to the Republic of Paraguay, (should it be deemed proper by the President to appoint one,) in execution of the joint resolution of the present session "for the adjustment of difficulties with the Republic of Paraguay," \$10,000, or so much thereof as may be necessary: *Provided*, That the compensation hereby allowed shall not exceed the rate of \$7,500 per annum for the time employed.

I offer this amendment, by instruction of the Committee on Foreign Relations, in pursuance of a request of the Secretary of State, which says the contingent fund is not equal to it during the recess; and this is the only opportunity to make the appropriation.

The amendment was agreed to.

Mr. HALE. I am instructed by the Committee on Naval Affairs to offer as an amendment to the bill, to come in after the word "dollars," in the twenty-first line, these words:

For the engine, machinery, equipment, ordnance, and ordnance stores for the equipment and fitting for sea of the United States steamship Franklin, \$300,000.

That is in accordance with an estimate from the Department, and not so much as the Department asked by considerable. In explanation of it, I will say to the Senate that that ship is now finished and ready to receive her masts and spars. By the unanimous judgment of those officers who have given an opinion upon it, and the naval constructor of this city, Mr. Lenthall, she is pronounced to be the finest model of a ship now in existence. Most of the expense upon her has been made. Everything up to fitting out her machinery has already been incurred, and she is

now on the stocks. If we are to make anything of an exhibition of naval power, this is something that the committee think should be done. Having made that explanation I leave it to the patriotism and judgment of the Senate.

Mr. HUNTER. I should like to hear the amendment again reported.

The Secretary again read it.

Mr. HUNTER. I would ask if that is recommended by the Department?

Mr. HALE. I will state that it was by a vote of the Senate we called upon the Secretary for an estimate; and I have a letter from him, which I will send to the Chair, and ask to have read.

Mr. HUNTER. I also ask what the tonnage of the Franklin is?

Mr. HALE. The chairman can tell.

Mr. MALLORY. Her tonnage is about four thousand six hundred tons. She is one of the largest ships in the world.

The Secretary read the letter, as follows:

NAVY DEPARTMENT, May 5, 1858.

Sir: In reply to yours of the 28th ultimo, desiring an estimate for the equipment and fitting for sea of the United States ship Franklin as a screw steamer with full steam power, I have to state that, with the \$80,000 included in the estimate submitted at the commencement of the session, and which will be included in the general appropriation for increase, repair, &c., there will be required for the engine, machinery, &c., \$225,000; equipment, &c., \$125,000; ordnance, ordnance stores, &c., \$50,000; amounting to \$410,000.

I have the honor to be, &c.,

ISAAC TOUCEY,

Secretary of the Navy.

Hon. S. R. MALLORY, Chairman Committee Naval Affairs, United States Senate.

Mr. HUNTER. We have quite a large appropriation in the bill already for some of those purposes. Here it is:

"For increase, repair, armament, and equipment of the Navy, including the wear and tear of vessels in commission, fuel for steamers, and purchase of hemp for the Navy, \$2,850,000."

This is a proposition to add \$300,000 more, as I understand. This was not originally estimated by the Secretary of the Navy. This letter is in reply to a resolution, I think, sent to him by the Senate. It is information which he furnishes at the request of the Senate, and it is the addition of that amount, as I understand, to be made by the Senate, and not asked for by the Department. Now, I think we had better adhere to the original estimate of \$2,850,000.

Mr. MALLORY. It is my purpose, when the bill is reported to the Senate, to ask the Senate to pass the original amendment introduced by the Committee on Naval Affairs for five sloops of war. The Senate has voted down ten sloops. I shall offer the five as a separate section, in which case I suggest to the Senator from New Hampshire for the present to withdraw his amendment. The Senate has indicated its indisposition to vote for ten sloops, and five I understand will certainly be preferred, and I have been assured will pass. I suggest the withdrawal of this amendment until we have a vote of the Senate upon the proposition for five sloops.

Mr. HALE. I want to say that I understood the Senate to vote down the building of those small vessels because they thought it was mere trifling, and did it with a view of voting in favor of the amendment to fit out the Franklin, which would make a highly respectable and very creditable appearance of the strength, naval power, architecture, and skill of the country. Viewing it in that light, I must not withdraw it. It is from that committee. I hope the Senate will fit out the Franklin, and then not agree to the five sloops.

Mr. CLINGMAN. I was about to ask the Senator a question. What draught of water will she draw? Twenty-five or twenty-six feet?

Mr. HALE. She will draw a good deal; I should think as much as that.

Mr. CLINGMAN. She will require twelve hundred men to man her.

Mr. HALE. Oh, no.

Mr. CLINGMAN. She will do to exhibit in the Mediterranean, I suppose; but can she get into many of our ports?

Mr. PUGH. She can carry the submarine cable.

Mr. HALE. She will do in the Gulf very well.

Mr. CLINGMAN. We might use the whole Gulf as a harbor for her.

Mr. HALE. I want to put it to the Senate, what is the use of building ships and letting them rot

on the stocks? What good does the Franklin do there? What is the sense, or the propriety, or the economy, or the philosophy, of building the handsomest ships in the world, and letting them rot on the stocks? If it is the policy of the country to have a navy, after building a ship, certainly it ought to float her.

The amendment was not agreed to; there being on a division—ayes, eleven; noes not counted.

Mr. HALE. I have one other amendment to offer from the Committee on Naval Affairs, which is very brief, and offered without much faith, though it has a good deal of merit in it. It is to add the following as a new section:

And be it further enacted, That the naval appropriation act approved August 31, 1852, adding a percentage to the clerks' pay in the navy-yard and commandant's office in Washington city, District of Columbia, shall be so construed as to include the clerks and messenger in the Navy agent's office, for said yard, and the messenger in the commandant's office.

Let me explain this amendment, in a word, and then I shall leave it. In 1852, Congress passed an act raising, by special act, these clerks' pay. It was construed not to apply to the clerks embraced within this amendment, who, I believe, are only two. In 1854, the Senate undertook to alter that matter, and passed an amendment in an appropriation bill, which they supposed did put these clerks on the same footing with others; but owing to some defect in phraseology, the intention of the Legislature was defeated and construed not to apply to them. Since that, Congress, by general act, have raised these salaries, and these clerks are receiving it; and this amendment is simply to remedy what Congress believed was a misconstruction of the first amendment. That is the whole of it.

Mr. HUNTER. As I understand this amendment, it relates to back pay, and is not in order. It is a private claim.

Mr. HALE. It is the construction of an act.

Mr. HUNTER. It is to give back pay, which has been ruled to be a private claim, and is not in order under the rule.

The VICE PRESIDENT. Is the compensation retrospective?

Mr. HALE. The appropriation is already made, and this amendment is to correct what Congress believed to be a misconstruction of the statute. That is the whole of it. Congress tried twice to give the clerks the money by act of Congress, the acts of 1852 and 1854. Congress tried very hard twice to give a man a salary, and he could not get it.

Mr. HUNTER. This is good as a private claim. It is clearly retrospective.

The VICE PRESIDENT. It seems so to the Chair.

Mr. HALE. Very well; let it go.

Mr. IVERSON. I have an amendment to offer from the Committee on Claims.

Mr. SEWARD. Will the honorable Senator from Georgia allow me to submit an amendment from the Committee on Naval Affairs?

Mr. IVERSON. I withdraw my amendment for the present. I thought the committee were through with theirs.

Mr. SEWARD. I am instructed by the Committee on Naval Affairs to submit the following amendment:

For continuing the publication of the charts of the north Pacific ocean and Behring's Straits expedition, \$8,760.

Here is an estimate and recommendation from the Secretary of the Navy.

Mr. HUNTER. I understand this is merely to print the charts.

Mr. SEWARD. Yes, sir; that is all.

Mr. HUNTER. I do not object to it.

Mr. JOHNSON, of Arkansas. If it is to print charts, I will ask for the reading of it again.

The Secretary read it.

Mr. JOHNSON, of Arkansas. I think it is very well; and I suggest it to the Senator now, that before we make any more appropriations for printing and publishing charts, or manuscripts of any description, they should be presented before the Committee on Printing on a resolution that proposes to print them. It is not consistent, either, with a full knowledge of the transaction of business when Senators propose here to print books or charts without a reference to the proper committee. I suggest to gentlemen present that I shall object now, and forevermore, to everything that is proposed to be printed, unless the work or mate-

rial to be printed shall have been referred to the committee on that subject, and been returned by them to the Senate after they have had an opportunity to examine it, with estimates of what it would cost, and of its true value. These forms are necessary, and no more printing should be done until they are entirely complied with.

Mr. SEWARD. I am willing to concur in that policy; but all these estimates and all these reports are exactly as the honorable Senator requires them.

Mr. JOHNSON, of Arkansas. Very well; let them be referred. I will say to the Senator, that during the last session there were passed through this body, and which were protested against at the time, propositions for printing which we had assurances would cost but little or nothing, and yet have amounted to very much; and, if we shall permit them to go on in the spirit in which they have gone on hitherto, from the favor or the friendship of members of this Senate towards those who ask that they shall be done, they will reach an amount of expenditure not one cent less than half a million dollars. I do not think that these propositions should be concurred in until they have conformed to those practical rules which declare that, before you order the printing of any document, you shall know distinctly what it will cost you to do it, and what is the objection to its being done, as well as its value, when printed, to the public itself, after you shall have paid for it.

Mr. PUGH. I should like to hear that amendment read again.

The Secretary read it.

Mr. PUGH. Is that reported from any committee?

The VICE PRESIDENT. By the Committee on Naval Affairs.

Mr. SEWARD. There is an estimate and recommendation of the Department for exactly that amount, and it is reported from the Committee on Naval Affairs.

Mr. PUGH. This is an old acquaintance. We had this subject under consideration at the last session. A gross amount was reported by the Committee on Naval Affairs. It was stated that it was a little affair, and would cost but a few hundred or few thousand dollars, and would never trouble us again. I recollect that the Senator from Arkansas and I were unfortunate enough to differ with the committee. We said it was the beginning of a work, and probably we should not see the end of it very soon. Here it comes again. The first appropriation was probably five or ten thousand dollars. Now it goes on to \$6,000. It appears to me, Mr. President, that, under the rules of the Senate, every question of printing, whether it be an amendment or anything else, is by law referable to the Committee on Printing, and that it is no more in order to put to an appropriation bill an amendment providing for the printing of a book or chart than by private resolution. Under the rules, with a few special exceptions, in defining the duties of the Committee on Printing, the printing of nothing can be ordered unless submitted to that committee; and I submit to the Chair, under the rule defining the duties of the Committee on Printing, that this proposition must go to them.

Mr. CAMERON. I think, if the Senate deem it proper to pass the amendment, they had better dispense with the Committee on Printing at once. It would be impossible for them to attempt to regulate the printing, if the Senate choose to take the whole business of the committee out of their hands.

Mr. HUNTER. I hope the Senator from New York will withdraw the amendment. Let it go to the Committee on Printing. It is obvious that the amendment cannot pass, under such circumstances. The committee are entitled to it, and want to examine it.

Mr. SEWARD. I will withdraw it.

Mr. JOHNSON, of Arkansas. The committee do not want to have anything to do with it, but really these things ought to stop somewhere.

Mr. SEWARD. I hope the Senate will give me unanimous consent to refer it to the Committee on Printing.

Mr. JOHNSON, of Arkansas. I hope not. I never want to see any more of these publications before the committee, but I cannot help myself if you choose to refer it.

It was so referred.

Mr. IVERSON obtained the floor.

Mr. MALLORY. A remark fell from my friend from Ohio, which it is necessary for the Committee on Naval Affairs to answer. He remarked that this amendment was an old friend of his—

The VICE PRESIDENT. The Senator from Georgia is entitled to the floor.

Mr. IVERSON. There is no question before the Senate.

Mr. MALLORY. Will the Senator allow me to answer one remark of the Senator from Ohio? I will not occupy the floor a moment.

Mr. IVERSON. I will, as a personal favor.

Mr. MALLORY. The Senator from Ohio says that this is an old acquaintance—

Mr. FESSENDEN. I would inquire of the Chair if it is in order for the Senator to speak after the proposition has been referred to the Committee on Printing?

The VICE PRESIDENT. The Chair sustains the point of order.

Mr. MALLORY. Very well, sir.

Mr. IVERSON. I offer an amendment, to insert as a new section:

And be it further enacted, That all the officers of the Navy who were put on the retired list, upon furlough pay, by the late retiring naval board, who have been advanced and put on the leave-pay list, by the late naval courts of inquiry, with the approval of the President, shall be entitled to receive leave pay, for and during the time they were on the furlough list aforesaid, deducting such sums as they might have received for furlough pay during the said time, and that such officers as were dropped from the Navy by the President, under the decision and recommendation of the said retiring board, and have been restored to the Navy by the said naval courts of inquiry and the President, and put upon the furlough or leave list, shall be entitled to pay according to their present position, during the time they were dropped out of the Navy, deducting any amount which they might have severally received under the act of January 16, 1857, entitled "An act to amend an act to promote the efficiency of the Navy."

Mr. HUNTER. This is to provide for a private claim. It is to give back pay, as I understand it. It is entirely a case of individuals.

Mr. IVERSON. I am aware of the point of order which the Senator has raised on this proposition. I desire to make an explanation of my amendment. This comes from the Committee on Claims, which might be considered rather an inappropriate committee to present an amendment of this sort to the naval appropriation bill, but for the fact that the memorial of one officer has been presented, and referred to the Committee on Claims; and the committee, taking into consideration that particular case, deem it advisable to introduce a general amendment, applying to all officers, instead of introducing a bill applicable to the individual who presented the claim. I will not go back to the act of 1855, which created the retiring board, by which many of those officers were retired and put on the furlough and other lists.

Mr. HUNTER. I have raised a point of order.

Mr. IVERSON. I am aware, in relation to the point of order, that this amendment may be strictly not in order; but as the Senator and the Chair will remember, a few days ago, when a similar question was under discussion, I referred to a number of precedents in which back pay, as the Senator from Virginia calls it, was put upon appropriation bills. I referred to the case during the last Congress of Mr. Pendleton, a *chargé d'affaires* at one of the Republics of South America, and the back pay of Mr. Schenck, and the back pay of Mr. Marsh, all put upon the civil and diplomatic appropriation bill. That was for compensation for services already rendered. Also, in 1850, an amendment was made to the Indian appropriation bill, appropriating \$20,000 to pay to the Central Bank of Georgia an amount due to the State of Georgia. That was an appropriation, the object of which had long since past. In that same bill an appropriation of \$72,000 was inserted for the pay of the Texas volunteers, who had already served; and money was appropriated paying those volunteers. If I had time to search the records, I could find fifty cases in which precisely similar amendments have been inserted in a general appropriation bill. The point of order was made in all these cases. The Chair did not decide the point of order, but submitted the question to the Senate whether they would receive it or not. It is competent for the Chair to do that. He may put the question, "Will the Senate receive this

amendment?" The Senate may overlook the 30th rule, or adhere to it, and oust an amendment which is not strictly within that rule. I shall ask the Chair, therefore, respectfully to put it to the Senate to know whether this amendment will be received. It is a very important amendment, and many individuals will be affected by it.

Those officers were put out of the Navy by the retiring board, in 1855. Some of them were dropped, and others were put upon the furlough list, and only drew furlough pay during the time they were out. Now, sir, these very officers, under the act of last session, have made their applications to the courts of inquiry, and have been advanced in their position. Some who have been dropped have been restored to the Navy, and put on furlough and leave lists; and more, ordinarily put on the furlough list, have been advanced by those courts to the leave of absence. It goes upon the presumption that these decisions of the recent courts are conclusive that the original finding of the board of fifteen was wrong; that they ought never to have been dropped or placed on the furlough list; and the committee, in fact, occupy the same position now, under the decision of the recent courts of inquiry. The same provision, Mr. President, was applied in the act of the last Congress, making provision for these courts of inquiry. The sixth section of that act declares:

"That all officers who may be restored to active service, under the provisions of this act, shall be entitled to draw the same pay they were drawing at the time they were retired or dropped for and during the time of such retirement or suspension from the active service aforesaid."

All the officers who have been restored to the active service by the decisions of the recent courts of inquiry are, under the operation of this section, drawing full pay from the time they were originally retired by the old retiring board. Now, sir, by a parity of reasoning and of justice these officers who have not been restored to active service, but advanced from the positions in which they were placed by the retiring board to higher positions, are entitled to their present compensation, from the time they were thus retired.

Mr. HUNTER. I think there is a question of order pending.

The VICE PRESIDENT. The Chair was indulging the Senator from Georgia, no objection being made. Objection being made, he will decide the point of order.

Mr. HUNTER. I would not object; but it is nearly nine o'clock.

The VICE PRESIDENT. The Chair would be happy to gratify the Senator from Georgia by putting the question, "Shall the amendment be received?" (the proper question would be, "Is it in order?") but the Chair having no doubt on the point of order, thinks it his duty to decide it. He does not think the amendment is in order, under the rule.

Mr. IVERSON. I respectfully appeal from the decision of the Chair, and let the Senate decide.

The question being put, the decision of the Chair was sustained.

Mr. KENNEDY. I would suggest at this very late period of the day, after a prolonged and arduous session, and as there is no probability in the world of coming to a vote—

Mr. HUNTER. We shall finish in half an hour.

Mr. KENNEDY. Then I yield, and will not make the motion I intended to make to adjourn.

Mr. BELL. I want to send an amendment to the Chair that I offered to another bill by the authority of the Committee on Naval Affairs. It is to insert at the end of the bill:

Sec. — And be it further enacted, That from and after the 1st day of July, 1856, the clerks, messengers, and watchmen, at the navy-yard and marine barracks at Washington shall be entitled to receive the compensation authorized by the acts of April 22, 1854, and August 5, 1854, for the payment of which such sum as may be necessary be, and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. HUNTER. Is not that out of order? Is it not for back pay, and a private claim?

Mr. BELL. I want to say a word on this subject. This amendment has passed the Senate twice heretofore. The other day I was authorized by the committee to present it to either of these bills, as it is appropriate enough to either the miscellaneous bill or this one. The honorable Senator took that exception then, and the

Senate was of opinion that it was not in order; but it was not ruled out of order by the Chair.

I wish to say a word or two in relation to it. It is to carry out an existing law. Here are some four, five, seven, or eight clerks, messengers, and watchmen at the navy-yard, who, for the last four years, I believe, have been deprived of one fifth of their salaries as established by law. It was said the other day, in some remarks made upon the subject by the Senator from Virginia—he did not argue it, but asked me if it was not a private claim—that it was arrearages of pay; and it was suggested by a Senator near me that certainly it was a private claim, and a very fit case to go to the Court of Claims. Now, here are seven or eight men, poor clerks and messengers, who have been in that service twenty-five years. I have got a list of the service. If this case should be sent to the Court of Claims they will have to pay their lawyer, and there is not more than two hundred dollars a year coming to them. They are to be referred to the Court of Claims. For what reason? Because an officer of the Treasury arbitrarily chooses not to estimate for these clerks upon a reason of his own. For what reason? He thinks the clerks and messengers of this yard ought not to have more than the clerks and messengers in other yards, when Congress decided they should have more; and these poor fellows have been appealing to us for three or four years. It is due under an existing law.

The VICE PRESIDENT. Will the Senator be kind enough to refer to the provisions of law providing for it, that he may decide the point of order?

Mr. BELL. I shall have great pleasure in doing it. The first section of the act of the 22d of April, 1854, classifies all the clerks, and fixes their salaries; then it goes on, and the next section is in these words:

"That the stamp and blank agent for the Post Office Department receive the same salary as clerks of the second class, provided for in the first section of this act; and an addition of twenty per cent. is hereby added"—

not an extra compensation for that time—

"to the pay now authorized by law to each of the messengers, packers, laborers, and watchmen, of the different Executive Departments of the Government in Washington; to the clerks employed at the navy-yard and marine barracks at Washington; to the clerk, messenger, and laborer, in the office of the Commissioner of Public Buildings," &c.

Again, by the second section of an act—the naval appropriation bill—passed at a subsequent period of the same session in 1854, it is provided:

"And be it further enacted, That the provisions contained in the act of the 22d April, 1854"—

which I have just read—

"adding a percentage to the pay of the clerks employed at the navy-yard in Washington city, be construed so as to include the clerks and messengers in the office of the navy agent for said yard, and the messenger in the commandant's office."

That is a distinct item.

The VICE PRESIDENT. The Chair will have the amendment read again.

The Secretary read it.

Mr. BELL. There ought to be added to the amendment this further act of August 5, 1854.

Mr. COLLAMER. I would suggest to the gentleman that it strikes me, from the reading of the amendment, it effects nothing. It provides that they shall receive the pay given to them by that act.

Mr. BELL. Yes, sir.

Mr. COLLAMER. If it has been decided at the Department that that act does not give them anything, they will not get anything by this amendment.

Mr. BELL. They have not decided any such thing.

The VICE PRESIDENT. As the ear of the Chair heard the amendment, he does not perceive that it is out of order. It seems to him to carry out an existing law.

Mr. PUGH. Does the Chair decide that amendment to be in order?

The VICE PRESIDENT. Yes; as the Chair could catch the reading of the amendment.

Mr. PUGH. It depends on no power on earth. Does it follow that an amendment to carry out any existing law is in order?

Mr. BELL. Undoubtedly it is.

Mr. PUGH. I understand that law requires an appropriation of public money on the subject. This may be all the law on the subject, but it is

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amazing to me, if that be the law, that the Executive Department should have refused to pay this money for two years past. I am strongly under the impression that there is something else in the case, and I do not think it is to carry out any law that I can perceive.

Mr. BELL. It is to pay standing salaries authorized by law.

Mr. PUGH. It does not say authorized. It says to carry out an existing law.

Mr. BELL. What do you mean by the law?

The VICE PRESIDENT. The best decision that the Chair can make is that the amendment is in order.

The question being put, The VICE PRESIDENT decided that the noes appeared to have it.

Mr. BELL. I ask for the yeas and nays. ["Oh, no."] I want to see whether this will not be agreed to. I do not want to be troublesome. It is a very plain case.

The question was again put, and the amendment was agreed to.

Mr. HOUSTON. I ask leave to present an amendment for the purpose of explaining and carrying out an amendment attached to the appropriation bill at the last session. It passed then. I am not going to make a speech about it. It was for the benefit of officers who were in the Texas navy at the time of annexation. It did not extend to the widows and legal heirs of those who deceased before the passage of the law, but to those who were in service at the time of annexation. This is intended to explain the object of that law, and carry it out more perfectly. The next portion of it will be to explain the fact that the Secretary has put a construction upon it to suit himself, different from what was intended, that midshipmen were not commissioned officers. With the leave of the Chair, I will read it:

And be it further enacted, That the widows and legal heirs of the officers of the late Texas navy, who were in service at the time of annexation, and have since deceased, be, and they are hereby placed on the same footing that the officers of the same tenure were placed, who were living on the 3d of March, 1837, and that the midshipmen of said navy shall be regarded as commissioned officers by the Secretary of the Navy, and be entitled to the benefits intended by this section.

Mr. HUNTER. This amendment is clearly out of order; it makes an additional appropriation not reported by any committee. Not only does it make an additional appropriation, but it is a private claim. It is to give salaries to those for whom the law provides no salary.

Mr. HOUSTON. It is explanatory of the law, and the whole intention of the law that has heretofore existed, and to enable the Secretary of the Navy to give such a construction as will meet the object of that law. It is not an original matter as I understand it; but one in furtherance of justice to whoever may be intended. It embraces the case of no one individual; but is general in its import, and explanatory of a portion of the law.

The VICE PRESIDENT. The Chair feels obliged to decide that the amendment is not in order under the rule.

Mr. HOUSTON. I feel a delicacy in doing so, but I feel bound to appeal from the decision of the Chair; and upon that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HOUSTON. I will ask leave to withdraw the call for the yeas and nays.

The VICE PRESIDENT. If there be no objection, the call for the yeas and nays will be withdrawn.

Mr. MALLORY. I object to it.

Several Senators. Oh, no.

Mr. MALLORY. We shall have no quorum; and I want to see whether there is a quorum present or not.

The VICE PRESIDENT. The yeas and nays having been ordered, the question must be put, if any Senator insists upon it.

Mr. MALLORY. I insist upon it.

The VICE PRESIDENT. Being insisted upon, the Chair will direct the roll to be called.

The question being taken by yeas and nays, resulted—yeas 31, nays 5; as follows:

YEAS—Messrs. Bayard, Bell, Bigler, Broderick, Cameron, Chandler, Crittenden, Dixon, Doolittle, Douglas, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Mallory, Pearce, Polk, Pugh, Reid, Sebastian, Sidel, Stuart, Toombs, Trumbull, and Wright—31.

NAYS—Messrs. Collamer, Fitch, Houston, Rice, and Seward—5.

So the decision of the Chair was sustained as the judgment of the Senate.

Mr. IVERSON. I rise to a privileged question. I move to reconsider the vote, and simply make this remark. Part of that amendment is clearly in order. The latter part of it, declaring that midshipmen of the Navy shall be considered as commissioned officers, is certainly in order, because it is legislation of a future character. If a part of an amendment is in order, although another portion may not be in order, the whole amendment is clearly in order. That has been repeatedly decided.

Mr. BAYARD. I rise to ask what the question before the Senate is?

Mr. IVERSON. A motion to reconsider.

The VICE PRESIDENT. It is the motion of the Senator from Georgia to reconsider the vote just taken.

Mr. IVERSON. Which I had a right to make. I merely throw out the suggestion. If the Chair thinks I am wrong, I will withdraw the motion to reconsider.

The VICE PRESIDENT. The amendment was a unit. There was no motion made to withdraw it. By far the larger portion of it was out of order.

Mr. IVERSON. The Chair ruled it out on the point of order. I move to reconsider the vote, if it is in order. Injustice has been done, it seems to me, to the Senator from Texas. If the Chair decided wrong on the point of order, the Senate ought to do justice to the Senator from Texas.

The VICE PRESIDENT. If it be the pleasure of the Senate to reconsider the vote, the amendment can again be offered, and a decision had upon it.

Mr. IVERSON. The question was not taken on the amendment, but on the decision of the Chair. The question was, "Shall the decision of the Chair stand as the judgment of the Senate;" that has been just decided by the yeas and nays. Now I move to reconsider that vote. The point of order is, that I can still bring the point up again, and the Chair can then decide whether the point of order will be sustained.

Mr. HUNTER. I hope it will not be reconsidered. If the amendment was an entire thing, and if any part of it was out of order, the whole was. The reason is just the reverse of what the Senator from Georgia says.

The VICE PRESIDENT. The Chair will get the Secretary to read it again, and then he thinks it will be clear to the Senate.

The Secretary read it.

Mr. HOUSTON. I will explain in a word, Mr. President. The reason for it is simply this. The provision was drawn up in great haste by my recent colleague, General Rusk, at the close of the session on the 3d of March, and he had to draw it in great haste, and omitted to include the widows and legal representatives of officers who were in the service at the time of annexation. The intention was to extend it to the midshipmen, supposing that the Secretary of the Navy would put a construction on the law that they were commissioned officers. He declined to do so. They are notoriously so, and I refer to the chairman of the Naval Committee.

Mr. IVERSON. If the Chair is of the same opinion, I will withdraw the point of order.

The VICE PRESIDENT. The Chair is of the same opinion.

Mr. HUNTER. I hope the bill will now be reported to the Senate.

The bill was reported to the Senate as amended.

The VICE PRESIDENT. Is it the pleasure of the Senate to vote upon the amendments made

as in committee, together? The Chair hears no objection.

The amendments were concurred in.

Mr. MALLORY. Is the bill still open to amendment?

The VICE PRESIDENT. Yes, sir.

Mr. MALLORY. Then I offer the following amendment, to be inserted as a new section:

Sec. 6. And be it further enacted, That the Secretary of the Navy cause to be constructed, as speedily as may be consistent with the public interests, five steam screw sloops-of-war, with full steam power, whose greatest draught of water shall not exceed fourteen feet, which ships shall combine the heaviest armament and greatest speed compatible with their character and tonnage; and one side-wheel war steamer, whose greatest draught shall not exceed eight feet, armed and provided for service in the China seas; and that there be, and is hereby appropriated, to be expended under the direction of the Secretary of the Navy, for the purpose above specified, the sum of \$1,200,000 out of any money in the Treasury not otherwise appropriated.

That is the bill which has been on our tables for a fortnight or three weeks. I am told there are Senators who will vote for five but not six.

Mr. HUNTER. I hope the question will be taken without debate.

Mr. MALLORY. I am willing that it shall be taken without debate.

Mr. MALLORY called for the yeas and nays on the amendment; and they were ordered; and being taken, resulted—yeas 18, nays 17; as follows:

YEAS—Messrs. Bayard, Bell, Bigler, Brown, Crittenden, Dixon, Doolittle, Fessenden, Fitch, Foster, Hale, Hamlin, Mallory, Pearce, Reid, Sebastian, Sidel, and Wright—18.

NAYS—Messrs. Broderick, Cameron, Chandler, Foot, Harlan, Houston, Hunter, Johnson of Arkansas, Johnson of Tennessee, King, Polk, Pugh, Rice, Seward, Stuart, Toombs, and Trumbull—17.

So the amendment was agreed to.

Mr. DOUGLAS. I was out at the moment the vote was taken. I desire to record my vote in the affirmative, if there be no objection.

Mr. JOHNSON, of Arkansas. Will it change the result?

Mr. DOUGLAS. No, sir.

Mr. JOHNSON, of Arkansas. If it does not, I will not object.

The VICE PRESIDENT. The Chair hears no objection, and the Senator's name will be recorded.

Mr. CRITTENDEN. In 1818 or 1819, a rule was prescribed by resolution of Congress for the naming of our national vessels. The first class, by that rule, were to be called after the several States; the second class, after our rivers; and the third class, after particular towns and cities. That rule is becoming inapplicable, for I suppose we shall never build a man-of-war again, according to the old classification, entirely; I have, therefore, proposed a rule applicable to steamships, keeping free from the other. It is to be inserted as an additional section, and reads:

And be it further enacted, That all the steamships of the Navy of the United States now building, or hereafter to be built, shall be named by the Secretary of the Navy, under the direction of the President of the United States, according to the following rule, namely: all those of forty guns or more shall be considered of the first class, and shall be called after the States of the Union; those of twenty guns, and under forty, shall be considered as of the second class, and be called after the rivers and principal towns or cities; and all those of less than twenty guns shall be the third class, and named by the Secretary of the Navy, as the President may direct, care being taken that no two vessels in the Navy shall bear the same name.

That is keeping up in substance the rule as it was before.

Mr. MALLORY. I should like to hear the amendment read again by the Secretary. I only heard the latter part of it.

The Secretary read it.

Mr. MALLORY. I would ask if it refers to vessels now being built, and which have received their names. I ask the Senator to except vessels already named.

Mr. CRITTENDEN. No, sir; I never knew a vessel being named before she was launched. I thought she never was named until she was launched and committed to the water, and then received her name.

The VICE PRESIDENT. Does the Senator from Florida move that amendment?

Mr. MALLORY. Yes, sir. I beg leave to say that vessels are almost always named before being built. Such has been the case in my recollection; and every vessel has been named previously by the President of the United States.

Mr. HUNTER. I hope the question will be taken.

The amendment to the amendment was rejected. The amendment was agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

ARMY APPROPRIATION BILL.

Mr. HUNTER. I move to postpone all prior orders for the purpose of taking up the Army bill, meaning then to move to adjourn. I only wish to have it taken up, so that it may be the order for to-morrow.

Mr. DOUGLAS. I trust that will not be done. The other Senator from Virginia gave notice that he would call up his bill in regard to our foreign relations to-morrow; and, as he is not here, I think it is rather a snap judgment.

Mr. HUNTER. If by my superior diligence I get that advantage, I submit I am entitled to it.

Mr. DOUGLAS. On behalf of the Committee on Foreign Relations, I feel bound to protect them against the superior skill and diligence of the Senator from Virginia.

Mr. BAYARD. I think it is the practical business as against Buncombe; and I am in favor of the practical business.

Mr. PUGH. I move that the Senate adjourn. The motion was not agreed to.

The motion of Mr. HUNTER was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 243) making appropriations for the support of the Army for the year ending the 30th of June, 1859.

On motion of Mr. HUNTER, the Senate (at nine o'clock, p. m.) adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, June 7, 1858.

The House met at eleven o'clock, a. m.

The Journal of Saturday was read and approved.

PERSONAL EXPLANATION.

Mr. SAVAGE. I wish to say to the House, that, as the friend of the gentleman from Indiana, [Mr. HUGHES] in regard to the language that passed between him and the gentleman from Illinois [Mr. HARRIS] in the debate on the Minnesota election case, I met a distinguished citizen of my own State, Major William H. Polk, as the friend of the gentleman from Illinois, and that Major Polk and myself, after carefully considering the debate and its antecedents, determined that no hostile meeting ought to take place, and have settled the difficulty upon terms, in our opinion, alike honorable to both gentlemen.

SAMUEL PITTS'S REPRESENTATIVES.

Mr. MAYNARD, by unanimous consent, reported from the Committee of Claims a bill for the relief of the legal representatives of Samuel Pitts, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

FIVE DECEASED CLERKS.

Mr. MAYNARD also, from the same committee, reported a bill for the relief of the legal representatives of five deceased clerks in the Philadelphia custom-house; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JAMES PHELAN.

Mr. MAYNARD also, from the same committee, reported a bill for the relief of James Phelan; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

CHARLES JAMES LANMAN.

Mr. MAYNARD also, from the same committee, reported a bill for the relief of Charles James Lanman; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

L. F. TASISTRO.

Mr. MAYNARD also, from the same commit-

tee, presented an adverse report in the case of L. F. Tasistro; which was laid on the table, and ordered to be printed.

LANDS FOR INDIANS IN TEXAS.

Mr. REAGAN, by unanimous consent, reported, from the Committee on Indian Affairs, a bill for the acceptance by the United States of the jurisdiction and control of certain lands set apart by the State of Texas for the colonization of the Indians of that State, and for other purposes; which was read a first and second time, ordered to be printed, and its further consideration postponed till the second Tuesday in December next.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, notifying the House that that body had passed a bill of the House (No. 85) for the relief of Peter Parker.

ENROLLED BILLS.

Mr. PIKE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles:

An act (S. No. 226) for the relief of Mrs. Harriet O. Reid, executrix of the late Brevet Colonel A. C. W. Fanning, of the United States Army;

An act (S. No. 318) for the relief of Keep, Bard & Co., J. Caulfield, and Joseph Landis & Co.; and

An act (S. No. 323) to confirm the sale of the reservation held by the Christian Indians, and to provide a permanent home for said Indians; when the Speaker signed the same.

TIME OF HOLDING COURT IN TEXAS.

Mr. HOUSTON, from the Committee on the Judiciary, reported, by unanimous consent, a bill to change the time of holding the spring term of the district court of the United States for the western district of the State of Texas; which was read a first and second time.

Mr. HOUSTON. This bill simply proposes to change the time of holding one of the terms of the United States district courts in the State of Texas. It meets the approbation of the judge, the bar, and the people. I ask that it be put upon its passage.

The bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

GOTTLIEB SCHRERER.

Mr. CRAIGE, of North Carolina, from the same committee, reported, by unanimous consent, a bill for the relief of Gottlieb Schrerer; which was read a first and second time.

Mr. CRAIGE, of North Carolina. This bill does not take a penny out of the Treasury, but merely relieves this man from a penalty incurred by him. I ask that it be put upon its passage.

The bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. CRAIGE, of North Carolina, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

DEPREDATIONS OF CREEK INDIANS.

Mr. SHORTER. There is a bill upon the Private Calendar to provide for the examination and payment of certain claims of citizens of Georgia and Alabama, on account of losses sustained by depredations of the Creek Indians. I do not ask the House to take up that bill and put it upon its passage, but I ask the House to assign some day next session when the parties may have a hearing. They have been here for the last ten years pressing their claims; the bill has frequently passed the Senate, but it never has been discussed in this House. I do not ask to have it discussed this session, but that the House will fix some time next session when the bill may be fully and fairly discussed on its merits, and a decision had thereon. I ask the unanimous consent of the House that it be made the special order in Committee of the Whole House for the second Friday in December next.

Mr. COBB. Say the third Friday in December. I want time to look into the question.

Mr. SHORTER. I have no objection to that. No objection being made, the bill was made the

special order, in Committee of the Whole House, for the third Friday in December next.

COSTS IN UNITED STATES COURTS.

Mr. CRAIGE, of North Carolina, by unanimous consent, from the Committee on the Judiciary, reported back, with a recommendation that it do not pass, House bill (No. 294) to regulate the fees and costs to be allowed district attorneys of the United States, clerks, marshals, attorneys, and other officers in the circuit and district courts of the United States, and for other purposes; which was laid upon the table, and, with the report, ordered to be printed.

COSTS IN COURTS IN CALIFORNIA.

Mr. CRAIGE, of North Carolina. I ask the unanimous consent to report back from the Committee on the Judiciary, with an amendment, in the nature of a substitute, House bill (No. 53) to regulate the fees and costs to be allowed marshals, district attorneys, clerks, jurors, and witnesses, in the State of California, and the Territories of Oregon and Washington.

The act of 1853 gave them one hundred per cent. on the fees allowed in the older States for two years, and fifty per cent. for two years longer. This bill merely proposes to continue the act of 1853 for two years longer.

Mr. MORGAN. I object.

REPRESENTATIVES OF DANIEL HAY.

Mr. WASHBURN, of Maine. I ask the unanimous consent of the House that the Committee of the Whole House be discharged from the further consideration of Senate bill for the relief of the legal representatives of Daniel Hay, deceased.

There being no objection, the Committee of the Whole House was discharged from the further consideration of the bill.

The bill was read *in extenso*.

It provides that the proper accounting officers of the Treasury shall pay to the legal representatives of Daniel Hay, deceased, a sum equal to two per centum on all moneys disbursed by him as agent for paying pensions from and after the 20th of April, 1836, with interest on the same from April 30, 1856.

Mr. WASHBURN, of Illinois. I move the previous question on the third reading of the bill.

Mr. JONES, of Tennessee. How did this bill come up?

The SPEAKER. By unanimous consent.

Mr. JONES, of Tennessee. I thought the bill was read for information only.

The SPEAKER. The Chair had it read first for information, and it was then read at length on its engrossment.

Mr. JONES, of Tennessee. This belongs to a class of cases, and if we are going to legislate upon them, we should pass a general bill. My own opinion is that the whole class is wrong.

Mr. HARRIS, of Illinois. In a case exactly like this, a bill was passed for the benefit of a gentleman in the gentleman's own State during the last Congress, and I think this ought to pass now.

Mr. JONES, of Tennessee. I would say that the fact that there was a case passed for a gentleman in Tennessee is not conclusive that it is right. There are other cases of the same character in Tennessee; and my remark was, that if you intended to relieve these persons, you should pass a general law, and deal out equal justice to all of them, and not pass a separate bill for each individual case.

Mr. HARRIS, of Illinois. I did not cite the gentleman's case to show that it was conclusive proof that it was right. But we have waited twenty years for Congress to pass a general law, and they have failed to do so; and now we ask that justice shall be done to this applicant. The bill has passed the Senate; and has been reported on favorably by the committee of this House, and I think it ought to be passed.

Mr. JONES, of Tennessee. I do not think there is any justice in the bill; and I move to lay it upon the table.

Mr. MARSHALL, of Illinois. I rise to a question of order. Had the gentleman the floor to make that motion?

The SPEAKER. The gentleman's colleague called for the previous question, and it was perfectly competent for the gentleman from Tennessee [Mr. JONES] to take the floor.

Mr. MARSHALL, of Illinois. I ask that the

report of the committee be read, before the question is taken on the motion to lay upon the table. I think that there can be no objection to it. It has been reported on favorably at several sessions of Congress.

Mr. SAVAGE. Has the previous question been seconded?

The SPEAKER. It has not.

Mr. WASHBURN, of Illinois. The gentleman from Indiana [Mr. CASE] who reported the bill can make any explanation that may be desired.

Mr. JONES, of Tennessee. I want to progress with the business in order. If debate be in order I do not object; otherwise, I do.

The question was taken; and the House refused to lay the bill upon the table.

Mr. QUITMAN. I ask that the report of the committee be read.

The Clerk read as follows:

The Committee on Pensions, to whom was referred the petition of Daniel Hay, of Illinois, for compensation for services as pension agent, and also a bill (S. No. 233) for the relief of the legal representatives of David Hay, deceased, beg leave to report:

That they have had the same under consideration; and find that the said Daniel Hay was appointed pension agent for the State of Illinois in the year 1831; and that, from the time of his appointment up to the 20th of April, 1836, in accordance with the existing law at that time, he was allowed two per cent. on the amount of his disbursements, as a compensation for his services.

The act of the 20th of April, 1836, provided (see Statutes at Large, vol. 3, page 16), "that all such payments shall be hereafter made at such times and places, by such persons or corporations, and under such regulations, as the Secretary of War may direct; but no compensation or allowance shall be made to such persons or corporations for making such payments without authority of law."

Soon after the passage of this act, many of the pension agents tendered their resignations—and among them Mr. Hay himself—which, however, they were induced to withdraw, with the assurance that Congress would speedily compensate them for their services. Numerous efforts were made, from time to time, to fix the compensation of these officers; but nothing was done in the matter until the 20th of February, 1847, when an act was passed allowing pension agents a commission of two per cent. upon their disbursements, provided the same should not exceed, in any case, the sum of \$1,000 per annum.

But this law had no retrospective effect, and, in consequence of this, Mr. Hay received none of its benefits, as he resigned the office in 1841 or 1842. He sets forth in his petition, which is dated January 29, 1843, that "since April, 1836, he had disbursed about one hundred and thirty thousand dollars in small sums, averaging about forty-five dollars each, without any compensation whatever, even for stationery, books, or other contingent expenses." It is not to be supposed that he would have continued to hold the office under these circumstances, unless he had been induced to do so by the promise and expectation of adequate compensation. This reasonable expectation was encouraged by the interest manifested in it by almost every Government officer under whose official notice the subject passed during the period of eleven years, and until the law of 1847 was finally passed. The Secretary of War and Commissioner of Pensions, in their annual reports to the first session of the Twenty-Sixth Congress, and in their reports before and since, have called the attention of Congress to the necessity and justice of making provision for the payment of these agents.

In the annual report of the Secretary of War, November 28, 1838, he says:

"I respectfully recommend that the early attention of Congress should be called to the compensation to be granted to the pension agents for discharging the duties of their offices. The performance of these duties is attended with much labor and expense, and very considerable responsibility; and it is unjust to exact it from any one without remuneration. The agents have been induced to continue to pay pensions in the expectation that an act would be passed for their relief."—*Ex. Doc., Twenty-Fifth Congress, third session, vol. 1, page 109.*

In the annual report of the Commissioner of Pensions, November 10, 1839, he says:

"The great inconvenience resulting from the employment of individuals, at considerable expense and responsibility, without any compensation, to disburse and account for large amounts of public money, in small sums, renders it necessary to present it again to the consideration of Congress. Having no allowance by law, and furnished with funds limited by the estimated disbursements from month to month, it is believed that the hope of future remuneration by Congress has restrained most of them from resigning."—*Ex. Doc., Twenty-Sixth Congress, first session, vol. 1, page 320.*

So important did this subject appear, that Mr. Polk, in his annual message to the Twenty-Ninth Congress, second session, December 8, 1846, said:

"Embarrassment is likely to arise for want of legal provision authorizing compensation to be made to the agents employed in the several States and Territories to pay the revolutionary and other pensioners the amounts allowed them by law. Your attention is invited to the recommendations of the Secretary of War on this subject. These agents incur heavy responsibilities and perform important duties; and no reason exists why they should not be placed on the same footing, as to compensation, with other disbursing officers."—*Ex. Doc. No. 4, second session Twenty-Ninth Congress.*

Thus encouraged in the reasonable expectation that a law would be passed granting him a compensation at least as liberal as that which he had received prior to the passage

of the act of 1836, Mr. Hay retained out of the public moneys, on going out of office, an amount equal to two per cent. upon the amount of his disbursements. This amount was suffered to remain in his hands some twelve or fourteen years, when suit was brought against the securities of Mr. Hay, and they were called upon to refund the amount thus retained, and his legal representatives, on the 30th April, 1856, paid the same into the Treasury of the United States. They now ask that this amount, together with interest upon the same from the time of such payment, be refunded to them.

A case precisely similar to this was brought before the last Congress. A suit having been brought against the securities of Robert King, deceased, on his official bond, as pension agent at Knoxville, Tennessee, a bill was passed and approved August 18, 1856, directing the district attorney to dismiss the suit, and providing "that the accounting officer of the Treasury shall first adjust the accounts of Robert King, as pension agent, allowing to the defendants for him two per cent. on the moneys paid out by him for all the time he acted as such agent, and for which he was never allowed," &c.—*Private acts of first session Thirty-Fourth Congress, page 27.*

The committee being fully impressed with the justice of the claim in the case under consideration, herewith report back Senate bill No. 230, without amendment, and recommending its passage, and ask to be discharged from the further consideration of the petition.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. DICKINS, their Secretary, requesting the return to the Senate of the bill (H. R. No. 356) for the relief of Roswell Minard, father of Theodore Minard, deceased.

The SPEAKER. This was a House bill sent to the Senate, and there it was amended by striking out the second section. When the clerks of that body returned it here they returned it without noting the amendment. It was returned as having passed the Senate as it went from the House. The bill was so enrolled and signed by the Presiding Officer of the House. The mistake was not detected until the Presiding Officer of the Senate was about signing it. The Chair is of the opinion that the House cannot grant the message of the Senate, because the bill has passed from the control of the House, inasmuch as the enrolled bill has already been signed.

Mr. DAVIDSON. I desire to say to the House that I took that bill and examined it thoroughly, and could find no memorandum of any amendment upon it. It was so enrolled, reported to the House, and signed by the Speaker. I do not see how the House can take any action on it. It has been signed by the Speaker, and is now in the Senate.

Mr. HOUSTON. The only way in which the mistake can now be corrected is by the passage of an explanatory joint resolution.

The SPEAKER. That is the opinion of the Chair.

REPORT OF DANIEL HAY—AGAIN.

Mr. WASHBURN, of Illinois. I will ask that the Clerk now read the remarks of General Cass on the question.

The Clerk read as follows:

"Mr. CASE said: I know something about this matter, and I can safely say that there is no more just provision in this bill [the civil and diplomatic bill] than that which the honorable Senator from Illinois seeks to insert in it. I occupied a station which brought the subject before me some twenty years ago. Previous to that time, the Bank of the United States was required, by the provisions of her charter, to pay pensions without compensation, the deposits being considered sufficient remuneration.

"In the States and Territories where the United States Bank had no branches, individuals were appointed, who, not having the benefits of the public deposits—the funds being furnished them as they were needed to be disbursed—were allowed a compensation for their services. When the deposits were removed to the State banks, the business of paying pensions was removed with them; and to prevent these institutions from receiving compensation for paying pensions when they were reaping the same benefits from the public deposits which the Bank of the United States had, a law was enacted in 1836 prohibiting any compensation being allowed for such services.

"This act cut off the compensation of the individuals who had been appointed in those few States and Territories where banks could not be obtained to do the business for the use of the deposits.

"When in the War Department, I assured these individuals that Congress would make an appropriation to pay them; and with this assurance they continued to discharge the duties of their offices.

"Congress, however, thus far has failed to fulfill this promise, although I believe there is not an individual who has occupied the War Department from that day to this, who has not recommended the measure.

"The provision has been passed by the Senate once or twice, and I do not know that it was ever objected to by any one who examined the subject. These officers rendered the service without a single cent of compensation, and the question is, whether you are willing now to pay them.

"The amendment was agreed to."—(See Daily Globe, 20th March, 1855.)

Mr. MAYNARD. I ask the gentleman from Illinois to withdraw the demand for the previous question, to enable me to introduce an amendment.

Mr. WASHBURN, of Illinois. I would be glad to accommodate my friend, but this is a Senate bill, and an amendment to the bill would hazard its passage. I hope, therefore, the gentleman will not embarrass it.

The previous question was seconded, and the main question ordered to be put; and under its operation the bill was ordered to be read a third time, and was read the third time.

Mr. WASHBURN, of Illinois, demanded the previous question upon the passage of the bill.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

DISTRIBUTION OF PUBLIC DOCUMENTS.

Mr. ROBBINS. I ask the unanimous consent of the House to report from the Committee on Invalid Pensions a bill for the relief of William Randolph, that it may be put on its passage.

Mr. JONES, of Tennessee. I call for the regular order of business.

Mr. ROBBINS. I move to suspend the rules, to enable me to report the bill.

The SPEAKER. The gentleman from New Jersey has not the floor for that purpose, as the gentleman from North Carolina [Mr. WINSLOW] is occupying the floor; and what has been done, has been done by unanimous consent.

The bill (H. R. No. 583) to provide for keeping and distributing the public documents, introduced on Saturday last, by unanimous consent was then reported to the House.

Mr. KELLY. I hope the gentleman from North Carolina will allow me to take up a joint resolution for the relief of Harrison Morgan, for services rendered the Government in carrying mails from New Orleans to Texas. The fines which have been imposed upon them amount to more than they are entitled to receive from the Government. They are willing to be fined in accordance with the amount they have received. I think their claim a just and equitable one. The Postmaster General thinks so, and so does the Committee on the Post Office and Post Roads. I hope there will be no objection to it.

Mr. UNDERWOOD. I do not propose to object to the proposition of the gentleman from New York, but I must say that it would be better to go to the business on the Speaker's table and take up all the Senate bills there, and act upon them in rotation.

Mr. WINSLOW. I would like to oblige the gentleman from New York; but though it is not in order for a gentleman to blow his own horn, I think I can say that I have acted with great liberality.

Mr. MARSHALL, of Kentucky. I appeal to the gentleman from North Carolina to permit the gentleman from New Jersey to report his bill. The bill which he proposes to report is to put an old man, one of Wayne's old soldiers, on the pension roll, at the rate of four dollars a month. He is one of my constituents, and I am afraid he will die before this bill, giving him a pension, can pass.

Mr. CLEMENS. When does the pension commence?

Mr. MARSHALL, of Kentucky. In 1858, from the passage of the bill. I hope the House will allow the bill to be reported, and that they will put it through.

Mr. WINSLOW. With the permission of the gentleman from New York, [Mr. KELLY,] who made an appeal to me, I will do so.

Mr. MARSHALL, of Kentucky. The gentleman from New Jersey [Mr. ROBBINS] was ahead of him in making a request.

Mr. JONES, of Tennessee. I call for the regular order of business.

Mr. MARSHALL, of Kentucky. Then you will not let an old soldier have a pension!

Mr. WINSLOW. Well, I must go on, and I send to the Clerk's desk an amendment which I desire to offer to the bill under consideration

The amendment was read; and is to add as an additional section, the following:

SEC. 10. *And be it further enacted*, That of the Statutes at Large published by Little & Brown, now deposited in the Library of Congress for the use of Senators and Representatives during the sessions of Congress, ten copies be retained by the Librarian for the use of the judges of the Supreme Court during the terms of the court, and that one third of the number then remaining in the library be transferred to the Senate and two thirds to the Library of the House of Representatives, for the use of the Senators and Representatives during the session of Congress.

Mr. WINSLOW. I am not disposed to take up much of the time of the House on any portion of this bill, for it has been printed, and I suppose generally read by the House. The amendment I have offered only changes the existing law in one particular, and that is, in requiring all the documents printed to be delivered by the printer and binder to the Secretary of the Interior. As the law now is, there are half a dozen persons whose duty it is to get those books from the printer and binder—the Clerk of this House, the Secretary of the Senate, the Secretary of State, the Secretary of the Interior, and other persons. It was found, in the investigations carried on by the Committee on the Library, that it was impossible to account for all the books sent from the printer and binder. The idea of the amendment is to place them all under the charge of the Secretary of the Interior, he giving his receipt to the printer and binder, and to require the other officers, such as the Clerk of the House and Secretary of the Senate, to procure them from the Secretary of the Interior, giving their receipts for the same, so that hereafter we may know where the fault is, if any books are missing.

Now books are often found in the book-stores for sale, without our being able to trace the source from whence they came. There were found in the crypt of the Capitol thirty thousand volumes of books which were to be distributed according to a joint resolution of 1857, and an amendment thereto at the present session. This bill undertakes to distribute them according to the act of 1858, and adds to that amount some forty-eight thousand five hundred and fifty-three volumes in the State Department, and which they are anxious to get rid of. It consists in part of ten hundred and fifty sets, in forty-two volumes, of the Annals of Congress, and three thousand six hundred sets, in nine volumes of the History of Congress, published by Force. This bill proposes to add these forty-eight thousand to those on hand, and to distribute them according to the terms of the bill introduced by the gentleman from New York. They are to be distributed by the Secretary of the Interior, under the direction of the members from the several districts, as to what colleges, or libraries, or institutions they may be sent. I believe that that is the only alteration of the present law, except that it takes from the State Department the duty of distributing books to judges and all other persons of the Government entitled to them. That Department, however, will still have the duty of distribution to foreign officers.

Mr. BARKSDALE. It is utterly impossible to hear the gentleman from North Carolina. I am satisfied that the House does not understand this bill. I desire to ask the gentleman some questions in connection with it. I desire to know whether, under that bill, the Secretary of the Interior is authorized to distribute all the public documents, or any of them, ordered to be published by Congress?

Mr. WINSLOW. Only as regards their distribution to judges of courts. Nothing else. The Secretary of the Interior is to be the depository, in the first instance, of all books received from the Printer, in order that there may be one Department where the number delivered can be ascertained. The Clerk of the House will then make a requisition on him for the documents that he is to furnish to members.

Mr. BARKSDALE. Under this law, who is to distribute the documents ordered by Congress?

Mr. WINSLOW. They are to be distributed as they now are. It does not alter the law, except that it makes the Secretary of the Interior the depository of these books, in the first instance.

Mr. BARKSDALE. Then I understand they are to be deposited with the Secretary of the Interior merely for safe-keeping?

Mr. WINSLOW. Merely for safe-keeping.

The sixth section may not be understood. It is a section repealing a section in the charter organizing the Smithsonian Institution. By that section it is made the duty of every person taking out a copyright to deposit a copy in the Library here, and one in the Smithsonian Institution. Both are desirous of getting rid of this; and even now the law is not complied with in half the number of instances.

Mr. BARKSDALE. I desire to ask another question. Take, for instance, the Patent Office report: is that to be distributed as it is at present?

Mr. WINSLOW. Exactly. The bill does not alter that. All the documents that are now received by members of the House will be received under this bill, and from the same quarter.

Mr. UNDERWOOD. I would suggest to the gentleman to have the bill read from the Clerk's desk.

The bill was read *in extenso*.

Mr. LETCHER. There is a proviso annexed to the fifth section which I would like to understand. It is this:

"And provided, That such distribution shall first be made at the instance of the Representatives in Congress from districts in which such public documents have not already been distributed, so that the quantity distributed to each congressional district and Territory shall be equal."

Now, as I understand it, under the distributions to the members of Congress, each congressional district has received these books for a good many years past.

Mr. WINSLOW. No, sir.

Mr. LETCHER. The members of Congress received them for themselves.

Mr. WINSLOW. No, sir.

Mr. PHELPS, of Missouri. The gentleman from Virginia is mistaken. There has been no distribution made to each congressional district. The Secretary of State has hitherto had a list of public institutions scattered throughout the country, generally located along here on the sea-board, and we of the West have had no share in the distribution, because the system grew up before there were any institutions there.

Mr. WINSLOW. Some of the western States have received none of these books, and the idea is to make them equal with the other States. I would add that this bill does not interfere in any way with any books that go to members of Congress, such as the Patent Office reports. Unless some gentleman wishes further information, I move the previous question.

Mr. BRANCH. I desire to ask my colleague if the section just read by the gentleman from Virginia will require that, where a district has been receiving these documents heretofore, they shall be withdrawn from libraries in that district, and given to libraries in other districts?

Mr. WINSLOW. No, sir.

The previous question was seconded, and the main question ordered.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WINSLOW moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

CIVIL APPROPRIATION BILL.

Mr. J. GLANCY JONES. I ask unanimous consent to report back from the Committee of Ways and Means the amendments of the Senate to House bill (No. 200) making appropriations for sundry civil expenses of Government for the year ending 30th June, 1859.

There being no objection, the report was received.

Mr. HATCH. Will the amendments of the Senate be printed?

The SPEAKER. The Chair does not know what disposition the gentleman from Pennsylvania desires to make of the amendments.

Mr. J. GLANCY JONES. I move that the report be referred to the Committee of the Whole on the state of the Union, and made the special order therein until disposed of. I do not propose to move to have the amendments printed, because I wish to go into Committee of the Whole on the state of the Union, and have them acted on immediately.

Mr. HOUSTON. I am anxious that this bill shall be disposed of, but it would be a great con-

venience to the House to have the amendments printed. If, therefore, the gentleman from Pennsylvania does not propose to act on the amendments until to-morrow, I think, under a press, the amendments might be printed and laid upon the desks of members, which would expedite business and be very satisfactory.

Mr. J. GLANCY JONES. I propose to take up the report immediately, in Committee of the Whole on the state of the Union. I ascertained, on inquiry, that there is no assurance that we can have these amendments printed for two or three days. I would have preferred to have had them printed, but I think, when the committee come to hear the small number that the Committee of Ways and Means recommend a concurrence in, they will see that the necessity for printing is not as great as it might seem.

Mr. HOUSTON. As the gentleman proposes to act on the amendments to-day, of course I withdraw my suggestion.

The motion of Mr. J. GLANCY JONES was agreed to.

Mr. J. GLANCY JONES. I now move that all debate in the Committee of the Whole on the state of the Union, upon the amendments of the Senate, shall cease in two hours after they shall be taken up.

Mr. COBB. I move to amend that motion by striking out "two" and inserting "one."

Mr. SHERMAN, of Ohio. I rise to a question of order. I submit that it is not in order to move to close debate upon the amendments before they have been considered in Committee of the Whole on the state of the Union.

The SPEAKER. The Chair thinks the question of order is well taken.

Mr. JONES, of Tennessee. I object to the resolution to close debate, as the amendments have never been under consideration.

The SPEAKER. The rule requires that the bill, or amendments, shall first be taken up in the Committee of the Whole, before the debate can be closed.

Mr. J. GLANCY JONES. I move to suspend the rules, to enable me to submit the resolution to close debate.

The question was taken; and the rules were suspended, (two thirds voting in favor thereof,) and the resolution to close debate was received.

Mr. COBB. I move to amend the resolution by substituting one hour for two hours.

Mr. J. GLANCY JONES. I now move the previous question.

Mr. LETCHER. I hope the amendment will be withdrawn. Some of these amendments are of a great deal of importance, and ought to be discussed here.

The previous question was seconded, and the main question ordered.

The question was taken on Mr. COBB's amendment; and it was agreed to.

The resolution, as amended, was agreed to.

Mr. J. GLANCY JONES moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. J. GLANCY JONES moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. KUNKEL, of Maryland, asked to report a resolution from the Committee of Accounts.

Mr. LETCHER objected.

The question was taken; and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS, of Missouri, in the chair.)

The CHAIRMAN stated the business in order to be the consideration of the Senate's amendments to the House bill appropriating money for sundry civil expenses.

Mr. J. GLANCY JONES. The Senate amendments are sixty-four in number, and I ask that they be read first for information.

Mr. GROW. Does the hour for debate commence now, or at the conclusion of the reading of the amendments?

Mr. SAVAGE. I call for the reading of the order of the House.

The order of the House, as just made, was read.

Mr. J. GLANCY JONES. The limitation of the order is that one hour shall be devoted to general debate from the time the committee takes up the amendments. Let the amendments be read, and then let the debate go on for one hour.

The CHAIRMAN. As the order of the House was not written out *in extenso*, the Chair will rule that the hour for debate will not commence until the amendments have been read.

Mr. J. GLANCY JONES. I will not call for the reading of the amendments, then, until the hour of general debate has been exhausted.

Mr. GROW. Mr. Chairman, I desire now particularly to address myself to the loan bill.

The CHAIRMAN. The Chair will rule, under the order of the House, that no debate is in order, unless upon the amendments of the Senate.

Mr. UNDERWOOD. Then we had better have the amendments read first.

The CHAIRMAN. If there be no objection, that course will be pursued. The amendments will be read, and then one hour will be devoted to general debate upon them.

The amendments were then all read through.

The Clerk then proceeded to read the amendments *seriatim*, for the purpose of acting upon them.

First amendment:

Add to the clause appropriating for the coast survey the following proviso:

Provided, That officers and men of the Army and Navy, when employed on coast-survey service which, in the judgment of the Secretary of the Treasury, causes unusual expense, may receive such reasonable allowance, in addition to their regular compensation, as the Secretary may direct: *And provided further*, That the allowance for extra subsistence to the assistant in charge of the Coast Survey office shall not exceed the sum authorized by the regulation of the Treasury Department of the 14th of January, 1850; and that the allowance for extra subsistence to officers, when detached from the main party, shall not exceed the sum authorized by the Treasury regulation of May 11, 1844.

The CHAIRMAN. The Committee of Ways and Means recommend a non-concurrence in this amendment.

The amendment was non-concurred in.

Second amendment:

From the following clause strike out "Holmes's," and insert "the best":

"For the purchase of 'Holmes's life-boat,' to be placed at each of the twenty-eight life-saving stations on the coast of New Jersey, \$6,440."

Mr. J. GLANCY JONES. The Committee of Ways and Means reported originally in favor of life-boats, in accordance with existing law. The gentleman from New Jersey, [Mr. CLAWSON,] in the Committee of the Whole on the state of the Union, moved the amendment to insert Holmes's life-boat, and the Committee of the Whole on the state of the Union adopted that amendment. The Senate amendment is to strike out "Holmes's," and insert "the best," leaving it to the Secretary of the Treasury to select the best. The Committee of Ways and Means therefore recommend that we concur in the Senate amendment.

Mr. CLAWSON. I think this House is as capable as the Secretary of the Treasury to judge of life-boats. I propose, however, to compromise the matter, and therefore I move to amend the amendment of the Senate by inserting, after the word "best," the words "self-righting," so that it will read, "the best self-righting life-boat."

Mr. FLORENCE. I will state that that was the purpose of the House. The House knew just precisely what they were doing, and I am perfectly willing to accept the proposition of the gentleman from New Jersey, for that was the purpose the House had in view when that amendment was passed upon in the Committee of the Whole on the state of the Union. The Senate seem not to have understood that. The old life-boat has failed to answer the purpose for which it was designed, and persons engaged on the coast of New Jersey—and I suppose upon the coast of Long Island, too—will not trust themselves in any boat which is not self-righting; and, as Francis's boats are not self-righting, they are perfectly useless. The object the House had in view was to get a self-righting life-boat. When the amendment was offered in the committee, the gentleman who offered it conceived that Holmes's boat was the best. There are several self-righting serf boats, so far as my knowledge goes. I suppose the gentleman from New Jersey is willing that Holmes should take his chance with others.

Mr. LETCHER. It would seem to follow,

from the remarks of the gentleman from Pennsylvania, that the Secretary of the Treasury is not to be trusted in procuring these life-boats for the purposes indicated in the amendment. Now, sir, I take it, when this particular name is stricken out, that he will be disposed to look for the best life-boat—one that will answer the purposes most satisfactorily—and that there is a propriety, therefore, in leaving the matter to him, to be judged of upon information which may be furnished to him in regard to the various sorts of life-boats. My friend from Pennsylvania is anxious that the amendment should designate a "self-righting" life-boat. In the progress of improvement, it may turn out in the course of six months that what he regards as the best will not be the best. Some other improvement may come up in the mean time; and if you are to confine the amendment to any particular species of life-boat, you will see at once that it may lead to embarrassment and difficulty in making the selection. I hope, therefore, that the House will agree with the Committee of Ways and Means in concurring in the Senate amendment.

Mr. FLORENCE. I have the greatest confidence in the Secretary of the Treasury, and am perfectly willing that he should take the best life-boat. I agree entirely with the gentleman from Virginia, in the conclusion he arrives at, and that is the reason why I want the House to express precisely what they want. I want the best self-righting life-boat, and I am willing to leave it to the Secretary of the Treasury, and that if any boat is presented which is better than Holmes's, I am willing he should select it. So the gentleman from Virginia and myself agree perfectly, and we occupy the same platform.

Mr. LETCHER. I know nothing about these boats. I have no knowledge upon the subject, and I take it for granted that nine tenths of the House are in my situation. I suppose that the only sort of boat we ever saw is a steamboat, a flatboat, or a keelboat. None of them answer this purpose. I am, therefore, willing to leave it with somebody whose business it will be to inquire into the matter, and then to decide upon it, whether that decision shall be in favor of a self-righting boat, or the patent of Holmes, or Francis, or of somebody else.

Mr. CLAWSON. The Senate say that the House is not capable of judging which is the best boat, but that the Secretary of the Treasury is. Now, the Secretary of the Treasury had the decision of which was the best boat when Francis's boat was put upon our coast; and, I venture to say, that not one in a dozen of them have ever been used since they were put upon the coast. They have proved perfectly useless.

Mr. LETCHER. Was that decision made by the present or the late Secretary?

Mr. CLAWSON. By the last Secretary.

Mr. LETCHER. Very well; then I am willing to trust this present one, and let him decide.

Mr. TAYLOR, of New York. I wish to say in reply to the honorable gentleman from Virginia that when he says he is totally unacquainted with the character of life-boats he ought to be willing to leave it to those who are acquainted with them, and to indulge the gentleman from New Jersey, and myself, who have some acquaintance with these boats. We are on the coast. We know what is required for this service. We have seen these boats, and experimented with them; and I know that the Department is highly impressed, if not entirely so, with the superiority of Holmes's boat. We know that a self-righting boat is indispensable, and that all other boats have proved unavailing. We are representing people who are most interested in the matter; who see the disasters that occur on the coast; and who know what is best for the occasion; and I think the gentleman from Virginia ought to indulge us in the amendment requiring the Secretary to give us the boat which experience teaches us is the best—and that is the self-righting boat.

Mr. LETCHER. We propose to take exactly the position which the gentleman's own amendment assigns to this question. The proposition of the gentleman from New Jersey [Mr. CLAWSON] was for the purchase of Holmes's life-boat. The proposition of the gentleman from New York [Mr. TAYLOR] was for the purchase of the best life-boat. I desire to leave that matter to those who can be informed upon it, and who have no

interest whatever in the decision; because, I take it, the Secretary, in the discharge of his duty, has only the interest of doing that which is best in the execution of the law; and when information comes to be presented to him and considered by him, he will then decide it with reference solely to the object which Congress had in view in making the appropriation.

Mr. TAYLOR, of New York. It is very true that in the amendment which I offered to the bill I used the language as quoted by the gentleman from Virginia. I did so because I had the most entire confidence in the present Secretary of the Treasury; and if I were called upon to decide now, I would be perfectly willing to let both amendments stand on the same basis. But the gentlemen from New Jersey have some feeling in the matter. Their constituents are anxious to have a certain class of life-boats; and I am perfectly willing to support them in their amendment. So far as my constituents are concerned, and those of the gentleman from the first congressional district of New York, we are entirely willing to be governed by what the Secretary of the Treasury may deem best for our coast, and best for the security of life and property. But I may say that while I preferred that language myself as being more respectful probably to the Department, and as being entirely sufficient to secure all that is necessary, I see no objection to the proposition of the gentleman from New Jersey.

The question was taken on Mr. CLAWSON's amendment to the Senate amendment; and it was adopted.

The question recurred on the Senate amendment as amended; and it was concurred in.

Third amendment:

Strike out the lines one hundred and twenty-five, one hundred and twenty-six, and one hundred and twenty-seven, in these words:

"For continuing the survey of the base, meridian, correction parallels, township and section lines, in the Territory of Utah, at augmented rates, \$15,000."

Mr. REAGAN. What does that mean? I do not understand it.

Mr. J. GLANCY JONES. In consequence of the disturbed state of the Territory, for which this appropriation was intended, the Senate deemed that the appropriation was unnecessary, particularly as there is a balance on hand from the appropriation of last year for this purpose. The Senate therefore struck it out; and the Committee of Ways and Means recommend a concurrence in the amendment.

The question was taken; and the amendment was concurred in.

Fourth amendment:

Strike out the following proviso:

"*And provided also*, That no salary or compensation to any person for services in collecting or distributing seeds, cuttings, &c., shall be paid out of this appropriation."

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend non-concurrence in the amendment.

Mr. WHITELEY. I wish to state to the House that if we concur in the recommendation of the Committee of Ways and Means these officers will be left without any salary at all. I am informed that there is no provision for their payment under any other law. The House inserted the proviso that the salaries should not be paid out of the \$60,000. The Senate amendment strikes that out, and leaves them as all former appropriation bills left them, to get their salaries out of the \$60,000. I think we ought either to break up the seed department or pay these officers.

Mr. JONES, of Tennessee. I would inquire of the gentleman from Delaware, by what authority these salaries are paid, and by whom they are fixed? If we appropriate \$63,000 to buy seed, by what right does the chief clerk fix his salary or that of the other officers, employ as many clerks as he pleases at \$2,000 apiece, and pay them out of the appropriation? It seems to me that that there should be some law regulating this whole thing, if it is to be carried on. I know of no law or resolution of Congress that has ever fixed or determined the compensation of these persons.

Mr. WHITELEY. I suppose that these salaries are paid by the Secretary of the Interior; and I say to the gentleman from Tennessee, that there is not a clerk in that office who gets \$2,000 a year. The whole of the salaries only amount to \$12,500.

Mr. PHILLIPS. I would like to ask the gentleman from Delaware whether the payment of these salaries out of the appropriation does not reduce the appropriation for seeds considerably?

Mr. WHITELEY. The salaries are about twelve thousand dollars, and thus the appropriation for seeds is reduced to \$48,000.

Mr. PHILLIPS. That is one fourth of the whole amount.

Mr. WHITELEY. They are not clerks; they are men sent out to collect seeds, &c.

Mr. MARSHALL, of Kentucky. I hope that the committee will concur in the recommendation of the Committee of Ways and Means, and retain the bill as it went from the House. I regard it as a perfect anomaly in a country like ours that there should be a class of officers drawing upon the public Treasury for salaries without law. These men take an appropriation of \$60,000 a year under the pretense that it is intended for the benefit of agriculture, and for the procurement and distribution of seeds and cuttings; and when we come to inquire what has been done for the benefit of agriculture, we find that they divide \$12,000 of the appropriation among themselves for salaries. Now, I suggest that no economy could dictate such a provision as that, which would pay from twenty to twenty-five per cent. upon an annual appropriation in the shape of salaries; or, in other words, which would give \$12,000 in the shape of salaries for the distribution of \$48,000. The farmers of the country, who are the pet class for whose benefit the appropriation is made, will see, unless we adhere to this proviso, that this runs into an extravagance that is perfectly wasteful, and that could not obtain, in any other branch of the Government, independent of the fact that it allows a parcel of bureau or departmental officers to distribute salaries among their employes in direct violation of the Constitution, because the Constitution supposes that money is to go out of the Treasury upon appropriations made by law, and that the executive officers are to meet those things that are established by law.

Mr. JONES, of Tennessee. I understood the gentleman from Delaware to assert that there was no person employed in this business at a salary of \$2,000, except, perhaps, the principal. I find, in the register commonly called the Blue Book, the following names of persons engaged in this work, and at the following salaries: D. J. Browne, \$2,000; T. Glover, \$2,000; H. C. Williams, \$2,000; C. L. Alexander, \$1,200; William H. Dietz, \$1,000; and Thomas J. Donoho, Joseph Kilian, and C. Simmons, \$3 per day each, which would be about one thousand dollars a year each.

That will make about twelve thousand dollars; and then, if I am not mistaken, there are other persons employed in packing up these seeds and in the distribution of them. Here is a statement showing the unexpended balance of the appropriation of \$75,000, made for agricultural purposes on the 18th of August last:

To amount of appropriation.....	\$75,000 00
By cash paid for the purchase of seeds, &c., as per detailed statement marked No. 1.....	\$18,106 21
By cash paid freight, and other expenses.....	1,964 64
By cash paid salaries and wages of employes in the preparation of the annual report, and for the putting up and distribution of seeds.....	17,487 15

It costs nearly as much for the distribution of the seeds, and for the preparation of the report, as the seeds themselves cost; and that sum of \$17,000 has been expended for this purpose under the discretion of some person in the Department of the Interior. There is no law of which I am aware, providing how many persons shall be employed, or how much any of these persons shall receive. But Congress makes the appropriation under the popular clamor in this Hall that it is for the benefit of agriculture, when it is to be taken from the agriculturists to be distributed to men who render no service for it.

Mr. WHITELEY. I wish to explain. I understood the former remark of the gentleman from Tennessee to be that there were clerks at \$2,000 salaries, and I was under the impression that only Mr. Browne, the principal, received \$2,000. There are no clerks at all in that department. These two other gentlemen, who get \$2,000, are employed traveling over the country, procuring information upon this subject, which is submitted in the annual report. They get, I am told, \$2,000 a year, and pay their own expenses; and I must

be permitted to say that the salary is not exorbitant, when you compel these men to travel over the United States, and pay their own expenses.

Mr. JONES, of Tennessee. I would ask the gentleman if one of these men has rendered any other service than going through Texas and Arkansas cutting wild grape vines, to be sent here for distribution?

Mr. WHITELEY. I do not know about that. The amendment of the Senate was non-concurred in.

Mr. REAGAN. Before the general debate expires I desire to call up the thirty-eighth amendment, because I may not get the floor when it comes up. I ask that it may be read.

The Clerk read the thirty-eighth amendment, as follows:

For making the surveys of the confirmed private land claims in California, the surveyor general is hereby authorized to pay such sum as he may deem reasonable, according to the circumstances connected with each case, not exceeding at the rate of twenty-five dollars for each mile of the boundary lines of any claim, and also for such lines as may necessarily be run and marked or measured, in order to connect the lines of such claim with those of the adjacent public surveys: *Provided*, That the surveyor or surveyors hereafter executing any such survey, of a private claim, shall accompany his or their return of such survey with his affidavit that no compensation has been received by him, directly or indirectly, or agreed to be paid to or received by him for the same, from any quarter other than the Government of the United States: *Provided*, That it shall be the duty of the surveyor general of California to award each contract to execute such surveys to the lowest responsible bidder, he being a practical surveyor, after reasonable notice, to be published in two newspapers of the largest circulation in the State of California.

Mr. REAGAN. I wish to say a word on that amendment now, because, when it comes up in its order, I may not have an opportunity of calling the attention of members to what it proposes. It is an amendment which deserves the attention of the House, and which ought not to be pressed through under a five-minutes' debate. It proposes to give twenty-five dollars per mile for the surveying which is indicated. In the course of my life I have served as a surveyor for three or four years, in a country where, perhaps, living is as expensive as it is in California, and the price I received was only three dollars a mile. I surveyed through thickets as well as through open woods, and did very well at it, as others had done. It strikes me now as something startling that the Congress of the United States should be asked to appropriate \$100 a section for surveying land. I am told that living is as cheap in California as it is elsewhere; that provisions are as cheap there as elsewhere; labor may be a little higher there than it is in the Atlantic sea-board States, but not a great deal higher. Yet, sir, we are asked here to make an appropriation of \$100 per square mile for surveying land in that State. I understand that in Louisiana, where private surveys are made, there was, and perhaps is now, a provision of law authorizing the paying of as much as six dollars a mile for making surveys where there are swamps and marshes to be gone through. The law as it exists, I understand, authorizes the giving for these private surveys sixteen dollars a mile; that is, sixty-four dollars a section; and it does seem to me that that is enough to satisfy the most extreme avarice. Why should we pay \$100 a section for surveying land? We may be told that, under this amendment, advertisement is to be made in the newspapers for giving the surveying out by contract. Who is there here who does not know that when appropriations are made for works of this kind, through some process of management, the contracts are let out at the maximum price allowed by Congress? What is to be done here? Is the surveyor general to farm out the surveying in California? Is he to make his private fortune out of this class of surveying? Certainly, it cannot be necessary to pay that price for surveying. The price paid for surveying over the country generally is three dollars a mile. Five dollars a mile would be a good price for surveying anywhere.

The amendment provides that they shall not only be allowed twenty-five dollars a mile for surveying the lines of private surveys, but for surveying the connecting lines—the lines connecting these private surveys with some other existing surveys. There is no limitation that it shall be confined even to the nearest survey; and when you offer an inducement to avarice by an extraordinary compensation like this, certain it is that they will run the lines as far as possible.

The proposition, in its simple statement, is startling enough to cause members to reject it at once. I take occasion to call attention to it to exhibit the extent to which we are going in reckless and extravagant expenditure of the public money. What will the people say? What ought they to say when they learn that it is proposed to authorize the payment of twenty-five dollars a mile for running lines of survey? Would there not be a general feeling of alarm at such reckless extravagance? It does seem to me, then, that when a proposition of so startling a character as this is presented, Congress will pause until it can ascertain some necessity for such an extraordinary appropriation.

I have said before that, in my State, surveying costs as much, perhaps, as it does in California. Surveyors there do well at three dollars a mile. I know that it has been argued at the other end of the Capitol that these private surveys give increased trouble; but I cannot see why there should be any additional trouble in those cases.

It is also urged in favor of this amendment, that those desiring private surveys could not get surveyors to make them for sixteen dollars a mile. Is not sixty-four dollars enough for surveying a section? An active man will survey three or four sections of land a day; yet it is urged that sixteen dollars a mile will not pay for the surveying of these lines, and it is said that unless good pay is given to the surveyors, the owners of private claims will have to pay additional amounts, and that therefore the surveyor would be put in a position where he might be tempted to violate his duty. Who is there that will seriously advance such an argument? The surveyor goes there as the sworn officer of the law. Will he commit perjury, because he is not paid enough by the Government, and because private claimants may see proper to pay him an additional compensation?

Sir, I take it that neither bribery on the one hand nor perjury on the other, will take place. The surveyor general is directed to run certain lines. How can he affect the interests of the Government? How can he affect the interests of the claimants by an alteration of the survey? He has the metes and bounds of his survey by the order of the court or by the title under which he runs it. Will he dare to violate the order by running the lines contrary to what is called for, by changing the course or lengthening or shortening the distances? It is to be remembered that when surveying is done it carries in connection with adjoining surveys, the means of inevitable detection in case of fraud. One survey proves another, shows whether it is correct or incorrect. If the surveyor general then surveys more land than he ought to for a private claimant, that fraud will soon be detected and exposed. And it confers upon the claimant no title. There are other surveys to be made there, and if the frauds are not sooner exposed, they will be then exposed, and the land not included in the grant is liable to be taken up by any other locator or settler. And that, which I understand is the only material reason for the appropriation, is a baseless argument which will not stand the test of reason, and I hope the House will, when we come to act upon that amendment, strike it out.

[Mr. DAVIDSON here, from the Committee on Enrolled Bills, reported as truly enrolled an act (H. R. C. C. No. 85) for the relief of Peter Parker; when the Speaker signed the same.]

Mr. SCOTT. Not knowing that this bill was to be taken up to-day, I did not anticipate that there would be objection made to this clause of the bill on to-day. Now, sir, I know it was stated in the other end of the Capitol that living was as cheap in the State of California as it was upon this side. I deny the truth of that assertion. I state here, upon information which I have in my possession, acquired by personal experience and observation, that the cost of living in California is now twice as great as it is upon this side. The matter which we have to deal with, is the matter of labor, and the price there paid for labor. Now, in that connection, I would state to the gentleman from Texas, that he cannot employ a laboring man in San Francisco, or in the mines of California, under fifty or sixty dollars a month. And I will state, too, that he cannot get deputy surveyors to take charge of those surveys for less than one hundred and fifty or two hundred dollars per

month; nor can he employ rodmen and chain-bearers under seventy-five or one hundred dollars a month. In order to separate these private land claims from the public domain, they have not only to employ laboring men to attend the engineer force, but it becomes necessary to have scientific men; and there is no place in the world where scientific qualifications command a better price than in California.

The gentleman says there is no difference in the price of labor in Texas and California. The gentleman is greatly mistaken. The simple reason that labor is so enhanced in price grows out of the mining interests of our State. If men cannot get employment in San Francisco, Sacramento, Marysville, Stockton, or any of our large places, they immediately go to the mines; and there is no man who, by care, attention to business, and industry, cannot make over two and a half or three dollars a day in the mines.

It is this state of affairs which renders it necessary that there should be a discrimination between the price paid in the State which I have the honor to represent and other States of the Union. We find that there are one hundred and thirty million acres of public land in California. We find there are no incumbrances on those public lands. We have no Indian treaties to be made in reference to them, as the reservation system is adopted in that State. Every acre belongs to the General Government. We find, however, that difficulties do arise from what are known as private land claims—claims held or claimed under Mexican grants, prior to our acquisition of that territory from Mexico—and we find that it becomes necessary to separate those private claims from the public domain.

The law, as it now stands, prohibits the surveyor general from receiving anything from these private claimants for surveying their lands. We find, further, that if the General Government wishes to enjoy the benefits of the public domain, it must, necessarily, separate that domain from that portion which belongs to private individuals; and the gentleman from Texas admits, in his remarks, that it is more difficult to make these private land claim surveys, than it is to run the lines through and around the public domain. As I said before, the law prevents the surveyor general from receiving any remuneration from these private land claimants. It then devolves upon Congress to pass some law by which he can make contracts with deputy surveyors to separate the private land claims from the public domain. The whole point of the controversy which the gentleman has raised, is, whether this is necessary? I have stated that the price of labor there is three times as great as it is elsewhere; that you cannot get a woman servant under thirty dollars a month, or an able-bodied man under sixty dollars a month, while in Texas they can be obtained for ten or fifteen. When we contrast the prices of labor and provisions, we find that the difference is not so great as stated by the gentleman from Texas.

The matter was fully canvassed in the other end of the Capitol, and one of the Senators from my State, who first raised objection to the price stated in this amendment, finally acknowledged that it was necessary that this appropriation should be made, or the surveyor's office in California would be closed; and for six or seven months we should have no surveys going on there. I feel no interest in this matter beyond the benefit of my State. I know the surveyor general; he is a man of undoubted integrity and honesty; he has been identified with the history of that country since 1849, and I know he will look after the Government interest, and that he will get these contracts taken by deputy surveyors at the lowest possible price. He will advertise for bids, and the contracts will be let out to the lowest responsible parties. If he can get it done for fifteen dollars, he will do it. There is a spirit of emulation and rivalry there in all branches of business, as there is here, and it will lead to competition in bidding, which will secure the work to be done at the lowest possible price, and, of course, that is as reasonable as the gentleman can ask. But if you were to limit the price to fifteen or twenty dollars, you may appropriate an amount entirely inadequate to the service, and the result will be, that you will have no surveys made, and the Government will be deprived of millions of acres now ordered to be sold, and the rights of the private

land claimants, which have suffered already from litigation, will be trampled upon, because, forsooth, the gentleman from Texas thinks that this appropriation is too large. Now I say, that, in justice to these parties, and also to the numerous settlers, whose rights are as much involved as these land claimants, and also in justice to the Federal Government, I do not believe that the appropriation here made is too much; if it was, I would be the first man to oppose it.

Mr. REAGAN. I wish to reply to one portion of the gentleman's argument. It is insisted that the great difference in the price of labor in California over other States, requires this largely-increased price to be given for surveying. My friend from California says that while labor is worth sixty dollars a month in California, it is, perhaps, worth about twenty dollars a month in Texas. I shall not inquire into the accuracy of that statement. Take it to be correct, however. By the laws now in existence, surveying costs five times as much in California as in Texas. What costs but three dollars in Texas costs sixteen dollars in California. I take it there is no good reason why that great difference should exist. And yet, by this appropriation, it is proposed to make it eight times as much as the ordinary price of surveying in the southern States—in Arkansas, Louisiana, Texas, &c.—where labor is confessedly very high, and where the means of living are usually high. I cannot understand why this is so. My observation in life has led me to the conclusion that whenever a Government presents an inducement to the cupidity of men, they will avail themselves of it.

It seems to me that such extraordinary legislation as this has the most demoralizing effect on any community; and it is to that I object more than I do to the amount of money that may be paid out under this amendment. If the evil would end with the people of the country paying to a few officials in California \$100 a section for surveying land, I would not complain so much, even though it would take one or two hundred thousand dollars out of the Treasury. We can stand that; but when you taint the body-politic; when you hold out an inducement to venality and corruption by that sort of legislation—I say it with all respect to those who introduced the amendment and advocated it—it leads people to extravagance, and leads them to look to the Government, instead of going to work themselves and living by their honest toil, and by the sweat of their brow, as the God of nature intended they should live. The duties of the Government should be discharged with honesty and fidelity, and with a view as well to public morality as to the public Treasury. My great objection to this whole system is that we are creating so many offices, and paying such extravagant salaries, that men are inducing the people to stretch their consciences in the desire to get Government patronage. It is corrupting in its tendency, and dangerous in its character; and if the Government goes on as it is now going on, making offices that tempt the cupidity of men, I fear that in ten years more our Government will be as venal and corrupt as the Government of Mexico. These reasons apply to all such measures, but to this, it seems to me, in an eminent degree.

Fifth amendment:

Insert the following:

For the salaries and incidental expenses of the institution for the instruction of the Deaf and Dumb and Blind, in the District of Columbia, authorized by the act approved May 29, 1853, \$3,000.

Mr. J. GLANCY JONES. This amendment increases the appropriation \$3,000 for the instruction of the deaf and dumb and blind in the District of Columbia. The Committee of Ways and Means recommend a non-concurrence.

The amendment was not concurred in.

Sixth amendment:

Insert the following:

To enable the Commissioner of Public Buildings to fit up the shelves in two rooms at the south end of the Library of Congress, for the use of the Library, and for putting up a partition in the passage to them, \$600.

The amendment was concurred in.

Seventh amendment:

Insert the following:

For repairs of Pennsylvania avenue, \$3,000.

Mr. J. GLANCY JONES. The Committee of

Ways and Means recommend a non-concurrence in the amendment.

The amendment was not concurred in.

Eighth amendment:

Insert the following:

And for painting the hand rails and iron work of said bridge, \$400; and the bridge is hereby placed under the protection of Georgetown, with power to regulate the speed of travel, and the passage of droves of cattle over the same, but no tolls shall be charged.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence.

The amendment was not concurred in.

ENROLLED BILLS SIGNED.

The committee here informally rose; and Mr. PIKE, from the Committee on Enrolled Bills, reported as truly enrolled:

An act (S. No. 198) for the relief of Joseph Hardy and Alton Long; and

An act (S. No. 230) for the relief of the legal representatives of Daniel Hay, deceased;

When the Speaker signed the same.

The committee then resumed its session.

Ninth amendment:

Insert the following:

For continuation of the filling up of ravine, and grading Judiciary Square, \$7,000.

The amendment was non-concurred in.

Tenth amendment:

For continuing the grading and planting with trees the unimproved portion of the Mall, \$10,000.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend non-concurrence in this amendment.

The amendment was non-concurred in.

Eleventh amendment:

Strike out the following:

"Provided, That no part of the sum hereby appropriated shall be expended until contracts shall be entered into with responsible parties for the completion of the work, which, in the aggregate, shall not exceed the amount hereby appropriated."

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend non-concurrence.

The amendment was not concurred in.

Twelfth amendment:

Page 11, after line twenty-one, insert as follows:

For United States Capitol extension, \$750,000.

The CHAIRMAN stated that the hour had arrived at which the debate was closed by the order of the House, and that the gentleman from Pennsylvania [Mr. J. GLANCY JONES] was entitled to the floor for one hour.

Mr. J. GLANCY JONES. I propose to go on and debate the amendments as they come up. I presume the committee understand this amendment of the Senate. The House struck out the appropriation for the Capitol extension, the amount originally being \$1,000,000. The Senate have inserted \$750,000. The Committee of Ways and Means recommend a concurrence in that amendment.

Mr. TAYLOR, of New York. I offer the following as an amendment to the amendment:

Provided, That no portion of this appropriation shall be expended for painting or decorating the interior of the Capitol, unless the same be made under the direction of three American artists, to be appointed by the President of the United States; nor shall any contract be made for such painting or decoration except by the Joint Committee on the Library.

Mr. LETCHER. I raise a question of order on that amendment.

The CHAIRMAN. The Chair rules the amendment out of order.

Mr. TAYLOR, of New York. I move to amend the amendment by striking out "\$750,000." I hope the House will not concur in the amendment of the Senate. Congress has refused to appropriate money, even in small amounts, for various necessary improvements throughout the country which are recommended by the Departments and the Committee of Ways and Means. At present the Capitol is secure, so that it is not necessary to make any further improvements in order to protect it from the weather. The money must, therefore, be expended chiefly on the internal decoration of the Capitol, with the exception, probably, of the completion of the Senate Chamber. The money is not immediately necessary for any external work. The appropriation, therefore, can be very well postponed.

So far as decoration is concerned, the less mon-

ey we expend upon the Capitol in decorating it in the manner in which it has been decorated under the present management, the better for us, the better for the Treasury, the better for the artistic taste of the country. We have expended already thousands of dollars on this contemptible decoration, which is disgraceful to the age and to the taste of the country; and we ought, if we cannot reach it in any other way, to refuse to appropriate one dollar more towards it. I hold that the decoration is not only improper, but that it is absolutely disgraceful. Go through this Capitol and see the insignificant tinsel work that has been prepared here to stand for ages as a representation of the taste and skill of this age. Have we no artist to illustrate the history of our country? Can we not write some portion of our country's history on these walls that will perpetuate the character of the present generation? Have we no commerce to illustrate—no history to perpetuate? Have we made no mechanical, no scientific discoveries worthy of record here, that we are compelled to employ the poorest Italian painters to collect scraps from antiquity to place upon these walls, as a lasting disgrace to the age—mere tinsel, a libel upon the taste and intelligence of the people?

While I am not opposed to an appropriation to complete the Capitol, or any other necessary work in course of construction, I think we ought to cut off the supplies and refuse an appropriation to be expended for painting and illustration under the present management. We ought at least to have some man of artistic taste at the head of this great national work. We have now at the head of it a captain of the engineer corps of the Army, who is not a judge of such work, but he is "sole monarch of all he surveys." He, sir, is responsible for the great expense incurred in the decoration of this Capitol; the purchase of these desks and chairs; all this tinsel work, and those coats of arms on the ceiling, which cost hundreds of dollars each. They ought not to have cost more than thirty to forty dollars each. One man was employed eighteen months, at ten dollars a day, to illustrate the coats of arms of the States and Territories. Make the calculation, and it will be seen that this single item amounts to thousands, when the expense should not have been more than thirty or forty dollars for each illustration. So on through all the items of expenditure. There is no economy, no taste; and we pay this enormous amount absolutely to disgrace the country—to have here a perpetual libel upon the artists and artistic taste of the American people. I hope the committee will strike it out, and that we will make no further appropriation until we have a change in the management of the artistic work of this Capitol.

Against the architecture I have nothing to say. I believe that the architect is perfectly competent and worthy of the greatest trust, and I desire no remark I have made to apply to him. But I say that Captain Meigs is unfit to direct the decoration of this Capitol. He has neither taste nor skill, and I hold that this committee would do a wrong to the Treasury, to the artists, and to the country, if they furnished him with further funds to daub the Capitol with such illustrations.

Mr. QUITMAN. I understand the amendment is to strike out the whole appropriation. Now, sir, while I concur in much of what the gentleman from New York [Mr. TAYLOR] has said on the subject of the general character of the decorations of this Capitol, my principal object in rising is to avail myself of this opportunity to say that when the proposition was originally made to appropriate \$1,000,000, I voted against it. I will vote against extravagant appropriations at all times, and would have opposed the appropriation originally had I been here. I would have for the Capitol of a republic, Mr. Chairman, a structure either in the Ionic or Doric style—in a plain style, without the vast number of decorations with which this Capitol is loaded. But since this work has gone on, it is due to the country and to ourselves that we should finish it properly. As to the style of finish, why that is another matter. This amendment proposes to put a stop to all further appropriations for the Capitol. I take this occasion to say that, as a citizen of the United States, I should be ashamed to look upon this Capitol remaining in its present unfinished condition for years. It must be finished.

Shall we plead before the world that we have not the means to complete it? When a stranger inquires, why this unfinished Capitol; why these masses of material which burden the ground and obstruct the avenues to these Halls? must we tell him that we have undertaken what we could not finish—the work has been suspended because means are wanted to carry it out? No, sir; I would rather borrow the money that the work might go on to its completion.

If the appropriation were an original one, I would be inclined to lay down strict rules to prescribe the style of the structure, and the extent of the expenditure. But as this is declared the last appropriation required to finish the Capitol, I will change my vote, and support the appropriation proposed by the Senate. If we refuse to make this last appropriation now, this costly structure will retain its present ragged appearance, the streets and public grounds will remain obstructed with valuable material, which now lies strewed around; and it should be recollected that it will cost something to preserve exposed portions of the building, and to protect the marble and valuable materials.

[A message was here received from the President of the United States, by J. B. HENRY, his Private Secretary, notifying the House that he had approved and signed sundry bills.]

Mr. TAYLOR, of New York, withdrew his amendment.

Mr. J. GLANCY JONES. The original appropriation was for \$1,000,000; and there was a belief that that sum would complete the building, inclusive of the decorations. The Senate have put in an appropriation for \$750,000; and I am now told that every dollar of that sum will be required, not regarding the interior of the building at all. Therefore the gentleman's object will be accomplished by this Senate amendment.

Mr. TAYLOR, of New York. Very well, then, the following amendment will not be objected to:

Add as a proviso, the following:

Provided, That no portion of this appropriation shall be expended on the interior painting and decoration of the Capitol.

Mr. SICKLES. Is that amendment in order?

The CHAIRMAN. It is not in order, and the Chair sustains the point of order.

Mr. TAYLOR, of New York. I take an appeal from that decision.

Mr. GARTRELL. I would like to hear some reason for the decision of the Chair.

The CHAIRMAN. It changes existing law.

Mr. TAYLOR, of New York. I would like to know how it changes existing law?

The CHAIRMAN. It has been the universal practice of the committee to rule out all amendments which propose changing existing laws.

Mr. JONES, of Tennessee. Is there any existing law in relation to this appropriation? I say there is none at all.

Mr. SICKLES. The manner in which the money is to be expended is provided for by existing law.

The question being, "Shall the decision of the Chair stand as the judgment of the committee?" it was put, and decided in the negative.

So the decision of the Chair was overruled, and the amendment was received.

Mr. TAYLOR, of New York. I deem it to be my duty to say, as I said before, that I have no objection to this appropriation, or to any other appropriation necessary to finish this or any other building of this Government; but I do think it necessary to stop this decoration, and we ought to make appropriations only to finish the building. Let us have some time for reflection, that we may ascertain how we may best decorate the Capitol, and imprint some portion of our history upon it that may go down to future ages. We can do that at some future time, and I hope the House will sustain the amendment.

Mr. MAYNARD. I desire to propose an amendment to the amendment of the gentleman from New York.

The CHAIRMAN. Another amendment is not in order at this time.

Mr. SICKLES. I understand that the money appropriated by the Senate amendment is to be chiefly expended on the other wing of the Capitol—for the completion of that portion of the Capitol to be occupied by the coordinate branch of

Congress. Now, sir, if at that end of the Capitol they have no wish to impose a limitation upon the expenditure of the appropriation, as to interior decoration or otherwise, I think it is officious in us, and it is going further than we ought to go, to impose here a limitation upon the manner in which their rooms—either the Senate Chamber or the Senate committee-rooms—should be decorated.

Mr. TAYLOR, of New York. I would like to know where the gentleman gets his information that this appropriation is to be expended in any one particular portion of this Capitol.

Mr. SICKLES. It is for the Capitol extension, and it must be obvious to my colleague that it is not to be expended in the interior decoration of this Hall, for we are occupying it, and the interior decoration of the Hall is completed, or nearly so. It is not to be expended in the interior decoration of rooms pertinent to this Hall, for they are completed, or nearly so, and it is too late to impose such a limitation upon the interior decoration of this wing of the building, for they are in such a state of forwardness that to stop them would be a waste of the public money. In the other end of the Capitol these decorations are scarcely begun, especially so far as the Senate Chamber is concerned. The Senate have passed this amendment without any limitation or restriction, and I think it is not our business to put in such limitations here.

The question now being upon the amendment of the gentleman from New York,

Mr. TAYLOR, of New York, demanded tellers.

Tellers were ordered; and Messrs. TAYLOR, of New York, and BOYCE were appointed.

The committee divided; and the tellers reported—ayes 59, noes 67.

So the amendment was disagreed to.

Mr. MAYNARD. I offer the following amendment to the Senate amendment:

Provided, That no part of the same shall be expended for paintings or statuary.

Mr. LETCHER. Is that amendment in order?

Mr. MAYNARD. It seems to me, Mr. Chairman, that that is the same question of order that was raised before. The committee has decided it on another amendment of the same general character, overruling the decision of the Chair that it was not in order. It seems to me that this comes within the category, although it is an amendment of an entirely different character, so far as relates to the limitation sought to be made.

The CHAIRMAN. The Chair would rule the amendment to be not in order but for the committee reversing the decision of the Chair before. Yielding to that decision, the Chair entertains it.

Mr. MAYNARD. It is obvious, Mr. Chairman, that this Capitol is eventually to become a vast museum of art, in which paintings and statuary will be the two prominent features. Already has a small commencement been made. My object in proposing this amendment is that the art decorations of this building shall not be provided for till the building itself shall be completed; and that then they shall be the work of American skill and American genius, illustrating not only American history and American scenery, but also the progress of American art. Now, if we simply wanted to fill up this building with fine painting and fine statuary, we would at once send a commission to Europe, and buy up all the best pictures and finest statues we could get. But that is not the object or purpose which, as it seems to me, we ought to aim at.

To illustrate. It has been proposed, and that, too, in high quarters, that we should submit one of the panels of the new Capitol to the pencil of a distinguished French battle painter, Horace Vermet, because it is said that he excels all other battle painters in the world; and it is suggested that he shall be allowed to take as a subject some of the fields of the Revolution, where American and French valor combined was superior to the prowess of Great Britain. I would like to inquire of gentlemen what sort of a picture that would probably be? A French painter—painting what? Why, painting, of course, French valor and French chivalry. Where do you suppose, in such a picture as that, would French soldiers stand, and where would stand the poor American, with his rough accoutrements and his rough arms, and his awkward want of discipline, and his deficiency

in all those trappings that go to make up the glitter of war? Why, you would have a painting which, regarded as a matter of history, would tell all coming time that the victories of the Revolution were gained by French soldiers and French valor. When man paints the picture, the lion is apt to appear second best in the fight. And when men come here in after days, and admire one of the paintings—for possibly it might be the most beautiful—our children would be obliged to confess that it was not an American work, but the work of a French master. I would save them this mortification.

It may be that American artists are not equal to the artists of the Old World; but at least they are such as we have. They are the best we have; and we will preserve, or we ought to preserve, their works, the creations of their skill and genius, so that, in after times, the state of art in the various stages of our history may be known. I should be sorry to think that this building was to be filled with works of art within the next fifty years. I would have these niches kept empty till subjects and masters were found worthy to fill them. There is time enough; no need of haste. We are still, I hope, in the early stages of our national history. At any rate, I will act upon the presumption and the belief that it is to run on for centuries to come. I would go on spending money in completing the architecture of the building, and leave its decorations to time. Art is a thing which must grow. It results from the demands of the public taste, and can be created in no other way. It is not a commercial commodity. It is the combined product of individual genius and general cultivation. To send out an order for a beautiful statue or beautiful picture would be, to my mind, almost as unreasonable as to give an order for an epic poem, or an eloquent speech. In this view, I have offered the amendment, that we may have the building completed before we proceed to decorate it.

Mr. CRAWFORD. There can be no possible use in the adoption of the amendment by the House. The amount originally asked for this work, and which was reported by the Committee of Ways and Means, was \$1,000,000. The Senate, in the outset, inserted a provision similar to that proposed by the gentleman from Tennessee. Subsequently they reduced the amount of the appropriation to \$750,000, for the very express purpose of avoiding any difficulty that might arise in regard to the decoration. There can, therefore, be no necessity for the amendment, as the \$750,000 will necessarily be applied to the completion of the structure, and not to ornamenting the walls. I concur with the gentleman from Tennessee that we are not in a condition at this particular time to decorate these Halls. The condition of the public Treasury, the commerce and condition of the country, and many other reasons, might be assigned why it would be proper to limit the appropriation, and to direct, by legislative authority, that no part of it shall be used for the purpose to which the gentleman has referred, if there were any danger of its being done. But there is no earthly danger of it, because the whole amount of the appropriation will be needed for the building itself, and no part of it will be used for the paintings descriptive of our revolutionary history, to which the gentleman has alluded. I hope, therefore, that we shall dispose of this question, and that gentlemen will be satisfied that the money will be used as I have indicated, and applied entirely to the structure itself. The whole question has been considered by the Senate, and the Senate was satisfied that the \$750,000 would be necessary for that purpose.

Mr. TAYLOR, of New York. I have no doubt that the \$750,000 will be required to finish the building; but if that be true, what objection is there to the amendment?

Mr. CRAWFORD. The only objection to it is, that it clogs and embarrasses the passage of the bill, and only affords opportunity for gentlemen to get off speeches here in opposition to Captain Meigs. Gentlemen who are opposed to Captain Meigs, and wish him supplanted, take occasion, in reference to this appropriation, to express their disapprobation in regard to the conduct of that officer—a faithful one, in my judgment, and one who has been attacked by various individuals, and from various quarters, for the reason that he has taken care of the public funds,

and has not permitted these individuals who assail him to fasten themselves upon the public Treasury, and be supported out of the people's money. The \$750,000 will be applied, as I have said, to the completion of the building. I have no doubt that it will be properly applied; and therefore I am opposed to the amendment.

Mr. MAYNARD. With the permission of the gentleman, I wish to disclaim any unkind feeling, personal or otherwise, towards Captain Meigs, for I have none. I believe that he is a good officer, and prompt and attentive in the discharge of his duties. I have not one word to say against him; and my amendment was not offered with a view of animadverting upon him.

Mr. CRAWFORD. I am very glad to hear it, for he is justly entitled to your good opinion. [Here the hammer fell.]

Mr. SICKLES. I would ask the gentleman from Tennessee to modify his amendment by adding to it the words: "except in payment for work already ordered and now being performed." The manifest justice of that will be apparent to the gentleman.

Mr. MAYNARD. I am unwilling to accept that modification, simply because I do not know what has been ordered.

Mr. TAYLOR, of New York. I wish to offer an amendment.

The CHAIRMAN. No further amendment is in order.

Mr. MARSHALL, of Kentucky. Is there an amendment to the amendment pending?

The CHAIRMAN. There is the Senate amendment, and there is an amendment to that pending.

Mr. SICKLES. I would say to the gentleman from Tennessee that all the sculpture now being done is being done by American artists, and the result of his amendment will be that they will get no pay.

Mr. MARSHALL, of Kentucky. Do I understand the Chair to decide that the Senate amendment being the original text, an amendment to an amendment is not in order?

The CHAIRMAN. The Chair has so decided in conformity with the decision made by the committee, when the gentleman from Indiana [Mr. ENGLISH] was in the chair, when the question arose, and was decided by the committee after discussion.

Mr. TAYLOR, of New York. I must appeal from the decision of the Chair.

The CHAIRMAN. The Chair would be very glad to have the decision reversed, as it is not in accordance with the judgment of the present occupant of the Chair.

Mr. STANTON. I know the practice has been frequently otherwise in Committee of the Whole.

The CHAIRMAN. That is so, and the other practice would conform to the opinion of the present occupant of the Chair; but the decision of the gentleman from Indiana, when in the chair some days since, was sustained by a very full vote of the House, and the Chair, therefore, conformed its decision to that ruling of the committee.

Mr. TAYLOR, of New York. I withdraw the appeal, but I desire to place myself correctly on the record with regard to the remarks of the gentleman from Georgia, and I ask one moment's indulgence for that purpose.

Mr. MORGAN. I object to any debate.

Mr. TAYLOR, of New York. The gentleman always objects to information, because he has got none.

Mr. MORGAN. I object to gentlemen who are always disturbing the House.

Mr. TAYLOR, of New York. I call for tellers on the amendment.

Tellers were not ordered.

The committee divided; and the Chairman reported—ayes twenty-four, a further count not being demanded.

So the amendment was rejected.

Mr. BRANCH. I move to reduce the appropriation from \$750,000 to \$200,000.

Mr. Chairman, my reason for making the motion is this: while Congress declares to the country that it cannot carry on public works in any section of the country—that works under contract, even, must be suspended—\$200,000 is enough to expend in one year upon this structure. I submit whether we can justify ourselves to our constitu-

ents or to the country, in appropriating such large sums for this Capitol and the Washington aqueduct, while we are suspending public works of great importance in the North and South, the East and West? I am not opposed to their completion. I want to see them finished, and in a manner creditable to the country, and justified by its wealth and power. It is not my object to stint appropriations for the Capitol, but I do think, sir, that under existing circumstances \$200,000 is enough to be expended on it in one year, and I will not vote for any bill that contains an appropriation of \$750,000 for it. My vote may be unnecessary. These bills may pass without it. I may be wrong in my judgment, for I am fallible like other men; nevertheless, sir, it is my conviction that unless other works are to have something out of the Treasury—unless works gone on with for years are completed—I cannot vote for this appropriation for the Capitol.

Mr. Chairman, I have no disposition to engage in a discussion as to the decorations of this structure. I am no judge of them. My friend from Tennessee [Mr. MAYNARD] says that this is to be a great museum of art. Not so do I care to look at it altogether. I desire that it may be a great temple of American patriotism, American eloquence, and American wisdom. Instead of battle scenes of the past emblazoned upon these panels, I care more to see these seats occupied by men of wisdom and sound statesmanship. Instead of illustrations of American and French achievements in the past painted upon the walls, let us seek rather to illustrate the future history of our country by the magnitude of the deeds originated here, and by the prosperity that shall flow from the acts of those who shall fill these Halls. If we shall do our duty, and those who come after us shall do their duty, neither the brush nor the chisel will be needed to perpetuate the glories of the Republic. Let them rather follow than precede the great events that are to originate here.

The amount proposed by my amendment will be sufficient to finish the portions of this building which are needed for practical use. We are in possession of the Representatives Hall; and it will be seen, by going into the other wing, that the Senate Chamber is nearly ready for occupancy. For \$200,000, then, every portion of this building needed for the purposes of legislation can be completed. What need is there for pressing the building forward with such haste? Are there not other works which demand our attention? Are there not works which need our help in every section of the Union? Why, then, take all the money from the Treasury to hurry on this building? Is there any absolute necessity for its completion this year, or next year? I see none. And it is usually regarded as most judicious not to erect so massive a structure with so much rapidity.

[Here the hammer fell.]

Mr. CRAWFORD. I concur in the views which have been presented by my friend from North Carolina, and I would cheerfully go with him to accomplish the purpose which he so much desires, if it were possible for me to do so in view of the obligations which we are under by virtue of public contracts which have been made with certain parties in reference to the completion of this Capitol. I am aware that the gentleman would not be willing to repudiate a single debt which we have contracted in reference to this or any other national work. Contracts have been entered into for supplying materials to carry on this work; and while it has not been my purpose to increase the expenditures of this Government under the present revulsion in our commercial affairs; yet I would tax the utmost credit of this country rather than repudiate a single dollar which our public officers, under authority of law, have contracted to pay. Ships have been built, I will inform my friend, for the purpose of delivering here materials for this work. It would require more than two hundred thousand dollars to pay the damages which these contractors would insist that the United States should pay for the failure of the Government to comply with its contract.

I would be as much delighted as any man to see both Halls of Congress occupied by men of the most wisdom and talent that this country can command. I would rejoice to see here once more, upon these honored seats, such men as Calhoun, Clay, and Webster. With such men as these, we ought to have a Government both pure and

powerful, a statesmanship of the highest order, and all that makes a nation great and renowned. While I would be glad of all this, yet that is not the question now before us. Shall we comply with our contracts? It is to that we must address ourselves. The extension of the nation's Capitol has been commenced; whether wisely or unwisely, is not now for us to judge. Were it an original question, I would exert my influence to prevent such an enormous expenditure of money; but, sir, it is now too late; we cannot, if we would, retrace our steps; we must complete the work, let the cost be what it may; and when done, it will do honor both to the architect and to our country.

I, for one, am willing to vote not only \$750,000, but \$1,000,000 for the purpose of meeting our engagements if so much shall be necessary. But, sir, the Senate amendment has been well considered in the other branch of Congress, and they are satisfied that to complete these structures will require this whole amount, without any reference to decoration. If we shall therefore refuse to appropriate, we shall be violating existing contracts which have been entered into; and in that view of the question I hope the committee will refuse to strike out the \$750,000. If they do that, we shall have claims presented here, year after year, for damages arising from breach of contracts made by public officers.

The question was taken on the amendment of Mr. BRANCH; and it was not agreed to.

Mr. GARNETT. Mr. Chairman, I move to strike out "\$750,000" and insert "\$150,000." I concur entirely with what has been said by my friend from North Carolina, but my special object is to protest against the doctrine avowed by the gentleman from Georgia, [Mr. CRAWFORD.] He takes the position that contracts have been made, and therefore we are bound to comply with them. I desire to ask him whether a single reform has been attempted, or a reduction of expenses proposed this session, but some existing contracts have been urged to defeat it? I have not yet heard a single reduction proposed, where there has not been a contract lurking in ambush to defeat it. Now, sir, there is no law authorizing these contracts. There was a definite sum appropriated to continue the Capitol, and Mr. Meigs, or his subordinates, had no right to go beyond that sum. I desire to call the attention of the gentleman from Georgia to what appeared in the newspapers some time ago. It was a notice from Captain Meigs to the workmen upon the Capitol extension that they could no longer be employed, because the appropriation was exhausted, and that he had no right to incur liabilities beyond the appropriation. And yet the gentleman from Georgia talks about contracts. A number of the workmen were dismissed upon that occasion, and I commend Captain Meigs for the notice, because it was one of the few symptoms of a desire upon the part of the officers of the Government to comply with the laws regulating expenditures under their charge.

I wish to say, further, that I consider the whole extension an extravagant failure. Take this Hall, for instance. Here is a room for business; a Hall for practical legislation. And what is it? An exhausted receiver; a sarcophagus for the living; a place shut out from the open air of heaven. Here we are inclosed in a vault, breathing a poisonous atmosphere, and suffering the close heat of an oven. What is it all for? Do you know that after all this extravagant extension of the Capitol, our committees and our clerks and other officers say there is not room enough to accommodate them? Why? Because this Hall has been made too large; its size was not calculated for the benefit of members in doing business, but to accommodate five thousand spectators in the galleries. In other words, the vulgar idea of modern improvement, as exemplified in this Capitol, is to erect a circus where five thousand spectators can be brought together.

Again, what is the style of the adornment of this Hall? It is gingerbread and tinsel work. The attempt to defend it by talking of the harmony of colors and the polychromic style, is absurd. It is unjust to that style, which it does not illustrate, but caricatures. Congress ought to cut down the appropriation to a sum merely sufficient to keep the work alive until we have time to revise the whole plan.

And then there is the ventilation of this House.

This plan of ventilation without windows was tried, as I am told, in the new palace at Westminster, and the result was they had to change the plan and knock windows in the sides.

[Here the hammer fell.]

Mr. CRAWFORD. I desire to say, in reply to the gentleman from Virginia, that the advertisement to which he has alluded has reference entirely to the laborers employed about the Capitol; and I apprehend the gentleman has never taken the trouble to read the contracts which had been entered into between Mr. Guthrie and certain other parties, to deliver materials out of which this Capitol and other public works have to be completed. I announce to this House that there is a contract entered into between Mr. Guthrie and certain other parties for delivering, in this city, certain materials, to be paid for upon delivery; and any less sum than that proposed in the Senate amendment will be insufficient to meet those contracts. Upon this statement, I leave the matter with the committee.

Mr. SHERMAN, of Ohio. Under what law, or color of law, was this contract made by Secretary Guthrie?

Mr. CRAWFORD. I do not remember. There have been three contracts made—two, at least—by the Secretary of the Treasury, under some authority—perhaps a resolution of Congress. That is my impression.

Mr. SHERMAN, of Ohio. Such contracts are in existence now, but there is no law authorizing them.

The amendment offered by Mr. GARNETT was not agreed to.

Mr. DAVIS, of Maryland. I move to increase the amount \$100,000, merely for the purpose of making an observation. Gentlemen upon both sides of the House have spoken about the public works here and elsewhere being carried on by contract, of the appropriations being exhausted, and of the necessity of making an additional appropriation to relieve the Government from damages. The Secretary of the Treasury, as you, sir, are aware, sent to the Committee of Ways and Means an application for appropriations for public works beyond the amount asked by his annual estimates. The only ground suggested for such application was that the works had been progressing with uncommon rapidity, on account of the low price of materials and labor, and that the Department had made contracts which they were bound to fulfill under penalties for damages.

Now, sir, with the exception of but one or two cases, I believe, all the laws authorizing the building of post offices, custom-houses, and even this Capitol extension, resolve themselves into mere appropriations of so much money to accomplish the purpose. I wish now to ask gentlemen who have spoken about contracts, where they find a law for making a contract beyond the limit of the amount of money appropriated? There is no law, which I know of, on the statute-books, which anywhere authorizes it; and there is the law of 1820 which distinctly, and in terms, forbids it. The law to which I call attention, is the act of 1st May, 1820, which directs that "no contract shall hereafter be made by the Secretary of State, or of the Treasury, or of the Department of War, or of the Navy, except under a law authorizing the same"—that is, a law authorizing the head of the Department to make the particular contract referred to—"or under an appropriation adequate to its fulfillment." When, therefore, any Department comes before us, and speaks about the existence of a contract and the necessity of an additional appropriation to meet it, in the absence of a specific law authorizing it to make that particular contract, I say it is a confession on its part of its own violation of the law. I suppose there is scarcely one instance where there has been anything like an authority vested in either Department to make a contract, or to carry on any one of these public works beyond the extent of the money appropriated from year to year for that purpose. There is, therefore, no pressure upon us because of contracts unfulfilled; but, if the contract exist, and there be no law to authorize it, and the money is expended, the contract itself is illegal and void as to the residue.

Mr. TAYLOR, of New York. I rise to oppose the amendment, and to explain the remark which I made in regard to Captain Meigs. The gentleman from Georgia [Mr. CRAWFORD] seems to

think that gentlemen here have moved amendments for the purpose of getting off speeches against Captain Meigs. I do not know whether the gentleman referred to me: but I was the only gentleman who mentioned the captain's name in debate. If he referred to me, I take this opportunity to assure the gentleman that he is entirely mistaken. I moved the amendment in good faith, and am responsible to my constituents, not the gentleman. I have no unkind feeling to Captain Meigs. I believe him to be a highly honorable man, and I would not utter a word reflecting on his character or integrity. I believe him to be perfectly competent for every branch of his business as an engineer. But I do think—and I refer the country to the illustration we have in this Capitol—that he is totally unfit to direct the decorations of the Capitol. That, however, is not intended as a reflection on his character as a gentleman or an officer. I esteem him as much as any gentleman; but I do not admire his appreciation of the fine arts. If it could be provided, that no portion of this \$750,000 is to be expended in such work, I would not object to the appropriation; but I do not believe that such would be the case. I agree with the gentleman that we should fulfill our contracts. I think that \$250,000, or perhaps \$500,000, will be sufficient for this. For the decorations of the Capitol, we ought to postpone till some other time.

The question was taken on Mr. DAVIS's amendment; and it was not agreed to.

Mr. J. GLANCY JONES. I move to increase the appropriation one dollar. I do it for the purpose of making a very short reply to my friend from Maryland. The only law on which these Government buildings are constructed, is a law of 1793, which located the seat of Government in the city of Washington. There is no specific act for any of these buildings. The law is a sort of organic law; and, by virtue of it, we might continue to add to the Capitol till it would be five miles long. It has been the practice of Congress, when it makes an appropriation for the extension or continuation of a public building, to do so on the submission of a general plan; and that plan is generally of a character that compels the Secretary to make his contracts for materials. For instance: if an appropriation of \$100,000 be made to keep men in employment, and if the Secretary could only make a contract with those who supply the marble to furnish materials to that extent, there would be a loss of one half. But he makes his contract on the plans submitted to and approved by Congress, on the supposition that the appropriation is to be a continuous one. If he did not do so, the whole plan might be a failure.

Mr. CLEMENS. I desire to call the attention of the gentleman from Pennsylvania to the act of the 31st of August, 1852, which provides specifically for the mode by which contracts shall be made for work and materials in the extension of the Capitol. The gentleman from Pennsylvania and the gentleman from Maryland were both mistaken in saying that there was no law in existence authorizing the extension of the Capitol.

Mr. J. GLANCY JONES. That law did not authorize it.

Mr. CLEMENS. It prescribes the mode of making appropriations. It points out specifically the mode of advertisement, and provides the mode and manner in which the contracts shall be made, and the parties with whom the contracts shall be made.

[Here the hammer fell.]

Mr. DAVIS, of Maryland. The argument of the gentleman from Pennsylvania amounts very much to this: that when a law is passed which cannot be executed without violating it, the Secretary of the Treasury is at liberty to violate it. Suppose the plan for the extension of the Capitol, or the construction of any great work, were not a thing made at the Department, but incorporated in the law—

Mr. J. GLANCY JONES. Will the gentleman permit me to state what I did mean to say? I meant to say, not that the Secretary could violate the contract, but that the plan itself was part of the contract, and there was a continuous appropriation to carry out the contract.

Mr. DAVIS, of Maryland. That is all very true; but still it does not affect this one question, whether there is any authority in the Department to make a contract beyond the limits of the ap-

propriation? When Congress, for instance, appropriated \$100,000 to build an extension of the Capitol, on such plan as the President might direct, that justified the President in accepting the plan in accordance with the extent and magnificence of the existing work. But when he had determined on the plan, there would have been authority for him to make that building according to that plan, in one contract, beyond the amount of \$100,000, then appropriated. He had a right to make the plan. He had a right to make contracts for the carrying out of that plan as far as he could to the extent of the \$100,000 appropriated. If it was an improvident mode of appropriation, if a greater amount ought to have been appropriated, then it was the fault of Congress in not making it, and at their door lay the responsibility.

The fact that the work could not be done as cheaply by separate contracts as by one continuous contract—by a contract covering \$100,000 as by one covering \$3,000,000—was a matter not submitted to his discretion. It rested in the discretion of Congress; and if Congress saw fit, whether from carelessness or perversity, to waste the people's money, it was no part of the President's business to make them be economical, according to his ideas of propriety. If there was a law authorizing the President to make a contract to construct the whole building, then, whether Congress appropriated the money for it or not, that contract would be binding; but when we merely direct that the building shall be constructed, and appropriate \$100,000, then, from year to year, the contracts must, under penalty of violating the law of 1820, stop at the limits of the appropriations. The contracts may be as large as the plan, but they must contain a provision that they shall not be obligatory beyond the amount of the existing appropriations, or they are illegal and void. I specify the Capitol, merely by way of example. In other words, in the absence of a law authorizing a specific contract, there can be no such thing as a contract on the part of the Government which could bind the Government beyond the appropriation to the extent of a single cent. The act of 1798, to which the gentleman from Pennsylvania referred, has, and can have, no relation to the subject.

[Here the hammer fell.]

Mr. J. GLANCY JONES. I withdraw the amendment.

Mr. MARSHALL, of Kentucky. I move to amend the amendment of the Senate by adding thereto the following:

Provided, That none of this appropriation shall be expended in the embellishment of any part of the Capitol extension with sculpture and painting, unless the designs for the same shall have undergone the examination of a committee of distinguished artists, not to exceed three in number, to be selected by the President; and that the designs which said committee shall accept, shall also receive the subsequent approval of the Joint Committee on the Library of Congress.

The committee will recognize this as the same amendment the committee adopted at my instance before this bill was sent to the Senate. I came into the Hall just as the gentleman from Georgia [Mr. CRAWFORD] was saying that the investigation by the Senate had established the fact that the whole \$750,000 would be wanted for the architectural part of the extension. For one, I am willing to give \$750,000, if it is required, to execute the architectural design of this building; but I am not willing to give a cent for the embellishment of this building by paintings or sculpture, unless it shall be covered by this condition. If there be no design except that which the gentleman from Georgia intimates, then my amendment will not be in his way, or in the way of the architect of this building.

I have no desire, sir, to attack the engineer who has charge of this work. Although I do not consider him a Phidias, or a Michael Angelo, I do not want to attack him. But I do not want to see the work of embellishment progress as it has gone on. The House has already raised a committee for the purpose of considering a memorial which I presented in regard to the propriety of encouraging the native artists of this country, by giving them an opportunity to exhibit their genius upon the Capitol. I trust there will be no opposition to the adoption of my amendment.

Mr. J. GLANCY JONES. We have had considerable debate upon this item, and as I have

already stated that not one dollar of this appropriation will be used for the purpose of embellishment, I hope the amendment will be adopted by the committee. It can do no possible harm.

The question was taken on Mr. MARSHALL's amendment; and it was agreed to.

Mr. JONES, of Tennessee. I wish to propose an amendment before the question is taken on the Senate amendment. It is as follows:

For whitewashing the interior of the Hall of the House of Representatives, \$10,000.

I have no speech to make in favor of it. I think that gentlemen have the evidence before them that it requires some alteration and some whitewashing. [Laughter.]

Mr. TAYLOR, of New York. I agree with the gentleman from Tennessee, but I think the amount is too large.

Mr. CURTIS. The gentleman had better refer the whitewashing business to one of the select committees. [Laughter.]

The amendment to the amendment was rejected.

The amendment as amended was agreed to.

Thirteenth amendment:

On page 11, line twenty-three, strike out lines twenty-four, twenty-five, twenty-six, and twenty-seven; and also lines one, two, three, four, and five, on page 12, as follows: "For the purchase of fifty copies of the Diplomatic Correspondence of the United States from 1776 to 1783, in six volumes, at five dollars per volume, to supply such States and Territories as have not been furnished with them, and such of our missions abroad as have not been heretofore furnished with them, the sum of \$1,500."

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a concurrence in that amendment.

The amendment was concurred in.

Fourteenth amendment:

After line two hundred and fifty-eight insert: "For defraying the expenses of a certain party of Omaha Indians who visited the city of Washington during the months of February and March, 1852, to be expended under the direction of the Secretary of the Interior—being the balance of a former appropriation, which was carried to the surplus fund on the 30th June, 1851—\$335."

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a concurrence in that amendment.

The amendment was concurred in.

Fifteenth amendment:

Before line one of section two insert: "For payment to the Secretary of the Senate of the sums paid by him to the representatives of Senators Bell, Butler, and Rusk, under the resolution of the Senate of the 10th of March, 1858, directing the payment of the same, out of the contingent fund of the Senate, to the representatives of the said Senators respectively, \$2,589 04."

Mr. NIBLACK. I move to amend by adding the following:

For payment to the widows of the Hon. John G. Montgomery, the Hon. Samuel Brenton, and the Hon. James Lockhart, members elected to the House of Representatives for the present Congress, but now deceased, a salary compensation at the rate of \$3,000 per annum, to the widows of the two first-named members elect, three months each, and to the widow of the last-named member, six months, \$3,000.

Mr. LETCHER. I rise to a question of order. This amendment is a violation of an existing law, and is certainly not in order.

The CHAIRMAN. The Chair sustains the question of order, and rules the amendment to be out of order.

Mr. J. GLANCY JONES. The amendment of the Senate is also a violation of existing law.

Mr. NIBLACK. I appeal to the gentleman from Virginia to withdraw his question of order, and allow this amendment to go with that of the Senate to the committee of conference, which, I suppose, will be appointed on this bill.

Mr. LETCHER. No, sir; I think this bill is bad enough as it stands, with the Senate amendments, and I do not want to make it any worse.

Mr. J. GLANCY JONES. The Committee of Ways and Means have recommended a non-concurrence in the amendment of the Senate, on the ground that it is a violation of the compensation act. The fourth section of the compensation act, approved August 16, 1856, is as follows:

"SEC. 4. And be it further enacted, That in the event of the death of a Senator or Representative or Delegate, prior to the commencement of the first session of the Congress, he shall be neither entitled to mileage or compensation; and in the event of death after the commencement of any session, his representatives shall be entitled to receive so much of his compensation, computed at the rate of \$3,000 per annum, as he may not have received, and any mileage that may have actually accrued and be due and unpaid."

The CHAIRMAN. Does the gentleman from Pennsylvania submit an amendment?

Mr. J. GLANCY JONES. I believe I have the right to discuss the amendment in the hour to which I am entitled to close debate. Now, sir, if this amendment had originated in the House, it would not have been in order under our rules; but the Constitution gives the Senate the right to amend the appropriation bills, and they have not the same stringent rules in force there. This amendment, therefore, comes to us in order.

It seems that during the present session of Congress, the Senate passed a resolution authorizing this money to be paid to reimburse the Secretary of the Senate for the amount paid by him to the legal representatives of three deceased Senators. The Committee of Ways and Means thought the payment was a violation of the existing law, and therefore recommended a non-concurrence in the amendment of the Senate. The true construction of the compensation law is, that the widow or heirs of a member of Congress, who may die one month before the meeting of the first session of Congress, shall be cut off from receiving any compensation whatever. It may be an unjust provision. I think the law is defective in that respect. But the law is clear and distinct upon this point. This appropriation is directly in conflict with that law; and the Committee of Ways and Means are of the opinion that we had better live up to the law. They do not think this is the proper place to change that law, and they, therefore, recommend a non-concurrence in the amendment of the Senate. I will add, that if this amendment of the Senate be concurred in, the motion of the gentleman from Indiana will be precisely in point. It makes provision in the case of deceased Senators, and if payment is to be made in favor of Senators who died previous to the first session of Congress, the same should be the case as regards deceased members.

Mr. NIBLACK. It may, perhaps, be not inappropriate that I should say that there is now a resolution before the Committee on Mileage, which they will report upon soon, meeting all these cases.

Mr. J. GLANCY JONES. I think the reform would be a good one, but inasmuch as it is not now the law, I object to the amendment.

Mr. KEITT. I have only a word to say on this matter. I was as much opposed to changing the compensation act as the gentleman from Pennsylvania or anybody else, but I think he assumes in his argument the question in issue. The first session of the Thirty-Fifth Congress was the first session held after the expiration of the Thirty-Fourth Congress—the first session held after the 4th of last March. The President of the United States did call the Senate in extra session. Those whose terms expired on the 4th of March went out at that time, and the incoming members came in at that time and were sworn in. Was that a continuation of the old session? If so, how did you get rid of the old Senators and put new ones in?

Mr. J. GLANCY JONES. The phraseology of the act is "the first session of Congress." A session of the Senate alone is not a session of Congress, but a session of the Senate.

The question was taken upon concurring in the Senate amendment, and it was not concurred in.

Sixteenth amendment:

For continuing the extension of the Treasury building, \$500,000.

Mr. J. GLANCY JONES. I wish to say that the Senate amendments, sixteen to twenty-two inclusive, embrace the custom-houses, which we had formerly before the Committee of the Whole on the state of the Union, and, if it is the pleasure of the committee, they may as well be considered together.

Mr. BRANCH. I ask for a vote, severally, upon the amendments.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in this amendment of the Senate.

Mr. SMITH, of Virginia. Is there any other provision for the Treasury building?

Mr. J. GLANCY JONES. There is none. I will repeat, once for all, that the estimates for these matters were not sent in to us by the Secretary of the Treasury until towards the close of the session. They were sent to the Committee of Ways and Means. We had already passed

over the bill to which they properly belonged. The Committee of Ways and Means rejected them as amendments to their own bill. They were presented when this bill was under consideration in Committee of the Whole on the state of the Union. The committee did not sustain them, or, if they did, the House did not, and they were rejected. The bill then went to the Senate, and the Senate adopted them as an amendment to the bill. The amendment is precisely what the House voted down before.

Mr. SMITH, of Virginia. I propose to amend the Senate amendment by striking out "\$500,000," and inserting "\$250,000."

I offer the amendment in the hope that the House will concur to the extent of my amendment in the amendment of the Senate. I understand, from official sources, that there are contracts now existing for the supply of materials, founded upon the expectation that some appropriation would be made. I presume that the sum I have indicated will cover that, and keep a moderate force at work upon the building. It is with that view that I offered the amendment; and I hope the committee will agree to it.

Mr. STANTON. It will be observed, according to the statement of the chairman of the Committee of Ways and Means, that this is one of a series of appropriations amounting to \$1,700,000, as I understand, including various custom-houses, light-houses, and things of that sort. I desire to say, and hope the committee will understand, that it is not absolutely necessary, if this amendment is adopted or rejected, that all the other amendments which are proposed should follow it. There is no gentleman here who doubts that the Treasury building is to be completed. There are various propositions in this amendment which will require, in all, \$1,700,000 for useless custom-houses, and things of that sort, which I hope never will be completed. It seems to me that it would be wise for the House to adopt such of them as are indispensable.

I therefore hope and desire that the committee will adopt the amendment now under consideration, and not suffer it, by going to a committee of conference, to carry after it an appropriation of \$1,700,000; for that will be the result if this amendment is rejected.

Mr. EUSTIS. I think the gentleman from Ohio labors under a misapprehension. This amendment, as I understand, is separate from the other amendments and provisions of the bill which I had the honor to offer some time since. The only amendment now before the committee is the amendment of the Senate making appropriations for the Treasury-building extension.

The question was taken on the amendment offered by Mr. SMITH, of Virginia; and it was not agreed to.

Mr. BRANCH. I have an amendment, which I desire to have read.

The amendment was read, as follows:

Provided, That the sums hereby appropriated for public buildings shall be expended after the sums heretofore appropriated for public buildings have been expended, and not before.

Mr. WASHBURNE, of Illinois. Does not that change the existing law? I make the point of order.

The CHAIRMAN. The amendment of the gentleman from North Carolina is not in order here.

The question was taken on the Senate amendment, and it was concurred in.

Seventeenth amendment:

For continuing the work on the custom-house at New Orleans, Louisiana, \$300,000.

Mr. STANTON. I would inquire what is the state of the civil war down there?

Mr. EUSTIS. That is a matter on which we are not perfectly informed.

The CHAIRMAN. The Chair is of opinion that the question of civil war in New Orleans is not in order.

Mr. EUSTIS. It has not much to do with the question. I hope the committee will give us the money for the custom-house, and we can settle the war afterwards. I call for tellers.

Tellers were ordered; and Messrs. JOHN COCHRANE and BUFFINGTON were appointed.

The committee divided; and the tellers reported—ayes 80, noes 40.

So the amendment was concurred in.

Eighteenth amendment:

For continuing the work on the custom-house at Charleston, South Carolina, \$300,000.

Mr. J. GLANCY JONES. I suggest that the vote be taken on all these amendments in gross. They rest on the same basis.

Mr. MILES. I hope the vote on this amendment will be taken separately, as was the case with the New Orleans custom-house.

The question was taken; and the amendment concurred in.

Nineteenth amendment:

For the completion of custom-houses at the following places, namely: at Ellsworth, Maine, \$2,000; at Portsmouth, New Hampshire, \$30,000; at Bristol, Rhode Island, including fencing and grading, \$5,000; at New Haven, Connecticut, \$60,000; at Oswego, New York, \$10,000; at Plattsburg, New York, \$10,000; at Newark, New Jersey, \$10,000; at Norfolk, Virginia, \$30,000; at Pensacola, Florida, \$5,000; at St. Louis, Missouri, \$20,000; at Mobile, Alabama, including fencing and paving, \$30,000; at Galena, Illinois, \$10,000; at Milwaukee, Wisconsin, \$10,000; and for annual repairs at custom-houses, \$15,000.

Mr. HATCH. I offer the following amendment to the amendment:

That the Secretary of the Treasury be, and is hereby, authorized, if, in his judgment, the public service should require it, to purchase a suitable site, and erect thereon a fire-proof building, in the city of Buffalo, State of New York, for the uses of a custom-house and its Federal offices: *Provided*, That the cost of said site and construction of said buildings shall not, in their aggregate, in any event exceed the amount of the unexpended balance of the appropriations heretofore made for the enlargement of the public building in Buffalo erected for custom-house, post office, United States courts, and steamboat inspectors' board.

I ask the Clerk to read the passage which I have marked in the report on finances, which explains the amendment.

Mr. SMITH, of Virginia. I rise to a question of order on that amendment. It is entirely new matter.

The CHAIRMAN. The Chair is disposed to hear the explanation of the amendment. If the Chair understands the matter correctly, money has been appropriated for the erection of certain buildings at Buffalo, and this is a proposition to amend or change that law—I do not know to what extent.

Mr. HATCH. The money has been already appropriated.

The Clerk read the extract from the report on finances, as follows:

Buffalo, New York.

The building designed to be used as a custom-house, post office, and United States court is rapidly drawing to a close, and it is hoped that it will be completed this year. This building is of the same material as the one at Cleveland, and shows remarkably well.

Congress at its last session, after this building was far advanced, made an additional appropriation for enlarging it by the addition of an L. This addition could be made only in one direction, and the price asked for the required land was deemed extortionate, and nothing has yet been done to carry out the wishes of Congress. The original purchased corner lot, one hundred and forty feet by one hundred and twenty-five feet, cost \$40,000; the lot offered for the enlargement is not a corner lot, and is thirty-six feet by one hundred and thirty-two feet, and the price asked (\$25,000) being more than double the price per superficial foot of the original corner lot. As this enlargement is designed for the custom-house, and as the business of that office can be more conveniently done near to the harbor, (the present site being nearly in the center of the city,) and as a suitable lot can be procured for less than half the sum asked for that adjoining the present site, and a building better suited for the purpose can be put up for less money, I respectfully suggest the propriety of requesting Congress to authorize the change.

Total amount of appropriation.....	\$20,800 00
Amount expended to September 30, 1857.....	139,737 11

Balance available for the completion of the work	\$151,062 89
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Mr. HATCH. I asked that the statement from the report of the Secretary of the Treasury should be read, as it would explain fully the object of the amendment. The last Congress has decided the question of the enlargement in the view I take of this question, and the imperative duty of the Secretary is to carry out that law until Congress shall release him from its obligations or invest him with a further discretion. The commercial men of Buffalo have unanimously asked that the money appropriated for the enlargement should be expended in the purchase of a new site, and one convenient to their business. All there is, then, of this question, is whether this money shall be expended in a manner in conformity to their wishes and commercial convenience, or expended against their wishes and at a point inconvenient for their business. I will not detain the committee by adding statistics to show the neces-

sity for enlarged commercial convenience in Buffalo. No inland city surpasses it in the value of her imports and exports, and but few cities on the sea-board surpass her in the arrival and departures of a lake marine. The registered and enrolled tonnage is something over one hundred and thirty thousand, about one third of all the tonnage of the northern and northwestern lakes. I hope the amendment will pass, as it appropriates no more money; it only proposes to have a past appropriation expended in a manner most advantageous to secure the objects for which the original appropriation was made, and that was to promote the public interests by promoting the convenience of our commercial men.

Mr. SMITH, of Virginia. I rise to a question of order. The law now in existence provides for the erection of this building at a particular spot. This amendment proposes to transfer the building to another spot. I take this occasion to say, in order to show the rigid economy that the Secretary of the Treasury is now carrying into practice, that we have a little custom-office down at Alexandria.

Mr. WASHBURNE, of Illinois. Do I understand the amendment to have been received as in order?

The CHAIRMAN. The Chair has not yet decided upon the amendment. The Chair sustains the question of order, and decides the amendment to be out of order.

Mr. TAYLOR, of New York. I take an appeal from the decision of the Chair.

The question was taken; and the decision of the Chair was sustained.

Mr. MORRIS, of Illinois. I submit the following amendment:

For the erection of a building suitable for a post office and custom-house at Quincy, Illinois, \$25,000 be, and the same is hereby, appropriated.

Mr. J. GLANCY JONES. I submit the question of order, that this amendment is to provide for the construction of a new building not authorized by law.

The CHAIRMAN. The Chair sustains the question of order.

Mr. MORRIS, of Illinois. I then submit the following amendment:

For completing the court-house and post office at Springfield, Illinois, \$30,000.

I offer this amendment in behalf of my colleague, [Mr. HARRIS,] who is not now present. Fifty thousand dollars have already been appropriated for the purpose of erecting that building; but, from the bids which have been received, at the Department, it has been determined that that sum is not sufficient, and a further appropriation of \$50,000 is recommended. The Treasury Department is waiting for a further appropriation before they enter into a contract for the construction of the building.

Mr. LETCHER. I see there has been appropriated \$61,000 for a court-house and post office in Springfield. They have expended \$6,000 for a site, leaving \$55,000 to construct the building with. Well, sir, I think that is enough to build a very respectable court-house and post office.

Mr. MORRIS, of Illinois. There is a report from the Secretary of the Treasury, in which it is stated that the amount appropriated is not sufficient to construct the building, and a further appropriation is recommended. This is a matter in which my colleague feels considerable interest, and I hope it will be allowed.

Mr. SMITH, of Virginia. I move to strike out "\$50,000," and insert "\$10,000."

The CHAIRMAN. No further amendment is, at this time, in order.

The amendment to the amendment was not agreed to.

The amendment of the Senate was concurred in.

Twentieth amendment:

For the completion of marine hospitals at the following places, namely: at Portland, Maine, \$3,000; at St. Mark's, Florida, \$2,500; at New Orleans, including filling up site, grading, introducing gas and water pipes and fixtures, and fencing, \$55,000; at Cincinnati, Ohio, \$30,000; at Galena, Illinois, \$5,000; and for annual repairs at marine hospitals, \$15,000.

Mr. BRANCH. I move to amend that amendment. It provides for public buildings, and I suppose that an amendment regulating the ap-

propositions for public buildings is in order. I move to amend by adding the following:

Provided, That the sums hereby appropriated for public buildings shall not be used until sums heretofore appropriated for similar purposes have been expended.

Mr. WASHBURNE, of Illinois. I submit whether that amendment is in order?

Mr. BRANCH. It is to carry out an existing law.

Mr. WASHBURNE, of Illinois. It is extending the existing law.

Mr. BRANCH. It is only extending the appropriations in this bill.

The CHAIRMAN. The Chair gives it a different construction, and rules the amendment out of order.

Mr. BRANCH. I take an appeal from that decision, and I wish to submit a remark or two upon that appeal.

The CHAIRMAN. Debate is not in order. Mr. STANTON. I presume the Chair bases his decision upon the use of the word "similar." If the gentleman should change it to "same," I do not see how the amendment could be out of order.

Mr. BRANCH. That would not answer my purpose.

The CHAIRMAN. The Chair rules the amendment out of order; from which decision the gentleman takes an appeal.

The question being, "Shall the decision of the Chair stand as the judgment of the committee?" the question was put; and it was decided in the affirmative.

So the decision of the Chair was sustained, and the amendment ruled out of order.

The Senate amendment was then agreed to.

Twenty-first amendment:

Insert:

For fencing, grading, paving, and furnishing the custom-houses at the following places, namely: at Ellsworth, Maine, \$3,000; at Bath, Maine, (for furniture alone,) \$1,100; at Burlington, Vermont, \$4,600; at New Haven, Connecticut, \$8,500; at Oswego, New York, \$7,300; at Plattsburg, New York, \$9,900; at Newark, New Jersey, \$5,200; at Alexandria, Virginia, \$3,700; at Norfolk, Virginia, \$12,000; at Mobile, Alabama, (for furniture alone,) \$2,600; at Pensacola, Florida, \$2,500; at St. Louis, Missouri, \$14,600; at Louisville, Kentucky, \$3,900; at Cleveland, Ohio, \$7,100; at Galena, Illinois, \$3,700; at Milwaukee, Wisconsin, \$7,700.

Mr. SMITH, of Virginia. I desire to inquire of the chairman of the Committee of Ways and Means if any estimates have been made for these various improvements?

Mr. J. GLANCY JONES. There have been estimates made for every item in this amendment. They were submitted to the Committee of Ways and Means at a very late day of the session. It was owing to a misapprehension that they were not sent in at an earlier day.

Mr. SMITH, of Virginia. I was not aware of the existence of the estimates, and that was the reason that I made the inquiry. I was seeking information with a view of shaping my course.

Mr. PALMER. I offer the following amendment:

After the following: "Plattsburg, New York, \$9,900," add:

Three thousand dollars of which sum, or so much thereof as may be necessary, shall be expended under direction of the Secretary of the Treasury, for purchasing adjoining land for the custom house site at Plattsburg, which land is particularly described in the memorial of the trustees and citizens of said town.

Mr. LETCHER. I raise a point of order on that amendment.

The CHAIRMAN. The Chair rules the amendment out of order.

Mr. LETCHER. I move to amend, by striking out the words, "fencing, grading, paving, and," so that it will read:

For furnishing the custom-houses, &c.

It seems that these custom-houses can be used very well as they now are, if furnished, without entailing upon the country the expense at this time of grading and inclosing the grounds. I think that expense can be well dispensed with until better times. If we put them in a condition that they can be used, that ought to be satisfactory for the present.

Mr. ARNOLD. The appropriation is for fencing, grading, paving, and furnishing; and the whole amount appropriated is only about one hundred thousand dollars for all. I hope the amendment of the gentleman from Virginia will not be agreed to.

The amendment was not agreed to.

The Senate amendment was concurred in.

Twenty-second amendment:

Insert:

For fencing, grading, paving, and furnishing the marine hospitals at the following places, namely: at Burlington, Vermont, \$3,400; at Chelsea, Massachusetts, (out buildings, grading, and fencing,) \$19,700; at St. Mark's, Florida, \$1,900; at Detroit, Michigan, \$7,500; at Galena, Illinois, \$3,800; at Burlington, Iowa, \$4,100.

Mr. LETCHER. I propose an amendment, to come in at the end of the twenty-second amendment, as follows:

Provided, That the said sums for public buildings, enumerated in the Senate's amendment, from sixteen to twenty-two inclusive, shall be raised by a loan, to be negotiated by the Secretary of the Treasury, at a rate of interest not exceeding six per cent., and redeemable at any time within ten years.

It seems to me that, inasmuch as we have gone on and appropriated nearly eighteen hundred thousand dollars for these improvements, and for the completion of public buildings, it is but right and proper that the House should take upon itself the burden of raising the means necessary to accomplish these objects. Now, sir, we have heard a good deal of complaint about the \$15,000,000 loan, which was not estimated for with reference to the appropriations embraced in these Senate amendments.

Mr. HOWARD. Was not the \$15,000,000 loan estimated for with reference to those amendments of which the gentleman is now speaking? They were recommended by the same Secretary.

Mr. LETCHER. I do not imagine that it was so estimated for.

Mr. BLAIR. Is the amendment of the gentleman from Virginia in order?

Mr. LETCHER. The gentleman is too late with his question of order.

Mr. BLAIR. It is soon enough, however, to save the gentleman a speech.

The CHAIRMAN. The Chair thinks the amendment is not in order.

Mr. LETCHER. How did the gentleman get the floor to raise a point of order?

The CHAIRMAN. The gentleman is entitled to raise the point of order, and the Chair rules the amendment out of order.

Mr. LETCHER. Do I understand that the gentleman does not wish to provide the means for paying this appropriation?

The Senate amendment was concurred in.

Twenty-third amendment:

Insert the following:

To enable the Library Committee to complete the payment for a series of portraits of the Presidents of the United States, contracted for under authority of Congress, and for framing the same, \$5,000.

Mr. J. GLANCY JONES. This is an installment due under a law of Congress providing for the painting the portraits of the Presidents of the United States, and the Committee of Ways and Means recommend a concurrence in the amendment.

The amendment was concurred in.

Twenty-fourth amendment:

Insert:

For paying the expenses of the commissioners appointed, in pursuance of the joint resolution of the 23d of February, 1857, to inquire into and test the processes of J. T. Barclay for preventing the counterfeiting of the coins of the United States, in addition to the sum appropriated by said resolution, \$800.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a concurrence in this amendment. It was for services rendered to the Government in reference to detecting the counterfeiting of coin.

The amendment was concurred in.

Twenty-fifth amendment:

For printing ordered by the Senate and House of Representatives during the Thirty Third and Thirty Fourth Congresses, and paper for the same, \$80,000.

Twenty-sixth amendment:

For binding documents ordered to be printed by the House of Representatives during the Thirty Third and Thirty Fourth Congresses; and for engraving, lithographs, and electrotypes for the same, \$123,000.

Twenty-seventh amendment:

For binding documents ordered to be printed by the Senate during the Thirty Third and Thirty Fourth Congresses; and for engraving, lithographs, and electrotypes for the same, \$113,000.

Mr. J. GLANCY JONES. I have a short explanation to make of these amendments. Early in the session the Committee of Ways and Means recommended, through the gentleman who now

occupies the chair in this committee, a deficiency bill, and the House disagreed to it. Subsequently a bill was reported to the House omitting everything in relation to books, and subjecting that to the examination of the Committee on Printing. The Joint Committee on Printing, after a careful examination as to how many books could be dispensed with, reported unanimously a resolution requiring the amount of work to be done for which these appropriations are made. In the House, the resolution was sustained by a large majority. Every dollar, therefore, that is appropriated here is to fulfill contracts. The books ordered were reduced to the very lowest point that could possibly be got along with. Both the House and the Senate have concurred in the report of the Joint Committee on Printing, and the Senate have put in these amendments to carry out that report. Unless you wish to repeal the act which was passed the other day, the money must be appropriated.

Mr. NICHOLS. I propose to amend by reducing the amount one dollar. I do it for the purpose of saying to the committee that it makes no difference whether this money is appropriated now or at another time. It must be appropriated, for almost the entire work has been done, and the money is due for it; and I do not suppose that anybody in the House wants to go into practical repudiation. I submitted a report some time ago which cut off every dollar of this work that could be cut off with use or propriety; and the simple question now presented is—will you pay, or not pay, your debts?

The question was taken on the Senate amendments; and they were severally concurred in.

Twenty-eighth amendment:

To enable the Secretary of the Interior to complete the digest of the statistics of manufactures, according to the returns of the seventh census, \$35,000.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend an amendment to the amendment, as follows:

But the work is not to be undertaken except the Secretary of the Interior shall be satisfied that the sum hereinbefore mentioned will complete the work.

Mr. GARNETT. It fell accidentally in my way, Mr. Chairman, to make some inquiry in relation to this subject; and from what I have learned, I think the committee ought to strike out the whole amendment of the Senate. It is but two years till the taking of the next decennial census. These statistics will be published very little in advance of that census, and will be of very little use, except as a standard of comparison with that census. In fact, if it were now published, they would give a very inadequate idea of the present condition of manufactures, being published eight years after the statistics were taken. If instead of publishing this digest now, you delayed the publication until the next decennial census is taken, and then direct them to be published, along with the results of that census, in tabular form, they will show at one glance the comparative condition of manufactures in 1850 and 1860; and the publication will cost nothing, or next to nothing; while, if published now, it will cost from three to five thousand dollars, and will be almost worthless. I therefore submit whether it would not be better to strike out the whole amendment.

The question was taken on the amendment to the amendment; and it was agreed to.

Mr. BRANCH. Is this appropriation to print them, or only to prepare them?

The CHAIRMAN. The amendment merely provides for completing the compilation.

The amendment of the Senate, as amended, was agreed to.

Twenty-ninth amendment:

For making the necessary repairs to the jail in Washington city, and putting venetian blinds to the windows of the same, \$240.

Mr. J. GLANCY JONES. The appropriation for the venetian blind is necessary, because the windows of the jail look out upon the public streets, and citizens passing by are insulted by the prisoners, not only in language, but by indecent exposure of the prisoners.

Mr. PEYTON. I move to reduce the appropriation to one dollar, and I will say that I think it is entirely useless to appropriate a solitary dollar to fixing up that old jail. The only thing that can, or ought to be done with it, is to tear it down and build a new one. I went and examined it in

company with one of my colleagues on the Committee on Public Buildings and Grounds, and the building is really not fit for a jail. I think it is useless to spend money in fixing it up when you will be compelled to build a new one in a very short time. But for the condition of the Treasury, we should have recommended the building of a new jail at once, and I hope the committee will not appropriate a dollar for this old building.

Mr. J. GLANCY JONES. I ask for the reading of the letters which I send to the Clerk's desk, which explains the necessity for this appropriation.

The Clerk read the letters, as follows:

OFFICE OF THE COMMISSIONER OF PUBLIC BUILDINGS,
April 24, 1858.

SIR: In compliance with the resolution of the Senate's Committee on the District of Columbia of the 21st instant, requesting me to furnish estimates "for making necessary repairs to the jail in Washington city, and for putting venetian blinds before the windows of the same," so as to obstruct the view from the inside of the prison, without excluding the light or ventilation, I respectfully transmit to you herewith an estimate prepared by Edward Clark, Esq., the architect superintending the erection of the Patent Office building.

Mr. Clark accompanied me to the jail, and we made a thorough examination of it, and agreed upon such repairs as in our judgment were necessary to carry out the purposes of the resolution.

Very respectfully, your obedient servant,

JOHN B. BLAKE, Commissioner.

Hon. A. G. BROWN, Chairman Committee on the District of Columbia, United States Senate.

WASHINGTON, April 23, 1858.

SIR: I have the honor to submit the following as the estimated cost of the outside blinds, and other necessary repairs at the jail in this city.

Blinds to thirty-two windows..... \$640
Brickwork, &c. to windows, floors, chimneys, &c.... 200

\$840

Very respectfully your obedient servant,

EDWARD CLARK, Architect.

J. B. BLAKE, Esq., Commissioner of Public Buildings.

Mr. PEYTON. I withdraw my amendment to the amendment.

Mr. REAGAN. I move to reduce the appropriation \$500. I do it for the purpose of calling the attention of the committee to the fact that it is proposed here to make an appropriation to repair a prison in the city of Washington, and of propounding the question to the committee, whether we are to appropriate money out of the national Treasury to take care of the criminals of the city of Washington? What connection has it with the administration of the affairs of this Government? What right have we to legislate upon such a subject?

Mr. J. GLANCY JONES. I would remind the gentleman from Texas that Congress is the Legislature of the District of Columbia.

Mr. REAGAN. I understand that very well.

Mr. J. GLANCY JONES. The county of Washington is the District of Columbia.

Mr. REAGAN. I understand that also.

Mr. J. GLANCY JONES. And we appropriated the money to build the jail.

Mr. REAGAN. I understand that too; and that is what I am objecting to. We legislate for the city of Washington; but the mistake which runs through all our legislation in regard to it is the supposition that the power of legislating for the city involves the power and necessity of appropriating money. We improve their streets; we construct their water-works; we not only erect the buildings necessary for the public convenience in the city of Washington, but we legislate for the benefit of the people here. We appropriate money for purposes which have no connection whatever with the Government. We should give this city a charter; we should invest them with power to deal with their criminals and punish them as they see proper at their own expense. If they need a prison, let them build a prison; give them authority to do it, but do not call upon the Federal Treasury to defray expenses of this character.

Mr. J. GLANCY JONES. That jail does not contain a single prisoner except those sent there by the United States, convicted and condemned by judges appointed by the General Government.

Mr. REAGAN. Is there a separate prison for their own convicts?

Mr. J. GLANCY JONES. No, sir.

Mr. REAGAN. Well, that does not make the case any better.

Mr. J. GLANCY JONES. The gentleman from Texas is aware that the people of this District have no voice at all in this Government. The Congress of the United States legislates for them without their control or consent, and they have to submit to our legislation.

Mr. REAGAN. I am willing to legislate for them in everything that we ought to do; but I protest against this plan of appropriating money for every conceivable object. If they cannot take care of their prisoners, let them turn them loose. It is not our business to take care of them. If a prison is necessary for members of Congress or other officers of the Government, let us build a jail for their benefit; but if the people of Washington want to convict and punish their criminals, let them build a prison for themselves. We can give them the necessary power to do it; but I see no reason why we should build a prison, and take care of convicts for the city of Washington.

Mr. J. GLANCY JONES. The city of Washington have a prison of their own, called the work-house, where they send their prisoners. This jail contains none but prisoners of the United States. The judges are appointed by the authority of the United States; the prisoners are tried by the United States; the jail was built by the United States. This appropriation of \$840 is necessary for repairs, and for putting blinds to the windows, not for the convenience of the prisoners, but to keep them from exposing themselves in an unseemly manner to persons passing in the streets. This building was built and is owned by the United States, and is occupied by prisoners of the United States.

Mr. REAGAN. Are they held to be prisoners of the United States because they are convicts in the District of Columbia?

Mr. J. GLANCY JONES. Under the laws of the United States.

Mr. REAGAN. Precisely; because they are in the District of Columbia, they are convicts of the United States. That is a strange argument. I withdraw my amendment.

Mr. NIBLACK. I offer the following amendment:

For the protection of the marine hospital at Evansville, Indiana, from the encroachments of the Ohio river, \$7,000.

Mr. J. GLANCY JONES. Is that amendment in order?

The CHAIRMAN. The Chair thinks it is not germane to the amendment of the Senate under consideration, and decides that it is not in order.

The amendment of the Senate was concurred in.

Thirtieth amendment:

For the extension of the court-house portion of the City Hall so as to provide necessary and suitable accommodations for the several courts of the District of Columbia, including furniture, heating apparatus, inclosure, and other necessary improvements, \$30,000: *Provided*, That no obligation shall be incurred, or contract entered into, which looks to any increased appropriation by the United States for said purpose.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in that amendment.

The amendment was not concurred in.

Thirty-first amendment:

To pay the draughtsman employed by the Committees on Public Buildings and Grounds of the two Houses of Congress, for drawings and calculations furnished, and incidental expenses defrayed by him during the last and present sessions of Congress, \$528.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in that amendment. I will state that this is an appropriation for a draughtsman employed by the Senate in relation to the public grounds around this Capitol. The Committee of Ways and Means thought this work was not necessary and expedient at this time, and they therefore recommend a non-concurrence.

Mr. MORGAN. I understand that this gentleman has already made these drawings and plans. The work was ordered by the Senate committee, and he has already performed it.

Mr. J. GLANCY JONES. I believe that is the fact; but if the work has been done, it has been done without authority of law.

Mr. MORGAN. It has been done by the authority of the Senate committee who have employed him, and I think it no more than just that he should be paid.

Mr. WASHBURN, of Illinois. I wish to

ask the gentleman from New York if this work has been useful to the committee? I believe he is a member of the Committee on Public Buildings and Grounds.

Mr. MORGAN. Certainly; they could not have done anything whatever without it. I think it is a very just claim and ought to be paid.

Mr. NICHOLS. I will merely state that I know this work has been done. I know the gentleman who has been engaged in the work. He was, as has been said, employed by the Senate committee. I see no impropriety whatever in paying this man for the work which has been done.

The amendment was concurred in.

Thirty-second amendment:

For satisfying the claims of the States of Maine and Massachusetts, under the stipulation of the treaty between the United States and Great Britain, concluded on the 9th day of August, in the year 1842, a sum not exceeding \$1,493 81 in satisfaction of such claims of the State of Maine; and \$9,215 13 in satisfaction of like claims of the State of Massachusetts; to be audited by the proper accounting officers of the Treasury.

Mr. J. GLANCY JONES. This amendment, made by the Senate, grows out of the treaty relative to the northeastern boundary between the United States and Great Britain. It provides for expenses arising out of what is familiarly known as the Aroostook war. The difficulty arose some years ago. I presume the House is familiar with the facts. The people of Maine and Massachusetts took issue with the people of Canada and the British provinces, and finally involved the Governments of the United States and Great Britain. An invasion followed. A considerable amount of expense was incurred. Subsequently a treaty was negotiated and ratified by the two Governments. In that treaty provision was made that the United States should reimburse to these States the amount of money that they have expended. There is another amendment which will come up presently, growing out of the same war and same issues. Now, the difficulty is to get precisely at the merits of the case in this form. The States of Massachusetts and Maine preferred their claims to the United States; they were recognized, settled, adjusted, and paid. After a number of years the State of Massachusetts presented a balance of an unsettled claim. It may be meritorious, but instead of its being presented to Congress through the regular channels, so that we could examine it, turn to the treaties and laws, and have a report from the Department showing the basis of a settlement, it is put upon the miscellaneous bill as a Senate amendment. We have no facts, no statistics, so that we are at a loss to get at the merits of the case. I am not prepared to say there is no merit in it; but the *prima facie* evidence is against it; for where these accounts are once settled and adjusted they ought not to be reopened. The Committee of Ways and Means therefore recommend a non-concurrence in the amendment.

Mr. WASHBURN, of Maine. The gentleman is mistaken in saying that this matter has never been settled. What is reported in this amendment is simply paying in full, claims which have been recognized by Congress heretofore, and paid in part. A letter was communicated to the Senate, as I have been informed, from the Department of State, showing that the items which make up this amount are of the character I have described—that is, are parts of a claim which Congress has already recognized, and of which the proofs had not before been presented. The Government is under a treaty obligation to pay these very expenses, and this appropriation covers them. The gentleman from Pennsylvania does not deny that if they are due the Government is bound to pay them. The Department had the facts and reported them to the Senate, and the Senate unanimously, I think, made this appropriation. And, besides, let me state that the States of Maine and Massachusetts did come here early in the session with their claim, and that it was referred to the Committee on Foreign Affairs of this House, and they reported unanimously in favor of it; and I have the bill and report in favor of it in my hand. It has passed through a committee in each branch of Congress, and I understood that it was agreed to by the Committee of Ways and Means on Saturday last.

Mr. J. GLANCY JONES. Why did not the Committee on Foreign Affairs report it before?

Mr. WASHBURN, of Maine. They did re-

port some time ago, and their report was referred to the Committee of the Whole on the state of the Union.

Mr. J. GLANCY JONES. I desire to inquire whether the States of Maine and Massachusetts did not at some former period settle and adjust these claims with the Government of the United States?

Mr. WASHBURN, of Maine. Those States were to be indemnified for their expenses and losses, and as fast as they could ascertain and pay them, they have come to Congress, and Congress has uniformly reimbursed them.

Mr. J. GLANCY JONES. Why were they not at that time included in the settlement?

Mr. WASHBURN, of Maine. I have already stated. They have been presented at various times, some two, some four, some eight, and some ten years, after the treaty was made. As soon as they were investigated, ascertained, and paid by the State authorities, they have been presented here.

Mr. J. GLANCY JONES. Will there be another claim then, the next year, or at some future time?

Mr. WASHBURN, of Maine. I understand that this appropriation embraces all the balances which the States have paid up to this time. Whether there are any other claims for which the States will be liable, and which will be presented here, I do not know, and I do not care. If there have been other expenses and losses which the States are liable to pay, and for which the Government has agreed to indemnify and reimburse them, why then let the Government do it.

The State Department, as I have said, have examined these vouchers; they have stated that they are of the same character that the Government has recognized before, and which have been paid without objection.

Mr. MAYNARD. I desire to inquire whether this sum mentioned is to reimburse expenses incurred in carrying on this Aroostook war? or whether it is interest on the sum which the State of Maine lost?

Mr. WASHBURN, of Maine. It is not for interest. It is for money expended in or on account of the war. The Committee on Foreign Affairs of the House state in their report, that—

"Part of the money now claimed by the said States is for expenses incurred in the fulfillment of the said fourth article of said treaty, and as the obligation in the article was incumbent on the United States, the committee are of opinion that the United States are bound to pay to the said States the amount expended by them as aforesaid."

"By the fifth article of said treaty, the United States agreed to pay to Maine and Massachusetts all claims for expenses incurred by them theretofore in protecting the disputed territory. The remaining claims of those now presented by Maine and Massachusetts arise under this fifth article, and, in the opinion of the committee, they ought to be paid by the United States."

"Appropriations to the said States, for claims similar to those now presented, and arising under the said treaty, have heretofore been made by Congress, and the validity of the claims has been uniformly recognized by the United States."

[Here the hammer fell.]

Mr. LETCHER. I propose to reduce the amount \$2,000. I want to make some inquiries about this matter. I understood the gentleman from Maine to state in his remarks, that this sum covered some controversies growing out of land titles.

Mr. WASHBURN, of Maine. I stated that Maine and Massachusetts were obliged, under the treaty, to set apart certain lands to the settlers, and that they run through a number of years; and this is intended, in part, to pay the commissioners appointed by the States in virtue of the treaty to carry out that provision.

Mr. LETCHER. As I understand it, these commissioners have been in session for a considerable time. Will the gentleman from Maine inform us how long this commission has been sitting?

Mr. WASHBURN, of Maine. There have been two sittings; I do not know how long they were; I presume the commissioners have not been in session for more than a year, or perhaps not more than six months in all. The gentleman, if he desires, can find the items in a statement from the Department to the committee of the Senate.

Mr. LETCHER. I have been looking there, but do not see the items. I have never seen the items at all, and have been perfectly in the dark in regard to them. I have seen nothing but the general statement made in the Senate, in the prog-

ress of the debate, that this claim was "all right." That is about all the information we can get in relation to it. It is some considerable time since this war ended and since this claim sprung up, and if one part of these claims was adjusted, it seems to me that all might have been adjusted on that score, settled long since, and the Government relieved from all liability on that account.

Mr. MAYNARD. I would inquire if this is not the same case that was before the House, and was referred to the Committee of Claims, and on which that committee reported a bill? I know that one member of the committee [Mr. MOORE] was instructed to make such a report.

Mr. LETCHER. I do not know that this is the same claim; but, if it be, so much the stronger reason why we should not put it into this appropriation bill, for it is nothing more or less than a private claim, and should be examined as all other claims are, referred to a committee, thoroughly examined, and fully reported upon. I am obliged to my friend from Tennessee for his suggestion. I think that that suggestion is entitled to some weight in the decision of the question.

Mr. GROESBECK. This is a claim which was referred to the Committee on Foreign Affairs, and by that committee the items making up this claim were examined. We were advised by the Department of what these items consisted. We examined the validity of the claim under the treaty, and we allowed it; allowing interest from the time the payment was made by the States. I have no doubt the claim is entirely just.

Mr. J. GLANCY JONES. I stated in my opening remarks that the claim might be a meritorious one; but what we object to is this mode of legislation. Committees of Congress take up business, and, having arrived at certain conclusions, they make a report, and drop all further proceedings in the matter; and then there is a general effort made to get them into the appropriation bills, and we are brought to act upon them in the shape of an amendment to an appropriation, without examination, and without the documents. No matter how meritorious the claim may be, this system of legislation ought to be frowned upon by the House.

Mr. GROW. I would suggest to the committee that if this is a claim arising under a treaty, then it becomes part of the expenses of carrying on the Government, and does not belong to the class of private claims for services rendered.

Mr. LETCHER. I withdraw my amendment, with the consent of the committee, and propose to reduce the appropriation \$1,500. Both these claims amount in the aggregate to \$20,000. Now, the report of the Committee on Foreign Affairs, in connection with this matter, fixed the sum at \$19,803 33, so that there is a difference of almost one thousand dollars between the amount set in in this amendment to the appropriation bill, and the amount reported as due by the Committee on Foreign Affairs. That bill does not go into particulars. It does not state what items make up this sum of \$19,803. We are furnished with nothing except a general statement that there is that much money due. Now it seems to me that that discrepancy of itself shows the necessity of looking into this matter a little more carefully than it has been examined into as yet. We ought to ascertain the facts by the action of the committee, and by the simple process of debating the matter in the Committee of the Whole House, where the items can be examined one by one, and where the justice or injustice of the claim can be shown. We cannot examine them here. Until the present time I did not even know that this matter had been referred to two committees of this House. The gentleman from Tennessee tells us that the Committee of Claims of this House had the subject in charge, had examined it, and had directed the report to be made.

Mr. MAYNARD. I beg to set the gentleman from Virginia right. My statement was, that the Committee of Claims had had a case before them arising out of the Ashburton treaty, and my inquiry was to know whether it was the same that was embraced in this amendment?

Mr. LETCHER. The thing is just exactly this: Here is my friend from Tennessee who is in doubt himself whether the subject-matter now before this committee was a matter investigated by his or by some other committee. All he knows is, that his committee had the investigation of

some matter growing out of the treaty, and that a member of the committee was directed to report the facts to the House, together with a bill for the relief of the States. But here, again, the gentleman from Ohio [Mr. GROESBECK] arises and calls attention to the fact that the committee on Foreign Affairs, of this House, has had charge of this subject, and has directed a bill to be reported; and when we come to compare the amount of money embraced in that bill with the amount of money embraced in the proposition now before the committee, we find a discrepancy of about one thousand dollars.

Mr. WASHBURN, of Maine. I have but a single word to say in reply to the gentleman from Virginia. Here is a treaty obligation which he does not deny; and which the House does not deny. The amount has been ascertained by a committee of the Senate, and by a committee of the House; and now the question is, whether the Government desires to repudiate the claim or not?

Mr. LETCHER. No, Mr. Chairman; the gentleman will pardon me. There is no such question before the House at all. The difficulty arises out of the fact that you do not know the amount, that the committees differ in relation to it, and that neither of the committees agree with the action of the Senate in the amount stated in this amendment.

Mr. WASHBURN, of Maine. I desire simply to ask the gentleman whether he would have the State of Maine, after she has paid this money in good faith, come here and present her claim, and run her chance of having it passed year after year, when it can be finished in five minutes?

Mr. LETCHER. If the State of Maine has paid the bill, she knows what she has paid, and exactly the sum to which she is entitled.

Mr. GROESBECK. I would simply remark that the discrepancy grows out of the difference of the rules regulating interest. I remember that the Committee on Foreign Affairs was very particular, and cut down the claim as much as possible.

Mr. LETCHER withdrew his amendment.

Mr. JONES, of Tennessee. I move to amend the amendment by striking out "\$9,000."

Mr. Chairman, my understanding about these claims of Maine and Massachusetts is this: the Government paid Massachusetts \$150,000, and Maine \$150,000, for agreeing to the stipulations and provisions of the treaty of 1842; and this Government has heretofore settled and paid the claims of Maine for the troops she called out to defend the boundary when it was in dispute. The claim referred to by my colleague, [Mr. MAYNARD,] and reported, I believe, by him, is to pay certain individuals for lands which they held under Massachusetts, or claim to have held. The treaty provided that lands in that disputed territory, upon whichever side of the line they might happen to fall, should be held by the occupants in possession, provided the possession had been held for six years. Then, sir, there are some of the lands on this side the line that are now in the State of Maine.

Mr. WASHBURN, of Maine. I would say to the gentleman that this claim has nothing whatever to do with lands.

Mr. JONES, of Tennessee. But that is the claim which I understand my colleague reported here from the Committee of Claims; and I cannot see why it is that, after this Government has paid Maine and Massachusetts \$300,000, fifteen or sixteen years after we are to pay for all the lands which have vested under the treaty in those who were holding them under the titles they had from their respective Governments while they were in this disputed territory. Nor can I conceive why it is that this Government should again be required to settle the claims of Maine for her troops, called out to defend what she supposed to be her boundary while it was in dispute.

Mr. WASHBURN, of Maine, obtained the floor.

Mr. MAYNARD. If the gentleman from Maine will permit me, I will say that the claim which was referred to the Committee of Claims and reported on, was an individual claim, and one with which neither Maine nor Massachusetts had anything to do, and is entirely aside and apart from the matter now under consideration. I have not time now to explain it.

Mr. JONES, of Tennessee. I supposed it was different from this one.

Mr. WASHBURN, of Maine. In reply to what the gentleman from Tennessee has said in reference to the \$300,000 paid to Maine and Massachusetts, I will observe that about three million acres of land belonging to those States were ceded to Great Britain by the treaty of Washington. The States of Maine and Massachusetts were very reluctant to yield their assent to that treaty, but it was represented to their commissioners here that great public considerations demanded its ratification; that the advantage of the country would be largely promoted by it; that the line on our whole boundary was to be traced and fixed; that Rouse's Point, which was in dispute, was to be given to the United States, and a considerable strip gained along the whole line west of Maine; that other important disturbing questions were to be settled and peace secured; and Maine and Massachusetts were asked and intreated not to interpose and defeat a treaty which all the country else were in favor of. In a spirit of true patriotism she yielded to these urgent solicitations, and consented to give up a territory half as large as the State of Massachusetts, to which Congress had resolved again and again that her title was "clear and indisputable;" and for yielding it, she was to be paid—what? What the land was worth? No, not one dollar in ten—\$300,000 for what was worth more than \$3,000,000, and the Government agreed besides to pay her expenses for defending the territory, of which this amendment provides for a part. And now the gentleman from Tennessee is giggling about it! Sir, if this is the way Maine is to be now treated, there are, perhaps, not a few of her citizens who would be disposed to ask whether it would not have been better if the whole State of Maine had been given over to Great Britain, or some country not unwilling to act upon the plainest principles of common honesty and justice? [Laughter.]

Mr. JONES, of Tennessee. I just wish to state that every man of those troops called out by Maine to defend that territory, which they said was in dispute, has received one hundred and sixty acres of bounty land from this Government.

The amendment to the amendment was rejected. The question recurred on agreeing to the Senate amendment.

Mr PEYTON demanded tellers.

Tellers were ordered; and Messrs. NICHOLS and BUFFINTON were appointed.

The committee divided; and the tellers reported—ayes 80, noes 56.

So the amendment was concurred in.

Thirty-third amendment:

For defraying the expense of carrying into execution the joint resolution, approved May 11, 1858, "authorizing suitable acknowledgments to be made by the President to the British naval authorities, at Jamaica, for the relief extended to the officers and crew of the United States ship *Susquehanna*, disabled by yellow fever," \$3,000, or so much thereof as may be necessary.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a concurrence in that amendment.

The amendment was concurred in.

Thirty-fourth amendment:

For the payment of three companies of volunteers called into the service of the United States, in Kansas, in 1856, by the order of the Governor of that Territory, \$3,638 14.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in this amendment, for the reason that the facts were presented to us at so late a period in the session we were unable to examine them with much care; and, not having sufficient vouchers to show the authority for calling out these volunteers, we have thought the amendment had better be non-concurred in.

The amendment was non-concurred in.

Thirty-fifth amendment:

For contingent expenses of the Territory, to wit: For miscellaneous items, \$5,500.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in that amendment, for the reason that we do not know what these miscellaneous items are made up of. There were no estimates before us, and I hope the amendment will not be agreed to. The amendment was non-concurred in.

Thirty-sixth amendment:

To John B. Mitty, for compensation as acting secretary

of the Territory of Nebraska during the vacancy created by the death of T. B. Cummings, \$316 35.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a concurrence in this amendment. The acting Governor of Nebraska died, and this is for compensation to the Secretary, who acted during the interim until another Governor was appointed.

The amendment was concurred in.

Thirty-seventh amendment:

For contingent expenses of the Territory of Kansas, \$9,003 75, to be distributed under the direction of the Secretary of State, upon the production of satisfactory vouchers.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in this amendment. The items making up this appropriation have never been presented to the Committee of Ways and Means. What the Senate based the appropriation upon we do not know. It reaches us at a very late hour; it is a pretty large sum of money; Kansas has been in a very disturbed state; and they recommend a non-concurrence in the amendment.

The amendment was non-concurred in. ✓

Thirty-eighth amendment:

For making the surveys of the confirmed private land claims in California, the surveyor general is hereby authorized to pay such sum as he may deem reasonable, according to the circumstances connected with each case, not exceeding at the rate of twenty-five dollars for each mile of the boundary lines of any claim, and also for such lines as may necessarily be run and marked or measured in order to connect the lines of each claim with those of the adjacent public surveys: *Provided*, That the surveyor or surveyors hereafter executing any such survey of a private claim, shall accompany his or their return of such survey with his affidavit that no compensation has been received by him, directly or indirectly, or agreed to be paid to or received by him for the same from any quarter other than the Government of the United States: *Provided*, That it shall be the duty of the surveyor general of California to award each contract to execute such surveys to the lowest responsible bidder, he being a practical surveyor, after reasonable notice, to be published in two newspapers of the largest circulation in the State of California.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in this amendment. There is a law providing for the surveys of the public lands in California, at sixteen dollars per mile. This amendment provides that these lands shall be surveyed at a sum not exceeding twenty-five dollars per mile. The Committee of Ways and Means do not think, in the first place, that this is a proper mode of altering the law. They believe it to be wrong; and, as no reason has been presented to satisfy us that this amendment ought to prevail, we recommend a non-concurrence.

Mr. SCOTT. I move to amend by inserting twenty-six instead of twenty-five dollars per mile. This, sir, is the matter which the gentleman from Texas [Mr. REAGAN] very unexpectedly called up during the general discussion on this bill. I then briefly and hastily replied to his remarks against the amendment of the Senate. The gentleman seemed to take time by the forelock. He did not wait until the amendment was reported to the committee, for fear, I suppose, that he might not have sufficient time under the five-minutes debate to express his views. During these remarks it pleased him to state that if the amendment was adopted by the House it would be productive of fraud, corruption, and venality. I did not know, and I am still at a loss to know, on what ground the gentleman has arrived at that conclusion. Now, sir, that amendment has been read; and as it has become familiar to the House I will say that it is a special law under which there is no liberty, no range given for corruption. And, sir, while I advocate the adoption of that amendment—which I shall do in as brief a manner as possible—I will state, as a reason why the price of these surveys should be fixed at twenty-five dollars a mile, that it is twice as difficult, twice as laborious, and will consume twice as much time to survey the private land claims of California as it will to survey the public domain. Under the law of 1853—the law to which the chairman of the Committee of Ways and Means referred—the price of surveying the public domain in California is fixed at sixteen dollars per mile. Now, sir, you will find there is an increase of only one third instead of double the increase which we should have had, in consideration of more than double the labor and more than double the time being consumed in surveying private lands.

But, sir, I wish to call attention to the fact that

this is not merely an appropriation which is temporary and evanescent in its character, only lasting for a year or eighteen months; but that it is one in which interests great and vital are involved. There is no State in the Confederacy which presents the spectacle that California does, so far as her private land claims are concerned. Our litigations are expensive and ruinous, passing through all the courts of California—first, the land commission; second, the United States circuit and district courts; and then, by appeal here, through the Supreme Court of the United States—and still the claimant gets no title until the patent is issued by the Government. Now, this is an effort to get these claims surveyed, and patents issued; and in doing that, you do not only justice to the land claimants, but you benefit fifteen or twenty thousand honest settlers, who have gone to that State and settled down. I apprehend that if you refuse this appropriation, and put in another sum totally inadequate, you will throw all these matters in regard to the land claims in my State into confusion, and increase this litigation, which is the curse and evil of my State, because the boundaries of these claims are not defined, so that parties litigant do not and cannot know their respective rights.

You cannot charge corruption, because of the simple fact that the surveyor general gives the work out to the lowest responsible bidder. The appropriation is made for certain specific purposes, and he has no more control over the distribution of it than the gentleman from Texas [Mr. REAGAN] has. Then there is nothing in this charge of corruption, fraud, and venality, which the gentleman from Texas makes. If the surveyor general can get his work done cheaper than the amount contemplated in this amendment, it is his duty to do so; but it only puts it within his power to do justice to twenty thousand honest men, by settling claims long in litigation, by enabling them to purchase from these land claimants when their titles are clearly established and their boundaries fully defined. Not only that, but it enables the Government to bring its lands into market, free from all incumbrances, which must necessarily be done before the Government can realize from them.

Mr. KELSEY. I understand the chairman of the Committee of Ways and Means to say that one reason why the committee recommends a disagreement is, that the law already fixes the price of these surveys at fifteen dollars a mile.

Mr. J. GLANCY JONES. For the public lands.

Mr. KELSEY. It seems to me that if we make the appropriation bill conform to the law, it is all we can desire. I therefore move to strike out "twenty-five dollars," and insert "fifteen dollars."

The CHAIRMAN. There is already an amendment pending.

Mr. SCOTT. I withdraw my amendment.

Mr. REAGAN. I move to reduce the amount to sixteen dollars per mile. In the other States of the Union where land titles are litigated, it is usual for persons litigating the title to pay the cost of ascertaining their boundaries; but I understand that where there are litigations of private land claims in California, the Government has undertaken to have them surveyed at the Government's expense. But that matter I will not discuss now. What I want to say is, that I do not see how an increased price paid for surveying the land is to influence the title of those claiming under private grants. I should suppose that sixteen dollars per mile would at least be sufficient to secure a survey. That, I understand, they are entitled to under the law as it now stands, and therefore all that is necessary, is to vote down this Senate amendment, and then they will be left to the operation of existing law. I withdraw my amendment.

Mr. DAVIDSON. I move to increase the amount one dollar. I desire to remark that there is a manifest difference in surveying public lands and private land claims. The public lands are first surveyed, and in their survey they are bounded by straight lines, and the subdivisions are made in the same manner. It frequently occurs that in surveying private land claims, you have six, eight, or ten corners, made in conformity to one grants made by the Mexican Government before the lands became the property of the United States. In doing that it becomes necessary that

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all the corners should be traced and defined; that there should be two separate plats and surveys of every private survey made and furnished by the deputy surveyors to the surveyor general, and by him certified to the office here, that the patent may issue.

Hence there is a manifest propriety in making a difference in the price of surveying and dividing these private land claims from the public domain, and that paid for surveying the public lands. I have seen those private land claims run out into almost every imaginable irregular form. It is, therefore, exceedingly difficult to have the lines properly run, and with that accuracy which will enable the Government to issue patents properly.

In view of all these facts I think the limit of twenty-five dollars per mile is not too great. I think the Government would have done well in making this a matter of consideration long ago. I know instances where the returns were made to the Government thirty years ago, and now they have to be surveyed over again, on account of the inaccuracy of the original surveys. I hope the amendment of the Senate will be agreed to.

I think if the House would take up the subject, and examine the statistics, they would see that there is a manifest difference between the character of the surveys of public lands, and the required subdivision of private land claims from the public lands; and the House would not hesitate for a single moment to make this appropriation. I withdraw my amendment.

The question was taken, and the Senate amendment was concurred in.

Thirty-ninth amendment:

For lithographing and engraving ordered by the Senate during the present session, the sum of \$45,000.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in that amendment, for the reason that we have no details of the work; and besides, we have just passed an appropriation for a large amount of lithographing and engraving.

The question was taken, and the amendment was not concurred in.

Fortieth amendment:

For binding documents ordered to be printed by the Senate during the present session, the sum of \$40,000.

The question was taken; and the amendment was not concurred in.

Forty-first amendment:

To supply a deficiency in the appropriations for the legislative and contingent expenses of Washington Territory for the fiscal year ending June 30, 1857, the sum of \$7,500, or so much thereof as may be necessary.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend that that amendment be stricken out, and that the following be inserted as a substitute:

And the register of the land office, and receiver of public moneys, in the Territory of New Mexico, shall receive the same compensation now allowed by law to the same class of officers in Washington Territory, provided they shall receive no fees or commissions.

The Senate amendment, recommended to be stricken out, seems to have been for expenses created in the Territory of Washington for extra printing; and instead of its being reported here when the deficiency bill was pending, and when we might have had an opportunity to examine its details, it is put in as an amendment by the Senate, without any explanation. The Committee of Ways and Means recommend the striking out of this amendment; and, as the only place where the substitute would be germane, they recommend an amendment to equalize the salaries of the register and receiver in the Territory of New Mexico, and put them on the same footing with the like officers in the Territory of Washington. The object is, to prevent the increase of salaries, in some cases, from fees and commissions, over and above that which the law contemplates, and, at the same time, to put the salary of the same officers at other places at a proper amount; in other words, it is to equalize salaries. The Committee of Ways

and Means recommend the adoption of the amendment.

Mr. STEVENS, of Washington. I trust that the amendment reported by the Committee of Ways and Means will not prevail. The Senate amendment proposes to appropriate \$7,500 for deficiencies in the contingent fund of Washington Territory. It is recommended by the First Comptroller, and is also recommended, in distinct and emphatic terms, by the Secretary of the Treasury. I find, on looking over the appropriation bills of the last six sessions, that \$20,000 is the usual amount appropriated for the contingent expenses of the several Territories. There are, however, some exceptions to that. Minnesota, one year, got \$30,000, and, two other years, got \$26,000.

Mr. J. GLANCY JONES. The \$20,000 appropriated is to pay the salaries of the members of the Council.

Mr. STEVENS, of Washington. Including printing.

Mr. J. GLANCY JONES. I wish to ask my friend from Washington why, if an estimate has been made out by the Comptroller or Secretary of the Treasury, it has not been communicated officially to the Committee of Ways and Means?

Mr. STEVENS, of Washington. I understood that the whole matter was an omission on the part of the Committee of Ways and Means, and that the information was communicated from the Department.

Mr. J. GLANCY JONES. The gentleman is mistaken in that. It never was sent to the Committee of Ways and Means to my knowledge.

Mr. STEVENS, of Washington. I find that, in the cases of Kansas and Nebraska, a special appropriation was made for the taking of the census; and also, that in the case of Kansas an appropriation was made specially for the expenses of the territorial Delegates. In Washington Territory, the expenses of the first election were paid out of this contingent fund. Moreover, at the first session of the Territorial Legislature, a code of laws was passed, the excellence of which is shown by the fact that little or no alterations have been made in it—the principal alterations having grown out of an act of Congress.

The session before last, we had an extraordinary expenditure in the way of printing. All the official correspondence growing out of the condition of war was called for by the Legislature, and was ordered to be published. This census, this code of laws, and these extraordinary expenditures exceeded, by double, the amount now called for. The reason of the requisition coming in late is, that the work has been only recently settled up and audited at the Department.

Mr. J. GLANCY JONES. On what authority was that code made?

Mr. STEVENS, of Washington. It was sanctioned by Congress in the payment of the commissioners.

Mr. J. GLANCY JONES. Is that to be paid for out of this appropriation?

Mr. STEVENS, of Washington. That has been paid for.

Mr. J. GLANCY JONES. Would not a large portion of this appropriation go to printing correspondence that arose out of the controversy between General Wool and the Governor of Washington Territory?

Mr. STEVENS, of Washington. Not at all. There is some, perhaps one fiftieth part of the whole correspondence, that consists of letters between General Wool and myself. The Legislature called on the Executive for it; and deeming it necessary to be published, ordered its publication. This account has been audited and approved by the First Comptroller, and the Secretary of the Treasury has transmitted the facts to the Senate Committee on Finance, and, as I understood, to the Committee of Ways and Means of this House. I trust the amendment of the Senate will be concurred in.

The amendment of the Committee of Ways and Means was agreed to.

The amendment of the Senate, as amended, was then agreed to.

Forty-second amendment:

At the end of the bill add the following section:
Sec. 3. And be it further enacted, That section six of the act passed August 18, 1855, entitled "An act making appropriations for certain civil expenses of the Government for the year ending June 30, 1857," shall apply to the subsistence of the commissioner therein named from the time he entered upon the discharge of his duties, and the same shall be paid out of the appropriation already made.

Mr. J. GLANCY JONES. A commissioner was provided for under the reciprocity treaty. He has been paid his full salary. This amendment is to be retroactive, and is to give increased pay by antedating the time. The Committee of Ways and Means recommend a non-concurrence. The amendment was disagreed to.

Forty-third amendment:

Sec. 4. And be it further enacted, That, in addition to those now authorized by law, there be employed by the Secretary of the Treasury, in the office of the Register of the Treasury, one additional clerk of the third class, and, in the office of the Treasurer of the United States, one additional clerk of the third class; and such sum as may be necessary to carry into effect the provision of this section, to the 30th of June, 1859, is hereby appropriated.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a concurrence in that amendment, with an amendment to strike out the words "such sum as may be necessary," and to insert in lieu thereof "\$3,200."

The passage of the Treasury-note bill has so increased the duties of the Treasury Department, and the creation of the proposed loan will, if it be authorized, so further increase them, that it is absolutely necessary to have two additional clerks in that Department. When the loan bill comes up, the Committee of Ways and Means propose to make a large reduction in the sum appropriated in that bill for the performance of the clerical duties necessary to the issuing of the bonds. Instead, however, of appropriating so much money as may be necessary, the committee propose to fix the salaries at the amount allowed to clerks of a similar class.

Mr. MORGAN. I understood the gentleman to say that these clerks were necessary, because of the loan bill. I would like to know if that bill has passed.

Mr. J. GLANCY JONES. I only gave the committee the information that, when that bill comes up, we propose to reduce the appropriation for clerical services. I hope the gentleman does not object to that.

Mr. UNDERWOOD. I desire to know of the chairman of the Committee of Ways and Means if the clerks provided for in this amendment are to be permanent or temporary?

Mr. J. GLANCY JONES. The provision is temporary in its nature. The occasion which calls for them is of a temporary character. They are not created by law. Provision is only made for their salaries for one year; and at the expiration of that time their services will be discontinued, unless we make an appropriation to retain them.

Mr. BURNETT. The chairman of the Committee of Ways and Means is certainly mistaken. If I understand the language of this amendment, it creates two permanent clerkships, and appropriates \$3,200, which, I presume, is for the salaries of these clerks for one year. In my judgment, the committee ought to vote down the amendment, because these additional clerks are not needed, nor has the chairman of the Committee of Ways and Means given us any reason why they should be appointed, except the mere fact that, in his opinion, they are necessary.

Mr. J. GLANCY JONES. I wish to say to the gentleman from Kentucky that I gave a reason that should have some weight with him; and that was, that, in the opinion of the Secretary of the Treasury, of the Committee of Ways and Means, and of the Senate of the United States, the additional labor created in that Department makes this addition to the clerical force indispensably necessary.

Mr. BURNETT. The gentleman did not state that in his remarks before; but he said that it was necessary in his judgment. I grant that the opinion of the Secretary of the Treasury is entitled to some weight; but I have a right to differ with the Secretary of the Treasury; and I say that, if you will go to the Treasury Department, and examine the character of the labor performed by the employes of the Government, you will find that there are twice as many clerks there now as there ought to be.

Mr. CRAWFORD. I will say to the gentleman from Kentucky that the Secretary of the Treasury informs me that these clerks are necessary in consequence of the additional labors imposed on the Department by the passage of the Treasury-note bill; and, if the loan now asked for shall be granted, it will make the service of these clerks still more necessary. The Secretary of the Treasury says it is utterly impossible for the present clerical force in the Department to perform the duties that will be incumbent on that Department in the event the loan bill should pass.

Mr. BURNETT. I will say to gentlemen that while I have as high respect for the Secretary of the Treasury as any gentleman upon this floor, it does seem to me that when he is compelled to send to Congress twice during one session for a loan, one of \$20,000,000 and another of \$15,000,000, the time has come when a little economy should be exercised; and where can that be better exercised than in transferring useless clerks from one Department to others where they are needed? There is not a gentleman upon this floor, who has had occasion to go to the Departments, but knows that there are supernumerary clerks in almost every Department of the Government in this city. I shall vote against the amendment.

The amendment to the amendment was not agreed to.

The Senate amendment was not concurred in.

Forty-fourth amendment:

Sec. 5. *And he it further enacted*, That so much of the act of the 3d of March, 1845, making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1846, as provides that no part of the appropriation for the contingent expenses of either House of Congress shall be applied as payment or compensation to any clerk, messenger, or other attendant, employed by a resolution of one of said Houses, be, and the same is hereby, repeated, and that such payments as have been heretofore made to persons so employed, after being approved and certified by the proper committee of either House, shall be allowed at the Treasury.

Mr. J. GLANCY JONES. This amendment of the Senate has arisen from a misconception or a misunderstanding of the matter which occasioned considerable controversy and debate in this House. I desire to offer, from the Committee of Ways and Means, a substitute for the Senate amendment, as follows:

That it is hereby declared to have been the true intent and meaning of the third section of the act entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1853," approved May 4, 1853, to legalize and make appropriations for the allowances of the last House of Representatives, whether by resolution of said House, or by the Committee of Accounts.

An amendment was offered to the deficiency bill to provide for the payment of the extra allowances of the last House of Representatives. It led to considerable and lengthy debate. A construction was placed upon the act by the present Secretary of the Treasury, different from that of his predecessors. Where allowances have been made heretofore by the Committee of Accounts to the employes, messengers, and clerks, under a simple resolution of the House of Representatives, such allowances have been recognized and passed at the Treasury Department. But the present Secretary of the Treasury deeming that an improper construction of the law, directed that no expenses, except the ordinary and usual expenses—the word "ordinary" being used in contradistinction from "extraordinary"—paid out of the contingent fund of the House would be allowed at the Treasury Department; that extra allowances made to employes by the Committee of Accounts, and extra allowances made by the House, without specific appropriations to pay them, would not be allowed at the Treasury Department. In consequence of that construction of the act, it became necessary to have further legislation, and the proposition came up on the deficiency bill. That matter was debated at great length, and every member is familiar with the

subject. The clause placed in that bill was intended to pay the extra allowances of the last session of Congress, and then to fall back to the construction of the former law, made by the present Secretary of the Treasury; in other words, that we should pay such allowances in the past, but not in the future. The reason alleged for this was that such allowances have been usual and customary for a number of years; that clerks, relying upon those allowances, had made engagements based upon them, and had created debts upon the faith of it, and that it had become a sort of vested right. The question came up in that way, and the provision passed in the deficiency bill. Subsequently to that, the Comptroller of the Treasury has placed a construction upon that act different from what was intended by the House of Representatives in its passage. In consequence of that construction the Senate have put an amendment upon this bill to provide for that class of expenses which by that decision were to be cut off. They send it to us. The Committee of Ways and Means propose a substitute for it, the effect of which will be to pay the extra allowances of the last session of Congress, and then to cease to pay them hereafter. It proposes to make no alteration in the act of 1845, but rather to maintain the construction put upon it by the present Secretary of the Treasury. It saves us from future inconvenience, and protects us from all future extra allowances, unless there is a specific appropriation made to pay them.

Mr. BURNETT. In my judgment, the language of this amendment is too broad. The gentleman from Pennsylvania, in giving his reason why the committee recommend the adoption of this amendment, says that the Comptroller has given a construction to that act different from the one intended by the deficiency bill to have been given to it. This provision not only covers the amount voted by resolution to the employes of this House, but it covers every account that may have been paid by the Clerk of the House. The language is broad enough to cover it. It legalizes and adopts all the appropriations that may have been made by the last Congress. Now, I suggest to the chairman of the Committee of Ways and Means, if he wants to make an appropriation for the purpose of covering the advances that have been voted to the employes of the House, that he should use language to that effect, and say, "to pay the employes." Why does he cover it up in language so obscure that it admits of a different construction from the one he says is intended to be placed upon it?

Now, I voted against the deficiency bill in which this appropriation was made; and I must confess that I was surprised that the Washington Union, a paper usually dignified, discreet, and correct, should have thought proper to assail those of us of the Democratic party who felt constrained by a high sense of public duty to vote against that bill on account of some of its extravagances. I would say to the Committee of Ways and Means that when they come in here with a deficiency bill, or appropriation of any sort, which is, in my judgment, wrong, I will take the responsibility of voting against it; and I have no doubt that the Washington Union, appreciating the errors of its course, will give due credit to those of us who feel that we have the capacity to discharge our public duties with a due regard to the public interest, without the fear of unjust criticism, come from whatever quarter it may.

Now to this amendment. Why is it worded in obscure language? Why not tell us in plain terms that it is intended to cover gratuities to the employes of the House, and that when they are paid we are done? That is what is meant by it, but not what is said. Now, I propose to amend it, so as to meet the views of the chairman of the Committee of Ways and Means, by inserting a proviso that this clause is not to apply to this or any future Congress. If the Committee of Ways and Means intend to stop there, and do not intend this to apply to any future Congress, let them adopt that amendment and so fix it.

The question was taken on the amendment to the amendment, and it was adopted.

Mr. BURNETT. I propose to amend the section by adding as follows:

Provided, That this section is not to apply to this or any future Congress.

Now, the chairman of the Committee of Ways and Means says that the Comptroller, under the act to which he has referred, has decided that he would not pay money under a simple resolution of this House; but he did not go far enough in that statement. The decision of the Comptroller is this: that he will not pay money under a simple resolution of this House, where that resolution is in conflict with a law or joint resolution; and in that decision he was right, because if this House makes an appropriation of money under a simple resolution, which is in conflict with the statute or joint resolution, it would be wrong, and must necessarily lead to abuses of the very worst description. Now, it has been stated that the Comptroller has refused to pay the employes under a resolution of this House. He has made no such decision, nor has he refused at any time to pay the money that was due and owing to the employes of the House, whether they were appointed under a resolution of this House, or a joint resolution, or a law; but his decision only went to the extent I have stated. He refused to pay it where the simple resolution of the House was in conflict with the law or a joint resolution. That is my understanding of it.

The reason why I propose to add this proviso to the amendment is, that the language of the amendment reported by the Committee of Ways and Means is, in my judgment, obscure. It would admit of a construction that would apply to the future as well as to the past.

I have this also to say to the Committee of Ways and Means—and I say it with all due respect—they brought in a bill which they called a deficiency bill, and put in it a provision which they themselves admitted here in the discussion was wrong. The gentleman from Virginia, [Mr. LETCHER,] who had that bill especially in charge, would not defend the appropriation for the employes of this House running back for ten years. He will admit himself that no man who voted for the resolutions under which these payments were claimed ever contemplated that they were to go back ten years, and give its beneficiaries back pay in the shape of extra compensation. But in face of that resolution passed here, in language admitting of that construction, instead of requiring these men to make out their claims, so as to let us know the amount, and be able to vote intelligently, they brought in an indefinite provision here, and there was not a member of the Committee of Ways and Means who could tell, during that discussion, how much money was covered by the provision, or who were to be the beneficiaries under it. They cannot tell to-day who they are. They cannot tell to-day the aggregate amount of money voted. And yet, when their friends here, who are desirous of promoting the interests of the Government, and of aiding in getting through the appropriation bills, acting upon their own responsibility and their own convictions of what is right, dare to assert their independence by voting against such legislation, their Democracy is subjected to obnoxious imputations. I wish to say that I was actuated by no hostile feeling towards the employes of this House. I am for paying them, and paying them well; but I am for fixing their salaries by law.

[Here the hammer fell.]

Mr. LETCHER. I am sorry to see my friend from Kentucky so much excited by the little difficulty between him and the Union. That is a war in which I do not mean to take any part. I imagine that each is entirely capable of taking care of himself. But, sir, the gentleman has stated that no member of the Committee of Ways and Means knew how much money was embraced in the third section of the deficiency bill. Now, I stated to several of those who opposed that section that I had procured from the Clerk of the last House of Representatives a list showing the precise amount which was embraced in that section, and a second list showing exactly how much of it had been paid, and that I procured it for the purpose of placing it at the disposal of those gentlemen who undertook to assail that appropriation, in order that they might investigate it to their heart's content, and satisfy themselves as to its propriety or impropriety. That list amounts, in round numbers, to \$66,000; and the amount paid amounted, in round numbers, to \$18,000. The object of the provision in

the deficiency bill was to protect that officer of the House who, by the action of the House, had been rendered liable for that amount, and who demanded, and with right demanded, that the body which had subjected him to the liability should protect him in the execution of its order.

Now, sir, I think that there can be no two opinions in regard to the construction of that section of the act. The gentleman says that it paid money to employes of this House running back for eight or ten years; and, sir, your Comptroller decides that those claims are allowable under the third section of the deficiency bill. But the items which he objects to are items which have been certified by the Committee of Accounts as proper claims, in discharge of their duty to the House by which they were created. I understand the opinion of the Comptroller, given in writing to the Clerk of this House, to be this: that, when one House of Congress passes a resolution, he will not allow money under that resolution, unless Congress shall subsequently pass an appropriation that will cover the allowances specified in the resolution.

Mr. BURNETT. I ask the gentleman if he does not approve of that?

Mr. LETCHER. Yes, I approve of that; but it is not exactly what the gentleman from Kentucky thought it was.

Mr. BURNETT. Yes it is, exactly.

Mr. LETCHER. No; the gentleman said he would not pay the money where it came in conflict with a law or joint resolution.

Mr. BURNETT. And I state that now.

Mr. LETCHER. It is in conflict with law.

Mr. BURNETT. The gentleman says that, during the discussion of the deficiency bill, he had that list here. I do not question that at all; but he will remember that, when it was stated here that the late Clerk had paid \$18,000, it was flatly denied.

Mr. LETCHER. I know it was. Let me complete your sentence for you: and I then told your colleague [Mr. Mason] that he should have the list to establish his denial.

Mr. BURNETT. Yes, sir; we were required to take that list, made out by the former Clerk, without any evidence that the money had been paid, and I was unwilling to do that.

Mr. LETCHER. That does not alter the fact at all. I have shown that, as the representative of the Committee of Ways and Means, I was willing to give them the underhold in the scuffle. I was willing to give them the exact ground upon which the Clerk of the last House rested, so that if there had been anything improper or illegal in his conduct, or if he had never made the payments which he alleged he had, they would be able to satisfy themselves by taking his list as a guide, and seeing whether the payments had been made or not. Now, so far as I am concerned, I say here very frankly that that was my understanding, and I considered it the understanding of the House; for it will be recollected that when attention was called to these resolutions, and the allowances made by the Committee of Accounts, it was stated here, in reply to me, that the allowances by the Committee of Accounts had been made after Congress adjourned, and that, therefore, they ought not to be paid. I say now that the interpretation of that law is precisely as I understood it then, and as I imagined five sixths of this House understood it at the time they voted on the deficiency bill.

[Here the hammer fell.]

Mr. SMITH, of Virginia. I desire to know whether the amendment of the Committee of Ways and Means will still be open to amendment if the amendment of the gentleman from Kentucky should be adopted?

The CHAIRMAN. The section will still be open to amendment.

Mr. SMITH, of Virginia. The body of the amendment of the Committee of Ways and Means?

The CHAIRMAN. Yes, sir.

The question was taken upon Mr. BURNETT's amendment; and it was agreed to.

Mr. SMITH, of Virginia. I propose to strike out of the amendment the words, "or by the Committee of Accounts."

The CHAIRMAN. When the Chair made the reply to the question of the gentleman from Virginia, a short time since, he did not understand the nature of the amendment he proposed to offer.

It would not be in order to strike out that which has already been inserted by the committee.

Mr. SMITH, of Virginia. It has not been inserted. That amendment of the Committee of Ways and Means has not been acted on, because the gentleman from Kentucky offered his amendment to that amendment.

The CHAIRMAN. It has been acted on.

Mr. SMITH, of Virginia. Well, be it so. I presume when there is a clear mistake, the business of the country will not be permitted to be affected by it.

The CHAIRMAN. The question on the amendment was put clearly and distinctly, and the amendment was adopted.

Mr. SMITH, of Virginia. Then I ask general consent to offer an amendment.

Mr. LOVEJOY. I object to anything out of order.

Mr. WASHBURNE, of Illinois. What question is before the committee?

The CHAIRMAN. The question is upon agreeing to the amendment as amended.

Mr. WASHBURNE, of Illinois. I move that the committee rise, for the purpose of suspending the rules allowing this five minutes' debate. We shall not get through this bill to-night, or to-morrow, if this debate is to be continued in this way.

Mr. SMITH, of Virginia. How does the gentleman get the floor to make that motion? I understand the Chair to rule my amendment out of order.

The CHAIRMAN. The Chair rules that it is not in order to move to strike out what the committee have already inserted.

Mr. WASHBURNE, of Illinois. I rise to a question of order.

The CHAIRMAN. The gentleman from Virginia is upon the floor on a question of order.

Mr. WASHBURNE, of Illinois. I object to debate.

Mr. SMITH, of Virginia. I am not debating; I am stating a question of order. Did not the gentleman from Kentucky offer his amendment to the amendment of the Committee of Ways and Means?

The CHAIRMAN. After the amendment had been adopted by the committee, the gentleman from Kentucky moved to amend by adding to it; and the question now is, "Will the committee concur in the Senate amendment as amended?"

Mr. SMITH, of Virginia. I appeal from the decision of the Chair.

Mr. WASHBURNE, of Illinois. I now renew my motion.

Mr. SMITH, of Virginia. I withdraw the appeal.

The committee refused to rise.

Mr. KUNKEL, of Maryland. Would it be in order to move to reconsider the vote by which the committee agreed to the amendment proposed by the Committee of Ways and Means?

The CHAIRMAN. It would not be in order in committee.

Mr. KUNKEL, of Maryland. I desired to explain, in a few words, in what difficulties the action of the committee, in adopting that amendment, will involve the Committee of Accounts.

Mr. BURNETT. Is debate in order?

The CHAIRMAN. It is not.

The question was then taken; and the Senate amendment as amended was concurred in.

Forty-fifth amendment:

SEC. 6. *And be it further enacted*, That the extra compensation paid out of the contingent fund of the Senate to clerks of committees, under a resolution of the 14th of March, 1857, be allowed at the Treasury.

Mr. J. GLANCY JONES. The Senate amendment provides for the payment of services rendered some sixty days after the expiration of the session of the Senate. The Committee of Ways and Means are not able to see the necessity for that service, and recommend a non-concurrence in that amendment.

The amendment was non-concurred in.

Forty-sixth amendment:

SEC. 7. *And be it further enacted*, That it shall be the duty of the Commissioner of Public Buildings to cause obstructions of every kind to be removed from such of the streets, avenues, and sidewalks in the city of Washington, as have been or may be hereafter improved, in whole or in part, by the United States; and to keep the same at all times free from obstructions; and for this purpose he shall have power to institute suits in any court having competent ju-

risdiction in the District of Columbia; and it shall be the duty of the district attorney for said district to prosecute the same, and whenever any person shall desire to move the paving stones, or to displace any other work done by the authority of the United States, for the purpose of laying down gas pipes, or for any other purpose, it shall be the duty of such person to obtain a written permit from the said commissioner, and such persons shall oblige themselves to replace the said work to the satisfaction of said Commissioner, and within such time as he may prescribe.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence.

The question was taken; and the amendment was not concurred in.

Forty-seventh amendment:

SEC. 8. *And be it further enacted*, That if any person shall place obstruction in the streets, avenues, or sidewalks aforesaid, such person shall pay the costs of removing the same, and shall, moreover, be subject to a penalty of ten dollars, to be recovered as other debts are recovered in the District of Columbia, for each and every day the said obstruction may remain after the Commissioner shall have given notice for its removal. And if any person or persons removing the paving stones or other work done by the authority of the United States shall fail to replace the same to the satisfaction of the Commissioner, within the time prescribed by him, he or they shall be subject to a penalty of twenty-five dollars for each and every failure, and shall, moreover, pay the costs of replacing the same, the whole to be recovered before any court in the District of Columbia having competent jurisdiction; and that this and the preceding section shall continue in force until repealed by Congress.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence.

The amendment was not concurred in.

Forty-eighth amendment:

SEC. 9. *And be it further enacted*, That the proper accounting officers of the Treasury be authorized and directed to examine the accounts between the United States and the several States which have been, or may be, allowed in interest upon claims against the United States, which have accrued during or since the war of 1812 with Great Britain, and apply in such examination the provisions and principles of the twelfth section of the act of March 3, 1857, entitled "An act making appropriations for certain civil expenses of the Government for the year ending the 30th of June, 1858;" and that any money found upon such re-examination to be due any State, shall be paid to such State out of any money in the Treasury not otherwise appropriated.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend an amendment to this amendment, as follows:

That the Secretary of the Treasury be instructed to report to Congress at its next regular session, all applications made by the constituted authorities of the States and cities, for the reopening and re-examination of the settlements heretofore made with such States and cities, and report the principles of readjustment on which such claim is based, and the amount thereof; and the Secretary of the Treasury is further instructed to report to Congress, at its next session, the gross amount which will be required to pay such claims to the States and cities of the United States.

The amendment recommended by the Committee of Ways and Means amounts to this. In 1857 Congress passed a law relative to the subject of interest on claims growing out of the war of 1812, and paid it to the State of Maryland. That was a claim based upon the same principles, and its payment has of course led to the application of every State in the Union that has a similar claim. This amendment comes over to us, as one of sixty-four amendments made by the Senate without there being time even to print them; and we are called upon to legislate on great principles, involving, perhaps, the rights of States, in this hurried manner. The Committee of Ways and Means do not feel disposed to act precipitately in the matter; hence they offer a substitute to this effect, that before any action shall be taken upon it, the Secretary of the Treasury shall report to Congress all the facts relating to it, and that no legislation shall take effect until after that report. I hope the amendment will be adopted.

Mr. BOYCE. I hope the recommendation of the Committee of Ways and Means will not be adopted. This is nothing more than allowing the proper officers to settle the accounts for advances made by the different States, on the same ground as the advances made by the State of Maryland were settled. The accounting officers, some years ago, insisted upon making the calculations of interest according to merchants' accounts; in other words, they deducted from the total amount of principal and interest the payments made by the Government, and deducted it not from the interest account, but from the principal. In this way the States that had made advances to the General Government lost considerable sums, because, although they advanced this money, and ought to have been

entitled to get it back with interest, they got nothing back but the principal without any account of the interest.

The whole amount of it is simply this: the Treasury, as I understand, has adopted the rule that where a certain amount of debt is owing to a State, and a certain amount of interest has accumulated on that debt, and where the principal thus owing bears interest, and the interest thus owing does not, if the claim is paid in part, they apply that part payment to the principal which bears interest, instead of to the interest which does not, thus reversing the rule which exists in every State in the Union, operating most unjustly towards the States themselves.

Now, all that is asked to be done, is to make the same allowances as were made in the cases of Maryland, Virginia, and Alabama, and to apply to the settlement of the interest account, the principles of law laid down by the Supreme Court of the United States.

Mr. J. GLANCY JONES. What harm can possibly accrue to the States named by waiting a year longer, till we can have all the facts, and the law, and the treaty, and everything connected with it, reported to Congress, so that we can act advisedly?

Mr. BOYCE. The facts are all before us. The only question is the amount of interest, and if the thing be right, the amount does not make any difference. In second Johnson's Chancery Reports, the principles are laid down by which interest is to be computed; and those are the principles on which the Maryland case, and the Alabama case were settled. They furnished an exception to the general rule, because the advances made by those States were from funds paying interest. In the case of South Carolina, her advances were made out of State funds in the bank of the State of South Carolina, which were then realizing twelve per cent. interest.

Mr. MAYNARD. The act of 1832 expressly recites that.

Mr. BOYCE. Yes; in 1832 an act passed Congress stating the principles on which this calculation should be made. It is in these words:

"That in ascertaining the amount due by the United States to any State, for advances made by States for the United States during the late war, interest shall be allowed and paid on the whole amount of the principal sums which have been or may be refunded by the United States from the time the same was advanced by the States respectively, until the same shall have been refunded as aforesaid; the sums refunded from time to time being first applied to the extinguishment of the interest accrued at the time such sum was refunded, and the balance, after satisfying the interest due, shall be applied to the extinguishment of the principal; and that, for interest actually paid by the States for money borrowed by them and applied to the service of the United States, the same rate of interest shall be paid to each of the States as such State shall have paid."

[Here the hammer fell.]

Mr. JONES, of Tennessee. I move to amend the Senate amendment which is proposed to be stricken out, so as to provide that the whole amount shall not exceed \$100,000.

I understand that it is proposed to settle this claim upon the basis on which the Maryland claim was settled. The Maryland claim was referred to the Committee of Ways and Means of the Thirty-Third Congress, as you, sir, will remember, and the committee unanimously reported adversely upon it. But, in the last hours of the last session of Congress, that claim was brought in here from the Senate, with sixty other amendments to a bill corresponding to the one now before us, and was passed in the report of a committee of conference, under the previous question, without being read or printed, and when not five members in the House knew that there was such a claim provided for in the report of the committee of conference. The amount paid to the State of Maryland under that provision was \$276,000, upon a claim which had been settled and closed, and the amount found due paid in 1826, if I mistake not. This is a proposition to provide for all the States and cities in the country that advanced money during the war, if I understand the amendment; what amount it may cover I cannot even guess; but, judging from the case of Maryland, it may amount to millions on the principle laid down there. In my opinion, sir, when claims of this description have been settled and adjusted and paid, they should be permitted to remain closed, and should not be reopened at this late day. And, sir, if you provide for the States and cities, why

not put in the counties and towns and villages, and also the individuals throughout the Union who made liberal advances to your troops when they were prepared to leave the country for the war with Mexico? If you are to pay the States and cities, why not pay the counties, and small towns, and the individuals who contributed to the comforts of those who were called into the service of the country?

Mr. DAVIS, of Maryland. Mr. Chairman, the principle upon which the Government of the United States settled with the State of Maryland for her advances for the common defense, I suppose, is perfectly equitable, and only the ordinary principle upon which every judgment at law, every account between business men, every executorial account, and every trustee's account in the country is settled. The law under which the settlement was originally made was, if I remember aright, in substance, the law which was passed last session, and it was because of the perversity or stupidity of the accounting officers of the Treasury that it was found necessary to reenact it, and force them to reopen and settle an account which they had settled wrongly under the first act. It was no old claim, as the gentleman from Tennessee seems to suppose, raked up in these latter days. It had been continuously pressed for many years before, and pressed upon the ground that the accounting officers of the Treasury had misconstrued the act of Congress, and had not paid Maryland what she was entitled to. And the act passed at the last session, was only intended to quicken the accounting officers of the Treasury, and compel them to do what, under the law of 1826, it was their duty years ago to have done.

Well, what was that principle? I do not know how far it may be embodied in the Senate amendment, but it was this: it was confined to those advances of the State of Maryland which she had made, as the gentleman from South Carolina [Mr. Boyce] has appropriately stated, of interest-bearing funds. It was not where Maryland had taxed her citizens and drawn money directly from them to pay the troops she was obliged to raise to defend her own territory, when the United States failed to defend it for her; but only where she had sold her interest-bearing fund, or borrowed money and paid interest for it. I will most cheerfully vote for an amendment embodying the principle of indemnifying all States that have been compelled to sell interest-bearing funds, or to borrow money and pay interest on it, because of the default of the United States in failing to defend them. At the same time, I thought the amendment proposed by the Committee of Ways and Means was a very appropriate one—to inquire, in the first instance, which of the States do claim to put themselves on that particular ground—in order that we may know what we are doing.

The amendment to the amendment, proposed by Mr. JONES, of Tennessee, was rejected.

Mr. MAYNARD. I move to amend by inserting after the words "United States," where they occur the second time in the Senate amendment, the words, "by any act of Congress." I state frankly that my object in offering the amendment is to make an explanation, which I hope the gentlemen of the committee will think proper to pay attention to. The origin of this amendment is this: in 1832, Congress passed an act in the following language:

"That the proper accounting officers of the Treasury be, and they are hereby, directed to liquidate and settle the claim of the State of South Carolina against the United States for interest upon money actually expended by her for military stores, for the use and benefit of the United States, and on account of her militia whilst in the service of the United States during the late war with Great Britain; the money so expended having been drawn by the State from a fund upon which she was then receiving interest."

Congress allowed the payment of the fund, and directed the payment of interest upon it. The question then before the Treasury Department was that of the principle upon which interest should be computed. They took this mode: they computed the interest upon the sum which South Carolina had advanced, and the interest upon the sums paid back by the United States, and then offset the one against the other, in the same manner as you would between merchants who had mutual demands against each other, mutual debts, each properly drawing interest. But in this case the United States was the only debtor; the indebtedness was all on her side. She had, from

time to time, made partial payments; but such payments did not become debts to draw interest. It is simply a case of a debt upon which partial payments have been made, and of course the principle of cross demand does not apply at all. The principle was totally misapplied by the accounting officer in settling with South Carolina, under the act of 1832.

The interest should have been computed in this case as it was in the Maryland case, a mode which obtains everywhere in the United States, and has been adopted by repeated judicial decisions, and which was claimed here by South Carolina in a memorial presented, during this session, to both Houses of Congress. That memorial was referred to the Committee of Claims in the House and in the Senate. The Committee on Claims in the Senate examined it, and saw that it was only just that there should be a general act of legislation declaratory of the true mode of computing interest in adjusting the accounts of each of the States, and hence this amendment of the Senate.

It simply is declaring upon the statute-books of the United States what is the true mode of computing interest where partial payments have been made, and that is to compute the interest when the first payment was made, apply the payment to the extinguishment of the interest, as far as is necessary, and the balance apply in discharge of the principal, and so on from payment to payment. That was the principle adopted in the Maryland case, and is the principle sought to be incorporated here, by the Senate amendment, as the true mode of computing interest in all cases where interest is directed to be paid.

Mr. TRIPPE. Suppose the payment does not amount to a sum equal to the interest?

Mr. MAYNARD. Then the interest is calculated until such a time as the payments are sufficient to equal the interest.

Now, there is no more necessity of waiting upon the facts, than there is in waiting this time twelve months to know when the moon will rise to-morrow night, or to ascertain upon what day of the week the 4th of July, 1859, will occur. It is simply a question of law as to the mode of computing interest. It is clearly right as applicable to the State of South Carolina. She has been kept out, for nearly thirty years, of a large amount due to her. Here is the legislation upon the statute-book, acknowledging the liability of the United States to South Carolina for a debt due, with interest thereon, and directing the payment to be made. This amendment simply declares what is the true mode of computing the interest. If that mode is applicable to Maryland, if it is applicable to Alabama, it is equally applicable to every other State which has an interest account against the Government of the United States. It is not a question whether it is proper or not that interest should be paid in any given case; that, so far as South Carolina is concerned, was settled a quarter of a century ago. As I have said, it is purely a legal question; and it can give us no sort of assistance in its decision to know what or how many States will be affected by it, or how much money will be needed to pay the balances found due upon the debts. Hence, I am opposed to the dilatory amendment proposed by the Committee of Ways and Means.

Mr. STANTON. I do not know but what this amendment of the Senate is perfectly right, but I do know that it would not be in order to an appropriation bill, if it were offered as an amendment in this House. I know that an appropriation bill, at this stage of the session, is no proper place for considering such a question. This is no proper time for considering such questions. There is a good reason why they should not be introduced here. We have, therefore, a rule to exclude them, and I trust the committee will not concur in the Senate amendment.

Mr. MAYNARD. I withdraw my amendment.

Mr. QUITMAN. I move that the committee rise.

The motion was not agreed to.

Mr. JONES, of Tennessee. I move to amend the Senate amendment by adding the following words:

"And that the amount so found due shall be credited to the respective States upon the public revenue deposited in such State, under the act of 1836."

Mr. CHAFFEE demanded tellers

Tellers were ordered; and Messrs. GARNETT, and WASHBURN of Maine, were appointed.

The committee divided; and the tellers reported—ayes 60, noes 62.

So the amendment to the amendment was not agreed to.

The question recurring upon the amendment of the Committee of Ways and Means, as a substitute for the Senate amendment,

Mr. GARNETT demanded tellers.

Tellers were ordered; and Messrs. CHAFFEE, and TAYLOR of New York, were appointed.

The committee divided; and the tellers reported—ayes 82, noes not counted.

So the amendment to the amendment was agreed to.

The Senate amendment, as amended, was then concurred in.

Forty-ninth amendment:

SEC. 10. *And be it further enacted*, That the eleventh section of the act of Congress approved September 4, 1841, entitled "An act to appropriate the proceeds of the public lands, and to grant preemption rights," be so amended that appeals from the district officer, in case of contest between different settlers for the right of preemption, shall hereafter be decided by the Commissioner of the General Land Office, whose decision shall be final, unless appeal therefrom shall be taken to the Secretary of the Interior.

The CHAIRMAN. The Committee of Ways and Means recommend a concurrence in this amendment.

The amendment was concurred in.

Fiftieth amendment:

SEC. 11. *And be it further enacted*, That the proper accounting officers of the Treasury be directed to ascertain, as among the expenditures of the State of Maine in defending the territory heretofore in dispute with Great Britain, the amounts paid in borrowing money for those expenditures beyond the rate of six per centum per annum, whether in the form of discounts, or otherwise, in all cases in which the principal of such expenditures, and interest upon them at the rate of six per centum, have heretofore been refunded by said State to the United States; and that the Secretary be directed to pay the amount so ascertained out of any moneys in the Treasury not otherwise appropriated, to any properly authorized officer of said State. In making the ascertainment herein directed, the accounting officers shall compute the principal and interest of the difference between the cash received by Maine in negotiating stocks and notes, and the nominal amount of such stocks and notes, and the interest accrued thereon, and in cases where Maine was obliged, in negotiating for moneys, to increase the rate of interest on previous loans, the amount of such increase shall be computed and allowed, but not so as to reckon interest upon interest.

Mr. J. GLANCY JONES. The fiftieth amendment falls under the same class as the forty-eighth amendment; and the Committee of Ways and Means has recommended an amendment similar to that which has just been adopted to the forty-eighth—a proviso that the Secretary of the Treasury shall report the facts and law to Congress at its next session. This amendment applies to the Aroostook war on the northern boundary. But the principle of our opposition is this: that this is not the proper mode of legislation for such a question; and the Committee of Ways and Means not being able at this late hour to get at a full statement of facts, recommend an amendment requiring the Secretary of the Treasury to report all the facts of the case at the opening of the next session, when we can act advisedly on the subject.

Mr. WASHBURN, of Maine. I will state, in reply to the gentleman from Pennsylvania, that I think this amendment comes in appropriately here. There is an existing law for it, to wit, a treaty of the United States; and there is no place so fitting and appropriate for it as in an appropriation bill. In the next place, this amendment has no resemblance whatever to the amendment on which we have been just acting. It provides specifically for the State of Maine, and for no other State, and provides for paying a sum certain, or which can be ascertained and made certain in ten minutes.

Mr. J. GLANCY JONES. Can the gentleman tell me the amount due under that law?

Mr. WASHBURN, of Maine. I have not computed it, but my information is that it will be in the neighborhood of forty thousand dollars.

Mr. J. GLANCY JONES. Would my friend from Maine be willing to give the General Government credit for the amount of its deposits in Maine under the act of 1836?

Mr. JONES, of Tennessee. Did I understand the gentleman to say that this amendment was to carry out the provisions of a treaty?

Mr. WASHBURN, of Maine. It is to refund

what has been agreed to be refunded under a treaty stipulation.

Mr. JONES, of Tennessee. Then, by the express rules of the House, no appropriation to carry out a treaty stipulation can be put in any other bill. It must be put in a bill by itself.

Mr. WASHBURN, of Maine. There is no law or rule to prevent an amendment of this kind, which is to give a construction to an act of Congress made necessary by the treaty of Washington, by which Maine was to receive the amount agreed to be refunded to her under that treaty. The facts are these: Maine issued her six per cent. bonds, and was obliged to sell them in the market for five per cent. The treaty provided that she should be refunded the expense of defending her territory, and a part of this expense was this difference of one per cent. That is the whole case. The treaty provided that she should be reimbursed and paid every dollar that she had expended out of her treasury. Her six per cent. bonds she was obliged to sell at five per cent., and she now simply asks that the difference be made up to her. A similar case occurred in Virginia where she advanced \$300,000 at seven per cent., for which she only received six per cent. The committee of the Senate was unanimous; the Senate was unanimous, or nearly so; and the Committee on Foreign Affairs in this House was unanimous, and the Committee of Claims was unanimous in recommending an appropriation for this purpose; and I do submit, Mr. Chairman, that there is no necessity or occasion whatever for sending to the other end of the avenue to obtain information. We have all the information that we require. The language of the treaty is plain and explicit that the expenses shall be refunded to the State. Now, inasmuch as she paid one per cent. on a certain amount of bonds more than she received, and paid it in good faith, she asks that she be reimbursed that loss. I desire to have read by the Clerk a report made in the Senate by Mr. POLK, of Missouri.

Mr. JONES, of Tennessee. I propose to add the following to the amendment:

And the amount so found due to the State of Maine shall be credited to said State on the amount due by that State to the United States on the surplus revenue deposited with the State of Maine.

The amendment of the Senate concedes the fact that this Government has paid Maine all the principal and six per cent. interest on the amount she advanced in defending that disputed territory between the State of Maine and the British Provinces; and this amendment is to pay for all the losses of Maine in shavering her bonds, no matter at what discount, or at what interest she paid or promised to pay. I do not think it is right to pay her the excess of exchange and discount which she paid for the money which she raised for that purpose.

Mr. WASHBURN, of Maine. The gentleman is wrong in stating that she shaved her bonds; she did not; and this amendment only provides for paying to Maine the difference between the five per cent. which she actually received, and the six per cent. which she paid on her bonds. This amendment is to reimburse her that difference, and the interest on the amount; that is to say, just to make her whole, as you have agreed to do. Now, will you do it?

Mr. JONES, of Tennessee. Here is the act passed on the 3d of March, 1851:

"That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to liquidate and settle the claim of the State of Maine against the United States for interest upon money borrowed and actually expended by her for the protection of the northeastern frontier of said State during the years 1839, 1840, and 1841; and the sum so found to be due to said State shall be paid out of any money in the Treasury not otherwise appropriated."

SEC. 2. *And be it further enacted*, That in ascertaining the amount of interest, as aforesaid, due to the State of Maine, the following rules shall govern: 1st. That interest shall not be computed on any sum which Maine has not expended for the use and benefit of the United States, as evidenced by the amount refunded or repaid to the State of Maine by the United States. 2d. That no interest shall be paid on any sum on which said State of Maine did not either pay or lose interest as aforesaid."

Now, it does seem to me that this law covered the entire case.

[Here the hammer fell.]

Mr. MORRILL. I desire to know whether I can now submit an amendment to the amendment?

The CHAIRMAN. Not at the present time.

Mr. MORRILL. Then I merely give notice

that I desire to submit an amendment at the proper time, that the State of Maine shall receive in current coin of the United States the sum so provided for, unless the States of Maryland and South Carolina shall first refund the sums paid to those States.

Mr. STANTON. I have a single remark to make in opposition to the amendment of the gentleman from Tennessee; and it is this: I voted with the gentleman from Tennessee to apply his principle of making an offset to all the States. The committee voted that down. I cannot go with him now, to discriminate and to apply to one State what the House refused to apply to all.

The question was taken on Mr. JONES's amendment; and it was not agreed to.

Mr. LETCHER. I propose to add a proviso, that the sum appropriated shall not exceed \$10,000. Now, in addition to the law read by the gentleman from Tennessee, which shows the settlement in regard to that matter, I desire to call attention to the act of 3d March, 1843, which contains, among other things, these two sections:

"SEC. 4. *And be it further enacted*, That the sum of \$300,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to be paid in equal moieties to the States of Maine and Massachusetts, in conformity with the provisions of the fifth article of the said treaty."

"SEC. 5. *And be it further enacted*, That it shall be the duty of the proper officers of the Treasury to audit and pay the accounts of the States of Maine and Massachusetts for all claims for expenses incurred by them in protecting the heretofore disputed territory on the northeastern frontier of the United States, and making a survey thereof, as provided by the fifth article of said treaty; and the sum of not exceeding \$10,792.95 for Massachusetts, and \$206,934.79 for Maine, is hereby appropriated, out of any money not otherwise appropriated, in satisfaction of said accounts."

Now, sir, it appears that, shortly after this controversy was adjusted, Congress passed an act to fulfill the obligation as to the \$300,000 for each of those States; and further provided that a certain sum should be paid to Massachusetts for protecting herself in that war, and that a certain other much larger sum should be paid to Maine for the purpose of covering her expenditures in that connection. Subsequently, on the 3d of March, 1851, another act was passed on this subject, for the purpose of adjusting the question in connection with the interest due in this case. That act was passed by Congress, and became a law. The matter was settled under that act, as between the States of Maine and Massachusetts and the United States. Now, it does seem to me that, after the passage of those acts, and the settlements under them, after an interval of eight years, it ought to be regarded as a concluded, settled, and closed transaction. If this thing is to go on, there is no telling where it is to end; and there is no sort of propriety in Congress undertaking to adjust any matter in controversy between the Federal Government and a State; because it is apparent that you will legislate year after year to reopen the transactions and readjust them, and continue to make appropriations, until no settlement made by the United States can be regarded as a final settlement with a State.

Now, it seems to me singular that when this act of 1851 was passed, all matters for which the United States were liable in connection with the defense of this northeastern boundary should not have been embraced in that settlement, that any items should have been omitted or passed by, and should have remained unadjusted for a period of seven years thereafter without action of Congress at the instance of the State of Maine or any of the parties interested. I think that we ought to regard these things as at an end some time; and that when we have paid the principal in 1843 and adjusted the interest in 1851, and when an interval of seven years has elapsed from that time to the present and no claim has been made on us, we ought at least to look into the matter a little more carefully than we are doing. It is nothing more than a claim against the Government at best. It is one which, if presented here, ought to be referred to a committee, and there considered; or which, perhaps, might, with more propriety, be referred to that tribunal which we have organized here for the adjustment of questions of this sort, which has judicial powers, the means of taking testimony, and a fair opportunity of arriving at a correct conclusion.

Mr. MORSE, of Maine. I desire to address a few remarks to the committee in reply to the gentleman from Virginia, of the Ways and Means.

I am at a loss—a great loss—to understand why that gentleman, especially, should contest this claim with such pertinacity, when his own State has received over three hundred thousand dollars on precisely the same principle. He does not contest it on the ground of its injustice. He has not, in the specious argument which he has just made, denied the justice of the claim. He raises other and unsubstantial objections. The simple question to be considered is, is this claim a just one? If it be just, why will you repudiate it, especially after the principle has been so fully recognized in the Virginia case, and upon precisely the same ground? The accounting officers of the Treasury did not do us justice to reject this claim after they were directed by law to adjust and settle the claims held by Maine against this Government. They denied us the payment of this one per cent. extra interest paid by our State for its defense. Now, will Congress turn us away empty with a claim so equitable and in such exact conformity with the law and practice of all the States in the Union? Maine has paid this money, and this Government is under treaty obligations to refund it. Gentlemen talk about our bonds being shaved. Let gentlemen look at the question as it is. We had three thousand men under arms and away on the frontier, in the wilderness, over one hundred miles from the frontier settlements. We had to raise money suddenly and without delay to support those men in this extraordinary emergency. But you cannot always raise money under such a state of things, without making some sacrifice. State bonds will not always sell at par, when forced into the money market. We thought we did exceedingly well, under circumstances so unusual, to obtain money on our bonds at seven per cent. We lost one per cent., six per cent. being the legal interest in Maine.

Now the simple question is, not whether the accounting officers have settled the claim, and settled it, as we believe, under a misapprehension of the law, but, do you owe the money? That is the only point in the case. Will you treat us as you have treated Virginia and Maryland? or will you repudiate the debt and deny us our rights? I think the General Government has had quite enough out of Maine. She has lopped off nearly one eighth of our territory, and we reluctantly yielded it as a sacrifice for the common benefit of the whole country, to secure its peace and to avoid a war. We were opposed to it. We knew that every inch of that territory was ours, and so Congress and our State had resolved, over and over again. We did not say, "54° 40' or fight." We went to the frontier to defend and fight for our soil if necessary, and said nothing about it. No boasting—no proclamation in advance of what we would do—but every man's mind was made up to free our territory from foreign aggression. If the General Government had not interposed we would have held every inch of that territory. We were ready to do it. Our troops marched on to the ground in the dead of winter, through a hundred miles of wilderness, with the snow three feet deep, sleeping on the ground, and were ready to take that territory into our own hands. And now you will not pay us what you agreed by solemn treaty stipulation to pay us. All sorts of excuses are got up to put us off and delay payment. Sir, I am sick of it, and hope we shall hear no more of it.

The amendment to the amendment was rejected.

Mr. PHILLIPS. I move to amend the amendment by striking out from the word "pay," in the eleventh line, to the word "State," in the fourteenth line, and insert, in lieu thereof, "and to report to the next Congress the amount so found due, together with all the particulars relating to the same, and."

Mr. Chairman, it seems to me that there can be no such hurry for this money as to impose upon this House the necessity of making the appropriation without any investigation whatever. We are precluded by our rules from legislating upon an appropriation bill. Our bills go to the Senate; and they come back here loaded down with legislation, which we have no opportunity to examine. In this case, with no creditor who has been kept out of his money, suffering, with no one making a demand here, with no petition here that has been neglected, this House is asked to vote away the authority of the House to an executive officer to ascertain the amount due upon a claim, which

I shall presently notice, and to pay that amount without any other authority than that contained in this amendment.

Now, why should this be done? The State of Maine has been paid once, if not twice. If she has not been fully paid, let her come here, as any other creditor. Let her petition be presented to this House; let it be referred to the Committee of Claims; or let it go to the Court of Claims. Let it, at least, come before the House with some recommendation, or in such a shape that we may know what we are voting on.

Mr. WASHBURN, of Maine. Allow me to say that Maine has come here and presented her petition to two committees—the Committee on Foreign Affairs and the Committee of Claims—and those committees have unanimously reported in favor of it.

Mr. PHILLIPS. Then let us act on those reports, and not *ex parte*.

Mr. WASHBURN, of Maine. Why should we do that, when we can pass the claim here in five minutes?

Mr. PHILLIPS. Because it has not been considered here, and we know nothing about it. It has been the practice of gentlemen upon the other side of the House, during this session, to read us homilies on extravagance; and every expenditure made under authority of this House will be charged against what is called the dominant party here. Let us see who it is who votes for such claims. I do not mean nor desire to prejudge this claim; I will not permit myself to be unjust towards any one; all I ask is that I may have an opportunity of examining it. But when the Senate, in hot haste, in this manner, put into an appropriation bill that which we could not put in ourselves, let us at least say to them that we are in no such haste to pass it. The State of Maine seems to have been paid the principal and interest calculated in a manner that satisfied her at the time; and if, because Virginia, or Maryland, or any other State, has been paid in a manner which obtained for them more in proportion than the State of Maine was paid, why Maine will not suffer by waiting until the House of Representatives can, at its next session, examine her claim.

The vigilance of the gentleman from Maine [Mr. WASHBURN] might have been better exerted at an earlier period of the session. Why did he not earlier call attention to this claim? Why was it not pressed on the attention of the House at the time when we could examine it? We are told that it is rank injustice to Maine; that Maine suffered much from the action of the Government. I do not think she has lost much; but if this is justly due to her, let us ascertain it, just as we ascertain the claims of other creditors. I have not a word to say about the propriety of her selling her bonds either above or below par. I do not care for that. If she honestly expended the money for the use and service of the Government, let us give her the principal and interest to the utmost farthing; but I, for one, protest against being called upon in the last hours of the session, on an amendment proposing legislation in a mere appropriation bill, to vote away the public money for a matter the propriety of which I have not time to inquire into.

[Here the hammer fell.]

Mr. WASHBURN, of Maine. I have but a word to say. The gentleman from Pennsylvania asked us why we did not come here and have this question presented to the House, so that gentlemen might have an opportunity—

Mr. J. GLANCY JONES. I wish to say that I have been here for fourteen hours without leaving the Hall, and as we cannot finish the bill to-night, I wish to move that the committee rise.

Mr. WASHBURN, of Maine. I have no desire to occupy my five minutes. I simply wish to say that this claim has been favorably reported on, and the bill and report have been in the gentleman's desk, and he might have examined them long ago.

Maine has never yielded this claim. She pressed it before the Treasury Department years ago, and the accounting officers of the Treasury decided, under their construction of the law, that they were authorized to pay the principal and interest, but not discount and losses. Maine immediately came to Congress, and the bill passed the Senate, but failed to pass the House for want of time. The claim is appropriately in an appropriation bill,

because the money is due to Maine under existing law, as has been satisfactorily shown to the Committee of Claims. She has been kept out of this money for years, and I think it time that she was paid.

Mr. J. GLANCY JONES. I move that the committee do now rise.

Mr. SCALES demanded tellers.

Tellers were ordered; and Messrs. FOSTER and FOLEY were appointed.

The committee divided; and the tellers reported—ayes 38, noes 55.

So the committee refused to rise.

The amendment was not agreed to.

The question recurring upon the Senate amendment,

Mr. PHILLIPS demanded tellers.

Tellers were not ordered.

The amendment was not concurred in.

Mr. CLEMENS. I move that the committee rise; and upon that motion I demand tellers.

Tellers were ordered; and Messrs. FOLEY and CLEMENS were appointed.

The committee divided; and the tellers reported—ayes 37, noes 64; no quorum voting.

The roll of the committee was then called, when the following members failed to answer to their names:

Messrs. Adrain, Ahl, Anderson, Atkins, Avery, Barksdale, Bennett, Bishop, Blair, Bliss, Bonham, Bowie, Boyce, Burns, Burroughs, Caruthers, Cavanaugh, Horace F. Clark, Corning, Covode, Burton, Craig, Curtis, Damrell, Davidson, Davis of Mississippi, Dean, Dewart, Dick, Dodd, Dowdell, Edie, Edmundson, English, Farnsworth, Faulkner, Gartrell, Giddings, Gillis, Gilman, Goode, Greenwood, Lawrence W. Hall, Robert B. Hall, J. Morrison Harris, Thomas L. Harris, Haskin, Hawkins, Hickman, Hill, Hoard, Horton, Hughes, Jackson, Jenkins, Jewett, George W. Jones, Keitt, Kellogg, Kilgore, John C. Kunkel, Lamar, Landy, Lawrence, Leach, Leidy, Maclay, McKibbin, McQueen, Miles, Miller, Montgomery, Moore, Morrill, Isaac N. Morris, Nichols, Olin, Peyton, William W. Phelps, Pike, Powell, Purviance, Quinan, Reilly, Ritchie, Sandidge, Savage, Seward, Henry M. Shaw, Judson W. Sherman, Shorter, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, William Stewart, Talbot, Thompson, Tripp, Walton, Ward, Warren, Cadwalader C. Washburn, Watkins, White, Winslow, Wortendyke, Augustus R. Wright, and Zollcofer.

Mr. CURRY stated, pending the call of the roll, that Mr. MOORE, of Alabama, was detained from the House by sickness.

The committee then rose; and the Speaker having resumed the chair, Mr. PHELPS, of Missouri, reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the Senate amendments to House bill (No. 200) making appropriations for certain civil expenses of the Government for the year ending June 30, 1859, and had made some progress in the consideration of said amendments; but finding itself without a quorum had directed the roll to be called, and had instructed him to report the names of the absentees to the House.

A quorum having answered to their names, the committee again resumed its session.

Mr. CLEMENS moved that the committee rise. The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, the Chairman of the committee reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly Senate amendments to the bill of the House No. 200, and had come to no conclusion thereon.

Mr. SAVAGE. I rise to a question of privilege. I desire to know whether my name was recorded upon the call of the committee? I was present.

The SPEAKER. The Chair thinks that is not a question of privilege.

IMPEACHMENT OF JUDGE WATROUS.

Mr. CHAPMAN. I am directed by a portion of the Committee on the Judiciary to make a report upon the memorials of Eliphas Spencer and Jacob Mussina, in which they pray for the impeachment of John C. Watrous, district judge of the United States court for the district of Texas. I move that the report be printed, and that its further consideration be postponed until Wednesday next.

The motion was agreed to.

Mr. READY. I am also directed by another branch of the Judiciary Committee to make a report on the same subject. I ask that it also may

beprinted, and its further consideration postponed until twelve o'clock on Wednesday next.

It was so ordered.

Mr. HOUSTON. I desire to say to the members of the House that the evidence in the case upon which my friend from Tennessee has just made a report, is printed, and is in the document room.

PURCHASE OF WILKINS'S POINT.

Mr. HASKIN. I rise to a question of privilege. I am authorized to state, on behalf of the select committee to investigate matters connected with the purchase of Wilkins's Point by the Government, that they met this morning, and were unable to agree upon a majority report; that there will be four different statements from members of that committee. I was directed by the committee to offer a resolution.

Mr. FLORENCE. I would suggest to my colleague upon the committee that he had better defer the matter until to-morrow morning, for manifest reasons.

Mr. HASKIN. My object is only to facilitate the printing of the reports.

Mr. FLORENCE. I have no objection. My colleague knows the reason why I made the suggestion.

Mr. HOPKINS. I would suggest to the chairman of the committee this difficulty; there is still, as he is aware, a collateral inquiry pending before that committee. Under the parliamentary law, if the report is presented now, the committee is dissolved, and we should be arrested in the progress of that inquiry. I interpose no objections to the presentation of the report now, if the committee can be continued.

Mr. HASKIN. I have no objection to making this a partial report, so far as to facilitate the printing of the report, as the session is drawing near to a close.

The SPEAKER. The Chair understands, then, that the report is a report in part only.

Mr. HASKIN. Only in part.

Mr. FLORENCE. I have no objection to that. The gentleman from Virginia has stated the fact that we have yet witnesses to examine, and I desire that we should have an opportunity to do that by authority of the House. If that authority can be granted to the committee, I have no objection to the course proposed by the gentleman from New York.

Mr. HASKIN. The committee directed me to submit this resolution as a report, in part. The evidence has been closed, but there is a collateral issue which comes up to-morrow.

The resolution was read, as follows:

Resolved, That the testimony taken before the special committee appointed to investigate the facts and circumstances connected with the purchase and sale of property at Wilkins's Point, New York, in 1857, for fortification purposes, with accompanying documents, and the several reports of the members of the committee, be printed, and the consideration of the subject postponed till the 10th day of June, 1858, at twelve o'clock, m.

Mr. RUSSELL. I would inquire what is the propriety of making a partial report now? Why not wait till to-morrow?

Mr. HASKIN. The reports are all ready now for printing. The object is to get the testimony and the reports printed before the adjournment, so that members may have them before them next Thursday, when the consideration is to be continued. I call the previous question.

Mr. PHELPS, of Missouri. I desire to inquire whether any report is submitted?

Mr. HASKIN. That is the only report.

Mr. BOCK. Will the gentleman add to his resolution:

And that the committee have leave to prosecute and complete the inquiry now before them.

Mr. HASKIN. I consent to that amendment, and I call the previous question.

Mr. FLORENCE. Do I understand the gentleman from New York to say that the committee agreed to the resolution fixing the time of hearing the case?

Mr. HASKIN. A majority of the committee have done so.

Mr. FLORENCE. I did not so understand it. Thursday is the day of adjournment.

Mr. PHELPS, of Missouri. Was this committee authorized to report at any time?

The SPEAKER. Does the Chair understand the gentleman from Missouri as objecting?

Mr. TAYLOR, of New York. I object, if it is not a privileged question.

The SPEAKER, (to Mr. HASKIN.) Was the committee authorized to report at any time?

Mr. HASKIN. That I do not know without referring to the resolution; but I move to suspend the rules.

Mr. GROW. I rise to a point of order. The gentleman from New York presented that resolution, and the Chair had it read. Is it not now too late for any one to object to the reception of the report?

The SPEAKER. The gentleman from Pennsylvania will recollect that the gentleman from New York stated he rose to a privileged question; which left the Chair under the impression, as he supposes it did the House, that the committee had a right to report at any time. The Chair thinks it operated as a surprise to the House.

Mr. COLFAX. If there be no alarm felt at the reception of the reports, the best way is to let them come in.

Mr. PHELPS, of Missouri. There will be no objection to the reports being presented in proper time. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at half past eight o'clock, p. m.) the House adjourned.

IN SENATE.

TUESDAY, June 8, 1858.

The Journal of yesterday was read and approved.

CREDENTIALS.

Mr. MASON presented the credentials of the Hon. R. M. T. HUNTER, elected a Senator of the United States by the Legislature of Virginia for six years, commencing on the 4th day of March, 1859; which were read, and ordered to be placed on the files.

Mr. FITZPATRICK presented the credentials of the Hon. CLEMENT C. CLAY, jr., elected a Senator of the United States by the Legislature of Alabama for six years, commencing on the 4th day of March, 1859; which were read, and ordered to be placed on the files.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, transmitting a report of the Secretary of State, together with the documents by which it is accompanied, embracing all the information which it is practicable or expedient to communicate in reply to the resolution of the Senate of the 31st ultimo, on the subject of guano; which was ordered to lie on the table.

The VICE PRESIDENT also laid before the Senate a report of the Postmaster General, in answer to a resolution of the Senate requesting information in relation to the Post Office at San Francisco, California.

Mr. BRODERICK. I move that it lie on the table for the present. I desire to look into it. I may, after I have done so, perhaps move to print it.

The communication was ordered to lie on the table. A subsequent motion by Mr. YULEE to print it was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. JONES presented the petition of Thomas M. Folk, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. GWIN presented the memorial of Francis Huttman, praying remuneration for losses sustained in consequence of illegal proceedings of the collector of the customs at San Francisco, California; which was referred to the Committee on Claims.

Mr. POLK presented the petition of Thomas Allen and others, praying that certain land offices in Missouri may be closed, under authority of law, and consolidated at St. Louis; which was referred to the Committee on Public Lands.

REPORTS OF COMMITTEES.

Mr. IVERSON, from the Committee on Claims, to whom were referred the papers relating to the claim of J. M. Pommares, submitted a report, accompanied by a bill (S. No. 442) for the relief of J. M. Pommares. The bill was read, and

passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of John P. Figh and John H. Gindrat, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the petition and papers in the case of John P. Figh and John H. Gindrat be referred to the Court of Claims.

He also, from the same committee, to whom was referred the petition of Peter N. Paillet, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the petition and accompanying papers in the case of Peter N. Paillet, praying indemnity for losses sustained during the war with Mexico, be, and the same are hereby, referred to the Court of Claims for examination of the character and amount of losses sustained by said petitioner, whether of goods, wares, merchandise, or money, as alleged in said petition, and to report to Congress the evidence in the case, with the opinion of the court upon the legality or equity of said claim.

He also, from the same committee, to whom was referred the bill (H. R. C. C. No. 84) for the relief of Ferdinand Coxe, reported it without amendment.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 369) to amend an act entitled "An act making appropriations for the current and contingent expenses of the Indian department," approved July 30, 1854, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of H. R. Schoolcraft, reported a bill (S. No. 643) for the relief of Henry R. Schoolcraft; which was read, and passed to a second reading.

Mr. STUART, from the Committee on Public Lands, to whom was referred the bill (S. No. 440) for the relief of James Tilton, reported it without amendment.

He also, from the same committee, to whom were referred several petitions of citizens of Missouri on the subject, reported a bill (S. No. 444) to consolidate at St. Louis, Missouri, such land districts as may be discontinued in that State; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the bill (S. No. 333) to establish an additional land district in the State of Minnesota, reported it without amendment.

Mr. JONES, from the Committee on Pensions, to whom was referred the bill (H. R. No. 631) granting an invalid pension to John Holland, of Arkansas, reported it without amendment.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred the bill (S. No. 14) to confirm the title in a certain tract of land in the State of Missouri to the heirs and legal representatives of Thomas Maddin, deceased, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a joint resolution (S. No. 29) to refer the case of Joseph Valliere, deceased, to the Court of Claims, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom were referred a resolution of the Legislature of California, relative to land titles in that State; the petition of John Phelps; and the petition of William Sawyer; asked to be discharged from their further consideration; which was agreed to.

Mr. JOHNSON, of Arkansas, from the Committee on Printing, to whom was referred a resolution relative to the engraving and publishing of a map of the explorations of Lieutenant Warren in Nebraska Territory, reported in favor of printing five thousand copies of the map; and the report was agreed to.

He also, from the same committee, to whom was referred a motion to print a letter of the Secretary of the Navy, with estimates of the cost of continuing the publication of the charts of the North Pacific ocean and Behring's Straits expedition, reported against the printing, for the reason that the charts are not yet complete.

Mr. JOHNSON, of Arkansas. The Committee on Printing, to whom was referred the joint resolution (S. No. 39) directing the printing of certain reports therein mentioned, report it back without amendment, and adversely. The Superintendent of Public Printing has made a careful examination; and he reports that the pro-

posed number of copies of Major Delafield's report, with the illustrations, which are of a very costly character, can be printed and bound for \$75,000; but the illustrations may be reduced in size, and printed in black, so as to reduce the expense to \$55,000. The report of Major Mordecai is also accompanied by illustrations, but to a much less extent; and the proposed number of that document can be bound for about \$22,000. If these works be printed, an express appropriation will have to be made for the purpose, because the expense has not been estimated for in any existing appropriation. The Committee on Printing do not think it is essential or proper that these works should be now printed; and therefore I make an adverse report on the resolution; but I do not ask to have it acted on now, as the Senator from Mississippi [Mr. Davis] is not in his seat.

Mr. MASON, from the Committee on Foreign Relations, to whom was referred the joint resolution (H. R. No. 22) for the relief of Michael Papreniza, reported it without amendment.

He also, from the same committee, to whom was referred the memorial of John H. Wheeler, submitted a report, accompanied by a bill (S. No. 446) for the relief of John H. Wheeler. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 361) for the relief of William Rich, reported it without amendment.

He also, from the same committee, to whom was referred the petition of Ferdinand Coxé, submitted a report accompanied by a bill (S. No. 445) for the relief of Ferdinand Coxé. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. YULEE, from the Committee on the Post Office and Post Roads, to whom was referred the memorial of Daniel B. Hibbard, submitted a report, accompanied by a bill (S. No. 447) for the relief of Daniel B. Hibbard. The bill was read, and passed to second reading, and the report was ordered to be printed.

BILL INTRODUCED.

Mr. BIGLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 448) to repeal "An act entitled 'An act to expedite telegraphic communication for the uses of the Government, in its foreign intercourse,'" approved March 3, 1857; which was read twice by its title, and referred to the Committee on the Judiciary.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the joint resolution of the Senate (No. 31) authorizing the Secretary of War to expend the appropriation made July 8, 1856, upon such channel of the St. Mary's river as he may select.

Also, that the House had passed the following bills, in which the concurrence of the Senate was requested:

A bill (No. 55) to regulate fees and costs to be allowed marshals, district attorneys, clerks of courts, jurors, and witnesses, in the State of California; and

A bill (No. 583) providing for keeping and distributing public documents.

BILLS BECOME LAWS.

The message further announced that the President of the United States had notified the House of Representatives that he had approved and signed, on the 29th of May, the following acts and joint resolution:

An act for extending the land laws east of the Cascade mountains, in Oregon and Washington Territories;

An act for the relief of Nancy Serena; and

A joint resolution making appropriations to pay the expenses of the several investigating committees of the House of Representatives.

On the 2d instant: An act making appropriations for the legislative, executive, and judicial expenses of Government for the year ending the 30th of June, 1859.

On the 3d of June, the following acts and joint resolution:

An act declaring the title to land warrants in certain cases;

An act for the relief of D. O. Dickinson;

An act for the relief of S. W. and A. A. Turner; An act to continue the pension heretofore paid to Mary C. Hamilton, widow of Captain Fowler Hamilton; and

A joint resolution authorizing the arrangement and disposal of public buildings in the city of Philadelphia.

On the 5th of June, the following acts and resolutions:

An act to authorize the President of the United States, in conjunction with the State of Texas, to run and mark the boundary line between the Territories of the United States and the State of Texas;

A joint resolution authorizing Commander M. F. Maury to accept a gold medal awarded to him by the Emperor of Austria;

An act making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1859;

An act for the relief of Micajah Brooks;

An act for the relief of Lewis W. Broadwell;

An act for the relief of Richard B. Alexander;

An act for the relief of Simeon Steadman;

A joint resolution for the relief of General Sylvester Churchill;

An act for the relief of Elizabeth McBrier, only surviving child of Colonel Archibald Loughrey, deceased;

An act for the relief of Susannah Redman, widow of Lloyd Redman;

An act for the relief of George W. Biscoe;

An act for the relief of Benjamin Wakefield;

An act for the relief of Oliver P. Hovey;

An act for the relief of Robert W. Cushman, formerly an acting purser in the United States Navy;

An act for the relief of Job Stafford, of the State of New York;

An act for the relief of Isaac Body and Samuel Fleming;

An act for the relief of Josiah Webb;

An act making an appropriation for the payment of clerks employed in the offices of the registers of the land offices at Oregon City and Winchester, in the Territory of Oregon;

An act for the relief of Captain Stanton Sholes; and

An act for the relief of Benjamin L. McAtee and Isaac W. Eastham, of Louisville, Kentucky.

On the 7th of June, the following acts and joint resolution:

An act for the relief of William Heine, artist in the Japan expedition;

An act granting a pension to Brevet Major John Jones, of Tennessee;

An act for the relief of the legal representatives of Jean Baptiste Devidrine;

An act for the relief of Alonzo and Elbridge G. Colby;

A joint resolution for the relief of Henry Orndorf;

An act for the relief of the legal representatives of John McDonough, deceased, late of Louisiana;

An act for the relief of Shove Chase, of New York;

An act for the relief of David McClure, administrator of Joseph McClure, deceased;

An act for the relief of the heirs of William Tarvin, deceased;

An act for the relief of James Rumph;

An act for the relief of Stuckey & Rogers;

An act for the relief of John Dearmit; and

An act for the relief of Lieutenant Loomis L. Langdon.

MICHAEL HANSON.

Mr. IVERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the petition and papers in the case of Michael Hanson be withdrawn from the Court of Claims, and be referred to the Committee on Pensions.

EXTENSION OF THE SESSION.

Mr. BIGLER. I move to take up the resolution which I submitted on Saturday last, providing for the extension of the session. The circumstances surrounding what I regard as a very modest proposition and a very proper one in itself, seem to be misunderstood in certain quarters; and I feel required to make a remark or two in explanation of my motives at the time I offered it, and as a justification of myself and others.

The VICE PRESIDENT. Will the Senator

first allow the Chair to put the question on taking up the resolution?

Mr. BIGLER. I prefer to make the few remarks I have to make on the question of taking up the resolution itself. In offering this resolution, I was governed solely by considerations connected with the transaction of the public business. I took occasion to inquire into the condition of the business before Congress, and to look at the position assumed by the President of the United States in his annual message. He there suggested to Congress the importance of allowing him at least two days to consider the important bills which always pass near the close of the session, reviewing the practice which had heretofore prevailed, and deprecating its consequences. Taking it for granted that the President of the United States intended to adhere to that position, as I am safe in saying he does intend to adhere to it, I saw that it was utterly impossible to transact even the public business within the time fixed for the adjournment, which is the day after tomorrow. I see it stated in some of the papers that the President of the United States had nothing to do with the proposition which I submitted here. That is very true; and no one can doubt that the President of the United States is anxious that Congress should adjourn so soon as the public business shall have been transacted; but I presume no member supposes that an adjournment prior to that time would be agreeable to the President. I find that there are one hundred and seventy-three bills which we have passed through this body that are pending in the House of Representatives, some of them important public bills. One of them is for the admission of a new State into the Union. We have here eighty-eight bills passed by the House of Representatives, which we have not considered. Amongst these is the Army appropriation bill, the Post Office appropriation bill, the ocean mail service appropriation bill, and two Indian appropriation bills. In addition to these, we have the bill presented by the chairman of the Committee on Foreign Relations, a very important measure, a measure which, under other circumstances, would occupy weeks of time.

Mr. DOOLITTLE. I rise to a question of order. It seems to me out of order, on a motion to take up a subject, to go into a general discussion of it. We have lost more time this session, since I have been here, in discussing mere questions as to the order of business, than in discussing the merits of the subjects before the Senate. I hope we shall take a vote, and either take up the resolution or not; and if it be taken up, we can then, if necessary, discuss it on its merits.

Mr. BIGLER. If that be the experience of the Senate, I am astonished that the Senator from Wisconsin should raise the question of order, for I should have disposed of this subject in about the length of time he has occupied in raising his question of order, and it is really no question of order at all. It is the commonest thing to give reasons why a measure should be considered.

The VICE PRESIDENT. The Chair will state, in answer to the question of order raised by the Senator from Wisconsin, that he is not able to decide that the Senator from Pennsylvania is not speaking to the pending question.

Mr. BIGLER. I am giving reasons why the Senate should take up the joint resolution, and pass it. I am of opinion—I think Senators generally are—that the public business can be disposed of by Monday next. For my own part I prefer the 21st, and I submitted the resolution fixing that day, because it was in accordance with my judgment, and my sense of what duty to the country required. I do not care now to enter into any discussion of the exciting public question which occupied the attention of this body during all of yesterday; but this much I will say, that if the aggressions which have been inflicted on our flag, the indignities which have been offered, shall be recognized and sanctioned by the British Government, then there will be occasion for a continuance of this session of Congress. I presume, however, indeed I believe, that a very few days will bring us an entire disclaimer on the part of the British Government. But suppose it should be otherwise: then who would be willing to adjourn Congress? who would be willing to flee these halls, and leave the honor of the country in the condition in which it would be involved?

The idea which I had upon my mind was, that Congress might very properly remain in session until we heard from our Minister at the court of St. James; but I am satisfied that the sense of the Senate, in regard to the time of adjournment, is against me; and in accordance with what I believe to be the wish of the majority here, I modify my resolution so as to fix the 14th.

The motion was agreed to; and the Senate proceeded to consider the resolution, which, as modified, reads as follows:

Resolved, (the House of Representatives concurring,) That the resolution directing the President of the Senate and Speaker of the House of Representatives to declare their respective Houses adjourned *sine die* on Thursday, the 10th of June, at twelve o'clock, m., be, and the same is hereby rescinded; and that the President of the Senate and the Speaker of the House of Representatives declare their respective Houses adjourned *sine die* on Monday, the 14th of June, at twelve o'clock, m.

Mr. TOOMBS called for the yeas and nays on the resolution; and they were ordered.

Mr. TOOMBS. In regard to the statement made by the Senator from Pennsylvania as to the Calendar, I will say there is nothing in it. The Calendar is never got through with, and has never been from the beginning of the Government, and never will be; but the longer you sit here the more there will be on it. As to the discharge of the public business, as I have said here before, I have never known a session when, within a week of the adjournment, we were so nearly through with the necessary business of the country. As for intelligence from across the water, I do not wish to hear anything from there at all. If I wanted any more information on which to legislate for the country, there might be some reason for it; but I do not want any. I do not expect to get anything from Mr. Dallas on this subject that will, in the slightest degree, affect my public conduct. I trust we have something else to do than to sit in our seats waiting to hear from the circumlocution office over in London.

Mr. HAMLIN. I wish to say a word in regard to bills of a private character. I think I may say, from fifteen years' experience, that I have never known the Private Calendar to have been as well disposed of as it is to-day, at any session since I have been a member of Congress. Between now and Monday we shall have time to dispose of the public business and a number of days to devote to the Private Calendar. If we adjourn on that day, we shall have concluded more business, we shall have done it more promptly, we shall have diminished our Calendar more, than at any session of Congress I have ever known.

Mr. HAYNE. I came here in miserable health, and I am yet exceedingly delicate; but I sincerely believe it is our duty to remain here until Monday. I do not think we can adjourn before that time with anything like dignity and propriety to ourselves. If there be a man in the Senate, from length of service, and from his peculiar position, who knows better than any other when we ought to adjourn, that gentleman will tell you on the 14th of the month. I shall vote for the resolution.

The question being taken by yeas and nays, resulted—yeas 43, nays 16; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Bright, Brown, Chandler, Clay, Clingman, Collamer, Crittenden, Douglas, Durkee, Fessenden, Fitch, Fitzpatrick, Foot, Green, Gwin, Hamlin, Hammond, Hayne, Houston, Hunter, Iverson, Johnson of Tennessee, King, Mallory, Mason, Polk, Reid, Rice, Sebastian, Seward, Simmons, Sidelick, Thomson of New Jersey, Trumbull, Wade, Wilson, Wright, and Yulee—43.

NAYS—Messrs. Broderick, Cameron, Clark, Dixon, Doolittle, Foster, Hale, Harlan, Johnson of Arkansas, Jones, Kennedy, Pearce, Pugh, Stuart, Thompson of Kentucky, and Toombs—16.

So the resolution was agreed to.

RETURN OF A BILL.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed a resolution requesting the Senate to return to the House the bill (S. No. 198) for the relief of Joseph Hardy and Alton Long. The request was complied with on the part of the Senate by an order directing the Secretary to return the bill to the House of Representatives.

CORRECTION.

Mr. DOOLITTLE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the House of Representatives be requested

to return to the Senate the bill (H. R. No. 287) for the relief of Timothy O'Keefe, for the purpose of correcting an error.

SETTLERS IN WISCONSIN.

Mr. DOOLITTLE. I ask the consent of the Senate that the bill (H. R. No. 246) may be taken up and passed. It will not lead to debate. It has passed the House, been unanimously reported by our Committee on Public Lands, and no debate will grow out of it. It concerns a class of individuals.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 246) for the relief of certain settlers on the public lands in the State of Wisconsin.

It proposes to confirm to the State of Wisconsin so much of the even-numbered sections of land selected by that State in the month of June, 1849, to satisfy the quantity of land due the State under the act of Congress of August 8, 1846, granting land in aid of the improvement of the Fox and Wisconsin rivers, as have been sold, or contracted to be sold, by the State or its assigns, under the laws thereof; and the title of the purchasers is declared to be valid as though the selections had been made in conformity with law, with a proviso that this is not to be construed to increase the quantity of land to which the State is entitled under the grant, and that a schedule, duly certified by the owner, of the lands sold and contracted for to be sold, prior to the passage of this bill shall be filed in the General Land Office within six months from its passage.

The bill further provides that every person being the head of a family, widow, or single man over the age of twenty-one years, who, on the 11th of June, 1849, was, or since that time has become, an actual settler and housekeeper, and has made other improvements on any tract embraced in the even-numbered section selection, which the State of Wisconsin or its assigns has not sold or contracted to sell, is entitled to the same right of preemption, upon the same terms and conditions as are prescribed by the act of September 4, 1841.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ANTHONY W. BAYARD.

Mr. CAMERON. I ask the consent of the Senate to take up a bill for the relief of an old soldier in my State. It is the bill (S. No. 371) for the relief of Anthony W. Bayard.

The bill was read a second time, and considered as in Committee of the Whole.

It directs the payment to Anthony W. Bayard of \$1,136, in lieu of arrears of pension, at the rate now allowed him by law, from the time of his being originally placed on the pension roll to the 1st day of January 1852, when the present rate was allowed.

Bayard's name was placed on the pension roll at eight dollars a month, in 1844. In 1852, Congress increased the pension to twenty dollars a month. It is evident to the committee that he would have been entitled to a full pension from the date of his wounds in 1812 if he had applied for it; and by his neglect to make the application then, he failed to receive more than three thousand dollars. It is not proposed to give him this, but to pay him the difference between eight and twenty dollars a month from 1844 to 1852.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MARY A. M. JONES.

Mr. THOMSON, of New Jersey. I call up the bill which was under discussion yesterday when the hour of one o'clock arrived.

The Senate resumed the consideration of the bill (H. R. No. 42) granting a pension to Mary A. M. Jones.

Mr. IVERSON. I move to reconsider the vote which was taken yesterday on the amendment to this bill, by which the pension proposed to be allowed to Mrs. Gaines was fixed at fifty dollars a month. I voted in the affirmative on that proposition, and I move now to reconsider that vote. I beg leave, by way of explanation, to say that I am opposed to this system of pensions; and the bill itself cannot receive my sanction; but I think it just that the friends of Mrs. Gaines should have

an opportunity of having her pension fixed at something like a relative proportion to the rank her husband held. General Worth was a major general by brevet, but was only a colonel in the line, and was drawing the pay proper of a colonel at the time of his death; his widow was pensioned at the rate of fifty dollars a month; so General Jones, for whose widow the bill provides, was a brevet brigadier general, but only a colonel in the line. General Gaines was a brigadier general in full, and he was a major general by brevet, and he was drawing the pay of a major general at the time of his death, because he was in command of a military division. According to the same relative proportion, it would seem to me just that Mrs. Gaines should be entitled to one half the proper pay of her husband at the time of his death—either brigadier's pay, or major general's pay. I am willing to reconsider that section, and vote to give her that pay; and then I shall be constrained, according to my conscientious convictions of duty, to vote against the bill.

The VICE PRESIDENT. The Secretary will read the amendment which it is proposed to reconsider.

The Secretary read the following:

"Sec. 2. And be it further enacted, That the name of Myra Clark Gaines, widow of Major General Edmund P. Gaines, United States Army, be placed on the pension roll; and that she be paid at a rate not exceeding fifty dollars per month, to commence on the 6th day of June, 1849, and to continue during her natural life."

Mr. TOOMBS. I hope the motion to reconsider will not prevail, for the reasons given by my colleague. I endeavored to show yesterday that this system of pensions was a gratuity from the beginning of the Government, or since the system was adopted; and that, when the laws have given half the pay proper of the officer, they have allowed no case to go beyond the half pay of a lieutenant colonel. That has been the long-established rule, even for the most brilliant services, and for losing one's life in action. Well, what reason is there that this lady should be an exception? What reason can any Senator suggest? You adopt a rule by which the families of hundreds and hundreds of officers, in the Army of the United States, who have actually fallen in battle, have received a pension. General Gaines was but a brigadier general in the Army. I think General Worth was a brigadier general. I am not certain as to that fact, but my impression was, that he was a brigadier general by brevet. General Gaines was a major general by brevet, and very much by courtesy, too; because, in a long peace he was not engaged, and he was too old for active service during the Mexican war. It was not his fault, but it was the fact. You propose to overturn the general rule, which is strictly a pension—I am now referring to cases where an officer falls in battle—for it is part of his contract, when he goes into the Army, that if he does fall in battle there shall be half pay given to his widow, but in no case shall it exceed the half pay of a lieutenant colonel.

Somebody has handed to me a report made in the other House—I think the bill has passed, possibly—to accompany House bill No. 474, for the relief of Mary Kirby Smith. Her husband, E. Kirby Smith, was a captain in the Army. He was lieutenant in the last war. I happened to know him personally in the service many years ago. He distinguished himself as a subaltern on the Canada frontier. Promotion came very slow, and he was still a lieutenant, but just before the breaking out of the Mexican war he became a captain. At the battle of Molino del Rey, on account of his superior officers being wounded, and not being able to go to the field, he was actually commanding as lieutenant colonel in the Army of the United States, and was mortally wounded, upon a charge to recover that battle, which was nearly lost. His widow got only the half pay of his rank of captain, though he was actually performing the duties of a lieutenant colonel, and probably lost his life on account of it, for he was mounted and commanding a battalion when but a captain in the line. Why should not this case be brought in as an amendment? I presume the widows of officers killed in battle, on the pension roll stand on the same foundation. For what purpose, now, will the Senate overturn it? Where is the justice, where is the equity of it? Are you going to depart from this great and fundamental rule, that pensions shall not exceed this sum, no

matter what may be the grade of the officer? Is it right to alter it? Shall we depart from the practice of our fathers? Are the services of General Gaines deserving of it? He died in a ripe old age, probably eighty years of age, after having been maintained by his country for years. I know it is very easy for Senators to bring in the eagle, and the stars and stripes, and pass eulogies on anybody; but the fact is that many of these men have been maintained forty years by their country, in the long peace between the war of 1812 and the war with Mexico, with occasional and not very brilliant services in our Indian campaigns. We have had no Indian campaigns of consequence since General Jackson's southern campaign in 1817 and 1818.

Now, to give Mrs. Gaines any pension at all is against law. To give her any pension at all is against principle. To give her any pension at all, is against well-settled principles, from the Revolution until now, with the exception of the last five years, when there has been careless and reckless legislation. This is a total departure from principle. But I suppose revolutionary services are nothing, dying in battle is nothing, when put in the opposite scale to a fascinating lady who makes personal solicitations to old Senators. I believe that is just about the case. The older they are the worse they are. I am told that attachment to the ladies, when it gets in the head, is worse than anywhere else. [Laughter.] That is all the reason of it. It ought not to be done. It is against principle, it is against right; and I hope, therefore, the measure will not pass.

Mr. HOUSTON. This appears to be one of the perversities of the Senator from Georgia. With his characteristic ability and fine understanding he occasionally gets into a kink, and I think this is an occasion on which it has happened. I regret exceedingly to make any remarks on this subject; but I really think he has tried to treat it with a degree of unfairness and levity that does not pertain to it. This measure is not against law; but it is intended to remedy a defect which now exists in the law. If it were in strict accordance with law, it would not be necessary. It is for the purpose of remedying defects that now exist in the law, by according an act of justice to the applicant here.

I regret that the gentleman has misapprehended the position of General Gaines; and he appears, also, to have taken a very cursory view of his claims to public confidence, public regard, and to national obligation. General Gaines won his rank. He won two brevets in Canada, in the face of an enemy; and for the brevet of major general, I think he suffered a siege at Erie of forty days, beleaguered by a superior force, on which occasion he received a wound that inflicted disability upon him during his life. Yet such were his ardor and zeal and his soldierly devotion to his country, that he never permitted it, beyond the immediate suffering and injury received, to detain him from service a single hour. He marched to the Canada frontier as a colonel. He there gained both his brevets. No officer stood more high in the Army, either for chivalry, capacity, or fidelity to the interests of his country. Exemplary in all his relations of life; as to temperance, moderation, constancy, and fidelity, he was unrivaled. He was in every respect a soldier and a gentleman. Patriotism was his predominant feeling. In the campaign in Florida, he resumed his duties again as a major general, after having been on duty at various stations in time of peace; and during that war he experienced greater privations and difficulties than any other general in the field; and I would say nothing against the gallant gentlemen who were connected with that war. He there received another wound. He continued in service, discharging always the duties of a major general. He was entitled to the pay of a major general. His widow is now entitled to the half pay of a major general, because he never performed services inferior to them. When General Macomb was appointed Commander-in-Chief of the Army of the United States, General Gaines commanded the division of the South. He had the unlimited confidence of General Jackson. He regarded him as one of the fairest and bravest soldiers of the Army, and a most accomplished gentleman. He assigned to him at one time the command immediately bordering on Texas, at the time of her revolution; and there he acquitted

himself as became an officer, in maintaining peace and in vindicating the honor of the flag of the United States. He maintained a neutrality under exciting circumstances, most commendable to him.

Well, sir, his widow now comes forward as a claimant. Fifty dollars a month has been accorded to others; and, taking the relative rank of the officers whose widows have thus been provided for, and General Gaines, her allowance should be nearly one hundred dollars per month. The scale regulating pensions in the Army graduates them according to the pay the officers receive. The gentleman from Georgia chooses to refer to a captain who was accidentally called into service on a contingency, and for the single occasion acted as lieutenant colonel. That was the privilege he had on account of being the senior captain, and the field officers being withdrawn from their situations. That contingency he availed himself of. He had the glory of his position. He had no real rank beyond that of captain; and the regulations of the Army of the United States did not entitle those claiming, in virtue of his death, to any superior advantage over other captains.

I sincerely hope that justice will be meted out according to the relative circumstances and positions of the different individuals in whose behalf we are acting; and it is commendable and honorable in the Senate to do it. Sir, if you recompense gallantry by generosity, you will have gallant men. How are you to get an army if a man has no stimulus to enter the ranks of his country, and to defend its standard? and if he can say to himself, "if I fall in defending the liberties of the country, my family, who are dependent on the pittance I draw from the Government, will be left beggars in the world, friendless, and pointed at as the miserable remnants of a reputation of a father, who commended himself to the confidence of his country by the sacrifice of his life." Sir, you will never in that way commend gallantry to honorable minds like Gaines, who was distinguished for his generosity, his truth, his nobleness, his chivalry, and what crowned all, was his matchless generosity. Sir, if he had the power to dispense benefits, feeling as he did, he never could be appealed to by a soldier in vain. Nay, sir; if a soldier's dog had come to his marquee hungry, and he had asked, "Whose dog is that?" and they had said it was a soldier's dog, he would have replied, "Feed him."

Mr. HAYNE. I must rise to say that I consider this an exception to the general rule, upon the principle that equity is right to correct law. It is upon that principle, which all the lawyers here understand a great deal better than I do, that I think Mrs. Gaines should be treated with liberality; and I shall vote for her pension.

The VICE PRESIDENT. Will the Senate reconsider the vote by which the allowance to Mrs. Gaines was limited to fifty dollars? That is the question.

The question being taken by yeas and nays, resulted—yeas 32, nays 16, as follows:

YEAS—Messrs. Allen, Bell, Bigler, Bright, Broderick, Brown, Cameron, Chandler, Clark, Clingman, Crittenden, Dixon, Doollittle, Douglas, Fitch, Foot, Foster, Green, Hayne, Houston, Iverson, Jones, Kennedy, Polk, Reid, Sebastian, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—32.

NAYS—Messrs. Benjamin, Clay, Durkee, Fitzpatrick, Hale, Hamlin, Harlan, Hunter, Johnson of Tennessee, King, Mason, Pearce, Pugh, Slidell, Toombs, and Wright—16.

So the motion to reconsider was agreed to.

Mr. STUART. The question now is on the amendment to strike out the half pay, and insert fifty dollars per month. We have reconsidered that.

The VICE PRESIDENT. The last vote has reconsidered the whole amendment of the Senator from New York, [Mr. SEWARD.] The next step is the amendment to strike out the half pay.

Mr. STUART. If it is necessary, I move to reconsider that.

The motion was agreed to.

The VICE PRESIDENT. The question now, is on striking out of the amendment the words, "half pay proper per month, to which the said Gaines was entitled at his death," and insert "not exceeding fifty dollars per month."

Mr. HALE. I have labored very zealously, both in this Congress and the last, to obtain a pen-

sion for Mrs. Jones, and I am very desirous of voting for it. I am willing also to vote for the pension of Mrs. Gaines; but I understand, on inquiry of the chairman of the Committee on Pensions, that never, from the institution of this Government to this moment, has the Government gone higher than fifty dollars a month, to the widow of an officer of the Army; and, however much I regret it, if this amendment be adopted, I shall be compelled to vote against the whole bill.

Mr. JONES. I would thank the Senator to give my whole testimony, if he gives any. I said there never was such a meritorious case presented to the Senate before, in my opinion.

Mr. HALE. I did not pretend to give your opinions, but your facts.

Mr. TOOMBS. I think, at all events, the attention of the country ought to be brought to that single fact. The honorable chairman of the Committee on Pensions says this is the most meritorious case that has ever been presented. Is that true? Is it more meritorious than those officers who shed their blood and lost their lives on the battle-fields of the Revolution? Is it more meritorious than those patriots who shed their blood and lost their lives on your battle-fields in the last war with England? Is it more meritorious than those who left their bones bleaching on a foreign soil in the Mexican war? Can any man say so? General Gaines was maintained by his country for forty years—literally maintained by his country for forty years; he did his duty, I admit, in earlier life in the last war, but he was not distinguished after that time for anything, I undertake to say, notwithstanding the allegation of the Senator from Texas; and I appeal to history. He was a worthy man, but as for having undergone sufferings or done distinguished services, you may in vain point anywhere else than the speeches of the Senator from Texas, and the general declarations of Senators to find it. It is not in the history of your country; it cannot be found there. Was it more meritorious than the case of Colonel E. Kirby Smith, who fell retrieving a lost battle, who rallied your retreating troops, and spent his life's blood in wrenching victory from defeat? Is it true that the case of this man who had his three, four, or five thousand dollars for forty years, and died in his bed, not in the public service nor by exposure, is more meritorious than those illustrious patriots who lost their lives standing breast to breast with the enemies of their country? It is not true, sir. It is favoritism, and nothing else. There are a thousand cases blazing the records of your country, that do not need a eulogist in the Senate, of men who have written their history by their swords upon every page of their country's annals, who have not received these rewards; but a senatorial eulogy that he would feed a dog if it was a soldier's dog, that is the merit which the Senator from Texas—

Mr. HOUSTON. Mr. President—

Mr. TOOMBS. I yield.

Mr. HOUSTON. I thought the gentleman had finished. I do not wish to interfere with him. I am very sorry that he has thought it necessary to forget that portion of history which was considered very exciting at the time, I recollect, and involved the security of our frontier. General Gaines was for years engaged arduously in defending Florida, subject to the influences of climate and to Indian warfare. He was there wounded a second time. He shed his blood, as I have stated, and was disabled in the war in Canada. He resumed his duties, and continued them up to the day of his death, always subject to the insalubrious climate of the South, never having a northern station, and never having a furlough that I heard of. He was the very officer who would have been selected for command in the Mexican war had it not been for some difficulties that arose in the construction of orders and military regulations, and he was withdrawn. His pride of character was such that he demanded an investigation of his conduct. I can assure the gentleman that he was never off duty. He died at his post in the insalubrious climate of New Orleans. It was cholera that carried him off. Had he selected a pleasant northern situation, one in the interior, not subject to all the malign influences of a sea-board, he might have been living to-day. He was not superannuated, for he had always performed his duty promptly. He stood erect; he had no debility about him. He had been a soldier, injured to

martial difficulties and dangers. He met every emergency that awaited him in life, and acquitted himself to the satisfaction of his country and the admiration of his countrymen; and the devotion of his soldiers would only perish with themselves. Sir, I am proud in this Senate to say that I served as an enlisted soldier under Gaines, who was unrivaled in all the attributes of soldiery of honor and of truth.

Mr. TOOMBS. I yielded to the Senator, and he has made a speech, but he has not replied to me. I would have given General Gaines's memory the charity of my silence on the Florida campaign, if it had not been thrust on me by the Senator from Texas. I know nothing distinguished or illustrious performed by General Gaines in that service, and I had the best opportunity of knowing what was done there. I saw nothing in his being cooped up on the Withlacoochie, with eight hundred or a thousand men, and relieved—

Mr. HAYNE. Allow me, sir, to say—

Mr. TOOMBS. I beg your pardon, sir. I am willing my friend should speak after me.

Mr. HAYNE. I do not wish to speak. I merely desire to state this fact, that if General Gaines performed nothing during that campaign, those who followed after him did just as little. It was a most intricate campaign. General Scott, that distinguished soldier, had an army of ten thousand men afterwards. It was an abortive campaign—nothing was done.

Mr. TOOMBS. That would be a very good speech against a pension being given to any of them, but I do not see that it helps out the case of General Gaines at all. If he did nothing, and other people did nothing, we ought, therefore, to pension nobody. I do not see that you can set off nothing against nothing. If nobody else was distinguished, I will reward nobody. Therefore, I think the argument of my friend from South Carolina is a good one against the pension, and not for it. I say there was nothing distinguished in that campaign. It was a humiliating expedition to the country—an unsuccessful one, eminently—and so felt by the entire Republic.

I say this is senatorial eulogy; it is not history; and I am unwilling to stand as one of the Senators in this body, and hear it said that General Gaines is the most distinguished of all the great military characters who have adorned our military history. It is not the truth—that is what I say about it. There are tens, there are hundreds, there are thousands, of brave and patriotic men who have filled bloody graves. There are thousands and tens of thousands of poor men, not generals, who left their bones upon the plains of Mexico, whose flesh was eaten up by vultures, and whose widows get sixty dollars a year for five years. We heard none of these speeches for them. That was the law of the land. That was their pay. We are introducing this principle that was repelled by the country even when they gave gratuities or pensions in advance. It is that we shall not pay a man according to his rank, but according to eminent services. You carry out the same idea of building up your privileged class. The laws will not give the pay because he happens to be an officer of the Army of high rank, a major general; but they have declared our policy has been, when the grant was not pension, but a compensation fixed in advance, when a brave man entered the service of the country, to tell him, "go and do your duty; meet danger wherever it comes; and if you fall in battle, we will pension your widow for five years at the half pay of your rank, provided you fall before you reach the rank of lieutenant colonel, or at that point, but no more."

Then this exception is sought to be made in favor of a man, who, I say, was for forty years maintained by his country. It is in vain to tell me, it is in vain to tell an American freeman and people out of doors that you are rewarding General Gaines for great services. He did his duty. At the sortie of Fort Erie he did it. He did his duty, so far as I know, everywhere. I have no reproaches to cast on him; but I say he is not more distinguished than thousands and tens of thousands, and not as much distinguished as other thousands who fell in battle; therefore, when you put him on the same basis with the best man that ever fought and bled and died for his country, you have done enough. When you do more you violate principle; you violate justice; you violate even the memories of the illustrious dead.

Mr. HAYNE. I will just say—and I think Senators will understand that I am perfectly correct—that my distinguished friend from Georgia, evidently, if he did not point the finger of scorn, did point the finger of disapprobation exclusively at General Gaines; and I rose to state the fact that even our distinguished General Scott, with an army much stronger than that of General Gaines, did nothing that the country could approve of in Florida, because there were difficulties in Florida which were almost insurmountable from the nature of the country itself.

Mr. TOOMBS. I ask for the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the amendment to the amendment, to strike out the words "half the pay proper per month to which the said Gaines was entitled at his death," and to insert "not exceeding fifty dollars per month."

Mr. TOOMBS. I will say that this pension, even as it stands, commencing in 1849 at \$600 a year, will give a bonus of over five thousand dollars to start upon, besides what is received for all the rest.

Mr. DAVIS. I merely wish to say—

Mr. SEWARD. The honorable Senator from Mississippi will allow me to suggest to him that we had better take the question. We have but a very few minutes.

The question being taken by yeas and nays, resulted—yeas 21, nays 27; as follows:

YEAS—Messrs. Benjamin, Bright, Broderick, Clay, Durkee, Foot, Foster, Hale, Hamlin, Harlan, Hunter, Johnson of Tennessee, King, Mallory, Mason, Pearce, Pugh, Sidel, Thompson of Kentucky, Toombs, and Wright—21.

NAYS—Messrs. Allen, Bell, Brown, Cameron, Chandler, Clark, Clingman, Crittenden, Davis, Dixon, Doolittle, Douglas, Green, Hayne, Houston, Iverson, Jones, Kennedy, Polk, Reid, Sebastian, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—27.

So the amendment to the amendment was rejected; and the question recurred on the original amendment offered by Mr. SEWARD as an additional section.

Mr. PUGH. I hope the Senate will not put this amendment on the bill. The whole object of it is to make Mrs. Jones's case carry the case of Mrs. Gaines through the House of Representatives. I hope the friends of Mrs. Gaines's bill will put it through in its regular order, and not stay a bill which has passed the other House and is meritorious by itself, and ought to pass here. I think it is unfair; I think it is unkind; I think it is ungenerous. I have no objection to a pension to Mrs. Gaines, but I think it is wrong to defeat this bill for Mrs. Jones, by putting another proposition on it. It has never been done before. It has been but once attempted since I have been in the Senate, and it was then rebuked by a large majority. I hope the Senate will not concur in the amendment, and I ask the Senator from New York to have the goodness to withdraw it. I will vote for a bill to give Mrs. Gaines a pension by itself, but I consider this amendment a defeat of the original bill.

Mr. TRUMBULL. The bill from the House has already been amended, and it has to go back.

Mr. PUGH. That amendment, I can satisfy the Senator from Georgia, really increases the pension, and probably he will be willing to withdraw it.

Mr. HUNTER. Has not the hour arrived for the special order?

The VICE PRESIDENT. The Chair will call it up when the hour arrives.

Mr. BENJAMIN. Before the question is put, I desire to know what amount this is we are giving away out of the Treasury? I want to understand what it is. These indefinite terms about "half pay proper," are unintelligible to the Senate generally. I find gentlemen all around me disagreeing as to their meaning. Let us say what is meant, in the bill.

Mr. DAVIS. Ninety dollars a month.

The VICE PRESIDENT. The hour has arrived for the consideration of the special order, which is the unfinished business of yesterday, the Army appropriation bill.

FOREIGN AGGRESSIONS.

Mr. MASON. I think the debate of yesterday shows that whatever bill may be up, making appropriations, it will carry debate with it on other

bills that are before the Senate with reference to our foreign relations. I move, therefore, to postpone the Army bill and all previous orders, with a view to take up the bill (S. No. 402) conferring power on the President relative to our relations with Mexico.

Mr. HUNTER. I hope that will not be done. I think we ought to get through with the Army bill, and perhaps another appropriation bill, today. I do not apprehend there will be much debate on it.

Mr. MASON. I ask for the yeas and nays on my motion.

The yeas and nays were ordered.

Mr. HUNTER. I will only remind the Senate that I think it is due to the House of Representatives, in good faith, that we should devote ourselves to the appropriation bills. We can take up other subjects afterwards. It is known that the President requires certain time for the consideration of these bills, and this makes it eminently proper that we should take them up first.

Mr. SEWARD. Will the Senator state what bill it is, that we may understand how to vote?

Mr. MASON. It is the bill (S. No. 402) on the subject of our relations with Mexico and Central America. It is the bill referred to the Committee on Foreign Relations, by the Senator from Illinois, and reported with a substitute.

Mr. HUNTER. We all know the bill. I hope the Senator from New York will not ask to have it read.

Mr. SEWARD. Certainly not; I only wanted to know what it was.

Mr. HUNTER. I hope we shall have a vote.

Mr. MASON. I wish to say a word in reply to my colleague before the vote is taken. I am not aware that there is anything more due to the House of Representatives than the relations of comity that exist between the two branches of the Legislature; but there is a great deal due to the country, and due to the property and persons of our citizens interested in the passage of this bill. I shall not discuss it, or detain the Senate; but I have thought it to be my duty to bring it to the notice of the Senate, as a bill which, in my judgment, claims precedence over the appropriation bills, especially at this stage of the session.

Mr. FESSENDEN. For the very reason that something is due to the country, I think we ought to take up the appropriation bills, and not have any more of what I cannot help calling mere humbug in the Senate on these other bills.

The question being taken by yeas and nays, resulted—yeas 15, nays 40; as follows:

YEAS—Messrs. Allen, Bell, Benjamin, Clingman, Crittenden, Douglas, Green, Hayne, Houston, Mallory, Mason, Polk, Reid, Sidel, and Thompson of New Jersey—15.

NAYS—Messrs. Bayard, Bigler, Bright, Broderick, Brown, Cameron, Chandler, Clark, Clay, Collamer, Davis, Dixon, Doolittle, Durkee, Fessenden, Fitzpatrick, Foot, Foster, Hale, Hamlin, Hammond, Harlan, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, Pearce, Rice, Sebastian, Seward, Simmons, Stuart, Thompson of Kentucky, Toombs, Trumbull, Wade, Wilson, Wright, and Yates—40.

So the motion of Mr. MASON was not agreed to.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker of the House had signed the following enrolled bills; which thereupon received the signature of the Vice President:

An act to increase the pension of Henry E. Reed, a citizen of Kentucky, and for other purposes;

An act granting an invalid pension to Conrad Schroeder;

A joint resolution authorizing the Secretary of War to expend the appropriation made July 8, 1856, upon such channel of the St. Mary's river as he may select;

An act for the relief of Michael A. Davenport, of Illinois;

An act for the relief of certain settlers upon the public lands in the State of Wisconsin;

An act granting an invalid pension to Alexander S. Bean, of Pennsylvania;

An act for the relief of Wyatt Griffith;

An act for the relief of Elijah Close, of Tennessee;

An act granting an invalid pension to James Fugate, of Missouri; and

An act for the relief of Stephen Fellows;

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were read twice by their titles and referred as indicated below:

An act (H. R. No. 55) to regulate fees and costs to be allowed marshals, district attorneys, clerks of courts, jurors, and witnesses, in the State of California—to the Committee on the Judiciary.

A bill (H. R. No. 583) providing for keeping and distributing public documents—to the Committee on the Library.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HENRY, his Secretary, announced that the President had this day approved and signed the following acts:

An act for the relief of the legal representatives of Daniel Hay, deceased; and

An act to confirm the sale of the reservation held by the Christian Indians, and to provide a permanent home for said Indians.

ARMY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 243) making appropriations for the support of the Army for the year ending the 30th of June, 1859.

Mr. HUNTER. My friend and colleague on the Finance Committee, the Senator from Maryland, [Mr. PEARCE,] has charge of this bill.

The VICE PRESIDENT. The bill will be read.

Mr. STUART. It is not necessary to read the bill at length.

The VICE PRESIDENT. If there be no objection the Secretary will not read the bill at length, but will proceed to read the amendments of the Finance Committee. The Chair hears no objection to this course.

The first amendment of the Committee on Finance, was to strike out the following clause on page 7:

For the alteration of old arms so as to make them breech-loading guns, in accordance with the recommendation of the Secretary of War, \$100,000.

Mr. DAVIS. I move to amend that clause before the question is taken on striking it all out, by striking out the words, "breech-loading guns in accordance with the recommendation of the Secretary of War," and inserting in lieu thereof, "conform to the present models, and for the purchase of approved breech-loading arms," so as to make the clause read:

For the alteration of old arms so as to make them conform to the present models, and for the purchase of approved breech-loading arms, \$100,000.

Mr. SLIDELL. I should like to have some information on this subject. This clause of the appropriation bill was adopted by the House of Representatives, after full consideration, and I think it is in conformity with a recommendation of the Secretary of War. Its purpose is to alter a certain number of arms that are now comparatively unserviceable and useless, not being of the approved model and pattern, at very trifling expense, so as to make them the most efficient arms in the world. I chiefly rose to correct a false impression that seems to have been very industriously circulated in the Senate—I do not know for what reason or motive, though I might, perhaps, conjecture—that this appropriation is intended to inure to the benefit of a single individual. If there were anything in this clause that looked in that direction, I certainly should not be its advocate. It is very true that the attention, probably, of the Military Committee in the other House, and certainly gentlemen in the Senate, has been more peculiarly called to the examination of a gun which has been invented by a constituent of mine. I have never voted, and probably never shall vote, in the Senate, for any appropriation, however small, that is intended to give the stamp of approbation to the invention of any individual or to give him privileges which are not enjoyed by the rest of the community. This appropriation is in a general form, to enable the Secretary of War to convert a certain portion of arms now on hand, from the ordinary rifle and musket into the breech-loading arm. It is said that this conversion can be effected at a charge of about two dollars and a half per arm, thus making a musket or rifle, now capable of discharging but a single shot, a revolving, breech-loading arm, that discharges five or six shots.

I do not profess to be at all familiar with arms; I have a rude, general notion on the subject, and I confess my entire ignorance generally of mechanical inventions. I may reproach myself on that subject, perhaps, but I have a guide in these matters which to me, heretofore, has been an unerring one—that the usefulness of an invention is generally in proportion to its simplicity. Any man who looks at these breech-loading guns understands them at once. They appear not to be at all complicated, not likely to get out of order; and if they are not obnoxious to some charge on the part of experienced professional gentlemen who say they are not serviceable in the field, it is evident that the offensive capacity of each soldier will be increased in the proportion of six to one, if these arms be substituted for the ordinary arms.

I rose in the first instance to ask, at any rate, for some explanation of the motives which induced the Committee on Finance to strike out this clause of the bill, which has been adopted, I presume, after full consideration, by the House of Representatives. It is due to ourselves to give some reason for striking out the appropriation made by the House.

Mr. PEARCE. It appeared to the Committee on Finance that this was a large sum to appropriate for the purpose. They were informed, in relation to the arm alluded to by the Senator from Louisiana, that the alteration of old muskets into that form of gun could be made at an expense of about two dollars and a half. Whether the Secretary of War would apply this sum to the change of the old muskets into the new arm alluded to by the Senator or not, the committee had no means of knowing. They were assured, out of doors, that he had come to no conclusion on the subject; but supposing that it was his purpose to apply this appropriation to that object, it was sufficient to alter forty thousand muskets, and the committee were not disposed to appropriate so much for that purpose, because it seemed to them that it was something of an experiment, and that there should be some surer test than that of ordinary individual inspection by the members of a committee, or even by persons familiar with military weapons; and in this they were supported by a letter from the colonel of ordnance, from which I beg to read a very few sentences. Speaking of breech-loading guns, and after having expressed the preference given by the board of officers at West Point last summer, after some preliminary trials of Burnside's breech-loading arm, the colonel of ordnance goes on to say:

"I think it due to the merits of the different inventions which have been presented, to compare the breech-loading arms, that the opportunity should be given of settling the question of superiority, or otherwise, as a military weapon, by actual use in the hands of troops—the only sure and reliable test."

The committee thought so, too; the committee thought the only sure and reliable test of a newly-invented gun must be found in its use in actual service. They supposed, therefore, that if an appropriation were made at all, it should be a small one—enough to purchase a thousand stand of arms, to equip a regiment with, and let it be tried by them in actual service. But, on considering the whole matter, though they determined on this account to move to strike out the appropriation, they thought it would be as well to let the Military Committee have an opportunity of examining the subject; and the papers were therefore sent to the chairman of the Committee on Military Affairs, who has prepared the amendment he has submitted. I am very much disposed to defer to his judgment; but I have no authority to withdraw the amendment of the Committee on Finance. I feel disposed to give my individual vote for his proposition. I would suggest to him, however, that it would perhaps be better to apportion more specifically the sum his amendment proposes to appropriate between the objects he has mentioned in it. I do not think he has discriminated the amount to be applied to altering the old guns into breech-loading weapons from the amount to be apportioned to purchasing new guns. I think he has left the appropriation in gross, leaving it to the discretion of the Secretary to apply such part of it as he pleases to the one purpose, and the residue to the other. I was in hopes that the Military Committee would designate what portion of the \$100,000 should be applied to each of these objects.

Mr. DAVIS. The amendment proposed by me does not indicate a purpose to alter any of the

arms of the United States into breech-loading arms. My own opinion is, that the musket or the rifle would be injured by being altered into a breech-loading arm for any purpose for which it is used either by the militia or the Army; and that the only value of a breech-loading arm belongs to its use by cavalry; that, in other words, the value of breech-loading, so far as applied to military purposes, is confined to those cases where the man has not freedom of action to load the piece at the muzzle. The infantry-man who has space enough, and is in proper position to load his piece at the muzzle, I think is better served with a muzzle-loading piece than a breech-loading piece. When breech-loading was first introduced, the great defect in arms was the difficulty of putting down a ball so as to obtain all the force of the powder to propel it. It was necessary it should be rammed home with great force. Then breech-loading had its value in rapidity of fire, or in putting the ball in as if intended to have rapid firing at any rate, so that it should be tight in passing out. All that has been superseded by the introduction of the expanding ball, which is put in loose in the muzzle, rammed home without delay, expanded by the powder the moment it is ignited, and passes out of the piece tight. There is, therefore, no advantage to the foot-man in loading a piece at the breech. There are many disadvantages. It necessarily complicates the machinery of the piece. It is liable to get out of order. It usually requires special ammunition; and just in proportion as you multiply the varieties of ammunition you increase the disability of the troops. The special ammunition designed for a particular piece may be exhausted in a battle, and until they can reach the supply for that special arm, it is impossible for them to get any ammunition which will answer their purpose. If, however, the ammunition be all of one kind, you can go to the first caisson you reach.

Mr. SEWARD. The honorable Senator will allow me to ask him, for information, whether there are not breech-loading guns that are prepared so as to use the common ammunition?

Mr. DAVIS. There are some methods of breech-loading which enable you to load at the muzzle equally as at the breech, and which enable you to use the ordinary ammunition firing with the cap, if the special ammunition be exhausted, and to some of them they attach the primer, so as to make them self-priming. All special arms, however, are subject to objection. The parts cannot be interchanged with other arms, and if they get out of order, they must be thrown away. The objection which I was stating applies rather to the peculiar method of breech-loading which was presented by the remarks of the Senator from Louisiana. The amendment I have proposed is to enable the Secretary to alter the old flint-lock muskets so as to make them conform to the present models, to make them percussion muskets; self-priming or not, as he may judge best; rifled or not, as he may judge best. The Senator from Maryland will therefore perceive that it is impossible for me to divide the sum, because it will depend on the method the Secretary may adopt. One method will cost fifty cents, another will cost \$1.50. I believe that is about the range in the methods employed for converting the flint-lock into the percussion musket, self-priming.

Then the next provision is to enable the Secretary to purchase breech-loading arms of approved models, in order that he may have a small number of every new improvement that he may put in the hands of troops, subject it to actual test, and discover its value. It would be very unwise for the Government, for the small number it ought to take of any new arm, to build machinery, and incur the vast expenses which necessarily must be incurred to make a new pattern of arms in its armory, to delay the manufacture of arms according to the approved model, and at last perhaps to find that the arms, if manufactured, were worthless, or, if the old arm had been altered, we not only lost the money we expended in the alteration, but ruined the arm on which the alterations were made. I object to any alteration, upon any new plan of breech-loading, of those arms which we have, and which we know to be good. Let new plans be tested upon new manufactures, and tested upon a small scale until we discover their reliability.

Mr. BENJAMIN. Of course, Mr. President,

on a subject of this kind, I would not pretend to put my judgment and my experience against those of the honorable Senator who has just addressed the Senate; but there is one portion of his remarks that really does not recommend itself to my mind. It is that portion which relates to the purchase of breech-loading arms, instead of permitting the Secretary of War to change some of the old arms into breech-loading arms, as he desires to do. I understand, for instance, that these breech-loading arms, when purchased, cost from thirty to forty dollars apiece, and we can make a change of some of the old arms at an expense of two or three dollars a weapon, the weapon now being worth but three or four dollars.

Mr. DAVIS. We have none such.

Mr. BENJAMIN. That is the report.

Mr. SLIDELL. With the permission of my colleague and the Senator from Mississippi, I will ask the Secretary to read a letter from the head of the War Department and two other documents in order that the Senate may understand the matter.

The Secretary read, as follows:

WAR DEPARTMENT, WASHINGTON, May 27, 1858.

SIR: The inclosed report from the Ordnance Bureau shows the number of altered arms now on hand, five hundred and fifty-eight thousand five hundred and thirty-two muskets, sixty-two thousand two hundred and thirty-eight rifles, the estimated value of which, at auction or by other means which the Department could not adopt for their sale, would be about two dollars and fifty cents each.

There is a necessity for selling these guns, when they are regarded as no longer suited for the service, because of the expense which their storage and care imposes on the Department. The alteration of them to breech-loading arms, by some of the most approved methods, would make them, in my judgment, quite equal to the muzzle-loading guns which we now manufacture at the national armories; the best of which are worth from thirteen to sixteen dollars a piece. The cost of this alteration would probably be covered by a sum ranging from two and a half to four dollars. This would constitute a very great saving to the United States, as the above figures will show.

The inclosed statement of Major Bell, of the Ordnance Corps, will show the advantages to be derived from the alteration of the arms according to Morse's patent; and this statement I recommend to you as worthy of attention, from the deservedly high character which the writer possesses for attainments and practical knowledge in his profession.

There are some other methods of breech-loading which may be fairly regarded as competing with these for simplicity and efficiency, and which experience might show would answer quite as well for the altered arms.

I presume that the foregoing statements furnish the information which you ask for.

I have the honor to be, very respectfully, your obedient servant,

JOHN B. FLOYD,
Secretary of War.

Hon. J. M. SANDIDGE, House of Representatives.

Mr. BENJAMIN. That is in accordance with what I understood to be the facts of the case.

Mr. SLIDELL. Will my colleague permit the other letters to be read?

Mr. BENJAMIN. I am very willing.

The Secretary read, as follows:

ORDNANCE OFFICE, WASHINGTON, May 27, 1858.

SIR: I have the honor to acknowledge the reference to this office of a letter from Hon. J. M. SANDIDGE, of the House of Representatives, and to report that we have on hand, besides the arms of the model of 1855, five hundred and fifty-eight thousand five hundred and thirty-two percussion muskets—those altered to percussion and flint lock—and sixty-two thousand two hundred and thirty-eight rifles of similar descriptions.

Very few of the arms have been in service. They originally cost and were valued at about thirteen dollars each. If sold at auction they would not probably realize \$2 50.

Not knowing what alteration is proposed to be made, I cannot state the probable cost of the alteration. The practical defect of the musket is its differing in caliber from the new arm, and its ammunition being inconveniently heavy. Such a defect cannot be obviated by breeching. I do not think that any alteration made on these arms would supersede the propriety of making new ones.

The amount of money expended in the manufacture and purchase of muskets and rifles during the last five years, has been \$1,562,999 77.

Hon. Mr. SANDIDGE's letter is returned herewith.

Very respectfully, your obedient servant,

H. K. CRAIG, Colonel of Ordnance.

Hon. JOHN B. FLOYD, Secretary of War.

Memoranda for Hon. HENRY WILSON, member of the Military Committee of the Senate, concerning the application of Morse's breech loading principle to the muzzle-loading arms of the United States; that is to say, to the rifle-musket, caliber 69-100 inch; to the musket, smooth bore, caliber 69-100 inch; and to the rifle, caliber, 54-100 inch.

The Secretary of War, esteeming Morse's breech-loading principle the best, directed its application at this Arsenal to one of each of the above-mentioned old arms, whereof we have large numbers now on hand in the State and United States Armories. This application was to be made with the least possible change or expense in the arms; the object of the Secretary in the experiment being both efficiency and economy in producing a more perfect arm than had yet been made, and economy in avoiding the contemplated sales of these old arms, necessarily at a great sacri-

fice. The result of the experiment is shown in the form of the arms which I had the honor to exhibit to you in the committee, on Saturday morning last, by direction of the Secretary of War.

1. *Advantages.*—The change in these arms is very small—only in a part of the lock and in the lower part of the barrel, everything else remaining the same. The estimated cost of this change, when effected by machinery, being from two dollars and fifty cents to three dollars and fifty cents per arm.

2. The strength of the barrels and other parts after the change is found most ample—one of the altered arms having sustained one thousand three hundred and fifty rounds of service charge without injury.

3. *Facility of fire.*—Its advantages over the muzzle-loader, in its breech-loading facilities, with its barrel always level and directed to the front, whether on horse, standing, or advancing, sitting, lying or kneeling, gives it both greater celerity as well as greater accuracy of fire on these accounts.

4. *Accuracy of fire.*—But its superior accuracy over the muzzle-loader is more particularly due to the fact that the construction of the cartridge, and of its chamber in the barrel, is such that when the gun is charged the axes of the ball and bore are necessarily in the same vertical plane of projection at the moment of fire, whereby they fulfill the most important requisite for accuracy of fire.

5. *Force of the charge.*—The force of the charge is necessarily greater than that of the corresponding muzzle-loader of the same caliber and charge of powder, because the cap being fired in the center of the charge, without vent or vent-discharge, the whole effect, therefore, of the cap and of the charge of powder goes to move the ball; whereas in the muzzle-loader the effect of the vent-discharge is lost to the motion of the ball. Accordingly, the penetrations of this gun, at thirty yards, are from one to one and a half inch boards greater than those of the muzzle-loader. And its range also, with the same elevation, proportionally greater.

6. *Certainty of fire.*—As the cap is fired in contact with the powder, the certainty of fire is greater than that of any other breech or muzzle-loading arm fired without the charge. In consequence, this arm never misses fire with a good cap.

7. *Cleanliness of fire.*—This arm is remarkable for cleanliness of bore after many fires; this being because a new chamber with every new charge is inserted at every fire, the old one being then withdrawn. Whereas, in the muzzle-loader, the chamber being always the same, is accumulating filth at every fire, which, at every fire, the ball carries forward in the bore. This gives much less accuracy of fire to the muzzle-loader.

8. *Safety from explosion.*—It has been charged against this arm that the cap being in contact with the powder there is danger of explosions from this cartridge in magazines and laboratories. But there is no such danger, as the projecting charge has no existence as a cartridge, except in the cartridge-box of the soldier, who forms it with surprising facility by merely pouring the powder into the iron chamber, and inserting the ball and cap, the wad and chamber being always ready, and then turning it into the cartridge box. Having the balls and the flask of powder, this may be done at any time, even in the field in presence of the enemy. As the cartridge in the cartridge-box rests on wood, the percussion could not, therefore, take effect there, if it could be made in the cartridge-box, which it could not be in consequence of the structure of the box.

9. *Saving.*—It is claimed for this arm that all the labor in magazines and laboratories which is now devoted to the manufacture and preservation of muzzle-loader paper cartridges, is saved, as it needs only powder and ball. It is also claimed for it that the trains for transportation of ammunition for small arms will be greatly reduced, besides saving much material of paper, twine, and lumber, &c.

10. The cartridge of this arm being water-proof, is greatly superior to the paper cartridge of the muzzle-loader. The latter, in a cartridge-box, might spoil in a few days' rainy weather, while that of this arm would not be affected for years.

Which is respectfully submitted,

WILLIAM H. BELL,
Major Ordnance.

WASHINGTON ARSENAL, May 26, 1858.

Mr. PEARCE. I had not seen that paper at the time I was addressing the Senate. It seems to be a piece cut from a newspaper containing the letter of the Secretary and the report of Major Bell. If I had seen it, I should have had this difficulty: I should have found Major Bell recommending this arm very specifically, and giving the reasons in detail for his preferences; and then I should have found a report from the commission which met at West Point last year, stating as follows—the first part of the opinion of the board assigns their preference to the gun of A. E. Burnside as best suited for military service; and then they go on to say:

"In expressing this opinion, the board do not wish to be understood as disparaging the merits of the other guns tried, for they consider that some of them possess much merit, and evince much ingenuity in their construction. In submitting this opinion, the board feel it their duty to state that they have seen nothing in these trials to lead them to think that a breech-loading arm has yet been invented which is suited to replace the muzzle loading gun for foot troops. On the contrary, they have seen much to impress them with an opinion unfavorable to the use of a breech-loading arm for general military purposes."

This is signed by Colonel Bell, first dragoons, president of the board, Major Hill, of the paymaster's department, Captain Benton, of the Ordnance, Captain Heath, of the tenth infantry, and Lieutenant Gibbon, of the fourth artillery, dated

August 12, 1857, the period of their making the observations and experiments. Really, the Committee on Finance know so little on these military subjects, that it seems to be a difficult thing for them to recommend with any authority to the Senate, whether they shall adopt this or that peculiar arm. They meant, by this amendment of theirs, to signify, that, in their opinion, the sum appropriated was too large to be applied to the purpose of changing forty thousand old guns into any one particular arm. They thought, as they were advised by the military board and by the colonel of Ordnance, that if we are to purchase or change any of these guns at all, we should have only a limited number so changed that they might be tried in actual service. It was supposed one or two thousand would be sufficient for that purpose. If, when tried in actual service, their utility and value shall be demonstrated, we may then want to have more altered into that form; but at present, the committee do not think it proper to recommend the expenditure of so large a sum for that purpose. If I understand aright the amendment of the Senator from Mississippi, the same sum is proposed to be appropriated for the double purpose of purchasing breech-loading guns and altering the old muskets so as to make them conform to the present model; but I understand that that would not include alterations into breech-loading guns. I really do not feel competent to decide on such a question. If Senators who understand the subject will enlighten the Senate, the body will, perhaps, be enabled to decide for itself understandingly.

Mr. BENJAMIN. We have got back, then, to the point from which I started, which is this: that the Secretary of War states, on the report of competent officers, that he is desirous of an appropriation to enable him to change certain old arms, worth not more than two and a half or three dollars apiece, into breech-loading arms of different inventors, not all of one inventor, at a cost of two and a half or three dollars apiece, and to make a trial of those arms in actual service, to see whether they will answer the demands of the Army, and that recommendation, thus specifically made by the Secretary of War, and communicated to the Finance Committee, is passed by the House, comes to the committee, and from the committee, by some means, gets into the Senate, with the whole object of the appropriation stricken entirely out of the bill, and something else provided for which the Secretary never asked for.

Mr. PEARCE. There is nothing else provided for in the bill. I ask the Senator's pardon.

Mr. BENJAMIN. The amendment reported provides a distinct thing entirely.

Mr. PEARCE. The amendment as reported is to strike out the whole appropriation. The Senator is mistaken. The amendment of the Senator from Mississippi is a different matter.

Mr. BENJAMIN. I understand that; but I understood from the Senator from Maryland, who represents the Finance Committee, that that committee referred the matter to the Military Committee. The Finance Committee first strikes out the entire appropriation asked for by the Secretary of War for a particular purpose, refers the subject to the Military Committee, and the Military Committee take the appropriation and apply it to a distinct purpose of their own. That is the point I wish the Senate—

Mr. DAVIS. I will correct the Senator from Louisiana, as that seems to be a point of his argument. The Secretary of War does ask for money enough to buy a thousand breech-loading arms, which, we understand, will cost from thirty-five to forty thousand dollars, and part of this \$100,000 is to go in that way, according to his application.

Mr. BENJAMIN. I do not understand that the Secretary of War has asked for any part of this \$100,000 here appropriated in the House bill, to purchase the breech-loading arms. If he has, I am very much mistaken.

Mr. DAVIS. Oh, I will state the very simple fact that he asks money to buy breech-loading guns. Whether it is in this \$100,000, or out of the Treasury, I do not know.

Mr. BENJAMIN. It is very easy for the Senator from Mississippi to give a sneering reply to what was certainly a very respectful inquiry.

Mr. DAVIS. I considered it as an attempt to misrepresent a very plain remark.

Mr. BENJAMIN. The Senator is mistaken,

and has no right to state any such thing. His manner is not agreeable at all.

Mr. DAVIS. If the Senator happens to find it disagreeable, I hope he will keep it to himself.

Mr. BENJAMIN. When directed to me, I will not keep it to myself; I will repel it *instantly*.

Mr. DAVIS. You have got it, sir.

Mr. BENJAMIN. That is enough, sir. Mr. President, I was stating—I shall not be diverted on this occasion from my public duties—

Mr. PEARCE. The Senator from Louisiana will allow me to interrupt him. I find that there is a recommendation from the Secretary of War on the subject. He says:

"The state of the existing appropriations will not admit of the purchase of these arms, and it will require a special appropriation of \$45,000 to purchase a proper supply."

I believe this letter only came in yesterday, which will excuse me for not being better acquainted with its contents.

Mr. BENJAMIN. I stated that the Secretary of War had asked for \$100,000 for the alteration of old arms into breech-loading arms; that that appropriation had been stricken out by the Finance Committee; that it had then been referred to the Military Committee; and that that committee had thought proper to retain the appropriation, but apply it to a purpose entirely different from that for which the Secretary asked it. Whether he asks an appropriation independently of this for the purchase of breech-loading arms, is a matter I was not considering, and was not presenting to the attention of the Senate. Now, sir, the point to which I wish to call the attention of the Senate is this: that, instead of making an appropriation of any portion of the sum asked for by the Secretary of War for the purpose for which he asked it, between the two committees together the sum is appropriated, and nothing is done that he asks for. I called the attention of the Senate to the fact that, upon this particular point, reports were before us showing, in the first place, that there was a large body of old arms belonging to the Government, worth some two and a half or three dollars apiece, which, for a similar amount, could be changed into breech-loading arms, for the purpose of experimenting with in the Army; and I asked the reason why we should purchase new breech-loading arms, costing forty dollars apiece, instead of devoting the old arms for the purpose of this experiment; when these old arms, as reported by officers of the intelligence and experience displayed by Major Bell, could be experimented with at two and a half or three dollars apiece—three and a half dollars, I believe, is the extremity. There is Sharpe's patent; there is Morse's patent; there is Burnside's patent; there are a number of these patents, which the friends of the different parties consider extremely valuable. Certainly no member of the Senate is competent to decide—not even the chairman of the Committee on Military Affairs: the officers of the Army who have examined this matter state that, up to the time of their report, in August last, the experiment had not been sufficiently solved. I understand that, since that time, great improvements have been made in these arms—sufficient to warrant the Secretary of War in recommending them to the attention of the Senate.

I hope that the whole purpose of the appropriation which is asked for will not be stricken out of the bill. If the Committee on Finance are still of opinion that \$100,000 is too large a sum for the purpose of testing the value of these improvements, let that sum be reduced; let a portion of it be applied either to making the old arms conform to some regulations, or to purchase breech-loading arms, if required; but do not strike out the entire appropriation for the purposes for which the Secretary wants it. Take thirty, forty, or fifty thousand dollars of it, and let the Secretary apply that to an object so valuable to the country, and take the remainder, if you please, and let the Senator from Mississippi have his own theories carried out with half the appropriation, but not with all. I hope that one half this appropriation, at all events, will be reserved for the purposes for which the Secretary of War asks it.

Mr. PEARCE. I will suggest to the Senator that it is competent for him to move an amendment to the amendment, appropriating a specific portion of the sum, if he thinks proper, to the object he desires.

Mr. BENJAMIN. I will, then, move to amend

the amendment offered by the Military Committee, so far as to leave this appropriation in its present language, but changing \$100,000 to \$50,000. We shall then have "for the alteration of old arms, so as to make them breech-loading guns, in accordance with the recommendation of the Secretary of War, \$50,000," leaving the other \$50,000 to be applied according to the recommendation of the Military Committee.

Mr. DAVIS. The Senator who has just taken his seat has argued from the papers which have been read to the Senate, that which is not in them. He has asserted over and over again, in the course of his argument, and endeavored at one time to make me responsible for it, that we had a large number of old arms worth \$2 50 which were to be converted into most efficient arms by expending some two dollars and a half upon them. The letter of the Secretary of War says that if sold at auction they would not bring more than a certain sum. That may be all very true; and if our forts were sold at auction, pray what would they bring? The arms that are made for military purposes are not suited to the private purposes of civil life. There is very little use that could be made of the musket, a little more of the rifle, but very little indeed which could be made in civil life of the musket manufactured for the Army. It would not answer the sportsman's purpose for anything perhaps but bear hunting. That those arms would sell for far less than their value, I do not doubt; but it is not to be assumed that all the arms which are described are of the character which were sold to George Law for a small sum. A certain number of the muskets on hand were condemned because they were inferior; they were, generally, the arms made before 1821, after which we had an improved model; all the material was improved, and continued to improve until 1842. We have eighteen thousand old flint-lock muskets. They were examined and reported upon as serviceable muskets, too good to be sold; they were kept in store because they were too good to be sold; and it requires but a sum sufficient to convert them into percussion muskets to make them all that the Government requires.

Mr. SEWARD. I ask the honorable Senator if that number includes all that are deposited in the arsenals of the States?

Mr. DAVIS. Oh, no; it does not include those issued to the militia. A large number have been issued to the militia which may or may not still be in their possession. But the whole argument which is made is, that we have muskets which are worth two and a half or three dollars, because the statement is that they would sell for that at auction. It may be true that the best arms we have, if sold at auction, would not bring more than that; but my position is that, if you alter muskets into breech-loading arms, and particularly of a pattern which requires special ammunition and cannot be used with the ordinary ammunition, you have not only lost the three dollars you put on them, but you have lost whatever the value of the musket was, and I believe that is from ten to twelve dollars apiece. That is their value to the Government, though I have no idea they would bring it if sold at auction.

But, sir, the proposition which was before the Senate was to strike out the whole appropriation; to that the amendment is offered, and it is offered, among other reasons, because the Secretary of War has asked for money to purchase breech-loading arms. Now, what mattered it whether this \$100,000 was left, or whether it was stricken out and rewritten, or changed to \$40,000, or to \$10,000. I have no objection to a reduction of the amount to any extent the Senator pleases. I believe it is too much. I think a very small purchase of breech-loading arms of new patterns is all that would be required; and I think the alteration of the eighteen thousand old muskets to the present model, upon a plan which has been approved by an ordnance board, would probably not cost more than half a dollar apiece. Therefore, I am perfectly willing to agree to a reduction of the sum. I am not willing to allow arms which I believe to be useful, to be changed into a new method of loading that will render them useless for the purposes for which we require that kind of arms.

But it has been asked, why do you want to buy breech-loading arms, if altering the muskets into breech-loaders is not advisable? The answer is

easy. We buy breech-loading carbines; we do not buy breech-loading muskets. When the musket is altered, it will be too cumbersome for the cavalry man; and we buy breech-loading carbines for the cavalry man. So of the rifle: it would be too cumbersome for the cavalry man; he can never allow it to fall by his side in order that he may use his saber or his pistol. Our mounted riflemen have carried it, and it has been found too heavy. The only breech-loading arms which I suppose the Secretary would purchase would be breech-loading carbines adapted to the use of cavalry. That is my purpose.

The PRESIDING OFFICER. (Mr. REID in the chair.) The question is on the amendment of the Senator from Louisiana, [Mr. BENJAMIN.]

Mr. IVERSON. I rise to a point of order. The amendment of the Senator from Louisiana is clearly out of order; it is an amendment to an amendment to an amendment. An amendment comes from the Committee on Finance; the Senator from Mississippi proposes to amend that. It is not in order to amend the amendment of the Senator from Mississippi.

Mr. PEARCE. Allow me to explain. The Senator is under a mistake. The amendment of the Finance Committee is to strike out the whole clause. The Senator from Mississippi supposes, properly I think, that he has a right to perfect the part proposed to be stricken out before the question is taken on striking out; he therefore proposes an original amendment to the clause as it stands in the bill; and to that the Senator from Louisiana proposes an amendment. So it is only an amendment to an amendment.

The PRESIDING OFFICER. Does the Senator from Georgia insist on the point of order?

Mr. IVERSON. No, sir; I misunderstood the state of the case.

Mr. MALLORY. I presume there are some members of the Senate who are familiar with the use of arms; the American people generally are. I should say nothing on this subject if I did not regard myself as familiar with the breech-loading and the muzzle-loading arm from the time I have been able to handle an arm at all. I understand the proposition to be to appropriate fifty or a hundred thousand dollars, on the recommendation of the Secretary of War, to enable him to change the musket now on hand into a breech-loading musket. Well, sir, it must be considered by all, whether familiar with the use of arms or not, that, all other advantages being equal, there is a decided preference to be given to a breech-loading gun. Some of the prominent advantages are pointed out by the major of ordnance, whose letter has been read. In the first place, that gun may be loaded on the ground without a rammer. It may be loaded always with the muzzle to the enemy. A man standing at the charge loads his gun without altering his position. I might go on and enumerate other advantages; but, certainly, all other parts of the gun being equal, there is a most decided advantage in favor of the breech-loading arm. The chairman of the Committee on Military Affairs speaks of the altered musket not being used by the troopers because it would be too cumbersome. We will admit, of course, that the musket cannot be used by mounted troops at all; because, whether it is altered or not altered, it is cumbersome; and the objection is to the long musket—not to the altered musket. But, if the trooper were to use any musket, he could certainly use the breech-loading one; for in the one case he would hold his musket in the left hand at the charge, simply inserting the charge at the breech; whereas, with a muzzle-loading musket, he would have to use both hands, with a rammer. Now, if we can alter the muskets we have on hand at an expense of \$2 50, it is a self-evident proposition that it ought to be done, if the musket retains the advantages it had before. Does it do so? You have the same length. If you meet a civilized enemy in warfare, he has the same length of musket that you are obliged to have. You have the same weight, which is another specific property of the charge. You have a straight breech, which constitutes the strength of the musket; for, in falling a musket to the ground at the order, for example, if you have the crooked breech that sportsmen use, as the chairman of the Military Committee will admit at once, there is danger of breaking it. I do not pretend to know whether all the advantages that the musket possesses now

are retained by the alteration to the breech-loading gun. The major of ordnance, however, on that subject informs us that the gun has been altered at an expense of from two dollars and a half to three dollars; that this altered gun has been fired thirteen hundred and fifty times without any material injury. Now, sir, I apprehend that no musket in the service of the United States has ever been fired thirteen hundred and fifty times, unless it be on a test precisely like this; but, in ordinary service, a musket may be manufactured and be in an arsenal for five years, and never be fired that much, although it may be used in two or three campaigns. Sportsmen's guns are, of course, used very often. If this be so, if the gun has been tested at a service charge of thirteen hundred and fifty times, it is a sufficient test to prove its durability. I do not know that the report says anything about the escape of gases, which would render the gun somewhat inefficient; but I presume it does.

I believe the cost of the United States musket at our armories is \$13 80. We can alter that gun and give it all the advantages of a breech-loading gun at an additional cost of two dollars and fifty cents or three dollars and fifty cents; and then we have a gun which has the advantages of a breech-loading gun, besides all the advantages of the original musket. Now, the ordinary breech-loading gun possesses great advantages in the hands of mounted troops, and of riflemen, and of light troops. It is short, easily carried, slung upon the shoulders; it is light, and has a very great range; but for infantry, as the chairman of the Committee on Military Affairs has said, you want the ordinary musket; and I agree with him it cannot be dispensed with. But it is a wonderful improvement if you can communicate to the musket all the advantages of breech-loading. In the first place, there is a greater rapidity of firing. I do not know what the test here has shown of that rapidity; but certainly when you load the gun with a fixed cartridge at the breech, holding it horizontally in the left hand, without using a rammer at all, you can fire it with much greater rapidity than in the old way. I have seen one of these guns within a few days past, and the alteration appears to be exceedingly simple; but no man would venture upon an opinion as to the utility of that alteration without some such test as has been here prescribed. We are told by the major of ordnance that it has been fired thirteen hundred and fifty times. I am bound to rely on that. I regard that as a sufficient test. I have been using guns all my life; I buy every new gun that is made. Whenever I hear of a gun invented, I send and get it. I try them all, and if a gun stood that number or half that number of charges, if there was no displacement, no giving way, no escape of gases on the five hundredth charge, I should consider that an ample test.

Improvements in fire-arms are taking place around us every day. They are progressive. They are more or less costly. The chairman of the Committee on Military Affairs has alluded to the improvement in the ball, and he seems to prefer loading the musket at the muzzle. You have conical ball with the hollow base, or what is called by the French engineers, *à la tige*. There is a little point placed on the breech of the gun, a cone—it has now come to that. Originally the ball was smooth on the bottom; it lay upon the powder, and it was enlarged by a blow of the rammer. The ball underwent many changes. It was formed of cup shape at the bottom, and then it was forced down to the powder, and the powder was forced into it; but that produced greater impingement of the barrel to obtain the range which you wanted. Subsequently they placed a small cone upon the breech of the gun at a very small expense, and forced the ball upon that cone, and the *vis inertie* which is there produced by the contact between the ball and the pin, takes the powder a little longer to ignite, but there you get greater impingement. Here the insertion of the cartridge at the base, I presume, gives you all the impingement without the disadvantage of loading with a rammer. I do not pretend to put my opinion in these matters at all against that of the chairman of the Committee on Military Affairs, because he has these subjects under his control—he sees all these new guns, and I rely very greatly on his judgment as to them all; but I do not see why, if we can alter our muskets at this cheap rate,

preserving all the advantages of a musket, and deriving at the same time all the advantages of rapidity of loading at the breech, we should not do it at this small expense.

Mr. FESSENDEN. Mr. President, these scientific discussions upon the subject of arms are very edifying; but I suppose that if the Senate wait to decide this question until they understand it, and decide it with reference to the value of these particular arms and the different kinds of them, we shall have a somewhat lengthened discussion. Now, there were some things that the Committee on Finance understood. They understood that the Secretary of War asked for an appropriation of \$100,000 for the purpose of expending that amount in the alteration of old arms, and in the alteration of old arms according to a particular patent, and for the benefit, so far as it might inure to his benefit, of a particular person, the United States being benefited of course. They understood, also, that there was a very great difference of opinion among military officers as to the advantages of the several kinds of breech-loading arms, and that it was by no means a settled question, it was a question that was open; some officers preferred one kind, some another kind; some preferred to have arms of an entirely different description; but the Secretary it seems recommended that this sum (and it is the only thing that he did recommend in that particular) should be appropriated for this special purpose, to procure the alteration of the old arms in one way. In that state of facts the Finance Committee came to the conclusion, as I understood, as one member of the committee, that it being a disputed point, it being doubtful, it being by no means settled one way or the other, it was advisable not to make the appropriation, and they therefore proposed to strike out the appropriation which had been inserted for that purpose. They did not undertake to make any specification, to apply the money in a different way, for two reasons: in the first place, because they had no practical acquaintance with the subject which would enable them to do so, and in the next place, because the Secretary of War had asked for an appropriation for a specific purpose and for no other. He did not require what is now proposed by the Committee on Military Affairs. He made no recommendation such as is now made, as I understand, by the Military Committee.

Mr. DAVIS. If the Senator from Maine will permit me, I will only say that the Committee on Finance furnished the Committee on Military Affairs with the information of the desire of the Secretary of War to purchase a thousand breech-loading arms of a particular pattern, which he named in a letter, which was sent from the Committee on Finance to the Committee on Military Affairs.

Mr. FESSENDEN. Most unquestionably he wished to do what is provided for by this appropriation of \$100,000—nothing further.

Mr. PEARCE. I will state to the Senate that since the Finance Committee had the subject under consideration, a letter was sent by the Secretary of War to the chairman of the committee, which was handed to me yesterday; and from that letter I have read a request of the Secretary for an appropriation of \$45,000 for purchasing breech-loading guns; but that was subsequent to the meeting of the Finance Committee, and therefore the Senator from Maine did not know it.

Mr. FESSENDEN. That was unknown to me. I was not aware of the fact.

Mr. DAVIS. That is the basis on which the Military Committee have acted in proposing the amendment.

Mr. FESSENDEN. But I understand the Committee on Military Affairs propose an appropriation of \$100,000.

Mr. DAVIS. For a double purpose. We did not alter the amount. For myself, I do not think the amount is necessary.

Mr. FESSENDEN. Then there is one portion of the amendment proposed by the Committee on Military Affairs which was recommended and approved by the Secretary of War. Another portion of it, as I understand, is a suggestion of the Committee on Military Affairs alone, and does not come from the Secretary.

Mr. DAVIS. Not quite that.

Mr. FESSENDEN. I should be very glad to hear the explanation.

Mr. DAVIS. It was a proposition to change old muskets, which, I think, referred to those that were still flint locks; and it is a change so far, that we propose to give the money to alter them according to the present models, instead of altering them according to some new breech-loading model.

Mr. FESSENDEN. Then the Committee on Military Affairs, if I understand it—and I am glad to have this explanation, it is what I desired to get—take the original proposition of the Secretary of War for an alteration of the old arms in a particular mode and connect it with his more recent communication to the Finance Committee for the purpose of breech-loading arms of approved models. The Military Committee connect the two together, and make the proposition which is now before the Senate.

Mr. DAVIS. No; I do not think our conduct is quite so defensible as that. We alter the proposition to change the old arms by adopting a new mode of changing the old arms, and coupling that with the more recent proposition.

Mr. FESSENDEN. Then they adopt the proposition of the Secretary in part, and reject it in part?

Mr. DAVIS. Well, yes.

Mr. FESSENDEN. Now we have a full understanding on that subject. My objection goes to the whole. I do not see the necessity of making the appropriation at all. Certainly, the proposition originally before us was in the nature of an experiment. To be sure it was recommended by some of the ordnance officers, but it was not a conclusive recommendation; because, as I said before, the officers of the Army are by no means united in their opinions on that point. The Committee on Finance, therefore, in my judgment, decided well and wisely in saying that they would not undertake to put into the hands of the Secretary of War \$100,000 for the purpose of appropriating it for one particular object alone, and that object as yet an experiment. I agree with the Military Committee that that must be called an experiment which has not been tried to a certain extent in actual service. There is nothing in all the papers, or in any information that has been furnished anywhere, that I have seen, showing the necessity, at the present time, of making the appropriation at all. The whole thing is experimental. I am for acting on some sort of principle in reference to these matters. We have been talking here all the session about the necessity of saving money wherever we can. Now, is there any pressing necessity for the use of these arms? Is there any want of arms of approved models in the public service now? I have not heard of any. If there is such a want, I am ready to make the appropriation; but if there is not, I am opposed to making an appropriation of this sum, or of any other sum, for the purpose of trying these experiments at the present period; and that is the ground of my objection to the whole thing.

As to the proposition as it was originally made, I think there can be no doubt it is nothing more nor less than doing what Senators have expressed themselves here as entirely opposed to, and that is, advertising a particular kind of arm; for whatever may be said, and however general may be the language in which the recommendation of the Secretary of War is couched, it comes to this: that it is a proposition to appropriate \$100,000 for the purpose of altering the arms according to a particular patent—Morse's patent. The very papers which have been read at the table, show that that is the object; and if you make the appropriation in any shape, giving a discretion to the Secretary, the result will be that the Secretary may, if he chooses—and we are bound to believe he will—follow his own judgment, in opposition to the judgment of any board of officers; for we have had the evidence before us that he has done certain things with regard to matters connected with his Department, in direct opposition to the opinions of officers of the Army, and has given a rebuke when they undertook to intimate to him that certain things with reference to the military property of the United States ought not to be done, telling them pretty clearly and plainly to confine themselves to their duty in obeying orders, without undertaking to advise him.

Now, sir, I am unwilling to put this sum of \$100,000, or any other sum, at the discretion of the Secretary of War, to be used in the purchase

of arms of any description at the present time. If there was a pressing necessity for it, I would do what that necessity required; but so long as there is no necessity for it, I am opposed even to the amendment suggested by the chairman of the Committee on Military Affairs, and certainly to the amount that is there stated—putting the large sum of \$100,000 into the hands of the Secretary of War for the purpose of making these experiments at the present time. As it is, I hope the amendment of the Senator from Louisiana will be rejected, because that would bring the matter back, I think, to its worst shape, which is allowing the Secretary of War a discretion on the subject, and power to expend what he pleases of the appropriation for the purchase of this particular arm and making these particular alterations; and I am opposed, also, though not so much, to the amendment that has been offered by the Committee on Military Affairs, for the reasons I have stated, connected with the Treasury and connected with my disinclination to allow this money to go into the hands of the Secretary of War at the present time for the purpose of making these experiments.

Mr. HUNTER. I know that time is precious, and I hope that we shall be able to take the vote on this amendment, because there are a great many others on which we shall have to decide, and I trust we shall get through with this bill some time to-day. In regard to the amendment of the Committee on Finance, on which the Senator from Louisiana commented, I will say that, so far as I was concerned, it was founded on this: it seemed to me that the present was no time to expend \$100,000 in the trial of experiments. The appropriations for the armories are large—I think some four hundred thousand dollars. In addition to that, there is a permanent standing appropriation of \$200,000 for arming the militia, (the Senator from Mississippi will correct me if I am wrong,) and I do not see why a portion of it might not be devoted to the purpose of breech-loading arms if the Secretary of War desires them. Under these circumstances, and in consideration of the condition of the Treasury, it seemed to us better to postpone this experiment, and to strike out the provision altogether. It will be, however, for the Senate to determine. The subject has been fully debated; and I hope we shall come to a vote on this question, and proceed to the consideration of the other amendment.

The PRESIDING OFFICER. (Mr. BRIGHT in the chair.) The question is on the amendment of the Senator from Louisiana to the amendment of the Senator from Mississippi.

Mr. SLIDELL called for the yeas and nays; and they were ordered.

Mr. HUNTER. The amendment of the Senator from Louisiana is simply reducing the sum, I understand.

Mr. BENJAMIN. My amendment is to divide the sum between the proposal of the Secretary of War and the proposal of the Committee on Military Affairs. If that amendment be adopted, the appropriation can afterwards be either reduced or stricken out.

Mr. HUNTER. I am for striking it out entirely, I do not care what amendments are put on it. I am against the appropriation.

The PRESIDING OFFICER. The amendment of the Senator from Louisiana is to make the clause read, "for the alteration of old arms so as to make them conform to the present models, \$50,000; and for the purchase of approved breech-loading arms, \$50,000."

Mr. PEARCE. I shall not detain the Senate longer than to say that I cannot give my vote for that amendment. Fifty thousand dollars will secure the alteration of twenty thousand stand of arms at \$2 50 apiece, which we are told by the Secretary will be the cost. I think that is too large for an experiment. I would be willing to go perhaps as far as four thousand stand of arms, which would cost \$10,000; and I think that would be quite enough. That would test the value of the guns in actual service; and we are told on the authority of some officers of the Army, supposed to be perfectly conversant with the subject, that no gun ought to be relied upon as adapted for the use of the Army in actual service until it has been tried in actual service. To that extent I am willing to go; but otherwise I must vote against the proposition.

Mr. DAVIS. There must be some misapprehension. I will merely state that the amendment in its present form will not give the Secretary one dollar to convert a musket into a breech-loading arm. That is what I want, but I suppose that is not the object of the amendment.

Mr. SIMMONS. I should like to have the amendment divided. I think the Senator from Louisiana has drawn it so as not to meet his purpose.

Mr. BENJAMIN. I did not hear the reading of the amendment, and I do not know how the Secretary may have it; but my proposition was that the \$100,000 appropriated in the House bill should be divided, \$50,000 towards the purpose mentioned in the bill, and the other \$50,000 to the purpose mentioned in the amendment of the Committee on Military Affairs—one half for the purchase of breech-loaders, and the other half to make the change in the arms which the Committee on Military Affairs prefer to the breech-loading.

Mr. FESSENDEN. That is just an appropriation of \$50,000 to the alteration on this particular patent—Morse's patent. It is not so in words, but that is the effect of it.

Mr. BENJAMIN. I understand not.

Mr. FESSENDEN. That is what the Secretary of War will do, because that is what he wants to do.

Mr. BENJAMIN. If the Senator chooses to say all kinds of breech-loading weapons, I have no objection. I do not know in what way we can make it more general. I do not want the appropriation confined to any particular patentee: I would not vote for such an appropriation.

Mr. FESSENDEN. What I mean to say is that the Secretary of War having committed himself on that point, and recommended one patent specifically; if we appropriate \$50,000, of course he will use the money in that particular way and for that particular purpose, as he ought to do.

Mr. BENJAMIN. I understand not. I understand that having made this experiment with Morse's patent he is perfectly satisfied that that breech-loading arm would answer in service, and he wants to try it; but he is not satisfied that others would not answer also. Having satisfied himself by experiment with one of these patents that this great benefit can be done to the public service, he asks for an appropriation sufficient not only to try that patent, but others also which he has not yet tried. I do not care how it is worded.

Mr. DIXON. Allow me to call the Senator's attention to the recommendation of the Secretary of War. He says, "esteeming Morse's breech-loading principle the best," he recommends that.

Mr. SLIDELL. There is no doubt at all that, as at present informed, the Secretary of War considers that Morse's breech-loading gun is the best arm of the kind; but the passage of this clause in the appropriation bill does not, by any means, restrict Mr. Floyd to the use of Mr. Morse's patent, or to the employment of Mr. Morse in any way. Other models of arms may be presented to him which, to his mind, may appear to secure greater advantages than Morse's gun now presents; and I hope it is not necessary for me here to repeat what I have already said, that I disavow altogether every feeling of that sort, and I should be just as much opposed to this appropriation, if it were made to inure specifically to the benefit of Mr. Morse, as any man in this Chamber; but I cannot shut my eyes to the fact that this is not a simple question of the appropriation of \$50,000. There is a large combination, a lobby interest, that is employed in getting up a feeling on this subject. They think that the men who are now in the charge of the Department; the men at the head of the ordnance bureau; the men upon whom Mr. Floyd would rely, are satisfied, as at present informed, that Mr. Morse's gun is the best, and that Mr. Floyd will probably make use of it. It is in order to prevent such a trial and such a test of Mr. Morse's gun, that a great influence has been brought to bear here in the Senate. I have had occasion to observe it. Men have been approached and asked to vote against this appropriation, not because the invention was not a good one, but because it would interfere with certain manufacturers and patentees. That is the real secret of the interest that has been elicited in this debate. There are other instruments behind.

Mr. PEARCE. If there are any outside in-

fluences brought to bear on the Senate, they have not been brought to bear on me.

Mr. SLIDELL. I certainly did not allude to the Senator from Maryland.

Mr. PEARCE. But without some explanation, the remark might be understood as rather general.

Mr. SLIDELL. Nobody, of course, would attempt to influence the Senator from Maryland; but no doubt he has heard of opposition originating from conflicting inventors in the matter.

Mr. PEARCE. I have heard nothing in the world but this: I have talked with the Senator from Rhode Island [Mr. SIMMONS] in regard to Burnside's gun, which I understand does not come in competition with this, being for a different purpose; his gun, I believe, is a carbine intended for mounted men. He has shown me that gun; I have examined it, and he made a statement to me in relation to the negotiations between the Secretary of War and the company, of which Mr. Burnside is one. That I have heard. In the next place, I have seen Mr. Morse, the only inventor whom I have seen, and he showed me his gun, which is the only gun I have seen except that of Burnside; and that is the only conversation I have had on the subject with a living soul outside of the committee except the Senator from Louisiana, with whom I had a little talk. If any outside influence—

Mr. SLIDELL. It is scarcely necessary to repeat that I did not allude to the Senator from Maryland at all; because I happened to know all about his connection with this matter. The Senator from Maryland will not expect me to put my finger on the man, and say, this Senator has been approached in that way for the purpose of defeating this opposition.

Mr. PEARCE. Certainly not.

Mr. DAVIS. I did not exactly hear what the Senator from Louisiana said; he spoke of interest exhibited in this matter. I have exhibited some interest in this matter.

Mr. SLIDELL. I must disclaim any allusion to the Senator from Mississippi, for I have never had any conversation with him on the subject of this gun; but other Senators have told me that they have been approached, and that there was a lobby influence at work here in order to defeat the appropriation.

Mr. DAVIS. I have an interest in preserving the old muskets; but my amendment is equally open to any breech-loading arms.

Mr. SLIDELL. I am very unfortunate—

Mr. DAVIS. I will not ask the Senator, of course, for any further statement. I want none.

Mr. SLIDELL. If I have not been able to make myself understood, I repeat, there are other gentlemen in the Senate who, if they thought proper, could say that they have been appealed to by other patentees and inventors to defeat this appropriation. If they choose to mention it themselves, I have no sort of objection; but I do not see why I should be called upon to say who these gentlemen are.

Mr. DAVIS. I do not ask the Senator to make any such statement. I have no desire to exact anything of that kind. The only interest that I am aware of, is an interest to get appropriations; I have never yet encountered anybody that came here showing great zeal to prevent an appropriation. The man who endeavors to prevent an appropriation is very apt to be exposed to assault.

Mr. SEWARD. I wish to ask the honorable Senator from Louisiana whether he had any allusion to me?

Mr. SLIDELL. I do not know whether I made any allusion to the Senator from New York, but I certainly inferred, from what he said to me, that he had been addressed by men having an adverse interest.

Mr. SEWARD. I thought it was possible that that was the case, and that was the reason I rose to make an explanation. Yesterday morning the honorable Senator from Louisiana called my attention to this subject, and I answered him that I was very willing to examine the matter of Morse's patent, and more, that I felt it to be my duty to do so, because I had been spoken to on the subject with an adverse view of it. I turns out, however, that I misled the honorable Senator, because I find that I was solicited by the other party, who addressed me in favor of this appropriation, not against it.

Mr. SLIDELL. Then the Senator from New

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York will permit me to throw the whole responsibility of this matter on him. If he did not understand what I said to him, I have nothing more to say.

Mr. SEWARD. I find the application made to me was on the Senator's side of the question. [Laughter.]

Mr. DIXON. I have an amendment to propose, which, if the Senator from Louisiana will accept it, I think will relieve the subject of the whole of this difficulty. It is, to insert after the word "arms," "upon a plan to be selected and approved by a board of ordnance officers."

Mr. SIMMONS. I do not know anything about the plan of this alteration, and did not suppose I was to be brought in collision at all with the committee in any way. I wanted to get an appropriation for the purchase of cavalry breech-loaders, and I suggested it to the Military Committee; and I believe they will report an appropriation for the purchase of such arms for the cavalry service. I did not suppose, however, that would interfere in the least with the clause in the bill from the House of Representatives. I suggest to the Senator from Louisiana that it would be better to divide the amendment, so that we shall not be entirely cut out.

Mr. SLIDELL. I think I shall be disposed to consent to that, if it were not that it might subject me to the charge of bargain and corruption. [Laughter.]

Mr. SIMMONS. I have no bargain to make about it; but here is an indefinite appropriation of \$100,000, and I did not know whether we might not get out of it a sufficient amount to purchase these arms with.

Mr. SLIDELL. If it is to be done in open day, I have no sort of objection to the bargain. [Laughter.]

Mr. BENJAMIN. I accept the amendment of the Senator from Connecticut. [Mr. Dixon.]

The PRESIDING OFFICER. The amendment of the Senator from Louisiana, as now modified, is:

For the alteration of old arms, on a plan to be selected and approved by a board of ordnance officers, so as to make them breech-loading guns, \$50,000; and for the alteration of old arms so as to make them conform to the present models, and for the purchase of approved breech-loading arms, \$50,000.

Mr. HUNTER. I hope we shall have a vote. Have the yeas and nays been ordered on this proposition?

The PRESIDING OFFICER. Yes, sir.

Mr. HUNTER. Do Senators insist on the yeas and nays?

Mr. BENJAMIN. Not if the amendment will be agreed to without a division.

Mr. HUNTER. I am against the whole thing. Mr. SLIDELL. Very well; let us take the vote.

Mr. DAVIS. There is one objection to this proposition. It compels the board to report for breech-loading arms. My opinion is, that you cannot assemble a board of ordnance officers who will say that arms intended for foot troops should be breech-loading.

Mr. CLARK. I merely rise to say that I shall vote for the amendment of the Senator from Louisiana; but if the discussion in the Senate has satisfied me of anything, it has convinced me that when I have done that I ought also to vote for the amendment of the Committee on Finance, to strike out the whole appropriation, which I intend to do.

The question being taken by yeas and nays on Mr. BENJAMIN's amendment, resulted—yeas 34, nays 16; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Brown, Chandler, Clark, Clingman, Coffamer, Dixon, Douglas, Durkee, Fitch, Fitzpatrick, Foster, Green, Hale, Harlan, Hayne, Houston, Johnson of Tennessee, Jones, Kennedy, Mallory, Polk, Reid, Seward, Simmons, Slidell, Stuart, Thomson of New Jersey, Toombs, and Wilson—34.

NAYS—Messrs. Broderick, Cameron, Clay, Davis, Doolittle, Fessenden, Haman, Hammond, Hunter, Iverson, Mason, Pearce, Pugh, Wade, Wright, and Yulee—16.

So the amendment of Mr. BENJAMIN was agreed to.

The PRESIDING OFFICER. The question now is on striking out the clause.

Mr. IVERSON. I desire to offer an amendment to the clause; but as there will be no use in offering it, if the clause be stricken out, I shall wait until the vote is taken, and if it be not stricken out, I shall offer my amendment.

Mr. PUGH. I ask that the words to be stricken out be read.

The Secretary read them, as follows:

"For the alteration of old arms, upon a plan to be selected and approved by a board of ordnance officers, so as to make them breech-loading guns, \$50,000; and for the alteration of old arms, so as to make them conform to the present models, and for the purchase of approved breech-loading arms, \$50,000."

Mr. BENJAMIN called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 26, nays 23; as follows:

YEAS—Messrs. Broderick, Brown, Cameron, Chandler, Clark, Dixon, Doolittle, Durkee, Fessenden, Foster, Green, Hale, Haman, Hammond, Hayne, Hunter, Johnson of Tennessee, Mason, Pearce, Polk, Pugh, Reid, Stuart, Wade, Wright, and Yulee—26.

NAYS—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Clingman, Coffamer, Davis, Douglas, Fitch, Fitzpatrick, Harlan, Houston, Iverson, Jones, Kennedy, Mallory, Seward, Simmons, Slidell, Thomson of New Jersey, Toombs, and Wilson—23.

So the motion to strike out was agreed to.

Mr. BENJAMIN. There are some members of the Senate who inform me that they voted to strike out the appropriation on account of its magnitude; that they are satisfied some experiment of this kind ought to be made in relation to breech-loading arms; and that if the appropriation as proposed by the House of Representatives were simply reduced to \$20,000, they would be willing to vote for it. I make that motion now.

Mr. HUNTER. It cannot be made. The clause has been stricken out.

Mr. BENJAMIN. That appropriation, as amended, has been stricken out. Now, I wish to offer a new clause entirely, though partly in the words of the original bill. Any member has a right to offer a new clause if based on an estimate from a Department. That is expressly declared by the rule.

Mr. PEARCE. I suggest to the Senator from Louisiana, that he allow the Committee on Finance to proceed with their amendments. When they are through he can offer his as an independent motion, supported by the estimate of the Secretary of War.

Mr. BENJAMIN. I am willing to defer, if Senators prefer that.

The PRESIDING OFFICER. The second amendment of the Committee on Finance is to strike out:

"For arsenals, including \$100,000 for arsenal in California, \$296,979."

And in lieu thereof insert:

For the Alleghany arsenal, \$35,100.

For Fort Monroe arsenal, \$24,900.

For Kennebec arsenal, \$1,600.

For St. Louis arsenal, \$31,000.

For Washington arsenal, \$9,379.

For Watervliet arsenal, \$30,000.

For repairs and preservation of the public buildings, fences, drains, culverts, &c., at all the smaller arsenals, \$20,000.

For continuing the construction of the arsenal in California, \$100,000.

For contingencies of arsenals, \$10,000.

Mr. PEARCE. Before we proceed with the consideration of these items, I suggest that, by a clerical error, one of the appropriations, that for the arsenal in North Carolina, was omitted. I send that up so that it may be inserted without a formal motion. I will state that the object of striking out this clause in the bill was to make the appropriations for the different arsenals specific. In the bill, as it came to the committee from the House of Representatives, the appropriation was for the gross sum of \$296,000 for all the arsenals. We have only separated that sum into the particulars applicable to each arsenal. The omitted item, to which I have alluded, is:

For additional timber and carriage store-house, at the North Carolina arsenal, \$25,000

Mr. FESSENDEN. I understood that it was

the intention of the committee to omit the appropriation for the arsenal in North Carolina.

Mr. HUNTER. I think the Senator from Maine is mistaken. I did not so understand. I thought we were making the appropriations specific. We had some discussion about this arsenal, but when we found that estimate of the colonel of ordnance, we agreed to put it in. That was my understanding.

Mr. FESSENDEN. My understanding was that we specifically agreed to draw up this amendment for the purpose of omitting that particular sum. The appropriation, as originally made, was for a gross sum for arsenals, generally, and it was suggested to strike out all the appropriation. The motion included the arsenal in North Carolina. But for that movement, the bill would not have shown what particular provisions it was intended to make; and therefore, as I understood, it was suggested to draw up the provision, and to insert all but the \$25,000 for the arsenal in North Carolina. If, however, it was decided otherwise by the committee, of course I yield.

Mr. PEARCE. I think the Senator from Maine is mistaken. There was some objection made to this item in committee, and there was an inclination to strike it out, but it was determined not to strike it out for the present, but to acquire additional information. That additional information was sought for by the chairman of the committee and myself, and the result was that it was not stricken out. We obtained other information, and reported the matter to the committee.

Mr. FESSENDEN. I have nothing further to say. I did not understand it at the time as the other members of the committee did.

Mr. PEARCE. It had been told to the committee that this was not an eligible place; that there was a scarcity of timber and difficulty of access; but the committee ascertained, on inquiry, that there were certain improvements going on in the neighborhood of Fayetteville, where the arsenal is situated, which would give a navigation from the arsenal, forty miles, to the site of certain coal mines, where there is also an abundance of fine specimens of iron. They found that although the wood, in the immediate neighborhood of Fayetteville was pine, there was abundance of fine oak very near it, and boats running all the year to Fayetteville, and they ascertained that it was considered a very desirable location, and certainly will be when these improvements are completed, which, I understand, will be by the 1st of July next, so that we did not call the committee together again to consider whether it should be stricken out.

Mr. HAMLIN. I propose to amend the amendment by inserting after the appropriation for the Kennebec, these words:

Two thousand dollars of which may be used in bringing gas upon the arsenal grounds, and with leave to extend gas-pipes through the grounds by the gas company.

I will state, in a very few words, the reasons which induce me to offer the amendment. The arsenal grounds are situated in the city of Augusta; they are outside of the settled portion of the city, and the gas which would be needed in these works would not justify the company in laying down their gas-pipes for that purpose. Still the officers at the arsenal, and all who are there, desire to have the public buildings lighted with gas. I propose no additional appropriation. I simply propose to take \$2,000 of the appropriation made for this arsenal, for this purpose. I hope it will meet the approbation of the Senate.

Mr. PEARCE. There is no point of order which can be raised against the Senator's amendment; it is not objectionable on that ground, but then it is not estimated for, and the whole sum which we propose to appropriate is asked for specific purposes. We are asked to give \$10,000 for repairs of the river wall, and \$1,600 for keeping in order the sewers, &c. This object is additional, and therefore if we divert part of the appropriation to it, an additional appropriation will be required for these other purposes; and besides, it will lead to applications for gas at all the arsenals

where gas can be introduced. There is already an appropriation of \$10,000 for contingencies at arsenals, and if the War Department think proper they can divert \$2,000 of that sum to this purpose.

Mr. HAMLIN. I was aware that there were two specific objects for which the sum proposed to be appropriated was estimated, and that \$10,000 was to repair the wall along the shore of the river, but I think not half that sum will be used this year for that purpose. I have a letter from Captain Gorgas who is now in South Carolina, who passed through this city the other day, calling my attention particularly to this matter. He has left that arsenal, and has been ordered to the arsenal in South Carolina. I think from the statement which he made, I have no doubt that this money can be appropriated for these two purposes, and still have some of it left. I hope the Senate will see fit to let \$2,000 of the sum be applied to this purpose.

Mr. TOOMBS. What do you want with gas in an arsenal? You do not use it at night.

Mr. HAMLIN. Does not every arsenal have its superintendent who has a house on the arsenal grounds? Are there not barracks and troops there? Is it not cheaper to light all these buildings with gas than in any other way?

Mr. TOOMBS. It is to increase the consumption of gas, for the benefit of the gas people. I should think they ought to find their own lights.

Mr. CAMERON. I live about a mile and a half from a town where there are gas works, and I offered the company \$2,000 if they would bring the gas to my house, but they would not do it. It is a cheaper light, and better than any other. I should be glad to give \$2,000 now to have the pipes carried to my house.

Mr. FESSENDEN. I hope my friend from Maryland will not make any serious opposition to this amendment. This arsenal is not in my section of the State; but I am perfectly familiar with the locality. The city is mainly on the east side of the river. The pipes have not been carried to the west side of the river; but a portion of the people who live there, and particularly the persons connected with the arsenal, desire that the pipes should be extended across the river so as to furnish the arsenal and other buildings in that vicinity with gas. The object of this proposition simply is, that the arsenal which is to be accommodated, and which desires to be accommodated, should pay some reasonable proportion of the expense necessary for that purpose. I believe it to be more necessary, in fact more conducive to comfort and to cheapness, and everything that is required ordinarily in such establishments, than any appropriation of money to the specific purposes asked for at the present time to the extent of this amount. It is a small sum, and I have no doubt its expenditure will be beneficial. I concur in opinion with all the officers who have been at the head of this establishment, that the good of the service requires it, and I believe it meets the approbation of those who have examined the matter.

Mr. PUGH. I should like to understand the last part of the proposition. I am afraid that is the essential part of the amendment—for the benefit of some gas company.

Mr. HAMLIN. I will state that the arsenal grounds are outside the city; they embrace, I should think, according to my best judgment, fifty acres of grounds. There are, therefore, no inhabitants that can come near to it. The gas-pipes must come immediately to it. Adjacent to it, and lying directly below on the river, is the State asylum for the insane. The State cannot get gas to the asylum unless the Government will give leave to lay the gas pipes under ground across the arsenal lands; that is what the latter part of the amendment provides for. The State is willing to pay its proportion to light up its public buildings; but if it has to go all the way around the public arsenal, the distance will be more than a mile, while it will not be more than fifty rods across it. I had an interview with the chairman of the Committee on Military Affairs, and he said there was no earthly objection to it, as it was simply to put a gas pipe under ground, which the State or the gas company will do for the purpose of lighting the insane asylum with gas.

Mr. HUNTER. This proposition is to make a distinct appropriation for the purpose of intro-

ducing gas into the arsenal. It is to divert a portion of the appropriation which is for specific objects that necessarily require money, to gas, and of course next year you will have to increase the estimate to that extent, so that it amounts in fact to an additional appropriation of that sum. But that is not all. I well recollect the struggle to get gas at West Point, which was an exception. It was a long time before the House of Representatives would agree to that. The amendment was passed annually here, and rejected there until it was finally adopted two or three years ago. Now if we light up with gas this arsenal, we shall next have applications to light them all up with gas. I am opposed, for the two reasons I have mentioned, to making this diversion of the appropriation. As to giving leave to go through the grounds, I have no objection to that, and if the Senator from Maine will confine his amendment to that I shall not oppose it.

Mr. FESSENDEN. The objection of the Senator from Virginia really is not one that ought to weigh with the Senate. It is unquestionably true that if gas were introduced into all the arsenals, it would be a saving of money, it would be very much cheaper, and very much safer, than the present mode of lighting them. Everybody knows that gas is an exceedingly safe light, whereas the use of other lights, in many particulars, is unsafe in the hands of many persons. I undertake to say, from my own experience and observation, that if it could be done at a reasonable expense, and this certainly is very reasonable, it would be a saving to furnish all our arsenals with gas, and it would be an improvement which would be valuable to the country, and it would be effected at a trifling cost.

Mr. HUNTER. That may be so in large establishments; but not in small ones.

Mr. FESSENDEN. Very well; this is a large one.

Mr. DAVIS. One remark of the Senator from Maine [Mr. HAMLIN] renders it proper that I should state that when the proposition was submitted to me by him, I thought there could be no objection to it, and I thought it desirable to the arsenal that gas should be introduced, and that taking it over the arsenal grounds to the asylum was so much more direct and economical that, if done conjointly, it would be for the advantage of both; but since that time I have referred the matter to the Department, and the report is adverse. Objection is made to the plan proposed, of introducing gas.

The amendment to the amendment was agreed to.

Mr. FOSTER. I move to amend the amendment of the committee, by inserting at the end of it:

For repairing the arsenal and two eighteen-pound gun carriages, at Stonington, Connecticut, \$750.

I am authorized by the Committee on Military Affairs to offer this, and I have stated the circumstances to the honorable chairman of the Committee on Finance, and it has, I believe, his assent also. The amount is very small. I know it to be necessary. I will not take up any further time.

The amendment to the amendment was agreed to.

The amendment of the Finance Committee, as amended, was adopted.

The next amendment of the Finance Committee was, at the end of the bill to insert:

For payment of the volunteers operating in Florida during the year 1857, \$385,000.

Mr. PEARCE. I will state that there is a letter from the Secretary of War recommending this appropriation, which is necessary for the payment of a regiment of volunteers and ten independent companies called into the service, in Florida, by General Harney.

Mr. TRUMBULL. I know very little about this amendment, but I know we have had a great portion of our army stationed in Florida for many years. Here is a proposition to pay \$385,000 to volunteers employed there. I do not see any appropriation in this bill for the volunteers that defended Oregon and Washington Territories. I do not know why this distinction should be drawn. If we are to pay volunteers who have defended the settlements against Indian incursions, it seems to me all ought to be brought into the bill.

Mr. PEARCE. Allow me to state that these volunteers were called into service, and commanded by United States officers, under the instructions of the War Department. Such was not the case in other instances.

Mr. YULEE. I will state to the Senator from Illinois the circumstances which rendered necessary this call on the part of the Government. These troops were regularly called for by requisition upon the Governor of the State.

Mr. TRUMBULL. Will the Senator from Florida allow me to ask him if there is any law authorizing the calling out of these volunteers? Were they called out in virtue of any authority given by any act of Congress?

Mr. YULEE. If the Senator will wait he will hear the explanation. The President made a requisition for these troops upon the Governor of the State, under the authority of law. There is a law existing which authorizes it. The occasion for it was this: the condition of affairs in the West required the removal of all the regular troops to that quarter, and the United States officer commanding in Florida was left with only two or three companies, and these troops were called for by the Government, to supply the place of regular troops, and they have conducted the war to a successful issue.

Mr. TRUMBULL. I should be glad to see the act of Congress which authorizes the calling out of troops by the President. I am not aware that the President of the United States has authority to muster any number of volunteers, under any circumstances which he thinks proper, into the service of the United States, and call on us to pay them. This Florida matter has been a very expensive one for the Government. So long as a Billy Bowlegs was left there, a large part of our regular Army had to be stationed there for many years at an expense of many millions; and now here is a call for volunteers in addition, and the Senator from Florida gives as a reason why these volunteers were necessary that the regular Army was withdrawn to the West—yes, sir, withdrawn and stationed in Kansas. This is another expense growing out of the illegal and improper use of the Army. It is because the regular Army was drawn off under the name of a *posse comitatus* to accompany a Governor without authority of law, that the necessity existed for calling out these volunteers, according to the admission of the Senator from Florida. On a former occasion I undertook to show, and think I did show, that the Army of the United States had been employed for illegitimate purposes; and now you see one of the consequences is an appropriation of nearly four hundred thousand dollars to pay volunteers who have been called out in Florida. Sir, if Congress foots these bills as often as they are made, they will always be made. There will be no end to the expenses of the Government, nor to the usurpations of authority on the part of the executive officers so long as Congress willingly sanctions them and foots the bill.

Mr. HAYNE. I am sure that Senators will think the observations in relation to Kansas which the honorable Senator from Illinois has thought proper to introduce entirely out of place. They have nothing to do with the question before us. I have lived on a frontier country myself, and I speak from experience, and I would ask the honorable gentleman himself, supposing he lived on the frontier, could he not conceive that an attack by Indians might be threatened on himself and family, and would he wait to make a requisition upon the General Government to have troops brought forth for their protection? I should think not. I will not say one other word; for I am determined, for my own part, never to utter anything that will cause more than two minutes' speaking under existing circumstances, at the close of the session.

Mr. YULEE. I have sent for the act which authorizes the President to call for the militia. It is the act of 1795 which authorizes the President to make requisitions upon the States for militia to suppress insurrection and rebellion, and repel invasion. It is under that authority that the call is always made when troops are required for the public service by the President, without any express legislation for emergencies. I have been handed the act, and I will send it to the Secretary to read. It will be found that there is full authority under it. It was for the President to

judge of the occasion. He did judge this occasion to be such as required the use of these troops. They were called for, have been used, and have been discharged, without pay. It is a debt due by the Government, for which an appropriation must of course be made.

The Secretary read the first section of the act of 1795, as follows:

"That whenever the United States shall be invaded, or be in imminent danger of invasion from any foreign nation or Indian tribe, it shall be lawful for the President of the United States to call forth such number of the militia of the State or States most convenient to the place of danger or scene of action, as he may judge necessary to repel such invasion, and to issue his orders for that purpose to such officer or officers of the militia as he shall think proper. And, in case of an insurrection in any State against the government thereof, it shall be lawful for the President of the United States:" * * * "to call forth such number of the militia," &c.

Mr. TRUMBULL. I am not aware that the President has proceeded, in accordance with this law, to call out forces in Florida. I was not aware that the State of Florida had been invaded, either by a foreign Power, or an Indian tribe, within the contemplation of this law, or that any such case has existed as would have authorized the President to act, under this law.

Mr. YULEE. What does the Senator understand by invasion by an Indian tribe? Must they come from foreign parts?

Mr. TRUMBULL. I suppose it must be something more than a simple disturbance of a few Indians residing within the State.

Mr. YULEE. It would be an invasion of the established settlements of the whites over the Indian frontier, or it would be insurrection if there was no Indian country to which they were entitled.

Mr. TRUMBULL. I suppose that an invasion means something more than a simple disturbance of a few Indians located and living within the State. The language of the act of Congress is:

"That whenever the United States shall be invaded, or be in imminent danger of invasion from any foreign nation or Indian tribe, it shall be lawful for the President of the United States to call forth such number of the militia of the State or States most convenient to the place of danger, or scene of action, as he may judge necessary to repel such invasion."

Now, does the Senator from Florida refer to this as the authority? Have the United States been invaded by Billy Bowlegs and his tribe, down in Florida? Was it under this act that the President of the United States called out these troops in Florida? Why, sir, it is true, I live somewhat remote from the State of Florida, but I never heard of this invasion of the United States before. It is most extraordinary that we should be referred to such a statute as this as the foundation of the power for calling out these troops. I am sure it will be news to the people of the United States, that this great country was invaded last year, or in imminent danger of invasion, so that it was necessary for the President to call out the militia of the country.

Mr. FESSENDEN. How many of these Indians are there—a baker's dozen?

Mr. TRUMBULL. I am not aware of the number. It is very small, however. I say that no foundation whatever exists in this provision of the statute for calling out the troops in Florida, for there has been no invasion of the United States. It is matter of public notoriety that there has not been.

Mr. HAYNE. I am sorry that we have so little sympathy from the Senator from Illinois on the present occasion. Now, let me state to him a fact or two. On one single occasion, for the want of proper defense, eighty men, ten women, and five children, were scalped at Apalachicola, all belonging to the regular Army. Subsequently, and just before those villainous men, Arbuthnot and Ambriester, were executed, five hundred men and women were murdered on the frontiers of Georgia and Alabama by these very Indians. Why, sir, I think that people living in that country should have their eyes open, and their ears, so that they may hear, and their understanding so that they may understand. I really am sorry to see so little sympathy exhibited on such a solemn occasion.

Mr. YULEE. I shall not go into a discussion of the Florida war with the Senator from Illinois. The simple question is this: Does the United States owe a debt? If it owes a debt, it must pay it. That is the whole amount of the matter.

The President, acting upon the authority of law, has done what has been done by every President before him—called upon a State for troops which could not be supplied from the regular Army to suppress an insurrection or repel an invasion, whichever the gentleman chooses to denominate the uprising of the Indians there, and the invasion of the peaceable homes of the citizens of that portion of the United States. He may denominate it either an insurrection, if the Indians were entitled to no place, or he may denominate it an invasion, if they had an established place, and went over their frontiers to attack the white settlements. The President has done what has been established by precedent to be his right to do in the construction of the law which has been read to the Senate. The State of Florida, in compliance with the call of the Federal Government, has supplied these troops. Whether they were necessary or not, is not material to the present purpose, and I do not propose to discuss that point. They have been supplied on the call of the Federal Government; they have done the service; they have been discharged without payment; and this appropriation is asked for by the President, through the War Department, to enable him to discharge the debt. The debt is due, and it must be paid. We ask nothing of the gentleman's mercy; we ask nothing of his judgment as to the policy of defending the white settlers in Florida; but we ask him to pay this debt—that is all.

Mr. TRUMBULL. Will the Senator from Florida be good enough to furnish us the evidence of the call of the President of the United States, giving notice of the invasion? Has there been any proclamation, or any call by the President of the United States, notifying the country that we were at war, and that the United States had been invaded?

Mr. YULEE. I leave the Senator to make those discoveries for himself. It is sufficient for me, that the President has called on Congress to make an appropriation for troops, which he, under the laws of the United States, called into service. If the Senator desires anything more of the particulars and history of the transaction, I leave him to seek it himself.

Mr. TRUMBULL. I should be glad to see this call from the President; the evidence that he has called upon us to pay the troops mustered into service in Florida. I have seen no such message from the President. I have no recollection of any such thing in his annual message, or in any communication he has made to Congress. I call for the yeas and nays on the adoption of the amendment.

The yeas and nays were ordered.

Mr. YULEE. I presume the Committee on Finance can furnish the gentleman with the proof of the fact that the Government have asked for this appropriation.

Mr. PEARCE. The Committee on Finance have already furnished that proof.

Mr. FESSENDEN. I agree with the Senator from Florida, that this money must be paid; but I should really like to know how many Indians there were in Florida at the time of this invasion.

Mr. YULEE. I should have been happy to employ the Senator from Maine to ascertain that. The trouble has been that we have not had army enough to find out how many there were, but murders have been committed all the while, and the Government of the United States has not been able to give the protection which it was its duty to give to the population of Florida. Having tied the hands of the State of Florida, by the provision in the Constitution which prevented its waging war, this Government assumed the duty to protect them, which it has not been able to fulfill, for bloodshed has continued all the while; and it is only since the field has been taken by the Florida volunteers, under this call of the President, and has been left to them, that the Indians have been harassed and cut to pieces, that they have surrendered and retired, and that it has been announced by the commanding general of the United States army there that the war is ended in Florida; which fact I am happy to communicate to the Senator from Maine.

Mr. FESSENDEN. One question more. Will the Senator inform me whether there is anything in the Constitution of the United States prohibiting the people from defending themselves?

Mr. YULEE. No, sir; and it has been on that right of self-defense and self-preservation that the people of Florida have been obliged mainly to rely for their protection.

The question being taken by yeas and nays, resulted—yeas 26, nays 12; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Clingman, Davis, Fessenden, Fitch, Fitzpatrick, Foot, Green, Gwin, Hammond, Havne, Hunter, Jones, Mallory, Mason, Pearce, Polk, Pugh, Reid, Shdell, Wright, and Yulee—26.

NAYS—Messrs. Broderick, Dixon, Doolittle, Foster, Harlan, Johnson of Arkansas, Johnson of Tennessee, King, Seward, Trumbull, Wade, and Wilson—12.

So the amendment was agreed to.

Mr. PEARCE. I have another amendment from the Committee on Finance. I will remark that when the volunteers, for whose payment we have just provided, were discharged, ten companies were mustered into service by the successor of General Harney, and the Department undertook to pay them with funds drawn from the appropriations for suppressing Indian hostilities, and for marching volunteers into the service—two funds which I suppose were strictly and properly appropriated to such an object as this; but one of the accounting officers has taken it into his head that they were not properly applicable to this service. How, I cannot imagine; because the general appropriation for suppressing Indian hostilities would seem to cover this object precisely. The allowance is necessary to be made, having been refused to be passed by the accounting officers. The amendment which I now offer is the last amendment of the Committee on Finance, which proposes to authorize the application of these balances:

And he further enacted, That the balances from the appropriations for preventing and suppressing Indian hostilities, and for traveling allowance to volunteers, already expended in the payment of Florida volunteers, called into service by authority of the War Department, may be applied by the accounting officers of the Treasury to the settlement of the accounts of paymasters by whom said balances were disbursed.

The amendment was agreed to.

Mr. DAVIS. I have some amendments to offer from the Committee on Military Affairs. The first is to insert after line fifteen:

Provided, That the superintendent of the Military Academy, while serving as such by appointment of the President, shall have the local rank, the pay and allowances of a colonel of engineers; that the commandant of the corps of cadets at the Military Academy, while serving as such by appointment of the President, shall have the local rank the pay and allowances of a lieutenant colonel of engineers; and, besides his other duties, shall be charged with the duty of instructor in the tactics of the three arms at said academy; and that the senior assistant instructor in each of the arms of service—to wit: artillery, cavalry, and infantry—shall severally receive the pay and allowances of the assistant professor of mathematics.

Mr. HUNTER. Does this increase the pay of these officers?

Mr. DAVIS. It does slightly. It increases the pay of the superintendent \$50, of the commandant \$24, and of each of the first assistants, three in number, \$16 67; making the gross increase \$124 a month. I think it will greatly improve the organization, and relieve the Government from some embarrassments it now has in the selection of a superintendent; and prevent it from having to appoint as commandant an officer too young to have been tried in the field, and to have that sort of reputation which is necessary to govern young soldiers, and is greatly advantageous in the formation of the character of those who are to be officers of the Army. I believe it will confer a great benefit at a very small expense.

The amendment was agreed to.

Mr. DAVIS. The next amendment of the Committee on Military Affairs is, in line one hundred and thirty-eight, after the word "in," to insert "the manufacture of cannon and cannon powder, and for tests of;" so as to make the clause read:

For the current expenses of the ordnance service, including experiments in the manufacture of cannon and cannon powder, and for tests of arms and ammunition, not otherwise provided for, \$150,000.

I will merely state to the Senate that some experiments have shown that we have been in great error as to the mode of casting cannon. I am myself convinced that they ought to be cast hollow, with a stream of water passing through the metal. I think it has been shown conclusively, by recent experiment, that we have made a great error in making cannon powder too quick, and we ought to go on with investigations to ascer-

tain how cannon powder should be made, so as to give the greatest range to the projectile and the least danger of explosion to the piece. I have not proposed to change the amount as passed by the House of Representatives, but to introduce words which I think are covered by the language now in the bill; but that language being of somewhat doubtful meaning, I propose to introduce words that will make it certain.

The amendment was agreed to.

Mr. DAVIS. I propose further, in behalf of the Committee on Military Affairs, to insert after line one hundred and forty-six:

For the purchase of breech-loading carbines of the best model, \$45,000.

This is a proposition which was before the Committee on Finance and referred to the Committee on Military Affairs, and which was intended to be included in the amendment offered at an earlier part of the day. It is now presented as a separate amendment.

Mr. HUNTER. I am opposed to any such appropriation at this time, because it seems to me we are appropriating enough to the manufacture of arms. This bill contains an appropriation of \$400,000 for the manufacture of arms in the national armories. In addition to that, there is a permanent appropriation of \$200,000 for the purchase of arms for arming the militia. The two together make \$600,000. I do not see why they may not, out of the permanent appropriation of \$200,000, try these experiments.

Mr. DAVIS. I will answer the chairman of the Committee on Finance in a sentence, and really I am unable to speak much, and I hope a few words will suffice. It is not possible to spend one dollar of that appropriation in the manufacture of breech-loading arms, unless they expend a large portion of it in machinery suited to the manufacture of breech-loading arms. Unless, therefore, it be justified by the intent to manufacture a very large number of arms, we are thrown back, of necessity, upon the purchase.

Mr. HUNTER. I spoke of the appropriation of \$200,000, which is designed and generally used to purchase arms from contractors.

Mr. DAVIS. You may purchase from contractors, or you may take from the armories the arms manufactured by the Government. The Department generally takes from the armories, the evident object being to put into the hands of the militia such weapons as they will be required to use in time of war.

Mr. HUNTER. It seems to me that this appropriation, if passed, ought to be deducted from the \$200,000. I do not think we ought to add to the entire appropriation for arms. We find that these large appropriations lead to this consequence: we accumulate large stocks of arms which are superseded by subsequent discoveries; and the result is, that we have to sell them for little or nothing. The expediency of accumulating arms in such numbers, I think, is more than doubtful; but if this appropriation is to pass, it ought to be deducted from the permanent \$200,000 appropriation.

Mr. DIXON. I move to amend the amendment of the Senator from Mississippi, by inserting after the word "model" the words "to be selected and approved by a board of ordnance officers;" so as to make it read:

For the purchase of breech-loading carbines of the best model, to be selected and approved by a board of ordnance officers, \$45,000.

Mr. SIMMONS. I hope that will not prevail.

Mr. DIXON. I believe the Senator from Mississippi is willing to accept my amendment.

Mr. DAVIS. I like it very well. I think those officers are the best judges.

Mr. SLIDELL. I wish to amend the amendment by providing for the purchase of new arms, or the alteration of old arms into breech-loading arms, so as to make it entirely discretionary with the Secretary of War whether he will purchase new arms, or use the economical process of changing the old ones. The Senator from Mississippi suggests that this amendment is for carbines, but I am told—I again repeat that I am unfortunately ignorant on this subject—that the process of changing muskets and rifles can be adapted to the carbine by simply shortening the barrel, and therefore that difficulty may be obviated. The musket and rifle, by this change, may be reduced to the carbine.

Mr. SIMMONS. The Secretary of War has made a distinct request for an appropriation of this amount for purchasing breech-loading carbines for cavalry purposes. At the suggestion of the Senator from Louisiana, [Mr. BENJAMIN,] I told him that I hoped he would permit the question to be taken on this proposition by itself, and if he wanted to alter any arms, bring that forward as a separate proposition, and not embarrass the one with the other. To that he assented; but the other Senator from Louisiana is about to mix them up. I voted with him before in regard to the alterations, and I hope he will permit the question to be taken on this amendment by itself.

Mr. SLIDELL. My amendment is, to insert the words "the alteration of old arms, so as to make them breech-loading arms, or for," after the word "for," in the amendment of the committee; so that the whole will read:

For the alteration of old arms, so as to make them breech-loading arms, or for the purchase of breech-loading carbines, of the best model, \$45,000.

Mr. DIXON. Is the amendment of the Senator from Louisiana amendable?

The PRESIDING OFFICER. It is an amendment to an amendment, and cannot be amended.

Mr. DIXON. Then I ask the Senator from Louisiana to accept an amendment to his amendment, providing that the models for these breech-loading guns shall be selected by a board of ordnance officers.

Mr. SLIDELL. I have no objection to that.

Mr. FITCH. There is some incongruity in the amendment. I should be very glad to vote for the amendment of the Senator from Louisiana, but it contemplates making out of the old muskets what cannot be made out of that material—carbines. They are of different caliber, with different shaped stocks, and different shaped barrels; and it is utterly impossible for them to be made into carbines by any process short of new manufacture.

The PRESIDING OFFICER. The amendment of the Senator from Louisiana, as modified at the suggestion of the Senator from Connecticut, is to make the amendment offered by the Senator from Mississippi, from the Committee on Military Affairs, read as follows:

For the alteration of old arms, so as to make them breech-loading arms, on a model to be selected and approved by a board of ordnance officers, or for the purchase of breech-loading carbines, of the best model, to be in like manner selected and approved by a board of ordnance officers, \$45,000.

Mr. HUNTER. I ask for the yeas and nays. I have nothing to say. The subject has been fully discussed.

The yeas and nays were ordered.

Mr. SIMMONS. I wish the Senator from Louisiana would withdraw his amendment, and present it as a separate proposition.

Mr. SLIDELL. Can the Senator show me a good reason for doing so?

Mr. SIMMONS. When they were together before, they were both voted down. Now I should like to try them separately.

Mr. SLIDELL. If the Senator can give me an assurance of a better vote in that way, I may accede to his suggestion.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Louisiana to the amendment offered by the Senator from Mississippi.

Mr. HUNTER. I do not wish to have the yeas and nays on the amendment to the amendment, but on the insertion of the amendment as amended. I thought the amendment of the Senator from Louisiana had been accepted.

The PRESIDING OFFICER. The Senator from Mississippi does not accept the amendment of the Senator from Louisiana.

Mr. HUNTER. Then, by general consent, I am willing to withdraw the call for the yeas and nays. It is on the final vote that I want them.

The PRESIDING OFFICER. The Chair hears no objection to allowing the call for the yeas and nays to be withdrawn.

Mr. SLIDELL. I am willing to withdraw the amendment which I offered.

The PRESIDING OFFICER. Then the question is on the amendment of the Senator from Mississippi:

For the purchase of breech-loading carbines of the best model, to be selected and approved by a board of ordnance officers, \$45,000.

Mr. HUNTER. On that, I ask for the yeas and nays.

The yeas and nays were ordered; and taken, with the following result:

YEAS—Messrs. Allen, Bayard, Bigler, Bright, Broderick, Brown, Collamer, Crittenden, Davis, Dixon, Doolittle, Fitch, Fitzpatrick, Foot, Foster, Gwin, Hayne, Houston, Iverson, Kennedy, King, Mallory, Rice, Sebastian, Seward, Simmons, Slidell, Trumbull, Wilson, and Wright—50.

NAYS—Messrs. Benjamin, Cameron, Clay, Clingman, Fessenden, Green, Harlan, Hunter, Johnson of Tennessee, Jones, Mason, Polk, Pugh, Reid, Stuart, Wade, and Yulee—17.

So the amendment was agreed to.

Mr. SLIDELL. I now renew the amendment which I withdrew. It is to insert after the word "for," in the amendment just adopted, "the alteration of old arms, so as to make them breech-loading arms, or for."

Mr. DIXON. I propose the same amendment which I offered before, which I presume the Senator from Louisiana will accept, requiring the model to be selected and approved by a board of ordnance officers.

Mr. SLIDELL. I accept that.

Mr. HUNTER. Do I understand that this is an additional appropriation?

Mr. SLIDELL. Not at all.

Mr. HUNTER. I understand it is to amend an amendment we have already adopted. We cannot do that. The Senator can only reach his object by offering an independent proposition, and then he will have to say how much he proposes to appropriate. I raise the question of order that a Senator cannot offer an amendment to an amendment which has already been adopted.

The PRESIDING OFFICER. (Mr. BRIGHT.) The Senator from Louisiana will have an opportunity of renewing his amendment in the Senate, when the bill shall have been reported from the Committee of the Whole.

Mr. SLIDELL. I prefer to have it done now, if there be any mode of doing it consistent with the rules.

The PRESIDING OFFICER. The Senator cannot move an amendment to an amendment which has already been adopted, but he can offer an independent proposition.

Mr. SLIDELL. Then I move an additional clause, appropriating \$25,000 in conformity with the suggestion of the Senator from Connecticut.

Mr. KING. It is not in order to move to increase the appropriation.

The PRESIDING OFFICER. Is the Senator from Mississippi through with the amendments of the Committee on Military Affairs?

Mr. DAVIS. I have some others.

The PRESIDING OFFICER. The Chair will first receive the amendments of the committee.

Mr. SLIDELL. I understand that the chairman of the Committee on Military Affairs has no objection to my amendment being now considered. It appears to me to be entirely germane to the matter we are upon, and I prefer to have it tested in committee. I will state very frankly that if my amendment now does not prevail, I shall vote against the whole appropriation for the purchase of arms. My amendment is to insert after line one hundred and forty-six:

For the alteration of old arms, so as to make them breech-loading arms, upon a model to be selected and approved by a board of ordnance officers, \$25,000.

Mr. KING. I inquire whether it is in order to move an additional appropriation?

Mr. SLIDELL. If the Senator from New York will suggest his point of order, I will hear it.

Mr. KING. The amendment proposes an increased appropriation, and does not come from any committee.

Mr. SLIDELL. This is only a motion to appropriate \$25,000 out of \$100,000 before appropriated by the House of Representatives; so I presume it is in order.

The PRESIDING OFFICER. No doubt it is in order.

Mr. POLK. I should like to inquire of the Senator from Louisiana [Mr. BENJAMIN] if this is the amendment that he gave notice he would offer at some time?

Mr. BENJAMIN. The same one in effect.

Mr. DOOLITTLE. I should like to inquire what kind of arm it is proposed to change from muzzle-loading into breech-loading?

Mr. BENJAMIN. Both muskets and rifles.

Mr. DOOLITTLE. I must say that I have not much faith in changing the old musket or rifle into a breech-loading arm.

The amendment was agreed to.

Mr. IVERSON. I have an amendment to offer as a proviso to the appropriation just adopted:

Provided, That any portion of said sum, not exceeding five thousand dollars, may be expended, under the direction of the Secretary of War, in applying to the old or new arms the recent improvement of Captain J. N. Ward, in the mode of applying Maynard's primer.

I beg leave to make to the Senate a very short explanation in relation to this matter. This subject was brought to the attention of the Committee on Military Affairs, the improvement of Captain Ward was subjected to the inspection of the committee, and I think met the decided approval of every member. This is an improvement in the application of Maynard's primer, which Congress have heretofore adopted, and for which they gave a very large premium to Dr. Maynard. The improvement consists in a hammer which contains within it a coil of Maynard's primer, so arranged that upon the cocking of the gun, one link of Maynard's primer projects itself so as to come down upon the cap and explode. That is the simple explanation of it. This improvement has been subjected to a board of officers appointed by the Secretary of War consisting of Colonel J. E. Johnson, first cavalry; Major W. H. Bell, of the ordnance department; Brevet Colonel Charles A. May, second dragoons; Major N. C. McRae, third infantry; and Captain J. E. Whittall, fifth infantry. They assembled in the month of February, in the present year, and examined various arms submitted by Captain Ward, and amongst others this improvement in the mode of applying Maynard's primer. The board say:

"The board examined an arrangement for attaching tape primers to small arms, called Ward's magazine hammer. To test its working, forty shots were fired. The board are of opinion that Ward's magazine hammer is a great improvement on any other method known for the application of tape primers for the firing of small arms; and therefore recommend that it be applied to all the small arms except revolvers, to be manufactured, and to all the old small arms except revolvers."

That is the unanimous recommendation of the board of officers who were appointed for the purpose of making this examination. The improvement is also very highly recommended by various officers of the Army who have examined and tested it; amongst others, by General Churchill, Colonel Mansfield, Inspector General of the Army, Assistant Adjutant General Thomas, Major Bell, of the ordnance corps, and Major Backus, of the third infantry. Major Bell says:

"It is, in my opinion, by far the greatest invention for firing charges of powder ever known."

It has also the recommendation of some fifteen or twenty of the highest officers known to the militia service of the State of New York. The advantage of this arm is, in the first place, that it can be cheaply made, as compared with any other self-priming arrangement, and can be adjusted to percussion guns by any blacksmith, without requiring any alteration of the arms except the insertion of a screw pin in the lock-plate. Thus, the hammers can be made in the United States armories and sent to Texas, New Mexico, Oregon, &c., to be there adjusted, and will save the cost of double transportation required for the alteration of these arms by other methods. In the next place, from its construction, this magazine hammer feeds out the continuous primer with greater precision and certainty than does any other method. Its parts are all strong; and as neither water nor smoke can get into it, it will not suffer from corrosion. That is an advantage which perhaps no other improvement has. Next, the flame of the cap and the vent discharge are reflected down from the magazine, instead of into it, as in the case of all magazines located below the cone. It was to determine that point that the late examining board of officers had forty shots, with ball cartridge, fired. They were satisfied on all other points simply from an inspection of the hammer in detail. From observing that after forty shots no smoke even was found in the passage to the magazine, the board pronounced themselves entirely satisfied, and some of them remarked that forty shots were as good as a thousand to establish the certainty, accuracy, and safety of feeding out and firing the primer. Lastly,

this hammer is just as good for percussion caps as for primers, and a soldier can be supplied with a few of the former to use in case the latter fail.

It requires no fixed ammunition or fancy cartridges, such as a sportsman may carry about his shooting wagon. Our soldiers are accustomed to cartridges and caps; and, in my opinion, no gun will answer for our service which does not have a cone for caps or primers. Caps and powder and ball can be found anywhere, but fixed ammunition of a peculiar kind cannot; and when out of cartridges, though you have powder, ball, and caps in your hand, your gun is worth no more than a crowbar to you.

There is an additional invention by Captain Ward of a cone seat, which prevents fire from going forward and striking the fingers or hand of the party who holds the musket, which is always a great disadvantage, and this is an effectual preventive of that difficulty.

The cost of this application cannot be more than one dollar and a half or two dollars to each musket; and, in a conversation which I had on the subject with the Secretary of War, who examined it very critically, he said that, with the application of this hammer to our old muskets, they would be equal to any guns known to the world. A board of officers have recommended it; it has the recommendation of a large number of other officers who have examined it; the Committee on Military Affairs are satisfied that it is a very valuable improvement; and I trust that at least a portion of this appropriation will be applied in this way. The amendment does not direct the Secretary of War to apply the money in this way; it authorizes him to do so, leaving it discretionary with him to use \$5,000 in applying this improvement to the old arms, or to any new arms he may think proper to have manufactured at the armories. This is one of the most valuable improvements that has ever been invented, and I trust there will be no objection to the application of the small sum proposed to test the matter. The amount will probably be enough to supply two regiments with this hammer, so that, in the course of a very short time, its utility would be fairly tested, and it might then be applied to all the arms of the United States, if that should be considered advisable.

Mr. MALLORY. I should like to ask the Senator from Georgia, who proposes this amendment, to what extent Maynard's primer has been introduced into the Army in actual service. This is a proposition to apply Maynard's primer with more facility. This invention is a magazine hammer in which to place the primer. The Senator can doubtless tell me to what extent the primer itself has been introduced into actual service.

Mr. IVERSON. I am not able to say. The chairman of the Committee on Military Affairs perhaps can do it better.

Mr. DAVIS. The primers, as originally made, were defective, and did not succeed. Recently, at least within the last two years, we have got a cement to prevent the caps being dampened. Since that time, they have gone out, to some extent.

Mr. MALLORY. I have no doubt, that any fulminator, covered with gum shellac, as these primers are, made in Washington, or any climate similar to Washington, would prove very advantageous; but I think when you transfer these primers to a moist climate, a damp atmosphere, they are perfectly useless—Maynard's, or any other. I think we now supply our soldiers with the percussion caps.

Mr. DAVIS. We supply both, and therefore all modifications require that the cone should be retained so that the cap may be used. I would, however, state what I am sure will be agreeable to the chairman of the Committee on Naval Affairs, that we think we have found a cement that is insoluble either in vapor or water.

Mr. MALLORY. If that is the case, the primer is a very valuable discovery, if it can be protected from dampness, and be equally good under all states of temperature.

Mr. IVERSON. The hammer of Captain Ward secures the primer from all moisture of every kind whatever.

Mr. MALLORY. I have seen the hammer, and am familiar with it. I was referring, however, to the character of the primer itself. My own experience of Maynard's primer in a southern latitude, is that it is useless. If, however, a

cement to cover the fulminate has been discovered so as to protect it from dampness, it is a valuable discovery.

The amendment was agreed to.

Mr. DAVIS. I have another amendment from the Committee on Military Affairs, to insert between lines one hundred and seventy-one and one hundred and seventy-two:

To enable the Secretary of War to examine and report upon suitable sites for an armory and foundry in the west and on the Pacific coast, \$10,000.

Mr. HUNTER. Is there any estimate for an armory on the Pacific coast?

Mr. DAVIS. There is no estimate, nor is there any work projected. This is simply for an examination to ascertain the site. It is recommended by the Department.

The amendment was agreed to.

Mr. DAVIS. I have another amendment to insert between lines one hundred and seventy-four and one hundred and seventy-five:

To enable the Secretary of War to compensate F. W. Lander, for services performed and expenses incurred by him in making a reconnaissance for a railroad from Puget Sound, via South Pass, to the Mississippi river, in 1854, \$4,750, or as much thereof as the said Secretary may consider reasonable and proper, in full consideration for said services and expenses.

Mr. HUNTER. Is not that a private claim—back pay in 1854? I ask the decision of the Chair.

The PRESIDING OFFICER. The Chair is under the impression that the amendment is in order.

Mr. HUNTER. Such amendments were ruled out last week all the time.

Mr. CRITTENDEN. Without some information upon the subject, I do not see how we can vote for any such claim. I do not know who Mr. Lander is; I do not know by whom he was employed.

Mr. DAVIS. I will give such explanation as I can to the Senate. Congress, some years ago, so far adopted a reconnaissance made by Mr. Lander of a route for a railroad from the Columbia river into the valley of the Platte as to direct that his report and map should be made and published. He made his report to Congress, with a map which has been published; and the only question is, whether Congress, by adopting his work, have not made themselves liable to pay him for it. I present the amendment, without myself pretending to be a judge of the question of order that has been raised. I merely thought, that, as Congress had adopted the work, and it was recommended that he should be paid, and this is the sum we learn from the Department that is considered a fair compensation, the amendment would be proper.

Mr. HUNTER. It is evidently a private claim; and if the Chair insists on his decision, I shall have to take an appeal.

The PRESIDING OFFICER. The Chair is aware that the rule has been construed more rigidly this session than last session; but the Chair considers it not to be a private claim, being in pursuance of a law heretofore passed.

Mr. HUNTER. It is not in pursuance of any law.

The PRESIDING OFFICER. Then the Chair misunderstood the Senator from Mississippi.

Mr. DAVIS. Perhaps I have not made myself plain; and in my effort to avoid unnecessary speaking, I have said too little. Mr. Lander was a civil engineer employed in the expedition to survey the best route for a railroad near the forty-ninth parallel of latitude, being a part of the organization of Governor Stevens. After he got into Washington Territory, he left the party with which he went out, and returned, as an individual enterprise, up the Columbia river, and across into the valley of the Platte, and made out a report. He had no outfit; he had no aid from the Government at all in this survey; but when he arrived here, by influences which I understand, but cannot attempt to describe, his report was called for by the House of Representatives, and it was authorized that he should make a report and map. He submitted his report to the War Office, and it was sent in, with his map of his route, and Congress ordered it to be printed, thus adopting his work. His claim to compensation is that he made a survey, which Congress adopted, and gave to the public.

Mr. DOUGLAS. I understand one other fact,

which the Senator from Mississippi took it for granted the Senate were aware of, and therefore did not state. Congress passed a law authorizing surveys of different routes to the Pacific; and he was employed under that law, as I understand.

Mr. DAVIS. He went out under Stevens.

Mr. DOUGLAS. Mr. Stevens was sent out in pursuance of that law.

Mr. DAVIS. Certainly.

Mr. DOUGLAS. And the service, therefore, was in pursuance of a law of Congress.

The PRESIDING OFFICER. The Chair has decided the amendment to be in order. From this decision the Senator from Virginia appeals. The question is, "Shall the decision of the Chair stand as the judgment of the Senate?"

The decision of the Chair was sustained—ayes twenty-four, noes not counted.

Mr. HUNTER. I call for the yeas and nays on the amendment. It ought not to be put on this bill.

The yeas and nays were ordered; and taken, with the following result:

YEAS—Messrs. Allen, Bell, Benjamin, Bigler, Bright, Broderick, Brown, Davis, Douglas, Fessenden, Fitch, Fitzpatrick, Foot, Foster, Green, Gwin, Iverson, Kennedy, Mallory, Seward, Simmons, Wade, and Wilson—23.

NAYS—Messrs. Bayard, Chandler, Clark, Clay, Clingman, Crittenden, Dixon, Doolittle, Hammond, Hayne, Houston, Hunter, Johnson of Tennessee, Pearce, Polk, Pugh, Reid, Sidel, Trumbull, and Wright—20.

So the amendment was agreed to.

Mr. DAVIS. Mr. President—

Mr. SEWARD. With the leave of the Senator from Mississippi, as I wish to be absent for a little while, I ask leave to offer now an amendment from the Committee on Naval Affairs, which I offered last night to the naval appropriation bill, but which was then arrested on the motion of the Committee on Printing. That committee have withdrawn their objection, and consented that I should offer the proposition now. I believe there is no opposition to it. My amendment is:

And be it further enacted, That there be appropriated out of any money in the Treasury not otherwise appropriated, for preparing for printing the charts of the Behring's Straits and North Pacific surveying and exploring expeditions, under the control and direction of the Secretary of the Navy, but not for printing the same, \$5,700.

Mr. JOHNSON, of Arkansas. This subject was referred yesterday to the Committee on Printing, and we reported this morning against an order for printing these charts. Our reason for making this report was that the charts are not yet in existence, and we did not think it in accordance with those rules which had hitherto been held, and the practice which had heretofore prevailed, to order the printing of matter which has no existence, because it is impossible to get a just estimate of its cost, as is required by our rules before we make such an order. Under these circumstances, we reported adversely to the proposition to print these charts; but I am at liberty to say that the Printing Committee have no objection to having the sailing charts prepared, so that they may hereafter be printed, if that be necessary. I will say individually, for myself, that I believe these charts ought to be prepared. They are mere sailing charts. If, when prepared, we shall see that the cost of printing them is not unreasonable, and that they are such as the Department will indorse, it will be appropriate to order them to be printed. I will support the amendment as it is now presented.

Mr. KENNEDY. I wish to ask the honorable Senator from New York by whom these charts were made?

Mr. SEWARD. Captain Rodgers, and those connected with the expedition.

Mr. KENNEDY. Are Captain Ringgold's charts included?

Mr. JOHNSON, of Arkansas. It includes both the North Pacific and the Behring's Straits explorations, as I understand. The amendment places the matter under the supervision and control of the Secretary of the Navy, and he will have those charts prepared which he thinks ought properly to be prepared.

Mr. KENNEDY. I understand it includes Captain Ringgold's charts.

Mr. SEWARD. It includes both expeditions. The amendment was agreed to.

Mr. DAVIS. The Committee on Military Affairs offer this amendment, to come in at the end of the first section of the bill:

For the construction of bridges, and the improvement of

the crossings of streams on the road from Fort Smith in Arkansas, to Albuquerque in New Mexico, \$50,000.

This route has always been an important one for military transportation, and its value, I suppose, is to be increased by a recent contract for transporting the mail by water to Fort Smith once in every two weeks. It is one of the most practicable routes we have from that frontier across the continent. On the eastern portion of the route there are a number of small streams which occasionally it is difficult to cross. After passing over beyond the ninety-ninth meridian, the water courses are so small, and the whole country is so arid, that we believe there will be no necessity for bridges beyond that point. Moreover, the expense of bridging becomes so great as you go from the seat of the settlements, that the committee have only thought proper to present the amendment for the bridging and crossings of streams on the eastern end of this route. The natural road is very good, and we have, therefore, only submitted that amount which was estimated for bridges and crossings of streams.

Mr. HUNTER. It seems to me that if there is anything that ought to be postponed it is military roads. Here are immense amounts appropriated in this bill, and we are adding to it largely, and I think we ought at least to cut off these expenditures for the present. I understand it is to aid in the transportation of the mail under a contract which has been made for the overland post route.

Mr. JOHNSON, of Arkansas. There is no exclusive object of that kind.

Mr. HUNTER. It seems to me it ought to be postponed.

Mr. JOHNSON, of Arkansas. The Senator from Virginia is incorrect in the supposition that the only object of this proposition is to facilitate the transportation of the mail. That is the only one of many inducements. Certainly we are to consider the benefits to emigration, which is a matter of the greatest importance. Military transportation also is a matter of very great importance. The chairman of the Committee on Military Affairs, I presume, is well aware of the fact that there is a region of country lying west, on this line, that must be a point of future difficulty, where our troops will be required without doubt. Without going into that point further, I will simply say, that the policy of opening wagon roads across the continent has been recognized by Congress, and the object is mainly to enable our people to traverse the country between the Mississippi and the Pacific. I can say to the Senator from Virginia, who objects to this appropriation, that the Committee on Military Affairs have considered this subject quite maturely. I was not present at the meeting of the committee when it was taken up, although it might be supposed that as a representative of the State of Arkansas, I should feel a personal interest in it. I can tell the Senator from Virginia, that with the exception of another road, this is the only one on which the committee make a favorable report at this session. The other one is the Salem and Astoria road in Oregon. I beg now to read the letter of the topographical bureau on this subject, and I ask the attention of the Senate to it:

BUREAU OF TOPOGRAPHICAL ENGINEERS,
WASHINGTON, May 8, 1858.

SIR: I have the honor to acknowledge the reference to this office of the letter of the chairman of the Military Committee of the Senate of the 30th ultimo, requiring a report of the necessity, expediency, and practicability of making military wagon roads from Fort Smith, Arkansas, to Albuquerque, New Mexico, and from Fulton, in Arkansas, to El Paso, in New Mexico, the probable cost of each, the time to complete, and the amount required during the coming fiscal year.

In obedience to your directions, I have the honor to report, that the construction of these roads will facilitate travel and emigration from our western borders to the southern portions of the Territory of New Mexico.

Of the practicability of constructing the roads, there does not exist a doubt, as the prairies and plains furnish excellent natural roads. The construction will consist in laying out the roads, the building of bridges, and grading the crossings of streams.

There, however, is no data in the office upon which to base exact estimates of cost. The labor will be chiefly required upon the first two hundred miles of the roads from the western borders of the States over the prairie country; the remaining portion of each of the roads will be upon the elevated plains.

It is respectfully recommended that the sum of \$50,000 be appropriated for the construction of a military wagon road from the Arkansas river, at Fort Smith, Arkansas, to Albuquerque, New Mexico; and that the sum of \$50,000 be appropriated for the construction of a military wagon road

from the Red river, at Fulton, Arkansas, to El Paso, New Mexico.

The time required for constructing each of the roads would be one season, commencing about the 1st of April, or as soon as the grass is sufficiently advanced to sustain the animals. The funds, therefore, would not be required until the latter half of the fiscal year.

The military road from Fort Benton, on the Missouri river, to Fort Walla-Walla, also referred to in the letter of the chairman of the Committee on Military Affairs of the Senate, is not under the direction of this bureau. An appropriation of \$30,000 has already been made for opening the roads, and Lieutenant Mullen, of the artillery, has been assigned to the duty, under the immediate direction of the War Department.

Respectfully, sir, your obedient servant,

J. J. ABERT,

Colonel Corps Topographical Engineers.

Hon. JOHN B. FLOYD, Secretary of War.

This recommendation is in pursuance of the policy adopted at the last session of Congress, when we recognized it as the best course that could be pursued to open ordinary roads, by which emigrants could traverse this country—best for our peace, best for the purpose of convincing the Indian tribes of the necessity of allowing our people to pass through their country quietly, without obstruction. I believe it is conclusively established that the route from Fort Smith, which is about the head of navigation of the Arkansas river, is one of the very best that there is upon the continent of America, for making the crossing. It is proposed to appropriate only \$50,000. With regard to the route on the thirty-second parallel, starting from Fulton, on the Red river, the committee have declined to make any recommendation at this time, though it is recommended by the Department. Other roads have had an appropriation for them, and now only a small appropriation is asked for this road, on which emigration has already been traveling without assistance. The great obstacle is as to the crossing of some of the small rivers, in time of high water, by which emigrants are arrested and compelled to encamp on the banks until the stream falls, causing them to consume their provisions and supplies, and often causing them severe loss, in their anxiety to get over, when they will attempt it too early and in too deep water. The committee have thought that this one appropriation, out of the number before them, ought to be made, and I trust that that policy which has heretofore been pursued towards the northern portion of this Union, will not now be denied, in this instance, to the best southern route, probably, that there is for purposes of emigration. I trust the amendment will prevail.

Mr. DOUGLAS. I am instructed by the Committee on Territories, to offer an amendment, and as it is connected immediately with this question, I think it is more appropriate as an amendment to this amendment. When it shall be read, it will be found that it is for the continuation of this same route from Albuquerque to the Colorado river. As it is a mere elongation of the same line, I think it is proper as an amendment to this amendment.

Mr. DAVIS. Was that appropriated for last year?

Mr. DOUGLAS. I think not.

The PRESIDING OFFICER. (Mr. BARGENT.) The question is on the amendment to the amendment, which will be read.

The Secretary read the amendment which is, at the end of the amendment to insert the following:

And that the sum of \$100,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be expended in completing connecting sections in the road extending from Albuquerque, in the Territory of New Mexico, westward, on the route of the Colorado river, on or near the thirty-fifth parallel of north latitude.

Mr. DOUGLAS. The letter of the Secretary will explain this proposition.

Mr. GWIN. It will be recollected that at the last Congress there were \$300,000 appropriated for a military road by Salt Lake; \$200,000 were appropriated for the road from El Paso to Fort Yuma at the mouth of the Gila river, and but \$50,000 for this route. This appropriation is simply to bring the amount on this route to the sum appropriated for the route from El Paso to Fort Yuma, at the mouth of the Gila river, and it is \$100,000 less than was appropriated for the Salt Lake road. It is certainly one of the best routes across the continent, and I think, no amendment more appropriate could be made to this bill.

Mr. WILSON. I wish to ask the Senator from

California if the money has been expended on this route which was appropriated last year.

Mr. GWIN. I take it for granted it has been. I believe it is stated in the letter of the Secretary of War, that what was appropriated, as was provided for in the law, directed the construction of the road from Fort Defiance to the Colorado river.

Mr. WILSON. The report says that money has been squandered rather than expended in building the road. I do not know that it is so.

Mr. HUNTER. I suppose it is useless to resist any of these appropriations if we go on. I wish merely to strike out the phrase in it that it is to be paid "out of any money in the Treasury not otherwise appropriated." I wonder how much will answer that description if we put on the amendments which are proposed?

Mr. DOUGLAS. This is to finish an appropriation made before. I presume it will stand as good a chance as the rest of them.

Mr. BRODERICK. I understand there is a letter from the Secretary of War in regard to this appropriation, which I hope will be read.

The Secretary read it, as follows:

WAR DEPARTMENT, WASHINGTON, May 22, 1858.

SIR: In reply to your note received this day, I beg leave to remark that the road from Albuquerque to the Colorado river, of which you speak, is, in my judgment, one of very great importance. It constitutes the central line of communication between the Mississippi valley and the Pacific ocean, which, for many purposes, will compare favorably with any other, and in some particulars is superior. It will be a great thoroughfare for emigration, presenting, as it does, the straightest road of any yet discovered across the great basin lying between the Sierra Madre and the Sierra Nevada, along which there is no scarcity of water and grass.

In a military point of view it is probably of more importance still, for by its construction, and the settlements which it will superinduce upon its whole length, it will present a line of defense after a while which will divide completely the nomadic tribes of Indians which inhabit the Utah Territory and the regions north of this road from the country lying in the territory of Arizona.

It will be scarcely possible, when the road from El Paso to Fort Yuma is completed and properly graded, that the region of country lying between the road now spoken of and that line of travel could be subject to any very serious depredations from the Indian tribes either residing in it or those north of the roads which you are proposing to construct.

Fifty thousand dollars have been already expended upon this line, judiciously, as I think, and the facts connected with the report which Mr. Benie made, heretofore transmitted to Congress, surrounding this road, demonstrate, in my opinion, that a wise economy would warrant the appropriation of \$100,000 towards the completion of an enterprise so auspiciously begun.

Very respectfully, your obedient servant,

JOHN B. FLOYD,

Secretary of War.

Hon. M. A. OTTIE, House of Representatives.

Mr. DOOLITTLE. I do not know that I have any objection whatever, if this is the proper time to do it, to expend money to build these military roads across the continent; but I have no objection to this particular appropriation. But, sir, while supporting this, there are other routes across the continent of no less importance than the one for which this appropriation is to be made. There is a route across the continent, near the forty-ninth parallel—the route from Fort Benton over into the navigable waters of the Columbia—which, for the benefit of emigration and for the development of our country, is far superior to this route which is proposed across to Albuquerque—a country which I venture to say when time shall have developed both, where the inhabitants within a square mile will be double what they will ever be on this route, across the arid plains of the lower country—a route where rain falls during the season of rain, where the grass grows up to the very ridge of the mountains and on the very line of emigration in the northern part of this Confederacy. If this matter is to be gone into, I insist that it is but just and fair that those routes should be considered and equally regarded. While I should not object to opening this military road as is indicated by this amendment, I insist that it is but just, if we now enter upon it, and appropriate money to do it, that this other great route should also receive support.

Mr. DAVIS. I will state, with the permission of the Senator from Wisconsin, that the road he speaks of had a small appropriation made for it, quite inadequate to the sending of a party there with any hope of constructing it. There is an officer employed now, however—I really do not know with what means—upon that road. In 1856 a plan was devised for making that road by passing troops from the west towards the east, and from the east towards the west, changing the mode

of transportation at Fort Benton, the troops coming up the Missouri to give up their boats to the troops who come across from Oregon and Washington Territories, and take their wagons and go back on the route they had come over. It was a mode by which a small amount might render it possible to make a wagon road. The route is a very difficult one. A party has once been over it. But to make a practical and easy wagon road would require an amount of labor on the mere route which would exceed any sum, I am sure, the Senate would give; and, except by a military expedition across that line, I see no prospect of ever making a good road there. The officer who was engaged in it, I suppose, has given us the details, and the \$30,000, I expect, will go something like other appropriations, in finding out where a road is to be built.

Mr. JOHNSON, of Arkansas. I will call the attention of the Senator from Wisconsin, also, to a fact which has not been noticed. It is the concluding passage of a letter that I did not consider as relating to the amendment, a portion of which I read just now. It is:

"The military road from Fort Benton, on the Missouri river, to Fort Walla Walla, also referred to in the letter of the chairman of the Committee on Military Affairs of the Senate, is not under the direction of this bureau."

It is not under the direction of the War Department, allow me to say to him, and did not call for action on the part of the Committee on Military Affairs; but the letter goes on to state:

"An appropriation of \$30,000 has already been made for opening the roads, and Lieutenant Mullen, of the artillery, has been assigned to the duty, under the immediate direction of the War Department."

That letter shows that efforts are going on already to construct that road. I will state to the Senator, when the question came up in regard to this or any of these roads at the last Congress, it never occurred to me, and certainly I think not to any gentleman on this side, or, if so, it was never called to my attention, that we should have asked the question, was this road North or was it South? I very well know that I voted for these roads, and that I struggled in supporting the Senator from California in efforts to get some road open by which emigrants could reach the Pacific shore. I did it with earnestness. No such question as a sectional one ever entered into my head, nor do I think the question is raised on any of the propositions as to whether the North was receiving most or the South was receiving most.

Now, sir, the committee report this amendment here. It is for a road which all the reports, whenever they shall be examined, I am confident will show is one of the very best, if not absolutely the very best, route for emigration, for a mere wagon road, that the whole continent presents to us. There are more resources along it for the emigrant than are to be found, I verily believe, upon any other one. You may obtain those resources still earlier, as you go further South; but not, however, for so great an extent of country, nor to so high a degree of excellence. This I believe to be so.

I trust that the question will not be considered by Senators on the other side of the Chamber as a mere matter of sectionalism. I know that has not entered with me into the consideration of the propriety, utility, or necessity, of any of those public roads, for a single moment. If we introduce that feeling here, it is plain we can divide this Senate at once; and it is plain that no measure for the relief of that section of the country can pass whatever. This will be the result, and the only result, of the consideration of a number of roads. We think this is but a moderate demand for the necessities of the people of the United States who ask to emigrate across to our new possessions on the Pacific.

Mr. DOUGLAS. One word more upon this road, and I have done. I feel as much interest as the Senator from Wisconsin in that northern road. It is a favorite road with me; and I will contribute everything in my power to have that road opened. A commencement has been made; and when we get the report from the officer in charge of it, I have no doubt the Government will go on with it. Permit me to say to him that this route to Albuquerque, in my opinion, is the best wagon road from the Mississippi river to the Pacific ocean. It is the furthest northern road that can be traveled in winter. I believe our own people North

would prefer it in the summer to any other, except a route going to Puget Sound, and thence to the bay of San Francisco; but I trust that no rivalry between these two roads will be gotten up. This route, which the amendment is intended to complete, is as much a northern road as a southern road; it is a central road, a good road, and, in my opinion, the best road. I trust the amendment will be adopted, therefore, without interfering with any other route whatever.

Mr. WILSON. I hope that the Senators on this side of the Chamber with whom I act will, on this as on all other questions, adopt a liberal policy. I was on the committee that reported the original proposition which has been submitted by the chairman of the Committee on Military Affairs. I voted in that committee in favor of the proposition. I shall vote for it here most cheerfully. We had several proposed roads before us; some of them, I think, in Oregon and Washington Territories, and the one referred to by the Senator from Wisconsin. The committee, after a great deal of deliberation and examination, decided to report this amendment appropriating \$50,000. I shall vote for it. At the same time, however, I shall have to vote against the amendment offered by the Senator from Illinois. I think we had better appropriate the \$50,000 contained in the original amendment, and let the question in regard to the other roads stand until another year. If we commence to amend the amendment from the committee, there may be several other propositions offered. Standing alone by themselves, they have claims; but I think this is one that has superior claims upon the attention of the Senate. I hope that the amendment moved by the Senator from Illinois will not be adopted, but that we shall agree to this small appropriation of \$50,000, and make this progress during the present year. That is my feeling. I think there is nothing sectional in it. In fact, Mr. President, I know that in the Committee on Military Affairs the idea of sectionalism did not enter into the examination of this or any other of the routes.

Mr. GWIN. I hope the Senator from Massachusetts will reconsider his determination to vote against the amendment to the amendment. If these appropriations be made, he will find that there will soon be established a four-horse coach mail, and it will be one of the greatest inducements for emigrants to settle along the route and use this road and make it a great highway. Nothing can contribute so much to it. All that is wanting to make it one of the great emigrant routes between the Atlantic and Pacific is this appropriation. I do hope, as it is only the amount appropriated for the El Paso road last year, and \$100,000 less than was appropriated for the northern route by Salt Lake, that there will be no opposition to the appropriation.

Mr. JOHNSON, of Arkansas. I should be very glad if the Senator from Illinois would let his proposition stand on its own merits, and not offer it as an amendment to the amendment of the committee. I think it would be more appropriate. I really hope that he will not embarrass the original proposition with an amendment.

Mr. DOUGLAS. I will allow the vote to be taken on the amendment offered by the Senator from Mississippi first, and I shall then renew my proposition, and allow it to stand upon its own footing.

Mr. JOHNSON, of Arkansas. That is all I ask.

Mr. BRODERICK. It appears to me that the vote can as well be taken at the same time on all. I think the last proposition is more important than the first. I knew nothing of the amendment introduced by the Senator from Illinois until yesterday. If I had known of it earlier, I would have taken the trouble of seeing Senators, and trying to induce them to vote for it. I consider it very important to my State, because I believe it to be the best route to California. If the amendment submitted by the Senator from Mississippi passes, I hope this will pass also.

Mr. DOUGLAS. I desire to explain to the Senator from California that I only withdrew it for a moment to allow the vote to be taken on the amendment of the committee, and then to follow it with the offering of my proposition.

Mr. BRODERICK. Then I have no objection.

Mr. DOOLITTLE. Perhaps I was misapprehended by the honorable Senator from Arkansas,

as he supposed that what I said was dictated by some sectional feeling. Sir, I claim to be as devoid of sectional feeling as any person who has a seat on this floor. I know my country, and my whole country.

Mr. JOHNSON, of Arkansas. If the Senator will allow me, I hope he did not understand me as using any expression of that sort in an offensive sense.

Mr. DOOLITTLE. No, sir, I did not; but I desire to disclaim for myself in my action here that I am controlled by any such feeling. I hope I may ever be free from being controlled by it. It is true, I claim to be nothing more nor less than human; and from my position, living among a people residing in one section of the Union, I may have sympathies that are stronger with them than with people residing in other sections of the Union; but I hope, so far as I may be able, never to suffer myself to be controlled by mere sectional feeling in any proposition that I have to make, or in any vote that I may have to give, on this floor.

I desired to call the attention of the Senate to the question on this proposed amendment, as there is to be made an addition to the appropriation bill of \$100,000. If we are to enter upon it, I, for one, would desire at the same time to make an appropriation for the purpose of developing the route from Fort Benton over into the navigable waters of the Columbia river; not that I wish to prevent the building of this wagon road which is said to be the best road to California. All I desire to have is a good wagon road built, so that emigration may pass from the northern portion of this Confederacy over to Oregon and Washington, as well as that emigration may pass to California. It was not in any sectional spirit that I made my observations; and if, as is indicated by the remarks which fell from the honorable Senator from Mississippi and the honorable Senator from Illinois, upon the meeting of another Congress, a survey shall have been made by the officer now at work upon that route to Congress, and I could feel reasonably assured that Congress would be willing to make a proper appropriation for the development of that wagon road, I should not interpose any objection to making an appropriation for this.

I desire that California should be developed, and that a good wagon road should exist to California, which will be the precursor, in all probability, of a railroad route; for when there can be a good wagon road, and the country can be peopled and inhabited, and thickly inhabited, railroads become a necessity; but a population must generally precede the building of a railroad to be successful; and a wagon road is necessary in order that emigration and population may go into the territory. I desire that a wagon road should be built, and a good one, upon the northern route—the Salt Lake route—and also this Albuquerque route; for I believe that the time is coming when there will be at least three good roads across the continent to the Pacific, and they may be the precursors in the end of three railroad routes across the continent. It was in no sectional spirit that I made the observation.

Mr. POLK. I do not know, Mr. President, that I ought to object to the willingness exhibited on the part of the Senator from Illinois to take these votes separately; but it strikes me that there is great propriety in the amendment of the Senator from Illinois being attached to the amendment offered by the Committee on Military Affairs. That amendment has been the subject-matter of investigation by the Committee on Territories just in the same manner and to the same extent, probably, that the appropriation of \$50,000 had been considered by the Committee on Military Affairs; and therefore I look at them both alike. Both come before me as a member of the Senate with the indorsement of the recommendation of the standing committees of this body after an investigation; and it is evident that the two together make a continued road across from the settlements on the eastern slope of the Rocky Mountains to the settlements on the western slope. There is therefore a propriety that they should come together, and stand together a unit, and effectuate a great object. Besides, though the amount in the last instance is larger than in the first instance, it is an amount no larger than it seems necessary for the purpose; and, when given, it is not an amount larger than has been appropriated to

the route just below it, nor as large by \$100,000 as has already been appropriated to the route next above it. I think, therefore, that the amount ought not to be an objection to it.

Then, sir, we are to look at this as serviceable in a double point of view. It has already been stated that there is to be run a mail line across from Albuquerque. The contract is made for running a mail line with coaches from Albuquerque into California. Now, this road will accomplish a double purpose; facilitate the transmission of the mail, and will also be serviceable in a military point of view. I do not wish to detain the Senate; I am not in the habit of doing so; but I would prefer, for one, that these two propositions should be kept together, because the two constitute but two links in a chain that makes the communication perfect. I readily believe that all that Senators have said about not being actuated by sectional feelings in this matter is so. I do not think they look at it in that light. I certainly am not influenced by any such feelings. I am certain that gentlemen who have spoken from the Military Committee were not, and I am equally certain that the gentlemen who acted on this matter in the Committee on Territories (though I am not a member of either of the committees) offered this amendment because they believed that the public interest required that it should be adopted.

Mr. DAVIS. I really do not see how anybody can be required to defend himself from the charge of sectional feeling. I do not intend to defend myself or the committee. If they cannot select a route which is to be used for military transportation, and which may be made useful on account of the mail contract, without defending themselves from the imputation of sectional feeling, I, for one, should be unwilling to report anything back to the Senate.

But there is one point I wish to correct in this matter. Senators speak of two links in a chain. To constitute a chain requires that the links should be united. Now we do not propose to make a road to Albuquerque. There I submit the Senator falls into an error. We merely propose to work upon the eastern section of a route designated as a route from Fort Smith to Albuquerque; and when I was up before I stated, not very plainly or impressively, that we would not undertake to work the western section of the road because of the very great expense incident to attempting any work so remote from the population of supply; an objection which increases when you reach that section of the road contained in the amendment. I stated very briefly in my remarks, addressed particularly to the observations of the Senator from Wisconsin, that another road remote from labor, remote from supply, is, some day or other, to be constructed, but not with such sums as we propose to give. Such sums as we propose to give for making bridges and crossing streams on the western section would be wholly exhausted by taking a laboring party to either of the other sections.

Mr. JOHNSON, of Arkansas. I shall say nothing in regard to the road from Albuquerque west. That will be for a vote, and each Senator can give his opinion best by giving his vote upon it. I am in favor of it, but I think it best that every proposition should stand upon its merits; and I do not think either the one—

Mr. DOUGLAS. They are now separated.

Mr. JOHNSON, of Arkansas. Then I say to the Senator from Wisconsin, in regard to this proposition, that I recognize the absolute necessity that there shall be some roads opened somewhere for the purpose of enabling our people who cannot go around by the isthmus and take sea transportation to the Pacific coast, to cross the continent. That they should be open to Oregon as well as to California no one would hesitate to admit. Whenever the estimates shall be brought in—and they are in a fairer way now than any other people on any other route to furnish just and fair estimates—I recognize the necessity of making the road to which he alludes, and I know very well that I shall support it. It is but just that that route should be made when its time comes. I hope we shall have a vote on the amendment offered by the Committee on Military Affairs.

The amendment was agreed to.

Mr. DOUGLAS. I now renew the other proposition. It was to be offered immediately after

the vote should be taken on the amendment which has been adopted.

Mr. DAVIS. Do you wish to take a vote again?

Mr. DOUGLAS. It was connected with this road; and that is the only reason why I offer it. My amendment is to insert, after line one hundred and ninety-two, the following:

And that the sum of \$100,000 be, and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated, to be expended in completing connecting sections in the road extending from Albuquerque in the Territory of New Mexico, westward, on the route of the Colorado river, on or near the thirty-fifth parallel of north latitude.

Mr. HUNTER. I think we ought to have the yeas and nays on this amendment. I do not believe there is a quorum present.

Mr. DOUGLAS. Withdraw the call.

Mr. HUNTER. If you postpone this amendment until we get more Senators in the Chamber, we can take up some other amendment.

Mr. DAVIS. I have got one here which involves no money.

Mr. HUNTER. Let this lie over until more Senators come in.

Mr. DOUGLAS. Let it be voted on now. Several members have since come into the Chamber.

Mr. HUNTER. When the bill shall be reported to the Senate it will be too late, and therefore I want the yeas and nays upon the amendment.

The PRESIDING OFFICER, (Mr. BRIGHT.) Does the Senator withdraw the amendment?

Mr. DOUGLAS. I do not feel authorized to withdraw it. I was blamed for doing so before.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 17; as follows:

YEAS—Messrs. Allen, Bell, Bright, Broderick, Cameron, Chandler, Clark, Douglas, Green, Gwin, Harlan, Hayne, Johnson of Arkansas, Jones, King, Polk, Rice, Sebastian, Seward, Simmons, Thomson of New Jersey, and Wright—23.

NAYS—Messrs. Bayard, Clay, Olingman, Crittenden, Davis, Doolittle, Fitzpatrick, Foot, Houston, Hunter, Johnson of Tennessee, Mason, Pearce, Reid, Slidell, Wilson, and Yulee—17.

So the amendment was agreed to.

Mr. DAVIS. As I have one amendment which I shall offer that involves a great deal of money, I am gratified to be able to say that the one I now present requires no expenditure. It is to insert as an additional section:

And be it further enacted, That the second section of the act of March 3, 1851, entitled "An act to found a military asylum for the relief and support of invalid and disabled soldiers of the Army of the United States," be so amended as to reduce the number of commissioners authorized by that section to three, and to consist of the Commissary General of Subsistence, the Surgeon General, and the Adjutant General, any two of whom shall be a quorum for the transaction of business, whose duty it shall be to examine and audit the accounts of the treasurer, quarterly, yearly, and visit and inspect the military asylum at least once in every month.

And be it further enacted, That the benefits of the said act shall be extended so as to include invalid and disabled soldiers of the war of 1812, and of all subsequent wars, subject only to the restrictions in the proviso of the fourth section of said act.

And be it further enacted, That all pensioners on account of wounds or disabilities incurred in the military service shall transfer and surrender their pension to the institution for, and during the time they remain therein, and voluntarily continue to receive its benefits.

And be it further enacted, That the deduction of twenty-five cents per month, from the pay of every non-commissioned officer, musician, artificer, and private in the Army, shall be reduced to twelve and a half cents per month, and these amendments shall take effect from and after the last day of July, 1858.

Mr. President, the object of the principal features of this amendment are: first to reduce the number of officers who constitute the board, and to prevent any charge upon the asylum fund of mileage by selecting three persons who will always be in Washington city, and then to require this board of three officers, the Commissary General, the Surgeon General, and the Adjutant General, to make frequent inspections both of the pecuniary accounts of the establishment, and of its condition, as stated in the amendment. The three officers are named, because their duties will require them almost uniformly in Washington city; and further, because the Surgeon General should know most of the condition of disabled soldiers; the Adjutant General keeping a record should know most of the history of the old soldiers, and the Commissary General was thought the proper person to look after the supplies, and judge of the proper

treatment so far as the rations, &c., were concerned. Then the next provision is to include within the benefits of the institution all the soldiers of the war of 1812, as well as of all subsequent wars. The fund is so large, and has accumulated so rapidly, that I think there need be no fear entertained that it will be self-supporting, if we allow the disabled soldiers of the war of 1812, and of the subsequent wars, to come into the asylum. It asks no appropriation from the Treasury; it anticipates none.

The next step which is taken in connection with this is, that the amounts which are stopped from the soldiers instead of twenty-five cents per month, shall be twelve and a half cents per month. These stoppages, in connection with fines and forfeitures, last year amounted to over one hundred thousand dollars. I thought it a fit time, therefore, to reduce the amount of stoppage from the non-commissioned officers and enlisted men generally, for whose benefit the asylum is founded and maintained, believing that enough will still be received, and more than enough to cover all the expenses which would result from the increased usefulness we have from the enlargement of the sphere of its operations. Those who have pensions on any account, and who go into the asylum, surrender their pensions when they enter the asylum for the benefit of the asylum. The object as explained in the debate upon this bill, when the asylum act was first passed, was to prevent the accumulation of extraordinary pensions. Men who were so disabled as to require a servant, came and asked twenty and thirty dollars a month, instead of the small amount given by the laws of pensions generally. After founding the asylum it was argued that there would be no obligation to give an extraordinary pension to anybody, because by entering the asylum he would there find a comfortable home, and all his wants would be attended to at the expense of the institution. The institution being self-sustaining, it was thus thought to be a relief to the Treasury of the United States. Now we propose that when a pensioner goes in, claiming that he cannot live out of the asylum upon his pension, he shall surrender his pension to the asylum. There is another reason for this; that if you had two classes of inmates in this house, some receiving pensions and others only the gratuity allowed in the asylum fund, the inequality would produce discontent, and perhaps be the just foundation of complaint.

The amendment was agreed to.

Mr. DAVIS. Now, Mr. President, I wish to offer an amendment which involves a large expenditure—\$1,280,000, I believe, though I have not got the figures added up. I will merely state, in advance, that the committee have selected, from all the works estimated for, those which they believed most essential for the present defense of the country. The amendment is to add:

For continuing the construction of the following works of defense:
 Fort Knox, at the narrows of the Penobscot river, Maine, \$50,000.
 Fort Montgomery, outlet of Lake Champlain, New York, \$50,000.
 Fort at Hog Island ledge, in Portland harbor, Maine, \$50,000.
 Fort Richmond, Staten Island, New York harbor, New York, \$100,000.
 Fort Wood, New York harbor, \$20,000.
 Fort Delaware, Delaware river, Delaware, \$100,000.
 Fort Carroll, Solier's Point flats, Baltimore harbor, Maryland, \$100,000.
 Fort Calhoun, Hampton Roads, Virginia, \$75,000.
 Fort Sumpter, Charleston harbor, South Carolina, \$25,000.
 Fort Clinch, entrance to Cumberland Sound, Florida, \$75,000.
 Fort Taylor, Key West, Florida, \$100,000.
 Fort Jefferson, Garden Keys, Tortugas, Florida, \$300,000.
 Fort Pickens, Pensacola, Florida, (construction and repairs,) \$50,000.
 Fort Point, San Francisco, California, \$150,000.
 Fort Gaines, Dauphin Island, entrance to Mobile bay, Alabama, \$50,000.
 Fort Philip, Mississippi river, Louisiana, (extension and repairs,) \$10,000.
 For contingent expenses of fortifications, preservation of sites, protection to titles, and repairs of sudden damage, \$30,000.
 For construction of permanent platforms for modern cannon of large caliber, in existing fortifications of important harbors, \$50,000.

Mr. HUNTER. This is an object of expenditure to which I have always been favorable when there was money in the Treasury to apply to it. I believe one of the best objects to which the public money can be appropriated is the de-

fense of the coast. I believe that it is economical to do so when we have plenty of money, because I think it diminishes the necessity of expenditure upon the standing army, and because I think experience shows it to be the cheapest mode of defending a country. But notwithstanding all that, in the present posture of affairs I concur in the action of the House, which has determined not to appropriate anything at this session for fortifications. They have so determined, because, in the present condition of the public Treasury, and with the large expenditures necessarily made, it will be impossible to supply these appropriations by any means now within our reach, unless we add to the loan which has been proposed to be made. I believe it is a matter of the first importance to the country to save the necessity for resorting to another loan and to keep down the expenditures, if possible, below the estimates. If our expenditures are to go beyond seventy-four or seventy-five million dollars, I do not see how we can avoid the necessity for another loan. With that comes up this old contest with regard to increasing the revenues from customs, increasing the tariff, and we become involved in questions which might be avoided by a little prudence and foresight. I believe that there are revenues enough, that there are sources of revenue large enough to meet all the just wants of the Government, if we could only persuade ourselves to economize for the present. For that reason I have heretofore voted on these appropriation bills against amendments which otherwise I might have favored. I have done so because I have thought it a matter of the first necessity to curtail our appropriations and expenditures even to the amount of a few millions; and I have felt, within view of all that, important as I deem these fortifications to be, that I was willing to postpone them for a year.

Against the measures indicated in the amendment, I have nothing to say. I believe there is no work mentioned in that amendment which ought not to be prosecuted and finished; and if the Treasury were full, I should be willing to vote, and would vote, to push them on much more rapidly than is there proposed; but in the present posture of affairs, I think it would be prudent to postpone these works until another year.

Mr. DAVIS. The Senator from Virginia takes a position so nearly friendly to these works that I have very little to reply; but his conclusions I think altogether unsustained either by his argument or by the facts. To postpone the works under construction, is to allow them to go to decay, and you would have then to make repairs when you resumed the construction. It is not only to stop your progress in appropriations for defense, if the country should be assailed, but it is to increase the final amount of expenditure upon every work which is in course of construction.

Take Fort Calhoun, off Hampton Roads, a work quite necessary to protect the entrance into Hampton Roads, which was commenced many years ago, but from the imperfect nature of the foundation, it was necessary that the work should be discontinued. It was put under great pressure and allowed to settle, and after a number of years remaining under that pressure, when it ceased any further to sink, the work was resumed. It has progressed now to the point, if this appropriation be granted, that one full tier of guns and some others may be brought into operation; and then we believe that Hampton Roads, and the entrance into the rivers above, will be secure from an enemy's fleet. That is one case I mention; not that I believe the Senator will be influenced by it, but because he is more familiar with it, as it is on the borders of his own State.

Take Fort Carroll, which has been prosecuted in connection with the expenditure of the appropriation for the improvement of the navigation of the Patapsco river. It has reached the point when it is now just ready to receive the lower tier of guns, and we have commenced turning the embrasure arches. To stop at that point is certainly to allow the work to go to decay; but the expenditure of the appropriation for the improvement of the Patapsco has brought material means and knowledge to the improvement of that river which they had never applied under the old system; and the consequence has been an entrance to Baltimore of such depth that it is now assailable by

vessels of a large class. The very improvement you have made to facilitate the commerce of Baltimore has increased its hazard; and Fort Carroll is necessary to protect the entrance.

I cite these two cases. If it were necessary, I could go through the whole list. There are but one or two cases not described generally in the language I have employed; and that is, a work prosecuted towards a particular object of defense, as, for instance, Fort Knox, on the narrows of the Penobscot river. The object in view there, was to protect vessels which would fly from an enemy's fleet for covering to the Penobscot river. The fort was, therefore, placed at the lowest point of the river which could be commanded by its guns, just at the head of the bay of Penobscot. They had constructed there works to assail an enemy's fleet ascending the bay in pursuit of merchantmen running into the river; and they have exhausted the means in their hands in the construction. It is made, I believe, adequate to the object; but nothing has been done for land defense; so that now a fleet, instead of being brought under the guns of this work, (Fort Knox,) would anchor below, land a small force, and, by a land attack upon the open side of the work, carry it; when the work would be silenced, and all the money you have expended would be lost.

Mr. FITZPATRICK. I am not surprised to see the Senator from Virginia resisting the application for appropriations for all these works. I admire his vigilance and economy; and I have endeavored upon all suitable occasions to go with him on measures of economy. At this time, however, I differ with him radically. If I considered it economy to allow all our works of defense on the coast, from Maine to the Rio Grande, to be left exposed to destruction by the elements, I should of course unite with him; but I think it is important to put our fortifications in a proper condition of defense, so as to afford some security to the interior, and the country, in case of a war. It is true economy, in my opinion, to make this appropriation, and I think that is the conviction of a majority of the Senate; at any rate, I hope such will prove to be the case.

The Senator from Virginia says we are expending \$70,000,000 a year. Well, sir, that is a very large amount of money, and I have upon all fit occasions voted for reducing it; but what have we done in that direction? Worse than nothing. We have provided for the support of the Army; we have provided for the support of the Navy, and almost every other interest throughout the country; and yet now, according to the course of action indicated by the Senator from Virginia, we are to leave these works in an unfinished condition until we have an overflowing Treasury, when, in the mean time, nearly all the money that has been spent upon them might as well have been thrown away. As a member of the Committee on Military Affairs, I have paid some attention to the subject, and I think every member of that committee was impressed with the propriety of making the appropriations in this bill, and throwing upon the House of Representatives the responsibility of providing for the protection of our coast. It would be very singular, if, when the Government is spending \$70,000,000 a year, and providing for nearly every other interest in the country, we cannot spare a million and a quarter to keep up works that we are assured, from the proper sources, will receive more injury by leaving them in their present condition for a year or two, than the whole amount now proposed to be appropriated. Two years ago our great difficulty was that we had too much money in the Treasury. I predict that before many years pass away such will be the cry again; and how can money be more properly and judiciously appropriated than for the improvement of our fortifications, which are so essential both for the safety and honor of the country? Sir, when we have an overflowing Treasury, a large portion of the money, judging by the past, will be squandered on other and less meritorious objects than building fortifications; and I think our true policy is to provide for these works now, preserve them from destruction, make some progress with them, and not wait until we have an overflowing Treasury. Anticipate enough for this purpose at least. Is it prudent to leave them as they are, to go to destruction, and wait until the Government shall have ample means for every other purpose as well as for

this? My honorable friend from Virginia, I trust, will not insist upon that. He has told us of the effect of the late revulsion upon the finances of the country, and he has asked us at this session to borrow or to incur a debt in the shape of loans and Treasury notes, to the amount of \$35,000,000; and ought we not to use a small portion of this for so laudable an object? I think so. Few men understand the great destruction and injury resulting to these works from leaving them as they are. It will cost the Government nearly as much to inaugurate another system as perfect as the one now in operation as the money now asked for to start our works again. We have not asked for all that was recommended by the Secretary of War, but only for about two thirds of that amount. As economical as I have always professed to be—and certainly it will be admitted here that I have endeavored to practice economy in the expenditure of the public money—I will cast my vote for this proposition with great pleasure, and hope the amendment will receive the sanction of the Senate.

Mr. HAMLIN. I shall vote for the amendment submitted by the honorable Senator from Mississippi with great pleasure; while I am very free to say it is not such an amendment as I would like to vote for. I would like to have voted, and should have voted with a great deal more of cheerfulness, if the committee had deemed it wise and best to have included all the estimates from the Departments. They have omitted some works which I deem of high merit—works which I think, when the interests of the whole country are regarded, should have been included in this amendment. Still it is the amendment of the committee. I shall not seek to change it. I have looked at it, and I can regard it as little more than an amendment of pure economy; and I think we may justify our votes, and demand a favorable action upon it, upon the simple question of economy alone.

Now, sir, it is an amendment for continuing the works that are in process of erection. Your mechanics, each adapted to the specified kind of work that is necessary, are gathered from remote sections; your stone masons, your brick masons, and all the variety of engineering and mechanics that are required, are there on the spot. All the machinery that is necessary to carry on the works is there in a state of preparation for continuing the works. Stop those works, and you have not only the necessary decay which must follow from the stopping of the work, but you must again get together the variety of mechanics who are necessary to prosecute the work, and they must again learn the duties that those men have already learned who are there. As a strict matter of economy entirely, I say it is wise to adopt this amendment which appropriates, I am told—I have not footed it up—about one and a quarter million dollars. Look at the service of the country in all its departments, and the appropriations which you have made for them, and I ask if this is not a very limited appropriation for the military defenses of the country when measured by any other appropriations that have been made? It seems so to me; but, as a simple matter of economy, I shall cheerfully give it my vote.

Mr. HUNTER. I merely wish to say, in regard to this matter, (for these are objects of expenditure which I said before I generally favor,) I do believe it is true economy and good policy, when we have money in the Treasury, to appropriate for them, and it costs me something to vote against them now; but I believe, as I said before, that war which is most imminent, and in regard to which we stand most in danger, is that upon the Treasury. I believe it is a matter of the first importance to us, if we can, to keep down for the present the expenditures of the Government. I think we are in more danger from an increased taxation, and from a contest in regard to a high tariff, and revenue, and all those questions, than we are from anything else just now; and under that belief I have felt it to be my duty to vote against even some good appropriations, if I believed they could be postponed without serious detriment to the interests of the country. Now, sir, these works of stone and mortar are not apt to decay in a year or two. Some injury might accrue from this delay to appropriate; certainly we much delay the completion of the works; but still, under all the circumstances, I think it is perhaps of more importance to reduce these appro-

priations than it would be to continue even those works.

I know that my honorable friend from Alabama [Mr. FITZPATRICK] says that in the general he agrees with me, but he differs from me in regard to this appropriation. I find that is the case with all my friends, when I propose to cut down any object of appropriation in which they feel essentially interested. I think there is no attempt which I have made in which I have not met precisely such an objection from some of them. But, sir, it will be for the Senate to decide. I do not wish to multiply words. I have nothing more to say upon the subject.

Mr. WILSON. I agree with the Senator from Virginia that we ought, in every particular, to be as economical as we can, in the present condition of the Treasury; but I do not agree with him in the extreme anxiety he seems to feel in regard to what we may have to come to, and which I have no doubt we shall have to come to—a revision of the revenue laws of the country.

But, sir, the Secretary of War asked for nearly two million dollars for fortifications. In the House of Representatives the bill was lost. The question was taken up in the Committee on Military Affairs of the Senate, and, in view of the present condition of the Treasury, the matter was most carefully examined and deliberated upon. There was a recommendation there for \$75,000 for my own State, for the harbor of Boston. I did not ask and did not vote for that appropriation. I thought we could get along without it, and I wanted whatever we did do to take the most important and exposed points of the country, in the present condition of the Treasury. After much time spent in an examination of the different demands for fortifications asked by the Secretary of War, we settled down upon the sum of about one million one hundred thousand dollars. After the adjournment of our committee, we had the most pressing applications from those connected with the Army in the Department to add about two hundred thousand dollars in the improvement of exposed points, one of these being Fort Knox, in the State of Maine, another an appropriation of \$20,000 for the harbor of New York. The committee, I believe, agreed unanimously to make those amendments, which makes the amount something less than one million three hundred thousand dollars, or nearly seven hundred thousand dollars less than was asked for by the War Department.

Now, sir, it may be that we have made a mistake. We have taken the estimates asked for wherever we have made any report at all. We have large appropriations here for the small State of Florida, but the points are very important as they stand, and we are told that it is of the greatest importance that these works shall be completed. The committee have reported this with the greatest reluctance in the present condition of the Treasury of the country. We leave the matter to the Senate to be determined. I shall vote for the amendment, but with a great deal of reluctance. I should have asked for the defense of the harbor of Boston, the second important city of the country, an appropriation of \$75,000, if it had not been for the present condition of the Treasury; and I felt we could get along without it. I shall justify my vote to my State and to my constituents on that ground.

Mr. HAYNE. I shall support this amendment making appropriations for fortifications. I can very truly say, so far as the city of Charleston is concerned, that really we ask but a very small appropriation; and therefore I support the bill upon the most liberal consideration. I am prepared to say, although the appropriation for the completion of Fort Sumpter amounts to but \$25,000, that if that appropriation is not made you will have to make an appropriation of \$50,000 next year, and you will lose thereby one hundred per cent. I believe the same principle holds good in relation to the million and a quarter of dollars which the amendment proposes to appropriate. If it is not made now, you will have, next year, to appropriate two and a half million dollars to cover that which you can do this year with a million and a quarter.

Under these circumstances, I must vote for the amendment. There are sections of this country pretty well defended; but when I look towards the States of my friends from Florida and Lou-

isiana, I find that really their possessions are very much exposed. I cannot, therefore, overlook it. Really, sir, I must smile at my honorable friend from Virginia, whose talents and truthfulness no man can more properly appreciate than I do; but I must say that I would rejoice with all my heart and soul if every man in this Union, every man in old England, every man and every nation with whom we hold intercourse, stood as the Treasury of the United States stands. How does it stand? Why, sir, ripe with prosperity. The whole country, compared with every other country on the face of the earth, is prosperous beyond all compare; and what is it for her to borrow a million and a quarter at a discount? I cannot reason upon that suggestion.

Mr. YULEE. The works referred to by the Senator from Massachusetts, although within the jurisdiction of Florida, are not being constructed with reference to the defense of Florida, and are not necessary to the defense of Florida. They occupy the entrance of the Gulf of Mexico, and in the absence of the possession of the Island of Cuba, are essential to enable the country to hold possession of the Gulf of Mexico, and to cover the trade and territory of all the rest. I understand that the appropriation proposed for Fort Taylor, which is located at Key West, will complete it, with three tiers of guns; and that the appropriations proposed for the fortifications on Tortugas Island will prepare it with one tier of guns in full, and put it in condition for a pretty effective use of another tier.

Now, sir, the chairman of the Committee on Finance thinks we may very well dispense with this appropriation, because he has not heard that stones and mortar will be damaged much in a year. That is a very different lesson from that which the Senator endeavored to teach me when he was pressing a much larger appropriation than \$1,200,000 for carrying on and preserving the structures for custom-houses that are in progress. What was the amount of the appropriation recommended by the chairman of the Committee on Finance? One million seven hundred thousand dollars. I remember when I asked my friend, [Mr. HUNTER,] under whose lead I generally follow, whether stone and mortar would be injured by a year's delay, whether it was necessary to make that appropriation, he told me that stone, if left exposed to the air, would be very much damaged. I confess it was a new lesson to me, but having great confidence in him, I followed him, and voted with him, I believe, for \$1,700,000 to carry on the construction of custom-houses, and to preserve them from decay.

Mr. HUNTER. If my friend from Florida will allow me, I stated in regard to the Charleston custom-house, that the blocks of carved marble would suffer from exposure and that it was necessary to put them in a position where they would be sheltered. I do not understand that we make forts of carved marble.

Mr. YULEE. My friend has "carved" a tolerable excuse; but I do not remember that I referred to carving at all. I never heard of carving stone, and certainly it would not have required \$1,700,000 to protect carved stone at Charleston. Is all the stone carved?

Mr. HUNTER. I never said that we required that much to protect the stone. Those were various estimates. I stated that it was designed to pay for material contracted for, and some of this material was necessary to be put up, and there was a positive saving in putting it up; but the larger portion of it was to pay for material, and make small appropriations to complete buildings upon which large amounts have been expended.

Mr. YULEE. The chairman of the Committee on Military Affairs tells us very much the same thing; but I ask the Senate to contrast the objects of the two appropriations: the one for continuing buildings which may very well be dispensed with, for there are a thousand buildings at all the localities where those works are progressing which may be hired, and have been hired in all past time, for the use of the Government; and the other intended to protect and defend the country, to defend its commerce, to maintain possession of the sea into which empties the production of much the largest portion of this Union, and through which passes more than two thirds of all the commerce of the country. Sir, I think the appropri-

ation which the Committee on Military Affairs ask, a small one, and I am prepared to vote for it.

Mr. DOOLITTLE. If I had any fear of a war with England—of which we hear some apprehensions expressed in the Senate—I should be exceedingly anxious that one fortification, at least, should receive an appropriation, to put it in a state of readiness against any such apprehended war; and that is the fortification of Fort Mackinaw, which commands Lake Michigan—a sea upon which floats more commerce than upon any other sea of its size connected with our country, or any portion of our country—upon the banks of which are exposed the cities of Chicago, Waukegan, Kenosha, Racine, Milwaukee, Sheboygan, Manitowac; cities ranging from five thousand to one hundred thousand inhabitants, perfectly exposed to the open sea, without the slightest protection in the world. Yet, Mr. President, I have so little apprehension of any war to arise with Great Britain—the only Power which we have any reason to fear, in any controversy—that I shall, under the circumstances in which we are placed, and the condition of the Treasury, feel constrained to vote altogether against this amendment of the Committee on Military Affairs. I shall vote for that reason; and deem it due, in explaining my vote, to state this much—that I have not the slightest apprehension of any war with Great Britain. If I had, I would be in favor of very large appropriations—much larger than are proposed by the committee.

Mr. FESSENDEN. Allow me to ask my friend a question before he gets through; that is, if he supposes, in case we should have a war with Great Britain, we would have time enough to build fortifications before the season of hostilities, or whether we should build fortifications in time of peace?

Mr. DOOLITTLE. I think before we get into a war with Great Britain we shall have ample time and ample notice.

Mr. FESSENDEN. Or in any war? That is a new idea of defending the country.

Mr. RICE. I wish to say but a word on this question. I see that no appropriations have been recommended by any committee for the fortifications in the great Northwest. I suppose that our time has not yet arrived. I have listened to a great deal that has been said in regard to the Treasury, and I merely wish to say that I do not care whether it is full or empty, that the condition of that institution will not govern my vote upon a single question, excepting for raising revenue. It appears to me this appropriation has come through the proper channel, is properly recommended, and must be necessary, and for that reason I shall vote for it.

Mr. SEWARD. I am quite surprised and grieved almost to hear my honorable friend from Wisconsin allude, under any circumstances, to the failure of the committee to provide fortifications for the western part of our northern frontier. The honorable Senator thinks he may excuse them and excuse himself, for voting for dispensing with any fortifications there, upon the ground that he does not apprehend an immediate war with Great Britain. But there is a further consideration which he may call into his mind, and I know he will agree with me when I mention it, and that is, if there should be a war with Great Britain tomorrow, that it would be Great Britain who would find it necessary to build fortifications in Upper Canada, and not Michigan, or Wisconsin, or Ohio, or New York, that would need to have any fortifications upon their shores. An enemy from Europe will first have to pass Quebec, and I think that if we are prepared with this fortification well constructed, at the outlet of Lake Champlain, if he should possess Quebec, he will never disturb the people of Wisconsin.

Mr. President, I have only one word to say more in relation to this subject. That I say rather because it is a subject which interests the State which I represent, so deeply. I do not regard this as a measure of public defense. I apprehend no war. This, like every other question, involves one of economy in regard to the permanent and constant regular administration of the country, to engage, I think wisely, in preparing fortifications which are useful in case of war with any foreign Power. We are induced to do this. We must either vote small sums, if appropriations are to continue to preserve these incipient works, or we

must abandon them to ruin and dilapidation altogether. The same consideration, as regards the improvement of rivers and harbors, made me vote for those appropriations, notwithstanding any representation made in regard to the condition of the Treasury; and the exigency of the public service justifies the vote I shall give for continuing the appropriations for these works.

Mr. DAVIS. I supposed it was not necessary, and, therefore, sat down without doing what I will now perform—stating the general principle on which the various points are connected. Only those points which commanded commercial cities; those points which commanded harbors, which would be the refuge of commerce in time of war, and where the fortification had progressed, but had not been completed, were selected by the committee. Fort Wood, which was estimated for repairs, I found, upon investigation, was for the extension of the battery. It was for an external battery, a water battery, which would render Fort Wood effective, if a fleet should pass through the Narrows and come into the North river side of the city of New York. Then we would rely upon those guns of Fort Wood to render that water untenable by an enemy's fleet.

So at Portland, Maine. The two old forts, Preble and Scammel, command the ordinary entrance into Portland harbor. There is another entrance called the North Channel, which is not sufficiently commanded by those works. The work upon Hog Island Ledge was, therefore, commenced with a view to give adequate protection to the North Island channel to Portland harbor, and that is selected as one of the objects of appropriation, because we believed it to be a harbor that would probably be sought by an enemy's fleet, if we should get at war with a maritime Power. In the first place it had a channel into which vessels of almost any draught could enter, it was almost entirely land-locked, and then it is in the great Atlantic and St. Lawrence railway connection with the British Provinces, which would cause it to be the port most naturally selected. It was deemed, therefore, essential to cover the entrance into that harbor.

Then at Fort Point we have failed to get a site on the opposite side of the bay, called the Golden Gate entrance into the harbor at San Francisco. This work consequently had to be pressed to its greatest strength. It was found that the work at Fort Point had not sufficient range to sea, and that it was necessary, instead of three tiers, as originally designed, to make it a four-tier work. The appropriation asked for is to complete it to a four-tier work.

At Fort Gaines, which commands the entrance into Mobile harbor, the work had been commenced; and I will say to the Senator from Virginia, the chairman of the Committee on Finance, that I think the injury would be very great to all these fortifications if work upon them is stopped. He is certainly aware that the covering of an embrasure, whatever material we may use, is subject to decay if exposed to moisture. It is never intended to resist exposure to the elements. It is always expected that it is to be covered by a roof, the arch is turned over the embrasure, the roof is the platform of the next tier of guns, and so it goes on until you get to the upper tier of guns, which is set *en barbette*, and then such a covering as to prevent water passing through. To stop it midway in construction is to expose it to circumstances which the engineer did not apprehend, and which must result in its ultimate destruction.

Then, again, the questions are very different between these fortifications and custom-houses. When a custom-house falls down, it is a matter of very little importance; and if you never rebuild it, is not important. A fortification, however, the country has a right to require of Congress shall be pressed to completion, at least to such completion as will make it effective for defense, at the earliest possible moment. The Tortugas, a work selected by General Jackson, when he commanded in Florida, as the military work most necessary of all for the command of the Gulf of Mexico, has lingered along through a long term of years. Now we have one tier of guns, and have turned the arches and commenced preparation for the second tier. The money we ask will give us the second tier; and with two tiers of guns in Fort Jefferson, and with Key West brought up to its complete

armament with three tiers of guns, we believe we have that defense for the Gulf of Mexico which is required of those positions.

At Fort Pickens, (and I am glad I did not forget it,) we thought an appropriation was merely required for repairs. It was deemed necessary to command the entrance of Pensacola, and as it has been made a naval harbor that the armament should be increased in caliber. An increase of the armament in caliber, required new platforms. An appropriation was made, and they proceeded to change the platforms when they discovered the covering of the embrasures so imperfect that unless they got additional appropriations, if they laid down the platform, they would have hereafter to tear up the platform so as to mend the covering of the embrasures beneath, and therefore it was deemed advantageous to ask an appropriation now.

We did not deem it necessary to ask for an appropriation for Fort Niagara or Fort Mackinaw, nor Fort Brady. Fort Mackinaw, alluded to by the Senator from Wisconsin, commands the entrance of Lake Michigan, and is important in that connection. But at those points we should want nothing but water batteries, which could be thrown up hastily if guns were at hand against any fleet we could expect to be upon Lake Michigan, and then would follow the policy that the Senator from New York—not the Senator who is a member of the Committee on Military Affairs, [Mr. King,] and who is somewhat more combative than his colleague who has addressed us—suggested, in relation to the Canadian works on the frontier, when he said they were but starting points, and that we should go into Canada, and that the British would not come into our country. I think it very true that we should probably be the invaders instead of the invaded party; but yet I would say Mackinaw ought to have the defense suggested. Niagara ought to have the strength proposed, as points from which to go out; but both these and Fort Brady, and other works of a smaller character, can be done in such short time that it is not necessary to make the remote preparation required in the great works along the sea-shore. All the interior defense which may be required on the northwestern frontier is of that temporary character which can be made by the troops who hold it. The garrison themselves can throw up the only intrenchment required in such positions. I think this is true of all our inland defenses, that we may expect our race to be the aggressive and not the defensive race; but if they should be the defensive race, the garrisons that hold the points will throw up all the fortifications they require. Not so along the sea-coast, and that is the basis of the great distinction which the committee made; first as to the locality, and secondly, as I heretofore explained, as to works selected.

The PRESIDING OFFICER. (Mr. BRILL.) The question is on agreeing to the amendment reported from the committee.

The amendment was agreed to.

Mr. DAVIS. I have another amendment to offer, to insert as a new section:

And be it further enacted, That the eleventh section of the act of March 3, 1817, entitled "An act making provision for an additional number of general officers, and for other purposes," which deprives cutlers in the Army of their right to a lien upon any part of the pay of the soldiers, or to appear at the pay table to receive the soldiers' pay from the paymaster, be, and the same is hereby repealed.

The amendment was agreed to.

Mr. DAVIS. I have another amendment to offer, to insert as a new section:

Sec. — And be it further enacted, That the Secretary of War be, and he is hereby authorized to sell, at the actual cost thereof, to the Post Office Department, such a number of fire-arms of the most modern and efficient pattern as may be necessary for the protection of the mail stages and emigrant wagons on the route from St. Louis and Memphis, to San Francisco.

Mr. HUNTER. I do not understand this amendment. Is it to sell the Post Office Department arms?

Mr. DAVIS. I will state it in a moment.

Mr. BENJAMIN. I ask to have that amendment reported again. I did not hear it distinctly. The Secretary read it.

Mr. DAVIS. I will state, in answer to the inquiry of the Senator from Virginia, that the Postmaster General addressed the Secretary of War, presenting to him the necessity of having

protection along this route. He asked for men, but in addition to other things he asked for arms to be given to the persons carrying the mail in stages, so that the drivers, employes, and passengers might all be armed for the self-defense which they will possibly require on the route. The committee thought proper to allow the Postmaster General to have arms, not to bring the Secretary of War into contact with the contractors, who are the officers of the Post Office Department, and in allowing the Postmaster General to have arms, put him upon the same footing as the Secretary of the Navy, who comes to the Secretary of War for arms, is furnished with arms for the marines and for the Navy generally, and charged with the capital cost, which amount goes to the appropriation for the manufacture of arms, and is paid out of the appropriation for the Navy. In this case it must come either out of the appropriation for the expense of the Post Office Department or be charged to the contractors as the Postmaster General may please.

Mr. HUNTER. It seems to me that when we contract with these men to carry the mail, they take the risk themselves. I do not see that we are bound to furnish them and the passengers with arms. What is to be the limit of them? Who are to take care of them? Who are responsible for the arms after they are furnished? Are the contractors responsible? Are the Post Office Department responsible? Are we to have a mixed responsibility?

Mr. GWIN. The contractors protect the routes, and this is a proposition to enable them to protect themselves without supporting an army along the route.

Mr. HUNTER. I do not think we have any contract to protect the route.

Mr. DAVIS. I had better send the letter of the Postmaster General to the Chair, and have it read.

Mr. SEWARD. I ask, what will be the cost of all these arms?

Mr. DAVIS. It is merely to furnish arms.

Mr. SEWARD. What will be the cost?

Mr. DAVIS. I have not the least idea. The contractors will want, I suppose, about ten or fifteen for each stage.

The PRESIDING OFFICER. Does the Senator desire to have the letter read?

Mr. DAVIS. Yes, sir; I wish the letter to be read to explain the matter. Just as the Senate please, however. If the Senate do not want the information, of course it need not be read.

Mr. MASON. Let it be read.

Mr. STUART. I want it read.

The Secretary read the following letter:

POST OFFICE DEPARTMENT, May 31, 1858.

Sir: The fact that the overland mail service from the Mississippi river to San Francisco will soon be commenced, I have already verbally communicated to you, in connection with a request that thorough military protection should be afforded to it from the outset.

In view of recent Indian disturbances in portions of Texas and New Mexico, the need of protection has become even more urgent than heretofore, and seems to call upon me to lay before you reasons for acceding those means of safety which I have felt it to be my duty to request.

Congress, in establishing the overland mail for the conveyance of letters in four-horse coaches, and the President, in directing the service to be commenced, evidently looked chiefly to the great line of settlements which a first-class coach service would greatly help to call into existence. If these stage coaches and stage stations are not thoroughly protected, but are left exposed to the ravages and plunderings of the thieving Indians who roam over the plains which the stages will traverse, the end had in view will prove wholly unattainable. Emigration and settlements will follow the trail of the overland mail only in the event that settlers and travelers have faith in the ability of the Government to insure their perfect safety. The contractors have been uniformly assured of the disposition of the Executive to protect the line of travel upon which they have been ordered, and their publication of this fact has had the pleasing effect of raising numerous families to prepare to settle in many of the fertile valleys on the route. They express to me no doubt of their being able to build up, at an early day, numerous and important settlements which will be of great value to themselves and the Government. If these hopes are realized, abundant and cheap supplies will be obtainable wherever wanted by the contractors of the Post Office Department, by the Army, by the Indian bureau, and by travelers to and from California. Military protection being afforded, and the people made to believe that the Indians would find it impossible to invade the line without provoking prompt and adequate punishment, I see no cause to prevent not only the making of numerous settlements along the whole line, from St. Louis and Memphis to San Francisco, but also the traveling of families, in any kind of vehicles commonly used at any season of the year. The poorest man would then be able to convey his family to California in a cheap wagon, subsisting his horses upon the grass growing at the side of his road, instead of

being compelled to remain at the East from inability to defray the cost of emigrating by sea. It would make California accessible to poor men who have large families.

As an efficient auxiliary to the ordinary system of defending a long line of communication, I respectfully request that all stages traversing the Indian country, in the employ of this Department, be armed by the War Department, with the most modern and efficient fire-arms; the contractors, in some proper way, to be made responsible for the prompt return of the arms (or their money equivalent) upon the demand of the War Department. With military posts, judiciously located within reasonable distance, numerous emigrants traveling the same road, and growing settlements planted along the line, armed stages would not be likely to be attacked, even by Camanches or Apaches.

Confident of your hearty cooperation in the effort making to connect the settlements in the Mississippi valley with those of California, and to thus aid in strengthening the bonds of our Union while performing an executive duty, I am yours, very truly,

AARON V. BROWN.

Hon. JOHN B. FLOYD, Secretary of War.

Before the Secretary had concluded the reading of the letter,

Mr. HUNTER said: I understand that this is a proposition to sell arms. I have no objection to that. I thought it was to give them away. [Laughter.]

Mr. MASON. Let the reading of the letter be finished.

The Secretary continued the reading.

Mr. DOUGLAS. I move to dispense with the further reading of the letter.

Mr. STUART. I want to hear it. It is stated they entered into contract to carry the mail, and we contracted that we should protect the carriers. I want to know what the Postmaster General says.

The Secretary concluded the reading of the letter.

Mr. HUNTER. I do not see but what this amendment is as I first stated. We are to buy them, and I suppose give them away. We sell from one Department to the other for the use of these emigrants, so that my objection remains.

Mr. DAVIS. I think it is far better that the employes of the Post Office Department should look to the head of that Department for whatever supplies they require, and that the two Departments should exchange amounts: the one wanting arms, another having arms gives them up to the one wanting arms on receiving an amount which enables them to replace the arms surrendered. Such is the arrangement which constantly exists between the War and Navy Departments, and I see no reason why it should not exist in this case. As to what the Postmaster General will do with them, that is a matter which Congress can control. If you give him no money which will enable him to give away the arms, he will necessarily sell the arms to the persons to whom he surrenders them. He will have power of course to sell them. If he gets possession of them for a purpose, he cannot give them away.

Mr. MASON. It seems to me the impressions of my colleague are entirely correct; that this is a proposition for the Government to furnish arms gratuitously to the contractors who carry the mails.

Mr. DAVIS. Where is that proposition to be found in the amendment?

Mr. MASON. The proposition now before us does substantially say that.

Mr. DAVIS. Let it be read, to see whether the Senator will find that in it.

The Secretary again read it.

Mr. MASON. Certainly, unless I entirely misunderstand what must be the effect of the amendment, it is, in effect, a proposition for the Government to supply to those contractors the means of protecting the mails. It is that the Secretary of War shall sell to the Postmaster General, arms for the protection of the mails. Now, where is the mail? It is in the hands of the contractor, who has entered into a contract without reference to arms or protection, to carry it from one point to another. There is no stipulation that the Government is to protect the mail *in transitu*. The contractor is to do that; and if the provision be carried into effect, and the Secretary of War sells these arms to the Postmaster General, and is paid for them, it will be but a transfer from one Department to another, and the arms will then be in the possession of the Postmaster General, to be used by these contractors. Whether the contractors will account for them, or purchase them, is not provided for there.

Mr. DAVIS. No; it does not intend to provide for that there.

Mr. MASON. It will be intrusted to the Department for regulation, and the Department will understand, as I should understand, if they are authorized to furnish the contractors with these arms, that they are just as much authorized to furnish wagons, horses, or anything else to carry the mails. It seems to me that will be the result.

Mr. BELL. I only wish to say one word. There is something more important to be noticed, I think, in that communication from the Postmaster General than the mere question of the cost, or whether we ought to supply these arms. I understand, by that letter of the Postmaster General, that he encourages the contractors, in giving out the contracts, to believe that the Government of the United States would extend military protection to them. Now, sir, what may be the effect of having such a supply of arms? I do not know; but I remember very well when these mail routes were established, and these large sums of money were appropriated for their support, that I, if nobody else did, predicted that we were about to expend a large amount of money supposing we should get regular communications overland between the Atlantic States and our possessions on the Pacific coast, which could not be realized. I said it was impossible from the nature of the country, and the liability of the contractors to be interrupted continually, or frequently, at all events, by hostile and marauding tribes of Indians; and that the consequence would be that they would come here, if they should find their contract not likely to be a very profitable one, or that they could make more by not carrying the mail, and by pretending that they could not carry it on account of Indian hostilities, and in that way the Government would be defrauded.

Now, sir, vote these supplies proposed by the Committee on Military Affairs, and we shall be giving a sanction to the claims of these contractors to be allowed indemnity not only for all actual losses, but that all the fines imposed upon them for failure to carry the mails should be remitted. My attention has been drawn to this subject by the fact that there is a claim before the Committee on Indian Affairs, of which I am a member, which has been there for the last three years, I think of one of the contractors to carry the mail between Salt Lake City and San Francisco or San Diego, upon the Pacific coast. He only carried the mails for a short portion of the time, and they claim, I think—my friend from Arkansas [Mr. SEBASTIAN] will correct me if I am wrong—indemnity for one hundred and eighty-six mules of which they were robbed. The amount was either eighty-six or a hundred and eighty-six, but I do not remember the exact number now. It was a most enormous claim.

Mr. HOUSTON. Seventy-five thousand dollars.

Mr. BELL. Was it so much? Upon what ground was it made? They claimed, under the extension of the Indian regulation laws, that it was territory belonging to the United States through which they undertook to carry the mails, and could they be expected to carry the mail and fulfill their contract when this Government afforded them no protection? Not only that, but they claimed they ought to have indemnity for losses for carrying the mail through a country assailed by a public enemy.

Sir, these are serious considerations. The moment I heard the letter read I foresaw what would be the consequences, and I remembered perfectly that I predicted these consequences when we were granting these routes. He tells us there was no ground of complaint; that he gave every assurance that these contractors would be protected; and that the Government had every disposition to protect them as far as it had power. We have got the power if we choose to carry it out: These mail contractors need not carry more than half a dozen mails during the next year, and can come here upon plausible grounds and claim the remission of any fines, inasmuch as they have purchased a large amount of stock, of carriages, horses, mules, or whatever they propose to carry the mails with, and are entitled to the cost of keeping them and the losses incurred by them, unless we afford them the protection we encouraged them to believe they would have.

Mr. COLLAMER. Mr. President—

Mr. DAVIS. If the Senator will permit me, I will suggest that there is a letter from the Secre-

tary of War, which is very brief, that covers the letter just read from the Postmaster General.

Mr. COLLAMER. In answer?

Mr. DAVIS. It covers the letter read.

Mr. COLLAMER. I suppose it is, probably, in answer to it.

Mr. DAVIS. Let it be read.

The Secretary read it, as follows:

WAR DEPARTMENT, WASHINGTON, June 7, 1858.

SIR: I have the honor herewith to inclose a copy of a communication addressed to me by the Postmaster General in regard to arming the mail carriers who pass through the Indian territory.

Approving of the suggestion therein contained, but having no authority to adopt it, I respectfully, in this mode, submit it for the consideration of your committee.

Very respectfully your obedient servant,

JOHN B. FLOYD, *Secretary of War.*

HON. JEFF. DAVIS, *Chairman Committee Military Affairs, Senate.*

Mr. COLLAMER. We have a communication read to us from the Postmaster General to the Secretary of War. The wishes of that Postmaster General to that Secretary of War, pretty distinctly expressed, give that Secretary to understand that a certain mail service which he is about to set up under a special law across the continent, requires for its protection military posts established at reasonable distances, and permanent garrisons at those posts—a military force to sustain the route, and encourage the route from post to post, and if I understand his letter aright, he gives us to understand that that is what was expected by the men who took the contract.

The great body of the communication relates to this point, an important one, and he says it should be extended sufficient, not only to guard the mail and the persons who accompany that mail, and the passengers, but to guard the route in such a manner that it should be safe for emigrants, secure to their teams and to their droves, and open the communication between us and California in such a manner as to render it safe and convenient. That is the great purpose of that letter. Now, what is the proposition under that letter? There is another small portion of it, a single sentence, in which the Postmaster General requests the Secretary of War, or suggests to him that he shall furnish proper and suitable arms, of improved patterns, to those who go with the mails, under some proper securities of those mail carriers, and to be accountable to his Department for them.

Now, what is proposed to us as an answer to this requisition of that Department? Is it to detach some men to establish posts? Not at all. Is it to furnish any soldiers, or any officers, or any garrisons, or any guard? Not at all. Is it to send any escort with the mail? Not at all. Is it a response to any of the material requisitions there? Nothing of the kind. Well, what is it? Is it that you may buy some arms of this other Department, if you can, and I understand the honorable Senator, who is chairman of the Committee on Finance, upon the whole, as it is to sell them, has no sort of objection to it. If he has no objection to it, he will see to it that the Post Office Department has an appropriation of money to make the payment.

Mr. HUNTER. That was based upon a statement of the Senator from Mississippi, but on looking at the amendment I find it is nothing but a sale from one Department to another, but which will give arms to every man, as I understand it. That will be the effect.

Mr. COLLAMER. What difference does it make with us if we make an appropriation out of the Treasury to enable the Postmaster General to buy of the Secretary of War some arms which he can never take care of? He has no military power. Now, it is said he is to give them to his employes. Mr. President, are the contractors the employes of the Department? By that term I understand somebody under the control of the Department; contractors for carrying the mail are under no control of the Department. They fulfill their contract—that is all. They are not subject to any order in the world, except it be that the schedule of times may be changed agreeably to the terms of the contract. There is nothing in any other respect. They are not under his direction nor control, nor can he get any control over them, or have any care of arms given to them. In short, it looks like saying, if your son asks bread of you, give him a stone. He has asked you for protection in the construction of a great and

material work across the continent; for an armed force to sustain it, and to protect it against the Indians and against the enemies of our own country, or those who may be in rebellion; and what do you offer? Any soldiers? Not at all. Any military supply and protection? None whatever. Do you even furnish arms to these contractors, and take securities in the proper Department to which the arms belong for their return and proper use? Not at all. You do not even do that; but say, in lieu of all these things, "we will sell you some arms, and you must take care of them, provided you have not got any means to buy them." There must be an appropriation in the bill for that purpose. I think this is catching the immaterial, unimportant part of that letter, and not responding according to the terms of it at all. I do not undertake to say whether we are under obligation to furnish protection to that mail route or not; but I say, this amendment now offered to us is a very miserable attempt to do it, if we are under any obligation to do it.

Mr. DAVIS. The Senator has made up his own case, and therefore reached his own conclusions. I am not aware of any obligation on the part of the Committee on Military Affairs to receive the application of the Postmaster General, and favorably to entertain it. I am not aware of any principle of action which would justify this Government in making a contract, for an immense sum of money, to perform a particular service, and then sending its own troops to guard the men who did it. Why, sir, you might as well give a sergeant the mail bags, and send him along with them.

Mr. COLLAMER. I do not wish to be misunderstood. I stated, in my remarks, that I did not know whether we were under any obligation at all to do it. This was not doing anything of the kind.

Mr. DAVIS. Then the Senator says he asked for bread, and received a stone. That had no meaning, unless he asked something he had a right to expect and been refused.

Mr. COLLAMER. He knows what he has asked for.

Mr. DAVIS. And I know very well that there is no purpose to grant what he asked; that under no pretense his request was to be granted. So far from it, a distinct proposition, instead of what he asked for, to put in his power the furnishing of arms to these people, if arms they wanted, and not to tax the Government either with the expense of it; because if they go merely to get the Government arms, and might throw them away when they had them in their possession, we had better compel them to go into the private market and buy them. If they want Government arms because they are best to answer the purpose of defense, then I say sell them to them at the prime cost.

The Senator says the contractors are not employes. What of that? The contractors have a relation to the Postmaster General; they have none to the Secretary of War. The Postmaster General reaches the appropriation which pays the contractors for the service they perform, and can reach them if they destroy public property in their hands which has been placed there on an obligation on their part to return it. The Secretary of War has no such control over them, no such access to them, no relation to them.

Why, then, should the Secretary of War be called upon to furnish arms to these men? The proposition as it stands is to establish military posts, and to send guards along. Why, sir, if the Government are going to do that, let the Government carry the mail and throw the contractor out. Let them keep the money instead of paying it to the contractor, if the Government is to perform the service. If there is anybody here who holds that the committee should have reported in accordance with the application of the Postmaster General, I know not how he can maintain his position, unless he also contends that the contractors should be excluded entirely from connection with the Post Office Department, and the military arm of service called upon to carry the mail for the Postmaster General.

Mr. GWIN. It was well known, when these contracts were entered into, especially the first one, that the Army of the United States would be stationed along this route.

Mr. DAVIS. Never.

Mr. GWIN. It was expected.

Mr. DAVIS. It was an absurd expectation, if they supposed the Army was ever to be dotted along the mail route.

Mr. GWIN. If the Senator will permit me, I will say that along that route is where the Indians are most troublesome. It is in that section of the country that the Army ought to be, whether there was any mail route at all or not; but the Army has been drawn off to other service. The Utah war has consolidated the Army at one point, instead of being extended over the territory through which these mail routes would pass. It is, therefore, because the Army of the United States is not large enough, with the present concentration of our forces upon Utah, to give that protection in countries where the Indians are hostile and commit depredations—the Camanches, Apaches, Navajos, and those Indians where our Army is required to keep them in subjection—that this measure is made necessary. It is because the Army has been necessarily withdrawn, owing to the disturbances in Utah, that it is proposed, in the absence of the protection which it was expected would be given at the time through this country, where hostile Indians were in the habit of committing depredations, to resort to temporary expedients by which the safety of the mail may be secured. I take that to be the proposition. I never heard of it until it was offered here.

Mr. DAVIS. I would ask the Senator from California to state to the Senate what posts have been abandoned on account of the expedition to Utah on this mail route?

Mr. GWIN. No posts have been abandoned; but the troops have been drawn off. For instance: from Fort Buchanan troops were drawn off; and other posts, I am told, are in the same position. I have not made inquiry on the subject. There has been a concentration of troops that would otherwise have been stationed along that section.

Mr. DAVIS. Where is Fort Buchanan?

Mr. GWIN. In Arizona Territory.

Mr. DAVIS. This mail road does not go there.

Mr. GWIN. It goes right through it. The

object is to give these arms, as we all know. When I went to California in 1849, I drew arms and paid for them. I looked upon those in the possession of the Secretary of War as the best arm we could get. I consider it certain that no injury can result from this proposition, but great benefit.

Mr. YULEE. The Government does not furnish these arms. The Government is the purchaser of them.

Mr. DAVIS. I will answer the Senator so that he will see the whole subject. I do not know what kind of arms these people will apply for. They may apply, for instance, for Colt's revolving pistols; and it is a very probable thing they will apply for other arms which the War Department is compelled to purchase for its own use, and which it could not afford to give away.

Mr. YULEE. That is what I presume this proposition anticipates—a supply by the Government of arms of the latest improvement. The Government is the purchaser. Why may they not be purchased directly from the parties from whom the Government purchases? Let them go to Sharpe, Colt, or whatever maker they please, and purchase the arms.

Mr. GWIN. The reason is simply because they would sell higher to them than they would to the Government.

Mr. STUART. I recollect, when this service was provided for, I was among those who thought it was not very valuable, but that is not so important now. The tenth section of the act which made the appropriation is in these words:

"And be it further enacted, That the Postmaster General be, and he is hereby, authorized to contract for the conveyance of the entire letter mail from such point on the Mississippi river as the contractors may select, to San Francisco, in the State of California, for six years, at a cost not exceeding \$300,000 per annum for semi-monthly, \$450,000 for weekly, or \$600,000 for semi-weekly service, to be performed semi-monthly, weekly, or semi-weekly, at the option of the Postmaster General."

The eleventh section has an important bearing on the proposition contained in the letter of the Postmaster General:

"And be it further enacted, That the contract shall require the service to be performed with good four-horse coaches or spring wagons, suitable for the conveyance of passengers, as well as the safety and security of the mails."

The twelfth section is in these words:

"And be it further enacted, That the contractors shall have the right of preemption to three hundred and twenty acres of any land not then disposed of or reserved, at each point necessary for a station, not to be nearer than ten miles from each other; and provided, that no mineral lands shall be thus preempted."

Now, Mr. President, there was an appropriation for making a contract, at an enormous expense, to carry all the letter mail from the Mississippi river to San Francisco; and the eleventh section was inserted in that act to compel the contractors to furnish such defense as should make that letter mail safe. That is the important mail. The newspaper mail is not of any consequence, in a pecuniary point of view.

In addition to this, there is the authority to take three hundred and twenty acres of land, by preemption, at points over the entire route, not nearer than ten miles apart. It is an immense pay for a service which, as I said, I thought at the time not very valuable. I think so yet. But the law having so provided this immense pay for a service that shall be rendered secure by the contractors themselves, what does the Postmaster General tell us? He says that he has assured these contractors in all cases that the United States would protect their mails throughout the entire route by stationing the Army from point to point, and he calls upon the Secretary of War to do it. What are we to expect from all this? That these mails will be attacked is inevitable from the very nature of the country, and the nature of the Indian population; and the contractors will come down upon the Congress of the United States for damages, on the assurance of the Postmaster General.

Now, what is the duty of Congress to-day? Unquestionably, in my judgment, to repudiate it. If we adopt this proposition, or any similar proposition, which looks to carrying out the assurance of the Postmaster General, Congress is committed; and it will be said, "You did not furnish the protection that the Postmaster General assured us would be given—troops throughout the land to protect us; but you simply sold us arms to be carried by our passengers, and by our drivers, which was no protection at all." I therefore say, that this is a contract which should compel the contractors to take such measures as would protect the mails themselves; and that the duty of Congress to-day, if they do not mean to implicate this Government to the amount of millions of dollars, is to stand by that law, and refuse any protection whatever. This seems to me to be the only safety to the Government.

Mr. GWIN. I have no doubt the Senator from Michigan will do everything he can to destroy this law, in order to make the prediction good that he made when it was under consideration in Congress before. He tried to destroy it then, and to prevent its passage. The very clause that he reads, about keeping the mails secure, is in all other laws for carrying the mails; and that is, to protect them against the weather. Was it supposed, when that law passed, they were to load the stages with guns instead of letters? It was not expected at the time, because those countries were being settled up rapidly, and the Army was stationed on the route through which it passed, and it was thought that it would be protected. The section the Senator has read, with reference to protecting the mail, is in all other laws for carrying the mail. It was intended, at the time, for no other protection of the mails whatever than that I have mentioned.

Mr. DOUGLAS. It strikes me that this is a very ingenious device to save the transportation of arms from here to California, where they are very much needed for defense. I understand these arms are to be sold to the Post Office Department, and, when a stage-load of passengers start, we are to give each of them a weapon which he retains until he gets there. Another coach-load starts, and we give them weapons. In this way we can send all the arms we want to California, and leave them there and save the cost of transportation. It strikes me it is a very ingenious piece of economy, and I am inclined to give it my support on that ground.

Mr. MALLORY. I offer an amendment to the amendment, to add at the end of it the following:

Provided, That it shall not be lawful for the Postmaster

General to permit the use of said arms, or authorize their transfer, without receiving the cost price thereof.

Mr. STUART. I do not intend to continue this discussion; and I am very sorry that the Senator from California (in consonance to what seems to be a really unfortunate habit of the Senator of thinking that everybody who opposes a measure that he is in favor of, has got something personal in it) should have said he was very confident that I desired to defeat this bill in order that my predictions might turn out to be true. Why, sir, I have no such reputation in the way of prophecy to maintain—not at all. I do not think that it is necessary. I think the country pretty generally understood that that route was not a very valuable affair; but that is not the purpose. I am willing to see it succeed; and so far from having any objection to its success, I would like to see it succeed. I would rather be shown to be wrong than proven right in regard to the original proposition.

But I see nothing in this law which authorizes the Postmaster General to make any such assurance to contractors. He has furnished a copy of a letter sent to the Secretary of War, which says he has given those assurances. They are not in the contract; but they are his personal official assurances, given simultaneous with the making of the contract, and they present an equity in the case of a loss. Therefore, it was that I stated my opinion that it was the high duty of Congress to-day not to make any movement that looked to authorizing those assurances. We never intended it in the law. I take it we do not intend it to-day. I deemed it important, and the very reason why I desired that letter read at length, was to see whether there was anything embodied in the contract itself binding the Government to favor this construction. I think there is not, but that it rests upon the official and personal assurance of the Postmaster General himself. I think he was wrong; that he had no authority to give it. I think the Congress of the United States should in no wise sanction it, and therefore it is, and for that reason only, that I am against this proposition.

Mr. GREEN. I should like to hear the original amendment read, as it will be if the proposed amendment is annexed to it.

The Secretary read it, as follows:

And be it further enacted, That the Secretary of War be, and he is hereby, authorized to sell, at the actual cost thereof, to the Post Office Department, such a number of firearms, of the most modern and efficient pattern, as may be necessary for the protection of mail stages and emigrant wagons on the route from St. Louis and Memphis to San Francisco: Provided, That it shall not be lawful for the Postmaster General to permit the use of said arms, or authorize their transfer, without receiving the cost price thereof.

Mr. GREEN. The amendment to the amendment nullifies the first proposition completely, and hence it is much better to vote down the first proposition, when nullified, by putting on another amendment which makes it perfectly nugatory. It says he shall not permit the use or disposal of the arms without receiving full price.

Mr. CLAY. I have some reasons for the vote which I mean to give, and I should like to give them, but we have now been in session eight hours, wanting six minutes, and I rise for the purpose of moving an adjournment. ["Oh, no!"]

Mr. HUNTER. I hope we shall not adjourn.

Mr. CLAY. With five other appropriation bills to follow this one, I do not think we can get through this week if we discuss each one as long as this has been discussed.

Mr. HAYNE. I second the motion to adjourn.

Mr. CLAY. If we could get through soon I would withdraw it.

The PRESIDING OFFICER, (Mr. BRIGHT.) Does the Senator insist on his motion?

Mr. CLAY. I will not insist for the present; but I would suggest that I have been without my dinner, and I am very impatient to get it.

Mr. ALLEN. I think we had better adjourn.

Mr. HUNTER. I hope we shall not adjourn.

Mr. CLAY. I withdraw the motion if we can get a vote.

Mr. ALLEN. I insist on it, and I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 22; as follows:

YEAS—Messrs. Allen, Bell, Bigler, Broderick, Clay,

Clingman, Davis, Green, Hayne, Houston, Johnson of Tennessee, Kennedy, King, Pearce, Reid, Sebastian, Seward, Trumbull, Wade, Wright, and Yulee—21.

NAYS—Messrs. Bayard, Bright, Brown, Cameron, Chandler, Collamer, Crittenden, Dixon, Doollittle, Fessenden, Fitch, Fitzpatrick, Foot, Foster, Hamlin, Hunter, Mallory, Polk, Simmons, Stuart, Toombs, and Wilson—22.

So the Senate refused to adjourn.

Mr. MALLORY. Mr. President, the War Department has on hand the best arms that this country can afford, and we have authorized the War Department to-day to purchase a supply of breech-loading arms and to alter others. This proposition is to permit the War Department to sell at cost price such arms as the Postmaster General may require. If we have contracted for the mail service and undertaken to furnish these arms or protection to the mail carriers in any other way, then clearly the amendment I sent to the Chair is not in order, and I shall feel bound to withdraw it. I presumed it was understood that no such understanding had been had by the mail carriers. If it has not been had and the contract has not been made with reference to a supply of arms or protection, as a matter of course we ought not to give them to them for nothing. If such an understanding has been had I withdraw the amendment. I offered it simply to supply a deficiency in the amendment of the Committee on Military Affairs.

The PRESIDING OFFICER. The amendment to the amendment having been withdrawn, the question recurs on the amendment of the committee.

Mr. YULEE. I wish to state that the chairman of the Committee on Military Affairs has been obliged, by the state of his health, to go home. He has not been able to protract his attendance longer.

Mr. HUNTER. But before he left, he got through all his amendments but one.

Mr. WILSON. If the Senator will permit, the chairman of the Committee on Military Affairs has but one amendment to offer, and that of no consequence, after this. I have three amendments to offer from that committee. They do not amount to much, and I think we can finish this bill in half an hour.

Mr. HOUSTON. I have two amendments that will require some explanation. It is very important to my State that they should be adopted. I will do anything to oblige gentlemen, but I assure them it is not impertinence when I say I must insist now on a motion to adjourn. ["Oh, no."]

Mr. HAYNE. I second the motion.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Mississippi.

Mr. HOUSTON. I move that the Senate adjourn.

The motion was not agreed to; there being, on a division—yeas 16, nays 21.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from Mississippi.

Mr. KING. The proposition of the Postmaster General, as I understand, is to supply passengers or the drivers and other parties who attend these stages over the route with arms. I have some doubt whether that is the best mode of protecting the mails; for if there be really danger from the Indians, it ought to be a military force. The Senators from Michigan and from Florida spoke of this matter as if the mail carriers were under obligations from their contracts to protect themselves. Some of these contractors, at any rate, are constituents of mine, and I feel bound to interpose when a proposition of that sort is made in reference to the obligation resting upon them that they shall be bound to carry out the contract and carry the mail across the country, and also supply them with the means of defense against the public enemy. We had this morning, in this very military appropriation bill, an appropriation inserted of over three hundred thousand dollars for the protection of citizens of Florida against these Indian disturbances, and it was then stated that they were not to be expected to pay their own expenses in suppressing them; and these contractors ought, in some way satisfactorily to the Postmaster General, to be supplied with at least safety against the public enemy; against Mormons or against the Indians. Their agreement to protect the mails and to give safety unquestionably commands from them to carry the

mails safely: that is, from private robberies or any accident—

Mr. POLK. Or bad stages.

Mr. KING. From any accident of that sort, but clearly they are under no obligation on their part to defend themselves against the violence from which the Government design to protect them from a common enemy—so that if dangers be threatened by enemies, they must either be protected by the public authorities, or arrangements be made by which they shall be relieved from the obligation to carry out their contracts. Of what is best in that matter, the Postmaster General is probably the best judge. I, hearing then that it was from him, was disposed to accede to the proposition to furnish these people, if they supposed they could transport these mails across the country, and with their own people, who were rather numerous, protect the mails with arms.

I have no idea that the object with them, as the Senator from Illinois [Mr. DOUGLAS] has indicated, is to procure them in such a manner as that the passengers shall keep them; but my impression is the amendment proposed by the chairman of the Committee on Military Affairs requires that they shall give security for the return of these arms to the Post Office Department. That far we merely furnish them with the means of defense to carry them along.

Mr. YULEE. It provides for a sale of them. I prefer the mode now suggested.

Mr. KING. It provides for a sale from the War Department to the Post Office Department.

Mr. YULEE. Yes, sir.

Mr. KING. It makes the arms the property of the Post Office Department, and leaves the contractors to whom they are communicated under as much responsibility for their return as they are for the bags, locks, or other property the Department put into their hands. If there be danger from the Indians to these mail transportations, this mode will protect them from it, and is naturally the cheapest mode in which the Government can protect them. If there be a necessity for this mail, which the contract to carry it of course leaves us no question about, they must be protected in some way. I felt bound to interpose when I heard this talk about the obligation they were under to give protection to the mails. It seems to me the obligation of a citizen is not to protect himself from the public enemy, but the Government owes it to him.

Mr. CLAY. I wish to make this suggestion to my friend, the Senator from Florida: if his object is not, as has been suggested, to defeat this amendment—

Mr. MALLORY. I have withdrawn the amendment to the amendment.

Mr. CLAY. Then I will not make the speech I was going to make.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Mississippi.

Mr. SEWARD called for the yeas and nays; and they were ordered; and, being taken, resulted—yeas 14, nays 26; as follows:

YEAS—Messrs. Broderick, Fitch, Fitzpatrick, Green, Gwin, Hayne, Houston, King, Polk, Rice, Seward, Simmons, Wade, and Wright—14.

NAYS—Messrs. Bell, Benjamin, Bigler, Bright, Brown, Chandler, Clay, Chignaw, Collamer, Dixon, Doollittle, Fessenden, Foot, Foster, Hamlin, Hunter, Johnson of Tennessee, Kennedy, Mallory, Pearce, Reid, Stuart, Toombs, Trumbull, Wilson, and Yulee—26.

So the amendment was rejected.

Mr. PEARCE. I am instructed by the Committee on Finance to offer another amendment, to insert as a new section:

And be it further enacted, That the Secretary of War be, and he is hereby, authorized to pay, out of the unexpended balance of appropriation for the war debt of the State of California, made by the last section of the act approved August 15, 1854, entitled "An act making appropriation for the support of the Army for the year ending the 30th of June, 1855," any out-standing and unpaid bonds and coupons issued by said State for said war debt prior to the 1st day of January, 1851: *Provided*, That no payment shall be made beyond the unexpended amount of said appropriation now remaining in the Treasury.

I will briefly explain the object of the amendment. In 1854, Congress assumed the war debt, as it was called, of California, and appropriated \$925,000 for defraying that war debt. The act directed that only the debts which were acknowledged by California, and which she had paid up to the 1st of January, 1854, should be paid out of

that appropriation. The construction given to the act was, that when the State of California had issued a bond for the amount of that debt, she was considered as having liquidated it or paid it. The Secretary of War was directed, however, not to pay any of those war debts which had not been paid by California, or liquidated by her giving bond, prior to the 1st of January, 1854. It was supposed that all those debts had been so liquidated by California at that time. It turned out, however, that there were a portion of those war debts, the vouchers of which were in possession of the parties entitled to them, for which California had not issued her bonds on the 1st of January, 1854. Some of them were issued after that time, but prior to the passage of the act, which was in August, 1854. There is now in the Treasury, as I understand, about sixty thousand dollars of the \$925,000, which has not been called for. Some of these bonds were brought into the War Department, and their payment asked, but it was refused, because, according to the terms of the act, no payment could be made except where the war debt had been liquidated prior to the 1st of January, 1854.

The only difference, then, between these bonds, which it is proposed now to pay out of the unexpended balance of this appropriation, and the others, is, that in the one case the bonds were issued prior to January, 1854; and, in the other case, they were issued subsequent to January, 1854. It is not perceived that there is any difference in principle between them. It is not supposed there can be any possible objection to paying debts which, *ex æquo et bono*, are equally entitled to be paid, unless it be the apprehension that it may draw after it a large class of other bonds to be paid, but which do not come within the principle of this amendment. So far as I know, there are but \$3,000 of that, the payment of which has been demanded at the Treasury, though the appropriation in the Treasury exceeds the amount which has been applied to this purpose by about \$60,000. I do not know that we can reasonably expect that it will involve any expenditure other than an amount equivalent to that which is now in the Treasury. I know of no subsequent bonds. I think one of the Senators from California was under the impression that possibly there might be others that had been issued at a much later date, but I think he has restricted that conjecture—for I cannot call it an opinion. He can state for himself, however, what the fact is. I understood from the late Secretary of War, the honorable Senator from Mississippi, [Mr. DAVIS,] not now in his place, that he thought these bonds stood on the same footing with the others. He had the examination of the whole subject, for the bonds were required to be referred to him, and he was to be satisfied of them before they were paid, and he thinks this amendment ought to pass.

Mr. GWIN. There is a much larger amount of these bonds than is covered by the appropriation in the amendment. The Senator is right in regard to the unexpended balance of appropriation made in 1854; but there is a much larger amount of bonds than the amount of that appropriation, which is the duty of the representatives of California to bring forward before Congress, and we have been instructed by our Legislature to do so. The amount of those bonds I do not at this moment recollect. The subject was referred to the Committee on Claims; but they have not reported upon it. It is a much larger amount, though, than this unexpended balance of appropriation, which I shall certainly bring forward.

Mr. HUNTER. I must say, in regard to this proposition, that I am unwilling to go for an amendment which, I fear, will pledge us to the payment of the war debt beyond what Congress intended at the time the appropriation passed. I speak from general recollection; but, according to my recollection, the idea was not to pay every bond issued by the State of California, but to pay a sum in gross; and we placed a certain limitation as to the time within which those bonds were presented. If we depart from the conditions of that act, I fear that there will be a great number of those bonds which will come within the equity of the case; and I therefore, for one, cannot vote for an amendment which would have that effect.

Mr. GWIN. The Senator is entirely mistaken. The appropriation was made on an exhibit made by the comptroller of the State of the exact amount

of the bonds which it was supposed was due at that period. The appropriation was not conjectural at all, but was made upon an exhibit of the State comptroller. The claims were subsequently audited, and bonds issued by the authority of the Legislature.

Mr. POLK. What was the war which produced the debt?

Mr. GWIN. The Indian wars of that State; for some of which subsequent bonds were issued, for which the State is liable in the same manner as it is liable for those assumed by Congress. Nor was the original proposition to take the sum stated as a lump, as the Senator states; but it was the actual amount of the indebtedness of the State of California, for which she had issued bonds. Subsequently others have been presented and allowed by the State, and will be sent to Congress, as in all other cases.

Mr. BENJAMIN. I see no such danger as the Senator from Virginia seems to anticipate in this matter. A word or two, I think, will put it in such an aspect that the Senate will feel that they can safely vote for the amendment. It is not an appropriation. It was ascertained that the sum due at that time to the State of California was \$924,000. The appropriation was made for the entire sum, and vouchers were to be furnished, showing the payment. At the time the law was passed it was anticipated that the money would be sent to California, and there distributed amongst the creditors. The creditors, however, preferred going to California, and, with their vouchers establishing their claims, taking the bonds of the State for the claims there established, and bringing their bonds here and getting payment at Washington. They preferred, naturally enough, a claim against the General Government directly, to a claim against the State. They wished the money paid to them, instead of going into the treasury of the State.

When the law was passed providing for the payment of all the debt which had been paid by the State or settled by the State, prior to the 1st of January then next preceding, and amounting to \$924,000, it was supposed that the holders of the claims against the State with those vouchers had all presented them and had received bonds, and that the debt was therefore fixed. When the settlement was made at the War Department here, it was discovered that a portion of this debt of \$924,000 had been presented to the State for settlement a month or two after the precise date fixed in the bill, and the parties holding the bonds, exactly the same in every respect with the other bonds, came to the War Department here and asked for settlement. The War Department, looking at the face of the bonds, said, "this is a payment made by the State after the 1st of January last, and, as a matter of precaution, Congress determined that that should be the date fixed for the liquidation of the different claims against the State." The consequence is that there remains \$60,000 of the appropriation made for that debt now in the War Department applicable to these very bonds, but which sum cannot be paid to the bondholders until Congress will amend the terms of the appropriation. Now, this amendment provides for this and no more: that the balance standing in the hands of the Secretary of War be paid to the holders of these bonds, and with two checks provided: first, that not a dollar shall be paid from any other than the appropriation as it stands; and secondly, that not a bond shall be received except bonds issued prior to the date of the law; so that it can carry after it no further bonds, no new emissions by the State, and cannot carry a dollar out of the Treasury. It will be manifestly unjust and improper, because it did so happen that some of those vouchers were presented a week or two after the other vouchers, and because, as a measure of precaution, we then fixed a particular date for the bonds, now that the matter is fully developed, when it is found that there are other creditors entitled to this balance remaining in the Treasury, to refuse to pay them, or amend the law which made the appropriation, so as to enable them to receive the amount due them under the money appropriated, and another class provided for.

Mr. FESSENDEN. I wish to ask the Senator from Louisiana to explain a difficulty which exists in my mind in reference to this matter. This debt, as I understand it, in the first place

was a debt of the State of California to a certain class of creditors. Those creditors wished to be paid at the Treasury of the United States, instead of going into California and being paid in California from her treasury. That is all very well, provided California agreed to it. If California did not agree, they had no right to do it; because if she did not agree to it, California might well say, "You have done it without our consent; we did not authorize it, and we ask you to pay us." I understand California did agree to it through certain commissioners.

Mr. BENJAMIN. Yes, sir.

Mr. FESSENDEN. Very well; California agreed on special terms to that law, and of course, agreed to nothing else; that is to say, that all the bonds which were dated before a certain time, or a certain period, should be paid in that way. The appropriation was made, and when the time expired there remained a balance in the Treasury unexhausted by the bonds which bore the given date. Then the balance remaining in the Treasury not applied, belongs to California necessarily, because it is the rest of the debt. Have we the consent of California to appropriate that balance to the payment of bonds issued after that date? If so, perhaps it may be done safely. I do not say but that it may. If we do not have the consent of California to the alteration of the law taking a portion of that balance and applying it to bonds after that date, though it may be equitable so far as the creditors are concerned, yet California can turn around upon us and say you had no right to pay this balance; it belonged to us.

Mr. HAYNE. Mr. President—

Mr. BENJAMIN. I hope my friend will permit me to answer the question, and I will yield to him after having answered the question of my friend from Maine.

Mr. HAYNE. Yes, sir.

Mr. BENJAMIN. The Senator from Maine is right in some of his statements, but is not fully advised as to the whole matter. The State of California did consent that the payment should be made at the Treasury here, and for that purpose sent commissioners charged with the examination of claims against the Treasury here, and with full powers to designate those claims which the State of California consented to have paid. Those commissioners did approve of these bonds, and wanted them paid; but the Secretary of War, looking at the words of the law, declined paying unless Congress should amend the appropriation law. The Senator from Mississippi, the present chairman of the Committee on Military Affairs, was then the Secretary of War. He required an amendment to the appropriation act, because he said, "although this debt is due evidently to these parties, although here is an appropriation to pay them, although California consents to the payment, yet Congress has told me to require proof that the debt was settled by the State of California prior to the 1st of January before I paid it." Now, sir, in regard to the suggestion that California may come back and make this claim over again, I think every Senator will see, on reflection, there is nothing in that.

Mr. FESSENDEN. The Senator does not meet the difficulty I suggested. Perhaps he did not understand my question.

Mr. BENJAMIN. I think, if the Senator will let me finish, he will find that I shall meet all he suggests.

Mr. FESSENDEN. In order to let him do so, I wish to show the extent of the difficulty, and then he can answer the whole. It is this: were these commissioners authorized to give assent to that law? Of course it must have been to that extent. The law, as it passed, had a limitation. What evidence is there that the commissioners had any authority from California to assent to the amendment of that law, extending that law?

Mr. BRIGHT. I think, if the Senator will allow me, he is mistaken as to one important point. The Senator from Maryland has before him a short section to an appropriation bill, which I hope he will read. It is unfortunate that the honorable Senator from Mississippi is not present. He explained the whole thing to-day. He understands it perfectly, and is decidedly in favor of the amendment.

Mr. BENJAMIN. I will state to the Senator from Maine, that I did understand the point he made, thoroughly, and I was going to state this:

the appropriation made was an appropriation to pay, in behalf of California, her war debt. It was not an appropriation to pay any sum of money to the State of California, for her use; and consequently, if it be once ascertained to the satisfaction of the Senate that this is one of the war debts which Congress intended to pay for that State, upon what earthly ground could the State come here afterwards and demand of us to pay the money to her? It never was intended for her; it is no appropriation to her; it is an appropriation to pay the debt that she incurred; but for the purpose of securing the United States against any collusion between the State authorities and persons who might come forward with claims afterwards, it was essentially provided that only the claims brought forward after that date should be paid by the United States for the State. Now the State has no interest at all except in seeing her debt paid. If this money is paid to these bondholders, can California come forward and endeavor to deny the propriety of our payment, when the payment made by us is her bond? In what way can she ask the Senate of the United States, or Congress, to make an appropriation for her? The payment is not for her at all; the payment is for her creditors; and the best voucher to show that the payment is appropriated in the manner in which Congress originally intended, is the production of the bond which she issued, and which of course estops her from denying the validity of the debt, or the propriety of applying the same.

Mr. HAYNE. I would propose an adjournment. Many of us have been here ten hours, and are very much exhausted. When I look around me I see that more than one third of the Senators are absent. I confess I am not prepared to vote upon this amendment now. I wish to consider this subject. I do not comprehend it. The gentlemen opposed to each other do not seem to comprehend it. I therefore move that the Senate adjourn.

The motion was not agreed to; there being, on a division—ayes ten, noes not counted.

Mr. GWIN. A great deal of this debate has taken place while I was out of the Senate Chamber, and I am not as familiar with the remarks which have been made as other Senators now present; but I wish to say in connection with this subject, that this is a debt which is due from the General Government, according to all the practice of the Government heretofore, to the State of California. She has given her bond to the amount specified here, and for more, and certainly California will yet expect to get it paid.

The PRESIDING OFFICER. (Mr. CLAY in the chair.) The question is on the amendment reported by the committee.

Mr. BRIGHT. I want to say a word on this question.

Several SENATORS. Let us vote.

Mr. BRIGHT. It is so plain a case that, if the Senate understood it, there could not be a doubt about it.

The amendment was agreed to; there being, on a division—ayes twenty-two, noes not counted.

Mr. BRODERICK. I am directed by the Committee on Military Affairs to report the following amendment:

For the payment of claims favorably reported upon by the board of Army officers appointed under the sixth section of the act approved August 31, 1852, in their final report to Congress, dated April 19, 1855, \$7,872 52.

Mr. POLK. What does that embrace? I should like to hear what those claims are that are reported on favorably.

Mr. BRODERICK. They are those which have been reported by the board of Army officers appointed for the purpose of examining and settling the Frémont claims. I believe the whole amount has been paid but this \$7,872. My colleague is better acquainted with this subject than I am, and he will explain it.

Mr. GWIN. This is the remnant of the claims under the report of the Military Committee. The Senator from Mississippi [Mr. DAVIS] made the report on the subject. It is a part of the Frémont claim, on account of which there was presented to Congress, at one time, a claim of \$149,000, which was allowed, and at various times various allowances. The balance, not appropriated for, is \$7,000, which was reported unanimously from

the Committee on Military Affairs. These claims have been paid for a number of years.

Mr. POLK. I ask if this is not a private claim?

Mr. BRODERICK. It has already passed the Senate without any opposition from any quarter.

The PRESIDING OFFICER. Does the Senator from Missouri raise any question of order?

Mr. POLK. No, sir; but I think it is a private claim.

Mr. GWIN. Not at all. They have been appropriated for many years in the same way. The amendment was agreed to.

Mr. WILSON. I am directed by the Committee on Military Affairs to propose an amendment to the bill, by inserting the following as an additional section:

And be it further enacted, That it shall be lawful for any commissioned officer of the Army to administer the prescribed oath of enlistment to recruits: *Provided*, There be no civil magistrate authorized to administer the same within reach.

I will simply say, Mr. President, that we have a letter from the Adjutant General, covering a letter from an officer of the Army, in Utah, asking for this provision.

The amendment was agreed to.

Mr. WILSON. I am directed, by the same committee, to offer another amendment, to insert as a new section:

And be it further enacted, That every person not subject to the rules and articles of war who shall procure or entice a soldier in the service of the United States to desert; or who shall harbor, conceal, or give employment to a deserter, or carry him away, or aid in carrying him away, knowing him to be such; or who shall purchase from any soldier his arms, equipments, uniform, clothing, or any part thereof; and any captain or commanding officer of any ship or vessel, as one of his crew or otherwise, carrying away any such soldier, knowing him to have deserted, or shall refuse to deliver him up to the orders of his commanding officer, shall, upon legal conviction, be fined, at the discretion of any court having cognizance of the same, in any sum not exceeding \$500, and be imprisoned not exceeding one year.

Mr. FITCH. That is a fugitive-slave law.

Mr. PUGH. I hope that section will not be put on the bill. This is a bill which, according to the construction of the laws, will only extend one year; but the idea of putting the definition of a criminal offense upon an appropriation bill seems to me carrying it beyond reason. I hope we have not got so far that we must put all things on an appropriation bill. I hope the amendment will be rejected.

Mr. WILSON. I simply wish to say, in regard to this proposition, that it is but a slight amendment of the existing law. By the existing law, carrying away a soldier is punishable, if carried away by an officer of a ship; but any other person who chooses to do it cannot be punished. It is evidently an oversight in the law. There have been trials in the army in Utah for desertion that have failed on that technical point. The amendment is recommended by the Department. The fines are the same. It simply covers the case of a deserter who has been carried away.

The amendment was not agreed to; there being, on a division—ayes eleven, noes not counted.

Mr. WILSON. I submit another amendment, not by the direction of the committee, to insert as a new section:

And be it further enacted, That all existing laws, or parts of laws, which authorize the sale of military sites, which are, or may become, useless for military purposes, be, and the same are hereby, repealed.

This is a proposition to repeal all existing laws authorizing the Secretary of War to sell any forts or military sites. If he wishes to sell any, let him come to Congress and ask special authority; and then Congress can pass such a bill as applies to the particular case.

Mr. STUART. I should like to hear that amendment read again.

The Secretary read it.

Mr. STUART. If the Senator desires to retain his amendment in that shape, the land cannot be sold by the Department at all. The law, as it now stands, is this: when the Secretary of War notifies the Secretary of the Interior that he has no longer any use for a military reservation, it becomes part of the public domain, and subject to the laws. This amendment would prevent it.

Mr. BENJAMIN. This comes back to a proposition I made in the Senate, I think, some three weeks ago. I have always been dissatisfied that the power remained in the Secretary of War to sell these public reservations, because, although they may not be wanted for military purposes, they may very frequently be wanted for other

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public purposes of which he is ignorant. These military reservations are generally of value; the settlements cluster around them; they are required for other public purposes; and I see no reason at all why Congress should not have control of their disposition. Why cannot the Secretary of War, whenever a particular reservation is no longer required for a particular purpose, communicate the fact to Congress, and let Congress dispose of it as it sees fit? Now there was Rock Island reservation. That was required for railroad purposes. It might have been required for other purposes connected with the Government. In all these cases there is a degree of discretion to be exercised which I think had better be vested in Congress than in any public officer. Let the reasons for which the land is no longer wanted be submitted to Congress, and then let Congress throw it into the public domain or appropriate it for other public purposes. It is much safer. We are never in any particular hurry about selling a particular piece of land, and then the control of the public lands will be in Congress, where the Constitution places it.

Mr. STUART. If the Senator from Louisiana desires to effect his object, and the Senate agree with him, he should present an amendment which has that effect. That would be easily done by saying that military sites having become useless and unnecessary shall not hereafter be sold, except by the special authority of Congress. Let that be done. But I say the effect of this amendment is to leave the difficulties, to allow the land to be seized upon by a set of men known as pre-emptive speculators, and yet the Department do not have authority to sell it.

Mr. BENJAMIN. I will yield to any amendment the Senator would offer for that purpose. I have the same desire that he has. I think the amendment accomplishes it.

Mr. STUART. It does not.

Mr. WILSON. That was the object of the amendment. I think it covers it. It does not allow authority to sell the military sites without the authority of Congress. I take it one of those sites cannot be sold or taken by anybody as any part of the public domain. If the Secretary of War thinks one of the military sites of the country can be dispensed with, and he wishes it sold, let him come to Congress, state the fact, and have an act passed covering that special and particular case. Now, sir, this is a proposition to repeal all laws—

Mr. STUART. I hope the Senator will allow me a moment. There should be no dispute about language. If the Senator thinks with me, I would suggest this amendment: "or be subject to the general laws in regard to the public lands." Then it cannot be preempted.

The PRESIDING OFFICER. Does the Senator move that amendment to the amendment?

Mr. STUART. Yes, sir.

The PRESIDING OFFICER. Then the question is on the amendment to the amendment.

Mr. STUART. I suppose the Senator will accept it?

Mr. WILSON. I accept it.

The PRESIDING OFFICER. The question, then, is on the amendment of the Senator from Massachusetts, as modified.

Mr. STUART. Let it be read, to see how the language reads.

Mr. HAMLIN. I have just read it; and the difficulty will be met by adding, at the end, the words:

Said lands shall not be subject to the general land laws.

That, under the law, would cover it.

Mr. FITCH. Does not the general law protect Indians upon reservations?

Mr. STUART. No, sir.

Mr. FITCH. I think the better way would be to except it from preemption. That would cover the whole object.

Mr. STUART. Then, instead of the words I before proposed, I suggest these words:

And said lands shall not be subject to sale or preemption under any of the laws of the United States.

Mr. WILSON. I accept that.

Mr. YULEE. I would like to learn from the Senator from Michigan what interpretation he would give to this amendment which he proposes, in its application to an existing case in regard to Florida. There was some legislation at the last session which is in the course of execution, but is not yet executed. During the progress of the Seminole war, very large reservations, in some instances fifty or sixty thousand acres of land were withdrawn from sale, for the purpose of enabling the military commanders to keep off liquor sellers, &c. At the last session the Military Department was authorized to relinquish such reservations as were no longer needed for military purposes, by reporting the fact to the Interior Department, and they then fell into the general mass of public lands, subject to sale, after a certain day, as other lands. The War Department have taken that step with reference to two or three cases, but have not yet completed their resolution with respect to others. They have notified the Department of the Interior in respect to two others, but that Department has not yet had them all for sale. They are agricultural lands altogether.

Mr. STUART. I have no doubt that so far as the Secretary of War has notified the Secretary of the Interior, the action is complete; they belong to the public lands; but so far as that has not been done, there would be no authority remaining if this amendment should prevail.

Mr. WILSON. Let the amendment as amended be read.

The Secretary read it, as follows:

That all the existing laws or parts of laws, which authorize the sale of military sites, which are or may become useless for military purposes, be, and the same are hereby, repealed, and said lands shall not be subject to sale or preemption under any of the laws of the United States.

The amendment was agreed to.

Mr. HOUSTON. I have an amendment to offer:

Sec. —. And be it further enacted, That there be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$75,425 30, to refund that amount paid by the State of Texas, for ranging service, which was expended for the protection of the frontier; and that the further amount of \$12,518 21, which has been liquidated and is yet due to claimants, be, and is hereby, appropriated.

Mr. HUNTER. Does that come from any committee?

Mr. HOUSTON. I will state that—

The PRESIDING OFFICER, (Mr. CLAY in the chair.) Does the Senator from Virginia raise a point of order?

Mr. HUNTER. I do. Unless the amendment comes from a committee it is not in order.

Mr. HOUSTON. I will explain it. I occupy very little of the time of the Senate on these bills, though I have a speech of about three hours' length which I will deliver on some occasion. It is strange that I cannot be permitted to explain a matter of importance to my State, being here alone, wearied out with watching, occupying no time of the Senate. When I rise to offer an important amendment affecting the rights of my State, and endeavoring to obtain an appropriation to refund her the money that she has already paid out of her treasury to defend her frontier, if there is not accorded to me that degree of patience necessary to hear me while I explain the amendment, I had better leave the Senate.

The PRESIDING OFFICER. The Senator is out of order.

Mr. HOUSTON. I was in order, Mr. President.

The PRESIDING OFFICER. The question of order presented is, whether this amendment is in accordance with the recommendation of any committee.

Mr. HOUSTON. I am going to answer that question. When I received the joint resolutions of the Legislature of Texas at an early day of the session I immediately referred them to the Military Committee, where they remained until the other day, and when I went there it was with difficulty they could be found. In saying this I intend to cast no reflection on the chairman of that

committee, for he was grievously afflicted for months. At length the resolutions were found, but no report was made on them. A communication had been made to the War Department for information on the subject, and the War Department wrote a letter of the most extraordinary character and did not recommend the recognition of the claim. I will state the history of it.

In 1855 the frontier of Texas was not defended, many aggressions were committed upon her inhabitants by killing them, as well as depriving them of their property, and stealing their horses. Though there were some three thousand regular troops there, they were utterly useless, and afforded no defense to the frontier. The people were flocking into the interior. They found themselves in a defenseless situation, subject to the mercy of the savages, and the troops utterly inefficient to pursue them, being infantry, or if they were cavalry, they knew nothing about such service, and they were equally faulty. The State called out four companies of rangers, and settled with them in April, 1855. They were paid, I think, under the direction of a paymaster of the United States, Texas furnishing the money. Some seventy-five thousand four hundred dollars were paid for the four companies, and \$12,000 remained unpaid but liquidated, the amount being ascertained. The Legislature of the State, at its last session, instructed the Senators and requested the Representatives of Texas to obtain the payment of the amount from the United States. Here is the letter of the Secretary of War, which I will read to show the inconsistency of it, and the frivolous objection that is made to the recognition of this claim:

"They [the four companies] had been regularly mustered into the service of the United States, in the latter part of 1854. Whether they or the other companies mentioned were subsequently in the service of the State of Texas, this Department does not know. The records, however, attest that Captain Charles E. Travis accepted a commission in the second regiment of cavalry, the 5th day of April, 1855—four days only after he was mustered out of the volunteer service of the United States, from which it is fair to infer that there must be some mistake in charging the Government with payment of any services rendered by him at the head of a company in the State service on the 28th of February, 1855, as is done in the statement furnished by the authorities of Texas."

As if April preceded February. It was in February that the services were rendered; and on the 1st of April Charles E. Travis was mustered out of this service; and on the 5th of April he accepted a payment from the United States. The Secretary places February behind April; that is the objection to the recognition of the claim!

Mr. HUNTER. I am sure the Senator from Texas does not wish to speak against order. Will he not allow the Chair to decide?

The PRESIDING OFFICER. The Senator from Texas is clearly out of order, unless he intends to show that this amendment is within the 30th rule. If the Senator can show that it comes within any of the classes excepted in the rule, he is in order; but if he does not propose to show that, he is out of order.

Mr. HOUSTON. I propose to show that I have used proper diligence to bring it within the rule. [Laughter.]

The PRESIDING OFFICER. That is clearly out of order.

Mr. HOUSTON. Will the Chair be kind enough to say how the State of Texas is ever to get redress, if the committee will not make a report?

The PRESIDING OFFICER. That is not the business of the Chair. His duty is to enforce the rules of order.

Mr. HOUSTON. I appeal to the Senate for justice.

The PRESIDING OFFICER. The question of order is raised that the amendment is not recommended by any standing or select committee of the Senate. The 30th rule is plain upon this subject; and, in the opinion of the Chair, the amendment is not in order.

Mr. HOUSTON. That is not the fault of the State or her Senator.

The bill was reported to the Senate as amended. The PRESIDING OFFICER. Is it the pleasure of the Senate to take the question on concurring in the amendments made as in Committee of the Whole separately or all together?

Mr. WADE. I wish the fortification amendment to be excepted. I desire to have a separate vote on that.

Mr. TRUMBULL. I desire to have a separate vote on the amendment appropriating \$385,000 for volunteers in Florida.

Mr. YULEE. I wish to reserve the amendment with regard to military sites, as I desire to propose a modification of it.

The PRESIDING OFFICER. The question, then, is on the amendments made as in Committee of the Whole, excepting the three which have been mentioned.

The other amendments were concurred in.

The PRESIDING OFFICER. The question now is on concurring in the amendment made as in Committee of the Whole making appropriations for fortifications.

Mr. WADE. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. DOOLITTLE. That amendment was agreed to in Committee of the Whole by a pretty large majority, and I suppose it is the sense of the Senate that the amendment shall go on the bill. I desire to inquire whether it would be in order for me to move an appropriation of the amount estimated by the Department to be necessary for the repairs of Fort Mackinaw?

Mr. HUNTER. Allow me to suggest to the Senator that the hour is late, and I appeal to him to let us take the sense of the Senate.

Mr. DOOLITTLE. I do not propose to argue the question.

Mr. HUNTER. If we commence offering amendments to this amendment, we shall be led into a debate.

The PRESIDING OFFICER. The question is on concurring in the fortification amendment.

Mr. PUGH. The Senator from Connecticut [Mr. Dixon] and myself have paired off.

The question being taken by yeas and nays, resulted—yeas 29, nays 12; as follows:

YEAS—Messrs. Bayard, Benjamin, Bright, Broderick, Brown, Cameron, Clay, Clingman, Collamer, Douglas, Fessenden, Fitch, Foote, Foster, Green, Houston, Iverson, Johnson of Arkansas, Kennedy, King, Mallory, Pearce, Rice, Sebastian, Seward, Summons, Sillid, Wilson, and Yulee—29.

NAYS—Messrs. Chandler, Crittenden, Doolittle, Hale, Harlan, Hunter, Johnson of Tennessee, Polk, Stuart, Toombs, Trumbull, and Wade—12.

The next amendment, made as in Committee of the Whole, on which a separate vote was demanded, was:

For payment to the volunteers operating in Florida during the year 1837, \$385,000.

Several Senators. Question! Question!

Mr. TRUMBULL. I know, sir, that the Senate is very impatient, and that when motions are made to adjourn they are voted down, and the persons voting them down are very much in the habit of crying "question," and seem determined to force this bill through now, after a long and protracted session of some nine or ten hours. Notwithstanding that is the case, and although I cannot hope, by anything I may say, to change the result in the Senate upon this appropriation, I am not willing that it shall pass without an exposure of it. I called attention to it in Committee of the Whole, and asked for some information as to the authority of the President of the United States to call out these volunteers, if he had done so, in Florida. No authority was shown, no letter from the Department, no message from the President, no communication from him in any shape. Sir, if it has come to this, that the Congress of the United States will vote nearly four hundred thousand dollars to pay the expenses of volunteers, without knowing by what authority they have been called out, I wish it to be known. I wish to hear some information on this subject. The Committee on Finance has furnished none. The communications from the President and from the War Department furnish none. I should like to know if the Executive of this country has a right, without authority of Congress, to call out volunteers? If so, I think we might as well adjourn the Congress. It was supposed, formerly, that it was necessary to pass an act of Congress

to vest the President with this power; but now, without any act of Congress, without any information from anybody before the Senate, this appropriation of almost half a million dollars is to be passed through, and I suppose it will be passed through.

When I called attention to this in Committee of the Whole I did succeed in having a reference to the law which it was said justified it. I have read that law more carefully since, and it is no justification whatever. No such case has existed as would authorize the President to call out volunteers. The Senator from Florida refers me to the act of 1795 as containing the authority under which these troops were called out, though he fails to show that the President ever called them out. This act declares:

"That whenever the United States shall be invaded, or be in imminent danger of invasion from any foreign nation or Indian tribe, it shall be lawful for the President of the United States to call forth such number of the militia of the State or States most convenient to the place of danger or scene of action as he may judge necessary to repel such invasion."

For two reasons, this cannot furnish the foundation for calling out these volunteers: first, it does not authorize the President to accept the services of volunteers; it authorizes him to call out the militia, and the militia only, and that is a different thing from accepting the services of volunteers; secondly, the case had not arisen. This law provides for the case of an invasion of the United States. The President has furnished no evidence that the United States have been invaded. A disturbance by a few Indians in the State of Florida is not an invasion of the United States. An invasion of a country, if it means anything, means the entering from without and taking possession of the country. You cannot invade a country that you are in. The citizens of Florida cannot invade Florida. The idea is an absurdity. We all know that there has been no invasion of the United States. It is not an invasion of Florida that would authorize the President to call out troops.

Then, where is the authority by which these volunteers were mustered into service, if they ever were mustered in? How many of them were there? How long did they serve? This amendment, I suppose, will be adopted by a large vote in the Senate; but I appeal to Senators how many volunteers were called out in Florida, how long did they serve? can one of you tell me? is there any information before the Senate? Then, why vote \$385,000 without any information whatever?

But, sir, although the amount of money is of some consequence to us at this time, when we are borrowing money to carry on the Government, yet that is a small consideration compared with the assumption of power on the part of the Executive which is involved in this question. If a debt has been incurred without authority of law, are we to foot the bill, and say nothing about it? Where are we tending? To what is this Government coming? Where is it to stop? If your President can call out at his will volunteers and raise armies, what use is there for Congress? The Constitution says that Congress may raise and support armies; but, if the President can do it without authority of law, there is no occasion for Congress acting on that subject. It is a monstrous assumption of power; and there is no justification for it shown. There is no law authorizing it. There is no evidence before the Senate that the committee have presented, none that the War Department even ever authorized these troops to be mustered into service—no evidence whatever in regard to it. If the Senate is prepared, under such circumstances, to vote this money, so be it.

Mr. YULEE. The Senator has repeated several times that there is no information before the committee. I believe he is a member of the committee.

Mr. TRUMBULL. I know nothing about what the committee have had. I say they have not exhibited any evidence here.

Mr. YULEE. The Senator from Maryland, the member of the Committee on Finance who presented this amendment, exhibited, and had upon his table, before the Senate, a letter from the Secretary of War, giving all the information which the Senator from Illinois desires; and if he had taken the trouble to read it, all of his requirements would have been answered in respect to the

occasion, the number of troops, the time they served, and the request for the appropriation.

Mr. TRUMBULL. And the authority to call them out? I should like to see such evidence. It has not been before the Senate.

Mr. YULEE. I will give the Senator the authority for calling them out. The Senate, I know, would prefer that there should be no extended discussion; and I promise to take only two minutes. The act of 1795, which was referred to as the authority, authorizes the President to call out troops in the case of an invasion by an Indian tribe occupying Indian country, of territory occupied by white settlers. Without going into a philological discussion with the Senator, I will give him a case which, when he answers, I will answer his question as to the authority of the President. I am going to give him a reply to his objections by citing a case from his own State; and when he answers it, I shall be prepared to answer him on the case which he puts before the Senate. In 1832, an appropriation was made in these words:

"That for the purpose of paying the militia of the State of Illinois"

Mr. TRUMBULL. "Militia," not volunteers.

Mr. YULEE. And these are militia. There is precisely the error of the gentleman. I do not know whether the amendment calls them volunteers or not, but they were actually militia, regularly called out under the State organization, organized by the State.

Mr. TRUMBULL. If the Senator from Florida will allow me, I should like to have the amendment read to see whether it is to pay militia.

Mr. YULEE. The amendment may have made use of an improper word; but the case here was simply an act of the Executive under the authority of the law of 1795, calling, through the Secretary of War, on the Governor of Florida, by regular requisition, for a certain number of militia to take the place of regular troops; and if the amendment has used the word "volunteers," it has used it improperly, and because we have been in the general habit of calling all the State troops volunteers as contradistinguished from regulars. Without stopping on that point, however, let me put a case to the Senator, which, when he answers, I will answer him. A law passed in 1832, contains this provision:

"That for the purpose of paying the militia of the State of Illinois, called into the service of the United States by competent authority, and for paying the expenses incurred in detaching the frontier from a recent invasion by several bands of hostile Indians, and including the pay of the militia legally called for the same purpose from the neighboring States and Territories, \$300,000."

What was the nature of that invasion? What constituted that invasion? I propose to read a letter of the Governor of Illinois to the Secretary of War, which will answer the Senator with an Illinois definition of an invasion. The Governor of Illinois, in a letter to the Secretary of War, dated July 7, 1831, says:

"The Indians, with some exceptions, from Canada to Mexico along the northern frontier of the United States, are to-day more hostile to the whites than at any other period since the last war"

that is his opinion—

"particularly the band of Sac Indians, usually and truly called the British band. This band have determined, for some years past, to remain, at all hazards, on certain lands which have been purchased by the United States"

just as these Indians determined to remain on certain lands purchased by the United States from them in Florida—

"and afterwards some of them sold to private individuals by the General Government. They also determined to drive off the citizens from this disputed territory. In order to effect this object, they committed various outrages on the persons and property of the citizens of the State. In this situation of affairs, I considered the State to be actually invaded, and the country in imminent danger, so much so that I immediately called on part of the militia nearest the disputed territory to be ready."

That was his construction of an invasion, and it was an invasion by twenty-eight Indians, chiefs and braves, all told, who determined to retain possession of Rockville, or some little town, which it was supposed had been purchased from them, for another year; and that the Governor of Illinois considered an invasion. Congress considered it an invasion, and made an appropriation to pay the militia for repelling that invasion. Well, what was the competent authority in that case? Congress never authorized the President

to act specially in that particular instance; the President even did not authorize the calling out of those troops. It was done by authority of General Gaines alone, and afterwards adopted by the Secretary of War and the President, and an appropriation asked for; and yet, the law speaks of them as called out by competent authority. When the Senator shows the law, other than the act of 1795, which authorized the President to call out the Illinois militia, which were then paid, and when he shows that that was an invasion of the United States, I shall be prepared to answer him the question he asks in respect to the present service.

Mr. TRUMBULL. If the Senator from Florida will look a little further into the history of the Black Hawk war—

Mr. YULEE. This was not the Black Hawk war. This was in 1831.

Mr. TRUMBULL. I do not know to what the Senator alludes if it is not the Black Hawk war.

Mr. YULEE. It was nothing more than a determination of twenty-eight braves and chiefs to retain possession of a small town; and when they found they were marched upon by one thousand four hundred mounted troops of Illinois, in the service of the United States, besides a large portion of the regular Army, they passed over to the other side of the Mississippi and made a treaty, which treaty was signed by every chief and every brave. That was the whole amount of the matter. Black Hawk was at that time simply a brave, nothing more.

I will say further to the Senator from Illinois, that it seems to me to be immaterial to go into a discussion of the construction of the law of 1795 now. The Executive has been in the habit of acting upon this construction: in this case he has acted upon it and called troops into service from the State of Florida; they have performed the service, and have been disbanded. The Senator certainly is not going, on a hypercritical discussion of the true construction of the law, to refuse payment to the men who have actually done the service. It seems to me that it is a bootless discussion we are entering upon.

Mr. HUNTER. I hope the Senators will be content with making their points, and let us draw the inferences, so that we may get a vote on this question. It is getting very late.

Mr. TRUMBULL. I am aware of the great haste with which the Senator from Virginia presses all these bills, and I am sorry that the Senate of the United States is so anxious to get home that it cannot give consideration to them. I saw, yesterday, in a full Senate, in the afternoon, a proposition to appropriate \$1,200,000, to build ten vessels of war, voted down by four majority. I remained here until late at night, when the Senate was worn out, and I saw a proposition voted into the bill, to appropriate \$1,200,000 to build half as many vessels. That is one result following from this haste, this pressure, this impatience to get through with the appropriation bills. When the Senate was full, it would not appropriate \$1,200,000 for ten vessels of war. When the Senate was worn out, it struck out four or five of them, and agreed to pay the same amount for the remainder—the same caliber and the same size. It was the same amendment we had voted down, with the exception of taking out of it four or five vessels. I expect this to pass; I do not hope to be able to arrest it.

The Senator from Florida refers to a transaction that occurred in Illinois in an Indian war, which I supposed had some connection, and I apprehend it will be so found on looking into it, with the Black Hawk war; I know of no other war that occurred there about that time; and then the Governor of Illinois called upon the President of the United States; but it is not pretended that the Governor of Florida has called upon the President for assistance to maintain the laws of Florida. This proposition is put on another ground.

Mr. YULEE. The Governor of Illinois did not call upon the United States, but he marched out first with seven hundred troops called out by himself, and the number was increased to fourteen hundred, and they were afterwards adopted and paid by the United States.

Mr. TRUMBULL. I apprehend that that case would furnish no precedent for this; but if it would, it is time that we ceased to do wrong. If an error

was committed in 1831, that is no reason why we should repeat it in 1858. Now, sir, what evidence has been furnished to the Senate? The Senator from Florida tells us that the Senator from Maryland had on his table the evidence. I know not what he had on his table; it has not been read to the Senate; there is no evidence before us. The Senator has not stated how many troops were called out, nor by what authority.

Mr. PEARCE. I beg leave to say to the gentleman that he is entirely mistaken. I did read the Secretary's letter. I read from it the statement that a regiment of troops were called out, and ten independent companies, and that they served for six months, and that when they were discharged, the ten independent companies were accepted by Colonel Loomis, who had succeeded General Harney. I read that *in totidem verbis*. Whether the gentleman was here or not, I do not know.

Mr. TRUMBULL. I stand corrected as to that, if the gentleman states that he read it; but I did not hear it.

Mr. PEARCE. That is not my fault. Mr. TRUMBULL. If there is any authority for calling out these troops, I should like to see it; and I ask the Senator from Maryland to indulge me so far as to produce the letter from the Secretary of War and let it be read now, and I will promise to listen to it. I mean the letter that authorizes the calling out of the troops. I want to see the authority from the President.

Mr. PEARCE. As to the authority from the President, I cannot produce that; and I apprehend that, from the foundation of the Government down to this time, the President never sent a message to Congress, on such a subject as this, in which he set forth the authority under which he acted. Does the Senator expect the President, when he notifies us that he has called out volunteers, to begin by saying, "Gentlemen of the Senate and House of Representatives, on such a day, in such a year, by virtue of an act passed on the 15th day of such a month, in such a year, empowering me to call out volunteers in certain cases, I did call out so many volunteers in pursuance of that authority?" Does anybody expect him to do that? No, sir. When by law you give the President authority, he exercises it without parading the authority before you. He supposes you know the law as well as he does, as you ought to know it.

Mr. TRUMBULL. The Senator from Maryland misapprehends my question. I do not ask him for the authority which the President sets forth. I ask merely for the authority which the President gave to call out the troops. I want the order of the President, not his reference to statutes or to laws. I want to see the order of the President, or his executive officer, the Secretary of War, directing the volunteers to be mustered into service in Florida, if there be such an order. I do not ask for a reference by the President to the law; I ask merely for the authority under which the officer in Florida acted in calling out the troops—the order from the proper Department. I am aware that the President acts through the heads of Departments; and the Secretary of War, I suppose, issued the order. If it came from him, it is to him that I would look for it; and I want to know when the order was issued, and what it was. If there be such an order, I hope it will be produced to the Senate.

Mr. YULEE. The course was this: the Secretary of War informed the Governor of Florida that the general commanding there was authorized to call for a certain number of companies of militia, and the commanding officer there did call them. They were furnished, and mustered into the service; and if the Senator, as a member of the committee, in the investigation of this matter—

Mr. TRUMBULL. I am not a member of the committee.

Mr. YULEE. I was under the impression that you were, and I was going to say that if you had called on the Department as a member of the committee, you would have received it. I suppose the committee presumed the Secretary would not say he had called them out unless he had done so.

Mr. PEARCE. Most unquestionably the committee did not think it necessary to call on the Secretary of War for a copy of his order. It was sufficient that we had a letter from the War Department recommending this appropriation, and

stating that these troops had been called into service. As I have already stated, we thought that was enough. If the gentleman wants the order, I take it he will be obliged to call on the Secretary. That he can do to-morrow morning, and get it.

Mr. TRUMBULL. I should like to see the letter which the Senator has in his hands.

Mr. PEARCE. I will furnish the letter. It says nothing of any order by the Secretary; it speaks of volunteers called out by General Harney, who, as I said before, had authority from the War Department to call them. This is a letter from the Paymaster General to the Secretary of War, dated June 3, 1858, in which he says:

"I have the honor to report, agreeably to your directions, that the regiment and ten independent companies of Florida volunteers, called into service by General Harney for the period of six months, will require for their payment \$385,000. Upon the discharge of this force, ten companies were mustered into service by Colonel Loomis, for the same period. These have been ordered to be discharged, with the exception of two companies; but the muster-rolls have not yet reached the Adjutant General's office. From the best data to be obtained, it will require the further sum, for their payment, of \$140,000, making for both services the sum of \$525,000. In my former estimate for the payment of Florida volunteers, the sum of \$172,000 was asked for, to refund to the Treasury that amount drawn from balances of old appropriations and expended in paying Florida volunteers for services prior to this estimate, which were then supposed to be applicable," &c.

It is unnecessary to read the rest; it refers only to that transaction which was explained on the last amendment of the Finance Committee, where the balances were transferred. Here is another letter in which the Secretary says:

"I have the honor to transmit herewith a communication of the Paymaster General, furnished in compliance with a resolution of the Senate of the 22d instant, requesting to be furnished with estimates for appropriations to pay such part of the volunteers, operating in Florida, during the past year, as may remain unpaid for the want of appropriations applicable to the troops, including in such estimates the companies that have been mustered or recognized by the order of the President."

Now, as I understand, the regiment and the ten independent companies, serving the first six months, were mustered in by order of the President; and the ten companies were afterwards taken into service by order of Colonel Loomis, under some general authority which he had from the Executive here. These are all the papers I have.

Mr. TRUMBULL. It will be observed that these papers merely go to furnish the foundation for the payment of this money—that is the whole object of them. They contain the estimate—I did not doubt that the Department wanted this money—and that is all they amount to. The evidence is not furnished unless you are to infer it because the Department recommends this amount to be paid, which it seems is only half, for there is over half a million, altogether, to be paid for volunteers in Florida last year. If the Senate, with this evidence before it, is prepared to vote the money, I have no more to say. I call for the yeas and nays on the adoption of the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 16; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bright, Brown, Clay, Clingman, Collamer, Crittenden, Fitch, Green, Gwin, Hunter, Iverson, Johnson of Arkansas, Kennedy, Mallory, Pearce, Polk, Rice, Sebastian, Silldell, Stuart, Toombs, and Yulee—25.

NAYS—Messrs. Broderick, Cameron, Chandler, Doolittle, Fessenden, Foot, Foster, Hamilton, Harlan, Houston, Johnson of Tennessee, King, Seward, Trumbull, Wade, and Wilson—16.

So the amendment was concurred in.

The next amendment, made as in Committee of the Whole, on which a separate vote was demanded, was to insert the following as an additional section:

And be it further enacted, That all the existing laws, or parts of laws, which authorize the sale of military stores which are, or may become, useless for military purposes, be, and the same are hereby, repealed; and said lands shall not be subject to sale or preemption under any of the laws of the United States.

Mr. YULEE. I desire to offer a proviso, to which the Senator from Michigan [Mr. Stuart] and the Senator from Louisiana [Mr. Benjamin] assent; and I believe there is no objection to it from any quarter. It is merely to continue in force an act of the last Congress. It is:

Provided, That the provisions of the act of August 18, 1856, relative to certain reservations in the State of Florida, shall continue in force.

Mr. COLLAMER. What is that act?

Mr. YULÉE. It was an act reported from the Committee on Public Lands, to relieve from the incubus of a reservation large districts of agricultural lands that had been withdrawn from sale simply during the Florida war. I will read it:

"That all public lands heretofore reserved for military purposes in the State of Florida, which said lands, in the opinion of the Secretary of War, are no longer useful or desired for such purposes, or so much thereof as said Secretary may designate, shall be, and they are hereby, placed under the control of the General Land Office, to be disposed of and sold in the same manner and under the same regulations as other public lands of the United States: *Provided*, That said lands shall not be so placed under the control of said General Land Office, until said opinion of the Secretary of War, giving his consent, communicated to the Secretary of the Interior in writing, shall be filed and recorded."

Mr. COLLAMER. I wish to know whether the reservation made now describes it sufficiently. It was only last year that power was given to the Secretary of War to sell all reservations.

The amendment to the amendment was agreed to; and the amendment as amended was concurred in.

Mr. HOUSTON. I have an amendment to offer:

That \$20,000 be appropriated to pay for timber used by the troops of the United States in constructing forts and for other purposes.

Mr. COLLAMER. The amendment does not provide for paying the money to anybody.

Mr. HOUSTON. I send to the desk some letters, which I ask to have read.

The Secretary read the following letters:

WAR DEPARTMENT, WASHINGTON, March 30, 1858.
Sir: I have the honor herewith to submit the inclosed report of the Quartermaster General, and respectfully to ask that the sum mentioned therein, intended to meet certain claims of citizens of Texas, for wood and timber cut on their lands for the use of the troops of the United States stationed in the State, may be added to the bill for deficiencies, now pending.

Very respectfully, your obedient servant,
JOHN B. FLOYD,
Secretary of War.
Hon. J. GLANCY JONES, Chairman Committee Ways and Means, House of Representatives.

QUARTERMASTER GENERAL'S OFFICE,
WASHINGTON CITY, February 13, 1858.

Sir: There are several claims for wood and timber cut on the lands of citizens of Texas for the use of the troops of the United States stationed in that State for several years past, which are considered just, but which there is no authority to pay. The claims now officially before this office, and which there is no appropriation to pay, amount to \$10,568 70. I have unofficial information that several similar claims exist and will be presented. To enable the claimants to obtain the amounts justly due to them, I respectfully recommend that application be made to the Committee of Ways and Means to add to the bill the claims already presented, with such as may be presented within the year. From fifteen to twenty thousand dollars will probably be enough.

I have the honor to be, sir, your obedient servant,
THOS. S. JESUP,
Quartermaster General.

Hon. J. B. FLOYD, Secretary of War.

Mr. HOUSTON. I modify the amendment so as to insert the words, "payable to the State of Texas for the benefit of the claimants."

Mr. HUNTER. Is not that a private claim?

Mr. HOUSTON. No, sir.

Mr. HUNTER. I ask the decision of the Chair, if that is not a private claim.

The VICE PRESIDENT. The Chair will submit the question of order to the Senate. "Is the amendment in order?"

Mr. HOUSTON. I will modify the amendment, and offer it in this form:

And be it further enacted, That \$20,000 be appropriated to pay for timber used by the troops of the United States in constructing forts, and for other purposes; and to enable the Secretary of War to pay to the citizens of Texas entitled to the same, on the production of the proper proofs of their claims to the same.

The VICE PRESIDENT put the question, and the Senate decided the amendment not to be in order.

Mr. HOUSTON. I thought I was somewhat interested in matters here; but I do not know that I am. I should like to ask the honorable chairman of the Committee on Finance when my proposition will be in order, or when anything else will be?

The VICE PRESIDENT. The question is, "Shall the amendments be engrossed, and the bill be read a third time?"

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time.

Mr. WADE called for the yeas and nays on the passage of the bill; and they were ordered.

Mr. JOHNSON, of Tennessee. I merely wish to state that for the first time in my life after ten years' service in Congress, I agreed to pair off with the honorable Senator from South Carolina, [Mr. HAMMOND,] taking it for granted that he would vote for the bill; I am against it. The condition was that, if the Senator from Mississippi [Mr. DAVIS] was here and voted for it, I could vote; but neither of those Senators being here, I feel in honor bound to withhold my vote. This is the first time in my life I ever paired off, and it is the last time I shall ever do so. I desire it to be distinctly understood that I should vote against the bill if I were at liberty to do so.

The question being taken by yeas and nays, resulted—yeas 24, nays 12; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bright, Broderick, Brown, Clingman, Douglas, Fitch, Green, Gwin, Houston, Hunter, Iverson, Johnson of Arkansas, Kennedy, Mallory, Pearce, Polk, Rice, Sebastian, Slidell, Stuart, and Yulee—24.

NAYS—Messrs. Chandler, Collamer, Donnell, Foot, Foster, Hamlin, Harlan, King, Toombs, Trumbull, Wade, and Wilson—12.

So the bill was passed.

MAIL STEAMER BILL.

Mr. HUNTER. I move now to postpone the prior orders for the purpose of taking up the bill (H. R. No. 558) making appropriations for the transportation of the United States mail by ocean steamers, and otherwise, during the fiscal year ending 30th of June, 1859; and we can adjourn upon it if the Senate choose.

The motion was agreed to.

Mr. HUNTER. This is a bill which will occasion some debate; and if the Senate is in good humor, I have a little bill which may as well be passed to-night. It is an Indian deficiency bill, to supply a deficiency in the Indian appropriations on the Pacific coast. I think we can probably pass that to-night, if the Senate is so disposed.

Mr. TRUMBULL. I move that the Senate adjourn.

A division being called for, the yeas were fourteen.

Mr. TRUMBULL. I ask for the yeas and nays. I wish to see who wants to stay here after nine o'clock at night.

The yeas and nays were not ordered.

On a division, there were—yeas 14, nays 17.

The VICE PRESIDENT. The motion to adjourn is not agreed to; but there is not a quorum voting.

Mr. STUART. I renew the motion to adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, June 8, 1858.

The House met at eleven o'clock, a. m.

The Journal of yesterday was read and approved.

NORTHERN SUPERINTENDENCY.

The SPEAKER laid before the House a communication from the Secretary of the Interior, submitting estimates of appropriations to enable the Department to preserve peace in the northern superintendency, &c.; which was referred to the Committee of Ways and Means, and ordered to be printed.

TREATY WITH THE SIOUX INDIANS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, submitting estimates of appropriations to enable the Department to fulfill the stipulations of an agreement made by General Harney with the Sioux, at Fort Pierre, in 1856; which was referred to the Committee of Ways and Means, and ordered to be printed.

HARDY AND LONG.

The SPEAKER. The Chair asks the attention of the House to the following order:

Resolved, That the Senate be requested to return to the House the bill of the Senate for the relief of Joseph Hardy and Alton Long.

That bill was, by mistake, sent to the Senate as passed, whereas it never did pass this House.

Mr. PHELPS, of Missouri. I suppose the mistake occurred in consequence of my entering a motion to reconsider, with a view to bring the

matter before the House, in order to have it passed. The same subject-matter was referred to the Committee of Claims, and the gentleman from Louisiana made a report in favor of giving the relief to Hardy and Long.

The resolution was adopted.

FEES TO MARSHALS, ETC., IN CALIFORNIA.

Mr. SCOTT. The gentleman from North Carolina [Mr. CRAIGE] proposed, yesterday, to report a bill from the Committee on the Judiciary to regulate the fees and costs to be allowed marshals, district attorneys, clerks of courts, jurors, and witnesses in the State of California, and the Territories of Oregon and Washington. I ask the courtesy of the House to allow me a moment to make a remark in regard to it. On the 10th of January last, I introduced that bill, which was referred to the Committee on the Judiciary; but the time of that committee was so much occupied in the Watrous investigation that they were unable to report it. In 1853, Congress passed an act allowing fees to the district attorneys, marshals, jurors, &c., in the State of California, at the rate of one hundred per cent. over the fees allowed in the Atlantic States, up to 1855, and fifty per cent. between 1855 and 1857. Now, I have in my possession a letter from the marshal of the district, in which he tells me that he has lost \$1,000 since he has been in that position. He is only allowed six cents per mile for traveling. Every one knows that there are no railroads in California, and that traveling has to be done with horses. The jurors are allowed but \$1 50 a day, and five cents per mile; which is totally inadequate. The bill has received the unanimous sanction of the Committee on the Judiciary, and I hope it will be passed.

Mr. CRAIGE, of North Carolina, then, by unanimous consent, reported back, from the Committee on the Judiciary, House bill (No. 55) to regulate the fees and costs to be allowed to marshals, district attorneys, clerks of courts, jurors, and witnesses, in the State of California and the Territories of Oregon and Washington, with an amendment in the nature of a substitute.

The substitute was read, as follows:

That in the State of California, and in the Territories of Oregon and Washington, officers, jurors, and witnesses, shall be allowed fifty per cent. increase on the fees and compensation allowed by the act approved February 26, 1853, entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the district and circuit courts of the United States, and for other purposes;" *Provided*, That the foregoing shall take effect from and after the 6th of February, 1857, when the special provision of said act for California and Oregon expired.

Mr. CRAWFORD. I desire to know whether the Government pays the fees?

Mr. CRAIGE, of North Carolina. They will be paid precisely as they are paid in all other cases.

Mr. CRAWFORD. I have no objection to it if it comes under the general rule.

Mr. CRAIGE, of North Carolina. The only difference is as to the amount.

The substitute was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. CRAIGE, of North Carolina, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

EMPLOYÉS OF THE HOUSE.

Mr. KUNKEL, of Maryland, by unanimous consent, from the Committee of Accounts, reported the following resolutions; which were read, considered, and agreed to:

Resolved, That the Committee of Accounts be, and they are hereby, authorized to audit the accounts, settle with, and allow reasonable compensation to, all such persons as may have been actually employed in the service of the House of Representatives during the present session of Congress, and that all amounts so allowed by said committee shall be paid out of any money in the Treasury that may have been appropriated for miscellaneous or contingent expenses of the House of Representatives.

Resolved, That said committee be, and they are hereby, instructed to report the number of officers of the Clerk, Door-keeper, Sergeant at Arms, and Postmaster of the House of Representatives, and what rates of compensation they may deem suitable and necessary to be paid to such clerks, messengers, and laborers, respectively; and that said committee be authorized at any time to report by bill or otherwise,

HARRIS AND MORGAN.

Mr. KELLY. I ask the unanimous consent of the House to allow me to submit a motion to discharge the Committee of the Whole House from the further consideration of joint resolution (H. R. No. 9) authorizing the Postmaster General to revise and adjust the accounts of Harris & Morgan on principles of justice and equity.

The joint resolution was objected to the other day by the gentleman from Illinois, [Mr. MORRIS,] but the case has been explained to him, and he withdraws his objection. I ask that the resolution and report may be read. I am sure there will be no objection to it.

The joint resolution was read. It authorizes and directs the Postmaster General to revise and adjust the fines and deductions imposed upon Harris & Morgan, late contractors on route No. 7851, from New Orleans to Indianola, via Galveston, Texas, and to settle the same upon principles of justice and equity; provided, that the said fines and deductions shall not be reduced below the *pro rata* pay of the contract.

The report was read.

Mr. JONES, of Tennessee. I object to the bill.

Mr. KELLY. I move to suspend the rules.

The SPEAKER. The Chair cannot entertain the motion, as there is already a motion pending for that purpose.

CHARNER T. SCAIFE.

Mr. BOYCE. I ask the unanimous consent of the House to discharge the Committee of the Whole on the state of the Union from the further consideration of Senate bill (No. 183) for the relief of Charner T. Scaife, administrator of Gilbert Stalker.

The bill was read for information.

Mr. KUNKEL, of Maryland, objected.

IMPROVEMENT OF ST. MARY'S RIVER.

Mr. WALBRIDGE. I ask the unanimous consent of the House to take from the Speaker's table joint resolution S. No. 31. I wish to say in regard to it, that two years ago an appropriation was made for the improvement of the St. Mary's river. By the act making the appropriation the expenditure was confined to one particular channel in the river. This joint resolution makes no appropriation, but authorizes the Secretary of War to expend the money upon another channel, if, in his judgment, it shall be deemed advisable to do so.

No objection being made, the joint resolution (S. No. 31) authorizing the Secretary of War to expend the appropriation made July 8, 1856, upon such channel of St. Mary's river as he may select, was taken from the Speaker's table, ordered to be read a third time, was read a third time, and passed.

Mr. WALBRIDGE moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

OVERLAND MAILS TO CALIFORNIA.

Mr. CRAIG, of Missouri. I rise to a question of privilege. I desire to state to the House that I have not had the floor once this session. That my constituents have a right to be heard at least once in six months—and I have been here longer than that. If the Chair decides the question of privilege against me, I shall ask the unanimous consent of the House to offer a resolution to which there will be no objection, and on which there will be no debate.

Mr. MORGAN. Let it be read for information.

Mr. CRAIG, of Missouri. I will say that the time allowed to the contractors for carrying the mails from St. Joseph's, Missouri, to Placerville, California, is thirty-eight days, when thirty days is ample time to perform that service, and that increase of speed is of very great importance to a large section of the country.

The joint resolution was then read by its title, as follows:

Joint resolution in regard to carrying the United States mails from St. Joseph's, Missouri, and Placerville, California.

The resolution was read *in extenso*.

Mr. HOUSTON. I object to the resolution.

Mr. CRAIG, of Missouri. I desire to say one

word. There are two great mail routes across the continent to the Pacific ocean, one from Memphis which runs into California, at San Diego in the southern part of the State, and another from my district, which runs to Sacramento city. Upon the southern route the time is twenty-five days, but on the middle route, through the South Pass, the contractors have thirty-eight days. It is manifestly unjust to the central portions of the country that upon one route the mail should be carried in twenty-five days, when upon the other route it cannot be carried in less than thirty-eight days. It is so manifestly unjust that I did not expect that any gentleman would object to it. The contractors are begging to carry it in twenty-five days for an increase of pay, such as would be justified by the service.

Mr. HOUSTON. My objection was made because I thought this was a matter entirely within the control of the Department. Congress does not usually take charge of this subject, but leaves it to the discretion of the Department. That is the place for it. If the gentleman desires a shorter schedule of time and increase of speed, let him make application to the Postmaster General.

Mr. CRAIG, of Missouri. I will not impugn the motives of the Postmaster General, but I know there is one pet route—the southern route—on which the contract time is twenty-five days. The other starts from my district, and runs through to the center of population and of business of California, and connects directly with the routes to Oregon and Washington. This resolution is in accordance with the views of the Committee on the Post Office and Post Roads of this House; and I personally carried a resolution to the Postmaster General, passed by the committee, but he refused to increase the speed. I move to suspend the rules, to enable me to introduce the resolution.

The SPEAKER. The Chair cannot entertain the motion.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. There is one motion to suspend the rules pending, made by the chairman of a select committee; but as the Chair does not see him present, he will entertain the motion.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS in the chair,) and resumed the consideration of the Senate amendments to the

CIVIL APPROPRIATION BILL.

Fifty-first amendment:

SEC. 12. And he it further enacted, That so much of all acts and parts of acts as require or authorize the Postmaster General to publish notice of letting contracts to carry the mails in the respective States, in newspapers published in the city of Washington, in the District of Columbia, be, and the same is hereby, repealed.

Mr. J. GLANCY JONES. The act of 1825 authorizes the Postmaster General to advertise mail lettings in one paper at the seat of the Federal Government. The act of 1845 so modifies that act as to allow the publication in three newspapers at the seat of the Federal Government—in two of the papers having the largest circulation, and in one to be selected by the Postmaster General or Executive. The Senate amendment is to strike out all three. The Committee of Ways and Means recommend concurrence in the Senate amendment with the following amendment:

That it shall be the duty of the Postmaster General to give public notice in one newspaper published at the seat of Government of the United States, for at least twelve weeks before entering into any contract for carrying the mails; that such contract is intended to be made, and the day on which it is to be concluded, describing the places from, and to which such mail is to be conveyed, the time at which it is to be made up, and the day and hour at which it is to be delivered: *Provided*, That the charge for such publication shall not be higher than such as are paid by individuals for advertising in said paper.

My information is, that the Postmaster General publishes a pamphlet annually on the subject of mail lettings. That is issued but once, and is liable to be lost or mislaid. It would seem to be a matter of great convenience to the Department and to members to have the mail lettings published in one newspaper for twelve consecutive weeks. The question is between the recommend-

ation of the Committee of Ways and Means to have them published in one paper, and the amendment of the Senate not to have them published in any.

Mr. HOWARD. I prefer that the amendment of the Senate should stand as it is. It seems to be conceded on all hands that the advertising of these proposals in the Washington papers is utterly useless, for the Department issues pamphlets on which bids are made. The majority of the Committee of Ways and Means, however, propose to continue these publications in one paper. Now, I think myself that that is altogether worse than nothing. If the whole are useless, the whole ought to be stricken out. To publish them in one paper is simply to bring them before one class of bidders to the exclusion of others. This will be not only useless, but unjust. Therefore, I hope that the recommendation of the Committee of Ways and Means will not prevail, but that the committee will concur in the amendment of the Senate.

Mr. JONES, of Tennessee. I think it is wrong to have these advertisements published in three papers here; but I do think that it is right that we should have them published in one paper. These advertisements are published in the local papers throughout the district and State where the lettings are to be made; and the Department sends correct copies from here to these local papers. These copies are the more correct where you have them printed, than if manuscript copies had to be made.

Mr. HOWARD. That is accomplished by pamphlets.

Mr. JONES, of Tennessee. I am not aware that the pamphlets are printed for that purpose. I believe they are printed and sent principally to the postmasters and contractors. But these others are sent out to the different papers.

Mr. SMITH, of Virginia. With the permission of the gentleman from Tennessee, I will make a remark in this connection. During the examination of the select committee on printing, we had occasion to look into this very subject, and we learned from the Post Office Department, that although the advertisements were published by the papers, their most reliable information was disseminated through their special publications in the shape of pamphlets. They are sent to the postmasters and contractors in the section where the contracts are to be made. That, together with the local publications, furnishes all the information. Everybody who wants these pamphlets, gets them.

Mr. COLFAX. If it be in order I move the following amendment:

Provided, That said advertisement shall be published in the weekly edition of the newspaper published in Washington city, which has the largest number of weekly subscribers.

The CHAIRMAN. It is not in order now.

The question being on the amendment reported by the Committee of Ways and Means to the Senate amendment,

Mr. J. GLANCY JONES demanded tellers.

Tellers were ordered; and Messrs. WALDRON and JOHN COCHRANE, were appointed.

The committee divided; and the tellers reported—ayes 67, noes 80.

So the amendment was disagreed to.

The amendment of the Senate was then agreed to.

MESSAGE FROM THE SENATE.

Here the committee rose informally; and a message was received from the Senate by Mr. DICKENS, their Secretary, informing the House that the Senate had passed, without amendment, a bill of this House (No. 257) to increase the pension of Henry E. Read, a citizen of Kentucky, and for other purposes.

That the Senate had also passed a bill of the House (No. 199) making appropriations for the naval service for the year ending June 30, 1859, with sundry amendments, in which he was directed to ask the concurrence of the House.

Also, returning, in pursuance of the request of the House, the bill of the Senate (No. 193) for the relief of Joseph Hardy and Alton Long.

Also, that the Senate request the return of the bill of the House (No. 267) for the relief of Timothy O'Keefe, for the purpose of correcting an error.

Mr. PHELPS, of Missouri. I ask the unanimous consent of the House that the amendments of the Senate to the naval appropriation bill be referred to the Committee of Ways and Means, and ordered to be printed.

There being no objection, it was so ordered. The committee then resumed its session.

CIVIL APPROPRIATION BILL—AGAIN.

Fifty-second amendment of the Senate:

Sec. 13. *And he it further enacted*, That the line surveyed by John C. McCoy, in 1838, as the western boundary of the half-breed tract, specified in the tenth article of the treaty made between commissioners on the part of the United States and certain Indian tribes at Prairie du Chien, on the 15th of July, 1830, be, and the same is hereby established as the true western boundary of said tract.

Mr. J. GLANCY JONES. This amendment of the Senate is to restore an old line. The Committee of Ways and Means recommend a non-concurrence. In 1830 a treaty was negotiated with these Indians, fixing their western boundary line. That line was run in 1838 by Mr. McCoy. Within the last year—in 1857—a new line has been run, which makes a difference of some miles. I do not know exactly how many. The effect of the last line is to throw more territory into the Indian reservation. If this amendment is passed, it will take away land from the half-breeds and throw it into the public lands belonging to the General Government. It is said that persons have squatted along the line, and the effect of this amendment is to change the line surveyed in 1857, under the Government, and restore the old line of 1838.

Mr. FERGUSON. I will state to the House, that prior to the establishment of the new line in 1857, some sixty settlers had settled upon this land, now in dispute, and have made substantial improvements, and, in fact, one town of considerable importance has been built upon it. The Indian half-breeds, who are to be benefited by this land, are squandering the property that comes into their hands as fast as they acquire it. If this provision is not made for the relief of the *bona fide* settlers upon that land, speculators will derive the benefit of their improvements—improvements amounting, according to the evidence, to over seventy thousand dollars—made in perfect good faith, and in utter ignorance of there being any new line to be established or run.

Another thing: there is great uncertainty as to whether the old line is not really the true one—the one that should remain for all time. It is well known to western men that the Missouri river changes its course frequently, sometimes three quarters of a mile, or a mile, in the course of a few years. It is probable that, in 1838, they took the Missouri river as it then ran, and ran ten miles up the other river. I have no doubt that was the case, for there are indications that the river has changed its course, thus throwing out of Nebraska some lands which formerly belonged to her. Another thing: the Secretary of the Interior says, the number of Indians, or half-breeds, who will derive benefit from these lands, will be diminished; so that each one entitled under the treaty, will receive his quota, and will receive as much as was originally intended. I will say that this whole matter has received the deliberate consideration of a committee in the other end of the Capitol. They acted upon it advisedly, with all the information derived from the Department, and I believe they acted rightly.

Mr. LETCHER. I move to amend by striking out the words "by General McCoy, in 1838," and insert in lieu thereof "in 1857." When this proposition came into the Committee of Ways and Means, we endeavored to procure information in regard to it. And in that search I procured information from the Secretary of the Interior, at a subsequent time, concerning the amendment now under consideration. As I understand the facts of the case, they are these: by the treaty made with these Christian Indians, they were to be entitled to a tract of country ten miles wide and thirty-five miles in length. When this line was run, an error was committed; and in 1857, the Department of the Interior, upon its own motion, and for the purpose of doing justice to these Indians, directed the line to be properly run by their own officers, and it was then run as it now appears on the plat before the House.

I am informed further by the Secretary of the Interior, that at the time the line was run in 1857,

there were no settlers upon those lands, but that they had gone on to the land since, knowing where the line was; that they had settled between the line run in 1857 and the original line. It does seem to me that every principle of fairness and justice to every Indian tribe demands that we should execute the treaty in good faith; we should give them a true and accurate boundary, embracing all the land we designed to convey in the arrangement of the treaty between them and us. If there were settlers on the land, they had no rights there, having gone there with their eyes open. If they chose to do so, and a loss overtakes them, it is their own fault; and this Government should not assume the burden, and entail upon us the expense of giving them this land.

[Here the hammer fell.]

Mr. FERGUSON. The gentleman from Virginia, as well as the Secretary of the Interior, if the gentleman from Virginia reports him truly, are both mistaken. I believe the Secretary of the Interior was never in Nebraska. It happens to have been my fortune to reside there for the last four years, and I know from personal observation that there were from forty to sixty settlers upon that reserve, or living close up to the line, as established in 1838, prior to the new line being run. I know the fact, because I was there when the new line was run, and I know the perturbation into which the settlers were thrown when they saw the Government surveyors establishing that new line. Therefore, if the argument of the gentleman from Virginia and the information of the Secretary of the Interior are based upon the supposition that there were no settlers there, they fail, because they are not founded upon facts. There were settlers there, and they went there two years before the line was run, and they went there in utter ignorance that any change was contemplated. If any remuneration is to be made, is it better to remunerate the Indians, or the white settlers who have made \$70,000 of substantial improvements upon that land?

I hope the amendment of the gentleman from Virginia will not prevail.

[Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled an act (H. R. No. 257) to increase the pension of Henry E. Read, a citizen of Kentucky, and for other purposes.]

Mr. J. GLANCY JONES. For the purpose of saying a word or two, I move to amend by inserting the words "Secretary being directed to ascertain the true line according to the stipulation of the treaty."

I wish to corroborate what my colleague on the committee [Mr. LETCHER] has said in reference to the Secretary of the Interior. The information from the Secretary of the Interior was, that there were no settlements upon the land between the two lines, so far as he was informed, until after the establishment of this new line. The settlements have been made since that time. If the facts are as my friend from Nebraska has stated, what harm can ensue to the landholders by calling upon the Secretary of the Interior to have the treaty line ascertained? If the line of 1857 is wrong, why not have it resurveyed? why not ascertain where the line is? The Secretary can correct the error if it is wrong; and if it be right it ought to stand. I hope the amendment of the Committee of Ways and Means will prevail.

Mr. CURTIS. I have never been on this land, but I have been in the vicinity, and I know that the reservation is regarded as the most desirable land in that corner of Nebraska. I know that the trouble was to keep the white people from going on to the reservation itself, and therefore I am convinced of the correctness of the statement of the Delegate from Nebraska—that the white people occupy up to the line which was formerly run and known.

Mr. LETCHER. Will the gentleman allow me to put a question to him? Is it not reasonable to suppose that if the surveyor, sent out there by the Secretary of the Interior, found settlements on the land, he would have reported that fact?

Mr. CURTIS. It is not at all likely that he would have done so, for it was a matter of general notoriety. I am confident, without seeing the ground, that the white settlements would have encroached as closely as possible on it, long before 1857. The settlements in Nebraska commenced in 1853-54; and that section of Nebraska

being the most desirable, was certainly settled; so that I am confident, without having ever seen the ground, that the statement of the Delegate is true. The Indians and settlers both recognized the old survey that was marked out.

It seems to me now, that the only wise and proper way to act would be to permit the settlers to retain that which they settled upon, and to indemnify the Indians for their loss by this error of the Department, arising from an erroneous survey. Many of them have been settled there for years, and have acted on the presumption that the Department had caused the proper line to be run. It is always easier to compensate the Indians than white men, although I would have equal justice done to both. If you do not indemnify the Indians, you will have to indemnify the persons who will be deprived of their homes. It seems to me that, in common justice, the settlers ought to have their rights established by Congress.

Mr. J. GLANCY JONES withdrew his amendment.

The question recurring on Mr. LETCHER's amendment to the amendment,

Mr. LETCHER withdrew it.

Mr. COBB. I move to amend by striking out the last four lines. The object I have in view is two-fold. The first is, to inquire of the chairman of the Committee of Ways and Means if the establishment of this line will not add very much to this particular reservation?

Mr. LETCHER. That is the information we have.

Mr. COBB. I have some information in respect to the reservation. As the gentleman from Iowa [Mr. CURTIS] says, this is one of the finest tracts of land the sun now shines upon. I am very well acquainted with the management of that reservation, and with the persons who have been connected in procuring it from the Indians.

I am well aware that if the old boundary should not stand as contemplated by the amendment of the Committee of Ways and Means, it would cut off a large amount of territory to be given to the Indians, and thereby affect a very large body of speculators who have gone on that reservation and bought up these Indian claims. Whether they have paid a valuable consideration or not, it is not for me to say. I know that I should like to get some of them, and pay five hundred per cent. profit upon the prices paid for them. If the old line is established, it cuts off these speculations. I know the honesty of purpose of my friend from Nebraska, and I appreciate his zeal in protecting the interests of his constituents; but I am sure that if the old line were established it would affect a great deal of these speculative operations. The land outside of this old line must necessarily become public land, and be brought into market; and the speculators who have procured claims within the boundary will lose the benefit of their trade with the Indian tribes. That is about the whole of it. I do not think it necessary to make any further statement about it.

[Mr. PIKE, from the Committee on Enrolled Bills, reported as truly enrolled a joint resolution (S. No. 31) authorizing the Secretary of War to expend the appropriation made July 8, 1856, upon such channel of the St. Mary's river as he may select; when the Speaker signed the same.]

Mr. HOWARD. I hope the amendment of the gentleman from Alabama will be voted down; that the recommendation of the Committee of Ways and Means will prevail; and that the amendment of the Senate will be non-concurred in. I do not intend to decide upon the justice of these claims, on one side or the other; but I do object to a class of private rights like this, between the Indians on the one hand and speculators on the other, being settled by an amendment in an appropriation bill, without knowing anything about the facts. It is a wrong method; and, if we were to follow it up, and apply it to all subjects, we might supersede the necessity for all courts, and undertake to render justice between private parties in all cases.

I object to the amendment, without any reference to its merits, because it is a wrong principle of legislation; and I hope it will not be concurred in.

Mr. COBB. I withdraw the amendment. My object was to get the facts before the House.

The question recurring upon concurring in the amendment of the Senate.

Mr. COBB demanded tellers.

Tellers were ordered.

Mr. LETCHER. If the Chair will indulge me, let me state the question in another way. Those in favor of establishing the line of 1838 will vote "ay," and those in favor of the line of 1857 will vote "no."

The CHAIRMAN. The only question is on concurring in the amendment of the Senate.

Messrs. CURTIS and KELSEY were appointed tellers.

The committee divided; and the tellers reported—ayes two, noes not counted.

So the amendment of the Senate was not concurred in.

Fifty-third amendment:

SEC. 14. *And be it further enacted*, That all the ruling and binding for the several Executive Departments shall be executed by practical and competent bookbinders, to be appointed by the head of the Department.

Mr. J. GLANCY JONES. This amendment proposes to take the binding and ruling out of the charge and custody of the heads of the Departments, or to limit them in directing who shall do the work. That is all I know about it. It proposes to change the law in respect to the binding and ruling of public documents. The Committee of Ways and Means recommend a non-concurrence.

Mr. NICHOLS. I hope the amendment of the Senate will be concurred in. The only objection I have to it is, that it does not go far enough, and limit it to those who have actually been engaged in the business for some time. It is well known that for some time past the habit has grown up here of giving the ruling and binding to persons who are not actually engaged in the trade. I know of one instance during the last Congress where a very large contract had been let, which was sublet to two or three other persons. It was let to persons who were not engaged in the business; this amendment is designed to remedy that system, and is right itself. It ought to go further; but there are bills pending before the House which are intended to carry the principle further, and I hope the amendment will be concurred in.

Mr. TAYLOR, of New York. I move to amend the amendment by striking out the word "binding." I desire to say that I entirely concur in the remarks of my colleague on the select committee on printing. This question was examined by the select committee, and we ascertained that the work could be done, as proposed by the amendment of the Senate, for at least forty or fifty per cent. less than it is now done. The correspondence which we had with the Coast Survey Office—which is to be found upon page 4 of the report of the committee—shows that the work could be done for about fifty per cent. less. I will state that this plan has already been adopted in the Treasury Department. They now employ a binder at eighteen dollars a week, and a boy, as assistant, at fifteen dollars a week, to do the binding of the Treasury Department; and experience has shown that they can do it for from forty to fifty per cent. less, and can do it much better than they could have it done under the old system. It appears, from the letter of Hon. Jacob Thompson, which will be found on pages 4 and 5 of the report of the committee, that it can be done for much less; and not only that, but that it can be done much better. Under the amendment of the Senate you can have the work done for the lowest possible price. If the old system is to be continued for the purpose of feeding hungry politicians and speculators about Washington, then let us vote down the amendment. The amendment of the Senate is one step in the right direction, and I hope it will be concurred in. I now withdraw my amendment.

The amendment of the Senate was concurred in.

Fifty-fourth amendment:

SEC. 15. *And be it further enacted*, That the President of the United States cause the sum of \$3,000 to be advanced to Clark Mills, in addition to the sum already advanced, out of the \$50,000 appropriated by the act of January 23, 1853, to erect, at the capital of the nation, an equestrian statue of Washington, on the personal application and receipt of the said Mills: *Provided*, That the said Mills furnish the Secretary of the Interior with security for the completion of the statue as the Secretary may require.

Mr. J. GLANCY JONES. By an act passed in 1853, \$50,000 was appropriated to Clark Mills to make an equestrian statue of General Washington. Twenty-five thousand dollars were ad-

vanced to him, and the remaining \$25,000 was to be paid upon the completion of the work. It so happened that, after the payment of \$25,000, he lost his models by fire, and he makes application to Congress to allow him \$6,000 more out of the remaining \$25,000. The Senate have put it in, and the Committee of Ways and Means recommend a concurrence.

Mr. SHERMAN, of Ohio. I am opposed to this amendment upon principle. In it we have another instance of the habit of the Senate of loading down appropriation bills with private claims which cannot be introduced into such bills in the House. The House has cut itself off by a rule from putting upon appropriation bills private claims, however meritorious and just they may be. These bills go to the Senate, and the Senate, having less constitutional power over appropriation bills than we have, load them down with amendments for purposes which we, by our rules, have precluded ourselves from offering in the House.

This bill is a striking instance of the custom I have referred to. As reported by the Committee of Ways and Means, it appropriated \$3,819,000. The bill, as it went from the House, appropriated only \$2,849,000. The House cut down the report of their committee \$1,000,000, and, in my judgment, they ought to have been cut down more than that. Two millions are sufficient to pay all the civil expenses embraced in this bill. We sent it in that way to the Senate, and it comes back loaded down with specific amendments to the amount of \$2,990,000, and in addition to that they have put upon it additional indefinite appropriations amounting to about three millions more; so that the bill which we have sent to them, appropriating \$2,849,000, is sent back to us appropriating \$5,844,000 specifically, and in indefinite sums \$3,000,000 more.

We ought not to tolerate this thing. We ought not to allow the Senate to put upon the bill private claims, and compel us to vote upon such claims without examination, and upon the penalty of defeating the entire bill. We cannot even read them. They are not printed, nor laid before the House. The only information we have of them, is what we gather from their hurried reading at the Clerk's desk, in the hubbub which exists here at this stage of the session. I am opposed to this course of proceeding, as we know nothing about these amendments, and have no opportunity to investigate them. The only safe way is to vote against them, and confine the appropriation bills strictly to the legitimate, current expenses of the Government. In this way only we can correct the reckless course of the Senate.

The question was taken on the Senate amendment, and it was not concurred in.

Fifty-fifth amendment:

SEC. 16. *And be it further enacted*, That the Secretary of State, be, and he is hereby, authorized to adjust, upon principles of equity and justice, the accounts of I. D. Andrews, late agent of the United States in connection with the reciprocity treaty, and that the same be paid according to said adjustment.

The CHAIRMAN. The Committee of Ways and Means recommend a non-concurrence.

The amendment was non-concurred in.

Fifty-sixth amendment:

SEC. 17. *And be it further enacted*, That when, in the absence of a secretary of legation at Constantinople, who discharges the duty of dragoman, or in like manner when there is no dragoman at that mission, the consul, or consul general, of the United States shall act as dragoman, he shall receive the compensation now provided by law for a dragoman, and for such time as he shall act as such.

Mr. J. GLANCY JONES. This amendment of the Senate belongs to that class of cases which provide for the payment of subordinate officers when they fill the place of their chief. We have had this case under consideration for a number of years. The effect of it is to increase, to some extent, the compensation, and the Committee of Ways and Means recommend a non-concurrence. The amendment was non-concurred in.

Fifty-seventh amendment:

SEC. 18. *And be it further enacted*, That the collectors of customs in the several collection districts, be, and they are hereby, and hereafter, required to act as disbursing agents for the payment of all moneys that are, or may hereafter be, appropriated for the construction of custom-houses, court-houses, post offices, and marine hospitals, at such compensation, not exceeding one fourth of one per cent as the Secretary of the Treasury may deem equitable and just: *And provided further*, That where there is no collect-

or at the place of location of any public work herein specified, the superintendent of such public work shall act as disbursing agent without any additional compensation therefor; and all laws and parts of laws inconsistent with this section be, and the same are hereby, repealed.

Mr. J. GLANCY JONES. This amendment is one of the incidents which have grown out of the system of internal improvements of this Government in the building of custom-houses, the extension of the Capitol, and other public buildings, &c. This has created a class of officers called disbursing officers. They do not exist by statute law, but are incident to the policy of the Government. A great many of them have been suspended. Among the many objectionable things which the Senate have done, the Committee of Ways and Means think this is a very good provision. It imposes upon the collectors of customs the duty of disbursing the funds necessary for the erection of the several classes of buildings specified in the amendment, allowing them a commission not to exceed one fourth of one per cent.; and, in cases where there are no collectors, it devolves the duty upon the superintendent of the buildings. The committee recommend a concurrence.

Mr. HUGHES. I move to amend the amendment by striking out the proviso. My reason for submitting the amendment is, that the superintendents of the public works of the description specified in the amendment ought not to be disbursing officers, for reasons set forth by the chief of the bureau of construction, Major Bowman, which I desire to have read; and in which, I feel authorized to say, the Secretary of the Treasury fully concurs.

The letter was read, as follows:

OFFICE OF CONSTRUCTION,
TREASURY DEPARTMENT, June 8, 1858.

SIR: In reply to your inquiry of this date, I have to say that the first portion of the proviso relative to disbursing agents to which you allude, providing that at ports where collectors or surveyors are commissioned, there shall be no separate disbursing agent employed, but the collector be, *ex officio*, disbursing agent, meets the full concurrence of the Secretary of the Treasury, and is a desirable and proper change of the existing practice, and will conduce to the more economical disbursements upon public works.

The remainder of the proviso directing that, at places where there are no collectors the superintendents shall be disbursing agents, is deemed objectionable. To have the superintendent who is, more or less, occupied in directing and making purchases for the work, made also the payer of bills he creates, would open a door for collusion, upon which there could be but little check, make greater liability for errors, and destroy all the safeguards which a separation of these offices has hitherto established. The superintendent is often a practical mechanic only, whose services are secured because he is so, and because his duties require such fitness, but who is inexperienced in accounts, and the method of keeping them; and additional help would be necessary to enable him to keep his accounts in proper shape to be adjusted by the accounting officers. For these and many other reasons, I deem such a change, as the last clause of the proviso directs, to be inexpedient, and likely to prove of bad economy in working. In my judgment, it would be far better to leave the appointment of disbursing agents, where there are no collectors, discretionary with the Secretary, who then would be governed in each case by the circumstances which attended it.

Very respectfully, your obedient servant,

A. H. BOWMAN,

Engineer in charge Treasury Department.

Hon. J. D. BRIGHT, Senate Chamber.

Mr. MARSHALL, of Kentucky. I do not perceive any justice at all in the provision made by this section. Why you should give one fourth of one per cent. to the collector for doing this duty, and should refuse to give it to the disbursing agent where there is no collector, passes my comprehension. I do not understand it. I see no reason why any such thing should be done; and I think the whole of it should be struck out.

The question was taken on Mr. HUGHES's amendment to the amendment, and it was not agreed to.

[The committee here informally rose, and a message was received from the Senate, by Mr. DICKENS, its Secretary, informing the House that the Senate had passed a resolution changing the time for the adjournment of Congress.]

The committee again resumed its session. Mr. HUGHES. I move to strike out the whole amendment. I merely wish to call the attention of the House to this proviso, which I particularly desire to have stricken out. The amendment provides that, where there are collectors, Government officers, already appointed, there shall be no disbursing agent. To that I make no objection. But the amendment further goes on and states in this proviso, that where there are no collectors of customs, then the superintendent who is appointed

to have control of public buildings shall be the disbursing agent. This is objectionable. It is improper to combine the duties of a disbursing agent and the duties of a superintendent, because the one officer is intended to be a guard upon the other. That is the view taken of it by the chief of the bureau of construction. Therefore, it seems to me that the whole amendment had better be non-concurred in, rather than that it should be adopted with this proviso. It will lead to more mischief than it will cure.

Mr. WASHBURN, of Illinois. I am opposed to the amendment of the gentleman from Indiana.

The question was taken on Mr. HUGHES's amendment to the amendment; and it was not agreed to.

The question recurring on the Senate amendment.

Tellers were demanded and ordered.

Mr. GARNETT. I move to add these words: *Provided*, The compensation shall not exceed ten dollars a day.

My object in making this motion is merely to have an opportunity to state facts which seem to me conclusive in favor of the amendment. This amendment was moved in the Senate by the chairman of the Committee on Commerce. It was agreed to by the leading men of all parties as being eminently just and proper, and calculated to correct a great abuse that exists in the management of these public buildings. At New Orleans, for instance, there are three public buildings in course of construction—the repairs of the mint, the erection of a custom-house, and the erection of a marine hospital. Major Beauregard, of the topographical engineers, is employed as the superintendent of the custom-house. He receives his pay as officer of topographical engineers, and also his pay of ten dollars a day as superintendent. To that I do not object. Then Mr. Duncan superintends the marine hospital, and the mint, at eight dollars per day. To that I do not object. But they employ also disbursing agents. There is one disbursing agent, Mr. Penn, who superintends the work on the custom-house, at sixteen dollars a day, and another, Mr. La Sere, who superintends the work on the mint, at eight dollars a day; and the same gentleman disburses for the marine hospital at eight dollars a day, making an aggregate of sixteen dollars a day for this duty.

Mr. EUSTIS. I hope the gentleman will allow me to correct him. I am satisfied that it is not his purpose to do injustice to one of the gentlemen he has named. Mr. La Sere, as I understand, and as it has since been ascertained at the Department, does not receive, as the gentleman from Virginia has stated, double compensation—eight dollars a day for one disbursement and eight dollars a day for another disbursement. He receives eight dollars a day, and acts in the double capacity of disbursing agent for the repairs of the United States mint and the marine hospital now in course of erection in the city of New Orleans. I understand, also, that this last appointment was urged upon Mr. La Sere when on a visit to this city, a heavy bond required, and he has been acting as disbursing agent for the marine hospital without any additional compensation.

Mr. GARNETT. I do not desire to cast the slightest reflection upon Mr. Penn or upon Mr. La Sere for taking office under the Government and receiving compensation; but, in the annual report of the Secretary of the Treasury, you will find a list of these officers, and it is there stated as I have given it to the House. It may be that there is a mistake in the report, that Mr. La Sere receives eight dollars a day as disbursing agent for one work and eight dollars a day for the other, making sixteen dollars a day in the aggregate.

Mr. EUSTIS. The gentleman will allow me to correct him. This is a matter of fact and figures, and can be readily ascertained. Mr. La Sere receives only eight dollars a day, and he acts in a double capacity, receiving compensation only for one office.

Mr. GARNETT. Then there is a mistake in the report of the Secretary of the Treasury. But be that as it may, it is wrong to pay eight dollars a day for the discharge of these functions by disbursers of public revenue when you have a sub-Treasurer and collector there. This amendment cuts off these sinecures and will save a considerable amount of money.

Mr. SANDIDGE. The amendment of the Senate proposes to remedy the very evil of which the gentleman from Virginia complains, by doing away with these disbursing agents; and I hope the House will concur in it.

Mr. GARNETT. I withdraw my amendment.

MESSAGE FROM THE SENATE.

The committee rose informally, and a message was received from the Senate, by Mr. DICKINS, their Secretary, informing the House that the Senate had passed, without amendment, bills of this House of the following titles:

An act (No. 246) for the relief of certain settlers on the public lands in the State of Wisconsin;

An act (No. 530) for the relief of Stephen Fellows;

An act (No. 523) for the relief of Wyatt Griffith;

An act (No. 516) for the relief of Michael A. Davenport, of Illinois;

An act (No. 515) granting an invalid pension to Alexander F. Bean, of Pennsylvania;

An act (No. 514) granting an invalid pension to Conrad Schroeder;

An act (No. 512) for the relief of Elijah Close, of Tennessee; and

An act (No. 462) granting an invalid pension to James Fugate, of Missouri.

Also, that the Senate had passed a bill (S. No. 371) for the relief of Anthony W. Bayard, in which he was directed to ask the concurrence of the House.

The committee then resumed its session.

CIVIL APPROPRIATION BILL—AGAIN.

Mr. HUGHES. I move to amend the amendment of the Senate, by striking out the proviso, and inserting the following in lieu thereof:

Provided, That where there is no collector at the place of location of any public work herein specified, the Secretary of the Treasury may, in his discretion, appoint a disbursing agent.

Mr. Chairman, it does appear to me that this House ought not to make the superintendent of a public building also the disbursing agent. The very object of having a superintendent and a disbursing agent is that one may be a check upon the other. Now, I fully concur in the first part of the amendment which provides that the collector of customs shall be the disbursing officer, wherever there is a collector of customs; but where there is none, it is necessary that the disbursing officer shall be a different person from the superintendent who has charge of the construction of the work. The nature of the duties of the superintendent is such that he and the disbursing officer occupy antagonistic positions, and the duties of the two offices ought not to be imposed upon the same person. I hope, therefore, that my amendment will be agreed to. It does not make it obligatory upon the Secretary of the Treasury to appoint a disbursing agent where there is no collector, but it leaves it discretionary with him to appoint one where he thinks it necessary.

Mr. MARSHALL, of Kentucky. I know that I am in a minority here; but I avail myself of the opportunity of speaking in opposition to this amendment, to give the reasons which govern me in my action upon this question.

This amendment of the Senate proposes to concentrate in the hands of the collector the disbursements of the public moneys; and it authorizes the Secretary of the Treasury to allow the collector a quarter of one per cent. upon the entire amount of public money disbursed in the erection of public buildings in his district. My opinion is that a quarter of one per cent. upon the outlay would more than pay the salaries now paid to the disbursing agents; and my opinion is that if you give the collector the privilege of disbursing this money, you will not thereby dispense with the necessity of having the same duties performed by some other person, in addition to the superintendence, as you now have. The superintendent of the work supervises the design and architectural execution of the work. His hands go to the disbursing agent to be paid. Is it intended that the collector of New York, for instance, shall pay off the hands employed upon the public works in that city; that they shall go to the custom-house on Saturday night to receive their weekly wages? Or is it the calculation that when you impose this

duty on the collector, he shall appoint some one else to discharge the very duty that you propose to devolve upon him by law? I do not believe that you will economize by allowing a percentage upon the gross outlay that you make upon your public buildings; and I would rather have the disbursements made by some man who would act as a direct check upon the superintendent, by coming in direct contact with the men who do the work.

The question was taken on Mr. HUGHES's amendment, and it was not agreed to.

Mr. JOHN COCHRANE. I move to amend the Senate amendment by striking out the word "collectors," and inserting the words, "assistant treasurers." I have but a word or two to say in behalf of that amendment; but they shall be directed to the policy of the law as it already exists, and is applied. The policy of the law, as I understand it, was inaugurated by what is called the sub-Treasury act. It was through the instrumentality of that act that all disbursements were taken from the hands of subordinate officers and lodged in the hands of fiscal officers, denominated "sub-treasurers," wherever located. That system prevails now throughout the Union, and the moneys which may come into the hands of the collectors are placed in the hands of the sub-treasurers, and the collectors and all subordinate officers, including surveyors and naval officers, are obliged to check upon the assistant treasurers for the moneys which they disburse to their employes.

Mr. J. GLANCY JONES. There are but about four assistant treasurers of the United States, and this bill is to provide a disbursing officer wherever there is a collector; and where there is no collector, to make a disbursing officer of the superintendent in charge of the building.

Mr. JOHN COCHRANE. That I understand, and it is to apply the principle which was established by the sub-Treasury act that I introduced the amendment and argue against the principle of the Senate amendment which is sent to us for consideration. If we are to take that amendment of the Senate we take a step backwards, and return to the system which the sub-Treasury act was intended to explode. I think, therefore, that wherever there is a sub-treasurer to be found, it should be part of his office to disburse the moneys of the Government. And if such an officer is not to be found at any particular point, the principle which established sub-treasurers at various points, ought to be further applied in the establishment of special disbursing officers, rather than put the funds of the receiving and disbursing officers in one and the same hand. I hope, therefore, that my amendment will be agreed to.

The question was taken, and the amendment was disagreed to.

Mr. UNDERWOOD. Before the vote is taken upon the amendment of the Senate, I desire to avail myself, in part, of the amendment offered by the gentleman from Indiana, [Mr. HUGHES,] and voted down, radically changing, however, his proposition, by an addition which I make to it. I move to strike out the proviso, and insert in lieu thereof the following:

Provided, That where there is no collector of customs at the place of location of any of the public buildings herein specified, the Secretary of the Treasury may, in his discretion, appoint a disbursing agent, who shall receive one fourth of one per cent. upon all sums disbursed by him, in full for his services.

I suppose there can be no well-founded objection to this proposition. It is merely to appoint a disbursing agent, in the absence of any collector, and to give him, in full compensation for his services, the same amount of compensation which would have gone to the collector, had there been one. Its excellence consists in the fact that one officer acts upon the other as a check. There can be no necessity that both duties should be discharged by one and the same individual. By devolving the duties upon two officers, you impose restraints upon the action of each. I hope, therefore, that the amendment will be agreed to.

The amendment was not agreed to.

Mr. MARSHALL, of Kentucky. I move to amend the Senate amendment, by striking out the amount of fees named in the amendment, and to insert in lieu thereof the following:

That the Secretary of the Treasury shall not allow more than one fourth of one per cent. of the sum expended by

the disbursing agent of the Government, to any disbursing agent connected with any public work in the process of erection.

My amendment will bring the committee to a vote between a disbursing agent and a collector, and afford the committee an opportunity to determine whether, where the compensation is the same, they desire to throw the disbursements into the hands of a collector instead of leaving them in the hands of persons appointed by the Government to act as a direct check upon the superintendent, whose business it will be to look to the manner in which the superintendent progresses with the work. I do not perceive, I do not understand, why it is that gentlemen who are connected with the Ways and Means Committee, and why it is that the Senate propose to throw these large duties upon the collectors; why the collector at New Orleans and the collector at New York, in addition to the immense patronage and immense compensation that each receives, should be, by force of this law, invested with the right to one quarter of one per cent. upon all funds that are disbursed for public works within their districts. I would rather follow the more democratic plan of having the money which we spent divided out among a number of persons drawing moderate salaries, and whose responsibilities are more direct, than to have it all piled on the collectors, who are always mere politicians, in these large seaboard towns. Take my own town. Take Cincinnati. Why should we take away from the men who are now the disbursing agents of the Government the compensation they receive, and pay it to the collectors of these ports, provided the disbursing agents are willing to perform their duties at exactly the same rate of compensation? I see no reason for it. If the Secretary does his duty, he will always have it in his power to remove a man who cannot keep his accounts right. I suppose that he requires that the accounts shall come up to him in due form, and that the vouchers shall be all regularly presented. I presume the process of accountability is perfect, so that for every dollar of the money drawn by these disbursing agents from the Treasury, they are required to file vouchers. I cannot see how putting the matter in the hands of collectors is going to effect anything in the way of economy, and I do not think it will do anything in the way of efficiency.

[Here the hammer fell.]

Mr. LETCHER. My friend from Kentucky seems to be rather puzzled to understand the movements of the Committee of Ways and Means.

Mr. MARSHALL, of Kentucky. I do not think that that is any wonder.

Mr. LETCHER. Now, I had not supposed that he would be one of the gentlemen who would be advocating an enlargement of Federal patronage; but it seems that this is exactly the point to which he is coming now. His whole speech was directed to that end. He wants to know why it is, when you give the collector a salary for the discharge of his duty, you should assign to him at the same time the duty of disbursing agent in regard to the erection of public buildings. Now, if there was no other reason for it, the simple reason that it diminishes the number of employes, ought to be a sufficient reason with him.

Mr. HUGHES. Is not the advantage of diminishing the number of employes more than counterbalanced by concentrating a vast amount of influence in the hands of one man?

Mr. LETCHER. Why, Mr. Chairman, it is absolutely wild to talk about a vast amount of influence in the hands of a collector, because he is made a disbursing agent. The patronage which he bestows as a collector, is a patronage worth talking about; but in regard to this other matter of disbursing public funds, all he has to do is to keep an account of them. I see no patronage in that.

Mr. HUGHES. However wild it may be, does not the collector have the same amount of money to disburse under the proposed change, as the disbursing agent now has? and yet the gentleman from Virginia finds fault with the gentleman from Kentucky, and charges him with advocating an increase of offices and patronage.

Mr. LETCHER. Is it an increase of patronage for A to pay B, when C would have to do the same thing?

Mr. MARSHALL, of Kentucky. Is it within the contemplation of the gentleman from Virginia that the collector will personally perform this duty?

Mr. LETCHER. If he does not perform it he will have to get another person to perform it, without additional compensation.

Mr. MARSHALL, of Kentucky. He will have a person to fulfill the duty of disbursing agent, who will be paid; and you will gratify the collector with your percentage, while he will have a disbursing agent under him working patiently for low wages, who will become the tool of the collector.

Mr. LETCHER. If the collector has a disbursing agent under him who understands his business, I think that disbursing agent will be better than one who does not understand his business.

Mr. MARSHALL, of Kentucky. But the Secretary of the Treasury ought only to appoint one who does, understand it.

Mr. LETCHER. When the Secretary of the Treasury appoints a collector as disbursing agent he appoints a man who not only understands the business devolving on him as collector, but one who has some knowledge of the mode of keeping accounts; but when you appoint a superintendent you appoint a man who has a knowledge of mechanics, and not one who has a knowledge of accounts. That is a material difference.

Mr. MARSHALL, of Kentucky. The gentleman does not mean to produce the impression here that the superintendent is the disbursing agent?

Mr. LETCHER. I understand that he is. But what does the gentleman want to have? He wants the Secretary of the Treasury to go around and hunt up somebody who is to be the disbursing agent. Now, what is the use of it? Here is the collector, who is familiar with these duties, who can discharge them without inconvenience, and without imposing additional expense on the Government, who has capacity and experience to discharge the duties; and yet, when the Government is not to be saddled with additional expense, the gentleman proposes to send out on a mission to hunt up somebody else, who, he thinks, may discharge them as well.

[Here the hammer fell.]

Mr. EUSTIS. I do not understand, nor does any gentleman on this side understand, that there is any complaint at all as to the character of these disbursing officers. I heard the whole debate on the subject in the Senate, and the great objection made was as to the expense. Now, I understand the amendment of the gentleman from Kentucky to remove that objection by providing for paying to the disbursing officers the same amount proposed to be paid to the collectors—one fourth of one per cent.

Mr. LETCHER. I hope the debate will go on regularly; and that if the gentleman from Louisiana be allowed to make a speech, I will have a right to reply.

The question was taken, and the amendment to the amendment was not agreed to.

The question recurred on the Senate amendment, on which tellers were ordered.

Messrs. MARSHALL of Kentucky, and TAYLOR of New York, were appointed.

The committee divided; and the tellers reported—ayes one hundred and eleven, noes not counted. So the amendment was concurred in.

Fifty-eighth amendment:

Sec. 19. *And be it further enacted*, That to enable the Secretary of the Interior to carry into effect the twenty-fourth section of the civil and diplomatic act of March 3, 1855, by paying the claims on file as ordered for assessment by Messrs. Eaton and Hubley, and Washington and Mason, commissioners under the Cherokee treaty of 1835, there be appropriated \$30,000.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in that amendment. The objection to it is, that, while former payments under this Cherokee treaty have been made in accordance with the assessments, this is a proposition to pay claims ordered to be assessed.

Mr. BRANCH. I am glad to find that the recommendation of the Committee of Ways and Means, that this amendment be non-concurred in, is founded on a total mistake, as I will show to the committee by reading from the act that it is

proposed to carry out. I will state, however, before reading it, that this amendment of the Senate is to carry out an express, explicit provision of a law passed by Congress in 1855. There is a remnant of the Cherokee Indians remaining in the western part of North Carolina. In 1835 or 1836, the Government made a treaty with the Indians by which it became possessed of a large body of valuable lands. In 1845 or 1846, I believe, a supplementary treaty was made, providing, together with the original treaty, for certain payments to be made to the Indians for their reservations and for other purposes. In 1848, an act was passed directing those provisions to be carried out, and they were carried out, and a portion of the claims were paid. In 1854, Congress passed another law, under which another portion of the claims were paid. In 1855, Congress passed another act, which I will read:

"Sec. 24. *And be it further enacted*, That the tenth section of the act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, approved July 31, 1854, be carried into effect by paying the valuations ascertained and reported by Messrs. Upton and Summey, and other official assessors, as ordered by the commissioners under the Cherokee treaty of 1835 and 1836, with interest on said valuations, respectively, from the date of the said commissioners' orders for assessment; and that the Secretary of the Interior be further directed to fill the blanks in such awards as are on his files with such amounts, respectively, as may be established by proof of value satisfactory to him, and pay the same."

That act recognized the debt to these poor Indians; but, as it contained no appropriation, the Secretary of the Interior was unable to comply with the order of Congress. The amendment now under consideration proposes simply to make an appropriation to enable the Secretary of the Interior to carry out this act of 1855. If there can be a claim on this Government that is sanctioned by law, if there can be one that needs no further examination, certainly this is such a claim. It is established by two treaties solemnly entered into by this Government with these ignorant savages, and sanctioned by two laws of Congress, recognizing the debt and providing for the payment of the largest part of it. If that is not sufficient to establish the justice and propriety of Congress making the small appropriation necessary to pay the remainder of the claimants, then I cannot see how a claim could be established. All the large claims have been paid. The former appropriations of Congress were exhausted in paying the larger claims. The small sum now asked is due, I am informed, to the poor and more dependent part of that tribe. These Indians are in the western part of North Carolina, and are located in the district lately represented by a gentleman who now occupies a seat at the other end of the Capitol. I am informed that they are needy, and that their claims are just; and on looking into the statutes and treaties of the country, I find that they have been time and again sanctioned in the most solemn manner.

Mr. LETCHER. I move to amend the amendment by striking out the sum of \$30,000. My information in relation to the matter is, that under the act of 1855 these Indians have been already paid everything which was due them.

Now, let us look at the language of that act. It is as follows:

"That the tenth section of the act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, approved July 31, 1854, be carried into effect by paying the valuations ascertained and reported by Messrs. Upton and Summey, and other official assessors, as ordered by the commissioners under the Cherokee treaty of 1835 and 1836, with interest on said valuations, respectively, from the date of the said commissioners' orders for assessment; and that the Secretary of the Interior be further directed to fill the blanks in such awards as are on his files with such amounts, respectively, as may be established by proof of value satisfactory to him, and pay the same."

The property had been valued, and the Government of the United States undertook to pay the assessed valuation as furnished to the Department; and wherever the amount was not specifically carried out in dollars and cents, the Secretary of the Interior was authorized, where there had been a specific valuation and assessment, upon proof of that fact, to fill up the blanks. Now, that law has been executed and the money has been paid under it. What is proposed here?

"To enable the Secretary of the Interior to carry into effect the twenty-fourth section of the civil and diplomatic act of March 3, 1855."

the very act I have been reading,

"by paying the claims on file as ordered for assessment by Messrs. Eaton and Hubley."

Now the assessors named in the act of 1855, were Messrs. Upton and Summey. All applications on file *ordered* to be assessed are to be paid under this amendment. Sir, I ask if there is not a very material difference between the two, and whether, when you have paid out the \$30,000 provided here under the indefinite terms of this clause of the law, you may not be in for twice, or thrice thirty thousand dollars? That is the reason why the Committee of Ways and Means was against it. We maintain that we have paid all. We made inquiry of the Secretary of the Interior, and he told us that, if this amendment were adopted, it would be impossible to tell what amount we would have to pay.

Mr. BRANCH. The gentleman from Virginia states that the twenty-fourth section of the act of 1855 has been executed, and that he has been so informed by the Secretary of the Interior. I ask the gentleman how it could have been executed when it contained no appropriation? The twenty-fourth section of that act simply sanctions and recognizes that as a debt upon the Government in favor of these Indians. It contained no appropriation, and I am informed, as a matter of fact—for I have no personal knowledge about the matter—that the Secretary of the Interior has, within a very short time, stated to a gentleman more immediately interested in the passage of this amendment, a former Representative from that district, that the act had not been executed because there was no appropriation.

Mr. LETCHER. Let me interrupt the gentleman just here, and I can put an end to the whole argument. If he will look to the close of the section he will find this language:

"With such amounts respectively as may be established by proof of value satisfactory to him, and pay the same."

Mr. BRANCH. Does the gentleman state within his knowledge that that section carries an appropriation, and that it has been paid?

Mr. LETCHER. It is my understanding that the act has been executed, and that the names of Upton and Summey in this amendment, and the names of Eaton and Hubley in the other amendment, show that they are not the same cases at all.

Mr. BRANCH. All I can say is, that my information is totally different. It is that the act has not been executed, and that it has not been executed because there was no appropriation. But one thing we know beyond doubt; and that is, that if we make this appropriation, and it shall turn out that the money has been already paid, the Secretary of the Interior will not pay it again, and it will return into the surplus fund in due course of law. How the discrepancy happens between the statement of the gentleman from Virginia and that of the gentleman from whom I derived my information, I cannot tell.

Mr. LETCHER, by unanimous consent, withdrew his amendment.

The Senate amendment was non-concurred in.

Fifty-ninth amendment:

And be it further enacted, &c., That there shall be paid, out of any money in the Treasury not otherwise appropriated, to Charles H. Mason, Secretary of the Territory of Washington, the difference between the salary of Governor and superintendent of Indian affairs, and the salary of the Secretary of the Territory of Washington, for the time said Charles H. Mason was acting Governor and superintendent of Indian affairs of said Territory.

Mr. J. GLANCY JONES. This amendment is intended to make the salary of the Secretary of the Territory of Washington, while acting as Governor *ad interim*, equal to the salary of Governor and superintendent of Indian affairs. The Committee of Ways and Means recommend a non-concurrence.

The amendment was non-concurred in.

Sixtieth amendment:

And be it further enacted, &c., That the salary of the surveyor general of Washington Territory shall be \$3,500 a year from the commencement of the present fiscal year; and there is hereby appropriated so much as may be required for that purpose.

Mr. J. GLANCY JONES. The present salary of that officer is \$3,000. This amendment proposes to make it \$3,500. The Committee of Ways and Means recommend a non-concurrence.

The amendment was non-concurred in.

Sixty-first amendment:

And be it further enacted, &c., That in all cases of judgments and decrees in any territorial court of the United States now rendered, or hereafter to be rendered, and from which there might be a writ of error or appeal to the Supreme Court of the United States, there may be presented such writ of error or appeal, within the time and under the restrictions limited by law, to said Supreme Court, notwithstanding such Territory may, after such judgments and decrees, have been admitted into the United States; and said Supreme Court shall, when the same is decided, direct a mandate to such court as the nature of the writ of error or appeal, in their judgment, may require.

Mr. J. GLANCY JONES. Considerable difficulty has arisen in consequence of the suspension of judicial proceedings in Territories, in consequence of their admission into the Union as States. The Senate propose, by this amendment, to allow these judicial proceedings to proceed in the same order, as far as appeals, &c., are concerned, as they would have done had the Territories not been admitted into the Union as States. The Committee of Ways and Means recommend a concurrence.

The amendment was concurred in. ✓

Sixty-second amendment:

And be it further enacted, That the Secretary of the Senate and Clerk of the House of Representatives be, and they are hereby, directed to continue, down to the 4th of March, 1859, the compilation of the congressional documents published by Congress, under the name of "American State Papers," in the same manner as the first series thereof, under the authority of the act of Congress of March 2, 1831, and the joint resolution of Congress of March 2, 1833, and with the same particular index to each class, and a general index to the work; and the said Secretary and Clerk are hereby directed to contract with Gales & Seaton, the publishers of the first series thereof, for publishing the same, not to exceed two thousand copies in number, at a price per volume not exceeding that paid for the first series, to be delivered to the Secretary of the Interior, as the same may be published; and the said Secretary of the Interior shall place three hundred copies in the Department of State for its use, and for exchange with foreign Governments, and seven hundred copies in his own Department, for distribution to public libraries in the several States and Territories, and hold the residue of the copies in his custody, subject to the future direction of Congress: *Provided, That* the prices or rates to be paid for the printing of this work shall not exceed those paid at present for the printing of the documents of Congress, including paper and binding, having regard to the quality and value of the material used, and work done.

Mr. J. GLANCY JONES. Under the act of 1832, and a subsequent joint resolution, provision was made for the publication of the State Papers from 1789 up to 1824 inclusive. This amendment of the Senate proposes to continue that publication from 1824 up to 1859, inclusive. It is supposed that it would require about fifty volumes; and the limitation here is to two thousand copies of each volume. The Committee of Ways and Means recommend a non-concurrence in the amendment of the Senate; because, however important it may be to have that publication continued at a proper cost, there is no means of ascertaining by this amendment what it really would cost. I understand, from the publishers, that it will not exceed \$340,000; but the Committee of Ways and Means have had no opportunity of examining into the matter, and, although the work is an important one, they recommend a non-concurrence in the Senate amendment to this bill.

Mr. JONES, of Tennessee. This is a proposition to print the State Papers from 1824 to 1859. That will make thirty-five years. The former publication was from the commencement of 1789, up to 1824; making the same length of time. That work cost \$235 50 per copy; making the whole cost of two thousand copies \$471,000.

Now, what are these American State Papers? Nothing but a reprint of your public documents from the various Departments, under their different appropriate heads. One portion is under the head of foreign affairs; another of military affairs; another of naval affairs; another of the Post Office; another of the General Land Office; another of financial affairs; and another consists of miscellaneous matter. It is a collection and reprint of public documents that are being annually presented to Congress and printed. It is a proposition to reprint all these papers; and I suppose that, if the first set cost \$471,000, this set, in view of the great length and increased number of the documents, would cost \$1,000,000. Sir, I can see no necessity for it, except to make a contract; except to give out a job. If you are going to have these papers printed, my own opinion is that, under the law, the execution of the work belongs to the Public Printer elected in pursuance of the law of Congress. Then you will have the work done according to your printing

laws. You will have the typography and press-work done at the price fixed by law, and your paper for it will be furnished as is now required by law for all your other printing.

While my opinion is that, if you intend to reprint these papers and have them in another form, you should do it through the medium of the Public Printer, I can see no necessity, at this particular time, at all events, for incurring this large expenditure of money. We should reflect upon the condition of the finances of the country. This is one of the matters in which delay can inflict no injury or detriment to the public interests.

Now, who is to select the documents? Who is to determine what portion is to be printed, and what is not to be printed? There is a great deal of matter contained in these public documents which was never worth printing; and to reprint them now would be great folly.

[Here the hammer fell.]

Mr. LETCHER. I propose to amend by striking out the first six lines of the Senate's amendment. I merely desire to say this: that I am opposed to this printing; but as some information was given to me the other day by one of the parties interested in it, (Mr. Seaton,) I think it due to him to state what that information was, so that the matter may be fairly understood by the House. He stated to me that this publication would make fifty volumes, that there would be an edition of two thousand volumes, and that they would cost, according to the estimate made by Mr. Wendell, about three dollars and forty cents a volume. That would make \$340,000 for the publication. I am opposed to the whole thing myself. I think there are reasons conclusive why we should not embark in it. It was only about two or three months since this House determined, when the deficiency bill was up for consideration, that it would publish no more books unless the manuscript was complete and furnished, so that we might know exactly what was to be printed and the precise cost of the same. If it was wise on the part of the House two months ago to adopt a rule of that sort—and I think it was—it seems to me there is wisdom at the present time in adhering to it, when the estimate of this work is fifty volumes, and it may overrun that number, and when the cost is estimated at \$340,000, and it may overrun that, for it depends altogether on the manner of calculation, whether it includes the cost of the paper or not. I forgot to inquire about that. But it seems to me that in the present condition of things this is not the time for us to embark in this publishing business, when the tax-paying people of the country have to foot the bill.

Mr. PETTIT. Mr. Chairman, this proposition proceeded from, and has been very carefully examined by, the Joint Committee on the Library, and meets its approbation. I do not wish to complain of the conclusion of the Committee of Ways and Means in this connection, although I think no doubt could have existed in their minds that this matter had been fairly examined, and emanated, under the rules of the Senate, from the proper committee having the matter in charge, and so was entitled to consideration.

Let me, in the first place, correct an error into which the gentleman from Pennsylvania and the gentleman from Virginia have both fallen. It is not proposed to publish anything but a continuation of the State Papers from 1824 to the present time. The gentlemen are, therefore, in error in supposing that the work can reach fifty volumes. They doubtless had reference to the original proposition of Messrs. Gales & Seaton, which was not only to publish this part of the work, but also to republish the former volumes.

Mr. LETCHER. It was only the night before last that Mr. Seaton showed me this paper, and I spoke from his statement made to me then as to the character of the appropriation, after it had been before the Committee of Ways and Means for consideration.

Mr. PETTIT. It has been matter of inquiry with the Committee on the Library, both as to the probable cost and the probable extent of the work. The period, it will be observed, as was correctly stated by the gentleman from Tennessee, is almost equal to the period covered by the former series. But the former series covered the most energetic period of our history—that part of it which involved novel principles, and therefore

furnished much more material for a work of this description than will probably be comprehended in what it is now proposed to publish. The Committee on the Library believed that the work here proposed would not exceed twenty, and might not exceed fifteen volumes.

Now, one word as to the character of the work. I agree with the gentleman from Tennessee that manifold abuses have grown out of our printing system. But a distinction ought to be made between its uses and abuses. This proposition is not made for the individual benefit of any one. It is intended to subserve the public interests, and promote the public convenience. The work is indispensably necessary to the legislation of Congress. It is a compilation from the immense mass of public papers which, from year to year is accumulated, of those parts which are deemed important to be retained as illustrative of the public history, or as furnishing proper guides to official conduct. When the compilation is complete, it is to be arranged in classes, and indexed so that every portion of it will be accessible. Since the year 1824, there have accumulated over a thousand printed volumes, besides hundreds of manuscript volumes, and countless large files of manuscript documents, which are all inaccessible for the reason that they are not arranged and indexed. This work is, therefore, necessary for the convenience of us all. Another object of the proposition is to secure the public archives which at any moment may be wasted by fire or some other accident. Much of the public history has already perished in this way, and if we wish to perpetuate what remains, and make it useful, there is no safer mode by which we can give it security, than by multiplying copies.

[Here the hammer fell.]

Mr. LETCHER's amendment to the amendment was rejected.

ENROLLED BILLS.

Here the committee rose informally; and the Speaker having resumed the chair,

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that the committee had examined, and found truly enrolled, bills of the following titles, when the Speaker signed the same:

An act (H. R. No. 530) for the relief of Stephen Fellows;

An act (H. R. No. 515) granting an invalid pension to Alexander S. Benn, of Pennsylvania;

An act (H. R. No. 514) granting an invalid pension to Conrad Schroeder;

An act (H. R. No. 523) for the relief of Wyatt Griffith;

An act (H. R. No. 516) for the relief of Michael A. Davenport, of Illinois;

An act (H. R. No. 246) for the relief of certain settlers on the public lands in the State of Wisconsin;

An act (H. R. No. 462) granting an invalid pension to James Fugate, of Missouri; and

An act (H. R. No. 512) for the relief of Elijah Close, of Tennessee.

The committee then resumed its session.

CIVIL APPROPRIATION BILL—AGAIN.

Mr. CLEMENS. I move to strike out the last six lines of the amendment. I have listened with considerable attention to what the gentleman from Indiana [Mr. PERTT] has said in advocacy of this proposition; and, giving to all he has uttered the weight which it deserves, I must confess that I can see no reasonable or assignable argument which would induce me, as a member of this House, to differ from the recommendation of the Committee of Ways and Means. We have arrived at a period in the history of this Congress when, if the members of the Democratic party are desirous of maintaining the principles they have advocated before the country, there is an opportunity now to test their sincerity. This Government and this House have been hitherto like a seventy-four gun ship with a school of sharks at her keel; and partisan editors have been, with open mouths, lapping along the sides of this great vessel, waiting for some dead body to be thrown over to feed and to keep up presses which would otherwise have no sustenance either from the party or from the country. Now, sir, while I, as a member of this House, would go as far as any other member to advance the interests of the respectable gentlemen who are at the head of the National Intelligencer, I am opposed, on principle as well as upon policy, to

giving them a gratuity of five or six hundred thousand dollars for what, so far as the legislation of the country is concerned, cannot be considered necessary. If these works are considered indispensable to the legislation of the country; if they are made up from valuable documents now filed away in the public archives, it is a proper subject for individual speculation; it is a subject appealing to that speculative spirit in the eastern cities and States which is never at fault. But it seems that heretofore, whenever a work could not claim the attention of the country, or of the regular publishers, it has been fastened on the Government in some appropriation bill in such a manner that members had either to vote against the whole bill, or take it with the objectionable features; and this is precisely such a case.

Sir, what has become of the publications already ordered by this House? What has become of the first series of these very American State Papers? Why, they have been hawked about, and sold by members of Congress, after having been received and charged to the Government at \$225 a copy, and have been found down at Morrison's and Taylor & Maury's, at the green groceries, as waste paper, or can be purchased at the book stalls along the avenue for half price. That has been the case heretofore. Are we to have a repetition of this state of things now? Is the Democratic party—the responsible majority in this House—to concur in this amendment of the Senate, through motives of mistaken philanthropy and kindness to deserving gentlemen, who have arrived at an age when it may, perhaps, be necessary to hold out the open hand of the Government and its fostering care to them? Can any member belonging to the Democratic party go back to his constituents and justify such a vote as this?

I desire, if this appropriation shall pass, to let this side of the House [the Republican] take the responsibility, and I desire gentlemen to know, so far as I am concerned as a member of this House, that neither the gentleman from Ohio, [Mr. SHERMAN,] nor any other gentleman, shall make a speech on this floor for Buncombe, complaining about the immense expenditures of this Government, ready as they always are to month away about appropriation bills, and to hold the Democratic party responsible.

Mr. GIDDINGS. Gentlemen upon reflection must see that this work can never be published by the enterprise of individuals; and the only serious question is, whether we will assume the publication as a just tribute to the spirit of the age in which we live, and send it down to future generations as a record of our transactions. I, for one, am ready to say to the gentleman from Virginia, [Mr. CLEMENS,] that I am willing to assume the whole responsibility of publishing this work.

The amendment offered by Mr. CLEMENS was not agreed to.

Mr. STANTON. I move to amend, by adding at the end of the Senate amendment, the following:

Provided, That the work shall not exceed fifty volumes, and the aggregate cost of the entire publication shall not exceed \$340,000.

My own opinion is that there is a necessity for this publication; but I am very reluctant to embark in a publication the entire cost of which we have so slender a conception of. If it be true that this work is to amount, in volumes, to the number stated by the gentleman from Virginia, [Mr. LETCHER,] and in cost to no more than he states, I apprehend the publisher will have no hesitation in undertaking the work with the limitation presented in that proviso. If I can have any assurance that it can be published at a reasonable expense, and within reasonable limits, I shall be inclined to support the publication. Every man must know that you might as well not have these State Papers and these public documents published at all, as to have them scattered through forty tons of public documents, where no man can find anything he wants. The great object is to select this historical matter and publish it under such heads as will make it available and accessible when desired, and furnish to persons that information which will enable them to discharge their duties intelligently and understandingly. Such I understand to be the object of the work; and if it can be accomplished for any reasonable sum, I am disposed to favor the publication. But

I will not vote to give any person any job of printing—anything merely for the sake of a job. Knowing what I do of the publication of that work from 1824, down—having had experience of the value of it, and especially of that portion of it which relates to claims against the Government, and the action of the Government upon the great questions which agitate it—I believe the publication a desirable, important, and necessary one. If the committee chooses to adopt my amendment, or some similar one, limiting the expense of the publication, I am inclined to go for it.

Mr. BARKSDALE. I desire to ask the gentleman from Ohio if any estimate has been made as to the cost of continuing this work?

Mr. STANTON. I stated that I based my action upon the statement made by the gentleman from Virginia, [Mr. LETCHER,] the facts of which he says he obtained from Gales & Seaton.

Mr. PHILLIPS. The gentleman from Virginia [Mr. CLEMENS] just now asked which one of us would dare to face our constituents after voting for this proposition? I answer the gentleman that I would. I assure the gentleman that that there is no appropriation which I would sooner vote for than one which is designed to keep and perpetuate the records and history of our country.

Mr. CLEMENS. I trust the opponent of the gentleman will take advantage of that acknowledgment.

Mr. PHILLIPS. I say he is welcome to do it; and I thank the gentleman for his kind wish. I represent a constituency who can appreciate the value of money spent in bringing down the record of the history of our country; a constituency able and desirous to read our country's history; willing to pay for such information; proud of the past and emulous of the future; and, as far as my own action is concerned, as a member of this House, I can point to my votes since I have been a member to show that I do not belong to what the gentleman has been pleased to call an extravagant party. And when the gentleman talks about speaking for Buncombe, I can tell him that I am not afraid to vote for any expenditure when the object of that expenditure can be justified to myself, and to those I represent, as a proper one. Can the gentleman tell us what object there is for which the American House of Representatives ought to vote money more freely than for that which will enable those who are now growing up around us, those who are soon to come upon the theater of public action, and who will succeed us, to know the history of the past, and to connect it with the present?

Mr. CLEMENS. I will answer the gentleman. The gentleman professes to belong to the Democratic party, and he is a Democrat; and I understand a cardinal principle of that party to be retrenchment and reform, and yet we find Democrats voting for every sort of extravagant purposes. Already, upon the other side of the House, we hear the note of political contest sounded upon that very key.

Mr. PHILLIPS. Parsimony and economy are very different things, let me assure the gentleman; as different as economy and extravagance. Let the gentleman begin his reform elsewhere than on such a subject as this. I do not call it extravagance to expend money in any manner which will give us the benefit of a sufficient, an honest, and patriotic return. I call that parsimony to forbear to expend it when we have it, or can have it, when we know that the purpose for which we are voting it is one of which we ought to be proud. I tell the gentleman that I dare any competitor of mine to go before the people of my district and urge against me the objection that I voted, in the American House of Representatives, the means to publish the State Papers, which alone can furnish to those who will come after us a knowledge of the early history of our country. Are we ashamed of those State Papers? I would not hesitate to compare them with the State papers of any nation in the world. Our history is one I am proud of, and I desire to perpetuate a knowledge of the action of our Government. If there are no other provisions in this bill which are not more extravagant than this, there is no necessity for the gentleman to array our practice against our professions. I do belong to the Democratic party; but when I am told that I shall not vote the public money for the use of my constituents in a manner which will

be honorable to the country, a record of its glories, and cannot fail to be useful to my constituents, and that if I do, I am not upon the Democratic platform, then I am ready to, and will, step off from it. Such is not the narrow creed of the Democratic party; it has high missions to fulfill, and none more elevated than the publication of the history of our country, whose liberties were achieved, and have been maintained, by Democrats; thus encouraging its friends for the future, and giving to the world a wide-spread and extensive circulation of the country's glorious history.

Mr. STEPHENS, of Georgia. I will suggest to the gentleman from Ohio that he leave out the limitation as to the number of volumes. It may be that if we limit the number of volumes to fifty, they may be too large to handle conveniently. I think, however, we should limit the price and limit the appropriation. I understand from the publishers that it will require several years to publish this work, and that not more than \$25,000 will be required for the present year. I move, therefore, if it be in order, to amend by adding that a sum not exceeding \$25,000 be appropriated for the fiscal year.

Mr. STANTON. I will modify my amendment as the gentleman suggests in relation to the number of volumes. I mentioned that number because it was stated the work would be comprised in fifty volumes.

Mr. PETTIT. If the gentleman from Georgia will allow me for a moment, I will say that no appropriation whatever is desired in this bill.

Mr. STEPHENS, of Georgia. I ask the gentleman whether he will not also modify his amendment so as to limit the appropriation in this bill to \$25,000?

Mr. STANTON. I will so modify it, if the gentleman from Georgia desires it, although the gentleman from Indiana, [Mr. PETTIT,] who represents the Library Committee, has just stated that no appropriation at all was contemplated for the work in this bill.

Mr. STEPHENS, of Georgia. I wish to state to the committee very briefly that I consider the publication of these State Papers as very important.

Mr. DEAN. I object to debate, unless it is in order.

The CHAIRMAN. No further debate is in order at this time.

Mr. SMITH, of Virginia. I desire to inquire if the amendment of the gentleman from Ohio cannot be amended?

The CHAIRMAN. Not at the present time; and debate upon that amendment is exhausted.

The amendment, as modified, was read.

Mr. SAVAGE. That is an entirely different amendment from the one originally offered by the gentleman from Ohio.

The CHAIRMAN. The gentleman had a right to modify his amendment at any time before the vote was taken upon it.

The amendment, as modified, to the Senate amendment, was agreed to—ayes 80, noes 41.

Mr. MASON. I move to amend by striking out these words: "for the purpose of publishing State Papers." The fact is pretty generally understood here, and I suppose the country understands it, that some job is to be gotten up to maintain the publishers of this paper. This thing has been handed round this Hall, and I suppose a majority of this House intend voting for it, and that nothing which can be said will prevent it. But, sir, the work need not be done. If it is intended to make a donation for the meritorious public services of their past life, and for the purpose of maintaining the editors of this paper, let us do it directly, and not put them to the trouble of doing this work, and the Government of the United States to the expense of buying paper, when nobody wants the work. Let us make the donation fair and square, open and above board. There are hundreds of volumes printed by this same establishment which are now rotting in the vaults of the old Capitol and in your libraries. Here is another system to be begun; where it will end no one can tell. Now, sir, I have a great respect for the editors of that paper. They have been conservative men during a long life; they are able men; and if there is any way of pensioning political soldiers upon the Government and country, they, perhaps, are as much entitled to it as any one else; but mark you, in every one of

the two hundred and thirty-odd districts in the United States there are men who have performed just as meritorious services. There are men in my own State who deserve to have three or four hundred thousand voted to them, just as much as these men. The whole cost of the State government of Kentucky, exclusive of the interest on the State debt, is only about the same amount. And yet, of all the appropriations that the Government makes, not a single dollar is spent in my district. My constituents build their own houses, and make their own hydraulics, and yet they have to contribute to building the houses and making the hydraulics of other cities. I am sorry to say that the Democratic party in power, to whom I have stuck so long and loved so well, is guilty of making them do so.

Mr. STEPHENS, of Georgia. The gentleman from Kentucky [Mr. MASON] says that it seems to be generally understood that this is a job. I can say for myself that I have no such understanding, and I do not know where the gentleman got his information.

Mr. MASON. I got it from rumor.

Mr. STEPHENS, of Georgia. I have not heard it myself. I say to the gentleman that I do not favor this as a job. I have nothing to do with jobs. I am for this, because I believe it important to the public service that the State Papers should be printed—much more important than much of the reports that we are daily ordering to be printed. The State Papers were ordered to be printed up to 1824; and since that time none of them have been compiled. I wished, myself, the other day, to look at the correspondence between the State Department and Lord Ashburton, growing out of the Washington treaty, and I could not find it without subjecting myself to a great deal of trouble and loss of time; and I find it so with all our diplomatic correspondence since 1824.

Mr. CLEMENS. Will the gentleman say that there is a single public document of that kind that cannot be found among the House documents?

Mr. STEPHENS, of Georgia. They might be found if I got a clerk to go through and aid me in looking into each volume. Perhaps out of one hundred volumes searched I might get it, part here and part there, and part some other place. But I wish the State Papers properly compiled and arranged in volumes where we can find them without that immense labor.

The gentleman from Kentucky spoke of the number of musty volumes printed by the same publishers. I do not know of anything published by them except the Annals of Congress and the Register of Debates. But that is immaterial. If past Congresses ordered anything to be printed improperly, that is not now before us. But I do not think that the publication of these papers ever was improper. It was but right to have them printed. The Annals of Congress only brought down the debates to the commencement of the Register of Debates, and the Register of Debates brought it down to the Congressional Globe; and we are now continuing the debates of Congress. I think that it is right. The publication of the State Papers cost very little more than the publication of the Congressional Globe one session. I believe we pay for the publication of the debates of a session some two hundred and thirty thousand dollars. It is immaterial to me what the publication of these State Papers costs. The price is, I think, according to printers' rule. How, therefore, any great job is to be made out of it, I cannot conceive. If there be no more profit than according to the law on public printing, I think there will be very little profit made out of it. If, however, your Public Printer is making too much profit, cut down the rate. I am for no job; but I am for the publication of all matters that give correct information.

The question was taken on Mr. MASON's amendment to the Senate amendment; and it was not agreed to.

Mr. SMITH, of Virginia. I offer the following amendment:

And provided, that said work shall be let to the lowest bidder on sixty days' notice, in the manner to be prescribed by the Secretary of the Interior.

I presume, Mr. Chairman, that there is not a member on this floor who knows the amount of the job that is to be undertaken. There is not a member on this floor who knows the expense of this work; for the limitation imposed by the

amendment of the gentleman from Ohio is not worth the crack of my finger, as experience will show. Fifty volumes will not begin to complete the work. It has been said, and said truly, on this floor—and I say that there is no doubt about it—that the whole project of publishing this work at this time was originated by private persons for their own advantage. I therefore introduce my proposition with a view to have the work given to the lowest bidder, so that the world may have a chance at it.

That is not all. By no means. Where are these books to go? As I understand the amendment, three hundred sets are to go to the State Department, seven hundred to public libraries; and the remainder are to be deposited with the Interior Department. I do really think, without meaning to expand on this subject, that for us to commence, at this time, a work which is to last through a series of years, is, with the cry of economy on our lips, one of the most indefensible movements that I have witnessed for many a day.

Mr. STEPHENS, of Georgia. The gentleman asks what is to be done with the other thousand copies? They are to be given, I suppose, to libraries.

Mr. SMITH, of Virginia. No; seven hundred copies are provided for them.

Mr. STEPHENS, of Georgia. That would not suffice.

Mr. SMITH, of Virginia. The amendment contemplates leaving three hundred copies in the State Department, and allowing seven hundred copies for public libraries.

Mr. STEPHENS, of Georgia. The executive library in each State is to be supplied, as well as the public libraries.

One word as to the gentleman's argument on the impolicy of having these books published at this time. One reason why I proposed to the gentleman from Ohio to limit the appropriation for this year to \$25,000, was because of the embarrassment of the Treasury; but I tell gentlemen that I brought forward a proposition the Congress before last and last Congress to print these State Papers.

Mr. SMITH, of Virginia. What is your objection to my amendment?

Mr. STEPHENS, of Georgia. I have got two reasons. In the first place, these are the same publishers who published the work down to 1824. They are familiar with it, and understand it. That is one reason why I would rather intrust it to them. Another reason is, that since I have been in Congress, I have repeatedly seen the public printing let to the lowest bidder, and invariably, when it has been so let, the printers have, I think, without a single exception, come and asked us to release them from their contracts; the work was always worse done, and we had to pay more for it in the end; and we finally adopted the system of electing a Public Printer, and establishing the rates at which he should be paid by law.

This amendment provides, as I understand it, that the rates paid for this work shall be the same as those given to your Public Printer under the law, and these rates are as low as the work can be done for. I am, therefore, opposed to the gentleman's amendment.

Mr. CLEMENS. I move to strike out the word "lowest" and insert "highest."

The CHAIRMAN. It is not in order at this time.

The question was taken on the amendment of Mr. SMITH, of Virginia; and it was rejected.

Mr. TAYLOR, of New York. I move to amend the amendment of the Senate by adding thereto the following:

Provided, That the publication of said work shall not be commenced until a printing bureau is established by the Government; and that it shall then be done in said bureau.

I desire to say that I am opposed to this publication at present. I will not call it a job, because I do not agree with the gentleman from Kentucky, [Mr. MASON.] I think his language was not very complimentary to the House, and therefore I cannot agree with him. But I am satisfied that the work can be done in the public printing bureau, proposed to be established by the select committee on printing, for half the price which we should be compelled to pay to any publishers in the country. As a matter of economy, therefore, if Congress is resolved to publish this work, which may or may not be important, I trust that, as little will

be lost by delay, we shall at least postpone it until we have time to consider the bill proposing to establish a printing bureau, which I propose to call up to-morrow or the day after.

But, sir, I believe that, according to the precedents, economy is not to be calculated on in these great works. If we want to economize we must strike down the salaries of these pages and messengers about this Hall, and reduce them to fifty or twenty-five cents a day. That is the only place in which we have economized this session. But as for these wealthy publishers in this city, let us give them fat contracts and enrich them. We ought not to talk about economy when they are concerned. Let us give John C. Rives \$50,000 more, and then give Wendell and the Printer of this House, and these other printers, large donations. They have not made quite enough money yet. And when we have enriched all the publishers of this city, let us bring on a few from New York and other cities who are equally anxious to participate in these fat jobs.

[Here the hammer fell.]

Mr. WASHBURNE, of Illinois. I am opposed to the amendment of the gentleman from New York, and in favor of the amendment of the Senate as amended by the amendment of the gentleman from Ohio, [Mr. STANTON.] I hope that the committee will vote upon the matter now, and let us get it into the House where we can have the yeas and nays upon it.

Mr. GROW. I wish to say one word in reference to the printing bureau. So far as the select committee on printing is concerned, which has been referred to two or three times, the majority of the committee are not in favor of the bureau. They permitted the bill of the gentleman from New York to be presented, but a majority of the committee were in favor of giving the printing to the lowest bidder.

The question was taken on the amendment of Mr. TAYLOR, of New York; and it was rejected.

Mr. WHITELEY. I offer the following amendment:

After the word "Territory," in the twenty fifth line of the Senate amendment, insert the words:
And one set to each member of the Thirty-Fifth Congress.

I ask for a vote upon my amendment.

Mr. CLEMENS. I am in favor of that amendment.

The CHAIRMAN. The gentleman must speak in opposition to it. [Laughter.]

Mr. CLEMENS. Well, then, I will oppose it.

Mr. NICHOLS. I rise to a point of order. As I understand that amendment, it changes the law which provides that members shall not hereafter distribute books to themselves.

The CHAIRMAN. The point of order is well taken. The amendment is not in order, as it proposes to change the existing law.

Mr. SMITH, of Virginia. I should be glad to know what is the existing law upon the subject? I understand that there is no law upon the subject. This very order for the publication of the books is the origination of a law.

The CHAIRMAN. The gentleman from Virginia does not understand the amendment of the gentleman from Delaware. It proposes to give one copy of this work to each member of the present Congress. The Chair rules the amendment out of order, inasmuch as it proposes to change an existing law—the compensation act.

Mr. CLEMENS. I move to amend the amendment by inserting the words: "and one for each college in each congressional district."

Mr. Chairman, the Prince De Canino, on one occasion, instructed his head steward, or master of the household, to report to him the best plan of economy he could recommend in his department; and, after going through the house, from the cellar up to the garret, the steward very deliberately reported to his employer that he found he could dispense with nothing except a hall lamp. Now the Democratic party in this House are in this condition: in the early part of the session we contracted a loan of \$20,000,000 by the issue of Treasury notes; and we are now about to contract another loan of \$15,000,000. We have provided no means to pay the interest on that debt. Your revenue is insufficient, and you are compelled to resort to forced loans to carry on the Government. And here we are to-day gravely deliberating whether, in the midst of this deficit,

we will not still further increase the expenditures of the Government to an amount that is not known; for no man can now tell, except on *ex parte* estimates, whether the final cost of this work will be five hundred thousand, seven hundred and fifty thousand, or one million dollars. I ask the gentleman from Pennsylvania [Mr. PHILLIPS] whether he can go before his people and sustain himself, with all his acknowledged Philadelphia-lawyer ability, on an issue like this? [Laughter.]

Mr. PHILLIPS. What is the particular issue?

Mr. CLEMENS. Why, sir, the Democratic party, forsooth, is the States-right party—the party of economy, retrenchment, and reform; and I ask the gentleman whether, if he votes for an extravagant proposition like this, he will dare to go before his people, bare his breast, and defy the stroke?

Mr. PHILLIPS. I consider the test of Pennsylvania Democracy quite equal to that of Virginia Democracy, and it is to be found in practice much more than in profession.

Mr. CLEMENS. Well, I tell the gentleman from Pennsylvania this: that if he can find any clause in the Constitution of the United States, or any clause in the resolutions of 1793, which will justify him in converting this House into a book-making machine, and the members of this House into the mere conduits through which they are to be distributed, he understands Virginia Democracy better than I do. What will be the result of these appropriations? We shall see it in the next campaign. You will see gentlemen upon this side of the House railing out against an expenditure of eighty or ninety millions a year, in the face of an empty Treasury. I ask the gentleman from Pennsylvania how he can stand justified before his constituents, when this House knows that there is not a single document which they propose to publish which has not already been printed, and which is not now in the archives of the Government? So far, then, as this appropriation is concerned, I can see no good reason, no colorable pretext for it. I know this, Mr. Chairman, that if this law be passed, it will be said hereafter, whether the Republican party, the Democratic party, or the American party be in power, that you cannot interfere with this law because it is in the nature of a continuing contract; and you will find gentlemen arguing to this House that you have no right to impair the obligations of your contracts. It will take, it may be, ten years to complete this publication, whether in the hands of Gates & Seaton, or Wendell, or some other speculator in the public printing, and you will find them contending that Congress has no right to interfere with their vested rights.

[Here the hammer fell.]

Mr. PHILLIPS. It seems to me there is a great deal of fuss about a little matter. Limited, as the appropriation was to have been by the amendment of the gentleman from Ohio, and confined within a reasonable number of volumes, as was stated by the gentleman from Virginia, I would most willingly and gladly avail myself of the opportunity to vote for keeping a permanent record of the history of our Government—useful to those who come after us. Why, Mr. Chairman, the gentleman from Virginia does not know but, perchance, when some future Congress may bring up the publication of the papers, his own messages may be found in them. But, if the gentleman represents a district which he tells us does not want to have the records of the country preserved, I can tell him his constituents are entirely different from mine. They are interested in all these matters. There is hardly a State paper that ever emanated from our Government which I would wish to see withdrawn. I am willing to see the State papers not only of the gentleman's State, but of every State of the Union, published this day; and I rejoice that the American Congress thinks enough of our State papers to put them into a permanent form, and in a shape in which they can be read in every college in the Union. If two thousand copies are not enough for that purpose, I would vote for five thousand; and I assure the gentleman I am not afraid to assume all the responsibility of my action.

And, sir, has the gentleman from Virginia voted for nothing worse than this? Is his Democracy of that kind that he would not vote a dollar of money? I would not stop an expenditure which

the people demand, but I would go further than the gentleman from Virginia. I would, whenever the occasion comes, lend my aid to put money into the Treasury. I am not in favor of profligate expenditures; I am not for running into debt; and I will vote for replenishing the national Treasury; vote for such means as will put money into the Treasury—money which we propose to expend in so creditable a manner.

Mr. CLEMENS. How does the gentleman propose to do it? By another loan, or by an amendment of the tariff?

Mr. PHILLIPS. I will take occasion at some future time to state more satisfactorily and more at large what means I would adopt than I can do in the short space of five minutes; but I will state this to the gentleman: that I will advocate as close retrenchment and reform as he has ever done; though I will not advocate that miserable parsimony which would refuse to publish the records of a country.

[Here the hammer fell.]

Mr. CLEMENS, by unanimous consent, withdrew his amendment.

Mr. REAGAN. I move to strike out "two thousand," and insert "one thousand," so that it shall read "one thousand copies." It is urged as the principal reason why this publication should be made, that it is necessary in order to preserve the records of the nation in a convenient form. If that really be the object, and it be not the object to give a very large job to particular favorites, as the gentleman from Virginia [Mr. SMITH] has said, I do not see why it is necessary to publish two thousand copies. If there were to be one copy sent to each congressional district, that would require but two hundred and thirty-six; and if each Senator be allowed a copy, to be sent by the Senators and Representatives to some public institutions in their States and districts, that would require less than three hundred. Three hundred copies would be sufficient for the purposes of the State Department, to supply foreign ministers and foreign agents; and then, if an additional number is allowed to supply each State library, still you have not reached near one thousand copies.

As to the suggestion of furnishing this work to the school libraries of the country, and to colleges, I must say that I do not understand upon what reasonable principle it can be advocated that Congress shall make publications of this character to distribute among the literary institutions of the country. They may be published at a high cost, and sent out at the expense of the Government, and yet lie in many of those libraries mouldering away, and unless some man engaged in political life should happen to live near a college, they would never be opened at all.

It seems to me, then, that if the main object is to preserve these State papers in a convenient form, the work should be limited to that object, and one thousand copies would answer all the purposes of the Government.

While I am upon the floor, I desire to make another remark in reference to this bill. If this is not intended to be a job, why is it that the committee rejected the amendment offered by the gentleman from Virginia, [Mr. SMITH], to let out the publication to the lowest bidder? If it is intended to practice economy, and if it is intended to deal fairly and justly, why not let this contract be made upon principles which will secure the doing of the work cheaply and expeditiously? Why put the price of these volumes at \$3 50? Does any man pretend that with such a contract, with such assurances of compensation, they would be worth that amount?

[Here the hammer fell.]

Mr. KILGORE. I hope the amendment will not prevail. If we are to have this work published at all, we should have a sufficient number of copies to supply the public libraries, and for all ordinary purposes of members of Congress; and if there should be a surplus, we will not fail to find means to dispose of what is left, properly and with advantage to the country. I regretted exceedingly to hear the gentleman from Virginia [Mr. SMITH] appeal to the Democratic party to economize at this particular time; in other words, appeal to them to avoid responsibility. How much more magnanimous it would have been for him to have asked the Democratic party, which is in the ascendancy here, to come forward and devise ways and means by which our exhausted and empty

Treasury could be replenished, and enabled to meet, not only the expenses of the Government, but all these other expenses! Why not appeal to them to take the responsibilities which properly belong to them, instead of avoiding them? Why not call on the chairman of the Committee of Ways and Means, who feasts at the Executive table, and basks in the sunshine of the President's smiles, to devise some plan by which the expenses of the Government might be defrayed other than by continually resorting to loans? The gentleman from Virginia tells his political friends that they should avoid responsibility. Heaven knows they have avoided responsibility too long! Why not meet it with the boldness characteristic of the old Democratic party? Why come forward and ask the modern Democracy to avoid responsibility at the expense of the best interests of the country? I hope the gentleman's amendment will not be adopted, and that my friend who is at the head of the Committee of Ways and Means will devise some plan by which this expenditure, as well as all others, may be met in due season; and I hope that such plan may be acted upon before the termination of the present session.

Mr. J. GLANCY JONES. Will my friend give me some suggestion? I am ready to receive it.

Mr. KILGORE. The gentleman should receive his suggestions from other quarters. There is no responsibility resting upon this side of the House, and I do not wish to impose my counsels on the gentleman.

Mr. CLEMENS. As the gentleman seems so particularly frank in his advice to others not to avoid responsibility, I desire to ask him how he would provide for the deficiency in the Treasury?

Mr. KILGORE. I would modify the tariff so as to produce a sufficient revenue to meet all the expenses of the Government and secure the necessary protection to the manufacturers of the North and the great iron interest of Pennsylvania, instead of giving an exclusive protection to the sugar-growing interests of the South to the amount of \$13,000,000 per annum, as is now the case.

The question was taken on Mr. REAGAN's amendment; and it was not agreed to.

The question recurred on the Senate amendment.

Mr. CLEMENS called for tellers.

Tellers were ordered; and Messrs. CLEMENS and CHAFFEE were appointed.

Mr. SMITH, of Virginia. I desire to enter my protest against this special legislation. I object to its being assumed or charged that our action has reference to the enrichment of individuals. It has been already couched that this proposed publication originates in a private purpose or enterprise, and we give countenance to the charge by our specifying the individuals who are said to have projected the publication and giving them the job. Now, I protest against that. I do insist on it that this Congress ought not to order so expensive a publication as this to be done by anybody, but should leave competition for it open to the wide world. I insist that if it be deemed necessary that the work should now commence, we ought to commence it under auspices such as are calculated to protect the public interests, which, I say, are to be sacrificed by the proposed plan; and I do trust that while we have a knowledge of the fact that this whole printing system is likely to undergo a very speedy reform, that a new system is to be inaugurated, and that in all probability we are henceforth to do our own printing, we should not take one of the very heaviest jobs that is to be done and give it to one or two persons, however worthy and respectable they may be.

Mr. MAYNARD. I would like to ask the gentleman from Virginia whether he does not know, as a matter of fact, that the gentlemen to whom he has alluded are better qualified than any others now living in the country to discharge that work?

Mr. SMITH, of Virginia. So far from knowing that to be the fact, I say here—and let the gentleman from Tennessee mark it—that if this job be given to Gales & Seaton, they will never do the work, but others will. They will pocket a handsome percentage on the operation, but others will do the work. I give the gentleman notice that he may anticipate that thing.

Mr. MAYNARD. I ask the gentleman who will do the head work—the compilation?

Mr. SMITH, of Virginia. It is made the duty of the Secretary of the Senate and the Clerk of the House to select and arrange the documents. I have presented these views to the committee and to the country. I am not disposed to elaborate them; I am perfectly willing to do everything I can in a liberal spirit, to advance any man, but I am here to promote the public interest; I am here to see that, if we order a publication, that publication is to be made on the best terms. I am here, not for the purpose of building up any man or men from the common Treasury of us all.

Mr. HARRIS, of Illinois. I do not propose to discuss the amendment. We are wasting the whole day, and spending money enough about this matter to cover the cost of this whole publication. The discussion is being protracted for no practical purpose, but only because gentlemen are disposed to talk. I ask for a vote upon the amendment.

The amendment of Mr. SMITH, of Virginia, was rejected.

The question recurred on agreeing to the Senate amendment as amended.

The committee divided; and the tellers reported—ayes 75, noes 59.

So the amendment as amended was concurred in.

Sixty-third amendment:

SEC. 24. And be it further enacted, That the provisions of the fifth section of the act entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1842," approved the 3d day of March, 1841, and the eighth section of the act entitled "An act making appropriations for certain civil expenses of the Government for the year ending June 30, 1858," approved the 3d day of March, 1857, are hereby construed and declared to direct the Secretary of the Treasury to allow and pay to surveyors of ports performing or having performed the duties of collectors of customs, since the passage of the law last above recited, the same compensation, and no other, as is allowed to collectors for like services.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in that amendment. Unless some gentleman desires it, I will not explain it.

[Cries of "Question!" "Question!"]

Mr. MARSHALL, of Kentucky. I hope the committee will concur in the amendment of the Senate. I think it is based upon justice and equity.

[Cries of "Vote!" and "Question!"]

Mr. J. GLANCY JONES. I do not wish the vote to be taken without an explanation, if there is to be a question raised about the amendment. The act of 1841 provided for certain compensation to be allowed collectors of customs. The act of 1857 put a construction upon that act, and a question has since been raised at the Treasury Department as to what it means. One construction is that the surveyors of ports are to have the same pay that collectors were entitled to under the act of 1841, and the effect of this amendment is to carry out that construction, and to give the surveyors of ports the back pay, back to 1841, which the collectors of ports have been entitled to. That is the explanation.

Mr. STANTON. I wish to inquire whether this is an amendment that would be in order, if offered originally in the House? Whether it does not give a construction of a law, and so would not be in order as an amendment here?

Mr. J. GLANCY JONES. It would not have been in order here. It was put in in the Senate.

Mr. STANTON. Well, I hope the House will not tolerate the practice of amending or construing the laws of the country by senatorial amendments to appropriation bills.

Mr. MARSHALL, of Kentucky. I do not think myself that the amendment will give back pay to any surveyors. It is only prospective.

Mr. J. GLANCY JONES. It goes back seventeen years; that is all.

Mr. SMITH, of Virginia. The language is, "performing or having performed."

Mr. MARSHALL, of Kentucky. I think it is only fair that the surveyors of ports who have performed the duties of collectors should have the pay of collectors, and in order to give the amendment a prospective application only, I move to amend it by striking out the words "or having performed;" anything so as to make it prospective. What I want to get the House to do is to prevent a discrimination against the surveyor who performs the duties of the collector.

Mr. SMITH, of Virginia. Wherever there is no collector it is not because there is no business? and thus what the surveyor does get he gets for nothing.

Mr. MARSHALL, of Kentucky. No, sir; you do not multiply offices, probably, where there is no necessity for it. If at a port where there is but little business, an officer performs the duties which belong properly to a collector, there is no equity in not giving him the same pay exactly.

The amendment was rejected.

Mr. LETCHER. I move to amend by striking out the first six lines of the Senate amendment. As I understand the proposition ingrained upon this bill by the Senate, it is simply this: it goes back to the year 1841, a period of seventeen years, for the purpose of raking up the parties, or, if they are dead, the representatives of the parties, who are to come forward and satisfy the Government that they performed this higher grade of duty, to be entitled to this pay. Sir, many of them must have been settled for sixteen years, and some for a longer period of time. They have been satisfied with the settlement. Men have died satisfied with it. Yet now you propose to introduce this question here, and to bring forward their heirs, who have never expressed discontent or dissatisfaction, in order that all these settlements may be ripped up, that there may be a readjustment of each and all of them, and that the parties may have the increased compensation.

Mr. MARSHALL, of Kentucky. Why, then, will not the gentleman strike out the retrospective operation of the amendment?

Mr. LETCHER. I understand your proposition to strike it out. If it is not to be retrospective, what is the justice of the prospective part of it? Here is a salary fixed by law for each one of this class of officers, and you are proposing that where a party of an inferior class should occupy a higher position for a time, temporary or otherwise, that he shall be allowed that higher grade of pay. The collectors' pay cannot go beyond \$6,000 a year; and you are here to amend the law that a party who takes an inferior office, with a full knowledge of the salary, shall go in, and after he has gone in, you will resort to this mode of legislation to increase his compensation. I ask whether it is right? Is it proper legislation in any sense?

And then, besides, in another point of view, gentlemen on that side of the House have been reading lectures about economy; about multiplying officers; about extra pay; about increased printing, and about every species of extravagance. And let the fact go to the country that there has not been a proposition for increased pay, prospective or retrospective, which has not had at least one half of the other side of the House in favor of it.

Mr. MARSHALL, of Kentucky. Whatever may have been the sense in that matter of this side of the House, I trust that under the song, which the gentleman has sung more than once to the country, the bills which are to pass this House to sustain the operations of the Government will be required to be passed by that side of the House.

Mr. LETCHER. Agreed; but do not load them down when you ask us to pass them.

Mr. MARSHALL, of Kentucky. I have seen and marked the ingenuity of the gentlemen who have charge of these bills to throw upon this side of the House the onus of the passage of everything that is put upon them by the Senate, where the party of the gentleman from Virginia has the majority. I trust that this side of the House, when they come to vote on the bills, will let the Senate amendments down, and let the bills down, unless the gentlemen can sustain them by the force of their own party.

But, the gentleman throws at me the idea that I am in favor of extravagance and increased expenditure because of my support of this proposition. Let the country understand, that when I made the proposition to cut off the retrospective operation of this bill, the gentleman and the other side of the House declined to sustain it. They now say that they will not touch it in its prospective view. Why? You say that it is not fair for a man to be paid at a higher grade no matter what his services may be, who has taken an inferior office. I say then give us collectors. Do not give us only surveyors and compel them

to perform their own duties and the duties of collector beside, and then refuse to compensate them upon the same basis upon which you compensate collectors on the sea-board. What is fair upon the sea-board is fair in the interior. God knows we have not got anything for the interior, and that great interior ought to mark, and I hope it will mark, that in this amendment, although you have bills for custom-houses, bills for fortifications, bills for almost every conceivable project of expenditure upon the sea-board, yet we are to go home at the close of this session of Congress without a dollar for our rivers.

The amendment was rejected.

Mr. QUITMAN. I move the following amendment:

Provided, That nothing herein contained in this section shall have a retroactive effect.

I propose, Mr. Chairman, this amendment to enable me to express my hearty concurrence with the position taken by the gentleman from Ohio [Mr. STANTON] and other gentlemen against the introduction of new and separate legislation into appropriation bills. I will vote against every proposition that may hereafter be interpolated by the Senate as a distinct feature, and which ought to be a separate bill of itself. There are two serious objections to the course which has been pursued. Both are founded upon the demoralizing effects which such legislation must have upon Congress and the country. Persons interested in bills, public or private, which cannot be reached on the Calendar, are induced to go to the Senate and have them tacked as amendments to an appropriation bill, which they know must pass in some form before the end of the session.

It is thus that a sort of force is employed upon the House of Representatives. But the most demoralizing effect of this description of legislation is, that the appropriation bills for the ordinary and necessary expenditures of the country, which, unincumbered with general legislation, would pass Congress notwithstanding the difference and the opposite views of parties, become, by loading such necessary bills with propositions involving political questions, the occasion of creating opposition and difference of opinion between the two Houses of Congress, and thus endanger if not defeat the bill.

Again, by the introduction of this general legislation upon appropriation bills, we are forced to decide between stopping the wheels of the Government by refusing proper legislation, or keeping the wheels in motion by voting for measures which are objectionable and improper. We have a rule for ourselves, a wise rule, that nothing but what is germane to the subject shall be admitted as an amendment to an appropriation bill, and that independent legislation shall not be admitted. We have no control over the action of the Senate. But we have this control: we can reject everything which is not appropriate to the expenditures of the Government in some shape; and this House ought to take some means to stop this legislation in appropriation bills which does look to the expenditures of the Government, and which is altogether foreign to the subject. I hope the House will hereafter set its face against every amendment not pertinent to the bill, however good in the abstract it may be.

Mr. STEVENSON. I think the chairman of the Committee of Ways and Means is mistaken in his observation that this amendment is retroactive, and goes back to March, 1841. I think that the printed copy from which the gentleman reads is not a correct copy of the amendment as it is sent to us from the Senate. A reference to the engrossed bill on the Clerk's desk will sustain my assertion.

Mr. J. GLANCY JONES. I find upon comparison of the copy I had with the engrossed bill, that the word "first," which appeared in the amendment when it was first offered in the Senate, was stricken out, and the word "last," substituted.

Mr. STEVENSON. Then the whole objection to this amendment turns out to be unfounded. The operation of the amendment only goes back a single year, instead of seventeen years, as claimed by the opponents of this measure, and I cannot understand the difference between allowing additional pay to surveyors who perform double duties, and that species of legislation which has marked the action of this House from the moment

we assembled here to the present time, as evidenced in allowing foreign ministers, and everybody else, double pay where they have performed the duties of two offices. Why should surveyors be exempted, and made exceptions to this rule? This amendment contemplates no new construction of the act, and asks no appropriation. The courts of the United States have given the same construction to this act which is proposed by this amendment. The surveyor of Mobile performed the duties of collector, and claimed increased compensation, under an amendment similar to the present, and which was attached to the civil appropriation bill approved the 2d of March, 1857. The Secretary of the Treasury refused to allow it, and directed suit to be brought. He pleaded this law, claiming compensation as collector, and the courts sustained him, defeating the Government of the United States. The Secretary of the Treasury should be bound by this decision. He refuses, however, to do so; and alleges as an excuse for refusing to give a just and legitimate construction to this statute, the present exhausted condition of the Treasury.

Mr. STANTON. Let me inquire of the gentleman what necessity there is for legislation if the courts of the United States have recognized that construction?

Mr. STEVENSON. Just for the simple reason that neither the gentleman nor myself, nor any one of a high sense of honor, would desire to have a suit instituted against them for an alleged balance of public money, and thus be decried as public defaulters by the public press, even though it might be decided that the amount retained was properly withheld as due for official compensation. Let the gentleman from Ohio look at a citizen of his own State, formerly a collector at San Francisco, (Mr. Collier,) who, in the adjustment of his accounts, claimed certain credits from the Government. How was he treated? He was denounced as a defaulter from one end of the Union to the other; and his character attempted to be blackened because he simply dared to claim what was afterwards judicially decided was justly due him. I would pass this amendment, because the Secretary of the Treasury chooses to put an unauthorized arbitrary construction upon this law; and, instead of effectuating its purpose, says to the surveyors: "Although I know you could recover your claim in a court of justice, yet I will not allow it;" and thus, by a threatened suit, force a public officer to submit to an improper construction of this act rather than to permit the newspapers to proclaim him a defaulter. That was the case in reference to the collector at Mobile, who was sued. It is to avoid this course of proceeding that we desire to place this construction upon the act, legislatively, in order that the Secretary of the Treasury shall acquiesce. As for the state of the finances, if the Government is in debt, let her repudiate if she chooses to do so, or borrow the money to pay what is justly due her public officers.

I may say here that there are but four or five surveyors who would be benefited by this amendment—one at Mobile, one at Cincinnati, one at Louisville, and one at St. Louis, are all who could claim the benefit of the amendment. This act is so worded as not to extend beyond March, 1857.

Mr. QUITMAN. When a law is passed construing a prior law, as this does the act of 1841, does not the construction placed by Congress upon the prior law refer back to the date of its passage, and would not this apply to the act of 1841, as from the date of its passage?

Mr. STEVENSON. I think a uniform construction ought to be placed upon all laws, and our only safety against oppression is, in a uniform, as well as a correct construction of statutes. But if the Secretary chooses to disregard that uniform construction upon the plea that the Treasury is embarrassed, he brings injustice, as well as inequality of construction to bear against all for whose benefit the statutes were passed. The objection of the gentleman from Mississippi is obviated by the express limitation of the amendment to 3d of March, 1857, and it could not have a more enlarged operation.

[Here the hammer fell.]

Mr. QUITMAN, by unanimous consent, withdrew his amendment.

Mr. JONES, of Tennessee. I move to strike

out the words "An act making appropriations for the civil and diplomatic expenses of the Government," &c. It appears to me, to use an old simile, that there is a cat under this moral. There are a good many ports throughout the country, which are ports of delivery. I am certain that there is but one port and one collector's district in all the Mississippi valley; two, at the utmost: one at New Orleans and one at St. Louis. The other ports of delivery, Natchez, Vicksburg, Memphis, Paducah, Nashville, Louisville, Cincinnati, and other places, have surveyors. This provision is intended, it seems to me, without providing expressly for it, to make collectors at every one of these places. If that is the intention, why is it not made plain and intelligible, instead of saying that where the surveyor performs the duty of a collector he shall have the salary of a collector? I suppose, sir, that that clause, making these officers surveyors at those ports of delivery, was made on deliberation; that it was done understandingly; and if it is found that they do not answer the purpose, and that there must be a higher grade of officers there, let us say so, in so many words, in the law. Take the surveyor at any one of these ports; whenever duties are paid there, they are, of course, paid to him, and then he is performing the duties of a collector, and, consequently, would be put by this amendment under the effect of the law regulating the compensation of collectors. Sir, if that be the correct reading of this Senate proposition, and I doubt not it is, it should be repudiated by this House.

Mr. MASON. I did not understand my colleague exactly as to the necessity of increasing the compensation of the surveyor of the port of Louisville; and I suppose all others are on about the same principle. One thing I do know: that, at the present compensation, that office has made a terrible commotion in the Democratic family; and if you double it, I hardly know what will become of my friends in that region of country. I had a great deal of trouble in reconciling them for one incumbent of that office being removed; but if you double the compensation, and remove the person now holding the office, I am afraid you will break up the party. I hope, for the benefit of the social intercourse of friends in that quarter, the Senate amendment will not be concurred in.

The question was taken on Mr. JONES's amendment to the amendment, and it was not agreed to.

Mr. JOHN COCHRANE. I move to amend the amendment by striking out the words "saine compensation and no other."

Mr. Chairman, I desire to submit a few words in respect to the Senate amendment, which I deem to be disadvantageous to the interests of the country, and the administration of its revenues. There are ports of entry and ports of delivery. To the ports of entry are attached collectors, surveyors, and naval officers. In the ports of delivery there are surveyors. The distinction between these ports is, that in the one set, the ports of entry, revenue is collected; in the other, there is none collected. The distinction prevailed till the warehouse system was adopted. After its adoption goods were brought from ports of entry in bond to ports of delivery. All assignments were made, however, at the ports of entry. All duties were assessed at these ports; and all the labor of assessing them performed there by the collectors and officers under them. And now, at this time, under the same system, the duties are assessed at ports of entry, the goods being carried forward in bond to the ports of delivery. The surveyor there collects the duties that have been assessed at the port of entry. That is the sum and substance of the labor required from him under the present law. This Senate amendment gives to the surveyor the compensation of a collector, because of the duties collected by him at the port of delivery by virtue of the labor performed in assessment by the collector at the port of entry.

If that explanation be clear, then, according to this amendment, the surveyor at the port of delivery is to receive compensation for performing nominally the services of collector at the port of delivery, which the collector at the port of entry had already performed. I deem, therefore, that my amendment is a just one.

Mr. LEITCHER. I want to inquire of the gentleman from Kentucky, who seems to be pretty well posted on this subject, how many ports of

delivery there are which will be embraced by this section?

Mr. MARSHALL, of Kentucky. I do not know how many ports of delivery there are embraced by this section; but I suppose it will embrace all that exist throughout the interior.

Mr. JOHN COCHRANE. There are about two hundred ports of delivery in the United States; and in about seventy of these there are surveyors.

Mr. MARSHALL, of Kentucky. I advocate the amendment because it is just to remunerate men in the same manner for performing the same service.

Mr. LETCHER. Then there are seventy ports to which this will apply, where the duties of collector are performed by the surveyor: in other words, where duties are paid on goods delivered at those ports. Now, the result will be, that you add \$3,000 to each one of these seventy salaries. That is a pretty round sum to begin with under the operation of this thing. Then, I suppose you will go on scaling down, and if anybody else below the surveyor happens to perform a little extra duty, he is to be paid for it also; and we will have to work it up and down in that way on a sliding scale; and according as one man happens to do another man's work, he is to be paid that other's compensation.

Mr. MARSHALL, of Kentucky. If, as my colleague [Mr. STEVENSON] remarked, the Supreme Court of the United States decided—in the case of the Mobile surveyor—that, under the proper construction of this law, the surveyor is entitled to the compensation of the collector, is it proper in the gentleman from Virginia to leave the law to operate under the arbitrary construction of the Secretary of the Treasury, instead of giving, by law, to the Secretary of the Treasury the direction to pursue the adjudication of the court?

Mr. LETCHER. Whatever right has accrued under the law passed last year, survives to the party; and no legislation of ours can destroy that right. That is a clearly settled principle. But, if a bad law was passed last year, let us repeal it now; so that, in future, there may be nothing more of this sort under it.

Mr. JOHN COCHRANE withdrew his amendment.

The question was taken on the Senate amendment; and it was not concurred in.

Sixty-fourth amendment:

SEC. 25. *And he it further enacted, That all diplomatic and consular officers who were appointed under an act entitled "An act to remodel the diplomatic and consular systems of the United States," approved March 1, 1855, shall have the same compensation during the time necessarily occupied in making the transit to and returning from their respective posts, and while they were receiving their instructions, as is provided for diplomatic and consular officers in the eighth section of the act entitled "An act to regulate the diplomatic and consular systems of the United States," approved August 18, 1856: *Provided*, That the foregoing shall not be considered to apply to any diplomatic or consular officer who was in office and at his post of duty when said act, approved March 1, 1855, took effect, except to allow compensation to such officers during the time necessarily occupied in returning from their respective posts.*

Mr. J. GLANCY JONES. By the act of 1855 no compensation was allowed to these officers, except from the time they reached their places of destination until they left their posts. By the act of 1856 they are allowed sufficient time to receive their instructions and travel to and from their places of destination, provided the same should not exceed thirty days. It so happened that some appointments were made prior to the passage of the act of 1856; but the appointees did not reach their places of destination until after the act of 1856 took effect. The design of this amendment is to allow those officers who were appointed after the passage of the act of 1855, and prior to the act of 1856, to receive the benefit of that act; and it is limited to those who had not reached their posts before the act of 1856 was passed. I will state to the committee that it applies to but two cases—the Minister to Mexico, and the Consul at Dublin. They were appointed after the passage of the act of 1855, but did not reach their posts until after the passage of the act of 1856, and the Senate deemed it only an act of justice to those officers to give them the benefits of the act of 1856.

Mr. MARSHALL, of Kentucky. I should like to know how the gentleman makes a discrimination between the philosophy on which he

now proposes to legislate, and the philosophy on which he proposed to legislate on the last amendment? These men received their appointments to office under one law, and he now proposes to compensate them under another law. If the gentleman's rule is good for surveyors of ports, it is good for diplomatic and consular officers also.

Mr. J. GLANCY JONES. There is a very great distinction between the two. The last amendment proposed to give one class of officers the salary of another class of officers. This proposition is to put foreign ministers and consuls on an equality.

Mr. MARSHALL, of Kentucky. It operates to change the law.

Mr. STANTON. It is a very clear case of general legislation in an appropriation bill, and I am very sorry that the Committee of Ways and Means has compromised the dignity of the House by recommending the adoption of an amendment which would not be in order under the rules of the House. I trust the committee will reject it.

The question was taken, and the amendment of the Senate was non-concurred in.

Mr. J. GLANCY JONES. I move that the committee rise, and report the amendments to the House, with a view to immediate action upon them.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. PHELPS, of Missouri, reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the amendments of the Senate to the bill of the House making appropriations for sundry civil expenses of Government for the year ending June 30, 1859, and had directed him to report the same back with a recommendation that some of them be concurred in, that others be concurred in with amendments, and that others be non-concurred in.

Mr. J. GLANCY JONES. I move the previous question on the amendments.

Mr. REAGAN. Will amendments which were offered in committee be now considered in the House?

The SPEAKER. Only such as were adopted by the committee, and have been reported to the House.

Mr. REAGAN. I hope the gentleman from Pennsylvania will allow me to offer an amendment to the amendment in reference to the publication of the State Papers, to strike out "two thousand," and insert "one thousand."

Mr. J. GLANCY JONES. I must insist upon the previous question.

The previous question was seconded, and the main question ordered.

The action of the Committee of the Whole on the state of the Union on the amendments of the Senate was concurred in without division, except in the cases noted below:

Seventeenth amendment:

For continuing the work on the custom-house at New Orleans, Louisiana, \$350,000.

Mr. STANTON. There are several amendments for custom-houses, and we might as well take the vote on them together.

Mr. LEITER. It includes almost every district in the country except my own; and if the vote be taken on them at once, I will perhaps be the only disinterested member. I want a separate vote on each amendment. Let each one stand upon its own merits.

Several MEMBERS. Oh, no! Let us have one vote on them.

Mr. J. GLANCY JONES. Will the gentleman vote for them, or any one of them?

Mr. LEITER. I cannot vote for one of them.

Mr. GROW. I hope, then, that the gentleman will not call for separate votes on these amendments, and thus consume hours, when one vote will do as well.

Mr. LEITER. As there seems to be a general disposition to have a vote on all of these amendments in gross, I withdraw my objection to that course, protesting against this entire series of appropriations.

Mr. SICKLES. I renew the objection; and demand the yeas and nays on the seventeenth amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 54, nays 91; as follows:

YEAS—Messrs. Andrews, Arnold, Billingshurst, Bingham, Blair, Bonham, Bowie, Brayton, Burlingame, Chaffee, Horace F. Clark, Clawson, Clay, John Cochrane, Comins, Cragin, Curtis, Davidson, Davis of Massachusetts, Davis of Iowa, Dean, Durfee, Eustis, Florence, Foster, Gilman, Gilmer, Goodwin, Groesbeck, Robert B. Hall, Horton, Howard, Huyler, Keitt, Knapp, McQueen, Miles, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Pendleton, William W. Phelps, Scott, Aaron Shaw, Judson W. Sherman, Shorter, Stallworth, Miles Taylor, Wade, Ellihu B. Washburne, Israel Washburn, Wood, and Wortendyke—54.

NAYS—Messrs. Atkins, Barksdale, Bennett, Bocoek, Boyce, Branch, Buffinton, Burns, Caskie, Cavanaugh, Ezra Clark, John B. Clark, Clemens, Cobb, Clark B. Cochrane, Colfax, Corning, James Craig, Burton, Craige, Crawford, Curry, Davis of Indiana, Davis of Mississippi, Dewart, Edmundson, Elliott, Faulkner, Fenton, Foley, Garnett, Gartrell, Giddings, Grainger, Gregg, Grow, Lawrence W. Hall, Harlan, Thomas L. Harris, Haskin, Hill, Hoard, Hopkins, Houston, Hughes, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kellogg, Kelsey, Jacob M. Kunkel, John C. Kunkel, Leidy, Leiter, Fletcher, Lovejoy, Mason, Matteson, Isaac N. Morris, Mott, Murray, Niblack, Nichols, Peyton, Powell, Quitman, Ready, Reagan, Roberts, Royce, Ruffin, Russell, Savage, Scales, Henry M. Shaw, Sickles, Singleton, Spinner, Stanton, Stevenson, William Stewart, Talbot, Tompkins, Underwood, Walbridge, Walton, White, Whiteley, Winslow, John V. Wright, and Zollcoffer—91.

So the amendment was non-concurred in.

Pending the call of the roll,

Mr. ENGLISH stated that he was not within bar when his name was called; but if he had been, he would have voted to non-concur.

Mr. MAYNARD would have voted in the affirmative, to concur.

Mr. DAVIS, of Mississippi, said: Mr. Speaker, I have voted in the affirmative in order that we might complete a work already begun; but as the vote indicates that there is a majority here against it, and as there are still many other like appropriations to be taken up, and I may be put right upon the record, I vote "no," as I intend to vote against all of those appropriations.

Mr. FLORENCE said that, believing it would be a wise economy to finish the work, he would vote "ay."

Mr. TAYLOR, of Louisiana, said: As it seems to me to be the habit of gentlemen to make a declaration before voting of their reasons and intentions, I will say that I voted "ay" because I think it right to complete works already begun, and that I shall vote "ay" to the end of the chapter.

Mr. BARKSDALE. I object to any further explanations. These amendments have already been thoroughly discussed.

Mr. CURTIS. For reasons others have given, I vote "ay."

The result was then announced as before stated.

Eighteenth amendment:

For continuing the work on the custom-house at Charleston, South Carolina, \$300,000.

Mr. MILES demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 46, nays 76; as follows:

YEAS—Messrs. Andrews, Arnold, Billingshurst, Bishop, Blair, Bonham, Bowie, Brayton, Bryan, Clawson, Clay, John Cochrane, Curtis, Davidson, Dean, Eustis, Florence, Foster, Gilman, Gilmer, Goodwin, Groesbeck, Robert B. Hall, Horton, Howard, Huyler, Keitt, Jacob M. Kunkel, Landy, McQueen, Maynard, Miles, Morgan, Morrill, Freeman H. Morse, Pendleton, William W. Phelps, Aaron Shaw, Judson W. Sherman, Shorter, Stallworth, Miles Taylor, Ward, Ellihu B. Washburn, Wood, and Wortendyke—46.

NAYS—Messrs. Abbott, Atkins, Bennett, Bingham, Bocoek, Branch, Buffinton, Burns, Caskie, John B. Clark, Clemens, Cobb, Clark B. Cochrane, Cockerill, Covode, Cox, James Craig, Burton, Craige, Crawford, Curry, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dewart, Edmundson, Elliott, English, Fenton, Foley, Garnett, Gartrell, Goode, Gregg, Grow, Lawrence W. Hall, Harlan, Thomas L. Harris, Hopkins, Houston, Hughes, Jewett, George W. Jones, J. Glancy Jones, Kellogg, Kelsey, Leiter, Fletcher, Lovejoy, Mason, Matteson, Isaac N. Morris, Mott, Murray, Niblack, Peyton, Powell, Quitman, Reagan, Royce, Ruffin, Russell, Savage, Scales, Henry M. Shaw, John Sherman, Sickles, Singleton, Stevenson, Talbot, Tompkins, Underwood, Walbridge, Waldron, John V. Wright, and Zollcoffer—76.

So the amendment was non-concurred in.

Pending the above vote,

Mr. EDMUNDSON stated that his colleague, Mr. SMITH, had paired off with Mr. RICAUD.

Mr. CURRY stated that his colleague, Mr. MOORE, was still detained at his room by illness. The vote was then announced as above reported.

Nineteenth amendment:

For the completion of custom-houses at the following

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places, namely: at Ellsworth, Maine, \$2,000; at Portsmouth, New Hampshire, \$50,000; at Bristol, Rhode Island, including fencing and grading, \$5,000; at New Haven, Connecticut, \$60,000; at Oswego, New York, \$10,000; at Plattsburg, New York, \$10,000; at Newark, New Jersey, \$10,000; at Norfolk, Virginia, \$20,000; at Pensacola, Florida, \$5,000; at St. Louis, Missouri, \$30,000; at Mobile, Alabama, including fencing and paving, \$30,000; at Galena, Illinois, \$10,000; at Milwaukee, Wisconsin, \$10,000; and for annual repairs at custom-houses, \$15,000.

THE SPEAKER. The Committee of the Whole on the state of the Union recommend that the amendment be concurred in.

Mr. GILMAN demanded the yeas and nays.

Mr. WASHBURN, of Illinois. I am as much interested in this amendment as others, and I hope that the yeas and nays will not be called, but that it will be allowed to take its chance with the others.

Mr. GILMAN withdrew the demand for the yeas and nays.

Mr. MASON renewed the demand.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 50, nays 73; as follows:

YEAS—Messrs. Andrews, Arnold, Bennett, Billingham, Bishop, Blair, Bowie, Brayton, Buffinton, Burlingame, Chaffee, John B. Clark, Clawson, Clay, Cockerill, Comins, Covode, Cox, Curtis, Davis of Massachusetts, Dean, Dodd, Florence, Foster, Gilman, Goodwin, Groesbeck, Horton, Howard, Huyler, Keitt, Landy, Humphrey Marshall, Maynard, Miles, Morgan, Morrill, Freeman H. Morse, Pendleton, Potter, Robbins, Royce, Judson W. Sherman, Stallworth, Miles Taylor, Ward, Ellihu B. Washburne, Israel Washburn, Wood, and Wortendyke—50.

NAYS—Messrs. Atkins, Barksdale, Boeck, Bonham, Boyce, Branch, Burns, Case, Caskie, Cobb, Clark B. Cochran, Cockerill, Corning, James Craig, Burton Craige, Crawford, Curry, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Dewart, Edmundson, Elliott, English, Faulkner, Foley, Garnett, Gartrell, Giddings, Goode, Gregg, Lawrence W. Hall, Harlan, Thomas L. Harris, Hopkins, Houston, Hughes, George W. Jones, J. Glancy Jones, Kellogg, Kelsey, Leiter, Letcher, Lovejoy, McQueen, Mason, Matteson, Mott, Murray, Niblack, Nichols, Peyton, Powell, Quitman, Reagan, Ruffin, Savage, Seales, Henry M. Shaw, John Sherman, Sickles, Singleton, Spinner, Stanton, Stevenson, Talbot, Tompkins, Underwood, Walbridge, Waldron, John V. Wright, and Zollicoffer—73.

So the amendment was not concurred in.

Pending the call,

Mr. JEWETT stated that he was not within the bar when his name was called, and that if he had been he would have voted in the negative.

On motion of Mr. COX, the reading of the list was dispensed with.

The vote was then announced as above reported.

Twentieth amendment:

For the completion of marine hospitals at the following places, namely: At Portland, Maine, \$3,000; at St. Mark's, Florida, \$2,500; at New Orleans, Louisiana, including filling up site, grading, introducing gas, and water pipes, and fixtures, and fencing, \$85,000; at Cincinnati, Ohio, \$50,000; at Galena, Illinois, \$5,000; and for annual repairs at marine hospitals, \$15,000.

THE SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence in the amendment.

Mr. GROESBECK demanded the yeas and nays, but subsequently withdrew the demand.

The amendment was not concurred in.

Twenty-first amendment:

For fencing, grading, paving, and furnishing the custom-houses at the following places, namely: At Ellsworth, Maine, \$3,000; at Bath, Maine, (for furniture alone), \$1,100; at Burlington, Vermont, \$4,600; at New Haven, Connecticut, \$8,500; at Oswego, New York, \$7,300; at Plattsburg, New York, \$9,900; at Newark, New Jersey, \$5,200; at Alexandria, Virginia, \$3,700; at Norfolk, Virginia, \$12,000; at Mobile, Alabama, (for furniture alone), \$2,600; at Pensacola, Florida, \$2,500; at St. Louis, Missouri, \$14,600; at Louisville, Kentucky, \$3,900; at Cleveland, Ohio, \$7,100; at Galena, Illinois, \$3,700; at Milwaukee, Wisconsin, \$7,700.

THE SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence in the amendment.

Mr. SAVAGE demanded the yeas and nays.

The yeas and nays were not ordered.

The amendment was not concurred in.

Twenty-second amendment:

For fencing, grading, paving, and furnishing the marine hospitals at the following places, namely: at Burlington, Vermont, \$3,400; at Chelsea, Massachusetts, (out-buildings, grading, and fencing,) \$19,700; at St. Mark's, Florida,

\$1,200; at Detroit, Michigan, \$7,500; at Galena, Illinois, \$3,800; at Burlington, Iowa, \$4,100.

THE SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence.

The amendment was not concurred in.

Twenty-third amendment:

To enable the Library Committee to complete the payment for a series of portraits of the Presidents of the United States, contracted for under authority of Congress, and for framing the same, \$5,000.

THE SPEAKER. The committee recommend a concurrence.

The amendment was not concurred in.

Thirty-second amendment:

For satisfying the claims of the States of Maine and Massachusetts, under the stipulations of the treaty between the United States and Great Britain, concluded on the 9th day of August, in the year 1842, a sum not exceeding \$11,496 81, in satisfaction of such claims of the State of Maine, and \$9,215 13, in satisfaction of like claims of the State of Massachusetts, to be audited by the proper accounting officer of the Treasury.

THE SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence in the amendment.

Mr. JONES, of Tennessee demanded the yeas and nays.

The House divided; and there were—ayes 22, noes 95; not a sufficient number.

Mr. JONES, of Tennessee demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. GARNETT and BUFFINTON were appointed.

The House divided; and the tellers reported ayes thirty-four—a sufficient number; so the yeas and nays were ordered.

Mr. LETCHER. Can the amendment be divided?

THE SPEAKER. It cannot; it must be voted on as a whole.

Mr. LETCHER. I wish to vote for the portion for Massachusetts, but against the portion for Maine.

The question was taken; and it was decided in the affirmative—yeas 92, nays 44; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Bishop, Blair, Brayton, Buffinton, Burlingame, Case, Cavanaugh, Chaffee, Clawson, Clay, Clements, John Cochran, Cockerill, Colfax, Comins, Corning, Covode, Cragin, James Craig, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dimmick, Dodd, Edie, Fenton, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Harlan, Thomas L. Harris, Haskin, Hoard, Horton, Howard, Huyler, Kellogg, Kelsey, Knapp, Landy, Leiter, Lovejoy, Matteson, Maynard, Morgan, Morrill, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Parker, Pettit, William W. Phelps, Pike, Potter, Pottle, Judson W. Sherman, Sickles, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Underwood, Wade, Walbridge, Waldron, Ward, Ellihu B. Washburne, Israel Washburn, Wood, Woodson, and Wortendyke—92.

NAYS—Messrs. Atkins, Branch, Bryan, Burnett, Burns, Cobb, Davis of Mississippi, Dewart, Edmundson, Elliott, English, Faulkner, Foley, Garnett, Gartrell, Goode, Gregg, Hopkins, Houston, Hughes, Kelly, Letcher, Maciny, McQueen, Millson, Niblack, Peyton, Phillips, Powell, Quitman, Reagan, Ruffin, Sandidge, Savage, Seales, Henry M. Shaw, Stallworth, Stevenson, Talbot, Winslow, and John V. Wright—44.

So the amendment was concurred in.

After the announcement of the above vote, Mr. FLORENCE asked leave to vote. He was in the Hall, but his name inadvertently was not recorded.

Objection was made.

Mr. FLORENCE. Stated that he would have voted in the affirmative.

Forty-eighth amendment:

SEC. 9. And be it further enacted, That the proper accounting officers of the Treasury be authorized and directed to examine the accounts between the United States and the several States, which have been or may be allowed interest upon claims against the United States, which have accrued during or since the war of 1812 with Great Britain, and apply, in such examination, the provisions and principles of the 12th section of the act of March 3d, 1857, entitled an act making appropriations for certain civil expenses of the Government, for the year ending the 30th of June, 1858; and that any money found, upon such examination, to be due any State, shall be paid to such State out of any money in the Treasury not otherwise appropriated.

THE SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence

in that amendment, with the following amendment in the nature of a substitute:

That the Secretary of the Treasury be instructed to report to Congress at its next regular session the applications made by the constituted authorities of the States and cities for the reopening and reexamination of the settlements heretofore made with such States and cities, and report the principle of readjustment upon which such claim is based, and the amount thereof; and the Secretary of the Treasury is further instructed to report to Congress at its next session the gross amount which will be required to pay such claims to the States and cities of the United States.

Mr. MAYNARD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 97, nays 63; as follows:

YEAS—Messrs. Adrain, Atkins, Avery, Barksdale, Bishop, Bowie, Branch, Bryan, Burnett, Burns, Caskie, John B. Clark, Clay, Clements, Cobb, John Cochran, Cockerill, Corning, James Craig, Crawford, Curry, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Foley, Garnett, Gartrell, Gilman, Gilmer, Goodwin, Gregg, Groesbeck, Grow, Harlan, Thomas L. Harris, Hopkins, Houston, Hughes, Huyler, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, Leiter, Letcher, MacLay, Humphrey Marshall, Mason, Millson, Morrill, Isaac N. Morris, Mott, Murray, Niblack, Nichols, Peyton, William W. Phelps, Phillips, Powell, Quitman, Ready, Reagan, Ritchie, Royce, Ruffin, Russell, Savage, Seales, Searing, Aaron Shaw, Henry M. Shaw, John Sherman, Sickles, Spinner, Stallworth, Stanton, Stevenson, Talbot, Miles Taylor, Underwood, Wade, Waldron, Ward, Whiteley, Winslow, Woodson, John V. Wright, and Zollicoffer—97.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingham, Burlingame, Blair, Brayton, Buffinton, Burlingame, Case, Cavanaugh, Chaffee, Ezra Clark, Clawson, Colfax, Comins, Covode, Cragin, Curtis, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Fenton, Foster, Gilman, Gooch, Granger, J. Morrison Harris, Hoard, Horton, Howard, Kellogg, Kelsey, Knapp, Lovejoy, McQueen, Matteson, Maynard, Morgan, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Parker, Pettit, Pike, Potter, Pottle, Purviance, Robbins, Roberts, Sandidge, Judson W. Sherman, William Stewart, Tappan, Thayer, Tompkins, Walton, Ellihu B. Washburne, Israel Washburn, and Wood—63.

So the amendment was adopted.

Pending the call of the roll,

Mr. BOCKOCK stated that he had paired off with Mr. Boyce, and that the latter would have voted for this amendment, and against the other, while he was of a contrary opinion.

Mr. WILSON stated that he had paired off with Mr. ANDERSON.

Mr. WORTENDYKE stated that he was not within the bar when his name was called, and that if he had been, he would have voted in the negative.

The vote was then announced, as above reported.

Fiftieth amendment:

SEC. 11. And be it further enacted, That the proper accounting officers of the Treasury be directed to ascertain as among the expenditures of the State of Maine in defending the territory heretofore in dispute with Great Britain, the amounts paid in borrowing money for these expenditures beyond the rate of six per centum per annum, whether in the form of discounts or otherwise, in all cases in which the principal of such expenditures and interest upon them, at the rate of six per centum, have heretofore been refunded to said State by the United States, and that the Secretary of the Treasury be directed to pay the amounts so ascertained out of any moneys in the Treasury not otherwise appropriated, or to any properly authorized officer of said State. In making the ascertainment herein directed, the accounting officers shall compute the principal and interest of the difference between the cash received by Maine in negotiating stocks and notes, and the nominal amount of such stocks and notes, and the interest accrued thereon; and in cases where Maine was obliged upon negotiating for money to increase the rate of interest on previous loans, the amount of such increase shall be paid and allowed, but not so as to reckon interest upon interest.

THE SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence in that amendment.

The House divided; and there were—ayes 91, noes 32.

Mr. LETCHER demanded the yeas and nays.

Mr. GARNETT demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. GARNETT and DEAN were appointed.

The House divided; and the tellers reported—ayes thirty-four; more than one fifth of those present.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 92, nays 63; as follows:

YEAS—Messrs. Abbott, Adrain, Andrews, Bennett, Billingham, Bingham, Blair, Brayton, Buffinton, Burlingame, Case, Cavanaugh, Chaffee, Ezra Clark, Clawson, Clemens, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Durfee, Edie, Fenton, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Harlan, J. Morrison Harris, Haskin, Hoard, Horton, Howard, Hughes, Huyler, Kellogg, Kelsey, Knapp, Leiter, Lovejoy, Humphrey Marshall, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Parker, Pettit, Potter, Pottle, Purviance, Ready, Ritchie, Robbins, Roberts, Royce, Russell, John Sherman, Judson W. Sherman, Sickles, Spinner, Stanton, William Stewart, Tappan, George Taylor, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Elihu B. Washburne, Israel Washburn, and Wood—92.

NAYS—Messrs. Atkins, Barksdale, Bishop, Bocoek, Bowie, Branch, Bryan, Burns, Caskie, John B. Clark, Clay, Cobb, John Cochrane, Cockrell, Corning, Curry, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, English, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Goode, Gregg, Groesbeck, Thomas L. Harris, Houston, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, Landy, Leitcher, MacLay, Mason, Millson, Niblack, Peyton, Phillips, Powell, Quitman, Reagan, Reilly, Ruffin, Sandidge, Savage, Seales, Searing, Aaron Shaw, Henry M. Shaw, Stallworth, Stephens, Stevenson, Talbot, Miles Taylor, Ward, White, Whiteley, Woodson, Wortendyke, John V. Wright, and Zollcoffer—69.

So the amendment was concurred in.

Pending the call of the roll, Mr. ELLIOTT stated that if he had been present when his name was called he would have voted in the negative.

Mr. WASHBURN, of Maine, so soon as the vote was announced, moved to reconsider the vote concurring in the amendment; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Fifty-seventh amendment:

Sec. 18. And be it further enacted, That the collectors of customs in the several collection districts be, and they are hereby and hereafter, required to act as disbursing agents for the payment of all moneys that are or may hereafter be appropriated for the construction of custom-houses, court-houses, post offices, and marine hospitals, with such compensation, not exceeding one fourth of one per cent., as the Secretary of the Treasury may deem equitable and just: And provided further, That where there is no collector at the place of location of any public work herein specified, the superintendent of such public work shall act as disbursing agent without any additional compensation therefor, and all laws, and parts of laws, in conflict with the provisions of this section, be, and the same are hereby, repealed.

The SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence in the amendment.

Mr. HUGHES. I ask the unanimous consent of the House to be permitted to offer an amendment.

Mr. JONES, of Tennessee. Let us hear what it is.

Objection was made.

Mr. HUGHES demanded the yeas and nays on the motion to concur.

The yeas and nays were not ordered.

The amendment was concurred in.

Sixty-second amendment:

And be it further enacted, That the Secretary of the Senate and Clerk of the House of Representatives, be, and they are hereby, directed to continue down to the 4th of March, 1859, the compilation of the congressional documents, published by Congress under the name of "the American State Papers," in the same manner as the first series thereof, under the authority of the act of Congress of March 2, 1831, and the joint resolution of Congress of March 2, 1833, and with the same particular index to each class and general index to the work; and the said Secretary and Clerk are hereby directed to contract with Gales and Seaton, the publishers of the first series thereof, for publishing the same, not to exceed two thousand copies in number, at a price per volume not exceeding that paid for the first series, to be delivered to the Secretary of the Interior as the same may be published; and the said Secretary of the Interior shall place three hundred copies in the Department of State for its use, and for exchange with foreign Governments; and seven hundred copies in his own Department for distribution to the public libraries in the several States and Territories, and to hold the residue of the copies in his custody, subject to the further direction of Congress: Provided, That the prices or rates to be paid for the printing of this work shall not exceed those paid at present for the printing of the documents of Congress, including paper and binding, having regard to the quality and value of the material used and work done.

The SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence, with the following amendment:

Provided further, That the cost of the publication shall not exceed three hundred and forty thousand dollars, and that no more than twenty-five thousand dollars shall be required for the purpose during the next fiscal year.

Mr. HUGHES. I move to lay the amendment upon the table.

Mr. CLEMENS. Does the gentleman desire to carry the bill and all the amendments there?

Mr. HUGHES. I do; and that is the reason I make the motion. I demand tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

The motion to lay upon the table was rejected.

The amendment of the Committee of the Whole on the state of the Union was adopted.

The question then recurred on concurring in the amendment of the Senate as amended.

Mr. LETCHER demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken, and it was decided in the affirmative—yeas 86, nays 79; as follows:

YEAS—Messrs. Andrews, Bingham, Bowie, Brayton, Burlingame, Case, Cavanaugh, Chaffee, Clawson, Clay, Clark B. Cochrane, John Cochrane, Comins, Covode, Cragin, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dodd, Durfee, Edie, Florence, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Harlan, J. Morrison Harris, Thomas L. Harris, Horton, Howard, Kelsey, Kilgore, Knapp, Jacob M. Kunkel, Landy, Leiter, Lovejoy, Humphrey Marshall, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Mott, Murray, Niblack, Nichols, Palmer, Parker, Pettit, William W. Phelps, Phillips, Potter, Pottle, Ricard, Robbins, Roberts, Royce, Russell, Scott, Aaron Shaw, Judson W. Sherman, Stanton, Stephens, Stevenson, William Stewart, Talbot, Tappan, Underwood, Wade, Walbridge, Walton, Ward, Elihu B. Washburne, Israel Washburn, White, Whiteley, Wood, Augustus R. Wright, and Zollcoffer—86.

NAYS—Messrs. Abbott, Adrain, Arnold, Atkins, Barksdale, Bennett, Billingham, Blair, Bocoek, Bryan, Buffinton, Burnett, Burns, Caskie, Ezra Clark, John B. Clark, Clemens, Cobb, Cockrell, Colfax, Corning, James Craig, Crawford, Curry, Davis of Indiana, Davis of Mississippi, Dean, Dewart, Dowdell, Elliott, Fenton, Foley, Foster, Garnett, Gartrell, Gillis, Goode, Gregg, Haskin, Hoard, Hopkins, Houston, Hughes, Huyler, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kellogg, Kelly, Leitcher, MacLay, Mason, Millson, Isaac N. Morris, Peyton, John S. Phelps, Pike, Purviance, Quitman, Ready, Reagan, Ritchie, Ruffin, Sandidge, Savage, Seales, Searing, Sickles, William Smith, Spinner, Stallworth, George Taylor, Miles Taylor, Thayer, Tompkins, Waldron, Wortendyke, and John V. Wright—79.

So the Senate amendment, as amended, was concurred in.

Pending the call of the roll,

Mr. BOCOCK stated that Mr. Boyce and Mr. Miles had paired off—that the latter would have voted against the amendment, and the former for it.

Mr. CURTIS stated that he had paired off with Mr. McQUEEN. Mr. McQUEEN would have voted in the negative, and he would have voted in the affirmative.

Mr. ENGLISH stated that he had paired off with Mr. KEITT.

Mr. PENDLETON stated that if he had been within the bar when his name was called he would have voted in the negative.

The vote was then announced, as above reported.

Mr. SMITH, of Virginia. Is it in order to move a reconsideration of that vote now?

The SPEAKER. It is.

Mr. SMITH, of Virginia. I will make that motion, if there be no objection.

The SPEAKER. Did the gentleman vote in the affirmative?

Mr. SMITH, of Virginia. I did not. I hope some member who did will move a reconsideration.

Mr. STANTON. I make that motion, and also move that the motion to reconsider be laid upon the table.

Mr. CLEMENS demanded the yeas and nays. The yeas and nays were ordered.

Mr. STANTON withdrew his motion.

Mr. SMITH, of Virginia. I move that the House adjourn, and demand the yeas and nays on that motion.

The yeas and nays were not ordered.

The House refused to adjourn.

Mr. STEPHENS, of Georgia, moved to reconsider the vote concurring in the Senate amendment as amended; and also moved to lay the motion to reconsider upon the table.

Mr. CLEMENS demanded the yeas and nays.

Mr. JONES, of Tennessee. Will it not be in order to move to lay the bill and amendment upon the table?

The SPEAKER. A motion to lay the amendment upon the table is in order, and that motion, if agreed to, will carry the bill with it.

Mr. JONES, of Tennessee. It is my object to defeat this bill, if possible; and I make that motion.

Mr. CLEMENS demanded the yeas and nays. The House divided; and there were—yeas twenty-seven; not a sufficient number.

Mr. HUGHES demanded tellers on the yeas and nays.

Mr. CRAWFORD. The amendment has been passed by a yeas and nays vote. How then is it possible for the gentleman to make a motion to lay it upon the table?

The SPEAKER. There are some amendments not disposed of, and there is a motion pending to reconsider.

Mr. JONES, of Tennessee. I move to lay the remaining amendments upon the table, and that effects the same object—it will carry the whole thing with it.

The SPEAKER. Does the gentleman insist that his motion shall be first put? It would be more regular to take the vote first on the pending motion to reconsider.

Mr. JONES, of Tennessee. I will withhold my motion until that is disposed of.

Mr. STEPHENS, of Georgia. Not to detain the House, I withdraw that motion.

Mr. TALBOT. I renew the motion.

Mr. PHILLIPS. And I move to lay it upon the table.

Mr. CLEMENS demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 90, nays 77; as follows:

YEAS—Messrs. Andrews, Arnold, Bingham, Brayton, Buffinton, Burlingame, Case, Cavanaugh, Chaffee, Clawson, Clay, Clark B. Cochrane, John Cochrane, Comins, Corning, Covode, Cragin, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dodd, Durfee, Edie, Florence, Giddings, Gillis, Gilmer, Gooch, Goodwin, Granger, Grow, Harlan, J. Morrison Harris, Thomas L. Harris, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Landy, Leiter, Lovejoy, MacLay, Humphrey Marshall, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Palmer, Parker, Pettit, William W. Phelps, Phillips, Potter, Pottle, Purviance, Ricard, Robbins, Roberts, Royce, Scott, Aaron Shaw, Stanton, Stephens, William Stewart, Tappan, Thayer, Underwood, Wade, Walbridge, Walton, Ward, Elihu B. Washburne, Israel Washburn, White, Whiteley, Wilson, Woodson, Augustus R. Wright, and Zollcoffer—90.

NAYS—Messrs. Abbott, Adrain, Atkins, Barksdale, Bennett, Billingham, Bocoek, Bryan, Burnett, Burns, Caskie, Chapman, Ezra Clark, John B. Clark, Clemens, Cobb, Cockrell, Colfax, James Craig, Crawford, Curry, Davis of Indiana, Davis of Mississippi, Dean, Dewart, Dowdell, Fenton, Foley, Foster, Gartrell, Gartrell, Goode, Groesbeck, Haskin, Hatch, Hawkins, Hoard, Hopkins, Houston, Hughes, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Leitcher, Mason, Millson, Isaac N. Morris, Pendleton, Peyton, John S. Phelps, Pike, Quitman, Ready, Reagan, Reilly, Ritchie, Ruffin, Sandidge, Savage, Seales, Searing, Sickles, William Smith, Spinner, Stevenson, Talbot, George Taylor, Miles Taylor, Tompkins, Waldron, Wood, Wortendyke, and John V. Wright—77.

So the motion to reconsider was laid upon the table.

Mr. CLEMENS. I move to lay the remaining amendments upon the table.

Mr. PHILLIPS. Does that carry the bill with it?

The SPEAKER. It does.

Mr. CLEMENS demanded the yeas and nays.

Mr. HUGHES demanded tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

The motion to lay upon the table was disagreed to.

Mr. CLEMENS moved that the House adjourn; and on that motion demanded the yeas and nays.

The yeas and nays were not ordered.

The House refused to adjourn.

Sixty-fourth amendment:

Sec. 25. And be it further enacted, That all diplomatic and consular officers who were appointed under the act entitled "An act to remodel the diplomatic and consular systems of the United States," approved March 1, 1853, shall have the same compensation during the time necessarily occupied in making the transit to and returning from their respective posts, and while they were receiving their instructions, as is provided for diplomatic and consular officers in the eighth section of the act entitled "An act to regulate the diplomatic and consular systems of the United States," approved August 18, 1856: Provided, That the foregoing shall not be considered to apply to any diplomatic or consular officer who was in office and at his post of duty when said act, approved March 1, 1853, took effect, except to allow compensation to such officers during the time necessarily occupied in returning from their respective posts.

Mr. CRAWFORD. I do not intend to ask a separate vote by yeas and nays on this amendment; but I desire to say to the House that it is intended to cover those cases in our diplomatic corps where the appointments were made under the act of 1855, and the services rendered under the act of 1856. The case of our Minister at Mexico, and perhaps a consul at Dublin, are the only ones to be affected by this amendment; and I hope, that as they are both meritorious, they may be provided for.

Mr. BURNETT. This is the last amendment, and I understand that when we have passed it there will be nothing further before the House to vote on. I move then to lay the amendment upon the table. My object is to kill the bill. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. KUNKEL, of Maryland. I understood the Chair to decide, at a former period of this session, that a motion to lay upon the table an amendment, being incident to the principal, was not in order. As these amendments are merely incidental to the bill, is it in order now to move to lay an amendment upon the table, and carry the principal with it?

The SPEAKER. The gentleman will remember that, on the occasion to which he refers, the House was acting upon amendments from the Committee of the Whole on the state of the Union, and before the bill was engrossed. The pending propositions before the House now are the amendments of the Senate; and it is one of the parliamentary modes of disposing of the bill in this stage to move to lay the amendment upon the table.

Mr. KUNKEL, of Maryland. If it was not in order on a bill which had not passed this House, the argument that it is not in order applies with greater force, I think, where a bill has passed this House, and received the sanction of the coordinate branch.

Mr. KELSEY. Is debate in order?

The SPEAKER. It is not. The Chair is of the opinion that it is perfectly competent for the gentleman from Kentucky to move to lay the amendment upon the table.

The question was taken; and it was decided in the negative—yeas 68, nays 102; as follows:

YEAS.—Messrs. Andrews, Avery, Burnett, Burns, Cas-
kie, Ezra Clark, John B. Clark, Clemens, Cobb, Colfax,
Cragin, Curry, Davis of Maryland, Dawes, Dean, Dewart,
Dodd, Dowdell, Elliott, Fenton, Garnett, Gartrell, Gillis,
Grainger, Grow, Haskin, Hatch, Hoard, Hopkins, Houston,
Hughes, Jewett, George W. Jones, Kelley, Knapp, Letcher,
Lovejoy, Humphrey Marshall, Mason, Mateson, Maynard,
Isaac N. Morris, Mott, Nichols, Pendleton, Pike, Pottle,
Reedy, Rungan, Ruffin, Sandidge, Savage, Seales, Sickles,
John Smith, Spinner, Stevenson, Talbot, Thayer, Tomp-
kins, Underwood, Walbridge, Waldron, Elihu B. Wash-
burne, Woodson, John V. Wright, and Zollcoffer—68.

NAYS.—Messrs. Abbott, Adrain, Arnold, Barksdale, Bing-
ham, Bocoock, Bowie, Bryant, Bufton, Burlingame, Case,
Cavanaugh, Chaffee, Chapman, Horace F. Clark, Clawson,
Clay, Clark B. Cochrane, John Cochrane, Cockerill, Co-
ming, Corning, Covode, Cox, James Craig, Crawford, Cur-
tis, Davis of Indiana, Davis of Mississippi, Davis of Massa-
chusetts, Davis of Iowa, Durfee, Edie, Faulkner, Florence,
Foley, Foster, Giddings, Gilmer, Gooch, Goode, Groesbeck,
Lawrence W. Hall, Harlan, J. Morrison Harris, Hawkins,
Horton, Howard, Huyler, Jackson, J. Glancy Jones, Owen
Jones, Kellogg, Kelly, Kilgore, Jacob M. Kunkel, John C.
Kunkel, Landy, Leiter, Maclay, Millson, Morgan, Morrill,
Edward Joy Morris, Freeman H. Morse, Oliver A. Morse,
Murray, Niblack, Palmer, Parker, Peyton, John S. Phelps,
William W. Phelps, Phillips, Potter, Purviance, Quitman,
Reilly, Ricard, Ritchie, Robbins, Roberts, Royce, Russell,
Scott, Stanton, Stephens, William Stewart, Tappan, George
Taylor, Miles Taylor, Wade, Walton, Ward, Israel Wash-
burn, White, Whiteley, Wilson, Winslow, Wood, Worten-
dyke, and Augustus K. Wright—102.

So the motion to lay upon the table was disa-
greed to.

Pending the above call of the roll,
Mr. NICHOLS stated that, as the gentleman
from Virginia [Mr. LETCHER] voted against the
bill, he would also vote against it, to favor, during
this session, at least one Administration measure.
[Laughter.]

The SPEAKER. The Committee of the Whole
on the state of the Union recommend a non-con-
currence in the amendment.

Mr. CRAWFORD demanded tellers.

Tellers were ordered; and Messrs. CLARK of
Connecticut, and HAWKINS, were appointed.

Mr. STANTON. The amendment was non-
concurrent in by the committee, on my sugges-
tion that it was general legislation. I knew
nothing in the world about the merits of the
claim.

The House divided; and the tellers reported—
ayes 91, noes 46.

So the amendment was concurred in.

Mr. J. GLANCY JONES. I move to recon-
sider the votes on all the amendments; and also
move to lay the motion to reconsider upon the
table.

Mr. HUGHES. I want to move a reconsid-
eration of the last amendment, and I was upon
the floor as soon as the gentleman from Penn-
sylvania.

The SPEAKER. There is a parliamentary
courtesy, as well as propriety, in the Chair's
recognizing the Chairman of the Committee of
Ways and Means, on the occasion, to make a
motion to reconsider votes appertaining to the
appropriation bills; and the Chair has only fol-
lowed that course in the present instance.

Mr. HUGHES. But the gentleman made a
motion not in order, unless by unanimous consent.

The SPEAKER. The motion is in order, but
the gentleman from Indiana has a right to a sep-
arate vote on each amendment.

Mr. HUGHES. I ask for a separate vote; and
I move that the House adjourn.

The House refused to adjourn.

The question was taken on the motion to lay
upon the table the motion to reconsider the vote
by which the last amendment was concurred in;
and it was agreed to.

Mr. CLEMENS. I demand a separate vote
on each amendment.

Mr. HOUSTON. I see no reason why the mo-
tion to reconsider should be pending, and I would
suggest that it be withdrawn.

Mr. J. GLANCY JONES. I withdraw my
motion; and move that the rules be suspended,
and the House resolve itself into the Committee
of the Whole on the state of the Union, on the
loan bill.

WILLETT'S POINT COMMITTEE.

Mr. HASKIN. The pending motion in order
is my motion to suspend the rules, in order that
the Willett's Point special committee may sub-
mit the testimony and statements of its members.
I send to the Chair an extract from the journal of
the committee.

Mr. HUGHES objected.

The Clerk read as follows:

June 7, 1858.

On motion of the chairman, the following preamble and
resolutions were unanimously adopted:

The views of the several members of this committee not
agreeing so as to enable them to join in a majority report
on the facts and circumstances referred to and inquired into
before them:

Resolved, That the several members of the committee be,
and they are hereby, authorized to report to the House a
statement or report of their views and conclusions upon
the subject referred.

Mr. HUGHES. I desire to inquire how it is
that an amendment sent up by myself could not
be reported when objection was made; and that
this has been reported over my objection?

The SPEAKER. The gentleman from New
York has pending a motion to suspend the rules,
and the House could not vote on that until the
paper was read. It is read that the House may
determine whether or not it will suspend the rules.

The rules were suspended.

Mr. HASKIN. I move, then, that the state-
ments and the testimony taken be ordered to be
printed; and on that I call for the previous ques-
tion.

Mr. PHELPS, of Missouri. I would inquire
whether there is a majority report in this case?

Mr. HASKIN. There is no majority report.
There are some four separate reports. My mo-
tion is, that the testimony and reports be printed,
and that their consideration be postponed until
Thursday next at one o'clock.

Mr. HUGHES. I rise to a question of order.
I understand the rules were suspended to allow
the gentleman from New York to make a report.
I respectfully submit that the paper which he
presented is neither a report nor a resolution, nor
anything upon which this House can take action.
It is but an extract from the journal of the com-
mittee.

Mr. HASKIN. It is a report from the com-
mittee, and was acted upon by the committee.

Mr. RUSSELL. I desire to amend the gen-
tleman's motion. I wish to substitute "Wednes-
day" for "Thursday."

Mr. HASKIN. I should have no objection to
that.

The SPEAKER. The Chair is of opinion that
the paper last read brings the matter before the
House; that it is the action of a majority of the
committee in referring the subject back to the
House without being able to concur in any rec-
ommendation to the House.

Mr. HOUSTON. If I understood correctly the
reading of the extract from the journal, it could
not be held to be a report from a committee. In
cases of this sort, where the committee divide up,
so that there is no majority report, there must be
a report ordered by a majority of the committee.
In this case it was not done.

Mr. GROW. The gentleman's own commit-
tee, the Judiciary Committee, stood precisely in
the same position. They stood four to four, and
he reported the fact to the House.

Mr. HOUSTON. In the case to which the gen-
tleman refers, the committee were evenly divided,
and they passed a resolution instructing their
chairman to report the fact of disagreement to the
House, accompanied by the resolutions which had
been voted upon in committee, but lost because
of an equal division. They also instructed their
chairman to ask the permission of the House to
make written reports to the House. So I made
a unanimous report of the Committee on the Judi-
ciary to the House.

Mr. BOCOOCK. I would ask the gentleman
from New York whether he was directed by the
committee to make this report?

Mr. HASKIN. I make the report as a report
from the committee, in the shape of that resolu-
tion.

The SPEAKER. The Chair would say to the
gentleman from Alabama, that he does not per-
ceive any material difference between the case
which he presented a few days ago and the case
presented now. The gentleman from New York
states that he has been authorized by his commit-
tee to present this report to the House in this
shape.

Mr. HOUSTON. Then I withdraw my objec-
tion to it, because the statement of the gentleman
from New York meets the objection I had.

Mr. JOHN COCHRANE. Is the testimony
included in that resolution?

The SPEAKER. It is not; but the Chair
understands that it is also orally reported. The
question is on seconding the previous question on
the motion that the views of the respective min-
orities be printed, and that their consideration be
postponed until Thursday next at one o'clock.

Mr. STANTON. If the gentleman from New
York will withdraw his demand long enough to
move to substitute the first Tuesday of December
next, I would be very much obliged to him.

Mr. RUSSELL. We have agreed to adjourn
on Thursday, and therefore I move to substitute
"Wednesday."

Mr. HUGHES. I move that the report of the
committee be laid on the table, and the committee
be discharged from the further consideration of
the subject.

The motion was not agreed to.

The previous question was then seconded, and
the main question ordered.

Mr. QUITMAN. I wish the gentleman from
New York would allow me to state an objection
which I have to the printing of the reports. This
is no report of a majority of the committee, and
I do not know but private characters may be in-
jured by printing all these several views of the
members of the committee. I am therefore op-
posed to printing the evidence or report till they
are acted upon. Evidence ought not to be pub-
lished by the order of the House which may af-
fect a man's character.

Mr. HUGHES. I renew the motion to lay
the whole subject on the table.

The question was taken; and the motion was
not agreed to.

The question recurred on Mr. HASKIN's propo-
sition that the reports and testimony be printed,
and their consideration postponed till Thursday
at twelve o'clock, m.

Mr. FLORENCE. That is the hour of adjourn-
ment.

Mr. RUSSELL. I hope that Wednesday will
be substituted for Thursday.

Mr. LETCHER. I rise to a question of order.
The House has determined to adjourn at twelve

o'clock, on Thursday, and it is not in order to postpone a matter till the hour of adjournment, or till one hour after the House adjourns.

The SPEAKER. The Chair overrules the question of order raised by the gentleman from Virginia. The Chair thinks it perfectly competent for the House to postpone the consideration till Thursday, or the 1st of July, or the 1st of December.

Mr. LETCHER. I know it can be postponed till any time when the House is in session; but we have determined to adjourn on Thursday, and it is not competent to postpone it to any time after that.

Mr. GROW. From the objections that are made on that side of the House, I should think that they would want the subject postponed till some day the House is not in session.

Mr. HOPKINS. I appeal to the chairman of the committee to fix no day for its consideration, but simply to make the motion to print, and leave it to either side of the House to call up the question whenever they desire.

Mr. HASKIN. I accept the proposition of the gentleman from Virginia to fix no time. My only object is to have the papers brought before the House and printed.

The question was taken on Mr. HASKIN's proposition as modified; and it was agreed to.

Mr. HASKIN moved to reconsider the vote by which the proposition was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, to take up the loan bill.

Mr. ZOLLICOFFER. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at half past eight o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, June 9, 1858.

Prayer by Rev. HENRY I. KERSHAW.

The Journal of yesterday was read and approved.

COURT OF CLAIMS.

The VICEPRESIDENT laid before the Senate a letter of the chief clerk of the Court of Claims in answer to a resolution of the Senate requesting the return of the petition and papers of Michael Hanson, stating that the papers had already been transmitted to the House of Representatives. The letter was ordered to lie on the table.

CORRECTION OF ERRORS.

Mr. DOOLITTLE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Whereas, it appears by the Journal of the Senate that House bill (No. 356) for the relief of Roswell Minard, father of Theodore Minard, deceased, passed the Senate on the 4th day of June, instant, with an amendment; and whereas said bill was, by mistake, erroneously reported to the House of Representatives, on the same day, as having passed the Senate without amendment, and has been enrolled and signed by the Presiding Officers of both Houses of Congress, and the said enrollment of said bill is void, the same never having been passed by both Houses of Congress: Therefore,

Resolved, That the President of the Senate be, and hereby is, authorized to cancel his signature upon said enrolled bill, and that the same be returned to the House, and the House of Representatives be respectfully requested to authorize the Speaker of the House of Representatives to cancel his signature upon said enrolled bill, and return to the Senate the engrossed bill, to enable the Senate to correct its report to the House of Representatives.

Mr. DOOLITTLE submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Whereas, it appears, by the Journal of the Senate, that House bill (No. 257) for the relief of Timothy L. O'Keefe was indefinitely postponed by the Senate, on the 4th day of June instant; and whereas, said bill was, by mistake, erroneously reported to the House as having passed the Senate, and has been enrolled and signed by the Presiding Officers of both Houses of Congress; and the said enrollment of said bill is void, the same never having been passed by both Houses of Congress: Therefore,

Resolved, That the President of the Senate be, and hereby is, authorized to correct his signature upon said enrolled bill, and that the same be returned to the House of Representatives, and that the House of Representatives be respectfully requested to authorize the Speaker of the House of Representatives to cancel his signature upon said enrolled bill, and to return to the Senate the engrossed bill, to enable the Senate to correct its report to the House of Representatives.

The Vice President canceled his signature on these two bills, and a message was afterwards received from the House of Representatives, announcing that the Speaker, by authority of the House, had canceled his signature thereto, and returning the engrossed bills in each case to the Senate, so that it might correct its report in regard to them.

REPORTS OF COMMITTEES.

Mr. HUNTER, from the Committee on Finance, to whom was referred the bill (H. R. No. 561) making appropriations for the support of three regiments of volunteers, authorized by the act of Congress, approved 7th April, 1858, reported it with amendments.

Mr. BAYARD, from the Committee on the Judiciary, to whom were referred the memorial of the Magnetic Telegraph Company, and of the New England Union Telegraph Company, praying the enactment of a law which will prevent combinations between citizens or companies in the United States, and monopolists or companies out of the United States, for the purpose of oppressing telegraph companies, and monopolizing the business of telegraphing in the United States, and to enable all telegraph lines in the United States to form connections with all telegraph lines approaching their borders on terms of perfect equality, presented March 31; a memorial of the American Telegraph Company in answer to the memorial of the Magnetic Telegraph Company, and the New England Union Telegraph Company, and remonstrating against the prayer of their memorial being granted, presented April 22; a memorial of the Magnetic and New England Union Telegraph Companies in reply to the remonstrance of the American Telegraph Company, correcting the numerous errors and fallacies of the latter company, and embracing also an act of the British Parliament reorganizing the Atlantic Telegraph Company deemed to be inconsistent with the act of Congress to encourage their enterprise; and of the Atlantic Telegraph, and requiring additional legislation by Congress, presented May 28, submitted a report, which was ordered to be printed; and asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of T. P. Shaffner, of Kentucky, praying for an amendment of the act of Congress approved March 3, 1857, entitled "An act to expedite the telegraphic communication, for the use of the Government," so that the subsidy granted by that act shall be general in its application to all Atlantic ocean telegraph lines, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 448) to repeal an act entitled "An act to expedite telegraphic communication for the uses of the Government in its foreign intercourse," approved March 3, 1857, reported it without amendment, and submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 55) to regulate fees and costs to be allowed marshals, district attorneys, clerks of courts, jurors, and witnesses, in the State of California, and in the Territories of Oregon and Washington, reported it with amendments.

Mr. STUART, from the Committee on Public Lands, to whom was referred the petition of Thomas Allen and others, praying that certain land offices in the State of Missouri, about to be closed under authority of law, may be consolidated at St. Louis, asked to be discharged from its further consideration; which was agreed to; the committee having already reported a bill on the subject.

Mr. STUART. The Committee on Public Lands, to whom was referred a resolution of instruction as to the propriety of abolishing land offices under certain circumstances, report that, in their opinion, the existing laws as to the discontinuance of land offices are ample; but legislation is necessary in regard to the deposits of papers in States where all the land offices may be closed. I am, therefore, instructed by the committee to report a bill (S. No. 449) authorizing the transfer to State authorities of the books, papers, &c., of discontinued land districts, under certain circumstances.

The bill was read, and passed to a second reading.

CIVIL APPROPRIATION BILL.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House of Representatives had agreed to some, and disagreed to other amendments of the Senate to the bill (H. R. No. 200) making appropriations for certain civil expenses of the Government for the year ending the 30th of June, 1858.

On motion of Mr. HUNTER the Senate insisted on its amendments to the bill (H. R. No. 200) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1859, disagreed to by the House, and asked a committee of conference on the disagreeing votes of the two Houses; and Messrs. HUNTER, FESSENDEN, and BIGLER, were appointed.

A subsequent message from the House of Representatives announced that the House insisted on its disagreement to certain amendments of the Senate to the bill (H. R. No. 200) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1859, and upon its amendments to certain other amendments of the Senate to the said bill, and agreed to the conference asked by the Senate upon the disagreeing votes of the two Houses thereon; and had appointed Mr. JOHN S. PHELPS, Mr. WILLIAM A. HOWARD, and Mr. HENRY M. PHILLIPS, managers at the same on its part.

COURTS IN TEXAS.

Mr. BAYARD. The Committee on the Judiciary, to whom was referred the bill (H. R. No. 647) to change the time of holding the spring term of the district court of the United States for the western district of the State of Texas, report it back without amendment, and recommend its passage. As it is a matter which relates solely to the interests of the State of Texas, and is one of those bills that always pass Congress summarily without objection, I ask that the bill be put on its passage at once.

There being no objection, the bill was considered as in Committee of the Whole.

It provides that hereafter the term of the district court for the western district of Texas, held at Tyler, on the first Monday in March of each year, shall be held on the fourth Monday in April.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

CHARLES D. MAXWELL.

Mr. MALLORY. The Committee on Naval Affairs have instructed me to report a joint resolution (S. No. 51) explanatory of an act for the relief of Dr. Charles D. Maxwell, a surgeon in the United States Navy. The act to which this resolution refers has not been construed according to the design of both Houses by the officers of the Treasury. The object is simply to correct their construction; and I ask the courtesy of the Senate to pass the resolution now, because I am told by the Naval Committee of the House of Representatives that it will pass there if it gets through here.

The joint resolution was read twice by unanimous consent, and considered as in Committee of the Whole.

It proposes to require the accounting officers to pay to Charles D. Maxwell, under the act for his relief, approved March 20, 1858, the difference between the pay of a passed assistant surgeon and the pay which the surgeon whom he relieved on board the ship Cyane would have received if he had not been so relieved, from December 22, 1845, to July 7, 1848, during which time Dr. Maxwell performed the duties of surgeon and assistant surgeon on board the vessel.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read a third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed a bill (H. R. No. 319) for the relief of Benjamin Sayre, in which the concurrence of the Senate was requested.

Also, that the House had passed the bill of the Senate (S. No. 127) to repeal the fifth section of an act entitled "An act to authorize the register

or enrollment and license to be issued in the name of the president or secretary of any incorporated company owning a steamboat or vessel," approved March 3, 1825.

Also, that the House had concurred in the resolution of the Senate for terminating the present session of Congress by an adjournment on Monday, the 14th of June, at twelve o'clock, m.

Also, that the House had passed a joint resolution (H. R. No. 9) authorizing the Postmaster General to revise and adjust the accounts of Harris & Morgan, on principles of justice and equity; also,

A bill (H. R. No. 610) for the relief of William S. Bradford, in which the concurrence of the Senate was requested.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed, the 8th instant, the following acts:

- An act for the relief of Judith Nott;
- An act for the relief of Peter Parker;
- An act for the relief of Thomas Hasam and B. S. Brewster;
- An act for the relief of Dr. Ferdinand O. Miller;
- An act for the relief of Cornelius H. Latham;
- An act for the relief of John B. Roper;
- An act for the relief of David Bruce;
- An act for the relief of the heirs of Richard Tarvin; and
- An act for the relief of Dr. Thomas Antisell.

SUPPLEMENTAL INDIAN BILL.

Mr. STUART. A bill has been reported by the Committee on Military Affairs which is very important to my State, granting the right of way to a certain railroad over the military reservation at Fort Gratiot. It will not create debate, and I hope the Senate will indulge me by taking it up and passing it.

Mr. IVERSON. I have some reports to make.

Mr. HUNTER. I suggest to Senators that if they will allow me to have the appropriation bills taken up, I think we can get through with them to-day, and there will be ample time left to take up and consider other bills while the appropriation bills are maturing in committees of conference.

Mr. HOUSTON. I desire to have a bill passed which is really a mere matter of form.

Mr. HUNTER. There are ten or twelve gentlemen who have bills to call up, and if I yield to one, I might as well abandon my motion.

The VICE PRESIDENT. The Chair hears no objection to taking up the appropriation bills.

Mr. HUNTER. I propose to substitute the supplemental Indian appropriation bill instead of the mail steamer bill, which was taken up last night. The chairman of the Committee on Indian Affairs is ready to go on with it, and I think we can get through with it expeditiously.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 557) making supplemental appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1859.

The VICE PRESIDENT. The bill will be read.

Mr. SEBASTIAN. I suggest that we dispense with the reading of the bill, which is long, unless some Senator desires to hear it.

The VICE PRESIDENT. The Chair hears no objection to that course.

Mr. SEBASTIAN. I have a number of amendments to offer from the Committee on Indian Affairs. The first is to add to the bill:

To enable the Secretary of the Interior to perform the engagements and stipulations of General Harney made with the Sioux Indians at Fort Pierre, in 1856, \$72,000.

That engagement of General Harney, which was in the nature of a military capitulation with the Sioux Indians, whom he brought to terms in 1856, has never been redeemed by the Government to this day. I suppose it is too late to question the policy of these engagements. It is sufficient to say that the honor and faith of the United States were committed to these Indians in the most solemn and formal manner, and the President of the United States, so far from repudiating the engagement, has recommended that Congress should regard it as of binding obligation on the

Government. We have taken the very lowest estimate which has been made. There are two different estimates made out by Mr. Mix, and this is the most economical one. It is necessary to redeem an engagement of the Government.

The amendment was agreed to.

Mr. SEBASTIAN. I offer another amendment:

To enable the Secretary of the Interior to adjust differences and preserve peace with the Cut-head and Yancton-aise bands of Sioux Indians, \$25,000.

The Department have asked for \$100,000 to enable them to pacify these Indians, who are warlike and discontented bands of Sioux, who receive a very inconsiderable annuity of sixty cents a year. The discontents of these Indians, and their claims against the Government, arise out of a treaty made in 1853 with four other bands in Minnesota, by which no provision was made for them. They set up an undefined claim to the ceded country. They have urged this claim so strongly that they have always appeared at the pay ground annually, and have coerced the annuity Indians to divide their annuities with them. They are the same Indians who drove off the white settlers and burnt their houses last year. They are threatening now, according to the accounts, to return, in large numbers, in the nature of a military expedition, this year, and burn the houses of the settlers, unless their demands be acceded to. We propose to appropriate the small amount of \$25,000 out of \$100,000 asked by the Department to enable the Secretary of the Interior to take such precautionary measures as may be needed to adjust these differences and give these Indians some assurance that their claim will be properly looked into.

The amendment was agreed to.

Mr. SEBASTIAN. I have another amendment, from the Committee on Indian Affairs, as an additional section:

Sec. 2. *And be it further enacted*, That the Secretary of the Interior is hereby authorized to release the American Board of Commissioners for Foreign Missions from their obligation, under the fourth article of the Cherokee treaty, to expend the value of the Union and Harmony Mission reservation, awarded them, upon schools among the Osages and in improving their condition: *Provided*, That the Secretary of the Interior may, at his discretion, direct what other destitute tribe or tribes, in which said money shall be expended by said board, for like purposes, and make such regulations as shall secure the proper and faithful application of said fund.

This proposes no appropriation from the Treasury. There is in the Treasury \$18,000 belonging to this board which the fourth article of the treaty of 1835 required them to expend for the purpose of establishing schools among the Osage Indians. When they attempted to comply with that, they found the ground preoccupied. The Osages refused to establish the schools. They now ask us to relieve them from the obligation to expend the money among the Osages, and to allow them to expend it elsewhere. The amendment provides that the Secretary of the Interior shall indicate what other tribe they shall expend the money upon.

The amendment was agreed to.

Mr. SEBASTIAN. I offer a further amendment:

For compensation of five extra clerks employed in the Indian office under the act of 3d of March, 1855, and under appropriations made from year to year, \$7,000.

That is the usual appropriation, but it has been casually omitted in the estimates for a number of years. It is for the pay of clerks employed on work called the files and records of the land department of the Indian office. They are indispensable, and the omission of the item in the annual estimates was entirely accidental.

The amendment was agreed to.

Mr. SEBASTIAN. I offer two amendments for ascertained deficiencies in the Indian service:

For payment of this amount, due and unpaid, to John Rogers, of Fort Smith, Arkansas, for storage of provisions for the Indians at that place in 1837, \$1,351.

For payment of this amount to Hon. Willis A. Gorman, for compensation for his services as commissioner to investigate the allegations of fraud against Alexander Ramsey, late Governor of Minnesota and superintendent of Indian affairs, under a resolution of the Senate and the appointment of the President, and to reimburse expenses incurred therein, \$850.

Mr. HUNTER. I rise to a point of order. These are private claims, and one of them is a pretty old one, too.

Mr. SEBASTIAN. The Senator is mistaken

in supposing himself to be introduced to an old acquaintance this time. They are perfect strangers to him. I am certain they are not private claims according to the usual interpretation of the rule. They are ascertained deficiencies reported here by the proper officer, acknowledged obligations for which no appropriations have been made. They are like everything else for which we appropriate—existing, recognized obligations of the Government; and the only reason they have not been paid has been the want of an appropriation applicable to the purpose. The Secretary of the Interior, in the case of John Rogers, admits that it is an outstanding claim against the Government, which he would have paid in the usual course of administration in the office without applying to Congress, if he had the money. In regard to the case of Governor Gorman, I will say that we have paid the other commissioner for the same service, out of the contingent fund of the Senate, but in consequence of a late decision of the Comptroller it becomes necessary to make these appropriations out of the Treasury, instead of out of the contingent fund. The character of the claim is not altered; the mode of payment is only changed by the decisions of the Comptroller.

The VICE PRESIDENT. Does the Senator know of any existing law providing for these claims?

Mr. SEBASTIAN. There is what is equal in validity, for this purpose, to a law—a resolution of the United States Senate under which Governor Gorman acted as commissioner.

The VICE PRESIDENT. The Chair feels obliged to decide the amendment out of order.

Mr. SEBASTIAN. Both items?

The VICE PRESIDENT. Yes, sir, both.

Mr. SEBASTIAN. I offer the following amendment, which contains no appropriation, but embraces certain matters of legislation necessary to enable the Indian office to maintain Indian reservations:

Sec. 3. *And be it further enacted*, That where, by or pursuant to the provisions of any treaty with any tribe of Indians, tracts of land, outside of the limits of any tribal reservation, have been, or shall be, set apart for the use of individual Indians, to be held in severalty, and the power is reserved to Congress, or the President of the United States, to authorize the issue of patents therefor, and to make regulations respecting the sale or alienation of such tracts, or where the treaty is silent upon the subject, it shall and may be lawful for such reserves to sell and convey such tracts of land, whether they be held as reservations by the usual Indian title or by grant; and a deed of conveyance of such lands, duly executed by the reservee, shall be construed to vest in the purchaser a title in fee simple to the land so conveyed: *Provided*, Such sales shall be made in conformity to such rules and regulations, for the purpose of preventing fraud or imposition, and of securing to or for the reservees the full and fair value of their land, as may be prescribed by the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior: *Provided further*, That no sale or conveyance of any such tracts shall be of any validity unless the same shall have been submitted to, and received the approval of, the Secretary of the Interior.

Sec. 4. *And be it further enacted*, That the Commissioner of Indian Affairs shall be, and he hereby is, authorized, whenever the interests of the reservee may render it expedient, to require the purchase money for any such tract of land to be paid to the United States agent for the tribe to which the reservee belongs, or other officer of the United States authorized to receive it, and to retain the same, to be afterwards applied, under the direction of the Secretary of the Interior, for the benefit of the reservee, in such manner as may be deemed best for his interest and welfare.

Sec. 5. *And be it further enacted*, That where the tribal reservation of any tribe of Indians is, or shall be, in pursuance of the provisions of any treaty with such tribe, divided among the individual members of the tribe, to be held by them in severalty, no sales, by individuals, of the tracts assigned to them shall ever be made, except to the members of the tribe or to the United States. And if any person, not employed under the authority of the United States, shall attempt to treat or negotiate, directly or indirectly, with any individual Indian for the purchase of any tract of land held or claimed by him under the provisions of this section, such person shall forfeit and pay the sum of \$1,000, to be recovered before any court in the United States having jurisdiction, in the manner prescribed in the twenty-seventh section of the act of Congress of June 30, 1834, commonly called the "intercourse act."

Sec. 6. *And be it further enacted*, That the Commissioner of Indian Affairs be, and he hereby is, authorized, with the approval of the Secretary of the Interior, to remove from any tribal reservation any person found therein without authority of law, or whose presence within the limits of the reservation may, in his judgment, be detrimental to the peace and welfare of the Indians, and to employ for the purpose such force as may be necessary to enable the agent to effect the removal of such person or persons.

Mr. HUNTER. I will only say in regard to this amendment, that it may be very good legislation, but the House of Representatives is striking off everything of the sort upon the appropri-

ation bills. I think they have the right to do so. They have the right, if they choose, to insist that we shall put nothing on these bills but appropriate legislation connected with appropriations. These provisions may be all very right; I know nothing about them; but I believe they will be stricken out in the other House, and we are merely consuming time by attempting to put anything of the sort on the bill.

Mr. SEBASTIAN. The House of Representatives may unquestionably strike off a provision which we send to them in a bill. That it is their right to do. But it is equally our right to send bills to them in such form and shape as we choose. If they wish to make that disposition of our amendments, they incur the responsibility of it, not we. The same objection has been taken by the Senator from Virginia on several bills heretofore; but I believe, by the common consent of both Houses, necessary legislation for the Indian service has always been allowed to go on the Indian appropriation bills; indeed, for several years past, as the Senator from Virginia is well aware, we have no had legislation for the Indian department on any other bills than appropriation bills. These matters command so little interest that, unless they are placed in company with something indispensable, they cannot get through both Houses of Congress. If the House of Representatives should pursue the course indicated by the Senator from Virginia, I can very well yield then; but I do not wish to surrender in advance.

Mr. STUART. I wish to ask a question of the chairman of the Committee on Indian Affairs. As I understood the amendment, as it was read, the first part of it provides against sales, in certain cases, without authority of the Secretary of the Interior, but the subsequent part prohibits sales to any but the United States or individuals of the same tribe.

Mr. SEBASTIAN. I will explain that to the Senator from Michigan. There are two classes of reservations provided for in the amendment. The first section applies to reserves outside of ceded territory—individual reserves, either reserved in treaties or subsequently allotted to individual Indians. Those kinds of reserves we propose to allow to be sold by the Indian office, under the advice and regulations of the Secretary of the Interior, taking care that the Indian is not imposed upon. Then there are reservations within ceded territory or within the national domain of an Indian tribe. These, we provide, cannot be sold to any white person, but may, under regulations prescribed by the Secretary of the Interior, be sold amongst themselves.

Mr. STUART. That was the point on which I wanted information. As I understood it at first, it would apply to any disposition by an Indian of any lands he might receive under any treaty; but if it is only to apply to lands unceded, it is right.

Mr. SEBASTIAN. That is all.

The amendment was agreed to.

Mr. SEBASTIAN. I offer another amendment, as an additional section:

Sec. 7. And be it further enacted, That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to such persons of Miami blood as have heretofore been excluded from the annuities of the tribe since the removal of the Miamies in 1846, and since the treaty of 1854, and whose names are not included in the supplement to said treaty, their proportion of the tribal annuities from which they have been excluded; and he is also authorized and directed to enroll such persons upon the pay list of said tribe, and cause their annuities to be paid to them in future: Provided, That the foregoing payments shall be in full of all claims for annuities arising out of previous treaties. And said Secretary is also authorized and directed to cause to be located for such persons each two hundred acres of land out of the tract of seventy thousand acres reserved by the second article of the treaty of June 5, 1854, with the Miamies, to be held by such persons by the same tenure as the locations of individuals are held which have been made under the third article of said treaty.

There is no appropriation from the Treasury in this amendment. It is a mere inter-tribal regulation between the Miamies of Indiana, and a few families who have been improperly deprived of their annuities. It is to authorize the Secretary of the Interior to arrange and adjust the proportion of annuities among them—annuities already due by treaty.

Mr. HUNTER. Is this on the recommendation of the Department?

Mr. SEBASTIAN. The information is official, and comes from the Department. They enter-

tain no doubt as to the improper exclusion of the families mentioned in the amendment; but they do not recommend it. They thought it a matter properly referable to Congress, and the Committee on Indian Affairs report this as proper legislation by Congress.

Mr. FITCH. It is all right.

Mr. HUNTER. Does it commit us to make any appropriation—to take from one tribe to give to another?

Mr. FITCH. They are all the same tribe.

Mr. SEBASTIAN. This simply extends the pay-roll of the Indiana Miamies, so as to include a few families who have heretofore been improperly excluded.

The amendment was agreed to.

Mr. SEBASTIAN. I now present the last amendment which I have to offer:

And be it further enacted, That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, one superintendent of Indian affairs for the Territory of Washington—so much of the third section of the act approved March 3, 1857, as makes one superintendency of the Territories of Oregon and Washington to the contrary notwithstanding; and that the said superintendent of Indian affairs shall receive an annual salary of \$2,500.

Mr. HUNTER. I hope the amendment will not be adopted. It is to increase these offices. They were diminished, upon deliberation, by the last Congress. There were originally two Indian superintendents in these Territories, I believe, but they were then reduced to one. The expenses of the Indian department on the Pacific coast are very heavy, and I see no necessity for this additional officer. I hope the amendment will not prevail.

Mr. SEBASTIAN. A word of explanation will show the necessity of this measure. The first impressions of the Committee on Indian Affairs were unfavorable to the division of the Oregon and Washington superintendency; but the committee investigated the subject, and the Delegates from Washington and Oregon Territories urged it so strongly, and afforded, if not such convincing, at least such plausible, reasoning in favor of the separation, that we were induced to look more favorably upon it; and upon conference with the Secretary of the Interior, we found that his convictions were decidedly in favor of its necessity. We finally agreed to submit the proposition in a modified form. We believed that if no further treaties should be ratified with the Indians in these Territories, the superintendency, as at present constituted, will be ample to discharge all the duties; and if the large number of treaties with those Indians yet unconfirmed should not be ratified, there will be no necessity for the President exercising this discretionary power, which we propose to give him. The amendment does not provide in terms for the erection of a new superintendency; but, as in the case of Minnesota, proposes to allow the President, whenever he sees a necessity for it, to appoint a superintendent for Washington Territory. If the treaties to which I have alluded should not be ratified, there will be no necessity for it; if they should be ratified, I am well satisfied that the amount of duty which will then be incumbent on this officer will be so great, and of such a responsible character, that it will be very difficult for him to attend to it all. I think it is well enough to give this discretion. It may meet a contingency when the necessity for its exercise will be obvious to every one, and be justified by the result. In the modified form in which the proposition is presented, I hope it will be accepted by the Senate.

Mr. FESSENDEN. I call for the yeas and nays on this amendment.

Mr. CLAY and others. We will vote it down without the yeas and nays.

Mr. FESSENDEN. Very well; I withdraw the call for the present.

The amendment was rejected.

Mr. HUNTER. I am instructed by the Committee on Finance to offer an amendment to carry out a treaty with the Pawnees that has been ratified by the Senate since the estimates came in:

Pawnees.—For fulfilling the stipulations in the treaty with the Pawnees of the 24th of September, 1857:

For first of five installments, in goods and such articles as may be necessary for them, per second article of said treaty, \$40,000.

For support of two manual-labor schools, during the pleasure of the President, per third article of said treaty, \$10,000.

For pay of two teachers, per third article, \$1,200.

For erection of houses for teachers, per third article, \$1,200.

For two complete sets of blacksmith, gunsmith, and tin-smith tools, per fourth article, \$750.

For erection of shops for smiths, per fourth article, \$500.

For purchase of iron, steel, and other necessaries for same, during the pleasure of the President, per fourth article, \$500.

For pay of two blacksmiths, one of whom to be a gunsmith and tin-smith, per fourth article, \$1,200.

For compensation of two strikers or apprentices in shops, per fourth article, \$480.

For first of ten installments for farming utensils and stock during the pleasure of the President, per fourth article, \$1,200.

For the first year's purchase of stock, and for erecting shelters for the same, per fourth article, \$600.

For pay of a farmer, per fourth article, \$600.

For the erection of a steam grist and saw mill, per fourth article, \$6,000.

For first of ten installments for pay of miller, at the discretion of the President, per fourth article, \$600.

For first of ten installments for pay of an engineer, at the discretion of the President, per fourth article, \$1,200.

For compensation to apprentices to assist in working the mill, per fourth article, \$500.

For the erection of dwelling-houses for interpreter, blacksmiths, farmer, miller, and engineer, \$500 each, per fourth article, \$3,000.

For the first of three installments for the pay of six laborers, per seventh article, \$3,000.

For payment to Samuel Allis, in remuneration for his services and for losses sustained by him, per tenth article, \$1,000.

For payment to Ta-ra-da-ka-wa, head chief of the Tappah's band, and four other Pawnees, for their services as guides, and for losses sustained by them, (\$100 each,) per eleventh article, \$500.

To enable the Pawnees to settle any just claims existing against them, per twelfth article, \$10,000.

For surveying the exterior lines of the reservation provided in the first article, \$1,000.

Mr. POLK. I wish to ask the chairman of the Committee on Finance whether the first \$10,000 spoken in the amendment, is to be an annual donation, or whether it is a sum in gross?

Mr. HUNTER. The amendment is to carry out a treaty recently ratified by the Senate. I have compared them item by item. It is all strictly in accordance with treaty stipulations. Whether the sum referred to is an annual payment or not, I do not now remember.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in. The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

PERSONAL EXPLANATIONS.

Mr. PEARCE. I ask the permission of the Senate to make a statement of fact, which I think it is due to myself and to others that I should make. There was a misunderstanding yesterday between the honorable Senator from Mississippi [Mr. DAVIS] and the honorable Senator from Louisiana, [Mr. BENJAMIN,] which I think was owing to an innocent mistake of my own. It will be recollected that yesterday, when the bill for the support of the Army was before the Senate for consideration, in remarking upon the amendment of the Committee on Finance, which proposed to strike out the appropriation for the alteration of the old muskets into breech-loading guns, I stated that I had sent the papers to the chairman of the Committee on Military Affairs. I beg leave to say that by that I meant that I had sent to him the papers relating to Burnside's carbine, including the letter of the Secretary of War, asking an appropriation of \$45,000 for the purchase of those arms. I did not intend to say that I had sent him all the papers relating to that amendment, because, in fact, I was not aware that any other papers than those relating to Burnside's arm were in the possession of the committee. The paper which was afterwards read here from the Secretary of War, with the letter of Major Bell appended, had not been seen by me up to that time, though it was among the papers of the committee. It was, I believe, a statement cut from a newspaper, in which were set forth the letter of the Secretary and the letter of Major Bell. I had not seen them at that time, and when I said I had sent all the papers to the chairman of the Committee on Military Affairs, I said what I supposed to be strictly true, because I was not aware that any other papers were in the possession of the committee, the Secretary's letter, and the newspaper copy of Major Bell's, having been brought to the committee room by the clerk of the House Committee of Ways and Means, and not communicated

to the Committee of Finance by the Secretary himself.

Now, sir, the Senator from Louisiana was well warranted, knowing there was such a letter as that from the Secretary of War, with Major Bell's letter appended, in supposing that I had sent that letter to the chairman of the Military Committee. The chairman of the Military Committee having the papers, to which I have alluded, sent to him by me, was not apprised of the existence of these letters, which were known to the Senator from Louisiana; and it is very manifest that these two gentlemen were acting under a mistaken view of the facts, the one not being aware of the letter of Major Bell and the Secretary's recommendation, these papers not having been sent to him, and the other not being aware of the fact, as I suppose, that the papers which I said I had sent to the Military Committee related only to the breech-loading carbines. It is evident, therefore, that these two gentlemen were speaking and replying to each other with a knowledge of a different state of facts, and it is easy to see how the Senator from Mississippi might conceive that the Senator from Louisiana was putting him in a false position in regard to the Secretary, and how he might suppose that the Senator from Louisiana, in the remarks which he made, was perverting a plain statement which the other had made. It is equally obvious that if both these gentlemen had been aware of all the facts, they could not have fallen into the error of misconceiving each other's purposes and remarks.

I beg leave of the Senator from Mississippi to add that I think there was, in one of his remarks, (the second reply he made to the Senator from Louisiana,) an asperity of tone which would not have characterized his remarks if he had been aware of all this. I think, sir, he would not and could not have supposed that the Senator from Louisiana intended to pervert anything which he had said; and I am very sure that if he had known all the facts he would have been one of the last members of the Senate to say anything which could wound the feelings of the Senator from Louisiana.

I have felt myself obliged to make this statement—and I have purposely made it brief—because I think it is owing to the fact that I was not aware of the existence of a portion of these letters, and so led the Senator from Louisiana to suppose that I had communicated them, as well as the others, to the Senator from Mississippi, that the misconception arose.

Mr. DAVIS. Mr. President, I did generally know that the Secretary of War wanted an appropriation to convert muskets into breech-loading arms. It is, however, true, as stated by the Senator from Maryland, that I did not know of the papers which were afterwards read at the table, and some of which I heard, I must say with surprise; still less was it possible for me to know that the Senator from Louisiana was not aware of the character of the paper which had been before the Committee on Military Affairs, and which constituted a part of the amendment presented from that committee. A misunderstanding, I perceive, would very naturally result from his knowledge of one set of papers, and my attention and special knowledge being of a different set of papers, of which, it seems, the Senator from Louisiana knew nothing.

The Senate will perceive that there is some delicacy in my position towards the Secretary of War, and that there is some justification in a sensitiveness on my part towards anything which would seem to put me in an attitude of endeavoring to undermine a recommendation of his, and that if all the facts had been known, it could not have been that the Senator from Louisiana would have made the remarks he did unless he was willing to impute to me a purpose to apply an appropriation asked for by the Secretary of War to another purpose, which he did not desire, and to do that without the knowledge of the Senate.

I have such entire confidence, as well in the judgment as in the character of the Senator from Maryland, that I cannot gainsay his opinion that my manner implied more than my heart meant. When I used the expression which was taken to have been in a sneering tone, as to the \$100,000 appropriation, it is due to myself and to others that I should say there was nothing offensive intended, and I think it is due to myself that I should

say I am incapable of committing a wanton aggression on the feelings of any man. I always feel pained, nay, more, I feel humiliated, when I am involved in a personal controversy with anybody. It is my wish with every Senator to hold friendly and cordial relations. There is an infirmity which sometimes may involve me, when my attention is directed simply to the transaction of a public affair, into controversies which partake more or less of a personal character. I regret it whenever it occurs. Towards the Senator from Louisiana I had no other feelings than those of kindness and respect; and it was not until I thought he exhibited anger towards myself that I felt it. Then, it is true, I intended to be offensive. Anger is contagious; the manifestation of it by one is very apt to engender it in another.

The whole transaction has been clearly presented by the Senator from Maryland, and I think it is due to the Senate that I should say to them that neither on that nor upon any other occasion have I ever intended, at any time, to bring into the discussions of the Senate a feeling, if I had it, which might be manifested outside of the Chamber; and in response to the remarks of the Senator from Maryland, I have only to say, that if my manner is unfortunate, and is sometimes, as my best friends have told me, of a character which would naturally impress others with the belief that I intended to be dogmatic and dictatorial, it is the result of the characteristic of my mind, connected with the fact that I have not been trained to debate. My pursuits have not led me to minute discussion, and when I get up to address the Senate, it is but simply to state a conviction; and when I am matched with one as skillful, as acute by nature, and as trained by his profession, as the Senator from Louisiana, it is but natural that I should appear to have been the hasty man in the debate, whilst he must have the advantage resulting from that skill which his training gives.

Mr. BENJAMIN. Mr. President, it is certainly a matter of no small embarrassment to reply publicly to the observations which have been made by the Senator from Mississippi, as well as those of the Senator from Maryland. I think I may appeal with perfect confidence to my brother Senators that upon no occasion have they ever observed, in my deportment towards them in the Senate, any but the most courteous manner. Patient, myself, of any difference of opinion in debate, it is but natural that I should expect a similar forbearance on the part of others, and I have endeavored, upon all occasions, that my manner towards my brother Senators should be such that whilst we differ in opinion upon important subjects, there should be left no sting behind in the debates which might occur between us, that none but the kindest and best feelings may exist. I have listened with great gratification to the statement of the Senator from Mississippi. I think it does him honor. I will say, sir, that I was utterly surprised when I found him charging me yesterday with misrepresentation of his remarks. That surprise has been accounted for this morning, by the statement made by the Senator from Maryland. We were speaking of different papers; we were each advised of a different state of facts; and, under the circumstances, it is less surprising to me now than it was then, that the Senator from Mississippi could, by possibility, have supposed that I was endeavoring to misrepresent his remarks. I will say, further, that I did feel at the time that there was an asperity, an undue asperity, in the manner and tone of the Senator from Mississippi towards me. Feeling so, it was but natural, as he himself has said, that I should express resentment in relation to it, tempered, I trust, by that tone of dignity which ought always to be observed in the Senate, and by that respect for my fellow-members which it is my desire always to manifest. I am very much gratified to hear this morning that his feelings towards me have been such always as he has stated. I am sure I have had for him none but sentiments of esteem, and I may add candidly, admiration—I say it without flattery. I shall be very happy to forget everything that has occurred between us, except the pleasant passage of this morning.

Mr. HAYNE. I rise, gentlemen, in the cause of humanity, to say but one word. I congratulate the Senate upon the amicable manner in which this business has been accommodated; and I would say but a single word, especially in ref-

erence to my young friends, that whenever they are called to the field in a case like this, let them always select sensible seconds as their friends, who, in the first instance, must decide whether blood ought to be spilt; and if blood ought not to be spilt, the responsibility will be upon the seconds. That is all, sir.

HON. H. M. RICE.

Mr. DAVIS, from the Committee on Military Affairs and Militia, to whom was referred the resolution of the Senate of the 15th of May, instructing them to inquire into certain charges made by citizens of Iowa against HENRY M. RICE, a Senator from Minnesota, have directed me to submit a report, which I ask may be read.

The Secretary read the report, as follows:

That, under the authority of the resolution, the committee procured from the War Department and elsewhere papers exhibiting the facts in the case, and had before them twenty-two witnesses, who testified under oath as to the allegations made against Mr. RICE; and after an examination of all the testimony adduced, they do not find that it sustains any allegation which imputes criminality to, or arraigns the integrity of, Mr. RICE; and, finding nothing in the developments of the investigation which, in the opinion of the committee, tends to disqualify him for a seat in the Senate, they herewith submit the record in the case, as a part of this report, and ask to be discharged from the further consideration of the subject.

Mr. KING. As one of the members of the committee, I deem it proper to state that, having been present and heard the testimony in the case, I condemn the management and conduct of the sale of these lands in December, and therefore did not concur in the report of the committee.

Mr. WILSON. I rise, Mr. President, simply to say that I could not quite concur in the report of the committee; for this reason. I think the evidence requires that I should disapprove of the manner of conducting the sale; but at the same time, I do not think the proof sustains any charge of criminality against the agent who conducted it.

Mr. HARLAN. Mr. President, I think it due to myself that I should express my gratification on learning the result of the investigation. I do so in consequence of my previous connection with it, and because of remarks made in the Senate on a previous occasion, of a personal character, which I thought uncalled for and unjust. I am satisfied with the committee. I believe that the investigation has been thorough and impartial, and am gratified with the result attained.

Mr. DAVIS. I move that the report be adopted and printed.

The motion was unanimously agreed to.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HENRY, his Secretary, announced that the President had this day approved and signed the following acts and joint resolution:

An act for the relief of Mrs. Harriet O. Read, executrix of the late Brevet Colonel A. C. W. Fanning, of the United States Army;

An act for the relief of Keep, Bard & Co., J. Caulfield, and Joseph Landis & Co.; and

A resolution authorizing the Secretary of War to expend the appropriation made July 8, 1856, upon such channel of the St. Mary's river as he may select.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that its Speaker had signed the following enrolled bills; which thereupon received the signature of the Vice President:

An act to repeal the fifth section of an act entitled "An act to authorize the register or enrollment and license to be issued in the name of the President or Secretary of any incorporated company owning a steamboat or vessel," approved March 3, 1825; and

An act to change the time of holding the spring term of the district court of the United States, for the western district of Texas.

INDIAN DEFICIENCY BILL.

On motion of Mr. HUNTER, the bill (H. R. No. 555) to supply deficiencies in the appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1858, was considered as in Committee of the Whole. It had been reported from the Finance Committee with an amendment to add as an additional section:

SEC. 2. *And be it further enacted*, That none of the moneys herein appropriated to the Indian service, in the Territories of Oregon and Washington, shall be paid, until the claims which they are intended to satisfy shall have been audited and stated by a commissioner, to be sent to the said Territories by the Secretary of the Interior, and approved by the said Secretary. The said commissioner shall be appointed as soon as may be practicable, by the Secretary of the Interior, to receive a compensation of eight dollars a day and his actual traveling expenses, whilst engaged in the service herein prescribed; and it shall be the duty of the said commissioner to examine the vouchers and to take testimony, if necessary, in regard to the claims or accounts which may be presented against the Government, and to report the result of his investigation, and his opinion thereupon, to the Secretary of the Interior, who shall pay such claims, if he approves them, so far as the appropriations herein made shall be sufficient for the purpose.

Mr. HUNTER. A word or two of explanation in regard to this amendment. Very heavy deficiencies have been reported for the Indian service in the Territories of Oregon and Washington. These deficiencies have been accumulating for more than a year. Representations are made by the agents, that, unless these deficiencies be met, the credit of the Government will suffer; and that, indeed, there may be danger of incurring the hostility of various Indian tribes. The Committee on Finance thought it was impossible, with the evidence before us, to determine whether these representations of the agents were true or not. While they felt on the one side the necessity of providing for all fair expenditures which looked to the public service there, even although there might not have been appropriations to meet it, on the other side they believed it was due to the public that some such check as this should be provided. We propose to send out a competent person, to examine and audit the accounts, and look at the vouchers, before the money is paid.

Mr. HALE. I wish to inquire of the chairman of the Finance Committee, if this is to pay any of the war claims?

Mr. HUNTER. Nothing of that sort.

Mr. HALE. Then I have not a word to say. The amendment was agreed to.

The bill was reported to the Senate as amended; and the amendment was concurred in.

Mr. SEBASTIAN. I wish to offer an amendment at the suggestion of the Delegate from New Mexico; and I appeal to the Senator from Virginia to allow the bill to pass over informally, so that I may have time to prepare the amendment.

The VICE PRESIDENT. The Chair hears no objection; and the bill will be laid aside.

MAIL STEAMER BILL.

Mr. HUNTER. Then I move to take up the ocean steamer bill.

The motion was agreed to; and the bill (H. R. No. 558) making appropriations for the transportation of the United States mail, by ocean steamers and otherwise, during the fiscal year ending the 30th of June, 1859, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Finance with amendments, the first of which was to strike out the following clause:

"For transportation of the mails from New York to Liverpool, and back, \$346,500; and it is hereby provided that there be paid to the Post Office Department, out of said appropriation, such sums as may be required to procure the transportation of the mails from New York to Liverpool, and back, on such days as the Collins line may fail to take them from New York,"

and in lieu thereof insert:

For transportation of the mails from New York to Liverpool, and back, in pursuance of the contract with E. K. Collins and others, \$346,500. *And it is hereby provided*, That, for such days as the said Collins and others shall fail to perform said service, the Postmaster General is authorized to contract with the owner or owners of any other steam vessel or vessels to perform said service, by transporting the mails from such port in the United States to such port in Great Britain as he may select, and pay therefor a sum equal to the amount of ocean and inland postages required by the United States. And the Postmaster General may, with the consent of the contractors, change the European termination of said route, under the contract aforesaid, from Liverpool to Southampton.

Mr. HUNTER. As a proviso to that, not from the committee, but on my own motion, I offer this amendment:

Provided, That said contractors shall, in case of any such charge, receive for such transportation, instead of the contract price, the amount of ocean and inland postages received by the United States.

I will explain the purpose of my amendment. As the amendment of the Committee on Finance now stands, we propose to give to those who may

carry the mails, if the Collins line fails to do so, only the postages. At the same time we propose to alter the terminus of the Collins line, and to change it from Liverpool to Southampton, which is an advantage we give to Collins that we are not bound to give him. It seems to me that, if we give him that advantage, he, receiving this annual stipend under the old contract, he ought, if he carries the mails to Southampton, to carry them for the postages; and, because we propose to confine the Bremen and the Havre lines to the postages, equality, it seems to me, would require that, in that event, if we have the power, we should put the Collins line upon the same terms. For that reason, I propose, not from the Committee on Finance, but from myself, to add this proviso. If Collins chooses to go to Liverpool, he takes his contract price; but if he chooses to go to Southampton, it seems to me he ought to be put on the same terms on which we propose to put the other two lines.

Mr. SEWARD. The effect of the amendment offered by the Senator from Virginia will be utterly to defeat all the benefits which could be derived, either to Mr. Collins or the Government of the United States, by the provision which is contained in the printed amendment submitted to the Senate by the Committee on Finance. I wish to ask whether the amendment the Senator now proposes to the amendment, submitted by the committee, has the assent and approbation of the Finance Committee, or whether it is his own distinct individual proposition?

Mr. HUNTER. I stated twice that it was my own amendment, and did not come from the Committee on Finance.

Mr. SEWARD. Then I wish to hear how far the Committee on Finance sustains or supports the views of the mover of the amendment.

Mr. PEARCE. I proposed the amendment originally reported from the committee. I was perfectly willing that the terminus of the voyage should be changed to Southampton. I could not see how the Government would lose by that in any event. I did see, it was true, that it would be a benefit to the Collins line; it would be less expensive to them, because it would shorten the voyage to some extent, and would enable them to avoid the danger of collision in the difficult navigation of the Mersey. I was not unwilling to make this change, because I did not see that the postal arrangements would be in the least inconvenienced by it. The contract of the Collins line has not been terminated nor forfeited. It is not void because they have failed to make their trips according to their contract. They are liable to the penalty of the loss of the payment of each voyage which they fail to make. A recent opinion has been given by the Attorney General to that effect. We are bound, by the contract, to make the appropriation, not to be paid to them, to be sure, unless they render the service; but if we entered suit against the company, and we failed to make the appropriation, I take it they might have a very good defense to our suit. They stipulated to repay annually one tenth of the advance originally made, over four hundred thousand dollars; and if they fail to perform any trip they fail to receive the contract price for that trip, less its proportion of that tenth.

The Senator from Virginia, if I understood him aright, seemed to think that this might operate as an injustice to the Havre and Bremen lines. The Havre and Bremen lines have no contract with the Government now, as I understand; their contract is at an end. We propose, however, to allow them to carry the mails, they taking the postages in pay. I do not perceive that the new arrangement proposed by the Collins line can do them any injury. They do not sail on the same days; they sail on alternate weeks; and I take it for granted that letters will be sent by the next steamer following their date, and these lines will get all the letters they would under other circumstances. No person, I suppose, would delay sending a letter by the Havre or Bremen line, because he knew a Collins steamer was about to go. I presume, therefore, there will be no injurious effect from this provision to any other lines at all. I see no reason why we should not agree to it, though it is beneficial to the Collins line, it is true. Although I have not favored that line as much as some others, and did not vote for the continuance of the large subsidy we gave, it struck me the

misfortunes they have suffered were circumstances which should naturally induce us to extend to them the benefit of a provision which will not hurt the service of the Government, nor, so far as I can see, damage any other line. I trust the Senate will agree to the amendment of the committee.

Mr. HUNTER. It seems to me this is making an unjust discrimination. The old contract is for so much per trip from New York to Liverpool. Now, Collins desires us to change it by giving it a different terminus, Southampton, which is for his advantage; that is to say, he asks a new contract. If we make this new contract, in this respect, it seems to me we ought to impose the same condition on him that we propose to impose on the Bremen and Havre lines. Our object is, in these amendments, to institute a system of steam lines which are to be supported by the ocean postages; and in order to do that we ought to have a fair competition, and not give the Collins line, which terminates at Southampton, more than we give the Bremen and Havre lines, which go by way of Southampton. The Senator from Maryland says he does not see how this can injure those lines. I think it is manifest, because those lines are supported, not merely by postages, but by postages and passengers; and if we pay another line to run to the same terminus, from New York to Southampton, of course that line will take a portion of the passengers, and a portion of the mails, which would otherwise go by those boats, and I think it would injure them.

Mr. TOOMBS. I hope the amendment of the Senator from Virginia will be adopted, for a very satisfactory reason. The amendment, as reported by the committee, evidently changes Mr. Collins's contract, and gives him all the benefits of the old contract. You enable him to run to a different point, which is beneficial to him, with a large subsidy, and you propose to let him go to the same place to which other parties run for nothing. That is not fair.

Has this Collins line any claims on you? In the first place, you built a large portion of his ships which ought to have been paid for at once, but which, by a fraudulent construction at the Departments, runs through ten years—nothing else but a naked fraudulent construction. Then, by means that everybody knows, after giving him \$387,000 a year, you gave him an additional sum, I think of \$475,000 per annum for five years—I speak in round numbers. You afterwards stopped the extra allowance upon notice, and he stopped running. The Senator from Maryland says his contract has not been forfeited. I say it has never been complied with from the first day to this hour. There has never been a main stipulation in it complied with. He never did build the ships he was bound to build, and what he did build were to a large extent paid for with public money. Now, if you are going to alter your system, if you are going to endeavor to carry your mails as you ought to do for the postages, is it not unjust, and a mere scheme to break down the Southampton line, to allow this subsidized line to run to the same point, taking letters to the same place? It is defeating the very policy inaugurated in the bill, and I presume is intended to defeat it. That is its effect. You are under no obligations to Mr. Collins at all. I would forfeit his contract for non-user, non-performance; I care not if forty Attorneys General were to say the contract is good. That is my judgment. You employ a man to carry the mail, and though he may not carry it for five years, you say that you must continue to appropriate so as to have money ready to pay him if he does run. I am amazed at my friend from Maryland; and I apprehend there is some mistake as to the Attorney General having made such a decision. It is not carrying out the contract in spirit or in letter. He has violated his contract; he never built his ships according to the original contract; he has come here, and by various legislation—legislation, too, at least according to the general impression of the country, shameful to Congress—has obtained more than double the original compensation. Now, after having suspended the trips for more than a year, after breaking up the contract and denying his indebtedness to the Government, and being at this very day indebted to the Government in large sums of money for the very building of his ships, he comes here and asks you to give him additional legislative favors, and it seems

that by some means or other they are always to be had. I say, by some means or other, Collins legislation generally gets through Congress; and when, from the very beginning to this hour, he has complied with no part of his contract.

Mr. SEWARD. Mr. President, if there has been anything wrong, as intimated by the honorable Senator from Georgia, in the past legislation with regard to the Collins steamers, I am very sure that time, which generally corrects all errors, will show that the fault was less with Collins than with the Congress of the United States, and that the misfortunes which have followed that error have fallen chiefly upon him, and not upon the United States. That is a transaction of the past. That was legislation by which Mr. Collins, under an agreement to expedite the carrying of the mails in the passage of steamers across the ocean, both ways, so as to excel the speed of the British steamers, and of all other steamers on the ocean, and so to make a triumph in ocean steam navigation for the United States, was to receive an addition for a voyage to the stipulated price contained in the original contract. Accidents and disasters of the most fearful kind, destructive of his property and of his wealth, and even of his family, broke down that enterprise, while Congress withdrew the additional compensation; and the question now comes before us independent of all that subsequent transaction, upon a simple proposition to provide the money to enable the Government to pay the price originally stipulated to Mr. Collins for performing the very service stipulated in the original contract. That is the amount proposed to be appropriated by this bill. There could be no objection to it unless Congress were prepared to declare the contract forfeited, and to arrest the transportation of the mails by that line altogether. The committee do not propose that, the Government do not propose it, nobody proposes it. On the contrary, the Attorney General declares the contract to be in force; the Government recognizes it to be in force. Collins is prepared to go on in performance of his contract. He simply asks for the money which the Government has stipulated to pay for the services which are to be performed during the year while he is performing the contract; but, at the same time, Mr. Collins represents to Congress what, indeed, they very well know outside of any representations of his—that this contract has proved a losing one—a failing one. The company which he represents, even with the large gratuity they for a time enjoyed, have never paid the stockholders one cent of dividend. The stock is exhausted; the ships have been seized and sold for debt. There is no money to be made by the transaction, and it is difficult to determine whether the mails can be carried at all according to the strict terms of the original contract, while the experience we have had in the last year of opening them to competition, has proved that they cannot be carried in any other way more certainly, more speedily, or more promptly.

Mr. Collins asks, in view of these circumstances, that the contract may be so modified that he may have leave to shorten his voyages, by stopping at Southampton, a matter which the officer at the head of the postal service has examined, which the Committee on Finance have examined, and which they unanimously agree will not diminish the value of the service to the United States in the least, while it will render the performance of his contract easier, and enable him to go through with it. Why should it not be granted? Why should the United States not allow this concession which will, when it is made, only secure more effectually a certain and speedy transportation of the mails, attaining all the purposes of the original contract? I can see none.

So far as the question arises whether you shall regard the contract as forfeited, no one is prepared to say that he does not want the mails carried; no one is prepared to say he does not want the mails carried by this line; no one is prepared to say that if they are not carried by this line, they must fall as they originally were, into the care and management of the British Government altogether. It is one of those concessions which are beneficial to a citizen of the United States, and cost nothing whatever to the Government.

What can be the unfairness towards the other line—the Bremen line? The Bremen line had a contract as Mr. Collins had, for a term of years.

That contract expired. They have no claims in law on the Government of the United States. Their contract was continued for one year by the Government, and no more, and has terminated. In law they have now no claim on the Government of the United States to carry these mails at all. The Government, as I understand, proposes to begin with them a new arrangement, by giving them the carrying of the mails for the postages received from the mails. So far, so good. I have doubts about the success of that experiment with that line; but is it not enough to try it with that line? We are under no obligations to give them any better terms, because we are under no contract to do so; but here is our contract with Mr. Collins to pay the sum which is stipulated in the bill; and the facts of the case show that if we pay this sum, and allow him the concession of shortening the voyage, by stopping at Southampton, instead of going off to the Mersey to deliver his mails, it will be no inconvenience whatever to the United States, this line will be restored, reinvigorated, perfected, and we shall attain all the advantages we ever expected to derive from it. If not, the whole enterprise may fail, and we shall be without any regulations, besides having failed, according to my understanding, in carrying out the letter of our contract. Sir, there have been misfortunes enough on this enterprise, which has been conducted by very valuable citizens, who have done a great deal for the country. If there have been faults and errors, it will be found that Mr. Collins has been far more sinned against than sinning, and he has been more unfortunate than the Government which has employed him in its service.

Mr. TOOMBS. I have one remark to make in reference to the extraordinary argument of the Senator from New York. He speaks of breaking faith with Mr. Collins. I do not understand that the Government breaks faith by not choosing to alter a contract against its policy or its interest. That is all there is involved in the amendment. The amendment is that we shall allow him to shorten his line, and go to Southampton instead of Liverpool, to go to the very point where the Government is now attempting to build up a line which must rely exclusively on its business, as it ought to rely on its freights and letters for pay. We are asked to pay \$387,000 a year to Collins for running to that point and breaking down the very policy that the bill seeks to inaugurate. We are breaking the faith of the Government! The amendment of my friend from Virginia leaves the appropriation, (which I shall vote against,) and only provides that if his contract be altered, so as to allow him to go to this place, he shall go on the same terms as the other lines; that is only to compel him to carry out the contract as he made it. We have already altered the contract to the extent I stated before, and I think gave him above two millions of money—more than the value of the ships he lost. We gave him that much extra compensation, which would be more than the value of his ships, even if he had no insurance. The result only shows that he was incompetent to the business. I do not rely upon the statement that the stockholders have not been paid anything. I do not know where the money has gone, but I think it is a general rule that money badly got is badly spent. Samuel Swartwout died insolvent, though he robbed the Treasury of hundreds of thousands of dollars. I believe it is the general result of all such money; it comes over the devil's back and goes under his belly; and that is where it ought to go. There is wisdom in the proverb. I hope that will be the result of all attempts improperly to get money out of the public Treasury—that there will be an avenging Nemesis that will follow him who is improperly plundering the public Treasury, and visit him with the severest penalties that Providence can inflict.

I say the amendment of the Senator from Virginia does not in any way affect this man's contract. I do not believe the contract has any validity; but the amendment leaves it where it is. It leaves those who are willing to carry your mails to England for the postages and for the freights, as a business transaction, without competitors; but now, in order to defeat them, you propose to give greater privileges to this monopoly that you have fattened, unavailingly, for eight years; that you have given millions upon millions to. Now you propose to give it \$387,000 a year to break

down the only wise and just system, in my judgment, that the country ought ever to adopt on this subject. I have heard enough of the talk about the mastery of the seas; I have heard enough about beating England. That was the pretext under which millions of public money were squandered, a few years ago, in this contract. That is all over now. If England will carry my letters for twenty-five cents, and I cannot carry them myself for less than half a dollar, I will let her do the business; and if I was her enemy, I would give her as much of it as I could; for there is certainly no money to be made at that. We paid Mr. Collins for the five years he run twice as much as the British Government paid Mr. Cunard; and yet you say he is insolvent, and has broken down under it. We paid him as much for twenty-six trips as the British paid for fifty-two; and yet he broke down under it. That his ships went to the bottom may have been the result of mismanagement. I have generally found, in all the ordinary business of life, that bad luck generally followed bad management. He does not present himself to the country as a very favorable contractor. If you want to make a contract to maintain your equal supremacy on the seas, I would advise you, at least, to get a lucky man; and, in getting a more competent one, you will be apt to get a more lucky one.

Mr. SEWARD. I wish to show to the Senate the conclusion of the opinion of the Attorney General on this subject. He says:

"Inasmuch as they have kept their covenants literally, and there is no evidence that can justify a suspicion of bad faith, I see nothing in the case on which I can rest my conscience in advising you to withhold from them the money which the Government has promised to pay them."

That is the report of the Attorney General. All the misfortune there is in this case results from the fact that it is left for Mr. Collins to suggest this change in the contract so as to allow him to stop at Southampton, instead of the Postmaster General; for it is more to the advantage of the United States than it is to Mr. Collins. It costs the United States nothing and secures to them greater benefits, as it does to him. By this arrangement the mails will reach London twelve hours sooner, by stopping at Southampton, than they would if he was obliged to carry them, according to the original contract, to Liverpool; and the mails for Paris will reach that capital twenty-four hours sooner than they would if the contract was preserved in its original shape; and the Government of the United States saves twenty-five per cent. upon the postages by transferring the mails for the continent at Southampton, instead of carrying them through England. Passengers for the continent also gain time by this arrangement.

Mr. CAMERON. As a member of the Committee on Finance, it is proper I should say that I voted for this change in Mr. Collins's contract, and I believe the committee were unanimous in making the alteration. I think there were only two gentlemen in the committee who had any doubts about its propriety. We considered it not as giving any particular advantage to Mr. Collins, not as taking anything from the Government at all, but as allowing him to stop at Southampton, by which he will save a day, and by which he will be enabled to continue his line in operation. It is understood that unless he be permitted to stop at Southampton instead of Liverpool, the line must cease, and the effect will be to reduce the number of lines across the ocean, and materially injure the commerce and traveling people of this country. The Government can lose nothing, but will gain by the change. Why, then, should it not be made?

We have nothing now to do with the former legislation in regard to Mr. Collins. If it were proposed now to make such a contract, and I was called upon to vote to pay for establishing lines of this kind, I might not be disposed to do so; but this contract is upon us, and the question is whether these ships shall not, or whether they shall be used for the benefit of the country? whether the creditors of Mr. Collins, who have purchased them, shall be enabled to use them, and receive, during the existence of the contract, a portion of the debt due from Mr. Collins to them, thus paying them and relieving Mr. Collins of a portion of his burdens? It is a fact that that gentleman entered the service of the country one of the richest merchants of New York, and he is now

a bankrupt. He has done a great deal for the country by his ships. They are acknowledged to be the best in the world. He has conducted them with a speed greater than any other vessels have ever made across the ocean; and, in every respect, it has been a line of which the whole country might well be proud. We propose now only to permit the broken down old man to change the stopping place, so as to enable him to get to the end of his journey one day sooner, and thus save a portion of his expenses.

Mr. HUNTER. I do not want to go into this debate; for the matter of the Collins line has been often discussed in both Houses; but I cannot stand here and permit such arguments as we have heard to pass without notice, as if this line had peculiar claims on the consideration of Congress. I think, when we look to the past legislation of the country, it has very little claim in that regard; but I have no desire to go into that. I believed, from the start, that the whole system was wrong; that the policy was wrong of supporting lines of ocean steamers out of the Treasury of the United States. I believed it ought to have been left, like any other trade, to competition; and I thought if it were so left we should get a sound system of ocean steam navigation, which would be self-supporting. So far as we have gone, I think experience has proved that; or, at any rate, it has proved that if we attempt to sustain it out of the Treasury of the United States it is an expense imposed on the great body of the people at large which they ought not to bear.

But, sir, the Committee on Finance have attempted to commence a new policy, which, if it shall turn out to be successful, will be a great improvement on the past. It is a policy which looks to ocean postage as a self-sustaining system, and in order to inaugurate that, it will be necessary to put all upon fair and equal terms. If, on the contrary, we are to insist that we are to keep up this old system of maintaining ocean steam lines, which really are designed for commerce more than for postages, out of the Treasury of the United States, then we may prepare ourselves for applications from almost every seaport on the coast, and applications which we can hardly resist with justice; for surely there can be no justice in subsidizing lines out of the Treasury of the United States from one port, and from none other. That system can no longer be kept up as an exclusive system, and we thought it better to abandon it at once, and to endeavor to commence this other system, which will be fair and equal, and will leave to each port the enjoyment of its own peculiar advantages. I believe, under that, New York would enjoy great advantages, because her commerce and her intercourse with the rest of the world would enable her to maintain lines that could not be supported at the other ports of the Union. I believe it is fairer to the whole country, and a far more wholesome system than that which is vindicated by the Senator from New York and the Senator from Pennsylvania. I do not wish now to enter into these general considerations. The simple question for the Senate to determine is, are they willing now to commence this new system by which steamers are to be sustained by ocean postages; and if they are, is it not fair to put the Collins line on equal terms with all the others? It seems to me that if we admit the first, the second will follow as an inevitable consequence.

Mr. STUART. I do not desire to enter at length into this debate, but if I understand the proposition it is very different from the statement that has been made on the other side. The Committee on Finance propose to insert this provision: "And the Postmaster General may, with the consent of the contractors, change the European termination of said route under the contract aforesaid, from Liverpool to Southampton." If the Postmaster General does not choose to make the change, the Collins line will run to Liverpool. If the Postmaster General deems it for the benefit of the United States to make the change, why should you alter the pay? If the change is beneficial to the United States, why take away the contract price? If it is not beneficial to the United States, why assume that the Postmaster General will make the change? It will be seen from the reading of the proposition that it is not in the power of the contractors to make the change. The proposition is not to authorize them to change the

termination of the line, but to authorize the Postmaster General to change it with their consent. But the amendment of the Senator from Virginia is, that if it shall be found beneficial to the United States to allow the line to go to Southampton instead of Liverpool, the contract pay shall be taken away and it shall run for the postages; and this the Senator calls equality. If I had time, it would be very easy to show that there is no equality in it. These ships were made on the invitation of the Secretary of the Navy for a specific purpose—not merely to carry this mail, but under the belief that the construction of these steamers would be beneficial to the United States for war purposes, and reserving the right to buy them. I suppose it is true to-day that either of them is worth more money than all the steamships that run to Southampton; it cost more money to build it; and yet this is said to be equality. Here is an investment that is required to be made on the invitation of the Secretary of the Navy, an immense investment, not necessary to carry these mails, but to build a certain character of ships that have been built at enormous expense and great outlay of capital. Now, it is proposed to take these ships and allow them to run to Southampton, if the Government wants that, for, as I said before, they cannot run to Southampton unless the Government wants it. If the Government deems it beneficial to itself to run to Southampton instead of Liverpool, then you say this change shall not be made, though it may be beneficial to the line to make it, unless the contract pay be taken away! I confess I neither see the equality nor the justice of this. If the Committee on Finance are right, and I think they are, in proposing this amendment to the House bill, let its effect be available to the country; do not hamper it with an amendment which certainly must destroy it. I have no disposition to continue this debate.

Mr. DOOLITTLE. Will the honorable Senator from Michigan be good enough to inform the Senate how long the contract of Mr. Collins continues to run?

Mr. STUART. Two years.

Mr. CLINGMAN. I had occasion to look into this morning, and I found that it will expire on the 27th of April, 1860.

Mr. STUART. In about two years.

Mr. BENJAMIN. Mr. President, this whole system of ocean-mail postage is a very large one, and I dislike to see it go by without any observations at all on the part of any of those Senators who have turned their attention to it. I am not willing to see this subject disposed of without some reference to the general principles that ought to govern us in our postal communications with foreign countries. I am perfectly willing that, in the establishment of our postal communications with European nations, we shall be guided by a consideration of the amount of postages that can be collected, and that that amount of postages should not be materially exceeded in the contracts made by the Government for the conveyance of the mail.

Mr. YULEE. Will the Senator allow me to suggest, that if he proposes to go into the general discussion of the subject of ocean-mail service, it might, perhaps, be advisable that I should send to the Clerk's desk an amendment which I am directed by the Committee on the Post Office and Post Roads to offer, and which I intend to move when the Committee on Finance shall get through with their amendments.

Mr. BENJAMIN. I should be glad to have that read for information before I go on.

Mr. YULEE. I send the amendment to the desk, and ask that it be read.

The Secretary read it, as follows:

And be it further enacted, That the Postmaster General be, and he is hereby, authorized to cause the mails to be transported between the United States and any foreign port or ports by steamship, allowing and paying therefor out of any money in the Treasury not otherwise appropriated, if by an American vessel, the sea and United States inland postage, and if by a foreign vessel, the sea postage only, on the mails so conveyed: *Provided,* That the preference shall always be given to an American over a foreign steamship, when departing from the same port, for the same destination, within three days of each other.

And be it further enacted, That the Postmaster General be, and he is hereby, directed to provide for and maintain, if practicable, at a cost not to exceed, in any instance, the sea and United States inland postage on the mails conveyed, a weekly mail to and from Europe, by United States mail packets, to alternate at regular intervals with the British mail packets plying between New York and Liverpool,

and Boston and Liverpool, the preference to be given to such line or lines of American steamships, suitable in all respects for the service, as shall offer the best permanent contract.

Mr. CLINGMAN. With the permission of the Senator from Louisiana, I ask, in this connection, that a short amendment which I desire to offer may be read, with a view of calling his attention to it.

The Secretary read the proposed amendment of Mr. CLINGMAN, as follows:

And be it further enacted, That from and after the 30th day of June, 1860, a discriminating rate of postage of one hundred per centum additional shall be exacted upon all letters and other mail matter conveyed from foreign countries to the United States by vessels sailing under foreign flags, which shall receive a governmental bonus as mail carriers.

And be it further enacted, That the Postmaster General be, and he is hereby, required to abrogate any existing postal convention with a foreign Government, the stipulations of which are calculated to prevent the execution of the preceding provision.

Mr. BENJAMIN. I was going to observe that I yielded a cordial assent to the policy which proposes to maintain mail communications with Europe, for an amount not essentially exceeding the postages received; but to that portion of the policy which is directed to the establishment of lines, which lines shall themselves receive the precise postages, I am opposed. I have no idea of putting the foreign mail system at the mercy of what is now called competition, leaving it loose, undefined, and unregulated by the Government. I would as soon adopt a similar system in our inland postages. There are lines upon which the postages would make an amount per annum far exceeding what would be required by any ocean line of mail steamers for the service rendered to the Government. There are other lines which might be built up by the surplus postages collected on these favored lines, and in that manner redound to the interest and advantage of the country. There may be some particular short lines on which a very heavy business is done, and on which the postages received by the Government of the United States would far exceed any fair remuneration for the company carrying the mail, whilst, on the other hand, there are postal lines to which some advantage ought to be given by the Government, in order to enable them to carry mails which it is essential for the interests of the country to have regularly transported. It appears to me that the random system of giving to each line exactly the postages that it earns, is no more consistent with sound policy upon the sea than it is upon the land; and what would be thought now amongst us of a proposition that the mail in the different parts of the United States should be conveyed by different companies, under contract with the Post Office Department, for the postages collected upon the letters conveyed by those particular companies? What opportunity would there be for postal communication in the sparsely-settled portions of the country? What opportunity would there be for communication with our distant frontiers? This would be a subversion of the entire policy of the Government as established from its foundation. It would be, in my judgment, a very unwise and unwarrantable departure from a policy which hitherto has produced the most beneficial results. I am aware, that in saying this I run counter to the ideas of my friend from Georgia, [Mr. Toombs,] whose theory on the subject is, that the price of carrying the mail ought to be paid, as far as possible, by the persons for whose benefit it is carried; that we ought to look to the precise cost of carrying every letter, and, if possible, charge that cost upon the person for whom it is carried; and who does not consider it legitimate for us to look to the general interests of the country, to the advancing civilization of our western frontiers, to the necessity of facilitating settlements which cannot be established without postal facilities—who considers, I say, that these are considerations purely incidental, which ought not to be taken into account when we are establishing mail facilities. I do not agree with my friend from Georgia in these ideas of the policy of the Government. I cannot conceive that he is right so far as the postage on land is concerned, and I believe the policy will be equally at fault if carried out upon the sea.

Under the system upon which our mails have been carried for a few years past, the disfavor which has been cast on these lines, the amount

of postages collected upon American lines has been gradually diminishing; and, whenever the postages upon American lines diminish, there is a correspondent augmentation on the postages gained by foreign lines, and this reacts upon our Government in a twofold manner. Not only are our own receipts diminished, but, under the arrangements by which foreign postages are now collected, large commissions are allowed to the postmasters for collecting the postages due to the foreign lines; and the consequence has been, strange as it may appear, that, as the number of our trips to foreign countries by our mail steamers has diminished, the expenses of our Government for those trips have increased. I have before me a statement showing a gradual diminution in the number of the trips of our steamers, and the quantity of mail matter carried abroad; and one would naturally suppose that the less the service the less the cost ought to be upon any judicious system; whereas, in point of fact, as our service diminishes our expenses increase under the system that now prevails. In 1855, we made fifty-two trips across the ocean; the Government of the United States collected \$731,675 for postages, and paid out for commissions on foreign mail matter \$100,768, leaving a balance to the credit of the Government of \$630,907. Deducting that from the amount paid for the foreign service, and the cost to the Government in that year was but \$104,000. In the following year the trips were diminished; but instead of the cost to the Government being diminished, the true expenses were increased to \$135,000. In the year 1857 the trips were still further reduced to forty from the original amount, fifty-two; and that brought us in debt \$433,000. So the fewer trips we make the more money we pay.

Mr. YULEE. The Senator will excuse me for interposing an explanation at this point to prevent an improper effect from the table he has before him. The postages received by the United States in 1855 were largely increased in consequence of the fact that several of the British steamers were withdrawn for transport service to the Crimea; and the income of the United States during the last year was greatly diminished by the fact that the Collins line substituted for their trips the steamer Ericsson, on board of which people generally would not send letters, because she was always behind time. That is the explanation of the difference; and it is proper that that explanation should be made to prevent a misconception of the results exhibited by the table.

Mr. BENJAMIN. I was aware of those facts, and I was going to advert to them; but I am gratified that the Senator from Florida has spared me the necessity of doing so. They do not, however, touch my argument to this extent—and this is the point I am aiming at—that under our present system, from some cause which it is not necessary now to go into or to attempt to develop, there is something so faulty that the more you diminish the number of trips, the heavier appear to be the expenses of the Government. In 1855, wherever be the cause, we really performed fifty-two trips on the ocean, and the service cost the Government \$100,000, over and above the postages received. In 1857 we had but forty trips across the ocean—twelve trips less—at a cost to the Government of \$433,000. Now, whether the diminution in the number of trips arose from one cause or another, the fact is clear that there were fewer trips in that year, twelve trips fewer, and they cost the Government a great deal more.

Mr. YULEE. But the Senator misunderstood me. I did not mean that it was altogether because of the fewer trips; but because a part of those trips were performed by an inadequate vessel, which took no mails; that is to say, mails were put on board, but the mails contained very few letters, and we received no postage of consequence, and yet she received full pay.

Mr. BENJAMIN. That is true to some extent, and may, perhaps, weaken the force of the argument I am advancing to a certain extent; but my intention now is to draw to the attention of the Senate the exceedingly defective system on which our foreign postal communication is carried on, and at the same time urge on Senators some considerations, which, in my judgment, ought to induce us to pause before we adopt the principle of giving to each line the postages made upon that line, as remuneration for carrying the mail.

I am satisfied that there are foreign mails on particular lines which would yield to the contractors, on such a system, a great deal more than any contract system would require us to pay; whilst, on the other hand, there are lines which it would be exceedingly important for the country to establish, that can never be put on a permanent footing with such a system as that. That is what I wish to call to the attention of the Senate.

Now, in relation to the particular amendment before the Senate as regards the Collins line, I must say that I do not share the opinions of the gentleman from Virginia, or my friend from Georgia, in this point of view. If it be once taken for granted, as the Finance Committee of the Senate concede by the measure which they have brought forward, that the Collins contract is still in force, I cannot conceive for what reason, if it be beneficial to our Government, we should not have the mails carried to Southampton, if that should also prove to be acceptable to the contractor. The Senator from Michigan has pointed out to the Senate that by the terms of the amendment there is no provision at all in favor of the contractor; there is nothing in it that authorizes the contractor to carry the mail to Southampton; but it is a provision which authorizes the Postmaster General to bargain with him to carry it to Southampton if he will consent.

Upon what basis is this proposition maintained? If I understand it, it is this: the Collins line comprises steamers which cost vastly more than any other line which connects us with foreign countries. I am not here to stand up in defense of that line; I believe it has been most miserably managed; I believe that it is owing to the mismanagement, and, I may add from public rumor, to the corruption which has accompanied the establishment of that line, that such a great disfavor is felt in the country towards the foreign mail service; but the contract is conceded to be still in existence by the Finance Committee. Now what advantages will the Government of the United States gain by carrying the mail to Southampton? That is all I look at. Is there any advantage the Government will attain by requiring the mail to be carried to Southampton instead of Liverpool? I think there is, both in point of time and in point of expense, an advantage so apparent to the Government that I cannot conceive why we should refuse to accept it, simply because it may also be beneficial to the contractor. That advantage consists in this: in the first place, your mails to the continent will reach the continent twenty-four hours sooner by touching at Southampton, and being carried across to Havre, than by taking them up the Mersey to Liverpool, from thence, conveying them to London across England, and thence to the continent. There must be at least a gain of twenty-four hours by that route. There is the gain of time. Next there is the gain of money. If you take your mails from this side, and deliver them at Southampton, and at Southampton put them at once on the small steamer which carries them across the Channel to the French coast, you avoid the payment of the entire amount that is charged by England for the passage of the continental mail through England, and that is a very heavy item.

Now, if we can economize time and economize money for the Government, for travelers, for the commercial community at large, shall we say that we will refuse these advantages because it may also be to the advantage of the contractor to accept this modification? I look upon this matter, as regards the Government, in the same light that I would look at it if I were myself personally interested. If I had made this contract with Collins, on the conditions which now exist, I would cheerfully change the terminus on the other side, if any advantage was to be involved in the change, even if it was a benefit to him. I would try to get out of him something for the change, if I thought I could; but if I could not, I would let it go, and reap all the advantages I could for myself. If it is believed that the advantages for Collins so far preponderate over those which may result to our own Government as to enable us to exact from him some diminution of his mail pay, I say at once, make the best bargain for the Government you can that is consistent with dealing not too severe, not too stringent; but if, on the other hand, the advantages are equally poised, I really cannot see why we should refuse a national benefit be-

cause the contractor is thereby also benefited. If gentlemen will show me that our Government is to be injured at all by the change, if we are not to receive an advantage, I say make no change unless he pays us an equivalent; but if we are benefited, and he also be benefited, let us, in God's name, do what is beneficial to all, and harms none.

Mr. YULEE. Mr. President, inasmuch as the action of the Senate upon the amendment proposed by the chairman of the Committee on Finance might be more or less affected by their disposition in respect to the general subject of ocean mail transportation, I deemed it proper to cause to be read to the Senate the amendment designed by the Committee on the Post Office and Post Roads; and inasmuch as it has been read to the Senate, I think it may be proper to accompany it with a very few remarks, in explanation of the policy upon which the Committee on the Post Office and Post Roads have placed themselves in respect to this subject.

There were a great many applications from parties desirous of establishing new lines of steamers, which were referred to the Committee on the Post Office and Post Roads. They gave much consideration to the subject, and I believe unanimously concluded that it was not expedient to recommend, in the present condition of the Treasury, any contracts for new lines. While they were not disposed to disturb existing contracts, they were not disposed to recommend any new ones; but the committee were of opinion that the opportunity might be seized to inaugurate a new system upon which the postal service on the ocean might, so far as Europe, especially, was concerned, rest for the future, and that by legislating upon the matter now, the new system might acquire footing enough to be able to succeed the present contract service upon the expiration of their respective terms. At the same time it is to be conceded, as suggested by the Senator from Louisiana, that there are other routes which, in the opinion of Congress, may subserve a public interest that could not be sustained by the income from postages upon the letters conveyed. There may be lines which, from diplomatic considerations or from commercial considerations, it may be deemed advisable to establish. There may be continental lines, lines upon the American coast, to South America, the establishment of which may serve a diplomatic and American policy, but which could not be sustained by postages. If it be deemed advisable to establish such lines, the propriety of doing so would address itself to other considerations than postal; and the Post Office Committee did not deem the time propitious, if they were even charged with the subject in that view of it, for the recommendation of any new lines; but in their opinion, the legislation they proposed was likely to result in the establishment of a very successful trans-Atlantic European service, which would entirely supersede the necessity of special contracts.

The official returns of the Post Office Department exhibit the fact that the postages, sea and inland, upon the European mails, are very stable, and for several years past present a nearly similar amount. Including in the calculation the receipts by the British as well as American steamers, the total amount of postage on the mails which cross the Atlantic to Liverpool, Havre, and Bremen, is \$1,473,283 61 a year—nearly a million and a half—and it is an increasing sum. There is a gradual increase, so that the increase of last year may be safely calculated upon in our legislation. The British maintain a weekly line, alternately, from Boston and New York. If we establish a weekly line alternating with them, with good steamers, we may fairly expect to receive one half the total amount, which would be nearly eight hundred thousand dollars—a sum quite equal to that which is paid by the British Government for weekly service by the Cunard line. If, therefore, the Post Office Department, with good judgment, make a contract for a weekly service, touching at such points as may best accommodate the postal requirements in the intercourse between the two continents, there is every reason to believe that an income may be derived from it fully equal to that which is received by the Cunard line, and therefore fully equal to the support of a line. Every postal purpose of the Government, all its postal policy in connection with the ocean steam

service, so far as Europe is concerned, would be accomplished by the effect of this legislation.

The committee were further encouraged in the recommendation of this policy from the circumstance that, at the last session, they recommended the same legislation, and it then received the sanction of the Senate. The Senate, at the last session, agreed to a similar amendment to one of the appropriation bills, which only failed in consequence of the confusion of the last night in the conference between the two Houses.

Now, in reference to the hearing which the recommendation of the Post Office Committee may have on this particular amendment, I shall vote for the amendment proposed by the chairman of the Committee on Finance, for this reason: inasmuch as it is desirable to inaugurate this policy under the most auspicious circumstances, it being likely that a line touching at Southampton, and extending alternately to Bremen and Havre, will draw a larger amount from the British line of postage patronage, it is proper that the whole service should be placed upon the same footing. A line to Liverpool, as now contracted for, would not so much interfere with the successful inauguration of this policy as would a subsidized line with a subsidy of \$19,000 per voyage to Southampton, superseding the vessels of another line which might be disposed to undertake the service. This matter being at the option of the Postmaster General, I agree that it is not very important; but I think, as an indication of the purpose of the Senate, it might be desirable, inasmuch as under the existing law we are not required to do more than to pay for the service to Liverpool, to leave that contract standing where it is, but with the permission to the contractors, if they please, to abandon that special contract, and to come into the policy of the Government, in its endeavor to inaugurate a new system upon a new basis. I would propose to give them the right to be participants in the policy by a privilege to take the line to Southampton, upon the basis determined upon by legislation, if this should be adopted.

Mr. BENJAMIN. Will the Senator permit me? It seems to me we are discussing here rather upon words than things. The gentleman terms it a right to participate in the benefits of the Government if they shall give up the contract. They consider that that is something which the Government is asking them to sacrifice. If you put it in the light that it is an advantage to them to give up \$400,000 a year, the argument is sound.

Mr. YULEE. I think the Senator has misunderstood me. I do not propose to disturb that contract, nor do I understand the chairman of the Committee on Finance so to propose; but to leave Mr. Collins the right to run to Liverpool, and pay him the contract price, and to give him the privilege in preference to any other line to transfer himself to Southampton, if he chooses to bring himself within the policy which we may now adopt of putting all lines on the basis of the postages for income.

The objection to the amendment, as reported from the Committee on Finance, as it stands in the printed bill, is that it proposes to allow the Collins line to stop at Southampton, whereas it is important that the service should extend to the continent, that it should go to Havre and Bremen; and by permitting the Collins line to place itself upon the Southampton route, and there to stop, without carrying the mails further, you impose upon the Department the necessity of providing for the conveyance of the mails from Southampton to the continent, and you disable them from employing other vessels that would be willing to extend the trip to that point for a less sum than \$19,000. Inasmuch as I believe—and it is evident the contractors so believe, from the circumstance that they apply for the authority to make the change—that they will profit by the change, I think it would be advisable to impose on them a gentle constraint in making the change, to fall into the policy of the country, by extending their trips to Havre or Bremen, as the Postmaster General may require, and to do it upon the basis of the legislation we may adopt at this session. Whether the Senate will determine to adopt the amendment proposed by the Post Office Committee or not, of course I cannot know; but if they mean to do so, I think it would be advisable to adopt the amendment of the Senator from Virginia.

Mr. BAYARD. I should like to ask the hon-

orable chairman of the Post Office Committee one question. Will the Government lose anything in the way of postages, if, according to the amendment of the Finance Committee, they alter the place of stopping in England?

Mr. YULEE. The Government will lose, as the amendment is proposed, all the expense of transporting the mails from Southampton to Havre and Bremen.

Mr. BAYARD. Would not that expense equally exist in transporting the mails from Liverpool to those points?

Mr. YULEE. I should have less objection to the amendment proposed by the Finance Committee if they would add the words "and Havre or Bremen," so that the Collins line might extend their trips to Havre or Bremen.

Mr. BAYARD. The amendment of the Finance Committee is to authorize the Postmaster General, in his discretion, with the consent of the owners of this line, to change the terminus of the route from Liverpool to Southampton. What I desire to know is whether, supposing the Government would have to pay the contract price in either case, the service would be less efficient to them, and whether they would lose in postages by changing the terminus from Liverpool to Southampton?

Mr. YULEE. I think not, in that respect.

Mr. BAYARD. Then it seems to me it comes to this: the recommendation of the committee is to allow the Postmaster General to propose to this company to change the terminus of the line from Liverpool to Southampton, which is an alteration of the contract if they assent to it; that is not to be injurious to the Government in any point of view; it is neither to lessen their postages nor to render the line less efficient. But the amendment of the honorable Senator from Virginia embodies, in connection with that, a proposition that the Postmaster General shall not have that discretion unless the owners of this line will consent to alter the terms of the contract on which you are to pay them and receive a less sum. I do not think that is justice.

Mr. CLINGMAN. I intend to support the proposition of the Senator from Virginia, notwithstanding the suggestions made in opposition to it. I shall not, however, enter into any argument upon that point; but with respect to the objections of the Senator from Louisiana that the postage might be excessive remuneration, that difficulty can very easily be remedied by providing that while the compensation paid for a line shall never exceed the amount of the postage on the letters carried, the Postmaster General, in his discretion, may allow a less amount. There is an objection of an opposite character presented by the Senator from Michigan. He argues that it will not be remunerative to carry letters in this way. Why, sir, there is no freight in the world that pays like letters. If you were to put these letters down to a cent an ounce it would be sixteen cents a pound, and there is no freight transported on the ocean at that rate. It is true, that if a vessel was of no use but to carry the mails, then it might be that it would not be sufficient; but we have regular lines of steamships and other ships running across the ocean, and of course they will be very glad to get the letters at any rate of postage that has ever been thought of.

But, sir, my object in asking the attention of the Senate for a few moments this morning, is to say that while I intend to support the amendment of the Senator from Virginia, and believe it the best thing we can do at this time, because Mr. Collins has nearly two years yet to run, and we shall be obliged, if he complies with his part of the contract, to go on until the arrangement is carried out, I think the proposition of the Senator from Virginia does not go far enough, and I intend to ask the Senate at a proper time to adopt an additional amendment. If the Senate will indulge me for a few moments, I think I can show reasons why my proposition—it has already been read—which may at first strike gentlemen unfavorably, is one that must be adopted. All our contracts for existing lines will expire in less than two years from this time. What are we to do then? The Cunard line will still be in operation. It has now until January, 1862, to run, and must run for one year thereafter if notice be given, and may continue to run longer.

The great objection in my mind to these subsi-

dized lines is not merely the money they take out of the Treasury, though that is a serious one; but there is a still greater mischief in crippling private enterprise. If you leave private enterprise to determine this matter, and the passengers, the freight, and the letters, to be carried by those who can carry them cheapest, the United States will beat all the world. That is obvious to everybody who looks at the progress which our shipping has made. I have had occasion, during a run of years, to notice the comparative increase of the United States and Great Britain, and I find that we increase about five times as fast as they do when you leave it to private enterprise. If, however, you make it a Government matter, the Governments of Europe will advance larger sums to support their lines than our Government is willing to do. That is obvious from the large naval and military force they keep up. Hence, in 1852, when Congress was discussing the question of increased compensation to the Collins line, seeing at that time the difficulty in which we have since been involved, I attempted to get in an amendment to prevent this identical state of things. I barely allude to the subject now to show that it is one that has been discussed in the two Houses of Congress heretofore. If all our ships be withdrawn, Great Britain may continue to subsidize her lines, and in what position are we placed? The Cunarders get about \$850,000 a year. Suppose they put down their freight and passengers to a rate that will barely pay the running expenses, the wear and the tear of the vessels: then \$850,000 is a very handsome return, perhaps, on their investment. Suppose Mr. Vanderbilt, Mr. Collins, or anybody else, should run a line on the same terms, and run it with exactly the same economy he would have nothing upon the original investment if he had no subsidy, and of course his line must go down. The question, therefore, presents itself, whether we shall let this system continue?

If the United States and Great Britain gave one of the hotels in this city \$100,000 a year as a subsidy, of course it would underwork other public houses. That might be a matter of no great moment to us if it was done by the British Government; and it would be a matter of very little consequence to us, provided a house was kept up that answered the purposes of the public, how it was done; but it is a very different thing when you come to look to ships. It is very important to us that we should have a large number of ships; not only important to our wealth and progress in time of peace, but eminently important in time of war. We are now brought to this pass, as was foreseen several years ago: our subsidized lines have gradually gone down; the people of this country are not willing to make large advances out of the public Treasury to keep up those lines; and if we were to keep up as many ships, at the rate we have paid heretofore, as Great Britain, the result would be that we should probably have to spend ten millions a year. What is the effect of that? You crush all other interests. Here is the case of Mr. Vanderbilt, who is running a line to Southampton, but gets no subsidy. He has to come in competition with the Cunarders, who get \$17,000 a trip, and Mr. Collins, who gets \$19,000 a trip. My friend from Maryland [Mr. KENNEDY] suggests to me that Mr. Vanderbilt does not run in the winter because of these disadvantages; but if the subsidies of these two lines be withdrawn, they will then have to charge the same rate that Vanderbilt does. It is a mistake to suppose that he has not as good ships as anybody. His ship, the Vanderbilt, is superior to any one that Collins has, except the Adriatic, and is, perhaps, quite equal to that; and it has made, according to the newspaper statements, the quickest trip ever made across the Atlantic. The Persia beat Collins's best time, and it is stated that the Vanderbilt was able to beat the Persia, I believe, about an hour. It is a mistake, therefore, to suppose that Vanderbilt has not good ships; but he cannot run under disadvantages if he has subsidized lines to compete with.

We must do, I take it, one of these things. First, we can go into a competition with Great Britain by subsidized lines; and the result of that will be, that our lines will gradually go down, as has been our experience heretofore. It is a well-known fact, if we are to rely on the statements repeatedly made in the public press, that Great Britain is

getting the advantage of us in the number of ships. France can go into this system; and even Bremen—the little town of Bremen. We gave a subsidy to some vessels to run to Bremen; and I understand they are now running ships over here. I believe the greatest portion of the stock of the Bremen line was furnished by the Government of that country; and, of course, they were glad to have us allow them subsidies to keep up their vessels. By giving small subsidies, those foreign Powers can greatly underwork our private enterprise. Suppose you start a line from New York, and Philadelphia comes here and says, "Why should not we have a line?" If you grant it to Philadelphia, Boston and Baltimore and Charleston and New Orleans will make the same proposition. When you have got a dozen lines, why should not you go further? Why should San Francisco, Savannah, and other places, be cut out? It will be like the building of post offices. You build a post office in New York and one in Philadelphia, and then there must be one in every other city. If you go on, where are you to stop? I have no hesitation in saying that, if I found it was the settled policy of the Government to keep up a line of this sort from New York, I should not be willing to deny one to Philadelphia. Pennsylvania pays a part of the taxes to support these lines. I would no sooner do that, than I would vote a pension to A and deny it to B, who had performed the same service. If, then, we are to adopt this system, it will require a large expenditure; and the result will be mischievous and disastrous to us, because it will break down all our ships, except those that are subsidized in this way.

If we abandon that policy, in the second view of the case, and foreign nations choose to pay moderate subsidies, they will be gradually gaining upon us. I can state my notions on this point by a simple illustration. I hope the Senator from Rhode Island [Mr. SIMMONS] will allow me to use it, because I know he is anxious to protect American industry. I myself am a free-trader, but I want fair play to everybody. Let us suppose we had no tariff at all on imports, though we have now a considerable one, but not so high as he thinks it ought to be; suppose there were free trade between Great Britain and the United States in iron and other things; but England, with a view of giving her establishments an advantage, proposed to allow ten dollars a ton for every bar of iron that was made: that iron would be brought to this country, and would undersell our Pennsylvania friends. If I saw that to be the case, I should vote at once to put a tax of at least ten dollars on it. I should say, "I will have fair play; if I am for free trade, I will give everybody an equal chance." That is just the situation in which we are likely to be placed here. If foreign lines get subsidies from other countries, they can underwork our people.

Then there is another view. These ships bring freights here; they bring silks, and iron, and sugar, and other articles; they may bring anything. Why should we advance money to pay those freights? I am not willing to impose a tax for mere protection, but why should we pay freight to get them here? Suppose I should move an amendment to this effect, that to enable the British to bring their goods here which come into competition with our own, we shall advance a certain sum of money out of the Treasury to pay the freight of bringing their iron, woollens, and cutlery, and other articles that come into competition with our enterprise, how would it be met by gentlemen on this floor? And yet that is the very thing we are now doing. I think that our manufacturers have a right to claim that they shall have the advantage of the freight, and whatever other advantages they have by reason of the difficulties of bringing foreign materials here. It is fair that they should have that, and I would not cut them out of it; but this very system enables the Cunarders and the Collins line, or others, to bring foreign merchandise here and undersell our own people, and the expense of doing it is either paid out of our own Treasury, or it is advanced by foreign Governments. I submit to gentlemen if there is anything fair in this. Do we intend to stand idly by and see our lines cut up in that way and our own system cut down? We have passed a great many laws, I know, to retaliate against foreigners. Our object was to get free trade, to obtain a removal of all restrictions, and when

they gave bounties to cripple them to the extent of putting us on equal footing. If we do not intend to stand on that, I take it the only third thing we can do is to adopt a line of policy by which we may break down the subsidies altogether.

This brings me to the proposition I desire to submit as an amendment, and which I hope the Senate will adopt. It does not touch the subject for the next two years, but allows the Collins line contract to expire, which it will do on the 27th of April, 1860. I propose that from and after that time we put a discriminating postage of one hundred per cent. additional upon letters that are brought in all vessels that receive subsidies or bonuses from foreign Governments. Of course the effect of that will be, that if a man in London is going to send a letter here, and sends it by the Cunard line, he has to pay twice the postage he would if it came by some other line which was not subsidized. The effect would be to operate injuriously upon the Cunard line, and force them to give up the business, I take it. But gentlemen say Great Britain will retaliate if we do this. She cannot retaliate on these principles, for we have no subsidized lines. We do not propose to touch her lines, except those that are subsidized. She has a line of four ships running, I believe, to Canada, as regularly as the Cunarders, that get no subsidy from the British Government. So far from seeing a disposition on the part of the British Government to put any countervailing taxes on us, I think you will find that the strong feeling there is against these monopolies altogether.

Mr. BENJAMIN. Will the Senator permit me to interrupt him for a moment?

Mr. CLINGMAN. Certainly, sir.

Mr. BENJAMIN. So far as the Senator's argument is concerned, which I have been following with interest, there appears to me to be this difficulty about it. The Senator's assumption seems to be, throughout, that the amount which he calls a subsidy given by the British Government to the Cunard line, exceeds the amount that they would receive from postage. They do not get the postage, and I cannot conceive in what sense he considers those lines subsidized lines, because they receive a sum certain, and our lines not subsidized lines because they receive a sum contingent, but which may perhaps exceed the amount certain the others receive.

Mr. CLINGMAN. I will not make any controversy about terms, as the Senator from Louisiana understands my meaning. So that I attain my object, I do not attempt to show any extraordinary precision or elegance of language.

Mr. BENJAMIN. It is not on that, but on the substance of the argument.

Mr. CLINGMAN. I understand.

Mr. BENJAMIN. The Senator says that if we tax the British lines, they cannot tax ours in return, because we give no subsidy. I understand that we are to give the postages which may be just as much as the British give in the way of a sum certain, and therefore the retaliatory system would be justifiable.

Mr. CLINGMAN. I was about to advert to that view. The proposition I intend to support, and which indeed formed part of my amendment, but I did not have it read because the amendment of the Senator from Florida goes very nearly to the same point, is to give the postages in all instances. That would be fair. I do not mean that I would always give the whole amount. I think it highly probable that where it is very remunerative you ought either to reduce the postage—and probably that would be the best course—or to diminish the amount paid to the line. My proposition is—and I think I have made myself sufficiently intelligible—to do away with the practice of paying sums of money from the Government. If Great Britain and the United States can come to an understanding by which all lines are to receive the postage, or certain proportions of the postage, that will be perfectly fair. The purpose of my amendment is to bring about that understanding. If we adopt a proposition of this sort it has two years to go into effect, and it will of course tend to bring the English Government and our own to some definite arrangement. How did we get rid of the Denmark Sound dues? We should probably not have been clear of them to-day if this Government had not taken a decided step, given the notice, and declared it would not pay

them. That had a tendency to change the whole system. So if we make a provision of this kind the result will be that the Government of Great Britain will be obliged to abandon her subsidies. I do not think she will try any retaliatory system. The consequence will be that more equitable and fair arrangements can be made between the two countries, by which vessels may receive the postage, or part of the postage. In this way we shall relieve ourselves of all this drain upon the Treasury, and we shall put all lines upon an equal footing. I am for having free trade in letters; I am for having a sort of reciprocity system between the British ships and our own. I think that can be arrived at; but it can only be done when you break down these subsidized lines. Although the British Government cannot terminate the Cunard line before January, 1863, the company may terminate it themselves; and there is a provision by which they are authorized, on giving twelve months' notice, to require the Government to take their ships off their hands. If therefore we make this proposition at this time, and it is adopted, they will see that at the end of two years they will be subjected to this onerous burden, and it will be a question with them whether they will bear it or get clear of the arrangement.

My purpose was not to detain the Senate long, but to present this view. If any Senator can find a better mode of arriving at the same result, I shall gladly take it. In 1852, I brought forward, in the House of Representatives, a provision that after the termination of our subsidies there should be no freight or passengers brought into the ports of the United States for hire, by any vessel that was supported wholly, or in part, by a foreign Government. I made two or three attempts, at successive sessions, to get in that proposition. I may say further, that on consulting the Secretary of State, and the Attorney General, in 1854, they thought there was no objection to it. It seems to me that such a provision as this will be a simpler and more direct way of meeting it; but if any other suggestion can be made, I will take it very cheerfully. The great object I have in view is to prevent lines which get bonuses from Government coming in competition with private enterprise. Take the case of Mr. Vanderbilt. According to my recollection, Mr. Collins formed no purpose whatever of going to Southampton until Vanderbilt ran his ships there a few times, and was doing it without any bonus. The amendment of the Finance Committee, therefore, is to enable Mr. Collins to go to Southampton, and perhaps break Mr. Vanderbilt down. I do not think that is fair. If Mr. Collins chooses to run to Southampton now, and change his contract, let him do it; but let him do it on fair terms. If you simply adopt this amendment, you enable him to break down a rival—one who has beaten him, certainly, if you take in view the odds between them, beaten him vastly; and, in point of fact, I believe Vanderbilt runs his ships in about as good time, though there may not be much difference in that respect, and with more regularity.

The Senator from New York made one remark which I wish to notice. He says that Mr. Collins has been unfortunate in losing two of his ships. I think that is not to be laid at anybody's door but his. In 1852, when the proposition was before us to increase the compensation to him, he got permission from Congress, as I suppose the Senator from New York will remember, for there was a great deal of discussion about it, to dispense with that regulation which required him to carry a naval officer on board. I remember that some officers of the Navy complained about it. I do not know how it stands now.

Mr. COLLAMER. Precisely as it was then. It has never been dispensed with.

Mr. CLINGMAN. It was adopted in the House, and, I think, passed the Senate.

Mr. COLLAMER. When the line was put in operation I was then in the Post Office Department. They wished to be consulted in relation to the appointment of a mail agent, so that they might have a person acceptable to them. I was unable to see the use of one, as there was nothing to do but to put the mails on board and lock them up, and keep them locked until they reached Liverpool. I said I would decline appointing a mail agent until the necessity appeared for him. We have never discovered the need of that agent, and therefore have never required them to carry

him; but the contract stands as it did in the beginning.

Mr. CLINGMAN. I still think, however, that the fact is as I was stating it, that an arrangement was made by which a naval officer was to be placed in command of those steamships.

Mr. YULEE. The Senator is mistaken in that.

Mr. CLINGMAN. What was the precise arrangement?

Mr. YULEE. They were required by the contract to receive on board four midshipmen, to serve as watch officers, and a mail agent.

Mr. COLLAMER. I spoke of the arrangement in relation to the mail agent. The mail agent was arranged for; but Mr. Collins has never been compelled to carry him. He was bound to furnish him with a cabin and carry him, but has never done so, because the Department has not felt the need of one; but in relation to the naval officers I know nothing.

Mr. YULEE. This is what was provided:

"And they will receive on board each of them, and suitably accommodate and subsist, four passed midshipmen of the United States Navy, detailed by the Department to serve as watch officers, and one agent to be appointed by the Postmaster General, and to have charge of the mails to be transported on board, such accommodation and subsistence to be without charge to the United States; the said midshipmen and agent to be paid by the Government."

That is the contract, but the Government has never deemed it necessary to use that provision.

Mr. CLINGMAN. It is not a very important matter, but I know that Captain Schenck, and other naval officers, did, at one time, command some of the vessels of this line, and Mr. Collins applied to get relieved from the burden of keeping them. It may be that the contract required him to carry a certain number of midshipmen, as the Senator from Florida suggests; but, at any rate, he was relieved from that, and the result was the bad management by reason of which the Arctic evidently was lost, and probably the Pacific, too. I shall not detain the Senate further. I have nothing in the world against Mr. Collins. I hope that the contract, as far as we owe him anything, will be carried out. I intend to vote to do it; but I think we ought to make, for the future, an arrangement such as I have suggested.

Mr. COLLAMER. I desire to confine myself, as much as possible, to the amendment which is under consideration. Mr. Collins had a contract for running to Liverpool, which we all understand. His misfortunes we know something about. At whose door they should be laid, is not now material; they have happened. It is said that he is desirous of changing the termination of his route from Liverpool to Southampton; and the proposition is, to give the Postmaster General the power of making that change, with his consent. I suppose that means a mutual consent between them. Now, it is proposed by the Senator from Virginia, not as coming from any committee, but as an individual amendment, that the Postmaster General shall stipulate that, if he goes to Southampton, he shall have no more than the postages. I can merely say that I have always disliked undertaking to accomplish by any oblique method a purpose, however well designed, which it would be better to do by direction. It is more becoming the Senate, it is more becoming any gentleman, to accomplish his purposes directly. It is obvious that this is nothing more than saying the contract shall not be changed in this respect; and I would prefer that the Senator from Virginia, with his usual ingenuousness, had come up to opposing directly the purpose of the committee to allow a change of the terminus at all; because, practically, it amounts to that; and every man who knows anything about the matter, knows that perfectly well. If the contract should not be changed at all in this respect, say so; refuse to do it, if any sufficient reason is found for it; but if you think it ought to be changed, with the consent of the Postmaster General, do not put on such stipulations as to render it impracticable, but say directly that he may do it. I am opposed to the amendment of the Senator from Virginia for that reason. It is undertaking indirectly, by some sort of disguise, to effect that which you should effect, if at all, directly.

But it is said that the reason why we should not agree to such a change is, that it will affect those lines that are now running by way of Southampton. There are two lines that run to Southampton—one is commonly known as the South-

ampton and Bremen line, called the Ocean Steam Navigation Company's line, and the other as the Southampton and Havre line, long known in the Department as the Livingston line. That Bremen line was the first ocean line that was set up in this country—set up by contract with the Postmaster General, and paid out of the postage money, in those times when you used to require the Department to pay its own expenses. The Bremen line was set up at a time when our commerce with Bremer-Haven amounted to \$3,000,000 a year; and in the ten years of that contract it ran up to \$15,000,000, and a profitable species of commerce to us it was. That line was a first attempt. The Washington and the Hermann, the first boats that ran on it, were an experiment—an experiment made by that company. They have not run as fast as the Cunarders or the Collins line have to Liverpool, but they have made their trips with great regularity; and, during the whole period, not a failure has happened, not a life has been lost. Recently, within the last few years, they have put on two new ships. Though their line was a first attempt, it was an extraordinarily successful one; and by putting on their other two ships, they have kept it in successful operation, and were doing a fair, reasonable, living business at the time their contract expired. Their contract price was only \$200,000 a year. The Havre line was set up under the same species of contract, afterwards, by the Postmaster General, and paid in the same way. It ran to Havre by way of Southampton. That line has another difficulty to meet, which is not generally understood. The French have to this day a discriminating tonnage duty, by which foreign vessels have to pay a tonnage duty beyond their own ships upon entering the French ports; and that duty they pay upon their custom-house tonnage—the measurement of the ship. The steamship lines which run into Havre, start, for instance, with eight hundred tons of coal. They have burnt it out on the way; but yet they have to pay tonnage duties on the whole capacity of the ship.

When the Bremen contract ran out a year ago, an exertion was made on the recommendation of the Post Office Department to get a provision made simply authorizing the Department to continue the Bremen line as they wished to do a single year. The effort to do that was made by General Rusk, who was chairman of the Post Office Committee, on the recommendation of the then head of the Department. No attention was given to it, however, and no such provision was obtained. The Postmaster General, of course, had to end the contract with the Bremen line. He then offered to pay them the postage on the line, and knowing they could not live by it they did not take it, and their four ships have been laid up in New York for the past year, and are lying there now. Two of them are very nice vessels; the other two, the Hermann and the Washington, are old ships, but still capable of service, though not so good as new ones. That company forming our connection with Germany, and doing the service to our commerce which I have suggested, although it has been in successful operation during the whole period of its contract, is thrown aside, dismissed. Then you made a contract with Mr. Vanderbilt to run to Southampton and Bremen, in place of the Bremen line, for the postage, and he made the usual agreement to forfeit all trips that he did not make. What has been the effect? He ran during the summer, in pleasant weather, but when the fall and winter came he stopped. In fair weather he can carry the mails for you; but in bad weather he cannot carry a mail at all. I ask gentlemen seriously, if you mean to have a mail, what sort of good does that kind of service do? You cannot rely on it. He will only run when it is profitable, and that is merely in the pleasant season of the year. That is one of the experiments made on the idea of getting along by the postages.

The other line, which is what we call the Livingston or Havre line, had their ships on hand, nearly new vessels, and rather than have their line broken up they agreed to take the postages, and they have taken them with the hope that Congress would, at some time or other make them good. They are now running, but it is an unprofitable business. They hope, as it is said, that something will turn up, that something will be done.

It is true, that if Mr. Collins is permitted, according to the provisions of the amendment of the Finance Committee, to run his vessels to Southampton instead of to Liverpool, it will affect these two lines. They now run once a month each, and alternate; so that we have, by way of Southampton, either to Bremen or to Havre, a trip once in two weeks. If Mr. Collins alternates with them we shall then have a connection at Southampton every week as at Liverpool. It is true he will not run to Bremer Haven or to Havre, but English steamships run every other day from Southampton to Havre, and he can make his arrangements with them to run on the days he arrives, and they will receive his passengers and the mails at Southampton and carry them over. The effect of that will be that emigrants and passengers who come by the Bremen and Havre line now, from Southampton, will at least half of them go by the Collins line. That will be to the injury of these lines, and it may be that they will say to the Postmaster General, "if you allow Mr. Collins to run to Southampton he will take at least half our business away, especially the passengers and freight." By going in these lines they save transshipment. Passengers go by British bottoms just as well as American; but they would have to be transhipped from the Collins line to the British line at Southampton, and that would make a difficulty; whereas, now they are shipped originally on the continent and go through direct without being transhipped at Southampton. There these lines would have the advantage of Collins in freight, but not in passengers, because the transshipment would make very little difference to passengers. He would then have his part of the passenger business, which is a great matter in summer. That might injure their lines, and they might say to the Postmaster General "if you allow Mr. Collins to go to Southampton we cannot run our lines for the postages." It is not true that Mr. Vanderbilt is running for nothing, no doubt on his own hook. He is running for the postages.

Mr. SEWARD. He runs but one steamer.

Mr. COLLAMER. He runs that once a month, when there is fair weather.

Mr. YULEE. That is the case with Collins, too. In the four winter months in the year Collins only runs once a month.

Mr. COLLAMER. But the difficulty is that Vanderbilt does not run at all in winter.

Mr. YULEE. He would, if the Postmaster General, under this law, creates a line, or somebody else might.

Mr. COLLAMER. You agreed to give him the postages last year, but when the winter came he would not run, and did not run.

Mr. YULEE. The Postmaster General was not at liberty to pay, then.

Mr. COLLAMER. He is perfectly willing to lose the pay for those trips he does not run.

Mr. YULEE. The Postmaster General, although he made the contract with the two parties, has not been able to pay them, and they have not received their pay to this time.

Mr. COLLAMER. That is because you did not make an appropriation.

Mr. YULEE. We make it now.

Mr. COLLAMER. The Postmaster General agreed to give them the postages; but the postage money goes into the Treasury, and you have to make an appropriation to enable him to draw it out. That appropriation was not made last year, but that is not the reason why the trips were not performed. The parties knew very well that there would be no difficulty in getting the money. Vanderbilt did not run, not because he distrusted getting the money, but because it was bad weather, and he could not make anything by running.

It may be that these two lines would say to the Postmaster General, "you ought not to allow Mr. Collins to go to Southampton, because it will affect us, and we cannot afford to run for the postages if you do that." On that account he might say to Mr. Collins, "I cannot have you run to Southampton because it will break up my Havre and Bremen lines in the summer." That may be an objection; if it seriously affects him in relation to those contracts, it may be a material objection; but it will be remembered that this amendment does not say he shall run there; it only leaves it to the Postmaster General to permit him to run there. He can say to Mr. Collins, "Congress has allowed me to give you the

right to run to Southampton, if you wish to do so, and I consent; but inasmuch as it would injure my other two lines, I will not agree to let you do it." I suppose if it was any essential injury in regard to those two lines, he would not agree to it. The amendment leaves that matter entirely to him. If it would not affect him—and of that he is to be the judge, and has the means of judging—I cannot see any reason why we should not be willing to let him consent that Collins may run to Southampton as well as to Liverpool, and better, for the reason he gives that it is a quicker connection with London, and will carry our mails sooner to the continent, because it will carry them to a place where he can ship them directly across, instead of carrying them overland through Great Britain.

Having done with this particular amendment, I will take occasion, while I am up, to make a few general remarks in regard to this subject. I do not know that I understand the views of the Senator from North Carolina [Mr. CLINGMAN] in relation to his project, but it seems to consist in this: that in the first place he will put an end to our postal treaties; for we can do nothing of the kind he mentions except by his putting an end to the postal treaties. He would obliterate them to commence with. I have nothing to say about that now, particularly, whether it would be good or bad policy; but suppose them all obliterated: he is going to carry out his plan, as I understand him, by laying a discriminating postage on the same principle as we impose discriminating tonnage duties. He is going to charge double postage, I understand, on letters brought by foreign ships over that charged on those brought by American ships.

Mr. CLINGMAN. Only on those foreign lines that get bonuses or subsidies from other Governments.

Mr. COLLAMER. The treaties being out of the way, everything would be left to legislation. Now, does not every gentleman understand that legislation is a thing common to all men? According to a common saying, it is a game that two can play at. You never get any advantage by discriminating duty or discriminating tonnage or discriminating postage, when the other side have the power to do the same thing. They will just double the postage on all letters we carry to them, if we double it on those they carry to us; and so we shall be even. We can never get along in that way. Discrimination in that manner is impracticable. We should have to make a trade in the form of a law instead of having it in a treaty, as now.

I agree fully with the honorable Senator from Louisiana, [Mr. BENJAMIN,] and others, that we cannot expect our steam lines to Europe to go on and sustain a competition, when the British Government pay such a price to their lines. It cannot be done by individual enterprise: the thing is impracticable. That is our condition; that is the condition of the steam service of the world now. We have got to take it as it is; we cannot change it. Other Governments make their own subsidies in their own way. They are not peculiar to England; other Governments do the same thing. England has many lines, not only across the Atlantic, but through the Mediterranean, up the Baltic and the Black sea, around the Cape of Good Hope, and so into India, and six or seven lines to the West Indies, and all along the east and west coast of South America, making various connections, and keeping up constantly a communication across North America by lines crossing the Cunard lines from Halifax to Jamaica.

This being the condition of things, the question is, what shall we do? The Senator from Georgia [Mr. TOOMBS] says that if the Cunarders can carry our letters cheaper than we can, let them do it. That is his view. I do not believe it is best to do that, because the result is to give them the carrying trade, especially in light goods. It is subsidizing the world to England, making Liverpool, London, Portsmouth, and Southampton the centers of the commercial world, forming all their connections there and subsidizing the commerce of the world to them. I do not believe that is the best policy. I think we should do something. It ought to be done with more precaution. Taking the postages will not do. The policy of the world has been to make postages cheap for the benefit of correspondence; and making the postages cheap, you cannot therewith buy service to compete with

the subsidies of England. It can never be done in that manner. It not only cannot be done with individual lines, but I think it cannot be done in the aggregate, though the honorable Senator from Louisiana thinks that if we were to take the whole postages and set up proper and prudent lines, the aggregate of postages on all the lines would support them. I do not think so. To my mind, the business of ocean postage does not differ in any essential respect from home postage. At home, the mails are set up, mail routes established, and everything put in operation for the benefit of correspondence, for the benefit of the business of the country, for the benefit of its commerce—if you please, its internal commerce. It is to promote that commerce. It is the agent and handmaid of that commerce. I think our ocean service should be of the same kind and regulated on the same principles. You cannot establish mail service on any line in this country unless Congress makes it a mail line. The Constitution provides that Congress shall have power to establish post offices and post roads. They must make a road a post road before the Postmaster General can put a mail on it. They do by act, from time to time, from session to session, create new post routes. Then the head of the Department advertises for proposals for carrying the mails on the routes which Congress has established. He gets his proposals, but it is not a matter of course that he sets up a line on each route. He looks at the line, the condition of the country, the prospects of the increase of business on the line, the connections which it forms, the prospects which are given to him, and then he asks himself, "are these reasonable, or are the proposals so extravagant that there is no fair expectation that the receipts will ever equal the expenses?" If the Postmaster General was to say that he would set up no mail line except where its own postages would support itself, all know how we should come out; we should not run our lines in the United States, except down about as far as we are standing. South of us, they could not run at all. Look at your returns, and you see that in the South and Southwest, and in all the newly-settled portions of the country they do not furnish postages enough to pay the expenses, and if you would set up no lines except those that sustain themselves, we should set up no new ones at all except little short cross mails in thickly-settled portions of the country.

Now, sir, let Congress carefully and prudently set up their ocean mail routes; and in setting up a line between this country and Europe, I would not declare, as the law said with regard to the Collins line, and the Sloo line, and the Harris line, that the Secretary of the Navy should make a contract with Mr. Collins, Mr. Sloo, or Mr. Harris, and should give him so much. I think it is bad policy to make legislative contracts. As long as the Congress of the United States make contracts, declare who they shall be with, and how much they shall have for them, they can never escape the generally prevailing public suspicion that there is fraud and deceit and corruption in those contracts. I do not say that there has been; I do not say that there was any such thing in 1847, when the act passed creating the Collins line, fixing the price and fixing the man; or in the act creating the Sloo line from New York and New Orleans to Aspinwall; or the Harris line on the Pacific, at a fixed price, and with a fixed man, leaving no discretion to the Secretary of the Navy, allowing him to receive no proposals from anybody else, but compelling him, in positive, imperative, direct terms, to make those contracts, and he did make them. I discard all legislation of that kind; I dislike it; and as long as that is pursued, it will always be charged, whether truthfully or falsely I do not say, that they are the result of corruption.

Mr. TOOMBS. And justly so.

Mr. COLLAMER. I do not like to pass on that point, and say justly; but I am willing you should say it. I say they cannot escape that imputation. I dislike that sort of thing. There is nobody responsible. The responsibility is divided amongst the Senate and House of Representatives, and you cannot lay it at any particular man's door. I think these ocean contracts should be made precisely as mail contracts are on the land. When you have fixed the route and declared that there shall be a mail line by steamships between a point on the American and on

the European coast, or anywhere else, let the Postmaster General advertise for and receive proposals. I do not say the Department should be compelled to make a contract with the lowest bidder. I do not believe such a provision should be in the bill. I think he ought to have a discretion to ascertain whether the lowest bidder is a man of straw, a man to go into the market and fix up a joint stock company, sell shares, and let the Government whistle for service; a man who will give you a kind of big fiddle to carry your mails in, instead of a steamship that will stand the waves. I think the Postmaster General should have a discretion to see that the men who offer to make contracts are responsible; that they will carry out the contract, and he should stipulate for the size and proportion and rate of the vessel.

When we have done that, we have run the parallel; we have made the two cases alike. If the object is desirable to be effected, such, in my estimation, should be the means of effecting it; and then there will be some degree of probability that you will have fairness in relation to proposals, and something like honesty in relation to the contracts that are made; and if not, we shall know at whose door the responsibility lies.

I will not detain the Senate longer with my general views on this subject; but to return to the particular amendment before the Senate, it seems to me we might just as well discard the proposition of the Committee on Finance as adopt the amendment of the Senator from Virginia.

Mr. CLINGMAN. The Senator from Vermont says that my proposition will lead of course to retaliation on the side of Great Britain. She cannot retaliate against us on the principle of my amendment, if we have no subsidized lines. We say to her that your ships which get no bonus may bring letters here at the same rate of postage that our own do; but if they get a bonus, we impose a tax to equal it. I ask if that is not a fair proposition? Great Britain is a sensible country, and will she not regard this as reasonable? She has a line now running to the United States in the winter, I think to Portland—a line of four ships.

Mr. COLLAMER. They go up the St. Lawrence in the summer, and run to Portland in the winter.

Mr. CLINGMAN. So I understand. That line gets no subsidy, and we impose no tax upon it.

Mr. COLLAMER. I think it gets something.

Mr. CLINGMAN. I think not. I have inquired of the Postmaster General. It is the impression of the Department that it gets no subsidy. I have so stated again and again, and I presume that is the fact. We say to Great Britain, by my proposition: if you do not pay your lines a bonus, we impose no tax on them. Will she not say that is reasonable and fair, our purpose being to leave the matter so that all may stand on an equal footing to transport the mails across the ocean?

But the Senator from Vermont says that Vanderbilt does not run in the winter. Why? Because he has to compete with subsidized lines, and they underwork him; but strike them down, and he might run in the winter, because then the freights and passengers would be higher, and who would complain of that?—our luxurious or wealthy people, or those who ought to be wealthy, that go to Europe? I have had half a dozen letters within the last few months from people traveling in Europe, whom I happened to know, lamenting that the Collins line had gone down, and wanting it kept up. Now I am perfectly willing that it shall be kept up, but let those who are transported in it pay the cost. If raising the price of passengers would keep some of our people at home, I do not think it would be a national loss any more than it would be to raise freights a little, and stop the immense trade which some gentlemen complain of; I do not complain of it, but I am not willing to pay to get it here. If this system shall be changed, the result will perhaps be a little higher rate of freight, a little more charge for passengers, and then Mr. Vanderbilt and everybody can go into the business.

The Senator from Vermont says that you must do on sea as on land, and make a contract with somebody to carry the mails across the ocean. I do not think that follows. You may be obliged to make a contract and send a mail on land by horse or by stage coach, or by some other mode of conveyance, simply because you cannot get

letters through regularly in any other way; but if there is a conveyance which runs regularly for freight and passengers, you take that and send your letters by it. Nobody would think of establishing a special line between this city and Baltimore to carry the mails. Why? Because private enterprise has made a railroad to convey passengers and freight, and it is convenient for the railroad company to carry letters. On the sea we have lines of ships that are constantly running to all the principal ports. Take New York and Liverpool, and you find that vessels are always running at regular, stated periods. They can carry the mails; they will be very glad to get them. They might take the mails for one twentieth of the letter postage, and then be better paid for them, perhaps, than for any other freight they carry. The result of the adoption of the system which I prefer might perhaps be to make the lines a day or two slower, and of course merchants and others who have been accustomed to get their letters carried in ten or eleven days, will not like to have to wait twelve or thirteen; and if one ship were to make a trip in six days, they would complain afterwards if they could not get their letters in less than eight or nine. We have gone to a great expense for a telegraph to enable our people to have instantaneous communication with Great Britain, and that is quite far enough for this Government to go to gratify the impatience of our people. If a ship had never crossed the ocean in less than eighteen days, there would be no complaint on this score. It is fair to put all the ships on the same footing, and then those that are the speediest will get the letters to carry, and let them have the profits of carrying them.

I shall not occupy the Senate any longer. I wished to say this much in response to the views of the Senator from Vermont, who, I know, has given great attention to the subject of postage. He concurs with me that we cannot compete with the subsidized lines, and that it is a great evil to us that they should exist.

Mr. COLLAMER. Put it fairly. I said individual enterprise cannot compete with them.

Mr. CLINGMAN. We agree on that point. I may not have used the term the Senator did, but I intended to convey his idea that private enterprise cannot compete with them, and it is injurious to us that our private enterprise should suffer in that way. He is for providing that certain lines shall be let to the lowest bidder, and the Government pay the sum that is necessary. If you do that, you must put our ports on an equal footing; for I am quite sure that New England and Pennsylvania and the whole country south will not be willing that New York shall have the benefit of these lines; and, if you multiply them, you will have to pay an enormous expense, and all those lines which you pay will be crippling our own private enterprise; for the Senator from Vermont will see that, if we pay half a dozen or ten lines, and they prosper, the other shipping interests engaged in carrying freights would suffer; and therefore, unless we undertake to subsidize everybody, the mischief which he and I both agree exists will go on.

Mr. COLLAMER. Let me say to the gentleman that our freight business has suffered and does suffer by these lines, and will suffer so long as great Britain keeps them up.

Mr. HUNTER. I rise merely to reply to the charge that my amendment is unjust to the Collins line. I have listened very attentively to what has been said, but I cannot perceive the injustice. The injustice which is charged depends entirely upon an assumption—*petitio principii*—a begging of the question. The assumption is, that we make the change for the benefit of the Government. I do not believe that anybody in the Finance Committee, who assented to the change, has any idea that we were benefiting the Government by it, unless it might be some benefit to them to give the Collins line some additional facility. If it did not injure the Government there was nobody who would not be willing to change the terminus, provided the Collins line could execute the duties more profitably in that way than any other; and provided that it did not do injustice to others. But when we come to examine it a little further, we find that it not only does injustice to others, but that it may injure the Government. It injures the Government in this way: if you allow the Collins line to go to Southamp-

ton, the same port to which the Bremen and Havre lines go, you undoubtedly injure them; and, as I believe, you will put them down and destroy them. May not the Government well say that is not only no benefit, but an injury to them? "If we did not allow you these privileges over our other two lines they could probably sustain themselves with the postages, and we should have two lines that would cost us nothing, going to different ports of the European continent: if we allow you this privilege, we lose that advantage." It is therefore a disadvantage to the Government to allow it; and all I propose by my amendment is, to put the Collins line on such terms that it shall enter into competition with the other lines fairly, if it goes to Southampton.

But the Senator from Vermont says this is an indirect method of accomplishing a different object; that is, of denying the request of the Collins line. Not at all. This is given, as I understand, not upon the application of the Government, but upon the application of Mr. Collins; and I am willing to say to him, "if you desire to go to Southampton, you may go, provided you do it on such conditions as will not destroy the other lines; as will leave them a fair chance. If you do not desire to go on these conditions, then no harm is done; no injustice is done to you." I am willing to keep up the contract, or what is alleged to be the contract—going to Liverpool, and receiving the stipend which is provided; but I am not willing to change the terminus, when, by so doing, we may destroy these other lines. What is there unjust or indirect in that? I am sure I cannot see. I would not be willing to permit him to go there with the advantages of the annual stipend paid to him out of the Treasury, and thus enter into competition upon two advantageous terms with these other lines. Unless some such amendment as this be adopted, I shall be for striking out the provision which allows the terminus to be changed, and forcing him to continue to go to Liverpool, as heretofore. In doing that, no one could charge me with injustice to the Collins line. That is all it ever contracted to do. Observe, in all this we have been assuming what I do not believe—that Collins has not forfeited his contract by his failure to perform it. I inclined to believe that he did forfeit it; but, as others were of a different opinion, and as we understood the authorities of the Government seemed to be of a different opinion, I was not disposed to undertake to decide such a question as that on an appropriation bill. I was willing, therefore, to give him what the terms of the law allowed; and I would have been willing, if it injured no other line, and no other person, and he could perform the service advantageously to himself, to allow him to go to Southampton instead of to Liverpool; but I am not willing to allow him to do it on terms which would destroy others as meritorious as himself, and which would deprive us of the advantage—and undoubtedly it will be an advantage, if they can sustain themselves from the postages—of having two lines, terminating at different points in Europe.

Mr. DAVIS. I find in the general proposition (I have not studied the details enough to justify me in speaking of them) too much consideration for the contractor, and too little for the Government. I think the Senator from Vermont has stated this question fairly. My view of what the Government should do is that our duty ceases with the establishment of the line. Then it becomes a matter of contract; and the Postmaster General is to make the best contract he can. I see no reason why, if we can get our mails carried in British vessels across the Atlantic, we should establish a line of American vessels, merely that we may compete with them in a race across the Atlantic. And the vanity of the attempt has been illustrated by its results. To have greater speed, we have built our vessels too light, and so managed them that the whole history of the Collins line is a history of wrecks and disasters to the country, and the loss of many of its best citizens. The British steamers, conducted differently, with commanders appointed by the Government, differently built, have run without accident. I do not think we should engage in such a race; but the Postmaster General should have power to appoint an inspector for every vessel with which he may make a contract; and the inspection should be minute, so as to determine the character of the vessel, including its present condition and con-

struction, and the character of the commander of that vessel, unless the Government itself shall choose to put a commander on the vessel.

Then, having established the mail line, the question is, how shall the compensation be stated? In one of these amendments, it seems it is to be the postal receipts. I think that altogether an objectionable method, and I shall vote against that amendment for the reason that this is to be a fluctuating amount. Perhaps, in ten years, it will be the same amount you would give if you paid an annual compensation; but the company cannot bear the fluctuation. The depression of commerce, the existence of war, or some other cause, may limit the correspondence, and cut off passengers and light freight, and then a line relying on the postage receipts might not be able to run; whilst, if the Government allowed from year to year a fixed sum, which for the period of ten years would equal the postal receipts of the Government, it might keep up the line. In this way, the company would receive a sum certain, and might run at a loss for a time, making it up at a subsequent period when commerce and travel would come. I think, therefore, it is better that we should pay so much per annum, requiring a certain number of trips to be run, or so much a trip, rather than to let the line take the postage receipts, whatever they may be.

Then, again, I think it is altogether objectionable to allow the contractor to stop when he pleases. It is for Government purposes the line is established, not for the benefit of the contractor. If he may stop during the winter months, when the sea is not only rough, but when emigration terminates, and he cannot crowd his vessels like an emigrant ship, we lose all the advantage of correspondence during that period, and it was for correspondence the mail route was established. If you pay him a sum per trip, and compel him to run so many trips in the year, then you would have the benefit to the Government of a regular channel of correspondence, which, for commercial as well as for diplomatic purposes, is conceived to be necessary to many points in Europe as well as in America. I should most favor, in the establishment of our mail lines, ports on our own continent, ports on the Spanish main and the southern Pacific, where we should open up a commerce beneficial to the United States, and acquire a political power which we have allowed to be transferred to Great Britain, that Government establishing mail lines to all those points where diplomatic relations are important to her as well as to us.

I shall vote against the proposition to adopt as the basis of compensation the amount received from postage. I shall vote against the proposition to strike out what the Postmaster General has asked for, a continuous line, in order that we may maintain the line to Havre. If we do not wish to keep up the line, if we do not choose to make an appropriation to continue that line, let us drop it. If it be well to maintain it, and we choose to fix the rate at which we are willing to pay, let it be stated in dollars and cents, so as not to fluctuate with the amount of travel and the amount of commerce. The necessities of the Government are the same, perhaps increased, during those periods when travel is least and commerce most depressed.

Mr. TOOMBS. I very much regret that the debate upon this amendment has digressed into the general subject of ocean steamers, and the policy of maintaining them by Government subsidies; and the more so, because I feel compelled, by the review of my own position by the honorable Senator from Louisiana, [Mr. BENJAMIN,] to make some reply to him. That Senator has stated my position with great clearness and accuracy, except on one point. He has stated very truly that I desire to put the burden of the mails upon those who get the benefit, as near as I can put it, whereas he looks to the general benefit. The difference between my honorable friend and myself is, that I say that is the way to promote the general advantage, and he assumes the whole point between us. I say, it is not for the general advantage to make men who cannot write pay for the letters that those who write who can. I wish to put the burden where it belongs, for the general benefit; but he says the general advantage is to put the burden generally, though the benefit is particular. That is the point between us. He assumes the whole ground in controversy when

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he says the general advantage is to take his system. I say the general advantage is promoted by mine. Now, let us examine it for a moment.

Originally, the system of postage was a Government monopoly—like salt and tobacco in all vicious, weak, corrupt Governments now. Governments took the monopoly of carrying people's letters, just as they gave to some favorite the right to sell salt, or sell tobacco, and get a revenue from it. The British Government got a revenue from it, I believe, from the earliest history of the post office arrangement. It was a portion of her regular estimates; and, when she made her reduction, it was on the argument of a very able man, who was acquainted with her postal system, that the postage would sustain itself at one penny. It did it; and it brings her two and a half million dollars now. She has had old charges on it; I believe some of the Hydes had charges on it. The post office revenue is part of the revenue of France and the continental countries; and they take it for the same reason that they take the monopolies to which I have referred. When our Government was poor, the idea of the Government seizing postage was on the same notion of revenue, and it continued to pay revenue until after the last war with Great Britain. If gentlemen will take the trouble to look into it, they will find that the receipts from the Post Office were a portion of the regular revenue that supported this Government, until after the war.

Then it was said by those who had letters to send, "if the Government takes charge of our business, do not let her profit by it." That was reasonable and just, and received pretty general acceptance among the people, and hence it was changed, and the principle was established that the Post Office Department was to be managed so that the Government should not make profit out of the business of carrying the people's correspondence. Then the Government said, "we will with prudence endeavor to enlarge the service in proportion to the revenue and to the cost, provided we shall not be charged anything for it." Within the last few years, however, we have gone away from monopoly, we have gone away from profit, we have yielded all these points, until, by lobbying, and successful boring, and on the notions of gentlemen, I think entirely erroneous, who differ with me on this point, we have come to this great issue: it is held in many portions of the United States, that this Government shall support the Post Office establishment as a great Government establishment, like the Army and the Navy. Some intelligent men, even in the Senate, and many out of it, have gone to that point.

Under our Constitution we certainly never looked to the idea of the Senator from Vermont of establishing foreign mails. In truth, it is difficult to bring it within the purview of a single clause in the Constitution. Our Constitution, as he properly quotes, says Congress shall have the power to establish post offices and post roads; but we cannot establish a post office in England, or on the high seas. We can only establish them where we have the power. This country, from the time its independence was acknowledged until 1850, never took the least control over foreign mails, except so far as to have them delivered, and put the postage on them, allowing any ship that wanted them to carry them, under proper regulations to secure them, and that was done entirely under the commercial power. When these steamers came to Congress, they came under fraudulent pretenses. I was a member of the other House at that time, and I have opposed this system from the first fatal day of its introduction to this hour. They said, "we want to increase the Navy; England is guarding us with her ships of war; and these are fast, strong, and powerful steamships; we will make them so;" and, therefore, they did not put them under the Post Office, but under the Navy Department; and in the original contract they specified that they would make steamers fit for ships of war, and that they should be accepted by the officers of the Navy.

Mr. COLLAMER. The first ocean line that was set up was under the Post Office Department. The line to Bremen was the first.

Mr. TOOMBS. Collins's contract was not under the Post Office Department.

Mr. COLLAMER. The Collins line was set up by special contract.

Mr. TOOMBS. Yes, by special contract with him, and that was the way with the Sloo contract and the Harris contract. They were to build ships fit for war purposes. I know when the Collins vessels were built; I was a member of the Committee of Ways and Means of the other House, and I remember that the men at the head of our bureau of yards and docks said they were not worth a sixpence for war purposes; that a single broadside would blow them to pieces; that they could not stand the fire of their own guns; but newspapers in the cities that were subsidized, commenced firing on the Secretary of the Navy, and he succumbed and took the ships. That was the way they were got here. Then, they were to be commanded by lieutenants in the United States Navy. That was another part of the contract. Mr. Collins came here and said: "I do not want these people on my ships; they are not good for much." I rather yielded that point, because there was much in what he said; and we agreed to let him have his own commanders. All this was done under the naval power. It was said we wanted these ships for naval purposes, and that they would be very valuable in case of war. Nobody maintains that idea now; it is given up; but it was used to get congressional contracts with particular individuals for their benefit, and not, as my honorable friend from Mississippi says, for the benefit of the Government. That has been the trouble of the whole system; it has been for the benefit of contractors, not of the Government. That has always ruled in making the contracts, and always will when Congress makes contracts. How can Congress make a contract? Here are sixty-four of us in this body; there are two hundred and thirty-six in the other House—gentlemen of different pursuits. True, there may be one or two ship-carpenters among the whole number, but the great bulk of them are fit for nothing on earth but politics—fit for no business. We have some who are very well qualified for many things, but not for other things. As for the idea that such a body can make a contract, I presume there is no human being in America, black or white, who can doubt that it is the most unfit body for such a purpose that could be collected. There is no responsibility. One half of them do not know who did it, and if they did they would not care. Nine tenths of them act from ignorance on such a matter, because they know nothing about it, and we generally have only *ex parte* statements from those interested. We have not time to examine the public questions connected with the various departments of the Government, and all the little contracts besides. It is impossible to do that and attend to our legislative duties. I would go back to the earlier policy of the Government, the persistent policy of the Government, against the idea of my friends from Louisiana and Mississippi. We never had a steamship afloat on the ocean to carry the mails abroad until 1850. The country had become great and prosperous, our commerce had extended beyond that of any other nation in the world, in an incredibly short space of time, without any such thing. It was not the general commercial men of the country at that time who desired it. Its effects have been disastrous to every portion of the country except the locality that gets the immediate benefit; and it has had a disastrous effect on our shipping, which has increased less within the seven years succeeding than the seven years preceding 1850. The reason of this was illustrated happily, in part, by my friend from North Carolina. From the beginning of the Government, for many years, letters came by such vessels as casually sailed. After a while packets were established, which got most of the letters, on account of their regularity—and that is one of the ideas my friend from Louisiana did not take

into the account. When the first packets were set up between New York and Liverpool, they got nearly the whole of the letter-carrying. Why? It was abandoning that system of being "up for freight, ready to sail with dispatch," as they termed it; that is, whenever they got a freight. They went on the principle that we will sail with or without freight on a particular day, and all the correspondence went by those packet lines at once. The Cunarders ran once a week before 1855, when the Crimean war broke out, on account of the desire of the English to maintain their own line. They are a selfish people; and theirs is an honorable selfishness in that respect. I presume we have the same feeling on our side to benefit ours. As far as they could perfect their business arrangements to benefit their own line, they did it; and the Cunarders going once a week, they had to wait but three or four days, at most, to have their letters carried in their own vessels; and until 1855 they carried the bulk of the letters. About that time we cut down \$500,000 of our subsidy to Collins.

Mr. BENJAMIN. The increased allowance was paid to him that year.

Mr. TOOMBS. Some of the Cunard steamers were withdrawn, and thereby they ran but once a fortnight. Correspondence could not wait that long, and in that way the Collins steamers got as much correspondence from Liverpool as the British steamers.

Mr. BENJAMIN. Probably I did not understand my friend's point exactly. The statement I read was of the whole European postage, not of the Collins line alone.

Mr. TOOMBS. It is very important to separate that postage and see how much of it came by British vessels, and how much by our own vessels. A number of the British vessels were taken off as transports to carry their troops and provisions to Sebastopol, and therefore Cunard could not run more than once a fortnight; and hence the letters carried by our steamers necessarily increased, and that was the reason of the increase in that year.

The British have given Cunard half as much as we gave Collins; and the argument is that if they pay a subsidy of \$800,000 to enable Cunard to carry letters, we ought to give it here. I say that is not good policy. If letters cannot be carried without a subsidy, if it takes \$800,000 a year to do the business, I think we had better let England do it. If it is a losing business, if it will not pay, I see no reason why we should compete with her for it. I am ready to compete in a profitable trade, and that has been the uniform policy of this country. When foreign countries have put discriminating duties on our tonnage, we put them on theirs. That has been our policy from the beginning. It is but recently that the tonnage duties were taken off in England from the foreign trade; and under the act of 1818, the President made proclamation of the fact in 1850, when my honorable friend from Vermont was a member of the Administration. If France should abolish her discriminating tonnage duties to-morrow, the present Administration would issue the same proclamation. We have counteracted the vicious systems of other countries by retaliation. That is a policy which the world has maintained. If England pays only as much as we do, there is an equality. If she pays more, we can meet it with a countervailing policy, and then the question would be whether it was wise in both countries to continue it. A countervailing policy is adopted to bring a Government, adopting a bad system, to its senses. We have now very heavy discriminating tonnage duties with Spain, because she will not abandon her discrimination. With England we have no such duties; and as to all countries that do not discriminate against us in our foreign trade, we make no discrimination against them. I am induced to the opinion that it would be better not to discriminate against them, even if they did against us. That would be my idea of true wisdom and true policy.

If one ship a week can carry the correspondence

between Liverpool and this country, and it is a losing business, let England do it, and one line of Cunard steamers does the British shipping as much harm as ours; there is an interest there against it. It does our shipping harm, and it does the English shipping harm; and if we put up the Collins line to do the same thing, we pay a national subsidy to punish the shipping of England and our own too. So, because she injures us and injures herself too, we must get reparation by doubling the injury! That is the policy of gentlemen; it is nothing less. They say England pays Cunard to ruin our vessels and to injure our people's pursuits. Now you pay Collins to injure yours and hers too. That is the policy which I take it is involved in the question submitted for the consideration of the American Senate. It must result in that. How does it injure us? I observe, in looking over the papers for 1856—I speak from memory—about three eighths of the goods paying revenue were imported by steamers. Why was that? All the best freights are brought in the steamers. Gold is imported in steamers because it can afford to pay freight; silks and ribbons and linen can be carried in that way because they can stand high freight, for the reason that they are very valuable for their bulk. That is the true reason why you cannot carry cotton in steamships. You can carry sea island cotton because it is worth forty or fifty cents a pound, but you cannot carry a bulky article like wool, or wheat, or iron, in steamships. Steamers get the most valuable freights, the articles which can afford to pay most, and therefore the merchantmen's profits are continually diminishing. Sailing vessels get the heavier freights that do not need time, the bulky articles that must necessarily be carried at a low price, which is the general rule of transportation all over the world. Building up these steamers between us and England has had a tendency to destroy or to injure your great commercial marine. I oppose it on that ground.

Another thing: it concentrates the goods at whatever point you bring the steamers; and that is another objection I have. You now run all your lines of steamers from New York, except a little one from Cuba to Charleston. It cheapens freights at New York, even among themselves; it concentrates commerce there injuriously to the rest of the country. If you pay a hundred ships from every point where you have freight, to bring goods in for nothing to New York, you will effectually violate the provision of the Constitution that forbids you from discriminating in favor of one port. You do, by running steamers out of New York, cheapen freights to that particular point, and give it an advantage over every other point in the country. They understand it; and therefore I do not wonder that those who are not mindful of the great principle of right, those who consider that the supremest good is to benefit themselves at the cost of everybody else, worship this principle of monopoly. But, in this enlightened age, with the present opinions we entertain, with the progress we have made in free and enlightened ideas, especially in regard to commerce, I am amazed that gentlemen who agree with me in many of these great principles should advocate this policy, which I had hoped and trusted was extinct forever. But, sir, monopolies are hard to kill. They are not awed by defeat; they are not cowed by disaster. They seem almost to be immortal. They rise from one defeat by bringing new appliances and new power in order to succeed in their iniquitous schemes. I trust the policy you have half inaugurated, of giving no more subsidies to these people, but granting the letter postages to anybody that will bring the mails, leaving them to rely on the postages alone, will be carried out; and I am very happy that the Committee on Finance and the Committee on the Post Office and Post Roads have recommended that it shall be inaugurated; and in this way we shall abandon a system injurious to the general commercial interests of the country, injurious to the navigating interests, injurious to every port in the country but the particular one which is the beneficiary of the public bounty. Leave them all in free and honest competition to pursue their own callings under the influence and effect of beneficent, wise, equal, and just laws.

Mr. SIMMONS. Mr. President, I do not intend to protract this debate, for the question pending seems to me not to involve the whole system

of steamship mail service. I recollect when it was inaugurated, and I am astonished that the Senator from Georgia should talk about monopolies, when the United States have undertaken to set up a competition against a monopoly. He wants us to withdraw the competition in order to destroy monopoly! It was a British monopoly, and is to-day; and it was for that reason that the Post Office Committee, when I was on it twelve or fifteen years ago, undertook to set up a counter-system to prevent the aggrandizement of British power in everything that was American. I agree that all these new-fashioned doctrines about free trade will regulate themselves. A spendthrift heir will get through his estate very quick if you let him alone. So it will be with free-trade notions. The result will be to give trade to England; and she will take care of it while we neglect our trade. That is the way she does with the Post Office system, and we ought to desire to correct and counteract it.

I do not believe it will cost any more to carry letters by American than by English steamships. I think that, in the end, by keeping up a competition, we shall be likely to get the service cheaper. Let the Cunarders, or other British steamers, have the monopoly of the trade, and if they do not charge postage high enough to pay them well, I will never guess again. I would if I was in their place.

But I do not think the amendment suggested by the Senator from Virginia at all involves this whole question, though perhaps the amendment of the Committee on Finance covers the whole ground. The amendment of the committee proposes to keep up the Collins contract for the next two years. Why then go into an argument about the propriety of having made the contract? I understand it is decided by the law officer of the Government that the contract with the Collins line is a continuing contract; and that being so, the Committee on Finance have suggested that the Postmaster General may change the terminus on the European end of the route. That is the whole matter. Now, it is suggested by the Senator from Virginia, not as chairman of the Committee on Finance, but as an individual member of the Senate, that if they do change the terminus they must take the mails on the same condition with two other lines. My difficulty is, that this is a contract for so many trips per year, winter and summer; but if you take the proposition of the Senator from Virginia, you leave them all voluntary contracts, to carry the mail when the parties choose, and to leave it when it is not profitable. I do not wish to see our country in that condition; I think we shall lose by it. If we undertake to carry the mail in competition with the British steamers, we should carry it as regularly as they do, alternate with them, carry it for the same rate of postage they do; and I say that the probability is that the change in the terminus will not be made if the amendment of the Senator from Virginia be agreed to. I do not know whether it is true, but I believe it is, that we can get letters on the continent twenty-four or thirty-six hours sooner by making the change.

Mr. TOOMBS. There is not a word of truth in that statement. It is not twenty-four hours from Liverpool to Paris. I have traveled it myself. Those statements are made loosely by gentlemen who ought to know better.

Mr. SIMMONS. I am not to be diverted from the argument by any controversy about how long it will take to carry letters through England. If the Postmaster General does not think proper to change the terminus, under the amendment of the committee, he will not change it.

Mr. HUNTER. I understand that now the Collins line discontinues when it chooses; and the decision is that that does not affect the contract, but only makes them lose the contract price for that trip. If, on the other hand, we were to provide that it should go for the postages, the Postmaster General might contract that it should go regularly. That would not alter his ability to contract.

Mr. SIMMONS. I understand that by the contract with the Collins line, there are so many dollars per trip given, whether the trip be in winter or in summer. Everybody knows that there is a disadvantage in running steamers in winter, when there is no emigration. In summer there is a large number of passengers.

Mr. HUNTER. He may, therefore, omit to run in the winter, and run only in the summer. He gets the price for every trip he runs.

Mr. SIMMONS. If you gave those steamers a certain number of thousand dollars per trip, winter and summer, would it not induce them to run the whole year? Perhaps they would not run so often in winter as in summer; and I believe the Cunarders do not run so often in winter; but the Collins line runs proportionately as much in winter as the Cunard line; and if we allow a regular sum we shall have our service kept up as regularly as the British part of the service. That is what I want. If the Senator from Virginia is fearful that changing the terminus of this line from Liverpool to Southampton will be injurious to the Southampton steamers, he may put a clause into the amendment proposed by the Committee on Finance that the Postmaster General may make this change, provided it will not do any injury to other lines of steamers. But why undertake to break up an existing contract? why undertake to put the whole service on this irregular and uncertain tenure, that they may run in winter or not, just as they please? And when they run for the postages you may be sure that when there is the least business they will do the least running. I think the English are pretty good models for us to copy from, so far as they are concerned in taking a monopoly of trade. I believe we have not made a trade with them for fifteen years in which they have not had the decided advantage of us. You cannot make a reciprocal treaty, or any other kind of treaty, with them, where they will not always have the advantage in their hands. Instead of yielding to them, I would rather double the pay. That is my notion about keeping up competition.

I am willing to have a fair competition with all the world in mail steamers or anything else, but I have no notion of perfecting that system by withdrawing our competition, and letting the British have a monopoly of the whole trade, which will be the result if we abandon this contract. I agree with the Senator from Georgia, that running their steamers has a tendency to cripple our trade, and my plan has always been so to arrange things that other people can do this business as well as New York can, and not concentrate everything in one city. People get to thinking that there are no places in the world but New York and Liverpool. If you go to New York they will tell you it is the best place to buy at and to sell at, and they will make a sane man believe it. I have been in a store in New York when they were talking with a planter, and telling him it was the best place to sell his cotton, and then they turned round to me and tried to convince me that it was the best place for me to buy at—the same store; and we both believed them perhaps, because we both dealt with them.

Mr. TOOMBS. It might be true.

Mr. SIMMONS. I know it is good logic for a storekeeper, that you may sell and buy cheaper in the same store at the same time, but it is not good logic for men of sense. It is not good logic when you apply it to steamships.

I am opposed to the amendment of the Senator from Virginia. I am willing to take any qualifications of the amendment of the Finance Committee that the Senator thinks necessary, but I believe the Postmaster General will never make this alteration unless he thinks it can be done without injury to anybody else; and if it can be done without injury to anybody else, I want to help this line. I would not try to hurt anybody, or force him into a new trade, when we could help him without hurting ourselves. This line will need all the service we can give it indirectly in that way. I hope the Senator from Virginia will withdraw his amendment. The committee have offered a good amendment, and if he wants to prevent the Postmaster General from making an improper bargain, let him qualify the amendment of the committee.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) The question is on the motion of the Senator from Virginia [Mr. HUNTER] to amend the amendment of the Finance Committee by adding to it the following proviso:

Provided, That said contractors shall, in case of such change, receive for such transportation, instead of the contract price, the amount of ocean and inland postages received by the United States.

Mr. CLINGMAN called for the yeas and nays, and they were ordered.

Mr. BROWN. Before the vote is taken, I desire to state that I have paired off with the Senator from Delaware, Mr. BAYARD. I should vote for the amendment if I were at liberty to do so.

Mr. FOOT. I desire to say that I have paired off, for the time being, with the Senator from Louisiana, Mr. SLIDELL.

Mr. PUGH. I have paired off with the Senator from Georgia, Mr. IVERSON, on this question.

Mr. TOOMBS. I have paired off with the Senator from Louisiana, Mr. BENJAMIN.

Mr. FITZPATRICK. I have paired off with the Senator from Maine, Mr. HAMLIN. He would vote against, and I for, the amendment. I have been requested also to state, by the Senator from Arkansas, Mr. JOHNSON, and the Senator from Pennsylvania, Mr. CAMERON, that they have paired off, and are engaged in committee business.

The question being taken, resulted—yeas 11, nays 26; as follows:

YEAS—Messrs. Clay, Clingman, Hammond, Houston, Hunter, Johnson of Tennessee, Mallory, Mason, Polk, Reid, and Yulee—11.

NAYS—Messrs. Allen, Bell, Bigler, Bright, Broderick, Chandler, Collamer, Crittenden, Dixon, Doolittle, Fessenden, Fitch, Gwin, Hale, Hammond, Johnson of Tennessee, Jones, King, Pearce, Seward, Simmons, Stuart, Trumbull, Wade, Wilson, and Wright—23.

So the amendment to the amendment was rejected.

The question recurred on the first amendment of the Finance Committee, which was to strike out the following clause:

"For transportation of the mails from New York to Liverpool, and back, \$346,500; and it is hereby provided that there be paid to the Post Office Department out of said appropriation such sums as may be required to procure the transportation of the mails from New York to Liverpool, and back, on such days as the Collins line may fail to take them from New York;"

and in lieu thereof insert:

For transportation of the mails from New York to Liverpool, and back, in pursuance of the contract with E. K. Collins and others, \$346,500; and it is hereby provided that for such days as the said Collins and others shall fail to perform said service, the Postmaster General is authorized to contract with the owner or owners of any other steam vessel or vessels to perform said service by transporting the mails from such port in the United States to such port in Great Britain as he may select, and pay therefor a sum equal to the amount of ocean and inland postage received by the United States; and the Postmaster General may, with the consent of the contractors, change the European termination of said route, under the contract aforesaid, from Liverpool to Southampton.

Mr. TOOMBS called for the yeas and nays, and they were ordered.

Mr. YULEE. I should like to move an amendment, if the Finance Committee will accept it, to provide that the line shall be changed from Liverpool "to Southampton and Bremen or Havre, as the Postmaster General may prefer."

Mr. GWIN. I hope not. The committee cannot accept it.

Mr. YULEE. I offer it.

Mr. KING. I voted against the amendment of the Senator from Virginia, as I shall vote against this, and I will vote for the proposition as it came from the Committee on Finance, understanding, as I do understand, that the policy is to be now inaugurated of terminating these allowances to ocean steamers beyond the amount of postages received by them, with the expiration of the present contract. I have always opposed these allowances; I opposed them in the other House, when the bills passed which authorized the contracts. I am willing, and I deem that it is proper and right, to permit the contracts which have been entered into to expire by their own limitation, rather than to interfere with them.

Mr. YULEE. I will withhold my amendment until a further stage.

The PRESIDING OFFICER. The question is on the amendment of the committee.

Mr. DAVIS. I wish to offer an amendment to the last sentence in the amendment now pending. I move to strike it out. It reads:

"And the Postmaster General may, with the consent of the contractors, change the European termination of said route, under the contract aforesaid, from Liverpool to Southampton."

Mr. SEWARD. It is only another form of making the same proposition which has just been voted down.

The amendment to the amendment was rejected, and the question recurred on the amendment of the Committee on Finance.

Mr. BROWN. I should vote against the amendment if I had not paired off with the Senator from Delaware, Mr. BAYARD.

Mr. FOOT. I should vote for the amendment but for the fact that I have paired off with the Senator from Louisiana, Mr. SLIDELL.

Mr. PUGH. I have paired off with the Senator from Georgia, Mr. IVERSON, otherwise I should vote in the negative.

The question being taken by yeas and nays, resulted—yeas 28, nays 13; as follows:

YEAS—Messrs. Allen, Bell, Bigler, Bright, Broderick, Chandler, Collamer, Crittenden, Dixon, Doolittle, Fessenden, Fitch, Foster, Gwin, Hale, Hammond, Johnson of Tennessee, Jones, King, Pearce, Seward, Simmons, Stuart, Trumbull, Wade, Wilson, Wright, and Yulee—28.

NAYS—Messrs. Clay, Clingman, Davis, Douglas, Houston, Hunter, Johnson of Arkansas, Kennedy, Mallory, Mason, Polk, Reid, and Sebastian—13.

So the amendment was agreed to.

The next amendment of the Committee on Finance was, in the clause, "For transportation of the mails from New York, by Southampton or Cowes, to Bremen, and from New York, by Southampton or Cowes, to Havre, \$230,000," to strike out "\$230,000," and insert:

"The amount of postages, ocean and inland, received by the United States in the mails, in and out, by the vessels employed in such service."

Mr. SEWARD. I have serious apprehensions that the effect of this amendment will be to hazard the policy of sustaining an ocean steam marine, and I want to have an opportunity to record my vote against it. I do not know what the temper of the Senate may be. I wish to say, however, that I am opposed to it.

Mr. HUNTER. I will explain the amendment. The proposition in the bill is to renew the two contracts to Havre and Bremen, which expired on the 1st of June. They propose to give them in one clause \$230,000; and then they propose to add, "for contingencies in the mail service between New York and Europe, \$120,000." The Postmaster General, by adding that sum for contingencies to the other, would be enabled to give them the sum which they received under the old contract which has expired. The object of the clause in the bill is to allow the Postmaster General, if he chooses, to give them as much as was given under the old contract, whilst it provides that they shall have certainly \$230,000, which is what has been received heretofore from postages on these routes. The Committee on Finance, as I said before, desired to introduce a system by which they were to run for the postages alone, and, in order to accomplish that purpose, they move to strike out these words, "\$230,000," and to insert, "the amount of postages, ocean and inland," and then they strike out the other item, which appropriates \$120,000 for contingencies in mail service between New York and Europe. The item was designed to be used by the Postmaster General, if he desired to add to the other, that he might give them the sum they have heretofore received.

For myself, I never have voted for one of these contracts which is designed to give to lines of ocean steamers more than they earn by the postages, because I believed it was a system capable of being extended into the greatest abuses, and one which operated unequally and unjustly. I have, therefore, never voted for one of these lines, and for that reason I cannot vote for this proposition here to renew this system, so far as these two lines are concerned; and yet I will say, that if we look to the fidelity with which their contracts have been performed, they are far more deserving the consideration of Congress than the Collins line.

Mr. COLLAMER. The proposition before us is a difference of opinion between the Postmaster General, as I understand it, and the Finance Committee. The bill, as sent to us from the House of Representatives, is a manifestation of the view of the head of the Department in this respect. It is what the Postmaster General desires. The bill was made agreeable to his wish in this regard. It is not a matter of course that this is a revival of those two lines. The Bremen line was set up in the manner I have heretofore stated, and performed the services at \$200,000 a year. The line to Southampton and Havre was for \$150,000 a year. That made, for the two lines, \$350,000 a year. The contracts have both run out—the Bremen line one year ago; and that service has been given to Van-

derbilt, to run in the manner I have stated, and their steamboats lie up doing nothing. The other line has run at a loss for the postage. The Postmaster General says: "I do not know but I may be enabled to get the service upon these two lines performed for a year to come for the postage, which postage would be about \$230,000 for the two; I have had a contract with Livingston & Co. to run to Havre for the postage; and they have run. Here I have had one with Mr. Vanderbilt, and he is running, but he has not run all the time. But I am not sure that I can get this service for the \$230,000; I have no doubt I can get this contract done in the faithful manner it has been done heretofore for the \$350,000." To enable him to try this experiment, and see whether he can get the service done for the postage; and, if not, to enable him to have it done for the old contract price, this proposition in the bill was inserted. It first provides:

"For transportation of the mails from New York, by Southampton or Cowes, to Bremen, and from New York, by Southampton or Cowes, to Havre, \$230,000."

That is an amount equal to the postage, and if he can, he will get the service done for that sum; but inasmuch as it is uncertain whether he can succeed in that, he proposes to have this provision put in:

"For contingencies in the mail service between New York and Liverpool, \$120,000."

That will make the whole sum \$350,000. That does enable the head of the Department to effect the service by the postage if he can, and if not, for the old contract price. The Finance Committee propose to strike that out, and provide that he shall get it done for the postage, or not at all. My opinion is that this amendment should not be agreed to. This appropriation is only for one year.

Mr. SEWARD called for the yeas and nays on the amendment, and they were ordered; and being taken, resulted—yeas 22, nays 19; as follows:

YEAS—Messrs. Cameron, Clark, Clay, Clingman, Fessenden, Fitch, Gwin, Hammond, Houston, Hunter, Johnson of Arkansas, Johnson of Tennessee, Jones, King, Mallory, Pearce, Reid, Sebastian, Trumbull, Wade, Wilson, and Yulee—22.

NAYS—Messrs. Allen, Bell, Bigler, Bright, Broderick, Chandler, Collamer, Crittenden, Davis, Dixon, Doolittle, Foster, Hale, Kennedy, Mason, Seward, Stuart, Thompson of Kentucky, and Wright—19.

So the amendment was agreed to.

The next amendment of the Committee on Finance was to strike out the clause:

"For contingencies in the mail service between New York and Liverpool, \$120,000."

Mr. COLLAMER. I move to amend that amendment, by adding this proviso:

And provided, That all mail routes in the United States that do not pay postage adequate to support them shall cease.

That is what the effect of this provision is on the ocean service.

Some gentlemen have asked for an explanation about the \$120,000 item, and I will endeavor to explain it. The Postmaster General asked, and the House of Representatives passed a bill to give him \$230,000, which is about the amount of the postages for the Bremen and Havre lines; but inasmuch as he might not perhaps be able to get the service done for that amount of money, he proposed that they should allow him \$120,000 additional for contingencies, to enable him to have it if he could not get it done for the postages. The Finance Committee have reported to strike out both the \$230,000 and the \$120,000, and to substitute in lieu of them a provision that the service shall be done for the inland and ocean postages on the routes. Of course, as the Postmaster General is now limited, by the amendment that has been adopted, to the postages, this \$120,000 can do him no good.

Mr. MASON. Can he not use it?

Mr. COLLAMER. No. He wanted it for these two routes, but the amendment which has been adopted is, that he shall have the service performed for the postages. He cannot give any more than the postages, and of course the \$120,000 will now be of no use to him.

Mr. PUGH. I think the Senator from Vermont is about half right this time, or a little more. We have already adopted an amendment to this bill by which the Collins line is allowed to run its steamers to Southampton, under a contract which contains a very large gratuity. Now, if you confine these two other lines to the amount of their

postages, the effect will be that the Collins line will drive them from the ocean, and you make one monopoly of that which has already been the most scandalous monopoly that was ever before Congress. I think you ought either to go back and adopt the amendment of the Senator from Virginia, or you ought to allow these lines to Southampton and Bremen and Havre—

Mr. HUNTER. We can have another vote on that when the bill is reported to the Senate. If we are going to apply the principle of postages, we ought to do it on these lines; and when we go into the Senate, we shall have another vote on the Collins proposition.

Mr. PUGH. I am in favor of the principle of the Senator from Virginia, and if I had not paired off with the Senator from Georgia, [Mr. IVERSON,] I should have voted for this amendment; but here is the case I suggest to the Senate: the Collins line have a contract from New York to Liverpool, and you pay that line a large gratuity. Now you have authorized them to change the eastern terminus to Southampton, and so come in direct competition with these other lines. That is enough in all conscience; that is practically giving the Collins line the control of another route, putting it in their power to drive other ships off the ocean; but when you go on in addition to that, and disable the Postmaster General from giving anything beyond the \$230,000 to the Bremen and Havre lines, you have practically destroyed them, and all for the benefit of the Collins line. I think it is a worse piece of legislation than the sum of money you gave in 1852.

Mr. HUNTER. Then the effect would be that we commit ourselves to renewing this contract on that principle.

Mr. MASON. I would ask my colleague or the Senator from Vermont when the contract with the Collins line expires by limitation.

Mr. COLLAMER. In two years.

Mr. MASON. I perfectly agree with the Senator from Ohio, although I would vote with my colleague, under other circumstances, to reduce this compensation to the postage. As I understand it, the Senate, by a preponderating vote, refused to adopt the amendment of my colleague, in reference to the Collins line, and have brought them, by giving them immunities, into direct competition with these two other routes by allowing them to change their terminus to Southampton; and having done that, now the proposition insisted on by my colleague is, that although these two routes are placed at a great disadvantage, we shall still further disable them by reducing them to the ocean postage while the Collins line remains on its contract with the additional immunities. It seems to me to be placing them in unfair competition, and I should be strongly disposed to extend the privilege asked by the Postmaster General, because it is but for a single year. I do not know how it can be remedied, and that, too, upon the admission of my colleague—no gentleman understands the subject better, I take it for granted—that these two other lines have always discharged their contracts faithfully, whether at a loss or gain, and we know that the Collins line has been in a state of decrepitude, and has lived only upon the largesses and bounty of the country.

Mr. HUNTER. I admit that, in my opinion, these two lines are entitled to far more consideration from the Government than the Collins line; but this is a question of principle. My colleague agrees with me that we ought to put down, if we can, gratuities to ocean steamers—the idea of maintaining an ocean postal system at the expense of the Treasury. If I vote to renew this contract on the old system, then I commit myself to restore it. The evil is done, not in refusing to restore the old system so far as these two lines are concerned, but in permitting the Collins line to go to Southampton. So far as the annual compensation is concerned, we cannot avoid that. That is said to be contract; we are obliged to give that; but we could have avoided the permission to land at Southampton instead of Liverpool, and I did my best to prevent that. I at first agreed to it; because I supposed it was merely giving an advantage to the Collins line, without injuring any one, until I was better informed; but the moment I found out, or was induced to believe, that the effect was to injure, perhaps destroy, the other lines, I did my best to retrieve the error so far as

that was concerned; but I, for one, cannot commit myself to the principle of restoring the old system of supporting ocean postal lines out of the Treasury. The effect of this will be that we must return to the bill as the House sent it to us; and if we do, I, for one, cannot vote for it.

Mr. DAVIS. The chairman of the Committee on Finance is proposing a radical change at a time when I am sure we have not leisure to deliberate on it. If a new principle is to be applied to the whole system, I think we had better do it another year after due deliberation, preparation, and discussion of the subject. I have not had the subject explained to me sufficiently to understand it in all its details, and yet I can see most clearly the injury which is to be wrought on these two lines. I do not myself concur in the view that it is better to take the postage as the amount of compensation; I think we had better give these companies a fixed amount, though it should be less than the postage. We had better take the amount the postage would be in ten years as the receipt of the Government, and then fix an amount annually to be paid to the company less than that. They would then know what to rely upon. Fluctuations dependent materially on the action of our own Government should not be thrown on the contractors who carry our mail. We have it in our power, by governmental action, to increase or diminish the amount of travel and amount of correspondence, and this burden should not be thrown on the contractors, they having no control over the subject. I am perfectly willing to take what would be the average for a term of years, and fix it per annum or per trip. But I do not hold that this whole subject of steam navigation is to be treated as an invasion of the Treasury, and an outrage upon public propriety, for if the steamers are valueless for any good purpose in time of war, and I believe they are, they are nevertheless schools, and they establish workshops, where engines can be built, and steam vessels can be built, that will answer war purposes, and the sad lessons that we have learned in this Collins line, will be worth to the Government many million dollars in the future, if we should ever have to erect a great steam navy. I think there is a manifest injustice in the operation of the bill towards these lines, if you intend to keep up the ocean mail routes at all. If you intend to discontinue them, say so, but I think the notice is too short, and I prefer, therefore, to adhere to the form of the bill which the House gave; allow them to go on for this year, giving the appropriation stated by the House, and give this contingent sum which will be at the disposal of the Postmaster General; and if in another year we can perfect a system which is better than this, and mature the arrangement, let it be done on due deliberation; let us examine it, and vote upon it.

Mr. WILSON. Is it in order, at the present time, to move a reconsideration of the last vote?

The VICE PRESIDENT. It is.

Mr. COLLAMER. I withdraw my proposed amendment.

Mr. WILSON. I move to reconsider the vote by which the Senate agreed to the amendment of the Committee on Finance, striking out in lines ten and eleven, "\$230,000," and inserting, "the amount of postages, ocean and inland, received by the United States, in and out, by the vessels employed in such service."

Mr. SEWARD. I hope that that motion will prevail, and that the views expressed by the Senator from Mississippi will be adopted.

Mr. FESSENDEN. I agreed, in the Finance Committee, that this amendment should be reported as it now stands, and I have heard nothing which has induced me to change my opinion. I shall say but a very few words, for I do not wish to protract the debate, and I have been as quiet as most gentlemen. I cannot accede to the proposition that we are doing anything unfair towards the two lines spoken of, by refusing to make an appropriation out of the Treasury for the purpose of continuing them. They made a contract for a specific time, and all the obligation that rested on us was to perform our contract, and all the obligation on them was to perform theirs. It is conceded that the contract was performed on our part and on their part, and it went to the end of the time fixed, thus fairly performed on both sides. Now how can any gentleman say that, by refusing to make an appropriation to con-

tinue that for another year, we are dealing unfairly by them in any possible way. We made no contract for the continuance of this service beyond the period limited. We did not agree to continue it for a year or a month. They took the hazard, they took the risk when they entered into the contract, of its being ended at the time fixed. What injustice have we done to them by our action in regard to the Collins line? We conceive that we are under an obligation to the Collins line to continue their contract for two years longer, and we must pay them the money stipulated, provided they perform the service. We think it is for the interest of the United States that, instead of going to Liverpool, as they have gone heretofore, they may go to Southampton. There is a contract that remains for us to perform, money that we must pay if they perform the service, and if it is better for them and better for us, why should it not be done? But these other lines step in and say, "you are interfering with our rights." What rights have they against us? What claims have they upon us? They agreed to do a certain thing for a certain sum of money; they have done it; we have paid the money. They say this will interfere with them. What is that to us? Have we not just as good a right to run a line to Southampton as anybody else? Have we not the same right, if it is to our interest, and if we are obliged to pay our money, to direct the Collins line to go there, if it is willing to go; or are we to stay away and not allow it to do what is beneficial to us simply because a contract was once made between us and them, which contract is now at an end? Upon any grounds of fairness or obligation, one way or the other, I do not see that there is the least ground of complaint. We have the same right to send the Collins line to Southampton that any individual could have to run a line there, and certainly we could not prevent it, for he would have a right to do it. Then, upon the ground on which this claim is put, I see not the least objection in the world to this amendment.

It is said, let us continue this until we can look at it deliberately. Do we ever look at such things more deliberately than we do now? This matter is as perfectly understood by Congress as it ever will be; we know what the operation of these lines has been so far; we know what has been accomplished; we understand the difficulties; we understand all the principles. The question comes up as a very simple one; will Congress at this session change the system so far as it can change it, and say, "We will give the postages to any person who chooses to continue the line which has heretofore been running, and for which we have been paying something more or something less, as the case may be, but we will give that at any rate, if they choose to continue it under existing circumstances to Southampton or to Bremen as it has run heretofore?" The Finance Committee, I think I may say unanimously, came to the conclusion that it was best to make that experiment, that now was the time. I do not understand the absolute necessity we are under of sustaining these lines; I do not know that the country would suffer much if they ceased. So far as the business of building steamboats, and making steam-boilers and steam-engines is concerned, there is no danger in the present state of steam navigation in this country, or any other country where it is carried on, that that business will cease, simply because we refuse to sustain by money out of the Treasury a couple of lines running to Southampton or elsewhere. There is no danger on that head.

Then, the simple question returns, what does the public good require? Is there any such pressing necessity or such necessity of any kind upon us as to require that we should not only pay the postages, but pay an additional sum for sustaining these two lines when their contracts have ended, and when they have ceased to have the slightest claim on us in the world; or is there any reason why we should not make just such arrangement as is most beneficial to the country and to the service?

Now, sir, allow me to say that, although there is certainly no gentleman in the Senate for whose opinions upon all questions, and more especially upon questions of this character, I have more respect than I have for those of the honorable Senator from Vermont, [Mr. COLLAMER,] I cannot agree with him on this occasion. I see a wide distinction

between the internal domestic post office service and the post office service abroad. I believe the post office establishment is principally for the benefit of intercommunication between our own citizens here at home, to promote commerce and all the benefits of intercommunication in various ways. We are bound to provide for it, in my judgment. It is not confined, as the Senator from Georgia supposes it to be, to the mere consideration that the man who writes a letter should pay for carrying it in all cases. There is something beyond that. But I shall not go into that question. Anybody, it strikes me, can see a difference between providing for communication between our own citizens, in different parts of our own country, which should become acquainted with each other, which should be interwoven with each other in every possible way, (and the intercommunication tends to promote union and the general benefit; for the post office arrangements in the United States of necessity bring about precisely what we wish to accomplish in these particulars,) and the establishment of great lines of ocean steamers plying to foreign countries, connected with altogether different considerations from any of those on which the post office system is established—considering it to be a system, and a system of importance. There is a similarity between them in one particular; that is to say, if you establish the principle as applicable to ourselves at home, that the post office should support itself in one place, it should be made to support itself everywhere, and should be equal, so far as domestic concerns are interested; but it is a very different question when you come to contrast that domestic system with a system of interchange of communication with foreign countries, connected with trade, the building of ocean steamers for naval purposes, and everything of that kind. I have seen no reason to change my vote; I do not expect to convince anybody else, but I wish to enter my dissent to the doctrines that have been advanced.

Mr. DOOLITTLE. The honorable Senator from Virginia desires, as I understand him, not to have the Government of the United States committed to any system of contracts in the carrying of the mails across the ocean.

Mr. HUNTER. I did not say so. I said contracts by which they were supported out of the Treasury of the United States, and were not to be self-sustaining.

Mr. DOOLITTLE. The time for arranging this system, it seems to me, will be when the contract with the Collins line shall have expired—which will be in about a year and a half or two years hence. Then the whole system of our ocean service can be arranged upon a proper basis. So long as we give this bonus to the Collins line, and it is a fixed sum to be paid out of the Treasury, and give them the privilege, also, of terminating their route at Southampton, it seems to me we should be doing injustice to any competing lines across the ocean if we were to confine them altogether to the uncertain sum which might be produced in the mean time by the postages that may be received for the carrying of the letters upon the vessels employed in these lines. I do not understand that this proposition, contained in the bill as it comes from the House of Representatives, is a proposition that we are to employ a particular individual, or a particular line; but that it is open to free competition; perfectly open for the Post Office Department to ask, if you please, for sealed proposals to carry the mails on these routes, just as you would upon the land. It is not, therefore, a monopoly any more than the carrying of the mail upon the land is a monopoly. It is to be done by contract, it is true—a contract to be entered into between the carrier and the Post Office Department. It is utterly impossible to have the mails carried in any other way than by contract; and, in order to save ourselves from monopoly, and to introduce free competition, I agree with the Senators who have said that the last thing in the world Congress should do would be to undertake to direct the Post Office Department to make a contract with a particular individual; for that gives to him a monopoly which cannot be justified; and in voting for giving this sum to the Collins line, I do it only because we are under a contract to do so, binding, in good faith, upon the Government.

Mr. PUGH. But, let me suggest to the Senator, you are under no contract with Mr. Collins

to run his ships to Southampton. You are giving him a new privilege, in addition to all the rest.

Mr. DOOLITTLE. We are authorizing the Postmaster General, if he shall think it best for the interests of the Government, to allow Mr. Collins to terminate the route at Southampton. There will be uncertainty in relation to the amount of postages to be received; there will also, I apprehend, be this difficulty produced, if this line be confined to the postages: there will at once arise a competition between this line and the other lines across the ocean—a competition to see who will get the mails and carry the letters; and there may be difficulties in ascertaining the amount, difficulties in relation to the contracts; and we may bring around Congress a very large outside influence, that would be interested in increasing the rates of postage, in order to enlarge the amount of compensation which might be received by the various lines. For myself, I agree with the Senator from Mississippi in opinion, that it is better for us, in whatever contract we make, to fix a given sum. We may base that sum upon the average amount of postages that have been received; but the sum should be fixed from year to year, and sealed proposals should be received, and the contracts let out to the lowest bidder. I hope the Senate will reconsider this amendment; and, as it only continues this service for a single year, I do not believe it will amount to any such commitment in favor of the old system as will prevent the Senate overhauling the whole subject when we shall have got through with the monopoly which is held by Collins under his contract.

Mr. SEWARD called for the yeas and nays on the motion to reconsider; and they were ordered.

Mr. PUGH. The Senator from Georgia, Mr. IVERSON, and myself paired off on the Collins line; and though this is not the same subject, it is a similar one, and I decline to vote.

The question being taken by yeas and nays, resulted—yeas 20, nays 19; as follows:

YEAS—Messrs. Allen, Bell, Bright, Broderick, Cameron, Chandler, Clark, Collamer, Davis, Dixon, Doolittle, Foster, Hale, Kennedy, Mason, Seward, Stuart, Wade, Wilson, and Wright—20.

NAYS—Messrs. Brown, Clay, Clingman, Fessenden, Fitch, Fitzpatrick, Hamlin, Hammond, Houston, Hunter, Johnson of Arkansas, Johnson of Tennessee, Jones, King, Mallory, Reid, Thompson of Kentucky, Toombs, and Yulee—19.

So the motion to reconsider prevailed.

Mr. MASON. I wish to say a single word explanatory of the vote I gave to reconsider the former vote on this amendment. I understand that the Collins line, having two years of its contract unexpired, and with very large bounties, has, by a vote of the Senate to-day, been brought into necessary competition, by being allowed most favorably to change its European terminus; with the Bremen and Havre lines. I understand, further, that the contracts of both these lines expired some twelve months ago, and the Bremen line refused to continue to carry the mail for the postages, but the Havre line continued to discharge the service for the postages. The discontinued Bremen line was taken up, after a fashion, by Mr. Vanderbilt, of New York, who ran for the postages when it was convenient for him to do so, and discontinued it when it was inconvenient; that is to say, as I am informed by the Senator from Vermont, he discontinued it in the winter, and carried the mails only in the summer, when there was travel.

Although I shall vote for the proposition as it comes from the Post Office Department, I do not at all understand that I am committed to any principle of establishing steam lines, as a subsidy upon the Treasury. I am against that principle. I am prepared either to discontinue the ocean carriage on the part of the Government altogether, or to have the mail carried on the ocean for the postage; but I think notwithstanding that, when we have in our service these two lines, both of them receiving less rates than are paid to the Collins line, and the Havre line, especially, receiving a less rate than was paid to her associate the Bremen line, and when we have, by a vote of the Senate to-day, as I understand it, brought one of these contractors, the Havre line, that has discharged the service faithfully, into competition with one which enjoys the patronage of the Government, I am entirely at liberty to sustain the

other line, at least for one year, without any departure from the principles which I am prepared to adhere to when the proper time comes for the adjustment of this matter. I shall cheerfully vote to sustain the proposition coming from the Department.

Mr. TOOMBS. I may not understand this matter, and I should like to be informed by somebody who does understand it; but it appears to me that this is one of the most extraordinary propositions upon which I have ever been called upon to vote. It seems that persons are willing to carry these mails for the legitimate returns, the postages. It is proposed, not to allow them to do so, but to saddle the Treasury with an expense of \$230,000 a year, and that, too, after we have authorized another company, to which we pay \$387,000 a year, to carry every particle of mail matter between here and Southampton. We have authorized the terminus of the Collins line to be changed, so that it may take the whole mail to Southampton; and then we propose to give another company \$230,000 for carrying the mail there. That is the way the question stands now—the precise and naked question. The result, in my judgment, will be that Mr. Collins need not even turn a wheel. It is known to the Senate officially, that persons will carry mails for the postages; and yet we say we will give Mr. Collins \$387,000 a year to carry them. What is to prevent Mr. Collins allowing the man who can carry them for the postages to do so, and pocket the difference? I suppose this contract will amount to a *douceur* of half a million to Mr. Collins without the least difficulty. It must be worth that in the open market. He is to carry the mails to a place where you can get them carried for nothing, for I call it nothing where you only allow the postages; but you propose to pay him \$387,000 to do the very service that you can get done for nothing; and how easy it will be for him to turn it over to those who will do it for nothing. Who supposes that he will not sell it? Who would not sell it? Why should he not sell it? It is simply giving him a bonus of half a million dollars, without doing a particle of public service.

Mr. COLLAMER. I perceive that I have not been so fortunate as to be entirely understood by the Senator from Georgia. In the first place, I deny that letting Mr. Collins go to Southampton is necessarily any interference at all with the Bremen and Havre lines. It may be, or it may not be; and whether it will be or not, can be determined by the Postmaster General, on the proper examination of the question. He can ascertain from the people concerned in the Bremen and Havre lines whether they regard this as an interference or not.

Mr. TOOMBS. Suppose the contractors on those lines say it is not, and they withdraw: Collins then has the contract, and what is to prevent him from making an arrangement with them? May there not be collusion?

Mr. COLLAMER. I do not mean to neglect the gentleman's argument, at all; I shall attend to it before I sit down, but I wish first to attend to some misapprehensions independent of that point. I go now on the ground that both lines will run. The gentleman seems to suppose that both lines will not run. That will not follow, at all. Mr. Collins's contract is to do the service twice a month, in ships of a certain size and magnitude. These other people have no such vessels. They were not required to have them by their original contract. They cannot fulfill his contract. There can, therefore, be no such collusion as the Senator supposes. I am going upon the ground that Mr. Collins will, as a matter of course, in order to get the amount of pay you give him, do the service.

Mr. HUNTER. Why cannot they fulfill it? If Collins omits half the trips, the decision is that he does not forfeit his contract, but only forfeits his pay for those trips.

Mr. COLLAMER. He forfeits the whole pay for every trip he omits to make.

Mr. HUNTER. Why cannot they fulfill his contract?

Mr. COLLAMER. He must fulfill it with his ships twice a month, or forfeit the pay.

Mr. HUNTER. I do not understand that any particular ships are required.

Mr. COLLAMER. Yes, sir. By his contract ships of a certain magnitude are required.

Mr. HUNTER. Why cannot they fulfill his contract if they have ships of that magnitude?

Mr. COLLAMER. For the very simple reason that they have not any such ships.

Mr. KING. They can take Collins's ships.

Mr. COLLAMER. If they take his ships they may get the money if they perform the service for him. If he is to go to Southampton, very well. If he is to go to Liverpool, he has to run there; and they perform an entirely different service. The question is, will it interfere with these other two lines to allow him to go to Southampton? If it will interfere with them, the Postmaster General will not agree to let Collins go there, because the provision is that he cannot go there without the consent of the Postmaster General; and of course, if it would interfere with the other lines, the Postmaster General would never agree to let him go there. But, besides that, it is very questionable whether there will be any interference at all. Mr. Collins will run twice a month; they run but twice a month; the Havre line once a month, and the Bremen line once a month, each stopping at Southampton. That makes their trips two weeks apart. If Mr. Collins comes in with his ships, filling up the two weeks when they do not run, making a weekly line from New York by the Collins ships and the ships of these other two lines to Southampton and the continent, the question will be, will that hurt these other lines? They may say, "when we run only once in a week we cannot command the trade and passengers of the continent; but if we can get Mr. Collins to run in the intermediate weeks, and make with us a weekly line, such as there is to Liverpool, the probability is that then we can command the passengers both from America to the continent, and from the continent to America almost entirely, and not have them go by way of Liverpool at all. We never shall be able to do that unless we get Mr. Collins to fill up the intermediate weeks when we do not run; and if he will fill up those weeks, he, together with us, will have a better line, and we shall make more than we can ever make by ourselves."

I merely present this view of the case for the purpose of showing that it does not follow as a matter of course that allowing Mr. Collins to run his ships to Southampton will injure the lines now running there. It may, or it may not. That is a matter for them to judge of. But if it does, I again repeat, the Postmaster General will never agree to let him run there. The bill as it stands amended provides that the Postmaster General may allow him to go to Southampton. To assume that the Postmaster General will have him go there to the injury of those other people, is to beg the whole question, and to beg an improbability, too. It is not at all probable that he would agree to any such thing. There is no danger of his doing it. Unless the lines that are running there for the postages believe that it will injure them, he may allow it to be done; but if they think it will benefit them, he will then probably agree with Mr. Collins, that he may as well run there, and that it will be better for himself and better for the community, making a weekly line between us, England, and the continent, which will run in good competition against the British line to Liverpool.

Mr. MALLORY. The Senator from Vermont is probably conversant with the facts in reference to the size of Mr. Collins's ships. I know that the ships were built larger than was at first supposed; and that was made a merit when the extra compensation was asked for, that the ships were made larger than the contract required. Can he now tell us what sized ships the contract called for?

Mr. COLLAMER. I do not know.

Mr. TOOMBS. Only two thousand tons.

Mr. COLLAMER. My impression is that they were built larger than the contract required. The Bremen and Havre lines, however, were not required to be two thousand tons, and they never had any such ships.

Mr. FESSENDEN. I simply wish to ask the Senate, on the statement and argument made now by the Senator from Vermont, if it is not perfectly apparent that the whole foundation of the reason for the reconsideration of this vote is done away with? It was reconsidered on the ground that the provision we have made for the Collins line would hurt these other lines. Now, the Senator from Vermont argues that it will benefit them.

Mr. COLLAMER. No.

Mr. FESSENDEN. Well, that it may benefit them. As a matter of fact, I understand there was not the slightest objection to it on the part of those men.

Mr. COLLAMER. I do not know that there was.

Mr. YULEE. I will say, in response to the question of my colleague, that the contract called for ships of three thousand tons.

Mr. TOOMBS. The contract was for two thousand.

Mr. YULEE. I have it in my hand.

Mr. TOOMBS. So have I. I hold in my hand the contract itself, and it reads two thousand.

Mr. YULEE. I have it in my hand, and it provides for three thousand.

Mr. TOOMBS. I have it here, in the Senate Documents for 1851-2. "United States mail contract, New York and Liverpool. This agreement, made in the city of Washington," &c. It provides for "five steamships of not less than two thousand tons' measurement, and of one thousand horse power each, to be built of great speed, and sufficiently strong for war purposes."

Mr. YULEE. What contract is that?

Mr. TOOMBS. The contract with E. K. Collins.

Mr. YULEE. I have before me the contract with E. K. Collins.

Mr. TOOMBS. You have the supplemental contract.

Mr. YULEE. No, sir; it is the original contract; and it provides:

"For the materials, dimensions, and more full specifications for the hull of said ships and their steam machinery, respectively, reference is made to the annexed schedules, marked A and B, which belong to and form part of this agreement."

Then schedule A provides:

"Intended size of said steamships, about three thousand tons, being three hundred feet between perpendiculars," &c.

Mr. TOOMBS. The Senator's contract and mine are the same; but he does not state it with accuracy. The contract binds them, and not the schedule; in the schedule he says he intends to make the ships three thousand tons; but by the contract he is only bound to make them two thousand. That is the difference.

Mr. HUNTER. What is the date?

Mr. YULEE. This contract is dated November 1, 1847, and is the contract which was made under the law.

Mr. COLLAMER. I believe that the statute required them to be at least two thousand tons.

Mr. YULEE. I can explain the difference. In the proposition Mr. Collins made to the Post Office Department before the act of Congress, he suggested two thousand tons. That was in his proposal, and that probably was recited in the act of Congress.

Mr. PUGH. There is no recital in the act of Congress; but reference is made to his proposition.

Mr. SEWARD. I have too much interest in expediting the business of the Senate to occupy the floor long. I wish to say simply, that I see no necessary connection between this question and the question which went before it in regard to the Collins line. Here is a proposition of the Government, which has been accepted by the House of Representatives, in regard to the transportation of the mails from New York, via Southampton or Cowes, to Bremen, and from New York, via Southampton or Cowes, to Havre—two lines which have been in existence the last eight years, and for which the House of Representatives proposes that we shall pay \$230,000; and that proposition to pay \$230,000 the Committee on Finance propose to amend, by substituting for the sum of \$230,000 the postages.

Mr. FESSENDEN. You should take the succeeding sum with it—the two together making \$350,000.

Mr. SEWARD. I correct myself at the request of the honorable Senator from Maine. I will state the proposition, then, in this way: the Postmaster General and House of Representatives propose to pay to these two lines, which have for the last eight or ten years carried these mails, the sum of \$230,000 for carrying the mails on the same routes, the same number of times, with a fund reserved for contingencies, at the discretion of the Postmaster General, of \$120,000 more for that

purpose. Now the Committee on Finance propose to substitute for that proposition, which is one that will sustain these two lines and secure this service, another one which we do not know will effect that purpose. That other proposition is to give the amount of postage, foreign and inland, received by the United States in and out by the vessels employed in this service. If I understand it, the first sum of \$230,000 is substantially an estimate of the amount of postages which will be received; and what the committee propose is, instead of fixing that amount of \$230,000, to let the parties take the postages, which it is estimated will be equivalent to it. There is then no material difference in the propositions, so far as the Government is concerned. Any difference there can be to them is practically immaterial unless it affects some principle; but in point of amount it can be nothing. To the contractor, however, who has steam lines to maintain, with less credit and less capital than the Government of the United States at his command, it is one thing whether he is sure that he will have \$230,000, or whether it is only estimated by the Government that he will have \$230,000, although the estimate is expected to be nearly right.

Then you substitute an amendment which makes no material difference in point of economy to the Government whatever, but which may lose you the service, in the place of a sum which will secure it, and will probably not differ from the amount you propose to give. I am sure I am disposed to meet the case fairly. This is the whole matter; unless it is necessary to advert again to the proposition which provides \$120,000 for contingencies; but that is not involved in the question before the Senate. The question before the Senate is, whether they will substitute "the postages, foreign and inland, received by the United States in the mails in and out by the vessels employed in such service," for the sum of \$230,000, which are substantial equivalents? After that, it will be time enough to consider whether the contingencies shall be allowed. To mix the two questions together, and then go back and embarrass them with the proposition in regard to Mr. Collins, is quite unnecessary. I have said there was nothing involved in this except a principle. I admit that there is a principle contended for by the Committee on Finance, and that is, that the service shall hereafter be remunerative. I only repeat, with the Senator from Vermont and the Senator from Mississippi, that, when the Collins contract falls in, then will be a good time to revise and consider the whole subject, and to adopt such a system, if it shall be found expedient.

Mr. TOOMBS. The Senator from Vermont did not, in my judgment, attend to the case to which I called his attention, at all. The only ground on which they pretend to stand in the assumption that they are not giving Mr. Collins three quarters of a million for nothing, is that the other lines have not the same sort of ships that he has. The Senator from Vermont, when asked on what authority he makes that statement, gives none. He does not know a word about it, and the statement he made was inaccurate. The Senator from Florida, also, is under a mistake. Collins, by his contract, was to build ships not less than two thousand tons' burden. It is true, in the specifications he said he would build them about three thousand tons, but he is not bound by the schedule. He is only bound by the act of Congress, and his proposals, and the contract. They require ships of two thousand tons; and the reason these specifications were made was itself fraudulent, because they well knew that they would never build such a ship in the world, and they never intended to do so. What they wanted was a legislative contract; the rest was perfectly easy. It was reported to us by those who pretend to be competent officers in the naval service of the United States, that the Collins ships were not built according to contract. He came here and said, "here are my specifications; I have all the iron bolts they call for; the specifications and contract show what I was to do, and I have built my ships according to them." Although it was proven that they were not sufficient for war purposes, he said they were built according to contract, according to the specifications. Those specifications, with which the law had nothing to do, were put in by the contractors, and they got a Secretary of the Navy, (Mr. Mason,) who

knew as little about ships as I do, to accept them.

The Senator from Vermont says these other contractors have not as good ships as the Collins ships. Everybody knows that that is not so. I know personally that the statement is not correct. The Vanderbilt is a larger ship and a stronger ship than any of the Collins line, except the last one that he built. The Secretary of the Navy or the Postmaster General cannot designate the ships with which he shall carry the mails; but if he offers them a ship that is as good as the contract requires they are bound to take it. What will be the test of the contract? A ship may be offered; it may not be as good as one as the Atlantic or Arctic, but it may be as good as the contract calls for, and therefore they must send the mails by it. I am trying to protect the Government against collusion, not against conflict. I do not know but that these parties have colluded now. I have not the least doubt that all these people understand one another. I am struggling against collusion. If they have colluded, why should Vanderbilt run to Southampton for the postage when Collins can get \$387,000 for running to the same place? Why may not Collins, then, sell his ships, sit down in New York, and say to Vanderbilt, "I will give you \$230,000 and pocket \$157,000 a year." That is the plain, naked case. The Senator from Vermont says the Postmaster General will protect us. It is my duty, in the first place, to prevent collusion, and prevent the country from being plundered; to protect it by law as well as I can. I have noticed that there never has been a head of a Department strong enough to resist steamship contracts. I have noticed them here with your Whig party and your Democratic party for the last thirteen years, and I have never seen any head of a Department strong enough to resist these influences. I do not know how it has happened. They were all very honest men, as far as I know. I never heard the least dishonesty charged on any of them, and I am willing to say they were honest men; but there has never been a head of the Navy Department or of the Post Office Department who has been able to resist these influences; steamship contractors have been allowed to vary their contracts to suit themselves. Thirteen years' experience has taught me that whenever you allow the Post Office or the Navy Department to do anything which is for the benefit of contractors, you may consider that thing as done. I could point to more than a dozen variations of contracts where authority has been given to those Departments—marked cases.

I recollect that when it was demonstrated, as it was said by my friend from Florida [Mr. MALLOY] the other day, that the dry-docks you constructed were great failures and worth nothing, you paid about two million dollars for building one in California, because it was referred to the discretion of the Secretary of the Navy. I do not believe in trusting to the heads of these Departments to protect us. Take the very case of these steamships. A board of your naval officers said that they were not built according to contract; that they could not stand the fire of their own batteries; that they would come to pieces under the fire of one gun, and yet they were accepted by the Navy Department. The report of your officers came before me officially when I was a member of the Committee of Ways and Means of the other House, showing these facts. Mr. Collins has been able to get from the Departments whatever he wanted, and it seems to me he has made Congress do whatever he asked them to do besides. A million dollars a year is a power that will be felt. For ten years it amounts to ten millions of money, and I know it is felt, I know it perverts legislation. I have seen its influence; I have seen the public Treasury plundered by it. Why then should we leave anything to discretion which we can control by law? When the bill gets into the Senate, if this vote be reconsidered, I shall endeavor to limit it so that the contract shall not be assigned, but shall be carried out by Mr. Collins, and I have no doubt he would not give his tavern bill here for your provision if you pass it in that way.

The VICE PRESIDENT. The question is on the amendment of the Committee on Finance, to strike out "\$230,000," and insert "the amount of postages, ocean and inland, received by the

United States on the mails in and out by the vessels employed in such service."

Mr. TOOMBS called for the yeas and nays; and they were ordered.

Mr. GREEN. The Senator from Iowa, Mr. HARLAN, and myself have paired off.

Mr. POLK. I have paired off with the Senator from Rhode Island, Mr. SIMMONS.

Mr. FITZPATRICK. I have paired off with the Senator from Connecticut, Mr. DIXON.

The question being taken, resulted—yeas 18, nays 19; as follows:

YEAS—Messrs. Brown, Clay, Clingman, Douglas, Fessenden, Hamlin, Hammond, Houston, Hunter, Johnson of Arkansas, Johnson of Tennessee, Mallory, Reid, Sebastian, Thompson of Kentucky, Toombs, Wade, and Yulee—18.

NAYS—Messrs. Allen, Bell, Broderick, Cameron, Chandler, Clark, Collamer, Davis, Doolittle, Foster, Gwin, Hale, Jones, Kennedy, Mason, Seward, Stuart, Wilson, and Wright—19.

So the amendment was rejected.

Mr. TOOMBS. It seems we are doing very important business here with only thirty-seven Senators. I move that the Senate adjourn. I think it is shameful to attempt to carry on public business with more than one third of our number absent.

Mr. HUNTER. I hope we shall not adjourn.

Mr. JOHNSON, of Arkansas. I ask for the yeas and nays on the adjournment.

The yeas and nays were ordered.

Mr. GREEN. Although I paired off, it was on a specific question. It was on the bill before the Senate, and I claim the right to vote on the adjournment.

The question being taken by yeas and nays, resulted—yeas 16, nays 24; as follows:

YEAS—Messrs. Bigler, Broderick, Clay, Clingman, Davis, Douglas, Green, Hammond, Houston, Johnson of Tennessee, Kennedy, Mallory, Mason, Pugh, and Toombs—16.

NAYS—Messrs. Allen, Bright, Brown, Cameron, Chandler, Clark, Doolittle, Fessenden, Foster, Gwin, Hale, Hamlin, Hunter, Johnson of Arkansas, Jones, Polk, Reid, Sebastian, Seward, Stuart, Thompson of Kentucky, Wade, Wilson, and Wright—24.

So the Senate refused to adjourn.

The next amendment of the Committee on Finance was to strike out the following clause:

"For contingencies in the mail service between New York and Europe, \$120,000."

Mr. WILSON. I ask for the yeas and nays on that proposition.

The yeas and nays were ordered.

Mr. SEWARD. An explanation is asked of the amendment. I will state how I understand it. The bill as it came from the House of Representatives, appropriated for the transportation of mails from New York by these two lines, \$230,000, which, it was thought by the Department, might be, or might not be, sufficient to secure the mail service by these lines. The Department recommended, and the House put into the bill a provision for contingencies of mail service, \$120,000.

Mr. YULEE. I do not feel much solicitude either way in respect to this amendment, or that upon which we voted just now, for, at last, it is all at the discretion of the Postmaster General, and he may or may not use it; but I rise simply for the purpose of protesting against what seems to be an impression in the Senate, that the Postmaster General is bound by the amendment which has just been passed upon, and by this to employ the same lines now in service. By no means at all. The appropriation of \$230,000 was asked for, as he specifically states in his letter, as being the probable amount of income from postages, and the \$120,000 was asked for as a sum which he might use or might not use at his pleasure, on this route or upon any other route, in giving effect to the plan of service at the cost of postages. Now, although the action of the Senate may be an intimation that upon the route to Havre and Bremen it would be desirable to establish a line, it does not at all commit him to employ the same persons who are now employed, or to put out any service at all, if he does not think it is advisable. That, I think, is the view which the Postmaster General will take of the matter.

Mr. TOOMBS. I suppose that is the case with the \$230,000. The Post Office Department is \$5,000,000 in arrears; the Treasury is bankrupt; we have agreed to \$35,000,000 of loans at this session; and, in such a condition of things, with a broken-down contractor getting \$387,000 a year

now, we give \$230,000 at the pleasure of the Department to facilitate European intercourse; that is what it is.

Mr. YULEE. The Senator misunderstands me. I was not advocating it. I say I am indifferent about it.

Mr. TOOMBS. I know.

Mr. YULEE. But I do not want the Post Office Department to be understood as committed to putting this service in operation.

Mr. TOOMBS. It was only to the measure that I was objecting. I simply wanted the Senate to understand, and I desire it put on the record, that I am unwilling, in the present condition of the country, to put \$350,000 in anybody's hands in this way. I believe I have as much confidence in the Postmaster General as in any other officer; but I say whatever can be regulated by law ought not to be left to discretion. When I am called upon to appropriate public money, unless it is a case in which I cannot regulate it by law, I will leave no discretion.

Mr. FESSENDEN. I desire to suggest another thing: as this item stands, it is a contingency for the European mail service. It is not applicable to this particular line merely; and to vote it is simply putting \$120,000 into the hands of the Postmaster General to use as he pleases. He may apply it to this line or not, just as he likes.

Mr. KING. I take it, in reference to that suggestion, that we should not shut our eyes to the fact that the simple object for which the clause is put in here is to enable the Postmaster General to pay an additional sum for this particular service. That is the only reason why it is in the bill at all.

Mr. YULEE. No; the Postmaster General did not ask for it with that view.

Mr. KING. I do not care what he asked for; I say the object of putting it there was to make up \$350,000 to the Bremen and Havre line, and the reason of putting in \$120,000 here is to make up the balance the postage does not pay. He has not asked the money for any other purpose, and does not want it for any other purpose, and there is no use of talking about its being for any other purpose.

Mr. FESSENDEN. That is no reply to what I say. That is talk about the object; but as it stands in the bill, the clause is disconnected with any object; it is for contingencies of the mail service to Europe, and I say the Postmaster General may use it for pretty much anything he pleases.

Mr. SEWARD. It is for mail service between New York and Europe.

Mr. KING. If what the Senator from Maine says is so, the Postmaster General ought not to have the money.

Mr. FESSENDEN. I say he ought not to have it.

Mr. KING. I think that is a very good reason why this appropriation should not be made. Our committees should not draw our bills so that they have no specific or definite purpose; but we should know the purpose for which we appropriate money.

Mr. POLK. I have paired off with the Senator from Rhode Island, Mr. SIMMONS. Otherwise, I should vote "ay" on this amendment.

The question being taken by yeas and nays, resulted—yeas 30, nays 9; as follows:

YEAS—Messrs. Bell, Bigler, Bright, Broderick, Brown, Cameron, Clark, Clay, Clingman, Fessenden, Foster, Hale, Hamlin, Hammond, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, King, Mallory, Reid, Sebastian, Stuart, Thompson of Kentucky, Toombs, Wade, Wilson, and Yulee—30.

NAYS—Messrs. Allen, Davis, Doolittle, Douglas, Jones, Mason, Pugh, Seward, and Wright—9.

So the amendment was agreed to.

Mr. YULEE. I believe that is the last of the amendments of the Committee on Finance.

The PRESIDING OFFICER, (Mr. FOSTER.)

Yes, sir.

Mr. YULEE. I now offer this amendment, which was read before to the Senate:

And be it further enacted, That the Postmaster General be, and he is hereby, authorized to cause the mails to be transported between the United States and any foreign port or ports by steamship; allowing and paying therefor, out of any money in the Treasury not otherwise appropriated, if by an American vessel, the sea and United States inland postage, and if by foreign vessel, the sea postage only, on the mails so conveyed: *Provided*, That the preference shall always be given to an American over a foreign steamship, when departing from the same port for the same destination within three days of each other.

And be it further enacted, That the Postmaster General be, and he is hereby, directed to provide for and maintain, if practicable, at a cost not to exceed, in any instance, the sea and United States inland postage on the mails conveyed, a weekly mail to and from Europe by United States mail packets, to alternate at regular intervals with the British mail packets plying between New York and Liverpool and Boston and Liverpool, the preference to be given to such line or lines of American steamships, suitable in all respects for the service, as shall offer the best permanent contract.

I do not know that I can succeed in making myself heard, but I have a very few words to say in reference to this amendment. I apprehend there can be no objection to it from any quarter. It does not propose to disturb any existing contracts. The Collins contract stands upon its original terms, with such modifications as Congress may make. The routes to Havre and Bremer Haven, via Southampton, will stand as indicated by the amendment of the Senate. The purpose of this amendment is to enable the Postmaster General to make an experiment with a line which will, if successful, relieve Congress from applications for special post lines so far as correspondence with Europe is concerned, and will relieve the Treasury of the necessity of sustaining them.

The passage of this amendment is the more necessary in consequence of the determination of the Senate, in which I have in a great degree concurred, to recognize the continuing existence of the Collins contract up to its termination, and to permit the Postmaster General to continue the service, if he chooses, on the routes to Southampton by the other lines. This is necessary in order to prevent a monopoly—a monopoly both as to place, and as to parties; as thus: as matters stand now, if you do not give the authority to the Postmaster General to make other contracts for postages, he is without authority of law, and can make no other contracts than the existing one with Collins, and the contracts to Havre and to Bremer Haven, by way of Southampton. If, then, Portland, or Boston, or Philadelphia, or Baltimore, or Norfolk, or New Orleans, or any other port of the United States, comes forward to the Post Office Department, and proposes to make up a line to Europe, taking the postages for its pay, he cannot make the contract with them, because he has no authority of law to make such a contract. He could not originate a contract, and the law does not authorize him to take from the Treasury the postages collected, and therefore he cannot make a contract with any other port in the United States, except New York. Thus every other port must give up all possible hope of competition, or rivalry with New York, until Congress may otherwise provide by further legislation.

But it will not only be a monopoly as to place, it will be a monopoly as to parties; because, as the existing authority is limited to a contract for one year, and no parties will build steamers to take a contract for one year, because it will require a year to provide steamers for such service as that to Europe, the Postmaster General is limited to the parties now owning steamers, who are in a condition to carry on the service. This legislation, if it stands as it does, creates a monopoly as to place, and a monopoly as to party, which it is utterly out of the power of the Post Office Department to overcome.

In this view, this amendment would be proper; but in the general view, which induced the Committee on the Post Office and Post Roads to present it, it seems to me eminently desirable that it should be adopted. All the calculations made at the Department, show a result, from the European correspondence, of \$1,473,000—about a million and a half. If, as the Postmaster General thinks, he can establish a line of good steamers, alternating weekly with the Cunarders, he can secure to the Treasury of this country one half those postages, which will be nearly eight hundred thousand dollars, and then he will have a sum equal to that which the Cunarders now receive, and which will give fifteen or sixteen thousand dollars to the voyage—a sufficient amount to maintain a good line of steamers. If, then, with the ability to make this experiment, he should be able to create a good service, when the Collins contract expires, two years hence, you will be relieved of the necessity of making special legislative provision for any other line. If we propose to make the experiment, it is necessary that it

should be done at once; because, if advertised now, it cannot go into operation under a year, and it would require another year to test the experiment.

If it is proposed to try, before the Collins contract expires, in 1860, whether we can substitute a better system, now is the time when we must do it. If we defer it to another year, it will be too late. If it shall not be successful; if, in the two years during which we give the opportunity to the Postmaster General to make the experiment, it shall result in a failure, then, when the Collins contract expires, we shall be able to consider what, if any, other course is proper to be pursued in aid of this service. Certainly no harm can follow, no person would be interfered with. Mr. Collins and his line will receive just as much as through the experiment were not making; and the lines proposed to be provided for in the clause just passed, upon coming under this system, can, as they have done in the last year, be perhaps the objects of the experiment. They can try whether they cannot do it, and if they cannot do it, there are other parties who can come in. There are many lines running without compensation, and if you enable the Postmaster General to use fifteen or sixteen thousand dollars per voyage, as he can, if he establishes a good line, you enable him to say to Norfolk, "Come forward with your line; you may have the fifteen or sixteen thousand dollars; I will give you the postages." Letters can concentrate there as well as at New York. He can say so to Portland, to Boston, and to other ports; and thus you will have the opportunity, within the next two years, of testing, on fair terms to all parts of the country and to all parties, the experiment of opening to the rivalry of all the commercial towns of the country and of all those who are engaged in steam navigation, the establishment of mail lines; you will dispense the Government aid and favor equally to all classes, and to all capital disposed to engage itself in this enterprise. I think there is no aspect in which any party advocating any interest which has manifested itself in this body can object to the experiment proposed by the Committee on the Post Office and Post Roads.

Mr. HUNTER. I like the principle which the Senator from Florida proposes to adopt; but it seems to me this amendment will accomplish a result he would not desire himself. There is a part of this amendment I would be willing to vote for so as to allow the Postmaster General to make contracts for carrying the mails for a limited term of years, from any ports except those for which he now has contracts; but this goes further, and allows weekly service from New York to any port of England.

Mr. YULEE. It is not limited to New York.

Mr. HUNTER. It is not limited to New York; but I say that port ought to be excepted. It already has a line receiving an annual stipend, and the consequence might be, according to this plan, that you would have a line running from New York for the postages, and you would have the Collins line running under an annual stipend. Both could not be maintained, and Collins would be certain to get his annual stipend.

Mr. YULEE. The provision carries its antidote with it in this respect; no line will be willing to take the service for the postages, unless it is so arranged, and the circumstances are such as to insure them a reasonable income. If, therefore, the interference of the Collins line would be such as to diminish the income of another line, they will not take the contract.

Mr. HUNTER. Suppose there was a secret understanding with Collins, of which the Department knew nothing. Suppose one line take the service for the postages, and Collins assigns his contract, and they thus have the postages and the annual compensation besides.

Mr. YULEE. Then, at all events, the experiment will have gone successfully into operation.

Mr. DOOLITTLE. I suggest to the honorable Senator from Florida that he add an amendment to his proposition, that the actual running of the lines commence after the termination of the Collins monopoly, and, in the mean time, all this advertising can go on and preparation be made, and then there will be no interference between the two.

Mr. YULEE. The objection to that is, that the Collins line is under contract only for twenty

trips a year, twice a month during eight months in the year, and only once a month during the remaining four months. Now, in order to make this experiment successful, we must, if possible, engage in the service a line of weekly steamers, part of which will be the Collins steamers. There is no desire to interfere with them; but the additional steamers will be so arranged as to make an alternate trip with the Cunarders weekly, and thus divide with foreign Governments the income from the ocean postage. I have no objection to the alteration suggested by the Senator from Virginia.

The PRESIDING OFFICER put the question on the amendment, and declared that the "noes" prevailed by the sound; but

Several SENATORS called for a division.

Mr. TOOMBS. I think this vote is very characteristic. It seems to be the policy of the Senate to-day, that these mails shall not support themselves. It seems to be the favorite policy of the Senate to take money out of the public Treasury for this service, and not to restrict it to the postages, and, therefore, I think they are perfectly consistent in voting down the proposition that it shall be self-sustaining. I think we have only to go one step further, and make ocean postage free! I am very much in favor of the movement of the Senator from Florida; because if you will give bonuses to Collins, I do not want to prevent the Postmaster General from making contracts with anybody else. The amendment only allows him to make contracts with somebody else, who will carry the mails for the postages. It proposes to let the Postmaster General provide for carrying the mail from some other place than New York, and by some other person than E. K. Collins, and to give nothing in the world for doing it but what the carriers earn; that is, the postage on the letters. I cannot see any objection to that; but it seems the Senator from Virginia does; I am amazed at him. Does he not wish to have the Department support itself? Does he wish to restrict this service to Collins, and to New York?

Mr. HUNTER. Either the Senator from Georgia or I misunderstand this amendment. It is a fair proposition to carry the mails for the postages, and to that extent it is good; but it does more. It allows a weekly service to be carried from New York to England for the postages, and besides that pays Collins for carrying the mail.

Mr. TOOMBS. I think our friend from Florida understands it better. There is no idea of Mr. Collins carrying it from Liverpool. Nobody means that. He will run to Southampton.

Mr. HUNTER. All he would have to do would be to assign his contract to the postage contractor. The postage contractor would go, and then, for the weekly service, he would get both the postages and this annual sum.

Mr. YULEE. I have no objection to the modification the Senator from Virginia wants. Will this satisfy him?

Provided, That no ship shall be engaged during the continuance of the contract with Collins & Co., which follows the same route within the same week.

Will that do?

Mr. HUNTER. Yes, that will do.

Mr. YULEE. The object is to secure a weekly service. There is no desire to run a steamer on the same week with Collins, and it is not likely we can get one on the same week.

Mr. HUNTER. Strike out the words "within the same week."

Mr. THOMPSON, of Kentucky. I ask the Senator from Florida, does not that amendment give one man the postages, while we already give Collins the pay?

Mr. YULEE. I am agreeing to a proviso that he shall not run a steamer within a week on the same route with Collins.

Mr. HUNTER. Leave that out about the week.

Mr. YULEE. Then the difficulty would be that we could not get any other steamer to run to Southampton at all, and the country be reduced to twenty trips a year to Southampton; and we must run the others to some other port.

Mr. THOMPSON, of Kentucky. If the amendment is adopted, it seems to me Collins is subsidized; while another line gets the postages. Is not that true, if they run on different days and different routes?

Mr. YULEE. No. He will get the postages accumulating during the week. There will be on board Collins's ship, to reimburse us for our outlay in subsidy, the postages accumulating in a week; because this proviso would prevent another steamer departing within a week of the same time.

Mr. THOMPSON, of Kentucky. That is a collateral partnership with Collins. I do not understand it.

Mr. IVERSON. I propose this as a substitute for the last amendment, which meets the approbation of the Senator from Virginia:

Provided, That the above provisions shall not apply to any line between New York and such foreign ports where contracts now exist, nor until the expiration of such contracts.

Mr. HUNTER. I will vote for the amendment if that be put in.

Mr. YULEE. I have no objection to that if I understand it correctly. I accept it.

Mr. BAYARD. I should like to hear the amendment of the Senator from Florida read, as now modified.

The amendment, as modified, was read.

Mr. BAYARD. I have no doubt that the proposition, as now modified, will be perfectly harmless; at the same time it will be perfectly futile. You are attempting to mingle two systems. You chose, in the year 1847, to inaugurate a system of subsidies connected with the idea of war steamers. Whether that was wise or unwise is now immaterial. The Government adopted that system. I found that an existing system when I came into the Senate; I found contracts in existence under it which have not yet terminated. Until those contracts terminate, any attempt to mingle another system of carrying mails by means of paying postage, is only an additional charge upon the Government just to the extent to which you start any new line, without any probable prospect of any beneficial result to the commerce of the country. You cannot alter, by means of your mail system, the course of commerce. You cannot enable such a costly system as steamships to be run from one port to another, merely by giving them the postage. If there is not the transit of goods and passengers, you may hold out the idea that they shall take the postage from that port, but it will be a vain attempt to carry on an intercourse by means of steam unless you have commerce and passengers to sustain the line. If, as this modification provides, you exclude the idea of running from the same port to which your subsidies by contract now exist, it is merely harmless. If you were to permit the competition to take place between the same ports, or in the same general direction between the same countries, then you would only be paying so much more, because the postage you would obtain by the line to which you give the subsidy, would pass into the hands of the other line to a limited extent, and to that extent the Government would be the loser. That would be the only operation of this proposition.

Mr. YULEE. If the Senator—

Mr. BAYARD. Allow me to go on; the honorable Senator can afterwards explain, as he sees fit. I think I understand the subject I am talking about. The two systems are incongruous, and the attempt is now on this bill to introduce a general system, which is incompatible with the existence of the contract system which you chose to inaugurate in 1847 by paying subsidies of a certain sum, as the British Government do. What will be the effect? When you abandon the contract system entirely, and it expires, whether you can maintain any postal system at all or whether it is better to abandon it altogether, and let the British Government control it, will be a question for the intelligence of Congress when the time comes. My own belief is, that you had better not attempt to meddle with the subject until your existing system has expired—until your contracts are at an end; because you may attach as many of these amendments as you please, and you cannot raise lines of steamships under them. Lines of steamships are costly compared to sailing vessels. They cannot be maintained unless they have a large amount of passengers and of light freight, in addition to any postage they may get, and you cannot force them to any port in this country except where the current of passengers runs, whether it is New York or any other port of the country. Where the course of commerce is, there, and there

alone, will you be able to maintain a line of steamships. The same argument does not apply to ordinary lines of sailing ships; they may exist anywhere.

My objection is that you are attempting to interpolate another system while you have an existing policy not yet expired under your present contracts, and that it is unwise to mingle the two systems together. I am perfectly willing to try the experiment, though I have doubts about the result, when your present contracts expire. Then, if you choose, throw open the whole postal system to what is called competition, that is, allow lines to start from any port of the United States and receive no more nor no less than the ocean postage, (for that is the true principle,) not the inland postage. If they can sustain themselves, it will be a great gain, I admit. My doubts are whether the effect of that line of policy, when you inaugurate it, will not be that you will throw the entire postal communication between Europe and America into the hands of Great Britain, and throw it as an adjunct which will enable her to command all the passengers and light freights between Europe and the United States. That is my fear; but I am willing to try the system on the principle of free trade when the present contracts shall expire.

Mr. YULEE. The amendment as it stands does not attempt to force the service to any port or from any port, but it places all on equality, and if the incidental support of commerce is sufficient at any point, with the aid which may be derived from the postages, to sustain a line, they will be able to sustain it. I think it is possible that from Portland or from Boston we may be able to make something of this system and to establish a line.

But the Senator from Delaware proposes that we shall wait until the Collins contract has expired. Then what intermediate provision have you? The Collins contract provides only for twenty trips in the year, while the English company is running fifty-two trips a year. The object of this amendment is to enable the Department to provide for the additional number of thirty-two trips, in order to be able to alternate with the British Government, and thus to obtain half of the income from postages.

We cannot wait until 1860 if we design to make this contract at all, because then it will be too late. Unless you inaugurate it now, and put the experiment under way, it is impossible that you can carry it out. You must expect, when the existing contract expires, in 1860, to find the service either falling to the ground, or yourself under compulsion to make another contract to continue it, because you cannot advertise and procure the building of suitable steamers within less than a year, and it will require at least a year to ascertain whether the system can be sustained upon the plan proposed here. If, therefore, it is designed to put the Government in a condition to substitute this for the other system on the expiration of the contract in 1860, it is necessary that we make the necessary legislation now; and if you wait until then, we may as well abandon the idea.

Mr. BAYARD. As I consider it entirely futile, I do not think it worth an argument. As to the question whether you can alternate lines with the Cunarders, founded on the amount of postage received from the letters carried in the steam vessels connected with the line, it is to my mind idle to talk about it. Those vessels receive a subsidy from the British Government of some \$900,000 a year, and you cannot expect—the system is too costly—to run against them or in alternation with them if you only allow the mere postage on the letters your vessels carry at intervals between the departure of the Cunard steamers.

This idea is further rendered more futile by the very restriction of the amendment; that is, that they shall not start from the ports where you now have an alternating line on a subsidy—the Collins line, as it is called. It is absolutely impossible to suppose that a line of steamships is going to start for the purpose of receiving the postages. It could not begin to pay. You cannot suppose that if there are not passengers and freight to sustain a line, you can, by holding out the idea of the small amount of postage they are to get in intervals of half a week, start a line of any kind, or try any experiment. The experiment you have got to try is this: when you have abandoned your contracts, if you think it better to do so—and I have

no objection, I think it is worth a trial—abandon entirely governmental interference or the purpose of carrying the mails across the ocean when your contracts have expired. You inaugurated the system in 1847; it will expire in 1860. Then, if you choose, you may adopt the old plan on which you acted towards sailing vessels, of taking no care about the postal service across the ocean, and simply securing your land postages, leaving to the effects of chance, accident, or the competition of Great Britain, the control of that service. If you think that is consistent with the general commercial interests of the country, very well; I have no objection. I think it is the preferable system, if it does not injure us otherwise; but I am satisfied that you cannot try that system fairly while you have the contract system in existence. It would be idle, therefore, to pass this amendment as it stands, with the modification. If you put in the modification, you are only paying at your own expense, because you are starting lines of your own in opposition to your existing line, to which you are paying, by contract, a sum certain; and I do not think that is wise policy.

Mr. TOOMBS. I think nothing can be more just and fair to the whole country, unless you want to make this a particular monopoly to certain men and certain places, than the proposition of the Senator from Florida. There is nothing in the objection of the Senator from Virginia. The proposition is, that the Postmaster General may make contracts with any ship to carry the mails from any point in the United States to any foreign country if it will agree to do so for the postages. Before the present system was adopted unhappily in 1847, which has been one of nothing but fraud, that was the case throughout the United States. Every ship that sailed carried letters, under certain regulations. Now, when the United States employ Collins, does anybody suppose that people are going to keep back their letters for a week to go in with the Collins line? Is it possible that grown-up men, looking at the condition of the country, can suppose that a letter would be held over a week in order that it might go in a Government ship, when it could go in a Cunarder or by a private steamer at once? I believe there is a weekly mail by the Cunard steamers; and if you start a line out of the same port the postage would go to both; so that it is idle to say it is competition with Collins. If you do not start on the same day or the same week there is no competition of that kind.

The case put by the Senator from Florida is a very sound one. Collins is compelled to make but twenty trips a year—two trips a month for eight months in the year, and one trip monthly for the other four. If you make no provision for any more service, it is an encouragement to the Cunarders. I have no objection to the Cunarders. I would as soon have my letters carried in British as in American bottoms, and I would prefer that they should carry them if they did it cheaper. That is the true system of the country. You will never make a country great or rich by taking money out of the pockets of the individual classes to give it to special interests. If the British ships will carry our letters cheaper, the result will be to make American citizens richer, and the country richer. You will never make the country rich by plundering its citizens for the benefit of E. K. Collins, or other particular contractors.

It is very remarkable that we should pass such a measure as the Senate have agreed to for the benefit of Mr. Collins. It is now declared that he is not obliged to turn a single paddle for the rest of the term of his contract. If he chooses to make a trip, you pay him. If he chooses to lay up in the docks, as he has in New York for a year past, you do not pay him. That is the sacred contract that the Senate want to alter beneficially to him. You propose to alter it for his benefit, for nobody else's. If you want Mr. Collins to comply with his contract, rather than give him this benefit, why not fine him more than the cost of a trip if he fails to perform it? Why not deduct from the money he earns a *pro rata* amount for the trips he omits to make? You will not do that, but you will leave the Government service simply at the will of the contractor; you will leave E. K. Collins to determine whether we shall have any American mails from New York to Liverpool. Your whole Government, it seems, cannot compel him to carry the mails; and, accord-

ing to the idea of the Senator from Delaware, you must not do it. You have given Collins a right to carry the mail, and if he chooses to do so you must pay him; but if not, you are not to let anybody else carry it! I do not believe he has carried the mail for a year past. I ask the chairman of the Post Office Committee, when did he carry the last one?

Mr. YULEE. I think, five or six months since.

Mr. TOOMBS. And then not in the ships he contracted to carry it in. It appears now that he made a contract to carry the mails when he pleased, and to get paid at the rate of \$387,000 a year; but if he will not carry them, according to the Senator from Delaware and the Senator from Virginia, the Postmaster General is not to allow anybody else to do it.

Mr. HUNTER. I did not say the Postmaster General could not get anybody else to carry the mails.

Mr. TOOMBS. You said he should not make a contract.

Mr. HUNTER. I did not. My objection to the amendment of the Senator from Florida, as it was first offered, was, that he could get the benefit of the postages and of his annual stipend both; that he would have nothing to do but assign his contract to the men who might undertake to carry the mails for the postage.

Mr. TOOMBS. So far as that is concerned, I am with the Senator, to prevent collusion. When we get into the Senate, I intend to make an effort to insert a provision insisting that Mr. Collins shall carry out his contract. I have not much expectation of succeeding in it; but I wish to make a record of these things. I have no idea that Mr. Collins will ever turn a wheel to Southampton. Why should he? He can make \$250,000 without doing it, by this very contract. You have a man now who agrees to do the service for the postages, which, it is said, amount to \$230,000. Why cannot Collins pay \$230,000 out of his contract-price, and pocket the \$157,000 difference?

The only protection that the Senator from Vermont pretends that we have, is, that he has to run a particular kind of ships. The fact is, that the contract requires only ships of two thousand tons. The Senator from Vermont imagines that nobody else has got ships of two thousand tons. The Vanderbilt is three thousand five hundred tons, and a better vessel than the Collins ships any day. If Collins assigns this service to other people, and they present as good a ship as his contract calls for, the Department will be bound to accept it. Mr. Vanderbilt has got as good ships as Collins. The Senator from Vermont is wholly mistaken when he says there are no ships as large as those of Collins's. The Vanderbilt is larger than any of them.

Mr. COLLAMER. I do not know but that the Vanderbilt would answer the contract of Collins.

Mr. TOOMBS. No doubt. It is stronger, swifter, and larger. All that the Collins contract requires is a ship fit for a mail steamer, of two thousand tons' burden. The war requisition is abandoned. It was abandoned when the Collins ships were accepted. They were accepted in the teeth of a report from the proper officers that they could not be made war steamers.

I think that if Congress had not given these mail contracts there would not be a steamship line running from New York to Europe, but they would have been running from the southern ports, where the freights are, and where ships would have run from if there had been no steam navigation. There is three times as much freight to be carried to Europe from New Orleans as there is from New York, and yet you give great subsidies to concentrate business in New York. Savannah could better afford to sustain a line than New York, if you left all places to stand on their own business. The country adjacent to Savannah exports more than the country around New York. The result of this system is to cheapen freights from New York by Government subsidies. Of course a man can afford to carry a barrel of flour cheaper in his ship if you pay him \$800,000 a year. You give great jobs under the pretense of carrying your mails, and the effect is to strike down the industry of the people of this country, and particularly the industry of the people of my section. Let us alone; we do not ask you for

bounties or subsidies. We do not ask you to give us the public Treasury; but let the commerce of the country alone, let it go in its natural channel. Your attempts to divert it are an injustice which ought not to be submitted to by the free people of this country.

Mr. BAYARD. The honorable Senator from Georgia was in Congress at the time this system was inaugurated. He says it was founded in fraud. It may be so. I can only state my information, founded on what I learned after I came here. As far as I was able to see or investigate it subsequently, I was not able to trace, nor did I hear any allegation of, fraud. It seemed to me the policy was a doubtful one; but the Government had chosen to adopt it, under the idea of connecting the principle of steamers fitted out for war purposes, in time of war, with the postal service, in time of peace. That was the state of things at the time I became a member of the Senate. That the individuals in New York who had engaged in this service under a contract with the Government—how made, or in what mode made, I know nothing—had produced steamships which surpassed any others that had been hitherto known on the ocean, there could be no doubt, in point of speed and accommodation of the general public. They performed their duties, as far as I knew, with regularity. I was disposed to sustain a line which I thought connected itself, in some respects, with the pride of the country, as against an English line, which was subsidized by the Government of Great Britain. I admit that the whole of that system has, in my judgement, failed; I am willing to see it expire, and to see inaugurated a new system; but as long as the policy then adopted, with its contract, exists, I hold that you cannot inaugurate any new system.

The honorable Senator from Georgia may choose to diverge from the particular amendment before you, and go back to the question connected with the origination of the Collins line. I have nothing to do with that here. You have chosen by your amendment—I knew nothing about it—to say that the Collins contract is still a subsisting contract, and you have made an appropriation for it in the bill from the House, without any amendment. You have recognized its subsisting existence. If it is in existence you are bound to abide by it. What I mean to say is, that while that contract is an existing contract, and you are bound to comply with it, you would be paying money out of your Treasury to establish another line between the same ports, or on the same general route of communication. Whether it takes more or less, is immaterial; you are paying out of your own pocket, whether the line is to Southampton or not, when you agree to pay the postages. The same postages, to a greater or less extent, that would be paid to this new line, would be on letters that would be carried under your previous contract. Then of course it is an additional payment to that extent, because you would get the benefit of those postages, the Government only paying what your contract price was to the anterior line. Therefore, the two systems are incongruous in themselves; one is incompatible with the other.

But my objection to the amendment as modified, which prevents any competition between the lines established by yourself from the same ports, and extends it only to other portions of the country, is that it will be perfectly futile. The honorable gentleman from Georgia, may suppose that steam lines will go where freight goes. I do not think so. That is regulated more by the character of the freight. I have no doubt about the immense prosperity of New Orleans; I have no doubt that New Orleans has a greater amount of what is called bulky freight, by far, than New York; I have no doubt that a great part of the cotton of this country is shipped from New Orleans, but steamships are not going to carry cotton. Steamships are sustained by what is called the light freight, and passengers who come and will come to New York, which imports two thirds of the importations of this country. You cannot avoid that by any species of regulation you make; and if you abandoned the whole ocean postal service to-morrow, you would find that your steam lines, according to the course of commerce, while New York stands, will center in New York, for the purpose of the transportation of passengers and light freights. I have no doubt

all the other ports of the country will enjoy equal advantages, as far as their natural position will give them. I am not disposed to interfere with them. All I contend for is, that while your contract system exists, whether the policy was false when inaugurated or not, is immaterial; while you are obliged to pay the money, it would be an unwise and foolish policy to attempt to set up a counter system which you cannot carry into effect without derogation to yourself, if you allow it between the same ports, and which would be perfectly futile for the purpose of steam navigation if attempted to be conducted between other ports.

Mr. BIGLER. I have listened to this debate during all the afternoon with a great deal of interest, and with an anxious desire to understand exactly the object in view. Now, sir, as I understand all the propositions together, they are very simple; and I think the difficulty suggested by the Senator from Delaware is very readily met. In the first place, we have a specific appropriation to meet the contract of Mr. Collins, provided he performs his contract, which he never has performed, and which I believe he never will perform. Then we have an additional provision that if Mr. Collins fails to perform his contract to make his twenty trips, the Postmaster General may give the entire postages, sea and inland, in order to get the services performed which Mr. Collins may fail to perform. Then we have a specific appropriation to the Bremen line of \$230,000. What next? Why, we have the amendment of the chairman of the Committee on the Post Office and Post Roads: and what is that, and what is its purpose? It is simply this: that the Postmaster General may give the postages to any parties offering to carry the mail on the weeks which the Collins line is not required to make the trip, or give the postages for the additional service. Collins is to perform twenty trips at \$19,000 a trip; and I regret the existence of this contract. It is in the way of the establishment of a proper system. I cannot see any difficulty with regard to the amendment of the Senator from Florida authorizing the Postmaster General to give the postages for additional service. It ought to be provided that these trips should not be made in the same weeks; for that would be providing for too large an amount of service. I think that is the view which the Postmaster General takes of this subject; and in that way he could secure the largest and the cheapest service. What difficulty is there in providing that the trips shall be on a different week from that provided by the specific contract? That will meet the difficulty which seems to be presented here; provide that the contract so given out for the postages shall not be on the same week in which the Collins line is required to perform service; because, in the event of Collins's failures, you have already made provision that the postages shall be given.

Now, I want to go a little further on this subject as to the general proposition. I like this idea presented by the Senator from Florida, of making this system self-sustaining; and, so far as our trans-Atlantic service is concerned, at least from our principal port, New York, I am inclined to believe it will succeed. I think we can get all the service which the interests and convenience of our country require, for the sea and inland postages; but I am inclined to the opinion that that would be the beginning and end of the success of this policy. I do not suppose that the postages from any other port to a different point in Europe—for instance, from New Orleans to Bordeaux—would answer. Certainly this system would not answer the purpose of establishing a line of steamers from any of our Atlantic cities to the South American Republics, or to Brazil. I am for this proposition as it stands; but I wish to reserve to myself the right to determine hereafter whether it may not be wise that other considerations, political and commercial, should be mingled with the convenience of mail service; that the Government should go further to encourage and sustain the establishment of mail lines.

I agree mainly with the Senator from Maine, [Mr. FESSENDEN,] as to the difference between this trans-Atlantic mail service and that which belongs to our own country. I do not think the same principles apply; it is a very different thing when you afford mail facilities to the inhabitants of the United States found throughout our Ter-

ritories and sparsely populated States. There is an obligation, a high obligation, and a pressing necessity, a valuable interest. We ought to extend to those people facilities of intelligence; we ought to recognize them; we ought to encourage them. But, sir, as for our intercourse between this country and others, from one great city to another, intercourse commercial, we may expect the reward of that service to take care of itself. I think it mainly will do so; but as we are bound by these contracts, as for the present we cannot get clear of the obligation with Mr. Collins, I should prefer the adoption of the amendment of the Senator from Florida as the initiation of a system which I hope we shall be able to practice successfully hereafter; and, with the amendment which he is preparing, I shall vote for its adoption.

Mr. THOMPSON, of Kentucky. I have but a word or two to say. I am against the initiation of this system, and against any further progress in this matter. We have had the Collins line of steamers, and it is said that now we cannot get clear of them. The whole matter ought to have been left to competition. We have paid subsidies to the Collins steamers, and what benefit has resulted to us from them? As the Senator from Georgia said, they were to be convertible into war steamers; but that was a failure. It is pretty similar to that trans-Atlantic telegraph, that I believe nobody, this session, has said anything about. That, I am very much in hopes, has gone by the board. Now you want to put on correlatively—cumulatively, as lawyers say—another experiment, and another system. I want them all to go out. Let there be fair competition; let your letters go by whatever ships will carry them. Give neither this line, nor any other line, a subsidy; and do not bind up the Postmaster General to make experiments; and, as the Senator from Maine has said, let us attend to our own inland postage here in this country; do not be making experiments between this line and that line and the other line, at the rate of a few hundred thousand dollars apiece. If you can do no better with the money, use it in extending mail facilities to Utah, the outer regions of Missouri, and the lost regions all over the United States. As to inaugurating a new system of experiments in ocean steamers, I have no idea of doing it. We have tried it. It is a failure as to the vessels—a failure as to the service. Now, if we start another one it may be a failure; and I am opposed to it. I want a *rasa tabula*—the whole thing wiped out, and a new beginning. I will not vote for this amendment, because I want no more experiments of this sort.

I have great confidence in Mr. Aaron V. Brown, my old friend, the Postmaster General; but I do not think he has studied the matter of steamship speed on the ocean. He is a clever, nice old gentleman, from Tennessee; but get him to trading with New York and Southampton sharpers, and I think he would make a bad job of it. [Laughter.] Let the Collins line die; let them all go out. While we are paying them, I would not give others the postages, inland and ocean. We want those postages to give to the Post Office Department here. That is an internal concern, and let it be, if it can, a self-sustaining machine. Hold on to that. Send your mail across to California and Utah; send it anywhere; but this speculation and experimenting with steamers will involve us in trouble and expense, as, from the beginning to the end, it has interminably done and ever will do. The whole amount of it is, that it is a job by somebody to cheat Uncle Sam, and it results in nothing else.

Mr. YULEE. The Senator from Virginia has prepared a proviso with which I am satisfied, and which I think will be generally satisfactory:

Provided, That no contracts shall be made under the provisions of this act for the same service on the same week for which E. K. Collins and others have contracted, during the continuance of that engagement.

I offer that in lieu of the former proviso. I modify my original amendment by the addition of this proviso.

Mr. SEWARD. I wish to ask whether there can be any conflict between this and the Bremen line?

Mr. YULEE. There is no contract with the Bremen line. They contracted during the last vacation for only one year, which has expired, or is about expiring.

Mr. KING. The arrangement, I understand,

is to provide, if possible, for a weekly mail, and no more. That, I think, is very well, if we can get it; and that is the object of putting in the provision as to the weeks of sailing, so that there shall not be more than one for the week. The three contracts we now have, provide for only two trips in a month; and this will enable the Department to obtain fifty-two a year—one a week.

Mr. SIMMONS. It speaks of the "same service." Suppose the steamer is going to Bremen or Southampton: I suppose you would call that the same service.

Mr. HUNTER. The same service must be between the same termini.

Mr. SIMMONS. I understand the Collins line may run to Southampton.

Mr. HUNTER. Then this would only apply to a line from New York to Southampton, where ever the Collins line ran.

Mr. SIMMONS. If the Collins line goes to Liverpool you may not send a steamer out the same week to Liverpool.

Mr. HUNTER. Yes.

Mr. SIMMONS. I do not think that is right. The amendment was agreed to; as follows:

And be it further enacted, That the Postmaster General be, and he is hereby, authorized to cause the mails to be transported between the United States and any foreign port or ports, by steamship, allowing and paying therefor, out of any money in the Treasury not otherwise appropriated, if by an American vessel, the sea and United States inland postage, and if by a foreign vessel, the sea postage only, on the mails so conveyed: Provided, That the preference shall always be given to an American over a foreign steamship when departing from the same port for the same destination within three days of each other.

And be it further provided, That the Postmaster General be, and he is hereby, directed to provide for and maintain, if practicable, at a cost not to exceed, in any instance, the sea and United States inland postage on the mails conveyed, a weekly mail to and from Europe by United States mail packets, to alternate at regular intervals with the British mail packets plying between New York and Liverpool, and Boston and Liverpool, the preference to be given to such line or lines of American steamships, suitable in all respects for the service, as shall offer the best permanent contract: Provided, That no contract shall be made under the provisions of this act for the same service on the same week for which E. K. Collins and others have contracted, during the continuance of that engagement.

Mr. PUGH. I want to ask the Senator from Florida, if I understand his amendment, just adopted, that the American lines, which he proposes, are to run from New York and Boston to Liverpool?

Mr. YULEE. Those words are only descriptive of the Cunarders, with which the alternation is to be made.

Mr. PUGH. I simply wanted that understood.

Mr. CLINGMAN. I now offer, with a modification, at the suggestion of the Senator from Florida, the amendment I referred to this morning:

And be it further enacted, That from and after the 30th day of June, 1860, a discriminating rate of postage of one hundred per centum additional, may, in the discretion of the Postmaster General, be exacted upon all letters and other mail matter, conveyed from foreign countries to the United States, by vessels sailing under foreign flags, which shall receive a governmental bonus as mail carriers.

Sec. — And be it further enacted, That the Postmaster General be, and he is hereby, required to abrogate any existing postal convention, with a foreign Government, the stipulations of which are calculated to prevent the execution of the preceding provisions.

I will only say that this does not interfere with any American contracts. It takes effect only after they have all expired. There is but one line in the world that it will interfere with, and that is a line supported by the British Government, and thereby getting an unfair advantage against our own ships. My section of the country has no interest in it because it is not engaged in this business; but the commercial portion of the Union is concerned. My interest is merely that of a friend of the American marine. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. YULEE. I will simply suggest to the Senator whether he had not better reserve this issue for a future time. Let us see how the new system which we are inaugurating, or endeavoring to inaugurate, will work, and then consider whether it will be necessary to intervene for its protection. I am afraid that a provision like this would be looked upon as a defiance to retaliatory legislation. I think we had better let the matter go along smoothly, and see hereafter whether it will be necessary to adopt a different course than that which is now being pursued of entire harmony in the action of the two Governments in respect to the management of their postal affairs.

Mr. CLINGMAN. I hear these suggestions with great pleasure, but our existing system will expire in less than two years. By making this movement now, there will be ample time to make an arrangement. We shall be able to effect an arrangement, I have no doubt, if we begin at this time, just as we did with the Denmark Sound dues, and just as we abolished the Tripoli tributes. Somebody must make a movement in this direction. If it is likely to work badly, there is ample time to consider it. This is only a mode of forcing on the British Government and our own some adjustment, and I hope it will be adopted.

Mr. FESSENDEN. I wish to appeal to the Senator from North Carolina to withdraw his amendment for the present. It is perfectly evident, at least to my own mind, that the proposition is so novel that it is impossible for me to give that consideration to it which would enable me to vote understandingly on it. Notice is now given of what he means to do, and at some future time it can be acted upon understandingly. At present, I must vote against it.

Mr. CLINGMAN. I offered it about three weeks ago, and had it referred to the Committee on the Post Office and Post Roads. It has been noticed in a good many of the papers; talked about, I know, in the New York Herald, the South, and other presses; and I may say it does not vary much from the proposition I moved three times, in 1852, 1853, and 1854, in the House of Representatives, and which was voted down, because they said the period was far ahead when the contracts would expire. If Senators do not choose to vote for it, they have a right to vote against it. I hope we shall have a vote.

Mr. GREEN. I desire to ask the Senator from North Carolina one question; and that is, whether his proposition does not conflict with the postal treaty between the United States and England?

Mr. CLINGMAN. Not at all; because that treaty provides that on one year's notice it may be terminated; and this amendment instructs the Postmaster General to give the notice. It is two years from this time until it takes effect. It expressly instructs him, in the second clause, to give the notice.

Mr. SIMMONS. I shall vote against this proposition, because I think the previous votes and the observations of the Senator from North Carolina contemplate an entire abandonment on the part of the United States of any participation of this mail service.

Mr. CLINGMAN. By subsidies.

Mr. SIMMONS. I do not know what a subsidy is, but I suppose it is a contract with a mail steamship company. Then, after these two years expire, we shall have no steamships of our own. This business will be entirely in the hands of the British; and, at that time, he proposes to double the rates of postage. That is the practical effect of his proposition.

Mr. CLINGMAN. Only on the subsidized lines.

Mr. SIMMONS. They would like to have it on the subsidized lines, because it would inure to their benefit.

Mr. CLINGMAN. We shall have our lines under this other amendment.

Mr. SIMMONS. You will have no lines under any contract, and you cannot get any without a contract, in my opinion.

Mr. TOOMBS. The proposition of the Senator from North Carolina is entirely misunderstood by the Senator from Rhode Island. Our object is to get back where we were before we commenced this system. We are told, as the last lingering argument why we should put this charge on the public Treasury, against seventy years' practice of the Government, that England does so. The honorable Senator from North Carolina tells us—and I have no doubt it is true—that they begin to see in England the Cunarders have been an unprofitable investment; and I noticed in a late London paper that the next largest line in the British service—the one to Rio—was about to go into liquidation. Government cannot keep them up; it is impossible to do so. The greater subvention you give them, if the Senator from Rhode Island prefers that term, the more certainly you get into the hands of jobbers, and not business men; and that is the whole difficulty. You may give \$350,000 to Mr. Collins, and Vanderbilt will run him off the seas if you give him the postages; and that is

what he offers to do. You give \$900,000 a year to carry the mails to California; and Vanderbilt compels the contractors to give him \$56,000 a month to keep quiet. That is the effect of your subventions. This very day, under your Sloo and Harris contracts, you pay about nine hundred thousand dollars a year; and Vanderbilt, by his superior skill and energy, compelled them, for a long time, to disgorge \$40,000 a month, and now \$56,000 a month. The effect of your subventions is to give the service to a worthless set of speculators. They pay lobby-men, they pay agencies, they go to law, because everybody is to have something; and I know this Sloo contract has been in chancery in New York for years. The result of the system is, that here comes a man, in his own right a man, as old Vanderbilt seems to be—I never saw him, but his operations have excited my admiration—and he runs right at them, and says, “disgorge this plunder.” He is the kingfish that is robbing these small plunderers that come about the Capitol. He does not come here for that purpose; but he says, “fork over \$56,000 a month of this money to me, that I may lie in port with my ships;” and they do it. Thus your subventions do no good. I have no doubt that England will be ready to abandon them for the same reason that she abandoned discrimination in tonnage. Why did she release her vessels from tonnage duties in 1850, if the theory of the Senator from Rhode Island is right?

Mr. SIMMONS. I have not made any theory. Mr. TOOMBS. Yes, sir. You say she wants to put double postage on our letters, and let hers go free. On the same principle, she would want to put four times the tonnage duty on our ships which she would on her own; and yet the fact is that she has taken off her discrimination against you. Our act of 1818 was founded on the principle that we would take off discrimination against those nations which did not discriminate against us. England, Sweden, and Denmark have done it; and France now is willing to do it as to steamers, but not as to sailing vessels, because she does not consider that equality. We have more steam vessels than she has; and she is starting in the race of steam—which undoubtedly will become the great carrier of the world—and she wants to put herself on an equality with us, and take off her tonnage duties. I know that to be true from most authentic sources.

Now, we propose to say to England, “If you will give a subvention which will deprive our people of the opportunity of carrying letters for the legitimate postage, we will discriminate against you.” That is what my friend from North Carolina proposes, and it is not only legitimate, but it is in accordance with a principle which is now on your statute-book, which has stood there from the foundation of the Government, and has been practiced by all nations wherever commerce has existed. If you give the postages, and she gives a subvention, you cannot run on an equality, but if you tax her mails to the extent of the subvention, you break them down, or bring us on an equality, and that is the object of the Senator from North Carolina, and it is a sound object. I do not believe it will be necessary, for I have no doubt that the British Government will not run their steamers into our ports against a discriminating duty. I think they will be willing to run the race fairly; but if not, it is fair to put our own people on an equality in this commerce in letters, by countervailing duties, if necessary. If England has a fleet of a hundred ships to carry merchandise from Liverpool to New York, and gives them a subvention of £100,000, I would discriminate against her. This system of discrimination by one independent nation against another, has been practiced since the world began, and the object is to bring back another nation to the practice of justice and equality in dealings between them. To be sure, it is retaliation, but the effect of it is to show a coequal nation that it had better abandon its unjust policy, and come back to the rule of justice. That is all the amendment of the Senator from North Carolina does.

Mr. BENJAMIN. I must confess that I am not prepared to advocate the initiation of any such policy as this. Let us reflect on it for a moment. It is novel to me. It strikes my mind very unfavorably at the first blush. It is a doubtful question whether lines of steamships can be run as packets, and carry mails between this and the

other continent, without subsidies. That question is still untested by experience now. The Government of Great Britain thinks, wisely or unwisely, that it cannot maintain lines of mail steamers without giving a subsidy, or subvention, or contract—the name is nothing—without giving a certain annual sum of money—a fixed sum to the vessels that carry the mails. This Government, up to the present time, has been imitating this policy of Great Britain. Many gentlemen in the Senate think this imitation is injudicious; that the policy of our Government ought to be changed; and because, forsooth, we have changed our ideas on the subject, the matter still being empirical, the proposition is not simply to try a separate policy for ourselves, but to enter into a competition of prohibitive duties with Great Britain, in order to force her to abandon a policy that she deems wise in relation to her own matters. The history of the world tells us no truth, or it tells us this: that any attempt of this kind at interference with the domestic arrangements of a foreign nation must inevitably recoil upon those who attempt the discrimination. You cannot succeed in it. All the rules of political economy point out to you the elements of failure in such a project. If you put these discriminating duties on vessels coming from Great Britain because they have subsidies or subventions, of two things one: either the subsidies will be continued on the English lines despite the great discrimination, because it will be for the interest of Great Britain to keep up its lines notwithstanding your attempt; or if Great Britain by your legislation is induced to retaliating measures, your own steamers will have the same discriminating duties placed upon them when they go abroad.

No man pretends here that the mails are to be carried for nothing. I called the attention of the Senator from North Carolina this morning to what appeared to me to be a mere difference of words. He calls it a subsidy to a steamer when her pay is certain, but it is not a subsidy when she gets full pay, if the amount which she does receive is somewhat uncertain and dependent upon the contingencies of commerce! Now, sir, let us suppose for a moment that upon the average rate, one of these lines of steamers will gather up five or six hundred thousand dollars' worth of postage per annum. Great Britain, in order to establish a line of steamers, deems it essential to contract with the owners of that line, and say in advance, “if you will establish a line we will secure to you about six hundred thousand dollars per annum, and we will take the postages ourselves.” The proposition now, here, is to say to our lines, “you may take the postages; but we will not guaranty you how much they shall be; we will leave them to you, and you shall be subject to all the contingencies of commerce.” If that suits us, well and good; but the proposition of the Senator from North Carolina is, now, to force Great Britain to our way of thinking by discriminating duties. Why, sir, it is plain that such an effort must fail. We cannot succeed in it. I do not see what is to be attained by it.

If by this series of mutual retaliatory duties you finally make it impossible to run mail steamers between the United States and Great Britain, what will be the natural result? That they will be run between Great Britain and her colonies in the North; her lines will stop at Halifax; she will not bring her mails to your ports, but will leave you to have lines of mails steamers on your coast between New York and Halifax, or between Boston and Halifax; or if that be not the result on this side, then the terminus on the other side will be changed, and the lines of steamers will run from Havre here, instead of from Liverpool here; and after all, what will you gain? You will have a series of angry recriminations with Great Britain; you will injure your commerce; you will inflict loss on your own merchants; you will enter on a career to which I see no issue but an ignoble retracing of your steps back to the spot where you are now. Let us do the best we can with our lines, and let Great Britain, to use a vulgar expression, hoe her own row in her own way. Let us cultivate our field and let her cultivate hers, and let us not interfere with her mode of cultivating her own fields. If it pleases her to give large subsidies to her own lines, it is a matter in which we have no right to interfere.

I differ altogether with the ideas of the honor-

able Senator from North Carolina. Take his own illustration of this morning: if we had a system of free trade between the United States and Great Britain, and it pleased Great Britain, for the purpose of encouraging the manufacture of iron, to give a bounty to her manufacturers of ten dollars per ton, would that be any reason for us to levy a duty on iron on this side of the water, if contrary to the general policy of the country? If so, then we are in a state of vassalage to Great Britain, far exceeding that which existed prior to our Revolution; we are bound to make our legislation at home accord with her legislation abroad. Each nation adopts its own course; each nation protects its own industry in its own way; and so long as we are not interfered with, I hold it to be bad policy, subversive of the true principles of Government, for us to undertake, by legislation here, to interfere with the legislation of Great Britain at home.

Mr. CLINGMAN. I merely rise to suggest to the Senator from Louisiana, that I think he misunderstands my illustration. I say it would be good policy to tax the iron of England in the case I put. I do not think there is a Senator here, except the gentleman from Louisiana, who would not say that if Great Britain chose to give bounties on iron, and brought it here, and were underselling our workmen, we might very reasonably impose a tariff on that, with a view of deriving a revenue into our own Treasury and protecting our own industry, for we should merely get the money that was paid by our Government. I think that is perfectly fair.

I did not rise to make any argument on the question. I think the Senator's ideas of this system of retaliation are wholly imaginary. We pay on letters by our lines twenty-five times—yes fifty times as much as on any other sort of freight, and letters will always be carried. We pay, I do not know how many dollars a pound now on letters carried from this country. Of course they can be carried. It is a mere question how they will be carried, and at what speed. I think with the Senator from Georgia; and if it had not been that I did not wish to weary the Senate, I would have read to-day some statements from some of the leading journals and men in England, to show that they are getting tired of this system, that there is a great outcry against it, because a majority of their lines, most of those engaged in trade, get no subsidy, and are complaining of these enormous ones to the others; but I will not weary the Senate; I presume gentlemen understand the subject.

Mr. SIMMONS. I thought the Senator from North Carolina said this morning that the Cunard contract lasted until 1862.

Mr. CLINGMAN. Until 1862, with the provision that at that time the British Government may terminate it on twelve months' notice; and another provision that at any time after 1850 and the amended contract in 1852, the company may terminate it on twelve months' notice on their paying the British Government \$20,000, and compel the British Government to take their ships at a valuation. The company can stop it in twelve months from this time if they choose, and if my proposition were to pass, it would be a question for them to determine whether they would terminate the service at the end of two years or not. The British Government is compelled to take the vessels at a valuation, on the company giving notice of their desire to do so.

Mr. SIMMONS. The difficulty with me, with out any knowledge of what may be the determination of the mail steamship company of England two years in advance, is that at the heel of the session you are attempting to inaugurate a new policy. I do not want to bandy words with the Senator from Georgia about this matter. I think he and I agree pretty generally on this subject. I am not advocating any new contracts of this sort. We have one that lasts two years, the English Government has one that lasts four; and I do not think it wise to interfere with either of them, two years in advance, with the proposition now made, without time to investigate it, or to see what its probable effects will be.

Mr. TOOMBS. This bill interferes with it.

Mr. SIMMONS. It does not interfere with the Collins contract.

Mr. TOOMBS. Yes, it make an alteration of it.

Mr. SIMMONS. It allows the Postmaster

General to make one with the assent of the parties; and I do not know that that is a great interference, both sides agreeing.

Mr. TOOMBS. Both sides agreeing!

Mr. SIMMONS. It is an alteration, if both choose to make it; and if it is a benefit to both of them, I want to know who will be hurt? But here is the inauguration of a new policy. The Senator from North Carolina three or four times, as an illustration of what he calls a subsidy, talks about our getting rid of the Sound dues, and wants to know if we did not inaugurate a new system there. I am ashamed of the method by which we got rid of them. We made a point on them, and then paid tribute. That is the way we got out of the Sound dues; and I am afraid it will turn out so with this postal arrangement. At any rate, when we undertake to make a system, I should like to have a little more than a night to make it in, and take it deliberately, and see if any better system can be devised, as this certainly has gone along thus far. Now, in regard to this double postage, I should like to know if that is a good way? if it is according to the present notions of the age to tax your own people double in order to bring somebody else to your terms?

Mr. CLINGMAN. The gentleman will see, though, that if we are running other lines, as will be done under the proposition of the Senator from Florida, those lines will get the letters. That is the advantage in it. No man will send a letter by a line on which the postage is double, when he can send it for single postage.

Mr. SIMMONS. If the Senator had done much business he would know that if he had any mercantile transactions with England he could not lose a mail. People must send their letters; they will send them by the British steamers, and then be taxed double, under the Senator's scheme.

Mr. TOOMBS. That is the very reason I have given against the Treasury of the United States paying for the letters of gentlemen. You make those who do not write pay the expense of what is of so much importance to the writers that they cannot wait a mail.

Mr. SIMMONS. I do not suppose that in the original making of this contract, the Congress of the United States had any idea of taxing the Treasury for the benefit of individuals.

Mr. TOOMBS. Yes, sir, they had.

Mr. SIMMONS. That was the argument when we reduced the postage to five cents. Why do you not let the mail contractors have the postage between here and Baltimore, and set up a team in opposition to the general mail arrangements of this country? I think the worst policy in the world for the small ports in this country is to let the mail steamers take what postage they can get, inland and ocean. There is but one port can undertake that competition, and that is New York. I should like to know if every steamer that sails from New York would not have a double stipend over any other port in the country. It would carry three fourths of all the letters certainly. I do not mean to go into this question, but here we are, at the heel of the session, and there is no possibility of this taking effect until two years, and why shall we undertake to investigate a question so delicate and difficult as this in the evening, two years before it has got to take place? Next winter would be time enough, I think.

Mr. SEWARD. I cannot but think that the whole effect of this proposition will be to double the rates of ocean postage between this country and Great Britain. After two years the proposition is that we shall raise the postage on letters brought by British carriers double, and in return the British Government will double the rates of postage on letters we carry to them; and then we shall have double the present tax upon knowledge, and upon the commerce of business and affection. That is all; and when we have done that, I suppose we shall somehow or other contrive how to get back again and bring it down to the cheap rates of postage; and my opinion is that the lower the rates of postage the greater advantage to this country as well as to Europe, especially to this country. However, this is a crude idea. We have yet two years to consider the matter, and it is well we have it before us in time for the country to consider it, in time for statesmen and publicists, both in this country and in Europe, to consider it. When brought up then, I shall be prepared to give an intelligent vote. I am not

prepared now, and if required to vote, I shall vote against it.

The question being taken by yeas and nays, resulted—yeas 11, nays 31; as follows:

YEAS—Messrs. Bright, Brown, Clingman, Fitzpatrick, Green, Houston, Polk, Pugh, Reid, Sidel, and Toombs—11.

NAYS—Messrs. Bayard, Bell, Benjamin, Bigler, Broderick, Chandler, Collamer, Dixon, Doolittle, Fessenden, Fitch, Foot, Foster, Gwin, Hamlin, Harlan, Hunter, Iverson, Johnson of Tennessee, Kennedy, King, Pearce, Sebastian, Seward, Simmons, Stuart, Thomson of New Jersey, Trumbull, Wade, Wilson, and Wright—31.

So the amendment was rejected.

Mr. PUGH. I move to strike out the following clause:

"For transportation of the mails from Panama to California and Oregon, and back, \$328,350;"

And in lieu of it, to insert:

For transportation of the mails from Panama to California and Oregon, and back, until the expiration of the present contract with the Pacific Mail Steamship Company, in October next, \$85,000; and the Postmaster General is hereby directed to contract with Albert G. Sloss for the transportation of the mails after that period, from New Orleans to San Francisco, by the Tehuantepec route, at a compensation not exceeding the income from postages on the mail matter so transported, and to modify the contract made with the said Albert G. Sloss, under the fourth section of the act entitled "An act providing for the building and equipment of four naval steamships," approved March 3, 1847, on such terms as may be practicable, in conformity with the alteration of the service and the distance.

In offering this amendment, my object is to see whether there is any period of time at which we can come to what Senators declare to be the principle they intend to adopt in future. Here is a contract about to expire within a few months from this time, and yet the bill, as it now stands, proceeds *sub silentio* upon the idea of a continuance of that contract. At the same time, the route by way of Tehuantepec is the only route that is protected by treaty; it is the only route that is secured. You have an absolute power, under the Gadsden treaty, to intervene for the protection of that route. You have sought it in vain from the Governments of Nicaragua and New Granada in regard to the other isthmus routes. The treaties which have been negotiated with them have not been ratified, so far as we know. You are prevented from any efficient control of those routes by the miserable Clayton-Bulwer contrivance that continues in force.

Now, shall we proceed to carry the mail further than it is necessary to be carried, through a route over which you can extend no protection, for the simple purpose of continuing these subsidies, or subventions of which Senators have spoken? There are two or three of these contracts, first from New York and New Orleans to Chagres; then across the isthmus to Panama; then the contract of the Pacific Mail Company from Panama to San Francisco. The contract for carrying the mail from New York and New Orleans to Chagres I understand expires next year. The contract for carrying the mail from Panama to San Francisco expires in October next. If that contract on the Pacific be not continued, you have it in your power to compel the contractor on this side to reduce the distance which he carries the mail, and to reduce the amount of subsidy; and you are paying an enormous sum—whatever they choose to ask—to the Panama railroad.

On the other hand, by the treaty negotiated in 1854, the Mexican Government agreed with you for the protection of a given route, and authorized you to interfere by your own force to protect it whenever she failed to protect it. You have tried to get that same privilege from Nicaragua and New Granada during the past twelve months. Two treaties were signed, called the Cass-Herran and Cass-Yrissari treaties; but instead of ratifying them, and having them sent back to us for action, they have been doctored and tampered with and withheld, and the time of Congress and the time of the country frittered away, and they are not back now at the end of the session, and what for? Is it to keep open the confusion, and compel you to carry your mails to California and Oregon by way of the Isthmus of Panama?

I propose to cut it off, if the Senate will come to the question; I propose to pay these gentlemen to the end of their contract; and then I propose to say to the parties named in the grant ratified by your treaty, or to whoever else may have the legal title, "if you will carry this mail for the income of the postages to San Francisco, you shall

have the contract." I cut off the subsidy; and it follows at once—and that is the effect of the last clause of my amendment—that the assignees of the Sloss line, or Sloss himself, having the contract to carry the mail from New York and New Orleans to Chagres, will be compelled to modify his contract, and to reduce the amount you pay him as compensation, because he will then carry the mail to Tehuantepec instead of Chagres. Thus, it will result in an absolute saving to the Government; it will inaugurate the system of which Senators have spoken, of substituting the income from postages instead of subsidy; and it will not only dispense with the subsidy on the Pacific coast, but it will reduce the subsidy, for a year or more, on the Atlantic contract. That, at all events, is the purpose I hope to accomplish.

The amendment was rejected.

Mr. PUGH. As I cannot get that, I move to amend the section, by inserting the first sentence of the proposition; and on that I ask the yeas and nays. What I propose now is to insert:

For the transportation of the mails from Panama to California and Oregon, and back, until the expiration of the present contract of the Pacific Mail Steamship Company, in October next, \$85,000.

Mr. SEWARD. Is that a distinct proposition?

Mr. PUGH. Yes, sir.

Mr. SEWARD. Does it strike out anything in the bill?

Mr. PUGH. Those three lines which I before moved to strike out. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. SEWARD. It appears to me that this amendment provides just this: for carrying the mails from Panama to California and Oregon, and back, until October next. It sustains the existing arrangement until that time; and, after that, leaves us without any provision for carrying any mails, or for paying for them, and makes no substitute, but just strikes out of existence that very important communication between the Atlantic and Pacific coast.

Mr. PUGH. I will state the object of offering the amendment in its present form. Here is a contract about to expire. I wish to test the sentiments of the Senate upon the question whether this contract shall be continued by general words of legislation, or whether it shall be ended. If the Senate carry the amendment, then I shall myself draw up, if no other Senator does, a proposition for continuing the service during the rest of the fiscal year; but I wish to test the question whether this mail contract shall cease or be renewed; and I wish to strip it of any other question as to other parties. It is a simple proposition whether that contract, on the day of its expiration, shall cease, or be renewed.

Mr. SEWARD. It seems to me that the amendment, as presented by the honorable Senator, does not propose any such test whatever. It only proposes that until October next we shall pay for the service, and, of course, that we shall have it; but after that, we shall not have any service at all, because we pay nothing at all.

Mr. PUGH. We shall have another clause put in.

Mr. SEWARD. That is another affair.

Mr. WILSON. It appears to me that this is purely a domestic matter, not a foreign one; and I agree with the Senator from Ohio, that we ought to provide for fulfilling the contract, and we ought then to see if we cannot get this mail carried cheaper. But why strike out this provision? Why not put his amendment in the form of paying this amount of money until October, and then make a new contract, for a less sum if we can? Cannot the Senator put it in that form?

Mr. PUGH. I will explain to the Senator from Massachusetts why I did not do so. My judgment was, that it was better for the United States to abandon that route, which I thought was exposed to a great many troubles, and I was under the apprehension that the first amendment I offered had been rejected by the Senate, because they disliked the other branch as an alternative, some for one reason, some for another; and I do not wish to cumber the first proposition by any argument arising out of the last. If the Senate decide that the contract with the Pacific Mail Steamship Company shall not be renewed in terms, that we shall pay up to the expiration of the contract, and then make a new arrangement, it is open to every Sen-

ator to suggest his proposition, either to advertise for proposals on this route or buy another.

Mr. DOOLITTLE. I desire to ask whether, under the law as it now exists, the Postmaster General will not be authorized to renew the contract on the Pacific coast if this amendment be not adopted? Is there any law which authorizes him to renew the contract which now exists for carrying the mail on the Pacific coast?

Mr. PUGH. It cannot be otherwise. Here is a gross sum appropriated for the whole year for carrying the mail, and nobody carries it on that route but these parties, at present. They carry it continuously up to the 1st of October, but after that time they have no contract. You give nobody else a chance.

Mr. TOOMBS. I think there is a law authorizing the Postmaster General to act on this subject. The chairman of the Post Office Committee ought to know how that is. I would suggest to the Senator from Ohio that he can get rid of the difficulties by authorizing the Postmaster General to contract for carrying the mail from any point on the Pacific coast that suits him. Let him take the Tehuantepec, or the Nicaragua, or the Honduras, or the Panama route, if he will; give him full range. One thing is very clear; the existing contract for this service expires in October, and it is just as clear as that the sun shines that the service can be done for half the money. Why are you going to continue it for a year longer?

Mr. COLLAMER. Will the gentleman indulge me for a moment? He knows what my views are about advertising for proposals on these routes; but I will merely suggest that the Sloo contract for the line which goes down to Chagres does not run out until next year, and the provision in the bill will bring them both out together.

Mr. TOOMBS. There is only \$270,000 in that contract.

Mr. COLLAMER. I desire both these routes to be advertised at the same time.

Mr. TOOMBS. That ought to be done, and I am astonished that the proper Department has not brought it to our notice. These contracts were made before the discovery of gold in California, at very high rates. There was competition on these lines until it was actually bought off, and, as I remarked before, these contractors pay \$56,000 a month of your subvention to keep off opposition. If they can afford to do that, I think you can get your mail carried cheaper. When the contract expires, you can get the service done for half the money you pay these people. Mr. Vanderbilt, I recollect, years ago proposed to run the Nicaragua routes for a great deal less money; and I received a letter, the other day, saying that the service would be taken for \$250,000 on one side and \$300,000 on the other. What I want the Government to do, is to supply mails to California on the best terms, in order to secure good service for the least money. I do not wish to do away with carrying the mails; it is our duty to carry them as long as we keep up the system; but I want them to be carried by those who will do the service cheapest and best. Everybody knows that it can be done for half the money we pay now. Why, then, should we continue thus to waste the public money?

The objection is that the contract on this side has been construed to last for a year longer than the contract on the other. That never had any foundation, in fact; but by adroit legislation, such as we get into bills on nights like this, when we make steam contracts here and nobody knows anything about them. Let me give a brief history of the transactions, to show how that scheme was worked. First, the service from here to Panama, and from Panama to California, was monthly. Then a provision was slipped in some bill making the service semi-monthly on this side. The contractors on the other side came here and told us that the mails were lying in Panama for two weeks; that they were exposed there, and that they ought to be taken to their destination. That argument prevailed, and you agreed to pay for carrying the mails twice a month from Panama to California. We were told, what is the use of having a mail lying in Panama a fortnight? Seeing that there were other routes which were probably cheaper, I, in connection with other gentlemen, insisted that the extra service should be terminated whenever Congress pleased, but

by some contrivance, notwithstanding you intended the two lines to meet, your legislation has been construed to continue the line on this side one year longer than the line on the other side, although it was originally one contract to California, made at the same time. The result is, that the parties on the other side now say, "continue our contract for one year; if you do not the other contractors will deliver the mail at Chagres, and you cannot get it carried to California." The object is to get money out of the public Treasury to continue these contracts. One of them, I know, can be terminated at pleasure; for I myself drew up an amendment to that effect, many years ago, in the other House, and it was inserted in the law. I would fulfill the contract to the letter, and give California the full benefit of the mail service. I would throw it open and give it to those who will pass the mail service from some good port on this side to San Francisco in the quickest time, with the greatest speed, and at the least price. That is what I have always advocated. I care nothing about the conflicts in regard to the different routes; I do not know who has got them, nor do I care. This is, however, a matter of great consequence whether you shall continue to pay a subsidy of \$900,000 for this purpose, so that they can afford to give a man \$600,000 a year not to run. This is a way of managing the public business that is absolutely discreditable to us to suffer it to continue one hour.

Mr. COLLAMER. I agree entirely with gentleman, in the propriety of having this mail service provided for; but to my mind, the difficulty is this: it has been construed (whether there was good foundation for that construction or not, is not now material) that the mail service on this side, under the Sloo contract, lasts a year longer than the contract on the other side, which is the Harris contract. Now, the proposition in the bill is to pay for a year to come. That will bring the two contracts both out. The Harris contract on the Pacific is out in October, and the bill will bring them both out together. What I desire is that this bill should pass, and that a provision should be made just in the manner the Senator from Georgia suggests, and it ought to be made in this bill. It seems to me that the Postmaster General should advertise for proposals for carrying the mail, if you please, from the Atlantic side to California and Oregon; and I think we can get better proposals for carrying it by putting out the whole route from here on both sides together, to begin together, than we can by undertaking to advertise one part one year, and another next year. This is a service that requires a large investment of capital, whether by the same persons who have it now invested, or by Mr. Vanderbilt, or anybody else who does the work. If they can know the whole extent of the route upon both sides, they can calculate as to the amount of capital required altogether, and I think we can get better terms and better proposals than we can by advertising for parts of the route. Therefore, it is my wish that this clause in the bill should pass as it is, paying for this transportation for a year, and then in the same bill provide that within the year the Postmaster General shall receive proposals and make a contract to perform the service, from the Atlantic coast to the Pacific, for a proper number of years, five or ten, or whatever number may be considered proper. I desire no more contracts made by act of Congress with A or B, for a particular sum fixed in the law, but let the Postmaster General advertise for proposals as in regard to other service. I think we can get better terms by advertising for this whole service at the same time. I think, therefore, this appropriation had better stand.

Mr. PUGH. The Senator from Vermont did not understand the reason why, in the latter branch of my first amendment, I inserted the name of Mr. Sloo. I did that because he was the party whose contract was embraced by our treaty stipulation, and either he, or parties claiming under him in some form or shape, are the only parties, I suppose, that would be entitled to carry the mail across that route. Whatever their rights may be as between themselves, I do not undertake to say, for I do not know. I asked for some information on the subject from the executive department, in answer to specific questions almost two weeks ago, and I have never been honored with any answer.

Mr. COLLAMER. This is the same name, and I take it is the same man who had this contract originally.

Mr. PUGH. It has passed to trustees long since.

Mr. COLLAMER. He has trustees acting in relation to his contract now, from here to Chagres, but they are all the while having law-suits about it, pretty much as the honorable Senator from Georgia said. It has been in chancery within my knowledge for a pretty long while. So, too, there has been a constant quarrel about the condition of his interest in that supposed treaty with Nicaragua. How little or how much his interest is I do not know. He claims it, and claims that he has been wronged. How the true merits of that matter are, I do not know, and I do not care. What I want is that this appropriation shall be made as it is, but that we shall not let this bill pass until some provision is made for putting out proposals for the service in the best and cheapest way.

Mr. HUNTER. We were aware, in the Finance Committee, that the contract on the Pacific terminated in October; but as was said by the Senator from Massachusetts, we thought this was domestic service; it was for carrying the mails from one port in our own country to another, and we are willing to extend it for six months in order that we might get time to arrange the whole system so that the two contracts might expire together. With myself, there was another motive. By that time we can ascertain whether the Tehuantepec route be practicable, and if it be, we can then arrange our system of mail communication with California upon much better and much more advantageous terms; and in order to ascertain that, it is necessary to let some contract run for six months. If we break up the contract in October, I suppose the result will be that the Department will then be required to advertise for a contract for a term of years; and if so, that contract will be made before we know whether the other route will be available.

Taking all things into consideration, it seemed to me best that we should have this contract go on six months longer; and if we add the provision suggested by the Senator from Vermont, that the Postmaster General shall go on and advertise for contracts on both sides during the year, I think it is probable this is the best mode in which the matter can be arranged. If, however, the Senator from Ohio could show that after six months we could get another contract for six months cheaper than this, I would go for his amendment, but not otherwise. Under the circumstances, it seems to me the best thing we can do is to let this contract run until the expiration of the fiscal year, and in the mean time make provision for the other; for if it should turn out that the Tehuantepec route is practicable, we certainly can make a cheaper and much better mail communication in that direction, than on the old line.

Mr. GWIN. If the policy of conveying the mails to the Pacific coast is to be continued, there ought to be three routes instead of one. At present but one route is open for transportation. The transit route by Nicaragua has been closed for some years, caused by the revolutions in that country, and the contest of speculators for the route. It is not yet known whether there can be a transit route established across the Isthmus of Tehuantepec with suitable ports for steamships, on the Atlantic and Pacific. The only reason that induces me to acquiesce in carrying the mails by Panama longer than next October, is because we have no other isthmus route that is open and fit to transmit mails and passengers. I hope in a few months the Nicaragua route will be open, and the experiment will be made, whether Tehuantepec can be made a transit route; and then I am in favor of having the mails carried on each route, and that the contracts should be given to the lowest bidders. I am utterly opposed to the renewal of either of the present contracts, on this or the other side of the Isthmus of Panama. I want competition on those routes, with a separate and distinct contract on each, to break up the monopoly that now exists, and which is so odious to my constituents. I have no doubt that contracts can be made to carry the mails on the three isthmus routes, semi-monthly, for the same amount we are now paying for the transportation of the mails by Panama, if free competition is invited, and the

contracts given to the lowest bidder, and I will never agree to any other mode of making contracts.

I hope, and believe, that all the routes will be open within a few months, and that by the next session we can authorize the mails to be carried on each, under contracts to the lowest bidders; and for that reason I shall not oppose the present appropriation.

Mr. BRODERICK. If the Senator from Ohio insists on his amendment, I hope he will make some provision by which the Postmaster General can enter into a new contract in October next; for if the present contract expires, I suppose we shall be without any mail facilities until Congress meets again. I am myself in favor of giving this service to the lowest bidder.

Mr. PUGH. I will state that the reason why I did not propose it was, that I saw, of course, such a proposition must be made, if this amendment carried, and it would be better for Senators variously to present their propositions, and let the Senate adopt whatever one it preferred. If we do not cover up the period after adopting my amendment, if it be adopted, no doubt we shall have to go back and reconsider it.

Mr. BRODERICK. Then I should like the Senator to give me some security that it would pass the other House. I do not wish, by my vote, to prevent any mail communication between the Atlantic States and California. I am free to say that I am willing to give this service to the lowest bidder, and I believe that the Government is now paying an exorbitant price for carrying this mail; but I do not want to place myself in a false position by voting to destroy a contract without making some provision for a new one. If the Senator will make any provision, so that the Postmaster General can enter into a new contract in October next, I shall have no objection to his amendment; but I want some security beforehand in this respect.

Mr. BENJAMIN. I wish to say a word. It appears to me that this matter is in a nutshell. The mail is to be carried to San Francisco. By the contract, as it now stands, it must go to Panama until the 1st of October, next year. The mail on the other side connects with the mail on this side, under existing contracts. The contract for that purpose expires on the 1st of October next. It would be a very good plan, then, to stop the present contract on the other side on the 1st of October next, and put it out to a new contractor for a brief time; but, as the Senator from Virginia has well observed, by the time we meet here again next winter, the experiment, whether or not a mail can be carried across the Isthmus of Tehuantepec, will have been solved, and then we shall know whether we want to continue the line of communication by Panama to San Francisco at the present enormous rates, or whether we shall confine the California mail to the Tehuantepec Isthmus at half the present rates. All this is matter dependent entirely on the success of carrying the mails by Tehuantepec.

Under these circumstances, it seems to me obvious that it will not do to jeopard the present communication with San Francisco. If you put up the service on the other side now at auction, nobody will bid for it for one year. If you offer it for more than a year you bind yourself to keep it there, when at the end of the year you may want to move it. For that reason it is obviously our better policy to let matters stand as they are for twelve months. In the mean time Congress meets again, and we shall ascertain how things stand. I think, therefore, we had better let the bill remain as it is in this respect, and make the provision the Senator from Vermont alludes to next winter. We shall then have the whole subject before us, with a certainty of what we are about. If you advertise the contract on the other side for a single year from October next you will get no bidders. Advertise it for a term of years and you bind yourself to keep the mails just there, whether it suits you or not. You had better let it alone for twelve months.

Mr. PUGH. I will withdraw the amendment if there be no objection, if the Senator from Vermont will offer the proposition he has suggested, so that we can have full information at the next session.

The PRESIDING OFFICER, (Mr. STUART.) If there be no objection, the Senator may with-

draw his amendment. The Chair hears no objection.

Mr. COLLAMER. After the suggestions in relation to the Tehuantepec route, I do not see any reason why we may not safely let the matter rest as it is, until the next session, and then make our provision for offering proposals.

Several Senators. That is better.

Mr. YULEE. That was the view of the Post Office Committee. We discussed the propriety of moving an amendment to this bill directing an advertisement such as has been suggested by the Senator from Vermont; but the conclusion of the committee was that it would be better to reserve it until the next session.

Mr. KING. I desire to offer an amendment: *And be it further enacted, That it shall not be lawful for the Postmaster General to make any steamship or other contract for carrying the mails on the sea for a longer period than four years.*

Mr. YULEE. I hope the Senator will not press that amendment; or, at all events, will extend the time to six years. The difficulty about carrying out on the ocean the practice of the Government upon land, of making mail contracts for four years—is, that the establishment of lines of steamers, such as are necessary for transatlantic service, requires an investment of capital which may not be invited by a contract for four years. I think it is better that this point should be left to the discretion of the Department. What matters it if the contract is made for one hundred years, if it be on the condition that they shall charge no more than we receive from postages? The longer the better; but the great point is to establish in the public mind a conviction, an assurance of certainty and regularity. To obtain certainty and regularity is the great point. Whenever we do that, we shall have our full share of postages. It is because the Cunard line has been regular and reliable, and our lines have not been, that it has taken the main bulk of the mail matter and we have not. For four years I do not think the Post Office Department will be able successfully to establish a line. They will certainly for ten years; for six years they may and probably will; but for four years I think they cannot. I hope, if the Senator insists on any amendment, he will make it six years; but I would prefer to leave it to the discretion of the Department.

Mr. KING. I offered the amendment because of the provision which was adopted by the Senate, to which the Senator from Florida has alluded. I assented to it with the intention of offering a proposition limiting the term of the contracts. The provision we have adopted in relation to oceanic contracts between us and European ports is unlimited. I think contracts of ten or twenty years, or for unlimited periods, ought not to be made. The contracts now existing with steamships, which have produced so much trouble to us, were made by Congress for a period of ten years. In my opinion contracts upon the sea can be made as well in the ordinary way by advertisement, as contracts over our roads, where railroads are required to carry the mails, in which a vastly larger expenditure of money is required, than in the establishment of a steamship line. The steam marine of the country is increasing, and we shall soon have the benefit of competition. My opinion is that we should certainly have a limitation, and I have named four years as the time which I think is the best period. That is the ordinary period of our mail contracts. I think we should have stated periods for competition.

The amendment was rejected.

The bill was reported to the Senate as amended. The PRESIDING OFFICER. The question is on concurring in the amendments which have been made by the Senate acting as in Committee of the Whole.

Mr. PUGH. Let us have a separate vote on the Collins amendment.

Mr. TOOMBS. I want a separate vote on all these amendments. There was a very thin Senate—but four over a quorum on some of them. I think some of the amendments are so bad that we had better have another chance on all of them.

The PRESIDING OFFICER. The question will be taken separately on the amendments.

Mr. YULEE. The Senator refers to the amendments of the Committee on Finance.

Mr. TOOMBS. Yes, sir.

The PRESIDING OFFICER. The question

is on concurring in the first amendment reported from the Committee on Finance, and which was adopted in Committee of the Whole, to strike out the following clause:

“For transportation of the mails from New York to Liverpool, and back, \$346,500; and it is hereby provided that there be paid to the Post Office Department, out of said appropriation, such sums as may be required to procure the transportation of the mails from New York to Liverpool, and back, on such days as the Collins line may fail to take them from New York;”

and in lieu of it to insert:

For transportation of the mails from New York to Liverpool, and back, in pursuance of the contract with E. K. Collins and others, \$346,500: And it is hereby provided, That for such days as the said Collins and others shall fail to perform said service, the Postmaster General is authorized to contract with the owner or owners of any other steam vessel or vessels to perform said service, by transporting the mails from such port in the United States to such port in Great Britain as he may select, and pay therefor a sum equal to the amount of ocean and inland postages received by the United States. And the Postmaster General may, with the consent of the contractors, change the European termination of said route, under the contract aforesaid, from Liverpool to Southampton.

Mr. HUNTER. I would suggest to the Senator from Georgia, that it would be better to move to strike out from that amendment the last three lines:

“And the Postmaster General may, with the consent of the contractors, change the European termination of said route, under the contract aforesaid, from Liverpool to Southampton.”

Mr. TOOMBS. I move to strike out that clause; and if that fails, I should prefer the House original bill in that respect to the Senate amendment. I see no reason, if we are going to give this advantage to Mr. Collins, as we are going to alter the contract, why we should not put in something on our side. Why not take money enough for his failures out of his contract price to supply the mail when he will not carry it? and the House bill is that much better than the amendment, unless these three lines be stricken out. I ask the yeas and nays on my motion.

The yeas and nays were ordered.

Mr. COLLAMER. If it be desirable, as seems to be professed by many, that we should secure a weekly line (as I know the Department desires) of our own to Europe, it can be secured by having Mr. Collins's line end at Southampton; that is, go from here to Southampton twice a month, filling up the weeks when the Bremen and Havre lines do not run. By that means we can get a weekly line of our own from here to Europe. If Mr. Collins, or those people who own his line, can receive for going to Southampton what they now get for going to Liverpool, twice a month, they will run there; and, by having those other lines run twice a month for the postages you secure a weekly communication. If the provision be stricken out allowing Mr. Collins to go to Southampton, we never can have a weekly line.

Mr. TOOMBS. I think from the ideas and allusions of the Senator from Vermont, that these people do not want a weekly line at all.

Mr. COLLAMER. I spoke of what I understood the Department wants, what it desires to effect.

Mr. TOOMBS. The Department has not recommended this amendment, that I know of. If a weekly line is desirable, and we can get it for the postages, we can get rid of the difference between \$387,000 and the postages. As Mr. Collins has not complied with his contract, we leave him to carry the mail to Liverpool, if he chooses, and pay him the \$387,000; and if he does not do it, if we can carry it once a month for the postages, we may, according to the gentleman's idea, carry it every week.

Mr. COLLAMER. No; I say if Mr. Collins can have his line to Southampton for what he gets for running to Liverpool, nearly four hundred thousand dollars, he may make a weekly line, taking his contract price for two trips a month, and the postages for the other two. He may afford to do that.

Mr. TOOMBS. We have got a good contractor, as we are informed by the Department, to go to Southampton for the postages. Mr. Collins has not turned a paddle in six months, although he could get his \$387,000 if he had. Now, why do you want to throw money into his hands to enable him to drive off the others? Is he the contractor you want? You say he is not obliged to perform his contract; he is not compelled to run a trip at all; only, if he does not run, you do not

pay; and it is a question for Mr. Collins to decide whether you have a mail to Europe or not, according to the decision made on his contract. I say let the lines to Havre and Bremen and Southampton alone; let them get the postages; but if you allow Collins to go there, I have no doubt the object of Mr. Collins is to sell out to them, probably for an annuity of \$200,000 a year; for they can better afford to take \$187,000 than run for the postages.

Mr. PUGH. If I understand the Senator from Vermont, what is proposed to be done now is worse than anything that has been done before. We made a contract with Mr. Collins to carry the mail from New York to Liverpool for a certain sum of money. Now, he does not want to carry it; he gave us notice of that. My impression is, that you yourself, sir, (Mr. STUART in the chair,) presented his petition to the Senate a year ago, giving us notice that he would not perform the contract. He renounced it as completely as any man ever renounced a contract, and he could not recover upon it against an individual in any court of justice. There was never as complete a renunciation of a contract by any man; and what then? His ships, we are told by the papers, have been sold by the sheriff. He not only does not turn any paddle, but he has no paddle to turn. If the truth is told in the papers, he has been sold out under the hammer. If it is collusion, if it has been done with the intention to force Congress to give him more money, he ought not to be tolerated at all. If it is in earnest, if he has become insolvent under the contract, why do we fool ourselves any more by legislating upon the footing of the Collins contract?

In my judgment, the contract ought to be ignored from the beginning to the end of it. It is forfeited; it is renounced; it is abandoned. But, now, what is the idea? It is said to be a bad contract from New York to Liverpool at this enormous sum of money; and it is proposed to let Mr. Collins, or somebody who buys Mr. Collins out, run the line to Southampton for the same money and for the postages together; and he will thus get more than he had before. That is only doing what we gave notice two years ago we would not do; and that is, increase the subsidy. We gave him notice two years ago that we would stop the increased subsidy. We sat up until long past this hour in the night to decide it, and we voted on it again and again, and we thought we were rid of it; but now it comes up in another shape.

It is my opinion that the whole of it is a contrivance to revive the Collins subsidy in another shape. I do not see any necessity for this weekly line to Southampton. We have lived without it; and I do not understand, if Mr. Collins cannot carry the mails to Liverpool for this money, how he is going to take them to Southampton, unless he is going to interfere with somebody else, or sell out to somebody else. I thought he was going to interfere; the Senator from Georgia says he is going to sell out; I do not know which it is: either is objectionable. I do not believe in his contract at all; and I do not intend to vote to appropriate any money for his contract. I believe it is forfeited; and I believe the Post Office Department ought not to have recognized him as a contractor, but forfeited his contract. Let him go to the Court of Claims; they will give him a judgment, if he can come within gunshot of a case, and we can then discuss it; but as for this proposition to let him change the termination of his journey from Liverpool to Southampton, it will accomplish one of two things: he will either drive off an honest contractor, or he will sell out. This is to be done to benefit a contractor who has never kept his contract; who, if the truth is now told, cannot keep his contract; whose ships have been sold; who has circulated written notices that he would not perform it longer, or revive it at all.

It seems to me that Congress ought to have some sense of self-respect. These things are always brought up at the heel of the session. We never get hold of them at any other time. We can never get a chance at them at any other time, and I suppose it will be now as before; you will let him run on another year, and at the end of next year we shall be told that it is the heel of the session again. As I had not an opportunity of voting before, I want this opportunity to record my vote against any further recognition of the Collins contract in any shape or form.

Mr. JOHNSON, of Arkansas. I hope we shall get a vote on this contested question. There are some Senators who have spent very little part of the day here; but of those who spent any part of the day in the Senate, I think there is no one who does not understand this particular point. I am satisfied about it myself. I believe it to be so great an outrage that, though I have never been in the habit of voting against appropriation bills, I shall certainly vote against this one if the proposition be put on. But, without going into the merits of the proposition, regarding it as an outrage on common sense and fair play, I feel bound to vote against it. I hope we shall get the question, and have the privilege of voting.

The question being taken on Mr. TOOMBS's motion to strike out, by yeas and nays, resulted—yeas 19, nays 27; as follows:

YEAS—Messrs. Bigler, Clingman, Douglas, Fitch, Green, Hammond, Houston, Hunter, Johnson of Arkansas, Johnson of Tennessee, Mallory, Mason, Polk, Pugh, Reid, Rice, Sebastian, Slidell, and Toombs—19.

NAYS—Messrs. Benjamin, Bright, Broderick, Cameron, Chandler, Collamer, Dixon, Doolittle, Fessenden, Foot, Foster, Gwin, Hale, Hamlin, Harlan, Iverson, Kennedy, King, Pearce, Seward, Simmons, Stuart, Thomson of New Jersey, Trumbull, Wade, Wilson, and Wright—27.

So the motion was not agreed to; and the question recurred on concurring in the first amendment made as in Committee of the Whole.

Mr. PUGH called for the yeas and nays, and they were ordered.

Mr. TOOMBS. According to the construction of the contract of Mr. Collins, which this amendment alters or may alter, in aid and favor of him, he is not compelled to carry this mail at all; and if he does not carry it there is no penalty whatever. Every other mail contractor, if he fails to carry the mail, is subject to a penalty. I move to strike out so much of this amendment as allows that, and to provide that if Collins fails to carry out his contract, the Postmaster General may employ another person to do it, and take the price out of Collins's money. Now, according to the amendment of the Finance Committee, those who may do the service in the place of Collins will receive only the postage. I should like to know why that distinction was made? I should like my friend from Virginia to tell me why, when Mr. Collins carries the mail, you are to pay him \$19,000 a month, and if he does not do it, whoever does it is to get only the postage?

Mr. HUNTER. It is obvious, because it has been decided that if he does not comply with his contract he only loses the money for the trip he omits to make, and he gets the money for every trip he performs. Then how could you take it out of his money? We had to provide in some way for filling up the vacuum.

Mr. TOOMBS. The Senator is wholly mistaken. The amendment is for altering the contract; and I say when you are altering the contract and giving the contractor a beneficial advantage, you ought to do something to benefit the Government at the same time. That is all I ask. You say by this amendment that the Postmaster General, if he pleases, may allow Collins to run to Southampton. That is an alteration of the contract. If we are to alter the contract, I wish to provide that whoever carries the mails when Collins fails to do it, shall be paid out of his money. I propose, therefore, to amend the amendment by striking out the words "and pay therefor a sum equal to the amount of ocean and inland postages received by the United States."

Mr. COLLAMER. The Senator wishes to take the House bill on that point. The House bill is right in that respect.

Mr. TOOMBS. I think so; but I cannot get the House bill.

Mr. PUGH. Vote down this amendment and then the clause in the House bill stands.

Mr. TOOMBS. But a majority of the Senate is in favor of making this alteration for the benefit of Collins; and when you are doing that, I want to put some limitation on it so that we may get some benefit from the contract.

Mr. COLLAMER. Perhaps the Senator's object can be accomplished by taking the amendment, as it has been adopted in Committee of the Whole, and inserting after the first clause making the appropriation, this proviso:

Provided, That there be paid to the Post Office Department, out of such appropriation, such sum as may be required to procure the transportation of the mails from New

York to Liverpool and back, on such days as Collins shall fail to take them.

That is substantially the provision of the House bill. We agree to pay Mr. Collins so much, whether he goes to Liverpool or Southampton. Now, let us provide that in case he fails to take the mails, the same amount which he would receive for carrying them shall be appropriated to the Post Office Department, to enable them to pay for hiring substitutes—that is, to take his money and pay it to those who rendered the service.

Mr. BENJAMIN. Does not the Senator see that the result of that will be that Collins will only have to have ready a very inferior style of vessels which will carry the mail? He will not carry it; but he will have other vessels to take the place of his vessels, and get the full price. That, I presume, was what the Finance Committee wanted to guard against by providing that when the Postmaster General had to replace a Collins steamer by some other steamer, that other steamer which replaced the Collins steamer should not have full pay, but should only have the postages; so as to prevent Collins from acting in concert with somebody else, and putting on inferior steamers and getting full pay.

Mr. TOOMBS. There is nothing in the objection of the Senator from Louisiana, unless he supposes that Postmaster General Brown would collude with Collins, go in collusion with him. If he is in we are gone anyhow under your contract. If he joins these people, you cannot protect the Treasury against them. If you give him authority to get a substitute, I presume he will get one. I do not think we ought to legislate on the ground that he is in collusion with Collins. I do not suppose he is.

Mr. BENJAMIN. I am perfectly willing to put in the provision of the House bill, in this respect, if gentlemen think it will confine Collins closer; but in my opinion the Committee on Finance have been more rigid than the House bill.

Mr. COLLAMER. If the amendment be adopted now as it is, if Mr. Collins does not go they cannot hire others for the mere postages.

Mr. TOOMBS. To accommodate gentlemen, I will modify my amendment. I move to strike out of the amendment of the Committee on Finance, the words, "and pay therefor a sum equal to the amount of ocean and inland postages received by the United States," and insert in their place, "and that the cost thereof be deducted from any amount which may be due to E. K. Collins & Company."

Mr. SEWARD. I see no objection to that.

Mr. KING. He does not get any pay, if he fails to perform the trip. His pay is higher than the postages.

Mr. HUNTER. I suggest to my friend from Georgia that perhaps he is not accomplishing his own object by this amendment. According to the House provision, with the interpretation which is given at the Department to the contract, Collins is obliged to get pay for all the service he performs, all the trips he makes. Well, the difference between what is paid to him for the trips he makes and this entire appropriation the Department can, if it chooses, give to some one else. The amendment of the committee was designed to confine that pay to the postages, and not let full pay be given to some one else. It was designed to introduce the postage principle, as far as it was possible to do so.

Mr. TOOMBS. But I want it deducted from the amount due Mr. Collins from the amount he earns afterwards.

Mr. HUNTER. It will not be so interpreted at the Department.

Mr. TOOMBS. The Senator knows more about departmental construction than I do. I know it will be construed most favorably to contractors.

Mr. HUNTER. I do not say that; but I mean to say that I presume, from the interpretation which has already been given to the contract, that it will be only taken out of the money which is given during the year—that portion which Collins did not earn.

Mr. TOOMBS. I will accept any good suggestion.

The VICE PRESIDENT. Perhaps the amendment had better be read as modified, to see what construction it would properly bear. The amendment is to strike out the words "and pay therefor a sum equal to the amount of ocean and inland

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postages received by the United States," and insert:

And that the cost thereof be deducted from any amount which may be due, or which may become due, to E. K. Collins & Company for services actually performed.

Mr. HUNTER. That will do.

Mr. SEWARD. I have no objection to that. The amendment was agreed to.

The VICE PRESIDENT. The question is on concurring in the first amendment made as in Committee of the Whole, with the amendment to it which has just been agreed to.

Mr. TOOMBS. I prefer the House provision to the Senate amendment, as amended.

Mr. POLK. I wish to ask the Senator from Georgia if I understood the drift of his amendment, which has just been carried? It puts the Senate's amendment on the same footing, substantially, as the original section as it came from the House.

Mr. TOOMBS. It does, with the exception of the last clause. I am against that.

Mr. POLK. That is the Southampton clause.

Mr. SEWARD. The question is now upon adopting the amendment recommended by the Committee on Finance, as amended by the honorable Senator from Georgia. If we accept the amendment as thus amended, then Mr. Collins will not have the privilege of stopping at Southampton, if the Postmaster General shall not think it consistent with the public interest; and inasmuch as the Senate has voted, by 19 to 27, that this provision ought to be granted, those who were of that opinion I hope will not vote against this amendment, which leaves the provision they desire to secure. It does not otherwise differ from the House bill.

The yeas and nays were ordered, and taken, with the following result:

YEAS—Messrs. Benjamin, Bright, Broderick, Cameron, Chandler, Dixon, Doolittle, Fessenden, Foot, Foster, Gwin, Hale, Hamlin, Iverson, Johnson of Tennessee, Kennedy, King, Pearce, Sebastian, Seward, Simmons, Stuart, Thomson of New Jersey, Wilson, Wright, and Yulee—25.

NAYS—Messrs. Bayard, Bigler, Brown, Clingman, Colamer, Douglas, Fitch, Green, Hammond, Harlan, Houston, Hunter, Johnson of Arkansas, Mallory, Mason, Polk, Pugh, Reid, Slidell, Toombs, Trumbull, and Wade—23.

So the amendment was concurred in.

The words inserted are:

For transportation of the mails from New York to Liverpool, and back, in pursuance of the contract with E. K. Collins and others, \$346,500. And it is hereby provided, That, for such days as the said Collins and others shall fail to perform said service, the Postmaster General is authorized to contract with the owner or owners of any other steam vessel or vessels to perform said service, by transporting the mails from such port in the United States, to such port in Great Britain as he may select, and that the cost thereof be deducted from any amount which may be due, or may become due, to E. K. Collins & Company for services actually performed. And the Postmaster General may, with the consent of the contractors, change the European termination of said route, under the contract aforesaid, from Liverpool to Southampton.

The next amendment made as in Committee of the Whole was, to strike out:

"For contingencies in the mail service between New York and Europe, \$120,000."

The amendment was concurred in.

Mr. FESSENDEN. It was only the amendments of the Committee on Finance on which separate votes were required. The others were agreed to without much objection.

Mr. STUART. None of them have been agreed to in the Senate yet.

Mr. FESSENDEN. I ask that the question be taken generally.

The VICE PRESIDENT. We have finished the amendments reported by the Committee on Finance. Shall the others be voted on together? ["All together!"] The Chair will put the vote on the remaining amendments together.

The amendments were concurred in.

Mr. KING. I now renew the amendment which I offered in committee, making the term five years instead of four, as the limitation of the contract:

And be it further enacted, That it shall not be lawful for the Postmaster General to make any steamship or other

contract for carrying the mails on the sea for a longer period than five years.

The amendment was agreed to.

Mr. YULEE. I ask for a division on that vote.

The VICE PRESIDENT. The vote was emphatic, and the Chair announced it.

Mr. SEWARD. I do not think the question was understood.

The VICE PRESIDENT. The Chair can only state that the question was distinctly put, and the amendment was agreed to.

Mr. SEWARD. I move to reconsider the vote, though I shall vote the same way as before.

The VICE PRESIDENT. The Chair will state to Senators that the amendment was distinctly read and the Chair took the question slowly. It is not the fault of the officers of the Senate if the question is not understood.

The motion to reconsider was not agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time.

Mr. TOOMBS. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. GREEN. I paired off, an hour since, with the Senator from New Hampshire, Mr. CLARK, who was unwell, and desired to go home.

The question being taken by yeas and nays, resulted—yeas 23, nays 21; as follows:

YEAS—Messrs. Bayard, Benjamin, Bigler, Bright, Broderick, Dixon, Douglas, Fessenden, Fitch, Foot, Foster, Gwin, Hale, Iverson, Kennedy, Pearce, Sebastian, Seward, Simmons, Stuart, Thomson of New Jersey, Wright, and Yulee—23.

NAYS—Messrs. Cameron, Clingman, Green, Hamlin, Hammond, Harlan, Houston, Hunter, Johnson of Arkansas, Johnson of Tennessee, King, Mallory, Mason, Polk, Pugh, Reid, Slidell, Toombs, Trumbull, Wade, and Wilson—21.

So the bill was passed.

HOUSE BILLS REFERRED.

The following bill and joint resolution from the House of Representatives were read twice by their titles and referred as indicated below:

A bill (No. 319) for the relief of Benjamin Sayre—to the Committee on Claims; and

A joint resolution (No. 9) authorizing the Postmaster General to revise and adjust the accounts of Harris & Morgan on principles of justice and equity—to the Committee on the Post Office and Post Roads.

WILLIAM S. BRADFORD.

The bill (H. R. No. 610) for the relief of William S. Bradford, was read twice by its title.

Mr. CHANDLER. I ask that that bill may be put on its passage immediately; and if the Senate will indulge me for a quarter of a minute—it will not take more, I can state the case. The bill was prepared by General Quitman, of Mississippi, for the relief of William S. Bradford. I have known him for twenty-five years. He enlisted in the Army about twenty-five years ago. He was in the Army for over twenty years. At one of the battles in Mexico, he received a bullet wound through the left lung, and was promoted to a lieutenantcy for his gallantry. He was a sergeant, and was promoted to a lieutenantcy. He afterwards resigned his commission on account of ill health. Subsequently recovering, he enlisted again in the ranks; and while a private, was stricken down, and is now sick with consumption, and will not live a year.

Mr. HUNTER. We can pass it in the morning hour to-morrow.

The VICE PRESIDENT. Is it the pleasure of the Senate that the bill shall be read for information?

Several SENATORS. Let it be read.

Mr. TOOMBS. I hope not. I object to it.

Mr. CHANDLER. I ask that it be referred to the Committee on Pensions.

It was so referred.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had agreed to the fourth, sixth, seventh, eighth, ninth, eleventh, twelfth, and thirteenth

amendments of the Senate to the bill (H. R. No. 199) making appropriations for the naval service for the year ending the 30th of June, 1859; it agrees to the fourteenth amendment of the Senate with an amendment, in which it requests the concurrence of the Senate; and it disagrees to the first, second, third, fifth, and tenth amendments of the Senate to the said bill.

TIMOTHY L. O'KEEFFEE.

Mr. POLK. I wish to occupy the attention of the Senate for a moment with a privileged question. I move a reconsideration of the vote of the Senate indefinitely postponing the House bill for the relief of Timothy L. O'Keefee. I will state to the Senate that I make the application under these circumstances. The bill was indefinitely postponed on Friday, but was reported to the House of Representatives, from which it came, as having been passed by the Senate by some mistake.

The PRESIDING OFFICER, (Mr. STUART in the chair.) The Chair will say to the Senator that the whole difficulty is corrected by a resolution which was passed this morning.

Mr. POLK. What I wish—

The PRESIDING OFFICER. The Chair understands that the bill has gone to the House of Representatives with a correct report.

Mr. POLK. Now I desire to move a reconsideration, under the circumstances, because the bill did not come back until after the error was corrected in the House, the bill having originated there, and passed there. I wish to submit a motion for reconsideration.

The PRESIDING OFFICER. Does the Chair understand that the Senator desires to reconsider the bill as it finally passed the Senate to-day on the correct report?

Mr. POLK. I do not so understand.

The PRESIDING OFFICER. The whole difficulty that existed was corrected this morning by resolutions between the two Houses, the enrolled bill being brought back and canceled, and a correct report of the Senate's action being made to the House of Representatives.

Mr. GREEN. What is the correct report that was made?

The PRESIDING OFFICER. That the bill was indefinitely postponed.

Mr. POLK. If the report is that it was indefinitely postponed to-day, whence that action takes date, then I have nothing to do but to enter a motion to reconsider that action.

Mr. TOOMBS. I think I understand the Senator, and he has no right to reconsider it under the rules of the Senate at all. A mistake of the Clerk in reporting our action does not affect our rules. The Senator stated that this bill was indefinitely postponed, in fact, last Friday. Then more than the time allowed for reconsideration has passed. I do not see how the Clerk's having sent a wrong report can affect the rules of the Senate.

The PRESIDING OFFICER. If the Senator desires to have his motion entered, the question of the right to make it may be reserved and decided at a subsequent time. I think there will be no objection to that.

Mr. TOOMBS. There is a question now whether there is a right to enter the motion.

The PRESIDING OFFICER. If objected to, the Chair thinks it is too late to make it.

Mr. TOOMBS. I object to it.

INDIAN DEFICIENCY BILL.

Mr. HUNTER. I move to take up the Indian deficiency bill, which was laid aside by common consent this morning, to enable the Senator from Arkansas to prepare an amendment.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 555) to supply deficiencies in the appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending the 30th of June, 1858.

Mr. HUNTER. This bill is out of committee, and in the Senate; but it is still open to amendment.

Mr. HOUSTON. I move that the Senate adjourn.

Mr. HUNTER. I hope not.

The motion was not agreed to.

The VICE PRESIDENT. The bill is in the Senate, and is now ready to be read the third time, if no amendment be offered.

Mr. SEBASTIAN. The bill was passed over informally by general consent, to enable me to offer an amendment, which escaped by inadvertence. I send it to the Chair:

And be it further enacted, That the Secretary of the Interior be, and he is hereby, authorized to appoint a commissioner or commissioners, not exceeding three, with authority to proceed to New Mexico and investigate the alleged claims for Indian depredations upon citizens of New Mexico, under such regulations as he may prescribe, and report the same to Congress.

Mr. HUNTER. I hope this will not be done. I hope we shall not appoint a commission now to go and examine into these claims.

Mr. SEBASTIAN. This is a proposition which has, I must confess, been brought unsuccessfully some two or three times before the Senate, and my convictions are equally as strong of the propriety of it now as heretofore. It has always encountered the opposition of the Senator from Virginia.

Mr. SEWARD. Will the honorable Senator from Arkansas give way for a motion to adjourn? ["Oh, no."]

Mr. SEBASTIAN. I will say to the Senator from New York that I am bound by an understanding with the Senator from Virginia, who was kind enough to lay this bill aside for me, to try to have it disposed of to-day. I was speaking of the necessity of this case. We have nothing now to do with the origin of the claims. It is sufficient to say that these claims are now upon us, and they amount, according to the report of the Secretary of the Interior, already to \$500,000, most of them based on very slight evidence. This is a precautionary measure, advised by the Secretary of the Interior, and urgently pressed by him now, for the purpose of protecting the Government against these claims when they become stale, and when the evidence on the part of the Government will have been lost, or rather the opportunity of collecting it together will have gone by.

Under a resolution of Congress, at the last session, the Commissioner of Indian Affairs was authorized to investigate and classify these claims; and, according to a report which I have on my table, the claims, as already filed in the Indian office, amount to something over half a million dollars. But a small amount of them, to be sure, are reported as good. The others, however, do not die, but will be coming in upon us; and I think, myself, it is proper to send out a commission of persons, not connected by ties of interest or of any other character with the people of the country, who will investigate the matter, and have authority to bring witnesses before them, and ascertain which of these claims are well founded and which are not.

The amendment does not propose to involve the country in a new expenditure, but anticipates the dangers of the future and provides against the accumulation of these claims while there is yet time to do so. This is the necessity which has led me to the conviction that this provision is absolutely necessary. It involves the appointment of one or two commissioners at some expense, and I know, therefore, is unpalatable to the Senate; but that does not change my convictions as to the necessity of it. I have therefore felt bound, in justice to the convictions of the Secretary, and the urgent importunities of the Delegate, to present it to the Senate for their consideration. I shall not argue it at length. I have merely stated the facts.

Mr. HUNTER. I hope the question will be taken. Let us decide it.

The amendment was rejected.

Mr. SEBASTIAN. I have another amendment:

And be it further enacted, That in executing process in the Indian country, the marshal be authorized to employ a posse comitatus, not exceeding three persons, in any of the States respectively, to assist in executing process by arresting and bringing in prisoners from the Indian country; and to allow them three dollars per diem in lieu of all expenses and services.

The existing law authorizes the marshal to employ guards after an arrest has been made. The weakness of the law consists in this, that he is not authorized to employ guards in making an arrest—a species of security more necessary before than after an arrest is made. It is the invariable experience of the marshal in the Indian country west of Arkansas that it is impossible to get Indians as a posse to assist in arresting one another, and the consequence is, that writs are often evaded, and the boldest and most defiant criminals go unarrested because of the want of assistants in the country to arrest them.

The marshal represents—and I have no doubt truly—that, to make the process effectual, they must have the right to summon one, two, or three assistants, in the States, to aid him in making an arrest. The difficulty in guarding afterwards is but a small matter, compared with the necessity of having assistants to make the arrest. Many of the worst offenders there have gone unarrested, because of the want of the assistance of white men in the Indian country. It is very rare that you can get Indians to assist in making arrests of one another. I would have attempted to put this on another bill; but as it pertains to the Indian bill, and is to carry out the intercourse laws, it ought to pass here.

Mr. HUNTER. No doubt it is very good legislation, but it only makes weary work for the conference committees. The other House rejects everything of this sort. In the miscellaneous bill they have swept out everything that looked like legislation.

The amendment was agreed to.

Mr. HOUSTON. I have an amendment to offer which is very important to the security of the frontier of Texas:

And be it further enacted, That the superintendent and agents within the superintendency of Texas shall be hereafter appointed in the same manner as other superintendents and agents are appointed and confirmed; and that the Wichita agency is hereby attached to the superintendency of Texas.

I do not intend to make any statement unless it becomes necessary. In the first place, our agencies heretofore have been temporary in their character, or, rather, special agencies. They have not the same character and position throughout the country, and the same influence, as if they were appointed, like other agents, by nomination to, and confirmation by, the Senate. The Wichita agency is now within the limits of that portion of country ceded by the Choctaws and Chickasaws for the purpose of a reservation, lying between the ninety-eighth and one hundredth degrees of west longitude. They are contiguous to, and immediately upon, the borders of Texas. They are bordered on the east and north by the Chickasaw and Choctaw nations of Indians. The superintendency to which they have heretofore been attached is at Fort Smith, entirely disconnected from these Indians. They have not had an agent residing amongst them. They are two hundred and fifty miles from the superintendency in Arkansas, with an Indian territory intervening between the superintendency; and though of different tribes, they are only about one hundred and thirty miles from the Texas superintendency. They have intercourse with our Indians, are intermarried with them, and they have no connection with the civilized tribes within the limits of the Indian country attached to the Arkansas superintendency.

For that reason it is thought best that they should be connected with our superintendency. It will, to be sure, increase the trouble of the superintendent, but it will add no perquisites to him, and will not be profitable; the effect will only be to enable him to exercise a control over those tribes which annoy us very much, and extend his influence and the influence of the Indians on the reservation to them, and be of great aid in preserving peace. There is no other object than this in the application that is made.

For the information of the Senate, I will say that my late colleague, General Rusk, applied to the Indian department; and, after the adjournment of the last Congress, he obtained an order from the Secretary of the Interior to attach these Indians to the Texas superintendency, and bring them within the control of the superintendent of the Texas Indians.

Mr. JOHNSON, of Arkansas. I will ask the Senator if he is particular in this statement; if

what he now says he knows of his own knowledge to be true? Does he know that any such order ever did exist; and if so, why is it not still in force?

Mr. HOUSTON. General Rusk did not tell me so that I recollect. It occurs to me it was mentioned; but whether he did or not, I know not. I heard it asserted and I never heard it contradicted, and I presume the Secretary of the Interior will not gainsay aught that I have said. Previous to my leaving here, General Rusk, who remained ten days after the close of the session, assured me that it would be done, and must be done, or our frontiers would be broken up; and I took it for granted, from these facts, that it was done, hearing that it was.

Mr. JOHNSON, of Arkansas. The Senator, I am sure, knows that I would not unnecessarily interrupt him in his statement; but I have a personal knowledge in regard to what he states. I went to see General Rusk when this matter was commenced at the beginning. In conversation with General Rusk, I explained to him that this region was a portion of the country which pertained to the southern superintendency. Upon explaining the facts to him, though he, previous to that time, intended to recommend some man from his own State to the Wichita agency, he yielded that matter, and I had a man appointed, and there was no further difficulty; the agency was kept within the southern superintendency, and I have never heard of any period when it was not so. I know that I had that conversation with General Rusk himself. He said, on the statement which I made of the fact that it was within the country which belonged to the southern superintendency, that he had no more to say in regard to the matter. I know of no more generous and unselfish man than he was, and this passage took place just before we parted at the close of the last session.

Mr. HOUSTON. I see it will take a greater time to explain this matter and bring it to the fair understanding of the Senate than I am disposed to occupy at this late hour. It is nine o'clock, and I would prefer that we should adjourn until to-morrow morning.

Mr. POLK. I move that the Senate adjourn. I will state to the Senate that I have learned privately, from the Senator who has offered the amendment, that he is very much exhausted. He has been here all day long, and eaten nothing since he ate his breakfast.

Mr. HUNTER. We are all exhausted; but we ought to finish this bill.

Mr. POLK. We are not all as far advanced in life as the honorable Senator from Texas.

Mr. JOHNSON, of Arkansas. I hope we shall not adjourn, though I am opposed to the amendment.

Mr. HUNTER called for the yeas and nays on the motion, and they were ordered; and, being taken, resulted—yeas 21, nays 15; as follows:

YEAS—Messrs. Benjamin, Bigler, Broderick, Brown, Douglas, Harlan, Houston, Johnson of Tennessee, King, Mason, Polk, Reid, Rice, Seward, Simmons, Sliedell, Stuart, Trumbull, Wade, Wright, and Yates—21.

NAYS—Messrs. Bayard, Bright, Dixon, Fitch, Foot, Green, Gwin, Hamlin, Hammond, Hunter, Johnson of Arkansas, Pugh, Sebastian, Thomson of New Jersey, and Toombs—15.

So the motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, June 9, 1858.

The House met at eleven o'clock, a. m. Prayer by Rev. J. L. ELLIOTT.

The Journal of yesterday was read and approved.

MEMORIAL OF JUDGE WATROUS.

The SPEAKER. The Chair asks leave to present the memorial of Judge John C. Watrous, of Texas, in reference to his impeachment. If there be no objection, it will be laid upon the table, and printed.

Mr. HOUSTON. I do not suppose that that communication can be received by the House and ordered to be printed in this irregular way.

Mr. CRAIG, of North Carolina. I suppose it can be. This is exactly following out the precedent in the case of Judge Peck. After the committee had ordered the impeachment of Judge Peck, he was heard by memorial, just as Judge Watrous now asks to be heard.

Mr. CHAPMAN. That was a very different case. Judge Peck was not heard before the committee; but, in this instance, the Committee on the Judiciary examined witnesses in behalf of Judge Watrous, as well as witnesses in behalf of the memorialists. He was fully heard there, and he now asks to have his memorial submitted to the House. The cases of Judge Peck and Judge Watrous are not parallel.

The SPEAKER. The Clerk will read the communication of Judge Watrous accompanying the memorial.

The Clerk read the communication, as follows:

WASHINGTON, June 8, 1858.

SIR: I beg of you the favor to lay before the House, in my behalf, the accompanying memorial.

I have the honor to be, with the highest respect, your obedient servant,
JOHN C. WATROUS.
Hon. JAMES L. ORR, Speaker House of Representatives.

Mr. CRAIGE, of North Carolina. I will ask, what evils can result to the country from hearing Judge Watrous in this mode? It is in accordance with the precedent in the case of Judge Peck; and it is but fair to the accused that, before he is put upon his trial, he should be heard at the bar. It may be true that this matter was investigated before the Committee on the Judiciary; but it is not true that Judge Watrous was allowed to summon what witnesses he pleased. Many witnesses whom he desired to call were excluded by the committee, and were not permitted to be heard.

The SPEAKER. If there is any objection to the memorial, it cannot be presented.

Mr. HOUSTON. I object to its coming in in this shape.

The SPEAKER. That is sufficient. The Chair has no right to present anything that any other member could not present.

Mr. HOUSTON. I desire to say, before I object, that this memorial has been laid upon our desks; but I have not had time to read it.

Mr. GROW. Would a motion to receive the memorial be in order?

Mr. HOUSTON. I will withdraw my objection to the reception of the memorial. I do not know what is in it.

Mr. DEAN. Is debate in order?

The SPEAKER. It is not.

Mr. DEAN. Then I object.

Mr. HOUSTON. I withdraw my objection.

Mr. DAVIDSON. I object, sir.

Mr. GROW. Would it be in order to move that the memorial be received and printed?

The SPEAKER. The Chair thinks not. The Chair withdraws the memorial.

Mr. WASHBURN, of Illinois. Cannot the memorial be presented under the rules, like any other memorial?

The SPEAKER. It could; but it would have to be referred to a committee, and could not be printed.

REGISTERS OF VESSELS.

Mr. DIMMICK. I ask the unanimous consent of the House that the chairman of the Committee on Commerce may be permitted to report back Senate bill (No. 127) to repeal the fifth section of an act entitled "An act to authorize the register or enrollment and license, to be issued in the name of the president or secretary of any incorporated company owning a steamboat or vessel," approved March 3, 1825, with a view of putting it on its passage.

I will merely remark that I have been here for six long months, in attendance on the sessions of the House. I have made no speeches on Kansas or upon any other subject. I have not consumed a single moment of the time of the House; and I now ask the indulgence of the House to allow this bill to pass. It is very important to the interests of northern Pennsylvania, and to a large interest in the city of New York. The bill asks no appropriation of money from the Treasury, and has been favorably reported on by the Committees on Commerce of the House and the Senate.

Mr. WRIGHT, of Georgia. Will this bill give rise to debate?

Mr. JOHN COCHRANE. It cannot give rise to debate.

Mr. WRIGHT, of Georgia. I would remark that I think the first business the House ought to attend to would be to dispose of the resolution of the Senate extending the session until Monday. It is due to the Senate, as well as due to ourselves,

that we should act upon that resolution, and dispose of it one way or the other.

Mr. JOHN COCHRANE. The law which this bill proposes to repeal is as follows:

"Before granting a register for any steamboat or vessel, so owned by any incorporated company, the president or secretary thereof shall swear or affirm, that to the best of his knowledge and belief, no part of such steamboat or vessel has been, or is then, owned by any foreigner or foreigners."

That provision has been found to be very injurious to the commercial interests of the country.

Mr. DEAN. I object to the bill.

Mr. DIMMICK. I move to suspend the rules. The question was taken; and the rules were suspended.

The bill was then reported to the House, was ordered to a third reading, was accordingly read the third time, and passed.

CODIFICATION OF THE REVENUE LAWS.

Mr. JOHN COCHRANE. I ask that House bill No. 487, being the revenue code bill, be made the special order for the first Wednesday of next session, and from day to day thereafter until disposed of. I think that is the wisest course to pursue.

Mr. JONES, of Tennessee. I do not want any special orders made for the next session, and I therefore object.

Mr. PETTIT. I move that the rules be suspended.

Mr. HOUSTON. I thought that there was business fixed for this day which would come up as first in order.

The SPEAKER. The Chair thinks that the gentleman's motion will take precedence.

Mr. MILLSON. I would suggest that this is a voluminous bill, and ought to be referred to the Committee of the Whole on the state of the Union. It is impossible to consider this bill as it deserves in the House. It should be first made the special order in the Committee of the Whole on the state of the Union.

Mr. JOHN COCHRANE. I accept that as a modification of my motion.

Mr. GROW. I move that it be made the special order for the second Wednesday of the next session, so that we may have full time to consider it.

Mr. JOHN COCHRANE. I accept that modification, and make my motion that the bill be referred to the Committee of the Whole on the state of the Union, and made the special order for the second Wednesday of the next session.

The rules were suspended; and the motion was received and agreed to.

Mr. JOHN COCHRANE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

BENJAMIN SAYRE.

Mr. PETTIT. I ask the unanimous consent of the House that the Committee of the Whole House be discharged from the further consideration of House bill (No. 319) for the relief of Benjamin Sayre, and that it be put upon its passage.

Mr. SMITH, of Virginia. Let us hear what it is.

The bill was read. It directs the Secretary of the Treasury to pay to Benjamin Sayre, of Wabash county, Indiana, the sum of \$2,043, in full of his claim for work and labor under his contract with the United States, bearing date December 8, 1832, in section sixty-seven of the Cumberland road, in Indiana, in the division east of Indianapolis.

Mr. PETTIT. That bill has been favorably reported on twice by the Committee of Claims.

Mr. CURRY. Let the report be read.

A MEMBER. I object.

Mr. CURRY. If the report be not read, I shall object to the bill being taken up.

Mr. JONES, of Tennessee. I call for the regular order of business.

Mr. PETTIT. Objection being made, I move to suspend the rules.

Mr. SMITH, of Virginia. Does the gentleman object to the reading of the report?

The SPEAKER. It is eight pages in length.

Mr. SMITH, of Virginia. Is it understood then, that we are to pass upon this bill without knowing what it is. If that be the policy, I demand the yeas and nays on the motion to suspend the rules.

Mr. J. GLANCY JONES. If these motions to suspend are to go on, let a time for that purpose be fixed so as to give all a chance, and then let us go into Committee of the Whole on the state of the Union.

The yeas and nays were not ordered.

The House divided; and there were—yeas 99, nays 20.

So the rules were suspended; and the Committee of the Whole House was discharged from the further consideration of the bill.

Mr. PETTIT. I do not propose to object to the reading of the report if it is desired, though it is very lengthy. The first report on this case was made by the Committee of Claims, when the senior member from Ohio [Mr. GIMBRES] was its chairman; and I presume his statement of the matter would be more convenient to the House than the reading of the elaborate report. My purpose is to call the previous question upon the passage of the bill, not interposing any obstacle, however, to the reading of the report. I move the previous question.

The previous question was seconded, and the main question ordered to be put; and, under the operation thereof, the bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time.

Mr. PETTIT. I move the previous question upon its passage.

Mr. JONES, of Tennessee. As there has been no report, in this case, read, and as it is evident I cannot get the yeas and nays upon its passage, I move to lay the bill upon the table.

The motion was not agreed to.

The previous question was seconded, and the main question ordered to be put; and, under the operation thereof, the bill was passed.

Mr. PETTIT moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

HARRIS AND MORGAN.

Mr. KELLY. I ask the unanimous consent of the House to discharge the Committee of the Whole House from the further consideration of the joint resolution (H. R. No. 9) for the relief of Harris & Morgan. This is the same bill in reference to which I submitted a similar motion yesterday. The bill does not make any appropriation of money, but merely requires the settlement of an account upon principles of equity and justice.

The joint resolution, which was read for information, authorizes and directs the Postmaster General to revise and adjust the fines and deductions imposed upon Harris & Morgan, late contractors on route No. 7851, from New Orleans to Indianola, via Galveston, Texas, and to settle the same upon principles of justice and equity; provided, that the said fines and deductions shall not be reduced below the *pro rata* pay of the contract.

Mr. J. GLANCY JONES. I wish to say to gentlemen of the House, that unless they quit this business of moving to suspend the rules, it will be impossible to get through with the public business.

It appears from the report, which was read, that the petitioners became contractors with the Post Office Department, on route No. 7851, from New Orleans to Indianola, via Galveston, under a transfer from W. C. Lacy, on the 15th of September, 1854, the contract to take effect from the 1st July, 1854. The service required under said contract was three trips per week between the terminal points of said route, No. 7851. It further appears from the facts in the case, that the said contractors were unable to, and did not, perform but two trips per week, instead of three, as stipulated in their contract. For this failure, under the administration of the late Postmaster General, fines and forfeitures were imposed upon the contractors to the extent of twice, twice and a half, and thrice, the amount of the pay of the trip so omitted to be performed, and their account was made up and adjusted accordingly.

Against the imposition of these heavy penalties and fines the petitioners pray relief; and the committee are of opinion that the Postmaster General should be authorized to revise and adjust their account, and settle the same upon principles of equity and justice. The opinion thus expressed by the committee is strengthened by a communication from the present Postmaster General,

addressed to the Hon. JOHN KELLY, and laid before them, under date of January 15, 1858, in which he says: "The fines and deductions imposed for the omitted service on this route from the 1st July, 1856, to 31st March, 1857, and during my administration of the Department, have not exceeded the *pro rata* pay of the contract."

Mr. CLARK, of Missouri. I object to that bill.

Mr. KELLY moved to suspend the rules, to enable him to introduce the motion.

The rules were suspended, (two thirds having voted in favor thereof.)

Mr. KELLY demanded the previous question on the engrossment of the joint resolution.

Mr. REAGAN. Before the previous question is seconded, it seems to me that there are facts connected with that matter which ought to be understood by this House.

The SPEAKER. Does the gentleman from New York withdraw the call for the previous question?

Mr. KELLY. I do not see the necessity of withdrawing the demand.

Mr. REAGAN. These gentlemen have had a contract at a large rate of pay; they have had the monopoly upon that route; and have made the State of Texas great sufferers for their own convenience and profit.

Mr. KELLY. I insist upon the previous question.

Mr. REAGAN. I think we should not adopt that joint resolution without some consideration and reflection.

Mr. KELLY. I object to debate.

Mr. REAGAN. I move to lay the bill upon the table.

The motion was not agreed to.

The previous question was seconded.

Mr. BRYAN. My colleague does not understand this resolution. It simply gives authority to the Postmaster General to revise and adjust their accounts upon terms of equity and justice.

Mr. CLARK, of Missouri. I object to this resolution, because action upon such cases ought to be uniform, in reference to all contractors.

The SPEAKER. Debate is out of order.

The previous question was seconded, and the main question was ordered to be put; and, under the operation thereof, the resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. KELLY moved the previous question upon the passage of the resolution.

Mr. ENGLISH. I ask the gentleman from New York to allow me to say a word in reference to this resolution. There is no wrong in it. These contractors failed to perform their contract, and the Post Office Department, instead of fining them in proportion to their failure, fined them three times that amount. The resolution provides that the Postmaster General shall revise and adjust their accounts upon principles of equity.

Mr. GROW. Is this debate in order?

The SPEAKER. It is not, unless the gentleman from New York withdraws the demand for the previous question.

Mr. KELLY. I do not withdraw it.

Mr. ENGLISH. The resolution is all right.

Mr. REAGAN. I desire to say a word.

Mr. DAVIDSON. I object.

Mr. REAGAN. I ask the yeas and nays upon the passage of the resolution.

The previous question was seconded, and the main question was ordered to be put.

Mr. JONES, of Tennessee. I move to lay the resolution upon the table.

The motion was not agreed to.

Mr. REAGAN. I would like the House to allow me to say something upon the resolution before the question is taken.

Mr. DAVIDSON. I object.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 123, nays 45; as follows:

YEAS—Messrs. Atrair, Andrews, Barksdale, Bennett, Billingshurst, Bingham, Bliss, Bowie, Boyce, Branch, Branton, Bryan, Burnett, Burns, Case, Cavanaugh, Chaffee, Chapman, Ezra Clark, Clawson, Clay, John Cochrane, Cockrell, Colfax, Comins, Corning, Covode, Cox, Cragin, James Craig, Davidson, Davis of Maryland, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dean, Dick, Dimmick, Dodd, Dowdell, Durfee, Edie, English, Eastis, Florence, Foley, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Groesbeck, Lawrence W. Hall, Robert

B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Hatch, Hawkins, Hill, Hoard, Horton, Hughes, Huyler, Jackson, Kellogg, Kelly, Knapp, John C. Kunkel, Landy, Leidy, Leiter, Lovejoy, Maclay, McKibbin, Samuel S. Marshall, Mason, Maynard, Millson, Morgan, Morrill, Freeman H. Morse, Mort, Murray, Niblack, Nichols, Pendleton, Peyton, William W. Phelps, Potter, Pottle, Ready, Ricaud, Robbins, Roberts, Royce, Russell, Sandidge, Searing, Aaron Shaw, John Sherman, Shorter, Singleton, Spinner, Stephens, Stevenson, William Stewart, Tappan, Tompkins, Tripp, Wade, Walbridge, Waldron, Walton, Ellihu B. Washburne, White, Whiteley, Winslow, Wood, Woodson, Wortendyke, and Augustus R. Wright—123.

NAYS—Messrs. Abbott, Atkins, Bishop, Bockock, Buffinton, Burlingame, John B. Clark, Clemens, Cobb, Clark B. Cochrane, Burton Craig, Crawford, Curry, Curtis, Davis of Indiana, Dawes, Edmundson, Gartrell, Goode, Gregg, Hopkins, Houston, Jenkins, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Letcher, McQueen, Mattheson, Moore, Edward Joy Morris, Oliver A. Morse, Pettit, Quitman, Reagan, Ritchie, Ruffin, Savage, Scales, Henry M. Shaw, Judson W. Sherman, William Smith, Stanton, and Thompson—45.

So the resolution was passed.

Pending the call of the roll, the following discussion took place:

Mr. REAGAN. I desire to know, before I change my vote and vote in the affirmative for the purpose of moving to reconsider, whether a motion to reconsider is debatable?

The SPEAKER. It would be.

Mr. ENGLISH. I desire to know whether the gentleman from New York, under the practice of the House, would not be entitled to the floor?

Mr. REAGAN. I hope that this practice of choking off gentlemen will be put a stop to. We ought to have some light upon this subject.

The SPEAKER. The gentleman from New York will be entitled to the floor by courtesy and usage, if he seeks it.

Mr. DAVIDSON. I object to everything out of order.

Mr. REAGAN. I suppose debate is out of order, and I would not ask the Speaker to take any unusual course in the matter. I will therefore let my name stand in the negative.

The SPEAKER. The Chair thought it proper to give the gentleman that intimation, in order that his vote might not appear improperly upon the record. The gentleman from New York will be entitled to the floor by courtesy.

Mr. QUITMAN. I would like to know the extent of the Chair's decision. Does the Chair decide that the gentleman who introduced a bill is entitled to the floor to move to reconsider, though some other gentlemen may take the floor before him?

The SPEAKER. The Chair does not carry the decision to the extent the gentleman has supposed. If the gentleman rises first and obtains the floor, he is clearly entitled to it under the rules of the House. Where two or more gentlemen rise about the same time, the usage is to give the floor to the gentleman who has the custody of the particular matter. If he does not rise to seek the floor, the floor will be given to any other gentleman.

The result was then announced as above recorded.

Mr. KELLY moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. Before that motion is put, however, I state to the House that I wish to make a special order similar to that made yesterday in reference to giving precedence to the Senate amendments to the naval bill. The Committee of Ways and Means have this morning considered the Senate amendments to that bill, and I wish to report those amendments, with the action of the Committee of Ways and Means thereon, and have them referred to the Committee of the Whole on the state of the Union, and make them the special order, so that they may take precedence of the loan bill.

I wish also to suggest to the House that I desire to submit a motion that the Committee of the Whole on the state of the Union shall take a recess to-day from four to six o'clock. The object is that we may have a longer evening session, and to enable the Committee of Ways and

Means to meet at four o'clock to pass upon Senate amendments to the Army bill. By doing that, the committee will be able to report at six o'clock upon the Army bill, in which case the Army bill and the Navy bill can both be considered to-day.

Mr. MARSHALL, of Kentucky. I desire to make a suggestion to the gentleman from Pennsylvania. If the Committee of Ways and Means desire to retire between four and six o'clock, for the purpose of considering the amendments to the Army bill, their object may be accomplished by getting leave of the House to sit during the session of the House—

Mr. J. GLANCY JONES. That consent has already been given.

Mr. MARSHALL, of Kentucky. And the balance of the committee can transact some business not connected with the Army bill while you are considering those amendments.

Mr. J. GLANCY JONES. I did not put that as the only ground of my motion. My object is to get the appropriation bills through with all convenient expedition.

Mr. SAVAGE. I rise to a point of order. I wish to know whether the question is debatable. If the gentleman wants to make a motion I am willing to hear it, but I am not willing to hear a statement. I object to all debate.

ADJOURNMENT OF CONGRESS.

Mr. HARRIS, of Illinois. I ask the gentleman from Pennsylvania to give way that the Senate resolution for extending the session, may be taken up and considered, so that we may know precisely what we are about.

Mr. J. GLANCY JONES. I wish to put the Army and Navy bills through to-day.

Mr. HARRIS, of Illinois. If the gentleman will not give way for that purpose, I will insist upon calling up a question of privilege, and the gentleman can take the responsibility.

Mr. J. GLANCY JONES. I take the responsibility of moving that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HARRIS, of Illinois. Before that motion be put, I rise to call up a question of privilege relating to the organization of the House. I claim the right to present it as a question of privilege.

The SPEAKER. The Chair thinks that the motion to suspend the rules must be disposed of, even before a privileged question.

Mr. HARRIS, of Illinois. I shall not appeal from the decision of the Chair, but according to my understanding the gentleman's motion is a privileged motion, but not a question of privilege.

The SPEAKER. It is a privileged motion, which must be disposed of.

Mr. J. GLANCY JONES. Will the gentleman from Illinois tell me the object he has in view?

Mr. HARRIS, of Illinois. My first object is to determine whether the House will abide by its decision, and adjourn to-morrow, or whether it will concur in the Senate amendment to adjourn next Monday. In the event of the House not passing from the position it now occupies, then I propose to call up the question of privilege relating to the Maryland contested-election case.

Mr. J. GLANCY JONES. Do I understand that if the House agree to extend the session then he will call up this election case?

Mr. HARRIS, of Illinois. No, sir; directly the reverse. I am willing, then, that the gentleman may proceed with his business.

Mr. J. GLANCY JONES. I only wish to see whether we cannot get through this business to-day.

Mr. HARRIS, of Illinois. I am anxious that this Maryland election case shall be disposed of this session. If the session is to terminate to-morrow, I will call it up to-day; but if the session is to be extended, I will not.

Mr. J. GLANCY JONES. Then I yield the floor, with the understanding that I do not lose it.

Mr. SAVAGE. I object to all conditions.

The SPEAKER. The gentleman from Pennsylvania must take his chance to get the floor.

Mr. HARRIS, of Illinois. I now call up the Senate resolution.

The resolution was read, as follows:

IN SENATE OF THE UNITED STATES, June 8, 1858.

Resolved, (the House of Representatives concurring,) That the resolution directing the President of the Senate and the Speaker of the House of Representatives to declare

their respective bodies adjourned *sine die* on Thursday, the 10th of June, at twelve o'clock, m., be, and the same is hereby rescinded; and that the President of the Senate and the Speaker of the House of Representatives declare their respective Houses adjourned *sine die* on Monday, the 14th of June, at twelve o'clock, m.

Mr. MAYNARD. How does that resolution come before the House?

The SPEAKER. The gentleman from Illinois asks unanimous consent to take it from the Speaker's table.

Mr. MAYNARD. I object to it.

Mr. HARRIS, of Illinois. I move to suspend the rules.

The question was taken; and there were, on a division—ayes 128, noes 40.

So (two thirds voting in favor thereof) the rules were suspended, and the resolution was taken from the Speaker's table.

Mr. HARRIS, of Illinois. I move the previous question on the passage of the resolution.

Mr. MILLSON. I hope the gentleman will withdraw his call for the previous question until I can make a single suggestion to him.

Mr. HARRIS, of Illinois. I will hear the suggestion of the gentleman from Virginia.

Mr. MILLSON. The Senate propose to extend the time of the session till the 14th.

Mr. EDIE. I object to debate, unless the previous question is withdrawn.

Mr. HARRIS, of Illinois. I withdrew it only to listen to the suggestion of the gentleman from Virginia.

The SPEAKER. That is objected to.

Mr. HARRIS, of Illinois. Then I renew the call for the previous question.

Mr. MILLSON. I hope the House will vote down the previous question, and amend the resolution. We are in a peculiar position to know when we ought to adjourn, and the Senate is not in that position.

The previous question was seconded, and the main question ordered.

Mr. SAVAGE called for the yeas and nays on the passage of the resolution; and for tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

The question was taken; and on division there were—ayes 125, noes 35.

So the resolution was agreed to.

Mr. HARRIS, of Illinois, moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. DICKINS, their Secretary, informing the House that the Senate had passed, without amendment, a bill of the House (No. 647) to change the time of holding the spring term of the district court of the United States for the western district of the State of Texas.

Also, that the Senate had passed the bill of the House (No. 243) making appropriations for the service of the Army, for the year ending June 30, 1859, with amendments, in which he was directed to ask the concurrence of the House.

Also, that the Senate insist on their amendments, disagreed to by the House, to the bill of the House (No. 200) making appropriations for certain civil expenses of the Government for the year ending June 30, 1859, disagree to the amendments of the House to other amendments of the Senate, ask a conference upon the said disagreeing votes, and have appointed Mr. HUNTER, Mr. FESSENDEN, and Mr. BIGLER, as managers at the said conference on the part of the Senate.

Also, that the Senate have adopted a resolution directing the return of the following enrolled bills, and requesting that the Speaker of this House may be authorized to cancel his signature upon the same, and that the engrossed bills of the same titles may be returned to the Senate, to enable them to correct their report thereon to the House of Representatives:

An act (H. R. No. 267) for the relief of Timothy O'Keefe; and

An act (H. R. No. 356) for the relief of Roswell Minard, father of Theodore Minard, deceased.

ARMY AND NAVY APPROPRIATION BILLS.

Mr. J. GLANCY JONES. I ask the unanimous

consent of the House to refer the Senate amendments to the Army bill to the Committee of Ways and Means, and have them ordered to be printed.

No objection being made, the report was received, and the Senate amendments ordered to be printed.

Mr. J. GLANCY JONES. I also move that the House insist on its disagreeing vote on the miscellaneous bill, and agree to a committee of conference.

Mr. CLEMENS. I object to a committee of conference. I think the Senate have usurped legislative power enough this session.

ENROLLED BILL.

Mr. PIKE, from the Committee on Enrolled Bills, reported as truly enrolled an act (S. No. 127) to repeal the fifth section of an act entitled "An act to authorize the register or enrollment, and license to be issued in the name of the president or secretary of any incorporated company owning a steamboat or vessel," approved March 3, 1825.

IMPEACHMENT OF JUDGE WATROUS.

Mr. HOUSTON. I ask the House to receive the memorial of Judge Watrous, presented this morning; that it be printed, and that the whole case be postponed till twelve o'clock on Friday.

Mr. STANTON. I object.

CIVIL APPROPRIATION BILL.

Mr. J. GLANCY JONES. I ask the unanimous consent of the House to take up the message from the Senate relative to its disagreeing votes on bill No. 200, with a view that I may move that the House insist on its disagreeing votes to the amendments of the Senate, and that a committee of conference be granted.

Mr. CLEMENS. I object.

Mr. J. GLANCY JONES. I move to suspend the rules.

The motion was agreed to, and the rules were suspended.

Mr. J. GLANCY JONES. I now move that the House insist on its disagreeing vote to the civil appropriation bill, and consent to the request of the Senate to grant a committee of conference.

The motion was agreed to; and Messrs. PHELPS of Missouri, HOWARD, and PHILLIPS, were appointed managers of the said committee of conference on the part of the House.

RESOLUTION FOR RECESS.

Mr. J. GLANCY JONES. I now offer the following resolution:

Resolved, That the House (or the Committee of the Whole, if the House shall be in committee at the time) will this day take a recess from four, p. m., to six, p. m.

Mr. MARSHALL, of Kentucky. I should like to know what time will be saved by taking a recess from four to six p. m. We had better sit till seven, and then adjourn.

Mr. J. GLANCY JONES. It will save us four hours at least.

Mr. LETCHER. The members of the Committee of Ways and Means are kept here the whole day, while other gentlemen retire, take their dinner, smoke their cigars, and then return.

Mr. MARSHALL, of Kentucky. I would say to the gentleman that I have not done so. I have been here every day.

Mr. LETCHER. I speak of the members generally.

Mr. SAVAGE. I object to the resolution.

Mr. J. GLANCY JONES. I move to suspend the rules.

The question was taken; and there were—ayes 135, noes 21.

So (two thirds voting in favor thereof) the rules were suspended.

Mr. J. GLANCY JONES moved the previous question on the adoption of the resolution.

The previous question was seconded, and the main question ordered; and under its operation the resolution was adopted.

Mr. J. GLANCY JONES moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

NAVAL APPROPRIATION BILL.

Mr. J. GLANCY JONES. I ask the unani-

mous consent of the House to allow me to report from the Committee on Ways and Means on the Senate amendments to the naval appropriation bill, and to have them referred to the Committee of the Whole on the state of the Union, and ordered to be printed. I also move that they be made the special order in the Committee of the Whole on the state of the Union, till they are disposed of, and that general debate upon them shall close in ten minutes after their consideration is taken up.

Mr. SAVAGE. Is there any necessity for making this a special order? Has it not a precedence over other bills, without the order of the House?

The SPEAKER. As the Chair understands the condition of business in the Committee of the Whole on the state of the Union, the loan bill has precedence over it.

IMPEACHMENT OF JUDGE WATROUS.

Mr. READY. I desire to make a motion to dispose of the case against Judge Watrous for the present session. The case was set down for consideration for this day. I am satisfied that at this late period of the session it is impossible to give the case that deliberate and thorough investigation which its importance demands, so that the House may be able to do justice to the public, and to the individual especially interested.

Mr. WASHBURN, of Illinois. What is the question before the House?

The SPEAKER. The motion to suspend the rules, and go into the Committee of the Whole on the state of the Union.

Mr. WASHBURN, of Illinois. I call for the regular order of business.

The motion of Mr. J. GLANCY JONES was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union (Mr. STEPHENS, of Georgia, in the chair,) and proceeded to the consideration of the special order, being the amendments of the Senate to the

NAVAL APPROPRIATION BILL.

The report of the Committee of Ways and Means was read.

Mr. BOCK. I observe, from the report which has just been read, that a particular amendment to this bill, made by the Senate, has not been approved by the Committee of Ways and Means. I wish, in the ten minutes allowed me, to ask the House to disagree with the Committee of Ways and Means in their recommendation, and to concur in that amendment of the Senate, with an amendment which I propose to offer. The committee will perhaps anticipate at once that the amendment to which I allude is that which authorizes the construction of six small sloops-of-war. A few days ago, when this bill was first before the committee, a few minutes were allowed me to make some remarks in relation to this subject. I had only twenty minutes then, and could not go at length into it; and I have only ten minutes now, and I shall, therefore, be far less able to do full justice to it now than I was then. Still, I wish to suggest some considerations to the committee, which, in my opinion, ought to induce them to adopt my proposition.

I stated to the House before, that the Secretary of the Navy, in his annual report, recommended the construction of ten small sloops-of-war. I gave an outline of the arguments in favor of the construction of these vessels. In consequence of the improvements which have been made in the mode of propelling vessels and in the construction of guns, small steamers have thus been rendered comparatively far more efficient than they formerly were. The steamers provided for in the amendment of the Senate, and the number of which I propose to increase to ten, would carry about ten of the largest of Dahlgren's guns. As I stated to the committee on a former occasion, these small vessels may send as large a ball, and send it as far, and send it with as much force, as the larger vessels; and then even one of the large balls or shells from one of these small vessels, striking a vessel of the largest class, might either sink or disable it. The small vessel has the advantage of the larger one, in exposing a smaller mark to the aim of the antagonist.

The next proposition that I submitted on the

former occasion, and to which I desire to recall the attention of the committee, was that these vessels are advisable in an economical point of view. What does it cost now to keep in commission one of your large steam frigates? Over two hundred and fifty thousand dollars a year; and those frigates carry forty guns. Now, according to the data furnished by the Navy Department, one of these small sloops, carrying ten or twelve guns, could be kept in commission for from forty-five to fifty thousand dollars a year. I ask if three of these vessels, carrying ten guns each, or thirty guns in all, would not be far more efficient than one large steam frigate? If they would, then the three small vessels would cost only \$150,000 a year, while one large frigate would cost \$250,000 a year.

The Secretary of the Navy has suggested that one of these vessels might be advantageously employed in every squadron. I think so too; and by thus employing them, one large vessel might be dispensed with in every squadron, and therefore economy would be promoted. I shall not elaborate that idea. We have six squadrons, and if one of these vessels is to be employed in each squadron, we must have, in the first place, six for the different squadrons; then one will be required for China, and one for special service on the coast of Washington Territory—making eight in all; and we ought to have at least two or three on hand to take the place of those which may become inefficient or damaged. I say, therefore, that if we go into the matter at all, we ought to have at least ten of these small sloops-of-war.

I referred before, and have barely time to refer again, to the fact that the vessels which we now have in use draw so much water that they can enter few, if any, of our ports south of Norfolk.

The exports from New Orleans alone amount to about one hundred million dollars a year. This portion of our commerce is comparatively unprotected by our Navy. We wish vessels which can enter these ports. But I cannot elaborate, for want of time.

I shall propose, at the proper time, to increase the number of these vessels by striking out "five" and inserting "ten," and I hope that my friends will sustain me in it. I take the liberty to say that I shall not alter the amount that the Senate has placed in this bill to be appropriated for this purpose. Why? Because, I believe that these vessels, which the Secretary of the Navy estimates, can be built for \$2,300,000. If the whole ten can be built for \$2,300,000, \$1,200,000 is sufficient for this year. I believe that these vessels can be built for a much smaller sum, and I will briefly state my reasons for so believing. This estimate of the Secretary of the Navy was made some time ago. Since then prices have diminished. The estimate was made when there was no pressure in the money market, and when business had not felt the embarrassment to which it has been since subjected. I have a case in point to show that the suggestions I make are not theoretical, and intended for this case only. The Secretary of the Treasury has recently caused to be constructed a fine steamer for the revenue service of something like seven hundred tons, and drawing six and a half feet of water. It is very nearly as large as the sloops I propose to have constructed. That vessel was built and launched for \$150,000. It is a most efficient one. Then, I say, if a vessel of seven or eight hundred tons, and drawing six and a half feet of water, can be built for \$150,000, such a vessel as I propose, drawing a few feet more, will not cost more than \$200,000. The Secretary of the Navy estimates that they will cost \$230,000. At \$200,000 they would cost \$2,000,000; and \$1,200,000 is sufficient to appropriate at present.

[Here the hammer fell.]

Mr. BOCK. The gentleman from Pennsylvania has an hour, and I ask him to permit me to have a portion of his time.

Mr. J. GLANCY JONES. I propose to occupy my hour with an explanation of the amendments. I will yield to the gentleman ten or fifteen minutes.

Mr. MORGAN. I object to farming out the floor.

Mr. BOCK. My friend from Pennsylvania would yield to the gentleman ten or fifteen minutes of his time, if he wanted it.

Mr. MORGAN. I insist on my objection.

ENROLLED BILL.

The committee informally rose, and the Speaker resumed the chair.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 647) to change the time of holding the spring term of the district court of the United States for the western district of the State of Texas; when the Speaker signed the same.

ROSWELL MINARD.

The SPEAKER laid before the House the following message from the Senate:

IN SENATE OF THE UNITED STATES, June 9, 1858.

Whereas, it appears by the Journal of the Senate that House bill (No. 356) for the relief of Roswell Minard, father of Theodore Minard, deceased, passed the Senate on the 4th day of June instant with an amendment; and whereas, said bill was by mistake erroneously reported to the House on the same day, as having passed the Senate without amendment, and has been enrolled and signed by the Presiding Officers of both Houses of Congress, and the said enrollment is void, the same never having been passed by both Houses of Congress: Therefore,

Resolved, That the President of the Senate be, and hereby is, authorized to cancel his signature upon said enrolled bill, and that the same be returned to the House; and that the House of Representatives be respectfully requested to authorize the Speaker of the House of Representatives to cancel his signature upon said enrolled bill, and return to the Senate the engrossed bill, to enable the Senate to correct its report to the House of Representatives.

Attest: ASBURY DICKINS, Secretary.

Mr. RUSSELL. What is the amendment of the Senate?

The SPEAKER. The Senate moved to strike out the second section. If the request of the Senate be agreed to, the question will come before the House when the bill is returned from the Senate with the amendment. If there be no objection, the order will be made in accordance with the message from the Senate, and the signature of the Speaker will be canceled.

There was no objection, and it was ordered accordingly.

T. L. O'KEEFFEE.

The SPEAKER laid before the House the following message from the Senate:

IN SENATE OF THE UNITED STATES, June 9, 1858.

Whereas, it appears by the Journal of the Senate that House bill (No. 267) for the relief of Timothy L. O'Keeffe, was indefinitely postponed by the Senate on the 4th day of June instant; and whereas, said bill was by mistake erroneously reported to the House as having passed the Senate, and has been enrolled and signed by the Presiding Officers of both Houses of Congress, and the said enrollment of said bill is void, the same never having been passed by both Houses of Congress: Therefore,

Resolved, That the President of the Senate be, and hereby is, authorized to cancel his signature upon said enrolled bill, and that the same be returned to the House of Representatives; and that the House of Representatives be respectfully requested to authorize the Speaker of the House of Representatives to cancel his signature upon said enrolled bill, and to return to the Senate the engrossed bill, to enable the Senate to correct its report to the House of Representatives.

Attest: ASBURY DICKINS, Secretary.

The SPEAKER. The order in this respect will be complied with, by the permission of the House, and the Chair will cancel his signature, and return the engrossed bill.

The committee then resumed its session.

NAVAL APPROPRIATION BILL—AGAIN.

Mr. J. GLANCY JONES. The naval appropriation bill has been returned to the House from the Senate with fourteen amendments. Some of them are regarded by the Committee of Ways and Means as good amendments, and a number of them as of rather doubtful propriety. Some of them, besides, are of such a character that the Committee of Ways and Means cannot know what they are intended to mean; and if they were adopted, the Treasury Department would find it difficult to give them a construction. The Committee of Ways and Means recommend a concurrence in seven out of fourteen of the amendments. I propose to occupy only such portion of my hour as may be necessary to explain the character of these amendments.

Mr. UNDERWOOD. I would suggest to the gentleman from Pennsylvania that in all probability we would expedite business if we took the course to-day that was pursued yesterday—that is, to allow the amendments to be read, and to give a short debate and consideration to each.

Mr. J. GLANCY JONES. I do not desire to occupy my hour now. I prefer, for the expedition of business, to parcel it out in explaining

the amendments as they arise. If I have the unanimous consent of the committee, I will have the amendments read, and make short explanations of them. [Cries of "Agreed!"]

The reading of the amendments of the Senate was then commenced.

First amendment:

That, hereafter, medical officers and engineers of the Navy shall be entitled to the pay of their several grades from the date of their appointments or commissions therein, respectively.

Mr. J. GLANCY JONES. The total amount appropriated by the amendments made by the Senate we figure up at \$1,202,750. That refers to the whole fourteen amendments, but it is proper to say that \$500,000 of this is for the five sloops-of-war. In seven of these amendments the Committee of Ways and Means recommend concurrence.

As to the amendment just reported, the Committee of Ways and Means have not been able to ascertain its precise meaning, unless it be intended to antedate the pay of these officers; and the supposition is that the Treasury Department has refused to allow them their pay from the date of their commission. The proposition now is, that their pay shall take effect from the date of their commission, instead of from the time at which it is now fixed to take effect. For this reason the Committee of Ways and Means recommend a non-concurrence in this amendment. It may be a meritorious one, but we do not know its meaning.

Mr. BOCK. I ask the attention of the committee to the explanation which I shall make in reply to the remarks of the gentleman; and I think the committee will deem the amendment a just and proper one. We have had before the Committee on Naval Affairs many individual applications, which came under this class, and we have reported favorably on each one of them. The case which this amendment is intended to apply to is this: we have in the Navy assistant surgeons, passed assistant surgeons, and surgeons. An assistant surgeon must be in the Navy a certain length of time before he can apply to be examined in order to become a passed assistant surgeon. When he becomes a passed assistant surgeon, he is entitled to higher pay. It is the same case with regard to the engineers. There are three classes of engineers under the chief engineer. There are the first assistant engineers, the second assistant engineers, and the third assistant engineers. A man is required to serve a certain number of years in each grade before he is examined to pass to a higher grade. I believe an assistant surgeon must serve three years before he can become a passed assistant surgeon. Suppose that, just before the expiration of these three years, an assistant surgeon or engineer is ordered off to Africa, or to the Mediterranean, or to some other foreign station: then he cannot present himself before the board and undergo an examination. He remains abroad some length of time, returns to this country, and, as soon as he is able, presents himself before the board, passes his examination, and is promoted to a higher grade. It is the practice now, sustained by law, to date back the commission to the time when he was entitled to be examined if he had been allowed to remain in the country. This provision of law is intended to make the pay commence from the time of the commission; and I say he is justly entitled to it. If he is ordered off, that is the act of the Government. He cannot disobey it. He is in the public service. Another man, not in the service, but who is staying in Washington, or in Philadelphia, or New York, goes before the board, is examined, passes, and gets higher pay than this man, who is sent off by command of the Government, and who cannot undergo his examination on that account. Is this just? Ought not the pay to go back and to commence with the new commission? If he is entitled to the commission, ought he not to be entitled to the pay which accompanies that commission?

Mr. STANTON. I move to amend, by striking out the ninth and tenth lines.

Mr. Chairman, the committee had as well settle now the question as to whether they will recognize independent foreign legislation in appropriation bills or not. This question about the pay of medical officers and engineers is a matter of general legislation. It is an amendment which,

under the rules of the House, the chairman of the Committee on Naval Affairs could not have offered in Committee of the Whole. Now, either the House should change its rules, so as to enable it to go into general legislation on appropriation bills, and originate propositions of this sort, or else it should reject all such propositions coming from the Senate. This inequality ought not to be submitted to. With the brief sessions of Congress that are now held, and the brief time allowed for the passage of general laws, all the important business of the country will be thrown into the appropriation bills, if the House will recognize it as proper for the Senate to indulge in it.

How stands this case? Here is a proposition to change the pay of the medical officers and engineers of the Navy. It has been to no standing committee of the House. No standing committee has inquired into the necessity of it, or reported upon it. We have no information from the Departments in reference to the necessity of it. And so it is with all the general legislation that we have to act upon, in the shape of amendments of the Senate to appropriation bills.

The CHAIRMAN. The Chair would state to the gentleman from Ohio that he must confine his remarks to his amendment. The tenor of his speech is in conformity with the recommendation of the Committee of Ways and Means.

Mr. J. GLANCY JONES. I hope the gentleman will have the unanimous consent of the committee to proceed, for I fully concur in his remarks.

Mr. STANTON. I have about said all that I desire to say. I find that there are half a dozen amendments of the same sort, proposing general legislation on a variety of subjects. It seems to me that if the House intends to maintain its own position, its own dignity, and its own privileges, it ought to disagree to these amendments and adhere to its position to the bitter end.

Mr. SMITH, of Virginia. I am surprised at the remarks of the gentleman from Ohio. I am surprised that he should advocate that doctrine now, when, only yesterday, he palpably disregarded it. Sir, the gentleman yesterday sanctioned and approved, by his vote, the publication of a large job for which there was no authority of law; and what is more, sir, he deliberately advocated a proposition to give that job to particular individuals.

Mr. CURTIS. I rise to a question of order. I submit that it is not in order to discuss to-day a proposition which was decided yesterday.

Mr. SMITH, of Virginia. Of course not, sir; of course not.

The CHAIRMAN. The Chair would state that the remarks of the gentleman from Virginia are not strictly in order; but as the gentleman from Ohio made a speech which was not in order, and as these remarks are in reply to that speech, the Chair will entertain them for this time only.

Mr. SMITH, of Virginia. The gentleman from Iowa [Mr. CURTIS] undoubtedly takes the ground that he might, perhaps, be willing to maintain; because what he might support one day, it would not perhaps be agreeable to support another. And that is precisely the case with the gentleman from Ohio. It was very convenient for him to give to particular individuals a fat job, "not to exceed \$350,000," yesterday, but to-day it is very improper to fix the salaries or the allowances that these officers are to receive. You may give large sums out of the Treasury for the purpose of redeeming from insolvency particular individuals, but you cannot treat those in a liberal spirit who are engaged in the service of the country. That is about the whole of it.

The Senate amendment was non-concurred in.

Second and third amendments:

In line one hundred and twenty-two, insert the words "and the new purchase," and in lines one hundred and twenty-five and one hundred and twenty-six, strike out "§ 269, § 16," and insert in lieu thereof "§ 320, § 16," so that the paragraph will read:

For boiler-house and setting boilers, water-pipes, drains, quay-wall, sewer extended to quay-wall, boiler to dredger, timber-basin, repairs of oakum-shop, filling ponds in yard and the new purchase, dredging channel and scows, piling site for marine barracks, machinery for machine-shop, boiler shop, saw-mill, foundry, smithery, and brass foundry, and repairs of all kinds, § 320, § 16; and the amount heretofore appropriated for coal-house may be applied to the completion of the store-house.

Mr. J. GLANCY JONES. These amendments are to provide for filling up what is called

the new purchase at the Brooklyn navy-yard. The item was included in the estimates of the Secretary of the Navy. It was omitted by the Committee of Ways and Means, because of information which afterwards turned out to be erroneous; but it was subsequently offered here and voted down by the House. The amendments appropriate \$50,000 for filling up that ground, and it seems to be needed. The Committee of Ways and Means recommend a concurrence in these amendments.

Mr. SHERMAN, of Ohio. I am opposed to these amendments upon this ground: the House has once, by a deliberate vote by yeas and nays, rejected the proposition to fill up this new purchase. And then, I suppose, it was carried to the Senate, and put into the bill in order to give us another chance to reconsider our position.

Now, it seems to me that when the Treasury is bankrupt, it is a bad time to appropriate \$50,000 to fill up ground, which, in the opinion of many gentlemen acquainted with the Brooklyn navy-yard, is totally unnecessary. I believe, myself, that it will add nothing at all to the usefulness of the navy-yard. The business there has been carried on successfully for many years without this purchase. The purchase itself was one of doubtful propriety, and the filling up of it is totally unnecessary according to the information I have upon the subject. But it is sufficient for me to know that the House has once deliberately rejected the proposition by a vote on the yeas and nays, and I think it ought not to have been sent here again by the Senate.

Mr. TAYLOR, of New York. I move to increase the appropriation one dollar. It is true that this proposition was rejected by the House, but I think it was rejected under a misapprehension of the facts. I can assure the committee that this appropriation is necessary to protect what has already been done in preparing the ground for the marine barracks, and the work of filling up can be done now for one half what it will cost next year if it should be postponed.

Since this matter was up last week, another important consideration has presented itself to me. I have received letters from Brooklyn, stating that the health officers will report this land as a nuisance unless the Government does something to relieve the neighborhood, as the miasma arising from it already affects the health of the neighborhood. I hope, therefore, on the ground not only of necessity and economy, but of humanity, that gentlemen upon the opposite side of the House will not persist in their opposition to the amendment. I now withdraw my amendment.

Mr. GROW. I move to strike out "three" and insert "two." I desire only to say, that while the Government is retrenching its expenditures everywhere it can be done, and refusing to complete public buildings, for which only two or three thousand dollars are required, it seems to me that this is one of those expenditures which can be curtailed without injury to the public service.

There is another reason why I am opposed to this amendment. The House has once rejected this proposition by yeas and nays, and I would vote against any amendment sent here by the Senate after the House had once deliberately rejected it. I think it is due to ourselves that we should do so. They load down our appropriation bills by their amendments, to an amount equal to if not exceeding the amount sent to them from this House. In fact, almost every amendment that is voted down here is sent back to us to be acted upon again. They put provisions in the appropriation bills which cannot be entertained as amendments to the appropriation bills in this House. I would not tolerate the Senate in throwing back in our faces for us to vote on again, measures which we had already once rejected. I withdraw my amendment.

The CHAIRMAN. If it be the pleasure of the committee, the question will be taken on the two amendments together.

There was no objection.

Mr. TAYLOR, of New York, demanded tellers. Tellers were ordered, and Messrs. JEWETT, and TAYLOR of New York, were appointed.

The committee divided; and Mr. TAYLOR of New York, reported—ayes 65, noes 62.

Mr. JEWETT, one of the tellers, demanded a recount.

The committee was again divided; and the tellers reported—ayes 35, noes 85.

So the amendment was non-concurred in.

Fourth amendment:

Insert:

To enable the Secretary of the Navy to purchase tools and furnish the machine-shop and foundry at the Norfolk navy-yard, § 20,000.

Mr. J. GLANCY JONES. Mr. Chairman, this seems to be a proper amendment, and the Committee of Ways and Means recommend a concurrence in it; and for this reason: it is to furnish tools for a machine-shop, finished since Congress has been in session. We authorized the building of a machine-shop at the Norfolk navy-yard, and it has only been completed since the original bill was reported to the House. It is to furnish that shop, which is now wanted to be used in the construction of one of the sloops-of-war. Unless these tools are furnished, that work cannot go on. I ask that the letter of the Secretary of the Navy be read.

The Clerk read, as follows:

NAVY DEPARTMENT, May 27, 1858.

Sir: To enable the Department to fit the machine-shop and foundry at the Norfolk navy-yard to construct the engines, boilers, &c., for the new steam-sloop building there, an addition to the estimates submitted, of \$20,000 for the next fiscal year, will be necessary. I have to request and urge, therefore, that that sum may be added to the estimates for that year for that purpose.

I am, very respectfully, &c., ISAAC TOUCEY.

Hon. S. R. MALLORY, Chairman Committee on Naval Affairs, United States Senate.

Mr. DAVIDSON. I hope that the Committee of the Whole House will not agree to that amendment, and for this reason: when Congress determined to build a mint at New Orleans, the city council came forward and donated for that purpose a square of land worth \$500,000. When the Government agreed to build a custom-house at New Orleans, the city council donated for that purpose a square of ground worth \$1,000,000. Now, we are told that there is money enough in the Treasury to appropriate \$750,000 for carrying on this Capitol, but that there is not enough to appropriate \$350,000 to carry on that custom-house. They refuse to carry out the contract to be made by the Government with the city when they donated that square of ground. Under those circumstances, there being no money for the purpose of carrying out the legitimate objects of the Government, it seems to me it is bad faith to pass an appropriation to pay this expense. If one stops, they all ought to stop.

Mr. J. GLANCY JONES. I only wish the remark of my distinguished friend from Louisiana might be heard in New Orleans.

Mr. DAVIDSON. I will make it heard.

Mr. J. GLANCY JONES. This building is already finished, and paid for by the Government, and they now want tools to make it useful.

Mr. WASHBURNE, of Illinois. I ask the gentleman from Pennsylvania if he did not yesterday vote against furnishing hospitals and custom-houses?

Mr. J. GLANCY JONES. I did.

Mr. WASHBURNE, of Illinois. Yes, sir.

Mr. MILLSON. I move to increase the sum \$1,000. Really, Mr. Chairman, I do not know whether or not to receive in earnest the objections of the gentleman from Louisiana, and the interjectional suggestion of the gentleman from Illinois, in reference to the votes of this House upon appropriations for the New Orleans custom-house and for western marine hospitals. If they wish to establish it as a proper principle of legislation that an appropriation necessary in itself should be refused, because of what may be deemed an improper course of the House upon other appropriations, I beg leave to make my protest against it; and I say, for myself, I never will be governed by any such principle, as I never have been. I say, and I say it proudly, I never voted in my life against any measure because its friends or supporters may have opposed what I felt an interest in. And I say now, if there is any gentleman in this House who will vote twenty times against bills that I may favor, I would not the less willingly vote for a proposition which he might offer, if I believed it proper in itself. I am surprised that gentlemen should invite Congress to adopt so unworthy a principle of legislation.

And now, one word only as to the amendment of the Senate. A foundry and machine-shop has

been building at the Norfolk navy-yard for the last two or three years. It has involved great expense, having cost a hundred thousand dollars or more. It has been completed within the last two or three months. It now only remains to fit up that building with the necessary implements and machinery, in order to make it useful. The Secretary of the Navy has directed one of the new steam-sloops and the engine and boilers to be constructed at that yard; and he now asks Congress to give him \$20,000 for the purpose of purchasing the necessary machinery for doing the work; and gentlemen object upon the ground that the House refused to make appropriations for custom-houses here and marine hospitals there.

Mr. UNDERWOOD. It occurs to me that the same proposition has been before the House before, and that it has been placed upon a previous bill.

Mr. MILLSON. No, sir.

Mr. DAVIDSON. I desire to correct the gentleman. I do not suppose that he intends to do me injustice. My remarks do not justify the impression that I would vote against this amendment because gentlemen had voted against my proposition in reference to the New Orleans custom-house. I say that the argument is a good one, that if there is no money to complete the custom-house, at New Orleans, where the ground was given to the Government, certainly we should not appropriate money for machinery.

Mr. WASHBURN, of Illinois. The committee will readily see the bearing of that amendment, and I wish to call the attention of the committee to the action of the Committee of Ways and Means, which, I understand, has recommended this amendment, as contrasted with the action of that committee to the amendments in regard to the custom-houses and marine hospitals, upon which we passed yesterday. I have no complaints to make of the gentleman from Virginia, [Mr. MILLSON,] in reference to his votes here, for I say frankly that I think no gentleman is governed in his action by a higher sense of duty, than that gentleman. But I wish to present this matter to the committee as it is. Yesterday, we voted in the House against making appropriations to complete these custom-houses and marine hospitals, and furnishing them, in order to fit them for the use of the Government.

The CHAIRMAN. The Chair would intimate to the gentleman from Illinois that the subject of the discussion yesterday is not open upon this amendment; and it is the wish of the Chair to confine this discussion strictly in order. The pending amendment is to increase the amount \$1,000.

Mr. WASHBURN, of Illinois. Well, sir, I take the ground that we should not increase the amount \$1,000, and that we should not increase it at all; because, as the gentleman from Louisiana well said, if you have not money enough in the Treasury to complete custom-houses and marine hospitals, and to furnish them, you certainly have not money enough to carry out this amendment. How does the question present itself to us in all these amendments?

The proposition now under consideration, I should be in favor of upon general principles—upon the same principles that have governed me in all my votes upon these questions. In Norfolk there is a foundry built, and the Secretary wants a small amount of money to furnish it with tools in order to make it useful to the Government. That is fair, reasonable, and proper, in regard to this foundry; but I want the same in regard to custom-houses, and marine hospitals, which are finished or nearly finished, and want furnishing. You have custom-houses all over the country, each of which requires a small amount of money to complete it entirely, but when the question comes before the House, we, here, in our capacity as Representatives, setting up for statesmen, deliberately say that we will not vote money to finish these buildings which have been undertaken, and for which we have made contracts. Though these buildings require but small amounts in each case to finish them in order to enable them to be used, and thus save large sums in rents; though contracts are to be violated, and the Government held to large damages; though the buildings will receive more damage by remaining in an unfinished state, than the whole amount proposed to be appropriated, yet this House has deliberately said

it will not appropriate one dollar to complete them. Sir, I am opposed to this policy.

[Here the hammer fell.]

Mr. MILLSON. I will withdraw my amendment, and for the purpose of making another remark, I move to amend by increasing the sum \$2,000.

The CHAIRMAN. The Chair would state to the gentleman from Virginia, that the question in relation to the custom-houses is not before the committee now, and it is the intention of the Chair to confine the debate strictly to the subject before the committee.

Mr. MILLSON. I will remain within the rules of order as I think I understand them. Is it not perfectly apparent that the principles on which this amendment is opposed, are such as I have characterized already? Have gentlemen yet urged one solitary objection to the appropriation of the money asked for by the Government? I ask my friend from Illinois himself, if he can deliberately suppose that he will stand justified to his own conscience in opposing a necessary expenditure for such reasons as those he has alleged. Now, Mr. Chairman, this appropriation is not one in which I alone should feel an interest. It probably will not be expended among my constituents, or in my district, for I take it for granted that this machinery will be purchased somewhere at the North, or it may be at the Northwest.

Mr. LOVEJOY. I raise the question of order that the gentleman must confine his remarks to the question. We traveled all over the subject of custom-houses yesterday, and if we have got to go over it again to-day, I want to be heard, as I voted against these custom-houses.

Mr. MILLSON. I am not discussing the question of custom-houses.

Mr. LOVEJOY. The gentleman is not confining his remarks to the question before the committee.

Mr. MILLSON. I rose for the purpose of replying to the inquiry of the gentleman from Kentucky as to whether this proposition was not made once before in the Committee of the Whole on the state of the Union? I tell the gentleman it was; but there was no division, and no deliberate judgment of the House upon it; and I admit that the failure of the proposition then submitted by me was perhaps proper, and in accordance with the rules which ought to govern the Committee of the Whole on the state of the Union. I then asked this appropriation on my own responsibility, stating that I did so in the absence of any estimate or demand from the Department; but stating, at the same time, that I was well assured the Department was about to make the demand. The chairman of the Committee of Ways and Means suggested that if the Department wanted to make an application it could be made to the Senate in time; and the House, acting on that suggestion, did not agree to the amendment; but, as I was sure would be done, the Secretary of the Navy did send an estimate to the Senate, and asked for the appropriation as a necessary means of accomplishing the work which he had ordered to be commenced at the Norfolk navy-yard.

[Here the hammer fell.]

Mr. SAVAGE. I do not think, Mr. Chairman, that we ought to concur in any of these amendments, and particularly not in the one now advocated by the gentleman from Virginia. We have already authorized the Government to borrow \$20,000,000, and there is a proposition now pending to borrow \$15,000,000 more. I find, by the report of the Secretary of the Treasury, that there was a balance in the Treasury, on the 30th of June, 1857, of \$46,852,855. That \$46,000,000 is gone; the \$20,000,000 is gone; and the \$15,000,000 more will go, and still we go on making new appropriations, notwithstanding the cry of economy.

Mr. KEITT. What about the old soldiers?

Mr. SAVAGE. I say I will not vote a dollar for these purposes till justice is done to the old soldiers. I find these very same interests that are pressing these extravagant appropriations upon the country treading down the rights of the old soldier. Gentlemen stand up here and ask for \$100,000, and \$500,000, and sometimes \$1,000,000, to be poured into the lap of a great city for the purpose of enriching their constituents; and yet they are the first to trample down the rights of the old soldier. I thank the gentleman for the word.

Another report of the Secretary of the Treasury shows, that but a short time since, the nice little sum of \$688,000 was paid simply for the privilege of paying the debts of the Government, that it might be now borrowing money. And yet these very same individuals or authorities tread down, with the most ruthless and rapid pace, the right of old soldiers which the gentleman from South Carolina has thrown in my teeth. I ask the members from the interior districts with what kind of grace they can go home, and show that by their votes they have cast millions into the laps of great cities, and yet could not get an appropriation of a million and a half per annum for a most meritorious class of men?

[Here the hammer fell.]

The question being on Mr. MILLSON's amendment,

Mr. MILLSON withdrew it.

Mr. CLEMENS. I move to amend by increasing the appropriation to \$22,500. Mr. Chairman, the very argument urged against this amendment by the gentleman from Tennessee and the gentleman from Illinois, [Mr. SAVAGE and Mr. WASHBURN,] ought to commend it to the good favor of this House. I find that each of the gentlemen has had an ax to grind; and because the legislative grindstone could not be accommodated to what was thought proper, each raises himself up here in armed opposition against an appropriation which commends itself to the national heart of the country. Because, forsooth, \$6,500,000 for the benefit of old soldiers who have been in the receipt of the bounty of the Government since the war of 1812, has not been granted at this session, the gentleman from Tennessee erects his porcupine quills; and because, forsooth, an appropriation for the custom-house at Galena, in Illinois, was not made yesterday, the gentleman from Illinois puts out all the claws of a lobster in opposition to the pending project.

Now, what is the fact in relation to it? We find the Navy to be in a disabled condition. We find our ships on the high seas insulted and searched; defiance thrown in the teeth of masters of vessels—merchantsmen belonging not to the North or the South, but representing the national commerce of this majestic Confederacy. When it is proposed to vote a paltry appropriation of twenty-two or twenty-three thousand dollars for the purpose of supplying tools at one of the chief naval depots of the country to repair your vessels of war, gentlemen rise up and exhibit local feeling and oppose a commendable national appropriation because, forsooth, (*hinc illa lacryma*,) they have been disappointed in their local projects. Now, I ask the gentleman from Tennessee, who, I know, is a fair-minded and patriotic man, if he can stand up here and justify himself to his own conscience for acting upon a principle like that? So far as appropriations are concerned, I am disposed to be as narrow-minded as any gentleman in this House, and to scrutinize the details of these appropriation bills as closely and conscientiously as any gentleman here; but when an appropriation, even in the present exhausted condition of the Treasury, comes commended to me by such strong national considerations as does this one, I can waive all matters of economy and all little scruples, and contribute my mite, however small it may be, to maintain the national honor and promote the fame and renown of the country.

[Here the hammer fell.]

Mr. SAVAGE. Mr. Chairman, it is not often that I address the House, and I am sorry that anything I have said to-day has so aroused the gentleman from Virginia. I suppose the reason why the gentleman has raised his porcupine quills, to use his own language, is because this is a Virginia ax, and I have interfered a little with the grinding of it. I will now endeavor to answer the gentleman's English. As to his Latin, I do not know a great deal of it, and so I will let that pass. I am not responsible for the argument which I made in allusion to the old soldiers. It was thrust upon me by a remark of the gentleman from South Carolina, [Mr. KEITT.] But that is not the reason why I have voted against these appropriations, and voted against them steadily, since I have been a member of this House; although I am not one of those who vote against and object to everything. I think a liberal system of appropriations is proper and right; and what they accuse me of in pressing the old

soldiers' bill is, that I wish to empty the Treasury. But, sir, notwithstanding the hard times, and the pressure on the money market, I see no abatement of this eternal outgoing of the public money; and it has been the same ever since I have been here, and the same arguments have been made in favor of these appropriations for the same cities and the same parts of the country. A large portion of the appropriations of this Government have gone for the benefit of the large cities, while the interior of the country has received the benefit of hardly a dollar. Now, it requires no argument to prove that if all the revenue is collected in one part of the country, and expended in another, that portion of the country in which it is collected will grow poor and powerless, while that portion where it is spent will grow rich and mighty. I say, sir, that there is as much of injustice and wrong in the distribution of our revenue as there is in its collection, and I protest against this system by which useless and extraordinary and extravagant appropriations are made for the benefit of the cities, while not a dollar is applied for the benefit of those I represent, and I expect to make this argument and press it upon the House, with, I hope, increasing force, as long as I remain here.

Mr. CLEMENS. I withdraw my amendment.

Mr. DAVIDSON. I move to amend the amendment, by reducing the amount to \$19,000.

Mr. Chairman, I would advise the gentleman from Virginia [Mr. CLEMENS] if he has not read the old fable in the spelling-book, of the farmer and the lawyer, the bull and the ox, to get it and read it. Virginia wants something now, and it is exceedingly national. The national heart is touched, says the gentleman. I would like to ask you, sir, and to ask this House, if there is anything more national in its character than that reverence which we should bear to the soldiers who have covered our country with glory, and have preserved our institutions? That is the ax which my friend from Tennessee [Mr. SAVAGE] is charged with desiring to have ground. But the gentleman says that other members have had appropriations for marine hospitals which have failed, and hence their opposition to this amendment. I ask you, sir, because you have a heart and have intelligence, if there is any single proposition that addresses itself more strongly to the feeling and intelligence of citizens of this great and glorious country, than one for the protection of the sick and disabled seamen of our country. The marine hospital at New Orleans, which has attracted the attention of some gentlemen here, is not for the people of Louisiana; it is for the people of the whole country, of the North, the Northeast, the Northwest, who go there in their vessels to trade; and when they come there and are taken sick, some place must be provided—it is the duty of the nation to provide a place for her children who are poor and diseased, and in the service of the country, where they can be received and cared for. Is not that national? Does not it strike you, sir, as a national object? And is not the custom-house national—the custom-house at the port where the largest exports of the nation are made, and the third, if not the second importing port in the country? The gentleman from Virginia would tell us that the custom-house is not national; but the provision for these tools to be put in a shop down here at Portsmouth, in Virginia, to tinker up the vessels that may be brought there is national. It is national because it is in Virginia, and it cannot be put upon any other ground.

Mr. MILLSON. I regret to find that what I designed as a little good-humored correction of the spirit manifested by the gentleman from Louisiana has not had the desired effect. If the gentleman supposes that there is such a general or universal prejudice against Virginia—

Mr. DAVIDSON. No, sir; allow me to correct you.

Mr. MILLSON. Not just now. If he supposes that there is a general antipathy felt in this House to the people of the State of Virginia, I can tell him, for his satisfaction, that I doubt if there is a man, woman, or child in the State of Virginia who knows of the application of the Government for the expenditure of this trifling sum of money.

Mr. DAVIDSON. My remark was only applicable to the gentleman's colleague.

Mr. MILLSON. I do not believe that there

is a human being in the State of Virginia who has ever heard of the application of the Government for this small sum of money, to be expended in the purchase of necessary machinery in one of its own public establishments; and if the gentleman says that he referred to my colleague from the Wheeling district, I will tell him that perhaps there is not a gentleman from Virginia upon this floor who has less sympathy, I mean locally, with that part of the State I represent, than that colleague; for we come from opposite points, and I presume that there is less connection or communication between these two parts of the State than any other.

Why was this dock-yard established at Norfolk? Was it simply because the people of Virginia desired it? Was it not because your own interests demanded it? Why are your naval ships built there? Why are they sent to sea? Is it for the protection alone of the people of Virginia, and of their commerce? The gentleman ought to know that it is for the common benefit of the whole country that your naval establishments are kept up. Why, then, does the gentleman seek to create the impression that this is an appropriation in which the people of Virginia are alone interested? It is a demand made of the Government for its own purposes. You—the people of the United States—own a large amount of property at that part of the State; and it is necessary that this property should be so used as to make it effective for the public service.

Mr. DAVIDSON withdrew his amendment.

The question recurred on the Senate amendment.

The committee divided; and there were—ayes 73, noes 48.

Mr. SAVAGE demanded tellers.

Tellers were ordered; and Messrs. BLAIR and MILLSON were appointed.

The committee divided; and the tellers reported—ayes 79, noes 46.

So the amendment was concurred in.

Fifth amendment:

For the completion of the coal depot at Key West, Florida, \$20,000.

Mr. J. GLANCY JONES. In 1853, \$25,000 was appropriated to complete this coal depot, and it requires \$20,000 more to complete it now. The Committee of Ways and Means recommend a non-concurrence.

The amendment was not concurred in.

Sixth amendment:

That the Secretaries of the Treasury and Navy be, and they are hereby, authorized and required to ascertain, in such way as they may deem best, the actual value of the ten acres of land heretofore belonging to the naval hospital estate at Chelsea, Massachusetts, and ceded by the sixth section of "An act making appropriations for the civil and diplomatic service of the Government," approved the 3d March, 1855, for the purposes of a marine hospital for the district of Boston and Charlestown. And the Secretary of the Treasury shall pay the so ascertained value of the said ten acres, out of any money in the Treasury not otherwise appropriated, to the credit of the naval hospital fund, out of which the original purchase of the property so ceded was made.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a concurrence in this amendment. There is no dispute about the facts of this case. The sum arising from a deduction of twenty cents per month from the pay of mariners, to create a naval hospital fund, was invested as early as 1811, in the purchase of these ten acres of land. That ten acres of land, by an act of the Government, was devoted to another purpose, namely, a site for a marine hospital. This amendment provides merely for a transfer from the marine hospital fund to the naval hospital fund, as the Government had taken the property belonging to the naval hospital fund and devoted it to marine hospital purposes. The amendment does not appropriate one dollar from the Treasury, but simply makes a transfer from one fund to another.

Mr. BRANCH. I understand the chairman of the Committee of Ways and Means to say that this makes no appropriation. If so, I would like to ask him what business it has in an appropriation bill?

Mr. J. GLANCY JONES. I can only say to the gentleman that that is a very hard question for me to answer. The Senate put it there, and they claim the right, under the Constitution, to amend our bills. I have already said that I concur in the views of the gentlemen from Ohio and

North Carolina [Messrs. SHERMAN and BRANCH] in reference to putting a stop to this mode of legislation. But the Committee of Ways and Means decided that it would be a usurpation upon their part to do so, and more especially until they could have some assurance beforehand, from the House, that they would be sustained in that course.

Mr. BRANCH. I cast no censure upon the Committee of Ways and Means. They have done their duty and done it faithfully, I have no doubt. Perhaps the circumstances were not such as would justify them in refusing to recommend an amendment simply because it was new legislation. But, sir, it is within the province of this House, it is within the power of this House, to put a stop to this erroneous system of legislation.

Mr. WINSLOW. Will the gentleman allow me to say a word? This would be an improper measure upon which to apply the doctrine of my colleague, because this very act of injustice, which the amendment seeks to remedy, was accomplished in this very way, by putting an amendment upon an appropriation bill. This naval hospital fund is one created by a tax imposed upon seamen. The Government has not contributed one cent to it. This subject has been before the Committee on Naval Affairs, and they reported a bill which is now upon the Speaker's table, reported from that committee, which is identical with this amendment. We only now ask that you shall give to these men the measure of justice which ought to be dealt out to them in the very way and mode by which they were deprived of their property.

Mr. BRANCH. That makes the case worse than it appeared before, because a rule of this House says that you shall not attach to a bill pending before the committee another bill pending before the committee. That, then, is a violation of a second rule.

Now, I wish to say that, for one, I intend to vote to strike out from our appropriation bills every proposition which the Senate makes for attaching to them objects of independent legislation which have no business to be attached to them. Now, sir, if we reject these bills because the Senate attach to them improper appropriations, we have the whole summer before us to start new bills, and to put them into a shape which shall be satisfactory to this House. We are prohibited by our rules from moving an amendment to an appropriation bill, which the chairman shall deem to be new legislation. We have all seen, time after time, attempts made in this House to ingraft upon appropriation bills measures of reform—propositions for abolishing or changing laws which the House did not consider good laws; and we have as frequently seen them ruled out of order. We are thus prohibited from cutting off abuses; but when our bills go over to the Senate, they are loaded down, and sent back to us bearing upon them almost innumerable provisions for increasing abuses. We are thus prohibited from reforming anything, while the same prohibition does not prevent the Senate from increasing abuses which already exist.

[Here the hammer fell.]

Mr. WINSLOW obtained the floor.

Mr. J. GLANCY JONES. If the gentleman will give way for a moment, I will have an official communication, in reference to this matter, read.

Mr. SHERMAN, of Ohio. There is no question about the correctness of this proposition as an independent proposition, and therefore I see no use in having a document read.

Mr. BRANCH. I do not assail the amendment upon its merits. I have no doubt that it will pass.

The letter was read, and is as follows:

NAVY DEPARTMENT,
BUREAU OF MEDICINE AND SURGERY, April 7, 1858.
SIR: In reply to your communication of the 5th instant, inquiring from what source the "necessary funds were collected for the original purchase of the United States hospital lands at Chelsea, and if any means were resorted to except the tax called the hospital tax, deducted from the monthly pay of officers, seamen, and marines." I have the honor to say that the original purchase money was derived exclusively from the hospital fund.

It may be pertinent to the inquiry to state that, as early as March 2, 1799, Congress passed an act directing the Secretary of the Navy to deduct twenty cents per month, after the 1st day of September ensuing, from the pay of the officers, seamen, and marines, of the Navy of the United States, and to pay the same quarter annually to the Secretary of

the Treasury, to be applied to the temporary relief and maintenance of the sick and disabled seamen in hospitals or other proper institutions; and when the fund shall be sufficient, to purchase grounds, &c.

In February, 1811, Congress established a board of commissioners, & by name and style, commissioners of Navy hospitals, consisting of the Secretary of the Navy, Secretary of the Treasury, and Secretary of War, who were empowered to take charge of the funds collected under the act of March 2, 1799, and were required "to procure, at suitable places, proper sites for Navy hospitals."

In pursuance of this enactment, Smith Thompson, then Secretary of the Navy, purchased the estate at Chelsea, Massachusetts, on the 11th August, 1823, and directed the agent, William L. Rogers, then a purser in the Navy, to have the deed of conveyance made out in the names of the Secretary of the Navy, Secretary of the Treasury, and Secretary of War, "for the time being commissioners of naval hospitals and trustees of the Navy hospital fund."

On the 16th of October following, Constant Freeman, then Fourth Auditor of the Treasury Department, notified Mr. Rogers that the purchase money had been remitted and debited to the Navy hospital fund.

It would thus appear that the hospital fund, accruing from a tax upon the pay of the Navy, was the only means resorted to for the acquisition of the property, the best portion of which has been alienated for objects not contemplated by the statutes authorizing this deduction from the pay of the Navy.

Very respectfully, your obedient servant,

W. WHELAN.

Hon. WARREN WINSLOW,
House of Representatives, Washington.

Mr. STANTON. I propose to say a word or two in regard to this question; and to enable me to do so, I move to amend by striking out the first four lines.

Mr. SMITH, of Virginia. How will the Senate amendment then read?

The CHAIRMAN. It will not make very good sense.

Mr. SMITH, of Virginia. Then I insist upon it that the gentleman has no right to propose an amendment which leaves no sense in the Senate amendment.

The CHAIRMAN. The point of order is well taken.

Mr. STANTON. Then I withdraw my amendment, and move to strike out all after the word "Charlestown," in the one hundred and eighty-second line; so that the Senate amendment will read:

That the Secretaries of the Treasury and the Navy be, and they are hereby, authorized and required to ascertain, in such way as they may deem best, the actual value of the ten acres of land heretofore belonging to the naval hospital estate at Chelsea, Massachusetts, and ceded by the sixth section of "An act making appropriations for the civil and diplomatic service of the Government," approved the 3d of March, 1855, for the purposes of a marine hospital for the district of Boston and Charlestown.

I desire simply to say, that, as I understand the proposition, taken as a separate, independent proposition, it would be entirely unobjectionable. I do not understand that any gentleman would vote against it as an independent proposition in a separate bill. If gentlemen will turn to the amendments, they will find that almost the entire amendments of the Senate, after this, are made up of matters of independent legislation. Now, my suggestion is, that the vote on this amendment shall be regarded as a test vote as to whether this House will tolerate independent legislation in appropriation bills; so that, if this fails, the residue of the amendments, being matters of independent legislation, will be regarded as rejected by the committee.

Now, Mr. Chairman, the gentleman from Virginia made an argument, half an hour ago, to which I do not propose to reply. I do not propose to spend the time of the House in vindicating my own consistency, for, after all, that is a thing about which the House does not care.

Mr. J. GLANCY JONES. I hope the gentleman from Ohio will agree to test it on something else, because this amendment is not to change any law, but merely to shift an appropriation that is in the Treasury from one purpose to another. The gentleman can raise his point on the next amendment, and take his test vote on it.

Mr. STANTON. The only difference is, that this is much the better case to test it. It is unobjectionable in itself, and is only objectionable on the ground that it is independent legislation. I want to take the question on a proposition that is otherwise unobjectionable, for the purpose of ascertaining the sense of the committee; and I hope the committee will insist on it to the bitter end.

Mr. WINSLOW. I think that if the committee understood this matter it would not hesitate a moment in concurring with the Senate in this

amendment, nor do I think it liable to the objection which the gentleman urges. In the first place, this fund is raised from the officers, seamen, and marines of the Navy, by a tax of twenty cents a month levied upon them, which has gone to swell up the naval hospital fund. It is the only fund to which the Government has not heretofore contributed a single dollar. The hard earnings of these men are invested in this land at Chelsea. Some one came here and procured to be voted away ten acres of land belonging to these poor seamen. The measure was passed on the last day of the session of the Thirty-Second Congress, inadvertently, without consideration, and without the knowledge or approbation of the Naval Committee; and they ask you now merely to do—what? To restore to them the land which you gave away without authority. You were the trustees for them, and you gave away the lands of your *c'estui que trust*, without the slightest consideration.

So much as to the merits of the proposition as to which all the gentlemen who have addressed the committee agree with me. Now, in regard to the question of order. The amendment is perfectly in order. We have in the House rules of order preventing independent legislation on appropriation bills. They have no such rule of order in the Senate, and they have a right, as a co-ordinate and coequal branch of the Legislature, to put just such amendments on the bills which you send to them as they think proper. When these amendments come here they are addressed to your discretion; you can pass upon them and reject them; but you cannot bring your rules of order to bear upon the other branch of Congress. But, even if you were to apply the very stringent rule advocated by the gentleman from Ohio, this amendment is not liable to the objection. The amendment has reference to money in the Treasury raised by taxes upon seamen, with which this property was purchased. You have gone there, taken off what belonged to them, and given it away to another. They merely ask you to restore to them what you took away from them; to pass to the credit of this fund the value of the property you abstracted from it. Will you decline?

Mr. STANTON. With the consent of the committee let this amendment be agreed to; and let us go to the eighth amendment, which is a proposition to publish a naval code.

Mr. BOCOCK. The gentleman has a particular object in view. He has his eye on other things, and I have my eye on him.

Mr. STANTON. I have not, sir.

Mr. BOCOCK. The gentleman has been moving in these sloops-of-war all through these proceedings.

Mr. STANTON. The gentleman is mistaken. It is not the ships I am talking about; but the naval code.

Mr. BOCOCK. But you want to commit the committee in advance.

Mr. STANTON. Oh! no.

Mr. JOHN COCHRANE. I propose to strike out the words "in such a way as they may deem best."

I do not propose, Mr. Chairman, to detain the committee even five minutes in the discussion of this amendment. It is, I believe, conceded that the fund which originally purchased these ten acres came from a certain body of beneficiaries, that they have been deprived as well of the fund, as of its resulting use, and consequent trust—the land. It is as simple, therefore, as a proposition can be made simple. It is that they who have been deprived of a fund, and of the use of a fund, shall have that fund or its use restored to them by those who have deprived them of it.

Now, in respect to this amendment, as a part of a series of amendments, it is sufficiently clear that this class of amendments is in order—abundantly in order. It proceeds from a competent body. If we have reference only to the comity existing between the two Houses we shall be obliged to accept and to treat with respect the amendments of the Senate, and we cannot and should not strike out an amendment made in order in the Senate, although it would have been rejected here as out of order, if originating here; and certainly should not an amendment be rejected if, as in this case, it had direct application to a subject, which, though greatly different from the subject of the bill before us, nevertheless is a subject of com-

mon and general interest to the country, involving as well the commercial and agricultural interests of the country, as its honor and its dignity at home and abroad. I trust, therefore, that we shall proceed regularly through with these Senate amendments. I now withdraw my amendment.

The amendment of the Senate was concurred in.

Seventh amendment:

To enable the Secretary of the Navy to pay the salary of Professor James P. Espy, \$2,000, the payment to be made in the same manner, and under the like control, as former appropriations for meteorological observations: *Provided*, That the employment of a meteorologist, under the contract of the Secretary of the Navy, shall cease on and after the 30th day of June, 1859.

The amendment was concurred in.

MESSAGE FROM THE SENATE.

Here the committee rose informally; and the Speaker having resumed the chair, a message was received from the Senate by Mr. DICKINS, its Secretary, informing the House that the Senate had passed the bill of the House making supplemental appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1859, with amendments, in which he was directed to ask the concurrence of the House.

Mr. J. GLANCY JONES. I ask the unanimous consent of the House that the bill and amendments be referred to the Committee of Ways and Means, and ordered to be printed.

There being no objection, it was so ordered.

The committee then resumed its session.

NAVAL APPROPRIATION BILL—AGAIN.

Eighth amendment:

Provided, That the provisions of the seventh section of the naval appropriation bill approved March 3, 1857, directing the Secretary of the Navy to have prepared, and to report to Congress at this session for its approval, a code of regulations for the government of the Navy, &c., be extended to the next session of Congress.

Mr. STANTON. That amendment is not of much consequence, and I will ask for tellers upon it, with a view of settling the question whether we will legislate in general appropriation bills.

Mr. J. GLANCY JONES. I wish to explain the amendment. Congress provided that the Secretary of the Navy should have a code prepared, and that he should report it at the opening of this session of Congress. They have not been able to complete the code, and this amendment provides that they may have until the next session of Congress to report it.

Mr. STANTON. The amendment contains no appropriation, and has no business in an appropriation bill. It is a harmless thing, and, I dare say, a useless thing; and, therefore, I ask tellers, in order that we may determine once for all if we mean to legislate in appropriation bills.

Tellers were ordered; and Messrs. STANTON and JOHN COCHRANE were appointed.

The committee divided; and the tellers reported—ayes 77, noes 42.

So the amendment was concurred in.

Ninth amendment:

That the Superintendent of Public Printing be, and he is hereby, directed to transfer to the bureau of ordnance and hydrography the plates from which the illustrations and charts of the late Japan expedition were printed.

The amendment was concurred in.

Tenth amendment:

Insert:

Sec. 2. *And be it further enacted*, That from and after the 1st day of July, 1856, the clerks, messengers, and watchmen at the navy-yard and marine barracks at Washington shall be entitled to receive the compensation authorized by the acts of April 22, 1854, and August 5, 1854, for the payment of which such sum as may be necessary be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in the amendment.

The amendment was non-concurred in.

Eleventh amendment:

Insert:

Sec. 3. *And be it further enacted*, That it shall be lawful to enlist boys for service in the United States marine corps, with the consent of their parents or guardians, not being under eleven nor over seventeen years of age, to serve until they shall arrive at the age of twenty-one years; the boys so enlisted to receive the same pay, rations, clothing, &c., now received by boys enlisted in said corps under the authority of the Secretary of the Navy.

Mr. J. GLANCY JONES. The committee is

aware that there is a provision of law for enlisting boys into the naval service. This is intended to apply to the marine corps the same system. The committee recommend a non-concurrence in the amendment because there was no limitation to the number, and no purpose specified for their use.

Mr. PHELPS. I concur in the amendment. I learn that the object of this provision of the Senate is this: we have been in the habit of enlisting boys with the consent of their parents, and employing them in the marine corps for the purpose of becoming a part of the marine band. The law which authorizes the enlistment for the naval and the marine service, only authorizes enlistments for four years, so that after these lads had been instructed as musicians and composed a part of the marine band, they were discharged instead of serving until they were twenty-one. They receive the same pay as marines and are on duty as musicians. I think that the amendment ought to be concurred in.

Mr. BRANCH. I move to insert after "marine corps" the words, "and in the United States Army."

Mr. Chairman, I should like to be informed of some reason why this amendment should be concurred in. I take it for granted that those who have put this provision into an appropriation bill, have looked into the subject and found it right and proper to employ youths of eleven and twelve years in the marine corps. I do not know what reason makes their employment proper in the marine corps that will not make their employment proper in the Army. We might as well give authority for their employment in the one as in the other. I presume that the other members of the committee know as little about this as I do. We have little opportunity to know whether it is desirable to enlist boys in the marine corps. It was long a matter of discussion whether boys should be employed in the Navy, and it was only after years of effort that the measure was enacted into law. We are now, on an appropriation bill under the five-minute rule and with no full opportunity of examination, called upon to apply that same provision to another branch of the public service. If we have authority in the one case, I think that we have as much to give it in the other. The information in the one case is as much as it is in the other, and we had as well throw open the door. I think, however, that it all had better be stricken out; and if such a provision be recommended by the naval authorities, let it be made in a separate bill, where we can vote independently on it, without being compelled to pass it on the penalty of losing one of the appropriation bills.

Mr. PHELPS, of Missouri. The only alteration made in the existing law is this: boys may now be enlisted in the marine corps with the consent of their parents, but they are discharged after four years' service. They are paid as marines and are on duty upon the marine band. This provides that they shall be enlisted, with the consent of their parents, until they are twenty-one.

Mr. RUSSELL. Why is it put in an appropriation bill?

Mr. PHELPS, of Missouri. That is my objection to it. The House has already settled that point, however, by incorporating other provisions of general legislation into these appropriation bills; one was made a test, and it was voted in. These boys perform duty as musicians. Now, when they are educated, and fully able to act as musicians, they are discharged. This extends their service until they are twenty-one.

Mr. BRANCH. My objection to this, if I had no other, is, that it is not germane to an appropriation bill. I withdraw my amendment.

Mr. JOHN COCHRANE. I move, *pro forma*, to strike out "seventeen," and to insert in lieu thereof "eighteen." I do this for the purpose of saying a word on this subject, and furnishing some information which I think it desirable the House should possess, before voting on the Senate amendment. The law which enables apprentices to be enlisted for the naval service is that of 1837. It provides that it shall be lawful to enlist boys for the Navy, with the consent of their parents or guardians, not being under thirteen nor over eighteen years of age, and to serve until they shall arrive at the age of twenty-one years. It has been decided by competent judicial authority that this law does not provide for the enlistment of marines, and this amendment of the Senate is to

provide for that omission. The question is simply this, (and it can as well be understood in two minutes as in two years:) is it important to allow apprentices to be injected into the marine corps, as it is important and beneficial to inject them into our naval service?

The reason for introducing an apprentice system in the Navy, is this: in our naval and commercial marine, the ratio of American sailors, in the aggregate to foreign sailors, is as two in every one hundred; and in the marine corps the proportion is thought to be about the same; and in order to recruit the service and to inject a sufficient degree of American spirit in the marine corps as is being infused into the naval service, it is requisite and essential that this provision should be adopted. It is also a great measure for the depletion of the low and degraded population of our cities. There are thousands of boys, who, if opportunity were furnished, would enter the marine corps, and eventually become ornaments to the corps, as they now are ornaments to the naval service.

This comprehends the whole circle of information necessary to vote upon this amendment, and I hope it will be concurred in.

Mr. PHILLIPS. If this amendment is adopted in the language in which it is written, these boys will get no pay at all. It has evidently been copied from an old bill, without making the change requisite to make it perfect. It provides for the enlistment of boys into the marine service—a thing not before provided for by law—and then it goes on to say that the boys "shall receive the same pay and rations now received by boys enlisted in said corps, under the authority of the Secretary of the Navy." I merely wanted to call the attention of the committee to this fact, so that while this matter is in the hands of the committee it may be put into such a shape as will make it effectual.

Mr. JOHN COCHRANE, by unanimous consent, withdrew his amendment.

The Senate amendment was then concurred in.

Twelfth amendment:

SEC. 4. *And be it further enacted*, That to defray the expenses and compensation of a commissioner to the Republic of Paraguay, (should it be deemed proper by the President to appoint one,) in execution of the joint resolution of the present session "for the adjustment of difficulties with the Republic of Paraguay," \$10,000, or so much thereof as may be necessary: *Provided*, That the compensation hereby allowed shall not exceed the rate of \$7,500 per annum for the time employed.

Mr. J. GLANCY JONES. Upon this amendment I have very little to say. I ask the Clerk to read the resolution referred to in the amendment.

The resolution was read; and is as follows:

"That for the purpose of adjusting the differences between the United States and the Republic of Paraguay in connection with the attack on the United States steamer *Water Witch*, and with other matters referred to in the annual message of the President, he be, and is hereby, authorized to adopt such measures and use such force as, in his judgment, may be necessary and advisable in the event of a refusal of just satisfaction by the Government of Paraguay."

Mr. J. GLANCY JONES. This amendment is to carry out that resolution.

The amendment was concurred in.

Thirteenth amendment:

SEC. 5. *And be it further enacted*, That all the steamships of the Navy of the United States now building, or hereafter to be built, shall be named by the Secretary of the Navy, under the direction of the President of the United States, according to the following rule, namely: all those of forty guns or more shall be considered of the first class, and shall be called after the States of the Union; those of twenty guns, and under forty, shall be considered as of the second class, and be called after the rivers and principal towns or cities; and all those of less than twenty guns shall be the third class, and named by the Secretary of the Navy, as the President may direct, care being taken that no two vessels in the Navy shall bear the same name.

Mr. J. GLANCY JONES. This is a repetition of an old act, which was applied to sailing vessels, made applicable to the steam marine. It will cost nothing, and the committee recommend a concurrence.

The amendment was concurred in.

Fourteenth amendment:

SEC. 6. *And be it further enacted*, That the Secretary of the Navy cause to be constructed, as speedily as may be consistent with the public interests, five steam screw sloops-of-war, with full steam power, whose greatest draught of water shall not exceed fourteen feet, which ships shall combine the heaviest armament and greatest speed compatible with their character and tonnage; and one side-wheel war steamer, whose greatest draught shall not exceed eight feet, armed and provided for service in the China seas; and that there be, and is hereby, appropriated, to be ex-

pended under the direction of the Secretary of the Navy, for the purpose above specified, the sum of \$1,200,000 out of any money in the Treasury not otherwise appropriated.

Mr. HATCH. I want to offer an amendment to that.

Mr. J. GLANCY JONES. This is the last amendment to the House bill; and it provides for five steam screw sloops-of-war of fourteen feet draught, and one side-wheel steamer of eight feet draught, for service in the Chinese seas.

The committee recommend a non-concurrence.

Mr. BOCOCK. I move to strike out "five" and to insert "ten."

I was stating this morning, when I was cut off by the expiration of my time, that the proposition I now bring forward was recommended by the Secretary of the Navy in the beginning of the session. I stated that ten of these small steamers were needed in our Navy for a peace establishment. I intended to say further, that, in view of the present condition of our foreign relations, not with reference to a war, but for the purpose of preventing war, we ought to have our peace establishment full and complete. Weakness invites aggression; strength repels and prevents aggression. If it is known that you may be attacked with impunity, attacks will come. Gentlemen well know that. If it is known that you are ready to repel assaults, nations will be slow to make them. Nations, in this respect, are like individuals.

I was stating this morning that I recommended this as a measure of economy; and I stated, furthermore, that I did not intend to recommend any change in the amount of money appropriated. I believe this sum is enough to carry on these ten small sloops during this year, and until we can obtain more.

I wish to suggest this to the members of the committee: our navy-yards—that feature of our naval system which causes so much expense to the Government—have their complement of men now full. They have their usual appropriations made to them. What are these laborers doing in the navy-yards? They are engaged in making repairs, many of which will be needless, provided this proposition passes. Take the workmen from those repairs, and put them on the construction of these new, well-equipped and well-provided steamers; and to that extent you do not increase the expenses of the Government, and you do good to the country.

Mr. QUITMAN. I wish to know whether the amendment provides that some of them shall be of lighter draught?

Mr. BOCOCK. I wish to have all of them of lighter draught. The distinguished Senator from Florida, who is as well acquainted with naval affairs as any man in the country, insisted on allowing these vessels a draught of fourteen feet. I disagree with him, in my humble way, in regard to this matter. I think the draught of twelve feet amply sufficient. But I wish to say to the gentleman from Mississippi that, if the provision passes as it now is in regard to the draught of water, it will not require all to be of fourteen feet draught. That is fixed as the maximum merely. Some may be of fourteen feet draught, some of twelve, some of ten, some of eight, and as low as possible to have them built, so as to be effective and well-armed ships.

A gentleman from Pennsylvania [Mr. Grow] said the other day that he saw no need of adding to the Navy, and that the Navy was as strong now, in proportion, as it was in 1816. I was sorry to hear the gentleman make such a statement in the face of the House and of the country. We have now no more Navy than we had in 1816. It is not increased at all. Our coast-line to be defended has increased about two-fold, and our tonnage has swelled five-fold. We then had but one third of the tonnage of Great Britain. Now we have more tonnage than Great Britain herself. With all our Pacific coast, with new lines of commerce opened up, with all those requirements for a Navy, we have now no larger Navy than we had in 1816. We have now only forty-two effective ships in our Navy. Great Britain has five or six hundred. She has more than ten times the number that we have. Then, I say, while all these demands are upon our Navy, will gentlemen sit here still and stolid, and see the Navy sunk? I ask, how long is this thing to go on? I tell gentlemen that we must build new ships as long

as metal rusts and wood decays. The vessels you have in your Navy will decay. They will get out of order. The fashions of them pass away, and you have to build others to take their places. This is no war measure. It is to put our Navy on a footing of respectability. It is a measure of economy, and I hope the American Congress will come up and vote it through with a strong and decided vote.

[Here the hammer fell.]

Mr. HATCH. I propose to amend by providing for four additional mail steamers for service on the northwestern lakes.

The CHAIRMAN. There is an amendment to an amendment pending, and this, being an amendment in the third degree, is not in order.

Mr. SMITH, of Virginia. Cannot the amendment offered by the gentleman from Virginia be amended?

The CHAIRMAN. The Chair holds that it cannot.

Mr. SMITH, of Virginia. Then suppose there are those here who want twenty ships instead of ten?

The CHAIRMAN. Vote this down, and they can put in twenty.

Mr. SMITH, of Virginia. But I would rather have ten than five, and this is forcing me to vote against my wish.

Mr. JOHN COCHRANE. I give notice that I intend to offer an amendment providing for an additional number, of lighter draught.

Mr. MILLSON. The practice has been very varied in Committee of the Whole on the state of the Union on this very point, and I should like the decision of the present occupant of the chair upon it. I know it is sometimes held that the Senate amendments are to be regarded as amendments. It has, however, been held more frequently, I believe, that the Senate amendments are to be regarded as the text. I submit the question of order, and wish to have it decided by the Chair, one way or another.

Mr. JOHN COCHRANE. Page 123 of the Manual, I think, disposes of that.

The CHAIRMAN. The Chair holds that the original text is the House bill. It went to the Senate, and has been amended. It came back in the nature of a motion to amend. The gentleman from Virginia proposes to amend that amendment. That amendment is in the second degree, and the Chair holds that no further amendment is in order.

Mr. SMITH, of Virginia. Then, if we adopt the amendment of the gentleman from Virginia, the amendment thus amended is open to amendment? I presume that is the ruling of the Chair.

The CHAIRMAN. The amendment will be then open to amendment.

Mr. SMITH, of Virginia. Then, there is no difficulty about the question. The proposition is to strike out and insert. I call for a division of the question, which will be to strike out.

The CHAIRMAN. Under the rules of the House, it is not divisible; but if the motion to strike out and insert fails, another motion can be made to strike out and insert something else.

Mr. GIDDINGS. I oppose the amendment because it is evidently an attempt to deprive the lakes and rivers of their share of the war. If you will give us our share of it, we will take it.

Mr. SMITH, of Virginia. I suggest to my colleague that he should move to strike out merely, so that we can move to insert afterwards. I fear, if we put in ten, we shall not be able to put in twenty afterwards.

Mr. JOHN COCHRANE. I give notice that I have an amendment which I intend to offer for the construction of ten more vessels of lighter draught.

Tellers were ordered on Mr. BOCK's amendment; and Messrs. AVERY and JOHN COCHRANE were appointed.

The committee divided; and the tellers reported—ayes 91, noes 43.

So the amendment to the amendment was agreed to.

Mr. HATCH. I offer the following amendment:

In line ten, after the words "China seas," insert the following:

And four additional war steamers for service on the northwestern lakes, as to size within the limitation of the treaty between the United States and Great Britain.

Mr. SICKLES. I suggest to my friend and

colleague that he offer his amendment as an additional provision, and not to incorporate it in the other amendment, so that each may stand by itself.

Mr. HATCH. Mr. Chairman, it is quite immaterial to me whether the amendment is incorporated or voted on separately for the purpose I have in view. I have no desire to occupy the time of the committee in discussing this amendment. I have heard many war speeches in this House.

I shall not stop to inquire whether we are going to have any war or not. If war is impending and necessary to defend our national honor, the brave men of the West and of the northern frontier, as in 1812, will be ready, and my own frontier constituency will not be particular about the cause of war, if an opportunity is again presented to avenge traditional wrongs against their old enemy. We want no more Anglo-American protectorates on this continent. The Clayton-Bulwer treaty, that bungling piece of American diplomacy, must be abrogated. We must maintain the Monroe doctrine of "non-interference" from all the world with any of the institutions or soil of this continent. Cuba will be ours, as were Louisiana and Florida, when the allied Powers forced upon us the issue for self-preservation. England must surrender Roatan, and turn her protruding bloodshot eye from Cuba. But, sir, my object was not to discuss these war questions, but mainly to maintain the equal and constitutional rights of the West in all that relates to their internal commerce, their military and naval protection; and so long as I occupy a seat upon this floor, and it is asked that the fortifications on the Atlantic coast shall be increased, so long shall I ask, as one of the Representatives of the lake States, that the fortifications upon their coast shall be repaired and put in order, and that the naval force, which the treaty between the two countries allows us upon these lakes, shall be put in active service. If they want sloop-of-war and Dahlgren guns on the Atlantic coast, and even in the China seas, we want them on the lake coast, and I hope they will be voted. We ask in the Northwest that our harbors may be repaired and improved, and our channels cleared for the movement of naval forces to and from our inland seas. If you do this, we will dispense, for the present, with your gun-boats; for we have a lake marine that is abundantly able to take care of the common defense. If you do not improve our harbors and open our national channels, then the least that this Government can do, is to give equal naval protection to the inland coast that it does to the Atlantic coast. We have an inland coast equal in national importance, as it is in extent, to the seacoast. The trade and commerce of the lakes supply over half of the revenue of this Government. We, who bear so heavily the burden of Government—are we, sir, to share in none of the blessings of Government?

If there is to be an increase of our Navy, why should not some war vessels be got ready for the protection of our immense lake regions? The French war of 1750, the war of the American Revolution in 1776, the war of 1812, were all fought on these inland seas, and in the bordering country. Who can say that the theater of our future wars is to be changed?

Every man knows, Mr. Chairman, that the most illustrious naval victories in this country were achieved upon our northern lakes. Every man knows that peace was secured by those victories on the northern lakes.

The great battle of New Orleans occurred after the fact of peace was already fixed by these naval victories.

I do not want to detain the committee with any great array of facts. Intelligent men know how vast is our inland commerce. We ought to have some consideration at the hand of this Government, and the postponement of our equal rights will only add to our claims, and increase our political and numerical supremacy in the West to enforce them.

[Here the hammer fell.]

Mr. KEITT. Mr. Chairman, the public mind is inflamed by British aggressions upon our flag and commerce in the Gulf of Mexico; and the popular heart is answering back to excited appeals to the resentment and pride of the country. In the present inflammable state of the political atmosphere, the smallest indiscretion may lead to

an embittered and disastrous war. I know very well that oftentimes popular legislative bodies are scarcely more removed from the heats of mere irritation and excitement than unorganized masses of men, rocked by impulse and unchecked by responsibilities. This liability, this proneness to excitation, this sympathy with popular ardor, I have seen but recently, both in this House and in the Senate. Sir, if it do not lead to disastrous results, I shall not regret it; for I would rather see too much zeal than too little zeal. The safety of a nation is the great concern of its legislators; and the safety of a nation lies in its honor. Self-respect is the foundation of the civic virtues in an individual or a people; and it can only be preserved by preserving untouched the honor of the one or the other. To maintain the honor and preserve the safety of the country I cheerfully voted, this morning, for the ten sloop-of-war. I will vote now, or hereafter, whatever may be needed for this purpose.

But, sir, I see no necessity for a resort to immediate hostilities. It is true that international law has been violated, and our rights invaded, by the recent outrages upon our flag and our vessels, committed by British cruisers in the waters of the Gulf; but a sufficient acknowledgment and reparation for these offensive acts may be made by Great Britain; at least, it is due to her, to ourselves, to the peace and civilization of the world, that we should give her the opportunity to make such acknowledgment and reparation. Sir, a war now between Great Britain and the United States will be interecine; it will involve the peace, the progress, and the civilization of the world, in its tremendous consequences; it will, for ages to come, eclipse free institutions on the continent of Europe. Shall we invite or invoke such a conflict, without all the forms and ceremonies and solemnities which should inaugurate it? Never, sir, with my consent.

But I never will consent to submit to the right of search or visitation of our vessels in time of peace. This right must be relinquished by Great Britain, or rather its exercise must be relinquished, or war with her is inevitable. The distinction between the right of search and visitation is purely fanciful. The latter is the graft of modern diplomacy upon the effete body of the former. Visitation can only be carried out by the means and in the manner which constitute search. The difference between them is utterly unsubstantial, and is only one of the tricks of a cunning diplomacy. I maintain that the right of search or visitation is a purely belligerent right. As such, only, is it claimed by all the writers on public law. Grotius, Bernstoff, Bynkershoek, Merlin, all claim it merely as one of the rights of war. No writer on international law, no judicial decision, puts it upon any other ground. In any other aspect it has always been resisted by the most civilized and powerful nations of modern Europe. France has resisted it from the time of Queen Elizabeth. Grotius, in the third book and first chapter of his *Regule Generales ex Jure Naturæ*, says:

"Upon the peace of Vervais, made with the Spaniards, whilst Queen Elizabeth of England persisted in the war, the French were requested by the English to allow their vessels going to Spain to be visited, for fear, perchance, munitions of war might be concealed in them; but not even this would they permit, saying that it might be perverted into a pretext for spoiliations, and for the interruption of commerce."

Great Britain, too, has denied and resisted this right. She forbade the Netherlands, *flagrante bello*, visiting her vessels. Her very treaty stipulations deny and repudiate this right. In the fifth article of the treaty between Great Britain and Portugal, July 28, 1817, provision is made for the prevention of illicit traffic, by authorizing the navies of each, under instructions, to visit suspected merchant vessels; but it is limited by the fourth article, which declares—

"That no Portuguese merchantman or slave ship, on any pretense whatever, shall be detained, which shall be found anywhere near the land, or on the high seas, south of the equator, unless after a chase commenced north of the equator."

Great Britain, in this treaty with a weak and feeble dependent—for Portugal was such—admits that the right of search or visitation is a conventional, not a natural right.

The waters of Portugal are sacred; the jurisdiction of Portugal is supreme; and yet our waters are dishonored by her war ships, and our jurisdiction is insulted by her officers. From our own

waters the Stryx went forth in chase after our ships, and in indifference to our flag. For these we must have acknowledgment and reparation. But, I repeat it, these can be obtained through negotiations; at least, the resources of negotiation should be exhausted before we resort to the arbitrament of battle. Sir, grave and delicate foreign questions are now pressing upon us; and a wise and sagacious diplomacy is needed. We cannot hazard the peace of the world, and our progress, by incautious and dangerous counsels. The improvidence on the part of the Secretary of State may have had much to do in driving us into our present critical and alarming complication with Great Britain. His suggestion that Great Britain could more effectually prevent the slave trade by blockading the coast of Cuba might accord with the ambition of Great Britain, but not with the interests and policy of the United States. When Great Britain blockades the coast of Cuba, she will sound the trump of war with us; for she cannot make such a blockade without, in its prosecution, involving herself in such invasions of our jurisdiction, such infringements of our neutral rights, and such interruptions of our commerce, as will never be submitted to. The British flag cannot be long in the Gulf without American eagles gathering there. This, however, is in the future. For the present, negotiations can extricate us. The President of the United States is ripe in experience, consummate in diplomacy, and sensitive to the honor of the country; and to his hands I will confidently commit the adjustment of our present difficulties with Great Britain.

But, sir, though I see no reasonable danger of war now, I do not see so much brightness in the future. A war with Great Britain is, I fear, inevitable. We are her great commercial rival, and this rivalry is breeding heats and contentions and heartburnings. The scepter is passing from her, and our outstretched hands are ready to clutch it. Will she part from it without a struggle? When her maritime ascendancy is gone, what is she? A third-rate Power. Will she willingly sink down into this lowly estate? Already our tonnage equals hers; and the products of our labor and skill meet her in every market. The homogeneous action of the labor, skill, enterprise, genius, power, products, energy, of every portion of the Union, and these made tributary to our foreign commerce by restrictive laws and extravagant bounties, have already made us the commercial rival of Great Britain, and soon will make us her master. Besides, the "tread of our pioneers is heard in the western forests," and cities are springing up to mark and illustrate their trackway. The tramp of our marching columns is even now ringing over the wastes of South America, and the strong hand of our people will soon seize the very seat of tropical power and tropical wealth. We are every day increasing our resources, widening our area, extending our boundaries, and enlarging the volume of our power. If we are now the favored and prosperous rivals of Great Britain, when we have carried our institutions to the furthest South, when we have unbound the zones of the tropics, and have given form and vitality to the wealth and power which have for ages been sleeping there, can we be other than her master? Will she submit to our ascendancy? To build up her maritime superiority, Great Britain has squandered more millions than there are figures in arithmetic to calculate; to hold the scepter of the seas, she has shed blood enough for her navies to ride in; to rear up her magnificent hierarchy, political and commercial, she has consigned generations of her people to wretchedness. Will she now give up all of these, and give them up without a struggle? I know full well that eight millions of her people depend upon cotton for their daily bread, and I know that these are bonds strong and powerful to hold her to peace; but I know, too, that to carry out her stern policy in Ireland, she threw away untold treasure, and sent one million of her Irish citizens to the grave. From every hill and every valley of that doomed and fated land came ringing upon her the appealing shrieks of her starved and dying people; and yet she pressed on to the consummation of her stern policy, through the tears and blood and ashes of Ireland. Will she shrink from a conflict with us, when her naval power and commercial superiority are at stake? No; though she rush upon her fate, and go down in the shock, she will still encounter it.

Thus, sir, I would prepare for the future. If it does not come in threat and storm, so much the better; if thus it does come, we are forearmed. But I would avoid war now. A war with Great Britain, at this time, would shake our whole industrial system, paralyze our industrial energies, consolidate the Government, and fasten upon it iniquitous legislation. We are growing faster than any people on earth. Trending to us are the destinies and the power of the world. We have only to preserve a "masterly inactivity." "Entangling alliances" we must avoid; and where they exist, we must disentangle ourselves from them. The treaty of Washington must be ended, for it only involves us in difficulties and decimates our Navy. The Clayton-Bulwer treaty, too, must be ended, for it would bind our feet while standing in the very porch of the temple of tropical wealth and power. Through peace we shall daily grow stronger; and by keeping aloof from "entangling alliances" we may avoid collision with foreign Powers. Great Britain, France, and Russia, are grimly watching each other. There will be a trial of strength between them for the empire of the East. The Slavonic race is moving on to the Mediterranean. Inheriting the skill of the Greek, and the diplomacy of the Byzantine age, with the nerve of the Asiatic, strengthened, hardened, and consolidated by the frosts of northern Europe, this race is destined to play a magnificent part in the drama which shall settle the fate of the world. In the involvement of these events peace is our policy. It may be in our reach to preserve it in the future; let us not recklessly endanger it now. Our rights I will maintain; our honor I will defend; but we may do both now without blood. Of the Gulf of Mexico I would say, as the Romans said of the Mediterranean, *mare nostrum*, and no hostile vessel should invade its waters, and cast upon our coast its baleful shadows. The present exigency may be wisely used to throw off "entangling alliances," and obtain supremacy for us in the Gulf of Mexico.

Mr. J. GLANCY JONES. I hope the vote will be taken on this the last Senate amendment before we take a recess.

The amendment to the amendment was agreed to.

Mr. LOVEJOY. I move to strike out all after the word "specified."

Mr. Chairman, to my apprehension the most preposterous of all preposterous things is, that in order to keep the peace you must go armed to the teeth. It is an absurdity, applied either to an individual or to a nation. It is well known that all civilized nations prohibit, by legal penalties, the carrying of arms upon the person. These propositions are to carry us back to the old feudal times, when every baron built his castle and surrounded himself with moat, drawbridge, and portcullis, and armed his retainers to keep off his neighbors. I protest against the whole idea. It is preposterous, unchristian, and tends towards barbarism. Besides that, it is utterly useless. These few gun-boats—what will they do? Absolutely nothing. It will be a perfect failure, nothing else. They are no means of defense, but merely a means of depleting the Treasury. And you must have your gun-boats bristling all over the Pacific coast, the whole Atlantic coast, the whole lake coast, the whole Mississippi and Ohio banks. Do you propose to do that? No, sir; you do not. As a means of defense, therefore, it is utterly inadequate; and, as I understand it, is an old scheme which will be an utter abortion. In Mr. Jefferson's day they had to hitch up mules and haul these boats up, and put sheds over them to preserve them; and when you wanted them they were utterly useless; and so these will be.

Mr. GARNETT. I protest against the remarks of the gentleman from Illinois, [Mr. Lovejoy,] because he says that my colleague's amendment is a war measure. It cannot be so considered; for, in the first place, the number of ships proposed to be built would be preposterously small for an English war; and secondly, they could not be built in time for any war that could arise out of the present difficulties. My colleague expressly declared that he made the proposition without regard to those difficulties. For my part, I concur with the gentleman from South Carolina, [Mr. Kerr,] that there will be no war. The war agitation has been food for stockjobbers and demagogues, and can be of no service to anybody else.

I do not, however, agree with the gentleman from South Carolina [Mr. Kerr] in thinking that war will ultimately, in some future day, grow out of our controversy about the right of search. I think that, like many other debated questions in our past history, it will be finally settled in our favor. Sir, we have the strongest of all allies on our side. Time and Providence are with us. Not only are we in the right, but, compared with other nations, we grow daily stronger. England begins to see that the interests of the two branches of the Anglo-Saxon race are not antagonistic. Distinguished from all other nations by a common language, a literature, a history, and ideas in common, we have a joint work to accomplish, a joint destiny to fulfill. England will leave us to fill the western hemisphere, as she has the eastern, with the deeds and the glories of the race. Nor can I agree that the growth of our commerce must be the decline of hers. Both may flourish together. God's universe is wide enough for both; and there is ample work, moral and material, to employ the powers and energies of all the generations of the twin nations. Between them there should be no hostile rivalry—only a generous emulation.

The present question is, therefore, narrowed down to this: does our Navy need vessels of this class? and does the condition of the Treasury make it expedient to undertake them at this session? The semi-official tabular statement, presented a few days since by the gentleman from North Carolina, [Mr. Winslow,] proves that the Navy is much larger than it was in 1816; in fact, this is sufficiently proved by the naval expenditures, which have increased from \$4,000,000, in 1816, to over fourteen million dollars last year. But I am inclined to think that the Navy needs vessels of the particular class now proposed; and at another time I would vote for them; but the empty Treasury admonishes us to economy, and to postpone anything not absolutely necessary, until the times are better. Large expenditures now may bring about an increase of the tariff—a result that would probably be agreeable to some gentlemen. Let us then postpone this matter to another session.

Mr. LOVEJOY, by unanimous consent, withdrew his amendment.

Mr. JOHN COCHRANE. I move to further amend the Senate amendment, by inserting after the word "seas," in the tenth line, the words:

And ten screw gun-boats, with full steam power, whose greatest draught shall not exceed ten feet, armed and provided, for service in the waters adjacent to this continent.

Mr. MASON. I hope the gentleman will insert the word "iron" before the word "screw."

Mr. JOHN COCHRANE. I accept the gentleman's suggestion. Mr. Chairman, I am sorry to perceive an inclination to convert into a theme for ridicule the Senate amendment, and to afflict with derision the amendments proposed in this committee. The subject is of too great dignity of character, of too alarming a degree of importance to warrant such an inclination or to justify it. The attempt just made on the other side of the House, is but little creditable to either its taste or patriotism, and must inevitably recoil upon those engaged in the effort. Should war threaten, when peace is desired, would honorable gentlemen be sustained in an inconsiderate depreciation of the danger, or be suffered to deride every measure suggested for the continuance of peace? In my judgment, sir, the proposition put forth by this amendment, is directed solely to the maintenance of the peace of the country not only, but to the conservatism of the national dignity and honor both at home and abroad, upon sea and upon land. It is emphatically a peace measure. War has made no approach to our borders. The horizon is unclouded, the skies above us are clear, all is peace; and yet, in such a peace, when the note of industry rises over the land, and is borne upon the sea, when its harmony beguiles labor of its afflictions, and inspires the toiling tillers of a soil where

"The mower whets his scythe,
And the milk-maid singeth blithe;"

during such a peace, sir, is it that an arrogant Power liberates the insolence of her menials upon our ocean commerce, and hounds our merchant ships through strait and gulf, and over all the waters that wash this boasted land of the free. And these aggressions are committed upon the plea of an English right to visitation and search—a right, sir, never admitted—long ago resisted,

even to battle, and upon which America is justly committed to no further word of negotiation. Sir, consider, for a moment, the daily swelling catalogue of the wrongs wrought upon our commerce, and upon our country. At Hayti, our consul is insulted and imprisoned. In San Domingo, the miserable factions contend upon everything, only to unite in the pursuit of American vessels. Scores of merchantmen are invaded by the hostile foot of an English cruiser's captain in the port of Sagua la Grande. The fleets of our commerce which cover our southern waters, are in full flight through the straits of Florida, over the Gulf of Mexico; and still pursued by the avenging Styx and the blundering Buzzard, they crowd the Yucatan channel, and like a bevy of frightened birds escape into the Caribbean sea. A few short years since saw the fluvial liberties of the Argentine Confederation oppressed in the bales of the American merchant, and American honor violated in the invasion by Paraguay of the Water Witch. We double the Cape, and Chile is busy with the capture of an American vessel, and with an affront offered to our minister. At Panama, extraordinary vigilance is necessary for the protection of our commerce, while whole cargoes are forcibly unloaded from American bottoms at Tampico, and devoted to the warlike purposes of the petty military chieftains who distract and oppress that afflicted country.

It is not simply redress, sir, that should be sought; it is protection that is required. On the coast of Africa, our vessels are greater in number than those of any other country; on the coast of Brazil, they equal those of any other country. In the Gulf, they exceed those of all other countries; and they cover with their sails the broad expanse of the Pacific. It is, sir, to protect this extended commerce that these war-steamer are required. Naturally apprehensive, and easily intimidated, as are the impulses of traffic, they require the assurance of the national arm; they can freely expand only behind the banner of an efficient Navy. Nor are these impulses meanly to be attributed to the greed of gain, or to the sordid ambition of material accumulation. Sir, they move those messengers which speed over the earth burdened with the enterprise and the products of American industry. From them are derived the tall admiral, the deeply-loaded argosy, the imperial steamer, that float in every roadstead and distribute through the whole world the beneficence of American commerce, and the proud reputation of the American Republic. The influence of our institutions proceeds in the channels of commerce; and he who would most readily quench their light had best close those channels and shackle that commerce. And yet, gentlemen are found who hesitate at commercial protection, and sneer at every proposition by which it may be accomplished; who laugh to scorn the advice of senatorial wisdom, and deride all effort by the Representatives of the people to pronounce upon—

[Here the hammer fell.]

Mr. GROW. I am opposed to this amendment; for, if it is proposed as a war measure, it is certainly inadequate, and, as a peace measure, I regard it as unnecessary. I am opposed to all these efforts to create a war fever until we have official information, through the proper channels of this Government, that the flag of our country has been insulted, or the rights of American citizens violated. When the President of the United States shall inform us that this is the case, by any nation upon the face of the earth, and that that nation refuses reparation, then it will be time for Congress to take action in vindication of the honor of the country and the integrity of its flag. Then let us, if the circumstances justify it, declare war; and not leave that power to the discretion of any man, to be exercised at his whim or caprice. Till that time, why attempt to fan a war fever by pandering to the baser passions of human nature, in order to create political capital for the benefit of any individual or party? Whenever an injury shall be done to American citizens by any nation, and that nation refuses reparation, I trust this House will be prompt in its action, and that the Republic will teach the world, as it has on three occasions in its history, that the rights of American citizens are not to be violated with impunity. As to the troubles which have occurred in the Gulf, I have no idea that the British Government will take a different position from that which she

took in 1841, in the communication of Aberdeen to Secretary Everett. If she shall disavow the action of her officers in the Gulf, and make reparation for whatever injury has been done, that is all we should ask.

Is it not proper that this Government, before taking precipitate action, should know whether the officers who are charged with committing these injuries have been acting under the orders of their Government, and what the injuries are that they have committed, and whether such injuries are justified or repudiated by the British Government? Since the slave trade was declared piracy by this and other civilized nations, the flag of our country has been in some cases used by interested parties to protect the traffic. Difficulties have occurred heretofore in cases of suspected vessels, in order to ascertain whether the vessel was what its flag indicated. The English Government, while claiming the right to ascertain the nationality of a vessel suspected of being engaged in that trade, does not claim, as I understand the case, the right to search or detain an American vessel. Aberdeen, in his dispatch to Mr. Everett, dated 20th December, 1841, (vol. 8, Sen. Ex. Doc. first session Twenty-Ninth Congress,) says:

"The sole purpose of the British cruisers is to ascertain whether the vessels they meet with are really American or not. The right asserted has, in truth, no resemblance to the right of search either in principle or in practice. It is simply a right to satisfy the party who has a legitimate interest in knowing the truth, that the vessel actually is what her colors announce. *This right we concede as freely as we exercise.* The British cruisers are not instructed to detain American vessels under any circumstances whatever; on the contrary, they are ordered to abstain from all interference with them, be they slavers or otherwise."

"It is undoubtedly true that this right may be abused, like every other which is delegated to many and different hands. It is possible that it may be exercised wantonly and vexatiously; and should this be the case, it would not only call for remonstrance, but would justify resentment. This, however, is in the highest degree improbable; and if, in spite of the utmost caution, an error should be committed, and any American vessel should suffer loss and injury, it would be followed by prompt and ample reparation."

"The undersigned begs to repeat, that, with American vessels, whatever be their destination, British cruisers have no pretensions in any manner to interfere."

In this dispatch Aberdeen says, that though vessels may be engaged in the slave trade, England does not propose to interfere with them if they be actually American vessels, or have American papers. Now, if that doctrine is held by the British Government to-day—and I know of no official renunciation of it—and any injury has been done to American vessels in the Gulf of Mexico, reparation will be made by Great Britain. And, until we know what that Government will do in reference to these cases, it becomes us, as patriots, looking to the honor and welfare of the country, and as philanthropists, acting for the common good of the race, not to stimulate a war feeling by pandering to the baser passions of human nature.

[Here the hammer fell.]

The amendment of Mr. JOHN COCHRANE was agreed to.

Mr. SAYAGE. I offer the following amendment:

Also, ten steam frigates, with full steam power, to be constructed by order of the Navy Department; and that the sum necessary for their construction be paid out of any money in the Treasury not otherwise appropriated; and that the President be requested to give notice of the abrogation of the Clayton-Bulwer treaty: *Provided*, That this appropriation be not used until such notice be given.

Mr. BILLINGHURST. Is that amendment in order? The latter part of it, in relation to the abrogation of the Clayton-Bulwer treaty, is legislation.

Mr. SAYAGE. I offer that amendment.

Mr. SMITH, of Virginia. Does the Chair rule that that amendment is in order?

The CHAIRMAN. It is germane to the amendment of the Senate, which we are considering; and the Chair thinks it is in order.

The hour of four o'clock having now arrived, the committee took a recess until six o'clock, p. m.

EVENING SESSION.

The committee reassembled at six o'clock, and resumed the consideration of the Navy appropriation bill.

The CHAIRMAN stated that the pending question was on the amendment of the gentleman from Tennessee, [Mr. SAYAGE.]

Mr. BOCKOCK. Has the Chair decided that amendment to be in order?

The CHAIRMAN. The Chair held the question under consideration. The Chair is of opinion that a portion of the amendment is in order, and that a portion of it is not in order. The Chair thinks that that portion of it which requests the President to give notice of the abrogation of the Clayton-Bulwer treaty is not in order.

Mr. SAYAGE. But the proviso that the appropriation shall not be used until the notice of the abrogation of that treaty shall be given, I suppose is in order.

The CHAIRMAN. The Chair would hold the amendment to be in order if the gentleman were to modify it by leaving out that portion of it which requests the President to give the notice, but retaining the proviso.

Mr. SAYAGE. I modify it in that way.

The amendment, as modified, was then read, as follows:

Also, ten steam frigates with full steam power, to be constructed by the order of the Navy Department, and that the sum necessary for their construction be paid out of any money in the Treasury not otherwise appropriated: *Provided*, That this appropriation shall not be used until notice is given to the British Government of the termination of the Clayton-Bulwer treaty.

Mr. SAYAGE. Mr. Chairman, on the 23d of July, 1850, I made a speech against the ratification of the Clayton-Bulwer treaty, to prevent my silence from being construed as approbation, not being then of the opinion that my voice would be heard. I fear that my present opinion will meet with a similar fate. I held then and still hold that the treaty is fraudulent and infamous and that no man ought to be continued in the humblest office in the gift of the American people who has expressly or impliedly approved it. I then took issue with the President's message, and alleged that the United States, from her position, interest, and power, ought to be the sole possessor, patron, and protector of the transit route through Nicaragua, that in our hands it would be a bond of peace upon the nations, and that any joint possession would be an apple of eternal discord. I alleged that the American jackass was inclined to an association with the British lion, and like his illustrious predecessor mentioned by Æsop, he would reap nothing but contempt and ruin for his folly.

I regretted the language of the treaty and the message, and asserted that in all future time they would stand across the line of our advancement, with more than the power of five hundred thousand armed warriors. I predicted the commercial struggle that is now upon us, and advised the immediate abrogation of the treaty.

Every act of the English Government in connection with the treaty has been fraudulent and injurious to the rights of the United States. The treaty contained a stipulation against the increase of American power upon this continent without a corresponding increase of English power; and while we honest people have kept the bond in good faith, and have checked our advances, and called our gallant citizens by hard names for attempting to extend our dominions, England has marched steadily forward, seizing and occupying point after point upon the land, until now she searches and overhauls our ships upon a sea where our power ought to control and govern everything. But for this treaty, the power of this nation would have been without a rival in the Gulf of Mexico and in Central America. England procured the treaty to retard our progress, while she fraudulently trampled it under foot, and accelerated her own. It has been suffered to exist for years, to our injury and disgrace; yet no Administration has dared to denounce the false bond and the practice of English statesmen under it.

My amendment offers ten steam frigates to be built as the President may order, on condition that notice be given to the English Government that the treaty is abolished, and for myself I shall be ready to vote a hundred ships whenever such notice shall be given. It cannot be denied that there is, and has been, for the last ten or fifteen years, a fierce contest between the commercial and political interests of the United States and of England in regard to Cuba, Mexico, and the Central American States. It is a contest in which one or the other party must lose, and cannot continue much longer without involving both nations. If England is wise she will make an end of the matter,

by yielding to the natural course of things. For myself, I am willing to proclaim and maintain the doctrine, that in regard to the land and ocean immediately south of us we will have no rivals; that no European Power shall directly or indirectly control the destiny of the territory or any of the people bordering on the Gulf of Mexico; and that all changes must be by our consent and for our interest.

Mr. SMITH, of Virginia. Does the gentleman withdraw his amendment?

Mr. SAVAGE. If it be desired I will withdraw it.

Mr. SMITH, of Virginia. I desire to submit a remark or two.

Mr. CLARK, of New York. I would ask the gentleman from Tennessee whether there is any provision in the Clayton-Bulwer treaty for its abrogation?

Mr. SAVAGE. There is an express provision, and it is the only piece of wisdom in that unfortunate document.

Mr. CLARK, of New York. I do not remember any such provision.

Mr. SMITH, of Virginia. I desire to say that nobody, not even the gentleman himself, can entertain a more decided repugnance to the Clayton-Bulwer treaty than I do. It is undoubtedly a check upon American progress, and it is moreover conducive to foreign alliances utterly at variance to my political teachings. But I would suggest to the gentleman from Tennessee that he cannot effect anything by his amendment. It would imply that the Executive is so deeply anxious to obtain these ten sloops, as, in order to get them, he will give notice to terminate the Clayton-Bulwer treaty. I think that it places the Executive in an obnoxious light; and if it be not withdrawn, I hope that it will be voted down.

The CHAIRMAN. Does the gentleman withdraw his amendment?

Mr. SAVAGE. Not for the reasons given by the gentleman from Virginia.

The CHAIRMAN. For any reason?

Mr. SAVAGE. Not now.

The amendment was disagreed to.

Mr. LETCHER. I offer the following amendment:

Strike from the pending Senate amendment these words: "And that there be, and is hereby, appropriated, to be expended under the direction of the Secretary of the Navy, for the purpose above specified, the sum of \$1,200,000, out of any money in the Treasury not otherwise appropriated."

And in lieu thereof insert the following:

And the President of the United States is hereby authorized and directed to borrow the sum of \$1,900,000, at a rate of interest not exceeding six per cent. per annum, payable half yearly, and redeemable at the pleasure of the Government; which said sum shall be expended in the construction of the vessels hereinafter ordered, and which shall be constructed under the direction of the Secretary of the Navy.

Mr. WASHBURN, of Illinois. Is that amendment in order? Is it not new legislation?

Mr. LETCHER. You have put in a distinct provision for these vessels, and this amendment provides the means to pay for them.

Mr. HOWARD. It is not only germane, but necessary.

Mr. WASHBURN, of Illinois. I insist on my point of order.

The CHAIRMAN. The Chair is of the opinion that it is quite as much in order to provide the money as to appropriate it for the ships. The Chair holds the amendment to be in order.

Mr. LETCHER. My object in offering this amendment is not to embarrass what I see is a foregone conclusion upon the part of the whole committee. It is perfectly manifest, by the votes which have already been taken, that there is a fixed and settled purpose to build a larger number of vessels than was provided for in the Senate amendment. How many the committee may conclude to order I do not know; but the purpose of my amendment is to furnish, at the same time, the means necessary, not to complete these vessels, but to give them a start, or, at least, as many as the committee may conclude to order. The amount provided for in the Senate amendment was \$1,200,000, when there were but six vessels contemplated, including the one for the Chinese waters. That sum, I suppose, would be hardly sufficient for their construction alone. The feeling of the House is such that I imagine they will order at least double the number contemplated by the Senate, and which will require at least double

the sum of money specified in the Senate amendment. That there may be no objection on that score, I have brought the sum within the narrowest limits with which it seems to me it is possible to meet the feeling of the House upon the subject of improving the Navy. I have endeavored, heretofore, to ingraft this provision upon appropriation bills, and I think it fair and right that it should be ingrafted upon each and every bill, that, when appropriations of money are made, you should at the same time provide means for meeting them.

Mr. BOCKOCK. I rise to oppose the measure of my colleague; and, in the beginning, let me say, with all respect for the opinion of the chairman, it does strike me as a new proposition that a loan should be in order upon an appropriation bill. This, sir, is a bill to appropriate money, not to borrow it. It is not a loan bill. We have a loan bill to come up for consideration in a few days, and, if this money must be borrowed, the proper time will be when we ascertain how much we want; the proper time will be when that loan bill comes up. I have usually found my colleague a straightforward man, advancing directly to the attack and striking his antagonist fairly in front; but now he comes and strikes my project in the back. That is the effect of his action, whether intended or not.

Mr. LETCHER. If the gentleman will inquire of my colleagues of the Committee of Ways and Means, in reference to our meeting this morning, he will satisfy himself whether or not I intended to embarrass his scheme.

Mr. BOCKOCK. I was speaking of the effect of my colleague's proposition. He may be correct in saying he did not wish to embarrass it, but I say that I do not see any occasion for incorporating such a provision into this bill. My colleague seems to think that we are bound to abide by the calculations of the Senate. I have as much respect for the Senate as other members upon this floor, but I am not willing to commit my faith implicitly to the conclusions to which that body may arrive. I do not believe that \$1,200,000 will be required for the work upon six vessels this year. I stated this morning, that I thought that for all the vessels \$1,200,000 would be not only enough, but more than would be expended this year, and till we should have an opportunity to make another appropriation. Before that time, trade may revive, business assume a better aspect, and money come into the Treasury without borrowing it. Times may change, and perhaps it will not be necessary to make the loan my colleague proposes. A proposition has been made to borrow \$15,000,000. We might, if necessary, amend that bill, and borrow more, but I do not imagine it will be necessary. I have seen no calculation to show that \$15,000,000, no more and no less, is necessary to carry on the operations of the Government, independent of this measure, until next winter. On the contrary, I have sought information, at sources where I thought information could best be obtained, and I state to the House, that if business shall revive, as there is a probability, and if importations from other countries shall increase, as our exports give reason to believe, we will receive money to build these vessels, without borrowing another cent, and \$15,000,000 will be sufficient for Government purposes, including what I propose to appropriate for this purpose.

The question being on Mr. LETCHER's amendment to the amendment,

Mr. KUNKEL, of Pennsylvania, demanded tellers.

Tellers were ordered; and Messrs. JOHN COCHRANE and UNDERWOOD were appointed.

The committee divided; and the tellers reported—ayes 71, noes 54.

So the amendment to the amendment was agreed to.

Mr. MILLSON. I offer the following amendment to the amendment:

Strike out all after the enacting clause of the section, and insert as follows:

That the Secretary of the Navy cause to be constructed as speedily as may be consistent with the public interests, ten steam screw sloops of war, with full steam power, whose greatest draught of water shall not exceed fourteen feet, which ships shall combine the heaviest armament and greatest speed compatible with their character and tonnage; and one side-wheel war steamer, whose greatest draught shall not exceed eight feet, armed and provided for service in the China seas; and that there be, and is hereby, appro-

printed, to be expended under the direction of the Secretary of the Navy, for the purpose above specified, the sum of \$1,200,000, out of any money in the Treasury not otherwise appropriated.

The CHAIRMAN. As the Chair understands the gentleman's amendment, it is the same as the original amendment of the Senate.

Mr. MILLSON. No, sir. It provides for ten sloops instead of five.

The CHAIRMAN. Then the Chair understands the amendment to be to strike out the whole of the amendments that have been agreed to.

Mr. MILLSON. The whole of the Senate amendment as amended.

The CHAIRMAN. The Chair holds that that is not in order.

Mr. MILLSON. Why not? It has always been held that you cannot strike out any single proposition that has been voted on by the House as an amendment; but you can strike it out in connection with other parts of the matter proposed to be amended.

The CHAIRMAN. The Chair understands the amendment to be this: to strike out the matter that has been agreed to, and to insert that which has been read.

Mr. MILLSON. It is always competent to strike out matter that has been agreed to, provided the motion is to strike it out in connection with other matters that have not been voted in by the House.

The CHAIRMAN. There is no matter that has not been voted in by the House.

Mr. MILLSON. Yes, sir; there is the Senate amendment. I move to strike out all, from the enacting words of the section.

The CHAIRMAN. The Chair entertains the amendment.

Mr. MILLSON. Mr. Chairman, I desire to enable the committee, if they wish it, to approach a final vote on this question. The committee will perceive that, as I move to strike out the whole Senate amendment, and as, under the decision of the Chair, to-day, it is not in order to move to amend my amendment to the amendment of the Senate, this being an amendment in the second degree, there can be no other vote on this question if this amendment to the amendment shall be adopted; it becomes a finality.

I wish to reach the point that my colleague [Mr. Bockock] aimed at this morning, to increase the number of new vessels from five to ten. I know that the committee have agreed, at different times, to increase the number to twenty-six; but I must believe that those amendments were adopted by the committee with reference to the ultimate defeat of the proposition, and not with the expectation of carrying it. Certainly the Senate could never be persuaded to agree to this amendment as it now stands. We know that it was with much difficulty that the Senate was induced to agree to the building of five new vessels; they rejected the proposition to build ten; and to send them a proposition to build twenty-six, is only to court defeat; while we may reasonably hope that we may induce them to concur in an amendment for the building of ten; not for the purpose of preparing the country for war; for I neither expect a war, nor do I desire to inflame the public apprehensions upon this subject, as some seem willing to do. I believe that these steamships are now necessary as a part of our peace establishment; and I am not moved, in the slightest degree, by the dangers which gentlemen fancy to exist with reference to contemplated difficulties with other Powers.

[Here the hammer fell.]

Mr. BLAIR. The amendment of the gentleman from Virginia is to strike out the Senate amendment. Before the vote is taken, I move to perfect the Senate amendment by inserting the following:

Also ten war steamers, to be used on the Ohio, Mississippi, Missouri, and Arkansas rivers, and that said steamers be so constructed as to be used as snag-boats until the war breaks out. [Great laughter.]

Mr. MAYNARD. Put in the Tennessee river, and I will vote for that.

Mr. BLAIR. I modify my amendment so as to include the Tennessee river.

The CHAIRMAN. Will the gentleman from Missouri state at what part of the Senate amendment he proposes to insert his amendment?

Mr. BLAIR. Immediately after the amend-

ment of the gentleman from New York, [Mr. JOHN COCHRANE.] It was the speech of the gentleman from New York that alarmed me about the fate of New Orleans and our Mississippi river towns. [Laughter.]

Mr. JOHN COCHRANE. Does the gentleman refer to me?

Mr. BLAIR. Yes, sir.

Mr. JOHN COCHRANE. I will inform him that there is no place in my speech where a snag-boat would find a place. [Renewed laughter.]

Mr. BLAIR. That is very much the case with all the gentlemen from the sea-board. There is no place in their consciences where you can get a snag-boat in. They vote for nothing but sea-going vessels.

Mr. Chairman, I believe the whole object of increasing our Navy is for the protection and preservation of our commerce. Now, we have about as much commerce on the Mississippi and its tributaries as the entire foreign commerce of this nation, and it deserves the protection of the Government quite as much as the foreign commerce does. I conceive that the war steamers provided for in my amendment will effectually protect it in war and in peace, and I desire to see the amendment adopted.

Mr. CAVANAUGH. If an amendment is in order, I will move to add the Mississippi river north of the Iowa line.

The CHAIRMAN. No further amendment is in order.

Mr. HARRIS, of Illinois. I hope we shall take the vote at once on the amendment of the gentleman from Missouri, and then on the amendment of the gentleman from Virginia, and dispose of this whole question. I think we are trifling with the public interests and wasting time upon this bill.

Mr. BLAIR's amendment was rejected—ayes 57, noes 63.

Mr. CLAY. Mr. Chairman, I believe that the amendment I propose is now in order.

The CHAIRMAN. It is.

The amendment was reported as follows:

Provided, That none of the vessels contemplated by this section shall be of more than twelve hundred tons burden.

Mr. CLAY. Mr. Chairman, I was gratified this morning to hear the amendment of my friend from Virginia [Mr. BOGOCCK] to the amendment of the Senate authorizing the construction of ten new sloops-of-war. I was gratified at it, sir; because we needed those ships, not for war, as has been argued in this House, but for peace, and for the preservation of our commerce. I thought that the arguments of my friend from Virginia, [Mr. BOGOCCK], this morning, were absolutely conclusive. But, sir, I was very much astonished when I found gentlemen in different parts of the House, and especially in that part of the House over against us, were willing, and sought to construe this peaceful measure, which was intended as a peaceful measure on this side of the House, into a war measure. I confess that I was not so much surprised at the remarks made by the gentleman from Illinois, [Mr. LOVEJOY], on the other side, who wished to construe it into a war measure. Everything with him this winter has been war! war! and especially when there was anything of a negro in it.

I was not so much surprised, either, at the remarks made by the gentleman from Pennsylvania, [Mr. GROW], who wished us to wait until the enemy had landed upon our shores, until the Goth was in the Capitol, until the President should have sent us a message that he had made a lodgment there, before any preparations were made, either for peace or war. That did not surprise me. I was not surprised at either of the gentlemen; but I confess that I felt some degree of surprise when I saw a friend of mine from Virginia, [Mr. GARNETT], and fortunately, at the time, on the other side of the House, rising in his place and almost, at it appeared, in concert with them, denouncing this measure for building ten sloops as a war scheme, and using language, sir, which, I am sure, he did not intend to apply to gentlemen upon this floor who have expressed their opinion, that the time for war had almost come. He said that the scheme to build these ten ships was *food for speculators and demagogues*. Those, I believe, were the words which my honorable young friend used. Sir, so far as I have

been concerned in any expressions in reference to the recent outrages of Great Britain in the Gulf, there has been no demagogism on my part. There has been no disposition on my part in that way. There has been no scheme of speculation.

Mr. COVODE. I object to the amendment of the gentleman from Kentucky, which limits the war steamers to twelve hundred tons burden each, because I consider they are to be used, if used at all, against those of the enemy of twenty-five hundred or three thousand tons burden. Although I voted for these ten steamers to-day, and voted for the four for the lakes, I was not influenced to do so because I had the remotest idea that there is any probability of a war, but because our naval force is inefficient, and will be so long as we rely upon our sail vessels. I voted for them that we might have a more efficient Navy.

Mr. Chairman, I stated some days ago that we were far behind the English in the strength of our naval force. I have been at some pains to look at the comparative naval power of the several nations of the world, and here are the facts I have collected: England had, at the close of the Crimean war, about five hundred war steamers. She had two years ago ninety-one lines of ocean mail steamers running direct from England to foreign ports, employing about four hundred steamers; and she had twenty-five lines running between foreign ports in connection with them, employing one hundred and five steamers; making five hundred and five ocean mail steamers which receive large sums direct from the Government as an inducement for their several companies to establish and run them. These are all subject to the orders of the Government whenever the exigencies of war render it necessary for her to use them, either as war steamers or as transport vessels. Thus it will be seen that she has a war force at her command of about one thousand steamers, besides nearly the same number of mercantile steamers, making a grand total of nearly two thousand ocean steamers. Sir, she has taken already a large share of our carrying trade, and nearly the whole of the most valuable portion of it. There are now forty-four English, five Belgian, five French, and four Hamburg steamers running in the American trade, while there are but eight American—fifty-eight to eight. No wonder that seventy hundredths of our commerce was, last year, in the hands of foreigners; and they will soon have a monopoly of it if we go on much longer in the blundering way we have been going, under Democratic rule, for five years past.

France, though not a first class commercial Power, has gone far ahead of us in building ocean steamers. She has one hundred and thirty war steamers in the Mediterranean, Levant, Black, North, and Baltic seas.

Austria, not a commercial nation at all, has one hundred and ten steamers on the same seas; and Russia has over one hundred, and is constantly increasing her steam power.

The United States have only twenty, eight of which only carry from one to six guns; some of them not fit to be sent outside of a harbor.

We have a few line-of-battle ships, old sailing vessels; but of what use would they be to cope with modern war steamers? Besides, it will be found, I presume, upon their being surveyed, as they have been ordered to be, that it will cost more to repair them than they will be worth when repaired. I am, therefore, in favor, Mr. Chairman, of building steamers, so that we may be able to meet our enemies, when we have any, on a footing of equality, and not compel our brave officers and men to fight at large odds. Just as well might we continue to arm our soldiers with the old-fashioned musket, and expect them to whip an equal number, armed with Minnie rifles, and improved breech-loading arms.

Mr. Chairman, advocating the building of war steamers, I do not wish to be understood as countenancing the idea that we are at all in danger of having a war with England at this time, or at any other time near at hand; but for the sake of having a Navy that can render efficient protection to our commerce in distant seas, and command the respect of those nations which respect only those that exhibit ample ability to protect their own flag, and all who are entitled to protection under it.

Sir, England is governed by wise and sagacious statesmen, and no people in the world know bet-

ter than the English upon which side their "bread is buttered." She and her people are too wise and sagacious to run into a war upon her best customer, unless absolutely compelled to do so. Does she not know that the dominant party have been fixing our tariff for her special benefit ever since they repealed the Whig tariff of 1842? Does she not know that under our present tariff laws, foreign nations have almost a monopoly of manufacturing the goods our people wear and use, and that she comes in for the lion's share? It would be the height of folly in her to make war upon us, or to give us cause to make war upon her, so long as the party in power rendered her such inestimable services at the expense of our own manufacturers, laborers, and merchants. Why, sir, it would be killing the goose that laid for her owner a golden egg daily. No, no, sir; we need have no apprehensions of a war, nor need we "prepare the hearts of the people for war." The only war we are to have is a continuance of the war we have had since 1846, upon American industry and home manufactures. That is a cruel, unnatural, relentless war; it kills by starving, and its victims are powerless.

Sir, the Democratic party may well afford to sound the trumpet of war in these Halls. It calls no one to battle, and alarms none but old women and nervous invalids. We have, in years gone by, heard the daily cry in the Senate from a venerable, a very venerable, old Senator, that "war was inevitable;" and one might suppose it to be so now; but it is not. The free trade which England enjoys with us, the monopoly, or what amounts almost to a monopoly, which she now possesses of transporting our cotton to her own shores, of manufacturing it for us, and then of transporting the goods made of it back to us, she appreciates too highly to throw them away thoughtlessly. And, again, she knows well the importance to her of having the privilege of putting her own instead of home valuations on the goods she sends us; by which means she evades the payment of a large portion of the duties that ought to be paid, and drives American importers out of business in our own cities.

England knows well that a five years' war, or non-intercourse with us, would build up our manufacturers on a solid foundation, and thus take from them their most profitable market, and their largest, for many years to come. Our weak point is California; and, until we get a railroad across the country, it would not only be very expensive to protect our Pacific coasts, but with our small Navy it would be absolutely impossible, against any powerful nation; but so long as we dig gold for England, so long as we are simply their miners, and all we get goes directly into her lap; we taking finery and gewgaws, and goods which we ought to manufacture for ourselves, in payment for this gold; so long as the labor of her women and children can pay for the productions of our mines; why should she desire to disturb the present state of things, so profitable to her?

No, Mr. Chairman, you need not alarm yourself or the country about a war with England. Instead of that it would be well for us to turn our attention to the state of our finances, our general trade, and manufactures, and see if anything can be done to benefit the country.

This Administration found some twenty millions in the Treasury; it has been in power a little more than a year, and what is the condition of the Treasury now? Bankrupt. And, although we have been digging gold at the rate of more than four and a half millions a month, yet the Government has been obliged to resort to what the party used to call "the rag-money currency," to the issuance of Treasury notes, formerly classically denominated "Treasury shinplasters." What a beautiful state of things! What statesmanship it proves the President and his Administration to possess! What wisdom, sagacity, patriotism! And yet, bankrupt as the Government is, it obstinately pursues a policy calculated not only to impoverish it still more, and compel the Secretary of the Treasury to heap debt upon debt, by borrowing, but it is also calculated to depress American enterprise, cripple American industry, destroy American manufactures, and to reduce to the lowest price American produce. Such folly and madness would astonish us if we were not accustomed to and familiar with it.

Mr. Chairman, I have a word to say on the

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war policy of the present Administration. It has displayed the same wisdom and foresight in regard to this as in regard to its financial policy. For some reason or another, a war upon Utah was deemed expedient. It was necessary to chastise the Mormons for Brigham Young's insolent and insane ravings. The war was commenced; the Army, at an immense expense of suffering, was marched thousands of miles through the wilderness; millions of dollars had been expended in recruiting and provisioning it for the campaign; and when, after months of toil in crossing mountains, forcing its way through valleys obstructed by snow, and in struggles with an inhospitable climate, it had at length arrived within striking distance of the enemy, peace commissioners were dispatched in haste to overtake and stop its advance, and to negotiate with the Mormons for peace.

It has been usual, especially in modern times, to exhaust diplomacy before resorting to arms. But this old, time-honored, wise, and Christian policy, was reversed by our Democratic President. He declares war first, and treats afterwards. He mustered his battalions; marched them at an immense expense of money and suffering into the enemy's country; and when they had arrived, and every mail from the West promised tidings of the commencement of hostilities, the President bethought himself that it was time to check the advance of the Army, and send commissioners to treat with the enemy. Would it not have been wiser and more conformable to the usages of civilized nations, to have sent commissioners to inquire into and report upon the Mormon outrages, before sending an army into their country? By doing so, he would have saved millions to the Treasury, which the policy of his party has rendered almost bankrupt. But though the Treasury and the country might have profited by pursuing this course, the Kansas iniquity might not have been so easily or safely accomplished, had it not been for the war. The contracts and appointments incident to this Mormon war were strong levers to force refractory partisans back into the ranks of the party from which they had been frightened by the Kansas enormity. Epaullets for sons or nephews, fat contracts for brothers or other relations, are wonderfully potent in inducing those who have faltered for a moment, to return to the standards from which they have deserted. Scruples of conscience are appeased; alarmed and startled honor is satisfied; and the partisan goes back to his ranks, bending under the patronage purchased by subserviency, and the ignominy due to his desertion of principle.

I am not prepared to say that any one, here or elsewhere, has been influenced by such considerations. But it would be nothing new in the history of human nature, to find out hereafter, that appointments to office and contracts for supplies had more or less to do in the consummation of the Kansas swindle. But whatever may be the opinions entertained respecting the wisdom of the President's war policy, its novelty will be universally conceded. Hitherto nations have sent ambassadors to treat, in order to prevent war; but our President has made war in order to have an opportunity to send ambassadors to treat; and I have no doubt that it will soon be the boast of the Democratic party that the President has been signally successful in his management of the Mormon war, and especially in the restoration of peace, which it appears had never been disturbed, except by the boisterous declaration of over-ardent demagogues.

But this is not the only ground of boast in which the party may rightfully indulge. Less than two years since the then Administration was almost at its wits' end to discover means to deplete the national Treasury. Debts due a long time hence were bought up at large premiums, in order to prevent the accumulation of an undue and injurious amount of money in the Treasury. And notwithstanding all his efforts, Mr. Guthrie left the Treasury a little more than fifteen months ago

with a surplus on hand of the amount I have before stated. Mr. Cobb took his place, and straightway what Mr. Guthrie had labored for in vain was achieved, and more than achieved. Under the management of Mr. Buchanan's Secretary of the Treasury, the inconvenient surplus was soon disposed of.

The first step in Mr. Cobb's financial policy was to get rid of the surplus left on hand by his predecessor. In this he succeeded. He not only emptied the Treasury, but things have been so managed by him and his party friends that he has not been able again to fill it, but was compelled, as the House knows, and the country knows, to resort to an issue of Treasury notes. Here, too, we have had a sample of the wisdom and consistency of the Administration; and, after the denunciation, so loud and so often repeated, of "bank rags," have a recommendation to issue Treasury notes. Why not ask for a loan? Simply because it was supposed the people might be beguiled into believing that an issue of Treasury notes was not a public debt. He began first by asking for \$5,000,000; then for \$10,000,000; and finally, for \$15,000,000; and we now know that \$40,000,000 will hardly carry the Treasury through until the next meeting of Congress.

Where has the money gone? What great improvements have been made? How much of this vast outlay has been applied to pay the thousands and millions of dollars due to claimants, whose claims are indisputably just? What account can the Administration render to the country of a stewardship so discharged? A year ago the whole country was rejoicing in a constantly increasing prosperity. Commerce, agriculture, and manufactures, were all flourishing. The Treasury was full to overflowing. But now all is changed. Almost every branch of American industry is prostrate or paralyzed. Hundreds, who a year ago were profitably employed, are now idle, and their families suffering. And all this is chargeable to Democratic policy, which breaks down our own manufactures, by denying them the incidental protection that a sufficient revenue duty would afford; and upon all this the Administration and the Democratic party look with stoical indifference—their only care and anxiety being to keep their party together, and distribute among themselves the spoils of office. For the country and its prosperity they care nothing; for their party, everything.

Mr. CLAY withdrew his amendment.

Mr. MORSE, of Maine. I offer the following amendment:

And that the Secretary of the Navy also be directed to take immediate measures to have an engine placed in the ship *Franklin*, now on the stocks at the Kittery yard, and to have said ship launched as soon as practicable.

Mr. Chairman, that ship, I have been informed by the constructor within a few weeks, will spoil if she is not put into the water. She is one of the finest ships in our Navy; one of the finest we ever had; one of the most beautiful models and the best built. She will have to be stripped; and it will cost more for repairs than it would to put her into the water. I see no possible objection why, while we are providing for the construction of so many new steamers we should not provide for the safety of one of the best steamers in the Navy by putting it into the water. I do not do this because I have the slightest fear that we shall want the ships for any war purposes. I believe a great part of the talk upon this question is, to say the least of it, imprudent, if not worse.

Mr. BLISS. I desire to know if the position of that ship is not the very best one to preserve her?

Mr. MORSE, of Maine. No, sir. Any man who knows anything about vessels knows that they keep better in salt water than they do upon the stocks. If we ever want to use the vessel, it ought to be launched.

I merely wish to say further, that if the House had not amended the Senate amendment, which I was in favor of, I should not have embarrassed

it by this amendment. I believe a few small steamers are necessary; but I believe we are running the thing into the ground.

Mr. GARNETT. I am opposed to the amendment of the gentleman from Maine, and I shall proceed to answer the remarks of the gentleman from Kentucky, [Mr. CLAY:] and as my friend's chief objection to my remarks this morning seemed to be the place I was standing in when I made them, I hope I shall be more fortunate in receiving his approval now.

Mr. CLAY. That was not at all the objection.

Mr. GARNETT. The gentleman from Kentucky could not be more surprised at anything I said than I was at his proposition to confer nearly all the war-making power of the Government upon the Executive branch, coming from my friend from Kentucky, especially when I remembered the illustrious associations that attach to his name.

Mr. Chairman, the gentleman complains that I this morning said that this project for increasing the Navy was food for demagogues and stock-jobbers. My friend will find, when he sees the report, that he has entirely misquoted me. I applied no such remarks to the proposition of my colleague. I said that this agitation for war was food for demagogues and stock-jobbers—that I conceived it could benefit nobody else. I said it in all kindness to the gentleman, and to every gentleman upon this floor. But I appeal to gentlemen if they have not heard, from a place which it is not in order to mention here, and whether they have not seen, from a portion of the newspaper press, an attempt made by one party to outbid the other by pandering to what they supposed to be the popular passion for war, and to hurry this country into a contest the most momentous which has occurred in modern times. I believe a war with England would be a great calamity. I will go as far as any man to defend the honor of our flag and the rights of our country; but brave nations, like brave men, do not hurry blindly into war. They use all honorable means of producing peace before resorting to the dread arbitrament of force. Conscious strength is dignified, calm, and cool. Such a war as some gentlemen talk of so lightly, would probably go far to revolutionize our system of Government. It would endanger the cause of free government, and put back the progress of civilization—for civilization itself is involved in the fate of the Anglo-Saxon race, and depends on the peace and alliance of the free nations which represent it.

The question was taken on Mr. MORSE's amendment; and it was agreed to.

The question recurring on Mr. MILLSON's amendment,

Mr. MILLSON demanded tellers.

Tellers were ordered; and Messrs. BUFFINTON and JOHN COCHRANE were appointed.

The committee divided; and the tellers reported—ayes 84, noes 68.

So the amendment was agreed to.

The question recurred on the amendment as amended.

Mr. CLAY. I desire now to offer an amendment.

The CHAIRMAN. No further amendment is in order.

Mr. STANTON. Did I understand the Chair to say that no further amendment is in order?

The CHAIRMAN. To the Senate amendment there is no further amendment in order.

Mr. STANTON. I cannot understand the reason why.

The CHAIRMAN. Because the motion of the gentleman from Virginia was to strike out the whole of it, and the Chair permitted the original to be perfected before that motion was put.

Mr. STANTON. The point I make is this: that, without disturbing what the House has inserted, we may insert additional matter.

The CHAIRMAN. The first question is on the amendment as amended.

Mr. STANTON. Yes; if there is no amendment offered.

Mr. DAVIS, of Maryland. I desire to know if it is not now in order to move to amend, by way of an addition, to the amendment just adopted?

The CHAIRMAN. The Chair is of opinion that it is not.

Mr. DAVIS, of Maryland. Will it not be in order after the question is taken on the pending proposition?

The CHAIRMAN. The Chair will decide that when the question is submitted. There is nothing in order now but to take the question on the amendment as amended.

The question was taken; and there were, on a division—yeas 89, noes 40.

So the amendment as amended was concurred in.

Mr. BOCOCK. I want to ask the unanimous consent of the committee to substitute "twelve" for "eight" in the matter of the draught of the steamer for China. My friend from Kentucky [Mr. MARSHALL] has been there, and thinks that twelve is better than eight.

Mr. DEAN. I object.

Mr. MARSHALL, of Kentucky. I do not know what gentlemen mean by objecting; but I know that an eight-foot draught is unsafe to go to sea with at all. Put it not to exceed twelve feet, and do not make your steamer a failure.

Mr. J. GLANCY JONES. I move that the committee do now rise, and report the amendments.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. STEPHENS, of Georgia, reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the Senate amendments to the bill (H. R. No. 199) making appropriations for the naval service for the year ending the 30th of June, 1859, and had instructed him to report the same back with a recommendation that some be concurred in, some non-concurred in, and one concurred in with an amendment.

Mr. J. GLANCY JONES demanded the previous question on the amendments.

The previous question was seconded; and the main question ordered.

The recommendation of the Committee of the Whole on the state of the Union with reference to the amendments of the Senate, numbered from one to thirteen, was concurred in.

The fourteenth and last amendment of the Senate was then read, as follows:

Sec. 6. And be it further enacted, That the Secretary of the Navy cause to be constructed, as speedily as may be consistent with the public interests, five steam screw sloops-of-war, with full steam power, whose greatest draught of water shall not exceed fourteen feet, which ships shall combine the heaviest armament and greatest speed compatible with their character and tonnage; and one side-wheel war steamer, whose greatest draught shall not exceed eight feet, armed and provided for service in the China seas; and that there be, and is hereby, appropriated, to be expended under the direction of the Secretary of the Navy, for the purpose above specified, the sum of \$1,200,000, out of any money in the Treasury not otherwise appropriated.

The SPEAKER stated that the Committee of the Whole on the state of the Union reported an amendment to this amendment, the effect of which was to strike out "five" and insert "ten," so as to increase the number of steam sloops to ten.

Mr. JONES, of Tennessee, demanded the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 86, nays 85; as follows:

YEAS—Messrs. Arnold, Barksdale, Bocoek, Bonham, Bowie, Branch, Bryan, Caskie, John B. Clark, Clay, Clemens, John Cochrane, Cockerill, Comins, Corning, Cox, Burton, Craige, Crawford, Curry, Davis of Mississippi, Davis of Massachusetts, Dewart, Dimmick, Dowdell, Edie, Faulkner, Florence, Foley, Gillis, Gilmer, Lawrence W. Hall, Robert H. Hall, J. Morrison Harris, Thomas L. Harris, Hatch, Hawkins, Hopkins, Houston, Huyler, Jackson, Jenkins, Jewett, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Landy, McKibbin, McQueen, Mason, Miles, Milson, Edward Joy Morris, Pendleton, Peyton, William W. Phelps, Phillips, Quitman, Ready, Reagan, Reilly, Ricand, Ruffin, Russell, Sandidge, Savage, Scales, Scott, Searing, Henry M. Shaw, Shorter, Sickles, Singleton, William Smith, Stallworth, Stevenson, James A. Stewart, Miles Taylor, Underwood, White, Whiteley, Wood, Woodson, and Wortendyke—86.

NAYS—Messrs. Abbott, Andrews, Billingshurst, Bingham, Blair, Bliss, Brayton, Burlingame, Case, Chaffee, Chapman, Ezra Clark, Clawson, Cobb, Clark B. Cochrane, Colfax, Covode, Cragin, Curtis, Davis of Maryland, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dodd, Durfee, Fenton, Foster, Garnett, Giddings, Gilman, Gooch,

Goodwin, Granger, Grow, Harlan, Horton, Howard, George W. Jones, Kellogg, Knapp, John C. Kunkel, Leiter, Letcher, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Maynard, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Palmer, Parker, John S. Phelps, Pike, Potter, Powell, Purviance, Ritchie, Robbins, Roberts, Royce, John Sherman, Spinner, Stanton, Stephens, William Stewart, Tappan, Thayer, Tompkins, Trippe, Wade, Waldron, Walton, Elihu B. Washburne, Israel Washburn, John V. Wright, and Zollcoffer—85.

So the amendment to the amendment was agreed to.

During the call of the roll,

Mr. CURRY stated that Mr. MOORE was still confined to his room by illness.

Mr. NICHOLS stated that his colleague, Mr. VALLANDIGHAM, had been called home on business, and had paired off with him on all party questions; and, as this appeared to have assumed that complexion, he declined to vote.

Mr. KELLOGG stated that Mr. FARNSWORTH was absent on account of ill health.

The question recurred on agreeing to the amendment of the Senate as amended.

Mr. BLISS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 89, nays 88; as follows:

YEAS—Messrs. Arnold, Barksdale, Bocoek, Bonham, Bowie, Branch, Bryan, Caskie, Cavanaugh, John B. Clark, Clay, Clemens, John Cochrane, Cockerill, Comins, Corning, Cox, James Craig, Burton Craige, Crawford, Curry, Davis of Mississippi, Dewart, Dimmick, Faulkner, Florence, Foley, Gillis, Gilmer, Goode, Gregg, Lawrence W. Hall, Robert B. Hall, J. Morrison Harris, Thomas L. Harris, Hawkins, Hopkins, Houston, Huyler, Jackson, Jenkins, Jewett, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Landy, McKibbin, McQueen, Miles, Milson, Edward Joy Morris, Isaac N. Morris, Niblack, Pendleton, Peyton, William W. Phelps, Phillips, Pottle, Quitman, Ready, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Scales, Scott, Searing, Henry M. Shaw, Shorter, Sickles, Singleton, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Miles Taylor, Underwood, White, Whiteley, Winslow, Wood, Woodson, and Wortendyke—89.

NAYS—Messrs. Abbott, Andrews, Atkins, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Burlingame, Burlingame, Case, Chaffee, Chapman, Ezra Clark, Clawson, Cobb, Clark B. Cochrane, Colfax, Covode, Cragin, Curtis, Davis of Maryland, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dodd, Durfee, Fenton, Foster, Garnett, Giddings, Gilman, Gooch, Goodwin, Granger, Grow, Harlan, Hatch, Hoard, Horton, Howard, George W. Jones, Kellogg, Knapp, John C. Kunkel, Leiter, Letcher, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Mason, Matton, Maynard, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Palmer, Parker, John S. Phelps, Pike, Potter, Powell, Purviance, Ricand, Ritchie, Robbins, Roberts, Royce, John Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Trippe, Wade, Waldron, Walton, Elihu B. Washburne, Israel Washburn, John V. Wright, and Zollcoffer—88.

So the amendment, as amended, was agreed to.

Mr. J. GLANCY JONES. I move to reconsider the votes which have been taken upon these amendments, and to lay the motion to reconsider upon the table.

Mr. MORGAN. I demand the yeas and nays on that motion.

Mr. J. GLANCY JONES. I will withdraw the motion; and ask the unanimous consent of the House to permit me to report from the Committee of Ways and Means the amendments of the Senate to the Army appropriation bill.

WILLIAM S. BRADFORD.

Mr. QUITMAN. I appeal to the gentleman from Pennsylvania to allow me to ask the unanimous consent of the House that the Committee of the Whole House on the Private Calendar be discharged from the further consideration of House bill (No. 610) for the relief of William S. Bradford, with a view of putting it upon its passage. The bill has been reported from the Committee on Military Affairs; and if we pass it to-night, it may yet pass the Senate. It is for the relief of a man who has been in service eighteen years, and who is entirely crippled. His physicians advise him to go to a more southern climate; and it is necessary that he should do so to restore his health. He is now pensioned as a sergeant; and the committee only propose to give him the pension of his highest rank in the service—a brevet second lieutenant.

Mr. J. GLANCY JONES. Does the gentleman propose to call the previous question?

Mr. QUITMAN. I do, sir.

Mr. J. GLANCY JONES. Then I do not object.

The bill was read. It enacts that from and after

the passage of this act, the pension now paid to William S. Bradford be increased from the present amount received by him to twenty-five dollars per month.

Mr. QUITMAN. This man, William S. Bradford, served in the Army for nearly eighteen years. He was enlisted in 1834, and from that period up to the time of his final discharge, he served out many terms of enlistment with honor and credit. Amongst his papers are recommendations from almost every field officer under whom he served. They prove him to have been a remarkably good soldier. He frequently filled the posts of sergeant and quartermaster's sergeant. Serving during the Mexican war in the seventh infantry, he was a participant in almost every conflict, and, as the man who planted the first American colors on the heights of Cerro Gordo, he was favorably mentioned in the reports of the officers. At the close of the war he received a commission as brevet second lieutenant. He was a modest man, and soon afterwards gave it up. He did not care, perhaps, to leave his old associates in arms. He enlisted at Baltimore for the rifle regiment. It was while acting in the capacity of quartermaster's sergeant at Columbia barracks, in Oregon, that, from great exposure in the performance of his duty, he contracted that painful disease (chronic rheumatism) which totally incapacitated him for active service and caused his honorable discharge from the Army. The committee believed that, under all the circumstances, he was entitled to the higher rate of pension.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was read the third time, and passed.

ARMY APPROPRIATION BILL.

Mr. J. GLANCY JONES, by unanimous consent, from the Committee of Ways and Means, reported back the Senate amendments to the Army appropriation bill: which were referred to the Committee of the Whole on the state of the Union, and made the special order the next time the House resolved itself into committee.

Mr. J. GLANCY JONES moved that general debate in the Committee of the Whole on these amendments terminate in five minutes.

The motion was agreed to.

Mr. J. GLANCY JONES moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. Bocoek in the chair.)

The CHAIRMAN stated that the amendments of the Senate to the Army bill were before the committee, and that debate was limited to five minutes.

Mr. CLAY. Mr. Chairman, when concluding the few remarks I made a short time ago, when upon the floor in committee, the inexorable hammer of the Chairman stopped me at a point which would leave me in a rather disagreeable position.

The question now before the committee is a question of war, and I desire to conclude the remarks I was then making. I was concluding, in reference to the British outrages upon our flag, that I had no purpose of speculation or demagogism. I have understood that my honorable friend from Virginia, [Mr. GARNETT,] as I felt sure was the case, did not intend to apply these epithets to me. They were applied, as I understood him, to war agitation. Sir, why the gentleman applied such remarks to war agitation in this House I cannot imagine, for I have not known the subject-matter yet to be agitated here.

But my honorable friend has said that I have proposed to give to the President the entire war-making power. I have made no such proposition to this House. Any proposition in reference to these British outrages which I may have been willing to make, was objected to in the first instance by my friend himself, and afterwards it has been smothered. Whispers and shadows around the House brought more terror than could "the substance of ten thousand men, armed in proof."

My honorable friend referred to my antecedents. He was surprised at the course I had taken in reference to these war outrages. Sir, the gen-

tleman forgot. I would refer him to his antecedents, and to mine. I would refer him to the best days of old Virginia. I would refer him, sir, to the war of 1812, when, upon less cause than that which we have had before us recently, without as strong cause as forty-one American vessels seized and searched upon our own shores, and the American flag dragged through the waters of the Gulf, the whole Union, with one spirit, rose up in arms. And, sir, my immediate ancestor, to whom I presume the gentleman alluded, used language which was responded to over this whole country, "that if England wanted to know her own subjects, let her give them ear-marks; that the American flag which floated at the mast-head of the American ship was the only credential of American seamen."

I think, sir, that the time has come when agitation on this subject should commence in this House. If the resolution which I tried so often to get in, had been introduced and referred to the Committee on Foreign Affairs, and that committee had failed to report, I would have proposed something on my own responsibility for the action of this House, and for agitation, if you will.

The CHAIRMAN. Debate has now closed. Mr. J. GLANCY JONES. The amendments to this bill are forty-nine in number.

Mr. QUITMAN. Have they been printed?

Mr. J. GLANCY JONES. They have not. They were ordered to be printed, but the Printer could not get them ready in time. I have taken full notes of them all, and will explain them as they are read. In some cases, five and six and eight and ten of the amendments relate to the same subject. Ten relate to arsenals, and fifteen to fortifications, and votes can be taken on those relating to the same subject together. I propose to explain the amendments as we pass along. I hope we shall act upon all of them to-night in committee, so that we may pass upon them in the House the first thing in the morning.

Mr. SMITH, of Virginia. I understood that the House this morning, with a view to the understanding of this very bill, ordered the amendments to be printed. Of course it was an order designed to be executed for the benefit of the House.

Mr. J. GLANCY JONES. It is true as the gentleman says; but two thirds of the House have just made these amendments the special order in this committee.

Mr. SMITH, of Virginia. The question now is, whether we ought to proceed with the consideration of these amendments without having them printed and before us? I think we ought not; that we ought to have some time for the examination of these great questions. I therefore move that the committee rise, my object being to move an adjournment until to-morrow at as early an hour as the House chooses.

The motion was not agreed to.

The Clerk then read the Senate amendments in their order, and they were severally acted upon as indicated below.

First amendment:

On page 2, at the end of line twenty-one, insert: *Provided*, That the superintendent of the Military Academy, while serving as such by appointment of the President, shall have the local rank and the pay and allowances of a colonel of engineers; that the commandant of the corps of cadets at the Military Academy, while serving as such by appointment of the President, shall have the local rank, the pay and allowances of a lieutenant colonel of engineers, and besides his other duties, shall be charged with the duty of instructor in the tactics of the three arms at said academy; and that the senior assistant instructor in each of the arms of service, namely, the artillery, cavalry, and infantry, shall severally receive the pay and allowances of the assistant professor of mathematics.

Mr. J. GLANCY JONES. This first amendment of the Senate proposes to increase the rank and pay of officers of the Military Academy at West Point. The Committee of Ways and Means recommend a non-concurrence.

The amendment was non-concurred in.

Second amendment:

Page 8, line one, after the word "in," insert, "the manufacture of cannon, cannon powder, and test of," so as to make the clause read:

Including experiments in the manufacture of cannon, cannon powder, and test of arms and ammunition, &c.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a concurrence in this amendment.

The amendment was concurred in.

Third amendment:

For the purchase of breech-loading carbines of the best model, to be selected and approved by a board of ordnance officers, \$45,000.

Mr. J. GLANCY JONES. I ask that the fourth amendment may be read and acted upon at the same time, as they relate to similar matters.

Fourth amendment:

For the alteration of old arms, so as to make them breech-loading arms, upon a model to be selected and approved by a board of ordnance officers, \$25,000: *Provided*, Any portion of said sum, not exceeding \$5,000, may be expended under the direction of the Secretary of War, in applying to the old or new arms the recent improvement of Captain J. N. Ward in the mode of applying Maynard's primer.

Mr. J. GLANCY JONES. The subject of these amendments was discussed at some length in the Committee of the Whole on the state of the Union, when the bill was first under consideration, upon the amendment offered by the gentleman at the head of the Committee on Military Affairs, [Mr. QUITMAN.] That amendment was adopted by the House, but the Senate have stricken it out, and adopted another in its place. It will be remembered that the House appropriated \$100,000 for the alteration of old arms, in addition to what was appropriated for the manufacture of new arms. The Committee of Ways and Means think the Senate provision not so good as the one adopted by the House, and therefore they recommend a non-concurrence.

Mr. LOVEJOY. I simply wish to ask whether the Senate amendment reduces the amount from \$100,000 to \$25,000?

Mr. J. GLANCY JONES. The amendment, as adopted by the House, provided that only so much of the sum as was necessary should be used. We are not obliged to use the whole.

Mr. QUITMAN. I merely wish to say that the Committee on Military Affairs reported in favor of that proposition because they believed that it was more economical to put the old arms in as good condition as the new, than it was to purchase new arms.

Mr. CURTIS. I ask the honorable chairman of the committee if he is not mistaken in saying that it was reported from the Committee on Military Affairs?

Mr. QUITMAN. Perhaps I may be.

Mr. CURTIS. I think the honorable chairman of the Committee on Military Affairs is mistaken in saying our committee recommended this change. I am myself opposed to the attempt to change old arms. I think the honorable chairman of the Committee on Military Affairs will recollect that I attempted to oppose the proposition when he first presented it to the House.

Mr. QUITMAN. I may perhaps not be technically correct, but I am practically so. This came before the Committee on Military Affairs at the request of the Secretary of War, and it was considered, though not formally. I understood the committee, however, to approve of the proposition, and to authorize me to represent to the House the approval of the Committee on Military Affairs. The letter from the Secretary was laid before the House. It was my impression, then, that it was a regular report from that committee, but I think, on reflection, it was not; but it was passed on informally. I understood it to be the sense of the committee, that it was in favor of the proposition of the Secretary of War. As I am limited to five minutes, I cannot explain the whole matter, or give my views on it in full, and therefore I leave it to the committee.

Mr. UNDERWOOD. I think it is indispensable to an intelligent action on this important bill, seeing the difficulties in which we are likely to be involved, that these amendments shall be printed. I therefore hope the committee will now rise. We will have the amendments printed and on our table in the morning; and they can be taken up just as early as the chairman desires.

Mr. J. GLANCY JONES. It will take all day to-morrow to print them.

The question was taken on Mr. UNDERWOOD's motion, and it was not agreed to.

Mr. J. GLANCY JONES. I wish to inquire of the gentleman from Mississippi if he has changed his opinion in regard to it? Did I understand him correctly?

Mr. QUITMAN. No, sir.

Mr. J. GLANCY JONES. He approves the action of the House on the former occasion?

Mr. QUITMAN. I entirely approve of the action of the House.

Mr. J. GLANCY JONES. The House is familiar with its own action. The Committee of Ways and Means recommend non-concurrence with the Senate in its amendment.

Mr. CURTIS. I move to amend by increasing the appropriation \$50,000. I wish to say that this matter of changing the muskets ought to be well considered by the House, no matter whether there was or was not a formal investigation of it by the Committee on Military Affairs; and I am very confident it never was decided in our committee. Other members of that committee, as well as the chairman, will recollect that there was some consultation about it, and that when the matter was presented here I tried to interpose my objection, for reasons which I deem important. This proposition involves a change of the tactics of one of our great arms of the military service, the infantry. These tactics have been drawn up with great care in the matter of consolidating the men, and especially in reference to the loading of muskets at the muzzle, and all the changings of position in loading are so arranged as to preclude accidental injuries. If you adopt breech-loading muskets you have got to change the whole system of manual exercise, and it may be necessary to open the ranks. It is a question whether it would be safe to use that kind of arm in those solid ranks, as our infantry are taught to stand. There is no doubt that this kind of arm is convenient for men on horseback, and for hunters or skirmishers; but whether it would suit the infantry is the problem which I think ought to be fully tested before we embark in this business of changing the gun. It should be left to a board of officers to consider and determine upon it. The only report made on the subject by officers of the Army, was made in 1857, by the board of which Major Bell, I believe, was president, and that was an adverse report.

Now, I should be in favor of adopting that kind of arm if it was proved to be successful; but I say it has not been well considered—either in the Army, in the Military Committee, or in the House; and therefore I think the House ought to concur with the Senate in reducing the appropriation from \$100,000 to \$70,000; part for the purpose of changing, and testing such a change, and part for another purpose. I am willing to see the experiment made; I am willing to have four or five thousand dollars expended in experiments, to ascertain whether breech-loading muskets would be safe to be used in the infantry, the right arm of the military service. I hope, therefore, that the amendment will be concurred in, because it involves us in less difficulty, expense, and hazard. We might go on, and expend \$100,000 in changing these old arms, and find it to be all wrong; I hope, therefore, the plan will not be hastily adopted, as it was before, but that the amendment of the Senate will be concurred in, because it provides for a smaller expenditure, and will not involve us in such risks to the infantry service as this hasty change seems to initiate.

Mr. SANDIDGE. It is not unusual for Congress to appropriate money, sometimes in large sums, to test practically the improvements in arms. We are expending about three hundred thousand dollars every year in the manufacture and purchase of arms; and we have now on hand nearly five hundred thousand old muskets and rifles, for which the Secretary of War, if he brought them into market, would not get more than \$2 50 apiece.

Now, I happen to know that during the last three months experiments have been made at the arsenal in this city to test the practicability of altering these old, worthless arms into breech-loading guns, so as to make them equal to the best arms of the country, which cost from twenty to forty dollars apiece. This change can be made at a cost of about three dollars apiece; and the question is whether we should appropriate money to make these alterations, or put the Government to ten times the cost in buying new arms.

If gentlemen think it the more economical plan to spend three or four hundred thousand dollars a year to buy new guns, when, for a small fraction of that sum, you can make the old guns equal to new ones, then the proposition of the gentleman from Iowa is the best that the House can adopt. The Senate, as I understand this amendment, propose to appropriate \$75,000 in lieu of

the \$100,000 voted by the House, and \$40,000 of that sum is to be expended in the purchase of new guns, when, in the section immediately preceding this, \$400,000 is appropriated for that very purpose, and for the manufacture of arms. There is only a difference of \$25,000 between the amendment of the Senate and the amendment of the House.

Mr. CURTIS. I desire to correct the gentleman in reference to one point. He seems to suppose that the Government has been buying breech-loading muskets; but we never have bought any, nor has there been any proposition to buy any. We are using breech-loading carbines; but this is a new proposition; and I say it has not received sufficient consideration.

[Here the hammer fell.]

Mr. GARNETT. I move that the committee do now rise. We are a long way ahead of the Senate, and I see no reason why we should sit here till midnight.

Mr. SICKLES demanded tellers.

Tellers were ordered; and Messrs. MARSHALL of Kentucky, and CRAIG of North Carolina, were appointed.

The committee divided; and the tellers reported—ayes 50, noes 73.

So the committee refused to rise.

Mr. CURTIS, by unanimous consent, withdrew his amendment to the amendment.

The question was taken on the Senate amendment; and it was non-concurred in—ayes forty-six, noes not counted.

Mr. ATKINS moved that the committee rise. Mr. MARSHALL, of Kentucky, demanded tellers.

Tellers were ordered; and Messrs. CLEMENS and LOVEJOY were appointed.

The committee divided; and the tellers reported—ayes 46, noes 84.

So the committee refused to rise.

Mr. J. GLANCY JONES. I suggest that the amendments, from five to fifteen inclusive, be read, and the vote taken on them together.

The amendments were read, as follows:

Page 8, strike out lines thirteen, fourteen, and fifteen, and insert as follows:

For the Allegheny arsenal, \$35,100.
For Fort Monroe arsenal, \$29,900.
For Kennebec arsenal, \$11,600; \$2,000 of which may be used in bringing gas upon the arsenal grounds, and with leave to extend gas-pipes through the grounds by the gas company.
For St. Louis arsenal, \$31,000.
For Washington arsenal, \$9,379.
For an additional timber and carriage storehouse at the North Carolina arsenal, \$25,000.
For Watervliet arsenal, \$30,000.
For repairs and preservation of the public buildings, fences, drains, culverts, &c., at all the smaller arsenals, \$20,000.
For continuing the construction of the arsenal in California, \$100,000.
For contingencies of arsenals, \$10,000.
For repairing the arsenal and two eighteen-pound gun-carriages, at Stonington, Connecticut, \$750.

Mr. J. GLANCY JONES. All except the last item will be found in the book of estimates, as given to the Secretary of War. They are given there just as they are given here in detail. We lumped them and took the gross amount. They have added one item of \$750 for the repair of an old arsenal in Stonington, Connecticut.

The Committee of Ways and Means recommend a non-concurrence.

The CHAIRMAN. Is there objection to taking the vote on them altogether?

There was no objection.

Mr. HOUSTON. Are the amounts the same in the two provisions?

Mr. J. GLANCY JONES. They are, excepting the addition of \$750 for the old arsenal in Stonington.

Mr. HOUSTON. Then I think the amendment of the Senate is an improvement upon the House provision; for it specifies for what the money shall be expended.

Mr. J. GLANCY JONES. The same specifications are in the estimates.

Mr. HOUSTON. But the estimates are not a part of the law. As the House provision stands, the whole of the appropriation may be used for two or three works. The Senate amendment is specific, and I think that we ought to adopt it.

Mr. J. GLANCY JONES. I have certainly followed in the footsteps of my predecessor.

Mr. HOUSTON. If there is any such precedent set by me, it is a bad precedent; and I am

sorry to see that my friend only follows bad precedents.

Mr. WASHBURN, of Maine. The amendment only increases the appropriation \$750 for an old arsenal; and I hope it will be adopted.

The amendments of the Senate were concurred in—ayes seventy-one, noes not counted.

Sixteenth amendment:

Page 8, line twenty four, insert:

To enable the Secretary of War to examine and report upon suitable sites for an armory and foundry on the west and on the Pacific coast, \$10,000.

Mr. CLEMENS. On the west of what?

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in this amendment.

Mr. JOHN COCHRANE. I should like to understand that amendment better than I do. We have not the benefit of printed amendments before us. The gentleman from Virginia [Mr. CLEMENS] put a question as to the points of compass. I should like to hear that question answered.

Mr. CLEMENS. I suppose it would be a sufficient reason for voting against that amendment that it is not expressed in good English, and nobody can understand it.

The amendment was non-concurred in.

Seventeenth amendment.

Page 9, in line three, insert the following:

To enable the Secretary of War to compensate F. W. Lander for services performed, and expenses incurred by him in making reconnoissances for a railroad from Puget Sound via the South Pass, to the Mississippi river, in 1854-55, \$4,750, or so much thereof as the said Secretary may consider reasonable and proper in consideration of said services and expenses.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in this amendment.

Mr. LEITER. I wish to inquire of the chairman of the Committee of Ways and Means whether the Department has not recommended that this money should be appropriated?

Mr. J. GLANCY JONES. From information we have, there is no doubt that the work was performed; but it was performed, as we understand, by the Territorial Legislature of Washington.

Mr. STANTON. That case was presented to the Committee on Military Affairs. We examined it, and made an adverse report upon it.

Several MEMBERS. That is enough.

The amendment was non-concurred in.

Eighteenth amendment:

At the end of the bill add the following paragraphs and sections:

For payment of volunteers operating in Florida during the year 1857, \$385,000.

Mr. J. GLANCY JONES. This is to pay for the volunteers called out by the Governor of Florida in 1855 and 1856. The matter was presented to the Committee of Ways and Means when the original bill was before them; but we found that there seemed to be great difficulty in making out the rolls, and the records were not so complete and clear as the Committee of Ways and Means thought they ought to be, especially coming in outside the regular estimates. The Senate, however, have inserted in this bill the amount of \$385,000 for paying these volunteers; but since the Senate passed this amendment I have received a communication from the Secretary of War, who states that, instead of \$385,000, he must have \$585,000.

The Committee of Ways and Means recommend a non-concurrence.

The amendment was non-concurred in.

Mr. QUITMAN. It seems almost impossible to get along intelligently without having the Senate amendments printed and before us; and as they will be printed on to-morrow, I therefore move that the committee rise.

Mr. CRAWFORD. I desire to say to the gentleman from Mississippi, that these amendments cannot be printed till the day after to-morrow.

Mr. J. GLANCY JONES. I will say to my friend from Mississippi, that the next fifteen amendments all relate to one subject. They are all for fortifications, and there will be no difficulty in understanding them.

Mr. QUITMAN. Very well. I withdraw my motion.

Mr. J. GLANCY JONES. I ask that all the amendments relating to fortifications may be read over, and the vote taken upon them in gross

Mr. PHELPS, of Missouri. I object. The vote might as well be taken upon each as it is read over.

Mr. WASHBURN, of Maine. I would suggest that the amendments be read over, and then if the gentleman desires a separate vote on any particular one, let it be taken; and let us dispose of the others *en masse*, and not consume time by considering each separately.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in all these amendments.

Mr. PHELPS, of Missouri. I will withdraw my objection.

The amendments were reported, as follows:

For continuing the construction of the following works of defense:

Fort Knox, at the narrows of the Penobscot river, Maine, \$50,000.

Fort Montgomery, outlet of Lake Champlain, New York, \$50,000.

Fort at Hog Island Ledge, in Portland harbor, Maine, \$50,000.

Fort Richmond, Staten Island, New York, \$100,000.

Fort Wood, New York harbor, \$20,000.

Fort Delaware, Delaware river, Delaware, \$100,000.

Fort Carroll, Soller's Point flats, Baltimore harbor, Maryland, \$100,000.

Fort Cathoun, Hampton Roads, Virginia, \$75,000.

Fort Sumpter, Charleston harbor, South Carolina, \$25,000.

Fort Clinch, entrance to Cumberland Sound, Florida, \$75,000.

Fort Taylor, Key West, Florida, \$100,000.

Fort Jefferson, Garden Key, Tortugas, Florida, \$200,000.

Fort Pickens, Pensacola, Florida, (construction and repairs), \$50,000.

Fort Point, San Francisco, California, \$150,000.

Fort Gaines, Dauphin Island, entrance to Mobile bay, Alabama, \$50,000.

Fort St. Philip, Mississippi river, Louisiana, (extension and repairs), \$10,000.

For contingent expenses of fortifications, preservation of sites, protection of titles, and repairs of sudden damage, \$30,000.

For construction of permanent platforms for modern cannon of large caliber, in existing fortifications of important harbors, \$50,000.

Mr. J. GLANCY JONES. They amount to about one million two hundred and eighty thousand dollars.

Mr. WHITELEY. I move to amend by adding \$100,000 to the first amendment, for the purpose of enabling me to submit a few remarks. I do not wish to detain the committee but a moment, but I wish to call their attention to one fact. This amendment of the Senate does not equal, by nearly three quarters of a million dollars, a similar amendment which I offered in committee some few days ago. That amendment was scaled in the Senate. I do not wish to repeat a single word that I stated upon that occasion, but I wish to call the attention of the committee to the fact, that while they refused one week ago to give \$2,000,000 to the fortifications of the country, they have since given to the city of Washington \$2,500,000. Now, I ask the committee, while they appropriate \$2,500,000 for the city of Washington, will they refuse to give \$1,250,000 to the fortifications of the country?

Mr. PHELPS, of Missouri. I would inquire of the gentleman from Delaware, whether he opposed those appropriations for the city of Washington?

Mr. WHITELEY. I supported them. I am willing to give liberal appropriations for the Capitol, the water works, the Treasury, Post Office, and Patent Office buildings, and a hundred thousand miscellaneous appropriations for the city of Washington. But while I am willing to do that, I am also willing to give to the fortifications of this country the pitiful sum of \$1,500,000. We have given to this Capitol \$750,000; to the water works \$800,000; to the Treasury extension \$300,000; to the Post Office extension \$100,000; to the Patent Office \$50,000; and to miscellaneous purposes about another hundred thousand dollars, amounting, in all, to nearly two and a half millions. Here outside influences were brought to bear, and we could make those liberal appropriations; but for the defensive works of the country from Maine to Georgia, from the Atlantic to the Pacific, we can hardly get half that sum. You have to-day given a large appropriation to the Navy; and not only that, but you have given to a book concern in this city \$240,000 for a job, which I say here, upon my responsibility, this Government will not get through with under a half, if not a million, of dollars. And when you have done that, you will not give your forts, now

one half or one quarter finished, and useless in their present condition, one cent.

[Here the hammer fell.]

Mr. PHELPS, of Missouri. An appropriation bill was reported from the Committee of Ways and Means to provide for the preservation of some of the present fortifications of the United States, and an amendment was offered to add \$2,000,000 to that bill. It failed. The gentleman now finds fault with the action of the House, because the House has voted money to complete the Capitol, to finish the water works, and to complete the erection of two or three other buildings in this city; and yet the gentleman, in answer to an inquiry that I made, acknowledges that he sustained all those appropriations, thus justifying the action of the House, and the action of the Committee of Ways and Means which reported those bills. But because to complete the forts upon the Atlantic and Pacific coasts, and upon the Gulf, does not receive the approval of that committee, the gentleman from Delaware charges that the members of that committee are actuated by parsimonious feelings, and an unwillingness to place the country in a state of defense. Is the gentleman willing to borrow money at this time to complete the fortifications upon our sea-coast?

Mr. WHITELEY. Yes, sir.

Mr. PHELPS, of Missouri. He is desirous immediately of placing the country in a state of defense, and gentlemen have pointed to the fact that outrages have been committed on our commerce, and they use that as an argument why we should appropriate a large sum of money for the completion of our fortifications. But what defense do they afford? They only defend those who are placed within their walls from cannon shot, and, to the extent of the range of the guns, those who may be without the walls. If forces are to be landed upon the coast, would they be landed within the range of the guns upon those fortifications? or would they seek some other place, going entirely around those fortifications? That was the case when our troops took Vera Cruz. The main attack upon that fortress was from the land, and not the sea.

Mr. PALMER. I ask the gentleman by what channel the British invaded this country in 1814? I ask him whether Fort Montgomery, the second on this list, does not command the outlet of Lake Champlain, by which England then invaded us, and by which she will invade us again, if we abandon the construction of this fort?

Mr. PHELPS, of Missouri. But does the gentleman forget the facility we now have of transporting troops to any given point in the country? Does he forget that we now have railroads open to the extent of twenty thousand miles, and that at twenty-four hours' notice we could concentrate on any part of the Atlantic sea-board ten thousand men, in addition to those living in the vicinity? As to the very point the gentleman indicates, I ask him if we could not concentrate there, within twenty-four hours, a large body of troops summoned from different portions of the country?

Mr. PALMER. And in less than twelve hours Great Britain could send there a fleet of twenty gun-boats and an army of twenty thousand men, and overrun the borders of Lake Champlain, unless this fort be put in a proper state of defense. She has done it before, and would do it again.

Mr. PHELPS, of Missouri. That fort will never defend you. When Great Britain seeks to invade us, it will not be there.

Mr. WHITELEY. I withdraw my amendment.

Mr. SCOTT. I move to amend by increasing the appropriation \$100,000. I have listened to-day, Mr. Chairman, with a great deal of pleasure to the effusion of patriotism shown by gentlemen on this floor, relative to the proposition to increase our Navy. Now, while I am willing, as heretofore, to vote for every one of these appropriations, I wish to call the attention of the committee to the condition of Fort Point on the bay of San Francisco. Gentlemen may talk very well on this floor about fifty thousand troops being called into the field as soon as the first blast of the war bugle is heard; but I ask how is it to be with California, separated thousands and thousands of miles from the other States of the Confederacy, and having its only intercourse with them by a semi-monthly mail, by the Isthmus of Panama? If the war now impending should take place, in what condition

would my State be placed? The first thing that would be done by the enemy would be to capture the California steamers; because every officer in command of a British vessel would be anxious to secure the prize-money—consisting of millions, which we are semi-monthly sending you from our State—that he would derive from such a capture.

Now, if you give us this \$150,000 to continue the works at Fort Point, which guards the entrance to the mouth of the harbor of San Francisco, we can defend ourselves and defy the combined and united fleet of England. But strike down that appropriation and leave the fort uncompleted, and we are at the mercy of the most powerful maritime nation of the globe. This appropriation should be separate and distinct from the rest, although I will cheerfully vote for them all, in order to place all sections of our Union in a proper state of defense. Here, in the Atlantic States, you have your means of defense; you have your ships in the harbors, and can concentrate them at a given point to do battle with the naval forces of a foreign Power; but there is a portion of the Confederacy which is undefended and unable to defend itself from the British Pacific squadron. I do not look upon this as a war measure, for even in the time of peace we should be prepared for war; and justice demands that this appropriation should be made. You will not give us a Pacific railroad. The route across Salt Lake is already stopped up by war with the Mormons. You have an overland route, it is true, between Texas and San Diego; but let any gentleman make the calculation and tell me honestly and candidly if you could transport troops by that route in sufficient time to protect us. True, in California, we could raise in time of war fifty thousand as gallant men as ever shouldered musket or trod in shoe leather; but, unless you give us an appropriation by which we can have the means and material necessary to defend that flag which you all honor as much as I do, I tell you you will see the painful and humiliating spectacle of the country being placed in the condition of having one portion of it captured, in the possession and at the mercy of a foreign foe.

[Here the hammer fell.]

Mr. LETCHER. It seems to me, Mr. Chairman, that we have a new definition of "patriotism" now-a-days. It consists in spending money. The gentleman from California insists upon it, that unless we display our patriotism in that way, California will be ruined. Now, sir, I take the occasion to say that no nation has ever exhibited more of this sort of "patriotism" to a portion of her people than this Government has shown to California, from the time she was admitted as a State into the Union. We have appropriated much more largely to her than to any other State for fortifications and for various other purposes, within the limited time that she has been a member of the Confederacy of States. But the gentleman says now we must go on, that we must continue to make appropriations in answer to her demands. He says that if war breaks out, California is in an exposed condition. Why, have we not heard all day that there is to be no war? Has not that been the cry from the time the debate commenced this morning up to the present moment; that the increase of the Navy was for the protection of commerce; that no war was to grow out of the difficulties between this country and England; that all was settled, and that if war was to come, we would be required to construct a much larger number of vessels? And now, when these fortifications come up we are told that we must build them for the purpose of being prepared for that very war which nobody believes is coming!

Mr. CLAY. I would like to ask the gentleman from Virginia who it was that asserted on this floor to-day that there was no danger of war?

Mr. LETCHER. I think that several did. I know that several asserted that the proposed increase of the Navy was a matter for the protection of commerce. I think the chairman of the Committee on Naval Affairs took that ground. I think various other gentlemen took that ground, over and over again; and I think my friend from Kentucky does not suppose that there is quite as much danger now as there was a short time ago.

Mr. CLAY. I beg the gentleman's pardon.

Mr. LETCHER. Then you think there is?

Mr. CLAY. Yes, sir.

Mr. LETCHER. I am afraid, Mr. Chairman, that I shall begin to get alarmed myself.

Mr. CLAY. And if the gentleman will allow me, I will tell him why.

Mr. LETCHER. Let us hear.

Mr. CLAY. Because I saw in the papers this afternoon accounts of forty-one vessels that have been visited and searched, almost in our own waters.

Mr. LETCHER. I think I saw that last night in the Herald; so that my friend from Kentucky is twenty-four hours behind time with his information.

Mr. CLAY. I do not read the Herald.

Mr. LETCHER. Then let me advise you to take an enterprising newspaper, that you may be posted. [Laughter.]

The question was taken on Mr. Scott's amendment to the amendment; and it was not agreed to.

The question recurring on the Senate amendment, the chairman ordered tellers; and Messrs. ARNOLD and BUFFINTON were appointed.

The committee divided; and the tellers reported—ayes thirty-nine, noes not counted.

So the Senate amendment was not concurred in.

Mr. STANTON. I do not believe that the state of business requires that we should sit here twenty hours out of the twenty-four; and I move that the committee do now rise.

Mr. FLORENCE demanded tellers.

Tellers were ordered; and Messrs. DEAN and FLORENCE were appointed.

The committee divided; and the tellers reported—ayes 40, noes 81.

So the committee refused to rise.

Thirty-eighth amendment:

For the payment of claims favorably reported upon by the board of Army officers, appointed under the sixth section of the act approved August 31, 1852, in their final report to Congress dated April 19, 1855, \$7,372 53½.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in that amendment. It appears to be for an unsettled balance—

[Loud cries of "Question!" and "Vote!"]

Mr. J. GLANCY JONES. I will talk for half an hour if I hear that noise again.

[Renewed and vehement cries of "Question!" "Question!"]

Mr. J. GLANCY JONES. I will remark that I would not say one word, but I find that when I say nothing about an amendment, it leads to half an hour's debate, and then the committee consume another half hour in trying to rise. The Committee of Ways and Means recommend a non-concurrence in this amendment.

The amendment was non-concurred in.

Thirty-ninth amendment:

For the construction of bridges and the improvement of the crossings of streams on the road from Fort Smith, in Arkansas, to Albuquerque, in New Mexico, \$50,000; and that \$100,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to be expended in completing connected sections of the road extending from Albuquerque, in the Territory of New Mexico, westward on the route of the Colorado river, and on or near the thirty-fifth parallel of north latitude.

Mr. J. GLANCY JONES. The amount of the appropriation for this wagon road is \$150,000. The Committee of Ways and Means recommend a non-concurrence.

Mr. MAYNARD. This is an important amendment, and one which ought to be considered; and we are not in a condition to consider it to-night. I therefore move that the committee rise.

The committee refused to rise.

Mr. PHELPS, of Missouri. I desire to say something in relation to the amendment. To be in order I move, *pro forma*, to increase the appropriation \$10,000.

Mr. Chairman, the Committee on Military Affairs of this House, during the present session, reported a bill proposing to appropriate \$100,000 to make a military road from Albuquerque to the Colorado river. The Secretary of War recommends it as a military road. It is for the purpose of having a line of communication from the valley of the Rio Grande, in the center of New Mexico, to the Colorado, in the direction of Fort Tejon, one of the forts near the junction of the Sierra Nevada with the coast range of mountains in southern California.

But it is not designed merely as a military road. The great line of overland travel from the States

in the valley of the Mississippi to the State of California has usually been through Utah Territory; but in consequence of the disturbances there this season, that line has been broken. Even if peace be restored, there will still be a bitterness of feeling on the part of the Mormons; and it may be expected that small bands of emigrants will be assaulted, and liable to be cut off. Outrages of that character have heretofore been perpetrated upon overland emigrants. It is designed, therefore, that this shall be, not only a military road, but a road for emigrants.

At the last session of Congress an appropriation of \$50,000 was made to aid in constructing a road from Fort Defiance to the Colorado river. The Secretary of War assigned Lieutenant Beale to superintend the construction of the road. The necessity of procuring supplies and means for transportation left but a small amount to be applied to the actual construction of the road. The means of transportation and a portion of the supplies are now on hand, ready to be used if this appropriation shall be made. Lieutenant Beale explored the route from Albuquerque to the Colorado river, and made a report at this session of Congress, in which he recommends that this additional appropriation shall be made. The distance from Albuquerque to the Colorado river is but five hundred and sixty-one miles, and passing through a country well supplied with wood, water, and grass. I ask that the letter of the Secretary of War be read.

The CHAIRMAN. The gentleman's time has expired.

Mr. PHELPS, of Missouri. I withdraw my amendment.

Mr. MAYNARD. I move to increase the appropriation one dollar; and I do it for the purpose of hearing that letter. I ask that it be read as my speech.

The Clerk read as follows:

WAR DEPARTMENT, WASHINGTON, May 22, 1858.

SIR: In reply to your note received this day, I beg leave to remark that the road from Albuquerque to the Colorado river, of which you speak, is, in my judgment, one of very great importance. It constitutes a central line of communication between the Mississippi valley and the Pacific ocean, which, for many purposes, will compare favorably with any other, and in some particulars is superior. It will be a great thoroughfare for emigration; presenting, as it does, the straightest road of any yet discovered across the great basin lying between the Sierra Madre and the Sierra Nevada, along which there is no scarcity of water or grass.

In a military point of view it is probably of more importance still; for by its construction and the settlement which it will superinduce upon its whole length, it will present a line of defense, after a while, which will divide completely the nomad tribes of Indians which inhabit the Utah Territory and the regions north of this road, from the country lying in the Territory of Arizona.

It will be scarcely possible, when the road from El Paso to Fort Yuma is completed, and properly guarded, that the region of country lying between the road now spoken of and that line of travel could be subject to any very serious depredation from the Indian tribes, either residing in it or those north of the road which you are proposing to construct.

Fifty thousand dollars have been expended upon this line, advantageously, as I think; and the facts connected with the report which Mr. Beale made—heretofore transmitted to Congress—concerning this road, demonstrate, in my opinion, that a wise economy would warrant the appropriation of \$100,000 towards the completion of an enterprise so auspiciously begun.

Very respectfully, your obedient servant,

JOHN B. FLOYD, Secretary of War.

HON. M. A. OTERO, House of Representatives.

Mr. QUITMAN. I wish to call attention to the fact, that nowhere, it seems, does the Secretary of War recommend this as a military necessity. He only thinks that it would be a great convenience. I mention this with due deference to the judgment of the Committee on Military Affairs.

Mr. CLARK, of Missouri. He does state that it is more needed for military purposes than for any other.

Mr. MAYNARD withdrew his amendment.

Mr. MARSHALL, of Kentucky. The money is wanted for the continuation of a road already begun as a military road, by an appropriation of last Congress.

Mr. STEVENS, of Washington. I move to amend by adding:

And for completing the wagon road from the Great Falls of the Missouri, in the Territory of Nebraska, to intersect the wagon road leading from Walla Walla to Puget Sound, authorized by the act approved February 6, 1855, §200,000.

Mr. J. GLANCY JONES. Is that amendment in order?

The CHAIRMAN. The Chair rules it out of order.

Mr. BILLINGHURST. If I take an appeal from the decision of the Chair, can I debate the appeal?

The CHAIRMAN. Debate is not in order.

Mr. BILLINGHURST. Is it in order to call for the reasons of the decision of the Chair?

The CHAIRMAN. A proposition is before the committee to appropriate money for one road. The gentleman moves to amend by making an appropriation for another road. The Chair holds that it is not in order, because it is not relevant to the proposition.

Mr. BILLINGHURST. I desire to suggest that this afternoon, when the naval bill was under consideration, there was a proposition to construct a number of vessels of war. An amendment was proposed to construct another number, and it was held to be in order. On the same principle I supposed that this proposition for another thoroughfare to the Pacific was in order.

The CHAIRMAN. The Chair is not responsible for the decision of another chairman; it is enough to be responsible for his own.

Mr. SCOTT. I move to amend the Senate amendment by increasing the amount \$150,000. It is always disagreeable to me to consume the time of the House, and I never do it unless it be in conformity to a sense of duty. I represent a State which I know has varied interests, and I am sure the committee will bear me out in saying that I do not intrude upon them except when her interests are concerned. I wish to make a few remarks in regard to the question now pending. The gentleman from Mississippi says that the Secretary of War does not, as shown by the letter which has just been read, consider this road a military necessity. I grant it that those exact words are not used, and that it is not imperative upon Congress to pass the appropriation, but, at the same time, he considers its construction expedient. I then concede, so far as the views of the Secretary of War are concerned, relative to this road, that the construction of it would be of vast advantage to the military affairs of the country as a matter of true policy. That is the construction I place upon his language.

Now, sir, I desire to call the attention of the committee to the fact that I come from a State which the gentleman from Virginia has been pleased to assail, upon the ground that she is ever asking something from the hands of the Government. Now, I desire gentlemen to understand that the reason that she does so, is that her chief product is gold itself. Let them also remember, and the gentleman from Virginia particularly, that when this whole country was stricken down by a pecuniary crisis, and we and despair were depicted upon every face upon the Atlantic coast, and the financial condition of our Union was utterly prostrated, California came to the rescue with her millions of gold, infused new life and vigor in our monetary affairs, and restored wealth and confidence to all classes of our community. I come from a State which receives a large accession from all parts of the Union—a State that is strictly a Union State, where northern and southern men are bound together in one grand bond of brotherhood. And this is an appropriation for a military road by which both sections of the Union will be benefited equally, because it is central. Your men of the North and the South wish to go across the plains to settle in that State, and you cannot now get there by the way of Salt Lake, which is blocked up on account of the Mormon war. You cannot tell when that war will be terminated; and it was properly stated by the gentleman from South Carolina, [Mr. Boyce,] in a recent speech, that there may be a guerrilla warfare carried on for years in the gulches and ravines of Utah, and no man can see or foretell when its termination will occur. But here is a route which is demonstrated by the survey of Lieutenant Beale to be all that you can desire. I ask, therefore, that the sum of \$250,000 shall be appropriated to finish that road. I ask gentlemen, while you vote \$1,000,000 to introduce water within the city of Washington, in the name of justice cannot you appropriate \$150,000 for a connecting link between the Atlantic and the Pacific?

[Here the hammer fell.]

The amendment was not agreed to.

The Senate amendment was not agreed to

Mr. BARKSDALE. We have now been in session eleven hours, and I am satisfied, from the circumstances around us, that these amendments cannot be properly considered. I therefore move that the committee rise.

Mr. GROW. How many amendments are there still unacted on?

The CHAIRMAN. Nine.

Mr. BARKSDALE. I ask for tellers on my motion.

Tellers were ordered; and Messrs. BARKSDALE and BILLINGHURST were appointed.

The committee divided; and the tellers reported—ayes 58, noes 55.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BOCK reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the Senate amendments to the Army appropriation bill, and had come to no conclusion thereon.

Mr. CRAIG, of Missouri. I ask unanimous consent to introduce a joint resolution.

Several MEMBERS objected.

Mr. CRAIG, of Missouri. I move to suspend the rules to enable me to introduce it.

Mr. GROW. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at five minutes past ten o'clock, p. m.) the House adjourned.

IN SENATE.

THURSDAY, June 10, 1858.

Prayer by Rev. J. R. ECKARD.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. MALLORY presented three memorials of citizens of Tampa, Florida, praying that the military reservation and garrison grounds of Fort Brooke be granted to that city for the purpose of establishing a seminary of learning; which were referred to the Committee on Public Lands.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. IVERSON, it was

Ordered, That the petition and papers of John Forrester be withdrawn from the Court of Claims and referred to the Committee on Pensions.

On motion of Mr. KENNEDY, it was

Ordered, That the memorial of J. P. Milton, on the files of the Senate, be referred to the Committee on Naval Affairs.

WILLIAM HAZZARD WIGG.

Mr. HAMMOND asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 52) for the relief of William Hazzard Wigg; which was read twice by its title.

Mr. HAMMOND. I ask for the present consideration of the resolution, as its object is to correct an error.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to readjust the accounts of William Hazzard Wigg stated under the authority of the act of Congress for his relief, approved March 3, 1853, and to ascertain an alleged clerical error whereby the sum of \$1,560 is supposed to have been withheld, and to pay that sum according to the true intent and meaning of the act of 1853.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

REPORTS OF COMMITTEES.

Mr. MALLORY, from the Committee on Claims, to whom was referred the petition of John H. Merrill, praying to be allowed compensation for services rendered, and expenses incurred, as sheriff under the appointment of a court established by the alcalde at San Francisco, in July, 1849, also for expenses incurred for the relief and support of sick and disabled seamen, submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the Committee on Claims be discharged from the further consideration of the petition of John H. Merrill, and that the same, with the accompanying papers, be referred to the Court of Claims, that the same may be investigated and the testimony in support of it may be stated.

He also, from the same committee, to whom was referred the memorial of Riggs & Co., praying the reimbursement of money advanced by them to Charles Loring, late receiver of public moneys at Benicia, California, submitted an adverse report; which was ordered to be printed.

He also, from the Committee on Naval Affairs, to whom was referred the petition of George T. Parry, praying that the Secretary of the Navy be authorized to purchase his patent for an instrument, the object of which is to abolish the friction attending the thrust of propellers, submitted an adverse report; which was ordered to be printed.

He also, from the Committee on Claims, to whom was referred the petition of Charlotte Taylor, only surviving child of the late William Scarborough, of Savannah, Georgia, submitted an adverse report; which was ordered to be printed.

He also, from the Committee on Naval Affairs, to whom was referred the memorial of Reynell Coates, praying compensation for losses sustained and services rendered while connected with the scientific corps of the South Sea exploring expedition, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Hiram McCullough, submitted a report, accompanied by a bill (S. No. 450) for the relief of Samuel A. West, George McCullough, Hiram McCullough, and James Pendergrast. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. YULEE, from the Committee on the Post Office and Post Roads, reported a bill (S. No. 45) to suppress the unlawful collection and delivery of letters, and for other purposes; which was read, and passed to a second reading. He also stated that he would not ask for the consideration of the bill at the present session.

Mr. BIGLER, from the Committee on the Post Office and Post Roads, to whom was referred the bill (S. No. 401) to facilitate communication between the Atlantic and Pacific States by electric telegraph, reported it without amendment, and that it ought not to pass.

He also, from the same committee, to whom was referred the bill (S. No. 201) to secure a prompt construction of a line of telegraph from San Francisco to Fort Smith, and from thence to St. Louis and to Memphis, reported it without amendment, and that it ought not to pass.

Mr. IVERSON, from the Committee on Claims, to whom were referred the papers relating to the claim of James A. Mott to compensation for professional services rendered to sick and wounded soldiers in the war of 1812, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Charles Kohler, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 420) for the relief of James Collier, reported it without amendment; and submitted a report, which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of John R. Nourse, submitted a report, accompanied by a bill (S. No. 452) for the relief of John R. Nourse. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. JONES, from the Committee on Pensions, to whom was referred the bill (H. R. No. 610) for the relief of William S. Bradford, reported it without amendment.

OWNERS OF MAIL STEAMERS.

Mr. CLINGMAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Postmaster General be, and he is hereby, directed to endeavor to ascertain, and communicate to the Senate, at the commencement of the next session of Congress, the amount of stock which is, or has been, held by foreigners in ocean mail steamers covered by the flag of the United States, running between New York and Liverpool, New York and Havre, and New York and Bremen; and to designate the amount owned, or which has been owned, in either case, in any foreign country.

FORT GRATIOT RESERVATION.

On motion of Mr. STUART, the Senate, as in Committee of the Whole, proceeded to consider

the bill (S. No. 263) granting the right of way over, and depot grounds on, the military reserve at Fort Gratiot, in the State of Michigan, for railroad purposes.

The original bill, as introduced by Mr. CHANDLER, proposed to grant to the Port Huron and Manitowoc Railway Company the right of way and the land necessary for depot purposes in the military reserve at Fort Gratiot, if, in the opinion of the Secretary of War, the grant should not be detrimental to the public interests; with a proviso that the location and width of the right of way and the location and boundaries of the depot grounds should be determined under the direction of the Secretary of War, subject to the approval of the company; and that nothing should be taken by the act unless the railway and depot grounds should be completed and actually occupied as such within ten years; and that, if at any time after the completion, the use should be abandoned or discontinued, the grant should determine and cease.

The Committee on Military Affairs proposed an amendment, to strike out all after the enacting clause, and insert:

That the right of way through, and the privilege of constructing depots and workshops on, the public lands of the United States lying in the county of St. Clair, State of Michigan, commonly called the Fort Gratiot military reservation, be, and the same is hereby, granted to any railroad company or companies which may construct a railroad or railroads from the city of Detroit, to or near the village of Port Huron, in said State: *Provided*, That in the opinion of the President of the United States such grant or grants be not injurious to the purposes of public defense, and that the location of said buildings on, and such road or roads as to position and width through said reservation, and the price of the land to be so occupied, being first determined by the Secretary of War, be approved by the President: *And provided further*, That if the price of such grant or grants be not paid within thirty days after the approval of the President, or if either of said roads shall not be completed within three years, or if, at any time after its completion, it shall be discontinued, the grant shall cease and determine as to such road: *And provided further*, That all the buildings to be erected upon said reservation shall be of wood: and if, at any time, it should be deemed expedient by the commanding officer of Fort Gratiot, or by any other higher military authority, to destroy such buildings by fire or otherwise, no claim shall be made against the United States for damages.

The amendment was agreed to; the bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

SAN FRANCISCO POST OFFICE.

The VICE PRESIDENT. The Chair has been handed a memorial from a Mr. Henry L. Goodwin, protesting against the publication at present of a communication from the Post Office Department, touching the post office at San Francisco, which he alleges contains allegations injurious to him. The Chair will lay it before the Senate, and have it referred to the Committee on Printing, as the papers to which it relates are before that committee.

Mr. BRODERICK. I ask that the memorial be read.

The Secretary read it, as follows:

To the Senate of the United States of America:

Your memorialist, Henry L. Goodwin, a citizen of California, respectfully represents,

That the pretended answer of the Postmaster General to the Senate resolution of inquiry, of the 13th May, touching the violations of law by the postmaster at San Francisco—(some of which were in derogation of the rights of your memorialist, as a citizen)—is evasive; that it suppresses facts material to the issue of the subject-matter of the inquiry; that it tends to deceive the Senate, whether so designed or not; that its publication would work injustice to the public generally, and to your memorialist in particular.

Therefore, your memorialist now prays that the Senate may stay the publication of the said pretended answer of the Postmaster General until a more full and true answer shall be obtained on the points propounded in the inquiry of the 13th May; or, otherwise, until the said pretended answer may be accompanied by the explanation of this memorial.

The said pretended answer virtually ignores the fact that your memorialist did make specific charges of violations of law, by the San Francisco postmaster, and that said charges were supported by unimpeached and unimpeachable evidence. It also suppresses the fact, and virtually denies that the attention of the Postmaster General had been called to the law for such cases made and provided, and that he had been called upon, in express terms, to execute the law which says: "he shall prosecute offenses against the Post Office establishment."

The said pretended answer tends to leave the impression on the mind of the Senate, that the San Francisco postmaster had already been judicially tried and acquitted on the points of the merits of the accusation; whereas, in point of fact, the files of the Post Office Department show that he has never been tried, and that the result of the preliminary examination in San Francisco, turned, not on the merits, but on the plea alleged by the postmaster there, that

his proceedings, as complained of, "were in accordance with the instructions and approval of the Postmaster General."

The said pretended answer further omits to inform the Senate that there are on the files of the Department here, copies of judicial opinions rendered in San Francisco, which determined the fact that the acts charged against the postmaster there were violations of law, and "an official wrong."

The said pretended answer tends, further, to leave the impression on the mind of the Senate, that the course pursued by the present head of the Department has been in exact accordance with the view taken and pursued in the premises by his immediate predecessor; whereas, had he afforded the Senate the entire file of the Department here on the subject, instead of a garbled representation of the same, it would be instantly obvious that the late head of the Department never did approve of the acts of his subordinate at San Francisco on the merits.

In conclusion, the undersigned prays, if your honorable body order the publication of the said pretended answer to the inquiry of the 13th May, that this memorial may also be ordered to accompany the same, together with the evidence, the judicial opinions, and the correspondence on the files of the Post Office Department, and as referred to in the said pretended answer; copies of all of which can be furnished the Senate in less than twenty-four hours.

HENRY L. GOODWIN.

WASHINGTON, D. C., June 9, 1858.

Mr. BRODERICK. I move that the memorial be referred to the Committee on Printing; and before the communication of the Postmaster General is printed I ask for the consideration of another resolution of inquiry which I send to the Chair.

The VICE PRESIDENT. The memorial will go to the Committee on Printing.

Mr. JOHNSON, of Arkansas. I wish to suggest to the Senator from California, that this matter is in a complicated shape. He has another resolution to offer, calling for information which it is alleged has not been furnished to the Senate in the communication that has already been made. Here is a report from the Postmaster General in answer to a resolution of the Senate, already transmitted, which report has been referred to the Committee on Printing. That committee have had it under consideration; they have had estimates of its cost, and are ready to report in favor of printing it; but now it seems that some conflict is likely to arise, in which there are more interests involved than the Printing Committee had any knowledge of; and that committee cannot be expected to take cognizance of these matters at all; but they belong properly to the Post Office Committee. I am, therefore, at a loss what to do. While the memorial which has been read is before us, I do not know but that appropriately, this report from the Post Office Department ought to be printed; but yet, I also know that the subject is so complicated that another resolution is proposed to be submitted, by the Senator from California, calling for further information; and he thinks that the whole ought to be printed together. In my opinion, the better course would be to refer the whole subject to the Post Office Committee, together with the resolution of the Senator making a call for additional information; which I believe ought to be granted to him; and then let the whole matter go to the Post Office Committee, and let them call for the printing if it be necessary.

Mr. BRODERICK. At an early day I introduced a resolution of inquiry on this subject. At that time I was of the opinion that the information would reach the Senate on the following day. I asked for the charges on file against the postmaster at San Francisco. The Postmaster General took very nearly a month to reply. His reply was sent in the day before yesterday, but several letters for which I called were not sent in. The resolution I have just offered calls for those letters, which are now on file in the Post Office Department. I wish the information I now call for to accompany the reply of the Postmaster General to the former resolution. I hope my resolution will be read.

The VICE PRESIDENT. In the present posture of matters, if no motion be made, the memorial will be referred to the Committee on Printing, and the resolution of inquiry of the Senator from California will be read for information.

Mr. BIGLER. This is rather an extraordinary proceeding—

Mr. JOHNSON, of Arkansas. If the Senator from Pennsylvania will allow me to do so, I wish to express to him the hope that we shall not go into a discussion of the merits of this matter. There is an easy way of disposing of it, and that is to refer the whole subject to the Committee on

the Post Office and Post Roads; let this communication go to that committee without printing; then let us await the return of an answer to the additional resolution of inquiry which the Senator from California now presents.

Mr. BIGLER. That is just exactly what I am not willing to do.

Mr. BRODERICK. I have no objection to the course suggested by the Senator from Arkansas.

Mr. BIGLER. I certainly shall object to it. The Senator from California, some time since, in pursuance of what he conceived to be his duty, called upon the Postmaster General for information with reference to the conduct of the postmaster at San Francisco. The Postmaster General has replied to that resolution at length, according to his understanding of his duty. That communication has been sent here, and it has been referred to the proper committee to consider the propriety of printing it. We are informed that the committee is ready to report in favor of printing the communication from the Department, which we ought to have printed. This was a question between the Postmaster General and the postmaster at San Francisco; but a gentleman, whose name is Henry L. Goodwin, interposes by a memorial here, not in reference to some grievance of his own, specifically set forth, and asking Congress for redress, but he prays this body not to publish the reply of the Postmaster General to a resolution of the Senate.

Mr. TRUMBULL. Will the Senator from Pennsylvania allow me to ask him if this communication from the Postmaster General does not contain a direct attack on Mr. Goodwin?

Mr. BIGLER. That may be so.

Mr. TRUMBULL. If so, he interferes for his own protection. A citizen is assailed, as I understand, by a letter from some person in California, communicated in these proceedings, and it would be most extraordinary if that citizen had no right to have all the papers relating to the subject.

Mr. BIGLER. It would be most extraordinary if that citizen had no opportunity of replying. He shall have that opportunity, so far as I am concerned. But he interposes to invite the Senate not to publish a report from the Department; not to print it for the use of this body. That is the point in this memorial to which I object, and I hope it will not have the influence of arresting the publication of a report which was made to us from the Department, the head of which is responsible. If it be what Mr. Goodwin says, the Department is responsible for it.

The VICE PRESIDENT. Does the Senator from Pennsylvania submit any motion.

Mr. BIGLER. I am perfectly willing that this memorial shall be referred to the Committee on the Post Office and Post Roads. To that I have no objection, but I object that it shall be interposed against the printing of the answer of the Postmaster General to a resolution of the Senate.

Mr. BRODERICK. Mr. President—

The VICE PRESIDENT. Will the Senator from California pause for a moment? The Chair stated that, if no motion was made, the memorial would go, naturally, to the Committee on Printing. Does the Senator from Pennsylvania move to refer it to the Committee on the Post Office and Post Roads?

Mr. JOHNSON, of Arkansas. I move to give it that reference.

The VICE PRESIDENT. That, then, is the question.

Mr. BRODERICK. I am willing that this matter should take the course recommended by the Senator from Arkansas. This gentleman considers that the Postmaster General has attacked his character, and of course, as a citizen of the United States, he has a right to defend himself against the attack of the Postmaster General. I did not wish to open this question here this morning; but I hoped the resolution of inquiry which I introduced would be adopted, so as to get the further testimony that is now on file in the Post Office Department. This gentleman contends that the information which the Postmaster General has withheld from the Senate will satisfy the Senate that the postmaster at San Francisco has been guilty of malfeasance in office. The Postmaster General, instead of sending the information asked for in the resolution which I introduced, has sent an *ex parte* statement of this postmaster and his

clerks, and if it is published, this citizen will be ruined. His character is attacked; he is charged with being insane. I consider him a very sane man. He has been trying to convince the people of San Francisco, and he has convinced nineteen twentieths of them, that this officer is not an honest man. I hope the Senate will not be hasty in taking action on this case. I have no objection to the course recommended by the Senator from Arkansas; and, for the purpose of stopping this debate, I hope his motion will prevail.

The VICE PRESIDENT. The question before the Senate is on the motion to refer this memorial to the Committee on the Post Office and Post Roads.

Mr. YULEE. I doubt whether the committee ought to be troubled with this matter. It is a mere personal controversy between the memorialist, Mr. Henry L. Goodwin, and the postmaster at San Francisco, with which the Committee on the Post Office and Post Roads of the Senate have been annoyed to death this whole session, and with which the Department has been annoyed for the last year. I am perfectly sick and tired of it. There is nothing in it, and the Senate ought not to be annoyed with it. The whole thing ought to be laid on the table. The reply of the Postmaster General to the resolution which was introduced mainly to bring out the facts in this particular case, produced those facts. Let that be printed, and let there be an end of the matter, unless the Senate see that there is something further in it calling for further action on the application of this person. We ought not to be annoyed with it; and to save trouble to the Senate, perhaps, the better plan will be to refer the Postmaster General's report and this resolution to the committee, and I promise that we will make short work with it; we will give you a report to-morrow morning.

The motion to refer the memorial to the Committee on the Post Office and Post Roads was agreed to.

Mr. BRODERICK. I now call for the consideration of my resolution of inquiry.

Mr. YULEE. That, I suppose, will take the same direction.

The VICE PRESIDENT. The resolution will be read.

The Secretary read it, as follows:

Resolved, That the Postmaster General be requested to transmit to the Senate forthwith the evidence of alleged violations of law and malfeasance in office on the part of the postmaster at San Francisco, and also the papers accompanying the same, filed in the Post Office Department on or about April 20, 1857. Also, all correspondence with J. D. Fry, the special agent of the Post Office Department, in regard to any alleged malfeasance on the part of said postmaster; and especially a copy of a letter addressed to said Fry October 3, 1855, and the reply to the same; and also the report made by the said Fry. Also, letters in relation to the same from — Van Bokkelen, Esq., in 1856, and Messrs. More and Folger in 1857; and copies of all correspondence connected therewith. Also, letters from H. L. Goodwin in 1855, and four letters from the same person, dated March 27, June 25, July 18, and July 25, 1857. Also, letters of C. L. Weiler, dated September 1, 1855, March 21, 1856, and October 11 and 20, 1857; and that the Postmaster General inform the Senate whether there is any information on the files of the Post Office Department showing or charging that the investigation ordered to be made by J. D. Fry was an *ex parte* investigation.

Resolved, further, That the publication of the answer of the Postmaster General to the resolution of the Senate of May 13, be suspended until the before-described papers and information are obtained.

Mr. YULEE. I move the reference of that resolution, with the rest of the matter, to the Committee on the Post Office and Post Roads.

The VICE PRESIDENT. The first question is, whether there is objection to the present consideration of the resolution? The Chair hears no objection, and the resolution is before the Senate.

Mr. YULEE. I now move to refer the resolution, with the rest of the papers, to the Post Office Committee, and they will report what it is advisable for the Senate to do. The whole matter is entirely without use. The papers called for under the resolution will cost thousands of dollars to be copied and furnished and printed, and they will be of no use whatever to anybody, and can answer no purpose except to gratify the personal views of the gentleman who is pursuing this matter, and who had really better be engaged in some more profitable pursuit.

Mr. BRODERICK. I hope the extraordinary course recommended by the Senator from Florida will not prevail. The information I now call for can be furnished without putting the Government

to one dollar's expense, if the Postmaster General will allow a clerk to copy the communications, and it will not take twenty-four hours to do so. This gentleman has been attacked, and I hope this publication will not go to the world before this gentleman shall have an opportunity to defend himself against the attack of the Postmaster General. The Senator from Florida has a very easy way of disposing of matters of this kind. He stated the other day, when I called attention to the neglect of the Department to answer my former resolution, that it would take two clerks four or five months to copy the correspondence that I called for.

Mr. YULEE. The Senator is mistaken. I said that the copying of all the papers which would require an examination to enable the report to be made, would occupy four or five months.

Mr. BRODERICK. Well, sir, it appears that the Postmaster General has seen fit to send to the Senate letters placed upon file by the postmaster at San Francisco, and his clerks, against this gentleman, Mr. Goodwin, and has sent the Senate nothing that he placed on file. Now, if any of it is to be published, I desire to have the whole evidence together. I do not want this gentleman to be regarded insane. I consider him a very sane man. As I said a few minutes ago, he has been pursuing this officer for the last year, and has convinced nineteen twentieths of the people of San Francisco that he has been guilty of malfeasance. That is their opinion. I have received letters from a large number of gentlemen of character and respectability in San Francisco, saying so, and expressing the belief that this gentleman had been treated outrageously by the Postmaster General. His business has been destroyed by this postmaster; and I hope that, in addition to that, we shall not blacken his character. I want all the information in the possession of the Post Office Department before this document is printed, or I want the responsibility to fall on those who defend this officer.

Mr. YULEE. As the Senator has characterized the report of the Postmaster General, I ask him on his honor to state whether he has read the report and the papers accompanying it?

Mr. BRODERICK. I read the first fifteen or sixteen pages of it, and I glanced over the rest of the document, and I found that the information for which this document now calls was not there. I read the first fifteen or sixteen pages, and glanced over the rest, so as to satisfy myself that there was a personal attack on this man.

Mr. JOHNSON, of Arkansas. The motion which the Senator from Florida has made embraces the whole matter. It is not to be expected that the Committee on Printing will take jurisdiction of all the difficulties that arise in every committee of this body, on a mere question of printing. Now, in order that this whole difficulty may be settled at once, I ask permission to return the papers from the Committee on Printing, and they will then be covered by the motion which has been made by the Senator from Florida to refer them to the Committee on the Post Office and Post Roads.

Mr. BRODERICK. I hope my resolution will not be referred.

The VICE PRESIDENT. The question before the Senate is the motion of the Senator from Florida to refer the resolution of the Senator from California to the Committee on the Post Office and Post Roads. If there be no objection, the Committee on Printing may be allowed to return to the table the papers from the Post Office Department.

Mr. HAMLIN. The motion now is to refer the resolution to the Committee on the Post Office and Post Roads.

The VICE PRESIDENT. That is the motion.

Mr. YULEE. It is accompanied with a declaration on my part that the committee will report to-morrow morning as to what is proper in the premises.

Mr. HAMLIN. I think that is rather hasty evidence. The Senator is too willing. I think the rapidity with which the report is to come to us from the Post Office Committee evidences too much alacrity.

Mr. PUGH. I should like to know how this resolution came to be considered?

Mr. YULEE. I will state to the Senator from

Maine on what the readiness of the committee is based. It is based on a general knowledge of the subject derived from an examination of it during the whole session; it having been under the consideration of the committee at some half a dozen meetings; and from the intention to obtain from the Department, as I can do in the course of the day, a precise knowledge of the time which will be employed in furnishing that information and the value of the information when acquired, that we may be able to inform the Senate upon the subject.

Mr. HAMLIN. Well, Mr. President, the Senator from Florida told us a few moments ago that if this information was supplied by the Department, it would cost us thousands of dollars. The Senator from California says it will take but a short time, and that he will pledge himself that it shall be at no expense to the Government.

Mr. BRODERICK. If the Postmaster General will allow the papers to be copied, I say the Government shall be put to no expense.

Mr. HAMLIN. I know nothing about this case; but there is a single point that presents itself to my mind, and it is one which will control my vote. I understand the Senator from California to say that the man who presents us his memorial this morning is a man of respectability.

Mr. BRODERICK. Yes, sir.

Mr. HAMLIN. He affirms that we have certain papers in our possession the printing of which will be injurious to him. He also affirms that there are other papers, not included in the papers before us, which, if presented, will give the whole case to the country, and thus protect him. Now, are we going, with that allegation before us, to print papers which may destroy the reputation of a man of good standing in the community? Is it just, is it right, is it proper? It does not seem to me to be so.

I do not know anything about the merits of this case. I can safely say that I do not believe the Postmaster General has sent us any statement that he designed, or that he believed for a single moment, to be in any way garbled or one sided; and still I know that the head of any Department cannot himself examine all papers; and he is obliged, to a certain extent, to depend upon others, and they may not present as full a case as would be presented, if the superintendence were under the direct head of the Department. I can very well understand that. I know the head of the Post Office Department too well to believe for a single moment that he would do anything else than what a high-minded and honorable man, as I think he is, should do; and still I can see how papers might come here from the Department which would blast the reputation of this man, as he alleges.

Now the Senator from California asks—what? I thought the Senator from Arkansas made just that suggestion which ought to have met the approbation of every Senator. What is it? Refer all these papers to the Post Office Committee, pass this resolution, let the papers which this resolution calls for go with those already before us to the Post Office Committee, and then let that committee determine what ought to be done. I would not refer this resolution to the committee and let them go behind the resolution; but let all the papers go to the committee, and then let the committee act fairly, as I have no doubt they will. I think, in justice to an American citizen, we cannot do less, and I shall be amazed if the Senate will undertake to order the printing of papers with those allegations before us, that may blast the reputation of a citizen.

Mr. TRUMBULL. I have had my attention drawn somewhat to this matter, and it is so manifestly proper and right that papers should not be published under the authority of the Senate reflecting upon the character of a private citizen, when that citizen alleges that other papers in the Department from whence they came explain the transaction and remove those reflections, that I should not think there could be two opinions about it in the Senate. It is not the Postmaster General who makes these charges, as I understand; but a controversy has existed in California between Mr. Goodwin and the postmaster at San Francisco. The Postmaster General, in answering a resolution of inquiry, communicates to the Senate a letter from California to him, which reflects upon this individual, makes charges against him that

would blast his reputation forever; and I can say that I have seen the gentleman, and so far from being insane he is a very intelligent man.

I wish to say another thing. This is not a controversy, as the Senator from Florida intimates, between private individuals; it affects the public, not only at San Francisco but throughout the whole country. It relates to the authority of the deputy postmasters to practice what is regarded in San Francisco, and in many other places, as an extortion upon the community. It is a public matter. The Senator from Florida says that if the resolution be referred to his committee they will ascertain from the Post Office Department whether this information is important or not. Why, sir, the Post Office Department is the party implicated.

Mr. YULEE. What I said was, that by an examination of the papers we should be able to report to the Senate whether we thought them important, whether we thought them worth the expense of employing a public officer to copy them between this and the next session.

Mr. TRUMBULL. I am informed by the Senator from Connecticut, who is on the Post Office Committee, that the papers are already copied; and if that be so, they can be communicated to the Senate at once.

Mr. YULEE. Who says so?

Mr. TRUMBULL. The Senator from Connecticut.

Mr. DIXON. These papers, I suppose, are the same papers which have already been before the Committee on the Post Office and Post Roads, and have been returned to the Department. I think they are already copied, most of them.

Mr. YULEE. Copied by whom? Nobody was authorized to copy them.

Mr. DIXON. I suppose they were copied by the clerks of the Department. I believe they are the same papers we had before us in the committee this winter.

Mr. YULEE. I am satisfied the Senator is mistaken, because so far from their being able to copy them, they furnished us the originals, for they had not time to copy them. The question now is, whether we shall employ time devoted to other and more valuable purposes, to the copying of these papers, unless on examination we shall find that they are material and important, in justice to this man?

Mr. TRUMBULL. This controversy involves the construction of laws by the Department; and, in my judgment, the Department has put erroneous constructions on the post office laws. As a matter of course, if the Department be permitted to select out the papers which they will send here, they will send those which justify their own course. We want the whole of them, so as to judge of this matter.

While I am up, I will allude to another subject in connection with this inquiry. A few weeks ago, I offered a resolution calling for information from the Department as to its rules and regulations. The resolution was adopted by the Senate. It was sent to the Postmaster General; and we have had a reply to it. The Senate will bear in mind that these difficulties grow out of the regulations of the Post Office Department; and it was impossible to ascertain what the regulations were. Now, will the Senate believe—I ask the Senator from Florida and the Senator from Pennsylvania if they are prepared to sanction it—will the Senate and the country believe, that the Postmaster General has been sending out printed rules and regulations to every postmaster in the United States, which, in a communication to this body, he says are unofficial? I have in my hand the answer to the resolution to which I have alluded, in which he states:

“POST OFFICE DEPARTMENT, June 3, 1858.

“Sir: In answer to the inquiries made by the Senate's resolution of the 27th ultimo, relative to the lists of post-offices, regulations, &c., published by George S. Gideon in 1855, and by John C. Rives in 1857, I have the honor to state, that in those years there having been no specific appropriation for the compilation and printing of a manual of that kind, copies of those books were purchased for the use of the Department. Neither of them is strictly official, both having been prepared and published on private account. But it being necessary to supply postmasters with new lists of post offices, and believing that the regulations annexed to the lists in those volumes were generally correct copies of the official regulations of the Department, this course was adopted as the most feasible and much the cheapest mode of securing that object. The volume of 1855 was sent, during that and the following year, to many of the Depart-

ment's agents, and to several thousand postmasters; and that of 1857 to all its agents and postmasters.”

This volume of 1857 was sent to all the agents of the Department and the postmasters, with these regulations in it; and now the Department refuses to indorse them; and, in answer to my question whether they are correct copies or not, says they are unofficial, but generally correct. I have prepared another resolution, which I shall move as an amendment to the resolution of the Senator from California, inquiring of the Postmaster General by what authority he has disseminated to the postmasters and post office agents in the country printed regulations, which he now says are unofficial and without authority. He says, in the communication to which I have referred, that no appropriation was made for the purpose of publishing a correct copy. I should think it would take no more money to publish a correct copy than to purchase an incorrect copy. I have inquired in this resolution by what authority he made this purchase, where and whence he obtained the money to pay for it; and I move it as an additional resolution to the one offered by the Senator from California, and hope both will be adopted together.

The VICE PRESIDENT. The Chair will call the attention of the Senator from Illinois to the fact that the pending motion is a motion to commit.

Mr. TRUMBULL. Then I withdraw my proposition until that motion is disposed of.

Mr. FITZPATRICK. I know nothing in regard to the merits of this matter; in fact, all that I know on the subject is what I have learned in the course of the discussion; but I wish to suggest to the Senator from California a modification of the language of his resolution.

Mr. BRODERICK. I have modified it, in accordance with the suggestion of the Senator, by striking out the word “forthwith.”

Mr. FITZPATRICK. I am satisfied.

The motion to refer the resolution to the Committee on the Post Office and Post Roads was not agreed to.

The VICE PRESIDENT. The question recurs on the resolution of the Senator from California. To this resolution the Senator from Illinois moves an amendment, which the Secretary will read.

The Secretary read it, as follows:

Resolved, That the Postmaster General be directed to inform the Senate by what authority the books referred to in his answer to the Senate's resolution of the 27th ultimo, “relative to the list of post offices, regulations,” &c., “prepared and published on private account,” and not recognized by the Department as official, have been purchased by the Post Office Department, and distributed to its agents and postmasters, the amount paid for such publications, and out of what fund; also, that he communicate to the Senate a printed copy of “the last official edition” of the regulations of the Department, together with a copy of such official regulations as have since been adopted and furnished by means of printed circulars, and which are now in use for the guide and government of postmasters in the discharge of their duties.

Mr. HUNTER. Is it in order for me to move to postpone the prior orders, and take up the appropriation bills? because it is evident this matter is going to consume the whole morning hour.

Mr. HOUSTON. I hope the morning hour will be given to morning business.

The VICE PRESIDENT. The Chair thinks the motion intimated by the Senator from Virginia would be in order.

Mr. HUNTER. I make that motion. [“Question.”] If there be no further debate on this matter, I shall not press the motion.

Mr. HAMLIN. When a question is under debate, only one of certain specified motions can be put. When this matter is out of the way, the Senator from Virginia can make his motion—not before.

The VICE PRESIDENT. The Senator from Virginia was about to make a motion to postpone this subject, which is one of the specified motions under the rule, and would be in order. The question now, however, is on the amendment of the Senator from Illinois to the resolution of the Senator from California.

Mr. YULEE. I suggest whether it is in order to introduce a new subject-matter, as an amendment, and thus escape the effect of the rule which requires a day's notice before a resolution can be acted upon?

Mr. TRUMBULL. If the Senator from Flor-

ida objects to my resolution, I shall withdraw it; but I think, if he looks at it, there will be no objection to it.

Mr. YULEE. I do not know that I shall object to it; but I want to look at it, because it appears to me to contain an attack on the Postmaster General.

Mr. TRUMBULL. I withdraw my resolution as an amendment, and I shall offer it as a separate resolution.

Mr. BIGLER. I am anxious that the question should be disposed of, and I am anxious that the communication of the Postmaster General should be referred to the Committee on the Post Office and Post Roads.

The VICE PRESIDENT. The Chair will bring the attention of the Senate to that, as soon as the question is taken on the resolution of the Senator from California.

The resolution was agreed to.

The VICE PRESIDENT. It is suggested that the Committee on Printing be discharged from the further consideration of the communication of the Post Office Department, and that it be referred to the Committee on the Post Office and Post Roads. If there be no objection, it will be so ordered. The Chair hears no objection.

Mr. TRUMBULL. I now present my resolution as a separate one; and as I understand the Senator from Florida objects to its consideration, it can lie over until to-morrow, and in the mean time he can examine it.

Mr. YULEE. I wish to look at it.

The VICE PRESIDENT. The resolution will lie over.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. ALLEN, its Clerk, announced that the House had passed a bill (H. R. No. 399) for the relief of certain purchasers of lands within the Choctaw cession of 1830; and a joint resolution (H. R. No. 37) in regard to the carrying the United States mails from St. Joseph, Missouri, to Placerville, California; in which the concurrence of the Senate was requested.

DAVID MYERLE.

Mr. HOUSTON. I am exceedingly reluctant ever to occupy the floor, as there is so much anxiety to push forward business at this stage of the session; but I feel it a duty incumbent on me on this occasion to make a motion. An individual whom I have seen here for the last twelve years, who is worn down from anxiety and watching, and has absolutely become blind, so that he can hardly grope his way about this Capitol, in vain seeking redress, still remains before you. I desire, before I leave, to make at least one effort, if possible, to obtain for him, through the voice of the Senate, relief from the grievances which he has endured; and, therefore, I move to take up Senate bill (No. 120) for the relief of David Myerle.

Mr. FESSENDEN. I think, in fact I know, that there is not another bill on the Private Calendar which would induce me to interpose a word in favor of taking it up, at this period of the session; but this is an exception in my own mind. I have supported the movements and the wishes of the Senator who stands at the head of the Committee on Finance, in every case, from my strong convictions of the necessity of finishing the business intrusted to his charge, but I have been so much impressed, by an actual examination of the case, of the extreme justice of the claim of Mr. Myerle—and I had occasion to examine it as a member of the Committee on Claims a few years ago—and so much more impressed with the peculiar condition of the man and the necessity of doing something for his relief, (which relief I think to be demanded absolutely from the justice of the Government from my knowledge of the claim,) that I cannot help adding that I hope the Senate will take up this bill and pass it.

Mr. TOOMBS. I hope the Senate will not take it up. This case has been before Congress for not less than twelve or fifteen years. It has been again and again discussed in the House of Representatives, and I believe uniformly rejected. I once had occasion to examine it and I know that several times when it was discussed there, it was rejected.

Mr. FESSENDEN. I am very confident that

the Senator is entirely mistaken. The bill has been passed by the House of Representatives several times, and has been passed by the Senate several times, and I am well informed that it never was rejected but once, and that was when it had passed the House of Representatives for a given sum and the Senate reduced that sum and sent it back, and then the House laid it on the table, because they were unwilling to take the small sum the Senate allowed.

Mr. TOOMBS. The Senator is greatly mistaken as to that, for I know that this matter has been distinctly contested. It is a Kentucky case with which the gentlemen from that State are familiar. I was thoroughly satisfied when it was formerly before Congress, from the arguments of those who understood it, that it ought not to be paid. I believe it has also gone to the Court of Claims, and has been rejected there. What peculiar merit a case, that has been discussed time after time, and has never been passed by Congress; that has been sent to the Court of Claims and rejected by them, should have for being taken up here to the exclusion of public business, I cannot imagine. It seems to me that if there is a single case on the Calendar that ought not to be taken up, this is the very one. It has not been neglected. It has been again and again considered. Even according to the account of the Senator from Maine, it has been controverted between the two Houses year after year. I know it has been pending for many years, but the precise disposition of it on every occasion I do not know. It has been year after year strenuously, and satisfactorily to my mind, opposed by those best acquainted with it—the gentlemen in the other House from Kentucky—who showed that there is not the least shadow of foundation in justice for the claim. The only thing that gave it any validity were some letters from a gentleman who seems to be very kind in the matter, and who was Secretary of the Navy at the time Myerle made his contract. It seems that he writes a new letter whenever one is wanted, and is strongly impressed with the justice of the claim. I allude to Mr. Paulding. I do not see why we should now take up this case which has been again and again contested, and has been rejected by the Court of Claims. If the bill had been brought before us at an earlier period of the session, it could have been looked into and examined; but that is now impossible. I think it can claim no priority in the Senate.

Mr. FESSENDEN. I think the Senator is mistaken; and he thinks I am. There is, however, one point which he cannot dispute, and that is, that the claim has had no less than twelve favorable reports from committees of the Senate and House of Representatives.

Mr. THOMPSON, of Kentucky. This is a Kentucky case, and I know all about it, and the tradition of it historically and personally. The opposition to paying David Myerle, after making his hemp experiments under a contract with Secretary Paulding, has been on account of a contest between men in Kentucky as to whom the money ought to be paid. Myerle's creditors came here and fought with him, making Congress a sort of chancery court, they trying to attach the proceeds. That Myerle had an equitable case against the Government was never disputed; but the contest was between him and his creditors as to who should have the money.

Mr. FESSENDEN. It is undoubtedly the case that there has been an opposition to the claim from Kentucky. What it arose from I do not know, and will not undertake to say; but certainly this claim has had from committees of the Senate and House of Representatives no less than twelve favorable reports. It unquestionably has been decided favorably on by the Senate several times, and by the House of Representatives several times, but has never passed both Houses at the same session.

The Senator from Georgia asks why was not the bill taken up earlier? It has never been reached upon the Calendar; and there being objection to it, it could not be taken up. I speak of it simply from the impressions made on my own mind. I knew nothing of the case until I became a member of the Committee on Claims at the last Congress. I then had occasion to examine it and examine it carefully, and I came to the conclusion that if there ever was a case which appealed strongly, forcibly, almost unanswerably, and irresistibly,

to the equitable consideration of Congress, it was the claim of David Myerle. I became perfectly satisfied that he had been ruined in the service of the Government, and in a service undertaken at the express request of an officer of the Government. It is a fact, that with such a claim before Congress, thus passed upon, thus reported favorably upon, thus adopted several times by each House of Congress, but never at the same session by both Houses of Congress—and therefore never technically by Congress, or it would have become a law—he has grown old and poor and blind; and with such a case presenting itself to the consideration of Congress, I think at no time should Congress refuse to hear it and pass upon it. It is said that it has been reported upon unfavorably by the Court of Claims. I grant that the Court of Claims reported that he had no legal claim upon the Government, on the technical ground that the Secretary of the Navy, who employed him and who promised that he should be paid, had no authority from Congress to make the promise, and there was, therefore, no legal obligation on the Government; but the court accompanied that rejection of the claim on a point of law, with an express recommendation of it, on the ground of its great equity, as appealing to the equitable consideration of Congress. Under these circumstances, I think it is a claim that appeals to the justice of the country for consideration and action.

Mr. TOOMBS. The foundation of the gentleman's support of this claim I know to be erroneous. As to Myerle having been ruined by the Government, I know that the facts, as demonstrated by the evidence, show that he was totally insolvent, and executions were out against him when he started in the business; and the very hemp which he bought was never paid for. He owed the Kentucky creditors for it, and has owed them ever since. Those facts were established in the discussion in the House of Representatives.

Mr. CLAY. I do not rise to debate the merits of this question, and I will remark, with due deference to the Senators who have spoken, that I think they were all out of order in discussing the merits of the bill on the motion to take it up. I simply wish to suggest, that whether this be a good or a bad claim, a just or an unjust one, it will consume all this day in debate, if it is taken up. It is an old customer with which I am well acquainted, and it will not pass the Senate without an elaborate discussion. After the appropriation bills shall have been disposed of, I will not object to taking up this bill, and indeed I will then aid in taking it up, although I expect to vote against it; but until the appropriation bills are passed, I trust we shall not take up this bill, which will certainly defer any action on them for at least this day.

Mr. GREEN. I agree most heartily with what was said by the Senator from Maine. I differ from the Senator from Alabama in his suggestion. If the case be such an old customer as he suggests, so well understood, so well investigated, I see no necessity for any further discussion, but let the majority of the Senate express their opinion at once—let us vote. If we all know so much about it each Senator doubtless has formed his opinion. Then let us take up the bill and vote on it without saying a single word.

Mr. HUNTER. I suppose that if it be taken up it will at one o'clock yield to the special order. [Certainly.]

The motion was agreed to; and the bill (S. No. 120) for the relief of David Myerle was read a second time, and considered as in Committee of the Whole.

It proposes to direct the Secretary of the Treasury to pay to David Myerle the sum of \$44,400, for losses, sacrifices, and expenses incurred by him in testing and establishing the practicability and safety of the process of water-rotting hemp, under the direction of the Navy Department.

Mr. SLIDELL. Let us hear the report.

The Secretary read the following report made by Mr. MALLORY, on the 3d of February last:

The Committee on Claims, to whom was referred the case of David Myerle, reported from the Court of Claims, unanimously report:

The claim was first presented to the Senate by the memorial of the claimant at the first session of the Twenty-Eighth Congress, and has been continuously prosecuted to this time.

The nature of the claim is shown by the evidence taken before the Court of Claims, and which is briefly recited in the decision of the court as showing the nature of the ar-

rangement made by Mr. Paulding, in 1839, as Secretary of the Navy.

Mr. Paulding states, that while he was at the head of the Navy Department the claimant called on him with reference to certain improvements he had made in the machinery for manufacturing cordage; that, perceiving the claimant to be an intelligent and enterprising man, he suggested to him that it might be advantageous to him to engage in the business of water-rotting hemp, and that the claimant stated, that although he did not believe the occupation to be dangerous to those engaged in it, yet, being then engaged in a profitable business, he was unwilling to relinquish it for one which he foresaw would be attended with almost insurmountable obstacles, and a failure in which would involve him in great pecuniary loss. *The Secretary then assured the claimant that the Department would take care that he should be recompensed for any loss he might ultimately sustain in consequence of a failure of the experiment; and he states that he made this promise solely in the hope of being instrumental in conferring a great benefit on his country, and under a full conviction that if he remained in office he would redeem his pledge, without transcending his powers or violating any existing law.* He says further, that the claimant, being influenced, as he believes, by these assurances, as well as by motives of patriotism, acceded to his proposition, and a contract was entered into with him for two hundred tons of American water-rotted hemp; that the claimant made no application for a contract; that the proposal came from the Secretary; that no advertisements for proposal were issued, nor was any security demanded for the fulfillment of the contract, as the whole affair was considered as an experiment, made with a view to settle a question of great national importance. Mr. Paulding says, also, that his object was to remove the prejudice against the process of water-rotting, and demonstrate the practicability of producing a domestic article equal to the first quality of Russian hemp.

The claim is based upon the grounds, first, that the hemp delivered by him at Boston, under the contracts, was improperly rejected, whereby the enterprise, which promised remuneration, was converted into the means of its ruin; and second, upon the promise of indemnity against loss made by the Secretary of the Navy.

Upon both of these grounds the Court of Claims decided against the claimant, holding that there was no legal liability which could be enforced in that court against the Government, as the act of 3d March, 1809, provides that "all purchases and contracts for supplies or services which are or may, according to law, be made by or under the direction of either the Secretary of the Treasury, the Secretary of War, or the Secretary of the Navy, shall be made either by open purchase or by previously advertising for proposals respecting the same."

The court, however, while deciding against the legal liability of the Government, thought, from the peculiar circumstances of the case, that they should lay the facts before Congress, with the remark that "the evidence tends to show that an active and enterprising man of business became embarrassed in his circumstances, and was deprived of the just and fair profits of an honest occupation by his efforts to promote a matter of national concern," and they therefore submit "the whole matter to the consideration of Congress for such action as they, under all the circumstances, shall consider just and equitable."

The committee are of opinion that it is both just and equitable, under the circumstances of the case, that the applicant should receive compensation.

In reference to the contract for and the delivery of hemp, Mr. Paulding states, in his letter of 4th January, 1853:

"In all the testimonials I have given in behalf of your claim, I was governed by no papers or representations of yours. I stated facts, and only such facts as were known to myself, and many of them notorious to the public. I stated, in the first place, that it had long been the wish of the Government to procure a supply of American water-rotted hemp for the consumption of the Navy, in order that the country might be independent of foreign nations, especially in time of war; but all efforts had been unsuccessful, principally on the score of its being universally considered in the West as an unhealthy occupation, fatal to the slaves who would be principally employed in the business."

"I stated that, in consequence of my solicitations and encouragement, you were unwillingly induced to undertake this most important business, and that, accordingly, a contract was entered into for the supply of several hundred tons of American water-rotted hemp."

"I stated that, after surmounting great obstacles, you at length succeeded so far as to deliver a large supply of American water-rotted hemp at the Boston navy-yard, which, being tested with the best Russia, proved considerably stronger, but was rejected by the inspectors on the frivolous pretext that it was not quite so clean; and I now state, that the late Commodore Nicholson, who afterwards commanded at Boston, has since assured me that corrupt means were used to induce the inspectors to come to that decision."

"I further stated, what was already sufficiently notorious, that in consequence of your success in the production of water-rotted hemp, and the proof thus afforded that it was not an unhealthy occupation, others had entered upon it, inasmuch that the naval and commercial marine of the United States are in a great measure supplied with American water-rotted hemp, and no longer dependent on foreign nations for an article so indispensable."

"All this I stated from my own knowledge, and not from your papers and representations; and, consequently, thus far, there was no deception on your part."

"With regard to your pecuniary circumstances at that time, I said nothing, because I knew nothing, and did not think it had the slightest connection with the justice of your claim. I had a great national purpose in view, and found in you a man ready to undertake its accomplishment. If you succeeded, the country would be greatly benefited; if you failed, it would be just where it was before. No advantages of money were required, and no injury to the public interest could occur from your failure, as the Department had then on hand a supply of Russian hemp for two years, which I recollect aright; at any rate, for a very considerable period."

"There was no deception here. Whether solvent or not

solvent at the time you entered on the contract is of no consequence to me or the country, provided you succeeded in your undertaking; and with unfeigned respect to Congress, I do not perceive how the decision of this question can affect the justice of your claim in the slightest degree; that is a private affair between you and your creditors."

"The facts I have stated, and which are notoriously true, sufficiently prove that you were the principal instrument in conferring a great benefit on your country, whether rich or poor when you began is of little consequence to any one but yourself. It is sufficient to know that you are now poor, and that this poverty is clearly owing to the improper rejection of your hemp at Boston, which effectually arrested all future efforts, and was sufficient to ruin your affairs. Nothing is more common than for men to commence business, or enter on great undertakings, on borrowed capital, and to take the risk of success or failure. Nor, however I may disapprove of such a course, do I think justice should be denied them, because, perhaps, the loss may fall on others. If any other person or persons have a legal claim in any portion of the anticipated bounty of Congress, it seems to me it should be decided by a court of adjudication, not by Congress."

"I do not know whether you lost any money by your contract, or whether you had any to lose; but this I know, that you spent years of your life, and encountered a series of labors, obstacles, and discouragements, in prosecuting your undertaking, which deserve some remuneration, and that for the last seven or eight years you have been condemned to a purgatory of cares, anxieties, losses, and disappointments, which I would not have endured for ten times the sum you may receive from the justice or the bounty of Congress."

The damage claimed by Myerle for the rejection of his hemp, as shown by the statement in the report from the court, page 44, is \$65,000, being the difference between \$150,000, the contract price for five hundred tons, and the cost delivered at Boston of \$85,000.

There is a good deal of other evidence in the record as to whether the hemp was or was not properly rejected; but in the view taken of the case by the court, in which the committee concurs, it is not necessary to go into the details, and it is only here referred to as one of the items which enter into consideration in the judgment to which the committee have arrived.

It is shown also by the evidence that the rejection of this hemp not only deprived the claimant of the profit which had been anticipated by the contract, but produced a overwhelming embarrassment in his pecuniary affairs. At the time he undertook this experiment, he appears to have been a man of means, extensively and prosperously engaged in the rope business. His devotion and zeal in the prosecution of the business of water-rotting hemp, under the engagement with the Secretary of the Navy, together with the rejection of his hemp, reduced him to poverty.

In a letter from Secretary Badger, dated Navy Department, May 10, 1841, addressed to Mr. Myerle, he says: "The patriotic spirit which prompted you to the great undertaking in which you are now employed, and the perseverance with which you have prosecuted it, deserve and have the commendation of the Department."

The committee find that this experiment was not only prosecuted with great zeal and perseverance, but that it was also conducted to a successful result, promotive of great advantage to the best interests of the country.

On this point there is abundance of proof; but it is not deemed essential to do more than to extract the following:

Willis Stuart, of Louisville, Kentucky, says, in his letter dated November 10, 1845: "I hope that Congress will yet do you justice, as you have certainly lost the last six or seven years in endeavoring to confer a great benefit on your country, and in which you have certainly succeeded. It is said that republics are ungrateful, and they doubtless are so in many instances; yet a distinguished statesman of our day has said: 'Truth was omnipotent and public justice certain;' and I hope that you will yet be amply rewarded for all your toils and sacrifices."

In the letter of Mr. Buchanan, dated Wheatland, September 2, 1850, he says: "When you undertook the task of instructing the hemp-growers of the West the art of water-rotting hemp in such a manner as to render it a healthy employment, and had entered into a contract with the Secretary of the Navy to furnish the Department with a quantity of the article, I felt a lively interest in your success. This induced me to watch your progress with much solicitude. I had many conversations with you on the subject. The result of your labors has been a great benefit to the country. We now have an ample supply of an article necessary for self-defense, whilst its cultivation has been, and will continue to be, a source of profit to many of our agriculturists."

Again, in a letter from the same gentleman, dated London, December 14, 1853, he writes: "I am truly sorry my recollection does not serve me in this particular, because I espoused your cause from a sincere conviction that it was just."

In the report of Secretary Mason, dated December 4, 1848, it is stated: "The supply of hemp on hand, and deliverable under contracts already existing, render it unnecessary to advertise for any additional quantity for the present year. That American hemp can be prepared in quality equal to any in the world, has been established by experiments under the most rigid tests."

These extracts, together with the statement of Mr. Paulding, heretofore quoted, are sufficient to show that the country has gained great advantage from the services of Mr. Myerle, and, as these were performed under an agreement, made bona fide with the Secretary of the Navy, it is but just, in the opinion of the committee, that some compensation should be made therefor, though it may be admitted that the law did not authorize the Secretary to bind the Government by such an agreement.

The committee have traced the history of this claim in the two Houses of Congress since its first presentation, and find that, during the Twenty-Ninth, Thirtieth, Thirty-Second, and Thirty-Third Congresses, six times have bills been reported in favor of the applicant in the Senate, and during the same period, seven times in the House of Representa-

tives. That, in the Thirtieth and Thirty-Third Congresses, the bills passed the Senate; and that, in the Twenty-Ninth, Thirtieth, and Thirty-Second Congresses, the bills passed the House three several times.

The committee have looked to these bills as some evidence of the opinion of Congress as to the amount which should be allowed the claimant. The sum stated in the bills which passed the Senate in the Thirty-Third Congress, and the House the second session of the Thirty-Second Congress, is \$30,000, with interest from 1st January, 1850. The committee does not regard this as equivalent to the damages claimed by Myerle; but, as those damages do not arise under any binding contract with the Government, they adopt the amount which those bills would give, as the nearest approximation to an equitable allowance, as the evidence of the case would seem to authorize.

The committee report a bill, and recommend its passage.

Mr. SLIDELL. I called for the reading of the report, because I wished to refresh my memory as to the facts of the case. This bill gives Mr. Myerle \$44,000. On a former occasion the case was before the Naval Committee of the Senate, and I then had occasion to examine it, and the impression left on my mind was that he had really no claim on the Government. The result was, however, to a certain extent, a compromise of opinion on the subject, and a bill was then reported for the relief of Mr. Myerle for \$10,000. That bill was urged with great vehemence by the friends of Mr. Myerle in the Senate, and met with equally stern opposition; but it passed in that form, with considerable difficulty. It is now brought before us for \$44,000. It is very evident that there is no possibility of passing the bill through Congress in the shape which it now presents. I do not know that I should urge any serious objection to it if it were in the form of the former bill giving to Mr. Myerle a compensation of \$10,000, not because he has any legal claim on the Government, but in consideration of what are said to be valuable services rendered by him to the country. I move to reduce the amount to \$10,000.

Mr. FESSENDEN. I will not make a speech. I am satisfied that the amount named in the bill is not too much. It is not, in reality, anything like what Mr. Myerle ought to receive. If the Senator from Louisiana will refer to the Journal he will find that it conforms to what I said. The bill came from the House giving him \$30,000, and the Senate reduced it to \$10,000, and the House refused to pass it in that shape, being satisfied that it did no sort of justice. I hope the amendment will not be adopted.

Mr. SLIDELL. The Senator is mistaken. That bill originated in the Senate. I now find that it was reported by the Naval Committee for \$30,000, and reduced here to \$10,000.

Mr. FESSENDEN. It may be so.

Mr. THOMSON, of New Jersey. I made that report from the Naval Committee. The bill passed the Senate at that session, but did not pass the other House.

Mr. CLAY. I am not prepared to discuss this question at this time, although it was once, I think, before the Committee on Claims, when I was a member of that committee, nearly four years ago. I have an indistinct recollection, however, of having read the report, and having read all the testimony adduced in support of the claim, and I am very positive that my conclusion upon the whole testimony was that the claim was at least of very doubtful merits. Certainly there is no legal claim—that is conceded—and I think the equity is very weak. As I understand it, this whole claim is predicated upon the fact that Mr. Myerle made great sacrifices for the sake of the Government. That is its foundation. If that assertion was disproved, I do not think there would be any equity whatever on which to stand. I think that if an investigation were made, it would be found that that assertion is unsustained by the facts. I believe that the Government has already advanced to him a full equivalent for all the expenditures he has made, and, indeed, more than that; and that so far from being ruined by this enterprise, he was ruined before he began it. I am quite sure it can be proved, that when he entered upon this undertaking on behalf of the Government, he was then a bankrupt; that so far from being worth the large sum of money set forth in the little paper which I find on my desk, he was, at that time, a bankrupt, and that fact can be established by the first testimony offered in a court of justice, and that is by executions against him returned "nulla bona." If this be true, and I

have an indistinct recollection of such facts, it appears to me that we should be doing great wrong to the Government in voting him this gratuity; and hence I think that, at best, \$10,000 is ample remuneration for what he has done in this enterprise. I trust the amount will be reduced to \$10,000; and, if the question is not disposed of to-day, I shall feel myself committed to investigate the case, and see if I cannot produce to the Senate to-morrow some proof to sustain the assertion which I make, that he was bankrupt at the time he entered upon this enterprise.

Mr. FESSENDEN. I call for the vote. I believe the subject is perfectly well understood by the Senate. I do not think that whether he was poor or rich at the time makes any real difference as to the merits of the claim.

The amendment was rejected.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time; and on the question "Shall the bill pass?"

Mr. CLAY called for the yeas and nays; and they were ordered.

Mr. BAYARD. I do not rise for the purpose of opposing this bill, but when it was formerly before the Senate—

Mr. FESSENDEN. The Senator will allow me to suggest that if he makes a speech, the time within which we can act upon the bill will pass by.

Mr. BAYARD. I shall conclude what I have to say before the hour arrives for the special order; but I have a duty to myself, because I am to vote on the yeas and nays. I do not mean to enter into any discussion; but when the bill was formerly before the Senate I opposed it, because I thought there was no good claim against the Government. It had been many times canvassed here; and from reading all the papers, and from the conversations of the late Colonel Benton, who professed to have an intimate knowledge of the matter, I came to the conclusion that there was no ground for legal or equitable relief in this case. But the particular ground on which I opposed the bill was that the effect of recognizing the claim is to say that because one of your executive officers chooses to make a contract without the semblance of authority, Congress are to be involved in an expense arising out of it, so that you sanction it in the future as well as in this case. I do not care about the passage of this particular bill, but I cannot, with my convictions, vote for it. I do not desire to consume time.

The question being taken by yeas and nays, resulted—yeas 37, nays 20; as follows:

YEAS—Messrs. Allen, Bell, Benjamin, Brown, Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Douglas, Durkee, Fessenden, Fitch, Foot, Foster, Green, Gwin, Hale, Harlan, Houston, Iverson, Johnson of Arkansas, Jones, Kennedy, Mallory, Polk, Rice, Sebastian, Seward, Simmons, Thompson of Kentucky, Thomson of New Jersey, Trumbull, Wade, Wilson, and Yulee—37.

NAYS—Messrs. Bayard, Bright, Broderick, Clay, Clingman, Davis, Fitzpatrick, Hamlin, Hayne, Hunter, Johnson of Tennessee, King, Mason, Pearce, Pugh, Reid, Shidell, Toombs, and Wright—20.

So the bill was passed.

WILLIAM S. BRADFORD.

Mr. CHANDLER. I ask the indulgence of the Senate to take up the bill which I desired to have considered last night, but to which objection was then made by the Senator from Georgia.

Mr. HUNTER. If the Senator will agree that he will not press it if there be the least debate, I shall not object to his motion.

Mr. CHANDLER. If the bill leads to a single word of debate, I shall not press it at this time.

The motion was agreed to; and the bill (H. R. No. 610) for the relief of William S. Bradford was considered as in Committee of the Whole. It proposes to increase his pension to twenty-five dollars per month.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

INDIANA SENATORIAL ELECTION.

Mr. HUNTER. I call for the special order.

The VICE PRESIDENT. The hour for the consideration of the special order has arrived, and it is now before the Senate.

Mr. BRIGHT. I wish to supersede the special order by calling up the question of privilege that is pending before this body, and I hope there

will be no objection on the part of any Senator to considering it. It is the report of the Committee on the Judiciary in reference to my right to a seat in this body. I have waited very patiently, hoping that an hour would arrive when the Senate would consider that question. My friend from Virginia has insisted, from Monday morning until the present time, that I should not interfere with his appropriation bills, and I have yielded from morning to morning, until now, when I feel constrained to ask the Senate to take up and dispose of the case.

Mr. HUNTER. My friend from Indiana has forborne, at my request, to press the case, and I told him that on to-day, if he insisted on its consideration, I would not resist it. Still I suggest to him that if it would do as well, we can make it the special order for to-morrow at twelve o'clock, and get through with the appropriation bills to-day, so as to let the President have time to examine them.

Mr. PUGH. If the Senate will make this case the order of the day for to-morrow at twelve o'clock, I have no objection; but I have deferred calling it up for three or four days, and I find that other and trivial questions came in to displace it.

Mr. HUNTER. I submit a motion that we make it the special order for to-morrow, at twelve o'clock.

Mr. BRIGHT. I will consent to that. I will not interfere with the business to-day, if this matter can be disposed of to-morrow.

Mr. SEWARD. I am not willing to make a special order of anything at this late stage of the session.

Mr. HUNTER. I suggest to the Senator that it is a question of privilege, and the whole effect of making it a special order is, to give notice that it will be called up to-morrow at twelve o'clock. The Senator cannot prevent it being called up.

Mr. SEWARD. If it is a question of privilege—

Mr. HUNTER. The only advantage of making it a special order is, to give notice that it will certainly be called up.

Mr. SEWARD. I have been waiting all day to endeavor to take up a matter of importance—

Mr. BRIGHT. I should like to inquire of the Senator from New York whether he is opposed to the consideration of this subject during the session?

Mr. SEWARD. No, sir; I am not.

Mr. BRIGHT. Then I hope he will not object to making it the special order for twelve o'clock to-morrow. If so, I shall insist on its consideration to-day.

Mr. HUNTER. It must come up when called up; and unless we make it the special order for to-morrow we shall lose to-day with it.

Mr. SEWARD. You may make it a special order; you have the power to do so. All that I wish to be understood is that I do not bind myself that to-morrow I shall be cut off from bringing up other business.

The VICE PRESIDENT. The question is on the motion of the Senator from Virginia to make the report of the Judiciary Committee in regard to the seats of the Senators from Indiana the special order for to-morrow, at twelve o'clock.

The motion was agreed to.

BRITISH AGGRESSIONS.

Mr. MASON. If my colleague will allow me, I desire to ask the Senate to make the resolutions that were reported from the Committee on Foreign Relations in regard to the outrages in the Gulf the special order for Saturday, at one o'clock. The Senate will remember that a melancholy event deprived us of the opportunity of considering them on Saturday last. Saturday next will be almost *dies non*—the day before the adjournment—and I am sure the Senate understand the propriety of passing those resolutions. I shall not debate them at all.

Mr. HUNTER. I have but a day now for the appropriation bills. After they are disposed of I shall vote with my colleague; but I wish to pass those bills to-day, and then I will vote with him to make his resolutions a special order.

Mr. MASON. I will not debate it.

Mr. HUNTER. It will be debated. Let us finish the appropriation bills to-day, and then I will go with my colleague.

The VICE PRESIDENT. The Chair under-

stands the Senator from Virginia [Mr. MASON] to move for the present to postpone all prior business, in order to take up the resolutions of the Committee on Foreign Relations, with a view to make them a special order.

Mr. HUNTER. I hope we shall not postpone the special order; but let us go on with the appropriation bills.

Mr. MASON. I did not make any motion; but I asked general consent to have the resolutions made the special order for Saturday, without displacing the present business. If that consent is not given, I shall not insist on the postponement.

The VICE PRESIDENT. Is general consent given?

Mr. FESSENDEN. I object.

B. L. BOGAN.

Mr. WRIGHT. I ask the Senate to take up a resolution for the payment of B. L. Bogan, which I reported, a few days since, from the Committee to Audit and Control the Contingent Expenses of the Senate. It is a small matter, and the resolution only proposes to pay for services which have been rendered.

By unanimous consent, the following resolution was considered, and agreed to:

Resolved, That the Secretary of the Senate pay, from the contingent fund of the Senate, the sum of \$200 to B. L. Bogan, for the services of his son in the document-room of the Senate.

INDIAN DEFICIENCY BILL.

The VICE PRESIDENT. The special order is the unfinished business of yesterday, being the bill (H. R. No. 555) to supply deficiencies in the appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending the 30th of June, 1858, the pending question being on the amendment of the Senator from Texas, [Mr. Houston.]

Mr. HUNTER. I should like to take up the Post Office bill first, as that is one of the large appropriation bills. I wish to pass the important appropriation bills first, so that they can be sent to the President in time for examination.

Mr. HOUSTON. I yield with great pleasure.

The VICE PRESIDENT. If there be no objection, the pending bill will be laid aside informally, and the Post Office appropriation bill will be taken up. The Chair hears no objection.

ARMY APPROPRIATION BILL.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had agreed to some and disagreed to other amendments of the Senate to the bill (H. R. No. 243) making appropriations for the support of the Army for the year ending the 30th of June, 1859, and had agreed to the forty-first amendment of the Senate to the said bill, with an amendment, in which the concurrence of the Senate was requested.

BILLS BECOME LAWS.

The message further announced that the President of the United States had informed the House of Representatives that he had approved and signed, on the 9th instant, the following acts:

- An act for the relief of Wyatt Griffith;
- An act granting an invalid pension to Alexander S. Bean, of Pennsylvania;
- An act granting an invalid pension to James Fugate, of Missouri;
- An act granting an invalid pension to Conrad Schroeder;
- An act for the relief of Stephen Fellows;
- An act to increase the pension of Henry E. Read, a citizen of Kentucky, and for other purposes;
- An act for the relief of certain settlers on the public lands in Wisconsin;
- An act for the relief of Elijah Close, of Tennessee;
- An act for the relief of Michael A. Davenport, of Illinois; and
- An act for the relief of Gardner & Vincent and others.

POST OFFICE APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 556) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1859.

Mr. YULEE. I have a number of amend-

ments to offer from the Committee on the Post Office and Post Roads. The first is to insert as an additional section:

And be it further enacted, That there shall be appointed by the President, with the consent of the Senate, a Fourth Assistant Postmaster General, who shall receive the same compensation which is paid to each of the other Assistant Postmasters General; and the said Fourth Assistant Postmaster General is hereby authorized to send and receive letters, packages, and other matters on official business, through the mails, free of postage, subject to the same restrictions and penalties as the other Assistant Postmasters General; and that the sum of \$3,000 is hereby appropriated for the salary of the said officer for the fiscal year ending June 30, 1859.

Inasmuch as the Department conceives it to be very important indeed to the successful administration of its business, that this provision should be made at the present session, and inasmuch as my repeated efforts to have it acted upon as a separate bill have been disappointed, so that it is now too late to secure the passage of the necessary enactment to create the office, if such should be the pleasure of the Senate, in time to be acted upon by the House of Representatives, I have been directed by the committee to move it as an amendment to this bill. The necessity for it has been heretofore explained on one or two occasions by me. Since the subject was last before the Senate I have made inquiry with respect to the increase in the number of contracts since the organization of 1836, and I find that the number of mail contractors in 1836 was one thousand five hundred and fifty, compared with six thousand five hundred and seventy-six now; that there were in 1836 no mail agents, while there are now over two thousand mail agents with whom this bureau, if it may be so called, as it should be, is in constant correspondence. The Senator from Vermont, [Mr. COLLAMER,] whose experience in the Department has enabled him to judge very well as to the propriety and necessity of this addition to its force, and whose judicious temper and mind make his opinion of value to us, will be able to say, and I hope he will do us the favor to say, whether, in his opinion, it is desirable that the wish of the Department should be gratified in the appointment of this officer. I am sure it would be agreeable to the Senate to hear from him on the subject, as I know it will be to me.

Mr. COLLAMER. Mr. President, I will, to gratify the gentleman, state my convictions on the subject, and give briefly the reasons for my opinion. I should be pleased to have the attention of the honorable Senator from Mississippi, [Mr. DAVIS,] I observed that when the subject was up before, he seemed to be disposed to think that this Assistant, being appointed by the President, was rather inconsistent with his idea of the efficiency of an Executive Department. I will say that his views on the subject very much jump with my own. As a general principle, I think an Executive Department should have an executive head, and it should not have much, if any, checks about it, except its own responsibility. While a man is at the head of an Executive Department I think he should do his duty himself, do it with efficiency and decision, and feel responsible for it at all times. When we come from Executive Departments into the Senate, it is another affair. Here we are peers, and have to furnish our proportion of light, and get along with our peers as we can. At the head of a Department, it is a different matter; and the Senator from Mississippi is right in regard to that. The Government, however, have thought otherwise; they have instituted a different policy; they have done so in relation to this Department; and they began it in some other Departments before. They created an Assistant Secretary of State, not appointed by the head of the Department, but by the President, by and with the advice and consent of the Senate—an independent officer. They did the same thing with the Treasury Department. I suppose the courtesy of the President permits the heads of those Departments to be heard in the selection of the Assistants, but in law they are not considered. These officers are supposed by the Government to be necessary, as a sort of watch or guard on the action of the heads of Departments, as a species of check and balance on the head in some way or other. The same policy has been carried into the Post Office Department. Formerly, the three Assistant Postmasters General were appointed by the head of the Department, and were removable by him; and, of course, the head of

the Department was always responsible for their action. The Government have taken those three Assistant Postmasters General, and provided for their appointment by the President, by and with the advice and consent of the Senate. Here I cannot but say that I think this a very important part of the case in the opinion I am about to give in relation to this Fourth Assistant; and I cannot but think that if the honorable Senator from Mississippi would give me his attention, he would see the propriety of this additional officer. Inasmuch as they have three Assistants now, who are independent officers, appointed by the President and Senate, this is an important element in forming an opinion upon the proposition before us.

That being the present condition of the Department, it is attempted to be shaped in its operations on the principle which governs all accountable Departments; that is, on a system of checks and balances. If you let the same officer make contracts, and say when the contractors shall have their pay, you might as well open the Treasury to him; there would be no check whatever upon him. Therefore it is that the man who makes the contract is never permitted, in that Department, to say whether the contract has been executed and performed, so that the contractor can get his pay. That is not allowed there, and should not be anywhere. The inspection office, as it is called, is founded on that principle. The Postmaster General arranges his Assistants to the different branches of the Department in his own way, and the Second Assistant Postmaster General is at the head of the contract office. He makes all the contracts, and I believe there are now about seven thousand contracts for carrying the mails, besides contracts for mail bags, locks and keys, and half a dozen other things. In order to enable a man to get pay on any of his contracts, he must obtain a certificate from the head of the inspection office that he has performed the contract. In order to enable the head of the inspection office to give that certificate, the postmasters at the end of every route are directed to make, and do make, regular returns of the time of the arrival and departure of the mails on the routes all over the United States. These returns are sent to the inspection office, where there are now seventeen clerks at work. They make up every man's account, by which the head of the inspection office sees at the end of the quarter whether the contractor has performed his service, and he gives a certificate accordingly, to enable him to get his pay.

Without describing that any more minutely, it will be seen, I think, at once, that, in order to secure the ends and purposes for which this arrangement is made, you must have at the head of the inspection office a man of the same rank, of the same talent, of the same importance, of the same pay, as the man who makes the contracts. The honorable Senator from Mississippi perfectly understands the necessity of the regular rank of these men, in order that their action may have the proper effect upon each other. Otherwise, we lose the check. The Assistant Postmaster General at the head of the contract office may say to the clerk who is at the head of the inspection office, "why do you not pay John Siles? I contracted with John Siles for such a thing to be done, but he does not get his pay; why is that?" "Oh," says he, "it is my business to inquire whether that man has performed that contract." The Assistant may reply to this, "Will you just have the goodness to mind your own business, and I will mind mine? You are nothing but a clerk; I am an Assistant Postmaster General. I will make your place here so hot that you cannot stay in it, unless you mind my wishes." That is exactly the condition of it at this moment. I do not say that language is held; but I say the want of position, the want of salary, the want of appointment, is such that the inspection office is now in the hands of a mere clerk, and the Department has nobody at its command of any higher rank whom it can put at the head. The Department has a couple of other Assistants. One of them is at the head of the appointment office, which is as much as he can attend to; and the other has charge of the financial affairs of the Department, and that is all he can possibly do. Now, for fourteen years they have been putting at the head of the inspection office the chief clerk of the Department—the highest officer the Department had to put there; but yet he is of inferior rank, and the Postmaster

General is deprived of the proper uses and purposes for which a chief clerk is put in the Department. He has actually put him at the head of that division of service; thus depriving the Department really of a chief clerk. The want of the Department is an officer at the head of the inspection office of as high rank as the other assistants; so as to be able to command a man of as much talent to judge of these contracts, both at home and abroad, and be enabled to see what is their practical construction; a good and efficient lawyer, who would be enabled to say whether, in point of fact and truth, and say it independently, a man has performed his contract, and be enabled to speak as one having authority, and not as the scribes; for he is now a mere scribe.

Mr. DAVIS. The difference between the Senator from Vermont and myself in theory, if any, is very small; it is rather in practice that he dissents from the position which I occupied the other day, and I am sorry that I cannot say I entirely concur with the view he has now presented. His argument is complete, if it be admitted that we are to patch up an organization, which we both admit to be bad. For instance, if an assistant makes the contracts, and a clerk is the inspector, the assistant has that power and control over the clerk to which the Senator alludes. Equality of rank is necessary to enable the check to operate perfectly for the purpose for which it is instituted. I think, however, the whole organization is bad. I think that the head of the Department should have all the responsibility of the Department, and that whenever, from the extension of our country, and from the increase of our population, it becomes impossible for a single head to perform the duties of the Department, it should be divided—not by putting irresponsible persons under the head to perform duties which have increased beyond the power of a single individual, but by an absolute division, and marking responsibility when the division is made. In the Treasury Department there is an Assistant Secretary, and I have no doubt the Secretary of the Treasury is unable to perform all the duties of that Department, but I would prefer a division of it; and I think it could logically be made by leaving the Secretary of the Treasury all that relates to the raising and collection of revenue and separating from his Department all that relates to the disbursement of revenue. So in the State Department, you might separate all that belongs to the interior, as in reference to the Territories, the printing and publication of the laws; and if that does not sufficiently relieve the Department, send all which relates to consuls to a separate Department instituted for the purpose of taking charge of that to which the single Secretary cannot attend. In the Post Office Department why not have the Postmaster General exercising a general supervision, controlling the location of mail routes, the general subject of the revenue of his Department, with a bureau for contracts, and a bureau to inspect the execution of contracts, and pay the money when it was admitted the service had been performed? These divisions seem to be consistent with reason, and each division which you made would then have a head responsible to Congress. You would not compel the head of a Department to sign a paper which you admit beforehand he has not time to examine, and the accuracy of which it is impossible for him to know, and improper, therefore, that he should be held responsible for. If the present organization is to continue, if we are to have assistants not responsible to the heads of Departments, but equally charged with the responsibility in practice which should belong to a separate and distinct organization, then I admit this officer should be put on the same footing with the rest. I would prefer they should all be clerks, unless the Department be too large, and then that the Department should be divided on some rational principle. I have no further opposition to make to it.

Mr. COLLAMER. That is, in fact, the condition of the Department. You have created these assistants; they are there now, and the head of the Department cannot get rid of them. I do not know that he wishes to do so; at any rate he cannot. There they are. Now, what I insist upon is, that the head of the Department shall have an inspector of the same rank. The gentleman cannot but appreciate that, so long as this organization continues, that is really important.

Mr. DAVIS. If we are to continue this organization, I agree with the Senator; but I think the organization is bad, and that we should not extend it, if we have in future the view of discontinuing it.

Mr. COLLAMER. I do not desire to anticipate whether we shall ever break that up or not. I say it is there, and we cannot get on with it with any degree of safety or efficiency to the public, but by having this other office, which the gentleman will concede is certainly much needed there, especially on account of the very great increase of business.

Mr. BIGLER. I approach, Mr. President, the proposition for the creation of an additional Postmaster General with great aversion; but the examination I have given to the subject has satisfied me that it is wise and proper. I have no hesitation in saying that, if I were about to maintain the Post Office Department on my individual account, as an individual enterprise, looking to efficiency and economy, I would create this office if the organization was to remain as it is. There seems to be a natural division in the business of the offices—the appointing department, the contracting department, the financial department, and the inspection department. Now there is no assistant to take charge of that important branch—the business of the inspection of the vast returns, the important and difficult questions of the execution of contracts. That branch of service requires a responsible and able head; and I shall vote for this proposition, not only because I think it will give efficiency to the Department and accuracy to its transactions, but because it will be a measure of economy. In passing upon fines for failures to perform contracts, how frequently are the decisions brought here, and how much of our time has been occupied, even at this session, with the question whether fines have been improperly imposed—whether wrong has been thrown upon contractors by them.

Sir, I think in this way we shall be the gainers. The Department would have in that branch of the service an efficient head; and I am sure that no Senator, who is in the habit of visiting the Post Office Department, will doubt for a moment that the head of that Department has enough to do, and that he ought to have a chief clerk to assist him without yielding that officer to the inspection office. Why, sir, we know that the Postmaster General is utterly unable to give that attention to the current business which we all desire. There is scarcely a day that some member of Congress does not complain that his business is not properly attended to before that Department.

I believe that, as a measure of efficiency for the Department; of economy, of convenience for Congress, we ought to grant this additional assistant. My prejudices against it, I am free to confess, were removed by conversations which I have had with ex-Postmasters General. I believe I have conversed with as many as four, all concurring in the necessity of this office; some of whom took this impression from their service in the Post Office Department many years ago, since which time the business has increased with great rapidity. I shall vote for the amendment with great pleasure.

Mr. CAMERON called for the yeas and nays, and they were ordered: and being taken, resulted—yeas 31, nays 14; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Brown, Collamer, Crittenden, Doolittle, Fessenden, Fitch, Fitzpatrick, Foot, Gwin, Hammond, Harlan, Haynes, Houston, Iverson, Johnson of Arkansas, Jones, Mason, Reid, Sebastian, Seward, Stuart, Thompson of Kentucky, Thompson of New Jersey, Toombs, Wilson, Wright, and Yulee—31.

NAYS—Messrs. Bell, Broderick, Cameron, Chandler, Clay, Davis, Dixon, Foster, Hamlin, Hunter, Johnson of Tennessee, Kennedy, King, and Pearce—14.

So the amendment was agreed to.

Mr. YULEE. I have another amendment from the Committee on the Post Office and Post Roads:

And be it further enacted, That the fourth section of the act of Congress approved the 5th day of August, 1854, entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1855," be, and the same is hereby, continued for one year from August 5, 1855.

This is an allowance which has been made to the clerks of the Washington city post office since the year 1854. During the session of Congress, they distribute an immense amount of public documents, and even during the recess; and are oc-

cupied until late hours, and find very laborious employment in sending them off. In 1854, the city postmaster was authorized to be allowed by the Department one mill per pound upon the documents sent from the office, to be disposed of by making an allowance not exceeding two hundred and fifty dollars to each of the clerks engaged there, the balance to be accounted for to the Government. The postmaster himself gets no benefit from this; but he is allowed, by a tax of one mill per pound on the amount of free matter issued from the post office here, to raise the means of allowing \$250 extra compensation to the clerks engaged in the city post office. It has been allowed every year since 1854; and this is a mere continuance. It has been continued from year to year in their favor every year since 1854.

The amendment was agreed to.

Mr. YULEE. I have another amendment:

And be it further enacted, That the joint resolution of Congress of the 18th of August, 1856, which provides that there shall be one principal messenger in each of the bureaux of the several Executive Departments at an annual salary of \$840 each, shall be understood to embrace within its true scope and meaning the offices of the Assistant Postmasters General.

I would state that this provision has already passed the Senate in the shape of a joint resolution, and has gone to the House of Representatives. It is to give a construction to the legislation of the last Congress to conform to the intention of the Committee on Finance which then reported the provision. The difficulty in the other House is, that the committees cannot be called for reports, so that there will be no likelihood of its being acted upon, unless it goes in the shape I now propose. It has already received the sanction of the Senate.

Mr. HUNTER. As legislation, this is all right enough. I only wish to say that the other House have been making great objection to the legislation we have put upon appropriation bills; and they certainly have a right to do so. I should like very much, especially at this late period of the session, to see these bills confined to their proper subjects. I have no objection to this proposition in itself; it is right enough, and I voted for it as a separate measure; but I think it ought not to be put on this bill.

Mr. YULEE. It is admitted to be right and to be necessary to give effect to the intention of Congress in the act passed in 1856, to which this is amendatory. The Post Office appropriation bill, upon which we are now acting, contains appropriations for these messengers. There are only two of them to whose salary this amendment relates, and I do not know that there can be any more appropriate amendment to an appropriation bill than this, which relates to the very subject-matter of one of its legitimate provisions. Inasmuch as the chairman of the Finance Committee agrees that it is right, and declares that he voted for it as a separate measure, and inasmuch as it relates to the salaries of two messengers who are provided for in the bill, I hope the Senate will not be more strict than usual.

The amendment was agreed to.

Mr. YULEE. The next amendment is:

And be it further enacted, That the Postmaster General may allow two dollars per diem in addition to what is now authorized by law, to the special agent of the Department for New York and the New England States.

I will say that this subject was referred to the Committee on the Post Office and Post Roads by a resolution of the Senate; and that upon inquiry from the Post Office Department, we received a letter from the Postmaster General, in which he advised that the allowance be made.

Mr. SEWARD. How much does he get now?

Mr. YULEE. He receives now, as all others receive, \$1,600 per year, and two dollars per diem. He is the agent for New York and the New England States.

Mr. SEWARD. I hope the amendment will be adopted. I think it is necessary and just. He is a meritorious man.

Mr. FOOT. Let the letter of the Postmaster General be read.

Mr. YULEE. I send to the Chair the letter of the Postmaster General. This gentleman is agent in the most important and most extensive district, and is obliged to reside in New York and Boston nearly all the while. It is on that account that the Postmaster General recommends the allowance

Mr. FOOT. If there is no opposition to the amendment, perhaps the reading of the letter can be dispensed with.

Mr. HUNTER. I should like to hear the letter.

The Secretary read the following letter:

POST OFFICE DEPARTMENT, June 2, 1858.

SIR: In the matter of increasing the compensation of James Holbrook, special agent of this Department at large for the district of New York and the New England States, this day referred to me from your committee, for my opinion, I have the honor to state that the long and faithful service of Mr. Holbrook, his assiduity, skill, and success in the performance of his difficult duties entitle him to the confidence and favorable consideration of this Department. The propriety of raising his salary above that paid to others of the same class of agents may be questionable; but inasmuch as his peculiar fitness for the post has induced this Department to keep Mr. Holbrook almost constantly on duty in the city of New York, where his necessary expenses must greatly exceed the amount allowed him by law, I cheerfully and earnestly recommend that an additional allowance be made him of two dollars per diem.

I am, respectfully, your obedient servant.

AARON V. BROWN, Postmaster General.

To the Hon. D. L. YULEE, Chairman Senate Committee on the Post Office and Post Roads.

Mr. YULEE. I will state that the committee had also before them a very strong letter indeed from Judge Ingersoll, United States district judge for Connecticut; Judge Nelson, associate justice of the United States Supreme Court; Isaac V. Fowler, postmaster at New York; William D. Shipman, United States district attorney for Connecticut; Mr. Hammersley, postmaster at Hartford; Mr. Thomas, postmaster at New Haven; Judge Hall, United States district judge for northern New York; John McKeon, late United States district attorney for the southern district of New York; Judge Betts, of the United States district court for the southern district of New York; Nahum Capen, postmaster at Boston; and Charles L. Woodbury, United States attorney for Massachusetts. This gentleman has been very much before the courts, and has managed some very delicate and important cases with so much credit as to attract the attention of the officers engaged in the administration of justice.

Mr. BAYARD. I am opposed to the amendment, because it is very evident to me, from the letter of the Postmaster General, that the intent of the amendment is to increase the compensation of one of a class of officers, founded on the particular merits of the individual. I think the principle a false one. Compensation for an office ought to depend upon the character of the office and the duties to be performed. You ought to suppose that a competent person will be selected by the Government to perform the duties. The system of increasing the pay of a particular office, founded upon favoritism towards an individual who may perform its duties, is a false principle of action, in my judgment; and the necessary result of it will be, that some other man of the class, who is able to obtain the favor of individuals to recommend him, will get his pay raised, and so you will go on. The Postmaster General himself says it is questionable whether, in reference to the duties, the compensation ought to be raised. The principle of raising it on individual recommendations of the particular incumbent, I think a false one. I cannot vote to increase the compensation on that ground. I shall ask for the yeas and nays on the adoption of the amendment.

Mr. YULEE. That is not the principle on which the committee have recommended the addition to this compensation, nor is it the principle on which the Postmaster General proceeds. This agent belongs to a division which comprises a larger population and a larger amount of epistolary intercourse than any other portion of the United States. He has more to do than any other agent, and his duties oblige him to reside in the city of New York and the city of Boston nearly all the while, which makes his expenses more than the present allowance by law, two dollars per day, which would generally pay the expenses of an agent elsewhere.

Mr. BAYARD. I do not so understand the recommendation of the Postmaster General. He says expressly, after speaking of the fitness of the agent, of which I have no doubt, "the propriety of raising his salary above that paid to others of the same class of agents may be questionable; but, inasmuch as his peculiar fitness for the post—that is the ground—"has induced this Department to keep Mr. Holbrook almost constantly on duty in the city of New York, where his neces-

sary expenses must greatly exceed the amount allowed him by law, I cheerfully and earnestly recommend that an additional allowance be made." That is all founded on the peculiar fitness of the man, as I understand it, and not on the character of the office. I have seen enough of the danger of legislating on any such ground, to convince me of the impropriety of ever sanctioning a payment on account of the individual characteristics of a man filling an office. The office ought to be paid in proportion to the character of the duties, and the compensation requisite for their proper performance, and not in reference to the individual who happens to occupy it.

Mr. HUNTER. I concur entirely with what the Senator from Delaware has said. I know this Mr. Holbrook; I believe he is a capital special agent; he deserves all that has been said in regard to his personal merits; but I also know what is to be the consequence of increasing the pay of this particular individual in this district. We shall have to increase in all the other districts. At the next session we shall have propositions to put other districts on an equal footing, where there are other capital special agents in the employment of the Post Office Department. If this is done, I know we shall have to increase their pay also. I think what the Senator from Delaware says is perfectly true, that it is not right to raise the pay to an office which is to be permanent merely because it happens to be filled by an individual who is particularly meritorious.

Mr. BIGLER. I am sorry to differ with the honorable chairman of the Post Office Committee on this subject. I have the highest appreciation of the capacity of this officer; and he has very great experience and performs valuable service; but I think the objections interposed by the Senator from Delaware are conclusive. I do not know how to vote to increase the compensation of this officer, and refuse an increase to the same class of officers in other parts of the country. It may be that in the city of New York the expenses are higher than in certain country districts; but the application of those agents who travel through new countries, exposed to the inclemency of the season, traveling in small coaches, enduring hardships day and night, to my mind is a stronger claim for additional compensation than that presented in the case of Mr. Holbrook. It may be, and I think it is, true that the compensation for these agents is too low. They are subjected to constant expense, and to great labor. They ought to be men of very high character, men of integrity and capacity, and ought to be sufficiently compensated. My objection is to the discrimination. Whilst I would be very glad to give Mr. Holbrook the increased amount proposed, I could not deny it to others, if it be right to give it to him.

Mr. CLARK. I think there is another objection more fatal than that which has been stated to this proposition, and it is this, that it puts the pay upon the price of grub. It proposes to give this man an additional compensation because he is employed in a place where the cost of living is high. Suppose at the end of six months he is changed to a place where living is cheap: do you cut him down then? Suppose you change his place, and put him where living is cheap, and put another man in his place in New York, where living is high: then you will have to raise that man. I think that is a worse basis than that of the gentleman from Delaware. I oppose it on both grounds.

Mr. FOOT. I shall vote for this amendment. I think it eminently just and proper. I do not place it, however, in giving my vote for it, on the ground of personal favoritism, and I hardly think it proper that this proposed amendment should be prejudiced by that charge.

Mr. BAYARD. I did not say this was personal favoritism, but I said the basis of the proposed increase of compensation was incorrect.

Mr. FOOT. I have known Mr. Holbrook for a long time, and known him, as he is known to the country, as a most faithful and valuable public officer. He has recovered more money from depredators upon the mails, than the whole amount which has been paid to him during his official service of fourteen years. But, sir, as I said in the outset, I do not vote for this amendment on the ground of his efficiency and fidelity as an officer. His district is a larger one, and a

much more populous one, than that of any other special agent in the Post Office service. His headquarters are at the city of New York, perhaps the most expensive place of living within the United States. The present compensation, I understand from the chairman of the Committee on the Post Office and Post Roads, is two dollars per day. No Senator here need be told that the expenses of a person residing in New York necessarily much exceed that sum. I am willing to allow him a sum sufficient to cover his necessary expenses, and I think this addition to the present compensation will do no more than that. From the reading of the amendment, I do not construe it, or understand it, as applying merely to the present incumbent of the office. It is to be a permanent, continuing compensation to whoever may hereafter fill it, in consideration of the largeness of the district, the greater amount of business in it than in any other special district within the United States, and the greater expense of living in it. Upon these considerations, aside from the fidelity and high character of the present incumbent of the office, I shall vote for this amendment, as necessary to cover the expenses he must necessarily incur.

Mr. STUART. If I could be satisfied that there was a necessity for a special agent for the city of New York alone, I would vote to put one there, and put him on the pay that every other agent gets; but I make a very different inference from what the Senator from Vermont [Mr. Foot] does, in this case, from the size of this gentleman's district. That is the clearest evidence in the world to me that there is very little to do there. In many States of this Union a special agent is required for a single State, with additional service besides. The agent for the section of country in which I live has Michigan, Wisconsin, and Minnesota under his charge. It is a large district: it is more than any one man can well attend to. That agent is on the move all the time, and for a great portion of the time night and day. He is considered by the Department to be one of the best agents in the United States; and as an evidence of it, I may mention that he scarcely ever comes here to report himself, that he is not sent on special service to Illinois, Ohio, Indiana, or some other State, and yet he receives only the payment that is allowed by law.

I agree with what has been so well said by the Senator from Delaware and others, as to the policy of this proposition; and I say, also, that the size of this gentleman's district is proof that there is not much to do in the district. It consists of New York and all New England. Why, sir, if he was on service in some of the western and southwestern States, he could have no such sized district. He may occasionally have to reside in New York for a considerable length of time, and to pay his expenses there; but I would rather, in those cases, have an account made up at the end of the year, and pay a specific sum for expenses, letting Congress know what had been the expense for a particular service; but I cannot agree that an agent for the State of New York and the New England States is to stay in New York city all the time. I cannot believe that.

While I am up, I wish to say that the arrangements which are made at the Post Office Department upon this class of subjects do not meet my judgment. Take the route agents: they classify them upon the eastern roads as of the first class, and pay them \$1,000 a year, though they do not perform half the service, and have not half the responsibility, of the agents on the western roads, who are considered of the second class, and get eight or nine hundred dollars a year. A route agent from here to Philadelphia is of the first class, and gets \$1,000 a year; while a route agent who goes over the western roads three hundred miles is of the second class, though he goes through more population than there is between here and Philadelphia, and has ten times the amount of labor to perform.

Mr. COLLAMER. This does not relate to mail agents.

Mr. STUART. I understand that, but I am alluding to the classification made in the Post Office Department, and made by clerks. As Colonel Benton once said, if you send to a Department for an opinion you get the opinion of some subordinate clerk; sir, it is Gil Blas when you are done. It is such a letter as you can get a clerk to

write. I say the evidence that is offered here for the purpose of sustaining this application is not evidence of great merit, in my judgment. There are no facts in it. What is the evidence that is presented to Congress in the letter which has been read of the great service of this officer? None at all, unless the statement that he is a very valuable agent, and has to spend a good deal of his time in the city of New York.

Mr. YULEE. That is not the letter.

Mr. STUART. I have heard it read twice.

Mr. YULEE. The paper signed by the judges?

Mr. STUART. I have not heard any letter read from the courts. I am prepared to say of this man, as gentlemen who know him here say, that he is a man of first order. That is clear; but so is the agent of whom I speak, and I venture to say that his service is four times as onerous as the service of this agent. He is obliged to ride day and night in stages, in buggies, on horseback, and to go afoot over the country to perform his business, and he is not at home four weeks in the year. It is very clear that if you commence to increase this compensation on any such suggestions as these, there is no end to it, and no justice in it. I am not prepared to say that the whole service ought not to be increased; I do not think myself the pay for this class of service is as high as it ought to be, and I would vote to increase it as a whole; but I am not willing to make a special exception of this case.

Mr. YULEE. I will only say that the committee thought they might safely trust to the discretion of the Department, and that it was prudent to adopt the opinion and recommendation of the Postmaster General upon a subject of this kind. That is all I have to say.

Mr. CLINGMAN. In order that this provision, if it passes, may not go into a precedent, I propose to amend the amendment by adding to it the words:

For the especial reason that his district is larger, and his duties more laborious than those of other offices of the same grade.

I have observed that most increases of salary, since I have been in Congress, have occurred in this way: some particular individual has great merit; he does hard work; his salary is increased on that account, and then, at the next session, all others who perform similar services are put up. Now, if the Senate is disposed to increase the salary of these officers, I hope the reason for doing so will appear in the law, so that it may not be a precedent hereafter for increasing the pay of other officers. I shall vote against the increase, whether my amendment be adopted or not. I do not affirm that the reasons which it assigns are true; but I understand that they are the reasons given by those who press the amendment.

Mr. YULEE. I do not say that the district is larger, but that it is more populous than any other.

Mr. CLINGMAN. Then I hope the Senate will modify my amendment to meet his view.

Mr. BAYARD. I have very little doubt that as regards the route agents, there is no class of officers under this Government who are more underpaid in proportion to the hazard of life and the degree of character and integrity necessary for the proper performance of the duties on most of the main routes. That, however, is not the question before us. These officers are special agents of the Post Office Department, and the recommendation is to increase the salary of one of the class. If I am not wrongly informed, the Postmaster General can district these agents as he pleases. They are special agents; they have no particular assigned duties under any law, but the Postmaster General uses them for one district or another in his discretion. He may enlarge or he may diminish their districts and their duties as he sees fit. He is simply authorized to appoint a certain number of special agents, and he employs them as he thinks proper. The result of this proposition, however, is simply to increase the pay of a single individual, one of the class, and the effect will be to affect the whole class hereafter. One of these agents, owing to a particular degree of favor, may get his compensation increased, and his duty may be diminished the next day. The Postmaster General may diminish the duties at any time he pleases. There is no law which prescribes any specific duties to these officers. They are special agents to be employed in any quarter of the country in which the Postmaster General

chooses to employ them. I think the principle unsound, of taking one out of the class, on the ground of personal qualification, and raising his salary. If an increase is required, raise the salary of all of them.

Mr. HUNTER. I hope we shall have the vote. The amendment of Mr. CLINGMAN to the amendment of the Post Office Committee was rejected.

Mr. BAYARD called for the yeas and nays on the amendment of the committee, and they were ordered.

Mr. KING. I know the gentleman whose salary it is now proposed to increase, and I know him to be a most skillful and valuable agent, and if I could vote to increase the salary of any of these agents, I would vote to increase his. There is also, however, another agent in New York who is a very meritorious and a very valuable officer—Mr. North.

Mr. YULEE. He is not a special agent.

Mr. KING. I think he is an agent for ferreting out frauds on the Post Office, and he travels as Mr. Holbrook does.

Mr. YULEE. I think there is only one special agent for New York and the New England States.

Mr. KING. Until very recently, certainly, Mr. North was in commission and traveling as such, and he, too, is a most intelligent and skillful and active man. If I did not believe that this proposition, if agreed to, would be made a ground for asking for an increase of salary of all the other officers of this class, I do not know but that I might vote for this amendment. I think, however, the remarks of the Senator from Delaware are a true guide in these matters, and I shall be governed by them.

Mr. BROWN. I cannot vote for this amendment, because, if we increase the pay of this officer, the result will be that we shall have to increase the pay of all of them. Every mail agent in the United States will be here by petition, urging the same thing. They will show that they have performed a great deal more labor than this man ever did; that while they have smaller districts, they have traveled in stage coaches day and night, in bad weather, and put up at country hotels, where they are badly treated, and have undergone all sorts of fatigue and wear and tear of body and mind. They will make out a strong case. As to the argument that the gentleman lives in New York, where the expense of living is high, I have only to say that if he stays there he ought to be dismissed. There can be no important duties for him to perform that ought to keep him in the city of New York, at any time, longer than a week. He ought to be traveling; he ought to be attending to the duties of his office. Everybody knows that in New York and the New England States you can travel with great facility and comfort. There is no part of the continent where a man can travel so comfortably. They have the best railroads on this continent, certainly, and the easiest chairs. This officer travels for nothing. It is all humbug to talk about his expenses being higher than those of other officers elsewhere. Everybody knows that people live in New England almost for nothing—live almost for the mere sake of living. [Laughter.] To talk about paying this man two dollars a day more to keep him from starving is all nonsense.

The question being taken by yeas and nays, resulted—yeas 12, nays 25; as follows:

YEAS—Messrs. Allen, Collamer, Dixon, Fessenden, Foot, Foster, Gwin, Harlan, Johnson of Arkansas, Seward, Simmons, and Yulee—12.

NAYS—Messrs. Bayard, Benjamin, Bigler, Broderick, Brown, Clark, Clay, Clingman, Davis, Durkee, Green, Houston, Hunter, Jones, King, Mason, Reid, Rice, Stuart, Thomson of Kentucky, Toombs, Trumbull, Wade, Wilson, and Wright—23.

So the amendment was rejected.

Mr. YULEE. The last of the amendments which I have to offer from the Post Office Committee I now present:

And be it further enacted, That the Secretary of the Navy be, and he is hereby, authorized and directed to pay Edward K. Collins and his associates the sum of \$147,730, the balance of appropriations heretofore made for transportation of the mails from New York to Liverpool and back, and withheld by the Department at the quarterly payments made on the contract for that service on the 30th of June and September and the 31st of December, 1836, and the 31st of March and 30th of June and September, 1837, respectively.

Mr. SEWARD. I offer an amendment to the amendment:

But there shall be deducted therefrom the sum of \$115,500,

or so much as is owing to the United States for advances made to E. K. Collins and his associates by act of Congress.

Mr. YULEE. There is no objection to that; but I will state that I inquired of the Secretary of the Navy whether it was necessary to make such a provision, and he told me that it was not; that he would be able to protect the Government without such a provision. I make no objection to it, however.

Mr. SEWARD. I wish barely to state, that this sum is ascertained, from the Secretary of the Navy, to be the amount due.

The amendment to the amendment was agreed to.

Mr. YULEE. It is proper that I should explain to the Senate, which I may do in a very few words, the nature and object of the amendment. After the loss of one of his steamers—I believe it was the Pacific—Mr. Collins applied to the Navy Department to know if he might be allowed to substitute another steamer to take the mail in her stead, until the Adriatic could be prepared for her place in the line; and the Navy Department, by dispatch, as well as by letter, informed him that they agreed to accept the service by another boat, in the stead of the one which was lost. Afterwards, after some trips had been made, upon a suggestion of the Postmaster General, the Secretary of the Navy caused a deduction of half the pay to be made, upon the ground that the quality of the service was not as good as the contract contemplated. The point was referred by the Secretary of the Navy to the then Attorney General, Mr. Cushing, who was of opinion that it was competent for them to make that deduction; but Mr. Collins knew nothing of that reference, or of that decision, and was not present to be heard. The Secretary of the Navy, however, had not acted or decided upon the opinion which Mr. Cushing rendered, when he was succeeded by the present Secretary, who referred the subject again to the Attorney General, with an argument from the claimants. The present Attorney General, Mr. Black, gave an opinion to the Department, which is a very strong and very decided one, that they were bound to pay, and that the contractors were entitled to, the full pay stipulated in the contract, and provided by the appropriation made by Congress. Afterwards, the President, in a letter to the Navy Department, of which I have a copy, advised the Secretary of the Navy not to act upon the subject, inasmuch as the question had arisen under a preceding Administration, but to leave the matter to be considered by Congress, or the Court of Claims, as the party might prefer. It is on that account that Mr. Collins has been driven to Congress.

I should add, that upon the occasion of an advertised sale of the steamers belonging to the Collins line, the Navy Department sought to interpose, by an injunction against the sale, to protect the lien of the United States for the amount remaining due, and to which the amendment of the Senator from New York relates. Judge Hall, sitting in chancery, took up the whole subject, went into the merits of the question, and decided as the Attorney General had decided, that Collins was entitled to the whole amount; that it was a debt due by the Government; that there was no authority to impose any further fine than the contract imposed, which was a forfeiture of pay for service not performed; and that the vessel having been accepted by the Navy Department, whether it had the right to do so or not, and all other officers of the Government having acted on the presumption that it had the right, there was an obligation on the part of the Government to pay what the contract required. The committee have felt themselves bound to report an amendment to give effect to the opinion of the Attorney General, and to the decision of the court sitting in chancery, in New York, on this question.

Mr. HUNTER. I have read the opinion of the Attorney General, which was shown to me by my friend from Florida; it seems he has determined that this money is due to Mr. Collins; but it shows the improvident and reckless contract into which we have entered with him. In the first place, we entered into a contract with Mr. Collins, to be made by the Navy Department, under the idea that the ships were to be fitted for war. All that turned out to be a delusion; they proved to be utterly unfit for war purposes. When the merits of the ships were confined to

being mail carriers, the Post Office Department attempted to interpose when Mr. Collins substituted the Ericsson, which was a slower ship than the others, and performed an inferior rate of service; but it seems that the Post Office Department could not interpose, because the contract was with the Navy Department. There was no proviso in it for forfeitures and fines, and that contract does not require him to execute the service within any particular time, so that he accomplishes so many trips in the year. He may be twenty days, if he wishes, and there could be no deduction. It seems that in this everything is in his power. He may fail for as many trips as he chooses, and we can only deduct the compensation for those particular failures. But, in regard to this matter, I understand it to be the opinion of the Department that the contract is a subsisting one. For myself, I should say that he had failed to perform the contract substantially, and that he has no equitable right to insist on our continuing it. In regard, however, to this point, I shall not argue against the opinion of the Attorney General.

Mr. YULEE. I will say, in a single word, that the point on which the whole case turned was the fact that the Navy Department, without qualification, accepted the new steamer as a substitute for the other.

The amendment, as amended, was agreed to.

Mr. FITCH. I have an amendment to offer, as an additional section:

And be it further enacted, That so much of the eighteenth section of an act entitled "An act to reduce the rates of postage, to limit the use and correct the abuse of the franking privilege, and for the prevention of frauds on the revenues of the Post Office Department," approved March 3, 1845, as requires the advertisement of letters uncalled for in any post office to be inserted in the newspaper or newspapers having the largest circulation in the town or place where the post office advertising is situated, be, and the same is hereby, repealed; and the Postmaster General shall hereafter designate the newspaper or newspapers at each town or place where a post office is situated, in which such advertisement shall hereafter be made.

Mr. HUNTER. I hope this will not be pressed. Here is a matter of positive legislation, and legislation to which there will be objection and on which there will be debate. This is certainly the proper subject of a separate bill. It is enough for me to say that such matters ought not to be introduced in the appropriation bills at such a time as this. It cannot be expected that we shall be prepared, on this appropriation bill, to enter into the merits of all the legislation that may be proposed in regard to the Post Office Department. If it is proper, there is other legislation which I should like to make an effort, at least, to introduce; but, believing that it is not appropriate in this case, I have refrained from any such effort. I hope that, without regard to any opinion which may be entertained as to the particular merits of the measure proposed, we shall vote it down, as it is a change in the general law of the country.

Mr. FITCH. The objection of the Senator from Virginia does not reach the merits of my amendment. I do not know of any more proper place for it. Perhaps it would be somewhat more legitimate as a separate bill; but it simply proposes to repeal certain provisions of the existing law, relative to the Post-Office Department. There can certainly be no impropriety in introducing the repeal of such laws here. The whole purpose is to repeal that provision of the law of 1845 which compels the post office advertising of uncalled for letters to be given to the paper of the greatest circulation in the immediate vicinity. The intent of the law was well enough; but its practical effect is altogether different from what the intent was. It simply strengthens the strong, no matter how that strength has been acquired; whether by a healthy social moral and political tone or otherwise. It compels others—there is that much of politics in it—of politics opposite from those of the paper to which the advertising is given, to take that paper. They may be men of very little means whose sole desire, perhaps, for a paper is for the list of letters contained in it, to see if their own names be included. It encourages, likewise, struggles in some places between the publishers of opposition newspapers, to increase their subscription list by very unusual, if not very unfair means, by adding to their list the names of those who are not subscribers in the regular signification of that term, and sending the paper to them on terms altogether different from those advertised in their columns. It is well, in my estimation, to

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return to the old system. The expense is, or can be, the same, and no appropriation being required, I do not see the force of the objection of the Senator from Virginia.

Mr. SIMMONS. I recollect very well when this provision was introduced into the general law, and at that time there was a Senator upon the Committee on the Post Office and Post Roads who had formerly been Postmaster General, and I believe it was introduced, at any rate it was elaborated, at his suggestion. It was done to prevent party favoritism in selecting these papers. That provision was made thirteen years ago, and I recollect distinctly the arguments used in committee and in the Senate in favor of it. It is very singular that it is now proposed to repeal it in this way, so as to give the postmaster a chance to select mere party papers in which to advertise letters. A Senator has asked me what Postmaster General I alluded to. It was the former Senator from Connecticut, Mr. Niles; and he wished this provision introduced, to correct an abuse which, he said, had existed during his administration of the Post Office Department. I hope it will not be repealed in an appropriation bill at any rate.

Mr. KING called for the yeas and nays, but they were not ordered.

The amendment was rejected.

Mr. BRODERICK. I have an amendment to offer:

And be it further enacted, That not more than two thousand and five hundred dollars per annum shall be paid to any special agent of the Post Office Department as compensation for his services.

I listened to the discussion a few minutes ago, and I found that an agent in New York received \$1,600 a year, and two dollars a day additional, which would make his compensation amount to about \$2,300 a year. I understand that they are in the habit of making from five to eight thousand dollars a year. I do not want to give them more than \$2,500.

Mr. SEWARD. I would suggest to the honorable Senator from California to amend his amendment, by inserting the words "for his services and expenses."

Mr. COLLAMER. I do not think there is any more than that sum paid now.

Mr. BRODERICK. Then nobody can have any objection to it. I understand that these officers, or some of them, are in the habit of drawing from six to eight thousand dollars a year.

Mr. HUNTER. Suppose they were sent on special service by which they were exposed to expenses, as in apprehending a thief, ought not some provision be made for that?

Mr. BRODERICK. I should be willing to except such cases.

Mr. HUNTER. My objection is that we are legislating in the dark. Two thousand five hundred dollars might be salary enough, but how far it would cover the expenses to which those officers may sometimes be exposed, I do not know.

Mr. FESSENDEN. The language is, "as compensation for his services." It does not cut off any allowance for traveling expenses.

Mr. HUNTER. Then I have no objection. The amendment was agreed to.

Mr. KING. I have an amendment to offer as an additional section:

SEC. — And be it further enacted, That if any postmaster or other person employed in any post office for the purpose of delivering letters, papers, and mail matter, shall wilfully detain, delay, secrete, or refuse to deliver on demand at such post office, in the usual post office hours, any letter or other article of mail matter which may have come to such post office, to the person to whom the same is addressed, or to whose care it is directed, or to his or her known and authorized agent, such postmaster, or other person so employed and so offending, in any post office, shall on conviction, forfeit and pay for each offense \$100, to be sued for and disposed of in the manner provided in the case of pecuniary penalties in the "Act to reduce into one the several acts establishing and regulating the Post Office Department," approved March 3, 1825.

I offer this amendment on account of complaints that have come to me from citizens of the city of Brooklyn. A recent construction of the laws, which is sustained by the Department, jus-

tifies the postmaster in retaining letters to be sent to the persons to whom they are addressed by the regular carrier, where a dozen or twenty or more persons shall unite upon a particular individual for the purpose of having their letters given to him, on the ground that it is setting up an opposition carrier. I offered a resolution some time ago calling for information from the Postmaster General on this subject, and, in a very fair and frank reply, I obtained from the Postmaster General the issue on this question. The Department, by its constructions and regulations, justifies the refusal of the postmaster to deliver the letter to the party who can produce a written order from the person to whom it is addressed. Whatever may be the convenience or requirements on the part of the Post Office Department to sustain the system of letter carriers in the cities, I think there should be no authority that should authorize a postmaster to refuse to deliver to the person, or to his agent, a letter addressed to him; and the object of this amendment is to require that:

Mr. DAVIS. I think the Senator from New York embraces more than he designs in his amendment. He is treading on very delicate ground. A proposition of this sort should be maturely considered when the language has been so studied as to make it certain that it does not involve difficulties which it is evident the Senator did not foresee. The general language here employed would bring a postmaster either under the penalties of the Federal Government or the State government in many cases. It is legislating in regard to penalties. There may be certain printed matter or pictorial representations forbidden by the laws of the States, and yet this provision would impose a penalty on the postmaster if he did not deliver them. The postmaster must be governed, in a matter of police regulation, by the laws of the State in which he lives. I fear that this amendment would result in a conflict of Federal and State jurisdiction, which I am sure the Senator cannot desire.

Mr. HUNTER. Surely this is not proper legislation for an appropriation bill. Here is a matter which evidently would require to be digested by some proper committee, and would require time and consideration in order to do justice to it. I believe that neither the Senator from New York nor myself, unless his interests or his tastes have led him much more to the study of Post Office matters than they have led me, can have the necessary information to legislate properly in regard to this subject. I understand that the system of letter carriers is one which has been recently organized, and which the Department has nearly perfected. I believe the boys have to settle daily at the post office—I speak only from recollection. I recollect that when the deficiency bill was up I had occasion to make some inquiries into the matter in order to understand an item in that bill, and I believe they give a credit of a day to these boys; they are such as the Department can trust.

Mr. YULEE. They are not boys; they are men—responsible men.

Mr. HUNTER. Well, whoever they are, I understand the post office gives them a credit of a day. It is important then that they should be men whom they know and whom they can trust. It would not do to say that we should break up the system and make postmasters deliver letters to anybody who can present an order from ten or twelve persons. It would be changing the ordinary course of things. I think, at any rate, it is a subject which we ought not to meddle with here. I hope the Senator from New York will not press his amendment in this shape. Even if it should be right, it does not belong to an appropriation bill. We are anxious to dispose of these bills, and get them to the House of Representatives.

Mr. KING. I am aware that the objection which the Senator from Virginia makes is a fair one in the main, to legislating on the appropriation bills. These subjects should, if they can, be brought before the Senate when they can be considered by themselves. Yet the Senator from Vermont [Mr. COLLAMER] introduced a bill at a

pretty early day of the session, on this subject, which we have been unable to get up or dispose of, and this is a proposition which, from the complaints of citizens in my own State, I have felt bound to bring to the attention of the Senate. I think that the Post Office Department, in the transmission of communications from the sender to the party to whom they are sent, should be sacred from any interference by anybody, that whatever is placed in the post office should be transmitted to the place to which it is directed, and there delivered to the person. I have had some conversation with police agents of the city of New York, who called on me in relation to this subject, on account of a resolution that I offered, asking the Postmaster General for information. They stated to me that they desired to be able, by the aid of the Post Office Department, to delay or obtain letters, with a view of detecting rogues. Those who called on me were the gentlemen employed to suppress lotteries—an object which certainly is most praiseworthy, and which I would not be disposed to interfere with in any way. Still, I could not consent to have any tampering with the mails. I consulted with two gentlemen who have been Postmasters General, and they said it would never answer to allow any tampering with the seals by the Post Office Department—they must be sacred. This proposition, as I conceive, does not interfere with that matter at all. It is simply a requisition that a letter or package shall be delivered to the party to whom it is addressed, or to his known authorized agent, if the postmaster is aware that that person is his agent. I do not think any difficulty will occur in reference to the carriers. The postmaster will be required to deliver but one parcel at a time, under my amendment. The regular carrier has his letters set apart for him in the post office, and they are handed to him in a parcel, and thus he has a great advantage in time, over any person who may come to get letters singly. I think the effort to set up an opposition carrier, without the assent and concurrence of the postmaster in the locality, will prove a failure in a little time; but it is dangerous, on the regulations or instructions or authority of the Post Office Department, to allow a postmaster to refuse to deliver letters. I think the delivery should be made, when the demand is made for it, of any parcel which has come to the office to any person authorized to receive it. I have felt constrained to offer this amendment. I cannot consent to withdraw it. I am not aware how it can interfere with any provision of the laws of the States. I do not know of any that it would interfere with.

Mr. YULEE. I think it will not be wise to act on this subject in a manner so hasty. The general subject was referred, in a bill introduced by the Senator from Vermont at an early period of the session, to the Committee on the Post Office and Post Roads; and has been under the consideration of the Department; and in a letter which was published a few days since, which ought to be read before there shall be any action on the amendment now proposed, the Postmaster General states very fully his reasons for not thinking it advisable to legislate upon the subject at present. I know that some Senators—the Senator from Vermont, especially—differed with the Postmaster General in his view of this matter. I reported back the bill of the Senator from Vermont, to be sure, at a later time than it should have been, but as early as possible after I received the formal opinion of the Department. It has been reported and placed upon the Calendar, and will come up at the next session for the consideration of the Senate in a regular and orderly manner. The objection to the introduction of the subject now upon this general appropriation bill is, that we create a new offense, a new penalty. We are multiplying offenses; we are, at a single stroke, and without consideration, upsetting entirely the legislation of the past two years, which has been directed to the creation and organization of the carrier system—a system that is found to be working very well, and is being gradually organized into a very

useful adjunct of the postal administration. The carriers employed are not boys, as the Senator from Virginia supposed; they are men, and obliged to be men, because they are required to give bond, with good security, for the faithful performance of their duties; and thus, all the letters which pass out of the daily custody of the postmaster go into the hands of a person who is under bond to the Government to return them safely if the owner is not found. It is an important protection to the people; and I think we ought not hastily to repeal that legislation, or to make other legislation that would in effect repeal it; and this would do so.

It seems that in Brooklyn some dispute has grown up by which a personal feeling has arisen with some persons against the carrier employed by the Government, in favor of a rival carrier, who proposed to do the business on private account; and he has gotten up a letter, signed by his own constituency, addressed to the postmaster, requesting the delivery of their letters to him, that he may serve as their carrier. The purpose of the amendment, if I understand the Senator from New York, is to enable them to carry that into effect. If you do that, of course you break down entirely the carrier system, and bring into rivalry with it private organizations, which may or may not be safe. I think the subject is one that ought not to be lightly handled, and that it had better pass over, and come up for consideration at the next session in the bill of the Senator from Vermont, when we can deliberately consider what is advisable, and adopt such further legislation as may then be deemed proper.

Mr. KING. I have modified my amendment by inserting the words "and unlawfully" before the word "detain," which would authorize a postmaster to refuse to deliver anything which the laws of the State prohibited from circulating in that State.

Mr. YULEE. I will state, as a further reason, which did not occur to me when I was up before, that the Attorney General has given a formal opinion on this subject, which has only been received within the past few days, and came into the Senate with his reply to the resolution of the Senator from California. It is now in manuscript, and has not been printed; and I think it would be well that the Senate should have an opportunity to see the opinion of the Attorney General before we act upon the subject.

Mr. KING. I have seen that opinion, and it is a clear, decided opinion in favor of the construction which the Postmaster General gives to his authority to make regulations. There is nothing in the letter of the law sanctioning it, and the regulation is a modern one. The issue is fairly and clearly made. There is no equivocation or impropriety in the manner in which the Postmaster General has presented this question. He has answered the resolution frankly and promptly. He sustains the local postmaster in refusing to deliver a paper or package. I think it better that the original law should be retained, and that is the wish of the parties on whose petition and request I have offered this amendment.

Mr. SEWARD. I am entirely at a loss, on reading this section over for the third time, to find what possible objection can be made to it. It provides simply for the punishment, as an offense, by a fine of not more than \$100, the refusing to deliver, in office hours, mail matter justly due to any citizen of the United States. I think it is incapable of being abused. If the law is not perfect now, it ought to be, and this is the way in which we generally perfect all our laws. I do not see any possible objection to it.

Mr. HUNTER. I hope we shall have the vote.

Mr. KING called for the yeas and nays; and they were ordered.

Mr. TRUMBULL. I do not suppose I can change the opinions of anybody, but really it is singular to me that there should be opposition to this amendment, the object of which is to avoid what is regarded as a species of extortion. In the cities where there are letter carriers, the Department construes the law in such a way, that it will not send out letters by any other than the regular carriers. If I live a mile from the post office and give an order to my servant to go and get a letter for me, he cannot bring it, because the Department say it must be brought by the regular

carrier. They say it interferes with their arrangements for their carriers.

Mr. HUNTER. The carriers for the cities are created by law, the same as we create other mail carriers. We have the same right to say that they shall carry letters in the cities as that letters shall be carried from here to Chicago.

Mr. TRUMBULL. I think that the Senator from Virginia will hardly sanction that construction if he reflects on the inconvenience of it. The mail arrives in the city and it takes the carrier some time to get to you. I suppose if I went for a letter myself to the post office, the postmaster would be bound to deliver it to me. But suppose it is not convenient for me to go, are we prepared to sanction a regulation which compels me to wait for the regular carrier. Perhaps the law will not justify it; I am not quarreling on that point.

Mr. COLLAMER. I wish to correct the Senator from Virginia. The law is not as he stated it. It is not true that the postmaster can compel every person to receive his letters at the office himself or through the letter carriers. He only sends by the letter carriers the letters addressed to those people who have not left a written order to keep them at the office. Everybody has a right to have his letters kept in the office and not sent by the letter carrier.

Mr. YULEE. That is the law. I will read it. Mr. TRUMBULL. I think I understand how it is. The Postmaster General admits that a person may retain his letters at the post office. As the Senator from Vermont says, they need not be delivered to the letter carrier; but the Postmaster General denies the right of parties to receive their letters from any other carrier—not that he cannot keep the letter in the office. The case I was stating, was that of a gentleman who resides a mile from the post office in a city. He wishes to get his letters. He must either go himself to the post office, or receive them through the regular carrier. That is what I object to; and it seems to me that it cannot be the intention of the law to throw such an obstacle as that in the way of the delivery of letters. If that is the law, it ought to be altered. I do not agree with the Attorney General in his construction of the law. I do not think it a fair construction. I am not disposed to say a word about that now; but I think the law does not justify the construction which the Attorney General has put upon it. I think the Postmaster General is bound now to deliver a letter of mine to the person I authorize, in writing, to receive it, if he is satisfied that he is the man; but still they decide differently, and to remove that defect, without inquiring whether the decision is right or wrong, the easiest way is to do it by a provision of law. I think it is just and reasonable that an individual should have authority to send whomsoever he pleases to get his letters at the post office, in regular office hours. That is all there is of it.

Mr. YULEE. I will read the law: "Whenever the same may be proper for the accommodation of the public in any city," the Postmaster General is authorized "to employ letter carriers for the delivery of letters received at the post office in said city, except such as the persons to whom they are addressed may have requested in writing addressed to the postmaster to be retained in the post office." The carriers, who are employed by the Government, give bond, and a certain postage is charged by them for the delivery of the letters, and the fund thus produced is used by the Postmaster General for the compensation of the carriers in conducting the business. Now the whole point which the Postmaster General makes is this: that while the law, taking into the hands of the Government the business of carrying letters in the cities exists, and while by law the streets of towns for that purpose are made post routes, private carriers shall not establish themselves to defeat the purpose of the law; and that the Attorney General decides he has a right to see to it. It may perhaps be advisable to modify the law in some respects. Those gentlemen who reside in the large cities where this practice is being chiefly employed, as it is supposed for the public convenience, can judge best on that point; but this is not the time or the place for such a provision. We cannot consider it deliberately and properly. The Senator from New York may be right; but he may be wrong. He differs with the Department in his view of what is right. It

is better that we should give proper consideration to the subject, and as there is a bill now on the Calendar under which this whole subject will come up appropriately, I submit whether it is not better to postpone the consideration of the matter until that time, instead of going on with it now?

Mr. KING. The amendment which I have offered does not authorize the setting up of an opposition carrier. It is simply designed to require the delivery of a letter to any person who is known to the postmaster to be authorized to receive it—that is, who produces an authority which shall be proved to be the authority of the party to whom it is addressed before the postmaster shall be required to deliver the letter. It is, that when any person produces such authority, the postmaster shall deliver the letter to him. I have no doubt, from my knowledge of the mode in which this business is done, that it would be perfectly impracticable for private parties, by volunteer effort, to attempt to set up an opposition carrier. The facilities of the Government by the delivery of letters in packages to their carriers would make it impossible for any person who only got a letter at a time, as he called for it, ever to make any opposition to the regular carrier. In the city of Brooklyn, this regulation is more strictly construed; so that the complaints which come to me, are, that the postmaster there refuses to deliver letters to persons who bring a written order for them, under the assumption that if they are to go out to the party to whom they are addressed, they must go by the regular carriers, or shall otherwise only be delivered to the party in person. In the large cities there are a great many people who are anxious to get their letters before the carrier can bring them to them; and this proposition simply requires that, on producing the authority of the person to whom it is addressed, the letter shall be delivered to his agent.

Mr. BAYARD. We are falling rapidly into the system of legislation on appropriation bills, and on appropriation bills alone. We cannot mature any proper system in that way. Now, the honorable Senator from New York says that it would not be practicable for persons to employ a private carrier in derogation of the rights of the Post Office Department to employ public carriers. The fact is that it is done. Individuals may combine together, and the virtual effect of this proposition would be to compel the postmaster to deliver letters to the person whom they might select, no matter how employed, provided he had the authority of the parties to whom the letters were addressed. Private carriers do exist in many cases where the Postmaster General has appointed public carriers; and those private carriers receive a very large number of letters, under written authority from the persons to whom they are addressed. Thus they come in competition with the public carriers. If your system of making the post offices in the large cities a subject of Government action, and using public officers for the purpose of distributing the letters is to be carried out, you must prevent private individuals from engaging in it as a business. If you want an amendment of that kind, it ought to be coupled with some further provision preventing persons in those places where there is a public carrier employed from carrying on or engaging in the business of private carriers; but if you do not connect the two necessarily under this provision, the postmaster must run the hazard of an indictment if he refuses to deliver a letter to any person who chooses to call for it, no matter whether he is acting contrary to the intent of the law and interfering with the public carrier or not, for there is no express provision to render it unlawful. It is only unlawful because it is inconsistent with the post office regulations, and the post office law, which makes post routes of the streets of the large cities.

Mr. KING. I said it would be impracticable, and I think every Senator who examines it will see that it would be for any person to set up any extended system of carriers. A neighborhood of half a dozen, or a dozen, perhaps, may do it in that part of the district to which the carrier might go last. These people may desire to have their letters earlier than they would come by the regular carrier; but no great number of persons could do this, because their agent could only obtain their letters one at a time as he demanded them of the postmaster, which would of itself produce a

delay vastly beyond that which this amendment is designed to remedy. I only propose, in this amendment, that the postmaster, upon the production of the authority of the party to whom the letter is addressed, shall be compelled to deliver it. As the Senator from Illinois says, I think that is the law now; but the Postmaster General and the Attorney General have given it a different construction. In a resolution which the Senate passed on my motion, I asked those officers if any legislation was necessary. They thought not, because they are disposed to sustain this construction with a view to support the carrier system. It is a small matter, it may be said; but the carrier postage, I believe, is two cents generally in the cities, and yet our postage is but three cents for carrying a letter to any distance under three thousand miles. Though the addition of two cents is not very large, it is two thirds the entire amount of the original postage; and when a business man is receiving several hundred letters in the course of the year, it enhances his postage very much. Why may he not get his letters by sending his servant or clerk to the post office for them? That is the object, and I do not think the amendment can go further.

Mr. BENJAMIN. I think it will be obvious to the Senate, on a moment's reflection, that it will not do to pass this section. In the large cities letters are delivered out by mail carriers employed by the Government. If one of these penny carriers gets into a quarrel with an individual, that individual proceeds to subvert the Government policy in this way: he goes around and gets a paper subscribed by all the principal persons who receive letters in the town, authorizing A B to get their letters at the post office. He goes to the post office with that order, and in that manner an unauthorized individual constitutes himself a public carrier. The result is, that the individuals who do not join in that combination cannot get the letters through the carrier, and there is no man willing to assume the office of public carrier for the few scattered letters that remain to be carried to different parts of the town. This section originates in an attempt on the part of a private individual to turn out a public officer; or, in other words, it is a village quarrel between a penny carrier and some man who wanted a letter; and that is deliberately brought into the Congress of the United States for us to legislate upon.

Mr. CLINGMAN. I want to understand the operation of this system, and perhaps the Senator from Louisiana can enlighten me. Let me give an illustration. The southern mail arrives here at three or four o'clock in the afternoon, but it is not distributed to us until half past eight. Suppose a Senator should, at five o'clock, wish to get a letter in order to determine whether to leave the city in the afternoon train, and he sends me, or some other person, authorized in writing to receive his letter: ought the postmaster to have a right to refuse to deliver it when he knows that I am authorized to receive it? As I read the amendment, it only provides for the delivery to a person known to be authorized to receive the letter. Ought a postmaster, in that case, to be allowed to refuse?

Mr. BENJAMIN. Of course there is never any difficulty practically in a case of that kind. These are merely theoretical questions. I do not suppose there is a postmaster in the United States who ever dreamed of refusing a letter under such circumstances.

Mr. CLINGMAN. But is not this a provision simply to compel him to deliver the letter to the authorized agent?

Mr. BENJAMIN. It is compelling him to do that, and also to give the letters of a hundred men to one single man as a messenger.

Mr. CLINGMAN. If they direct that man to go and bring their letters, is there any real impropriety in allowing him to do it?

Mr. BENJAMIN. A very great impropriety. Suppose one hundred of us should employ a man to carry our letters between Washington and Baltimore, would there be no impropriety in it?

Mr. CLINGMAN. But this is merely to bring letters from the post office to the persons to whom they are addressed in the same town. In the southern country, generally, these carriers do not exist, but every man has to go for himself. Where the community is dense, the Government thinks proper to employ a carrier. If it turns out that

so few persons take letters by the carrier that it does not pay, he can be withdrawn. Is there any real hardship in it?

Mr. BENJAMIN. There is a great hardship. If this amendment were amended so as to apply to places where there are not public carriers, I should have no objection to it; but that is precisely what the Senator from New York would object to.

Mr. YULEE. That would not be necessary. The object of the Senator from North Carolina is secured by the existing law. The act of 1825 provides:

"It shall be the duty of the postmaster at all reasonable hours on every day of the week, to deliver, on demand, any letter, paper, or packet, to the person entitled to or authorized to receive the same."

That is the law of 1825, and is only controlled by the subsequent legislation in respect to public carriers in those cities where public carriers exist.

Mr. CLINGMAN. If that is the law and it has not been altered, this provision is unnecessary; but if it has been altered, why not go back to that law?

Mr. YULEE. It has been altered only so far as the carrier system has been introduced in the large cities.

Mr. KING. It has been altered by construction—that is all.

Mr. BENJAMIN. I was stating to the Senator from North Carolina that I could not see what on earth is the necessity for this change of the law. Wherever there is a carrier every man gets his letters under the law. Why should that be changed?

Mr. CLINGMAN. We have a carrier here; but suppose a gentleman does not choose to wait six or eight hours for the carrier, as I sometimes do not want to do, has the postmaster a discretion to refuse to deliver a letter to his servant or any authorized agent who goes with a written order for his letters?

Mr. BENJAMIN. I state to the gentleman that we must legislate practically, and such a case never occurred. The object here is to enable parties to combine to break down public carriers. I do not suppose there is a postmaster in the United States who would ever refuse to comply with an order from an individual to deliver his letters; but you take an authority given to A B to receive all my letters, and get one half the people of a town to subscribe that, and carry it to the postmaster of a town as a general authority to receive all letters, and thus you substitute private for public carriers; you break up the accommodations of the remainder of the public; you interfere with the policy of the Government, on that point, just as much and just as clearly as you would by forming combinations to carry the letters between Washington and Baltimore. If it is wrong to establish the streets of a city as post roads for penny carriers, repeal that law; but if you keep the law in existence, then do not pass another section by which private individuals can combine to break it down.

Mr. BAYARD. There is another evil that the honorable Senator from North Carolina does not advert to. If the place is not a large one, or even where it is a large one, a dozen or two firms in active business, who receive a great number of letters, may select their own agent, and he will deliver letters for a less compensation than by law the public carrier is allowed to charge; because, probably, that is the least onerous business of the carrier, and he could deliver them easier, for they are more concentrated; but yet the great object of a public carrier in a large place is, that the whole community, who would not be able to go personally to the post office shall, for a reasonable sum, be accommodated by the delivery of their letters. If you allow those who have a great number of letters to receive, by combination to underbid the public, and have their own private carrier, you destroy the system. That is the effect of adopting this amendment, and the result would be that the Department could not employ public carriers, because you only pay them out of the compensation received for carrying letters, and they could not afford to carry them if the mass of letters in proportion to the size of the place, going to the men receiving the greatest number, could be received by private agreement for a less sum; and yet the onerous duty would fall on the public

carriers of delivering letters to all the unknown persons, all the scattered persons, the public, for whose convenience in large cities, in order to prevent the non-delivery of their letters, as they may not have time to go to the post office, the system of public carriers is adopted. They would be injured for the purpose of benefiting a few persons who combine to employ a private carrier. It is private interest against the public.

Mr. KING. It is extreme cases that illustrate the law. The complaint in this case is, that a postmaster refused to deliver a single letter to a single person. My own opinion is, that that authority should not exist in the postmaster. He can refuse to one as well as to a dozen. As I said, it is impracticable for a very large number of persons to send a single agent for their letters, because he must get them one at a time for one person at a time, which would of itself delay the delivery beyond the period which would bring them their letters through the ordinary carrier. I have offered this amendment because I think the authority ought not to exist in the postmaster to refuse to deliver a letter when demanded.

Mr. PUGH. There has never been any case that I ever heard of before—I do not know what this one is—in which a postmaster refused to deliver a letter to the ordinary agent or servant of the party to whom it was addressed. I do not think there is such a case; I do not believe one can be found in the United States. That has been the construction under the law in force, but this is a contrivance for some fellow who wants to cut under your system of carrying the mails in the cities. As the Senator from Louisiana says, if you do not want the streets of your cities to be post routes, repeal your law; but you have made them so, and here is some fellow that wants to come in and pick out half a dozen firms in a city and get a general order from them to receive their letters, and thus cut down the receipts for box rents, which is a portion of your system of compensating postmasters, and break up your system of public carriers. It is a contrivance of some man to grind his own ax at the public expense. I do not believe there can be found a case in which a postmaster has refused to deliver a letter to the ordinary employé of a party, and I believe that is not only authorized but required by the law. That certainly has been done in the city where I reside. But yet we must have the system of public carriers, and it is a great convenience, for there are thousands of people who cannot afford to rent a box, and it might take them half a day to go to the general delivery window and stand there until their turn came. They might lose a day's or half a day's wages by it; but the public carrier takes their letters and leaves them at their houses. You break up the whole system if you permit men to interpolate themselves into the Post Office Department for their own private ends, and I hope the Senate will vote down the amendment. As I said before, I do not know what this case may be; but of course where a party represents his own case, he makes it as favorable as possible to himself. I do not believe there is any case, unless it be by a mistake of some clerk at a post office, where a postmaster has refused to deliver a letter to the ordinary clerk, servant, or employé of the party to whom the letter is directed.

The question being taken by yeas and nays, resulted—yeas 22, nays 25; as follows:

YEAS—Messrs. Bell, Broderick, Clingman, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hamlin, Harlan, Houston, Johnson of Tennessee, King, Seward, Thompson of Kentucky, Toombs, Trumbull, Wade, and Wilson—22.

NAYS—Messrs. Allen, Bayard, Benjamin, Bright, Clay, Davis, Fitzpatrick, Green, Gwin, Hammond, Hayne, Hunter, Johnson of Arkansas, Jones, Mallory, Mason, Pearce, Pugh, Reid, Rice, Sebastian, Slidell, Stuart, Wright, and Yulee—25.

So the amendment was rejected.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

Mr. SEWARD. An amendment was offered on the motion of the Senator from California [Mr. Broderick] providing that not more than \$2,500 should be paid to any special agent of the Post Office Department as compensation for his services. I propose to add to that, "but this act shall not be construed so as to raise the rates of compensation of such agents in any case."

The amendment was agreed to.

Mr. COLLAMER. I offer an amendment:

And be it further enacted, That post offices shall be open for the receipt and delivery of letters and mail matter for all persons at the same time, and no practice or arrangement shall be allowed by which any person or persons, for any consideration, can obtain their letters or papers earlier or later at said offices, than all or any others may receive their letters or papers on applying therefor, nor shall any practice or arrangement exist whereby any person or persons can mail their letters or papers earlier or later than all or any other persons may mail their letters or papers on offering so to do.

The amendment was agreed to.

Mr. PUGH. An amendment was offered in Committee of the Whole by the Senator from Indiana, [Mr. Fitch,] which I renew:

And be it further enacted, That so much of the eighteenth section of an act entitled "An act to reduce the rates of postage, to limit the use and to correct the abuse of the franking privilege, and for the prevention of frauds on the revenues of the Post Office Department," approved March 3, 1845, as requires the advertisement of letters uncalled for in any post office to be inserted in the newspaper or newspapers having the largest circulation in the town or place where the office advertising is situated, be, and the same is hereby, repealed. And the Postmaster General shall henceforth designate the newspaper or newspapers at each town or place where a post office is situated in which such advertisement shall henceforth be made.

I propose to add a proviso that the compensation shall not exceed what is now allowed. It is not my purpose to alter the compensation, but it is to break up a very great abuse and a shameless fraud that is practiced on the community by this system. If the letter lists were, in point of fact, given in every case to the newspaper with the largest circulation, I would not care anything about it; but the fact is, that there are false affidavits, and pretexts, and fictitious circulations, set on foot to get the advertising the first time, and then, after that, the letter list gives the circulation, because people take the paper in order to get the letter list. There is no necessity for the present provision, because the circulation of the paper has no more connection with the delivery of the letters than the advertisement of the sheriff's list. The sheriff does not advertise in any such paper; nor are the advertisements of the State governments, or city governments, or county governments, published in any such way. If you give this list out to the lowest bidder, I have no objection; but the fact is, that a newspaper strives to get up a fictitious circulation to entitle itself for one year to the letter list, and then the letter list gives the paper a circulation, so that it goes on, and the object which Congress had in view in this provision of the law is not carried out at all. Although the compensation paid is not even more than sufficient to pay for setting up the type, the reason the newspapers want it is, that it gives them a circulation; and there has been great controversy about it. In the early part of this session I had a pamphlet sent to me—and I suppose other Senators had—showing that a great controversy had arisen in the city of New York between the New York Herald and the New York Sun, as to which of them had the largest circulation. There were a great number of affidavits, to show which was entitled to the advertising; and then they have a system of counting evening and morning editions, and weekly and semi-weekly editions, so that it is like the printing propositions that my friend from Arkansas brings before us occasionally—nobody understands, and nobody can understand it. I think we had better go back to the old system. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. DOOLITTLE. I do not rise for the purpose of detaining the Senate; but if the argument which the Senator from Ohio and the Senator from Indiana have used is correct, that the paper which gets the advertising of the letter list must of necessity be taken by the business community, we see at once that the whole patronage, so far as that is concerned, is put in the hands of the Post Office Department; and it will be a mere political engine. The influence which is exercised by the Post Office Department over the press, whatever party happens to be in power, is enough already. I think the law had better stand as it is. It is submitted on affidavits to the postmaster, and he decides on the affidavits as they are presented; and the paper which has the largest circulation, as a matter of course, is the paper which ought to publish the list. It is the best for the community, and does not compel one party to take a paper they do not like.

Mr. PUGH. How does the Senator estimate which paper has the largest circulation?

Mr. DOOLITTLE. The postmasters decide that; and they are generally disposed to decide in favor of a paper of their own political complexion, if they can bring their consciences up to the point of doing so.

Mr. BRIGHT. I concur entirely with what was said by the Senator from Ohio. I think this amendment will produce a very salutary influence. It will remove men from temptation. It is said the best prayer ever made was, "lead us not into temptation." It removes the temptation from the editors of newspapers to do just what my friend from Ohio stated—swearing a little beyond the mark, going out and getting fictitious subscribers, getting A B, or C D, to add a few hundred names to take the paper for a few days, and then throw it off. I am in favor of throwing the responsibility on the postmasters. It properly belongs there. The presumption is, that they will take that paper which has the most general circulation in the neighborhood of their office. I think there is great propriety in the amendment, and I hope it will be adopted.

Mr. SEWARD. The principle of the honorable Senator from Indiana, if carried out, would make a very simple change in our whole system of laws and of administration. We should repeal all duties in order to take out of the way the temptations to smuggling, and to defraud the revenue; we should repeal all laws prohibiting crime in order to take away the temptation to perjury, and subornation of perjury to avoid punishment. The principle cannot be carried out against a paramount public policy. I think we all remember that, when this law was passed some thirteen years ago, there was an intolerable abuse. Then, I think, we had fifteen or sixteen hundred post offices to which the law was applicable, and now we have three thousand five hundred; and the proposition is, that the Administration shall have the opportunity of disposing of these advertisements, in the way of political patronage, at every post office in the United States. It results, necessarily, in obliging the Government to advertise in more than one paper; so that the effect of such a patronage may be counteracted by division between different parties. I am sure that if you repeal the law because it is not executed with entire success, you will introduce a system which will be subject to manifold and greater abuses.

Mr. FESSENDEN. I think, on reflection, that the object of the Senator from Indiana is a very praiseworthy one; and that is, to improve the morals of his friends by making it not so much a matter of necessity for them to resort to hard swearing to bring themselves up to a superiority over the circulation of the papers on the other side—

Mr. BRIGHT. I meant that remark more particularly for the side of politics represented by the Senator from Maine.

Mr. FESSENDEN. Not at all; that cannot be so. What the Senator means is manifest; because, if the papers of the Senator's friends had the largest circulation they could not bring forward such a proposition as this, and we know that at present they get a large amount of advertising, and of course it must be by hard swearing; because everybody knows that the Republican papers, as a general rule, have the largest circulation. As this goes to the improvement of morals generally on the other side of the House, and that is very essential, I do not know but that it is worth considering.

Mr. PUGH. It is your case, too. Your morals must be in a shocking condition if you get all these advertisements. The point I make is, that we had a good system; it worked well under Democrats and Whigs and everybody; but it was said we were going to have a grand patent plan which would make the Post Office Department more effectual. We have tried it, and it has come to be a perfect pretext and sham. Instead of fixing it upon any basis, they mix up, as I said before, the morning edition and evening edition, which differ only in five or six lines of telegraphic dispatches. They mingle tri-weekly papers and semi-weekly daily papers. It is all like this system of public printing that is brought before us. The initiated understand how to swear, and they swear so as to get it. It is an advantage conferred upon a newspaper, not for its merit, but for its having

the most elastic conscience attached to the establishment to swear by. I think we had better go back to where we were before. When the Republicans come into power, I hope they will exercise all their patronage. I never object to that. When my party is in power I think we are entitled to it. If they are going to carry the next presidential election, as they say, they ought not to object to this proposition.

Mr. SIMMONS. When I was up before, I suggested the reasons for the alteration of the law, which was effected by the adoption of the present system. The Senator from Ohio did not happen to be in at that time. I was a member of the Post Office Committee in 1845, when this provision was made. The Senator says, that before that time we had an excellent system, of which no body complained. Well, sir, there was on that committee in 1845, a member who had been Postmaster General of the United States, and it was at his suggestion that the old system was broken up. He said it was carried on for the benefit of the party press, and nothing else, and it was time to put a stop to it. He suggested the present law. I allude to Mr. Niles, of Connecticut, who was Postmaster General during the administration of Mr. Van Buren. The committee devised the plan of giving this advertising to the papers having the largest circulation, because such papers would do the largest public service for the same money. Certainly, by putting the advertisements in such papers, the more readily will people ascertain whose letters are in the post office. In any considerable town there is a paper of each party, and it is an object to get the letter advertising, because, as the Senator from Ohio says, it gives circulation to a paper. The old plan was that persons got up a mere party paper, depending on the letter advertisements and the patronage of the Post Office Department.

Mr. PUGH. I did not say the patronage was enough. This patronage does not more than pay for setting the type, but it gives a paper circulation.

Mr. SIMMONS. Exactly. But through the instrumentality of the Post Office advertising you start up a new paper. That is the idea. Now, is it not better to let the paper which has the largest circulation take the advertising? As to the fraudulent manner of increasing the circulation, the postmasters ought to know enough to prevent such things. I do not suppose that in any city, East or West, there can be much doubt as to the paper which really has the largest circulation. There might be some close calculation about weekly and semi-weekly papers that might vary it, but it is pretty well understood, in almost every considerable town, what paper has the largest circulation. I suppose there are occasional disputes, and will be under any system; but I believe that it is best to provide for giving this advertising to the papers having the largest circulation. What is the use of employing a paper that has fifty or one hundred subscribers? The public get no information from that as to whether their letters are retained in the office or not. There is no better test of the advantage of employing a paper than the amount of its circulation. That shows the extent to which the information you want to convey is given to the public by advertising in it. That is the rule now applied; and no better one is proposed.

This proposition is a mere arbitrary rule, that a postmaster can employ whom he chooses. He might have a family paper got up for a particular clique, and he might give it this advertisement to put it afloat and get subscribers; for, according to the suggestion of the Senator from Ohio, if a paper can get the letter list, it will get a circulation. I think it palpable that the public interest is promoted by employing the papers having the largest circulation. I think it is the best possible rule we can apply for the Department to act upon in this matter.

Mr. WILSON. I move to amend this amendment by striking out the words "the Postmaster General shall henceforth designate the newspaper or newspapers at each town or place where a post office is situated in which such advertisements shall henceforth be made," and inserting, "the Postmaster General shall henceforth cause the same to be published in such newspaper as will publish it at the lowest rate, provided the

compensation shall not be larger than now allowed by law."

Mr. PUGH. I accept that modification, because I would rather have it than the present system, though I prefer the original amendment.

Mr. FITCH. I think it would be quite sufficient to retain the original amendment, limiting it by a proviso in such manner as to make it imperative that the advertising should not cost more than the law contemplates, without putting it up at auction.

Mr. PUGH. It already contains a provision that it shall not exceed the present compensation in any event.

Mr. POLK. I wish to have the amendment read as it has been amended, for I understand the Senator from Ohio accepts the proposition of the Senator from Massachusetts.

The Secretary read the amendment.

Mr. PUGH. Several Senators desire an opportunity to vote on the original proposition, and I would much prefer it. As the amendment now stands, I move to strike out the words which were put in at the suggestion of the Senator from Massachusetts, and restore the original words.

The PRESIDING OFFICER. (Mr. Foor in the chair.) The Chair will state to the Senator from Ohio that the amendment is under his own control, and he can modify it as he pleases.

Mr. PUGH. A number of Senators prefer the original proposition I offered, to the proposition as amended at the suggestion of the Senator from Massachusetts, and I myself would prefer it; and in order to give them an opportunity to put it in that shape, I move to amend the amendment by striking out the words I accepted, and inserting the words which I originally proposed.

The PRESIDING OFFICER. The Senator can so modify the amendment without the question being submitted to the Senate.

Mr. CLINGMAN. I hope the Senator from Ohio will do so, and then the Senator from Massachusetts can offer his proposition as an amendment to it.

Mr. PUGH. I modify my amendment so as to bring it back to its original form.

Mr. SEWARD. Can a Senator, of his own motion, modify an amendment which has been amended and submitted to the Senate, and accepted by the Senate?

The PRESIDING OFFICER. That is not the condition of the amendment. The Senator from Ohio accepted the modification of his amendment upon the suggestion of the Senator from Massachusetts.

Mr. SEWARD. And now retracts that assent?

The PRESIDING OFFICER. Yes, sir.

Mr. SEWARD. Now it is open to further amendment?

The PRESIDING OFFICER. Yes, sir.

Mr. SEWARD. I move to amend it as the Senator from Massachusetts proposed.

Mr. WILSON. I wish to make a simple statement of the case, and I want Senators to understand the position in which they are placing themselves. We have a law that requires these advertisements to be given to the papers having the largest circulation. The country knows that this provision is not strictly observed, and that every means is resorted to in order to prevent this law from being fairly and honestly carried out. Now the proposition is to change the law which has stood for thirteen years, and to allow the Postmaster General to designate in what paper the list of letters shall be published. That is, it puts the whole power in the hands of the Postmaster General, and he can give the list of letters in a town where there may be two or three papers of a large circulation taken by the whole community, to some little seven-by-nine partisan sheet. I think the proposition which I have made is a fair one, that if we repeal the present law the Postmaster General shall be compelled to publish the list of letters in the paper that will publish it the cheapest, provided, that in no case shall the compensation exceed the present rates. I think that is right and fair, for it will give all the large newspapers of the country an opportunity to compete for this printing, and they will do it at a very low rate, because it is for their interest to do so, and the community will be benefited thereby. It takes the matter entirely out of the range of partisanship, and opens the whole press of the country to a fair competition for this little patronage,

which is for the benefit of the Government and of the people alike.

Mr. FESSENDEN called for the yeas and nays on the amendment to the amendment, and they were ordered.

Mr. JOHNSON, of Arkansas. I must say that I believe this proposition is right, and so believing, I shall vote for it.

The question being taken by yeas and nays, resulted—yeas 22, nays 20; as follows:

YEAS—Messrs. Broderick, Chandler, Clark, Clay, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Harlan, Houston, Johnson of Arkansas, Johnson of Tennessee, King, Seward, Simmons, Thompson of Kentucky, Toombs, Trumbull, Wade, and Wilson—22.

NAYS—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Brown, Clingman, Fitch, Gwin, Hunter, Jones, Mason, Pearce, Polk, Pugh, Reid, Sebastian, Slidell, Wright, and Yulee—20.

So the amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from Ohio as amended, upon which the yeas and nays have been ordered.

Mr. PUGH. It is not material to take the yeas and nays on it. I suppose the Senator from Massachusetts, having got in his amendment, is willing to take it.

Mr. WILSON. Certainly, I will vote for it now.

The PRESIDING OFFICER. It is not in the power of a member to withdraw the call for the yeas and nays.

The question being taken by yeas and nays, resulted—yeas 23, nays 15; as follows:

YEAS—Messrs. Bell, Bright, Broderick, Chandler, Clark, Clay, Doolittle, Durkee, Fessenden, Foot, Foster, Harlan, Houston, Johnson of Tennessee, King, Polk, Pugh, Seward, Simmons, Thompson of Kentucky, Toombs, Wade, and Wilson—23.

NAYS—Messrs. Allen, Bayard, Benjamin, Bigler, Brown, Clingman, Fitch, Hale, Hunter, Jones, Pearce, Reid, Trumbull, Wright, and Yulee—15.

So the amendment, as amended, was agreed to, as follows:

And be it further enacted, That so much of the eighteenth section of an act entitled "An act to reduce the rates of postage, to limit the use and to correct the abuse of the franking privilege, and for the prevention of frauds on the revenues of the Post Office Department," approved March 3, 1845, as requires the advertisement of letters uncalled for in any post office to be inserted in the newspaper or newspapers having the largest circulation in the town or place where the office advertising is situated, be, and the same is hereby, repealed. And the Postmaster General shall henceforth cause the same to be published in such newspaper as will publish it at the lowest price, and that the compensation to be paid for the said advertisements shall not be greater than that now allowed by law.

Mr. YULEE. An amendment was adopted on the motion of the Senator from Vermont, to which I desire to offer an amendment that I think he will have no objection to. I propose to except San Francisco and Sacramento from the operation of the provision, for the reason that they are differently circumstanced from other cities. The effect of the amendment of the Senator from Vermont, as I understand it, will be in a great measure to break up the present system of locked boxes, which is very convenient in the large cities, and is indispensable at Sacramento and San Francisco; for the reason that the mails arrive there in great bulk, and only twice a month, and the distribution consumes a great deal of time; but, by means of locked boxes, parties are enabled to obtain their letters, from time to time, as the distribution progresses. The distribution, I understand, sometimes lasts ten hours, or more. I presume there will be no objection to my amendment.

Mr. BRODERICK. I object to it.

Mr. YULEE. It was for the benefit of California that I wanted to introduce it.

Mr. GWIN. I hope the amendment of the Senator from Florida will be adopted, and that Stockton will also be excluded. In fact, I should like to have the whole State of California excepted.

Mr. BRODERICK. I should like to hear some reason for that.

The PRESIDING OFFICER. Perhaps it would be proper for Senators to hear the original amendment of the Senator from Vermont read.

The Secretary read Mr. COLLAMER's amendment, as follows:

And be it further enacted, That post offices shall be open for the receipt and delivery of letters and mail matter for all persons at the same time, and no practice or arrangement

shall be allowed by which any person or persons, for any consideration, can obtain their letters or papers earlier or later at said offices than all or any others may receive their letters or papers on applying therefor, nor shall any practice or arrangement exist whereby any person or persons can mail their letters or papers earlier or later than all or any other persons may mail their letters or papers on offering so to do.

Mr. GWIN. Now, I should like to except the State of California. The reason is, that our mails arrive every two weeks in great bulk, and it takes many hours to distribute the letters, especially at San Francisco. During the distribution, those persons who have boxes can go and take out their letters; otherwise, under this provision, they would have to wait till the whole matter is distributed, six or eight hours, or more. It is a great privation to persons in that country having absent families, to be deprived of the opportunity of getting their letters until the whole distribution is over. Gentlemen do not care about the cost of boxes, if they can get their letters a few hours sooner by that process; and, so far as my knowledge extends, no objection exists to it. The post office in San Francisco has been especially prepared for this convenience to the public. There is a large space, the finest I have seen in any city of the Union, for the purpose of having locked boxes, a large quantity of them, to enable the letters to be received while the distribution is going on.

Mr. FESSENDEN. I would suggest to the Senator from Florida that instead of the amendment he proposes, he simply move to add to the provision introduced by the Senator from Vermont a proviso that it shall not apply to locked boxes. I do not know of any objection to that system at all.

Mr. YULEE. I agree with the Senator.

Mr. BAYARD. I would rather reconsider the whole amendment. I doubt very much the propriety of this species of legislation. You cannot see the effect of it. It may practically interfere with the Post Office system. I have no objection to a properly-guarded amendment which shall prevent an undue advantage being given to one set of citizens over others; but I can see difficulties in the way of carrying out such provisions as are now offered.

The PRESIDING OFFICER. The Chair will state to the Senator from Delaware that the amendment of the Senator from Vermont was agreed to in the Senate, and it is now in order to move to reconsider the vote by which the Senate adopted it.

Mr. BAYARD. I move then to reconsider the vote by which the Senate adopted that amendment.

Mr. COLLAMER. The views which I entertain, and which governed me in presenting the amendment, would require some considerable time to explain. Gentlemen are, I perceive, exceedingly sensitive in regard to locked boxes. I suppose they are gentlemen who pay a price for them, considering the privilege worth paying for to have an advantage over common folks, and get their letters before other people. I do not like the idea of the Government taking a dollar from a man to give him an advantage over his neighbor. However, as gentlemen are so sensitive about the matter, and it would take some time to debate it, I prefer to let it go and wait until I can get up the bill which I have introduced, and which I hope, somehow or other, at some time, to get before the Senate.

Mr. GWIN. I am perfectly willing that that should be done.

Mr. HUNTER. I commend the example of the Senator from Vermont. We ought not to put legislation of this kind on the appropriation bills.

Mr. COLLAMER. I will not take up the time of the Senate now.

Mr. TRUMBULL. I regard this as a very important amendment, and I hope it will not be reconsidered. I ask for the yeas and nays on the reconsideration.

The yeas and nays were ordered.

Mr. TRUMBULL. This amendment is of a character similar to the one introduced by the Senator from New York, [Mr. KING.] Both were intended to prevent partiality on the part of deputy postmasters. This amendment simply provides that the postmasters shall deliver letters to all persons alike. If we do not mean to do

that, but mean to vest a discretion in the deputy postmasters through the country to serve whom they please, I ask what is to be the condition of persons receiving letters through the post office? I think we had better abolish the Department.

The question being taken by yeas and nays, resulted—yeas 25, nays 15; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Clay, Clingman, Davis, Fessenden, Gwin, Harlan, Hunter, Johnson of Arkansas, Jones, Mallory, Pearce, Polk, Pugh, Reid, Sebastian, Slidell, Thomson of New Jersey, Wade, Wright, and Yulee—25.

NAYS—Messrs. Bell, Broderick, Chandler, Clark, Colamer, Doollittle, Foot, Foster, Hamlin, Houston, King, Seward, Simmons, Trumbull, and Wilson—15.

So the motion to reconsider was agreed to; and the question recurred on the adoption of Mr. COLLAMER's amendment.

Mr. COLLAMER. I merely wish to have the amendment read.

The Secretary read it, as follows:

And be it further enacted, That post offices shall be open for the receipt and delivery of letters and mail matter for all persons at the same time, and no practice or arrangement shall be allowed by which any person or persons for any consideration, can obtain their letters or papers earlier or later at said office than all or any others may receive their letters or papers, on applying therefor, nor shall any practice or arrangement exist, whereby any person or persons can mail their letters or papers earlier or later than all or any other persons may mail their letters or papers, on offering so to do.

Mr. FESSENDEN. I move to amend the amendment, by adding this proviso:

Provided, That nothing herein contained shall be construed to prevent the use of locked boxes as heretofore practiced.

Mr. COLLAMER. As that proposition is offered, I feel bound to say a word. The law is that postmasters shall account for all the money they get for boxes, except \$2,000. Two thousand dollars they pocket. A postmaster then does this—I have seen it advertised so—he fixes locked boxes, to which gentlemen can have access by keys, and he takes in his mail, and distributes it to those boxes, and those who have them can get their letters before the office is opened for the general delivery. That just amounts to the postmaster saying to the community, "if you will give me enough to pocket a couple of thousand dollars from box rents, I will accommodate you." That system I do not like.

Mr. BAYARD. I am not aware of any such abuse; and it seems to me that the Postmaster General might, under regulations, prevent it. The danger I apprehend from all this legislation on appropriation bills is, that the construction given to it afterwards may go much further than the particular evil intended to be remedied would authorize it to go, and I think so in reference to this amendment. It seems to me that it might apply to cases where there would be no hardships and no evil to the public in allowing postmasters to have locked boxes. I think the Postmaster General could readily prevent any abuse of the system by a general regulation.

Mr. PUGH. I thought there was to be some amendments offered by the Senator from Florida.

Mr. FESSENDEN. He agrees to the one I have offered.

Mr. YULEE. That will answer the purpose.

Mr. TRUMBULL. I have in my hand a paper, called the Mountain Democrat, published in Placerville, California; and here is an advertisement by the postmaster which I find in it:

"A. M. Thatcher, postmaster; office hours: this office will be kept open daily, Sundays excepted, from eight o'clock in the morning until twelve o'clock noon, and from half past one o'clock to half past five o'clock in the afternoon. Box delivery open till eight o'clock, p. m."

A man who has a box can get his letters up to eight o'clock in the evening, while a man who has not cannot get them after half past five o'clock.

Mr. PUGH. These locked boxes that are to be left out are open the whole twenty-four hours. They are on the outside; and the party comes along the street and opens them.

Mr. TRUMBULL. Here is a distinction between those having ordinary boxes and other persons. Is the Senator for sanctioning it?

Mr. PUGH. No, sir; I am opposed to the distinction.

Mr. TRUMBULL. Then let us have this proposition.

Mr. PUGH. I voted to reconsider because I understood the Senator from Florida was to propose some modification on account of the peculiar

circumstances of the delivery at San Francisco and Sacramento. Otherwise, I am in favor of the amendment, because I think it is but fair.

Mr. YULEE. I think the circumstances of California require a discrimination. So far as other cities are concerned, the practice has been found to be very convenient, especially so to the merchants; but, as the proposition to abandon the practice comes from a commercial quarter of the country, if they desire to dispense with the facility and benefit which they derive from the practice, I make no objection. The difference of revenue derived to the Department will not be very material. It is a question of convenience to the commercial classes.

Mr. FESSENDEN. The proviso which has been moved does not sanction in any way the abuse suggested by the paper which the Senator from Illinois has read, because locked boxes, as was remarked by the Senator from Ohio, may be opened at any time, if they are on the outside, or at any period during the day, if they are on the inside, out of office hours as well as in. It is an advantage that they have, and it covers all that ought to be saved to California. California ought not to require, and I presume does not require, anything else than locked boxes. Then it covers the whole.

As to my friend from Vermont representing a commercial part of the country, as the Senator from Florida seems to suppose, that is a mistake. He does not speak for a commercial city at all. How it may be in Vermont where he lives, I do not know; but in all large places, such as Boston and New York, and even in smaller cities than these, it is a remarkable convenience to have locked boxes, and I never heard of any evil coming from it. To be sure it does give a little advantage to people who cannot afford to wait, and to whom time is very valuable. The price is not high, and nobody is harmed. An inequality which does not hurt anybody in reality, ought not to be complained of. The idea that we should go to such niceties as providing that no man shall have an accommodation because another has not got it, although that other suffers no inconvenience, and is not harmed in any way at all, is to me carrying the matter a little too far—much further than is necessary. That point is not so important as the convenience of a very large class of our fellow-citizens living in large towns. I hope my amendment will be adopted, and then I shall have no objection to the proposition of the Senator from Vermont.

Mr. BRODERICK. Since this debate arose, I have been waiting for some Senator to tell me why San Francisco and Sacramento should be excepted from this provision. The Senator from Florida has spoken for California. I would rather that my colleague or myself should speak for California.

Mr. GWIN. I have spoken.

Mr. BRODERICK. I am better acquainted with San Francisco than my colleague or the Senator from Florida.

Mr. FESSENDEN. Allow me to suggest to the Senator from California, that the provision, as it stands, does not apply to San Francisco any more than to Boston, or New York, or any other city in the Union. It puts them all on a par.

Mr. BRODERICK. I think these boxes are an abuse, and I hope they will be dispensed with.

Mr. YULEE. I will state why I proposed to except California. It was because the General Government is charged with the business of conducting the postal affairs of the State of California, and it therefore comes under the supervision of the Post Office Department and the general legislation of the country, as any other State; and inasmuch as there were peculiar circumstances attending the postal administration in California which did not belong to other States, I thought it proper to suggest to the Senate an inconvenience that would result there. The mails come to California twice a month in large bulk. The distribution, as I stated, is very protracted, sometimes spreading through several hours, and the merchants and others are anxious to receive their letters as the distribution progresses. That was the reason which I stated. There was another reason. The Government has constructed a post office building in San Francisco, and the system of locked boxes having been in practice at the time it was built, it was arranged with reference

to it, with considerable expense, and it was done because it was understood that it would be very convenient to the inhabitants of San Francisco that the arrangement should be made. All the utility of that arrangement will be lost by the change.

Mr. BAYARD. I desire to know what abuse is intended to be remedied by this general amendment if it is not in reference to locked boxes? That is what I understand the honorable Senator from Vermont to aim at.

Mr. COLLAMER. I am very unwilling to occupy the time of the Senate at all, and I shall say but very few words in reply to the question of the Senator from Delaware. I am not to disguise any views which I have. I think the whole system of post office boxes is unknown to the law. I know that after the boxes were made, one law recognized that there was such an income, and provided that the postmaster should account for all that he got over two thousand dollars. That recognized it; but it has never been legitimate as a matter of post office revenue. I acknowledge that I am so much set on the point that the post office should be free to all alike, that I should be willing to demolish every box, and let every man have an equal chance. However convenient they might be to gentlemen, I would demolish them all. At the same time, I do not say my amendment will necessarily produce that result. It will produce this result: it will not allow the postmaster to permit persons who have boxes to get their letters when the people at large cannot get theirs at the general delivery. Now, the persons who have boxes get their letters earlier and later than common folks can at the general delivery; and what for? Simply to enable the postmaster to pocket a couple of thousand dollars of box rents. He sells out this privilege to rich people by which the Government agrees to be bribed to give an advantage to a man who is able to pay for it. I am utterly opposed to the whole thing. If you can make regulations so as to provide that those who have boxes shall get their letters at the same time as other people can at the general delivery, very well.

Mr. BAYARD. The question I ask of the honorable Senator from Vermont is, whether his amendment will not be defeated by the proviso of the Senator from Maine? It seems to me it will. If locked boxes remain as heretofore, the very difficulty which the Senator wishes to correct will remain. I am afraid of this system of general legislation on an appropriation bill. I do not desire to destroy, by an amendment which might have that effect, the entire system of boxes, without further consideration. If it is proper to do so, do it; but let us have some bill, that we may know exactly what is to be its scope and effect, and not indulge in legislation on an important appropriation bill, which may have a different effect, when you come to give a construction to it, from what is anticipated by Congress at the time of its passage. I am entirely in favor of equality of rights among all citizens in the delivery of letters; but if you adopt the amendment to the amendment, it seems to me that you continue the only evil which it is said the general amendment is to provide against.

Mr. MALLORY. The proposition of the Senator from Maine is so reasonable and so just that I should be very much surprised if it were not adopted. The Senator from Vermont states the case very strongly, but I think his statement is calculated to mislead the Senate without his being aware of it. It is susceptible of the clearest demonstration that the use of locked boxes facilitates, instead of retarding, the delivery of the mails. That every man in the community gets his letters a little sooner because of the use of locked boxes is demonstrable. For example: there are one hundred men in the community whose names begin with A; each one has his box; and in that way he can put his hand upon all his letters, twenty in number, and get them at once. If those letters were put into the general delivery box, they would have to be handled over numerous times before other persons could be served; they would undergo twenty handlings before another A could get his letters. If you could take all the letters received by every mail, and divide them off into separate piles, so that each individual's letters would be by themselves, that would be the maximum of convenience; because, as a

man called for his letters he could put his hands on them, without compelling the clerk to look over others. Locked boxes, to a certain extent, go to that perfection. It has been said that those who have locked boxes get their letters sooner than others. They ought to do so; as a matter of course they must. In all our post offices there is generally an ante-room, and upon that ante-room the locked boxes open; so that, when the clerks go to dinner or when the office is closed, the locked boxes can be opened by the keys of the holders, though the general delivery cannot be. There must be a clerk to attend to the general delivery; but the locked boxes are opened by those who hold the keys, and to this extent those persons have a convenience, and I think they ought to have it. The advertisement read by the Senator from Illinois is perfectly plain. There is a certain time for the clerks to leave the office, but not to close the entire building; and those who hold the keys to the locked boxes can obtain their letters as long as the building remains open, though after office hours.

Mr. TRUMBULL. Allow me to state to the Senator from Florida that the advertisement which I read does not apply to locked boxes merely, but to all boxes generally.

Mr. GWIN. Does it not say locked boxes?

Mr. MALLORY. I presume that the word "locked" was left out inadvertently.

Mr. TRUMBULL. The advertisement was in regard to the post office at Placerville. I will read it again:

"This office will be kept open daily (Sundays excepted) from eight o'clock in the morning until twelve o'clock, noon, and from half past one o'clock until half past five o'clock in the afternoon. Box delivery open till eight o'clock, p. m."

Of course that must apply to ordinary boxes.

Mr. MALLORY. I can assure the Senator from Illinois that the word "locked" is not intentionally left out.

Mr. SEWARD. How large a town is Placerville?

Mr. MALLORY. I know nothing about the locality; but if there is any Senator here who has been a postmaster, he knows that what I say is perfectly right and just. The idea that a mercantile community would wish to abolish these locked boxes is very extraordinary. Merchants want access to their letters the very moment they can get them. As the general mail is being distributed, if A, B, and C have locked boxes, their letters are thrown into their locked boxes, and they can take them out without asking for letter by letter. But those that are put in the general delivery are put in alphabetically, and you cannot attend to those until you give everybody a fair chance. When the general delivery is open, you have to take up all the A's, and look over them until you come to that particular one which is called for. Anybody can see at once, by this statement, the convenience of locked boxes, and that they facilitate the general delivery of all letters at an office.

Mr. HUNTER. I hope we shall have a vote. The amendment to the amendment was agreed to; and the amendment as amended was adopted.

Mr. TRUMBULL. I offer a further amendment:

And be it further enacted, That not more than two dollars per annum be charged for the rent of a box, locked box, or drawer at a post office; and no extra charge shall be made for depositing in said boxes or drawers letters for more than one person.

Mr. GWIN. I hope that will not be agreed to. I think this is a matter which ought to be regulated by the wants of the community.

Mr. SEWARD called for the yeas and nays; and they were ordered.

Mr. YULEE. These matters had better be left to the regulation of the Post Office Department.

Mr. TRUMBULL. I withdraw the latter part of my proposition, as there is objection to it. As modified, my amendment reads:

And be it further enacted, That not more than two dollars per annum be charged for the rent of a box, locked box, or drawer, at a post office.

Mr. JOHNSON, of Arkansas. I feel bound to vote against this amendment, because I think there are poor districts in the country that might be permitted to pay more than is paid for boxes in the cities. I will say to the Senator from Illinois that I should like to see some boxes established at the poorer post offices, where the present sys-

tem does not allow a man to have a reasonable compensation, so that we can get a good postmaster to serve. If he would exclude them, and confine his amendment to the cities, I would vote for it; but really we ought not to act in such a manner as to deprive men from receiving a compensation which would induce them to consent to serve the public in regions of country where the law, at present, says you shall not contribute your money to support this system; and in the next place, that you shall not have the system unless you do contribute, for that is the result.

Mr. TRUMBULL. I do not know how it may be in Arkansas, but in my State there are no boxes in post offices at small places. It is only in the larger towns that we have boxes.

Mr. JOHNSON, of Arkansas. I can give the Senator the instance of the post office at Napoleon, in my State. There is an immense amount of post office work to be done there. At this office the mails are distributed, not only for the whole State which I represent here in part, but also for a portion of Texas, and of north Louisiana. There the pay of the postmaster amounts to hardly anything when you count the percentage on the amount delivered at that place; but it is the distribution and the separation that produce so much labor and so much cost. The compensation of the postmaster, if you confine him to his percentage, does not begin to answer. The consequence was that we had a most wretchedly conducted concern for years; and it was with the utmost difficulty that we could get a man fit for the place to accept it. There is another instance on the borders of Texas which I might mention. I think the people might be left to pay the box rent which they are willing to pay, because if an attempt be made to overcharge them, they can say, "we will not take a box; but will wait for the general delivery."

Mr. TRUMBULL. I apprehend that the Senator from Arkansas will not feel disposed to charge the persons in the immediate locality of Napoleon to make them pay the expenses of the general distribution of letters to that region of country.

Mr. JOHNSON, of Arkansas. No; I would only provide that they must pay what they are willing to pay—what they choose to pay. If they are willing to pay five dollars, let them do it. I would rather give ten dollars than have to wait ten minutes every time I went to the office to get a letter at the general delivery; and I believe I am not uncommon amongst mankind. There are many others like me.

Mr. BAYARD. I shall vote against the amendment, not on its merits, but this ends really in what I anticipated. We are, on an appropriation bill, revising the post office regulations.

The question being taken by yeas and nays, resulted—yeas 14, nays 25; as follows:

YEAS—Messrs. Bell, Broderick, Doolittle, Foot, Foster, Hamlin, Harlan, Houston, King, Fugh, Seward, Simmons, Trumbull, and Wilson—14.

NAYS—Messrs. Bayard, Benjamin, Bigler, Bright, Brown, Clark, Clay, Clingman, Davis, Douglas, Fessenden, Fitch, Gwin, Hunter, Johnson of Arkansas, Johnson of Tennessee, Mallory, Polk, Reid, Rice, Sebastian, Stuart, Thomson of New Jersey, Wright, and Yulee—25.

So the amendment was rejected.

Mr. JOHNSON, of Arkansas. I beg leave to offer an amendment which I believe to be very important and necessary:

And be it further enacted, That after the 30th of June, 1858, the rate of postage on all letters sent through the mail shall be five cents for any distance under three thousand miles, and ten cents for any distance over three thousand miles.

Mr. GWIN. The Senator might as well strike out the latter part of his amendment; for the Government now charges ten cents for carrying a letter over three thousand miles.

Mr. JOHNSON, of Arkansas. Will the Senator explain how that is done?

Mr. GWIN. According to the present law, the rate is three cents for any distance under three thousand miles, and ten cents for any distance over that.

Mr. SEWARD. I wish to ask the honorable Senator from California, who pay ten cents postage? We do not all pay it.

Mr. GWIN. The Pacific coast.

Mr. SEWARD. Does not the Atlantic coast pay a postage of ten cents?

Mr. GWIN. All the correspondence between

any sections of the country over three thousand miles pays ten cents. That is the present law. I said it was not necessary for the Senator from Arkansas to put that provision in his amendment, because it is the law now.

Mr. JOHNSON, of Arkansas. Then, I suppose the Senator will not object to its remaining in the amendment, for the simple reason that it makes the case no worse, and while it goes forth in the same section as regulating the whole postage of the United States, every one will see at once what our postal charges are. By fixing it all in one section, everybody will see that we charge five cents for one distance, and ten cents for more than that. The people do not now understand that ten cents is paid for letters carried over three thousand miles, and I confess that when I offered the amendment I did not know that you were already subjected to that charge; but I think you ought to be. That being so, you have no fault to find with this provision being placed here, as it is but a reiteration of the present law. I insist, however, that those who now pay so little should be brought up at least to five cents.

There is not one of the eminent gentlemen around me here who will not concede that the Post Office Department ought to sustain itself. There is not one of them who, if he were at the head of the Government, would not at once say so. It has often been said to me to be one of the soundest theories at the bottom of all systems of Government, and I would make the Post Office Department sustain itself. I do not believe there is a man here who would not declare, if he were at the head of the Government, that that was the proper policy. Then, can there be a solitary Senator here who will say that he has faithfully discharged his duty, and has given a vote which is best for the public interest, if he refuses to raise the postage so as to enable the Department to sustain itself? How can he draw a distinction between his position as head of the Government and his position here as Senator? Unless he has found some means to reconcile his conscience that is more Jesuitical, if I may use that term, than I can consent to consider for myself, I do not see how he can do it.

I hope to have the fair sense of the Senate upon this proposition. I expected that it would have been presented by abler heads, and by those far better entitled to your consideration than myself; but I have not found that there was a determination to present it, and I now submit it merely in deference to what I believe to be a very important public interest—an interest that ought to be regarded—and a policy which I think the Senate might as well originate as any other body that I know of, executive or legislative, under the Government. We know that we are now borrowing money largely to carry on the Government, and we have to provide large amounts for the Post Office Department. We are called upon to go to the Treasury in order to get means from the general taxation of the people to pay for letters that you write and that I receive. I know that there are many of our people who do not write ten letters in their whole lifetime, and yet they are required to contribute to sustain a correspondence with which they have no connection, or at least no immediate connection. This is not just to the great mass of the agricultural community that compose ninety-nine hundredths of the representation upon the floors of Congress. I know that this system has been brought about by deference to large cities, and I think it results from an illiberality on their part, which has reduced us to the present rates, and absolutely throws the expense of carrying the letters which we write upon the mass of the people, or casts it upon the Treasury, which is the same thing as throwing it on the whole mass of the people. I believe this is so palpable that no one can deny it. If there are those here who represent any local interest, I would simply say to them, "When you are not instructed against your conscience on this question, how can you say that the people who send letters shall not pay for them?" The people are accustomed to something like the regular receipt of letters, and in order to continue it to them, I think it is necessary to take the Post Office off the Treasury. To continue it on the Treasury is not in accordance with any man's conscience, I think. It is not right.

I will say now, with reference to my own State

—and I think I can speak for every other new State—that among that people who depend on their daily labor for their subsistence, when the rate of postage stood at twenty-five cents I never heard the first complaint against it. Every man paid his twenty-five cents for a letter, and was glad and proud to receive one. He would probably give fifty cents as readily for the pleasure it gave him to receive a letter, believing it to be from some absent friend, or relating to a matter of importance. I never heard a complaint against it in my country, even when specie was not to be had except at a large premium, amidst the breaking of banks in 1839 and 1840; and we could not get letters out of the post office except by paying specie, and we had no circulation except paper, and very bad paper at that. You reduced the postage to five cents for the benefit of a few cities. That reduction resulted successfully, and everything was going on pretty well, when you still further reduced the postage to three cents. The representatives of the new States voted against it. We knew that every time we corresponded with a merchant at the East, and sent him our orders to transmit us goods, he charged us with the postage of the letter, and added it to the price of the goods. So it is with all the correspondence we send to the cities. They make their business profits by estimating all that it costs them to conduct their business; and the price of postage is one of the elements that enters into the calculation. You reduced the postage to three cents for the convenience of cities, and destroyed the revenue of the Department. You did it in obedience to what was proclaimed to be the example which had been set us by England, where postage had been brought down to a very low rate. You did not consider the difference of circumstance between the two countries. England is a dense country, and the towns are a very short distance apart, so that correspondence can be very easily conducted. Probably between the extreme points there is not a greater distance than a thousand miles, and perhaps correspondence there will not ordinarily average more than a distance of twenty-five miles over which it is to be carried. Some of our mails, however, have to be carried ten thousand miles, and a thousand miles is a very common distance. The consequence of reducing the rate to three cents is that the Post Office Department, at the very first collapse of public prosperity that occurs—and I consider the recent one as but exceedingly small—is thrown entirely on the public Treasury. This bill contains an appropriation of \$3,500,000 from the Treasury to support the Department. You are borrowing money for the purpose of doing this.

The same cities which procured the reduction will perhaps protest against raising the postage; yet they are the ones that more immediately contribute the money that goes into the Treasury. As gentlemen of intelligence and sense, why should we not at once say, let the system support itself, and there can be no possible mistake that it will be justly done in laying the tax, for this is, perhaps, in its action, the most equal and just tax that it is in the power of the Government to lay. It is a tax on those who write letters and receive them. The Government should regulate the charge by the expense, and that is the idea upon which the system originated.

Those of us who represent the new States never voted for these reductions, because we saw the result would be to reduce the revenues from our States, so that when we ask the Postmaster General to give us mail facilities, he says "your revenue does not amount to anything." In many instances, I have had to get him to consent to put lines in operation for the profits they would yield, the Post Office Department giving up all jurisdiction over them, and no few lines have been conducted in that way in my own State. The principle of the Department is that we shall have no more facilities than our revenue entitles us to. When we propose to raise the price so as to permit us to obtain enough revenue, the Congress of the United States says the price shall not be raised, and, therefore, we shall have no mail facilities. This is the operation of the system upon us. That, however, is more a local complaint, which I do not press on the Senate; but I call attention to the fact, that the Government now is in straitened circumstances, and there is not a gentleman here, of enlarged intelligence, who

would not, if he himself were at the head of this Government, say that the Post Office Department ought to sustain itself, when it can do so under the fairest system of taxation yet devised, each man paying for his own letter. We have the evidence before us that the Department is not supporting itself, and, therefore, that the rates of postage ought to be raised. With these views, I submit the amendment, and I hope the Senate will express a candid and conscientious opinion upon it.

Mr. HUNTER. I concur very heartily in the views which have been presented by my friend from Arkansas; and I believe that if we could induce Congress to adopt such a provision as this, it would be one of the best things done at this session. There is no doubt that the revenues of the Post Office Department are falling very far behindhand. The expenses of the Post Office Department are very far ahead of its revenue. I introduced, upon leave, I think a month since, a bill, the object of which was to increase the revenue from postage. That bill was referred to the Committee on the Post Office and Post Roads, and it has never been acted upon by that committee or returned to the Senate. I have been waiting for that bill to be reported for the purpose of asking the Senate to take action upon the subject. The deficiencies which are appropriated in this bill, \$3,500,000, I am afraid are not much over half what will be required for the next fiscal year. I am afraid they will come to at least five millions; and the danger is, that unless we do raise the postage, we shall have a drain from the Treasury for the service of the Post Office Department equal to that which we now experience from either the Army or the Navy. I offered no such amendment here, because I did not hope that we could carry through any such reform on this bill, and I do not now press it, as otherwise I would. I will simply say in regard to it, that I had an estimate from the Auditor of the Post Office Department, showing that the bill which I presented (and its chief feature was an increase of the rate of postage under three thousand miles from three to five cents; and there were also some provisions in regard to newspaper postage, which would have aided the revenue) would have added to the entire revenues of the Department for the present year about three millions and a half. I will not, however, press this matter now further than to say that I will vote for this amendment with a great deal of pleasure.

Mr. GWIN. I hope the Senator from Arkansas will strike out the latter part of his amendment, so that it will simply provide that the postage on letters carried three thousand miles or under shall be five cents.

Mr. JOHNSON, of Arkansas. Is that modification necessary to secure the Senator's vote for my amendment?

Mr. GWIN. Not at all.

Mr. JOHNSON, of Arkansas. Then I would rather keep the amendment as it is, and show the public exactly how the matter stands.

Mr. GWIN. I shall vote for the proposition with great pleasure in any form, because I know perfectly well that you will not bring our postages down. You raised them from six to ten cents, while you brought the others down to three cents. That is the law at present; and therefore, I suggested that it was not necessary to reenact it in this proposition.

Mr. JOHNSON, of Arkansas. If we simply proposed to raise the postages for all distances under three thousand miles, a great many people would suppose that the postage for distances over three thousand miles was only three cents.

Mr. PUGH. I would suggest to the Senator from Arkansas that letters carried less than a thousand miles ought not to be charged five cents. If we are to make distinctions on account of distance, I think it would be better to let three cents remain as the rate for any distance under a thousand miles, and that would strengthen the proposition. ["Oh, no."]

Mr. JOHNSON, of Arkansas. I know very well that the main contribution to the post office revenue comes directly from commercial sources; but we all know that commercial men look for the return of their investments from those with whom they deal, and they always get it with a profit. I speak in behalf of the consumers, and I know that the consumers are perfectly willing to pay this

much for their correspondence. We shall pay it most willingly; and upon us at last falls the burden; for the commercial men charge it to us. I know that those who are not consumers, and who are subjected to a tax on account of friendly correspondence, never measure the cost; and, even if their letters were only to go five miles, lovers and friends would as soon pay five cents as three cents generally.

Mr. RICE. I must confess that I do not understand this question very well, but it strikes me, in the first place, that this is a revenue measure, and that, according to the Constitution, all revenue bills must originate in the House of Representatives. I must say, furthermore, that I cannot see why Congress should make appropriations out of the Treasury to pay postage on letters any more than to pay for the bread that the people eat. It seems to me that the postage system should be so established as to pay its own expenses. I shall not detain the Senate; I merely make these points as they have suggested themselves to my mind, leaving it to older and abler men to elucidate the subject.

Mr. JOHNSON, of Tennessee, called for the yeas and nays; and they were ordered.

Mr. PUGH. I move to amend the amendment by adding to it, "and that the franking privilege be abolished." Let us go at it effectually, if we want to produce reform.

Mr. JOHNSON, of Arkansas. I will vote with the Senator from Ohio, for his proposition, as a separate measure, but I do not wish to embarrass my amendment with it.

Mr. PUGH. I am in favor of the general views of the Senator from Arkansas, but I am not satisfied that this is the place for us to cut, unless we cut something more than the Senator from Arkansas proposes.

Mr. JOHNSON, of Arkansas. I will go for the Senator's proposition, as a separate measure, with all my heart, but there are others who have doubts about it, and I do not wish it to complicate the question on my amendment. I hope the Senator will withdraw it.

Mr. PUGH. I will withdraw it, if the Senator thinks it interferes with his proposition. An organized system of cutting off extravagance I am ready to vote for; but to increase the rate of postage, which will operate hardly upon poor people, and within twenty-four hours of our having voted an immense gratuity to the Collins line, seems to me to be a system of economy that is not very well calculated to commend itself to the people.

Mr. FOSTER. I hope the Senator from Ohio will not withdraw his amendment, but will insist upon it. I think that if the franking privilege were abolished, the present rates of postage would sustain the Department.

Mr. PUGH. I withdraw my amendment, and give notice that if the amendment of the Senator from Arkansas is now carried, I shall vote against it in the Senate unless you take back the gratuity to the Collins line.

Mr. JOHNSON, of Arkansas. I have voted with the gentleman against the Collins line.

Mr. SEWARD. I believe the country is totally unprepared for any movement raising the rates of postage. Whatever merit there may be in the proposition, I think this is a wrong time for it. I, for that reason, irrespective of all others, shall vote against the amendment. I wish, also, to give another reason for my vote. I voted against discriminating postage on the ground of distance as a measure calculated to alienate the sections of the Union, the East from the West. That existing distinction is recognized and carried out by this amendment; and if I were prepared to go into this measure as a measure of reform, I should still be obliged to vote against it because it continues this discrimination.

The question being taken by yeas and nays, resulted—yeas 19, nays 15; as follows:

YEAS—Messrs. Benjamin, Bright, Broderick, Brown, Clay, Clingman, Davis, Fitch, Gwin, Hunter, Johnson of Arkansas, Johnson of Tennessee, Mallory, Pearce, Polk, Reid, Sebastian, Thomson of New Jersey, and Yulee—19.
NAYS—Messrs. Bigler, Chandler, Clark, Doolittle, Douglas, Fessenden, Foster, Hamlin, King, Pugh, Rice, Seward, Stuart, Wilson, and Wright—15.

So the amendment was agreed to.

Mr. PUGH. I move to add to the section just adopted:

And after the 1st day of December, 1858, no privilege of

franking letters, packages, or public documents shall be allowed to any officer or person whatsoever.

Mr. DAVIS. I think the Senator from Ohio has probably inserted more in his amendment than he intended. There are some persons who possess the franking privilege to whom you can give nothing to compensate for it—for instance, the widows of the deceased ex-Presidents Adams and Taylor.

Mr. PUGH. It is a mere gratuity: it can be revoked.

Mr. DAVIS. I offer this as a substitute for the amendment of the Senator from Ohio:

And the franking privilege now accorded to members of Congress be, and the same is hereby, abolished.

Mr. PUGH. The reason why I offer my amendment in its general form, I will suggest to the Senator from Mississippi, is, that I want to make the Departments support themselves. If the Secretary of War, or any person under him, has a letter to write, let him pay the Post Office Department the postage out of the contingent fund of the War Department. I see no reason why executive officers should have the franking privilege more than we. I named the 1st of December, in order to give us time, and to give the Secretaries time, to get rid of the documents printed at this session of Congress, and there stop the business. I want to stop the franking privilege of the chiefs of bureaus and heads of Departments, and I want the Postmaster General himself to know that he shall not load the mails down with free matter, but that he shall pay for his postage out of the contingent fund of the Department. I want to make everybody pay postage—the Government and all the Departments, as well as the people. That is the reason I offer the amendment so broadly.

Mr. DAVIS. I have great confidence in reforms which begin at home. It is even more essential that reform than charity should begin at home. I have no fear of any reform which Congress will apply to itself. Then, again, there is no reform which will be effective for so much good as this. It will not only relieve your mails of the immense burden which is now piled upon them, but it will relieve Congress of the vast appropriations entailed upon it by the franking privilege. You will make no more books; for, if people will not pay postage on them, you will not want to send them. It will reduce the charge for printing for Congress more than it will save in the mails. It will have no such effect, however, upon the Executive Departments. They can send nothing but their correspondence, and it would be no great weight taken off the mails; and, moreover, if you abolished the privilege, so far as they are concerned you would only have to furnish the money, dollar for dollar, by an increase of the contingent appropriations. If it be well, let it come hereafter. It may be well; I have no positive objection to it. It is merely a different form of appropriation of money so far as they are concerned. With regard to ourselves, however, the abolition of this privilege is an economy; because it will lessen the amount of matter which will go into the mails. It will work a double economy, fruitful in every degree. I think it ought to follow the measure which has just been adopted. Indeed, it was at first with me an opinion that the two ought to go together; and the one I have just sent up was torn off from the one offered by the Senator from Arkansas, which has been adopted.

There is another matter which I think is quite as important—the charge put upon newspapers. When you mail a letter you have incurred half the expense of transporting it to the most remote point. When you have the letter started in the mail, it goes two hundred miles as easily as twenty-five by a regular line. The great expense is in mailing and delivering it. The letter itself is so light as scarcely to be felt; but you cumber the mail-bags with newspapers, with pamphlets, with books; you overload the inland mails with matter which increases the weight so as to render them difficult to transport. More than that, in the large cities, where they have great facilities for printing, they are enabled, at the very low rate now charged on printed matter, to scatter their newspapers all over the rural districts, and to break down the provincial press. If newspapers had to pay in proportion to their weight and the distance they were transported, you would very soon make the Post Office Department self-supporting; and if members of Congress would send a speech home which they wanted to print in large num-

bers for circulation among their constituents, it would benefit the local press whilst it relieved the mail. All this will be the effect if you merely strike off the franking privilege from members of Congress. There, I think, is the place where the first remedy should be applied.

Mr. WILSON. I move to amend the amendment—

Mr. BROWN. This is an amendment to an amendment, and cannot be amended.

The PRESIDING OFFICER. (Mr. BRIGHT.) The Senator from Mississippi offered his proposition as a substitute.

Mr. PUGH. I suggest to the Senator from Mississippi, at all events, to fix a time at which the operation of his amendment shall commence, so as to allow the books printed at this session to be distributed. That is the reason I put in a future day.

Mr. DAVIS. I vote for printing so few of them that I think all I ever vote to print are worth the postage, and I do not want to send a book to anybody for which he is not willing to pay the postage.

The PRESIDING OFFICER. The Chair does not understand the Senator from Mississippi to move his proposition as an amendment to the amendment of the Senator from Ohio.

Mr. DAVIS. No, sir; but as a substitute.

Mr. WILSON. I move to amend the amendment by adding:

And that all mail routes, the income of which does not pay the expenses of such routes, shall be discontinued.

I agree entirely with the Senator from New York in the remark he has made, that the country is not prepared for the radical change that has been proposed here to-day. The system of cheap postage was adopted in imitation of the policy that had been adopted in England. Perhaps the country acted somewhat hastily and unwisely at that time; for there is a vast difference between a little island, densely populated by a commercial and manufacturing people, and a continent like ours. But, sir, the proposition which has been made here to-day to increase the postages, will, in my judgment, be most unwelcome to the country. I am ready to vote to abolish the franking privilege. I have no objection to that; but the people of my State pay into your post office revenue from one hundred and fifty to two hundred thousand dollars annually at the present rates, more than enough to pay all their expenses; and this excess is given to establish mail lines in the thinly-settled sections of the country, from which the demand now comes to increase the rates of postage. Thus, you are to tax the people of my section one or two hundred thousand dollars more in order to keep up lines in sections of the country where they will not begin to pay anything. This demand now comes from that quarter; and I have no doubt that if the policy of increasing the rates of postage be adopted, you will find, sooner or later, that many of those lines which have been forced on the country to meet the wants of people in newly-settled sections will have to be abandoned.

I am not willing to vote for an increase of the rates of postage at this time, but I will go with the Senator from Ohio in abolishing now the whole franking privilege. I had rather pay my own postage than be burdened as I am by letters of no account whatever, and by which I am compelled to sit up sometimes until three or four o'clock in the morning—letters not one in ten of which is of any value to me or any human being. I am ready to pay my own postage here; we can afford to do it out of our salaries; then we shall not have one fifth part of the letters to answer that we have now, and we shall not have to attend to the distribution of documents. That is a burden which I think every lazy man at any rate ought to be glad to get rid of. I confess that I am too lazy to toil, as I am actually compelled to toil, sitting up during the weary hours of the night franking speeches and documents, and answering letters that are of no account to me or anybody else. I am willing to save the country that; but I tell you, sir, it is a mistake at this time to change the rates of postage, and I hope that proposition will not prevail.

Mr. PUGH. It has prevailed.

Mr. BROWN. I shall vote for the amendment proposed by the Senator from Ohio, but I rise chiefly to say that all of us must know this meas-

ure brought in in this way and discussed in this manner is to end in nothing. We are wasting very precious hours here. You cannot introduce in this sort of side-bar manner a great reform in a usage which has existed since the foundation of the Government. It ought to be done, and I will vote for it, simply as indicating my opinion; but who dreams that the House of Representatives is going, in this sort of way, to give up this privilege? Why, sir, it is half their stock in trade. You would bankrupt the political fortunes of at least half of them, as they think, by abolishing the franking privilege. All young members of Congress think so. They set a much higher estimate on this privilege than those do who have been here ten or fifteen years. Experience teaches them that it is like the patronage of the President—it breaks them down at home because they cannot frank to everybody. At an early part of the session I should like this discussion to go on; it would enlighten the country; but we have not time for it now. Let us take the vote, however, and send the proposition over to the other House.

But I want to say a word to the Senator from Massachusetts, on the subject of old Massachusetts being so terribly taxed and belabored for the benefit of other people. How long have other people been taxed in other respects for the benefit of Massachusetts? What are all your tariff laws and protection laws, but to levy taxes from people outside of Massachusetts for the purpose of sustaining Massachusetts interests? I agree that is all wrong. I should like to have a postal system by which each State should sustain its own arrangements, and then I should like another system by which no discrimination should be made in favor of the industry of one State or one section, against the industry of another State or another section. I want equality all round. I do not think Massachusetts has much reason to complain of a discrimination of a few cents postage, for since I have had any connection with politics, and long before, she has been constantly asking favors. She cannot even take codfish without getting something for it. [Laughter.]

Mr. SEWARD. I take it that all the favors Massachusetts or the other manufacturing States get from this Government, in mitigation of their burdens, is dictated by the necessities of the Government in regard to revenue, and not by any consideration of favor or patronage to their great interests. Upon the question before us, I have to say that I will vote very cheerfully to abolish the franking privilege irrespective altogether of the other questions with which it is connected. The amendment suggested by the honorable Senator from Massachusetts as an amendment to that proposition, has a hostile look, and I hope, therefore he will withdraw it; and if he deems it proper that he will hereafter present it as a distinct proposition, so that we may now have a distinct vote upon the question of abolishing the franking privilege, which abolition I am in favor of. I would suggest, however, to my honorable friend from Massachusetts, that there is something which looks like retaliation in his proposition. I do not myself subscribe to the principle. I believe it is right to raise revenue, or some way to maintain postal communications. I do not believe that it is a principle to be absolutely fixed, that every man who receives a letter shall be taxed a proportionate cost of maintaining the whole of this system. I regard the inland postal system as a great instrumentality for maintaining and preserving and extending this Union. I regard the ocean postal system as a great agency for extending the commerce and the political influence of this country throughout the world. I am willing, therefore, that the system shall be maintained in all its amplitude, for the purpose of extending accommodations to those regions which are new and unable themselves to sustain them. I think that has been the experience heretofore of the system, and those States that do not now pay will ultimately come to be paying States, and in their turn there will arise new States that will not be self-sustaining. But I agree with the honorable Senator from Mississippi, who has just taken his seat, that this discussion may be well and wise enough, but the measure is premature; it is not well to raise the people's taxes, especially upon knowledge and upon the intercourse of affection, without their being heard and having an opportunity to express their opinions.

Mr. GWIN. I would suggest to the Senator from Mississippi, who, I know, is anxious that the proposition which has been adopted shall pass—as it is a very great improvement—whether it would not be better to stand by that for the present, and hereafter to take up the question of the franking privilege, and digest and prepare it, and bring forward a proper measure in regard to it? If we vote both on this bill we may lose both; but I am certain we can carry the one we have already adopted if we do not mix it up with this.

Mr. DAVIS. I will say to my friend from California that I have no great hope of abolishing the franking privilege. I brought forward such a proposition in the Senate Chamber some six or seven years ago, and it met with very little support.

Several SENATORS. We will agree to it now.

Mr. DAVIS. I am glad that it is finding favor, and I hope it will some day prevail. I want it disconnected from other propositions, so that they may all stand on their own merits.

Mr. BRODERICK. I have no objection to abolishing the franking privilege, but I think it is a very late day in the session to bring forward for consideration so important a measure. If it is to be abolished, I hope some of our heavy mail contracts may also be abolished, if we can reach them. If we are to send no letters to our constituents, and receive none without paying for them, we shall have no necessity for half a dozen mails to every large place in the United States and to Europe. I think it will interfere with the jobs that a great many gentlemen have been attending to during this winter. Why, sir, the city is full of contractors for carrying the mail to every place. It costs the Government very nearly two million dollars a year to carry the mails to my State. You have got a mail running from a little place in Missouri to some inland village in California; and I understand that a contract was made the other day for \$100,000 to carry the mail from some place in New Mexico to an interior mining town in California of no earthly use to the people of the State generally; and I believe the time allowed to the contractor would be sufficient for an Indian to put the mail in his hat and walk the whole distance. [Laughter.] Still this contractor has made a contract with the Government, I believe, to carry the mail for \$100,000 or \$150,000. If gentlemen are exhibiting patriotism here, I hope they will strike at that great abuse, for we are paying too much for carrying the mail.

But, sir, I have no idea that one half of the Senate are sincere in asking for this radical change at this late day in the session. I do not believe that the House of Representatives will give any consideration to it; for a Representative that is elected for two years is very anxious to be popular with his constituents. It is very well for us who are elected for six years to show patriotism; but I believe the other House will treat it very differently. I think it is occupying the Senate unnecessarily; and I hope, after this exhibition of patriotism, we shall take a vote.

Mr. WILSON. I withdraw the amendment I proposed, and I say very frankly, I am not for it myself. I proposed it for the purpose of calling the especial attention of gentlemen to the fact that those sections of the country from whence this movement comes to raise the postage do not begin to pay their postal expenses.

Mr. CLAY. Adopt this, and we will do it.

Mr. WILSON. I wish to say a word before I sit down, in reply to the remark made by the Senator from Mississippi, [Mr. Brown.] I wish to say to him and all who act with him—and I want them to understand it now and hereafter—that the State of Massachusetts now pays, and has paid for the last quarter of a century, more than any other people in the Union to support the Federal Government, and she will do so hereafter; she must as a matter of necessity. I want the Senator to understand that we do not believe we owe any special favors to this Government on account of the manner in which it raises the revenue of the country. With regard to the little fishing bounties that you have taken away, I make the acknowledgment that, on that single point, you have something to talk about and to boast of.

Mr. JOHNSON, of Arkansas. I have but a word to say, and it is my practice never willingly to consume time. I never have voted for the abo-

lition of the franking privilege heretofore; but I am inclined now to the belief that the franking privilege is at last but a tax, not perhaps justly a tax, on the newspapers of the country, that ought to furnish information to the people. It is a means which enables those who will not pay for getting information in regard to the action of the Government to rely on getting franked documents.

That I believe is one consideration; but there is a far worse one so far as the practical operation of the system is concerned. You may take the most eminent men in either branch of Congress, and you may take those not so eminent, who labor with the utmost faithfulness for their constituency, and you will find that they have not time to frank documents. No one will say that Congress does not sometimes have a pettifogger or a demagogue in it; and a man of that sort can pay seductive attentions to the people by devoting himself to sending insignificant or worthless public documents. He may spend his time in that way, and undermine the very best, most faithful and most laborious men you have, by that kind of trifling attention. The people of the country do not see it plainly, but when they are honored with an attention from one who has a position here, they feel kindly in return for it. The very essence of representation is poisoned at its inception by the process. The best men sent here are the most negligent in seeking to use such means in order to sustain themselves, and they have something else to do than franking documents.

As I have sent a large number of documents to my own State, I beg leave to say, in connection with the remark I have just made, that I have never franked them myself. I have franked parts of them, but I have never directed them myself. If I had done so it would have destroyed my power and ability, physically, to attend to the business of my constituency, and the consequence is what? It has been a tax upon my pocket; it has been a tax of hundreds a year, and a tax which is paid in deference to what is expected of me. I shall do it so long as the franking privilege exists. But when the privilege ceases, I know my people will not expect it, but will go to the public press to ascertain truly what are the facts; and they will not only get the information in regard to my course and my actions here, but they will get information very much more widely extended than anything they could get by the petty documents I might be able to send them. Therefore it is that practically I believe the franking privilege has advantages so few and disadvantages so great, so corrupting and so unjust in their influence and effect, that I shall henceforth vote to abolish the privilege of franking by members of Congress.

Mr. BROWN. I do not mean to speak, because I want to vote; but I do not want the Senator from Massachusetts to suppose that he convinced me, by his declaration that Massachusetts was paying so large a sum to the Government, that she stood in advance of all the other States. I wish to say to him now simply, that we will adjourn that discussion to December next. I will undertake to demonstrate that the people of Massachusetts are not to be credited at the Treasury for all that is paid at Boston; they are not her payments; and that she is to be charged with whatever she makes under your revenue laws as clear profit. I propose, in December, when we meet again, and come to overhaul the revenue system, as I suppose we shall, to discuss these propositions with the Senator from Massachusetts. This is not the time to do it now.

Mr. WILSON. I shall be ready.

Mr. BAYARD. I have no doubt that the franking privilege may be seriously modified, or perhaps abandoned altogether; but I do not intend to vote for any legislative proposition on this bill. I am satisfied the whole system is a vicious one that we are falling into, and it is becoming worse every day. I hope the House of Representatives will reject everything of the kind you put on the bill. We have committees organized for the purpose of considering and reporting to us on any subject-matter which is thought worthy the attention of the Senate. This species of legislation destroys the whole effect of that system entirely. We have partial and mingled legislation on every appropriation bill that comes up. We shall have our laws in a state that it will be almost impossible for anybody to understand them. Provisions are placed on them

in the hurried discussion of a single day, without any previous notice of the subject you have to discuss, without any report of a committee; and it is impossible, whatever may be the extent of our intelligence, that we should not commit serious blunders by such a course of legislation. For this reason, and this alone, I mean to vote against the whole system of legislation upon appropriation bills.

Mr. BENJAMIN. I do not rise to make any remarks, but to suggest an amendment which I think will assist this proposition, particularly in its passage through the other House. It is to make this abolition of the franking privilege take date from the 4th of March next. Many members of the other House, having been elected until that time, consider that they have a right, under their election, to frank until that time; that it is a kind of contract, as it were; that they have a right to their franking privilege until the 4th of March next; and by that time we can get rid of the documents.

Mr. DAVIS. Half a loaf is better than no bread.

Mr. BENJAMIN. I think you will carry it in that way, and no other.

Mr. PUGH. I was about to accept the proposition of the Senator from Mississippi, [Mr. Davis;] for I do not think there will be any blunder in abolishing the franking privilege to some extent. If it is the wish of the Senate, I will accept the amendment of the Senator from Mississippi.

The PRESIDING OFFICER. The amendment, as modified, will be read.

The Secretary read it, as follows:

And be it further enacted, That the franking privilege now accorded to members of Congress, be, and the same is hereby, abolished from and after the 4th day of March next.

Mr. STUART. I desire to say only a few words on this question. I agree with what most gentlemen have said, that the franking privilege could be much better described by calling it the franking burden; but I doubt the propriety of abolishing it entirely, although I shall vote for that. I suggested to the Senator from Mississippi, the other day, when the question was up, when he made some remarks on the subject, to perfect his ideas by drafting a bill. One idea he suggested was for the distribution of certain documents that are ordinarily published throughout the States, through the officers of each body of Congress, to certain public libraries and county seats, or other places that might be designated. I think that wise and proper. All that can be done hereafter.

I must say also, that I doubt the propriety of abolishing this privilege so far as letters are concerned; still, I am not going to dispute about that; I am only throwing out my suggestions. It is undoubtedly true, as other Senators have suggested, that it is only on appropriation bills at the last hours of the session when these great questions of reform are presented, at a time when it is pretty generally understood that in one or the other House, or both, they will fail. I have no doubt that the honorable Senator from Arkansas has presented his proposition in good faith; he has shown that in all respects; but if it had been presented in the early part of the session, in a matured bill by itself, it is conceded by all it would have been much better considered.

I wish to make another suggestion while I am up, and that is as to the manner in which we do business on the appropriation bills. The constant argument is that no legislation shall be put on appropriation bills; still it goes on upon one subject or another, and what is the final result in the end? because that, I think, is important to be considered by the country. In the end, at best, the legislation of the country is done by six men, probably it is done by two, for I think it is generally true that the committees of conference are suggested by either the Presiding Officer of each House or the chairman of the Committee of Ways and Means and the chairman of the Committee on Finance. If so, then the legislation of the country is in the hands of two men, or six, at the outside. I have tried, so far as I am concerned, to prevent this at this session, and I do not mention it now by way of complaint. The extension of the session will do us no good. But the other day, when the Senate was full, we rejected a proposition for increased steamers twice by a decided vote. When the Senate was reduced to a bare

quorum—thirty-five Senators voting—the same proposition, in a more objectionable form, passed by one majority. Thus it is that we must sit here—no remedy for it—until the last hours of the day, and with a bare quorum we pass a bill. It then goes into the hands of a conference committee, as I have said, and as it comes from that committee, so it is the law. The best amendment that can be put on, if rejected by that committee, has gone to the tomb of the Capulets. You cannot reject the report of a committee of conference. It is not amendable by parliamentary law, and one has scarcely ever been rejected in the history of the country.

I do not wish Senators to misunderstand me as criticising the actions or the motives of anybody else; but I simply mean to suggest that we ought to consider the appropriation bills strictly as such, and in time; and we ought to perfect these other measures, and present them in time too. That is what ought to be done: now you cannot do it. What is the next best thing? Here we are again; you cannot perfect this measure; it is conceded by every gentleman that you cannot perfect it. When you have abolished the franking privilege, you have got to do something else; you have got to make appropriations to pay for some portions of the postage. All this has to be done. The documents you have got must be disposed of. They are not to be lumbered up. You have not got buildings enough in Washington to contain them; it is not the place for them; there are many of them which ought to go to the country. Certain of them are historically referred to for historical purposes, and they should go to the country, and be put in proper places. But, sir, I feel as other Senators do on this subject, never having spoken a word about it before in my life, and always ready to vote to abolish this privilege, either totally or qualifiedly. I am willing, with other Senators, now to strike the blow; and when the franking privilege is abolished, when your legislative documents which you publish here are upon you, and when the Capitol is not big enough to hold them, nor any of your other buildings, then the necessity will be upon you to provide the means for their proper distribution throughout the States.

Mr. PUGH. Quit printing.

Mr. STUART. But certain things must be printed. I know that when gentlemen refer to documents, they sometimes allude to those which are denominated as picture-books. That is quite another question. Your legislative documents, such as constitute the history of your country, and your business, are published, and must be published; and if there is any propriety in publishing them, it is in order to furnish information to the public; and they must go out that the public may see them. I beg pardon of the Senate for trespassing so far, but I thought my views might, perhaps, be misunderstood. I am ready to vote.

Mr. FOSTER. I move to amend the amendment by inserting before the words "members of Congress," the words "the President of the United States and the heads of Departments;" and after the words "members of Congress," "and any other persons."

Mr. PUGH. I hope the Senator from Connecticut will withdraw that amendment. I am satisfied that if we bring members of Congress up to their own question and take this privilege from themselves, we can carry it. I believe the other House will agree to it. That is the reason I accepted the proposition of the Senator from Mississippi, and although I am in favor of striking at the other, I shall be compelled to vote against the amendment of the Senator from Connecticut.

Mr. DAVIS. It will require immediate provision to be made, or the very operations of your Government will be checked. The Departments have not the means of prepaying the postage on letters which they necessarily send out.

Mr. SEWARD. I am very sorry that a question of detail should embarrass us; but I cannot see how it will be unreasonable to vote for the amendment of the honorable Senator from Connecticut. If I tie my hands, and agree to pay the expense of my communications with my constituents, during a Kansas debate, I am not willing to give the franking power to the heads of the Departments and the President of the United States. I like fair play.

Mr. FOSTER. I am by no means desirous of embarrassing the amendment of the Senator from

Ohio, and I regret that gentlemen should request me to withdraw my proposition, when I feel that I ought to insist on it. I believe it will strengthen the first proposition in the other House, most decidedly, and there is manifest justice in it. To abolish the franking privilege in part, and not abolish it altogether, is unjust; it is contrary to the analogy we see adopted in England, where I believe the Queen cannot frank a letter. If she puts a letter in the mail she must pay the postage on it. There is certainly equality in this; and any other system than this is unequal and unjust.

Mr. BRODERICK. I ask for the yeas and nays. ["Oh, no!"] It is a very important question, and I hope we shall have the yeas and nays. The yeas and nays were ordered.

Mr. COLLAMER. The heads of Departments have no power of franking. They have the power to indorse "official business" on a paper, and then it goes free; but they, as heads of Departments, have no power to frank.

Mr. DAVIS. It is a duty, not an option.

Mr. COLLAMER. The duty of sending off official papers.

Mr. HOUSTON. I believe the amendment is to include the President and heads of Departments in the provision for abolishing the franking privilege, when it is done after the 4th of March next. That will not affect my rights or my convenience at all, and therefore I feel at liberty to ask the gentleman who has offered it—I am not aware who it was—what is the object of abolishing the franking privilege? What will you substitute in its place for the purpose of distributing public documents? I should like the mover of the amendment to let me know the object of it. I have been indisposed and have not been present before, and I hope he will be so kind as to let me know the object of it, and the benefits to arise from the provision. Before the amendment is adopted, I ask him to state what his object was, and if it is anything beneficial, I am prepared to vote for it. If not, I am not prepared to vote for it. I hope to be enlightened on the subject. ["Question!" "Question!"]

The question being taken by yeas and nays on the amendment of Mr. FOSTER, resulted—yeas 19, nays 20; as follows:

YEAS—Messrs. Bell, Broderick, Brown, Chandler, Clark, Doollittle, Douglas, Fessenden, Foot, Foster, Hale, Hamilton, Houston, Johnson of Tennessee, King, Rice, Seward, Wade, and Wilson—19.

NAYS—Messrs. Allen, Benjamin, Bigler, Clay, Clingman, Collamer, Davis, Fitch, Green, Gwin, Hunter, Johnson of Arkansas, Polk, Pugh, Reid, Sebastian, Stuart, Thomson of New Jersey, Wright, and Yutec—20.

So the amendment to the amendment was rejected.

Mr. SEWARD. I now ask for the yeas and nays on the amendment of the Senator from Ohio, [Mr. PUGH.]

The yeas and nays were ordered.

Mr. HOUSTON. I suppose this is urged as an economical plan because Government is a little straitened for money. I do not know how much it will bring into the Treasury, but certainly it will make some changes. I think it will be the means of creating about fifty situations for clerks in addition to the present number of clerks employed in the Post Office. How it will save any money I cannot possibly conceive. I have heard no reason.

Mr. DAVIS. How?

Mr. HOUSTON. Find that out yourself.

Mr. DAVIS. How will it create a necessity for additional clerks?

Mr. HOUSTON. I will tell you how it is. It is necessary that many of the official documents shall be distributed. Of course, when they are distributed by the mails they will have to be registered. The Postmaster General has, perhaps, twenty or thirty thousand to go from his office. He must pay for every one of them. Who is to keep the registry of them? Are not other officers in the same state? Then, will it not be necessary to have more clerks? This proposition cannot affect me; it will affect the public, and will have to be relegislated upon at some future day. I could never see any advantage that could possibly result from the abolition of the franking privilege. I thought the proposition came from a man who was a little crazy or demented, when it was made some years ago, that no advantage could arise from it, and that multiplication of offices would be the consequence; because the public

must pay the expense of the necessary correspondence of the officers that are engaged in public business; for they cannot support it. It would take the salaries of the heads of Departments to give distribution to their documents, if they had to pay for them.

Mr. JOHNSON, of Arkansas. You are talking about what is not in the proposition.

Mr. HOUSTON. Members of Congress are to make distribution of documents. How are they to do it? Must they be registered at the post office, or must you pass a special law at every distribution of a document? I trust there will never be fewer than there are to-day. Not a day passes that I do not receive applications for the Patent Office reports. They are the most important matter connected with the civil administration of this Government, out of the dispensations of this city. Are we not to have the privilege of distributing them? I am going out on the 4th of March next, and no benefits or convenience will result to me, I grant you; but it is a principle, a fixed principle with me, that justice ought to be done; that the Government ought to be administered on the most economical terms. Is this the way to do it? Not at all. What will it save? Will the increase of clerks save money? Will it increase the morality of the Government? Will it strengthen our institutions, or build them up by the multiplication of officers? I think not. It makes places for friends. Members have got friends. A great many of them do not care how many friends they can get into office; but they do not wish to treat their friends at a distance with any degree of favor, or to conciliate them by conferring actual benefits on them through any official medium; and hence it is that you block up the rays of light that ought to be disseminated to the people at a distance. You may talk of benefiting contractors. I wonder how that would be. Do you think you will get your mails carried for a less sum than now? Not a farthing; their cost will never be reduced. They are like the salaries of officers which you are every day eking out. Who ever heard of a salary being reduced? Who ever heard of the number of officers being reduced? You may increase them; but you cannot diminish them.

I am in favor of continuing the system that has done well, without any modification of it, unless it be to simplify it, or to save money. If you say that, when officers are writing on official business, they cannot frank a letter in the discharge of their duties, and it is not beneficial to them but to others, what do you gain? If the Government does not get three cents on such a letter, is it swindled out of anything? I really have never heard the first reason given for this modification of the postage laws, and I should like to hear some.

Mr. JOHNSON, of Arkansas. I ask the Senator did he agree to a modification of the postage to five cents?

Mr. HOUSTON. I think it ought to be ten or five cents at least. There is no source of revenue on earth as equitable as it is; for, if a man does not write, he does not pay.

Mr. DAVIS. The Senator from Texas has argued one question, and the Senate is considering another. He is arguing the necessity of having the franking privilege continued to heads of Departments and executive officers, and we are treating the subject of the franking privilege to members of Congress.

Mr. HOUSTON. The other amendment was rejected.

Mr. DAVIS. Then why did the Senator argue it after it was disposed of, after it had been rejected, as he says?

Mr. HOUSTON. I wanted to let the people understand it. [Laughter.]

Mr. DAVIS. The Senator did, however, make some remarks which had application to the subject before us. He spoke of this being the center of light, from which the rays were to be disseminated by the franking privilege throughout the country.

Mr. HOUSTON. Intelligence.

Mr. DAVIS. Rays of intelligence; light, I believe, was the Senator's word, and I understood him to mean intellectual light. He mentions also that he has no interest in it, that it continues to the 4th of March next, and that he will be no longer among us. That, of course, is a matter of regret to us.

Mr. HOUSTON. None at all.

Mr. DAVIS. But it may still be a loss to the country. If that light from the center be taken away, which is disseminated through the franking privilege, we may look to the other side of the case, and see if it will save money. I think the Senator asked, in the beginning, what was the reason of this, and required explanation. I did not know really that he had heard nothing of the debate. Reasons were given plenty as blackberries in summer.

Mr. HOUSTON. I did not hear them, for I was indisposed, and lying down.

Mr. DAVIS. Surely the Senator will not come in after lying down until the question has been discussed and brought up to the point of voting, and require us to tell him, then, all that has been said.

Mr. HOUSTON. No; I want only one reason. [Laughter.]

Mr. DAVIS. One reason, then, which I think a very good one, is, that it is in the line of equality. The Senator's correspondence, widely diffused as it must be, from his general acquaintance with the people of the United States and their general admiration of him, still must be limited to but a small portion of the people, even of his own State, whilst the whole body of the people of the State are taxed by a postal system which exceeds its revenue. Now I propose that those who receive the benefits of the system shall bear the burdens; that those who receive letters, or those who send letters, shall pay for them. Let Congress pay, in any form which may be provided, for such official correspondence as it is necessary to conduct, and let all be prepaid. All that is voluntary let a member pay for himself. Let those who write to him prepay their letters. They will write to him either from interest or on matters of business; he will answer them, and, I suppose, the correspondence will be quite equal in each case to the postage. It is a burden which they ought to bear. It is their business; it is not the business of the public.

Then I will say to the Senator that I have another motive. He asked me for one reason, I will give him two, in that true spirit of Christian charity which always gives double what is demanded. I want to reduce the vast expenditure for printing, which has made the Congress of the United States the greatest publishing establishment in the Union, and I believe it will be reduced, when members no longer have bound books to send through the mails free of cost to their friends in different sections of the country. If the book is worth anything it is worth the charge on its transportation. The man who receives the book should pay for its transportation, or if it is not worth that, burn it here, and stop the publication in future.

Mr. HOUSTON. I believe this mail business is carried on by prepayment—

Mr. DAVIS. I beg the Senator's pardon. I did not answer one point which he made on me, and I will do that. That was about clerks. I believe he left me to find that out for myself, and therefore I feel that I am bound to answer. To take the case he cited, the Postmaster General will get five hundred or five thousand stamps, which will be put on a letter when it is sent away instead of his sign manual, and in neither case will it require any registry by clerks. The putting of the post office stamp upon the letter will require less time than the signing of his name, and as the one letter need not be registered so of the other.

Mr. HOUSTON. I thank the gentleman for his suggestion; but these stamps have to be paid for, and they will report after a while that the Government is swindled out of more than they would gain out of this system. I really cannot understand any advantage that can possibly result to the Government. As for the public documents, is it not important that the people should at least receive a portion of the public documents: the President's message, and the reports of the heads of Departments?

Mr. DAVIS. They are printed in the newspapers.

Mr. HOUSTON. But every man is not able to pay for a newspaper. It would be imposing a very heavy tax upon him if you were to oblige every man disposed to read these documents to subscribe for a newspaper. They are matters of

record, and will be matters of reference. The humblest man of the community, if he intimates his desire to a member of the Senate, or of the House of Representatives, can obtain the President's message with the accompanying documents. Hence, I think if it should impose a little duty on members they might well bear it. I have, in my life, borne it for sixteen years here. I never had, until the last few years, any assistance in discharging my duties in this way; and I am for leaving gentlemen heirs to a full share of the labor of it. I am not for imposing any arduous or unjust task on them, for I know when the people have reposed confidence in them, in their fidelity, good feeling, and patriotism, that it is a poor requital when they furnish them with such articles or such documents as contain important intelligence in relation to the Government of the country, and which are furnished by the Government. Therefore it is that I never could see any advantage in this proposition, though perhaps it will be a saving to the country. If it is, I know not what that saving can be. I thank the gentleman from Mississippi for his information. He may have given me light, but I do not perceive it. It may be owing to my dullness of apprehension. I have no doubt of his acumen, or of the explanation which he has offered, but I really cannot comprehend that there is any advantage in it. Taking for granted all that he has said, I cannot see any advantage to result to the country, and therefore I am opposed to it.

Mr. FITZPATRICK. I have paired off on this question with the Senator from Connecticut, Mr. Dixon. I should vote for it, and he would vote against it.

The question being taken by yeas and nays, resulted—yeas 38, nays 4; as follows:

YEAS—Messrs. Allen, Benjamin, Bigler, Bright, Broderick, Brown, Chandler, Clark, Clay, Collamer, Davis, Doollittle, Fessenden, Fitch, Foot, Foster, Green, Hale, Hamlin, Harlan, Hunter, Johnson of Arkansas, Johnson of Tennessee, King, Mallory, Polk, Pugh, Rice, Sebastian, Seward, Stuart, Thomson of New Jersey, Toombs, Wade, Wilson, Wright, and Yulee—38.

NAYS—Messrs. Bayard, Clingman, Houston, and Reid—4.

So the amendment was agreed to.

Mr. SEWARD. I offer the following amendment as a separate section:

And be it further enacted, That, from and after the 4th day of March next, all postages shall be prepaid.

Several Senators. That is the law now.

Mr. BENJAMIN. I understand that to be the law now. I do not understand the amendment. Is not that the law?

Mr. YULEE. Certainly that is the law.

Mr. CLAY. I make this suggestion to the Senator: the amendment we have just adopted substantially is, that, from and after the 4th of March next, the franking privilege of members of Congress be, and the same is hereby, abolished. The question still recurs to my mind, whether letters, under existing laws, would not still be addressed to them free of postage; and I think this amendment would obviate that.

Mr. SEWARD. There is no harm in having the amendment offered.

Mr. PUGH. We had better amend it.

Mr. GREEN. I suggest to the Senator that the difficulty which occurs to my mind is this: this is the existing law, probably, except where there is a special exemption. By moving this as an amendment, the construction of it will be that that, probably, is not the law until the 4th of March next, and this interregnum will be considered to be a time in which mail matter can go without being prepaid. There is the difficulty.

Mr. SEWARD. Perhaps it would be better to obviate that difficulty by making the amendment read:

That from and after the 4th day of March next, all matter passing through the mail shall be prepaid.

Mr. BENJAMIN. That would abolish the franking privilege of the heads of the Departments and the President.

Mr. DAVIS. The Senator can have a vote taken on the measure in another form by presenting the amendment which has been rejected.

Mr. SEWARD. I know that embraces this proposition; but it does also other important things. I want now a vote on this amendment as a separate measure.

Mr. YULEE. I will suggest to the Senator from New York to exempt foreign letters. There

will be an inconvenience attending the application of that rule to foreign letters.

Mr. SEWARD. I cannot help it.

Mr. YULEE. Then I hope we will vote it down.

Mr. PUGH. Let us hear the amendment read again.

The Secretary read it.

Mr. PUGH. That is all right.

Mr. SEWARD. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. COLLAMER. I believe a short time since there was a proposition to abolish the franking by heads of Departments, who now have the privilege of sending official papers free. I thought that was rejected. I take it the adoption of this amendment would readopt that, because everything is to be prepaid. Voting as I did against abolishing what they call the franking by heads of Departments, I cannot vote for this amendment, because, in my judgment, it will amount to the very same thing.

Mr. HAMLIN. In the debate which took place upon the other amendment, I think several Senators said (or if it was not said in debate, it was said in private conversation) that they did not want to vote for that amendment, because it would embarrass the proposition then under consideration; but would vote for it in a separate one. Now, this is a separate and distinct proposition. It is not embarrassed with the one which has been adopted, and I understand its effect to be precisely what the Senator from Vermont says. It entirely cuts off this thing of franking, and I hope it will be adopted.

Mr. DOOLITTLE. I would like to inquire of the honorable Senator from Vermont, whether, under the law as it now exists, the heads of Departments, or any person connected with those Departments, have the privilege of franking anything except upon official business?

Mr. COLLAMER. The President has the power without limitation. The heads of the Departments have not.

Mr. DOOLITTLE. Have the heads of Departments, or any person under their authority, the power?

Mr. COLLAMER. The heads of Departments, together with the assistants in those Departments, have; that is, the Postmaster General, and the Assistant Postmasters General, and the Secretary of the Treasury, and the Assistant Secretary of the Treasury have the power of franking in this way on official business.

Mr. SEWARD. It is the same way with us.

Mr. COLLAMER. No, sir; we have the right to frank on our own business, whether on official business or not; they have not.

Mr. DOOLITTLE. I wish to put this question directly: have they the right to frank newspapers or speeches?

Mr. COLLAMER. No, sir; for they cannot honestly put on any such paper as that that it is official business.

Mr. SEWARD. They do.

Mr. COLLAMER. They do not in the Post Office Department.

Mr. FITCH. I think the Senator's amendment would cover more than it was intended it should do. It will embrace newspapers, compelling publishers to pay postage in every instance, and all foreign matter which we have by treaty allowed to be free.

Mr. SEWARD. I will modify my amendment by saying "excepting newspapers and foreign matter."

Mr. HALE. There is another class that ought to be excepted. I do not know whether Congress intends to abolish the franking privilege or not, but they ought to reserve the applications of old soldiers and their widows for pensions. All communications are to be prepaid, under this provision. [Why should they not?] I am not going to say it should not be so.

Mr. TOOMBS. I should think those people who get donations might well afford to pay for their letters on the subject. I do not know a better class in the United States for paying.

Mr. YULEE. I ask the attention of the Senator from New York a moment. I suggested to him the propriety of excepting foreign letters.

Mr. SEWARD. I have already modified my amendment in that way.

Mr. YULEE. Let me read the law as it stands, and see whether it is necessary to legislate at all in the direction the Senator proposes:

"And upon all letters passing through or in the mail of the United States, excepting such as are to or from a foreign country, the postages as above specified shall be prepaid, except upon letters and packages addressed to officers of the Government upon official business, which shall be so marked on the envelope."

Does not the law stand well as it is now?

Mr. SEWARD. No, sir. I prefer to make no exception.

Mr. TOOMBS. If I understand the proposition of the Senator from New York, it is to make all pay. He wishes to except everybody. It embraces the proposition lost on the last vote, by making all be prepaid. You arrive at the same thing in another way.

Mr. RICE. I would like to ask the honorable Senator from New York if he has taken into consideration the garden seeds in this amendment? [Laughter.]

Mr. TOOMBS. Yes, everything.

The question being taken by yeas and nays, resulted—yeas 23, nays 20; as follows:

YEAS—Messrs. Broderick, Brown, Chandler, Clark, Doolittle, Douglas, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Houston, Johnson of Tennessee, King, Pugh, Rice, Seward, Stuart, Thomson of New Jersey, Toombs, Wade, and Wilson—23.

NAYS—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Clay, Clingman, Collamer, Davis, Fitch, Green, Gwin, Hunter, Iverson, Johnson of Arkansas, Mallory, Polk, Reid, Wright, and Yulee—20.

So the amendment was agreed to.

Mr. SEWARD. I ask to amend the amendment by inserting after the word "matter," the words "and periodical publications."

Mr. HUNTER. You cannot add to the amendment.

Mr. SEWARD. Then I move to insert those words in the bill. There will be no objection to that.

Mr. PUGH. I object to it.

Mr. SEWARD. Very well; I move it as an amendment to the bill.

Mr. COLLAMER. I suggest whether that will not include all our speeches.

Mr. PUGH. We have adopted that amendment.

Mr. SEWARD. Are we in Committee of the Whole, or in the Senate?

The PRESIDING OFFICER. In the Senate. The amendment which has been adopted cannot be modified except by unanimous consent.

Mr. SEWARD. I move to amend the bill by inserting after the word "newspapers" the words "and periodical publications."

Mr. HUNTER. I should like to hear the last amendment reported. I should like to know what it is.

The PRESIDING OFFICER. The Senator proposes to add the words "and periodical publications" to the amendment which is now part of the bill.

Mr. HUNTER. What is that connected with?

Mr. SEWARD. Newspapers.

The PRESIDING OFFICER. The Secretary will read the amendment which is proposed, and the amendment which has been adopted, to show the connection that they will have.

The Secretary read, as follows:

And be it further enacted, That from and after the 4th day of March next, all matter passing through the mail shall be prepaid, excepting newspapers, periodical publications, and foreign matter.

Mr. HUNTER. Why except newspapers? I think they are required to be paid now. ["Oh, no,"]

Mr. KING. Not from any part of the United States.

Mr. GREEN. The postage is paid quarterly.

Mr. HOUSTON. I believe the proposed amendment will include members' speeches. As I shall be away from here, I want to have the benefit of their speeches; but I do not want to pay for them.

Mr. PUGH. We have adopted that amendment. What does the Senator propose?

Mr. SEWARD. This is another amendment to the bill.

Mr. PUGH. It cannot be put to that amendment, for the Senate has inserted it in that form. There must be a regular section, or the vote on the other vote must be reconsidered.

Mr. SEWARD. I move, then, to reconsider

the vote by which the last amendment was agreed to.

The motion was agreed to.

Mr. SEWARD. I now move to amend the amendment by inserting the words "and periodical publications," after the word "newspapers."

Mr. YULEE. I ask the Senator to allow me to suggest another modification in regard to transient newspapers. They are now prepaid, but under the Senator's amendment they would not be prepaid.

The PRESIDING OFFICER. The Chair will have the amendment read.

The Secretary read it.

Mr. PUGH. How did those words "and periodical publications" get in there?

The PRESIDING OFFICER. The Senate reconsidered the vote by which the amendment was adopted, and being reconsidered, the Senator from New York offered this proposition.

Mr. PUGH. He could not do it after the yeas and nays were ordered. I want a vote on these things separately.

The PRESIDING OFFICER. An amendment is amendable after the yeas and nays are ordered as before.

Mr. PUGH. That is against all the rules I ever heard of.

Mr. FITCH. I wish to ask the Senator from New York if he desires the discontinuance of all the small country post offices? If he does, he will have taken the most effectual method of doing it, if the amendment is adopted, for almost the sole inducement on the part of those who fill those places to discharge the duties of them is the franking privilege given them, within certain limits, under the old law. If he deprives them of that privilege, he deprives them of all inducement to retain the office, and four fifths of the small offices will become vacant at once. The percentage pays them nothing, and yet, for that privilege, and for the small pittance they receive, they will wait the arrival of the mails at nights, and perform services which the gentleman himself would not perform for hundreds of dollars.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question is on the amendment as amended.

Mr. YULEE. I beg the Senator to amend his amendment further by adding the words "to regular subscribers," after newspapers and periodicals, the object being to continue, as is now the requirement, the prepayment of postage on transient newspapers, and to confine the amendment to regular subscribers.

Several SENATORS. That is right.

Mr. SEWARD. I accept it.

Mr. FITCH. Will not the Senator accept an amendment to exclude those postmasters who are now entitled to this privilege?

Mr. SEWARD. That has no relation to this amendment.

Mr. GREEN. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. SEWARD. Let the amendment, as amended, be read.

The Secretary read it.

Mr. SEWARD. Is not that confined solely to newspapers, and periodicals? I do not know that the modification of the honorable Senator alters it at all.

Mr. YULEE. It does not help it.

Mr. BROWN. I was under some misapprehension in voting for this amendment originally. As it is amended now, I shall vote against it. I wish simply to say that, to set myself right on the record.

Mr. SLIDELL. I have paired off until seven o'clock with the Senator from Rhode Island, Mr. SIMMONS, or I should have voted "nay" on this amendment.

The question being taken by yeas and nays resulted—yeas 18, nays 28; as follows:

YEAS—Messrs. Broderick, Chandler, Clark, Dixon, Doolittle, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Pearce, Seward, Stuart, Toombs, Trumbull, and Wade—18.

NAYS—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Brown, Clay, Clingman, Collamer, Davis, Fitch, Fitzpatrick, Green, Gwin, Hammond, Houston, Hunter, Iverson, Johnson of Arkansas, Mallory, Mason, Polk, Pugh, Reid, Thomson of New Jersey, Wilson, Wright, and Yulee—28.

So the amendment was rejected.

Mr. HAMLIN. I desire to offer the following amendment:

And be it further enacted, That from and after the 4th of March next, all laws which confer the right of franking letters or other matter, on any person or officer, be, and the same is hereby, repealed.

Mr. CLAY. I raise the point of order that this is the same amendment substantially which has just been voted down. ["Oh, no!"] It is the same thing.

Mr. HAMLIN. I think we had better have the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. COLLAMER. Let the amendment be read.

The Secretary read it.

Mr. COLLAMER. That amendment has been voted down twice.

Mr. BRODERICK. I hope this amendment will prevail. We have just voted an amendment down which I think covered the whole matter. We are giving the franking privilege to the postmasters throughout the United States, while taking it away from ourselves. The postmasters can flood the country with documents of every kind. They can send bag after bag of papers; and are we to sit here and deny that privilege to ourselves, while we extend it to postmasters? I hope the amendment will be adopted. I think the amendment which has just been voted down is a very wise and judicious one, and should have been adopted by the Senate.

Mr. FITCH. My friend from California is mistaken. The country postmasters cannot flood the country with documents. They have the privilege to frank written letters, and nothing else.

The question being taken by yeas and nays, resulted—yeas 20, nays 26; as follows:

YEAS—Messrs. Broderick, Chandler, Clark, Dixon, Doolittle, Fessenden, Foot, Foster, Hale, Hamlin, Hammond, Harlan, Johnson of Tennessee, King, Pearce, Seward, Stuart, Trumbull, Wade, and Wilson—20.

NAYS—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Brown, Clay, Clingman, Collamer, Davis, Fitch, Fitzpatrick, Green, Gwin, Houston, Hunter, Iverson, Johnson of Arkansas, Mallory, Mason, Polk, Pugh, Reid, Thomson of New Jersey, Wright, and Yulee—26.

So the amendment was rejected.

Mr. WILSON. I offer the following amendment as an additional section to the bill:

And be it further enacted, That the printing of post-bills, blanks, printing drafts and warrants, postage stamps, stamped envelopes, and printing parchment for the use of the Post Office Department, shall hereafter be given to the lowest responsible bidder, after due public notice.

I have no speech to make in support of this amendment. I will simply say that if adopted and honestly carried out, it will save the Government tens of thousands of dollars, and put an end to these jobs.

Mr. DAVIS. I suggest to the Senator from Massachusetts instead of the Post Office Department, that he might modify his amendment by saying "Post Office and other Executive Departments."

Mr. WILSON. I will accept that modification most cheerfully.

The VICE PRESIDENT. The Secretary will put the amendment in that form.

Mr. BROWN. I cannot go for that amendment; and I will state, in a very few words, why I cannot. A great deal of this printing is to come up to a particular standard—your stamped envelopes, for instance. Let them out to the lowest bidder, and prescribe what shall be the quality of them; at the end of the time they are sent in, and fall below the standard; suppose you reject them; then you advertise again; but, in the mean time, what is the country to do for the work? We are forced either to accept an article which is below the standard, or we get nothing at all. I do not think it will do. You cannot do these things in a day. This a part of the humbuggery that has been going on here all day. That is my judgment about it. We shall not accomplish anything by this proposition. In two days more you will be compelled to adjourn, unless you get another extension from the House—and I hope you will not. I do hope, while I do not assume to dictate at all, but simply give my opinion, that a stop will be put to this thing. Nobody expects that reform will grow out of this proposition. The Senate has indicated, on its part, that it wants to abolish the franking privilege; but you are not going to do it in this slipshod sort of way. The subject should be taken up and considered, and abolished

by some plan which looks into all its ramifications.

Then as to the idea suggested by the Senator from Massachusetts, that a good deal of money can be saved by placing little amendments on the Post Office bill in this loose way! I can see very well that you will want these parchments and these papers; that you will want them at all times. Suppose you cannot get them, or that they are sent in vastly below the standard: what then? You are compelled either to take them or to have nothing. They are forced upon the Government, although they are far below the standard required.

Mr. FESSENDEN. The opinion which the Senator from Mississippi has just expressed with regard to the present proceeding of the Senate is precisely the opinion which I have entertained of the proceedings for the last two hours. We had better be about something else, for they will all amount to nothing. I do not propose to discuss this amendment, but simply to say, as the Senate is going on in this way, that they could certainly act upon this proposition, which is a perfectly plain and practicable one, and will save a good deal of money. Therefore, after saying that, I have only to ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. MASON. I would inquire of the mover of this proposition, whether it is intended to embrace the advertising of the Departments?

Mr. WILSON. No, sir; the printing.

Mr. MASON. That is the advertising.

Mr. WILSON. No, sir.

Mr. MASON. It embraces the advertisements.

Mr. KING. I think not.

Mr. HUNTER. It would embrace them as it now stands. We had better confine it as it stood originally. I will go for it then.

Mr. WILSON. I accepted the modification on the suggestion of the Senator from Mississippi, for whose opinions on these matters I have great deference.

Mr. HUNTER. I am afraid it would be too hasty.

Mr. WILSON. I will withdraw the modification, and let the amendment stand as it was proposed originally.

Mr. SLIDELL. I would prefer to have it as it stands. I renew it.

The VICE PRESIDENT. In what form does the Senator from Massachusetts propose the amendment?

Mr. KING. As it was originally proposed.

The VICE PRESIDENT. The Secretary will read it as it was originally offered.

The Secretary read, it as follows:

And be it further enacted, That the printing of post-bills, blanks, printing drafts and warrants, postage stamps, stamped envelopes, and printing parchments for the use of the Post Office Department, shall hereafter be given to the lowest responsible bidder, after due public notice.

Mr. REID. It occurs to me that the Senator from Massachusetts, in embracing one item of printing in his amendment, will go beyond, perhaps, the object he would like to attain. I can readily conceive that the same man who would propose to print the blanks of the Post Office Department, might be willing to do the whole printing; but I suppose it would be the duty of the Post Office Department to contract with an individual in whom it had confidence; that those blanks are not to be printed and used by anybody who chooses to sell them at a very small amount. That is a kind of printing that we ought to be very particular about. The lowest bidder might be such a man as neither the Government nor the Senator from Massachusetts would be willing to intrust that sort of work to.

Mr. WILSON. He must be a responsible bidder.

Mr. SLIDELL. I suggest to the Senator from Massachusetts to insert the words, "the lowest responsible bidder."

Mr. WILSON. They are in the amendment.

Mr. SLIDELL. Then I am perfectly satisfied.

Mr. REID. The word "responsible" would perhaps be construed to mean a man who could execute his contract.

Mr. FESSENDEN. Oh, no.

Mr. POLK. I have read that amendment; and if there are other things printed in the other Executive Departments, that amendment is objec-

tionable. It goes on, and mentions stamps, &c.; and all except the last—the printing of parchments—are applicable only to the Post Office Department; and then it adds other Executive Departments. It does not say the printing for other Executive Departments, but the printing of parchments for the other Executive Departments.

Mr. HALE. Oh, no.

Mr. POLK. I will ask for the reading of the amendment, and I will call the attention of the Senate to it.

The Secretary read it.

Mr. POLK. I submit the question to the Senate.

Mr. DAVIS. You are right.

Mr. POLK. I hope the mover of the proposition will modify it.

Mr. HALE. I move to amend the amendment by inserting "and all printing of the other Executive Departments."

Mr. YULEE. Except advertisements.

Mr. HALE. I am told that that has been once voted on to-day, and I withdraw the amendment.

Mr. HUNTER. The executive printing goes to one of the two contractors for the printing of the Houses of Congress; we cannot meddle with that. We had better take the proposition as originally presented by the Senator from Massachusetts. I will go for that.

Mr. DAVIS. I understand now by the amendment, that the printing of the Executive Departments is confined to the parchment only.

Mr. POLK. Yes, sir.

Mr. WILSON. Oh, no.

The VICE PRESIDENT. The Secretary will read the amendment again.

The Secretary read it.

Mr. DAVIS. It is confined to printing parchment for the use of the Executive Departments.

Mr. YULEE. Strike out the words Executive Departments.

Mr. DAVIS. I understand the existing law requires the executive printing, as it is termed, to be sent to the Superintendent of Public Printing, and it is to be done by one of the two Printers of the two Houses of Congress. With that understanding I was going on to say that I thought it entailed a great deal of delay, and a great deal of expense upon the Executive Departments, and that they get along much worse than if they had their own printing done in their own way, responsible only for the money which was expended. The delay must be great, for the orders of Congress lie right before the orders of the Departments. When the Department requires something to be printed and sends it here, it has to wait its time; though it requires it promptly, it cannot get it promptly. In many things the expense is far greater under your printing law than the cost of printing them would be in Philadelphia, New York, and other places where large printing establishments are managed. I believe there would be a great saving in money and a great saving in time if we were to return to the system that formerly existed, and allow each Executive Department to control its printing for itself.

The VICE PRESIDENT. The question is on the amendment of the Senator from Massachusetts.

The Secretary proceeded to call the roll.

Mr. DAVIS. I would state that I have paired off with the Senator from Wisconsin [Mr. DURKEE] for the evening. I believe he is absent, and therefore I do not vote.

The result was then announced—yeas 34, nays 8; as follows:

YEAS—Messrs. Allen, Benjamin, Bright, Broderick, Chandler, Clark, Clay, Dixon, Doolittle, Fessenden, Fitch, Fitzpatrick, Foot, Foster, Green, Hale, Hamlin, Hammond, Harlan, Hayne, Houston, Johnson of Tennessee, King, Polk, Pugh, Rice, Seward, Stidell, Stuart, Toombs, Trumbull, Wade, Wilson, and Yulee—34.

NAYS—Messrs. Bayard, Bigler, Brown, Clingman, Johnson of Arkansas, Mallory, Mason, and Reid—8.

So the amendment was agreed to.

Mr. SLIDELL. Is an amendment to the amendment that has been adopted now in order?

The VICE PRESIDENT. The Chair does not understand that there is any amendment pending.

Mr. HUNTER. If it is adopted, how can it be amended?

The VICE PRESIDENT. It is not amendable.

Mr. SLIDELL. Can I add to it?

The VICE PRESIDENT. The Chair will first hear what the Senator has to offer.

Mr. SLIDELL. I voted under a misapprehension in this matter. I find this provision, in fact, confined to the Post Office Department.

Mr. POLK. That was stated.

Mr. SLIDELL. I did not so understand it. It does not go so far as I should wish it to go.

Mr. FITZPATRICK. I will move to reconsider the amendment.

Mr. SLIDELL. I desire to extend the provisions of this section to all the printing of the Executive Departments.

Mr. SEWARD. Add it by a separate section.

Mr. SLIDELL. I prefer to reconsider it and do it in that form. I move a reconsideration.

Mr. DAVIS. I will suggest to the Senator from Louisiana that some time since I sent to the Committee on Printing a resolution directing them, if they thought it expedient, to bring in a bill to reform this matter. I am willing to wait, though I concur with him entirely.

Mr. DOUGLAS. The Senator from Louisiana can add those words to it.

Mr. SLIDELL. By general consent I desire to add those words. At any rate, I move a reconsideration, because I voted under a misapprehension.

The VICE PRESIDENT. If there be no objection, the Senator's amendment can be offered without reconsideration.

Mr. WILSON. I do not object.

The VICE PRESIDENT. The Chair hears no objection. The question is on the amendment offered by the Senator from Louisiana.

Mr. KING. What is it?

Mr. SLIDELL. I propose to amend the amendment so that it will read:

The printing of post-bills, blanks, printing drafts and warrants, postage stamps, stamped envelopes, and printing parchments for the use of the Post Office and other Executive Departments, and for the printing of parchments and all other printing, except advertisements, for the use of the Post Office and the other Executive Departments.

The VICE PRESIDENT. The Chair hears no objection to the amendment being offered.

Mr. HUNTER. If we do that, it seems to me we are acting against the law established in regard to public printing. We have elected Public Printers under the existing laws, who are to do what is called executive printing. The effect of that amendment would be to destroy their contract.

Mr. SLIDELL. I will say to the Senator from Virginia, that it is in consequence of the fact of their being elected Public Printers to the House and Senate that they have the accessory advantage of the Executive being obliged to choose either one or the other of them to do the departmental printing. The object of my amendment is to throw all this printing open to competition, and put it on the same footing.

Mr. STUART. I only wish to say that the Senator from Virginia is clearly wrong. There is no contract, nor any part of a contract, which compels us to give any particular amount of printing. They are simply Printers for what we choose to give them.

Mr. HUNTER. These Printers expect a certain amount of printing. That may be more or less in amount. It is now proposed to take that from them.

Mr. STUART. Precisely. While the previous contract existed, so far as the contract calls for printing, they should have it. We passed an amendment in regard to the printing. It was put on the last amendment, and the chairman—

Mr. HUNTER. It was put on before the Printers were elected. They were elected without reference to that law.

Mr. STUART. Precisely. We elected him to do the printing for two years, but only such things as we proposed to give him to print—that is all.

Mr. BROWN. I must say that the last remark of the Senator from Michigan astonishes me. You elect a Public Printer. You agree to give him the printing of the Government. He makes his calculations that it is going to be so much, makes his outlay, and then when he has executed one fiftieth part of it, perhaps, you take away the whole of it, and let it out by contract. Is that fair dealing? He is entitled to the printing of the Government for the Congress to which you have elected him, whatever it may be; it may be small or it may be great. He takes that risk,

buys material, puts up an office, gets ready to do the work; and after doing that, we suddenly change our minds and say to him, "you shall not do it under the contract we made; but we will let it out to the lowest bidder." That is monstrous.

Mr. STUART. I did not say that at all.

Mr. BROWN. That is the amount of it.

Mr. STUART. I do not say when he is elected Printer to Congress, that then Congress should take it away from him and have it done somewhere else; that is not the thing; that would be bad faith. It does not at all affect his contract. He was elected as Printer to Congress, but you are not obliged to make any amount of congressional printing; the congressional printing which you have ordered belongs to him; but the printing of the Executive Departments not at all. He can have that as it suits your pleasure.

Mr. FESSENDEN. I am a little afraid, although it is not so intended, by any means, that this proposition will have the effect to defeat the whole thing in the House. You so change it that in the House all the interest and all the friends of the Public Printer would defeat what we have done. We are mixing up the Public Printer's interest and matters of contract. We made a *quasi* contract, or whatever you may be pleased to call it, with these gentlemen originally, without meddling with anybody. As the law stands now, it is a useful reform, so far as it goes; but, if you undertake to meddle with it in this way, connected with a matter which interferes with the public printing, we enlist, of course, against this amendment, all the feeling for the Public Printer, and all the influence that he can bring to bear upon the subject. Moreover, the public printing is very well regulated, and we are perfectly safe in leaving it in the condition in which it is now.

There is another point of view in which it does great injustice to the Public Printer. If it be true that the Public Printer, in order to get the office, has to give large fees, has to contract with A, B, C, D, E, and F, to share the plunder, he does it with reference to what he has got to do. It would be very unjust to him, under such circumstances, to deprive him of the little profit that remains to him. I understand that the contract is not by any means a profitable one. There is too little printing ordered to make it profitable, when you take into consideration what is paid for doing it. Let us have it all fair all around, and not enlist not only the Public Printer, but everybody who shares with him, and have him bringing a lawsuit claiming damages for a large amount. I think we had better not complicate the matter.

Mr. JOHNSON, of Arkansas. I have listened with a great deal of pleasure to what the Senator from Maine has stated. I have been connected, as the Senate is aware, directly and immediately, as a member of the Committee on Printing of the Senate, with this particular subject, and I am very well aware myself, that if you introduce elements of this character you will introduce those that will be adversary and hostile to any effort of reformation. In regard to the particular matter we have been considering connected with the Post Office Department, if we adopt a proposition of this kind we adopt the most hostile movement we can towards that which we have done this afternoon. I do not believe that should be done. I do not believe that a man who is opposed to what we have done this evening could desire that the steps we have already taken should be defeated in the other House. Why? Because they do not take effect until after the 4th of March next; because, in the mean time, another session of Congress must occur, and because all interests, being united by the steps we now take, the very best intellects of each House will be brought to bear to mature a system and perfect a plan to settle the whole of this postage system.

Mr. GREEN. Mr. President—

Mr. JOHNSON, of Arkansas. As you said to me, some days ago, I say, "Take your seat, sir." I regret very much to do it. I will yield to the Senator, however.

Mr. GREEN. I thought you were through. I merely wish to make this remark; we have had discussion enough here to prove that we need the previous question. I know of no parliamentary law which prohibits the application of that rule; and I ask for the previous question.

Mr. JOHNSON, of Arkansas. I presume that the motion of the Senator from Missouri, with all

the respect I have for him—and I certainly have very great—does not demand an answer from the Chair. I have listened, as I said before, to the remarks of the Senator from Maine; and I do think that the adoption of this proposition bears directly upon those who have the public printing.

I wish to state to the Senate in regard to the amendment directly, that it proposes to transfer all the printing of the Executive Departments. Under the law as it now stands, when printing goes to the Public Printer, it is not just and right to take it away from him. It goes to the Public Printer, and if you take it away from him you take away the opportunity on his part to comply with his contract, and give him good ground to come before you for damages afterwards. I think that when we have done that which places the whole subject in our power hereafter, we ought to be satisfied with it, and leave to the next Congress the power to set the whole system right, which the operation and action we have had this evening will certainly effect, without having disturbed or interfered with, or deranged our public business up to the 4th of March next.

I therefore hope and trust they will wait for the results of a resolution which was introduced in this body by the Senator from Mississippi, [Mr. Davis,] to know what was the effect of the change in our public printing on the part of our Executive Departments; that is to say, whether it costs more in being done by the Public Printer under existing laws, than it did when it was left to the Departments themselves to have that printing done. No report has been furnished to you, because the Committee on Printing have not been able to get the facts from the different Departments; and this is the only reason why you have not received an answer from that committee on the subject. I hope the amendment will not be adopted.

Mr. BAYARD. I do not propose to prolong this discussion, notwithstanding the call for the previous question. I wish to make an inquiry as to this particular amendment, whether the effect would or would not be—it strikes me in one sense, and may strike other Senators in another—if hereafter an application should be made for more Treasury notes, to require them to be printed by the lowest responsible bidder?

Mr. BIGLER. As I understand this amendment, it provides that the contract for the manufacture of Post Office stamps and stamped envelopes shall be hereafter given to the lowest responsible bidder. Now, as I understand the present condition of that business, the contract has been made in pursuance of laws now in existence, which contracts have two and a half or three years to run for supplying these blanks and stamps.

Mr. BROWN. If my friend will allow me, I will read a proviso I have drawn up, which I will move at the proper time, to add:

Provided, That nothing in this section shall be so construed as to affect any existing contract or rights of the present Printers of the Senate and the House of Representatives.

Mr. BIGLER. Then we had better vote down the amendment. It amounts to that.

Mr. BROWN. Very well.

Mr. PUGH. The mistake Senators have fallen into is, that a greater portion of it has not been executed.

Mr. BROWN. Then my proviso does not refer to that.

Mr. PUGH. I hope the Senator from Massachusetts will strike out all but that which gives express authority to have certain work done in Washington city. The post-bills and printing parchments can be done at Washington, not by the Printer, but done in the process specified in this act; and, in my judgment, the work will be done two thirds cheaper than by this process; and I hope the Senator will confine it to printing post-bills and the printing on parchment. Then we have no question about the Public Printer. He does not print a line of them—neither the Printer of the House nor of the Senate.

Mr. BROWN. I know he does not; but let me call the attention of the Senator from Ohio to the fact that you have subsisting contracts made under existing laws, which, by this amendment, you propose abruptly to violate. If you do it, as certain as the Senate meets again you will have claims for damages, heavy damages. Parties will come here and claim that they made preparations, at

vast expense, to execute contracts which, by this amendment, you violate. Your Public Printers will say that they made vast outlays for material to fulfill a contract which was suddenly taken from them by this abrupt change of your law. What I propose, when it shall be in order, is that nothing in this act shall be so construed as to affect any present contract, or affect any right of the Public Printers elected by Congress. If they do that, let the whole thing go; but if you do not do that, I tell you, Mr. President, that you will be asked for more than a million dollars' damages done by this amendment. You have got contracts out now for printing blanks; you have contracts out, running for two or three years, to print stamped envelopes, and other contracts which it is proposed by the amendment abruptly to cut off without a moment's notice, and the result will be heavy bills of damages.

Mr. PUGH. I move to amend the amendment of the Senator from Massachusetts by striking out all but the two things I have named.

The VICE PRESIDENT. There is an amendment to the amendment now pending, offered by the Senator from Louisiana.

The amendment to the amendment was not agreed to.

Mr. SLIDELL. If that amendment be not adopted—

Mr. BROWN. Let me move my amendment.

Mr. SLIDELL. I understand that this subject has been reconsidered.

The VICE PRESIDENT. It has not been; but by unanimous consent it can be received.

Mr. SLIDELL. It was reconsidered by unanimous consent.

The VICE PRESIDENT. The Chair thinks not.

Mr. FESSENDEN. Unanimous consent was given that the amendment should be offered.

The VICE PRESIDENT. Unanimous consent was given to the Senator from Louisiana to offer his amendment.

Mr. SLIDELL. I move to reconsider the amendment as it stands. Unless it is reconsidered I shall vote against the original proposition.

The motion to reconsider was not agreed to.

Mr. BROWN. Is it in order now to move a proviso?

The VICE PRESIDENT. It is not, except by unanimous consent.

Mr. BROWN. I offer the following:

Provided, That nothing in this section shall be so construed as to affect any existing contract or rights of the present Printers of the Senate and House of Representatives.

Mr. HUNTER. That is right. I hope there will be no objection to it.

The VICE PRESIDENT. Is there objection to the reception of the amendment?

Mr. PUGH. I object, unless the original amendment is reconsidered.

The VICE PRESIDENT. Objection being made, it cannot be offered.

Mr. BROWN. I notify Senators that they are voting for an amendment that will perhaps cost a million; certainly half a million. That will be the end of it.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time.

Mr. BROWN. I am so impressed with the importance of moving that proviso, that I move it as a separate section.

The VICE PRESIDENT. It cannot be done at this stage of the bill.

Mr. HUNTER. It is too late now. They will manage it in the House.

The VICE PRESIDENT. The question is on the passage of the bill.

Mr. COLLAMER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 30, nays 14; as follows:

YEAS—Messrs. Allen, Benjamin, Bigler, Bright, Broderick, Clay, Clingman, Douglas, Fitch, Fitzpatrick, Green, Gwin, Hammond, Harlan, Hayne, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Mallory, Mason, Pugh, Reid, Sebastian, Slidell, Stuart, Thomson of New Jersey, Toombs, and Yulee—30.

NAYS—Messrs. Bayard, Brown, Collamer, Dixon, Fessenden, Foot, Foster, Hale, Hanlin, Kennedy, King, Trumbull, Wade, and Wilson—14.

So the bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by

Mr. ALLEN, its Clerk, announced that the House had agreed to some, and disagreed to other amendments of the Senate to the bill (H. R. No. 557) making supplemental appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1859, and had agreed to the thirtieth amendment of the Senate to the said bill, with an amendment, in which the concurrence of the Senate was requested.

ENROLLED BILL SIGNED.

The message further announced that the Speaker had signed an enrolled bill (H. R. No. 610) for the relief of William S. Bradford; and it was signed by the Vice President.

JOINT RESOLUTION REFERRED.

The joint resolution from the House of Representatives (No. 37) in regard to carrying the United States mails from St. Joseph, Missouri, to Placerville, California, was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

CHOCTAW LANDS.

The bill (H. R. No. 399) for the relief of certain purchasers of land within the limits of the Choctaw cession of 1830, was twice read by its title.

Mr. DAVIS. I would ask the consent of the Senate to consider that bill at this time. It relates to the entries of some persons who settled upon Choctaw land and purchased it at fifty cents an acre—it being held to be land which had been thirty years in market; but it was afterwards ruled that eight of those thirty years it had been withdrawn from sale, and therefore it was not esteemed as land thirty years in market, and thus a difficulty of that kind was created. The Commissioner of the General Land Office and the Secretary of the Interior have recommended the bill which has been passed by the House. It was reported unanimously by the committee of the House, and the Representative of the district in which the land lies, being a district in the State of Mississippi, who has paid particular attention to it, gave me a history of it, which I will not detain the Senate by reciting, but which, I am sure, would satisfy every one, if I did, that the bill ought to be passed, and I hope it will pass now.

Mr. STUART. I think the Senate passed a bill at the last Congress for this purpose.

Mr. DAVIS. Not exactly.

The VICE PRESIDENT. Is there objection to the consideration of the bill?

Mr. HUNTER. I shall not object if the Senator consent, should it lead to debate, to lay it down.

Mr. DAVIS. I will.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LAND CLAIMS IN NEW MEXICO.

Mr. HUNTER. I move to postpone the prior orders for the purpose of taking up the bill for the collection of the revenue.

Mr. BENJAMIN. Before that is done, I will ask the Senator from Virginia to permit me to pass a little bill in which the public are much interested, and which will prevent the loss of a great deal of public money. There can be no debate upon it at all. I will state, in a word, what it is.

Mr. HUNTER. I shall not object to it if the Senator will agree to lay it down should it cause debate.

Mr. BENJAMIN. Undoubtedly. There has been a bill passed, by the House of Representatives, to-day, at the request of the Interior Department, for the purpose of confirming the titles of certain pueblos, in New Mexico, which are now being encroached upon by the whites in the neighborhood, and it is feared that it will lead to war. The Committee on Private Land Claims have examined these land claims, and no possible objection, I think, can be made to the bill. I am instructed by the Committee on Private Land Claims to report the bill back with two small amendments, and ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 565) to confirm the land claims of certain pueblos and towns in the Territory of New Mexico; which the Secretary proceeded to read.

The original bill proposed to confirm the pueblo land claims in the Territory of New Mexico, designated in the corrected lists as: A, pueblo of Jemes, in the county of Santa Ana; B, pueblo of Acoma, in the county of Valencia; C, pueblo of San Juan, in the county of Rio Arriba; D, pueblo of Picaris, in the county of Taos; E, pueblo of San Felipe, in the county of Bernalillo; F, pueblo of Pecos, in the county of San Miguel; G, pueblo of Cochili, in the county of Santa Ana; H, pueblo of Santa Domingo, in the county of Santa Ana; I, pueblo of Taos, in the county of Taos; K, pueblo of Santa Clara, in the county of Rio Arriba; L, pueblo of Tesuque, in the county of Santa Fe; M, pueblo of San Ildefonso, in the county of Santa Fe; N, pueblo of Pojuaque, in the county of Santa Fe; reported upon favorably by the surveyor general of New Mexico, in his report of the 30th of September, 1856, to the Department of the Interior, and the claim designated as O, pueblo of Zia, in the county of Santa Ana; P, pueblo of Sandia, in the county of Bernalillo; Q, pueblo of Isleta, in the county of Bernalillo; R, (supposed) pueblo of Nambe; reported upon favorably by the surveyor general, on the 30th of January, 1857; also, the claim number seven, of the town of Tecolote, in the county of San Miguel; number eleven, of the town of Chilli, in the county of Bernalillo; and number thirteen, of the town of Belen, in the county of Valencia; reported for the favorable action of Congress by the surveyor general, on the 30th of September, 1857. The Commissioner of the Land Office is to issue the necessary instructions for the survey of all these claims, as recommended for confirmation by the surveyor general, and cause a patent to issue therefor as in ordinary cases to private individuals. This confirmation is only to be construed as a relinquishment of all title and claim of the United States to any of the lands, and is not to affect any adverse valid rights, should such exist.

Mr. HUNTER. If we take it on faith, what is the use of reading the bill?

Mr. BENJAMIN. There is no use in reading the bill, but only the amendments.

Mr. STUART. I want to hear the amendments read.

The Secretary read the amendments of the committee. The first was, after the words "fifty-seven," in line thirty-seven, to insert:

Also, the claim No. 2, of the town of Tome, reported upon favorably by the surveyor general of New Mexico, in his report of the 30th of September, 1856, to the Department of the Interior.

Also, the claim No. 29, of the town of Casa Colorado, reported upon favorably by the surveyor general of New Mexico, in his report of the 31st of December, 1856, to the Department of the Interior.

The amendment was agreed to.

The next amendment of the committee was, in line twenty-seven, to strike out the words "30th of January, 1857," and insert in lieu thereof, "30th of November, 1856."

The amendment was agreed to.

The next amendment of the committee was, in line twenty-nine, to change the word "Tecolote" to "Tecolote."

The amendment was agreed to.

Mr. BENJAMIN. Those amendments are to correct mistakes in the House bill.

The bill was reported to the Senate, as amended; and the amendments were concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

ORDER OF BUSINESS.

Mr. TRUMBULL. As the Senator from Virginia seems to be in a good humor, if he will give us a moment to breathe between these appropriation bills, I ask him to allow me to take up a little bill (H. R. No. 538) to confirm a land claim.

Mr. HUNTER. I will give way between this and the next appropriation bill. I have one to come after this.

Mr. TRUMBULL. That will answer just as well.

Mr. BRODERICK. I wish to make a motion to reconsider the vote on the Post Office appro-

priation bill, for the purpose of allowing two gentlemen who are absent, to vote on the amendment raising the price of postage from three to five cents. I shall not change my vote in favor of raising it to five cents.

The VICE PRESIDENT. Does the Senator simply desire the motion entered?

Mr. BRODERICK. I want to give those Senators an opportunity of voting.

Mr. HUNTER. The Senators can state how they would have voted if they had been present. It cannot be necessary to postpone everything by again considering that bill.

Mr. BRODERICK. I am satisfied.

Mr. HUNTER. I am sure they will be satisfied to get up and state how they would vote if they had had an opportunity.

REVENUE COLLECTION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 466) making appropriations for the expenses of collecting the revenue from customs.

Mr. HUNTER. I am instructed by the Committee on Finance to offer this amendment as an additional section:

And be it further enacted, That the Secretary of the Treasury be, and he is hereby, authorized, at his discretion, to discontinue all ports of delivery, the revenue received at which does not amount to the sum of \$10,000.

The amendment was agreed to.

Mr. WILSON. I have an amendment to offer. I move to strike out the two first sections of the bill, after the enacting clause, and insert a substitute. The sections which I move to strike out are in these words:

"That, instead of the appropriation for the expenses of collecting the revenue from customs for the half year, from the 1st day of January, 1858, to the 1st day of July, 1858, contained in the joint resolution approved on the 14th day of February, 1850, there be, and hereby is, appropriated for the expenses of collecting the revenue from customs for said half year, the sum of \$1,600,000, payable out of any moneys in the Treasury not otherwise appropriated, together with such sums as may be received from storage, cartage, drayage, and labor said half year."

"Sec. 2. *And be it further enacted, That there be, and hereby is, annually appropriated for the expenses of collecting the revenue from customs for each and every fiscal year, from the 1st day of July, 1858, the sum of \$4,000,000, payable out of any moneys in the Treasury not otherwise appropriated, until otherwise ordered by law, together with such sums as may be received from storage, cartage, drayage, and labor, for each fiscal year: Provided, That from and after the said 1st day of July, 1858, all laws and parts of laws which authorize the payment of the expenses or any portion of the expenses of collecting the revenue from customs to any port or ports on the Pacific coast of the United States out of the accruing revenue, before the same is paid into the Treasury, shall be, and hereby are, repealed.*"

And I move to insert the following:

That there be, and hereby is, appropriated for the expenses of collecting the revenue from customs for each half year, the sum of \$1,500,000, payable out of any moneys in the Treasury not otherwise appropriated, together with such sums as may be received from storage, cartage, and labor for said half year.

And be it further enacted, That from and after the said 1st day of July, 1858, all laws and parts of laws which authorize the payment of the expenses, or any portion of the expenses of collecting the revenue from customs, to any port or ports on the Pacific coast of the United States, out of the accruing revenue before the same is paid into the Treasury, shall be, and hereby are, repealed.

Mr. HUNTER. I cannot understand that amendment. There was so much noise that I could not hear it read. I should like to hear it read again, if the Chair can keep order.

The VICE PRESIDENT. The Chair would remind Senators that more than half the Senate are now engaged in conversation, and consequently amendments have to be read three or four times for the benefit of Senators.

Mr. JOHNSON, of Tennessee. I hope the Chair will suspend business until quiet is restored.

The VICE PRESIDENT. The Chair will have the amendment again read. It has been read, but the chairman of the Committee on Finance could not hear it.

The Secretary again read it.

Mr. HUNTER. The bill which comes from the House repeals that, and requires the revenue bill to be in payment of expenses paid out.

Mr. WILSON. Mr. President, I know how precious are the minutes of the closing hours of the session, and no one is less disposed than myself to consume by words these crowded moments which should be given to deeds. Reluctant as I am to claim the attention of the Senate, I am nev-

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ertheless constrained to ask its indulgence, while I briefly explain the amendments I have proposed.

By the act of February, 1850, the expenses for collecting the revenue east of the Rocky Mountains, on the Canadian frontiers, on the Atlantic and Gulf coasts, were limited to \$1,225,000 semi-annually—\$2,450,000 annually. This act of 1850 was pressed through both Houses of Congress during the first year of General Taylor's administration, under the lead of gentlemen now high in the councils and confidence of the present Administration. This sum of \$2,450,000 for the collection of the revenues on the eastern slope of the Rocky Mountains, was then deemed most ample, if not extravagant, by Mr. Thompson, the Secretary of the Interior, then a member of the House, and the Senator from Virginia, [Mr. HUNTER], and other gentlemen, who now propose to repeal that act, and take off the limitations imposed by it, and appropriate \$4,000,000 annually for the collection of the customs. The Secretary of the Treasury, whose name as Speaker of the House was affixed to the act of 1850, now asks the repeal of that act, and the chairman of the Committee on Finance reports this House bill which repeals the restriction act, and sets apart \$4,000,000 for the collection of the revenues hereafter.

I now propose, Mr. President, to strike out the first two sections of the bill, which repeal the act of 1850, and appropriate \$4,000,000 for the collection of the customs; and I propose to insert two sections, appropriating \$1,500,000 semi-annually, or \$3,000,000 annually, for the collection of the revenue, and also to require the revenues collected on the Pacific coast to be paid into the Treasury before the expenses of the collection are deducted therefrom. If my amendments prevail, if they shall receive the sanction of both Houses of Congress, \$1,000,000 less will be appropriated—\$1,000,000 will thus be annually saved in the collection of the customs. The expenses of collecting the revenue can be, should be, and Congress ought to say to the Secretary of the Treasury shall be, kept within \$3,000,000. The customs can now be collected for less than three million dollars. One thousand men can be discharged, and ought to be discharged, from the now overcrowded custom-houses. The public interests and the public morals will in no respect suffer if Congress shall require the Secretary of the Treasury to promptly dismiss from the public service men who have been crowded into the packed custom-houses—not to perform actual, necessary duties, but as a reward to them for services rendered elsewhere, or to keep them in pay, ready to perform services in the future.

Your system of collecting revenue, Mr. President, is full of the grossest abuses. Your custom-houses are reeking with corruption. These scandalous abuses and this reeking corruption have been nursed, fostered, and protected by the Treasury Department during the five past years, and that, too, in violation of the law of 1850. Law has been disregarded; hundreds of thousands of dollars beyond the limitations of the act of 1850 have been squandered to support in the Department men crowded into it as the reward for party fealty and party services; and now, when your Treasury is empty, when your Administration is borrowing tens of millions beyond its income, the Secretary of the Treasury, instead of reducing the expenses of collecting the revenue within the legal limits of the act of 1850, by discharging the hundreds of supernumerary officers, thrust into the revenue service to fatten upon the Treasury, comes to these Halls and asks Congress to grant him \$4,000,000 to keep up this wretched system, created for corrupt ends and used for corrupt purposes. I am amazed that the House of Representatives should respond to the demands of the Secretary of the Treasury by sending this bill here, and I am amazed, too, that the Finance Committee should report this bill to the Senate, and that the chairman of the committee should consent to stand on this floor as the champion of this bill, which grants \$4,000,000

of the public money to keep up the shameless abuses of your system of revenue collection.

I have spoken, Mr. President, of the shameless abuses which have grown up in our system of collecting the customs, under the fostering hands of the past and present Administrations. A recurrence to facts will give the Senate and the country some faint conception of these abuses, and of the way they have been nursed and cherished by the men now in power, by the leaders of that Democracy which ever prates of economy, retrenchment, and reform.

The expenses of collecting the revenue on the Atlantic and Gulf coasts, in all the country east of the Rocky Mountains, were \$2,000,000 annually during the four years of the administrations of Taylor and Fillmore. The act of 1850 allowed the administrations of Taylor and Fillmore to expend \$2,450,000 annually in the collection of the customs, exclusive of all the expenses on the Pacific coast. Those Administrations, denounced by that Democracy which always talks economy when out of power and always practices extravagance when in power, saved \$1,623,000; or rather, those Administrations did not expend what the act of 1850 allowed them to expend by \$1,623,000. Mr. Corwin turned over to his successor, Mr. Guthrie, this \$1,623,000, which he had refused to squander upon officials in the revenue service.

With this rich legacy of \$1,623,000 from the outgoing Administration, the Pierce administration entered, on the 1st of July, 1853, on its first financial year. At one bound that Administration carried its expenditures for the customs on the Atlantic coasts up, not only to the amount allowed by the act of 1850, but beyond that amount more than two hundred thousand dollars. On went the Pierce administration, and up, up went its expenditures for the collection of the revenue, until its closing year carried the expenses to \$3,162,000, nearly one million two hundred thousand dollars more than the average annual expenses of the administrations of Taylor and Fillmore. The average annual expenses of the collection of customs on the Atlantic coasts, during the Democratic administration of President Pierce, exceeded two million nine hundred thousand dollars, being \$900,000 annually more than the average annual expenses of the four preceding years.

The legacy of \$1,623,000 received from the Fillmore administration was expended in excess of the unusual amount of \$2,450,000 allowed by the act of 1850, and \$70,000 more, making, during the four years, \$1,690,000 more than the act of 1850 allowed for the collection of the revenue east of the Rocky Mountains. The Pierce administration added more than six hundred and thirty men to the force employed in the custom-houses on the Atlantic; three hundred and forty-six men were added to the force in the New York custom-house, thus increasing the annual expenses more than three hundred thousand dollars in that city. The Pierce administration expired in 1857, having added more than six hundred men to the revenue service on the Atlantic coast, and increased the expenses of collecting the customs annually more than nine hundred thousand dollars in this section of the Union.

Sir, the present Administration must be considered as the extension, the promulgation of the Pierce dynasty. The same policy is continued, the abuses, the corruptions, the extravagances of the system are nursed, fostered, and cherished, with the same hearty zeal by the present Administration. And the fruits of this mad policy are before us, in an expenditure for the first year of about three million three hundred thousand dollars in the Atlantic ports, and in this demand for \$4,000,000 to meet the expenses of the system for the coming year. The expenses of collecting the revenue on the Pacific coast last year were about four hundred and sixty thousand dollars, and we are told that they will be reduced this year to about three hundred thousand dollars. Therefore, the Secretary of the Treasury asks for the repeal of the act of 1850, limiting the expenses on the Atlantic to \$2,450,000, so that he can have \$3,700,000

to expend, during the coming year, on this side of the continent—\$1,700,000 more than the average expenses of the four years of the administration of Taylor and Fillmore. Can extravagance and profligacy go further?

This addition, Mr. President, during the past five years of more than six hundred men to the revenue force on the eastern slope of the Rocky Mountains, this addition of \$1,500,000 to the annual expenses of collecting the customs on this side of the continent, will give the Senate and the country some faint conception of the extravagances and corruptions which have been nursed, fostered, and cherished by the Democratic party during the five years past. And now, sir, in this time of general depression in all the business interests of the country; when labor is neither fully employed nor adequately rewarded, when the Government is forced to issue millions of Treasury notes and to borrow millions of dollars to meet its current expenses, when private claims are thrust aside, and river and harbor improvements suffered to go to ruin, to the danger of life and property; when every interest of the people is remorselessly sacrificed for want of money, the Secretary of the Treasury comes to the Halls of Congress, not with a matured plan for the reduction of the expenses of collecting the customs within the limits now allowed by law, but with a proposition to repeal the act of 1850, to increase the expenses of collecting the customs by hundreds of thousands, even over the last year of President Pierce's administration, when the Treasury was overflowing and the revenues larger by millions than they now are. And this demand of the Treasury Department has been responded to by the House of Representatives, under the lead of the chairman of the Committee of Ways and Means; and the Committee on Finance have reported this measure to the Senate, and the chairman of the committee [Mr. HUNTER] stands ready to give this bill his support and the influence of his name and position. The country will not fail to see and to note this ill-timed proposition to squander the public money upon Government officials and political favorites—men put into office, not because the public service needed them, but because they needed public office.

Now, Mr. President, I want the Senate to understand—I want the Administration to understand, that the country clearly comprehends the scope and intent of this measure—that the people know this to be simply an office-holder's measure. Yes, sir, this is a simple proposition to make it legal for Secretary Cobb to expend some twelve hundred thousand dollars more than the law now allows him to expend for the collection of the customs in the Atlantic and Gulf ports. This is the whole purpose of this bill—nothing more, nothing less. Let Senators not deceive themselves. Let them remember that this measure is simply an office-holder's measure, that there is nothing in it about the Mormon war, nothing about British outrages in the waters of the southern Gulf, nothing in it about the defense of the interests of the country. Let them remember that it is only a proposition, a bald and naked proposition, to squander annually upon custom-house officials, beyond the amount now allowed by law, not less than one million dollars of the \$15,000,000 we have just authorized the Government to borrow. Let them remember this, and then let them vote for it if they had rather incur the displeasure of the people than the perpetual importunities of Mr. Secretary Cobb.

I do not hesitate, Mr. President, to avow here on the floor of the Senate the opinion that Mr. Secretary Cobb merits the censure of the country for his management of the collection of the revenue during the past year. When he assumed the duties of his office he knew the act of 1850, which his own hand had signed, limited the expenses of collecting the customs on the Atlantic side of the country to \$2,450,000. He knew, too, that the whole legacy of \$1,623,000 bequeathed by Mr. Corwin to his successor had been expended by that successor. He knew that the revenues would

be diminished by the provisions of the tariff act of March, 1857, and he knew that he could reduce, that he ought to reduce, and that he should reduce, the number of persons employed in the collection of the revenues. Instead of making the needed reduction, instead of devising some plan for the reduction of the expenses of that branch of the public service, he demands the repeal of the law of 1850, and complacently assures Congress that the expenses of collecting the customs in 1859, when they will be millions less than they were in 1857, will be hundreds of thousands more than they were even in that year—that the expenses will not be less than four million dollars. This is indeed an extraordinary proposition to come from the head of the Treasury Department, at this time, and under existing circumstances. The proposition itself partially reveals to the country the extent of the influences exerted by these custom-house retainers over the Administration; they serve, only to control. It now remains to be seen, sir, whether their influences are as potent over Congress as they are shown to have been over the executive department of the Government. The House has submitted to their demands, and we are now to see if the Senate will yield to their will.

But I may be asked, Mr. President, how the Secretary of the Treasury could reduce the expenses of collecting the revenue to the amount allowed by existing laws? I answer: let him discharge at once the six hundred men crowded into the service from 1852 to 1857. Let him go further, and discharge one third of the present force employed in the custom-houses; by so doing, he can reduce the expenses not less than the \$1,000,000 he now asks for. Let him discharge the three hundred and forty-six men added to the too large force in the New York custom-house, since 1852, at an annual expense of nearly four hundred thousand dollars. Enough would remain to perform promptly the duties of the office to the satisfaction of the country. Perhaps the remaining officials of the port of New York would have less time, if their force should be reduced one third, to attend to the elections, to take care of the political affairs of Mr. HASKIN's district, or to engage again in the pastime of bearing through the streets of the commercial metropolis of America a coffin with the name blazoned upon it of HORACE F. CLARK, the independent and inflexible Representative, who could not be seduced by the blandishments of power, or driven by their fierce denunciations, to vote for the Lecompton bill of the Senator from Missouri, [Mr. GREEN,] or the English swindle. Let the Secretary turn to the Canadian frontiers, Oswego, Niagara, Buffalo, Plattsburg, and Burlington, to New England, to Boston, Salem, Marblehead, Newburyport, Portsmouth, Belfast, Wiscasset, Barnstable, New Bedford, and New Haven, to Perth Amboy, Philadelphia, Wilmington, Baltimore, and the districts of the South and West, and to the ports on the shores of the Pacific, and he will readily find, wherever he turns his glance, opportunities to discharge supernumerary officers, and to reduce exorbitant expenses.

Sir, the Secretary will find, as he surveys the field, on every hand evidences of gross abuses, of reeking corruptions. He will find at Niagara nineteen men employed at an expense of \$12,000 to collect \$8,000; at Oswego twenty-three men at \$18,000 to collect \$6,000; at Buffalo twenty men at \$17,000 to collect \$10,000; at Plattsburg twenty-six men at \$14,000 to collect \$18,000; at Burlington thirty-three men at \$16,000 to collect \$8,500; at Wiscasset eight men at \$7,000 to collect \$130; at Portsmouth twenty-one men at \$11,000 to collect \$5,500; at Newburyport thirteen men at \$6,200 to collect \$9,900; at Marblehead nine men at \$2,200 to collect \$250; at New Bedford fourteen men at \$7,500 to collect \$4,800; at Perth Amboy thirteen men at \$4,500 to collect \$1,500; at Norfolk twenty-three men at \$49,000 to collect \$61,000; at Ocracoke seven men at \$2,000 to collect \$82; at Toledo seven men at \$4,400 to collect \$567; at Detroit ten men at \$3,600 to collect \$495; at San Francisco one hundred and thirty-four men at \$402,000 to collect \$1,580,000; at Benicia three men at \$4,400 to collect \$2,300; at Stockton one man at \$3,100 to collect \$143; at Sacramento one man at \$3,600 to collect \$402; at San Diego four men at \$7,600 to collect \$3,011; at Monterey three men at \$7,950 to collect \$45; at

San Pedro three men at \$4,200 to collect \$304. The Secretary, without further legislation, can cut off many of these abuses, without detriment to the public interests, or inconvenience to the people. I do not hesitate to declare here, and now, that the Secretary of the Treasury can discharge one third of the men employed in the collection of the revenue, and so reorganize the system that he can reduce the cost of collection more than one million dollars, and this without detriment to the interests of the Government or the people.

Adopt, Mr. President, the amendments I have proposed, limit the expenditures for the collection of the revenue to \$3,000,000, tell Mr. Secretary Cobb that he can, he must, and he shall, so reorganize the system that the revenues can be collected for the \$3,000,000 we have appropriated. Let the Senate, let both Houses of Congress do this, and the Secretary will obey the embodied will of Congress, and a needed reform will be inaugurated, and many flagrant abuses and much corruption will be arrested. It is in the power of the Senate, this day, to rebuke this extravagance, to reform these abuses, to dry up the welling fountains of this corruption; and all this it can do by adopting the amendment I have proposed, limiting the appropriation for the next fiscal year to \$3,000,000, thus compelling the Secretary to enter at once upon a comprehensive system of economy in the collection of the customs.

The issue is made up—Senators cannot avoid it. They must meet it here and now. Shall the demands of Mr. Secretary Cobb be assented to by Congress, or shall retrenchment and reform be now introduced into the revenue service? The issue is between continued extravagance, abuse, and corruption on one side, and the proposed economy, retrenchment, and reform, on the other. This issue must be met on this question, here, in the Senate of the United States, on this the 10th day of June, 1858. Let honorable Senators look well to the record they make up; for the searching eye of the American people will rest upon that record.

I propose, Mr. President, to add an additional section to the bill, reducing the salaries of the revenue officers in California to the New York standard. It costs the Government thirty per cent. to collect the revenue in California, and this enormous expense is incurred in part by the extravagant salaries paid to the officers employed. These salaries were fixed at a time when the imports into California were large, and at a time when the cost of living there was very great.

Now, we are told by the Senator from California [Mr. BRODERICK] that the cost of living in that State is not greater than in this city. In spite of the great reduction in the expenses of living there, these exorbitant salaries continue to be paid, and no demand comes from the Treasury Department for the reduction of these salaries, or for the dismissal of the supernumerary officials quartered upon the revenue service in California. The cost of collecting the \$1,600,000 of revenue in that State should not exceed \$150,000 annually. At San Francisco one hundred and thirty-four men are employed at enormous salaries to collect \$1,600,000 of revenue. Fifty men, at salaries fifty per cent. lower than are now paid to them, could perform the duties required in that collection district.

In the commercial metropolis of the Republic, where two thirds of the customs of the nation are collected, the collector, the responsible head of more than eleven hundred men, has a salary of \$6,400—in San Francisco the collector has \$10,400. The deputy collector in New York has \$2,500; the deputy collector in San Francisco has \$4,000; the naval officer has \$4,950 in New York, in San Francisco he has \$8,000; the surveyor \$4,900 in New York, in San Francisco \$7,000. There are four appraisers in the great port of New York, with salaries of \$2,500 each; there are three appraisers at San Francisco, with salaries of \$6,000 each. Weighers, gaugers, inspectors, clerks, and laborers have salaries from fifty to one hundred per cent. higher in San Francisco than in the city of New York. Now, sir, I propose, by this additional section, to reduce the salaries of the custom-house officials in California to the New York standard. If this amendment shall receive the sanction of the Senate, if it shall be sustained in the House of Representatives, it will save to the Treasury from one hundred to two hundred thou-

sand dollars, now squandered in extortionate salaries on the Pacific coast.

We are accustomed, Mr. President, to hear in these Chambers professions of economy, retrenchment, and reform. This is one of those opportunities when our professions can be wrought into acts, when our words can be hardened into deeds. It now remains to be seen whether, in this time of general depression, we shall imitate the example set us by the people of the country of every profession and calling, by farmers and mechanics, by merchants and professional men of every condition, and reduce our extravagant expenditures, or whether we will not only continue our profigate expenditures, but go on to increase them. Let honorable Senators look well to the votes they now give. Whatever others may do, I shall vote to limit the expenditures for the collection of the revenues of the country, although by so doing I may incur the displeasure of Mr. Secretary Cobb, and the hostility of his pet official favorites, who are greedy to devour the \$4,000,000 he now demands of this Congress for them.

Mr. HUNTER. Of course it is my purpose to say as little as possible in explanation of this bill. The estimate made by the Secretary of the Treasury of what the collection of the revenue would probably cost annually (that is, upon the present scale of expenditure) is \$4,000,000. There is, I know, a little margin. He has sent us a table, beginning with 1850 and ending with 1857. It appears that the collection of customs on the Atlantic coast has grown from \$1,966,000 in 1850, up to \$3,162,000. Upon the Atlantic coast, under existing laws, all customs were paid into the Treasury before the expenses of collecting the revenue were taken out; but on the California coast they were paid out of the revenue, and the net sum deposited in the Treasury. On the California coast in 1852 it was \$1,316,000, but we have been gradually reducing it since, until in 1857 it had been reduced to \$464,344. The Senator from California [Mr. GWIN] tells me that the last three quarters show a still greater reduction. Two hundred and eighty-nine thousand five hundred dollars is the expense of collecting the revenue of the last three quarters, as he tells me, from tables made at the Treasury Department. It is found that the sum total for collecting the revenue for the year 1857, on the Atlantic and Pacific coasts, amounted to something like \$3,600,000. The Secretary of the Treasury asks for \$4,000,000, which of course, leaves some margin, but it is to be remembered this is a permanent appropriation. It has been found most expedient to make these appropriations permanent in order to avoid the delays which are incident on the passage of our appropriation bills. The means of paying the expenses of collecting the revenue must always be at hand and within the reach of the Treasury Department.

With regard to the enormous expense, I admit at once it is too much. I believe it ought to be reduced. I believe it has reached the present extent as much through the fault of Congress as from any other cause. We have multiplied the ports of delivery; we have thus added expenses to collecting the revenue which do not belong to it; and in order to reach that, the Committee on Finance reported an amendment, which has been adopted, allowing the Secretary of the Treasury to discontinue ports of delivery at which the revenue collected was less than ten thousand dollars. I know, however, that the Secretary of the Treasury means to take up this subject. He is called upon to do so by the last section of this bill as it comes from the House; and I believe he will endeavor to apply the knife and reduce the expenditure as far as is consistent with the absolute necessities of the public service. Some of those expenses were entailed upon the Department, not at their request, in times past. They are unnecessary; but they are here, and we have to meet them. There are, I believe, more revenue-cutters, a larger revenue service than we ought to keep up. This is not all: we forced on the Treasury Department a steam revenue-cutter for the port of New York—the expense of which is three or four times greater than a sail vessel; and we shall have applications from other ports. Unless Congress shall aid the Secretary in his efforts to diminish the expenses of collecting the revenue, it will be impossible for them to do it to the whole extent to which it ought to be reduced, and may

be reduced consistently to the wants of the public service.

I believe, then, under the circumstances, that it is necessary for the present to allow him the sum which he asks, and to apply ourselves hereafter to cut off and frown down these excesses and abuses which have, I believe, crept into the expenses of collecting the revenue. I believe there are too many officers. I believe there are too many ports of delivery. I believe that the revenue service is larger than it ought to be; and I trust much to the future efforts of the Secretary of the Treasury to reduce these things when he can do it under the present laws, and to point out to Congress where they may do it, when it will be necessary to require the assistance of new legislation. Until then, I am ready to pass this bill, and I hope we shall vote down the amendment of the Senator from Massachusetts.

Mr. GWIN. I wish to state, in reference to what the Senator from Massachusetts said in regard to the collection districts in California, that, when the State was first admitted into the Union, the country had been so recently settled that it was not known to what points foreign commerce would go; and there were several districts established with the expectation that they would be important commercial points; but subsequently it has turned out that they have not collected the revenue that was anticipated; and it was proposed by a former Secretary of the Treasury to abolish these districts. That bill failed during the last Congress. I do not think it would be objected to by anybody if we could get a revenue system to abolish some of those districts which were originally established under the expectation that large foreign commerce would go to those points. So far as I am concerned, whenever the system is brought up, as I have no doubt it will be at the next session of Congress, I hope those districts referred to will be abolished, and turned into surveyors' districts. In addition, that is a very expensive coast. At some of those points it is necessary to keep up an efficient system to prevent smuggling; and while there is not much revenue collected, there is a large amount saved by preventing smuggling, which would otherwise have taken place.

Mr. WILSON. The Senator from Virginia tells us that it is best to vote this amendment down, and that we shall sustain the Secretary of the Treasury in his future plans for the reduction of the expenses of collecting the revenue. The average expenses for that purpose, during General Pierce's administration were about \$3,300,000, and you want now to carry the expenditures up to \$4,000,000. Instead of retrenchment, we have got a positive increase of more than ten per cent. proposed by the Secretary, and sustained, I am sorry to see, by the chairman of the Committee on Finance.

Now, a word or two in answer to the Senator from California, about the expenses of the Pacific coast—

Mr. HUNTER. Will the Senator allow me to interrupt him, for I do not mean to reply?

Mr. WILSON. Certainly.

Mr. HUNTER. I would say to him, if it were an annual appropriation, I should deem it but justice not to appropriate more for the next year than we expended in the last. It must be remembered, however, that this is one of the permanent and indefinite appropriations that lasts through a term of years, and therefore we have to allow a margin, in order to meet any future increased expenditure.

Mr. WILSON. This proposition for each and every fiscal year has permanency in it. It repeals the old law of limitation of 1850.

Mr. HUNTER. That was a permanent appropriation too; but it was not enough. That was only \$2,500,000.

Mr. WILSON. I know it. It was \$2,500,000; but it cost but \$2,000,000 a year for the four years. It has been carried up, I believe, unnecessarily.

Mr. BRODERICK. I do not rise for the purpose of defending the officers. I believe their compensation is too high, but I would remind the Senator from Massachusetts that it is idle for him to insist upon his amendment, because the other House of Congress has sent us a bill raising the fees of officers in California fifty per cent. It is now upon the table of the Senate.

Mr. HUNTER. What bill is that?

Mr. BRODERICK. A bill which came from the House the day before yesterday to raise the fees of district attorneys, marshals, witnesses, and jurors, fifty per cent. Now, I ask the Senator from Massachusetts what chance is there to get his amendment through the House, if it should pass the Senate? I suppose a committee of conference would refuse to reduce these salaries. We are put to the trouble, therefore, of occupying the best portion of this night with this subject, while we could devote it to better business. If the Senator will consent to let the amendment lie over until the next session, I will go with him for a reduction of the salaries of those officers. I will not go for so great a reduction as he has recommended, though I think they ought to be reduced. But I rose only for the purpose of reminding the Senate that there is a bill now upon its table, proposing to raise the pay of officers in California fifty per cent., and here we are discussing the propriety of reducing them fifty per cent.

Mr. GREEN. I have but a word to say. The bill to which the Senator from California alludes, is one relating entirely to the courts, for it has been found impossible to compel the attendance of witnesses at the present ordinary compensation allowed under the general pay law. It but restores the law in regard to California, to what it was before the 28th of February, 1857. It was the law up to that period of time, when it expired by its own limitation, and by neglect was not renewed.

But, enough of that; it will be time enough to discuss it when it comes up. I agree with the Senator from Massachusetts, that the expense of collecting the revenue is most exorbitant, and it ought to be reduced. As an initiative step to that reduction, I proposed a resolution, which is now upon the Secretary's desk, believing that we ought to proceed systematically, asking the Secretary of the Treasury to report certain facts at the beginning of the next session of this Congress, when the subject can be taken up and the reduction be made not only as low, but perhaps lower, than has been intimated by the Senator from Massachusetts. There are many collection districts, as I know the facts will prove, where the annual expense is \$7,500, where the cost of erecting buildings has been \$3,500, and where the annual amount received in duties is \$130. In other collection districts, where the annual expense is \$12,500, and the cost of erecting buildings \$75,000, the annual amount received is \$2,300, and so on. Much of this can be reformed. I desire to proceed with that system of reform by which we shall be enabled to correct evils, and not to strike down the effectiveness of the service, for of necessity there must be some collection districts as a prevention of fraud. There may be a necessity for custom-houses, and all the paraphernalia necessary to keep them up, and yet the only public good they subserve is to prevent dishonesty; to prevent dishonesty a revenue cutter must be constantly plying about that port; but to strike out the appropriation in gross, leaving the present collection districts all in existence, leaving the present laws just as they are, will just leave the necessity for a higher appropriation in a deficiency bill at a subsequent session.

Therefore, I shall vote for the bill as it comes from the committee; but I shall insist upon taking up that resolution, and I shall coöperate with the Senator to collect all the facts in regard to these collection districts and supernumerary officers, to cut off all unnecessary expenditures, to bring them in a proper compass, to subserve the public good, and yet protect the public interest. Why, sir, in California, there may be a necessity for a large expenditure, but it looks large when we speak in gross terms, only about a million and a half received and \$440,000 expended, and then comes special ports where a preventive force is required. That is expensive. In the little port of St. Louis, where we collect from eight hundred thousand to one million dollars, it only costs you \$16,500 a year. There is economy; and a similar system of economy can be superinduced, I trust, all over this Union.

Mr. CRITTENDEN. I have not said much on these bills, and I shall not say much now. I confess I am not startled at the facts to which we are referred by the Senator who offers this amendment. The extravagance is so manifest and so glaring that it is impossible to hear it without surprise. It is difficult always to reform. We know

that. There is a reluctance. It touches individuals; it seems to them to be exceedingly inimical, and there is a natural dislike to doing it. Our judgments approve of reform, but we naturally desire to postpone it. We desire to do it at a more convenient time, when we shall have more opportunity of looking into it; and we are referred to the next session. The next is a short session, and there will be much business to do. I doubt whether we shall be more prepared to act on the subject then than we are now. It is a subject on which we cannot act in detail well. The details belong to the executive power of the Government; but we can say to them, judging of the sum from experience, "this sum shall be allowed for the collection of the revenue, and no more; you must, therefore, bring the expense of collection within the sum we prescribe." That is the only general limit in our power to prescribe; and I am for prescribing a limit which seems to me to be liberal enough, and which shall compel some degree of reform in the mean time.

I approve, therefore, this amendment, believing that it is an abundant sum to pay for all the labor and services in the collection of the revenue. Sir, all the labor of the country has gone down. Is official labor the only labor which we will appreciate, and to which we will give high wages, and increased wages?—for these \$4,000,000 will be an increase, as I understand it, upon the gross annual expenditure that has ever been made for the collection of the revenue. My friend from Virginia acknowledges that \$4,000,000 is too much, and he proposes that at some future time we shall investigate it and reform it. The best time to reform it is now, when it is discovered, made known, and palpably seen. There can be no excuse for postponing it. We can as well pass this measure limiting the expense, as we can pass an original bill. It takes no more time. I can see, then, no reason why we ought not to do it now.

The inequality of salaries in one part of our country and another part of our country, where there is now, whatever there may have been in former times, no difference in the cost of living, is enormous. We must blush to answer the inquiries that our constituents would make of us, why this thing is so? We ought to increase the wages given to our officers of collection at New York, or we ought to diminish them in California. Who says we ought to increase them? Nobody. All agree, *una voce*, that reduction is the word, and that we now spend too much money. The executive Government can collect, I believe, without a doubt, the revenue for \$3,000,000 instead of \$4,000,000; and, if it turns out that we are mistaken in this calculation, let me tell gentlemen what we can do at the next session of Congress, that is but half a year off: we can then increase it if we find an absolute necessity for it. If, as gentlemen suppose, we shall have time to investigate the matter, and if, upon that investigation, we shall discover that we have made too narrow a limit, we can extend it. In the mean time, no gentleman will say but that \$4,000,000 is an extravagant sum to allow for this service. I hope, therefore, that this amendment will be adopted.

Mr. GREEN. I think the Senator from Kentucky misconceived the spirit of my remarks. I concur with him and the Senator from Massachusetts that a reduction ought to be made.

Mr. CRITTENDEN. So I understood.

Mr. GREEN. The latter part of his remarks tends very much to reconcile me to the limitation of \$3,000,000, because I know, on a scrutiny and examination, \$3,000,000 will not only be ample, but more than enough. There is no question about that.

But the Senator was mistaken in one remark, that, by indicating to them a certain limit, and saying, "thus far shalt thou go, and no further," they will be restrained and it will prevent the expenditure of any more; that here they must stop. Until 1848, there never was an appropriation to pay the expense of the collection of the revenue upon customs. Every officer got his fees, and paid in the net revenue; but in 1848, Mr. McKay, of North Carolina, brought in a bill requiring the gross revenue, including even cartage, to be paid into the Treasury, and then to make an appropriation to pay the expenses of collecting the revenue. The first appropriation made was \$1,750,000, and that was for the fiscal year commencing the 1st

of July, 1849. He based it on the expenditure for the preceding year. That fiscal year ended the 30th of June, 1850. It was a long session; and at the termination of the fiscal year, they asked for a deficiency of \$750,000. Here was a limitation imposed, specially and strictly imposed, and yet the Administration—I impute no fault to anybody—went \$750,000 beyond that limitation, and we appropriated the money.

Therefore the prescription of a certain limit does not necessarily restrain them. I think the better plan is to take up a revenue system in detail, and abolish every collection district that is unnecessary, either to prevent fraud or collect revenue. By taking this systematic course we can bring it down within the limit of less than three million dollars, and as the Senator from Kentucky intimates, if mistaken in this, the time for the next session will soon be upon us. If the restriction did restrain them, I would change my opinion upon the subject, and vote for the limitation of \$3,000,000.

Mr. HAMMOND. As I understand this matter, the expenditures of the last year were some three million six hundred thousand dollars. The appropriation proposed now is \$4,000,000; and the Senator from Massachusetts proposes to reduce it to \$3,000,000. I confess I am very much inclined to vote with the Senator from Massachusetts. I have no doubt that these expenditures far exceed any of the necessities of the Government; but such a proposition suddenly sprung upon any Government would be calculated to embarrass them. I see no reason why the Government should have for the next year more than they have had for the last year. I would, therefore, cheerfully vote, if I had the least idea that it would produce any embarrassment, for the same amount for next year. I believe that the present Secretary of the Treasury is disposed to economize expenditures as much as possible. In that I have the utmost confidence. I do not desire to embarrass him. If, at the beginning of another session, upon an *exposé* about the tariff on the resolution of the Senator from Missouri, or from any other cause, we could reduce it still further, I should go in favor of that. I propose, therefore, for the present, to make an amendment, or to suggest—for I do not say that I shall offer anything myself—to the Senator from Massachusetts, if he will place his amendment at the exact amount appropriated for the last fiscal year, I will vote for it very cheerfully.

Mr. GWIN. If necessary, I could go into the value of California to this Confederacy; it would not be hard to be shown in dollars and cents. When they estimate the amount that is expended in California, compared to the amount collected from revenue there, they do not do justice at all to the importance of that section of the Confederacy to the rest of the Union. During the last fiscal year we exported, of gold bullion and coin, \$60,000,000; while the other exports of the country amounted to \$303,000,000. One sixth of the entire products of the country were produced in California—California gold; and consequently one sixth of the revenues that were brought by customs into the Treasury returned to the country in exchange for our products. One sixth of the revenue was derived from the exports produced by California. The income, instead of \$1,500,000 collected at our custom-houses, owing to the increased facility of intercourse with foreign nations, exchanging our products, made it twelve or thirteen million dollars. That is the amount which was brought in.

In regard to the expense of living there, as I said before, it is entirely regulated by labor, as it is here and elsewhere; and the labor in the mines, which is the great standard of value in the country, averages from two to five dollars a day at this time. It is well known that labor, in other sections of the State, is regulated by that. But in regard to these salaries, it must be known to those who were here at the last Congress, that the late Secretary of the Treasury revised the whole revenue system, and brought a bill before Congress, which was very voluminous, in which he revised these offices, (it was lost, I know not how—I believe on account of its being very voluminous,) and abolished a number of them. The Senator from Massachusetts speaks about appraisers, and says there are four on that coast. He is mistaken; there are only two. There is an appraiser general

for the whole Pacific coast, including Washington, California, and Oregon; and the bill of the late Secretary of the Treasury reduced these to one. This system was adopted in 1850, and has continued from that time; but whenever the revenue system of the whole country is revised, I have no doubt the salaries can be properly reduced there. The Secretary of the Treasury now has a commission of three intelligent gentlemen, one of them the late commissioner of customs, who have been sent to that country expressly to ascertain to what extent the expenses can be reduced.

With regard to the bill to which my colleague referred, increasing the salaries of the officers, I will speak of that when it comes up.

The bill was informally laid aside to receive a message from the President.

UTAH AFFAIRS.

A message, in writing, was received from the President of the United States, by J. B. HENRY, Esq., his Secretary.

Mr. HUNTER. I understand the message is in regard to Utah. I hope it will be read. I trust it may save us the necessity of considering one appropriation bill.

The Secretary read the message, as follows:

To the Senate and House of Representatives:

I transmit the copy of a dispatch from Governor Cumming to the Secretary of State, dated at Great Salt Lake City, on the 2d of May, and received at the Department of State on yesterday. From this there is reason to believe that our difficulties with the Territory of Utah have terminated, and the reign of the Constitution and the laws has been restored. I congratulate you on this auspicious event.

I lose no time in communicating this information and in expressing the opinion that there will now be no occasion to make any appropriation for the purpose of calling into service the two regiments of volunteers authorized by the act of Congress approved on the 7th April last, "For the purpose of quelling disturbances in the Territory of Utah, for the protection of supply and emigrant trains, and the suppression of Indian hostilities on the frontiers."

I am the more gratified at this satisfactory intelligence from Utah, because it will afford some relief to the Treasury at a time demanding from us the strictest economy, and when the question which now arises upon every new appropriation is, whether it be of a character so important and urgent as to brook no delay, and to justify and require a loan, and most probably a tax upon the people to raise the money necessary for its payment.

In regard to the regiment of volunteers authorized by the same act of Congress to be called into service for the defense of the frontiers of Texas against Indian hostilities, I desire to leave this question to Congress, observing at the same time that, in my opinion, this State can be defended for the present by the regular troops which have not yet been withdrawn from its limits.

JAMES BUCHANAN.

WASHINGTON CITY, June 10, 1853.

Mr. HUNTER. I move that the message be printed, and laid on the table.

The motion was agreed to.

REVENUE COLLECTION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 466) making appropriations for the expenses of collecting the revenue from customs, the pending question being on the amendment of Mr. WILSON.

Mr. SIMMONS. The proposition pending, I understand, is to reduce the collection of the revenue to \$3,000,000; but I wish to inquire what is the amount proposed by the original bill?

Mr. HUNTER. The original bill proposes \$4,000,000. The expenditure for the last fiscal year was \$3,600,000. This year it is a little over that.

Mr. SIMMONS. This is a very opportune message when we are talking about reducing expenses; for it is literally true that we make no appropriation for anything but salaries to officers but what there is a loan attached to it. When it comes to appropriations for officers, however, there is, somehow or other, every time a necessity for larger appropriations than ever. I cannot, for my life, conceive why it should need more money to collect revenue this year than last. I do not suppose the Senator from Virginia believes that the collections will be two thirds of what they were last year.

Mr. HUNTER. I said when I was up before, that if it was an appropriation for the next fiscal year, I could see no reason why it should be larger than last year. The estimate allowed some margin, because it was designed to run through a series of years—a permanent and indefinite appropriation.

Mr. SIMMONS. That is the very reason I do

not want to give a margin if it is for a series of years. I never knew an appropriation larger than was needed being made, but what the expenses would come up to it within a year or two. If we made it \$5,000,000 they would bring the expenditures up to it. There is no difficulty in bringing up the expense, but there is every reason under heaven to reduce these expenditures.

Mr. HUNTER. Will the Senator allow me a moment?

Mr. SIMMONS. Certainly.

Mr. HUNTER. By deferring reform until next year, the Secretary will be able to suggest legislation after taking all the measures by regulation which are within his power, to reduce the expenses. When that is done, we can revise the system fully; but until that is done it will be unsafe to reduce the appropriation for this service below what has been actually expended, for we find the expenditures growing, little by little, and they will grow with the growth of the country.

Mr. SIMMONS. I should like to know what risk we run. Suppose we suggest to the Secretary of the Treasury that, in our judgment, the expenses of collecting the revenue at its present amount should not exceed \$3,000,000 a year, and he should come in next year with his report saying that, upon a careful investigation of the matter, he thinks he ought to have two or three hundred thousand dollars more, what is the trouble?

Mr. HUNTER. There would be no trouble, if Senators did not object to deficiency bills; but then there will be the old argument against deficiency bills.

Mr. SIMMONS. I have no objection to a deficiency bill where there is a proper estimate. My objection is to passing things under the form of a deficiency bill without an estimate, and putting in \$5,000,000 for the Utah war that I never believed in my heart would take place. I thought it would turn out just as it has. I have never known any modern war about women; though there was one some three or four thousand years ago that I have read of; but I never had any idea that the Utah war would amount to anything. That, however, has nothing to do with this question.

I say I cannot perceive what ground a man can take who every day here says he is for retrenchment, and that he will go with anybody to reduce the expenditures, and yet invariably goes for the highest appropriations asked—goes for every item, particularly if it is for the support of officers. I do not understand that kind of logic. I do not want to make appropriations so as to embarrass any Government. I think the appropriations ought to be ample; but I can see no possible reason for increasing the expense of collecting the revenue ten per cent. when the revenues have fallen off one third. If we were not going to be here again in six years, there might be some reason for allowing a margin; but we shall be here in six months more, and then not over five months of the next fiscal year will have expired; and I do not see any modesty in presenting deficiency bills where they are really necessary. The truth is, the deficiency bill which we passed at this session, amounting to \$9,000,000, was brought up after only six months of the fiscal year had expired. They expended the appropriations for this carrying trade—I do not know exactly what you call it—in the first half of the year, and we supplied them with the balance they wanted. We can do it again. Nobody desires to embarrass the Government, especially in the collection of the revenue.

The Senator from California tells us that there is a proposition to increase the fees of officers there. I like California, and I am disposed to be liberal towards every State and every department of the Government; but I should like gentlemen to read a bill that came here from California for fitting up a court-house. I cannot undertake to state it, it was so fabulous, but I think it was something like seventy-five dollars apiece for chairs. I never saw or heard of such a bill in all my life before, and I think the chairman of the Committee on Claims [Mr. IVERSON] may perhaps remember it better than I do.

Mr. BRODERICK. The Senator from Rhode Island will permit me to say a word. Notwithstanding that extravagant price paid for everything, there are one or two gentlemen who have spent the winter here for the purpose of inducing the Government to take a new building, one on

which they intend to lay out about the same amount.

Mr. SIMMONS. This court-house is fitted up like a palace. There is no eastern prince, in my opinion, that ever had such furniture extorted from his laborers. I never heard of such a thing, and I do not know what they could do with it. No doubt we reported in favor of paying the amount.

Mr. IVERSON. My friend from Rhode Island is under a mistake. The Committee on Claims did not report a bill to pay the amount, but they reported a bill authorizing the Secretary of the Treasury to take evidence as to the value of the property furnished to the Government, and to pay what in his judgment was a reasonable compensation for it.

Mr. SIMMONS. We took the most prudent course we could, no doubt, and did not intend to ruin anybody; but I believe the Senator from Georgia will bear me witness that he never read such a bill in his life for the expense of fitting up any rooms for any purpose.

Mr. IVERSON. I agree with the Senator that it was a very extravagant bill, and the furniture was of a very extravagant character; but where gold is so plenty (as the Senator from California has properly said) as it is in California, they carry on everything upon the high-pressure system, and nothing will do them there but chairs that cost from seventy-five to one hundred and fifty dollars apiece to sit in, with cushions, for their petit jurors. Their common people must sit upon cushioned seats that cost from fifty to one hundred dollars apiece. It is the most extravagant fitting up of a court-room and jury-room and clerk's room that I ever have seen or heard of in the United States; but I presume it is all correct, and all in accordance with the condition of things in California! It is all upon that "high-falutin'" and high-pressure system, which has continued in California from the settlement of the country, and I think will continue to the end of time, as long as California is a member of this Union.

Mr. SIMMONS. I think some of us who live on this side of the mountains, and who have to get our living in a little different way, should try to retrench on this side, any way. I am willing to make an exception of California; and I understand from the remarks made by the Senator from California, [Mr. GWIN,] that the expenses of collecting the revenue there have gone down from \$400,000 last year to \$280,000 this year. There is a saving of \$120,000 in that State alone; and yet we are asked to appropriate \$400,000 more than this service cost last year altogether. How do you make that out? When Senators rise here and say they are for reducing the expenses of collecting revenue in those places where it has been so extravagant, and in the same breath ask us to appropriate ten per cent. more than we ever did before, I do not understand their species of calculation. If they are for reduction, they certainly ought to reduce these appropriations. When the Senators from California state the fact that the expenses of collecting the revenue in California have been reduced one fourth in the last year, and are likely to be still further reduced this year, why should we be asked to appropriate more for the next fiscal year than was spent last year? There is every reason in the world to reduce the appropriation, instead of increasing it.

The Senator from California says the Secretary of the Treasury is sending out a commission to examine into these matters. You will multiply officers, sending them to hunt for places to retrench, until it will cost ten times as much to look up retrenchments as you will save by them. That is not the way to reform and retrench. Nobody wants to go to California to ascertain that it is unnecessary to buy chairs at a hundred and fifty dollars apiece. We know that before we go there. So it is with all these expenses. You might just as well refuse this appropriation at once. I have no purpose of embarrassing anybody; but so long as Congress talks about retrenchment and reform, and every time a bill comes up appropriates more than was ever appropriated before, it is perfectly idle to expect the people of this country to believe you are in earnest. Why should they believe it? I see no disposition to retrench anything except it may be that if you have a building going on, and you can injure it and destroy the work you

have done on it by cutting off an appropriation, you are ready to do that. We have spent, as I said to the Secretary of the Treasury, \$500,000,000 since I was here ten years ago, and all I can see for it that is good for anything, is the public buildings that we have erected, and most of which rest on granite, that they may stand. As to what goes to officers, it is almost as bad as wasted. It keeps up a scramble for office. Gentlemen here talk about our public printing and about trying to promote the public morals by reform in that respect. I want to know what would do more to promote public morals than to cut down salaries so that there will not be forty men after every office there is in the gift of the Government? I think it would be the best thing for the Government itself, the best thing for those who are administering the Government, to reduce salaries and to stop the incessant cry for office, and let people work for their living. I am willing to give fair, liberal salaries to those who do work for us; but can anybody say that it is worth six or eight thousand dollars a year to be a naval officer in California?

I am astonished at the chairman of the Finance Committee proposing to enlarge these appropriations, and especially to make them permanent. I like the suggestion of the Senator from South Carolina, and I hope Senators will go for this amendment of \$3,000,000. I do not profess to understand the details of this bill; but if we appropriate \$3,000,000, and there should be a deficiency, I pledge myself, if I am living and am here, to supply it at the earliest moment, and without any reflection upon the Secretary either. I say, if Congress shows no disposition to curtail expenses, but to give out for every purpose of official patronage more and more every time it is asked, you must never expect your executive officers to try to curtail. They will talk about curtailing, and that has been the cry ever since I can remember; they are going to reform abuses; but when you appropriate money, that is the end of it. Congress may be found fault with, and there will be a bantering between Congress and the Departments as to who is to blame for the appropriations. They will say, "we have been trying to retrench, and Congress does not strengthen our hands." Sir, let us begin here, in regard to the collection of the revenue. The first year, as I understand the Senator from Missouri, there was an appropriation of \$1,750,000, and there was a deficiency of \$750,000, carrying it up to \$2,500,000. Probably that was a fair standard. I do not know much about it; but here is an appropriation of \$3,000,000, and I think it is quite enough. We are told that over one hundred thousand dollars will be saved in California alone, this year; and probably a proportionate amount in other places. We are not collecting near as much revenue as heretofore, and I cannot see why it should cost more to collect it.

Mr. HUNTER. In 1851, \$49,000,000 of revenue were collected, and the expenses of collection were a little upwards of three million dollars. In no year since 1851 have the expenses been less than something more than three millions. That \$3,000,000 was on \$49,000,000. Now, it will be found that the per centum of collecting the revenue from that time to 1857, the last year we have reported, has not varied very much, and that the comparison is not against last year, commencing with Mr. Fillmore's administration and coming down through General Pierce's. It will be found that since 1854 the expenses have never been less than \$3,500,000. Yet it is now proposed to reduce them to \$3,000,000; that is, to reduce them to a less sum than has been paid since 1851; and that when we know that the inhabited portions of our coast are increasing; when we know that there must be an increase in the northwestern part of the Pacific coast, in Oregon and Washington, as those countries are settled, which will probably more than make up for any reductions that may be made in California; and that, too, in face of the fact (for it is to be remembered this a permanent appropriation) that the expenses of collecting the revenue have been constantly increasing with our population and with our revenue.

I said before, that if the bill appropriated only for the next year, it would be perfectly safe to confine the amount to the expenditures of 1857, and I should not object to that. The only reason I gave for allowing a margin was that we might not have to repeat this appropriation every year.

I do not believe the Secretary of the Treasury will necessarily expend the \$4,000,000 if we appropriate it. On the contrary, I believe that he is earnestly desirous to reduce, and will reduce if he can; but I am not disposed to attempt a reduction now, until I have some scheme presented for reduction, some system of legislation that will attain and accomplish the end.

Mr. STUART. I wish to ask the Senator a question, that I may distinctly understand the bill. The first section seems to appropriate \$1,600,000 semi-annually, for collecting the revenue.

Mr. HUNTER. That is for the last half of the present fiscal year, from the 1st of January to the 1st of July, 1858. After that it appropriates \$4,000,000 a year.

Mr. STUART. The first section makes the appropriation I suggested.

Mr. HUNTER. The first section appropriates \$1,600,000 for the last half of the present fiscal year, and the second section appropriates, hereafter, \$4,000,000 a year.

Mr. STUART. That is what I wish to know, because I suggest to the Senator that I shall vote for the amendment of the Senator from Massachusetts; and unless that prevails I shall move to strike out the second section of the bill which appropriates \$4,000,000 a year, for an indefinite period, or until altered by law. I am willing to make, for the next year, such an appropriation as is deemed necessary; but it must be seen that we have reduced the revenue, according to the standard of our tariff, to \$50,000,000—

Mr. HUNTER. But we have not cut off any of the collection districts; we have not cut off any of the machinery which costs money.

Mr. STUART. I am aware of that; but I think the amendment of the Senator's committee, which he has had adopted on this bill, which cuts off ports of entry that do not collect \$10,000, will save a much larger amount of money than he supposes, and I think that is pretty large. We have extended ports of delivery up the Mississippi and its tributaries, and in one instance, at Dubuque, we have actually built a custom-house, where there was neither collector nor collection district, but simply a port of delivery. The Senator's amendment he will find will be a most efficient weapon to cut down this abuse, and it will reduce the expenses, in my opinion, to what the Senator from Massachusetts proposes; but, at all events, I suggest to the honorable chairman that the indefinite appropriation of \$4,000,000 a year, made in the second section, cannot be necessary at this time.

Mr. HUNTER. I hope the amendment of the Committee on Finance may have the good effects the Senator from Michigan anticipates. I have no doubt it will reduce the expenditure somewhat, and I have no doubt that other reforms will be suggested to us by the commencement of the next session, which will enable us to reduce still further. I would not object, as I said before, for the next fiscal year, if it be proposed only to provide for the next fiscal year, to reduce the appropriation to the expenditure for the last year of which we have any account; but I submit that it would not be safe to reduce it to a sum lower than was expended in the year ending June, 1857.

Mr. SIMMONS. The Senator calls my attention to the percentage spent in 1851. He says we then collected \$49,000,000 of revenue, and the percentage has not increased since. Well, if the expense of collecting the revenue depends on the amount collected, I ask the Senator if he supposes \$2,500,000 would be required this year?

Mr. HUNTER. I said it did not increase up to 1857, when the revenue went up to \$63,000,000. Of course the percentage will be increased, if we estimate the revenue at what it is in this year of deficiency.

Mr. SIMMONS. I wish to ask one further question. I understand now there is an appropriation of \$1,600,000 for the last half of the present year. Why should it be any more for the next six months?

Mr. HUNTER. I cannot tell. The Secretary has had some balances on hand. What the amount of those balances was I do not know.

Mr. SIMMONS. He has asked us, it seems, for appropriation at the rate of \$800,000 a quarter for collecting the revenue in the current six months, and I cannot see any reason why it should be more than \$800,000 a quarter for the next year.

Mr. GWIN. I do not want to detain the Senate in this discussion; but I think the two members—and I have no doubt they are very efficient members of the Committee on Claims—who have spoken should have looked at the remarkable bill they spoke of. If they had done so with the determination to do justice to California, they would have ascertained the fact that the whole of that extraordinary and extravagant expenditure was made without the slightest shadow of authority of law; that the gorgeous fitting up of those court-rooms was a speculation of an individual, encouraged, no doubt, by those who were to participate in the grandeur that was produced by those magnificent rooms; and hence the claimant is here. There was no authority of law for it, and it has never been contended that there was any. There is no obligation on this Government to pay for those magnificent chairs unless the gentlemen upon the Committee on Claims choose to report a bill, and have it passed through Congress. The magnificence they speak of in those court-rooms, and their fitting up, was a matter entirely outside of any authority, according to law. It is a claim that has been presented to Congress. Here it is. If we pay it, it will be all right, I suppose; but I have never encouraged it in any shape, manner, or form.

But in regard to the collection of revenue, and reducing the expenses of collection, many gentlemen who are familiar with our complicated system know that it ought to be approached with great caution and care; and the principal reason that it has not been revised, was on account of the extraordinary amount of money that was received into the Treasury during the last four or five years. Last winter we revised the tariff, and reduced the amount of revenue from twelve to fifteen per cent. on what was formerly collected. Now the time has come; and I take it for granted the Secretary of the Treasury will reduce the expenses of collecting the revenue, but I hope it will be done systematically. I hope it will not be cut into here and there; and that my State particularly, because it happens to produce gold, and salaries there are high, will not be made a scape-goat of. I am willing for it to come in upon others with a system, and be brought down. I want no extravagant salaries there, or anywhere else. But, inasmuch as the Senator from Massachusetts seems to have singled out California for his attacks, I hope the Senate will bear in mind that we have brought the expenses of collecting the revenue in that State from \$1,300,000, down to \$300,000; and we have probably reduced them one hundred thousand dollars within the last twelve months, and reduced our officers more than one fourth, dismissed a large number who were organized for the purpose of protecting the revenue system and preventing smuggling. It is known that, in all the Mexican possessions, they carry on smuggling. The former system, which it was known was extravagant, has been reduced; and probably it can be reduced still more. I hope, however, it will be by a regular law, and not by an amendment to an appropriation bill.

Mr. WILSON. The bill before us is intended to repeal the existing law limiting the annual expenditures for the collection of the revenue on the Atlantic coast to \$2,500,000. The proposition made by the Senator from Virginia to carry up this limit to \$4,000,000, he defends here to-night as a permanent system. He says that, if the appropriation was intended only for this year, he does not know that he would ask for the four millions. The Senator proposes to repeal an existing law, for which he himself fought in Congress when it was passed; for which the present Secretary of the Interior battled in the House of Representatives day after day, and arraigned the administration of General Taylor for extravagance when they passed beyond the limit of the first law limiting the expenditures to \$1,750,000.

The Senator from Virginia says, in reply to a remark made on this side by the Senator from Kentucky, in regard to the expenditures of last year and the year before, that the Department had reserved funds. Where did they get those reserved funds? I will tell you, sir. The administrations of Taylor and Fillmore saved \$1,623,000, and Franklin Pierce's administration spent it. That is the way they got their reserved fund. The expenditures on the Atlantic coast, in 1851, were \$1,966,000; last year (1857) they were carried

up to \$3,162,000, being an advance of \$1,200,000 on the Atlantic coast. They were brought down on the Pacific coast from nearly six hundred thousand dollars, in 1851, to about three hundred thousand dollars—and why? In 1851 the imports into California were six or seven million dollars; now they are but a million and a half. The expenses there have been dropping off every year for the last five or six years, until, with all these great salaries, they are now down to about three hundred thousand dollars, and you can bring them down to \$150,000. Reduce the salaries to the same footing as in the city of New York, and you can bring down the expenditures on the Pacific coast certainly to \$250,000; add that to \$2,450,000, which is surely ample for the Atlantic coast, and you have altogether \$2,700,000. I believe that will be enough; but, in order to be liberal, I propose to allow \$3,000,000, which will give about two million seven hundred and fifty thousand dollars for the Atlantic coast.

Now, I ask the Senator from Virginia by what authority you have added, during the last five years, six hundred officers on the Atlantic coast?

By what authority have you added forty officers in the city of Boston, and three hundred and forty-six in the city of New York? Why have you increased your force on the Canadian line, so that, in places where you have got a dozen officers, you collect no revenue? Where you collected formerly one hundred or two hundred thousand dollars, you now come down to nothing, and yet you have doubled your force. Go to New England—I tell you of my own State—I do not complain of extravagant salaries, for you do not pay extravagant salaries there; but you have too many people. Take the city of Salem for example. In 1854 you had six inspectors there at \$600 a year. Without authority of law you have added four inspectors, and carried their salaries up to \$1,095, making \$11,000 expenses there. It is so all over New England; it is so in New York; it is so everywhere on the Atlantic coast. You have increased your officers unnecessarily, and if you want to diminish your expenses you can very easily do it by dismissing seven or eight hundred of these men. What are they doing now? A member of the House of Representatives, the other day, gave a vote that did not suit these gentlemen, and they went up into one county of New York, on the Hudson river, and started public meetings to censure him. Another gentleman, a member from the city of New York, gave a vote they did not like, and they got up a coffin and carried it through the streets of New York. This was done under the lead of the Government officials who have taken the politics of this country into their care. Your expenditures are to be carried up to four millions a year to pay your army of office-holders, your American-Swiss guard. I want the people of this country to understand it, that you propose to take off the limitation of law restricting these expenditures to \$2,500,000, and carry them up to \$4,000,000—an increase of \$1,500,000—to pay your pensioned Government office-holders, who do more of the politics of the country than they do in the way of business in collecting revenue.

Now, sir, a word in regard to any complaints I have made about these great salaries in California. My votes in this body, I think, can be appealed to for liberality towards California, and every other section of this country; but I say here to-night what you know to be true, sir, and the country knows to be true, that everything connected with the expenditures of this Government in California has been carried on in the most extravagant manner—salaries unheard of in this country; appropriations unheard of; no system; nothing but put your hand in the Treasury and take out what you can. I want to see it checked; and it shall be checked—it shall be checked in this branch and the other.

Mr. President, I want to say here, and I mean what I say, that in regard to these extravagant expenditures, be they in my own State or any other State, I mean to point them out; I mean to resist them; I mean to demand their reduction; and we will have that reduction, too. You can vote down this amendment if you choose; but there is no need of this extravagance; the country knows it; everybody knows it that has examined the subject.

Mr. BRODERICK. I am very glad that the

Senator from Rhode Island mentioned the expenditure that was incurred by the Government in fitting up court-rooms in California. I have been informed by the chairman of the Committee on Claims that the amount is \$18,000; and I was somewhat surprised at my colleague when he said that the parties who had the work done—at least I so understood him—were not connected with the parties who performed the work.

Mr. GWIN. Not at all.

Mr. BRODERICK. While I am up, since so much has been said about the collection of revenue in California, and the cost of collecting it, I may as well mention, for the information of the Senate, that the collectors have been very handsomely paid in California. When I arrived here in 1857, I was present at an interview which took place between the then Secretary of the Treasury, Mr. Guthrie, and my colleague, and I heard him inform my colleague that the collector of customs at San Francisco, in 1854 and 1855, was a defaulter to the amount of \$430,000. My colleague can correct me if I have misstated what took place. Well, sir, last year the melter and refiner and assayer of the Mint in California, was discovered to be a defaulter to the amount of about one hundred and seventy-five thousand dollars. At least there has been a suit commenced against him for that amount; and a great many believe that he took about a million dollars. I only mention these items to show that the officers in California have a way of getting outside fees, besides the salaries they receive from the Government. I mention these two cases; there are a great many other small ones.

Mr. WILSON. I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. KING. I propose simply to state to the Senate, that I intend, whether this amendment is adopted or not, as I hope it will be adopted, to move to change the permanent appropriation, at whatever amount it may be fixed, to an appropriation for a single year.

Mr. SEWARD. I should like to inquire of the honorable Senator from California [Mr. BRODERICK] if the collector to whom Mr. Guthrie referred in the conversation of which he has spoken, was Colonel Collier?

Mr. BRODERICK. It was not Colonel Collier. Colonel Collier, I believe, made some two or three or four hundred thousand dollars while he was collector; but the courts decided that he was all right.

Mr. SEWARD. I was going to say that Colonel Collier had been prosecuted by the Government.

Mr. BRODERICK. I did not refer to him.

Mr. SEWARD. A judgment was rendered in his favor; and I felt that perhaps an erroneous impression might go out in relation to him.

Mr. BRODERICK. That is generally done, sir. [Laughter.]

The yeas and nays were taken upon the amendment.

Mr. HAMLIN, when his name was called, stated that he had paired off with the Senator from Alabama, Mr. CLAY.

Mr. BRODERICK at first voted in the negative; but before the result was announced, said: I see there is a very large vote in favor of this amendment, and I suppose I shall have to change my vote and go for it. My vote will do no good on the opposite side.

The result was announced—yeas 28, nays 7; as follows:

YEAS—Messrs. Broderick, Chandler, Collamer, Crittenden, Dixon, Doolittle, Fessenden, Fitch, Foster, Green, Hale, Harlan, Houston, Iveson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, King, Rice, Sebastian, Seward, Simmons, Stuart, Toombs, Trumbull, Wade, Wilson, and Yulee—28.

NAYS—Messrs. Allen, Bayard, Bright, Hammond, Hunter, Slidell, and Wright—7.

So the amendment was agreed to.

Mr. HUNTER. I only want to call to the attention of the Senate the fact that they are allowing half a million less than has been expended in any year since 1854.

Mr. WILSON. I offer another amendment:

And be it further enacted, That no collector of the customs, deputy collector, naval officer, deputy naval officer, surveyor, deputy surveyor, general appraiser, superintendent of warehouses, or any other officer or person engaged in the collection of the revenue, shall receive a greater compensation than is now paid to the officers and persons

engaged in said service at the port of New York: *Provided*, That this section shall not be so construed as to increase the compensation of any officer of the customs, or of any person engaged in the collection thereof.

The amendment was agreed to.

Mr. KING. I stated that I should offer an amendment to limit to one year this law, which seems to be a permanent one, making the appropriation continuous until it shall be changed. For that purpose I move, in the third line of the second section, to strike out the words "each and every," and insert "the" before "fiscal year;" and after the words "1st of July, 1858," insert "to the 30th of June, 1859." These alterations will make the act an appropriation for one year. My object is, that this bill may come before us next year necessarily, when we shall have passed through something more of the experiment of the present condition of things, and may determine what ought to be done.

Mr. FESSENDEN. The first two sections have been stricken out.

Mr. KING. Then I shall not offer my amendment.

The bill was reported to the Senate as amended, and the amendments were concurred in, and ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

MAIL STEAMER BILL.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had agreed to the second amendment, and had disagreed to the first, third, fourth, and fifth amendments of the Senate to the bill (H. R. No. 538) making appropriations for the transportation of the United States mail by ocean steamers and otherwise, during the fiscal year ending the 30th of June, 1859.

JOHN SAWYER.

Mr. KING, from the Committee on Pensions, to whom was referred the bill (H. R. No. 619) for the relief of John Sawyer, a soldier of the war of the Revolution, reported it without amendment.

Mr. HAMLIN. This is a little bill which gives a pension for revolutionary services to a man who is one hundred and three years old. I ask that it may now be considered. ["Certainly."]

The bill was considered as in Committee of the Whole. It proposes to place the name of John Sawyer, of Penobscot county, Maine, on the pension roll at the rate of twenty-four dollars a year, during his natural life, commencing March 4, 1831.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

PROPOSED ADJOURNMENT.

Mr. HUNTER. I move to take up the Indian deficiency bill.

Mr. HOUSTON. I move that the Senate adjourn.

Mr. HUNTER. I hope the Senate will not adjourn.

Mr. HOUSTON. I have been here nearly eleven hours without eating bread, or drinking water.

Mr. HALE. Discussion is not in order.

Mr. JOHNSON, of Arkansas, called for the yeas and nays; and they were ordered.

The Secretary proceeded to call the roll, and Mr. ALLEN answered.

Mr. HOUSTON. I desire to withdraw the motion to adjourn, for the purpose of allowing gentlemen to take up a few local bills.

The PRESIDING OFFICER, (Mr. BRIGHT.) By unanimous consent the motion may be withdrawn.

Mr. HALE. Go on with the call.

The PRESIDING OFFICER. One Senator has answered to his name, and the call must go on.

The Secretary continued the call of the roll; and the result was—yeas 15, nays 20; as follows:

YEAS—Messrs. Broderick, Brown, Crittenden, Foster, Hale, Harlan, Houston, Iversen, Johnson of Tennessee, King, Seward, Simmons, Stuart, Trumbull, and Wade—15.

NAYS—Messrs. Allen, Bayard, Benjamin, Bright, Doollittle, Fessenden, Fitch, Green, Gwin, Hammond, Hunter, Johnson of Arkansas, Kennedy, Pugh, Reid, Rice, Sebastian, Toombs, Wright, and Yulee—20.

So the Senate refused to adjourn.

SETTLERS IN ILLINOIS.

Mr. SEWARD. Is there any special order now?

The PRESIDING OFFICER. The Senator from Virginia has a motion before the Senate to take up the Indian deficiency bill.

Mr. TRUMBULL. I believe I had the promise of the Senator from Virginia, that he would allow me to have a little House bill, for the relief of some constituents of mine, considered and passed.

Mr. HUNTER. With the understanding that it gives rise to no debate.

Mr. TRUMBULL. I presume there will be no debate about it. The Committee on Public Lands of the Senate recommend the passage of the bill, and it has already passed the House of Representatives. It is a bill (H. R. No. 538) for the relief of settlers on lands in the State of Illinois. I move to take it up.

The motion was agreed to, and the bill was considered as in Committee of the Whole.

It provides that every settler on any of the public lands heretofore selected by the State of Illinois, but which have not been confirmed to that State, under the provisions of the act of 4th of September, 1841, who has settled thereon in good faith, shall be entitled to preëempt his claim by legal subdivisions, not to exceed one hundred and sixty acres in a compact body, at the ordinary minimum of \$1 25 per acre, unless within the six-mile limits of any railroad grant, and in that case at the usual double minimum of \$2 50 per acre. Such settlers, however, are to establish their rights according to the rules and regulations prescribed under the provisions of the act of 4th September, 1841, and pay for the lands within three months from the date of the publication of this act by the register of the proper district.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

COURTS IN ARKANSAS.

Mr. JOHNSON, of Arkansas. There is a bill lying on the table which was considered nearly three weeks ago, and then laid aside. It is a matter of public interest to my State, and was reported by the Judiciary Committee—in which, I believe, the Senate have the highest confidence. I move to take up that bill now; and I hope the Senate will pass it at once. If it gives rise to debate, I shall withdraw it. It is a bill concerning courts in Arkansas.

Mr. DOOLITTLE. I offered an amendment to that bill, which I beg leave to withdraw. The amendment had reference to courts generally throughout the United States; but this is a local bill. In offering that amendment, it was not my intention to embarrass the bill at all; but I desire to give notice, that, when the subject comes up on a bill for reforming the judiciary system of the United States, there is a provision in my amendment which I desire to insist upon.

Mr. HUNTER. If the bill of the Senator from Arkansas gives rise to no debate, I shall not object to its consideration.

Mr. JOHNSON, of Arkansas. I think it can be disposed of at once; at any rate, I make the motion to take it up.

That motion was agreed to; and the consideration of the bill (S. No. 278) concerning the courts of the United States in the district of Arkansas was resumed, as in Committee of the Whole.

It provides for the appointment of a district judge of the United States for the western district of Arkansas, who shall have and exercise the same jurisdiction and powers which are now had and exercised within it by the judge for the district of Arkansas, and the jurisdiction and authority of the last mentioned judge are to be hereafter confined to the eastern district of Arkansas. The annual salary of the judge of the western district is to be \$2,500.

It further provides that there shall be hereafter two terms of the circuit court of the United States for the eastern district of Arkansas, on the second Mondays of April and October in each year.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

INDIAN DEFICIENCY BILL.

Mr. HUNTER. I now move to take up the Indian deficiency bill.

Mr. PUGH. I trust the Senator will allow me to call up a little House bill that will not give rise to debate.

Mr. HUNTER. I may as well abandon business, and move an adjournment. ["Oh, no;" "Go on!"] If gentlemen will allow me to go on with the appropriation bills, I will not make the motion. ["Go on!"]

The Senate resumed the consideration of the bill (H. R. No. 555) to supply deficiencies in the appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1858, the pending question being on the following amendment of Mr. HOUSTON:

And be it further enacted, That the superintendents and agents within the superintendency of Texas shall be hereafter appointed in the same manner as other superintendents and agents are appointed and confirmed; and that the Wichita agency is hereby attached to the superintendency of Texas.

Mr. HOUSTON. I was entitled to the floor early this morning, and yielded to the honorable chairman of the Committee on Finance. Again, when I was entitled to the floor, I yielded through courtesy, as he desired other business to be taken up. He has availed himself of my courtesy, and now inflicts on me the disagreeable duty of going into a discussion at this late hour of the night. I intend that the bright rays of to-morrow's rising sun shall come through the windows of these halls before I lose my privilege. Before commencing the argument, that I may be enabled to condense it within the nine hours allowed me from now until sunrise, I should be glad if the Senator from Arkansas would give some explanation of the reasons why he opposes the amendment. I desire to know the grounds on which his opposition rests, that I may respond.

Mr. IVERSON. If the Senator from Texas will give way, I wish to propose a compromise. The Senator proposes to speak until sunrise; but I understand that, if we now adjourn, he will occupy only half an hour to-morrow. If he will pledge himself to that, I will move an adjournment.

Mr. HOUSTON. I cannot make such a pledge now. I am not going to swap nine hours for half an hour. [Laughter.]

Mr. GREEN. I move an adjournment.

The motion was agreed to; and at ten o'clock, p. m., the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, June 10, 1858.

The House met at eleven o'clock, a. m.

The Journal of yesterday was read and approved.

SICK AND DISABLED SEAMEN.

The SPEAKER laid before the House a communication from the Secretary of State, transmitting a letter addressed to the Committee on Commerce relative to provision for sick and disabled seamen; which was referred to the Committee on Commerce, and ordered to be printed.

MISSOURI AND CALIFORNIA MAILS.

The SPEAKER stated the business first in order to be on Mr. CRAIG's motion to suspend the rules to enable him to introduce a joint resolution in relation to carrying the United States mails from St. Joseph, Missouri, to Placerville, California.

LANDS IN THE CHOCTAW CESSION.

Mr. SINGLETON. I told the House the other day that if it then passed one little bill of mine I would not trouble it any more; but that was on the hypothesis that Congress would adjourn last Monday. As the session, however, has been extended a week, I now ask that I may report back a bill from the Committee on Public Lands.

There being no objection,

Mr. SINGLETON reported back, from the Committee on Public Lands, House bill (No. 399) for the relief of certain purchasers of lands within the limits of the Choctaw cession of 1830.

The bill authorizes and requires the Commissioner of the General Land Office to cause patents to be issued on all certificates for entries made within the limits of the Choctaw cession of 1830, at less than the true graduation price issued prior to the reception, by the local land office, of the

true graduation lists, when such certificates and entries are regular.

Mr. COBB. I move that the bill be put upon its passage, and ask for the reading of the letter of the Secretary of the Interior.

The letter was read, as follows:

DEPARTMENT OF THE INTERIOR, June 4, 1858.

SIR: In compliance with the request contained in your letter of yesterday, I have examined House bill (No. 399), "For the relief of certain purchasers of land, within the limits of the Choctaw cession of 1830." I have also referred the bill to the Commissioner of the General Land Office, and herewith inclose a copy of his report.

In expressing my concurrence in the views of the Commissioner, I will add, that, in my opinion, the increased expense necessarily attending the settlement and determination of suspended entries, within the cession mentioned, would probably equal, if not exceed, the additional amounts which might accrue under existing laws, and therefore the amendatory legislation proposed would not materially, if at all, conflict with the interests of the Government. The bill is returned.

I have the honor to be your obedient servant,

J. THOMPSON, Secretary.

Hon. W. R. W. Cobb, House of Representatives.

Mr. SINGLETON. I now ask that the letter of the Commissioner of Public Lands be read.

The letter was read, as follows:

GENERAL LAND OFFICE, June 3, 1858.

SIR: I have the honor to return herewith the bill proposed by the Hon. Mr. SINGLETON, of Mississippi, with a view to the confirmation of certain sales in the Choctaw cession, which had been made at less rates than the proper graduation prices; and in consideration of all the facts, this office respectfully submits, the only mode of adjustment, under existing laws, would be to cancel the entries which have been made, reexpose the lands to sale; that, in doing so, it would necessarily be with prejudice to individual interests, and, after all, with the probability of but little benefit to the public Treasury.

Under the circumstances, a liberal spirit to our citizens is the better policy, and in that spirit, the passage of the bill is recommended; another benefit of which will be to dismember our files from suspensions, and relieving that section of the country from the embarrassments of contested titles.

With great respect, your obedient servant,

THOMAS A. HENDRICKS, Commissioner.

Hon. J. Thompson, Secretary of the Interior.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COBB moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WILLIAM S. BRADFORD.

Mr. QUITMAN. I move to reconsider the vote by which House bill (No. 610) for the relief of William S. Bradford was passed yesterday; and also move to lay the motion to reconsider on the table.

The latter motion was agreed to.

EXCUSED FROM SERVING ON COMMITTEE.

Mr. MORRIS, of Illinois. I rise to a privileged question. It will be recollected that a few days ago I submitted a motion to reconsider the vote by which the honorable gentleman from Kentucky [Mr. CLAY] was excused from further service on the Committee on Foreign Affairs. I voted in the affirmative on the motion to excuse; but a night's subsequent reflection satisfied me that I voted wrong, and therefore I submitted the motion to reconsider next morning. That motion not having been disposed of, my object in rising is to have it disposed of now. I am satisfied that, on reflection, the gentleman from Kentucky must feel convinced that this House did not intend to treat him with any discourtesy or disrespect. I am also satisfied that this House desires his further continuance on that committee, particularly in view of the present critical condition of our affairs. I, for one, am therefore unwilling to excuse him from further service on the committee, although I may not be able to support every or any measure that may meet with his approbation. Still, I am satisfied that he will bring to the discharge of his duty an ardent and devoted patriotism; and hence, believing that at this time, when our flag is being insulted on the high seas, and when British aggressions are being made on American vessels, the Committee on Foreign Affairs ought to be composed of men fitted for the crisis, I hope that the vote by which the gentleman from Kentucky was excused will be reconsidered.

Mr. RUNKEL, of Pennsylvania. I would like to ask the gentleman from Illinois whether the gentleman from Kentucky desires to be excused from serving on the Committee on Foreign Affairs?

Mr. MORRIS, of Illinois. I do not wish to place the gentleman from Kentucky in that position. I have no doubt of the fact, however, that, although he would not express a desire to continue on the committee, yet, if it be the wish of the House to continue him on the committee, he will serve. I hope the motion will be now disposed of.

Mr. JONES, of Tennessee. I rise to a question of order. I understand there is a motion pending to suspend the rules; and if so, the gentleman from Illinois cannot call up a motion to consider when there is a subject before the House. He can call it up at any time when there is no subject before the House.

The SPEAKER. The gentleman from Tennessee is correct. The gentleman from Illinois called up his motion, and the Chair heard no objection at the time. The Chair supposed that the House was willing to dispose of it.

Mr. JONES, of Tennessee. I supposed he was stating the reason why he would call it up. I see there is a new practice likely to grow up here now. One gentleman gets the floor and makes a motion, and then yields the floor and lets the motion remain in abeyance, till others ask the unanimous consent of the House to make other propositions. I think it is better to follow the proper practice of the House.

Mr. MORRIS, of Illinois. I would say to the gentleman from Tennessee that the gentleman from Missouri is willing that I should have this question disposed of in advance of his.

Mr. HARRIS, of Illinois. I call the previous question on the motion to reconsider.

Mr. JONES, of Tennessee. I insist on my question of order.

The SPEAKER. If there be objection, the proposition will be first put on the motion of the gentleman from Missouri, [Mr. CRAIG.]

MISSOURI AND CALIFORNIA MAILS.

Mr. CRAIG, of Missouri. If there be no objection to the introduction of the resolution, I suppose there is no necessity for the motion to suspend the rules.

Mr. JONES, of Tennessee. I object.

The question was taken on the motion to suspend the rules, and it was agreed to; there being, on a division—ayes 130, noes 25.

So (two thirds voting in favor thereof) the rules were suspended; and the joint resolution in relation to the carrying of the United States mails from St. Joseph, Missouri, to Placerville, California, was introduced, and read a first and second time.

The resolution directs the Postmaster General to order an increase of speed on the mail route between St. Joseph, Missouri, and Placerville, California, so as to require the mails to be carried in thirty days, instead of thirty-eight days, provided the same can be done at a *pro rata* increase of compensation to the contractor.

Mr. SANDIDGE. I would ask the gentleman from Missouri whether this resolution has been reported by a committee of the House?

Mr. CRAIG, of Missouri. I would state that it has been twice passed upon by the Committee on the Post Office and Post Roads—once in the shape of a resolution requiring information from the Department.

Mr. SMITH, of Virginia. There is a good deal of money involved in this thing. The whole proposition is to give money to the contractors.

Mr. CRAIG, of Missouri. The existing law authorizes the Postmaster General to order an increase of speed on any mail route he chooses; and the contractors are obliged to obey that order. It is, then, usual to furnish evidence to the Postmaster General as to how much the expenses are increased; and that amount is allowed. I move the previous question.

Mr. REAGAN. That is a very important bill. It has never received the sanction of any committee, and it is opposed to the opinion of the Post Office Department.

The SPEAKER. Debate is not in order.

The previous question was seconded, and the main question ordered.

The joint resolution was ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time.

Mr. JONES, of Tennessee. I move to lay the resolution on the table. I think it is wrong for

Congress to make contracts for carrying the mails, when the general law authorizes the Postmaster General to do it.

The motion was not agreed to.

The joint resolution was passed.

Mr. CRAIG, of Missouri, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

EXCUSED FROM SERVING ON COMMITTEE.

Mr. MORRIS, of Illinois. I now call up the motion to reconsider the vote by which the gentleman from Kentucky [Mr. CLAY] was excused from serving on the Committee on Foreign Affairs. I will only say, in addition to what I had said when I was interrupted, that this motion was submitted at my own suggestion, without the knowledge of the gentleman from Kentucky. I believe it is due to him that I should make this statement. I now move the previous question.

The previous question was seconded, and the main question ordered.

The motion to reconsider was agreed to—ayes 90, noes 53.

The question recurred upon the motion to excuse Mr. CLAY, and it was decided in the negative.

So the House refused to excuse Mr. CLAY from further service on the Committee on Foreign Affairs.

SUPPLEMENTAL INDIAN APPROPRIATIONS.

Mr. J. GLANCY JONES, by unanimous consent, from the Committee of Ways and Means, reported back the amendments of the Senate to the bill of the House making supplemental appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1859; which were referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. DICKINS, its Secretary, informing the House that the Senate had passed the mail steamer appropriation bill, with amendments, in which he was directed to ask the concurrence of the House.

MAIL STEAMER APPROPRIATION BILL.

Mr. SMITH, of Virginia. I ask that an order may now be made to have those amendments to the mail steamer appropriation bill printed, so that we may have them before us when we come to act upon them.

Mr. J. GLANCY JONES. I desire to say that the Committee of Ways and Means have informally considered those amendments, and have agreed to recommend a non-concurrence in all but one of them. I move that the amendments be referred to the Committee of Ways and Means.

The motion was agreed to.

Mr. J. GLANCY JONES. Inasmuch as the Committee of Ways and Means have already considered these amendments informally, I now ask leave to report them back, in order that they may be referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. MARSHALL, of Kentucky. I would say to the chairman of the Committee of Ways and Means that I do not want to have these amendments referred to the Committee of the Whole on the state of the Union until they have been printed, so that we may have an opportunity to see what we are legislating about.

The SPEAKER. The Chair would suggest that the order to print is rarely ever made until the amendments are reported from the Committee of Ways and Means, and referred to the Committee of the Whole on the state of the Union.

Mr. MARSHALL, of Kentucky. I suppose it is within the competency of the House to order the amendments to be printed at any time before they are referred to the Committee of the Whole on the state of the Union. What I am trying to avoid is getting into a maelstrom, in which we are called upon to legislate without seeing what we are legislating about, as we were last night.

Mr. J. GLANCY JONES. I should prefer to have them printed; but if we are to act upon

them to-day or to-morrow, we must go on with them.

Mr. MARSHALL, of Kentucky. Well, I object to the amendments being reported back.

Mr. J. GLANCY JONES. I move to suspend the rules.

The question was taken; and the rules were suspended.

Mr. J. GLANCY JONES. I am instructed by the Committee of Ways and Means to report back the amendments of the Senate to the mail steamer appropriation bill. There are five amendments. The Committee of Ways and Means recommend that the House concur in one of them, which is to strike out \$120,000, and disagree to the others. I move that the amendments be referred to the Committee of the Whole on the state of the Union, and printed.

The motion was agreed to.

RECESS.

Mr. J. GLANCY JONES. I now offer the following resolution:

Resolved, That the House, or the Committee of the Whole, if the House shall be in committee at the time, will take a recess from four o'clock, p. m., till six o'clock, p. m., this day.

Mr. WASHBURNE, of Illinois, and others, objected.

Mr. J. GLANCY JONES. I move to suspend the rules to enable me to introduce the resolution.

The motion was agreed to, (two thirds having voted therefor,) and the resolution was introduced.

Mr. J. GLANCY JONES demanded the previous question upon the passage of the resolution.

The previous question was seconded, and the main question ordered to be put; and, under the operation thereof, the resolution was agreed to.

Mr. J. GLANCY JONES moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. J. GLANCY JONES obtained the floor.

Mr. REILLY. I ask the unanimous consent of the House to take from the Speaker's table Senate bill (No. 394) for the relief of William Compton, and to put it on its passage.

Mr. J. GLANCY JONES. I have no objection to giving way to one or two gentlemen to take up cases to which there is no objection, and on which there will be no debate.

Mr. HARRIS, of Illinois. There is not a gentleman upon this floor but has some bill which he desires to put upon its passage. I hope the public business will be first transacted, and then give us all an equal chance.

The SPEAKER. The Chair recognized the gentleman from Pennsylvania [Mr. J. GLANCY JONES] for that purpose.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. SMITH, of Virginia. I ask the gentleman from Pennsylvania to give way to enable me to make an effort to get up a public bill of great interest, upon which I will call the previous question.

Mr. BURNETT. I hope we will proceed with the public business, and finish it; and that the gentleman from Pennsylvania will either press his motion, or give way, and let us take charge of the business.

Mr. REILLY. Unless I am permitted to get up my bill I shall object to every one.

The motion of Mr. JONES was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. Boccock in the chair,) and resumed the consideration of the Senate amendments to the

ARMY APPROPRIATION BILL.

Fortieth amendment:

Sec. 2. And be it further enacted, That the balances from appropriations for preventing and suppressing Indian hostilities, and for traveling allowances to volunteers already expended in payment of Florida volunteers called into service by the authority of the War Department, may be applied, by the accounting officers of the Treasury, to the settlement of the accounts of the paymaster by whom said balances were disbursed.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in this amendment.

Mr. HAWKINS. I desire some information from the chairman of the Committee of Ways and Means on this subject.

Mr. J. GLANCY JONES. I confess that there is a great deal of difficulty in complying with the gentleman's request. The amendment has come to the Committee of Ways and Means without being printed, or without a solitary paper or explanation that I have been able to lay my hands upon. The only information I have upon the subject is, that the State of Florida called out a number of volunteer companies during the Seminole war. The State paid the expenses, and presented the account as a claim against the United States for services in that war. It has been pending before the War Department for a number of years, and there has been a difficulty in getting at the amount of the balance due. The difficulty arose from the manner of enrolling the men. The papers are not clear upon the subject. The Department was not satisfied with the vouchers, and sent them to us as they had them. The subject was before the Committee of Ways and Means, and the objection made to them was that they were not explicit enough. The Senate, however, have put the amendment into the bill, and it comes to this House with no more light than we had before.

Mr. HAWKINS. I desire to ask the chairman of the Committee of Ways and Means whether or not this has been recommended by the War Department?

Mr. J. GLANCY JONES. All that I can state on that point is that the War Department has sent in an estimate of the amount that will be necessary to pay it. I am not certain as to whether they recommend its payment.

Mr. HAWKINS. I have now on my desk a most positive recommendation from the Secretary of War as to the payment of this amount, and I would like to have it read.

Mr. J. GLANCY JONES. There is another claim for Florida volunteers; and inasmuch as these amendments have not been printed, I may be confounding one with the other.

Mr. HAWKINS. There was an item yesterday in the Army appropriation bill for the payment of Florida troops, amounting to \$385,000. The chairman of the Committee of Ways and Means adverted then to a letter purporting to be from the Secretary of War, stating that besides the amount of \$385,000, \$200,000 more would be necessary. The impression made on me, and on the House, was that that claim was rejected by the Committee of Ways and Means because the vouchers were not in form—because these claims were presented to the Department informally, and that therefore they ought not to be allowed. I obtained, this morning, from the Finance Committee of the Senate, a positive recommendation from the Secretary of War that this amount should be paid; and I here state that these troops were not the troops of the State of Florida. They were troops raised in Florida, however; but were regularly mustered into the service of the United States on the requisition of the Secretary of War. There were ten companies of them. They served their country faithfully, and brought the war to a close by their gallantry; and now this debt is due to them by this Government. Why, therefore, this amendment should be recommended by the Committee of Ways and Means to be rejected, I do not know. I do not understand the principle of morality by which an honest debt should be thus summarily given the go-by. These troops were as much entitled to their pay as any troops in the regular Army. Indeed, the moment they were mustered into the service of the country, they became a part and parcel of the regular Army.

Mr. J. GLANCY JONES. Were they not paid by the State of Florida?

Mr. HAWKINS. No, sir; the gentleman is mistaken in all this transaction. He has not made himself acquainted with the true state of the case; and it is of that I complain. I thought yesterday that it was the amount of the debt that seemed to stagger the Committee of Ways and Means. Why, if the amount of a debt is to take away the obligation to pay it, every man could very easily pay his small debts and let his larger debts take care of themselves. I now send to the Clerk's desk two papers, one from the Secretary of War, and another from the Paymaster General, asking the appropriation from the Committee on Finance for

the payment of these claims. It is an honest debt due by the Government to these troops of Florida, and I trust that, when the question comes up to be voted on formally by the House, my remarks will not be forgotten.

Mr. GIDDINGS. Will the gentleman allow me to put an interrogatory to him?

Mr. HAWKINS. Yes.

Mr. GIDDINGS. I desire to know whether this claim was not formerly before the Committee of Claims, and whether it was not rejected by all the committees of the House?

Mr. HAWKINS. No, sir. There were other claims of Florida volunteers before the committee, and those claims are now pending before Congress.

Mr. GIDDINGS. This claim is a recent transaction?

Mr. HAWKINS. Yes, sir.

Mr. GIDDINGS. In what year did these troops serve?

Mr. HAWKINS. In 1856 and 1857.

Mr. GIDDINGS. That is what I wanted to get at.

Mr. HAWKINS. I would state to the gentleman from Ohio that these were troops brought into service on the requisition of the President of the United States.

Mr. GIDDINGS. Will the gentleman inform us why the proper Department has refused to pay them?

Mr. HAWKINS. It was owing simply to the fact that the vouchers were not in proper order, and did not conform to the rigid requirements of the various Departments. I ask that the letters be read.

The letters were read, as follows:

WAR DEPARTMENT, WASHINGTON, June 3, 1858.
SIR: I have the honor to inclose herewith a communication from the Paymaster General of the Army, submitting an estimate for the payment of the Florida volunteers, called into service by General Harney, and to request an appropriation in accordance with the suggestions therein contained.

I am, sir, very respectfully, your obedient servant,
JOHN B. FLOYD, Secretary of War.
Hon. R. M. T. HUNTER, Chairman Committee Finance,
United States Senate.

PAYMASTER GENERAL'S OFFICE, June 3, 1858.
SIR: I have the honor to report, agreeably to your directions, that the regiments and the independent companies of Florida volunteers called into service by General Harney, for the period of six months, will require for their payment \$385,000.

Upon the discharge of this force, ten companies were mustered into service by Colonel Loomis, for the same period. These have been ordered to be discharged, with the exception of two companies; but the muster-rolls have not yet reached the Adjutant General's office. From the best data to be obtained, it will require the further sum for their payment of \$140,000; making, for both services, the sum of \$525,000.

In my former estimate for the payment of Florida volunteers, the sum of \$172,000 was asked for to refund to the Treasury that amount, drawn from balances of old appropriations, and expended in paying Florida volunteers for services prior to this estimate, which were then supposed to be applicable to that object. But the accounting officers do not feel authorized to credit the paymaster with the amount disbursed by him from said funds.

The balances referred to were for "preventing and suppressing Indian hostilities," (\$132,000,) and for "traveling allowance of volunteers," (\$40,000.)

If the \$172,000 be added to the estimate, it will only be with the view of refunding that amount to the Treasury, and to enable the accounting officers to close the paymaster's accounts.

I have the honor to be, respectfully, your obedient servant,

BENJAMIN F. LARNED,
Paymaster General.

Hon. JOHN B. FLOYD, Secretary of War.

Mr. J. GLANCY JONES. Mr. Chairman, my friend from Florida seems to be laboring under the impression that the Committee of Ways and Means have not sufficiently investigated, or are not fully posted, on this matter. Now, there is some truth in that allegation; and I wish to give the reason of it. We have been in session six months. This is an item charged against this Government as long ago as 1855-56. The regular estimates for the year were made out by the War Department; but no estimate for this reached us from that time till after we had passed on the Army bill and had reported it to the House. We were then asked to take this up and offer it as an amendment to the bill. The only paper submitted to the Committee of Ways and Means was a letter from the Secretary of War, and perhaps another paper connected with it, asking for the sum of \$385,000 for those volunteers. It came to us at so late a period that the committee had no time to investigate the facts. The papers were then trans-

ferred to the Senate committee, and the Senate put this amendment on the bill. I now ask to have read the letter of the Secretary of War.

The letter was read, as follows:

WAR DEPARTMENT, WASHINGTON, June 9, 1858.

SIR: Upon consultation with the Paymaster General, since I saw you this morning, I find it will require \$525,000 to pay the indebtedness of the Government to the Florida volunteers; and that this sum is independent of the credit of \$172,000, which can be settled by transfer.

Very respectfully, your obedient servant,

JOHN B. FLOYD, Secretary of War.

Hon. D. L. YULEE, United States Senate.

Mr. J. GLANCY JONES. Mr. Chairman, that letter reached me yesterday, informing me that a further sum of \$200,000 would be required to pay the amount claimed for the Florida volunteers. I simply stated the fact yesterday after the letter had reached me. I submitted all the facts and all the light that the committee had. I wished to make these remarks to show the gentleman from Florida that it was no fault of the Committee of Ways and Means; and that, if he or his predecessor had brought this matter before the Committee of Ways and Means, it would have been investigated thoroughly, and reported upon.

Mr. CLARK B. COCHRANE. I would like to inquire of the gentleman from Pennsylvania, or of the gentleman from Florida, under what law or authority these volunteers were called out? I understand that, by the act of 1795, the President is authorized to call out the militia to repel foreign invasion; but that law does not confer on him any power to call out volunteers; and, as I understand, the case of invasion did not arise here. A hostile movement of a tribe of Indians within a State is not an invasion of the State.

Mr. J. GLANCY JONES. I should have stated that the investigation of this subject should have been referred to the Committee on Military Affairs, and not to the Committee of Ways and Means.

The question was taken on the Senate amendment; and it was not concurred in.

Forty-first amendment:

SEC. 3. *Be it further enacted*, That it shall be lawful for any commissioned officer of the Army to administer the prescribed oath of enlistment to recruits, provided there be no civil magistrate authorized to administer the same within reach.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend concurrence.

Mr. LETCHER. That proposition ought to be amended so as to substitute in lieu of the words "within reach" the words "where the service of no magistrate can be obtained."

The amendment was agreed to; and the Senate amendment, as amended, was concurred in.

Forty-second amendment:

SEC. 4. *Be it further enacted*, That there be appropriated out of any money in the Treasury not otherwise appropriated, for preparing for printing the drawings of the sailing charts of the Behring's Straits and northern Pacific exploring and surveying expedition, under the control and direction of the Secretary of the Navy, but not for printing the same, \$6,700.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend non-concurrence.

The amendment was not concurred in.

Forty-third amendment:

SEC. 5. *And be it further enacted*, That the eleventh section of the act of March 3, 1847, entitled "An act making provision for an additional number of general officers and for other purposes," which deprives sutlers of the Army of the right to a lien on any part of the pay of a soldier, or to appear at the pay-table to receive the soldier's pay from the paymaster, be, and the same is hereby repealed.

Mr. J. GLANCY JONES. As the law now stands, the sutler has no lien on the soldier's pay. This amendment would give the sutler a lien on the soldier for all his pay. It is considered a very objectionable amendment, and the Committee of Ways and Means, recommend non-concurrence.

Mr. CURTIS. There is no doubt the Senate amendment is right, and I hope the House will adopt it. This matter was before the Military Committee, and they were unanimous in favor of a law which would give the sutler a right to his due, as this amendment of the Senate is designed to do. As the law now stands, the soldier has the power to cheat the sutler out of his just dues. I hope, therefore, the amendment of the Senate will prevail.

Mr. WASHBURN, of Illinois. Why should the sutler have more right than anybody else?

Mr. CURTIS. He is a useful agent, and a con-

venience to the Army, and has therefore been incorporated and recognized as a part of the military organization; and he ought to be secured from being defrauded in his just dues, as other persons, in and out of the Army, are protected by reasonable restraint or provisions of law. Such provisions in regard to sutlers existed from the early history of our country down to the year 1847, when the existing law was most unfortunately interpolated, very much as this repealing law is now fortunately attempted by this amendment of the Senate. The sutler has to follow the Army, where no other than military laws prevail; and in such localities, as the law now stands, when soldiers are discharged, they have the opportunity to receive their pay from the paymaster, and leave the sutler to follow them to some unknown place in the States, where civil laws would be utterly unavailable. Sutlers are thus defrauded of their just dues; and of my own knowledge, I can say that many of them have been cheated out of large amounts; and from easy circumstances, some have been reduced to poverty. I am sure that the chairman of the Committee on Military Affairs will concur with me in urging the adoption of the Senate amendment.

The price of the articles furnished by the sutlers is fixed by a board of officers in every regiment, and there is, therefore, full provision against the soldier being cheated. There is no protection for the sutler, and I am told by letters received this winter, that soldiers boast of the number of sutlers they have cheated. The adoption of the Senate amendment will restore to sutlers a just and reasonable remedy against such frauds, and I am confident if the rules allowed a full statement in regard to this matter, the Committee of Ways and Means would recommend a concurrence in, and not a rejection of the Senate amendment.

Mr. QUITMAN. I move, *pro forma*, to strike out the first four lines of the amendment.

Mr. Chairman, I wish to call attention to the fact that a bill for the relief of the sutlers of the United States Army, reported from the Committee on Military Affairs, some time last December, stands second upon the Calendar of the Committee of the Whole on the state of the Union. That subject had been referred to the Committee on Military Affairs, and they promptly and unanimously reported the bill I allude to. Most of the members of that committee are military men, and knowing the operation of the law, are in favor of its repeal, in order to give the sutlers a lien upon the soldier's pay. They believe that the repeal would be of service to the soldier himself. The arguments in favor of the proposition have been submitted by my friend from Iowa, [Mr. CURTIS.]

There is a council of administration in every regiment that fixes the price of every article which the sutler supplies. There is a mischievous propensity on the part of the soldiers of the regular Army to run up accounts with the sutlers, and then fail to pay the debts they have contracted. There is sometimes a sort of personal pride in overreaching the sutler. They pay for the contraband articles which they get outside as a debt of honor, while they postpone and put off the honest debt. The consequence is, that the council of administration, in fixing the price of the sutler's articles, increase the price because of the uncertainty of his being paid. The articles are put at a higher rate than they would be if this lien were allowed. Besides, cash is frequently required down, and thus the soldiers are deprived of many of the conveniences and comforts which they can only get from the sutler. These sutlers, indeed, are necessary for distant posts, and there must be a certainty of pay to induce them to take there the conveniences and comforts required by the soldiers. Under the Senate amendment they will have to pay only the price fixed by their own officers, and when they are transferred from one post to another the sutler's account will be transferred with them, and be allowed on their pay-day. It is only just that he should be allowed that which he has advanced for the comfort of the soldier. The matter has received the unanimous approbation of the Committee on Military Affairs. They reported a bill, which is now second upon the Calendar of the Committee of the Whole on the state of the Union, but has been, like most other business there outside of the appropriation bills, absorbed

by the chairman of the Committee of Ways and Means, [Mr. J. GLANCY JONES.]

Mr. LETCHER. This single illustration will show some of the embarrassments and difficulties which surround us who constitute the Committee of Ways and Means. Now, here is a proposition which it seems is unanimously reported by the Committee on Military Affairs, and placed upon the Calendar of the Committee of the Whole on the state of the Union for consideration. We never heard of it until now, and the first we do hear of it, it comes from the other end of the Capitol, in an appropriation bill, to pass in the shape of an amendment to the Army bill.

Mr. QUITMAN. I desire to say that I fully concur with the gentleman from Virginia in his opposition to putting extraneous matter upon the appropriation bills.

Mr. LETCHER. I do not complain of the distinguished gentleman at all, because I know what his views are on that subject; but I refer to this as one illustration to show the embarrassments and difficulties which surround us in the discharge of our duties.

In regard to the merits of this proposition upon which I decided as I found it in that bill, I could not see, and really do not see now, why a lien should be given to a sutler upon the pay of the soldier, for the grog of that soldier or any other pecuniary obligation he contracts with an Army sutler. I do not see why it should be given to him and to no other creditor. He may have creditors for furnishing his family. He may have creditors for furnishing other articles to himself, and I cannot really see how the line of demarcation can be drawn which would give to sutlers a preference, or rather a lien on his pay, while it would deny to every other creditor, who was as fair a creditor, as just a creditor, as honest a creditor, the same sort of lien for obligations due him.

Mr. CURTIS. The object is to induce the sutlers to carry these conveniences and necessities out to Army posts where there can be no competition and no sale for them. It would a soldier now at Camp Scott receive little conveniences and luxuries, except through the sutlers who have followed the Army there? By giving them this power to collect their debts, they are willing to carry their articles to remote posts, where the soldier could not otherwise be accommodated.

Mr. LETCHER. My idea about all that sort of legislation is this, that where the relation between creditor and debtor is established, it is a voluntary relation between the parties themselves; and I do not like that system of legislation which undertakes to say that that which has been a voluntary arrangement shall be made compulsory for the benefit of one creditor to the exclusion of all other creditors equally if not more meritorious. But it is a matter which I care nothing about. If it is acceptable to the Military Committee, it is agreeable to me.

Mr. CURTIS. The sutler is just as much a part and portion of the Army as the quartermaster himself; and he is governed by rules and regulations peculiar to his branch of the service. He is quite as necessary to furnish accommodations to the sick, wounded, and weary, as any officer of the Army.

Mr. QUITMAN, by unanimous consent, withdrew his amendment.

Mr. J. GLANCY JONES. I desire to say one word in response to the gentleman from Mississippi. I think the gentleman from Iowa and the gentleman from Mississippi will do great good, and help the Committee of Ways and Means in their desire to occupy less of the time of the House, if they would only join us in cutting off all legislation matured by other committees. The great consumption of time by the Committee of Ways and Means arises from the fact that other committees instead of having their own bills legislated upon, at the end of the session have them ingrafted upon the appropriation bills, without explanation or examination. The only remedy is, for them to join the Committee of Ways and Means in striking out everything coming from other committees, unless they are germane to the bill.

Mr. CURTIS. I make no objection to this matter, coming from the Committee of Ways and Means as it does; but I am satisfied that, if they understood this matter, they would be satisfied of the beneficial operation of this amendment.

Mr. TAYLOR, of Louisiana. I wish to amend the amendment of the Senate by adding to it this proviso:

Provided, That there shall be no lien upon the wages of the soldier for any sum due by him to a sutler for any spirituous liquor, or other intoxicating liquor sold or furnished to him.

It is probably true, as has been stated by my friend, the chairman of the Committee on Military Affairs, and by the gentleman from Iowa, that it is proper that a lien should be given to the sutler for supplies furnished to soldiers for necessities which are essential to their comfort at remote posts. I have no doubt that the failure to give that lien results in the manner in which my friend from Mississippi states: that it increases the cost of articles of real necessity for the soldiers. It may be proper, therefore, that thus far the law which has been referred to, should be repealed. But according to my notions, that lien should extend no further than to such accounts as grow out of the supply of actual necessities. So far as to accounts which might grow out of sales of liquors to them, I have this to say: we all know the weakness of many of our common soldiers, and their habits in relation to intoxicating drinks; and we are all aware of the temptation in the way of sutlers to make money by furnishing them with excessive supplies of articles of that description.

Mr. QUITMAN. In the abstract I concur with the position of the gentleman from Louisiana, but I rise to state the fact that in nineteen twentieths of the Army, the sale of liquor is entirely forbidden. The commanding generals forbid the sale of liquors, and where forbidden of course no lien arises from the sale of articles which are held in the nature of contraband. In the army of Mexico the sale of liquors was generally forbidden. Only General Wheat allowed soldiers to drink as much as they pleased, but if he found a soldier drunk he punished him very severely. I desired only to say that the amendment of the gentleman, of which I am in favor, is applicable to but a very few cases in the Army.

Mr. TAYLOR, of Louisiana. Before offering my amendment I made the inquiry whether it was the practice of sutlers to sell liquors. I was informed by the chairman of the Committee on Military Affairs that there were instances in which it was done. It is a permission liable to abuse, and may be taken advantage of by sutlers to the great injury of the soldier. I would have no objection to the adoption of the principle involved in the Senate amendment so far as relates to the real necessities purchased by the soldier, as it would operate, I have no doubt, to cheapen all the articles he might really require, but I would extend it no further than this, and therefore hope that the proviso presented by me may be ingrafted on the Senate amendment, if it is to become a law, so that the soldier may be protected from the effects of his own imprudence so far as relates to the indulgence of his appetite for liquor, and that a motive for gratifying improperly this appetite may not be furnished to the sutler.

Mr. JONES, of Tennessee. The law now proposed to be repealed by the Senate amendment was passed in 1847—eleven years ago; and this is the first intimation I ever heard that it was wrong, or had any wrong tendency in practice. That law was passed for the protection and for the benefit of the old soldiers, who get but the small pittance of nine dollars a month, I believe, while the one which is now proposed to be passed, abolishing that law, is, in its effect, for the benefit of the sutlers, and nobody else. If you continue that law of 1847 in force, what will be the effect of it? It will be that the sutler credits the soldier at his own risk. If, then, he will not credit the soldier because he cannot compel the old soldier to pay him a portion of his small pittance, let him refrain from crediting him. Let the soldier get his money, and then let the sutler sell to the soldier for the money. Who will be injured by this? The whole credit system, I have no doubt, has a tendency to make the cost of articles vended to the soldiers much greater than they would be if they were to be paid for at the time they were sold.

But, sir, what justice, what propriety is there in giving the sutler a lien upon the wages of the soldier, any more than there is in giving a hotel keeper, or a boarding-house keeper, in this city, a lien upon the compensation of members of Con-

gress, or of giving to the various persons who credit the clerks here in the Departments, a lien upon the salaries of these clerks? What more justice is there in giving sutlers a lien upon the soldiers' wages than there would be in giving persons in this city a lien upon the compensation of the various employes of the Government in this city and throughout the country? The law of 1847 was intended for the benefit of the soldiers, and, so far as I know or believe, it has worked well, and has been salutary in its operations since its passage, and I can see no good that can result to anybody by its repeal, unless it is to the sutler. The sutler is a favored, a privileged individual at best, because when he gets the appointment to keep and sell these articles to the Army at a post, no other person can keep them at that post, as I understand the regulations. Why, then, should you allow him a mortgage on the wages of his customers? I hope the House will reject the whole thing.

The amendment of Mr. TAYLOR, of Louisiana, was disagreed to.

The amendment of the Senate was non-concurred in.

Forty-fourth amendment:

SEC. 6. *And be it further enacted*, That all the existing laws, or parts of laws, which authorize the sale of military sites which are or may become useless for military purposes, be, and the same are hereby, repealed; and said lands shall not be subject to sale or preemption under any of the laws of the United States: *Provided further*, That the provisions of the act of August 18, 1856, relative to certain reservations in the State of Florida, shall continue in force.

Mr. J. GLANCY JONES. That amendment forbids the sale of military sites hereafter unless provided for by legislation. The Committee of Ways and Means recommend a concurrence in the amendment.

The amendment was concurred in.

Mr. J. GLANCY JONES. The forty-fifth, forty-sixth, and forty-seventh amendments of the Senate relate to the same subject; and I ask that they be read and considered together.

There being no objection, the amendments were read, as follows:

Forty-fifth amendment:

SEC. 7. *And be it further enacted*, That the second section of the act of the 2d of March, 1851, entitled "An act to found a military asylum for the relief and support of invalid and disabled soldiers of the Army of the United States," be so amended as to reduce the number of commissioners authorized by that section to three, to consist of the Commissary General of Subsistence, the Surgeon General, and Adjutant General, any two of whom shall be a quorum for the transaction of business, whose duty it shall be to examine and audit the accounts of the treasurer quarterly, and to visit and inspect said asylum at least once in every month; this section to take effect from and after the 1st day of July, 1858.

Forty-sixth amendment:

SEC. 8. *And be it further enacted*, That the benefits of the said act shall be extended so as to include invalid and disabled soldiers of the war of 1812, and of all subsequent wars, subject only to the restriction in the proviso of the fourth section of said act; this section to take effect from and after the 1st day of July, 1858.

Forty-seventh amendment:

SEC. 9. *And be it further enacted*, That all pensioners on account of wounds or disability, incurred in the military service, shall transfer and surrender their pensions to the institution, for and during the time they remain therein, and voluntarily continue to receive its benefits; this section to take effect from and after the 1st day of July, 1858.

Mr. J. GLANCY JONES. The forty-fifth amendment reduces the number of commissioners. The forty-sixth amendment extends the privileges of the asylum to all soldiers disabled or wounded in the war of 1812. The forty-seventh amendment proposes that they shall surrender their pensions during the time they are in the military asylum. These amendments appear to have originated with the Military Committee of the Senate. It is a revision of the pension laws. It may, perhaps, be a good reform, but it is legislation upon a very important subject; and the Committee of Ways and Means were called upon to pass upon it without a single paper or estimate, or any information except what appears upon the face of it. We are of opinion that it is legislation, and should be presented to the House in some other shape, and from some other committee; or, at all events, that it should be examined. It may be meritorious; but, under the circumstances, the Committee of Ways and Means recommend a non-concurrence.

The amendments were non-concurred in.

Forty-eighth amendment:

SEC. 10. *And be it further enacted*, That the deduction of twenty-five cents per month from the pay of every non-commissioned officer, musician, artificer, and private in the Army, shall be reduced to twelve and a half cents a month; this section to take effect from and after the 1st day of July, 1858.

Mr. J. GLANCY JONES. Under the present law, twenty-five cents a month is paid by the soldiers of the Army for an asylum fund. This amendment proposes to reduce that amount from twenty-five cents to twelve and a half cents per month. The Committee of Ways and Means know of no reason why this should be done. They had no information on the subject, and recommend a non-concurrence.

The amendment was non-concurred in.

Forty-ninth amendment:

SEC. 11. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized to pay, out of the unexpended balance of the appropriation for the war debt of the State of California, made by the last section of the act approved August 5, 1854, entitled "An act making appropriations for the support of the Army for the year ending 30th June, 1855," any outstanding and unpaid bonds and coupons issued by said State for said war debt prior to the passage of said act, but bearing date subsequent to the 1st day of January, 1854: *Provided*, That no payment shall be made beyond the unexpended amount of said appropriation now remaining in the Treasury.

Mr. J. GLANCY JONES. This is the last amendment to the Army appropriation bill. The California war debt, with which the House is familiar, has been adjusted and paid by that State. By the act of 5th August, 1854, a certain amount of money was appropriated by Congress to reimburse the State of California for the war debt. There was a proviso to that bill, which compelled them not to exceed the sum appropriated in that act. The Secretary of War was directed to examine into and ascertain the amount of expense incurred and actually paid by the State of California in the suppression of Indian hostilities within that State, prior to the 1st of January, 1854. It turned out, in the adjustment of these accounts, that some few of the debts accrued subsequent to the 1st of January, 1854. The main bulk of the debts had accrued prior to that time, but as the limitation in that act confined the payment to expenses incurred prior to that date, the accounting officers of the Treasury could not pay the other expenses, although the sum appropriated was sufficient to cover them all.

The object of this amendment is to enable the accounting officers of the Treasury to pay the debts which accrued subsequent to the 1st of January, 1854, with a proviso limiting them to the amount already appropriated. There does not appear to be any objection to the amendment, except that it is legislation upon a very important subject. I have examined the question, and, so far as my information goes, I believe the amendment to be right. The Committee of Ways and Means, however, recommend a non-concurrence.

The amendment was non-concurred in.

Mr. J. GLANCY JONES. I now move that the committee rise, and report the amendments to the House, with its action thereon.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BOGOCCK reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the amendments of the Senate to the Army appropriation bill, and had directed him to report the same back to the House, with a recommendation that some of said amendments be concurred in, and others non-concurred in.

Mr. J. GLANCY JONES moved the previous question upon the amendments.

The previous question was seconded, and the main question ordered.

The recommendation of the Committee of the Whole on the state of the Union with reference to the first and second amendments of the Senate was concurred in.

The third amendment of the Senate was then read, as follows:

Strike out the following paragraph:

"For the alteration of old arms, so as to make them breech-loading arms, in accordance with the recommendation of the Secretary of War, \$100,000."

And insert in lieu thereof the following:

For the purchase of breech-loading carbines of the best model, to be selected and approved by a board of ordnance officers, \$45,000.

The Committee of the Whole on the state of the Union recommended a non-concurrence in this amendment.

Mr. DURFEE. I hope the House will concur in that amendment. I call for the yeas and nays upon it.

The yeas and nays were not ordered.

Mr. DURFEE. I ask for tellers on the amendment.

Tellers were ordered; and Messrs. PEYTON and FOSTER were appointed.

Mr. FAULKNER. The Senate substituted two paragraphs for what they struck out—the third and fourth amendments. They were considered together in Committee of the Whole on the state of the Union, and I ask that they may be acted on together now.

The Clerk read the fourth amendment of the Senate, as follows:

For alteration of old arms, so as to make them breech-loading arms, upon a model to be selected and approved by a board of ordnance officers, \$25,000: *Provided*, That any portion of said sum not exceeding \$5,000 may be expended under the direction of the Secretary of War, in applying to the old or new arms the recent improvement of Captain J. M. Ward, in the mode of applying Maynard's primer.

Mr. DURFEE. I merely desire to say that this has been recommended by the Secretary of War.

The SPEAKER. Debate is not in order.

Mr. JONES, of Tennessee. I do not understand this question exactly. It seems to me that the Senate have put in that \$45,000 as an independent proposition to buy breech-loading carbines. They have stricken out the appropriation of \$100,000 for altering old arms, and put in a provision appropriating \$25,000 for that purpose. Let us take the vote on purchasing the new arms as a separate proposition, and then let us take the vote on striking out the House provision and inserting that of the Senate.

Mr. DURFEE. I call the gentleman to order. I was not allowed to debate the question.

Mr. SPEAKER. The Chair does not understand the gentleman as debating the question.

The Chair, after looking at the amendments, cannot see any connection between the two propositions. The vote will be taken separately, first upon striking out the provision of the House and inserting the amendment of the Senate appropriating \$45,000 for breech-loading carbines, and then the vote will be taken on inserting the provision of the Senate appropriating \$25,000 for altering old arms into breech-loading arms.

Mr. GROW. How, then, after we have voted on striking out and inserting, can we act on the \$25,000 provision for altering old arms?

Mr. COVODE. It strikes me that it takes both provisions to make a whole; and that, therefore, both should be voted on together. There should be a vote on striking out, and inserting the two provisions, one for the carbines, and the other for altering old arms. I understand that the Secretary of War is satisfied with the Senate amendment.

Mr. JONES, of Tennessee. It strikes me that the question ought to be taken on striking out the provision of the House, and inserting the amendment appropriating \$25,000 for altering old muskets. Both provisions correspond in reference to the object aimed at, and the only difference is in the amount appropriated. The other provision is for breech-loading carbines.

The SPEAKER. The Chair can only regard the amendments in the way in which they are reported from the Senate. That may have been the intention of the Senate, but the papers do not show it.

The House then divided, and the tellers reported—ayes 52, noes 83.

So the amendment of the Senate was not concurred in.

The recommendation of the Committee of the Whole on the state of the Union, with reference to the amendments of the Senate, numbered from four to seventeen, inclusive, was concurred in—the fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, and fifteenth amendments being concurred in; and the fourth, sixteenth, and seventeenth, being non-concurred in.

Eighteenth amendment:

For the payment of the volunteers operating in Florida, during the year 1837, \$385,000.

The SPEAKER. The Committee of the

Whole on the state of the Union recommend a non-concurrence.

Mr. HAWKINS. I have already troubled the House with some remarks in relation to this item. I will now send to the Clerk's desk some papers which clearly establish the propriety of this amendment.

The SPEAKER. Debate is not in order.

Mr. HAWKINS. Can I not have the papers read?

The SPEAKER. If there be no objection the papers can be read.

Objection was made.

Mr. HAWKINS. Then I call for a separate vote on the amendment.

The question was taken; and there were, on a division—ayes nineteen, noes not counted.

So the amendment of the Senate was not concurred in.

Nineteenth amendment:

For continuing the construction of the following works of defense:

For Fort Knox, at the narrows of the Penobscot river, Maine, \$50,000.

The Committee of the Whole on the state of the Union recommended a non-concurrence.

Mr. WHITELEY. The next seventeen or eighteen amendments are all similar in character. I ask that the vote be taken on all of them together; and I call for the yeas and nays.

Mr. MARSHALL, of Kentucky. I object.

Mr. JONES, of Tennessee. I understand that all these amendments are in relation to fortifications.

Mr. MARSHALL, of Kentucky. I do not care. I want separate votes on them.

Mr. WHITELEY. I withdraw the call for the yeas and nays.

Mr. JONES, of Tennessee. I renew it. I want to test this question.

The yeas and nays were ordered.

Mr. SMITH, of Virginia. Can I, by any means, obtain information as to the work? for, if I find it in operation, I am desirous to go for it.

The SPEAKER. Debate is not in order.

The question was taken; and it was decided in the negative—yeas 53, nays 115; as follows:

YEAS—Messrs. Ahl, Barksdale, Bryan, Burlingame, Cavanaugh, Claflie, Ezra Clark, Clawson, Clay, Collins, Cragin, Davidson, Davis of Maryland, Davis of Mississippi, Davis of Massachusetts, Dawes, Dick, Dowdell, Eustis, Faulkner, Florence, Foster, Goode, J. Morrison Harris, Hawkins, Keitt, Knapp, Jacob M. Kunkel, Landy, Maclay, McKibbin, Edward Joy Morris, Freeman H. Morse, Palmer, Potter, Reilly, Rit die, Robbins, Roberts, Royce, Sandridge, Scott, Shorter, Sickles, James A. Stewart, Tappan, George Taylor, Miles Taylor, Thayer, Israel Washburn, Whiteley, Wood, and Zolliecoffer—53.

NAYS—Messrs. Abbott, Andrews, Atkins, Avery, Bennett, Billingshurst, Bingham, Blair, Bliss, Bocock, Brayton, Buffinton, Burnett, Burns, Caruthers, Case, Caskie, John B. Clark, Clemens, Cobb, Clark B. Cochrane, Colfax, Corning, Cox, James Craig, Burton Craig, Crawford, Curry, Curtis, Davis of Indiana, Davis of Iowa, Dean, Dimmick, Dodd, Edmundson, English, Fenton, Foley, Garnett, Garrett, Giddings, Gillis, Gilmer, Goode, Goodwin, Groesbeck, Grow, Lawrence W. Hall, Harlan, Hill, Hoard, Hopkins, Horton, Houston, Howard, Jackson, Jewett, George W. Jones, J. Gancy Jones, Owen Jones, Kellogg, Kilgore, Leidy, Leiter, Lovejoy, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Millson, Morgan, Morrill, Oliver A. Morse, Murray, Niblack, Olin, Parker, Pendleton, Peyton, John S. Phelps, Phillips, Pottle, Quitman, Ready, Reagan, Ruffin, Russell, Savage, Seales, Henry M. Shaw, John Sherman, Judson W. Sherman, Singleton, William Smith, Spinner, Stan on, Stephens, Stevenson, William Stewart, Talbot, Thompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Ward, Ellihu B. Washburne, White, Woodson, Wortendyke, and John V. Wright—115.

So the amendment of the Senate was not concurred in.

The amendments of the Senate from number twenty to number twenty-nine inclusive were severally non-concurred in.

The thirtieth amendment of the Senate, in which the Committee of the Whole on the state of the Union recommended a non-concurrence, was then read, as follows:

Fort Taylor, Key West, Florida, \$100,000.

Mr. DOWDELL demanded the yeas and nays, and tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The amendment was non-concurred in.

Thirty-first amendment:

Fort Jefferson, Garden Key, Tortugas, Florida, \$200,000.

The Committee of the Whole on the state of the Union recommended a non-concurrence.

Mr. DOWDELL demanded the yeas and nays.

The yeas and nays were not ordered.

The amendment was non-concurred in.

The recommendation of the Committee of the Whole on the state of the Union, with reference to the amendments of the Senate numbered from thirty-two to thirty-eight inclusive, was concurred in, and the said amendments were disagreed to.

The thirty-ninth amendment of the Senate was then read, as follows:

For the construction of bridges, and the improvement of the crossings of streams on the road from Fort Smith, in Arkansas, to Albuquerque, in New Mexico, \$50,000; and that the sum of \$10,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to be expended in completing connected sections of the road extending from Albuquerque, in the Territory of New Mexico, westward on the route of the Colorado river, and on or near the thirty-fifth parallel of north latitude.

Mr. PHELPS, of Missouri, demanded tellers. Tellers were ordered; and Messrs. HAWKINS and BURLINGAME were appointed.

The House divided; and the tellers reported seventy-five in the affirmative.

Mr. CRAIGE, of North Carolina, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 92, nays 72; as follows:

YEAS—Messrs. Adrain, Ahl, Andrews, Arnold, Atkins, Blair, Bliss, Bowie, Boyce, Branch, Buffinton, Burlingame, Burns, Caruthers, Case, Cavanaugh, Claflie, Chapman, Ezra Clark, John B. Clark, Clawson, Clay, Clark B. Cochrane, John Cochrane, Colfax, Corning, Covode, Curtis, Davidson, Davis of Massachusetts, Davis of Iowa, Dawes, Dimmick, Dodd, Durfee, Eustis, Florence, Foley, Foster, Giddings, Gilmer, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Hawkins, Hoard, Horton, Hughes, Huyler, Owen Jones, Kellogg, Jacob M. Kunkel, John C. Kunkel, Landy, Leidy, Lovejoy, Maclay, McKibbin, Humphrey Marshall, Samuel S. Marshall, Maynard, Morgan, Edward Joy Morris, Freeman H. Morse, Mott, Murray, Niblack, Pendleton, John S. Phelps, William W. Phelps, Phillips, Pottle, Ready, Roberts, Royce, Russell, Sandridge, Scott, Spinner, Stanton, Stephens, James A. Stewart, William Stewart, Tappan, George Taylor, Miles Taylor, Thayer, Walton, Ward, Ellihu B. Washburne, Woodson, and Zolliecoffer—92.

NAYS—Messrs. Abbott, Barksdale, Bennett, Billingshurst, Bingham, Bocock, Bryan, Burnett, Clemens, Cobb, Collins, Cragin, Burton Craig, Crawford, Curry, Davis of Indiana, Davis of Mississippi, Dick, Dowdell, Edmundson, Fenton, Garnett, Garrett, Gillis, Goode, Goode, Goodwin, Granger, Gregg, Hill, Hopkins, Houston, Howard, Jackson, Jewett, George W. Jones, J. Gancy Jones, Kilgore, Knapp, Leiter, Letcher, Mason, Matteson, Millson, Morrill, Oliver A. Morse, Olin, Palmer, Parker, Peyton, Powell, Quitman, Ruffin, Savage, Seales, Henry M. Shaw, John Sherman, Shorter, Singleton, William Smith, Stallworth, Stevenson, Talbot, Tompkins, Tripp, Wade, Walbridge, Waldron, Israel Washburn, White, Wortendyke, and John V. Wright—72.

So the amendment was concurred in.

Pending the call of the roll,

Mr. MARSHALL, of Illinois, stated that his colleague, Mr. SHAW, had paired off with Mr. PIKE, of New Hampshire, for the rest of the session.

Mr. DAVIS, of Mississippi. Mr. Speaker, as we are now paying seven hundred and odd thousand dollars for transporting the mails to California by way of Panama; three hundred and odd thousand for the same service over the Tehuantepec route; and six hundred and odd thousand for the overland route, to which we have added over one hundred thousand this morning, I shall vote "no."

The vote was announced as above reported.

Mr. PHELPS, of Missouri, moved to reconsider the vote just taken; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

The action of the Committee of the Whole on the state of the Union on Senate amendments, from the fortieth to the forty-ninth inclusive, was concurred in.

Mr. J. GLANCY JONES. I move to reconsider the several votes on concurring in the Senate amendments; and also move to lay the motion to reconsider on the table.

The latter motion was agreed to.

CASE OF JUDGE WATROUS.

Mr. CHAPMAN. I wish to call up the case of Judge Watrous, with a view to move a postponement of the further consideration of the case until the second Thursday of December next.

No objection being made, the case was taken up.

Mr. CHAPMAN. I move that the further consideration of the case be postponed until the second Thursday of December next. I will merely remark that this proposition is acquiesced in by the members of the Judiciary Committee on both sides. It will be remembered that reports were presented by two branches of the committee, one report favorable to Judge Watrous, and the other report adverse to him; one on the presumption that he is entirely innocent and guiltless of the charges, the other recommending that he be impeached. This acquiescence was entered into by the respective members of the Judiciary Committee, believing that it was impossible during the present session that the case should have as full and complete a hearing as its importance demands. It will be remembered, also, that there is a memorial by Judge Watrous, and there is a volume of testimony of several hundred pages; and I doubt very much whether any member of this body has yet examined that testimony in full. It is impossible to avoid protracted discussion in this case. And if that discussion which should be desired by many members who have spoken to me upon the subject, should be entertained, I do not believe the House can adjourn at the time that has already been agreed upon. It is from these considerations that the committee have unanimously agreed to make the proposition which I have submitted.

Mr. REAGAN. I know the impatience of the House; but I desire to ask its indulgence in a few remarks upon this case. I would not interpose an objection to the recommendation of both branches of the committee. I know that committee has gone through one of the most laborious investigations that they could be called upon to go through. I know they are better apprised of the facts of the case, the importance of its investigation, perhaps, than I am. I desired to say that if the members of this House could have been satisfied from the reports of the committee, and from the evidence before them, it would have been greatly desirable to me, as a Representative from Texas, to have urged upon the House action upon this case at this time. It may not be out of place to say that I think it is due to myself, and to the State I represent, that I should make the statement I desire now to make in reference to this matter. At the time Judge Watrous went upon the bench in Texas, in 1846, he was known to be interested as counsel for the establishment of a very large class of fraudulent land claims.

Mr. CRAIGE, of North Carolina. I hope the merits of this case will not be gone into upon this motion to postpone. The gentleman is making statements, whether they pertain to the merits or not, calculated to do great injustice to the parties in this matter.

Mr. REAGAN. I will say to the gentleman that statements are being published throughout the land intended to influence public judgment; and I am going to appeal to the House to allow me to put upon the record of the nation, to be sent to the country, a refutation of the statements made, as I have stated, to vindicate the course and character of Judge Watrous.

The SPEAKER. On the motion to postpone, the debate must be confined strictly to the propriety or impropriety of the postponement. It does not open up the merits of the case at all.

Mr. REAGAN. I had hoped most sincerely that, inasmuch as statements have gone forth to the country, first in the answer of Judge Watrous himself, and then by a memorial which has been laid upon the desks of members, which misrepresent the facts, and leave a wrong impression on the public mind—not in Texas, for that cannot be done there—I say I had hoped this House would permit me to make a statement. But as I cannot have that privilege, I will limit my remarks to assigning a few reasons why, if it should meet the approval of this House, I desire the trial of Judge Watrous.

The present term of the district court has been lost by the necessary absence of Judge Watrous here to defend himself against the charges. At the last Congress, a report of the Committee on the Judiciary, after an elaborate investigation of the facts, recommended an impeachment.

Mr. CRAIGE, of North Carolina. I think the gentleman is traveling outside of the record.

Mr. REAGAN. I will confine myself to the record.

Mr. CRAIGE, of North Carolina. These remarks will have no other effect upon the public mind than to create prejudice against the persons prosecuting here.

Mr. REAGAN. The gentleman will see that I am only preparing to submit the reasons why this case ought to be acted on at the earliest practicable day. I was going on to show that the Judiciary Committee, at the last session, did recommend an impeachment, after an elaborate investigation of the case. The Judiciary Committee of the present Congress has investigated the case; and part of the committee recommend an impeachment, and another part that he be not impeached. The question will arise as to the condition of the district over which he presides, in case the House fail to act on the report of the Judiciary Committee. I suppose it is hardly to be presumed that a man whose impeachment has been recommended by the Judiciary Committee of one Congress, and by four members of the Judiciary Committee of this House, will go upon the bench to decide cases pending the action of this House; and hence it is, Mr. Speaker, that it is desirable, for the purpose of the administration of the law in that district, that this trial should be had at as early a period as possible. If the judge cannot, under the existing facts, hold the court in that district, I presume he will not attempt to do so till this case is acted upon. It will be seen that this constitutes one important reason why this case should not be postponed.

Mr. READY. I wish to know whether Judge Watrous did not go on and hold his court after the adjournment of last Congress?

Mr. REAGAN. I understand he did.

Mr. READY. And was there not a unanimous report in the last Congress recommending his impeachment?

Mr. REAGAN. There was.

Mr. READY. Then why should he not hold court now?

The SPEAKER. The Chair has indulged gentlemen in making reference to the proceedings of a former Congress. The Chair must now confine the debate strictly to the question of postponement.

Mr. HILL. I would inquire to what time the postponement is to be made.

The SPEAKER. The second Thursday in December.

Mr. WASHBURN, of Illinois. I understand the Judiciary Committee agree, unanimously, to that plan.

Mr. CRAIGE, of North Carolina. Yes.

Mr. WASHBURN, of Illinois. Then I do not see why there should be any difficulty about it.

Mr. HOUSTON. My friend from Pennsylvania, in speaking of the acquiescence of the committee, used, as a matter of course, the proper term, for I acquiesced in what the other members of the committee had determined on. That term expresses correctly my position on the subject; but I propose to suggest that it would be better to shorten the time, if possible, and for what I regard as a good reason. The difference of a week or two will be important. If this resolution for impeachment be adopted by the House of Representatives at the next session, it will be important that it be adopted at as early a day as possible. It will be recollected, that at the close of the next session this Congress terminates, and if a trial should be had, and not completed by the ending of this Congress, it would, as a matter of course, have to be gone over again, or have to go into the hands of persons who had not witnessed the first part of the trial.

Mr. CLARK, of New York. My friend is mistaken. If the Senate acquire jurisdiction by articles of impeachment, they can retain the jurisdiction until the trial takes place.

Mr. HOUSTON. I am aware of that; but my friend from New York did not get the point, and I suppose it was my fault. I say that if the House should pass the resolution of impeachment, then it becomes a case in court, and remains in court. There is no doubt about that. The impeachment does not expire with the ending of Congress; but I say this: that the Senators who are the judges of the court are changing, and the Senators who are in this Congress will not be, all of them, the Senators of the next Congress; so that it is important that, if this case is to be tried at all, it should be tried at the next term of the court, or else, if it goes over to the next Con-

gress, it will have to be tried *de novo*. Besides, the managers would have to be changed; out that could be done with much less difficulty. It is vital to the whole case that it should be tried at the next session, if at all, and therefore the saving of a week may be important.

The SPEAKER. The second Thursday will be the 9th of December, and will be the first Thursday after the meeting of Congress.

Mr. REAGAN. I wish to make one further remark; and, as I see a disposition on the part of the House to concur in the recommendation of the committee, I shall not press my opposition. I wish to say that it is no part of my desire to precipitate the action of the House in a matter of so great importance as this. I only rose to conform to what I believe to be the feeling and wish of my State—not, indeed, what I believe, but what I know, to be their wish. That State has twice acted in relation to this judge; once asking him to resign, and, at last session, asking an investigation.

Mr. CRAIGE, of North Carolina. The gentleman has already, time and again, alluded to this action against Judge Watrous. I ask him if the resolutions of the last Legislature did not expressly avoid expressing any opinion as to his guilt or innocence?

Mr. REAGAN. What I said was, that they instructed their Representatives here to urge the trial of Judge Watrous; and, as the gentleman from North Carolina says, they very properly waived an expression of opinion as to his guilt or innocence. I only wish to say that I do not want to precipitate the investigation of so important a case; but, if this House is satisfied to act, it is of the utmost importance that it should act promptly, for the reason I first assigned—that we ought to have a court in that district as early as possible—and for the reason that the ultimate investigation of this case may not be embarrassed by delay.

Mr. BRYAN. In consequence of the impatience of the House, Mr. Speaker, I have not much to say in regard to the question now before the House. I know that the House is anxious to dispose of it, but as the previous question was moved when the matter was last before the House, and as this may be the last time that it will be before the House this session, I trust that the House will not consider it an intrusion on their patience or their time, for me to occupy a few moments of it. Representing, as I do, a large portion of the district of Judge Watrous, the greatest portion of those who are affected by his acts are consequently represented by me. I was a member, Mr. Speaker of the Legislature of Texas which passed the resolution requesting Judge Watrous to resign, and am somewhat acquainted with the facts connected with that transaction.

The SPEAKER. The gentleman from Texas cannot go into that.

Mr. BRYAN. I am not going into the merits of the question. I understand my position.

The SPEAKER. The gentleman from Texas must confine himself to the question of postponement.

Mr. BRYAN. I shall do so.

Mr. CLARK, of New York. I hope the gentleman will say nothing calculated to prejudice the minds of members.

Mr. HOUSTON. If the question is to be debated let it be thrown open fairly to debate.

Mr. CRAIGE, of North Carolina. It is very extraordinary that the chairman of the Judiciary Committee did not notice that when the other gentleman [Mr. REAGAN] was speaking.

Mr. HOUSTON. That gentleman spoke so low that I could not hear what he said, and I noticed that the gentleman from North Carolina [Mr. CRAIGE] called him to order, and presumed that it was for that.

The SPEAKER. The gentleman must confine himself to the question of postponement.

Mr. BRYAN. I will not depart from the question. I also have in my mind the resolutions of the last Legislature of Texas. Those resolutions requested that there should be an examination into the charges that were preferred against Judge Watrous, without pronouncing upon the guilt or innocence of the judge.

Sir, we feel, the people of Texas feel, the judge feels, a deep interest in the investigation of these charges. A judge should be above suspicion; but that he is suspected is no evidence of his guilt.

If, then, the House can, with justice to themselves, make the investigation at this session, we desire it. The evidence is presented before them. They know whether they have time to make the investigation, and whether they can give it that examination which the subject is entitled to. If they feel that they cannot act upon the question this session, I, as one of the Representatives of the State of Texas, would say defer it.

I will call the attention of the House to the published memorial of Judge Watrous, which has been laid upon our desks, simply for the purpose of explanation. He says that one of the eleven-league grants—

The SPEAKER. The Chair thinks that does not enter into the merits of the question whether the House will postpone the further consideration of the subject.

Mr. BRYAN. Then, sir, I will only say that if the House can, in justice to themselves, and will set aside other less important business, examine this case this session, it would be gratifying to me, as one of the Representatives of Texas, that they should make the investigation. But if the examination is to be hurried and imperfect from want of time to give the subject that examination which its importance demands, I am in favor of its postponement.

Mr. BILLINGHURST. I do not know whether it would be proper, as a part of this order, to change the order for printing heretofore made in this case. There is a transcript of a case which was tried before Judge Watrous, and was offered in evidence, covering nearly a thousand pages. About half of it is in the Spanish language, and the remainder is a translation of that. It will not enlighten the House to print the Spanish portion of it, and I desire to have the order to print so modified, before the subject passes from the control of the House, as to dispense with the printing of the Spanish.

Mr. CLARK, of New York. Assuming that the recommendation of the Committee on the Judiciary will be acceded to by the House, upon the ground that there is not sufficient time, this session, to give that careful examination to this case which its importance demands, I ask the consent of the House for leave to file an individual report upon the facts of the case, at any time before its consideration. I should have presented it to-day, but I came prepared to enter on the consideration of the question, if the House saw fit to do so. I presume there will be no objection to granting me this leave. I differ, in some respects, from the views of my colleagues, and desire to present an individual report of my conclusions.

The SPEAKER stated that if there was no objection, it would be so ordered.

Mr. BILLINGHURST. My proposition is to modify the order to print.

Mr. REAGAN. If the gentleman from New York will file his report during this session I have no objection; but I shall object to his doing it afterwards.

Mr. CLARK, of New York. No harm can result from it. I only ask the privilege if the case is not considered this session. I came prepared to address the House on this subject to-day or tomorrow.

Mr. MILLSON. Is it in order to move to lay the motion to postpone upon the table?

Mr. STANTON. I hope the report will be laid on the table if there is no other way of disposing of it, for it is evident that it will lead to endless discussion.

Mr. MILLSON. I do not want to lay the report upon the table. I desire to move to lay the motion to postpone upon the table, because I see that the yeas and nays will not be ordered upon it, and I can see no good reason for the postponement. Is it in order to lay the motion to postpone on the table without laying the report itself upon the table?

The SPEAKER. The Chair thinks not.

Mr. PHILLIPS. Mr. Speaker, [loud cries of "Question!"] I am not going to occupy the attention of the House for more than a moment or two. [Renewed cries of "Question!"] I merely wish to say that I am perfectly willing that this matter shall be disposed of, but I am unwilling to postpone the matter, coming up as it does on the report of half of the Committee on the Judiciary, and upon the application of the judge himself. He asks an investigation, and while I am aware of

the want of time, I for one will not aid in deferring this judge of an opportunity of being tried. [Loud and vociferous shouts of "Question!"]

The motion to postpone was agreed to.

Mr. CLARK B. COCHRANE moved to reconsider the vote by which the motion to postpone was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. BILLINGHURST. I now move the following order:

Ordered, That in printing the testimony reported by the Committee on the Judiciary in the case of Judge Watrous, all that part of the case of *Cavazos et al. vs. Sullman and Belden et al.*, the transcript of which constitutes one item of said testimony, as is printed in the Spanish language, be omitted.

I will merely state that all the Spanish is translated into English.

Mr. READY. I think the resolution eminently proper, and I think there can be no difference of opinion in regard to it amongst the members of the committee who investigated the case.

Mr. CLARK, of New York. It may be proper to state that the transcript of the case referred to in the resolution makes a book of eleven hundred pages; and it is hardly worth while to subject the Government to the expense of printing that part of it which is in the Spanish language.

Mr. REAGAN. I hope the House will not consent to this resolution unless the Committee on the Judiciary unanimously recommend it, which I understand they do not.

Mr. CRAIGE, of North Carolina. The committee has taken no action on the subject.

Mr. BILLINGHURST. The resolution merely proposes to dispense with the printing of the Spanish.

Mr. REAGAN. I want the Spanish printed.

Mr. BILLINGHURST. It can throw no light upon the subject. I ask the previous question.

The previous question was seconded, and the main question ordered.

The resolution was adopted.

Mr. CLEMENS moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. TAPPAN, by unanimous consent, presented the memorial of Judge Watrous; which was laid upon the table, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message was received from the Senate by ASBURY DICKINS, their Secretary, notifying the House that that body had passed a bill of the House (No. 610) for the relief of William S. Bradford; and also notifying the House that it had passed the following joint resolution and bills, in which he was directed to ask the concurrence of the House:

A joint resolution (No. 52) for the relief of William Hazzard Wigg;

A bill (No. 120) for the relief of David Myerle; and

A bill (No. 263) granting the right of way over, and depot grounds on, the military reserve at Fort Gratiot, in the State of Michigan, for railroad purposes.

JUDGE WATROUS—AGAIN.

Mr. REAGAN. Was the memorial of Judge Watrous ordered to be printed?

The SPEAKER. It was.

Mr. REAGAN. I should have objected to any such proposition; and, at the time, I did not know that there was any proposition to print. There is no action to be taken on it. Why order it to be printed? It is made up of what purports to be a defense of his conduct.

Mr. CRAIGE, of North Carolina. Is debate in order?

The SPEAKER. It is not.

Mr. CRAIGE, of North Carolina. Then I object.

SUPPLEMENTAL INDIAN BILL.

Mr. J. GLANCY JONES moved that the Senate amendments to the supplemental Indian appropriation bill be referred to the Committee of the Whole on the state of the Union, and made the special order there until disposed of.

There was no objection; and the motion was agreed to.

Mr. J. GLANCY JONES moved that the general debate, in committee, on those amendments, be terminated in five minutes.

The motion was agreed to.

Mr. STANTON. I ask leave to introduce some bills for reference. One is a bill to reorganize the judicial circuits of the United States.

Mr. SAVAGE. I object. I want all to have a fair chance. Some forty have got ahead of me. I have tried day after day to get the floor, and failed.

Mr. J. GLANCY JONES moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. FAULKNER in the chair,) and proceeded to the consideration of the amendments of the Senate to the supplemental Indian appropriation bill.

Mr. J. GLANCY JONES. The report of the Committee of Ways and Means on these amendments has been mislaid, and I will state the action of the committee as the amendments are read.

First amendment:

Add as a new section:

To enable the Secretary of the Interior to perform the engagements and stipulations of General Harney, made with the Sioux Indians at Fort Pierre, in 1856, \$72,000.

Mr. J. GLANCY JONES. One hundred thousand dollars was asked for. The Committee of Ways and Means recommend a concurrence in the amendment.

I will make a short statement of the reasons for this appropriation. The documents I have on the subject I will append. It appears that, in 1856, General Harney, then in command of the military force of the United States, in order to secure amicable relations with various bands of the Sioux Indians, agreed to the enlistment into the Army of certain Sioux Indians. A list of them was sent to the War Department here. And, in that agreement, he stipulated that they should have uniforms, rations, and various other things; the policy being to have portions of all the various bands of Indians connected and dovetailed into the Army, so as to keep them continually in check, and to keep our Indian relations upon an amicable footing. He made the promise, but it has never been fulfilled; and it was in consequence of this non-fulfillment that the difficulties arose with the Sioux band last summer. They threaten to renew those difficulties this summer, and the Secretary of the Interior, together with the superintendent of Indian affairs, earnestly recommend an appropriation of \$100,000 for the purpose of carrying out the agreement of General Harney. The Senate thought \$72,000 would be sufficient, and they placed that amount in their amendment. The Committee of Ways and Means recommend a concurrence.

Mr. CRAWFORD. There is one difficulty in the way of giving my support to this appropriation of \$72,000. I am perfectly willing to pay that sum to the Sioux Indians as a present, or if this Government has at any time authorized General Harney to make a promise to the Sioux Indians, to give it to them. But my difficulty is in reference to the authority vested in General Harney to make a promise to the Sioux Indians that this Government would give to them, for the purpose of securing a check upon that tribe, some seventy-two thousand dollars. If the head of the Ways and Means Committee suggest to the Clerk any portion of that document which he has, which shows the authority by which General Harney made the promise, I should like to hear him read it, and then I will give this amendment my support. I have never seen any authority, and I presume the chairman of the Ways and Means has not.

If our officers are to be permitted to make promises to the Indians, or to anybody else, without authority of law, to pay them seventy-five, one hundred, or two hundred thousand dollars, we have no control over the Treasury. I ask my friend if he can show me the authority for this promise?

Mr. J. GLANCY JONES. I think I understood my friend from Georgia, the other day, to say that if he were in command of the vessels in the Gulf, and he understood that a British man-of-

war was boarding our vessels, he should not wait for orders from Washington before he resented it. Apply that principle to this case. General Harney is sent out among these savage tribes as commander-in-chief of them, of the Army of the United States. They look to him as the representative of this Government. Of course, being savages, they have no conception of the powers with which he is clothed. They meet him clothed with military power, and he tells them that if they do certain things which he believes to be for the interest of this Government, he will recommend to the Government to appropriate money enough to enlist them into the regular Army and to secure peace. He does this thing, of course, subject to the approval of this Government. He makes the arrangements for the good of the country, and he reports the facts to his Government. The thing is neglected, and the Indians complain. But that is not all. These documents inform you that the white citizens upon our frontier tell us that in consequence of your having withdrawn the troops from the frontier, no white man is safe, either in life or property, for a single day: that the Indians are assembling upon the Yellow Medicine, in numbers something like ten thousand, alleging that the United States has broken faith with them. They are prepared to deluge that country with blood. Now I want to know if Congress is willing to see our frontiers unprotected by military force, the scene of Indian barbarities and cruelties for the want of a small appropriation of money; and then come here next Congress and be told that although you were apprised of these facts, you chose to let our citizens be destroyed merely because you had not ascertained whether General Harney had the right to do a certain act to save the lives of your citizens. But to put the committee in possession of all the facts, perhaps the communication from the Department had better be read. Here are the documents:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, June 7, 1858.

SIR: I have the honor herewith to transmit, for your information, a copy of a letter addressed by me, this day, to the Speaker of the House of Representatives, recommending that an appropriation be made to enable the Department to fulfill the stipulations of the agreement made by General Harney, in 1856, with certain bands of Sioux; also, a copy of the report therein referred to.

I have the honor to be, with much respect, your obedient servant,
J. THOMPSON, Secretary.

Hon. J. GLANCY JONES, Chairman Committee Ways and Means, House of Representatives.

Extract from a letter from Agent A. J. Vaughan, dated St. Louis, May 5, 1858, to the superintendent of Indian Affairs at St. Louis, and by him transmitted to the Indian Office:

"It pains me to state the belligerent and refractory condition in which I found the Sioux in passing through their country, particularly the Menecongrees and Uncpapa bands; the past year they have been robbing indiscriminately every white man passing through their country, and in many instances threatened their lives.

"A war party of the Menecongree band of Sioux, on the 31st of March, while passing down the river, between Fort Union and Fort Berthold, fired ten shots at us while on the boat, taking deadly aim on our lives, which were miraculously preserved. The withdrawal of the troops from Fort Pierre has caused the Indians to believe the Government are afraid of them; and, from their conduct and threats, I feel satisfied that no agent's life is safe in distributing the Sioux annuity without a suitable force to protect him."

DEPARTMENT OF THE INTERIOR,
OFFICE INDIAN AFFAIRS, June 5, 1858.

SIR: General Denver, in his annual report as Commissioner of Indian Affairs, page 2, says: "The agent reports that the Sioux, to whom General Harney promised presents of clothing for their soldiers, are very much dissatisfied with the non-compliance with that promise; and he recommends that Congress make provision for its fulfillment. An estimate for \$200,000, to be placed at the disposal of the Department for that purpose, was presented by your predecessor to Congress at the last session of that body; but no appropriation was made. Concurring in the propriety and importance of the measure, I respectfully recommend that the amount necessary to carry it out be appropriated."

The Sioux agent, above referred to, is A. H. Redfield, who, in his report to the superintendent, (page 125 of Commissioner's report,) expressed himself thus: "They spoke of a promise, made them by General Harney, to give them certain clothing for their soldiers, and expressed great surprise that the promise had not been fulfilled. I explained this matter to them as well as I could. Congress ought, undoubtedly, to make provision, at its first session, for the fulfillment of that promise. It was a reasonable one, and made in good faith by the General. The Government will suffer much, in the estimation of the Indians, if a promise, made by an officer so high in rank and character as General Harney, is long left unfulfilled."

General Harney, in his report, dated Fort Pierre, Nebraska Territory, March 8, 1856, (Ex. Doc. No. 130, first session, Thirty-Fourth Congress, page 3,) says, that he "caused the

Sioux nation to select and appoint a certain number of head chiefs and chiefs to govern them, and to see that they carry out the conditions to which they have consented in council." Again, on the same page, he says: "That the organization of the Sioux may be more complete, I proposed to the chiefs to have a number of soldiers in each band, to assist them to carry out my views. They have each given in the number which they deemed sufficient for that purpose in each band, and I recommend that these soldiers be regularly named, and receive from the Government a dress, or uniform, by which they will be known; and that for the time they may be doing duty under their chiefs in the villages, they will receive their rations. The expense would be trifling, and their young men would be stimulated and encouraged to seek those positions. The dress should be durable and gaudy, particularly the head dress, (they are fond of feathers.) The uniform of the different bands should be different, and the same should have place in the different grades of chiefs, sub chiefs, &c. By gradually causing the interests of a portion of the nation to depend upon the wishes of the Government, the remainder will be easily controlled."

The Secretary of War, reporting to the President under date of May 10, 1856, that he had received from Brevet Brigadier General William S. Harney the minutes of a council held by him with nine bands of Sioux Indians, at Fort Pierre, Nebraska Territory, beginning the 1st and ending the 5th of March, 1856, (see same document, page 8,) says: "Brigadier General Harney having recognized the chiefs named herein as the only head chiefs of their respective bands, and so declared in council, proposed that each chief should have a certain number of soldiers in each band, to maintain order and enforce its laws, and recommends that these soldiers receive from the Government a uniform dress, with badges to designate the band and rank of each; and that, for the time they may be employed in discharging the duties appropriate to their position as a tribal police, they shall be subsisted at the expense of the Government. In accordance with the proposition of Brigadier General Harney, in relation to this organization, the following list of 'soldiers' was named by the principal chiefs at the council: (Here follow the names.) I recommend the foregoing articles and stipulations be regarded as a valid compact, to be faithfully observed by all officers and agents of the United States, and that the necessary appropriations be asked to carry it into effect."

The President of the United States, in his message dated July 24, 1856, "communicating minutes of a council held at Fort Pierre with the Sioux Indians, by General Harney," &c., (same document already referred to,) concludes with the following words: "Regarding the stipulations between General Harney and the nine bands of the Sioux as just and desirable both for the United States and for the Indians, I respectfully recommend an appropriation by Congress of the sum of \$100,000 to enable the Government to execute the stipulations entered into by General Harney."

The amount of \$100,000 was fixed in this manner. The Secretary of the Interior requested Thomas S. Twiss, Indian agent, Upper Platte, then in Washington, to make an estimate of the probable amount sufficient to carry into effect, and to fulfill the conditions, stipulations, and promises made by General Harney to the Sioux bands, who, in a letter addressed to the Commissioner of Indians, dated June 24, 1856, estimated the sum necessary for that purpose at \$72,000, (see page 10 of the document above referred to,) and says: "My experience in the Indian country, as to what Indians expect to receive as presents when they are called to act as soldiers, has been my guide in making the estimate for uniform, clothing, arms, and provisions, whilst acting in the capacity of tribal police."

The Commissioner of Indian Affairs, in his report accompanying the above letter of Agent Twiss, dated June 25, 1856, says: "My opinion is that the estimate of the agent is below the amount that will be required to carry out the various stipulations and promises of General Harney."

The Secretary of the Interior, submitting the above report of the Commissioner, and the letter of Agent Twiss, to the President of the United States, says, in his letter, dated June 26, 1856: "It is impossible, with the imperfect data now possessed by the Department, to make any satisfactory estimate; but, from all the information on hand, I am inclined to think that, besides the estimate of the Indian bureau, there should be enough added for contingencies to make the whole amount \$100,000." (See same document, pages 9 and 10.)

Congress did not act upon the recommendation contained in the President's message of 24th July, 1856, because it was sent in so late in the session, and before it came out of the hands of the Public Printer, Congress had adjourned. At the beginning of the second session of the Thirty-Fourth Congress, the Secretary of the Interior renewed his application for \$100,000 for the current year, and applied for \$100,000 more for the fiscal year commencing on the 1st July, 1857. When the matter came up the House Committee on Ways and Means reported favorably upon it; but, at the suggestion of a member that the treaty made by General Harney had not as yet been ratified by the Senate, the House took no action on that report of its committee.

The President, however, did not consider this subject in the light of a treaty, requiring the confirmation of the Senate, but guardedly designated it as "stipulations;" and the Secretary of War says, in his letter to the President, of May 10, 1856, already referred to, on page 8 of the above-mentioned House document: "I recommend that the foregoing articles and stipulations be regarded as a valid compact to be faithfully observed by all officers and agents of the United States, and that the necessary appropriations be asked to carry it into effect." The Secretary of War, in his letter to the Secretary of the Interior, dated June 9, 1856, (see page 10 of the above mentioned House document,) says: "It is important, as a means of maintaining peace in the Indian country, that the convention made by General Harney should be faithfully observed, and fully carried into effect."

This letter was referred, on June 11, 1856, to this office, with the following indorsement, signed by George C. Whiting, the then Chief Clerk of the Department of the Interior: "As this Department is now charged with the whole subject, and responsible for its whole management, it is the desire of the Secretary of the Interior that every effort should be made to carry out the within suggestions, and to

preserve the friendly and peaceable relations with the Indians."

It thus appears that the stipulations were favorably reported on by the House Committee of Ways and Means, but that the recommendation of the President for an appropriation to carry them into effect was not responded to by the House of Representatives, on account of a misconception of facts. The stipulations were never transmitted by the President to the Senate for confirmation and ratification, because he never considered them to be a treaty, but merely a new system initiating a tribal police—a mere administrative regulation, requiring no ratification, but merely the necessary funds to carry it into effect.

In view of the hostile attitude which some of the Sioux tribes have assumed, as appears from a letter of Agent A. J. Vaughan, herewith transmitted, and considering the critical position of our relations with the Sioux generally, it seems to me of the utmost importance that every semblance of a grievance should be carefully removed, and the promises of General Harney to those Indians promptly redeemed. I think that the sum of \$100,000 would at present suffice for that purpose, and I therefore respectfully recommend that Congress be asked to appropriate that sum to enable the Government to execute the stipulations entered into by General Harney.

Very respectfully, your obedient servant,

Acting Commissioner.

Hon. JACOB THOMPSON, Secretary of the Interior.

DEPARTMENT OF THE INTERIOR, June 7, 1858.

SIR: I have the honor to transmit herewith a copy of a report, with accompanying documents, addressed to this Department on the 5th instant, by the acting Commissioner of Indian Affairs, calling my attention to the hostile attitude assumed by the Menecongrees and Uncpapa bands of Sioux, or Dakota Indians, and suggesting that an appropriation of \$100,000 should be asked for to enable this Department to redeem the promises made by General Harney to nine bands of the Sioux, at the Council held at Fort Pierre, in March, 1856.

The subject has already been brought to the attention of Congress, in a special message from the President of the United States, dated July 24, 1856, accompanied by an estimate of the amount that would be required for the purpose, (Ex. Doc. No. 130, first session Thirty-Fourth Congress.)

An estimate was again submitted by my predecessor, at the opening of the second session of the Thirty-Fourth Congress, but no action was taken, although the Committee of Ways and Means reported in favor of the appropriation.

For this reason no estimate was submitted this year, but attention was again called to the subject in the annual report of the Commissioner of Indian Affairs.

The Menecongrees, Uncpapa, Brulé, and other bands of Sioux occupying the country south of the Missouri river, are among the wildest, most turbulent, and dangerous within our limits; and in view of their present hostile attitude, of which the Department has been but recently advised, and the absence of troops, I feel constrained to call the attention of Congress to this subject, and respectfully to recommend that a sufficient sum be furnished to enable the Department to fulfill the stipulations of the agreement made by General Harney with the Sioux. Good faith and sound policy alike demand it, and unless measures are promptly taken serious disturbances will be likely to result.

Very respectfully, your obedient servant,

J. THOMPSON, Secretary.

Hon. JAMES L. ORR,
Speaker of the House of Representatives.

Mr. PEYTON. It seems that General Harney made an agreement with the Indians that if they enlisted in the Army he would make these presents. Did they enlist in the Army, and perform their part of the contract?

Mr. J. GLANCY JONES. A full list of Indians was never made out and sent to the Department and put upon the records. The Department has never given them their rations, uniform, or anything else.

Mr. PEYTON. Have they complied with their part of the contract?

Mr. J. GLANCY JONES. So far as they had the power to do so.

Mr. PEYTON. Then they have never entered the Army or performed any service?

Mr. J. GLANCY JONES. There were other stipulations besides what I have mentioned.

Mr. PEYTON. If they have performed no service upon their part, I am unwilling to pay them.

Mr. J. GLANCY JONES. They have done a good deal. They have dispersed their bands, declared that they would be upon terms of peace, amity, and good will, and that they would not disturb our settlements; and a hundred other things, just such as the gentleman from Kentucky might expect the Indians would make stipulations for. They complain that two years have elapsed, and that we have not performed our promises.

The question was taken on the Senate amendment; and it was concurred in.

Second amendment:

To enable the Secretary of the Interior to adjust difficulties and preserve peace with the Cut-Head and Yantonaise bands of Sioux Indians, \$25,000.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend concurrence.

The amendment of the Senate was concurred in.

Third amendment:

For compensation of five extra clerks employed in the Indian office under the acts of 31st March, 1854, and 3d March, 1855, and under appropriations made from year to year, \$7,000.

Mr. J. GLANCY JONES. It is represented by the Indian department that temporary clerks are necessary; but the Committee of Ways and Means, not perhaps having sufficient information on the subject, did not deem it expedient at this time, and recommend a non-concurrence.

The question was taken, and the amendment was not concurred in.

Fourth amendment:

Pawnees.—For fulfilling the stipulation of the treaty with the Pawnees on the 24th of September—

Mr. J. GLANCY JONES. The amendments from number four to number twenty-five all relate to one treaty with the Indians. The Government of the United States entered into a treaty with the Pawnee Indians on the 24th of September, 1857. That treaty has been ratified by the Senate this session; and hence this appropriation could not come into the original Indian appropriation bill, and had to be put into the supplemental bill. This treaty, however, is now ratified, and is the highest law of the land. The amendments from four to twenty-five inclusive, are for appropriations in accordance with the stipulations of the treaty, and admit of no debate. The amount of the whole is \$87,230.

The question was taken on the amendments in gross, and they were severally concurred in.

Twenty-sixth amendment:

Sec. 2. *And be it further enacted*, That the Secretary of the Interior is hereby authorized to release the American Board of Commissioners for Foreign Missions from their obligations, under the fourth article of the Cherokee treaty, to expend the value of the Union and Harmony mission reservations, awarded them, on schools among the Ojegas, and in improving their condition: *Provided*, That the Secretary of the Interior may, at his discretion, direct what other destitute tribe or tribes among whom said money shall be expended by said board for such purposes, and make such other regulations as will secure the proper and faithful application of said fund.

Mr. J. GLANCY JONES. This being an Indian supplemental appropriation bill, and not a bill to regulate public lands, the Committee of Ways and Means think it is not proper to legislate in this particular, and recommend a non-concurrence.

Mr. MORGAN. Is the amendment right in itself, or is it objected to because it is in the wrong bill?

Mr. J. GLANCY JONES. The committee have great doubt about its being right, and it is not a pressing case.

The question was taken, and the amendment was non-concurred in.

Twenty-seventh amendment:

And be it further enacted, That where, by or pursuant to the provisions of any treaty with any tribe of Indians, tracts of land outside of the limits of any tribal reservation have been or shall be set apart for the use of individual Indians, to be held in severalty, and the power reserved to Congress, or the President of the United States, to authorize the issue of patents therefor, and to make regulations respecting the sale or alienation of such tracts, or where the treaty is silent on the subject, it shall and may be lawful for such reserves to sell and convey such tracts of land, whether they be held as reservations by the usual Indian title, or by grant and deed of conveyance of such lands, duly executed by the reservee, shall be so construed as to vest in the purchaser a title and fee-simple to the lands so conveyed: *Provided*, That such sales shall be made in conformity to such rules and regulations, for the purpose of preventing fraud and imposition, and of securing to and for the reservees the full and fair value of the lands, as may be prescribed by the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior: *And provided further*, That no sale or conveyance of such tracts shall be of any validity, except the same shall have been submitted to, or received the approval of, the Secretary of the Interior.

Mr. J. GLANCY JONES. Mr. Chairman, there is a considerable amount of legislation in this amendment. It is well known to the House that under the present system of conducting our relations with the Indians, we grant reservations to the tribes. In some few cases, however, in making treaties with the Indians, there has been a stipulation to apportion the lands among the Indians individually, and not to give them to the tribe. This amendment proposes to allow each individual member of the tribe to dispose of his own real estate without the advice or consent of any one. In some cases it might be important; but it is a very dangerous change in the law, unless it should be well matured, and very carefully

examined. For this reason the Committee of Ways and Means recommend a non-concurrence.

The amendment was non-concurred in.

Twenty-eighth amendment:

And be it further enacted, That the Commissioner of Indian Affairs shall be, and he hereby is, authorized, whenever the interests of the reservee render it expedient, to require the purchase money for any such tract of land to be paid to the United States agent for the tribe to which the reservee belongs, or other officer of the United States authorized to receive it, and to retain the same, to be afterwards applied, under the direction of the Secretary of the Interior, for the benefit of the reservee, in such manner as may be deemed best for his interests and welfare.

Mr. J. GLANCY JONES. That amendment is open to the same objection as the last; and the Committee of Ways and Means recommend a non-concurrence.

The amendment was non-concurred in.

Twenty-ninth amendment:

And be it further enacted, That, where the tribal reservation of any tribe of Indians is, or shall be, in pursuance of the provisions of any treaty with such tribe, divided among the individual members of the tribe, to be held by them in severalty, no sales by individuals of the tracts assigned to them shall ever be made, except to members of the tribe or to the United States; and if any person not employed under the authority of the United States should attempt to treat or negotiate, directly or indirectly, with any individual Indian, for the purchase of any tract of land held or claimed by him, such person shall forfeit and pay the sum of \$1,000, to be recovered before any court of the United States having jurisdiction, in the manner prescribed by the twenty-seventh section of the act of Congress of June 30, 1834, commonly called the intercourse act.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in this amendment.

The amendment was non-concurred in.

Thirtieth amendment:

And be it further enacted, That the Commissioner of Indian Affairs be, and he hereby is, authorized, with the approval of the Secretary of the Interior, to remove from any tribal reservation any person found therein without authority of law, or whose presence within the limits of the reservation may, in his judgment, be detrimental to the peace and welfare of the Indians, and to employ for the purpose such force as may be necessary to enable the agent to effect the removal of such person or persons.

Mr. J. GLANCY JONES. The Committee of Ways and Means think this a very good amendment. It will enable the Indian agents to expel from the Indian territory all persons who have no right there, and to use sufficient force to drive them out. The Committee of Ways and Means recommend a concurrence in the amendment.

Mr. MORGAN. I do not know but that this may be all right; but it seems to me to be placing very great power in the hands of these Indian agents; and I know of some of them who ought to be kept out of the Indian country themselves, and who are very incompetent to put off others. I hope the amendment will not be concurred in.

Mr. LEITER. I hope the provision will be agreed to. There is immense trouble growing up in the western country, owing to the fact of squatters going upon the Indian reservations in violation of law. I hope, therefore, that this amendment will be agreed to.

Mr. CURTIS. I wish to amend the amendment so as to require the Commissioner to remove all persons. This leaves it in his discretion.

Mr. J. GLANCY JONES. The Indian agent has no discretionary power. The Secretary of the Interior may instruct the agent to remove persons who are in the Indian country in violation of law, or who are deleterious and injurious to the Indians. The agent cannot remove a single man, but he may report to the Secretary of the Interior, and if the Secretary thinks that they ought to be removed, he will so instruct the agent.

Mr. CURTIS. I move to amend the amendment by striking out the word "any," and inserting "all," so as to make it "all persons." I understand the operation of the amendment perfectly well, because I am familiar with the frontier. I know very well that men have heretofore gone, and will hereafter go, to the Indian agents and obtain their permission to remain in the Indian country, and I think this would be a very dangerous power to place in the hands of Indian agents. Persons can go into the Indian territory for the purpose of trading lawfully, under certain restrictions; but all persons who are in the territory unlawfully ought to be removed thence.

Mr. KUNKEL, of Pennsylvania. I would like to ask the gentleman from Iowa the purport of his amendment? The Senate amendment authorizes the removal of any person found to be inju-

rious to the Indians. The gentleman proposes to amend it by striking out "any" and inserting "all." What is the force of his amendment?

Mr. CURTIS. It proposes that all persons who are there contrary to law shall be removed.

Mr. KUNKEL, of Pennsylvania. The amendment of the Senate provides that any person there contrary to law, or who is found to be injurious to the Indians, shall be removed.

Mr. SMITH, of Virginia. I suggest that instead of granting permission to the officer to do it, he be required to do it.

Mr. CURTIS. I move to strike out the word "any" and insert "all," so that it will apply to the removal of all.

Mr. DAVIS, of Maryland. I suggest that instead of reading "that the Commissioner of Indian Affairs be authorized," &c., it read, "authorized and required."

Mr. CURTIS. I withdraw my amendment.

Mr. DAVIS, of Maryland. I move mine instead of it.

Mr. COLFAX. By the first clause he may remove all persons there contrary to law, and by the latter clause he may remove such other person or persons, as he may consider detrimental. I think that it gives him too much power.

Mr. GROW. No person has a right to go upon Indian lands now, without permission. Any persons who go there without permission can be put off by military force.

Mr. PHELPS, of Missouri. The amendment only reenacts the law now upon your statute-book. Our Indian agents are required to remove all persons who may attempt to settle in the Indian country, or upon any of the Indian reservations, unless they have licenses from the Indian agents. Persons can go there for trade, but they must be licensed. Military force may be used, in cases of extremity, to put off intruders.

The question was taken on the amendment of Mr. Davis, of Maryland, and it was agreed to.

Mr. STANTON. The first branch of the amendment authorizes him to remove all persons there contrary to law; and the second branch authorizes him to remove everybody else that he chooses. I am opposed to that latter branch, and I move to strike it out.

Mr. J. GLANCY JONES. If my friend does not want every person removed who, in the opinion of the Secretary of the Interior, is detrimental to the Indians, then he had better have the amendments voted down.

Mr. STANTON. The effect is to give Indian agents the control of the settlement of the Indian country—to decide what class of white population shall settle there. It may be used for political purposes or any other purposes. He may select his own political friends. He can permit one class to go there to the exclusion of all others. I do not know what the law has been heretofore, but that is the effect of it.

Mr. MARSHALL, of Kentucky. As it strikes me here, the Indian agents have nothing to do with it. The Indian agent has no power at all until the military force comes to be used. The discretion and judgment are to be exercised by the Secretary of the Interior. The Commissioner of Indian Affairs, with the approbation of the Secretary of the Interior, has a right to remove from the Indian reservations any persons found there without authority of law, and any person who, in the opinion of the Secretary of the Interior, may be injurious to the Indians; and he has the right to use such force as may be needed for that removal. The agent is not an actor at all until there is a determination on the part of the Secretary to use force. The discretion is with the Secretary only.

Mr. CAVANAUGH. I move to strike out "agent," and insert "superintendent."

The amendment was disagreed to.

The question then recurred on the amendment of the Senate, as amended.

The committee divided; and there were—ayes 62, noes 22.

Mr. BUFFINTON demanded tellers.

Tellers were ordered; and Messrs. BUFFINTON, and CRAIG of North Carolina, were appointed.

The committee divided; and the tellers reported—ayes 77, noes 48.

So the amendment was concurred in.

Thirty-first amendment:

Sec. 7. *And be it further enacted*, That the Secretary of

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THIRTY-FIFTH CONGRESS, 1ST SESSION.

SATURDAY, JUNE 12, 1858.

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the Interior be, and he is hereby authorized and directed to pay to such persons of Miami blood as have heretofore been excluded from the annuities of the tribe, since the removal of the Miamies in 1846, and since the treaty of 1854, and whose names are not included in the supplement to said treaty, their proportion of the tribal annuities from which they have been excluded; and he is also authorized and directed to enroll such persons upon the pay-list of said tribe, and cause their annuities to be paid to them in future: *Provided*, That the foregoing payments shall be in full of all claims for annuities arising out of previous treaties. And said Secretary is also authorized and directed to cause to be located for such persons, each two hundred acres of land out of the tract of seventy thousand acres reserved by the second article of the treaty of June 5, 1854, with the Miamies, to be held by such persons by the same tenure as the locations of individuals are held, which have been made under the third article of said treaty.

Mr. J. GLANCY JONES. Upon examination of the matter, it was ascertained that some of the Miami Indians were omitted from the list. The amendment provides that they shall be reckoned in. It brings in a few Indians who were unjustly left out. The Committee of Ways and Means recommend a concurrence.

The amendment was concurred in.

All the amendments having been disposed of, Mr. J. GLANCY JONES moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. FAULKNER reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the Senate amendments to a bill (H. R. No. 557) making supplemental appropriations for the support of the Indian department, and for fulfilling treaty stipulations with certain Indian tribes, for the year ending June 30, 1859, and had directed him to report the same back to the House, with the recommendation that some be concurred in, and that others be non-concurred in, and that others be concurred in with amendments.

Mr. J. GLANCY JONES. I demand the previous question upon the amendments.

The previous question was seconded, and the main question ordered.

The SPEAKER. If it is the pleasure of the House, the Chair will put the question first upon all the amendments in gross in which the Committee of the Whole on the state of the Union recommend a concurrence.

Mr. CRAWFORD. I desire to say that I am opposed to the first amendment, though I do not propose to call the yeas and nays upon it.

No objection being made to the suggestion of the Chair, the question was taken upon the first, second, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, and thirty-first amendments of the Senate; and they were concurred in.

The third, twenty-sixth, twenty-seventh, twenty-eighth, and twenty-ninth amendments of the Senate, were severally non-concurred in.

The thirtieth amendment of the Senate was reported with the following amendment:

Line three, after the word "authorized," insert the words "and required," so that the amendment will read:

And he further enacted, That the Commissioner of Indian Affairs be, and he hereby is, authorized and required, with the approval of the Secretary of the Interior, to remove from any tribal reservation, &c.

The question was taken on the amendment, and it was agreed to.

The question recurred on the Senate amendment, as amended.

Mr. STANTON called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 66, nays 60; as follows:

YEAS—Messrs. Ahl, Arnold, Bowie, Boyce, Bryan, Burnett, Burns, Caskey, Chapman, Clemens, John Cochrane, Corning, Cox, James Craig, Burton Graige, Crawford, Curry, Davis of Indiana, Edmundson, Eustis, Faulkner, Foley, Gartrell, Gregg, Lawrence W. Hall, Hatch, Houston, Hughes, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Jacob M. Kunkel, John C. Kunkel, Leidy, Leiter, Letcher, Humphrey Mar-

shall, Samuel S. Marshall, Mason, Milston, Morrill, Niblack, Pendleton, Peyton, Phillips, Powell, Ruffin, Russell, Savage, Scales, Scott, Henry M. Shaw, Singleton, William Smith, James A. Stewart, George Taylor, Miles Taylor, Walton, Winslow, Woodson, Wortendyke, and John V. Wright—66.

NAYS—Messrs. Andrews, Bennett, Billingshurst, Bingham, Blair, Brayton, Buffinton, Burlingame, Case, Cavanaugh, Chaffee, Horace F. Clark, John B. Clark, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Davis of Maryland, Davis of Iowa, Dawes, Dean, Dodd, Fenton, Foster, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Harlan, Hoard, Horton, Howard, Lovejoy, Mattheson, Morgan, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Olin, Palmer, Parker, William W. Phelps, Purviance, Roberts, Royce, Judson W. Sherman, Spinner, Stanton, Stephens, William Stewart, Thayer, Tompkins, Wade, and Ellihu B. Washburne—60.

So the amendment, as amended, was concurred in.

Pending the vote, Mr. MORGAN stated that Mr. KELSEY had been detained from the House, yesterday and today, in consequence of sickness in his family.

Mr. FLORENCE stated that if he had been in the Hall when his name was called, he would have voted in the negative.

The SPEAKER. The hour having arrived (four o'clock, p. m.) for the House to take a recess, the House takes a recess till six o'clock.

EVENING SESSION.

The House reassembled at six o'clock.

SHERLOCK AND SHIRLEY.

Mr. ENGLISH. I ask unanimous consent to report back from the Committee on the Post Office and Post Roads, Senate bill (No. 287) for the relief of Sherlock & Shirley. The committee recommends its passage. It appropriates no money, but is simply to provide for reopening and adjusting the account of these men on principles of equity and justice. It is very carefully guarded, and will work no injustice to the Government.

Mr. JONES, of Tennessee. I object.

Mr. ENGLISH. The bill makes no appropriation of money.

Mr. JONES, of Tennessee. But it releases money forfeited to the Government.

Mr. ENGLISH. I move to suspend the rules; and call for tellers.

Tellers were ordered; and Messrs. JOHN COCHRANE and BUFFINTON were appointed.

The House divided; and the tellers reported—ayes 51, noes 40; no quorum voting.

Mr. ENGLISH. I have no desire to embarrass the House, and therefore withdraw my motion to suspend the rules.

Mr. J. GLANCY JONES. I would inquire of the Chair if there is a quorum present?

The SPEAKER proceeded to count the House; and announced that there were one hundred and twenty members (a quorum) present.

HEIRS OF JOHN PAULDING AND OTHERS.

Mr. DAWES. I ask the unanimous consent of the House to report a bill from the Committee on Revolutionary Claims, in order that it may be placed upon the Calendar. I ask nothing more.

Mr. JONES, of Tennessee. I object. A great many of us here have bills which we desire to report.

Mr. DAWES. I move to suspend the rules.

The question was taken; and the rules were suspended—ayes 101, noes 24.

Mr. DAWES, from the Committee on Revolutionary Claims, then reported a bill for the relief of John Paulding, David Williams, Isaac Van Wirt, and John Champ; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

DISTRIBUTION OF PUBLIC LANDS.

Mr. GILMER. I ask the unanimous consent of the House that the Committee on Public Lands be discharged from the further consideration of House bill (No. 368) to prevent the accumulation of an unnecessary surplus in the Treasury, and to equalize the grants of land to the several States.

Mr. JONES, of Tennessee. I object.

Mr. GILMER. I move to suspend the rules, and on that motion I ask the yeas and nays.

The yeas and nays were ordered.

Mr. ATKINS (at twenty-five minutes after six o'clock, p. m.) I move that the House do now adjourn, and on that motion I ask the yeas and nays.

The yeas and nays were not ordered.

The House refused to adjourn.

WILLIAM S. BRADFORD.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 610) for the relief of William S. Bradford; when the Speaker signed the same.

DISTRIBUTION OF PUBLIC LANDS—AGAIN.

The question recurred on the motion to suspend the rules, for the introduction of a motion to discharge the Committee on Public Lands from the further consideration of House bill (No. 368) to prevent the accumulation of an unnecessary surplus in the Treasury, and to equalize the grants of lands to the several States.

Mr. LEITER. I ask that the bill be read.

The bill is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That hereafter, whenever, at the end of any and each fiscal year, there shall remain in the Treasury of the United States a surplus over and above the immediate demands on the Treasury, and the sum of \$6,000,000, subject to the Treasurer's drafts, in payment of warrants, such surplus shall be deposited with such of the several States, in proportion to their respective representation in the Senate and House of Representatives of the United States, as shall, by law, authorize their treasurers, or other competent authorities, to receive the same on the terms hereinafter specified; and the Secretary of the Treasury shall deliver the same to such treasurers, or other competent authorities, on receiving certificates of deposit therefor, signed by such competent authorities, in such form as may be prescribed by the Secretary aforesaid; which certificates shall express the usual and legal obligations, and pledge the faith of the State, for the safe-keeping and repayment thereof, and shall pledge the faith of the States receiving the same to pay the said moneys, and every part thereof, from time to time, whenever the same shall be required by the Secretary of the Treasury for the purpose of defraying any wants of the public Treasury beyond the amount of the \$6,000,000 aforesaid: *Provided*, That if any State declines to receive its proportion of the surplus aforesaid on the terms before named, the same shall be deposited with the other States agreeing to accept the same on deposit in the proportion aforesaid: *And provided further*, That when said money, or any part thereof, shall be wanted by the said Secretary to meet appropriations by law, the same shall be called for in ratable proportions, within one year, as nearly as conveniently may be, from the different States with which the same is deposited, and shall not be called for, in sums exceeding ten thousand dollars from any one State in any one month, without previous notice of thirty days, for every additional sum of \$20,000 which may at any time be required: *And provided further*, That the surplus moneys in the Treasury hereby required to be deposited shall not exceed the proceeds of the sales of the public lands from and after the passage of this act.

SEC. 2. *And he it further enacted*, That from and after, and during this Congress, in all cases, when any portion of the public lands is granted or given by Congress to any State, or to any county, township, school, company, or corporation, in said State, there shall, also, at the same time, be due, and granted to each of the other States respectively, other public lands in quantity, so that each State, at the same time, shall receive of the public lands equally, in proportion to the representation of said States in Congress: *Provided, however*, That a grant of the right of way for roads of all kinds through the public lands in any State, and the lands given to any State on its admission, shall not entitle the other States to have or receive any lands as an equivalent therefor.

SEC. 3. *And he it further enacted*, That the Commissioner of the Public Lands, under the direction of the Secretary of the Interior, shall issue to each of the States, respectively, land warrants to the amount in all, to which each State is respectively entitled under this act, and said States are severally authorized to receive and to sell and dispose of said land warrants for their own useful purposes, and said warrants are to be valid and effectual in the hands of any owner or holder thereof, and may be located by such owner or holder upon any public lands for sale, or subject to private entry, and the same fees to be paid therefor by the holders thereof. And the title of the land so located by any owner or holder of said land warrants, shall be secured and perfected to such owner or holder in the same manner as other land warrants issued by the United States. Said land warrants shall be engraved and printed, so as to prevent deception and counterfeiting; shall be signed by the Secretary of the Interior, or Commissioner of the Public Lands, or for them by such other persons as the said Secretary may direct, and countersigned by the Governor of each State receiving the

same, or by such other officers as the said States may respectively designate for that purpose; and said land warrants be for not less than eighty, nor over one hundred and sixty acres each: *Provided*, That no State shall be authorized to locate any warrants in its own name, or for its own benefit; and that no warrants issued under the provisions of this act shall be located upon any lands to which there shall be any preemption right, or on which there shall be any actual settlement or cultivation, except by the person holding such preemption right, or by such settler or cultivator.

Sec. 4. *And be it further enacted*, That all mineral lands are hereby reserved to the United States from the operation of this act, except such as are, or hereafter may be, by law, subject to private entry by individuals.

The yeas and nays having been ordered, the question was taken; and it was decided in the negative—yeas 68, nays 66; as follows:

YEAS—Messrs. Andrews, Bennett, Blair, Bliss, Bratton, Burlingame, Case, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dewart, Dodd, Durfee, Eustis, Foster, Gilman, Gilmer, Gooch, Goodwin, Granger, Harlan, J. Morrison Harris, Hill, Hoard, Kellogg, Kilgore, John C. Kunkel, Leiter, Lovejoy, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Murray, Palmer, Parker, Purviance, Ready, Reilly, Ritchie, Roberts, Royce, Judson W. Sherman, Stanton, William Stewart, George Taylor, Thayer, Thompson, Tompkins, Wade, Walbridge, Walton, Warren, and Zoll-coffer—68.

NAYS—Messrs. Abbott, Ahl, Atkins, Billingshurst, Bowie, Cavanaugh, John B. Clark, Clay, Clemens, Cobb, John Cochrane, Corning, Crawford, Curry, Davis of Indiana, Davis of Mississippi, Edmundson, English, Fenton, Foley, Giddings, Goode, Gregg, Grow, Thomas L. Harris, Hopkins, Houston, Howard, Huyler, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Knapp, Jacob M. Kunkel, Letcher, Maclay, Samuel S. Marshall, Mason, Miles, Millson, Mott, Niblack, John S. Phelps, William W. Phelps, Phillips, Potter, Pottle, Quimman, Reagan, Ruffin, Russell, Savage, Scales, Henry M. Shaw, William Smith, Spinner, Stephens, James A. Stewart, Miles Taylor, Elihu B. Washburne, White, Winslow, Woodson, and Wortendyke—66.

So the rules were not suspended, (two thirds not voting in the affirmative.)

Pending the call,

Mr. WALBRIDGE stated that his colleague, Mr. WALDRON, had paired off with Mr. WRIGHT, of Georgia; for the remainder of the session.

MAIL STEAMER APPROPRIATION BILL.

Mr. J. GLANCY JONES. I move that the amendments of the Senate to the mail steamer appropriation bill be made the special order in the Committee of the Whole on the state of the Union until disposed of; and on that motion I call for the previous question.

Mr. SAVAGE. I am rather opposed to this steamer bill. I ask that it be read before we make it the special order. I think there are many better ways of spending the public money.

The SPEAKER. The bill is in the Committee of the Whole on the state of the Union.

Mr. SAVAGE. I think that we have a right to have it read. I make that point of order.

The SPEAKER. The Chair overrules the gentleman's point of order. The bill, with the Senate amendments, is in committee; and of course the reading of it is not in order in the House, if objected to.

Mr. J. GLANCY JONES. I only ask that we shall follow the regular course. I ask for the previous question on my motion.

The previous question was seconded, and the main question ordered to be put.

The motion was agreed to.

Mr. J. GLANCY JONES. I move that general debate in Committee of the Whole on the state of the Union be terminated within five minutes after the House shall go into committee.

The motion was agreed to.

Mr. J. GLANCY JONES. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. MILLSON in the chair.)

Mr. J. GLANCY JONES. The amendments of the Senate to the mail steamer appropriation bill are before the committee as a special order. There are five amendments, and the Committee of Ways and Means report a concurrence in one, and non-concurrence in the remaining four. I will explain as the amendments come up:

First amendment:

Strike out the following paragraph:
"For transportation of the mails from New York to Liverpool, and back, \$346,500; and it is hereby provided that

there be paid to the Post Office Department, out of said appropriation, such sums as may be required to procure the transportation of the mails from New York to Liverpool, and back, on such days as the Collins line may fail to take them from New York."

And insert, in lieu thereof, as follows:

For transportation of the mails from New York to Liverpool, and back, in pursuance of the contract with E. K. Collins and others, \$346,500. *And it is hereby provided*, That for such days as the said Collins and others shall fail to perform said service, the Postmaster General is authorized to contract with the owner or owners of any other steam vessel or vessels to perform said service, by transporting the mails from such port in the United States to such port in Great Britain as he may select, and that the cost thereof be deducted from any amount which may be due, or may become due, to E. K. Collins & Co. for services actually performed. And the Postmaster General may, with the consent of the contractors, change the European termination of said route, under the contract aforesaid, from Liverpool to Southampton.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommended a non-concurrence in that amendment. The substance of the amendment is the same as the original provision. It proposes, however, to change one of the *termini*, substituting Southampton for Liverpool. It being a contract, the committee thought it ought not to be interfered with.

Mr. JONES, of Tennessee. Does it not also differ in authorizing the Postmaster General, if the Collins line failed to carry the mails on the days contracted, to contract with other vessels, not to carry from New York to Liverpool, but from any port in the United States to any port in Great Britain?

Mr. J. GLANCY JONES. There is a slight difference in that respect. I have not examined that point particularly; but this bill, as originally passed by this House, contained a proviso that the Postmaster General might draw upon this fund to contract with any other steam vessels to carry the mails between New York and Liverpool, in case of default of Collins & Co. The Committee of Ways and Means recommend a non-concurrence.

Mr. MARSHALL, of Kentucky. I desire to call the attention of the committee to a peculiarity which has been brought to my notice in relation to this amendment, and which operates upon two other lines, (the Bremen and Havre lines,) as I understand, most unjustly. The bonus given to Collins & Co. was a bonus which we were told would be necessary to enable them to enter into competition with the Cunard line of steamers plying between New York and Liverpool. I recollect that I was one of those who, upon a representation of that fact, voted to them the increased bonus. But Congress gave notice of a termination of that new bonus, and they have dropped back to the original contract, which I think is about nineteen thousand dollars a trip. I understand that our own Havre line gets about seven thousand dollars a trip.

Mr. CLARK, of New York. Provided they earn that sum by postage.

Mr. MARSHALL, of Kentucky. Yes, provided they earn that sum by postage. I understand that the French Government charges this American line at Havre about two thousand dollars, thus reducing the amount, in fact, to \$5,000. By changing the terminus from Liverpool to Southampton, Collins, in effect, puts his line, with the \$19,000 bonus, not as a competitor with an English line between New York and Liverpool, but as a competitor with an American line, whose compensation is diminished to about five thousand dollars; so that the effect of this Senate amendment will be to crowd an American line out of that which has heretofore been granted to it, and leave the New York and Liverpool line without a competitor, while the Collins line draws out of the Treasury \$19,000. I think this is unfair; and I think it would be impolitic upon our part, not to characterize the operation with terms of more severity, which I think it richly deserves.

I would not agree, as a legislator, that the Postmaster General and the contractors should make an agreement, if an agreement could be made, by which this line of steamers could crowd upon another American line of steamers, and take the profits which properly belong to them under a grant, while this Collins line put into their own pockets the large bonus which the Government gave to them, under the idea that it was necessary to enable them to compete with an English line of vessels. [Here the hammer fell.]

Mr. CLARK, of New York. I move to strike out the first three lines of the amendment, and I do this for the purpose of obtaining the opportunity of making a brief explanation of the question which is suggested by this amendment. The Collins contract, so-called, provided for the transportation of the mails from New York to Liverpool, and to Liverpool alone. Southampton was not the terminus of the line. That contract was under the law of 1847, and has not yet expired, owing to the period at which the full service commenced. About the same time two other lines, one to Southampton and Havre, and the other to Southampton and Bremen, were set on foot. Then lines running to the Channel carried mails for a less amount of compensation than the Collins line. The contracts for the Havre and Bremen lines expired in June last. Congress had failed to enact a law authorizing their renewal. The proprietors of those lines made a proposition to the Postmaster General, in pursuance of which they undertake to carry the mails (as they had previously done under the terminated contracts) for the sea and inland postage, and during the past year they have been transporting the mails to Southampton and Havre, and Southampton and Bremen, without any charge upon the national Treasury beyond the sums which they had actually earned by way of postages.

The Collins line, the contract not having expired, is still entitled to run to Liverpool, but has no right to go to Southampton. It is now proposed to permit the Collins line to withdraw from the Liverpool trade, and bring them to Southampton, in direct competition with two American lines, now transporting the mails for the amount of the postages actually earned. The effect of this proposition, if acceded to, may possibly be to drive those two lines out of existence; for how can one man, receiving only the postages, compete with another receiving the munificent bonus of about twenty thousand dollars the round trip from the General Government? If this amendment is adopted, it will permit the Collins line to run to Southampton, instead of Liverpool, and perhaps drive off the other lines, or force them into a ruinous competition for freight and passengers, while at the same time there may be diverted from them a portion of the mail matter to which they are specially entitled.

I know not how private interests may be affected by this amendment, nor do I care. I have no prejudice against the Collins line, nor am I actuated by any desire to thwart their plans or interfere with their prosperity. I have often thought and said that the Collins enterprise, although in some respects deserving the highest praise, has, nevertheless, accomplished more to retard ocean steam navigation than everything we are likely to do this session of Congress will probably advance it. I have no objection to the continuance of that contract, holding them to its letter. They demand the stipulated sum for the stipulated service—while other responsible American citizens are willing to undertake the service for less. I would perform the contract implicitly, for I would have no imputation of a breach of good faith fall upon the Government. Let the Collins contract continue its enterprise—let it continue to compete for the Liverpool trade with the English line, and let these American lines which are struggling, perhaps ineffectually, for the purpose of inaugurating this newly suggested self-sustaining ocean mail system, live in spite of any special legislation. It is clear that this amendment may operate unjustly, and I hope it will be rejected.

[Here the hammer fell.]

Mr. CLARK, of New York. I ask leave to withdraw my amendment.

Mr. JOHN COCHRANE. I object to my colleague withdrawing his amendment, and for the same reason that prompted him to offer it, namely: to afford an opportunity of making a few remarks. I am in favor, Mr. Chairman, of the amendments proposed by the Senate; and, in brief, for these few reasons: a contract was entered into between the Government and Mr. Collins in 1849—

Mr. CLARK, of New York. In 1847.

Mr. JOHN COCHRANE. I refer to the last contract. In 1849—the 19th day of April—the last contract was made, I think. That contract is now in existence, and will continue till the 1st of June, 1860. It has been stated by the gentleman from Kentucky [Mr. MARSHALL] that a bonus under

the contract was given to Mr. Collins by the Government for certain services which it was anticipated that line would perform for the Government and for the benefit of the country. In 1854 and 1856 this line was so unfortunate as to be deprived, by accident, of two steamers—the Arctic and the Pacific. Because of these losses the contractors were obliged to substitute other steamers, but with the consent of the Navy Department. Because of that substitution, the Government withheld from the line \$147,750; which, I presume, is something of an offset against the bonus which the gentleman from Kentucky has alluded to.

Mr. CLARK, of New York. Will my friend permit me to inform him that there is a bill before the House to refund that money to them?

Mr. JOHN COCHRANE. I regret that I cannot yield now. I am engaged in the argument from which the interruption will divert me. Then, sir, having withheld from this company the amount of money, it has been that the company was obliged to suspend its operations; and the money is still thus withheld. Under these circumstances the contractors, hoping that the money may be restored to them by the Government, and they be thus enabled to resume operations, come here and ask of Congress that they enable them to reestablish their line, and as some return for the injury suffered by them at the hands of the Government, to authorize them to determine their route at Southampton instead of at Liverpool; and for the avowed reason that they are unable to compete with the Cunard line of steamers. It is, moreover, better and more advantageous for them to run to Southampton. It is true that, to some degree, a competition would be thus raised between this line and two other lines of steamers—American steamers. But I do not see, for my part, why any one of these lines is entitled to preference over another one.

Mr. CLARK, of New York. Then bring them on a level.

Mr. JOHN COCHRANE. My proposition is simply this: that, in case of a competition so created, it cannot be to the injurious extent claimed by my colleague, [Mr. CLARK,] but will be a competition which, of its very nature, will enlarge the compass of business between the port of Southampton and the United States, by establishing more frequent days of arrival and departure than at present exist.

[Here the hammer fell.]

Mr. CLARK, of New York. I withdraw my amendment.

Mr. LETCHER. Mr. Chairman, I move to strike out all after the first line of the Senate amendment. It seems to me that it is very remarkable, to say the least of it, that, while there are two lines running through from the city of New York to particular points, which are costing the Government nothing, which are working for what they can make, and for that alone, the gentleman from New York [Mr. JOHN COCHRANE] should undertake to advocate the perpetuation of another line, with the Government as a contributor of over nineteen thousand dollars for the round trip, to keep it up at that rate. Is it the interest of this Government, is it a part of our legislative duty here, to pay a bonus to a party to perform what two other parties are performing without a bonus from the Federal Treasury? If these two lines are running now to Southampton, and getting nothing but the inland and ocean postage for that service, are they not entirely competent to carry all the postal matter that may be transmitted between those points, and in good time for the interests of the country? Why, then, should we undertake to establish a third line between these self same points?

But the gentleman says, that, owing to the unfortunate loss by this Collins line of two of its steamers, they have been fined by the Postmaster General in the amount of \$147,750 for failures.

Mr. JOHN COCHRANE. The gentleman from Virginia is mistaken. He must have misunderstood me. There have been no fines.

Mr. LETCHER. Very well, then. It is withheld. It is only another name for it. Then he says that \$147,750 has been taken from their allowance, and withheld by the Post Office Department for the reasons which they assign. Now, the gentleman says if they could have gotten that money there would have been no failure—that they would have been able to execute their con-

tract faithfully and to the letter. Sir, if this be true, will the gentleman explain to the House how this company came here some years ago asking for an increase of \$500,000 a year? Is it not the allegation now, that because of the termination of the bonus of \$500,000—because it is no longer contributed to the company, they have been compelled to suspend operations; and instead of executing the contract, have necessitated the employment by the Post Office Department of other vessels to carry the mails between these points? Then, it seems to me that unless we are satisfied that the Government has abundance of money to squander, to throw away on one company which is running in competition with others to the same point, it becomes us, as guardians of the public weal—as those who are interested in taking care of what little money is left after the appropriations of this session—that we should endeavor to withhold it for some more practical end than the protection of a company by Government to crush other American citizens engaged in the same sort of business.

Mr. SICKLES. With reference to that portion of the argument of my colleague from New York [Mr. JOHN COCHRANE] which relates to the sum of \$147,000, claimed by the Collins line, I will say that that payment is provided for in another bill, and I presume that no opposition will be offered to that appropriation here or elsewhere.

Mr. SMITH, of Virginia. Yes, there will be. I will fight it to the death. [Laughter.]

Mr. SICKLES. Well; I am very sorry to hear it, for I have no doubt it is justly due. It will, at all events, receive my cordial support where ever I can extend it. But that proposition, and the proposition now before the committee, are two very different things. The proposition now before the committee is that the service between New York and Liverpool, for which the Government has paid such munificent bounties, shall be entirely abandoned. I think this would be a great detriment to the commerce of the country, and its result would be to leave to the Cunard line an entire monopoly of this most important branch of our intercourse with Europe. It was the policy of the Government originally to maintain, and it has maintained, at a great sacrifice, steam communication between New York and Liverpool in American bottoms. Sir, I do not think the country, or the House, is prepared to abandon that policy; and although the Collins line has met with misfortunes, and nowhere are they more keenly sympathized with than in the city of New York, yet we are not prepared, I believe, however deep our sympathy with those misfortunes, to reconcile ourselves to the abandonment of steam communication in American bottoms with Liverpool, the most important commercial town in the Old World. It is now proposed to abandon that communication, and establish an additional line to Southampton, where we already have two.

Mr. DAVIS, of Mississippi. I rise to a question of order. I insist that the gentleman has no right to make a speech on the same side as the gentleman from Virginia, [Mr. LETCHER.] I understand that the rule provides that when an amendment is offered one gentleman has a right to speak upon one side and one gentleman upon the other. Now, it will not be said by the Chair or by anybody else, that the gentleman from New York is speaking in opposition to the amendment of the gentleman from Virginia.

The CHAIRMAN. The gentleman from New York can only speak in opposition to the amendment of the gentleman from Virginia.

Mr. SICKLES. Well, I am very glad to hear that I am out of order, because I shall be able to have five minutes more on some other amendment, when I shall be in order. But I did not intend to be out of order, and I am in favor of striking out the whole amendment of the Senate. As, however, the Chair thinks I am not in order, I will not persist at this time.

Mr. LETCHER, by unanimous consent, then withdrew his amendment.

Mr. DAVIS, of Mississippi. I move to amend the amendment by reducing the appropriation to five dollars. The gentleman from Virginia [Mr. LETCHER] told the House just now that because there is not a superabundance of money in the Treasury, gentlemen ought not to be in favor of this proposition. That seems to be a magic word

with that gentleman, and he uses it on all occasions when he desires to frighten the House out of their propriety; and thus defeats, I think, very often, prudent action by the House. It is said that there are three lines of steamships now in operation between New York and different points in Europe, by virtue of existing contracts with the Government. Now, what are the facts? The Collins line is the only line now under any regular contract with the Government for the transportation of the mails between New York and any point in Europe. Nearly twelve months ago contracts were made with two other lines to transport the mails to certain other points in Europe for the postages they might receive. Those contracts have almost expired. They have hardly a month more to run, and the Postmaster General has informed the House that he cannot and will not be able to renew those contracts upon the same terms as those on which he made them last year. He therefore asks at this time, when the great scarcity of money exists in the Treasury, of which the gentleman from Virginia so often and so clamorously speaks, that a sum of two hundred and odd thousand dollars shall be appropriated by Congress in order that he may subsidize those lines, in addition to the postages which they may receive.

Now, what is the effect of the proposition before the House? If the amendment of the Senate shall prevail, not less than one hundred and thirty thousand dollars will be saved to the Government; whereas, if the amendment be rejected, we shall be compelled to pay subsidies to these lines, and, in addition to the \$250,000, this further sum of \$130,000.

Mr. SICKLES. By what law?

Mr. DAVIS, of Mississippi. By this bill, as it went to the Senate; because it provides \$230,000, besides the \$130,000 for contingencies, which the Senate has stricken out.

Mr. MARSHALL, of Kentucky. I desire an explanation from the gentleman. I see that there is already in the main text of this bill, which has passed beyond our control, this provision:

"For the transportation of the mails from New York, by Southampton or Cowes, to Bremen, and from New York, by Southampton or Cowes, to Havre, \$230,000."

That is already in the bill. Now, what I want to know is how you are going to save anything by putting on another line?

Mr. DAVIS, of Mississippi. We do not put on another line. The proposition is to shorten the trips of the Collins line; because it is not so far from New York to Southampton as it is from New York to Liverpool. You only change one of the termini; and in doing that, you will save, certainly \$120,000, and probably \$500,000.

[Here the hammer fell.]

Mr. DAVIS, of Mississippi, by unanimous consent, withdrew his amendment.

Mr. BLISS. I move to substitute for the amendment of the Senate, these words:

For transportation of the mails from New York to Liverpool, and back, \$50,000.

And I do it for the purpose of saying a word in relation to what I understand should be the principle on which we vote any subsidies whatever. I voted the other day, with great reluctance, for the original bill, for I feared what has since happened. I doubted, also, whether the amount was not too large, though greatly reduced from the Collins grants, but I voted for it as a peace measure, as a substitute for a large and useless Navy. I have always believed in the much-abused exhortation, "in time of peace, prepare for war;" not by grinding our people to the dust by heavy taxation to support armies and navies; not by oppressing commerce by imposing burdens; but, as we have always done upon land, so upon the sea, to improve a time of peace to build up, as it were, a marine militia. It is thus that the pursuits of peace harmonize with constant preparation for defensive war. Navies and armies are necessary for conquest, not for defense. For that reason I have been in favor of continuing the fishing bounties. I am in favor of their continuance, in order that we may have on hand, at all times, a body of able seamen, if, unfortunately, we should need them for national defense. It is for the same reason that I am in favor of giving such encouragement to our mercantile marine as to make it useful to the Government, whenever it shall be needed for the naval service. I would have a sea as well

as a land militia. I am in favor, then, in time of peace of preparing for war, by giving such aid to our citizens engaged in the pursuits of peace that they may be fitted; and at all times ready, for the public service, if we should be driven into war. The glorious example in our Revolution, of the invaluable services of the Marblehead regiment, and the achievements of our little Navy in the war of 1812, where, almost alone, we acquired any reputation in that war, show the prowess of those seamen who have been banded in the pursuits of peace alone.

But, Mr. Chairman, within a few days we have voted for a large increase to the naval force of the country. This House has voted for the construction of ten vessels of war—Congress having, at the last session, ordered five—making fifteen vessels in addition to our Navy in a short period of less than two years. The cost of the Navy in consequence of that increase, with attendant measures, will be not only three or four times as much as formerly, but will be eight or ten times the amount expended under the old administrations of the naval Department. Now, I am not in favor of continuing these fishing bounties, and otherwise aiding to build up the commercial marine by grants from the public Treasury, if, at the same time, we are to go on and build up a great Navy. If we are to imitate the aggressive military monarchies of the Old World; if we are to oppress our industry, load our people with taxes, to pursue a policy so at variance with our traditions, and hostile to the true interests of a free people, then we can no longer afford these bounties. Let us then withdraw the fishing bounties and the money we pay our ocean steam marine. If the policy of a large naval establishment is to be carried out, the other policy is entirely unnecessary. Preferring, as I have always done, encouragement to the pursuits of peace, I was then in favor of, as I am not now, of paying these limited subsidies for the ocean militia.

[Here the hammer fell.]

Mr. SAVAGE. Mr. Chairman, if I were to make a motion it would be to strike out every dollar in connection with this Collins line of steamers.

Mr. CURTIS. I make the point of order that the gentleman is speaking on the same side that the gentleman from Ohio has spoken.

Mr. SAVAGE. I oppose the gentleman's amendment, because I think that not a dollar ought to be appropriated.

The CHAIRMAN. The gentleman must see that his remarks would be, to a great extent, of the same character as those submitted by the gentleman from Ohio. The Chair would suggest that the gentleman would better accomplish his object by moving an amendment himself when this is disposed of.

Mr. SAVAGE. Will the gentleman from Ohio withdraw his amendment?

Mr. BLISS. I have no objection.

Mr. KUNKEL, of Maryland. I object. I want to speak in opposition to it.

The CHAIRMAN. The gentleman will proceed.

Mr. KUNKEL, of Maryland. I am opposed to the amendment of the gentleman from Ohio, and in favor of the amendment proposed by the Senate, for reasons which I will briefly state. It surprises me that the gentleman from Kentucky, [Mr. MARSHALL,] and the gentleman from New York, [Mr. CLARK,] and the gentleman from Virginia, [Mr. LETCHER,] should all of them have fallen into the manifest error which they did, in their arguments, by asserting that inasmuch as there are now independent lines of American steamers running to Southampton, which carry the mails for the amount of postage realized from each trip, which is, I believe, \$7,000, that therefore the Government pays nothing for that service. It is known to the members of the committee that this Government is under a subsisting contract with the Collins line, for carrying the European mails, from New York to Liverpool, until the year 1860.

Mr. SMITH, of Virginia. I deny it.

Mr. KUNKEL, of Maryland. So I understand. And I beg to refer the gentleman to an extract from the opinion of the Attorney General, Judge Black:

"Collins & Co. bound themselves to build four steamships, of certain dimensions and power, within a fixed time, and a fifth one as soon as practicable; and to carry the mails

between New York and Liverpool. The United States were to have the privilege of taking the ships and converting them into vessels of war upon paying a fair valuation for them."

"In the mean time, Collins & Co. were to be paid a certain sum for carrying the mails. The time for building the first four ships was afterwards enlarged by Congress; and a still later act of Congress increased the mail pay and the number of trips to be run; but the terms and conditions of the contract remain as at first. Four ships (the Baltic, the Atlantic, the Arctic, and the Pacific) were built in due time, which were larger and stronger by fifty per cent. than the contract required; and the fifth one, the Adriatic, has been for some time in course of construction. These four vessels carried the mails with regularity and speed, which nobody complained of, until the Arctic was lost in September, 1854."

It is a subsisting contract, and if this Government, under that contract, can have the service which is now being performed by these other lines, why should it not be done and the Government saved about two hundred and thirty thousand dollars per year?

Mr. MARSHALL, of Kentucky. How, then, will the mails be carried from Southampton to Havre, and from Southampton to Bremen?

Mr. KUNKEL, of Maryland. They may be transhipped and sent forward from that point. It is right that we should favor the Collins line, because the vessels were constructed under the eye of the Navy Department with a view to their being taken for the naval service in case of war. The public faith was pledged to the builders that if they should construct these steamers the proposition then pending before Congress for ten additional vessels of war would be abandoned and these steamers considered as at the disposal of the Government in case of need.

Sir, I agree with gentlemen all around the House that if it were possible to reduce the expenditure of the public money in the mail service of the country, it would be a gratifying and laudable result; but, this contract existing with the Collins line, I cannot see why the additional duty should not be imposed upon them of running to Southampton as well as to Liverpool, if Collins & Co. consent to do so, and thus save the Government the amount of postage they are now paying to other mail lines for such service.

[Here the hammer fell.]

Mr. BLISS, by unanimous consent, withdrew his amendment.

Mr. SAVAGE. I move to amend by reducing the amount to one dollar. Sir, the subject of the Collins line of steamers has been before us for many years, harassing Congress from time to time through lobby agents. This is not the first time that I have had to fight against it, and it may be that upon this occasion, as upon others, I may not be the victor. But it is clear that we have not yet got rid of the Collins line, but we are furnished with stronger arguments against it than before. I think the facts show that this line has not only lost all claim upon this Government for any remuneration by its failure, but that it is wholly inadequate for the purpose for which it was established. This amendment provides for a perpetual failure in advance; and it shows that the Postmaster General was not willing to rely upon the Collins line of steamers. I am opposed to this whole system, to this vast, mighty monopoly which exists here, and which, I might well say, is an injury to commerce in general. If we are going to pay vast sums from the Treasury for carrying the mails, let us take the matter into our own hands, and derive a benefit from the experience we possess. Let the ships be ours, the officers ours, and let the whole thing be ours. We can do it just as well as we can through this Collins line. I think the whole thing is wrong from the beginning. If we do nothing else, let us cut loose from these contracts, and let the Postmaster General make the best contract he can with such parties as may offer to do the service. Let him offer the postage and such additional sums as may be necessary to carry out the plan. Let the work be put into market, and the contract be made with the lowest responsible bidder, and not, by force of legislative power, rule out competing interests, and give to this party a vast sum of money for doing that which he has wholly failed to do. [Here the hammer fell.]

Mr. SHERMAN, of Ohio. I desire to bring this controversy to a close; and in order to do so I submit the following amendment:

Strike out all after the word "perform," in line eighteen, in these words:

"And the Postmaster General may, with the consent of the contractors, change the European termination of said route, under the contract aforesaid, from Liverpool to Southampton."

The CHAIRMAN. The Chair would suggest to the gentleman from Ohio, that he assigned the floor to him, supposing that he rose to oppose the amendment of the gentleman from Tennessee.

Mr. SHERMAN, of Ohio. I hope the gentleman from Tennessee will withdraw his amendment.

Mr. SAVAGE. I withdraw it.

Mr. SMITH, of Virginia. I rise to a question of order. I desire to know whether, if this amendment of the gentleman from Ohio should prevail, we can go back and amend the Senate amendment?

The CHAIRMAN. The Chair would state to the gentleman from Virginia, that in his opinion the Senate amendment is the text upon which the House may ingraft amendments, and that an amendment offered to the Senate amendment, is an amendment in the first degree, and that an amendment may be offered to an amendment in this committee. The Chair, in giving his opinion, conforms to what has been the usage of the committee, and never, in his judgment, departed from, until within a few days past.

Mr. SMITH, of Virginia. The Chair did not understand my remark. If the proposition of the gentleman from Ohio—and I am in favor of it—prevails, does it prevent amending other parts of the Senate's amendment?

The CHAIRMAN. The Chair will state that the question submitted to him is not a question of order.

Mr. SMITH, of Virginia. Well, sir, I desire to amend the Senate amendment ahead of this one.

The CHAIRMAN. The gentleman cannot take the floor from the gentleman from Ohio for that purpose.

Mr. SHERMAN, of Ohio. Now I trust the gentleman from Virginia will allow me to proceed without further interruption.

The gist of the controversy between the Senate and the House is contained in these few lines, and there is no substantial difference which is not found therein. Now, I think this last provision ought to be stricken out, for these reasons: that if we give a bounty of over nineteen thousand dollars a trip to the Collins line, they ought to run that line, according to the contract, between New York and Liverpool, and in competition with the Cunard line. They ought to comply with the contract on their part, by carrying the mails from New York to Liverpool, and then the Government should comply with its contract by paying the stipulated price. The only reason which existed for paying this large sum was to enable it to compete with the Cunard line, thereby placing an American line in opposition to a British line. Now they ask not only a continuance of this large grant, but they seek to drive from the ocean other lines which are running for the simple ocean postage. I am willing to stand by the contract, and to pay them the \$20,000 monthly, for carrying the mails between New York and Liverpool; but I am not willing to let them take a better contract with the same bonus, and run their line to Southampton, thereby having three lines to Southampton, and none to Liverpool.

If we strike out that portion of the amendment which I have indicated, we reduce the contest between the House and the Senate to just nothing at all.

Mr. EUSTIS. Mr. Chairman, it seems to me that the gentleman from Ohio [Mr. SHERMAN] is laboring under a mistake. The amendment of the Senate differs very materially from the provision of the House in this bill, and his proposition to strike out the last three lines does not, in my opinion, relieve the amendment of the Senate from some of the objections that have been urged against it. But I agree with him, Mr. Chairman, that the material difference between the Senate amendment and the proposition of the House is to be found in the last four lines. And, in answer to the question of the gentleman from Maryland [Mr. KUNKEL] whether the Collins line did not perform the duty which is now being performed by the Bremen line and the Havre line, we have simply to say that when the Collins line has performed the trips from New York to Liverpool

and back again, they have performed their contract. And all that we ask here—all that we insist upon—is, that they shall be held simply to the performance of their contract which they are now endeavoring to shirk from. They are endeavoring to shirk from their contract while they are receiving nearly four times the amount of compensation received by the two other lines.

In answer further to the gentleman from Maryland, we are not laboring at all under the impression that these two lines to Havre and Bremen are performing this duty without compensation. They are performing this duty, and in lieu of any bonus from the Government, they are receiving the inland and ocean postal receipts which amount to \$130,000 for the two lines; whereas, on the other hand, the Collins line receives an amount equal to \$346,500.

Now, what does this Collins line propose to do? They propose to abandon the trade between New York and Liverpool entirely to the Cunard line, and leave it without competition. This argument about competition was the argument urged at the time of the establishment of the line, and the one which actuated Congress in furnishing means to carry it on. It was precisely for the purpose of competing with the Cunard line. Now they propose to abandon this, and to enter into competition with two American lines which are performing the duty at the rate of \$7,000 a trip. That is, they propose to abandon this contract for the purpose of entering into a new scheme which cannot fail to be a material injury to the other two lines.

Mr. HOUSTON. Would it be in order now to move to strike out all of the Senate amendment after the word "dollars," in the tenth line?

The CHAIRMAN. The Chair holds that it would not be in order.

Mr. HOUSTON. I suppose I can move to strike out additional matter to that which the gentleman from Ohio proposes to strike out?

The CHAIRMAN. The Chair has already stated that the amendment of the Senate is considered the text, and that the amendment of the gentleman from Ohio is an amendment in the first degree only, so that an amendment can be offered thereto.

Mr. HOUSTON. I desire to amend the Senate amendment.

Mr. SMITH, of Virginia. I desire to amend the amendment of the gentleman from Ohio, by striking out the words "with the consent of the contractors." I desire this amendment because I wish to leave the matter under the control of the Postmaster General, and also for other reasons which I wish to state to the committee.

The CHAIRMAN. The Chair would suggest to the gentleman from Virginia, that the motion of the gentleman from Ohio is to strike out these and other words; and the effect of the gentleman's amendment would be to retain these words in the bill.

Mr. SMITH, of Virginia. Well, how shall I get them out? Does not the Chair readily see that if these words were out, some gentlemen might be induced to vote for, and some against the proposition of the gentleman from Ohio, who would not do so under other circumstances?

The CHAIRMAN. The gentleman from Virginia does not understand the suggestion of the Chair. The motion of the gentleman from Ohio is to strike out these and other words. The motion of the gentleman from Virginia is to amend the amendment of the gentleman from Ohio, by striking out these words. The parliamentary effect of that would be to retain these words in the Senate amendment.

Mr. SMITH, of Virginia. How shall I shape the amendment? I confess I do not understand the Chair. Well, I move to strike out all after the word "dollars," including the gentleman's amendment, down to the word "Southampton."

The CHAIRMAN. That amendment is not in order. It will be competent for the gentleman from Virginia, at this time, to move to amend the amendment of the gentleman from Ohio, and no further.

Mr. SMITH, of Virginia. I try to amend the amendment of the gentleman from Ohio, but I am not permitted, under the ruling of the Chair.

The CHAIRMAN. The gentleman mistakes the ruling of the Chair. The gentleman from Virginia may submit the amendment which he

suggested. The Chair only informed him that the effect would not be what he supposes.

Mr. SMITH, of Virginia. Then I submit that amendment. Mr. Chairman, I wish the committee to understand that I do not regard that there is any Collins line subsisting or existing. Last November, I think it was, Collins & Co. voluntarily, and of their own accord, abandoned their contract, and their steamers have since been sold at auction. If one side has a right to abandon the contract, so has the other; and we all know perfectly well that in these contracts for the transportation of the mails, there is uniformly a right reserved, on the part of the Postmaster General, to annul a contract which is not executed, but has been abandoned. Collins & Co., then, have failed, for about eight months, to execute their contract. There is no contract that can inure to them; and, acting upon that idea, this House, on a former occasion, passed the provision which the Senate has undertaken to amend. They recognize the fact that the contract is at an end, and accordingly provided for the transportation of the mails from New York to Liverpool without any reference to the late contractors, because they are no longer contractors. As to their steamers being suitable for war purposes, why they cannot even stand the pelting of the storm, but go to wreck in the tempest. The only two steamers they had left have been sold at auction, as is known to every gentleman here, and have been, I understand, bought in by foreigners—by Englishmen.

In this state of things, what do we see? Citizens of the United States, with genuine enterprise, undertaking to maintain the war which we paid a heavy premium to the late contractors to maintain against the Cunard line. We see American citizens—Mr. Cornelius Vanderbilt amongst others—putting their own steamers on the ocean, without the bounty of the Government, and maintaining the contest. And, sir, the contest will be maintained, and American and Yankee enterprise will still hold it on the ocean, as it has done heretofore. But, sir, if we still recognize these men as contractors, give them a bonus of nearly twenty thousand dollars a trip out of the Treasury, how is individual enterprise, however ardent and active and efficient, resting upon postages alone, to struggle at the same time against the Cunarders and an American company fed by Government bounty of such large amount?

[Here the hammer fell.]

Mr. HOUSTON. I hope the gentleman from Virginia will withdraw his amendment. I desire to offer one.

Mr. SMITH, of Virginia. I will do so to oblige the gentleman, although I think my amendment is a very proper one.

Mr. HOUSTON. I move to add at the end of the Senate amendment the words:

Upon condition that E. K. Collins & Co. shall relinquish all claims upon the Government on account of their present contract.

Mr. Chairman, it seems to me that there is a very important principle which underlies the legislation now proposed. The contract between Collins & Co. and the Post Office Department is a subsisting one by which Collins & Co. get, in round numbers, \$20,000 per round trip, between New York and Liverpool. They, however, have become dissatisfied with the contract, because, as one of the friends of the company has avowed in his speech here this evening, they cannot compete with the Cunard line; and because they cannot do so, they ask the Government to pass a law authorizing them to change the European termination of their line so as to bring them in competition with two other lines which are performing service between New York and European ports.

The principle which I regard as important and which is involved in the legislation now proposed is this: the policy of this Government has been, or if it has not been, it ought to be, that we should establish free trade (if I may apply such terms to it) in our ocean mail service as well as in regard to everything else. That we should, if we can do so, get all our ocean mail service performed for the postages. That is the case now with the Bremen and Havre lines. A contract subsisted at one time between the Department and those lines, by which they received a compensation out of the general Treasury for the service they per-

formed. But that contract has terminated, and now those lines are performing the service for the postages. They are performing the service precisely as the Government ought to desire it to be done, for what they earn by the postages without any additional compensation.

Gentlemen endeavor to excite sympathy in favor of the Collins company, because they say they have been competing with the European line between New York and Liverpool. They say that Collins is entitled to kind consideration and the favorable regard of this Government, and therefore he ought to be released from his contract to run between New York and Liverpool, and allowed to change his European termination so as to come in competition with the lines that are already running between the same points. The lines now running to Bremen and Havre perform the service for the postages alone. That is what we desire all our lines to do. We must bring them to that, and then the mail service on the ocean may be as abundant as there are applications for it; there should be no restriction. If they will be content with the postages, I am willing that any amount of ocean mail service shall be performed. But it is proposed now to bring the Collins line, with a bounty from the Government of \$20,000 for the round trip, in competition with the very lines which are performing the service upon the principle upon which the Government desires all of the service to be performed, and thereby to break down those lines, and defeat all our reforms in our ocean mail service. I am striving to produce the state of things on all of our ocean mail steam lines that now exists with the lines running to Bremen and Havre. They cost the Department nothing. They only receive the postages earned on their lines respectively, and it would be highly unjust that they should be required to contend with a new competing company to which the Government pays a bonus of \$20,000 per round trip; and for one I will not vote for it.

Mr. SICKLES. Does the gentleman from Alabama withdraw his amendment?

Mr. HOUSTON. As the amendment of the gentleman from Ohio [Mr. SHERMAN] will accomplish the object I have in view, I withdraw mine, and shall vote for his.

Mr. SICKLES. I desire to suggest to the gentleman from Ohio an amendment which I think will more nearly accomplish the object he has in view than the motion he has made.

I move to amend the Senate amendment by striking out the words, "by transporting the mails from such port in the United States to such port in Great Britain as he may select;" and also by striking out the words, "and the Postmaster General may, with the consent of the contractors, change the European termination of said route, under the contract aforesaid, from Liverpool to Southampton." The amendment of the Senate will then read:

For transportation of the mails from New York to Liverpool, and back, in pursuance of the contract with E. K. Collins and others, \$346,500: And it is hereby provided, That, for such days as the said Collins and others shall fail to perform said service, the Postmaster General is authorized to contract with the owner or owners of any other steam vessel or vessels to perform said service, and that the cost thereof be deducted from any amount which may be due, or may become due, to E. K. Collins & Co. for services actually performed.

The CHAIRMAN. That amendment is not in order at this time.

Mr. SHERMAN, of Ohio. I withdraw my amendment.

The CHAIRMAN. The amendment is double, and is not in order as it has been moved.

Mr. SICKLES. They both relate to the same thing. I will, however, only offer the first at this time.

Mr. Chairman, the words that I propose to strike out are equally objectionable with those embraced in the amendment of the gentleman from Ohio. The effect of these portions of the Senate amendments is to expose two existing American lines which stop at Southampton to an unfair competition entirely inconsistent with the whole theory of the amendments proposed by the Senate to this bill. One of these lines—the New York and Havre line—has never missed a trip, and has performed its service faithfully, from the beginning of its contract to the present hour, and at a smaller compensation than has been accorded by the Government to any other of its lines. The

proposition is to allow the Collins line, a third line, to go to Southampton, at a compensation of over nineteen thousand dollars a trip, while the other two lines are compelled to do the same service for postages only, which amounts to \$7,000 a trip.

Mr. DAVIS, of Mississippi. You say that there are two other lines. What two other lines?

Mr. SICKLES. The line from New York to Havre, via Southampton, and the line from New York to Bremen, via Southampton.

Mr. DAVIS, of Mississippi. And is there any law which will authorize the Postmaster General to renew the contract which will shortly expire?

Mr. SICKLES. Yes, sir. In the first place, the bill, as it passed the House originally, authorized the continuance of his services for postages, and the amount appropriated, \$230,000, was the estimated amount of the postages for both lines; whereas the proposition now before the committee, in the Senate amendment, is to give \$346,000 for the same service to one line.

Mr. DAVIS, of Mississippi. The gentleman says that there is a law, and then refers to a pending bill, and which has not yet passed.

Mr. SICKLES. If the gentleman will hear me through, he will see that his interruption was not necessary. The laws of 1836 and 1845 give the Postmaster General authority to make these contracts for postages, and under those laws he has made the contracts under which this service is now performed.

Mr. DAVIS, of Mississippi. I deny that the gentleman can produce any such law.

Mr. SICKLES. I have only five minutes, and the gentleman will excuse me if I do not consume it in sending off to the library for the laws; but I will produce them at my leisure, and satisfy him of his error.

I was proceeding to say that the service to Southampton is performed creditably to the lines of steamers engaged, and to the satisfaction of the Government; and I wish to impress upon the House again the importance of continuing, not abandoning, the very important service between some one of our commercial ports and Liverpool—New York and Liverpool; as the contract now stands; and it is entirely true, as the gentleman from Alabama [Mr. Houshron] suggests, that, if the terminus of the Collins line on the other side is changed from Liverpool to Southampton, the contract necessarily falls with it; if so, the Collins line, as well as all other lines, ought to be placed on the footing required by the new principle embodied in these amendments—to wit, that the service shall be performed for postages. It seems now to be the policy of the Government to try this experiment.

[Here the hammer fell.]

Mr. HARRIS, of Illinois. I hope that we will come to a vote on this proposition. The committee seems to be substantially divided on two systems; one to continue the Collins contract under this Janus-faced amendment of the Senate to this bill, and the other to fall back upon our own proposition in regard to the Collins line, and to permit the Southampton lines to continue as they are now. I am entirely opposed to the Senate amendment, from the beginning to the end. The question will be put on the two propositions; and I think that the committee have discussed them sufficiently to understand them, if they are going to understand them at all. The same remarks are made over and over again by gentlemen, and they add nothing. They may be a little better said by one than another, but there is nothing added to the information of the committee by this discussion. I hope, therefore, we will come to a vote, first on the pending amendment, and then upon the Senate's amendment. If the Senate's amendment be non-concurred in, and our own provision retained, I shall be satisfied; but I am anxious to see the business progress. We are not gaining an inch.

Mr. ENGLISH. I agree with the gentleman from Illinois; and I hope we will vote, and not talk.

Mr. MARSHALL, of Kentucky. When the vote shall be taken on the proposition of the gentleman from New York, [Mr. SICKLES,] will it be in order to move to insert matter behind that?

The CHAIRMAN. It will.

The committee divided; and there were—ayes 35, noes 47.

Mr. J. GLANCY JONES. I call for tellers. Tellers were ordered.

Mr. SICKLES. I withdraw my amendment.

The question recurring upon concurring in the Senate's amendment,

Mr. J. GLANCY JONES demanded tellers.

Mr. MORGAN. What became of the amendment of the gentleman from New York?

Mr. SICKLES. I withdrew it.

Mr. MORGAN. Well, I renew it. I propose to make no remarks upon it, but I want a vote.

The CHAIRMAN ordered tellers; and appointed Messrs. CLEMENS and KELLY.

The committee divided; and the tellers reported—ayes 88, noes 33.

So the amendment was agreed to.

The Senate amendment, as amended, was then non-concurred in.

Second amendment:

Strike out the following:

"For contingencies in the mail service between New York and Europe, \$120,000."

Mr. J. GLANCY JONES. The committee recommend a concurrence in this amendment.

Mr. JOHN COCHRANE. I believe that on a former occasion, when this bill came from the Committee of Ways and Means, and we had it under consideration, the Committee of Ways and Means reported this very paragraph. It was voted in by the committee and retained by the House. Now, sir, I would like to be informed by my friend, the chairman of the Committee of Ways and Means, why it is now that the same committee recommend that to be stricken out which they then recommended should be retained? I am in favor of its retention.

Mr. J. GLANCY JONES. I can answer my friend from New York, by saying that the Committee of Ways and Means, like all other committees, sometimes changes its mind; but the reason why it does so is beyond my knowledge or comprehension. The Postmaster General sent us his estimates asking for this, and the Committee of Ways and Means approved of the estimates and recommended the appropriation to the House. The Committee of the Whole on the state of the Union and the House agreed to it, but the Senate has stricken it out. The Committee of Ways and Means now recommend a concurrence with that amendment of the Senate; but the reason why it does so, it is not for me to give.

Mr. SICKLES. Was there not a letter from the Postmaster General read when this matter was up before, recommending that appropriation for contingencies?

Mr. J. GLANCY JONES. There was.

Mr. SICKLES. I had it read as a part of my speech. I stick to the action of the House, and hope the clause will be retained.

The question was taken, and the Senate amendment was concurred in.

Third amendment:

SEC. 4. And be it further enacted, That it shall not be lawful for the Postmaster General to make any steamship or other contract for carrying the mails on the sea for a longer period than five years.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend non-concurrence. I believe the reason for the recommendation is, that they do not propose to have any contract for any number of years. The old contract allowed a period not exceeding ten years. This fixes it at five years. I believe it to be the opinion of the Committee of Ways and Means that it is better not to have any for any longer period than one, so that the whole system may be revised.

Mr. GARNETT. I offer the following amendment:

Strike out the words "five years," and insert:

One year, or for any other compensation on lines to Europe than the sea and United States inland postages, if by an American vessel; and if by a foreign vessel, the sea postages only on the mails so conveyed.

Mr. J. GLANCY JONES. My friend from Virginia has got hold of the wrong amendment. That is the fourth amendment.

Mr. GARNETT. The difference between the fourth amendment and mine is this: I have examined it and know what I am about. The fourth amendment authorizes the Postmaster General to make contracts for the postages. If you add my amendment to the third Senate amendment, you say it shall not be lawful for him to contract for any other compensation. I wish to limit the Post-

master General in his contracts to the postages, and nothing more. And I desire to remind the chairman of the Committee of Ways and Means that in the Senate such an amendment as this was reported by the unanimous vote of the Finance Committee, and was carried in the Senate, but that it was subsequently reconsidered and lost by a majority of two only, simply because the Southampton clause had been put into the bill; otherwise the Senate would have sent us what I now propose, as their amendment. We have stricken out the Senate clause in regard to Southampton, and I now propose to restore the bill to the condition in which the majority of the Senate had once placed it. I am willing to comply with existing contracts; but when the contracts are out, I wish to declare that it shall not be lawful for the Postmaster General to make any contract providing for any compensation more than the postages, because I do not believe that any other contracts are expedient, and most certainly they are not constitutional.

Mr. J. GLANCY JONES. I am opposed to the amendment and ask the gentleman if he proposes now to enter upon a system of legislation on the whole subject of ocean mail service in an appropriation bill?

Mr. GARNETT. I will say this; our rules, it is true, have forbidden us to enter upon any system of legislation in an appropriation bill, but the practice of the Senate is different, and I am not willing that this House shall stand in an inferior condition of power to the Senate. The gentleman himself has reported from the Committee of Ways and Means, recommendations to concur in divers amendments to other appropriation bills which inaugurated systems of legislation. He should not have urged this objection against an amendment looking only to reform and retrenchment when he did not urge it against amendments leading to reckless extravagance.

Mr. J. GLANCY JONES. There can be no disparity except to the advantage of the House, because we originate all the appropriation bills, while the Senate have only the privilege of amending them. I concur with the gentleman from Virginia as to its being the will of the country that we should get along for one year, and merely appropriate money to fulfill contracts, and to give the proceeds of the mail service to the vessels carrying the mails.

Mr. GARNETT. How stands the appropriation for the Havre and Bremen line? is that to fulfill a contract? Has not that contract expired?

Mr. J. GLANCY JONES. The only appropriation for those lines is the proceeds of the postage, and that is for one year only. The object here is to get along temporarily for this year until a general system that would be self-supporting is established.

Mr. GARNETT. If my friend will refer back to the bill he will find that there is an appropriation here for these lines of \$220,000, and not a word about postages.

Mr. J. GLANCY JONES. But if my friend turns to the estimates he will find that that is the estimated amount of receipts.

Mr. GARNETT. And these estimates are usually proved to be wrong, and the gentleman will come in next year with a deficiency bill and say that they were wrong.

Mr. J. GLANCY JONES. Very well; let us have a vote.

Mr. SICKLES. I propose to amend by inserting two years instead of one. I am opposed to the Senate amendment, and also to the amendment proposed by my friend from Virginia. I think that this is not the period of the session to initiate a policy with respect to these steam lines, and I protest against the coördinate branch of Congress seizing such an opportunity, while considering an appropriation bill at this period of the session, to establish a permanent policy. It has been the understanding all through the session, in view of the embarrassed condition of the Treasury, and of other circumstances not necessary now to allude to, that it was inexpedient for Congress at this session to go into this question of establishing a permanent system for the regulation of this service. Such has been the understanding, I know, in this House. I believe it was the view of the Post Office Committee, and of the Committee of Ways and Means, and, I believe it has been the general expectation of the

country, that this subject would be postponed until the next session of Congress.

Mr. GARNETT. I ask my friend from New York if he will allow us to take this amendment into the House, so that gentlemen may have the satisfaction of recording their names on the yeas and nays, either for or against this steamship subsidy system?

Mr. SICKLES. I have no objection, at any time, to give gentlemen an opportunity of putting themselves on record when they desire to do so. But I appeal to the gentleman from Virginia if it is fair or just to these interests or to the country, when it has been the understanding throughout the session that we were not to make up a record on this subject, that, at this time, a snap-judgment of this kind should be taken? Whether an opportunity should be seized, in the last days of the session, when there is no time for a full and fair discussion of this subject, to establish a policy or make up a record? I would go with the gentleman from Virginia, at the proper time, to make up a record. I would have gone with him at an earlier period of the session. I will go with him next session. I invite the fullest discussion of this subject; but this is not the proper time for it.

Mr. GARNETT. That was the very argument made at the close of the last short session. We were assured then that the whole subject would be taken up at this session.

Mr. SICKLES. And so it would have been, but for the condition of the Treasury.

[Here the hammer fell.]

Mr. DAVIS, of Maryland. I do not think that this is the time for us to initiate a new policy with reference to the lines of steam communication for our foreign mails. It was the opinion of the Committee of Ways and Means, earlier in the session, that it would be impossible, at that time, owing to the condition of the Collins contract, and others, to make a satisfactory arrangement; and surely we are in no better condition now to perfect one than we were at that time. It is, therefore, greatly to be regretted that the Senate should have seen fit to send to us material modifications of a bill which was intended only to be temporary in its character, providing only for the present emergency, and looking to an ulterior arrangement at the next session.

We all know that one of the committees of this House is now engaged in earnestly elaborating a system. Gentlemen are investigating with great care the system the English are pursuing by which they have successfully spread their network of steam lines all over the world. They are preparing a system by which we may imitate the English system, and at a less expense accomplish the great result they are accomplishing, in placing on a firm footing our own steam marine, in securing our own interests against foreign competition, in aiding our own companies in great steam enterprises, and in laying the foundation here for that great arm of modern defense, a steam Navy; and any hasty legislation at this time which would complicate the arrangements with contractors, or further entangle the Government, is by all means to be deprecated.

I therefore trust that the committee will come directly to a vote, and that that vote will result in a refusal to concur in the crude suggestions of the Senate, thrown out here in the last hours of the session, to be considered in a five minutes' debate—hasty conversation—to effect great national interests, the magnitude of which no man can ever state in the time allowed for their consideration.

The amendment to the amendment was rejected.

Mr. JOHN COCHRANE. I move to amend the amendment of the gentleman from Virginia [Mr. GARNETT] by striking out all after the words "one year." I offer this amendment with a view of proposing to the sense of this committee the adoption of the views which have been presented by the gentleman from Maryland, [Mr. DAVIS], who last occupied the floor, and of my colleague from New York, [Mr. SICKLES]. It is now for this committee to decide, in the first place, whether they are willing to take the policy proposed as the basis of a policy to be inaugurated, furnished to us by the Senate at this late stage of the session. To my knowledge repeated application has been made to the Postmaster General by the Committee on the Post Office and Post Roads of this House for a system of ocean postal communica-

tion, and as steadily and repeatedly has there been a failure to communicate to them any proposed system. And now, at this late hour, when we are mooted current questions in short and rapid moments, is a policy here thrust upon us for our adoption which is not only to influence, but to control, our commercial and postal communications with Great Britain and Europe for years to come. Sir, it is not the proper time for us to deliberate upon the subject. We are not prepared for it, in the first place, by reason of the magnitude of the interests presented to us in these steam lines; and, in the next place, because of the hurry and dispatch attending upon the business of this late period of the session. Therefore it is that I have risen to add my voice to the voices of those who have preceded me, and to protest against inconsiderate action. I now withdraw my amendment.

The question recurred upon Mr. GARNETT's amendment to the Senate amendment.

Mr. GARNETT called for tellers.

Tellers were not ordered.

The question was taken; and Mr. GARNETT's amendment was not agreed to, only thirty-one members voting therefor.

The amendment of the Senate was then non-concurred in.

Fourth amendment:

SEC. 5. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to cause the mails to be transported between the United States and any foreign port or ports, by steamship, allowing and paying therefor, out of any money in the Treasury not otherwise appropriated, if by an American vessel, the sea and United States inland postage, and if by a foreign vessel, the sea postage only, on the mails so conveyed: *Provided*, That the preference shall always be given to an American over a foreign steamship when departing from the same port for the same destination within three days of each other.

Mr. J. GLANCY JONES. This amendment, if there was to be any legislation on the subject, perhaps would be a good one; but, for reasons I have already assigned, the Committee of Ways and Means thought there should be no legislation on the subject in this bill, and therefore recommended a non-concurrence.

The amendment was non-concurred in.

Fifth amendment:

SEC. 6. *And be it further enacted*, That the Postmaster General be, and he is hereby, directed to provide for and maintain, if practicable, at a cost not to exceed, in any instance, the sea and United States inland postage on the mails conveyed, a weekly mail to and from Europe by United States mail packets, to alternate at regular intervals with the British mail packets plying between New York and Liverpool, and Boston and Liverpool, the preference to be given to such line or lines of American steamships, suitable in all respects for the service, as shall offer the best permanent contract: *Provided*, That no contract shall be made, under the provisions of this act, for the same service on the same week for which E. K. Collins and others have contracted, during the continuance of that engagement.

Mr. J. GLANCY JONES. This amendment is of the same character as those the committee have already voted on. I hope they will vote on it without further discussion. The Committee of Ways and Means recommend a non-concurrence.

The amendment was non-concurred in.

Mr. J. GLANCY JONES. The amendments of the Senate have now all been acted on; and I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. MILLSON reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the Union generally, and particularly the amendments of the Senate to the bill of the House (No. 558) making appropriations for the transportation of the United States mail, by ocean steamers and otherwise, during the fiscal year ending the 30th of June, 1859, and had directed him to report the same back to the House, with the recommendation that one be concurred, and that the others be non-concurred in.

Mr. J. GLANCY JONES. I demand the previous question on concurring in the amendments of the Senate.

The previous question was seconded; and the main question ordered to be put.

The first, fourth, and fifth amendments of the Senate were non-concurred in without division. The second amendment was concurred in, as follows:

Strike out the following:

"For contingencies in the mail service between New York and Europe, \$120,000."

The third amendment was reported, as follows:

"SEC. 4. *And be it further enacted*, That it shall not be lawful for the Postmaster General to make any steamship or other contract for carrying the mails on the sea for a longer period than five years."

Mr. MARSHALL, of Kentucky. I demand the yeas and nays upon concurring in that amendment, with the view of giving so strong an expression of opinion upon the part of the House as to control the action of the House committee of conference upon it.

Mr. JOHN COCHRANE. Tellers will answer the same purpose, without consuming as much time. I demand tellers.

The yeas and nays were not ordered.

Tellers were ordered; and Messrs. HOWARD and BRYAN were appointed.

The House divided; and the tellers reported—ayes 4, noes 140.

So the amendment was non-concurred in.

Mr. J. GLANCY JONES. I move to reconsider the several votes upon concurring in the Senate amendments; and also move to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message, in writing, was received from the President of the United States by Mr. J. B. HENRY, his Private Secretary.

The message was read, as follows:

To the Senate and House of Representatives:

I transmit the copy of a dispatch from Governor Cumming to the Secretary of State, dated at Great Salt Lake City, on the 2d of May, and received at the Department of State on yesterday. From this there is reason to believe that our difficulties with the Territory of Utah have terminated, and the reign of the Constitution and the laws has been restored. I congratulate you on this auspicious event.

I lose no time in communicating this information, and in expressing the opinion that there will be no occasion to make any appropriations for the purpose of calling into service the two regiments of volunteers authorized by the act of Congress approved on the 7th April last "for the purpose of quelling disturbances in the Territory of Utah, for the protection of supply and emigrant trains, and the suppression of Indian hostilities on the frontier."

I am the more gratified at this satisfactory intelligence from Utah because it will afford some relief to the Treasury at a time demanding from us the strictest economy, and when the question which now arises upon every appropriation is, whether it be of a character so important and urgent as to brook no delay, and to justify and require a loan, and most probably a tax upon the people to raise the money necessary for its payment.

In regard to the regiment of volunteers authorized by the same act of Congress, to be called into service for the defense of the frontier of Texas against Indian hostilities, I desire to leave this question to Congress, observing at the same time that, in my opinion, this State can be defended for the present by the regular troops, which have not yet been withdrawn from its limits.

JAMES BUCHANAN.

WASHINGTON, June 10, 1858.

On motion of Mr. SICKLES, the message was laid on the table, and ordered to be printed.

COMMITTEE OF THE WHOLE.

Mr. J. GLANCY JONES. As we have now disposed of all the appropriation bills before us, if it is the pleasure of the House, I will move to suspend the rules, and go into the Committee of the Whole on the state of the Union, for the purpose of taking up the loan bill.

Mr. JOHN COCHRANE. I move to amend that motion by inserting House bill (No. 483) making appropriations for the improvement of certain rivers and harbors.

The SPEAKER. The motion to suspend the rules is not amendable.

Mr. JOHN COCHRANE. I only wish to amend that portion of it.

Mr. STANTON. I move that when the House adjourns, it adjourn to meet at ten o'clock to-morrow morning.

The SPEAKER. That motion is not in order.

HEIRS OF GENERAL PORTERFIELD.

Mr. LETCHER. I ask the gentleman from Pennsylvania to withdraw his motion to go into the Committee of the Whole on the state of the Union for the purpose of allowing me to ask the unanimous consent of the House to take up and put on its passage the Senate bill (No. 203) for the relief of the heirs of General Porterfield. If the House will hear the report read, there will be no objection. An elaborate report was prepared in the other end of the Capitol by the Senator from Massachusetts, [Mr. WILSON], and it was, I believe, unanimously concurred in by the committee in this House. It is the only request of the

kind, I believe, I have made during the present session, and the only bill before the House in which my constituents are directly interested. I ask the consent of the House to take it up.

Mr. DEWART. I object.

Mr. LETCHER. I move to suspend the rules.
The SPEAKER. The motion is not in order at this time.

HARDY AND LONG.

Mr. PHELPS, of Missouri. As the motion of the gentleman from Virginia to suspend the rules cannot be entertained, I ask the indulgence of the House to call up a motion to reconsider the vote by which the Senate bill for the relief of Hardy & Long was referred to the Committee of the Whole House on the Private Calendar. I entered the motion to reconsider at the request of my colleague, [Mr. CARUTHERS,] who is absent.

Mr. LETCHER. What motion is depending?

The SPEAKER. The motion of the gentleman from Pennsylvania to go into the Committee of the Whole on the state of the Union.

Mr. LETCHER. I hope the gentleman will withdraw that motion.

Mr. ARNOLD. I move that the House adjourn.

The motion was agreed to; and thereupon (at five minutes past nine o'clock, p. m.) the House adjourned.

IN SENATE.

FRIDAY, June 11, 1858.

The VICE PRESIDENT. The Journal of yesterday will be read.

Mr. STUART. I suppose the Journal is made up, in a great measure, of amendments to appropriation bills and of lists of yeas and nays. I suggest that we dispense with the reading of those.

The VICE PRESIDENT. The Chair hears no objection, and the Secretary will omit the reading of those portions of the Journal.

With those exceptions, the Journal was read and approved.

SUSPENSION OF RULES.

Mr. STUART submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, (the House of Representatives concurring,) That the 16th and 17th joint rules of the two Houses be suspended during the remainder of the present session.

These rules are as follows:

"16. No bill that shall have passed one House shall be sent for concurrence to the other on either of the three last days of the session.

"17. No bill or resolution that shall have passed the House of Representatives and the Senate shall be presented to the President of the United States for his approbation on the last day of the session."

FLORIDA CLAIMS.

Mr. MALLORY. I gave notice, in the beginning of the week, that I should ask the Senate, on Wednesday last, to take up the bill (S. No. 373) declaratory of the acts for carrying into effect the ninth article of the treaty between the United States and Spain, and I referred Senators to a report on the subject, made by the Senator from New Hampshire, [Mr. CLARK.] I presume, unless we can have a hearing on this bill this morning, the adjournment will take place without disposing of it. It is a very important one in view of our foreign relations. I do not feel at liberty to discuss the merits of the bill now; but I will say to the Senate that it is to carry out the provisions of a treaty with Spain, and while we have reclamations on her, she is throwing it in our teeth almost daily, that we have not yet carried out our treaty stipulations with her. I am not disposed to interfere with the appropriation bills, and there is one measure to come up to-day affecting the Senators from Indiana, which I would not interfere with, and if the discussion on this bill shall interfere with that, I shall consent to lay it aside. I ask that the vote may be taken on taking it up.

The VICE PRESIDENT. Is there objection?

Mr. HUNTER. I object. There are appropriation bills on the table on which I want to get conference committees appointed.

Mr. MALLORY. Can I not have a vote of the Senate on my motion? I move to postpone all prior orders, and take up the bill which I have named.

The VICE PRESIDENT. Such a motion is not in order until the Chair calls for petitions and reports.

NAVAL APPROPRIATION BILL.

Mr. HUNTER. I ask unanimous consent to take up the appropriation bills on the table, for the purpose of having committees of conference appointed. ["No objection."] I move, first, to take up the naval bill.

The motion was agreed to; and the Senate proceeded to consider its amendments to the bill (H. R. No. 199) making appropriations for the naval service for the year ending the 30th of June, 1859, disagreed to by the House of Representatives, and the amendment of the House to the fourteenth amendment of the Senate.

On motion of Mr. HUNTER, it was

Ordered, That the Senate insist on its amendments disagreed to by the House of Representatives, disagree to the House amendment of its fourteenth amendment, and ask a conference on the disagreeing votes of the two Houses.

On motion of Mr. HUNTER, and by unanimous consent, the Vice President was authorized to appoint the conference committee on the part of the Senate; and Mr. PEARCE, Mr. FOOT, and Mr. MALLORY, were appointed conferees on the part of the Senate.

Mr. PEARCE was, on his motion, excused from serving as one of the committee of conference, and Mr. PUGH was appointed.

Subsequently, Mr. PUGH was, on his motion, excused, and Mr. BENJAMIN was appointed, so that the committee consists of Mr. MALLORY, Mr. FOOT, and Mr. BENJAMIN.

A message was afterwards received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House insisted upon its disagreement to certain amendments of the Senate to the bill (H. R. No. 199) making appropriations for the naval service for the year ending June 30, 1859; insisted upon its amendment to the fourteenth amendment of the Senate; agreed to the conference asked by the Senate, and appointed Mr. THOMAS S. BOGOCK, Mr. JOHN KELLY, and Mr. FREEMAN H. MORSE, managers at the conference on its part.

MAIL STEAMER BILL.

The Senate proceeded to consider its amendments to the bill (H. R. No. 558) making appropriations for the transportation of the United States mail by ocean steamers, and otherwise, during the fiscal year ending 30th June, 1859, disagreed to by the House of Representatives.

On motion of Mr. HUNTER, it was

Resolved, That the Senate insist on its amendments, and ask for a committee of conference on the disagreeing votes of the two Houses.

On motion of Mr. HUNTER, and by unanimous consent, it was ordered that the committee be appointed by the Vice President; and Mr. YULEE, Mr. SEWARD, and Mr. CLAY were appointed conferees on the part of the Senate.

A message was subsequently received from the House of Representatives by Mr. ALLEN, its Clerk, announcing that the House insisted upon its disagreement to certain amendments of the Senate to the bill (H. R. No. 558) making appropriations for the transportation of the United States mails by ocean steamers and otherwise, during the fiscal year ending 30th June, 1859; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. GEORGE W. JONES, Mr. HUMPHREY MARSHALL and Mr. WILLIAM H. ENGLISH managers at the same on its part.

SUPPLEMENTAL INDIAN BILL.

The Senate proceeded to consider its amendments to the bill (H. R. No. 557) making supplemental appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various tribes for the year ending the 30th of June, 1859, disagreed to by the House of Representatives, and the amendment of the House to the thirtieth amendment of the Senate to the said bill.

On motion of Mr. HUNTER, it was

Resolved, That the Senate insist on its amendments disagreed to by the House of Representatives, disagree to the amendment of the House to its thirtieth amendment, and ask a conference on the disagreeing votes of the two Houses.

On motion of Mr. HUNTER, and by unan-

imous consent, the Vice President was empowered to appoint the conference committee on the part of the Senate; and Mr. BRIGHT, Mr. STUART, Mr. SEBASTIAN, were appointed.

Mr. STUART was, on his motion, excused from serving on the conference committee; and Mr. RICE was appointed.

Subsequently, a message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House insisted upon its disagreement to certain amendments of the Senate to the bill (H. R. No. 557) making supplemental appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending the 30th of June, 1856, and upon its amendment to the thirtieth amendment of the Senate to the said bill; and agreed to the conference asked by the Senate on the disagreeing votes of the two Houses; and had appointed Mr. GEORGE S. HOUSTON, Mr. JAMES B. CLAY, and Mr. BENJAMIN F. LEITER, managers of the same on its part.

ARMY APPROPRIATION BILL.

The Senate proceeded to consider its amendments to the bill (H. R. No. 243) making appropriations for the support of the Army for the year ending the 30th of June, 1859, disagreed to by the House of Representatives, and the amendment of the House to the forty-first amendment of the Senate.

Mr. HUNTER. In regard to that bill, I wish to try the sense of the Senate before asking for a conference. I am informed by the chairman of the Committee of Ways and Means (I have not had time to cast them up myself) that the Senate, by their amendments, added \$3,000,000 to the amount appropriated by the bill. The House of Representatives disagreed to most of our amendments. Although I would not concur entirely with the action of the House, yet I believe they have made the bill much better than it was when it went to them, and much better than it will probably be after it comes out of a conference. For the purpose of taking the sense of the Senate, and preventing a conference if possible, I move that the Senate recede from the amendments to which the House disagreed, and concur in the House amendment to our forty-first amendment.

Mr. SEWARD and others. What are they?

Mr. HUNTER. Let the Secretary read them.

The Secretary read the first amendment of the Senate, in which the House of Representatives non-concurred, to wit:

On page 2, at the end of line twenty-one, insert:
Provided, That the superintendent of the Military Academy, while serving as such by appointment of the President, shall have the local rank and the pay and allowances of a colonel of engineers; that the commandant of the corps of cadets at the Military Academy, while serving as such by appointment of the President, shall have the local rank, and pay and allowances of a lieutenant colonel of engineers, and, besides his other duties, shall be charged with the duty of instructor in the tactics of the three arms at said academy; and that the senior assistant instructor in each of the arms of service, to wit, the artillery, cavalry, and infantry, shall severally receive the pay and allowances of the assistant professor of mathematics.

Mr. SEWARD. Are we to take the question separately?

Mr. HUNTER. We probably can take the question on all the amendments to which the House disagreed. The important ones are those involving money for fortifications, military roads, and the Florida volunteers. These are the main amendments, and perhaps the opinion of each Senator upon those three questions would determine his course. On this statement the Senate probably will be ready to give their vote at once on the motion I make, which is to concur in the action of the House on the Army appropriation bill.

Mr. BENJAMIN. We had better have the other amendments read.

Mr. BAYARD. Is it in order to ask that the vote be taken separately on receding from each amendment? I wish the vote on the fortification amendment to be taken separately.

Mr. TOOMBS. The question can be taken separately.

The VICE PRESIDENT. The Senator from Delaware calls for a division.

Mr. HUNTER. I submitted the motion in relation to all the amendments generally. I thought the Senate would probably determine in that way without debate.

Mr. TOOMBS. I hope not. I do not think there is ever worse legislation than that done in conference committees. I think the judgment of each member of the Senate ought to be given on the questions upon which he is called to vote. Some of these amendments I am in favor of, and some I am against. The result of rejecting them in gross, will be to put them all in the power of a committee of conference. I do not wish to enlarge the legislative power of any six gentlemen of the two Houses to do important legislation for the country.

Mr. HUNTER. I propose that the Senate should determine without submitting the matter to a conference.

Mr. TOOMBS. But if you force me to vote on all the amendments together, I cannot vote properly. Some of them I approve of, some of them I disapprove of, and therefore I want a separate vote on each, so as to vote for what I approve, and against what I disapprove. If we disagree to the action of the House in a bunch, the committee of conference makes the bill, as has been usual in our legislative history for the last six or eight years.

Mr. HUNTER. If we agree to the action of the House at once, there will be no conference at all, but the bill will be passed.

Mr. TOOMBS. I know that, but some of these provisions I do not want to pass.

Mr. MALLORY. It seems to me to be a very extraordinary proposition on the part of the chairman of the Committee on Finance, to propose a departure from the usual course of asking for a committee of conference at this stage of the bill. I suppose it is made in view of the agreement to adjourn on Monday. I have voted uniformly against adjourning on so early a day as Monday, because I foresaw that towards the end of the session we should be hurried into voting for measures about which we really knew nothing. Now we are called upon to vote on these amendments in gross. I am totally opposed to such a course. I have no idea that it will be advantageous to the country. I mean to act on these questions without reference to the adjournment at all; I think the day fixed for adjournment is premature. I desire to have a conference in this case, because, on hearing the reasons which the House of Representatives may assign on some of these amendments, I may be willing to recede, or may be more determined to adhere to them. I should not feel myself bound by the action of a committee of conference, but I should like to have that investigation in the usual form.

Mr. DAVIS. I hope the Senate will not concur in the amendments of the House of Representatives, one of which is to strike out all appropriations for fortifications, which I consider the most important feature in the bill. I would rather abandon the whole bill than lose that item. They have sent us no fortification bill; and unless we provide for the fortifications in this bill, the consequence will be that works will be arrested which cannot be arrested without serious injury and future increased expense.

Mr. HUNTER. Will my friend from Mississippi allow me to suggest—and I suppose that would probably be the sentiment of the Senate—that he ask for a committee of conference. I do not believe I sympathize with the action of the Senate in regard to most of the amendments to the Army bill. I moved to concur in the action of the House, because I thought in the main it was right. I suggest to the Senator from Mississippi that he may move for a committee of conference.

Mr. DAVIS. I do move for a committee of conference.

Mr. BENJAMIN. I will suggest to gentlemen whether we might not take a vote on some of these amendments, recede from some, and send a message to that effect to the House of Representatives; and perhaps they may recede from their action on others; and in that way close the bill without a conference. We may perhaps give way on some of these amendments; and if the House of Representatives find that, they may be willing to give way on others.

Mr. HUNTER. I do not believe you will ever settle it in that way. You must either agree to what the House of Representatives has done, or have a committee of conference. I agree myself to what the House has done in taking off three

millions, and I think it is taken off in but a single instance where I would not concur with them.

Mr. BENJAMIN. That is for fortifications?

Mr. HUNTER. No. I concur with them in that. I think they have taken off in one instance where they ought to have left the appropriation; but that can be provided for.

Mr. BAYARD. I hope the vote will be taken separately on the amendments, so that we may say whether we shall recede from each one or not. There may be some which the Senate may not sustain by a decided vote, and some on which they may yield. There are others that the Senate, by a decisive vote, may show their determination to insist upon. If, however, we insist on all the amendments in a lump, and leave the matter to a committee of conference, they have not the distinct judgment of the Senate to guide them on each point. My friend from Virginia was opposed, as we all know, to what I consider the most important amendment made by the Senate—the appropriations for fortifications. Of course, if we insist on all our amendments, in a lump, we leave them to a committee of conference, and those that they think of less importance they will recede from and take others.

Mr. HUNTER. I said that I did not intend to be connected with the committee at all. The Senator from Mississippi, who represents the feelings of the Senate on this question, has moved for a committee of conference.

Mr. BAYARD. I place that aside. Still it comes to this: the sense of the Senate ought to be expressed on these several amendments, so that the committee of conference may know what it is that we really desire to insist upon. I think it is better to take the vote separately.

Mr. HAYNE. This bill has been fully discussed in the Senate, every item in it, and after a great waste of time we came to the conclusion that the bill ought to pass as it is. In my humble opinion, the only mode of carrying our point is to face the question, send the bill back to the House, and say we adhere to it as it is. It has been debated fully; and if we go on discussing it, we shall never adjourn.

Mr. FITZPATRICK. I am adverse to testing the sense of the Senate on all the amendments together. I concur with the Senator from Mississippi, that the provision for fortifications is of more real importance to the country than all the rest of the bill; and I trust that the course proposed by him will be pursued, and that we shall insist on our amendments, and ask for a committee of conference in the usual course.

The VICE PRESIDENT. The Chair will state the position of the question. The Senator from Mississippi moves that the Senate insist on its amendments, disagree to those of the House of Representatives, and ask for a committee of conference. Several Senators have asked for a division of the question, and the vote will be taken on the amendments separately.

Mr. HUNTER. I suppose if I withdraw my motion to enable the Senator from Mississippi to make his, which I do, the Senate will be willing to take the question at once on his motion, as that is the usual way to settle such things.

The VICE PRESIDENT. The motion is that of the Senator from Mississippi, but still a Senator may ask for a division on each amendment.

Mr. STUART. I desire to move that the Senate recede from its amendments. I agree with the Senator from Georgia, that the time has arrived when we ought to legislate for ourselves and not legislate by committees of conference. I stated yesterday, in the discussion, that it was time to stop the system of putting the whole legislation of the country into the hands of five or six members of the two Houses. I therefore move that the Senate recede from its amendments to this bill. That will bring us to the question, and it can be taken separately.

The VICE PRESIDENT. The Chair is inclined to think that the motion of the Senator from Michigan is first in order.

Mr. STUART. Certainly.

The VICE PRESIDENT. It is moved and seconded that the Senate recede from its amendments.

Mr. BENJAMIN. I demand a division of the amendments.

The VICE PRESIDENT. Then the vote must be taken on each amendment separately. The

Secretary has already read the first amendment of the Senate, which has been disagreed to by the House of Representatives. The question is on receding from that amendment.

The motion to recede was agreed to.

Mr. DAVIS. I do not know whether the Senate understood the question; if so, I have nothing to say.

Mr. MALLORY. I move a reconsideration. No one understood the question.

Mr. SEWARD. I move a reconsideration.

The motion to reconsider was agreed to; and the question recurred, "Will the Senate recede from its amendment?"

Mr. DAVIS. I will merely state to the Senate—I shall not detain them by going into a full explanation—that this amendment involves a very small amount of money, and no additional appropriation; the appropriation being adequate to the whole want. It effects a very great improvement in the organization of the Military Academy, which has been recommended from time to time for the last twenty years, and for the want of which it has been twice necessary to brevet the superintendent, so that he might take the brevet rank of colonel to the Army when he left the academy. This is a proposition not to confer a brevet, not to confer rank temporarily, but permanently. It is believed it will benefit the academy. I hope the Senate will not recede from, but will insist on, this amendment.

The question being taken, the Senate refused to recede from the amendment.

The Secretary read the next amendments to which the House of Representatives disagreed, (the third and fourth,) which were to strike out the following clause:

"For the alteration of old arms, so as to make them breech-loading guns, in accordance with the recommendation of the Secretary of War, \$100,000;"

and in lieu of it, to insert:

For the purchase of breech-loading carbines, of the best model, to be selected and approved by a board of ordnance officers, \$45,000.

For the alteration of old arms, so as to make them breech-loading arms, upon a model to be selected and approved by a board of ordnance officers, \$25,000: *Provided*, any portion of said sum, not exceeding \$5,000, may be expended under the direction of the Secretary of War, in applying to the old or new arms the recent improvement of Captain J. N. Ward in the mode of applying Maynard's primer.

Mr. DAVIS. If we recede from these amendments, we leave the Secretary of War no money with which to purchase the improved arms that are made from time to time in the country, but he will have \$100,000 to convert the old muskets into breech-loading arms. I think the amendments of the Senate greatly improve the mode of applying the money. They allow him to purchase, from time to time, as ingenuity devises something which promises to be useful, a small number for actual test in the field; and I think we should do no more upon any plan which is new until that actual test has been applied to it, and we have thus been able to determine this point in a manner which will not render us liable to ruin the arms we have, and introduce something which will have to be thrown away, as we have done on several former occasions.

Mr. PUGH. I would suggest to the Senate that these amendments call for a less amount of money than the provision of the House bill for which they are a substitute. I think we had better adhere to these amendments.

The Senate refused to recede from the amendments.

Mr. FITZPATRICK. If we desire to economize time, I suggest that we had better resort to the usual course of insisting on our amendments and asking for a committee of conference.

The VICE PRESIDENT. The Senator from Louisiana [Mr. BENJAMIN] insisted on a separate vote upon each amendment.

Mr. BENJAMIN. I withdraw my demand for a division, as it appears to be the sense of the Senate to insist on all its amendments.

The VICE PRESIDENT. If the Senator from Louisiana withdraws his demand for a division, the motion of the Senator from Mississippi stands.

Mr. STUART. But that does not dispose of my motion to recede.

The VICE PRESIDENT. The Chair begs pardon; it does not. If there be no further demand for a division, the question will be on the

motion of the Senator from Michigan that the Senate recede from its remaining amendments.

Mr. TRUMBULL. I desire to inquire whether the House of Representatives has added any amendments on which the Senate has not passed. If not, I have no objection to passing on our other amendments in gross.

The VICE PRESIDENT. The other House has made an amendment to one amendment of the Senate.

Mr. TRUMBULL. I should like to hear it.

The VICE PRESIDENT. The forty-first amendment of the Senate was to add to the bill:

Sec. 3. *And be it further enacted*, That it shall be lawful for any commissioned officer of the Army to administer the prescribed oath of enlistment to recruits, provided there be no civil magistrate authorized to administer the same within reach.

The amendment of the House is to strike out the words "within reach" and insert:

Where the services of a civil magistrate authorized to administer the same cannot be obtained.

The Chair supposes this amendment not to be included in the motion of the Senator from Michigan, as the House has concurred in it, with an amendment. The motion of the Senator from Michigan is, that the Senate recede from its remaining amendments in which the House non-concurred.

Mr. ALLEN. I hope the amendments will be read, so that we may know what we are voting on.

The VICE PRESIDENT. The Secretary will read the next amendment disagreed to by the House.

The Secretary read the sixteenth amendment, as follows:

To enable the Secretary of War to examine and report upon suitable sites for an armory and foundry in the West and on the Pacific coast, \$10,000.

The VICE PRESIDENT. Will the Senate recede from the amendment?

Mr. ALLEN. I only desired to know what the amendments were. I do not ask for a separate vote on each.

The VICE PRESIDENT. The Secretary will read the amendments which have been disagreed to by the House.

The Secretary read:

Seventeenth amendment:

To enable the Secretary of War to compensate F. W. Lunder for services performed, and expenses incurred by him in making reconnoissances for a railroad from Puget Sound via the South Pass, to the Mississippi river, in 1854-55, \$4,750, or so much thereof as the said Secretary may consider reasonable and proper in consideration of said services and expenses.

Eighteenth amendment:

For payment of volunteers operating in Florida during the year 1857, \$385,000.

Nineteenth amendment;

For continuing the construction of the following works of defense—

Mr. PUGH. It is not necessary to read that. We all understand it. It is the fortification amendment.

Mr. ALLEN. I propose that we suspend the further reading of the amendments.

The VICE PRESIDENT. If there be no objection, the further reading of the amendments will be dispensed with, and the Chair will put the question on the motion made by the Senator from Michigan that the Senate recede from its remaining amendments, which have been disagreed to by the House of Representatives.

The motion was not agreed to.

The VICE PRESIDENT. The Chair will now put the question on the motion of the Senator from Mississippi, that the Senate insist on its amendments disagreed to by the House of Representatives, disagree to the House amendment to its forty-first amendment, and ask for a conference on the disagreeing votes of the two Houses.

The motion was agreed to; and Messrs. DAVIS, COLLAMER, and SLIDELL, were appointed conferees on the part of the Senate.

A message was afterwards received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House insisted upon its disagreement to certain amendments of the Senate to the bill (H. R. No. 243) making appropriations for the support of the Army for the year ending the 30th June, 1859, and upon its amendment to the forty-first amendment of the Senate to the said bill; agreed to the conference

asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHN A. QUITMAN, Mr. MARTIN J. CRAWFORD, and Mr. BENJAMIN STANTON, managers at the same, on its part.

THE DROMEDARY.

Mr. DAVIS. I wish to present to the Senate a manuscript in regard to the dromedary. I will state that my official connection as a Senator, and as Secretary of War, with the introduction of camels into this country, and the personal interest I took in the subject, have kept me more or less in correspondence in regard to it for some years. Our consul general at Alexandria, Mr. De Leon, has obtained very valuable additions to the knowledge which we have in relation to this animal heretofore, from William Reekyan Bey. It is very interesting, and very instructive; and if we are to use this animal in the service of the United States, it must be very beneficial to the Government, both in regard to the introduction and management of the animal after it has been brought here. This manuscript treats of its characteristics, its history, its diseases, its use in war, and is an addition to the information we have heretofore received, which, I think, will be very useful to the country and quite essential to the military arm of our service, if the further introduction of this animal is to be continued. It has been sent to me in a complimentary way, and I present it to the Senate, in order that it may be printed for the public good, if the Senate choose to print it. If, however, it should be decided not to be of sufficient value to justify its printing, I shall, of course, claim it again as my private property, and make such disposition of it as I please. I move that it be printed for the use of the Senate, and that two thousand extra copies be printed for the use of the War Department; which motion, I suppose, will go to the Committee on Printing.

The VICE PRESIDENT. The motion will go, under the rules, to the Committee on Printing.

REPORTS OF COMMITTEES.

Mr. JONES, from the Committee on Pensions, to whom was referred the petition of Mary Walbach, widow of General J. B. Walbach, reported a bill (S. No. 453) for the relief of Mary Walbach, widow of the late Brevet Brigadier General John B. Walbach, of the United States Army; which was read, and passed to a second reading.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the petition of George B. Bacon, submitted a report, accompanied by a bill (S. No. 454) for the relief of George B. Bacon, late acting purser of the sloop-of-war Portsmouth. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 648) for the relief of Gottlieb Scheerer, reported it with an amendment.

Mr. STUART, from the Committee on Public Lands, to whom were referred three petitions of citizens of the city of Tampa, Florida, praying that the military reservation and garrison grounds at Fort Brooke, be granted to that city for the purpose of establishing a seminary of learning, asked to be discharged from their further consideration; which was agreed to.

Mr. SIMMONS, from the Committee on Patents and the Patent Office, to whom was recommended the bill (S. No. 274) for the relief of Randall Pegg, reported it with an amendment, and submitted a report on the subject; which was ordered to be printed.

Mr. FITCH, from the Committee on Indian Affairs, to whom was referred the petition of Samuel Stone and Isaac H. Marks, praying compensation for property taken by an Indian agent, under an agreement of arbitration, for Government purposes, asked to be discharged from its further consideration; which was agreed to.

Mr. YULEE, from the Committee on the Post Office and Post Roads, to whom was referred the memorial of Marshall O. Roberts and others, trustees of A. G. Sloo, submitted a report, accompanied by a bill (S. No. 455) for the relief of the trustees of A. G. Sloo. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. DURKEE, from the Committee on Revolutionary Claims, to whom was referred the peti-

tion of the legal representatives of William Bond and William Douglas, officers in the war of the Revolution, praying to be allowed interest on the half pay paid under the act of June 30, 1834, asked to be discharged from its further consideration; which was agreed to.

POST OFFICE REGULATIONS.

On motion of Mr. TRUMBULL, the following resolution; yesterday submitted by him, was taken up and passed:

Resolved, That the Postmaster General be directed to inform the Senate by what authority the books referred to in his answer to the Senate's resolution of the 27th ultimo, "relative to the list of post offices, regulations," &c., "prepared and published on private account," and not recognized by the Department as official, have been purchased by the Post Office Department, and distributed to its agents and postmasters, the amount paid for such publications, and out of what fund; also, that he communicate to the Senate a printed copy of "the last official edition" of the regulations of the Department, together with a copy of such official regulations as have since been adopted and furnished by means of printed circulars, and which are now in use for the guide and government of postmasters in the discharge of their duties.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. ALLEN, its Clerk, announced that the House had rejected the bill of the Senate (No. 203) for the relief of the legal representatives of Charles Porterfield, deceased.

Also, that the House had passed the following bills of the Senate:

An act (No. 130) for the relief of Jennett H. McCall, only child of Captain James McCall, of the revolutionary war; and

An act (No. 277) for the relief of Albert G. Allen.

The message further announced that the House had passed the following bills, in which the concurrence of the Senate was requested:

An act (H. R. No. 340) providing an increase of pension to Peter Van Buskirk, of Washington city, District of Columbia; and

An act (H. R. No. 650) granting an invalid pension to William Randolph.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker had signed the following enrolled bills; which thereupon received the signature of the Vice President:

An act for the relief of settlers on certain lands in the State of Illinois;

An act for the relief of John Sawyer, a soldier of the war of the Revolution;

An act for the relief of certain purchasers of lands within the limits of the Choctaw cession of 1830;

An act for the relief of Jennett H. McCall, only child of Captain James McCall, of the revolutionary war; and

An act for the relief of Albert G. Allen.

MAJOR GENERAL TOWSON.

Mr. BELL. The Committee on Naval Affairs to whom was referred the joint resolution (S. No. 26) for the benefit of the nearest male heir of the late Major General Towson of the United States Army, deceased, have instructed me to report it back without amendment, and to ask that the Senate will now consider it. Justice has been long delayed, and the committee are unanimous in the recommendation of this resolution, which proposes to give a mark of distinction for gallant services in the last war with England for a particular act; such mark of distinction as has been given to others who had no greater share of honor and distinction than General Towson; but, by some accident or other, he has been omitted.

By unanimous consent the resolution was considered as in Committee of the Whole. It is a request to the President to cause a sword to be prepared with suitable emblems and devices, and presented to Nathan Towson Caldwell, grandson of the late Major General Nathan Towson, of the United States Army, for his gallant conduct in the capture of the British brig Caledonia on the Niagara river, near Fort Erie.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

ORDER OF BUSINESS.

The VICE PRESIDENT. The hour has arrived for the consideration of the question of privilege which was set for to-day at twelve o'clock.

Mr. SEWARD. I ask the Senate to take up the bill for the relief of Mrs. Jones and Mrs. Gaines. There will now be no opposition to the measure, as I understand, inasmuch as I have agreed to the amendments that were suggested.

Mr. PUGH. I cannot consent to take up that bill now, though I am in favor of it. I think the question of privilege ought to be disposed of.

Mr. SEWARD. I move to postpone the special order, and take up the bill which I have indicated.

Mr. BENJAMIN. My vote will be governed entirely by the wish of the Senators who are interested in the question of privilege. If they agree to give up their time, I have no objection.

Mr. SEWARD. It will take no time.

Mr. BRIGHT. I have given up day after day, and week after week, until I have reached this hour, which has been specially fixed for the consideration of the case. I am unwilling to yield any further. All I ask is for a vote on the report of the Judiciary Committee.

The motion was not agreed to.

Mr. MASON. I have the permission of the honorable Senator from Ohio, and the honorable Senators from Indiana, to ask that the resolutions of the Committee on Foreign Relations in relation to the recent proceedings in the Gulf be taken up for the purpose of making them the order of the day for to-morrow at twelve o'clock.

The VICE PRESIDENT. If there be no objection, the resolutions will be taken up.

Mr. HALE. I object.

INDIANA SENATORIAL ELECTION.

The Senate proceeded to consider the following report of the Judiciary Committee, which was made by Mr. PUGH on the 24th of May:

The Committee on the Judiciary, to whom were referred the credentials of GRAHAM N. FITCH and JESSE D. BRIGHT, Senators from the State of Indiana, together with the documents and testimony relative to that subject, have had the same under consideration, and report, by resolution, as follows:

Resolved, That GRAHAM N. FITCH and JESSE D. BRIGHT, Senators returned and admitted from the State of Indiana, are entitled to the seats which they now hold in the Senate as such Senators aforesaid, the former until the 4th of March, 1861, and the latter until the 4th of March, 1863, according to the tenor of their respective credentials.

Mr. PUGH. Mr President, when the Committee on the Judiciary decided in favor of this resolution, I was instructed, at the same time, to submit a written report to the Senate; but afterwards, fearing that the session was about to close prematurely, it was judged most expedient simply to report the resolution, and let members of the committee individually express the views which they entertained as to the matters of fact involved. I had at that time prepared a narrative connectedly, of the facts, as I understand them, and as I believe the majority of the committee understands them, on which the validity of this election depends, and that statement I will now proceed to make.

The Legislature of Indiana consists of a Senate and a House of Representatives. The Senators are fifty in number, and the Representatives one hundred; the Senators chosen for a term of four years (one half biennially) and the Representatives for a term of two years. The Legislature holds its regular sessions at Indianapolis, commencing the Thursday next after the first Monday in January of the alternate year.

On the second Tuesday (14th) of October, 1856, twenty-five Senators and one hundred Representatives were elected in the several districts or counties of Indiana; and these were to assemble at Indianapolis on the 8th of January, 1857, in order to be inducted into office, and, with twenty-five Senators elected in October, 1854, to compose the Legislature of the State.

On that day, January 8th, the Representatives convened, and the House was duly organized, and at once, for the transaction of public business. The Senate, however, became a scene of disorder and turbulence. By the constitution of Indiana, article fifth and section twenty-first, the Lieutenant Governor is, "by virtue of his office," the President of the Senate, and, as such, the person to call that body to order, receive the credentials of Senators newly elected, and direct the administration to them of an appropriate oath of office. On this occasion, at the usual hour, Ashbel P. Willard, Lieutenant Governor, took the chair, and called the Senate to order, requesting

the Senators elect to produce their credentials, and receive the prescribed oath. Immediately several of the Senators elected in October, 1854, commenced a disorderly and factious course of proceeding out of which all the present difficulties have arisen. One of their number, Lewis Burk, took a chair by the side of the Lieutenant Governor, and assumed to be the President of the Senate; appointed a clerk; called the roll of the Senators in office; required those newly elected to deliver him their credentials, and be sworn under his direction. Several of the Senators elected in October, 1856, recognized Mr. Burk as President, delivered their credentials to him, and, by his direction, were sworn or affirmed. The aisles of the Senate chamber, as well as the galleries, seem to have been crowded, for the occasion, by violent men, some of them armed, and all acting in concert. The object of such a violation of order and public peace, at variance with the duty of the Senators by whom it was instigated or countenanced, is proven to have been that the organization of the Senate of Indiana should be seized by mere tumult, and the Lieutenant Governor deposed from his constitutional authority, with a view to secure the admission of three persons assuming to be Senators (respectively) for the counties of Rush, Marion, and Fountain, and, by means of their admission, to obtain a majority of the Senate, and prevent any election at that session of the Legislature of Senators to represent the State of Indiana in the Congress of the United States. For one of the prominent duties of the Legislature, so required to convene on the 8th of January, 1857, was the election of two Senators in Congress; the first to fill a vacancy at the time, and the second to succeed Hon. Jesse D. BRIGHT on the 4th of March thereafter.

In the disorder and confusion thus induced, the Senate of Indiana took a recess until two o'clock in the afternoon; at which time, fortunately, better counsels prevailed. Mr. Burk and his supporters abandoned their factious course; recognized the Lieutenant Governor as rightful President of the Senate; caused the credentials of such of the newly-elected Senators as had acted with them to be again presented, and the oath of office duly administered. Stanley Cooper, who had been sworn as a Senator from Rush county, under the direction of Mr. Burk, could furnish no credentials of his election; but he was admitted, and again sworn in the afternoon, pursuant to a special order of the Senate. With this addition, the Senators present numbered forty-nine; one of those elected in October, 1854, Mr. Alexander, being absent.

It appears that in three senatorial districts, namely: the counties of Rush, Marion, and Fountain, Stanley Cooper, John S. Bobbs, and Isaac A. Rice were returned as Senators elect, in October, 1856, by bare pluralities, and in such circumstances as to induce a suspicion that they had not been elected by the qualified voters, but by the aid of persons non-resident and others not qualified. I do not here assume to say that these suspicions were well founded; inasmuch as the decision of each House of the Indiana Legislature (whether a decision wrongfully or rightfully made) must be taken as conclusive on all questions touching the election of its own members. But the fact that Messrs. Cooper, Bobbs, and Rice, as well as those who sympathized with them, resorted to such conduct on the 8th of January, 1857, shows that they had little confidence in the truth of their own claim to be Senators elect.

The statute of Indiana "regulating general elections and prescribing the duties of officers in relation thereto," approved June 7, 1852, provides (section thirty-eight) that:

"When any person is elected to an office by the voters of a county, not to be commissioned by the Governor, and such election is not contested, the clerk of the circuit court shall, after ten and within twenty days from the time the board of canvassers have made their return, make out and deliver, on demand, to such person a certificate of his election;" &c.

The election of Messrs. Cooper, Bobbs, and Rice had been contested; and hence a question would properly arise, upon the meeting of the Senate, whether they had any credentials; and if so, whether their credentials had been issued before or after the notice of contest. Such a question must needs have been decided by the Lieutenant Governor in the first instance, and until the Senate had become an organized body and

competent for the transaction of business. To usurp this right of the Lieutenant Governor, and, through Mr. Burk's agency, foist Messrs. Cooper, Bobbs, and Rice into the Senate, with or without credentials, appears to have been a scheme premeditated, attempted, and fortunately at length abandoned. The illegal character of such proceedings has been repeatedly decided. I refer to the case of Field vs. Field, (9 Wendell, 394,) which arose upon a division of the religious society commonly called Quakers; and to the case of the Commonwealth vs. Green, (4 Wharton, 531,) which arose upon the celebrated division in the General Assembly of the Presbyterian Church.

On the 14th of October, 1856, a Governor and a Lieutenant Governor of Indiana had likewise been elected. The present constitution of the State, which took effect November 1, 1851, provides in its fifth article:

"SEC. 4." * * * * * "The returns of every election for Governor and Lieutenant Governor shall be sealed up and transmitted to the seat of Government, directed to the Speaker of the House of Representatives, who shall open and publish them in the presence of both Houses of the General Assembly.

"SEC. 5. The person, respectively, having the highest number of votes for Governor and Lieutenant Governor shall be elected; but in case two, or more, persons shall have an equal, and the highest, number of votes for either office, the General Assembly shall, by joint vote, forthwith proceed to elect one of the said persons Governor or Lieutenant Governor, as the case may be."

The constitution required also, in the ninth section of the same article, that "the official term" of the Governor and the Lieutenant Governor should commence on the second Monday in January after their election; which, in the present case, would be Monday, January 12, 1857. On that day accordingly, the House of Representatives sent a message inviting the Senate "to attend in the hall of the House of Representatives, at half past two o'clock this afternoon, to open and publish the returns of the election for Governor and Lieutenant Governor, as required by the fourth section of the fifth article of the constitution of the State of Indiana."

It seems that previously, on the 9th, a message had been sent from the House "inviting the Senate into the hall of the House of Representatives to hear the annual message of his Excellency Governor Wright," to which the Senate had not paid the least attention.

The message of January 12 shared no better fate; it became the subject of discussion and attempted amendment in the Senate, protracted until almost or quite the time appointed for the Speaker of the House to discharge the duty enjoined on him by the constitution of the State. One amendment proposed was the addition of these words, inappropriately enough, to the invitation sent to the House:

"That, in said joint convention, no other business shall be transacted except that of opening, counting, and publishing the returns of votes for Governor and Lieutenant Governor, witnessing the inauguration, and the administration of the oaths of office; and when that is done, such joint convention shall stand adjourned sine die, without motion."

In this emergency, the Senate refusing to act on the invitation of its coördinate branch, and thus effectually disorganizing the whole State government, the Speaker of the House of Representatives (as the officer upon whom, by name, the constitution of Indiana had devolved a specific duty in the premises) caused a formal summons to be served upon the Senators in session:

HALL OF THE HOUSE OF REPRESENTATIVES,
INDIANAPOLIS, January 12, 1857.

SIR: Please lay before the Senate, over which you preside, the following communication.

BALLARD SMITH,
Speaker of the House of Representatives.
Hon. A. P. WILLARD, President of the Senate of Indiana.

HALL OF THE HOUSE OF REPRESENTATIVES,
INDIANAPOLIS, January 12, 1857.

GENTLEMEN OF THE SENATE OF INDIANA: The constitution of the State devolves upon the undersigned the duty of "opening and publishing the election returns for Governor and Lieutenant Governor" of the State in the presence of both Houses of the General Assembly.

As the terms of office of those functionaries begin on this day, by appointment of the constitution, I intend to perform that duty in the hall of the House of Representatives instantler, and respectfully invite you to be present with the House of Representatives now in session.

BALLARD SMITH,
Speaker of the House of Representatives.

It appears in this connection that the Speaker acted in pursuance of the order of the House of Representatives. From the journal of the House

of that day, it appears—I read from the journal, as set forth on pages 48 and 49 of the report of the committee—that the Speaker made the following announcement from the chair:

"Gentlemen of the House of Representatives:

"The constitution of the State of Indiana requires that the Speaker shall open and publish the returns of the election for Governor and Lieutenant Governor, in the presence of both Houses of the General Assembly; and as the official term of the Governor and Lieutenant Governor elect commences this day, I have communicated an invitation to the Senate to meet the House in this hall, and, in obedience to the constitution, I shall, so soon as the Senate appear, proceed to publish the returns for Governor and Lieutenant Governor."

"Mr. Kerr offered the following preamble and resolution: 'Whereas, the Speaker of this House has announced his intention to proceed forthwith in this hall to open and publish the election returns for Governor and Lieutenant Governor, in pursuance of the requisitions of the constitution, and has given the Senate notice thereof;

"Resolved, That the House will attend upon the appointment of the Speaker in the discharge of the duties devolved upon them by the constitution, and that seats be provided for the members of the Senate on the right of the Speaker's seat."

"Resolved further, That the Senate be informed of the same, and that the House is now ready to proceed to said business."

"Which was agreed to."

Upon the receipt of this summons from the Speaker of the House, Lieutenant Governor Willard announced to the Senate that his term of office was about to expire, and required the Senators to proceed with him to the hall of the House of Representatives, in order to discharge the last duty imposed on him, and one of the most important duties enjoined on them, by the constitution of the State. Twenty-six Senators followed him; and a convention of the two Houses was thereupon duly organized, the Lieutenant Governor, as President, in the chair. The Speaker of the House proceeded, as appears by the journal, to count the votes for Governor. The journal of the House of Representatives says:

"The Speaker of the House of Representatives, then, in the presence of both Houses of the General Assembly, proceeded to open the returns of the votes cast for Governor and Lieutenant Governor of the State of Indiana, on the 14th day of October, 1856; and, on counting all the votes returned, it appeared therefrom that, for the office of Governor, Ashbel P. Willard had received 117,981 votes; Oliver P. Morton had received 112,139 votes."

"Ashbel P. Willard, having received a majority of all the votes cast, was, by the Speaker of the House of Representatives, in the presence of both Houses of the General Assembly of the State of Indiana, declared duly elected Governor of the State of Indiana, to serve as such for the term of four years, from and after the second Monday in January, A. D. 1857."

That announcement having been made, Governor Willard resigned the chair of the joint convention to one of the Senators, Mr. Tarkington, and thereupon was sworn into office by one of the judges of the supreme court, and delivered his inaugural address. The Speaker of the House proceeded further to count the votes for Lieutenant Governor; and the journal says:

"For the office of Lieutenant Governor it appeared, from the returns aforesaid, that

Abram A. Hammond had received 116,717
Conrad Baker had received 111,620

"Abram A. Hammond, having received a majority of all the votes cast, was, by the Speaker of the House of Representatives, in the presence of both Houses of the General Assembly, declared duly elected Lieutenant Governor of the State of Indiana, for the term of four years, from and after the second Monday of January, A. D. 1857."

"Abram A. Hammond was then sworn into office by the Hon. Samuel E. Perkins, one of the judges of the supreme court."

The presiding officer of the joint convention, Senator Tarkington, then adjourned the convention until the 2d day of February, 1857. In the afternoon, Lieutenant Governor Hammond, who was thus inducted into office, returned with the twenty-six Senators into the Senate Chamber, and took his seat as President of the body in the presence of all the members, and delivered his inaugural address. He continued to preside, without dispute as to his title, to the end of the session, and is at present in office.

On the 2d of February, 1857, when the time arrived for the adjourned session of the joint convention, Lieutenant Governor Hammond required the Senators to repair with him to the hall of the House of Representatives pursuant to the adjournment. On this occasion, twenty-four Senators accompanied him. The convention was then, by the order of its presiding officer, again adjourned until the 4th of February, 1857, at nine o'clock in the morning. When that hour arrived, Lieutenant Governor Hammond required the Senate to repair to the House of Represent-

atives, in pursuance of the adjournment. But twenty-four Senators attended on that occasion. Being assembled, I read from the journal of the House:

"WEDNESDAY MORNING, 9 O'CLOCK, February 4, 1857."

"The hour for the meeting of the joint convention of the two Houses of the General Assembly having arrived, the Senate, preceded by the Lieutenant Governor, appeared within the hall of the House, where seats were provided for them on the right of the Speaker's chair."

"Upon calling the convention to order, the President, with the consent of the joint convention, appointed Solon Turman, secretary thereof, who was duly sworn in as such by the Hon. Samuel Perkins, one of the judges of the supreme court, and entered upon the discharge of his duties."

"The chairman addressed the convention as follows: 'GENTLEMEN: Pursuant to adjournment on Monday, February 2, 1857, we are assembled in joint convention, under a provision of the constitution of the State of Indiana, and you will now proceed to choose a United States Senator by a viva voce vote, to serve as such until the 4th of March, 1861.'"

They proceeded to vote; and it appears that GRAHAM N. FITCH received eighty-three votes, and George G. Dunn two votes. Mr. Fitch was thereupon declared elected by the President of the convention. They then proceeded to choose a Senator for the term ending March 4, 1863; and JESSE D. BRIGHT received eighty-three votes, and Richard W. Thompson two votes; whereupon Mr. BRIGHT was declared elected.

The question occurs, in these proceedings, whether here was a sufficient legal election under the Constitution of the United States, and under the constitution of the State of Indiana. I will remark, in this connection, that at the time of the election there was no law in force in the State of Indiana prescribing the time, place, and manner of electing Senators of the United States, except that the General Assembly should meet at the seat of Government. There was a statute, approved January 7, 1831, which was superseded by the act of June 18, 1852, repealing all former acts not therein excepted; but this repealing act did not take effect until after the election of the last Senator from that State, Mr. Pettit, for this reason: the constitution of Indiana has a provision that—

"No act shall take effect until the same shall have been published and circulated in the several counties of this State, by authority, except in case of emergency; which emergency shall be declared in the preamble, or in the body of the law."

This general revision of the statutes was not circulated, as the supreme court of the State has decided in a case arising under this section, until a period subsequent to Mr. Pettit's election, so that this was the first case in which there was no statute regulating the election of Senators in the State of Indiana.

The question recurs, what is the constitutional method of electing United States Senators, in the absence of any law or usage, for there was no law at this time, nor had there ever been any usage in the State on the subject of electing Senators, separate from what the former statute imposed? It is not necessary that the Legislatures of the States should provide by law the time, and place, and manner, of electing Senators; but it is necessary that Congress shall proceed by law, if it attempts to interfere; and this distinction is quite remarkable in the language of the Constitution of the United States. The provision of the fourth section of the first article is:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the place of choosing Senators."

And, accordingly, in the State which I have the honor to represent, there never has been any law on the subject from the time she was admitted into the Union; and I assume, from a variety of cases which have been decided by the Senate, that it is competent for the Legislature, in the absence of any constitutional provision in the State, or of any law, to fix the time, place, and manner of election by a joint resolution, or by separate concurrent resolutions, or by a consent given at the time. In fact, we can stand on no other basis. Let me invite the attention of Senators to the case of California. Up to the time of the admission of California, in September, 1850, there was not, legally, any Legislature in that State; there could be none. There might be a *de facto* Legislature, good as among the people living there; but it was not a State Legislature within the meaning of the Constitution of the United

States, for no such State was in the Union until the passage of the act of admission; and yet, upon a solemn discussion in the Senate, the two Senators elect from that State, chosen by a body which was not legally a State Legislature, were admitted to their seats, and qualified. So in the case of Minnesota, and so in the case of most of the new States.

This uniform course of action must have proceeded upon this proposition, that the persons constituting the State Legislature being the body qualified to elect Senators, the time, the place, and the manner of such elections are left wholly to their own discretion in the absence of an act of Congress; and, therefore, I conclude—and that is the proposition which I shall endeavor to demonstrate to the Senate—that an election of Senators of the United States can be made in any reasonable method which a majority of the qualified electors choose to adopt at the time on due notice to all the rest. Observe, sir, that I specify, first, that the method must be reasonable. Second, that all the electors, if they choose, can attend and vote, for this gives us the substance of the election; and form is only material to guard against fraud, and to insure the substance. If there be no law, if there be no usage, if there be no authority to prescribe the form, it is impossible to say that the act is irregular, for you can predicate irregularity of nothing which is not prescribed according to some form, and I say, that in all cases of election, and, in fact, in all transactions, we look to the substance, and the form is only useful as establishing the truth of the substance. There is no principle known to the law, there is no principle in any affair of life, on which a minority of the electors can be favored for mere faction and disorganization.

Now, I ask, who are the qualified electors of a Senator in Congress? and that, in my judgment, is the most important question concerned. Are the qualified electors—the two Houses of the Legislature, as two separate corporate bodies, or all the members of the Legislature collectively? That is the real question involved. It has been stated several times, on former occasions, that, according to the Constitution of the United States, the original, the well-understood method of electing Senators was by a separate vote of the Houses; and that the practice which has lately been established of bringing the members of the two Houses together was a corruption, but one which had been established so long that it could not be dispensed with. Let us see.

The Constitution of the United States, article first, section third, provides:

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years, and each Senator shall have one vote."

When the Constitution was ordained, September 17, 1787, the Legislature of every State, except Pennsylvania and Georgia, consisted of two branches; the more numerous called the Assembly, the House of Deputies, the House of Delegates, the House of Commons, or the House of Representatives, and the other called the Council, the House of Assistants, or the Senate. In several of the States, also, the Governor had a negative, more or less qualified, upon every act of legislation requiring the assent of both branches. A question must have arisen, therefore, immediately after the adoption of the Federal Constitution, as to the meaning of the term "Legislature" in the section just quoted. Did it contemplate the choice of Senators as an act of legislation? If so, manifestly, the Governor would be entitled, in many States, to a negative on whatever choice the Legislature might make; and yet, as Mr. Justice Story observes, it has been "silently and universally settled" otherwise. (Commentaries, vol. 2, page 184.)

The election of Senators, in truth, seems to have been a mere continuation of the system by which delegates were chosen under the Articles of Confederation, adopted in Congress November 15, 1777, and signed, after ratification by the State Legislatures, July 9, 1778. Mr. Justice Story declares "the only difference" to be that in one the vote was by States, and in the other it is by individuals. (Commentaries, vol. 2, ch. 10.) The fifth of the Articles of Confederation provided:

"For the more convenient management of the general interests of the United States, delegates shall be annually

appointed, in such manner as the Legislature of each State shall direct, to meet in Congress on the first Monday in November in every year, with a power reserved to each State to recall its delegates, or any of them, at any time within the year, and to send others in their stead for the remainder of the year."

All of the States, except Connecticut and Rhode Island, had formed constitutions for themselves previous to the adoption of the Constitution of the United States, and most of them had therein provided for the manner of choosing delegates to Congress.

The Legislature of Pennsylvania originally consisted of a single House; and therefore, the first constitution, adopted on the 28th September, 1776, provided that delegates to Congress should be "chosen by ballot by the General Assembly, annually, at their first meeting, &c." Pennsylvania adopted another constitution September 2, 1790, after the adoption of the Constitution of the United States.

The Legislature of Georgia also consisted of one House until May 30, 1798. The first constitution of that State was adopted April 20, 1776; and afterwards, more formally, February 5, 1777. It provided that delegates to Congress should be "annually appointed by the House of Assembly by ballot," and "deemed a part of that House, and have the right to sit, debate, and vote there."

In all the other States, as I have said, the Legislature consisted of two branches.

The first constitution of New Hampshire, adopted January 5, 1776, provided that all public officers should be chosen "by the two Houses," without any further specification. That was superseded by the constitution of February, 1792, which declares that "the Secretary, treasurer, and commissary general, shall be chosen by joint ballot of the Senators and Representatives assembled in one room."

The first constitution of South Carolina was adopted March 26, 1776, and the second March 19, 1778. The latter provided that delegates should be "annually chosen by joint ballot of the Senate and House of Representatives," &c. It was superseded by another constitution, June 3, 1790.

The first constitution of Virginia was adopted June 29, 1776, and remained in force until 1830. "The delegates for Virginia to the Continental Congress," it declares, "shall be chosen annually, or superseded in the mean time, by joint ballot of both Houses of Assembly."

The first constitution of New Jersey was adopted July 2, 1776, and remained in force until 1820. It provides for the choice of a Governor by "the Council and Assembly, jointly, at their first meeting after each annual election," and "by a majority of votes," &c.

The first constitution of Maryland was adopted August 14, 1776, and its twenty-seventh section provides, "that the delegates to Congress from this State shall be chosen annually, or superseded in the mean time by the joint ballot of both Houses of Assembly," &c.

The first constitution of Delaware was adopted September 20, 1776, and superseded June 12, 1792. It provided that delegates to Congress should be chosen "by joint ballot of both Houses of the Legislature," &c.

The first constitution of North Carolina was adopted December 18, 1776, and remained in force until 1835. Its thirty-seventh article provided: "That the delegates for this State to the Continental Congress, while necessary, shall be chosen annually by the General Assembly, by ballot, but may be superseded, in the mean time, in the same manner," &c.

The same constitution, articles thirteen, fifteen, and sixteen, specifies in what manner the General Assembly must ballot for officers:

"ART. 13. That the General Assembly shall, by joint ballot of both Houses, appoint judges of the supreme courts of law and equity, judges of admiralty, and attorney general," &c.

"ART. 15. That the Senate and House of Commons, jointly, at their first meeting after each annual election, shall, by ballot, elect a Governor for one year," &c.

"ART. 16. That the Senate and House of Commons, jointly, at their first meeting after each annual election, shall, by ballot, elect seven persons to be a Council of State for one year," &c.

The first constitution of New York was adopted April 20, 1777, and remained in force until 1822. Its thirtieth article provided:

"That delegates to represent this State in the general

Congress of the United States of America, be annually appointed as follows, to wit: The Senate and Assembly shall each openly nominate as many persons as shall be equal to the whole number of delegates to be appointed; after which nomination they shall meet together, and those persons named in both lists shall be delegates; and out of those persons whose names are not in both lists, one half shall be chosen by the joint ballot of the Senators and members of Assembly so met together as aforesaid."

The first constitution of Massachusetts was adopted March 2, 1780, and remained in force until 1821. Its fourth chapter provided:

"The delegates of this Commonwealth to the Congress of the United States shall, some time in the month of June, annually, be elected by joint ballot of the Senate and House of Representatives, assembled together in one room, to serve in Congress for one year, to commence on the first Monday in November next ensuing. They shall have commissions under the hand of the Governor and the great seal of the Commonwealth; but may be recalled at any time with the year, and others chosen and commissioned in the same manner in their stead."

Connecticut remained under the charter of Charles II., April, 1662, until 1818; and Rhode Island, under a charter from the same monarch, April, 1663, until, I think, 1845. It is evident, from this recital, that the established, uniform, notorious method of election, by "the Legislature" of a State, at the time when the Constitution of the United States took effect, was by a joint meeting of the members of the two Houses, (wherever there were two,) and a majority vote of the number of electors so convened. The States merely pursued, in the election of Senators, after the Constitution of the United States, an ancient form, theretofore well understood, for the choice of delegates to Congress; and that form still prevails in more than three fourths of the States.

Certainly, therefore, it was not intended that the "Legislature" of a State should act legislatively under the first article, section third, of the Constitution of the United States; forasmuch as no choice of Senators has ever been made by bill, or joint resolution, read three times, and then submitted to the Governor for his approval. The "Legislature" is specified, in that section, as a word of multitude, *nomen collectivum*, to signify the members of both branches. When those members have, to use the language of the constitution of Massachusetts, "assembled together in one room," they are not as two corporations which act by the will of a majority in each. They emerge into a college of electors, and act by the will of a majority of the whole number.

I do not say that no other method of electing Senators than by joint ballot, and the majority of a quorum of all the members of the Legislature duly convened, is admissible under the Constitution of the United States; but only that such is the ancient method, coeval with the adoption of the Constitution and of universal acceptance at that time. Accordingly, when the people of Indiana, by their delegates, assembled at Corydon, June 29, 1816, to form the first constitution of the State, they adopted it as the method for electing State officers. The fourth article of that constitution provides:

"SEC. 21. A Secretary of State shall be chosen by the joint ballot of both Houses of the General Assembly, &c."

"SEC. 24. There shall be elected, by joint ballot of both Houses of the General Assembly, a Treasurer and Auditor," &c.

And at the first session of the first Legislature of Indiana, January 3, 1817, an act was passed to provide for the election of Senators in Congress by a joint ballot of the members of the two Houses assembled in convention. That was reenacted January 7, 1831, in a general revision of the statutes, but was superseded under the act of January 18, 1852, as already mentioned.

I ought to say, furthermore, that in the convention which formed the Constitution of the United States, at Philadelphia, the first plan for the election of Senators was by the House of Representatives, and the second by a college of electors, in each State, chosen by the people in districts. Finally, the Legislature of each State was made the college of electors; not with any view of introducing another principle, but of interesting the members of the several Legislatures in the organization of Congress, and thus uniting more thoroughly the Federal and the State Governments. This will appear from the Federalist, No. 62, as well as from the reported debates of the convention.

At the previous session of the Legislature of

Indiana, in January, 1855, the Senate of that State attempted, by resolution, to change the method of election from a joint ballot to separate votes, but that proposition was rejected by the House of Representatives.

Now, sir, having established, as I think, the proposition that the qualified electors of a Senator of the United States are the members of the Legislature as an electoral college assembled together for the purpose; that that was the universal practice of the States, so far as I can find, without one exception, I say that the other methods are all departures from the original design, and that, in the contemplation of the Constitution of the United States, all the members of the Legislature, without reference to their membership in this House or that House, are the qualified electors for a Senator of the United States. Therefore, the true test of all this transaction is, whether the first joint convention, which assembled at Indianapolis, on the 12th of January, 1857, could elect a Senator? If it could, in my judgment there is an end of the question; for the adjournments are immaterial. They are immaterial because, even if they were done by the presiding officer as his own individual act, no objection was made to them at the time. Like questions that are put here, when no Senator votes on either side the presumption is that silence means the affirmative. No objection was made to the adjournments at the time, and if they were irregular, the time to make the objection was then. Once passed over, it can no longer be brought up in judgment. But, sir, I need not stand even there. It is a settled original right of a body corporate or an electoral body, in the absence of a prohibition, to adjourn from day to day until it can complete its business. I find that that was decided in the State of Vermont, contrary to the opinion of my friend, the Senator from Vermont, [Mr. COLLAMER,] when he presided in that State as a judge. I refer to the case of Warner vs. Mower, (11 Vermont Reports, 391,) where the court say:

"It is too well settled to require comment, that all corporations, whether municipal or private, may transact any business at an adjourned meeting which they could have done at the original meeting. It is but a continuation of the same meeting. Whether the meeting is continued without interruption for many days, or by adjournment from day to day, or from time to time, many days intervening, it is evident it must be considered the same meeting, without any loss or accumulation of powers."

I have two or three decisions from the State of New York to the same effect. In the matter of the Mohawk and Hudson Railroad Company, (19 Wendell, 147,) a controversy arose as to an election of directors. The resolution of the board of directors under which the election was held, fixed the hours of election; and yet, the trustees or inspectors, or judges—whatever they were called—went on to receive votes after the hour when it was declared by resolution the election should be held. What did the court say?

"The trustees acted properly in taking the requisite time, notwithstanding they were called on to close the poll at one o'clock. I much doubt whether the time could, in virtue of a by-law, be tied up to a certain hour of the day; but, in this case of actual necessity, the business might have been extended even to the next day. Every principle of construction is in favor of full time, otherwise business may be badly done by being hurried or embarrassed, and defeated by the raising of dilatory objections, and protracted examination and discussion."

The same principle was decided in the matter of the Chenango Mutual Insurance Company, in the same book. (19 Wendell, pages 636 and 637.)

I say, then, the question of the adjournment of the convention is wholly immaterial. If they had the power to elect the first day, they had the power to adjourn to another day; and I recur, therefore, to the question, had this convention, assembled at Indianapolis, on the 12th of January, 1857, the power to elect a United States Senator; and, first, was it a convention of the two Houses?

The act of Indiana, of June 9, 1852, after defining the oath to be taken by all the officers of the State of Indiana, provides:

"SEC. 3. Members of the General Assembly shall take such oaths, before taking their seats, which shall be entered on the journals; and the Governor and Lieutenant Governor shall each take such oath in presence of both Houses of the General Assembly, in convention, and the same shall be entered on the journals thereof."

The fifth section of the fifth article of the constitution of Indiana provides that if two of the candidates for Governor or Lieutenant Governor have an equal and the highest number of votes,

then there shall be an election by the members of the Legislature.

Thus, by the express terms of the statute law of that State, when once conveyed conformably to the constitution of the State; it was a joint convention of the two Houses. It was a joint convention of the two Houses of the Legislature of Indiana, called in pursuance of the constitution of that State; for I presume it cannot be disputed that under the language of the constitution which I have quoted, the Speaker of the House of Representatives had a right to summon the members of both branches of the joint convention; and if the constitution authorized him to summon them there, they had no right to be anywhere else; and their being anywhere else made them no body of legislation at all. That was decided in the case in the New York Reports, to which I referred, (*Field vs. Field*, 9 Wendell, 394,) with regard to the division of the society called Quakers. By the usage of the society, the clerk was to call the preparatory meeting to order, was to receive all the suggestions and put the questions. Upon that occasion the clerk took his usual place, but a majority—nine tenths of all the members of the meeting—were opposed to him, and claimed that they had excommunicated him from the church, and offered to put another clerk in his place; whereupon this clerk, yielding to the tumult, went into the open air, followed by a small minority of the members, and proceeded to organize the preparatory meeting. The supreme court of New York said that was the legal meeting; and the meeting which remained in the house, although it consisted of a majority, was a tumultuous and irregular organization, having no legal character.

I say the Speaker of the House of Representatives had a right to summon the members of the Legislature on the 12th of January; for that was the last day on which the duty could be performed, and it was the duty of the Senate to attend, and a majority of them did actually attend on that day. When thus convened, a majority of the Senate and a majority of the House, they were, under the statute of Indiana, as well as under the constitution, a joint convention of the two Houses, the body which, according to the original acceptance of the Constitution of the United States, was to choose Senators; the body which, according to the acceptance and settled practice of the State of Indiana, had always chosen Senators of the United States. That body of electors, being the legal and qualified body, there assembled together in due form, pursuant to their constitution, there being no law to fix any time, or to fix any other manner, or to fix any other place, they, by the consent of the majority, had a right to proceed *instantly* to the election of Senators; for the will of the majority is the will of all according to every principle of law, unless the contrary is provided in the organic act. I say again, a majority of the Senators were present on the 12th of January, 1857. That appears by several of the affidavits. I will read from one; the affidavit of Senator Drew, to be found at page 17 of the committee's report:

"This affiant further states that three or four Republican Senators who did not respond to their names, and whose names, consequently, are not recorded as participating in the proceedings, were, nevertheless, present in the hall of the House of Representatives at the session of the joint convention at which United States Senators were chosen, and at the previous sessions thereof. And this affiant further states that the two first sessions of the joint convention adjourned to a day certain, by unanimous consent, and with a full knowledge upon the part of every Senator and Representative that, at the last adjourned session, United States Senators were to be elected."

The only thing to the contrary of all this is a very singular affidavit made by three of the Senators, John T. Freeland, P. S. Sage, and John Weston, to be found at page 39 of the report:

State of Indiana, Marion county, ss.

Be it remembered, that, on this 14th day of February, A. D. 1857, personally appeared before me, R. M. Hall, a notary public of the county aforesaid, John T. Freeland, P. S. Sage, and John Weston, who, being duly sworn, depose and say: that they now are, and have been during the present session, Senators of the State of Indiana, and holding their seats as such; that on the 12th day of January last past, at the time a pretended joint convention was being held in the hall of the House of Representatives, they were present in the House, having gone there out of mere curiosity to witness the ceremonies of inauguration; that they were not there in the capacity of Senators, for the purpose of participating, in any way, in said convention, nor did they in any manner take part in the action thereof.

They further depose and say: that they did not then, nor do they now, recognize the legality of said joint convention;

that they never have, at any time or in any way, given their assent as Senators to go into a joint convention of the two Houses of the General Assembly during the present session of the Legislature.

And further they say not.

JOHN T. FREELAND.

P. S. SAGE.

JOHN WESTON.

Subscribed and sworn to before me, this 14th day of February, A. D. 1857.

In witness whereof, I hereunto set my hand and [L. s.] notarial seal, at the city of Indianapolis.

RICHARD M. HALL,

Notary Public.

That is one of the *ex parte* affidavits which were before the committee. What a case do these gentlemen make for themselves! It is not denied that they went to this convention when the Lieutenant Governor of the State called on the Senators to follow him to the appointed place, that they were in company, that they were at the joint convention. They did as much as anybody else; for no Senator was called upon to perform any duty on that occasion, except the one who was called to the chair; because the only business transacted at that meeting was for the Speaker of the House to open the returns and publish them. There was nothing to distinguish these gentlemen from any other three Senators; and yet they come here with a species of mental reservation that out-Herods anything I have ever heard attributed even to the Jesuits. They were there as all others were there; they did all that any others did; and yet they come forward with an *ex parte* affidavit long afterwards, and say to be sure they were there, to be sure they did as much as anybody else, but they were there in some other character than as Senators. It reminds me of a story about one of the German princes, who had both a secular and an ecclesiastical character, who was both an archbishop and a count; and I am sorry, to the scandal of the church, he was given to habits of profane swearing and many other vices. Finally, some of the dignitaries of the church thought fit to remonstrate that such in an archbishop was a scandal to the whole religious fraternity. "Ah," said he in reply, "I am a count as well as an archbishop, and when I swear I swear as a count." "But," said the objector in reply, "when the devil catches the count where will be the archbishop?" [Laughter.] So I say of these gentlemen. They were there as all other Senators were; they did all that could be done; they made no dissent, no disclaimer at the time; but they come forward afterwards and say that there was a mental reservation about the business; that although they were corporally present they were mentally absent. Did any court, will any deliberative assembly, tolerate such a pretext as that? Why, sir, if they had not been present so as to have made apparently a quorum of that joint convention, the joint convention would not have proceeded, it would not have gone on to open and publish the returns; it would have seen first that it had a quorum before it proceeded to the transaction of any business. They go there to make part of a quorum, and deceive the other members of the Legislature, and then pretend, at a subsequent time, by an *ex parte* affidavit produced here, that they did not intend to be there as Senators, but intended to be there as spectators.

In the Iowa case, the two Senators who were present and did not vote, behaved much better when they were called in. When they were brought into the convention by the sergeant-at-arms, they, upon the record at the time, gave notice that they were brought there against their will, under duress, that they refused to attend the convention. That was one of the points upon which I recollect my honored friend, the late Senator from South Carolina, (Mr. Butler,) dwelt as material in that case. This case is widely different. These mental protests and mental reservations amount to nothing; they would have amounted to nothing had they been made openly, provided the convention was once duly convened. In this connection I cite the attention of the Senate to a case decided by Lord Mansfield. *Oldknow vs. Wainwright*, 2 Burrows, 1017. This was a feigned action to decide certain questions of law and fact as to the right of electors to the office of town clerk of Nottingham. The issues of fact were tried by a jury. One of them was:

"Fourth issue: Supposing the mayor, aldermen, and common council, have the right, then, 'whether Thomas Seagrave was duly elected by them.' As to the fourth issue, there was a special verdict to the following effect: it sets

out the constitution of the borough, and that the voices were all equal votes; then it sets out the vacancy of the office of town clerk, and a regular summons to elect another; that the whole number of electors was twenty-five; and that, out of that number, twenty-one assembled on the 26th of May, pursuant to said summons; that the mayor put Thomas Seagrave in nomination, and that no other person was put in nomination; that nine of the twenty-one voted for him; but twelve of them did not vote at all; but eleven of them protested against any election at that time, because the office was already full (as they alleged) by a Foxcroft, whose right was then under litigation in this court; that there was a written protest against any election at all, either of Seagrave or any other person, by four aldermen and six common councillors, because a suit was then depending in the court of King's Bench concerning the right of Foxcroft. These ten signed the written protest; another (Hollins) did not sign, nor vote, but declared that he suspended doing anything."

He was the most comprehensive of all.

"However, at the same court of assembly, the mayor declared the said Thomas Seagrave duly elected, and he took the oath of office, and other requisite oaths, in due manner and form.

"Mr. Caldecott, on behalf of the plaintiff, argued (on Tuesday, the 6th of May last) that Seagrave was not duly elected; for twenty-five had a right of voting; all had equal voices; and, of twenty-one that met, eleven protested against any election at that time; therefore, these eleven were all negative voices and against Seagrave, and only nine were for him.

"Besides, this was no corporate act.

"All the twenty-five were summoned, and twenty-one appeared. The voice of the majority of those who were present, was the voice of the whole twenty-five; and Mr. Seagrave had not a majority of them.

"Therefore, the issue is found for the plaintiff; and we pray that the *postea* be delivered to him.

"Mr. Sergeant Hewitt, *contra*, for the defendant:

"The substantial matter in question was, 'whether the right of appointing the town clerk was in the mayor, or in the mayor, aldermen, and common council?' The mayor, aldermen, and common councillors make twenty-five, who are a corporate body.

"Here was a regular summons of the whole body, and a corporate meeting of twenty-one of them, for the business of this election, and they entered upon the election; therefore, they could not desert it unfinished.

"At this meeting the mayor nominated Mr. Seagrave, which no one then opposed. A vote was taken; and nine voted for Mr. Seagrave. After which ten, or (as it is said) eleven, protested against any election at all at that time. But mere silence is not a negative, either expressed or implied; and, as no other person was proposed, and nine voted for him, and none against him, he was well elected."

"Lord Mansfield saw no doubt in the case. Here was an assembly duly summoned; one candidate was named; no other was named; the poll was taken; they had no right to stop in the middle of the election; the Mayor did not put any question for adjournment; nor was there any.

"But Mr. Caldecott prayed another argument; because Mr. Sergeant Poole was retained to argue it on the same side with him, for the plaintiff.

"Whereupon, the court gave leave that it should be argued again; and ordered an *ultimus concilius*."

On a subsequent occasion Mr. Sergeant Poole came up, and after further controversy Lord Mansfield said it was a clear case:

"Whenever electors are present, and do not vote at all, (as they have done here,) they virtually acquiesce in the election made by those who do."

So that when these parties were present without any express dissent, they consented to what was done.

There is but one other question in this controversy: was it necessary that two thirds of the members of each House should be present at that convention? It is undoubtedly true that one provision of the constitution of Indiana says, that "two thirds of each House shall constitute a quorum to do business." Does that refer to the branches of the Legislature for purposes of legislation, or does it refer to the joint convention for the election of officers, whether State officers or United States Senators? Certainly it can have no application to the election of a Senator in Congress, because, as I have shown, the established method of election to which the Constitution of the United States referred in September, 1787, was wholly independent of any question as to what might be the specified quorum in each House of a Legislature for any purpose of legislation, and we have the best evidence that that was the interpretation put on the constitution of Indiana by all the people of that State, by all the departments of our Government; and I certainly need not say that it is a proposition here, and in all other Departments of the Federal Government, that each State shall construe her own peculiar constitution and laws.

I have stated that a majority of the Senators were present at the first meeting of the joint convention. What followed? Ashbel P. Willard was declared to have been elected Governor upon the opening and publication of the returns of the

election; and he was inducted into office by that convention; for the act of the Legislature required that he should be inducted into office by the two Houses assembled in convention. If that was no convention, he was never legally inducted into his office of Governor. He is in office; he has been in office ever since. His title has never been disputed. He has exercised the whole executive power of the State. The Legislature has sent him its acts to be approved or disapproved—the Senate as well as the House. He has granted commissions to the judges, and to all the subordinate officers. The fact that he has been thus inducted into office without any protest from any quarter, that he has proceeded to discharge the duties of the office without any protest from that time to this, is the most complete and universal acquiescence in the validity of his title. Is that a good mode of ascertaining? Let us see what the Senate has decided on that point. Here is the famous case of *Potter vs. Robbins*, the case of a contested election of Senator from the State of Rhode Island, to be found in the volume of Contested Elections, page 911. The question was whether a certain body, which claimed to be the Council or Senate of Rhode Island, was in fact a branch of the Legislature. It was claimed on the one hand that those members held over after their terms had expired, and, therefore, they were no Legislature. What did the Senate of the United States say then? The report of the committee uses this language:

"When, therefore, we find that, during the existence of the General Assembly, one branch of which was continued and held their seats by virtue of the law of January, 1832, this Legislature passed fourteen laws of a general nature, and twenty-eight private acts, many of them acts of incorporation, besides numerous resolutions on various subjects falling within the range of legislative power, a schedule of which is herewith annexed, marked C; and when these laws and resolutions remain on the statute-book of Rhode Island in full force and effect, sanctioned by judicial decisions, and tacitly submitted to by the people over whom they operate, it would seem to your committee a very dangerous assumption of power in one branch of Congress, or even in every department of the General Government combined, to interfere with the internal regulations of the State, and to denounce the body by which these laws and resolutions were passed as a mere assemblage of citizens without any public authority whatever, and not the Legislature of the State. Such a power does not belong to the Federal Government, and would, if claimed and carried out to its full extent, annihilate all the reserved rights of the States. It is a general principle of national law, applicable to all distinct and independent Governments, that if there arise any disputes in a State on the fundamental laws and public administration, or on the prerogatives of the different powers of which it is composed, it is the business of the State alone to judge and determine them in conformity to its political constitution. No Government has a right to intrude into the domestic affairs of another State, and attempt to influence its deliberations or to control its action. This principle is recognized in the Constitution of the United States, by which the respective States united and formed themselves into a Federal Republic. Conceding, as we feel bound to do, to the State of Rhode Island, in common with all the other States of the Union, the power to decide for itself all questions relating to its domestic policy, there would seem to be no ground on which to rest a doubt that she has decided in the most solemn manner the character and powers of the body by which Mr. Robbins was chosen a Senator to Congress. They passed numerous laws which are in full force. They elected judges of the supreme court of the State who have taken a new engagement or oath of office, and accepted new commissions from the Governor, entered on their official duties, and condemned to death a citizen found guilty of a capital offense against the laws of the State. They received compensation out of the treasury of the State for their services, and disbursed the public money necessary for the support of the Government. No question has arisen touching or impugning the validity of any one of these acts, because they were passed or performed by an incompetent body, with the single exception of the attempt made by a succeeding Legislature to vacate the election of Mr. Robbins."

"Your committee advert to these acts as conclusive in reference to the character of the body of men who elected Mr. Robbins. If they were competent to bind the people of the State by general laws, which is nowhere contested, they could only exercise such a power in their capacity as the Legislature of the State, and as such, it was their constitutional right and incumbent duty to choose a Senator to Congress."

I repeat, Governor Willard was inducted into office as Governor by a convention, or what claimed to be a convention; he has been accepted by all the citizens of the State of Indiana, by both branches of her Legislature, and by every department of her government; he is in office; his title has never been disputed; and yet he cannot legally be in office if it required that two thirds of the Senate should be present at that convention. What follows? As the committee said in the Rhode Island case—and their report was confirmed by the Senate—the fact that he is in office with an undisputed title is the best evidence of

what the meaning of the constitution of Indiana is, that it was not necessary to have two thirds present; that the construction put by them on their constitution is, that the requisition as to two thirds applies only to their legislative duties, not to their assembling in joint convention for the purpose of opening and counting the votes for Governor. But the case is worse than that. I have shown you that at the same convention, immediately following the inaugural address of Governor Willard, Abram A. Hammond was declared elected Lieutenant Governor; he was inducted into office at the same convention, took the oath, and immediately upon the adjournment of the convention returned at the head of twenty-six Senators to the Senate chamber, took the chair, delivered his address, and presided until the end of the session without any Senator calling his right in question. If it were necessary that two thirds of the Senators should be present at that meeting, why did they permit him to take the chair of their own body, to deliver them an address, to remain Lieutenant Governor until the end of the session, and until this hour, without a word of complaint? That shows the construction put by the Senate of Indiana on the constitution of the State on a matter peculiarly affecting their own rights.

I go further. It appears from the evidence that while twenty-four Senators were present in joint convention on one occasion, (I think on the day of this election,) the other twenty-six proceeded to take up, to consider, and to pass a resolution vacating the seat of one of the absent Senators. They then claimed the right as a body to pass upon every question concerning the election and qualifications of their own members, with a bare majority present. They voted the man out; they struck his name from the roll, and they did not permit it to be restored. Whether you call it an expulsion from the Senate, which would have required a formal vote of two thirds, or whether you call it sitting in judgment on the right of a member, it is certain that they assumed the power at that very session, at that very time, by a bare majority of the Senate, to do any business except the passing of bills and joint resolutions. As I said before, having established the proposition that the members of the two Houses are an electoral college under the Constitution of the United States, the question of what number is required for the peculiar business of the State, for its peculiar internal affairs or internal administration, becomes wholly unimportant.

This being a joint convention, duly constituted, sufficient for all purposes, being met on due notice to all, formal summons to all, called by the respective presiding officers to attend at a reasonable time and a reasonable place, and a majority of each of the Houses having come in pursuance of that summons, and being there the electoral body appointed and designated by the Constitution of the United States to make the election of Senators, at such time, in such manner, and at such place as they themselves might prescribe, there being no law prescribed, there being no usage separate from a law, it being a matter left entirely to their own will, these electors, duly assembled on due notice, proceed to make an election. Is their election good? The language that covers the case of Senators covers the case of Representatives; the same clause of the constitution applies to both. Now let me put a case. In the State of Ohio the law provides that the trustees of every township—three in number—shall, so many days before the election, appoint a place at which the electors shall come to vote; and that they themselves shall be present to receive the votes as judges or inspectors of the election. Suppose they refuse to do it from corrupt motives, from factious motives, or for any reason they will not give the notice; they will not appoint the place; they will not attend at any place to receive the votes. The time of election comes; or if you please, there being no time fixed, a majority of the persons authorized to vote give notice to all to come to a given place at a given time, being reasonable as to both place and time. A majority of the whole number come there, appoint officers of their own, and hold an election; if there be no fraud; if there be no question; if it be reduced to an absolute certainty that A B had an actual majority of the votes of all the qualified electors, is not that a good election? The

question is answered by the decisions that have been made in the old country and in this country, in the courts, and in Congress, and in the Legislatures. Can the people be disfranchised by a ministerial officer? Can a township trustee say "I will give no notice of an election for the express purpose of disfranchising the voter?" Can a minority of the qualified electors say "we will attend at no time and no place; for if we attend at any time and at any place, our fellow-citizens, being in the majority, will exercise their undoubted right of choosing public officers; our absence shall be more potent than our presence; if we were present, and discharged our duty, we could not defeat their choice; so we will absent ourselves?" Is there a more monstrous proposition? What is your free Government worth, what is your representative Government worth, under such a state of things? Talk no more about elections by the people; it is an end of all elections.

I say, what would be a good election of a Representative, is a good election of a Senator. The language of the Constitution of the United States applies to both in the very same clause and the same words. When a minority of the qualified electors of a Senator choose to persist, in pursuance of a conspiracy entered into beforehand, from the beginning of the session, persisted in at every step, to defeat their own duty and the duty and the rights of the majority, then that majority, falling back on the broad principles which govern all popular elections, come together duly and legally in joint convention, and give notice to all the rest, and then the person who has a clear, undoubted, indisputable majority of the qualified voters is elected; otherwise, you offer a premium to anarchy.

Was there any prohibition on the convention? If there had been, it might be material. I have shown you that the Senate attempted to impose a prohibition, but they failed. They knew that the joint convention, once assembled, would have the power, and they attempted to limit it. Their limitation was not carried. A similar attempt was made in the other House, and there it was rejected. What is more material than all, there never was a subsequent attempt made during the whole session, in either House, to proceed to the election of a Senator in any other method. The election occurred on the 4th of February. Mr. BRIGHT and Mr. FITCH received their credentials, and one of those Senators came here and presented them. The Legislature sat thirty days, perhaps sixty days, more—a long period—but never was an attempt made, nor did either House propose to the other any other election of Senator, either by joint convention or by separate resolution. It was acquiesced in; it was settled, insofar as that no attempt was made to disturb it. If it was not a good election, if it was void, there was no obstacle to the two Houses proceeding to another; and the fact that neither of them attempted any other, shows that they were both conscious that it was an election duly made under the constitution of Indiana. I said that was the rule. Let me read a few words from a very eminent judge.

Mr. Justice Bayley, in the case of the *King vs. Hill*, (4 Barnewall & Cresswell, 441,) says:

"Where the election of burgesses is fixed, either by charter or custom, to take place on any specific day, there it is the duty of every person entitled to vote to take notice that there is to be an election on that day. But when no specific day is fixed, and the election may take place at a meeting holden at any time, it is essential that notice of the meeting and of the business to be transacted there should be given to all persons resident within the limits of the borough who are entitled to vote; and that should be a reasonable notice, and at a reasonable time before the election actually takes place."

That it need not be a written notice or a formal notice, if actual notice was given, was decided in the case of *The People vs. Peck*, (11 Wendell, 611;) and in *Willcock*, on Municipal Corporations, (page 46,) a book of very high authority, it is said that notice may be given by the ringing of a bell, if that has been the usage by which meetings of the borough are called. In the case of *Jones vs. Van Zandt*, (5 Howard, 215,) where the statute imposed a penalty for any person who harbored a fugitive slave after notice—and it was claimed that the notice must be a formal one or a written one—the court said: "If he have actual knowledge, that is enough. It need not be formal; it need not be written." Did the recusant Indiana Senators know what was to be done in the convention? I have shown you that, on the

eve of the convention, they attempted to put in a prohibition to prevent this very election; and the records will show that, between the day of the first convention and the adjourned session, they themselves expressed the fact that they knew Senators were to be elected.

We have, therefore, in the absence of all law or regulation or form prescribed, a due legal meeting of all the qualified electors, or a majority of them, convened after notice to all. What follows? Once duly organized for that purpose, as Lord Mansfield said, nobody had authority to stop them. They become a body of themselves. It is an electoral college assembled. Certainly it cannot be dissolved by the mere faction of individuals. I think some members here believed in the Iowa case—that inasmuch as the Senate of Iowa had by a formal, separate vote, dissolved the joint assembly, it could not continue longer; but there was nothing of that sort done here. There were the mere faction and disorder of individuals. The electors were assembled. They had the right to adjourn from day to day, or from time to time; it was their right, their common-law right, until they had transacted all their business, all the business that any joint convention could transact under the constitution and laws of that State; and thus being assembled on notice to all, Mr. BRIGHT and Mr. FITCH received, not merely a majority of the votes of those present, not merely a majority of a quorum, but an actual majority of all the members of both branches of the Legislature. That is the substance of an election. That is the equity of the case; that is its justice and its honesty between man and man. Every court, and the Senate, when it sits as a court, will require, before the substantial justice and truth of the matter can be overthrown, that it shall be shown wherein a law was violated. I have shown that here there was no law to be violated. I am supported in the principle I have just stated by the language of one of the books—Angell and Ames on Corporations, section one hundred and thirty-eight:

“If no particular form is prescribed for the election of officers, and the election has been conducted in good faith, it will not be set aside.”

I have detained the Senate longer than I expected, and I leave the case with those of my colleagues on the Judiciary Committee who concurred with me in opinion. For myself individually, Mr. President, when the case of the Senator from Iowa [Mr. HARLAN] was before the Senate; when those who had belonged to my own political faith had been guilty of what I believed to be an act of disorganization, I expressed my opinion boldly and distinctly, as the recorded debates will show; and if I did not spare my own household, why should I spare the Opposition? No man can read this testimony without being satisfied that after the qualified electors of the State of Indiana, in due form, had chosen members of the Legislature, with a view to the election of United States Senators of a given political persuasion, a majority of one branch of the Legislature—and a meager minority of the whole—attempted to betray their own trust, and to violate the rights of all the rest, as well as of the people of the State. If, with two such cases occurring here within so short a period, we are not admonished to go back to the good old rule that, what ought to be done shall be considered as done, but hold out a premium to anarchy, what is to be the result? Is this course of things to go on from year to year? When the last Legislature met, the State of Indiana had been with but a single Senator in this body for some time; she was about to be wholly misrepresented. I say the evidence shows that there was a deliberate conspiracy before the Legislature convened to prevent an election. For the Senate of the United States to allow it to be successful over the head of the truth, the justice, and the equity of the case, is to permit mere faction, without even the excuse of violated form, to prevail over justice and over right. I am persuaded the Senate will make no such determination.

Mr. HAMLIN. Mr. President, that I have been surprised, that the whole country has been astonished at the report that has been made from the Judiciary Committee in this case, I need hardly say. Why it has been made it is not my purpose now to inquire; why it has been presented in this manner is the point for which I have risen. I

say, sir, that I have been astonished, and the country will be astonished, at the report which has been made by the Judiciary Committee, and I should like very well indeed to know why, when the previous policy of the country is to be subverted and changed, we have not a written and deliberate opinion drawn out by the committee, showing us the grounds and the law upon which it is to be done?

Mr. PUGH. I will say to the Senator that there has been no such written report ever made from the committee, since I have been a member of it, in any contested case. There was not in the Iowa case or in the Illinois case.

Mr. HAMLIN. I can only say that it has been usual with the Judiciary Committee to submit written reports. There may have been exceptions; but this is the first time, I think, in the history of the Government, where you have attempted to establish the policy that a minority of a coordinate branch of a Legislature is to control its proceedings. The Senator from Ohio has been very glib in the language he uses in talking about “recusants.” Now, sir, who are the recusants in this matter? A minority of the Senate of Indiana, who ran away from their duty—a minority who undertook to control a majority of the Senate. A minority of the Senate of Indiana undertook to collude with a majority of the House of Representatives of that State, and to deprive that branch of the government, which, by the constitution of the State, was entitled to a negative in all matters of legislation, and in all business, of what was their constitutional right. Is not that so? Was there ever a question submitted to the Senate of Indiana by the House of Representatives of that State, as to the time or the manner when this election should take place? Was there any time or manner agreed to by the Senate? In other words, did the Senate ever have secured to it its right as a coordinate branch of the Legislature, to determine the manner in which this election should take place, whether by negatives, whether by concurrent votes, or by a joint resolution? Certainly there is no evidence of an election at all except that a minority of the Senate, a number less than a majority, and much less than a quorum, for it takes two thirds of that body to make a quorum, undertook to leave their seats, and to go in with a majority of the House of Representatives, and attempt to elect Senators to this body. Under such a state of things, with a majority of that Senate here, under their own hands, protesting against it, I ask that we may have a report from our committee setting forth the law and the ground upon which their opinion is founded. I move, therefore, to amend the resolution by striking out all after the word “resolved,” and inserting:

That the case of JESSE D. BRIGHT and GRAHAM N. FITCH be recommitted to the Committee on the Judiciary, with instructions to report specially the grounds on which the resolution is based declaring said BRIGHT and FITCH elected.

Mr. BENJAMIN. Mr. President, I shall not speak directly to the amendment offered by the Senator from Maine, because it does not appear to me that it is possible he can seriously entertain the notion that the Senate is going to leave this election still undecided. His proposition astonishes me the more, because, from the origin of this dispute, the majority of the Senate of the United States has been continually taunted by gentlemen of the Opposition with a desire to postpone the matter, to keep the Senators here whose seats were contested, to defer a decision of the case in order to leave them in the enjoyment of an office to which they were not entitled. We have heard that again and again, although it has been repeatedly demonstrated by the Judiciary Committee, that any delay which has hitherto arisen has arisen from the fault of those who represent the contestants, who have pertinaciously persisted in an endeavor to prevent us from taking the evidence in the cause, and who succeeded in their opposition until about sixty days ago, when the Senate finally determined that evidence should be taken, and allowed a term of sixty days for it.

Mr. HALE. Ninety.

Mr. BENJAMIN. It may have been ninety; but whatever the term was, it is not important to the argument. I say, when the matter has been thus constantly before the Senate, with the taunts of gentlemen in the Opposition made against the

Judiciary Committee that they were unwilling to bring this case to trial, although they themselves had been the cause of the delay, now, when for the first time in a number of years, it has been ascertained that Congress is about, at the long session, to adjourn some months earlier than usual, and the gentlemen whose seats are contested have finished taking their evidence, and the contestants have taken their evidence, and it is proposed now to settle the matter, on the last day but one of the session, a proposition is offered by the minority to recommit the matter to the Committee on the Judiciary, in order that the case may still remain undecided. This is most extraordinary. I state the facts, and leave them to the judgment of the Senate, and to the country. I make no comment on them. I shall not speak to the amendment.

Mr. COLLAMER. I do not know by whom the proposition has been made to recommit; but if it be recommitted we can hardly consider it at this session.

Mr. BENJAMIN. I take it for granted that can by no possibility be the judgment of the Senate. I doubt whether the proposition can be serious; but I am sure the majority of the Senate cannot be brought to leave this matter undecided. If the question shall be referred again to the Committee on the Judiciary, I, for one, shall desire to wash my hands of it, and I promise never to make another report on it. I have had enough to do with it already.

When this question was first referred to the Committee on the Judiciary, on an examination of the papers then before us, I came to the conclusion that the contest was well founded; I considered that the Senators had been irregularly and illegally elected, and, on the papers then before me, I should have so voted. I made no secret of my opinion. The evidence which has been gathered by the sitting members, the evidence which is now before us in the report of the Committee on the Judiciary, has changed my opinion; and without entering at length into the case, which has been so fully and thoroughly discussed by the Senator from Ohio, I desire to state the grounds upon which I assented to the resolution offered by the majority of the committee.

Mr. President, taking up the subject chronologically, the first question that would present itself to the mind of every Senator is this: was the first joint convention of the Indiana Legislature, held at that session at which these gentlemen were elected Senators, a legal, a constitutional convention? Upon that there seems to me to be no room for a doubt. The constitution of the State required that convention to be held; it left it not to the option of either branch. It did not require the vote of either branch to hold the convention. It provided in terms that both Houses should be there in joint convention on the day on which the convention was held. Here is its language:

“The returns of every election for Governor and Lieutenant Governor shall be sealed up and transmitted to the seat of government, directed to the Speaker of the House of Representatives, who shall open and publish them in the presence of both Houses of the General Assembly.”

And by another clause of the constitution, the official term commenced on the second Monday of January, in the year 1853, “and on the same day every fourth year thereafter.” The same day on the fourth year thereafter in this case was the second Monday of January, 1857. By the constitution of the State of Indiana, the votes for Governor and Lieutenant Governor were on that day to be counted by the Speaker of the House of Representatives, in the presence of both Houses of the Legislature. What is the official journal then of the meeting of both Houses? The journal of the House of Representatives, not the journal of the Senate. The journal of the House is the official journal of the convention. What does it say? After the invitation had been given:

“Resolved further, That the Senate be informed of the same, and that the House is now ready to proceed to said business.

“Which was agreed to.

“The Senate, then, in pursuance of the invitation of the House, communicated through the Speaker, came into the hall of the House, preceded by the President of the Senate.”

That is the record. The constitution required a joint convention, the House in whose hall the joint convention was to be held, preserving the record of the proceedings, and that record stating that the Senate appeared in the hall of the House

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of Representatives, preceded by its President. Now, sir, what are we asked to do? We are asked to go behind that record; we are told it is not true. Who asks us to go behind it? Certain members of the Senate of Indiana. What is it they ask us to do? They ask us to declare, in defiance of the Constitution and of the record, that they were not present at the place where the constitution required them to be present, at the only place where they legally could be at the hour when the House said they were assembled with it in its hall. In other words, here are parties calling upon the Senate of the United States to take testimony to prove that they violated their official oaths, calling upon us to go behind the constitution and laws of the State in order to satisfy ourselves that they did an illegal and unconstitutional act—kept away from the only place where they could legally and constitutionally be on the day this convention was held.

Now, sir, I say, in the first place, that I will not listen to any such evidence on the familiar principle, known to every one, that no man shall be allowed to come into a court of justice or equity or law, and allege his own wrong as the basis of a right. They say, "we violated the constitution, and by virtue of that violation we claim a right to contest the election of these members." I say, first, then, if we are to go on technical grounds, that I will not listen to them; that they cannot be listened to; that it would be in violation of public order, in violation of the first principles which govern courts of law or equity, to permit parties to come and declare their own turpitude. But, sir, if I were willing to go behind this record, how stands the evidence as now before us? It was not before us when I formed my first impressions of this case. I take the evidence offered by the contestants themselves, and I take the evidence of the Governor of the State, whom they examined as their witness, and what does he say? He says that upon the day upon which this joint convention was to be held, he, as President of the Senate at the time, called upon the Senate to follow him into the hall of the House, and he did go to the hall of the House, at the head of a number of Senators, who constituted a majority of the body. That is their evidence; that is what they prove. Here is the testimony of Governor Willard:

"The Speaker of the House sent, through me, to the Senate, an invitation to the Senate to appear in the hall of the House of Representatives, and I read said invitation to the Senate; then adjourned the Senate to meet in the hall of the House at the hour specified by the Speaker, and a majority of the Senate attended in the hall of the House to witness the counting of said votes; all the Democrats—twenty-three—were present, and Veir, Sage, and Freeland, and all within the bar of the House of Representatives."

Twenty-six members out of fifty; and yet we are told that that was not a legal or regular convention because the Senate did not pass a resolution to go into the hall of the House. What necessity was there for the Senate to pass any such resolution? If they had passed a resolution not to go in, it would have been simply null and void, because in violation of the constitution. To pass a resolution to go in would have been a simple work of supererogation, because the order of the constitution was there in advance; they must go in. There was no necessity for their declaring their assent to go in. They had sworn to obey the constitution which ordered them to go in. They had no power to pass a resolution that they would not go in, because a resolution not to go in would have been simply null and void.

It is plain, therefore, that this first convention was a legal and constitutional convention of both branches of the Legislature of Indiana. It has been well put by the Senator from Ohio, if this was no legal, no constitutional convention, then Indiana has no Governor now, she has no Lieutenant Governor, because neither has yet been legally inducted into office. Either that convention thus held was competent to the performance of certain acts, or it was not. If it was not competent to the performance of any act, then there is now no Governor, no Lieutenant Governor of the State of Indiana; yet the entire population of

the State, without a dissenting voice, recognize the Governor and Lieutenant Governor now in office in the State of Indiana as legally inducted into office, and they could only be so if this convention was legally convened. They are in undisputed office. Then they were inducted into office by a convention legally assembled.

If that point be once admitted, the next question that occurs is, had the convention a right to adjourn to another day? I do not intend to detain the Senate by any reference to law-books for the purpose of showing the inherent right of every convention of this kind to adjourn until it has closed all the business that it thinks proper to do as a convention; but I would refer again to the evidence in the report of the Judiciary Committee; and first, let us look at the law of the State, which was repealed, and under which these elections had been held for the space of seventeen or eighteen years. By that law an express provision was made, authorizing the adjournment of a joint convention in certain cases. The second section of that law provided that, when the Legislature had assembled in joint convention to elect a Senator, if, after five ballottings, there should be no election, the President of the Senate might adjourn such election to some future day during the session, not leaving it to the body, but leaving it to the President of the body, to adjourn it to some future day, after five ineffectual ballotts. We must remember that, at the time this election took place, there was no law, there existed no law; the Legislature was acting by virtue of the inherent power conferred upon it by the Constitution of the United States. What was to be done? what else could it do, except to follow the well-established usage of the State? What was that usage? Here, again, I refer to the evidence of the Governor of the State, who is the witness of the contestants. In answer to their questions, he says:

"I have attended several joint conventions; the Lieutenant Governor in person, acting as President of the Senate, becomes the President of the joint convention; he calls the same to order; no motion to adjourn is ever entertained by him; he adjourns it himself, without motion, either *sine die* or to a given day; I have not been able to find in the record of the proceedings of joint conventions in this State any instance varying with the custom as aforesaid."

Here is a legal convention constitutionally assembled, and the President of that convention adjourns it, adjourns it in accordance with the established usage of the State, and in the absence of a law. How was it as regarded the members of the convention in relation to this adjournment? Mr. Drew says that he was a member of the Senate:

"That the two first sessions of the joint convention adjourned to a day certain, by unanimous consent, and with a full knowledge upon the part of every Senator and Representative that, at the last adjourned session, United States Senators were to be elected."

Mr. Drew is not the only one; there are other affidavits to the same effect. Then, sir, we have a constitutional convention duly convened and duly adjourned, adjourned from day to day until the Senators now holding their seats here received a certificate of their election, having obtained the votes of a number of electors far exceeding a majority of the entire numbers of both branches of the Legislature. They sit here as representing the State of Indiana, and we are called upon to send them away, and leave the State without a representative. Men who have avowedly received a majority of the votes of all the persons entitled to vote at the election, holding their seats here under a certificate signed by the President of the Senate and Speaker of the House, and the Governor of the State, with the broad seal of the State attached to it, are to be turned out of the Senate, and their places not given to contestants, for nobody claims them, but made vacant, and the State deprived of representation upon this floor.

In all cases like this it is incumbent on us to look at the character and position of the parties contestant, as well as at the character and position of those whose seats are sought to be vacated. If the first convention was not a legal or constitutional convention, because two thirds of the Senators were not present at it, we reach this result which is inevitable: that a minority of one

third of either branch of the Legislature of the State of Indiana can forever prevent the organization of a government in the State. By the constitution of the State, two thirds of each body form a quorum to do business; but surely this provision of the constitution is to be construed with that other provision which provides that both Houses shall be present on the day when the Governor is to be inducted into office. Shall it be within the power of a portion, or even all the members of one or the other House, to prevent the organization of a State government by simply absenting themselves? Can they be listened to when they allege that they have done such a thing? If it be necessary, according to the theory of the contestants, that this joint convention should be composed of two thirds of each body, what is the inevitable result? That a minority consisting of over one third of either body keeps the State in a continual condition of anarchy.

Here is the Senate of the State of Indiana convened on the 12th day of January. They are to go into the hall of the House in joint convention. Suppose on that day, before the meeting of the Senate, an armed minority had taken possession of the Senate hall, and prevented the members coming into the hall by violence; and suppose the members thus prevented from doing a constitutional duty had done it as nearly as it was possible for them to do—that is, without first convening in the Senate chamber, had gone as Senators to the hall of the House, and there presented themselves as Senators in the performance of their constitutional duty: can any one imagine for a moment that any court of justice on earth would decree that the action of the armed minority, in defiance of the law, should prevail; and that because the action of the majority had been irregular by reason of this violence of the minority, the minority could complain of the irregularity they had themselves caused, and been the authors of?

Now, sir, I want to call the attention of the Senate and of the country to some of the proceedings which were the origin of the irregularities that took place in this election. There were irregularities, and looking on those irregularities on their face, as I said before, when this question was first presented, I said this election is irregular; the parties claiming seats cannot hold them; but when I found that the irregularities had been produced by the armed violence of the very men who maintained that they could base a right on the irregularities, I could not for an instant listen to their protest. No one in the whole State of Indiana complains of these irregularities except the men who committed them. Sir, the Senate will be shocked, the country will be shocked, to hear some of the evidence which has been taken in this case. The notorious General Lane, of Kansas, was on the floor of the Senate of Indiana, at the head of a body of armed retainers, overawing the Senators of a State of which he was not a citizen. He came from a distant land, there to overawe the Senators of a sovereign State, and by force and violence prevent their doing their constitutional duty, which they had sworn to perform when assuming their senatorial robes but two or three days previous. The proof is complete. What says Governor Willard in relation to this action?

"I was present at the organization of the Senate on the first day of the session of 1837. I took the chair, as presiding officer of the Senate, at the usual hour of the meeting of said body, and called the Senate to order. While I was calling the Senate to order, D. Beavers (a Senator holding over) called Lewis Burk (a Senator holding over) to take the chair, and preside. Said Burk took a chair upon my right; who placed it there, I do not know."

It is afterwards proved that it was placed there by Jim Lane, who took this Senator who held over by the arm and inducted him into the seat of the President of the Senate of Indiana.

"I directed the Secretary of the Senate to call the roll of the Senators holding over; all those who were classed as Democrats answered to their names; those who were classed as Republicans or Know Nothings did not."

They would not answer to their names.

"I then directed the call for those Senators who claimed

to be elected who had not been sworn into office; all those classed as Democrats came forward and were sworn by me; the Republicans did not. The Senators who had called Mr. Burk to preside over them?"

they divided the Senate into two parties, and each had its president and secretary—

"elected, on motion, a Secretary—J. R. Cravens—(a Senator holding over.) He called the names of the Republican and Know Nothing Senators who held over, and they responded to their names. The Republican Senators claiming seats who had not been sworn in were then called, and, by Judge Gookins, under the order of said Burk, took the oath. From the time the Senate opened until the final motion for adjournment, the Republican Senators refused to recognize me as the presiding officer. Every motion made by them was to Burk; a scene of confusion existed for about three or four hours, until finally a motion to adjourn prevailed. On the Senate's reassembling, Burk abandoned his position, and the Senate came to order."

In the mean time the convention had been held, and the charge now is that that convention was irregular by reason of these very proceedings.

Mr. COLLAMER. Allow me to correct the gentleman. The convention was not held in the mean time. The confusion was on the first day of the meeting, the 8th of January. The first so-called convention was on January 12, and the election on February 4.

Mr. BENJAMIN. I may be mistaken in that. On the Senate reassembling, Burk abandoned his position, and the State Senate came to order. The testimony of Governor Willard proceeds:

"As to who was present, I cannot say; there was a large crowd in the Hall, many inside the bar; all efforts to maintain order among them were ineffectual; James H. Lane, of Kansas, was among those inside the bar; so was O. P. Morton, and many of the prominent Republicans of the State; after the Republican Senators were sworn in, under the order of Burk, they elected J. Harney as their Secretary; in the afternoon, when Burk had abandoned his place, the said Harney, after the Senators had been all sworn in, either by me or my order, was elected Secretary of the Senate; Stanley Cooper was sworn by me, in obedience to the resolution of the Senate."

Now, let us take the evidence of the other witnesses in relation to the presence of Lane. The next witness who speaks on this subject, is Mr. Murray. He says:

"General Lane was, I believe, in the Senate Chamber, in the space, to the right of the President, for visitors. I do not know that he was armed; the only conversation I had with him was during our discussion of the power of the President to organize the Senate, and, on my coming to him, he stated to me that I was right in my position."

This witness was one of the disorganizers. Mr. Slater, who was a Senator from Dearborn county, after referring to the election of the Republican Senator who was put alongside of the Lieutenant Governor, says:

"Pending this disorganizing movement, the lobbies of the Senate Chamber and the avenues leading to the seats of the Senators, were filled by a noisy, disorderly crowd of persons, who seem to have been selected for that occasion, encouraged and led on by James H. Lane, of Kansas."

The next witness, Mr. Drew, also a Senator in the Indiana Legislature, and present at the time, says:

"While these disorderly and illegal proceedings were being had within the bar of the Senate, the doors and lobbies of the Senate Chamber, and the avenues leading to the seats of Senators, were filled by a boisterous armed mob, who seemed to have come there for the purpose of overawing the Lieutenant Governor and Democratic members of the Senate, and to be acting under the direction of the aforesaid James H. Lane."

In stating the circumstances of Burk taking a seat by the side of the Lieutenant Governor, he says:

"Lewis Burk took a seat by the side of the said Lieutenant Governor, in a chair placed there for that purpose by James H. Lane, of Kansas, who appeared to escort Burk to the seat aforesaid. While Lieutenant Governor Willard was calling or directing a call of the roll, said Burk was attempting to usurp his (Willard's) authority, by making, or causing to be made, a like call through John R. Cravens, another Republican Senator, who was pretending to officiate as clerk, appointed as such in the same illegal manner as Burk; although the regular clerk was at his post in the discharge of his duties."

The proceedings, thus inaugurated, all pointing to an effort to deprive the State of Indiana of a proper representation on this floor, were continued to their final consummation in the protest now before us. They were not satisfied with violence; they resorted to fraud; they resorted to fraud in their public records, and their own witnesses prove it. We have before us the record of the Senate. Not one syllable of these proceedings that their own witnesses testify to, is recorded in the Senate's minutes; and finally, when, for the purpose of bringing this matter before us, they are driven to make a protest and declaration of facts,

they file a protest, and call upon the Lieutenant Governor of the State to certify to the verity of the protest, and here is his certificate:

SENATE CHAMBER, INDIANAPOLIS, INDIANA,
February 5, 1857.

I, Abram A. Hammond, Lieutenant Governor of the State of Indiana, and ex officio President of the Senate, do hereby certify that the foregoing is a true and correct copy of the protest, as appears of record on the journal of the Senate of the State of Indiana for the 5th day of February, A. D. 1857; and I would furthermore state, that, in signing this certificate, I do not wish to be understood as certifying to any of the facts contained in said protest.

ABRAM A. HAMMOND.

Here is a body of Senators who proceed to their purposes with such unblushing fraud, that the Lieutenant Governor of the State, who is bound by his official position to sign the certificate of their proceedings, is compelled to enter a reservation on his certificate that he protests he does not certify to the truth of the facts they allege. Now, Mr. President, when we have two records before us—one the record of the House in whose hall the joint meeting was held, which, under the constitution was the proper body to receive the Senate for the purpose of holding the joint meeting; and when that record, upon its face, discloses a fair, just, and regular election; and when the good faith, the verity, the regularity, the legality of that convention is contested upon the ground that the record of the Senate is contrary to the record of the House; and when we find that the record of the Senate has been deliberately falsified, upon what ground shall we be asked to take the record of the Senate as a true statement of the proceedings, and to put aside the official record of the only body that had a right to keep minutes of the proceedings which resulted in this election? And for what purpose? To carry out the objects of the very men who were first guilty of this violence and these frauds, and then come here and ask us to listen to them; the very men who originate the difficulties, and then base their rights upon the difficulties themselves originate. Can we listen to allegations like these, from such a source? When the whole State of Indiana has acknowledged the validity, the regularity, and the legality of the original convention which inducted into office the Governor and Lieutenant Governor of the State; when all admit them to be the Governor and Lieutenant Governor, including these contestants themselves, shall we say that that convention was irregular and illegal, and on evidence such as this now before us? Shall we assist these men in their object of defeating the ascertained will of a majority of the people of the State, and a majority of the electors who had the right to elect United States Senators?

The Senator from Ohio has well said that, in all cases of contested elections, the first point to which the judge's attention is directed is this: has this man been elected by a majority of all the legal electors? If he has been, then, unless there is some special provision of law, some statute, some rule, from whose binding force he cannot escape, which declares that election null and void for want of form, the election is good. Now, there is no law in the State of Indiana on the subject of this election. By some mistake, by some oversight of their lawgivers, they repealed the only law under which, previously, the rules of proceeding had been prescribed. The Legislature, therefore, were driven to the exercise of this inherent right in the way they best might. They gave notice of the holding of this election; they called the bodies together; they notified them to be present; but a portion of one of the bodies chose to be absent, and chose to be absent under circumstances which I have just developed. Shall we assist them in their object? For what purpose? For the purpose of depriving a State of the Union of representation here. The State of Indiana has sent us no contest of the right of her Senators on this floor. No one of her public bodies, either executive, legislative, or judicial, has asked us to inquire into the fact of their election. Certain men in the State have asked us to investigate it, and we ought to investigate it when complaint is made by men who themselves come here with clean hands and pure lips; but when they come here, after having themselves been guilty of the very violence and the very fraud which produced the irregularities of which they complain, I, for one, say that I know of no rule of justice, of no provision of law, that compels us to give ear to

their complaints; and, for one, I am not willing to do it.

It is for these reasons, on account of the facts developed in the testimony taken by the gentlemen who now hold their seats in the Senate, and which have changed the whole aspect of the case, that I cheerfully give my vote in favor of the resolution offered by the majority of the committee.

Mr. COLLAMER. Mr. President, although it has become my duty, as a member of the Judiciary Committee, to follow the gentlemen who have preceded me, who have occupied, I believe, about two hours and a half, I hope I may not be regarded as having neglected to answer those gentlemen because I may not reply to each and every position which they may have taken. Some of the positions taken by the gentlemen may, in my humble estimation, not be worthy of a reply, however much of importance they may have attached to them; and such as I think are of that character I shall pass by without attempting to notice, though I may, perhaps, attend even to some of these; because others may not regard them in the light I do, especially as the honorable gentlemen who made the arguments have attached importance to them.

In the first place, Mr. President, it is insisted that there is lying at the foundation of the case before us a great question like this: by whom must the election of United States Senators be made? It is insisted by the honorable Senator from Ohio that the election is to be made by the members of the State Legislature as electors. The Constitution of the United States provides that the election of Senators to Congress shall be made by the Legislatures of the several States; and that the time and manner and place of the election shall be prescribed by the Legislature. I think these two requisitions are of equal importance, and both necessary to be observed to make a legal election. The Senator must be elected by the Legislature, and he must be elected in pursuance of a law prescribed by the Legislature. If not, it is an irregular and illegal election.

The Senator from Ohio has read extracts from a number of State constitutions, formed before the adoption of the Constitution of the United States, to show how they regulated the manner of electing delegates to the Congress of the Confederation. To my mind that has really nothing in the world to do with the case. It is no guide of light; neither does it furnish any aid whatever. The Constitution of the United States completely changed the form of our Government, superseded the Articles of Confederation, and made an entirely new system. The construction of the Constitution, in relation to the formation of the Senate for which it provides, cannot be aided by a reference to the provisions of the State constitutions for electing delegates to the Congress of the Confederation. You might as well say that, as the State Legislatures then had and exercised the right to recall their delegates to Congress, it followed that inasmuch as the State Legislatures elect Senators under the Constitution, they have a right to recall them. *Non sequitur*. There are no analogies between them at all.

If it be true that the election must be made by the members of the State Legislatures merely as electors, if that be the constitutional principle, then any system existing in a State, by the laws of a State so arranged that a minority of the members of the Legislature can defeat an election, is an unconstitutional provision, defeats and nullifies, and destroys that constitutional principle. That principle is the great one on which this whole argument is attempted to be founded. It is not simply assumed, but it is made the basis, the substratum, the corner-stone of the whole argument, that the members of the State Legislatures are simply electors of United States Senators, and that the other provision of the Constitution which relates to the time, manner, and place of the election, is only a means of regulating the arrangement of the business so as to effect this great purpose first declared. It follows, then, as a matter of course, if it be true, that they are electors all alike, each with the same power, that any provisions which would allow a minority to defeat an election must be unconstitutional. Now, sir, a large part of the States, especially of the older States, the old thirteen, have exactly that state of things and always have had. In the State of Connecticut the Senate and the House vote sep-

arately, and never come together by any law. That Senate being comparatively the minority of the whole body of electors as they are called here, can defeat the majority all the time. Massachusetts is in the same condition, and so is New Hampshire. That is their standing law. I have not looked through the provisions in all the States; I know that the new States have taken a somewhat different course, and how many of the old ones I know not; but clear it is, that, from the beginning, that has been the practical construction put on the Constitution by the States that made it. The three States I have mentioned were three of the old thirteen, and from the beginning, under the Constitution, they have always had and preserved the right of their Senate and House of Representatives to vote separately in the election of a Senator to Congress.

Mr. PUGH. It was not the original practice in Massachusetts, as I have shown.

Mr. COLLAMER. What you have shown is a provision of their old constitution for sending delegates to Congress under the Articles of Confederation.

Mr. PUGH. That remained in force thirty years after the Constitution of the United States was adopted.

Mr. COLLAMER. I know their constitution did; but, if the gentleman will look to their regulations and laws made under the United States Constitution for the election of Senators, he will find that they have always had them just the same way as now.

Mr. PUGH. Can the Senator show that to me?

Mr. COLLAMER. That is the practice and the law in Massachusetts. I have known it to be so for forty years. It is so in New Hampshire and Connecticut—States in my own neighborhood. Mine is a new State; it did not help to make the Constitution, and is not a guide on this point; but these three States have had uniform practice from the beginning. I have always supposed that each State, under the power given to its Legislature to regulate the time, manner, and place of the election, had unlimited power in these respects. If the States have not unlimited power, their authority is to be limited certainly in some such way as the Senator suggests; and they must only exercise their power; so that, after all, a majority of the electors must govern.

Mr. PUGH. Not at all. The same clause that refers to the election of Senators includes the election of Representatives; and some of the States allow a plurality to elect Representatives, and others require a majority. I acknowledge that the method may be changed; but I say that was the established and understood method. It may be changed by legislation.

Mr. COLLAMER. I do not know that I apprehend the gentleman's argument now. I thought I was giving full force to his argument; I meant to do it with all candor.

Mr. PUGH. I do not deny that; but I think the Senator misunderstood me. I expressly said that I did not deny the right of the States to change it, but that that was the method established and understood at the time—the common law of the case.

Mr. COLLAMER. That argument is attempted to be derived from the collating of the constitutions in relation to the choice of delegates to the Congress of the Confederation.

Mr. PUGH. Certainly.

Mr. COLLAMER. You cannot get at it in that way. I have just disposed of that ground. I say that when our Constitution framed the new system of government, it had nothing in the world to do with that. Whether all the States which had a method pointed out for choosing delegates to the old Congress pursued the same method of choosing Senators, I do not know; but under the new Constitution they made their own regulations in their own way, and they have preserved them in the States with which I have been acquainted—the older States—to this day, and they have done it in such manner as to show that the hypothesis that the majority of the members of the two Houses of the Legislature should and must have the right to make an election at all events is unfounded and untrue. If that hypothesis be true, some of the old States that helped to make the Constitution have been mistaken from the beginning, and their whole operations have been wrong

from the foundation of the Government, because they allow a minority to defeat a majority of the two Houses in making an election. I am aware that a man is not a very good judge of his own arguments, but I think I have now entirely and utterly prostrated the whole argument on the other side, and I have shown that it is a hypothesis, an assumption which is utterly unfounded.

Again, Mr. President, much is said on the point that the election of a Senator is not an act of legislation. I do not view the choice of a member of the Senate of the United States by a State Legislature as an act of legislation at all. I know that view is attempted to be thrust on the side with which my opinion is in this case. I do not know but that some gentlemen may entertain that view. I do not. It is not an act of legislation; it is an act of election; but I say that, under the provision of the Constitution, that the election shall be made in a manner and at a place and time prescribed by the Legislature; it requires an act of legislation to prescribe the time, place, and manner. The Senator from Ohio, I am sure, is too good a lawyer to say that he does not apprehend that distinction.

Mr. PUGH. Does the Senator mean, to say that that must be done by an act?

Mr. COLLAMER. I say it must be done by some action that is an act of the Legislature.

Mr. PUGH. Suppose there is no law?

Mr. COLLAMER. I am not talking of any law.

Mr. PUGH. Suppose there is no joint resolution?

Mr. COLLAMER. Then you cannot make an election.

Mr. PUGH. Then the Senator had better expel my colleague and myself.

Mr. WADE. The Ohio Legislature elects by joint resolution, agreeing to go into election on a given day.

Mr. PUGH. But no manner is prescribed.

Mr. COLLAMER. The Constitution says that the prescription of the time, place, and manner, shall be made by the Legislature, and I say that it requires an act of the Legislature, and if the Legislature is composed of two bodies, it must be the separate action of both of those bodies. I know that a construction long continued, though not, perhaps, of very great age, has settled that such an act need not be passed upon by the Governor, because the Constitution requires the prescription to be by the Legislature. Now, I undertake to say that there never was a man who had a seat in this body, who was elected to it, unless the Legislature itself had prescribed the time and place and manner of the election. I do not say that that prescription must be a year old, or ten years old, or ten minutes old; that is totally immaterial, if so be that it is done by the act of the Legislature, if each body has done it. The joint resolution by which they agree to come jointly together may be passed five minutes before the election. When the bodies have passed a resolution of that kind, whether passed years before, or a day before, or a month before, is immaterial; they then agree to come together, and they, by their own act, as separate bodies of the Legislature, agree that the Senator may be elected in that way, and the smaller body give themselves up to the danger of being out-voted by the more numerous branch. Neither is it material whether they vote in separate Houses and count the votes all together, or whether they all meet in one body; so that what is done is by the consent of the two branches, it is the act of the Legislature. That is to say, one body cannot be out-voted by the other without its consent, and that consent is the very thing that gives it force. In those States where they have no law consenting to come together, the Legislature may consent by joint resolution which would, perhaps, amount to a law. If they have a law prescribed beforehand, they may conform to it or repeal it. What I am insisting upon is, that the election must be made pursuant to some act of the Legislature prescribing it.

There is one mode in which I think an election might be made, perhaps, without going through the forms of that prescription. If each House should agree to ballot, and they should each ballot, and a majority of each body should vote for the same man, I think that man would be elected by the Legislature. There must be something,

however, to show the act of the two bodies which compose the Legislature, if there be two—and I believe there is no State now that has not two. The election must be the act of the bodies separately or the act of the bodies jointly, by the consent of them severally. I need not repeat this any more. It is perfectly clear, so far as I am capable of making it so.

Now, sir, the question is, is the election in this case within any of these principles? If not, it is not a good election. Much is said about there having been a convention. Some States have been so long accustomed to elections by the separate bodies of the Legislature, that when you talk to their members about a convention of the Legislature, they hardly understand what it means. Talk to a man from Connecticut, or New Hampshire, or Massachusetts, about a joint convention to elect a Senator, and he never saw one; he may have read of it somewhere; but he never saw an exemplification of such a practice, and he does not know what it is. Such a convention may, however, take place wherever the two Houses of the Legislature consent to it; not otherwise. It is said that in this case there was a convention; and I cannot but remark that the honorable Senator from Louisiana goes over the point again and again about there having been a convention. Why, sir, what was it, and what was it for? The constitution of the State of Indiana provides that the votes of the people for Governor shall be transmitted to the capitol, and delivered to the Speaker of their House of Representatives, who shall on a certain day open them, not naming any particular day; but of course it must be a day before the Governor takes his office. The language of the constitution is:

"The returns of every election for Governor and Lieutenant Governor shall be sealed up and transmitted to the seat of government, directed to the Speaker of the House of Representatives, who shall open and publish them in the presence of both Houses of the General Assembly; and the person having the highest number of votes for Governor and Lieutenant Governor, shall be elected; but in case two or more persons shall have an equal number, and the highest number of votes for either office, then the General Assembly shall, by joint vote, forthwith proceed to elect one of such persons Governor or Lieutenant Governor, as the case may be."

Does that make a convention? The word is not used at all. It makes no convention for any purpose—certainly not by name. It provides that the Speaker of the House of Representatives is to open and count the votes for Governor in the presence of the two Houses of the Legislature. Does that require the action of the two bodies? Neither of them. To be sure, he should, of course, give them notice that he will count the votes at such a time, and at such a place, that they may be there for the purpose of witnessing it. He did it; and the House undertook to get up a resolution with the Senate to agree upon a convention for the purpose of counting the votes. It got over to the Senate; and the Senate, believing that the intention was to push it further than the constitutional purpose, sought to qualify it by providing that no other business should be done than to see the counting of the votes. While they were at work upon that, the Speaker wanted to count the votes—I suppose the time had come; and he sent to the Senate an invitation to attend; he sent it to their presiding officer, who was the Governor elect. That officer got up and told the Senate that he was going to the hall of the House to see the counting of the votes. He went over, and a number of the Senators went with him—I think twenty-six in all; three of the twenty-six saying that they had no participation in it, but merely went to see what was done. I do not know that anybody went there for anything else, honestly. It will be observed that no action was required of this body, except in one contingency; and that was, in case it should chance to happen that two men should be voted for for Governor who should have an equal number of votes—a contingency that probably would not happen in a State so large as Indiana once in a hundred thousand years. I believe they cast more than two hundred thousand votes; and, according to the rule of chances, it could not happen oftener than once in several thousand years that two men would get the same number of votes. Such a possible contingency was provided for. What then? They should proceed, by a vote of the two Houses, which were supposed to be present on the occasion, to make an election between those two per-

sons. The provision is that they "shall, by a joint vote, forthwith proceed to elect one of said persons Governor or Lieutenant Governor, as the case may be." It was an assemblage of men composing the two bodies of the Legislature, to sit before the Speaker for a certain purpose, and in a certain contingency to take action; but not otherwise.

I have not a word to say, and the case does not require me to say a word, as to what would have been the effect on the election of Governor if there had not been a majority of the two Houses present on that occasion. I do not believe it would have affected the election in any way; the Speaker would have counted the votes and declared the result. Gentlemen talk about that convention having inducted the Governor into office. Why, sir, they had nothing to do about it; they did not do anything about it; they simply assembled there to witness the counting of the votes and to act in a certain contingency, which never happened. The votes were counted, and the election declared all right enough. Did any man ever find fault about that? Never to my knowledge. Then, why is it argued over here, a whole hour spent upon it, and we told that we are going to disturb that Governor and Lieutenant Governor whose election nobody ever questioned? I do not know whether it is intended to escape the true point, but the great time spent about that looks to me like an attempt to divert attention from the true question. The question is not whether that man was properly declared elected Governor, and delivered his address to the proper people; not whether he is Governor or is not Governor; but whether those men, thus assembled together, had a right to make an election of United States Senators? That is the point.

Mr. PUGH. Allow me to ask the question, was that Governor rightly sworn?

Mr. COLLAMER. I was not there; I did not hear the oath, or see him take it.

Mr. PUGH. The record says he was rightly sworn. Was that the right place to take the oath?

Mr. COLLAMER. I do not know but that he could take it in any justice's office.

Mr. PUGH. The law says he shall take it in the convention.

Mr. COLLAMER. No, it does not.

Mr. PUGH. I read the law.

Mr. COLLAMER. What law?

Mr. PUGH. The statute.

Mr. COLLAMER. I mean to say that I shall not be diverted from the question of the election of these Senators by getting up a controversy about the election of that Governor. They have no relationship to each other at all. When did the counting of the votes for Governor take place? On the 12th of January. Was not that enough? Nobody ever complained of the election of Governor that I heard of. Have we anything in the world to do with that? Not at all.

But, gentlemen are mightily distressed and troubled, it seems, in relation to a certain Jim Lane; I am sure I care nothing about Mr. Jim Lane. He was once, I believe, Lieutenant Governor of Indiana, and presided in their State Senate, and it appears by the testimony that he was there on the occasion when the Senate organized at this last session. What he was doing exactly at that juncture, I would not undertake to be responsible for. I do not know where he is now. I cannot say whether he is a murderer or not; I have heard stories about it, and read the papers about it; but that has nothing to do with the case. Is it true that Jim Lane did conduct himself wrongfully there? Whether he was armed or not nobody knows. It seems a number of the witnesses were asked whether Lane was armed. They did not know. They were asked, did you hear anything of him? No; but one of them says, he came to me, and when I insisted that the Lieutenant Governor was the presiding officer of the body when the body was organized and not before, and that such had been the usage of the Senate, Lane came and told me I was right, for he had been Lieutenant Governor, and he knew that was the only way he ever took his seat as presiding officer when the body was organized. Lane told that witness that he was right in taking that position, and the witness added, "whether he was armed or not I did not know and did not care." The pains taken on this point seems to me very ex-

traordinary. Is it expected that an election of Senator, taking place on the 4th day of February, could, by any possibility, be affected in its legality by the fact whether Mr. Jim Lane and his associates conducted themselves improperly on the 8th of January before? Or is it supposed that the members of this body are so exceedingly obtuse that they are to be influenced by an argument like that which is sometimes used before a justice's jury, on the idea that if you can get up a prejudice in relation to a transaction that occurred a month or two before, you can persuade the jury, by rubbing their ears very hard, to give a verdict in relation to this transaction, by reference to that with which it had nothing to do? It is not worth while to undertake to answer a thing of that kind, but it is well enough to refer to it, and give the dates.

Governor Willard, who was Lieutenant Governor at the opening of the session, and was inaugurated as Governor elect on the 12th of January, says, in his deposition, that in the forepart of the day of the organization of the Senate, there were irregularities; that is, a part of the members of the Senate, then about being organized, considered that they had a right to select a presiding officer. Another witness states the reason of that. He says that the usage of the State had been to organize the Senate first, and then have the Lieutenant Governor take his seat. The majority of the Senate tried to pursue that course which they thought they had a right to do, and they put a Senator into the chair by the side of the Lieutenant Governor. There were irregularities; but they came to no conclusion; they produced no organization; the Senate did not get into a condition to begin a record; the clerk began no record; and they did not get organized so that he could have anything to record, and he did not record anything, and they adjourned in some confusion. In the afternoon, when the Senate assembled again, Governor Willard says that Senator Burk, who had been called to the chair in the morning, did not take it again; no more was done about it. They then began their business. The Lieutenant Governor called upon the newly-elected Senators, all of whom had certificates of election, and swore them in. There was one of them who had no certificate of his election, and the Senate took a vote upon that question, voted him his seat, and the Lieutenant Governor had him sworn as the others. They were then organized; they went on with their business, and made their record from that time forward.

The honorable Senator from Louisiana complains that they did not record that violence in the morning, and he undertakes to say that the record of the Senate's proceedings is here to be entitled to no credit, and is to receive no currency with this body because they did not record that. I should like to see the gentleman draw up a record of those proceedings, and what they resulted in. I think he would be as much troubled as the man was who was writing a letter for another as he dictated it to him. By and by he was asked, "can you write anything I tell you?" "Oh, yes," said he. Presently the man whistled, and he said, "write that whistle." [Laughter.] I think it would be quite as troublesome to make a record of that morning's proceedings as it would be to write the whistle, and put it in the letter. The truth is there was nothing done to record.

Mr. President, from that day, the 8th of January, all went on quietly; there was no disturbance. Now, what took place? Did the House of Representatives ever pass any resolution for the election of a Senator? Was there any law providing for a joint meeting to elect a Senator? No. The constitution of the State, which directed the Speaker of the House to count the votes for Governor, provided for a meeting of the two Houses, to which meeting it only gave the power to vote for Governor in a certain contingency; but did it give that meeting any right to elect a Senator? No; but a long argument is made that inasmuch as they adjourned two or three times, until they finally elected a Senator, everything is all right; and the Senator from Ohio reads cases here to show that an adjourned meeting can do anything which could have been done at the primal meeting. I do not deny that. The gentleman seems to think that because my name is put down as dissenting from a certain decision in the Vermont courts, I dissented from that prin-

ciple. Not at all. If the gentleman will examine that case a little more carefully, I think he will find why I dissented. The court undertook to say that a manufacturing corporation, at an adjourned meeting, could do anything they could at the principal meeting, and that the principal meeting could do anything they had a mind to do, without any warning. That was the trouble, and that was the ground on which I dissented; and that is exactly the trouble here. That court made that decision in relation to the annual meeting of a corporation. It began in this way: In my State we have town meetings fixed by law, which regulate the general affairs of the town and its officers. They sometimes get into some trouble about a certain piece of business which it was said had not been in the warning. The court, on the whole, concluded that an annual town meeting could do anything it wanted to do. That was a pretty hard decision; but when they got to this private corporation—the case the gentleman read was a manufacturing corporation—they undertook to apply to it the other rule in relation to municipal corporations, and to that application I dissented. I think I should have dissented from the first decision, if I had been present; I certainly did from the last, and I think I can read enough out of the gentleman's own books to support me in that.

I grant that if the convention (if gentlemen prefer that name) which met to see the votes counted for Governor, had a right to elect a Senator, then they had a right to elect a Senator at an adjourned meeting. I have no doubt of that; and I go a little further and say, that if they had a right to do that, and keep the joint meeting along by adjournments, the Senate, by its own adjournments, could not defeat it. But I say, in the case of the honorable Senator from Iowa, [Mr. HARLAN,] this body decided that very point the other way. In the State of Iowa there was a fixed law which regulated the forming of a convention by the two Houses of the Legislature, and provided that that convention should appoint its own officers, and should sit upon its own adjournments. In the election of the honorable Senator from Iowa, the two Houses of the Iowa Legislature met pursuant to that law; they did elect their own officers, and they did sit on their own adjournments. When they could not elect on the first day, they came to a meeting on a second day, and then a majority of each House was present. Failing to elect, they adjourned to meet on a subsequent day, but then a majority of the Senate, instead of going to meet the House in joint convention according to the adjournment, adjourned and did not go there. The minority of the Senate went there, and they, with the House of Representatives, elected the Senator. This Senate, however, decided that that election was not good; and they, therefore, decided that, because a majority of the Senate of the State refused, by their act of adjournment, to go into the convention, they had the power, after the convention was formed by law, to defeat it. They did defeat it; and this body sustained them in it upon the broad principle that the rule was imperative, the requirement indispensable; that in the election of a Senator you must have a majority of both Houses present at the time. That was the decision in that case, the facts of which were as I have just stated; and no man will dispute them. It was decided on that very principle that, because the Senate of Iowa, by a majority, adjourned, they defeated the joint convention already formed by law.

In this case, as I was saying, if it be true that those men collected in that body to see the vote for Governor counted, had the legal right then to go on and make an election of Senators of the United States, their adjournments did not deprive them of that right. I know those adjournments were made in an extraordinary way; that is to say, no vote was taken on adjourning the meeting; but when the votes for Governor had been counted, the Governor elect took his seat, delivered his message, and then the Lieutenant Governor was declared elected, who was of course, *ex officio* presiding officer of the Senate, and he adjourned that convention by his own act, and not by a vote of the body at all. Governor Willard was asked in his testimony, "whether that was not the way conventions in Indiana, of the Legislature, had been usually adjourned?" He said "yes, so far as he knew, and he had presided in

them." They then asked him, "Did you ever know of a convention, if you call it such, a meeting which came to see the votes for Governor counted, being adjourned for any other business?" "Never," said he. He was asked, "Did you ever know of any convention being adjourned for any other business?" "I do not know that," said he, "I have adjourned them;" but the fact is, as he says in his testimony, he never presided at one of those meetings, nor at any joint convention, except one that was created by a joint resolution, and that he adjourned them without day, when they finished the work for which they met. That is his testimony.

Now, Mr. President, I ask where is the authority, where is the law by which this body (assembled for a purpose declared by the constitution, and to be ended with the completion of that purpose declared by the constitution) could remain in existence for any other purpose? Their adjournments could not give them that power. If they had the power to go on and make an election of Senator at the time they were first assembled, that is another thing; but where did they get that power? Was there any such mode as that prescribed in their constitution for the election of Senator? No. Was there anything of that kind in their law? No. Was there any joint resolution of the two Houses ever passed that they would make an election by joint resolution? Never; and no such resolution was passed by either House. The House of Representatives never passed such a resolution; the Senate never did so; the House of Representatives never asked the Senate to pass it. The difficulty of the argument consists in this: it is not shown that the so-called convention had any power to elect a Senator, either at the time they first met or afterwards, and therefore all the argument about the continuance of their power by adjournments amounts to nothing. As the Senator from Ohio says, those adjournments, though irregular, if not objected to, were well enough. The trouble is not with the adjournments; the trouble is, that the first meeting had no such power as was attempted to be exercised at an adjourned meeting.

Mr. President, I might here perhaps conclude pretty much what I have to say about this case, but there are some few things I wish to notice. The honorable gentleman from Louisiana, deems the election irregular, but he states a history of it to show its excuse. Well, what history does he show? He begins back, and lays great stress, and exercises his genius in undertaking to make a picture addressed to the prejudices of the community against Mr. Lane, and the irregularities there on the 8th of January, which, he says, form the excuse for the irregular election of these Senators. How? Where is the relationship? Find me the *sequitur*. Show me how it formed any sort of excuse for it. It would have been well enough if the honorable Senator, in going into this history, had stated what the testimony shows to have been the usage there. The testimony shows that in every instance of a senatorial election in that State, it was always made by a joint resolution, agreeing to go into convention. There never was one made in any other way. The gentleman says there was a law for that. So there was, passed in 1831. The Senator from Ohio thinks that law was repealed in 1833.

Mr. PUGH. Undoubtedly.

Mr. COLLAMER. I say it was repealed earlier than that by several years. In 1843, I think there was a revision of the laws of Indiana, just as there was in 1853; and, in that revision, they repealed all laws not therein excepted, as they did in 1853; and they excepted two provisions in relation to the election of Senator of the United States, and preserved them in their publication; but they are provisions which merely regulated the mode of voting—the *viva voce* form—nothing else.

Mr. PUGH. The constitution provides for that.

Mr. COLLAMER. The constitution was made since; but, by the revision of 1843, the former law as to the election of Senators of the United States was repealed, except to change the mode of voting from the ballot to *viva voce*, and the other was a short statute of comparatively no importance.

Mr. TRUMBULL. The first statute provides for *viva voce* elections in all cases, including United

States Senators; and the next statute repealed that, except as to United States Senators.

Mr. COLLAMER. Earlier than that revision there was a statute that all officers chosen by the Legislature should be chosen by *viva voce* vote. They repealed that in the second law except in relation to United States Senators. These two short statutes were not repealed in the revision of 1843. The other statute of 1831 was repealed by that revision. So, as early as 1843, the act of 1831 ceased to be operative, and yet election after election has been made since 1843, every one of which, according to the testimony, was made by a joint vote of the two Houses after they had agreed by resolution to meet together. On one occasion they failed, and how did they fail? A majority of the House of Representatives was Whig, and the Senate was equally divided. The time came for making an election of United States Senator, and it appears in the testimony, which I do not care to read—I can state it and Senators can correct me if I do not state it correctly—that one of the present sitting Senators from Indiana [Mr. BRIGHT] was the Lieutenant Governor and presiding officer of the Senate, and on two or three occasions, when a resolution was sent into the Senate from the other House to go into a joint convention, he, by his casting vote, outvoted it in the Senate, and when the next year came round the majority was the other way, and he was elected Senator by a joint vote, agreed upon by both Houses. That would be like a little better history of how this came, and furnish some sort of excuse, if any is wanted, why the majority of the Senate of Indiana, last year, were not willing to be outvoted. The other side had always done so when they could, and insisted on it, and they only did the same thing. It was nothing new. They practiced the lesson which the opposite party had taught them; but now it is awfully factious. Then it was all right, especially as it resulted on the right side.

So much in relation to this history. The usage of the State, even when there was no law, was always to bring about a convention by a joint resolution. It so fully appears in the testimony in the case. Some of the witnesses say they were present at every one of the elections; and that they were held in that way. Therefore, nothing can be made out of that; but the usage, in the absence of law, was all agreeable to the constitution, and agreeable to the principles I have stated, sometimes resulting in an election, and sometimes failing, but all satisfactory and right.

Now, sir, it may be said that everything is well enough when you come to any proceeding of this kind, if you do not exactly follow the law, provided no objection is made at the time. Sir, there was objection made. The majority of the Senate believed that even if they went to the meeting to see the votes counted, there would be a snap judgment taken on them by attempting to make an election of United States Senators, or attempting to fix a day to do it; and that is the reason they did not go there, because that unlawful proceeding was contemplated. When the adjournment took place, they, of course, heard that it was proposed to go into an election of Senators. It is said to be presumed to be all right; but the Senate of Indiana, by a majority, protested against that proceeding, before it took place, by a formal protest, which was entered on record. What more could they do? Must they go there and commit themselves, and be outvoted? Were they placed in that condition, as between two stools, that they must fall? Were only these two horns of the dilemma presented: "If you do not come, we will make an election; if you come and enter your protest, we shall have an advantage by that; if you do come, we can get along, because we have a majority?" The proceeding was protested against in all solemnity, and in due form; and the protest is here on the table. What more could the Senate do?

This is about the history of the transaction; at least it is as much of it as I regard of any importance. The whole question at last resolves itself into this: does the fact that the sitting members had a majority of the aggregate number of the two bodies; that they had a number of votes which would have made a majority of the two Houses if they had been together, make an election? If that makes a legal election, they have got it. If that fact alone will not make a legal election; if it

must have the requisites of a law; if it must have any requisites of this kind; if it is true that the minority body may, under the constitution, in the absence of law to the contrary, insist upon their right of deferring and defeating an election; the sitting members are not entitled to their seats. If the minority body have that constitutional right, these people were entitled to use it, and have used it. If they have not that right, Massachusetts, Connecticut, New Hampshire, and many other States, have elected their members under laws utterly unconstitutional. I shall say no more on the subject.

Mr. SEBASTIAN. Mr. President, it is proper, as one of the members of the Judiciary Committee who reported this resolution in favor of the right of the sitting Senators from the State of Indiana to their seats, that I shall say something on the question. I had at first intended to make more extended remarks than I shall now indulge in, for the ground has been fully preoccupied by the Senator from Louisiana and the Senator from Ohio, to whose remarks, always accurate, logical, and eloquent, I listened with both interest and benefit. I shall, without attempting to go over the ground which they have occupied, and in which I can add nothing of novelty to the question, merely state the conclusions which a rather close investigation of the subject has led me to, without giving at length the argument. That task has been so completely and perfectly performed to my hand that I shall not attempt to repeat it.

The points that are involved in this case are, I think, extremely few and simple, though the facts are diffuse, and the illustrations of course are many. The power of electing United States Senators is confided by the Constitution of the United States to the State Legislatures, and the power is also conferred on the State Legislatures to prescribe the time, the mode, and the place of the election, reserving, however, the right to Congress to interfere and change these regulations, except as to the place. This power, under the Federal Constitution, has never been exercised by Congress, and therefore remains where it was originally granted—with the State Legislatures, to determine the time and manner of the elections. In the practice of the different Legislatures, almost every variety of form of the exercise of this power has occurred. In some States it has been interpreted to be, though not a legislative act, yet an act deliberative in its character, and requiring the joint and separate consent of both Houses of the Legislature to consummate the performance of this high constitutional duty. In others again this constitutional function is performed by a joint convention, which, I take it, is nothing more than another form of the Legislature—sometimes brought together by concurrent resolutions of the two Houses, at other times in pursuance or under the behests of a law. There are many differences in the form of the exercise of this power, all of which, however, only go to prove that the law of the State, at last, is to prescribe the form in which the Legislature shall carry out this constitutional power. The time was, in the State of Indiana, when the manner of making elections of United States Senators was prescribed by a law of that State; but at the time when the election of the present Senators took place that law had expired, or rather, by some omission, had been left out of the revised code. I think the Senator from Vermont was not exactly accurate in stating the status of the law on that question, at the time when this election took place. I will stop now, in passing, merely to correct that error, and then proceed with the general course of the argument. The law of 1831 was not repealed by the law of 1843. The whole body of the act of 1831 was then preserved, except the solitary and isolated feature as to the manner of voting. Previously to that, a different form of voting had been pursued. That act changed it, and required them to pursue the *viva voce* form.

Mr. TRUMBULL. I presume the Senator from Arkansas intends to be entirely accurate. I have the revision of 1843 in my hands, and can refer him to the section, which, it seems to me, repeals, without question, the law of 1831.

Mr. SEBASTIAN. I shall be pleased to hear it. Mr. TRUMBULL. If the Senator has examined it, and draws a different opinion from the examination, I will argue that point with him; but I think there can be only one opinion.

Mr. BRIGHT. With the permission of the Senator from Arkansas, I beg leave to say a word. I intend to take no part in this discussion except to correct either a misunderstanding of law or a misstatement of facts from a want of knowledge of them. I will correct a remark made by the Senator from Vermont as to the law of 1831. The law of 1831, the first we had in the State of Indiana regulating the election of Senators to Congress, remained unchanged until the 7th day of May, 1853, except that in 1843 the words "by ballot" were stricken out, and "*viva voce*" inserted. That is the fact. On the 7th day of May, 1853, all laws not reenacted under the operation of our new constitution, by the schedule that was affixed to the new constitution, were repealed, and this law regulating the election of Senators was within that category. This is fully illustrated by the fact that, a year before the election of my colleague and myself took place, the Legislature attempted to pass a law on that subject; but the act that the House of Representatives passed, the Senate refused to pass, and the one the Senate passed, the House refused to pass; and in that way we were left without any statute on the subject.

Mr. TRUMBULL. I will merely state, if the Senator from Arkansas will allow me, that Judge Pettit, a member from Indiana in the other House, stated the fact to me, and referred me to the statutes. The statute of 1843 does repeal the prior act, if I can understand it, and I think there will be no doubt about it, if Senators will look at it. Mr. Pettit was formerly a judge in that State, and is pretty familiar with its laws. He told me it was so, and gave me the statute to show it.

Mr. BRIGHT. The statute will not show it. Elections took place after that under that law. I was elected myself under it, and so was my former colleague, Mr. Pettit.

Mr. SEBASTIAN. I am glad that the controversy has arisen about the construction of this law, because it has had the effect of fixing me more firmly and securely in the opinion I expressed that the original body of law prescribing the manner of electing United States Senators in the State of Indiana continued until 1853, with the exception of a solitary innovation which was introduced by the revision of 1843. That the rest of that law should continue becomes almost a necessary implication when the Legislature interfered merely to change one part of it, the form of its exercise, by substituting the *viva voce* vote instead of the ballot. By simply making the change, it follows that the rest of the law is continued in full force and virtue, else a repeal of the law would not have been left as a mere matter of conjecture or judicial construction, especially when the repeal of laws according to ordinary practice is placed beyond all question by language embraced in affirmative and unmistakable terms. The fact to which the Senator from Indiana adverted, illustrates the view which Indiana herself took on the question of the law. Before the election of the sitting Senators from Indiana, it appears that this very defect in the law was attempted to be obviated, this omission to be supplied, by the reenactment of the law which had expired in 1853, or rather was omitted in the compilation of the new code.

That, however, Mr. President, in the view which I take of the case, becomes of but small importance, since if there was no law from 1843 to 1853, that Legislature was acting precisely within the exercise of the same sovereign right as the subsequent Legislature did in the election of the sitting members; and it only illustrates the force of that saying founded in justice, and truth and reason, that where a body is exercising a right without law, the body is a law to itself. I believe it is said that those who have no law are a law unto themselves. This maxim has the highest sanction of justice and common sense.

I have said that, at the time this election was made, there was no law of Indiana prescribing the time and mode of accomplishing this constitutional function. In the exercise of this high right, they were left entirely without restriction, untrammelled, without fetters, without prescribed forms, and subject to no limitation, except, as the Senator from Ohio justly said, such as the principles of common sense and right reason would impose. That Senator said he recognized one limitation—that the proceeding must be just, must be fair, must be of a kind to give notice to all

parties, and afford every qualified elector an opportunity of exercising his constitutional right. Being thus without any prescribed statute governing the election as to time and manner, it was left for Indiana herself to determine, under the exigencies of the occasion, the mode in which she would discharge this constitutional duty. She did so, and a convenient form, a constitutional institution, was found adapted to her hands, and exactly answering the purpose. It was that of a joint convention, a constitutional creature, invested with certain powers, and, in exercising these powers, performing the duty of electing a United States Senator. This joint convention, created by the constitution of Indiana, and recognized in the practice of other States, I have said, is but another form of the Legislature. It is not both Houses acting as coordinate branches, in separate chambers, with separate organizations; but it is a joint convention, in which the distinct existence of each House is lost in the unity of the joint body. It is, after all, the Legislature under a different name; it is one form in which the Legislature elects United States Senators in pursuance of the Federal Constitution.

This joint convention, therefore, met for the purpose of performing a duty enjoined on it by the constitution of Indiana, was a deliberative body called together in pursuance of the constitution, acting in pursuance of prescribed form; and if no form was prescribed for the government of its proceedings, it was left, like every other deliberative assembly, to adopt its own forms of procedure, to meet at its own motion, and to adjourn at its own will. This convention, when it met for one constitutional purpose, was authorized to perpetuate itself until its full constitutional duty was performed and discharged; else the constitution would have enjoined upon it a duty without adequate power to discharge it. It would have required a duty to be discharged at its hands, and deprived it of the means of performing it. This, of course, could not have been intended. Although the law which formerly regulated the election of United States Senators was repealed in 1853, there was a usage of the old conventions which was preserved. It was the right of the presiding officer of the joint convention to adjourn it and to call it together again on his own motion. It was not a right which he usurped, for long usage had established it, and the Houses of the Legislature had always acquiesced in this exercise. It became, therefore, prescribed law; not written, but having all the force and obligation of law, as if it had been written in the statutes of the Legislature. This, however, was no part of the law under which these gentlemen were elected. It was simply a law which determined the authority of the presiding officer, and shows that in exercising the power of adjourning the convention and calling it together of his own will, he acted not in the exercise of usurped authority, but as the oracle, the constituted mouth-piece of the convention. When, therefore, the President of the joint convention adjourned it, and called it together again, that was the act of the convention; it was the act of their oracle, their authoritative mouth-piece, acquiesced in by the convention. Not a voice was heard to murmur or complain of it, either to dispute his authority or to deny the fact, which is unquestioned, as the proclamation of adjournment and the meeting together again would infer.

Coming next to the powers of this convention, I say it was a constitutional institution, formed under the constitution of Indiana, with certain duties and functions imposed on it, having the ordinary powers of deliberative bodies, speaking and acting through its presiding officer, in pursuance of a usage which had the force of law, and having all powers which like deliberative bodies possessed. It mattered not whether the power to elect Senators was previously conferred on it by statute or not. It derived its power from as high a source—the usage of previous Legislatures and the unanimous acquiescence of the members. With what higher sanction could power be conferred than this? I will not now go into a detail of the facts and incidents of this election. It is sufficient to say that the joint convention thus organized, unrestrained by law, governing itself according to its constitutional usages, proceeded to the discharge of this constitutional duty and consummated the election of United States Senators. It

was done by the action of a majority of the qualified electors of the two Houses. It is not necessary, according to the view which I take, that there should be a majority of each House concurring in making the election. It so happens, however, that in this case, there was a majority of the qualified electors of each House. There is no question made as to the fact that there was a large majority of the House of Representatives, and the only point of dispute is as to the majority of the Senate. I have said that I do not regard this point as material; but inasmuch as the facts in regard to it answer, to a considerable extent, the arguments of the Senator from Vermont, I will notice it here.

The Senate of Indiana consists of fifty members. One legally-elected member did not appear. This left forty-nine seats. Three of these seats were occupied by persons who, by the laws of Indiana, could not take their seats, except by mere usurpation, until the elections by which they claimed seats were determined. One appeared there without credentials at all; and his admission appeared to me to be unprovoked and gratuitous. Two others had the form of a certificate of election; but, according to the law of Indiana, a legal contest had been instituted, and the effect of that contest was to suspend whatever rights they had acquired—to vacate and void the seats until the contest was determined. That provision of law was made to avoid the very mischief which arose out of the usurpation of the Senate of Indiana in this case by the admission of improper persons. It was intended to prevent contests between a sitting member on the one side and a contestant on the other, and for that purpose it arrests and suspends at once the election, and holds it up until the result of the contest is determined. I take it for granted, therefore, as a proposition which cannot be successfully contested, that these three seats were void because not legally filled; and, if filled, they were filled by members who were such *de facto* only; they were filled by a proceeding which was revolutionary and disorganizing; they were filled by persons voted in contrary to the forms of law, and in violation of its prescribed provisions. I take it, then, that they formed no part of the qualified electors of that select college of suffragans, to use the language of the Senator from New York [Mr. SEWARD] on another occasion, upon whom devolves the duty, and whose right it is to elect United States Senators. Subtracting from fifty the three members whose admission to seats was a naked usurpation, the legal Senate of Indiana consisted of forty-seven. On the occasion of the election of the sitting members, there were twenty-four members of the Senate who attended, who followed the presiding officer, who admitted themselves to be an organized convention, and as such complied with the invitation of the House of Representatives. Those twenty-four were a majority of forty-seven. Thus, Mr. President, there was the concurring choice in favor of the sitting members of both Houses of the Indiana Legislature—the act of the majority concurring in the election within the meaning of the Constitution of the United States.

The Senator from Vermont seems to indulge in a kind of technical objection in his attempt to construe the provision of the Constitution which gives the State Legislatures power to prescribe the manner of the election. He is, however, frank enough to admit that the prescription of the mode need not be by a statute. It may be five years; it may be one year; it may be five minutes; it may be the moment before the Legislature makes the election. This point I have already illustrated. I have shown that there was a joint convention of the Indiana Legislature called by the constitution of the State. The Speaker of the House of Representatives, regarding himself impelled to this duty by constitutional obligation, sent an invitation to the members of the Senate to appear in the convention, and take part in the election of the United States Senators. They did appear: consequently the election was the act of each House of the Indiana Legislature, acquiesced in by the members; and no one controverted the propriety of the mode adopted. It needed no statute; it needed no form of a joint resolution; it only needed some plain and unmistakable act, which showed the consent of the two Houses of the Legislature to the act. Against this, and against the proposition that the Senate acquiesced as a body, what

has been arrayed here? The resolutions of a factious minority of the Legislature, denouncing it as a usurpation, and declaring that they would have nothing to do with it; and that at a time when they were not in organized session as a Senate; when the presiding officer, the clerk, the sergeant-at-arms, and all the paraphernalia which constitute the external insignia of parliamentary representation, were absent. They resolved themselves into a Senate, without a head, without a clerk, and without a constitutional majority, and decided that those who complied with the constitution, and availed themselves of the invitation of the Speaker of the House to perform a constitutional duty, were not the Senate of Indiana.

This revolutionary and irregular act is the only evidence which has been appealed to as showing that the Senate, as a distinct body, was not a party to this organization; but the Senator from Louisiana well put the case when he said if they complied with the invitation of the House of Representatives, they performed their duty under the constitution; and if they resisted or failed to notice it, they neglected their constitutional duty; so that in either case there was a higher law than a mere resolution obligatory on them—as obligatory on them to perform the duty of electing United States Senators as it was to come together and see the votes counted for Governor and Lieutenant Governor. There can be no distinction in the character of the obligation on them. The only distinction is in the character of the acts. Both were constitutional; both were of an elevated nature; both were required to be done by both Houses of the Legislature; and that no factious minority, no rebellious proceeding, no irregularity might prevent the discharge of these high duties of the Legislature, their constitution commanded it. It mattered but little how they complied or when they complied, so that both Houses of the Legislature were there. It formed that college of electors denominated by the Senator from New York a college of suffragans, who vote *per capita*, and a majority of whose votes constituted an election. It has not been pretended here that it is necessary to have a majority of each, and that shows that the distinctive character of the two Houses is lost in the unity of the joint convention. They resolve themselves into different elements. The distinct character of each House is gone, and they act together in the form of a joint convention. Hence the question is never made as to what part of the members of either body vote for the successful competitor so that he receives a majority of the whole.

There is only one other point to which I will advert, and that is the bearing which the decision of the Senate in the case of the Senator from Iowa is supposed to have on this case. We are often pointed to that as a decision of the Senate which ascertained the rule to be different from that which coincides with the views of the majority of the Judiciary Committee in this case. I find no difficulty in reconciling the two cases together. The proposition with which I set out was, that in the election of United States Senators, Congress having failed to prescribe any manner for the exercise of the power, it was left as an unrestricted and unrestrained right to the State Legislature; and the consequence is, that the law of the Legislature becomes the supreme law of the case; and it is because Indiana had no law to violate that I find my conscience easy to vote for the sitting members here. It was because Iowa had a law which was violated that I could not find it consistent with my duty to vote for the retention of the seat by the then occupant of the Iowa seat in this body. Indiana had no law. Iowa had one which required that the election of United States Senators should be by a joint convention of both Houses of the Legislature, brought together by a concurrent resolution of each House, acting as separate Houses and as coordinate branches of the Legislature. Well, sir, they did come together. The origin of the convention was, in pursuance of that law, the result of the separate action of each House, and the separate consent of each House was necessary to its continuance and to the consummation of the act.

When, therefore, the convention of Iowa, constituted by concurrent resolutions of the separate bodies of the Legislature, came together, they were a constitutional convention, and were in-

vested with the power of electing United States Senators; and, had that Senator been elected by that body thus brought together, in conformity with the law of Iowa, I would not have found a word to say against his retaining his seat; but the Senate of the State of Iowa, whose voice was necessary to constitute that convention, whose continuing assent was necessary to its continued existence, withdrew as a Senate from the body, and destroyed the entity of the joint convention. The withdrawal of its assent by a branch of the Legislature was a resolution of the joint convention into its original elements. They then constituted, as they did before, the House of Representatives and Senate of Iowa; the joint convention was gone; it had been destroyed by the act of the Senate, whose continued assent was as necessary to its continued vitality, as its original agreement was to the constitution of the convention. I will not say when one House has tied its hands by concurrent resolution, whether it is exactly legitimate, whether it is precisely regular, for it to withdraw; but that is not the question here. The question is not whether they did right or wrong in that case; but how was the fact? They did withdraw, the Senate was gone, and the joint convention was dissolved. The Senator from Iowa was elected, therefore, by the House of Representatives of his State contrary to the express action of the Senate in a case where, by the law of the State, the Senate had a right to say that it would partake in it. The cases, then, are very different. Iowa had a law to be respected; Indiana had none to be violated. Iowa violated her law in the election of her Senators; Indiana could violate no law, and be guilty of no irregularity, for she made the law for herself, according to the exigency of the case, and did so in the exercise of a right expressly referred to her by the Constitution of the United States. That she did so legally, constitutionally, and fairly, I think has been placed beyond all question by the Senator from Ohio in his learned and logical remarks in this case.

But this is peculiarly an Indiana question. It is a question whether the law of Indiana has been violated, the provisions of her constitution invaded; and what says the constituted authority of Indiana herself? I understand the fact to be, and I believe it is not questioned here, that when an appeal was taken to the highest judicial powers of that State, the highest law officers of the Federal Government and of the State, the opinion was unanimous, decided, conclusive, in favor of the power of the Legislature to elect under the circumstances they did. I believe it was the fair and honest desire of those who sympathized in the success of the sitting members to obtain the unbiased expression of the highest judicial opinion in the State in favor of the power that produced the last adjournment of the joint convention three or four days preceding the election. It was fair; it was honest; it was a feast to which all were invited; it was the exercise of a right which every one who was qualified had a fair opportunity to exercise. There was no setting a trap in which to catch the unwary. It was no trick by which to cut off those who were entitled to the right of suffrage from the fair opportunity of its exercise. On the contrary, the fact was notorious, although not proclaimed in the form of a proclamation, that when the convention met the last time, it was for the very purpose of electing United States Senators. Still those who willfully absented themselves, failed to go forward and avail themselves of their fair and equal opportunity to exercise those high rights which they, by sleeping upon, have lost; and by failing to exercise which, they have lost the right to complain.

Mr. President, I have gone further than I intended when I first rose. I have not accomplished my original purpose of merely stating my conclusions, but I have indulged in arguments more than I anticipated. I submit the case.

THE PRESIDING OFFICER, (MR. CLAY.) The question is on the amendment of the Senator from Maine, [MR. HAMLIN.]

Mr. GREEN. I suggest the propriety of voting down the amendment, as we shall discuss the merits of the case anyhow, and not the propriety of recommending it.

Mr. TRUMBULL. I move to amend the amendment by adding to it:

And that, in the opinion of the Senate, no election of a member of this body, made by the Legislature of a State,

consisting of two branches, is valid when made in a meeting of individual members of both, unless such meeting for that purpose was prescribed by law, or had been previously agreed to by each House acting separately in its organized capacity, or is participated in by a majority of the members of each House, or is subsequently ratified in some form by each House in its organized capacity.

Mr. MASON. I shall vote against the amendment that was offered in the first instance, because I take it for granted that a committee of this body is competent to report as it thinks fit, either by a report at length, or by resolution expressing the judgment to which it has arrived. But this amendment, offered by the Senator from Illinois, is one that would commit the Senate to a series of abstract propositions, when we are here passing upon an individual case. I do not see that it can recommend itself to the vote of any one.

Mr. TRUMBULL. I will state my object in offering the substitute, which is, to show distinctly the principle involved in the decision to be made. The Senator from Virginia will observe that the committee have made no report, and there is some dispute as to the principle on which the Iowa case was decided. If we knew on what principle that case was decided, it would form a precedent for other cases. Is it not desirable, I would ask the honorable Senator from Virginia, that, in deciding these questions, which are eminently judicial, and about which there ought to be no other feeling than to give a proper construction to the Constitution of the United States as applied to the action of the State Legislatures—is it not highly important that we should settle them upon principles that will form precedents and relieve us of these constant difficulties? I presume no Senator would settle this case upon a different principle from that established in the Iowa case, unless, perchance, he should be satisfied that the decision then made was wrong; and is it not important that the principle on which this class of cases is to be decided should be clearly defined? If there was a report, that would help us to do it; but in this particular case there is no report. I have drawn up the amendment with some care, and if the gentleman will look at it closely, I think he will find that he cannot vote against it consistently with the decision in the Iowa case.

Mr. GREEN. Will the Senator give way for a moment?

Mr. TRUMBULL. Certainly.

Mr. GREEN. It is so near the close of the session that I should not like to engage in the discussion of abstract questions. There is a practical question before us that has but two sides to it. The Senators from Indiana are either legally elected or not elected. Let us take it in its simplest form, and discuss this abstraction at the next session, or some subsequent period. I think economy of time ought to have some regard. The present question, of course, must be attended to. I make that suggestion to the Senator and request him to follow it.

Mr. TRUMBULL. I presume the Senator from Missouri agrees with me, that we are to decide this as a judicial question. He must regard himself as acting in the capacity of a judge in settling it. Will he not admit at once that, in the decision of a judicial question, care should be taken that it be decided carefully, and that the principle upon which it is decided should be clearly and distinctly established? He would be as far, I trust, as I am, or any one else, from allowing the judicial opinions of the Senate to be varied by cases one way to-day and another to-morrow.

I have drawn up the amendment with great care, and have provided that an election of a United States Senator, in a meeting of individual members of a Legislature consisting of two branches, is not valid; unless, first, that meeting is in pursuance of some law for that purpose; or, second, has been agreed to by each branch of the Legislature, in its separate capacity as such; or, third, unless the meeting consists of a majority of each branch of the Legislature, or is subsequently acquiesced in and ratified by each branch. That covers this case. These gentlemen were elected by a meeting of individual members of the Legislature—not in pursuance of any law of the Legislature; not in pursuance of any resolution of the two branches of the Legislature, acting as such; not by a majority of the members of each branch of the Legislature; nor is there any subsequent

ratification, in any form, by each or either branch of the Legislature acting in its separate capacity.

That being so, let us settle in this decision the principle whether an election made under such circumstances is a valid election or not. It seems to me that this is exactly the place, and the proper place, for the consideration of these principles, because they are necessarily involved in the decision to be made. The Senator from Missouri says, "let us take up these abstract questions and decide them hereafter." Why, sir, we should not, as judges, be engaged in laying down abstract principles of law not applicable to the case in hand. Principles thus declared would be mere dicta and without authority. This amendment, in my judgment, covers the present case, and, therefore, I have offered the proposition; and upon it, I may as well say at this time what I have to say in regard to the case; and I regret that on so important a question the chairman of the Judiciary Committee, [Mr. BAYARD,] who, I understand, agrees with me, that the gentlemen claiming seats are not legally elected, does not participate in this debate. He could present, much better than I can expect to do, the reasons for such a conclusion, and I regret that he does not think proper to do it. I remember very well, Mr. President, that when a case somewhat similar to this was pending, he opened his remarks with this declaration. I quote it as applicable to this case:

"Mr. BAYARD. If I did not consider the principle involved in the decision to be made by the Senate in regard to the right of the gentleman from Iowa to a seat in this body, as the gravest and most important, in reference to the organization of the Senate, that has ever come before us, I should not trouble the body with a single remark."

He regarded a similar question as one of the gravest and most important that could come before this body; and now, as chairman of the Judiciary Committee, I know the Senate would feel an interest in having his views upon this case. I regret not to see him in his seat to-day, and presenting them to the Senate.

I have another regret in regard to this matter; which is, that so important a question as this is to be argued before so thin a Senate. Our arguments on this question are not, as is sometimes said of discussions on other subjects, for Buncombe; they are for ourselves; and here, upon this important question which you and I, sir, are to decide as judges, and every individual member is to decide as a judge, how few do we see in the Senate to listen to the case and examine its facts. I could wish that Senators would examine it. What the Senator from Delaware said in the Iowa case is eminently true: this is a case which goes to the organization of this body; and though you may refuse to declare the principle upon which you decide it in a clear and a tangible form, yet the fact that you have decided it, and the fact that the persons hold seats, or are refused seats, under the circumstances, will be an important one to the country. Although I have paid particular attention to this case from the fact that the papers were originally intrusted to me by the Senate of Indiana, I am almost discouraged from attempting to argue it, when I see how little possible effect any examination of the facts or any views I may present, can have on the Senate when so many of its members are absent; yet, sir, I feel that I have a duty to discharge in connection with it. I wish to say here that I have no other feeling about it than to decide it rightly. I am glad that we are coming to a decision of the case upon its merits, not to cavil about disputed points; and I trust we may decide it upon principle. If the gentlemen holding seats are entitled to them, I shall cheerfully so vote. If not, if the best consideration I have been able to give their case from the time it was first presented, satisfies me that they are not entitled to their seats, of course they cannot expect, and I cannot give, a vote in their favor.

Now, sir, what are the facts? We must have a clear idea of the facts of a case before we can properly decide it. The gentleman from Ohio [Mr. PUGH] has gone over them. He has not misstated any material fact that I am aware of, but at the same time has stated many facts which, I think, are calculated rather to confuse than give a clear idea of the case. For instance, the Senator, in his statement of facts, occupied a good deal of time to show that there was a great disorder on the day the Senate of Indiana first met, before it

was organized. Sir, have we anything to do with that? It was at one time sought to be made an important question by an assumption that the Senate consisted of only forty-seven members. That was the chief ground on which one of the claimants originally placed his right to a seat, in a written statement filed for the purpose of taking testimony in regard to the organization of the Senate and the joint meeting by which he was elected, wherein he alleged that "he was elected whilst in such joint convention by a majority of the legally qualified members of the Senate of the State, and of the legally qualified members of the House of Representatives respectively." He made that statement, and it was on that statement that testimony was sought to be obtained.

Well, sir, the testimony has been taken, and it has swept away the points then made. It matters not what was done in the organization of the Senate of Indiana on the morning of the day when it met. If there were disorder, confusion, and irregularity, they were all cured by the regular organization which was subsequently effected. Can the irregularity on the morning that the Senate met, the 8th of January, 1857, have, by possibility, anything to do with the legality of the election which occurred on the 4th of February following, if, in the mean time, the Senate was regularly organized? If not, why dwell upon such facts? To bring the facts distinctly before the Senate as to what did occur in the organization of the State Senate on the day it first met, I will read from the testimony of Governor Willard. In answer to this question:

"State what Senators held over, and what persons were sworn into office on that day as Senators, and by whom." Governor Willard said:

"The Senators who held over were: Samuel L. Rugg, W. C. Tarkington, Le Roy Woods, Richard D. Slater, A. R. McCleary, John Mathes, A. J. Hostetter, William Mansfield, W. B. Richardson, C. K. Drew, George W. Brown, James F. Sutt, David Crane, G. W. Chapman, John R. Gravens, J. T. Freeland, David R. Beers, Algernon S. Griggs, John Weston, P. S. Sage, S. T. Ensey, D. H. Crouse, Lewis Burk, James F. Parker, and J. J. Alexander, who was not present on that day—in all twenty-five. The Senators who were sworn in on that day were: James E. Wilson, Archibald Johnson, David Saunders Gooding, Lewis Wallace, David McClure, Robert W. Fisk, Hugh Miller, John Slater, Horace Heffner, William E. McLean, John Hargrove—all these were sworn in by me as presiding officer of the Senate. Charles D. Murray, Walter March, Alanson W. Kendry, John F. Stevens, Isaac Kinley, John Green, Morgan H. Weir, Solomon Blair, Daniel Hill, John Yarrow, John S. Bobbs, Isaac A. Rice, Stanley Cooper, and John Thompson, were sworn in by Samuel B. Cookins, a judge of the supreme court, under the direction of Lewis Burk, in the forenoon of that day."

"In the afternoon of the same day all the last-named Senators, who had sworn under the order of Senator Burk, with the exception of Mr. Stanley Cooper, were, under my order, sworn in by Judge Cookins, as Senators. Afterwards, under the order of the Senate, I administered the oath to Stanley Cooper; making in all, including the Senators holding over, fifty."

In answer to another question, he said:

"I was at the time Lieutenant Governor of the State, and, as such, presiding officer of the Senate, and was present all the time on that day when any business was done."

Again:

"All the men above named acted as Senators during that session, as far as I am informed, at least I never heard of the death of any of them; no resignation of any of them was filed with me, and no expulsion of any of them was certified to me."

This evidence makes out forty-nine Senators. The Senator who was absent, and was one of the Senators holding over, Mr. Alexander, as appears by the journal which I have here, appeared a day or two afterwards in his seat.

Now, sir, we have got so far in the investigation, that the Senate of Indiana was regularly organized on the afternoon of the day when it convened, the 8th of January, 1857. There is no doubt of that. It consisted of fifty Senators. The Senator from Arkansas, [Mr. SEBASTIAN,]—and, lest I should forget it, I will mention it right here, as it is in this connection—says, that three persons were not qualified as Senators. How is that? The constitution of the State of Indiana declares that—

"Each House shall judge the election, qualifications, and returns of its own members."

Each House decides it. That is the constitution. I shall not inquire whether all the Senators had certificates of election or not; it is wholly immaterial. Surely no Senator of the United States will undertake to revise the decisions of the Senate of Indiana as to the qualification of its own members. Why, sir, during the short period that

I have held a seat in this body, I have seen Senators sworn in without the presentation of any credentials, the Senate being satisfied of their election, notwithstanding the omission to file a certificate of the fact. Does that invalidate the title of the Senator to a seat? But, sir, each of the three Indiana Senators whose seats were contested were, at a subsequent period of the Legislature, declared, by majorities of six or eight, to be entitled to their seats, and were confirmed in them, after investigation, by distinct and separate votes in each case. It was not before the election of United States Senators that that decision was made; but I suppose that is a matter of no sort of importance. They were regularly qualified on the afternoon of the first day of the session. I take it it is so manifest to every candid and impartial mind that any irregularity in the morning of the day when the Senate met could not affect the legality of the organization of the Senate regularly in the afternoon of the same day, that I will be pardoned for not dwelling on that point further. The three State Senators whose seats were contested were admitted like the Senators from Indiana in this body, who have been acting with us for more than a year. Does anybody contend that their action as Senators has been illegal here, even if the Senate should now decide, on an examination of the case, that they were not entitled to their seats? Such is not the law, and will not be contended for by any one. They are Senators in fact, and their acts are binding, whatever may be our decision to-day when we come to take a vote on their ultimate right to retain seats in this body.

Then the Senate of Indiana consisted of fifty members, and the House of Representatives, as all admit, consisted of one hundred. The sitting Senators were elected in this wise. By the constitution of Indiana, it is declared that:

"In voting for Governor and Lieutenant Governor, the electors shall designate for whom they vote as Governor, and for whom as Lieutenant Governor. The returns of every election for Governor and Lieutenant Governor shall be sealed up and transmitted to the seat of government, directed to the Speaker of the House of Representatives, who shall open and publish them in the presence of both Houses of the General Assembly."

The presence of the two Houses to witness the opening of the votes for Governor, &c., is called by the Senator from Ohio a joint convention. The constitution does not so term it. It merely declares the duty of the presiding officer, which is to open and publish the votes in the presence of the members of both Houses. The next section provides that:

"The persons respectively having the highest number of votes for Governor and Lieutenant Governor shall be elected; but in case two or more persons shall have an equal, and the highest, number of votes for either office, the General Assembly shall, by joint vote, forthwith proceed to elect one of the said persons Governor or Lieutenant Governor, as the case may be."

In this particular case the contingency did not arise. The canvass of votes showed that Mr. Willard was elected Governor, and Mr. Hammond Lieutenant Governor, and they were so declared. There was an end of the meeting. It was *functus officio*. It had discharged its duty. It could be adjourned for no other purpose under heaven, either by its presiding officer, or by a majority of its members. The "summons," as it was termed by the Senator from Ohio, under which a portion of the Senate went to the House of Representatives, was an invitation on the part of the Speaker, or a notice to the President of the Senate, that at such a time he would open these votes, and inviting the Senate, with their presiding officer, to be present—not to do any business—not to adjourn the convention—not to do anything under heaven but to see him open these votes. Suppose all the Senate went there: when the votes were opened, and some one individual had a majority for each place, the duties for which they had assembled were ended.

Now, sir, this meeting on the 12th of January had nothing to do with the election of Senators, and I trust that the few Senators who give me their attention will remember the date when it took place, the 12th of January, while the election of Senators took place on the 4th of February following. The two meetings had no connection with each other, and it is not very material how many Senators followed the Lieutenant Governor to witness the opening of the votes for Governor. In point of fact the number of Senators who went into the House of Representatives at

that time was twenty-six. Three of these, however, went in as mere spectators, taking no part in the proceedings, as they have testified on oath. Their being there as spectators did not by any means commit them to the action of that body, and as a clear exposition of this point of the case, acquiesced in at the time by the Senator from Georgia and others, I refer to the debate in Mr. HARRIS's case, from Iowa. The Senator from Vermont, [Mr. Foor,] interrupting the Senator from Georgia, [Mr. Toombs,] said:

"The Senator from Georgia has seemed to assume a fact that does not exist, against himself and against his argument. In point of fact, the record of the proceedings does show the presence of a majority of the Senate in that joint convention. Fifteen Senators actually voted. It required sixteen to constitute a majority; and Mr. Ramsey and Mr. Thurston, of the other party, were present, but requested not to be considered members of the joint convention; so that there was present an absolute majority of the Senate."

"Mr. Toombs. I saw that they were present, but not assenting to these proceedings; and therefore I did not make any point on their mere corporeal presence."

"Mr. PUGH. The Senator from Georgia should recollect they were called in by the sergeant-at-arms."

"Mr. Toombs. I make no point on that."

In the Iowa case, a majority of the House and a majority of the Senate were actually present when the election took place, but two of the Senators desired to be considered as taking no part in the proceedings, and were so regarded in this body. Three of the Senators in Indiana went in as spectators, and had nothing to do with the proceedings at the time the votes for Governor and Lieutenant Governor were counted on the 12th of January. So, sir, I suppose it was not a matter of any importance how many members of the Senate may have been actually present when the votes for Governor were opened by the Speaker of the House, who took no part in the proceedings. This meeting, after the Speaker had published the vote for Governor and Lieutenant Governor, was by a Senator declared adjourned to a subsequent day—not the day when the election took place, but to the 2d of February, without stating for what purpose. It was not declared adjourned by the Lieutenant Governor, but by some Senator called to the chair.

Mr. PUGH. Does the Senator from Illinois mean to say that that Senator was not the presiding officer?

Mr. TRUMBULL. I mean to say that he was only presiding officer by being called at that moment to the chair.

Mr. PUGH. When Governor Willard rose to take the oath of office, Mr. Gerry, at that time presiding officer, gave the chair, as is very common, to one of the Senators, and that Senator filled the chair at the adjournment by the appointment of Governor Willard, who was, at the time he made the appointment, Lieutenant Governor and presiding officer of the Senate.

Mr. TRUMBULL. A Senator was called to the chair, as the Senator from Ohio remarks, probably correctly, by Governor Willard. I do not recollect whether the journal shows that or not; it is not material. A Senator was called to the chair, and he declared the meeting adjourned to some subsequent day, without stating any purpose for which it was adjourned. When that subsequent day arrived, a portion of the Senate, with the new Lieutenant Governor, again repaired to the hall of the House, and there again this meeting was declared adjourned to the 4th of February. Before the 4th of February arrived the Senate of Indiana took action upon this subject, and not, as the Senator from Arkansas seems to suppose, in an irregular way. On the 29th day of January, before either of these adjourned meetings of the members of both branches took place, in what was called a joint convention, a preamble and resolution were offered in the Senate of Indiana in regular session. That preamble, after setting out the irregularities under which a portion of the Senators had repaired to the House of Representatives on the 12th of January, and after reciting that it was reported there was an adjourned meeting to be held, declared:

"That this Senate does disclaim any knowledge of, or participation in, any meeting or so styled joint convention for the above or any other purpose; and if, at any adjourned meeting of said body, it is proposed to have any election for United States Senators, or other officers, or to transact any other business which it might be competent for, or the duty of, this General Assembly to elect or perform, this Senate does hereby most solemnly and earnestly protest against any such action as wholly unauthorized by this House, without its knowledge, consent, or concurrence, and that we will here, as elsewhere, now and forever, repudiate and

disown such act or action as flagrantly illegal, and a fraud upon the sovereignty of the people and the State of Indiana."

"Mr. Tarkington moved to refer the preamble and resolution to the Committee on the Judiciary."

"Ayes 20, noes 27."

"The question recurred upon the adoption of the preamble and resolutions."

"Those who voted in the affirmative were—Messrs. Beards, Blair, Bobbs, Burk, Chapman, Cooper, Crane, Cravens, Crouse, Ensey, Freeland, Green, Griggs, Hendry, Hill, Kinley, March, Murray, Parker, Rice, Sage, Stevens, Sull, Thompson, Weir, Weston, and Varyan—27."

"Those who voted in the negative were—Messrs. Drew, Fisk, Hargrove, Heffren, Hostetler, Johnson, Mansfield, Mathes, Miller, McCleary, McClure, McLean, Richardson, Rugg, Slater of Dearborn, Slater of Johnston, Tarkington, Wallace, Wilson, and Woods—20."

So the resolution and preamble were adopted in a Senate of forty-seven members, at a regular meeting of the Senate, on the 29th day of January.

Mr. PUGH. I want to call the attention of the Senator to the fact that neither that preamble and resolution, nor any others, were ever notified to the House.

Mr. TRUMBULL. I do not know that they were ever notified to the House, nor do I suppose it was at all material that they should be notified to the House. I take it the House could not get the Senate into a joint convention without the Senate's knowledge and consent, and if the meeting assembled to count the votes for Governor was by a Senator declared adjourned to a subsequent day, here was the action of the Senate in advance of that day, and nearly a week before the election of Senators took place, repudiating and disowning whatever might be done at such adjourned meetings. At a subsequent day, on the 4th of February, another of these adjourned meetings took place; and who were present at the time? Twenty-four Senators and sixty-two Representatives, a majority of the House and a minority of the Senate. Of those twenty-four Senators one voted blank—that is on the election of Mr. Fitch; on the election of Mr. Bright but twenty-three Senators voted; the other Senator refused to vote at all; so that even if the Senate consisted of only forty-seven members, twenty-three would not be a majority, and the one refusing to vote, on the principle decided in the Iowa case, could not be considered as present for any purpose. These elections, then, were made by a minority of the Senate and a majority of the House, but less than a quorum of either. However, I shall not dwell upon that point, because it is not necessary in this case. The constitution of Indiana requires two thirds of each branch to be present to constitute a quorum to do business. It is immaterial here, because a majority of one branch was not present at the time these supposed elections took place.

Now, sir, we have before us all the facts about this election. I have said but little about the organization of the Senate of Indiana at the beginning of the session, because it has nothing to do with the case. I have shown how and by whom the sitting Senators were elected. But the Senator from Louisiana makes this point: that the House journal containing the proceedings of the so-called joint convention, is conclusive to show that the Senate of Indiana attended and participated in the election. I do not suppose that I shall be able to say anything that will enlighten the Senator from Louisiana on this subject, but my reply to that point is, that one House cannot bind the other by incorporating in its journal what purports to be the action of both in a joint convention. The constitution of Indiana requires each House to keep a journal of its own proceedings. The House can keep a journal of its own proceedings, and show that its members went into a joint meeting to elect a Senator, but the House cannot make up its journal of what the Senate did, and bind the Senate by the record. You must look to the journal of each House for the record of its own proceedings. There is no such thing known to the constitution of Indiana as a journal of a joint convention.

Mr. BENJAMIN. If the Senator will permit me, I only meant by that what is known to every Senator as the universal rule—at least it is so in my State, and I never heard of it being otherwise elsewhere—that is, that where a joint convention is called in the hall of one of the bodies, the record is kept in the body where the convention meets. In Louisiana, when we have an election of Senator, both bodies meet in the hall of the

House, and the record of the convention in the hall of the House is not made by the Secretary of the Senate, but by the Clerk of the House. It is part of the House record kept by the Clerk of the House. I think it is put in the House record, with us, invariably.

Mr. TRUMBULL. That is not the practice in my own State. Each House keeps a journal of its proceedings, when they meet together to make these joint elections, and if my recollection serves me—the Senator from Ohio will, probably, recollect and correct me, if in error—each of the thirty-two States, by its constitution, requires each House of its Legislature to keep a journal of its proceedings.

Mr. PUGH. And to provide a Secretary for the convention.

Mr. TRUMBULL. For a joint convention; and not to keep the journal of each House. I do not so understand.

Mr. PUGH. But if the Senator will permit me I presume the point the Senator from Louisiana had in his mind is that there was no other record at all. The Senate journal is simply a blank.

Mr. TRUMBULL. I will turn to the act of Indiana, of 1831, and see what the former practice was in that State in making up the record of a joint convention.

Mr. BENJAMIN. It will be found on pages 18 and 19.

Mr. TRUMBULL. In the second section of that act I find the following:

"And when voting, it shall be the duty of the Secretary of the Senate, and Clerk of the House of Representatives to attend and take down the name of each person voting; also, a tally of the votes received by each person voted for as the tellers read the tickets; which tally papers they shall compare after the votes are counted out, and if they agree, they shall jointly sign each of them, and hand them to the President of the Senate, who, together with the Speaker of the House of Representatives, shall examine them; and if any one person is elected, he shall, by the President of the Senate, be proclaimed duly elected to serve as a Senator of this State in the Senate of the United States."

Mr. BENJAMIN. That was done.

Mr. TRUMBULL. Oh, no; the Secretary of the Senate was not present.

Mr. BENJAMIN. Yes, he was.

Mr. TRUMBULL. This election did not take place under this law at all. It is admitted, on all hands, that the law of 1831 was repealed before this election took place. I merely referred to it as an illustration of the point I was making in reply to the Senator from Louisiana, that the journal of the House could be no evidence of the proceedings of the Senate.

Mr. BENJAMIN. The Senator will permit me to interrupt him a moment. The first convention counted the votes for Governor and Lieutenant Governor. Where is the record of that? That is in the House journal, not in the Senate journal at all.

Mr. TRUMBULL. We disagree as to that being a convention, or that anything could be done by it. The Speaker simply opens the vote, and publishes it in the presence of the two Houses. They take no action except in the contingency of a tie vote, and then they proceed immediately to elect between the persons having the same number of votes. The opening and publishing the votes for Governor is simply a ministerial act on the part of the Speaker of the House of Representatives, which is required by the constitution of Indiana to be performed in the presence of the two Houses. The Senate journal contains no record, as the Senator from Ohio truly remarks, of the proceedings of any election of Senator, and that very fact is conclusive; it is the end of this case. The very fact that the Senate journal of Indiana which, by the constitution, the Senate was required to keep, does not show any election of Senators, is conclusive that no election has been made, unless you assume that an election can be made without the Senate, and that is the point to which I am coming. So in regard to the journal of the joint convention, to which the Senator from Louisiana appeals, as stating upon its face that the Senate, preceded by their presiding officer, appeared, cannot commit the Senate. Surely he will not contend that it would be competent for a House of Representatives, in any State, itself to elect a United States Senator, and by entering on its journal that the Senate participated in such election, bind that body by the record; when, in fact, the Senate was not present, and took no part in the election.

Mr. BENJAMIN. If the Senator will permit me, I will state to him my proposition. I consider that that first meeting of the two Houses in the hall of the House of Representatives for the purpose of counting the votes was a joint convention, and considering it a joint convention, I considered the record properly kept by the clerk of the House, where the joint convention was held. The Senator says that first meeting was not a joint convention. The statute of the State of Indiana, which my friend from Ohio read, expressly states that the two Houses shall meet in joint convention and induct the Governor into office; and that is what is done. The statute of the State calls it a joint convention, and I therefore termed it so.

Mr. TRUMBULL. I have before me the statute touching official oaths, which I understood the Senator from Ohio to refer to. That merely declares that—

"The members of the General Assembly shall take such oath before taking their seats, and the Governor and Lieutenant Governor shall take such oath, in presence of both Houses of the General Assembly in convention, and the same shall be entered on the journals thereof."

That is the statute which I understand the Senator from Ohio to allude to, and it will be seen that the oath is required to be entered on the journal of each House.

Mr. BENJAMIN. The two Houses of the General Assembly in convention.

Mr. TRUMBULL. In one sense it is a convention. The two Houses convene together to see the oath administered. That no more makes them a joint convention for the transaction of business than does the requirement of the constitution, which declares that the Speaker shall open the votes in the presence of both branches.

Then, I take it, there being no record in the Senate journal of any joint convention, or of any meeting in which the Senate of Indiana has participated for the election of a United States Senator, no Senators have been elected by the concurrence of the Senate. Not only is this proven negatively by an examination of the Senate journal, but we have the affirmative action of the Senate disavowing any intention to go into an election. Then this case comes simply to this, and here is all there is of it: is an election of United States Senators valid, as has been contended by some, and in one part of his argument was insisted upon by the Senator from Ohio, when made by a majority of individuals composing the Legislature of a State, meeting together, as he says, after due notice of the time and place of meeting, and when such meeting for that purpose is not in pursuance of any law of the State, or agreement of the two branches of its Legislature, or either of them acting in its organized capacity, but in defiance of the action of one branch, and not participated in by a quorum of either House, or a majority of one House? If it is, then this election is valid, and the Senators from Indiana are justly entitled to their seats. But, sir, I cannot bring my mind to such a conclusion; and, now, why? The Constitution of the United States declares:

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof."

The fourth section of the same article declares:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may, at any time, by law, make or alter such regulations, except as to the places of choosing Senators."

Congress has not acted on the subject, and therefore in this case the election, under the Constitution of the United States, is to be by the Legislature of the State of Indiana in the time, place, and manner prescribed by the Legislature. Has such an election been held? The constitution of Indiana declares what shall be the Legislature of that State:

"The legislative authority of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives."

By another provision the number of Senators is limited to fifty, and the number of Representatives to one hundred. That was the number composing the Legislature of Indiana in 1857, when this election took place. By another clause it requires two thirds of each House to constitute a quorum to do business.

Now, sir, having ascertained what the Constitution of the United States requires, and what a

Legislature in Indiana is by its constitution, we have only to inquire whether that Legislature has made an election. If so, it must be in some way by the consent of what constitutes the Legislature; and what is that? The Senate and the House. The Constitution does not read that the members of the Legislature may elect a Senator, but the Senator is to be chosen in the time, place, and manner prescribed by the Legislature. The Legislature of Indiana, it is admitted, has prescribed no time, no place, no manner of electing a Senator. All agree to that. Then, sir, how did this election take place? By the individual members getting together; but that is not a Legislature. They must get together in their organized form to constitute a Legislature, and prescribe the manner; they may do it by joint resolution; they may do it in any way by manifesting their assent to the election, and go into an election and elect as individuals *per capita*. We all admit that; but there must be some action of the Legislature in each branch to bring about this meeting. That is what we insist upon. That is what we insisted upon in the case of the Senator from Iowa. There is nothing of the kind here. The House of Representatives might just as well have made this election of itself. It was not necessary that there should be a single Senator present. The whole Legislature, Senators and Representatives, consisted of one hundred and fifty members. Seventy-six members of the House of Representatives could have made the election, if this election is valid. Would that be an election by the Legislature of Indiana? Surely not. We do not contend, or at least I do not contend, that it must be a legislative act to elect a Senator; but it must be a legislative act in the form of legislation to initiate the proceeding to elect a Senator; and such had been the practice in Indiana. I have the journals of Indiana here to show what has been the practice for many years in that State, but it will take too long to refer to them; and as a concise statement of what the practice in Indiana has been from the beginning, I will read to the Senate from the deposition of Mr. Smith, who at one time served in this body as a Senator from that State. He says:

"I have been acquainted with the custom of electing United States Senators in Indiana since the first election of William Hendricks, in 1825; the custom has been, I call the elections of Senators since that election, inclusive, up to 1857, to elect by joint vote of the Senate and House of Representatives, met in joint convention in pursuance of a joint resolution, or a resolution of one body, sitting as such, with a concurrence of the other body, sitting as such. Such, I understand, has been the custom from the organization of the State government and the first senatorial election, up to the year 1857, without an exception. The act of 1831 expressly provides 'that, when the term of any Senator in Congress is about to expire, it shall be the duty of the General Assembly, at their session last preceding the term of service of such Senator, to elect by joint ballot of both Houses, on such day and at such place as they may agree upon, a suitable person to serve as a Senator from this State to the Congress of the United States for the next succeeding six years.'"

That is the act referred to by the Senator from Ohio. Further on, in answer to this question:

"State your means of knowing the custom of the Legislature aforesaid," he said:

"I was a member of the Legislature of the State in the year 1822-23; have been something of a politician in my day; was present at every senatorial election from 1825 till 1837, and every senatorial election from that time to 1857, except the election of Mr. Hannegan over myself and General Howard, in 1843, when I was at Washington city. I have been a candidate for United States Senator three times; once elected and twice defeated—once by General Tipton and once by Mr. Hannegan; during all which time I never knew or heard of any other custom or usage of electing a United States Senator but by a joint vote of the two bodies, the Senate and House of Representatives, met in joint convention, in pursuance of a concurring resolution, passed separately, fixing the time and place. I am satisfied that this has been the usage, custom, and understanding of all parties, and has been conformed to, without objection or deviation, up to 1857. I state this the more confidently from the fact that on one or more occasions, when one of the political parties has had a majority in one House and the opposite party would have a majority on joint ballot, the House having the majority would refuse to pass the resolution of the other House to go into the election, and thereby postpone the election to the next Legislature; as was the case when Lieutenant Governor Jesse D. Bright repeatedly gave the casting vote, laying a resolution to go into the election on the table, when the opposite party had the majority on joint ballot."

In answer to this question:

"State whether you have known of an election of Senators of the United States, in Indiana, without the concurrence of both Houses of the Legislature in advance, by resolution, to go into the election?"

he said:

"I have never known or heard of such an election, or an attempt to elect, in such a manner, except in the case of Messrs. Bright and Fitch, in 1857."

He is then inquired of in regard to the postponement of elections, and he answered:

"At the time I referred to, the Senate of the State was, politically, equally divided. The House of Representatives was largely anti-Democratic, giving a large majority on joint ballot against the Democratic party. The House passed resolutions fixing the time of the election, by joint ballot, of a United States Senator. The Senate was a tie, and Mr. Bright, the Lieutenant Governor and President of the Senate, repeatedly voted to lay the resolutions on the table, declaring, as I understood him, without any concealment, that there should be no United States Senator elected at that session; the result was, that the election was postponed until the next session of the Legislature, when it took place, by joint vote of the two Houses, met in convention, jointly, in pursuance of a concurring resolution of both Houses, and Mr. Bright was elected United States Senator at that election."

I will state the further fact, that the very vacancy which one of the sitting Senators from Indiana now claims the right to fill was occasioned by the refusal of his political friends in the Legislature, in 1855, to go into an election. At that time the so-called Democratic party were in a minority of the whole Legislature, but had control of one of its branches; that branch refused to meet the other for the purpose of electing a United States Senator, and left the State for two years with but one Representative in this body. In 1857 the tables were turned, and the so-called Democratic members, constituting a majority of the whole Legislature, but a minority in one of its branches, proceeded, against the protest of that branch, to make an election. The Senator from Louisiana and the Senator from Ohio are loud in their denunciation of faction, are loud in denunciation of those who will not perform the constitutional duty to go into the election of United States Senators. I call their attention to the fact that one of these very individuals holds his election in consequence of the refusal of their own friends to go into an election in 1855.

Mr. PUGH. What has that got to do with this question? When the case of the Senator from Iowa was up, I used the very same language precisely that I used to-day, and the Globe will show it; and from the position I took in that debate, if any election involving that matter should again come here, the Senator knew beforehand, from what I said in the Iowa case, precisely what I would say. I say there is no justification for any of them.

Mr. TRUMBULL. It has nothing under heaven to do with the case, and I am glad to have the assent of the Senator from Ohio in saying so.

Mr. PUGH. I say that the proceedings of a former Legislature have nothing to do with this case. I do not know what they were, because they do not appear in evidence.

Mr. TRUMBULL. They show how the political friends of the sitting Senators understood the law in 1855, and have just as much to do with the decision of this case as similar factious proceedings by their political opponents in 1857. I do not think that this denunciation of factious opposition, whether in 1855 or 1857, has anything to do with the decision of a judicial question, such as we have under consideration. I only refer to what took place in 1855, in reply to what has been said by others about factious in 1857. I admit it has nothing to do with the case. I care not whether—

Mr. PUGH. Do not admit me while you admit yourself. I say the proceedings of a former Legislature had nothing to do with it. This being so, while you may admit anything for yourself, do not admit me. I say that those proceedings have nothing to do with it.

Mr. TRUMBULL. I say they have nothing to do with it under heaven; nor have the motives which governed the Senate of Indiana, in 1857, anything to do with the decision of this case; neither has the Senator from Ohio any right, nor have I, to judge of the motives of either the Senators of 1855 or those of 1857, in refusing to go into an election. That is for them. I do not presume to condemn either the presiding officer of the Senate in Indiana, who repeatedly, by his casting vote, prevented the election of United States Senator, nor do I presume to condemn the present or a former Senate of Indiana, which refused to go into an election. It cannot change the

legal right of these gentlemen to retain their seats one way or the other. I have nothing to do with it. I only show what had been repeatedly done in Indiana, and that this very election was brought about by the political friends of the sitting Senators, in contempt and defiance of the example which they themselves had set at a previous session of the Legislature of Indiana; and that they are entitled to a full share of that denunciation which is so freely poured out in this debate on the heads of legislators who have refused, at the proper time, to go into an election of United States Senator.

This was not, as has been supposed, the first election of a United States Senator under the new constitution of Indiana. The present constitution was adopted in 1851. Two years afterward, in 1853, an election took place under it, and Mr. Pettit was elected. How was that election brought about? By joint resolution adopted in each House, agreeing to go into an election. What was the course adopted in 1855? Resolution after resolution for a joint convention to elect a Senator was sent from one House to the other, where it was voted down, and no election took place at that session. In 1857, however, one branch of the Legislature proceeds to make an election. Is that the Legislature? We are told this was not done in defiance of any law; and we are called upon to show the law that is violated. There was no law in Indiana, in 1857, on the subject of electing United States Senators, and therefore we are told that this election took place in the absence of any law, and is good. Sir, the election of the sitting Senators was in violation of law. The highest and paramount law of the country declares that members of this body shall be chosen by the Legislatures of the respective States. The gentlemen whose seats are in controversy were not elected by the Legislature of Indiana, but by one of its branches. The supreme law, the Constitution of the United States, declares that the time, the place, and the manner of election shall be prescribed by the Legislature. This election was not prescribed by the Legislature. Then it is an election without law; it is contrary to all law and all precedent, and is establishing a principle which enables a minority to control a majority, and gives effect to the revolutionary action of a minority of the Senate of Indiana, against the declared intention and action of a constitutional majority.

But, sir, this is no new case. The case of the Senator from Iowa [Mr. HARLAN] involved principles analogous in some respects to this; and as I think the arguments made upon that case, when applied to this, are unanswerable, I wish to call the attention of the Senate, for a few moments, to some of them. Mr. HARLAN was elected in pursuance of a regulation of the Legislature of Iowa. That Legislature, in both its branches, agreed to go into an election on a certain day, in joint convention. Both branches met at the time agreed upon, several unsuccessful votes were had, and the convention was regularly adjourned from time to time in accordance with law. At the adjourned meeting, when Mr. HARLAN was elected, he received the votes of more than fifty of the one hundred members composing the Legislature of Iowa; but there was not voting upon that occasion a majority of the Senate. A majority of the Senate were present—thirty Senators constituted the body, and seventeen were in the room; fifteen voted for Mr. HARLAN. A majority were there, but two refused to act, and this body decided that it being necessary that a Senator should be elected by the Legislature, an election by a body when a majority of each branch of the Legislature was not present was invalid, and the Senator was denied his seat.

Now, I want to call the attention of the Senate and Senators on the other side who are here, to some remarks made upon that occasion. Mr. Butler, who was chairman of the Committee on the Judiciary at that time, stated in his remarks:

"According to the ground taken on the other side, not only if there had been less than a quorum, but if there had not been a single Senator there, the House of Representatives, by the original organization of this convention, could have gone on and exercised all the authority of a Legislature to make an election under this act.

"I cannot agree to this position, for two reasons: in the first place, although it was a joint convention, the import of the act was that it must be a convention of the Senate and House of Representatives; and if it was not a convention of the Senate and House of Representatives, it was

not the Legislature, but it was a mere fusion of such members of the Senate as would attend (in contradistinction to the Senate itself) in the House of Representatives, and carry on this election. They were not the Senate, nor were they there as Senators *in colore officii*."

That was the language of the chairman of the Committee on the Judiciary at that time. But, sir, as a conclusive argument upon this point, I desire to call the attention of the Senate to the remarks of the then Senator from Connecticut, (Mr. Toucey,) who was also a member of the Judiciary Committee at that time, which, I think, placed this case in so clear a light that if Senators will examine them, it will be impossible to arrive at but one conclusion in regard to the decision they are now called upon to make. Mr. Toucey said:

"Mr. President, the question involved in this discussion is simply this—none other, neither less nor more: was the Senate of Iowa present in the hall of the House of Representatives when this alleged election took place? After the construction to which allusion has been made was early put upon the constitution, that is the only question which can arise if we acquiesce in that construction."

Omitting a portion of his argument, I proceed to another part of what he said on that occasion:

"Now, sir, has the Legislature of Iowa the power, directly or indirectly, to dispense with the attendance of either branch? Can the Legislature of Iowa alter the Constitution of the United States or the constitution of Iowa? The whole question must be determined by an examination of these two instruments, and then by ascertaining the fact whether the Senate of Iowa was present and participating in the alleged election.

"The question here is, whether you can dispense with the action of the Senate? and in every other case, whether you can dispense with the action of either body?

"The honorable Senator from Georgia [Mr. TOOMBS] has put a construction on the Constitution which would relieve us from any difficulty in this case; for he says that the Constitution of the United States means that the election shall be by the members of the Legislatures of the States. If that were the Constitution, there would be no difficulty in this instance. His is the only position which has been taken that solves the difficulty. But is that a construction of the Constitution, or is it an alteration of the Constitution of the United States? If the Constitution of the United States is to be so construed, then it is to be so read—that Senators shall be chosen by the members of the Legislatures of the respective States. If that were the construction, I agree it would not be necessary that the Legislature should be in session; but a majority of the members, all being notified, might meet together, at any time and in any place, and the vote of the majority of those present, a quorum being assembled, could elect. There would be no Senate and no House of Representatives there; but the members of the Legislature would be there. There would be no legislative body; but the members of the Legislature would be there, and a majority could elect. If that be the true construction of the Constitution, there is no difficulty in the case; but that would be a total alteration of the present arrangement. The answer I have given to that position, I think, is entirely conclusive.

"Then, could the Legislature of Iowa, by any law, dispense with the attendance of either body? Suppose the law had been, for example, that on the 1st of January both branches shall meet in the hall of the House at one o'clock, and shall choose a Senator; but the House of Representatives determined, on a previous day, that they would not meet there, and accordingly they did not meet; but the Senate met, together with a minority of the members of the House: it is obvious there would be no power in the persons thus assembled to elect."

In speaking of the adjournment of the Iowa convention, Mr. Toucey said:

"The effect in this case of the order of adjournment made by both branches, as a joint convention, no matter who voted for that adjournment, was to fix a time and place for another joint meeting—nothing more. Had that vote any greater effect than a law fixing that time for another joint meeting would have had? Certainly not; and neither the joint body nor the Legislature itself can make it apparent that the Senate was there if the Senate was not there."

I commend this to the Senator from Louisiana, who insists that we must look to the House journal to find when the Senate was there. Mr. Toucey said:

"Neither the joint body nor the Legislature of the State can dispense with the necessity of both branches being present, because otherwise the Legislature is not there."

In reply to a question from the Senator from Maine, [Mr. FESSENDEN,] Mr. Toucey said:

"The Senate is incapable of acting in the capacity of individual members; it must act as a body. It is a distinct branch of the Legislature; it is a political existence, and that political existence must be in conjunction with the other political existence, the House of Representatives, before they can produce the result required by the Constitution. Otherwise, you resolve the Constitution into the interpretation of the honorable Senator from Georgia, and say the election is to be by the persons who constitute the Legislature, and not by the Legislature itself. There is no mid-way. I deny that it would be competent for the members of the two branches to come together as individuals, and make a choice of a person to serve as Senator. It would be contrary to the nature of a legislative act, and it would be contrary to the very law under which they were professing to act, because that law required that the Senate should be there in pursuance of its own action; that its teller should be there; that its Secretary should be there, for the purpose

of keeping a record; that that record should be entered on the journal of the Senate, and whatever they may have done, can only be proved by the record. They can act in no other way. I say, then, sir, that unless you dispense with the Constitution of the United States, and the constitution of Iowa, and every principle which is applicable to legislative bodies, it cannot be said that the Legislature of Iowa was present in joint convention, on the 6th of January, 1855, when this election was purported to be made."

The Senator from Pennsylvania, [Mr. BIGLER,] whom I do not now see in his seat, on that occasion put a question to the Senator from Georgia in this language:

"Now another point, if the Senator pleases. If I understand him correctly, he argues that the convention having been regularly constituted originally, the Senate having convened with the House, and constituted a convention, a majority of the convention so constituted could continue its proceedings from day to day, although the Senate might meet in its organized capacity.

"Mr. TOOMBS. Certainly I do.

"Mr. BIGLER. The Senator's position is, that the House of Representatives being a majority of the members of the convention, could control the coordinate branch of the Legislature to any extent, and for any length of time; and that although the Senate, which makes part of the Legislature, might have convened and remained in session, and proceeded with business, the House of Representatives could go on and elect a United States Senator. I understand the Senator to contend for this.

"Mr. TOOMBS. Certainly I do.

"Mr. BIGLER. There we differ."

Why, sir, that is this case. There is the answer of the Senator from Pennsylvania to much of the argument of the Senator from Ohio to-day. Mr. BAYARD asked a question in that connection:

"Mr. BAYARD. Perhaps I had better put my question in a different form. The point involved in it is, in my judgment, the point which this case turns. My inquiry was, whether any Senator ever took his seat in this body where a question was made, and it appeared that, at the time and place of election, a quorum of both branches of the Legislature was not present?

"Mr. BUTLER. There has never been such a case."

This is what Mr. Butler, then chairman of the Committee on the Judiciary, said, that there never had been such a case. Sir, we will establish one if we adopt the resolution of the Judiciary Committee.

The Senator from Louisiana [Mr. BENJAMIN] said upon that occasion:

"When that convention fails to be a convention of the Senate and House of Representatives, it no longer has the legislative power of the State of Iowa, and is, therefore, not such a body as, under the terms of the Constitution of the United States, can elect a Senator. That is the difficulty."

The Senator from Florida, [Mr. MALLORY,] not now in his seat, took identically the same ground. The Congressional Globe containing the debate upon that case, is full of argument upon the very point involved in this, and it seemed to me, the case being changed as it is here, that the remarks made upon that occasion are much more applicable to the case of the members from Indiana than they were to the Iowa case, because in the Iowa case, a regular convention had been assembled. We all agreed about that, that there had been a regular convention, and we all agreed that that convention had authority to adjourn from time to time. Now, the most that is contended for here by the Senators from Ohio and Louisiana is, that there was a regular convention to count the votes for Governor, which had authority to adjourn. That is the most they contend for as to the regularity of the convention, and—

Mr. PUGH. I claim that the convention, for all purposes, was exactly such a convention as met in Iowa. I see no difference between the cases in that regard.

Mr. TRUMBULL. It might be just as good as the convention in Iowa, but it could not be better; for we all agreed the convention in Iowa did assemble in pursuance of a joint resolution. There was never any objection made to that. That convention got together in a legitimate way, as all admitted. Now, we deny this in Indiana. The Senator from Ohio assumes it. Grant, for the sake of the argument, that he is right; he certainly has got no better convention than that in Iowa. I do not think he has as good a one, and I therefore think the case is different; but apply the remarks made upon that occasion, and the argument of the Senator from Louisiana to this very case, and what is the answer to it? I will read a portion of his argument, for I think it directly applicable. I will adopt it as my own, as applicable to this case. He says:

"I think we may the more readily get a clear view of the true principles which govern the subject, if we take the provisions of the Constitution of the United States and the

provisions of the constitution of the State of Iowa, and read them as if they were all one instrument. They are all to be obeyed and observed. Let us read them in sequence, as if they were but one instrument. Without referring to their precise language, the case is this: the constitution of the State of Iowa has the exclusive power of organizing a Legislature; that Legislature has the power to choose a Senator; that Legislature has the power to determine the time and place and manner in which it shall exercise its choice. Reading the constitution of the State of Iowa, let me see how that Legislature is constituted, and I will interpolate in it, collecting the sentences in different order, those provisions of the Constitution of the United States which have reference to the subject, and which are equally binding.

"The legislative authority of this State shall be vested in a Senate and House of Representatives, which shall be designated the General Assembly of the State of Iowa. The business of this legislative authority is to pass laws and to elect a United States Senator. A majority of each House shall constitute a quorum to do business."

"Read these sentences thus collected, and where is the doubt? The Legislature of the State of Iowa has the right to choose a Senator. The legislative authority is vested in a Senate and House of Representatives. Its business shall be (this I interpolate) to pass laws and elect a Senator of the United States, and a majority of each House shall constitute a quorum to do business."

It takes two thirds to make a quorum in Indiana. In that respect the case of the Indiana Senator is not as good as was Mr. HARLAN's.

Mr. BENJAMIN proceeded:

"Now, sir, if it be in part the business of the Legislature of Iowa to elect a Senator to the Congress of the United States, then it cannot elect that Senator under the terms of the constitution of the State, unless there be present a quorum of the two Houses. In the case at bar, it is admitted on all hands that there was no quorum of the two Houses. This really seems conclusive of the question on its face. How is this argument met? We are referred to a law of the Legislature of Iowa, passed in the year 1847, ordering the Legislature of Iowa that sat in 1854 to proceed, at a certain time and place, in a certain manner, to elect a Senator. The first thing that strikes my mind on this statement of the case is, whence did the Legislature of 1847 derive the power to lay down rules and give laws to the Legislature of 1854? Of what validity is the act of the Legislature of 1847 in controlling the action of the Legislature of 1854? Law is a solemn expression of legislative will. By its very nature, it emanates from a superior, and is addressed to the inferior. It commands; it ordains; or it prohibits. For the purpose of doing any one of these acts, it must emanate from some power superior to that to which it is addressed. What right, then, had the Legislature of 1847 to lay down the law and give orders to the Legislature of 1854? Was it superior? Not so, sir; for the Legislature of 1854 is to this extent its superior, that it had the right to overthrow all that it had done, and to say that just the reverse should be the law to that which the Legislature of 1847 determined should be the law. We might as well say that because the House of Representatives of the United States has power to pass rules for its own government, the House of Representatives now in existence can declare what shall be the rules of that House for all time to come.

"When the Constitution of the United States vested in the State Legislature the right of choosing a Senator, and the right of naming the time and place and manner of holding the election, it created a jurisdiction which had exclusive authority over the whole subject matter; and that jurisdiction is the Legislature, not of to-day, nor of yesterday, nor of to-morrow, but it is the Legislature for the time being which elects the Senator; and it is for that reason that, with the greatest deference for the judgment of the honorable Senator from Illinois, [Mr. DOUGLAS,] I cannot concur with his argument as far as it is based on the disregard of this law by the Legislature of 1854. I look upon that law as nothing more than an agreement, between the two Houses of the Iowa Legislature in 1847, for the establishment of a joint rule, just as the two bodies of this Congress have made joint rules for regulating the manner in which they will discharge the functions in which the action of both is required. But suppose at any one moment either body declines to act in conformity with the joint rules: will legislation passed in open violation of them thereby be the less valid? If the two bodies of the Legislature of Iowa in 1854 had chosen by joint resolution to declare that each House would deposit ballots in a box in each House, and would then order those ballots thus deposited in separate boxes to be counted together, it would have been in direct violation of every provision of the law of 1847; and yet who will stand up and declare that a legislative election in that mode would be invalid?"

The whole argument of the Senator from Louisiana, which I will not weary the Senate with reading, however, although it puts the case in much better language than I can express, is directly applicable to this case. There was not a quorum of either House present when these Senators were elected—not a majority of one House. That is now settled by the evidence. It can no longer be a disputed fact as to how many constituted the Legislature of Indiana. How, then, can this election be sustained except upon the broad ground argued by the Senator from Ohio, and which was assumed by the Senator from Georgia when the Iowa case was under consideration, but which ground, as the then Senator from Connecticut demonstrated, was in direct violation of the Constitution of the United States? The argument of the Senator from Delaware [Mr. BAYARD] on that occasion is also very conclusive. He refers to the opinion of Silas Wright upon the same

subject, which he had called for in relation to a case which arose in his own State, and so firmly was he convinced at the time of the correctness of the opinion of Mr. Wright, that an election which was not participated in by a majority of each branch of the Legislature would be invalid, that although it would have operated to his own advantage to have had such an election, he abandoned the idea.

With this reference to the arguments presented on the occasion of the contest in regard to Mr. HARLAN's right to a seat, which fully sustain the views I have presented as applicable to the facts of this case, I take leave of the subject, alluding for a moment to the Revised Statutes of Indiana of 1843, by which the act of 1831, regulating the election of United States Senators, was repealed. It is admitted on all hands that the law of 1831 was not in force when the sitting Senators were elected, but it is a disputed point as to when it was repealed.

Chapter fifty-nine, section four, of the Revised Statutes of 1843, declares that:

"All acts and parts of acts, the subjects whereof are revised and reenacted in the Revised Statutes, or which are repugnant to the provisions therein contained, together with the provisions of such acts as are not revised"—

the statute of 1831 is not—

"shall be repealed from and after publication as aforesaid, with the exceptions and limitations expressed in this chapter."

The exceptions and limitations on the subject of electing United States Senators are:

"An act to provide for the election of United States Senators and other officers by *viva voce* vote of the Legislature, approved 1837; and

"An act to repeal an act providing for the election of United States Senators, approved December 3, 1837."

Those two acts are incorporated into the revision of 1843, as part of the same, and they simply provide (without taking up the time of the Senate by reading them) that the election of United States Senators shall be by *viva voce* vote. I attach no importance to the time when the law of 1831 was repealed; but if there is any importance in it, it was repealed in 1843.

Mr. GREEN. I was anxious that the Senator from Illinois should withdraw his amendment, because this case must of necessity be determined upon its merits, and not upon any mere abstract opinion; and I think it would be well for the Senator from Maine to withdraw his proposition to recommit. There can be no necessity to recommit. We have no time to discuss anything but the practical point to be decided, and that is whether the sitting members from Indiana are entitled to their seats under this election or not. This is the conclusion. The proposition which the Senator from Illinois makes as an amendment has an argument, and I am not willing to vote an argument. The argument may be right or wrong, and yet may not apply to this case; may not be conclusive as to this case. In the minds of some Senators it may be, in the minds of other Senators it would not be; and hence the impropriety of undertaking to vote an argument when a question is to be determined that may involve that argument or may not involve it. The whole of this matter must rest upon its merits; and while the Senator may act upon the positions assumed in his amendment, and acting upon those positions may come to any conclusion to which his mind will necessarily lead him, I may take other reasons and arrive at the same conclusion, or take the same reasons and arrive at a different conclusion, in consequence of my view of their influence connected with this whole transaction.

Is this election legal? Has it been conducted in accordance with the Federal Constitution? I answer yes; and in a very few words, for an extended argument is not now required, the whole ground having been occupied so well, I will show why I answer it in the affirmative. Each State is entitled to two Senators, to be chosen by the Legislature. The manner of choosing is to be by an election; for, in a subsequent part of the Constitution, it says, the times, place, and manner of electing Senators and Representatives shall be prescribed by the Legislature. In the exercise of the power to choose, it must be through a method of election, and the same term "election" is applied to the choosing of Senators that is applied to the choosing of Representatives. Hence, it results, of necessity, under the Constitution, that the electors vote *per capita*. Do they vote *per capita* in

the election of a member of the House of Representatives? They must, of necessity, do it. The same term is applied to the Legislature; and therefore, if the Constitution is to have the same construction to the two classes, to the members of the House and to the members of the Senate, the legislators must vote *per capita* for Senators. The clause of the Constitution pointing out the Legislature to choose, and saying, that their mode of choosing shall be by election, simply designates the electors. It designates those persons who shall exercise the power of electing. It does not impose upon the Legislature the performance of a legislative duty, the execution of a legislative trust, but it designates a power, an authority that has the right to elect.

That power, those persons thus designated, may elect. Who are they? Why, as was well said by the Senator from Ohio, they need not of necessity be two Houses; there may be three Houses; the Legislature may embrace five separate Houses, or one House. In Pennsylvania, as he remarked, there was originally but one House, and that was the Legislature. I remember reading a circumstance that transpired when the proposition was made in Pennsylvania to change their Legislature to two Houses. The great Dr. Franklin remarked that separating the legislative authority into two Houses reminded him of hitching two horses to a cart, one before and the other behind. But at this day, with our present experience, seeing the impulsive nature of our Congress, we see the necessity of having checks to hasty legislation; we see the necessity of having the approval of the Executive separated from both of the bodies, and for it to be separated into two bodies, for greater deliberation, for one to operate as a check upon the other in legislation, the reason of which separation does not apply to the election of Senators.

Every argument that has ever been brought to bear in favor of separate Houses constituting the legislative authority ceases the moment the question of electing a United States Senator is brought up for consideration; and hence, as I before remarked, the term "Legislature" is simply a designation of the persons who are invested with the authority to elect, and that election must be *per capita*. I know it is said that the common custom has been either by law to provide a mode by which the two bodies come together, or by joint resolution to agree when they will come together. That is true, and it is true from the necessity of the case. Whenever two bodies or two objects are separated, they can never get together except by the motion or the action of one or the other, or both; but whenever they do come together legally, they may then exercise any legal power. In the absence of a constitutional provision requiring the two Houses to come together; in the absence of a law requiring them to come together; in the absence of a joint resolution agreeing to come together, you never can get them together except by their own voluntary consent, each House consenting for itself; but if there be a law setting a day for them to come together, it requires no resolution to bring them together. If there be a constitutional provision requiring them to come together, it requires no joint resolution to bring them together. If, in the discharge of a constitutional duty, they must of necessity come together, then whatever right they have to exercise in joint convention they may then and there exercise.

It is worthy of remark also, that when these two bodies get together legally, they are not then separate bodies sitting in the same hall; they coalesce; as Cowper says,

"Like kindred drops they mingle into one;"

and they are then and there but one body called a joint convention. The constitution of the State of Indiana in existence and in force at the time this election took place made it the duty of the two bodies of the Legislature thus to coalesce on a given day. They did meet; and as the Senator from Vermont has properly admitted—and I shall not therefore stop to make still more clear that which is susceptible of demonstration—every subsequent adjournment of the convention had all the powers and all the rights that the first convention had which met on the 12th day of January. Whatever right that convention then and there had to elect Senators was continued up to the period of time at which the election did in fact take place. The whole case, therefore, is all narrowed down

to this single point, whether the joint convention on the 12th day of January could elect United States Senators. I take the position that it was not two Houses as assumed by the Senator from Illinois and the Senator from Vermont; for if I had the constitution and the law under which they assembled before me, I could prove that it was a joint convention; that the two Houses had then and there coalesced, and lost their separate identity. It will be remembered—I will not take time to read it—that while the constitution says the Speaker shall open the votes in the presence of both Houses of the Legislature it goes on to say that if no candidate has a majority they shall, by joint vote, proceed to elect a Governor. There cannot be a joint act without a joint association. They are in a condition competent to perform a joint act under the constitution, and if they have the constitutional power, and are in the condition to perform a joint act if the necessity should exist, then their relation is a joint relation. How would it be possible for two Houses not having a joint relation to perform a joint act? The constitution says they shall, by joint vote, elect a Governor, if none of the candidates has a majority. The nature of the act, or the vote, results from the relation of the parties performing it; and if the act or vote is a joint act or joint vote, then the relation of the bodies is a joint relation.

It will not be pretended, I hope, by any one that it would be impossible to elect a Senator prior to the passage of any law, Congress never having touched the subject by providing for the time and manner of the election. There are instruments to enable them to come together to perform their work; but, if by any legal method they could get together without making use of these instrumentalities, it is just as perfect and complete as if they had them all in force.

It has been assumed by the Senator from Illinois, that a majority of the Senate of the State of Indiana never went into the House of Representatives in joint convention; and he has said, I believe frequently during this debate, that we have no power to go behind the record and see who was legally elected to the State Senate in Indiana. I shall not touch on that subject further than to show what the Senator from Illinois thought of that subject when another matter was pending in this body. He then used this language, in relation to poor bleeding Kansas:

"As a member of this body, I freely say to the Senator from Delaware that, if the time shall come while I hold a seat here that a Legislature should thus be imposed upon my State, and should send a person here as Senator, I certainly would not vote to give him his seat; but I would vote to give the seat to the Senator chosen by the Legislature whose members were elected by the citizens of Illinois authorized to vote by her organic act."

Mr. TRUMBULL. I think that is very good doctrine, and I will do the same thing now. If the government of Indiana had been subverted by a foreign power, and a Legislature imposed on her, I certainly would not recognize it.

Mr. GREEN. The Senator denies our right to go behind the record to inquire into the legality of their election, saying that the election, returns, and qualifications of the members are matters to be adjudged of by the body of which they are members; but if this position here taken by him be true, you would have to inquire into the fact whether a Legislature was imposed upon them by force; and that very inquiry opens up the consideration of the legality of their elections. Open up that question, and he knows that three or four Senators who held seats in Indiana were elected by fraud; and I know of no difference between fraud and force, except that fraud has a moral turpitude attached to it that force has not, for there is a boldness and manliness about it. In the three districts from which these three Senators were returned, these questions have been judicially determined against their election. I only throw out that—not as material in this investigation, for it is clear enough in my mind without any reference to that—simply to show the position of the Senator from Illinois at that time and his position at this time: then claiming to inquire whether they were properly elected or not; now closing his lips and seeking to close ours, because he fears the cat will be pulled from under the blanket.

To come back to the real argument affecting this case: the two Houses of the Indiana Legislature legally assembled under the constitution. As the Senator from Louisiana properly remarked, it is

not to be presumed that they violated their oath of office. They were compelled to meet. In pursuance of law, they did meet; and the Governor was inducted into office. The law said he should only be inducted into office in the presence of the joint convention. Every presumption, therefore, is in favor of that first joint meeting. It, then, was a joint meeting of the two Houses. The two Houses lost their personal identity. They coalesced; they became one body. Since all points as to the adjournments have been given up and abandoned; it being now conceded that each subsequent step in this proceeding was as valid, and each subsequent meeting clothed with all the power the first meeting had; the only real question to be determined is: as the constitution brought them together for the execution of a purpose, could they, after the execution of that purpose, do anything else? That is the only question to debate in this case. They were legally assembled; they legally constituted a joint convention; they were compelled, of necessity, to do it under the law; they did it. When the necessity that brought them together ceased, could they resolve themselves into their native elements, or into their native characters, and become two separate bodies again without the consent of the joint convention? That brings up the very point to which I called attention before, to wit: that the choice of Senators, under the Constitution, must, in the first place, be an election; that the right of voting attaches to each member of the Legislature as perfectly and as fully as it does to the electors for members of the other House as individuals; and that, when the Constitution of the United States was formed, it was contemplated that there would be one small House and the other large; not only contemplated, but clearly set forth; for it states that the qualifications for electors of members of the House of Representatives of the United States shall be the same as for electors of the most numerous branch of the State Legislature.

We thus see in the mind of the convention that framed the Federal Constitution this additional idea, not only that the Legislature is a body selected by name as the electors of Senators; not only that that body must vote *per capita*; but that it was supposed one House would be more numerous than the other. With these three leading ideas, passing over the necessity of having some means of bringing them together in joint convention, when they do get in convention there is a constitutional duty to perform. The constitution imposes it on them to elect a Senator. They meet for one purpose. Can a majority of that convention do anything else? I answer, yes; because being now a unit—being a body that has lost its separate existence—it is not a House of Representatives, is not a Senate, but a joint body. Whatever a majority of that joint body can do, what the constitution authorizes them to do, they may do. The constitution does authorize them to elect a Senator. They are now all together in contemplation of law. There is no mode pointed out for the election of Senator. In the absence of any mode, it ought to be of necessity by joint convention of the two bodies. I cannot say that in passing a law to regulate the manner of election, it would not be competent to vest one body with the right to vote by itself and the other body to concur or non-concur. I need not go that far for the purposes of this case; and I have generally found it best in making any argument, to confine myself to the real points necessary to bear upon the particular case. It will not be denied, however, by any Senator present, that an election in joint convention is a valid election.

Now, does a previous consent to meet in joint convention for a specific purpose add any additional power to a convention legally met, thus coalesced, becoming a joint body? Their power is derived from the constitution. There is no joint resolution authorizing them to elect; there is no law authorizing them to elect. Consent is to be drawn from the act, as they have legally met if they act. I am supposing, for the purposes of this argument, that, on the 12th day of January, they acted; all questions as to the adjournment having been given up, and it being conceded that what they did was as valid as if done on the 12th of January. The very act is evidence of consent, and the only consent that is required. It is not necessary to pass a previous determination to do the thing, if the constitution gives you the

power, and you have the right to do it. As I before remarked, it saves trouble, and provides a means of accomplishing a constitutional end, to have a law regulating this subject; and I think it very much to be regretted that any State should be without a law in regard to it. Yet, if a State be without law, and the members of the Legislature do constitutionally assemble together and exercise a constitutional power, the very act of exercising it is consent enough. This idea about a majority of the Senate being required to be present in every joint convention in order to constitute that convention legally, is not correct. The bodies never can coalesce unless they meet as bodies, and as they come together they become one. Having become one, parts of it may slough off, as the Republicans did in the convention in Indiana, and still the entirety, the unity, the essence of the joint convention remains; and if in that sloughing process a majority of one branch should slough off, it leaves the convention still a legal body. Then in my teeth will be thrown the decision in the Iowa case. Not so. There was a specific law in the State of Iowa requiring each House to consent in order to constitute a joint convention. That consent was first given, but it was afterwards taken away; and when it was taken away, it was contended in this body—whether truly or untruly, whether rightlly or wrongfully, I shall not stop to inquire—that the unity of the convention was destroyed because the consent of one body was withdrawn. But in the case of Indiana, no consent was required; the constitution compelled them to come together. They did come together; and it was not competent for them to withdraw consent.

Mr. President, I shall not consume any more time. This case is in a nut-shell. The voting is to be an election. Election implies equality among the electors. It cannot be anything else. The persons to elect are designated as the Legislature. The Legislature may consist of one, two, three, or five Houses, and each member of each House is a unit in the election, for equality among the electors is the fundamental principle of election. Propriety requires ordinarily some process to get them together. Here there being no law to prohibit their coming together, and there being a constitution to command it, they can execute the end and discharge that trust. Such was the case in the State of Indiana, and I hold it to be a legal election, legal under the constitution of the State, and under the Constitution of the United States. There was no other law. I need not stop to talk about usage; I care nothing about usage in this instance. I need refer to no precedents, because the precedents of elections of Senators of the United States are as varied as the phases of the moon; there is no uniformity. From Maine to Georgia, from the Atlantic to the Pacific, you find them dissimilar in almost every locality.

To strengthen and make conclusive the position I take about their power, in the absence of any law, I need but incorporate the overwhelming argument made by the Senator from Ohio, when he referred to the cases of those States which elect Senators before they are actually admitted as States, and before they can legally have State Legislatures, and yet their Senators are always admitted as legally elected. But I have said enough, and I will waive anything further.

Mr. WADE. Mr. President, at this time it is not my purpose to detain the Senate very long on this subject, and indeed it has been so ably argued by the members of the Committee on the Judiciary, that I cannot hope to add anything to what has been said; but in my judgment the question is one of such transcendent importance, that I ought not to suffer it to go by without very briefly stating the views I entertain. It is an important question, because the Senators of the United States are the peculiar representatives of the sovereignty of the States, and we should guard with great care the representations of the States, and see that in all instances they truly and properly represent those sovereignties. It seems to me from what little investigation I have given to this subject, and I confess it is not very great, that the case now before us is one of the first impression. I believe in the history of this Government no precedent can be found to sustain the report of the Committee on the Judiciary in this case. I believe it is an entire innovation upon the usages of every State of the Union, from the

foundation of the Government, in electing Senators to this body. More than that, I believe it involves a question of constitutional power of great importance.

The Constitution of the United States declares that Senators shall be chosen by the Legislatures of the States, and that is the supreme law on the subject. It needs no State regulation; but at all events nothing less than the transcendent power of the sovereignty of a State properly invoked can create a Senator of the United States. No fraction of that power, no department of the State government, nothing less than the legislative power of the State can elect a Senator of the United States. That power I admit may be exercised in just such way and manner as the State may see fit to prescribe, inasmuch as the Congress of the United States though having the constitutional right to do it, have not prescribed a time and manner of election.

In my judgment, there may be a great variety of methods by which a Senator may be chosen conformable to the Constitution of the United States; but in every instance, and whatever be the mode, it must be by the legislative power of the State invoked fairly upon the subject. I know that the Senator from Georgia, [Mr. TOOMBS,] on a former occasion, contended that the election might be made by Senators and Representatives at large composing the different Houses of the State Legislature, however they might have a mind to convene, however they might assemble themselves together, whether they had the assent of two bodies sitting as legislative bodies to meet, or whether they assembled casually anywhere for any purpose. I do not so understand. The members of a legislative body are not the Legislature unless when convened in conformity to the law and the constitution of the State, no more than Tom, Dick, and Harry, in the streets, are the Legislature. We are not a Senate of the United States when we disperse from here; we cannot assemble at other places informally to conduct the business of legislation as the Senate of the United States; but we must assemble here in conformity to the constitution and the laws of the body to transact business.

The question in this case lies in a very narrow compass, and a great deal has been said that does not seem to me necessary to be touched in order to come to a decision. The point is, whether the Senators from Indiana have been elected in conformity to the Constitution of the United States. A great variety of reasons have been given to show that they were legally elected. Some suppose it to be important to travel back, and inquire into the qualification of some Senators in the State Legislature of Indiana, to know whether they had a right to participate in this election or not. I do not suppose we can go into that. If they sat there by color of office, recognized by the body as members, we cannot go behind that to canvass the question whether they were really elected or not. That is immaterial; it is out of the case, because the only evidence we can have on such a fact is here on the record attesting the legal qualification of all the members of the Indiana Senate. Whether any question of that kind might at any former stage of the proceedings have been raised or not, there is now no such question before us at all. In my judgment, there never was any such question legitimately, nor could there be, because, as I understand, whatever a legislative body may do is to be done by those holding seats, whether *de facto* or *de jure* makes no difference. Would it not be singular, if, when we have passed a law, you should go back and canvass the votes, and then try the question whether the gentlemen who voted for it were all entitled to their seats or not? It would be absurd and ridiculous, and no such argument as that can prevail anywhere.

The Senator from Louisiana has stated that his first impressions of this case were strongly against the right of the sitting members to their seats, that he at first believed that their title could not be maintained. His first impressions were lawyer-like, and cannot be overthrown; and yet he thinks he has discovered new light upon the subject that has entirely overturned the ideas he at first entertained. I hardly could see exactly what the strength of this newly-discovered testimony was that had changed his position. It certainly was not that some three or four weeks before this election took place, Jim Lane and his crew were figur-

ing there in the Legislature; but I believe that was the reason he assigned—that the evidence had disclosed the fact that the notorious Jim Lane, who has since figured in Kansas, was there in that legislative body, and he thought he was armed! The evidence, perhaps, does not exactly sustain that; but I do not see how it could be material whether he was armed or unarmed. Armed or unarmed, he had not the potency to overthrow the law and constitution of the State; nor could it make the least difference in the world on the question now before us. All these are outside make-weights that might be thrown in to confuse a jury, but it seems to me can weigh little among lawyers in the Senate of the United States. Why, sir, suppose by any means a legislative body is wrongfully prevented from doing that which it has a constitutional right to do, nay, which it is its duty to do; suppose it is wrongfully prevented from exercising power: you cannot construe the wrongful prevention into a real exercise and say the power has been exercised. If Jim Lane and his myrmidons had interposed there to prevent votes being cast for a Senator; could any man say that a Senator was elected on the ground that the Legislature was wrongfully deprived of the privilege of making an election? I think not.

The Senator from Missouri says that the Indiana Legislature did meet for this purpose, exercising their legislative power properly and fairly under the constitution, and therefore they did elect a Senator. How do you make that out? The constitution and laws of Indiana prescribe the mode in which the votes for Governor and Lieutenant Governor should be canvassed before a joint meeting of both branches of the General Assembly. It was a mere ministerial act. It was the duty of the Speaker of the House of Representatives to count the votes; and it was the province of the members of the two Houses to assemble there and see that the votes were fairly counted if they saw fit to attend to it; but it made no difference whether a quorum was present or not. It was sufficient that fair notice was given that the votes were about to be opened; and it would have been very singular if the whole number of members of the two Houses had been patient enough to go and witness it. We know it is not so here in similar cases. You would not get ten members of this body to be present to witness the performance of any such ministerial act, when they all knew beforehand what the result of the election was. It was rather their privilege to be present than a duty to be enjoined on them. It was the Speaker's business to count and canvass the votes, and it was the privilege of the representatives of the people to be present to see that everything was conducted fairly. Do you call that a joint meeting where legislative acts might be performed, and can you, from such miserable beginnings, draw a power to legislate and to adjourn? It appears to me that no lawyer can contend for any such thing. It was an assembly for a transient purpose: to meet on one day for a specific purpose, going no further than that, contemplating no legislation. Never in the history of the world was any legislative act performed by such a body. Here was a mere attempt to do indirectly that which everybody knew they could not do directly, but which it would have been infinitely more manly to do directly, and to say, "we, the members of the Democratic party of each branch of the Legislature, intend to meet at such a time in the hall of the House of Representatives, or somewhere else, and go into the election of United States Senators." That would have been infinitely better notice than was the going into this so-called joint convention for the particular purpose of counting the votes for Governor, and when they had got there, with men off their guard, supposing nothing else would be done, then to undertake to do a thing entirely and utterly disconnected with the object of the meeting. That was not acting in the frank and open manner in which a legislative body should act. It would have been better to serve notice that you intended to go into an election. I would do that before I would skulk under this thing you call a joint convention. Sir, I am astonished that any lawyer should contend that a meeting called for the purpose of witnessing the counting of the votes for Governor and Lieutenant Governor had the power to do acts of a legislative character entirely disconnected with the object for which the meeting was convened.

In my judgment, the whole case turns upon that point. Is it in the power of those who have a majority in one branch, and a minority in the other, to form a joint convention, consisting of a majority of the whole number, against the will, and without the consent of one branch? That is all there is in the case. That is the point.

As I said, it is without precedent. No precedent for it can be found from the foundation of the Government. That stands confessed. There is no such case to be found. This shows what has been the general sense of the people of the United States on the subject in the several States of the Union, for I hardly know of one which has not given a strong construction to this very principle. There is nothing more tempting to politicians than to feel themselves strong enough in one branch to overpower the other, and elect these high officers in that way. No greater temptation could ever be placed before a politician than to do this very act, if it could constitutionally be done; and is it not a little remarkable, that in all the strong contests for political power under this Government for more than sixty years, no party, until now, has had the presumption to suppose that the deed could be done? Why, sir, in almost every State in the Union the wishes of a dominant majority have sometimes been baffled in regard to the election of members to this body. The majority has constantly been defeated whenever it was the will of the minority having the control of one branch to resist going into an election. I always held it to be wrong; I always held it to be incompatible with the duty of a legislator to place himself in this attitude to prevent and throw back the legislation of the country for mere party purposes; but it has been done by all parties, and much oftener by the Democratic party than by any other. It has, however, been done in every State, and nowhere so often and in so marked a manner as in the very State from which these claimants come. That, to be sure, is a matter of no consequence, except so far as it shows the settled opinions of the whole country upon this subject. If, at any time, it had been supposed that, in defiance of one branch of the Legislature, a majority of the other could meet under the pretense of counting gubernatorial votes, or under any other pretense, and could go into a senatorial election, would a dominant majority ever have been baffled in their grasp for political power? No, sir; and this furnishes the strongest evidence of the sense and understanding of the whole nation, because it has never been done before under the most powerful temptations constantly to do it.

This was so plain that it required a little hardihood to attempt the undertaking for the first time. How could those who assembled in defiance of a coordinate branch of their Legislature say that they had the assent of the Legislature, or that the election was made by the Legislature, when one branch protested against the act to be done? I know that the majority of that branch have been censured in unmeasured terms for defeating, as you say, the will of the majority of the whole number, and preventing an election. That will not do. It has been too often practiced by all parties who call themselves high and respectable men to justify you in denouncing the act now. I think it was a stretch of political power that should never have been indulged; but nevertheless it was a constitutional right, because the power to elect Senators was vested in the State Legislature, and it could not be done without their assent. Can you steal the assent of a body? can you defraud them of it? can you get them together slyly for one purpose, and then attempt to perform another, and that, too, against the known will and open protest of one body? The idea, in my judgment, is ridiculous. Have you the assent of the Legislature to adjourn your joint convention when one branch stand off protesting that they will not take part in it, saying "we are not of you; we will not join you in this election; we protest against your doing it?" Yet we are to be told that because Jim Lane was there, that because some of the members, perchance, were not legally elected, or because of something else, you could get over this constitutional provision! Sir, I do not care how you were baffled; the fact stands out glaringly before the world that you elected these Senators without the assent of the Legislature. No argument can make it good. No ingenious man will contend that there is evidence here to show

the assent of the Legislature. Indeed, you do not contend for it. You say you stole it in a sort of a way, somehow, in that convention, met for another purpose. That is not the way a legislative act can be done. It must be by the assent of both branches of the Legislature fairly obtained, and then I do not care how the election is made.

I know that, at an early period of our history, it was held that it was unconstitutional to elect by a joint convention, called by the assent of both branches, because a convention was not the Legislature and could not make laws. That point, however, has been yielded. Some of the States, more strict constructionists than others, have always elected by a separate vote of each branch, and many of our best men and greatest jurists have doubted whether the common mode, in the West, of electing Senators by joint convention, is constitutional, even when that convention has been brought together by the fair and free consent of both branches of the Legislature. The late chairman of the Committee on the Judiciary of this body, (Mr. Butler, of South Carolina,) declared, in Mr. HARLAN's case, that, if it was a question of first impression he would hold an election by joint convention to be unconstitutional, because the convention was not the Legislature; but he gave up that point because of the common practice and understanding that the two Houses might go into joint ballot when they had each agreed to do so. That, however, was the extent to which anybody pretended that the Legislature could go, in this respect, under their power to prescribe the manner of election; but all admitted that two legislative branches must agree as to that manner, and in the present case one branch was never consulted at all in reference to it.

If the resolution reported by the Judiciary Committee prevails, you work a revolution in the manner of electing Senators; the most numerous branch of the State Legislatures will hereafter meet by themselves and elect Senators without the concurrence of the other branch. It is cutting loose entirely from the Constitution, which declares that the election shall be by the Legislature. You are now saying practically that it may be done by one branch if they have the numerical majority. That is how it will be understood and acted upon if this precedent shall be set.

This whole question was so lately and so fully canvassed in this body in the case of the Senator from Iowa, that I am astonished at some of the positions now assumed. The question in that case was, whether the Senator from Iowa was elected by joint action of both the Senate and House of Representatives of Iowa. Nobody denied that the two Houses in Iowa had agreed to meet in joint convention for the purpose of electing a Senator, and that, failing to elect, they adjourned over from time to time. It was said at first, that the joint convention had no power to adjourn; but, on looking into the law of Iowa, we found that they not only had the power to adjourn from time to time, but that it was made their duty to do so until an election was had. That point being given up, it was next said that in the joint convention the members of the different branches did not lose their identity, but remained separate bodies. On the last day of its session a majority of the Iowa Senators were bodily present, but two of them protested that they did not intend to be considered as present, and even on that slight ground you said the Constitution would be violated by sustaining the title of the Senator from Iowa, and he was sent home to pass in review before his own State again upon that very trifling want of concurrence. I believed then that that was an over-nice construction, and I think so now. I think that when both branches have agreed to go into joint meeting, and a quorum of the whole body is present, the Constitution and the laws require no more. It seemed to me that a Senator and a Representative became peers, and had exactly the same political power on the floor of the joint convention, and being assembled there for this purpose in pursuance of law, they so lost their identity as to become one homogeneous body of peers for this very purpose—certainly not to go further; though, according to the arguments of my colleague, they might, when they got together, do anything that they might have done when they were in separate bodies. I cannot suppose that to be possible; but having assembled in joint convention for the pur-

pose of electing a Senator, having agreed upon a mode and time for the election, I supposed that there was no necessity for the presence of more than a quorum of the whole body. On that ground I voted in favor of the Senator from Iowa keeping his seat; but the Judiciary Committee and a large majority on this floor held otherwise. If you could turn one Senator out upon such slight grounds, how can you overcome the mountain of objection that now intervenes between these men and their election? They have no color of right. When I say this, I say it in no hostility to these gentlemen, for my intercourse with them upon this floor is as agreeable and as pleasant as with any others, and I would as soon see any members of this body depart as them; but what can such considerations weigh against the plain provisions of the Constitution of the United States? What weight can such considerations have against that great charter which we are all sworn to support? I see a want of constitutional power in what has been done, and I see nothing in this whole case to relieve it from the mountain of objection which intervenes. I would that it were otherwise. I differ from these gentlemen in politics, but I know them to be patriotic, and, as I said before, my intercourse with them has been agreeable and pleasant to me, and I would as soon have them here as any one else, if they could invoke the power of the Constitution justly in behalf of their title; but I feel that they cannot.

The whole question lies in so narrow a compass that it would be wrong for me to travel through those shadows, for they really do not amount to substantial objections, thrown in by my colleague in the precedents which he has brought before us after great labor and research. They seem to me to vanish, and not even to have any relation to the trial of the question before us. Can you find any precedent establishing that one branch of a legislative body constitutes the legislative power of the State, against the protest of the other branch? If a thousand such precedents could be found, you and I, sir, would know that they were false, and ought not to be followed. They cannot be found, however, because an American Senate was never so lost to all sense of constitutional law as to determine so plain a question in that way. The case is sought to be eked out by precedents of school districts or church trials, and all those little make-weights that lawyers may throw in to help out a bad case. But, sir, we are here in the capacity of judges, not as advocates. We are here to judge fairly between the persons claiming these seats and their constitutional power to hold them; and we are greatly astray from our duty if we swerve to the right or to the left, any more than a judge upon the bench would, in determining the rights of individuals. Show me that you have invoked the legislative power of the sovereign State of Indiana to maintain these men's titles, and, my word for it, you shall cheerfully have my vote. I cannot find any such thing in your proceedings. I find that one branch of the Legislature proceeded to make an election against the solemn protest of the other. It will not do to say as the Senator from Louisiana said, that the majority of the Senate of Indiana were endeavoring to take advantage of their own wrong; that they ought to have gone into the election; that they knew the other side had a majority to make the election, and that they ought to have yielded and gone into it. That may be, but it cannot help out your want of constitutional power. He says that his mind has changed because he finds that we are proceeding to take advantage of our own wrong in defeating these men. Sir, that is a poor answer to an objection of the want of constitutional power. The power has not been constitutionally exercised, I care not for what reason. Those who have interposed to prevent it may have been right, or they may have been wrong; but I will say, in justification of them, that they were not singular, for they had a high and honorable example before them. This had been repeatedly done; it had become the common law of the State of Indiana, and therefore there was no wrong in it; or if there was, it applied to one party as much as to the other. That point, however, should not weigh a straw against either, nor can it help out a want of constitutional power which is most flagrant, in my judgment, in this case.

Mr. TOOMBS. Mr. President, having been a member of the Judiciary Committee at the time

this question was committed to that committee, it received as much of my attention as my other duties would permit, and therefore I deem it not inappropriate, if, indeed, it may not be regarded as my duty, to give as briefly as possible the result of the investigations it became my duty to make with reference to this subject. I do not consider it a plain question. I deem it to be a question of real and of serious difficulty, and I think that difficulty has been much aggravated by contrary practices in the different States of the Union, and by contrary constitutional constructions. In my opinion, however, upon principle and upon the great majority of the precedents, there is no difficulty in arriving at a true, a just, a safe, and a constitutional ground upon which to decide this question.

The seats of these two gentlemen are a matter of the extremest insignificance to any of us, in comparison to the great principle upon which their right rests. So far as they are personally concerned, it is a matter of no concern. The merest accident may deprive them of their seats. Death, that has come among us so rapidly, thins our numbers and changes our relations. Men change party relations oftener, probably, than God Almighty interposes to interfere with them. I find all around me here men whom I have opposed, and with whom I have acted in the last eight or ten years. Such is human life, such is politics. On the great question of ascertaining the right of a member to a seat in this august assembly, there should be no rule of action but the Constitution of the country and the highest good of the Commonwealth.

The question is in a much narrower compass than I apprehend it has been generally imagined to be. When this Government was formed there was great difficulty in the convention that framed the Constitution about what should be the relations of the States to the General Government. They were entirely equal under the old Confederation. Many of the lesser States struggled to retain their equality, but finally they yielded it in one branch of the National Legislature and maintained it in the other. That was the result of the struggle. They agreed that numbers, that population throughout the United States, should govern in one branch of Congress, but that the other branch should represent the sovereignty of the States. I am quite sure my friend from Ohio, [Mr. WADE,] who has very fairly argued this question on his side, cannot place a higher estimate, it is impossible for any man to place a higher estimate, on the importance of the absolute sovereignty of the States of this Union than I do. I have maintained it throughout my political life in good fortune and in evil fortune, that they were sovereign, that they were judges of the infraction of the compact and of the mode and measure of redress, and I take it that he would be too afraid of the term nullifier to extend his devotion to the sovereignty of the States as far as I claim that my own goes.

Mr. WADE. I am as good a nullifier as you are.

Mr. TOOMBS. I am glad to hear it. It is good doctrine. I think it is a good sign to hear the Senator make that declaration, especially after our troubles for the last eight or ten years. I have seen the time when I could not find a man in either branch of Congress to admit that he was one.

Mr. WADE. I was not here then.

Mr. TOOMBS. In settling the controversy in regard to representation between the States, the framers of the Constitution declared that the members of the House of Representatives should be elected by the people of the different States, according to federal population (which itself was a compromise) and that Senators should be elected as their late Representatives to the Congress of the Confederation had been, by the States; that they should represent the sovereignty of the States. I will do no act to weaken, in the slightest degree, every right maintained there, that this body shall forever represent the sovereign States of this Union; but I do not intend to be defeated by majorities of the United States, nor by minorities at home; and that was no part of the scheme of Government. While we protected ourselves against a majority in the Federal Government, we stood by the principle that the majority of our separate States represented their sovereignty, and

that is the principle to which I wish to lead the Senate in the consideration of this question. The House of Representatives were to be elected according to the first article of the Constitution, and I call the minds of those gentlemen who consider what I have to say worthy of attention, to the fact that the provision as to both Houses is in the same clause of the Constitution. Immediately after declaring that Senators should be elected by the Legislature, the same clause goes on to declare that the time, place, and manner, of electing Representatives, as well as Senators, should be determined by the local Legislature—by the State sovereignty; provided, at the same time, that Congress might alter their regulations in all respects except as to the place of choosing Senators; but in all other respects the election of Senator and Representative depends on the same constitutional power.

In Indiana the legislative power is vested in two branches; but it is important to remark that the Constitution of the United States pays no regard to the number of branches of which a State Legislature may be composed. As the Senator from Ohio [Mr. PUGH] said, my State had but one branch when the constitution was formed; others had two. All might have had three, or a dozen, if they chose. The great National Assembly of France, in 1789, had three: the Peers, the Commons, and the Priests—the three great estates. The Constitution declares that members of the House of Representatives shall be elected by the people. Who are the people? All those entitled to vote for the most numerous branch of the State Legislature. What did that mean? This is important to gentlemen who wish to follow the Constitution. To the hands of all persons entitled to vote for the most numerous branch of the State Legislature was committed the right to elect members of the House of Representatives. How many of them? How many of these people were to elect? According to the doctrine of my friend from Ohio, [Mr. WADE,] it would require every man of them. It does not say a majority shall elect; it does not say two thirds shall do it; but these electors are to elect the members of the House of Representatives; and therefore, according to his construction given to the other clause, it would require the concurrence of every man legally qualified to vote to send a member of the other House; and if they differed, you never could get one.

Mr. WADE. I do not say any such thing; but it is in the power of the Legislature, in prescribing the manner, to attend to that.

Mr. TOOMBS. I do not intend to misrepresent my friend; but I will show him that that is the result of his argument. One clause says the people shall elect members of the House of Representatives, and another that the Legislature shall elect Senators. If it requires all the Legislature to elect a Senator, it must require all the people to elect a Representative.

Mr. FESSENDEN. That is a *non sequitur*.

Mr. TOOMBS. I should have great pleasure in hearing my esteemed friend from Maine on that point. I do not believe in that doctrine, but I say one is as true as the other; but our fathers were too wise to leave it there, and therefore they prescribed who the electors should be, and they said: "The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature." It says that the electors shall elect the House, and simply defines who the electors shall be. In the other case, it says the Legislature shall elect a Senator. What part of them? Does it say a majority? No. Two thirds? No. Seven eighths? No. The only place from which you get any guide on this point is to be found in the other clause of the Constitution, saying that the time, the place, and the manner, may be determined by the Legislature.

Mr. FESSENDEN. "Shall be prescribed," not "may be."

Mr. TOOMBS. That only makes it stronger; and yet Congress may alter their regulation, except as to the place of electing Senators. That grew out of a popular temporary prejudice that crept into our Constitution; and the way it got there was from the fact that the King had, by his Governors, convened the colonial Legislatures at

unusual and uncomfortable places, remote from the records. It is about the most inconsiderable thing in the whole business, but that was the reason they put it in. They did not intend to be called together by Congress, or by any other power at an inconvenient place, or a place remote from the records. The time, the manner, and the place, are to be fixed by the State Legislature; but if they do not do it, to suit Congress, the power, was reserved in this Government to override the State Legislature in regard to the time, the manner, and the place of electing members of the House of Representatives, and the time and manner of electing Senators, reserving to the States solely the right of determining for themselves where they would elect Senators.

Then I recur to the clause fixing the electors entitled to vote for the most numerous branch of the Legislature, as the electors for members of the other House of Congress. They are the persons to vote for members of the House of Representatives, and I say, by the construction put on the Constitution by gentlemen on this side, it requires every man, unless the Legislature or Congress has acted. I should be glad to hear from my friend from Maine on that point, because I look upon it as an important point, and I see he shakes his head.

Mr. FESSENDEN. I do not intend to interrupt the Senator now.

Mr. TOOMBS. It will not interrupt me in the least.

Mr. FESSENDEN. I shall, if I have time, say a few words afterwards.

Mr. TOOMBS. When they give it to the whole collective body of the people, it must be exercised by them all, unless the Legislature determine otherwise, according to the gentleman's argument. We know that many of the New England States have adopted a different rule from other States. Many of the States say that a plurality shall elect a member of Congress. Massachusetts said that nothing short of a majority should elect; and since I have been in public life, she has been without a member from one or two of her districts, in the other House, for a whole Congress, because they could never get a majority to agree upon one man.

Mr. FESSENDEN. That law is changed now.

Mr. TOOMBS. I know that; but it only illustrates my idea. When that pestilent faction of abolition first started, they nominated their men, and they were sufficiently powerful until they coalesced, until the Whigs succumbed to them, to prevent an election; and I recollect that, on one occasion, when I served in the House of Representatives, Massachusetts was without two members for an entire Congress. Georgia and Virginia said, "while we give the power to the whole body of electors, our law is, let the devil take the hindmost; whoever gets the most votes shall come to Congress." I believe the law of Massachusetts has been altered to the same thing. I am quite sure it ought to have been, because that rule puts down faction everywhere, and it is wise in itself. I am not complaining of it. When we said a majority may elect, we could have said two thirds, or three fourths, or seven eighths, in the absence of legislation by Congress; and why not say all? The Constitution said all should send them, and that the time and manner of the election should be determined by the States. Massachusetts said it should take a positive majority to elect a member, and we said a plurality. Why had we not a right to say that it should take every man? The argument is irresistible and unanswerable.

Some of the State Legislatures, as I before remarked, consisted of but one body; some of two. In other countries there have been three bodies composing a Legislature. There might have been twenty. It was a mere question of constitutional arrangement at home. The wise men who made our Federal Constitution, knowing the difference of the States and their interests, said it is likely you will manage this matter best; keep your government to suit yourselves, and we will not interfere with it unless it becomes necessary to preserve the nation, and then we simply reserve the right to take care as to the place and manner of electing members of Congress. Congress can override the plurality system of Massachusetts to-day, and say that a majority shall be required to elect members. They can say one branch, if a majority of the whole, can elect Senators. Every State has acted on that principle in the

Union now, I believe. In three of the New England States—Connecticut, Vermont, and possibly Maine—although the Houses vote separately, as Virginia does, and each House nominates, yet finally, I think, they came to the rule that they must come together and stand *per capita*, and not *per stirpes*. I think that is the rule now in all the thirty-two States of the Republic.

Mr. DIXON. It is not the rule in Connecticut. One branch can defeat an election there.

Mr. TOOMBS. I think that is the case, then, nowhere else but in Connecticut, and Congress not having interfered, I admit you can fix it in that way. The way is indifferent to me, and I say the whole difficulty in this case arises from the contrariety of action in the different States. The principle for which I contend is, that it is for the States alone to determine until Congress determines. My friend from Ohio says the Legislature consists of two branches in Indiana, and therefore it is in violation of the constitution to elect a Senator by a bare majority of the whole number. That is his position.

Mr. WADE. The Senator misunderstands me. I say simply that the State cannot vest the election of a Senator in any less power than the Legislature, whatever that may be. It cannot vest it in one branch when there are two.

Mr. TOOMBS. I admit that. They can give the power to no other people on earth but the designated electors under the Constitution. The Constitution has declared that the power to elect Senators belongs to the Legislature. If the law be as my friend from Ohio interprets it, nothing can answer his ends but that both branches shall concur in the election; that is, that no man can sit in this body who has not got a majority of the Senate and House of Representatives of his State in favor of his election. It must result in that. Is that true?

Mr. WADE. That is not what I mean. It seems I have been unlucky in making myself understood; but I do not want to interrupt the Senator.

Mr. TOOMBS. It is no inconvenience to me, and I will hear the gentleman with pleasure.

Mr. WADE. As to the manner of the election I am indifferent, provided it has the sanction of the Legislature. On that point I differed from the late Senator from South Carolina, (Mr. Butler,) in the Iowa case, and I said that when the Senate and House of Representatives, in whom the legislative power is vested, have consented to meet in joint convention, in my judgment the Constitution is satisfied, because that is the Legislature acting in the mode prescribed by itself, and I am not particular as to the mode, so that it has the assent of the Legislature.

Mr. TOOMBS. The Senator has met my precise point.

Mr. FESSENDEN. Will the Senator from Georgia allow me to interpose a word?

Mr. TOOMBS. Yes, sir.

Mr. FESSENDEN. We do not contend, or at least I do not contend, that both branches must concur by separate action in the election. I say, however, that no valid election can be had unless both branches have previously concurred in prescribing the time, manner, and place of holding the election. That is the ground.

Mr. TOOMBS. I understand that; and there, I think, I can satisfy every intelligent mind in the Senate that both my friends are wrong, and I will put in on a constitutional ground. I know the difficulty, and I know it has been run over in the Senate. The Constitution gives this power to the Legislature. I say it means a majority of the persons legally elected to the Legislature, whether there be one branch or forty branches. My friends say it does not require a concurrence of each branch, there being but two—I leave out the question of numbers—but my friends from Maine and Ohio say that if they consent in advance to go into a joint meeting that will cure the defect. I put it to either of them, and to any intelligent man in the Senate, that it cannot. If the Constitution requires that a Senator shall be elected by the Legislature, and "Legislature," as there used, means both branches, no consent of theirs can enlarge the constitutional power. I put the whole case there, and I submit it to the judgment of every gentleman in the Senate. They say it requires the concurrence of both branches to consent to go into joint convention to make the

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election. That is not the Constitution. It requires that the Legislature shall elect, and if it means both branches, their agreeing to be overruled, the lesser by the greater, is unconstitutional. You tell me that to elect a Senator requires the action of the two branches and nothing less, and yet you say that a branch of the Legislature can consent to part with its constitutional power. When the power is deposited in both branches to elect, you say that one branch can agree to deposit it with a majority of the other. I say there is no principle in it; and no lawyer, no statesman, can maintain it for a moment. Their assent is a matter of total indifference. They may prescribe the mode just as they please. They may say it shall require two thirds, in the absence of any action on your part; but if it requires the concurrence of both Houses, they cannot agree that a majority of one, if sufficient to overcome the majority of the other, shall satisfy the constitutional requirement.

Mr. WADE. If both together could not do it, certainly one could not.

Mr. TOOMBS. That is true; neither can I stand there. If I am right, if the true theory of the Constitution is that the majority of the members of the Legislature are electors, I do not care whether they are in the Senate or House, the Constitution is satisfied; and I say every State in this Union but Connecticut has acted on it. The election of United States Senators is not a legislative act; it does not require the concurrence of both bodies. That is admitted by every man in the Senate. Adopt the opposite idea, and this Senate would be vacated to-morrow; not a man could sit here; it would be an unconstitutional body. It does not require the concurrence of the Senate and House of Representatives in any State of the Union to elect a Senator to this body. Why? Simply because the Constitution does not require it; not because they agree that it shall not, for they can make no such agreement. Does any man hold that the Senate or House of Representatives of any State can part with a great constitutional right of election? Can they enlarge the power or diminish it? Where do we stand? Is it in the Senate or in the rostrum, before the multitude? If the Constitution means, by using the term "Legislature," as many bodies as the State fixes for its legislative power, no agreement among themselves can enlarge or restrain that constitutional requirement; and when Virginia said that her Legislature should consist of a House of Delegates and a Senate, and a majority of the whole should elect a United States Senator, she decided that it did not require the action of the two bodies. I admit that Virginia, in prescribing the manner of election, may say that both Houses shall come together, and that it may require a majority of both, until Congress acts. Does any man deny that? If she has that power, and it is constitutional, what becomes of the opposite argument? Connecticut exercises it, unless my friend before me [Mr. Dixon] was illegally elected. Though three fourths of the whole number of the Legislature may be in the most numerous branch, a State may allow a majority of one in the other branch to prevent an election. That must be the result of the position of the other side. I say you can neither enlarge nor diminish your powers by your own legislation. You can prescribe the mode, the time, and the place. If the concurrence of both branches is necessary, you are right. If it is not necessary, every other State in the Union is wrong. Such has been the custom. Some of the New England States, (I think the State of New Hampshire,) after one or two trials and a nomination by one branch and the other, finally come together into joint convention.

Mr. HALE. Never.

Mr. TOOMBS. Vermont does, after various trials, according to my recollection. I know there are three New England States peculiar in this respect, and they are the only States where a majority of the whole number does not elect at all events. By what right does Vermont say that she requires

the concurrence of both Houses? and by what right does Virginia say she does not require it, but is satisfied with a majority of all the members? The same law of the Constitution applies to both; and the Constitution requires the Legislature to elect. Can the Legislature dispense with it? Have they a right to say that one body shall elect against the other? I believe my two honorable friends from Virginia were elected by a minority of one House and a majority of the other. I know it has been frequently done. I have sat with many gentlemen who were elected in the same way. In my own State, when the Legislature meets in joint convention, we care not whether a man has a majority of one House or of the other, so that he gets a majority of the whole. It does not require the assent of a majority of each. If the construction is right, that it requires both, it can never be waived. If the Constitution does not require it, it never existed, and it need not be waived.

I hold, in the first place, that the election of a Senator is not a legislative act; it does not require the sanction of the Governor; in the second place, there can be no power in a State Senate, as my friend from Maine contends, to part with its constitutional right. If it requires the assent of both, neither can agree to yield. If it takes two branches to make the Legislature to elect a member of this body, according to the meaning of the Constitution, all your assent to meet together in joint convention is unconstitutional. I take the true meaning of the clause to be as it has been practiced upon from the foundation of the Government. There is some wisdom in looking back to the contemporaneous interpretations of the men who made the Constitution. In every State, except a few in New England, the practical interpretation has been that the electors of a Senator were the members who composed the Legislature, whether one branch, two branches, three branches, or twenty branches, if such an absurdity could be presumed. They are the electors; they are the representatives of the State sovereignties. The Legislature may stand in some States on the basis of numbers; in others, as in Virginia, upon freehold property. It may stand, as it did in South Carolina, upon taxation and population combined; or, as it did in my State, upon the Federal basis—three fifths of all other people besides whites. That is a matter for the States alone to determine; and they may elect a Legislature of such qualifications as they themselves prescribe. In my State we at first required a State Senator to hold a thousand acres of land, and own a great deal of money above his debts. A member of the Legislature, in the earlier days, was required to own five hundred acres of land, free from his debts. Our forefathers acted on the old-fogyish idea that men who did not pay taxes should not lay them. We have departed from that principle; whether wisely or unwisely is in the womb of time. I think, myself, there is a great deal in the old idea. There is much safety in having the security that the people who lay burdens shall be those that bear them. Proverbial wisdom would vindicate that idea. We, however, are making a broader experiment in this day. Some of us may live to see the end of it; but I hope not.

I say, then, it does not require a concurrence of the two bodies of the Legislature to elect a Senator. Congress may determine how it shall be done; but they have not exercised the power, and Indiana has not done so. She has not determined the time, the place, or the manner; nor has Congress done so. Shall Indiana, then, be unrepresented? It is admitted there is no time, no place, no manner, fixed by the law of Congress, none by the constitution, and none by the law of Indiana. Is she disfranchised? It is a very serious question. This identical question has been determined in the other branch of Congress, upon the same basis, and I call the attention of every man that hears me to it. Unless the question was settled wrongfully, the precedents which I shall cite are unanswerable; and on them I shall rest this case. The first decision to which I call attention was a very early one, and I admit that I am

enough of an old fogey to have great regard for the wisdom of the forefathers. In 1796, a few years after the Government went into operation, the case of Lyman S. Smith arose in the House of Representatives, which was very ably debated. The case was this:

The sheriff had failed to give notice of the time and place of holding the election at two inconsiderable towns included in the election district; but as fraud was not imputed, and it did not appear from the evidence that the votes of all the freemen of the said town, if duly given, could have changed the result of the election, it was therefore held that the want of notice to these towns was not a sufficient cause for setting aside the election.

This proceeded upon the idea that the right of election was vested in the majority of electors, notwithstanding it was given equally to all. Although it was admitted that notice was not given to all, and therefore some of them were deprived of their legal rights, yet, inasmuch as if they had voted they could not have changed the result, it made no difference, and Mr. Smith was declared entitled to his seat from the State of Massachusetts. In the case of Indiana the recusant Senators might have come; they had notice. The great question for you to determine is whether a minority, in defiance of the Constitution of the United States, in defiance of the sovereignty of their own State, can defeat the will of a majority in the performance of a constitutional duty? The question is, whether there is a power in this Government to enable a minority to defeat the Government of the Union and the sovereignty of their own State? I do not care who does it, whether Whig, Democrat, or Free-Soiler, or by whatever name he may call himself. I say the American Senate are to determine to-night whether there is a power anywhere by which a factious minority in this country can not only overturn the Government of the United States, but overturn the sovereignty of their own State. I say there is not.

I come next to a case more precisely in point, and it is a very important one. It is a case which occurred in the very State from which this controversy comes—the case of *Thomas Randolph vs. Jennings*. Congress had divided the Territory of Indiana into two, and the act of Congress did not authorize the election of any Delegate. It was a mistake in the law, and it was remedied some two or three years afterwards. I will not fatigue the Senate by quoting from the statement of the case. The resolution that was reported by the committee was:

"Resolved, That the election held for a Delegate for Congress for the Indiana Territory on the 23d of May, 1809, being without authority of law, is void; and, consequently, the seat of Jonathan Jennings, as a Delegate of that Territory, is hereby declared vacant."

A motion was made to strike out the words "being without authority of law," which was negatived, 45 to 51; thus holding that it was illegal and without authority. This was in Committee of the Whole; but what was the action of the House after argument?

"The subject was diffusely debated this day as well as yesterday; and on the main question being put, the House refused to concur with the Committee of Elections and of the Whole House by the following vote: for concurrence 30, against it 83."

The majority against it was fifty-three. That was in 1810. Indiana had not legislated; Congress had not legislated; there was no authority of law for the election; and yet the man held his seat. A subsequent motion to declare him elected was made and withdrawn, it having been considered that the former vote, deciding against the committee who reported that he was not entitled to his seat, was equivalent to a confirmation of it. In looking over the debates on the occasion, which are given more *in extenso* in the Annals of Congress, you will find that it was held that those people were entitled to a Representative; that, though there was no law of Congress, and no law of Indiana, yet, as no fraud was alleged by Mr. Randolph, who contested the seat, it was all fair except as to two precincts where the sheriff did not appoint the inspectors; and it was proved by

Jennings that if every vote in those two precincts were given to his opponent, he would not be elected any way; so that their votes were waived, on the principle of the Massachusetts case. Congress then decided that, although there was no authority of law to hold the election, the people being entitled under the Constitution to representation, and there being no fraud, the legal electors having sent a member, he should hold his seat. I want to know what stronger case there could be than that?

Mr. FESSENDEN. I suggest to the Senator that if that is the case of a Delegate, it does not come under this provision of the Constitution at all.

Mr. TOOMBS. Why not?

Mr. FESSENDEN. Because there is no constitutional provision for the election of Delegates.

Mr. TOOMBS. There is a provision of law that the Delegate shall be elected by a majority of the people of a Territory.

Mr. FESSENDEN. What I say is that this provision of the Constitution does not apply to a Delegate.

Mr. TOOMBS. But the question arose there whether the man who was elected without any authority of law could hold the seat? Whether the election was under a law derived from Congress or under the Constitution, could make no particular difference. Congress having omitted, by mistake, to provide for an election, the people being entitled to representation under our institutions, though there was no law of Indiana, and none of Congress, no law anywhere, yet, inasmuch as there was no fraud alleged, the man whom the people sent here was declared to be entitled to his seat. Both the cases which I have read went to this ground under the Constitution as to the seat of a member of Congress.

Mr. FESSENDEN. They did not come up to that.

Mr. TOOMBS. They came to that distinct principle; and there was a very important case from Pennsylvania on the same ground which I think will cover this case, and I invite attention especially to it. It is the case of *ex parte Hoge*. The constitution of Pennsylvania said that whenever there should be a vacancy, the Governor should issue his proclamation to call an election; but the provision fixing the time, place, and manner of electing members of Congress in Pennsylvania, and in many of the States, applied only to regular elections, and did not apply to vacancies. The constitution says that the time, place, and manner of electing members may be fixed by the Legislature, or by Congress. Neither Congress nor the Pennsylvania Legislature had fixed it for a vacancy. What was the result? Mr. Hoge was elected it seemed upon two days' notice, and that was a great point. It was very ably argued by some of the ablest men of that time. It was admitted that there was no law of Pennsylvania to fix the time, or manner, or the place of election. The Governor issued his proclamation to have an election. After a full review and able argument, Congress acted on the great principle I am acting on to-day, that a majority of those persons who by the Constitution and the laws were entitled to choose a member of the House of Representatives were to be respected; that although Pennsylvania had not fixed the time, the place, and the manner of the election, yet as there was no fraud, and as the electors had met peaceably, and under some color of authority—the proclamation of the Governor—and elected a Representative, that election should stand. That decision was made under the same clause of the Constitution under which we are to decide this question, for Senators and members of the other House come under the same clause. If the principle does not cover this case, I admit my own obtuseness is unable to see the distinction.

The Constitution provides that the time, the place, and the manner of electing Senators and Representatives shall be fixed by the Legislature, reserving to Congress the right to alter the regulations as to time and manner. There was no law on the point in Indiana. She is entitled to two Senators under the Constitution. They are here. Now, what question are we to determine? Are these men returned by those persons lawfully entitled to return them? That is the only question I intend to meet. It is unnecessary for this case to go to the extent I do; but that is the only ques-

tion I want to know, as I held here in the case of Mr. HARLAN; and I am grounded by the precedents of the wise men of the country. There was no party question in regard to the admission of the Territorial Delegate, in 1810, under Mr. Madison's administration. The anti-war party had not then risen, much less been crushed out; but by a great majority of 83 to 30 the House of Representatives then said "these are forms; if the people who had the right to send a Representative here have sent him, he shall stay." Very well; these gentlemen come here from Indiana. What do they bring? They bring the highest evidence from their own State of Indiana, that they are her Senators; as good as I bring, or as you bring, sir. It is a great thing to go behind it. It is not an unimportant thing to a States-rights man to say that you will inquire into it. It is rather a derogation of the State that you do not inquire into Lord Napier's commission, and see whether his Government had a right to send him here; whether he was legally sent here; and it is a great thing to go behind the broad seals of the sovereign States of this Union; but for wise purposes, probably, the Constitution gave this body the right to inquire into the elections, qualifications, and returns of its own members; and therefore this inquiry is before us to-day. It comes here by virtue of that constitutional power. These gentlemen are here with the seal of a sovereign State. They are here with the certificate of the Governor of their State. Will you go behind it? Yes, by virtue of this authority; but tread tenderly upon this sacred ground.

Go to the legislative records of Indiana, and you find that, according to the usage of her sister States, a joint convention of both branches elected Senators without reference to how stood the members of the House, and how stood the members of the Senate of the State. That record says that both branches did meet, and that eighty-three votes out of the one hundred and fifty of which both branches were composed, a large majority, did elect them. Now we have got the substance; we have got two men, elected by the great majority of those, alone, to whom the people of Indiana could commit the right to send Representatives to this Chamber—their Legislature. They are the only persons, under the Constitution of the United States, to whom she could commit this right. She can appear before you in no other way than through a majority of the members of her Legislature. They, unquestionably, received a majority of all the votes. There is no impeachment of that fact. There are but one hundred members of the House, and fifty members of the Senate, making one hundred and fifty altogether; and these gentlemen were elected by the votes of eighty-three clear, undisputed members of this Legislature of one hundred and fifty, in the presence of the Lieutenant Governor, who presides over the Senate, and the Speaker, who presides over the House of Representatives, and all the people; and they gave them certificates.

Then we have the highest evidence of the executive department; we have the highest evidence of the legislative department of Indiana; but we are asked to go behind that. Where shall we go? To a faction? I will not speak of them as I think of them. I have denounced them when they were with me; I spare my opponents the deep indignation which I feel for their traitorous violation of their oaths, and the Constitution of my country. I say I will spare my opponents, though I did not spare my friends on a like occasion. Who comes here? Is there a contestant? None. Is Indiana here protesting against this election through her executive, legislative, or judicial departments? Not at all: these gentlemen speak for her. Not one of her departments contests their authority. Who are the men that do? They are traitorous, perjured wretches, who say, "we have been smart enough to cheat the Government, and cheat our State." You may class it as you please; you may think what I say harsh. I admit I am rude of speech; but I generally speak what I think; and I am just, I trust in God, even in the denunciation I bestow on these men; and I think I am from the fact that I do not denounce them stronger than I did those who opposed this Black Republican behind me [Mr. HARLAN] when his seat was up. I consider them traitors, enemies of the Constitution and the Union, and double traitors for being enemies of the constitution of their own

Commonwealth; for I admit that my first allegiance is to my own State, not here. My country is not here only so far as my State wills it. The moment she wills it, this Government may be my enemy. I consider myself an ambassador of my State; and whenever she wills it, my allegiance is due to her. You know now that I am not courting your favor from other parts of the Republic. These are my principles, and my politics, and I shall stand by them.

Here, I say, is the executive and here is the legislative department of Indiana, who tell us that these gentlemen are the ambassadors whom they send to the councils of the Republic. A part of the members of the Legislature come here and say, "we did not participate in the election; the constitution gives the power to elect to the Legislature; we are a part of the Legislature, and we had nothing to do with it because we wanted to defeat the great right of our sovereign State to be represented in the Senate of the United States; we have been without one Senator for two years, and should be without another one for two years, unless an election was made at this time; cannot you honorable Senators of the United States, representatives of sovereign States, help us to perpetrate this iniquity?" It would go hard with me if I could not find some place to cheat such scoundrels and to defeat their schemes. I would lay my hand on the law as long as it stood by me, and then I do not know whether I should not be provoked to stand on the principles of eternal justice before I could submit to it. It is not right. I would not submit to it, I care not who did it.

If you go behind the broad seal of the State, what do you find? My honorable friend from Louisiana told you what you find there. You find traitors, rebels, assassins, men lawlessly acting in that very legislative hall, setting up an *imperium in imperio*, as negligent and defiant of the laws of their own making as they were of the Constitution of their country, which they had sworn to support. What do they say? They say they have not gone into this business?

Now I come to a point which will delay me but a very few minutes longer. It is very clear that it would not be necessary to my purpose to consider whether they went in or not. I hold that the Constitution means that a majority of the members of a Legislature can elect. I hold that a minority among the people cannot defeat the exercise of this right, nor a minority of legislators. It is a great right secured to the people by the highest fundamental law of the land. It is a right which is secured to the representatives of the people that it is not in the power of minorities to defeat. Senators, it has a stronger and a sterner security. You do injustice to yourselves and to your country when you tell me that the Constitution of your country can be thus torn asunder by these miserable miscreants. It is too strong for them. Do not sacrifice the substance to the shadow. The substance is, shall a sovereign State, through the persons to whose hands she has committed the right of sending her ambassadors to this body, be defeated by a minority? I say that the electors to whom this power is confided shall be allowed to exercise it, so far as I am concerned. The question on which this case rests has been determined in the House of Representatives for sixty years. The substance is a fair election by those who are entitled to make it. The forms are the means by which you arrive at it. I will break down all the forms to get at the substance; but here I say the forms were followed. By the constitution of Indiana she had a joint convention. The joint convention was regularly called by the constitution; it was regularly assembled by the consent of both branches, because a majority of the Senate and a majority of the other House went in. It is true three of the Senators said they went in to look on. Well, sir, when I have got them there, I will keep them for a better purpose. They might have gone in to scoff; I will keep them there for the public good. They were bodily present, and I will use them.

This convention having been called by the constitution, having been constituted of the Senate and House of Representatives, it was a legal body known to the constitution. It was made, it was true, for the purpose of counting the votes for Governor, and for no other purpose under the constitution, for that was the only reason for which they were called together; but there stood

the persons to whose hands was committed the right to elect United States Senators. Indiana had been without one for two years, she would be without another, in addition to that one, for two more years. That convention, according to the usage of Indiana, and of every other State in this Union but three, was the proper body to elect Senators. When they discharged the duty of counting the votes for Governor, the President of the convention, according to the usage, said, "I adjourn this body until a subsequent day." It met again, and then he declared, "I adjourn it to a certain day to elect two United States Senators for the State of Indiana." It met. A large majority of those on whom the Constitution of the United States, and of their own State, devolved this duty, assembled and performed the work. They have sent their Senators here. Can you send them away? Those who protest against their election do not complain of want of notice, and they do not say it was done fraudulently; they do not say eighty-three members had not the right to elect; but they say, "we devised a scheme which we thought would defeat an election." Will you, Senators of the United States, maintain it? Will you become *particeps* to this great fraud—it is nothing more in my idea. I charge it on no other man; but I ask, will you become a party to this iniquity, this violation of the Constitution of the United States, and the constitution of their own State, in order to defeat the will of Indiana. We know nothing of the will of Indiana, so far as the election of Senators is concerned, except from her Legislature, from the majority of the members of the two bodies. I say I will maintain her sovereignty, I will preserve her representation, and thereby I will perpetuate the interests of my country, the Constitution of the Union, the constitutions of the States, the rights and sovereignty of the States, and crush out faction.

Mr. HALE. Mr. President, I do not mean to occupy the time of the Senate a great while; and as to attention, I do not hope for that at all; but as I look upon this as an exceedingly important question, I simply wish to place the grounds on which I shall act before the Senate. It is not for me to say whether they will have any influence. Suffice it that they justify my own conduct.

When I came here at the commencement of the last Congress, the gentleman sitting by my right—and as I am speaking from the Journal I will give the name—the Hon. JAMES HARLAN, from the State of Iowa—was here claiming his seat as a Senator duly elected by the Legislature of that State. The circumstances of that case as they exist in my memory were substantially these: in pursuance of a law of the State of Iowa, there was a joint convention of the two branches of the Legislature for the purpose of choosing a Senator. That convention met, and not being able to effect a choice on the first day, they adjourned in pursuance of an express authority of law to a day certain. I pass over the intermediate adjournments—I believe there were several—and come to the day on which the election was made. Upon that day thus appointed by the convention agreeably to an adjournment, which they not only had authority, but were compelled by law to make, the convention met; but, upon that day, a majority of the Senate of the State, for purposes satisfactory, at least, to themselves, declined to meet; and the remainder of the convention, acting upon the assumption that that convention having once been legally formed, continued to be one body, competent, by the Constitution, to elect a Senator of the United States, in which I believed then, and believe now, they were right, proceeded to elect the Hon. JAMES HARLAN, and gave him his certificate; and he came here and took his seat. I believed then, and I believe now, that he was as well entitled to his seat as any man upon this floor; and I said something then for which I remember I was rebuked by an honorable Senator not now among the living—Hon. Judge Butler, of South Carolina. I said, and I repeat the same thing now, that so clear to my mind was that case that as I weighed the arguments, there had not been anything that came up even to the dignity of sophistry impugning the right of the Hon. Mr. HARLAN, under that election, to a seat on this floor. I believed so then honestly; I have believed so ever since; I believe so now; and I will always act as I acted then.

But, sir, a very decided majority of the Senate

of the United States, among which majority was neither the honorable Senator from Georgia [Mr. TOOMBS,] nor the honorable Senator from Ohio, [Mr. PUGH,] judged differently, and the ground assumed in the argument was, that a continuing assent in every meeting of the convention on the part of both branches of the Iowa Legislature was wanting, and that if, in any stage of the proceeding, either branch chose to withdraw its assent, it was competent for it to do so, and when it had done so, the power by which the convention was organized ceased, and it ceased to have authority to choose a Senator, and therefore as the case was stated in the argument, as I recollect it—of course I do not pretend to be verbally accurate, for I have not looked at it since—a majority of this body voted, "that JAMES HARLAN is not entitled to his seat as Senator from Iowa;" and the yeas which declared that, under the circumstances, Mr. HARLAN was not entitled to his seat were, according to the Journal, Messrs. Allen, Bayard, Benjamin, Biggs, Butler, Cass, Clay, Comegys, Crittenden, Dodge, Evans, Fitzpatrick, Geyer, Hunter, Iverson, Jones of Iowa, Mallory, Mason, Pearce, Pratt, Reid, Rusk, Sebastian, Stuart, Toucey, Weller, and Wright.

That is history. That was less than two years ago. The honorable Mr. HARLAN, on that vote vacated his seat here and went home, and that stands as the judgment of the Senate upon that case. I thought then, I have thought ever since, I think still, the Senate were wrong, but my individual opinion had to yield to the deliberate judgment of this body.

Mr. TOOMBS. What was the majority?

Mr. HALE. The yeas were 28, and the nays 18; the majority was ten. Well, sir, a case somewhat similar, not parallel, presents itself now from the State of Indiana. I have not listened to all the arguments that have been adduced upon this subject; and, therefore, in the few remarks I shall make, I may not follow the train of argument that has been suggested by any Senator who has addressed the Senate. I did hear a considerable part of the statement that was made by the honorable Senator from Ohio, in opening the case. The case from Indiana is different from the case in Iowa; but similar to it in one particular, and in that particular which, in the Iowa case, was supposed to be controlling, and that is, that at the time when the purported election was made, there was not the assent of a majority of each House to the convention. In other respects it is different from the Iowa case, as I understand the matter, and I will thank any Senator to correct me if I misstate the facts. A good deal has been said about a convention being formed of the two Houses of the Indiana Legislature, for the purpose of receiving and counting the votes for Governor. I do not so understand the history of the case. I do not understand that there was a convention of the two Houses in any sense of the word; but that, by the requirements of the organic law, the constitution of Indiana, the two Houses were required to be present when the Speaker of the House of Representatives should open and count the votes. The constitution required them to be present, and they, or a portion of them, were present at that time; and after completing the business for which they were assembled, adjourned to a subsequent day.

The Constitution of the United States says—and it is hardly worth while to repeat the language—that Senators shall be chosen by the Legislatures of the States. That word "Legislature" has some meaning; but it has been argued, if I have understood the argument, that, when it comes to the choice of Senators, it cannot mean the Legislature in its legislative character, because there is no assent of the Governor required; and hence it is said to be manifest that the Constitution could not have meant the Legislature in its legislative capacity.

Mr. TOOMBS. If the Senator alludes to my argument, I will say that I gave a different reason. It was, that all the States but three have held that though the majority of one branch may be one way, if a greater majority of the other is the other way, that election is good. That is the principle at the bottom of it.

Mr. HALE. I did not refer particularly to the Senator from Georgia, for I do not mean, as I said in the opening, to follow the train of any particular gentleman, but as I understand the

scope of the argument, it has certainly been presented in that way more than once. The honorable Senator from Ohio nods assent. Then the argument is urged that the election of a Senator cannot be a legislative act, because it does not need the assent of the Governor. Now, sir, the Legislature is entirely independent of the veto of the Executive; and because some constitutions give to the Governor a qualified veto upon an act of the Legislature, that does not make him any part of the Legislature. "The supreme legislative power in this State," says the constitution of my own State, "shall be vested in a Senate and House of Representatives." They are the Legislature; they are the supreme legislative power; and yet, by the same constitution, the Governor has a qualified veto upon the acts of the two Houses, but that does not make him a part of the Legislature.

Mr. PUGH. Will the Senator allow me to make a suggestion?

Mr. HALE. Certainly.

Mr. PUGH. In some of the constitutions of the States in force at the time the Constitution of the United States was adopted, the language is, that the legislative power shall be vested in the Governor, Council, and House of Representatives; and yet, in none of these States, was the Governor allowed to have anything to do with the choice of Senators?

Mr. HALE. That may be very true; but in some other States it is different. It is different in the one with which I am most familiar; the constitution of my own State which declares that the supreme legislative power shall be vested in two Houses, and still the Governor has a qualified veto. But, sir, I apprehend it makes no sort of odds whether you say it is to be done in one capacity or another; so long as the Constitution says that the choice shall be made by the Legislature—that means some body; it does not mean a certain set of individuals, but it means a body known to the Constitution as the Legislature, and to that it has reference, and not to the individual members who compose it. Now, let me take this simple doctrine of a bare majority. We have lately had an illustration of this in a matter which is considerable interesting to myself in my own State. Our constitution is somewhat peculiar in the formation of the Legislature, the popular branch consisting of a little over three hundred members, and the Senate of only twelve; so that six men in the Senate of New Hampshire at any time have a veto upon the three hundred of the popular branch. Well, sir, the Legislature of New Hampshire, during the present week, undertook to exercise the power of electing a Senator granted by the Constitution of the United States, and one hundred and eighty-five of them upon the first ballot, being a very large and decided majority of the whole number constituting both branches, upon the first ballot threw their votes for one individual; but it never occurred to them by any possibility that, when they had done that they had made an election, although a very large majority of the members of the Legislature had concurred in it; and the pretense was never set up in that State that that was anything but the beginning of an election. I remember a case in the history of that State, when the popular branch by a very decided majority had chosen a gentleman to represent the State in this body, and the Senate upon the question of concurring in his election were divided six to six. Six men held between two and three hundred at bay, and the election went over; and the State of New Hampshire remained unrepresented in this body until another year came round, when the people expressed their will through the medium of a popular election, and another gentleman was chosen.

Again, sir, in this very State of Indiana, if the history comes to me aright, the Senate of the State, two years before this election, stood out against an election; but the eloquent Senator from Georgia, in all his denunciations against those traitorous wretches who have violated their constitutional oaths, and their duty, and who are ready to bring anarchy upon the Government, has no word of censure, no word of condemnation, for the men that kept the Legislature of Indiana from choosing Senators at the preceding meeting, when, if they had gone into a convention and chosen, it is very possible, not to say probable, that gentle-

men of another political character would have been elected. I regret exceedingly that when the honorable Senator means, as he says he means, and as I believe he means, to be just—though he admits he is a little coarse—he did not, in that honest indignation which denounced traitors and factionists, find a little indignation to pour out upon those men who kept the State of Indiana partially unrepresented on this floor during nearly the whole of the last Congress, by refusing to go into a convention for the purpose of choosing a Senator. I should have liked the justice, coarse as it was, if it had come in equal showers upon the traitors and factionists that helped to keep Republicans out, as well as upon those who tried to keep Democrats out, but could not do it.

Well, now, sir, what is this case? I have looked at the precedents that have been presented in the senatorial history of the contests there have been for seats on this floor, and they have not been very many, nor have the points that have been presented been very complicated; and I believe that up to the time of the election of my honorable friend from Iowa, there never had been an occasion when one branch of the Legislature of any State came to the Senate, and made proclamation that by the usurpation of a coordinate branch of the Legislature, it had been defrauded of the prerogative which the Constitution of the United States conferred upon it; that the rights, the immunities, and the privileges which had been confided to it by the Constitution and by the vote of its constituents, had by a usurpation been wrested from it, and it had been nullified and its voice silenced by a usurpation. I believe that up to the time the Senate of Iowa made that complaint, it was never heard on the floor of the Senate of the United States. It was heard then, I believed then, and believe now, unjustly so; I believed the Senate of Iowa had no right to complain; that the forms, and the spirit, and intent of the constitution had been complied with, and everything had been done which they had a right to ask, and it was mere contumacy, mere factious opposition, which induced a majority of them to withhold their presence. But, sir, this body, acting upon the high functions which the Constitution devolves upon it, as the judge of the elections of its own members, had so tender a regard for State rights and State sovereignty, and for the relations due from one coordinate branch of a Legislature to another, that upon that complaint, unfounded as I believed it was, a majority of ten of this House solemnly recorded upon the enduring Journals of the Senate their judgment, in their high capacity as judges under the Constitution, that my honorable friend from Iowa was not entitled to his seat. Now, I ask sophistry—I do not ask justice, coarse or fine, but I ask sophistry—to point out a reason that can justify the expulsion of the Senator from Iowa from his seat, and can give seats to those gentlemen who are claiming them from the State of Indiana?

I agree with the Senator from Georgia that the question, so far as it relates to the individuals who are holding the seats, sinks into utter insignificance; it is not worthy of being weighed in the balance for a moment. If I know my own heart—and I appeal to the Searcher of hearts to bear witness to my integrity when I say it—if I could do it consistently with the obligations which I have assumed by taking a seat on this floor, it would afford me pleasure to record my vote in favor of the sitting members. The intercourse which I have had with them has been such that I certainly have no disposition to do anything towards them or either of them but what is dictated by the kindest considerations of personal regard; but, sir, I stand here on the same ground that the honorable Senator from Georgia stands, and I agree that considerations relating merely to the persons or individuals that are to occupy these places sink into utter insignificance.

Mr. President, the doctrine of majorities which has been so much dwelt upon seems to me to be a doctrine which I have heard qualified upon this floor, and qualified by no man more eloquently, more lucidly, and to my mind more satisfactorily, than by the honorable Senator from Georgia. I remember, not long ago, to have heard him declare that the world made a great stride when it discovered that minorities had rights, and that majorities should not always rule over them. And, sir, what is the idea of constitutional gov-

ernment? What mean parchment, and paper, and ink? What mean the conclaves of the patriot fathers who founded this family of Commonwealths, and incorporated into written instruments the provisions by which Government was to be carried on and its administration made progressive? Simply to protect the rights of minorities. Majorities can take care of themselves. Majorities can always, unrestrained and untrammelled by constitutional prohibitions, carry their point. But, sir, the idea, the commencement, the continuation, and the consummation of the great idea upon which rests republican and constitutional government, is the protection of minorities. When the honorable Senator from Georgia says to-night that minorities cannot defeat and shall not defeat the operation of Government, he utters a sentiment, which, pushed to its extremity, would overturn and trample under foot all constitutional government. Sir, what are your rules here for? For the protection of minorities. Why does the President of the Senate, why does any gentleman sitting in his chair, day after day, and every day, state a proposition and say that it requires the unanimous consent of the Senate? Simply because the wisdom of our fathers has provided in the Constitution, and in our rules, constant and continually recurring provisions for the protection of the rights of the minorities. And, sir, if we may look into the policy which dictated, and the wisdom which formed, the constitution of the State of Indiana, we may see that with a conservative spirit they were careful to preserve in their Senate a check upon the popular impulse, which was to be preserved, and was to make the machinery of government move on more harmoniously, more equitably, and more justly, carrying out the great idea of the popular will, and at the same time securing the individual rights of minorities; and therefore they have made their Senate a perpetual body elected for four years, half going out alternately every two years. Because a majority of that body thus constituted for the express purpose of checking and controlling the popular branch, have, in the discharge of their constitutional duties, seen fit to exercise the prerogative which the constitution has devolved upon them, are they to be denounced upon this floor and in this Hall as perjured traitors and factionists, who are fighting against the very government which protects them, the very constitution which creates them, the very State which shields them? No, sir; I do not so read it. I believe that when the Constitution of the United States says Senators shall be elected by the Legislature, it means that they shall be elected by a body, a political body known to the laws, known to the Constitution, recognized in the common sense of mankind, not as a congregation of individuals, but as a political entity created by the constitution, and recognized as such.

The Senator from Georgia asked, if this power is conferred upon the two branches of the Legislature, may they yield it, or give it up? No, sir, not at all; they may not. It is not competent for the House of Representatives, or for the Senate, to yield up one jot, one iota, of the power which has been conferred upon them; but they may prescribe the form and manner in which that power shall be exercised. Let me illustrate this. For certain purposes in the constitution of my own State, the two Houses are required to meet in convention. If the people should fail to choose a Governor by a majority of all the votes, although one candidate might have a very large plurality, the constitution devolves upon the Legislature the duty of meeting in joint convention, and counting the votes, and making a choice. I concede that when the three hundred members of the popular branch and the twelve members of the Senate assemble, they are merged; they are no longer separate bodies; they are a convention, and if every one of the twelve Senators should walk out; if not one of them should be personally present, yet within the purview of the constitution, and within the meaning of its provisions, they would every one of them be present; and our journals never ask in the elections whether any particular Senator voted or did not vote. When they have come into the convention they are merged; they are no longer Senators; they are members of the convention, and if, individually, the whole twelve should go out, that would not effect the legal constitutional organization of the body any more than if twelve

Representatives should go out. They are constitutionally present, although, in fact, they may personally be absent. It was upon that ground that I based the election of the Senator from Iowa, because the Senate of Iowa, having gone into the convention; having consented to its organization, were, within the meaning and purview of the constitution, present; and the vote was just as good, whether they were absent or present, if a majority of the whole number were there. But, sir, as I understand the history of this election in Indiana, the Senate of that State never consented, and I believe it is conceded that they never consented; but it is contended that their consent was not necessary; that all that was to be done was to notify them that they might come if they saw fit, and if they did not come, it was their own fault. It is admitted, as I understand now—though it seems to me that this case takes a different ground and rests on different positions from those on which it was first presented—that prior to the meeting of the so-called convention, for the purpose of counting the votes for Governor, the whole Senate was legally qualified by the officer constitutionally empowered so to do, to wit: the Lieutenant Governor. A different question, as I understand, was raised at the commencement of this controversy, and it was then contended that three out of the fifty were not legally members of the Senate; and that twenty-four having concurred in this election, they were a majority of the Senate. That point seems now to be abandoned, and it is admitted that all the fifty members of the Senate were qualified by the officer constitutionally authorized to do it, and that being thus qualified, there was a Senate consisting of fifty members. I lay out of the case altogether the provision of the Indiana constitution requiring two thirds of each House to make a quorum; but by those fifty Senators thus elected, there was neither the form nor the substance of an assent given to this election. There was a simple notice issued by the presiding officer that he would do so and so, and when they got there they adjourned, and a minority of the Senate usurped the place constitutionally belonging to the majority.

Sir, you may establish this precedent, and I suppose when you have done so it will overrule the precedent that was established here less than two years ago, by the assent of a very decided majority of this body. But, sir, if I may be pardoned the presumption, I appeal to Senators—I do not appeal to the honorable Senator from Georgia, or the honorable Senator from Ohio, for I will do them the justice to say, that the position which they took on the Iowa case fully justifies the position which they take now, and if they have nothing else to commend them to my judgment, in this particular they have at least that of consistency; but I appeal to gentlemen who took a different view; I appeal to gentlemen who recorded their solemn votes less than two years ago against the right of the honorable Senator from Iowa to his seat, to see to it that that solemn, recorded judgment of the Senate on the facts presented in that case, be not overruled by the decision which is to be made on this occasion. I beseech you, if for nothing else, to be careful of the reputation of the Senate. Sir, the great mass of the American people are honest; they are not sophists; they are not casuists; but they are honest, and they will take a common sense view of this matter; and you cannot get it out of their heads. They will ask, and ask, and ask, why is it that less than two years ago, on a case not so strong as this, a decided majority of the Senate of the United States voted that Iowa was not entitled to be represented on this floor by the Senator of her choice; and that in a case somewhat similar, but not so strong in behalf of the sitting members, as was the Iowa case, they come to directly an opposite conclusion? Sir, you cannot hide the fact from the American people. They will ask the question, and they will ask it from one end of this country to the other. They will examine it, and I tell you, sir, it will be a keener intellect than mine that can ever discover any difference than that the Senator from Iowa was what the Senator from Georgia was pleased to term a "Black Republican," and the other two are black Democrats. That is the only difference which men, who have not more astute intellects than I have, can possibly discover in these two cases, and it will require a good deal of argument, a good deal of sophistry,

a good deal of casuistry, to make the people believe that there was or is anything else in it.

Mr. President, I must do the subject the justice to say that I believe, if you will read the history of the contested elections which have been decided in this body, from the adoption of the Constitution down to the present time, you will find that the proceedings of the Senate of the United States, sitting in their high capacity of judges, have been characterized by a degree of moderation, of candor, and of impartiality in the highest degree creditable to the American Senate and the American people; but I tell you that, if you lay down the law in one case for a political opponent in Iowa different from the manner in which you lay it down to your political friends in Indiana, you will do more to shake the confidence of the American people in the justice of this great tribunal of the nation than anything and everything that has ever occurred in its history.

I am not going to follow the Senator from Georgia over his road of precedents; I am not going to show what was understood by the term "Legislature," and what has been done in this case and that. I confine myself to the broad, plain, palpable provisions of the Constitution, and the very emphatic action which the Senate has taken upon these provisions in times past. Sir, this is a time eminently favorable to the decision of this question upon high grounds, upon such grounds as become American Senators, occupying the conspicuous and distinguished position which they do. Why do I say so? Because you have an opportunity at this time to follow the precedent which you set in the case of a political opponent, when it applies to your political friends, when by no possibility can it affect in the remotest degree your party supremacy upon this floor. Vacate these two seats, as in my judgment the plainest provisions of the Constitution eminently and absolutely require; send this matter back to the State of Indiana, and in all human probability she will do what the State of Iowa did, send the same gentlemen back; but whether she would or not, is a question that ought to be foreign to the consideration which any gentleman will bring to bear upon the decision of the point before the Senate. Here is an opportunity to be just, not to say magnanimous, for I ask nothing from magnanimity. I simply ask for justice; justice in the name of the Constitution, and in the name of the people whose rights we are all sworn to protect. In behalf of the people of Indiana—and we are all of us Senators of Indiana, because we are Senators of the United States—in behalf of that people, whose rights we are bound to protect, I ask that these seats may be vacated.

It has been said by the Senator from Georgia, that nobody is here asking their dismissal; that Indiana is here, through her Governor, the Speaker of her House of Representatives, and the President of her Senate, through her organized forms, asking that these men may sit here. Sir, I deny it, I deny it absolutely and totally. Indiana is not here, and she cannot come here, except through her forms, and in the manner prescribed by the Constitution of the United States. The State of Indiana is here by the Constitution of the United States, every man of the State is here appealing to every Senator, and asking him by every consideration which can address itself to his mind as a Senator of this great nation, to guard and protect the rights of each and every State, and of each and every individual in the respective States. It is unjust to Indiana to say or to suggest that she is here asking anything else but what the Constitution gives her. If these gentlemen are not here under the Constitution, does Indiana want them? Nay, sir, do they themselves want to occupy these seats, if they cannot occupy them in pursuance of the provisions of the Constitution which they, and you, and I have sworn to protect?

I may be mistaken, I may over-estimate the importance of the consequence attached to the decision of this question; but, sir, I am not one of those who believe that the liberties and privileges of this country are to be preserved by any miraculous interposition of Divine Providence. I believe there will be meted out to us what has been meted out to the nations that have gone before us; and that if, in the hour of madness or of party power we shut our eyes to the clear teachings of the Constitution, and turn a deaf ear to the plead-

ings of right under the Constitution, and for any purpose undertake to do that which those high considerations will not justify, we strike a fatal blow at the perpetuity of our institutions. Sir, the Constitution of the United States was established, as its framers say, amongst other things, to maintain and preserve justice—justice to ourselves, and to our posterity—and, sir, we shall shake, irreparably shake, the confidence of this whole people in this high tribunal, if, in the discharge of the highest function which the Constitution has devolved upon us, to wit: the decision of the right of our own members to seats here, we depart from the plain teachings, and clear provisions of that organic law which we have all sworn to support.

Mr. DOUGLAS. Mr. President, I do not intend to enter into the discussion of this question, but simply to state the principles by which my vote will be guided; resting the vote upon those principles without going into an argument. My vote in this case will be governed by the same principles that actuated it in the Iowa case, at the last Congress. In that case, the two Houses of the Iowa Legislature had agreed to go into an election; and, when the final day to which they adjourned arrived, a majority of one House was there and a minority of the Senate; but there was a majority of the whole number of both Houses present—not a majority of the Senate, but a large majority of the House of Representatives.

Mr. HARLAN. The record shows that there was a majority of the Senate present, as well as a majority of the other House.

Mr. DOUGLAS. I will not go into the controversy. I am stating the case as I understood it. I understood that a minority of the Senate and a majority of the other House were present; making a majority of the whole number constituting the two Houses, although not a majority of each. I held on that occasion, in the speech which I made against the claim of the sitting member, that inasmuch as the Constitution of the United States required that a Senator should be elected by the Legislature, and inasmuch as the constitution of Iowa required the Legislature to be composed of two bodies, there must be a majority of each body present in order to constitute such a Legislature as could elect a Senator; and in Iowa, there not being a majority of each body present, it was not a Legislature authorized to elect a Senator. I will read a paragraph from my remarks on that occasion:

"I have shown, by the language of the constitution of Iowa, that its Legislature consists of two branches—a Senate and a House of Representatives—and that a majority of each constitutes a quorum, and that no less number than a majority of each can perform any other duty than that of compelling the attendance of absent members. Now, let me ask, how was the Senator from Iowa elected? By a Legislature composed of two branches, with a majority of each present, constituting a quorum? If not, he was not elected by the Legislature of the State of Iowa. There could be no Legislature without the presence of a quorum of each branch. So says the constitution of that State, and that constitution is in accordance with the general usage and the constitutions of the other States of this Union."

I shall not stop to discuss the question whether I was right or wrong then. My belief, after a thorough examination at that time, was, that I was right, and I have seen nothing since to change my convictions. Applying these principles to this case in Indiana, I find that there was a majority of the House of Representatives and a minority of the Senate of the State present, making a majority of the whole number constituting the two Houses, but not a majority of each House. In this respect the Iowa case and the Indiana case are identical, and the objection which compelled me to vote against the Iowa Senator, to wit: there not being a majority of each House present, exists in full force in the Indiana case, and hence I am compelled to vote against the admission of the sitting Senators on the same ground. On that point the cases are identical, but there is a difference between them in other respects. In Iowa the two Houses had agreed to go into the election on the day when it was effected, but they did not do it in Indiana. The Senate of Indiana never agreed to go into the election, and did not do it. It was argued that, inasmuch as both branches of the Iowa Legislature had agreed to go into the election on that day, it was the fault of those who staid out that they did not go. My answer to that was, that, under the Constitution of the United States, we are required to come here each day

to transact business, and if we stay away it is our own fault; we are in default by staying away; and yet, if our absence reduces the body to less than a quorum; its power to act ceases except to compel the attendance of absent members. I apply that reasoning to this joint convention for the election of Senator; although in Iowa they had agreed to go in, they failed to do it, and there being only a minority of the Senate present, although those who were absent were absent by their own fault, yet their absence reducing the Senate below a quorum deprived them of the power of acting. If I was right in that reasoning, as applicable to Iowa, I am right in it as applicable to Indiana. I will not stop to argue the question; I will only say that now my vote is governed by the identical consideration that controlled it then, and I will allow my vote to stand on the record then made.

Mr. TRUMBULL. After consultation with a few persons who take some interest in this discussion, I wish to suggest to the Senate that we agree to take the vote to-morrow at twelve o'clock without debate. If that be the common understanding, those Senators who desire to vote upon it can all be in their places at that time; and then let whatever debate there is to be go on to-night. ["Agreed!"] The Senator from South Carolina, I think, has consulted some of the parties, and will second the proposition I have made.

Mr. HAMMOND. I believe that proposition will be agreeable to all parties, and carried out in good faith, that to-morrow at twelve o'clock, without debate, the vote shall be taken. At the same time, in response to the Senator from Illinois, I will say a single word. A majority of the Senate was present at the first meeting of the joint convention in Indiana.

Mr. DOUGLAS. That is very true; and so it was in the Iowa case. A majority was present at the first meeting, but not at the time of the election. Hence the two cases are exactly parallel on the point that controls my vote.

Mr. HUNTER. I ask general consent to make a conference report. ["Agreed!"] I see that the Clerk of the other House is waiting. I will defer it until his message is delivered.

CIVIL APPROPRIATION BILL.

A message from the House of Representatives, by Mr. AILEN, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 200), making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1859.

Mr. HUNTER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 200) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1859, having met, after full and free conference have agreed to recommend, and do recommend, to the respective Houses, as follows:

That the Senate recede from the following amendments: ninth, tenth, eleventh, thirteenth, thirty-seventh, thirty-eighth, fifty-sixth, fifty-eighth, fifty-ninth, and sixtieth.

That the House of Representatives recede from their disagreement to, and concur in, the following amendments of the Senate: fourth, fifth, seventh, eighth, eleventh, nineteenth, twenty-first, twenty-second, twenty-third, thirty-fourth, thirty-ninth, fortieth, forty-second, forty-fifth, forty-sixth, forty-seventh, fifty-second, fifty-fourth, and sixty-third.

That the House of Representatives recede from their disagreement to the first amendment of the Senate, and agree to the same, with an amendment, as follows: strike out all of the said amendment after the word "that," in line one, and insert these words: "The Secretary of the Treasury may make such allowances to the officers and men of the Army and Navy while engaged on coast survey service for subsistence, in addition to their compensation, as he may deem necessary, not exceeding the sum authorized by the Treasury regulation of the 11th of May, 1854."

That the Senate agree to the amendment of the House of Representatives to their second amendment.

That the Senate agree to the amendment of the House of Representatives to their twelfth amendment, with an amendment, as follows: In the fourth line of said amendment, strike out the word "painting" and insert "painting;" and at the end of the amendment, insert as follows: "but this provision shall not be construed as to apply to the execution of the designs heretofore made and accepted from Crawford and Rogers."

That the House of Representatives recede from their disagreement to the seventeenth amendment of the Senate, and agree to the same, with an amendment, as follows: In the fourth line of said amendment, strike out the word "three" and insert, in lieu thereof, the word "two."

That the House of Representatives recede from their disagreement to the eighteenth amendment of the Senate, and agree to the same with an amendment, as follows: In the fourth line of said amendment, strike out the word "three" and insert, in lieu thereof, the word "two."

That the House of Representatives recede from their disagreement to the twentieth amendment of the Senate, and agree to the same, with an amendment, as follows: at the end of said amendment insert as follows:

Provided, That no part of the sums herein appropriated for the completion of custom houses and marine hospitals, excepting those for Charleston and New Orleans, shall be expended until the Secretary of the Treasury shall be satisfied that the sums respectively appropriated will complete the buildings for which they are intended, and until arrangements shall be made to carry this act into effect.

That the Senate agree to the amendment of the House of Representatives to their twenty-eighth amendment.

That the House of Representatives recede from their disagreement to the thirty-fifth amendment of the Senate, and agree to the same, with an amendment, as follows: after the word "items," in the third line of said amendment, strike out the words, "five thousand five," and insert, in lieu thereof, the words, "and paying fees of witnesses before the committees of the Senate, seven thousand seven."

That the House of Representatives recede from their disagreement to the forty first amendment of the Senate, and that the Senate concur in the amendment of the House of Representatives as an additional amendment, with an amendment as follows: after the word "that," in the sixth line of said amendment, strike out the words, "they shall receive no fees or commissions," and insert in lieu thereof the words, "their compensation, including fees, shall not exceed \$3,000 each, per annum."

That the House of Representatives recede from their disagreement to the forty third amendment of the Senate, and agree to the same with an amendment as follows: after the word "and," in the eighth line of said amendment, strike out the words, "such sum as may be necessary," and insert in lieu thereof the words, "\$3,200."

That the Senate agree to the amendment of the House of Representatives to their forty-fourth amendment, with an amendment as follows: strike out the whole of the amendment of the House of Representatives, and insert in lieu thereof the following:

"That no part of the appropriations which may be at any time made for the contingent expenses of either House of Congress, shall be applied to any other than the ordinary expenditures of the Senate and House of Representatives, nor as extra allowance to any clerk, messenger, or attendant of the said two Houses, or either of them, nor as payment or compensation to any clerk, messenger, or other attendant of the said two Houses, or either of them, unless such clerk, messenger, or other attendant, be so employed by a resolution of one of said Houses."

That the Senate agree to the amendment of the House of Representatives to their forty-eighth amendment.

That the House of Representatives recede from their disagreement to the fifty fifth amendment of the Senate, and agree to the same with an amendment, as follows: After the words "United States," in the fourth line of said amendment, insert the words "for expenses and disbursements."

That the Senate agree to the amendment of the House of Representatives to their sixty-second amendment.

R. M. T. HUNTER,
WILLIAM BIGLER,
W. P. FESSENDEN,
Managers on the part of the Senate.
JOHN S. PHELPS,
HENRY M. PHILLIPS,
WILLIAM A. HOWARD,
Managers on the part of the House.

Mr. BROWN. I hope, before we concur in the report of the committee, we shall, at least, be allowed the privilege of having these amendments explained to us, and that we shall take them up *seriatim*, and understand what they are. Nineteen twentieths of all your vicious legislation comes in, in just this way. Here you agree to some things, and disagree to others, upon numbers. You agree to amendments which, under ordinary circumstances, nobody would dream of sanctioning, and you are asked to take it all on trust—not the trust which you give to regular committees of the Senate and House of Representatives, but a committee of conference, who have had three or four hours, not three or four weeks or months—as long as they might choose—to determine what ought to be done, but they have been sitting in a committee room during the sessions of the Senate, when their minds were necessarily distracted with other matters, considering this bill, and important matters of legislation are thus overturned in a moment. You bring in the whole bulk of it here, which nobody understands, except the gentlemen who are on these committees, and we are asked to concur in the whole of it at once. I protest against it. I protest that I have the right, as a Senator, to know what this report means. Upon two or three points of it, and only two or three in which I am interested, I have got an inkling of what it does mean. One item of it is this: I do not know what the number of it is; I could not find it now, without looking over the whole record, an amendment introduced by myself, and passed through the Senate without objection; no living man could make an objection to it, to appropriate \$400 to paint the iron and woodwork about a bridge in the District.

Mr. HUNTER. I will say that is in the report.

Mr. BROWN. I understood otherwise.

Mr. HUNTER. It is saved.

Mr. BROWN. What became of the court-house amendment?

Mr. HUNTER. That was not concurred in because a great many appropriations are made for the District, and the other House was opposed to it, and the chairman of the District Committee in the House said it could be well postponed until the next session.

Mr. BROWN. That is not my impression. A great many appropriations for the District! What are they? If this \$400 is saved, we have that and \$740 for the jail; and that is all that is saved which was asked on the part of the Senate District Committee.

Mr. FESSENDEN. There is \$3,000 for Pennsylvania avenue.

Mr. BROWN. That was not asked by the committee; it was never before the committee; they had nothing to do with it. We did ask, however, an appropriation for a court-house for the accommodation of the criminal court. I cannot consent to concur in the report.

Mr. HUNTER. I can inform the Senator in regard to any of his amendments on which he desires information. We have saved more than he thinks; we have saved his legislation in regard to streets.

Mr. BROWN. We have none.

Mr. HUNTER. Yes; there are two long sections.

Mr. BROWN. We did not get a single appropriation for a street anywhere.

Mr. TRUMBULL. I suppose this report and all the amendments will appear in the morning papers, so that we may understand them. Let us postpone them until to-morrow morning, and go on with the election case.

Mr. HUNTER. They would only appear in numbers, if at all; and if we want to adjourn on Monday, we should act on this report to-night. Gentlemen, if they are willing to continue the session, can lay it over.

Mr. TRUMBULL. The papers will explain. Mr. HUNTER. I think not. The amendments can now be read, if that be insisted upon.

Several Senators. Read them.

Mr. BROWN. I simply want to say this: I have been here now a long time, and I have voted in the dark about as often as I choose to do it. I want to understand what I am doing; and as we are paid by the year, I know of no pressing necessity for closing the session on Monday. I would rather continue to sit until July, or August, or even December, than be compelled to vote for things that I know nothing about. I do not understand this report. Here you are told that amendment number fifteen is agreed to with an amendment—certain words put in. What does that mean? Then, amendments ten and twenty, and something else, are agreed to with something else to them. I protest against being called upon to vote for things in bulk, after that fashion.

But I was coming to the matter of my District court-house. When the amendment was introduced here, with the unanimous concurrence, I think, of the District Committee, but perhaps there was a single dissident, to provide for the District courts, I explained the matter, and although there was a murmur at first all around the Senate; on explanation, everybody saw it was right, and that it was economy to grant it. You have to-night locked up in your jail not less than eighty, perhaps one hundred persons committed, awaiting trial? Why are they not tried? Because you provide no place in which your courts can be held. Your criminal court cannot sit because it has no house in which to hold its sessions.

Some Senators talk about requiring the people of Washington to provide a court-house. Provide it for whom? For the United States. Is this great Government to demand that a mere municipality shall provide a house in which its judges shall sit, and administer justice under its laws? So far as the municipality is concerned, they do provide their own court-houses; their own police magistrates do have their own houses. But you have a jurisdiction of your own; you have judges of your own; you have courts of your own. Not only your judge, but your marshal, and all who have anything to do with it, are appointed by the authority of the United States; it is under your jurisdiction. But for this criminal court, one of the most important to the Government, you have

provided no house of accommodation; and you have one hundred men to-night locked up in your jail here, fed at the public expense, perhaps one half of them innocent, kept there for weeks and months at a time; kept there because the court cannot sit, wanting a house in which to hold its sessions. With this explanation the Senate voted the appropriation. The committee of conference has sacrificed it; given it up, I dare say, without a struggle. It is all wrong, sir. There are other appropriations in the bill sacrificed in the same manner. The Committee on Finance takes particular pains to protect all its amendments, and everybody else's are sacrificed, and given up, surrendered, trodden under foot; and you are asked to sanction it under this general numbering of one, five, fifteen, twenty-five, and so on. You are asked to do it without knowing what you are doing. You never know what is in the appropriation bills until you read them after the President has approved them, and they become the law of the land. I protest against it; I want to know what is in the bill; what I am voting for, and what I am voting against. Therefore, I ask that each of the amendments shall be read in its connection and context; and that we shall have separate votes on each proposition.

Mr. HUNTER. The report of the committee of conference is an entire thing. You cannot divide it; you cannot have separate votes.

Mr. BIGLER. I suggest that the chairman of the committee pass over the amendments rapidly, and state what they are. He can do it in a very few minutes.

Mr. BRODERICK and others. Let us hear them read.

The PRESIDING OFFICER, (Mr. FOSTER.) The amendments will be read.

Mr. HUNTER. All that it is necessary to read is those amendments from which the Senate recede. There are not a great many of them. Those can be read. The Senator from Mississippi will read that he is very much mistaken; more of his amendments have been saved than have been lost.

The PRESIDING OFFICER. The amendments from which the Senate are to recede, according to the report of the conference committee, will be read.

The Secretary read, as follows:

Ninth amendment:

For continuation of the filling up of ravine, and grading of Judiciary Square, \$7,000.

Tenth amendment:

For continuing the grading and planting with trees the unimproved portion of the Mall, \$10,000.

Fifteenth amendment:

For payment to the Secretary of the Senate of the sums paid by him to the representatives of Senators Bell, Butler, and Rusk, under the resolution of the Senate of the 10th of March, 1853, directing the payment of the same, out of the contingent fund of the Senate, to the representatives of the said Senators respectively, \$2,589 64.

Thirtieth amendment:

For the extension of the court-house portion of the City Hall so as to provide necessary and suitable accommodations for the several courts of the District of Columbia, including furniture, heating apparatus, inclosure, and other necessary improvements, \$30,000: *Provided*, That no obligation shall be incurred, or contract entered into, which looks to any increased appropriation by the United States for said purpose.

Thirty-seventh amendment:

For contingent expenses of the Territory of Kansas, \$9,003 75, to be distributed under the direction of the Secretary of State, upon the production of satisfactory vouchers.

Thirty-eighth amendment:

For making the surveys of the confirmed private land claims in California, the surveyor general is hereby authorized to pay such sum as he may deem reasonable, according to the circumstances connected with each case, not exceeding at the rate of twenty five dollars for each mile of the boundary lines of any claim, and also for such lines as may necessarily be run and marked or measured, in order to connect the lines of such claim with those of the adjacent public surveys: *Provided*, That the surveyor or surveyors hereafter executing any such survey of a private claim, shall accompany his or their return of such survey with his affidavit that no compensation has been received by him, directly or indirectly, or agreed to be paid to or received by him for the same, from any quarter other than the Government of the United States: *Provided*, That it shall be the duty of the surveyor general of California to award each contract to execute such surveys to the lowest responsible bidder, he being a practical surveyor, after reasonable notice, to be published in two newspapers of the largest circulation in the State of California.

Fifty-sixth amendment:

And be it further enacted, That when, in the absence of

a secretary of legation at Constantinople, who discharges the duty of dragoman, or in like manner, when there is no dragoman at that mission, the consul, or consul general, of the United States who shall act as dragoman, shall receive the compensation now provided by law for a dragoman, and for such time as he shall act as such.

Fifty-eighth amendment:

And be it further enacted, That to enable the Secretary of the Interior to carry into effect the twenty-fourth section of the civil and diplomatic act of March 3, 1855, by paying the claims on file as ordered for assessment by Messrs. Eaton and Hubley, and Washington and Mason, commissioners under the Cherokee treaty of 1835, \$30,000.

Fifty-ninth amendment:

And be it further enacted, That there shall be paid, out of any money in the Treasury not otherwise appropriated, to Charles H. Mason, Secretary of the Territory of Washington, the difference between the salary of Governor and superintendent of Indian affairs, and the salary of the Secretary of the Territory of Washington, for the time said Charles H. Mason was acting Governor and superintendent of Indian affairs of said Territory.

Sixtieth amendment:

And be it further enacted, That the salary of the surveyor general of Washington Territory shall be \$3,500 a year from the commencement of the present fiscal year; and there is hereby appropriated so much as may be required for that purpose.

Mr. STUART. I understand the Secretary has now read all the amendments from which the Senate are to recede.

Mr. HUNTER. Yes, sir. The House of Representatives recede from much more than the Senate does.

Mr. STUART. As the Senator from Mississippi only called for the reading of the amendments from which we recede, it is not necessary to occupy the time of the Senate by reading any more. The Secretary seems, however, about to go on and read all the amendments.

The PRESIDING OFFICER. The further reading of the amendments may be dispensed with by unanimous consent. Does any Senator ask for their further reading?

Mr. BROWN. If the reading of the report of the committee was commenced upon my call, I am perfectly willing to withdraw it. I am ready to vote against the report at once. So far as I am concerned, I cannot vote for it at all.

The PRESIDING OFFICER. (Mr. FOSTER.) The whole of the report has been read. The question is upon concurring in the report of the committee of conference.

Mr. IVERSON. Let us have the yeas and nays on that question.

The yeas and nays were ordered.

Mr. BAYARD. I shall vote to concur in the report of the committee of conference; for of course we cannot expect that all the action of the Senate should be acceded to by the House. There is one amendment that I feel a deep regret has not been adopted, because I think it a denial of an act of plain justice. The Senate inadvertently, I think, passed a resolution directing the payment of a certain amount to the representatives of deceased Senators who had been in their places and were sworn in and acted as Senators of the United States at the last called session of the Senate. After that resolution was passed, it became very obvious, on inquiry as to the terms of the former act, which at one time were supposed to be merely applied to the year, but in fact was a permanent act, that the order to pay out of the contingent fund of the Senate was not sanctioned by existing law; therefore, there was an amendment placed upon the bill to repay to the Secretary of the Senate what, in obedience to our order, he had paid the representatives of these parties. We leave him in that position when this report is adopted, having paid this amount under our order, and the House refuses to sanction it. I do not think the ground is sufficient to reject the bill, because, strictly, we have no right to make that order; but I think it would have been but an act of justice, on the part of the House, after their own action in reference to a mere gift of money to their employes, to have receded from that amendment. I cannot suffer this report to pass without that comment, though I shall vote for it.

Mr. STUART. I shall vote in favor of adopting this report; but I do it only as a matter of necessity, not because I agree to the items that are given. I think there is no cause of complaint against the committee of conference. I want to say that, and say it distinctly; but I do think that this mode of legislation into which the Congress of the country has fallen is of the most censurable

character. It of course rests with ourselves to correct it; but in order that it may be corrected, it must be exposed. I voted to extend this session, confident that time was necessary in order that the business of the country might be fairly considered, and fairly done, until the last proposition. The last proposition for extension I voted against, because I thought I foresaw, as has happened, that we should discuss questions in the most discursive manner down to the last one or two days of the session, and that then the appropriation bills would go into the old mill—conference committees—and as they came out of conference committees they must be adopted. I say again that the fault does not lie with the conference committees. They do the best they can under the circumstances; but we should be under no such necessity at all. It ought to be understood here, and ought to be understood in the country, that there is time enough to consider these bills, and act upon each distinct proposition in both Houses.

Nor do I agree—I mean to speak with perfect respect for the other House on all occasions—in certain maxims they have laid down at all. Take the particular case alluded to by the Senator from Delaware. That is a clear case where payment ought to be made. The justice and the honor of the Senate and the country only were appealed to when we directed the payment. It stood not in conformity with law, it is true, but this bill will be a law. You may as well make a law on an appropriation bill as in any other way. If you pass it, that is the law. Here is a payment made in accordance with justice, with honor, in accordance with the gratitude of the country, and it ought to be made; and for either body to say we will not do this on an appropriation bill, but we will do something else, I say is a maxim that, like all other maxims, ought to have its exceptions. But here we are again, and here we should be if we sat here until November: the appropriation bills would be in the last nights of the session. There is no necessity for it, I say again. I wish to speak with the most perfect respect to everybody, but I state an undeniable fact which ought to go to the country, that the Congress will not correct it. There ought to be an overwhelming public opinion of the country to correct it. These appropriation bills ought to be considered in due time, and with due deliberation in respect to every item; but I say here we are again, as we have been ever since I have been in Congress, and I know not how long before, on the last night of the session; and we have either to agree to the loss of the appropriation bill or agree to the report of the committee of conference, one of the two.

While I think that the objections raised by the Senator from Mississippi, and the suggestion made by the Senator from Delaware, are sound, it is a necessity, and I am not willing to vote against the report of the committee. I shall vote to adopt it; but I do hope to live to see the day when we shall legislate in accordance with the judgment of every member of Congress. There is not a member that does not think this ought to be done. We spend the whole long months of the fore part of the session in talking about things not very consequential, and devote a great deal too much time to them, and do not come to the business of the session down to the very last moments. For my own part, I regret it deeply. I regret that the appropriation alluded to by the honorable Senator from Delaware is not made. Sir, I not only feel it as a matter of business, but I feel it as a matter of gratitude. I regret also that the amendment alluded to by my honorable friend from Mississippi, [Mr. Brown,] to extend the rooms for the accommodation of the courts here has not been agreed to. I have been there once myself, unfortunately, engaged as counsel in a cause. There is not a room in that building that is fit to keep a common school in, that is now subject to the use of the United States for courts—not one. It is a crying injustice, not only an injustice to the people of this District, but injustice to our officers and to the country, that that should remain so. That appropriation ought to have been made, but there is no help for it now. It is a question, will you lose this bill, or will you consent to these things? I must say, sir, that I think our committee, in this instance, has done unusually well. I think they have done better this time, by a great deal, than for the last four or five years, but they have not done anything

like what the judgment of the Senate demanded—not because they were not inclined to do so, but because it was not in their power, and therefore it is that I trouble the Senate at all. I shall vote for this report most reluctantly, and I do not wish that my vote should be in any respect misunderstood.

Mr. BROWN. I cannot concur with my friend from Michigan, that there is any sort of necessity to compel us to adopt this report. There is none on earth unless it is the necessity of trying to adjourn on Monday; and, as I said before, I would rather Congress should sit here until the 1st of July or August or September and do things right than run them over and do them, as Senators admit they are doing them, wrong. Let the bill be rejected; introduce a new one; pass it in proper form, in the right manner; sit here and discharge your duties as Senators and Representatives for the pay you get from the national Treasury rather than give up things that you ought to have. I am not for adjourning this Congress under any supposed necessity, and leave the public business undisturbed. There is no necessity for adjourning. There is a necessity for doing the public business, and doing it right.

Now what does your legislation in reference to appropriation bills amount to? Whatever the Committee on Finance in the Senate, and the Committee of Ways and Means in the House say is right is done, and the action of all the balance of your committees is utterly ignored. I call upon the chairmen and members of other committees to rise to-night in their majesty and frown this thing down. Why, sir, so far as your appropriations are concerned you might just as well send out seven members of the Senate and nine members of the House, and tell them to make appropriations, and you give your silent acquiescence, as to allow this thing to go on. Whatever they choose to put into the bill is protected; whatever comes from other committees is trampled under foot without the slightest regard to the feelings, opinions, position, or dignity of other committees.

I have stood by and witnessed this long enough; and I am not willing to see it go on, under a supposed necessity for adjourning. There is no necessity for adjourning. The Government pays you \$3,000 a year to sit here, and transact the public business; and you are inexcusable if you do not do it, and do it right. Let the bill be lost. There are one hundred appropriations in that bill, to-night, ten thousand times less meritorious than those that have been stricken down. There is the appropriation for court-rooms, brought in from my own committee: it is important to the Government on the point of economy; it is important to the Government in the point of humanity; it is important to it in every light in which you can consider it; yet it has not had a moment's attention in this committee of conference. It was stricken out without a word. Men, under the authority of the Government—possibly innocent, vast numbers of them shown to be so when brought to trial, poor, without the means of giving bail—are locked up in that miserable concern that you call the Government jail, and are kept there for months, because you do not furnish your own judge the means of trying them, so that they can show their innocence, and go free; and when a proposition is brought here to furnish the accommodations to a judge who is willing to discharge his duty, so that the thing may be done, it is stricken out in committee, and we are to agree to it upon this miserable plea of a necessity—a necessity that does not exist. You are bound to sit here and transact the public business. What Senator can go home to-night, and lay his head upon his pillow, and sleep as an honest man should sleep, while, by his neglect, poor, miserable devils are kept in jail for weeks and months together, because he refuses, by his vote, to provide the means of showing that they are innocent? I am unwilling to give my sanction to any such legislation. If the law arrests a man, the law must give him, under the Constitution, a speedy—yes, sir, a speedy and impartial trial.

Does this great Government discharge its duty to those poor unfortunates who are thrown into prison, whose great misfortune is that they are poor and unable to bail themselves out, by keeping them there for weeks and months together, and refusing them a trial for the simple reason that you have no house in which the court can sit?

Is that giving a man a speedy and impartial trial under the Constitution? Is it not delaying his trial? Is not this report now before us a persistent attempt to keep up that state of things? How does it come that your jail is crowded to-night with one hundred persons, as I have had occasion time and time again to ring in the ears of the Senate? It happens because you have no house in which your criminal court can sit.

Gentlemen say flippantly, let Washington provide a court-house; these are the prisoners of Washington. Sir, they are not the prisoners of the city or the District; they are your prisoners; they are arrested under your law, by your officers, and held in durance by your authority; and the Constitution rings and reverberates in your ears that you shall give them a speedy and impartial trial—a trial which they cannot have unless you provide a place for holding your courts. When the committee charged with the business of this District, whose duty it is to supervise its affairs, bring in a proposition, and have it passed by a unanimous vote in the Senate, it is sacrificed in your committee of conference, because it did not come from the Finance Committee. If it had been one of their amendments it would have been protected; most of their amendments have been.

I choose to say this in vindication and defense of justice and of right—not that I expect the report to be rejected. I know that the temper of the Senate is to sanction it; no word that I can utter here will prevent it; but I choose to speak in defense of the right, and to notify the country how legislation is carried on here. If the chairmen and members of other committees feel as I and the members of the committee of which I am a member feel, we would reject your report and let the bill fall. Let other committees vindicate their rights, and say that when they have brought in amendments which have received the sanction of the Senate, they are not to be sacrificed in these committees of conference.

Mr. FESSENDEN. I hope, Mr. President, that the report of the committee will be accepted, because I am satisfied, not only that it is the best that can be done under the circumstances, but that on the whole it is quite as well as we had any reason to expect the result would be. I do not agree with the statement that has been made by the Senator from Mississippi, with reference to this matter. What is this bill before us? An appropriation bill, as we call it. It is a bill, not only one law, as it is in form, but containing in it a great many different provisions; different laws, in fact, upon different subjects; each got in there by the course of our legislation. Now, sir, if we pass a single law—take, for instance, the provision alluded to by the honorable Senator from Mississippi, providing for the erection of a court-room in connection with the City Hall; we send it down to the House; they disagree with us; a committee of conference is appointed; they cannot agree, and the bill would necessarily fail, and I take it for granted no Senator would want to sit here until next December, until the House gave way. Why, sir, the House have just as much right to its opinions on that matter when placed in this omnibus bill, as it is called, as if it were in a single bill by itself, and it is not in the nature of things to expect, when a bill contains so many different provisions as this bill does, that both branches should agree upon all the provisions. It is natural to suppose, when the two branches of Congress differ so often upon a single bill making a single provision, that they should find grounds of difference upon a bill which makes one hundred different provisions.

Now, sir, is it right and reasonable to urge the Senate to reject this bill because there are some provisions in it, so multifarious as they are, upon which both Houses cannot agree? Do we take the position that, because we cannot agree upon everything, therefore legislation shall stop upon everything? that because we cannot agree upon certain provisions, therefore we will have no result whatever from the agreement upon those which do satisfy both branches of the Legislature? I hold to no such doctrine as this. I was in favor of this provision of the bill. If I may be allowed to speak of what transpired in committee, I was in favor of it here, and I was in favor of it elsewhere; but there were naturally different opinions. The committee consisted of gentlemen representing both Houses. Those gentlemen know,

or think they know, what will be the effect of retaining certain provisions in the bill. What is the object of a committee of conference but to find out what they can agree upon? Must we come to the conclusion, because a series of amendments are offered to a bill of this description which are lost in a committee of conference, that every individual on that committee must vote against the report, and therefore the general bill must fail? Not at all. Sir, I was as much disappointed as any man with reference to the result of the conference on this bill. There was one amendment in which I felt a very strong interest, and yet I was compelled to give it up. I was compelled to yield it for the very reason that it was stated the House was not willing to pass it, and would not pass it; and it had as much right to its opinion on that subject as the Senate has to its opinion. If we adopt as a principle that we will sit here from January to December, or from January to January, simply because we cannot coerce the House to come to our opinions; and the House adopt the same principle that they will sit here because we will not come to their opinions upon all subjects, I should like to know when we would come to any conclusions at all?

I have said thus much, not because I suppose there is any doubt what the result of a vote on the report will be, but it was really surprising to me to hear such doctrines advocated here. I am perfectly willing to yield when I think it can be fairly and candidly done, with the acceptance of all the others who are deputed to settle these disputed matters, notwithstanding my wishes may not be complied with in every particular. I hope, therefore, that the Senate will adopt this report, and not throw away a great deal that is good because they cannot get some other things that they want.

The VICE PRESIDENT. The question is on concurring in the report of the committee of conference, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 30, nays 6; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Chandler, Clay, Collamer, Dixon, Douglas, Fessenden, Foster, Gwin, Harlan, Houston, Hunter, Iverson, Johnson of Arkansas, Jones, Mallory, Mason, Pugh, Reid, Sebastian, Seward, Simmons, Sidel, Stuart, Thompson of Kentucky, and Thomson of New Jersey—30.

NAYS—Messrs. Broderick, Brown, Rice, Toombs, Trumbull, and Wilson—6.

So the report of the committee of conference was concurred in.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, transmitting a report of the Secretary of State, in answer to the resolution of the Senate of the 19th ultimo, respecting the Isthmus of Tehuantepec, with the accompanying documents, together with a letter of the Postmaster General, of the 24th ultimo, to the State Department; which was ordered to lie on the table; and a motion by Mr. DOUGLAS to print was referred to the Committee on Printing.

He also laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate, information in relation to the fees or charges of the consul general of Canada on goods or articles imported into the United States from Canada; which was ordered to lie on the table; and a motion by Mr. STUART to print was referred to the Committee on Printing.

He also laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate, information in relation to the time at which each vessel in the Navy was built, and the original cost thereof, with the cost of repairs to each, and the time when made; also, the present condition of the vessels in the Navy, as to fitness for service; which was ordered to lie on the table; and a motion by Mr. COLLAMER to print was referred to the Committee on Printing.

VENTILATION OF PUBLIC BUILDINGS.

Mr. SEWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States, if, in his judgment, compatible with the public interest, communicate to the Senate such information as the Executive Departments may afford of the contracts, agreements, and

arrangements which have been made, and of proposals which have been received, for heating and ventilating the Capitol extension, the Post Office, and other public buildings in course of construction, under the management of Captain Meigs, and of the action of the Secretary of War and Captain Meigs thereon.

JOHN FORRISTER.

Mr. IVERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the order directing the petition and papers of John Forrister to be withdrawn from the Court of Claims and referred to the Committee on Pensions be rescinded.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were read twice by their titles, and referred to the Committee on Pensions:

A bill (No. 650) granting an invalid pension to William Randolph; and

A bill (No. 340) providing an increase of pension to Peter Van Buskirk, of Washington city, in the District of Columbia.

BILLS BECOME LAWS.

A message from the President of the United States by Mr. HENRY, his Secretary, announced that the President had this day approved and signed the following acts:

An act to repeal the fifth section of an act entitled "An act to authorize the register or enrollment and license to be issued in the name of the president or secretary of any incorporated company owning a steamboat or vessel, approved March 3, 1825; and

An act for the relief of Albert G. Allen.

BERIAH WRIGHT.

On motion of Mr. KING, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 460) granting an invalid pension to Beriah Wright, of New York.

It directs the Secretary of the Interior to place his name on the roll of invalid pensioners, and pay him a pension of four dollars a month from the 6th of February, 1858, to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MRS. MARY A. M. JONES.

Mr. STUART. I think that we ought, in justice to ourselves certainly, to dispose of the case of Mrs. Jones, which we have talked about for two days. I move that the Senate proceed to the consideration of that bill.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 42) granting a pension to Mary A. M. Jones.

The VICE PRESIDENT. The question is on the following amendment:

And be it further enacted, That the name of Myra Clark Gaines, widow of Major General Edmund P. Gaines, United States Army, be placed on the pension roll; and that she be paid at the rate of half the pay proper per month to which the said Gaines was entitled to at the time of his death; to commence on the 6th day of June, 1849, and to continue during her natural life.

Mr. SEWARD. I wish the Secretary to add to that:

Provided, That this pension shall not exceed fifty dollars per month.

This is the amendment offered by the Senator from Georgia.

Mr. BENJAMIN. The amendment should be, in the second section, to strike out all about the half pay proper, and insert at the rate of fifty dollars per month.

Mr. SEWARD. Very well, put it in that shape.

Mr. STUART. I understand that by common consent the amendment will be so modified.

The VICE PRESIDENT. If there be no objection, it will be put in that form. The Chair hears none.

The amendment, as modified, was agreed to.

The VICE PRESIDENT. The following amendment offered by the Senator from Kentucky [Mr. CRITTENDEN] is now pending:

And be it further enacted, that the name of Jane Turnbull, the widow of Lieutenant Colonel William Turnbull, be placed on the pension roll as a pensioner for life, at the rate of fifty dollars per month.

Mr. CLAY. That is liable to several objections. In the first place, I will remark that the Committee on Pensions, to whom the petition of Mrs. Turnbull was referred, reported, if not unan-

imously, almost unanimously, against granting the prayer of the petitioner, because it did not come within either the spirit or the letter of any general law, and because it was initiating a new system of pensions, unwarranted by any precedents. If there were any, they were certainly very few.

But this is an extraordinary amendment in one respect. It proposes to give to this lady more than the half pay of her husband, at the time of his death. Up to 1835 or 1840 no pensioner of the Government received exceeding thirty dollars per month. There was a general law which fixed thirty dollars per month as the maximum of any pension under the Government. Here was a colonel, whose pay proper did not exceed fifty dollars per month, I believe, and you propose to give his widow, as a pensioner, the full amount of pay proper which her husband would have received, and propose to give to her the same amount of pension which you give to the widow of a major general. Surely the Senate is not prepared to do this. If you are going to establish this arbitrary system of favoritism, wholly regardless of the principles which have governed in all other cases, and which prevail in the general laws, I do not see where it is to stop. This will be quoted hereafter, and will return to plague us whenever a pension bill is before us. I trust that an amendment, which I shall propose, will be adopted, and it will be this: to strike out the words "the rate of fifty dollars per month," and insert "half the pay proper to which her husband was entitled at the time of his death."

Several SENATORS. That is right.

Mr. PUGH. I hope that this amendment for Mrs. Turnbull will not be put on this bill. It is not germane to the bill at all. I hope the Senate will vote it down.

Mr. JONES. It only gives her half pay.

Mr. PUGH. But I do not want it put on the bill.

The VICE PRESIDENT. The question is on the amendment of the Senator from Alabama to the amendment.

Mr. JOHNSON, of Arkansas. It seems to me that this is pressing a good thing too far, and I very much hope whoever has offered this amendment for Mrs. Gaines to the bill will withdraw it.

Mr. THOMSON, of New Jersey. This is an amendment for Mrs. Turnbull.

Mr. JOHNSON, of Arkansas. There was attached to the bill an amendment for Mrs. Gaines. I hope very much whoever offered that amendment will withdraw it.

The VICE PRESIDENT. The pending amendment was offered by the Senator from Kentucky, [Mr. CRITTENDEN.] now absent.

Mr. JOHNSON, of Arkansas. Very well. When brought in this way I am absolved from any feeling in regard to it, and I, for one, shall vote against it.

Mr. DAVIS. What is the amendment pending? Let it be read.

The VICE PRESIDENT. It is an amendment to the amendment, which the Secretary will read.

The Secretary read the amendment to the amendment, which is to strike out the words, "the rate of fifty dollars per month," and insert, "the half pay proper to which her husband was entitled at the time of his death, so that the amendment will read:

And be it further enacted, That the name of Jane Turnbull, widow of Lieutenant Colonel William Turnbull, be placed on the pension roll as a pensioner for life, at half the pay proper to which her husband was entitled at the time of his death.

The VICE PRESIDENT. The question is on that amendment to the amendment.

Mr. DAVIS. This is a case of great merit, and I hope there will be no opposition to it. This officer served many years with distinction, and also with usefulness. I know not how far his death may be traced to exposure incurred in the service during the war with Mexico, where he certainly rendered very valuable service; but I am sure it may be traced, even at a later day, to the exposure which he annually incurred in the service upon the northern lakes. Whether the seeds of disease were laid in the campaign in Mexico or not, one thing is certain, that every fall he was compelled, under surgeon's certificate, to return from his post of duty on the northern lakes, and remained during the winter; and this having continued for years in succession, he finally came to

his death suddenly, as I am informed, by an attack of rheumatism in the heart.

For myself, it is unnecessary that the case should be established that an officer died of disease contracted in the line of his duty. I believe it will be proper to extend this relief to the family of every officer who dies on duty. I believe it is good economy. If otherwise, the obligation certainly rests on us; and every honorable mind must feel it that we should give sufficient pay to enable every officer of the Government to provide for his family while he devotes his whole time to the service of his country. If you do not choose to do that; if it would be too heavy a tax upon the Treasury for any one to propose, the only just mode left is to pension the family that he may leave destitute by having devoted his whole time to his country.

But, sir, this case has the peculiar claim of being a pension for the widow of an officer who died of disease certainly contracted in the performance of his duty; and, resting upon that basis, if it does not come within the letter, it surely comes within the equity of the law; and if the Army stood upon the same footing with the Navy, no question could be made upon it; it would have been allowed by the Department without coming here. I am sorry that objection is made to placing this case as an amendment to the bill under consideration, when it is known that we cannot multiply bills and take particular action on each. If that be the only objection, I hope it will be waived, and the bill allowed to pass.

Mr. TOOMBS. What case is this?

Mr. JONES. Mrs. Turnbull's. I merely wish to make a correction of the statement made by my friend from Alabama, that this bill did not have the sanction of the majority of the Committee on Pensions. It at one time, whilst that honorable gentleman was present, did not have the sanction of the committee, but at a subsequent meeting it did receive the sanction of a majority of the committee. There were but four members of the committee present, and three of them voted for this amendment. After the first meeting, at which the bill was rejected by the committee, Lieutenant General Scott appeared before some of the members of the committee, myself and others, as I well recollect, and stated he had every reason for the belief that Colonel Turnbull came to his death in consequence of disease contracted at Vera Cruz, in Mexico, from which he never recovered. He felt entirely confident that that was the cause of his death. The surgeons who have testified in the case, also testify that he died of disease contracted in the line of duty.

Mr. CLAY. I have but a word to say in reply to my friend from Iowa. I know, during this session, that the committee, when I was present, decided against the prayer of the petitioner.

Mr. JONES. So I said.

Mr. CLAY. And my recollection is, that the Senator from Connecticut was instructed to report against the bill, and, I think, did report against the bill.

Mr. FOSTER. I did so.

Mr. CLAY. I do not know, then, by what rule of the Senate, or by what authority the committee, in my absence, reconsidered the matter and determined to grant the pension.

Mr. HOUSTON. I really do not intend to make any remarks upon these subjects. It is said, however, that these cases do not come within the purview of any general law, and that we have no precedent for them. It is for that very reason, I understand, that we are called upon to legislate. If we had laws and precedents to cover these cases, it would not be necessary to legislate now. We are called upon to supply the deficiencies of law, and to make law; not to follow precedents particularly. If there is anything that I have ever heard of in my life, for which I have always entertained a most ineffable contempt, it is precedent. If a man has done wrong, or the Government has established any wrong principle, that is to be a precedent—an excuse for following it afterwards. The very last thing that a sensible man would ever think of is precedent. It will do for judges to give unjust decisions upon, because a precedent can be found for anything in the world in the law books. I am not very thoroughly read in the law. I once read law and practiced, and I found that you could find a precedent for any absurdity; and I will not rely upon precedent now.

But, sir I can refer to a precedent. I refer to it from its respectability and the reason of it, but not because it is a precedent. It occurred as long as eight or nine years ago. I will remark that it was the case of the widow of Major Waddy Cobb. He had contracted a disease whilst an officer in station on the northern lakes. His health became very much impaired; he continued to linger, under the influence of the disease, for a number of years, unfit for service. The original cause of the disease was traced to exposure, and his wife was pensioned. She received a half-pay pension. There is a precedent for this case—a very sensible one. I advocated it very humbly and feebly, I acknowledge, but it passed by an almost unanimous vote of this body. I recollect there was one negative vote.

I am very sorry to say it is a matter of just complaint that these cases are not promptly considered here, and I cannot permit this occasion to pass by without saying a single word with regard to one particular case. A petition was presented by me at the early part of the session, or rather by the Senator from New York, and I was privy to it, from the widow of Colonel Larnard, of the Army, who was drowned at Puget Sound. He had passed over the sound with a command of men in a boat. On returning, a squall struck the boat and all were drowned. His widow petitioned for a pension. He was as much in the discharge of official and public duty, and in obedience to the commands of the Government, as if he had been shot down in the van of battle, and his widow is as well entitled to a pension, and yet no report has been made upon it, or if there has been a report it has been adverse to the claim. It is the equity and justice of it that we should look to. If a man yields to the slow advancement of disease, and falls a victim in the service of his country, his country is under the same obligations to him as it would have been if his blood had been spilled in the face of the enemy.

I am for none of your technical legislation. You may make it; you may disgrace the Legislature with it, if you will; but it never shall control my principles of legislation. When an act of justice connected with the national honor demands my advocacy, it shall always have it in the face of precedent. If the whole world had condemned a just and righteous act, and I had that imposing precedent before me, I would spurn it, and treat it with that contempt which is always due to such examples, which will only be followed by the servile mind that dare not think for itself.

Mr. IVERSON. I stated in some remarks that I had the honor to submit a few days ago, that I was opposed to the extension of pensions beyond the rules which have been prescribed by Congress. I do not rise to make any extended remarks upon that subject, but I have an amendment to offer if this amendment prevails. I want to offer an amendment making provision for the widow of another very distinguished officer of our Army. I allude to the late General Alexander Macomb. Certainly, if any widow is entitled to a pension on account of the distinguished services of her husband, Mrs. Macomb is entitled to a pension; for no man belonging to our Army during the late war with Great Britain performed greater service than General Macomb—so much so, that he was selected by President Adams to be commander-in-chief of the Army of the United States after the decease of General Brown.

I only give notice that I shall offer the amendment. I, however, think the friends of Mrs. Jones and Mrs. Gaines had better be careful how they put on any additional amendments, because, if one be adopted, a number of others will be offered. Mine, certainly, is entitled to as much consideration as any presented; but, if we commence this system, we shall have to go to the fullest extent, and quarter the widow of every officer who dies in the service upon the bounty of the Government; and we shall then have to extend it to the soldiers, because they are as much entitled as the officers themselves. I give notice that, if the amendment for Mrs. Turnbull prevails, I shall offer an amendment in relation to the widow of General Macomb.

Mr. GWIN. I wish to add a few remarks to what has been stated in regard to the amendment to the amendment granting a pension to the widow of Colonel Turnbull. I was associated with that gentleman for a number of years, and I never

knew a better, a more honest, or a more gallant gentleman. I believe his health was never restored after he left Mexico. He was at the head of General Scott's staff. I introduced this bill because I thought it was a meritorious case, if there ever was one. I think it is eminently entitled to the consideration of the Senate, and I shall do all I can to procure the passage of the amendment.

Mr. PUGH. The friends of the case of Mrs. Turnbull gain nothing by putting it on this bill; nor do the friends of Mrs. Gaines's case. They defeat their own cases, and they defeat the meritorious case of Mrs. Jones; for as each of these amendments involves a new appropriation of money, when this bill goes back to the House of Representatives, it must go to a Committee of the Whole House, and be put at the foot of the Calendar. The original bill came to us from the House proposing a pension to the widow of General Jones. It has passed the ordeal of the House, and is here where a single vote will pass it. That case to which no objection is made, that case which passed the Senate unanimously at the last Congress, is to be sent back to the House, not on anything connected with itself, but under the vain idea that it will facilitate the passage of the bills for the benefit of Mrs. Gaines and Mrs. Turnbull. It will do no such thing. The bill with those amendments will go to the Committee of the Whole House, and be put at the foot of the Calendar, because it will contain a new appropriation of money which has never been considered in the Committee of the Whole, and thus neither of these cases advances a single stage, while they defeat the case of Mrs. Jones. Now I appeal to the Senate to take these amendments off the bill. Let us defeat this one, and then reconsider the vote by which the amendment for Mrs. Gaines was adopted, and let Mrs. Jones's case be passed as it came from the House.

Mr. THOMSON, of New Jersey. I desire to give notice that I shall introduce an amendment to this bill, providing a pension for Mrs. Ann Smith, the widow of General Persifer Smith.

Mr. PUGH. I was about to say that the bill for Mrs. Gaines will not receive attention one moment sooner as an amendment to this bill, than if it were separate, for it must go back to the House, and pass the ordeal there. We had this question discussed during the last Congress, in a similar instance, which was the first case I ever knew where a meritorious claim was made to retrace its steps through both branches, in order to carry a second claim. I hope the Senate, in justice to itself, will allow Mrs. Jones's bill to pass. The pension given under the bill will not be as much as the Senator from Georgia has named in the amendment. The full pay of an adjutant general is ninety dollars, the half pay forty-five dollars, and the Senator proposes to give her fifty dollars. I would rather have the original bill than any further difficulty about it.

Mr. DOUGLAS. I simply rise to state that my friend from Ohio is entirely mistaken in supposing that this bill must go to the Committee of the Whole in the House. It is a misapprehension of the rule. Any bill having an appropriation in it, must go to the Committee of the Whole; but a bill which has been returned from the Senate, with an amendment making an increased appropriation, does not go there at all in consequence of the increase. But it so happens that in this bill there is no appropriation at all. It simply puts on an additional pension, but contains no appropriation of money; but having passed the House, if we increase the appropriation, when it is returned to the House it does not go to the Committee of the Whole.

Mr. PUGH. The same question has been decided. When the bill for enlarging the Cleveland custom-house was under consideration, a proposition was made, as an amendment to it, to carry on the Milwaukee custom-house. I went down and conversed with honorable members of the House, and ascertained that, if we added any additional sum for a new building, the bill would have to go to a Committee of the Whole House.

Mr. DOUGLAS. They were very successful in making the Senator believe that that was the rule.

Mr. PUGH. I ask, as a test question, that the yeas and nays be taken on the amendment adding Mrs. Turnbull's case, because I consider it a defeat of the original bill.

The VICE PRESIDENT. The question now is on the amendment to the amendment.

Mr. HOUSTON. What is it?

Mr. CLAY. It is to strike out "fifty dollars," and insert "half pay."

The VICE PRESIDENT. The Secretary will read it.

The Secretary again read it.

The amendment to the amendment was agreed to.

The VICE PRESIDENT. The question now recurs on the amendment as amended.

Mr. PUGH. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MALLORY. Is the amendment still open to amendment?

The VICE PRESIDENT. An amendment to the amendment is now in order.

Mr. MALLORY. Then I offer the following:

And that the Secretary of the Interior be directed to place the name of Jane Perry, widow of the late Commodore Matthew C. Perry, on the pension roll at the rate of fifty dollars per month, to commence on the 4th day of March, 1858.

I listened to the remarks of the honorable Senator from Ohio with a great deal of pleasure. I think there is a great deal of justice in what he says. I think that loading the bill down with amendments will probably defeat the pension which we seek to give Mrs. Jones, but I cannot withhold this amendment when I see others attempted to be placed on the bill. I therefore offer it and allow it to take its chance with the rest. I shall not regret if all are voted down together; but certainly no case has been presented to the Senate which deserves higher consideration than that of Mrs. Perry. Commodore Perry himself died from disease contracted in the service of the country, and his widow is as much entitled to a pension as any presented here. I offer that as an amendment, and I hope it will be adopted.

The amendment to the amendment was agreed to.

Mr. THOMSON, of New Jersey. I desire to offer an amendment, if it is in order:

And that the name of Ann Smith, of Louisiana, be, and the same is hereby, placed upon the pension list of the United States; and that the Secretary of the Interior pay, or cause to be paid, to the said Ann Smith the sum of fifty dollars per month, commencing from the date of the death of her husband, the late General Persifer F. Smith, of the United States Army.

The amendment to the amendment was agreed to.

Mr. IVERSON. I have an amendment to offer:

And that Mrs. Macomb, the widow of General Alexander Macomb, deceased, shall also be entitled to a pension during her life, at the rate of fifty dollars per month, to commence from the date of her said husband's death.

The amendment to the amendment was agreed to.

The VICE PRESIDENT. The question now recurs on the amendment as amended.

Mr. TOOMBS. I shall vote with great pleasure for the amendment as amended; and I shall endeavor, before the question is taken, to put such other cases upon the bill as stand upon an equal ground of merit. Although Senators occupy a high position, although they are exempt from responsibility for six years, still they are very much dependent upon the people, and I think that the substratum, the "mud-sills," ought to be considered in this pension business. They are the foundation after all—the substratum of society. "They toil not, neither do they spin; and yet I say unto you, that even Solomon, in all his glory, was not arrayed like one of these." [Laughter.] That is the truth.

Mr. FESSENDEN. You do not say that they are lawless?

Mr. TOOMBS. No; I do not, by any means. Now, the appropriation of public money against the settled principles of the Government, and against public justice, is a mockery and a jest in the Senate of the United States. It is a mockery and a jest with the representatives of thirty-two sovereignties. You have established certain principles upon which you have put the pay and emoluments, and all the advantages of coming into the service of the United States. You have put those of the Army of the United States upon a basis that makes a universal rush from one end of the Republic to the other to get there. It is a

huge magnet that attracts from the remotest parts of the Republic all the loose stuff—the young men that can do nothing else, in the remotest parish and upon the remotest backwoods in all the Republic, as well as the respectable people. They go into your service upon the idea that you will give them certain compensations while they are in it. They hold those advantages upon no other principle, except that they shall do nothing so disgraceful as will turn them out; and even if they should be, if they happen to be kin to Senators and members, they will bring them back again. It is done. I speak what you all know. I would much prefer to say pleasant things than rough things, though I prefer doing my duty rather than to please this august assembly of which I am a member.

Some of these gentlemen entered the service forty years ago. You tell them that you will give them a certain compensation for life, with all the chance of promotion, and that if they should fall in battle you would give a pension for a limited time to their wives and children. They entered into it. They have gone on through this routine. Here we have four cases for pensions, notwithstanding that contract. I had the pleasure of knowing many of these gentlemen. A more accomplished officer than Colonel Turnbull I never knew, of his rank. I considered him one of the most distinguished officers of his rank in the American service—an honor to the service. He did his duty everywhere. He was frank, liberal, brave, and generous; and I knew no man that I honored more in his calling. I had the pleasure of his acquaintance, not intimately, but such as it was it was all to his favor and to my advantage. But such were not the terms upon which he went into your service; it was not your contract. He did nothing more than he bargained for. He was an eminent example of an intelligent, brave, educated, honorable officer. It is exactly what he bargained for. His life was blameless. He did not die of wounds received in the service. All this talk about giving pensions on account of wounds is mere stuff. If a man dies in his bed they trace it back possibly to some exposure thirty or forty years ago. People imagine that they get sickness in a particular way, and get an excuse for a pension. Many of these people lived longer than the time appointed for all men. If they had died from disease or wounds contracted in the service, they could get a pension by proving it.

As for bringing up General Scott before the committee, I suppose what General Scott swears to would be regarded at the Pension Office, but I expect what he swears about people's diseases, he not being an adept, would be of no more concern than one of your pages. General Scott knows a great deal about his business, but not a great deal about anything else. I believe that is the general judgment of the country, and there is no better friend of his in the country than I am, but I choose to speak the truth about him. He does not know much about business. He may know something about the sovereign'st thing on earth for a green wound, but I do not think that he will profess to decide whether or not a man who dies ten years afterwards, died from disease contracted in the service of the country. I know the old General would not profess to have any such skill in pharmacy or medicine, as to pretend that Colonel Turnbull died from any such cause, and he did not do it. I do not think there is anything in it. I think it would take a gentleman to be of very peculiar temperament to persuade himself that he was not violating the general principles upon which the laws of this land stand, by voting on such ground. I do not think anybody believes it. I have no idea that even my friend from Iowa [Mr. Jones] believes it. I never asked him for a thing in my life that he would not grant. Whatever you ask him he says, "certainly," and as for a woman, he could not refuse anything in the world that she might ask. You have made him chairman of the Committee on Pensions, and he says, "come from all the ends of the earth and take what I can give you: all ye that are thirsty, come and drink!" I never knew him to refuse anybody anything, and as for pensions, of course he would give them out of his own money or anybody else's to whoever asked him. [Laughter.] He is an exception to the general rule. We sometimes find that those who are very liberal with the people's money are very close with their own dimes. That is not

the case with him. He would spend his last cent, and throw in the public Treasury to make it up. He cannot stand a woman's tears. Everybody that knows him, knows that he cannot. [Laughter.] He gives everybody just what they ask him; everybody that knows him, knows that that is true. But I do not think that he is a safe depository of those stern, rigid principles that ought to govern in the management of the affairs of a great empire.

Now, sir, these people get a compensation, as I state, beyond that of any class of people of the same rank in the world—a greater amount of compensation than any people of the same capacity in this country, or in any other, because the capacity of these people is very limited; exceedingly limited. All admit that they are fit for nothing else, except some particular services, like my friend from Mississippi, [Mr. Davis.] He thinks they are fit for everything else. The general judgment of the country is that they are fit for very little or nothing else. They are very good soldiers, and they are very brave. I believe that is the fault of our people. They are ready to "put in," in their own fights or the fights of anybody. In the judgment of our country it is some disgrace not to be brave, and they volunteer in anybody's fights. We agree to pay these people so much, a handsome compensation, a great compensation, and that when they died, as encouragement to stand by their colors, under those circumstances we agreed to take care of their families for a limited time, by law. I agree to that. I think that is a sound principle. I would give good pay. I would pay a man as liberally as any man on this continent for doing his duty in the deadly breach; but I would fix it by law. I would fix it beforehand, at whatever the nation thought was wise and just to its brave defenders, and make it a contract. Do not degrade him by a gratuity.

"A pensioner" is a term of reproach. It was despised by the men of the Revolution—those men who were real men, who were sure enough men, who were not shams, who fought for the liberties of this country. You had to let the race die out before you even put a pauper on your pension roll. There is not a human being that got one dollar for his services in American independence from 1785 to 1818, that he did not bargain for when he joined your Army—not a man. No such rule was adopted. What he bargained for he got. You did not give him three hundred and twenty acres of land until he had served three years and completed it. If he lacked thirty days of it, he lost it, and his children lost it. Go back to your history, and you will find it. When I first came into Congress, they put me into examining these small matters; and I find this to be the state of facts. Your soldier of the Revolution, who may have been present when the first gun was fired at Lexington, and been present when the last gun was fired at Yorktown, if he had survived through poverty, rags, and distress, until 1818, you never gave him one dime unless he swore he was not worth \$200. That is the very way you treated the defenders of the country. Was it poverty? It was not.

In 1818, your revenues, according to the population of the country, were greater than they have ever been from that day to this. They were then disturbed, as we were three years ago, how to get rid of them. Mr. Jefferson proposed various modes to change the Constitution. We did not know how to get rid of them. We had too much money. We had the greatest revenue, according to population, that we have had from that day to this. We had so much revenue that we did not know what to do with it. Poverty, then, was not the reason. The men who fought the battles of the Revolution, to their honor, scorned your gratuities. It was their degenerate sons that started this principle. It was the cowardly rabble, that did not spring from their loins, when they were dead and in their graves, that inaugurated the system of pensions for past services. It was not the people of the Revolution; it was not their descendants.

I recollect in the State that I represent where every man was a soldier, beleaguered by Indians, by Tories, and by the British, on the very soil on which I first saw the light, where every sod I trod upon had been a freeman's sepulcher, not

one delegate from Georgia dared to vote for the act of 1818. One of the most eminent and distinguished men in the country voted for it, and he was driven ignominiously from the county in which I live. Every spot but that in my own State was conquered and under British dominion. There the flag of England never floated an hour, except in battle, when it trailed in the dust. Every man was a soldier. There was no neutrality. All were on the one side or the other. It was the only place from here to there (unless you went west of the mountains) in which at some time British ascendancy did not rule. Notwithstanding all that, in 1818 a proposition to pension even the old soldiers of the Revolution and Indian wars received the condemnation of that entire people, and they drove from Congress the man who dared to vote for it.

Those were the days of the men who won independence. Those were the days in which they were living and voting, before they had died. Many of them had died. But for thirty-five years after the war, no man dared scarcely in this country to move it, and no majority could pass it. But after awhile, in the degeneracy of the times, when men found it cheaper to praise courage than to be brave, when it was cheaper to profess devotion than to serve the people, when it became cheaper to praise the virtues of their ancestors than to do deeds worthy of the remembrance of the people, then you commenced your pension system, and in 1832 was the first time you ever pensioned a person. Independence was acknowledged in 1783, and from the Revolution to 1832 there was an interval of forty-nine years. Forty-nine years is a long time. That generation has gone. Of all the dead that lie buried on every battle-field in your country, those who did not survive forty-nine years slept in their mother earth, and their spirits went to their long account without any of this noble charity which is now given—to whom? Why, some time during the last war, some young lieutenants on the Canada frontier, amid the general disgrace of the American Army, behaved well. The disgrace was general with these exceptions. In the fullness of years, perhaps of honors, they were gathered to their fathers as Abraham, and Isaac, and Jacob were before them. They paid the debt of nature. Nobody hurt them. They were harmless, never having hurt anybody during the whole course of their lives.

Senators, however, say that this man is an old soldier. They get kind-hearted gentlemen like my friend from Texas, who being a soldier himself has a good deal of the *esprit du corps*, and who seems to think that everybody who ever saw a musket ought to have a pension, to speak in their behalf. I do not condemn this *esprit du corps*, but I want to guard the country against it, because whenever you make the rule as general as we are making it, and have the revolutionary soldiers, and all who fought for the country pensioned, you will have the wonderful example of a whole nation pensioning itself. So the sons of the men of the Revolution are called upon to-day to pay for these grand services about which there is a struggle every day to get the opportunity of rendering.

Take the case of Colonel Turnbull, whom I have spoken of. He was as able, as distinguished, and as honorable a man as there was in the Army, but he would not have taken \$50,000 for his commission. He was right; too. It was worth that amount in the market. The commission of a colonel in the Army is worth more than fifty thousand dollars. For at six per cent., if you went to shaving, it would bring more. Ten per cent. is a pretty good shave, and at that, on good security, it would bring \$5,000. Look at your Blue Book, and find what they get. Whatever it is, you have agreed that that is good compensation; and you tell them, if you fall in battle we will take care of your widow, but if you do not, we will not. Are you going to change the policy? Do you not give them enough? Is it right that every officer in the Army of the United States should have his widow pensioned by the Government?

My friend from Ohio seems to have a strong single idea. He wants but one case—the pension to Mrs. Jones. If he can get Mrs. Jones he will give up all the rest of the heroes. My friend from Mississippi wants a pension for the widow

of Colonel Turnbull. I think he has got as good a case as the Senator from Ohio. They are both good cases. They were both excellent men; both good soldiers; both accomplished people; but that is not enough. There are a great many good people, a great many honest people, a great many accomplished people, a great many patriotic people who have served the country well, and in the course of nature, have died. Now, I want the rule put down to everybody. There is where I stand, and I put it to every Senator if it is not a good rule? If the present pay is not sufficient without this allowance to their families, put it below it; strike out everything but the preamble, and say that the widows of all the officers of the Army of the United States shall have a pension equal to the half pay of a lieutenant colonel whether they die in battle or anywhere else. Then I will put in the soldiers, for, after all, I never knew of many battles being won by the officers alone. They generally get most of the credit; but, as far as I have seen, somebody has got to do the fighting and somebody the directing. I think great credit belongs to the man who directs it well; but after all, when it comes to cold steel, you want real and good men behind the muskets; and I know of no battles where the fighting was not done by the brave, courageous, and humble poor. I am almost afraid to mention them here, because I expect a great many people here will think it demagogism. That is the way they talk about it sometimes, but still I choose to stand by my own race. I sprang from them, and I am of them; and, if I have got no better reason for my task, I stand by them for that reason. I think the soldier who does his duty has as much right to a pension for his widow as an officer. Why is he not included? You may call him a general, or a colonel, or a major, but

"A man's a man for a' that."

Then I think if anybody's pay wants raising, it is the soldier's. I never heard of a soldier getting rich on his pay in the whole history of the world. Take all the wars, from the creation of the world down to this moment, and you will never find such a case. I have known officers whom evil-disposed people said did get rich on it, and there are a great many of them in the United States who have done so; but I never heard or knew of a soldier who got rich on his pay, or left his widow rich by what the Government paid him. The difficulty with him is, he spends all he gets, and dies in debt. You put him in a charity hospital—that is what you do with him; but you give an officer a great pension. All of them are distinguished gentlemen. When one of their cases comes here, if he was a general, and outlived his confederates, and therefore got rank, that is all that will be necessary. If a man dodges bullets, and can manage to outlive other people, he can get at the head of the Army, and when he dies you may give his widow a good pension; but let a bullet strike a poor devil of a soldier, let poverty overtake him, and you send him up here on the hill. That is not just; that is not right. Why should you do it? Who sent you here but the people? Who fought your battles? Washington commanded and did his duty, but the humblest man that did not turn his back on the enemy did his duty too; and they moistened the soil of every battle-field from Massachusetts to Georgia. Where are their widows? You cannot even gather them up. There is no officer, no pay roll, to tell where they are. I never yet knew of an officer of the Revolution, of the last war, or of the Indian wars, that you could not trace, but you have great difficulty in tracing soldiers. They are the million; they have hardly got any name. Many of them were the sons of nobody, and have nobody to look after them. They are generally people whom the world has gone ill with. With many of them the world's law has not been their friend. Nobody cares to trust them. They are outcasts. When their time is up, they wander over your country, houseless, homeless, with every sun setting upon them with no change, and every day dawning upon new misery until they reach their final resting place in the poor-house. I believe more of them get pensions from getting in the poor-house than any other way, because the overseers have got a habit in some parts of the country, of looking up and getting them a pension, in order to get them out of the poor-house; and from being a charge on the

town they get them on the Treasury. If they are so unlucky as not to get in the poor-house, nobody will look after them.

I think the widow of a man who died in your service is very illy provided for. The widow of the man who died in battle, the widow of a man who dies even in your service, is much worse provided for than the officer. The officer gets ample remuneration, not only in money, but in rank and position—general position—the desire and honorable ambition of every honorable mind. The soldiers have nothing but hard work and cold steel; and therefore the difference, I think, is in their favor. I shall vote for Colonel Turnbull, because I believe him to be the most meritorious man in the bunch of the whole lot. I think he is more so than General Jones; more so than General Gaines; more so than any man put upon this bill. As for Commodore Perry, I suppose he may as well go on as another. He went to Japan, and I believe we only gave him \$20,000 for the operation. We ought to do something for him, I suppose. He was a very honorable gentleman, and a good officer, I believe. I never knew of anything special that he did. In the Gulf of Mexico he did his duty. I do not choose to disparage any of these men. I do not go off into heroics about what they have done. I am giving history, and I am endeavoring to give justice, without resentment to anybody. I do not intend to be run away with by senatorial speeches about every man being the greatest and grandest and bravest man that the world ever saw. It is not so—not a bit of it. They were very common people when they were living; they were very respectable and very honorable, but as for being marked above their fellow men, the fact with most of them is that their distinction grew out of their rank, which they attained by longevity, and the pay the Government gave them. That was the greatest distinction they had.

Therefore, I say, include every officer that is named on this bill, and then, when Senators get through with the favored class, when you get through with the officers, I will try you with the men, and see if they have got any friends here, like the widows of gentlemen of eminence I admit, of purity I admit, of great services I admit, of great wants I admit, because I believe a man's wants increase with his means. Give a man \$5,000 a year, and he will manage to spend \$7,000. That is my experience, and I believe that is the case with everybody. The more you give him the worse it is. I could live, fifteen years ago, better on \$1,500 a year than I can now on \$15,000. That is the history of our race.

This whole thing of pensions had been fixed by law before men entered into the service, and every one of these men, no matter how great his merits, ought to stand upon the law of the land, and there is not one of these cases within that law. I would make this exception: whenever you have got a case within the principle, I would vote for a pension. I do not object to every man being pensioned; but I shall never vote for another pension on a new principle as long as I live and keep my present opinions; but when you establish a certain principle of law beforehand, and you show me an exceptional case, where a man is fairly within its equity, or where, from some difficulty, he cannot show the proof, and I believe he has got a case, I will put him on, but upon the avowed principle that he is within the equity and principle of the law. None of these cases are. I believe that nobody pretends that General Gaines, who died at a ripe old age—eighty or one hundred, I do not know which—died from any wounds. I do not believe that General Jones did. I do not believe that General Jones was in active service since he was engaged on the Canada frontier, about the year 1814. He was a most excellent, brave, and honorable gentleman. He lived in quiet for over forty years before death claimed its own, as it does from all of us; and that is a good long lease. He lived for about forty years after the last war. I think there is nothing in all these.

Then, I say, these cases not being exceptional, or within the principle, they are naked gratuities which I cannot support or vote for. I shall vote to put everybody in as good position as they are, both officers and men, and then vote against the whole.

Mr. STUART. The honorable Senator from

Georgia, I am happy to say, has spoken in remarkably good humor himself, and has necessarily induced equal good humor on the part of the Senate. But for that, I should not have ventured to say a word in reply. I will say now, if my honorable friend—if he thinks half as much of me as I do of him, he will not object to my calling him friend—

Mr. TOOMBS. I acknowledge the relation.

Mr. STUART. I only want to inquire whether the honorable Senator ever has considered, in the whole course of his argument, the very great difference of opinion that Senators entertain? No man can reason more logically than the honorable Senator from Georgia does on his premises; but the difficulty is, that very many Senators do not agree with his premises.

Mr. TOOMBS. I will tell my honorable friend I am quite certain of that. I would be a fool if it had not been beaten into me by this time.

Mr. STUART. Take the comparisons the Senator has instituted. He says no pensions were asked in the days of the Revolution, while those heroes lived; that they themselves were opposed to it; and that at the present day the great mass of the officers who get into the Army get into it by favoritism, and are utterly worthless, and therefore want pensions. Now, sir, there is the reason that answers the proposition. There were other concomitant circumstances undoubtedly. There was a time when the country was, or was supposed to be, poor. It is true that there are many in the Army who ought not to be in the Army. That, let me say to my honorable friend, is the very reason why I am opposed to his proposition for a general law. I know of no general law by which you can exclude those under our system. If you had an arbitrary Government, where the Emperor was often upon the field, where, observing the man, he has unlimited power to promote him, then having no officers but those of merit, you might adopt a general law which would pay them alike. But here, as my honorable friend says, the system is one of grade; and the man who lives the longest gets the highest grade and the most pay, and it would never do to adopt that principle.

I was in the position upon another subject that my honorable friend is with this. When we had all this senatorial eulogium upon the Navy, I was on the other side. I thought we had done a thing which was meritorious to the country. My honorable friend disagreed with me. He was of a different opinion. He entertained his opinion as conscientiously as I did mine.

Mr. TOOMBS. I want to put the gentleman right. I will state the difference between you and me. I held that no freeman should be tried for a crime in this country, without being brought face to face with his accuser. That is the point I made, and I shall stand there as long as I live.

Mr. STUART. I disagreed with my honorable friend on that question.

Mr. TOOMBS. I know you did.

Mr. STUART. I did not think any such contingency had arisen; he thought it had. That is the very question I am discussing, that men differ, and necessarily differ, in opinion. I have all the feeling that the Senator has so eloquently portrayed for those who spring from the mass of the country, and I can say everything he has said in regard to my own associations with them. I subscribe fully to his maxim that

"A prince can make a belted knight,
A marquis, duke, and a't that;
But an honest man's aboon his might,
Gude faith he mauna fa' that."

I was saying that on that occasion I differed with the honorable Senator. I thought an essential service had been done to the country, and no injury to the officers of the Navy. The consequence of the whole action has been that having traveled up the hill and then traveled down again, we are vastly worse off than when we started, and beyond a remedy. We have talked about courts-martial. We have had them, and they have ended in a farce. Each time the President and Secretary have sent to us returns, they state that they could not examine the reports of the courts, and had not done so, but just indorsed what they did, and here we are.

Now, sir, here is a question upon which gentlemen differ. I am among those who believe it

is better to select the cases where great merit is attached to the officer in his lifetime, and do that thing which would lie nearest his heart, if he could utter a voice from the grave. Sir, if there is any feeling of an earthly character which, more than all others, is paramount in the bosom of an honest and honorable man, it is to provide for the family that he leaves behind him—his wife and his children. They have been his companions in life; they are those from whom he departs most reluctantly when he goes to visit his Maker.

Entertaining these opinions, believing that it is better to discriminate, to make these selections in regard to meritorious officers, and to make this distinction in this way rather than by a general law, I vote for cases which come, in my judgment, within that class. The Senator differs with me. No man argues his side of the case more ably. If I thought with him, I certainly should vote with him; but differing with him in the premises he assumes, necessarily I differ from him in my votes.

Now, a single word in regard to the suggestion made about amending this bill. The Senator from Illinois [Mr. DOUGLAS] was correct in the statement he made. No appropriations are put upon this bill.

Mr. TOOMBS. It is the same thing.

Mr. STUART. Not at all, I beg my friend's pardon. It simply places them on the pension roll.

Mr. TOOMBS. I ask my friend, if we put them on the pension roll, and give them money, is that an honest getting around of the rule?

Mr. STUART. No, sir. I make it with regard to that suggestion. The objection made by the Senator from Ohio is, if the bill has these amendments put upon it, that necessarily, by the rules of the House, it must go to the Committee of the Whole.

Mr. TOOMBS. So it will.

Mr. STUART. But I say this class of cases does not involve that necessity. It is simply a question, after the Senate make the amendments, whether the House will agree to them. I wish, in this connection, to remark—I say it with all respect—that I do not agree with those gentlemen who think that we ought to leave all legislation just as the House makes it. I think it is just as much within our power and our duty to amend any bill we choose, and as we choose, as to originate one here and pass it. I do not agree to the argument, so often resorted to, that because a bill comes from the House we must not amend it. We should amend it, if the judgment of the Senate says it ought to be amended. I could say much more on this subject; but I confess I am rather anxious to pass this bill, and I hope we are drawing near the vote.

Mr. PUGH. Let us have a vote on the amendment. The yeas and nays were demanded on adding these amendments to the bill.

The PRESIDING OFFICER. The Chair understands that they have been ordered.

Mr. TOOMBS. Is another amendment now in order?

The PRESIDING OFFICER. An amendment to the amendment is now in order.

Mr. TOOMBS. I have one to offer.

Mr. MALLORY. I have a report to make from a committee of conference.

The PRESIDING OFFICER. If there be no objection the Chair will receive the report from the committee of conference.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker had signed an enrolled bill (H. R. No. 460) granting an invalid pension to Beriah Wright, of New York; which thereupon received the signature of the Vice President.

NAVAL APPROPRIATION BILL.

Mr. MALLORY presented the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 199) making appropriations for the naval service for the year ending the 30th of June, 1859, report, that after full and free conference, they have agreed to recommend and do recommend, to their respective Houses, as follows:

That the Senate do recede from its first and fifth amendments.

That the House do recede from its disagreement to the second and third amendments of the Senate.

That the House do recede from its disagreement to the tenth amendment of the Senate, and agree to said amendment with an amendment, as follows:

Strike out "1st day of July, 1856," and insert the words "passage of this act."

That the Senate do agree to the amendment of the House to its fourteenth amendment.

S. R. MALLORY,
SOLOMON FOOT,
J. P. BENJAMIN,
Managers on the part of the Senate.
• THOMAS S. BOCKOCK,
JOHN KELLY,
F. H. MORSE,
Managers on the part of the House.

Mr. MALLORY. I ask the concurrence of the Senate in the report, and I will explain it in a very few words. The first amendment receded from by the Senate is in these words:

That, hereafter, medical officers and engineers of the Navy shall be entitled to the pay of their several grades from the date of their appointments or commissions therein, respectively.

From that amendment the Senate recedes. Then the House has receded from its non-concurrent votes to two amendments which I will not read, making an addition of \$50,000 to the appropriation bill for filling up lands and marine barracks in the Brooklyn navy-yard at New York. The House receded from that, and the amendment stands as it originally did. The next amendment of the Senate is in these words:

For the completion of the coal depot at Key West, Florida, \$20,000.

From that amendment the Senate has receded. The next amendment was in these words:

And be it further enacted, That from and after the 1st of July, 1856, the clerks, messengers, and watchmen at the navy-yard and marine barracks at Washington, shall be entitled to receive the compensation authorized by the acts of April 23, 1854, and August 5, 1854, for the payment of which such sum as may be necessary be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

The House has receded from its non-concurrent vote in that amendment, putting in an amendment so as to make the provision prospective instead of retrospective. It will then read:

And be it further enacted, That from and after the passage of this act, the clerks, messengers, &c.

The committee recommends that the Senate concur in the amendment of the House, by which five sloops-of-war have been added, so as to make it ten sloops-of-war instead of five. The Senate placed five on; the House has made it ten.

The PRESIDING OFFICER. The question is on concurring in the report of the committee of conference.

Mr. PUGH. We passed the five sloops-of-war by the yeas and nays. I think we may as well take the yeas and nays on the ten sloops. I certainly cannot go for it.

Mr. TOOMBS. I have no idea of defeating anything fixed up by this legislation; but, in future, when these questions come up, I want to enter my protest against them. Committees of three cannot force such legislation, unless gentlemen want to do it. I desire to record my testimony perpetually against it. There was no judgment of the two Houses when we voted on these sloops. We declared we would not have them. Our committee go into a conference, and give up \$20,000 at this place and \$2,000 at that, and take the House provision for ten sloops-of-war, and I suppose were very sorry that it was not for fifty. So far as I am concerned, I will have no such thing put upon me. As a Senator, I think my judgment ought to be given on this proposition. I am opposed to all this thing. I do not blame gentlemen connected with this business. I do not know whether the country will get an account of these things. Upon these general bills there will be some sixty or seventy amendments. Then Senators will go to the Vice President, or the Speaker of the House, to get the friends of certain measures on the committee. I have been asked if I were for this or that, and would go on a committee; but I have told them nothing. I have determined to go on no more committees of conference so long as I live. I do not want to go for this particular thing.

We get committees of conference who do the legislation of the country, and sell you out regularly. I want the country to understand it. That is not legislation. The real business of a conference is to act where both Houses want the same thing, but differ how to do it. There is the place, and then you take the bill in a free conference.

But when there is a bill with a hundred other provisions, as different as a negro from a white man, and the committee of conference give up this and that, and get other things for which there is no particular necessity, legislation is fixed up for Senators, and the power of the majority destroyed. I call upon all of those who have got any independence, who believe that this is wrong legislation, to vote against this report, and vote against the ten sloops. The House will not make any great fuss about the sloops. I do not suppose they are any more warlike than we are. The truth is, they only wanted to get up war enough to increase the Army and Navy. That is all the war we shall ever have. At the last moment, in spite of all you told the Mormons to fight, they would not fight, and we had to give them up; and, in spite of all we have said, the British say they had not intended to insult us; that it was done under orders given ten years ago, and was all a mistake. You know they have kicked us all over the seas entirely in a mistake, [laughter,] and we shall get an apology after a while. I did not vote for these sloops, and do not intend to do so, and I call for the yeas and nays on the report. I do not intend to be inveigled into any such legislation.

The yeas and nays were ordered.

Mr. PUGH. I move that the Senate adjourn. I think we ought to take this vote in a full Senate. Such legislation ought not to be acted upon except in full Senate.

The PRESIDING OFFICER. (Mr. Foot.) The question is on concurring in the report of the committee of conference.

Mr. PUGH. I made a motion to adjourn.

The PRESIDING OFFICER. The Chair was about to put the question on concurring in the report on which the yeas and nays have been ordered.

Mr. STUART. I ask my friend from Ohio to withdraw his motion.

Mr. PUGH. If you want to make a speech I have no objection.

Mr. STUART. I do.

Mr. PUGH. Then I withdraw it.

Mr. STUART. I want to make a point with my honorable friend from Georgia. I agree with him, and I wish to bring the Senate to reject this whole concern.

Mr. TOOMBS. So do I.

Mr. STUART. I think it best to give a little history on this subject. The proposition for increasing the Navy by the building of sloops, according to the recommendation of the committee, was fully discussed and voted down twice by decisive majorities on the yeas and nays; but, late at night, when there was a bare quorum here—just a quorum on the yeas and nays by one majority—an amendment to build five sloops was inserted in the bill. That is the history of it; and it has come to a time, I think, when the Senate should make itself heard. If we reject this bill, we can make another in four hours, and give all the appropriations necessary to continue the naval service of the country, and pass it through both Houses. The sense of the Senate was fully taken on the proposition, and it was voted down twice; we declared that we would not have it; but being persisted in, at a late hour of the night, when Senators had gone home, and there were just enough here to make a quorum by one majority, it was put on. Then it went to the House, and it came back bigger yet, and the committee of conference representing us, representing the sense of the Senate, against its will when fully expressed, have agreed to the enlargement made by the House.

Now, sir, I was one among the number who voted against the measure in all its shapes, and who believe it ought not to be done. If the sense of the Senate is changed, no Senator will acquiesce more cheerfully than I will; but if the sense of the Senate remains as it was expressed, let it stand by it, and do not let us have a dozen sloops foisted upon us against the will of the majority of the Senate. I am glad that the yeas and nays have been ordered, and I hope the Senate will reject this proposition. I say in four hours we can have an appropriation bill, making all the appropriations for carrying on the Navy. It is true, as the Senator says, this mode of doing things gets us in the hands of about two men.

Mr. TOOMBS. Yes, sir, that is true.

Mr. STUART. What they want we have got to take, or take nothing. Now, sir, let us vote it down. Let us see if the sense of the Senate, upon a question so plainly and palpably taken, cannot be carried out, or, if it is changed, let us change our action.

Mr. SEWARD. I move that the Senate adjourn.

Several SENATORS. Oh, no; let us take the question.

Mr. DAVIS. I hope the Senate will not adjourn. I wish to make a report from a committee of conference.

Mr. SEWARD. I will waive the motion for the Senator—

The PRESIDING OFFICER. It will be necessary to suspend action for the time being, in order to receive the report of the Senator from Mississippi. By common consent the Chair will receive the report.

Mr. STUART. I hope the Senator from Mississippi will make his report.

Mr. JOHNSON, of Arkansas. I object. Let us close up one bill before we take up another.

Mr. MALLORY. I object to any report until we get through the present business.

The PRESIDING OFFICER. Objection being made, another question cannot be interposed until the pending one is disposed of.

Mr. PUGH. Then I renew the motion to adjourn. I understood the Senator from Michigan was going to make it at the end of his speech.

Mr. BAYARD and others called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 10, nays 15; as follows:

YEAS—Messrs. Broderick, Brown, Fessenden, Harlan, Kennedy, Mallory, Pugh, Silldell, Toombs, and Wilson—10.

NAYS—Messrs. Bayard, Benjamin, Bigler, Bright, Collamer, Davis, Foot, Gwin, Houston, Johnson of Arkansas, Reid, Sebastian, Simmons, Stuart, and Thomson of New Jersey—15.

The PRESIDING OFFICER. The motion to adjourn is lost; but the vote shows the want of a quorum.

Mr. SEWARD. I move that the Senate adjourn.

Mr. JOHNSON, of Arkansas. It is not in order to repeat one motion for adjournment after another.

Mr. SEWARD. There cannot be any other motion now except a motion to adjourn.

Mr. MALLORY. We can do no business.

Mr. BAYARD. I move that the Sergeant-at-Arms be sent after the absent members.

Mr. JOHNSON, of Arkansas. I second that motion. I think it is fair that those who are absent at this time of the session ought to be published to the world, and I see no other way but by making a call, and inviting absent members to attend.

Mr. BAYARD. I understand that there is a quorum here, if they will vote.

Mr. HOUSTON. The very moment there is a call ordered I shall—

The PRESIDING OFFICER. The Chair is not aware of any practice authorizing a call.

Mr. HOUSTON. If gentlemen would not occupy the time they do on trivial matters, all the business we have transacted in the last two weeks could have been gotten through in a day, and these night sessions avoided.

Mr. SEWARD. Is a motion to adjourn now in order?

The PRESIDING OFFICER. The Chair would regard the motion in order in the present state of the Senate. A quorum not being present, no business could be done.

Mr. SEWARD. I make that motion.

Mr. STUART. We can send for absent members. That motion was made by the Senator from Delaware.

Mr. SEWARD. There have been speeches and debates. I move that the Senate adjourn.

The PRESIDING OFFICER. The Chair will entertain the motion to adjourn.

Mr. SEWARD. I make that motion.

Mr. JOHNSON, of Arkansas. I ask for the yeas and nays upon it.

Mr. HUNTER. I hope we shall not call for the yeas and nays. We have not a quorum. The only effect of sitting here to force the attendance of absent members, will be to disqualify us for business to-morrow.

Mr. JOHNSON, of Arkansas. Those who

attend to-night will not, perhaps, be able to attend to-morrow. Yet we ought to make an effort to do business.

The yeas and nays were ordered; and, being taken, resulted—yeas 12, nays 11; as follows:

YEAS—Messrs. Benjamin, Broderick, Brown, Fessenden, Harlan, Houston, Hunter, King, Mallory, Pugh, Reid, and Toombs—12.

NAYS—Messrs. Bayard, Bright, Collamer, Davis, Foot, Gwin, Johnson of Arkansas, Sebastian, Simmons, Stuart, and Wilson—11.

So the motion was agreed to; and the Senate adjourned at ten o'clock and forty-five minutes, p. m.

HOUSE OF REPRESENTATIVES.

FRIDAY, June 11, 1858.

The House met at eleven o'clock, a. m.

The Journal of yesterday was read and approved.

CHARLES PORTERFIELD, DECEASED.

The SPEAKER stated the first business in order to be a motion made by the gentleman from Virginia [Mr. LETCHER] to discharge the Committee of the Whole House from the further consideration of Senate bill (No. 203) for the relief of the legal representatives of Charles Porterfield, deceased.

Mr. LETCHER. Let the bill and report be read.

The bill and report were read.

The bill requires the Secretary of the Interior to issue to William Kinney and Thomas J. Michie, executors of the last will and testament of Robert Porterfield, deceased, a number of warrants, equal to six thousand one hundred and thirty-three acres of land, according to the usual subdivisions of the public surveys, in quantity not less than forty acres, to be by them located on any of the public lands subject to private entry, at \$1 25 per acre, which have been, or may be, surveyed, and which have not been otherwise appropriated at the time of such location, within any of the States or Territories of the United States, where the minimum price for the same shall not exceed the sum of \$1 25 per acre, to be selected and located in conformity with the legal subdivisions of such surveys, and appropriated according to the directions contained in the last will and testament of the said Robert Porterfield, deceased, in the same manner and for the purposes directed in regard to the lands which were lost by the said legal representatives in the action with Clark and others, as decided by the Supreme Court of the United States.

It appears from the report, that in May, 1779, the Legislature of Virginia passed an act establishing a land office for ascertaining the terms and manner of granting waste and unappropriated lands. Under this act, any person might procure from the Treasury, on paying a certain price, a warrant to locate and obtain a patent for any waste or unappropriated land, with a proviso that no entry or location of land shall be admitted within the country and limits of the Cherokee Indians, or on the north side of the Ohio river, or on lands reserved for any particular nation or tribe of Indians, &c. The warrants under this act were called Treasury warrants. It having been ascertained, by an extension of the dividing line between Virginia and North Carolina, that a considerable part of the land previously set apart by Virginia for the discharge of her promises to the officers and soldiers of her State and continental line, lay within the State of North Carolina, Virginia, by an act passed in November, 1781, enacted that all that tract of land included within the rivers Mississippi, Ohio, and Tennessee, and the North Carolina line, shall be, and the same is hereby, substituted in lieu of such land so fallen into the State of North Carolina, to be in the same manner subject to the claims of said officers and soldiers. Colonel Charles Porterfield, of the Virginia State line, was mortally wounded at Gates's defeat, near Camden, in August, 1780, and soon after died of the wounds, leaving neither wife nor children. His brother, Robert Porterfield, as his heir-at-law, received from the State of Virginia, under the laws of that State, a warrant for six thousand acres, (for three years' service,) in December, 1782. He also was entitled, by purchase, to a warrant issued to Thomas Quarles, for three years' service as lieutenant in the State line, for two thousand six hundred and sixty-six and two thirds acres, dated the 12th of June, 1783.

In pursuance of these warrants, and under the authority of laws subsequently passed, appointing a surveyor and a board of officers, the said Robert Porterfield, in August, 1784, made, within the district above described, five entries, amounting in all to six thousand one hundred and thirty-three and one third acres; but the country was in the possession of the Indians, who were so much dissatisfied with the inroads into their country, and the location of so large an amount of these warrants, that an Indian war was apprehended. The Governor of Virginia, on the 6th of January, 1785, under the direction of the Legislature, issued a proclamation, prohibiting those who had made entries of land within the said territory from proceeding further in taking possession or surveying the land, and commanding the commissioners, surveyors, and all persons, to withdraw from the said land. In consequence of this proclamation, the said Robert Porterfield was prevented from perfecting his entry by survey and patent. This proclamation continued in force until the United States, by treaties made subsequently in 1794 and 1795 with the Cherokee and Chickasaw Indians, guaranteed to them the country lying to the south of the Tennessee river as a hunting ground, and all persons were prohibited from entering on, or taking possession of, the said territory. The country remained in this situation until 1819, when the obstruction of the Indian title was removed by treaty; and in convenient time afterwards, to wit: in 1854, the said Robert Porterfield procured his entries to be perfected by survey, and a patent issued to him from the Governor of Kentucky, (which had, in the mean time, become a State,) in pursuance of certain stipulations between Virginia and Kentucky, when the latter became a separate State. After having thus perfected his title, the said Robert Porterfield took possession of his said land, and by an agent granted leases to several persons whom he found living on the land; but these tenants were subsequently evicted and turned out of possession, under indictments of forcible entry and detainer, by persons claiming title to the same land, under a grant to George R. Clark, of an older date. To the understanding of this claim it is necessary to state some facts.

Under certain Treasury land warrants, the said George R. Clark made entries of two tracts of land—one for thirty-six thousand nine hundred and sixty-two acres, and another for thirty-seven thousand acres—within the district of country which the Legislature of Virginia had set apart for military land warrants, by the act of November, 1781. These entries were made in 1780 and 1781, prior to the passage of the act of November, 1781. The surveys were made in 1794, before the date of the proclamation of the Governor of Virginia, and patents were issued in September, 1795. The said patents being the oldest, the said Robert Porterfield was disposed to give up his claim, and to ask Congress to give him other lands in lieu of that of which he had been deprived. He accordingly presented a petition to the Twenty-Fourth Congress; but, as is alleged in this petition, he was advised by the late B. Watkins Leigh, then a Senator of Virginia in Congress, that his claim would be likely to be refused until it had been decided by the courts that Clark's title was paramount; and the said Leigh expressed the opinion, as did other eminent lawyers, that the entry and patent of the said Clark were void, being within "the country and limits of the Cherokee Indians," which were excepted from the entry by act of May, 1778. Under this advice, he filed a bill in the circuit court of the United States for the Kentucky district, against Meriwether L. Clark and others, who claimed under the said grants to George R. Clark, on the 18th of July, 1836. In the prosecution of this suit, much time and money were expended. Many witnesses were examined, and a large amount of testimony as to the right of the Indians to this tract of country was procured from the colonial office in England. After various continuances, the case was finally brought to a hearing on the 13th November, 1841, when the bill was dismissed with costs. An appeal was taken to the Supreme Court, where the appeal was dismissed.

Mr. LETCHER. I understand from the gentleman from Georgia, [Mr. JACKSON,] who reported this bill, that it was agreed to unanimously by the Committee on Revolutionary Claims.

Mr. COBB. Does the Committee on Revolutionary Claims propose to grant lands?

Mr. JACKSON. If the gentlemen will allow me, I will state the action of the Committee on Revolutionary Claims on that bill. The matter was submitted to the committee in the early part of the session, and the committee agreed unanimously, while rejecting any appropriation of money for losses in the revolutionary war, that the party was entitled to the land, and I was authorized to report a bill for that purpose. Not being here when that committee was called, I did not report the bill. The Senate passed a similar bill, which came here and was referred to the Committee on Revolutionary Claims, and I was authorized by the committee, unanimously, to report it back, with the recommendation that it should pass. We adopted the able report made by Senator WILSON, and which has been read to the House. I think that the facts therein set forth are true. I investigated the facts fully myself, and believe that the party is fully entitled to the land.

Mr. JEWETT. If I understand the object of that bill, (and I have been somewhat conversant with the history of like cases,) I would just say that if it is the intention of Congress to make good all the Virginia military land warrants which were issued and attempted to be located and carried into perfect grants in the Commonwealth of Kentucky, this bill then will be a fine precedent. This bill shows nothing more nor less than this: that there was a controversy between the heirs of Porterfield and Clark, concerning their respective rights to land at the mouth of the Tennessee river. The matter was fully litigated, and decided against Porterfield's heirs, and they now come here and ask to be reinstated in rights which they never had, and so declared by the Supreme Court of the United States.

Mr. COBB. This is a case concerning lands, which properly belongs to the Committee on Public Lands. I will say in explanation of it—

Mr. CHAFFEE. Is debate in order?

The SPEAKER. It is not.

Mr. COBB. So it is always when light is attempted to be thrown on these cases.

[A message was here received from the Senate by ASBURY DICKINS, their Secretary, notifying the House that that body had passed a resolution suspending the 16th and 17th joint rules for the remainder of the session, in which he was directed to ask the concurrence of the House.]

The SPEAKER. Debate is not in order. The question is on a suspension of the rules.

The House divided; and there were—ayes 92, noes 42.

Mr. SAVAGE demanded tellers.

Mr. COBB demanded the yeas and nays.

The yeas and nays were refused.

Tellers were ordered; and Messrs. CRAIG of North Carolina, and CLEMENS, were appointed.

The House divided; and the tellers reported—ayes 91, noes 39.

Mr. SAVAGE. I demand the yeas and nays. I want to know who will vote to take up such a bill as this at this period of the session.

The SPEAKER. The yeas and nays have been refused.

So the rules were suspended.

Mr. LETCHER demanded the previous question on ordering the bill to be read a third time.

The previous question was seconded, and the main question ordered.

Mr. SAVAGE. Is it in order to call now for the reading of the bill and report?

The SPEAKER. The report has been read.

Mr. SAVAGE. But not since the rules were suspended. It could not have been read before, by the rules of the House. I believe I called for the reading of the ocean mail steamer bill yesterday, and it was then decided that it was not in order to read until the rules had been suspended.

The SPEAKER. If there is no objection, the report will be read.

Mr. DAVIDSON. I object.

Mr. SAVAGE. Have I not a right to have it read?

The SPEAKER. It is not in order now, because the House is acting under the previous question.

Mr. SAVAGE. Was it in order to read it before the rules were suspended?

The SPEAKER. It was permitted by unanimous consent.

The bill was then ordered to be read a third time, and it was accordingly read the third time.

Mr. LETCHER moved the previous question on the passage of the bill.

The previous question was seconded; there being, on a division—yeas 84, noes 48; and the main question was ordered.

Mr. COBB. I move to lay the bill on the table.

Mr. CLEMENS. I call for the yeas and nays on that motion. The bill establishes a new principle. It will take about six million acres to carry out this principle.

Mr. COBB. Will the gentleman take the yeas and nays on the passage of the bill? I could not express my dissent to the bill in a more forcible manner than by moving to lay it upon the table, but I now withdraw the motion.

Mr. CLEMENS. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 78, nays 88; as follows:

YEAS—Messrs. Ahl, Blair, Bowie, Buffinton, Burlingame, Case, Caskey, Cavanaugh, Clawson, Clay, Clemens, John Cochrane, Cockerill, Corning, Cox, Cragin, Curry, Davidson, Davis of Massachusetts, Dawes, Dewart, Dimmick, Dowdell, Edmundson, Elliott, Eustis, Faulkner, Fenton, Florence, Garnett, Gillis, Gilmer, Goode, Goodwin, Gregg, Grow, Lawrence W. Hall, Robert B. Hall, J. Morrison Harris, Hatch, Hawkins, Hopkins, Jackson, Jenkins, J. Glancy Jones, Owen Jones, Landy, Leidy, Leiter, Letcher, McKibbin, Matteson, Maynard, Miles, Morrill, Oliver A. Morse, Nichols, Parker, Pendleton, William W. Phelps, Potter, Purviance, Reilly, Ritchie, Robbins, Samuel A. Smith, William Smith, Stephens, James A. Stewart, Tappan, Tompkins, Walton, Elihu B. Washburne, Israel Washburn, Woodson, and Wortendyke—78.

NAYS—Messrs. Abbott, Andrews, Arnold, Atkins, Avery, Barksdale, Bennett, Billingshurst, Bingham, Bliss, Boyce, Branch, Brayton, Burnett, Chapman, Ezra Clark, John B. Clark, Cobb, Covode, Burton Craig, Crawford, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dean, Dodd, Durfee, Edie, Farnsworth, Foley, Foster, Garrett, Giddings, Gilman, Harlan, Thomas L. Harris, Hoard, Horton, Houston, Huyler, Jewett, George W. Jones, Keitt, Kelsey, Kilgore, Knapp, John C. Kunkel, Lamar, Maclay, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Moore, Morgan, Edward Joy Morris, Isaac N. Morris, Mott, Niblack, Olin, Peyton, Pottle, Quitman, Reagan, Ricard, Royce, Ruffin, Russell, Sandidge, Savage, Seales, Henry M. Shaw, John Sherman, Singleton, Stallworth, Stanton, Stevenson, William Stewart, Talbot, Miles Taylor, Thayer, Trippe, Wade, Walbridge, Whiteley, Winslow, John V. Wright, and Zollieffer—88.

So the bill was rejected.

Pending the vote,

Mr. BARKSDALE stated that Mr. Bishop had been compelled to leave for home, and had paired off with Mr. PETTIT.

Mr. BOCKOCK stated that if he had been in the Hall when his name was called, he would have voted "no."

Mr. STANTON stated that as he had not had time to consider the bill he would have to vote "no."

Mr. COBB moved to reconsider the vote by which the bill was rejected, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. DICKINS, their Secretary, informing the House that the Senate had passed bills of the House of the following titles:

An act (No. 466) making appropriation for the expenses of collecting the revenue from customs;
An act (No. 556) making appropriation for the service of the Post Office Department for the year ending June 30, 1859; and

An act (No. 365) to confirm the land claims of certain pueblos and towns in the Territory of New Mexico; severally with amendments, in which he was directed to ask the concurrence of the House.

Also, that the Senate had passed, without amendment, bills of this House of the following titles:

An act (No. 619) for the relief of John Sawyer, a soldier of the war of the Revolution;

An act (No. 399) for the relief of certain purchasers of land within the limits of the Choctaw cession, of 1830; and

An act for the relief of settlers on certain lands in the State of Illinois.

CLAIMS OF REVOLUTIONARY SOLDIERS.

Mr. FENTON. I ask leave to discharge the Committee of the Whole House from the further consideration of House bill (No. 234) to settle the

claims of the officers and soldiers of the revolutionary army.

Mr. HARRIS, of Illinois. I rise to a question of privilege. I desire to call up the Maryland contested-election case.

Mr. FENTON. I move to suspend the rules.

The SPEAKER. The gentleman from Illinois rises to a privileged question.

Mr. FENTON. I appeal to the gentleman from Illinois to allow my motion to be entertained, and then I will give way.

Mr. J. GLANCY JONES. I ask the gentleman from Illinois to allow me to have two appropriation bills referred to the Committee of Ways and Means. It will not occupy a moment.

The SPEAKER. If the motion to suspend the rules be entertained, the Chair is of opinion that the gentleman from Illinois will not have the right to take the floor from the gentleman from New York.

Mr. GROW. The gentleman from New York had the floor before the gentleman from Illinois.

The SPEAKER. That is true; but the gentleman from Illinois stated, before the motion of the gentleman from New York was entertained, that he rose to a question of privilege, which entitled him to be recognized.

Mr. GROW. Cannot the motion of the gentleman from New York be entered now with the consent of the gentleman from Illinois?

The SPEAKER. By general consent it can be done.

Mr. HARRIS, of Illinois. I have no objection.

Mr. FENTON. I move to suspend the rules. Mr. MAYNARD. Would not a motion to suspend the rules and go into Committee of the Whole House take precedence of both motions?

The SPEAKER. It would not take precedence of a question of privilege. If there be no objection, the motion of the gentleman from New York will be received.

Mr. JONES, of Tennessee. I object. It will be time enough to make the motion when we can dispose of it.

POST OFFICE APPROPRIATION BILL, ETC.

Mr. J. GLANCY JONES. I believe I have the consent of the gentleman from Illinois to have two appropriation bills referred to the Committee of Ways and Means.

Mr. SAVAGE. Have I a right to object?

The SPEAKER. The gentleman from Tennessee has.

Mr. SAVAGE. Then I exercise that right.

Mr. J. GLANCY JONES. I ask to refer to the Committee of Ways and Means the Senate amendments to the Post Office appropriation bill and to the bill for the collection of revenue.

Mr. SAVAGE. I object, for the simple fact that I do not recollect that the gentleman ever extended a courtesy to anybody.

Mr. HARRIS, of Illinois. For the purpose of enabling the gentleman from Pennsylvania to refer his bills, I withdraw my motion.

Mr. J. GLANCY JONES. I move to suspend the rules, in order to allow me to have the Senate amendments to the Post Office appropriation bill and the revenue bill referred to the Committee of Ways and Means.

The rules were suspended; and the amendments to the bills so referred.

MARYLAND CONTESTED ELECTION.

Mr. HARRIS, of Illinois. I desire now to call up the Maryland contested-election case, that the House may dispose of it to-day.

Mr. WASHBURN, of Maine. I object to its consideration. I think the House has not time to proceed to the consideration of the case as it deserves to be considered.

Mr. HARRIS, of Illinois. How does the gentleman from Maine get the floor?

Mr. CRAIGE, of North Carolina. I call the gentleman from Maine to order.

Mr. JONES, of Tennessee. I suppose that neither the gentleman from Maine nor any other member has the right to object. Whenever a question of privilege is presented, it is before the House; and then the House can dispose of it as it thinks proper.

The SPEAKER. The Chair understands the gentleman from Maine to object to the House proceeding to the consideration of the question.

Mr. WASHBURN, of Maine. Yes, sir. The SPEAKER. Under the 5th rule of the House?

Mr. WASHBURN, of Maine. Yes. The SPEAKER. The Clerk will read the rule. The rule was read, as follows:

"When any motion or proposition is made, the question, 'Will the House now consider it?' shall not be put unless it is demanded by some member, or is deemed necessary by the Speaker."

Mr. HOUSTON. That rule does not apply to a privileged question. It applies to any ordinary matter of business which comes in under the ordinary rules of the House. This is a question which is taken up because it is a matter of high privilege.

Mr. WASHBURN, of Maine. My idea was this—that we might just as well decide now, as at any other time, whether this question shall be taken up. It will lead to a good deal of discussion, and occupy time that is very necessary for the transaction of the business of the country.

Mr. HARRIS, of Illinois. That may be so; but the gentleman can hardly rise to take the floor from me except he rises to a question of order.

Mr. WASHBURN, of Maine. That is a point of order.

Mr. HARRIS, of Illinois. I must say that I cannot consider it a point of order at all. When the question is presented, it becomes a question of privilege, and cannot be evaded except by a motion to postpone to a day certain, or to dispose of it by some of the ordinary motions by which business is laid aside.

Mr. GROW. I suppose the House may decide whether it will consider any subject that is brought before it, at the time it is presented.

The SPEAKER. The Chair is of opinion that the gentleman from Maine is entitled to have the question put to the House.

Mr. HARRIS, of Illinois. Then I hope it will be put.

The SPEAKER. The particular question before the House derives its dignity exclusively from the rules themselves and the Manual; and the Chair does not perceive any reason why the 5th rule should not apply as well to this question as to any other.

Mr. HOUSTON. Will the Chair allow me to propound a question? Suppose that any question, whether privileged or not, was set over as a matter to be taken up to-day, and is then called up, is that proposition in a condition where the question is put: "Will the House consider it?"

If I call up a bill from the table, or any such thing, then it is the duty of the Chair, if required, to put the question: "Will the House consider it?" But we have agreed to consider this question. We have, to some extent, considered it, because we have received the report of the committee, and it has been postponed to this day or to some future day, and comes up as a matter of course, because we were in consideration of the question at the time it was postponed.

Mr. DAVIS, of Maryland. I rise to a question of order. Is this question debatable?

The SPEAKER. Debate is not in order. Mr. JONES, of Tennessee. I call the attention of the Chair and of the House to this passage on page 100 of the Manual:

"A matter of privilege arising out of any question, or from a quarrel between two members, or any other cause, supersedes the consideration of the original question, and must be first disposed of."

My opinion is, that, if you have a bill under consideration, and a question of privilege, recognized as such by the Chair, comes before the House or is called for, the business under consideration must be suspended until that question is disposed of.

Mr. DEAN. Unless debate is in order, I object to it.

Mr. WASHBURN, of Maine. If it is competent for the House—

Mr. DAVIS, of Maryland. I desire to know if this question is debatable?

The SPEAKER. The Chair thinks not.

Mr. DAVIS, of Maryland. Then I ask the Chair to enforce the rule.

Mr. JONES, of Tennessee. I take an appeal from the decision of the Chair. I presume that it will be debatable.

The SPEAKER. The Chair thinks not. The question is to be put, "Will the House now con-

sider this question?" without debate, and, under the rules of the House, where a question of order arises upon a question which is not debatable, the question of order is not debatable.

Mr. HARRIS, of Illinois. Does the Chair hold that the 5th rule applies to a question of this sort—to all questions that may be presented to the House?

The SPEAKER. The Chair thinks so.

Mr. HARRIS, of Illinois. A question of privilege, affecting the organization of the House, does not come under the rules that govern ordinary legislation. It is a question of higher dignity.

Mr. RITCHIE. If the question is to be debated on one side, I shall insist on debating it on the other.

Mr. HARRIS, of Illinois. A question of privilege cannot be overridden and destroyed by the general rules made to apply to the ordinary business of the House.

The SPEAKER. The gentleman will perceive that if the House had taken up the subject without objection, it would have been perfectly competent for the House to have postponed its consideration; and if it be competent for the House to relieve itself from the immediate consideration of a question of privilege by postponement to a day certain, or till next session, or by an indefinite postponement, why may not the House, under this rule, have the privilege of saying that they will not consider the subject?

Mr. HARRIS, of Illinois. In the one case it would be disposed of under the ordinary rules of the House, and in the other case it would not be.

Mr. STANTON. I insist that this question shall be either debated or not debated. I am not particular which; but if debate is not in order, I object to it.

The SPEAKER. The Chair indulged gentlemen on the right and on the left in making suggestions, for the reason that this is a new question. The Chair does not remember to have seen or heard the question propounded, except in one instance during this session by a gentleman from Ohio, since he has occupied a seat on the floor of the House. After the question was raised by the gentleman from Ohio, the Chair made some examination, and was not able to find any precedent at all to govern him in reference to the interpretation of the rules.

Mr. RITCHIE. A question of privilege supercedes other business for the time being, or may be brought before the House without a suspension of the rules, but it does not follow that no other business is to be done until the matter of privilege is finally settled and determined.

Mr. HOUSTON. I appeal from the decision of the Chair, and ask for the yeas and nays on the appeal.

Mr. WASHBURN, of Illinois. I move to lay the appeal on the table.

Mr. HOUSTON. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. STEPHENS, of Georgia. I would like the Chair to state the point of order exactly.

The SPEAKER. The gentleman from Illinois [Mr. HARRIS] rises in his seat and states that he desires to call up a question of privilege—the Maryland contested-election case. The gentleman from Maine [Mr. WASHBURN] rises and objects, and insists that the Speaker shall propound the interrogatory to the House provided for in the 5th rule, which is as follows:

"When any motion or proposition is made, the question, 'Will the House now consider it?' shall not be put unless it is demanded by some member, or is deemed necessary by the Speaker."

The gentleman from Maine demands that the question shall now be propounded, "Will the House now consider this question?" The Chair is of opinion that the gentleman from Maine has a right to demand that that question shall be propounded to the House. From this decision of the Chair, the gentleman from Alabama [Mr. HORTON] appeals, and the gentleman from Illinois [Mr. WASHBURN] moves to lay the appeal on the table.

Mr. STEPHENS, of Georgia. That leaves it entirely with a majority of the House to determine whether they will now consider the question or not. I think the decision of the Chair is per-

fectedly right, and I hope the appeal will be withdrawn.

Mr. HOUSTON. I think the decision is wrong, and I insist on the appeal.

The question was taken on Mr. WASHBURN's motion, and it was decided in the affirmative—yeas 124, nays 56; as follows:

YEAS—Messrs. Abbott, Adrain, Andrews, Avery, Bennett, Billingshurst, Bingham, Blair, Bliss, Branch, Brayton, Bufinton, Burlingame, Case, Cavanaugh, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Clemens, Clark B. Cochran, John Cochran, Cockerill, Colfax, Comins, Corning, Covode, Cragin, James Craig, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Dawes, Dean, Dick, Dimmick, Dodd, Durfee, Edie, English, Eustis, Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Gregg, Grow, Robert B. Hall, Harlan, Hawkins, Hill, Hoard, Horton, Jackson, Jenkins, J. Glancy Jones, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leiter, Lovejoy, Humphrey Marshall, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Niblack, Olin, Palmer, Parker, Pendleton, Peyton, Pottle, Reagan, Ricard, Ritchie, Robbins, Roberts, Royce, Rufin, Russell, Sandidge, Seales, Searing, John Sherman, Judson W. Sherman, Sickles, Singleton, William Smith, Spinner, Stanton, William Stewart, Tappan, George Taylor, Thayer, Tompkins, Tripp, Underwood, Wade, Walbridge, Walton, Elihu B. Washburne, Israel Washburn, Wood, and Zollicoffer—124.

NAYS—Messrs. Ahl, Arnold, Atkins, Barksdale, Biscock, Bowie, Boyce, Burnett, Caskie, John B. Clark, Clay, Cobb, Burton Craige, Crawford, Curry, Davis of Mississippi, Dewart, Dowdell, Edmundson, Eliott, Faulkner, Florence, Gillis, Gilis, Goode, Lawrence W. Hall, Thomas L. Harris, Houston, Hughes, Huyler, Jewett, George W. Jones, Kelly, Jacob M. Kunkel, Landy, Macley, McQueen, Samuel S. Marshall, Mason, Miles, Millson, Moore, Pendleton, Peyton, William W. Phelps, Savage, Seales, Henry M. Shaw, Stallworth, Stevenson, James A. Stewart, Talbot, Miles Taylor, Whiteley, Wortendyke, and John V. Wright—56.

So the appeal was laid upon the table.

During the call of the roll,

Mr. DAVIDSON stated that he had paired off with Mr. WASHBURN, of Wisconsin. If he had had a right to vote, he should have voted in the affirmative.

Mr. NICHOLS stated that he had paired off with Mr. VALLANDIGHAM upon all questions relating to the Maryland contested-election case, or he should have voted in the affirmative.

Mr. COX stated that, if he had been within the bar when his name was called, he should have voted in the affirmative.

The SPEAKER. Will the House consider the question proposed by the gentleman from Illinois?

Mr. BURNETT. I call for the yeas and nays on that question.

Mr. HARRIS, of Illinois. I have made no motion of that sort.

The SPEAKER. The gentleman from Maine asked that the question should be propounded. The gentleman from Illinois proposes to call up the question, and the gentleman from Maine asks that the question shall be propounded, "Will the House now consider it?"

Mr. HARRIS, of Illinois. I desire to make an inquiry, which I think will show the character of this decision.

The SPEAKER. The Chair thinks that the decision cannot now be debated. The House has already disposed of it.

Mr. HARRIS, of Illinois. I merely want to say that I can call up this question again and again, which shows the character of this decision; and I intend to do it persistently.

Mr. WASHBURN, of Maine. Can the gentleman call it up again on the same day?

The SPEAKER. The Chair will decide that question when it arises.

The yeas and nays were ordered.

Mr. FLORENCE. I move that there be a call of the House; and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 37, nays 139; as follows:

YEAS—Messrs. Adrain, Ahl, Atkins, Bowie, Boyce, Burnett, Burns, Cobb, Cox, James Craig, Burton Craige, Davis of Mississippi, Dewart, Dimmick, Florence, Gillis, Gregg, Hawkins, Jewett, Kelly, Jacob M. Kunkel, Macley, McQueen, Millson, Isaac N. Morris, Quimman, Savage, Henry M. Shaw, Stallworth, Stephens, Stevenson, James A. Stewart, Miles Taylor, White, Winslow, Wortendyke, and John V. Wright—37.

NAYS—Messrs. Abbott, Andrews, Arnold, Barksdale, Bennett, Billingshurst, Bingham, Blair, Bliss, Biscock, Branch, Brayton, Bryan, Bufinton, Burlingame, Burroughs, Case, Caskie, Cavanaugh, Chaffee, Chapman, Ezra Clark, Horace F. Clark, John B. Clark, Clawson, Clay, Clark B. Cochran, John Cochran, Cockerill, Colfax, Comins, Corning, Covode, Cragin, Crawford, Curry, Curtis, Davis of

Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Dowdell, Durfee, Edmundson, Elliott, English, Eustis, Farnsworth, Faulkner, Fenton, Foley, Foster, Garnett, Gartrell, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Hill, Hoard, Hopkins, Horton, Houston, Hughes, Huyler, Jackson, Jenkins, George W. Jones, J. Glancy Jones, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leiter, Letcher, Lovejoy, Samuel S. Marshall, Mason, Matteson, Maynard, Moore, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Niblack, Olin, Palmer, Parker, Pendleton, Peyton, Pottle, Reagan, Ricard, Ritchie, Robbins, Roberts, Royce, Rufin, Russell, Sandidge, Seales, Searing, John Sherman, Judson W. Sherman, Sickles, Singleton, William Smith, Spinner, Stanton, William Stewart, Tappan, George Taylor, Thayer, Tompkins, Tripp, Underwood, Wade, Walbridge, Walton, Elihu B. Washburne, Israel Washburn, Wood, and Zollicoffer—139.

So the House refused to order a call.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles:

An act (H. R. No. 619) for the relief of John Sawyer, a soldier of the war of the Revolution;

An act (H. R. No. 538) for the relief of settlers on certain lands in the State of Illinois; and

An act (H. R. No. 399) for the relief of certain purchasers of lands within the limits of the Choctaw cession of 1830;

When the Speaker signed the same.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. DICKINS, their Secretary, informing the House that the Senate insist upon their amendments disagreed to by this House to the bill of the House (No. 558) making appropriations for the transportation of the United States mail by ocean steamers, and otherwise, during the fiscal year ending the 30th of June, 1859, ask a conference with this House on the said disagreeing votes, and have appointed Mr. YULEE, Mr. SEWARD, and Mr. CLAY, the committee on their part.

Also, that the Senate disagree to the amendment of this House to the forty-first amendment of the Senate to the bill of the House (No. 243) making appropriations for the support of the Army for the year ending June 30, 1859, insist on their amendments disagreed to by the House to the said bill, ask a conference upon the said disagreeing votes, and have appointed Mr. DAVIS, Mr. COLLAMER, and Mr. SLIDELL, the committee on their part.

Also, that the Senate disagree to the amendment of this House to the thirtieth amendment of the House bill (No. 557) making supplemental appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1859, insist on their amendments disagreed to by the House to the said bill, ask a conference with the House upon the said disagreeing votes, and have appointed Mr. BRIGHT, Mr. STUART, and Mr. SEBASTIAN, the committee on their part.

Also, that the Senate disagree to the amendment of this House to the fourteenth amendment of the Senate to the bill of the House (No. 199) making appropriations for the naval service for the year ending the 30th of June, 1859, insist upon their amendments disagreed to by the House to the said bill, ask a conference with the House upon the said disagreeing votes, and have appointed Mr. PEARCE, Mr. MALLORY, and Mr. FOOT, the committee on their part.

MARYLAND CONTESTED ELECTION—AGAIN.

The question recurred, "Will the House now consider the report of the Committee of Elections with reference to the Maryland contested election?"

The question was taken; and it was decided in the negative—yeas 87, nays 97; as follows:

YEAS—Messrs. Adrain, Ahl, Arnold, Atkins, Avery, Barksdale, Bowie, Boyce, Branch, Burnett, Burns, Caskie, Cavanaugh, John B. Clark, Clay, Cobb, John Cochran, Cockerill, Corning, Cox, James Craig, Burton Craige, Crawford, Curry, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, English, Faulkner, Florence, Foley, Gartrell, Gillis, Gregg, Lawrence W. Hall, Thomas L. Harris, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, Landy, Leidy, Letcher, Macley, McKibbin, McQueen, Samuel S. Marshall, Mason, Miles, Millson, Moore, Niblack, Pendleton, William W. Phelps, Powell, Reilly, Rufin, Russell, Sandidge, Savage, Seales, Scott, Searing, Henry M. Shaw, Singleton, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Tal-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

SATURDAY, JUNE 12, 1858.

NEW SERIES....No. 186.

bot, Miles Taylor, White, Whiteley, Winslow, Wortendyke, and John V. Wright—87.

YAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clawson, Clemens, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Eustis, Farnsworth, Fenton, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Haskin, Hill, Hoard, Horton, Kellogg, Kelsey, Kilgore, Knapp, John C. Kuukel, Leiter, Lovejoy, Humphrey Marshall, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Olin, Palmer, Parker, Potter, Pottle, Purviance, Quitman, Ricard, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, Samuel A. Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Tripp, Underwood, Wade, Walbridge, Walton, Elihu B. Washburne, Israel Washburn, Woodson, and Zollicoffer—97.

So the House decided not to consider the question now.

During the call of the roll, Mr. COLFAX stated that Mr. WILSON had paired off upon this question with Mr. LAMAR.

Mr. GARTRELL stated that Mr. WRIGHT, of Georgia, had paired off with Mr. WALDRON.

Mr. DAVIDSON stated that he had paired off with Mr. WASHBURN, of Wisconsin.

Mr. FENTON. I ask the unanimous consent of the House that the Committee of the Whole House be discharged from the further consideration of House bill No. 234.

Mr. JONES, of Tennessee. I rise to a question of privilege. I move that the House proceed to the consideration of the Maryland contested-election case.

The SPEAKER. The Chair cannot entertain the motion, no business having intervened since that question was disposed of.

Mr. J. GLANCY JONES. I wish to ask the unanimous consent of the House to take up and act on the disagreeing votes of the two Houses—

Mr. GROW. I object. If the Administration want to defeat the appropriation bills by their proceeding now let them do it.

Mr. J. GLANCY JONES. We can remain here quite as long as the gentleman.

REVOLUTIONARY CLAIMS.

Mr. FENTON. I ask the unanimous consent of the House for leave to discharge the Committee of the Whole House from the further consideration of House bill (No. 234) to provide for the settlement of the claims of the officers and soldiers of the revolutionary army, and of the widows and children of those who died in the service.

Mr. JONES, of Tennessee. I object; and demand the regular order of business.

Mr. FENTON. I move, then, that the rules be suspended for the purpose I have indicated.

Mr. STANTON. There are five or ten millions in that bill, and I think we had better have the yeas and nays on it.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 85, nays 77; as follows:

YEAS—Messrs. Abbott, Adrain, Andrews, Bennett, Bingham, Blair, Bowie, Brayton, Buffinton, Burlingame, Case, Caskie, Cavanaugh, Chaffee, Ezra Clark, John B. Clark, Clawson, Clay, Clark B. Cochrane, John Cochrane, Colfax, Comins, Corning, Covode, Cox, Curtis, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edmundson, Farnsworth, Fenton, Foster, Giddings, Giliss, Gilman, Gilmer, Gooch, Goodwin, Granger, Robert B. Hall, Harb, Hoard, Horton, Kellogg, Kelsey, Knapp, Landy, Leidy, Lovejoy, MacLay, Humphrey Marshall, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Olin, Palmer, Parker, Potter, Pottle, Robbins, Roberts, Judson W. Sherman, Spinner, William Stewart, Tappan, Tompkins, Tripp, Underwood, Walbridge, Walton, Elihu B. Washburne, Israel Washburn, Wood, and Wortendyke—85.

NAYS—Messrs. Ahl, Atkins, Avery, Barksdale, Bliss, Boyce, Branch, Burnett, Horace F. Clark, Clemens, Cobb, Cockrell, James Craig, Burton Craige, Crawford, Curry, Davis of Indiana, Davis of Mississippi, Dewart, Dimmick, Dowdell, Florence, Foley, Garrett, Harlan, Thomas L. Harris, Hal, Hopkins, Houston, Huxley, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kent, John C. Kuukel, Leiter, McKibbin, McQueen, Samuel S. Marshall, Mason, Miles, Milson, Moore, Nicklack,

Pendleton, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Quitman, Reagan, Ruffin, Russell, Sandridge, Savage, Scales, Henry M. Shaw, John Sherman, Shorter, Singleton, William Smith, Stallworth, Stanton, Stephens, Stevenson, James A. Stewart, Talbot, Miles Taylor, Wade, White, Winslow, John V. Wright, and Zollicoffer—77.

So the rules were not suspended, (two thirds not voting in the affirmative.)

Pending the call of the roll,

Mr. CASE stated that his colleague, Mr. KILGORE, being unwell, was compelled to leave the Hall, and that he had paired off with Mr. WRIGHT, of Tennessee.

Mr. SMITH, of Virginia, said: Mr. Speaker, as there is no time to consider the bill now, I vote "no."

The vote was then announced to the House as above reported.

Mr. J. GLANCY JONES took the floor.

Mr. HARRIS, of Illinois. I rise to a question of privilege.

The SPEAKER. The Chair has recognized the gentleman from Pennsylvania.

Mr. HARRIS, of Illinois. I so heard. I claim the floor on a question of privilege.

The SPEAKER. The gentleman from Pennsylvania has the right to be heard; and then, if the gentleman from Illinois has a question of superior privilege, the Chair will recognize him.

Mr. J. GLANCY JONES. I ask the unanimous consent of the House that the Senate amendments to the Army appropriation bill, the Navy appropriation bill, the mail steamer bill, and the supplemental Indian appropriation bill, be taken up; that the requests of the Senate for conferences upon the disagreeing votes of the two Houses be agreed to; and that the Speaker appoint the managers on the part of the House.

Mr. CLEMENS. If nobody else will object to these usurpations of power on the part of the Senate, and the concentration of power in the committee of conference, I will.

Mr. J. GLANCY JONES. I move that the rules be suspended for the purpose I have indicated.

The rules were suspended; and the motion of Mr. J. GLANCY JONES was agreed to.

The SPEAKER appointed the following as the several committees of conference on the part of the House on the bills indicated:

On the ocean mail steamer appropriation bill, Mr. JONES of Tennessee, Mr. MARSHALL of Kentucky, and Mr. ENGLISH.

On the Army appropriation bill, Mr. QUITMAN, Mr. CRAWFORD, and Mr. STANTON.

On the supplemental Indian appropriation bill, Mr. HOUSTON, Mr. CLAY, and Mr. LEITER.

On the Navy appropriation bill, Mr. BOCKOCK, Mr. KELLY, and Mr. MORSE of Maine.

MARYLAND CONTESTED-ELECTION CASE.

Mr. HARRIS, of Illinois. I ask that the House proceed with the consideration of the Maryland contested-election case of Whyte vs. Harris. I will say that I do not propose, if the question is taken up, to debate it to any extent; but if gentlemen on the other side desire to debate it, I am willing that they should have an opportunity to do so. We might have said all that was necessary to be said in this case, and been ready for the vote in the time we have uselessly consumed this morning. I want the question decided, and I want it decided now, as the House is fuller than it was before, and I will be content with the decision of the House whatever it may be. But, sir, I am not willing to let the question pass away with what has been done this morning.

Mr. DAVIS, of Indiana. With the permission of the gentleman I will say a word. I see a struggle commencing which will consume the entire day; and, for the purpose of testing the feeling of the House on this question, if it be in order, I will move that the further consideration of this question be postponed till the second Tuesday of December next.

Mr. HARRIS, of Illinois. I have not yielded the floor for that purpose.

Mr. Speaker, I do not propose to debate the question myself, as I remarked before, nor do I know what gentleman on this side of the House does desire to debate it. I desire that the sitting member shall have full opportunity to be heard; and I think that a few hours will be sufficient to dispose of the question. In the time which has already been uselessly consumed, if devoted to the subject-matter of the report, we might now have been ready to vote. I hope the question will be disposed of now; and if it be the wish of the House that it shall pass from the consideration of the House at this session, let them say so on the record.

Mr. STEWART, of Maryland. Will the gentleman yield to me a moment?

Mr. HARRIS, of Illinois. I will.

Mr. STEWART, of Maryland. I desire to say to the House, that so far as we understand this question in the State of Maryland, it is desirable for all parties that it should be disposed of. It has been here since the commencement of the session.

Mr. KUNKEL, of Pennsylvania. Is debate in order?

The SPEAKER. The Chair does not see any reason why it is not debatable?

Mr. DAVIS, of Maryland. What is the question before the House?

The SPEAKER. The Maryland contested-election case.

Mr. STANTON. I did not know that that question was before us. I raise the point that we have decided this morning that we would not now consider this question. Now means to-day, and I would put it to the Chair whether, under the circumstances, this question can come up at this time?

The SPEAKER. The Chair decided that the gentleman from Illinois had the right to renew the motion just as he could renew a motion to adjourn, or that there be a call of the House. If the gentleman from Ohio has any authority on the point he makes, the Chair would be glad to see it.

Mr. STANTON. It is not a debatable question; and, if I had authority, I would not be allowed to submit it. I presume that, when the House refuses to consider a question now, that, as a matter of course, it goes over until to-morrow. That was the old construction of the effect of refusing to order the previous question. I think that it will be found in all parliamentary precedents, when the House refuses to consider a question now, that it operates as a postponement for a day.

The SPEAKER. There is a class of questions which has that effect, but they are specifically set forth in the rules. The Chair finds no authority which precludes the gentleman from renewing his proposition.

Mr. GROW. I hope, by general consent, the proposition of the gentleman from Indiana will be entertained, and that we will take a vote upon it. If this debate is entered upon, of course we shall be occupied with it for the remainder of the session.

Mr. HARRIS, of Illinois. I was but making a statement which I wish to be heard by the House. So far as the committee are concerned, they are perfectly willing that the case shall go to the House upon the report and testimony which has been printed and laid upon the desks of members for some time. If it is necessary, in closing the debate, to discuss the question, but a very brief time, I am sure, would be occupied for that purpose. But, in opening the case it is proposed by no member of the majority of the committee, nor any member upon this side of the House, so far as I know, to occupy any time. When it comes up, it must be decided upon the evidence which has been presented. Time enough has been afforded to weigh that evidence, and determine how members will be governed by it.

I make this statement because I am sure that

gentlemen voted against taking up the case under an impression that much time might be consumed by a discussion. I have nothing more to say, and leave the matter with the House.

Mr. QUITMAN. I wish to present to the House a tangible motion upon which they can act, and signify, without debate, their wishes upon this subject. I know nothing of this case. I am one of those who have not had time to look at the papers. Looking to the interest of the great business of the country, I move that the further consideration of the matter be postponed until the second Monday of December next.

The SPEAKER. I understand that the subject-matter is before the House, and the motion is to postpone the consideration of the subject until the second Monday of December next.

Mr. STEWART, of Maryland. I do not know the views entertained by the gentleman who occupies the seat now, whether he desires to have the matter settled by the House at this session or not; but I speak according to my apprehension of the subject-matter of the case, without reference to the wishes of the parties, and solely in regard to what I think is due from us, as the representatives of the country, upon an occasion of this sort. Here is a contested-election case from the State of Maryland. It has been pending from the commencement of the session. A great deal of testimony has been taken, and it has been printed for a considerable length of time. Arguments have been submitted by the sitting member and the contestant, Mr. Whyte, before the Committee of Elections, and the reports of the majority and of the minority have been made to the House. What is there then in the condition of this House; what is there in the state of the public business that would justify the House upon an occasion of this sort, in postponing a case involving the right and privileges of the House? This House has determined, by its action in conjunction with the Senate, to adjourn on Monday next. To that we have no objection; and if a proper consideration of this question will not have a tendency to prolong the session, what is the difficulty? We do not desire to discuss the question, and occupy the time of the House. So far as our views of the question are concerned, we think gentlemen have had opportunity to examine the testimony, and from that and the reports of the committee, to come to a satisfactory conclusion as to what disposition should be made of this case.

If it is settled this session, an opportunity will be afforded to have another election, if that result should be advisable, between this and the next session of Congress, and the people of that district will be able to dispose of the question in all its bearings. But if you now postpone its consideration, upon the proposition of the gentleman from Mississippi, until the second Monday of December next, it will come up at the commencement of the short session. Its discussion will occupy considerable time, and, if it shall be decided that the seat is vacant, an election will have to take place; but before that election can be held, this Congress may expire by its own limitation.

I therefore submit to gentlemen upon all sides of the House, if they are disposed to meet and dispose of all important questions, and to transact the public business, what justification is there, so far as this House is concerned, for procrastinating the consideration of this question? The people are entitled to be heard. The good people of the district are entitled to be regarded. I insist upon its settlement, in justice to the contestant and to the sitting member, whose right is brought in question, because the committee has decided that his seat is vacant. You should not compel Mr. Whyte to come here next session, for the purpose of contesting the seat, merely to see to the final disposition of this case, the operation of which, if successful, can only be to make a vacancy in the district. It is therefore due to him, as contestant, that this matter should be disposed of.

What are the reasons urged upon the other side to justify the postponement? They are that we have not time. Why, sir, I apprehend that we may get through with the business by next Monday. But suppose we could not, is that any reason why important matters should be postponed? Yesterday one most important case was postponed. I did not undertake to occupy the time of the House

upon that question, but so far as I could act I did not feel that I could, in justice to my apprehension of what was proper in the discharge of my duties, vote for the postponement of that matter. I say we have full time to examine this question, and there is no sufficient reason, I submit, for adjourning this House while important questions, involving vital considerations and grave constitutional privileges—indeed the rights of every section of the country—are before the House undisposed of. I hope, therefore, that this question will not be adjourned. It is due to both parties immediately interested, to the people of that district, and to ourselves, that this matter should be disposed of at this time. If there is any good reason which can be urged why we should not now enter upon the examination of this case, I am ready to hear it, and properly to weigh it. The House will bear me witness that I have not occupied as much of the time of the House as I justly might; I have been content to remain in my place, and to take such action upon the subjects coming before the House, as seemed proper, and I am ready to sit here until all the necessary business is disposed of, though it might be two or three weeks, or even longer.

This is a question of grave importance. It is material, in relation to the time of the expiration of this Congress, and I say that it is due to the sitting member, due to Mr. Whyte, the contestant, and due to the people of that district, that the matter should not be left in its present condition. The sitting member, not knowing what may be the final action of the House, or whether he is to be entitled to the seat, may be just as anxious, for aught I know, as Mr. Whyte, that the matter should be disposed of.

We are now salaried officers. Under the compensation law we are paid for the whole year, and if members return home, leaving important matters like this, and the case which was postponed yesterday, undisposed of, ill-natured persons, and indeed well-disposed persons, will be apt to say, that, but for the compensation bill, we might have sat here until the dog-days. These considerations I know will not operate upon gentlemen who take the responsibility of deciding upon their own course; but I submit to members of all parties if it is not due to ourselves and to the merits of this important question that it should be taken up and settled.

Mr. QUITMAN. The gentleman from Maryland has rather propounded an inquiry to me, and I desire to answer it. I admit the full force of many of the reasons which he has urged. I would desire that we should dispose of all the important business; and this is important business. But the question is, whether we shall rescind our resolution, and extend the session for two or three weeks; whether we will change our plans, and remain here during the very hot season which is to follow, or whether we shall postpone this matter, and go on with other important business?

Mr. STEWART, of Maryland. As I understand the action proposed to be taken on this question by the chairman and members of the Committee of Elections, as intimated by the gentleman from Illinois, I cannot conceive that this case can take up more than two or three hours.

Mr. QUITMAN. It may be so; but I know how much gentlemen who have investigated and are familiar with a case are in the habit of supposing that it will take but a short time. I understand that there is a volume of testimony, and that there are many principles of law involved; and I do not hesitate to say, in conclusion, that, if the House takes up this case, they will not get rid of it in less than two or three days. We have the appropriation bills and the reports of the committees of conference to act upon; and if we mean to take up this case, we ought at once to rescind the resolution to adjourn on Monday.

Mr. STEWART, of Maryland. I have expressed my conviction of what is proper. I could not sit here silently, and allow this case to be postponed without entering my earnest protest against such action. I have now discharged my duty, and the House can dispose of the question as they see proper.

Mr. DAVIS, of Indiana. I desire only to occupy a moment of time in explaining the reasons why I proposed to make this motion to postpone.

I did it on my own responsibility, without consultation with any other gentleman on this floor, and I think I did it for good and valid reasons, and I desire to give those reasons in as few words as I possibly can.

I have no feeling about this case, one way or the other. I stand here as an unbiased and unprejudiced juror to try this case whenever it shall come properly before this House, and I will do it without regard to my political affinities or political predilections, as I have done on all former occasions when I have been called upon to decide questions of this kind.

The reasons which governed me were briefly these: we are now within less than two days of the final adjournment, and have less than two working days before us, with an immense amount of business interesting to this whole country that ought to be accomplished within that period.

Gentlemen talk about this question occupying only an hour or two. Sir, I have too much experience in this House, and have witnessed too many debates in reference to questions of not as much importance as the one under consideration, to believe for a moment that this question can be decided in less than two days. Here is a volume of twelve hundred pages of testimony. I will venture the assertion that not five men in this House have read that testimony. I know, sir, that I have attended to my duties here with as much fidelity as any gentleman here; but owing to the amount of business pressed upon me by the various committees on which I have been placed, it has been impossible for me to take up this case and decide the question as it ought to be decided between the contestant and the contestee, with a view to the rights of the citizens of Baltimore.

Sir, the question resolves itself into this: you have either to postpone the final adjournment of Congress for a week, or else you have to postpone this question. It is for the House to judge between these two alternatives. It is for the House to decide whether we will go on with the regular and legitimate business which belongs to the whole country, North, South, East and West, or whether we will now, just at the close of the session, take up and decide this question for the people of Baltimore.

I ask members of this House how the postponement of this case until next session is to affect the people of Baltimore? There are but two days of the session left. It will take the entire two days to decide the question. If we were to give the seat to the sitting member, or to the contestant, I ask what either of them could do during the short period of the session that would remain? If we postpone the case, gentlemen can take the report and testimony home and examine them at their leisure, and come here at the commencement of the next session prepared, as unprejudiced jurors, to settle this question according to the right between the contestant and the contestee. It seems to me that there can be no detriment to the interests of the people of Baltimore by the postponement of this question until an early period next session.

Mr. BURNETT. I shall not follow the example set me by declaring how honest or impartial I may be in the case. I shall make no professions of that sort. I moved an amendment to a proposition to adjourn, changing the time fixed for the adjournment of Congress from Monday to Thursday. I did so because I believed we could get through with the business in time. Now, we can decide this contested-election case and adjourn on Monday. But whether or not we are salaried officers of the Government, Congress lasts till the 4th of next March, and it is the duty of members on this floor to stay here and attend to their duties. Gentlemen may say that such a consideration ought not to govern, but I hold that it ought. The people are entitled to our services. It is our duty to stay here and dispose of the business of the Government.

Mr. COBB. Let us do it.

Mr. BURNETT. The gentleman from Indiana says, "how can it operate on the people of Maryland whether we act on this question or not?" He asks, how are they to be prejudiced? Why, if we postpone this case until December next, and if the report of the majority of the committee should be then adopted, the result will be that we

leave that district without a Representative for the whole Congress. Both reports show that the contestant in this case is not entitled to the seat; and it is not proposed to give it to him.

The SPEAKER. The merits of the question cannot be discussed on a motion to postpone.

Mr. BURNETT. I am not going to discuss that question.

The SPEAKER. The gentleman was contrasting the rights of the contestant and sitting member.

Mr. BURNETT. No, sir; the Chair misunderstood me. I merely mentioned the fact that the gentleman from Indiana [Mr. DAVIS] had made this argument; and I wanted then to show that if the case was postponed until December, the people of that district could not be represented here for the rest of the Congress; because the right of but one party to the seat is involved here; and that party is the sitting member. Now, the effect of postponing this question is—what? To settle the question, so far as the district is concerned, for the rest of the Congress. That is on the hypothesis that the report of the majority of the committee will be adopted. If it be, it will be impossible to order an election, and to hold it in time for the member elect to take his seat this Congress.

Several MEMBERS. Why?

Mr. BURNETT. For the simple reason that if it will take all the time to discuss it, that gentlemen say, it will take as much time then. I say that this question can be disposed of in a day. If you want more time to discuss it I am willing to hear you just as long as you want to discuss it. I am not prepared to sit here and vote to postpone an important question merely because we have fixed a day to adjourn. Besides, there is a strong probability—though gentlemen may not be apprised of that fact—that the session will be prolonged, and that we will not adjourn on Monday. With these facts before us, I ask gentlemen how we can take action, the result of which will be to deprive the district of representation here, during the Congress?

Mr. KEITT. I shall vote for the postponement, and, I think, for good and sufficient reasons. I take it that Congress will adjourn on next Monday. Assuming that, I take it that we must perform our public duties in correspondence to the time fixed. There are grave and delicate questions growing out of this contested election—questions very grave, questions of law, questions of Constitution, questions not exclusively of the power of the House, but of the exercise of its power, and of the most delicate character. I am unwilling, without grave reflection, to decide on these questions. I am unwilling to set a precedent which may be, hereafter, of the most dangerous significance. I am unwilling to decide hastily on questions which may touch the very structure of this body. I believe that it is of vastly greater importance that we should decide these questions calmly, and with full knowledge, that we should decide them after full examination, that we should settle them with a proper appreciation of the magnitude of their consequences, than that we should act hastily and decide finally on the rights of any contestant or contestee.

It is because of the importance and magnitude of this question; because of the vast amount of testimony brought within the compass of our decision, that I do believe that it is better for us to postpone this question. We may talk about extending this session; but it will not be extended on account of this question. The question with us is, whether or not we will postpone action on questions thus grave and delicate, or whether we will decide them hastily. I believe it is better we should postpone the consideration of this case.

Mr. HARRIS, of Illinois. I have but a few words to say in reply to the arguments made by the gentleman from Indiana and the gentleman from South Carolina, in favor of the postponement of this question. I have been here long enough to know, and I knew before I came here—what, indeed, every man knows—that when business is done at leisure, it is never done. The gentleman from Indiana argued that members would take the report home and examine it at leisure, and that, when they come back here they will be prepared to decide it. I venture to say that, if that leisure moment is waited for that is to be devoted to the

examination of this question, it will never be examined. When gentlemen take up important matters of business to dispose of at leisure, they are never taken up and never disposed of. This document has been printed nearly four months. It was presented here on the 25th of February, and ordered to be printed; and if gentlemen have not read it, it is their own fault. There has been leisure enough, which has been given to matters of less importance or which has been thrown away, and which might have been devoted to the examination of the testimony in this case; and if gentlemen are not prepared to decide it, the fault must be theirs. They will not be better prepared to decide it next December than they are to-day.

Now, as to the time that may be consumed in discussing the question. I believe I stated that it is not intended, on this side, to occupy the time of the House in the discussion. There are subjects which have occupied months of debate, but which were, in fact, exhausted in a dozen speeches of an hour each. I am sure that this whole question can be presented by either side in half a dozen speeches, of an hour each, just as effectively, and just as clearly to the comprehension of the House, as if days were spent over it. This is not a question which I am disposed to have argued to the country, but to the House. We stand here as jurors to decide this case upon the law and the evidence, and not to make capital in the country for ourselves, or for political parties. I deprecate utterly any such thing coming into this case. If gentlemen have such design and wishes, and want prolonged discussion for that purpose, let them avow it. I have no such desire. I am aware that almost all our cases of contested elections run too much into party issues, and are not confined to the facts. I hope this will be an exception, and that its discussion will be confined to the real points in issue; and if it is, it ought to be presented by gentlemen in a single day, just as conclusively as in a month's debate. If it is the desire to wear out the time in debate, and thus prevent a decision at this session, let gentlemen avow it; but if it is the desire simply to present each side of the question, it can be done effectively in a short time.

Gentlemen say that it involves questions of a grave and delicate nature. I concede that. But questions of a grave and delicate nature are often as much involved in giving important propositions the go-by, as in deciding them. When questions are presented in the House as they are here, with the testimony printed, and before every gentleman for examination and decision, and they are given the go-by, such neglect or avoidance of responsibility subjects the House to imputations far more discreditable than to meet the issues presented, and decide them like men.

I think it is important that this question should be considered. I have no personal considerations to govern me in the matter; but connected as I am with the prosecution of the case on the part of the Committee of Elections, I feel it my duty to urge upon the House to decide it. I will not discuss the motion to postpone farther than I have. I hope the question will be decided at once; and that it may be, I call for the previous question.

Several MEMBERS. Do not call for the previous question.

Mr. HARRIS, of Illinois. I will not, if the gentleman will withdraw the motion to postpone.

The House was divided; and there were—ayes thirty-five, noes not counted.

So the previous question was not seconded.

Mr. MILLSON. I wish to say something on this subject, sir, but not much. There is a difference of opinion as to the time which may be consumed in debating this report of the Committee of Elections. Some gentlemen suppose that the time occupied will be only an hour or two; others say that it will consume a day or two. I think it will consume a day or two. I think it ought to consume a day or two. I should be very reluctant, on a question so important as this, to agree that it should be decided by the House of Representatives without giving to it the careful consideration which its magnitude demands. If we take up this question to-day, we may not be able to approach the termination of the discussion before Monday morning. What then? Why, sir, if we do not rescind our resolution to adjourn, as we ought to do—if the Senate do not assent to the resolution of

rescission, as they ought to do, there is a very ready remedy for any evil which may result; and that is, that the President will, as he ought to do, keep us in Washington by his proclamation.

Gentlemen tell us that they are anxious to go home to their families, and that it cannot be expected that we should remain here during the warm months of summer. Why, sir, the first session of Congress which I attended, in 1850, was not terminated until the 30th of September. Nor has any Congress of which I have been a member adjourned its first session earlier than the month of August. Here we are, only in the month of June, early in June, receiving over double the pay we received then, and it is gravely argued that we are entitled to leave unperformed our public duties here, when, with a less salary than we now receive, we remained in session months beyond the time to which we have now arrived. And we propose, sir, to carry over the most important business of the long session to a session limited to the duration of three months. The business now unfinished upon your Calendar greatly exceeds the business already dispatched at this session. Sir, you have not yet considered the first case upon the Calendar of the Committee of the Whole on the state of the Union.

The SPEAKER. The gentleman must confine his remarks to the question before the House.

Mr. COBB. If the question of adjournment is open to discussion, I have a word to say.

Mr. MILLSON. With submission to the Chair, I think that my remarks are in order, as I am showing that the effect of the postponement will be to throw over to the next session a vast amount of unfinished business.

The SPEAKER. The gentleman's remarks impress the Chair more with the conviction that they are against the adjournment than the postponement of this case.

Mr. MILLSON. I readily accept the admonition of the Chair; but I trust that the Chair will perceive that the argument I am presenting is a perfectly legitimate one, for I am endeavoring to answer the arguments of gentlemen who urge, as a reason for the postponement of this case, that we have determined to adjourn on Monday. I said that we not only might, but ought, to rescind the order for the adjournment on Monday; and that the mere determination of members to return to their homes two or three months earlier than they have been accustomed to do, constitutes no justification for leaving unperformed important public business.

Now, sir, in reference to the case before us, I can only say that I urge these general considerations, not because I have either the desire or the expectation that the House, when we approach the consideration of the question, will come to any particular conclusion, but because I do not think we ought to postpone to the short session any business so important as this—and other important business which has already been postponed—merely for the reason that we are tired of the session, and desire to return to our homes. If the consideration of this case should prevent us from passing all the bills which require the attention of Congress at this session within the time we have fixed for adjournment, there is a ready remedy in the President's proclamation calling us together again, even if we do not rescind the resolution we have adopted for adjourning on Monday. I hope, then, that we will come to some conclusion on this question at the present session, and not throw this and other important business over to the next session of Congress—the duration of which is so short that we cannot possibly consider one tenth part of the business proposed to be left unfinished at this session.

Mr. PEYTON. I shall not detain the House long. I am satisfied of one thing, and that is, if the House should talk from morning till night, from day to day, they may sit here until the 4th of March next, and still leave the business undone. If gentlemen will talk less and vote more, we have ample time to accomplish the business of the country. The object, as I understand it, of giving members a fixed salary, was that members should hasten through their business, talk less, and thereby save immense amounts of money to the Government. But with this mania for talking, we ought not to begin to talk about adjourning until the 1st of October. All I ask of gentlemen is to take it for granted that their

colleagues upon this floor are as well posted up as they are, and that we are prepared to vote, and then we shall be able to adjourn on Monday.

The question being on postponing.

Mr. SAVAGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 96, nays 80; as follows:

YEAS—Messrs. Abbott, Andrews, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clawson, Clemens, Clark B. Cochrane, Colfax, Collins, Covode, Cragin, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Eustis, Fenton, Foster, Garnett, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Haskin, Hill, Hoard, Horton, Howard, Keitt, Kellogg, Kelsey, Knapp, John C. Kunkel, Leiter, Humphrey Marshall, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Mott, Olin, Palmer, Parker, Potter, Pottle, Purviance, Quitman, Reagan, Ricard, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, Sickles, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Tripp, Underwood, Wade, Walbridge, Walton, Elihu B. Washburne, Israel Washburn, Wood, Woodson, and Zollicoffer—96.

NAYS—Messrs. Adrain, Ahl, Atkins, Avery, Bocoock, Bonham, Bowie, Boyce, Bryan, Burnett, Burns, Caskie, Cavanaugh, John B. Clark, Clay, Cobb, John Cochrane, Corning, Cox, James Craig, Burton Craige, Crawford, Curry, Davis of Mississippi, Dewar, Dimmick, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Foley, Gartrell, Gillis, Goode, Greenwood, Thomas L. Harris, Hatch, Hawkins, Hopkins, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, Landy, Leidy, Letcher, MacLay, McQueen, Mason, Miles, Millson, Moore, Pendleton, Peyton, William W. Phelps, Phillips, Reilly, Ruffin, Russell, Sandidge, Seales, Henry M. Shaw, Shorter, Singleton, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, Miles Taylor, White, and Whiteley—80.

So the subject was postponed until the second Monday of December next.

Mr. COCKERILL stated, pending the call of the roll, that he had paired off with Mr. HARLAN.

Mr. DAVIDSON stated that he had paired off.

Mr. WASHBURN, of Illinois, stated that Mr. FARNSWORTH had paired off upon this vote with Mr. SAVAGE.

Mr. WRIGHT, of Tennessee, stated that he had paired off with Mr. KILGORE, who had retired from the Hall on account of indisposition; and that he [Mr. WRIGHT] would have voted in the negative.

Mr. MATTESON stated that Mr. MORSE, of Maine, was detained from the House by sickness in his family, and had paired off with Mr. SMITH, of Illinois.

Mr. NIBLACK stated that he would have voted in the affirmative if he had been in the Hall when his name was called.

The vote was then announced as above recorded.

Mr. DAVIS, of Indiana, moved to reconsider the vote by which the consideration of the question was postponed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

APPROPRIATION BILLS.

Mr. J. GLANCY JONES. I ask the unanimous consent of the House to allow me to report back from the Committee of Ways and Means the Senate amendments to House bill (No. 466) making appropriations for the expense of collecting the revenue from customs, and House bill (No. 556) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1859.

There being no objection, the reports were made.

Mr. J. GLANCY JONES. I move that the amendments to these two bills be referred to the Committee of the Whole on the state of the Union, and that they be printed.

The motion was agreed to.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. Before that motion is put, I ask that the amendments just reported be made the special order in the Committee of the Whole on the state of the Union until disposed of, and that debate be closed on them, respectively, in five minutes after the committee shall take them up for consideration.

The latter motion was agreed to.

Mr. COMINS. I desire to move, before we go into committee, that the light-house appropriation bill be made the special order in the Committee of the Whole on the state of the Union

immediately after the committee shall have disposed of the amendments which have just been referred to it.

Mr. BURNETT. How does the gentleman from Massachusetts get the floor to make that motion?

The SPEAKER. He cannot make the motion, unless the gentleman from Pennsylvania gives way for that purpose.

Mr. J. GLANCY JONES. I insist upon my motion to go into committee.

The question was taken; and the motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HOPKINS in the chair,) and took up for consideration, according to order, the Senate amendments to House bill (No. 556) making appropriations for the service of the Post Office Department during the fiscal year ending 30th June, 1859.

POST OFFICE APPROPRIATION BILL.

The Senate amendments were taken up in their order, when the following action was had thereon.

First amendment:

At the end of the bill add the following:

Sec. 3. *And be it further enacted*, That there shall be appointed by the President, with the consent of the Senate, a Fourth Assistant Postmaster General, who shall receive the same compensation which is paid to each of the other Assistant Postmasters General; and the said Fourth Assistant Postmaster General is hereby authorized to send and receive letters, packages, and other papers, upon official business, through the mails free of postage, subject to the same restrictions and penalties as the other Assistant Postmasters General; and that the sum of \$3,000 is hereby appropriated for the salary of said officer for the fiscal year ending the 30th of June, 1859.

Mr. J. GLANCY JONES. Under the present arrangement the duties proposed to be conferred upon this Fourth Assistant Postmaster General are performed by the chief clerk. The Committee of Ways and Means recommend a non-concurrence.

Mr. HOUSTON. My opinion is that this amendment ought to prevail. The amendment may be in the wrong place, (being general legislation in an appropriation bill;) and if we propose to reject all amendments which come to us from the Senate that may be obnoxious to that objection, then I would say let this fail with the rest; but such is not the case. Other amendments of the same character are assented to, and if this one makes a reform, essential and necessary, we must judge of it upon its merits, as other propositions are judged upon their merits.

The organization of the Post Office Department at present, is such that there are really four bureaus in that Department. There are the First, Second, and Third Assistant Postmasters General, as also the inspection office, the duties of which are now performed by the chief clerk. There is another view of this subject. The duties of this office are more important in many respects than those performed by the other bureaus—if I may so call them—of the Post Office Department. Those duties are now performed by the chief clerk of the Department, a person who receives but a small salary, when viewed in connection with his duties; and it is impossible for the Postmaster General, for the salary of his chief clerk, to obtain the services of a man qualified to decide the questions which come before that office under the present arrangement. The questions which come up, and are now decided by the chief clerk of the Department are very important, involving the validity of all of the mail contracts that give rise to litigation or controversy—questions which grow out of and are involved in the assessment and release of fines, forfeitures, &c., by mail failures, and defaults of every kind springing out of the mail service. These are now passed upon by the chief clerk, who has a salary of \$1,800 or \$2,000.

A MEMBER. Two thousand two hundred dollars.

Mr. HOUSTON. The gentleman says \$2,200. I do not care whether it is \$2,200 or \$2,000. You cannot get a person who is qualified to discharge the duties of the office for that salary. If the Postmaster General were authorized to pay a sufficient salary, he should require and appoint a lawyer of the first ability to go there and discharge the duties which appertain to the office. All the contractors of the country are quite as deeply interested in this Assistant as in any other.

It is impossible for the Postmaster General, in addition to his other onerous duties, individually to look over and properly examine into all the questions of law and all the contracts and litigated subjects which at present go before the chief clerk. He has not the time to do it; and if gentlemen will refer to the remarks made by the Senator from Vermont, [Mr. COLLAMER,] who has himself discharged the duties of Postmaster General, they will find a conclusive and satisfactory argument in favor of the creation of this fourth Assistant.

Mr. ENGLISH. To enable me to say a word, I will offer a formal amendment, to increase the salary one dollar. Mr. Chairman, I think I am as little inclined to increase the number of officers of the General Government as any member on this floor; but after a careful examination of this subject, I am satisfied there is a necessity for the creation of this office. It is important that someone should be placed in charge of the supervision of the various contracts made with individuals for carrying the mails of the United States; and it requires a person with high attainments to discharge the duties of this office properly. These contracts amount to about ten million dollars a year, I believe; and it is necessary for some one to determine whether the contracts have been properly executed; whether fines should be imposed for the non-performance of contracts, and to decide various other propositions which ought not to be devolved on a mere clerk of the Department.

In addition to this, this Department ought to have a chief clerk, as other Departments have. As the matter stands at present, the entire time of the chief clerk of this Department is taken up in the discharge of those peculiar duties. He has not time to attend to the general business of the Department, or to discharge the duties usually performed by the chief clerk. I only desire to say that, in my humble judgment, after investigating the whole subject, there is a necessity for the creation of this office. I withdraw my amendment.

Mr. COLFAX. I move, *pro forma*, to reduce the appropriation \$500. No member of this House, I think, has proved himself more jealous than I have been of any increase of executive patronage, more anxious to reduce the expenses of Government, or more earnest in endeavors to reduce the number of its office holders. But I feel it equally a duty, as a member of an American Congress, whenever a clear case of necessity can be shown, to establish a new post office, or a post route, or a new bureau in a Department, or a proper officer for one already existing. And I can say that this is a case, and the only case I have found, of all that have been presented here, where I have felt justified in establishing an additional officer in any of the Departments.

What are the facts? The Post Office Department is increasing in its business with extraordinary rapidity. It is divided naturally into four bureaus—the appointment office, in charge of the First Assistant Postmaster General; the contract office, in charge of the Second Assistant; the finance office, in charge of the Third Assistant; and the inspection office, in charge of the chief clerk. In the first bureau, the number of post offices have increased in nine years from sixteen to twenty-seven thousand, and its business is performed by the same number of clerks it had in 1849, a highly creditable exception to the general rule here of increasing the number of subordinates for any possible reason. In the second bureau, since its organization, in 1836, thirty-eight million miles have been added to the annual transportation of the mails, and its business connected therewith has increased to one thousand six hundred cases per month. In the third bureau, six thousand five hundred mail contractors are now paid quarterly, and four hundred and fifty route or mail agents paid monthly. It supplies twenty-three thousand post offices quarterly, or oftener, with postage stamps and envelopes; receives, opens, and registers the quarterly accounts from twenty-seven thousand post offices, making one hundred and eight thousand per year; and counts, opens, examines and compares six hundred and fifty thousand dead letters per quarter. In the fourth bureau, the chief clerk has charge of the inspection office, which has grown into a most important branch of the Department, over which

this Fourth Assistant is to preside. He superintends all our army of mail contractors, has charge of the mail-bag, key, and lock department, of depredations from mails, of fines for failure to perform service promptly, failures of connection, &c. His entire time has become engrossed with these accumulating and increasing duties, so that the Department has really no chief clerk at all. Every other Department in the Government has a chief clerk but this one; and it is but sheer naked justice that it should have one as well as the others. If the other Assistant Postmasters General are necessary, then a fourth one is equally so, to transact this branch of the business of the Department. If other Departments are justified in each having a chief clerk, then is the Post Office Department equally justified. Judge COLAMER, of Vermont, now a distinguished member of the Senate, as he was a most distinguished Postmaster General under President Taylor, fully endorses the necessity of this officer, by both speech and vote; and I shall, therefore, with this confirmation of the reasons I have briefly alluded to, make this case a solitary exception to my general rule, and vote in favor of the establishment of this new office.

Mr. JEWETT. I understand, Mr. Chairman, that in point of fact there is a bureau now in existence the same as that mentioned in the proposed amendment; but I understand that it is a bureau without a head. The Postmaster General, like the other Secretaries, is entitled to a chief clerk; but he has been compelled to give up that clerk, whose services he has a right to expect as an aid in the discharge of his duties as Postmaster General. He has to give up his clerk to the performance of these other duties, and, as I am informed, has even to render him assistance himself.

I understand, furthermore, that it is the most important bureau of the whole Department; that the contracts of every character and description come up for construction at that bureau; and that it requires, as was well remarked by the gentleman from Alabama, a man of very considerable legal learning to perform the duties of this office. I had a conversation with the Postmaster General myself upon this subject; and, entertaining a very high regard for his ability, honesty, and integrity, and believing that he would ask for nothing that was not really required for the public service, I have consented to advocate this proposition.

Mr. COLFAX, by unanimous consent, withdrew his amendment.

[A message was received from the Senate by Mr. DICKINS, their Secretary, informing the House that the Senate have appointed Mr. FREN, on their part, upon the committee of conference on the disagreeing votes of the two Houses on the bill of the House (No. 199) making appropriations for the naval service for the year ending June 30, 1858.]

Mr. MARSHALL, of Kentucky. I move to amend the amendment of the Senate by striking out that portion of it which gives the franking privilege to this officer. The franking privilege is entirely abolished by another amendment to the bill, and I propose to deprive this officer of the franking privilege also.

Mr. HOUSTON. I have no objection, if the franking privilege is taken away from other officers, that this officer should be put on the same footing. But if other bureau officers have it, why not give it to this officer?

Mr. MARSHALL, of Kentucky. When we come to the clause of the bill which proposes to abolish the franking privilege of members of Congress, I shall propose to extend it to all officers of the Government, so as to make a clean sweep.

Mr. HOUSTON. Well, that will include this officer.

Mr. MARSHALL, of Kentucky. Not if the franking privilege is conferred upon him by another clause of the bill.

Mr. ENGLISH. I think that officers in the Post Office Department ought to be clothed with power to frank matter pertaining to the business of the Department, but that the franking privilege should go no further.

The amendment to the amendment was disagreed to.

Mr. LETCHER. I move to amend the amendment of the Senate by striking out "\$3,000," and inserting "\$1,500." I am opposed to this whole

proposition. I do not see any particular necessity just at this time which requires this Fourth Assistant Postmaster General. I believe it is desired by nearly all the other Departments of the Government that they should have assistants. The Secretary of War wants an assistant; the Secretary of the Interior wants an assistant; and so, I believe, with all the other Departments. We have already three Assistant Postmasters General. But gentlemen say that this bureau is already in existence, and all that it lacks is a head. Well, who has performed the duties heretofore? How have they been discharged? And why cannot they be discharged in the same way a while longer?

Mr. ENGLISH. The duties have been discharged by the so-called chief clerk of the Department, which deprives the Postmaster General of a chief clerk.

Mr. LETCHER. Now, let that so-called chief clerk discharge the duties a while longer, and do not let us undertake to increase the expenditures at a time when the Post Office Department is asking an annual appropriation of nearly five million dollars. It seems to me that, instead of enlarging the expenditures, we ought, if we can, to get along without multiplying officers; and for this reason I hope the amendment of the Senate will not be concurred in.

Mr. HOUSTON. I do not object to the gentleman from Virginia [Mr. LETCHER] advocating economy; indeed, I am delighted when he does so; but I cannot very well understand the principle upon which he acts, especially when he comes in with one bill recommending an increase in the number of clerks in the Treasury Department, and another bill recommending a batch of extras to clerks and employes who never earned a cent of them, amounting to \$75,000, or more; and now, when a proposition comes to us from the Senate to complete the organization of a Department which is one of the largest Departments of this Government, and is increasing more rapidly, probably, than any other, with a view of saving two or three thousand dollars, he objects to it on the ground of economy.

I say that there is no Department of this Government which has grown, or is growing, more rapidly than the Post Office Department. There is but little, if any, necessity for an assistant in the War or in the Navy Department. There is already an assistant in the State and in the Treasury Departments. But the Post Office Department is constantly growing in its consequence and in the amount of its business. Our mail facilities are being multiplied. Our offices and officers are being multiplied. Their duties are becoming more important and complicated. And yet, for the sake of saving a few thousand dollars, the gentleman would let all the mail contracts remain in the hands and under the control of a chief clerk at a salary of \$2,000. Contracts in which the Government is interested to the extent of millions of dollars, are adjudicated and passed upon by the chief clerk. Now, sir, I do not regard that as economy. A few days ago the Committee on the Post Office and Post Roads saw fit to bring forward a bill to readjudicate and release certain fines imposed against mail contractors. I believe that we have passed two or three bills of that character, and we have passed them because the House seemed to be of the impression that justice had not been done at the Department. Justice, sir, cannot, in all cases, be done, so long as you place these important questions and interests in the hands of one whose services can be obtained for so small a compensation.

Mr. LETCHER withdrew his amendment.

The question recurred on concurring in the Senate amendment.

Mr. JEWETT demanded tellers.

Tellers were ordered; and Messrs. DEAN and HAWKINS were appointed.

The Committee divided; and the tellers reported—ayes 73, noes 58.

So the amendment was concurred in.

Second amendment:

Sec. 4. *And be it further enacted*, That the fourth section of the act of Congress approved August 5, 1854, entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1855," be, and the same is hereby, continued for one year from August 5, 1855.

Mr. J. GLANCY JONES. That amendment

refers to the act of 1855, and its effect is to allow a small additional compensation to the officers of the city post office in Washington, for documents which are franked and sent out. The Committee of Ways and Means recommend a non-concurrence.

The amendment was non-concurred in

Third amendment:

Sec. 5. *And be it further enacted*, That the joint resolution of Congress, of the 18th of August, 1836, which provides that there shall be one principal messenger in each of the bureaus of the several Executive Departments, at an annual salary of \$840 each, shall be understood to embrace within its true scope and meaning the offices of the Assistant Postmasters General.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in that amendment as they did in the first, but the Committee of the Whole have concurred in the first amendment, and this is essential to it. The first amendment provides for a Fourth Assistant Postmaster General, and the third amendment provides a messenger for him.

Mr. ENGLISH. The object of this amendment, as I understand it, is to put the messengers in each of the bureaus of the Post Office Department upon the same basis, as to pay, as the messengers in the other bureaus of the Government.

The Senate amendment was not concurred in.

Fourth amendment:

Sec. 6. *And be it further enacted*, That the Secretary of the Navy be, and he is hereby, authorized and directed to pay to E. K. Collins and his associates, the sum of \$147,730, the balance of appropriation heretofore made for the transportation of the mails from New York to Liverpool and back, and withheld by the Department at the quarterly payments made on the contract for that service, on the 30th days of June and September, and the 31st day of December, 1853, and the 31st of March and 30th of June and September, 1857, respectively; but there shall be deducted therefrom the sum of \$115,500, or such sum as is owing to the United States, for allowances made to E. K. Collins and his associates by act of Congress.

Mr. J. GLANCY JONES. The amendment is to pay the claim of E. K. Collins and his associates to moneys retained out of appropriations under their contract, for several trips. In consequence of the loss of one of their ships they substituted another, with the consent of the Department, which was not equal in speed. The Postmaster General retained certain portions of the amounts due on several trips performed by vessels which did not make the voyage in the same period of time as the other vessels. Mr. Collins claims that this money is due him; and the Attorney General has given his opinion to the same effect. The Committee of Ways and Means recommend a non-concurrence.

Mr. JOHN COCHRANE. I rise for the purpose of sustaining the amendment of the Senate. It proceeds, as I understand, upon the force of facts, and the opinion of the Attorney General delivered upon those facts. It seems, sir, that in 1847 a contract was affirmed between the Government and E. K. Collins and his associates for carrying the mails between New York and Liverpool, and that another contract was made in 1849, extending the prior contract to the 1st of June, 1860. They proceeded to the fulfillment of the contract, and in 1854 they lost one of their steamers, the Arctic, and in 1856 another vessel, the Pacific. After the loss of the second steamer they were unable, without the assistance of another steamer, to perform their contract. They applied, therefore, to the Secretary of the Navy to permit them to resort to a substitute for the Arctic and Pacific. That consent was granted, and they substituted the Ericsson, and performed their contract. But under the plea that the duty was not dispatched with as much speed as by the Arctic and Pacific, this amount of money at the various dates mentioned in the Senate amendment was withheld by the Government—namely, \$147,730. This amendment proposes to return to Collins and his associates this amount.

The plea put in upon the part of the opponents of Collins & Co., is simply that they did not perform the duty devolved upon them by the contract; and in the first place that they did not keep upon their line the number of steamers required by their contract. Says the Attorney General in this respect:

"I. They covenanted to build those four ships within a limited time. They did build them, and so their agreement was literally complied with. It was known very well that ships might be lost; but there was no promise, on the part

To this letter the Secretary of the Navy, under date of February 13, 1856, replies:

"Under the peculiar circumstances, I concur in your proposition to make the best possible arrangement you can for a steamer to take the place of the Pacific."

Now under this express authority and under the most trying circumstances—because it will be recollected that a portion of the family of Mr. Collins went down with the Pacific—the Ericsson was employed to take the place of the lost steamer. Is it because the Ericsson failed to make as good time as was made by the Pacific, that the Department has a right to make the deductions? Sir, I take it there ought to have been no such deductions made because of the substitution of the Ericsson for the Pacific. In all material respects the service that was required to be performed was performed. The usual trips were made and the mails carried as provided in the contract. The only allegation that can be made is that they were not carried as quickly as they were carried before. But inasmuch as the Navy Department authorized the substitution of this vessel, and recognized it, I think it is too late now for the Department to come forward and exact from him this large sum of \$147,000 for the period that the Ericsson was on the line.

Now, sir, this question was examined into by the Attorney General under Mr. Pierce's administration. He decided against the allowance of the claim; but the subject has been referred to the present Attorney General; and, in a very lucid opinion which I have before me, he says that he thinks the claim a just one, and that the money ought not to be withheld; and that, I believe, is the opinion of a majority of the members of the Committee on the Post Office and Post Roads. At all events, I can say that, after a careful investigation of this subject—and I approached it, I confess, with some degree of prejudice—I have satisfied my own mind that the claim is a just one, and ought to be paid. Whether the contract which the Government made with Collins & Co. was a good one or a bad one has nothing to do with the question. It should stand or fall upon its own merit. I should not have voted for the original contract. I never have voted for any of these special contracts for ocean mail service; but I will execute in good faith a contract already made; and for this reason I shall vote for allowing the present claim.

The question was taken on Mr. SMITH's amendment; and it was not agreed to.

Mr. CLARK, of New York. I offer the following amendment:

Provided, That the Postmaster General shall also review the decisions of the late Postmaster General; and in all cases where fines have been imposed, or deductions have been made from the pay of the ocean mail steamer lines established under the act of Congress of 1847, and such fines and deductions shall have been imposed or made against law and the justice of the case, that the same be in like manner refunded, out of any money in the Treasury not otherwise appropriated.

Mr. JOHN COCHRANE. I raise a question of order on that amendment.

The CHAIRMAN. The Chair thinks the amendment not in order.

Mr. CLARK, of New York. Then I propose, in lieu thereof, to strike out the first three lines of the Senate amendment.

Mr. JOHN COCHRANE. I ask, how will the context stand?

Mr. CLARK, of New York. It is of no consequence, as I only seek the opportunity of making a very few remarks.

Mr. Chairman, the amendment which I just now proposed was offered in entire good faith. If, in the opinion of the House, the condition of the Treasury is such that we can begin to refund the fines which have been illegally imposed, and the deductions which have been unjustly made from the pay of the ocean mail steamer lines established under the act of Congress of 1847, we ought to include, all and show no favoritism.

Now, I do not rise for the purpose of speaking against the Senate amendment; for, personally, I am not unwilling that there should be made even a donation from the Treasury of the United States of \$147,000 to Mr. Collins. You may make him that donation; you may double it; but you cannot by your donation, and you cannot by your bounty, enable him to compete successfully with that individual enterprise which goes along alone and undisturbed, and which is not dependent on the nation-

age of the Government. But I have a right to ask the House that, if the Treasury is to be opened to one set of mail contractors, it should be also open to another. The parties seeking that these fines and deductions be refunded, are all my constituents; but I have no favorites among them, and I am inclined to give no one of them any preference over the other. I have in my desk an application from another of the mail steamer lines, established under the act of 1847, asking for the return of fines or deductions amounting to about twenty thousand dollars, imposed under circumstances of similar injustice. One of the cases I will briefly state, for it illustrates the injustice of this special legislation in favor of one of several claimants, all equally entitled. A few years ago, the Spanish Government prohibited a mail steamer—the property of some of my constituents—from entering the port of Havana. Although the guns of the Moro castle, directed against her, prevented her advance, the Postmaster General fined her proprietors \$5,000, and deducted it from their mail pay, because they did not leave the mail, when they could not leave it. Now, I know all about the transactions out of which this application arises.

Mr. ENGLISH. I wish to ask the gentleman a question.

Mr. CLARK, of New York. I cannot yield any portion of my five minutes. Mr. Chairman, the relief sought in this case should be accorded by a general bill, and should not be ingrafted upon an appropriation bill. The relief should be broad enough to reach all the cases which depend upon the same principle. Sir, why should this \$147,000 be tacked on to the naval appropriation bill? Why should not I, who desire to do full justice with a liberal hand to Mr. Collins, and every other claimant against the Government, have a right to vote upon it, should I deem the legislation partial, without being subjected to the necessity of voting against one of the Administration appropriation bills? If this claim rests upon a question of law, as is said, if the right to have these deductions refunded depends upon principles of law, then a separate bill should have been introduced and referred to the Committee on the Judiciary, and that committee would have dealt justly and fairly with it. If Mr. Collins is entitled to this sum of money upon any principle either of law or equity, I stand ready to vote to give it to him. But I object to the partiality by which you select one or two of a large class of claimants and let them put their arms into the national Treasury, while you exclude others who are equally entitled to the privilege.

[Here the hammer fell.]

Mr. CAVANAUGH. This is a subject in which my constituents have no personal interest. The constituency that I represent are two thousand miles from the sea-board. They have no direct interest in the carriage of the mails to Europe, like the gentlemen from the city and State of New York. But, sir, they have an interest, as every American should have, in all that enhances the fame, develops the genius or elevates the character of our people as a nation in the estimation of the world.

Now, sir, in reply to the assertions of the gentleman from Virginia, [Mr. SMITH,] I will read an extract from the opinion of the Attorney General of this Government. Speaking of E. K. Collins and his associates, he says:

"They covenanted to build those four ships within a limited time. They did build them, and so their agreement was literally complied with. It was known very well that ships might be lost; but there was no promise, on the part of Collins & Co., to build others in case of accident to these. They did not agree to insure them against the peril of the seas."

Now, sir, the gentleman from New York [Mr. CLARK] has alluded to the enterprise and energy of individuals in putting afloat upon the ocean vast steamships, by which our mails may be carried. I believe, sir, that the individual who inaugurates a great enterprise, who first starts or conceives the idea, should, if there are any benefits to accrue from its inauguration, receive those benefits. Now, sir, where were these rivals in carrying the mails between New York and Liverpool, when E. K. Collins and his associates demonstrated not only to this American Confederacy, but to the world, the superiority of American genius and American naval architecture, and successfully contested with England the su-

premacy of the seas? There is not an American in this broad land of ours, who did not rejoice at the success of Collins when he launched upon the deep those magnificent structures that gave to our nation a European and world-wide reputation. And now, because God, in his mysterious providence, saw fit to strike down those wonderful specimens of naval architecture, the Arctic and the Pacific, after Collins and his associates had demonstrated the superiority of American genius and enterprise on the ocean, Mr. Vanderbilt, and others like him, in New York—gentlemen who always come in at the tail of an enterprise—now seek to deprive Collins and his associates of their just dues.

If we refuse to the pioneers of American steam naval enterprises that compensation to which they are justly entitled by their contract with Government, and if, by the injustice of Congress, they are driven to seek new channels for the employment of their ships, amongst which is that "wonder of the deep," the Adriatic, then, indeed, will the triumph of wealth and accident over brains and energy be complete.

Sir, I prefer, the whole country prefers, to aid the men who have shed glory upon the American name, in successfully and peacefully wresting from England her proud and boasted title of "mistress of the seas."

Sir, Collins & Co. ask no gratuity from the Government; they only ask that the Government shall fulfill its part of the contract.

The gentleman from Virginia [Mr. SMITH] says that Collins and his associates have failed to perform the duties imposed upon them by the terms of agreement. In answer to that, I quote the language of the Government's legal adviser. He says:

"But inasmuch as they have kept their covenants literally, and as there is no evidence that can justify a suspicion of bad faith, I see nothing in the case on which to rest my conscience in advising you to withhold from them the money which the Government has promised to pay them."

Mr. SMITH, of Virginia. I move to amend the amendment of the gentleman from New York by substituting "twenty-five dollars" for "fifty dollars."

Mr. Chairman, I do not know whence the gentleman from Minnesota derives his authority for saying that Cornelius Vanderbilt never originated an enterprise. Why, sir, if I understand his history, he was a poor boy, and has grown into consequence by an enterprise that has had no equal, and, consequently, no successful rivalry, anywhere. It has been the glory of his life to surpass all competition; and he does not come here now, and ask for a bonus from his country to maintain, on his part, a competition in ocean mail service. No, sir; it is for the gentleman's friend to come here to beg from the Treasury a bonus of \$19,250 the round trip, in order to maintain a pretended rivalry with foreign steamers. What does Cornelius Vanderbilt ask now? That the ocean mail service shall be thrown open to the world, and that those may win who can. He does not desire that the Government shall lavish its treasure upon any enterprise. He asks that the matter may be left to American enterprise; he is perfectly content with that. But Mr. Collins, the committee must remember, asks that he shall be allowed his old contract for the inferior service performed by the Ericsson.

Mr. ENGLISH. I will ask the gentleman a question.

Mr. SMITH, of Virginia. I have not time to yield to the gentleman now. Now, sir, if I contracted with the Government for coach service, and the coach was to break down and become worthless, and I asked to carry the mail in a buggy, would anybody suppose that I was to get coach pay for buggy service? That is just what Collins wants us to do to him. Again, when this deduction now complained of was made, it was made by a Postmaster General who is no longer in office. It was made under the advice of an Attorney General who is no longer in office. It is a *res adjudicata*, and this whole proceeding is an attempt to reopen a transaction which has been closed by the judgment of those who had the power alone to pass on it. This amendment is nothing more than to give Mr. Collins a bonus of \$147,000.

[Here the hammer fell.]

Mr. SANDIDGE. Mr. Chairman, it is very

well known that I have never been a very particular friend in sustaining these steamship lines under the contracts heretofore made with them. A short time ago I proposed to this House a system which would be uniform, just, and equal, and at the same time insure certainty as to the time of departure. That proposition was not favorably considered. Nevertheless, while I am opposed to expending more money than we are compelled to expend under existing contracts, yet, sir, I am disposed to pay every cent justly due under those contracts. It seems to me that Collins & Co. should not be fined \$147,000, because the steamer *Ericsson* did not come up to the speed of the very best vessels of their line. No gentleman can say that the contract made with Collins & Co. obligated them to make these trips in any given time. There is not one word in that contract which obliged them to make the trip in ten days, or twelve days, or twenty days. While this is so, and while they lost one of their ships and procured in its place the best steamer they could get, and made all the trips required by contract, they are fined \$147,000. I should like to see the law which would authorize that fine being imposed. If any gentleman who opposes this matter will show me one word for it in the law, I will yield my position. Until that is done I will insist that it is unjust to Collins & Co. to refuse to pay them this large sum, the withholding of which, I have no doubt, has, in part, caused their recent failure. It is very well for the friends of Mr. Vanderbilt and other gentlemen who wish to run steamers to Europe, to prevent, if they can, the continuance of the Collins line. Let that line be broken up, and they will enjoy a monopoly, that, for the postages alone, will make their compensation greater than the contract pay to Collins. Collins inaugurated this steamship service, and we can certainly afford to be just to him—generosity is not asked.

The question was taken on the amendment to the amendment; and it was disagreed to.

The amendment of Mr. CLARK, of New York, was then disagreed to.

Mr. KEITT. I move that the committee rise with a view of taking a recess.

The motion was agreed to.

The committee rose; and the Speaker having resumed the chair, Mr. HOPKINS reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the Post Office appropriation bill, and had come to no resolution thereon.

On motion of Mr. KEITT, the House (at ten minutes past four o'clock, p. m.) took a recess until six o'clock, p. m.

EVENING SESSION.

The House reassembled at six o'clock, p. m.

CARMICK AND RAMSEY.

Mr. BILLINGHURST. I am directed by the Committee on the Judiciary to report back to the House the memorial of Carmick & Ramsey, relating to their mail contract on the Vera Cruz, Acapulco, and San Francisco route, and ask to be discharged from the further consideration thereof, and that the report be laid on the table and printed.

It was so ordered.

PETER VAN BUSKIRK.

Mr. POTTLE. I ask unanimous consent that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill (H. R. No. 340) providing an increase of the pension of Peter Van Buskirk, of the city of Washington, District of Columbia. I desire simply to say that he is an old soldier of ninety-seven years of age, who has served through three wars, and the bill provides that he shall have full pension instead of what he now receives. If he is ever to receive any further aid from the Government, he should have it now.

The bill, which was read for information, changes the pension of Peter Van Buskirk from sixty dollars a year to eight dollars per month, to commence on the 4th of March, 1850.

Mr. RUSSELL. I object, unless the gentleman will so amend it that the increased pension shall commence on the 4th day of March last.

Mr. POTTLE. I will move to so amend the

bill, though I regret that my friend should insist upon it.

No objection being made, the Committee of the Whole on the state of the Union was discharged from the further consideration of the bill; and it was taken up for action.

Mr. POTTLE. I move to amend the bill by striking out "1850," and insert in lieu thereof "1858."

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. POTTLE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JENNETT H. M'CALL.

Mr. DAVIS, of Mississippi. I ask the unanimous consent of the House to take from the Speaker's table Senate bill (No. 130) for the relief of Jennett H. McCall, only child of Captain James McCall, of the revolutionary war.

The bill, which was read for information, directs the Secretary of the Treasury to pay to Jennett H. McCall, only child of Captain James McCall, of General Pickens's brigade, in the South Carolina regiment, during the war of the Revolution, the seven years' half pay of a captain, as allowed by the resolution of Congress passed August 24, 1780, amounting to \$2,100.

Mr. JONES, of Tennessee. I call for the regular order of business.

Mr. DAVIS, of Mississippi. I hope the gentleman will not object.

Mr. JONES, of Tennessee. I object to all these special bills for half pay.

Mr. DAVIS, of Mississippi. I move to suspend the rules. I desire to say that I have not asked for anything for my constituents this session. This is the first time that I have asked a favor of the House. Many other bills of less merits than this have been passed, even by the consent of the gentleman from Tennessee. The bill passed the Senate unanimously, and was sent to this House and referred to a committee. That committee reported it back to the House, with a recommendation that it do pass; and I do not see why, under the circumstances, it should not be allowed to pass. I ask for tellers upon the motion to suspend the rules.

Tellers were ordered; and Messrs. BURLINGAME and WINSLOW were appointed.

The House divided; and the tellers reported—ayes 89, noes 36.

So (two thirds voting in favor thereof) the rules were suspended; and the Committee of the Whole House was discharged from the further consideration of the bill.

Mr. JONES, of Tennessee. I move to lay the bill on the table.

The motion was not agreed to.

Mr. JONES, of Tennessee. I call for the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

The bill was then ordered to a third reading, and was accordingly read the third time, and passed.

Mr. DAVIS, of Mississippi, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ALBERT G. ALLEN.

Mr. CORNING. I ask the unanimous consent of the House to discharge the Committee of the Whole House from the further consideration of Senate bill (No. 277) for the relief of Albert G. Allen.

Mr. JONES, of Tennessee. This gentleman has received a salary of \$2,000 for all the time he was in office; and I object.

Mr. CORNING. I move to suspend the rules, and call for tellers.

Tellers were ordered; and Messrs. SAVAGE and BURNETT were appointed.

The House divided; and the tellers reported—ayes 96, noes 30.

So (two thirds voting in favor thereof) the rules were suspended; and the Committee of the Whole House was discharged from the further consideration of the bill.

The bill directs that in the settlement of the accounts of Albert G. Allen, late Navy agent at Washington, District of Columbia, one and one fourth per centum be allowed him upon the disbursements of extra pay made by him under the acts of Congress of August 31, 1852, and March 3, 1853, to the officers, seamen, and marines, who had served on the Pacific coasts of Mexico and California, deducting therefrom such amounts as may be due from him to the United States.

Mr. CORNING demanded the previous question.

The previous question was seconded; and the main question ordered.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. CORNING moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

WILLIAM RANDOLPH.

Mr. CHAFFEE. I ask the unanimous consent of the House to report, from the Committee on Invalid Pensions, a bill granting an invalid pension to William Randolph.

Mr. ATKINS. I move that the House do now adjourn. I have been trying to get the floor for four or five weeks.

The SPEAKER. The gentleman from Tennessee has not got the floor to make that motion.

Mr. ATKINS. It is a privileged motion.

The SPEAKER. It is; and the gentleman can make it when he gets the floor properly. The gentleman from Massachusetts asks the unanimous consent of the House to make a report from the Committee on Invalid Pensions.

Mr. ATKINS. I object.

Mr. MARSHALL, of Kentucky. I move to suspend the rules in order that the bill may be reported and considered. It is the case I mentioned to the House the other day, of an old man ninety-five years old, who only gets four dollars a month. He is one of Wayne's old soldiers. The House can pass the bill in two minutes.

Mr. HOUSTON. I like to hear the gentleman from Kentucky talk, but I want to get away on Monday; and if we do that, we must dispose of the appropriation bills.

Mr. MARSHALL, of Kentucky. This is the only bill I have had during the whole session.

Mr. DAVIS, of Indiana. I object to debate.

The House divided on Mr. MARSHALL's motion; and there were—ayes 105, noes 25.

So (two thirds voting in favor thereof) the rules were suspended.

Mr. CHAFFEE then reported, from the Committee on Invalid Pensions, a bill granting an invalid pension to William Randolph.

The bill received its several readings, and was passed.

Mr. MARSHALL, of Kentucky, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

CIVIL APPROPRIATION BILL.

Mr. PHELPS, of Missouri. I rise to a privileged question. I desire to make a report from the committee of conference, on the disagreeing votes of the two Houses on House bill (No. 200) making appropriations for sundry civil expenses of Government for the year ending June 30, 1859.

Mr. JONES, of Tennessee. Under the decision of the House this morning, I object to the reception of that report; and ask that the question be submitted to a vote of the House whether they will receive it or not?

The SPEAKER. The report will be received.

Mr. JONES, of Tennessee. Then it will be before the House.

The SPEAKER. The gentleman from Tennessee raises the question whether it shall be considered.

Mr. JONES, of Tennessee. If it is before the House, we shall be obliged to dispose of it. The question is, whether we will receive it or not?

The SPEAKER. That is not the question. The Chair refers the gentleman to the 5th rule.

Mr. JONES, of Tennessee. Exactly.

The SPEAKER. The question is, "Will the House consider it?"

Mr. JONFS, of Tennessee. If the report is received, it will be before the House, and we shall be bound to consider it.

The SPEAKER. The Chair will receive the report. If the gentleman from Tennessee afterwards desires the question to be taken on considering it, it will be taken.

Mr. JONES, of Tennessee. I do not want it afterwards.

Mr. PHELPS, of Missouri. I submit the report, and ask that it be read.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 200) "making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1859," having met, after a full and free conference, have agreed to recommend, and do recommend to the respective Houses, as follows:

That the Senate recede from the following amendments: ninth, tenth, fifteenth, thirtieth, thirty-seventh, thirty-eighth, fifty-sixth, fifty-eighth, fifty-ninth, and sixtieth.

That the House of Representatives recede from their disagreement to, and concur in the following amendments of the Senate: fourth, fifth, seventh, eighth, eleventh, nineteenth, twenty-first, twenty-second, twenty-third, thirty-fourth, thirty-ninth, fortieth, forty-second, forty-fifth, forty-sixth, forty-seventh, fifty-second, fifty-fourth, and sixty-third.

That the House of Representatives recede from their disagreement to the first amendment of the Senate, and agree to the same, with an amendment, as follows:

Strike out all of said amendment after the word "that," in line one, and insert these words: "the Secretary of the Treasury may make such allowances to the officers and men of the Army and Navy while engaged on coast survey service, for subsistence, in addition to their compensation, as he may deem necessary, not exceeding the sum authorized by the Treasury regulation of the 11th of May, 1844."

That the Senate agree to the second amendment of the House of Representatives.

That the Senate agree to the amendment of the House of Representatives to their twelfth amendment, with an amendment, as follows:

In the fourth line of said amendment, strike out the word "painting," and insert "paintings," and at the end of the amendment, as follows: "but this provision shall not be so construed as to apply to the execution of designs heretofore made and accepted from Crawford and Rogers."

That the House of Representatives recede from their disagreement to the seventeenth amendment of the Senate, and agree to the same, with an amendment, as follows:

In the fourth line of said amendment, strike out the word "three," and insert in lieu thereof the word "two."

That the House of Representatives recede from their disagreement to the eighteenth amendment of the Senate, and agree to the same with an amendment, as follows: in the fourth line of said amendment, strike out the word "three" and insert in lieu thereof the word "two."

That the House of Representatives recede from their disagreement to the twentieth amendment of the Senate, and agree to the same with an amendment, as follows: at the end of said amendment insert, as follows:

"Provided, That no part of the sums herein appropriated, for the completion of custom-houses or marine hospitals, excepting those for Charleston and New Orleans, shall be expended until the Secretary of the Treasury shall be satisfied that the sums respectively appropriated will complete the buildings for which they are intended, and until arrangements shall be made to carry this into effect."

That the Senate agree to the amendment of the House of Representatives to their twenty-eighth amendment.

That the House of Representatives recede from their disagreement to the thirty-fifth amendment of the Senate, and agree to the same with an amendment, as follows: after the word "items," in the third line of said amendment, strike out the words "five thousand five," and insert, in lieu thereof, the words, "and paying fees of witnesses before committees of the Senate, seven thousand seven."

That the House of Representatives recede from their disagreement to the forty-first amendment of the Senate, and that the Senate concur in the amendment of the House of Representatives, as an additional amendment, with an amendment, as follows: after the word "that," in the sixth line of said amendment, strike out the words, "they shall receive no fees or commissions," and insert in lieu thereof the words, "their compensation, including fees, shall not exceed \$3,000 each, per annum."

That the House of Representatives recede from their disagreement to the forty-third amendment of the Senate, and agree to the same with an amendment, as follows: after the word "and" in the eighth line of said amendment, strike out the words "such sum as may be necessary," and insert in lieu thereof the words, "\$3,200."

That the Senate agree to the amendment of the House of Representatives to their forty-fourth amendment with an amendment as follows: strike out the whole of the amendment of the House of Representatives and insert in lieu thereof the following: "That no part of the appropriations which may be at any time made for the contingent expenses of either House of Congress shall be applied to any other than the ordinary expenditures of the Senate and House of Representatives, nor as extra allowance to any clerk, messenger, or attendant of the said two Houses, or either of them, nor as payment or compensation to any clerk, messenger, or other attendant of the said two Houses, or either of them, unless such clerk, messenger, or other attendant, be so employed by a resolution of one of said Houses."

That the Senate agree to the amendment of the House of Representatives to their forty-eighth amendment.

That the House of Representatives recede from their disagreement to the fifty-fifth amendment of the Senate and agree to the same with an amendment, as follows: after the words "United States" in the fourth line of said amendment, insert the words, "for expenses and disbursements."

That the Senate agree to the amendment of the House of Representatives to their sixty-second amendment.

R. M. T. HUNTER,
WILLIAM BIGLER,
W. P. FESSENDEN,
Managers on part of the Senate.

JOHN S. PHELPS,
HENRY M. PHILLIPS,
WILLIAM A. HOWARD,
Managers on part of the House of Representatives.

Mr. PHELPS, of Missouri. Mr. Speaker, the Senate amendments to this bill were sixty-four in number. Several of them, however, were provisions for general legislation, and not making appropriations to carry out existing laws, or for any of the contingent expenses of this Government. The House, in considering these amendments, concurred in twenty-one of them in the exact form in which they were sent to us from the Senate, and in seven of them with amendments. The committee recommend the House to concur in other seven of the amendments with amendments; and the committee unanimously recommend that the House recede from the amendments I will state. The first is a proviso attached by the House to the appropriation for the procurement of seeds and cuttings for the Patent Office. The House provided that none of the money appropriated should be expended in paying the expense of persons for procuring these seeds, or distributing them. On inquiry, it was found absolutely necessary, if the system of distribution of seeds and cuttings was to be kept up, that these expenses should be paid.

Mr. CLARK, of Connecticut. What amount is paid to those parties?

Mr. PHELPS, of Missouri. The amount appropriated is \$60,000 for the procurement and the distribution of seeds and cuttings; and out of that sum the expenses of persons for putting these seeds and cuttings into form for distribution to agricultural societies and to members of Congress is paid. The next amendment is an appropriation of \$3,000 to pay the salaries of officers of the hospital for the blind. That is in pursuance of a law of this session which required the appropriation of that amount annually for five years. The next amendment appropriates \$3,000 for improving Pennsylvania avenue. The committee recommend a concurrence in that amendment. The eighth amendment is a small appropriation for painting and repairing the Little Falls bridge, together with a provision that the bridge shall be turned over to the corporation of Georgetown, to be kept in suitable repair, and that the corporation may make such regulations against rapid driving over it, &c., as will insure in from injury. We recommend a concurrence in that.

The tenth amendment is for the aqueduct. The House attached a provision that before any portion of the money should be expended contracts should be made for the completion of the work. We have the report of the officer in charge, that there is a large force employed on it, and that under the expectation an appropriation would be made, proposals have been invited some time since, upon which he expects to make contracts for the completion of the aqueduct. The precise amount required he cannot say. He says, however, that if he is again to advertise and to discharge the force at present employed, consisting of nearly two thousand men, great loss and delay must ensue. Under these circumstances the committee recommend that the House recede from its disagreement.

The nineteenth amendment is an appropriation for certain custom-houses which are enumerated in Miscellaneous Document No. 120. The amount of the various appropriations in it for Ellsworth, Portsmouth, &c., is \$257,000. The Secretary of the Treasury informs us that if this sum be appropriated these buildings can be completed and occupied during the ensuing fiscal year. There is also an appropriation for furnishing them. The committee recommends that the House recede from its disagreement to that amendment.

The twenty-first amendment is for fencing and grading, and for furnishing buildings enumerated in the other amendment, amounting to the sum of \$97,400; of this, \$20,000 is for furnishing buildings which are already completed, and now ready for use. The committee recommends that the House concur in the appropriations for the custom-houses at New Orleans and Charleston, with amendments reducing the amounts \$100,000 in

each case. There is no reduction of the appropriations for the remaining custom-houses, nor in the appropriations for the marine hospitals. The committee recommend the adoption of the following proviso:

Provided, That no part of the sums herein appropriated for the completion of custom-houses and marine hospitals, excepting those for Charleston and New Orleans, shall be expended until the Secretary of the Treasury shall be satisfied that the sums respectively appropriated will complete the buildings for which they are intended, and until arrangements shall be made to carry this into effect.

We are informed that the rents paid by the Government at several of these places exceed the amount required to finish and to furnish these buildings. Therefore, to appropriate money to finish and to furnish these buildings, is a measure of economy.

Mr. CHAPMAN. Is there such a proviso annexed to the appropriations for the custom-houses at New Orleans and Charleston?

Mr. PHELPS, of Missouri. There is not. The Secretary of the Treasury informs us, in submitting the estimates for the custom-houses at New Orleans and Charleston, that the sum recommended for those custom-houses will not be sufficient to complete them.

The committees of conference had not time to consider the plans of those buildings with a view to recommend any change in the plan of their construction.

Mr. LETCHER. If I understand that proviso, none of the money appropriated for this purpose is to be expended until the Secretary of the Treasury has first ascertained that each and all of these buildings can be completed for the sum specified for each.

Mr. PHELPS, of Missouri. With the exception of the custom-houses at New Orleans and Charleston.

Mr. LETCHER. So I understand. Now we have heard all along that it was necessary to make these appropriations because there were subsisting contracts, which if we failed to appropriate for, the contractors would come in here for damages. If the Secretary has the discretion, how is this difficulty to be gotten over?

Mr. PHELPS, of Missouri. The committee thought that there need not be so much marble procured for the next year, and not so much prepared for use, and therefore they reduced the appropriation.

Mr. LETCHER. Are the Charleston and New Orleans custom-houses the only ones where there are contracts?

Mr. PHELPS, of Missouri. No.

Mr. LETCHER. The discretion applies to all.

Mr. PHELPS, of Missouri. We have the assurance of Captain Bowman, and of the Secretary himself, that the buildings in reference to which we have attached this proviso, can be completed with these appropriations. That was the reason the amendment was recommended to be concurred in.

Mr. MILES. Is it not stated in the report of Captain Bowman that all these custom-houses, with the exception of those at Charleston and New Orleans, can be completed with the amount of money contained in this appropriation?

Mr. PHELPS, of Missouri. This appropriation for the custom-houses and the marine hospitals will complete them, and furnish the buildings, with the exception named by the gentleman from South Carolina.

The twenty-first and twenty-second amendments are merely incidental to the construction and completion of these works, such as fencing, grading, and furnishing these buildings, and some marine hospitals.

The twenty-third amendment appropriates \$5,000 to complete the series of portraits of the Presidents under a law of Congress. The Committee on the Library say this sum is necessary.

The thirty-fourth amendment appropriates \$8,668 to pay the expenses of volunteer companies called out by Governor Geary to preserve peace in Kansas. They were commanded by men of opposite parties. The Delegate from Kansas has informed the members of the committee that the men have not been paid, with the exception of a small amount advanced by Governor Geary.

The thirty-ninth and fortieth amendments are to supply deficiencies upon the part of the Senate in lithographing, engraving, and binding, ordered by the Senate during the present session. The

money which had been appropriated, and which was expected to be used this session of Congress, is what is called a continuous appropriation, and has been applied to paying expenses incurred under preceding orders. The Superintendent of Public Printing says this amount is necessary to supply the deficiency.

The forty-second amendment will take a small amount of money to pay for the subsistence of the commissioner under the reciprocity treaty for one year, from a mistake which occurred in previous legislation. The amount will not exceed \$1,200.

The forty-fifth amendment provides for the payment of the extra compensation allowed to the clerks to the committees of the Senate, under a resolution of the Senate, passed the last session of Congress. It is similar to the provision made by this House for its employees at the last session of Congress, for which we provided in the deficiency bill.

The forty-sixth and forty-seventh amendments provide against placing obstructions in the streets and avenues of the city of Washington, which are improved, either wholly or in part, by the Government of the United States. It imposes penalties upon persons who shall disturb the pavement and flagging, without the consent of the Commissioner of Public Buildings. The amendments were in the wrong place, but the committee thought best to adopt them.

The fifty-second amendment is in reference to the establishment of the western boundary of the Half-Breed tract in Nebraska. The line was run by McCoy, in 1838. We believed that it was correctly run at that time. The line which was run last year makes a departure from the previous line of one and a half lines, at its greatest departure, diminishing as it approaches its other terminus. We believed that difference to have arisen from the changing of the channel of the Missouri river. Settlers are upon that strip of land, and you have either to pay the settlers, or to compensate the Indians. You can pay the Indians the cheapest.

The fifty-fourth amendment authorizes the President to advance \$6,000 to Clark Mills, to enable him to complete the equestrian statue of Washington. In consequence of the destruction of his foundry by fire, and another injury arising from a hurricane, he cannot go on with his work unless this advance is made to him. He is to give security for the completion of the work.

The sixty-third amendment directs the Secretary of the Treasury to allow the surveyors of ports performing, or having performed, the duties of collectors of customs since the passage of certain acts recited in the amendment, the same compensation, and no other, as is allowed to collectors for like services.

From all these amendments the committee recommend that the House recede from their disagreement thereto.

The committee recommend that the Senate do recede from the following amendments:

The ninth amendment, appropriating \$7,000 for filling up the ravine and grading Judiciary square;

The tenth amendment, appropriating \$10,000 for planting with trees and grading the unimproved portions of the Mall;

The fifteenth amendment, appropriating the sum of \$2,589 04 to pay the Secretary of the Senate the sums paid by him to the representatives of certain deceased Senators, under the resolution of the Senate of March, 1848;

The thirtieth amendment, for the extension of the court-house portion of the City Hall, so as to provide necessary accommodations for the courts of this District, \$30,000;

The thirty-seventh amendment, appropriating \$9,000 for contingent expenses of the Territory of Kansas;

The thirty-eighth amendment, providing for compensating the surveyors of the private land claims in California, not to exceed twenty-five dollars per mile;

The fifty-sixth amendment, in reference to the compensation of the consul or acting consul of the United States at Constantinople whenever he shall act as dragoman;

The fifty-eighth amendment, appropriating \$30,000 to pay certain claims made under the Cherokee treaty of 1835;

The fifty-ninth amendment, authorizing the pay-

ment to Charles H. Mason, Secretary of Washington Territory, the difference between the salary of Governor and superintendent of Indian affairs, and the salary of the Secretary of the Territory, for the time said Mason was acting as Governor and superintendent of Indian affairs *ad interim*; and the

Sixtieth amendment, making the salary of the surveyor general of Washington Territory \$3,500 per annum.

The House agree to the following amendments of the Senate, with amendments:

First amendment, authorizing the Secretary of the Treasury to make reasonable allowances for unusual expenses to officers and men of the Army and Navy when employed upon the Coast Survey service;

The regulation of the Treasury Department of 1844 authorizes the Secretary to allow such extra compensation for subsistence, when extra expenses are incurred. These men are sometimes detached from their parties, and their expenses are thereby increased. The committee recommend that this amendment be agreed to, with the following amendment: strike out of said amendment all after the word "that," in line one, and insert these words:

The Secretary of the Treasury may make such allowances to the officers and men of the Army and Navy, while engaged on Coast Survey service, for subsistence in addition to their compensation, as he may deem necessary, not exceeding the sum authorized by the Treasury regulation of the 11th of May, 1844.

Twelfth amendment, in reference to the Capitol extension. The committee recommend that the Senate agree to the amendment of the House to that amendment, with an amendment as follows: in the fourth line substitute the word "paintings" for the word "painting;" so as to exclude the idea of ordinary painting; and at the end of the amendment insert the words:

But this provision shall not be so construed as to apply to the execution of designs heretofore made and accepted from Crawford and Rogers;

so that the clause, as amended, shall read:

Provided, That no part of this appropriation shall be expended in embellishing any part of the Capitol extension with sculpture or paintings, unless the designs for the same shall have undergone the examination of a committee of distinguished artists, not to exceed three in number, to be selected by the President; and that the designs which said committee shall accept, shall also receive the subsequent approval of the Joint Committee on the Library of Congress; but this provision shall not be so construed as to apply to the execution of designs heretofore made and accepted from Crawford and Rogers.

Thirty-fifth amendment of the Senate, appropriating \$5,500 for the contingent expenses of the Senate. The committee recommend that the House agree to that amendment, with an amendment, making the sum \$7,700. The Senate have incurred some expenses for witnesses before an investigating committee; and since they made the amendment, further expenses have been incurred of a like character in the investigation of some charges against a Senator of that body, which renders this increased appropriation necessary.

The forty-first amendment of the Senate provides for the payment of certain expenses for printing incurred by the Legislature of the Territory of Washington.

The House struck out this amendment and inserted a provision concerning the salaries of the land officers in New Mexico. The committee recommend that the House agree to the amendment of the Senate, and the Senate agree to the amendment of the House, with the following amendment: after the word "that," in the sixth line, strike out the words, "they shall receive no fees or commissions," and insert, in lieu thereof, the words, "their compensation, including fees, shall not exceed \$3,000 per annum."

The forty-third amendment is for salary of two clerks in the Treasury Department. We ascertained that they are needed in the Treasury Department. They are actually employed at this time under an appropriation for the incidental expenses appertaining to the issuing of Treasury notes; but the Secretary of the Treasury can no longer employ them than the termination of this session of Congress. If the loan bill pass, the services of two additional clerks will be absolutely required; and even if it should not, and the Secretary of the Treasury should reissue Treasury notes under the act that we passed this session, these clerks will be needed. The committee rec-

ommend a concurrence in the Senate amendment, with an amendment appropriating \$3,200 to pay their salaries for the next fiscal year.

The forty-fourth amendment was one adopted by the Senate with reference to the contingent expenses of this House. The House of Representatives struck out the Senate amendment and introduced a provision that all allowances made by the Committee of Accounts at the last Congress shall be paid, and declaring that the true intent and meaning of the third section of the deficiency bill was to include all allowances made by the Committee of Accounts during the last Congress.

We were informed that some extra allowances were certified during the recess of Congress, and that certificates are outstanding, bearing the signature of the chairman of the Committee of Accounts after his term of service as a member of the House had expired. Under these circumstances, neither committee of conference felt disposed to concur in it; and they have agreed to recommend to their respective Houses to reenact a provision adopted in 1845, with reference to the contingent expenses of the two Houses, restoring in that section some words which had been omitted in the enrollment of that bill. This is what is recommended shall be adopted in lieu of the Senate and House amendments:

That no part of an appropriation which may be at any time made for the contingent expenses of either House of Congress shall be applied to any other than the ordinary expenses of the Senate and House of Representatives, nor as extra allowance to any clerk, messenger, or attendant of the said two Houses, or either of them, nor as payment or compensation to any clerk, messenger, or other attendant of the said two Houses, or either of them, except such clerk, messenger, or other attendant be so employed by resolution of one of said Houses.

We also had the opinion of the Committee of Accounts of the House, recommending such provision, which the committee believe to be a salutary one.

Mr. BURNETT. I would like to ask a question there. If I understand the report of the committee of conference, it recommends the reenactment of the act of 1845. I would ask what reason there is for reenacting it when there has been no refusal, on the part of the Treasury Department, to pay under that act, where we employ officers and pay them out of the contingent fund?

Mr. PHELPS, of Missouri. If the gentleman from Kentucky had given his attention he would have found something more. We reenact the act of 1845, restoring to that act that which we know was omitted in its enrollment.

Mr. BURNETT. I wish to ask another question.

Mr. PHELPS, of Missouri. The language to be restored to the act makes it more restrictive than it is at present.

Mr. BURNETT. I wish to ask another question—whether, under the provision which the committee of conference recommend this House to adopt, we could not, to-morrow, by a single resolution of the House, vote extra compensation to every employee of it?

Mr. PHELPS, of Missouri. Precisely as you did at the last session of Congress; but unless you appropriate money to pay it, it cannot be paid. The decision of the Comptroller is this: that he will pay no clerk, or messenger, or attendant employed by either House of Congress, except he is employed by resolution of the House, and except an appropriation be made to meet that expenditure—and is not that right?

Mr. BURNETT. With the permission of the gentleman I will say this: that if this House adopt the provision recommended by this committee of conference, a single resolution of this House may give extra compensation to its employees, and the natural construction that would be given to this law would be that they could draw extra compensation under it.

Mr. PHELPS, of Missouri. The gentleman is very much mistaken, or else I am. I think I can understand the opinion of the Comptroller, who decides that he will not pay, under a simple resolution of the House, except an appropriation be made to meet the allowance.

The fifty-fifth amendment is a provision for the payment of certain expenses incurred by I. D. Andrews, connected with the reciprocity treaty. He made certain expenditures, and asks to be reimbursed them. There is no allowance to himself for services, but for the expenditures he has made. In the amendment adopted by the Senate,

his accounts were authorized to be settled by the Secretary of State. We have restricted it so that he shall receive no compensation for his own services, but merely be reimbursed the money expended on behalf of the Government in regard to the reciprocity treaty.

Mr. UNDERWOOD. What was he engaged in?

Mr. PHELPS, of Missouri. Aiding in the negotiations that led to the reciprocity treaty of 1854. It was a matter that had been carried on for several years before it was consummated, commencing as far back as the administration of President Polk, and going through the administrations of Taylor and Fillmore, and finally to that of General Pierce.

There are then certain amendments adopted by the House to the amendments of the Senate, in which the committee of conference recommend a concurrence. There is one appertaining to lifeboats on the Atlantic coast. The House had directed Holmes's life-boat to be obtained; the Senate struck out "Holmes's," and inserted "best;" the House amended that, and inserted "self-righting." The committee of conference agreed to recommend that the amendment be concurred in, so that it will read the "best self-righting" boat.

The twenty-eighth amendment concerns statistics of manufactures. The House attached the limitation "provided the same shall complete the work." The committee on the part of the Senate agreed to recommend a concurrence in it.

The forty-eighth amendment is concerning the ascertainment of debts due to the States. The committee on the part of the Senate recommend concurrence in the amendment of the House requiring a report to be made by the Secretary of the Treasury to the next Congress.

The sixty-second amendment is the amendment of the Senate for the printing of the State papers. The only question between the House and the Senate was the proviso attached by the House; and the conferees on the part of the Senate said they would recommend the proviso to be retained.

I have now explained the action of the committee of conference; and I demand the previous question on the adoption of the report.

Mr. BURNETT. I ask the gentleman from Missouri to withdraw the demand for the previous question.

Mr. PHELPS, of Missouri. I cannot do it.

Mr. JONES, of Tennessee. Preferring to see the bill defeated, rather than have it passed in its present shape, I move to lay the bill on the table.

Mr. CLEMENS. On that motion I demand the yeas and nays.

Mr. WALBRIDGE. If the motion to lay on the table does not prevail, cannot the question be taken separately on these amendments?

The SPEAKER. The Manual provides expressly that the vote on a conference report shall be taken as an entirety.

The yeas and nays were ordered.

Mr. WASHBURN, of Maine. If the report is laid upon the table, will it not carry the bill also?

The SPEAKER. It will.

Several MEMBERS. That is the very thing we want.

Mr. UNDERWOOD. I desire to suggest to the gentleman from Tennessee, who has moved to lay the report on the table, that his object can be better attained, and a good deal of time will be saved, by simply taking a vote on the adoption of the report.

Mr. JONES, of Tennessee. No, sir; I am opposed to the whole bill.

Mr. SICKLES. With the permission of the House I desire to ask the chairman of the committee of conference a question.

Mr. WASHBURN, of Illinois. I object.

The question was taken; and it was decided in the negative—yeas 48, nays 109; as follows:

YEAS—Messrs. Atkins, Avery, Barksdale, Bennett, Billingshurst, Bingham, Blair, Burnett, Caskie, Cobb, Colfax, Curry, Curtis, Dean, Dodd, Dowdell, Elliott, Faulkner, Fenton, Foley, Granger, Grow, Howard, Humphrey, Martin, George W. Jones, Letcher, Lovejoy, Mott, Powell, Reagan, Russell, Scates, Henry M. Shaw, William Smith, Spinner, Stevenson, Talbot, Tompkins, Underwood, Jo in V. Wright, and Zollicoffer—48.

NAYS—Messrs. Ahl, Andrews, Arnold, Bocoek, Boyce, Burlingame, Burns, Case, Cavanaugh, Chaffee, Chapman,

Chaffee, Chapman, Ezra Clark, John B. Clark, Clawson, Clay, Clark B. Cochrane, John Cochrane, Comins, Corning, Covode, Cragin, James Craig, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dawes, Dewart, Dimmick, Durfee, Edie, English, Florence, Foster, Giddings, Gilman, Gilmer, Gooch, Goode, Goodwin, Lawrence W. Hall, J. Morrison Harris, Thomas L. Harris, Hawkins, Horton, Howard, Huyler, Jackson, J. Glancy Jones, Owen Jones, Kellogg, Kelly, Kelsey, Knapp, John C. Kunkel, Lamar, Leidy, Leidy, Leiter, Samuel S. Marshall, Mason, Miles, Milson, Moore, Morrill, Edward Joy Morris, Freeman H. Morse, Niblack, Palmer, Parker, Pendleton, Peyton, John S. Phelps, William W. Phelps, Phillips, Potter, Pottle, Purviance, Reilly, Ritchie, Robbins, Roberts, Royce, Russell, Sandidge, Scott, Searing, Judson W. Sherman, Samuel A. Smith, James A. Stewart, Tappan, George Taylor, Miles Taylor, Thayer, Tripp, Wade, Walbridge, Walton, Ward, Elihu B. Washburne, Israel Washburn, White, Winslow, Wood, and Woodson—109.

So the House refused to lay the report upon the table.

During the call of the roll,

Mr. SAVAGE stated that he had paired off with Mr. FARNSWORTH. He [Mr. SAVAGE] was opposed to the bill.

The previous question was seconded; and the main question ordered.

Mr. CLEMENS demanded the yeas and nays on the adoption of the report.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 74; as follows:

YEAS—Messrs. Ahl, Arnold, Bowie, Boyce, Bufinton, Burlingame, Burns, Case, Cavanaugh, Chaffee, Chapman, Ezra Clark, John B. Clark, Clawson, Clay, John Cochrane, Comins, Corning, Covode, Cragin, James Craig, Davidson, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dawes, Dimmick, Edie, Florence, Foley, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Lawrence W. Hall, Hawkins, Horton, Howard, Huyler, J. Glancy Jones, Owen Jones, Kelly, John C. Kunkel, Landy, Leidy, Leiter, Miles, Edward Joy Morris, Freeman H. Morse, Niblack, Palmer, Parker, Pendleton, John S. Phelps, William W. Phelps, Phillips, Potter, Pottle, Reilly, Ritchie, Robbins, Roberts, Russell, Scott, Searing, Judson W. Sherman, Sickles, James A. Stewart, William Stewart, Tappan, George Taylor, Miles Taylor, Thayer, Ward, Elihu B. Washburne, Israel Washburn, White, Winslow, Wood, and Woodson—82.

NAYS—Messrs. Andrews, Atkins, Avery, Barksdale, Bennett, Billingshurst, Bingham, Blair, Bocoek, Brayton, Burnett, Caskie, Clemens, Cobb, Colfax, Curry, Curtis, Davis of Maryland, Dean, Dodd, Dowdell, Durfee, Elliott, English, Faulkner, Fenton, Goode, Granger, Grow, Thomas L. Harris, Hatch, Hoard, Hopkins, Houston, Jackson, Jewett, George W. Jones, Kellogg, Kelsey, Knapp, Lamar, Letcher, Lovejoy, McQueen, Samuel S. Marshall, Mason, Matteson, Maynard, Milson, Moore, Morgan, Morrill, Mott, Parker, Powell, Reagan, Ricard, Royce, Rufin, Sandidge, Scates, Henry M. Shaw, Shorter, William Smith, Spinner, Stevenson, Talbot, Tompkins, Tripp, Underwood, Wade, Walbridge, Walton, and Zollicoffer—74.

So the report of the committee of conference was agreed to.

During the call of the roll,

Mr. WRIGHT, of Tennessee, stated that he had paired off upon this question with Mr. SMITH, of Tennessee, or he should have voted "no."

Mr. BLISS stated that he was not within the bar when his name was called, or he should have voted "no."

Mr. PHELPS, of Missouri, moved to reconsider the vote by which the report was agreed to, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. J. GLANCY JONES moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HOPKINS in the chair,) and resumed the consideration of the amendments of the Senate to the

POST OFFICE APPROPRIATION BILL.

The CHAIRMAN stated that the pending question was on the fourth amendment of the Senate.

Mr. SMITH, of Virginia. I move to reduce the amount \$10,000.

Mr. Chairman, I stated, when I addressed the committee upon this subject before the recess, that these contractors had never fulfilled their contracts. I have the evidence of it before me now.

Mr. ENGLISH. I rise to a question of order. I make the question of order that the gentleman must confine himself to the pending amendment; that he has no right to go into the general question of the manner in which the contractors have performed their contract.

The CHAIRMAN. The Chair thinks the question of order is well taken. The gentleman must confine himself to his motion to reduce the appropriation.

Mr. SMITH, of Virginia. Here is a proposition made to pay these men \$147,000 on account of their mail service. Of course, whether we do it or not depends upon our conception of that service, and the manner in which they have fulfilled their contract. Now, if that be so, I should like to know how I am out of order?

The CHAIRMAN. The Chair thinks the gentleman's remarks were out of order. The gentleman will pursue a course of argument pertinent to the particular amendment he has offered.

Mr. SMITH, of Virginia. That is what I was doing. I was adverting to the contract out of which this claim has grown, and I confess my inability to do otherwise than to address myself to the contract under which alone the parties can be entitled to this money.

The CHAIRMAN. The gentleman will proceed in order.

Mr. SMITH, of Virginia. The question is, whether, under their contract, these parties are entitled to more than the sum I have named? I say they are not, because they themselves have never fulfilled that contract; and one of the points to which I address myself is to show that they never have done it.

Let us look at this question in another point of view. I have the memorial of these gentlemen here before me, dated January 27, 1857. They say:

"After the labor of nearly ten years, it is a matter of notoriety that every consideration which prompted our Government to enter into their arrangement with us has been triumphantly achieved, and that the only failure of the enterprise has been in its producing less remuneration to us than we had reason to anticipate."

I deny it *in toto*. I have the contract here, and they have never complied with it. They were to build steamers of great speed. They did that, to be sure, but it was their bargain. But when casualties happened to their vessels, they had to resort to steamers not of great speed. They were bound to build steamers of great speed, and they built and lost them, and then they expect the Government of the United States to give them the bonus that was promised for vessels of great speed when they have put on the service steamers not of great speed. I say they are not entitled to this money. I say that the Postmaster General, who superintends this service, with the approval of the Attorney General, Mr. Cushing, as is stated by the present Attorney General, having concluded to diminish the allowance made to these men because of the inferior character of the service for which they stipulated, there is no principle of justice and no propriety in giving them this \$140,000. You might as well give it to some of these poor old men and women, about whom we have heard so much.

[Here the hammer fell.]

Mr. JOHN COCHRANE. Mr. Chairman, there is not much of argument left on this question, and there are but very few facts on which that argument proceeds. It is confined to a question based upon the contract—a contract which is subsisting at this identical time; and upon that contract and that alone is it that these parties here should stand or fall. The opinion of the Attorney General has been delivered upon this contract, and he states in that opinion that there is no degree of speed required by it, and that whether these vessels performed the voyage at the rate of twelve miles or more an hour, or whether in twelve days or more is entirely immaterial, for there is no limitation as to speed.

Then, as to the question of the fine or penalty. There is none now inflicted or that has ever been attempted to be inflicted. It is a simple question of withholding payment because of a failure to perform the service as agreed. In my judgment that service was performed; but for a few trips, not by the original steamers, but by the Ericsson, substituted because of the loss of the Arctic; and that substitution, sir, was made by the consent of the Navy Department. These are the whole facts of the case. Said I not right, then, that this is simply a question of justice, simply a question of performance of contract, and not a question involving competing interests? Sir, if a question of competition arose here, I might perhaps occupy a different position.

The gentleman whose name I was sorry to hear introduced into this discussion, Commodore Vanderbilt, is a constituent of mine. His name is identified with enterprise and commerce, and is dear to the pride of the country. Familiar in his early days with the humble pursuits of labor, now the prowess of his vessels contend with the waves of every sea; their keels vex the placid waters, and their shrill whistle startles the silence of tropical forests. To him, above all others, should be attributed the earliest occupancy of the Central American avenues of a world-expansive commerce. I deprecate all struggles of competition with that gentleman. I am proud that I am enabled to comprehend him on this floor among a constituency that would reflect honor on any man. But, sir, I demand, at the same time, justice for Mr. Collins and his associates; and it is upon the justice of that contract, as averred and adjudicated by the opinion of the Attorney General, that I put this question here this night before this committee, and ask their favorable vote.

The amendment of Mr. SMITH, of Virginia, was disagreed to.

The amendment of the Senate was then concurred in.

ENROLLED BILLS.

Here the committee informally rose; and Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles:

An act (S. No. 130) for the relief of Jennett H. McCall, only child of Captain James McCall, of the revolutionary war; and

An act (S. No. 227) for the relief of Albert G. Allen;

When the Speaker signed the same.

POST OFFICE APPROPRIATION BILL—AGAIN.

The committee again resumed its session.

Mr. DAVIS, of Maryland. Was the Senate amendment announced as concurred in?

The CHAIRMAN. It was.

Mr. DAVIS, of Maryland. I called for a division at the time.

The CHAIRMAN. The Chair thought he heard some call for a division, but was not certain of it; and he paused to hear if it would be repeated. The Chair will put the question to the committee whether there shall be a division on that amendment.

The question was put; and it was disagreed to.

Fifth amendment:

SEC. 7. *And be it further enacted*, That so much of the eighth section of the act entitled "An act to reduce the rate of postage and limit the use and correct the abuse of the franking privilege, and for the prevention of frauds in the revenues of the Post Office Department," approved March 3, 1845, as requires the advertisement of letters uncalled for in any post office, to be inserted in the newspaper or newspapers having the largest circulation in the town or place where the office advertising is situated, be, and the same is hereby repeated; and the Postmaster General shall henceforth cause the same to be published in such newspaper as will publish it at the lowest price; and that the compensation to be paid for the said advertisements shall not be greater than that now allowed by law.

Mr. J. GLANCY JONES. That amendment of the Senate is a change of the law relative to advertisement of letters uncalled for. It provides, instead of advertising in papers having the largest circulation, that they shall be given to the lowest bidder. The Committee of Ways and Means recommend a concurrence.

Mr. FLORENCE. I trust that it will not be concurred in. The price now paid is hardly a living price. This means of giving information to a large class of the community ought, too, to be continued. The consequence of the adoption of this amendment will be to give the advertisement to papers of a small circulation. There is a paper in Philadelphia which publishes this advertisement, and which circulates sixty thousand copies a day; and while it is probable that that paper, rather than not have it would do it for nothing, yet I think it ought to be paid a fair price for doing it.

Mr. COLFAX. I differ with my friend from Pennsylvania, and hope that the amendment will be concurred in. All over the country there is doubt about the veracity of the affidavits made as to the number of circulation upon which contracts for these advertisements are made, and this provision will remove that difficulty.

The amendment was concurred in.

Mr. FLORENCE. I give notice that I shall call for a division on this amendment in the House.

Sixth amendment:

And be it further enacted, That not more than two thousand five hundred dollars per annum shall be paid to any special agent of the Post Office Department as compensation for services; but this act shall not be construed so as to raise the rate of compensation of such agents in any case.

Mr. J. GLANCY JONES. The effect of that amendment is to lessen the compensation of special mail agents, and the Committee of Ways and Means recommend a concurrence.

The amendment was concurred in.

Seventh amendment:

And be it further enacted, That post offices shall be open for the receipt and delivery of letters, papers, and mail matter, for all persons at the same time; and no practice or arrangement shall be allowed by which any person or persons, for any consideration, can obtain their letters or papers earlier or later, out of said offices, than all or any others may receive their letters or papers, on applying therefor; nor shall any practice or arrangement exist whereby any person or persons can mail their letters or papers earlier or later than all or any other persons may mail their letters or papers on offering so to do: *Provided*, That nothing herein contained shall prevent the use of locked boxes as they have been heretofore authorized.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in that amendment.

The amendment was concurred in.

Eighth amendment:

And be it further enacted, That after the 30th of June, 1858, the rate of postage on all letters sent through the mail shall be five cents for any distance under three thousand miles, and ten cents for any distance over three thousand miles.

Mr. J. GLANCY JONES. I have nothing to say on that amendment further than that I suppose every member understands it. It repeals the present law fixing the rate of postage at three cents, and increases it to five. The Committee of Ways and Means recommend a non-concurrence.

Mr. SMITH, of Virginia. I trust the Senate amendment will be adopted. I do trust it will be adopted at any rate, because we are already appropriating large sums from the Treasury to support the Post Office Department. We can easily remedy the difficulty and increase our receipts by levying this small contribution upon persons all over the country. We all know that three cents for a distance of three thousand miles is inadequate.

Mr. FLORENCE. I trust, most sincerely, that the amendment will not be agreed to. [Cries of "Question!"] I am not in favor of retrograde movements. I think we took one retrograde movement a little while ago, and I trust the good sense of this committee will vote down this amendment, so that intelligence may be diffused through the country at the lowest rate. Gentlemen talk about this being a self-sustaining Department. Is the Navy self-sustaining? Is the Army self-sustaining? [Cries of "Question!"] I have said all I desired.

Mr. SMITH, of Virginia. I move to amend, by inserting after "three thousand miles" the words "and not less than one hundred miles," so as to leave the present rate of postage in force for all distances less than one hundred miles.

Mr. ENGLISH. Will it be in order to amend that amendment, by adding "from Washington city to Warrenton, Virginia?"

Mr. SMITH, of Virginia. I do not know what the gentleman means by that; but he can have any amendment he pleases, so far as Warrenton is concerned.

The amendment was not agreed to.

Mr. SANDIDGE. For the purpose of saying a few words, I move to amend by striking out "ten," and inserting "fifteen." Now, I am satisfied that this House will not agree to this amendment proposed by the Senate; but I think the amendment ought to be agreed to, and that every member of the House coming from the interior of the States should vote for it, for the simple and substantial reason that but in five States of this Confederacy do the receipts from postage pay the expense of transporting the mails. The consequence is that the expenses are so much in advance of the receipts, that all gentlemen who come from the new States, or from the interior and thinly settled portions of the old States, find it an exceedingly difficult matter to get those mail facilities to which they think their constituents entitled.

Now, if you want mail facilities in the interior, and in the western and southwestern country, you must increase the receipts into the Treasury; and I know of no other way in which it can be done except by an increase of the rate of postage. My opinion is that there is not a man in this Confederacy off the Atlantic coast, which is the only place where the mail receipts do more than meet the expenses, who would not be willing to pay five cents upon a letter carried any distance, on which he now pays three cents. These are my reasons for believing that the Senate amendment ought to prevail.

Mr. GROW. I am opposed to the amendment; and I hope we will have a vote. We have heard this whole thing discussed over here twice before.

Mr. SANDIDGE. I withdraw my amendment.

Mr. GARNETT. I move to strike out "five" and insert "eight," so as to make the letter postage eight cents. I desire to give a few reasons why the Senate amendment should be concurred in. Last year we voted for the deficiency in the revenues of the Post Office Department of \$2,500,000. This year we also voted a deficiency of \$1,400,000, making an aggregate of \$3,900,000, which the Post Office Department has cost us over and above receipts, besides \$2,000,000 further for transportation of ocean mails. This is one of the few amendments which the Senate has offered to us to reduce the expenditures of the Government, and I wish to see whether the House intends to concur in it or not.

We have, by committees of conference and other means, agreed to appropriation after appropriation, extravagance after extravagance. The House will bear me witness that there has been no *bona fide* effort made this session to reduce the public expenditures. As a member of the Democratic party, of that party which has a majority in the House, of that party which will be held, and which ought to be held, responsible to the country for the expenditures of the Government, I hope the House will reduce them. Sir, I believe that there has been, if not a systematic effort, at least an unconscious effort on the part of members on the Opposition side of the House to create a deficiency in the public revenue—and that for the purpose of raising the tariff upon us again. I believe there is an effort on the part of members here to keep the expenses of the Government to that point that will entail the necessity of increasing the tariff of last year. I have heard such propositions privately intimated, and I have heard them publicly made. I denounce them as contrary to the principles of the Democratic party. Wherever an argument is made against a party on the ground of extravagance, as in the party platforms of 1840 and 1844, the people are governed by such arguments. Now, sir, I believe that there is a design here to raise the tariff; and this is the meaning of all the extravagances of this Congress. I hope the House will concur in the Senate amendment.

Mr. GROW. I am opposed to the gentleman's amendment. This is an old discussion. Let the vote be taken.

Mr. KILGORE. I move to strike out "five" and insert "two."

Mr. MAYNARD. I propose to amend the amendment of the gentleman from Virginia, by striking out "eight" and inserting "five."

Mr. KILGORE. That is my proposition.

Mr. MAYNARD. I sought the floor, Mr. Chairman, for the purpose of stating that an objection which I have to this proposition coming from the Senate is, that it is in conflict with the seventh section of the first article of the Constitution, which provides that all bills for raising revenue shall originate in the House of Representatives. This measure, tacked on to this bill by the Senate, is a bill for raising revenue; and I protest—and have sought the floor for that purpose—against that provision of the Constitution being infringed in this indirect way, because this proposition is nothing more than a proposition to raise revenue. It is accepted as such; it is defended as such. It is pressed upon our attention as a means of replenishing an exhausted exchequer.

Without going into the question of the sufficiency or insufficiency of the present rates of postage, or whether cheap postage is, on the whole, wise economy or not, I am, on the ground I have already submitted, opposed to the amendment of

the Senate, and shall vote against it. I withdraw my amendment.

Mr. KEITT. I shall vote very cheerfully, Mr. Chairman, to advance the rates of postage to the extent indicated, and also for the abolition of the franking privilege. I do not hold the objection made by the gentleman from Tennessee as tenable; his objection being that this is the origination of a revenue bill by the Senate. It is not that. It is merely amending a revenue bill which originated in the House, and which was passed by the House.

Mr. MAYNARD. I ask the gentleman from South Carolina whether he considers the original bill as a bill for the raising of revenue?

Mr. KEITT. If the original bill is not a revenue bill, this amendment does not make it a revenue bill, and therefore the objection does not hold.

Mr. MAYNARD. This is a revenue measure. Mr. KEITT. But I pass on. I believe that these various Departments of the Government should support themselves. It is not right to tax one portion of the people for the benefit of another portion; and to that extent your legislation is unfair and iniquitous.

Mr. DAVIS, of Mississippi. Would the gentleman have the Army and Navy self-supporting?

Mr. KEITT. That is an entirely different matter. I will vote for this amendment. I will also vote for the abolition of the franking privilege, because I believe that it will save \$5,000,000 of revenue. I have said all I want to say on that subject, and I will take the other when it comes up.

The question being on Mr. GARNETT's amendment, Mr. GARNETT withdrew it.

Mr. TAYLOR, of New York. I desire to amend the Senate amendment, by adding the following proviso.

Provided, That this increase shall only take place in the States where the postage is insufficient to pay the expenses of the service.

Mr. CLEMENS demanded tellers.

At this time the utmost noise and confusion prevailed in the Hall.

Mr. HOUSTON. I should like to know what the question is. We have not been able to hear anything the Chair has said for the last half hour, in this neighborhood.

The CHAIRMAN. The Chair would be surprised if gentlemen did hear. They never will hear while there is so much noise in the Hall.

Mr. HOUSTON. That is why I want it stopped.

The CHAIRMAN. If gentlemen wish to make a noise, there is plenty of room outside of the Hall for them to do it, without making it here. [Laughter.] This is a very inappropriate place for it.

Mr. CLEMENS. I ask that the amendment may be again reported.

The CHAIRMAN. It can only be done by the consent of the committee. It has been read twice.

Mr. DEAN. I object.

Mr. HOUSTON. We have not heard the amendment at all in this part of the Hall, and I suppose we have a right to have it read.

Mr. DEAN. I withdraw the objection.

The amendment was again read.

Tellers were ordered; and Messrs. BUFFINTON and JOHN COCHRANE were appointed.

Mr. McQUEEN. That amendment is unconstitutional.

The committee divided; and the tellers reported—ayes 71, noes 72.

So the amendment to the amendment was rejected.

The noise and confusion in the Hall still continuing.

The CHAIRMAN said: The Chair begs leave to suggest to the committee, in a spirit of all kindness, that it is impossible that the committee should proceed intelligently with business if gentlemen insist in a violation of order. They will economize time and promote their own convenience by preserving order. The business will thus progress more pleasantly, and with more dispatch.

Mr. SMITH, of Virginia. There is one remedy for the disorder. I move that the committee do now rise.

[Loud cries of "Order!" and renewed confusion.]

The CHAIRMAN. The Chair will entertain

no motion until the committee comes to order; and if gentlemen will not take their seats and preserve order, they must pardon the Chair if they are called by name. If members will not behave themselves, the Chair will invoke the power of the House to make them do so. There is no alternative left, if order is to be preserved, but to enforce the rules.

The question recurring on the Senate amendment, it was again reported.

Mr. McQUEEN demanded tellers on the amendment.

Tellers were ordered; and Messrs. DEAN and FAULKNER were appointed.

The committee divided; and the tellers reported—ayes 40, noes 96.

So the amendment was non-concurred in.

Ninth amendment:

And be it further enacted, That the franking privilege now accorded to members of Congress be, and the same is hereby, abolished from and after the 4th day of March next.

Mr. WINSLOW. I offer the following amendment:

Strike out "members of Congress," and insert in lieu thereof the words, "Senators of the United States."

Mr. Chairman, I want to say a word on this subject. I am utterly opposed myself to the abolition of the franking privilege; but if it were a personal question, merely having reference to my own convenience, I would be glad to get rid of it. It imposes great labor on me; but, sir, I take great pleasure in doing anything to oblige my constituents. I do not think that it ought to be abolished, for divers reasons; but I do not intend, at this late hour of the session, to detain the House with a long harangue on the subject. While I wish to retain it for the benefit of my constituents, I have too much liberality to impose this privilege upon the Senate against their will. [Laughter.] By a large vote, some thirty-eight to four, they have said that they do not want the franking privilege. I trust that there is liberality enough in the House of Representatives to indulge the Senate in their whim. [Laughter.]

Mr. HOUSTON. I presume that the gentleman from North Carolina is not serious in his amendment.

Several MEMBERS. Oh, yes, he is.

Mr. HOUSTON. Then I regret that the gentleman proposes an amendment which can be understood in no other light than as a reflection upon the coördinate branch of the national Legislature. Gentlemen say they want to reflect upon it. I do not. The Senate has the right to propose an amendment to any bill sent to them; and it has proposed this amendment in good faith. The Senate proposes to abolish the franking privilege; and I believe that it ought to be abolished. I believe that the amendment of the Senate ought to prevail. I do not suppose, however, that on the yeas and nays the gentleman from North Carolina will put himself upon the record, to go down to posterity, as being willing to discriminate between the two Houses, and reflect unfairly upon a coördinate branch.

Mr. WINSLOW. My friend must allow me to observe that we must all take our chance with posterity. I am as willing to go upon the record as he is.

[The committee informally rose, and a message in writing having been received from the President of the United States by Mr. J. B. HENRY, his Private Secretary, the committee resumed its session.]

The question was taken on Mr. WINSLOW's amendment, and it was agreed to.

Mr. ENGLISH. I move to amend so as to provide that this provision shall take effect one day sooner than the time specified in the amendment. I offer my amendment simply to give me the opportunity to express my regret that a subject of this importance should be treated with the levity which has been manifested upon this occasion.

Mr. MORGAN. I rise to a question of order. It is only a few moments since that the gentleman from Indiana called the gentleman from Virginia to order for wandering from the subject. I raise the same question of order now.

Mr. ENGLISH. The few remarks which I have to offer shall be confined to the subject under discussion. My amendment proposes that this provision abolishing the franking privilege

shall take effect one day earlier than is specified in the Senate amendment, and I have the right to offer such remarks thereon as I desire.

Mr. CLARK B. COCHRANE. I rise to a question of order. It is that the gentleman should confine his remarks to discussing the question whether the provision should go into effect one day sooner than the Senate propose. I know that he can do it; because I know he has an inventive genius.

The CHAIRMAN. The point of order is well taken.

Mr. ENGLISH. I believe that the sooner this provision is adopted the better it will be for the country. I do think that a matter of this grave importance should be met with a different spirit from that which has been manifested here to-night in reference to it. I think the franking privilege is one of the greatest abuses of the Government, and it should be materially abridged if not abolished entirely. I am not prepared to say that it is the proper place, upon an appropriation bill, to adopt a measure of this sort; but that it is an abuse which requires reformation I think there can be no question. Whether that shall be done now, or at some future time, I am entirely satisfied that it should be done, and the earlier it is done the better.

I withdraw the amendment.

Mr. KILGORE. I move to amend by striking out the words "4th of March next." I think that if it is our intention to make this reform in the Post Office Department, we should apply the rule to ourselves. I cannot see any good reason why gentlemen who are disposed to economize, and make the Post Office Department a self-sustaining institution, should restrict this provision to a time subsequent to the 4th of March—the time when our period of service expires—thus retaining this privilege to ourselves, and denying it to those who shall succeed us. By the adoption of this provision, many thousands of dollars would be saved to the Post Office Department if gentlemen would be as liberal in their distribution of documents and circulation of speeches, as I know they will be during the fall. The sums saved would be in small items, it is true; but "many mickles make a muckle;" and by saving these mites, they will amount to a considerable sum. I am anxious to see this Department made a self-supporting Department. I would be extremely glad to see the Navy Department and the Army Department made self-supporting, if that could be done by any ingenuity possible; because it is important at this particular time to save enough to the Treasury, when millions of dollars are being expended in anticipation of a bloody conflict with a few crazy Mormons, which turns out to be a bubble.

Mr. COX. I rise to a question of order.

Mr. KILGORE. The gentleman is too late in his point of order. I have said all I desire. I hope my amendment will be adopted; for I have offered it in good faith.

Mr. KEITT. The gentlemen from Indiana says it is not proper for us to enjoy the franking privilege, and deny it to those who come after us. Upon that ground no reform can ever be made in this Government. The question is, whether or not the country will gain by abolishing the franking privilege, and not whether those who come after us will be stripped of a privilege which we have enjoyed? I ask what good results from the use of the franking privilege? How many letters do we receive upon business connected with public affairs, in proportion to the number received in relation to the claims of individuals for office, or upon private business? In the indictment of law, we should frank no letters except those which have connection with the discharge of our public trust.

Mr. KILGORE. Would it not be proper to commence this reform by applying the rule to ourselves as well as all who come after us?

Mr. KEITT. Yes, sir; and I am willing to do it. I intend to apply the rule to myself, though the amendment may not apply it until the 4th of March next.

Mr. KILGORE. I want to apply it now.

Mr. KEITT. I do not often use the franking privilege. I ask, in all fairness, upon what matters the franking privilege is most often exercised? We know that upon the eve of a presidential election it is used for the benefit of party, and not for

the benefit of the public interest. We know also that if this franking privilege should be abolished, the abuses which both parties in this House proclaim against will be cut off. The immense amount of trash with which the public is now gorged would be withheld if we abolish the franking privilege. How many people in the country would pay the postage upon the documents which now issue from this Hall? If we abolish the franking privilege, would not these worthless documents be cut short? Your surveys, your explorations, in numberless instances gotten up for party purposes, and for the benefit of individuals, and not for the purpose of diffusing information—for they give little or no information—would be cut off. I do not believe that for the five years I have been here there are half a dozen of these volumes which gentlemen have read. Your Congressional Globe is not read anywhere in the country except by act of Congress. I believe, with Webster, that, if the English language is to be demoralized, it will be by the debasement of the English tongue in the Halls of Congress. And at the same time you impose a heavy and onerous tax on the country!

The abolition of this franking privilege would, in my judgment, save the country \$5,000,000; and does it lie in the mouths of men who clamor here against the extravagance of the Government; who talk about extravagance in building up your Navy to sustain your flag, and repel outrages upon it; who clamor about the enormities of your printing expenses; does it lie in their mouths, I say, to oppose the abolition of the franking privilege?

[Here the hammer fell.]

The question was taken on Mr. KILGORE's amendment, and it was agreed to.

Mr. MORGAN. I offer the following amendment:

After the words "Senators of the United States," insert the following:

Ex-Presidents, all the postmasters, and every other officer of the Government.

If there is to be any change made, Mr. Chairman, I am in favor of going the entire length, and let every officer of the Government pay his own postage, so as to have no privileges about the matter whatever. As the Senate amendment now stands, you leave the privilege to postmasters, all ex-Presidents of the United States, and a great variety of other officers. If you cut one off, cut all off. If you choose to try the experiment, do it without any exception.

Mr. MILLSON. I oppose the amendment of the gentleman from New York, because I am opposed to the abolition of this so-called franking privilege. My friend from South Carolina [Mr. KEITT] repeatedly called it the franking privilege. It should rather be called the franking duty. It is rather a duty than a privilege: the duty is ours, the privilege our constituents'. It is a duty which we perform for the benefit of the public; it is a duty which very many members would be very glad to be relieved from; but the interests of the people require that we should bear this burden a little longer. Do gentlemen really fancy that members of Congress are to be relieved in this way from the obligation of sending to the people such information as they desire to have, and ought to have? You would very soon find that some other plan would be substituted for the franking scheme; you would find that stamps would be issued to members of Congress, and perhaps to a greater extent than they require them, with which to circulate letters, speeches, and documents, among their constituents.

The objection made by the gentleman from South Carolina [Mr. KEITT] is, that this franking duty involves a very heavy expense, and that the Post Office Department ought to be a self-sustaining one. I never desired that it should be altogether so. I believe that a portion of the expense should be borne by the general public. The gentleman's objection arises from the supposition that no man derives advantage from a letter or a newspaper but the man who receives the letter or subscribes to the newspaper. This is a very great mistake. There is scarcely a letter received by any one which does not contain information that is communicated to the neighborhood. There is no information contained in a newspaper that is not, to a greater or less extent, diffused throughout the country. It is not the man who receives a letter or a newspaper who derives exclusive ad-

vantage from it; nor is there any reason why he should bear the entire burden of the postage charge.

The information we now send to our constituents, in the shape of speeches and public documents, must be relied upon to correct the partial, unfair, prejudiced, and sometimes slanderous statements of newspaper correspondents. It is in this way that we are enabled to give correct reports of our proceedings in Congress, and protect ourselves against the imperfect accounts sent to the country by the correspondents of newspapers. I regard it as a duty which we should continue to perform, and one which I hope the representatives of the people will not, in this way, try to rid themselves of.

Mr. FOSTER. I move to amend by providing that postage everywhere within the limits of the United States should be equalized. Is that amendment in order?

The CHAIRMAN. Not now. This is an amendment affecting the franking privilege alone.

The question was taken on Mr. MORGAN's amendment; and it was rejected.

The question was taken on the Senate amendment as amended; and it was non-concurred in—ayes fourteen, noes not counted.

Tenth amendment:

And be it further enacted, That the printing of post bills, blanks, printing drafts and warrants, postage stamps, stamped envelopes, and printing parchments for the use of the Post Office and other Executive Departments, shall be hereafter given to the lowest responsible bidder after due public notice.

The amendment of the Senate was concurred in.

Mr. PHELPS, of Missouri. I now desire to offer the following amendment, to come in at the end of the Senate amendments:

And be it further enacted, That postmasters who have been or shall be appointed by the President, by and with the advice and consent of the Senate, shall continue in office until their successors shall enter upon the duties of their offices, notwithstanding their commissions may have expired; but this shall not continue more than one month after the next regular meeting of the Senate subsequent to the termination of their terms of office.

Mr. JONES, of Tennessee. I raise a question of order on that amendment, that it is not relevant to any part of this bill, that it changes the existing law, and that the text of the bill is not open to amendment.

Mr. PHELPS, of Missouri. I wish to explain the amendment.

Mr. JONES, of Tennessee. I wish the question of order decided.

The CHAIRMAN. The Chair would suggest to the gentleman from Missouri that the committee is now acting upon the amendments of the Senate alone.

Mr. PHELPS, of Missouri. I am aware of that; but I think the gentleman from Tennessee will withdraw his objection when he understands the amendment. Postmasters who are appointed by the President, by and with the advice and consent of the Senate, are commissioned for a term of four years, and no more; and when that time has arrived, and their successors have not been appointed, or have not entered upon the discharge of their duties, they have been permitted to retain their offices. Doubts are, however, entertained whether they are liable to any penalties.

Mr. JONES, of Tennessee. I ask a decision of the question of order.

The CHAIRMAN. The Chair thinks the amendment is not in order.

Mr. PHELPS, of Missouri. Very well; then I will not insist on it.

Mr. J. GLANCY JONES. I move that the committee do now rise and report the amendments to the House, with the action of the committee thereon.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. HOPKINS reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the amendments of the Senate to the Post Office appropriation bill, and had directed him to report the same to the House, with a recommendation that some of said amendments be concurred in, and others non-concurred in.

Mr. J. GLANCY JONES moved the previous question on the amendments.

The previous question was seconded, and the main question ordered.

First amendment:

Sec. 3. And be it further enacted, That there shall be appointed by the President, with the consent of the Senate, a Fourth Assistant Postmaster General, who shall receive the same compensation as is paid to each of the other Assistant Postmasters General; and the said Fourth Assistant Postmaster General is hereby authorized to send and receive letters, packages and other matters, on official business, through the mail, free of postage, subject to the same restrictions and penalties as the other Assistant Postmasters General; and that the sum of \$3,000 is hereby appropriated for the salary of said officer, for the fiscal year ending June 30, 1859.

The Committee of the Whole on the state of the Union recommended a concurrence in this amendment.

Mr. ENGLISH demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 79, nays 86; as follows:

YEAS—Messrs. Ahl, Arnold, Atkins, Avery, Barksdale, Bingham, Bowie, Bryan, Burnett, Burns, Caskie, Cayanaugh, Chaffee, Ezra Clark, Horace F. Clark, John B. Clark, John Cochrane, Colfax, Comins, Corning, Covode, Cox, Cragin, Curry, Davidson, Davis of Mississippi, Davis of Massachusetts, Dinmick, Dowdell, Edie, English, Faulkner, Florence, Gillis, Hatch, Hawkins, Horton, Houston, Huyler, Jackson, Jenkins, Jewett, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, John C. Kunkel, Lamar, Landy, Leidy, McQueen, Samuel S. Marshall, Mason, Maynard, Peyton, John S. Phelps, William W. Phelps, Purviance, Robbins, Roberts, Ruffin, Russell, Sandidge, Scott, Seavine, Shorter, Sickles, James A. Stewart, William Stewart, George Taylor, Miles Taylor, Ward, Elihu B. Washburne, White, Whitely, Winslow, Wood, and Woodson—79.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Blair, Bliss, Bobcock, Boyce, Brayton, Buffinton, Burlingame, Burroughs, Case, Chapman, Clawson, Clay, Clemens, Cobb, Clark B. Cochrane, Crawford, Curtis, Davis of Maryland, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dodd, Durfee, Fenton, Foley, Foster, Giddings, Gilman, Gilmer, Gooch, Goode, Goodwin, Granger, Grovesbeck, Grow, J. Morrison Harris, Thomas L. Harris, Hoard, Hopkins, Howard, George W. Jones, J. Glancy Jones, Kellogg, Kelsey, Knapp, Leiter, Letcher, Lovejoy, Matteson, Milson, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Mott, Olin, Parker, Pendleton, Potter, Pottle, Powell, Quitman, Reagan, Keilly, Ricoud, Royce, Scates, William Smith, Spinner, Stanton, Stevenson, Talbot, Tappan, Thayer, Tompkins, Trippe, Underwood, Wade, Walbridge, Walton, and Zollcoffer—86.

So the amendment was non-concurred in.

During the call of the roll,

Mr. LETCHER stated that Mr. GARNETT had paired off with Mr. KILGORE.

Mr. RITCHIE stated that he had paired off upon this vote with Mr. SMITH, of Tennessee; he [Mr. RITCHIE] being opposed to the amendment, and Mr. SMITH in favor of it.

Mr. COCKERILL stated that he had paired off with Mr. HARLAN.

MESSAGE FROM THE SENATE.

A message was received from the Senate by one of its clerks, informing the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the civil appropriation bill.

Also, that the Senate had passed House bill (No. 460) granting an invalid pension to Beriah Wright, of New York.

ENROLLED BILL.

Subsequently,

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that he had examined and found truly enrolled an act (H. R. No. 460) granting an invalid pension to Beriah Wright, of New York; when the Speaker signed the same.

POST OFFICE APPROPRIATION BILL—AGAIN.

The House then resumed the consideration of the amendments of the Senate to the Post Office appropriation bill.

The second and third amendments of the Senate were non-concurred in, as recommended by the Committee of the Whole on the state of the Union, without division.

The fourth amendment of the Senate was then read, as follows:

Sec. 6. And be it further enacted, That the Secretary of the Navy be, and he is hereby, directed to pay to Edward K. Collins and his associates the sum of \$147,730, the balance of appropriations heretofore made for the transportation of the mails from New York to Liverpool and back, and withheld by the Department at quarterly payments made on the contract for that service on the 30th days of June and September, and 31st of December, 1856, and 31st of March, 1857, and 30th of June and September, 1857, respectively; but there shall be deducted therefrom the sum of \$115,500, or such sum as is owing to the United States for advances made to E. K. Collins and his associates by act of Congress.

The SPEAKER. The Committee of the Whole

on the state of the Union recommend a concurrence in this amendment.

Mr. SMITH, of Virginia, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 76, nays 74; as follows:

YEAS—Messrs. Abbott, Andrews, Arnold, Bennett, Billingshurst, Bingham, Bliss, Bowie, Brayton, Burlingame, Burroughs, Case, Cavanaugh, Chaffee, Chapman, Ezra Clark, Clark B. Cochrane, John Cochrane, Comins, Corning, Covode, Cragin, Davis of Massachusetts, Davis of Iowa, Dean, Dimmick, Dodd, Durfee, English, Florence, Foster, Gillis, Gilman, Granger, Hatch, Hawkins, Hopkins, Horton, Howard, Hughes, Huyler, Kellogg, Kelly, Kelsey, Knapp, Jacob M. Kunkel, John C. Kunkel, Lamar, Landy, Leidy, Matteson, Morgan, Edward Joy Morris, Mott, Olin, Parker, William W. Phelps, Potter, Reilly, Ricard, Ritchie, Robbins, Roberts, Royce, Russell, Sandidge, Scott, Sickles, James A. Stewart, William Stewart, Tappan, George Taylor, Thayer, Walton, Ward, Israel Washburn, and Whiteley—76.

NAYS—Messrs. Ahl, Atkins, Avery, Barksdale, Blair, Bonham, Boyce, Buffinton, Burnett, Burns, Caskie, Horace F. Clark, John B. Clark, Clemens, Cobb, Colfax, Cox, James Craig, Crawford, Curry, Davis of Indiana, Davis of Mississippi, Dawes, Dowdell, Edie, Foley, Giddings, Gooch, Goode, Groesbeck, Grow, J. Morrison Harris, Thomas L. Harris, Jackson, Jenkins, Jewett, J. Glancy Jones, Owen Jones, Keitt, Leiter, Letcher, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Millson, Morrill, Niblack, Pendleton, Peyton, John S. Phelps, Pottle, Purviance, Quidman, Reagan, Ruffin, Savage, Seales, Henry M. Shaw, Shorter, Spinner, William Smith, Stanton, Stevenson, Talbot, Miles Taylor, Tompkins, Trippie, Underwood, Wade, Elihu B. Washburne, Woodson, and Zollcoffer—74.

So the amendment was concurred in.

Fifth amendment:

SEC. 7. And be it further enacted, That so much of the eighteenth section of the act entitled "An act to reduce the rate of postage, and limit the use and correct the abuse of the franking privilege, and for the prevention of frauds on the revenues of the Post Office Department," approved March 30, 1845, as requires the advertisement of letters un-called for in any post office to be inserted in the newspaper or newspapers having the largest circulation in the town or place where the office advertising is situated, be, and the same is hereby, repealed, and the Postmaster General shall henceforth cause the same to be published in such newspaper as will publish it at the lowest price, and that the compensation to be paid for the said advertisements shall not be greater than that now allowed by law.

THE SPEAKER. The committee recommend a concurrence in the amendment.

Mr. FLORENCE. I demand a division on the amendment.

The House divided; and there were—ayes 94, nays 41.

Mr. DAVIS, of Mississippi, demanded the yeas and nays.

Mr. FLORENCE demanded tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

The amendment was concurred in.

Sixth amendment:

SEC. 8. And be it further enacted, That not more than two hundred and five hundred dollars per annum shall be paid to any special agent of the Post Office Department as compensation for his service; but this act shall not be construed so as to raise the compensation of such agents in any case.

THE SPEAKER. The committee recommend a concurrence in the amendment.

The amendment was concurred in.

Seventh amendment:

SEC. 9. And be it further enacted, That post offices shall be open for the receipt and delivery of letters, papers, and mail matter, for all persons at the same time; and no practice or arrangement shall be allowed by which any person or persons, for any consideration, can obtain their letters or papers earlier or later out of said offices than all or any others may receive their letters or papers on applying therefor; nor shall any practice or arrangement exist whereby any person or persons can mail their letters or papers earlier or later than all or any other persons may mail their letters or papers on offering so to do: *Provided*, That nothing herein contained shall prevent the use of locked boxes, as they have been heretofore authorized.

THE SPEAKER. The committee report a concurrence in the amendment.

The amendment was concurred in.

Eighth amendment:

SEC. 10. And be it further enacted, That after the 30th of June, 1858, the rate of postage on all letters sent through the mail shall be five cents for any distance under three thousand miles, and ten cents for any distance over three thousand miles.

Mr. JONES, of Tennessee. I demand the yeas and nays on that.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 39, nays 121; as follows:

YEAS—Messrs. Atkins, Barksdale, Bocooc, Bonham, Boyce, Bryan, Caskie, Clemens, Cobb, Curry, Dowdell,

Faulkner, Goode, Hopkins, Jewett, George W. Jones, Keitt, Jacob M. Kunkel, Lamar, Letcher, McQueen, Millson, Moore, Peyton, Powell, Quidman, Reagan, Ruffin, Sandidge, Seales, Henry M. Shaw, Shorter, William Smith, Stallworth, Stevenson, Miles Taylor, Winslow, and John V. Wright—39.

NAYS—Messrs. Abbott, Ahl, Andrews, Arnold, Avery, Billingshurst, Bingham, Blair, Bliss, Bowie, Brayton, Burlingame, Burns, Burroughs, Case, Cavanaugh, Chaffee, Chapman, Ezra Clark, Horace F. Clark, John B. Clark, Clawson, Clark B. Cochrane, John Cochrane, Colfax, Comins, Corning, Covode, Cox, Cragin, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dimmick, Dodd, Durfee, Edie, English, Fenton, Florence, Foley, Foster, Giddings, Gillis, Gilmer, Gooch, Goodwin, Granger, Groesbeck, Grow, J. Morrison Harris, Thomas L. Harris, Hawkins, Hoard, Horton, Howard, Huyler, Jackson, Jenkins, J. Glancy Jones, Owen Jones, Kellogg, Kelly, Kelsey, Knapp, John C. Kunkel, Landy, Lovejoy, Macley, McKibbin, Humphrey Marshall, Samuel S. Marshall, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Mott, Niblack, Olin, Palmer, Parker, Pendleton, William W. Phelps, Phillips, Potter, Pottle, Purviance, Reilly, Ricard, Ritchie, Robbins, Roberts, Royce, Russell, Sickles, Spinner, Stanton, William Stewart, Tappan, George Taylor, Thayer, Tompkins, Trippie, Underwood, Wade, Walbridge, Walton, Ward, Elihu B. Washburne, Israel Washburn, White, Whiteley, and Wortendyke—121.

So the amendment was non-concurred in.

Pending the call of the roll,

Mr. SAVAGE stated that he had paired off with Mr. FARNSWORTH.

On motion of Mr. SMITH, of Virginia, the reading of the list was dispensed with.

Ninth amendment:

SEC. 11. And be it further enacted, That the franking privilege now accorded to members of Congress be, and the same is hereby, abolished from and after the 4th day of March next.

Mr. MASON demanded the yeas and nays on concurring in the amendment.

Mr. BARKSDALE demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. BRYAN and ABBOTT were appointed.

The House was divided; and the tellers reported, ayes twenty-nine—a sufficient number; and the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 71, nays 83; as follows:

YEAS—Messrs. Atkins, Avery, Barksdale, Bennett, Bingham, Bliss, Bonham, Brayton, Burlingame, Burroughs, Caskie, Cavanaugh, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Clemens, Cobb, Clark B. Cochrane, Colfax, Cragin, Crawford, Curry, Dawes, Dean, Dowdell, Durfee, Edie, Elliott, English, Faulkner, Fenton, Foley, Granger, Grow, Thomas L. Harris, Hopkins, Huyler, George W. Jones, Keitt, Jacob M. Kunkel, John C. Kunkel, Macley, McQueen, Humphrey Marshall, Mason, Moore, Morrill, Edward Joy Morris, Pendleton, Potter, Purviance, Reilly, Robbins, Roberts, Ruffin, Russell, Sandidge, Seales, Henry M. Shaw, William Smith, Spinner, Stanton, Tappan, Miles Taylor, Thompson, Tompkins, Trippie, Walbridge, Wortendyke, and John V. Wright—71.

NAYS—Messrs. Abbott, Ahl, Andrews, Arnold, Billingshurst, Blair, Bowie, Bryan, Buffinton, Burns, Case, Chapman, John B. Clark, John Cochrane, Comins, Corning, Covode, Cox, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Dick, Dimmick, Dodd, Florence, Foster, Giddings, Gillis, Gilmer, Gooch, Goode, Goodwin, Groesbeck, J. Morrison Harris, Hawkins, Horton, Howard, Jackson, Jenkins, Jewett, J. Glancy Jones, Owen Jones, Kellogg, Knapp, Lamar, Landy, Lovejoy, McKibbin, Samuel S. Marshall, Matteson, Maynard, Millson, Morgan, Freeman H. Morse, Niblack, Palmer, Parker, Peyton, John S. Phelps, William W. Phelps, Phillips, Pottle, Quidman, Reagan, Ricard, Ritchie, Royce, Savage, Shorter, Stallworth, William Stewart, Talbot, Underwood, Wade, Walton, Ward, Elihu B. Washburne, Israel Washburn, White, Whiteley, Winslow, and Woodson—83.

So the amendment was non-concurred in.

Mr. DAVIS, of Mississippi, said, pending the call: This act is to take effect after the 4th of March, is it not?

THE SPEAKER. It is.

Mr. DAVIS, of Mississippi. Then the present members of Congress would be permitted to enjoy it during their term; and by law we would deny to our successors the same rights we are enjoying now. Therefore I vote "no."

Mr. LETCHER stated that he would have voted "ay" had he been present when his name was called.

Mr. BURNETT made a similar statement.

Tenth amendment:

SEC. 12. And be it further enacted, That the printing of post bills, blanks, printing drafts, and warrants, postage stamps, stamped envelopes, and printing parchments for the use of the Post Office and other Executive Departments, shall, hereafter, be given to the lowest responsible bidder, after due public notice.

THE SPEAKER. The Committee of the Whole on the state of the Union recommend a concurrence.

The amendment was concurred in.

Mr. J. GLANCY JONES moved to reconsider the several votes by which the various amendments were concurred or non-concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ARMY APPROPRIATION BILL.

Mr. QUITMAN. The committee of conference upon the disagreeing votes of the two Houses upon the Army bill, have met, and, after full and free conference, report the following result of their action:

IN THE HOUSE OF REPRESENTATIVES,
June 11, 1858.

The committee of conference upon the disagreeing votes of the two Houses upon the amendments to the bill (H. R. No. 243) making appropriations for the support of the Army for the year ending 30th of June, 1859, having met, after a full and free conference have agreed to recommend to their respective Houses as follows:

That the Senate recede from their sixteenth, seventeenth, eighteenth, twentieth, twenty-first, twenty-fourth, twenty-seventh, twenty-eighth, twenty-ninth, thirty-second, thirty-fourth, thirty-fifth, forty-fifth, forty-sixth, forty-seventh, and forty-ninth amendments, disagreed to by the House.

That the House recede from their disagreement to, and concur in, the first, nineteenth, thirty-sixth, thirty-eighth, fortieth, and forty-third amendments of the Senate.

That the House recede from their disagreement to the third amendment of the Senate, and concur in the same, with the following amendment: In the fourth line of said amendment, strike out "forty-five," and insert "twenty-five."

That the House recede from their disagreement to the fourth amendment of the Senate, and concur in the same with the following amendment:

In the tenth line of said amendment, strike out all after the word "War," to the end of the amendment, and insert in lieu thereof the following: "and at his discretion in applying to the old or new arms any recent improvement in the mode of priming."

That the House recede from their disagreement to the twenty-second amendment of the Senate, and concur in the same with the following amendment:

Strike out "fifty," and insert "forty."

That the House recede from their disagreement to the twenty-third amendment of the Senate, and concur in the same with the following amendment:

Strike out "one hundred," and insert "seventy-five."

That the House recede from their disagreement to the twenty-fifth amendment of the Senate, and concur in the same with the following amendment:

Strike out "one hundred," and insert "seventy-five."

That the House recede from their disagreement to the twenty-sixth amendment of the Senate, and concur in the same with the following amendment:

Strike out "one hundred," and insert "seventy-five."

That the House recede from their disagreement to the thirtieth amendment of the Senate, and concur in the same with the following amendment:

Strike out "one hundred," and insert "seventy-five."

That the House recede from the thirty-first amendment of the Senate, and concur in the same with the following amendment:

Strike out "two hundred," and insert "one hundred and fifty."

That the House recede from their disagreement to the thirty-third amendment of the Senate, and concur in the same with the following amendment:

Strike out "one hundred and fifty thousand," and insert "one hundred and twelve thousand five hundred."

That the House recede from their disagreement to the thirty-seventh amendment of the Senate, and concur in the same with the following amendment:

Strike out "fifty," and insert "thirty."

That the House recede from their disagreement to the forty-second amendment of the Senate, and concur in the same with the following amendment:

In the fourth line of said amendment, strike out the words, "for printing."

That the Senate recede from their disagreement to the amendment of the House to the forty-first amendment of the Senate, and concur in the same.

JEFFERSON DAVIS,
JOHN SLIDELL,
Managers on the part of the Senate.
J. A. QUITMAN,
MARTIN J. CRAWFORD,
B. STANTON,
Managers on the part of House of Representatives.

If it is the pleasure of the House, I will explain so many of the amendments as the House may desire to have explained, and pass over those on which the House desire no explanation. [Cries of "Give us all of them!"] I will proceed with a brief explanation of the amendments as they occur.

The Senate recede from their amendments, as follows:

The sixteenth amendment, which appropriates \$10,000 to enable the Secretary of War to examine and report upon suitable sites for an armory and foundry in the West and on the Pacific coast.

The seventeenth amendment, making an appropriation to enable the Secretary of War to compensate F. W. Lander for services and expenses in making a reconnaissance for a railroad from Puget Sound to the Mississippi river in 1854-55.

The eighteenth amendment, which appropriates

\$385,000 for the payment of volunteers operating in Florida in 1857.

The twentieth amendment, which appropriates \$50,000 for continuing the construction of Fort Knox, Maine.

The twenty-first amendment, which appropriates \$50,000 for continuing the construction of Fort Montgomery, New York.

The twenty-fourth amendment, appropriating \$20,000 for continuing the construction of Fort Wood, New York.

The twenty-seventh amendment, appropriating \$75,000 for continuing the construction of Fort Calhoun, Virginia.

The twenty-eighth amendment, appropriating \$25,000 for continuing the construction of Fort Sumpter, South Carolina.

The twenty-ninth amendment, appropriating \$75,000 for continuing the construction of Fort Clinch, Florida.

The thirty-second amendment, appropriating \$50,000 for continuing the construction of Fort Pickens, Florida.

The thirty-fourth amendment, appropriating \$50,000 for continuing the construction of Fort Gaines, Alabama.

The thirty-fifth amendment, which appropriates \$10,000 for the extension and repairs of Fort St. Philip, Louisiana.

The forty-fifth, forty-sixth, and forty-seventh amendments, providing for an amendment of the act of the 3d of March, 1851, entitled "An act to found a military asylum for the relief and support of invalid and disabled soldiers of the Army of the United States," and extending the provisions of said act to invalid and disabled soldiers of subsequent wars.

The forty-ninth amendment, in relation to the war debt of California.

The committee recommend that the House recede from its disagreement to, and concur in, the first amendment of the Senate.

That amendment relates to the rank and pay of certain officers at the Military Academy at West Point. The effect of the amendment is to increase the pay of instructors some twelve hundred dollars in the aggregate. The rank which it confers is mere local rank, and it holds only while those officers are in the discharge of their duties as such officers. It carries no pay.

The committee recommend that the House recede from their disagreement to, and concur in, the nineteenth amendment of the Senate, which is in reference to continuing certain works of defense.

Mr. BARKSDALE. I desire to ask if it would be in order to move that the House concur in the report of the committee without any further explanation? It is signed, I understand, by all the members of the committee.

Mr. QUITMAN. I am informed that the Senate have agreed to this conference report.

Mr. BARKSDALE. If it is in order, I make the motion.

Mr. BILLINGHURST. I desire to hear the report explained.

Mr. JONES, of Tennessee. I merely wish to know what amendments are recommended to be passed.

Mr. BARKSDALE. I demand the previous question upon my motion.

Mr. STANTON. I think the House ought to hear the report explained.

Mr. BARKSDALE. I understand the gentleman himself signed the report.

Mr. STANTON. Certainly. But I think the House ought to hear it.

Mr. CLEMENS. If gentlemen choose to adopt this mode of legislation, I ask the privilege of filing my written protest on the Journal.

Mr. WASHBURN, of Maine. Read the amendments recommended to be adopted.

Mr. BARKSDALE. I withdraw the demand for the previous question.

Mr. QUITMAN. As the amendments in regard to the arsenals have been read—

Mr. CRAWFORD. We reduced each one of them twenty-five per cent., and took only four or five points on the Atlantic coast and on the Gulf. We recommend an appropriation for Portland, New York, Philadelphia, Baltimore, the Keys of Florida, and San Francisco, reducing the Senate amendment twenty-five per cent. for each. The whole reduction that we succeeded in making is over a million dollars.

Mr. QUITMAN. The committee recommend that the House recede from its disagreement to the third amendment of the Senate, and concur in the same with the amendment of inserting "twenty-five" instead of "forty-five," so that the amendment will read:

For the purchase of breech-loading carbines of the best model, to be selected and approved by a board of Army officers, \$25,000.

The committee recommend that the House recede from its disagreement to the fourth amendment of the Senate, and concur in the same with the following amendment:

Strike out all after the word "War," and insert as follows:

And at his discretion in applying to the old or new arms any recent improvement in the mode of priming.

So that the amendment will read:

For the alteration of old arms, so as to make them breech-loading arms, on a model to be selected and approved by a board of Army officers, \$25,000: *Provided*, That any portion of said sum, not exceeding \$5,000, may be expended under the direction of the Secretary of War and at his discretion, &c.

The committee recommend the House to recede from its disagreement to the twenty-second amendment, and concur in the same with the following amendment:

Strike out "fifty," and insert "forty."

So that it will read:

For the fort at Hog Island ledge, Portland harbor, Maine, \$40,000.

The committee make the same recommendation as to the twenty-third amendment, reducing the appropriation for the fort at Richmond, Staten Island, New York, from \$100,000 to \$75,000.

The committee make the same recommendation as to the twenty-fifth amendment, reducing the appropriation for Fort Delaware, Delaware harbor, Delaware, from \$100,000 to \$75,000.

The committee make the same recommendation as to the twenty-sixth amendment reducing the appropriation for Fort Carroll, Soller's Point flats, Baltimore harbor, Maryland, from \$100,000 to \$75,000.

The committee make the same recommendation as to the thirtieth amendment, reducing the appropriation for Fort Taylor, Key West, Florida, from \$100,000 to \$75,000.

The committee make the same recommendation as to the thirty-first amendment, reducing the appropriation for Fort Jefferson, Garden Key, Tortugas, Florida, from \$200,000 to \$150,000.

The committee make the same recommendation reducing the appropriation for Fort Point, San Francisco, California, from \$150,000 to \$112,500.

The committee recommend the House to recede from its disagreement to the thirty-seventh amendment, with an amendment, to substitute \$30,000 for \$50,000, so that it will read:

For construction of permanent platforms for modern cannon of large caliber in existing fortifications of important harbors, \$30,000.

The committee recommend the House to recede from its disagreement to the forty-second amendment, with an amendment, striking out the words "for printing," so that it will read:

That there be appropriated, &c., for preparing the drawings of the sailing charts of the Behring's Strait and North Pacific exploring and surveying expedition, under the control and direction of the Secretary of the Navy—but not for printing—the sum of \$8,700.

The committee on the part of the Senate agree to recommend that body to recede from its disagreement to the amendment of the House to the forty-first amendment of the Senate, in respect to the administering the prescribed oath of enlistment to recruits by commissioned officers when the services of a civil magistrate cannot be obtained.

I now move the previous question on the adoption of the report.

Mr. MILLSON, (at ten minutes after eleven o'clock, p. m.) I move that the House do now adjourn; and I ask for tellers on that motion, because I want to show that the number of members present justifies it.

Tellers were not ordered.

The House refused to adjourn.

The previous question was seconded, and the main question ordered; and, under the operation thereof, the report of the committee of conference was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the report of the committee of conference was agreed to; and also

moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled, an act (H. R. No. 200) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1859; when the Speaker signed the same.

SUPPLEMENTAL INDIAN APPROPRIATIONS.

Mr. HOUSTON, from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the supplemental Indian appropriation bill, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 557) making supplemental appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1859, have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate recede from its twenty-sixth, twenty-seventh, twenty-eighth, and twenty-ninth amendments.

That the Senate recede from its disagreement to the amendment of the House to its thirtieth amendment, and concur in the same.

That the House recede from its disagreement to the third amendment of the Senate, and agree to the same with an amendment, as follows: in the fourth line of said amendment, strike out the word "March," and insert "August."

J. D. BRIGHT,
W. K. SEBASTIAN,
Managers on the part of the Senate.

GEORGE S. HOUSTON,
B. F. LEITER,
JAMES B. CLAY,
Managers on the part of the House.

Mr. HOUSTON. I do not know whether the House desires any explanation of this report. The Senate have yielded everything the House desired, and I ask the previous question.

Mr. CLEMENS. I desire to know what the amendment is to which the House agrees.

Mr. HOUSTON. It is as follows:

For compensation of five extra clerks in the Indian office, under acts of 5th March, 1854, and 3d March, 1855, and under appropriations made from year to year, \$7,000.

The committee recommend a concurrence in that amendment, with an amendment to strike out "March" and insert "August," so as to give the right date of an act.

Mr. CLEMENS. I would ask if these are the clerks employed on the land maps?

Mr. HOUSTON. Oh, no; they are clerks in the Indian office.

Mr. CLEMENS. Then I am satisfied.

The previous question was seconded, and the main question ordered; and, under the operation thereof, the report of the committee of conference was agreed to.

Mr. HOUSTON moved to reconsider the vote by which the report was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PENSION BILL.

Mr. MASON. Is a motion in order now?

The SPEAKER. It is.

Mr. MASON. I ask the unanimous consent of the House, that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill to grant pensions to the soldiers of the war of 1812.

Mr. BOGOCOCK. I rise to a privileged question. I desire to make a report from the committee of conference on the naval appropriation bill.

Mr. MASON. I will give way for a moment for that purpose.

The SPEAKER. Does the gentleman yield to allow the report to be disposed of?

Mr. MASON. Yes, sir; if I can have the floor after it is disposed of.

[Cries of "Agreed!"]

Mr. STANTON. I understand that the Senate have adjourned and have not acted on the reports of the committees of conference on the Indian and Navy bills, and there is, therefore, no necessity for us to stay here all night. I move that the House do now adjourn.

The SPEAKER. If the gentleman from Ohio will excuse the Chair, the Chair would suggest that the House have three bills remaining in committee, and it is very important that the House

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should dispose of as much business as possible to-night.

Mr. STANTON. Well, I withdraw the motion.

NAVY APPROPRIATION BILL.

Mr. BOCKOCK, from the committee of conference on the disagreeing votes of the two Houses on the Navy appropriation bill, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 199) making appropriations for the naval service for the year ending the 30th of June, 1859, having met, have, after a full and free conference, agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate do recede from its first and fifth amendments.

That the House do recede from its disagreement to the second and third amendments of the Senate.

That the House do recede from its disagreement to the tenth amendment of the Senate, and agree to said amendment, with an amendment as follows: Strike out "1st day of July, 1856," and insert "passage of this act."

That the Senate do agree to the amendment of the House to its fourteenth amendment.

S. R. MALLORY,
SOLOMON FOOT,
J. T. BENJAMIN,

Managers on the part of the Senate.

THOMAS S. BOCKOCK,
JOHN KELLY,
F. H. MORSE,

Managers on the part of the House.

Mr. BOCKOCK. I shall occupy the attention of the House but a short time in explaining the provisions of this report of the committee of conference. It will be seen by the House, that the action of the committee has been approved by every member of the committee of this House and every member of the committee of the Senate. The report is signed by all the managers of the conference. There were but few subjects of disagreement between the two Houses.

[Cries of "Question!" "Vote!" and "We will agree to it!"]

Mr. BOCKOCK. Well, if the House does not want any explanation, I am quite willing that the vote shall be taken.

Mr. CLEMENS. I want an explanation.

Mr. JONES, of Tennessee. I merely want to have that read which it is proposed shall become law.

Mr. BOCKOCK. The report has been read, and I will briefly explain it. There were but few amendments in controversy between the two Houses. The Senate, it will be seen, have receded from their first and fifth amendments. It is scarcely necessary, I suppose, to explain what those are. [Cries of "No!" "No!" and "Go ahead!"] The House recedes from its disagreement to the second and third amendments. Those amendments are coupled together, and relate to the same subject—an appropriation of \$50,600 for filling in the new purchase in the Brooklyn navy-yard. I wish to make a brief explanation in relation to that subject. Some years ago the Congress of the United States appropriated \$80,000 for the purpose of building marine barracks at Brooklyn, in the State of New York. No provision was made for the purchase of a site for such barracks. It was designed that they should be located on the grounds owned by the Government at that place, but there were no grounds upon which these marine barracks could be erected, without filling in a portion of the purchase that the Government had a few years before made. A considerable amount of money has been already expended in filling in a sufficient portion of that new purchase to furnish a site for these marine barracks. It is now nearly completed. The Secretary of the Navy estimated, at the beginning of the session, that it would require \$50,650 to complete that filling in. That is all that this amendment provides for. Until that is done, these marine barracks cannot be built, and the object of the appropriation made some two years ago will be defeated. This sum of \$80,000, appropriated for the purpose of erecting marine barracks, has never been used, and there are now no barracks, but merely sheds, for the use of the marines at that place.

Mr. MORGAN. I would ask the gentleman if the Representative from that district, who is familiar with every foot of the land, and knows everything about it, did not at first go before the committee and say that there was no earthly use in this appropriation, and afterwards, when he found that it was necessary, in order to get votes next fall, discovered that it was very necessary, and take the other side?

Mr. BOCKOCK. If any such thing happened, I do not know anything in the world about it, and have not looked to such considerations. I have looked solely to public and not to private considerations.

Mr. MORGAN. As to the barracks, there is no earthly necessity for them. They do not even propose building them now.

Mr. BOCKOCK. At the first session of the last Congress \$80,000 was appropriated to commence the erection of the barracks.

Mr. MORGAN. The time has expired, and that money has gone back into the Treasury.

Mr. GROW. I desire to inquire, if this is not the proposition which has been twice rejected by the House?

Mr. BOCKOCK. Of course; it has been rejected or it would not be the subject of controversy here. The committee was only called to act upon those subjects that the two Houses disagreed upon.

Mr. MORGAN. This was defeated in the House by two overwhelming votes.

Mr. BOCKOCK. I do not recollect the votes. I wish further to say, in relation to this matter—for it seems to be the only bone of contention—that it was represented to the committee that, in order to complete this filling in, it will be necessary to obtain earth, and that that can be obtained now very conveniently and at a moderate price. Contracts for completing this filling in have already been advertised for. The last contracts were made, I believe, at fifteen cents a yard. It is believed that, under the advertisements already issued, very great bargains can be procured by the Government in relation to this filling in. If that is not done, and the earth now convenient and accessible for the purpose of completing this filling in should be applied, as it probably will in a short time, to other purposes, then it could not be done in a year or two hence, except at a greatly enhanced price.

Mr. MORGAN. I have no idea that this thing will spoil. They are digging cellars all around the neighborhood, and I presume, if permitted, it would be filled in for nothing.

Mr. BOCKOCK. No such representation was made to us.

Mr. KELLY. I will say a word on this matter, with the permission of the gentleman from Virginia. The Government owns the land between the navy-yard and the marine hospital. It is now all, or nearly all, a swamp. A part has been filled in, and filled in, I believe, for the very small price of sixteen cents a yard. As the property now stands, it cannot be of any use to the Government. Even if the Government desires to sell, it would be a sound economy and prudent foresight to first fill it in. It would then command a large price. It extends for a long way along what is called the Wallabout, and it shows a complete water front. If the Government filled it in at the rate contracted for before, they might sell lots there for large sums, which are now of no earthly use to anybody. Until it is filled in the marine barracks ordered by Congress cannot be built; and the marines at that yard are now quartered in sheds. They are small, and not at all tenable for the purpose for which they have been temporarily put up. I hope, therefore, that this appropriation will be concurred in. I am convinced that it is needed, and needed now.

Mr. CLEMENS. I understood my colleague to say that it could be done for fifteen cents a yard. How many yards does the Government own there?

Mr. KELLY. They own about one hundred and sixty acres of land—a complete swamp, and of no earthly use unless it is filled in.

Mr. CLEMENS. You propose to appropriate \$60,000 to reclaim a swamp.

Mr. KELLY. It is provided that only enough shall be reclaimed to answer the purposes of the marine barracks building.

Mr. CLARK, of New York. Mr. Speaker—Mr. BOCKOCK. I cannot yield any further.

The next amendment is this: The Senate made an amendment in these words:

And be it further enacted, That from and after the 1st of July, 1856, the clerks, messengers, and watchmen at the navy-yard and marine barracks, at Washington, shall be entitled to receive the compensation authorized by the acts of April 22, 1854, and August 5, 1854, for the payment of such sum as may be necessary, and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated.

I will briefly call the attention of the House to the acts alluded to. In the act of April 22, 1854, was this provision:

"To the clerks employed at the navy-yard and marine barracks, at Washington, &c., shall be paid an increase of twenty per cent."

It was supposed that that was a permanent increase of pay; but it was afterwards decided not to be one, so far as the clerks in the Departments were concerned. Subsequently an act was passed making it permanent in respect to them. The act, however, was not extended to the clerks at the navy-yard. The Senate put in a provision making this a permanent increase for those clerks, and extending it back to the time when it was decided by the officers of the Government that they were not entitled to it. The House rejected the amendment. The managers of the conference on the part of the House objected to giving this provision a retroactive effect; but we thought the increase was right, and agreed to allow it for the future. There are only nine clerks; one class gets \$800, and the other \$1,000, and by the operation of this provision they will be advanced to \$1,000 and \$1,200, while the lowest class of clerks in the Departments get \$1,200, and the highest \$1,800. We strike out of the Senate amendment the words "1st day of July, 1856," and insert "from and after the passage of this act."

The next is, that the Senate do agree to the amendment of the House to the fourteenth amendment. That amendment was striking out "five," in the number of ships, and inserting "ten." The Senate agreed to our provision on that subject. I now call for the previous question.

Mr. MORGAN. This is one of the greatest bills of abominations we have yet had; and I move to lay it upon the table, and on that I call for the yeas and nays.

Mr. PHELPS, of Missouri. Is not that a defeat of the Navy appropriation bill?

The SPEAKER. It is a defeat of the bill, if it be laid upon the table.

Mr. WASHBURN, of Maine. Let us take the yeas and nays on adopting the conference report.

Mr. MORGAN. I will withdraw my motion; and call for the yeas and nays on the adoption of the report.

The previous question was seconded, and the main question ordered.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 67, nays 74; as follows:

YEAS—Messrs. Ahl, Arnold, Avery, Barksdale, Bockock, Bowie, Boyce, Bryan, Burnett, Cavanaugh, Chapman, John B. Clark, Clay, John Cochrane, Conins, Cox, Crawford, Curry, Davis of Indiana, Davis of Mississippi, Dumnick, Dowdell, Florence, Foley, Foster, Gillis, Groesbeck, Hopkins, Houston, Huyler, Jackson, Jewett, J. G. Blancy Jones, Owen Jones, Kent, Kelly, Jacob M. Kunkel, Lamar, Landy, Macley, McKibbin, Milton, Freeman H. Morse, Niblack, Pendleton, Peyton, Phillips, Quitman, Reilly, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Henry M. Shaw, Sickles, Slatworthy, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Whiteley, Winslow, and Wortendyke—67.

NAYS—Messrs. Abbott, Andrews, Atkins, Bennett, Billingshurst, Bingham, Bliss, Bayton, Bulfinch, Burlingame, Caskie, Claflie, Horace F. Clark, Clawson, Clemens, Cobb, Clark B. Cochrane, Colfax, Covode, Cragin, James Craig, Curtis, Davis of Maryland, Dawes, Dean, Darce, Edie, Fenton, Goodrich, Goveaux, Granger, Grow, Thomas L. Harris, Hoard, Horton, George W. Jones, Kellogg, Knapp, John C. Kunkel, Leiter, Leitcher, Lovejoy, Hun-

phrey Marshall, Samuel S. Marshall, Mason, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Mott, Olin, Palmer, Parker, John S. Phelps, Pottle, Ricaud, Ritchie, Robbins, Roberts, Royce, Spinner, Stanton, William Stewart, Tappan, Tompkins, Trippe, Underwood, Wade, Walton, Elihu B. Washburne, Israel Washburn, and John V. Wright—74.

So the report of the committee of conference was disagreed to.

Pending the call of the roll,

Mr. HOWARD said: I desire to make a statement in reference to a pair. Some time ago, Mr. GREENWOOD paired off with one of my colleagues to accommodate him, but reserving to my colleague the right to vote upon appropriation bills. Subsequently, my colleague was compelled to leave; and I agreed to withhold my vote against any appropriation bills. He was inclined to vote for them; and if I was inclined to vote against any of them, I was to withhold my vote. Inclined, as I am, to vote against this bill, I withhold my vote.

Mr. DAVIS, of Indiana, said: I desire to change my vote. I desire to say that I do not like this bill; but as the session is so near its close, I will vote in the affirmative.

The result of the vote was then announced, as above recorded.

Mr. MORGAN moved to reconsider the vote by which the report was disagreed to; and also moved to lay the motion to reconsider on the table.

Mr. WASHBURNE, of Illinois. Cannot the House agree to all the amendments of the Senate, except the one in controversy, and thus reduce the contest to that?

Mr. PHELPS, of Missouri. What amendment is that?

Mr. WASHBURNE, of Illinois. The Brooklyn navy-yard.

Mr. PHELPS, of Missouri. So far as that is concerned, I would have voted for the report. I object to the amendment for the ten sloop-of-war.

Mr. PHILLIPS. I object to debate.

Mr. STANTON. I move that the House further insist upon its disagreement to the Senate amendments, and ask for another committee of conference.

Mr. MORGAN. If it is in order, I will withdraw my motion and move for a new committee of conference.

Mr. STANTON. It is surely in order for the House to further insist, and to ask for another committee of conference. I make the motion.

The SPEAKER proceeded to divide the House upon Mr. STANTON's motion.

Mr. SICKLES. I move that the House do now adjourn.

Mr. MASON. I had a proposition before the House, by unanimous consent, I believe.

Mr. COLFAX. I rise to a question of order. The vote was being taken before the gentleman from New York rose and moved to adjourn.

Mr. SICKLES. I moved to adjourn before the report of the committee of conference was made; and I renewed it before the vote was announced.

The SPEAKER. The gentleman from New York addressed the Chair while the Chair was putting the question.

Mr. MASON. I had the floor by unanimous consent.

Mr. SICKLES. I have no desire to press the motion to adjourn against the general sense of the House.

Mr. BURNETT. I rose for the purpose of moving an adjournment before the question was put; but understanding that the gentleman from New York had made the motion, I refrained from making it.

Mr. SICKLES. I insist upon my motion.

Mr. STANTON. The Chair had divided the House, and propounded the question on both sides, and the gentleman cannot move to adjourn until the result is announced.

Mr. SICKLES. Before the motion was made by the gentleman from Ohio, I moved to adjourn, but the Speaker took his seat because it was impossible to put the question in the great disorder in the House. The motion to adjourn is without prejudice to the motion of the gentleman from Ohio, for that can be acted upon to-morrow morning.

The SPEAKER. The gentleman from New York moved to adjourn, but the Chair did not

recognize the motion until the Chair had propounded the affirmative and negative. The result was not announced, as a division was called which suspended the announcement. The Chair supposes now that it is competent for the gentleman, before the division takes place, to move to adjourn.

Mr. SICKLES. I move that the House do now adjourn.

Mr. HOUSTON. If this bill is not acted upon finally by the House to-night it will result in keeping Congress in session for the greater part of next week.

Mr. GROW. The Senate have adjourned.

Mr. HOUSTON. True; but if the House can agree to this report, the bill will be presented to the House to-morrow morning in a shape to be signed, and send it to the President.

Mr. HOPKINS. I rise to make a motion which takes precedence of the motion to adjourn. I move that when this House adjourns, it adjourn to meet at nine o'clock to-morrow morning.

Mr. JONES, of Tennessee. I do not think it is of any use to do that, because absent members will not know it, and we shall not have a quorum.

The SPEAKER. In the opinion of the Chair the motion of the gentleman from Virginia will not take precedence of the motion to adjourn.

The question was taken on the motion to adjourn; and it was not agreed to.

Mr. COBB. I rise to a privileged question.

The SPEAKER. The gentleman from Ohio made a privileged motion.

Mr. JONES, of Tennessee. I move that the vote by which the report of the committee of conference was disagreed to be reconsidered.

The SPEAKER. The Chair will entertain that motion, and thinks it takes precedence of the motion of the gentleman from Ohio.

Mr. GROW. Does that cut off the gentleman from Ohio from his rights?

The SPEAKER. The reason why the Chair entertains the motion is, that action upon that motion may result in not ordering another committee of conference.

Mr. GROW. But the Chair was dividing the House upon the motion of the gentleman from Ohio. That was business not completed. The motion to reconsider might be entered, but could not be called up for action until the other motion is disposed of.

The SPEAKER. The Chair thinks otherwise.

Mr. GROW. Then I move to lay the motion to reconsider on the table.

Mr. JONES, of Tennessee. The gentleman has not the floor for that purpose. I have made the motion for the purpose of stating what I understand to be the question now before the House. There are three amendments in issue between the two Houses. One is to appropriate \$50,000 for fitting up at the Brooklyn navy-yard; another is a provision for giving increased compensation to a few clerks at the navy-yard in this city. These two amendments were made by the Senate. The third one is an amendment made by the House to an amendment of the Senate. The Senate propose in their amendment to authorize the construction of five sloop-of-war. The House struck out "five," and inserted "ten." The Senate, by this conference report, propose to recede from their disagreement to the amendment of the House. Then I presume there will be no difficulty with the Senate upon that point.

If, then, the action of this House shall be reported to them to-morrow, all they will have to do to pass this bill will be to recede from their amendment appropriating \$50,000 for this Brooklyn navy-yard, and their amendment increasing the salaries of those clerks; and then to recede, as they propose to do by this conference report, from their disagreement to the House amendment in reference to these sloop-of-war.

Mr. HOUSTON. Look at the question in issue, Mr. Speaker. Here is the main proposition that has caused the defeat of this bill—the amendment for ten sloop-of-war instead of five—which received a vote in this House of more than two to one. And yet because the committee of conference have secured an action on the part of the Senate by which the Senate agree to that amendment, it is brought in here, and contributes to the defeat of the conference report.

Mr. JONES, of Tennessee. If my recollection is right, the ten sloop amendment in the House was agreed to by a majority of one vote.

Mr. HOUSTON. Then I am mistaken to that extent. Nevertheless, it was an affirmative vote of the House, and that vote is now to be used by gentlemen as means of defeating the conference report sustaining the action of the House. The principle is the same. Here is a combination of elements made to defeat a conference report which involves, so far as the disagreeing action of the House is concerned, only \$50,000 for the work at the New York navy-yard. The House itself put in the amendment for the ten sloop-of-war: therefore that ought not to be entertained against the report of the committee of conference. The other is only used for the purpose of defeating the conference report, and keeping back this bill so that Congress cannot adjourn at the time fixed.

Mr. BLISS. I desire to correct the gentleman's statement. He says that the appropriation for the Brooklyn navy-yard is the reason why we vote against the conference report. So far as I am concerned, it is not the reason. The reason is the appropriation for the sloop-of-war.

Mr. HOUSTON. That is precisely what I object to—that gentlemen should call on the House to defeat a conference report because the committee of conference has not recommended the House to repudiate its own solemnly-recorded vote in favor of a proposition; and that, in order to aid the defeat of this report, other elements are brought in. The \$50,000 appropriation for the Brooklyn navy-yard is brought in; and gentlemen oppose the report because of that item, at the very closing of the session, when they may defeat the entire Navy bill or be the means of causing Congress to be called back for an extra session. Now, I say that, in my opinion, this is not the mode for us to legislate. I do not call upon gentlemen to yield up their principles in a contest of this sort.

Mr. WRIGHT, of Tennessee. Are we not paid for stopping here and doing the business; and, therefore, will an extra session be any extra expense to the Government?

Mr. HOUSTON. That is a matter of no earthly importance to gentlemen who propose to legislate for the benefit of the country. The sense of the House and of the Senate has been expressed in favor of an adjournment next Monday, and it is a matter of no consequence whether we meet here at our own expense or at the expense of the Government. But for the information of my friend from Tennessee, I tell him that we cannot have an extra session without its costing the Government more than fifty thousand dollars. None of this money will go into his pocket or into mine, but such expense is a necessary incident to an extra session. The various modes and means of expenditure will make the cost largely over fifty thousand dollars, so that the gentleman's argument is not a tenable one.

Now, Mr. Speaker, I think the conference report ought to be adopted, and adopted to-night. But, with a view to obtain the vote of a full House, I move that the House do now adjourn.

Mr. GROW. I hope the gentleman will withdraw that motion. There are two other bills in committee.

Mr. HOUSTON. Then I withdraw the motion, and ask for a vote on the motion to reconsider.

Mr. GROW. I move to lay the motion to reconsider on the table.

Mr. FLORENCE. On that I call for the yeas and nays.

Mr. JONES, of Tennessee. As I have attained my object, I withdraw the motion to reconsider.

Mr. COBB. I renew the motion to reconsider. Mr. WASHBURNE, of Illinois. I move the previous question upon that motion.

Mr. WINSLOW. I move that the House do now adjourn.

Mr. CLAY. I ask the unanimous consent of the House to allow me to—

Mr. CURTIS. I insist on the motion to adjourn.

Mr. WASHBURNE, of Illinois. I ask the gentleman to withdraw that motion so that I may move that the House adjourn to meet at ten o'clock to-morrow morning.

Mr. CURTIS. I withdraw it for that purpose. Mr. WASHBURNE, of Illinois. I make that motion.

Mr. JONES, of Tennessee. I object.

Mr. WASHBURNE, of Illinois. I move to suspend the rules.

The SPEAKER. There is a motion to suspend the rules pending.

Mr. J. GLANCY JONES. If we adjourn now we need not put ourselves to the trouble of meeting at an early hour in the morning. It cannot make any very great difference, as the session will have to be extended.

Mr. WASHBURNE, of Illinois. I hope we will get through with this business to-night. We will have the loan bill up to-morrow.

Mr. CURTIS. I will modify my motion by moving that the House adjourn until ten o'clock to-morrow.

The SPEAKER. That motion cannot be entertained except by unanimous consent.

Mr. FLORENCE. I object.

Mr. CURTIS. Then I move to suspend the rules.

Mr. GROW. I hope we shall not waste time in talking on these motions.

Mr. CURTIS. Well, I withdraw it.

Mr. UNDERWOOD. I move that the House do now adjourn.

Mr. CURTIS. I have not withdrawn my motion to adjourn.

Mr. UNDERWOOD. The gentleman certainly withdrew it and took his seat.

The SPEAKER. The Chair understood the gentleman from Iowa to withdraw his motion.

Mr. CURTIS. No, sir; I did not.

The SPEAKER. Then the Chair stands corrected.

Mr. TALBOT demanded tellers on the motion to adjourn.

Tellers were ordered; and Messrs. ABBOTT and TALBOT were appointed.

The House divided; and the tellers reported, ayes 45, noes 83.

So the House refused to adjourn.

The question recurred upon Mr. GROW's motion to lay upon the table the motion to reconsider the vote by which the report of the committee of conference was rejected.

Mr. UNDERWOOD. I wish to make an inquiry as to the effect of this vote. If we should lay the motion to reconsider upon the table, would it then be in order to move for a new committee of conference?

The SPEAKER. The Chair thinks it would. Mr. RUSSELL demanded tellers on Mr. GROW's motion.

Tellers were ordered; and Messrs. DEAN and BURNETT were appointed.

The House divided; and the tellers reported—ayes 60, noes 66.

So the House refused to lay the motion to reconsider upon the table.

The previous question was seconded, and the main question ordered.

Mr. CLEMENS demanded the yeas and nays on the motion to reconsider.

The yeas and nays were not ordered.

The House divided; and there were—ayes 68, noes 61.

So the motion to reconsider was agreed to.

The question then recurred on the adoption of the conference report?

Mr. CLEMENS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—ayes 64, nays 71; as follows:

YEAS—Messrs. Ahl, Andrews, Avery, Barksdale, Bock, Bowler, Boyce, Bryan, Burlingame, Cavanaugh, Chapman, John B. Clark, Clay, John Cochrane, Collins, Cox, Crawford, Curry, Davis of Indiana, Davis of Mississippi, Dimmick, Dowdell, Florence, Foley, Foster, Gillis, Groesbeck, Hopkins, Houston, Huyler, Jackson, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Macley, Milson, Niblack, Pendleton, Peyton, William W. Phelps, Pike, Quinman, Reilly, Rufin, Russell, Sandridge, Seales, Scott, Henry M. Shaw, Sickles, Stallworth, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Whiteley, Winslow, and Wortendyke—61.

NAYS—Messrs. Abbott, Atkins, Bennett, Billingshurst, Bingham, Bliss, Bratton, Buffinton, Case, Chaffee, Horace F. Clark, Clawson, Clemens, Cobb, Clark B. Cochrane, Colfax, Covode, Cragin, Curtis, Davis of Maryland, Davis of Iowa, Dawes, Dean, Durfee, Edie, Fenton, Gooch, Goodwin, Granger, Grow, J. Morrison, Harris, Hoard, Horton, Kellogg, Knapp, John C. Kunkel, Leiter, Letcher, Lovejoy, Humphrey Mar-hall, Samuel S. Marshall, Mason, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Mott, Olin, Palmer, Parker, John S. Phelps, Potter, Pottle, Powell, Ricard, Ritchie, Robbins, Roberts, Royce, Savage, Spinner, Stanton, Tompkins, Tripp, Underwood, Wade,

Waldron, Elihu B. Washburne, Israel Washburn, and John V. Wright—71.

So the report was rejected.

Pending the call of the roll,

Mr. STEWART, of Pennsylvania, stated that he had paired off with Mr. BOWHAM.

Mr. KEITT. I am satisfied that the session must go into next week. I have been trying to avoid it as long as I could. I move that the House adjourn.

The House divided, and there were—ayes 62, noes 68.

Mr. FLORENCE demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. GROW. What objection can there be to the appointment of another committee of conference?

Mr. BOCK. I object to the gentleman debating the question out of order.

Mr. HOPKINS demanded tellers.

Tellers were ordered; and Messrs. OWEN JONES and DEAN were appointed.

The House divided; and the tellers reported—ayes thirty-six, noes not counted.

So the motion was not agreed to.

Mr. CLAY. I move that there be a call of the House.

The motion was not agreed to.

The question recurring upon the motion that another committee of conference be appointed, it was put, and agreed to; and Mr. WINSLOW, Mr. GROESBECK, and Mr. WASHBURNE of Illinois, were appointed as such committee on the part of the House.

And then, on motion of Mr. MORGAN, (at one o'clock, a. m.,) the House adjourned.

IN SENATE.

SATURDAY, June 12, 1858.

Prayer by Rev. J. L. ELLIOTT.

Mr. HUNTER. It is so near the end of the session that I will make a motion which, I believe, I never made before, to dispense with the reading of the Journal.

The VICE PRESIDENT. It requires unanimous consent to dispense with the reading of the Journal. The Chair hears no objection.

POST OFFICE APPROPRIATION BILL.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House agreed to some, and disagreed to other amendments of the Senate to the bill (H. R. No. 556) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1859.

The Senate proceeded to consider its first, second, third, eighth, and ninth amendments to the bill (H. R. No. 556) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1859, which had been disagreed to by the House of Representatives; and, on motion of Mr. HUNTER, the Senate insisted on these amendments, and asked for a conference on the disagreeing votes of the two Houses.

Mr. GWIN, Mr. CRITTENDEN, and Mr. JOHNSON of Arkansas, were appointed conferees on the part of the Senate.

A subsequent message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House insisted on its disagreement to certain amendments of the Senate to the bill (H. R. No. 556) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1859; and had agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. H. C. BARNETT, Mr. C. C. BILLINGHURST, and Mr. E. CORNING, managers of the same on its part.

ENROLLED BILL SIGNED.

A message from the House of Representatives announced that the Speaker had signed an enrolled bill (H. R. No. 200) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1859, and it was signed by the Vice President.

ARMY APPROPRIATION BILL.

The message also announced that the House of Representatives had agreed to the report of the

committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 243) making appropriations for the support of the Army for the year ending the 30th of June, 1859.

Mr. HUNTER. I suggest that, in order to get those bills enrolled, which are almost finished, we allow the committees of conference on the Army bill and supplemental Indian bill to report.

Mr. MALLORY. I object; because we adjourned last night with the report of the committee of conference on the naval bill before the Senate, unacted upon for the want of a quorum, and, in my judgment, we ought not to act on any other conference report until that is disposed of.

Mr. HUNTER. We know—the message will be here in ten minutes, notifying us—that the House of Representatives has rejected the report of the committee of conference on the naval bill. Why should we consume time on that, for no useful purpose? We want to get those bills to the President.

Mr. DAVIS. The House of Representatives have concurred in the report of the committee of conference on the Army bill, and I suppose it is only necessary for us to concur in the message of the House.

Mr. HUNTER. No, sir; we have to act on the report. It is an entire thing.

The VICE PRESIDENT. Is there objection to receiving the conference report on the Army bill?

Mr. STUART. I shall object to any consideration of the conference report on the naval bill until the bill is here, and I should have done so last night if I had known then that the bill was not here. We see now the importance of proceeding according to rules. The House of Representatives voted down that report last night. We have not the bill here to act on.

Mr. MALLORY. The Senator from Michigan speaks as much without his host now as last night. The naval bill was here when the report was made.

The VICE PRESIDENT. The Chair must call the attention of Senators to the fact that the question is on receiving the report of the committee of conference on the Army bill. Is there objection? The Chair hears none.

Mr. DAVIS. I present the report.

Mr. HUNTER. The Senate by general consent may take a vote on it as a whole, as it has been concurred in by the House.

Mr. ALLEN. It had better be read. We ought to know what it is.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 243) making appropriations for the support of the Army for the year ending the 30th of June, 1859, have met, and, after a full and free conference, have agreed to recommend to their respective Houses as follows:

That the Senate recede from their sixteenth, seventeenth, eighteenth, twentieth, twenty-first, twenty-fourth, twenty-seventh, twenty-eighth, twenty-ninth, thirty-second, thirty-fourth, thirty-fifth, forty-fifth, forty-sixth, forty-seventh, forty-eighth, and forty-ninth amendments disagreed to by the House.

That the House recede from their disagreement to, and concur in, the first, nineteenth, thirty-sixth, thirty-eighth, fortieth, and forty-third amendments of the Senate.

That the House recede from their disagreement to the third amendment of the Senate, and concur in the same with the following amendment: in the fourth line of said amendment strike out "forty-five," and insert "twenty-five."

That the House recede from their disagreement to the fourth amendment of the Senate, and concur in the same, with the following amendment: in line ten of said amendment of the Senate strike out all after the word "War" to the end of the amendment, and insert, in lieu thereof, the following: "and at his discretion in applying to the old or new arms any recent improvement in the mode of priming."

That the House recede from their disagreement to the twenty-second amendment of the Senate, and concur in the same with the following amendment: strike out "fifty," and insert "forty."

That the House recede from their disagreement to the twenty-third amendment of the Senate, and concur in the same with the following amendment: strike out "one hundred," and insert "seventy-five."

That the House recede from their disagreement to the twenty-fifth amendment of the Senate, and concur in the same with the following amendment: strike out "one hundred," and insert "seventy-five."

That the House recede from their disagreement to the twenty-sixth amendment of the Senate, and concur in the same with the following amendment: strike out "one hundred," and insert "seventy-five."

That the House recede from their disagreement to the thirtieth amendment of the Senate, and concur in the same with the following amendment: strike out "one hundred," and insert "seventy-five."

That the House recede from their disagreement to the thirty-first amendment of the Senate, and concur in the

same with the following amendment: strike out "two hundred," and insert "one hundred and fifty."

That the House recede from their disagreement to the thirty third amendment of the Senate, and concur in the same with the following amendment: strike out "one hundred and fifty thousand," and insert "one hundred and twelve thousand five hundred."

That the House recede from their disagreement to the thirty seventh amendment of the Senate, and concur in the same with the following amendment: strike out "fifty," and insert "thirty."

That the House recede from their disagreement to the forty-second amendment of the Senate, and concur in the same with the following amendment: in the fourth line of said amendment strike out the words "for printing."

That the Senate recede from their disagreement to the amendment of the House to the forty first amendment of the Senate, and concur in the same.

JEFFERSON DAVIS,
JOHN SLIDELL,
J. COLLAMER,
Managers on the part of the Senate.
J. A. QUITMAN,
MARTIN J. CRAWFORD,
B. STANTON,
Managers on the part of the House.

The report was concurred in.

SUPPLEMENTAL INDIAN BILL.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, informed the Senate that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 557), making supplemental appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending the 30th June, 1859.

Mr. HUNTER. I believe the chairman of that committee of conference is ready to report.

Mr. BRIGHT submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 557) making supplemental appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending the 30th of June, 1859, have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate recede from its disagreement to the amendment of the House to its thirtieth amendment, and concur in the same.

That the Senate recede from its twenty-sixth, twenty-seventh, twenty-eighth, and twenty-ninth amendments.

That the House recede from its disagreement to the third amendment of the Senate, and agree to the same, with an amendment as follows: in the fourth line of said amendment strike out the word "March," and insert "August."

J. D. BRIGHT,
W. K. SEBASTIAN,
H. M. RICE,
Managers on the part of the Senate.
GEORGE S. HOUSTON,
R. F. LEITER,
JAMES B. CLAY,
Managers on the part of the House.

The report was concurred in.

NAVAL APPROPRIATION BILL.

A message was received from the House of Representatives by Mr. ALLEN, its Clerk, announcing that the House had disagreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 199) making appropriations for the naval service for the year ending the 30th of June, 1859, and asked a further conference on the said disagreeing votes, and had appointed Mr. WARREN WINSLOW, Mr. W. S. GROESBECK, and Mr. E. B. WASHBURN, managers at the same on its part.

Mr. HUNTER. I understand the Senator from Florida desires to submit a motion to recede in regard to the naval bill.

Mr. MALLORY. The report of the committee of conference was read last night to a very thin Senate. I ask that it be read again. ["Oh, no!"]

Mr. HUNTER. I wish to make an appeal to the Senator from Florida. We know we are to take the vote on the Indiana case at twelve o'clock. Let the Senator from Florida submit his motion, and take the sense of the Senate in regard to it without debate; but if we are to have the report read, and a debate on that, we shall spend half the day on the naval appropriation bill.

Mr. MALLORY. It is very extraordinary that we have to suspend the reading of the Journal of the Senate; and not a Senator here can know what was transacted yesterday, unless, after the Senate adjourns, he should take an opportunity to go to the clerks and get the Journal and read it. It is very surprising that an objection should be made even to an explanation, simply because a day for ad-

journalment has been fixed for the convenience of a portion of Congress, and we are to hurry through with the business of the Senate to meet that end. I desire to make a motion without unnecessarily consuming time, that the Senate recede from all its amendments to the naval appropriation bill, except one which the House amended in regard to the sloop-of-war. The vote of the Senate was for five sloops, and the House provided for ten. I desire the Senate to agree to that amendment of the House; and I propose to recede from our other amendments to which the House disagreed; and I have a few words to say in explanation of this motion.

I should have proposed this course last night, but those who were here will recollect that at the time of the adjournment we found there were but twenty-three Senators present, and I was indisposed to say a word with so thin a body; but I should now like to explain to the Senate why we ought to agree to the proposition of the House in regard to the additional sloop-of-war. The honorable Senator from Michigan, [Mr. STUART,] in discussing this measure, took the opportunity to deliver somewhat of a lecture to the committee of conference, and the lecture was delivered in that tone and manner which would have been offensive did I not know the general good feeling and courtesy of that gentleman. He said that, with twenty-three of us here, we could reform this bill and pass a new bill, in four hours, at any time. The committee of conference agreed to the amendment of the House for ten sloops instead of five, because it supposed it was representing the feeling of the Senate. The honorable Senator from Michigan is generally as accurate as any other Senator, but his inaccuracy on this point was only equaled by the boldness of his assertions. He said it had been twice voted down upon a direct vote of the Senate. Sir, the exact reverse is the case. I hold the yeas and nays in my hand. The first vote of the Senate was on a direct proposition made by the Senator from New Hampshire [Mr. HALE] to strike out four sloops, as reported by the committee, so as to leave only the five originally reported by a separate bill. The vote on that motion was 22 for striking out and 31 against it. There were eleven absent. That tested the sense of the Senate in favor of the ten sloops. The next vote taken in Committee of the Whole was, whether the ten sloops should be in the bill, and there was a majority of four against it, there being forty-four Senators present. There were fifty-three present before.

Mr. HALE. I know the Senator does not mean to misrepresent the action of the Senate, of course; but did not a portion of these gentlemen who voted against striking out the four sloops, also vote against the whole; thereby not showing, as the Senator would intimate, that it was because they wanted the ten sloops, but because they wanted the distinct vote on the original amendment, thinking in that way they might defeat the whole?

Mr. MALLORY. I do not know what their motives were.

Mr. HALE. But does not the record show that they voted against the ten sloops afterwards?

Mr. MALLORY. The third vote was, in the Senate, 19 to 17, a very thin Senate, as was properly observed by the Senator from Michigan—thirty-six present and twenty-eight absent. The Senator from Michigan last night took occasion to say that this committee of conference (and, with the exception of myself, it was composed of gentlemen who have the public weal as much at heart as he has, and, I presume, understand the subject as well as he does) had misrepresented the feeling of the Senate, and that the Senate had twice voted down the proposition directly. The facts do not sustain him.

I desire the Senate to listen to a few words in favor of the proposition for ten sloops-of-war. That was the recommendation of the Department before we had any word of any existing necessity for an increase of our Navy at all, as a measure of peace; and upon that estimate and recommendation of the Department I took the subject into consideration, and have paid some attention to it, and I am convinced that public economy, that the wants of the country, that the service of the Navy, and our treaty stipulations, will all be best subserved by providing for the construction of these

ten small vessels, and I will proceed to show you the reason in a few words.

We have not a single steam cruiser on the coast of Africa—not one that we can send there; and it is well known that one small steam cruiser drawing seven and a half feet of water is worth all the fleet we send there to protect our flag against infraction in regard to the slave trade. We have not a single small steam cruiser that we can send to the coast of Cuba to protect our flag in the same way. It is well known that one small steam cruiser would do more service than any two large frigates we have got. We do not want large frigates to protect our flag in this respect. It ought to be a satisfaction to the Senate to know that we can sail seven of these small vessels at the same expense as two large ones. We can sail seven vessels of the size of the Fulton, whose expenses are \$57,000 a year, at the same cost as two of our large vessels, whose expenses are \$174,000; and we can have fourteen of them at the same expense as four large vessels. If we should have these ten vessels, we can then either withdraw our large vessels from our fleets, and keep them for emergency, or keep them for foreign service entirely.

I shall not now detain the Senate by going over the list of vessels we have afloat; but having paid some little attention to the condition of the Navy, I can assure the Senate that there is a great deal of propriety in the complaint of Great Britain, that our flag is prostituted for the slave trade, and the very document now on your table, sent in by the Secretary of State not three weeks ago, shows that at least one vessel captured must inevitably have been a slaver bound outwards, and every gentleman who knows anything of the subject, who has ever given any attention to the cargoes of slave vessels, must come to the conclusion that that vessel, at least, was designed for the slave trade. She carried the American flag. We have large frigates of forty guns on our coast; but we have not got a vessel fit for the purpose of stationing on the coast of Cuba or the coast of Africa, to take care of the interests of our flag in that respect. Let us not suppose that any news we get from Great Britain by the newspapers is altogether reliable. Just so long as we do not keep vessels on the coast of Cuba to do our duty and search our suspected vessels, Great Britain will do it, as she has done it ever since the Ashburton treaty. There is nothing new in the recent occurrences, but they are remarkable because so many instances have occurred in a brief period. The British officers are acting under the same order under which they have acted for the last ten years; no new orders have been given to them; they are doing now what they have been doing for ten years past, and what they will continue to do, unless we ourselves shall do our duty, and send out these small steamers. I shall not occupy the attention of the Senate longer.

Mr. STUART. I do not know which most to regret, the remarks of my friend from Florida, or what I said myself. If the Senator has given a proper interpretation to what I said, I certainly must have been very incorrect; but I have noticed on several occasions that, when anything is said disagreeing with the sentiments of other Senators, it is very common to say it is an attempt to lecture the Senate; and yet, sir, I never found a Senator who had any idea of lecturing the Senate, and never heard of one. The Senator from Florida, however, does but justice to my motives and my intentions. I said this—and I intended to say it with great respect—I think there is no Senator who will deny it—that it is the clear duty of a conference committee to represent the wish of the body that appoints it. On a question that is in dispute between the two Houses, no matter what is the sentiment of an individual on the conference committee, his duty undoubtedly is to represent the will of the body that appoints him. Let me illustrate: there are sometimes a hundred amendments to one appropriation bill, frequently fifty. I suppose it would be impossible to find three Senators whose individual opinions agreed with the vote of the Senate on each and every question; and therefore, if a Senator on the committee is to carry out his own opinion, he would go against the views of a majority of the Senate in half the cases. Certainly, that cannot be his duty.

On this question I spoke last night, from reco-

lection, and I think now that in some form the Senate was brought to a vote twice on the proposition to add to the steam sloop, and voted it down twice. The Senator has examined the record, and undoubtedly he is correct, and it seems, from his statement, that the Senate voted it down but once. It is confessed that once they did vote it down on the yeas and nays. What, then, was the sense of the Senate on the question of providing for ten sloop-of-war? Against it. All I said, all I intended to say, was that if the Senate still retained their opinion, if that was their judgment, they should reject the proposition because it disagreed with their sense. It appears now that the House of Representatives has voted it down also. I understand, from the papers, that there was a long debate in the House of Representatives on two propositions connected with this bill—these sloop, and some grading at Brooklyn, and that upon both those propositions the House was brought to a vote, and voted against them. Now, why should we adopt it? The Senate has voted against the ten sloop, and the last vote of the House on the report of the committee of conference is against the ten sloop. Why should we agree to them?

I will not make any extended remarks. My object in rising was simply to say that there would be no injury in voting down this report and having another conference; and we ought certainly to do one of two things. As the House of Representatives has rejected the conference report, if we recede from the amendments so far as the Senator from Florida has proposed, we should certainly include the one in regard to sloop. We should not retain the thing we voted against and recede from that which we voted for; nor should we retain what the House has joined us in voting against.

Mr. MALLORY. I wish to interrupt my friend for a moment, to say that I think he is mistaken. The House voted on the report in gross, and did not vote on the amendments in detail.

Mr. STUART. They voted on the report as a whole, of course; for they could not vote for it in any other way; but I say the opposition was to the sloop, and to the \$50,000 appropriation for grading at Brooklyn. This being the fact, if the Senate recede at all, I submit they should recede from the whole; and they certainly should recede from the sloop amendment if they entertain the opinion they had before. At all events, let us have a vote.

Mr. SLIDELL. I would suggest to the chairman of the Naval Committee that it would be well to postpone the consideration of this subject until after the Indiana case has been disposed of; and in the meanwhile I ask the consent of the Senate to allow a message from the President of the United States, which is on the table, to be read. That may, perhaps, influence our action in this and other matters.

The PRESIDING OFFICER, (Mr. Foot in the chair.) The Chair will take that to be the sense of the Senate, and will present the message and have it read.

MESSAGE FROM THE PRESIDENT.

The Secretary read the message; as follows:

To the Senate and House of Representatives:

I feel it to be an indispensable duty to call your attention to the condition of the Treasury. On the 19th day of May last, the Secretary of the Treasury submitted a report to Congress "on the present condition of the finances of the Government." In this report he states that, after a call upon the heads of Departments, he had received official information that the sum of \$37,000,000 would probably be required during the first two quarters of the next fiscal year, from the 1st of July until the 1st of January. "This sum," the Secretary says, "does not include such amounts as may be appropriated by Congress over and above the estimates submitted to them by the Departments, and I have no data on which to estimate for such expenditures. Upon this point Congress is better able to form a correct opinion than I am."

The Secretary then estimates that the receipts into the Treasury from all sources, between the 1st of July and the 1st of January, would amount to \$25,000,000, leaving a deficit of \$15,000,000, inclusive of the sum of about three million dollars, the least amount required to be in the Treasury at all times to secure its successful operation. For this amount he recommends a loan. This loan, it will be observed, was required, after a close calculation, to meet the estimates from the different Departments; and not such appropriations as might be made by Congress over and above these estimates.

There was embraced in this sum of \$15,000,000 estimates to the amount of about one million seven hundred and fifty thousand dollars for the three volunteer regiments, authorized by the act of Congress approved April 7, 1858; for two

of which, if not for the third, no appropriation will now be required. To this extent a portion of the loan of \$15,000,000 may be applied to pay the appropriations made by Congress beyond the estimates from the different Departments, referred to in the report of the Secretary of the Treasury.

To what extent a probable deficiency may exist in the Treasury between the 1st of July and the 1st of January next, cannot be ascertained until the appropriation bills, as well as the private bills containing appropriations shall have finally passed.

Adversity teaches useful lessons to nations as well as individuals. The habit of extravagant expenditures, fostered by a large surplus in the Treasury, must now be corrected, or the country will be involved in serious financial difficulties.

Under any form of government, extravagance in expenditure must be the natural consequence, when those who authorize the expenditure feel no responsibility in providing the means of payment. Such had been, for a number of years, our condition previously to the late monetary revulsion in the country. Fortunately, at least for the cause of public economy, the case is now reversed; and to the extent of the appropriations, whatever these may be, ingrafted on the different appropriation bills, as well as those made by private bills, over and above the estimates of the different Departments, it will be necessary for Congress to provide the means of payment before their adjournment. Without this, the Treasury will be exhausted before the 1st of January, and the public credit will be seriously impaired. This disgrace must not fall upon the country.

It is impossible for me, however, now to ascertain this amount; nor does there at present seem to be the least probability that this can be done, and the necessary means provided by Congress to meet any deficiency which may exist in the Treasury before Monday next at twelve o'clock, the hour fixed for adjournment, it being now Saturday morning at half past eleven o'clock. To accomplish this object, the appropriation bills, as they shall have finally passed Congress, must be before me, and time must be allowed to ascertain the amount of the moneys appropriated, and to enable Congress to provide the necessary means. At this writing it is understood that several of these bills are yet before the committees of conference, and the amendments to some of them have not even been printed.

Foreseeing that such a state of things might exist at the close of the session, I stated, in the annual message to Congress, of December last, that "from the practice of Congress such an examination of each bill as the Constitution requires has been rendered impossible. The most important business of each session is generally crowded into its last hours, and the alternative presented to the President is either to violate the constitutional duty which he owes to the people, and approve bills which, for want of time, it is impossible he should have examined, or, by his refusal to do this, subject the country and individuals to great loss and inconvenience."

"For my own part, I have deliberately determined that I shall approve no bills which I have not examined; and it will be a case of extreme and most urgent necessity which shall ever induce me to depart from this rule."

The present condition of the Treasury absolutely requires that I should adhere to this resolution on the present occasion, for the reasons which I have heretofore presented.

In former times, it was believed to be the true character of an appropriation bill simply to carry into effect existing laws and the established policy of the country. A practice has, however, grown up of late years to ingraft on such bills, at the last hours of the session, large appropriations for new and important objects not provided for by pre-existing laws, and when no time is left to the Executive for their examination and investigation. No alternative is thus left to the President but either to approve measures without examination, or, by vetoing an appropriation bill, seriously to embarrass the operations of the Government. This practice could never have prevailed without a surplus in the Treasury sufficient large to cover an indefinite amount of appropriations. Necessity now compels us to arrest it, at least so far as to afford time to ascertain the amount appropriated, and to provide the means of its payment.

For all these reasons, I recommend to Congress to postpone the day of adjournment for a brief period. I promise that not an hour shall be lost in ascertaining the amount of appropriations made by them for which it will be necessary to provide. I know it will be inconvenient for the members to attend a called session, and this, above all things, I desire to avoid. JAMES BUCHANAN.

WASHINGTON CITY, June 12, 1858.

Mr. SLIDELL. I move that the message lie on the table, and be printed. We shall have an opportunity hereafter of considering the question there submitted as to the postponement of the day of adjournment.

The PRESIDING OFFICER. The message will lie on the table. The motion to print it will be referred to the Committee on Printing.

Mr. JOHNSON, of Arkansas. The message should go to the public; and the Committee on Printing authorize me to report at once in favor of the motion to print it.

The motion was agreed to.

SUSPENSION OF RULES.

A message from the House of Representatives by Mr. ALLEN, its Clerk, announced that the House had concurred in the resolution of the Senate for a suspension of the 16th and 17th joint rules of the two Houses for the remainder of the present session.

INDIANA SENATORIAL ELECTION.

The PRESIDING OFFICER. The hour has arrived for the consideration of the special order,

being the question of privilege in regard to the Indiana senatorial election, the pending question being on the motion of the Senator from Illinois [Mr. TRUMBULL] to amend the amendment of the Senator from Maine [Mr. HAMLIN] by adding to it:

That, in the opinion of the Senate, no election of a member of this body made by the Legislature of a State consisting of two branches is valid when made in a meeting of individual members of both, unless such meeting for that purpose was prescribed by law, or had been previously agreed to by each House acting separately in its organized capacity, or is participated in by a majority of the members of each House, or is subsequently ratified in some form by each House in its organized capacity.

Mr. TRUMBULL called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 17, nays 26; as follows:

YEAS—Messrs. Broderick, Chandler, Clark, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hamlin, Harlan, King, Seward, Simmons, Trumbull, Wade, and Wilson—17.

NAYS—Messrs. Allen, Benjamin, Bigler, Brown, Clay, Clingman, Davis, Fitzpatrick, Green, Gwin, Hammond, Hayne, Iverson, Jones, Mallory, Mason, Polk, Pugh, Reid, Rice, Sebastian, Slidell, Thomson of New Jersey, Toombs, Wright, and Yulee—26.

So the amendment to the amendment was rejected; and the question recurred on Mr. HAMLIN's amendment to strike out all after the word "resolved," in the resolution of the Judiciary Committee, and insert:

That the case of JESSE D. BRIGHT and GRAHAM N. FITCH be recommended to the Committee on the Judiciary, with instructions to report specially the grounds on which the resolution is based declaring said BRIGHT and FITCH elected.

Mr. FESSENDEN called for the yeas and nays; and they were ordered, and taken, with the following result:

YEAS—Messrs. Chandler, Clark, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hamlin, Harlan, King, Seward, Simmons, Trumbull, Wade, and Wilson—16.

NAYS—Messrs. Allen, Benjamin, Bigler, Broderick, Brown, Clay, Clingman, Collamer, Fitzpatrick, Green, Gwin, Hammond, Hayne, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Pearce, Polk, Pugh, Reid, Rice, Sebastian, Slidell, Thompson of Kentucky, Thomson of New Jersey, Toombs, Wright, and Yulee—34.

So the amendment was rejected; and the question recurred on the following resolution reported by the Judiciary Committee:

Resolved, That GRAHAM N. FITCH and JESSE D. BRIGHT, Senators returned and admitted from the State of Indiana, are entitled to the seats which they now hold in the Senate as such Senators aforesaid—the former until the 4th of March, 1861, and the latter until the 4th of March, 1863, according to the tenor of their respective credentials.

Mr. TRUMBULL. I move to amend the resolution by inserting the word "not" before "entitled."

Mr. GREEN. I suggest that it amounts to the same thing as voting against the resolution.

Mr. COLLAMER. It does not amount to the same thing.

Mr. TRUMBULL. I apprehend this is the only way to settle the question definitely.

Mr. MASON. I am aware of the general understanding, in which I acquiesced last night, that there should be no debate on this question to-day; and I shall not, of course, say anything; but I wish to remark that I had desired and intended to state the reasons which govern me, but I am precluded by an agreement to which I was a party.

Mr. SEWARD. I call for the yeas and nays on this question.

The yeas and nays were ordered.

Mr. BELL. I desire to state that I have paired off with one of the Senators from Minnesota, Mr. SHIELDS. I was authorized to state that, if he were here he would vote in favor of the sitting members from Indiana retaining their seats. If I were at liberty to vote, I should vote against them.

The question being taken on Mr. TRUMBULL's amendment, resulted—yeas 23, nays 30; as follows:

YEAS—Messrs. Broderick, Chandler, Clark, Collamer, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Houston, King, Mason, Pearce, Seward, Simmons, Trumbull, Wade, and Wilson—23.

NAYS—Messrs. Allen, Benjamin, Bigler, Brown, Clay, Clingman, Davis, Fitzpatrick, Green, Gwin, Hammond, Hayne, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Polk, Pugh, Reid, Rice, Sebastian, Slidell, Thompson of Kentucky, Thomson of New Jersey, Toombs, Wright, and Yulee—30.

So the amendment was rejected.

The resolution was agreed to.

NAVAL APPROPRIATION BILL.

Mr. WADE. I move to take up—

Mr. HUNTER. I will suggest that the conference report on the naval bill was laid aside informally. If the Senator from Ohio wants to get away by Monday evening he had better let us get the appropriation bills to the President to-day. I still entertain hopes that we may get off by Monday evening, if we can get these bills to him to-day so that he may examine them.

Mr. WADE. There is a resolution of the House which I am very anxious to have taken up and acted upon.

The VICE PRESIDENT. The Chair will state that what has been done heretofore has been by unanimous consent; and if any Senator moves to take up a bill, at this time, before the call for petitions and reports is concluded, it must be by unanimous consent.

Mr. HUNTER. I shall not object to the motion of the Senator from Ohio, after we dispose of the conference report. I want to get these bills into the hands of the President. I understand that the pending question in regard to the naval appropriation bill is the motion of the Senator from Florida to recede from the amendment in regard to the New York navy-yard, and to agree to the House amendment to the Senate amendment with reference to the steam sloop-of-war.

The VICE PRESIDENT. The naval appropriation bill is now before the Senate, as it was taken up before by unanimous consent.

Mr. HUNTER. If the motion of the Senator from Florida should prevail, the bill would then be closed, and all we should have to do would be to send a message to the House of Representatives communicating our action. If, on the other hand, his motion should not carry, it will then be necessary to ask for another committee of conference, and settle the bill in that way.

Mr. STUART. I suppose it will be necessary to take these questions separately.

Mr. HUNTER. Certainly. Let us take it on the sloop first.

Mr. MALLORY. No; on the other first.

Mr. HUNTER. Well, take it on the other.

The VICE PRESIDENT. It is moved and seconded that the Senate recede from its amendment appropriating \$50,000 for the navy-yard at Brooklyn.

The motion was agreed to.

Mr. HUNTER. The question now, I suppose, is on the motion made by the Senator from Florida to agree to the House amendment to the Senate amendment in regard to the sloop, putting it at ten instead of five. I shall vote against that motion.

Mr. STUART. I desire to submit a motion which will supersede that; and it is, that the Senate recede from its amendment in regard to the sloop, and on that question I ask the yeas and nays.

Mr. HUNTER. I voted against all these sloop; but I am not certain that the motion of the Senator from Michigan can be made, because the House of Representatives have agreed to our amendment, for five sloop, with an amendment, and all that is left for us to say is, whether we disagree to their amendment or not. The provision for five sloop is now in the bill, as I understand, by the joint action of both Houses.

Mr. STUART. I understand that they have substituted ten for five; that is the way the bill stands.

Mr. HUNTER. I thought it was an addition, but if it stands as a substitute, the Senator is right.

The VICE PRESIDENT. The amendment will be read.

The Secretary read the amendment, as follows:

Sec. 6. *And be it further enacted*, That the Secretary of the Navy cause to be constructed, as speedily as may be consistent with the public interests, five steam screw sloop-of-war, with full steam power, whose greatest draught of water shall not exceed fourteen feet, which ships shall combine the heaviest armament and greatest speed compatible with their character and tonnage; and one side-wheel war steamer, whose greatest draught shall not exceed eight feet, armed and provided for service in the China seas; and that there be, and is hereby, appropriated, to be expended under the direction of the Secretary of the Navy, for the purpose above specified, the sum of \$1,200,000, out of any money in the Treasury not otherwise appropriated.

The House amendment was to strike out "five" and insert "ten."

Mr. HUNTER. The effect of the motion of the Senator from Michigan would be to strike out the whole provision for sloop, and it is in order.

Mr. MALLORY. I submit that the motion of the Senator from Michigan cannot be in order. The provision for five sloop is already in the bill by the action of the two Houses.

The VICE PRESIDENT. The motion of the Senator from Florida is to agree to the House amendment. That supersedes the motion of the Senator from Michigan, in the opinion of the Chair.

Mr. STUART. How can it?

Mr. HUNTER. Either motion will close the bill.

Mr. STUART. But if the Senate recedes from its amendment, there is no point of disagreement left.

Mr. HUNTER. But the motion of the Senator from Florida would close the bill, and among motions which close the bill, the first made is to be first put.

The VICE PRESIDENT. The Chair thinks the motion of the Senator from Florida is in order.

Mr. STUART. I ask for the yeas and nays on it.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 30; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Bright, Brown, Clingman, Crittenden, Douglas, Fitch, Green, Gwin, Hammond, Hayne, Iverson, Johnson of Arkansas, Kennedy, Mallory, Mason, Reid, Sebastian, Simmons, Shidell, Thomson of New Jersey, and Wright—26.

NAYS—Messrs. Broderick, Chandler, Clark, Collamer, Davis, Dixon, Doolittle, Durkee, Fessenden, Fitzpatrick, Foot, Foster, Hale, Hamlin, Earlan, Houston, Hunter, Johnson of Tennessee, Jones, King, Pearce, Polk, Pugh, Rice, Seward, Stuart, Toombs, Trumbull, Wade, and Wilson—30.

Mr. HUNTER. I now move that the Senate insist on its disagreement to the House amendment to their amendment in relation to the sloop-of-war, and also agree to the request of the House for another conference; and insist on their other amendments to which the House has disagreed, if there be any such.

The motion was agreed to; and Mr. PEARCE, Mr. THOMSON of New Jersey, and Mr. FOSTER, were appointed the second committee of conference.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker had signed the following enrolled bills; which thereupon received the signature of the Vice President:

An act making appropriations for the support of the Army for the year ending the 30th of June, 1859; and

An act making supplemental appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1859.

MAIL STEAMER BILL.

Mr. YULEE, from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 558) making appropriations for the transportation of the United States mail by ocean steamers, and otherwise, during the fiscal year ending the 30th of June, 1859, reported that the committee were unable to agree. He moved that the Senate further insist on its amendments, and ask for a further conference.

The motion was agreed to; and Messrs. HAMMOND, HALE, and MALLORY, were appointed the committee on the part of the Senate.

A message from the House of Representatives by Mr. ALLEN, its Clerk, afterwards announced that the House insisted upon its disagreement to the amendments of the Senate to the bill (H. R. No. 558) making appropriations for the transportation of the United States mail by ocean steamers, and otherwise, during the fiscal year ending the 30th of June, 1859, and agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. DANIEL E. SICKLES, Mr. RICHARD MOTT, and Mr. M. R. H. GARNETT, managers at the same on its part. A subsequent message announced that Mr. JOHN C. KUNKEL had been appointed in the place of Mr. MOTT.

POST ROUTE BILL.

Mr. YULEE. I am directed by the Committee on the Post Office and Post Roads, to whom was referred the bill (H. R. No. 585) to establish certain post roads, to report it back with amendments. I will state, as it may render unnecessary the reading of all the amendments, that they are simply the establishment of post routes, nothing else, with the exception of this one amendment:

And be it further enacted, That the Postmaster General be authorized to make such arrangements for the transportation of the great through mails between Portland and New Orleans, as will insure the most speedy and certain connection, including in the route for one of the daily mails, as many of the sea-board commercial cities as may be consistent with the greatest dispatch.

It is not a direction, only an authority.

Mr. HUNTER. Authority to do what?

Mr. YULEE. To provide for the speediest transportation of the mails between Portland and New Orleans.

The PRESIDING OFFICER, (Mr. MASON.) The Chair hears no objection to the consideration of this bill. It is before the Senate as in Committee of the Whole.

The amendments were agreed to.

Mr. HUNTER. I do not mean to debate the bill; I would not debate anything at this time of the session. I merely say that, so far as I am concerned, I will not vote for any new post route bills, unless you raise the postage, so as to make the Department self-sustaining.

The bill was reported to the Senate, the amendments were concurred in, and ordered to be engrossed, and the bill read a third time. The bill was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had agreed to the second and third amendments, and disagreed to the fourth amendment of the Senate to the bill (H. R. No. 466) making appropriations for the expenses of collecting the revenue from customs, and agreed to the first amendment of the Senate to the said bill, with an amendment.

MILITARY ASYLUM.

Mr. HALE. I move that the select committee on the Military Asylum have leave to report next session. We do not ask any power to sit during the recess, but we have not completed our investigations, and we want to report at the next session.

The motion was agreed to.

INDIAN DEFICIENCY BILL.

Mr. HUNTER. There is one appropriation bill on which the Senate will have to act, the Indian deficiency bill, and I now move that it be taken up and disposed of.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 555) to supply deficiencies in the appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1858; the question pending being of the following amendment of Mr. Houston:

And be it further enacted, That the superintendent and agents within the superintendency of Texas shall be hereafter appointed in the same manner as other superintendents and agents are appointed and confirmed; and that the Wichita agency is hereby attached to the superintendency of Texas.

Mr. HOUSTON. I regret exceedingly that my voice is so much impaired by cold and hoarseness that it will be impossible for me to do full justice to this subject. I desire to call the attention of the Senator from Arkansas to it. The other evening, understanding that he objected to my amendment, I desired him to explain the reasons for his opposition, in order that I might occupy as little time as possible in answering him. I now repeat the request, and ask the Senator to state the grounds of objection.

Mr. JOHNSON, of Arkansas. On the invitation of the Senator from Texas, I will state what I understand to be the objection to the amendment which he has offered; and as this is certainly no occasion for long speeches, I will confine myself as strictly as I can to the performance of that duty with as few words as possible. The proposition of the Senator from Texas is to take that section of country which lies between the ninety-eighth and

one hundredth degrees of west longitude, from the southern Indian superintendency, and transfer it to what is called the Texas superintendency. Texas has but few Indians of her own; this Government owns no land there; there is no superintendency there; but they have a principal agent and two subordinates. The proposition is to take this section of country from the southern superintendency and place it under the Texas superintendency. I will state briefly the objection to it, and then submit the papers from the Department, which can be read, and which will show to the Senate the policy of the Government in this regard.

The country between the ninety-eighth and one hundredth degrees of west longitude is part of the Choctaw country. Those Indians, we know, are exceedingly jealous of their rights. This section of country, it will be found by reading the treaty of 1855, is actually subject to the laws of the Choctaw people. The Department think it bad policy that a portion of that country, subject to the same Indian laws, and belonging to the same Indian tribe, should be placed under a distinct, perhaps a hostile, certainly a rival superintendency. The Department think it would destroy unity in the decisions, it would be calculated to breed strife on the borders, and it would, in all probability, involve the Choctaws, for they would feel themselves at liberty, if their laws were violated, and their rights invaded, to muster their own forces, and march over and expel the Indians who did not conform to their laws. The Department consequently think that the whole country belonging to the Choctaws should be continued in the southern superintendency, and object to the proposition of the Senator from Texas, that that portion of it lying west of the ninety-eighth meridian of longitude shall be placed under an altogether different supervision. I send to the Chair some letters showing the views of the Indian bureau, and I ask that they may be read as concluding all the remarks I see any necessity for my making on this subject at this time.

DEPARTMENT OF THE INTERIOR, May 31, 1858.

SIR: I have the honor to acknowledge the receipt of your letter of the 24th instant requesting my opinion as to the propriety of providing by law for the creation of a new Indian superintendency to embrace the Indians of Texas, and those who may be located in the country west of the ninety-eighth meridian leased from the Choctaws and Chickasaws, and whether the creation of such a superintendency would interfere with the rights of the Choctaws and Chickasaws, and lead to a conflict of jurisdiction.

The subject was referred to the acting Commissioner of Indian Affairs for examination and report. This was furnished on the 27th instant, and a copy of the same is herewith inclosed.

The Indian office is of opinion, for the reasons stated in the report, that it would be inexpedient to make any change in the present organization of the southern superintendency, and in this I concur.

It will be seen from the report that there are but a small number of these Indians on the reserves in Texas; and that there is a probability that those will be removed. The only Indians who may be considered as permanently located in Texas are those west of the Pecos; and a single agent will suffice for them. There is, therefore, no necessity for the creation of a superintendency in Texas.

Neither can I perceive any good reason for dismembering the southern superintendency, the boundaries of which have been so long established. It is true that the wild tribes who commit depredations on the Texas frontier pass through the territory leased from the Choctaws and Chickasaws, and that their hostile incursions can be effectually checked only by the establishment of a military post and agency; but no change in the organization of the Indian service is necessary to accomplish this result. In addition, there is a positive objection, and a serious one, to the proposed transfer of jurisdiction. The Choctaws have formally protested against it; and it is easy to foresee that if the plan be carried out, much dissatisfaction will be created, and vexatious disputes will arise to embarrass the Department.

It is my opinion, therefore, that no action by Congress, of the character proposed, is required.

Very respectfully, your obedient servant,

J. THOMPSON, Secretary.

Hon. A. B. GREENWOOD, Chairman of Indian Committee, House of Representatives.

DEPARTMENT OF THE INTERIOR,
OFFICE INDIAN AFFAIRS, May 27, 1858.

SIR: I have the honor to acknowledge the receipt, by reference from you for a report thereon, of a letter from the chairman of the Committee on Indian Affairs of the House of Representatives, dated the 24th instant, requesting the views of the Department on several questions growing out of a bill now before the committee, by which, as I understand, it is proposed to create an additional full superintendency of Indian affairs, to include the Indians of Texas and those to be colonized within what is known as the leased portion of the Choctaw and Chickasaw country, lying between the ninety-eighth and one hundredth degrees of west longitude.

The first article of the treaty of June 23, 1855, with the Choctaws and Chickasaws, defines the boundary of their country, which extends west between the Red and Cana-

dian rivers, to the one hundredth degree of west longitude. By the ninth article of that instrument, those Indians "lease to the United States all that portion of their common territory west of the ninety-eighth degree of west longitude for the permanent settlement of the Wichita and such other bands of Indians as the Government may desire to locate thereon," with certain exceptions; "which Indians," it is provided, "shall be subject to the exclusive control of the United States, under such rules and regulations, not inconsistent with the rights and interests of the Choctaws and Chickasaws, as may from time to time be prescribed by the President for their government: *Provided, however*, That the territory so leased shall remain open to settlement by Choctaws and Chickasaws as heretofore."

It will thus be seen that the Choctaws and Chickasaws made no cession of the district of country referred to, but merely a lease thereof for a specific purpose. It still remains a portion of their country, with the full right on their part to occupy it, except so far as might interfere with the carrying out of the proper and legitimate objects of this lease, as expressed in the treaty. And by virtue of the seventh article of the treaty, the Choctaw government and laws extend over it in the same manner and to the same extent as over any other portion of the country within their jurisdiction, except as to the Wichita and other Indians located or to be located there by the Government, which are to be under the exclusive control of the United States. Such Choctaws and Chickasaws as reside, or may hereafter remove there must continue to be under the charge and supervision of the agent for those tribes, and of course within the present superintendency. To place the country or the Indians there within another superintendency, would be an improper and unsuitable arrangement, that would lead to a conflict of jurisdiction, and consequent embarrassment and difficulty.

The Indians to be located within the leased country will be in charge of the agent specially appointed for them; and, to avoid conflict and embarrassment arising from the jurisdiction of the two agents extending over Indians within the same tract of country, as well as to secure harmony, concert of action, and a homogeneous policy, so far as necessary, both agents and the Indians in their charge should be under the same superintendency.

It would cause great dissatisfaction among the Choctaws and Chickasaws, and be unjust to them, to sever and transfer a portion of their country, and apply it to another, and to them, a foreign jurisdiction; and they have strongly protested, through their agent, against such an arrangement. It would have the effect of procuring their people from emigrating to the leased country, and which the Government should encourage to a proper extent, as, being much more civilized, and disposed to engage in agricultural pursuits, they would set a good example to the wild Indians, and otherwise aid in promoting their civilization and improvement.

It was from the foregoing and other considerations that the Department finally refused, last year, to place the Wichita and other Indians located within the leased portion of the Choctaw and Chickasaw country, together with their agent, under the jurisdiction of the supervising agent in Texas. Further reflection on the subject has only tended to strengthen the views then entertained as to the impolicy and impropriety of the measure.

Circumstances beyond the control of the Department prevented the adoption last year of effective measures for collecting and locating the Indians intended to be colonized within the country in question, though seasonable and proper instructions were issued for the purpose. Further attention will be given to the subject, and such proceedings required to be adopted as, it is hoped, will lead to the accomplishment of the object at an early day, so far as it may prove to be practicable.

With respect to the creation of another superintendency for the Indians in Texas, it is not deemed at all necessary. The present arrangement of three agents, one of whom, called the supervising agent, is invested with all the essential powers and jurisdiction of a superintendent, and with an adequate salary, is regarded as amply sufficient for the control and management of the limited number of Indians in that State. There are now two reservations, about fifty miles apart, upon which some fifteen hundred Indians have been colonized; and the establishment of a third, west of the Pecos river, has been recommended. In view of the proximity of the former, and the limited number of Indians upon them, it is believed that one agent for them would be sufficient; and should these Indians be removed to, and colonized within, the tract of country leased of the Choctaws and Chickasaws—a measure which is deemed to be practicable—a single agent for the remaining Indians of Texas would be all that would probably be necessary.

Very respectfully, your obedient servant,

CHARLES E. MIX,

Acting Commissioner.

Hon. JACOB THOMPSON, Secretary of the Interior.

Mr. HOUSTON. I hope, Mr. President, in the present condition of my voice, there may be something like order maintained in the Senate, so that I may be heard by Senators in behalf of Texas. I believe her security, the preservation of her peace, and the salvation of the lives of her citizens are involved in this question. It is no matter of speculation on the part of Texas; it is no desire of her Senator on this floor to occupy, unnecessarily, a moment of the time of the Senate; but I do it in maintenance of her rights, and that justice may be done and the laws carried out. The section of country to which the Senator from Arkansas has referred, and to which these papers relate, lying between the ninety-eighth and one hundredth degrees of west longitude, was acquired from the Choctaw and Chickasaw Indians for the express purpose of colonizing and placing on it the wild Indians within a certain district of

country, confining them to reservations, withdrawing them from their predatory habits, and civilizing and humanizing them as fast as possible. For that reason this land was acquired, at a cost of not less than \$800,000; \$600,000 of the money was given to the Choctaws for their interest in it, and \$200,000 to the Chickasaws, in proportion to the population of the respective nations. This tract of country was intended to be settled on by the Indians for the purpose of civilizing them, of restraining them, of controlling them, and of giving protection to the inhabitants of Texas. Ever since the third year after the annexation of that State to this Union, we have heard of an almost uninterrupted series of massacres, of murders, of robberies, and they continue unabated until the present moment. It became the duty and the desire of Texas to call for some protection against the wild and predatory bands of Indians that infest her northern border. She has annoyance enough for the distance of six or eight hundred miles from Indians who are immediately contiguous to her territory and south of the Red river; but the Kioways and Camanches are roaming over the country north of the Red river, and they make predatory excursions on us whenever it suits their convenience. They find a market in Kansas for the horses which they steal from us. This reserve is two degrees, or one hundred and twenty miles, in width. There is no fortress within it. The Indians find an uninterrupted resort to it, and they are permitted to issue forth, after organizing the lawless portions of each band of the northern tribes, to make a raid upon Texas. Have we any protection against it? None on earth. You tell me you have plenty of regular troops there—very regular; regular in doing us no good, giving us no protection, pursuing no Indians, and preventing the incursions of none. This is the way Texas is protected; and if a claim is brought here for money paid out for purposes of defense, it is ruled out of order in the Senate, or the Secretary of War says that there was no occasion for it, because the regular troops were in that country, and therefore he does not recommend that Texas be refunded the money she has paid out to protect her defenseless frontiers. That is the situation of Texas at this moment, and it is to arrest such evils in future that I now advocate this amendment as indispensable to her future security.

This tract of country was acquired for the purpose of colonization, from the Choctaws and Chickasaws. Did they not know for what it was they gave a perpetual lease upon it—for ninety-nine years, I believe? Their inhabitants may settle upon it if they choose to do so, under regulations that the President of the United States may establish there, not reserving any national or tribal right to it whatever; but they may go and settle on it, subject to the regulations which the President of the United States may make. Texas has no sovereignty there, and no claim to the soil; she has unconditionally ceded it, merely reserving to her citizens who choose to locate there, the right of settlement. The Choctaws have not protested against my proposition, though their agent has. What good does it do him? I should like to know what connection he has with Texas. This tract of country lies upon our borders, and an ideal line is all that separates us, and for many miles upon its south and its west, it is bordered by Texas. It is one hundred and fifty or two hundred miles from the Choctaw agent, and it is some forty miles from Fort Arbuckle. Is the fort any protection to it? No; but it is a fact conceded in the Department, that the Indians from the north, making incursions upon Texas, do pass through this reserved territory and make their inroads upon Texas. But, sir, the Choctaw agent is a great man, I suppose; I have not the honor of his acquaintance; but we know that if you give a little power to an individual, and there is any show or display about it, he is very reluctant to yield it up. It curtails his dominion that he has never seen; it appropriates it to a useful purpose—the protection of Texas; but an agent, perhaps, would come within a hundred miles of him and settle, and then there would be somebody to contrast and compare with him, and if we get the one there that we want, I do not know that he will make by the comparison, but I am sure the other will lose nothing. I mean no reflection on the gentleman; I fortunately do not know him; but

he has assumed to protest against this in the name of the Choctaw nation. They are just as intelligent as he is, and just as capable of protesting for themselves; but they have not done it, and if they had protested, they would have had no right to do it. They have ceded this territory; it is not theirs; it is the nation's. It was intended to colonize the Indians there; and for what purpose? That they might be brought within the control of proper officers, and that Texas might be redeemed from the suffering of many years. There are regular troops in Texas, but there is no fortress in this reserve. There is no society there for the officers; they cannot have the elegant accommodations that are necessary for officials to enjoy with a handsome salary. There are no splendid mansions there; no elegant society. They cannot go to balls and parties; they cannot enjoy themselves at all. It is not a country suitable for persons of taste! How would you remunerate a man for the sacrifice of his amiability of disposition by giving him \$1,500 a year, or the like of that, to serve in such a country? It is perfectly ridiculous, sir! You cannot compensate a man of genius, taste, and refinement, for placing him away out there. Money is not sufficient; but they are very willing to get office, trusting to favoritism and such means as will bring them into agreeable society.

Within the last year I think not less than twelve hundred horses have been stolen from citizens of Texas and the reserve Indians. The trails have been followed; they have gone into this territory to which we have our eyes directed, and in which we wish to see the Indians located, and a regular agency established. The reserve Indians are denounced, because the reserve policy requires more attention on the part of the agents, and they have not so much leisure if they devote themselves to it. The civilized Camanches on the reserves sent out an expedition of their own; and they retook no less than seventy horses, part of their own ponies, many of them public horses, and others belonging to the community surrounding the reservation. They caught these horses in the possession of two Spaniards and two wild Camanches. They were striking through this region to reach Kansas; for there is a market there, and with the civilized Indians bordering upon the route. Gentlemen have told me that they have seen horses which were taken from Texas sold in Kansas as far up as Fort Leavenworth. You must arrest this commerce, or Texas is to be the constant prey of this system of horse-thieving. The Indians of the reserve, by Major Neighbors's permission, under the command of their sub-agent, followed and overtook the horses with two Spaniards and two Camanches. They thought it was unnecessary to be put to the trouble of taking care of all of them; and so they killed the Spaniards and brought in the Camanches, and reported them to the agents. They said to the two wild Indians that their rule was, before they came to the reserve, to kill fellows for such offenses; and they executed them. This may be fearful to a state of good morals; it partakes a little of the lynching system; but I am not sure that it is not a good frontier system in extreme cases. Not long since, Captain Ford pursued the Indians who had stolen some three hundred horses into the very heart of this country purchased from the Choctaws, and there overtook them. He had under him one hundred and two white men, Texas rangers, called out by the State, as necessary to its protection; and he had one hundred and thirty of the reserve Indians, who cultivate the soil, and produce a superabundance for the sustentation of themselves and their families. With these he attacked about four hundred of the Camanches—two to one in number. He killed seventy-six of them and took seventeen prisoners, and retook upwards of three hundred horses.

Tell me, sir, what millions you have expended to support your regular Army since Texas has been annexed to this Union, and that they ever performed half the service to the frontier or made reclamation for wrongs upon Texas equal to this. We are charged with having so many troops quartered upon us, and now there is to be a hesitancy about granting the regiment of rangers. Texas has to protect her own frontier after the generous manifestation of her kindness to the United States in granting reservations on which to locate Indians, prompted by feelings of humanity that she might reclaim men who had betrayed her people,

that she might show them the white path of peace, that their minds might become enlightened from culture and education, their habits reformed, and they rendered useful and comfortable, and finally taught the greatest aspiration of intelligence, the conception of a God. She has given you this; and what have the United States done? Have they responded, by exertion on their part; to meet the wishes and the object of Texas? Never. I will show you the feeling that exists on the part of the representatives of this Government—officers educated at public expense by the influence of family and connections. They are the men who, when placed in official situation to render service to the country, forget the duty of a man as well as an officer, and treat the rights of Texas and this Government with contempt. Major Neighbors, anterior to the annexation of Texas, had been an agent for years; he had traveled with the Indians; he was the first explorer that ever found a route directly from the settlements of Texas to El Paso. By traveling with the Indians and associating with them after he was appointed agent, he had their confidence, and they took him where he found water and grass and everything necessary, and he went on comfortably to El Paso by a direct route, which our engineers failed in finding. The access now is easy, with everything necessary for the facilities of travel. For years before annexation we had no bloodshed on our frontier; we had no troops stationed there—not a company; and the President himself had gone up into the interior without a guard of a single man, met the hostile Indians, and treated with them. He had risked his life; he was willing to lay it down to redeem his people and shield them from the uplifted tomahawk. He made peace, and the Indians kept it; and not until after the administration of General Taylor came in and appointed another agent in place of Major Neighbors, was the peace disturbed; and even then for some time peace was maintained on the frontier; but, the agent not going amongst them, and their old confidential friend being withdrawn, the Indians became hostile, and from that moment to the present they have been so. Ten thousand dollars, distributed under the administration of the Texas government, satisfied the Indians, and kept peace from the Red river to the Rio Grande: every dollar was accounted for. Then there was some respect for the suffering frontier; there was some sympathy for the Indian in his nomadic state; there was some respect for humanity, prospective as well as present. There were no salaries given by Texas for the elegant and refined tastes of gentlemen now-a-days. They were a rude people, but they were honest.

There are two reserves, one called the Brazos reserve of four leagues; and about forty miles up the Brazos, along the base of the mountains, is a second reserve of two leagues, granted by Texas to the United States for the occupation of the Indians. At the upper agency there are about one hundred and fifty Indians, and at the lower agency, on the Brazos, about twelve hundred. At the upper agency, being the most exposed situation, there was a force, I think, of two companies, and Captain Evans was in command. Not very long ago, the agent wrote to him that there was danger; that he was appraised by the friendly Indians, and those on the reserve, that the hostile Indians of the north meditated an attack upon them. What did he do? I will show you presently. In the mean time, Camp Cooper, which had been located within the reserve, and not very far from its center, was removed, by way of making a small trading transaction for the benefit of the Government. Camp Cooper was removed under a superior's order, from the land that was given by Texas to the United States, and taken about twelve miles off, by the circuitous route of the road; or eight miles by a pathway from the reserve; taken to a private ranche, private property, with the understanding that all the improvements made there were to be occupied so long as the United States thought proper, and then they were to revert to the owner of the ranche. They had to haul timber some twenty miles to consummate that handsome establishment that was to be made anew. Thus the protection of the fort was withdrawn, not only from the Indians of the reserve, but from the inhabitants who were settling along the reserve, and taken out of the way in a westerly direction not interposing between the inroads of the

Indians from the north at all. That ranche was understood to belong to an officer, who had, perhaps, economized sufficiently to purchase a tract of land there, supposing it would aggrandize him and make his prospects a little better. No doubt the United States, after a while, will have a claim for timber and spoiliations upon his property to the amount of \$150,000, and he will get it. If it was only fifteen or twenty thousand of an honest claim, he could not get it; but if it be \$150,000, he can afford to hire lobby members, and \$150,000 would have some influence, while an honest demand of \$20,000 would be a contemptible thing that would be kicked out of doors. What does this intelligent gentleman say when he is written to by Captain Leeper, an Indian agent? I will let you see. Mr. Leeper wrote to the Army headquarters, at San Antonio, protesting against the removal of Fort Cooper from the reserve. The answer he received was this:

HEADQUARTERS, DEPARTMENT OF TEXAS,
SAN ANTONIO, April 14, 1858.

SIR: In reply to your communication of the 29th ultimo, relative to the change of site for the military post of Camp Cooper, I am instructed by Colonel Wilson, the department commander, to reply that orders in regard to this matter have been issued; and that should Agent Leeper feel insecure in remaining where he now is, he can move the agency to a position nearer to the new site for the post.

Very respectfully, your obedient servant,

KENNER GARRARD,
First Lieutenant Second Cavalry,
Acting Assistant Adjutant General,
Major R. S. NEIGHBORS, Supervising Agent Texas Indians,
Comanche Agency, Texas.

So the agency is to be broken up to suit a few companies temporarily there, to stult the taste of officers who wish to benefit individuals by a transfer of the post. That is the spirit that actuates these men. Why should they be accommodating or just to Indian agents? They think the Indians are dogs, and the agent's gradation is only a little better than a dog. Any man who would respond in such a manner to an officer of the Government who would call on him for a necessary and useful purpose, should have a pen dashed through his name; and if I had power, he should not hold his position a moment. I would rebuke him, and I would never rescind my order of degradation. The army complain there that they are not going to be a frontier police. A man who would act in this manner is not fit to head a gang of scavengers on this avenue. That would be elevation to the man—much more than he deserves. What, taunt an officer of the Government by saying "I will do as I please; break up the Indians; disappoint the objects of the Government; abandon the reserve; and if you want protection, go to the fort!" Our rangers have protected us, and the Government owes us \$80,000 for giving protection to its posts in Texas. Their regulars cannot protect themselves, except by shutting their gates and keeping the Indians out.

When it was reported that the Indians were coming down in large bodies, another appeal was made. These Indians were the same that Ford has lately whipped. They could not get a supply of provisions for a long time. I do not know that they wanted them, for their supplies are very precarious until they reach Texas, and then they help themselves out of the herds of Texas. This Mr. Evans says to Mr. Leeper, that if the wild Indians were actually fighting on the reserve, and he could get reliable information of the fact, he would then send troops. If they were fighting, and had twelve miles to send them, I should think the fight would be over before they traversed the twelve miles. Infantry march rather slowly, and they would not be disposed to hasten much if they expected a conflict with the Indians when they got to the end of their journey. They would be very apt to get lost, and find their way back to the fort again. [Laughter.]

Sir, I desire the Texas agents to be made permanent, as other agents are. They are now special agents, and are not confirmed by the Senate, as other agents are. It is degrading them; it is treating them as if you had given special favors to them which they were not entitled to, not placing them on a footing with other men occupying the same relations to the Government that they do. That is one object of my amendment. The other object is, to have this reserve—which lies upon our borders, which is on two sides surrounded by our territory, which is separated only one hundred and ten miles from our superintendency, whereas it is two hundred and fifty miles from

the superintendency on the Red river, at Fort Smith, with Indian settlements and Indian nations intervening—attached to the Texas superintendency. It is immediately on our borders. The Wichitas and Wacos, and other Indians that inhabit the country where this reserve is, embracing the Wichita mountains, have ever been enemies of Texas for the last twenty-five years, to my certain knowledge. They are there yet. They are intermarried with the Indians of Texas who are upon the reserves, and are being civilized. If intercourse is kept up with them, and they are not under the same superintendency with the Indians of Texas, we shall have no security whatever; we shall be liable, at all times, to inroads from them as for twenty-five years past, and as they have recently made an inroad, in connection with other tribes that Ford had the battle with. I wish to bring these Indians within the control of our agency, which is only a hundred and ten miles from them, to assist them in their intercourse with our Indians, so that they can give to the other reserves intelligence of any hostile movements of the Kioways and Camanches, and they will soon become, from their assimilated character, one people, united and in friendship with Texas. How is it now? They are our enemies, and have always been our enemies. Why? They receive their annuities from Fort Smith and other places, and they look upon us as a separate people. They do not deprecate upon Arkansas, or upon the friendly Indians under the Arkansas superintendency. Why? Because their supplies come through their country, although they are one hundred miles nearer our superintendency. If you bring their supplies through Texas, and up the Red river, and deliver them to them in that way, they will know that they are in connection with the people of Texas; they will look upon us as friends; they will become cordial in their feelings towards us.

There is no natural connection between these Indians and the superintendency at Fort Smith, two hundred and fifty miles from this tract of country; and one of them, I venture to say, has never been there. But our superintendency is only one hundred and ten miles from them, about three hundred miles from Bent's Fort; and these Indians have constant intercourse with that. As long as these Indians can come in and rob us of our horses, and sell them in Kansas, the northern bands of the Kioways and Camanches, united with the Keechies and other Indians, will pass down through the reserve and make their inroads upon Texas. It is to prevent this that I wish to have an agency created there, and attach it to the Texas superintendency. If there had been an agent there, subject to the supervision of the Texas agency, what necessity would there have been for the recent battle of Ford with the congregated Indians in that reserve?

There was an agent appointed—a clever man, I am told; but he may be not very well suited for an Indian agent. Fifty thousand dollars were appropriated by the last Congress to be expended for the advantage of the agency, to restrain the Indians from outlawry or violence upon us; and what has been the consequence? He went there, and staid three days at Fort Arbuckle, within about forty miles of the limits of the agency, and never went into the agency. How can these Indians become civilized without the influence of intelligence upon them, and without some care and regard paid to them? That is the way we have been treated. Our frontier has been assailed, our citizens slaughtered, and our property stolen; and what is the conduct of the United States when we demand reclamation, though their agent was never there to interpose his influence, or exercise his functions in preventing depredations? They say we might have done it ourselves; and it comes at last to that with Texas. She has to do it herself; and you will not reimburse her the expense. Now, sir, we have a claim on the nation. Billy Bowlegs has got on our side of the Mississippi; and we will cry "Billy Bowlegs," and then you will call out the militia, and you will have to pay them. [Laughter.] So, if Florida has lost anything by Billy's emigration, we have gained. I do not wish the nation to lose on account of Billy, as has heretofore been the case; but if Texas should gain as much as Florida, without any acts of error, I shall have no objection. [Laughter.] Texas wants help now.

We wish these Indians placed in a situation where they will be accountable to our superintendency. In seeking this object I am supported by high authority.

I am not going to be deluded in this matter, or diverted from my purpose by any letters of the Indian bureau or the Interior Department. I will have justice; and if official power inflicts wrong, I will rebel against it. Now, I propose to read a letter from the Texas superintendent, which was submitted to the Department as far back as March 6, 1857, in which he gives some of the reasons evincive of the necessity of a transfer of this agency. Major Neighbors, in this letter, speaking of the country in which the Wichitas are, says:

"That country, for a number of years, has been a general rendezvous for horse thieves, viz: Wichitas, Keechies, Kickapoos, and renegades from other tribes, who have carried on a very lucrative trade with Indian and white traders from the Creeks and Cherokees, and white traders from Arkansas, as a large portion of the horses stolen from Texas have been disposed of in this very Territory; also the fact that it will be absolutely necessary to concentrate the several bands of Camanches at one point before they can be fully controlled. The Wichitas intermarry with the Wacos, &c., and there is a friendly intercourse generally between the Indians who must be settled on that reserve and the Indians of Texas; and most of the supplies for that agency must be procured, and can be purchased at a cheaper rate, from Texas than from any other point—that reserve being about one hundred miles nearer to the Texan agencies than to any other established agency. I would also recommend that the Camanches now settled in Texas be removed to that reserve as early as practicable, and the present reserve be abandoned; also, the establishment of a military post on said reserve of sufficient strength for its protection."

This was the recommendation of the superintendent. My late honorable colleague, General Rusk, was familiarly acquainted with this region of country. He had been there in quest of Indians. He knew all about their tribal character. He knew their affinities and relationships. He knew all about the true policy of the country in relation to those Indians, and particularly what was required for the protection of Texas; and what did he say? Major Neighbors's letter, from which I have read an extract, was submitted to the Department, with this indorsement:

"I have examined the foregoing communication, and entirely approve the recommendation it contains."

"THOMAS J. RUSK."

That was the language of Rusk. Was there any action taken upon his recommendation? If there was not, it would have been treating him with very little respect; but it was attended to, and Commissioner Manypenny, in his communication of the 19th March, 1857, says:

"With reference to the new reservation west of the Chickasaws, and the suggestion made by you in relation thereto, the opinion of the Secretary of the Interior has been obtained, and there does not appear to be any objection, but a manifest propriety, in placing the Indians on the reservation referred to, on the same footing, as to policy and treatment, that prevails among the Texas Indians; nor, for all that now appears, is there any objection to the agent in charge of them being put under the direction of the Texas supervisory agent. But it is to be observed that, in obtaining the tract of land from the Choctaws west of the ninety-eighth parallel of longitude, for the occupation and colonization of the Wichita and other Indians, it was expressly understood by the Choctaws, Chickasaws, and myself, that the Indians of Texas were not to be colonized thereon, and good faith in this respect will forbid that any Texas Indians should be permitted, now or hereafter, to locate within the tract referred to."

That was a mistake which the Commissioner made in respect to the treaty.

"You will, therefore, as supervising agent in Texas, take care to permit no idea to obtain prevalence among the citizens of that State that the Texas Indians may be removed to the reservation. When the agent appointed under the recent law shall have qualified, the subject will be taken up, and instructions issued embodying fully the views of the Department; but until then, no action will be had."

They appointed the agent more than a year ago. He has received his salary, but has never been in the Indian nation. There have been repeated forays, two battles fought in the country, one against double odds, in which more Indians were killed in battle than ever have been killed by all the regular troops, notwithstanding the \$30,000,000 that have been expended to support them in Texas. Sir, you want to economize, and you talk of economy and retrenchment in your financial system; repeal the bill creating the four regiments of regulars, and you will save \$5,500,000 a year. A friend tells me that he will make an effort to repeal it at the next session, and I say to him, God speed his effort.

I know it is the interest of some to assail the system of reserve Indians, as conducted by the

superintending agent in Texas, after all his laborious services for years. No money has been so wisely and profitably applied to the objects of civilization, or to the protection of the community, as the amount of money that has been expended for the Indian reservation there. I am willing to rebuke that agent for what he has done out of fashion and improperly. Sir, he has been guilty of one heinous outrage, for which he ought to be held amenable to the Senate. I am willing to arraign and try him on it, and he will be convicted at least of inconsistency with the present rule of the Government, though there is nothing criminal in what he has done; but his conduct is so rare and so extraordinary that it even furnishes some pretext for the suspicion that there is criminality in it. Eighty thousand dollars were appropriated for his agency, and he has had the impudence to report to the Department, that out of the \$80,000 he has an unexpended balance of \$60,000 now on hand. That is an outrageous thing; I insist that such a thing has not been since the establishment of the Government, and therefore he ought to be held responsible for setting such an example. [Laughter.] That is the only thing he has done improperly that I have heard of, and it is a rebuke to so many that I think he would not meet with much favor. I will now show the influence that civilization has had upon the Indians under his care.

I have stated that there are four hundred Indians on one reserve. They have one hundred and fifty acres of land in cultivation there; but they have no protection against the wild Indians. On the Brazos reserve there are twelve hundred Indians, with eight hundred acres of land in cultivation. They raised last year no less than eight thousand bushels of corn and sixteen hundred bushels of wheat. Does not that look like advancing civilization among Indians, that before never had anything but a flying camp; never lived in a hut for an hour; never took hold of an implement of agriculture at all, until within the short space of time that the Government has been experimenting upon them? Is this making no progress? I am satisfied that with anything like reasonable care exercised toward the Indians, and without any remarkable increase of expenditure, or rather coming within the limits of what has been expended, all the Indians that have been hostile to us can be brought down to domestication and rendered good people, inoffensive in their character; for so soon as you can turn them to the arts of agriculture, peace ensues. They begin to find that their homes with their women and children comfortable, are better than a camp in the wilderness with their women and children standing around them. Their friends coming in from far distant hunting grounds see their comforts, and they will seek to change their modes of life, abandoning the hunter's pursuit and turning their attention to the arts of civilized life. There has not been such an advance made since the settlement of this continent to the present moment, amongst any Indian tribes, as has been made in Texas for an inconsiderable expenditure. All that is necessary, is to withdraw them from the pursuit of hunting, for they have been accustomed to rely on the chase for subsistence. Let them find that there is a more certain way of obtaining comfort and all the necessities of life, and they will abstain from war, because there is danger in it, and will give themselves up to peace. But, sir, so long as you encourage them in war, or pursue a policy which is calculated to divert them from the arts of peace and encourage them in their wandering habits, so long you are warring against humanity and interposing barriers to civilization.

But, Mr. President, I have something else to say in regard to the Indians. The Government of the United States pay the Kioways and Camanches to make their inroads on us, and supply them annually with four hundred rifles. They did it last year; they do it this year. When they have made their inroads upon Texas, some of their marauding parties have been killed, and guns taken from them that were issued by the Government at Bent's Fort. They conspire to massacre the citizens of my State. I wish to Heaven my voice was clear, and I would make it ring; yes, sir, it is a conspiracy to murder our citizens. You furnish the hostile Indians with arms. Why? Ah, there is the secret—why? Not

through special malice towards Texas, but on account of the worthlessness of your Army. One of your agents reported that he was transporting supplies to Fort Bent, and that he had to give arms to the Indians because they came around him with their faces painted, and said they would have his life if he did not issue arms to them; and he gave them four hundred arms, and says he will have to give them four hundred again this year. There are eight hundred arms—enough to arm a regiment of wild Camanches, and bring them down upon Texas; and yet you will not give us rangers to defend ourselves; you will give us troops to eat beef, and stay in pickets and garrisons, and who cannot go out. We want prevention, and that will anticipate retaliation. Why were these arms issued to the hostile Indians? The agent applies to the Government to give him men to protect him and his annuities, and they will not do it. The Army will not be a frontier police; they will not go, because it is disagreeable business; they will not go across the plains, from Independence to Bent's Station, upon the Arkansas. The agent, in transporting his annuities, had no one to defend them but a few teamsters. He had applied for a detachment of soldiers, and was told he could not get them.

When the Indian department applies to the War Department for troops, the latter consults the feelings of the officers. These gentlemen do not want to be a frontier police; they do not want to go on the border; they remonstrate against it. It is out of the question. It will be unfortunate; and they will ruin their horses if they go, and they will be wet! It will be a very disagreeable business; and they would rather let the cursed Indians alone. They think the agents are no better than the Indians. The Secretary of War defers to the gentlemen. They have all friends and families and political influence to come to the Department and show that frontier service among the Indians is a very disagreeable thing. A gentleman may say to the Secretary of War, "you know I would be happy to oblige you; and my people have a good deal of influence at home, and all this influence is at your command; this officer is a peculiar favorite with us all; he is a pet; do not send him out; maybe he will get killed out there." Sir, I would wipe out such men; as the Indians say. I would begin wiping, and I would wipe away until I got to the root of the evil; and I would find that in the delinquency of the heads of Departments and officials, who should say to one of their officers, "go," and he should go, and to another "come," and he should come. That was the way in the time the Roman eagles floated gloriously over subjugated nations. But it is not so in our day.

Well, sir, I ask that this agency may be transferred to the superintendency in Texas. It has no connection with the eastern agency, in Arkansas. It has every connection with us. An agent there can anticipate incursions, for it is through this territory that the hostiles will have to pass; he can have Indian spies planted that can run and give information to our frontier, that the bands are congregating there, and meditating an attack upon us, and we can be ready to repel them. Give us a Texas regiment of rangers that we may defend ourselves, that we may keep constant scouts on our frontiers, and anticipate these incursions; for if that is the case, the Indians will be careful how they make trails into our settlements, or on our frontier, as our men will be far advanced, and if they were to strike their trail, they know they would follow them and arrest them before they struck the blow. Give us a regiment of rangers; take away your regular thousands—take them away. Take them to where you can get beef and supplies cheap. Why, sir, you waste more in the transportation of supplies to them in a single year than would support a regiment of rangers. The quartermaster's department pays more in a single year in my opinion, than would keep a Texas regiment in the field, who would give us protection and defend us against an enemy. Give us a regiment of rangers, place this agency where I have desired, and I pledge you my honor, I will lay down my life, if within five years we have not entire peace, if I should live that long. If you will only do it, it is all I ask; I ask for no increased expenditure. We have saved you \$60,000 through the integrity of a capable man, and I want him to extend his protect-

ing mantle and his sagacious policy over those Indians that are our enemies, and will remain so until they become identified with us as friends, and receive their annuities through our country, and know that we are identical with the other portions of the Union.

I may mention a circumstance that once occurred in Texas, some sixty or eighty miles, perhaps, from the Colorado, at the point of the Brazos. The people on the Colorado had war with the Camanches and other tribes in the interior. They were conducting it with great violence, with continual inroads, interchanges of invasions of Indians by the whites and invasions of whites by the Indians. The Indians living on the Brazos had intercourse with the Brazos people and were perfectly friendly. The people from Brazos could go up amongst the Indians and could trade. They were on terms of perfect amity. There was a remarkable man living on the Brazos, a man fond of excitement. The Colorado people said, we have to suffer this war and the Brazos people will not help us because the Indians will not attack them; the Indians are their friends. Now, we will go and we will bring war upon the people on the Brazos. So they made up a campaign, caught a party of peaceful Indians and massacred them.

Mr. JOHNSON, of Arkansas. I hope the Senator from Texas will allow me to make a suggestion to him. With that very high respect which he knows I bear to him in everything, I will say to him merely that, in the earnestness of debate, the fact of the escape of time does not attract his attention.

Mr. HOUSTON. I have but a few more remarks to make.

Mr. JOHNSON, of Arkansas. If we do not get early action on this bill, within an hour, the Senator will even defeat his own object of getting a vote on his amendment, with any hope that it will ultimately become a law; and his advocacy of it may be its destruction. I shall consume no more time than an answer can be possibly given in. I do not think I shall take ten minutes. He has certainly made a most able argument on his side of the question.

Mr. HOUSTON. I am hoarse, and I can hardly talk. I was observing that they determined on the Colorado to involve the people on the Brazos. They came over. They got a white man who had a remarkable appearance on the Brazos associated with Coloradians. In the conflict or skirmish they had with the Indians, this man was killed. The whites, as I recollect, left him unburied. The Indians discovered that he was the man with whom they had been on terms of amity on the Brazos; and, finding him associated with the others, they thought they had been deceived by the people on the Brazos, and instantly they made war on them as well as on the Coloradians. By this stratagem they were brought in.

Now, sir, so long as the Indians know that it is through the instrumentality of the people of Texas, or by the direction of the Government, that the goods pass through Texas to the agency, and that it is under the superintendency of a Texas agent, they will not rebel against him, and will cease to annoy us or to afflict us. It will give us protection. It will take nothing from Arkansas, because there are counties intervening between it and Arkansas, and it has no more connection with Arkansas than it has with Kansas or Missouri. There is no object in keeping it as it is—none on the face of the earth, except to swell a superintendency and increase the responsibilities. I am sure if the superintendent was consulted, he would say give it up. I know him. All that he wants is to do his business well. He is a man of integrity and ability, and I am sure if he could be here, he would say give it up; because it is no advantage, only that the goods they receive are transported up the Arkansas river, and across to Fort Smith, and I believe everything pays toll that touches there, and storage and transportation and all those things. I want it done in the cheapest way, and that is through Texas.

Have I any authority for what I have been saying? I will bring the highest authority, the sovereign authority of the State of Texas, to see whether I am borne out in insisting upon the regiment of rangers for our protection. Governor Runnels, under date of 28th of May, in writing

to the delegation here, after referring to a report made by him, says:

"If it is the intention of the President to order out the Texas regiment, why is it not done? The existing evils are unbearable. And besides, it is unjust that our State should be taxed with this, at best a temporary protection, which she is now compelled to afford, without the assurance of obtaining remuneration from it hereafter from the Federal Government, whose duty it is. Aggravated by this recent defeat, there is too much reason to believe that a general desert will be made, our entire line of frontier broken up and devastated, without some prompt and early action by the authorities at Washington." You will therefore confer with the President and Secretary of War, and urge them to action, with the least possible delay."

This is the language of Governor H. R. Runnels, of Texas. I need offer no comments on this. He is there and knows the facts. He has received Captain Ford's report. He has had details of the condition of things before him, and he speaks from home without a desire to increase the expenses of the Government, or to produce any excitement. He is not a man subject to excitement. He is one who would be calm and considerate under the influences by which he is surrounded; but he says there is a tumultuous excitement amongst the people there, and I do not wonder at it. The aggravation is great; our necessities have been urgent; no relief has ever been furnished us. We have had to stand on the defensive as much with your regular troops, as we did battling for our liberty with a little band in the glorious days of our revolution.

Mr. JOHNSON, of Arkansas. I am aware, as is the Senate, of the condition in which this bill stands. It is an appropriation bill concerning the Indian service. At this period of the session, with the necessity upon us for the transaction of this public business, it is, I admit, entirely preposterous on my part to go into an extended discussion on the subject. Upon the part of the Senator from Texas I do not say that it is so, because he feels very earnest in regard to the matter which he has so laboriously and elaborately presented to the Senate. I trust, however, that he will consider the very few remarks which I may have to make on the subject as not calling for any lengthened reply on his part. He and I are both anxious that the bill should pass, or at least willing that it should. Much debate would defeat it. Therefore I will notice only the few matters I must necessarily notice, to give the Senate those points which it seems to me compel them to reject at once the amendment offered.

His proposition, in short, is to transfer from the superintendency which controls the Choctaw nation a portion of their territory, and put it under a separate superintendency. He transfers only a portion of the country which belongs to the Choctaws, instead of the whole of it, to a superintendency against which they have bitterly protested, and that protest is on file in the public offices.

Mr. HOUSTON. I ask leave to say it was a protest only by the agent.

Mr. JOHNSON, of Arkansas. A delegation of Choctaws was here, and by their concurrence, and at their instance, the agent representing them has put in that protest. The Choctaws themselves are here, and I do not understand from them that it is pleasant to them that a portion of their country only should be taken from one superintendency and put under another. It leads to this consequence: a portion of the Choctaw nation has been leased by them to the United States, but expressly, according to the terms of the treaty now before me, (and I will not go into any discussion of it, or even read it to the Senate, unless it is called for,) the ownership is reserved to them, and they have only leased it with authority on the part of the United States to put other Indians in there from certain prescribed regions of country.

Mr. HOUSTON. Subject to rules prescribed by the President.

Mr. JOHNSON, of Arkansas. Yes; and they go on and say it shall be subject to the laws of the Choctaw nation, and they moreover reserve the rights of the Choctaws and Chickasaws, who are but one nation now, to move into it and settle upon it. This is the condition of things, and they protest against putting under a Texas superintendency a portion of their country. They believe it will breed war and trouble amongst them. The Department of the Interior and the Commissioner of Indian Affairs concur in this belief, and

they themselves protest against it as a matter of public policy. I believe, and I venture that expression now, that the end of this will be, unless we take the whole Choctaw nation and put it under the Texas supervision, which I think would be far better than to take part of it, that the Government of the United States will have to pay a million or two more to the Choctaws for that piece of country, and pay to buy it out, if they do not also have, to accompany it, heavy claims of damages for losses that will be sustained by the Choctaw nation in consequence of this divided jurisdiction. The object should be, and such I believe to be the object of the Department, to preserve a unity of power, and a unity of action, of instruction, of direction, and of decision in regard to all the action that is there, and all the difficulties that may arise there.

Now the Department did not appoint an agent from the State of Texas to go over those Indians in that particular section of country. They appointed an agent from the State of Arkansas. The Senator makes strong complaints against that agent. The Department inform me, on my inquiries there, that those complaints are just. Very well; I have had no opportunity of hearing from that agent; I cannot say anything about those charges. The agent, I know, is a very excellent and clever gentleman; but he may have been remiss, and the Department declare they intend to remove him. This being the state of facts, I cannot, of course, prevent any such action on the part of the Department, and he will be removed. I asked them, then, what their course would be? They are disposed to give the appointment of the agent to Texas. If a man should be taken from amongst her people, sympathizing with her interest, he might notice depredations that the Indians committed or obtain notice of them, in order that the State of Texas may be properly protected. That much, I find, they are disposed to do at once, and that, I think, is a very satisfactory answer to these complaints of anticipated losses and sufferings upon the part of the borders of Texas. The State which I represent, so far as I know or can judge of its sentiment, I think is perfectly willing to agree to that course—at least, I shall support it here, believing it to be reasonable and right. Therefore, if the agent should be taken from there, notwithstanding all his sympathies with Texas, if we could establish a common tribunal to which, on all occasions, an appeal can be made, in whose decisions there shall be uniformity and unity, there would not be any very serious consequences resulting from it.

Thus much for the relief that is, I know, disposed to be granted there for the protection of the Senator. He has gone into a long account of matters of which I shall take no particular notice. I will call attention to only two other points. He speaks of the necessity of the superintendent being appointed from the State of Arkansas; and falling upon my part of that State he asks, where is the necessity of his being appointed from there? He thinks that the superintendent should be from his own State. I can say to that Senator that I like him too well to refuse him anything in reason, and there is nothing that I could give that would not be most cheerfully granted to him. I take pride and pleasure in confessing it upon this floor. The name of the present agent is Rector, a friend of the Senator himself. He is a gentleman of the highest respectability. He is the same person who served in Florida in so distinguished a manner in taking the Hon. William Bowlegs away from that country. I believe it would be very difficult to get rid of this little section between the ninety-eighth and one hundredth degree belonging to the Choctaws, and at what expense? At an expense of unity of instructions and unity of action in regard to difficulties that may arise inside of the country, which ought to be subject to some laws.

I do not think the proposition of the Senator from Texas a reasonable one. There is nothing connected with the interest of that superintendent or the advantage of having him in that section of country that I deem it necessary to clear myself of, and I clear the Senator of it also. But what does the Senator from Texas want? He wants the control of that strip of country which belongs to the Choctaws. The United States have, as a matter of policy, recognized the right of occupancy on the part of these Indians. They have

allowed them to hold lands, and have never called upon them to give them up unless they had not paid for them. The State of Texas has done nothing of this kind. The State of Texas does not recognize the right of an Indian to own land within her limits. Is the United States to give the control and supervision of the agencies to Texas, and even go outside of her boundaries to make an agency for one of her citizens. I cannot think it possible, considering the strong sympathy he would have for his own State, which recognizes no rights of the Indians at all, that an agent should be taken from Texas at the expense of the Choctaw and Chickasaw nations. They have called the United States, with great propriety, their Great Father; but when Texas is placed over them she will be a step-mother. She will never recognize their rights, and the children will be expelled from their father's house altogether. Such, I am afraid, will be the result of the action the Senator from Texas is desirous we should adopt. This I fear. But although I fear it, an answer to the argument readily presents itself to me. These, however, are only suggestions that come to my mind in looking through the darkness of the future at the ultimate results of this proposition. In answer to the policy which he has presented, I will merely remark that there is a concession which I, as one of the representatives of Arkansas, am willing to make, which I think will be amply sufficient; and that is, to give them an agent having all the sympathies of their people, and who shall be a resident of their own country, to protect them against such depredations as may be attempted upon their people and borders.

I wish, also, to correct a statement I made the other day, when this subject was first under consideration, in regard to the position which the late Senator Rusk occupied upon this subject. I then informed the Senate, that after calling upon General Rusk, and stating to him the interests involved in this matter, he at once not only consented that the appointment should be from the State of Arkansas, but he said the superintendency or supervision of that country ought to be confined to what is called the southern superintendency. I believe that was the statement I made here. In one respect, it was incorrect. He at once conceded that the agent ought to be from Arkansas, but that the superintendent should belong to Texas. Having made an erroneous statement at first, I feel that I should correct it, and now do so. Every one knows the generous character of the late Senator Rusk. I am satisfied that he was conscientious in his belief in regard to the matter. I am satisfied that the action the Senator from Texas proposes is by far the wisest for Texas. I am not satisfied that it is the wisest for the United States, either having regard to our Treasury or what may fall upon it hereafter, or to those Indians who now own that country—the Choctaws and Chickasaws.

In regard to these depredations, the immediate relation which the agent has to them is to keep a very strict guard upon them; and whenever he can exercise an influence to prevent them, he will do so. Whenever peace is imperiled by a motive which, having ascertained, he himself is unable to reach or control, then it is his duty at once to give notice to the authorities to bring to bear an influence or strength which shall prevent it or give relief. That can be maintained by granting to the Senator himself, or to the delegation from his State, the power and right to select a proper agent to discharge that duty, subject, of course, to the approval of the Government of the United States; and with that, it seems to me, the Senator ought to be satisfied.

Another reason which the Senator gives why this superintendency ought not to exist where it does, but should be extended to his own State, is, that the location of the superintendency is now two hundred miles distant—that is, at Fort Smith. I believe that is what the Senator stated.

Mr. HOUSTON. Two hundred and forty miles.

Mr. JOHNSON, of Arkansas. He says it is two hundred and forty miles. That is no great distance in that country; and this reason is of still less consequence when you come to consider that the agent is to act under general instructions. Those general instructions stand throughout the land until altered, changed, or amended in some way or other; so that I do not think that consid-

eration presented by him of very great weight. In that country, distances of two hundred and ten and two hundred and forty miles are not deemed very great. I doubt exceedingly, however, whether the Senator is not mistaken in the number of miles when he says it is two hundred and forty. I do not think it is over one hundred and fifty. I may be mistaken in that. I will not put my knowledge or my judgment in comparison with his on that matter. I say, therefore, let it be considered as two hundred and forty miles.

The Senator states that the agent did not discharge his duty, that he only remained there three days. I think he is in error—

Mr. HOUSTON. He never was in the reservation at all. He was three days at Fort Arbuckle.

Mr. JOHNSON, of Arkansas. We will suppose that there is no dispute about these statements, because the Department has not stated that he remained as he should have done. I understand the Department determined to appoint a successor in his place. I can say nothing about that. There is a plan to give the Senator's State ample protection under the circumstances. The law is here, and so is the treaty, to which it is unnecessary for me to refer particularly. I only speak of the legal conclusions that are to be drawn from the treaty. I believe the Senator and myself do not differ in regard to them, and it is unnecessary for me, therefore, to dwell upon them.

I will merely say, in conclusion, that I have called the attention of the Senate to the correspondence between the Department and the House of Representatives, so late as the 31st of last month, not three weeks past, and have caused it to be read. The resolutions were the ground of the amendment which is proposed. The Department considered it against public policy and gave many reasons which I will not attempt to repeat, and stated that the consequences could not well be foretold by them. With these few remarks I submit the question, so far as I am concerned, to the consideration of the Senate.

Mr. HUNTER. I hope the question will be taken. We ought to have a vote on this bill now.

Mr. HOUSTON. I hope there will be no such thing.

Mr. HUNTER. We ought to take up the revenue bill which is returned from the House with amendments. I hope we shall bring this bill to some conclusion.

Mr. HOUSTON. I should not have occupied much longer time than the gentleman has now done; but I am not going to be choked down in this Senate. If Senators consume, unnecessarily, the time of the body for months, and for years, it shall not cut me off from reasonable debate when necessary to vindicate the rights of my people, and arrest the scalping-knife and tomahawk. I do not wish to consume the time of the Senate. It has not been my habit to do so. A certain degree of courtesy that I have never withheld from other Senators, I am determined to exact for myself when the rules of the Senate guaranty it to me. This is a matter of no ordinary importance to my State. It is a matter that enters into its vital existence and the lives of its citizens. It is justice, and the true policy to the Indians, that I have risen to vindicate. I do not intend to occupy the time of the Senate, but I rise to say emphatically, that there is no reason on earth against my proposition.

My friend from Arkansas knows that the superintendency is on the extreme verge of the State of Arkansas. It is two hundred and forty miles from where she is cut off by this reservation.

Mr. JOHNSON, of Arkansas. I admit that.

Mr. HOUSTON. It is as disconnected from Arkansas as it is from California. Arkansas has no claim upon it. The Choctaw Indians have never protested against the measure. Their agent has protested. He protests against it—for what purpose? It is to be detached from the southern superintendency and create a new superintendency of the Chickasaws, Choctaws, and this new reservation of the Wichitas. There are three nations, and he is carving out a superintendency for himself. That is the movement here. I will have none of it. I assure my honorable friend from Arkansas that I have never intimated a wish to have the appointment of the agent. I do not care who he is. Texas does not want an agent, she does not want to create one of her own

citizens into an agent, but she wants security to her frontiers and nothing else. Was I caviling for an agency, or intimating a wish to have an agency there?

Mr. JOHNSON, of Arkansas. I have not said such a thing. I do not believe you will do it.

Mr. HOUSTON. I know it. My friend said we were welcome to have it. I do not want it. I have not asked for it; I have not intimated a wish for it. I hope I divest myself of such consideration when there is a great national concernment in the way. He concedes that the fort shall be established at the foot of the Wichita mountains within this reservation; that an agent shall reside there; and that the Indians shall receive their annuities through our country, or in connection with us, and not from the opposite point on the Arkansas. I want to draw their minds to Texas, and to show that that is the object to affiliate with them, so far as we can with our relations; that we shall teach them to view us as friends, and not as enemies. Let the benefits come from us; and the Indian, who is a material being, will realize it to a certain extent, as far as his senses will go, that we are his friends, and are not opposed to him.

Sir, this is an important object. It is to keep the peace. The gentleman tells you that this proposition will save millions. I tell you, that if this little amendment is passed, in the course of five years it will save \$10,000,000 to your Treasury, and you can take your troops from there, and do what you choose with them. You may disband them. You may station them where they can get supplies, without each ration costing fifty cents. You can take them away. Leave us a single regiment of our own; give us the agency, and the Choctaws will rejoice at it. Why? Because they send their children in our country to have them educated. On the Red river there is nothing but that little line or narrow strip. They move over into our State. The wealthy portion of them even own plantations in Texas. They purchase our land. They are cut off from Arkansas and move over to us and have their children educated among us. They never send their children to Arkansas to be educated, nor locate themselves in the limits of Arkansas. The Choctaws are our friends. They would be glad to be attached to the superintendency of Texas, and I am willing to accept them. I will not ask an agent unless his qualifications are superior. I have nothing more to say except to implore the Senate, if they regard Texas or Texans, if they regard peace, if they regard the civilization of the Indian, the harmony of the frontier, and our defenseless condition, to vote for this amendment.

Mr. DAVIS. The Senator from Texas and the Senator from Arkansas have argued this question as a question relating to two States. I should do it as a question of public interest relating to the Choctaws, a tribe of Indians who once resided in Mississippi, and whose proud history it is never to have shed the blood of a white man. They very faithfully bore arms as the allies of the whites in the war of 1812. They migrated to this country, where a certain tract of land was set apart for them. A portion of that land the Senator desires to seize for the use of the Indians of Texas.

Mr. HOUSTON. No, sir; not a foot of it. I will explain to the gentleman. It has been purchased by the Government for an Indian reservation, but I do not want a Texas Indian to go on it at all. The gentleman misapprehends me.

Mr. DAVIS. It has not been purchased. It was only granted in use. The Choctaws still retain their right to it. The Choctaws have no idea of surrendering their jurisdiction over this land. They specifically retain their right to settle it. They expect to mingle some portion of their tribe with such tribes as choose to go into their territory West. They have schools which are, I expect, as good as any in the northern part of Texas. They need not send their children out of their own tribe for that species of education; and they can educate the older tribes if they are brought under their laws, jurisdiction, and government. I think it is the best opportunity we shall have for the civilization of the wild tribes, but I say that the Choctaws have a right to decide who shall go on this land that they have granted for certain purposes, retaining to themselves jurisdiction and rights in the land set apart.

Nor, sir, is this question, as a practical matter,

of very great importance, unless it is a struggle to raise a superintendency for the territory outside of Texas for the agent now within her border. He maintains that the United States bear a peculiar relation to that State. The United States own none of that land that the Indians were raised upon; Texas is the owner. A few small reservations have been set apart, so as to separate the Indians from the common pressure of settlement. If the Texas Indians could go into the Choctaw country, they would go out of the jurisdiction of Texas, and properly separate themselves from the control of the agent, whose instruction and whose relations are to the Indians of Texas residing upon the territory of Texas, and not upon the territory of the United States.

But, to sustain himself, the Senator from Texas arraigned the private and the official character of the agent of the Choctaws; and, after hurling denunciation at him, announces that he does not know the gentleman. Then, sir, I will tell him something about him. He is a man who held many positions of honor and trust before he received this Choctaw agency, and in peace and in war well discharged the duties of them all. Those who know him best would not consider that I complimented him at all when I tell the Senator he is his peer on any occasion. Yet without knowing him, without caring to know the man, he hurls denunciations at him as though he would convict him—

Mr. HOUSTON. Convict whom?

Mr. DAVIS. The agent of the Choctaws. He went from the country in which these Indians resided before they removed West. From his fancy up he had known those Indians, and many of the old men remembered him. He went there. He acquired an affectionate regard for those Indians. He has done more to elevate the nation, in my belief, than any agent I have ever known of an Indian tribe. He established his agency upon the extreme western border of the settlement of the Choctaw Indians, in order that he might have control of this very territory, into which certain wild tribes were invited to settle. It is true, the agency was removed to Fort Wichita; but still the western part of the Choctaw nation, on the False Wichita, is near the residence of the superintendent of this country, on which the Choctaws have agreed that wild Indians might reside.

I will not consume the time of the Senate. I will not imitate the example of the Senator, on the last day of the session, in consuming time. The speech might as well have been made three months ago, unless recent changes made it an object not to do so. If he had not plumed himself upon this insult of a personal friend of myself, I should have said nothing; though I think there is a great deal in his remarks in which he could not possibly maintain himself—his general denunciation of the Army, his specific denunciation of one officer of the Army. That officer will not feel much intimidated at the threat the Senator makes—that if he had the power he would run his pen through his name. He will sleep secure; he will sleep long before that Senator attains such power.

Why all this denunciation of the officers of the Army? I hear nothing except that they are gentlemen of education—nothing except that they are gentlemen of refinement and cultivated taste; to which he appends, as a necessary consequence, that they will not serve on the frontier, and make peace among the Indian tribes. Is it true, sir? Does the history of the country sustain the accusation? Do they not reside on the frontier? What portion of our population has seen anything like the same amount of personal intercourse with Indian tribes as the officers and soldiers of our Army? He may sustain his accusation against them that they are gentlemen, educated men; and if that be a crime in his eyes, he may judge them upon it. But he says they do nothing; and this shows how reckless of assertion and how regardless he is of reputation; for, on another occasion, I read an account narrating what they had done in his own State of Texas—a service which showed physical endurance and military prowess which would fairly compare with anything of like character of service in any history of any nation.

But after all this, he winds up with the plea of humanity—humanity for the Indian; and mingles with that vauntings about the number of Indians a Texas ranger can kill. Why, sir, this is a queer view of it. He complains of the Army because

they do not kill these poor creatures instead of trying to raise them to a higher position than they now occupy. If that was the real purpose, a gentleman of education and refined taste, it seems to me, would prefer to do that rather than to massacre the poor helpless creatures that fall into his hands.

I will not, Mr. President, continue my remarks, and would not have trespassed upon the Senate at this hour, but for the reason I have stated.

Mr. HOUSTON. The gentleman's surprise, I am sure, did not exceed mine, and does not exceed it now. I would be glad if the gentleman would be so kind as to tell me what remarks of a personal character I applied to his friend, the Indian agent?

Mr. DAVIS. I cannot repeat the language. You were at it, I think, for a quarter of an hour.

Mr. HOUSTON. I want to know a single expression that I used disreputable to him.

Mr. DAVIS. Did you not speak of his failing to do his duty?

Mr. HOUSTON. Never.

Mr. DAVIS. What did you say?

Mr. HOUSTON. I said it was unfortunate to carve out a superintendency there, but I said nothing against the gentleman. Now, sir, this goes out to the world as if I had availed myself of my senatorial position wantonly to attack the character of an individual. As the Senator does not know what it was, and asks me if I did not do it, I tell him, no sir, I did not do it.

Mr. DAVIS. If the Senator did not attack the character of the agent of the Choctaws, then the Senator from Arkansas and myself, who were his principal auditors, were greatly mistaken.

Mr. HOUSTON. I would thank the Senator to state the expression I used.

Mr. DAVIS. I do not pretend to report your speech. The reporter attends to that.

Mr. HOUSTON. The gentleman has made a charge that I uttered a word disreputable to this gentleman. I deny it completely. The inference I drew, and which is the only thing that could be construed into such a thing, was, that it was a scheme to carve out a new superintendency there. I did not use the name of that gentleman; I do not know him, as I have stated. I did say that he had made this remonstrance, but that the Choctaws never did, and never wrote a protest. The Senator from Arkansas concurred in it at the time it was made. I have used no epithets. I have called him by no degrading name or term, and I am not going to be charged indirectly with such things by any gentleman on this floor. I have only to say to the gentleman, that if he belongs to his peerage, I am satisfied he should claim it. I have no ambition to belong to the peerage. I belong to the House of Commons.

But, sir, I have assailed the character of nobody. I said that that officer, for his disreputable reply when he was called upon to give aid, by saying that if they wanted protection he would go to the fort and bring Indians to protect them, when it was intended to give protection and sustain the Indians in their reservations, deserved dismissal; and he does. But that is not all. It is told us on good and reliable information, that he informed the Indians that they ought to stay on that reserve with the hostile Indians, and if attacked that we would go and defend them. It is a taunt unworthy of chivalry or chivalrous men. I would thank the gentleman from Mississippi hereafter, when he undertakes to make an allegation against me, that I have used expressions derogatory to a gentleman, that he would at least be prepared to sustain it.

Mr. DAVIS. If the Senator will permit me, I will say to him that if he had told me he did not mean to arraign the official or private conduct of the agent of the Choctaws, I should have said, "certainly, sir, I am glad to know it;" but when he tells me nothing of the sort, all that I can say is, that my ears must have vastly deceived me if I am wrong, and I think the notes of the reporter will sustain me.

Mr. HOUSTON. If the gentleman had asked me, I would have said exactly what I say, with pleasure. But when he makes a charge, I am not prepared to notice an apology or disclaimer to it. I will do exactly what is right on all occasions, and I will assail the character of no individual who has not furnished the official reasons for his conduct. But I say, Mr. President, that this is

not applying the rule to these Indians at all. This territory was ceded and subject to the regulations of the President of the United States, and the President of the United States, in a treaty, has ceded to the Indians, or they have reserved it, that they are to settle and occupy it as they had previously done, or are to have an intercourse for any of their inhabitants that they should gather together there, subject to the regulations made by the President of the United States. It is trenching upon them to settle other Indians there. As they lie along our borders on the west and south line near to our agency, and as they wish to be connected with our Indians, I think it is better to allow them to be connected with them than to have them at war with us.

The PRESIDING OFFICER. (Mr. MASON.) The question is on the amendment of the Senator from Texas.

Mr. IVERSON. What is the amendment?

The PRESIDING OFFICER. The Secretary will read it.

The Secretary read it, as follows:

And be it further enacted, That the superintendent and agents within the superintendency of Texas shall be hereafter appointed in the same manner as other superintendents and agents are appointed and confirmed; and that the Wichita agency is hereby attached to the superintendency of Texas.

The question being put, on a division there were—yeas fifteen, nays not counted.

Mr. STUART. I ask for the yeas and nays. We seem to be without a quorum.

Mr. FESSENDEN. There is evidently a quorum present.

Mr. STUART. They will not vote. I ask for the yeas and nays.

Mr. FESSENDEN. Oh, no. We have got a quorum.

The yeas and nays were not ordered.

Mr. GREEN. I ask for a division of the amendment.

The PRESIDING OFFICER. The question, then, is on the first branch of the amendment; which the Secretary will read.

The Secretary read as follows:

And be it further enacted, That the superintendent and agents within the superintendency of Texas shall be hereafter appointed in the same manner as other superintendents and agents are appointed and confirmed.

Mr. SEBASTIAN. I am very certain, from the indifference manifested upon this question, and from the character of the vote as evinced by the last division, that the Senate do not probably comprehend the question which has raised a division of opinion between my colleague and the Senator from Texas. This proposition embraces two branches. The first is to elevate what is now a special agency for the Indians of Texas into a superintendency, which will be attended with an increase of the salary of that officer \$1,000.

Mr. HOUSTON. Not a cent. I assure the gentleman that it will not increase the salary of the supervising agent.

Mr. SEBASTIAN. Then I withdraw the remark. It certainly intends to convert a special agency for the Indians of Texas into a superintendency. The Senator from Texas disavows any intention to increase his salary. That is but a question of time as we know, sir; if it is not done now, that it will be, as a legitimate consequence, next Congress.

Mr. HOUSTON. Not at all.

Mr. SEBASTIAN. I think that is an objection to changing the character of that officer. As the Senator from Mississippi well remarked, the jurisdiction there is peculiar. Whatever we do is *ex gratia*. Texas claims jurisdiction over the State and the Indians; and when the Legislature apportioned small districts of the country for the occupation of the Indians, the United States stepped in with the same spirit of liberality, and made an appropriation of from fifty to seventy-five thousand dollars for the maintenance of the Indians upon those reservations. The whole of that is a gratuity, and not the discharge of any obligation to support or maintain the Indians over which she maintained jurisdiction, and over whom Texas still claims jurisdiction; and for the same reason Mr. Neighbors, an eminently practical man for Indian affairs, I must admit, is called special agent for the Indians of Texas, and is the only officer in the administration of Indian affairs who is known by that anomalous term.

Now, Mr. President, the Choctaws, in 1855, ceded a portion of their western territory, which happens to lie north of Texas and out of the jurisdiction of that State, for the purpose of settling the Wichetas and other wild tribes, who were then located upon the territory, and that was attached to the southern superintendency, where it had always belonged. The southern superintendent is a public officer under the jurisdiction of the Federal Government. The allowances are under the jurisdiction of the Federal Government, and they are apportioned to the Indians for whom the Federal Government is bound to care and provide. You destroy the harmony of the system entirely by attaching Indians upon a part of the public domain of the United States to the superintendency of the special agent for a State over whose Indians the Federal Government has no jurisdiction whatever.

Then, again, some three or four years ago—I state from recollection—upon my report as chairman of the Committee on Indian Affairs, this whole matter of defining the boundaries of superintendencies, locating of agencies, and the position of superintendents, was conferred upon the Secretary of the Interior, who was bound, as a matter of administration, to determine these things according to his own judgment and discretion. By the existing law, therefore, he is competent to determine this very question, which the Senator from Texas has raised here. I understand the fact to be, that an application has been made to him, and deliberately rejected by the Secretary of the Interior, and now we have an appeal from the Secretary of the Interior to the revisory power of the Legislature of the country. I see no reason, if this be done, why we do not step aside from our legitimate duties and interfere with matters of administration under the supervision of all the Departments. If we can alter the boundaries of a mere superintendency, a mere question of administration to be determined by the Secretary of the Interior, I do not see why we may not overleap the boundary and intrench on those of the War or Navy Departments, and command a certain regiment to be stationed at a certain place, or a certain ship to sail from a certain port. This is simply the question involved.

I hope, therefore, Mr. President, that we will not mar the beauty and harmony of the system of legislation by attempting to treat here of a matter which belongs entirely to the administrative powers of a Federal officer; that we will not attempt to govern him in the exercise of a discretion already conferred upon him, and in the exercise of which he has undoubtedly greater facilities than we have. That is now the real issue between the Senator from Texas and my colleague.

Mr. HOUSTON. I will remark that we have the decision of the Secretary of the Interior proposing to attach this to the Texan superintendency. We have the recommendation of General Rusk, and upon that recommendation of facts it was stated that the Secretary made his decision. He has now revoked it; and that is just the position of the subject. The question is, whether it is necessary to the harmony of that portion of the country that the Wichita agency should remain as it is, or should be attached to one immediately connected with it, which would give peace to all the entire frontier, and save millions every year to the country?

The PRESIDING OFFICER. The question is on the first branch of the amendment offered by the Senator from Texas.

Mr. HOUSTON called for the yeas and nays, and they were ordered; and being taken resulted—yeas 22, nays 14; as follows:

YEAS—Messrs. Allen, Broderick, Chandler, Clingman, Collamer, Fitzpatrick, Foster, Green, Harlan, Hayne, Houston, Johnson of Tennessee, Kennedy, Polk, Reid, Rice, Simmons, Thompson of Kentucky, Trumbull, Wade, Wilson, and Yulee—22.

NAYS—Messrs. Benjamin, Bigler, Clay, Davis, Fessenden, Fitch, Foot, Hamlin, Hunter, Iverson, Mason, Pugh, Sebastian, and Stuart—14.

So the first branch of the amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on the second branch of the amendment in the following words:

“And that the Wichita agency is hereby attached to the superintendency of Texas.”

Mr. HOUSTON called for the yeas and nays,

and they were ordered; and being taken, resulted—yeas 15, nays 22, as follows:

YEAS—Messrs. Allen, Broderick, Fitzpatrick, Harlan, Houston, Johnson of Tennessee, Kennedy, King, Polk, Reid, Simmons, Thompson of Kentucky, Trumbull, Wade, and Wilson—15.

NAYS—Messrs. Benjamin, Bigler, Clay, Clingman, Davis, Fessenden, Fitch, Foot, Foster, Green, Hamlin, Hunter, Iverson, Johnson of Arkansas, Mason, Pearce, Pugh, Rice, Sebastian, Slidell, Stuart, and Wright—22.

So the second branch of the amendment was rejected.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

REVENUE COLLECTION BILL.

On motion of Mr. HUNTER, the Senate proceeded to consider the message from the House of Representatives announcing the action of the House on the amendments of the Senate to the bill (H. R. No. 466) making appropriations for the expenses of collecting the revenue from customs.

The first amendment of the Senate was to strike out the first section of the original bill, which was in the following words:

“That, instead of the appropriation for the expenses of collecting the revenue from customs for the half year, from the 1st day of January, 1858, to the 1st day of July, 1858, contained in the joint resolution approved on the 14th day of February, 1856, there be, and hereby is, appropriated for the expenses of collecting the revenue from customs for said half year, the sum of \$1,600,000, payable out of any moneys in the Treasury not otherwise appropriated, together with such sums as may be received from storage, cartage, drayage, and labor said half year.”

And in lieu of it to insert:

That there be, and hereby is, appropriated for the expenses of collecting the revenue from customs for each half year, the sum of \$1,500,000, payable out of any moneys in the Treasury not otherwise appropriated, together with such sums as may be received from storage, cartage, and labor for said half year.

The House of Representatives concurred in this amendment with an amendment restoring the words of the original section with the single exception of substituting \$1,800,000 for \$1,600,000.

The second amendment of the Senate was to strike out the second section of the original bill, as follows:

“Sec. 2. And be it further enacted, That there be, and hereby is, annually appropriated for the expense of collecting the revenue from customs for each and every fiscal year, from the 1st day of July, 1858, the sum of \$4,000,000, payable out of any money in the Treasury not otherwise appropriated, until otherwise ordered by law, together with such sums as may be received from storage, cartage, drayage, and labor, for each fiscal year: Provided, That from and after the said 1st day of July, 1858, all laws and parts of laws which authorize the payment of the expenses or any portion of the expenses of collecting the revenue from customs to any port or ports on the Pacific coast of the United States out of the accruing revenue, before the same is paid into the Treasury, shall be, and hereby are, repealed.”

And in lieu of it to insert:

And be it further enacted, That from and after the said 1st day of July, 1858, all laws and parts of laws which authorize the payment of the expenses, or any portion of the expenses of collecting the revenue from customs, to any port or ports on the Pacific coast of the United States, out of the accruing revenue before the same is paid into the Treasury, shall be, and hereby are, repealed.”

The House of Representatives concurred in this amendment.

The House of Representatives disagreed to the fourth amendment of the Senate, which was to insert the following as an additional section:

And be it further enacted, That no collector of the customs, deputy collector, naval officer, deputy naval officer, surveyor, deputy surveyor, general appraiser, superintendent of warehouses, or any other officer or person engaged in the collection of the revenue, shall receive a greater compensation than is now paid to the officers and persons engaged in said service at the port of New York: Provided, That this section shall not be so construed as to increase the compensation of any officer of the customs, or of any person engaged in the collection thereof.

Mr. HUNTER. I hope the question will be taken on the amendments separately. It will be remembered that the Senate amended the revenue collection bill so as to appropriate \$1,500,000 every six months, instead of \$2,000,000 every six months, as proposed in the original bill. The House further amend that amendment, by inserting \$1,800,000 instead of \$1,500,000, so as to make the appropriation for the expenses of collecting the revenue amount to \$3,600,000. That is about the sum, less by some twenty or thirty thousand dollars, that was expended in collecting the revenue in the year 1857. I will state that, since 1854—I believe since 1853—the expenses were

never less than \$3,500,000. I hope the Senate will concur in that amendment of the House to our amendment.

Mr. CHANDLER. I hold in my hand the report of the Secretary of the Treasury, showing that the expenses in collecting these revenues were much less than the Senator from Virginia seems to suppose.

Mr. HUNTER. I took my statement from the Secretary of the Treasury. The Senator, perhaps, has fallen into the mistake of not adding the expenses in California to those on the Atlantic coast. The expenses on the Atlantic coast have been less since 1854; but if the Senator will add the expenses in California, and on the Atlantic coast, he will find that since then they have never been less than \$3,500,000.

Mr. CHANDLER. I find, Mr. President, that, in 1851, the receipts from customs amounted to \$49,017,567, and the whole expense of collecting to \$1,882,000. I find, also—

Mr. HUNTER. The Senator has fallen into the mistake I mentioned. He will find that during that same year \$1,300,000 were spent in California, making upwards of three million dollars. If he will examine into the matter, he will see that my statement is correct, that since 1854 the expenditures have not been less than \$3,500,000.

Mr. CHANDLER. I believe the expenses have been very much reduced there since that time. I understand they have been reduced several hundred thousand dollars.

Mr. HUNTER. They are reduced on the California coast, but have been increased on the Atlantic. If the Senator will take those years and add the sum collected on the two coasts, he will find as I stated that it is not less than that amount.

Mr. CHANDLER. Well, sir, I insist if it costs \$3,600,000 to collect \$40,000,000 of revenue that it is too much; that the expense of collecting should bear some comparison with the amount collected. I find that in 1850 the whole expense of collecting the revenue of the country was only five per cent. It is now proposed to appropriate \$3,600,000 which will amount to nine per cent. upon the whole estimated revenue of the coming year. In no single year, from 1850 to 1857, did the expense of collecting the revenue amount to over six per cent., and here a proposition is made to swell this amount to nine per cent. on the whole revenue of the country from customs.

I hope that it will not prevail, for I believe the amount inserted in the bill by the Senate—\$3,000,000—altogether too large. I believe that \$2,240,000 is more than is required for collecting the revenue of the coming year. I believe a whole army of supernumeraries might be dismissed from the custom-houses along the Atlantic slope. This enormous expenditure of \$3,000,000 might safely be reduced to \$2,450,000. I admit I was in error in regard to the expense for California. I was not aware of that. I supposed the whole amount was included here. I find the expenses upon the Atlantic slope as the Senator from Virginia states them to be. The expenses upon the Atlantic slope in 1851 for collecting \$49,017,567 were \$1,882,000. In 1852, for collecting \$47,000,000, they were \$2,093,000. In 1853, for collecting \$58,000,000, which is \$18,000,000 more than the estimated revenue for the coming year, the whole expense of collecting on the Atlantic coast was \$2,366,000. The proposition now under consideration is to give \$3,600,000 for the collection of \$40,000,000. Sir, it is enormous. To appropriate nine per cent. upon the whole amount collected for the expense of the collection of the revenue of this Government, is perfectly outrageous. I hope the amendment of the House will not prevail, and that we shall adhere to our amendment giving \$3,000,000. Were it not too late, I should move to reduce the amount to \$2,450,000, which would be \$200,000 more than it cost to collect \$58,000,000 in 1853. I hope the Senate will adhere to its original proposition of \$3,000,000.

The PRESIDING OFFICER. "Will the Senate concur in the amendment of the House to the amendment of the Senate?"

Mr. WILSON. I must ask for the yeas and nays on that question.

The yeas and nays were ordered.

Mr. CHANDLER. If we concur in the amendment, that will leave the amount at \$3,600,000, will it not?

Mr. SIMMONS. Those in favor of retaining the \$3,000,000 appropriation will vote "nay," I suppose.

Mr. HUNTER. Yes, sir; those in favor of the proposition reducing it to \$3,000,000 will vote "nay," and those in favor of increasing the amount, and allowing \$3,600,000, will vote "yea."

Mr. STUART. I beg the attention of the Senate for a single moment. I shall vote for this motion; and I wish to state, in a few words, why I shall do so. As the bill came here before, it appropriated for an indefinite period \$4,000,000 annually, for collecting the revenue. As it stands now, it simply appropriates \$4,000,000 for one year. The House has amended our section which we substituted for the remainder of the bill by adding that amount to it. I am willing to try it for one year; and if it can then be reduced very readily, without injury to the Government, I will vote to reduce it.

Mr. TOOMBS. That the expenses of the collection of the revenue have passed all reasonable bounds is an undeniable fact; but the idea of taking an absolute sum without any reference to the wants of the service or the laws of the land, it seems to me, is a very injudicious way of reducing them. I was willing myself to make some measure of reduction, and I am willing to indicate my opinion that the existing state of things does not answer. But in looking into this question, it is very apparent that the fault for the last five or six years has been with Congress themselves; and I believe those gentlemen who are most clamorous about the expense have gone on and by law have created, time and again, every session, ports of entry and delivery.

Mr. STUART. Ports of delivery generally.

Mr. TOOMBS. Yes, they are generally ports of delivery. In all those you create new offices; and yet these gentlemen never voted for any of them!

Mr. SIMMONS. I never voted for one of them.

Mr. TOOMBS. Well, like many other things, they always pass; and when I utter opposition to them, I find but dull ears in the Senate. They pass somehow. Nobody votes for them, and yet they get on the statute-book. I may not be accurate as to the amount, but I believe, during the last four or five years, you have doubled the ports of delivery in the United States. They have got to be paid for. You have made the office, and you are compelled to pay the man according to the usual scale elsewhere. An executive officer says here is a port of delivery, and you must have a Government officer there, as was the case at the last session, where a man had to be appointed at a place in the West, somewhere on the Ohio river. An act of Congress directs it, and it must be done. Revenue has to be paid there by the order of Congress, and the Government must appoint officers there; otherwise they will be charged, as they were by my honorable friend from New York [Mr. KING] some time ago, with violating the laws of Congress. He said, "here is a law for the erection of custom-houses, which is not carried out."

In this very case it would be impossible to reduce it by naming an absolute sum. I presume every one of the appropriations is for the payment of something which is put down in the Blue Book. Whatever is put down there has to be paid for. If the Government officers refuse to do it at a particular place, we shall hear another clamor in the Senate about the dispensing power; that they are acting like James II. when he dispensed with the laws of the land; and that a free country ought not to have a dispensing power. Congress ordered it, they say, and it must be done whether there is money or not. That has been the argument of several gentlemen around me during this session. I think, about ten years ago, when I was on the Committee of Ways and Means in the House of Representatives, we brought down the expenditure on the Atlantic coast to \$1,750,000. At the next session, in order to carry this \$1,750,000, we cut off here and there, and abolished offices here and there; and the whole Congress gathered together in one solid body, like a band of mad bulls, against our action. Every one said, "do not strike me down; retrench in every place but right here; cut somebody else down."

Like a boil, the retrenchment was never on the right place. Every place, according to some gentlemen, was the worst place at which it could be commenced.

If you want to retrench at New York, a gentleman from South Carolina or Georgia will think it is probably a very good place; but if you want to retrench at Savannah, he can find a great many places where it had better be commenced than at Savannah. If you want to retrench at New Orleans, the magnitude of its business will be explained to us very graphically, as it was the other day by my friend over the way from the city of New Orleans, [Mr. SLIDELL;] for then he insisted, probably with a great deal of justice, that New Orleans cannot get along with the present force; she wants more officers. An excuse was given here why certain officers had not discharged their duty, by which honest men were to be mulcted in great sums of money, that we had not officers enough to do the duty, and they insisted upon putting a great burden on honest people upon the ground that the Government did not furnish officers enough to inquire into frauds on the revenue.

Though, in common with the Senate, I am for a reduction, and voted for it, I think the proper plan is, to keep it on its present basis. The proposition to bring California on the same basis with New York is a wise one, and I will vote for that now because I know it is right; but as to reducing the whole amount, it is only in extreme cases that we ought to do it. The House of Representatives says I will give you \$3,600,000, and then let the Committee on Commerce, or whatever committee has charge of this business, present a new schedule. I have no doubt you have two or three hundred men in New York that ought not to be there. I have no doubt in the world that you have more at Savannah than are needed. There is a constant pressure on the Government to increase them, because gentlemen have their friends there, and they are offices that are sought by their constituents. Why? Because serving the public is not paid for as labor on generous and liberal principles; but a scavenger about your Capitol, a man that you could get for thirty dollars a month, you pay a thousand dollars a year. When you create an office there are a thousand applicants for it. An honest laboring man is not running about to get employment from you, if you do not pay him more than anybody else. A man who could not earn a sixpence in any honest employment, we give a thousand dollars a year to as inspector in one of our towns; and then he comes to a member of Congress or the Senate, to make it \$1,500, because, being an officer of the Government, he must live respectably, and must live like a gentleman. Surely you would not have your officers do otherwise. They must keep fast horses to trot in two forty, or inside of three minutes at least. Of course you could not expect the clerks in your Departments here to live in any other way. The reason of all this is, because you have departed from the great fundamental principle, on which you ought to pay everybody. Pay what that kind of labor and talent is worth, and then there will be no struggle; then honest men will not be pressing you for offices, because they can serve somebody else as well as you, and receive as good pay.

Therefore, I suppose, under existing circumstances, we had better let the amount in the bill stand at what the House has put it, although I would prefer the other than get into a squabble when we have not got the information on which to act. As to these schedules which the Senator from Michigan makes about collecting \$58,000,000 of revenue for so much money, and therefore that we ought to collect \$40,000,000 for less, that Senator knows, or ought to know, that the expense of collection at a particular place does not depend on the amount of revenue collected. The same officers in New York could collect \$100,000,000 as easily as \$40,000,000. It would not require another man. A great many of your officers are on preventive service, to prevent smuggling and protect the revenue. If you put it on the basis that because at a certain place you do not collect more than five thousand dollars, therefore you should not pay more, it would be a very absurd thing, and would let in a sluice of smuggling. A great deal of this is preventive service; and but for it, there would be the largest and most inordi-

nate abuses. Therefore, the expense of collecting does not at all depend upon the amount collected. If you have \$40,000,000 to collect this year, and had \$48,000,000 before, you must keep the same officers. It is as easy to go through all the elements of an invoice of \$100,000 as \$50,000. A merchant who imported \$50,000 worth of dutiable goods last year, may, under the stringency of the times, think \$20,000 worth will do this year, but it takes as many officers, and there are as many things to be done on an importation of \$20,000 as \$50,000. Therefore there is nothing in the comparison drawn by the Senator from Michigan. It does not make the slightest difference if they were the same kind of goods. If, with reference to the difficulties of the country, only half as many of different variety are imported this year as last, it would take just as many men to collect the duties. Then his comparison will not answer; but I believe there are more officers than are necessary to collect forty or fifty-eight million dollars.

Hence, I think, if we are going to retrench, we should take up the subject intelligently. Let us see who is willing to part with this port of delivery, with this custom-house, or with the officers in this town, if he has the appointment of them. There is the great difficulty about it; there is the great trouble. If you mean reform, you must put it on some conservative intelligible principle. Until ten years ago, when this law was brought into the House of Representatives, there was no limit. This bill never showed its face from 1779 to 1849 in Congress, because the collector paid the expense of collection out of the revenues, and all he ever showed you was the net proceeds. We thought, as a check, we would compel him to bring the expenses here, and we would appropriate for it as we do for the Post Office Department. This is a permanent appropriation until you act again. I suppose that is the reason you go up to \$4,000,000. I was opposed to that, and shall vote against it; but I am for keeping the appropriation on the basis of last year until you can reform it intelligently, which is not possible at the present time.

Mr. SIMMONS. It seems to me that the speeches on this bill are somewhat inconsistent. Yesterday the great reason for making this appropriation of \$4,000,000 was because it was permanent. That was the argument of the Senator from Virginia. He agreed that it was too much, but he thought it best to leave it at \$4,000,000. Now the reason for reducing the appropriation to \$3,600,000, is because it is only for a year. For some reason or other these appropriations will get up. If you cannot get them up on the ground that they are permanent, you will get them up on the ground that they are not permanent.

The Senator from Georgia says that the amount of revenue does not make any difference as to the expense of collection. I agree with him that it does not make a *pro rata* difference. But these officers were multiplied when we were importing coal and salt from Nova Scotia in large quantities, and we had to have more measurers to measure it. We are not doing so now, but we do not get rid of the measurers. I think they might possibly be got rid of. I venture to say that there are now ten men where there ought to be one upon any data of figures which can be presented to us. I think that the bill as it originally came to us, appropriated, for the six months now upon us, \$1,600,000. They now propose to appropriate \$1,800,000 for the last two quarters of the present year. Am I not correct in that? I will ask the Senator from Virginia if there was not an appropriation in the bill for the two current quarters we are going through of \$1,600,000?

Mr. HUNTER. There was in the original bill.

Mr. SIMMONS. As it came here yesterday. I suggested to the Senator from Massachusetts, inasmuch as the Department had fixed that sum for the two current quarters through which we are now passing, to make his amendment just equal to it, the estimate on these two quarters being \$800,000. He thought it too much. I had heard an estimate made that the Department had saved about one hundred and fifty thousand dollars in California alone. The Senator from Massachusetts said he would come down to \$3,000,000. I believe that the proposition from the House is to increase the amount for the two current quarters, which was \$1,600,000 yesterday, to \$1,800,000,

and go from \$3,000,000 to \$3,600,000, and to add \$200,000 in the first section, making it altogether \$3,800,000.

I am astonished that my friend from Georgia should ever agree to such a measure; but I am not disappointed when I see the Senator from Virginia, who advocated the appropriation yesterday because it was permanent and necessary, supporting the House amendment. The Senator can present it as well as any man in the Senate. I said yesterday that I did not vote against it from any disposition to cut any Department short of the necessary means. I will vote them what is sufficient, at any time; but I have no more doubt that \$1,800,000 is ample than I have that \$1,250,000 is—not a bit. If I had, I would vote for more. I believe, sincerely, that as long as we keep appropriating all that is asked, there will never be a man dismissed. That was the reason for my vote. I am willing to give them \$1,600,000, which is just what they ask for the two quarters through which we are passing; and I am willing to go to the same ratio next year—\$800,000 a quarter.

Now, when you come to this matter of measuring the coal imported, the more cargoes you have, the more it will cost. There is a great deal of labor about it, but there is a great deal less of it imported now than there was formerly. In the city of New York there is at present great complaint that there are not laborers enough to do this manual labor. It takes a great deal of labor. The importations of goods during the present year will not be more than two thirds as much as they were last year, and will take less labor, and be a diminished expense. I admit the salaries will be just as much. But here is a reduction in California that still remains, by putting the salaries of the officers there on the same ratio with those in New York. That will take off fifty or sixty thousand dollars more. With a reduction made in salaries, \$800,000 a quarter will be ample hereafter. That is the amount that has been spent heretofore upon an importation of \$360,000,000. Taking the \$200,000 extra for the two present quarters, it makes the amount at least two hundred thousand dollars more than was ever spent in this country. I want to know if Senators call that retrenchment. It will give you \$200,000 more for the next year, and for every succeeding year, than you have for this; for it is now \$200,000 more than is asked for the next fiscal year. It will give \$3,800,000 for the next fiscal year. I have not looked into this subject, but I have never heard of the expenditures exceeding \$3,600,000. I understood, from the Senator from Virginia, that there was appropriated for California last year \$436,000, and now but \$280,000. There is a reduction of \$150,000 in that place. Here is a reduction contemplated next year by cutting down salaries in California; and it is perfectly evident that a less amount will be needed during the present fiscal year than during the last year.

I have no disposition to thwart the objects of the Administration at all. I want to see something done. I repeat again what I said yesterday, that it is no sort of economy to stop the building of vessels for defense, or fortifications, and putting the sum thus saved upon the salary of these officers. That is the kind of economy I see practiced. I regret to say it, but I have never known anything pass here that looked like lessening the expenditures for the officers and employés of the Government. The last man who I thought would ever give way was my friend from Georgia.

Mr. TOOMBS. There is no reduction of salaries proposed.

Mr. SIMMONS. It is proposed to reduce the amount appropriated, and the effect of that will probably be, that they will dismiss some of these officers.

Mr. TOOMBS. No.

Mr. SIMMONS. That is what I think ought to be done, and that is my purpose in endeavoring to reduce the amount.

Mr. HUNTER. The Senator from Rhode Island is mistaken in supposing that this proposition contemplates spending more than has been heretofore expended. As I said before, this appropriation of \$3,600,000 is less by some twenty thousand dollars than was expended in the fiscal year 1857. I also stated before, that, since 1854, we have never expended less than \$3,500,000 in collecting the revenue. It seems to me that it is manifestly unsafe for us to undertake to strike in

the dark, to strike blindly, and to attempt to reduce the appropriations below what they have been for four years, upon the mere theory that such a reduction might safely be made. I said the other evening, if Senators chose to reduce it to what was actually expended, that I would not object to such an amendment. That, however, was not done; but it was reduced to \$3,000,000, which was \$600,000 less than was expended in 1857; and I did not believe we could get along without it.

Now, sir, I recollect the time when the first proposition was made, making this appropriation for the payment of the expenses of the collection of customs, after the whole amount of revenue was directed to be paid into the Treasury. It was introduced by a gentleman then from the State of New York—Mr. King, I think. I recollect looking into this subject at that time, and I found that the whole matter had before that been at the discretion of the Secretaries. They paid out of the revenue what they thought necessary in order to discharge the expenses of collection, giving what salaries they chose to the inferior officers, making everything pretty much as they chose to have it. The first step was then taken, which was one of reform, to require them to pay all the receipts into the Treasury, and to pay the expenses of collection by appropriation; but still the difficulty occurred that the salaries of the subordinate officers were matters of regulation. I recollect turning my attention to it at that time, for I was anxious to introduce any scheme of reform; but I found that there were not sufficient data, and it was on my motion that that provision of law was introduced which required them to state what they expended in collecting the revenue, in salaries, &c., at each port, in order that by these statements we might have at least this check on the expenditure: that we might see how the money was disbursed and distributed, and in order, too, that we might be able hereafter to collect out of these statements the means, if we could, of digesting some system.

Now, sir, whenever we mean to retrench the expenses of the collection of revenue, it must be done upon system. I understand that there has been before the House of Representatives, during this year, a scheme of revenue laws which has been presented by the Secretary of the Treasury. I know that his attention is directed towards this matter, and I hope that early in the next session we shall have some scheme presented to us; and I shall be ready to go for any scheme that will promise to meet the necessities of the Government in regard to guarding and collecting the revenue, at the same time that it diminishes the expenditure. I will go for it with pleasure whenever such a scheme shall be presented; but, for the present, I am unwilling to appropriate less for collecting the revenue than has been expended heretofore—less than the sum which, I may say, has been expended for the last four or five years. I think it would be unsafe to attempt any reform upon mere theory, or to cut down the appropriation upon mere theory; for it is to be remembered that this expenditure is vital; upon it depends the revenue which we collect. It is through it that we guard and protect the revenue from smuggling and fraud; it is through it that we provide the means by which we gather it into the Treasury. If we were to make any mistake, so that we should not be able to keep up the preventive service, or to keep up the machinery necessary for collecting the revenue, it might operate more mischievously than a failure in any other department of the Government to appropriate what is necessary. I think, therefore, the Senate may be well content to agree to the amendment of the House of Representatives, which proposes a scheme of expenditure based upon the actual experience of some years past.

Mr. CHANDLER. The honorable Senator from Georgia [Mr. Toombs] has fallen into an error in regard to the expense of collecting a given sum of money. I will allow myself to be corrected in almost any point by that honorable Senator; but on the cost of importing goods I beg to state that I consider my information better than his. It is well known that in every sea-port an inspector is placed on board a foreign vessel the moment she arrives, and that inspector must remain on board the vessel until her cargo is landed. Will that Senator tell me that the expenses of watching a thousand vessels in port, will be no greater than of watching twenty? You have to

keep a thousand inspectors if there are a thousand vessels in port from foreign countries. It is the same in the custom-house proper, and in nearly all the expenses.

Mr. TOOMBS. My proposition was that a vessel which has but \$20,000 of dutiable goods on board requires an inspector as well as if it had \$1,000,000.

Mr. CHANDLER. That is true; but fewer vessels arrive now, and the vessels do not come in with half cargoes. I say that the expenses of collecting your revenues, while they may not be reduced in the exact ratio of the reduction of importations, may still be reduced in very nearly that ratio. A few of your high-salaried men must remain, but you may cut off your supernumeraries; you may reduce your inspectors in the city of New York from three to two hundred; you may reduce your inspectors at every sea-port in accordance with the reduction of business. You may do the same thing in your custom-houses, and with regard to all the expenses of collecting the revenue. I believe that with a reduction of the duties collected, from \$65,000,000 to \$40,000,000, you may safely diminish the expenses of collection \$600,000 a year, and yet have a surplus. I hope we shall not accede to the amendment of the House of Representatives, but shall adhere to our amendment reducing the amount to \$3,000,000. I still believe that that is more than is necessary.

Mr. SIMMONS. I perceive that I was right in the statement that the original bill appropriated for the current half year, from January 1, to July 1, 1858, \$1,600,000, and the House amendment increased that to \$1,800,000, together with such sum as may be received from cartage, storage, and labor for the half year. All these incidental charges for warehousing are in addition to this sum, and we know very well that warehousing last year was pretty large.

Mr. HUNTER. Does the Senator say storage? Storage was once very large, but we get none now, because of the system of private warehouses.

Mr. SIMMONS. We have a great many warehouses. I see signs on them, when I go to New York.

Mr. HUNTER. We have in San Francisco, nowhere else.

Mr. SIMMONS. The amendment of the House carries the appropriation for the current year \$200,000 higher than the original bill.

Mr. HUNTER. This is making a provision for the year. It is true that when you proposed \$4,000,000 per annum, the Department asked only \$1,600,000 for the first two quarters, but you do not know what the expenditure was for the two preceding quarters. The way they have been getting on was this: when Mr. King, of New York, first introduced his bill it was for \$2,500,000 annually; it was then a great deal more than enough; surpluses accumulated, and when the expenditure went beyond the amount of the appropriation, the surpluses of previous years were transferred. It was considered to be a continuing service, and those surpluses were used to help out the deficiencies. It is in that way that they have been enabled to get along until now, but now that resource is exhausted, and the only safe thing we can do is to go back, and take a series of years, and I have shown that from 1854 up, they have never expended less than \$3,500,000, and in 1857 it was a little more than three million six hundred thousand dollars.

Mr. SIMMONS. I should like to ask the Senator from Virginia, upon what estimate the \$1,600,000 for the current half year was put in the original bill as it came to us? Was not it from the Department?

Mr. HUNTER. The estimate was a double estimate—\$1,600,000 for the half year, and \$4,000,000 annually. If the first appropriation turned out to be too little, the excess in the annual appropriation might have made up for the deficiency.

Mr. SIMMONS. I know it is very easy to mystify people, and I may not understand this matter; but if \$1,600,000 were appropriated for the two current quarters ending the 30th of June next, I desire to know whether it could be helped out by an appropriation for the next year?

Mr. HUNTER. Certainly.

Mr. SIMMONS. How?

Mr. HUNTER. As I said before, it has been

construed to be a continuing service; and a surplus in one year may be expended to supply any such deficiency. The Senator from Rhode Island, in order to show any inconsistency, must show either that since 1854 they have gotten along with less than thirty-five or thirty-six hundred thousand dollars, or else he must show that there is an estimate from the Secretary, by which he undertakes to say they could get along for less than this amount. He can show none. He can only show that in that double estimate the Secretary was willing to take \$1,600,000 for these two quarters, with a permanent annual appropriation estimated on the basis of \$4,000,000; but how much of accumulated surplus he had before the Senator does not know.

Mr. SIMMONS. I want to call the attention of the Senator from Virginia to the figures. In 1854 we collected \$66,000,000 of revenue, and on the Atlantic side the expenses of collection were \$2,700,000. Next year they were \$2,708,000, and in 1856 \$3,100,000.

Mr. HUNTER. The Senator does not say what was expended on the Pacific side.

Mr. SIMMONS. When we get this down, we can go over to the Pacific side. I understood the Senator from Virginia and the Senator from California the other day to say that the expenses of collecting the customs on the Pacific side had been reduced over a hundred thousand dollars the present year.

Mr. GWIN. I have not the tables before me. They have been very considerably reduced. I gave the figures the other night.

Mr. SIMMONS. I think the Senator stated the reduction at one hundred and forty or one hundred and fifty thousand dollars.

Mr. GWIN. I think not so much as that.

Mr. SIMMONS. You said the expenditures there for this year would be \$289,000.

Mr. GWIN. That was for three quarters—up to the 1st of March.

Mr. SIMMONS. Then take the expenditures for the Pacific side at \$400,000 a year, and add them to those on the Atlantic, and you cannot get an average total expenditure of more than \$3,200,000. That is the fact, if I can add figures together.

Mr. HUNTER. If the Senator will add the expenses on the Pacific to those on the Atlantic coast, he will find that they have been beyond that ever since 1854.

Mr. SIMMONS. I am taking the present expenditures in California, not what they were when they spent \$1,250,000 a year. I am taking what are said to be the expenses the present year; and now I want to know if you mean to increase the average by adding \$1,000,000 to the present expenditures of California?

Mr. HUNTER. Does the Senator advert to the fact that the expenses have increased a little faster on the Atlantic than they have been diminishing on the Pacific?

Mr. SIMMONS. They increased last year \$200,000. In 1855, they were \$2,708,000. I do not see any very great increase in that. I do not wish to waste the time of the Senate. I suppose the idea is, that as you cannot get exactly \$4,000,000 for the next year, you will add \$200,000 for the current two quarters, and get \$3,600,000 for the next year, so as to make \$3,800,000.

Mr. KING. I understand that this is an appropriation which continues from year to year without limitation; that is, it continues until further legislation. I suppose the House amendment is amendable, and I therefore offer an amendment to limit the appropriation to the next fiscal year.

The PRESIDING OFFICER. (Mr. MASON.) This amendment is not amendable. It is an amendment of the House of Representatives to an amendment of the Senate.

Mr. SIMMONS. We can concur in their amendment with an amendment.

Mr. PUGH. There is a Senate amendment and a House amendment. This is an amendment to an amendment.

The PRESIDING OFFICER. The question is on the amendment of the House of Representatives to the amendment of the Senate. It has gone to the last stage of amendment.

Mr. TOOMBS. That rule does not apply to amendments between the Houses. We can take the House amendment with an amendment. In our own body the rule is, that we cannot go to

an amendment in the third degree; but when the other House has amended an amendment of the Senate, I do not think that rule of limitation applies. The Senate may agree to the amendment of the House with an amendment.

Mr. HUNTER. That has been the practice. I think we have treated an amendment of the House as a proposition in the first degree.

Mr. KING. Then I offer my amendment.

The PRESIDING OFFICER. The Chair will receive the amendment.

Mr. KING. I am willing that the vote shall first be taken on the amendment of the House in regard to the amount of the appropriation.

The PRESIDING OFFICER. Then the question is on concurring in the amendment of the House to the first amendment of the Senate.

The question being taken by yeas and nays, resulted—yeas 29, nays 13; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Broderick, Brown, Clay, Clingman, Fitch, Fitzpatrick, Gwin, Hammond, Hayne, Houston, Hunter, Johnson of Arkansas, Jones, Mallory, Mason, Pearce, Poik, Pugh, Reid, Rice, Sebastian, Sidel, Thomson of New Jersey, and Wright—29.

NAYS—Messrs. Bell, Chandler, Collamer, Crittenden, Essenden, Foot, Foster, Harlan, Johnson of Tennessee, King, Simmons, Trumbull, and Wade—13.

So the amendment to the amendment was concurred in.

Mr. HUNTER. I move to insist upon our next amendment in regard to the salaries of the officers in California, to which the House disagreed with an amendment. I am willing to apply the reduction to the officers who get high salaries; but I am informed that it would not be safe to apply the New-York standard to the clerks and inferior officers who are paid under regulation. You cannot get clerks in California for as little as you can in New York. Let the amendment to to which the House disagreed be read.

The Secretary read the fourth Senate amendment, as follows:

And be it further enacted, That no collector of the customs, deputy collector, naval officer, deputy naval officer, surveyor, deputy surveyor, general appraiser, superintendent of warehouses, or any other officer or person engaged in the collection of the revenue, shall receive a greater compensation than is now paid to the officers and persons engaged in said service at the port of New York: *Provided,* That this section shall not be so construed as to increase the compensation of any officer of the customs, or of any person engaged in the collection thereof.

Mr. HUNTER. I move that the Senate insist on that amendment, with an amendment to strike out the words "or any other officer or person engaged in the collection of the revenues." These are persons, as I understand, who are paid by regulation. They are the clerks and inferior employees.

The PRESIDING OFFICER. The Chair will suggest to the Senator from Virginia that, this being a Senate amendment in which the House refused to concur, the Chair entertains doubts whether the Senate can now amend its own amendment and send it back. He will, however, take the opinion of the Senate.

Mr. HUNTER. If a committee of conference reported that we should insist on our amendment with an amendment, nobody would doubt our power to do so. I only propose that we shall do now what we do through committees of conference—insist on our amendment with an amendment. However, if the Chair rules it out of order, I shall not press it.

The PRESIDING OFFICER. The Chair does not rule it out of order. He only suggests, for the consideration of the Senate, that he entertains doubts whether, the House having refused to concur in an amendment of the Senate, it is competent to the Senate to send back the same amendment in a different form.

Mr. HUNTER. Then I shall move to insist on our amendment, and ask for a conference. I am willing to make that compromise. I believe it is necessary after what I have heard. If it be the pleasure of the Senate, I move to insist on our amendment, and ask for a conference.

Mr. BENJAMIN. I do not really see why we should go through that form. Has not the Senate the right to modify its own amendments? It proposed an amendment to the House. The House sent it back, disagreed to. Now, we modify the amendment, and ask them if they will agree to it in this form. What is to prevent us from doing that? We can modify it, and bring it in such a shape as to suit them. The original amendment

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did not suit them. We can now withdraw a part of it.

Mr. HUNTER. I think we can do it in the way I propose, without debate or difficulty. I think we had better do that, although I agree with the Senator from Louisiana, that we have the right to amend the amendment.

The PRESIDING OFFICER. The Chair will receive the amendment if it be offered.

Mr. HUNTER. I do not like to run counter to the sense of the Senate, and I think it would be better to insist on our amendment, and ask for a committee of conference. I make that motion.

Mr. PEARCE. I really think it is unnecessary, and if there should be no further debate, I hope the Senate will express its opinion that it is competent, in this stage of the business, to entertain the proposition of the Senator from Virginia to amend our amendment.

The PRESIDING OFFICER. The Chair understands the Senator from Virginia to decline making it.

Mr. PEARCE. I think it will be a briefer way of disposing of the bill.

Mr. GWIN. I do not object to fixing the compensation of all salaried officers by law; but the Senate has included some who are not salaried. I shall have to say something on the proposition in that form.

Mr. HUNTER. I think we shall get along easier by a committee of conference, because we shall get rid of a speech [Laughter]—not that I am not very glad always to hear the Senator from California. I move that we insist on our amendment, and ask for a committee of conference.

The motion was agreed to; and Messrs. HUNTER, BRIGHT, and WADE, were appointed conferees on the part of the Senate.

A message was afterwards received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House had insisted upon its disagreement to the fourth amendment of the Senate to the bill (H. R. No. 466) making appropriations for the expenses of collecting the revenue from customs, and had agreed to the conference asked by the Senate upon the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHN COCHRANE, Mr. WARNER L. UNDERWOOD, and Mr. CHARLES L. SCOTT, managers at the same on its part.

NAVAL APPROPRIATION BILL.

Mr. PEARCE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 199) making appropriations for the naval service for the year ending June 30, 1859, having met, have, after a full and free conference, agreed to recommend, and do recommend, to their respective Houses as follows:

That the House do recede from their disagreement to the tenth amendment of the Senate, and agree to said amendment with an amendment, as follows: insert the word "and" between the words "clerks" and "messengers," in the third line, and strike out the words "and watchmen," in the fourth line.

That the House do recede from their amendment to the fourteenth amendment of the Senate, and agree to said amendment with an amendment, as follows: strike out the word "five," in the third line, and insert the word "seven."

J. A. PEARCE,
L. F. S. FOSTER,
JOHN R. THOMSON,

Managers on the part of the Senate.

WARREN WINSLOW,
E. B. WASHBURN,
W. S. GROSSBECK,

Managers on the part of the House.

Mr. PEARCE. I will state to the Senate, that the House having concurred in eight of the fourteen amendments of the Senate, and the Senate having receded from four of its amendments which were non-concurred in by the House, there remained but two amendments as the subject of conference between the two committees. The first of these is the amendment relating to the pay of the clerks, messengers, and watchmen at the Washington navy-yard. The pay of the clerks and messengers at that yard was enlarged by the act of 1856; but the watchmen were not included in that act. The House proposed to recede from its disagreement to the provision of the Senate

which gave back pay and increased pay to the clerks and messengers, omitting the watchmen who were not provided for in the law of 1856. The amendment, therefore, as now proposed to the Senate by the committee of conference, carries out the law of 1856, in which the watchmen were not included. The fourteenth amendment related to the additional war steamers. The Senate inserted five war steamers, besides one for service in the China seas; and the House struck out five and inserted ten. The compromise of the committee of conference is a very simple one: it proposes to insert seven instead of ten or five. We could not exactly split the difference, saying seven and a half, but we came as near to it as we could, so that the Senate has got rather the better of the bargain.

Mr. THOMSON, of New Jersey. I understand that the House of Representatives have already adopted the report of their committee.

Mr. PEARCE. That is an additional reason why the Senate should agree to this report. I hope the Senate will concur in the report, which will put an end to the dispute.

Mr. PUGH. Is the bill here or in the House?

Mr. PEARCE. The bill is in the House.

Mr. PUGH. I merely wish to put in my protest against the Senate agreeing to the report of any conference committee without the bill to which it relates.

Mr. HUNTER. We are entitled to the bill; the House has acted.

Mr. PUGH. When the House send us the bill, I have no objection to acting on it; but I wish to put it on record that I protest against voting on bills that are not before the Senate, and I shall ask for the yeas and nays—not that I oppose the report, but that I think there ought to be some regularity in legislation.

Mr. HUNTER. The papers will be here in a minute.

Mr. PUGH. I have no objection to action when the papers come; but I do object to voting on this report without the papers.

Mr. HUNTER. We can send to the House and have the papers here in five minutes.

The PRESIDING OFFICER. The question is on concurring in the report of the committee.

The report was concurred in.

A message was subsequently received from the House of Representatives by Mr. ALLEN, its Clerk, announcing that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses, on the bill (H. R. No. 199) making appropriations for the naval service for the year ending the 30th of June, 1859.

PENSION MONEYS.

Mr. CLAY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be, and he is hereby, requested to communicate to the Senate, as soon after the commencement of the next session of Congress as possible, the amount of money paid for pensions in each of the States and Territories since the commencement of the present Government, discriminating between the Army and Navy pensions; and that he also state the aggregate amount paid by the United States for pensions of both kinds in all the States and Territories.

LOAN BILL.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed a bill (H. R. No. 582) to authorize a loan not exceeding the sum of \$15,000,000, in which the concurrence of the Senate was requested.

The bill was read twice by its title.

Mr. HUNTER. I would prefer that that bill should lie over till to-night. I cannot now believe that it will be necessary to add to it; but perhaps it may be. We want to see how much is added to the estimates by the action of Congress. I think it will turn out that we have cut down nearly as much as we have added; but we may want to add to the loan.

The PRESIDING OFFICER, (Mr. MASON.) It will be laid aside.

NANCY MAGILL.

Mr. PUGH. I ask the Senate to indulge me in calling up a little bill which I have deferred, because I was waiting for the Senator from Virginia. It is the bill (H. R. No. 345) for the relief of Nancy Magill, of Ohio, which was objected to the other day on some general ground. I move to take it up.

The motion was agreed to; and the bill was considered as in Committee of the Whole. It proposes to place the name of Nancy Magill, widow of James Magill, of Ohio, on the pension roll, at the rate of eight dollars a month, for five years, commencing March 4, 1858.

Mr. CLAY. Is she the widow of a soldier?

Mr. PUGH. Yes, sir. He was appointed lieutenant, and resigned because he was mortally wounded and could not serve.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

COURTS IN MINNESOTA.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred the bill (S. No. 412) supplemental to an act for the admission of the State of Minnesota into the Union, have instructed me to report it back with an amendment. It is merely to carry out the law under which Minnesota was admitted, so as to define the times and places of holding the Federal courts in that State. I hope the bill will be considered now. It will not take two minutes.

The bill was considered as in Committee of the Whole. The amendment of the Judiciary Committee was to strike out all after the enacting clause, and insert:

That the judge of the district court for the district of Minnesota shall hold a term of said court in each year at the following places, to wit: At Preston, to commence on the first Monday in June, and at St. Paul, on the first Monday in October. The said court shall be open at all times for the purpose of hearing and deciding cases of admiralty and maritime jurisdiction, so far as the same can be done without a jury. The judge of the said court shall appoint a clerk for said district, who shall reside and keep the records and papers of said courts at either of the places herein designated for the holding of said court, as the judge in his discretion shall direct.

The amendment was agreed to. The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PROPOSITION FOR A RECESS.

Mr. SLIDELL. I move that the Senate take a recess until half past six o'clock. There are a number of committees of conference out engaged on the appropriation bills.

Mr. JOHNSON, of Tennessee. I hope the Senator will withdraw that motion.

Mr. SLIDELL. It is impossible that we can do business with so small a Senate.

Mr. JOHNSON, of Tennessee. There is a motion pending to reconsider the vote postponing the homestead bill, and I desire to say a few words on that question. I shall not occupy the Senate longer than fifteen minutes.

Mr. SLIDELL. I do not know that that is any particular inducement for me to withdraw my motion. I prefer to have the opportunity of taking a little refreshment. We shall be here late to-night, and our time will be, perhaps, worse than uselessly consumed if we remain here continuously from this time forward.

Mr. JOHNSON, of Tennessee. I think a motion to reconsider is a privileged question, and as such, I call for the motion to which I have alluded.

Mr. FITZPATRICK. It is a privileged question to make the motion, not to consider it.

Mr. JOHNSON, of Tennessee. I insist that it is a privileged question, and can be called up by the mover at any time.

The PRESIDING OFFICER. The Chair understands that it is a privileged question to move a reconsideration, but afterwards it depends on the Senate to say whether they will consider the motion.

Mr. JOHNSON, of Tennessee. The motion can be called up at any time by the mover. What is before the Senate now but the motion to reconsider, which I have called up?

Mr. SLIDELL. I would ask if a motion to take a recess is not in the nature of a motion to adjourn, and is not of a higher order than a motion to reconsider? It strikes me in that light.

Mr. JOHNSON, of Tennessee. It does not strike me so.

Mr. CLAY. At all events, when a motion to take a recess has been made, and is pending, it is certainly not in order to supersede it by another motion.

The PRESIDING OFFICER. The Chair so understands.

Mr. FITZPATRICK. I wish to speak to the motion for a recess. I think if there is any fit occasion on which we can dispose of a large quantity of executive business in executive session it is now. I am as anxious as my friend from Louisiana to indulge in some refreshment; but we are all making all the speed we can for the purpose of closing the session on Monday, if possible. It is very well known to the Senate that our table is burdened with nominations, and in the race-horse speed that has characterized our movements for the last few days there has been no attention paid to the Calendar in executive session. I ask my friend to withdraw his motion, to enable me to move that we proceed to the consideration of executive business. It is well known that unless we do that now, and have a report between now and Monday morning, on some nominations, they will have to lie over, and even on Monday it will be in the power of any Senator to carry over all the nominations unless we take them up by consent.

Mr. SLIDELL. I will with great cheerfulness accede to the request of the Senator from Alabama, provided it be understood that we go into executive session merely for business to which there is no objection, and for the purpose of reference.

Mr. FITZPATRICK. That is what I designed.

Mr. SLIDELL. That will not take more than ten or fifteen minutes.

Mr. JOHNSON, of Tennessee. No gentlemen have a right to make an agreement that we shall take up such business as they choose in executive session.

The PRESIDING OFFICER. Senators will allow the Chair to inquire whether the motion for a recess is withdrawn?

Mr. SLIDELL. Yes, sir.

EXECUTIVE SESSION.

Mr. FITZPATRICK. I move an executive session.

The motion was agreed to; and, after some time spent in executive session, the doors were reopened at fifteen minutes before five o'clock.

NAVAL APPROPRIATION BILL.

Mr. PEARCE. I understand that the action of the Senate on the naval appropriation bill has, by some mistake, been incorrectly reported to the House of Representatives. The House has been notified that we receded from the amendment in relation to the Brooklyn navy-yard, whereas we not only receded from that, but from three other amendments. It seems to me, the proper way to correct the error would be to send a message to the House to inform them that the Senate receded from all these amendments.

Mr. HUNTER. What did the committee of conference report to us as to these amendments?

Mr. PEARCE. Nothing as to these four amendments; because they had been receded from by the Senate. The first and fifth amendments had been receded from, I think, on the report of the first committee of conference; and the Senate afterwards receded from the second and third amendments.

Mr. HUNTER. All that is necessary to make it complete, inasmuch as the report says nothing of the amendments from which we receded, would be to send a message to the House that we did recede from those amendments.

Mr. PEARCE. So I supposed.

The VICE PRESIDENT. If there be no objection, the Chair will direct that to be done. The Chair hears no objection.

LOAN BILL.

Mr. HUNTER. I find that we shall have to act on the loan bill at once. I was not aware before of the precise action which the House had taken. They intended to pass the precise bill which we passed; not choosing, I believe, that we should originate measures of this sort; but, owing to some of their rules of order, they moved to strike out the enacting clause; and the bill was passed as originally reported here, not as we amended it. My purpose is to take it up and substitute our bill for it, which will be more acceptable to them than their own; and if, after we ascertain the amount appropriated, it be necessary to add to the loan, we can do it then. I therefore ask that the bill be taken up.

The VICE PRESIDENT. The Chair hears no objection to taking up the bill.

The bill (H. R. No. 552) was considered as in Committee of the Whole.

Mr. HUNTER. I move, as a substitute for it, our own bill. Their bill, owing to a mistake, as I have mentioned, was passed as originally reported by us.

The VICE PRESIDENT. The Chair hears no demands for the reading of the amendment at length. ["Oh, no."]

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

SIGNAL LIGHTS.

Mr. CLARK submitted the following resolution, and asked for its immediate consideration:

Resolved, That the Secretary of the Navy be directed to cause the invention of Samuel Gardner, jr., for making signal lights on vessels at sea and in harbors, by electricity, to be tested; and that he report the result at the commencement of the next session of Congress.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. ALLEN. I move that the resolution be referred to the Committee on Naval Affairs.

Mr. KING. Is it a mere resolution of inquiry?

Mr. ALLEN. It is not merely a resolution of inquiry, but it directs that experiments shall be made—to what extent we do not know.

Mr. CLARK. One suggestion, I think, will satisfy the Senator from Rhode Island. It is the invention of the same gentleman who has put in the method of lighting the Senate Chamber. He has also a method of furnishing a light on a ship at sea. I have a letter from Lieutenant Maury, saying that he thinks it far exceeds anything he has known; and I dare say that in the vacation the Secretary of the Navy may make some test of it, so that it may be known what it is.

Mr. ALLEN. The experiments that are applied to the ships, not only of this country, but abroad, are innumerable.

Mr. CLARK. I have a letter from Lieutenant Maury saying that it is desirable this should be tested.

Mr. ALLEN. A number of such applications have been referred to the Committee on Naval Affairs, and probably if the experiments were carried out which have been presented to the committee for the last six months they would cost \$100,000.

Mr. CLARK. I do not suppose this will cost anything of any consequence.

Mr. ALLEN. It will involve a considerable expenditure.

Mr. CLARK. I am sorry it should be delayed, because it is desirable that this test should be made during the vacation.

Mr. MASON. If the Secretary of the Navy is instructed to have these experiments made, it will involve an expenditure of money of the amount of which we are uninformed.

The motion to refer the resolution to the Committee on Naval Affairs was agreed to.

JOHN HOLLAND.

On motion of Mr. SEBASTIAN, the bill (H. R. No. 631) granting an invalid pension to John Holland, of Arkansas, was considered as in Committee of the Whole. It proposes to grant him a pension of eight dollars a month during his life, commencing December 14, 1857.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

REPORTS OF COMMITTEES.

Mr. CLAY, from the Committee on Pensions, to whom was referred the bill (H. R. No. 230) for the relief of Mary Bennett, reported it without amendment, and that it ought not to pass.

Mr. JOHNSON, of Arkansas, from the Committee on Printing, to whom was referred the motion to print the letter of W. Reckyan Bey, with his account of the dromedary, its treatment, and uses, reported the following resolution; which was considered by unanimous consent, and agreed to.

Resolved, That there be printed for the use of the Senate, in addition to the usual number, two thousand copies of the letter of W. Reckyan Bey to Edward De Leon, Esq., consul general of the United States, in Egypt, on the treatment and use of the dromedary.

He also, from the same committee, to whom was referred a motion to print the report of the Secretary of the Treasury relative to the fees or charges of the consul general for Canada, on goods imported into the United States, reported in favor of the motion, and it was agreed to.

He also, from the same committee, to whom was referred a motion to print the report of the Secretary of the Navy relative to the cost of building and repairing vessels of war, reported in favor of the motion, and it was agreed to.

He also, from the same committee, to whom was referred a motion to print the message of the President in relation to the Isthmus of Tehuantepec, reported in favor of printing the message, and the motion was agreed to.

Mr. FITCH, from the Committee on the Post Office and Post Roads, to whom was referred the joint resolution (H. R. No. 37) in regard to the carrying the United States mails from St. Joseph, Missouri, to Placerville, California, reported it without amendment, and asked for its immediate consideration.

Mr. TOOMBS. I object.

The VICE PRESIDENT. Objection being made, the joint resolution cannot now be considered.

WILLIAM RANDOLPH.

Mr. FOSTER. The Committee on Pensions to whom was referred the bill (H. R. No. 650) granting an invalid pension to William Randolph, have instructed me to report the same back without amendment, and I beg leave to say a word upon it. This petitioner is from the State of Kentucky. He is eighty-nine years old. He was injured in General Wayne's campaign in 1794. The bill proposes to give him four dollars a month from the 4th of May, of the present year. I hope it will be passed without objection.

By unanimous consent the bill was considered as in Committee of the Whole, reported to the Senate, ordered to a third reading, read the third time, and passed.

POST OFFICE APPROPRIATION BILL.

Mr. GWIN, from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 556) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1859, reported that they had met the conferees on the part of the House of Representatives, and that the committee were unable to agree. He moved that the Senate further insist on its amendments, and ask for another conference.

The motion was agreed to; and Mr. Toombs, Mr. Brown, and Mr. COLLAMER were appointed conferees on the part of the Senate.

COLLECTION OF THE REVENUE.

On motion of Mr. GREEN, the Senate proceeded to consider the following resolution, submitted by him on the 28th of May:

Resolved, That the Secretary of the Treasury be requested to report to the Senate, at the commencement of the next session of Congress, a full and complete list of all collection districts for the collection of duties on imports; showing in each district:

1. The amount of revenue annually collected;
2. The amount expended for salaries of officers and employees annually; and
3. The amounts expended for custom-houses, or rents of offices, and warehouses.

Also, that he state what custom houses, or ports of entry or delivery, can be dispensed with, with a proper regard to economy and the security of the collection of the revenue, and consistently with commercial interests; or what modification of the laws are necessary for the public interests in relation to the collection of customs.

Mr. HAMLIN. I move to amend the resolution, by adding as an additional specification:

4. The name of every person employed directly or indirectly, connected with the collection of the revenue either as officer or agent, and the amount of compensation paid to each, and the law under which such officer or agent was appointed.

Mr. GREEN. I accept the amendment.
The resolution, as modified, was agreed to.

WILLIAM HOWELL.

Mr. BELL. I move that the Senate take up the bill (H. R. No. 513) granting an invalid pension to William Howell, of Tennessee. The Senator from Georgia [Mr. Toombs] has examined the report, and I take it that when he says the bill is proper, no Senator will object to it. The man is very old, and unable to get a living.

Mr. CLAY. Has the bill been referred to the Committee on Pensions?

Mr. BELL. Yes, sir, and reported favorably; and the Senator from Georgia has, at my request, examined the case, and he says it is right.

The motion was agreed to; and the bill was considered as in Committee of the Whole.

It proposes to direct the Secretary of the Interior to place the name of William Howell, of Tennessee, on the invalid pension roll at the rate of eight dollars a month, commencing February 23, 1858, and continuing during his natural life.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MORDECAI'S AND DELAFIELD'S REPORTS.

Mr. DAVIS, from the Committee on Military Affairs and Militia, reported a joint resolution (S. No. 53) directing the printing of certain reports therein mentioned; which was read twice by unanimous consent, and considered as in Committee of the Whole.

It provides for the publication, for the use of the Army and militia, of ten thousand copies of the reports of Major Delafield and Major Mordecai, of the United States Army, on the state of military organization, fortification, and ordnance, as observed by them in the States of Europe during the campaign in the Crimea, and appropriates for this purpose \$43,500, to be expended under the direction of the Secretary of War.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

JOSEPH WEBB.

Mr. HAMLIN. I ask the Senate to take up the bill (H. R. No. 347) for the relief of Joseph Webb.

Mr. CLAY. I object.

Mr. HAMLIN. I hope the Senator will not object. Allow me to state the case. The bill has passed the House of Representatives, and the Senate committee have considered it and reported it unanimously. The invalid is now in the possession of a pension of six dollars a month. By two as eminent surgeons as there are in the State of Maine it is certified that his disability is total; and this bill proposes to make his pension eight dollars a month for total disability.

Mr. CLAY. I withdraw the objection to that; but I will object to all other pension bills this year.

The motion to take up the bill was agreed to; and it was considered as in Committee of the Whole. It proposes to increase Joseph Webb's pension from six to eight dollars a month, from January 1, 1852.

Mr. CLAY. I must object to that. It violates an established principle of the committee of which I am a member; and the Senator from Maine is mistaken in saying this bill is reported unanimously by the committee. It goes back to 1852. I do not understand for what reason it relates back.

Mr. HAMLIN. I will state to the Senator the reason. It is because the invalid then petitioned Congress for the increase, and the committee reported in favor of it; and the bill was passed through one House at that time. It is adopting the rule applied at the Department, that the pension shall commence from the time when the evidence is complete. In this case it was complete at the time named in the bill. That has been the rule of the committee, and forty bills have been passed on the same principle.

The bill was reported to the Senate without

amendment, ordered to a third reading, read the third time, and passed.

OREGON MILITARY ROAD.

Mr. DAVIS. I move to take up the bill (H. R. No. 56) making appropriation for the completion of the military road from Astoria to Salem, in Oregon Territory. Some money was appropriated for the construction of a road from Astoria to Salem, which was intended to be, simply a wagon road; but the money only sufficed to make it a good wagon road for part of the way, and for the rest of the route only a bridle path. The appropriation now asked for is to make it a wagon road from one place to the other. It is important in several relations. If an enemy were to appear on the Columbia river, the Willamette valley, containing the great bulk of the population of Oregon at this time, as it probably ever will, would be compelled to furnish troops for the defense of Astoria and the mouth of the Columbia. Indian depredations may be committed in the valley of the Willamette, and they rely on Astoria for arms and supplies. During a large portion of the year they cannot send by water on account of ice and other obstacles, and they are compelled therefore to go by land. This road is direct from one point to the other, cutting off the great elbow which is made by the two rivers, and is deemed of great importance for military and territorial purposes, whether we look to defense against the Indians or a foreign foe on the exterior. This is the only one of this class of bills, of the number before them, on which the committee have acted favorably, except in regard to one other road, for which they put an amendment on an appropriation bill—a road west from Arkansas. I move to take up this bill, and I hope there will be no objection to it.

The motion was agreed to; and the bill was considered, as in Committee of the Whole.

It proposes to appropriate \$30,000, to be expended under the direction of the Secretary of War.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

PAPERS WITHDRAWN.

On motion of Mr. FITCH, it was

Ordered, That the papers in the case of C. Alexander and T. Barnard, on the files of the Senate, be referred to the Court of Claims.

On motion of Mr. WRIGHT, it was

Ordered, That Catharine Keller have leave to withdraw her petitions and papers.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the bill of the Senate (S. No. 424) for the relief of Georgiana M. Lewis.

DES MOINES LAND GRANT.

Mr. JONES. I ask the Senate to do me the favor to take up the bill (S. No. 386) reported from the Committee on Public Lands, to amend "An act granting lands to the Territory of Iowa to aid in the improvement of the Des Moines river in said Territory."

Mr. GREEN. I object to that. You cannot pass that bill at this hour.

Mr. JONES. It does not ask for an acre of land or a cent of money, but proposes merely to divert a grant of land made to the State of Iowa for the construction of a canal from that purpose, and allow it to be applied to the construction of a railroad which is being made.

Mr. CLAY. Is there any report on the subject?

Mr. JONES. I do not know whether there is any report or not.

Mr. CLAY. If there is, I should like to hear it.

Mr. STUART. I can state to the Senator from Alabama what the case is. There was a grant of land made for the improvement of the Des Moines river; but it has been ascertained satisfactorily to the committee that the land thus appropriated will be useless. There is a balance of it remaining, and the object of the bill is to apply that balance for the construction of a railroad in the vicinity.

Mr. GREEN. I object to the consideration of the bill.

The VICE PRESIDENT. The motion to take it up is in order.

Mr. STUART. The effect is to allow the diversion of the land from the improvement of the river to the construction of a railroad, provided it creates no addition to the amount, nor in anywise affects the construction of the grant. The bill raises the single question whether the land shall be diverted from that purpose to the construction of a railroad, that is all.

Mr. GREEN. It involves other things. When the grant was made, it was for the purpose of improving the navigation of the Des Moines river. The Des Moines river is the common boundary between the States of Missouri and Iowa for about forty miles. The grant was supposed to benefit Missouri as much as Iowa to the extent of the forty miles. They made their contracts, commenced their work, and prosecuted it. They now owe large sums to the contractors who undertook the work on the faith of the lands; and if they can divert the proceeds of the lands, they will not only violate public faith to Missouri, disappoint public expectation with regard to the improvement, but they will violate their contracts to their contractors who have done the work. The diversion ought not to be made. It is sought by a local influence for the benefit of the town of Keokuk, and not the public. The river Des Moines enters the Mississippi river about four and a half or five miles below the town of Keokuk; and it is found that the completion of the work according to the contract, and according to the terms of the grant, will take the trade of the rich valley of the Des Moines away from Keokuk. They are determined to force it to Keokuk, and, to accomplish that end, to abandon the improvement of the Des Moines river; and, instead of improving the Des Moines according to the terms of the grant, to make a railroad by which they can carry the trade to the city of Keokuk, and prevent it coming down the Des Moines.

Mr. CLAY. With the consent of the Senator from Missouri, I rise to move that the Senate take a recess until seven o'clock. We shall be obliged to sit here to-night until a late hour. The House has taken a recess.

Mr. BENJAMIN. I would suggest to the Senator from Iowa that we cannot let his bill pass; and, therefore, he ought not to insist upon it.

Mr. JONES. I am very confident that if the Senator from Louisiana, or any Senator in this body knew the whole case, he would not object, except, perhaps, the Senator from Missouri and his colleague, and I do not believe his colleague would object if he were here, or if he did, it would at all events, be against the wishes of the city of St. Louis.

Mr. GREEN. I know all about it.

Mr. JONES. I know all about it myself.

Mr. GREEN. I have yielded the floor for the motion for a recess.

The VICE PRESIDENT. Does the Senator from Iowa yield his motion?

Mr. JONES. No, sir.

Mr. CLAY. I had the floor by the consent of the Senator from Missouri, and moved to take a recess.

Mr. JONES. I am willing to allow a recess to be taken, but I cannot yield the bill.

Mr. STUART. I desire, if it would suit the convenience of Senators, to fix the meeting at half an hour earlier than is proposed, for the reason that I wish the Senate to go into executive session. I am charged with two reports which will consume considerable time of the Senate to dispose of in executive session. I only make the suggestion. ["Oh, no; seven o'clock."] Very well.

The motion was agreed to; and the Senate took a recess until seven o'clock.

EVENING SESSION.

The Senate reassembled at seven o'clock, p. m.

ENROLLED BILLS SIGNED.

A message from the House of Representatives by Mr. ALLEN, its Clerk, announced that the Speaker of the House had signed the following enrolled bills; which were thereupon signed by the Vice President:

An act for the relief of Georgiana M. Lewis; and

An act for the relief of Nancy Magill, of Ohio.

COMMITTEE REPORT.

Mr. WRIGHT, from the Committee to Audit

and Control the Contingent Expenses of the Senate, to whom was referred a resolution relative to the price to be allowed for binding the Congressional Globe and Appendix for the Thirty-Fourth Congress, submitted an adverse report; which was ordered to be printed.

DES MOINES LAND GRANT.

Mr. WADE. I move that the Senate take up House joint resolution No. 36.

The VICE PRESIDENT. The Chair will state to the Senator that there is a bill before the Senate, and a question pending—a bill in relation to the grant of land to Iowa for the improvement of the Des Moines river.

Mr. WADE. I was not aware of that.

Mr. GWIN. I hope that will be laid aside, as the gentlemen interested in it are not here. There was a joint resolution reported to-day in connection with a mail route to California. It is a matter of great importance, and I hope it will be taken up.

The VICE PRESIDENT. There is a bill before the Senate, and some disposition must be made of it.

Mr. STUART. The bill under consideration is one which will be discussed so much that I think it cannot pass at this session. I move, therefore, simply to postpone it.

The motion was agreed to.

WIDOWS' HALF PAY.

Mr. WADE. I now move to take up House joint resolution (No. 36) giving a construction to the second section of the act of February 3, 1853, "to continue half pay to certain widows and orphans."

Mr. STUART. It is obvious that that cannot pass at this session of Congress. I have in my drawer certain facts which I have had there for two years, and it would occupy, at least, an hour or two to present them; and I know that there are other Senators who are disposed to go into a very lengthy consideration of that question. The whole subject was debated two years ago in the Senate on an appropriation bill; and, after a very lengthy debate, the Senate rejected a similar proposition.

Mr. WADE. I am very sorry to hear the gentleman say the bill shall not pass on account of any information he may have in regard to it that has been on hand so long. I will not, at this time, go into the merits of the joint resolution; but I will say that, after the most elaborate and careful examination of the whole question before the Court of Claims, after counsel had been heard on both sides, that court came to the conclusion that the construction which is affirmed by this resolution was just and legal.

Mr. FOSTER. The Senator is a little mistaken in saying that counsel were heard on both sides, for this reason: the solicitor of the United States, after hearing the argument on the other side, said he did not see that there was any answer to it, and he declined to make an argument on the part of the United States against the claim.

Mr. WADE. That was equivalent to a hearing; he examined it and gave it up. The solicitor, a very good lawyer, a competent man, agreed upon this construction of the law, which, in my judgment, is too plain for argument, and so did the Court of Claims. The court gave several judgments, for there are a great many cases depending on the same construction, and that is the reason why, I suppose, the House of Representatives, instead of passing a private bill for each of those cases, adopted the resolution under consideration, which gives a legislative construction to the act of 1853 conforming exactly to the decision of the court. It was argued, deliberated upon by some of the most astute and I may say some of the most economical gentlemen of the other House. The resolution was most carefully drawn, I believe, by Mr. JONES, of Tennessee, of that House, who is not very likely to give a very loose construction to any of these matters, and it passed that body by a vote of 140 to 30. It has received the sanction of the Committee on Claims of the Senate at a former Congress, and of the same committee unanimously at the present session.

Without going further into the merits, I think there is a strong *prima facie* case against what the Senator from Michigan says is so plain that he supposes the resolution cannot possibly pass.

There is a great number of widows whose rights depend upon this construction of the law. I suppose most of the members of this and the other House have been applied to to present petitions for relief under the construction of the law which this resolution gives. They are old; they are fast passing away, and if we intend to give them the benefits of this law, we should do it now. They are all of them old ladies. Many of them are dying off every year. This resolution is so carefully worded that it does not apply to any but those who are living at this time, so that it will take no great sum out of the Treasury to adjust these claims. I hope there will be no factious opposition to the resolution, because it is in the power of one or two to put it over. I hope no such thing will be resorted to against the rights of these old ladies. I do not wish to argue the case.

Mr. STUART. It was not, as the Senator from Ohio seems to suppose, from any factious disposition in regard to this measure that I made the suggestion I did. The paper to which I referred is a copy of a communication addressed by the Secretary of the Interior to the then Presiding Officer of the Senate, dated February 25th, 1857, in response to a resolution of the Senate inquiring of him what amount of money would be required to answer the provisions of this measure, and he incloses a copy of a communication from the Commissioner of Pensions, in which it is stated that it will require \$1,187,500 to satisfy the requirements of this measure; and two years ago, or about that time, the Senator from Ohio who makes this motion moved to amend a general appropriation bill, by inserting an appropriation of three hundred or three hundred and fifty thousand dollars to be applied to those cases. As I stated before, the subject was then elaborately discussed in the Senate, the decision of the Court of Claims was reviewed, and some of the best legal minds in the Senate came to the conclusion that an opinion of that character could not be sustained, and this body, after full discussion, voted down the amendment, thus signifying their sense in regard to the proposition. It was for that reason that I suggested that if a measure were now taken up, which, according to the statements of the Interior Department, appropriates \$1,187,500, it would not probably be disposed of to-night.

I remember that there was a great difference of opinion in regard to the law. I recollect that my friend from Georgia, [Mr. TOOMBS], and my friend from Missouri, [Mr. GREEN], argued it, and, as I said, some of the ablest minds in the Senate came to the conclusion that the Court of Claims were incorrect. I say, then, to my honorable friend from Ohio, that it was in no factious spirit, and in no spirit of prophecy, that I suggested it would not be wise or judicious to seek to pass this bill to-night; that it was entirely out of the question. I think so, and therefore objected to taking it up. I believe the Senate may as well dispose of it on the motion to take it up, as in any other way.

Mr. HAMLIN. I suppose the Senate is familiar with the facts of this case, and I do not propose to discuss them at all; but I wish to correct the Senator from Michigan in a very material point. He says the matter was discussed two years ago, and the Senate decided against this measure by a very decided vote. Now, what are the facts? They are not as the Senator from Michigan supposes; but my colleague offered an amendment to the pension appropriation bill, providing that this law should take effect precisely as this resolution proposes, and the Senate adopted it by a vote of two to one, after discussion, and sent it to the House of Representatives, where it was rejected on the ground that it was legislative matter attached to an appropriation bill.

Mr. STUART. I recollect that I talked with my honorable friend from Maine about that matter; and after our conversation the other day, I sent for the Journals, and they were brought to my desk, and what I say is true. It may not have been two years ago; it may have been at the last session; but certainly, either at the first or last session of the last Congress, what I have stated did take place.

Mr. HAMLIN. What took place at the last session of Congress I am not familiar with; I was not here then. I was speaking of what took place two years ago, when, as I stated, the Senate adopted an amendment giving this construction

to the law, by a very large vote, and sent it to the House of Representatives. That House rejected it; it came back here and was discussed, and the Senator from Virginia, the chairman of the Finance Committee then and now, urged his objections to it upon the ground that it did not belong to that bill; that while it was right in itself, it ought to be in a separate bill. Now the House of Representatives have sent it to us as a separate bill. There are sixty or seventy cases now on the Calendar of the House covered by its provisions, and it is a question, I think, that ought to enter into its merits, whether we shall dispose of the whole matter by a general provision of the law, or wade through each case separately. They are all reported from the Court of Claims. The Court of Claims have adjudicated, have determined that this law does take effect in 1848. I drew the section of the law myself, and I know what I intended. I submitted it to the then Secretary of the Interior for his construction, and he told me at the time that it would take effect in 1848. But I am not going to discuss the merits of the case now.

One other fact, and that is as to the amount. It would have taken about \$1,100,000 to allow the five years' half pay (from 1848 to 1853) to all these claimants originally; but I imagine that it will take little more than half that sum now. In 1853, five years ago, the number was as stated in the communication to which the Senator from Michigan has referred, but thousands of them are dead now, and the provisions of this resolution do not attach to any one of them who has died since the passage of the law, and therefore the amount required will be many thousands of dollars less than the estimate then made.

Mr. BAYARD. I have looked at this joint resolution this moment for the first time. I do not know that I shall vote against it, and I agree with the Senator from Maine that it is better to make a general provision like this than to act on each particular case, especially as they all depend upon the construction of a law; but my objection is, that this resolution, as I read it, refers to the decision of the Court of Claims in the case of Jane Smith; and I do not know that the case of Jane Smith has been before the Senate at all. I can only say, for myself, that what the decision in the case is, I do not know; no document containing it has ever been given to me, and I have had no opportunity of examining it. I pass no opinion about it. I do not know whether it is right or wrong; because, though the law required that copies of the opinions of the Court of Claims should, in all cases, be delivered to every member of the Senate, I have never received one in a solitary case myself. I have had no opportunity of examining into the question. I can pass no opinion upon the propriety either of the individual case, or the class of cases included in this resolution. Under these circumstances, I cannot be expected to vote in favor of a measure which is to pass \$1,000,000 out of the Treasury, without knowing whether there be some basis for it or not. If I had the opportunity to examine it, the amount would not deter me from voting for it if I conceived the measure right and proper; but I have had no opportunity to inform myself in regard to it.

Mr. TOOMBS. This question was very fully argued at the last Congress, when we had time, when a large number of this body were not engaged in the necessary business of committees of conference, when we had many members present, and we decided that this measure ought not to pass; and we were much indebted to the argument of my honorable friend from Michigan [Mr. STRUTT] on that occasion. Then, after deliberate argument by my friend from Ohio on the one side and my friend from Michigan, and others, on the other, the Senate said that this gratuity ought not to be extended. We ought not to attempt to pass such a measure on this last night of the session. I esteem \$1,250,000 as a matter of some consequence to the Government, and I think we ought not now to take up a measure which appropriates that sum, in opposition to the deliberate judgment of the Senate, heretofore expressed. As far as I am concerned, if the measure is taken up, I want to be fully heard on it. We ought to postpone it until the next session. It is a gratuity; nobody has any right to it. I know we are all abused for not attending to just claims on our bounty; that is, the claims of those who ask us

to give them the public Treasury. Let us act deliberately. Before this is done, I desire to be heard at length on the measure. I think it is wrong to ask the Senate to take it up now, whether they be for it or against it, to take it up on Saturday night a few hours before the adjournment; and especially it is wrong when the Senate have heretofore expressed their judgment deliberately against the proposition. It must not be done.

Mr. FOSTER. I hope the joint resolution will be taken up; and notwithstanding the assertion of the Senator from Georgia that it is a gratuity, I submit that it is not a gratuity. We passed a law in 1853, under which law persons have gone to the Court of Claims, and have got a decision that they are entitled to a certain amount of money. The Department having previously given a construction contrary to that decision, adhere to their construction, and will not pay the money. This resolution proposes simply to give a construction to the act we passed, and which the Court of Claims has decided to be the legal construction of the act, but yet the parties cannot obtain their rights under it.

Mr. TOOMBS. Rights!

Mr. FOSTER. I say rights, certainly. I say so, because I have the authority of a court of law constituted by the Legislature of the United States competent to decide that question, and they have decided it.

Mr. TOOMBS. Did you go for David Myerle's claim?

Mr. FOSTER. I do not now remember, but I am inclined to think that I did vote for the bill for the relief of David Myerle.

Mr. TOOMBS. The court decided against him.

Mr. FOSTER. If it were so, it would be no reason why I, acting in my legislative capacity, should not vote for it if I saw good reason to vote for it; but I submit that it is a reason why the honorable Senator, lawyer though he be of great eminence, should yield his opinion to a court of law of the United States, made, by the act creating them, competent to decide a legal question. Granting that a comparison of the members of that court with the honorable Senator would be very much in his favor and against them, still they form the court to whom the power of decision is given. Now the question is whether we, after having passed a law, will assume to ourselves the right to give a judicial construction to it as against the decision of a competent court of law. Do we not create a despotism in this Government, if, making a law, we afterwards reserve the right to give a construction to it as against the courts? for that is the question here. The Court of Claims have decided upon the meaning of this law, and we say they are mistaken. Now I submit, that after we have created a court of law, we ought to be bound by their decisions, at least as legislators, and not to take out of their hands the construction of a statute of the United States upon which they have passed. We have made it; that was our appropriate function. It is the function of the courts to give a construction to it; and when they have given a construction, if we undertake to correct their errors, and to give a construction contrary to theirs, I say we assume, in addition to our constitutional legislative powers, judicial powers which cannot and do not belong to us. I hope we shall take up the resolution and pass it.

Mr. STUART. Mr. President—

Mr. HAMMOND. I wish to make a report from a conference committee.

The VICE PRESIDENT. The question is on the motion of the Senator from Ohio to take up the joint resolution named by him.

Mr. STUART. The report of a committee of conference is a privileged question.

The VICE PRESIDENT. The Chair supposes the question before the Senate to be the motion to take up this joint resolution.

Mr. STUART. I think the report of a committee of conference has always been considered privileged.

Mr. HAMLIN. Not at all; but it has been received by general consent.

The VICE PRESIDENT. The Chair is not aware of any rule which gives a conference report a preference over the pending motion. By general consent, however, the report may be received.

Mr. STUART. If the Senate will give unan-

imous consent to hear the report, I shall be very glad to do it myself.

The VICE PRESIDENT. Is unanimous consent given to receive the report of the conference committee?

Mr. TOOMBS. No, sir.

The VICE PRESIDENT. Then the question is on the motion of the Senator from Ohio to take up the resolution named by him.

Mr. STUART. I am really at a loss. I want this report made, and I suppose the whole Senate does. I have a communication before me which shows all the facts in regard to this resolution, and it is a very able exposition of it, and I want to say something in reply to the honorable Senator from Connecticut in respect to his ideas about the Court of Claims.

Mr. TOOMBS. If my friend from Michigan wants to make a speech, I withdraw my objection to receiving the conference report, so that he may go on afterwards. When I made the objection I did not know that he wished to make a speech.

The VICE PRESIDENT. If there be no objection, the report of the committee of conference will be received. The Chair hears none.

MAIL STEAMER BILL.

Mr. HAMMOND submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 558) making appropriations for the transportation of the United States mail by ocean steamers and otherwise during the fiscal year ending the 30th of June, 1859, having met, have, after full and free conference, agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate do recede from its first amendment. That the House recede from its non-concurrence in the third amendment of the Senate, and concur in said amendment with amendments as follows: insert the word "new" between the word "other" and the word "contract" at the end of the third line of said amendment. Strike out the word "five" in the fifth line of said third amendment, and insert the word "two" in lieu thereof, and add at the end of the said amendment the words "nor for any other compensation than the sea and inland postages on the mails so transported."

That the House recede from its non-concurrence in the fourth amendment of the Senate.

That the Senate recede from its fifth amendment.

J. H. HAMMOND,
S. R. MALLORY,
JOHN P. HALE,
Managers on the part of the Senate.

D. E. SICKLES,
M. R. H. GARNETT,
JOHN C. KUNKEL,
Managers on the part of the House.

Mr. HAMMOND. I suppose some explanation of the report is necessary. The first amendment to this bill was to authorize the Postmaster General to allow a change in the terminus of the route of the Collins line, so that their vessels might go to Southampton instead of Liverpool. From that amendment the committee of conference recommend that the Senate recede. The second amendment was not touched. The third amendment is altered. In its original form it provided that the Postmaster General should not make a contract for ocean mail service for a longer period than five years; and it has been modified to read that he shall make no such new contract for a period longer than two years, nor for a greater amount of compensation than the postages, sea and inland. The fourth amendment in which the House did not concur, provided that the Postmaster General should be authorized to make contracts for carrying the mail by sea for the amount of the postages: in the case of a foreign vessel for the amount of the foreign postages, and in the case of an American vessel for the foreign and inland postages, but in all cases to give a preference to an American vessel unless it should sail at a period later than three days from the foreign vessel. In that amendment, made by the Senate, in which the House did not concur, the committee recommend that the House shall concur. The other amendment was nothing but a repetition of that, amounting to very little, and the committee propose that the Senate recede from it.

Mr. TOOMBS. I move to concur in the report. I think it is a very good report.

The report was concurred in.

A subsequent message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes

of the two Houses on the bill (H. R. No. 558) making appropriations for the transportation of the United States mail by ocean steamers and otherwise, during the fiscal year ending the 30th of June, 1859.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker had signed an enrolled bill (H. R. No. 199) making appropriations for the naval service for the year ending the 30th of June, 1859; and it was signed by the Vice President.

SAN FRANCISCO POST OFFICE.

The VICE PRESIDENT laid before the Senate a report of the Postmaster General, communicating, in compliance with a resolution of the Senate of the 10th instant, certain papers relative to alleged violations of law and malfeasance in office on the part of the postmaster at San Francisco.

Mr. BRODERICK. In accordance with a suggestion of the chairman of the Post Office Committee, I move that the communication be printed; and let the motion go to the Committee on Printing.

The VICE PRESIDENT. The motion will be referred to the Committee on Printing.

Mr. BIGLER. I move that the communication be referred to the Committee on the Post Office and Post Roads.

Mr. BRODERICK. I have no objection.

The motion was agreed to.

Mr. JOHNSON, of Arkansas, from the Committee on Printing, reported in favor of the motion to print the communication of the Postmaster General; and the motion was agreed to.

POST OFFICE REGULATIONS.

The VICE PRESIDENT laid before the Senate a report of the Postmaster General, communicating, in compliance with a resolution of the Senate of the 11th instant, information respecting the purchase and distribution of certain books of regulations by the Post Office Department; which was ordered to lie on the table.

ORDER OF BUSINESS—WIDOWS' HALF PAY.

Mr. GWIN. I should like to have the Senate take up a joint resolution from the House in regard to carrying the mail to California.

Mr. HAMLIN. What has become of the motion submitted by the Senator from Ohio, [Mr. WADE?]. It was passed over to receive the report of the committee of conference on the mail steamer bill.

The VICE PRESIDENT. The Senator from Ohio yielded the floor, and by unanimous consent the conference report was received. The Senator from Ohio has not since addressed the Chair, and the Senator from California is now entitled to the floor.

Mr. HAMLIN. I would inquire whether the motion of the Senator from Ohio was yielded for any purpose except to receive the report of the conference committee; and is not that motion now before the Senate, the conference report having been disposed of?

The VICE PRESIDENT. The Chair thinks not. He would have been happy to recognize the Senator if he had risen.

Mr. HAMLIN. He is out on a conference committee.

The VICE PRESIDENT. The Chair will recognize him when he comes in, if he endeavors to obtain the floor.

Mr. HAMLIN. But the motion was before the Senate; and it has not been disposed of. It was the Senator from Michigan who yielded the floor to the Senator from South Carolina to make his report. The Senator from Michigan was on the floor, and was in the act of speaking.

The VICE PRESIDENT. The Chair will state that, on calling to mind what occurred, the motion of the Senator from Ohio was before the Senate; and, by unanimous consent, the floor was yielded to the Senator from South Carolina to make a report from a committee of conference. That report having been disposed of, the Senate recurs to the motion of the Senator from Ohio to take up the resolution which he named; and on that motion the Senator from Michigan has the floor.

Mr. STUART. I am desirous that there should

be an executive session; and I think it important that we should have one. I intimated it before the Senate took the recess.

Mr. GWIN. I hope we shall attend first to legislative business.

Mr. STUART. I feel it incumbent on me to move that the Senate proceed to the consideration of executive business.

Mr. GWIN. There is a question before the Senate; and that motion cannot be made until the pending question is disposed of.

Mr. STUART. It has always been held that a motion for executive session is like a motion to adjourn, and is always in order.

The VICE PRESIDENT. The Chair thinks, indeed he knows, that, during this session, a motion to proceed to consider executive business has been held to be always in order.

Mr. COLLAMER. I suppose that motion is a question which may be discussed.

Mr. STUART. No, sir; a motion to go into executive session is not a debatable question.

Mr. COLLAMER. Then if a motion is made to go into executive session every man is gagged.

Mr. STUART. You cannot discuss in open session the necessity for going into executive session.

Mr. COLLAMER. I merely wish to say that we have appropriation bills yet unpassed upon; and if we now go into executive session for the evening, we cannot finish our legislation.

Mr. STUART. At the request of several Senators, I withdraw the motion; but, in my judgment, we ought to have an executive session.

The VICE PRESIDENT. The question is on the motion to take up the joint resolution indicated by the Senator from Ohio, [Mr. WADE.]

The motion was not agreed to.

MAILS TO CALIFORNIA.

Mr. GWIN. I now move to take up the House joint resolution (No. 37) in regard to carrying the United States mail from St. Joseph, Missouri, to Placerville, in California.

On a division being called for, thirteen Senators voted in favor of the motion.

The VICE PRESIDENT. The motion is not agreed to.

Mr. BRODERICK. I think the question had better be stated again. It is an important matter. I ask for the yeas and nays.

The yeas and nays were not ordered.

The VICE PRESIDENT. The Chair will again put the question.

The question being put; the motion was not agreed to.

FLORIDA CLAIMS.

Mr. MALLORY. I made an attempt a few mornings ago to call the attention of the Senate to the bill (S. No. 373) declaratory of the acts for carrying into effect the ninth article of the treaty of 1819 between the United States and Spain. I explained at that time what the character of the bill was, and I now move to take it up for consideration. I do not propose to discuss it to the exclusion of legislation on the appropriation bills, but I should like to have the sense of the Senate upon it.

Mr. BAYARD. The bill which it is now proposed to take up is one which will necessarily lead to a long discussion. It involves the question of interest on the Florida claims. It has been before the Senate repeatedly, and it was rejected by a vote of, I think, seven to one on the last occasion when it was here. The Court of Claims have decided against the legality of the allowance, if I understand their decision rightly. The case involves many questions, and the principal one is whether the law of 1834 overruled the former decision of the Secretary of the Treasury, so as to declare that the interest was within the treaty, or whether the allowance was a mere gratuity, and whether, under all the circumstances, interest ought to be allowed. The amount involved is somewhere between a million and a million and a half dollars. The bill cannot be passed without discussion. It was before the Senate in former times, when many gentlemen who are not now here were members of the Senate. On the last occasion when it was before us, it was rejected by a most decisive vote, at least seven to one. I have not seen the opinion of the Court of Claims in full on the whole merits of the case, but my former impressions were against the claim, and, at all

events, I shall insist on the right of discussing it. I am very sure it ought not to be taken up in this way.

Mr. MALLORY. I will occupy the attention of the Senate but a moment in reply to the Senator from Delaware, if I can get the ear of the Senate, which I perceive to be a very difficult matter.

The VICE PRESIDENT. The Chair must appeal to the Senate to preserve order, and have less confusion in the Chamber. The Chair will not recognize any Senator while the conversation is so general.

Mr. MALLORY. This bill was reported from the Committee on Claims upon the 17th of May, and last week I drew the attention of Senators to it, and asked them to consider the report made by the Senator from New Hampshire, [Mr. CLARK,] in favor of the bill. It is evident that, unless it be taken up now, the session will pass by without its consideration. It is not my purpose now to make a debate upon the merits of the bill. The Senator from Delaware has truly stated its character. It is to allow interest on the Florida claims. It is, in other words, to redeem the plighted faith of the country under the Florida treaty. It is to meet the complaints of a foreign nation to whom the faith of this country is pledged. I will not detain the Senate, because gentlemen who wish to discuss the bill can do so after it shall have been taken up. I ask for the yeas and nays on the motion to take it up.

The yeas and nays were not ordered.

The motion was not agreed to.

REPORTS OF COMMITTEES.

Mr. PEARCE, from the Committee on the Library, to whom the subject was referred, submitted a report, accompanied by a bill (S. No. 456) to furnish the Court of Claims with law books and congressional documents.

The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the joint resolution (S. No. 44) to grant to the judges and solicitor of the Court of Claims the use of the Congressional Library, and for other purposes, asked to be discharged from its further consideration; which was agreed to; the bill reported by the committee being considered as a substitute for the joint resolution.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred the petition of Henry M. Fleury and others, submitted a report, accompanied by a bill for the relief of Henry M. Fleury, of Louisiana. The bill was read and passed to a second reading, and the report was ordered to be printed.

POST OFFICE APPROPRIATION BILL.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had further insisted on its disagreement to the amendments of the Senate to the bill (H. R. No. 556) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1859, agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. HENRY M. PHILLIPS, Mr. JOHN M. WOOD, and Mr. WILLIAM W. BOYCE conferees on its part. A subsequent message announced that Mr. JOHN V. WRIGHT had been appointed in the place of Mr. BOYCE.

POST ROUTE BILL.

The message further announced that the House of Representatives had concurred in the amendment of the Senate to the bill (H. R. No. 585) to establish certain post roads.

SEATS IN THE NEW HALL.

Mr. IVERSON. I offer a resolution which affects every member of this body:

Whereas, it is expected that the Senate will occupy the new Hall preparing for its use, at the next session, to prevent confusion in the assignment of seats therein, be it

Resolved, That the choice of seats therein shall be determined and regulated as follows: The Senators shall be divided into three equal classes. The first class shall consist of those who have been longest in continual service in the Senate, who shall first draw for choice of seats amongst themselves. The second class shall consist of those who have served continuously for the next longest term in the Senate, who shall draw for choice of seats amongst themselves. The remaining number shall draw for choice of seats among themselves. And in each case the drawing shall be conducted in the usual manner.

I ask for the present consideration of the resolution.

Mr. HALE, Mr. POLK, and others, objected. The VICE PRESIDENT. Objection being made, the resolution must lie over.

ENROLLED BILLS SIGNED.

A message from the House of Representatives announced that the Speaker had signed the following enrolled bills; which were thereupon signed by the Vice President:

An act granting an invalid pension to William Randolph;

An act granting an invalid pension to John Holland, of Arkansas;

An act granting an invalid pension to William Howell, of Tennessee; and

An act making an appropriation for the completion of the military road from Astoria to Salem, in Oregon Territory.

CAPTORS OF THE BRIG CALEDONIA.

Mr. BELL. I desire to call the attention of the Senate to House bill No. 218. It is a private bill which has been twice reached on the Calendar, but was objected to, and of course went over under the rule adopted that no bill should be considered to which any member objected. The Senator from Louisiana [Mr. SLIDELL] objected to it upon both occasions, but since he made the last objection he has told me that he had an amendment prepared which would remove the objection, and I think the bill may as well be taken up now; for there will be no time occupied in its discussion, because the principle on which it rests is well known. It is a proposition founded upon the usage of the Government in such cases. By some unaccountable omission on the part of Congress, the capture of the British brig Caledonia in the war of 1812, was not noticed at the time, although the officer who commanded the Detroit, a brig that was captured at the same time, was not only distinguished by a medal, but shared in the benefit of an appropriation of the supposed value of the brig. The Caledonia was captured by General Towson, and his gallant comrades, who contrary to an order of the naval commander took the responsibility of preserving her from the flames, which he was ordered to communicate to her, and she performed distinguished service in the battle of Erie subsequently under Commodore Perry. I hope the honorable Senator from Louisiana will respond to the statement I have made on the subject.

Mr. SLIDELL. I did object to this bill; and I am not entirely satisfied with its principles. I informed the Senator from Tennessee, however, that if certain amendments were made, I should interpose no objection to its passage. It was discussed in a full meeting of the Naval Committee, and I believe all the members assented to the amendments which I proposed; but it was not thought necessary to have the bill recommitted, and with the understanding that the amendments will be accepted, I have no objection to the consideration of the bill. If they be not accepted, it will probably lead to a protracted debate. With the understanding that the amendments I have already shown to the Senator from Tennessee shall be admitted, I consent to the bill being taken up.

Mr. BELL. Very well.

The motion was agreed to; and the bill (H. R. No. 218) for the benefit of the captors of the British brig Caledonia, in the war of 1812, was considered, as in Committee of the Whole.

It provides for the payment of \$25,000 to the captors of the British brig Caledonia, on the 8th of October, 1812, on the Niagara river, near Fort Erie, or to their legal representatives. The payment is to be made to the legal representatives of the late Captain Jesse D. Elliott, to the legal representatives of the late General Nathan Towson, then a captain of artillery, and to the officers and men engaged in the capture, or their legal representatives, in such proportion as each may be found to be entitled to, according to the usages of the naval service.

Mr. HAYNE. I rise, Mr. President, to do justice to two distinguished soldiers, and to their families now alive. I am minutely acquainted with all the circumstances of this case. I was myself in Sackett's Harbor, and this transaction occurred immediately after the battle of

Sackett's Harbor. It was a gallant and noble deed. Never was there an act more opportune. It occurred at a time when there was nothing to grace our trials on the lakes. It was the wave that moved forward to the glories that were subsequently consummated on the lakes by our distinguished commander, Commodore Oliver Perry. This capture was consummated with great gallantry. The claim has been long pending, and I think it is just. In addition to that, some of the members of the families concerned are in great poverty, particularly the family of Commodore Elliott. Where is there a gallant man who would be so recreant to courage and justice and everything else, as to refuse to do what is proper in regard to the wife and children of such a man, very much reduced by poverty? It is an honest claim, and a small one; and I hope Senators will not deny them this small boon. I shall vote for the bill with all my heart.

Mr. SLIDELL. My amendment is in the eighth line, to strike out the words "or to their legal representatives;" in line nine, to strike out the words "legal representatives," and insert "widow;" in line ten, to strike out "legal representatives," and insert "child," and in lines twelve and thirteen, strike out "or their legal representatives;" so as to make the bill read:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized to pay, out of any money in the Treasury not otherwise appropriated, the sum of \$25,000 to the captors of the British brig Caledonia, on the 8th of October, 1812, on the Niagara river, near Fort Erie. The payment to be made to the widow of the late Captain Jesse D. Elliott, to the child of the late General Nathan Towson, then a captain of artillery, and to the officers and men engaged in the capture aforesaid, in such proportions as each may be found to be entitled to, according to the usages of the naval service.

The amendments were agreed to.

Mr. BAYARD. It is an ungracious and unpleasant task to object to a bill of this character, connected as it is with the past history of the country, and services which one is not disposed to deny; but I have read the report accompanying this bill, and I confess it does not satisfy me. The difficulty is to account for the lapse of time; for Congress was exceeding liberal in reference to acts of gallantry connected with the war of 1812, and there are some facts which are obscure. My difficulty is to know why no application was made to Congress in reference to these acts during the long period of time when both Commodore Elliott and General Towson were alive. There are some things connected with the report which have raised doubts in my mind connected with a decree of the district court in New York, with reference to the rights of the captors, which is said to have been lost or burned. That is not satisfactory to me. I do not know that I shall vote against the bill; but I would rather have a more satisfactory explanation than the report shows before I can support it.

Mr. BELL. If the Senator from Delaware had examined the papers fully—it was not thought proper to cumber the report with all of them—he would have found the fullest and most ample explanation of the whole delay. It was owing to the pride of General Towson. He was not voluntarily noticed at the time of the transaction by Congress, and it was with some difficulty that General Scott, and other distinguished officers then in command, could prevail upon him to remain in the service. He considered himself a wounded man in his honor, by the neglect on the part of Congress to notice him; although it was not a willful neglect; but such was the spirit of the man. Until within a very short time before his death in this city, he would never consent to bring forward the claim, and then it was principally on account of the widow of Captain Elliott, and not on his own account, so far as the pecuniary matter was concerned. All the circumstances are calculated to do honor to the spirit and character of General Towson. My honorable friend from Delaware must know that he distinguished himself on the northern frontier on more occasions than this.

Mr. BAYARD. I have no doubt of it.

Mr. BELL. In this very fight, although the little boat with which he was to seize the Caledonia was manned principally by sailors, he had a few trusty men of his own artillery company with him, and when the naval officer who was in command of the boat ordered his pilot to pull out of the way, for he could not effect a landing

against the Caledonia, he asked the pilot: "Can you reach the ship," and he said: "Oh, yes, sir." "Then go ahead; I assume the responsibility and the command," said Towson; and after a gallant affair, though rather bloody and desperate, he captured the ship. It was the pride of the man that prevented him from making the application to have justice done him, or even his gallant companions; but some of them fell into poverty, or General Towson never would have applied for any portion of the value of the ship.

If the honorable Senator from Delaware had read all the papers he would have found that the Caledonia, which had just arrived from the upper lakes, was laden with valuable furs, estimated by some, I believe, to be worth \$200,000. Some of the coarser furs, the bear-skins and others, that could be made useful to the Army in the severity of that winter, were used by the Army; but the fine furs were taken to New York and sold, as it was understood, on account of the captors. The moneys were received by the clerk of the court, but he proved a defaulter. We are not able to say what was the value of the furs that were sold, but not one cent of the money was ever paid to the captors. The honorable Senator would have found that in the papers if he had examined them fully. I hope that accounts for the circumstances. The \$25,000 here appropriated includes no part of the cargo, but simply the estimated value of the vessel alone.

Mr. BAYARD. I have not looked at the papers; I could not pretend to read them; I trusted to the committee, so far as to state what they show; and my objections arose on the face of the report. The report is not a long one, and I ask for its reading, and then I shall state the doubt that arises in my mind upon it.

The Secretary read the report made by Mr. JOHN SHERMAN, in the House of Representatives, on the 21st of January:

The Committee on Naval Affairs, to whom were referred the memorials of the representatives of General Nathan Towson, late of the United States Army, now deceased, and David R. Whitely, a member of his company, now of Baltimore, asking payment for the capture of the British brig Caledonia in the war of 1812, have had the same under consideration, and report:

That the facts in relation to this claim are fully and clearly stated in a report of the Committee on Naval Affairs made to the Senate on the 7th of July, 1856. Your committee, after a careful examination of the papers on file and the historical records of the capture of the Caledonia, concur fully in the statements and recommendations of that report, and have therefore embodied the substance and most of the language of that report herein.

It appears from the official account of Lieutenant Jesse D. Elliott, dated October 9, 1812, and other documents, that, being in command of the public armed vessels at Black Rock, he conceived the idea of capturing two British brigs, the Detroit and Caledonia, which had just come down Lake Erie and anchored, the first about two miles above the fort, on the British side of the river, and the latter immediately under the guns of the fort.

That, being short of force, Lieutenant Elliott, applied to General Smyth for volunteers from the Army. The artillery companies of Captains Towson and Barker were allowed to furnish part of the quota, whilst another portion was taken from the infantry. These artillery companies belonged to Colonel Scott's command. Captains Towson and Barker being of equal rank, the command was decided by lot, and the privilege was assigned to Captain Towson. [See the letter of General Winfield Scott, page 6, printed statement. See also the statement, page 8, of Major, then Captain, J. N. Barker.] About thirty of the artillery were thus assigned to Captain Towson.

Two boats went off during the night of the 8th of October, 1812, on the expedition thus planned by Lieutenant Elliott—the lieutenant himself commanding one, (with the infantry on board,) and the other being in charge of Sailing-master Watts, with Captain Towson in charge of the artilleers.

After getting near the Caledonia, some hesitation was expressed by the sailing-master as to the possibility of reaching the brig, whereupon Captain Towson at once assumed the command of the boat, and ordered the men to pull alongside. [See the statement of David R. Whitely, one of the artilleers.] In a few minutes, after a severe conflict, in which one of his men was killed and eight others wounded, (one of them mortally,) Captain Towson succeeded in boarding and capturing the Caledonia, with her valuable cargo, valued by Lieutenant Elliott, in his official dispatch, at \$200,000. Soon after this the Detroit surrendered to Captain Elliott.

The Detroit was afterwards burnt by order of Lieutenant Elliott, to save her from falling into the hands of the enemy; and a similar order was given by him in regard to the Caledonia; but Captain Towson, not perceiving the necessity of this, took the responsibility of saving the latter, with her rich cargo, and she afterwards formed a part of Commodore Perry's fleet on Lake Erie, and rendered good service, under Lieutenant Turner, in the brilliant action of the 10th September, 1813. [See the statements of Captain Champlin, of the Navy, and Major John G. Camp, of the quartermaster's department.] David R. Whitely, one of the artilleers, whose opportunities of knowing all the circumstances seem to have been good, states that he is con-

dent the success of the enterprise, so far as the Caledonia was concerned, was owing to the energy and unflinching courage of Captain Towson, who had the faculty of inspiring all his men with his own resolution and spirit.

The important part borne in this perilous enterprise by Captain Towson, on board the Caledonia, not only in assuming the command at a critical moment, but in saving the vessel and rich cargo from destruction at great personal hazard, is well attested; and Generals Brown and Scott, Major Barker, Captain Champlin, and Major Camp, all concur in commendations of his valuable services to the country. Indeed, his fame is inseparable from the several brilliant actions which rendered the names of Brown and Scott illustrious in the campaign of 1814.

The value of the Caledonia is estimated by Captain Champlin at \$15,000, without her armament, and by Major Camp at \$30,000.

The cargo of the Caledonia was estimated, by the news of the day, at \$200,000. It consisted of valuable furs and peltries. Major Camp states that the skins were used for the Army, and the fine furs sent to New York. Captain Towson himself stated his impression that a large portion of the cargo of the Caledonia was put into the public storehouses at Black Rock, and some of it burnt by the British. The part sent to New York city was sold by the United States marshal, and no part of the proceeds paid over to the captors. Captain Towson also states that a suit was instituted in the United States district court for the southern district of New York, and after much delay, on a second trial, a verdict was rendered in favor of the captors of the Caledonia, but for what amount is not known; but that no part of it was ever paid over to the captors.

The present clerk of the United States court states that the books and papers of his office having been burnt, he is unable to give any information at present in regard to the suit aforesaid; but that the amount of the verdict was probably paid into the hands of Heron Ridd, who was clerk of the court from 1812 to 1816, and became a defaulter for about sixty thousand dollars.

Captain Towson explains, in a letter, the reasons for his delay in making the application, and is desirous that Mrs. Elliott, the widow of Commodore Elliott, should also be provided for, so far as her husband was entitled, for planning the expedition. Mrs. Elliott herself desires to be included, and refers to her papers, connected with an application which she was about to make, in the hands of an attorney, since deceased; but the main facts of the case are referred to as being part of the public records of the times.

On referring to the legislation of Congress on this subject, it does not appear that any allowance has ever been made for the Caledonia or her cargo. On July 13, 1813, Congress included in "An act to reward the officers and crew of the sloop-of-war Hornet," &c., a provision "to Lieutenant Elliott, his officers and companions, &c., the sum of \$12,000, for the capture and destruction of the British brig Detroit."

It appears, by a certificate from the Fourth Auditor, herewith appended, that of the prize money awarded by the act of July 13, 1813, Captain Towson received \$400 as his distributive share, but that the Caledonia was not included, although the pay-roll was headed for both vessels. The act only appropriated \$12,000 for the capture and destruction of the British brig Detroit, and no provision has ever been made for the capture of the Caledonia.

TREASURY DEPARTMENT,

FOURTH AUDITOR'S OFFICE, June 17, 1856.

It appears by the files and records of this office, that Nathan Towson, who held the rank of captain, received \$400 as his distributive share of the prize money, or "reward" appropriated by Congress for the capture of the British brigs "Detroit" and "Caledonia," to J. D. Elliott, and the officers and men under his command. It appears, upon a reference to the Statutes at Large, volume three, page 4, chapter 8, that the appropriation was for the capture of the British brig "Detroit" only.

A. O. DAYTON, Fourth Auditor.

In a joint resolution, approved January 29, 1813, Congress acknowledged the brilliant achievements of Captains Hull, Decatur, and Jones, in the capture of the British vessels Guerriere, Macedonian, and Frolic.

The second section of the said resolution authorized the President to present to Lieutenant Elliott, of the Navy, an elegant sword, with suitable emblems and devices, in testimony of the just sense entertained by Congress of his gallantry and good conduct in boarding and capturing the British brigs Detroit and Caledonia, whilst anchored under the protection of Fort Erie.

It is with reference to the part borne in this brilliant and hazardous affair by Captain Towson that the statements of Generals Scott and Brown, and Major Barker, apply; and in regard to which General Brown said, in his letter of October 8, 1814, "the modesty of Captain Towson forbade him to urge his pretensions; but the Government gave intimation that a suitable notice would be taken of this meritorious act."

The delay in this application, as explained by General Towson, does not in any degree detract from the merit or justice of the claim now pending, the facts forming a part of the history of the country.

It is therefore recommended that a bill be passed directing payment to be made to the widow of the late Commodore Jesse D. Elliott, to the legal representatives of the late General Nathan Towson, and the other officers engaged in the enterprise, and to the sailors, soldiers, and volunteers accompanying them, according to the usages of the naval service in regard to captures from the enemy, for the capture and preservation of the brig Caledonia. The value of the cargo, or of such part as was applied to the use of the Army, is not ascertained with sufficient precision to justify an allowance at present, and therefore no action upon this branch of the memorial is deemed advisable.

Your committee therefore report the accompanying bill, and recommend its passage.

Mr. BAYARD. The hearing of the report confirms the impression made on my mind at the time I first read it. No one doubts the gallantry or the services of Captain Towson; but I must

look at these things according to what the action of the Government has been. I find a bill now reported which leaves out other soldiers and seamen connected with this transaction, and gives the money equally between the widow of Captain Elliott and the child of Captain Towson.

Mr. KENNEDY. And David Whitely.

Mr. SLIDELL. I wish to correct a misapprehension of the Senator from Delaware. This bill, as amended, gives to the widow of Commodore Elliott and the child of Captain Towson, and to any survivors, their distributive share of this sum of \$25,000. I offered the amendment because I had occasion, in some previous matters before the Naval Committee, to be strongly impressed with the conviction that in all these old and antiquated cases, and even in cases of three or four years' standing, where prize money or any gratuity is directed to be paid to the legal representatives of soldiers or sailors, certain legal representatives are always found or made. If the Senator will read the bill as I have amended it, he will find that it guards against that difficulty, and that alone. The balance of the sum of \$25,000 which will not be paid to the widow of Commodore Elliott, to the child of General Towson, and to any survivors, will remain in the Treasury, and will lapse. That is my intention, and I think I have carried it into effect.

Mr. BAYARD. I think the bill provides for the payment of the sum of \$25,000 equally between the widow of Commodore Elliott and the child of General Towson, and takes no notice of any of the other parties concerned. According to the course of the Government in reference to captures during the war of 1812, where the captor brought in the vessel, he was entitled, under the general law, to the distribution of prize money among the officers and crew in certain proportions, according to the value of the vessel. In many cases the vessel was destroyed, and then the Government did not allow the whole value of the vessel, but allowed what they considered a proper sum in lieu of the destroyed vessel. For instance, in the case of the *Guerriere*, I think \$50,000 was allowed; and in the case of the *Wasp*, \$25,000. There were various sums allowed in such cases where the property of the enemy was destroyed, according to the judgment of Congress at the time as to what was proper. In the case now before the Senate, it appears that one of these vessels was destroyed; and acting upon the principle of substituting for the value of the destroyed vessel what Congress thought a reasonable compensation to the captors, and dividing it according to the law of capture by vessel at sea, they gave the sum of \$12,500 to Captain Elliott, of which, it appears, only \$400 went to General Towson. I admit that it appears by the report that that had no reference to the *Caledonia*, although, in the statement of the account, it is stated as referring to both vessels. But, when you come to the case of the *Caledonia*, you have the fact that that vessel was taken, but you have no evidence from General Towson himself that the cargo ever went to the use of the Government. On the contrary, according to his statement, the greater part of it was destroyed. There is one witness, Major Camp, who says something about its being used by the Army; but it so happens that, in another case widely different from this, I recollect some testimony of Major Camp which does not incline me to place any great reliance on his testimony, either from lapse of memory or something else, in reference to what was used by the Army in the war of 1812, on the northern frontier. General Towson's statement is, that part was destroyed and part sent to New York, where it was libeled and ultimately condemned in favor of the captors, and the condemnation entitled them to the money. The Government never interposed to prevent their getting the money. At this point the difficulty arises, and it is said they never received the money; but it was received by the clerk of the court, and he failed as a defaulter some forty years ago. If there was a decree for capture, they were entitled to receive the money, and might have done so but for their own neglect. If the clerk of the court received it under any decree or order of the court, they could have claimed it from him at once. There was no reason why they should not do so.

Under these circumstances, are Congress to carry the practice beyond what they have ever

carried it before, and say that where there has been a capture, or decree of condemnation, we are to make good the default of an officer of the court, when we have no evidence that the parties applied to him for the money, or that there was anything like due diligence used to get the money from him? Any one who knows anything about the proceedings of a court of admiralty necessarily knows that the court would peremptorily order the payment of the money by immediate process. There is no delay there, but the money would be directed to be paid to the captors *pro rata*. The clerk must give bond when he receives money. This may not always be done; but where he is in fact receives it, there is no difficulty in enforcing payment of the money immediately. There is never any delay in matters of this kind, where the decree of a court of admiralty is rendered. We have no evidence, so far as I know, as to the amount of money received by the clerk, or even as to the amount of the decree in favor of the captors.

I do not think, then, that it comes within the principle on which Congress have previously acted where property taken from an enemy has been destroyed, and they have chosen, in consequence of the gallantry of the action, to say to the captors, "we will give you a reasonable sum, to be distributed *pro rata* as would have been the amount which you would have received if the vessel had been brought in." In this case they did that in regard to one of the vessels. The other vessel was brought in; her cargo was libeled, and there was a decree in favor of the captors. I have not seen the record, but that is the statement as it is made. It seems to me that it is carrying the practice very far now, when so long a period has been suffered to elapse, when we are not able to trace why or wherefore the money was not paid, or even the amount of the decree that was rendered in favor of the captors, to call upon us to distribute \$25,000, not between the entire parties concerned in this capture, but solely between two individuals who represent the commanding officer of one boat, and the commanding officer of another.

Mr. HAYNE. I have not risen to make a speech; I should be sorry to inflict one on the Senate at this time, or to cause a minute's delay. I rise only to state that I believe I am the only individual among the Senators who knows, personally, all the circumstances of the case, and I am sure (though I will not enter upon any arguments to prove it) that the claim is just. If Senators could but know how poor some of these parties are, they could not hesitate to grant a boon so small. Even allowing for a moment that the letter of the law may be against the claim, which I utterly deny, the spirit of the law, the spirit of philanthropy, of justice, of kindness, is all for the widow and the distressed. I hope the Senate will do justice, though it is late. It is never too late to act justly.

Mr. KENNEDY. I may be allowed to say a single word; I do not mean to make a speech. I wish simply to correct a misapprehension of the Senator from Delaware in regard to the applicants. One of them is David R. Whitely, who was the sergeant under Captain Towson at the time. He is now living in the most abject, squalid misery in the city of Baltimore. He is one of the beneficiaries of this bill. He is now supported entirely by private charity, and is really an object of commiseration.

Mr. BAYARD. I do not mean to oppose the bill any further. If it is the will of the Senate to pass it, I have no objection. My opposition to it is only on general principles. I think it ought to be amended. As the bill stands it directs the money to be paid to the captors; that is the language. It says they are to be entitled to \$25,000. It does not say anything about their shares or proportions. If it described in what relative proportions the money should be paid, and then declared, as it does subsequently, that the money should go to the widow of one officer and the child of another, of course it would mean their shares. As it stands the effect of the bill is to direct the entire amount which you say is to be paid to the captors, to be given to two parties.

Mr. PUGH. I think the Senator misunderstands the bill.

Mr. BAYARD. I do not think I do.

Mr. SLIDELL. I will state to the Senator

from Delaware that I was the only member of the Naval Committee who opposed this bill on principle, but I simply declared that if the amendments which I offered were not made, I should discuss the question in the Senate. If the yeas and nays are called on the bill, I shall vote against it; but I think the bill in the form in which it now stands amended, perfectly protects the Treasury from any such demands as the Senator from Delaware supposes. If, however, he wishes to move a further amendment out of abundant caution to make it perfectly safe, I shall accept it.

Mr. BAYARD. I have read the bill as amended, and I believe the Senator from Louisiana is right on that point.

The bill was reported to the Senate as amended, and the amendments were concurred in, and ordered to be engrossed, and the bill to be read a third time. The bill was read the third time.

Mr. SLIDELL called for the yeas and nays on its passage; and they were ordered; and, being taken, resulted—yeas 29, nays 9; as follows:

YEAS—Messrs. Allen, Bell, Benjamin, Bigler, Bright, Broderick, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Gwin, Hamlin, Harlan, Hayne, Houston, Iverson, Kennedy, Mallory, Pugh, Seward, Simmons, Thomson of New Jersey, Trumbull, Wade, Wilson, and Wright—29.

NAYS—Messrs. Bayard, Fitch, Fitzpatrick, Johnson of Tennessee, King, Polk, Reid, Slidell, and Stuart—9.

So the bill was passed.

LIGHT-HOUSE BILL.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House had passed a bill (H. R. No. 550) making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes, in which the concurrence of the Senate was requested.

On motion of Mr. BENJAMIN, the bill was read twice by its title, and referred to the Committee on Commerce.

MARY A. M. JONES.

On motion of Mr. PUGH, the Senate resumed the consideration of the bill (H. R. No. 42) granting a pension to Mary A. M. Jones.

Mr. PUGH. There were several amendments offered to this bill when it was up before, which the Senators who offered them were disposed to withdraw provided Mrs. Gaines's case was withdrawn. That is Mrs. Gaines's own desire, as signified to the Senator from New York, [Mr. SEWARD;] and I hope, by general consent, those amendments will be withdrawn or voted down, and that the House bill will pass without amendment.

Mr. SEWARD. I comply, with great pleasure, with the suggestion of Mrs. Gaines that she may not embarrass Mrs. Jones by this movement; and I move to amend the bill as it stands, by striking out the provision in favor of Mrs. Gaines.

Mr. BENJAMIN. I presume, by common consent, the amendments put on the bill can be withdrawn, and let the bill pass for Mrs. Jones's relief.

THE PRESIDING OFFICER. (Mr. FITZPATRICK.) That will be regarded as the general sense of the Senate, unless objected to. The Chair hears no objection.

Mr. CRITTENDEN. I do not consent to it.

Mr. PUGH. There was an amendment put on to the original bill on the motion of the Senator from Georgia, [Mr. TOOMBS;] but I have satisfied him; by a certificate which I have, that his amendment makes only a difference of two dollars a month. I hope some Senator will move a reconsideration of that amendment.

Mr. IVERSON. I suggest if it is fair to take up the bill in the absence of my colleague?

Mr. PUGH. I have spoken to him. He does not care about it.

Mr. BIGLER. Has the common consent of the Senate already been had to strike off all the amendments?

THE PRESIDING OFFICER. That is the understanding of the Chair.

Mr. CRITTENDEN. I will make no objection.

THE PRESIDING OFFICER. The bill will be read as amended.

The Secretary read it, as follows:

Be it enacted, &c., that the Secretary of the Interior be

directed to place the name of Mary A. M. Jones, widow of Brevet Major General Roger Jones, deceased, late Adjutant General of the Army, upon the roll of pensioners, and pay her a pension at the rate of fifty dollars a month, said pension to commence with the 21st day of July, 1852, and to continue during her natural life.

Mr. PUGH. I hope the Senate will take off the latter clause, which is a change of the House bill. It makes only a difference of two dollars a month. The bill, as it originally stood, allowed her one half the pay proper of her husband. That would be fifty dollars a month. The limitation put on, at the suggestion of the Senator from Georgia, makes but a difference of two dollars a month, and necessitates the bill going back to the House of Representatives at this stage of the session, which is tantamount to its defeat. He told me he did not care about it, as it only made that difference. I hope some Senator who voted in the affirmative will move a reconsideration.

Mr. STUART. I voted in the affirmative; and to oblige the Senator, I will move a reconsideration.

Mr. PUGH. I am very much obliged to the Senator.

The motion to reconsider was agreed to.

Mr. JOHNSON, of Tennessee. I have an amendment to offer:

And be it further enacted, That there be paid to Mrs. Mary Kirby Smith, widow of the late Captain E. Kirby Smith, of the United States Army, a sum, which, added to the pay to which she is entitled under the pension act as widow of a captain, will equal the half pay of a lieutenant colonel, this latter rank being the capacity in which said Captain Smith was serving at the time he received a mortal wound in leading on his battalion to the decisive charge at the battle of Molino del Rey, in Mexico.

Mr. PUGH. Let us take the question. I hope the Senate understands this business of putting one bill on to another.

Mr. JOHNSON, of Tennessee. I understand that the bill is a proposition to pension the widow of an officer of the Army who served his country for a long time, and perhaps very faithfully and efficiently, with high rank, at a large salary; but there is a good deal in the way these cases are stated. The argument is general, that the individual to whom you propose to give a pension served the country. Now, there is no one who will hear me say aught against the services and patriotism of General Jones; but there is another way to state the case. A man may serve his country, and his country may serve him; and sometimes if you keep a correct account, and credit the individual with all the services he rendered, and then charge him with the length of time the Government has supported him, there may be some doubt as to which way the balance would fall. General Jones served his country faithfully no doubt, and it is equally true that the country served him faithfully for some thirty-five or forty years, sustained him, paid him a large salary. He died in his bed, as I understand, at a green old age. I present you the case of a man who went out to fight the battles of his country, and who fell in fighting the battles of his country most gloriously and gallantly. When the widow of that captain comes here you put her on the pension roll at twenty dollars a month, in the first instance for only five years, but under the recent law it is continued for life. There does not seem to be any great sympathy for a widow of that description. Then look at the widows of the soldiers. They receive a half-pay pension for five years, which is only sixty dollars a year, and the whole five years would come to \$300, just half the amount you propose to give in this bill for one year. It is strange that the widow of a gallant soldier, a private, a lieutenant, or captain, should not be entitled to receive the same amount of comfort and attention as the widow of an officer of higher rank, who always obtained large pay from the Government while alive. Mrs. Smith has three children, whom she supports by her own exertions as a teacher. If Mrs. Jones is entitled to fifty dollars a month as a gratuity, when her husband died at a ripe age, not from disease or wounds contracted in the line of duty, how much more is Mrs. Smith entitled to a like monthly allowance?

I do not intend to consume much time, but when there is such a great anxiety to do justice at this late hour of the session, I do not see why we should not embrace all the cases within the scope of justice. I do not see why individual cases should be selected and pressed at this un-

propitious time, at the heel of the session, to the exclusion of all others. I desire to secure equality. In the case covered by the bill, the man died in his bed after his country had served him for a number of years. In the case for which my amendment provides, the man fell on the battlefield, left his wife and children to mourn his loss, unprovided for. I send up the report and ask to have it read at the clerk's table, as part of the speech I intend to make in the widow's behalf.

Mr. PUGH. I do not see what business we have reading a report. A report is read in support of a bill. This is a private amendment.

Mr. JOHNSON, of Tennessee. I want it read as a part of my argument.

Mr. PUGH. I do not wish to have any difficulty with the Senator about it; I do not want to be captious.

Mr. JOHNSON, of Tennessee. I have as much right to have it read as to give an explanation.

The Secretary read the following report, made in the House of Representatives, by Mr. A. Oliver, on the 19th of July, 1856:

The Committee on Invalid Pensions, to whom was referred the memorial of Mary Kirby Smith, report:

That they have examined the same, the evidence therewith submitted, and the report made in the same case to the Thirty-First Congress, by the Committee on Revolutionary Pensions, and that they concur in said report, which is as follows:

"The memorialist claims to be the widow of E. Kirby Smith, who was a captain in the fifth regiment of the United States infantry, in the late war with Mexico, and who fell, mortally wounded, while leading a battalion, acting in the capacity of lieutenant colonel, in the attack on Molino del Rey, on the 8th day of September, 1847; and she asks that she may receive, under the act of July 21, 1848, the half pay of a lieutenant colonel for five years, in lieu of the half pay of a captain, now allowed her by the Commissioner of Pensions, under the provisions of said act.

"The committee find that the memorialist is the widow of E. Kirby Smith, deceased; that before the commencement of the late war with Mexico he was a captain in the United States Army, and in the month of August, 1845, was ordered to join, and did join, the army under General Taylor; that he was in the battles of Palo Alto and Resaca de la Palma, on the 8th and 9th of May, 1846; and that in the action of May 9, 1846, he was in the thickest of the fight, having been one of the first to enter the ravine, and there remained until the contest closed; that, on account of domestic affliction and personal sickness, he was not permitted to accompany the army to Monterey, but joined the corps under General Worth at Saltillo, and was transferred from thence to Vera Cruz, under General Scott; that at the disembarkation of the troops below that city, he performed the duties of a major in a battalion under the command of Lieutenant Colonel C. F. Smith; that he continued to discharge the duties of major in said battalion from said time until near the time of the battle of Molino del Rey; that on that occasion his battalion consisted of eight companies, and, on account of the sickness of his colonel, its command devolved on Captain Smith; that he led said battalion to the charge on that occasion with a gallantry that commanded the admiration of the whole army; and that in said act, in the line of his duty, at the very moment of victory, he fell, mortally wounded, by a musket-ball striking him under the left eye and passing out at the left ear, from which wound he languished for four days, and died on the 12th day of September, 1847; that at the time of the decease of said Smith he had three children under the age of sixteen years, to wit: of the age of eleven, eight, and five years, respectively, who are now living and dependent on their mother, the widow of said deceased, for their support and education.

"Inasmuch as the said E. Kirby Smith was, at the time he received the wound that caused his death, performing the duties of a lieutenant colonel, and but for that might have been spared to be the protector and support of his said widow and helpless children, your committee would recommend that the prayer of the petition be granted, and that the petitioner be inscribed on the pension list at the same rate as she would have been had her said husband been duly commissioned a lieutenant colonel on said 8th day of September, 1847; and for this purpose they would recommend the passage of the accompanying bill."

Your committee would respectfully recommend the passage of the accompanying bill.

Mr. STUART. I hope my honorable friend from Tennessee will give me his attention for a moment. I think that is a most meritorious case. It is in the way, if it has not passed this body, to be passed. I am apprehensive he does not understand the precise condition of the other case, and I barely wish to state it to him. It has been agreed all around, and Mrs. Gaines, among others, has participated in the agreement, to disincumber Mrs. Jones's bill entirely, and let the Senate vote upon it, and then let the other cases stand independently, and receive the separate action of the Senate, this case among others. I should vote for this myself on the reading of that report, but I suggest to the Senator from Tennessee whether he had not better allow it to stand independently, and let Mrs. Jones's bill that has come from the House be acted on independently. I think we shall not advance his case at all by seeking to add it to this bill.

Mr. JOHNSON, of Tennessee. An appeal from the Senator from Michigan would have as much influence with me as from any other Senator. I think he understands that always, when gentlemen have a favorite case, they want to get it through stripped of all incumbrances. This case is meritorious, and I think more so than the original bill.

Mr. STUART. Allow me one word. I agree with the Senator, and am not at all certain that I shall vote for Mrs. Jones's bill. I only say that the Senator from Tennessee will not advance his case by putting it on this bill, because the Senate, if they have not passed that bill, I apprehend, cannot fail to pass it.

Mr. JOHNSON, of Tennessee. My object is to advance the great principle of justice; and while we are dealing out justice to one, I want to present another case stronger than the one we propose to provide for; and I hope we shall have the yeas and nays.

Mr. KENNEDY. I would say to my friend from Tennessee that I have a case precisely similar to his. It is a very strong one, of a constituent of my own, one that appealed as strongly to me as any case in the world, one that I am very anxious about, but I refrain from putting it on this bill. Mrs. Jones's bill has passed the House, and if we incur it by amendments we defeat the whole. I am prepared, with the amendment I have to offer, to bring it in at the proper time as a separate, and distinct bill. It stands on precisely the same footing as the case presented by the Senator himself.

Mr. JOHNSON, of Tennessee. I will simply say to the honorable Senator from Maryland that this is no constituent of mine. There never has been an appeal to me in this case. No interested or hired persons have made appeals to me in behalf of this widow. I accidentally came upon the case, and was made familiar with the facts. It is for no constituent of mine. I never saw any of the parties; I know nothing about them; but I was interested in it from the clear, strong appeal that is made by a simple recitation of the facts. Gentlemen call on us to pass the bill as an act of justice; I look upon it as a gratuity; and I think, in such matters, we should act equally. One appeal is just as strong as the other. I am in hopes the Senate will act favorably upon my amendment. It is not a case from my State. I think it is more meritorious than the original bill.

Mr. PUGH. I believe the Senate understands the question. I hope that we may have a vote.

Mr. JOHNSON, of Tennessee. I ask for the yeas and nays.

The PRESIDING OFFICER. The first question is on the original amendment, which has been reconsidered.

Mr. JOHNSON, of Tennessee. I thought the Senate had acted on that.

The PRESIDING OFFICER. They only reconsidered it. The question now is on agreeing to the amendment.

Mr. POLK. I should like to understand from the Senator from Ohio whether it increases or decreases the amount?

Mr. PUGH. I stated yesterday that it would increase it; but the Senator from New Hampshire has placed in my hands a certificate of the Adjutant General, which shows that the bill will give two dollars a month more than the amendment. I would not care about that amount; but to send the bill back to the House at this stage of the session destroys it.

Mr. HALE. It gives fifty-two dollars a month instead of fifty.

The Secretary read the amendment; which is, in lines seven and eight to strike out the words "one half the pay monthly to which her husband was entitled at the time of his death," and insert "at the rate of fifty dollars per month."

Mr. PUGH. Read the certificate of the Adjutant General.

The Secretary read it, as follows:

ADJUTANT GENERAL'S OFFICE,
WASHINGTON, June 12, 1858.
The pay proper which the late Brevet Major General R. Jones, Adjutant General of the Army, was in receipt of at the time of his death, amounted to \$104 per month.

E. D. TOWNSEND,
Assistant Adjutant General.
The amendment was rejected.

The PRESIDING OFFICER. The question

now is on the amendment of the Senator from Tennessee.

Mr. JOHNSON, of Tennessee. I hope the Senate will give us the yeas and nays upon it.

Mr. STUART. Let me appeal to my friend again. While I will vote for his case by itself, on the presentation of the report, most cheerfully—and I apprehend many Senators stand as I do—I shall be compelled, from the suggestions that have been made, to vote against it here. It places Senators in an awkward position. I appeal to my friend not to press it; it will not advance his case a particle to put it here. It will be just as far advanced without going on here as with it.

Mr. IVERSON. I must beg leave to differ entirely with the Senator from Michigan. There is no prospect of getting this case through, unless the amendment prevails. The case of Captain Smith is so strong a one that I think there will be no difficulty, if the bill goes back to the House of Representatives with the amendment, in obtaining the concurrence of the House in the amendment.

Mr. STUART. My friend from Georgia misunderstands me. I only said it would not advance this bill, and I apprehend the Senator from Tennessee can have his case passed in a minute as a separate bill.

Mr. IVERSON. But this is the difficulty about it; the bill, as the Senator terms it, for Captain Smith, is an original bill in this House. ["Oh, no."] Has it passed the House of Representatives?

Mr. STUART. No, sir.

Mr. IVERSON. Then what chance would there be to get it through the House of Representatives in its original shape? None upon earth. This is the last day of the session; so it is understood.

The PRESIDING OFFICER. The Chair understands that that is a House bill.

Mr. IVERSON. Has it passed the House?

The PRESIDING OFFICER. So the Secretary informs me.

Mr. IVERSON. Then it is altogether a different question.

Mr. PUGH. We understand it; let us have the question.

Mr. JOHNSON, of Tennessee. The report shows that the House bill gave her twenty dollars a month, but this proposes to give her the half pay of the rank which her husband actually held when he died.

Mr. PUGH. You can amend that bill when it comes up as easily as you can this.

Mr. JOHNSON, of Tennessee. There is no chance of getting it up unless it goes on this bill. That gives it to her if the other House concur.

Mr. IVERSON. I want to understand the facts about this case; because they seem to be differently represented by the Chair and Senators upon the floor. A bill for the relief of Mrs. Mary Kirby Smith passed the House of Representatives in the shape read by the Secretary a little while ago. That is what I want to understand.

Mr. JOHNSON, of Tennessee. Not at all.

The PRESIDING OFFICER. Not in that shape.

Mr. IVERSON. I understood from the Chair that the bill which the Senator from Tennessee offers as an amendment has already passed the House. If that is the fact, I want to understand it.

Mr. PUGH. It is as easy to amend that bill as this.

Mr. IVERSON. I can tell the Senator the difference: that if this amendment for the relief of Mrs. Smith is put upon Mrs. Jones's bill, it will stand a better chance to pass through the House than if it goes separately; because it will then have the accumulated power of both bills.

Mr. JOHNSON, of Tennessee. I ask for the yeas and nays on my amendment.

The yeas and nays were not ordered.

Mr. JOHNSON, of Tennessee. Do not discriminate between widows in that way. Give us the yeas and nays. Do not vote one widow down and another widow up.

The yeas and nays were ordered.

Mr. MALLORY. I only desire to say that, having withdrawn an amendment which I offered in behalf of the widow of Commodore Perry, in order that this bill might pass, as a matter of course I cannot vote for another amendment, however meritorious it may be.

The question being taken by yeas and nays, resulted—yeas 9, nays 25; as follows:

YEAS—Messrs. Chandler, Fessenden, Foster, Houston, Iverson, Johnson of Tennessee, King, Polk, and Wright—9.
NAYS—Messrs. Bayard, Bright, Broderick, Clingman, Crittenden, Davis, Doolittle, Fitch, Fitzpatrick, Gwin, Hale, Harlan, Hayne, Jones, Kennedy, Pearce, Pugh, Seward, Simmons, Stuart, Thom-on of New Jersey, Trumbull, Wade, Wilson, and Yulee—25.

So the amendment was rejected.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and on the question, "Shall the bill pass?"

Mr. FESSENDEN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 28, nays 8; as follows:

YEAS—Messrs. Bigler, Bright, Broderick, Clingman, Crittenden, Davis, Doolittle, Douglas, Fitch, Foot, Gwin, Hale, Hammond, Hayne, Houston, Jones, Kennedy, Mallory, Pearce, Pugh, Rice, Seward, Simmons, Thomson of New Jersey, Trumbull, Wade, Wilson, and Wright—28.
NAYS—Messrs. Fessenden, Fitzpatrick, Harlan, Iverson, Johnson of Tennessee, King, Polk, and Stuart—8.

So the bill was passed.

MYRA CLARK GAINES.

Mr. PUGH. I move that the Senate now take up the bill (S. No. 383) for the relief of Myra Clark Gaines.

Mr. BAYARD. I hope the Senate will take up a bill which will not occupy five minutes. It is a bill for no private interest. It relates to the general interest of a portion of the country. It is a bill in relation to the courts, and holding their terms in several Territories of the United States. It will not give rise to debate.

Mr. PUGH. I do not think Mrs. Gaines's bill will give rise to debate, and I hope we shall pass it.

The VICE PRESIDENT. The question is on the motion of the Senator from Ohio.

The motion was agreed to; and the bill (S. No. 383) for the relief of Myra Clark Gaines, was considered as in Committee of the Whole.

It proposes to direct the Secretary of the Interior to place the name of Myra Clark Gaines, widow of the late Major General Edmund P. Gaines, on the pension roll, at the rate of half the pay per month to which he was entitled at his death, to commence from the 6th day of June, 1849, and to continue during her natural life.

The bill was reported to the Senate.

Mr. SEWARD. I move to amend the bill by inserting the words "not to exceed fifty dollars a month." ["Oh, no."] We want to pass it.

Mr. TOOMBS. It will take you till late in the morning to pass it as it is.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. TOOMBS. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 34, nays 7; as follows:

YEAS—Messrs. Allen, Bigler, Bright, Broderick, Brown, Chandler, Clingman, Collamer, Crittenden, Davis, Doolittle, Douglas, Fitch, Foot, Gwin, Hale, Hammond, Harlan, Hayne, Houston, Hunter, Jones, Kennedy, Polk, Pugh, Reid, Seward, Simmons, Stuart, Thomson of New Jersey, Trumbull, Wade, Wilson, and Wright—34.

NAYS—Messrs. Clay, Fessenden, Fitzpatrick, Iverson, Johnson of Tennessee, King, and Toombs—7.

So the bill was passed.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HENRY, his Secretary, announced that the President had this day approved and signed the following acts:

An act for the relief of Jennet H. McCall, only child of Captain James McCall of the revolutionary war; and

An act for the relief of Georgiana M. Lewis.

MAILS TO CALIFORNIA.

Mr. BRODERICK obtained the floor.

Mr. SEWARD. I hope the honorable Senator from California will allow me to call up the bill for the relief of Mrs. Trumbull.

Mr. BRODERICK. After the passage of a resolution from the House of Representatives, which is on the table, I shall be very happy to vote for the Senator's bill. I move to take from the table the joint resolution (H. R. No. 37) in regard to carrying the United States mails from St. Joseph, Missouri, to Placerville, in California. The Senate, I believe, did not understand it half an hour since, when they refused to take it up.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Inasmuch as the time allowed for carrying the mail from St. Joseph to Placerville is thirty-eight days, and thirty days would afford ample time in which to perform the service, and the increased expedition is demanded by the public interests, the joint resolution authorizes and directs the Postmaster General to order an increase of speed upon the route, so as to have the mail carried through in thirty days, upon a *pro rata* increase of compensation to the contractors.

Mr. BRODERICK. This resolution passed the House of Representatives by a very large vote. It is a measure of great importance to California. The Senator from Missouri and my colleague, I believe, are both better acquainted with the subject than I am. I have been spoken to by several gentlemen from Missouri who have an interest in this matter, and they believe it will be for the joint benefit of both States. I hope the Senate will consider it favorably.

Mr. HUNTER. As I understand it, this is a claim to give the contractors increased compensation under the pretense of increasing the speed. We already expend an immense amount of money for mails to California, and it seems to me that so far from increasing the amount, it ought to be diminished. I doubt whether these overland mails are going to be of any benefit to the people of California. They are too slow. The great mail communication will be by steamers. It will be by water that they will get their mails. They are not going to wait for these overland mails that will take thirty or thirty-eight days, when they can get the mails in two weeks by water.

Mr. BRODERICK. It takes but twenty-five days by water now from New York to California.

Mr. HUNTER. If the Tehuantepec route should answer the expectations of its friends, they will get their mails in much less time by that line. I am unwilling to spend more money in experiments of mail communication, which it is certain cannot be as rapid as those which now exist by water. I think the Senator from California told us the other day that the expenditure for mail communication was something like two million dollars a year.

Mr. BRODERICK. One million eight hundred thousand dollars, I was informed.

Mr. HUNTER. This is to increase it beyond that sum. In the present state of the Treasury, and of the Post Office Department, whose expenditures are so largely above their means, it seems to me it cannot be right to contract these increased liabilities.

Mr. BRODERICK. You can dispense with three fourths of the other routes, if you will give us this one.

Mr. GWIN. It will be recollected by the Senate that at the last session we passed a bill authorizing the Postmaster General to establish overland mail communication with California, from some point on the Mississippi river. The Postmaster General located that route from Memphis and St. Louis, by El Paso and the mouth of the Gila, to San Francisco. It is, I may say, an exclusively southern route. It is believed, not only by the people on this side but on the other side of the mountains, that the route named in this resolution, which is already established, and upon which it is proposed to increase the speed, is a better route, and one certainly where all the emigration, I may say, has gone to California. I hope that those who have heretofore sustained the policy of establishing a southern route will not now throw obstacles in the way of this route. I look upon it as a question of the most vital consequence. I have no doubt that letters will go as speedily over this mail line as any other route. I expect to see it run in twenty days.

Mr. HUNTER. Will the Senator from California inform me what the present rate of compensation is?

Mr. GWIN. Three hundred and ten thousand dollars on this route; on the southern route it is \$600,000. The increased price is to be *pro rata*.

Mr. HUNTER. We are to pay one third more.

Mr. GWIN. No; we only pay for the increase of stock rendered necessary.

Mr. TOOMBS. I think it is a matter of some

consequence, in the present condition of the Post Office revenues, that we should know where we are drifting to. The Senator from California speaks of the route from St. Louis and from Memphis as a southern route. The last Congress passed the law, and a very bad law I think it was, for you had plenty of people to carry the mails from here to California, providing that the President and the Postmaster General should select the best and the cheapest route to carry the United States mail overland from the Mississippi river to San Francisco. On reviewing all the routes everywhere west of the Mississippi river, they have selected the one from St. Louis down by Preston to El Paso, and to San Francisco. It was not selected as a southern route, or a northern route, but as a United States route, upon the best, cheapest, and nearest way of getting the mail through. I presume they acted according to law. I have heard no complaint on that score. I suppose, if they had not done so, there would have been a commission of inquiry. I believe that is common now. If a trust is confided to a Department, and it is not done to suit gentlemen, they get up a commission of inquiry. There having been no commission of inquiry in this case, I take it the propriety of this action of the President and Postmaster General was generally acquiesced in. There was no cheating, no job, no swindling in it. I presume they selected the best route. I do not know whether they did or did not; but I believe so, from the fact that there has been no commission of inquiry.

Here is a point from which the contractors agreed to carry all the mails to San Francisco in thirty-eight days. They want to bring the time down to thirty days. If the Postmaster General thinks the public service requires that it should be expedited, he has the right, under the laws of the land, to provide for it. Why does he not do it? You want to pass this bill to make him do it, when he thinks the public interest does not require it. Why ought you to authorize him? I do not think many of you have inquired into it to know whether it is right or wrong; but I take it these contractors want to get a large additional compensation for carrying the mails on this route which the Postmaster General does not think they are entitled to, for if he thought the increased speed necessary, he could order it under the present law of the land, making the contractors a regular *pro rata* allowance. It is stated in the resolution that it is important to the public service. It may be; I do not know whether it is or not.

Mr. HUNTER. I suggest to my friend that the resolution not only says he shall be authorized, but directed. I move to strike out the words "and directed."

Mr. TOOMBS. He is authorized now, and the resolution was intended to cover a direction against the ideas of the officer at the head of this Department. He is now authorized to have this increased rate of speed if he thinks it proper, but you propose to direct him to do it whether the public interest requires it or not. That is all it is intended for. Well, will the Senate direct him when they do not know that what he has done is his duty, under existing laws? I am told as a reason for it, that the travel will go along this line. Really, I do not know any reason why the mail of the United States from this side to the Pacific, should go on a road because people do. If we can get a better road for the mails, let us do it. I do not see that the United States mail should necessarily be carried over a route because it is an emigrant route. I think there ought to be an overland mail, and it ought to be on the best route. It should be a route for the advantage of the whole country; it should in no sense be sectional. Gentlemen ought to show Congress which is the best route, and let us take that; or if you refer it to the Department, let them select it. We have got a route selected by the Department, and we have got the Tehuantepec route, and the Panama route, and as soon as we can get that free-nigger route through Nicaragua, we shall have a *Nigger* route, and we shall have a Honduras route, and so we are to have six or seven mails to San Francisco. I think we shall be paying too dear for the whistle.

Mr. BRODERICK. The Senator from Georgia is correct in saying that the Postmaster General has a right to reduce the time on this route; but he does not see fit to do it. The Postmaster

General has a mail route from his city to California, on which the contractors have contracted to carry the mail in twenty-five days. It is an impossibility. I believe the mail can be carried over the route named in this resolution in thirty days; and, if so, you can dispense with your large \$600,000 contract for the route from Memphis, and your \$175,000 contract for the route from San Antonio in Texas, to San Diego in California; and you can dispense with all your small overland contracts. I shall vote at the next session for the Tehuantepec route. Give us this route and that across Tehuantepec, and I think the people of California will be satisfied. If the Postmaster General were disposed to encourage the contractors on this line, I presume he would reduce the time; but I believe he has more interest in Memphis than he has in St. Joseph, Missouri, or Placerville, California. This is a route that is very important to the people of my State. It is the middle route; it is not an extreme southern route. I hope the vote will be taken, and the resolution passed.

Mr. BAYARD. I wish to ask whether there is an existing contract to carry this mail in thirty-eight days?

Mr. BRODERICK. There is.

Mr. BAYARD. I should like to know what is the amount paid per annum, under that contract?

Mr. BRODERICK. Three hundred and ten thousand dollars.

Mr. BAYARD. Then this resolution proposes to increase that amount one fifth.

Mr. BRODERICK. Oh, no. The increase will only be for the additional stock required.

Mr. BAYARD. There is a *pro rata* increase, and if you bring the time down from thirty-eight to thirty days, it must be one fifth.

Mr. YULEE. There is a regulation of the Department on the subject:

"The Postmaster General may alter the contract, and alter the schedules, on allowing a *pro rata* increase of compensation within the restrictions imposed by law for the additional service required, or for increased speed, if the employment of additional stock or carriers is rendered necessary; but the contractor may, in case of increased expedition, relinquish the contract on timely notice (if he prefer it) of the change."

That is the regulation by which, I presume, the Department will be governed.

Mr. POLK. The honorable JAMES CRAIG, one of the Representatives in the other House from Missouri, addressed a letter to the First Assistant Postmaster, who is familiar with the subject, in reference to this matter of *pro rata* increase. To that letter he has received an answer, of which I will read the last sentence, as it is the only one that bears immediately on this point:

"If increased speed is ordered, the *pro rata* rule also governs, the contractor being paid for the additional stock, hands, &c., necessary to accomplish it, proof of which, of course, has to be furnished."

That is what the *pro rata* increase is. It is determined by the amount of increased stock and labor that is required to do the work. That is all that is meant.

Mr. GREEN. That explains to the Senate all the increased cost and expense this resolution will necessarily lead to. The Senator from Georgia, I think, is incorrect when he refers to the Tehuantepec, Nicaragua, and Panama routes as affording all the facilities that the people of the United States desire from the Atlantic to the Pacific. The North must have a route; they are entitled to it. It is not a sectional question.

Mr. TOOMBS. Will my friend allow me to ask him whether or not the route from New York to San Francisco is not a northern route?

Mr. GREEN. It is not. It may be for the city of New York; but it is not for Missouri, for Iowa, for northern Illinois, and for fifteen million people. If they are to send their correspondence down to that route, it will take longer than to send it across the continent on this northern route; for in order to get there from Chicago, they must send it to New York or New Orleans, and then after it gets there it must go to Tehuantepec, to Nicaragua, or to Panama, and from thence to San Francisco. While it might take the same length of time from the city of New York, it ought to be remembered by the Senate that in order to go by that route, the correspondence must first get to the city of New York. There is an immense scope of country in the whole North-

west, embracing Iowa, Missouri, Indiana, Ohio, Wisconsin, Michigan, Minnesota, and Illinois, all of which must have an outlet. Where are they to get that outlet if you dam up and stop the only route they have to the Pacific?

When we make routes, they are not merely for cities; they are for the great public. We have already established, under law, the route from St. Joseph across to Placerville, in California. This resolution is only to increase the speed on that route from thirty-eight days to thirty, which will make it a shorter and a quicker route than any other, and it will be a great benefit to the whole northwestern part of the Republic of the United States. How much will it cost? Nothing, as the letter read from the Assistant Postmaster General says, except the increase of the material in carrying it—the mules and wagons and wagon-masters. Shall we injure and keep back the Northwest because New York city has already accommodations? because Norfolk may already have accommodations? and because New Orleans may already have accommodations? I do not think it right. Give the same facilities to all sections of the country, without reference to locality. If the correspondence of Iowa is driven to the necessity of traveling to New York, and starting from there for California, it is placed behind New York; while, if you look at the topography of the country, you find it is one third of the way to California before it starts. Is it right? No. Let them have a straight exit. Let them go forward. They can do it; they prefer it.

The question has been asked, why say "authorize and direct?" I answer, I spoke to the Postmaster General myself, this evening, since the Senate took a recess, and he says that he would rather Congress would direct it than direct it himself. It is not to speak to the Postmaster General in arbitrary terms. He prefers it; he is in favor of it; but he wants the responsibility taken by the proper power. I think it right. Other Senators may not. It looks to me like extending the same facilities, the same accommodations to all sections of the Union, without reference to locality; and for that reason I shall vote for it, and I know it is agreeable to the Postmaster General in its present terms. I can see no propriety, I can see no necessity in compelling the interior, fifteen hundred miles from the coast, to go to the coast in order to start. I hope the question will be taken.

Mr. TOOMBS. I choose to put the country right against the remarks of the Senator from Missouri, and his appeal to what he calls the Northwest. I stated that there were already four routes to the Pacific; and two of them start in Missouri. Where is the injustice to the Northwest?

Mr. GREEN. What two routes start in Missouri?

Mr. TOOMBS. One from St. Louis, and the one on which you now want to increase the speed.

Mr. GREEN. The route that starts at St. Louis only taps the route from Memphis for the accommodation of St. Louis, not for the accommodation of the Northwest.

Mr. TOOMBS. It may be that the Memphis taps the St. Louis route. According to the contract, I believe the mails are to be carried from St. Louis and Memphis to Fort Smith, where they unite. I do not know which taps the other. One starts from Memphis—not the town of the Postmaster General, as the Senator from California [Mr. Broderick] stated, for he does not live there, but it is in his State—and the other from St. Louis. The great Northwest, including Missouri, has two routes to California, starting from within her own borders. I think that is sufficient for the Northwest, even if she was ten times as big—two out of the four routes. We now pay \$2,000,000 for this mail service.

Mr. GREEN. Two millions to Missouri?

Mr. TOOMBS. Two millions for carrying the mails from this side to the other side.

Mr. GREEN. Name the routes that get the \$2,000,000, and the amount that each gets.

Mr. TOOMBS. There is \$310,000 for the St. Joseph route; \$600,000 for the St. Louis and Memphis route; \$260,000 for the Tehuantepec route; and about one million dollars for the route from Panama to San Francisco.

Mr. GREEN. How much does the Northwest get of all that?

Mr. TOOMBS. Three of the termini are in the West and Northwest. One of them starts from New Orleans; another from St. Louis and Memphis; and another from St. Joseph. The great Northwest has almost an exclusive advantage in this respect. Iowa has only to send her mails to St. Joseph or to St. Louis, to go from thence to California. If they want to go through Utah, they can do it. If they want to go by way of Fort Smith, they can do so by starting from St. Louis or Memphis. If they prefer to go by way of Tehuantepec, they can go down to New Orleans, and take that route; or they can go to Havana, and thence the route from New York to Chagres. The Northwest, therefore, has the advantage of all the four existing routes, for which we pay \$2,000,000. Shall we pay more? The whole postal bill is \$9,000,000, and that is \$4,000,000 more than it ought to be. Two million dollars of this goes for carrying the mail to one town west of the Rocky Mountains. I suppose, however, it commends itself to the Senate, because it is extravagant and nonsensical.

Mr. BRODERICK. This resolution is in relation to the mail to Placerville, in California, which is some one hundred and seventy-five miles from San Francisco.

Mr. TOOMBS. There is another contract, I presume, from Placerville to San Francisco. Is there not?

Mr. BRODERICK. Not that I know of.

Mr. TOOMBS. I reckon they have mail communications. In fact, I will undertake to say so on general principles, without knowing anything about it. I presume there is a mail from Placerville to San Francisco.

Mr. BRODERICK. The mails are carried daily from San Francisco to Placerville, if that is what the Senator means.

Mr. TOOMBS. They have a mail fourteen times a fortnight to take to San Francisco from Placerville what arrives there once a fortnight. If the Postmaster General thinks it to the public advantage to increase the speed on this route, he can do it; but the Senator from Missouri says he would rather have Congress direct him to do it. Certainly. If he does it, he is responsible; and when the day of settlement comes for all these enormities, he would rather have the responsibility on anybody than Aaron V. Brown. He would rather have you Senators, on this last night of the session, take the responsibility than take it himself. He has already said it ought not to be done; for he has not done it; he has already said it is not wise to do it, because he has not done it; but if the Senate, the House of Representatives, and the President direct it, he will no doubt do it with the greatest pleasure.

Mr. POLK. I suppose that Congress had something to do with running the mail from New York to San Francisco by the way of Panama. I suppose that Congress took some responsibility about that. I suppose that the Post Office Department did not move in that in the first instance. I presume that Congress may take the responsibility of saying that it is proper to hasten this mail between St. Joseph and Placerville. There are some gentlemen, who live immediately on the Atlantic sea-board, who seem to think that there is no part of this country except what lies along the Atlantic sea-board; and the gentleman from Georgia seems to be one of those. If there is a mail-route established from New York, he thinks it is for the accommodation of the Northwest. If there is a mail-route that runs from New Orleans, "that is for the accommodation of the Northwest and Northeast," says the gentleman. Sir, I undertake to say that any sensible man who wished to go from New York to San Francisco, if he had a feasible and easy way of going through our own country, would never think of going down over the Isthmus of Panama, and encountering the heat, the disease, and the inconveniences that are on such a route, if he could go through the temperate latitude that this route proposes to take the mail over. This route is already established. The contract time is thirty-eight days. It is known by all those who have taken the trouble to inquire into it—and the Senator from Georgia might know it if he would take the trouble to inform himself—that that distance can be made very easily in thirty days, and even in twenty-five days. The question now is, shall not Congress shorten the time? Some say it is a job for contractors.

Mr. PUGH. Will my friend allow me to ask him a question?

Mr. POLK. Yes, sir.

Mr. PUGH. By whom was this period of thirty-eight days fixed? By the Postmaster General?

Mr. POLK. I so understand.

Mr. PUGH. What time is fixed for the route from Memphis?

Mr. POLK. Twenty-five days.

Mr. PUGH. By the Postmaster General?

Mr. POLK. Yes, sir.

Mr. PUGH. I understand it all now.

Mr. POLK. The Senator from Virginia said he supposed it was a pretense to draw money out of the Treasury. The Senator from Virginia is very much mistaken; for, if I understand this subject—and I believe I have a pretty good understanding of it—this is a movement that is not made at all by the contractors. The contractors have no desire to have the time shortened, for they get nothing by it except the additional expense they will be put to in the way of horses and hands that are necessary to produce the increased speed. It is not a movement made by those who are interested in the contract on the route. Well, says the Senator from Georgia, there has been already a route established; and he seems to labor under a false impression on this subject. The act of Congress to which he alludes, did not give, as I maintain, to the Postmaster General, or to the President, the right to fix the termini of that route, or the direction of it; but it says, in so many words, that the mails shall be carried from such point on the Mississippi to San Francisco, in California, as may be selected by the contractor. There has been no commission raised in either branch of Congress to inquire into that matter, and I am very glad there has not been. I am not undertaking to say that those who have established that route have not done what they thought to be right; and I have nothing to say in condemnation of what has been done here; but when this other route may be made so that a man can start from St. Joseph and reach Placerville, in California, inside of thirty days, and that with no additional expenditure of money, except what is necessary to purchase the wagons, the horses, and the mules required to produce this increased speed, I say Congress ought to adopt it. If a line can be run over that region of country in that time, it will not only be the route that will carry the mail matter, but also many of the passengers. Sir, who would go—

Mr. SEWARD. Will the honorable Senator excuse me for saying to him that I am in favor of the passage of his bill; and, if he will consent to yield, we will try and pass it if we can; and if we cannot, speaking will not help it.

Mr. POLK. I have nothing more to say.

Mr. HUNTER. I just wish to refer to the fact that, in California, the gross amount received from postage is \$256,994, and the deficit, after paying for transportation in California and for commissions of the Post Office Department, is \$102,859. In addition to that, the Senator from California [Mr. BRODERICK] assures us that it costs us \$1,800,000 a year to transport the mails to the Pacific shore; and, besides all that, we are now asked to increase their *pro rata* allowance to this line, on which the time is to be diminished from thirty-eight to thirty days, which will be an increase, I understand, of something like one fifth.

Mr. GREEN. What is the cost of transporting the mail to Norfolk from all points?

Mr. HUNTER. Nobody can tell. There is no statement of it to Norfolk.

Mr. JONES. I have an amendment to offer if it is agreeable to the Senate:

And provided, That the Postmaster General be and he is hereby authorized, to cause said route to commence at Council Bluffs or Sioux City, in the State of Iowa.

Mr. BRODERICK. I hope the Senator will withdraw that amendment.

Mr. JONES. The adoption of this amendment will make the road one hundred and fifty miles shorter, and will give to the State of Iowa some interest in it, which she has not now. I believe that the first railroad which will be completed to the Missouri river, will run through the State of Iowa, and that the Government of the United States will be saved a considerable sum of money, and gain a great deal in time by agreeing to my

proposition. It will be an immense accommodation to the State of Minnesota if it commences at Sioux City. It will be a saving of at least two hundred and fifty miles to the State of Minnesota, generally. It will especially accommodate the city of St. Paul in that State. I do not want to have any discussion on this subject. I am willing to take the vote at once upon it, and if it is voted down I shall be content.

Mr. BRODERICK. I will inform the Senator from Iowa that if his amendment prevails the resolution will have to go back to the House. It is a House resolution. I hope he will see the necessity of withdrawing it.

Mr. JONES. I am aware of that; and I believe the House will pass it in five minutes after it gets there with my amendment.

The amendment was rejected.

Mr. HUNTER. I now move to strike out the words "and directed," in the fourth line; so that the Postmaster General will be simply authorized to make this increase of speed if he thinks proper.

Mr. BRODERICK. I hope the Senate will see the necessity of voting the amendment down, because the Postmaster General will not increase the time if it is left to him. Congress will have to do it.

Mr. HUNTER called for the yeas and nays on his amendment; and they were ordered.

Mr. TRUMBULL. The whole question is involved in this word "directed." There is no use to pass the resolution with that word stricken out, and I think it of some importance that we should pass this resolution. It has transpired here in the Senate to-night, and we have learned, that the Postmaster General is sending a mail around by Memphis, Little Rock, Fort Smith, and in that direction off to California, at an expense of some six hundred thousand dollars a year. Here is a route from St. Joseph at an expense of \$300,000 in round numbers, half that amount, and the time fixed on the St. Joseph route is thirty-eight days. The time fixed on the other route is twenty-five days. We are told here to-night by the Senator from California that the mail cannot be carried on that southern route in twenty-five days; and why a contract was ever made by the Postmaster General to carry the mail in that direction I could never conceive. The whole emigration to California overland goes by the St. Joseph route, or nearly the whole of it. Of the fifty thousand emigrants who have crossed the plains, how many, I ask, ever went over the southern route? That is the best evidence in the world which could be afforded that the proper route to California is from St. Joseph; and if the Postmaster General has made a contract to the prejudice of this route, and in favor of some other, at a higher price, I think it is proper that Congress should direct him to make the contract, to carry the mail over the route which private enterprise seeks, and which will accommodate the greatest number of people. It is for the people that mails are established.

Mr. HUNTER. I ask leave of the Senate to make a report from a conference committee.

Mr. TRUMBULL and Mr. BRODERICK. Let us take a vote on this resolution.

The VICE PRESIDENT. Objection being made, the report cannot be received. The question is on the amendment of the Senator from Virginia, to strike out the words "and directed."

The question being taken by yeas and nays, resulted—yeas 21, nays 23; as follows:

YEAS—Messrs. Bayard, Benjamin, Bigler, Brown, Clay, Clingman, Crittenden, Davis, Hammond, Hayne, Houston, Hunter, Johnson of Arkansas, Johnson of Tennessee, Mason, Pearce, Reid, Sidel, Thomson of New Jersey, Toombs, and Wright—21.

NAYS—Messrs. Allen, Bell, Broderick, Chandler, Colamer, Doolittle, Douglas, Durkee, Fessenden, Fitch, Foot, Foster, Green, Gwin, Hale, Hamlin, Harlan, Iverson, Jones, King, Polk, Pugh, Rice, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—23.

So the amendment was rejected.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and on the question "Shall the resolution pass?"

Mr. BAYARD called for the yeas and nays; and they were ordered.

Mr. GWIN. I wish to say a single word in reply to what has been said in regard to the Postmaster General. We are indebted to nobody as much as we are to him for the establishment of this route and the other overland mail route to

California, and I have no doubt he will make time on all his routes.

Mr. BAYARD. The objection to this joint resolution is to me very evident. You are altering your laws; you are directing the Postmaster General to do this, without leaving it to his own discretion as in other cases. Again, you have, within a year past, authorized the establishment of routes, by the Postmaster General, between California and the western States; and, when the contract is scarcely made, you are then asked at once to increase the service by legislative direction, to interfere without any statement of facts requiring it, without any evidence to show you that the amount of letters to be transported by a mail of that kind, on this route, would justify the expense of it, and to increase this expenditure, as far as I can see, some sixty thousand dollars a year. Within one year after you made a contract for about three hundred and twenty thousand dollars, you are asked to increase it about sixty thousand dollars, without one particle of evidence as to the extent of communication by letter over this route. There is no time to see what is its extent. Gentlemen speak of it as if it was necessary to quicken the time for the passage of the mail, with a view to travel. The mail has nothing to do with the question of traveling on the route. The route is a post route, and persons can travel on it. The question of the transportation of the mail, and paying for increased transportation of the mail, must depend on the quantity of mails to be transmitted. There is no evidence of that kind; nothing to justify this expense, nothing to show you that the whole postage on the route would amount to even the sum you are now asked to expend for quickening the transportation on this route, when you have two or three other routes.

The question being taken by yeas and nays, resulted—yeas 29, nays 17; as follow:

YEAS—Messrs. Allen, Bell, Broderick, Chandler, Collamer, Doolittle, Douglas, Durkee, Fessenden, Fitch, Foot, Foster, Green, Gwin, Hamlin, Harlan, Houston, Iverson, Jones, King, Polk, Pugh, Rice, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—29.

NAYS—Messrs. Bayard, Bigler, Brown, Clay, Clingman, Crittenden, Hammond, Hayne, Hunter, Johnson of Arkansas, Johnson of Tennessee, Mason, Pearce, Reid, Sidel, Toombs, and Wright—17.

So the joint resolution was passed.

ENROLLED BILLS SIGNED.

A message from the House of Representatives announced that the Speaker had signed the following enrolled bills; which were thereupon signed by the Vice President:

An act granting a pension to Mary A. M. Jones; and

An act to establish certain post roads.

NEW POST OFFICE BILL.

The message also announced that the House had passed a bill (H. R. No. 651) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1859.

The bill was read a first time by its title.

Mr. PUGH and Mr. TOOMBS. I object to the second reading of that bill.

REVENUE COLLECTION BILL.

Mr. SEWARD obtained the floor.

Mr. HUNTER. I ask leave to make a conference report.

The VICE PRESIDENT. Does the Senator from New York yield to the conference report?

Mr. SEWARD. If it will take no time.

Mr. HUNTER. I cannot tell what time it will take.

Mr. SEWARD. I move to take up the bill for the relief of Jane Turnbull.

Mr. TOOMBS. I have a report to make from a conference committee.

Mr. HUNTER. The House has adopted the conference report on the revenue bill, and I want to make it here.

Mr. SEWARD. I will defer to the consideration of the report of the Senator from Virginia.

A message was received from the House of Representatives, announcing that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 466) making appropriations for the expenses of collecting the revenue from customs.

Mr. HUNTER submitted the following report:

The committee of conference on the disagreeing votes of

the two Houses on the bill (H. R. No. 466) making appropriations for the expenses of collecting the revenue from customs, have met, and after full and free conference have agreed to recommend, and do recommend to the respective Houses, as follows:

That the House of Representatives recede from its disagreement to the fourth amendment of the Senate, and concur in the same with an amendment, as follows: Strike out all after the word "warehouses," in the fifth line, to the word "addition," in line eight, and insert, "or appraisers shall receive a compensation more than twenty-five per centum greater."

Mr. HUNTER. The effect of that amendment is this: we agree to strike out the provision in regard to the minor officers and employes. We apply the Senate amendment only to the officers who receive salaries under law; and we agree that they should not receive more than twenty-five per cent. more than the New York officers. It was stated by gentlemen who were familiar with it, that the compensation to the New York officers was not to be measured by salary only because they received much more from fines and forfeitures than the officers at any other port. That is the report of the committee of conference.

The report was concurred in.

INDIAN DEFICIENCY BILL.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House had concurred in the amendments of the Senate to the bill (H. R. No. 555) to supply deficiencies in the appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1858.

POST OFFICE APPROPRIATION BILL.

Mr. TOOMBS. I wish to make a report from a conference committee. The Senate charged me, with two others of its members, with a free conference with the House of Representatives, upon the Post Office appropriation bill. The bill belonged to the House. We disagreed, and the bill has not been returned; but it seems the House of Representatives have sent us an original bill. I wish to state to the Senate and the country, that the Senate was willing to yield to the House of Representatives all they asked, if the House would give up their privilege of encumbering the mails which charged the Treasury with \$6,000,000. They refused it, and your committee have determined to recommend, through me, that this House adhere to its disagreement; and I trust that the Senate will not take up the new bill, at least until the other House send us the bill upon which the two Houses have disagreed. There are about five or six amendments, and they send us a new bill, and not the one they referred to the committee of conference.

The VICE PRESIDENT. What motion does the Senator make?

Mr. TOOMBS. I have none to make. I merely wished to make the report. When you get the bill, I will go further into the position of the two Houses.

Mr. STUART. There must be some question on the report, I apprehend. I want to say only one word, and that is, that I am disposed to join my friend from Georgia, and see whether the Senate is any part of the legislative power of the country.

Mr. TOOMBS. I do not believe they are, and I do not believe they deserve to be. [Laughter.]

Mr. SEWARD. I move that the Senate take up the bill for the relief of Jane Turnbull.

Mr. HUNTER. I hope we shall decide this question.

The VICE PRESIDENT. There is no question before the Senate except the motion of the Senator from New York.

Mr. TOOMBS. I make the motion that the Senate adhere to their disagreement on the Post Office bill.

The VICE PRESIDENT. The Chair asked the Senator, and he said he did not make any motion.

Mr. TOOMBS. I did not want immediate action, but I made that report.

Mr. PUGH. How can we adhere without having the bill? I should like to have that question decided. I make the point that a motion to adhere or insist is out of order unless we have the bill. I agree with the Senator from Georgia; I intend to be with him on the main question; but I dislike voting on a bill which is not before the Senate.

The VICE PRESIDENT. Both Houses cannot have the bill at the same time.

Mr. PUGH. The bill is in the other House. The report is in order, but I do not see that any other thing is in order in regard to the bill. We cannot act on the bill when it is not here.

Mr. HUNTER. I think I can state what are the difficulties in the case. The House of Representatives have certainly involved us in difficulty in regard to this bill. They have acted upon the supposition, which is not true in a parliamentary sense, that laying the bill on the table is defeating it. Whilst a bill which was originated in the House and returned to the House with amendments by the Senate, is still in existence and lying on their table, they have undertaken to originate another bill and send it to us. I have no doubt they did it from inadvertence. If they had possessed any means of putting an end to the bill, this other course would have been legitimate. Laying it on the table, although by their own rules it makes it almost impossible to get at it, yet does not in a parliamentary sense destroy the bill. The case is a new one—I suppose unknown in the history of parliamentary bodies; but it seems to me the proper course would be for a committee of conference to consult in regard to it, and get the House of Representatives to retrace its steps and reconsider them. They ought to reconsider the vote by which this new bill has been passed, and take the other bill from the table. If they do not, I do not see but that we are involved in difficulties that are almost inextricable.

Mr. STUART. Perhaps to avoid all misapprehension, I ought to remark, that I did not say what I said a few moments ago, under any feelings of excitement at all; but I feel that the time has arrived when it is best for the Senate to see whether their weight, as a legislative part of this country, can be felt or not. I think the proceedings of the House of Representatives most extraordinary. The Senator from Virginia is undoubtedly correct. When a bill is pending between the two Houses, with a committee of conference—a free conference between the two Houses—for one House to seize that bill and to place it on the table, or to do anything else with it which takes it out of the reach of both Houses, by the concurrent action of their committees, is certainly a most extraordinary event in the history of legislation. I think there is no difficulty in getting over this point, and it may be done by recommitting the report to our committee of conference, and let the committees notify each other, and meet again, and get possession of that bill. That they can do. They have a right to the possession of the bill. It is not in the power of either House to take it out of their possession. It is as much in the possession of our committee, for the purpose of disposing of the conference, as it is theirs. Of course, under the parliamentary law, it belongs in the first instance, for the purpose of making a report on it, to the House that asked the conference; but it does not belong to that House to seize it and put it beyond the reach of the other House. That cannot be done.

Now, sir, I think we get out of the difficulty in the way I propose. When the House come to see that they have assumed and practiced upon this most extraordinary and unjustifiable course, the committee will have the bill. I submit that in an extreme case, it would be competent for the committee to take the bill. The action of the House in laying it on the table goes for nothing. I want to get at this matter in the most peaceable manner; but I am prepared to say that, in my judgment, my duty calls upon me here to-night to declare that the bill sent here as a new bill cannot be got along with any further than the rules of order will coerce it against my judgment. I hope to agree with the Senate and with all the Senate on the question; but I cannot consent that the House of Representatives shall seize a bill while it is really before a committee of conference, lay it on the table outright without authority, and take it out of our reach. In this case it is remarkable that the House had agreed to a portion of our amendments by a fair vote of the House, and they had become a part of the bill; and yet they propose now to lay all that on the table, and to send us a new bill, commencing *de novo* where we began in legislation on this question. That will never do. I suggest, if the Senate agree with me, that we had better recommit the report, and

have the committees reassemble, and see if they cannot by consultation relieve us of this difficulty. I move, therefore, to recommit the report to the committee of conference.

Mr. HUNTER. I suggest to the Senator from Michigan that the best motion would be that the Senate insist, and ask for another conference.

Mr. PUGH. We cannot insist without the bill.

Mr. STUART. I think the Senator from Virginia is mistaken. I believe we shall get along best by having a consultation between the committees.

Mr. HUNTER. Very well.

Mr. STUART. I make that motion.

Mr. SEWARD. I wish to know whether the committee of conference on the part of the House is not discharged, and it is not necessary to ask for a new committee of conference?

Mr. STUART. No, sir; the Senator will see that the committee could not be discharged in this manner. The House could act on the report, and on nothing else. It was not their bill. They could act on the report of the committee; but nothing else was in their reach.

Mr. SEWARD. Perhaps the honorable Senator is right, but I think he will find when he comes to have this bill recommitted to the same committee of conference, that the members of that committee, acting on the part of the House of Representatives, will consider themselves precluded from further action upon it, from the fact that the bill has been laid on the table in the House.

Mr. STUART. That is a proceeding which they had no authority to take—none in the world under parliamentary law. They might as well come to us saying they have left that bill down on the Potomac bridge. They have no such authority, and the committee of conference will relieve the two Houses of the whole difficulty, I am satisfied, if we recommit the report.

Mr. BROWN. I do not think the remedy proposed by—

The VICE PRESIDENT. Does the Senator from Georgia withdraw his motion for the motion of the Senator from Michigan?

Mr. TOOMBS. Yes, sir. I think the measure proposed by the honorable Senator from Michigan is a very appropriate and proper one.

The VICE PRESIDENT. The question is on the motion of the Senator from Michigan.

Mr. BROWN. I do not think it will amount to anything. After the extreme action of the House of Representatives, they are not likely to send their committee to us again. There is a remedy for this state of things, and it will be effective. When the new bill is brought up, lay it on the table, and let it stay here; give up all idea of passing any appropriation bill for the Post Office Department until the session expires; then, at the expiration of the session, the President will reconvene you, and you will have plenty of time to discuss this whole matter over. The President will issue his proclamation, and do it instantly. Let us have a session next week, when we can take up business in regular order. I am not for patching up things in this way.

Mr. FESSENDEN. I do not think it is worth while for the Senate to act in a passion on any mere small point of difference between the Senate and House of Representatives at this hour of the session. We may as well take the matter into serious consideration and see how we can get out of the difficulty. I do not suppose that the House of Representatives want to insult the Senate, and I do not think there is any occasion for any indignation on the part of the Senate. It is a difficulty, and one that embarrasses us at this present time; the question is how best we can get out of that difficulty without infringing upon our own dignity, of which I think there is not any great danger in reference to such a matter as this. I think the original proposition of the Senator from Virginia is the best one, for the simple reason that it is the one which would be most likely to be acceded to. The House of Representatives have laid the bill on the table, in consequence of a report of a conference committee who, in my judgment, having made their report to the House, were discharged from any further consideration of the subject. They having reported the bill back to the House, placed it in the possession of the House, and the committee have nothing more to do with it.

If we take the suggestion of the Senator from Michigan, and send a message to the House saying that we have recommitted the bill to the same committee of conference, they will consider that probably a sort of imputation on their course, and will not be very likely to agree to it; but if we appoint a new committee of conference, and ask the House to do the same, it is a conciliatory course, and if the House agree to it, we are at once relieved of the difficulty in which we are placed; or we might send a message to them, asking them to take the bill from the table, and recommit it. We can take any form which will reach the object.

I do not think the last night of the session is a time to get up questions unnecessarily if they can be avoided by proceeding in a regular parliamentary course. With reference to the existing difficulty, I do not think it is a remedy which the Senate or the House will choose, or which anybody ought to choose, to say that we shall let the bill fall, and fall for a reassembling of Congress, in order to pass the same bill at an extra session, when we can as well do it to-night. It is only punishing ourselves for the sake of showing a little temper, and it amounts to nothing.

Therefore, as in my judgment, the course proposed by the Senator from Virginia is perfectly consistent with our own dignity, and perfectly respectful to the House of Representatives, and one which they would be likely to accede to, I see no difficulty at all in adopting it, and I hope it will be adopted in preference to the course suggested by the Senator from Michigan, which, I believe, will only lead to further difficulty, and complicate the matter still more.

Mr. STUART. I think that if my friend from Maine will listen to me a minute, I can satisfy him that there are two very serious objections to his proposition. It will only increase the difficulty. In the first place, you get into a difficulty on the question raised by my friend from Ohio.

Mr. PUGH. Let me suggest to the Senator how we can get out of all that. It is competent for us to ask a conference with the House on the subject of the bill. Leave out the word "insist," and then you take no action on the bill, but just ask for a conference.

Mr. STUART. I say, in the first place, you raise the question whether you can act on the report of a conference committee without the bill before you; and my own opinion is that you cannot do that; but, in the next place, the House of Representatives may say to you, "you have appointed a committee of conference on a bill that has not any existence." By their rules, the laying of a bill on the table, and reconsidering that vote and laying that motion on the table, is death to it. When they have the proper control of the bill, that is the effect of their rules. They may say to you, "you have asked a committee of conference on that bill; you have a new committee; but we do not propose to appoint a new committee."

Mr. PUGH. Cannot we appoint a committee of conference without any bill? I supposed that was never disputed.

Mr. STUART. I am aware of that.

Mr. PUGH. We can make complaint of them of a breach of privilege through a committee of conference.

Mr. STUART. I cannot make myself understood unless I have an opportunity to say what I desire to say. You may appoint a committee of conference without any bill; but that is a very different affair from our ordinary committees of conference. The Houses may confer together without any bill; but it is an entirely different affair, and treated in an entirely different way. If, now, we insist that our committee of conference is still in existence, and that the bill is still in existence, and our committee return with the notification that the Senate insists that that bill is in existence, and that this committee is in existence with it, they can confer together, and will have more chance to relieve us of the difficulty than if we appoint a new committee. We shall involve ourselves in both these difficulties if we undertake to proceed with a new committee.

I entertain no doubt that either body cannot proceed to act upon the report of a committee of conference without the bill, because, when the report is read you have the right to have the bill read, to see what it is. The report connects

itself with the bill. It enumerates the amendments by numbers, one, two, three, &c. "What are they?" some Senator says, all the time. We cannot tell; we have not got the bill. The report has the same number as the bill. The report is as to Senate bill No. 369, for example. The question is on that. They are one and the same thing. You cannot proceed without the bill; but in this way we have as good a committee as we desire; we have a committee that is conversant with all the facts, knows how the difficulties have originated, can confer together a great deal better than a new one, and we can relieve ourselves.

I agree with the honorable Senator from Maine that there is no occasion for any offensive or exciting language; but there is an occasion for a deliberate assertion of what is the parliamentary law on our part, and we ought to say to the House of Representatives that they cannot seize a bill, in which bill they have agreed to several of our amendments by a vote of the House, so that they became a part of the bill, and lay that on the table and hand us something else. That can never be done. I wish to relieve ourselves of the difficulty, and I think the very best way to do it is to recommit the report, and then let the committees act.

Mr. FESSENDEN. The difficulty, in my mind, is one that the Senator from Michigan does not answer; it is that the committee of conference from the House having made their report, and the bill being out of their possession, there is an end of them.

Mr. COLLAMER. The committee of conference had no report to make. They merely reported that they could not make any.

Mr. FESSENDEN. If they report that they cannot make a report, that is a report, in one sense of the word, and my difficulty is the same. Their function is ended, so far as the bill is concerned, and it amounts to the same thing, whether you recommit the report to the same committee or appoint a new committee. It is, in fact, the same men appointed again a committee to do the same thing on which they have acted, in my judgment.

But leaving that, it is not to be presumed that the House of Representatives knew or supposed that they were doing anything unparliamentary or improper. The Senator from Michigan says that they had no right to do this by parliamentary law; that they have taken a very strange mode of proceeding, and one which cannot be justified under the parliamentary law. Be it so. That is a matter of opinion. They think they can justify it. It is not to be supposed, as I said, that they undertook to do a thing willfully and knowingly that they believed to be improper. But, having done so in the judgment of the Senate—and it seems the Senators who have spoken agree on that point—the only question is how we shall remind the House of that fact in a manner to settle the difficulty, and to accomplish what we want to accomplish—that is, to pass this necessary appropriation bill.

I say you will not accomplish that by merely sending a message to them, recommitting the report to the same committee. They will reply to you that the report is out of their hands. But if you take the course suggested by the Senator from Ohio, and simply ask a conference on the subject of the bill, that is a request to which they will be likely to accede, because it is not to be presumed that the House want a difficulty any more than we want one. It is to be presumed that they wish to pass the bill in a shape that may be satisfactory—to make the necessary appropriations. If, therefore, we send a message to the House, in proper terms, requesting them to appoint conferees to meet conferees on the part of the Senate, to take into consideration this existing difficulty, it is to be supposed they, as reasonable men, will be willing to do it. I hope, therefore, that course will be taken, because it is the only one which will get us out of the difficulty. I prefer the form suggested by the Senator from Ohio, because it removes his objections.

Another thing I do not think it is to be presumed that the House act on the principles suggested by the honorable Senator from Georgia in making his report; and that is, that they refuse to save the Treasury a large sum of money, for that is his idea, by giving up a privilege personal to themselves. It is not to be presumed they acted

on such a principle. I think the House have some reason in the objection they make. They sent us an appropriation bill. In one of the last days of the session we put on that bill legislation, and legislation of very important character, and legislation that ought to be accompanied by discussion and investigation. We put on it legislation raising the rates of postage, a matter that is very interesting to all the people of this country. We put on that ordinary appropriation bill legislation abolishing a privilege which has existed almost from the foundation of the Government. We sent these amendments to them to be acted on in a moment. The House insist that that is not the proper place for them. It is important legislation—legislation which they have no time to consider properly, and they say that on this appropriation bill they will not agree to it. They say so by a very large majority, and they represent the people much more directly, in my judgment, than we do, and they sent us the bill originally. That is the theory of our Government, but I will not make an issue on that. However, they say so, and they say so by an overwhelming majority of the House.

We have conceded over and over again, and the Senator from Michigan has argued it on this floor many a time, that an appropriation bill, except in a case of necessity, is an improper place to put important legislation upon; and yet in this bill we have done that very thing in a most remarkable and striking manner, which he has contended himself so many times was improper in itself. Now, can we quarrel with the House for saying so? The House say nothing more in reference to the matter. They are not to be presumed as saying any thing more; they are not to be presumed as saying they would rather tax the Treasury a large sum than give up a personal privilege; but they are to be presumed to say—what they may with great propriety—that this legislation, being of very important character, ought not to be put on this bill. I would rather give a favorable than unfavorable construction to their action. Under these circumstances this difficulty arising, and everybody conceding that it is a difficulty out of which we ought to get if we can, and as soon as we can, why not take the most conciliatory course, and request them to appoint conferees to meet conferees on the part of the Senate to see how we can get out of it? It is perfectly respectful, perfectly peaceful, and I hope it will be done.

Mr. TOOMBS. I did not care to do more than state the facts when I made this report, as the organ of the Senate, and I must express my entire disapprobation of the speech of the Senator from Maine. I think it is due to the ordinary decency of this body and due to the Constitution, that we should maintain the rights committed to our hands by the fundamental law.

Mr. FESSENDEN. I agree to that.

Mr. TOOMBS. Well, sir, at no time in the history of our Government, at no time in the history of any deliberative body, with whose proceedings I am acquainted, has such a thing as this ever before been heard of. The Senator from Maine gives us no precedent. The House of Representatives, in the ordinary course of legislation, sent us a general appropriation bill, in which they proposed legislation, taking \$3,500,000 out of the Treasury, without any authority of law on earth. Talk to me of legislating in appropriation bills, when this very bill, as it came from the House of Representatives, contained a distinct item of legislation appropriating \$3,500,000 of the public treasure, not in pursuance of any previous law, for there was none, but to supply whatever deficiency there might be in carrying on the Post Office Department. There was no law for it, but it was legislation against the fundamental principles of the Government and its practice and policy for sixty years. That policy had been to make the Post Office Department support itself. The House of Representatives did not provide in the bill for the deficiency in this service in the ordinary way, but they took \$3,500,000 out of the Treasury by independent legislation. Now, it is vain to talk about legislating on appropriation bills. The Senate put a job of \$500,000 on one, and the other House gulped that down without a wry face, because it was a printing job. There was no law for that. The Senator from Maine did not complain of it. I rather think he backed it.

Mr. FESSENDEN. I do not know to what the Senator refers.

Mr. TOOMBS. I mean the continuation of the State Papers.

Mr. FESSENDEN. Is that on the Post Office bill?

Mr. TOOMBS. No; but on one of the appropriation bills.

Mr. FESSENDEN. I voted against it.

Mr. TOOMBS. I thought you were for it. I know there was a very great majority for it—two to one—and I was rather addressing the majority.

Mr. FESSENDEN. I voted against it.

Mr. TOOMBS. I beg the gentleman's pardon; but there has not been an appropriation bill passed this session without independent legislation, and there never has been one since I have been a member of either branch of Congress. That has become the universal rule—the universal policy of the Government. The very reduction of postage, of which we complain, took place on the Post Office appropriation bill. We propose to raise the rates of postage just as they were reduced; and so we are following the precedents on this very point; and this talk of legislation on mere appropriation bills is a mere pretense. The committee of the Senate told the committee of the House that, in our opinion, the Post Office establishment should maintain itself; that when the three-cent rate was adopted, it was on the foolish calculation that it would bring revenue enough to support the Department. Experience has shown that to be false, and therefore we propose now to go back where we started. The other House said they would not do it. There were three or four amendments, and your committee offered to the committee of the other House that we would abandon all our amendments if they would give up the right of filling up the public mails with their franks. I am willing to meet them before the American people on that point. When the public Treasury is charged \$6,000,000 for the Post Office establishment, ought we not to do something; and what so appropriate as to relieve the public, so far as we ourselves are concerned? I was willing to leave the other House the privilege of using their franks, the privilege of putting this additional weight on the mails, if they would allow this body to relieve the public from the burden of their franks; but they would not do that. I wanted to put our proposition in writing, and report the facts; but they would not agree to that. They took the bill back to their own Hall, laid it on the table, and sent us another bill.

Senators, are you ready to maintain the Constitution, and your rights and your duties under it? or have you become incapable of exercising those high constitutional powers committed to you by your fathers, committed to you by the sovereign people of your States? Are you ready to surrender those rights to whoever will ask for them? If you are, then, rather than see this Government broken down for such a cause, I could wish to God another Cromwell would come and tell you, "away with that bauble!"

What legislation did we propose on this bill? Was it to increase the burdens of the people of this great Republic? No; it was to lessen them. Was it to take to ourselves a privilege? No; it was to abandon it. The poor boon asked by this body of surrendering their privilege of franking, which is an onerous burden to the people, is denied by the House of Representatives. They not only grasp their own privilege, with a tenacity for which I desire to hold them to account before the freemen of this country, and on which I am willing to meet them anywhere, but they will not let you do it, because they do not like the discrimination. To get rid of the bill, instead of, according to parliamentary law, with manly firmness adhering to their position, they sneak off and lay the bill on the table, and send you a fresh one. That is the course of the House of Representatives. They would not say that they adhered to their disagreement because we brought them to the naked point; but they thought they would sham it and give us a clean bill; a clean bill—only taking from the public Treasury ten millions of money, and they ask us to spare them, oh spare their rights and privileges; let them put their correspondence as a burden on the people of the country, no matter what it costs the public. Then, against the usage, against parliamentary law, against precedent, against practice, in defiance of

your rights, in derogation of your duty, you are called upon to surrender these high privileges to a coordinate branch. As God lives, I will never do it by any vote of mine.

Mr. PUGH. Mr. President—

Mr. FESSENDEN. Will the Senator allow me to say a few words in reply to the Senator from Georgia?

Mr. PUGH. Yes, sir.

Mr. FESSENDEN. Mr. President, I have to state, in reply to the Senator from Georgia, that what I said in reference to legislation was to be taken in the ordinary sense in which that term is used here. The House of Representatives sent us an appropriation bill, making appropriations to enable the Postmaster General to execute the laws with regard to the Post Office Department under his charge. I do not know that there was any other legislation on it. I am not aware that it contained any legislation on general subjects. If the bill did anything more than execute the laws as they existed, I suppose the Senator from Georgia can specify what further it did.

Mr. TOOMBS. It contained legislation to the amount of \$3,500,000.

Mr. FESSENDEN. I do not know how that was. What was it for?

Mr. COLLAMER. That was only to supply deficiencies in the postages.

Mr. FESSENDEN. I am informed, by the Senator from Vermont that that provision was, in fact, to carry out the existing laws; because it was only a provision that, in case the postages did not amount to enough to execute those laws, the deficiency should be taken from the Treasury. Then the whole bill did nothing but make appropriations to carry out existing laws; and in that sense I spoke of it. I have not been one of those who have complained very much of putting legislation on appropriation bills in regard to subjects not applicable to those bills. That has been no complaint of mine, nor has it been of the Senator from Michigan; but I believe it has been very frequently of the Senator from Georgia. It is very well known that the other House, at this Congress, have been somewhat sensitive on this subject; they have objected, and objected strongly, to legislation on appropriation bills. I was commenting on their course; and I went no further than to say that, when the House of Representatives acted upon a subject of that kind, instead of being presumed to act from mean motives, and to be sneaks, as the Senator from Georgia calls them, in not a very parliamentary mode I must say, it was just as well to take it for granted that a coordinate branch of the Legislature acts from good motives, and on good and sufficient grounds, as from mean motives, and grounds that cannot be sustained. The Senator from Georgia talks about our high privileges under the Constitution. I value them as highly as he does, or as any other man does; but have not the House of Representatives their rights and their privileges, too? Are they not a coordinate branch of the Legislature with us?

Mr. TOOMBS. They are equals; no more.

Mr. FESSENDEN. Why, then, may they not assert their rights as well as we assert ours? We have equal rights; no more than they. We are elected for a little longer time, but that does not make us any better men or give us any higher rights. Now, what I complain of with reference to this matter, is, that simply because the Senate cannot carry its own points, feeling should arise here against the House of Representatives. Why should not they complain of us when we do not agree to some amendments which they make to bills? Why do they not say "we do not allow the Senate to dictate to us about our amendments?" We do not hear any such language from the other House that I know of; I never heard of their using it; and if they had used it, I should consider it wholly out of the ordinary course of things.

I ask again, why should we, because the House of Representatives do not choose to agree to some amendments of ours, impute mean motives to them, and use language which is calculated to excite them still more; which is calculated to produce the very effect we deprecate, and to result in the loss of an important bill simply for the reason that they act upon principles which they value, from motives that are sufficient to them? and they have a right to be presumed to be quite as honest men as we are, and to have the good of the coun-

try as much at heart as we have. I do not impute any such motives to the House of Representatives. They may have good reasons for saying that they will not agree to abolish the franking privilege. I voted for that abolition myself, and I must confess that I did it upon a somewhat selfish ground, and that was, to get rid of the immense labor which it entails. It would be a great relief, so far as I am concerned, to get rid of it; but I doubt very much (and if that doubt had been certainty, I should not have given the vote I did) whether it is doing the people so much good to abolish the franking privilege, as has been supposed. It has, however, been called for in some of the public prints—prints of importance, representing the people: it is said to be public opinion; and if the people think it is a privilege which ought to be abolished, I am willing to try it, for God knows I shall be happy to be rid of the labor which it entails upon me. The other House may judge differently. They are a much larger body than we are. It is to be presumed that, in so much larger a body, there is a greater amount of collective wisdom. We need not arrogate it all to ourselves. The Senator from Georgia will permit me to say that he has too often denounced the Senate, perhaps not exactly as corrupt, but as derelict to all its duties under the Constitution, to assume to stand forward as the organ of this body claiming any very great nicety of honor for it on this occasion, or any other, because we happen to differ from the House of Representatives.

I say as I said before, that I see no ground for making these charges against the House of Representatives. They are to be presumed to act, and I believe have acted, from as good motives as we have, and it does not become us as a Senate, because we happen to differ from them, to denounce them, and say we will take no course to make an agreement with them for the reason that they have happened to do a thing which we think is unparliamentary. We do unparliamentary things ourselves; but it is not to be presumed that we do them from bad motives or with bad intent. I wish to settle this difficulty. I wish the Senate to act like a dignified body, and instead of flying into a passion and denouncing the House of Representatives, to send a message to them in good temper, requesting a further conference. That is the course becoming to us, and I hope we shall adopt it.

LOAN BILL.

A message was received from the House of Representatives by Mr. ALLEN, its Clerk, announcing that the House concurred in the Senate amendment to the bill (H. R. No. 582) to authorize a loan not exceeding the sum of \$15,000,000, with amendments.

Mr. PUGH and Mr. HUNTER rose.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. PUGH. I yielded the floor to the Senator from Maine. I did not know that I lost it.

Mr. HUNTER. I wish to ask for a pause in this business, that we may take up the loan bill. I want to get it through to send it to the President, and then we can resume this discussion, if there be no objection.

The PRESIDING OFFICER. (Mr. MASON.) It may be done by common consent. ["No objection!"] The Chair hears no objection.

The Senate proceeded to consider the amendments of the House to the amendments of the Senate to the bill (H. R. No. 582) to authorize a loan not exceeding the sum of \$15,000,000. The House concur in the amendments of the Senate with two amendments; first, in line four, strike out the word "fifteen," and insert "twenty," so that the amendment will read, "a sum not exceeding \$20,000,000;" and next, in line sixteen, to strike out "five," and insert "six," so that it will read, "bearing a rate of interest not exceeding six per centum," instead of five per centum.

Mr. HUNTER. I will say, in regard to the proposed increase of the sum, that the Secretary of the Treasury is of opinion, from examining the appropriation bills, so far as they have passed, that it would not be safe to adjourn until we have provided him with the right to borrow \$20,000,000. I will add that it was my original opinion, before the loan bill was introduced for \$15,000,000, that the sum should have been \$20,000,000 instead of \$15,000,000. I hope the Senate will concur in the amendment of the House.

Mr. PUGH. I think this increase of \$5,000,000 is a singular thing at this time of the session, and I am constrained to ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. SIMMONS. I should like to ask how long this loan is for?

Mr. HUNTER. The same length of time named in the original bill.

Mr. SIMMONS. Twenty million dollars, at six per cent., for fifteen years?

Mr. HUNTER. Yes. I ask that the question be taken separately on the different amendments.

The PRESIDING OFFICER. The question is on the amendment first read.

Mr. BENJAMIN. I desire to ask the Senator from Virginia whether he proposes to move a concurrence in the other amendment of the House?

Mr. HUNTER. I am willing to concur in it. I always thought it was a matter of indifference. I think it unimportant. Let that be settled just as the Senate choose. I would advise them to concur in it by way of closing the bill. I have no doubt it will be a five per cent. loan if we fix the maximum at six per cent.; but if they prefer to adhere to five per cent. as a maximum, I am very willing. I make no point on that.

Mr. SIMMONS. I suppose the Secretary of the Treasury will get about two millions premium on a six per cent. loan for \$20,000,000. That will make it \$22,000,000 instead of the \$15,000,000 originally asked for.

Mr. TOOMBS. As I have not concurred in the expenditures which have swollen this necessity, I simply wish to announce the reason why I shall not vote for this loan. I think the Government is right in demanding it, and I think Congress is bound to grant it; because it is utterly impossible for the Government to carry on the administration of the country without paying what is voted here; but as I am not responsible for the appropriations which I do not approve, I shall not borrow one dollar of the money, but let those who have voted the money raise it.

Mr. SIMMONS. What is the proposed amendment now?

Mr. HUNTER. Merely to add \$5,000,000 to the loan.

Mr. SIMMONS. I have no disposition to detain the Senate on this subject; but since the \$15,000,000 was asked for we were, by a special message in regard to the Utah war, yesterday told that the Treasury was relieved from an appropriation of about four and a half million dollars that was estimated for when this bill was first introduced. I am utterly surprised at the course of things here. This is the fourth proposition for a loan in the last five months, and I do not know how people make estimates. Here is \$4,500,000 diminution of the expenses by the abandonment of the three regiments, which are now said not to be desired. If I understood the message of the President yesterday, he said there would certainly be no occasion for calling out two of the regiments, and he did not desire the one for Texas; that is, \$4,500,000 of the money that was estimated for by the Treasury Department when this loan was asked, will not be spent. That so-called Utah war was assigned as a reason for most of the items in the deficiency bill, which was nearly ten million dollars. I was at a loss then to understand why that was not apprehended when the former loan bill was asked for.

On the 8th day of December, when the Secretary made his annual report to Congress, he reported that he would have enough to go through the year, and have over four hundred thousand dollars left at the end of this fiscal year. Within a fortnight of the meeting of Congress he asked for a \$20,000,000 loan, which you granted; and subsequently, by some sort of estimates that I could not comprehend, he asked for \$15,000,000 more. Since that time we have lessened the appropriations to the amount of at least \$4,500,000, and he asks a loan of \$5,000,000 in addition to the \$15,000,000. I do not know but that is all right. I certainly would not withhold it if I thought it would be needed; but I am utterly surprised at that system of financiering for a country.

Mr. HUNTER. All I have to say in regard to the appropriations is, it is true we do not propose to ask for the bill for volunteers. I think they will not be needed. But we have added to

appropriation bills in other respects beyond the amounts estimated.

Mr. HOUSTON. I believe the understanding is that only two of the regiments are to be dispensed with. I am authorized by the Secretary of War to say that it is desirable to have the regiments of rangers for Texas.

Mr. HUNTER. If that was so, it would only increase the appropriations.

Mr. HOUSTON. I hope that regiment will not be dispensed with.

Mr. HUNTER. I will only add that the expenditures are to be measured by the appropriations, not by the loans. The Secretary is of the opinion—and I am inclined to think he is right—that there will be great danger of an extra session having to be called unless we enlarge the loan to this amount. But it will be for the Senate to determine. It is a late hour of the night, and I hope we shall determine it one way or the other.

Mr. SIMMONS. I should like to ask the Senator from Virginia, as he seems to understand this matter, whether the five millions we appropriated in what was called the deficiency bill, in consequence of the anticipated troubles in Utah, for the next fiscal year, will not now, a great deal of it, remain in the Treasury for other uses, inasmuch as the war is likely to cease?

Mr. HUNTER. On that subject I am not authorized to speak; but I should think the state of affairs in Utah justify us in hoping that the expenditures will be diminished.

Mr. SIMMONS. I have no doubt, myself, from the estimates made when this loan was called for, that, including the three regiments and the \$5,000,000 appropriated for Army transportation, at least \$9,000,000 will be remitted to the Treasury for other uses. I cannot conceive how it is possible that, within a fortnight, we are called upon to add \$5,000,000 to the loan, though we have cut off \$9,000,000 from the appropriations. I cannot conceive how people can expect the Government to go on with such calculations.

Mr. CRITTENDEN. I simply want to inquire of the honorable Senator from Virginia what was the amount estimated by the Government itself for its expenses during the coming year? I think it was about seventy-four or seventy-five million dollars. Am I right?

Mr. HUNTER. Yes, sir. That was exclusive of the three regiments.

Mr. CRITTENDEN. I understand it was exclusive of that. It has been intimated that we have carried up the expenditures of the Government far beyond the means of the Government. Now, I do not know in what particular we have done this. The Government originally estimated for \$75,000,000, or more, exclusive of the regular regiments which they proposed should be permanently added to the Army, at an expense of four or five million dollars a year; and the Senate, for the sake of economy, provided volunteers. We should be credited for that much economy, at any rate. Now, we are told upon the part of the Government that we have swelled up the appropriations to a sum unexpected by them in the first instance. My friend from Georgia seems to think that we are bound to make this appropriation, because, he says, we have made the expenditure. I do not know in what way we have done it. We have not, in any case, gone beyond the ordinary appropriations made by Congress. Did not the Government anticipate and know that there were private claims against the Government, and that, to some extent, in justice, we were bound to allow them? Certainly. In what other particular have we surpassed the usual course of the precedents in Congress? We have prevented the Government from expending \$4,000,000 at least more than they desired to do with respect to the Army. I do not see that we are entitled to such a charge at all.

Mr. HUNTER. I hope the Senator from Kentucky does not understand me as making any such charge against Congress.

Mr. CRITTENDEN. No, sir; I do not.

Mr. WILSON. We received, this morning, a message from the President of the United States, which, it seems to me, was sent in here for the purpose of giving the country to understand that the Congress of the United States had gone much beyond the requirements of the Government in appropriation. Now, sir, I have paid some little attention to the subject of appropriations and the

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finances of the Government this year, and I do not think that any man who has paid any attention to those things has been at all disappointed in the estimates and calculations. In all the reading I have given the public documents, I have never read or heard of such estimates as we have had made this year from the Secretary of the Treasury.

Some of us said here, a few days ago, that this bill making a loan of \$15,000,000 would not carry us to the 1st of January. Every man in the country who devoted any attention to the subject knew it. The Senator from Rhode Island [Mr. SIMMONS] knew it as well then as he knows it now. I do not rise at the present moment to debate this question, but to state that when you have footed up these estimates and the appropriations of Congress, you will find, sir, that the Congress of the United States has not appropriated so much money as the Administration demanded. They have asked for more than we have given. Four fifths of the additional appropriations the Administration had a right to expect Congress would appropriate for matters which were right in themselves. I say four fifths of those appropriations the Government have anticipated.

But with all this, we have not exceeded the appropriations they have demanded. Why, sir, they demanded five regiments, which would have cost \$5,000,000 annually. They demanded ten vessels of war. Two million dollars more would have been required for that purpose. They demanded \$2,000,000 for fortifications. I believe we have given a small amount for that object—some five or six hundred thousand dollars. We all know, Mr. President, that the deficiency bill was pressed through here with all the power of the Government, and those of us who did not join in its support, no matter to which side we belonged, received the censure of the official journal of the Government.

This is the fact of the matter. I say here to-night, and I want the country to understand it, that the Congress of the United States has not appropriated as much money as this Administration demanded; that this loan, and all the loans and all the means to raise money for this Government is only to supply the absolute imperative demands of this Administration, and we shall hold the Administration responsible for this entire sum of money. This is all I wish to say upon the subject. It is no time for debating it, but I protest against settling upon this Congress, by the President or anybody else, the responsibility of having rendered necessary the addition of \$5,000,000 to this loan bill.

Mr. IVERSON. The Senator from Massachusetts is mistaken, I think, in regard to the amount of estimates made by the Administration. The Administration did not include, in the estimates for this session, anything for the five regiments. Those regiments were not raised. It became necessary, by act of Congress, to authorize them before they were estimated for. They were not part of the estimates; nor were there any estimates made for the ten sloops-of-war. They were not built, or authorized to be built, by Congress.

Mr. WILSON. They were demanded.

Mr. IVERSON. I know they were asked to be built, but their cost did not form a part of the original estimates.

Now, in relation to the present proposition, I will simply make this remark: if \$20,000,000 are authorized to be borrowed, and the appropriations do not require the expenditure, then there is no harm done. If we only authorize a loan of \$15,000,000, and the appropriations exceed the amount, then the Government must be embarrassed. If, on the other hand, we authorize a loan of \$20,000,000, and the appropriations shall not reach that sum, then, as a matter of course, the loan not being called for or demanded, the money will not be expended. Neither the Secretary of the Treasury, nor the President, has any power to put his hands into the Treasury and take out money without an appropriation made by Con-

gress. There is, therefore, no danger whatever in authorizing a loan of \$20,000,000. No man understands what is or will be appropriated by Congress. The appropriations may exceed much beyond what gentlemen on the other side of the Chamber seem to anticipate. It is certainly the safest course to authorize a loan of \$20,000,000, because no harm would come if it should exceed the amount necessary to be expended.

Mr. SEWARD. It is all very well for Senators to add \$5,000,000 to this bill. I might possibly, under the circumstances of the case, as it is shown by the Administration to be imperatively necessary, agree to it myself. I should be the more inclined to think I could vote in favor of such a proposition at the request of the Administration, if the Administration itself was ingenious in its exposition of the finances, and of its own action and of Congress. But we are met here on the last day of the session with a lecture, and reproved for prodigality, for extravagance by Congress, from the President of the United States, and it is followed up by an additional application for a loan of \$5,000,000. That causes me to review the whole of this subject, and I find that the Administration recommended, at the beginning of the session, provision for five regiments to be added to the standing Army, and for ten sloops-of-war to be added to the standing Navy of the United States. Both measures were submitted with a recommendation to Congress, and yet for neither did they estimate at all. Their calculations, therefore, fall short of their own demands for the public service, as they recommended Congress to provide for it by the immense amount of these provisions for additions to the Army and Navy.

Then, again, the Administration recommended to us, as a sacred duty, in order to maintain national faith, to pay the Amistad claim, which it was alleged was due to Spain, which Congress has made no provision to pay; and I suppose the Administration made no estimate for that amount. We shall have to complain of the Administration that it has recommended to us appropriations for which it has not estimated; and we have the merit of having reduced our appropriations for all these points within the limits which the Administration did recommend, and a great many other things of the same kind.

Then, Mr. President, in looking over the action of this Congress, I have been surprised to see the unanimity of both Houses in waiving and postponing large claims. There was a claim of \$347,000, I think it was, that was recommended to us by the Committee on Military Affairs, to pay an alleged war debt in Florida. There is a claim of five, six, or seven million dollars for the defense of Washington Territory in the Indian wars, both of which were passed by. There has been recommended to the consideration of Congress, by a proper committee, the payment of the bill for indemnity for French spoils, amounting to \$5,000,000, which Congress has omitted and refused to make any provision for. We have cut down our appropriations. A portion of us here—that portion with which I act—have asked Congress to amend the system for the collection of the revenue, by the substitution of domestic for foreign valuation of imports; which was refused by the friends of the Administration, upon the ground that its effect would be to raise an increased amount of revenue, and, therefore, that the Senate had no right to make such a bill under the Constitution. Sir, the Administration might well have reckoned that we should add to the appropriations made by Congress the sum of \$565,000 which was necessary, as shown by the War Department, to preserve our ports, our piers, our harbors and our rivers, on the sea-coast and lakes; and yet Congress, under the pressure of the Treasury, has declined to make those appropriations.

Now why cannot this Administration be just? Why can it not be manly and own before the world that, owing to circumstances beyond its control and unforeseen by the financiers here, and

unforeseen throughout the world, there has been a deficiency in our revenue; that their estimates were based on anticipations of revenue which have been disappointed, and they are obliged to depend for a season upon loans or else replenish the Treasury by the revision of the revenue laws? Either measures must be introduced for the revision of those laws, or else it is the intention to leave time to develop what shall be the necessary measures finally for the reimbursement of the loans. I should never have complained of the Administration under all the circumstances of the period if they had done that. I should never have complained of any deficiency in their estimates, but I cannot sit here contentedly and receive lectures from them for misjudgment or for extravagance in Congress.

Mr. BROWN. I think, Mr. President, it must be apparent to every one now, that this session can by no possibility close on Monday. It is utterly out of the question. I do not want to discuss the proposition under consideration. I am opposed to it. I do not think it can by any chance result in any good; and as the session must be prolonged, and it is now nearly twelve o'clock at night, I move that the Senate adjourn. ["Oh, no."]

The motion was not agreed to.

The PRESIDING OFFICER, (Mr. MASON.) The Chair will state that the question is on the first amendment of the House to the amendment of the Senate to this bill, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 24, nays 21; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Brown, Clay, Clingman, Davis, Fitch, Green, Gwin, Hunter, Iverson, Johnson of Arkansas, Jones, Mason, Reid, Rice, Sebastian, Slidell, Stuart, Wright, and Yulee—24.

NAYS—Messrs. Bell, Broderick, Chandler, Collamer, Crittenden, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Houston, Johnson of Tennessee, Kennedy, King, Pugh, Seward, Simmons, Toombs, Trumbull, and Wilson—21.

So the amendment of the House to the amendment of the Senate was concurred in.

The PRESIDING OFFICER. The question now is, on the next amendment of the House changing the rate of interest from five to six per cent. per annum.

Mr. BENJAMIN. I hope this second amendment will not be acceded to. I think it would be an equivalent to an increase of this loan for several millions beyond the apparent amount.

Mr. HUNTER. I prefer five to six per cent. myself. I concur in what the Senator from Louisiana has said. I am willing to vote down the amendment.

Mr. BENJAMIN. I trust it will be voted down.

The amendment was not agreed to.

On motion of Mr. HUNTER the title of the bill was amended so as to read: An act to authorize a loan not exceeding the sum of \$20,000,000.

PROPOSED ADJOURNMENT.

Mr. SLIDELL. I now renew my motion that the Senate adjourn. It is very evident that we can do nothing. We have passed all the appropriation bills.

Mr. CRITTENDEN. I hope we shall not adjourn. We can pass a number of private bills.

Mr. SLIDELL. I make the motion.

Mr. SEWARD called for the yeas and nays; and they were ordered; and, being taken, resulted—yeas 17, nays 29; as follows:

YEAS—Messrs. Allen, Benjamin, Bigler, Bright, Brown, Clay, Clingman, Harlan, Johnson of Arkansas, Johnson of Tennessee, Mason, Polk, Slidell, Toombs, Trumbull, Wright, and Yulee—17.

NAYS—Messrs. Bayard, Bell, Broderick, Chandler, Colamer, Crittenden, Davis, Fessenden, Fitch, Foot, Foster, Green, Gwin, Hale, Hamlin, Houston, Hunter, Iverson, Jones, Kennedy, King, Pugh, Reid, Rice, Sebastian, Seward, Simmons, Stuart, and Wilson—29.

So the Senate refused to adjourn.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker had signed the following enrolled bills

and joint resolution; which thereupon received the signature of the Vice President:

An act making appropriations for the transportation of the United States mail by ocean steamers and otherwise, during the fiscal year ending the 30th of June, 1859;

An act to supply deficiencies in the appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1858; and

A resolution in regard to the carrying of the United States mail from St. Joseph, in Missouri, to Placerville, in California.

ORDER OF BUSINESS.

Mr. CRITTENDEN. I hope the Senate will now consent to take up the bill for the relief of Jane Turnbull. I ask that it be taken up.

Mr. CLAY. I have been trying to make a report from a committee.

Mr. CRITTENDEN. And I have been trying to get up this bill for a long time.

Mr. IVERSON. I rise to a point of order. It is this: that at the time the Senate agreed by common consent to take up the loan bill there was a question pending which was only suspended for that purpose, and is now the only thing in order.

Mr. STUART. It was on my motion to recommit the Post Office appropriation bill to the committee of conference. That was the pending question, when, by unanimous consent, the loan bill was taken up.

The PRESIDING OFFICER. The opinion of the Chair is, that having been passed by, it gave precedence to the subject which has just been disposed of.

Mr. STUART. Oh, no, sir; the Post Office bill was simply passed over by unanimous consent, in order to consider the amendments to the loan bill, without displacing it at all.

Mr. BIGLER. I should like to ask the unanimous consent of the Senate to introduce a resolution.

Mr. BROWN. I object.

Mr. STUART. I think the Post Office bill is in the condition I have stated, that is on my motion to recommit the report to the committee of conference. I think it very important that the question should be disposed of. I hope the vote will be taken now.

The PRESIDING OFFICER. The present occupant of the Chair was not in at the time, but he now recollects that the subject before the Senate passed over by unanimous consent was the Post Office bill.

Mr. CRITTENDEN. It was interrupted by other business. I am sure my friend from Michigan would not wish us to vote on that question without having the necessary information in relation to it. I think the subject would suffer nothing by being allowed to remain in the House of Representatives, and leaving it unacted upon. If it be in order, I move to postpone the Post Office appropriation bill, in order to take up the bill I have mentioned.

Mr. FESSENDEN. I hope not. When there is so much important business before the Senate, and so many things that must be attended to, it seems to me to be pressing very hard that everything should be laid aside for these pensions to widows. I am perfectly willing that they should take their course; but really these appropriation bills must be disposed of before we adjourn; and I do not think pension bills of sufficient importance to the country at large to displace all other business.

The PRESIDING OFFICER. The Chair will state that it has been the usage of the Senate to lay aside any pending matter for the dispatch of public business, to take up something considered more pressing. The Chair understands that to be the condition of the bill making appropriations for the Post Office, and that is now the subject before the Senate. The Senator from Kentucky moves to postpone it with a view to take up the bill he indicates.

Mr. CRITTENDEN. Yes, sir; I do.

The motion was not agreed to; there being, on a division—ayes twelve, noes not counted.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the

Speaker had signed the following enrolled bill; which thereupon received the signature of the Vice President:

An act making appropriations for the expenses of collecting the revenue from customs.

POST OFFICE APPROPRIATION BILL.

The Senate resumed the consideration of the report of the second committee of conference on the bill (H. R. No. 556) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1859.

Mr. STUART. I hope the question will now be taken on the motion to recommit the report to the committee of conference.

Mr. PUGH. There was no such motion. The Senator got the floor, but there was a motion pending at the time. Then I made the point of order that the motion of the Senator from Michigan was not in order—

Mr. STUART. I dislike, exceedingly, to be engaged in disputation, but I certainly think—

Mr. PUGH. I gave way to the Senator from Maine a moment ago to make an explanation, and I lost the floor. If the Senator is going to make a speech, I do not give way.

Mr. STUART. I will not say anything until the Senator gets through, and then I shall ask the same privilege to be accorded to me, that he shall not say anything until I get through.

Mr. PUGH. The Senator from Georgia made his report from the committee of conference, and moved that the Senate adhere; and I do not understand how it is that the Senator from Michigan has got his motion ahead of anything else. It is not an amendment. I know he made the suggestion in his argument. I think the suggestion was completely dispelled by the Senator from Maine, and several other Senators, who responded to him. You cannot recommit to a committee that has not any existence. The committee of the House is gone; it is discharged by making its report; but that is not the question before the Senate. The Senator from Georgia moved that we adhere to our amendments to this bill; and I asked the then occupant of the chair, (the Vice President, I believe,) whether it was in order for the Senate to adhere to its amendments to a bill not in their possession? At that stage, I believe, the Senator from Virginia, [Mr. HUNTER,] the Senator from Maine, [Mr. FESSENDEN,] and several others, agreed that the better course would be simply to ask a conference. But if the motion of the Senator from Michigan is in order, that is, if he has the floor to make it, I make the question of order that we cannot recommit to a committee not in existence; but I submit that he cannot make his motion until the Senator from Georgia withdraws his.

The PRESIDING OFFICER. (Mr. MASON.) The Chair would state to the Senator from Ohio, that, as the Chair understands, the pending motion is to recommit the bill to the committee of conference.

Mr. PUGH. We have no bill.

Mr. STUART. Now, I beg the Senator to be as respectful to me as I was to him, and let me state what I would have stated to the Senator with great pleasure, if he had been at all willing to listen. When I suggested that the proper course was to move to recommit this question, the Senator from Georgia withdrew his motion to adhere, distinctly and readily; and the Chair—the Vice President being the occupant—stated it to the Senate, and stated the question to be on my motion to recommit.

The PRESIDING OFFICER. The Chair understands that that is the question.

Mr. CRITTENDEN. Let us have a vote on that motion.

Mr. PUGH. I move to amend the motion, by striking out all after the word "ordered" and inserting:

That a conference be requested of the House of Representatives touching the disagreement of the two Houses on the amendments of the Senate to the bill of the House (No. 556) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1859, and on the failure of the House of Representatives to notify the Senate of any action upon the said amendments since the last conference.

Mr. STUART. A motion to recommit is not amendable. The motions are put to the Senate in the order in which they are made. Now, sir—

Mr. BIGLER. I hope the Senator will allow

me to introduce a resolution in regard to the adjournment.

Mr. STUART. The Senator from Mississippi will object to it.

Mr. IVERSON. With the consent of the Senator from Michigan I desire to give notice that on to-morrow, or some subsequent day, I shall introduce a resolution to allow the clerk of the Committee on Military Affairs the same pay that is allowed the clerk to the Committee on Finance.

Mr. STUART. I am entirely disinclined to go into any lengthy discussion on this subject, and shall not do so. I was only about to say that such a motion as that submitted by the Senator from Ohio cannot be made. No proposition for a conference can be made except in the House that has possession of the bill. That rule applies to all cases. I think the subject has been amply discussed; and I hope the Senate will take the question upon my motion.

The PRESIDING OFFICER. The Chair does not consider the motion amendable as proposed by the Senator from Ohio. He does not consider such an amendment in order. The 11th rule of the Senate prescribes the order and precedence of these motions; and amongst them is the motion to commit.

Mr. PUGH. Then I ask the Chair whether he decides the motion of the Senator from Michigan to be in order? What are we to commit? We have no bill to commit, and we have no committee to which to commit it. I believe that is the end of the story, and I simply ask the Chair to decide the question; because if the Chair so decides I shall certainly take an appeal.

The PRESIDING OFFICER. The Chair cannot decide that there is no committee to which the commitment can be made.

Mr. PUGH. This is a motion to commit to a committee of conference a bill which is not in our possession.

The PRESIDING OFFICER. The Chair cannot decide upon the question of order. The Senate may rule it according to its opinions; but the Chair cannot decide the question of order.

Mr. PUGH. I only ask the Chair whether the motion as made by the Senator is or is not in order? I have a right to a decision.

The PRESIDING OFFICER. The Chair entertained it as in order.

Mr. PUGH. Then I appeal from the decision of the Chair.

Mr. IVERSON. I desire to ask the Chair whether it would be in order now to move that the Senate recede from the amendments to which the House disagree?

The PRESIDING OFFICER. The Chair considers the pending question to be on the motion of the Senator from Michigan to commit the bill.

Mr. IVERSON. This question has been argued all on one side, and I propose to submit a few remarks on the other. My opinion is, that the best, quickest, and easiest way to get out of this difficulty, in which we now seem to be involved, is by yielding to the House, and giving up the question. That is the easiest mode of getting rid of it. If the proposition of the Senator from Michigan prevails, what will it avail? He recommit the subject to the committee of conference. Well, that may be very proper so far as our committee is concerned; but how will it reach a committee of conference in the House of Representatives? That committee have already made their report to the House, it is understood. The bill has been sent back, or carried back, by that committee to the House of Representatives, and there laid upon the table. Now, sir, can that committee come together again without a reinvestment of power from the House of Representatives? That committee has expended its functions. It can no more have possession of that bill, and come back and meet the committee upon the part of the Senate, than it can go to the moon to-night. It has no such parliamentary power. The committee is *functus officio*, as the Senator from Ohio very properly observed. The committee of the House cannot meet the committee of the Senate again on the action of the House of Representatives, unless the House of Representatives shall give them additional power, and either create a new committee, or give the old committee additional power to meet and act in conference. It will, therefore, result in nothing.

If the motion of the Senator from Virginia to raise a new conference committee should prevail, what would it result in? The House of Representatives have already indicated their determination on this question. They have, upon two occasions, determined that they would not agree to the amendments of the Senate. They have acted upon the original question of concurring in the amendments; they voted down the amendments by a very decided majority; and, upon concurring with the report of the committee of conference, they stated the same opinion, and gave the same decision.

Now, sir, is it at all probable, is it possible, if you make this issue between the House of Representatives and the Senate upon these amendments, that the House of Representatives will yield? And which ought to yield, the Senate or the House, upon a question of this sort? In my opinion, the Senate ought to yield, if one or the other is to yield. Sir, the House of Representatives come directly from the people; they reflect the voice of the people; they speak the sentiments and wishes of the people; and it is to be supposed that in this expression of opinion they represent what the people of the United States want in relation to this question of franking, and this raising of Post Office revenue. If either House must yield, I think the House of Representatives has a right to hold out, and the Senate to yield. What will come of it if the Senate are obstinate and the House obstinate? Why, undoubtedly, the bill must fall. This bill, which is absolutely essential to carry on the business of the Post Office Department, must fall between the two Houses unless one or the other does yield. What will be the result if the bill fails? The President will issue a proclamation, and call Congress together again. If the House of Representatives are fixed upon this question, and will not yield to these obnoxious amendments, I want to know whether the call of another session will be likely to accomplish a different result?

Mr. STUART. Will the Senator allow me to interrupt him?

Mr. IVERSON. For what purpose?

Mr. STUART. Simply to make a suggestion; that is all.

Mr. IVERSON. Make it.

Mr. STUART. If we had the bill we could vote to recede; but we cannot vote to recede until we get possession of the bill.

Mr. IVERSON. I will tell you what we can do. We can reach the same object in a different method, by taking up the bill which the House of Representatives has sent us, and passing it.

Mr. STUART. I object to that being done.

Mr. BROWN. We cannot do that.

Mr. IVERSON. My dear sir, we can do it; and that, in my opinion, is the course for us to pursue. I understand it is parliamentary. I do not profess to know much about parliamentary law, but I understand, from more experienced Senators than myself, that it has been done frequently. When the House gets possession of the bill they can dispose of it by laying it on the table, if they choose to do so, and then reenacting a bill of precisely a similar character to the other. That is what the House of Representatives has done. The committee of conference carried the bill, which originated in the House of Representatives, back to the House; and being in the possession of the House, the House laid it on the table. Laying it on the table is the end of the bill, and you cannot reach it; all the parliamentary powers of earth cannot resurrect that bill, in my opinion. It is dead and gone; and the only mode by which this question can be revived is by a new bill, such as the House of Representatives has sent to us. Let us take it up and act upon it, and amend it if we choose.

I wish to say, as my colleague announces a determination to go to the people against the members of the House on this question, that if he desires it he can do it just as well in the present position as to force an expression from the House of Representatives a dozen more times upon this question. They have already expressed their opinion upon them. Their votes upon those amendments are upon the record; and if any public odium attaches to their course they can be reached before the people just as well as if we force them to another record. They will certainly bear the

responsibility, as they are entitled to bear it; and if any public odium is attached to their conduct I apprehend they are willing to meet it.

Mr. BIGLER. I now renew my application to the Senate to be permitted to introduce a joint resolution in relation to the final adjournment. The Senator from Mississippi has withdrawn his objection to it.

Mr. GREEN. I object.

Mr. BIGLER. I desire to state that the resolution proposes to rescind the resolution for an adjournment on Monday.

Mr. GREEN and Mr. PUGH. I object to the resolution.

Mr. BIGLER. Then I will give notice—

Mr. CRITTENDEN. I object to the gentleman going on. He has no right to the floor.

Mr. BIGLER. I think that after a few moments' reflection gentlemen will agree to let this resolution be introduced—

Mr. CRITTENDEN. I call the Senator to order.

The PRESIDING OFFICER. The Senator can only proceed by common consent.

Mr. PUGH. I object.

Mr. BIGLER. Then I give notice that I shall ask leave to introduce it on Monday.

Mr. JOHNSON, of Arkansas. I move that the Senate do now adjourn.

Mr. CHANDLER called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. HUNTER. Before the vote is announced, I wish to ask general consent to submit a motion that when the Senate adjourn, it be to meet at ten o'clock on Monday.

Several SENATORS. Say nine o'clock.

Mr. HUNTER. Very well; I will say nine o'clock.

Mr. BROWN. I hope not.

The VICE PRESIDENT. Is there objection?

Mr. BROWN and Mr. TOOMBS. I object.

Mr. TRUMBULL. Before the vote is announced, I desire to enter a motion to reconsider the adoption of a motion to print a paper.

Mr. PUGH. I object.

Mr. TRUMBULL. I wish merely to enter the motion to reconsider.

Mr. PUGH. I have no objection, if it will not delay it.

Mr. TRUMBULL. Objection being withdrawn, I desire to enter a motion to reconsider the motion to print a paper—

Mr. TOOMBS. I object.

Mr. TRUMBULL. I give notice that I shall make the motion whenever I get the opportunity.

The vote on the adjournment was then announced—yeas 23, nays 22; as follows:

YEAS—Messrs. Allen, Benjamin, Bigler, Brown, Clay, Clingman, Harlan, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, King, Mason, Polk, Rice, Seward, Slidell, Stuart, Thomson of New Jersey, Toombs, Wright, and Yulee—23.

NAYS—Messrs. Bayard, Broderick, Chandler, Collamer, Crittenden, Davis, Fessenden, Fitch, Foot, Foster, Green, Hale, Hamlin, Houston, Jones, Pugh, Reid, Sebastian, Simmons, Trumbull, Wade, and Wilson—22.

So the motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, June 12, 1858.

The House met at eleven o'clock, a. m.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, transmitting a report from the Secretary of War, with the accompanying papers, in obedience to the resolution of the House of Representatives of the 2d of June, 1858, inclosing copies of contracts entered into between the United States and Craig & Righter, for deepening the channel of the Southwest Pass and Pass à l'Ouvre of the Mississippi river, and the report of the board of engineers thereon, &c.; which was laid on the table, and ordered to be printed.

SUSPENSION OF JOINT RULES.

The SPEAKER. The Chair desires to call the attention of the House to a joint resolution of the Senate providing for a suspension of the 16th and 17th joint rules of the two Houses for the remainder of the present session of Congress.

Mr. JONES, of Tennessee. Does that resolution propose to suspend them entirely?

The SPEAKER. For the remainder of the session.

Mr. JONES, of Tennessee. I think we had better suspend them as each special case shall require. It is at least not now necessary to suspend the 17th joint rule, as we may get through to-day, and there may be no bill to send to the President on Monday, the last day of the session.

Mr. BARKSDALE. No harm will be done by suspending the rules.

Mr. J. GLANCY JONES. I prefer that the suspension shall take place upon each particular bill.

Mr. CLAY. That will only occasion delay.

The SPEAKER. Is there any objection to taking up this resolution?

Mr. JONES, of Tennessee. I object.

Mr. EDIE. I move a suspension of the rules.

Mr. JONES, of Tennessee. We had better pass the bills, and suspend the joint rules at the same time.

Mr. DAVIS, of Indiana. That will consume too much time.

Mr. MASON. I rise to a privileged question. Yesterday I obtained the floor, and asked the unanimous consent of the House to discharge the Committee of the Whole on the state of the Union from the consideration of the pension bill for the old soldiers of the war of 1812. The request was unanimously agreed to. I yielded the floor to a report of a committee of conference; and it was agreed by the Speaker and the whole House that I should have the floor again as soon as that business was disposed of. I now claim the floor under that understanding.

Mr. DAVIS, of Indiana. I did not so understand it.

Mr. CRAIGE, of North Carolina. I heard unanimous consent given.

The SPEAKER. The Chair does not understand the facts as the gentleman from Kentucky does. The gentleman from Kentucky was recognized, and was about to submit his motion that the Committee of the Whole on the state of the Union be discharged from the further consideration of a private bill.

Mr. MASON. I named the bill specifically.

The SPEAKER. Before the Chair propounded the question to the House, the gentleman from Virginia stated he had a privileged report to submit. The Chair, and members upon the floor, suggested to the gentleman from Kentucky to waive his right to the floor till the report of the gentleman could be disposed of.

Mr. MASON. And that I should have it again as soon as that report was disposed of.

The SPEAKER. The Chair thinks that the liberality which was extended by the gentleman from Kentucky, to enable the public business to go on at that time, gives him a right to be recognized by the Chair at an early period.

Mr. CLEMENS. I was waiting for the question to be propounded to the House, in order to make an objection, and therefore I made no objection at the time the gentleman asked unanimous consent. The gentleman from Kentucky is mistaken in supposing that he had the unanimous consent of the House for his motion.

The SPEAKER. The question is upon the motion of the gentleman from Pennsylvania to suspend the rules, so as to take up the message of the Senate in reference to suspending the 16th and 17th joint rules of the two Houses.

Mr. J. GLANCY JONES demanded tellers.

Tellers were refused.

The motion was agreed to—two thirds voting in favor thereof—and the resolution was taken up for consideration.

Mr. EDIE demanded the previous question on the adoption of the resolution.

Mr. JONES, of Tennessee. If the gentleman will withdraw his call for the previous question, I will move that the 16th and 17th joint rules be expunged altogether.

The previous question was seconded, and the main question ordered to be put; and, under the operation thereof, the resolution was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PENSION TO SOLDIERS OF WAR OF 1812.

Mr. MASON. I now move that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill granting pensions to the soldiers of the war of 1812.

Mr. CLEMENS. I object.

Mr. MASON. Then I move to suspend the rules.

Mr. CLEMENS demanded the yeas and nays.

Mr. MASON. If the House will allow me, I will make a statement in reference to this matter. I propose, at the pleasure of the House, either to put this bill upon its passage, with the amendment suggested by the gentleman from Georgia, [Mr. GARTRELL,] or, if the House prefer, to make it the special order for some early day next session.

Mr. HOUSTON. I object to debate.

Mr. SAVAGE. I ask the indulgence of the House for a moment. I think this matter can be satisfactorily disposed of.

The SPEAKER. Objection is made.

Mr. JEWETT demanded the yeas and nays upon the suspension of the rules; and also called for tellers upon the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

Mr. MAYNARD. I call for tellers on the question.

Tellers were not ordered.

The rules were not suspended, (two thirds not having voted in favor thereof.)

JOHN DONALDSON AND OTHERS.

Mr. CLAY. I ask the unanimous consent of the House to take from the Speaker's table two Senate bills of a private character. I make this request under peculiar circumstances. The State of Arkansas—as gentlemen are aware—is, at this time, wholly unrepresented on this floor; and these bills, which will not occupy five minutes, are for the benefit of citizens of that State. The first bill is Senate bill (No. 54) for the relief of the representatives of John Donaldson, Stephen Hurd, and others.

Mr. SANDIDGE. I beg to say a word here. If the House will give as much time to taking up all the bills on the Speaker's table in order, as will be consumed in efforts to take them up out of their order, we can dispose of them all.

Mr. BINGHAM. I object to debate.

Mr. CLEMENS. I ask the gentleman from Kentucky whether these bills appropriate any money?

Mr. CLAY. No, sir.

Mr. EDIE. I understand they are in relation to holding courts.

Mr. CLAY. Under the peculiar circumstances I hope there will be no objection.

Mr. BINGHAM. I object.

Mr. CLAY. I move to suspend the rules, so as to enable me to take up the bills.

Mr. PHELPS, of Minnesota. Can I amend that motion, so as to make it include another bill which I wish to have taken from the Speaker's table?

The SPEAKER. Not if there be objection.

Objection was made.

The question was taken; and the rules were not suspended.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, its Secretary, informing the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the Senate amendments to the Army appropriation bill.

REVENUE BILL.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. COMINS. I ask the gentleman from Pennsylvania to yield me the floor that I may move to discharge the Committee of the Whole on the state of the Union from the further consideration of the light-house bill, that it may be put upon its passage, and that it may be sent to the Senate for action by that body.

Mr. J. GLANCY JONES declined to yield the floor.

Mr. WASHBURN, of Illinois. I hope the

gentleman from Pennsylvania will accede to the request of the gentleman from Massachusetts.

Mr. J. GLANCY JONES declined.

The question was taken; and the motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BARKSDALE in the chair,) and proceeded to the consideration of the bill (H. R. No. 466) making appropriations for expenses of collecting the revenue from customs, with the amendments of the Senate thereto.

MESSAGE FROM THE SENATE.

The committee having risen informally, a message was received from the Senate by Mr. ASBURY DICKINS, its Secretary, informing the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the Indian supplemental appropriation bill.

MESSAGE FROM THE PRESIDENT.

A message, in writing, was received from the President of the United States, by Mr. J. B. HENRY, his Private Secretary.

The message was read, as follows:

To the Senate and House of Representatives:

I feel it to be an indispensable duty to call your attention to the condition of the Treasury. On the 19th day of May last the Secretary of the Treasury submitted a report to Congress "on the present condition of the finances of the Government." In this report he states that, after a call upon the heads of the Departments, he had received official information that the sum of \$37,000,000 would probably be required during the first two quarters of the next fiscal year, from the 1st of July until the 1st of January. "This sum," the Secretary says, "does not include such amounts as may be appropriated by Congress over and above the estimates submitted to them by the Departments, and I have no data on which to estimate for such expenditures. Upon this point Congress is better able to form a correct opinion than I am."

The Secretary then estimates that the receipts into the Treasury from all sources, between the 1st of July and the 1st of January, would amount to \$25,000,000, leaving a deficit of \$15,000,000; inclusive of the sum of about three million dollars, the least amount required to be in the Treasury at all times, to secure its successful operation. For this amount he recommends a loan. This loan, it will be observed, was required, after a close calculation, to meet the estimates from the different Departments, and not such appropriations as might be made by Congress over and above these estimates.

There were embraced in this sum of \$15,000,000, estimates to the amount of about one million seven hundred and fifty thousand dollars for the three volunteer regiments authorized by the act of Congress approved April 7, 1858; for two of which, if not for the third, no appropriation will now be required. To this extent a portion of the loan of \$15,000,000 may be applied to pay the appropriations made by Congress beyond the estimates from the different Departments, referred to in the report of the Secretary of the Treasury.

To what extent a probable deficiency may exist in the Treasury between the 1st of July and the 1st of January next, cannot be ascertained until the appropriation bills, as well as the private bills containing appropriations, shall have finally passed.

Adversity teaches useful lessons to nations as well as individuals. The habit of extravagant expenditures fostered by a large surplus in the Treasury must now be corrected, or the country will be involved in serious financial difficulties.

Under any form of government, extravagance in expenditure must be the natural consequence, when those who authorize the expenditure feel no responsibility in providing the means of payment. Such had been for a number of years our condition, previously to the late monetary revolution in the country. Fortunately, at least for the cause of public economy, the case is now reversed; and to the extent of the appropriations, whatever these may be, ingrafted on the different appropriation bills, as well as those made by private bills, over and above the estimates of the different Departments, it will be necessary for Congress to provide the means of payment before their adjournment. Without this, the Treasury will be exhausted before the 1st of January, and the public credit will be seriously impaired. This disgrace must not fall upon the country.

It is impossible for me, however, now to ascertain this amount, nor does there at present seem to be the least probability that this can be done, and the necessary means provided by Congress, to meet any deficiency which may exist in the Treasury, before Monday next at twelve o'clock, the hour fixed for adjournment, it being now Saturday morning at half past eleven o'clock. To accomplish this object, the appropriation bills, as they shall have finally passed Congress, must be before me, and time must be allowed to ascertain the amount of the moneys appropriated, and to enable Congress to provide the necessary means. At this writing it is understood that several of these bills are yet before the committees of conference, and the amendments to some of them have not even been printed.

Foreseeing that such a state of things must exist at the close of the session, I stated, in the annual message to Congress of December last, that, "from the practice of Congress, such an examination of each bill as the Constitution requires has been rendered impossible. The most important business of each session is generally crowded into its last hours, and the alternative presented to the President is either to violate the constitutional duty which he owes to the people, and approve bills which, for want of time, it is

impossible he should have examined, or, by his refusal to do this, subject the country and individuals to great loss and inconvenience."

"For my own part, I have deliberately determined that I shall approve no bills which I have not examined; and it will be a case of extreme and most urgent necessity which shall ever induce me to depart from this rule."

The present condition of the Treasury absolutely requires that I should adhere to this resolution on the present occasion for the reasons which I have heretofore presented.

In former times, it was believed to be the true character of an appropriation bill simply to carry into effect existing laws and the established policy of the country. A practice, has, however, grown up of late years to ingraft on such bills at the last hours of the session large appropriations for new and important objects not provided for by preëxisting laws, and when no time is left to the Executive for their examination and investigation. No alternative is thus left to the President but either to approve measures without examination, or, by vetoing an appropriation bill, seriously to embarrass the operations of the Government. This practice could never have prevailed without a surplus in the Treasury sufficiently large to cover an indefinite amount of appropriations. Necessity now compels us to arrest it, at least so far as to afford time to ascertain the amount appropriated, and to provide the means of its payment.

For all these reasons, I recommend to Congress to postpone the day of adjournment for a brief period. I promise that not an hour shall be lost in ascertaining the amount of appropriations made by them for which it will be necessary to provide. I know it will be inconvenient for the members to attend a called session, and this, above all things, I desire to avoid. JAMES BUCHANAN.

WASHINGTON CITY, June 12, 1858.

Mr. J. GLANCY JONES. I move that the message of the President be laid on the table and ordered to be printed. I will remark in connection with it that the message is based on the supposition that the House will not finish the appropriation bills till, perhaps, some late hour to-night. There are yet unfinished the Indian supplemental bill, the naval bill, (on which the House disagreed to the report of the committee of conference,) the revenue bill, (which need not occupy twenty-five minutes,) the post office bill, (which is passed by the House and the amendments acted on by the House,) the mail steamer bill, (which is now before a committee of conference,) the bill for the three regiments of volunteers, and the loan bill.

Mr. COMINS. And the light-house bill.

Mr. J. GLANCY JONES. I do not include that. That belongs to the gentleman from Massachusetts. The loan bill has been kept back for one simple purpose. It is the desire of the Executive branch of the Government to ascertain, outside of the estimates of the Secretary of the Treasury based on existing laws, what will be required for the public expenditures. There is a contingency left open for the legislation of Congress on private bills, and on such public bills as may appropriate more than the estimates. Now, I propose, if it be the will of the House, to adjourn on Monday at twelve o'clock. [Cries of "Good!"] I think it can be done. But in order to do it, this programme will have to be adhered to. In the first place, I propose to take up the loan bill to-day, and pass it at \$15,000,000. I propose to take up not the Senate bill, but the House bill, and on its being sent back it will be open to amendment in the Senate and can be kept there long enough to permit the appropriation bills to be figured up, so that the Administration may know the amount of contingencies arising from increased appropriations. I propose, therefore, to take action on the revenue bill, and on the loan bill, and on a bill to amend the sub-Treasury law, and on the balance of the appropriation bills. My opinion is, that the House can pass intelligently on all these bills before four o'clock to-day, and if that is done, I believe that we can adjourn on Monday at twelve o'clock. [General shouts of "Good!"]

Mr. BARKSDALE. I ask leave to make a suggestion.

Mr. REAGAN. I desire to say a word to the House.

Mr. PHILLIPS. I rise to a question of order. I wish to know whether there is not an order of the House to go into Committee of the Whole on the state of the Union, and whether the committee did not informally rise for the purpose of receiving a message from the President of the United States.

Mr. REAGAN. I trust the gentleman will not interrupt me now. I desire to call the attention of the House to that part of the President's message which refers to the organization of a regiment of volunteers for Texas.

Mr. PHILLIPS. I object.

Mr. REAGAN. I trust the gentleman will not take the floor from me by this means.

[A message from the Senate, by Mr. DICKINS, their Secretary, announced that the Senate had passed a bill (S. No. 278) concerning the courts of the United States in the district of Arkansas; and a resolution (S. No. 26) for the benefit of the nearest male heir of the late Major General Towson, United States Army; in which he was directed to ask the concurrence of the House.]

The SPEAKER. In reference to the point of order raised by the gentleman from Pennsylvania, while it is true that the Speaker resumed the chair informally, the message from the President was, by unanimous consent of the House, received and read, and the Chair is of opinion that it must be disposed of.

[A message from the Senate, by Mr. DICKINS, their Secretary, announced that the Senate insisted on its amendments, disagreed to by the House, to the Post Office appropriation bill, and asked for a conference on the disagreeing votes of the two Houses.]

Mr. REAGAN. Mr. Speaker, I know the impatience of the House, and nothing but a sense of duty which I dare not shrink from, in view of the condition of my State, would warrant me in rising now to occupy the attention of the House for a few moments. In the special message the President sent in to the House a day or two ago, notifying us of the probable termination of the Mormon war, he informed us that there would be no necessity for the appropriation for the two regiments of volunteers authorized by the bill which lately passed Congress. He then suggested also that it might not be necessary to appropriate for the regiment of mounted volunteers for the defense of Texas. In the message just read, he again makes the same suggestion in a manner which must attract the attention of the House, and which, I fear, might influence the action of the House upon the subject, unless some statement were made by me or by some other gentleman who knows the condition of the frontier of Texas.

The special message which was sent in a few days ago seemed to contemplate the fact that the troops which had heretofore been assigned for the protection of the frontiers of Texas were still there. I desire to say that that must have been based upon very inaccurate information. The infantry regiment is still upon the frontier of Texas, but the mounted regiment of regulars heretofore upon the frontier (the most efficient portion of the force there for the protection of that frontier) has long since been ordered from the frontier. I have been informed, in conversation with the Secretary of War, that that order has been countermanded; but my colleague and myself have been receiving information from the Governor and citizens of the State, and through the newspapers of the State, and through every other medium through which we could expect information, of the fact that this force has already gone from the frontier, and left it entirely unprotected.

A few days ago I received a letter from a distinguished citizen of my State, General Tarrant, informing me that in consequence of the withdrawal of the troops of the United States—

Mr. J. GLANCY JONES. If the gentleman will allow me, I desire to say to him that the House has already passed the bill just as he desires it, and if the Senate will only take up the bill they can act on it as they see fit.

Mr. REAGAN. I was going on to say that the frontier settlements are now being assailed by the Indians; that quite a number of citizens have been killed, and that about a thousand horses have been stolen. Two families have been lately murdered in the vicinity of Fort Belknap.

Mr. BRYAN. Will my colleague yield to me for a moment?

Mr. REAGAN. No, sir; not now. My colleague can be heard when I have concluded what I desire to say.

I desire, also, to say that, for the purpose of securing the protection of the frontier, the Governor of Texas has had to assume the responsibility of ordering out, upon his own motion, a corps of volunteers.

Mr. GRANGER. How many?

Mr. REAGAN. One hundred and ten men, under the command of Colonel John S. Ford, who, in connection with a like number of friendly Indians, have pursued the Camanches to their haunts

on the Canada river, and have recently had a battle with them, in which seventy-six were killed, eighteen taken prisoners, and over three hundred horses retaken. A more decisive blow has been stricken by those one hundred and ten volunteers and a like number of friendly Indians, in the short time during which they have been in the service, and more has been done for the protection of the frontier than, I venture to say, has been done by the regular Army of the United States, three thousand in number, during the last five years.

Mr. Speaker, the people of Texas have a right to expect protection; and not only that, but it is the opinion, expressed decidedly, now, as heretofore, by the Secretary of War, that this additional regiment is indispensable, not only for the protection of the frontier, but for the protection of the overland mail route to the Pacific, running through Texas and the southern portion of New Mexico, as well as the route by Albuquerque, authorized the other day. Both those routes must be protected, and the frontier must be protected; and I understand that a force is to be retained in Utah to retain the people in subjection.

I trust that, if this question comes up for the action of the House, in view of the suffering condition of the frontier, and in view of the necessity of protecting those mail routes, and routes of travel, the House will sustain the proposition.

Mr. PHILLIPS. I now move the previous question.

Mr. BARKSDALE. I ask the gentleman to allow me to make a single remark.

Mr. PHILLIPS. If I yield to one I must yield to all.

Mr. BARKSDALE. It is with reference to the public business that I desire to speak.

Mr. PHILLIPS. And so does the gentleman from Tennessee, [Mr. SAVAGE.]

Mr. SAVAGE. I only want to say that I shall object to the chairman of the Committee of Ways and Means opening his mouth unless an opportunity is given to reply to what he says.

Mr. J. GLANCY JONES. The chairman of the Committee of Ways and Means will open his mouth whenever he pleases, when he is in order.

Mr. PHILLIPS. I insist on the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the message was laid upon the table and ordered to be printed.

COLLECTION OF THE REVENUE.

The Committee of the Whole on the state of the Union then resumed its session and the consideration of the bill making appropriations for the expenses of collecting the revenue from customs.

Mr. J. GLANCY JONES. The debate has been terminated on this bill in five minutes. I do not wish to consume my hour, and will forbear saying anything now, with the understanding, that if it becomes necessary, I may avail myself of a portion of my time as the amendments come up.

The amendments were read.

Mr. J. GLANCY JONES. When this bill was before the House, on a former occasion, I explained its provisions; and the committee will recollect the facts I stated on that occasion. The original system was for the collecting officers to collect the revenue, and to deduct out of it the amount of their compensation, and then pay the balance into the Treasury. In 1846, if my memory serves me right, this law was so far modified as to provide for the payment into the Treasury of the entire revenue, including the revenue of the Post Office; and then that appropriations for the expenses of its collection should be made. It will hardly be necessary for me to debate the propriety and necessity of this system. It has proved itself to be correct. No exception, I believe, has been taken to it.

The question which arose on the former consideration of this bill was as to the amount. A question was also raised by my friend from Tennessee, [Mr. JONES,] as to whether it should be permanent or annual. The whole question of an annual or permanent appropriation bill for the purpose of collecting the revenue was discussed at great length when this system was adopted by Congress. It is utterly impossible for this Government to adopt a good, self-maintaining, and working system for the collection of its revenue

if the appropriations are made from year to year. The only system which enables the Department to work well, efficiently, and economically, is a permanent appropriation. But a permanent appropriation does not mean, as many gentlemen seem to understand it, an appropriation out of the reach of Congress. It is within the reach of Congress every session. Every time you pass upon your appropriation bill, you can modify, repeal, or change this system. It does not require legislation to be enabled to do that. It is simply a permanent appropriation until otherwise ordered by Congress. I make this remark for the purpose of removing from the minds of any members of the House, who may be under it, the impression that a permanent appropriation puts it beyond the control of Congress. It is just as absolutely within the control of Congress as any other measure. It enables the Secretary of the Treasury to adopt a general system founded upon some permanent principles. It is subject, from session to session, to the control of Congress.

Now, as to the amount. It was ascertained by the Secretary of the Treasury—as will be seen by reference to the finance report—that it cost this Government \$3,600,000 during the last fiscal year to collect the revenue. The collection of the revenue is based upon a system under the law. It is not based upon the arbitrary will of the Secretary of the Treasury. It is not the creature of any man's fancy. The Secretary of the Treasury is the mere executive officer to carry out the law. And I will say that I stand ready to cooperate with gentlemen in judicious reform, not coming in conflict with the operations of existing law. I say here in my place, that it is utterly impossible for the Executive Department to collect the revenue with a less sum than \$3,600,000. That amount was required and expended last year. It is difficult, and almost impossible, to make an approximate estimate for the future. We all know the rapid expansion of this country. Our progress has been so great that no Secretary could safely take a past year's expenditure for the next year's appropriation.

You will find, by the estimates, that it requires \$2,500,000 to collect the revenue. Add to that the amount which was deducted for collecting the revenue upon the Pacific coast, and you have the sum of \$3,600,000; and that is the sum which will be required for the next year. With a view to a permanent system, the Secretary of the Treasury stated that \$400,000 more would be required as a margin to go upon, to provide for an expansion of the system, so as not to require additional legislation next session. The Senate amendment strikes out \$4,000,000, and inserts \$3,000,000. That amount will not answer. The Committee of Ways and Means, not being desirous of raising an issue with the Senate, and admitting that we may get along with less than four million dollars, and remembering that Congress will be again in session in less than six months, recommend an amendment to the Senate amendment. The Senate amendment strikes out "\$4,000,000," and inserts "\$3,000,000." The Committee of Ways and Means recommend a concurrence in the Senate amendment, with an amendment striking out "\$3,000,000," and inserting in lieu thereof "\$3,600,000."

Mr. COLFAX. Mr. Chairman, I am in favor of concurring with the Senate in their amendment, by which they reduce the appropriation in our original bill for collecting the revenue from \$4,000,000 to \$3,000,000 a year; and I sincerely trust, when the Senate now sends us the first proposition for retrenchment which we have seen here this session, that the House will disregard the opposition of party leaders on the other side, and cordially concur in it. A fortnight since, when the chairman of the Committee of Ways and Means was pressing this bill upon the House, I took issue with him as to the necessity of so large an appropriation, and endeavored to reduce it to \$3,000,000; but the House concurred with the chairman, and by nine majority passed the bill, appropriating \$4,000,000 annually as a permanent fund for this purpose. The Senate, however, have affixed the seal of their approval upon the retrenching proposition which I felt it a duty to offer; and, with only seven votes in the negative, have adopted it in lieu of the extravagant bill which this House sent them. In that discussion, it will be remembered that I declared—

1. That never before, by any Administration, had such an amount been asked in any year, or ever expended in any year, for this purpose; and that the demand for an increased appropriation, under our present financial circumstances, was extraordinary.

2. That in 1850 it cost but \$2,000,000 to collect the revenue, and that to double it in so few years as have elapsed since then was certainly unjustifiable and wasteful.

3. That the probable revenue from the tariff this year will not exceed forty or forty-five million dollars; and that to pay ten per cent. for collecting it was needless, unwise, and extravagant.

The chairman of the Ways and Means Committee took issue with me, insisted that this bill did not increase the expenses of the Government, and declared, as found in the report of the debate in the Globe, that "precisely this sum of \$4,000,000 will be required;" that the law could not be administered without this amount; and that \$1,250,000 was required for the Pacific coast alone. I replied then, from memory, (for the bill was passed in the House at an unexpected time,) that \$440,000 was the amount spent in that region; but the issue on this point of fact was left unsettled in consequence of the official reports not being here at the moment.

I have now the official documents before me; and I read from page 40 of the tables accompanying the annual report of the Secretary of the Treasury that the expense of collection on the Pacific coast in 1857 was \$464,344; a very different sum from \$1,250,000 which the chairman so incorrectly stated it. The same tables show that from 1852 to the present year, except the last one, the total cost of collecting the revenue, including the Pacific as well as the Atlantic and Gulf coasts, varied from three to three and a half millions in the aggregate. Last year, after the opening of this Administration, and when a still higher degree of extravagance seemed to prevail, the total expenses were a little over three million six hundred thousand dollars; and thus I prove that I was strictly correct in saying that never before had such a sum as \$4,000,000 been expended for this purpose. Now, this same Committee of Ways and Means, fearing a concurrence by the House with the Senate in their reduction to \$3,000,000, have abandoned their old ground that \$4,000,000 were necessary, and offer to take \$400,000 less. This is good so far as it goes; but it is no reduction. On the contrary, it keeps up the expenses to the same amount spent in the most extravagant year in our national history; and I am, as before, for a reduction to \$3,000,000, which I previously declared ample, and which declaration the Senate have unanimously ratified and confirmed by their votes.

I wish now to call attention to a system which this mode of making permanent appropriations fosters. In the first place, it removes from Congress their legitimate annual supervision of the expenses of the Government; but even worse, if possible, than this, while unexpended balances of annual appropriations, after two years, are by law wisely required to revert to the general fund in the Treasury, balances of permanent appropriations, which really ought to go back into the common Treasury every year, remain, on the contrary, under the control of the Treasury Department from year to year, to be used, without check by Congress, in any subsequent year, with the most lavish profusion. And this has been done in the present case, as I shall prove by the official documents before me.

The last annual report of the Secretary of the Treasury, on page 10, says:

"The joint resolution approved 14th of February, 1850, makes a permanent appropriation for the expenses of collecting the customs of \$1,225,000 for each half year, together with such sums as may be received for storage, &c., until Congress shall act upon the subject. During the first four years of the operation of the act of 3d March, 1849, the expenses did not equal the amount of this appropriation, and a considerable balance had accumulated, which has enabled this Department to defray the expenses of the last four years, which have considerably exceeded the amount so appropriated, as is shown by statement marked 'four.'"

"This accumulation having become entirely exhausted, this Department will not be able longer to defray the expenses of collecting the customs unless Congress shall now act upon the subject."

for, in confirmation of the above concession made by the Secretary, the figures of his tables, on page 40, show as follows:

Saved out of annual fund.	Spent in excess of annual fund.
In 1850.....\$516,000	In 1854.....\$250,000
1851.....568,000	1855.....330,000
1852.....350,000	1856.....400,000
1853.....214,000	1857.....712,000
\$1,648,000	\$1,692,000

Leaving a small balance of \$44,000 excess, which was probably paid by the Treasury system of transfer from some other unexpended annual appropriation. But this shows that, last year, this Administration spent \$750,000 in this single item of expenses over and above the amount authorized by law, scattering in a single twelve month nearly half the savings of four economical years.

[Here the hammer fell.]

Mr. COLFAX. Those five minutes were rather short ones. I was only half way through.

The question recurred upon the amendment to strike out of the Senate amendment "\$1,500,000," and insert "\$1,800,000," for the half-yearly expenses of collecting the revenue.

Mr. HOUSTON. The amendment proposed by the Committee of Ways and Means makes the amount precisely what was expended last year.

Mr. GROW. And the Senate propose to cut it down.

Mr. HOUSTON. Yes; to \$3,000,000 yearly, and the Committee of Ways and Means propose to make it \$3,600,000.

Mr. J. GLANCY JONES demanded tellers upon agreeing to the amendment to the amendment.

Tellers were ordered; and Messrs. JOHN COCHRANE and BLISS were appointed.

The committee divided; and the tellers reported—ayes 81, noes 58.

So the amendment to the amendment was agreed to.

Mr. COLFAX. I move to amend the amendment by inserting a provision that the expenses of the collection on the Atlantic and Gulf coast shall not exceed \$2,500,000.

Mr. J. GLANCY JONES. I rise to a point of order. It is not in order for the House to legislate on this subject.

The CHAIRMAN. The Chair overrules the question of order, and decides the amendment to be in order.

Mr. COLFAX. I desire, now, Mr. Chairman, to conclude the remarks which your inexorable hammer interrupted a few moments ago.

The usual answer to all attempts to retrench the expenses of the Government is, "that they have been authorized by law," and hence that the appropriations must be voted; and this is the argument which is made in the present case. But the fact is, that hundreds upon hundreds of subordinates in the various custom-houses and in the revenue service of the country are appointed, as a matter of discretion, under laws which do not command their employment, but are permissive in their character, merely authorizing the employment of such force as the public service requires. In the past three or four years no less than six hundred persons have been thus added to the office-holders of this Government in this single branch of its service. And I do not doubt that, with the present diminution in our revenues, and the fact that fewer persons will be needed to perform the manual and clerical labor of all kinds connected therewith, nearly a thousand persons could be dispensed with, without the slightest injury to the efficiency of the service, saving at least half a million of dollars per year—an important item, when the Government is plunging so rapidly into an abyss of debt, keeping its head above water, from day to day, by postponing many of its debts, and obtaining fully half of its receipts by shipplasters and loans. Certainly, at such a time as this the most rigid economy should be practiced; but when, in spite of the dilapidated condition of our finances, the Departments send us estimates, asking \$80,000,000 for one year's expenses, there remains to this Congress, or, if they refuse to perform it, to another less wedded to the Administration, which the people will elect this fall, the duty of inaugurating

the retrenchment which both necessity and true policy command. The Secretary of the Treasury could look, if he would, over the whole country, and see where officers could be dispensed with; but, instead of reduction, he has demanded in his estimates a larger amount by far for this branch of his service than ever before was expended, when fifty per cent. more revenue was collected than will be received this year; and the Committee of Ways and Means, finding that the Senate will not concur in this, still insist on having as much as was expended last year—the most extravagant year, except the present one, ever known in our national expenditures. I know how strongly a dominant majority incline to follow the lead of their Ways and Means Committee, and their Secretary of the Treasury; but I appeal to them, when appropriations for rivers and harbors, for old soldiers, for private claimants, &c., are denied for lack of means, to apply the pruning-hook of retrenchment in the service provided for by this bill. Never was there a better opportunity, for this is an appropriation bill for office-holders alone; and this House, which by the Constitution is made a special guard on the Treasury, as no other authority can originate an appropriation bill, is the very body to insist that the Administration should, in regard to the number and cost of its subordinates, practice an economy which as yet appears to be unknown.

I will not detain the House further, except to say that the official tables before me show that, in 1850, the cost of collecting the revenue was less than five per cent., and that, from 1850 up to 1857, it did not exceed six per cent.; while we are asked, in this bill, to appropriate nine per cent. If we "progress" in this way for a few years, I fear that the toll will exceed the grist; and I again appeal to the House not to accept this misnamed compromise, which, instead of reducing, keeps up undiminished the extravagant expenses of last year, and retains in Government employ an army of office-holders, one third of whom could be dispensed with actual benefit to the service itself.

Mr. LETCHER. Mr. Chairman, the expenditures for the collection of the revenue grow out of laws passed by the two Houses of Congress, and approved by the President. If reform is necessary in reference to this branch of the public service, let it be effected in a proper mode. We have been here for a period of nearly six months, and gentlemen on the other side have had opportunities of introducing bills for the purpose of bringing about this reform in the abolition of what they say are useless offices. It will be recollected that, in the early part of the session, one of the gentlemen on the other side of the House called attention to this subject, and stated that, at the place of his residence, there were useless offices, and that he intended to introduce a bill for the purpose of cutting them down. Other gentlemen made pretty much the same statement; but now, when we come to pass upon a bill for the expenses of collecting the revenue, predicated on the laws as they stand on the statute-books, we find that no efforts of that sort have been made during the entire session that is now about to come to a close.

Mr. GROW. Will the gentleman allow me a word here?

Mr. LETCHER. Not just now. The amount required to collect the revenue under the laws, on the Atlantic slope of the country, is \$3,200,000. The amount required on the Pacific slope is \$464,812. Now this bill is reduced to the very lowest amount. We have brought it down \$64,812 below the actual amount required for the purpose, so that we might put it at the very lowest point which it is possible to get along with. If it can be done below this sum, no doubt it will be done. If these expenses are high, and are still increasing, this House is censurable; for, by the multiplication of ports of entry and ports of delivery, it has made the necessity for those officers whose salaries are provided for under this bill. If reform is to begin, let it begin with particular items. Let these items be presented to this House, and to the country; let a bill be predicated upon them; and let that bill be passed. Whenever the number of officers is reduced, in that way there will be a corresponding reduction in the estimates.

The question being on Mr. COLFAX's amendment,

Mr. COLFAX withdrew it.

ENROLLED BILLS.

The committee informally rose, and Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as duly enrolled the following bills; when the Speaker signed the same:

An act (H. R. No. 243) making appropriations for the support of the Army for the year ending the 30th June, 1859.

An act (H. R. No. 557) making supplemental appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1859.

POST OFFICE APPROPRIATION BILL.

Mr. J. GLANCY JONES. The Senate having returned the Post Office appropriation bill with amendments, and asked for a conference, I move that the House insist on its disagreeing votes thereto, and agree to a committee of conference.

The motion was agreed to; and Messrs. BURNETT, BILLINGHURST, and CORNING, were appointed as such committee on the part of the House.

The committee then resumed its session, and the consideration of the

REVENUE BILL.

Mr. GROW. I move to reduce the amount ten dollars, for the purpose of saying a word or two. The gentleman from Virginia [Mr. LETCHER] lectures members upon this side of the House because they have not proposed some reform of the abuses that have grown up in the collection of the revenue. The gentleman knows very well that it is not in the power of this House to determine what employes are useless, at different points, in collecting the revenue of the country. It belongs to the Department; and while the force has been increased five hundred in five years, most of the increase has been made under laws that were permissive, and not obligatory upon the Secretary. He can reduce the force under the law. Last year they collected \$65,000,000, and this year they will collect only \$40,000,000, and certainly the same force cannot be necessary. Let the Secretary, then, make the reduction where he thinks it can be done without injury to the public service. He is the only man who can do it. This House cannot tell what employes might be dispensed with, without detriment to the public service. I hope the amendment of the Senate will be concurred in.

[Loud and continued cries of "Question!" "Question!"]

Mr. HOUSTON. I want to say but a word or two. I want to say to the gentleman from Pennsylvania that, if he will reflect a moment, he will see that the increased expense of collecting the revenue does not grow exclusively or mainly out of the causes which have been referred to. All over the country, at almost every point where a steamer can float a hundred bales of cotton, you have made ports of delivery; and thereby created the necessity of appointing officers and establishing all the machinery and paraphernalia at an increased expense to the Government. Congress has done this, and the Secretary of the Treasury has no control whatever over it. [Cries of "Question!"]

Mr. GROW. I withdraw my amendment.

The Senate amendment, as amended, was concurred in.

Second amendment:

And be it further enacted, That from and after the 1st of July, 1858, all laws and parts of laws which authorize the payment of the expenses, or any portion of the expenses, of collecting the revenue from customs at any port or ports on the Pacific coast of the United States, out of the accruing revenue, before the same is paid into the Treasury, shall be, and hereby are, repealed.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a concurrence in that amendment.

The amendment was concurred in.

Third amendment:

And be it further enacted, That the Secretary of the Treasury be, and he is hereby, authorized, at his discretion, to discontinue all ports of delivery, the revenue received at each of which does not amount to the sum of \$10,000.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a concurrence in this amendment.

The amendment was concurred in.

Fourth amendment:

And be it further enacted, That no collector of the customs, deputy collector, naval officer, deputy naval officer, surveyor, deputy surveyor, general appraiser, superintendent of warehouses, or any other officer or person engaged in the collection of the revenue, shall receive a greater compensation than is now paid to the officers and persons engaged in the said service at the port of New York: *Provided,* That this section shall not be so construed as to increase the compensation of any officer of the customs or of any person engaged in the collection thereof.

Mr. J. GLANCY JONES. The Committee of Ways and Means recommend a non-concurrence in this amendment.

The amendment was non-concurred in.

Mr. J. GLANCY JONES. I move that the committee rise and report the amendments to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BARKSDALE reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the amendments of the Senate to House bill (No. 466) making appropriation for the expenses of collecting the revenue from customs, and had directed him to report the same to the House, with a recommendation that one of said amendments be concurred in with an amendment; that others be concurred in, and that one be non-concurred in.

Mr. J. GLANCY JONES demanded the previous question.

The previous question was seconded, and the main question ordered.

The first amendment of the Senate was then read, as follows:

Strike out the first two sections of the bill, and insert, in lieu thereof, the following:

That there be, and hereby is, appropriated, for the expenses of collecting the revenue from customs for each half year, the sum of \$1,500,000, payable out of any money in the Treasury not otherwise appropriated, together with such sum as may be received for storage, cartage, wharfage, and labor for said half years.

The Committee of the Whole on the state of the Union recommended an amendment to this amendment; to strike out "five" and insert "eight," so as to make the sum \$1,800,000.

Mr. COLFAX demanded the yeas and nays on the amendment to the amendment.

The yeas and nays were not ordered.

The amendment to the amendment was agreed to—yeas 79, noes 59.

The amendment of the Senate, as amended, was then concurred in.

The action of the Committee of the Whole on the state of the Union on the remaining amendments of the Senate was concurred in.

Mr. J. GLANCY JONES moved to reconsider the vote taken on concurring in the amendments of the Senate; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

SUB-TREASURY LAW.

Mr. J. GLANCY JONES. I move that House bill (No. 467) modifying the first section of the act entitled "An act to amend an act entitled 'An act to provide for the better organization of the Treasury, and for the collection, safe-keeping, transfer, and disbursement of the public revenue,'" be made the special order in Committee of the Whole on the state of the Union; and that all general debate on it be closed within five minutes after its consideration shall be resumed.

Mr. BARKSDALE. I ask the chairman of the Committee of Ways and Means [Mr. JONES] to suspend for a moment. The House will remember that several days since my colleague [Mr. DAVIS] offered a resolution with reference to the outrages which have recently been committed upon our merchant vessels and commerce in the Gulf of Mexico and ports of Cuba, and that the resolution was referred to the Committee on Foreign Affairs.

The committee is now ready to report a bill, and I ask the unanimous consent of the House to do so, merely that it may be referred to the Committee of the Whole House and printed. I do not ask action upon it at this time. I know too well that such a request would be refused; but I desire to say, so far as I am concerned, I believe that Congress would fail to discharge the high duty it owes to the people of this country

if it should adjourn without arming the President with full authority and the amplest means to resent and resist these outrages. On our own waters, within sight of our own shores, our vessels have been boarded and searched, our commerce intercepted, and our flag insulted by the naval officers of a haughty and insolent Power, and we are, and ought to be, disgraced in the estimation of all civilized nations if immediate reparation, full and complete, is not demanded and enforced. The asserted right of visitation and search, on the part of England, has never been admitted by this Government. On the contrary, we have ever unequivocally denied it. It was denied in 1812, and Great Britain was taught a lesson then which she ought never to forget. It was denied by Mr. Stevenson, our Minister to England, in his luminous correspondence with that Government. It was denied by General Cass when the five great Powers of Europe entered into the quintuple treaty, and invited the cooperation of this Government; and Mr. Clay, in his great speech on the new Army bill, in 1813, declared that "the colors that float from the mast-head should be the credentials of our seamen."

The President, with a promptness which commands itself to the applause and admiration of the country, has ordered a squadron to the scene of these outrages to prevent their repetition, but he is powerless to redress past offenses, unless sustained by Congress.

I know that a war would be a great calamity to this country, and particularly to the section from which I come, but it would be a greater calamity still to England. With her national debt palsying the energies of her people, her difficulties with France and China, and a rebellion raging in India, she is in no condition to engage in a war with this country; but if she was, rather than submit to these aggressions upon our commerce, I would prefer war, with all its consequences.

I am not allowed, under the rules of the House, to discuss the bill before it has been reported, but I must be permitted to say that a bolder foreign policy ought to be adopted by this Government; and that wherever an American citizen may go, upon the land or upon the sea, in the prosecution of lawful enterprises, he is entitled to the protection of the Government, and ought to have it. But I am trespassing upon the time of the gentleman from Pennsylvania, and I yield the floor.

Several MEMBERS called for the question on Mr. J. GLANCY JONES's motion.

Mr. J. GLANCY JONES. I insist on my motion.

Mr. SICKLES. If the gentleman will allow me, I will make a motion that is in order.

Several MEMBERS objected.

The motion of Mr. J. GLANCY JONES was agreed to.

Mr. J. GLANCY JONES moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BARKSDALE in the chair.)

The CHAIRMAN stated the business in order to be the special order; which was the bill making an amendment to the sub-Treasury law.

The bill was read in *extenso*.

It provides that so much of the first section of the act entitled "An act to amend an act entitled 'An act to provide for the better organization of the Treasury, and for the collection, safe-keeping, transfer, and disbursement of the public revenue,'" approved March 3, 1857, as provides "that each and every disbursing officer or agent of the United States, having any money of the United States intrusted to him for disbursement, shall be, and he is hereby, required to deposit the same with the Treasurer of the United States, or with some one of the Assistant Treasurers or public depositaries, and draw for the same only in favor of the persons to whom payment is to be made in pursuance of law and instructions," be modified and amended, so that whenever the Secretary or other officer at the head of any Executive Department to which any disbursing officer or agent is attached or shall belong, to whom money of the United States is or may be intrusted for disbursement, shall deem it necessary or expedient to order and direct that such money intrusted

to such disbursing officer or agent shall be held by him, and paid directly to the person to whom payment is to be made in pursuance of law and instructions, without depositing the same in the manner required in said first section, such custody and payment of the money of the United States by such disbursing officer or agent, under the express order and direction of such head of the Department to which such disbursing officer or agent is attached or shall belong, shall be taken and deemed to be a sufficient compliance with that part of said first section of the act above mentioned.

Mr. J. GLANCY JONES. The law to which this is an amendment was passed in the last hours of the session of March 4, 1857. It forbids any disbursing officer of this Government from drawing more than twenty dollars in money out of the Treasury at any one time. I approve of that law where it is possible to execute it. The Executive Department asks no modification of it, except the extension of just such a discretionary power as will enable them to execute the law. Under the law as it is, disbursing money in the Mediterranean squadron, paying officers in Utah, and paying public debts in California and elsewhere, is utterly impossible. The amendment only proposes this: let the law stand as it is, except where a head of a Department certifies to the Secretary of the Treasury that it is absolutely necessary to allow a disbursing officer to draw out more in money than is fixed, instead of checking. He has the power to check for it now. It simply enables him to take the money instead of checking. Now, I cannot deny that there will exist some prejudice against giving any disbursing officer power to draw out more money than the law of 1857 allows. That is not the effect of the amendment. This allows him to draw more than twenty dollars only where the Secretary or the head of a Department certifies and reports to Congress that it is absolutely impossible for the disbursing officer to get along without doing so. That is the whole of it.

Mr. MORGAN. This is a bill which has been discussed here in a very full House; and by a very decided vote the House laid it aside; and I hope it will not be pressed again. If it is, I object to it.

No amendment being offered,

Mr. J. GLANCY JONES moved that the committee rise, and report the bill to the House with a recommendation that the bill do pass.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, **Mr. BARKSDALE** reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly House bill (No. 467) modifying the first section of the act entitled "An act to amend an act entitled 'An act to provide for the better organization of the Treasury, and for the collection, safe-keeping, transfer, and disbursement of the public revenue;'" and had directed him to report the same to the House with a recommendation that it do pass.

Mr. J. GLANCY JONES. I demand the previous question on the engrossment and third reading of the bill.

The previous question was seconded, and the main question ordered to be put; and, under the operation thereof, the bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time.

Mr. J. GLANCY JONES. I move the previous question upon the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

Mr. MORGAN. I move to lay the bill upon the table.

The motion was not agreed to.

Mr. UNDERWOOD. I demand the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 71, nays 90; as follows:

YEAS—Messrs. Adrain, Aht, Arnold, Boyce, Branch, Burns, Chapman, John B. Clark, Clay, Clemens, Cobb, John Cochran, Corning, Cox, James Craig, Curry, Davis of Indiana, Davis of Mississippi, Dimmick, Dowdell, Edmundson, Elliott, Faulstich, Florence, Giffis, Goode, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, Lamar, Landy, Leidy,

Letcher, Maclay, McKibbin, McQueen, Samuel S. Marshall, Miles, Millson, Moore, Niblack, Pendleton, Peyton, John S. Phelps, Phillips, Powell, Quinlan, Reilly, Ruffin, Russell, Sandidge, Scales, Shorter, Sickles, Samuel A. Smith, James A. Stewart, Ward, White, Winslow, and Wortendyke—71.

NAYS—Messrs. Abbott, Andrews, Atkins, Avery, Barksdale, Bennett, Billinghurst, Bingham, Blair, Bliss, Bocock, Brayton, Bufinton, Burlingame, Burnett, Chase, Ezra Clark, Clawson, Clark B. Cochran, Colfax, Covode, Cragin, Curtis, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Daves, Dean, Dick, Dodd, Durfee, Edie, Fenton, Foley, Foster, Garnett, Gartrell, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, J. Morrison Harris, Thomas L. Harris, Hill, Hoard, Horton, Jewett, George W. Jones, Kellogg, Knapp, Leiter, Lovejoy, Humphrey Marshall, Matieson, Maynard, Morgan, Morrill, Edward Joy Morris, Mott, Nichols, Palmer, Parker, Potter, Poutle, Ricard, Robbins, Roberts, Royce, Savage, Henry M. Shaw, William Smith, Spinner, Stanton, William Stewart, Talbot, Tappan, George Taylor, Thayer, Tompkins, Tripp, Underwood, Wade, Walbridge, Elihu B. Washburne, Wood, Woodson, and John V. Wright—90.

So the bill was not passed.

Mr. STEPHENS, of Georgia, stated, pending the call of the roll, that he had paired off with **Mr. SHERMAN**, of Ohio.

Mr. HILL. I desire to state that last evening, on account of the illness of **Mr. EDMUNDSON**, I paired off with him. I believe he is present now, and I vote "no" on this question.

Mr. BURNETT moved to reconsider the vote by which the bill was rejected; and also moved to lay the motion to reconsider on the table.

Mr. REILLY demanded the yeas and nays.

The yeas and nays were refused.

The motion to lay the motion to reconsider on the table was agreed to.

MAIL STEAMER BILL.

Mr. JONES, of Tennessee. I rise to a privileged question. The committee of conference on the disagreeing votes of the two Houses upon the bill (H. R. No. 558) making appropriations for the transportation of the United States mail, by ocean steamers and otherwise, during the fiscal year ending the 30th of June, 1859, have met, and after a full and free conference have been utterly unable to agree upon any one of the provisions of the bill.

Mr. HOUSTON. I would ask the gentleman what number of Senate amendments there are to that bill?

Mr. JONES, of Tennessee. There were four amendments upon which the two Houses disagreed. There was one authorizing the Postmaster General, with the consent of the contractors, to change the terminus of the Collins line from Liverpool to Southampton. We might perhaps have agreed to that one, if we could have agreed upon the others. The others authorize the Postmaster General to make contracts to carry the mails from any port of the United States to any ports in any part of the world if he can get them carried for the United States inland and sea postage.

Mr. SICKLES. I move that the committee be discharged, and that another be appointed.

Mr. JONES, of Tennessee. I would move, if it is in order, that the House adhere to its disagreeing votes.

Mr. SICKLES. I insist upon my motion, and move the previous question upon its adoption.

Mr. HOUSTON. Would it be in order to move that the House agree to the amendments last referred to by the gentleman from Tennessee?

Mr. WASHBURN, of Illinois. Has not the previous question been called?

Mr. HOUSTON. I am only asking a question for information.

The SPEAKER. The bill is not technically in possession of the House.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof **Mr. SICKLES's** motion was agreed to; and **Mr. SICKLES**, **Mr. GARNETT**, and **Mr. KUNKEL** of Pennsylvania, were appointed as such committee on the part of the House.

Mr. SICKLES moved to reconsider the vote by which the House insisted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

RECIPROCITY TREATY.

Mr. J. GLANCY JONES. There are but two measures now that I have to bring forward: one before we go into the Committee of the Whole on the state of the Union, and the other in the

Committee of the Whole on the state of the Union. There is a joint resolution, which will not occupy five minutes, relative to the reciprocity treaty, and which I ask leave to report to the House from the Committee of Ways and Means, that it may be put upon its passage.

The joint resolution authorizes the President of the United States, whenever he shall receive satisfactory information that hay and hops, being the products of the United States, and exported thence to any of the British North American Provinces, are admitted free of duty, to issue his proclamation declaring that hay and hops, the products of those Provinces, shall be admitted free of duty.

Mr. STANTON. I object to the introduction of the joint resolution.

Mr. J. GLANCY JONES. I move that the rules be suspended. I send up a letter from the Secretary of the Treasury to have read.

Mr. STANTON. Is debate in order on a motion to suspend the rules?

The SPEAKER. It is not.

Mr. STANTON. Well, I object, unless we have it on both sides.

Mr. J. GLANCY JONES. I call for tellers.

Tellers were ordered; and Messrs. **JOHN COCHRANE** and **BUFFINTON** were appointed.

The House divided; and the tellers reported—ayes seventy-one; not two thirds of a quorum.

So the rules were not suspended.

LOAN BILL.

Mr. J. GLANCY JONES. Debate has not been closed on the loan bill in the Committee of the Whole on the state of the Union. I have indicated, on a former occasion, my disposition to leave that bill open for a reasonable length of debate. I wish to ascertain the sense of the House, and propose now to move that all debate shall close on that bill in the Committee of the Whole on the state of the Union in two hours after it shall have been taken up in committee.

Mr. WASHBURN, of Illinois. I move to amend by closing debate in thirty minutes.

Mr. J. GLANCY JONES. I accept the amendment, and call for the previous question.

The previous question was seconded, and the main question ordered.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by **Mr. ASBURY DICKINS**, its Secretary, informing the House that the Senate had agreed to the report of the committee of conference on the Senate amendments to the naval appropriation bill.

LOAN BILL—AGAIN.

The amendment of **Mr. WASHBURN** was agreed to; and the resolution, as amended, was adopted.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken; and the motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (**Mr. BARKSDALE** in the chair,) and proceeded to the consideration of House bill (No. 582) to authorize a loan not exceeding the sum of \$15,000,000.

The bill was read.

Mr. BURLINGAME. Mr. Chairman, I shall ask the indulgence of the committee for a short time only, while I shall bring to its consideration the recent outrages committed upon our flag in the Gulf of Mexico. I do so, sir, at this time, because it seems to me that no other opportunity may offer for that purpose.

Mr. BRANCH. I rise to a question of order. My impression is that this bill has been made the special order in committee by order of the House; and if so, the debate must be confined to it.

The CHAIRMAN. The bill has not been made a special order. The gentleman from Massachusetts is in order, and will proceed.

Mr. BURLINGAME. I had hoped that this subject would have been referred to the Committee on Foreign Affairs, (of which I am a humble member,) so that the committee might have taken official action upon it. It was not until recently, however, that it was so referred, and the committee have had an important report in relation to it,

which they have desired to submit, but no opportunity has been afforded them.

It seems to me, sir, that the subject is of sufficient importance to demand the consideration of this House. The Senate has taken action. Why should the immediate Representatives of the people remain silent? That these outrages have been committed, nobody can deny. Twelve times in the waters of a foreign nation our flag has been insulted in the presence of a foreign people! More than twenty times within the last two months our ships have been stopped, searched, and (in some cases) fired into; and all this in violation of good faith, and in violation of the plain law of nations, as expounded by Webster and Calhoun, as decided by Stowell and Story. The rule which has been violated I take to be this, and I shall be brief: that on the sea all nations are equal—that every flag is sacred which symbolizes an honest nationality—and, therefore, it is not for one nation or for many nations to arrogate to itself or to themselves the right to act as the police of the seas. This rule consists well with the doctrine which permits any one of them or all of them to take the pirate wherever he may be found. The same rule, I take it, governs on the sea as governs on land. You may pursue the murderer into the freeman's home, if you will; but you must be sure of his character in that respect. You may take the pirate on the sea wherever you can find him; but you must be sure, in taking him, not to touch the rights of the man who is not a pirate. Now, our citizens, who have been insulted did not look like pirates, did not act like pirates, and did not prove to be pirates. Therefore, an outrage has been committed on them. Now, those who committed it acted under instructions, or they did not. If they acted under instructions, an act of war has been committed, if we choose so to consider it. If they did not act under instructions, then, sir, they fall into the category of thieves and robbers of the sea, to be dealt with accordingly. Look at it as you will, it seems that gross outrages have been committed, which demand instant reparation, and justify instant retaliation.

Now, sir, in the presence of these facts—all agreeing as to the nature of the outrages, all agreeing as to the law violated by them—what is the attitude of the Administration? Does it resent the insult? It admits that the law has been violated. Does it seek, by any action, to vindicate the violated law? Sir, inferring from its acts and its words, it takes this position—it tells us to pause, wait, negotiate. What on earth is there to negotiate about? Does not every man see that by taking this position the Administration yields the point of honor? Does not every man see that it takes a position of disadvantage? England will have a right to infer that the question is an open one. Wait to hear from England? What for? What can England say? The insult has been offered, and who is to resent it? Is England to resent it? The law has been violated; and is England to vindicate the violated law? If we sink her ships, or bring them into port, can England complain? Is it not England's hereditary policy to promote those who show zeal in her cause, even when they pass the bounds of law? Where is Crampton? Did he suffer? Ought she not rather to thank us? If she avows the act, then it is an act of war; and if she does not, let us punish her officers who do it, in such a way that they will never do it again.

Mr. KUNKEL, of Pennsylvania. I should like to ask the gentleman from Massachusetts, whether he would plunge the country in war, (as he seems to be condemning the Administration for not doing it,) without waiting until we know whether these acts of outrage are authorized by the British Government or not?

Mr. BURLINGAME. The course I indicate is the way to peace and honor. I plunge this country into war! No, sir, I want no war; but I want no insult. England will thank us for vindicating the law, if she holds to the decisions of her great judge.

Mr. GRANGER. How long are we allowed to debate a loan bill of \$15,000,000?

The CHAIRMAN. Thirty minutes is the time allotted for general debate.

Mr. GRANGER. So I thought.

Mr. BURLINGAME. The House knows that

I have not pressed myself upon its deliberation often during this session. I have not asked many favors of the House. [Cries of "Go on!"]

It seems to me, sir, that the Administration is not up to the mark in this matter—that it does not reflect the real spirit of the people. I detect a shrinking back from responsibility—from a vindication of our rights—on every hand. The people ask it not to be rash, but firm—to stand to its declarations; that it shall be good in its deeds as in its words. I fear, from the signs, that we are to have the "fifty-four forty or fight" over again, and then back down to forty-nine—yielding up Vancouver's Island, the finest in the Pacific. I detect this shrinking back, in the long time taken by the President to respond to the call of the House for information; and when he did respond with startling facts, why did he not make a request or a recommendation? I detect it in the letter of your Secretary of State to Mr. Dallas, the sting of which is for Spain, and not for England. Weak Spain, that cannot, with her shriveled arm respond to our blow, is to be punished for an insult committed upon our shipping, which she could not prevent, and did not approve! I detect it in the general and mystical orders given by the Secretary of the Navy to the Gulf squadron—more general and mystical, if possible, than those under which Captain Chatard was recalled for not doing an act, and Paulding censured for doing the very same act, in the very same place. I detect it in the resolutions of the Committee on Foreign Relations of the Senate. Those resolutions were properly characterized by Senator Toombs. The report going before them contains good doctrine, but the resolutions are pointless and aimless.

If all this did not convince me of the feeble policy of the Government, I could no longer doubt, after the demand, by bill, by the friends of the President, for power to war upon the little dying States of Central America. Yet, sir, when the question was put by a friend of the Administration, as to whether they desired the power to resent the insult by England, the response was emphatic, that they did not. Why not ask for power to resent the insult against that nation as well as against a small nation? If the President has not the power to resent it, why does he not ask us for it? I have no doubt at all, that if there is cause for it, the people's Representatives will respond, with every dime and every man in this country, to vindicate the freedom of the seas. We all remember that, when one man was imprisoned, in Maine, the Senate unanimously, and the House with only a few dissenting votes, responded very promptly—the gallant Clay leading the patriotic feeling of the Senate; and John Quincy Adams, who never gave his voice or never gave his vote against his country in his life, led the patriotic fervor in this House. I will not dwell on that point.

Are we sure that the President has used all the power he has, for the purpose of repelling invasion and resenting insult? If he could use the marines to shoot down American citizens in the streets of Washington, could he not repel the foreign foe? If he could pursue and assault Walker upon a foreign soil, and bring him back to this country, could he not assault and beat back an enemy that invaded the sacred soil of our country? For I take it, that the deck of an American vessel is the soil of the country.

But, if there is any doubt as to his power, let him ask for it, and we will respond. I do not propose that we shall give him general, wandering, vagrant power to attack nations, weak and small; but if England insult us, I will give him specific power, at our hand, to strike England; if Paraguay insult us, I will give him specific power, as the hand of the Union, to strike Paraguay. I am jealous of the assumption of power by the President; I think that he has assumed it; I think that he has intervened to trample down the rights of American citizens upon American soil; but I am constrained to say that he has not at any time exhibited any special activity in vindicating the rights of the country against a foreign foe. I voted to give him the power in the case of Paraguay. I did it, because the citizens of my own section—not because they belonged to New England, for I would have done it as well if they were from Mississippi or South Carolina—had outrages

committed upon them. Their property had been destroyed; they had been driven by the tyrant, Lopez, out of a country to which they had been invited; one of our national vessels, too, had been fired into.

Mr. COX. Did the gentleman vote for the ten sloops?

Mr. BURLINGAME. I would like to answer that question; I will do so, if I have time.

Our ship of war, on a peaceful expedition, in neutral waters, was fired upon, and an American citizen killed upon her deck. And when we sent commissioner after commissioner there, they were spurned away by the tyrant, Lopez, without redress. It was because of this destruction of the property of my countrymen, it was because of this insult to our dignity and our pride, it was because the blood of American citizens had for years cried for vengeance from the waters of the distant Parana, that I voted to bestow upon the President of the United States, not a discretion to make war—for that we did ourselves—but a discretion only in *favorem vite*—in favor of humanity—to make peace. I voted in favor of granting that discretion, and would vote to do it again. I am proud of that vote. The President has done right in reference to that matter. Though I may differ with him, and do differ with him radically, upon many points of his policy, I shall not be so recreant to the interests of my country, so blinded by party zeal, as not to give him the assistance of my vote, and my hand, if need be, when I see him honestly seeking to vindicate the honor of my country, and the dignity of my native land.

Mr. HILL. Will the gentleman allow me to ask him a question?

Mr. BURLINGAME. I cannot yield to my friend from Georgia. I know that his question would be pertinent and friendly, but I cannot, for I have not the time.

Mr. COX. I would like to have the gentleman answer my question.

Mr. BURLINGAME. I should be pleased, had I time, to answer all your questions, but my time is nearly up.

I can only say, in general terms, that the foreign policy of this Government has been weak and vacillating. Its agents have been of such a character as to cause the weak nations to hate us, and the great nations to despise us. This weakness and vacillation have invited all these insults—for everybody insults us now. Chili does it; and Paraguay, and New Granada, and China, insult us; Spain has fired into the El Dorado; the Dutch imprisoned Captain Gibson, and destroyed his property; and after the Government undertook to redress his wrongs, it backed out. Look at New Granada! They kill our citizens by the score, violate our rights and the laws of nations; and yet our people are asked to pause and negotiate! And what does negotiation accomplish? Where now is your Cass-Herran treaty? If we are to credit the last report, a treaty with New Granada has been defeated.

And what is the state of things in Central America—a point where we need all the skill and diplomacy of our Government. Is there a member of this House who can recall the name of a single distinguished agent of this Government who has been sent to that delicate point, where our interests are in greatest danger? The genius of France is at work there; she is molding that people into a confederacy; she has obtained grants from the Central American States, which will shut down the gates directly in the way to our own great Pacific possessions.

But last, and worse than all, England in our own waters is committing insults on our flag; and it seems to me the time has come, and the fullness of time, for this people to put forth its energies and manifest its power; and I would treat England precisely as I would treat the meanest Power upon the face of the earth.

But it may be said we shall have a war. I say, not so. If England does not mean to vindicate for herself the right of search, these difficulties can lead to no war. If she does, I ask if there is an American citizen anywhere who is willing to yield up the freedom of the seas? Then there can be no war.

I make no crusade against England. I honor her for her courage, and I respect her because she vindicates the rights of her citizens upon every

land and every sea. She is now about to go to war for two of her citizens who were taken by the Neapolitan Government. They have been discharged, and reparation is demanded; and the last news from England (in the language of the London Times) is, that she will fire a shot against Naples, which will resound from the Straits of Messina to the Alps. I glory in her ancient renown, and joy in the tidings of her present might. But whatever she was before, or however great she may be, in remembrance of Waterloo, of Balacava, of Delhi, of Lucknow, of Trafalgar, and the Nile, I would say to her, that though she may beat with her sturdy valor the well-trained soldier of Europe, and trample down under her cruel feet the fierce sepoy of the Orient, the heroic children of her loins beyond the western waves, standing for their unquestioned rights, dare cast down the gage of battle even to her, and will convince her, and convince the world,

"That there is one great clime
Which still rears its crest unconquered and sublime."

But it is said we are not prepared for war. And I am asked by the gentleman from Ohio, [Mr. Cox,] why I did not vote for the construction of the war sloops. Of what use, I ask, would they be in case of war with England? I say we are better prepared for war, in proportion to the least amount we cast into the sea, and into hulks which soon will only be fit to gather barnacles upon their keels. In the last war we took trees green from the forest, and in seven months constructed vessels, and took the British fleet on Lake Erie. If we are to have war, say but the word, and the hardy fishermen, now so maligned in some quarters, will go forth from the bays of Massachusetts, and, as in other days, bring home prizes and victory with all the winds.

Let the order go forth, and New England will respond with her commercial marine. Say but the word, and the genius of my own people will manifest itself in war steamers, "whose thunders shall shake the Philip of the seas!" Say the word, and the men of the north end of Boston, in my own district, would again rig out the Constitution, as in other days, and man her with those north-end sailors, whose boast it is that they can whip the sailors of the world in all the ports of the world, and once more

"Nail to the mast her holy flag,
And give her to the God of storms, the lightning, and the gale."

If we must have war for our rights, it would not be without its compensations as well as its disasters. We have not everything to lose. The war upon the fishermen would stop; the navigation laws would not be repealed for the benefit of England; the British free-trade tariff of 1846 would not operate; the forges in Pennsylvania would again glow; and every brawling stream in New England would work its way to the sea through the cunning machinery of our artisans; the interests of agriculture would again revive; sectional strife would cease; *King Cotton* would become *Republican Cotton*; new lands would be acquired, and the Republic consolidated and strengthened. Yes, there is a question of land here. There is other land besides Cuba. There is a land, sir, worthy of our attention—a land lying up under the north star. It is a rich land, and has a rich and prosperous people. It will furnish to our councils eight Senators and forty Representatives. Sir, I give these compensation suggestions not more for England than as thought-breeders for some of our people at home. I think we should issue from such a war with the whole continent under our sway. No man would have to indicate on what part of it he dwelt, to establish his nationality. By whatever distant river he should stand, whatever mountain he should climb, or whatever desert he should traverse, or whatever climate he might endure, he would exult in the thought that he was a citizen of a mighty Union, and a member of the great unconquered and unconquerable western Republic.

Mr. HILL. I desire to say to the gentleman from Massachusetts, that he has, in the last few sentences he has pronounced, answered the interrogatory which I intended to put to him; which was, whether, in his zeal for getting his country into a war with Great Britain, there had been any such thing as a calculation of the probable ad-

vantage which might accrue to his section? He has answered the inquiry to my satisfaction.

Mr. BURLINGAME. I say frankly to the gentleman from Georgia, that I believe there would be compensation to my own section; and, not only to my section, but to the whole country; for my heart is large enough to embrace the whole country. But I should lament and deplore a war; and I think there will be none while the present party remains in power, judging from the signs on every hand, unless it shall result from the weakness and want of spirit of those in authority.

Mr. PURVIANCE. Does the gentleman from Massachusetts intend to say that the sentiment upon this side of the House, in reference to an immediate declaration of war, differs in any material respect from that of the other side of the House?

Mr. BURLINGAME. I cannot speak for any side of the House on this question. I do not wish to be complimentary to this side of the House, but I think that, if the call be made upon the country, this side will respond with as much alacrity and unanimity as the other side. And I have faith to believe that all of us, as against a foreign foe, would stand together, and give out one united shout of defiance, from the lakes of the North to the Gulf, and from the Atlantic to the Pacific.

Mr. COX. The gentleman has not yet told us why he voted against the sloops-of-war.

Mr. BURLINGAME. I have answered once, I think; but I will tell the gentleman again why I voted against the sloops of war, and why I would vote against the expenditure of money in any similar way. In case of war, both nations must begin to build anew, on account of the important modern improvements in steam machinery and ordnance. Both nations would at once build after the latest models, and arm with the most modern armaments. England, with her old ships, could do nothing, in her late war with Russia, against Cronstadt and Sebastopol. She commenced building new vessels with which to meet the requirements of the time. The genius of Todleben taught us how to defend our cities, standing in the foam of the sea, by earthworks. The nation which does not cast its money away on war vessels, which must soon become obsolete, but strengthens its commercial marine, is fittest for war. If we should use the \$13,000,000 we now yearly spend on our war vessels, to stimulate individual enterprise, and in establishing postal routes, in five years we should have a navy before which the war vessels of England would "pale their ineffectual fires."

[Here the Chairman's hammer fell—the time allowed for general debate having expired.]

Mr. LETCHER. I intended to have spoken an hour on the subject of Government expenditures, in connection with the loan bill; but, as I do not wish now to occupy the time of the committee, I shall avail myself of the privilege to write out my remarks, if agreeable to the committee.

General assent was given.

Mr. MORRIS, of Pennsylvania. I have prepared some remarks on this subject, but I do not desire to fatigue the committee with delivering them, if they will give me permission to publish them.

General assent was given.

Mr. SICKLES. I desire to ask leave to print some remarks on this subject, in case I have not an opportunity to make them.

General assent was given.

Mr. J. GLANCY JONES. If the committee will indulge me for a short time, I will endeavor to confine myself to a few sober facts in relation to the finances of the country. It might not, perhaps, be inappropriate to say to the gentleman from Massachusetts [Mr. BURLINGAME] that, as he has made a war speech, I shall expect him, when called upon, to respond to all claims for expenditures for such a purpose. I do not propose now, Mr. Chairman, to make a lengthy speech on the question. I know that the House is impatient to get through public business, with a view to an early adjournment. I shall content myself now with a simple statement, availing myself of the privilege of adding to it in print, if I see proper. [Cries of "Agreed."]

Mr. SICKLES. I beg to ask the gentleman from Pennsylvania to give me a portion of his time, that I may make a few remarks in reply to

the gentleman from Massachusetts. [Cries of "No, no!" "Object!"]

Mr. KUNKEL, of Pennsylvania. If the gentleman makes a war speech, we want all around to make war speeches.

Mr. SICKLES. I want to make a peace speech.

Mr. KUNKEL, of Pennsylvania. I object; and hope my colleague will not yield.

Mr. J. GLANCY JONES. At the opening of this session of Congress, the Secretary of the Treasury, in submitting his estimates and his reports, referred to the condition of the finances of the country generally, and particularly to the recent revulsion. From a full Treasury with a surplus of twenty or thirty millions of dollars on the 4th of March last, we have now a deficiency of \$20,000,000. I do not propose to go into an argument to show the causes which produced this very extraordinary result. There are a great many different theories on the subject. I simply wish to confine myself to facts, and leave every gentleman to make up his own mind, or to adopt his own theory, and carry it into practice if he can.

I had intended, if this bill had come up at an earlier day, to have occupied the full extent of my hour in debating fully and frankly in all its bearings a revenue system—a subject which some gentlemen seem to think there is a disposition to avoid upon this side of the House. It is said that we have an empty Treasury; that we have borrowed \$20,000,000, and are about to borrow \$15,000,000 more, and yet that the Committee of Ways and Means is entirely silent as to the mode of replenishing the Treasury. I would be the last man to be guilty of an omission of this kind if it were in the power of the Committee of Ways and Means at this particular period to remedy this evil. But I know, every gentleman in this House knows, and the country knows, that an adjustment of the tariff at this particular juncture would not add a dollar to the revenue, and we know the additional fact that if a protective tariff were imposed at this particular period upon the people, so far from benefiting either the revenue or any interest of the country, it would entail evils upon us that gentlemen upon the other side of the House would be the first to disavow and to hold us responsible for. If the tariff at this session were put at sixty per cent., it would not yield one dollar of revenue. In consequence of the cessation of imports, no tariff could affect either the revenue or the manufacturing interests. The attempt and failure would only unsettle and confuse instead of giving stability, or inspiring well-founded hopes for the future.

But it is sent forth to the country that we are unwilling to afford relief, even on our own principle. We have often proclaimed to the whole country that we are not in favor of a tariff for protection alone, but that we are in favor of a tariff for revenue; and that under such a tariff, with revenue for its object, we will at all times do everything that we can consistently with this principle to incidentally benefit our domestic interests. That is our position, and if any gentleman will show me, now, how any adjustment of the tariff can be made upon that principle that will yield revenue and benefit the country, I am ready this moment to act on it. I have seen no such practical suggestion anywhere. There must be a revival of trade; we must have importations before any tariff of any kind whatever can produce any effect; and it is for this reason, and this alone, that I have proposed that we shall wait until there is a sufficient revival of trade, that we may see how to adjust the tariff with a view to secure revenue, give stability to the system, and encourage our own domestic industry, before we attempt to tinker with it. I have no hesitation in saying now that I shall not favor any tariff hereafter that is alone for protection in any of its features, without revenue for its object; but if I find, after a revival of trade, that the present tariff will not fulfill our expectations, then, and not till then, I shall be ready to go into a movement that will give us, on that principle and on that basis, sufficient revenue to meet—not, as some of my friends have intimated, extravagant expenditures—but the legitimate expenses of a Government economically administered.

I suppose it is hardly necessary for me to say that I am in favor of the postal system being generally self-supporting. I am willing to go, by

judicious legislation, for a self-supporting system, both inland and foreign, and this can be effected without increasing the rates of postage, by reforming the abuse of the franking privilege. The reason why I do not propose it now, is precisely the same reason as that for which I am not willing to act upon the tariff. I am not willing to run pell-mell into a system of legislation, at the heel of the session, changing laws in appropriation bills. But I am willing, in the regular mode of legislation, to reform and revise the postal system, foreign and inland, and to establish them upon a self-supporting basis. Having thus given my views, I will not now enlarge upon them. I have said this much because it was perhaps due to the position which I occupy, and because hints have been thrown out from various quarters, coming, too, from my own State, that I had the power but lacked the inclination to come to the relief of the country, and was disposed to allow Congress to adjourn without even expressing my sentiments in regard to the amount of the loan now asked for.

The revulsion of the current fiscal year, I have already remarked, was very sudden and unexpected. No man could foresee it in all its bearings. Under our laws the Secretary of the Treasury is required to report to Congress, each session, the acts of the past, and to estimate for the expenditures of the coming fiscal year. He is required to render an annual report to Congress, of the expenditures and disbursements of the Government, and to submit to Congress, at each session, printed estimates in detail, of all expenditures that will be required to carry on the Government for the next fiscal year. Our Government, from its very foundation, has looked for revenue to a system of indirect taxation, by the adjustment of a scale of duties on imports, known as the tariff. Equity requires that we should, in adjusting it, throw the burdens on property, and exempt, as much as possible, the evil of capitation taxation. Direct taxation would impose nearly the whole burden upon the personal, real, and mixed estate of the Confederacy, relieving production and persons comparatively free, upon the generally-recognized principle in free government, that property shall bear the burdens of government as a consideration for the guarantees of inviolability and protection. We should, then, if we adopt the indirect-taxation system, adjust it so as to throw its burden on property. The tariff should discriminate with revenue for its object; it should bear lightly on articles of necessity—of general consumption—and heavily on luxuries and articles consumed by capitalists, or requiring capital for their production. The revenue of the country, under any tariff, necessarily depends mainly upon the crops and production generally, (I mean, of course, a safe, steady revenue,) and our capacity for exporting these staples. Steady exportation will increase importation, and safely, too, in that ratio, and consequently enlarge the revenue by the receipt of imposts. Disaster, however, is sure to follow the loss of their equilibrium, as bitter experience is now teaching us. Of late years, our imports have vastly exceeded the safe standard, both in quantity and quality, and, thus engendering overtrading and a bloated credit system, have brought us to a dead halt. This apparently overflow of means has led the Government into a scale of expenditures which never would have been brought about if it had not been for the great apparent prosperity of the country.

In this condition of things, the Secretary of the Treasury has been compelled to submit his estimates to Congress, based upon the condition of trade for the last twelve months—he must calculate for the future. Amid the existing fluctuations of trade, the derangement of currency, and a hundred other perplexities arising out of the panic we have just passed through, it was impossible for human foresight to prepare for all contingencies. He asked at the opening of the session for \$20,000,000. He asked for that amount in Treasury notes, and not as a permanent loan, because he hoped that trade would revive and sufficient revenue flow into the Treasury to supersede the necessity of relying upon anything but the current receipts to provide for the current expenditures of the Government—a temporary credit relieving a temporary revulsion. He hoped that, in another quarter, trade would revive to such an extent as to enable him to say to the country that

he wanted no more money outside of the receipts. Money was plenty in the country, and, being only panic-stricken, it was supposed the paralysis would be temporary. That hope has been disappointed; not in the abundance of money, the crops, nor exports, but in the revival of trade. The statements I will lay before the House will show that not only has trade not revived, but that it has fallen off; and that, while the revenue has been diminishing for the last three quarters, the expenditures have been increased by the Utah war, and the demand for payment of debts incurred when the Treasury was full. It has thus become the duty of the Secretary of the Treasury to bring these facts to our attention, and to ask for this additional loan. In his estimates presented at the opening of the session, he did not include or anticipate the appropriations of \$10,000,000 of deficiencies, which became necessary to be supplied to the Utah expedition.

In submitting his letter asking for this loan, with the estimates, &c., all of which I will have read, you will perceive that he states that he has called upon the several Departments of the Government to ascertain the probable expenditures for the portion of the next fiscal year commencing with July and ending with December, and the result has been, that the amount required will be \$37,000,000.

This loan bill has been kept back by me in order to see what provision would be necessary, in view of the appropriation bills, and other bills requiring money which might pass Congress. The Secretary of the Treasury estimates the receipts from customs and other services for the two quarters of the next fiscal year, at \$25,000,000. This, added to a loan of \$15,000,000, would give \$40,000,000 to meet \$37,000,000 of expenditures; but that \$37,000,000 is based upon the estimates of the Department, exclusive of any appropriation made by Congress in the way of private bills, or increased appropriations beyond the estimates of the Department. It is for the purpose of ascertaining what the difference may be that the loan bill has been held back by me; but inasmuch as the House is so far in advance of the Senate, I think it proper to submit the bill in the form in which it originated in the Committee of Ways and Means. It authorizes \$15,000,000 to be borrowed on the credit of the Government for fifteen years. If it passes this House, it will then go to the Senate, and between this time and the action of the Senate, the appropriation bills being passed, the accounting officers of the Treasury will be enabled to ascertain very nearly the amount which will be required; whatever above fifteen million dollars it reaches, will be sent to us as an amendment, and when it comes here, it will be understood that the increase is demanded to meet the requisition of our recent legislation. I send to the Clerk to be read, the letter of the Secretary on the subject.

The Clerk read as follows:

TREASURY DEPARTMENT, May 19, 1858.

SIR: In view of the early adjournment, I desire to call the attention of Congress to the present condition of the finances of the Government.

In my annual report I estimated that there would be a balance in the Treasury, at the end of the present fiscal year, of \$426,875 67, which would have required a deficiency in our resources of \$5,000,000 to be provided for; as that amount is necessary, at all times, to be in the Treasury for its prompt and successful operation. This estimate was based upon an expenditure limited to the appropriation then authorized by law. Since that time the demands upon the Treasury for the present fiscal year have been increased by legislation to an amount not far below \$10,000,000. Another important element of that estimate was the probable receipts from customs and other sources during the then three remaining quarters of the fiscal year.

The actual receipts for that period, it is now believed, will fall \$10,000,000 below that estimate: attributable to the fact that the trade and business of the country have not recovered as rapidly from the effects of the late revulsion as was then anticipated.

Owing to these causes, the \$20,000,000 loan of Treasury notes authorized by the act of December 23, 1857, will be exhausted in supplying the deficiencies in the Treasury for the present fiscal year.

We shall commence the next fiscal year dependent entirely upon the current receipts into the Treasury to meet all demands from it.

In reply to a call upon the heads of the different Departments, I have received official information that the sum of \$37,000,000 will be probably called for during the first two quarters of the next fiscal year. This sum does not include such amounts as may be appropriated by Congress over and above the estimates submitted to them by the Departments, and I have no data upon which to estimate for such expenditures. Upon this point Congress is better able to form a correct opinion than I am.

To meet these expenditures, it is not prudent to rely

upon receipts into the Treasury, estimated upon the too rapid revival of trade and business. I believe that we may safely calculate upon receipts, during that period, from all sources, of \$25,000,000. Looking to this state of things, I recommend that authority be given to this Department to supply any deficiencies that may arise in meeting the demands upon the Treasury by an additional loan not exceeding \$15,000,000.

In view of the amount of Treasury notes already issued, I recommend a loan for that amount, to be negotiated for a period of not more than ten years, at a rate of interest not exceeding six per centum.

I have confined this inquiry to the two first quarters of the next fiscal year, as Congress will reassemble before the close of the second quarter, to provide for future contingencies that cannot now be foreseen.

I do not recommend any measure for increased taxation. It would be unwise at this time to attempt a modification of the tariff act of March 3, 1857, for the reasons given in my annual report to Congress. Sufficient time has not elapsed to test the effects of that act upon the revenue, considering the condition of the country during the period of its operation. In addition to this consideration, neither the receipts nor the expenditures of the Government should be estimated for in the future, upon the basis of its present receipts and expenditures. The former have been, and still are, too seriously affected by the late revulsion, to justify a policy of legislation based upon a probable continuance of things for any considerable period of time.

The latter have been so greatly increased by causes of a like temporary character as to preclude, with equal propriety, the policy of considering them as a basis for estimating future expenditures. The most prominent of these temporary causes is the Utah expedition, which, it is hoped, will not reach beyond the end of the next fiscal year. During the period of an overflowing Treasury, a system of expenditure was inaugurated in the building of custom-houses, post offices, court-houses, and other public works, which, fortunately for the country, has been checked by the exhausted condition of the Treasury. The time thus given for a more thorough and rigid inquiry into the necessity and propriety of these expenditures, it is confidently believed, will lead to wise and salutary reforms. Retrenchments in other branches of the public service can, and I have no doubt will, be effected. Attention should be directed more to the reduction of expenditures than to an increase of taxation, to remedy the evils of an excess of expenditures over the means of the Government. A full Treasury is an unpropitious element in the work of retrenchment and reform. If measures should be now adopted to provide the Treasury permanently with a sum equal to the present demands upon it, it might relieve the Government from some of its embarrassments, but would greatly weaken the effort to restrain the Government to an economical expenditure of the public money.

The revival of business, which cannot be much longer delayed, will, I am confident, insure from the present tariff a sufficient revenue for the support of the Government in ordinary times.

Extraordinary expenses rendered necessary by causes equally extraordinary, always being of a temporary character, should be provided for a like temporary manner.

This principle is too plain to require argument or illustration; it is only necessary to call attention to it to command the approval of every intelligent mind.

I am, very respectfully,
HOWELL COBB,
Secretary of the Treasury.

HON. JAMES L. ORR,
Speaker of the House of Representatives.

Mr. J. GLANCY JONES. I submit, also, an estimate and tabular statement, showing the amount of the public debt on the 21st of May, 1858. It will be seen that the \$15,000,000 loan is made payable at the end of fifteen years, so that the bonds may fall due beyond the day on which the present funded debt falls due:

Statement showing the amount of the Public Debt on the 21st of May, 1858:

Loans, &c.	Amount.	When redeemable.
Loan of 1842.....	\$2,883,354 41	December 31, 1862.
Loan of 1846.....	7,630 00	November 12, 1856.
Loan of 1847.....	9,412,790 00	January 1, 1868.
Loan of 1848.....	8,995,341 80	July 1, 1868.
Texas indemnity.....	3,451,000 00	January 1, 1865.
Texas debt.....	261,972 82	On presentation.
Old funded and unfunded debt.....	114,118 54	On presentation.
Treasury notes.....	107,961 00	On presentation.
	<u>\$25,157,038 27</u>	

This public debt, amounting to upwards of twenty-five million dollars, all falls due between the present time and the year 1868. The present loan is purposed to be made for fifteen years, which will be five years beyond the period when our present public debt falls due.

The following is a statement of the Treasury notes issued under the act of 23d December, 1857:

Treasury Notes under act 23d December, 1857.

First issue, \$6,000,000, redeemable from 26th December, 1858, to 31st December, 1859; second issue, \$5,000,000, redeemable from 15th March, 1859, to 6th April, 1859; third issue, \$5,000,000, redeemable from 11th May, 1859, to —; fourth issue, \$4,000,000, redeemable from June, 1859, to —; making \$20,000,000.

I have thus given an exhibit of the public debt up to the 21st of May, 1858.

I have also a statement of the receipts into the Treasury for the first three quarters of the fiscal

year ending the 30th June, 1858, from all sources. It is as follows:

Receipts into the Treasury for the first, second, and third quarters fiscal year ending 30th June, 1858.

	First quarter, 1858. July, August, and September, 1857.	Second quarter, 1858. October, November, and December, 1857.	Third quarter, 1858. January, February, and March, 1858.
Customs.....	\$18,573,729 37	\$6,237,723 69	\$7,127,900 69
Sales of public lands....	2,059,449 39	498,781 53	480,936 88
Incidental....	296,641 05	356,159 78	393,610 78
Treas. notes, act Dec. 23, 1857.....	-	-	11,087,600 00
Loan, act of Jan. 28, 1847.....	150 00	-	-
Trust funds: Smithsonian Institution.....	3,463 85	-	26,724 64
Chickasaw fund.....	33,058 44	-	34,549 44
	\$20,966,492 10	\$7,092,665 00	\$19,151,402 43

Thus it appears that the receipts for the first quarter of the fiscal year were \$20,928,819 81, while in the second quarter of the same year they were only \$7,092,665—a falling off from twenty millions to seven millions in one quarter of the same fiscal year.

I have also prepared a statement showing the amount of imports and exports for the first three quarters of the same fiscal year. It is as follows:

IMPORTS.			
	First quarter, 1858. July, August, and September, 1857.	Second quarter, 1858. October, November, and December, 1857.	Third quarter, 1858. January, February, and March, 1858.
Dutiable.....	\$89,042,557	\$38,547,273	\$35,689,851
Free.....	17,448,321	16,122,777	11,472,323
Specie.....	2,429,269	12,569,148	2,526,545
	\$108,919,947	\$67,239,196	\$49,688,719
EXPORTS.			
Foreign:			
Dutiable....	\$3,606,743	\$6,767,438	\$2,475,139
Free merchandise....	1,401,542	2,338,005	932,094
Specie.....	2,059,913	4,569,252	2,467,696
Domestic:			
Merchandise.....	39,366,748	59,593,789	71,074,026
Specie.....	14,319,112	11,152,029	11,451,361
	\$60,814,058	\$84,420,513	\$88,394,316

I have also prepared another table showing the estimated receipts and expenditures from the 1st of July, 1858, to the 31st of December, 1858, and also one for the four quarters of the fiscal year ending the 31st of June, 1858. It is understood that the loan asked for now, together with the estimated receipts, is to cover the expenses of the first two quarters of the next fiscal year, commencing July 1. In consequence of the unsettled state of trade, we have no reliable basis upon which to make the estimate; but we can approximate to the sum. By the 1st of January next we will have light enough to know just how we stand; and then will be the time to raise our tariff, and everything connected with it, according to the exigencies of the times and the indications of the future.

The appropriations made at the present session of Congress will amount to probably \$63,000,000. Of this, however, but \$58,000,000 will be required for the fiscal year 1859, the residue being incident to the fiscal year 1858.

This nine millions and upwards for deficiency of 1858, is no part of the ordinary expenses of the Government. We can come back in time to the ordinary standard without any great difficulty, by retrenchment and reform. That retrenchment and reform only begun at this session of Congress cannot be effective. It must be determined on at the next session of Congress by legislation. There is no man in the country so wanting in intelligence as not to know that under the system of enormous land grants for railroad purposes,

and under the system of squandering the public money in building custom-house monuments all over the country, inaugurated under a plethoric Treasury, we can never reduce the expenditures of the Government. We have now gone on from something like fifty million dollars a year, to an expenditure of seventy or eighty million dollars, over two thirds of which is legitimately expended for the purpose simply of conducting the Government. I believe it is in the power of the Democratic party—and it will be responsible for it—to bring us back to a proper condition of economical expenditure; but to enable us to do this we must first pay off the legacy entailed upon us of old debts incurred by this system of unwise legislation, and begin our reform by discontinuing the practice. Our foreign relations now require an expansion in only one direction—the increase of our Navy. That is a legitimate exercise of the powers of Government, and necessary to maintain our proper position in the family of nations. When the Government has ceased to build custom-houses and to multiply them all over the land, and ceased also to convert every depot in the country into ports of delivery; when the Capitol extension is completed, which may be in a year, and the other Public Buildings, Patent Office, Post Office extension, Treasury, the aqueduct, and when all these incidental expenses are got rid of, it will be within the power of the Democratic party, under the counsels of our present President, to bring down the expenses of the Government to \$55,000,000 a year. I hope to see this realized in 1860. I am in favor of this reduction. It is utterly impossible for any party to bring about this reform at once. The great point to be aimed at is not to exhibit a parsimonious economy in repudiating our past debts, no matter how recklessly contracted, nor in changing laws in appropriation bills; it must be done deliberately and systematically. It is not to be done by beginning at the heel of the session to exhibit a spirit of wonderful reform in scaling the public debt; but we must begin at the beginning. Let the Democratic party, which certainly holds power in this House one session more, (and if it will not go for reform, it does not deserve to be in power any longer, and holds the Executive and Senate for several years to come,) commence at the beginning of the session, and we will cure this evil. It will not do to exhibit a wonderful display of economy just one or two days before the adjournment of the session in filibustering on appropriation bills. I have to say, with all due deference to my friends on both sides of the House, that the country understands exactly what that is worth. Much capital is not made by it by any parties.

Mr. LOVEJOY. Will the gentleman from Pennsylvania let me say a word here?

Mr. J. GLANCY JONES. I cannot yield now, as my time is short.

Mr. LOVEJOY. Then I hope the gentleman does not charge us with filibustering.

Mr. J. GLANCY JONES. I have seen a good deal of it on both sides of the House, and not a little this morning in the war speech of my friend from Massachusetts, [Mr. BURLINGAME.]

Mr. LOVEJOY. You have not seen it on this side of the House on any single appropriation bill.

Mr. J. GLANCY JONES. I have heard, within the last half hour, a most tremendous demonstration of what I call filibustering—a war speech on the loan bill, while I know that the gentleman who made it will not go for paying expenses. There is not a constituency of five men on that side of the House who would support a war measure before the country, or vote money to pay for it, if I were to bring in a bill to-morrow asking for the money, and men to use it. I do not blame them for it. Experience has taught us that the best way to get along is to insist upon our rights at all hazards, and to ask for nothing but what is right. A war speech in time of peace is very safe, and naturally, like froth, works itself off. I will hold myself ready to vote for war, and to vote for supplies to maintain it, whenever I think the honor of the country is assailed or touched.

Mr. KUNKEL, of Pennsylvania. So will we.

Mr. J. GLANCY JONES. But you would not now be found voting to give the President of the United States authority to redress instantly the first insult offered to our flag on every sea. I am

ready to give the President money and men to do both, but I know such a position could not be carried in this House, and hence I refrain from making war speeches, only to end in words, and find fault with such of my friends on the other side of the House who indulge in this harmless amusement for Buncombe. I could not let the opportunity pass without this remark, that it is rather inconsistent in a gentleman to rise here in this body—and the country will fully appreciate it—and assail the Executive of the United States, no matter to what party he may belong, for not prosecuting a war, when that gentleman, by virtue of his being a member of Congress, is expected to know that, under the jealous reserve of the Constitution of the United States, the Executive has not the power to lift one finger in hostility without the action of Congress; and still worse is it when that gentleman would not vote to give him that power to-day. If the gentleman means what he says, why does he not vote to give the Executive power? The idea of finding fault with the Executive for not waging war, resenting insults, &c., when he has neither power or money given him by Congress to do either, is a species of demonstration which I should be sorry to see often exhibited here by friend or foe, and must certainly (I say it with all due personal regard for my friend) bring Congress into ultimate contempt at home and abroad, wherever it is understood.

I now send to the Clerk's desk the referred to tabular statement of the estimated receipts and expenditures for the next two quarters—that is, from now until the 1st of January next; and also for the four quarters of the current fiscal year—actual and estimated:

Receipts.	
Estimated from customs, public lands, and miscellaneous, from July 1, 1858, to December 31, 1858.....	\$25,000,000 00
From proceeds of loan.....	15,000,000 00
	\$40,000,000 00
Expenditures.	
Estimated expenditures from July 1, 1858, to December 31, 1858.....	37,032,377 98
Probable excess of receipts over expenditures January 1, 1859.....	2,967,622 02
Probable deficit on July 1, 1858.....	932,220 87
Probable balance on hand January 1, 1859..	\$2,035,401 15
Actual expenditures for the first quarter, 1858.....	\$23,714,528 37
Estimated expenditures for three remaining quarters.....	51,248,530 04
	74,963,058 41
To which add—	
Amount of appropriations contained in the deficiency bill to be expended during the year.....	9,704,209 88
Total expenditures.....	\$84,667,268 30
Balance on hand July 1, 1857.....	\$17,170,114 27

Receipts—1858.	
1st quarter.—Customs.....	\$18,573,729 37
Public lands....	2,059,449 39
Miscellaneous.....	296,641 05
	\$20,928,819 81
2d quarter.—Customs.....	\$6,237,723 69
Public lands....	498,781 53
Miscellaneous.....	356,159 78
	7,092,665 00
3d quarter.—Customs.....	\$7,127,900 69
Public lands....	480,936 88
Miscellaneous.....	393,610 78
	8,002,448 35
4th quarter.—Estimated from customs, public lands, and miscellaneous.....	10,000,000 00
Treasury notes under act December 23, 1857.....	20,000,000 00
Total receipts.....	\$63,735,047 43
Probable deficit on July 1, 1858.....	\$932,220 87

Thus it appears that if the loan of \$15,000,000 is granted, and you do not increase the expenses by legislation at this session, either in appropriation bills or by the passage of private bills requiring money, there will be a little over two million dollars in the Treasury on the 1st of January next. Experience has taught us, however, especially under our present Mint system, that we ought at all times to have a balance of \$5,000,000 on hand in the Treasury in order to work the machinery of the Treasury Department. We shall, therefore, be short \$3,000,000 of a good working balance; but it will be safe for months to rest it. I propose that the House pass this bill in its present shape, providing for a not exceeding six per

cent. loan of \$15,000,000 for fifteen years, and send it to the Senate. By the time the Senate takes action upon it will be able to figure up the exact amount of the appropriations that have been made; and if it shall be needed, the Senate can increase it, and I shall ask the House to concur in such increase as they may propose on this basis. I have submitted these remarks hastily, and may modify them somewhat hereafter, in order to enforce and explain more fully the positions taken.

Mr. ANDREWS. I offer the following amendment:

Sec. 6. And be it further enacted, That the sum of \$1,170,000 of the amount so authorized to be loaned as aforesaid is hereby appropriated, and shall be devoted to the following uses and purposes:

For improving Cape Fear river, in the State of North Carolina, \$30,000.
 For improving Appalachicola river, Louisiana, \$15,000.
 For improving the raft region, Red river, \$30,000.
 For improving Mobile harbor, Alabama, \$30,000.
 For improving Milneburg harbor, Louisiana, \$15,000.
 For removing obstructions at Bayou La Fouché, \$15,000.
 For improvement on Keedy Island, Delaware, \$30,000.
 For improvement on White river, Missouri, and Arkansas, \$20,000.
 For improvement on New harbor, New Jersey, \$40,000.
 For preserving and repairing Chicago harbor, Illinois, \$50,000.
 For preserving and repairing Racine harbor, Illinois, \$18,000.
 For preserving and repairing Milwaukee harbor, Illinois, \$40,341.
 For preserving and repairing St. Joseph's harbor, Michigan, \$25,000.
 For preserving and repairing Clinton River harbor, Michigan, \$15,000.
 For preserving and repairing Monroe harbor, Michigan, \$13,857.
 For preserving and repairing Sandusky harbor, Ohio, \$15,000.
 For preserving and repairing Conest harbor, Ohio, \$15,000.
 For preserving and repairing Huron harbor, Ohio, \$15,000.
 For preserving and repairing Black River harbor, Ohio, \$15,000.
 For preserving and repairing Cleveland harbor, Ohio, \$40,000.
 For preserving and repairing Fairport harbor, Ohio, \$15,000.
 For preserving and repairing Erie harbor, Pennsylvania, \$8,638.
 For preserving and repairing Buffalo harbor, New York, \$27,679.
 For repairs on the harbor of Genesee, New York, \$41,052.
 For repairs on the harbor of Sodus, New York, \$20,000.
 For repairs on the harbor of Oswego, New York, \$35,000.
 For repairs on the harbor of Burlington, Vermont, \$14,000.
 For repairs on the harbor of Oak Orchard, New York, \$9,736 43.
 For repairs on the harbor of Whitehall, New York, \$10,000.
 For improving Hudson river, New York, \$75,000.
 For improving Galena river, Illinois, \$25,000.
 For improving Waukauken river, Illinois, \$25,000.
 For improving Illinois river, \$35,000.
 For improving St. Clair flats, \$100,000.
 For improving Plymouth harbor, Massachusetts, \$20,000.
 For improving Cape Cod, Massachusetts, \$10,000.
 For improving Great Wood Hole, Massachusetts, \$2,166.
 For improving New Bedford, Massachusetts, \$10,000.
 For improving Boston harbor, Massachusetts, \$50,000.
 For improving the navigation of the Ohio, Mississippi, and Missouri rivers, by removing snags and sawyers from the same, \$150,000.

Mr. JONES, of Tennessee. I rise to a question of order. This is not an appropriation bill; and I submit that that amendment is not in order.

The CHAIRMAN. The Chair rules the amendment out of order.

Mr. ANDREWS. May I inquire upon what grounds?

The CHAIRMAN. This is a bill to raise money, not to appropriate it. The amendment is, therefore, not germane to the bill, and is out of order.

Mr. ANDREWS. If the amendment should be adopted, that difficulty would be obviated. But the bill sets forth that the money shall be appropriated and paid out for the expenses of the public service; and there are no greater necessities of the public service than these.

The CHAIRMAN. The question is not debatable. The Chair rules the amendment out of order.

Mr. SICKLES. I move to strike out "fifteen millions," in the first line of the bill, and to insert "twenty millions."

Mr. Chairman, I listened, I must say, with some surprise to the somewhat remarkable speech of the gentleman from Massachusetts [Mr. BURLINGAME] in reference to the pending relations between this country and England. I am aware

that I am restricted to five minutes in any reply that I may attempt.

Mr. KUNKEL, of Pennsylvania. I rise to a question of order. I will remark that I would gladly hear the gentleman from New York, for I concur with him in the view he takes of this question; but it is not in order to answer the speech of the gentleman from Massachusetts on an amendment to this bill.

The CHAIRMAN. The gentleman from New York must confine himself to his amendment.

Mr. SICKLES. I propose to confine my remarks, during the five minutes to which I am restricted, to the amendment I have offered. I presume it is competent for me to show the condition in which the Treasury will be found in case the advice of the gentleman from Massachusetts [Mr. BURLINGAME] be followed, or in case some of the fearful contingencies which are foreseen by my friend from Massachusetts should happen. That gentleman made a speech, which, if its views be adopted, renders necessary not only a loan of \$15,000,000 but of \$100,000,000. His speech seemed to be about equally divided between the shafts which he hurled at the Administration and the laurels which he placed at the feet of Great Britain for her conduct with reference to her difficulties with Naples, China, France, and other Powers; and I propose very briefly to state, without going into an argument, wherein he has done injustice to the manner in which this grave question has been dealt with by the Administration.

Mr. KUNKEL, of Pennsylvania. If this thing is to be opened up, and gone into by the gentleman from New York, the debate may last for an hour. I make the point that the gentleman's remarks are not in order.

The CHAIRMAN. The Chair overrules the point of order.

Mr. KUNKEL, of Pennsylvania. I take an appeal from the decision of the Chair.

The committee was divided; and there were—ayes eighty, noes not counted.

So the decision of the Chair was sustained.

Mr. SICKLES. The gentleman from Massachusetts complains that, while the President and this House recommend proceedings against Paraguay for the insults which she has put upon our citizens, nothing has been done in reference to the insults which we have received from England. Sir, I would beg to remind the gentleman that, while he voted for the expedition against Paraguay, he has not voted for one of the appropriations that would enable the President to make a successful stand against the right of search and visitation as asserted by Great Britain.

I desire further to state, Mr. Chairman, that the Administration has done its whole duty in this question. It has not gone to war, for it had not the authority under the Constitution to go to war, and Congress has not delegated any portion of its authority, or any specific authority, to the President in reference to this question. But, sir, the President has promptly called upon Great Britain to disavow the acts of her squadron in the Gulf. We are now only waiting for the response to that demand. The Secretary of the Navy has sent a fleet into the Gulf strong enough to drive the British squadron from those waters in case Great Britain persists in asserting and practicing the right of visitation and search. I have obtained, from an official source, a statement of the force now under orders in the Gulf to protect our merchant vessels from this species of encroachment. It is as follows:

Colorado, 46 guns—2 10-inch pivot guns, 24 9-inch, and 14 8-inch.
 Wabash, 40 guns—2 10-inch pivot guns, 24 9-inch, and 14 8-inch.
 Macedonian, 23 guns—2 10-inch pivot guns, 16 8-inch, and 4 32-pounders.
 Constellation, 23 guns—2 10-inch pivot guns, 16 8-inch, and 4 32-pounders.
 Saratoga, 20 guns—6 8-inch, and 14 32-pounders.
 Jamestown, 22 guns—6 8-inch, and 16 32-pounders.
 Plymouth, 9 guns—1 11-inch, 4 9-inch, 4 8-inch, and 2 24-pounders, and 4 12-pound howitzers.
 Dolphin, 6 guns—6 32-pounders and 1 heavy howitzer.
 Water Witch, 3 guns—1 24-pounder, 2 12-pounders, and 3 howitzers.
 Despatch, 2 guns—2 32-pounders.
 Arctic, 2 guns—2 32-pounders.
 Fulton, 5 guns—4 32-pounders and 1 8-inch pivot gun.
 Savannah, 40 guns—2 10-inch pivot guns, 24 9-inch, and 14 8-inch.

In all, two hundred and thirty-three guns. And, sir, the venerable Secretary of State, also impugned by the gentleman from Massachusetts as

lukewarm and laggard upon this question, has shown himself consistent with the bold and statesmanlike attitude that he has always occupied in reference to it, by sending at once to every port on our Atlantic coast for official information in regard to each and every one of these offenses on the part of English cruisers; and, as the correspondence upon our tables shows, he has promptly dispatched these official accounts to our envoy at London, with instructions to demand immediate reparation for the past, and the most certain guarantees against any repetition of these offenses in future.

The gentleman from Massachusetts says that the Administration proposes to negotiate—to talk, and not to act. Not a word about negotiation has been uttered or written by the President or the Secretary of State, either to the British Minister at Washington or to Mr. Dallas at London. So far as our diplomatic action is concerned, it looks only to ascertain whether the conduct of the British officers is approved or disapproved by their Government. When this is known the question will be ready for the action of Congress, in case Great Britain persists in enforcing her assumed right of visitation or search. In the mean time, protection to our vessels is the object of the Secretary of the Navy, and this is the order which has been given to our squadron in the Gulf. And I venture to say that the position of this Government has been so long and so definitely taken, and will be so steadfastly adhered to by the President, upon this question, that the Government and people of Great Britain will at once see that they have but one alternative—the immediate abandonment of this practice and an ample reparation for recent injuries—or else a war with this country for freedom and equality on the seas. Several days ago the Committee on Foreign Relations instructed me to make a report, embodying their views upon this subject, and I have repeatedly, but in vain, sought to get the floor to report the bill which that committee has matured, and which, in my judgment, properly places the whole matter in the hands of the President, with ample means and power to act as circumstances may require.

Mr. BLAIR. I ask the gentleman from New York, who has spoken in such laudatory terms of the Secretary of State, whether it was not upon the invitation of that Secretary that the operations against the slave trade were transferred from the other continent to this?

Mr. SICKLES. It was not.

Mr. BLAIR. Then, sir, I have been very much mistaken in my reading of the correspondence between the Secretary and Lord Napier.

Mr. SICKLES. I suppose the gentleman from Missouri refers to the recent correspondence between Lord Napier and General Cass, and to the note of the latter, in which he suggests to Lord Napier that more can be done to restrain the slave trade, by proper measures, at the ports in the Gulf, to prevent the landing of slave cargoes, than by anything that can be done upon the coast of Africa. General Cass, in that letter, recognizes no right of search, no right of visitation, no right of seizure, so far as American vessels are concerned, to be exercised by Great Britain, in the Gulf of Mexico or anywhere else.

Mr. BLAIR. It is stated in the public prints that the British commanders are acting upon the coast of this continent under precisely the same instructions that they have acted under upon the coast of Africa. And I consider that acting under instructions to which no objection whatever was before taken by our Government, upon the invitation of our Government to transfer their operations to this continent they have come here and done all they have done on the invitation of our own Government. That I consider to be the case made out.

Mr. SICKLES. The gentleman's argument implies that we have recognized the right of Great Britain to visit, search, and detain our vessels upon the coast of Africa. It is not so.

Mr. BLAIR. No, sir; the gentleman cannot consume my time in misrepresenting my views. I have not recognized the right of Great Britain to search or to detain our vessels in any remarks I have made.

Mr. SICKLES. I said that the gentleman's argument implies that this Government has recognized the right of Great Britain to search our

vessels. This right we have never conceded to any Power upon any sea.

Mr. CRAIGE, of North Carolina. I rise to a question of order. The amendment is to strike out "fifteen" and insert "twenty;" and the gentleman must confine his remarks to that amendment.

Mr. BLAIR. I hope that what is made sauce for the goose will be made sauce for the gander.

Mr. CRAIGE, of North Carolina. Exactly; I want to make sauce for both goose and gander. [Laughter.]

The CHAIRMAN. The Chair gives notice that in future he will sustain such points of order. [Laughter.]

Mr. CRAIGE, of North Carolina. That is neither sauce for the goose nor for the gander.

Mr. BLAIR. I wish simply, now, before taking my seat, to reply to the statement of the gentleman from New York, who says that my remarks implied that the Government of the United States had admitted the claim of Great Britain to the right to search and detain our vessels. On the contrary, my remark was that they had invited the same practice upon this coast that had been practiced upon the African coast.

[Here the hammer fell.]

Mr. SICKLES, by unanimous consent, withdrew his amendment.

Mr. EDIE. With a view of terminating this debate, I move to strike out the enacting clause of the bill.

Mr. HOWARD. I ask the gentleman to allow me first to offer an amendment.

Mr. EDIE. I will withdraw my motion for the purpose of admitting the gentleman's amendment.

Mr. HOWARD. I offer the following amendment:

Section one, line six, strike out "fifteen," and insert "fifty," and in line eight, after the word "require," insert the following:

Twenty millions of which shall be used only in the payment of Treasury notes, issued under authority of the act of December 23, 1857.

The effect will be simply this: it will give authority to loan \$50,000,000 instead of \$15,000,000, and will apply \$20,000,000 of the loan so made only to the payment of Treasury notes already issued, whenever they are matured.

I offer the amendment in good faith; and in the remarks I shall make I shall confine myself to it. I believe that every dollar of the \$30,000,000 which will remain after paying the Treasury notes will be required for the ordinary expenses of the Government, between this time and the 1st of January next; at all events, it will be needed as early as February. It is not statesmanlike to trifle with the present state of the finances. I have not one word to say as to whose fault has produced this state of things. I propose to meet the difficulty as we find it; and I assert that that amount of money has got to be borrowed between this and the 1st of February, or the honor of our Government will be tarnished. It is vain for us to sit here discussing the question whether the present condition of our Government will require the amount of just \$19,000,000, or just \$25,000,000, or \$29,000,000, when we know that it will require \$30,000,000 between this and January.

Besides that, if we now meet this question like men, and provide for redeeming the Treasury notes which have been issued when they become due, the credit of the Government will be sustained, and we can borrow upon better terms than we could if we only sit here and talk about this matter in this slipshod manner, without taking positive action. This is a more favorable time for borrowing money than we have seen for twenty years, or shall see for twenty years to come. The Government will not be obliged to borrow all this amount unless they want it. If they do borrow the whole, they cannot expend one dollar except in conformity to appropriations made by us. We give no dangerous power in any way.

Besides that, I am unwilling that this bill should go to the Senate to be amended by them. They have no right to originate a loan bill. They did assume the power to get up a \$15,000,000 loan bill, but the Committee of Ways and Means of this House, instead of taking up that bill, introduced one of their own. And yet it is now proposed by the chairman of that committee to send this bill over there, knowing that the amount is not sufficient, leaving them to increase it, and in effect to originate such a bill.

I hope the amendment will be adopted, and allow the discussion of the question as to what cause has produced the necessity to go over to a more appropriate time. It will be a matter of economy to take this bill by the horns, instead of dragging along by its tail any longer. Let us provide for redeeming these Treasury notes. Away with these rags, and let us go into the market upon a basis on which you can get money upon terms honorable to us.

Mr. CLEMENS. I have esteemed it my duty, since the commencement of this Congress, as a member of the Democratic party, to vote against many appropriation bills proposed to this House; and now, as a member of the same party, I am willing to vote for a loan, if necessary, of \$50,000,000, to meet the accruing liabilities of the Government. I saw, some time ago, a course of legislation inaugurated here, by the passage of private bills and gratuities for many obnoxious purposes, useless printing among the rest, in the face of a bankrupt Treasury, by which we would be driven to the condition in which we now find ourselves. I am willing to accord to the gentleman from Michigan, as far as I am concerned, full praise for the patriotism and magnanimity which he has shown in meeting the severe ordeal through which we are compelled to pass. If we have to pay the money estimated before the end of the fiscal year, I am willing to give the authority of this House now to borrow it. We may as well do it now as at the next session of Congress. If there is no other reason than that stated by the gentleman from Michigan in his amendment, it is sufficient, upon my part, to say that the money on Treasury notes was contracted for at four and five per cent. It is evidently bad policy, therefore, to contract a loan at six per cent. now to pay off the Treasury notes outstanding, the money on which was obtained at between four and five per cent.

I am willing to leave this money, borrowed by the pending bill, in the hands of the Government, and let it use its discretion in the redemption of these Treasury notes. Why is it necessary to hamper the hands of the Government, and say that these outstanding debts, contracted by Treasury notes at reduced rates of interest, must be met out of this loan at increased rates of interest? Who can tell the exigencies to which this Government may be driven within the next few months? We are leaving here without knowing the complications of our foreign relations. A dark and heavy cloud hangs even now on the edge of the horizon. [Laughter, and shouts of "No, no!"] Gentlemen may cry "no, no," and talk of it lightly.

"He jests at wounds who never felt a scar."

Mr. Chairman, I had no lot or part in contracting the existing debt. You have, in effect, authorized a debt to Gales & Seaton of \$850,000, although, at present, limited to \$340,000. The responsibility of that does not belong to me. You have contracted debts here for purposes not connected with the ordinary expenses of the Government, amounting to seven or eight million dollars, against my vote.

"Shake not thy gory locks at me;
Thou canst not say I did it."

But I am willing to come forward now, in a spirit of magnanimity, and vote you \$50,000,000 to meet your liabilities. I can go before the people and say that I voted against these appropriations; that they did not meet my concurrence, and that I could not conscientiously give them my support; but that, as a member of the Democratic party, when I was called upon to decide whether I would give my vote for maintaining the principles of that party, maintaining the President of my choice by supporting the Government in his hands, I was willing to grant fifty or one hundred million dollars if necessary, but not one cent, unjustly, for tribute to party presses, or the bounty of the horse-leech to pauper partisans.

[Here the hammer fell.]

Mr. WASHBURN, of Illinois. I move that the committee do now rise, for the purpose of closing the five-minute debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BARKSDALE reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly House bill (No. 582) to authorize a loan not exceeding

\$15,000,000, and had come to no conclusion thereon.

Mr. WASHBURN, of Illinois. I now ask the unanimous consent of the House to suspend the rule which allows five minutes debate on the loan bill.

Mr. MILLSON. I have seen that done once, and I never want to see it done again. I object.

Mr. WASHBURN, of Illinois. Then I move to suspend the rules so as to enable me to offer a resolution suspending the rule allowing five minutes debate on House bill No. 582.

Mr. MAYNARD. Inasmuch as there are several gentlemen around me (I am not on the list) who desire to say something on this bill, I ask the gentleman from Illinois to modify his motion so as to terminate the five-minute debate in an hour, or half an hour.

Mr. WASHBURN, of Illinois, declined to accept the modification.

Tellers were called for, and ordered; and Messrs. JOHN COCHRANE and BUFFINTON were appointed.

The House divided; and the tellers reported—ayes 100, noes 38.

Mr. FLORENCE. I demand the yeas and nays, and protest against this system of legislation. I call for tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

So (two thirds voting in the affirmative) the rules were suspended.

Mr. WASHBURN, of Illinois. I now move a resolution suspending the five-minute debate on House bill No. 582, in the Committee of the Whole on the state of the Union.

The resolution was adopted.

Mr. J. GLANCY JONES. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BARKSDALE in the chair,) and resumed the consideration of the

LOAN BILL.

The question was then taken on Mr. HOWARD's amendment; and it was agreed to.

Mr. LETCHER. I move to strike out the enacting clause of the bill. It is not worth while to vote on amendments which we cannot explain.

Mr. MILLSON. I rise to a question of order. I would inquire if the motion is to strike out the enacting clause of the bill?

The CHAIRMAN. That is the motion.

Mr. MILLSON. Will the Chair, if the motion prevails, report to the House that the committee has stricken out the enacting clause?

The CHAIRMAN. If the motion prevails, the bill will be reported to the House with the recommendation that the enacting clause be stricken out.

Mr. MILLSON. Is that the motion of my colleague?

The CHAIRMAN. That is the effect of it.

Mr. LETCHER. I do not want to go through this farce.

The CHAIRMAN. Debate is not in order.

Mr. STEPHENS, of Georgia, demanded tellers on Mr. LETCHER's motion.

Tellers were ordered; and Messrs. SMITH of Tennessee and BUFFINTON, were appointed.

The committee divided; and the tellers reported—ayes 68, noes 58.

So Mr. LETCHER's motion was agreed to.

Mr. KEITT moved that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BARKSDALE reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House to authorize a loan not exceeding the sum of \$15,000,000, and had directed him to report the same back to the House with a recommendation that the enacting clause of the bill be stricken out.

Mr. MILLSON. I rise to a question of order on the reception of the report of the committee, and I ask that the 131st and 132d rules may be read.

The Clerk read the rules, as follows:

"131. No motion or proposition for a tax or charge upon the people shall be discussed the day on which it is made or offered; and every such proposition shall receive its first discussion in a Committee of the Whole House.

"132. No sum or quantum of tax or duty, voted by a Committee of the Whole House, shall be increased in the House until the motion or proposition for such increase shall be first discussed and voted in a Committee of the Whole House; and so in respect to the time of its continuance."

Mr. MILLSON. My point of order is, that it is not competent for the committee to make such a report as a recommendation that the enacting clause be stricken out, the bill having had no consideration or discussion in Committee of the Whole.

[A message was received from the President, informing the House that he had approved and signed a bill granting a pension to Beriah Wright, of New York.]

The SPEAKER. The fact appears, officially, from a former report made from the Committee of the Whole on the state of the Union, that the bill has been considered and discussed. The Chair overrules the question of order raised by the gentleman from Virginia. The Chair examined the rule, having some doubt as to whether the proposition to strike out the enacting clause could be entertained. The Chair finds, within six or seven days after this rule was adopted, that the same course was pursued to get a bill out of the Committee of the Whole on the state of the Union into the House; and that the same thing was done several times afterwards. So that the members who made the rule seemed to understand that it was as well applicable to the Committee of the Whole on the state of the Union as to the House.

Mr. MILLSON. As this question may be important in the future history of the country, I feel it to be my duty to take an appeal from the decision of the Chair.

Mr. WASHBURN, of Illinois. I move to lay the appeal upon the table.

The motion was agreed to.

The Chairman of the Committee of the Whole on the state of the Union then made his report as above stated.

Mr. J. GLANCY JONES. If the recommendation of the Committee of the Whole on the state of the Union be voted down, will not the question then come up on the engrossment and third reading of the bill?

The SPEAKER. It will.

Mr. J. GLANCY JONES. I call for the previous question.

Mr. HOWARD. I ask my colleague on the Committee of Ways and Means to let me offer an amendment before he moves the previous question.

Mr. J. GLANCY JONES. I prefer that we should vote on the naked bill.

The previous question was seconded, and the main question ordered to be put.

The recommendation of the Committee of the Whole on the state of the Union to strike out the enacting words was rejected.

Mr. J. GLANCY JONES obtained the floor.

Mr. HOWARD. I ask my colleague on the Committee of Ways and Means to let me offer an amendment.

Mr. J. GLANCY JONES. If my colleague proposes to strike out "fifteen," and insert "thirty" without the latter provision which he offered in committee, I will yield to him.

The SPEAKER. The Chair could not entertain a proposition to increase the amount. It would have first, under the rule, to be considered in the Committee of the Whole on the state of the Union.

Mr. HOWARD. My amendment is the same as adopted in Committee of the Whole on the state of the Union, and cut off by the motion to strike out the enacting words.

Mr. J. GLANCY JONES. I must call the previous question.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. J. GLANCY JONES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

NAVY APPROPRIATION BILL.

Mr. WINSLOW. I submit the following report from the committee of conference on the Navy appropriation bill.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill of the House (No. 199) making appropriations for the naval service for the year ending the 30th of June, 1859, have met, and after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House do recede from their disagreement to the tenth amendment of the Senate, and agree to said amendment with an amendment, as follows: Insert the word "and" between the words "clerks" and "messengers" and strike out the words "and watchmen," in the fourth line.

That the House do recede from their amendment to the fourteenth amendment of the Senate, and agree to said amendment with an amendment, as follows: Strike out the word "five," in the third line, and insert the word "seven."

J. A. PEARCE,

L. F. S. FOSTER,

JOHN R. THOMSON,

Managers on the part of the Senate.

WARREN WINSLOW,

E. B. WASHBURN,

W. S. GROESBECK,

Managers on the part of the House.

Mr. WINSLOW. Mr. Speaker, there were but two points left in contest between the two Houses. Those were the tenth and fourteenth amendments, the Senate having receded from the previous amendment in which this House did not concur. The tenth amendment allowed certain pay to the clerks of the navy-yard and marine barracks. By the act of April 22, 1854, the clerks at the navy-yard and marine barracks in this city were allowed twenty per cent. addition to their then compensation. By the act of August 5, 1854, the messengers at the navy-yard and marine barracks were included and allowed the same twenty per cent. additional compensation. By inadvertence on the part of the bureau in making the annual estimates, the amount of money necessary to cover this increased compensation was omitted. The amendment of the Senate only proposes to do what the House and the Senate ought to have done in the year 1856—it appropriates the money which, by inadvertence, was omitted to be appropriated on that occasion. But the Senate went further than the act of 1854, and, in addition to the clerks and messengers, included watchmen at the navy-yard and marine barracks. Neither of the acts of 1854 included watchmen, and therefore the managers on the part of the House thought it was not right to pay these watchmen two or three years back extra pay. The Senate agreed to strike out the word "watchmen," and leave the section confined to clerks and messengers. It became necessary for the grammatical construction of the sentence to insert the word "and" between "clerks" and "messengers."

The next point of contest was in reference to the increase of the Navy. The Senate had put upon the bill, as it passed the House, an amendment providing for an increase of the Navy, by adding thereto five sloops of a draught not exceeding fourteen feet. The House amended the Senate amendment by striking out "five" and inserting "ten." The committee of conference, both on the part of the House and the Senate, unanimously concur in recommending that the House recede from its amendment, striking out "five" and inserting "ten," and agree to the Senate amendment with an amendment striking out "five" and inserting "seven."

That is the whole of it. I demand the previous question.

Mr. BARKSDALE. I hope the House will not second the demand for the previous question. For one, I am anxious to debate this matter further.

The previous question was seconded; and the main question ordered to be put.

Mr. KUNKEL, of Maryland. I ask the yeas and nays upon concurring in the report.

The yeas and nays were not ordered.

The report was concurred in.

Mr. DAVIDSON moved to reconsider the vote by which the report was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LIGHT-HOUSE BILL.

Mr. COMINS asked the unanimous consent of the House to discharge the Committee of the

Whole on the state of the Union from the further consideration of the bill (H. R. No. 550) making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes, and that it be now put upon its passage.

Mr. LETCHER. Does not that bill make an appropriation, and has it been considered in Committee of the Whole on the state of the Union at all yet?

Mr. RUFFIN. Will that bill be subject to amendment at all unless it is sent to the Committee of the Whole on the state of the Union?

Mr. STANTON. Certainly not.

Mr. RUFFIN. There are many amendments which should be made to that bill; and it is wrong for a bill of that importance to be considered in the House, where it cannot be amended.

Mr. SMITH, of Virginia. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of taking up this bill.

Mr. WASHBURN, of Illinois. Before that question is put, I hope the gentleman from Massachusetts will move to close debate upon this bill in five minutes after the committee shall take it up for consideration.

Mr. COMINS. I make that motion.

Mr. STANTON. Has the bill ever been considered in committee at all?

The SPEAKER. It has not.

Mr. STANTON. Is that motion to close debate in order?

The SPEAKER. It is not if it is objected to. Mr. COMINS. Then I move to suspend the rules to enable me to introduce a motion to close debate.

The rules were suspended, (two thirds voting in favor thereof.)

The motion to close debate was then agreed to.

Mr. KEITT. I now move that the committee take a recess until six o'clock.

The motion was not agreed to.

Mr. COMINS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

GEORGIANA M. LEWIS.

Mr. DAVIDSON. I desire to appeal to the gentleman from Massachusetts to give way to me for a moment. I shall be compelled to be absent from the House all the remainder of the day upon the Committee on Enrolled Bills, and I desire to ask the House to take up a small bill.

Mr. COMINS. I will yield to the gentleman a moment.

Mr. DAVIDSON. I ask the unanimous consent of the House to take from the Speaker's table and put upon its passage Senate bill (No. 424) for the relief of Georgiana M. Lewis.

No objection being made, the bill was taken up for consideration.

The bill provides for the payment to Georgiana M. Lewis of the five years' half pay to which her husband would have been entitled if living.

The bill was ordered to be read a third time.

It was accordingly read the third time, and passed.

Mr. DAVIDSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

LIGHT-HOUSE BILL—AGAIN.

Mr. COMINS. I now renew my motion to go into the Committee of the Whole on the state of the Union, for the purpose of taking up the light-house bill.

Mr. KEITT. How long will it take to dispose of this bill?

Mr. COMINS. It will not take more than thirty minutes to consider it; and it is necessary to have it disposed of at once and sent to the Senate.

The question was taken on Mr. COMINS's motion; and it was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BARKSDALE in the chair,) and proceeded to the consideration of the bill (H. R. No. 550) making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes.

Mr. COMINS. I do not propose to occupy the full time to which those who report bills from committees are entitled. Fifteen or twenty minutes will answer my purpose. In calling up the light-house appropriation bill for the consideration of the Committee of the Whole, I wish, first, to acknowledge my indebtedness to the Light-House department for its uniform courtesy in extending every facility within its power to enable the Committee on Commerce to come to correct conclusions upon the numerous petitions which have been submitted for their consideration. Books, maps, charts, and an extensive official correspondence between the department and its agents, have been at our command.

With the establishment of the Light-House Board, in 1852, a new impulse was given to this branch of the public service. A system was introduced and is being perfected, which will, in a short time, place the United States at the head of maritime nations in respect to light-house illumination. A well organized, efficient, and systematic plan of construction, and improved system of illumination, inspection, and superintendence of lights, has been introduced. Localities are being selected with greater care. Towers and keepers' dwellings are being constructed with especial reference to durability, safety, and convenience. The introduction of the Fresnel, or lens-illuminating apparatus, one of the most valuable inventions developed by science and mechanic art, and which has for many years been in use in France and England, is an improvement upon the old and imperfect common lamp and reflector lights, which is yet far from being fully appreciated in this country.

In 1838 Congress directed the Secretary of the Treasury to import certain lens apparatus to test the question of comparative economy and efficiency of the lens and reflector apparatus. The Secretary accordingly purchased one first and one second order lens of the Fresnel system, which were placed on the towers of Navesink light-station, at the entrance of the bay of New York. In 1848-49, a third order Fresnel lens was purchased for Brandywine shoal light, and at about the same time a fourth order apparatus of the same kind was purchased for another light-house. Both were erected under the superintendence of the War Department. In 1849 Congress directed that another important sea-coast light should be built and fitted with the Fresnel apparatus. In 1851 Congress directed that in all new light-houses, and in light-houses to be refitted with new illuminating apparatus, the Fresnel system should be adopted if, in the opinion of the Secretary of the Treasury, the public interest would be subserved thereby.

The matter was in this state when the Light-House Board was organized in 1852; previous to which five lens lights had been erected at four light stations. At this time three hundred and twenty-five light-houses were in existence on the Atlantic, Gulf, and lake coasts. There were none at this time on the Pacific. In November, 1857, there were, on the Atlantic, Gulf, and lake coasts, five hundred and thirty-three light stations, and fifteen on the Pacific which have been erected since 1852; in all five hundred and forty-eight. Of this number all have been fitted and furnished with the lens light except six, which will, at an early day, be renovated, and fitted with the improved apparatus, under the direction of the Light-House Board, and for which appropriations have been asked.

The expense of renovating and refitting so many old light-houses with the Fresnel improvement has been large, but it has been an expenditure of the public money which meets the approbation of all practical and scientific men. The average first cost of the lens apparatus is about thirteen hundred and fifty dollars for each light-house on the coast of the United States. They are nearly indestructible, and the annual cost for repairs is trifling. The average first cost of the reflector apparatus, for each light, is \$1,200. The reflectors require renewal at the end of six or seven years, and the annual cost for repairs is large, amounting to a replacement of the apparatus every ten years. But the comparisons of economy, as between the two systems, should not rest upon first cost and repairs. A careful examination of official statements, made both in this country and in Europe, prove that the value of the lens system is eight

times as great as that of the reflector system, taking into consideration economy of maintenance and quantity of light produced.

The quantity of oil estimated for the supply of three hundred and thirty-one light-houses in 1853, was one hundred and eight thousand two hundred and fifty-five gallons. The quantity estimated for in 1857, to supply the five hundred and fifty-six lights now in existence, is forty-eight thousand one hundred and fifty gallons—sixty thousand one hundred and five gallons less than that estimated for three hundred and thirty-one lights in 1853, and one hundred and seventy-four thousand two hundred and fifty gallons less than the amount which would have been required for the whole number now in operation, had the old reflector system remained in force. The expense per annum for the item of oil, therefore, has been diminished from \$278,000—which would have been the cost of oil for five hundred and fifty-six lights, at \$1.60 per gallon—to \$77,040, the cost estimated for the next fiscal year; showing an annual saving of over two hundred thousand dollars in that item alone. The cost of cleaning material, wicks, chimneys, &c., has been reduced in a corresponding degree.

I have been thus particular to give items of expenditure, both with regard to construction, refitting with the lens apparatus, and supplies, to disabuse the public mind relative to increased expenditure in the Light-House department under the superintendence of the Light-House Board.

The United States may well take pride in being one of the first among the maritime nations of the world in establishing a free system of light-house illumination. There are no data to determine what is the exact light-due charged per ton in England; it varies according to the port entered, and the lights passed. It is large, however, and a charge that should not be put upon the tonnage of a nation that exhibits lights free to all who navigate the seas. France, Russia, the United States, and some of the South American Republics, do not charge light dues.

There is no public structure in the United States which will more contribute to the credit and pride of the nation than the tower at Minot's ledge, when it shall have been completed. This work is progressing steadily and well. Two thirds of the stone cutting is finished, and the foundation on the rock only needs a few more stones to be completed. When the first course is laid, the difficulties of the work will be virtually overcome. The funds available for this work will suffice to carry it through the next fiscal year, and no appropriation is asked for its prosecution at this time. The work will, if no unforeseen disaster occur, be finished in the season of 1860.

There is sufficient evidence before the committee, that several towers at some of the most important light stations should be rebuilt at an early day—among which are the Boston light, on the Little Brewster, at the entrance of the Boston harbor; the two towers on Thatcher's Island, Cape Ann; the Navesink, at the entrance of New York bay; Cape Henry, Virginia; and Cape Canaveral light-house, Florida.

A strict regard to that economy, suggested by the present condition of the Treasury, has induced the Committee on Commerce to confine the appropriations contained in the bill now under consideration, to the rebuilding of Thatcher's Island light-house, Cape Canaveral, Florida, and an additional appropriation for the construction of Southwest Pass light-house, at the mouth of the Mississippi, a work appropriated for in 1854, and very important to the commerce of the whole country; but which has not been commenced on account of the insufficiency of the amount appropriated. These works have all been estimated for in detail, as may be seen by consulting the estimates of appropriations for 1858-59.

Mr. Chairman, in taking charge of the light-house appropriation bills for the Thirty-Fourth and Thirty-Fifth Congresses, I have had an opportunity to learn much of the present, and to possess myself of much valuable information relative to the future commercial wants of the whole Union. And what study can be more interesting? In examining the basis and merits of the numerous memorials and communications which have been placed in my hands, I have endeavored to do my duty. The wants of the southern coast, the lakes of the North and West, the Gulf, and of

the far Pacific, have been of equal interest to me. To hear gentlemen upon this floor speak of the commerce of the North, and the commerce of the South, is always painful to me. With five million tons of shipping owned in all sections of the nation, and an internal commerce of a far greater amount, we should never say the commerce of the North, the commerce of the South, or the commerce of the West, but the commerce of our country.

I may be at fault, but in my judgment, appropriations of this nature are eminently in keeping with the principles upon which the institutions of our country are founded, and the true spirit which animates the patriotic and the wise. The examination of these questions, and all questions which tend to a closer union of nations, and contribute to the harmony of the world, are not only in accordance with my own feelings, but in unison with the spirit of peace which pervade the people of my State, and I trust of the Union. Sir, we want not war, but peace; not only peace at home, but peace throughout the world. Whilst we talk about the value of the union of the States, let us not undervalue the union of nations. The honor of our country and our country's flag must be maintained; but, sir, it must be for others to calculate the material value of war. If, finally, we must have war, let it not be upon our impulses, but upon the convictions of statesmen. I beg pardon for this digression. I will now call the attention of the committee directly to the bill before us.

Perhaps, Mr. Chairman, I feel more than an ordinary interest in the passage of the pending bill, and the objects to which it applies, from the fact that it is the last time these appropriations will be under my charge. I shall not again be a candidate for membership of this House.

I now move that the first reading of the bill be dispensed with, and that it be read by sections for amendment.

The first reading of the bill was dispensed with.

The bill was then read by sections for amendment.

Mr. COMINS. I am instructed by the Committee on Commerce to offer the following amendment:

For repairing and securing the pier connected with the light house at Oat-ago, New York, so as to prevent the destruction of said light-house, \$10,000.

Mr. COX. I ask the gentleman from Massachusetts what is the amount of appropriations required by this bill?

Mr. COMINS. About three hundred thousand dollars.

The question was taken; and the amendment was agreed to.

Mr. OLIN. I offer the following amendment:

After amendment No. 1, insert:

For two range lights, to be placed on the Hudson river between Troy and Albany, \$1,000.

To every one familiar with the navigation of the Hudson river, it will be known that the channel between the cities of Troy and Albany is narrower, and more difficult of navigation, than any other portion of the river; that a larger amount of produce is floated over the Hudson river between these two points than over any other portion of the navigable waters of the United States. This appropriation is rendered necessary by reason of the narrowness of the channel, and the difficulties of navigation in that portion of the river. There are more goods lost annually by reason of this difficulty in the navigation of the Hudson, between these two points, than would support this whole light-house system on the Hudson river. This amendment simply asks for an appropriation of \$1,000 to establish two lights. The merchants and navigators of that river would esteem it a great favor if Congress would grant that small pitance.

Mr. COMINS. This amendment was before the Committee on Commerce. It was deemed inconsistent with the principles upon which the bill is founded. On examination it was found that it would be just as consistent to place lights on every other river in the country within two or three miles of each other, as upon the river between Albany and Troy; and the committee did not think it expedient to be put in the bill.

The question was taken on Mr. OLIN's amendment, and it was rejected.

THE CONGRESSIONAL GLOBE.

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THIRTY-FIFTH CONGRESS, 1st Session.

TUESDAY, JUNE 15, 1858.

NEW SERIES...No. 190.

Mr. HOWARD. I offer the following amendment:

That \$5,000 be, and the same is hereby appropriated, to repair the light-house pier at Vermillion, Ohio.

I want simply to state that a recent storm has broken the passage way by which they get to the light-house. The light-house cannot be kept in operation except by boats unless this appropriation is granted. There was no time to place it before the Light-House Board, as it is the result of recent storms.

The question was taken on Mr. Howard's amendment, and it was agreed to.

Mr. MARSHALL, of Kentucky. I offer the following amendment:

For lighting up and buoying the snags in the Mississippi river, \$100,000.

The CHAIRMAN. That amendment seems clearly out of order.

Mr. JOHN COCHRANE. I trust that it may be discussed.

The CHAIRMAN. It is clearly out of order.

Mr. MARSHALL, of Kentucky. Do I understand the Chair to decide that it is not in order to offer such an amendment when there is a proposition in this bill to light up the St. Lawrence river?

The CHAIRMAN. The amendment is not germane to the bill.

Mr. BLISS. I offer the following amendment:

For repairs upon the piers and works for the protection of the light-house just erected at the mouth of Black river, upon Lake Erie, Ohio, \$10,000.

Last year we appropriated money to build this light-house, and also to build the works to connect it with the main land. Most of the light-houses upon the shores of Lake Erie are placed out in the lake, and it is necessary that they should be connected with the main land. This light-house has been built, and the wall connecting it with the main land has been built, but the pier opposite to it is old and dilapidated, and at the commencement of the winter storms a portion of it was swept away, so that the work as it now stands is exposed upon both sides to the storms of the lake; and I am informed by Mr. Whipple, who is the engineer of the work, that there is imminent danger, unless the pier be repaired, that the whole thing will be swept into the lake in a short time, and hence I offer this amendment.

Mr. WASHBURN, of Illinois. I want to call the attention of the committee to one thing. We have a Light-House Board, and all these matters have been examined by that board, and also by the Committee on Commerce, and it cannot be expected that all these amendments which gentlemen bring forward here can be put in the bill upon the mere representation of members.

From the statement made by the gentleman from Michigan, [Mr. Howard], in regard to the recent disaster to the light-house at Vermillion, I did not oppose that amendment, but I am opposed to this method of bringing in amendments at the eleventh hour.

Mr. BLISS. The Light-House Board pay no attention except to the construction of light-houses.

Mr. WASHBURN, of Illinois. It is their duty to examine and report not only in relation to the construction of light-houses, but also in relation to all necessary repairs.

The amendment was rejected.

Mr. MARSHALL, of Kentucky. I move to strike out the following paragraph:

"Michigan.—For a light-house on the north point of the peninsula dividing Grand Traverse bay, \$6,000."

I want to ask the gentleman who reported this bill whether a light-house has been built upon the north point of the peninsula dividing Grand Traverse bay.

It will be observed that this bill provides for the mode of condemning real estate for light-house purposes; it proposes to carry all the appropriations that may now be made beyond the time when they would be subsisting according to law,

so as to prevent them from reverting to the Treasury, in order to keep up these light-house appropriations. Now I want to know how many of these appropriations are for the rebuilding or repair of light-houses heretofore constructed by law, and how far this bill proposes to extend the system, and to create new light-houses at new points? For although I am in a small minority here, still I want it to be understood by the country that, while the voice of the Congress of the United States is determinedly set against any improvement of the western rivers and the channels of commerce of the great interior, you give any sort of extension, at the instance of any sort of a committee, to anything that is intended for the benefit of the sea-board or lake commerce.

Mr. COMINS. In reply to the gentleman from Kentucky, I will say that the light-house provided for in this paragraph, at the entrance of Grand Traverse bay, was inserted upon evidence in the possession of the committee, and is required by the increasing commerce at that point.

Mr. MARSHALL, of Kentucky. Then this light-house has not been provided for heretofore. The amendment was disagreed to.

Mr. MARSHALL, of Kentucky. I move to strike out the next item, which is as follows:

"For a light-house on the east side of Middle Island harbor, West Marquette, \$5,000."

I shall move to strike out each particular item in the bill, in order that we may understand, and the country may understand, what we are about. I ask the gentleman from Massachusetts if this light-house has been provided for by law?

Mr. COMINS. This bill itself, as the gentleman from Kentucky will see, if he will read it through, is to be the law upon which all the appropriations made by it are to be based.

The amendment was disagreed to.

Mr. PALMER. I offer the following amendment:

For constructing a light-house on the breakwater in the harbor at Plattsburg, New York, \$5,900.

I do not wish to debate it, but I hope it will be adopted.

Mr. COMINS. We have passed that section of the bill relating to New York, and the amendment is, therefore, not in order.

The CHAIRMAN. It is not in order.

The following paragraph of the bill was then read:

"Wisconsin.—For a light-house on Green Island, or on one of the adjacent islands, Green bay, \$8,000."

Mr. MARSHALL, of Kentucky. I would ask the gentleman from Massachusetts if that is provided for by law?

Mr. COMINS. As I have before replied to a question of this kind, and as the gentleman has given us to understand that he intends to move to strike out each item in the bill, I think it unnecessary to consume time in answering these questions.

Mr. MARSHALL, of Kentucky. Well, I move to strike out the paragraph.

Mr. LETCHER. I am opposed to that amendment for several reasons, not the least important of which is that I find that Massachusetts gets \$81,000, Florida \$68,000, and Louisiana \$69,000; being a little upwards of \$300,000 for those three States out of the \$295,000 provided for in this bill. Now, my idea is that as this is a very small amount for Wisconsin—only \$6,000—it is well enough, if we are going to pass the bill, not to take what Wisconsin has from her.

Mr. COMINS. I rise to a question of order. We have passed the section of the bill making appropriations for Massachusetts, and it is not therefore in order now to discuss that item. If the gentleman from Virginia had spoken upon it when it was open to discussion, I would have replied to him, and defended that, as I am prepared to defend every item contained in this bill.

Mr. LETCHER. I do not think that the State of Massachusetts has passed through this committee. It may have passed so far as reading is concerned, but there is a time coming when

there will be a vote on Massachusetts. I say that I do not understand exactly how this thing is that two or three States are the only ones provided for in a light-house bill. They get all the money, and little amounts are only thrown out here and there to some few other States.

The amendment was disagreed to.

Mr. WASHBURN, of Maine. I move to increase the appropriation \$1,000, and I do so in order to say a few words in reply to the gentleman from Virginia, who seems to think that these appropriations are made to each State named. I presume that this bill has been made up from estimates of the Treasury Department, under the recommendation of the Light-House Board. They have ascertained, with the means at their command, just what appropriations are necessary at this time. There is the State of Maine, with a coast of one thousand five hundred miles, and not a dollar is appropriated for it. There is on the contrary a provision that some two or three lights shall be discontinued. I do not object, because I presume that the Light-House Board and the Committee on Commerce are informed on the subject, and know where lights are wanted, and where they need repair; and it is for the interest of the commerce of Maine and the commerce of the whole country, that these light-houses shall be maintained where they are needed. These men have been appointed as experts, and as proper and judicious men, and I think that unless it can be shown that they have acted unwisely, we cannot do better than follow their recommendations.

This is a small light-house bill; much smaller, I believe, than any bill reported to this House for the last seven years. I think that we ought to pass it, and send it to the Senate.

Mr. MARSHALL, of Kentucky. Mr. Chairman, the gentleman from Maine tells us that this thing is done by experts; that these recommendations are all made by the Light-House Board, which has been created for the purpose of advising us on the subject. He takes great credit to himself that he goes for this bill, when there is not a dollar for the State of Maine, although she has a large coast. How much the State of Maine has heretofore got, in the way of light-houses, I do not know. I cannot tell without examination; but I tell you this, sir, and I tell the country, that under the pretense of lighting up the approaches of commerce at points at which commerce should be guarded, we are now entering upon a system that will become permanent by reason of the very expenses which we now incur under the auspices of your Light-House Board.

Look at the reports of your Department of the Interior. Look at the reports of the supervising inspectors. See that millions of the property of the people of the interior are sunk year by year upon the great channels of internal commerce. Yet that is passed by without a word. It is considered almost impudence in a Representative from the interior to ask for anything. Sir, I tell gentlemen who live upon the sea-board, or wherever else they may live in the country, that the great interior has heretofore been considered an infant settlement, but, thank God! the time is coming when its representation in these Halls will take this Government into their own hands. Then you men who live upon the sea-board will know the rules that we will put down upon you for the purpose of ameliorating and prospering commerce. I see the dawn ahead. I tell you that you may take from the top of the Blue Ridge to the top of the Rocky Mountains, and dominion dawns over that which is now the great heart of the Republic. We have been oppressed. We have been oppressed long enough. We will stand it no longer. [Here the hammer fell.]

Mr. WASHBURN, of Illinois. Did not the gentleman vote against the river and harbor bill last year?

The CHAIRMAN. Debate is not in order. The amendment was disagreed to.

Mr. CLAY. I move that the committee rise, with a view of taking a recess. Several MEMBERS objected.

Mr. CLAY withdrew his motion.
The Clerk read the following paragraph of the bill:

"North Carolina.—For a beacon-range light at Ocracoke, \$750; and that a light be established at a suitable point at or near Hatteras inlet: *Provided*, That the light-house at Beacon Island, and the Ocracoke and Nine-foot Shoal light-vessels, be discontinued after the erection and exhibition of the aforesaid beacon light."

Mr. RUFFIN. I move to strike from that paragraph the words "and Nine-foot Shoal light-vessels," and in lieu thereof insert the words "light-vessel."

Mr. Chairman, I have not occupied the attention of the House with a single Buncombe speech, this session. My amendment applies particularly to my district. North Carolina, although with an extensive sea-board and a dangerous coast, has never, during the five years I have been here, been represented upon the Committee on Commerce; and in this bill there is a provision to take from her the little that she has. I do not ask by my amendment that any appropriation shall be made. I merely ask that a certain light-boat stationed in my district years ago, shall be permitted to remain.

The amendment of Mr. RUFFIN was agreed to.

Mr. RUFFIN. I move to add at the end of the following paragraph the words, "at the discretion of the Secretary of the Treasury:"

"For a beacon-range light at Ocracoke, \$750; and that a light be established at a suitable point at or near Hatteras inlet: *Provided*, That the light-house at Beacon Island, and the Ocracoke light-vessel, be discontinued after the erection and exhibition of the aforesaid beacon-lights."

The amendment was agreed-to.

Mr. COMINS. I am instructed by the Committee on Commerce to offer the following amendment, to come in at this place:

Georgia.—For a light-house at the proper point in St. Andrew's sound, and for one in St. Catharine's sound, Georgia, \$20,000.

Mr. OLIN. I desire to know of the gentleman from Massachusetts if these lights are recommended by the Light-House Board?

Mr. COMINS. The information that the committee have been able to obtain in relation to St. Andrew's and St. Catharine's Sound, Georgia, is, that the navigation is difficult, and the channels tortuous. The trade and commerce over these waters is considerable, and the committee have recommended the amendment. I hope it will be agreed to.

The amendment was agreed to.

[A message was here received from the Senate—the committee having informally rose for that purpose—by ASBURY DICKINS, their Secretary, informing the House that the Senate had agreed to the amendment of the House to the first amendment of the Senate to the bill of the House (No. 406) making appropriations for the expenses of collecting the revenue, insisted upon their fourth amendment disagreed to by the House to said bill, and asked a committee of conference thereon.

Also, that the Senate had passed, without amendment, the bill of the House (No. 345) for the relief of Nancy Magill, of Ohio.]

Mr. CLAY. I move to strike out the enacting clause of this bill. I think we are legislating here without due consideration.

The CHAIRMAN. The motion is not debatable.

The motion was not agreed to.

Mr. COX. I move to strike out, from lines sixty-six to seventy-four, inclusive, as follows:

"Louisiana.—For the commencement and completion of an iron screw-pile light-house at or near the entrance to the channel of the Mississippi river, at the Southwest Pass, authorized August 3, 1854, in addition to the former appropriations as per estimate J, page 103, (general estimate of appropriations for 1858 and 1859,) \$69,900."

The question was taken; and the Chairman announced that the amendment was not agreed to.

Mr. CLAY. I insist upon a count.

Mr. LETCHER. We do not know whether there is a quorum here, and I ask for a count.

The CHAIRMAN. The Chair desires to state that but eleven gentlemen voted in favor of the amendment, which was not one fifth of a quorum.

Mr. LETCHER. The object is to ascertain whether there is a quorum present.

Mr. KEITT. I move that the committee rise for the purpose of taking a recess.

Mr. LETCHER. I call for tellers upon that

motion, and then we shall know whether there is a quorum or not present.

Tellers were not ordered.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BARKSDALE reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly House bill (No. 550) making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes, and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. ASBURY DICKINS, their Secretary, informing the House that the Senate had passed, with amendments, a bill of this House, making appropriations for deficiencies in the current and contingent expenses of the Indian department.

Mr. J. GLANCY JONES. I ask leave to refer that bill, with the amendments, to the Committee of the Whole on the state of the Union, that it be made a special order, and that all debate thereon shall terminate in five minutes after the committee shall have taken it up for consideration. The motion was agreed to.

POST OFFICE APPROPRIATION BILL.

Mr. BURNETT. I ask leave to make a report from the committee of conference appointed on the part of the House on House bill (No. 556) making appropriations for the Post Office Department. The committee have been unable to agree on a report, and ask that they be discharged.

Mr. PHILLIPS. I move that the House insist on its disagreement to the amendments of the Senate, and ask for another committee of conference.

The motion was agreed to; and Messrs. PHILLIPS, WOOD, and BOYCE, were appointed managers on the part of the House.

RECESS.

Mr. KEITT. I move that the House take a recess till seven o'clock.

Mr. WASHBURN, of Illinois. I move to amend by substituting half past six o'clock.

Mr. KEITT. Why, it is half past five o'clock now.

Several MEMBERS. "No, no; it is only five minutes past five."

Mr. HOUSTON. While members are disputing about the time, I would like to offer a bill which ought to be passed, for the punishment of forgeries of land warrants, and that class of offenses.

Several members objected.

Mr. WASHBURN, of Illinois. I withdraw my amendment.

The question was taken on Mr. KEITT's motion, and it was agreed to; there being, on division—ayes 66, nays 55.

So the House (at ten minutes past five o'clock, p. m.) took a recess till seven o'clock, p. m.

EVENING SESSION.

The House reassembled at seven o'clock, p. m.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled the following bills; when the Speaker signed the same:

An act (S. No. 424) for the relief of Georgiana M. Lewis; and

An act (H. R. No. 345) for the relief of Nancy Magill, of Ohio.

LIGHT-HOUSE BILL.

Mr. COMINS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the light-house bill.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BARKSDALE in the chair,) and resumed the consideration of House bill (No. 550) making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes, the question

being on the amendment of Mr. Cox to strike out the following words:

"Louisiana.—For the commencement and completion of an iron screw-pile light-house at or near the entrance to the channel of the Mississippi river, at the Southwest Pass, authorized August 3, 1854, in addition to the former appropriation, as per estimate J, page 103, (general estimate of appropriations for 1858 and 1859,) \$69,900."

Mr. COX. I desire to say, that while I did not intend to show any special hostility to this improvement in Louisiana—

Mr. WASHBURN, of Illinois. I wish to give notice that I shall insist on gentlemen confining themselves to the subject of their amendments.

Mr. COX. The gentleman's notice will come in, perhaps, after I get through, if it has any pertinency to my remarks. I am not opposed to this special improvement that I have moved to strike out, any more than I am to any other item in the bill; but I wish to say in this connection, that I think this whole bill is got up from a sectional point of view. I do not think it is based upon any fair equalization of the expenditures for this purpose throughout the whole country. I have no special complaints to make as to any improvements of that character for the State of Ohio—

Mr. WASHBURN, of Illinois. I now insist on my point of order.

The CHAIRMAN. The gentleman must confine himself to his amendment.

Mr. COX. I notice that this special improvement calls for \$69,000 for an iron screw-pile light-house.

A MEMBER. What is that?

Mr. COX. I do not know. I would like to have it explained. This bill, amounting to \$290,000, is rushed through so fast, and read so rapidly, that none but a scientific man can get an intelligent idea of it. I do not know why it is that so large an amount is appropriated for this place in Louisiana. I know there are necessities in the West, not only for light-houses, but for other purposes, that have not been provided for by this or other bills; and I am free to say here, as a member from the West, that that part of the Confederacy has not been properly cared for in legislation of this character. When bills are sent to the Senate to improve harbors and rivers that are not for the benefit of the Atlantic sea-board, they are ruled out, and the Atlantic interest is voted up, and carried out with a high hand, even when great complaints are made as to the expenditures of the Treasury, and although we have had complaints about the lankness of the Federal fob. All along, the Democratic party has been held responsible for all these expenses; while gentlemen on the other side have been very prompt to vote them when it suits their localities.

Now, I am willing to bear my share in the burden of every vote here. I voted against the water-works, the Capitol extension, and all schemes of that kind which were not indispensable; and I have moved to strike out this appropriation because I do not believe it to be indispensable at the present time and in the present condition of the Treasury, when we are borrowing money and have no money in the Treasury. I know we want light-houses. We wanted them last year, but no appropriations, as I am informed, of any consequence, were made for light-houses such as these. I voted—if I may depart from the question for a moment for the purpose of returning to it again—for the ten sloops for the purpose of keeping the peace.

Mr. WASHBURN, of Illinois. I call the gentleman to order.

Mr. COX. I shall take a sheer round, and come into order directly.

The CHAIRMAN. The gentleman must confine himself to his amendment.

Mr. COX. Now, Mr. Chairman, it is the policy of a good Government—

[Here the hammer fell.]

Mr. DAVIDSON. Mr. Chairman, I do not like to consume the time of the House, but the gentleman from Ohio has thought it necessary to follow the example of other gentlemen who think it fashionable, or that they may gain something, by pitching into New Orleans. Now, I want to ask you, sir, or any other member of the House, how the light-house is to benefit New Orleans? We have no people that deal in vessels. We are an agricultural people; and if there is commerce there, it is the commerce of you gentlemen in the North, the East, and the West; and the light-

house is for the protection of your commerce, your flat-boats, and your vessels. When the gentleman talks about no money having been appropriated for light-houses, it only shows that the gentleman may be very learned in many things, and not in the particular thing he is endeavoring to discuss; for if he will look at the book, he will find that every year appropriations have been made for light-houses; and I am informed that only last year \$20,000 was appropriated for Ohio.

Let me tell the gentleman one thing: that I am here representing a portion of the people of Louisiana, and no member of this House has ever heard or ever will hear me, until I become demoted, bring it up as a reproach to the prejudice of any appropriation that it is intended for a particular point. I would just as lief vote for a light-house in Vermont as for one in Florida, or for one in Florida as for one in Vermont. It makes no difference to me. If it is to advance the interests of the country and the prosperity of the nation, I am for it; and whenever the Democratic party fails to indorse measures that are for the advancement of the prosperity of the country, I, sir, a child of that party, will cease to belong to it. I will always be responsible for what is right; and the slogan cry of party or of New Orleans, and Boston, and New York, will never prevent me from doing justice to the commercial and agricultural interests of the country.

Mr. COX. I withdraw my amendment.

Mr. JONES, of Tennessee. I object to its withdrawal.

Mr. GILMAN. I have but one word to say in reply to the gentleman from Ohio.

The CHAIRMAN. Further debate is not in order.

Mr. CLAY. I call for tellers on the amendment, because I do not believe that there is a quorum here.

Tellers were ordered; and Messrs. CLEMENS and SPINER were appointed.

The committee divided; and the tellers reported—ayes 4, noes 121.

So the amendment was rejected.

MESSAGE FROM THE SENATE.

The committee here informally rose, and a message was received from the Senate, by ASBURY DICKINS, their Secretary, informing the House that the Senate further insist on their amendments disagreed to by the House to the bill of the House (No. 556) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1859, and ask a further conference with the House on the disagreeing votes of the two Houses thereon; and have appointed Mr. PEARCE, Mr. TOOMBS, and Mr. COLLAMER, the committee on their part.

Also, that the Senate had passed bills of the House of the following titles:

A bill (No. 585) to establish certain post roads; and

A bill (No. 582) to authorize a loan not exceeding the sum of \$15,000,000; with amendments, in which he was directed to ask the concurrence of the House.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 199) making appropriations for the naval service for the year ending the 30th June, 1859; when the Speaker signed the same.

POST ROAD BILL.

Mr. ENGLISH. I move that the House take up the amendments of the Senate to the post road bill.

There being no objection, the amendments were taken up.

Mr. ENGLISH. I move that the amendments be concurred in.

Mr. LETCHER. Let us hear what the amendments are.

Mr. ENGLISH. The Senate amendments only refer, as I am informed by the chairman of the Committee on the Post Office and Post Roads of the Senate, to matters pertaining to post roads, nothing else, as I understand them; but I have not had time to examine all the amendments.

The Senate amendments were concurred in.

Mr. ENGLISH moved to reconsider the vote

just taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LOAN BILL.

Mr. J. GLANCY JONES. I move that the Senate amendments to the loan bill be referred to the Committee of the Whole on the state of the Union, and made the special order.

The motion was agreed to.

LIGHT-HOUSE BILL—AGAIN.

The committee resumed its session.

The Clerk read the following paragraph:

"California.—For a light-house on Mare Island, San Francisco bay, \$9,989."

Mr. LETCHER. I should like to inquire of the chairman of the Committee on Commerce, whether the title to Mare Island has been settled?

Mr. COMINS. There is a provision of law, and it is also provided in this bill, that wherever there is doubt of the title to the land, any money appropriated shall go into the surplus fund until the title shall be substantiated.

Mr. LETCHER. That is an important matter to ascertain.

The CHAIRMAN. Does the gentleman offer an amendment?

Mr. LETCHER. I move to strike out the paragraph which has just been read, and I will give my reason for it. It will be recollected that some month or six weeks ago a communication came here from the Attorney General, in which it was stated that a controversy had sprung up in regard to the ground upon which the public buildings were located at San Francisco. Now whether this is the portion of the public land referred to I cannot tell. The object of my inquiry is to ascertain that fact. For, sir, if it is, I take it that the House will not appropriate money for the purpose of locating a light-house, or any other improvement, upon land the title to which is in controversy.

Mr. COMINS. A joint resolution of 1842 makes it incumbent upon the Executive to obtain cession of jurisdiction from the States on all light-house and other sites, and also that no money shall be expended upon any land until the title is approved by the Attorney General of the United States; money appropriated for light-houses and all public buildings goes into the surplus fund until the matter of title is settled.

Mr. LETCHER. I think that the Committee on Commerce, before locating light-houses, ought to be sure of the title to the land. If we are to go on locating at random and upon lands with disputed titles, we may incur heavy expenditures of the public money—we may not find out the fact until these expenditures have been incurred. I want to avoid a conclusion of this sort, and get rid of the difficulties heretofore attending the construction of public buildings so far as California is concerned.

Mr. McKIBBIN. The title to this land has been passed upon by the Attorney General, and it is no longer in controversy; and therefore the objection of the gentleman from Virginia is without foundation.

Mr. LETCHER. I understand that it is part and parcel of the land in controversy.

Mr. McKIBBIN. The House has already appropriated between two and three hundred thousand dollars, to be expended upon Mare Island, and if the question should be raised at all, then was the time to have done it.

Mr. LETCHER. I withdraw my amendment, and move to add to the paragraph the following proviso:

Provided, That no part of this money shall be paid until the Secretary of the Treasury is satisfied that the United States has a perfect title to this land.

Mr. COMINS. The amendment is unnecessary, but I will not further object to it.

The amendment was agreed to.

Mr. TAYLOR, of New York. I desire to ask the gentleman who reported this bill a question.

Mr. WASHBURN, of Illinois. Does the gentleman offer an amendment?

Mr. TAYLOR, of New York. Well, I move to strike out the fifth section. I move the amendment simply to say that I am not opposed to the passage of this bill, but I desire to know whether it has received the unanimous consent of the Committee on Commerce?

Mr. COMINS. It has.

Mr. TAYLOR, of New York. I desired to know that fact, because I am ready to support the committees in their reports. I withdraw my amendment.

Mr. LETCHER. I move to amend the last section by striking out "shall," in the sixth and thirteenth lines severally, and insert instead thereof the word "may." My object is to leave the matters of the surveys for these light-houses and other matters contained in this section discretionary with the Secretary of the Treasury. As the section now stands these matters are made compulsory, and he has no alternative but to go on and make the surveys, and commence the building of these light-houses.

The amendments were agreed to.

Mr. COMINS. I offer the following as an additional section:

SEC. 7. And be it further enacted, That authority is hereby given to exhibit a light from the light-house tower upon the hill at Cleveland, Ohio.

After the erection of a light-house on one of the piers at Cleveland, Ohio, in place of a small beacon light, it seemed to be the general opinion of navigators on the lakes that the light on the hill was of no further use. It was so officially reported for two years previous to the passage of the act of 1856, authorizing the Secretary of the Treasury, at his discretion, to discontinue it as unnecessary. Some time after the light was extinguished, in the summer of 1857, complaints were made to the Secretary of the Treasury that the light on the pier was frequently obscured by fogs. Fogs or mists are supposed to arise from the town, from the mingling of the warm water of the river with the cold water of the lake. This difficulty was not fully realized until after the light on the hill was discontinued. The tower and apparatus are in good condition, and it is recommended that the Secretary of the Treasury be authorized to relight the same.

The amendment was agreed to.

Mr. COMINS. I now move that the committee rise, and report the bill to the House, with a recommendation that it do pass.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BARKSDALE reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly a bill of the House (No. 550) making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes; and had directed him to report the same to the House with amendments, with a recommendation that they do pass.

Mr. COMINS moved the previous question upon the amendments.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the several amendments recommended by the Committee of the Whole on the state of the Union were concurred in.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. COMINS moved the previous question upon the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

Mr. LETCHER. I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken, and it was decided in the affirmative—yeas 99, nays 61; as follows:

YEAS—Messrs. Abbott, Andrews, Arnold, Billingshurst, Bingham, Blair, Bliss, Bowie, Brayton, Bryan, Bullfinch, Burns, Case, Carraugh, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochrane, Coffax, Comins, Corning, Covode, Cragin, Davis of Massachusetts, Davis of Iowa, Dawes, Dick, Dodd, Durfee, Edie, Eustis, Fenton, Florence, Foster, Giddings, Gilman, Goodrich, Grovesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Hatch, Hawkins, Hoard, Horton, Howard, Hoyer, Kellogg, Kelly, Knapp, John C. Kunkel, Landy, Lovejoy, McKibbin, Miles, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Mort, Nichols, Palmer, Parker, William W. Phelps, Potter, Pottier, Purviance, Reilly, Ritchie, Robbins, Roberts, Royce, Russell, Sandidge, Searing, Judson W. Sherman, Sickles, Samuel A. Smith, Spinner, James A. Stewart, Tappan, George Taylor, Miles Taylor, Thayer, Tompkins, Wade, Walbridge, Walton, Ward, Elihu B. Washburne, Israel Washburn, Whiteley, Winslow, Wood, and Wortendyke—99.

NAYS—Messrs. Ahl, Avery, Barksdale, Bennett, Bo-

cock, Bonham, Branch, Burnett, Caskie, John B. Clark, Clay, Clemens, Cobb, Cox, James Craig, Burton Craige, Curry, Curtis, Davis of Indiana, Davis of Mississippi, Dean, Dewart, Dimmick, Dowdell, Elliott, English, Faulkner, Foley, Garrell, Gregg, Thomas L. Harris, Hopkins, Houston, Jackson, Jewett, George W. Jones, J. Glancy Jones, Lumar, Leiter, Letcher, Samuel S. Marshall, Mason, Maynard, Millson, Niblack, Olin, Pendleton, Peyton, Powell, Ricaud, Savage, Seales, Henry M. Shaw, Shorter, William Smith, Stanton, Stevenson, Talbot, Trippe, John V. Wright, and Zollcoffer—61.

So the bill was passed.

Pending the vote by yeas and nays,

Mr. ATKINS stated that if he had been in when his name was called he would have voted "no."

Mr. COCKERILL stated that he had paired off with his colleague, Mr. HARLAN.

Mr. MARSHALL, of Kentucky, and Mr. ADRAIN asked leave to vote, not being present when their names were called.

Objection was made.

Mr. COMINS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, their Secretary, informing the House that the Senate had agreed to a further committee of conference on the Post Office appropriation bill.

Also, that the Senate had agreed to a committee of conference on the mail steamer appropriation bill.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled the following bills; when the Speaker signed the same:

An act (H. R. No. 56) making an appropriation for the completion of the military road from Astoria to Salem, in Oregon Territory;

An act (H. R. No. 650) granting an invalid pension to William Randolph;

An act (H. R. No. 631) granting an invalid pension to John Holland, of Arkansas; and

An act (H. R. No. 513) granting an invalid pension to William Howell, of Tennessee.

MAIL STEAMER APPROPRIATION BILL.

Mr. SICKLES. I rise to a privileged question. I desire to make a report from the committee of conference on the ocean mail steamer bill.

The report was read, as follows:

The committee of further conference on the disagreeing votes of the two Houses on the bill (H. R. No. 558) making appropriations for the United States ocean mail service for the year ending the 30th of June, 1859, having met, have, after a full and free conference, agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate do recede from its first amendment.

That the House do recede from its non-concurrence in the third amendment of the Senate, and concur in said amendment, with amendments, as follows:

Insert the word "new" between the word "other" and the word "contract," at the end of the third line of said amendment.

Strike out the word "five," in the fifth line of said third amendment, and insert the word "two" in lieu thereof; and add at the end of said amendments the words, "nor for any other compensation than the sea and inland postages on the mails so transported."

That the House do recede from its non-concurrence in the fourth amendment of the Senate.

That the Senate do recede from its fifth amendment.

J. H. HAMMOND,
S. R. MALLORY,
JOHN P. HALE,

Managers on the part of the Senate.

D. E. SICKLES,
M. R. H. GARNETT,
JOHN C. KUNKEL,

Managers on the part of the House.

Mr. SICKLES. The first amendment of the Senate was to strike out the following:

"For transportation of the mails from New York to Liverpool, and back, \$346,500; and it is hereby provided that there be paid to the Post Office Department, out of said appropriation, such sums as may be required to procure the transportation of the mails from New York to Liverpool, and back, on such days as the Collins line may fail to take them from New York."

And to insert, as follows:

For transportation of the mails from New York to Liverpool, and back, in pursuance of the contract with E. K. Collins and others, \$346,500. And it is hereby provided, That for such days as the said Collins and others shall fail to perform said service, the Postmaster General is authorized to contract with the owner or owners of any other steam vessel or vessels to perform said service, by transporting the mails from such port in the United States to such port in Great Britain as he may select, and that the cost thereof be deducted from any amount which may be due, or may be-

come due, to E. K. Collins & Co. for services actually performed. And the Postmaster General may, with the consent of the contractors, change the European termination of said route, under the contract aforesaid, from Liverpool to Southampton.

The Senate recede from the whole of that amendment.

The next amendment of the Senate was as follows:

Sec. 4. And be it further enacted, That it shall not be lawful for the Postmaster General to make any steamship or other contract for carrying the mails on the sea for a longer period than five years.

The committee of conference recommend a concurrence in that with three amendments:

1. Strike out "five" (years) and insert "two" (years.)

2. Insert the word "new" after the word "any."

3. Add at the end: "Nor for any other compensation than the sea and inland postage on the mails so transported."

So that the section will read:

That it shall not be lawful for the Postmaster General to make any steamship or other new contract for carrying the mails on the sea for a longer period than two years, nor for any other compensation than the sea and inland postage on the mails so transported.

Mr. LETCHER. Is it intended by this to give the Postmaster General authority to make contracts for two years, so as to deny to Congress the right to regulate this matter next session?

Mr. SICKLES. Certainly not.

Mr. CLARK, of New York. Does that provision apply exclusively to the foreign mail service, or does it apply to the coast service?

Mr. SICKLES. The provision is so comprehensive as to include any and all service on the sea.

Mr. CLARK, of New York. Then it embraces the route from Charleston to Savannah?

Mr. SICKLES. It applies to all new contracts for any service performed by sea, no matter whether it be performed between this country and Europe, or between two ports of this country, provided it is done over sea.

Mr. LETCHER. Then it takes away from Congress for two years to come all power over the subject. If the Postmaster General chooses to make a contract for two years, Congress cannot meddle with it.

Mr. SICKLES. That is not the effect, as the gentleman will see if he will look more carefully to the phraseology of the section. It is a prohibitory section—that it shall not be lawful for him to make any contract for a longer period than two years.

Mr. LETCHER. Exactly; but he may make any contract for two years.

Mr. SICKLES. The contract, whatever it may be, is restricted in point of compensation to postages alone. The Postmaster General gets no further or other power than he now has under the laws of 1836, 1845, and 1851.

Mr. LETCHER. But, as I understand, the Postmaster General has in view the rearrangement of this whole matter at the next session of Congress. At least, that is the information that I have, as a member of the Committee of Ways and Means. Now, the terms employed there, that he shall make no contract for longer than two years, necessarily imply that he may make contracts for that period.

Mr. SICKLES. The argument of the gentleman from Virginia, it seems to me, is a *non sequitur*. By existing laws the Postmaster General is authorized to make contracts for a longer period for this service, provided parties will perform the service for postages. He does not claim that he is authorized to make contracts which require appropriations; but he does claim that he has the power to make contracts with the current receipts of the service. Now, this provision operates as a limitation over that power in two ways. It limits the duration of the contract to two years, as the maximum duration of the contract in any event, and prescribes absolutely that the compensation can, in no event, exceed postages. Some doubt has existed as to whether or no the Postmaster General may go beyond the postages; and to remove that doubt the conferees have fixed this positive limitation.

Mr. LETCHER. Will my friend be kind enough to say to me whether, if the Postmaster General makes a contract for two years, Congress has any power to abrogate it?

Mr. SICKLES. I would say, in answer to my friend from Virginia, that the only way, as the law now stands, to stop the Postmaster General

from making contracts for more than two years, is to enact this provision.

Mr. LETCHER. Does not the provision enlarge the power of the Postmaster General?

Mr. SICKLES. No; on the contrary, it limits his power.

Mr. CLEMENS. I find that by the act of 1845 it is provided that every contract entered into under the provisions of that act, shall contain, besides the usual stipulations of the right of the Postmaster General to discontinue the same, the further stipulation that it may at any time be terminated by joint resolution of the two Houses of Congress. That applies to existing laws with regard to the foreign mail service. Now I ask the gentleman from New York whether, if this provision were inserted, it would not operate as a repeal of the act of 1845, and put it out of the power of Congress to repeal any contract that might be subsequently made by the Postmaster General? Whereas if we reject this provision it leaves the act of 1845 operative, and allows Congress, at the next session, to remodel the whole mail service of the country.

Mr. SICKLES. I yielded only for an inquiry, not for an argument. I will answer the inquiry, which is: Will the clause operate as a repeal of that statute? I say that it clearly will not, but that that statute will still operate and control this act. This provision adds no new powers whatever, but operates as a limitation upon the authority which the Postmaster General exercises under that statute.

Mr. JONES, of Tennessee. I would like to make an inquiry of the gentleman from New York about this matter. I understand the gentleman to say that this clause will authorize the Postmaster General to make a contract for the coasting service, that is to say, from the Atlantic through the Gulf, to the Isthmus, and then up the other side to California, Oregon, and Washington, for the inland and ocean postages. Our postage is ten cents over three thousand miles, and the Postmaster General, under this provision, may give all the postages on mail matter between this country and California, for the mere transportation of the mails on the ocean. If that is the understanding, what is to pay for the balance of the service?

Mr. SICKLES. I have to say, in answer to the gentleman from Tennessee, that the section referred to makes no distinction whatever between home or foreign service. It is a restriction upon the length of time and the compensation for which contracts may be entered into under the existing laws. The authority to make such contracts, if it exists anywhere, exists under the laws of 1845 and 1836, and whatever limitations those laws impose as to the area or location of the service, of course are equally applicable to this clause; and as I understand it, those statutes are for foreign service.

Mr. JONES, of Tennessee. For ocean service, and under this provision the Postmaster General may give all the postages for this one line on the ocean.

Mr. SICKLES. If that is the case, it is not attributable to anything in the bill now under consideration, and it is, and must be, the result of existing statutes, which were not all under the control of the committee of conference, and for which they are not responsible.

Mr. JONES, of Tennessee. It enables the Postmaster General to give them all the inland and ocean postages.

Mr. SICKLES. It does not require that he shall do it.

Mr. JONES, of Tennessee. It says he may give them all.

Mr. SICKLES. No; it does not. It says he shall not exceed that amount, and what he does give must pay for the whole service between the given points.

Mr. JONES, of Tennessee. Exactly; and he may give them all.

Mr. TAYLOR, of Louisiana. It seems to me that there is no necessity for any difficulty in relation to this matter. We all know that the Postmaster General can make no contract unless he has been authorized to make it. Whatever power exists now can be exercised to the extent that it has been conferred upon him; and it seems to me that the plain and simple import of this clause is to impose a limitation upon the powers already given. So far as it relates to the construction of the

clause, in respect to the amount which the Postmaster General is authorized to give, it seems to me that it would be doing violence to language to give it any other interpretation than this, that the Postmaster General, in making contracts that he is now authorized to make by law, shall not be authorized to give a sum beyond what would be covered by the postages accruing from the mails transported over the particular route. It seems to me, therefore, useless to be splitting hairs about what is so manifest.

Mr. SICKLES. The fourth amendment of the Senate is as follows:

And be it further enacted, That the Postmaster General be, and he is hereby, authorized to cause the mails to be transported between the United States and any foreign port or ports by steamships, allowing and paying therefor out of any money in the Treasury not otherwise appropriated; if by an American vessel, the sea and United States inland postages, and if by a foreign vessel, the sea postages only on the mails so conveyed: Provided, That the preference shall always be given to an American over a foreign steamship when departing from the same port for the same destination within three days of each other.

Mr. CLEMENS. I desire to ask the gentleman another question. The aggregate amount of postages paid last year between San Francisco and New York—

Mr. SICKLES. That inquiry can throw no possible light on this section, because it relates entirely to foreign service.

Mr. DAVIS, of Mississippi. I desire to ask the gentleman from New York a question. I want information upon this subject so as to know how to vote. I have a paper in my hand, and I desire to call the attention of the gentleman to some of the facts stated in it. Perhaps he can tell me if they are true or not. I read from that paper:

"The Pacific Mail Steamship Company under contract for ten years, from October 1, 1848, to October 1, 1858, to carry the mail between Panama and California twice a month for the annual pay of \$338,000, which expires October, 1858, and wish it continued for one year; they do not ask it to be renewed, but the Postmaster General requests the Committee of Ways and Means to put the appropriation into the mail steamer bill.

"These companies, in order to prevent all competition to their line, and to enable them, as they do, to charge passengers double fare, have actually paid Vanderbilt \$30,000 per month, and the United States Mail Steamship Company, carrying the mail between New York and Aspinwall, an additional sum of \$10,000 per month, making \$40,000 per month to Vanderbilt since May, 1856, which they continue to do. This \$40,000 are paid to Vanderbilt per annum simply to give these two companies the entire monopoly of their lines—which sum, and much more, is charged over to passengers and freight."

Mr. SICKLES. I yielded for an inquiry. I did not yield to the gentleman to read an essay.

Mr. DAVIS, of Mississippi. I am asking the gentleman a question.

Mr. SICKLES. If the gentleman will propound a question, I will answer it; but he is reading from an anonymous document.

Mr. DAVIS, of Mississippi. It is not anonymous. I have seen the same statement in the New York Herald, and I ask the gentleman if he can deny its correctness?

Mr. SICKLES. If the gentleman will propound a distinct question, I will answer it; but I do not yield to him to read an unofficial publication.

Mr. DAVIS, of Mississippi. I ask the gentleman if the Pacific Mail Steamship Company, whose contract expires in October next, are not paying \$40,000 a month to Mr. Vanderbilt to prevent him from running an opposition line to them, and if they are not making upon this contract now thirty per cent. upon the amount which they have invested?

Mr. SICKLES. I am surprised that the gentleman from Mississippi should propound a question of that kind with reference to this report; for whatever answer might be given could in no way affect the vote of a single member upon any proposition agreed to by the managers of the conference. I presume there are no appropriations in the bill with reference to the line to which the gentleman refers, except those necessary to fulfill existing obligations of the Government under pending contracts. As to the facts to which the gentleman refers, if they are facts, they will become applicable and useful if called to the attention of Congress, or of the Post Office Department, when the contract to which he refers shall expire.

Mr. HARRIS, of Illinois. The anonymous

document from which the gentleman from Mississippi has read, coming from what quarter I do not know, has been brought in here and laid upon our desks, with this caption written in pencil: "kill mail steamer bill—a new bill can be prepared without Pacific swindle." This document has been distributed here for the purpose of influencing the votes of members. Now, I voted against the bill before, but I think that this attempt to influence the votes of members by the circulation of anonymous documents deserves the severest condemnation.

Mr. PHELPS, of Missouri. And that document emanates from a man who has been endeavoring to levy black mail out of this steamship company.

Mr. SICKLES. I decline to yield further.

Mr. DAVIS, of Mississippi. I ask the gentleman to allow me to say a few words.

Mr. SICKLES. No, sir; I will not.

Mr. DAVIS, of Mississippi. It is unfair to the House and the country.

The SPEAKER. The gentleman from New York has a right to decline to yield.

Mr. JONES, of Tennessee. I hope the House will vote down the previous question.

Mr. MARSHALL, of Kentucky. I desire to ask the gentleman this question: whether the conferees considered fairly the act of 1851—not of 1845—which regulates the power of the Postmaster General, when providing for the transmission of the mails from one point in the United States to another point in the United States, through a foreign country? Will the gentleman permit me to read an abstract of that act?

Mr. SICKLES. I would rather the gentleman would state the point.

Mr. MARSHALL, of Kentucky. The point is this: that by existing law the Postmaster General now has authority to make contracts under certain limitations, for the transmission of the mails from one point in the United States to another point in the United States, through foreign countries, and it is limited to a term of four years; and he has the authority now, whenever a speedier route can be ascertained, to abrogate all the existing contracts, and to take that new and speedier route upon arranging a just indemnity to the contractors on the routes he discards. It is provided further, that he shall advertise, and give the new route to the lowest bidder. It occurs to my mind that the law, as you propose to put it, will involve the country in the adjustment of indemnity, and will probably make a war by the Post Office Department upon existing routes by the substitution of a new route; whereas, if I understood the vote of the House of Representatives, they intended to stop this power altogether.

Mr. SICKLES. The point made by the gentleman from Kentucky is, in substance, that made heretofore by the gentleman from Tennessee, [Mr. JONES.] It was fully answered, I think, by what I said in reference to the objection of the gentleman from Tennessee; and certainly, sir, after the lucid explanation of the gentleman from Louisiana, [Mr. TAYLOR,] I think that nothing remains to be added. The point is here: whatever authority the Postmaster General may have, as the gentleman from Kentucky claims, with reference to the class of contracts to which he refers, he possesses under the law to which the gentleman called the attention of the House.

Mr. MARSHALL, of Kentucky. With modifications which your law dispenses with.

Mr. SICKLES. Not at all. I put it to the gentleman from Kentucky, in all fairness, that not a word in this bill can be construed as modifying, or repealing, or affecting, excepting by way of limitation or restriction, any of the existing laws relating to this subject. The phraseology, in its legal as well as in its ordinary import, means that. Look again at the language, "that it shall not be lawful for the Postmaster General to make any contract, &c., for a longer period than for two years, or for a greater compensation than postages." Now, there would be no sense in employing such phraseology, except as a limitation upon existing powers conferred by antecedent laws.

Mr. MARSHALL, of Kentucky. Before the chairman passes from this point, I desire to call his attention to the fact that if there be a prohibitory clause, if there be a provision of law giving

the Postmaster General power to do thus and so for four years under limitation, and you afterwards pass a prohibitory clause that it shall not be lawful for him to do thus and so for more than two years, except on a specified condition, notwithstanding your prohibition your clause becomes a positive one, that confers all power upon him. There can be no doubt about it.

Mr. SICKLES. Of course this limitation cannot retroact upon any contract already made; but it does act upon any new contract, both by its own force and effect and by the qualifications it imposes upon powers conferred by existing laws; and this is all the answer that it is necessary to make to this new point of the gentleman from Kentucky.

Mr. SANDIDGE. I think it is perfectly intelligible to this House, or ought to be, that the provision in this bill refers to the act of 1845. This provision is clearly a restriction to the extent of two years; for, by the terms of the act of 1845, the Postmaster General cannot only do what, under this bill, he can do for two years, but he can make a contract extending ten years. This, then, is a restriction. It restricts his power to make a contract for ocean service to two years, whereas, by existing law, he can make a contract for ten years.

To sum up the whole matter briefly, this bill, as it went from the House, was a mere appropriation bill; it would have been better, perhaps, if it could have remained so. But the Senate added several sections of general legislation with reference to the service. All these have been abandoned, except in two particulars; in the first place, we have agreed upon certain clauses which operate to control the expenditure of the appropriations made; and next, we agree to a provision which insures a fair trial of an experiment to carry ocean mails for postages, wherever the service is performed, and whether wholly or in part by sea.

It is evident that the country looks to Congress and to the Administration to give this experiment a fair trial; and although, in my opinion, it would have been better to leave the whole question to the next session, I am prepared to go as far now as is proposed in this report, to give the system a fair trial upon the basis of postages as a compensation. At the end of two years all existing contracts will have expired, and then Congress, in view of the abundant information it will have upon the subject, will be prepared to establish a policy for this service, so important in its relations to commerce, as well as to the Post Office, that will be at once enlightened and permanent.

Mr. Speaker, I move the report be accepted; and demand the previous question.

Mr. SICKLES. The fifth amendment of the Senate was as follows:

Sec. 6. *And be it further enacted, That the Postmaster General be, and he is hereby, directed to provide for and maintain, if practicable, at a cost not to exceed, in any instance, the sea and United States inland postage on the mails conveyed, a weekly mail to and from Europe, by United States mail packets, to alternate at regular intervals with the British mail packets, living between New York and Liverpool, and Boston and Liverpool, the preference to be given to such line or lines of American steamships, suitable in all respects for the service, as shall offer the best permanent contract: Provided, that no contract shall be made under the provisions of this act for the same service on the same week for which E. K. Collins and others have contracted during the continuance of that engagement.*

The Senate receded from that amendment.

Mr. CRAIGE, of North Carolina. I move to lay the report upon the table.

Mr. MARSHALL, of Kentucky. I demand the yeas and nays.

Mr. JONES, of Tennessee, called for tellers upon the yeas and nays.

Tellers were ordered; and Messrs. CRAIGE of North Carolina, and CLEMENS, were appointed.

Mr. PHELPS, of Missouri. I desire to inquire whether if the report is laid on the table it will not carry the bill with it?

The SPEAKER. It will.

The House divided; and the tellers reported—ayes thirty-seven; a sufficient number; and the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 49, nays 116; as follows:

YEAS—Messrs. Atkins, Barksdale, Bliss, Bockock, Bonham, Burnett, Caskey, Clemens, Cobb, Covode, Burton, Craig, Davis of Indiana, Davis of Mississippi, Dawes, Dean, Dewart, Edie, Elliott, Faulkner, Florence, Gilmer, Hop-

kins, Jewett, George W. Jones, Owen Jones, Jacob M. Kunkel, Lamar, Humphrey Marshall, Samuel S. Marshall, Maynard, Pendleton, Peyton, William W. Phelps, Powell, Ruffin, Savage, Seales, Henry M. Shaw, Spinner, Stanton, Stevenson, Talbot, Tompkins, Trippie, Underwood, Wade, Elihu B. Washburne, Whiteley, and Woodson—49.

YAYS—Messrs. Abbott, Adrain, Ahl, Andrews, Arnold, Billingham, Bingham, Bowie, Branch, Brayton, Bryan, Buffinton, Burlingame, Burns, Case, Cavanaugh, Chaffee, Chapman, Ezra Clark, Horace F. Clark, John B. Clark, Clawson, Clay, Clark B. Cochrane, John Cochrane, Colfax, Corning, Cox, Crawford, Curry, Curtis, Davis of Massachusetts, Davis of Iowa, Dick, Dimmick, Dodd, Dowdell, English, Eustis, Fenton, Foley, Foster, Garnett, Gartrell, Gillis, Gilman, Gooch, Gregg, Groebeck, Grow, Robert B. Hall, Thomas L. Harris, Hatch, Hawkins, Hoard, Horton, Houston, Huyler, Jackson, J. Glancy Jones, Kellogg, Kelly, Knapp, John C. Kunkel, Landy, Leidy, Leiter, Lovejoy, Maclay, McKibbin, Mason, Matteson, Miles, Milson, Moore, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Mott, Niblack, Nichols, Olm, Palmer, Parker, John S. Phelps, Potter, Pottle, Purviance, Reagan, Reilly, Ricaud, Ritchie, Roberts, Royce, Russell, Sandidge, Scott, Searing, Judson W. Sherman, Shorter, Sickles, Samuel A. Smith, Stallworth, James A. Stewart, Tappan, George Taylor, Miles Taylor, Thayer, Walbridge, Walton, Ward, Israel Washburn, White, Wortendyke, and Zollicoffer—116.

So the House refused to lay the report on the table.

Mr. HOWARD stated, pending the call of the yeas and nays, that he had paired off with Mr. GREENWOOD.

[A message was received from the Senate by ASBURY DICKINS, their Secretary, informing the House that the Senate had passed a bill of the House for the benefit of the captors of the British brig Caledonia, in the war of 1812, with amendments, in which he was directed to ask the concurrence of the House.]

The previous question was then seconded, and the main question was ordered to be put.

Mr. DEAN demanded the yeas and nays upon agreeing to the report.

Mr. CLEMENS called for tellers upon the yeas and nays.

Tellers were ordered; and Messrs. CLARK of Connecticut, and CRAIG of North Carolina, were appointed.

The House divided; and the tellers reported—ayes thirty-three, a sufficient number; and the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 98, nays 57; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Andrews, Arnold, Billingham, Bingham, Bowie, Branch, Brayton, Bryan, Buffinton, Burlingame, Burroughs, Case, Cavanaugh, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, John Cochrane, Colfax, Corning, Cox, Crawford, Curry, Davidson, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dick, Dimmick, Dowdell, Durfee, English, Eustis, Foster, Garnett, Gartrell, Giddings, Gillis, Gilman, Grainger, Robert B. Hall, Hatch, Hawkins, Horton, Huyler, J. Glancy Jones, Kelly, Knapp, John C. Kunkel, Landy, Leidy, Maclay, McKibbin, Matteson, Maynard, Milson, Moore, Morgan, Morrill, Freeman H. Morse, Niblack, Nichols, Olm, Palmer, Parker, Pottle, Purviance, Reagan, Reilly, Ricaud, Ritchie, Robbins, Roberts, Royce, Russell, Sandidge, Scott, Searing, Judson W. Sherman, Shorter, Samuel A. Smith, Stanton, Tappan, George Taylor, Miles Taylor, Thayer, Walton, Ward, Israel Washburn, White, Winstow, Wood, and Wortendyke—98.

NAYS—Messrs. Atkins, Barksdale, Bennett, Blair, Bliss, Bocock, Bonham, Burnett, Caskie, John B. Clark, Clay, Clemens, Cobb, Burton Craig, Curtis, Davis of Mississippi, Dawes, Dean, Dewar, Dodd, Elliott, Faulkner, Fenton, Florence, Foley, Gilmer, Gregg, Groebeck, Grow, Thomas L. Harris, Hoard, Hopkins, Houston, Jackson, Jewett, George W. Jones, Owen Jones, Ruffin, Savage, Seales, Henry M. Shaw, William Smith, Spinner, Stallworth, Stevenson, James A. Stewart, Talbot, Tompkins, Trippie, Underwood, Wade, Walbridge, Elihu B. Washburne, Whiteley, Woodson, John V. Wright, and Zollicoffer—57.

So the report was concurred in.

Mr. GARNETT moved to reconsider the vote by which the report was concurred in; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

REVENUE BILL.

Mr. JOHN COCHRANE. I rise to a privileged question. I desire to make a report from the committee of conference on the bill of the House No. 466, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 466) making appropriations for the expenses of collecting the revenue from customs, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House recede from its disagreement to the fourth amendment of the Senate, and concur with an amendment, as follows: Strike out all after the word "warehouses;" in line five, to the word "than," in line eight, and insert, "or

appraisers shall receive a compensation more than twenty-five per cent. greater."

R. M. T. HUNTER,
J. D. BRIGHT,
B. F. WADE.

Managers on the part of the Senate.

JOHN COCHRANE,

W. L. UNDERWOOD,

Managers on the part of the House.

There were but four amendments proposed by the Senate to this bill. In two of those amendments the House concurred. To one of them they disagreed, but concurred in it with an amendment, to which the Senate agreed, leaving thereby only the fourth amendment in which the House non-concurred. The Senate insisted, and asked a committee of conference, and it was upon that amendment that the conference was had. I will read the amendment of the Senate, so that the House may understand the action of the committee of conference. It is as follows:

"And be it further enacted, That no collector of the customs, deputy collector, naval officer, deputy naval officer, surveyor, deputy surveyor, general appraiser, superintendent of warehouses, or any other officer or person engaged in the collection of the revenue, shall receive a greater compensation than is now paid to the officers and persons engaged in said service at the port of New York: *Provided*, That this section shall not be so construed as to increase the compensation of any officer of the customs, or of any person engaged in the collection thereof."

The House should understand that there is but one collection district at which the compensation of officers is greater than the compensation of officers at the port of New York. That district is the district of California. Of course this Senate amendment operates, and was intended to operate, upon the compensation of officers in that district. The effect of the amendment was to cut down the compensation of all officers and employees engaged in the collection of the revenue in that district. The House non-concurred in the amendment. The subject has been freely discussed by the committee of conference, and they came to the conclusion—with but one exception, and that was the gentleman from California, [Mr. SCOTT]—that the amendment of the Senate should be concurred in, with an amendment to strike the words "or any other officer or person engaged in the collection of the revenue shall receive a greater compensation," and insert the words "or appraisers shall receive a compensation more than twenty-five per cent. greater;" so that the amendment, if the recommendation of the committee is concurred in, will read:

"That no collector of the customs, deputy collector, naval officer, deputy naval officer, surveyor, deputy surveyor, general appraiser, superintendent of warehouses, or appraisers, shall receive a compensation more than twenty-five per cent. greater than is now paid to the officers and persons engaged in said service at the port of New York: *Provided*, &c."

A few words in this connection are perhaps necessary to a full understanding by the House of the reasons of the action of the committee in the premises. The following statement will show the comparative compensation of the several officers at the port of New York, and at the port of San Francisco:

	New York.	California.
Collector.....	\$6,400	\$10,000
Deputy collector.....	2,500	4,000
Naval officer.....	5,000	8,000
Deputy naval officer.....	2,000	3,600
Surveyor.....	4,900	7,000
Deputy surveyor.....	2,000	4,000
Warehouse superintendent.....	2,000	3,600
General appraiser.....	2,500	6,000
Appraiser.....	2,000	6,000

This scale of compensation, so much greater in San Francisco than in New York, was adopted in reference to high prices current and high rates of rent in San Francisco, compared with what they then were at any other port of the United States. It was averred in the committee, and with truth, that the scale of prices for living, rent, &c., in San Francisco was now nearly that of New York and other ports of the Union; but it was conceded that it was still somewhat greater, though not as great as formerly. In reference to that it was that the committee thought that if they adopted a rate of compensation to the superior officers in San Francisco engaged in the collection of revenue twenty-five per cent. greater than that of the same class of officers in New York, the amendment would meet the case and adjust itself to the greater expense of living. They, under the same considerations, also came to the conclusion that it would not be justifiable to extend the

force of this amendment to that class of officers designated in the words of the Senate amendment, "or any other officer or person engaged in the collection of the revenue," and which we propose to strike out. So the words referring to all those lesser officers, the manipularies—if I may so term them—of the custom-house and revenue laws, were stricken out, and the amendment left as valid and applicable only as to superior officers. It is proper to say, however, that the third manager on the part of the House, the member from California, did not assent to that agreement or report, thinking that the compensation ought to be greater.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, its Secretary, informing the House that the Senate had passed an act for the relief of Myra Clark Gaines, and a bill from the House granting a pension to Mary A. M. Jones.

REVENUE BILL—AGAIN.

Mr. SCOTT. At this late hour of the night I would not trespass on the time of the House, but a sense of duty constrains me to make a statement to this House. Lest some might construe my opposition to the report of the committee of conference as a fictitious one, I desire to say that so far as my action in the committee of conference was concerned, it was based on personal experience and personal knowledge. It was not my desire, even if it lay in my power, to endanger or jeopardize the bill making appropriations for the collection of the revenue. I did believe that the compensation of the custom-house officers in California was far below that which their efficiency, capacity, constancy, and worth deserve. Still I was willing to agree to a moderate deduction, and went so far as to concede a deduction of fifty per cent. When that amendment was introduced in the Senate, a superficial observer might have arrived at the conclusion that it was intended to extend over all the revenue districts of the country; but when you come to examine it, you find that the salaries of these officers are all equalized, except in the State of California. Now, I say that that is unfair and ungenerous legislation, especially when the Secretary of the Treasury has in contemplation a revision of the expenditures for the collection of the revenue. I saw that, to my astonishment, when it came to the House, the Committee of Ways and Means recommended a disagreement, and the House rejected the Senate amendment by a decisive vote. It was shown by a gentleman on the committee of conference that the cost of living and of clothing was almost twice as great in California as it is on this side. The salaries of our custom-house officers have, nevertheless, been reduced to one fourth more than those in the Atlantic States.

I do not intend to trespass on the time of the House further in this matter. I have done my duty. My action has sprung from no factious opposition, nor from a disposition to retard the action of this body, so far as this bill was concerned, but to do justice to those who are far distant, and who cannot come around Congress to show the difference between their expenses in the city of San Francisco and those in New York. I believe that this is an unfair, unequal, and unjust discrimination between the officers in San Francisco and the officers in New York.

Mr. JOHN COCHRANE. I move the previous question.

Mr. CLEMENS. I desire to reply to the gentleman from California. [Cries of "Question!" "Question!"]

The previous question was seconded, and the main question ordered; and, under its operation, the report of the committee of conference was adopted.

Mr. JOHN COCHRANE moved to reconsider the vote by which the report of the committee of conference was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

POST OFFICE APPROPRIATION BILL.

Mr. PHILLIPS. I rise to a privileged question. The committee of conference on the disagreeing votes of the two Houses on the amendments to the Post Office appropriation bill have

met and, after a full and free conference, have been unable to agree.

Mr. J. GLANCY JONES. The Committee of Ways and Means reported the usual annual appropriation bill for the Post Office Department; it passed this House precisely as the Committee of Ways and Means reported it; it went to the Senate, and was there loaded down with amendments. Two committees of conference have now acted on it, and could not agree; and my present information is, that they never will agree. I now move that the bill be laid on the table; and I ask unanimous consent to report from the Committee of Ways and Means, immediately, a bill the same as it was passed by the House.

Mr. ENGLISH. I understand that the only ground of difference is in regard to the abolition of the franking privilege.

Mr. J. GLANCY JONES. I move to lay the Senate amendments to the Post Office appropriation bill on the table.

The motion was agreed to.

Mr. J. GLANCY JONES. I now ask the unanimous consent of the House to report from the Committee of Ways and Means a new Post Office appropriation bill, being, in fact, the bill that was originally reported from that committee, and that was passed by the House without the alteration of a dot to an "i," or a cross to a "t."

There being no objection, a bill making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1859, was reported from the Committee of Ways and Means, and read a first and second time.

Mr. GROW. I desire to inquire of my colleague if that is the same as the bill that came from the Senate, with the exception of the provisions for the abolition of the franking privilege and for the increase of the postage rates?

Mr. J. GLANCY JONES. It is identically the same bill as that reported originally by the Committee of Ways and Means, according to the regular estimates, and passed by the House without a solitary alteration.

Mr. GROW. How does it differ from the one that came from the Senate?

Mr. J. GLANCY JONES. It omits the Senate amendments.

Mr. KEITT. Is it the same bill as the one the Senate amended?

Mr. J. GLANCY JONES. Precisely the same.

Mr. KEITT. Then it is a question whether the House or the Senate will yield?

Mr. J. GLANCY JONES. Let the Senate take the responsibility of amending it, if they choose.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. J. GLANCY JONES moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. J. GLANCY JONES moved to reconsider the vote by which the amendments of the Senate to the former Post Office appropriation bill were laid upon the table; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

CLOSE OF DEBATE ON THE LOAN BILL.

Mr. J. GLANCY JONES moved that the amendments of the Senate to the loan bill be made the special order in the Committee of the Whole on the state of the Union until disposed of, and that all debate thereon be closed in five minutes after the committee should proceed to the consideration of the same.

The motion was agreed to.

INDIAN DEFICIENCY BILL.

On motion of Mr. J. GLANCY JONES the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HARRIS, of Illinois, in the chair,) and proceeded to the consideration of the amendments of the Senate to the House bill (No. 555) to supply deficiencies in the appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1858.

Mr. J. GLANCY JONES. The amendments

of the Senate to this bill do not increase the appropriations, but are restrictions upon them. Those members of the Committee of Ways and Means with whom I have been able to confer informally, recommend a concurrence in the amendments.

The amendments of the Senate were read and concurred in, as follows:

Sec. 2. *And be it further enacted*, That none of the moneys hereby appropriated to the Indian service in the Territories of Oregon and Washington shall be paid until the claims which they are intended to satisfy shall have been audited and stated by a commissioner to be sent to the said Territories by the said Secretary of the Interior, and approved by said Secretary; said commissioner shall be appointed, as soon as practicable, by the Secretary of the Interior, to receive a compensation of eight dollars a day and his actual traveling expenses whilst engaged in the service hereby prescribed; and it shall be the duty of said commissioner to examine the vouchers, and to take testimony, if necessary, in regard to the claims or accounts which may be presented against the Government, and to report the result of his investigation, and his opinions thereupon, to the Secretary of the Interior, who shall pay such claims, if he approve them, so far as the appropriation herein made shall be sufficient for the purpose.

Sec. 3. *And be it further enacted*, That in executing process in the Indian country, the marshal be authorized to employ a *posse comitatus*, not exceeding three persons in any of the States respectively, to assist in executing the process, by arresting and bringing in prisoners from the Indian country, and to allow them three dollars per diem, in lieu of all expenses and services.

Sec. 4. *And be it further enacted*, That the superintendents and agents within the superintendency of Texas, shall be hereafter appointed in the same manner as other superintendents and agents are appointed and confirmed.

The amendments were then laid aside to be reported to the House, with the recommendation that they be concurred in.

LOAN BILL.

The committee proceeded to the consideration of the amendments of the Senate to the loan bill.

Mr. J. GLANCY JONES. The Senate have amended this bill by striking out all after the enacting clause, and substituting therefor their own bill. That bill differs from the House bill in three particulars only. The first is that it makes the maximum of interest five per cent. instead of six per cent.; the second is that it makes it compulsory on the Secretary of the Treasury to have coupons attached to the bonds instead of leaving it discretionary with him; and the third is that it reduces the appropriation for the expenses of getting up this stock from twenty to five thousand dollars. I move to amend the Senate amendment by striking out "fifteen," and inserting "twenty," so as to make the loan \$20,000,000, which will be sufficient to cover all expenses up to the 1st of January next.

The amendment was agreed to.

Mr. J. GLANCY JONES. I move that "five" be stricken from the Senate substitute, and that "six" be inserted in lieu of it, so as to make the interest six instead of five per centum.

ENROLLED BILLS.

Here the committee informally rose, and Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 585) to establish certain post roads; and

An act (H. R. No. 42) granting a pension to Mary A. M. Jones.

MESSAGE FROM THE PRESIDENT.

A message was received from the President, by J. B. HENRY, his Private Secretary, notifying the House that he had approved and signed sundry bills.

LOAN BILL.

The committee then resumed its session.

Mr. JOHN COCHRANE. I demand tellers on the amendment moved by the gentleman from Pennsylvania, to strike out five per cent., and insert six per cent. in lieu thereof.

Tellers were ordered; and Messrs. JOHN COCHRANE and BUFFINGTON were appointed.

The committee divided; and there were—ayes 72, noes 47; so the amendment was agreed to.

The Senate's amendment as amended was concurred in.

Mr. J. GLANCY JONES. I move that the committee rise, and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having

resumed the chair, Mr. HARRIS, of Illinois, reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the Senate amendments to a bill of the House (No. 582) to authorize a loan not exceeding the sum of \$15,000,000; and had instructed him to report the same to the House, with a recommendation that the House concur therein with two amendments. Also, that they had had under consideration the Senate amendments to a bill of the House (No. 555) making appropriations to supply deficiencies in the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations, for the year ending 30th June, 1858; which they had directed him to report to the House, with a recommendation that they be concurred in.

INDIAN DEFICIENCY BILL.

The House having proceeded to the consideration of the Senate amendments to the bill of the House No. 555,

Mr. J. GLANCY JONES moved the previous question; which was seconded, and the main question ordered to be put; and, under the operation thereof, the said amendments were agreed to.

Mr. J. GLANCY JONES moved that the vote last taken be reconsidered; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LOAN BILL.

The House having proceeded to the consideration of the amendments of the Committee of the Whole on the state of the Union to the amendment of the Senate to the bill of the House (No. 582) to authorize a loan not exceeding the sum of \$15,000,000,

Mr. J. GLANCY JONES moved the previous question; which was seconded, and the main question ordered.

The first amendment was to strike out, in line four, the word "fifteen," and insert "twenty." The amendment was concurred in.

The next amendment was, in line sixteen, to strike out "five" and insert "six," so as to make the maximum rate of interest six per cent.

Mr. MARSHALL, of Kentucky, demanded the yeas and nays.

The yeas and nays were not ordered.

The amendment was agreed to.

The Senate amendment as amended was then concurred in.

Mr. J. GLANCY JONES moved to reconsider the vote last taken, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. LETCHER. I move to reconsider the vote by which the third amendment to the Indian bill was concurred in.

The SPEAKER. The vote was reconsidered and laid upon the table immediately after the amendment was disposed of.

Mr. LETCHER. The amendment was wrong, and ought not to have been adopted.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled an act (H. R. No. 558) making appropriations for the transportation of the United States mail by ocean steamers or otherwise during the fiscal year ending the 30th of June, 1859; when the Speaker signed the same.

COAST SURVEY REPORT.

Mr. NICHOLS. I propose now to introduce a resolution which was voted down by this House at an early stage of the session, because members could not then reconcile their conflicting ideas on the question. It is for the printing of the Coast Survey report, and is reported on the petition of fifty or sixty shipping merchants of the city of New York.

Mr. CLEMENS. I object.

Mr. NICHOLS. You have no right to object.

The resolution of the Committee on Printing, to whom was referred the petition of Grinnell, Minturn, & Co., and certain other shipping merchants and underwriters of the city of New York, asking for the continued publication of the Coast Survey report, was read, as follows:

Resolved, That there be printed of the said report, for

the year 1837, five thousand copies; three thousand for the use of the Coast Survey office, and two thousand for the use of the House of Representatives.

Mr. NICHOLS. I move the previous question on the passage of the resolution.

Mr. JONES, of Tennessee. I move to lay the resolution on the table.

Mr. SMITH, of Virginia. I ask the gentleman from Ohio what the Coast Survey office needs with three thousand copies?

Mr. NICHOLS. I believe I called the previous question; but—

Cries of "Question!" "Question!"

Mr. CLEMENS. I demand the yeas and nays on the motion to lay on the table. This is a gratuity, and I could expose it if the gentleman had not called the previous question.

Mr. NICHOLS. The gentleman cannot expose me.

Mr. CLEMENS, (amid calls to "Order!" and shouts of "Question!" "Question!") It is a gratuity for the benefit of Cornelius Wendell.

Mr. NICHOLS. What does the gentleman say?

Mr. CLEMENS, (amid continued calls to "Order!") It is a fit proposition for the dying hours of the session.

Mr. JONES, of Tennessee. I wish to inquire of the Chair whether there was not a report on this subject from the Committee on Printing at an early day of the session, and whether the House did not refuse to print an extra number of copies.

Mr. NICHOLS. Such is the fact, Mr. Speaker.

Mr. MILES. But does not the House often change its opinion?

Mr. JONES, of Tennessee. I rise to a question of order. If the question of printing an extra number of copies of this report was referred to the Committee on Printing, and they reported a resolution in favor of it, and that resolution was rejected by the House, what right has that committee to report it again?

Mr. NICHOLS. It is a different resolution.

Mr. JONES, of Tennessee. But was there a different motion to print an extra number referred to that committee?

The SPEAKER. The gentleman from Ohio stated that a memorial had been referred to his committee, signed by upwards of fifty ship-owners and underwriters of the city of New York, and that the resolution reported by him from the committee is predicated on that memorial. The Chair is of the opinion that the committee have the right to make the report.

Mr. JONES, of Tennessee. Then anybody can send a memorial here, and have it referred to the Committee on Printing.

Mr. STANTON. Must not resolutions to print extra copies go, under the rules, to the Committee on Printing?

The SPEAKER. Yes.

Mr. STANTON. Then, I suppose this resolution should go now to that committee, as this is the first time the House has heard of this resolution.

Mr. SANDIDGE. I would ask the Chair whether or not this is a privileged motion?

The SPEAKER. It is. The Committee on Printing have the right to report at any time.

The yeas and nays were ordered on the motion to lay on the table.

Mr. JONES, of Tennessee. I ask the Chair whether the law does not require that all motions to print extra numbers of documents shall be referred to the Committee on Printing?

The SPEAKER. It does.

Mr. JONES, of Tennessee. Then this is the first motion since the defeat of the resolution to print an extra number.

The SPEAKER. Is this a motion to print?

Mr. JONES, of Tennessee. I think so.

The SPEAKER. The Chair thinks it is a resolution from the Committee on Printing, and is in order.

Mr. JONES, of Tennessee. And one, I think, which they reported without authority.

Mr. SINGLETON. As a member of the committee, I would like to say a word in justification of that committee.

The SPEAKER. Debate is not in order if there is any objection.

Mr. CLEMENS. My mouth is closed. I object.

MESSAGE FROM THE SENATE.

A message was received from the Senate by

Mr. ASBURY DICKINS, their Secretary, informing the House that the Senate had passed a joint resolution of the House in relation to the carrying of the mail between St. Joseph, Missouri, and Placerville, California; and that it had agreed to the report of the conference committee on the disagreeing votes to the Senate's amendments on the bill making appropriations for collecting the revenue from customs.

COAST SURVEY REPORT—AGAIN.

The question was taken on the motion to lay on the table; and it was decided in the negative—yeas 56, nays 88; as follows:

YEAS—Messrs. Atkins, Avery, Bennett, Billingshurst, Blair, Bonham, Branch, Burnett, Burns, Caskie, Cavanaugh, Chapman, Ezra Clark, John B. Clark, Clay, Clemens, Cobb, Colfax, Cox, Burton, Craig, Curry, Davis of Mississippi, Dimmick, Foley, Garnett, Gartrell, Gillis, Gregg, Hoard, Houston, Howard, Jewett, George W. Jones, Kellogg, John C. Kunkel, Letcher, Mason, Niblack, Palmer, Pendleton, Peyton, William W. Phelps, Powell, Reilly, Ruffin, Sandidge, Savage, Scales, Henry M. Shaw, William Smith, Spinner, Stanton, Stevenson, Trippe, Woodson, and John V. Wright—56.

NAYS—Messrs. Adrain, Ahl, Andrews, Bingham, Bliss, Bratton, Buffinton, Burlingame, Burroughs, Case, Chaffee, Horace F. Clark, Clark B. Cochrane, John Cochrane, Comins, Corning, Covode, Cragin, Curtis, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Eustis, Fenton, Florence, Foster, Gilman, Gooch, Goodwin, Grow, Robert B. Hall, Thomas L. Harris, Hatch, Hawkins, Horton, Huyler, Keitt, Kelly, Knapp, Lamar, Landy, Lovejoy, Maclay, Humphrey Marshall, Matteson, Maynard, Miles, Moore, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Mott, Nichols, Olin, Parker, Phillips, Potter, Purviance, Reagan, Ricaut, Ritchie, Robbins, Roberts, Royce, Judson W. Sherman, Singleton, Samuel A. Smith, James A. Stewart, Tappan, Miles Taylor, Tompkins, Underwood, Wade, Walbridge, Walton, Elihu B. Washburne, Israel Washburn, White, Wood, and Wortendyke—88.

So the resolution was not laid on the table.

Mr. COVODE stated (pending the vote) that Mr. KILGORE and Mr. MCQUEEN had paired off.

Mr. LETCHER. I object to the consideration of this resolution under the 61st rule, which I ask to have read.

The rule was read, as follows:

"A proposition requesting information from the President of the United States, or directing it to be furnished by the head of the Executive Departments, or by the Postmaster General; or to print an extra number of any document or other matter, excepting messages of the President to both Houses at the commencement of each session of Congress, and the reports and documents connected with or referred to in it, shall lie on the table one day for consideration, unless otherwise ordered by the unanimous consent of the House; and all such propositions shall be taken up for consideration in the order they were presented, immediately after reports are called for from select committees; and when adopted, the Clerk shall cause the same to be delivered."

Mr. LETCHER. My point is this: that under the rule of the House a resolution to print an extra number of copies shall be referred to the House one day, at least, before it is considered, except there be unanimous consent to consider it.

Mr. MILES. I suppose that this objection comes too late, after the House has voted on the resolution to lay on the table.

The SPEAKER. The Chair thinks that if there is anything at all in the point taken by the gentleman from Virginia, he is too late now in making the point. The Chair has entertained the motion for the previous question, and a subsequent motion to lay on the table, on which the yeas and nays were called. The point is too late now, after the House has proceeded to its consideration.

Mr. LETCHER. The point I make is this: The proposition to print this book is now to come up, and I want to know whether it is too late to save the money?

The SPEAKER. The House has been considering the report; but beyond that the Chair is of opinion that the rule has no application to a report from the Committee on Printing.

Mr. LETCHER. Why not?

Mr. NICHOLS. The law allows that committee to report at any time.

Mr. MILES. We expend hundreds of thousands of dollars in collecting the information contained in this work; and I hope it is not too late to save money by putting that information on record for the good of commerce, and for the good of the country.

Mr. LETCHER. Particularly as the interests of employes require that it should be kept up.

The SPEAKER. The original proposition was the memorial presented under the rules and

reported back by the committee. There have been many precedents established in the House that the right of the Committee on Printing to report at any time carries with it the right to have their report thus disposed of; and the gentleman from Virginia will not be able to call the attention of the Chair to a single instance in which that practice has been departed from. The rule evidently contemplated a proposition coming from an individual member. The law which was passed in 1852—many years after this rule was originally adopted—provides that all motions to print extra copies of any bill, report, or other document, shall be referred to the members of the Committee on Printing of the House, in which the same shall be made. When this rule was adopted, there was no such regulation as that, and its object was to protect the House against hurried action upon propositions which had not been indorsed by the action of any committee.

Mr. LETCHER. Well, I should like to hear this memorial read, to see whether there is an application in it to print extra copies of this report, and when and how it was referred to the committee, and by whom.

The SPEAKER. The memorial was presented by Mr. TRIPPE, of Georgia, and is from underwriters, ship-masters, ship-owners, and others interested in navigation, representing that the reports of the Coast Survey are valuable as diffusing correct and useful nautical knowledge, and asking that their publication may be continued.

Mr. LETCHER. I do not understand that to be a proposition to print extra copies.

Mr. WASHBURN, of Maine. Is debate in order, the previous question having been called?

The SPEAKER. It is not.

Mr. WASHBURN, of Maine, called for tellers on seconding the demand for the previous question.

Tellers were ordered; and MESSRS. CLEMENS and LOVEJOY were appointed.

The House divided; and the tellers reported—ayes 88, noes 32.

The previous question was seconded.

Mr. JONES, of Tennessee, demanded the yeas and nays on ordering the main question.

The yeas and nays were ordered.

Mr. STEWART, of Maryland, (at seven minutes to eleven o'clock, p. m.) moved that the House do now adjourn.

The motion was disagreed to.

The question was taken; and it was decided in the affirmative—yeas 96, nays 46; as follows:

YEAS—Messrs. Adrain, Ahl, Andrews, Arnold, Bennett, Billingshurst, Bingham, Bratton, Buffinton, Burlingame, Burroughs, Chaffee, Horace F. Clark, Clark B. Cochrane, John Cochrane, Corning, Covode, Cragin, James Craig, Davidson, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Durfee, Edie, Eustis, Fenton, Florence, Foster, Gillis, Gooch, Goodwin, Groesbeck, Grow, Thomas L. Harris, Hatch, Hawkins, Horton, Howard, Huyler, Keitt, Kellogg, Knapp, Jacob M. Kunkel, Lamar, Landy, Leiter, Lovejoy, Maclay, Humphrey Marshall, Matteson, Maynard, Miles, Millson, Moore, Morgan, Morrill, Freeman H. Morse, Mott, Nichols, Olin, Parker, Phillips, Potter, Pottle, Purviance, Ricaut, Ritchie, Robbins, Roberts, Royce, Russell, Judson W. Sherman, Sickles, Singleton, Samuel A. Smith, Spinner, Stallworth, Stanton, Stevenson, James A. Stewart, Miles Taylor, Tompkins, Underwood, Wade, Walbridge, Walton, Elihu B. Washburne, Israel Washburn, White, Winslow, Wood, and Wortendyke—96.

NAYS—Messrs. Atkins, Avery, Blair, Bonham, Boyce, Branch, Burnett, Burns, Caskie, Cavanaugh, Chapman, Ezra Clark, John B. Clark, Clemens, Cobb, Colfax, Burton, Craig, Curtis, Davis of Mississippi, Faulkner, Foley, Garnett, Gartrell, Gregg, Hoard, Hopkins, Houston, Jewett, George W. Jones, John C. Kunkel, Letcher, Mason, Niblack, Pendleton, John S. Phelps, William W. Phelps, Powell, Reilly, Ruffin, Sandidge, Savage, Scales, Henry M. Shaw, William Smith, Trippe, and John V. Wright—46.

So the main question was ordered.

Mr. DAVIS, of Mississippi, stated that Mr. QUITMAN was absent in consequence of indisposition.

The resolution was adopted.

Mr. NICHOLS moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act to supply deficiencies in the appropriations for the current and continuing expenses of the Indian department, and for fulfilling treaty stipulations with various Indian

tribes for the year ending June 30, 1858; when the Speaker signed the same.

PRINTING OF TARIFF, ETC., REPORT.

Mr. NICHOLS. I have another report which I am instructed to make by the Committee on Printing, and I desire only to say that the matter was referred to us by the gentleman from Tennessee, [Mr. JONES,] in whose judgment I have great confidence. I hope, therefore, there will be no objection to it.

Mr. JONES, of Tennessee. Well, I have no doubt it is right.

The report was read as follows:

The Joint Committee on Printing, on the part of the House of Representatives, to whom was referred the resolution of George W. Jones, to inquire into the expediency of printing five thousand extra copies of the report of the select committee on the reduction of the expenditures of the Government, the navigation laws, the existing duties on imports, &c., submit the following resolution:

Resolved, That there be printed, for the use of the members of the House of Representatives, five thousand extra copies of the report of the select committee on the reduction of the expenditures of the Government, the navigation laws, and the existing duties on imports, &c.

Mr. NICHOLS. I move the previous question.

Mr. CLEMENS. I object. [Laughter.]

Mr. NICHOLS. I will only say that the printing of the five thousand copies will cost \$150.

Mr. JONES, of Tennessee. Since they are so cheap, I should like to have a few more of them.

Mr. CLEMENS. How did this resolution get before the House? Has the Chair entertained it?

The SPEAKER. It is a report from the Committee on Printing.

The previous question was seconded, and the main question ordered.

Mr. CLEMENS demanded the yeas and nays on the resolution, and tellers on the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

Mr. CLEMENS. I ask leave of the House to file a written protest.

Mr. KEITT. I move that the gentleman have leave to file a written protest generally. [Laughter.]

Mr. CLEMENS. I accept the gentleman's modification. I would like to spread upon the Journal my reasons in detail against the preceding resolution.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

Several MEMBERS objected.

The House divided; and there were—ayes 102, noes 26.

So the resolution was adopted.

Mr. NICHOLS moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

BANK REPORT.

Mr. NICHOLS. I am instructed by the Committee on Printing to submit another report on a subject referred to them on motion of the gentleman from Virginia, [Mr. LETCHER.] The cost of printing will be \$250.

The resolution reported by the committee was read, as follows:

Resolved, That there be printed, for the use of the Treasury Department, two thousand extra copies of the report of the Secretary of the Treasury on the state of the banks of the Union.

Mr. JONES, of Tennessee. I am in favor of that.

Mr. NICHOLS. It is recommended by the Secretary of the Treasury. I call for the previous question on the adoption of the resolution.

The previous question was seconded, and the main question ordered.

The resolution was adopted.

Mr. NICHOLS moved to reconsider the vote adopting the resolution; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SMITHSONIAN REPORT.

Mr. NICHOLS, from the Committee on Printing, submitted the following report:

The Joint Committee on Printing on the part of the House, to whom it was referred to inquire into the expediency of printing ten thousand copies of the report on the condition of the Smithsonian Institution, report the following:

Resolved, That there be printed of said report seven thousand copies for the use of the members of the House of Representatives and two thousand for the use of the Institution.

Mr. JONES, of Tennessee. How much will that cost?

Mr. NICHOLS. The cost will be \$3,500, according to an estimate made by myself. It is a large reduction on the number heretofore ordered. I call for the previous question.

Mr. BURNETT. I move to lay the resolution upon the table.

Mr. JONES, of Tennessee. I demand the yeas and nays.

Mr. KEITT. I rise to a question of privilege. The SPEAKER. The Chair cannot entertain the motion pending the call for the previous question.

The House divided on ordering the yeas and nays; and there were—ayes 25, noes 109.

The SPEAKER. The yeas and nays are not ordered.

Mr. BURNETT. I want tellers on the yeas and nays.

The SPEAKER. The Chair thinks the call comes too late. The Chair stated the vote, and paused some time before he announced the result.

Mr. BURNETT. The Speaker stooped over a moment, and as soon as he rose to an erect position, I rose and called for tellers upon the yeas and nays, and the result was announced.

The SPEAKER. Did not the gentleman hear the announcement before he addressed the Chair?

Mr. BURNETT. Yes, sir. I heard the announcement, 109 and 25.

The SPEAKER. The application comes too late.

The question was then taken upon the motion to lay the resolution upon the table; and it was not agreed to—ayes 30, noes 97.

Mr. BURNETT demanded the yeas and nays upon the adoption of the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 84, nays 50; as follows:

YEAS—Messrs. Adrain, Ahl, Andrews, Arnold, Billinghurst, Bingham, Bliss, Brayton, Buffinton, Burlingame, Burns, Burroughs, Case, Cavanaugh, Chaflin, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockrell, Colfax, Comins, Corning, Covode, Cragin, Curtis, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dimmick, Dodd, Durfee, Eddie, Fenton, Foster, Gillis, Gilman, Gilmer, Gooch, Goodwin, Groesbeck, Grow, Hatch, Horton, Owen Jones, Keitt, Knapp, John C. Kunkel, Landy, Lovejoy, Humphrey Marshall, Maynard, Moore, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Mott, Nichols, Olin, Parker, John S. Phelps, William W. Phelps, Phillips, Pottle, Purviance, Reagan, Ricard, Ritchie, Robbins, Roberts, Judson W. Sherman, Stokess, Singleton, Samuel A. Smith, Stanton, Tappan, Underwood, Walbridge, Walton, Ellihu B. Washburne, Israel Washburn, and Wood—84.

NAYS—Messrs. Atkins, Barksdale, Bennett, Blair, Bonham, Branch, Burnett, Caskey, Clemens, Cobb, John Cochrane, James Craig, Curry, Davis of Indiana, Davis of Mississippi, Dowdell, Eustis, Faulkner, Garnett, Gregg, Hopkins, Houston, Huyler, Jackson, Jenkins, George W. Jones, Jacob M. Kunkel, Leiter, Letcher, McClay, McKibbin, Miles, Niblack, Peyton, Potter, Powell, Royce, Ruffin, Russell, Sandidge, Savage, Seales, Henry M. Shaw, William Smith, Spinner, Stevenson, Miles Taylor, Tompkins, Trippe, Winslow, and John V. Wright—50.

So the resolution was agreed to.

Pending the call of the roll,

Mr. KEITT said: I do not often ask favors of the House, and I do not mean to ask another. While they are calling the yeas and nays, I ask, as a side measure, that the House put a little bill through for me. [Laughter.]

Mr. LETCHER. That is a new idea.

Mr. EDMUNDSON stated that he had paired off with Mr. HILL.

Mr. NICHOLS moved to reconsider the vote last taken; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. DAVIS, of Mississippi. I move that the House do now adjourn.

STEPHEN R. ROWAN.

Mr. MARSHALL, of Illinois. I ask the gentleman to withdraw that motion, and allow me to call up a Senate resolution for correcting an error in a bill which has passed both Houses, and which correction is absolutely necessary to give effect to the bill as it was passed.

Mr. DAVIS, of Mississippi. I withdraw my motion for that purpose.

No objection being made, Senate resolution (No. 49) to correct an error in an act for the relief of Stephen R. Rowan, approved June 1, 1858, was taken up.

Mr. MARSHALL, of Illinois. I will simply state that the act, as passed, recites the judgment

against which the bill provides relief, as passed at the June term of the court for the southern district of Illinois, in 1856. It should have been 1857. This resolution makes that correction.

The resolution received its several readings, and was passed.

Mr. MARSHALL, of Illinois, moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SHERLOCK AND SHIRLEY.

Mr. HORTON. I ask unanimous consent to report a Senate bill from the Committee on the Post Office and Post Roads, for the purpose of putting it on its passage. It is for the relief of Sherlock & Shirley.

Mr. MARSHALL, of Kentucky. I want to report a bill too. I have a case which is awful. [Laughter.]

LOAN BILL.

A message was received from the Senate by ASBURY DICKINS, their Secretary, informing the House that the Senate had agreed to the first amendment of the House, and disagreed to the second amendment of the House, to the amendment of the Senate to the bill of the House (No. 582) to authorize a loan not exceeding the sum of \$15,000,000, and have amended the title of the said bill so as to read, "An act to authorize a loan not exceeding the sum of \$20,000,000;" in which amendment of the title he was directed ask the concurrence of the House.

Mr. J. GLANCY JONES. I ask the unanimous consent of the House to take up the Senate amendments to the loan bill which have just been sent to us.

No objection was made, and the amendments were taken up.

Mr. J. GLANCY JONES. The Senate have concurred in our amendments with one exception. They have stricken out "six" and inserted "five," so as to make the maximum of interest five per cent. I hope the House will concur in that, and also agree to the amendment of the Senate to the title of the bill. I make that motion.

The motion was agreed to.

Mr. J. GLANCY JONES moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 466) making appropriations for the expenses of collecting the revenue from customs; when the Speaker signed the same.

[Much disorder and confusion prevailed in the House.]

Mr. LETCHER. As it is impossible to have order, I move that the House do now (five minutes before twelve o'clock, p. m.) adjourn.

The motion was not agreed to.

Mr. KEITT. Is it in order to move that these gentlemen who make motions to adjourn shall not make any other motion? [Laughter.]

SHERLOCK AND SHIRLEY—AGAIN.

Mr. HORTON. I now renew my request for leave to report, from the Committee on the Post Office and Post Roads, the bill of the Senate for the relief of Sherlock & Shirley.

Mr. SAVAGE. I would inquire whether this bill has not been already, this session, voted on?

Mr. MARSHALL, of Kentucky. No vote has been taken on it.

Mr. JONES, of Tennessee. I object.

Mr. HORTON. I move to suspend the rules, so as to enable the Committee on the Post Office and Post Roads to report back this bill.

The rules were suspended; there being, on a division—ayes 107, noes 24; and the bill was reported back.

Mr. HORTON moved the previous question on the third reading of the bill.

The previous question was seconded, and the main question ordered; and under its operation the bill was read a third time.

Mr. HORTON moved the previous question on its passage.

The previous question was seconded, and the main question ordered; and, under its operation, the bill was passed.

Mr. HORTON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MEMBER EXCUSED FROM ATTENDANCE.

Mr. CLEMENS, (five minutes past twelve o'clock, a. m.) I most respectfully ask a personal favor from the House. I beg leave to request the consent of the House to absent myself from its session from now till the hour of meeting on Monday morning.

Mr. KEITT. You may leave it, provided you keep to prayer and watchfulness. [Laughter.]

The SPEAKER. The Chair hears no objection.

Mr. CLEMENS left the Hall amid shouts of "Object," and great laughter.

JAMES H. GLANDING.

Mr. AHL. I move to discharge the Committee of the Whole House from the further consideration of Senate bill (No. 292) for the relief of James H. Glanding, and that it may be considered at this time.

Mr. FLORENCE. If I can get the floor I will move that the House do now adjourn. It is not right to sit here on the Sabbath morning.

Mr. SMITH, of Virginia. Is there any way in the world of getting at the Calendar, so that everybody here may take his chance? I am willing to go on with the Calendar and take my chance.

Mr. BARKSDALE. It is now past twelve o'clock, and is the Sabbath day. I believe this House ought to adjourn. The Christian sentiment and good taste of the country is averse to legislation on the Sabbath day.

Mr. KEITT. I object to discussion.

The SPEAKER. Neither the gentleman from Mississippi nor the gentleman from South Carolina is in order.

ENROLLED RESOLUTION.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution (H. R. No. 37) in regard to the carrying the United States mails from St. Joseph, Missouri, to Placerville, California; when the Speaker signed the same.

Mr. BARKSDALE. Would it be in order to make an inquiry of the Chair?

Mr. KEITT. I object to any inquiry.

Mr. AHL. I move to suspend the rules to enable me to move that the Committee of the Whole House be discharged from the further consideration of Senate bill (No. 292) for the relief of James H. Glanding.

Mr. STANTON. I learn that the Senate have adjourned; and I move that when this House adjourns, it adjourn to meet at ten o'clock on Monday.

The motion was agreed to.

And then, on motion of Mr. SICKLES (at twelve o'clock and fifteen minutes, a. m.) the House adjourned.

IN SENATE.

Monday, June 14, 1858.

Prayer by Rev. S. D. FINCKEL.

On motion of Mr. HUNTER, and by unanimous consent, the reading of the Journal was dispensed with.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had receded from its second amendment to the amendment of the Senate to the bill of the House (H. R. 582) to authorize a loan not exceeding the sum of \$15,000,000, and agreed to the amendment of the Senate to the title of the bill.

Also, that the House had passed the following bill and resolution of the Senate:

A bill (S. No. 287) for the relief of Sherlock & Shirley; and

A joint resolution (S. R. No. 49) to correct an error in the "Act for the relief of Stephen R. Rowan," approved June 1, 1858.

EXTENSION OF THE SESSION.

The message further announced that the House had passed the following resolution, in which the concurrence of the Senate was requested:

Resolved, (the Senate concurring,) That the time for the

adjournment of the present session of Congress shall be, and is, extended from twelve o'clock, m., to half past two o'clock, p. m., this day.

Mr. HUNTER. I ask that the resolution be taken up at once.

The Senate proceeded to consider the resolution.

Mr. BROWN. I move to amend the resolution by striking out "half past two o'clock, p. m., this day," and inserting "twelve o'clock, m., tomorrow."

Mr. HUNTER. I hope that will not prevail, for I believe the House will not consent to it, and we shall lose time by the interchange of messages. At twelve o'clock we shall have to adjourn unless we do something. It is better to settle it at once.

The amendment was agreed to—ayes twenty-six, noes not counted.

The resolution, as amended, was adopted.

CREDENTIALS.

The VICE PRESIDENT presented the credentials of Hon. JOHN P. HALE, elected a Senator by the Legislature of New Hampshire for the term of six years from the 4th day of March, 1859; which were read, and ordered to be filed.

ENROLLED BILL SIGNED.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the Speaker had signed an enrolled bill (H. R. No. 582) entitled "An act to authorize a loan not exceeding the sum of \$20,000,000; which thereupon received the signature of the Vice President.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a letter of the Secretary of the Interior, transmitting a report from the Indian office in reply to the resolution of the Senate of June 2, in relation to the claim of the St. Regis Indians to land in Kansas; which was ordered to lie on the table, and be printed.

PETITION.

Mr. BIGLER presented the petition of Richard Imlay, praying an extension of his patent for an improvement in the mode of supporting the bodies of railroad cars and carriages; which was referred to the Committee on Patents and the Patent Office.

REPORTS OF COMMITTEES.

Mr. DAVIS, from the Committee on Military Affairs, to whom was referred the report of the Secretary of War transmitting information in relation to the North Carolina arsenal, asked to be discharged from its further consideration, the subject having been acted upon in the Army appropriation bill; which was agreed to.

He also, from the same committee, to whom was referred a resolution of the Senate relative to the adoption of Captain Ward's improvement in fire-arms, asked to be discharged from its consideration for the same reason; which was agreed to.

He also, from the same committee, to whom was referred the resolution of the Senate relative to the condition of Forts Jefferson and Taylor, asked to be discharged from its consideration; which was agreed to.

He also, from the same committee, to whom was referred the resolution of the Senate relative to the construction of a wagon road from Fort Benton to the Columbia river, at or near Fort Walla-Walla, asked to be discharged from its consideration; which was agreed to.

He also, from the same committee, to whom was referred the resolution of the Senate relative to the adoption of the priming apparatus invented by Jesse S. Butterfield, of Philadelphia, asked to be discharged from its consideration; which was agreed to.

He also, from the same committee, to whom was referred the resolution of the Senate relative to the construction of a wagon road from Fort Smith, Arkansas, to Albuquerque, in New Mexico, and from Fulton, in Arkansas, to El Paso, in New Mexico, asked to be discharged from its further consideration, the subject having been provided for in the Army appropriation bill; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (S. No. 14) authorizing the appointment of commissioners to examine into the difficulties in the Territory of

Utah with a view to their settlement, asked to be discharged from its further consideration; which was agreed to.

Mr. SEBASTIAN, from the Committee on Indian Affairs, reported a bill (S. No. 458) for the relief of John Rogers; which was read and passed to a second reading.

Mr. SEBASTIAN. I wish to appeal to the Senate to consider this bill now. It is a small amount ascertained to be due, which was reported by the Committee on Indian Affairs as an amendment to one of the Indian appropriation bills, but ruled out by the Chair as being a private claim. As there can be no objection to it, I ask that it be considered now.

Mr. STUART. It is hardly worth while to pass a Senate bill now.

Mr. SLIDELL. I object to it.

The VICE PRESIDENT. Objection being made, the bill cannot now be considered.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 372) to settle the titles to certain lands belonging to the half-breed Kansas Indians, in Kansas Territory, asked to be discharged from its present consideration; which was agreed to.

Mr. STUART, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 302) to continue the office of register of the land office at Vincennes, Indiana, reported it without amendment.

Mr. IVERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Claims be discharged from the further consideration of all the adverse reports of the Court of Claims which have been referred to that committee.

LIGHT-HOUSE BILL.

Mr. CLAY, from the Committee on Commerce, to whom was referred House bill (No. 550) making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes, reported it without amendment.

Mr. TOOMBS. I hope that bill will not be taken up now.

Mr. CLAY. I do not propose to take it up now; and I will take this occasion to say that I do not approve the bill; and if it is taken up, I shall assign the reasons for my opposition to it.

Mr. TOOMBS. There are substantial reasons why that bill should not pass in its present form, and I did not know that the committee had agreed to report it.

AFRICAN SETTLEMENTS IN AMERICA.

Mr. DOOLITTLE submitted the following resolution, which lies over under the rule:

Whereas, the numerous disabilities to which free persons of color of African descent are subjected in many of the free States have made it desirable, on the part of large numbers of them, to seek elsewhere a more favorable field for their labor and enterprise; and whereas, the same class of persons is regarded with still greater disfavor in the slaveholding States from considerations deemed so controlling that further emancipation in many of them has been prohibited by law unless the persons emancipated shall be at the same time removed beyond the jurisdiction of the State, and in some of them the graver question is seriously entertained whether persons of African descent who are now free shall not be again reduced to slavery if they continue to remain within their jurisdictions; and whereas, in Yucatan and Central and South America there are vast regions almost uninhabited of the most beautiful and productive countries in the world, in a climate well adapted to the constitution of the African race to develop its greatest power and highest activity: Therefore,

Resolved, That the Committee on Foreign Relations inquire into the expediency of acquiring by treaty in Yucatan, Central or South America, the rights and privileges of settlement and of citizenship for the benefit of such persons of color, of African descent, as may voluntarily desire to emigrate from the United States, and form themselves into a colony or colonies, under the laws of the State or States to which they emigrate; the United States, in consideration of the commercial advantages of free trade with such colony or colonies, making and securing the necessary and proper engagements to maintain them in the enjoyment of the rights and privileges acquired by such treaty or treaties.

ENROLLED BILLS SIGNED.

A message from the House of Representatives by Mr. ALLEN, its Clerk, announced that the Speaker had signed an enrolled bill (S. No. 287) for the relief of Sherlock & Shirley; and an enrolled joint resolution (S. No. 49) to correct an error in the act for the relief of Stephen R. Rowan, approved June 1, 1858; and they were signed by the Vice President.

BILLS BECOME LAWS.

The message further announced that the President of the United States, on the 12th instant, approved and signed the following acts:

An act making appropriations for the naval service for the year ending the 30th of June, 1859;

An act making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1859;

An act granting a pension to Beriah Wright, of New York;

An act making appropriations for the support of the Army for the year ending the 30th of June, 1859; and

An act making supplemental appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1859.

Also, that he had approved and signed this day the following acts:

An act granting a pension to Mary A. M. Jones;

An act making an appropriation for the completion of the military road from Astoria to Salem, in Oregon Territory;

An act making appropriations for the expenses of collecting the revenue from customs;

An act granting an invalid pension to William Howell, of Tennessee;

An act to supply deficiencies in the appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1859;

An act making appropriations for the transportation of the United States mail by ocean steamers, and otherwise, during the fiscal year ending June 30, 1859;

An act to establish certain post roads;

An act granting an invalid pension to John Holland, of Arkansas; and

An act granting an invalid pension to William Randolph.

POST OFFICE APPROPRIATION BILL.

The following message was received from the House of Representatives, by Mr. ALLEN, its Clerk:

The House of Representatives disagrees to the amendments of the Senate numbered four, five, six, seven, and ten, heretofore agreed to; and insists upon its disagreement to the amendments of the Senate numbered one, two, three, eight, and nine, to the bill of the House of Representatives (No. 556) making appropriations for the service of the Post Office Department for the fiscal year ending the 30th of June, 1859, heretofore disagreed to, and asks a further conference on the disagreeing votes of the two Houses on the said bill; and has appointed Mr. HENRY M. PHILLIPS, Mr. ELLIHU B. WASHBURN, and Mr. JAMES F. DOWDELL, managers of the same on its part.

On motion of Mr. HUNTER, the Senate further insisted on all its amendments, and agreed to the conference asked for by the House of Representatives. The Vice President was, by unanimous consent, authorized to appoint the committee; and Messrs. HUNTER, YULEE, and COLLAMER, were appointed.

EXTENSION OF THE SESSION.

The message also announced that the House of Representatives agreed to the amendment of the Senate to the resolution of the House, extending the time for the adjournment of Congress, with an amendment to fix the hour of final adjournment at six o'clock, p. m., this day.

The amendment was concurred in.

EXECUTIVE SESSION.

On motion of Mr. FITZPATRICK, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened.

BILLS BECOME LAWS.

A message was received from the President of the United States, by Mr. HENRY, his Secretary, announcing that the President had this day approved and signed the following acts:

An act for the relief of Sherlock & Shirley; and

A resolution to correct an error in the act for the relief of Stephen R. Rowan, approved June 1, 1858.

POST OFFICE APPROPRIATION BILL.

Mr. HUNTER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 556) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1859, having met, after a full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows: That the Senate recede from their first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, and tenth amendments.

R. M. T. HUNTER,

D. L. YULEE,

Managers on the part of the Senate.

H. M. PHILLIPS,

E. B. WASHBURN,

J. F. DOWDELL,

Managers on the part of the House.

Mr. HUNTER. In presenting this report, I beg leave simply to say that the amendments of the Senate are principally the addition of matters of legislation to an appropriation bill, to which the House of Representatives object, and I always yield to such an objection. I have nearly always gone against the practice of legislation on the appropriation bills. I am inclined to think that the better course is to yield to the principle on which the House is acting, and which is undoubtedly generally correct.

Mr. TOOMBS. I hope this report will not be agreed to. There has not been a general appropriation bill passed at this session without independent substantial legislation, except one or two small bills. There has been not one of the important appropriation bills which has not had at least fifteen or twenty amendments added to it. These amendments are germane to the bill; they relate to the Post Office establishment, and are intended to make it self-supporting.

Mr. HUNTER. I did not mean to say that I never had voted for a legislative measure on an appropriation bill, but I have voted for very few of them. The point I always made, and to which I adhere now, is, that I might vote on an appropriation bill for legislation which was known to be agreeable to the other House, under the reservation that if they protested against it, I would recede from it, and not attempt to force it on them through an appropriation bill.

Mr. TOOMBS. I do not think my friend can stand on that. There never were two subjects more germane to the Post Office bill than the amendments of the Senate. Seeing that there was a deficiency of \$3,500,000 in the Post Office revenue, besides what comes under the Navy Department, amounting altogether to probably five millions, the Senate proposed to increase the rate of postage, and to take off the franking privilege from this body and the other House. As I stated the other night, a former committee of conference on the part of the Senate, proposed to the House committee that if they would allow the Senate to strike off their own franking privilege, we would agree to everything else, but they would not consent to that. If the other House had pretended to act on that principle, I should not have said a word. I believe the principle of the Senator from Virginia is generally a sound principle; but when it is offered to me as a pretext for preserving abuses, let the bill go, so far as I am concerned.

Mr. BENJAMIN. I understand, sir, that the reduction of postage to a point which it has now become evident is insufficient to meet the demands of the service, took place on an appropriation bill. Now the Post Office appropriation bill comes before us, from the Department, evincing that that Department is unable to pay its own expenses, and asking us to devote three or four million dollars from the public Treasury to support it. Finding that to be the state of the case, and desiring to conform to the time-honored policy of the Government, the Senate says, "we will agree to make the appropriations which have become necessary by the former amendment put upon an appropriation bill; but we will now recall our assent to that former amendment, and put the postage back where it was, to prevent a recurrence of this deficiency."

Mr. HUNTER. Is the Senator certain that the reduction was on an appropriation bill?

Mr. BENJAMIN. I am told so. I hold myself to a principle which I do not find shared by my brother Senators to any great extent. I consider that in this Government it is the duty of the House of Representatives, or of that branch of Congress which proposes an appropriation, to

recede from it if the other branch persists in its rejection. According to the theory of our Government, no money ought to be expended except with the concurrence of the two branches of Congress. Consequently, whenever one branch desires a particular expenditure to be made, and the other has a persistent objection to it, the House that proposes the expenditure is in all cases bound to yield. Such is my judgment—and I put it forward with great diffidence—in regard to the amendments which are usually tacked to appropriation bills, including particular items of expenditure. If this were a proposition on the part of the Senate to expend any money, and the other House declined to expend that money, I hold that it would be violative of the true theory of the Constitution for us to insist that the House should abandon its judgment, which was opposed to the expenditure of the money, or lose an appropriation bill. Under such circumstances, I should always be in favor of a motion that the Senate recede. But, sir, we are asked now to spend money in the Treasury to the extent of millions of dollars, and to leave the system as it is, so that we shall be asked next winter to appropriate four or five millions more. The object of the Senate now is, not to refuse the appropriation this year, but to grant it on such conditions as shall prohibit or preclude the possibility of its being asked of us again next year.

Now we do not propose to the other House, as a matter of legislation to be forced upon them, that they augment the postage, or that they abandon the franking privilege, if they will offer some amendment to our amendment, which will save us next year from an appropriation of \$5,000,000. We all say we must stop this appropriation; we all say that the Government is extravagant. We say now to the House: "Stop this extravagance; the revenues of the country will not suffice to do what you demand. We agree to the urgency of the claim at the present moment, but we can consent to it only upon condition that we are secured against the recurrence of a similar claim next year." Consequently, I think nothing can be more reasonable, nothing can be more in accordance with our theory of constitutional government, than for us to insist that the House of Representatives shall agree to diminish the expenses of the Post Office Department by relieving it from the burden of the franking privilege; or, if they desire to retain the franking privilege, that they shall increase the revenue of the Department so as to support that burden by increasing the postage on letters. I do not consider this legislation, strictly speaking, on an appropriation bill; but I consider it is a guard against the recurrence of this appropriation next year. It is a condition put upon the appropriation of the present year—"we will appropriate for the fiscal year between July 1, 1858, and July 1, 1859, on condition that we are not to be called upon for the following year."

Now, after all, Mr. President, what does the whole matter amount to? The two or three million dollars are to be paid, must be paid, for service we have ordered. It is to be raised in one of two ways: either by general taxation, or by a tax of two cents on every letter written in the United States. Shall this additional sum of three or four million dollars be raised by a general tax upon everybody in the country, or shall it be raised upon those who are willing to pay for the service to be rendered, by paying two cents per letter more? I will say, in relation to this raising of the postage, that, in my judgment, nothing can be more eminently just or proper. The reduction of postage to three cents was for the benefit, exclusively, of one class in this country, and that the smallest class of the country, for the benefit of the merchants in four or five large cities. It was for the benefit of the vast mercantile correspondence between four or five large cities, that postage was reduced to three cents. Take the people of the country at large in their daily avocations, in their communications on family matters, and on friendly matters, and not one man in ten thousand cares whether he pays three or five cents for his letter; but in the large cities where people write a hundred letters a day in great commercial transactions, they make a strenuous opposition to the increase of postage, slight to the individual, but important to the Government.

I hope the Senate will not recede from both these amendments. The result inevitably is, that when we come back here next winter, at the short

session, we shall not be able to perfect any system in a separate bill; there will be no time—that will be the cry; we shall have another deficiency bill of four or five millions more for the Post Office Department and yet gentlemen on all sides cry out for reform, retrenchment and economy. There is this single method left to us. I hope the Senate will not abandon it.

Mr. BAYARD. If I could agree with the honorable Senator from Louisiana that this was a mere condition, and not legislation upon an appropriation, I might arrive at the same conclusions that he does. I admit that, in my opinion, it was unwise, originally, to reduce the postage to three cents; and I think it is wise now to put it at five cents again. I have no objection to such a proposition brought properly before us; but if I understand the fair theory of our Government, an appropriation bill is made to give the means to carry out existing laws. Now, it is proposed to go a step further, and provide on an appropriation bill for altering those laws. I do not think either House is ever justified in placing on an appropriation bill, with a view to coercion, a condition saying to the other House, "we will not grant the supplies demanded by existing laws, unless, in a case in which you differ from us as to the propriety of the law remaining as it is, you will change it." The attempt here is on the part of the Senate to impose a condition, if you choose to use that term, on the House of Representatives, that the law shall be altered, or else that the Senate will not make the appropriation called for by the existing law. If the cases were reversed, and the proposition came from the House of Representatives to the Senate, I should equally object to it. I object to the theory and to the practice of enforced legislation by one branch against the other. I have done it hitherto in many cases when the House of Representatives has attempted to force legislation on the Senate. I do so now, though I think the postage ought to be raised, when the Senate attempts to force legislation on the House of Representatives in an appropriation bill.

The theory of our Constitution must be, that both Houses are coördinate and of equal authority. The assent of both must be given to make a law or to alter a law. Under existing laws, however, there is an implied faith as regards the appropriation bills, that we shall carry out those laws until they are changed. If you suffer one House to attach to an appropriation bill provisions which change existing laws, you alter the whole theory of the Government, because you no longer have the consent of the two Houses; but you have the enforced action of one House, agreeing to it rather than stop the wheels of Government by denying the appropriations called for by existing laws. Whether you call these amendments a condition or not, I regard them as an attempt to change existing laws by enforced legislation on the part of the Senate as against the House of Representatives. Whether these laws ought to be changed or not is perfectly immaterial to this question. I can never accede to the doctrine of enforced legislation in this way.

Mr. SIMMONS. I hope the Senate will recede from these amendments, and I have a word to say in response to the Senator from Louisiana as to the propriety of resorting to an increase of the letter postage to make up the deficiency in the Post Office Department. Any Senator who will examine the question will find that letters at three cents postage pay four-fold, and it may be as much as ten-fold, what any other description of matter carried in the mail pays. At three cents postage, letters pay a dollar a pound, and when you come to look at the newspapers and the vast matter carried by the mail, it generally does not pay twelve cents a pound. I agree that newspapers may be regarded as a means of educating the people, and it may be proper to avoid levying on them such a postage as would restrict their circulation; but is it not right that all the franked matter should pay postage? That was the law when you reduced the postage.

Mr. PUGH. That was excepted. There was a proviso in the law that it should not affect the franking privilege.

Mr. SIMMONS. At the time the law passed, reducing the postage, there was a provision in the old law that all letters franked by members of Congress and public officers should be charged with postage.

Mr. PUGH. There was a proviso in the act "that nothing herein contained shall be so construed as to alter the laws in relation to the franking privilege," so that there was no attempt to charge the franking privilege on the Treasury. It just amounts to an appropriation out of the Post Office revenues to carry on the business of franking.

Mr. SIMMONS. I desire to know whether the Treasury does not now pay for the mail matter that is franked?

Mr. PUGH. No.

Mr. SIMMONS. Then you propose to tax the letter writers for the transportation of your public documents all over this country, in order to keep up the revenues of the Post Office Department. You now charge three cents for a letter of half an ounce, which is at the rate of a dollar a pound, and I venture to say that you do not get ten cents a pound for any other mail matter carried in the mails.

Mr. HUNTER. Will the Senator allow me to state that there is a mistake as to a fact? The reduction of postage from five to three cents was by a separate act, which the Senator from Kentucky has been kind enough to show me. It was not done on an appropriation bill. It was a separate act, entitled "An act further to amend an act entitled, 'An act to reduce and modify the rates of postage, and for other purposes,'" passed March 3, 1851.

Mr. SIMMONS. I merely wanted to bring the attention of the Senate to the fact that if we are going to resort to the mail matter to make up the deficiency in the Post Office revenues, the letter postage is the last place to which we can resort, in justice, for letters pay ten-fold the postage that anything else does now, and I should like to know if it is not as much to the public convenience, prosperity, and happiness, to have this social correspondence exist, as it is to circulate newspapers, and pamphlets, and documents, which do not pay one tenth as much as letters? If you resort to anything, go to the franked matter and pay postage for that.

Mr. SEWARD. I do not want to make a speech, but to say a single word, so as to be distinctly understood by the country in regard to this subject. I am against the increase of the rate of postage, and for the abolition of the franking privilege; and I desire to have the question divided, in order that I may so vote.

The VICE PRESIDENT. The report of the committee cannot be divided.

Mr. SEWARD. Then I can only say that it is unfortunate that these amendments were introduced at so late a stage of the session. I believe that, if you abolish the franking privilege, the Post Office revenues will be sufficient to sustain the Department.

Mr. YULEE. There is a misapprehension and mistake as to the manner in which the postage was reduced from five to three cents. It was not by an amendment to an appropriation bill, but by a special act directed to that and other subjects appertaining to the administration of the Post Office Department. Perhaps the mistake occurs from another fact which I will state, which answers the purpose of gentlemen who have referred to that as an illustration of the previous practice—the legislation by which prepayment was required and postage stamps authorized to be issued, was by an amendment to a post-route bill.

I agreed, upon the committee of conference, to the report which has been made for a general recession on the part of the Senate; and my reason for it was this: it was perfectly evident that the House of Representatives had resolved not to enter with us into legislation on the subject of the rates of postage and of the franking privilege at this session, and it seemed to me that it was the disposition of the Senate to postpone that point until the next session, rather than to prolong the present session to any very great extent; and I believed that it was useless, and not worthy of this body, to continue a contest with the other House upon any of the lesser points involved in the difference between the two Houses. I preferred to yield entirely rather than to yield on these two leading points, and carry on a contest upon minor amendments, none of which were material, and either of which might be postponed without any serious injury to the public interests, until next session. Now, as I understood the

position of the House of Representatives, they were prepared to yield upon the points on which the House had already concurred, but were not prepared to go further.

Mr. PUGH. Allow me to ask, how did the conference committee get jurisdiction of amendments to which the House of Representatives had agreed?

Mr. YULEE. If the Senator will look at the message from the House, he will see that the House reconsidered all their agreements, and non-concurred generally in all the amendments of the Senate. It was for us to consider whether we would enter with them into a controversy on all these amendments, which were minor points of difference, or whether we would report to the Senate a general concession to the House, which might be agreed to or not, as the Senate pleased; and if the Senate should determine not to recede they would then still have the whole subject before them, untrammelled by any concessions on the part of the Senate committee on minor points, while these two principal points remained. We thought it better that the Senate should have it in its power either to recede altogether, or, by maintaining its position altogether, to urge those points which it might consider material yet to maintain in its controversy with the House, and not to narrow the grounds by putting the Senate, through a recommendation of its committee, upon minor points as to the basis of its controversy with the House. It was better, if the controversy was to continue, that the Senate should refuse altogether to recede, and carry on the controversy on the basis on which it has heretofore rested.

Mr. BROWN. I shall vote against this report for several reasons. In the first place, I see nothing in the idea of objecting to general legislation on an appropriation bill. How often during this session, and every other session of Congress, has it been done by both Houses? This is an objection urged to a measure which is distasteful to gentlemen, just as the same argument has been urged a hundred times before; and it is only urged by those to whom the measure is distasteful. If it were pleasant to them they would swallow it in both Houses, of course without a word; but it is an argument lugged in by the ears and shaken in the face of the Senate, every time anything is proposed which chances to be a little distasteful to gentlemen. If we could get back to the original principle, and put nothing but appropriations on appropriation bills, I should be very willing to stand upon that principle now and through all time to come; but we have not done it, and we are not going to do it.

Then what is there in the argument about prolonging the session? Suppose the House of Representatives do bring the session abruptly to a close by the loss of this bill: the President has the power, and he will exercise it, to tell them to come back, take their seats, and discharge the duty for which they are paid. The session can as well last to the 1st Monday of December, as come abruptly to a close when the clock points to the hour of six this evening; and it will not cost the Government a sixpence to prolong it to that time. I protest against the argument, that gentlemen who are paid by the year to transact the public business must hasten abruptly to close the session of Congress, and that, upon the declaration that they cannot stay any longer, we are to give up important measures. Are public and private rights to be trampled under foot because gentlemen do not choose to stay here, and do what they are paid to do? Such an argument rather inclines me to stand upon the Senate amendments, let the bill fail, and let the President call gentlemen back, and teach them their duty by the strong arm of constitutional power.

Then it is said: "these are small points; we can give them up; it will not cost anything to give them up." A small point, sir, not to increase the rate of postage, when your Post Office Department is costing you more than two million dollars over its revenue!

Mr. TOOMBS. I will mention to my friend that there are \$3,500,000 appropriated in this very bill, out of the Treasury, independent of what goes through the Navy Department.

Mr. BROWN. I was not very accurate about the figures. I knew it was a large sum. Gentlemen speak of this as a small thing; they say it

amounts to little. You are going into the market to borrow money. You borrowed \$20,000,000 at the opening of the session, and now you are to borrow \$20,000,000 at the close. There is an executive message on the table, telling you that these loans can by no possibility keep you going until beyond the 1st of January next; and yet you refuse to increase the rates of postage, when your Post Office establishment is thrown on the Treasury at an annual expense of \$3,500,000 above its revenue. I think it is rather a large point. I do not think \$3,500,000 are thus to be lightly thrown aside.

Now let me ask you, Mr. President, how is a large portion of the deficiency in the Post Office revenue created? It is on account of the franking privilege, to which gentlemen adhere with the tenacity of a dying man, and which it seems they will, under no circumstances, agree to surrender. They would sacrifice an important bill, compel the President to reconvene Congress, do anything, rather than give up this sacred privilege, as I suppose they regard it—a privilege which, to most members of Congress, is a burden. But, sir, I ask again, whether the franking privilege does not create a large portion of the deficiency in the Post Office revenues? I assert that it does, and I will tell you why. Within the last eighteen months, more than eighteen hundred tons of free matter have passed through the Washington city post office from members of Congress alone—enough to load a large-sized ship, enough to load two ordinary steamboats. This free matter has gone out; and where has it gone to? So long as it is upon your railroads and upon your four-horse stage coach lines, it gets along, I grant you, without much additional cost; but it gets to a point where it must necessarily be packed on horse-back, and it accumulates there to the extent of five or six hundred pounds. It does not take a great many of your eight large volumes of Pacific railroad surveys, Congressional Globes, and other heavy books, to amount to a large weight. What happens then? The horse mail cannot carry them; there is a complaint to the Postmaster General that mail matter is piled up there and the service is insufficient. He sends out a printed circular to have the mail weighed. They always weigh it about the time these big documents get there. The report is made that three or four or five hundred pounds have accumulated, which the mail-carrier cannot lug away. It stays there for a month or two; the postmaster weighs it again and sends back another report; and, finally, the Postmaster General, or one of his subordinates, is satisfied that an increase of service is necessary; and on that little horse route, where a pony could take the whole of the paying matter, you put on four-horse coaches to carry your documents, at an increased cost of thousands of dollars where the service was before performed amply for hundreds. It is done in my State, done in every State of the Union; and you have to-day not less than five thousand miles of coach service which was established for nothing on God's earth but to pack your franked documents. They run backwards with a little amount of paid matter that any man could carry in his hat. That happens in every State in the Union; you sum up at the end of the year five or six million dollars for carrying the mails. Take your free matter out of that; reduce your coach service, by giving one month's extra pay provided by law to an inferior grade of service; increase your postage to five cents instead of three; and the Post Office Department, in two years, will support itself and probably have a surplus; and yet, in the face of these things, gentlemen say, "this is a small matter, not worth controversy about; it is vastly less than compelling Congress to sit here a day or two longer." I think it is worth a contest which should compel Congress to sit here until the first Monday of December next. It costs your Treasury nothing to make them stay. Therefore it was that, on Saturday night, when my friend from Pennsylvania [Mr. BIGLER] proposed to introduce a resolution fixing another hour of adjournment, I objected to it. Introduce a resolution to abrogate any time of adjournment, and I shall have no objection. The House this morning took a different course, and we have agreed to adjourn at six o'clock. I hope we shall do so, and I hope we shall do it without this bill having seen daylight. Let it die, and let the President exercise his constitutional prerogative of reconvening Congress;

and when gentlemen are brought back here, they will sit down in sober earnestness to the discharge of those great legislative duties imposed upon them by the Constitution, and which, in their compact with the people who sent them here, they have agreed faithfully, and as efficiently as they could, to perform.

Mr. FESSENDEN. I desire, Mr. President, to enter my dissent to the doctrines of the Senator from Mississippi. They proceed entirely upon the ground that, in this matter of difference between the House of Representatives and the Senate, we must necessarily be right and they must necessarily be wrong. We say, "increase the postage; strike off the franking privilege." They say, "keep the postage as it is, and the franking privilege as it is." Now, why is it concluded that necessarily they are wrong and we are right? The Senator says, "stay here from this time to December next, until they learn their duty." Suppose they say, "stay here until December next, until the Senate learns its duty."

Mr. BROWN. Very well; let us stay.

Mr. FESSENDEN. What do you gain by that? What does the country gain by it? If, after all, we do not agree, what does the country gain by our staying here? The House of Representatives have as much right to hold out as we have, and they are as likely to be right as we are. I have as good an opinion of myself, and of my judgment, as most men; but I really do not go so far as to say that I cannot be mistaken, and that everybody who differs from me must be wrong. If we had any power to coerce the House of Representatives to come to our conclusion by staying here until December, there might be something in it; or, if the President had any power to coerce Congress to come to a particular conclusion by calling them together again, there might be something in it; but we cannot ignore the fact that the House of Representatives utterly refused to agree to our opinions. Very well; the responsibility is upon them, and not upon us. If I could see, in the first place, to a dead certainty, that we were infallible in our judgments, and in the next place, that the House would agree to our infallibility, I should be willing to stay; but when the House have expressed their opinion as decidedly as we have expressed ours—and at any rate we can claim no more infallibility than they can—what is the use of staying here to fight about it?

Mr. BENJAMIN. Will the Senator permit me one word?

Mr. FESSENDEN. Certainly.

Mr. BENJAMIN. I notice in the Intelligencer of this morning that the vote in relation to the franking privilege was—73 to 83. There was a majority of ten in a House of one hundred and fifty-six members. A full House consists of two hundred and thirty-six members; and when, in so thin a House, there was a majority of but ten against it, what right have we to conclude that the House will not reconsider its action on the franking privilege? because that, I assure the Senate, will of itself form an economy in our mail service of several millions of dollars.

Mr. FESSENDEN. That is a state of things I am not talking about. I am speaking of the arguments of the Senator from Mississippi, [Mr. Brown.] He did not speak of the probability of the other House passing it; he put it upon the broad ground that we were right and they were wrong, and that we should stay here until they came to their senses, and compel them to do right. I beg leave to say that that is a conclusion to which I cannot come, because they are just as likely to be right as we are, and just as likely to be obstinate as we are.

Mr. FOSTER. More so, if they are wrong. Mr. FESSENDEN. Certainly, as my friend from Connecticut suggests, they are more likely to be obstinate if they are wrong. Taking the premises which I have laid down, I ask what in the world is the use of our staying here until they have receded? because they will not be likely to do it. Or what will be gained by our fighting this out, and letting the President call an extra session, if they will stand out then just as well as now? Therefore I say it is entirely inconclusive; it is talking for anything but a result, to talk about sitting here for the purpose of coercing a set of men to come to our conclusion; for they will not be more likely to be governed by us than we shall be to be governed by them. If you have an extra

session, avowing that the object is to compel them to submit to your views, do you think they will be likely to do so? I would not, if I was in their case, if I staid here from July to January, and from January to July again. If I were in the other House, I would say, "I will teach the Senate that I will not do what they want to compel me to do;" and that is very likely to be what they will say. If there was a probability that they would recede, I grant it might be well to make the trial. There is, however, no probability of that. The vote in the House was not a very large one; but I am informed that it was a decisive one, and the committee of conference expressed the opinion of the House on that point. If that committee on the part of the House thought the House would recede, probably a different report would have been made; but the committee of conference has come to the conclusion, upon proper grounds, in the first place, that we gain nothing by the struggle; and in the next place, that we are struggling upon a principle which we cannot very well maintain. That being the case, there is but one sensible course to take, in my judgment; and that is, to adopt this report. What is the use of having continual committees of conference, one after another, each House standing out, and then having another session and fighting the battle over again?

Sir, what we cannot accomplish, and see we cannot accomplish, it is good sense to yield, and place the responsibility upon that body which is willing to take it. If they are wrong, the country will judge them, and not us; hold them responsible, and not us. We have done all we can. No man is bound to do more than he can, even to effect a good object. He must struggle until he sees that effort is useless, and then, as a sensible man, he will yield the point, and take some other and better opportunity to accomplish that which he desires, and which he thinks the good of the country requires.

Mr. FOSTER. I agree with the honorable Senator from Virginia, with regard to the principles on which the Senate should act, considering the relations in which the two Houses stand together at this time. I think we are in great danger of placing ourselves in a false position if we take the opposite ground. I think, in regard to the two questions about which the two Houses differ, if we are in the right, and have made up our minds that Congress ought not to adjourn until the franking privilege is abolished, and until the rate of postage is increased, it was our duty to have brought in a bill, at least, embodying one of these principles—namely, the abolition of the franking privilege—and passed it, and sent it to the House of Representatives; and also a bill raising the postage, if we are at liberty to originate such a bill in this body, which is perhaps questionable. We are, at all events, authorized to abolish the franking privilege by a bill introduced into this body originally. If we had done that, and sent it to the other House, and they had refused to pass it, we might have stood upon that bill until the Congress expired under the Constitution, and we should have stood properly before the country, if that was our opinion. But to put these two amendments on this appropriation bill, and insist that we will not adjourn until the other House adopts them, is placing ourselves in a false position. I think the honorable Senator from Virginia is right, and I shall vote with him to accept this report of the committee of conference.

Mr. PUGH. I am not in favor of coercing the House of Representatives, nor am I in favor of general legislation upon an appropriation bill; but this case presents neither of these questions. The House of Representatives has sent us a bill appropriating given sums of money for the service of the Post Office Department. The House of Representatives sent us on Saturday night an amendment to the loan bill, increasing the loan from \$15,000,000 to \$20,000,000, making \$40,000,000 that we have borrowed at this session, besides the surplus of \$17,000,000 which was on hand on the 1st of July last, and has been consumed during the fiscal year. Now, unless we can provide a revenue we cannot, in justice to the country, pass the House bill. It is our duty not to pass that bill until we provide the means of payment. Where is the money to come from to make all these appropriations? You must retrench the expenses of the Post Office Department, or you must re-

duce the amount appropriated by the House in their bill. We proposed four amendments, each one of them calculated to reduce largely the expenses of the Post Office Department, or largely to increase its revenue. The House agreed to two of these amendments after solemn argument, by a test vote. One was a proposition to give out the printing of certain blanks connected with that Department to the lowest bidder. It was a very great reduction. They also agreed to the proposition to give the advertisement of the letter list to the lowest bidder. The House discovered no general legislation, no incongruity in these amendments. They agreed to both of them, and only disagreed to the two amendments abolishing the franking privilege and increasing the rates of postage.

The bill went to a conference. What then? The committee of conference did not agree on these two amendments. It went to a second conference, and the conference again did not agree. Then the House go back and rescind their agreement to amendments to which they had already consented, refuse to give up two abuses, and insist upon perpetuating two more. What is the consequence? We know that with the appropriations contained in this bill, unless we provide the means of payment, there will be a deficiency in the revenue; and how is it to be made up? By another loan bill? If so, it is our duty to sit here and pass the loan bill. We ought not to appropriate more money than the Government has on hand.

We have proposed, in addition to the two amendments to which the House at one time agreed, and which are material in reducing the expenses of the Government, to abolish the franking privilege. It is a great convenience to us individually, and it will be more expensive to us individually if we do not abolish it; but what is the case on the other hand? The Senator from Mississippi has told us the truth, and we know it. I have no doubt that the abolition of the franking privilege will reduce the expenses of the Government between five and six millions a year, taken in all its ramifications. It puts a stop to the increased mail service which is only necessary to carry the free matter. It will put a stop to the extravagant printing of books by Congress. It will put an end to all this matter that is loading down the mails in every direction. My own judgment was, that that one reform put upon this bill would have been sufficient. If the House had agreed to that, we should have given up the increased rates of postage. In fact, I thought the increase was rather too sudden, although, in my opinion, there ought to be some increase.

The position of the Senate therefore is, that the appropriations recommended by the House in this bill are too large, unless we provide a reduction of the expenses. It is not a case of general legislation; it is not a case of foreign matter put on an appropriation bill; it is simply carrying out the very just views of the President, so admirably expressed in his message, that if Congress makes the appropriations, it is the duty of Congress to provide the money; and we must either provide it by a new loan, or by adhering to our amendments, which reduce the expenses of the Post Office Department. Suppose we pass the House bill, and recede from all our amendments, as recommended by the committee of conference, and go home: what is the consequence? At the next session there will be a deficiency; we shall have to make a new loan. We had better make it now; we had better let the House of Representatives and everybody else see that, if they reject our amendments, they must increase the revenue of the Government from some other source.

While I adhere to the proposition on which I stood in the case of the Army appropriation bill two years ago, that neither House has a right to coerce the other to general legislation on an appropriation bill, I say that when the appropriations for the Post Office Department (the true doctrine in reference to which has always been that it should support itself) are too large for our present means, it is our duty either to reduce the appropriations or to adhere to our amendments. I think the House have behaved very badly, at all events—I say it with all due respect—in going back and striking off amendments to which they had once consented, which amendments were calculated to reduce expenses. This is the reason why, although I am very anxious to go home,

and anxious to see an end to this bill, I cannot vote for the report of the conference committee, because it involves the responsibility of taking more money than the Government has to spend.

Mr. PEARCE. Mr. President, it is some seven or eight years since the present rates of postage were established. That was done by the concurrence of the two Houses of Congress, with the assent of the then President of the United States. From that day down to this, I think not a year has passed without a deficiency in the Post Office revenue; and that which was the policy of the country before, that the Post Office should be self-supporting, that its revenues should not exceed in cost the amount of its revenues, has, from that day down to this time, been departed from; and it seems as if the country, certainly as if Congress, had sanctioned the new idea that it should be no longer required that the Post Office should be self-supporting. We have, without any objection, so far as I now, certainly without any great effort to prevent that state of things, every year since 1851, appropriated additional sums of money to supply the deficiency in the revenues of the Post Office; and it would seem almost (as we have heard nothing like a serious proposition to change this state of things) as if it were the settled policy of Congress, sustained by the people, that that should be the case.

I am very ready to admit that I dissent from all that. I thought when the reduction was made, that we were doing a rash and unwise thing; that we were adopting an English system not adapted to the extent and circumstances of this country, and which, in the end, would prove to be entirely too onerous. I think so now. I voted very cheerfully the other day for the proposition of the Senator from Arkansas to increase the rates of postage; but I cannot disguise from myself the fact that it is a sudden movement. After seven years of acquiescence in this policy, without notice early in the session, without any formal proposition introduced and submitted to a committee, as ought to have been the case, in the very last week of the session, and, I believe, in the last three days of the session, by surprise, suddenly, by a sort of stampede, we determined to break down that system which we had sustained for some seven or eight years, and which had met with no great complaint in the country. I cannot but believe that an appeal to the country and a thorough discussion of this subject would have an effect upon the public sentiment, and would bring about a change in the rates of postage, for which I was prepared the other day, and shall be prepared at the next session of Congress.

Mr. JOHNSON, of Arkansas. The Senator says the act was passed seven or eight years ago. The act to which my attention is called, is dated March 3, 1855.

Mr. PEARCE. I thought it was passed in 1851.

Mr. JOHNSON, of Arkansas. The act before me is dated March 3, 1855, three years ago. I am not aware when the three-cent postage was established before that.

Mr. PEARCE. Is not that a supplementary act? I am sure the general rates now prevailing were established in 1851.

Mr. JOHNSON, of Arkansas. I would be glad if the Senator would turn himself to that original act.

Mr. PEARCE. I think I am right. Now, in regard to the franking privilege, how long it has prevailed I do not know. I know it has prevailed for nearly thirty years—how much longer I will not undertake to say. We modified it in 1845. It was but a slight modification. Before that it was not exactly understood, and was construed differently in different parts of the country. Some slight inconvenience was felt by gentlemen who had to pay postage in one part of the country as I had, while others, in other portions of the country did not pay postage on their letters; and the result was, that an act at the next session of Congress, restored the franking privilege precisely to the condition in which it had been about twenty years before, to my knowledge.

In regard to that, I am perfectly ready to say that I am willing to give it up. It is to most members of the Senate, and I presume of the House, productive of much more labor than benefit. A small amount of postage upon our letters, I presume, would scarcely be inconveni-

ent for any member of Congress to pay; and I am sure that that little disadvantage, if we are to consider it at all, would be far overbalanced by the dispensation with all this labor which is now most oppressive to Senators, if they undertake to perform it. For my own part, I do not undertake to perform it. I do not send out a tenth part of the documents which I receive; and I could not, unless I devoted myself to the business of a clerk, and gave up all idea of studying the great measures which are before the country. I generally give them away by the cart-load to institutions who make a better use of them, I suppose, than I can. I should be very glad to get rid of all the burden in that regard, and give up every part and parcel of the franking system; but it is the law long established and long practiced upon; and I do not think that, on an appropriation bill, the object of which is to provide the ways and means of carrying on the existing establishment, and paying for the service which by law the Postmaster General is to see performed throughout the country, upon a sudden amendment sprung upon the Senate in the last three days of the session, it is right to endeavor to coerce the House.

I do not consider this a case resembling that which the Senator from Louisiana mentions, and which, I think, the Senator from Georgia mentioned. I do not liken the Senate of the United States to the House of Commons of England; the House of Commons stand in a very different relation, either to the House of Lords or to the Crown, from that which we maintain to the House of Representatives. They hold the money strings, and it is the only mode by which they can coerce the Government when they think they are suffering grievances. If, when the House of Representatives send us a bill supplying the means for defraying the ordinary expenses of the service of one branch of the Government, we choose to put additional and new legislation on it, altering the system which has prevailed for years, and if we are justified in saying we will adhere to this and compel the House to do its duty, as one gentleman said, I beg to be understood as not joining in the idea of announcing what is the duty of the House. If we are to do that, if we are to say, "we will not give you the means for the support of the ordinary expenditures of this branch of the public service, unless we couple it with a condition suddenly sent to you," I do not see what appropriation the House can send to us, which we may not treat in the same way; and I do not see then but that we shall be undertaking to direct and control the whole legislation of the country, as we seem now to think the House is endeavoring to do in regard to us.

I hope, therefore, sir, that we shall not persist in these amendments, but at the next session of Congress let the appropriate committees take the subject into consideration, let them inquire into all the items in regard to this service, which, perhaps, would require some little time; let a report be made upon the whole subject, exhibiting the effect of the proposed change upon the condition of the Post Office, and after passing such a measure, let us adhere to it in the Senate until the very last measure of parliamentary means is exhausted. Then I think we may go to the country safely, if we must needs have a quarrel with the House of Representatives; but do not let us have a quarrel with the House at this stage of the session on a measure which, however wise and advantageous we may think it, we have proposed to them only two days before the adjournment. This bill, I think, passed the Senate on Friday night. Saturday and Monday morning were all that were left to the House to consider it, and surely, if on no other ground, they have on the ground of time, a right to say they will not be thus forced in such haste as this.

Mr. WADE. Is the question susceptible of division? I am desirous of voting for that portion of the amendment which proposes to abolish the franking privilege, and to vote against the increase of postage.

The VICE PRESIDENT. The report of the committee cannot be altered or amended or divided.

Mr. PUGH. But if we vote down the report, it will be open for us to insist or recede from any of our amendments, will it not?

The VICE PRESIDENT. Certainly.

Mr. WADE. This is an unfruitful debate. I

am conscious that if the proposition had been made at an early portion of the session, it would have elicited debate at great length; but there is no time to indulge in discussion now on this subject. I presume every Senator's mind is made up on it, and as there is so much business to be done, I hope a vote will be taken.

Mr. BENJAMIN. I desire to say a word upon the point which has been suggested to the Chair in relation to the right of dividing the vote. I understand perfectly well that by the rules of parliamentary order the report of a committee of conference is indivisible; but I submit to the Chair and to the Senate whether this be really the report of a committee of conference. I will explain what I mean: in ordinary circumstances a committee of conference between the two Houses, meeting together on their disagreeing votes, comes to some terms of compromise by which each House granting and each House insisting upon something, an agreement is entered into, which, in its very nature, is indivisible; because what is asked by one is conceded by the other only in consideration of some concession in return. But now three gentlemen have been appointed from each House, and have met together; they are called a committee of conference, and our members come back here to report to us, and the members from the House go back to report to the House. What has the House got to vote on? If it is a report of a committee of conference, each House must have to vote upon it. The House of Representatives has nothing to vote upon. Can the House be asked to vote that the Senate recede from its amendments?

Mr. FESSENDEN. It votes to accept the report.

Mr. BENJAMIN. Is not that pure mockery? Is it not clear that this is not in the true sense of the word the report of a committee of conference, but rather the return to us of our committee of conference, with a recommendation that in their judgment we ought to recede from the amendments which we have tendered to the House. The House has nothing to vote upon. Nothing is recommended to the House. The proposition is to the Senate to recede from all its amendments, and leave the bill as it was. That is essentially divisible in its very nature.

Mr. FESSENDEN. The Senator will allow me to ask him a question. What is more common than one single amendment made to a bill? One House or the other must recede. Is not that something to vote upon?

Mr. BENJAMIN. The House that has not to recede has nothing to vote upon. Does not the Senator see at once that if we vote, on the recommendation of this committee, to recede from our amendments, the bill is passed; there is nothing for the other House to vote upon?

Mr. HUNTER. Would not that be the case if there was only one amendment?

Mr. BENJAMIN. Undoubtedly.

Mr. HUNTER. Would you say there could be no report from a committee of conference where there was one amendment?

Mr. BENJAMIN. I do not say that a committee of conference does not come in and report what it has done; but I say that here, what has been done in committee is a matter on which one House alone has to act; that is to say, whether it will or will not recede from its own amendments, and that, from the very nature of the case, is divisible. I cannot conceive upon what ground we are called upon to vote upon three or four amendments in block, under some supposed exigency of a parliamentary rule. I want a vote on these amendments separately. I agree with gentlemen that if the House insists that it will not increase the rate of postage for the purpose of raising the revenue, we cannot insist on our part that the House shall agree to that; but if the House call upon us to vote \$3,500,000 out of the public Treasury for the purpose of carrying the mail, we have a right to say we want less mail-matter carried that does not pay, so that this deficiency may not exist hereafter. We have a right to say that we desire that the Postmaster General shall have a chance of reducing the expenditure by reducing, as the Senator from Mississippi has explained to us, the service from four-horse post-coach service to horseback service in many parts of the country where the mail is used for no other purpose than for carrying franked documents.

Upon that I am willing to make a stand, and desirous of making a stand, that the House shall increase the revenue or diminish the expenditure as we propose, or that they shall propose some mode themselves. I think we ought to vote upon these distinct propositions, for each proposition is as distinct as it can be. An ordinary report from a committee of conference cannot be divided into distinct propositions, and that is the reason it is indivisible; it is put together; in its very nature it is indivisible. You cannot make a compromise by voting that you will take what is granted to you, and reject what you are to give up in return. But when the proposition to the Senate is to recede from all its amendments, it appears to me that a rule of that kind, to use a legal phrase, perhaps not exactly intelligible in ordinary language, is insensible; that is, it has no sense in it. I cannot conceive why we shall not be allowed to insist on one of our amendments and recede from the other.

The VICE PRESIDENT. In regard to the point of order, the Chair will suggest that it is unnecessary to debate it further. Unless some action by the Senate shall be taken, the Chair decides that this report of the committee of conference cannot, at this time, be altered or divided, but must be accepted or rejected. If voted down it will be in the power of the Senate to vote on the amendments separately.

Mr. HUNTER. If the Senate vote down the report, they can then vote on the separate propositions.

Mr. BAYARD. No one knows better than myself the resources of the honorable Senator from Louisiana. He has shifted his ground entirely, and gone off on a collateral question as to the separation of the report of a committee of conference, a thing never heard of before in this body.

Mr. FESSENDEN. The Senator will allow me to suggest that the Chair has decided that question.

Mr. BAYARD. I understand that precisely. I know exactly what he has decided, and I do not mean to continue the debate unnecessarily at all; and the Chair having decided that, it is not necessary to enter into the fallacy, which I think derogates from the argument of the Senator from Louisiana on that point—the assumption that the committee of conference is solely founded on the idea of a compromise. It is founded on comparison of opinion, with a view to bring about a result.

I shall not attempt to enter into that now; but I wish to call the attention of the Senate to the fallacy of the argument connected with the importance of these questions. If they were so important as they are deemed to be—and I do not mean to underrate them—and if it was so necessary to coerce the House of Representatives, why is it that, in the course of this session, no one member of this body has thought it necessary, until the last day of the session but two, to make any motion in reference to the increase of postage or the abandonment of the franking privilege?

Mr. BENJAMIN. The Senator is mistaken. The Senator from Virginia, [Mr. HUNTER,] in the early part of the session, introduced a bill, which was referred to the Post Office Committee, and they have never got at it yet.

Mr. BAYARD. It was never reported on, I think.

Mr. BENJAMIN. Not at all.

Mr. BAYARD. It was only introduced by a single member.

Mr. BENJAMIN. It was a bill to modify the franking privilege and increase the rates of postage.

Mr. BAYARD. The subject was worthy of attention in a separate bill. The franking privilege has stood from the foundation of the Government, and therefore it cannot be that there are no arguments in support of it. The system of reduced postages has stood for many years past. On the last day but one of the session the Senate insists that the House of Representatives shall, as a condition for passing a necessary bill for the support of the Government, enter into and discuss all these matters. I stated before that I think there ought to be some increase of postage; but it ought to come before us in a proper bill by itself. I know of no more dangerous doctrine than I have heard Senators advocate on this bill—that

it is proper for us to tell the House of Representatives that they are not performing their duty, and that it is our right to coerce the House of Representatives. A more dangerous precedent cannot be set by this body than to refuse to adopt this report of the committee of conference in that view of the case.

Mr. YULEE. I consider it due to the Committee on the Post Office and Post Roads to make an explanation in reference to a remark made by the Senator from Louisiana. I understand the Senator from Louisiana to call attention to the fact that the subject of the increase of postage had been referred to the Committee on the Post Office, and had laid there.

Mr. BENJAMIN. So I understand.

Mr. YULEE. I think it proper, in behalf of the committee, to state that the subject was considered by the committee, and the judgment they came to was, that it was not expedient to propose action at the present session; but, inasmuch as they did design to consider the subject further, and to report at some time, they preferred to retain the bill with a view to action at the next session.

I will say, also, that the same course was adopted in reference to the abolition of the franking privilege. I introduced myself, at an early period of the session, a resolution calling the attention of the committee to the propriety of reporting a bill for the repeal of the franking privilege. It was referred to the committee; and they took the same view in respect to that as in regard to the other—that it would be better to consider it further, and wait until the next session.

The question being taken by yeas and nays, resulted—yeas 33, nays 17; as follows:

YEAS—Messrs. Allen, Bayard, Bigler, Bright, Chandler, Clingman, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Gwin, Hale, Harlan, Houston, Hunter, Kennedy, King, Mallory, Mason, Pearce, Polk, Reid, Seward, Simmons, Thompson of Kentucky, Trumbull, Wilson, Wright, and Yulee—33.

NAYS—Messrs. Benjamin, Broderick, Brown, Clay, Davis, Douglas, Fitch, Hammond, Johnson of Arkansas, Johnson of Tennessee, Jones, Pugh, Slidell, Stuart, Thomson of New Jersey, Toombs, and Wade—17.

So the report was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed a bill (H. R. No. 652) to repeal the second section of the act entitled "An act to establish certain post roads," approved June 14, 1858; in which the concurrence of the Senate was requested.

UNFINISHED BUSINESS.

Mr. SLIDELL. I offer a resolution which I hope may be immediately considered. It is one that has been passed for three or four years, and has been found very much to facilitate business.

Mr. MASON. I rise to preserve the order of the Senate. I understood we were in executive session, and the doors were opened for the time only.

The VICE PRESIDENT. The doors were opened on motion, and we are in open session.

The resolution of Mr. SLIDELL was considered by unanimous consent, and agreed to, as follows:

Resolved, That all subjects before the Senate at the close of the present session, including those before committees, shall be continued to the next session, and shall then be proceeded with in the same manner as if no adjournment of the Senate had taken place, and the papers which have been referred to the committees, and may be in their possession, at the close of the session, shall be returned informally to the Secretary, and by him restored to the committees when appointed at the next session.

EXECUTIVE BUSINESS.

Mr. MASON. I move that the Senate proceed to the consideration of executive business.

Mr. BAYARD. I hope the Senator will give way, to allow the passage of a House bill.

Mr. MASON. I should be glad to ask for the passage of House bills myself.

Mr. BAYARD. It will not take two minutes, and it is important for the administration of justice in the Territories of the United States.

The VICE PRESIDENT. The question is on the motion of the Senator from Virginia.

Mr. COLLAMER. I wish to inquire in relation to the light-house appropriation bill.

The VICE PRESIDENT. It is upon the table.

Mr. CLAY. I will inform the Senator from Vermont, that it cannot pass, and he need not

waste time by taking it up. There will be no new light-house established this year.

Mr. COLLAMER. It is not for new light-houses. It is for the support of the Light-House department, I understand.

The VICE PRESIDENT. The question is on the motion of the Senator from Virginia to proceed to the consideration of executive business.

The motion was not agreed to.

TERRITORIAL COURTS.

Mr. BAYARD. I desire to ask the Senate to take up the bill (H. R. No. 59) in relation to courts, and the holding of the terms thereof in the several Territories of the United States. It is reported without amendment from the Committee on the Judiciary, and I presume there can be no objection to its passage. It is a very short bill.

Mr. SLIDELL. I will state, for the information of the Senator from Delaware, that I was in the House of Representatives a few minutes ago, and heard the chairman of the Enrolling Committee of the House, when they were about to take up and pass a bill, inform them that he was authorized by the President to say that he would sign no bill which had not been presented to him on Saturday, except the regular appropriation bills. I therefore suggest to the Senator that the consequence will be that if the bill be not signed, it will be in a worse position than if it be left as it is.

Mr. CRITTENDEN. I wish simply to say a word. It is unusual altogether for the Senate to receive any communication of the character which has just been made to us as to what the President will or will not do. It is against the privileges and the rights of this body. Is it intended to operate upon us and to make us conform our action to the irregular edicts that may be brought in and pronounced by anybody here? I say this with great respect, and merely in order to make known my protest at any rate as one Senator against it as an infringement of the rights of the Senate.

The question being put on the motion, there were—yeas 22, nays 7; no quorum voting.

Mr. MASON. I renew the motion that the Senate proceed to the consideration of executive business; and I ask for a division on that vote.

Mr. BENJAMIN. I hope the Senate will pass this bill before it goes into executive session. It is evident that there is a large majority of the Senate who wish to do it; and that will ought to be respected.

Mr. FESSENDEN. I will state, moreover, that there is another bill on the table which has come from the House, to repeal a section of law which passed both Houses on Saturday, and which, I am told, makes a very large appropriation of money, and was passed without having been understood either by the House or the Senate, and contrary to the intention of both. It came in this morning.

The VICE PRESIDENT. The Chair will suggest to the Senator from Maine that no business can be transacted until measures are taken to ascertain the presence of a quorum.

Mr. FESSENDEN. I would only—

Mr. STUART. The Senator will allow me to suggest that we can take no question until we ascertain that there is a quorum here. I therefore ask for the yeas and nays on the motion of the Senator from Delaware.

The yeas and nays were ordered.

Mr. HALE. I wish to suggest, in reference to the intimation made by the Senator from Maine, that there has been no such bill passed as he has described, which that bill undertakes to repeal.

The question being taken by yeas and nays, resulted—yeas 41, nays 5; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bigler, Broderick, Chandler, Clay, Clingman, Collamer, Crittenden, Doolittle, Fessenden, Fitch, Fitzpatrick, Foot, Foster, Harlan, Houston, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, King, Mallory, Pearce, Polk, Pugh, Reid, Rice, Seward, Simmons, Stuart, Thompson of Kentucky, Thomson of New Jersey, Toombs, Trumbull, Wade, Wilson, Wright, and Yulee—41.

NAYS—Messrs. Brown, Hale, Hammond, Mason, and Slidell—5.

So the motion was agreed to; and the bill (H. R. No. 59) in relation to courts and the holding of the terms thereof in the several Territories of the United States, was considered as in Committee of the Whole.

It proposes to authorize the judges of the supreme court of each Territory of the United States

to hold court within their respective districts, in the counties wherein, by the territorial laws, courts have been or may be established, for the purpose of hearing and determining all matters and causes, except those in which the United States is a party; but the expenses are to be paid by the Territory, or by the counties in which the courts may be held.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker had signed the enrolled bill (H. R. No. 556) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1859; and it was signed by the Vice President.

POST ROADS.

The bill (H. R. No. 652) to repeal the second section of an act entitled "An act to establish certain post roads," approved June 14, 1858, was read twice by its title.

Mr. CLINGMAN. I shall object to the consideration of this bill unless I can understand what it proposes.

The VICE PRESIDENT. The bill has been read twice as a matter of form for reference, and will go to the Committee on the Post Office and Post Roads.

Mr. MASON. I move an executive session.

Mr. YULEE. Before the bill is committed, which I think will be a very proper disposition of it, and the committee will immediately report to the Senate, I desire to call the attention of the Senator from Maine [Mr. FESSENDEN] to a remark which I understood or misunderstood him to make just now. I may have misunderstood him; but I understood him to say that legislation had been taken on the post route bill which involved an appropriation of \$1,000,000, and it was not understood by the Senate at the time of its passage. Did I so understand him correctly?

Mr. FESSENDEN. A large sum of money, I said.

Mr. YULEE. I wish to say, in reply to that, that the Senator is entirely mistaken. There is no such legislation.

Mr. MASON. I rise to a question of order.

Mr. YULEE. The Senator will not object to an explanation?

Mr. MASON. If it is a matter of personal explanation, I shall not object.

Mr. YULEE. Most undoubtedly it is. I will state that the Senator from Maine is under a total mistake, as the House of Representatives has been in its action on this matter. The section to which this bill refers was read to the Senator from Maine himself personally, before it was introduced; and I am satisfied that he cannot know to what this bill relates. It was read to the Senator. It had been determined by the Post Office Committee unanimously that it should be reported; and when I reported the post route bill, I stated to the Senate—and the reporters, I dare say, took notes of what I said—that the first section related entirely to post routes; that the second section might be deemed to be somewhat more of a legislative character than the establishment of a post route, and that I would therefore read it to the Senate; and I read it from my place. I afterwards called the attention of the chairman of the Post Office Committee of the House to the section, and read it to him, it being a little more than the establishment of a route.

Now, I will state what it is. It has been objected to, I believe, in the House on the ground that it authorizes the establishment of an ocean mail service from Portland to New Orleans—the most absurd idea in the world. The committee had no idea of the sort; never dreamed of any such thing; nor did they dream of authorizing the establishment of any route not now existing or established. The whole purpose of it I will state. It was not to oblige anything, but simply to authorize the Postmaster General, and call his attention to, and impress upon him the importance of, the quick transit of the mail between New Orleans and Portland. The object was to enable him to make arrangements, or to call his attention to the importance of making arrangements, for expediting the mails in the winter season, when,

in consequence of the snows, especially in the snowy region, and of freshets at other times, the mails are liable to be delayed upon a single link for an hour or two, which causes a break in the whole connection all the way through, causing the mail to lie over twelve or twenty-four hours, at the point at which it stops, according to the frequency of the mail on the route. The idea of the committee was, that we should, if it could be done without much expense, make arrangement for extra trains to take up the mail at the point at which it stopped, and carry it on, in order to prevent the delay upon the way. The section merely calls his attention to the subject; it obliges him to nothing. That is the whole of the matter. Now, sir, I propose that the motion be put on the reference of this bill to the committee, and we will report it directly.

Mr. FESSENDEN. I will only say, in answer, that when I called the attention of the Senate to the subject, I did not know what the provision was. It was stated to me that a section had passed authorizing a new route, which would cost a large amount of money, and that that section had inadvertently escaped the attention of the House and the Senate. That being the case, I deemed it important that it should be taken up. I did not know what the matter was. I remember distinctly now that the Senator from Florida brought a section of a bill to me, and asked me a question in relation to it, with reference to Boston and Portland, which I answered.

Mr. CLINGMAN. I hope the clause will be read.

Mr. HALE. Can this bill be taken up without unanimous consent?

The VICE PRESIDENT. It is a House bill, which has been read twice, and will lie on the table or be referred, unless some other motion be made.

Mr. KING, and others. Let us have the section read which it proposes to repeal.

The Secretary read it, as follows:

SEC. 2. And be it further enacted, That the Postmaster General be authorized to make such arrangement for the transmission of the great through mails between Portland and New Orleans, as will insure the most speedy and certain connection, including in the route, for one of the daily mails, as many of the sea-board commercial cities as may be consistent with the greatest dispatch.

Mr. FESSENDEN. I will only say that the statement which I have mentioned being made to me, and knowing that this bill was lying on the table, if the fact existed I was desirous that the bill should be passed in order to prevent what otherwise would have been a surprise on Congress. I had reference to that, and that alone. The Senator from Florida afterwards told me that it was no such thing; and I said to him that if it was no such thing, I had no objection to the legislation which this bill proposes to repeal.

Mr. YULEE. Does the Senator recognize that section as the one I showed him?

Mr. FESSENDEN. Yes, sir.

Mr. HALE. I want simply in—

Mr. MASON. I insist on my motion. Let the bill be referred.

Mr. BIGLER. I hope the Senator from New Hampshire will allow me one word of explanation.

Mr. HALE. It is very seldom you hear my voice here. [Laughter.]

The VICE PRESIDENT. Does the Senator from Virginia yield to the Senator from New Hampshire?

Mr. MASON. I do not.

The VICE PRESIDENT. We have become involved in a little confusion. The Chair had recognized the Senator from Virginia, who gave the floor to the Senator from Florida for a personal explanation. The Chair would be happy to recognize the Senator from New Hampshire if the Senator from Virginia—

Mr. MASON. If it extends to the same personal matter, and not the merits of this controversy, I shall yield.

Mr. HALE. I want simply to say, as an act of justice to the honorable Senator from Florida, that I was in the House of Representatives when this bill was called up there, and remarks were made—I do not know that it was on the floor, but among members—that were derogatory to the good faith of the Senator. This matter was called to the attention of the Postmaster General, by a vote of the Senate, at my instance, in the early

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part of the session. The Post Office Committee have had frequent conferences about it. We have conferred with the Postmaster General and several of the superintendents of railroads on this route; and instead of being a surprise or a trick, it has been a thing long considered by the committee, in perfect fairness and in an earnest and honest desire to increase the mail facilities without expense. I will do the honorable chairman of the Post Office Committee the credit to say that he has volunteered a good deal of anxiety to expedite mails in the West, and far beyond the circle of his immediate influence and action, and nothing could be fairer than this proposition, and nothing more unfounded and unjust than an intimation that there was anything unfair and dishonest, or concealed, about it.

Mr. BIGLER. I want to say a word of explanation, in justice to the Senator from Florida as well as myself. I was present in the House of Representatives this morning when this subject was discussed in a circle of members. Being known as a member of the Post Office Committee, I was appealed to to know whether I understood the subject. I was bound to reply that I did not; that I was not present when it was considered. The Senator from Florida remarked that the committee unanimously agreed to the report. He means, of course, those who were present.

Mr. YULEE. They were all present, except yourself, sir.

Mr. BIGLER. I was not present, and I so stated on the occasion referred to. I was engaged on a committee of conference, and knew nothing of the session. This much is due in justice to myself.

The VICE PRESIDENT. If no other motion be made, the bill from the House of Representatives will be referred to the Committee on the Post Office and Post Roads.

Mr. GWIN. As a member of the Post Office Committee, I should like to say a word.

Mr. MASON. If it is by way of personal explanation, I yield.

Mr. GWIN. I want to say that this matter was before the committee. It was new to me when it was discussed before, and I thought it referred entirely to expediting mails by the railroads touching at New York and the other cities going down.

Mr. YULEE. Exactly. That is the whole of it.

The bill was referred to the Committee on the Post Office and Post Roads.

Mr. YULEE subsequently submitted the following report:

That the section referred to was intended to call the attention of the Postmaster General to providing for the most speedy and certain transportation of the great commercial mail between the extremes of the Union; that it did not propose to prescribe any route to the Department, nor to create any route, but simply to recommend expedition of the mail upon such routes as may be employed by the Department, in conformity with the law for transporting mails, wherever the points designated may be.

The committee report further that the purpose of the provision of the section which required one of the daily mails to pass through as many sea-board commercial cities as might be consistent with the greatest dispatch, was to include in the benefits of such improvements as the Department might adopt as many commercial cities as might be consistent with the leading design of expedition. Such provision was deemed advisable because the great mass of foreign exchange is created in these cities, and every hour of delay in the transmission of such matter is a commercial loss; and inasmuch as the foreign mails depart from New York, Boston, and Portland, and a large part of foreign bills originate at New Orleans and the other southern cities, regularity and certainty in the communication between these points (including Portland, Portsmouth, Salem, Boston, New York, Philadelphia, Baltimore, Norfolk, Alexandria, Richmond, Petersburg, Wilmington, Charleston, and Savannah) were of great public interest.

The legislation proposed to be repealed they consider advisable, and unanimously recommend that the bill do not pass.

EXECUTIVE BUSINESS.

Mr. MASON. I renew the motion that the Senate proceed to the consideration of executive business.

Mr. BENJAMIN. I ask the Senator from Virginia to permit me to offer a resolution of inquiry.

Mr. MASON. I have been obliged to decline a like request from the Senator from Mississippi.

Mr. BENJAMIN. I hope we shall suspend going into executive session for five minutes, to let us offer these little resolutions.

The motion for an executive session was not agreed to.

CLAIMS AGAINST FOREIGN GOVERNMENTS.

Mr. BENJAMIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to cause to be prepared and submitted to the Senate, at the commencement of the next session, a list in tabular form setting forth—

1st. The names of such complainants or claimants, citizens of the United States, as have preferred complaints or claims against foreign Governments to the executive department of the Government for aggressions or spoliation or other demands against such Governments.

2d. The amount claimed.

3d. A brief abstract of the nature of the claim and the action of the Executive in relation thereto.

4th. The result of such action, and the amount of the satisfaction obtained, if any; said list to commence on the 1st of January, 1816.

COMMITTEE TO WAIT ON THE PRESIDENT.

A message from the House of Representatives by Mr. ALLEN, its Clerk, announced that the House had passed a resolution for the appointment of a committee to join such committee as may be appointed by the Senate to wait on the President of the United States and inform him that, unless he may have some further communication to make, Congress has finished the business before it, and is ready to close its present session by an adjournment *sine die*; and had appointed Mr. SAMUEL A. SMITH, Mr. JOHN C. KUNKEL, and Mr. LAWRENCE M. KEITT the committee on its part.

On motion of Mr. BIGLER the resolution was concurred in, and the Vice President was authorized to appoint the committee on the part of the Senate. Mr. BIGLER and Mr. FOOT were appointed.

SENATORIAL ELECTIONS.

Mr. DAVIS. I present the following resolution, and ask that it may be now considered:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of legislation by Congress to regulate the election of Senators of the United States, and that they report by bill or otherwise.

The reason for offering the resolution appears on its face, and I will therefore merely say that I am restrained from inquiring as freely as I desire into such questions as arise in relation to the election of Senators, by the respect I have for the voice of a State whenever she speaks. Congress has heretofore forborne to legislate, and Senators have been elected in such a contrariety of methods, that it can hardly now be said that we have a precedent. I think it desirable, therefore, that there should be legislation; that there should be some uniformity of rules; that hereafter we may not have questions conflicting with the authority of the State, or destructive of the rights of the Senate.

Mr. SEWARD. I hope the resolution will be taken up for immediate consideration, by unanimous consent.

The resolution was considered by unanimous consent, and agreed to.

WITHDRAWAL OF PAPERS.

Mr. JONES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the papers in the following cases be withdrawn from the files of the Senate, and referred to the office of the Commissioner of Pensions, as they are provided for in the recent act of Congress "continuing half pay to certain widows and orphans"—Catharine Deany, Katharine M. Hamer, Elizabeth Monroe, Louisa Merrill, Margaret McGuire, Sarah Smead, Elizabeth Spear, Hannah Thompson, Sarah A. Watson, Mary Walsh.

On motion of Mr. MALLORY, it was

Ordered, That Samuel James, Ignatius Lucas, Charles Tiley, and Thomas S. Binge, have leave to withdraw their petitions and papers.

On motion of Mr. BRIGHT, it was
Ordered, That Sherlock & Shirley have leave to withdraw their petition and papers.

STATIONERY OF SENATORS.

Mr. IVERSON. I offer the following resolution, and ask for its consideration:

Resolved, That the Secretary of the Senate be directed to inquire into, and prepare, during the recess, a statement of the amount of stationery, and the cost thereof, which was furnished to each member of the Senate during the last Congress and the present session, and report the same to the Senate at the commencement of the next session; and that he also report the amount of stationery purchased for the use of the Senate at each session of the last and present Congresses.

I will simply state my object in this resolution. It is not to make capital out of anything of this kind, but to found upon it a proposition, at the next session, to make a commutation for postage as well as the stationery of each member.

The resolution was considered by unanimous consent, and agreed to.

EXECUTIVE SESSION.

On motion of Mr. STUART, (at one o'clock and forty-five minutes, p. m.,) the Senate proceeded to the consideration of executive business; and the doors were reopened at two o'clock and fifteen minutes.

FINAL ADJOURNMENT.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the following resolution, in which the concurrence of the Senate was requested:

Resolved, (the Senate concurring,) That the President of the Senate and the Speaker of the House of Representatives adjourn their respective Houses, *sine die*, this day, at half past two o'clock, p. m.

ENROLLED BILL SIGNED.

The message further announced that the Speaker had signed an enrolled bill (H. R. No. 59) entitled, "An act in relation to courts and the holding of the terms thereof, in the several Territories of the United States;" and it was signed by the Vice President.

BILLS BECOME LAWS.

The message further announced that the President had signed and approved, on the 11th instant, the following acts:

An act for the relief of certain purchasers of lands within the limits of the Choctaw cession of 1830;

An act for the relief of settlers on certain lands in the State of Illinois;

An act for the relief of John Sawyer, a soldier of the war of the Revolution;

An act for the relief of William S. Bradford; and

An act to change the times of holding the spring term of the district court of the United States for the western district of the State of Texas.

He, also, on the 12th instant, approved "An act for the relief of Nancy Magill, of Ohio."

And on this day the following acts:

An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1859; and

An act to authorize a loan not exceeding the sum of \$20,000,000.

THANKS TO THE VICE PRESIDENT.

Mr. SEWARD, (Mr. MASON occupying the chair,) submitted the following resolution; which was unanimously agreed to:

Resolved, That the thanks of the Senate be unanimously tendered to the Hon. JOHN C. BRECKINRIDGE for the dignity and impartiality with which he has discharged the duties of Presiding Officer of this body.

ELECTION OF PRESIDENT PRO TEMPORE.

Mr. SLIDELL. Understanding that, according to custom, the Vice President has vacated the chair, I offer the following resolution:

Resolved, (The Vice President being absent,) That the Senate now proceed to the election of a President of the Senate *pro tempore*.

The resolution was agreed to.

Mr. PUGH. I move that the Hon. BENJAMIN FITZPATRICK be President of the Senate unless some Senator demands a ballot.

Mr. SLIDELL. I will merely state for the information of the Senator from Ohio, that it was, after full consideration, deemed desirable in this case that the Senate should adhere to the established rule upon the subject. I have no sort of objection, however, to dispensing with a ballot.

Mr. PUGH. If any Senator demands a ballot I shall not object. ["Ballot!" "Ballot!"]

The PRESIDING OFFICER, (Mr. TOOMBS in the chair.) Senators will prepare their ballots. The ballots having been collected and canvassed, the result was declared as follows:

Whole number of votes cast, 48; necessary to a choice, 25; of which—

Hon. Benjamin Fitzpatrick received 37
Hon. William Pitt Fessenden..... 9
Hon. David C. Broderick..... 2

The PRESIDING OFFICER. Mr. FITZPATRICK having received thirty-seven votes, a majority of the whole number of votes cast, is therefore duly elected President *pro tempore* of the Senate.

The PRESIDENT *pro tempore* having been conducted to the chair by Mr. CRITTENDEN and Mr. BRIGHT, said: Senators, I am gratified by this renewal of your confidence; and I assure you that I will endeavor, to the best of my ability, to discharge the duties of the chair faithfully and impartially.

Mr. SLIDELL submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the Secretary inform the President of the United States and the House of Representatives that (the Vice President being absent) the Senate has chosen the Hon. BENJAMIN FITZPATRICK President of the Senate *pro tempore*.

ORDER OF BUSINESS.

Mr. BROWN. The House of Representatives have passed a resolution to adjourn at half past two o'clock. It is that hour now. They are exceedingly anxious to get away. The President, it is understood, will call us together to-morrow for executive business. We cannot to-day, by any possibility, transact any other public business. I hope the Senate will concur in that resolution, and let them off. They are almost crazy to get away.

Mr. IVERSON. I rise to a point of order.

Mr. JONES. I made a privileged motion some time since which I desire—

Mr. IVERSON. I rise to a point of order.

The PRESIDENT *pro tempore*. The Senator from Georgia rises to a point of order.* He will state his point of order.

Mr. IVERSON. If it requires unanimous consent to consider the resolution of the House of Representatives, I object.

The PRESIDENT *pro tempore*. Then the Chair thinks it cannot be considered.

COMMITTEE CLERK.

Mr. STUART. We only went temporarily into open session for the purpose of making this election, and I suppose we may now resume the consideration of executive business.

Mr. IVERSON. We are now in open session, and I want to offer a resolution of which I gave notice on a former occasion, and I ask for its present consideration:

Resolved, That the annual compensation of the clerk to the Committee on Military Affairs and Militia shall be the same as that of the clerk to the Committee on Finance.

Mr. MASON. I move to lay the resolution on the table.

Mr. IVERSON. I hope not.

The PRESIDENT *pro tempore*. Objection being made, the resolution lies over under the rule.

Mr. IVERSON. I call for the yeas and nays on the motion of the Senator from Virginia.

The PRESIDENT *pro tempore*. The resolution lies over under the rule.

Mr. IVERSON. No, sir; I gave notice previously that I would offer the resolution; and therefore it does not come under the rule. I have a right to have it considered at the present time.

The PRESIDENT *pro tempore*. The Chair will inform the Senator from Georgia that all resolutions appropriating money are required to be considered on three separate days, if insisted on.

Mr. TOOMBS. It is insisted on.

Mr. IVERSON. It does not appropriate any money. It increases a salary.

The PRESIDENT *pro tempore*. It proposes to increase the salary of an officer.

The resolution was laid over.

ACTION OF THE PRESIDENT.

Mr. HALE submitted the following preamble and resolution:

Whereas, the President of the United States has informed the Senate that he would approve no bills which he had not examined, and recommended that two days previous to the adjournment of each session should be allowed to the President within which no new bill should be presented to him for his approval, and at the same time has reserved the nomination of many officers (who have for months been in the offices for which they have been nominated) until the last two days of the session:

Resolved, That the President be respectfully informed that it will be agreeable to the Senate if, in his future executive communications to the Senate, he would accord to them the same time for deliberation which he deems necessary for himself.

Mr. SLIDELL. Is it in order to consider that? The PRESIDENT *pro tempore*. Not if objected to.

Mr. SLIDELL. I object to it.

COMMITTEE CLERKS.

Mr. JONES submitted the following resolution for consideration:

Resolved, That the clerks of the standing committee of the Senate, who are temporary, be continued for sixty days after the close of the present session.

Mr. TRUMBULL. I object.

The PRESIDENT *pro tempore*. Objection being made, the resolution cannot be considered to-day.

REGIMENT OF VOLUNTEERS.

Mr. DAVIS. I feel that it is my duty to call the attention of the Senate to a House bill lying on the table, and which frequent applications are made to me to take up. It is the bill (H. R. No. 567) to provide for the defense of Texas.

Mr. IVERSON. I think it unnecessary that the Senate should proceed to the consideration of that bill. It is a bill to appropriate \$4,000,000 for the payment of three regiments of volunteers authorized by a previous act of Congress. The Senator from Mississippi will move to strike out "two," and leave it an appropriation only for the regiment of Texas rangers. For my own part, I consider that unnecessary. The President has intimated in very strong language that it is unnecessary to have even that regiment. The war with Utah is closed; the war with the Florida Indians is closed; and we can send to Texas as many regiments as we desire. We can cover over that whole State with regiments of the regular Army if necessary. It is unnecessary to consider the bill. I am opposed to it.

Mr. DAVIS. I will not consume the time of the Senate by arguing the merits of the bill on the question of taking it up. Senators are as well informed as I am. If they do not choose to take it up, very well. If they do, I can answer the remarks of the Senator from Georgia.

Mr. TOOMBS. I think, myself, if they could get this regiment of Texas rangers, and dispense with that many regulars, it would be a great advantage to the country. I hope the Senate will take up the bill. We have nearly four hours left, and I think there is time enough to devote some time to the defense of the country.

Mr. IVERSON. How should we dispense with the regular troops by raising a regiment of volunteers?

Mr. HOUSTON. I will make but one observation. The Indians from above us cross the boundary of Texas, and depredate on our citizens. With a proper force of rangers on our frontiers, they could not cross over, and steal horses and commit depredations. Texas has remonstrated against this condition of things, and regular troops cannot prevent it. Those troops are in forts or stations, and the Indians pass a few miles beyond them, and go into the settlements, commit their depredations, and return with their plunder and with their scalps. That is the situation in which we are placed. We want a regiment of rangers to pursue them, and try to remedy the evil. That is the object. It is necessary to our salvation.

The PRESIDENT *pro tempore*. The question is on the motion to take up the bill indicated by the Senator from Mississippi.

The motion was not agreed to.

EXECUTIVE SESSION.

On motion of Mr. JONES, the Senate again proceeded to the consideration of executive business; and an hour having been spent therein, the doors were reopened.

RECONSIDERATION.

On motion of Mr. TRUMBULL, the vote ordering the printing of the communications of the Postmaster General, with respect to the charges against the San Francisco postmaster, was reconsidered.

REPORTS OF COMMITTEES.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the bill (S. No. 66) to amend an act entitled "An act to continue half pay to certain widows and orphans," approved February 3, 1853, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom were referred the petition of George S. Seton, the petition of J. M. Morrill, in behalf of the Bangor City Greys, and the petition of the surviving soldiers of the third regiment, second brigade, of Massachusetts militia of the war of 1812, asked to be discharged from their further consideration; which was agreed to.

ARIZONA TERRITORY.

Mr. DOUGLAS. I move that the bill (S. No. 8) to organize the Territory of Arizona and to create the office of surveyor general therein; to provide for the examination of private land claims, to grant donations to actual settlers, to survey the public and private lands, and for other purposes, be postponed to and made the special order of the day for the second Monday of December next, with the understanding that the Dacotah and Nevada bills shall then also come up.

The motion was agreed to.

HOMESTEAD BILL.

Mr. JOHNSON, of Tennessee. I rise to a privileged question, to take up the motion to reconsider the vote postponing the homestead bill until January next.

Mr. MASON. As a question of order, I submit to the Chair that we went out of executive session only to receive the proposition from the Senator from Illinois, and that we are now again in executive session. We had better proceed with the business in executive session.

The PRESIDENT *pro tempore*. The Chair so understands. The officers will close the doors. The doors were again reopened at thirty-five minutes past five o'clock, p. m.

Mr. JOHNSON, of Tennessee. I call up the motion to reconsider the postponement of the homestead bill.

Mr. FITCH. I wish to make a few remarks on a question which, I presume, is a privileged one. In executive session my question must be mentioned.

The PRESIDENT *pro tempore*. We are now in open session.

Mr. FITCH. I was not aware of that.

The PRESIDENT *pro tempore*. Is the motion of the Senator from Tennessee to proceed to the reconsideration of the homestead bill?

Mr. JOHNSON, of Tennessee. Mr. President—

Mr. YULEE. If the Senator will excuse me I will say that I apprehend it would be very important and desirable to the Senate to close the doors again upon the subject to which the Senator from Indiana refers. I believe it is always in order to move to close the doors.

Mr. KING. Not when somebody has the floor. The PRESIDENT *pro tempore*. Not when a Senator has the floor.

Mr. JOHNSON, of Tennessee. I understand I have the floor.

Mr. YULEE. Will not the Senator give way for that purpose?

Mr. JOHNSON, of Tennessee. No, sir.

Mr. YULEE. I must object then to taking up his motion. I understand that the motion is to take up the homestead bill. I hope that it will be voted down.

Mr. JOHNSON, of Tennessee. The motion is to reconsider, which is a privileged question.

Mr. MASON. I understand—

Mr. JOHNSON, of Tennessee. How does the gentleman get the floor?

The PRESIDENT *pro tempore*. The Senator from Virginia, is not entitled to the floor except by the courtesy of the Senator from Tennessee.

Mr. MASON. I rise to a question of order. I understand that the Senator from Tennessee, some days ago moved to reconsider the vote upon the homestead bill, and he now asks the Senate to take up the bill for the purpose of reconsidering.

Mr. JOHNSON, of Tennessee. I did not move to take up the bill. It is a motion to reconsider the vote by which the bill was postponed.

Mr. MASON. That is the question of order which I present. There was a vote on the homestead bill which the Senator, on a former day, moved to reconsider; and the question now is, not on the motion to reconsider, but, "Will the Senate take up the homestead bill for the purpose of reconsidering?"

Mr. JOHNSON, of Tennessee. The question is to reconsider.

Mr. MASON. I submit to the Presiding Officer that the only question on which the reconsideration can act is the bill; and, therefore, the motion is to take up the bill with a view to consider the motion heretofore made to reconsider the vote on the bill. You cannot reconsider it unless it is taken up. I submit that as a question of order.

Mr. JOHNSON, of Tennessee. A motion to reconsider is a privileged question. The motion is made, and I have the floor.

Mr. MASON. I stand, sir, upon the question of order still.

The PRESIDENT *pro tempore*. Will the Senator state his question of order?

Mr. MASON. The point of order is that the question presented by the Senator from Tennessee is a motion to take up the homestead bill, as it is called, with a view to its reconsideration.

Mr. JOHNSON, of Tennessee. I make no such motion.

Mr. MASON. I say there can be no reconsideration until the bill is before the Senate. I make that question of order, that unless the Senator moves to take up the bill for reconsideration, there is no motion before the Senate.

Mr. JOHNSON, of Tennessee. The bill cannot be got before the Senate until it is reconsidered. The motion to reconsider, being a privileged question, can be called up at any time by the mover, or by any other member of the Senate. The motion has been made, the question is before the Senate, and I have the floor upon it.

Mr. JOHNSON, of Arkansas. I will call the attention of the Senator from Tennessee to the fact that, whilst there are now but five minutes before the time when the House meets, there is a matter here which the Senator himself, perhaps, would prefer should be explained, to avoid trouble hereafter. The Senator from Indiana calls attention to a clerical error that involves the confirmation of two gentlemen, which, I suppose, when we have adjourned, cannot be corrected at all.

Mr. JOHNSON, of Tennessee. I will conclude my remarks in sufficient time to go into executive session.

Mr. JOHNSON, of Arkansas. Before six o'clock?

Mr. JOHNSON, of Tennessee. Before six o'clock. It is only twenty minutes of six now. I will give sufficient time.

The PRESIDENT *pro tempore*. The Chair decides, on the question of order raised by the Senator from Virginia that the motion of the Senator from Tennessee is to proceed to the consideration of a motion he made, upon which a vote was taken, postponing the homestead bill to a certain day. Upon that motion the Chair determines that it is in order for the Senator to submit his remarks.

Mr. JOHNSON, of Tennessee. I do not intend to consume the time of the Senate, and I should not say a word now if I thought the time would be occupied more profitably; but I deem the homestead bill one of great importance to the country; and I wish to set right some statements which were made in reference to the origin and history of the measure on the discussion which took place upon its postponement a few weeks ago. On that occasion, my friend from Alabama, [Mr. CLAY,] in assigning some reasons why the bill should be postponed, made the following statement:

fallen from the Senator from Tennessee, before the vote is taken on this bill. He argues that public opinion is in favor of this measure, and therefore it ought to be passed; but, admitting his premises, I do not agree that his conclusion is necessary. I do not think it is the business of this Senate, or of the House of Representatives, merely to reflect public opinion, whether right or wrong. I do not think it becomes us, as representatives of sovereign States, to run after public opinion; but I think we should rather lead it; we should correct it when it is wrong, and should only follow it when it accords with our judgment, and when it is right.

"Now, in respect to this homestead policy, which the Senator says has been approved by public opinion. I dissent from him as to that conclusion. I deny that it is approved by public judgment. Why, sir, fourteen years ago, an unfortunate son of genius, who represented one of the districts in my own State, originated the idea in this country of giving homes to the homeless. Felix G. McConnell, of the State of Alabama, was in the habit, I believe, on all occasions when he rose to address the Speaker of the House of Representatives, of suggesting his proposition for a homestead for every man, matron, and maid in the United States, who was the head of a family. [Laughter.]

"Mr. HAMLIN. And widow.

"Mr. CLAY. Then it was treated with derision. About eight years ago, the Senator from New York, who perhaps is entitled to the credit of originating this measure in the Senate, offered a bill, of which this is a substantial copy, perhaps a literal one, and it received but two votes."

It was stated by my friend from Alabama—and a former Senator from Mississippi (Mr. Adams) fell into the same error—that Felix G. McConnell, with whom I served in the House of Representatives, and for whom I entertained a great deal of respect, originated this homestead policy in that House. It is as far from me as it would be from any one, to detract aught from that individual. The Senator from Alabama calls him an unfortunate son of genius, from his own State. Sir, if there ever was a man who was a Democrat by instinct and by nature, it was Felix Grundy McConnell. Even when he was in one of those unfortunate moods—one of those unfortunate spells that he occasionally fell into—you might wake him up out of a reverie and present to him a question that involved Democracy on the one hand, and its opposite on the other, and by instinct or intuition he was always on the side of Democracy.

But I wish to set the facts right; as there seems to have been some controversy as to who was the originator of this great measure. So far as I am concerned, whenever I have alluded to this subject, from first to last, I have never claimed its paternity. In the speech which I made a short time since, I showed that the policy was inaugurated by Washington, that it had been approved and indorsed by the most distinguished men of the country, from that period down to the present time. As, however, there seems to have been some contest as to the origin of the measure in this particular form, I intend to state the facts without regard to what may be said in reference to myself.

It appears from the Journal of the House of Representatives, that on March 12, 1846, "Mr. A. Johnson asked leave to introduce a bill entitled 'A bill to authorize every poor man in the United States who is the head of a family to enter one hundred and sixty acres of the public domain, without money and without price.' Objection being made, it was not introduced."

On March 27, 1846, "Mr. A. Johnson, in pursuance of previous notice, asked and obtained leave to introduce 'A bill to authorize every poor man in the United States to enter one hundred and sixty acres of land,' &c.; which bill was read twice, and committed."

In the House of Representatives, August 5, 1846, the French spoliation bill being under consideration, "Mr. McConnell moved to add to the bill a section granting one hundred and sixty acres of land to every man, maid, or widow, in the United States. Ruled out of order."

August 6, 1846, the Oregon bill being under consideration "Mr. McConnell wished to offer as an amendment, an additional section authorizing every man, maid, or widow, &c., to enter one hundred and sixty acres of land in any portion of the territory of the United States. The Chairman decided the amendment out of order at that time."

Thus I find that on the 12th of March, 1846, notice of the bill was given, and on the 27th of March, 1846, the bill was introduced and committed; and on the 5th of August, 1846, Mr. McConnell offered it as an amendment to some other bill. My friend from Alabama was disposed to give the credit of it, if any credit attached to it, to a former Representative from Alabama,

and he spoke of him as an unfortunate son of genius. If he was entitled to it, I should have no objection. He was for the measure; he was a Democrat; he loved his country; and if there was ever a man devoted to the people, it was Felix Grundy McConnell.

My honorable friend in arguing why it should be postponed, said that this measure had its origin in the Senate about eight years ago, when it was introduced by the honorable Senator from the State of New York, [Mr. SEWARD,] and said that his bill only received two votes in 1850. When we come to examine the facts, it seems a little strange that my friend from Alabama should fix upon the honorable Senator from New York as the introducer of his proposition. Why the Senator from New York was selected as the introducer of the bill, and the allegation made that then it only received two votes, I cannot tell, unless it was to convey prejudice to the South, on the supposition that owing to his peculiar relations to some of the States, his name would be calculated to prejudice, in the southern section of the country, a measure he introduced. A reference to the Journal of the Senate for 1850, will show that Daniel Webster and General Houston introduced the proposition then. STEPHEN A. DOUGLAS—I call him not as a Senator, but as Stephen A. Douglas from the State of Illinois, introduced two homestead bills, one in 1850 and 1851. Thus the proposition was brought forward by various distinguished individuals at about the same period of time; but somehow or other my friend from Alabama has the idea that the measure was then presented by the Senator from New York. It is not strange, when it was introduced by so many distinguished men, that my honorable friend did not think that some of them had introduced it; but how does the fact stand? I call on my honorable friend from Alabama to make his statement good. I want him to show when the Senator from New York ever introduced a homestead bill at all. I have examined the Journal and I cannot find it. If he has the reply ready, I will take it.

Mr. CLAY. I refer to the Senator from New York himself. I learned what I stated from him.

Mr. SEWARD. The honorable Senator from Tennessee, I suppose, will state the result of his researches. He knows more about it than I do.

Mr. JOHNSON, of Tennessee. Upon a bill to establish a surveyor general's office in the Territory of Oregon, there was an amendment offered preventing the land that was granted in that bill to actual settlers from forced sale of one hundred and sixty or three hundred and twenty acres, and upon that the yeas and nays were called, and there were only two votes for the amendment—not this proposition at all—the vote of the honorable Senator from New York and of the honorable Senator from Wisconsin, (Mr. Walker.) The honorable Senator from New York never introduced a homestead bill; but he did in 1850 introduce a bill grounded partially on the same principles, granting land to the Hungarian refugees who were coming to this country, as will be seen by referring to the Journal of that year, page 119. True, the distinguished Senator from New York—and I thank him for the argument he made; it did his heart and his head credit—made a speech on the bill granting the overflowed lands to the States in which they lie, in which he argued this whole policy, and argued it ably and well before the whole country; but he never introduced a homestead proposition in the shape it is here, though he covered the whole subject in his speech.

Then, in the first instance, it is seen, on an examination of the Journals, that notice was given of the homestead bill. It was introduced and committed in the House of Representatives before my respected friend from Alabama (Mr. McConnell) ever offered his proposition as an amendment to the spoliation bill. In 1850, the period to which the Senator from Alabama carries us back in the Senate, the Senator from New York never introduced a homestead bill at all; but half a dozen others did shadow forth a proposition in its broadest sense. None of them were to be referred to by the Senator from Alabama; but the Senator from New York must be brought into connection with it. I do not say that my friend from Alabama intended to be unfair; I do not say that he intended to excite any improper prejudice by this connection; but I will say that his remarks, left as they were, were calculated to do that.

"I wish to make a remark or two in reply to what has

In the first place, we find the Senator from Alabama mistaken in his statement of fact as to the origin of the bill; in the second place, we find him mistaken as to the fact of Mr. SEWARD introducing the proposition eight years ago; in fact, he introduced no such measure at all. The remarkable accuracy with which the Senator from Alabama stated his facts seemed to indicate that he had made himself thoroughly acquainted with the history of the subject. If he had made himself acquainted with all the facts connected with the homestead proposition, I feel assured that he would not have made the statement he did; and not having made himself acquainted with the facts, he was not authorized in making the statement he did.

The Senator denies that this proposition has been approved by the public judgment. Let us see how the facts stand in regard to that statement. The measure, in its present form, was introduced in 1846; it was discussed in and out of Congress up to the 12th of May, 1852; and on that day the bill passed the popular branch of the national Legislature by a two-thirds vote. The bill was then lost in the Senate. Again, in 1854, it was originated in the House of Representatives by the Hon. John L. Dawson, of Pennsylvania, and was again passed by an overwhelming majority of that body, and was sent to the Senate, and lost. If we are to rely upon evidences like these, it is clear and manifest that the public judgment has been recorded in favor of the homestead proposition, the Senator's opinion to the contrary notwithstanding. We can have no safer guide, no better test, than the will of the people reflected through their representatives in their representative capacity.

But the gentleman went on to state that the Senate should not obey the popular will; that it should rather lead it; but in this particular case we find the Senator unwilling to lead, or to follow, either, what we conceive to be the public judgment; but sets himself up in opposition to it. If I were disposed to give another evidence of the popular judgment on this subject, I might mention that the Presiding Officer of this House, the Vice President of the United States, recorded his vote in favor of the homestead bill in 1854; he was placed upon the ticket for the Vice Presidency in 1856, with Mr. Buchanan, and his whole public course was scrutinized; his claims were submitted to the public consideration, and after a full and thorough investigation of his whole public course, there was not an objection urged against him for the Vice Presidency on account of having supported this policy in the Congress of the United States, that I am aware of; but, on the contrary, in many places it was one of the strongest arguments in his favor. Even in the gentleman's own State he received an overwhelming vote, after having supported the homestead measure.

The Senator, in the course of his remarks, admitted that the public judgment of his own State was once for it; but he does not condescend to give us any evidence that that public judgment has been changed. There have been no public meetings, no public demonstrations, no memorial or petition sent to the Congress of the United States against the passage of this measure; but in truth the evidences are all the other way; and so soon as the popular judgment can be brought to bear upon this body, the measure will be consummated and passed here. The Senator assumes, in bold terms, that the Senate should not obey the public judgment; that it should rather lead it. I hold that the Senate should obey the popular judgment, and that a majority of the States should rule in the Senate, as much so as the majority of the congressional districts in the House of Representatives. I hold it to be sound Democratic doctrine that a majority of the States should rule in the Senate; as much so as that a majority should rule in the House of Representatives; and then in a disagreement between the two Houses, measures are lost as contemplated by the Constitution; but in cases of this kind the Democratic party hold, that where a Senator cannot, consistently with his views of right or the Constitution, obey the will of the people of his State, it is his duty to resign, and give his place to some one who will faithfully and honestly obey the high behest of the people.

Sir, I hope the period is not distant when the Senate will have to come down from its present

proud and obstinate position, and pass more under the influence of the popular judgment of the respective States. I hope the time will come when the people of the several States will have the constitutional power restored to them of electing their Senators at the ballot-box, as they now elect their Representatives, if not every two years, at least once in six years, thereby creating an immediate responsibility between them and the people. This would be one great step in popularizing our Government. I will say, in this connection, that I am anxious to see the election of President and Vice President made by the electors of each congressional district directly, by the people, in preference to the present mode. Wherever it is practicable, I desire to have the people to do their own public business by themselves, instead of through agents. There is an old and trite adage which I think holds good in public as in private affairs—"whenever you have anything to do, send somebody to do it; but if you want it well done, go and do it yourself." It will hold good in every department of human affairs, public as well as private. Hence, I repeat, I am in favor of popularizing our Government, and, wherever it is practicable, letting the people elect their agents, instead of having their agents selected by other agents, as Senators now are by the Legislatures—in some instances by intrigue and other anti-Democratic appliances. Let the people be heard, and let their mature judgment be final.

I have felt it my duty to say this much in setting the history of this great measure right, as I humbly conceive the greatest measure of the age or of modern times; and it will ultimately be spread upon your statute-book as the law of the land.

Mr. PUGH. If the Senator from Tennessee will permit me, I think we have barely time to send a message to the House, and receive one in return. With his permission, I move that the Secretary send a message to the House that the Senate has discharged its business, and is ready for an adjournment. The Senator can proceed after that motion.

The motion was agreed to.

EXECUTIVE SESSION.

Mr. FITCH. I wish to move for an executive session, for the purpose indicated by the Senator from Arkansas. It will take but a moment. It is a matter of importance, and pertains to our records.

Mr. JOHNSON, of Tennessee. I have nothing more to say.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

At six o'clock the doors were reopened, and the Senate adjourned *sine die*.

HOUSE OF REPRESENTATIVES.

MONDAY, June 14, 1858.

The House met at ten o'clock, a. m. Prayer by the Rev. J. C. GRANBURY.

The Clerk then proceeded to read the Journal of Saturday.

MESSAGE FROM THE PRESIDENT.

During the reading of the Journal, a message was received from the President by Mr. JAMES BUCHANAN HENRY, his Private Secretary, informing the House that he had approved and signed the following bills:

An act granting a pension to Mrs. Mary A. M. Jones;

An act making appropriations for sundry civil expenses of Government for the year ending June 30, 1859;

An act making appropriations for the support of the Army, for the year ending June 30, 1859;

An act making supplemental appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the fiscal year ending June 30, 1859;

An act granting an invalid pension to John Holland, of Arkansas;

An act to establish certain post roads;

An act granting an invalid pension to William Randolph;

An act making appropriations for the transportation of the United States mail, by ocean steamers and otherwise, during the fiscal year ending the 30th of June, 1859;

An act to supply deficiencies in the appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the fiscal year ending June 30, 1858;

An act making appropriations for the expenses of collecting the revenue from customs;

An act making appropriations for the naval service for the year ending June 30, 1859;

An act making an appropriation for the completion of the military road from Astoria to Salem, in Oregon Territory; and

An act granting an invalid pension to William Howell, of Tennessee.

READING OF THE JOURNAL.

Mr. WASHBURNE, of Illinois. I move to dispense with the further reading of the Journal.

Mr. JONES, of Tennessee. It had better be read.

Mr. WASHBURNE, of Illinois. I move to suspend the rules to enable me to move to dispense with the further reading of the Journal. It will take till eleven o'clock to read the Journal.

The SPEAKER. There are twenty more pages.

Mr. FLORENCE. I submit the point of order that there is a motion now pending to suspend the rules.

The SPEAKER. The Chair overrules the question of order raised by the gentleman from Pennsylvania.

Mr. FLORENCE. Is there not a motion pending to suspend the rules?

The SPEAKER. This question comes up before you can reach that matter at all.

The House divided on Mr. WASHBURNE's motion, and there were—ayes 107, noes 18.

So (two thirds voting in favor thereof) the rules were suspended.

The further reading of the Journal was then dispensed with.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 582) to authorize a loan not exceeding \$20,000,000; when the Speaker signed the same.

EXTENSION OF THE SESSION.

Mr. J. GLANCY JONES. I ask the unanimous consent of the House to offer the following resolution:

Resolved, (the Senate concurring,) That the time for the adjournment of the present session of Congress shall be, and is hereby, extended from twelve o'clock, m., to half past two o'clock, p. m., this day.

I move the previous question on that resolution.

The SPEAKER. Is there any objection to the introduction of the resolution?

Mr. SANDIDGE. I object.

Mr. UNDERWOOD. I have a resolution which, I think, meets the emergency of the case better than that, and I ask the gentleman from Pennsylvania to allow it to be read.

Mr. J. GLANCY JONES. I move a suspension of the rules to enable me to offer the resolution.

The question was taken; and the rules were suspended.

The question recurred upon seconding the demand for the previous question.

Mr. SAVAGE. I rise to a question of order. The previous question has not been demanded since the rules were suspended, and I desire to offer an amendment.

The SPEAKER. The Chair overrules the question of order.

Mr. SAVAGE. I ask the gentleman from Pennsylvania to allow my proposition to be read.

Mr. CURRY. I object.

The previous question was seconded, and the main question ordered; and, under the operation thereof, the resolution was agreed to.

Mr. J. GLANCY JONES moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

POST OFFICE APPROPRIATION BILL.

Mr. J. GLANCY JONES. It will be remembered that on Saturday night, upon receiving information that a difference of opinion existed be-

tween the Senate and the House on the subject of legislation on the Post Office appropriation bill, the House laid that bill upon the table. In doing that, the House meant no discourtesy to the coordinate branch of Congress; but, as I understand it, they meant by that vote emphatically to declare their dissent to legislation in appropriation bills at the close of the session.

Now, Mr. Speaker, I have learned since, that that difficulty may be obviated, so that we may adjourn at two o'clock. It can only be arrived at in one way; and I wish the House to understand that. I propose to move that the bill be taken from the table by moving to reconsider the vote by which it was put there. I shall move, then, when the bill is before the House, to reconsider the vote by which five out of the ten amendments of the Senate were concurred in. The text of the bill has been passed upon by both Houses. There were ten amendments; five of which, as I have stated, were concurred in. My opinion is that, if the ten amendments be left open between the two Houses, a conference committee may be enabled to make a report.

Mr. GARNETT. I desire to ask the gentleman whether one of the amendments he intends to recede from is the one giving a subsidy of \$14,000 to the Collins line?

Mr. J. GLANCY JONES. I do not propose to recede from any. My motion is, that the amendments shall be left open for the action of a committee of conference between the two Houses. That is one of the amendments in which both Houses have concurred.

Mr. STEPHENS, of Georgia. There is no objection, I hope, to the proposition of the gentleman from Pennsylvania.

Mr. MORGAN. Is the House to vote on the amendments again?

Mr. J. GLANCY JONES. I propose to move a general disagreement to them, so as to send them to a conference committee.

Mr. MORGAN. So the bill is to go to the Senate precisely as it went before?

Mr. J. GLANCY JONES. It will go there with amendments of the Senate disagreed to by the House.

Mr. JONES, of Tennessee. I understand the gentleman from Pennsylvania in this way: when the bill is taken up, he will move to reconsider the vote by which the House agreed to certain of the Senate amendments to the Post Office appropriation bill. We will then disagree to those amendments—to all the amendments which the Senate put upon that bill when they first sent it back here. If the Senate will not recede from its amendments, then the Senate will ask for a committee of conference.

Mr. MARSHALL, of Kentucky. I desire to understand the chairman of the Committee of Ways and Means. Does he, in taking this bill from the table, propose to open any amendments that have been concluded by the concurring votes of the two Houses?

Mr. J. GLANCY JONES. I propose to take the bill from the table. Then I propose to reconsider the vote by which five of the amendments of the Senate were concurred in. That will open the whole subject.

Mr. MARSHALL, of Kentucky. I want to know why the gentleman proposes to go back and open amendments which have been concurred in?

Mr. J. GLANCY JONES. We have concurred in five of the ten amendments. If we recede from that concurrence, then the whole subject will be open between the two bodies. The two Houses cannot agree in reference to the five now open between them, but if the ten be opened, I know that they will agree to a report.

Mr. BURNETT. I rise to a question of order. I understand that there was no objection to taking the bill up.

Mr. MARSHALL, of Kentucky. I understand that it has not been taken up.

Mr. JONES, of Tennessee. No debate is in order.

Mr. MARSHALL, of Kentucky. If I am in order, I want to understand this matter that I may vote intelligently. I do not see how the basis for negotiation will be enlarged by cutting down that which both Houses have concurred in. For instance: both Houses agreed that the publication of the list of letters unclaimed for should be given, instead of to two or three papers, to the paper

that would do it the cheapest. Is it possible that the gentleman wants to disagree to that amendment which has already been agreed to by both Houses? How will that enlarge the basis for negotiation?

Mr. WASHBURN, of Illinois. I raise the question of order that debate is not in order; and I ask that it be decided.

Mr. HOUSTON. If debate is in order, it is premature at this time.

The SPEAKER. The first proposition is to take up the bill and amendments from the table. If that be done, then the question will come up upon the amendments heretofore disagreed to. The gentleman from Pennsylvania proposes to move a reconsideration of the vote by which the House concurred in certain amendments. If that be done, then he proposes to move that the House insist on its disagreement to the Senate amendments, and ask for another committee of conference. If there be no objection, the bill will be considered as taken from the table. The proposition will then be in order to insist upon our disagreement and ask another committee of conference. It will also be in order to move to reconsider the votes by which the House concurred in certain amendments of the Senate.

Mr. JOHN COCHRANE. I rise to a question of order. Will it be in order, as the Speaker has stated, to reconsider the vote by which we concurred in the Senate amendments—those amendments having been already once reconsidered, and the motion to reconsider laid upon the table?

The SPEAKER. It will require a two-thirds vote for the gentleman from Pennsylvania to get his motion before the House.

Mr. HOUSTON. I object to further debate. Let us have a vote.

The SPEAKER. Is there objection to taking the bill from the Speaker's table?

Mr. CLEMENS. I object. I understand ["Order!" "Order!"] that by this arrangement it is proposed—[shouts of "Order!"]

Mr. J. GLANCY JONES. I move to suspend the rules.

The SPEAKER. It is, in any point of view, desirable that the motion to suspend the rules should prevail.

Mr. CLEMENS. I ask for the yeas and nays on the motion to suspend the rules.

The yeas and nays were not ordered.

The rules were suspended, (two thirds having voted therefor,) and the amendments of the Senate brought before the House for consideration.

Mr. J. GLANCY JONES. What is now the question before the House?

The SPEAKER. The Senate amendments are before the House, and the question is: "Will the House further insist on their disagreement? will they adhere? or will they recede?"

Mr. STEPHENS, of Georgia. I move that the House further insist on its disagreement, and ask another committee of conference.

Mr. J. GLANCY JONES. I thought I had the floor. I move to reconsider the vote by which the House agreed to five out of the ten Senate amendments.

Mr. JOHN COCHRANE. I object to that.

The SPEAKER. It will require a two-thirds vote to take the motion to reconsider from the table.

Mr. JOHN COCHRANE. Is not the motion of the gentleman from Georgia [Mr. STEPHENS] in order?

The SPEAKER. It is.

Mr. JOHN COCHRANE. I ask for a vote upon that motion.

Mr. J. GLANCY JONES. I was upon the floor when the gentleman from Georgia rose and made his motion. Before making a motion I made an inquiry of the Chair in order to enable me to make my motion in order. What I wish to do is to make a motion to reconsider the vote by which the House concurred in five out of the ten amendments of the Senate to this bill. I make that motion now, if it is in order.

Mr. CLEMENS. I desire to make a single remark in reply to the gentleman from Pennsylvania, [Mr. J. GLANCY JONES.] [Cries of "Order!"]

The SPEAKER. Debate is not in order.

Mr. CLEMENS. I know it is not; but I ask the consent of the House to make a single remark. [Loud cries of "Object!" and "Order!"]

Mr. JOHN COCHRANE. I ask for a vote upon the motion of the gentleman from Georgia, [Mr. STEPHENS.]

The SPEAKER. The Chair thinks the motion of the gentleman from Pennsylvania [Mr. J. GLANCY JONES] is one of such a nature as will take precedence of the motion of the gentleman from Georgia. The gentleman from Pennsylvania moves to suspend the rules to enable him to submit a motion to take from the table the motion to reconsider the vote by which certain amendments of the Senate were concurred in.

Mr. CLEMENS. I wish to know if the effect of the motion of the gentleman from Pennsylvania [Mr. J. GLANCY JONES] is not to open up this whole controversy again, ["Order!" "Order!"] and place the House at the mercy of the Senate? [Shouts of "Order!"] I rise to a question of order.

The SPEAKER. The gentleman from Virginia is out of order; and must take his seat.

Mr. CLEMENS. Well, I ask for information, what will be the effect of the motion of the gentleman from Pennsylvania, if it prevails?

["Order!" "Order!"]

Mr. JONES, of Tennessee. I rise to a question of order. I submit that the motion of the gentleman from Pennsylvania is in order without the suspension of the rules. The bill, with the amendments of the Senate unacted on, are before the House, with the motion to reconsider attaching to those which have been concurred in. Now, I want to know what is to prevent the motion to reconsider from being taken from the table?

The SPEAKER. That is the motion the gentleman from Pennsylvania makes; but, under the practice of the House, it requires a two-thirds vote, objection being made, to enable him to submit the motion.

Mr. JONES, of Tennessee. But I submit that the bill and amendments being before the House, and the motion to reconsider attaching to the five amendments which have been concurred in, it is in order to move to take up the motion to reconsider.

The SPEAKER. If the practice suggested by the gentleman from Tennessee were to prevail, it would defeat the whole object of laying the motion to reconsider on the table, if it could at any time be taken up by a simple majority vote. So far as these amendments which have been concurred in are concerned, they have passed from the control of the House, unless by a suspension of the rules, just as much as the original text of the bill.

Mr. JOHN COCHRANE. If the motion of the gentleman from Pennsylvania be voted down, what will be the next question before the House?

The SPEAKER. The motion of the gentleman from Georgia, to further insist and ask for another committee of conference.

Mr. CLEMENS. I ask for the yeas and nays on the motion to suspend the rules.

The yeas and nays were not ordered, only three members voting therefor.

The rules were suspended—ayes 123, noes 10; and

Mr. J. GLANCY JONES submitted his motion to take from the table the motion to reconsider.

The SPEAKER. The question is, "Will the House reconsider the vote?"

Mr. GARNETT. I wish to know if that question is susceptible of division; because I am in favor of the amendment giving the printing of the Post Office blanks to the lowest bidder, and do not wish to recede from it.

The SPEAKER. The question cannot be divided.

Mr. STANTON. I move the previous question on the reconsideration.

The previous question was seconded, and the main question ordered; and, under its operation, the vote was reconsidered.

Mr. J. GLANCY JONES. I move that the House do non-concur in all the amendments of the Senate; and on that I move the previous question.

The previous question was seconded, and the main question ordered; and, under its operation, the amendments were non-concurred in.

Mr. PHILLIPS. I move that a committee of conference be appointed.

The motion was agreed to; and Messrs. PHILLIPS, WASHBURN, of Illinois, and DOWELL, were appointed the managers on the part of the House.

Mr. PHILLIPS moved to reconsider the vote by which the amendments were non-concurred in, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JAMES H. GLANDING.

The SPEAKER stated the business first in order to be the motion of the gentleman from Pennsylvania [Mr. AHL] to suspend the rules so as to discharge the Committee of the Whole House from the further consideration of Senate bill (No. 292) for the relief of James H. Glanding.

Mr. DAVIDSON. I would advise my friends in the House not to put any bill on its passage that has passed the Senate; because, if they do, they will be in a worse condition than if they remain as they are, as the President will sign no private bill passed to-day.

Mr. AHL. On that statement I withdraw the motion to suspend the rules.

Mr. FLORENCE. My colleague [Mr. AHL] withdraws his motion to suspend the rules, for the reason that the bill, if passed, would be in a worse condition than it is now in, and he is willing to trust to the justice of the House at the next session.

MINNESOTA REPRESENTATIVES.

Mr. HARRIS, of Illinois. I offer the following resolution:

Resolved, That the Committee of Accounts of this House pay out of the contingent fund of the House, to W. W. PHELPS and JAMES M. CAYANAOUGH, Representatives from the State of Minnesota, compensation at the rate of \$250 per month, from the 13th of October, 1857, to the 13th of May, the date of the admission of the State.

It is not necessary to discuss this resolution. It is only giving them pay back to the date of their election.

Mr. JONES, of Tennessee. I object. I think they ought to be paid only from the time the State was admitted.

Mr. HARRIS, of Illinois. I move to suspend the rules; and I call for tellers.

Mr. JONES, of Tennessee. Let us have the yeas and nays, and see who will vote for this. All these things have to pass in review within the next four years.

The yeas and nays were ordered.

The question was taken; and there were—yeas 64, nays 92; as follows:

YEAS—Messrs. Adrain, Ahl, Atkins, Avery, Barkdale, Billingshurst, Bowie, Boyce, Branch, Burns, Chapman, John B. Clark, Clawson, Cox, Curry, Curtis, Davidson, Davis of Mississippi, Dewart, Dimmick, Edmundson, Faulkner, Florence, Gilman, Gooch, Thomas L. Harris, Hatch, Hawkins, Jackson, Kelly, Leidy, Leiter, Maclay, McKibbin, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Miles, Milton, Niblack, Nichols, John S. Phelps, Quinman, Reilly, Ricard, Robbins, Roberts, Ruffin, Russell, Sandage, Savage, Searing, Shorter, Sickles, Singleton, Samuel A. Smith, Stephens, James A. Stewart, Ward, Ellihu B. Washburne, Whiteley, and John V. Wright—64.

NAYS—Messrs. Andrews, Bingham, Blair, Boeck, Brayton, Bufinton, Burlingame, Burnett, Case, Caskie, Ezra Clark, Clemens, Cobb, Clark B. Cochrane, John Cochrane, Cockerill, Coffax, Comins, Corning, Covode, Cragin, Burton Craig, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dean, Dodd, Dowdell, Durfee, Edie, Foley, Foster, Garnett, Gartrell, Gilmer, Goode, Goodwin, Grow, Robert B. Hall, Hill, Hoard, Hopkins, Horton, Houston, Howard, Huyler, Jewett, George W. Jones, Owen Jones, Kelsey, Knapp, John C. Kunkel, Lotcher, Lovejoy, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Mott, Ohio, Palmer, Parker, Pendleton, Pottle, Powell, Purviance, Ready, Reagan, Ritchie, Royce, Seales, Henry M. Shaw, Judson W. Sherman, Spinner, Stailworth, Stanton, Talbot, Tappan, Miles Taylor, Thayer, Tompkins, Trippe, Underwood, Wade, Walbridge, Walton, Winslow, Wood, Woodson, Wortendyke, and Zollcoffer—92.

So (two thirds not voting in favor thereof) the rules were not suspended.

During the calling of the roll,

Mr. BONHAM stated that if he had been in when his name was called, he should have voted "ay."

MESSAGE FROM THE PRESIDENT.

A message was received from the President by Mr. James BUCHANAN HENRY, his private Secretary, informing the House that he had approved and signed an act to authorize a loan not exceeding the sum of \$20,000,000.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. ASBURY DICKINS, their Secretary, informing the House that the Senate had agreed to the reso-

lution of the House to change the hour for the adjournment of Congress, with an amendment, in which he was directed to ask the concurrence of the House.

EXTENSION OF THE SESSION.

The message from the Senate was taken up and read, as follows:

IN SENATE OF THE UNITED STATES,
June 14, 1858.

Resolved, That the Senate agree to the resolution of the House of Representatives changing the hour for the adjournment of Congress, with the following amendment: Strike out "half past two o'clock this day," and insert in lieu thereof "twelve o'clock to-morrow."

Mr. PHILLIPS. I move to concur in the amendment of the Senate, with an amendment to strike out "twelve o'clock to-morrow," and insert in lieu thereof "six o'clock, p. m., this day." Whatever we can do by twelve o'clock to-morrow, we can do by six o'clock to-day. I move the previous question.

Mr. STEPHENS, of Georgia. I hope the House will not concur in the amendment of the Senate, and that, if the Senate refuses to concur in half past two o'clock, we shall adjourn at twelve o'clock to-day.

Mr. WASHBURN, of Maine. So do I. The Senate have been playing this game quite long enough; and I hope we shall not concur in their amendment.

Mr. HOUSTON. If the gentleman will withdraw the demand for the previous question, I will propose an amendment which, I think, will meet the views of all sides. It is, that we accept the Senate amendment, with a proviso that no legislative business shall be transacted by the two Houses after a certain hour.

Mr. PHILLIPS. I insist on the previous question.

Mr. DAVIDSON. If the House will give me its attention for one moment, I beg leave to say to the gentleman from Maine, and to the House, that the public business can be concluded by six o'clock; and if they will agree to that amendment, it is understood all round that that will suit all parties.

The previous question was seconded, and the main question ordered; and, under the operation thereof, Mr. PHILLIPS's amendment was agreed to, and the amendment of the Senate, as amended, was concurred in.

Mr. JOHN COCHRANE moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

UNFINISHED BUSINESS OF COMMITTEES.

Mr. JOHN COCHRANE. I ask the unanimous consent of the House to offer the following resolution. It is necessary in order to continue the business of the present session which is in the hands of the committees over to the next:

Resolved, That all bills, resolutions, and other papers referred to the standing committees of the House at the first session of this Congress, upon which no reports shall have been made at the time of adjournment, shall be returned informally to the Clerk, and shall, by virtue of this resolution, stand recommitted at the commencement of the next session of Congress to said committees, into whose possession the Clerk is hereby directed to restore them.

Mr. FLORENCE. If the resolution shall be received, will it be in order to move to amend it, so as to take from the drawers of members reports which they have been authorized to make?

The SPEAKER. The Chair would suggest that it has never been permitted that reports should be made and placed upon the Calendar in that way. The resolution of the gentleman from New York is in the usual shape.

Mr. FLORENCE. I desired to know, because I have my drawer full of reports, and I suppose other gentlemen are in the same position.

Mr. LETCHER. I do not suppose that one man in twenty of us has heard one word of that resolution.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported, as truly enrolled, a bill and resolution of the following titles; when the Speaker signed the same.

An act for the relief of Sherlock & Shirley; and

A joint resolution to correct an error in an act for the relief of Stephen R. Rowan approved June 1, 1858.

In presenting the report,

Mr. DAVIDSON said: These bills would have been here on Saturday but for the negligence of the officers of the Senate. I thought this statement necessary for the purpose of putting the matter right.

THE UNFINISHED BUSINESS—AGAIN.

The SPEAKER. The Chair desires to say that the resolution of the gentleman from New York is in the usual form, and is necessary if the House intends to resume its business at the commencement of the next session where it closed at the expiration of this.

Mr. COBB. It is precisely the usual resolution which has passed at the first session of every Congress for the last ten years.

Mr. JONES, of Tennessee. I wish to make this inquiry of the Chair: if this resolution is adopted in cases where reports have been agreed on, but not presented to the House, will it be competent for the committees which shall be appointed at the next session, if they are composed of different members, to make different reports?

Mr. COBB. Certainly.

Mr. JONES, of Tennessee. I think, then, the business before committees might as well go to the Clerk, and be referred at the next session.

Mr. FLORENCE. Will it be in order to move that such memorials as have been acted upon in committee shall go upon the Calendar?

The SPEAKER. The Chair supposes the resolution will be amendable.

Mr. FLORENCE. Then I submit the amendment I have indicated to allow reports upon memorials which have been acted on in committee, to be presented and go upon the Calendar.

Mr. JOHN COCHRANE. That amendment is not in order. The resolution has not been received by the House, and is not before us for amendments. If the resolution is received, I propose to demand the previous question, and cut off amendments.

The SPEAKER. Is there objection to the resolution?

Mr. CLEMENS. I object.

Mr. JOHN COCHRANE. I move to suspend the rules.

The question was taken; and the rules were suspended, (two thirds having voted therefor.)

Mr. JOHN COCHRANE demanded the previous question upon the resolution.

The previous question was seconded, and the main question ordered to be put.

The resolution was then adopted.

Mr. JOHN COCHRANE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

POST ROAD BILL.

Mr. STANTON. I ask the unanimous consent of the House to introduce a bill to repeal the second section of the act entitled "An act to establish certain post roads," approved June 14, 1858.

Mr. HAWKINS. I object.

[A message was here received from the Senate by Mr. DICKINS, their Secretary, informing the House that the Senate had agreed to the amendment of this House to the amendment of the Senate to the resolution of the House changing the time for the adjournment of Congress.]

Mr. STANTON. I move, then, that the rules be suspended.

Mr. ENGLISH. I ask that I may be allowed to say a word or two on the subject.

Mr. JEWETT. I think the gentleman ought to be permitted to be heard.

Mr. HOUSTON. I think it is due to the gentleman from Indiana that he should be heard.

Mr. ENGLISH. Two minutes will be sufficient.

Mr. BURROUGHS objected, but subsequently withdrew his objection.

Mr. ENGLISH. Mr. Speaker, this second section was adopted in the Senate as an amendment to the post road bill. I did not have time to examine all of the amendments of the Senate to that bill, and what I stated to the House on Saturday, in reference to it, was from information mainly derived from others. It is proper, however, that I should remark, that I did see an amendment somewhat like this. It was shown to me by a gentleman from North Carolina. He

proposed to make it imperative that the Postmaster General should do certain things as to the mail service between eastern cities and New Orleans. I stated that I should object to it in that shape; but that, if it were left to the Postmaster General to pursue the course indicated or not, as he pleased, I should have no objection to it. I am astonished that, this morning, there prevails an idea that this Senate amendment has reference to ocean service between eastern cities and New Orleans. Nothing of the kind was intended, as I believe. It refers to land service, and is therefore legitimately upon the post road bill. The language may be more indefinite than it should be, but I am assured by all the parties that land and not ocean service is intended. So I understood it, and so I understand it yet; but, whether so or not makes no material difference, as the matter is left to the discretion of the Postmaster General to make the best arrangement as to the transmission of the mails between the eastern cities and the great commercial city of the South. I see nothing wrong in it; but, under the circumstances, will vote to repeal.

Mr. STANTON. The amendment authorizes either ocean or land service, and the objection to it is that it is not an ordinary and usual provision, creating a post road. It goes beyond the ordinary purposes of a post road bill, and confers special authority upon the Postmaster General in reference to a specific and very important route. It passed the House without the knowledge of any member, and, whether it be right or wrong, I take it that it is such a provision as ought not to pass in that manner. The House was not conscious of there being anything in it except the usual provisions for post roads. We did not think that it conferred special power in reference to any road, inland or ocean. I insist, therefore, that it is due to the House that they should repeal this section of the bill, and confine the bill strictly to the establishment of post roads, without any general legislation in regard to them. I move a suspension of the rules.

Mr. ENGLISH. I have no feeling in reference to this matter, and have not the slightest objection to the course being pursued which was indicated by the gentleman from Ohio.

The SPEAKER. Debate is not in order.

Mr. WINSLOW. I want to speak on this question.

Several MEMBERS objected.

The House was divided; and there were—ayes 124, noes 15.

So the rules were suspended.

Mr. JOHN COCHRANE. I move to reconsider the vote by which the rules were suspended.

Mr. STANTON. Is that motion in order? I never heard of a motion to reconsider a suspension of the rules. It is no measure of legislation.

The SPEAKER. It is frequently an important step toward legislation.

Mr. STANTON. I will make no question of order. I move to lay the motion to reconsider upon the table.

Mr. STEPHENS, of Georgia. This matter can be settled by calling the yeas and nays on the suspension of the rules.

Mr. JOHN COCHRANE. I withdraw the motion to reconsider, and demand the yeas and nays on the motion to suspend the rules.

The yeas and nays were ordered.

The SPEAKER. In reference to the motion to reconsider, authority is found in the 56th rule, which provides that, when a motion has been once made, and carried in the affirmative or negative, it shall be in order for any member of the majority to move to reconsider.

Mr. WINSLOW. I want to make a statement in reference to this matter.

The SPEAKER. Debate is in order only by unanimous consent.

Mr. GROW. We have heard the statements of both sides. If the gentleman [Mr. WINSLOW] can be replied to, I have no objection to his proceeding; otherwise, I will object.

The SPEAKER. Debate is not in order.

Mr. STANTON. I think that the discussion had better take place after the rules shall have been suspended.

The question was taken; and it was decided in the affirmative—yeas 120, nays 45; as follows:

YEAS.—Messrs. Andrews, Barksdale, Bennett, Billingham, Blair, Brayton, Buflinton, Burlingame,

Burnett, Burns, Case, Caskie, Chapman, John B. Clark, Clawson, Clay, Cobb, Clark B. Cochrane, Colfax, Comins, Corning, Covode, Cox, Cragin, James Craig, Curry, Curtis, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dimmick, Dodd, Durfee, Edie, Edmundson, English, Faulkner, Fenton, Florence, Foley, Foster, Gilman, Gooch, Goode, Goodwin, Granger, Groesbeck, Grow, Robert B. Hall, J. Morrison Harris, Thomas L. Harris, Hatch, Hoard, Hopkins, Horton, Houston, Howard, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelsey, Kilgore, Knapp, Lamar, Leidy, Leiter, Letcher, Lovejoy, McKibbin, Humphrey Marshall, Samuel S. Marshall, Mason, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Mott, Niblack, Nichols, Olin, Parker, Peyton, John S. Phelps, William W. Phelps, Pottle, Powell, Purviance, Ready, Ricard, Ritchie, Robbins, Savage, Scales, Searing, Judson W. Sherman, Singleton, William Smith, Spinner, Stanton, Talbot, Tappan, Thayer, Tompkins, Underwood, Wade, Walbridge, Walton, Elihu B. Washburne, Israel Washburn, White, Wood, John V. Wright, and Zollicoffer—120.

NAYS.—Messrs. Ahl, Bowie, Boyce, Branch, Bryan, Horace F. Clark, Clemens, John Cochrane, Burton Craige, Davidson, Dowdell, Eustis, Gartrell, Gilmer, Hawkins, Hill, Huyler, Jackson, Jenkins, Keitt, Kelly, Jacob M. Kunkel, Maclay, McQueen, Miles, Millson, Moore, Freeman H. Morse, Pendleton, Quitman, Reagan, Reilly, Russell, Sandidge, Scott, Henry M. Shaw, Sickles, Stallworth, James A. Stewart, George Taylor, Ward, Winslow, Woodson, and Wortendyke—45.

So (two thirds voting in favor thereof) the rules were suspended, and the bill was introduced.

Mr. FOSTER stated, pending the vote, that **Mr. ABBOTT** was ill, and unable to attend the session of the House.

POST OFFICE APPROPRIATION BILL.

Mr. PHILLIPS. I rise to a privileged question. The managers on the part of the House, on the committee of conference on the Post Office appropriation bill, have instructed me to make the following report:

The committee of conference on the disagreeing votes of the two Houses to the bill of the House (No. 556) making appropriations for the service of the Post Office Department during the fiscal year ending 30th June, 1859, having met, after a full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows: That the Senate recede from its first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, and tenth amendments.

R. M. T. HUNTER,

D. L. YULEE,

Managers on the part of the Senate.

HENRY M. PHILLIPS,

ELIHU B. WASHBURN,

JAMES F. DOWDELL,

Managers on the part of the House.

It will be observed, **Mr. Speaker**, that the Senate have receded from all their amendments; and I desire to say that one of the Senators avowed and recognized the propriety of abstaining from legislation on the general appropriation bills. In that view all the Senate amendments were receded from. I demand the previous question.

The previous question was seconded, and the main question ordered.

Mr. MORGAN. I consider this a snap judgment, taken in an unfair way. I ask for the yeas and nays.

The SPEAKER. The Chair would suggest to the House that, whether the report be adopted or not, if the Senate agree to the report, the bill is passed.

Mr. JONES, of Tennessee. And really there is no question before the House.

The yeas and nays were not ordered.

The report of the committee of conference was agreed to.

Mr. PHILLIPS moved to reconsider the vote by which the report was agreed to, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. CRAIGE, of North Carolina. I rise to a privileged question. I move that the House take a recess till five o'clock.

The SPEAKER. The Chair would suggest to the gentleman that the Senate have not yet notified the House that they have concurred in the report of the committee of conference.

Mr. CRAIGE, of North Carolina. I withdraw the motion.

Mr. STEPHENS, of Georgia. I desire to offer a resolution to rescind the resolution fixing the time of adjournment, and fixing it at two o'clock to-day.

The SPEAKER. There is a matter already pending which must first be disposed of.

POST ROUTE BILL—AGAIN.

The bill to repeal the second section of the act entitled "An act to establish certain post roads," approved June 14, 1858, was then read a first and second time.

Mr. STANTON. I move the previous question on the engrossment of the bill.

Mr. WINSLOW. I think it is very illiberal on the part of the gentleman from Ohio not to allow me to say a word.

Mr. STANTON. If it is the pleasure of the House, I will withdraw the demand for the previous question, and occupy about three minutes myself, and then give way to the gentleman from North Carolina.

[Cries of "No!" "Vote!" "Question!"]
Mr. STANTON. All I want is to have the matter understood.

[Cries of "Question!"]

Mr. KEITT. I wish to inquire, whether, if this bill passes, it will not have to be engrossed and sent to the Senate, and then enrolled and sent to the President, before it becomes a law; and whether it is not too late for all that to be done?

The SPEAKER. That is a matter for the House to consider, and not the Chair.

Mr. WINSLOW. I rise to a question of order. I wish to inquire whether it is in order now, by a new bill, to repeal a law upon which the House has come to a question at this session. I know it is not in order in the British Parliament; but I do not know what the ruling has been in this House.

The SPEAKER. The Chair overrules the question of order. There have been various precedents in the House of Representatives; certainly one very remarkable one, where the Minnesota land grant was repealed by an amendment to a pension bill.

Mr. WINSLOW. I think it a very bad precedent.

The SPEAKER. The Chair thinks it right and proper that the House should have this power, and knows of no parliamentary law that would deny the right to the House.

Mr. EUSTIS. I hope the gentleman from Ohio will withdraw the previous question; I am satisfied that there are not thirty members in the House who know what they are voting upon.

Mr. LETCHER. I object to debate.

The previous question was seconded; and the main question ordered.

Mr. McQUEEN demanded the yeas and nays on ordering the bill to be engrossed and read a third time.

Mr. WINSLOW demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. STANTON and CRAIGE, of North Carolina, were appointed.

The House divided; and the tellers reported thirty-five in the affirmative.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 122, nays 42; as follows:

YEAS.—Messrs. Ahl, Andrews, Barksdale, Bennett, Bingham, Blair, Bocoek, Brayton, Buflinton, Burlingame, Burnett, Burns, Burroughs, Case, Caskie, Chapman, Ezra Clark, John B. Clark, Clawson, Clay, Cobb, Colfax, Comins, Corning, Covode, Cox, Cragin, Curry, Curtis, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dawes, Dean, Dimmick, Dodd, Durfee, Edie, Edmundson, Elliott, English, Faulkner, Fenton, Florence, Foley, Foster, Garnett, Gilman, Gooch, Goode, Goodwin, Granger, Gregg, Groesbeck, Grow, Lawrence W. Hall, J. Morrison Harris, Thomas L. Harris, Haskin, Hoard, Hopkins, Horton, Houston, Howard, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kilgore, Knapp, Lamar, Leiter, Letcher, Lovejoy, McKibbin, Humphrey Marshall, Samuel S. Marshall, Mason, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Mott, Niblack, Olin, Palmer, Parker, Peyton, John S. Phelps, Pottle, Powell, Purviance, Quitman, Ready, Reilly, Ricard, Ritchie, Roberts, Royce, Sandidge, Savage, Judson W. Sherman, Shorter, Singleton, William Smith, Spinner, Stallworth, Stanton, Stevenson, Talbot, Thayer, Tompkins, Tripp, Underwood, Wade, Walbridge, Walton, Elihu B. Washburne, Woodson, and John V. Wright—122.

NAYS.—Messrs. Adrain, Bowie, Boyce, Branch, Bryan, Horace F. Clark, Clemens, John Cochrane, Cockerill, Burton Craige, Davidson, Dewart, Dowdell, Eustis, Gartrell, Gilmer, Robert B. Hall, Hawkins, Keitt, Kelly, Jacob M. Kunkel, Maclay, McQueen, Miles, Millson, Freeman H. Morse, Pendleton, Robbins, Ruffin, Scales, Searing, Henry M. Shaw, Stephens, James A. Stewart, Tappan, George Taylor, Miles Taylor, Ward, Israel Washburn, Winslow, Wood, and Wortendyke—42.

So the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. STANTON moved to reconsider the vote by which the bill was ordered to be engrossed and read a third time, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. STANTON. I now move the previous question on the passage of the bill.

Mr. DAVIDSON. I desire to say a word to the House. There is a story in circulation that this section was put upon the bill surreptitiously. As I am the chairman of the Committee of Enrollment on the part of the House, and have had charge of all the business, I desire to call the attention of the House to that charge, and to say that the bill came to the committee-room with all the proper solemnities and forms which belong to the two Houses, and I received it there and had it enrolled. I consider it due to myself to call the attention of the House to this fact at once.

Mr. ENGLISH. I ask the gentleman to withdraw the demand for the previous question for a moment, to enable me to say, in justification of myself and of the Post Office Committee of the Senate, that I have received a note from the chairman of that committee, stating that the committee never dreamed of such an application or construction being given to this amendment as seems to have been given to it by many members upon this floor. It is not intended to apply to sea service at all, but only to land routes; and besides, it establishes nothing, and does no more than authorize the Postmaster General to act, or not act, in the premises as he may think best for the public service. It is not at all unusual for general legislation to be put upon post route bills; and in this case the amendment of the Senate, I think, pertains to the general subject embraced in the bill. I have no personal feeling about it whatever.

Mr. STANTON. The idea I had was that it was reported from the Post Office Committee of the Senate, and adopted without the Senate knowing what it was, and came to this House and was agreed to without the House knowing what it was.

Mr. WINSLOW. The gentleman is mistaken. It was read in open Senate.

Mr. HAWKINS. Will the gentleman from Ohio yield to me for one word?

Mr. STANTON. I cannot withdraw the call for the previous question.

Mr. HAWKINS. The gentleman's information is incorrect. The amendment was read in the Senate and listened to attentively.

Mr. STANTON. All I have to say about it is that I have been informed by a Senator from Virginia and a Senator from Pennsylvania that the amendment was not read in the Senate.

Mr. HAWKINS. I have been informed to the contrary.

Mr. WINSLOW. And so have I, by the Senator from Florida.

Mr. STANTON. I insist on the demand for the previous question.

The previous question on the passage of the bill was seconded, and the main question ordered to be put; and, under the operation thereof, the bill was passed.

Mr. STANTON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

REVISION OF THE RULES.

Mr. WINSLOW. I ask the unanimous consent of the House to introduce the following resolution, to which I presume there will be no opposition:

Resolved, That a committee be appointed, consisting of the Speaker and four members, to be named by him, whose duty it shall be to digest the rules of order, to suggest such alterations and amendments as they may deem advisable, and to report the same back to the House for its action at an early day in the next session.

There being no objection, the resolution was received.

Mr. CLEMENS. I move to amend by striking out that provision which provides that the members of the committee shall be named by the Speaker, and insert "by vote of the House."

Mr. WINSLOW. That amendment is not in order.

The SPEAKER. The Chair hopes the gentleman will be indulged in offering the amendment.

Mr. LETCHER. Is it contemplated that the committee shall sit during the recess?

Mr. WINSLOW. Certainly not. They are to report at an early day the next session. They will not require to be long in session.

Mr. PHILLIPS. I hope the gentleman will

modify his resolution so as to allow the committee to meet such committee as may be appointed by the Senate, for the purpose of revising the joint rules.

Mr. WINSLOW. I have no objection to that as an addition to my resolution.

The question being on Mr. CLEMENS's amendment,

Mr. CLEMENS demanded tellers.

Tellers were ordered; and Messrs. CLAY and BLAIR were appointed.

The House divided; and the tellers reported—aye 1, noes 130.

So the amendment was rejected.

The resolution was then adopted.

OLD SOLDIERS' BILL.

Mr. SAVAGE. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That the bill of the House (No. 259) granting pensions to the soldiers of the war of 1812 and the Indian wars about that period, be made the special order for the second Tuesday in December next, to continue from day to day until finally disposed of.

Mr. JONES, of Tennessee. I object.

Mr. SAVAGE. I move to suspend the rules.

Mr. DAVIDSON demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 95, nays 40; as follows:

YEAS—Messrs. Adrain, Ahl, Andrews, Arnold, Atkins, Bennett, Bingham, Blair, Bowie, Brayton, Buffinton, Burlingame, Burnett, Burns, Burroughs, Case, Cavanaugh, Ezra Clark, John B. Clark, Clawson, Clay, Cobb, John Cochran, Cockerill, Coffax, Comins, Corning, Covode, Cox, Davidson, Davis of Massachusetts, Dawes, Dean, Dimmick, Durfee, Edie, Elliott, Fenton, Florence, Foley, Foster, Gartrell, Gillis, Gilman, Gilmer, Gooch, Goodwin, Gregg, Grow, Robert B. Hall, J. Morrison Harris, Hatch, Hawkins, Hoard, Horton, Howard, Huyler, Jewett, Knapp, John C. Kunkel, Leidy, Leiter, Humphrey Marshall, Samuel S. Marshall, Mason, Matteson, Morgan, Edward Joy Morris, Niblack, Palmer, Parker, Peyton, Powell, Ready, Reilly, Ricard, Robbins, Roberts, Royce, Savage, Shorter, Singleton, Samuel A. Smith, Spinner, Talbot, George Taylor, Tompkins, Tripp, Underwood, Walton, Ellihu B. Washburne, White, Wood, Wortendyke, and John V. Wright—95.

NAYS—Messrs. Billingham, Bocoock, Boyce, Branch, Caskie, Clemens, Burton Craige, Curry, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dowdell, Edmundson, Garnett, Goode, Groesbeck, Thomas L. Harris, Haskin, Hopkins, Houston, George W. Jones, Keitt, Lovejoy, Miles, Milson, Moore, Mott, Nichols, Pendleton, Quitman, Ruffin, Sandidge, Scales, Henry M. Shaw, William Smith, Miles Taylor, Wade, Walbridge, and Winslow—40.

So the rules were suspended, (two thirds voting in the affirmative.)

Pending the above call,

Mr. POTTLE stated that he was out when his name was called; and that, if he had been present, he would have voted in the affirmative.

Mr. LETCHER would have voted in the negative.

Mr. HILL would have voted in the negative.

On motion of Mr. SINGLETON, it was by unanimous consent

Ordered, That leave be granted for the withdrawal from the files of the House of the petition and papers in the case of J. W. Crane for losses sustained in the Creek war, in order that they may be referred to the Court of Claims.

Mr. MARSHALL, of Kentucky. I ask the unanimous consent of the House that the select committee on the artists' memorial be continued until the next session.

Mr. CRAIGE, of North Carolina. I object.

The vote was then announced, as above reported.

Mr. SAVAGE. I demand the previous question on the resolution.

The previous question was seconded, and the main question was ordered.

The resolution was adopted.

Mr. SAVAGE. I move to reconsider the vote just taken, and also move that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

NIAGARA FALLS CANAL.

Mr. BURROUGHS. I offer the following resolution:

Resolved, That the select committee, to which was referred several memorials relating to a ship canal round the Falls of Niagara, be continued as organized until the 4th of March next, with authority to report at any time.

Mr. LETCHER. I object.

Mr. BURROUGHS. I move that the rules be suspended.

Mr. CRAIGE, of North Carolina. I move that the House take a recess until half past five o'clock, p. m.

Mr. BURROUGHS. I object.

Mr. JONES, of Tennessee. I demand the yeas and nays on the motion to suspend the rules, and call for tellers on the yeas and nays.

Tellers were ordered; and Messrs. CRAIGE, of North Carolina, and MARSHALL, of Kentucky, were appointed.

The House was divided; and the tellers reported—ayes 33, noes 98.

So the yeas and nays were ordered, (one fifth of those present voting in the affirmative.)

[A message was received from the Senate, by ASBURY DICKINS, their Secretary, notifying the House that that body had adopted the report of the committee of conference on the disagreeing votes between the two Houses on the Post Office appropriation bill.]

Mr. SMITH, of Tennessee. I move that there be appointed, by the Speaker, a committee of three, to join with such committee as may be appointed by the Senate, to wait upon the President, and inform him that the Houses have got through with their business, and are ready to adjourn.

The motion was agreed to; and Messrs. SMITH, of Tennessee, Grow, and JOHN C. KUNKEL, were appointed.

The question then recurring on the motion to suspend the rules, it was taken; and it was decided in the negative—yeas 65, nays 69; as follows:

YEAS—Messrs. Adrain, Andrews, Bennett, Billingham, Bingham, Blair, Bowie, Brayton, Burlingame, Burroughs, Caruthers, Case, Ezra Clark, Horace F. Clark, Clawson, Clemens, Clark B. Cochran, John Cochran, Cockerill, Coffax, Comins, Covode, Cox, Dean, Dewart, Dimmick, Dodd, Durfee, Elliott, Fenton, Foster, Goodwin, Grow, Haskin, Hoard, Horton, Howard, John C. Kunkel, Leidy, Lovejoy, Humphrey Marshall, Morgan, Edward Joy Morris, Oliver A. Morse, Mott, Nichols, Palmer, Parker, Pendleton, Ritchie, Robbins, Roberts, Searing, Judson W. Sherman, William Smith, Spinner, Tappan, George Taylor, Tompkins, Underwood, Wade, Walton, Ward, Ellihu B. Washburne, and Zollicoffer—65.

NAYS—Messrs. Ahl, Bocoock, Boyce, Branch, Bryan, Buffinton, Burnett, Burns, Caskie, Cavanaugh, Clay, Cobb, Burton Craige, Curry, Davis of Iowa, Dowdell, Edie, Edmundson, English, Florence, Foley, Garnett, Gartrell, Gillis, Gilman, Goode, Granger, Gregg, Groesbeck, Thomas L. Harris, Hatch, Hill, Hopkins, Houston, Jewett, George W. Jones, Keitt, Knapp, Jacob M. Kunkel, Leiter, Letcher, McQueen, Mason, Matteson, Miles, Milson, Freeman H. Morse, Niblack, Olin, Peyton, Powell, Purviance, Quitman, Ready, Reilly, Royce, Ruffin, Sandidge, Henry M. Shaw, Shorter, Samuel A. Smith, Stallworth, Stephens, Stevenson, Miles Taylor, Walbridge, White, Wortendyke, and John V. Wright—69.

So the rules were not suspended, (two thirds not voting in the affirmative.)

Pending the above call,

Mr. CLEMENS said: Mr. Speaker, I understand this is the resolution of the gentleman from New York who, during this session, courteously yielded me five minutes of his time, and I vote "ay."

The vote was then announced, as above reported.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 556) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1859; when the Speaker signed the same.

ARTISTS' MEMORIAL.

Mr. MARSHALL, of Kentucky. I renew my motion for leave for the committee on the artists' memorial to report at the next session of Congress. It was raised so late that we have not been able to attend to the subject at all.

There being no objection, it was so ordered.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States by Mr. J. B. HENRY, his Private Secretary, announcing that he had approved and signed a bill making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1859.

FINAL ADJOURNMENT.

Mr. STEPHENS, of Georgia. I ask the unanimous consent of the House to offer the following resolution:

Resolved, (the Senate concurring,) That the President of

the Senate and the Speaker of the House of Representatives adjourn their respective Houses *sine die*, this day, at half past two o'clock, p. m.

Mr. SMITH, of Virginia. I object.

Mr. JEWETT, of Kentucky. I move to suspend the rules.

Mr. SMITH, of Virginia. I will withdraw my objection if I can get the floor to offer a resolution of inquiry, which I have been seeking an opportunity for the last fortnight to offer.

The rules were suspended.

Mr. STEPHENS, of Georgia. I move the previous question.

The previous question was seconded, and the main question ordered; and, under its operation, the resolution was adopted.

CONSULAR OFFICERS.

Mr. BOWIE, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be, and he is hereby, requested to communicate to the House, at its next session, whether any consul general, consul, or commercial agent, embraced in section B of the act of 18th August, 1856, has been engaged, in violation of said act, in mercantile business as a merchant, factor, broker, or other trader, or as a clerk or agent of any such person, directly or indirectly; and that he communicate to this House all information and correspondence that may have been received on the subject.

EMPLOYÉS OF THE GOVERNMENT.

Mr. HOARD asked unanimous consent to offer the following resolution:

Resolved, That the President of the United States be requested to cause to be furnished to this House, as soon as practicable after the first Monday in December next, a complete list of all persons employed in permanent or temporary situations as clerks, agents, superintendents, commissioners, store-keepers, civil engineers, draughtsmen, computers, messengers, assistant messengers, laborers, and all other persons doing clerical or messenger's duty in each of the Departments, bureaus, and offices connected with the executive branch of the Government in the city of Washington, including the offices of the Superintendent of the Coast Survey, the Superintendent of Public Printing, the Superintendent of the National Observatory, the Commissioner of Public Buildings, surveying and exploring expeditions, the marine barracks, the navy-yard, the military asylum, and the arsenal and its appendages, at the end of the fiscal year ending June 30, 1858, and at the end of the fiscal years 1859 and 1860; with the rate of compensation of each employed, and the State and congressional district (according to present apportionment) where he or she resided at the time of appointment.

Mr. CLEMENS. I object to the resolution. The information is already in the Blue Book.

Mr. HOARD. I move to suspend the rules.

Mr. RUFFIN. I would suggest an amendment, so as to require the name of the place where the person was appointed.

Mr. KEITT. And how many children they have. [Laughter.]

Mr. HOARD. I call for tellers on the motion to suspend the rules.

Tellers were ordered; and Messrs. HOWARD and FOLEY were appointed.

The House divided; and the tellers reported—ayes 62, noes 59.

So (two thirds not voting in favor thereof) the rules were not suspended.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, its Secretary, informing the House that the Senate had passed a bill of the House, entitled "An act in relation to courts and the holding of the terms thereof in the several Territories of the United States." Also, that the Senate had agreed to the resolution of the House for the appointment of a committee to wait upon the President of the United States, and inform him that if he has no further communication to make, the two Houses are now ready to close the present session of Congress.

PAY, ETC., OF THE NAVY.

Mr. SMITH, of Virginia, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy be, and he is hereby, requested to report to this House at the opening of its next session:

1st. The pay and amount of allowances made by existing law to each grade of the commissioned officers of the Navy of the United States, and a similar statement as to the corresponding grades in the naval service of Great Britain, France, and Russia, the whole to be presented in its results in tabular form.

2d. His opinion, as to the policy of increasing the grade or rank in our naval service, the number of each of such increased grade or grades, and the amount of pay, &c., to be allowed to each of such grades.

3d. The number of officers, of each grade, necessary to command our Navy as now existing by law, allowing no cruise to be of longer duration than two years, and no leave on shore for more than six months, and the pay, &c., which should be allowed to such sea-going officers, not discriminating between being at sea or on shore under the limitations stated.

4th. The number of officers of each grade necessary to command and manage the various establishments on shore of every description connected with our naval service, including the bureaus, &c., specifying each establishment, and the number of officers, with their grades, in each, and the aggregate of all such officers, to be of those no longer fit, from any cause, for sea-going service, yet worthy, capable, and fit for duty on shore; and, to prevent shore duty from being sought by sea-going officers, to report the per centum of decrease from sea-going pay which should be allowed to those on duty on shore only.

5th. The pay or pension which should be allowed to such officers as are not fit for duty, afloat or on shore, without any demerit or fault of their own, and who, in all such cases, are retired from service and taken from the line of promotion.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled.

An act (H. R. No. 59) in relation to courts, and the holding of the terms thereof, in the several Territories of the United States; when the Speaker signed the same.

PAY OF A STENOGRAPHER.

Mr. FLORENCE. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That there be paid to the stenographer of the select committee raised to inquire into the facts and circumstances attending the sale of the Pennsylvania Bank property to the United States, the sum of \$200 for his services in reporting the testimony taken before the said committee.

Mr. JONES, of Tennessee. I object to the resolution. The committee only examined two or three witnesses.

Mr. FLORENCE. I move to suspend the rules, and with the consent of the House I will make a brief explanation. The committee could not get that testimony reported without the aid of this stenographer. We fixed upon this small sum, believing that the House was willing to pay for the services of this gentleman, and if there is any objection to the amount, I will strike that out and insert the usual compensation. It is but just that the reporter who has performed his duties faithfully should be paid.

Mr. BURNETT. I would ask if this stenographer was not at the same time stenographer to another committee?

Mr. FLORENCE. No, sir; he was not.

Mr. MORRIS, of Pennsylvania. Was the stenographer employed by the authority of the House?

Mr. FLORENCE. The committee could not have fulfilled the duty devolved upon them without the aid of this gentleman, and the sum is very small.

Mr. GILMAN. I cheerfully concur in all that has been said by the gentleman from Pennsylvania.

Mr. FLORENCE. I ask for tellers on the motion to suspend the rules.

Tellers were appointed, and Messrs. CLARK, of Connecticut, and COCKERILL, were appointed.

The House divided, and the tellers reported—ayes 92, noes 9. No quorum voting.

Mr. FLORENCE demanded the yeas and nays.

The yeas and nays were ordered.

Mr. HOUSTON. If the gentleman from Pennsylvania will modify his resolution, so as to give this reporter the usual rate of compensation, I presume there will be no difficulty. He ought to be paid.

Mr. FLORENCE. I have no objection to that.

Mr. LETCHER. I understand that will be more than the sum named in the resolution. I object.

The question was taken; and it was decided in the affirmative—yeas 111, nays 18; as follows:

YEAS—Messrs. Ahl, Arnold, Avery, Bennett, Billinghurst, Bingham, Blair, Branch, Bratton, Buffinton, Burlingame, Burnett, Burns, Cavanaugh, Ezra Clark, Horace F. Clark, Clawson, Clay, Cockerill, Colfax, Comins, Corning, Covode, Cox, Cragin, Burton, Craig, Curtis, Davidson, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dean, Dewart, Dimmick, Dodd, Dowdell, Durfee, Elliott, Florence, Foley, Foster, Garnett, Gillis, Gilman, Goode, Goodwin, Granger, Gregg, Grow, Thomas A. Harris, Haskin, Hawkins, Hill, Board, Houston, Howard, J. Glancy Jones, Keitt, Knapp, Jacob M. Kunkel, John C. Kunkel, Leidy, Leiter, Letcher, Lovejoy, Matteson, Miles, Millson, Morgan, Edward Joy Morris, Freeman H. Morse, Mott, Niblack, Nichols, Ohio, Palmer, Parker, Pendleton,

Peyton, John S. Phelps, Phillips, Purviance, Quitman, Reagan, Ritchie, Robbins, Roberts, Sandidge, Scales, Scott, Judson W. Sherman, Shorter, Siskies, Singleton, Samuel A. Smith, William Smith, Spinner, James A. Stewart, Talbot, Tappan, George Taylor, Miles Taylor, Tippe, Underwood, Walbridge, Ward, Israel Washburn, White, Winslow, Wood, and Wortendyke—111.

NAYS—Messrs. Burroughs, Caskie, Cobb, James Craig, Faulkner, Groesbeck, Lawrence W. Hall, Hopkins, Huyler, Jewett, George W. Jones, McQueen, Samuel S. Marshall, Mason, Ready, Royce, Ruffin, and Stevenson—18.

So the rules were suspended, (two thirds having voted in favor thereof.)

During the call of the roll,

Mr. HOUSTON said: I understand the gentleman from Pennsylvania is willing to modify his resolution, so as to allow this stenographer to be paid at the same rate the others are paid, and I presume the resolution may be received by unanimous consent, without going through with the call of the yeas and nays.

The SPEAKER. The House, by a vote, has just ascertained that no quorum was present, and the Chair thinks the roll had better be called.

The result having been announced,

Mr. FLORENCE. I now, in accordance with what seems to be the wish of gentlemen around me, move to amend by striking out "\$200," and inserting "the usual rate of compensation."

The amendment was agreed to; and the resolution, as amended, adopted.

Mr. FLORENCE moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

REPORT FROM THE PRESIDENT.

Mr. SMITH, of Tennessee, from the committee appointed to wait on the President, reported that they had performed that duty, and that he informed them that he had no further communication to make to Congress.

On motion of Mr. CLAY, the House then took a recess until a quarter before six, p. m.

EVENING SESSION.

The House reassembled at a quarter before six.

PRINTING OF EVANS'S GEOLOGICAL SURVEY.

Mr. BENNETT, of New York. I desire to call up the motion to reconsider the vote on the resolution ordering the geological report of Dr. Evans's survey of Oregon and Washington to be printed. I understand the gentleman from Tennessee, [Mr. JONES,] who made the motion to reconsider, is willing to withdraw it.

Mr. RUFFIN. I object to that.

The SPEAKER. The gentleman from New York has the right to call up the motion to reconsider.

[A message was here received from the Senate by Mr. DICKINS, their Secretary, informing the House that in the temporary absence of the Vice President, the Senate had elected BENJAMIN FITZPATRICK as President *pro tempore*.]

Mr. LETCHER. I should like to inquire of the gentleman from New York how much the printing of this book will cost?

Mr. BENNETT. I understand it will cost \$26,000.

Mr. JONES, of Tennessee. I wish simply to say that, while any member has the right to call up the motion to reconsider, no gentleman has the right to withdraw it, if objection be made. I understand that objection is made to my withdrawing the motion. In my opinion, it is not necessary to print this document at all; but the House can dispose of the motion to reconsider as it shall see proper.

Mr. BENNETT. I wish to say simply that the whole expense which has been incurred in making this survey will be lost, unless this report is printed. It is not proposed to print any extra numbers at all. The resolution is simply to print the usual number.

Mr. RUFFIN. I wish to know if this matter has not been referred to the Committee on Printing, and if they have not declined to recommend any action on the subject for the present session? I understand they have postponed the matter until the next session.

Mr. BENNETT. That was in relation to the printing of extra copies.

Mr. SINGLETON. In reply to the inquiry of the gentleman from North Carolina, I will say

that the question has been before the Committee on Printing, and that we came to the conclusion that the matter required more investigation than we were able to give it during the present session. We therefore postponed all action on the subject until the next session. It is very doubtful whether it ought to be printed at all.

Mr. STEPHENS, of Georgia. Are there plates and drawings to accompany the work?

Mr. SINGLETON. There are both plates and drawings.

Mr. JONES, of Tennessee. I will say that I saw Dr. Evans, the geologist who made the survey, during the recess; and he informed me that there were both plates and drawings to accompany the report, which are to be printed, if it is printed at all. I understood from him that it was desirable that five thousand extra copies should be printed, and that the cost of printing, as estimated by the Commissioner of the General Land Office, would be some twenty-two thousand dollars; and that, according to the estimate of the Superintendent of Public Printing, the cost would

be \$23,000. I understood the gentleman from Ohio, [Mr. NICHOLS,] who is a member of the Committee on Printing, that, according to their estimate, the cost would be \$16,000.

Mr. BENNETT. I move to lay the motion to reconsider on the table.

Mr. BURNETT. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. BENNETT. I withdraw the motion to lay on the table.

At this time much confusion prevailed in the Hall.

The SPEAKER. The Chair appeals to gentlemen to resume their seats and preserve order. The Chair hopes the House will rise in order, if they have not been able to sit in order. [Laughter.]

Mr. SMITH, of Tennessee. I have merely to say, in reference to the action of the Committee on Printing, that the subject of printing the usual number has not been before them at all, and is a matter with which they have nothing to do at all.

The hour of six having arrived, in accordance with the concurrent resolution of the two branches of Congress,

The SPEAKER declared the present session of the House adjourned *sine die*.

The following letter was not received by us until the 3d of July, when the speech had been stereotyped, printed, and sent off to subscribers. All we can do now to correct the error is, to publish Mr. Crawford's letter in the Daily and in the Congressional Globe, and index it, to point out the error, which may be found on page 2910 of the Congressional Globe:

COLUMBUS, GEORGIA, June 29, 1858.

SIR: Inclosed I send you the correction of some remarks submitted by me, and published in the Globe of the 25th instant. Strike out the word "or," and it will be right as it is. I am made to say exactly what I did not say.

Respectfully,
M. J. CRAWFORD.